UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE *104th* CONGRESS

SECOND SESSION

VOLUME 142—PART 17

GENERAL SERVICES ADMINISTRATION
LAW LIBRARY
FEB 03 2000
CENTRAL OFFICE

SEPTEMBER 18, 1996 TO SEPTEMBER 25, 1996

(PAGES 23533 TO 24972)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1996

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U.S. GOVERNMENT
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PROCEEDINGS AND DEBATES OF THE 104*th* CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, September 18, 1996*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. HASTINGS of Washington].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 18, 1996.

I hereby designate the Honorable RICHARD "DOC" HASTINGS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O gracious God, that we would translate our good thoughts and words into deeds of mercy and compassion that reach out to the neediest in our communities. We admit that it is easier to talk about what we would do than to put our hands to the task and accomplish the works of justice. We thank You for the faith that You have given us and for the creeds and beliefs that we hold dear. But on this day we pray for the strength to transpose these ideas and words and faith into achievements that make our words come alive and help people wherever they are. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Missouri [Mr. VOLKMER] come forward and lead the House in the Pledge of Allegiance.

Mr. VOLKMER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes on each side.

REFORM THE IRS

(Ms. DUNN of Washington asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN of Washington. Mr. Speaker, in 1995 the Internal Revenue Service's 1-800 number provided about 8½ million Americans the wrong answers to even the most basic questions about tax law. Further, Money magazine estimated in 1990 that nearly half the 30 million penalty notices the IRS mails out each year are erroneous.

Even more alarming, the latest impartial GAO audit of the IRS asserted that the agency that scrutinizes taxpayer finances cannot properly keep track of the $1.4 trillion it collects each year. Mind you, that was the fourth straight audit the IRS has flunked.

Mr. Speaker, fair is fair. The IRS itself has failed to meet the standards of financial accountability and diligence it imposes on our citizenry. And since it can no longer adequately police itself, it can no longer be trusted with the authority to police individual American businesses and individuals.

We need a solution to our problem that empowers the hard working American taxpayer. We need to reform the IRS.

DOLE TAX PLAN WILL TEAR DOWN ENVIRONMENTAL PROTECTION

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, the Republican leadership over the last 2 years has systematically tried to tear up 25 years of environmental protection, and I am afraid that the Dole tax plan which has been touted by the Presidential candidate over the last few weeks will just do that much more to accomplish the goal of tearing down environmental protection and not providing the funding for enforcement and investigation of serious environmental infractions.

We have seen in the last 2 years an attempt by the Republican leadership to basically gut the Clean Water Act, allow for more dumping in the ocean, and allow for the destruction of wetlands. We have seen them try to change the Superfund law so that basically instead of the polluter paying, the Government would be paying the polluter, and we would not see cleanup at most of the Superfund sites around the Nation. We have also seen Republican efforts to pass legislation that would close national parks, decommission national recreation areas around the country.

Most important, the Republican budgets and appropriation bills have significantly cut the amount of money that would be available for environmental enforcement, for investigating the polluters. That will only continue under the Dole tax plan and the cuts that he is proposing.

REPUBLICANS SEEK COMMON-SENSE REFORMS IN GOVERNMENT AND A BALANCED BUDGET

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, let me say this to my friend from New Jersey. If he truly believes that information, which obviously his speech writer was inhaling when he wrote, then I would like to challenge him here and now for a debate on the environment on the House floor.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Usually during special hours when the Democrats have the floor, they do not yield to Republicans. I will do it on my own hour to debate such outrageous fantasy about cuts in the environment.

The fact is we have a $5 trillion debt. The Republican Party is trying to put sanity and commonsense reforms both in environmental legislation and in all government legislation.

I think it is very important to cut out the rhetoric and get back to the fact that the children in America, a baby born today, owes $187,000 over the next 75 years just in interest on the national debt.

It is time for the Democratic Party to quit hiding its head inside the sand, quit coming out with the partisan demagoguery and face the real problem of trying to balance the budget and have commonsense reforms in government. I hope my friend will debate me.

RISING IMPORTS, DWARFING U.S. EXPORTS MEAN LOST U.S. JOBS AND SINKING WAGES

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, there is an economic wind blowing across our Nation that has thus far failed to capture the attention of the leading Presidential candidates, and I am specifically referring to lost U.S. jobs and sinking wages eroded by rising imports dwarfing U.S. exports.

The latest Commerce Department figures show that for midsummer we had the highest trade deficits in over a decade. Over $11.7 billion for the last month. The trade deficit with Japan, up 33 percent. Car parts, imported cars from Japan far dwarfing our exports. Trade deficit with China, up 15 percent. Imported clothing, imported shoes, imported textiles, meaning more lost jobs in this country.

Our dependence on oil continues to grow as we see U.S. troops being sent to Kuwait rather than energy resources developed here at home.

I am glad somebody notices. The Philadelphia Inquirer from September 8 through 22 is running an incredible series: "America: Who Stole the Dream?" Please read it. People in America somewhere are noticing, even if the Presidential candidates are not.

MOST PARTIAL-BIRTH ABORTIONS ARE ELECTIVE

(Mr. CANADY of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANADY of Florida. Mr. Speaker, it has been widely reported that partial-birth abortions are extremely rare. Pro-abortion groups claim there are no more than 500 partial-birth abortions per year, and they are only performed in extreme circumstances, such as when the child is severely deformed or the mother is in grave danger.

These myths are finally being dispelled. The Record newspaper reported that a single abortion clinic in New Jersey performs 1,500 partial-birth abortions each year. One doctor was quoted as saying that "only a minuscule amount" of partial-birth abortions are performed for medical reasons.

The Washington Post also reported yesterday that most partial-birth abortions performed are elective. I quote: "[T]he 'typical' patients tend to be young, low-income women * * * whose reasons for waiting so long to end their pregnancies are rarely medical."

The evidence is overwhelming: the vast majority of partial-birth abortions are elective. I ask you, how long will we continue to allow children in this country to be partially delivered and then killed?

IT IS STILL THE SAME IN D.C.

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in an effort to cut the budget, the GAO called the OMB, the CBO, the RTC, the NSG, the ITC, the GSA, and the IRS, and they had no success. So the GAO then called the DOD, the DOE, the DOT, and the DDT, and they could find no cuts. So the GAO then called the CIA, the DIA, the OSI, the PCB's, and the PCP's, and they could find no cuts. So, then they called OSI, ORI, and IUD and could find no cuts. And finally, so frustrated, they called the PMS, and there were no cuts to be made.

So they decided there should be a whole new program called the Accounting Selection System, hereafter to be known as A-S-S, which only goes to show us, when it comes to bureaucrats and cuts, it is still the same in Washington, DC. It is called the B.S. in D.C.

And with that, I yield back the B-O-M-T.

THE TAX-AND-SPEND DEMOCRATS

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, the ultra liberal Clinton administration is at it again. Yesterday Interior Secretary Bruce Babbitt endorsed a plan to tax anything and everything having to do with enjoyment of the great outdoors.

This plan would impose a 5-percent tax on, and, mind you, this is just a partial list, backpacks, camping stoves, canoes, canteens, climbing equipment, flotation vests, also hiking boots, mountain bikes, outdoor sleeping mats, ski equipment, sleeping bags, tests, paddles, binoculars, cameras, film, books on bird identification, and audio tapes of wildlife calls.

Mr. Speaker, this is just a glimpse, a reminder, of what the tax and spend liberal Democrats would do if returned to power next year. They just refuse to acknowledge that what the American people want is fewer taxes, not higher taxes.

EDUCATION FUNDING

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, this September a record number of children entered elementary and secondary schools across this country. Every one of them should be concerned about what the House Republicans did with respect to education. Although we have never had so many children in our schools, House Republicans cut funding for elementary and secondary education by $400 million.

In subcommittee I offered an amendment to add $2.1 billion to Head Start and education. It was defeated on a party-line vote. On the floor, House Democrats offered an amendment to add these desperately needed funds. It was defeated on a party line vote.

But yesterday, the Senate voted to add $2.3 billion to educate America's children. I hope that House Republicans have done their homework and will support this very important add-on for America's children and America's families.

THE PRESIDENT AND THE RICH

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, if you had $25,000, you could have spent last Friday evening with Bill Clinton, Hillary Clinton, and Barbra Streisand. Where else but in Hollywood can Bill escape the nagging problems of the average American, like the increasing drug use among teens, in order to rub elbows with his rich and famous pals?

That is $25,000. Can you believe it? Mr. Speaker, the average American family of four working people with an annual income of about $30,000 a year would have had to fork over almost all of their paycheck for an entire year just to have dinner with Bill and Hillary Clinton.

We had a great President from Hollywood, Ronald Reagan. Now we have a President that acts like Hollywood. Mr. Speaker, it is time for the President to pay attention to the concerns of average Americans, not the labor bosses, not the Hollywood pals who make millions of dollars each year. It is time to make America better. It is time for a real American hero, Bob Dole.

□ 1015

DO NOT PUT THE OUTSIDE COUNSEL'S REPORT ON ICE

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, once again I rise to call on the Committee on Standards of Official Conduct to do the right thing, to release the outside counsel's report on Speaker NEWT GINGRICH.

POINT OF ORDER

Mr. LINDER. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman will state it.

Mr. LINDER. Mr. Speaker, several days in a row the gentleman from Georgia has risen on the floor of the House to address matters that are inappropriate, because the rules of the House specifically prohibit speaking of matters before the Committee on Standards of Official Conduct.

The gentleman does not seem to get that point. And on each occasion that I have raised this point of order, the Speaker has agreed with me. I would like the Speaker to make a ruling on this matter today.

Mr. LEWIS of Georgia. Mr. Speaker?

The SPEAKER pro tempore. Does the gentleman from Georgia [Mr. LEWIS] wish to be heard on the point of order?

Mr. LEWIS of Georgia. Yes, I do, Mr. Speaker. If the gentleman is familiar with the rules, he should know that the customary way to object is to ask that the Member's words be taken down.

Mr. LINDER. Mr. Speaker, I have a right to make a point of order at any time.

The SPEAKER pro tempore. The Chair is prepared to rule on the gentleman's point of order. The Chair will repeat the admonitions of the Chair from September 12, 1996, and September 17, 1996.

It is an essential rule of decorum in debates that Members should refrain from references in debate to the conduct of other Members, where such conduct is not the question actually pending before the House, by way of a report from the Committee on Standards of Official Conduct or by way of another question of the privileges of the House. This principle is documented on pages 168 and 526 of the House Rules and Manual and reflects the consistent rulings of the Chair in this and in prior Congresses and applies to 1-minute and special-order speeches.

Neither the filing of a complaint before the Committee on Standards of Official Conduct, nor the publication in another form of charges that are personally critical to another Member justify the references to such charges on the floor of the House. This includes references to the motivations of Members who file complaints and to members of the Committee on Standards of Official Conduct.

Clause 1 of rule XIV is a prohibition against engaging in personality in debate. It derives from article 1, section 5 of the Constitution, which authorizes each House to make its own rules and to punish its Members for disorderly behavior, and has been part of the rules of the House in some relevant form since 1789. This rule supersedes any claim of a Member to be free from questioning in any other place.

On January 27, 1909, the House adopted a report that stated the following:

> It is the duty of the House to require its Members in speech or debate to preserve that proper restraint which will permit the House to conduct its business in an orderly manner and without unnecessarily and unduly exciting animosity among his Members.

This is Cannon's Precedents, volume 8, at section 2497. This report was in response to improper references in debate to the President, but clearly reiterated a principle that all occupants of the Chair in this and in prior Congresses have held to be equally applicable to Members' remarks in debate toward each other.

The Chair asks and expects the cooperation of all Members in maintaining a level of decorum that properly dignifies the proceedings of the House.

So the Chair would request that the gentleman proceed in order.

Mr. LEWIS of Georgia. Mr. Speaker, the outside counsel, James Cole, has prepared an extensive 100-page report on the Speaker's ethical violation. The American people deserve the right to know what is in that report.

POINT OF ORDER

Mr. LINDER. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LINDER. Mr. Speaker, it is entirely possible that the gentleman in the well did not hear you, or it is entirely possible that the gentleman in the well does not know what the rules are. But I think you just ruled that he was speaking out of order, and I would like to have the Chair readdress his addressing matters before the Committee on Standards of Official Conduct.

Mr. LEWIS of Georgia. Mr. Speaker? Mr. Speaker? Let me say to my——

The SPEAKER pro tempore. The gentleman will suspend.

The Chair sustains the point of order from the gentleman from Georgia, Mr. LINDER, and asks the other Member from Georgia, Mr. LEWIS, to please keep his remarks in order.

PARLIAMENTARY INQUIRIES

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. VOLKMER. Mr. Speaker, the gentleman from Georgia [Mr. LINDER] appears to me to try to make a point of order and only on the point of order to silence the other gentleman from Georgia by having the Chair not only rule the gentleman out of order, but to perhaps even make the gentleman sit down.

I would like to know, is the Chair aware of any example in the entire history of this House of Representatives where the Speaker has unilaterally silenced a Member before his time has expired on his 1-minute without the consent of the House?

The SPEAKER pro tempore. On September 12 and on September 17 of this year, the Chair sustained points of order against Members who repeatedly made references in debate to a matter pending before the Committee on Standards of Official Conduct.

On those occasions, the Chair indicated that pursuant to the rule such Members could be required to take their seats where they declined to proceed in order at the directive of the Chair after points of order had been sustained against the references while demanding that an offending Member be seated is normally insisted upon only where there is a formal demand that the words be taken down pending disposition that the words be taken down. Pending disposition of the matter by the Chair and by the House, it is within the Chair's authority under rule I and rule XIV to deny that Member further recognition as a disposition of the question of order, subject to the will of the House on the question of proceeding in order.

A Member's comportment in the face of repeated admonitions by the Chair to proceed in order has itself been the subject of a ruling of the Chair that the Member may not be recognized to proceed unless permitted to do so by the House. That is cited on page 319 of the manual. Once a Member has been recognized and has the floor, rule I and rule XIV permit the Chair to respond to repeated points of order while permitting the House to determine the propriety of the Chair's rulings and its willingness to permit the Member to proceed in order.

Thus, if the Chair were to direct that an offending Member be denied the floor for the duration of the time for which he was recognized, he would do so in the context of a ruling that would permit the House to determine whether the Member should proceed in order.

Mr. VOLKMER. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. VOLKMER. Mr. Speaker, it appears from your ruling, one, that there is no precedent in this House prior to this Congress of the action that you said is appropriate for the Speaker. That is No. 1. I asked if there was any precedent; the only precedent you have mentioned is just approximately a week ago, last week, so it is of this Congress, and within the last week, not any prior history in the whole United States.

No. 2, it appears from what you said, even though you feel that you have the authority under that ruling to make any Member sit down for not following regular rules of order, that the ultimate decision upon a proper motion made is that the House itself has to decide, which has always been the precedent of this body. The House decides whether a Member does or not, not the Speaker; is that correct?

The SPEAKER pro tempore. On the first question, the Chair is not commenting on the historical precedent.

On the second point, the gentleman is essentially correct.

Mr. VOLKMER. Well, Mr. Speaker, I just want to say, I have been unable to find the precedent that you have listed from last week.

The SPEAKER pro tempore. Without objection, the gentleman from Georgia [Mr. LEWIS] may proceed in order for the balance of his time.

There was no objection.

Mr. LEWIS of Georgia. Mr. Speaker, let me say to my colleague from Georgia, Mr. LINDER, I will not be harassed, bullied, or silenced. I know the rules of this House as well as the gentleman. But the gentleman knows, I have learned in my life that there are times when the rules must be challenged to confront an injustice. I will not sit down or keep silent until the report is released to the American people.

Last week NEWT GINGRICH brought an ice bucket to this floor to demonstrate a small savings achieved in the House. It is strange indeed that those savings are approximately the same amount as the cost of the report by the outside counsel. Now the Speaker and the Republicans in this House want to put the outside counsel's report on ice and it is wrong, just plain wrong.

HEALTH CARE ASSURANCE FOR RETIRED EMPLOYEES ACT

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, I rise today on behalf of 750 retirees in my district who were betrayed by their employer, and on behalf of retirees across the country who are increasingly victimized by corporate irresponsibility.

Last month in Milwaukee, the Pabst Brewing Co. abruptly informed its retirees that it would no longer provide health and death benefits. Just like that. Years of hard work and dedication. Labor agreements. Promises. Out the window.

This is a disturbing trend. Last week I introduced the Health Care Assurance for Retired Employees Act, or the CARE Act. It would provide that companies give their retirees 6 months notice of any changes to their benefits. Further, the Labor Department would have to certify that the changes were in accordance with the applicable collective bargaining agreements.

Under the CARE Act, retirees aged 55 to 65 would have expanded access to health insurance under COBRA until they were eligible for Medicare. Medicare's late enrollment penalties would be waived, and a 6-month Medigap open enrollment period would be established.

I ask my colleagues to please join me in cosponsoring this bipartisan bill which will provide fair and workable safeguards for your retired constituents.

WAR ON DRUGS REQUIRES COMMITMENT AT THE TOP

(Mr. LUCAS asked and was given permission to address the House for 1 minute.)

Mr. LUCAS. Mr. Speaker, whether we like it or not, some among us are expected to be role models. By sheer virtue of a media-intensive position, actors, athletes, and politicians are often thrust into the role model limelight.

That's why it comes as no surprise that after a substantial decline during the late 80's and early 90's, overall drug use nearly doubled in the last 4 years.

It also should come as no surprise that those who idolize are often young and impressionable, and that overall drug use among 12- to 17-year-olds between 1992 and 1995 went up 78 percent.

Mr. Speaker, starting from the top, those of us in Congress and those at the other end of Pennsylvania Avenue should renew this Nation's commitment to fighting perhaps our most important war to date—the war on drugs.

CLOUD OF SHAME HANGS OVER CIA

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute.)

Ms. MCKINNEY. Mr. Speaker, a cloud of shame is hanging over America's intelligence community. In August, the San Jose Mercury News reported that the Central Intelligence Agency shipped cocaine into south central Los Angeles, then used that money to buy guns to overthrow the Government of Nicaragua.

And while Aldrich Ames was busy selling us down the river, our "Central Intoxication Agency" was selling crack cocaine in south central Los Angeles.

It is no wonder we could not predict the fall of the Soviet Union; the CIA was too busy shipping crack into the United States.

Mr. Speaker, as the "Hemp-Dope" ticket traverses America proselytizing about the increase in drug use, the administration they hope to emulate, the Reagan-Bush administration, was running crack in the 1980's.

I urge my colleagues to just say "no" to the "Central Intoxication Agency" and the "Hemp-Dope" ticket.

□ 1030

THE CLINTON ADMINISTRATION AND THE WAR ON DRUGS

(Ms. GREENE of Utah asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GREENE of Utah. Mr. Speaker, in 1993, Bill Clinton's National Security Council dropped the priority of the drug war from 3 to No. 29, that's 29th out of 29 priorities. At the same time, he slashed the Office of National Drug Policy by 83 percent.

In his budget for fiscal year 1995, Clinton proposed doing away with 621 total drug enforcement positions throughout the Government. And from 1992 to 1995, the Drug Enforcement Administration lost 227 agents.

In 1994, the Clinton administration told the Treasury Department's Financial Crimes Enforcement Network to devote only 50 percent to drug enforcement, instead of the normal 80 percent. This unit provides intelligence on money laundering by drug dealers.

And during his whole term as President, Bill Clinton has rarely talked about the drug issue or the explosion of drug use by our children.

Mr. Speaker, America cannot survive with this kind of leadership. The children of America need a President who is willing to wage a real war on drugs.

PARTIAL-BIRTH ABORTION BAN

(Mr. ROEMER asked and was given permission to address the House for 1 minute.)

Mr. ROEMER. Mr. Speaker, oftentimes over the last 2 years in this Congress we have not been bipartisan and we certainly have not looked out for the best interests of our children. Tomorrow, with the partial-birth abortion ban vote, we have an opportunity to be both bipartisan and to look out for our Nation's children.

This partial-birth abortion procedure is horrific. It is gruesome. It is totally unacceptable. I would hope Democrats and Republicans, men and women, prochoice and prolife Members would come together and join together tomorrow to have an important debate and an important vote in outlawing a procedure that hopefully most prolife and prochoice Members agree should be permanently banned in the United States of America.

IN APPRECIATION

(Mr. QUILLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUILLEN. Mr. Speaker, I want to thank all of those who participated in the special order in my behalf yesterday evening on the floor of the House. Their remarks brought tears to my eyes, and I appreciate it so much.

Leaving is a sad day for me, but 34 years is long enough. My career in the House has convinced me that term limits are appropriate, and I think 17 terms should be the limit.

I want to thank my good friend JIMMY DUNCAN for spearheading the special order. His remarks were great, as were all the remarks of those who participated: JERRY SOLOMON, chairman of the Committee on Rules, spoke out in crystal clear language, and I am proud of that; BART GORDON, HAL ROGERS, and KIKA DE LA GARZA of Texas, who supplies me with onions. I am assured that Mr. DE LA GARZA is going to mail some to me even after I am out of the Congress. Thank you, thank you, and thank you. ED BRYANT, ZACH WAMP, VAN HILLEARY, DUNCAN HUNTER, and JOHN MYERS, and those who extended their remarks, you make me stand so tall and proud. I appreciate it from the bottom of my heart. God bless you all.

DOLE PROMISES EVERYTHING

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, let me say those are good ten fifteen onions developed in South Texas in Mr. DE LA GARZA's district by Texas A&M.

Mr. Speaker, I rise to address the House concerning Senator Dole going from issue to issue now in the Presidential campaign. Nothing seems to take hold. He is not talking about the tax cut as of yesterday, because the American people saw through the rhetoric and realized he could not balance the budget and cut $548 billion in taxes at the same time.

Now he is trying to convince the public that the President's crime bill had nothing to do with the recent drop in the national crime rate. Instead he says it belongs to the Governors, who I am sure are also participants in it.

Senator Dole voted against the addition of 600 new police officers in my home town of Houston, TX, and he also voted against increased prison construction, increased border patrol, and the expansion of the death penalty in the crime bill of 1994. It is obvious that Senator Dole wants to have it both ways.

When something good happens, it is the Republican Governors; but when something bad happens, like drug use, it is the President; when Bob Dole also voted to cut the funding for safe and drug free schools.

I am confident the American people will see through this, just like they did through his tax plan.

PARTIAL-BIRTH ABORTIONS IN NEW JERSEY

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, this past Sunday, New Jersey's Bergen Record published a lengthy investigative report about the partial-birth abortions. I was appalled to read that a single facility in New Jersey—Metropolitan Medical in Englewood—performs at least 1,500 partial-birth abortions every year. This is three times the number of brain suction abortions that the National Abortion Federation, NARAL, and other pro-abortion groups have estimated are preformed annually throughout the country.

This revelation belies the statement of Bill Clinton that the process of sucking a baby's brains out moments before his or her full delivery is limited to 500 children per year nationally. Even if the lower number were true, however, I am stunned that he or anyone else could belittle the horror of partial-birth abortion by saying it only kills 500 children each year. This death toll exceeds the Oklahoma City bombings—an act of terrorism we have all condemned as barbaric.

What is equally as frightening is the fact that the same Record article reveals the most partial-birth abortions in New Jersey were done to teenagers, and they were done as elective procedures, not for medical reasons. Let me quote form the article.

> "We have an occasional amnio abnormality, but it's a minuscule amount," said one of the doctors at Metropolitan Medical, an assessment confirmed by another doctor there. "Most are Medicaid patients, black and white, and most are for elective, not medical, reasons: people who didn't realize, or didn't care, how far along they were. Most are teenagers."

This contradicts everything the abortion President has said to justify his veto of the partial-birth abortion ban bill passed by both the House and the Senate. President Clinton should stop hiding from the truth.

An overwhelming majority of Americans believe that partial-birth abortions are infanticide and should be banned. Bill Clinton is now not only ignoring the American people, but facts and figures coming from the States and the press.

DISCREDITED HOUSE OF REPRESENTATIVES

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, as a person who has been here for 20 years and been very proud to be a Member of the United States House of Representatives, I love this body. But today I see that this body is highly discredited. Actually, I am ashamed. We have a huge cloud that hovers over the House of Representatives, and it can be removed, but the Republican majority, under Speaker GINGRICH, refuses to remove that.

I say let the report from James Cole, the special counsel to the Committee on Standards of Official Conduct, filed over a month ago, be given to every Member, to the media, to the public. Let it be released.

POINT OF ORDER

Mr. LINDER. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Georgia [Mr. LINDER] will state his point of order.

Mr. LINDER. Mr. Speaker, the gentleman in the well is referring to matters before the Committee on Standards of Official Conduct, which is prohibited by the rules of the House.

The SPEAKER pro tempore. The Chair sustains the point of order and asks the gentleman from Missouri to keep his remarks in order.

Mr. VOLKMER. Mr. Speaker, it is very apparent to me that Speaker GINGRICH and the Ethics Committee chairman are going to do a coverup and we are never going to see that report. We are going to adjourn here in a few weeks without anyone ever knowing what is in that report. I do not know what is in that report.

Mr. LINDER. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

APPOINTMENT OF CONFEREES ON H.R. 3259, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. COMBEST. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3259) to authorize the appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none and, without objection, appoints the following conferees:

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. COMBEST, DORNAN, YOUNG of Florida, HANSEN, LEWIS of California, GOSS, SHUSTER, MCCOLLUM, CASTLE, DICKS, RICHARDSON, DIXON, TORRICELLI, COLEMAN, and SKAGGS, and Ms. PELOSI.

From the Committee on National Security, for consideration of defense tactical intelligence and related agencies: Messrs. STUMP, SPENCE, and DELLUMS.

There was no objection.

APPOINTMENT OF CONFEREES ON S. 640, WATER RESOURCES DEVELOPMENT ACT OF 1996

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 640) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none and, without objection, appoints the following conferees: Messrs. SHUSTER, YOUNG of Alaska, BOEHLERT, OBERSTAR, and BORSKI.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which a vote is objected to under clause 4 of rule XV. Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

RAILROAD UNEMPLOYMENT INSURANCE AMENDMENTS ACT OF 1996

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2594) to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2594

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Unemployment Insurance Amendments Act of 1996".

SEC. 2. WAITING PERIOD FOR UNEMPLOYMENT BENEFITS.

Subparagraph (A) of section 2(a)(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(a)(1)(A)) is amended to read as follows:

"(A) PAYMENT OF UNEMPLOYMENT BENEFITS.—

"(i) GENERALLY.—Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of unemployment in excess of 4 during any registration period within a period of continuing unemployment.

"(ii) WAITING PERIOD FOR FIRST REGISTRATION PERIOD.— Benefits shall be payable to any qualified employee for each day of unemployment in excess of 7 during that employee's first registration period in a period of continuing unemployment if such period of continuing unemployment is the employee's initial period of continuing unemployment commencing in the benefit year.

"(iii) STRIKES.—

"(I) INITIAL 14-DAY WAITING PERIOD.—If the Board finds that a qualified employee has a period of continuing unemployment that includes days of unemployment due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which such employee was last employed, no benefits shall be payable for such employee's first 14 days of unemployment due to such stoppage of work.

"(II) SUBSEQUENT DAYS OF UNEMPLOYMENT.—For subsequent days of unemployment due to the same stoppage of work, benefits shall be payable as provided in clause (i) of this subparagraph.

"(III) SUBSEQUENT PERIODS OF CONTINUING UNEMPLOYMENT.—If such period of continuing unemployment ends by reason of clause (v) but the stoppage of work continues, the waiting period established in clause (ii) shall apply to the employee's first registration period in a new period of continuing unemployment based upon the same stoppage of work.

"(iv) DEFINITION OF PERIOD OF CONTINUING UNEMPLOYMENT.—Except as limited by clause (v), for the purposes of this subparagraph, the term 'period of continuing unemployment' means—

"(I) a single registration period that includes more than 4 days of unemployment;

"(II) a series of consecutive registration periods, each of which includes more than 4 days of unemployment; or

"(III) a series of successive registration periods, each of which includes more than 4 days of unemployment, if each succeeding registration period begins within 15 days after the last day of the immediately preceding registration period.

"(v) SPECIAL RULE REGARDING END OF PERIOD.—For purposes of applying clause (ii), a period of continuing unemployment ends when an employee exhausts rights to unemployment benefits under subsection (c) of this section.

"(vi) LIMIT ON AMOUNT OF BENEFITS.—No benefits shall be payable to an otherwise eligible employee for any day of unemployment in a registration period where the total amount of the remuneration (as defined in section 1(j)) payable or accruing to him for days within such registration period exceeds the amount of the base year monthly compensation base. For purposes of the preceding sentence, an employee's remuneration shall be deemed to include the gross amount of any remuneration that would have become payable to that employee but did not become payable because that employee was not ready or willing to perform suitable work available to that employee on any day within such registration period.".

SEC. 3. WAITING PERIOD FOR SICKNESS BENEFITS.

Subparagraph (B) of section 2(a)(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(a)(1)(B)) is amended to read as follows:

"(B) PAYMENT OF SICKNESS BENEFITS.—

"(i) GENERALLY.—Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of sickness after the 4th consecutive day of sickness in a period of continuing sickness but excluding 4 days of sickness in any registration period in such period of continuing sickness.

"(ii) WAITING PERIOD FOR FIRST REGISTRATION PERIOD.—Benefits shall be payable to any qualified employee for each day of sickness in excess of 7 during that employee's first registration period in a period of continuing sickness if such period of continuing sickness is the employee's initial period of continuing sickness commencing in the benefit year. For the purposes of this clause, the first registration period in a period of continuing sickness is that registration period that first begins with 4 consecutive days of sickness and includes more than 4 days of sickness.

"(iii) DEFINITION OF PERIOD OF CONTINUING SICKNESS.—For the purposes of this subparagraph, a period of continuing sickness means—

"(I) a period of consecutive days of sickness, whether from 1 or more causes; or

"(II) a period of successive days of sickness due to a single cause without interruption of more than 90 consecutive days which are not days of sickness.

"(iv) SPECIAL RULE REGARDING END OF PERIOD.—For purposes of applying clause (ii), a period of continuing sickness ends when an employee exhausts rights to sickness benefits under subsection (c) of this section.".

SEC. 4. MAXIMUM DAILY BENEFIT RATE.

Paragraph (3) of section 2(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(a)(3)) is amended to read as follows:

"(3) The maximum daily benefit rate computed by the Board under section 12(r)(2) shall be the product of the monthly compensation base, as computed under section 1(i)(2) for the base year immediately preceding the beginning of the benefit year, multiplied by 5 percent. If the maximum daily benefit rate so computed is not a multiple of $1, it shall be rounded down to the nearest multiple of $1.".

SEC. 5. MAXIMUM NUMBER OF DAYS FOR BENEFITS.

(a) IN GENERAL.—Subsection (c) of section 2 of the Railroad Unemployment Insurance Act (45 U.S.C. 352(c)) is amended to read as follows:

"(c) MAXIMUM NUMBER OF DAYS FOR BENEFITS.—

"(1) NORMAL BENEFITS.—

"(A) GENERALLY.—The maximum number of days of unemployment within a benefit year for which benefits may be paid to an employee shall be 130, and the maximum number of days of sickness within a benefit year for which benefits may be paid to an employee shall be 130.

"(B) LIMITATION.—The total amount of benefits that may be paid to an employee for days of unemployment within a benefit year shall in no case exceed the employee's compensation in the base year; and the total amount of benefits that may be paid to an employee for days of sickness within a benefit year shall in no case exceed the employee's compensation in the base year, except that notwithstanding section 1(i), in determining the employee's compensation in the base year for the purpose of this sentence, any money remuneration paid to the employee for services rendered as an employee shall be taken into account that is not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) bears to $600.

"(2) EXTENDED BENEFITS.—

"(A) GENERALLY.—With respect to an employee who has 10 or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1974, who did not voluntarily retire and (in a case involving exhaustion of rights to normal benefits for days of unemployment) did not voluntarily leave work without good cause, and who had current rights to normal benefits for days of unemployment or days of sickness in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under this paragraph, and extended unemployment benefits or extended sickness benefits (depending on the type of normal benefit rights exhausted) may be paid for not more than 65 days of unemployment or 65 days of sickness within such extended benefit period.

"(B) BEGINNING DATE.—An employee's extended benefit period shall begin on the employee's first day of unemployment or first day of sickness, as the case may be, following the day on which the employee exhausts the employee's then current rights to normal benefits for days of unemployment or days of sickness and shall continue for 7 consecutive 14-day periods, each of which shall constitute a registration period, but no such extended benefit period shall extend beyond the beginning of the first registration period in a benefit year in which the employee is again qualified for benefits in accordance with section 3 on the basis of compensation earned after the first of such consecutive 14-day periods has begun.

"(C) TERMINATION WHEN EMPLOYEE REACHES AGE OF 65.—Notwithstanding any other provision of this paragraph, an extended benefit period for sickness benefits shall terminate on the day next preceding the date on which the employee attains age 65, except that it may continue for the purpose of paying benefits for days of unemployment.

"(3) ACCELERATED BENEFITS.—

"(A) GENERAL RULE.—With respect to an employee who has 10 or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1974, who did not voluntarily retire, and (in a case involving unemployment benefits) did not voluntarily leave work without good cause, who has 14 or more consecutive days of unemployment, or 14 or more consecutive days of sickness, and who is not a qualified employee with respect to the general benefit year current when such unemployment or sickness commences but is or becomes a qualified employee for the next succeeding general benefit year, such succeeding general benefit year shall, in that employee's case, begin on the first day of the month in which such unemployment or sickness commences.

"(B) EXCEPTION.—In the case of a succeeding benefit year beginning in accordance with subparagraph (A) by reason of sickness, such sentence shall not operate to permit the payment of benefits in the period provided for in such sentence for any day of sickness beginning with the date on which the employee attains age 65, and continuing through the day preceding the first day of the next succeeding general benefit year.

"(C) DETERMINATION OF AGE.—For the purposes of this subsection, the Board may rely on evidence of age available in its records and files at the time determinations of age are made.".

(b) REPEAL OF DEADWOOD PROVISION.—Section 2(h) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(h)) is repealed.

(c) REPEAL OF EXPIRED PROVISION.—Section 17 of the Railroad Unemployment Insurance Act (45 U.S.C. 368), relating to payment of supplemental unemployment benefits, is repealed.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from Pennsylvania [Mr. BORSKI] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2594, the Railroad Unemployment Insurance Amendments of 1996. This bill was reported out of the Committee on Transportation and Infrastructure last November and enjoyed the full support of both labor and rail management.

This bill is good for railroad workers. It reforms, it has reforms in it which are very significant. It will increase the daily unemployment benefits for railroad workers from $36 to $42, in line with other nonrailroad workers. It reduces the waiting period before benefits begin to accrue from 14 days to 7 days. This will produce an immediate gain of $294 for any unemployed rail worker.

It is no secret that the railroads have been reducing the size of their work forces. In fact, rail employment is less than half what it was in 1975.

By increasing unemployment benefits for rail workers to bring them in line with other nonrail workers across America, H.R. 2594 provides a little more security for workers who know that they, too, could one day be affected by a layoff.

It is high time that the rail unemployment benefits were reformed. Some of my colleagues may remember that a virtually identical bill was passed by the 103d Congress. The legislation was never taken up by the Senate. The issue has languished ever since. We now have an opportunity to get this bill passed. It should not be missed. Both rail labor and rail management support this legislation. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BORSKI. Mr. Speaker, I rise in strong support of the bill, and I yield 2 minutes to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding me the time.

Mr. Speaker, I rise in strong support of H.R. 2594, the Railroad Unemployment Insurance Amendments Act of 1996.

This bill has been pending for over 3 years. It was first introduced by our former colleague Al Swift in the 103d Congress. It passed the House on suspension but, like too many other good bills, died in the other body when a single Senator put a hold on it.

The bill was introduced again last year by the bipartisan leadership of our committee and was quickly reported out by a voice vote. The bill is supported by both Republicans and Democrats, by both rail labor and rail management. The bill has four major provisions. Two favor management and the other two favor labor. Both sides feel the bill is a good deal for them.

The bill raises benefit levels so that they are more in line with benefits being paid by the States for nonrailroad employees. It also shortens the waiting time before rail workers qualify for unemployment and sickness benefits. On the other hand, it reduces the number of weeks of benefits received by employees with more than 15 years seniority, and it places a limit on the earnings of employees who are receiving benefits.

Action on this bill has been held up by having various controversial amendments attached to it in the past. The manager's amendment makes some clarifying changes to the committee-reported bill that have been worked out jointly by the majority and minority staffs. I am happy to report that we now have a clean bill that all of us can support. I recommend the bill to my colleagues and urge its passage.

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Mr. BORSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply emphasize there are no taxpayer dollars involved in this. This is totally financed by the railroad industry and the railroad workers.

With that, I urge support.

Mr. ARCHER. Mr. Speaker, the Committee on Ways and Means has a strong historical interest and involvement in the financing of the railroad unemployment compensation [RRUC] system. The RRUC has been in existence since 1938. Railroad workers were initially covered by the unemployment provisions of the Social Security Act of 1935, until the Railroad Unemployment Insurance Act (Public

Law 75–722) was passed in 1938 to provide a uniform unemployment insurance system for railroad workers.

The committee has been closely involved in recent legislation concerning the RRUC. The Technical and Miscellaneous Revenue Act of 1988 (Public Law 100–647) increased the railroad unemployment and sickness daily benefit rate, indexed future benefit rates, qualifying earnings requirements and the contribution base to national wage levels, established a waiting period for benefits, and included other measures to improve the railroad unemployment insurance system's financing. The Emergency Unemployment Compensation Act of 1991, as amended in November 1993 (Public Laws 102–164 and 103–152), provided temporary extended State unemployment benefits, and also provided temporary extended benefits under the Railroad Unemployment Insurance Act.

The railroad unemployment and sickness benefit programs are financed by payroll taxes on railroad employers. The Railroad Unemployment Insurance and Railroad Unemployment Insurance Administration Accounts are part of the Federal Unemployment Trust Fund.

Since 1959, the Railroad Unemployment Trust Fund has been able to borrow funds from the railroad pension fund when employer taxes have not been sufficient to cover the costs of unemployment and sickness benefits. The RRUC program became depleted during the 1960's and 1970's. A rapid decline in 1981 and 1982 in railroad employment resulted in substantial borrowing from the pension system which reached peak levels at the end of 1986. Financial measures to assist the Railroad Unemployment Insurance Account were included in the Railroad Retirement Solvency Act enacted August 12, 1983.

A temporary repayment tax on railroad employers began on July 1, 1986, to initiate repayment of the loans made by the Railroad Retirement Account. The Consolidated Omnibus Budget Reconciliation Act of April 1986 (Public Law 99–272) amended the temporary unemployment insurance loan repayment tax beginning July 1, 1986, continued authority for borrowing by the Railroad Unemployment Insurance Account from the Railroad Retirement Account, and provided a contingency surtax on rail employers if further borrowing took place. The contingency surtax was replaced in 1991 by a surcharge added to employers' unemployment insurance taxes for a calendar year if the balance in the unemployment insurance account goes below $100 million.

The 1988 Technical and Miscellaneous Revenue Act railroad unemployment insurance amendments improved financing by indexing the tax base to average national wages and experience-rating employer contributions. The 1988 amendments required the Board to make annual financial reports to Congress on the status of the unemployment insurance system. The unemployment insurance financial report that was submitted in June 1993, before the loan was repaid in full, stated that the experience-based contribution rates would keep the system solvent, even under the most pessimistic employment assumptions. The report also indicated that no new loans will be required during the 10-year projection period (fiscal years 1993–2002). The Board therefore recommended no changes to the system at that time. However, given the cash outlay subsequently applied to the repayment of the prior loans, subsequent estimates indicate that new loans in small amounts could, under pessimistic assumptions, possibly be required during part of the projection period.

With respect to H.R. 2594, the benefit increases contained in the bill are offset by increased tax revenues on rail employers by operation of current law, since employer contributions increase automatically as benefits increase. Therefore, no changes to the revenue laws are required to implement the provisions of H.R. 2594. However, because of the recent history of financial difficulties in the RRUC system, the committee will continue to closely monitor the overall financial solvency of the RRUC system, especially in light of this most recent benefit increase.

Mr. WISE. Mr. Speaker, I rise in strong support of H.R. 2594. This bipartisan bill is long overdue and will greatly improve the unemployment insurance system for the over 4,200 railroad workers in my home State of West Virginia.

This legislation was crafted by both management and labor of our Nation's railroad and will amend the existing unemployment insurance system. Last November the House Transportation and Infrastructure Committee marked up this bill and unanimously recommended passage by the full House.

This legislation will make several needed changes to the railroad unemployment insurance system. First, it will increase the maximum daily benefits from $36 to $42 for the current benefit year and establish a new formula for determining the benefits so that they will increase automatically in the future. Second, this legislation will shorten the waiting period before and employee is eligible to receive unemployment and sickness benefits from 14 days to 7 days. These changes are especially important to railroad workers who experience seasonal layoffs during the winter months.

This bill is a reasonable balance between labor and management concerns and I applaud both sides for their willingness to work together on this legislation. I support this bill and hope that my colleagues in the other body would act on this legislation quickly.

Ms. MOLINARI. Mr. Speaker, I rise in strong support of H.R. 2594, the Railroad Unemployment Insurance Amendments Act of 1996. This important legislation will modernize railroad unemployment and sickness benefits so that they are more in keeping with the State systems that apply to all other industries.

Too often Republicans are accused of supporting the interests of big business over those of the working people. I am pleased today to stand in support of legislation that will directly benefit the interests of working people. H.R. 2594 will increase the daily benefits payable to unemployed rail workers from $36 to $42. It will also reduce the waiting time before benefits begin to accrue from 14 days to 7 days. This means an automatic increase of $294 for any qualified employees. The cost to the industry of these increased benefits will be partially offset by a reduction in the maximum number of days of extended benefits, and a reduction in the permissible amount of outside income.

These increased rail unemployment benefits will not impost any additional costs on the American taxpayer. Because the railroad unemployment system is funded through payroll taxes, the industry will bear the full costs of the new benefits.

This bill has been awaiting enactment for a long time. The House passed virtually identical legislation in the 103d Congress, but it was never taken up by the Senate. Because of the complicated budgetary effects of the legislation, it has taken a long time to be able to bring the legislation to this point. I also want to thank my colleagues on the Budget Committee for assisting our efforts in bringing this legislation forward.

I urge my colleagues to vote "yes" on H.R. 2594.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BEREUTER). The question is on the motion offered by the gentleman from Pennsylvania [Mr. SHUSTER] that the House suspend the rules and pass the bill, H.R. 2594, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AVIATION DISASTER FAMILY ASSISTANCE ACT OF 1996

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3923) to amend title 49, United States Code, to require the National Transportation Safety Board and individual air carriers to take actions to address the needs of families of passengers involved in aircraft accidents, as amended.

The Clerk read as follows:

H.R. 3923

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Disaster Family Assistance Act of 1996".

SEC. 2. ASSISTANCE BY NATIONAL TRANSPORTATION SAFETY BOARD TO FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT ACCIDENTS.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—

(1) IN GENERAL.—Subchapter III of chapter 11 of title 49, United States Code, is amended by adding at the end the following:

"§ 1136. Assistance to families of passengers involved in aircraft accidents

"(a) IN GENERAL.—As soon as practicable after being notified of an aircraft accident within the United States involving an air carrier or foreign air carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

"(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the air carrier or foreign air carrier and the families; and

"(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

"(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for facilitating the recovery and identification of fatally-injured passengers involved in an accident described in subsection (a).

"(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

"(1) To provide mental health and counseling services, in coordination with the disaster response team of the air carrier or foreign air carrier involved.

"(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

"(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

"(4) To communicate with the families as to the roles of the organization, government agencies, and the air carrier or foreign air carrier involved with respect to the accident and the post-accident activities.

"(5) To arrange a suitable memorial service, in consultation with the families.

"(d) PASSENGER LISTS.—

"(1) REQUESTS FOR PASSENGER LISTS.—

"(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the air carrier or foreign air carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the aircraft involved in the accident.

"(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the air carrier or foreign air carrier involved in the accident a list described in subparagraph (A).

"(2) USE OF INFORMATION.—The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

"(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

"(1) are briefed, prior to any public briefing, about the accident, its causes, and any other findings from the investigation; and

"(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

"(f) USE OF AIR CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the air carrier or foreign air carrier involved in the accident so that the resources of the carrier can be used to the greatest extent possible to carry out the organization's responsibilities under this section.

"(g) PROHIBITED ACTIONS.—

"(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

"(2) UNSOLICITED COMMUNICATIONS.—In the event of an accident involving an air carrier providing interstate or foreign air transportation, no unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney, representative of an attorney, insurance company, or air carrier litigation representative to an individual injured in the accident, or to a relative of an individual involved in the accident, before the 30th day following the date of the accident.

"(h) DEFINITIONS.—In this section, the following definitions apply:

"(1) AIRCRAFT ACCIDENT.—The term 'aircraft accident' means any aviation disaster regardless of its cause or suspected cause.

"(2) PASSENGER.—The term 'passenger' includes an employee of an air carrier aboard an aircraft.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 11 of such title is amended by inserting after the item relating to section 1135 the following:

"1136. Assistance to families of passengers involved in aircraft accidents.".

(b) PENALTIES.—Section 1155(a)(1) of such title is amended—

(1) by striking "or 1134(b) or (f)(1)" and inserting ", section 1134(b), section 1134(f)(1), or section 1136(g)"; and

(2) by striking "either of" and inserting "any of".

SEC. 3. AIR CARRIER PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT ACCIDENTS.

(a) IN GENERAL.—Chapter 411 of title 49, United States Code, is amended by adding at the end the following:

"§41113. Plans to address needs of families of passengers involved in aircraft accidents

"(a) SUBMISSION OF PLANS.—Not later than 6 months after the date of the enactment of this section, each air carrier holding a certificate of public convenience and necessity under section 41102 of this title shall submit to the Secretary and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any aircraft accident involving an aircraft of the air carrier and resulting in a major loss of life.

"(b) CONTENTS OF PLANS.—A plan to be submitted by an air carrier under subsection (a) shall include, at a minimum, the following:

"(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

"(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1136(a)(2) of this title or the services of other suitably trained individuals.

"(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the air carrier has verified that the passenger was aboard the aircraft (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

"(4) An assurance that the air carrier will provide to the director of family support services designated for the accident under section 1136(a)(1) of this title, and to the organization designated for the accident under section 1136(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), and will periodically update the list.

"(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger.

"(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the air carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

"(7) An assurance that any unclaimed possession of a passenger within the control of the air carrier will be retained by the air carrier for at least 18 months.

"(8) An assurance that the family of each passenger will be consulted about construction by the air carrier of any monument to the passengers, including any inscription on the monument.

"(9) An assurance that the treatment of the families of nonrevenue passengers (and any other victim of the accident) will be the same as the treatment of the families of revenue passengers.

"(10) An assurance that the air carrier will work with any organization designated under section 1136(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

"(11) An assurance that the air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) of this title for services provided by the organization.

"(12) An assurance that the air carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

"(13) An assurance that the air carrier will commit sufficient resources to carry out the plan.

"(c) CERTIFICATE REQUIREMENT.—After the date that is 6 months after the date of the enactment of this section, the Secretary may not approve an application for a certificate of public convenience and necessity under section 41102 of this title unless the applicant has included as part of such application a plan that meets the requirements of subsection (b).

"(d) LIMITATION ON LIABILITY.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the air carrier in preparing or providing a passenger list pursuant to a plan submitted by the air carrier under subsection (b), unless such liability was caused by conduct of the air carrier which was grossly negligent or which constituted intentional misconduct.

"(e) AIRCRAFT ACCIDENT AND PASSENGER DEFINED.—In this section, the terms 'aircraft accident' and 'passenger' have the meanings such terms have in section 1136 of this title.".

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following:

"41113. Plans to address needs of families of passengers involved in aircraft accidents.".

SEC. 4. ESTABLISHMENT OF TASK FORCE.

(a) ESTABLISHMENT.—The Secretary of Transportation, in cooperation with the National Transportation Safety Board, the Federal Emergency Management Agency, the American Red Cross, air carriers, and families which have been involved in aircraft accidents shall establish a task force consisting of representatives of such entities and families, representatives of air carrier employees, and representatives of such other entities as the Secretary considers appropriate.

(b) MODEL PLAN AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

(1) a model plan to assist air carriers in responding to aircraft accidents;

(2) recommendations on methods to ensure that attorneys and representatives of media organizations do not intrude on the privacy of families of passengers involved in an aircraft accident;

(3) recommendations on methods to ensure that the families of passengers involved in an aircraft accident who are not citizens of the United States receive appropriate assistance;

(4) recommendations on methods to ensure that State mental health licensing laws do not act to prevent out-of-state mental health workers from working at the site of an aircraft accident or other related sites;

(5) recommendations on the extent to which military experts and facilities can be used to aid in the identification of the remains of passengers involved in an aircraft accident; and

(6) recommendations on methods to improve the timeliness of the notification provided by air carriers to the families of passengers involved in an aircraft accident, including—

(A) an analysis of the steps that air carriers would have to take to ensure that an accurate list of passengers on board the aircraft would be available within 1 hour of the accident and an analysis of such steps to ensure that such list would be available within 3 hours of the accident;

(B) an analysis of the added costs to air carriers and travel agents that would result if air carriers were required to take the steps described in subparagraph (A); and

(C) an analysis of any inconvenience to passengers, including flight delays, that would result if air carriers were required to take the steps described in subparagraph (A).

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the model plan and recommendations developed by the task force under subsection (b).

SEC. 5. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this Act or any amendment made by this Act may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from Illinois [Mr. LIPINSKI] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I strongly support this legislation. I made a promise to the families of the victims of aviation disasters when they were before our committee in June that I would bring forward such legislation, and today we are fulfilling that promise.

Airline travel is remarkably safe. Indeed, since commercial aviation began over 80 years ago, less than 13,000 people have been killed in airplane crashes. That many die every 4 months on our Nation's highways.

However, when accidents do occur, it is important that the families of the victims be treated with the utmost sensitivity and compassion. The airlines usually do the best they can.

However, when we held a hearing on June 19, we heard some real horror stories from the families, including such things as impersonal notification, such as leaving messages about the death of a loved one on an answering machine, mass burials of unidentified body parts without informing the families, discarding the belongings of the victims without notifying the families, harassment by lawyers looking for clients and journalists looking for stories, and painful delays in notification of the death of a loved one. Sometimes the airline would refuse to tell them anything for hours and hours.

As that June 19 hearing I promised the families that we would move legislation to deal with these problems, and today we bring this bill to the floor to keep that commitment. The purpose of this bill is to address many of the complaints we heard and clarify the role of the Government and the Red Cross in helping the families of future airline disasters.

Key features of this bill include: It establishes a position within the NTSB to act as a liaison between the Government and the families and between the airline and the families.

It directs the NTSB to designate an independent organization, such as the Red Cross, to take primary responsibility for the care and support of the families.

It imposes a $1,000 fine on anyone impeding the work of the NTSB or the Red Cross.

It requires airlines to return passengers' possessions to the families, if they request it, and retain all unclaimed articles for 18 months.

It establishes a task force involving the Department of Transportation, NTSB, FEMA, the Red Cross, family representatives, and the airlines to develop a model family assistance plan, and to recommend ways to speed up the next-of-kin notification process and get the military resources more involved in the identification of passenger remains.

It requires a rule prohibiting lawyers from contacting families within 30 days of an accident, similar to the rule that now applies to the members of the Florida bar.

It makes clear that airlines can go beyond the minimum requirements in this act and do more than is required to help the families as many airlines say they do now.

It is important to emphasize that the responsibility for notifying families in the death of a loved one remains with the airline. They are the only ones in a position to verify the accuracy of the passenger manifest. However, the bill gives families another option if the airline is slow in providing notification. They could now go to the NTSB or the Red Cross for information. The airline will have to turn over its best available passenter list to the NTSB or the Red Cross immediately upon request. The NTSB or the Red Cross could then tell the family whether or not their loved one was on the list and explain the limitations on the accuracy of the list.

At our hearing 2 weeks ago the families enthusiastically supported this bill, and the airline witnesses testified that they could live with it.

This legislation will help to minimize the suffering of those who lose loved ones in airline tragedies, and I certainly want to thank the gentleman from Tennessee [Mr. DUNCAN], the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from Illinois [Mr. LIPINSKI], and others: The gentleman from Illinois [Mr. LAHOOD] and the gentlewoman from Missouri [Ms. DANNER] for their help in crafting this legislation.

I also want to thank the following family representatives who played important and very constructive roles in the formulation of this legislation:

Doug Smith, president of the National Air Disaster Alliance, Victoria Cummock of the Pam Am 103 Families, Richard Kessler, who lost his wife in the ValuJet crash, and Cynthia Cox from Montoursville, PA, who lost her daughter in the TWA tragedy.

I would urge strong support for this legislation.

Mr. LIPINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2923, the Aviation Disaster Family Assistance Act of 1996. I am pleased to be a cosponsor of this important legislation.

As a result of hearings the Subcommittee on Aviation held on the treatment of families after aviation accidents, it was generally recognized that there are improvements that must be made to ensure that families' interests are better addressed. The legislation introduced by Chairman SHUSTER takes significant steps in that direction by requiring the National Transportation Safety Board to designate a director of family support services as well as designating an independent organization, such as the Red Cross, to provide critical support to the families.

As this bill has moved through the Transportation and Infrastructure Committee, I have consistently expressed my concern with the burden we are placing on the NTSB's already thin resources. This is something we must keep a close eye on as we consider NTSB funding in the future.

I have also expressed concern with the notification aspects of this bill. I have advocated notifying families in person, and am pleased that the legislation encourages in person notification to the extent practicable. But I also understand that in many cases, families are learning of accidents on television, and that in person notification can never be accomplished with the speed that the media reports a plane crash. While I am pleased with the steps that this measure takes toward improving the notification system, I will continue to explore ideas to enhance the system.

There is no perfect way to handle aviation disasters. Our task is to make the process both efficient and compassionate. This bill is a big step toward both those goals.

Mr. Speaker, I want to commend Chairman DUNCAN for his leadership on this legislation and for the manner in which he has handled the subcommittee the entire 104th Congress. Since I became ranking member of the Aviation Subcommittee last October, I have been impressed with your commitment to this position and the manner in which you have treated me and the other members of the subcommittee.

I also want to recognize Chairman SHUSTER, the sponsor of this legislation, and of course the distinguished gentleman from Minnesota, the ranking member of the full Committee on Transportation and Infrastructure, Mr. OBERSTAR.

Mr. Speaker, I urge support for this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. DUNCAN], the distinguished chairman of the subcommittee.

Mr. DUNCAN. Mr. Speaker, I thank the gentleman for yielding this time to me, and, Mr. Speaker, I rise in strong support of H.R. 3923, the Aviation Disaster Family Assistance Act.

Let me first congratulate the chairman of the Committee on Transportation and Infrastructure, the gentleman from Pennsylvania [Mr. SHUSTER], for his strong leadership on this very important issue, and let me say not just on this issue, but I think that Chairman SHUSTER has led our committee through two of the most active years in the history of that committee and probably in the history of all of the committees in the Congress. He has been a really outstanding chairman, and I think the people need to know that.

The Subcommittee on Aviation, which I have the privilege of chairing, held a hearing on this matter on June 19 concerning the treatment of families of passengers killed in airline accidents. We held a second hearing 2 weeks ago, and from those hearings I think we have developed some outstanding legislation. Certainly interest in this issue has been heightened by the TWA 800 tragedy, the ValuJet crash, and certain other terrible accidents that have happened.

From our hearing in June we worked to develop H.R. 3923, and we did it, I am proud to say, on a bipartisan basis with strong support from our friends, the ranking members of the full committee and the subcommittee, the gentleman from Minnesota [Mr. OBERSTAR] and the gentleman from Illinois [Mr. LIPINSKI]. And let me say that I really deeply appreciate those kind words from Mr. LIPINSKI, and I think that I certainly can echo those words back to him because I do not think any subcommittee in the Congress has a chairman and ranking member who have a closer relationship than he and I do, and we have worked so well together, along with the leadership provided by Mr. OBERSTAR, who has developed such an expertise in the field of aviation and who has done so much in this area.

In our hearings on this legislation we heard some very terrible and troubling stories, such as mass burials of unidentified body parts without informing family members, something that was very hurtful to these families; the throwing away of personal belongings of victims without notifying the families; constant harassment by lawyers and the media; and leaving messages about the death of a family member on an answering machine. Several recommendations to correct those problems were brought to our attention by witnesses at the subcommittee's hearing in June and also again a couple of weeks ago.

H.R. 3923 would establish a reliable 1–800 telephone number assigned exclusively to handle accident-related calls from family members.

It establishes a director of family support services position within the National Transportation Safety Board. It provides the NTSB with the authority to designate a third party, such as the American Red Cross, the Salvation Army, or some other outstanding organization, to be responsible for post-trauma communication and work with families.

The bill requires that personal items be returned to family members and to any survivors of an accident.

Under the bill, each airline is required to submit its family assistance plan to the Department of Transportation and to the National Transportation Safety Board for approval.

Finally, among many other provisions, H.R. 3923 would prohibit unsolicited contact of the families by lawyers, both plaintiff lawyers and insurance company lawyers, for 30 days. And I am proud to say that I think the bar has adopted a very responsible position in regard to this, and we have a very strong letter of endorsement for this provision from the Association of Trial Lawyers of America which I will include for the RECORD.

Finally, Mr. Speaker, H.R. 3923 will help improve the tremendous coordination that must take place at the accident site. It will help improve communication between the family members and those assisting family members.

I urge my colleagues to support H.R. 3923 so that we can get this legislation over to the Senate and to the President before the 104th Congress adjourns. I think this is outstanding legislation that can be proudly supported by all Members of this body.

The letter referred to follows:

ASSOCIATION OF TRIAL LAWYERS OF AMERICA,
Washington, DC, September 10, 1996.

Hon. BUD SHUSTER,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE SHUSTER: As President of the Association of Trial Lawyers of America, I wish to commend you on your consideration of H.R. 3923, which the Aviation Subcommittee will mark-up on Wednesday, September 11, and the full Transportation Committee will mark-up on Thursday, September 12. This legislation will lend much-needed support to the families of victims of airline disasters.

In particular, the Association strongly supports sec. 5. This provision states the sense of Congress that state bar associations should adopt rules prohibiting unsolicited contact concerning a legal action with victims or aggrieved families within 30 days of an accident. ATLA's longstanding Code of Contact goes even further, and entirely prohibits unsolicited contact, regardless of when the accident occurred. We believe that the 30-day time period you provide in the bill is a reasonable minimum period during which victims and their families should not be bothered against their will with the sometimes painful question of compensation.

However, we urge the committee to go further, by strengthening this bill to also prohibiting unsolicited contact by anyone concerning potential claims they or their loved ones may have. Until a family decides to consider its options with regard to compensation, no party should take advantage of them during this delicate emotional time. This prohibition should not extend to preventing airlines of other parties from providing for the needs of the families, such as transportation to the accident site, lodging and meals—only to communications relating to the family's right to bring an action.

The shock and grief the families of aviation disasters are experiencing should be respected by all and this is not a time for outsiders to be soliciting serious discussions from the victims or their families. This rule will ensure that families, not businesses or lawyers, make the decision of when to seek compensation, and the proper mechanism for it.

Further, the Association would be pleased to participate in the task force established in sec. 4 to help assure that families' privacy is not intruded upon by any party. We believe that the families must be protected, and our position in the legal community and our strong Code of Conduct gives us a unique ability and standing to contribute to such a task force.

The Association of Trial Lawyers of America strongly supports efforts to help families of victims of transportation disasters. Without taking a position with regard to any of the other issues in the bill, we believe that this legislation is a valuable step toward sheltering families in the midst of a personal crisis. Again, we commend your action supporting these families.

Sincerely,

HOWARD TWIGGS,
ATLA President.

□ 1100

Mr. LIPINSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the Committee on Transportation and Infrastructure and former chairman of the Subcommittee on Aviation.

Mr. OBERSTAR. Mr. Speaker, I appreciate the gentleman yielding time to me, and I would like to say a few words on this measure.

To the very great credit of our chairman, the gentleman from Pennsylvania [Mr. SHUSTER], in the aftermath of the ValuJet crash, when we in the committee heard some of the tragedies that have already been related by the chairman of the committee, by the chairman of the subcommittee, the gentleman from Tennessee [Mr. DUNCAN], and the gentleman from Illinois [Mr. LIPINSKI], about treatment of the families, the chairman of the committee, the gentleman from Pennsylvania [Mr. SHUSTER], made a commitment to seize on this issue, to deal with it, to bring justice, and to build upon the legislation enacted in the aftermath of PanAm 103. We are here today because of that commitment. I salute our chairman for moving decisively, and bringing this issue to closure in the House and I hope closure in the other body rapidly.

Already the commission, headed by Vice President GORE, has taken a central element of this legislation and incorporated it into the Vice President's recommendations without waiting for legislation to be enacted. Of course, enactment of the legislation will only reinforce and strengthen what the Gore commission has initiated.

There is plenty of praise and commendation to go around, beginning with the chairman of the committee, the gentleman from Pennsylvania [Mr. SHUSTER], for the leadership he has demonstrated, for the genuine caring and sensitivity that he has shown on this issue; the gentleman from Tennessee [Mr. DUNCAN], also a man of great compassion and sensitivity, who has devoted a great amount of time and effort to the issue; to the gentleman from Illinois [Mr. LIPINSKI], our ranking member, who again spent a great deal of time with family members hearing their concerns, addressing those issues, working together with Chairman DUNCAN to resolve some of the sticker questions, and to come up with a piece of legislation that will vastly enhance the treatment of families in the aftermath of an air tragedy.

Obviously, we all hope we will never have to exercise the provisions of this legislation, but we also know that tragedies happen in aviation, for one or another cause. We need to be prepared. The FAA needs to be prepared, the DOT, the airlines have to be prepared. This legislation will put a framework around preparedness, to deal with these tragedies in the future, so never again will a family member have to agonize, waiting for information, not know where to call, be given abrupt treatment or no information whatever, worst of all.

Outside the confines of the committee, Vicki Cummock, who lost her husband in PanAm 103, has proven to be a champion on behalf of family members. She has counseled in the case of many subsequent air tragedies and helped us formulate this legislation; George Williams, a leader of another group of families of the victims of PanAm 103, has provided great insight; Bill Kessler, with his tragic experience losing his wife in the ValuJet tragedy, provided great, compassionate insight.

I also would like to mention a woman from my district, Lorelei Valerie, who lost her father in a tragic crash 6 minutes from my home in Chisholm, MN, when a commuter aircraft crashed into a hillside for want to a ground proximity warning system, and who experienced many of these similar problems: notification, treatment of the families in the aftermath of a tragedy.

This legislation takes a big step forward. The bill specifies that its provisions do not prohibit airlines from providing families, victims' families, with additional support beyond what is provided in the framework of this legislation. It does require that all airlines, regardless of the size of their fleet, have disaster response plans on file with the Department of Transportation.

The bill does not require that the plan be approved as part of the carrier's operations specifications. That would be my preference. I believe, however, that if we included such a requirement, notwithstanding that it would improve the bill, it might also impede its chances for action.

There will be an effort to develop a model plan. When such a model plan is developed, I believe the DOT should give strong consideration to promulgating regulations to require that at least the contents of the model plan be included in each carrier's own individual airline response plan. That is an issue that I am going to be watching very closely. There may come a time when we need to take a tougher approach on these response plans than we are taking in this bill. This bill is a good step in the right direction.

I just simply put the airlines on notice and the DOT on notice that we mean business in this committee on this issue. We will not tolerate inaction or lack of compliance with the spirit of this legislation. I urge strong support and a wholehearted unanimous vote in favor of this legislation.

In 1990, Congress passed legislation that required carriers to confirm a passenger manifest in a maximum of 3 hours on international flights. The airlines have been successful in forestalling the implementation of this requirement through a rider in the early appropriations legislation. Each time I learn of an aviation accident and hear and families waiting for hours without definite word of whether their loved ones have been involved, I cannot help but blame the airlines for working so hard to find a legislative fix to allow them to keep families in a state of uncertainty longer than necessary. The recently released recommendations of the Gore Commission include a proposal that the requirement in the 1990 legislation be implemented. In fact, many of the provisions included in H.R. 3923 are also Gore Commission recommendations.

The purpose of this legislation is to help create a process that, at a minimum, does not make an already very emotional situation even more traumatic for family members. It requires that all airlines, even the smallest, have, as a prerequisite for their operation, a disaster plan submitted to the Department of Transportation. The plan must address a number of key areas, including the notification of family members, and the ongoing obligations the carrier has with respect to the information and services to be provided to the family members throughout the duration of the disaster. The bill charges the National Transportation Safety Board with designating an individual to work with the family members and provide them with periodic briefings on the status of the recovery of victims' remains and the accident investigation, as well as coordinating and disseminating to family members other pertinent information from various government entities. We have learned that it is very important that family members not feel they have to contact several different Federal State, and local entities to be fully informed about matters of importance to them.

Also in response to the testimony received at our June hearing, this bill requires that the NTSB designate an independent nonprofit organization with experience in disaster response to work with the families to provide information and counseling as required. In the hearing, the Red Cross was mentioned specifically as an organization that would be well suited to the role envisioned, and we have worked with that organization in developing this legislation.

This legislation does not improve the safety of commercial aviation or the adequacy of the

Federal Aviation Administration's oversight of airlines, yet it address something that, in its own way, is just as important; the need for compassionate treatment of people who have suffered the unexpected loss of a loved one. The legislation is intended to help people who are desperate for information about their father, husband, son. It is intended to protect people who are hounded by the media as they seek news about the safety of their mother, wife, daughter. It is intended to assist people who are subjected to lawyers eager to take advantage of their vulnerability and great personal loss to gain a percentage of a potential financial award.

This legislation is about providing compassion and respect for individuals experiencing deep grief. I think the fact that we need legislation to mandate compassion is a dad statement about our society, but I am gratified that, having seen a need, our committee has been able to respond in a timely manner.

The victims' families have known deep loss and shared similar experiences at the hands of Government agencies and the media. Some of these individuals have gone on to use their painful experiences to help others deal with their grief under similar circumstances, and we have worked with these individuals to develop this legislation, and will hear from some of them again today. Their shared experience has helped us in the legislative process. They understand the need to ensure that the dignity of the families will be preserved to the extent possible under extremely adverse conditions.

It is important to understand that there are services that an airline can provide that no government or independent agency can. As private companies, airlines can authorize immediate expenditures to provide transportation and lodging to family members, as well as accommodate other requirements they may have. Most large airlines have established disaster plans in place and trained individuals at the ready in the event of an accident. In fact, some airlines have worked with the family members groups who have testified before our committee to develop or modify their disaster response plans. Many airlines provide each family with the name and telephone number of an airplane employee who will work with them to provide them with the information and services needed. The airline representatives can help provide family members with assistance that is tailored to the needs of an individual family. For example, airlines have accommodated a family's need for money to make a mortgage payment or school tuition that comes due during the tragedy. This bill recognizes the need to preserve the airline's ability to provide financial support and other assistance to family members during emotionally stressful times. The role that many airlines have played in response to an accident cannot be duplicated by any Federal, State, or independent agency, and the services they provide must not be sacrificed in a naive attempt to eliminate contact between airlines and families.

However, while this bill specifies that its provisions do not prohibit airlines from providing the victims' families with additional support, it does require that all airlines, regardless of the size of their fleet, have disaster response plans on file with the Department of Transportation. The bill does not require that the plan be approved as part of the carrier's operations specifications. I believe that if we included such a requirement, it would improve the bill. But I recognize that there will be an effort to develop a model plan. After such a plan is developed, I believe the DOT should give very strong consideration to promulgating regulations to require that at least the contents of the model plan be in each carrier's own plan. I will be watching this issue closely. There may come a time when we need to take a more firm approach on these plans than we are taking today in this bill.

I urge my colleagues to pass this important legislation.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I anticipate the overwhelming passage of this legislation today, and with its passage, it will mark the eighth piece of aviation legislation which this body has overwhelmingly passed and sent to our colleagues in the other body.

Unfortunately, they have not acted yet on any of those pieces of legislation. Of the seven that we have sent over, the one that had the poorest vote showing was a vote of 389 to 22, so I think that demonstrates the extraordinary, overwhelming bipartisan support for the aviation measures which this body has passed and sent to the other side.

So it is my hope that in the waning days of this Congress, our colleagues on the other side of the Capitol will indeed move these very, very important pieces of aviation legislation, not the least of which is this very important family bill that is before us today.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Illinois [Mr. WELLER], the distinguished vice chairman of the Subcommittee on Aviation.

Mr. WELLER. In a spirit of bipartisanship, I rise in strong support of this bipartisan bill, Mr. Speaker. This legislation responds to the pleas we all heard from families at the Subcommittee on Aviation hearings in June and then again on September 5. At our subcommittee markup the bill, as revised, reflects some of the concerns raised by the families, the airlines, and the Red Cross.

Specifically, the bill requires the NTSB to designate an employee to act as a point of contact with the families within the Federal Government and as a liaison between the airline and the families. The NTSB is also directed to designate an independent, nonprofit organization; for example, the Red Cross, to address some of the emotional needs called upon by the families.

H.R. 3923 sets out in some detail the responsibilities of the NTSB, the Red Cross, and the airlines. It is very important to note that the airlines will continue to be responsible for notifying the families of the death of a loved one. However, the bill also requires that the passenger list be turned over to the National Transportation Safety Board, the NTSB, and the Red Cross, if requested, so families will have someone else to turn to if the airline notification process is too slow.

As we all know, Mr. Speaker, there were too many complaints from families about the ValuJet and TWA crashes, but these complaints did not originate with these accidents. Similar problems have been brewing for many years, going back to KAL 007 flight and PanAm 103. At our hearing in June, Chairman SHUSTER committed to the families that we would develop legislation in response to their concerns. This bill, a bipartisan bill, fulfills that commitment.

But we never could have done it without the bipartisan cooperation and input of the ranking members, the gentleman from Minnesota [Mr. OBERSTAR] and the gentleman from Illinois [Mr. LIPINSKI], whose experience and viewpoint made them invaluable partners in this process. I also would like to thank the gentleman from Tennessee [Mr. DUNCAN], the chairman, the gentleman from Illinois [Mr. LAHOOD], the gentlewoman from Missouri [Ms. DANNER], who made significant contributions to this bill.

This bill has broad-based sponsor support. We have over 40 cosponsors. So in short, Mr. Speaker, I think we have a good, well-balanced, thoughtful piece of legislation. I urge bipartisan support.

Ms. JACKSON-LEE of Texas. Mr. Speaker, given the recent crashes of a ValuJet flight in Florida and a TWA flight off the coast of Long Island, the Aviation Disaster Family Assistance Act is both timely and necessary. This bill will provide the National Transportation Safety Board to designate an employee as a family advocate. The family advocate would serve as a point of contact within the Federal Government for the families of victims, act as liaison between the families and the airline, and obtain the passenger list and use it to provide information to the families.

The measure also prohibits making unsolicited contacts with any individual injured in an airline crash or with the family of any victim of an airline crash for 30 days after the crash.

This measure will provide some protection and comfort to families who experience the painful uncertainty of not knowing the fate of a family member or the horror of losing a loved one. Hopefully, no one will have to suffer the terrible uncertainty and apprehension that Pam Lynchner's family in my hometown of Houston, TX, had to go through after the crash of that fateful TWA flight, without some comfort and counseling.

Mr. McDADE. Mr. Speaker, I rise in strong support of H.R. 3923, the Aviation Disaster Family Assistance Act, a measure which will reform the National Transportation Safety Board's procedures for assisting families of aviation accident victims. As a cosponsor of this vital bill, I want to thank Chairman BUD SHUSTER of the Transportation and Infrastructure Committee for his timely efforts in bringing this very necessary legislation to the floor.

This measure will address many of the problems confronting families of air disaster victims such as those who lost loved ones in the ValuJet and TWA flight 800 aviation disasters. The need for this bill became apparent after these air disasters, where family members of victims complained about the bureaucratic friction which they had to fight through to determine the status of their loved ones. After the TWA flight 800 disaster, I became personally involved in this process when families from Montoursville, PA, in my district, faced the loss of sons, daughters, parents, friends, and neighbors. Regrettably, the current mission of the National Transportation Safety Board does not include any requirements for coordinating care and support for the victim's families. H.R. 3923 will empower the NTSB, the logical organization to fulfill this mission, to advocate, support, and care for these families in their moment of need.

During the recent TWA 800 disaster, many families complained of poor handling of the situation by airline personnel, lawyers, and the press. The families and I were constantly confronted with bureaucratic friction in obtaining a list of passengers, securing for the victim's families a dedicated liaison officer between TWA, the U.S. Coast Guard, the NTSB, and the Suffolk County coroner's office. Many had to wait days for airline confirmation of their loved ones' deaths. They also waited weeks for identification of recovered bodies because the local authorities refused to accept outside assistance. These experiences are the motivation behind this bill, designed to establish guidelines for informing the families of victims and to spare families of future victims needless frustration during such trying circumstances.

The day after the TWA 800 crash, my office directly contacted the chairman of the National Transportation Safety Board, the vice president of operations for TWA and the Suffolk County coroner. Through this effort, I was able to obtain a U.S. Coast Guard liaison officer detailed to the Montoursville families, the passenger manifest for the families, and private briefings from the Suffolk County coroner's office. This measure will establish the National Transportation Safety Board as the lead organization to fulfill similar liaison functions in the future.

H.R. 3923 will require the NTSB to designate an NTSB employee as a family advocate who will coordinate care and support for the families through the Red Cross, the airline, and pertinent disaster response agencies. Specifically, the NTSB will coordinate the recovery and identification of accident victims, obtain the passenger manifest, brief families before press conferences, and inform families of any scheduled public hearings on the accident. The bill additionally tasks agencies such as the Red Cross to provide counseling to the families, ensure the privacy of the families from the media and lawyers, arrange a suitable memorial service, and to use the airline's resources as suitable.

The airlines will be required to submit a plan within 6 months for addressing the needs of families, publicize a reliable, toll-free number for handling calls from family members, immediately provide the passenger list to the family advocate and the Red Cross, even if all names have not been verified. The airlines must additionally consult the families before disposing of all remains and return the passenger's possessions to the families and retain all unclaimed possessions for 2 years. The bill will establish a task force involving the Department of Transportation, NTSB, Federal Emergency Management Association, the Red Cross, family representatives, and the airlines to develop a model family assistance plan and recommend ways to prevent lawyers and the media from violating family privacy.

Mr. Speaker, it is clear, after our experiences with the recent ValuJet and TWA 800 disasters, that there is a need for a dedicated Federal agency to address the Nation's air disaster response problems. I therefore urge passage of this vital legislation and thank Chairman SHUSTER for his excellent efforts in bringing this bill to the floor in a timely fashion.

Mr. LAZIO of New York. Mr. Speaker, as an original cosponsor of H.R. 3923, the Aviation Disaster Family Assistance Act, I rise to express my strong support for this important bill designed to ensure that families of aviation accident victims receive timely emotional care and support when they most need it.

Those whose loved ones perish or are injured in airline crashes are particularly vulnerable as illustrated by the recent experiences of families of the victims of the TWA flight 800 tragedy near my district on Long Island, and the ValuJet crash in the Everglades. The surviving families require immediate attention by personnel who are adequately trained and experienced in handling these disasters.

H.R. 3923 makes the National Transportation Safety Board the lead Federal agency in dealing with the needs of victims' families. An NTSB employee would serve as a family advocate to act as a point of contact between the Federal Government and family members, as well as a liaison between the families and the airline.

In addition, the NTSB would designate an organization experienced in dealing with families in times of crisis—such as the Red Cross—to coordinate the care and support of families; meet with families who come to the scene of the accident; provide counseling to the families; ensure the privacy of the families; inform the families of the role of government agencies and the airline; arrange a proper memorial service; obtain a passenger list to provide information to families; and, use the airline's personnel and resources as needed.

Other important features of H.R. 3923 require the airline to submit a plan within 6 months for addressing the needs of the families of passengers involved in an airline crash; publicize a reliable toll-free number for handling calls from family members; notify families as soon as possible of the fate of their loved ones using trained personnel; and, provide the passenger list to the family advocate and the Red Cross immediately, even if all names have not been verified.

Finally, the bill creates a task force to develop a model family assistance plan, which would be completed and sent to Congress within a year. The task force would involve the NTSB, the Department of Transportation, the Federal Emergency Management Agency, the Red Cross, family representatives, as well as the airlines.

Families and friends, and often whole communities, are affected by these tragedies. The role of the Federal Government must be to support victims' families in any way possible, to help ease their pain after losing a loved one. They deserve no less, and I urge my colleagues to support this bill before us today.

Mr. BLUTE. Mr. Speaker, I rise in strong support of the Aviation Disaster Family Assistance Act. I learned first hand of the horrible experience that families of victims of air disasters go through.

A woman from my district in Swansea, MA lost her parents in the tragic incident that brought down TWA Flight 800 on July 17, 1996. She learned by reading the plane's manifest in the newspaper that her parents did, in fact, perish in this horrific aviation incident. Days after the plane crash this woman continued to receive unacceptable treatment from the airline. She found herself caught in a bureaucratic nightmare when trying to get her daughter home from overseas to attend a memorial service. She was forced through hoop after hoop to simply confirm her daughter's relationship to the deceased. This is not the kind of experience one should be expected to go through during this period of enormous grief.

Therefore, I cosponsored this legislation and I commend Chairman SHUSTER and Chairman DUNCAN for moving this bill on a fast track. The legislation before us today reforms procedures for dealing with families of aviation accident victims. This bill establishes a family advocate within the National Transportation Safety Board [NTSB] to act as a liaison between the Government and the families, and it directs the NTSB to designate an independent organization, such as the Red Cross, to take primary responsibility for the emotional care and support of families. The bill also directs the airline to release the passenger list to the family advocate and Red Cross immediately so that families will have another option in their quest for information about the fate of loved ones.

To lose a loved one in an aviation disaster is a sudden and emotionally devastating experience. I am pleased to be a part of legislation that will help to ease this burden on families in the future.

Mr. LIPINSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. SHUSTER] that the House suspend the rules and pass the bill, H.R. 3923, as amended.

The question was taken.

Mr. LIPINSKI. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore (Mr. BEREUTER). Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

DEEPWATER PORT MODERNIZATION ACT

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2940) to amend the Deepwater Port Act of 1974, as amended.

The Clerk read as follows:

H.R. 2940

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deepwater Port Modernization Act".

SEC. 2. DECLARATIONS OF PURPOSE AND POLICY.

(a) PURPOSES.—The purposes of this Act are to—

(1) update and improve the Deepwater Port Act of 1974;

(2) assure that the regulation of deepwater ports is not more burdensome or stringent than necessary in comparison to the regulation of other modes of importing or transporting oil;

(3) recognize that deepwater ports are generally subject to effective competition from alternative transportation modes and eliminate, for as long as a port remains subject to effective competition, unnecessary Federal regulatory oversight or involvement in the ports' business and economic decisions; and

(4) promote innovation, flexibility, and efficiency in the management and operation of deepwater ports by removing or reducing any duplicative, unnecessary, or overly burdensome Federal regulations or license provisions.

(b) POLICY.—Section 2(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1501(a)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting a semicolon; and

(3) by inserting at the end the following:

"(5) promote the construction and operation of deepwater ports as a safe and effective means of importing oil into the United States and transporting oil from the outer continental shelf while minimizing tanker traffic and the risks attendant thereto; and

"(6) promote oil production on the outer continental shelf by affording an economic and safe means of transportation of outer continental shelf oil to the United States mainland.".

SEC. 3. DEFINITIONS.

(a) ANTITRUST LAWS.—Section 3 of the Deepwater Port Act of 1974 (33 U.S.C. 1502) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) through (19) as paragraphs (3) through (18), respectively.

(b) DEEPWATER PORT.—The first sentence of section 3(9) of such Act, as redesignated by subsection (a), is amended by striking "such structures," and all that follows through "section 23." and inserting the following: "structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for the transportation, storage, and further handling of oil for transportation to any State, except as otherwise provided in section 23, and for other uses not inconsistent with the purposes of this Act, including transportation of oil from the United States outer continental shelf.".

SEC. 4. LICENSES.

(a) ELIMINATION OF UTILIZATION RESTRICTIONS.—Section 4(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(a)) is amended by striking all that follows the second sentence.

(b) ELIMINATION OF PRECONDITION TO LICENSING.—Section 4(c) of such Act is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively.

(c) CONDITIONS PRESCRIBED BY SECRETARY.—Section 4(e)(1) of such Act is amended by striking the first sentence and inserting the following: "In issuing a license for the ownership, construction, and operation of a deepwater port, the Secretary shall prescribe those conditions which the Secretary deems necessary to carry out the provisions and requirements of this Act or which are otherwise required by any Federal department or agency pursuant to the terms of this Act. To the extent practicable, conditions required to carry out the provisions and requirements of this Act shall be addressed in license conditions rather than by regulation and, to the extent practicable, the license shall allow a deepwater port's operating procedures to be stated in an operations manual approved by the Coast Guard rather than in detailed and specific license conditions or regulations; except that basic standards and conditions shall be addressed in regulations.".

(d) ELIMINATION OF RESTRICTION RELATING TO APPLICATIONS.—Section 4(e)(2) of such Act is amended by striking "application" and inserting "license".

(e) FINDINGS REQUIRED FOR TRANSFERS.—Section 4(f) of such Act is amended to read as follows:

"(f) AMENDMENTS, TRANSFERS, AND REINSTATEMENTS.—The Secretary may amend, transfer, or reinstate a license issued under this Act if the Secretary finds that the amendment, transfer, or reinstatement is consistent with the requirements of this Act.".

SEC. 5. INFORMATIONAL FILINGS.

Section 5(c) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(c)) is amended by adding the following:

"(3) Upon written request of any person subject to this subsection, the Secretary may make a determination in writing to exempt such person from any of the information filing provisions enumerated in this subsection or the regulations implementing this section if the Secretary determines that such information is not necessary to facilitate the Secretary's determinations under section 4 of this Act and that such exemption will not limit public review and evaluation of the deepwater port project.".

SEC. 6. ANTITRUST REVIEW.

Section 7 of the Deepwater Port Act of 1974 (33 U.S.C. 1506) is repealed.

SEC. 7. OPERATION.

(a) AS COMMON CARRIER.—Section 8(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1507(a)) is amended by inserting after "subtitle IV of title 49, United States Code," the following: "and shall accept, transport, or convey without discrimination all oil delivered to the deepwater port with respect to which its license is issued,".

(b) CONFORMING AMENDMENT.—Section 8(b) of such Act is amended by striking the first sentence and the first 3 words of the second sentence and inserting the following: "A licensee is not discriminating under this section and".

SEC. 8. MARINE ENVIRONMENTAL PROTECTION AND NAVIGATIONAL SAFETY.

Section 10(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1509(a)) is amended—

(1) by inserting after "international law" the following: "and the provision of adequate opportunities for public involvement";

(2) by striking "shall prescribe by regulation and enforce procedures with respect to any deepwater port, including, but not limited to," and inserting the following "shall prescribe and enforce procedures, either by regulation (for basic standards and conditions) or by the licensee's operations manual, with respect to"; and

(3) by redesignating clauses (A), (B), and (C) as clauses (1), (2), and (3), respectively.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from Pennsylvania [Mr. BORSKI] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I am pleased to yield such time as he might consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, I thank the distinguished chairman of the committee for yielding time to me.

Mr. Speaker, I rise this morning in strong support of this bipartisan legislation to improve the way we manage and promote the use of deepwater ports. Unfortunately, only one deepwater port has been constructed since the passage of the original 1974 Deepwater Ports Act, the Loop facility off the coast of Louisiana.

Deepwater ports make environmental and transportation safety sense, and with the passage of this measure, deepwater ports will make economic sense. By unloading supertankers laden with oil in deep offshore waters, we can dramatically reduce the likelihood of catastrophic oil spills like we have witnessed on both the Pacific coast and, most recently, off the coast of Rhode Island.

The Louisiana delegation has long realized the benefits of deepwater ports and has taken the lead in developing H.R. 2940. The gentleman from Louisiana [Mr. HAYES] has been especially effective in educating the members of the Committee on Transportation and Infrastructure on the merits of deepwater ports. Deepwater ports will become increasingly important as traffic entering our Nation's ports continues to grow.

This legislation has been developed with extensive input from transportation and environmental interests, and I am confident that this measure reflects the best ideas of both of these very important constituencies. We should be doing more to promote the use of deepwater ports, and this legislation is a huge step in the right direction.

As we enter into the next century, it would be my hope that we could develop deepwater ports for the Atlantic and Pacific coast as well. I urge all of my colleagues to support the passage of this Deepwater Port Modernization Act.

I thank the ranking member of our subcommittee, the gentleman from Pennsylvania [Mr. BORSKI], for his cooperation, I thank the distinguished chairman of the full committee, the gentleman from Pennsylvania [Mr. SHUSTER], for his leadership, and the ranking member of the full committee, the gentleman from Minnesota [Mr. OBERSTAR], for his partnership. Together we are moving on important legislation.

Mr. BORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2940, the Deepwater Port Modernization Act, which will help streamline the layers of regulation that apply to deepwater ports. Despite the ever growing thirst in this country for imported oil, there is currently only one deepwater port operating, and that port, the Loop facility in Louisiana, is only operating at 60 percent of its capacity.

The changes contained in H.R. 2940 should make it easier for deepwater ports to compete against other shipment options which do not face the same complex web of regulations. With passage of H.R. 2940, coordinated licenses and operation manuals will streamline the process. I want to emphasize that a provision in the introduced bill that would have allowed a relaxation of environmental monitoring requirements for deepwater ports has been removed to address serious concerns about it.

H.R. 2940 contains only modest changes to existing law. Hopefully these changes will be enough to provide the springboard for more widespread use of deepwater ports for oil imports that was envisioned by the Deepwater Port Act of 1974. During the past 3 years a daily average of 700,000 barrels of oil have passed through the 48-inch pipeline that links the Louisiana offshore oil port 18 miles off the Louisiana coast to its inland storage terminal.

Loop is the off-loading point for about 12 percent of the Nation's oil imports. With the passage of this bill, and as the Nation's oil imports increase, Loop and other proposed deepwater ports should be used on a greater scale. H.R. 2940 is a sensible streamlining of regulations for an efficient means of meeting our Nation's needs for imported oil.

I believe very strongly, Mr. Speaker, that we should be working to reduce the demand for imported oil. Our Nation cannot maintain its position as a global power if we continue to increase our demand for foreign oil on a virtually unlimited basis.

However, until we begin to turn our oil import policy around, the use of deepwater ports makes sense. I urge support of H.R. 2940, the Deepwater Port Modernization Act.

Mr. Speaker, I reserve the balance of my time.

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Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

I would urge strong support for this legislation which is bipartisan and updates and improves the Deep Water Port Act of 1974. Representative JIMMY HAYES along with other colleagues introduced this legislation back in February. Our committee held hearings and worked with all the interested parties to craft this legislation. In some respects, the 1974 act has worked very well. However, there is a clear need to modernize and improve this act in several areas which have already been outlined. The committee report on this legislation contains a detailed description of the bill and of the committee's intent.

Finally, let me thank the ranking Democrat of the committee, JIM OBERSTAR, the chairman and ranking member of the Water Resources and Environment Subcommittee, SHERRY BOEHLERT and BOB BORSKI, and the chairman and ranking member of the Coast Guard and Maritime Transportation Subcommittee, HOWARD COBLE and BOB CLEMENT. They have been very instrumental in moving this important legislation. I would urge its strong support.

Mr. Speaker, I reserve the balance of my time.

Mr. BORSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee [Mr. CLEMENT], the distinguished ranking member of the Subcommittee on Coast Guard and Maritime Transportation.

Mr. CLEMENT. Mr. Speaker, I rise in strong support of H.R. 2940, the Deepwater Port Modernization Act. This bill will streamline the licensing and operating procedures.

On March 28, the Subcommittee on Coast Guard and Maritime Transportation held a joint hearing on this bill with the Subcommittee on Water Resources. At that time we received testimony from the administration, the deepwater port industry, and the environmental community on this legislation and how this industry has developed much differently from what was anticipated when the Deepwater Port Act was enacted in 1974.

The amendments contained in H.R. 2940 will allow the deepwater facility in Louisiana and the proposed deepwater port in Texas to meet new market conditions. For example, the present law prohibits the deepwater port from shipping oil from other oil production facilities on our outer Continental Shelf to refineries on shore. This prohibition is eliminated to allow these facilities more flexibility in their operations.

Since we have had only one deepwater port built to date, the regulations and licensing process were designed for that single facility. As a result the bureaucratic hurdles that must be overcome to make minor changes to the facility are overly burdensome and expensive. H.R. 2940 will allow many of the day-to-day decisions affecting the facility and minor modifications to the port to be completed by getting the approval of the local Coast Guard captain of the port instead of the Secretary of Transportation.

The history of the deepwater port in Louisiana demonstrates that this facility is safe and poses less of a threat to the environment than lightering crude oil between two floating tankers.

I am hopeful that H.R. 2940 will make the LOOP deepwater port facility more cost efficient and promote the construction of other deepwater ports in the United States.

I urge my colleagues to support the passage of H.R. 2940, the Deepwater Port Modernization Act.

Mr. SHUSTER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Louisiana [Mr. HAYES] who has been a prime mover of this legislation.

Mr. HAYES. Mr. Speaker, I wish to thank both sides of the aisle, in the room as well as in the committee, and to briefly repeat the argument that was made that as a consequence of our energy dependence, we have the extraordinary circumstance where America is now looking at more of its energy needs coming from the region in the world that is most unstable, so that even with a small skirmish in the northern part of one country, the price of a barrel of oil moves up almost 30 percent. This just cannot be acceptable as future energy policy.

In connection with what the House has done earlier in recognizing additional production that can be gained through advanced technology on our Outer Continental Shelf, it then becomes a simple question to understand what is the most environmentally efficient way to try to reduce energy dependence as well as to make sure that those folks in Pennsylvania, in the Northeast, as well as at my home on the gulf coast, are able to plan their future needs based upon a price of energy that allows them to lead their daily lives.

The answer is, we have got to increase the ability to move these ports. Whenever they give you a quote in a national news media about the price of oil, they do not tell you the cost to get it to the pump. When you begin looking at tens of thousands of miles in movement each and every year, you understand that all of that cost is added on, as opposed to shallow and deep offshore with much smaller distances to move.

The environmental dangers elevate with every mile that a tanker moves, and therefore, energy dependence on the Middle East also means environmental concerns and fears at a higher and higher level.

Finally, to my knowledge, no one in this place that keeps a notebook and a report on just about every subject has ever calculated the cost of our military presence in a region that we defend almost solely because of its energy production capability that we are so dependent upon. I wonder what the price of a barrel of oil would be in the Middle East if you put on the line all of those military personnel, aircraft carriers, and F–117A's that make that security, hopefully, dependable for the immediate future.

With that in mind, I want to again thank my colleagues on both sides of the aisle. This is the right thing for the only existing facility in Louisiana, and Louisiana is doing the right thing in helping to ensure the energy independence of America's future, for Pennsylvania and the rest of the Nation.

Mr. BORSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. OBERSTAR], the distinguished ranking member of the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Speaker, this bill has a broad consensus now and should pass. It was not always so.

At the outset, when the legislation was first proposed to revitalize the Louisiana offshore oil port and to revitalize the basic underlying law itself, there was considerable environmental concern and vigorous opposition. In fact, there were concerns expressed by the Department of Transportation that wanted to maintain a very strong regulatory hold on this legislation. Those concerns came to my attention.

I discussed these matters with the gentleman from Pennsylvania [Mr. SHUSTER], our chairman, and with the gentleman from New York [Mr. BOEHLERT] and the gentleman from Pennsylvania [Mr. BORSKI], the chairman and ranking member of the subcommittee, and we set about on our side to resolve within our Democratic ranks the outstanding issues. We brought in the environmental groups, we brought in the Department of Transportation, we heard them out, and we came up with proposals which I think were well received by the majority. We worked out a very fine bipartisan solution.

I say that because I have a piece of legislation pending in the other body that is not receiving the same kind of comity. I would hope that the leading supporters of this legislation in the other body would extend the same comity to concerns House Members have about issues that are intensely of concern to the people in their district.

This legislation is going to benefit not only the Louisiana offshore oil port but all future possible deep water ports by allowing ports to become more competitive, be more efficient and to do so in an environmentally safe regime with economic considerations that will advance the cause of energy efficiency and keep the cost of imported energy within reach and keep our U.S. ports competitive.

We can do those things when we work together on a sound, bipartisan, constructive basis, to look at what is best for the overall interests of the country. I urge the same kind of comity from our colleagues in the other body.

It had been my intention to obstruct the passage of this legislation by asking for a recorded vote, but I will not do that out of respect for our chairman and out of respect for the merits of the issue and in hopes that we get the attention of our colleagues across the way.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

I want to assure the gentleman from Minnesota that, as he knows, I am very well aware of the important legislation that he is referring to in the other body and as he knows we have already expressed our strong support for his legislation and this legislation, while I expect will pass the House overwhelmingly today, of course, what happens as we go to conference is a question mark and that question could be answered in the affirmative or the negative based on the comity which we know our good friends in the other body are likely to give to us.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I support this important legislation. It amends the Deepwater Port Act to remove some restrictions on the use of deepwater ports and clarifies and simplifies certain Coast Guard regulations. This legislation is designed to strengthen the ability of deepwater oil ports off of the U.S. coast beyond U.S. territorial waters to conduct their business. There is currently only one licensed deepwater port off of the coast of the United States, which is the Louisiana Offshore Oil Port. I hope this legislation will help us see more of such ports off of the U.S. coast, especially in my home State of Texas.

With respect to operations of a deepwater port, the bill would require deepwater ports to only comply with regulations established in the Transportation Department's facilities operations manual instead of the various other licensing provisions that are currently required. Additionally, the bill would enable the Coast Guard to streamline the approval process for maintaining certain environmental safeguards.

Mr. HAYES. Mr. Speaker, when the U.S. House of Representatives first debated the merits of deepwater ports on June 6, 1974, Members on that day supported the concept of deepwater ports much for the same reasons that we support them here today—deepwater ports make environmental and economic common sense. This afternoon, H.R. 2940, the Deepwater Port Modernization Act, epitomizes the very essence of how this 104th Congress has tried to streamline our Federal regulatory structure to better meet the needs of the regulated community while still protecting the public interest and the environment.

H.R. 2940 will reduce the top-down, duplicate and unnecessary barriers that inhibit our Nation's only deepwater port—the Louisiana Offshore Oil Port [LOOP]—from making the business decisions required to most effectively compete in today's marketplace. This bill will make it easier for other potential deepwater ports to be constructed and operated successfully. Finally, H.R. 2940 will further improve one of the most cost effective and environmentally friendly means of transporting crude oil onshore.

The Deepwater Port Modernization Act clarifies LOOP's authority to receive oil from the Outer Continental Shelf [OCS]. Deepwater finds will significantly reduce our national dependence on imported oil and help keep more investments in oil exploration and production in Louisiana. Approximately 30 discoveries have been made by the offshore oil and gas industry on deepwater leases in the Gulf of Mexico, amounting to an estimated total of 3 to 4 billion barrels of oil. Recent discoveries have the possibility to provide yields equal to or greater than Prudhoe Bay, AK. With LOOP's proximity to the OCS and its available underused capacity, producers will have a cost effective and environmentally responsible option to transport these large oil quantities to pipelines and refineries across the Nation, particularly if the Federal Government removes unnecessary regulatory barriers.

LOOP's license allows the facility to physically double in size, but doing so has never made economic sense—until now. With such new sources of oil on the OCS and increased capacity, it is estimated that at least 200 new jobs will be created in Louisiana nearly doubling the employment at LOOP. The port's annual economic impact will also nearly double to $62.7 million. Currently, LOOP employs more than 225 people, and has an economic impact of $32.7 million each year on the local economy, including wages and purchases of local materials and services.

Under current law, LOOP is the only strictly regulated entity among its chief competitors. Day-to-day business decisions are inhibited and delayed due to federal requirements calling for unnecessary oversight at the highest levels of the Federal Government. H.R. 2940 would simply regulatory activities, and enable LOOP and any new deepwater ports to respond more quickly to changing market conditions and improving technologies, as well as to pursue appropriate business opportunities, using procedures more comparable to those applicable to their competitors.

H.R. 2940 removes a redundant mandatory antitrust review for even minor changes in LOOP's license. The outdated legislative language proved unnecessary because abundant competition exists especially from ligherering operators that was not anticipated in 1974 when the Deepwater Port Act was originally enacted. Additionally, enforcement of rules will be transferred from the Department of Transportation [DOT] to local authorities, including the Louisiana Department of Transportation and Development, which support my bill.

H.R. 2940 makes a commitment to guaranteeing the efficient movement of this environmentally protective mode of transportation. I want to thank Chairman SHUSTER, Chairman BOEHLERT, Chairman COBLE, and the House leadership for bringing the Deepwater Port Modernization Act before the House, and I urge its immediate adoption.

Mr. SHUSTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BORSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BEREUTER). The question is on the motion offered by the gentleman from Pennsylvania [Mr. SHUSTER] that the House suspend the rules and pass the bill, H.R. 2940, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SNOW REMOVAL POLICY ACT OF 1996

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3348) to direct the President to establish standards and criteria for the provision of major disaster and emergency assistance in response to snow-related events, as amended.

The Clerk read as follows:

H.R. 3348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Snow Removal Policy Act of 1996".

SEC. 2. FINDINGS.

Congress finds that—

(1) winter snow storms in recent years, and particularly in 1996, have interrupted essential public services and utilities, caused widespread disruption of vital transportation networks, stranded many motorists, and isolated many homes and businesses;

(2) the impact of the winter snow storms was of such severity and magnitude that effective response was beyond the capability of State and local governments;

(3) the policy of the Federal Emergency Management Agency for providing major disaster and emergency assistance in response to snow-related events is unclear; and

(4) regulations should be promulgated for providing major disaster and emergency assistance in response to snow-related events in order to ensure the fair treatment of States and local governments that have incurred costs associated with such a response.

SEC. 3. RULEMAKING TO ESTABLISH STANDARDS AND CRITERIA FOR SNOW-RELATED EVENTS.

(a) NOTICE OF PROPOSED RULEMAKING.—The President, acting through the Director of the Federal Emergency Management Agency, shall issue a notice of proposed rulemaking to promulgate—

(1) standards and criteria for declaring a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in response to a snow-related event; and

(2) standards and criteria for providing assistance under such Act in the case of a snow-related major disaster or emergency, including reimbursement for snow removal and for debris removal and emergency protective measures.

(b) REQUIREMENT.—Rules to be promulgated under this section shall ensure that in determining the eligibility of a State or local government for assistance in connection with a snow-related event, the President will give consideration to existing capabilities of the State or local government.

(c) DEADLINES.—The President, acting through the Director of the Federal Emergency Management Agency, shall issue—

(1) a proposed rule under this section not later than 3 months after the date of the enactment of this Act; and

(2) a final rule under this section not later than 9 months after such date of enactment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from Pennsylvania [Mr. BORSKI] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the blizzard of 1996 swept across 12 States and the District of Columbia threatening the lives of thousands of individuals. Many of my constituents were cut off from critical facilities, such as hospitals, by record snowfalls.

At the time it appeared that the Federal response to this crisis was haphazard. Many State and local officials considered FEMA's response unfair and inconsistent with previous policy.

H.R. 3348 simply requires FEMA to set a coherent policy for responding to snow events so that Federal assistance will be more uniform and fair.

I would like to thank Mr. QUINN for bringing attention to this matter. However, as he points out, this is a bipartisan effort. More than half of the 25 cosponsors are Democrats, including Mr. TRAFICANT, Mr. MASCARA, Ms. NORTON, Mr. STUPAK, Mr. RANGEL, Mr. TOWNS, Mrs. LOWEY, and Mr. KILDEE.

FEMA has had the authority to provide assistance to clear roads in the event of severe snowstorms since 1988. Since that time, FEMA has responded to snowstorms in three winters, 1993, 1994, and 1996. In each year, the total assistance was well under $1 million.

H.R. 3348 does not expand this authority but does require a consistent policy. The Congressional Budget Office agrees this will not result in significant new costs.

It is argued that this bill is unnecessary because FEMA is already working on a snow removal regulation.

The fact is, we need H.R. 3348 to make sure FEMA completes its work.

FEMA often starts rulemakings but does not complete them or finishes them months late.

For instance, in 1993 FEMA initiated approximately 14 new rules. Only 4 of these were completed on time—8 are still pending or have been discontinued.

H.R. 3348 makes sure this rule will happen and that it will happen quickly.

Again, I commend Mr. QUINN and the other sponsors of the legislation. I strongly support this bipartisan bill and urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. BORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3348 demonstrates the lasting impact of the blizzard of 1996 when cities throughout the northeast were faced with unprecedented snow removal costs.

My own city of Philadelphia ran up a bill of $11 million for snow removal for which we have received Federal reimbursement of $4 million.

Many other cities from the Canadian border to our Nation's Capital had equally staggering costs for which they were totally unprepared.

These cities looked to the Federal Emergency Management Agency for help and many were disappointed with FEMA's response.

FEMA, which has done an outstanding job under Director James Lee Witt, is currently working on a snow removal policy, which is scheduled to be released in draft form on October 1.

There are some complicated issues involved in this rulemaking, as was shown by the ranking member of the Transportation and Infrastructure Committee, the gentleman from Minnesota [Mr. OBERSTAR], during our subcommittee hearing on H.R. 3348 last week.

Mr. Speaker, I want to emphasize the tremendous job that Mr. Witt has done at FEMA. I have been involved in the oversight of FEMA for several years and it is clear that he has turned this Agency around.

Under Director Witt, there is an unprecedented level of professionalism and responsiveness.

After earlier disasters, there were numerous complaints about FEMA's lack of responsiveness.

We do not hear complaints about lack of responsiveness directed to FEMA under Director Witt.

It is because of Mr. Witt's outstanding performance at FEMA, his understanding of the needs of State and local governments and his experience in dealing with disasters that I have full confidence in his ability to issue a fair policy on snow removal.

In fact, H.R. 3348 does no more than tell FEMA to issue a policy. It does not direct what that policy should be.

As ranking member of the Subcommittee on Water Resources, I will be working with FEMA to make sure the snow removal policy meets the needs of the entire Nation. The problems faced by Philadelphia and other northeastern cities must be addressed in a fair and consistent manner.

FEMA is in the process of issuing its policy in less than 2 weeks and I look forward to seeing the agency's proposal.

□ 1130

Mr. Speaker, I reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume to associate myself with the remarks of my friend from Pennsylvania in praising James Lee Witt and his leadership of FEMA. I think he has brought very, very substantial improvements to that agency.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. QUINN], the distinguished Member who has really provided leadership in moving this legislation forward.

Mr. QUINN. Mr. Speaker, I want to begin by thanking the gentleman from Pennsylvania, Chairman SHUSTER, and the gentleman from New York, Mr. BOEHLERT, the subcommittee chair, for their assistance in moving this legislation forward, and begin by associating my remarks with the gentlemen from Pennsylvania, Mr. BORSKI and Mr. SHUSTER, and others, that Mr. Will has done an fantastic job at FEMA.

The purpose of our legislation, as we have said from the beginning, is to move FEMA in the right direction. This is also an opportunity for me to acknowledge and to thank the gentleman from Michigan, Congressman BART STUPAK, who has worked as an advocate of this legislation on the other side of the aisle, as well as the others mentioned in Mr. SCHUSTER's opening remarks: Mr. David Rodham, the President-elect of the National Emergency Managers Association, for his early support; and especially the Water Resource Subcommittee staff, who were a great help in promoting this bipartisan measure from the beginning.

Mr. Speaker, I introduced this legislation earlier this year in the interest of developing a new, clear, concise snow removal policy. Last year, as we mentioned, in cities and towns in my district like Buffalo and Lackawanna, Cheektowaga, West Seneca, and Lancaster, all of those towns and cities endured 36 inches of snow in less than 24 hours.

When I tried to find help for these communities I ran into an astonishing maze of bureaucracy. It seemed that no one could give me a straight answer as to whether these towns and cities would be eligible for any kind of assistance.

Now, I know some of my colleagues are thinking, "Mr. QUINN, you are from Buffalo, and it snows in Buffalo; you ought to expect it." And we do expect it. But as I discovered, no city, not even Buffalo, NY, can prepare for a storm of that proportion in any budget or with any amount of planning.

I am proud of what we were able to accomplish in Buffalo as a community to get ourselves out of that terrible mess. It might have taken other cities weeks to clean up, but Buffalo and western New York had our traffic bans and our travel advisories lifted within 3 days.

Regardless of how much one prepares going into a winter season, a storm such as the one we experienced in the Northwest and the mid-Atlantic region States last winter cannot be accounted for in any budget.

We worked with New York Governor Pataki and the National Emergency Managers Association to clarify the Federal snow removal policy and to help our communities cut through the bureaucratic redtape. The purpose, Mr. Speaker, of this legislation is to reduce the confusion, the ambiguity, and the lack of criteria we dealt with over this past winter.

The bill promotes a clear, concise and simple plan that will benefit everyone, from the Congress to FEMA to our local communities. Our thoughts and prayers go out to those people along the East Coast who were recently devastated by Hurricane Fran. Hurricane Fran illustrated why we as a Nation must reach out to our fellow Americans inflicted with natural disasters such as earthquakes, fires, floods, tornadoes, and hurricanes.

FEMA has a definitive policy and guidelines in place to deal with all of those natural disasters. Currently in their regulations there is no discernible Federal snow emergency policy. The blizzards we face across the Nation pose no less a threat to our lives and property than those of the other terrible disasters. Clear-cut trigger points would let States and local governments determine whether an emergency declaration is warranted or not and to what extent the Federal Government would be involved.

I believe, Mr. Speaker, and others who have cosponsored and supported the bill, that this is an opportunity for us as Federal legislators to provide meaningful help to our constituencies.

In closing, Mr. Speaker, in these times of tight budgets where all of us have been asked to make tough decisions on the allocation of funds, the supporters of this legislation are not looking for a handout. The legislation is only a straightforward attempt to come up with a policy that will assist our communities in understanding the Federal Government's policy concerning snow removal. Our local mayors have asked for our help and our governors have asked for our help. Let us do something to help our local leaders.

This legislation does not create more government bureaucracy. This is an attempt to make the Government regulations we have already in place more understandable.

I want to conclude by making two points perfectly clear, Mr. Speaker. The first is that FEMA, who has done a great job, has had nearly 6 months to issue and to clarify these regulations; and, second, this legislation does not ask FEMA to expand the scope of the Federal involvement in snow emergencies, it simply asks FEMA to clarify the policy so that emergency managers in our district can understand them a little better.

I believe the bill is an example of responsible good government, and I urge my colleagues to vote "yes" on H.R. 3348.

Mr. BORSKI. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. STUPAK] who is a prime sponsor of the bill on our side of the aisle.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, H.R. 3348 is an extremely important bipartisan piece of legislation for those citizens and communities that experience difficult winters year after year. In my district, which includes the Upper Peninsula of Michigan and the northern section of the Lower Peninsula, residents endured snow for 8 consecutive months last winter. And I may add that last Friday the first snowflakes of this winter fell.

In my area, in my district, we recorded a total snow accumulation of 321 inches or nearly 27 feet. If my colleagues can imagine for a moment, that level of snow would completely bury the typical two-story family home and would nearly reach the ceiling of this House Chamber.

Whether the cause of the disaster is flooding, fire, hurricane, like the recent devastation in North Carolina caused by Hurricane Fran, or snow, we gauge the impact of a weather event in terms of the number of people it affects and the magnitude of its financial impact. The winter of 1995–96 was not a single storm but rather a series of recordbreaking storms.

The total accumulation of recordbreaking snowfalls pushed road crews and local communities to the brink of financial disaster. The financial havoc these storms wreaked on my district will be felt for years to come. The storm caused snow and flood damage to roads and structures, curtailed agricultural planting, delayed home building and tourism, and induced other detrimental personal and financial effects.

As a result, local communities in northern Michigan faced budget overruns of at least $10 million. Many local governments do not have the reserves to tap for this type of unexpected disaster. They must increase their taxes, cut their community programs and services, or even curtail road repair and maintenance, causing layoffs and other future community and regional hardships.

The Snow Removal Policy Act will finally clarify FEMA's regulations regarding snow-related emergencies, giving communities the opportunity for relief from winter's violent and deadly storms.

I want to emphasize, however, that despite the clarification in these guidelines, no Federal assistance can be provided if the Governor of the State does not make a request for financial or disaster aid. Regardless of the nature of the extent of any natural disaster, the decision to ask for Federal help would remain with the State's chief executive.

In the winter of 1993–94 my district received financial help from FEMA. I am pleased with that response, but this legislation is needed so there is no further delay in putting forth these guidelines.

Mr. Speaker, I want to offer my thanks to my distinguished colleagues, the gentleman from New York, Mr. BOEHLERT, the gentlemen from Pennsylvania, Mr. BORSKI and Mr. SHUSTER, the gentleman from Minnesota, Mr. OBERSTAR, for their assistance and guidance on this legislation. I want to especially thank my friend, the gentleman from New York [Mr. QUINN], for sponsoring this important bipartisan legislation and working with me on it.

Mr. Speaker, I urge the passage of H.R. 3348.

Mr. BORSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the committee, a gentleman who knows a thing or two about snow himself.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding me this time.

We, too, on the other side of Lake Superior have a lot of snow, in the range of 130 to 140 inches a year. I am afraid the gentleman from Michigan gets the benefit of the prevailing wind passing over the 30,000 square miles of Lake Superior and dumping the excess moisture on the upper peninsula.

I think that the Federal policy on snow removal in disaster assistance situations should be clarified, and FEMA is moving to do that. I do not think this legislation is necessary. In just 3 weeks, FEMA, in their testimony before our committee, committed by October 1 to have an NPRM, a Notice of Proposed Rulemaking, published in the Federal Register, complete the 60-day comment period, and have a final rule in place by mid-December, in time for the snow season.

I think that is quite fair, and I think that the agency is moving along appropriately and there will be plenty of time for comment on their regulations. It just does not seem necessary to legislate what the agency is already doing.

I understand the arguments this is a push, this is a nudge, this is a shove from the Congress to FEMA to stay on track and do their job, but frankly, I am really concerned about disaster creep. We are seeing the spread of Federal responsibility to more and more types of situations that can be called or can somehow qualify as disasters.

Most of these calls come from State government, from local government, who preach to the Federal Government balance your budget. We hear this from the Governors all the time: Balance your budget, Federal Government. But then as soon as they have an earthquake, a tornado, a hurricane, heavy snow, they have their hand out to the Federal Government to come in and bail them out. But in the years when they do not have hurricanes or earthquakes or tornadoes, I do not see them coming back to the Federal Government and saying here is a downpayment for your good will on helping us out in times of disaster.

In the case of snow, snow is different from hurricanes. They come with some suddenness and unpredictability. Earthquakes come with great unpredictability. In the northern country we know the glacier retreated 10,000 years ago and every December it makes a return appearance, or at least a return effort, and we are prepared for it.

Now, I can understand when there is an occasional extraordinary event, a multi-State occurrence that dumps unprecedented amounts of snow and the economy is disrupted, the travel is interrupted for long periods of time. That makes a case for what FEMA is doing trying to develop a common policy. But I am concerned that this legislative push is moving us into ever more responsibility and ever greater expenditures and outlays of extraordinary amounts of Federal funds.

Someone may think that is strange coming from one who is advocating increasing our investment in infrastructure, but I think that is where we need to put those investments to make our economy more efficient.

So I just say my piece, express my concern, set a mark out there for those Governors and local government officials who come to Washington preaching to us about balance your budget, but help us out when we have a problem, to understand the broader responsibilities of the Federal Government and to shoulder more and more of their own financial obligations under circumstances of this kind.

I think we need to be careful about expansion of Federal disaster policies. I think that we can and we shall watch very closely FEMA's commitment to promulgating the NPRM on October 1 and getting a final rule out in December, and I will join with the chairman in any initiative needed to prod them along that route.

I just wish we did not have to move on legislation, but I will certainly not stand in its way, and I appreciate the cooperative spirit we have had with the majority in scheduling hearings and hearing the issue, bringing these matters forth.

I understand the genuine concerns of our colleague from upstate New York, the gentleman from Michigan, and others who have concerns about snow removal policy and the application of the disaster assistance rules.

□ 1145

Mr. SHUSTER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. BOEHLERT], chairman of the Subcommittee on Water Resources and Environment.

Mr. BOEHLERT. Mr. Speaker, I wish to pay particular credit to the gentleman from New York [Mr. QUINN], my colleague, for his leadership on this issue.

When Mother Nature rears her ugly head, whether it is an earthquake on the West Coast or a storm off the coast of Florida or a heavy winter snowstorm, it can create havoc.

Mr. Speaker, we are not trying to micromanage for FEMA, an Agency for which I have the highest regard. I think James Lee Witt is doing a magnificent job. But we are asking the Agency to come up with a coherent policy so that we can give guidance to our constituents and our communities in the event of disaster.

I thank the gentleman from New York [Mr. QUINN] for his leadership in bringing this issue forward. I commend the chairman and the ranking member for participating in this exercise and providing the leadership necessary to move this legislation forward.

Mr. BORSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BEREUTER). The question is on the motion offered by the gentleman from Pennsylvania [Mr. SHUSTER] that the House suspend the rules and pass the bill, H.R. 3348, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INTERMODAL SAFE CONTAINER TRANSPORTATION ACT AMENDMENTS OF 1996

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4040) to amend title 49, United States Code, relating to intermodal safe container transportation.

The Clerk read as follows:

H.R. 4040

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermodal Safe Container Transportation Act Amendments of 1996".

SEC. 2. REFERENCES TO TITLE 49.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. DEFINITIONS.

Section 5901 is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) except as otherwise provided in this chapter, the definitions in sections 10102 and 13102 of this title apply.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) 'gross cargo weight' means the weight of the cargo, packaging materials (including ice), pallets, and dunnage.".

SEC. 4. NOTIFICATIONS AND CERTIFICATIONS.

Section 5902 is amended to read as follows:

"§ 5902. Notifications and certifications

"(a) PRIOR NOTIFICATION.—

"(1) IN GENERAL.—If the first carrier to which any loaded container or trailer having a projected gross cargo weight of more than 29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a notification of the projected gross cargo weight and a reasonable description of the contents of the container or trailer before the tendering of the container or trailer. The notification may be transmitted electronically or by telephone.

"(2) APPLICABILITY.—This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier.

"(b) CERTIFICATION.—

"(1) IN GENERAL.—A person who tenders a loaded container or trailer with an actual gross cargo weight of more than 29,000 pounds, to a first carrier for intermodal transportation shall provide a certification of the contents of the container or trailer in writing, or electronically, before or when the container or trailer is so tendered.

"(2) CONTENTS OF CERTIFICATION.—The certification required by paragraph (1) shall include the following:

"(A) The actual gross cargo weight.

"(B) A reasonable description of the contents of the container or trailer.

"(C) The identity of the certifying party.

"(D) The container or trailer number.

"(E) The date of certification or transfer of data to another document, as provided for in paragraph (3).

"(3) TRANSFER OF CERTIFICATION DATA.—A carrier who receives a certification may transfer the information contained in the certification to another document or to electronic format for forwarding to a subsequent carrier. The person transferring the information shall state on the forwarded document the date on which the data was transferred and the identity of the party who performed the transfer.

"(4) SHIPPING DOCUMENTS.—For purposes of this chapter, a shipping document, prepared by the person tendering a container or trailer to a first carrier, that contains the information required by paragraph (2) meets the requirements of paragraph (1).

"(5) USE OF 'FREIGHT ALL KINDS' TERM.—The term 'Freight All Kinds' or 'FAK' may not be used for the purpose of certification under this subsection after December 31, 2000, as a description required under paragraph (2)(B) for a trailer or container if the weight of any commodity in the trailer or container equals or exceeds 20 percent of the total weight of the contents of the trailer or container. This subsection does not prohibit the use of such term after December 31, 2000, for rating purposes.

"(6) SEPARATE DOCUMENT MARKING.—If a separate document is used to meet the requirements of paragraph (1), it shall be conspicuously marked 'INTERMODAL CERTIFICATION'.

"(7) APPLICABILITY.—This subsection applies to any person, domestic or foreign, who first tenders a container or trailer subject to this chapter for intermodal transportation within the United States.

"(c) FORWARDING CERTIFICATIONS TO SUBSEQUENT CARRIERS.—

"(1) GENERAL RULE.—A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouser, or terminal operator shall forward the certification provided under subsection (b) to a subsequent carrier transporting the container or trailer in intermodal transportation before or when the container or trailer is tendered to the subsequent carrier.

"(2) PRESUMPTION OF NO CERTIFICATION REQUIRED.—If no certification is received by the subsequent carrier before or when the container or trailer is being tendered to it, the subsequent carrier may presume that no certification is required.

"(3) LIMITATION ON CONSTRUCTION OF FORWARDING.—The act of forwarding the certification may not be construed as a verification or affirmation of the accuracy or completeness of the information in the certification.

"(4) LIABILITY.—

"(A) IN GENERAL.—If a person inaccurately transfers the information on the certification or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest charge incurred as a result of the inaccurate transfer of information or failure to forward the certification.

"(B) LIEN.—A subsequent carrier incurring a bond, fine, penalty, or cost (including storage), or interest charge as a result of the inaccurate transfer of the information or the failure to forward the certification shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest charge and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.

"(5) NOTICE TO LEASED OPERATORS.—If a motor carrier knows that the gross cargo weight of an intermodal container or trailer subject to the certification requirements of subsection (b) would result in a violation of applicable State gross vehicle weight laws—

"(A) a motor carrier must inform the operator of a vehicle which is leased by the vehicle operator to a motor carrier which transports an intermodal container or trailer of the gross cargo weight of the container or trailer as certified to the motor carrier pursuant to subsection (b);

"(B) the notice must be provided to the operator prior to the operator being tendered the container or trailer;

"(C) the notice required by this subsection must be in writing, but may be transmitted electronically;

"(D) the motor carrier shall bear the burden of proof to establish that it tendered the required notice to the operator; and

"(E) if the operator of a leased vehicle transporting a container or trailer subject to this chapter should receive a fine because of a violation of a State's gross vehicle weight laws or regulations and lessee motor carrier cannot establish that it tendered to the operator the notice required by this section, the operator shall be entitled to reimbursement from the motor carrier of the amount of any fine and court costs resulting from the failure of the motor carrier to tender the notice to the operator.

"(d) LIABILITY TO OWNER OR BENEFICIAL OWNER.—If—

"(1) a person inaccurately transfers information on a certification required by subsection (b)(1) or fails to forward a certification to the subsequent carrier;

"(2) as a result of the inaccurate transfer of such information or a failure to forward a certification, the subsequent carrier incurs a bond, fine, penalty, or cost (including storage), or interest charge; and

"(3) a subsequent carrier exercises its rights to a lien under section 5905,

then that person is liable to the owner or beneficial owner or to any other person paying the amount of the lien to the subsequent carrier for the amount of the lien and all costs related to the imposition of the lien, including court costs and legal fees incurred in connection with imposition of the lien.

"(e) NONAPPLICABILITY.—

"(1) CONSOLIDATED SHIPMENTS.—The notification and certification requirements of subsections (a) and (b) do not apply to any intermodal container or trailer containing consolidated shipments loaded by a motor carrier if that motor carrier—

"(A) performs the highway portion of the intermodal movement; or

"(B) assumes the responsibility for any weight-related fine or penalty incurred by any other motor carrier that performs a part of the highway transportation.

"(2) INTERMODAL TRANSPORTATION OF LOADED CONTAINERS.—

"(A) IN GENERAL.—Subsections (a) and (b) and section 5903(c) do not apply to a carrier when the carrier is transferring a loaded container or trailer to another carrier during intermodal transportation, unless the carrier is also the person tendering the loaded container or trailer to the first carrier.

"(B) SPECIAL RULE.—A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouser, or terminal operator is deemed not to be a person tendering a loaded container or trailer to a first carrier under this section, unless the carrier, agent, broker, customs broker, freight forwarder, warehouser, or terminal operator assumes legal responsibility for loading property into the container or trailer.".

SEC. 5. PROHIBITIONS.

(a) PROVIDING ERRONEOUS INFORMATION.—Section 5903(a) is amended by inserting ", to whom section 5902(b) applies," after "A person".

(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—Section 5903(b) is amended to read as follows:

"(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—

"(1) PRESUMPTION.—If no certification is received by a motor carrier before or when a loaded intermodal container or trailer is tendered to it, the motor carrier may presume that the gross cargo weight of the container or trailer is less than 29,001 pounds.

"(2) COPY OF CERTIFICATION NOT REQUIRED TO ACCOMPANY CONTAINER OR TRAILER.—Notwithstanding any other provision of this chapter, if a certification is required by section 5902(b), a copy of the certification is not required to accompany the intermodal container or trailer.".

(c) UNLAWFUL COERCION.—Section 5903(c)(1) is amended by striking "10,000 pounds (including packing materials and pallets)" and inserting "29,000 pounds".

SEC. 6. LIENS.

(a) GENERAL RULE.—Section 5905(a) is amended to read as follows:

"(a) GENERAL RULE.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required, because of a violation of a State's gross vehicle weight laws or regulations, to post a bond or pay a fine, penalty, cost (including storage), or interest charge resulting from—

"(1) erroneous information provided by the certifying party in the certification to the first carrier in violation of section 5903(a),

"(2) the failure of the party required to provide the certification to the first carrier to provide it,

"(3) the failure of a person required under section 5902(c) to forward the certification to forward it, or

"(4) an error occurring in the transfer of information on the certification to another document under section 5902(b)(3) or 5902(c),

then the person posting the bond, or paying any fine, penalty, cost (including storage), or interest charge has a lien against the contents equal to the amount of the bond, fine, penalty, cost (including storage), or interest charge incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents or from the person responsible for making or forwarding the certification or transferring the information from the certification to another document.".

(b) LIMITATIONS.—Section 5905(b)(1) is amended—

(1) by inserting after "the first carrier" the following: "or the owner or beneficial owner of the contents"; and

(2) by striking "cost, or interest." and inserting "cost (including storage), or interest charge. The lien shall remain in effect until the lien holder has received payment for all costs and expenses as described in subsection (a).".

SEC. 7. PERISHABLE AGRICULTURAL COMMODITIES.

Section 5906 is amended by striking "Sections 5904(a)(2) and 5905 of this title do" and insert "Section 5905 does".

SEC. 8. EFFECTIVE DATE.

Section 5907 is amended to read as follows:

"§ 5907. Effective date

"This chapter, as amended by the Intermodal Safe Container Transportation Act Amendments of 1996, is effective on the date of the enactment of such Act. The provisions of this chapter shall be implemented 180 days after such date of enactment.".

SEC. 9. RELATIONSHIP TO OTHER LAWS.

(a) IN GENERAL.—Chapter 59 is amended by adding at the end the following new section:

"§ 5908. Relationship to other laws

"Nothing in this chapter affects—

"(1) chapter 51 (relating to transportation of hazardous material) or the regulations issued under that chapter; or

"(2) any State highway weight or size law or regulation applicable to tractor-trailer combinations.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by striking the item relating to section 5907 and inserting the following:

"5907. Effective date.
"5908. Relationship to other laws.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from West Virginia [Mr. RAHALL] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill makes several critical changes to the 1992 Intermodal Safe Container Act to permit the act to be effectively implemented by ocean shipping lines, railroads, and trucking companies.

This legislation will ensure that the intermodal container transportation does not cause violations of our highways' weight laws and, also, that commerce is not unduly burdened. It is critical that this bill pass swiftly, because the regulations implementing the 1992 bill will go into effect January 1.

This legislation is completely bipartisan. It is strongly supported by a comprehensive intermodal coalition of ocean shipping lines, railroads, trucking companies and shippers, as well as the Department of Transportation.

Mr. Speaker, I want to thank the gentleman from Wisconsin [Mr. PETRI], the gentlewoman from New York [Ms. MOLINARI], and the gentleman from North Carolina [Mr. COBLE] for their cooperation in swiftly drafting this intermodal bill.

I also want to thank my Democratic colleagues, the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from West Virginia [Mr. RAHALL], the gentleman from West Virginia [Mr. WISE], and the gentleman from Tennessee [Mr. CLEMENT] for their cooperation and support in agreeing to quickly move this legislation.

Mr. Speaker, I strongly urge that my colleagues support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the gentleman from Pennsylvania [Mr. SHUSTER], the full committee chairman, and the gentleman from Minnesota [Mr. OBERSTAR], the ranking minority member, for the very effective and capable manner in which they have worked toegether with me and the gentleman from Wisconsin [Mr. PETRI], the chairman of the subcommittee, in bringing forward this legislation. There has been a good give-and-take on both sides of the aisle.

I also commend the staff that have worked so very long and hard on bringing this bill to us today.

Mr. Speaker, as the full committee chairman has stated, while this bill basically consists of technical amendments, its enactment will fulfill congressional and DOT intent in addressing the issue of liability as it relates to intermodal shipments of potentially overweight freight containers.

Basically, we have a situation where a trucker picks up a container of, say, shoes at the Port of Long Beach that was packed in Taiwan and is headed for a J.C. Penny Store. On its way along our Nation's highways to the store, the trucker is found to be overweight.

Under current law, the trucker pays the fine even though the trucking company had no involvement in the packing of the container and was led to believe it would not cause the truck to be overweight.

In 1992 we passed legislation to address this situation.

However, due to shortcomings in this law, DOT has yet to make effective a final rule implementing it. Hence, the need for this legislation.

The pending bill would facilitate the implementation of the 1992 act by, first allowing the shipper certification of the weight of intermodal containers to be incorporated into shipping papers or transmitted in electronic form.

If the certification is not made, or is incorrect, the shipper is liable for any violations which may occur of our highway weight laws.

And second, this bill sets the weight threshold for container certification at 29,001 pounds. It is my understanding from both DOT and industry that this is a more appropriate threshold than what is in current law.

With that stated, I urge the adoption of the pending measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I also want to commend the gentleman from Pennsylvania [Mr. SHUSTER], our full committee chairman, and the gentleman from Wisconsin [Mr. PETRI], chairman of the Subcommittee on Surface Transportation, for the work that they have done to bring this legislation to this point.

Mr. Speaker, I also commend the gentleman from West Virginia [Mr. RAHALL], on our side, who has devoted a great deal of time and energy to resolving a very puzzling and complex problem; one that on the surface would seem to be amenable to ready resolution.

In 1992, when we passed the Intermodal Safe Container Transportation Act, we thought that the legislation had corrected the problems. A broad consensus of transportation interests got together to support this legislation to encourage compliance with U.S. highway weight limits by ensuring that the party that first tendered cargo for intermodal shipment would be responsible for verifying the weight of that intermodal container and for providing appropriate documentation.

Unfortunately, DOT could not write regulations to make the law work. Try as they might, there was a combination of problems, conflicting interests, difficulty in writing appropriate language, to prevent the issuance of those regulations. So when I say it took a great deal of effort on the part of the leadership of the subcommittee to work this out, it certainly did. It was a matter that the Department itself, with all of their staffing, could not resolve.

So the parties went back to the drawing board, they reached agreement on a measure that the gentleman from West Virginia [Mr. RAHALL] has, I think, quite adequately described.

In 1989, the Federal Highway Administration estimated that some 1 million containers moving through U.S. ports over a 1-year period would likely cause highway weight violations based on most commonly used truck configurations. Some 40 percent of the 20-foot containers would potentially cause overweight trucks; 17 percent of 40-foot containers were more than 10,000 pounds over the cargo weight.

Truckers should not have to bear that responsibility. Goods should not have to be impeded in their movement to marketplace, and bridges should not have to be encumbered and highways should not have to accept that additional pounding due to our ocean shipping interests.

So the legislation we have today will provide workable tools to allow carriers to comply with highway weight limitations and improve enforcement by ensuring that the one responsible, the party that loads the container, is the one liable if a subsequent violation occurs.

Mr. Speaker, that is what we bring to the House today. I want to thank the gentleman from West Virginia for the splendid effort that he has invested in bringing this issue to resolution, and again to our full committee chairmen for resolving the matter.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I rise in support of H.R. 4040, the Intermodal Safe Container Act Amendments of 1996.

I want to thank my colleagues BUD SHUSTER, SUSAN MOLINARI, and HOWARD COBLE, and my Democratic colleagues JAMES OBERSTAR, NICK RAHALL, BOB WISE, and BOB CLEMENT, for their cooperation in swiftly moving this legislation.

This legislation corrects several problems in the 1992 Intermodal Safe Container Act which sets standards for the intermodal transfer of freight containers between ocean shipping lines, railroads, and motor carriers so that no trucks hauling containers are overweight. The 1992 act has been delayed by DOT only until January 1, 1997.

A coalition of ocean carriers, railroads, motor carriers, and freight shippers recommended changes to the 1992 act, since these problems could not be corrected by DOT. DOT supports these changes. These recommendations are the basis of this legislation.

This bill encourages compliance with highway weight rules. It clearly establishes that shippers must provide a certification that identifies the weight and contents of the container. If this certification is not made or is incorrect, the shippers are automatically liable for any resultant highway weight violations.

The Act speeds shipments by permitting all carriers to use electronic certifications and reduces paperwork by permitting a bill of lading to be used as the certification.

The weight threshold for a container certification has been set at 29,001 pounds. This reduces the burden of complying with the act, but still ensures that all containers likely to cause overweight violations will be identified.

Finally, it provides a phase-in for carriers to adapt to the new requirements.

I urge my colleagues to support the bill.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. SHUSTER] that the House suspend the rules and pass the bill, H.R. 4040.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SMITHSONIAN INSTITUTION NATIONAL AIR AND SPACE MUSEUM DULLES CENTER

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1995) to authorize construction of the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport, and for other purposes.

The Clerk read as follows:

S. 1995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSTRUCTION OF MUSEUM CENTER.

The Board of Regents of the Smithsonian Institution is authorized to construct the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport.

SEC. 2. LIMITATION ON USE OF FUNDS.

No appropriated funds may be used to pay any expense of the construction authorized by section 1.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from Ohio [Mr. TRAFICANT] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation authorizes the construction of the Smithsonian National Air and Space Museum extension at Dulles Airport. To date, $8 million had been authorized in appropriations for planning and design of this project. The construction of this facility will allow airplane, spacecraft, and aviation-related equipment currently stored outdoors to be safely housed in structures which meet museum standards, as well as create a restoration facility capable of handling the largest artifacts in the collection.

Mr. Speaker, these include such aircraft as the B-29 *Enola Gay*, the space shuttle *Enterprise*, and the SR-71 Blackbird. A request for $5 million is included in the fiscally year 1997 budget to continue funding through the design development phase and begin the construction documents phase.

The final $2 million authorized will be requested in fiscal year 1998 to complete the construction documents for the building.

Mr. Speaker, it is important to emphasize that no Federal funds will be made available for the construction phase of the project. The Smithsonian Institution will be responsible for privately raising funds to pay for the construction. Also, the Commonwealth of Virginia has pledged to provide infrastructure support, which includes a $3 million interest-free loan, a $6 million construction appropriation, and authority for a $100 million bond issue.

It is a good bill, Mr. Speaker, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], our ranking Democrat member of the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is a really exciting initiative, the National Air and Space Museum to be developed at Dulles Airport. It is under the leadership of a truly great leader in aviation, former Adm. Don Engen, former administrator of the Federal Aviation Administration and former Member of the National Transportation Safety Board.

He is in charge of the fund-raising and of the organization and development of this project and has already launched a very significant nationwide effort, working very hard to raise the private sector funds which, as the gentleman from Pennsylvania [Mr. SHUSTER] indicated, will be entirely constructed with private sector funds.

It is going to be a true monument to aviation, to aviation technology, and I am very pleased that the committee has moved this legislation to make the extension facility possible. It is really an extension of the Smithsonian, but at a place that makes sense: Out at one of the Nation's premier airports, and an international airport; one of advanced design at that, where we can put on display this leadership that the United States has demonstrated throughout decades in the field of aviation.

Mr. Speaker, I urge the passage of this legislation.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, no Federal funds will be used for the construction of this project. In addition, the State of Virginia will be contributing to infrastructure construction and access roads. Finally, the board of regents of the Smithsonian have committed to an aggressive fund-raising program for the remainder of these necessary funds, and would make the University of Nebraska football program look meager in its wake.

Mr. Speaker, we have no other requests for time. We support this legislation. We commend the gentleman from Pennsylvania [Mr. SHUSTER] here at the end of our session for all the fine work he has done, and the gentleman from Maryland [Mr. GILCHREST] and staff as well.

Mr. Speaker, I yield back the balance of my time.

Mr. WOLF. Mr. Speaker, it is my pleasure today to rise in support of legislation to authorize the Board of Regents of the Smithsonian Institution to construct the National Air and Space Museum extension at Washington Dulles International Airport, and I want to thank all those members and individuals who have been so helpful in moving this legislation to the House floor. I especially want to thank Chairman SHUSTER of the House Transportation and Infrastructure Committee for his help.

S. 1995, introduced in the Senate by my Virginia colleague Senator JOHN WARNER, authorizes the Smithsonian to build a much-needed extension of the Air and Space Museum. The existing Air and Space Museum on the Mall is simply too small and inadequate to meet existing needs. Currently there is no storage space for large artifacts, making the safe preservation of these large artifacts quite impracticable. Furthermore, due to current space limitations at the Mall museum, only about 20 percent of the Nation's air and space collection is on public display.

Clearly, the extension of the Air and Space Museum at Washington Dulles International Airport will help to correct this problem. It will allow the Smithsonian to place on display historic and magnificent artifacts such as the *Enola Gay*, the SR–7 *Blackbird* spy plane, the space shuttle *Enterprise*, and many others. These planes and spaceships currently sit in warehouses away from public view and are improperly maintained because there is no room for these large artifacts at the Mall museum. This deprives the public of the opportunity to experience some of the most fascinating testaments to our Nation's creative genius in civil, military, and space flight.

The Air and Space extension will provide the space and facilities needed to display these artifacts and allow them to be enjoyed by people from all around the world. The Air and Space Museum is the most popular of the Smithsonian's museums and the extension is expected to draw over 3 million visitors per year.

In 1993 the Smithsonian Institution was first authorized to plan and design an Air and Space Museum extension at Washington Dulles International Airport and I was pleased to support this effort. In fiscal year 1996, Congress and the Commonwealth of Virginia in partnership provided funding for planning and design work on the extension. It is important to note that Congress has made it clear that no Federal funds are to be made available for the construction portion of the project. Instead, the Smithsonian Institution is responsible for raising private funds for the construction of the extension.

S. 1995 furthers the efforts already underway by authorizing the Board of Regents of the Smithsonian Institution to construct the museum extension while also making clear that no appropriated funds are to be used to pay any expense of the construction of this facility. Retired Adm. Donald Engen is the new director of the Air and Space Museum and I am pleased that the museum is headed by such an enthusiastic and able director. Admiral Engen has stated that his No. 1 priority is to wage a national campaign to raise adequate funding for construction and this goal will be accomplished more effectively once Congress has clearly authorized this construction.

Mr. Speaker, the museum extension will significantly increase the amount of our air and space collection on public display, provide safe and climate-controlled storage facilities, and establish a restoration facility capable of handling the largest artifacts in the collection in full view of visitors. All of this will be accomplished with no Federal funds being used for the construction of the extension. I urge passage of S. 1995 and yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I rise in support of S. 1995, a bill to authorize construction of the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport.

This bill authorizes the Board of Regents of the Smithsonian Institution to construct an extension to the Air and Space Museum currently located on the Washington Mall, on a 185 acre site in the Dulles Airport complex in Virginia.

The new facility will permit airplanes, spacecraft, and aviation related artifacts currently stored outdoors to be housed in structures built to museum standards; and provide improved facilities to house the aviation artifacts which are currently stored at the outdated Paul E. Garber facility in Suitland, MD. In addition, the extension will provide a restoration facility capable of handling the largest artifacts in the collection, such as the space shuttle *Enterprise* and the historic *Enola Gay* B–29 bomber, for public viewing.

The measure ensures that no appropriated funds will be used to pay any expense of the construction. The Smithsonian Institution is responsible for privately raising funds for the project and the Commonwealth of Virginia has pledged to provide infrastructure support in the amount of $40 million, a $3 million interest free loan, a $6 million construction appropriation, and authority for a $100 million bond issue.

The bill has bipartisan support and I wish to thank my colleagues on both sides of the aisle for their assistance in bringing this measure to the floor.

I urge my colleagues to support this bill.

Mr. DAVIS. Mr. Speaker, I rise in support of S. 1995 which authorizes construction of the Smithsonian Institute's Air and Space Museum Extension at Washington Dulles International Airport.

Since 1983 the Smithsonian has been looking to build an Air and Space extension large enough to properly display many aviation artifacts that there is no room for at the museum on the Mall. Few people realize that only 20 percent of the museum's collection is on display at the Air and Space Museum. Right now, the Space Shuttle *Enterprise*, a B–17 *Flying Fortress*, and an SR–71 *Blackbird* among others, are collecting dust in hangers at Dulles Airport, because there is no room at the Air and Space Museum. Only the nose section of the *Enola Gay* could be displayed at the Smithsonian's commemoration of the dropping of the atomic bomb, because the museum does not have room to display the entire refurbished aircraft. There are a number of historically important aircraft, such as a Lockeed Constellation, sitting outside exposed to the weather, because there is no space to store or display them. This new extension will accommodate these historic air and spacecraft.

S. 1995 authorizes the board of regents of the Smithsonian Institution to construct a museum extension at Dulles Airport. This legislation makes it clear that no Federal funds will be appropriated to pay for any expense associated with construction of this facility. The Air and Space Museum has already begun the process of raising private funds for construction, and I understand that new Air and Space Museum Director Donald Engen has set raising funds to build the extension as a top priority. The Commonwealth of Virginia also stands firmly behind its commitment to bringing this national educational facility to reality with a $3 million interest free loan, a $6 million design and construction grant, and authority for up to $100 million in bonds.

It has been 13 years since the Air and Space Museum Extension was proposed, in that time the Smithsonian's Air and Space Museum has become the most visited museum in the world. This bill is noncontroversial. It requires no expenditure of Federal funds, in fact, the bill explicitly states that no Federal funds will be used. It passed the Senate by voice vote. Lets pass this bill and get on with expanding this enormously popular museum that celebrates America's love of aviation.

In closing, I want to thank Chairman GILCHREST for his tremendous efforts in bringing this legislation to the floor so quickly.

Mr. SHUSTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. SHUSTER] that the House suspend the rules and pass the Senate bill, S. 1995.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

MARK O. HATFIELD UNITED STATES COURTHOUSE

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1636) to designate the U.S. Courthouse under construction at 1030 Southwest 3rd Avenue, Portland, OR, as the Mark O. Hatfield United States Courthouse, and for other purposes.

The Clerk read as follows:

S. 1636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF MARK O. HATFIELD UNITED STATES COURTHOUSE.

The United States Courthouse under construction at 1030 Southwest 3rd Avenue in Portland, Oregon, shall be known and designated as the "Mark O. Hatfield United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Mark O. Hatfield United States Courthouse".

SEC. 3. EXTENSION OF FDR MEMORIAL MEMBER TERMS.

The first section of the Act entitled "An Act to establish a commission to formulate plans for a memorial to Franklin Delano Roosevelt", approved August 11, 1955 (69 Stat. 694) is amended by adding at the end thereof the following: "A Commissioner who ceases to be a Member of the Senate or the House of Representatives may, with the approval of the appointing authority, continue to serve as a Commissioner for a period of up to one year after he or she ceases to be a Member of the Senate or the House of Representatives.".

SEC. 4. EFFECTIVE DATE.

This Act shall take effect on January 3, 1997.

The SPEAKER pro tempore (Mr. BEREUTER). Pursuant to the rule, the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from Ohio [Mr. TRAFICANT] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation designates the U.S. Courthouse under construction in Portland, OR as the Mark O. Hatfield United States Courthouse.

I strongly support this legislation in honor of an outstanding U.S. Senator who is retiring at end of the 104th Congress. Senator HATFIELD served his country during World War II in the U.S. Navy where he commanded landing crafts at both Iwo Jima and Okinawa. Following the war, Senator HATFIELD attended Stanford University. He became associate professor and dean of students at Willamette University.

He began his political career in 1950 serving in the State legislature, then as Oregon's Governor, and finally he has diligently served as a U.S. Senator for 30 years. Senator HATFIELD is well known for his impeccable character and integrity.

He has gained respect from both sides of the aisle for his leadership, and he has brought people together for what he believed to be right rather than what was popular at the time. This legislation is a fitting tribute to an outstanding public servant. I urge my colleagues to support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I join in supporting this legislation, a fitting and appropriate tribute to one of the most decent people ever to serve in the U.S. Senate, MARK HATFIELD. A student, practitioner of the legislative art and science, a teacher of public service throughout his public life, a person whose personal life has mirrored his public life of integrity, honesty and decency, he has championed conservation and environmental causes, supported and protected our national forests and parks.

He has called for reform in our health care system. Years ago I remember him very distinctly as an advocate for nuclear arms control. There are few people who cross our paths in public life who have, who display that kind of broad concern, genuine, deep humanitarian, felt concern and exemplify it in their public practice and in their personal life.

To name a building in honor of such a Member reflects credit not only on him, on the people of Oregon who elected him, but on the entire U.S. Congress.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon, Mr. BLUMENAUER, who replaced RON WYDEN, now serving in the U.S. Senate. He is a dynamic young man.

Mr. BLUMENAUER. Mr. Speaker, I thank the gentleman for yielding me the time.

Before us today is a measure that means a great deal to us in Oregon, naming the new courthouse after Senator HATFIELD. I know it is not going to be the last memorial as tribute to Oregon's senior Senator but in many ways it will be the most fitting. I wholeheartedly support this measure.

In Oregon we have had a tradition of accepting unique elected officials to Congress and the U.S. Senate, men and women who have been known to take their stand, demonstrating a pioneering spirit which we think defines Oregon today.

For more than a generation, MARK HATFIELD has been a living exemplar of that tradition. Whether the topic under discussion was the war in Vietnam, when he was the only Governor in the United States who was willing to stand up and raise questions about our policy, to being the only member of his party who was willing to stand up and raise questions about the wisdom of a balanced budget amendment, he has proven time and time again his courage, his independence, and I would say, his vision.

He is a man of vision, insight, compassion, and consensus, as the chairman mentioned. The word "mentor" is overused today, and it would be presumptuous on my part to suggest that Senator HATFIELD was my mentor, but he was an inspiration. He has been a friend, and I have been honored to have had an opportunity to be a part of the Oregon delegation, to be a colleague with him at least for these few months. We, in Oregon, are a little apprehensive to lose such a trusted leader, but we are hopeful that his legacy for a generation of people in Oregon, inspired by his example to enter government service, will be found walking through the doors of this courthouse. I hope that their decisions will be marked by the wisdom and courage of this great Oregonian, this great Senator, this great American.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

It is an honor to support the bill and to acknowledge the career of MARK HATFIELD, the many accomplishments.

Mr. Speaker, S. 1636 is a bill to designate the courthouse under construction in Portland, OR, as the "Mark O. Hatfield United States Courthouse." It is an honor to support this bill and to acknowledge the career, the life, and the accomplishments of the senior Senator from Oregon.

Senator HATFIELD consistently has been in the forefront of significant environmental legislation. His accomplishments include passage of the Oregon Wilderness Act of 1984, and the landmark Oregon Wild and Scenic Rivers Act of 1988.

His contributions to the dialog regarding nuclear disarmament lead, in 1992, to signing the nuclear test ban.

Senator HATFIELD is a prolific author, veteran of World War II, and a devoted father. His faith, compassion, and concern for his fellow beings is legendary.

He, and his wisdom, good humor, and gentlemanly behavior, will be missed by all. I join Mr. OBERSTAR and Mr. GILCHREST in bipartisan support for S. 1636, and urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Before we vote on this legislation, which I strongly support, I would like to say that our staff on both sides of the aisle, on our Committee on Transportation and Infrastructure, is absolutely performing an outstanding job not only on all of the bills which we are moving today but throughout this Congress. Indeed, I want to pay special recognition to Jack Schenendorf, the chief of staff, who is one of the most capable, well-intentioned, intelligent, experienced, sensitive chiefs of staff that we have had the privilege and pleasure of working with in the years that I have been in the Congress.

In fact, he follows in the footsteps of the legendary chief counsel, Dick Sullivan. Dick Sullivan is at home seriously ill, I understand. I think that much of the bipartisanship that we enjoy on our committee, much of the effectiveness of the committee, is very directly related to the foundation that Dick Sullivan helped lay when he was the chief counsel of this committee. I know we all certainly wish Dick Sullivan our very, very best. I think it is appropriate to acknowledge that he, indeed, has been a legendary chief counsel to this committee.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding to me. I very much appreciate his recognition of the staff on both sides. Certainly Jack Schenendorf has provided leadership and vigorous initiative, as Dave Heymsfeld has done on our side and have worked together to iron out differences that maybe sometimes Members could not resolve. They have found creative ways.

I do want to express my appreciation for the chairman's recognition of Dick Sullivan. I talked with Dick last Friday. Though his voice was weak, his spirit is certainly strong. I know all of us join in our prayers for his recovery in a bout with cancer and with ongoing chemotherapy. He certainly did set a standard, as the chairman said, for excellence in staff performance.

Mr. TRAFICANT. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Speaker, I would like to associate myself with the remarks relative to Dick Sullivan on behalf of all the speakers here. I also commend the staff and I hope that Dick finds success in his struggle. His work with our committee is legendary, and we all wish him the very best.

Mr. GILCHREST. Thank you, Mr. Speaker. S. 1636 is an act to designate the U.S. courthouse under construction in Portland, OR. as the Mark O. Hatfield United States Courthouse. This designation is a fitting tribute to the senior Senator from the State of Oregon, who is retiring after serving 30 years in the U.S. Senate. Senator HATFIELD has provided thoughtful leadership and pragmatic philosophy to whatever office he has held, be that university president, State representative, Governor, or Senator.

Senator HATFIELD is a native of Oregon, and was educated in Oregon schools. Following service in the Navy during World War II, where he commanded landing craft at Iowa Jima and Okinawa, he returned to civilian life. He became an educator and university dean of students at Willamette University. He began his political career in 1950 in the Oregon legislature. After two terms in the Oregon house and 2 years in the Oregon senate, he was elected secretary of state for Oregon, and in 1958 was elected Governor and served two terms. In 1966, Senator HATFIELD was elected to the U.S. Senate, where he has served with distinction until his retirement this year. His 30-year service is the longest service of any Senator from Oregon.

I am pleased that our colleagues, Mr. BUNN and Mr. COOLEY, cosponsored a companion bill, H.R. 3134, and I am pleased that a Member of the committee, Mr. DEFAZIO was principal sponsor of that bill.

I support the bill and I urge my colleagues to pass the bill.

One final note on this bill. When the other body passed S. 1636, a floor amendment was added to extend the membership of retiring Members of Congress on the Franklin D. Roosevelt Memorial Commission. This Commission was created in 1955, and Senator HATFIELD has been a member of this Commission for 25 years. The Senate amendment would allow Senator HATFIELD to continue his service on this Commission for the dedication of the FDR Memorial in May 1997. The Commission will cease to exist after the Memorial opens.

Ms. FURSE. Mr. Speaker, I rise today in support of S. 1636, which will name a Federal courthouse in downtown Portland for MARK O. HATFIELD. This building lies in the heart of my district, but more importantly, Senator HATFIELD has been my close friend and valued ally for 16 years now.

Senator HATFIELD's commitment to justice issues through the years makes it fitting that this new courthouse be named for him. The achievements for justice we have accomplished together through the years include the founding of the Oregon Peace Institute, restoration of tribal status for several Oregon Indian tribes and bringing increased awareness to Oregonians regarding issues of global harmony.

MARK HATFIELD takes principled stands opposing such items as bloated military budgets and the death penalty. He is one of the Senate's bridge builders, one who helps forge policies that move us forward on so many issues that are important to our constituents.

Oregon has been deeply blessed by the service of MARK HATFIELD. As I bid him farewell from the institution of Congress, I feel immeasurable appreciation for his many contributions, great fondness for him personally, and a degree of sadness for all of us. Senator HATFIELD has been a great statesman, a champion for Oregon in every way, a peace activist and a true gentleman.

My friendship with Senator HATFIELD began 16 years ago when he and I worked on Oregon tribal concerns. Since then, I have continued to work with him closely on issues of peace and justice.

Senator HATFIELD has served the State of Oregon in elected office since 1951—45 years now. He has served as State representative, State senator, Oregon secretary of state, Governor and now U.S. Senator, never losing an election. He has served the State in countless other ways and his courageous leadership on a wide range of issues has truly made the world a better place.

Among Senator HATFIELD's contributions I admire most are his service on the founding board of the Oregon Peace Institute and his early opposition to our involvement in the Vietnam war. He was a champion of peace when it was not a fashionable issue, when it was dangerous politically. MARK HATFIELD voted against the resolution supporting the Gulf of Tonkin Resolution at the 1964 National Governor's Association. As Appropriations Committee chairman during the Reagan-era defense buildup, Senator HATFIELD worked arduously, and with some success, in preventing the increases.

MARK HATFIELD and I have worked together for years in the nuclear weapons freeze movement and I believe he has worked harder than anyone to stop nuclear testing. His success in that quest provided momentum vital to this month's successful adoption of a comprehensive nuclear test ban by the Nuclear Nations. I am confident that with the groundwork laid by Senator HATFIELD, we will eventually rid the world of the scourge of nuclear weapons.

MARK HATFIELD has been my colleague, my adviser, and most of all, my friend in this place called Capitol Hill. I look forward to continuing all of that when he returns permanently to Oregon, the home we both love.

I urge my colleagues to support H.R. 1636.

Mr. DEFAZIO. Mr. Speaker, it is my great pleasure that the House is, today, considering S. 1636, legislation designating the Mark O. Hatfield Courthouse in Portland, OR. Senator WYDEN and I introduced companion legislation earlier this year, with the full and enthusiastic support of the entire Oregon delegation. Passage of this legislation is just a small way of expressing our debt of gratitude to Senator HATFIELD for his lengthy career of public service to the State of Oregon and the Nation.

The State of Oregon has been graced by the representation and leadership of MARK HATFIELD for over 60 years. When Senator HATFIELD retires at the end of this year, it will represent a tremendous loss to the State. He stands among the giants of Oregon politics. Very few others have rivaled his dedication and service. Senator HATFIELD served in World War II, as a college professor, as a State representative, as a State senator, as Oregon secretary of state, Oregon's Governor for 8 years and finally as a U.S. Senator for the past 30 years.

What's more, MARK HATFIELD's service to the Nation has been equally impressive and few here in Congress have matched the Senator's character and integrity. No matter how unpopular his stand, Senator HATFIELD's allegiance has always been to his principles first and foremost. He has gained respect on both sides of the isle for his thoughtful leadership and pragmatic philosophy. For MARK, his career has been about bringing people together and doing what is right instead of what's popular.

For a building that will exemplify integrity and service to Oregon and the United States, I can think of no better individual to name it after than Senator MARK O. HATFIELD.

Again, I'm very pleased that the House is adopting this measure today.

Mr. BUNN of Oregon. Mr. Speaker, I would like to take this opportunity to thank chairman SHUSTER and chairman GILCHREST for bringing this important piece of legislation to the floor. This legislation is important, it is important to Americans, to those of us in the Congress, and most of all, to my fellow Oregonians. It is important because it honors a man who has served the State of Oregon as well as his country for all of his adult life. I am proud to support Senate bill 1636, a bill that will designate the Mark O. Hatfield Courthouse in Portland.

Mr. Speaker, it is said that the difference between a statesman and a politician is that a politician thinks of the next election while the statesman thinks of the next generation. Senator HATFIELD has been a true statesman of

Oregon in every sense of the word. Generations of Oregonians, including my own children, will benefit from the hard work and dedication to Oregon by Senator HATFIELD.

As we designate this courthouse to Senator HATFIELD, generations of Oregonians will be reminded of the long and distinguished career of Senator HATFIELD. From his days as a State senator, to his days as Oregon's youngest Governor, and finally to his career in the U.S. Senate, the courthouse will serve to remind all Oregonians of a man they can be proud of.

Mr. Speaker, it has been my honor to have the opportunity to serve with Senator HATFIELD in the 104th Congress. As a member of the House Appropriations Committee I have had ample opportunity to watch Senator HATFIELD bring both sides of the aisle together in order to do what is right for America. Although I have not always agreed with the positions of Senator HATFIELD, I know that they have always been well thought out and what he believed best for Oregonians. Let me finish by wishing Senator HATFIELD and his wife Antoinette all the best in his retirement. And on behalf of the people of Oregon, offer him a well deserved thank you for all of his years of service.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. SHUSTER], that the House suspend the rules and pass the Senate bill, S. 1636.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD on the bills just considered.

The SPEAKER pro tempore. Is there objection to request of the gentleman from Pennsylvania?

There was no objection.

AVIATION DISASTER FAMILY ASSISTANCE ACT OF 1996

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3923, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. SHUSTER] that the House suspend the rules and pass the bill, H.R. 3923, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 401, nays 4, not voting 28, as follows:

[Roll No. 418]

YEAS—401

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blumenauer
Blute
Boehlert
Boehner
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Johnson, E. B.
Johnson, Sam
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NAYS—4

Cooley
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Scarborough
Stump

NOT VOTING—28

Ackerman
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Durbin
Fazio
Fields (TX)
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Solomon
Torkildsen
Watts (OK)
White

□ 1230

Mr. COBURN changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3675, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

Ms. GREENE of Utah. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 522 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 522

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3675) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. BEREUTER). The gentlewoman from Utah [Ms. GREENE] is recognized for 1 hour.

Ms. GREENE of Utah. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, H.R. 522 provides for consideration of the conference report for H.R. 3675. the fiscal year 1997 Transportation appropriation bill. The rule waives all points of order against the conference report. The waiver covers provisions relating to legislation and unauthorized items on a general appropriations bill.

Waivers under the rule are in accordance with previous tradition on appropriations conference reports, and the rule was reported out of committee on a voice vote with no controversy or opposition.

On the bill itself, I would like to commend the gentleman from Virginia, Chairman WOLF, and Ranking Member COLEMAN for putting together an excellent bill that funds this nation's most critical transportation needs.

As my colleagues know, transportation plays a crucial role toward promoting our current and future economic growth and prosperity. This bill plays an important role in improving America's transportation infrastructure, thereby helping to secure our role in the global marketplace and, at the same time, improving our quality of life.

Mr. Speaker, I would like to emphasize that this rule was unanimously reported out of committee without any controversy and that it is in keeping with tradition on conference reports for appropriations bill. I urge my colleagues to support both the rule and the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join my Democratic and my Republican colleagues in supporting the rule for this Transportation appropriations conference report this morning.

I would like to commend Chairman Wolf and Ranking Member COLEMAN for all of their hard work in getting this bill to the floor today. This Transportation bill addresses some of the very real transportation issues facing our country today.

It allocates $4.9 billion to the Federal Aviation Administration to help make airline travel in the United States even safer than it already is. Thanks to this bill, American airports will be able to hire 500 new air traffic controllers and 367 new safety inspectors.

In light of the recent tragedy in New York and the increasing danger of both international and domestic terrorism, I can not think of anyone who would object to our doing everything we can to make flying safer.

This bill also allocates $35 million for boat safety and $2.3 billion for the operation of the Coast Guard. As a Massachusetts Representative, I can tell you that these funds will mean a great deal to the safety of our Nation's boaters, vacationers, and maritime workers.

The conferees also allocated $115 million for the Northeast corridor improvement project. The Northeast corridor is the most traveled passenger rail route in the country stretching from Boston to Washington. It carries 100 million passengers each year.

Although I still believe this country has a very long way to go in terms of improving its passenger rail system, these funds will certainly help.

So, Mr. Speaker, this bill will improve our air travel, our water travel, and our rail travel.

It is a strong package of investments in our infrastructure and as such it will prove to be a strong economic catalyst.

I urge my colleagues to support this rule and to support this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. GREENE of Utah. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER] of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to this rule, not because the rule protects a good bill, but because there is a provision in this bill that does not belong in there. It is a provision that is certainly a poster child of why the line-item veto is long overdue.

Section 351 of this legislation turns Congress into a domestic relations court, and a domestic relations court involving one very famous case in the District of Columbia involving Dr. Elizabeth Morgan and her former husband, Dr. Eric Foretich.

By protecting section 351 against the point of order, the Committee on Rules has, in effect, legislated the outcome of a child custody case when the Congress does not have any of the facts, and that is outrageous and it should not be allowed to stand without someone standing up here to object to it.

Let us look at the facts. Drs. Foretich and Morgan were involved in a very messy divorce case. That is not unusual. There are a lot of messy divorce cases that come up in the courts around our country. The divorce was granted.

Dr. Morgan was given custody of her daughter. Dr. Foretich was given visitation rights. Dr. Morgan objected to the visitation rights and went to court, alleging that Dr. Foretich was involved in child molestation. The court did not sustain Dr. Morgan's assertions and continued Dr. Foretich's right to visit. Dr. Morgan then hid the child and prevented visitation, and was jailed for civil contempt.

The gentleman from Virginia [Mr. WOLF] who has put the present provision in the bill, came to Congress, the 101st Congress, and asked us to pass a private bill for the relief of Dr. Morgan, to let her out of jail. When he testified before the subcommittee in the earlier bill, he said, "The legislation written with input from academic and legal communities took great care to protect the ability of the court to enforce its rulings. While the jury trial provision in my legislation protects the individual from indefinite incarceration, the court can pursue additional remedies. Individuals cannot simply wait out the year-long period and expect to walk away from their obligation to obey the court."

Under Public Law 101–97, Dr. Elizabeth Morgan technically could still be charged with criminal contempt of court and brought before a jury. The gentleman from Virginia, Mr. WOLF, said that some years ago. The legislation which he has introduced in this appropriation bill, without consideration by a subcommittee in either House, without a vote in either House, negates that provision.

Second, this is a direct assault on the independence of the judiciary, and is bad public policy. Dr. Morgan has access to a judicial body. If she thinks the judicial body has erred, she can either appeal, or if she thinks that the judge is biased, there are provisions in the D.C. civil procedure court to get a new judge. Instead, she has come to Congress to legislate the outcome.

Finally, Dr. Morgan and her daughter are in New Zealand. The New Zealand courts have ruled that it is not in the best interests of the child to be brought back to the United States. The New Zealand court has possession of the child's passport. If this legislation is passed, our country will be in violation of the Hague Convention relative to child custody, and if the child is brought back to the United States without valid papers, both New Zealand and American law will be violated. Let us prevent this by voting down this rule.

Mr. Speaker, I include for the RECORD an op-ed piece by Paul Kolker in today's Washington Post.

The material referred to is as follows:

[From the Washington Post, Sept. 18, 1996]

CONGRESS AS A DOMESTIC-RELATIONS COURT

(By Peter R. Kolker)

The legislative branch of the federal government is about to become embroiled in a childcustody dispute. Congress would take one case out of the hands of the judiciary and decide it for itself. This unprecedented move has only two problems: It is bad public policy, and it is clearly unconstitutional.

As reported in The Post's Sept. 13 news story, this imminent legislation—a replay of previous efforts by Rep. Frank Wolf (R-Va)—would strip the District's court system of jurisdiction in the bitterly fought dispute between Elizabeth Morgan and Eric Foretich over the custody of 13-year-old Hillary Foretich, (now Ellen Morgan), and it would prevent the D.C. Superior Court from exercising its authority throughout Ellen's minority. Similarly, it would also prevent her father from seeking visitation through the courts, as is the right of every parent.

The Morgans have been in New Zealand since 1990 but now want to return home—but like all other citizens, they would be subject to the courts upon arrival. Morgan has asked Congress to remove her case from the courts and deal with it on the Hill. This would make her the only American parent whose child-custody case was put beyond judicial reach. It would not be the first time Congress did so for her.

When Morgan refused to comply with a D.C. Superior Court order in the custody battle, she was held in contempt of court, and—in a standoff with the trial judge—she spent more than two years locked up at the D.C. Jail. But with well-connected friends, she secured the backing of Wolf, who engineered special legislation to trump the court's ace and thereby gain her freedom. No one else was affected by that legislation. Once out of jail, she headed for New Zealand, where the courts were more accommodating to her. Now, she wishes to return home, but she needs something even more extraordinary to keep the courts from treating her like others, and she has enlisted the aid of Rep. Wolf again to further her exemption from the process of the law.

But this time, the bill would affect someone else—Eric Foretich—by effectively stripping him of his parental rights and denying him access to the Superior Court, which is allowed to everyone else whose child resides in the District.

The Framers of the Constitution thought something like this could happen. And they prohibited it. The Constitution forbids "Bills of Attainder"—laws punishing a specific person or a very narrow class of individuals, constructed to deprive them of the due-process protections available to others.

Not that this subject wasn't raised when Wolf's subcommittee first took up the legislation. George Washington law professor Jonathan Turley appeared at a hearing a year ago and explained to the subcommittee the three hallmarks of the prohibited Bill of Attainder: specificity, punishment and elimination of judicial due process. Turley pointed to the introduction to that early bill, which proudly states that it applies only to the Morgan/Foretich case. Elimination of the father's visitation rights certainly is a punishment (whether deserved or not is another question), and it does so without the protections found in court. Presto! A Bill of Attainder. So why has minimal-government proponent Wolf persisted?

The dramatic Morgan battle has had much media coverage, and one can feel passionately about the story. Who knows the truth of this case: whether or not Ellen, when a very young child, was sexually abused by her father, as Morgan alleged and Foretich denied? If he did, then serious restrictions on visitation, perhaps even prohibitions, are in order.

But what if he didn't? In our legal system, figuring out what happened in a private dispute is for the courthouse, not the Capitol. Our Constitution separates the judicial from the legislative functions for good reason. A political forum is hardly the place to take the testimony of witnesses in a custody case, or to find facts or to fashion custody orders.

Just consider how this remedy was crafted: as a last-minute add-on to a transportation appropriations bill having nothing to do with child custody. If Congress becomes the court of appeals for the Morgan case, will the federal legislature and Wolf be available to every District litigant who feels wronged by the trial court? Or do only the well-connected get to have their cases adjudicated on Capitol Hill?

The judicial process was, and continues to be, fully available to Ellen and both her parents. Whatever the decision may have been years ago, the trial judge is bound to consider the changed circumstances of the intervening years. Ellen, now a teenager, certainly can articulate her views to the judge, who undoubtedly would pay close attention. If there were reason to think the original judge was biased, a mechanism exists to replace him.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado [Mr. BEILENSON].

Mr. BEILENSON. Mr. Speaker, I thank my friend and ranking member for yielding time to me.

Mr. Speaker, I rise in opposition to the bill and to the conference report on H.R. 3675, transportation appropriations for fiscal year 1997, that it would make in order. Three of the bill's provisions that the rule protects are especially objectionable.

First, the rule provides waivers for the legislative provision in H.R. 3675 that freezes fuel economy or CAFE standards for the second year in a row. That is an unwarranted protection of a controversial and major provision that should not be in an appropriations bill in the first place. This legislative rider weakens an important successful environmental effort that has served us well.

The fuel economy standards freeze weakens our efforts to reduce pollution, to improve our Nation's energy security, and to lower the cost of gasoline for consumers. By reducing oil consumption, CAFE standards have been enormously successful in cutting pollution in this country. By preventing the emission of millions of tons of carcinogenic hydrocarbons into the air, the standards have improved air quality greatly, including those obviously in heavily populated cities like my own of Los Angeles.

In addition, CAFE standards have proved to be successful in saving an estimated 3 million barrels of oil a day, thereby reducing U.S. dependence on imported oil. There is no doubt that without these standards we would be importing far more oil than we already do. We now import about 52 percent of all the oil we use in the United States, which contributes $60 billion annually to our trade deficit.

□ 1245

Of direct importance to consumers, CAFE standards result in savings when these consumers purchase gasoline. Because fuel economy standards doubled between 1975 and the late 1980's, a new car purchaser now saves an average of about $3,300 at the gas pump over the lifetime of his or her car. CAFE standards mean over $40 billion in consumer savings annually.

By continuing this freeze, Congress is preventing full implementation of the law that was enacted back in 1975 that, as I said, has served us so well since.

Specifically, the freeze is blocking improvements in the CAFE standards for light trucks. This means that our constituents who purchase the very popular minivans, sport utility vehicles, jeeps, and pickups are denied the benefits of existing fuel savings technologies.

These vehicles have become the most prevalent example of the gas guzzlers we have sought to do away with. They now comprise over 40 percent of the new vehicle market, expanding the demand for oil and of course increasing pollution.

Second, Mr. Speaker, many of us regret that the bill makes reductions in funding for Amtrak. Compared to the House bill, the conference report is certainly preferable and the conferees are to be commended for restoring much of Amtrak's funding. Still, the legislation before us appropriates $70 million, or 11 percent less than current funding, and 11 percent less than requested. This is, Mr. Speaker, a bad transportation policy.

Instead of reducing funds for Amtrak, we ought to be providing more to improve and expand rail service in the United States. We are now making an investment that is totally inadequate. Our rail system is nowhere near so cost effective or consumer oriented as it should be, but instead of providing the funds to overcome those deficiencies, the action we are taking today represents a big step backwards.

An effective, efficient rail system is essential to the quality of life and the economic vitality of our Nation, and improving rail service should be a top priority. Instead, it has been sadly and badly neglected.

Trains run infrequently; the most popular ones are overcrowded; and passengers have well-founded fears about safety and the lack of good reliable service. But rather than trying to meet the demands of consumers and would-be customers by improving our rail program, we have relegated rail service to the bottom of our list of priorities, where it takes a back seat to the enormous amount of funding we continue to pour into our multibillion dollar highway system.

Lastly, Mr. Speaker, and here I agree strongly with the gentleman from Wisconsin [Mr. SENSENBRENNER], those of us who believe that the procedural integrity of the House should be maintained are very troubled about the provision added in conference to strip the

D.C. Superior Court of jurisdiction over the Elizabeth Morgan child custody case. This legislative rider is an egregious violation of several House rules, including the rule prohibiting legislation in an appropriations bill. It is certainly not germane to the bill and is definitely outside the scope of the conference's jurisdiction, since it was in neither the House nor the Senate version of the bill that was sent to conference.

The provision itself, as we have heard, is very controversial. It is unconstitutional, since the Constitution forbids bills of attainder, or laws that punish a specific person or deprive that person of the due process protections available to everyone else and is bad public policy for Congress to make this move, which is clearly unprecedented. The legislative branch should not interject itself in a domestic family dispute that is in the hands of the Judiciary, where it belongs.

Further, by agreeing to this provision, Congress would be putting itself in the position of passing legislation that encourages a violation of the Hague Convention, which both New Zealand, which has recently issued a ruling in this case, and the United States have signed.

Mr. Speaker, we all agree that there are times when exemptions to House rules are necessary to keep the legislative process moving along. They should not be provided, however, for provisions that represent such egregious violations of those rules as appear in at least, I think, these 3 instances in this particular rule.

Ms. GREENE of Utah. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, I thank the gentlewoman for yielding me this time. I rise to support the position that we have heard articulated both by the gentleman from California [Mr. BEILENSON] as well as the gentleman from Wisconsin [Mr. SENSENBRENNER]. It is unfortunate when we allow matters which are not germane to a bill to become a part of the bill. It makes it doubly unfortunate when it is not only not germane, it is totally extraneous, and when it is in violation of the rules of the House that it be legislating in an appropriations bill.

All of this would not shock my conscience given my years of service in the House of Representatives. But indeed it does shock my conscience that we put in this bill or allow to be put in this bill and for the rule to come to the floor making it not subject to a point of order, when it is a flagrant act of unconstitutional interposition of the legislative branch and an abuse of legislative power. There are very strong feelings and emotions about the merits of the Morgan-Foretich child custody case. I am not here to argue those merits. I am here simply to say that it is an abuse of the legislative process and shocks the conscience of this Member that this is being done, to deny to one party who is entitled to access to the courts that access as a narrow and specific legislative act. It is a bill of attainder, it is clearly and fragrantly unconstitutional, and it is an abuse of our processes that it be in this bill or in this conference report without an opportunity to raise the numerous points of objection which lie against it.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. I appreciate the gentleman's yielding me this time.

Mr. Speaker, there are several provisions in this bill of particular concern to the area I represent in Colorado, and I wanted to speak to those very briefly.

First of all since I am going to be tied up in a conference committee meeting during debate on the adoption of the conference report itself, I wanted to express my appreciation to the gentleman from Virginia [Mr. WOLF], the chairman of the subcommittee, and the gentleman from Texas [Mr. COLEMAN] for their work on this bill and their efforts to accommodate many, many competing demands for limited funds.

In particular on the positive side, the conference report anticipates substantial funding for further research into aviation-weather safety issues, much of which will be conducted by very skilled scientists and researchers in the area that I represent in Colorado, and I am grateful for the funding for those important public safety activities.

The conference report also includes initial Federal funding toward the construction of a light rail system to handle the transportation needs of the people of metropolitan Denver under the authority of the Regional Transportation District.

This is an absolutely critical need for this major metropolitan area. As with so many places, we cannot continue to handle our commuter traffic merely by building additional lanes of highways, and getting this assistance on a light rail system for this fast-growing area is very important. I want to thank the gentleman from Virginia [Mr. WOLF] and the gentleman from Texas [Mr. COLEMAN] for their assistance there.

The bill also includes some provisions having to do with Denver International Airport. I respect and have had many conversations with the gentleman from Virginia about his concerns about the airport and the future construction of a sixth runway at the airport. I believe that over time we will be able to have a successful dialog about the various concerns that, at this point, anyway, cause there to be some restrictions about that item in the bill. Among those concerns are a widespread feeling in the Denver area about noise violations emanating from airport operations. The FAA and the city and county of Denver have been working, I think, very hard on resolving those problems. We still have a way to go, and I think until those noise issues have been successfully addressed, it would probably be premature to worry about expansion of the airport with a sixth runway. But inevitably that will be needed. I hope that we can proceed in parallel with the resolution both of some very serious noise issues as well as the need ultimately for the sixth runway to be built so that the new Denver International Airport can reach its full potential, including handling trans-Pacific international flights for which that runway will be necessary.

Mr. Speaker, I look forward to supporting adoption of the conference report. I again state my appreciation for the work of the gentleman from Virginia and the gentleman from Texas in dealing with the needs of the State of Colorado.

Ms. GREENE of Utah. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I would like to insert and read a letter at the outset from Congressman CLINGER and Congressman DAVIS. It says:

"Dear Frank, this is to respectfully request that H.R. 1855," which is the bill with regard to Dr. Morgan, "be added to legislation now pending in the conference committee appointed to consider the appropriations bill for the Department of Transportation. As you know, H.R. 1855 was the subject of a hearing in the District of Columbia Subcommittee of the Government Reform and Oversight Committee on August 4, 1995. Subsequently, on February 1, 1996," and I will insert that letter in the RECORD, "a written request was made to Majority Leader RICHARD K. ARMEY that the bill be discharged from the Committee. A copy of this letter is attached for your examination, along with a copy of the bill.

"Thank you for your consideration of this request."

Signed "BILL CLINGER, Chairman, Committee on Government Reform and Oversight," and "TOM DAVIS, Chairman, District of Columbia Subcommittee."

Second, this Congress in the past had voted after Dr. Morgan was incarcerated in prison for over 2 years for not testifying in a case. Many people who are arrested in the District of Columbia for drug use and felonies get out faster than Dr. Morgan got out. And this Congress has been on record overwhelmingly on this case.

Third, I would also say that I think, and I will submit the full statement in the RECORD, Members should know Dr. Morgan is extremely sick, she has had her rectum removed, she has a colostomy which is on a bag on her side. Her father died several months ago and she was not able to attend her father's funeral. Her mother is 80-some years old.

Her mother is living with her in New Zealand, taking care of Dr. Morgan and also taking care of Dr. Morgan's young daughter. Dr. Morgan's young daughter desperately wants to return to the United States. This court has had the case for 9 years. Nine years.

Last, Dr. Morgan is very sick, and I would ask any Member of this body who has either been sick or has a husband or a wife or a son or a daughter, whether or not they would not have wanted them to have the very best health treatment they possibly could, and I know from this body, made up of good and decent people, the answer would be "yes." And Dr. Morgan would like to be able to return, so she could have first-class health treatment.

On January 25 of this year, at a press conference, attended by the gentleman from Virginia, TOM DAVIS, and the gentlewoman from Maryland, CONNIE MORELLA, I promised that if the legislation I cosponsored allowing Ellen to return to America had not been signed into law at this time, I would include it in the fiscal year 1997 Department of Transportation appropriations bill. I said, and I quote:

> I am here to tell you that it is my intention to search for an appropriate vehicle for this legislation and I won't rest until it is passed. I will even attach this legislation to our fiscal year 1997 transportation appropriations bill as a last resort.

I did what I promised to do. The legislation passes no judgment on any of the parties involved. It does not take sides. It does not say anyone is right or anyone is wrong.

I was not elected to Congress to harm people. I was elected to Congress to help people, and I have done what I believe is right. It is unconscionable to me that an American girl has been forced to live in exile away from her family and friends, where the courts have failed for 9 years to find a solution to this situation. Quite frankly, they have failed miserably.

Mr. Speaker, I strongly support the rule.

HOUSE OF REPRESENTATIVES, COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC, July 24, 1996.

Hon. FRANK R. WOLF,
Member of Congress, House of Representatives, Cannon House Office Building, Washington, DC.

DEAR FRANK: This is to respectfully request that H.R. 1855 be added to legislation now pending in the conference committee appointed to consider the Appropriations Bill for the Department of Transportation. As you know, H.R. 1855 was the subject of a hearing in the District of Columbia Subcommittee of the Government Reform and Oversight Committee on August 4, 1995. Subsequently, on February 1, 1996 a written request was made to Majority Leader Richard K. Armey that the bill be discharged from the Committee. A copy of this letter is attached for your examination, along with a copy of the bill.

Thank you for your consideration of this request.

Sincerely,

WILLIAM F. CLINGER, Jr.,
Chairman, Government Reform and Oversight Committee.
TOM DAVIS,
Chairman, District of Columbia Subcommittee.

HOUSE OF REPRESENTATIVES, COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC, February 1, 1996.

Hon. RICHARD K. ARMEY,
Majority Leader, House of Representatives, Washington, DC.

DEAR MR. LEADER: This letter is to request that H.R. 1855, a bill to amend title 11, District of Columbia Code, to restrict the authority of the Superior Court of the District of Columbia over certain pending cases involving child custody and visitation rights, be discharged from the Committee on Government Reform and Oversight. I have consulted with Ranking Minority Member Cardiss Collins and she concurs with this request.

Thank you for your consideration of this matter.

Sincerely,

WILLIAM F. CLINGER, Jr.,
Chairman.

H.R. 1855

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN PENDING CHILD CUSTODY CASES IN SUPERIOR COURT OF DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Subchapter II of chapter 9 of title 11, District of Columbia Code, is amended by adding at the end the following new section:

"§ 11-925. Rules regarding certain pending child custody cases

"(a) In any pending case involving custody over a minor child or the visitation rights of a parent of a minor child in the Superior Court which is described in subsection (b)—

"(1) at any time after the child attains 13 years of age, the party to the case who is described in subsection (b)(1) may not have custody over, or visitation rights with, the child without the child's consent; and

"(2) if any person had actual or legal custody over the child or offered safe refuge to the child while the case (or other actions relating to the case) was pending, the court may not deprive the person of custody or visitation rights over the child or otherwise impose sanctions on the person on the grounds that the person had such custody or offered such refuge.

"(b) A case described in this subsection is a case in which—

"(1) the child asserts that a party to the case has been sexually abusive with the child;

"(2) the child has resided outside of the United States for not less than 24 consecutive months;

"(3) any of the parties to the case has denied custody or visitation to another party in violation of an order of the court for not less than 24 consecutive months; and

"(4) any of the parties to the case has lived outside of the District of Columbia during such period of denial of custody or visitation.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 9 of title 11, D.C. Code, is amended by adding at the end the following new item:

"11-925. Rules regarding certain pending child custody cases.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to cases brought in the Superior Court of the District of Columbia before, on, or after the date of the enactment of this Act.

(2) CONTINUATION OF PROVISIONS UNTIL TERMINATION.—The provisions of section 11-925, District of Columbia Code (as added by subsection (a)), shall apply to any case described in paragraph (1) until the termination of the case.

In August 1987, Dr. Elizabeth Morgan, a northern Virginia plastic surgeon, was jailed in Washington, DC, for contempt of court for failing to disclose the whereabouts of her daughter Ellen in a child custody case. Dr. Morgan was never charged with any crime yet languished in prison for over 2 years. Hardened criminals convicted of drug dealing and other crimes often spend less time in District of Columbia prisons. On September 23, 1989, President George Bush signed legislation I introduced prohibiting the District of Columbia courts from incarcerating anyone for more than 12 months in a child custody case unless they are charged with criminal contempt and given a jury trial to determine their innocence or guilt. Because of my legislation, Elizabeth Morgan was released.

Dr. Morgan later joined Ellen who had been living in exile in New Zealand since 1987. On June 15, 1995, I cosponsored legislation, H.R. 1855, permitting Ellen and Dr. Morgan to return home. At that time, Ellen's grandparents were very ill as was her mother. Since that time Ellen's grandfather has passed away and her grandmother's health is rapidly deteriorating. In addition, her mother has undergone emergency colectomy surgery, was forced to live with a bag resulting from an ileostomy, and suffers from a severe intestinal ulceration. Dr. Morgan needs the medical attention she can only receive here at home and Ellen longs to return to America.

Because of the failure of the court system in the District of Columbia, Ellen was prohibited from attending her grandfather's funeral this year. I promised that I would do everything in my power to make sure that she could still live the life of an American teenager that she so desperately yearns for. On January 25 this year, at a press conference attended by Representatives TOM DAVIS and CONNIE MORELLA, I promised that if the legislation I cosponsored allowing Ellen to return to America had not been signed into law by this time, I would include it in the fiscal year 1997 Department of Transportation appropriations bill. I said, "I am here to tell you that it is my intention to search for an appropriate vehicle for this legislation and won't rest until it is passed. I will even attach this legislation to our fiscal year 1997 transportation appropriations bill as a last resort." That is what I have done and it should come as no surprise to anyone. Yesterday, the House and Senate conferees met to resolve the differences between the two Chambers' transportation spending bills and the agreed-upon conference report includes a provision changing District of Columbia law permitting Ellen, now age 13, and Elizabeth to come home.

The legislation passes no judgment on any of the parties involved. It does not take sides. And it does not say anyone is right or anyone is wrong. I was not elected to Congress to harm people. I was elected to Congress to help people and I have done what I think is right. It is unconscionable to me that an American girl has been forced to live in exile away from family and friends while the courts have failed for 9 years to find a solution to this situation. And quite frankly, they have failed miserably.

The legislation changes District of Columbia law, in this case only, by transferring visitation decisions from the court to Ellen and prohibits the court from enforcing any outstanding civil contempt order on Dr. Morgan resulting from this custody case.

This is the right thing to do and it is the compassionate thing to do.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. GREENE of Utah. Mr. Speaker, I yield myself such time as I may consume.

At this time I would simply say that while there are some particular controversies that have been aired on the floor today, this is a good bill. It is a bill that provides for the transportation needs of every State in the Union, and it is a bill that should pass. I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1300

Mr. WOLF. Mr. Speaker, pursuant to House Resolution 522, I call up the conference report on the bill (H.R. 3675), making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BEREUTER). Pursuant to House Resolution 522, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Monday, September 16, 1996, at page 23203.)

The SPEAKER pro tempore. The gentleman from Virginia [Mr. WOLF] and the gentleman from Texas [Mr. COLEMAN] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. WOLF].

GENERAL LEAVE

Mr. WOLF. Mr. Speaker I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the conference report to accompany H.R. 3675 and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. WOLF. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to present to the House this morning a conference report accompanying the bill H.R. 3675, making appropriations for the Department of Transportation and related agencies ending September 30, 1997. This conference report is the 6th of 13 appropriations bills in the House that need to be completed before the beginning of the fiscal year just 12 days from today.

Let me first take a few minutes to summarize the conference report that we bring before you today. The bill appropriates $12 billion from the general fund of the treasury and $23.3 billion from the highway and aviation trust funds. The conference report is just $50 million over the House passed version of the bill which passed by an overwhelming vote of 403 to 2.

A few of the high points include, Mr. Speaker, first, $18 billion for the Federal aid highway program, $450 million over the House level and $350 million over the Senate level. This level represents the highest obligation ceiling in the history of the program.

Second, a total of $4.98 billion for the operation of the Federal Aviation Administration. This appropriation represents an increase of 5 percent over the 1996 appropriation and provides funds for 500 new air traffic controllers, 367 new aviation safety inspectors and other regulatory oversight personnel, and an increase of 9 percent for field maintenance of air traffic control equipment.

Third, $1.46 billion for the airport improvement program, an increase of over $110 million over the budget request.

Fourth, $3.5 billion for the Coast Guard with an additional $300 million provided in the defense bill. In total, resources for the operations of the Coast Guard, which does an outstanding job, will increase $41 million over the 1996 appropriation and $100 million over the President's request.

Fifth, $300 million for the National Highway Traffic Safety Administration, an increase of $20 million over the 1996 appropriations.

Sixth, a total of $565 million for Amtrak, an increase of $103 million over the House-passed level. In addition, Amtrak will receive $195 million for the Northeast Corridor Improvement Program, an increase of $80 million over the last year.

Seventh, $2.15 billion for transit formula programs, an increase of nearly $100 million over the 1996 appropriation. In addition, the conference report includes $1.9 billion for transit discretionary programs, an increase of $235 million over the 1996 appropriation and $100 million over the budget request.

Last, the conference report contains no highway demonstration projects, maintaining an important initiative this Congress began last year.

This conference report places its greatest emphasis on our highest responsibility, and that is protecting and enhancing transportation safety, and it provides the resources to improve the Nation's infrastructure.

The conference report was produced in full cooperation with the minority and all indications are that this bill is a bill the President will sign.

In closing, Mr. Speaker, I want to take a minute to thank my friend, the ranking minority member of the committee, the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN has announced his retirement from the House at the end of the session. He and I have worked closely together for the last 2 years and I am sorry to see him leave. It does not mean we have always agreed on each and every issue, but I think he has always had a good sense of humor and we have had a good relationship.

I wish him Godspeed and would tell him that if he does not return to his home State of Texas, we would enjoy it very much if he made his new residence in the great State of Virginia. The great State of Virginia with the Skyline Drive, the Shenandoah Valley, the Appalachian Trail, Monticello, and Mount Vernon, and places like that. And he probably knows about those places because people from Virginia went to Texas but many are returning to live in the great State of Virginia. So if he makes this his place of residence, we clearly would welcome him, and I know he is a very objective man and we would encourage him to register to vote and participate in our politics here.

But I do want to say, quite seriously, that I do want to commend Mr. COLEMAN and wish him well.

Also, Mr. Speaker, in closing, I would like to pay tribute to the staff members. I wish to recognize and thank those staff members who supported the Members of the House in preparation and passage of the fiscal year 1997 Transportation and related agency appropriations bill, H.R. 3675: the Transportation Appropriations Subcommittee's staff, John Blazey, Rich Efford, Stephanie Gupta, and Linda Muir. We could not have done the job without them.

These are four of the finest, first-class individuals, and they have done an outstanding job. They know that I appreciate, and I am sure the minority appreciates the great work they have done.

The appropriations staff, John Mikel, Dennis Kedzior, Elizabeth Morra, Ken

Marx, of the majority staff; and Cheryl Smith, who has done an outstanding job representing the minority's interests. I appreciate and salute her.

And also the associate staff of the committee, and I will have all their names in the RECORD. They have done an outstanding job. We have done about as good a job as one can do, working in a bipartisan way to meet the needs of the Nation. And an indication of that is that the bill passed the House 403 to 2.

Mr. Speaker, I wish to recognize and thank those other staff members who supported the Members of this House in the preparation and passage of the fiscal year 1997 Transportation and related agencies appropriations bill, H.R. 3675: The associate staff to the committee: Lori-Beth Feld Hua of my office, Monica Vegas Kladakis of Majority Whip DELAY's office, Connie Veillette of Mr. REGULA's office, Steve Carey of Mr. ROGER's office, Bill Deere of Mr. LIGHTFOOT's office, Ray Mock and Eric Mondero of Mr. PACKARD's office, Todd Rich and Sean Murphy of Mr. CALLAHAN's office, Sametta Klinetob of Mr. DICKEY's office, Paul Cambon of Chairman LIVINGSTON's office, Michael Erlandson of Mr. SABO's office, Jim Jepsen of Mr. DURBIN's office, Laura McKinney of Mr. COLEMAN's office, Barbara Zylinski-Mizrahi of Mr. FOGLIETTA's office, and Paul Carver of Mr. OBEY's office.

Mr. Speaker, I include additional information for the RECORD.

H.R. 2002 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES, 1997

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF TRANSPORTATION						
Office of the Secretary						
Salaries and expenses	56,189,000	55,376,000	53,816,000	53,376,000	52,966,000	-3,223,000
Office of civil rights	6,554,000	5,574,000	5,574,000	5,574,000	5,574,000	-980,000
Transportation planning, research, and development	8,220,000	7,919,000	3,000,000	3,000,000	3,000,000	-5,220,000
Transportation Administrative Service Center	(103,149,000)		(124,812,000)	(124,812,000)	(124,812,000)	(+21,663,000)
Payments to air carriers (Airport and Airway Trust Fund):						
(Liquidation of contract authorization)	(22,600,000)	(21,922,000)	(10,000,000)	(25,900,000)	(25,900,000)	(+3,300,000)
(Limitation on obligations)	(22,600,000)	(21,922,000)	(10,000,000)	(25,900,000)	(25,900,000)	(+3,300,000)
Rescission of contract authority	(-16,000,000)	(-16,678,000)	(-28,600,000)	(-12,700,000)	(-12,700,000)	(+3,300,000)
Rescission	(-6,786,971)	(-1,133,373)	(-1,133,000)	(-1,133,000)	(-1,133,000)	(+5,653,971)
Rental payments	135,200,000	137,581,000	127,447,000	129,500,000	127,447,000	-7,753,000
Minority business resource center program	1,900,000	1,900,000	1,900,000	1,900,000	1,900,000	
(Limitation on direct loans)	(15,000,000)	(15,000,000)	(15,000,000)	(15,000,000)	(15,000,000)	
Minority business outreach	2,900,000	2,900,000	2,900,000	2,900,000	2,900,000	
Total, Office of the Secretary	210,963,000	211,250,000	194,637,000	196,250,000	193,787,000	-17,176,000
(Limitations on obligations)	(22,600,000)	(21,922,000)	(10,000,000)	(25,900,000)	(25,900,000)	(+3,300,000)
Total budgetary resources	(233,563,000)	(233,172,000)	(204,637,000)	(222,150,000)	(219,687,000)	(-13,876,000)
Coast Guard						
Operating expenses	2,278,991,000	2,519,350,000	2,609,100,000	2,331,350,000	2,319,725,000	+40,734,000
Defense function (050)		118,500,000				
(Transfer from DOD)	(300,000,000)			(300,000,000)	(300,000,000)	
Acquisition, construction, and improvements:						
Offsetting collections		-20,000,000	-20,000,000			
Vessels	167,600,000	237,000,000	205,600,000	227,960,000	216,500,000	+48,900,000
Aircraft	12,000,000	21,400,000	18,300,000	19,040,000	18,040,000	+6,040,000
Other equipment	49,200,000	46,700,000	39,900,000	46,200,000	41,700,000	-7,500,000
Shore facilities & aids to navigation facilities	88,875,000	59,500,000	47,950,000	52,900,000	52,350,000	-36,525,000
Personnel and related support	44,700,000	47,000,000	46,250,000	47,000,000	46,250,000	+1,550,000
Rescission, FY 1995			-355,000			
Rescission, FY 1996			-3,400,000			
Subtotal, A C & I appropriations	362,375,000	411,600,000	358,000,000	393,100,000	374,840,000	+12,465,000
Adjustments		-20,000,000	-23,755,000			
Net total, A C & I	362,375,000	391,600,000	334,245,000	393,100,000	374,840,000	+12,465,000
Environmental compliance and restoration	21,000,000	25,000,000	21,000,000	23,000,000	22,000,000	+1,000,000
Port Safety Development	15,000,000			5,000,000	5,000,000	-10,000,000
Alteration of bridges	16,000,000	2,000,000	16,000,000	10,000,000	16,000,000	
Retired pay	582,022,000	608,084,000	608,084,000	608,084,000	608,084,000	+26,062,000
Reserve training	62,000,000	65,890,000	65,890,000	65,890,000	65,890,000	+3,890,000
Research, development, test, and evaluation	18,000,000	20,300,000	19,000,000	19,550,000	19,200,000	+1,200,000
Boat safety (Aquatic Resources Trust Fund)	20,000,000		35,000,000	10,000,000	35,000,000	+15,000,000
Total, Coast Guard	3,375,388,000	3,750,724,000	3,708,319,000	3,465,974,000	3,465,739,000	+90,351,000
Federal Aviation Administration						
Operations	4,645,712,000	4,918,269,000	4,900,000,000	4,899,957,000	4,900,000,000	+254,288,000
Offsetting Collections		-150,000,000	-30,000,000	-75,000,000	-75,000,000	-75,000,000
Facilities & equipment (Airport & Airway Trust Fund)	1,934,883,000	1,788,700,000	1,800,000,000	1,788,700,000	1,790,000,000	-144,883,000
Rescission	(-60,000,000)					(+60,000,000)
Research, engineering, and development (Airport and Airway Trust Fund)	185,698,000	195,700,000	185,000,000	188,490,000	187,412,000	+1,714,000
Grants-in-aid for airports (Airport and Airway Trust Fund):						
(Liquidation of contract authorization)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	
(Limitation on obligations)	(1,450,000,000)	(1,350,000,000)	(1,300,000,000)	(1,460,000,000)	(1,460,000,000)	(+10,000,000)
Rescission of contract authority	(-664,000,000)					(+664,000,000)
Aircraft purchase loan guarantee program (indefinite borrowing authority)	50,000					-50,000
(Limitation on borrowing authority)	(1,600,000)					(-1,600,000)
Total, Federal Aviation Administration	6,766,343,000	6,752,669,000	6,855,000,000	6,802,147,000	6,802,412,000	+36,069,000
(Limitations on obligations)	(1,450,000,000)	(1,350,000,000)	(1,300,000,000)	(1,460,000,000)	(1,460,000,000)	(+10,000,000)
Total budgetary resources	(8,216,343,000)	(8,102,669,000)	(8,155,000,000)	(8,262,147,000)	(8,262,412,000)	(+46,069,000)

H.R. 2002 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES, 1997 — continued

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
Federal Highway Administration						
Limitation on general operating expenses	(509,660,000)	(652,905,000)	(510,981,000)	(534,846,000)	(521,114,000)	(+11,454,000)
Highway-related safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(11,000,000)	(2,049,000)	(2,049,000)	(2,049,000)	(2,049,000)	(-8,951,000)
(Limitation on obligations)	(11,000,000)					(-11,000,000)
Rescission of contract authority	(-9,000,000)					(+9,000,000)
Federal-aid highways (Highway Trust Fund):						
(Limitation on obligations)	(17,550,000,000)	(17,714,000,000)	(17,550,000,000)	(17,650,000,000)	(18,000,000,000)	(+450,000,000)
(Exempt obligations) (sec. 310)	(2,331,507,000)	(1,314,802,000)	(2,055,000,000)	(2,055,000,000)	(2,055,000,000)	(-276,507,000)
(Liquidation of contract authorization)	(19,200,000,000)	(19,800,000,000)	(19,800,000,000)	(19,800,000,000)	(19,800,000,000)	(+600,000,000)
Emergency appropriations	(300,000,000)					(-300,000,000)
Right-of-way revolving funds (Highway Trust Fund)				8,000,000		
Motor carrier safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(68,000,000)	(74,000,000)	(74,000,000)	(74,000,000)	(74,000,000)	(+6,000,000)
(Limitation on obligations)	(77,225,000)	(85,000,000)	(77,425,000)	(79,000,000)	(78,225,000)	(+1,000,000)
Rescission of contract authority	(-33,000,000)					(+33,000,000)
Alameda corridor project loan program		58,680,000				
Alameda corridor project loan limitation		(400,000,000)				
State infrastructure banks (Highway Trust Fund)		250,000,000		250,000,000		
State infrastructure banks					150,000,000	+150,000,000
Total, Federal Highway Administration		308,680,000		258,000,000	150,000,000	+150,000,000
(Limitations on obligations)	(17,638,225,000)	(17,799,000,000)	(17,627,425,000)	(17,729,000,000)	(18,078,225,000)	(+440,000,000)
(Exempt obligations)	(2,331,507,000)	(1,314,802,000)	(2,055,000,000)	(2,055,000,000)	(2,055,000,000)	(-276,507,000)
Total budgetary resources	(19,969,732,000)	(19,422,482,000)	(19,682,425,000)	(20,042,000,000)	(20,283,225,000)	(+313,493,000)
National Highway Traffic Safety Administration						
Operations and research	73,316,570	98,976,000	81,895,000	80,000,000	80,900,000	+7,583,430
Operations and research (Highway Trust Fund)	51,884,430	59,537,000	50,377,000	53,195,000	51,712,000	-172,430
Subtotal, Operations and research	125,201,000	158,513,000	132,272,000	133,195,000	132,612,000	+7,411,000
Highway traffic safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(155,100,000)	(191,000,000)	(167,100,000)	(169,100,000)	(168,100,000)	(+13,000,000)
State and community highway safety grants (Sec. 402) (limitation on obligations)	(127,700,000)	(151,200,000)	(127,700,000)	(129,700,000)	(128,700,000)	(+1,000,000)
National Driver Register (Sec. 402) (limitation on obligations)	(2,400,000)	(2,400,000)	(2,400,000)	(2,400,000)	(2,400,000)	
Highway safety grants (Sec. 1003(a)(7)) (limitation on obligations)		(15,000,000)	(11,000,000)	(12,000,000)	(11,500,000)	(+11,500,000)
Alcohol-impaired driving countermeasures programs (Sec. 410) (limitation on obligations)	(25,000,000)	(25,000,000)	(26,000,000)	(25,000,000)	(25,500,000)	(+500,000)
Rescission of contract authority	(-56,000,000)					(+56,000,000)
Total, National Highway Traffic Safety Administration	125,201,000	158,513,000	132,272,000	133,195,000	132,612,000	+7,411,000
(Limitations on obligations)	(155,100,000)	(193,600,000)	(167,100,000)	(169,100,000)	(168,100,000)	(+13,000,000)
Total budgetary resources	(280,301,000)	(352,113,000)	(299,372,000)	(302,295,000)	(300,712,000)	(+20,411,000)
Federal Railroad Administration						
Office of the Administrator	14,018,000	16,883,000	16,469,000	16,739,000	16,739,000	+2,721,000
Railroad safety	49,919,000	51,864,000	51,407,000	51,407,000	51,407,000	+1,488,000
Railroad research and development	24,550,000	24,565,000	20,341,000	20,000,000	20,100,000	-4,450,000
Northeast corridor improvement program	115,000,000	200,000,000		200,000,000	115,000,000	
Railroad rehabilitation & improvement program (Sec. 511 loan guarantees)				4,158,000		
(Limitation on direct loans)				(75,000,000)		
High-speed rail trainsets and facilities		80,000,000	80,000,000	80,000,000	80,000,000	+80,000,000
Next generation high speed rail	19,205,000	26,525,000	19,757,000	26,525,000	24,757,000	+5,552,000
Trust fund share of next generation high-speed rail (Highway Trust Fund):						
(Liquidation of contract authorization)	(7,118,000)	(2,855,000)	(2,855,000)	(2,855,000)	(2,855,000)	(-4,263,000)
(Limitation on obligations)	(5,000,000)					(-5,000,000)
Alaska Railroad rehabilitation	10,000,000			10,000,000	10,000,000	
– Rhode Island Rail Development	1,000,000	10,000,000	4,000,000	10,000,000	7,000,000	+6,000,000
Direct loan financing program			58,680,000			
Direct loan financing program limitation			(400,000,000)			
Grants to the National Railroad Passenger Corporation:						
Operations	305,000,000	342,000,000	342,000,000	342,000,000	342,000,000	+37,000,000
Transition costs	100,000,000					-100,000,000
Capital	230,000,000	296,500,000	120,000,000	250,000,000	223,450,000	-6,550,000
Total	635,000,000	638,500,000	462,000,000	592,000,000	565,450,000	-69,550,000
Total, Federal Railroad Administration	868,692,000	1,048,337,000	712,654,000	1,010,829,000	890,453,000	+21,761,000
(Limitations on obligations)	(5,000,000)					(-5,000,000)
Total budgetary resources	(873,692,000)	(1,048,337,000)	(712,654,000)	(1,010,829,000)	(890,453,000)	(+16,761,000)

H.R. 2002 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES, 1997 — continued

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
Federal Transit Administration						
Administrative expenses	42,000,000	43,652,000	41,367,000	42,147,000	41,497,000	-503,000
Formula grants	942,925,000	221,122,000	490,000,000	218,335,000	490,000,000	-452,925,000
Formula grants (Highway Trust Fund) (limitation on obligations)	(1,110,000,000)	(1,930,850,000)	(1,562,925,000)	(1,930,850,000)	(1,659,185,000)	(+549,185,000)
Operating assistance grants	(400,000,000)	(500,000,000)	(400,000,000)	(400,000,000)	(400,000,000)	
Subtotal, Formula grants	(2,052,925,000)	(2,151,972,000)	(2,052,925,000)	(2,149,185,000)	(2,149,185,000)	(+96,260,000)
University transportation centers	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	
Transit planning and research	85,500,000	85,500,000	85,500,000	85,500,000	85,500,000	
Metropolitan planning	(39,500,000)	(39,500,000)	(39,500,000)	(39,500,000)	(39,500,000)	
Rural transit assistance	(4,500,000)	(4,500,000)	(4,500,000)	(4,500,000)	(4,500,000)	
Transit cooperative research	(8,250,000)	(8,250,000)	(8,250,000)	(8,250,000)	(8,250,000)	
National planning and research	(22,000,000)	(22,000,000)	(22,000,000)	(22,000,000)	(22,000,000)	
State planning and research	(8,250,000)	(8,250,000)	(8,250,000)	(8,250,000)	(8,250,000)	
National transit institute	(3,000,000)	(3,000,000)	(3,000,000)	(3,000,000)	(3,000,000)	
Subtotal, Transit planning and research	(85,500,000)	(85,500,000)	(85,500,000)	(85,500,000)	(85,500,000)	
Trust fund share of expenses (Highway Trust Fund) (liquidation of contract authorization)	(1,120,850,000)	(1,920,000,000)	(1,920,000,000)	(1,920,000,000)	(1,920,000,000)	(+799,150,000)
Discretionary grants (Highway Trust Fund) (limitation on obligations):						
Fixed guideway modernization	(666,000,000)	(725,000,000)	(666,000,000)	(725,000,000)	(760,000,000)	(+94,000,000)
Bus and bus-related facilities	(333,000,000)	(274,000,000)	(333,000,000)	(375,000,000)	(380,000,000)	(+47,000,000)
New starts	(666,000,000)	(800,000,000)	(666,000,000)	(800,000,000)	(760,000,000)	(+94,000,000)
Subtotal, Discretionary grants	(1,665,000,000)	(1,799,000,000)	(1,665,000,000)	(1,900,000,000)	(1,900,000,000)	(+235,000,000)
Mass transit capital fund (Highway Trust Fund) (liquidation of contract authorization)	(2,375,000,000)	(2,000,000,000)	(2,000,000,000)	(2,300,000,000)	(2,300,000,000)	(-75,000,000)
Washington Metropolitan Area Transit Authority	200,000,000	200,000,000	200,000,000	198,510,000	200,000,000	
Violent crime reduction programs (Violent Crime Reduction Trust Fund)		10,000,000				
Total, Federal Transit Administration	1,276,425,000	566,274,000	822,867,000	550,492,000	822,997,000	-453,428,000
(Limitations on obligations)	(2,775,000,000)	(3,729,850,000)	(3,227,925,000)	(3,830,850,000)	(3,559,185,000)	(+784,185,000)
Total budgetary resources	(4,051,425,000)	(4,296,124,000)	(4,050,792,000)	(4,381,342,000)	(4,382,182,000)	(+330,757,000)
Saint Lawrence Seaway Development Corporation						
Operations and maintenance (Harbor Maintenance Trust Fund)	10,150,000	10,065,000	10,037,000	10,337,000	10,337,000	+187,000
Research and Special Programs Administration						
Research and special programs	23,937,000	28,169,000	23,929,000	27,675,000	26,886,000	+2,949,000
Hazardous materials safety	(12,650,000)	(12,812,000)	(12,772,000)	(15,572,000)	(15,472,000)	(+2,822,000)
Emergency transportation	(1,022,000)	(993,000)	(993,000)	(993,000)	(993,000)	(-29,000)
Research and technology	(3,288,000)	(7,488,000)	(3,323,000)	(4,269,000)	(3,580,000)	(+292,000)
Program and administrative support	(7,388,000)	(6,876,000)	(6,841,000)	(6,841,000)	(6,841,000)	(-547,000)
Accountwide adjustment	(-411,000)					(+411,000)
Subtotal, research and special programs	(23,937,000)	(28,169,000)	(23,929,000)	(27,675,000)	(26,886,000)	(+2,949,000)
Pipeline safety (Pipeline Safety Fund)	28,750,000	31,500,000	28,460,000	28,750,000	28,460,000	-290,000
Pipeline safety (Oil Spill Liability Trust Fund)	2,698,000	2,528,000	2,528,000	2,528,000	2,528,000	-170,000
Subtotal, Pipeline safety	31,448,000	34,028,000	30,988,000	31,278,000	30,988,000	-460,000
Emergency preparedness grants:						
Emergency preparedness fund	400,000	200,000	200,000	200,000	200,000	-200,000
(Limitation on obligations)	(8,890,000)					(-8,890,000)
Total, Research and Special Programs Administration	55,785,000	62,397,000	55,117,000	59,153,000	58,074,000	+2,289,000
(Limitations on obligations)	(8,890,000)					(-8,890,000)
Total budgetary resources	(64,675,000)	(62,397,000)	(55,117,000)	(59,153,000)	(58,074,000)	(-6,601,000)
Office of Inspector General						
Salaries and expenses	40,238,000	39,771,000	39,450,000	39,700,000	37,900,000	-2,338,000
Bureau of Transportation Statistics						
Salaries and expenses	2,200,000					-2,200,000
Office of Airline Information (Airport & airway trust fund)		3,100,000				
Surface Transportation Board						
Salaries and expenses		3,000,000	12,344,000	12,344,000	12,344,000	+12,344,000
Offsetting Collections		-3,000,000				

H.R. 2002 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES, 1997 — continued

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
General Provisions						
Bureau of Transportation Statistics (transfer from Federal-aid Highways)	(20,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	(+5,000,000)
Transportation Administrative Service Center reduction	-7,500,000		-10,000,000	-10,000,000	-10,000,000	-2,500,000
DOT field office consolidation (sec. 335)	-25,000,000					+25,000,000
ICC transition (sec. 344)	8,421,000					-8,421,000
Total, title I, Department of Transportation (net)	11,862,519,029	12,893,968,627	12,502,964,000	12,514,588,000	12,552,822,000	+690,302,971
Appropriations	(12,707,306,000)	(12,911,780,000)	(12,536,452,000)	(12,528,421,000)	(12,566,655,000)	(-140,651,000)
Rescissions	(-844,786,971)	(-17,811,373)	(-33,488,000)	(-13,833,000)	(-13,833,000)	(+830,953,971)
(Limitations on obligations)	(22,054,815,000)	(23,094,372,000)	(22,332,450,000)	(23,214,850,000)	(23,291,410,000)	(+1,236,595,000)
(Exempt obligations)	(2,331,507,000)	(1,314,802,000)	(2,055,000,000)	(2,055,000,000)	(2,055,000,000)	(-276,507,000)
Total budgetary resources including (limitations on obligations) and (exempt obligations)	(36,248,841,029)	(37,303,142,627)	(36,890,414,000)	(37,784,438,000)	(37,899,232,000)	(+1,650,390,971)
TITLE II - RELATED AGENCIES						
Architectural and Transportation Barriers Compliance Board						
Salaries and expenses	3,500,000	3,540,000	3,540,000	3,540,000	3,540,000	+40,000
National Transportation Safety Board						
Salaries and expenses	38,774,000	42,407,000	42,407,000	42,407,000	42,407,000	+3,633,000
Emergency fund	360,802					-360,802
Total, National Transportation Safety Board	39,134,802	42,407,000	42,407,000	42,407,000	42,407,000	+3,272,198
Interstate Commerce Commission						
Salaries and expenses	13,379,000					-13,379,000
Payments for directed rail service (limitation on obligations)	(475,000)					(-475,000)
Total, Interstate Commerce Commission	(13,854,000)					(-13,854,000)
Panama Canal Commission						
Panama Canal Revolving Fund: (Limitation on administrative expenses)	(52,741,000)					(-52,741,000)
Total, title II, Related Agencies	56,013,802	45,947,000	45,947,000	45,947,000	45,947,000	-10,066,802
(Limitation on obligations)	(475,000)					(-475,000)
Total budgetary resources	(56,488,802)	(45,947,000)	(45,947,000)	(45,947,000)	(45,947,000)	(-10,541,802)
TITLE III - GENERAL PROVISIONS						
General Provision 310		(-41,000,000)				
General Provision 310(f)		-306,000,000				
Sec. 338 - National Civil Aviation Review Commission			2,400,000		2,400,000	+2,400,000
Total appropriations (net)	11,918,532,831	12,633,915,627	12,551,311,000	12,560,535,000	12,601,169,000	+682,636,169
Scorekeeping adjustments	368,676,148	-6,000,000	-1,000,000	-2,513,604	-2,513,604	-371,189,752
Grand total (net)	12,287,208,979	12,627,915,627	12,550,311,000	12,558,021,396	12,598,655,396	+311,446,417
Appropriations	(13,131,995,950)	(12,645,727,000)	(12,583,799,000)	(12,571,854,396)	(12,612,488,396)	(-519,507,554)
Rescissions	(-844,786,971)	(-17,811,373)	(-33,488,000)	(-13,833,000)	(-13,833,000)	(+830,953,971)
(Limitations on obligations)	(22,055,290,000)	(23,053,372,000)	(22,332,450,000)	(23,214,850,000)	(23,291,410,000)	(+1,236,120,000)
(Exempt obligations)	(2,331,507,000)	(1,314,802,000)	(2,055,000,000)	(2,055,000,000)	(2,055,000,000)	(-276,507,000)
Grand total budgetary resources including (limitations on obligations) and (exempt obligations)	(36,674,005,979)	(36,996,089,627)	(36,937,761,000)	(37,827,871,396)	(37,945,065,396)	(+1,271,059,417)
CONGRESSIONAL BUDGET RECAP						
Total mandatory and discretionary	12,287,208,979	12,627,915,627	12,550,311,000	12,558,021,396	12,598,655,396	+311,446,417
Mandatory	582,072,000	608,084,000	608,084,000	608,084,000	608,084,000	+26,012,000
Discretionary:						
Crime trust fund		10,000,000				
General purposes:						
Defense (050)		118,500,000				
Nondefense	11,705,136,979	11,891,331,627	11,942,227,000	11,949,937,396	11,990,571,396	+285,434,417
Total, General purposes	11,705,136,979	12,009,831,627	11,942,227,000	11,949,937,396	11,990,571,396	+285,434,417
Total, Discretionary	11,705,136,979	12,019,831,627	11,942,227,000	11,949,937,396	11,990,571,396	+285,434,417

Mr. WOLF. Mr. Speaker, I reserve the balance of my time.

Mr. COLEMAN. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to rise in support of the conference agreement on fiscal year 1997 transportation appropriations bill.

Mr. Speaker, they say in United States there are really only two kinds of folks, Texans and those who want to be Texans. So for those of us from Texas, while we certainly appreciate Virginia and the great State represented by the chairman of this particular subcommittee, we also believe that in working with the Virginians, we have been able to accomplish a great deal this year for the rest of the country. Indeed, the leadership of the gentleman from Virginia, FRANK WOLF, showed itself to be invaluable once again this year.

This measure is the last transportation appropriations bill that I will be able to manage for the minority on the House floor. It has been a pleasure and honor to work and act as the ranking minority member on the Subcommittee on Transportation appropriations for these last 2 years, a subcommittee on which I have served 8 years of my tenure here in the Congress. The cooperation of the gentleman from Virginia, working not just with me but with other members of the subcommittee, is well known and well documented.

I would also like to thank the minority members of that subcommittee, the gentleman from Wisconsin [Mr. OBEY], the ranking Democrat on the full committee, the gentleman from Minnesota [Mr. SABO], the gentleman from Illinois [Mr. DURBIN], and the gentleman from Pennsylvania [Mr. FOGLIETTA]. Their services on my behalf and on behalf of this transportation bill were also invaluable.

Their insight on various transportation issues that they brought before our subcommittee made their advice both valuable and appreciated by all of us.

I do also want to thank the staff, Mr. Blazey, Mr. Efford, Ms. Gupta, Ms. Muir of the majority staff; and certainly on the minority staff, Cheryl Smith. On my own personal staff Christy Cockburn and Laura McKinney worked very hard to see this bill through.

This conference agreement is certainly one we can all be proud of. It does have strong bipartisan support. This conference report takes the best elements from the respective versions of the transportation appropriations bill as passed by the House and the Senate.

Mr. Speaker, I am pleased to rise in support of the conference agreement on the fiscal year 1997 Transportation appropriations bill. I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, this measure is the last Transportation appropriations bill that I will manage for the minority on the House floor. It has been my pleasure and honor to be the acting ranking minority member on the Transportation Appropriations Subcommittee for the past 2 years, and to have been a member of the subcommittee for the past 8 years.

I would like to thank the chairman, Mr. WOLF, for his cooperation in working with me and the other members of the subcommittee. I especially want to acknowledge the Democratic subcommittee members—Mr. OBEY, Mr. SABO, Mr. DURBIN, and Mr. FOGLIETTA—for their fine work and insight on the various transportation issues that have come before our subcommittee. I have valued their advice and appreciated their collegiality.

I also want to thank the staff—John Blazey, Rich Efford, Stephanie Gupta, Linda Muir of the majority staff, and Cheryl Smith of the minority staff, and Christy Cockburn, Laura McKinney of my staff—for their hard work on this bill.

This conference agreement is one that we all can be proud of. It has strong bipartisan support. This conference report takes the best elements from the respective versions of the Transportation appropriations bill as passed by the House and the Senate.

The conference agreement provides $12 billion in new budget authority, and $37.9 billion in total budgetary resources for important transportation investments. It is well within the 602(B) allocation allotted to this bill.

I am pleased to note that the conference agreement provides significantly increased resources for the major transportation infrastructure programs:

It provides $18 billion in new spending authority for the Federal Highway Program—$450 million more than in 1996.

It provides $1.46 billion in new spending authority for the Airport Improvement Program—slightly more than in 1996.

It provides $2.15 billion in new spending authority for transit formula grants—$100 million more than in 1996 for capital investments and $400 million for transit operating subsidies, the same amount as in 1996.

It provides $1.9 billion for discretionary grants to maintain and expand mass bus and transit transportation for citizens in both urban and rural communities across the country.

It provides $150 million in new funding for state infrastructure banks, an important administration initiative to help States leverage private investment for highway and transit projects.

Mr. Speaker, thousands of Americans use Amtrak and Commuter Rail Transportation to get to work and for leisure travel. We have seen in the past year, growing evidence that keeping Amtrak alive and well is vital not only in the Northeast cooridor, but throughout the country. I am pleased that the conference agreement provides $339 million for Amtrak infrastructure investments in the Northeast corridor and on other Amtrak routes throughout the country. These additional funds are a prerequisite for, but not a guarantee of, Amtrak's survival and future self-sufficiency. Clearly, unless additional funds for infrastructure improvements will have to be provided to Amtrak in the future if it is to become truly self-sufficient.

Mr. Speaker, with the rash of tragic aviation accidents this year, we are all concerned about airline security and safety. The conference agreement provides a 5 percent increase in funding for FAA operations, including the Nation's air traffic control system. The $4.9 billion provided in the bill for FAA operations will enable the FAA to hire 500 new air traffic controllers, and 367 new aviation safety and certification inspectors. The conference agreement also includes nearly $1 million in additional funds to enhance the FAA security office.

This bill does not address the additional $198 million requested by the administration to increase security at our Nation's airports, as part of the administration's larger, $1.1 billion, package to fight terrorism. Nonetheless, I am hopeful that we can include these additional resources in the continuing resolution that must be adopted before we adjourn this year.

In addition, this conference agreement does not include funding as requested by the administration for the Alameda Corridor Rail Project in California—a project that has strong support on both sides of the aisle. However, my understanding is that agreement has been reached to include this project in the continuing resolution when the CR is considered by the House.

Mr. Speaker, this conference report includes other worthy provisions, too numerous to mention now, but they are all detailed in the statement of managers on the conference report.

In closing, let me say that this conference report is a reasonable compromise between the House and Senate bills, while still protecting the priorities of the House. I urge the adoption of the conference agreement and I yield back the balance of my time.

Mr. Speaker, I reserve the balance of my time.

Mr. WOLF. Mr. Speaker, I yield 4 minutes to the gentleman from the great State of Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, there has been a lot of partisan activity on the floor of this House during the last several months. I know it must be very confusing to the people that are watching C–SPAN. They hear we are going to do things like cut Medicare and then they hear from someone else saying, no, we are not going to cut Medicare. They hear all of this partisan debate, and 90 percent of the debate that takes place on the floor of this House, especially at this time during the election process, is partisan.

We are not trying to convince anyone that this is a good transportation bill or a bad transportation bill. We are talking about whether or not whatever they say is going to be interpreted by some of those Americans listening and making a decision on whether or not to vote for a Republican President or a Democratic President, or whether to have a Republican controlled House or a democratically controlled House.

But behind the scenes, during all of this frivolous activity that takes place on the floor, there are people like the gentleman from Virginia, FRANK WOLF, people like the gentleman from Texas, RON COLEMAN, a Republican and a

Democrat, who have a Republican staff and a Democratic staff who are doing the work that they are supposed to be doing, doing the work that this body is supposed to be doing: Making certain that the Coast Guard is adequately funded to defend our shores; making certain that Amtrak gets a responsible amount of money and does a responsible job with that money that we appropriate for them; making sure that FAA has an adequate amount of money; to make sure that the people who travel on airplanes travel safely; making certain that our highway programs are adequately funded to ensure that we will maintain what we have today, and that is the best transportation system anyplace in the world.

So while we are out here bickering over all these other things, these two guys and their staffs and their subcommittees have been behind the scenes doing their responsible work.

There are some things in this bill that I disagree with. I am sorry that they chose not to ensure that the rail transportation station between Mobile and New Orleans was not funded. But they did the best they could do with the money that they have; ensuring, No. 1, that we are going to reduce the level of deficit spending; and ensuring, No. 2, that they have a fair and equitable report to bring to this committee. Both of these individuals and their staffs have put in literally hundreds of hours to bring us to this point today.

There are no demonstration projects in this bill. When I joined this subcommittee, I thought, boy, this is going to be a great day. Everything that I can dream up, all I am going to have to do, because I am a member of this subcommittee, is bring it to these two guys and smile at them and say I need this demonstration project. But for the first time in a great number of decades, we are doing it and they are doing it responsibly.

They are letting the States decide the priorities of the money that is available, and that is the way it should be. Politically, it might be to my advantage to go home and say, well, I got some special money put in this bill to build a new bridge. But from a responsible legislative point of view, FRANK WOLF and RON COLEMAN did it right.

So I am here to commend them today and to encourage my colleagues to accept this report, because it is the best that we can do. It has nothing to do with whether we are a Democrat or a Republican or whether we are going to vote for Bob Dole or whether we are going to vote for Bill Clinton. This is what we are here to do; that is to fund these programs that are in this bill.

I urge my colleagues to support this conference report.

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Mr. COLEMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I rise in strong support of the conference agreement on H.R. 3675. I would like to thank the gentleman from Virginia [Mr. WOLF] and the gentleman from Texas [Mr. COLEMAN], our ranking member, and the Committee on Appropriations staff for their assistance in eliminating an environmental and safety hazard posed by more than 30 abandoned barges in my district.

I would also like to thank city of Baytown Mayor Pete Alfaro, Harris County Commissioner Jim Fonteno, and Texas State Represtative Fred Bosse, along with the San Jacinto River Association and the Banana Bend Civic Association, for bringing this problem to my attention.

Mr. Speaker, the U.S. Coast Guard found in a 1995 study that these long-abandoned barges posed a potential threat to the health and public safety for the people who lived on or used the San Jacinto River in Texas. Furthermore, during the massive flooding that occurred in southeast Texas in 1994, one of these barges caught fire, causing the shutdown of I–10 in east Harris County and resulting in severe traffic problems for many days.

Mr. Speaker this conference agreement provides funds for removing these abandoned barges from the San Jacinto River and the Houston Ship Channel. Last February, I asked the Coast Guard to develop a plan for the disposal of the barges under the authority of the Barge Removal Act. This Federal law, passed by Congress in 1992, grants power to the Coast Guard to remove any abandoned barge after attempts to identify the owners have been exhausted.

Mr. Speaker, the Coast Guard has made every reasonable attempt to locate the barges' owners, and not it is time to stop the search and begin the removal process. I appreciate the hard work of both the chairman and the ranking member in working on this.

Mr. Speaker, I would also like to take this opportunity to thank my colleague, the gentleman from Texas [Mr. COLEMAN]. It has been a real pleasure to work with him as a colleague, because it was about 10 years ago that I had the opportunity to work for him as a staff member on both his personal staff and on the committee staff, and I can tell my colleagues in the House, since this is the last bill that he will be working on as one of the managers, that he has done a great service for not only the people of the 16th District of Texas, but also the people of Texas and the people of the United States.

Mr. Speaker, I commend the gentleman for his service, and I appreciate both his assistance and the assistance of the gentleman from Virginia [Mr. WOLF], I urge my colleagues to support this conference report.

Mr. COLEMAN. Mr. Speaker, I yield 4½ minutes to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Speaker, I thank the gentleman, and I also want to thank the gentleman from Texas [Mr. COLEMAN] for all his work in his tenure here. He has not only developed the expertise and the technical knowledge, but he approaches the job with a sense of balance and a sense of humor that helps us all. I thank him for his friendship and mentoring while I have been a Member.

Mr. Speaker, we all recognize the need that exists to invest in our transportation infrastructure. I, therefore, somewhat reluctantly rise today in opposition to this conference report.

Mr. Speaker, in every State, in every municipality, the need for funds to repair or build new highways, bridges, or public transportation systems far exceeds our ability to pay for these needed improvements. Nowhere is this need more pronounced than for our Nation's regional and short-line railroads. That is why I cannot understand why this conference committee removed the funds that the Senate provided for section 511, the Railroad Rehabilitation and Improvement Program.

Mr. Speaker, this was not a lot of money. The Senate provided only $4 million. But this appropriation would have had a beneficial effect that far outweighs this meager amount.

This small appropriation would have guaranteed a minimum of $75 million in private sector loans. Private sector loans. That is, for every dollar appropriated for section 511 loan guarantees, we would have received almost $20 in much-needed loan guarantees for our regional and short-line railroads.

These are not grants; these are loan guarantees that will be repaid, and these loans do not have a history of default. In fact, this loan program has one of the highest repayment rates of any government loan program. It is not corporate welfare. There were no earmarks. There was no pork. Regional and short-line railroads would have had to demonstrate economic viability to qualify for these loan guarantees. And while there were no earmarks on appropriation, section 511 would have had a tremendously beneficial effect for the economy of southern California.

Mr. Speaker, we have a project that enjoys widespread support, that will create tens of thousands of new jobs in San Diego and Imperial Counties, reestablishing what is called the San Diego and Arizona Eastern Railroad.

The lack of a direct rail link to the east is hampering the real growth potential of the San Diego economy. Currently, San Diego's few commercial rail shipments must first make a several hundred mile detour. Ships which would otherwise use the Port of San Diego are therefore forced to go elsewhere in search of faster rail routes to inland markets. As a result, our communities lose out on business opportunities and our port suffers from serious underuse.

Reestablishment of this San Diego and Arizona Eastern Railroad is one of the top priorities of everybody in San Diego and enjoys bipartisan support. The City of San Diego, the San Diego County Board of Supervisors, the San Diego Association of Governments, the Port of San Diego, the Greater San Diego Chamber of Commerce, and the San Diego Economic Development Corporation all rank the reestablishment of this rail link as the highest priority for our area's economic development.

Many of our Nation's regional and short-line railroads find it difficult to obtain private financing for rail line improvements due to short terms and high interest rates. Government assistance in the form of loan guarantees often becomes the only viable means to rehabilitate these vital links in our transportation infrastructure.

Mr. Speaker, I believe that this section 511 program, because it is not a grant, because it is not even a loan, but a loan guarantee to leverage private sector loans, is precisely the type of public-private partnership this Congress ought to encourage.

Last year the chairman of the subcommittee joined me and several of my colleagues in a colloquy in support of this program. In that colloquy the chairman stated:

> I concur that these loan guarantees have proven to be reliable and can be a cost-effective and wise use of Federal transportation dollars. * * * I can assure you that I am sensitive to the needs of our regional and short-line rail lines. I will certainly consider funding the 511 Loan Guarantee Program if it is brought before a House-Senate conference.

The Senate came through. They appropriated funding for section 511 loan guarantees, and I congratulate my colleagues in the other body for their vision.

I just want to conclude, Mr. Speaker, by saying that unfortunately the conference committee as a whole did not demonstrate the same vision nor interest in revitalizing our regional and short-line railroads. For that reason, I must oppose the conference report.

Mr. COLEMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I will not take as much time as the gentleman has yielded, but I simply want to take this time to urge support for this bill.

Mr. Speaker, I think it is a reasonably good bill in terms of meeting the country's transportation needs. I think it has been worked out in a very reasonable fashion. I think we need to move on and pass the bill.

Mr. Speaker, I congratulate the gentleman from Virginia [Mr. WOLF] and the gentleman from Texas [Mr. COLEMAN] for their work on it. I am also happy with the allocation of the highway funds for a number of States, including my own.

Let me also say that this will be the last time that the gentleman from Texas [Mr. COLEMAN] will be handling the bill for our side because of his ill-advised decision to retire. Let me simply say that I know the House will miss him. I certainly will miss him.

Mr. Speaker, I think he has demonstrated in the years that he has served in this House that he cares very deeply about the people and the district he represents. I think he has also demonstrated a passionate commitment to the needs of people in this society who most need our help. I think he has always dealt with every Member of this House with absolute total honesty and frankness.

Mr. Speaker, it takes about a second-and-a-half to figure out where RON COLEMAN is coming from on an issue. That is the way it ought to be with human beings, especially in this profession. And I want to thank the gentleman for his service to the country, I want to thank him for the many contributions he has made to this institution, and I want to thank both the gentleman from Virginia [Mr. WOLF] and the gentleman from Texas [Mr. COLEMAN] for the good job that they have done on this bill.

Mr. COLEMAN. Mr. Speaker, let me just close by thanking all of my colleagues for the kind words this afternoon. I would only say that it has been a distinct honor and pleasure for me to have had the honor to serve with such fine Members and fine staff that we have produced here in these United States.

Mr. Speaker, I yield back the balance of my time.

Ms. HARMAN. Mr. Speaker, I rise today in reluctant support of the conference report on H.R. 3675, the Department of Transportation Appropriations Act, 1997.

I am very disappointed that funding for the Alameda Corridor, a key southern California project with national significance, was not included in this conference report. While the project was supported by Members on both sides of the aisle and was included in both the House- and Senate-passed bills, political gamesmanship during conference led to the removal of this vital project from this legislation.

The Alameda Corridor rail consolidation project is crucial to southern California and the Nation and was recently designated as a high-priority corridor by the Federal Government. The project will bolster our economy by facilitating the movement of goods through the Ports of Long Beach and Los Angeles to American and international consumers. By the year 2010, the Alameda Corridor is expected to create an estimated 700,000 new jobs locally and nearly 6 million nationwide.

This project should have been included in the conference report under consideration today. I am working with my colleagues on both sides of the aisle to ensure that this project is funded this year.

While I am disappointed that Alameda Corridor funding was removed from the conference report, I am pleased to see that the legislation provides nearly $10 million for another key southern California transportation project—the advanced technology transit bus. Also known as the Stealth bus because it is constructed with the same graphite composite material used on Stealth bombers, the ATTB demonstrates how defense and aerospace technologies can be put to use in cutting-edge advanced transportation applications.

Additionally, I am glad that the conference report contains over $72 million for funding for security at our Nation's airports and am especially pleased that the conferees added nearly $1 million in additional security funds to the administration's request. Recent air tragedies in Florida and off Long Island have graphically underscored the need to direct more Federal attention to increasing aviation security. Enhanced aviation security is particularly important to my congressional district, which is home to the world's third busiest airport, LAX. Congress, the administration, airport operators, and airlines must all work together to battle this growing threat to our national security.

In conclusion Mr. Speaker, while this conference report is not perfect, I urge my colleagues to support it today.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of the conference report on H.R. 3675, the Transportation appropriations for fiscal year 1997. This report is an improvement on the already excellent legislation that passed this House. Included in these improvements are: Increased funding for Amtrak, $331 million for mass transit programs, and $450 million more for highways.

This bill provides funds for substantial improvements of service and safety in all facets of transportation across our Nation.

This bill improves safety in our skies by targeting $488 million for aviation regulation and safety certification activities which will allow the hiring of 500 additional air traffic controllers and 367 additional aviation safety inspectors and other oversight personnel. It increases air service by providing $26 million to subsidize airline services to smaller communities.

This bill also improves safety on our roads, especially by providing $18.0 billion from the highway trust fund for Federal-aid highway grants, which provides formula and other grants for the construction and repair of the Interstate Highway System and other primary and secondary roads and bridges.

This is a good bill that represents the work that Congress can accomplish when we work together for the good of the American people. I salute the work of Chairman WOLF and the ranking member, my colleague from Texas, Mr. COLEMAN, and the rest of the committee for the hard work and bipartisanship that produced such a quality piece of legislation.

I urge all of my colleagues to vote for the conference report and keep the American transportation system the best in the world.

Mr. PORTER. Mr. Speaker, I rise in strong support of the fiscal year 1997 Transportation appropriations conference report. This bill includes important report language impacting my district as well as the Chicago area as a whole.

I am very concerned over the implementation of the Swift Rail Act which preempts State rights to ban the blowing of train whistles at highway rail grade crossing regardless of the safety records at the individual crossings. This act does nothing more than apply a Washington-knows-best mandate to a matter of State and local jurisdiction. The impact of this law as enacted could be catastrophic to the Chicago area. Many of the communities I represent have five or more highway rail grade crossings running through them, and if train whistles are mandated to blow at every crossing 24 hours a day, people will be blasted out of their homes. The law does offer supplementary safety alternatives to the train whistles but they consist of costly unfunded Federal mandates. According to the law, communities can construct four quadrant gates to replace the need for train whistles. However, four quadrant gates are completely unaffordable to most communities and amount to an unfunded Federal mandate.

Mr. Speaker, highway rail grade crossing safety is of paramount importance to me and I believe we can construct a solution to highway rail grade safety that is more palatable to communities than the Swift Rail Act. I am, therefore, pleased that Chairman WOLF supported the inclusion of the whistle ban language which instructs the Secretary of Transportation to consider the safety records of each individual highway-rail grade crossings and provide exceptions to the mandate where risk is limited. The language also asks the Secretary of Transportation to consider comprehensive local rail safety enforcement and public education programs as supplementary safety measures. Finally, the language specifies that where supplementary safety measures are deemed necessary, the particular characteristics of the crossing and the views of the affected community will be considered in determining the practicality of a proposed supplementary safety measure.

The adoption of this language provides the Federal Railroad Administration with an outline of how to develop a notice of proposed rulemaking governing the implementation of the Swift Rail Act and I look forward to a continued dialog with the Department and Chairman WOLF on this issue.

Mr. SHUSTER. Mr. Speaker, I rise in support of the fiscal year 1977 transportation appropriations bill conference report.

First and foremost, I want to thank Mr. LIVINGSTON, Mr. WOLF, Mr. OBEY, and Mr. COLEMAN, and their staff for the high level of consultation and cooperation with the Transportation and Infrastructure Committee in developing this bill.

Overall, the bill balances the need for a strong Federal role in transportation safety with the need to increase investment in our Nation's infrastructure. It increases funding for many important programs, including highway, transit, and aviation. In fact this bill exceeds the President's budget request for infrastructure funding.

The obligation limitation for the Federal-Aid Highway Program is at an all time record of $18 billion. The overall funding level for highways is over $20 billion, more than $1 billion higher than the President's request.

For the Transit Program, the overall level is also increased over the President's request—by almost $100 million. Federal transit funds help modernize, and maintain our transit systems. They also help build new systems. Good transit has an important role to play, especially in our large and congested cities. This bill will dispel the myth that this Congress is somehow hostile to transit and the transportation problems of our cities.

For aviation, the bill funds an increase of $254 million for operations over the fiscal year 1996 level. This increase will fund important safety functions and initiatives. The bill also provides funds to continue the modernization for the air traffic control system—a critical safety issue. Once again, for airport grants, the bill provides more funding than the President's request for $110 million for a total level of $1.46 billion. I believe, however, that there continue to be significant needs for additional Federal investment in our airports for both safety and capacity reasons.

I am particularly pleased at the high level of funds for the critical infrastructure programs funded from the highway and aviation trust funds.

Earlier this year, the House by an overwhelming margin passed a bill I sponsored—H.R. 842—to take these trust funds off-budget. This strong vote in support of transportation is a major reason that we have such high funding levels in this bill. While I applaud the appropriations committee's action in increasing trust fund expenditures, I remain committed to passage of the off-budget legislation to ensure that all trust fund moneys are spent for their dedicated purpose.

For the Coast Guard the committee has ensured that there are sufficient funds to continue all its missions. We strongly support the Coast Guard's important role in Drug interdiction. This is a vital Coast Guard mission that affects every community across this country.

There is report language accompanying this appropriations bill that encourages Amtrak, the Department of Transportation, and the States to explore using funds derived from the Congestion Mitigation and Air Quality Improvement [CMAQ] Program for intercity rail service. The CMAQ Program is part of the Federal-Aid Highway Program and is funded from the highway trust fund. Such a use of CMAQ funds is without statutory authority and is contrary to congressional intent.

The congressional intent in enacting the CMAQ Program was to assist nonattainment areas that do not meet the national ambient air quality standards [NAAQS] by funding projects that contribute to improving air quality. In order to be eligible, a project must either be listed as eligible under section 108(f)(1)(A) of the Clean Air Act or the EPA, in consultation with DOT, must publish information that it has determined that a project or program is likely to contribute to the attainment of the NAAQS. Intercity rail is not listed in section 108 (f)(1)(A) of the Clean Air Act, and, according to the DOT, the EPA has not made any findings that intercity rail is likely to contribute to meeting NAAQS. It is therefore very clear that intercity rail may not be funded under the CMAQ Program.

Last year, the Secretary of Transportation wrote a letter to Members of Congress concerning an application by the State of Oregon to use CMAQ funding for certain Amtrak service. The letter stated that "since the service operates substantially outside the Portland nonattainment area, it would not normally be eligible for CMAQ funding." I fully agree with that statement.

That letter, however, goes on to state that "given its importance to the area, however, I believe that it could be funded as an 'experimental pilot' * * *" I believe that this statement is in error. It is not within the Secretary's discretion to waive certain very specific statutory provisions because an area believes its Amtrak service is important.

I certainly understand the concern of communities that are losing Amtrak service. Diverting funds from the highway trust fund and from projects that improve air quality, however, is not the answer. The reason Amtrak is being forced to close routes, such as the Texas Eagle, is that Amtrak is badly in need of reform, without which its ability to continue operating a national route system is very much in question. The freedom to make good business decisions, not more Government subsidies, offers Amtrak the best chance at long-term survival. The reforms contained in H.R. 1788, which was passed by the House by an overwhelming majority of 406 to 4 on November 30, 1995, would afford Amtrak the flexibility it needs to operate like a business and stretch scarce resources further.

These reforms include modifications to Amtrak's extremely costly severance benefits under which employees who are laid off due to a route elimination are eligible for up to 6 years full pay and benefits. H.R. 1788 would also allow for contracting out of work; which, except for food service, Amtrak is currently statutorily prohibited from doing. The bill also reforms Amtrak's liability arrangements. Without liability reform, the costs that Amtrak pays freight railroads for the use of their track are likely to rise substantially, leading to further cutbacks in passenger service. These reforms and others contained in H.R. 1788 are the key to improving and sustaining intercity rail service.

I wish to reiterate that the use of CMAQ funds for intercity rail service is not authorized under the law and language in the statement of managers in the transportation appropriations bill can not authorize such use of CMAQ funds.

Ms. FURSE. Mr. Speaker, I rise today to strongly support the conference report. I want to thank members of the subcommittee, particularly Mr. WOLF, for their work on behalf of the Westside light rail project in Oregon. Of course, no discussion of Westside light rail would be complete without thanking Senator MARK HATFIELD for his relentless support of this project. He is a good friend and has served our State with honor and dignity. It is a dramatic understatement to say that he will be missed.

The conference report today includes $138 million for the Westside-Hillsboro project in Oregon. Westside light rail is one of my top priorities in Congress, and I'm proud that today marks the fourth year in a row that record funding has been provided to this vital project. Previously appropriated funds for Westside light rail have been fully obligated, and the project is on schedule for opening in 1998.

As indicated by the bipartisan and diverse group which I helped organized to testify before the subcommittee earlier this year, light rail continues to enjoy strong support in the

Portland area. In the 1990's, Oregon taxpayers have voted to put their money into the South-North and Westside projects by margins of 64 percent and 74 percent.

I am particularly pleased that this conference report also includes an additional $40 million in authorization for the Westside project. Earlier this year, I testified in the Transportation and Infrastructure Committee along with Tri-Met's general manager, Tom Walsh, in support of making this necessary change. I want to thank both Mr. WOLF and Mr. SHUSTER for agreeing to this language.

I'm also delighted that the conference report includes $6 million for the South-North light rail project. Light rail is integral to our region's future. As a region, we have developed a vision for liveable communities with less traffic and vibrant commerce which depends on regional and State land use decisions. The Portland metropolitan area's ability to handle our projected growth is predicated on the completion of light rail, and the South-North project is our region's next step toward making our vision a reality.

I want to thank everyone in the delegation who has supported this project, and urge my colleagues to support the conference report.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today in strong support of the conference report for H.R. 3675, the Transportation Appropriation Act, which passed on the House floor yesterday. I commend Chairman WOLF and the conferees for their hard work and support for the growing transportation needs of our country.

I'm especially pleased that the conference agreed to increase Federal highway funding from the trust funds by approximately $500 million over last year's level. For Kentucky, that means an additional $60 million will be available to fund important transportation priorities throughout the Commonwealth.

One of those priorities for the Governor of Kentucky and especially for Kentucky's 2d Congressional District is the William H. Natcher Bridge in Owensboro, KY. The Natcher Bridge was previously a demonstration project, receiving nearly $54 million in Federal earmarks.

At the request of President Clinton, however, Congress eliminated surface transportation earmarks 2 years ago. Since then, I've testified and repeatedly discussed this project with Chairman WOLF and other members of the Transportation Subcommittee. Chairman WOLF understands the importance of this bridge and its economic value for the community. Therefore, in the 1996 spending bill, he secured a $7-million increase in Kentucky's overall spending level, and urged then-Governor Jones to use those funds for the Natcher Bridge.

This year, Chairman WOLF and the conference committee have upheld their commitment to our Nation's transportation needs by providing nearly $500 million more in overall funding for highways. And once again, Chairman WOLF has remembered our bridge, and made sure Kentucky will receive its needed share of that increase.

Governor Patton has programmed $25 million in Federal funds for the Natcher Bridge, through his 1997 transportation budget. I am pleased that this measure will provide him with twice that much, so that together, we can work to complete this transportation priority.

Again, I thank Chairman WOLF for his hard work.

Mr. FAZIO of California. Mr. Speaker, due to an illness I was unable to vote for the fiscal year 1997 Transportation appropriations conference report. Nevertheless, I would like to let the Record reflect that had I been present, I would have voted in favor of H.R. 3675.

I would like to thank the Chairman, Mr. WOLF for shepherding this bill through the Appropriations Committee with little or no controversy. I would also like to take this opportunity to say that it has been an honor and a privilege to serve with RON COLEMAN, who is leaving this body at the end of this Congress. RON epitomizes the best characteristics of public service and his leadership will be missed by us all.

Chairman WOLF and ranking member COLEMAN have done a good job at balancing the diverse transportation needs of this country. I am particularly pleased that the committee has recognized the need to upgrade airline safety by funding additional positions at the FAA.

I am also pleased that the committee has included two projects that are very important to the transportation needs of my district.

BUS ACQUISITION—YOLO COUNTY

Last year the Yolo County Transit Authority [YCTA] was able to replace six of its aging and heavily polluting diesel-fueled buses with fully equipped compressed natural gas buses. Because the six buses approved by the committee last year constituted a little less than half of the county's total request, I am pleased that the committee has supported by request to fund the remaining buses. Under this purchase, the count will be responsible for 20 percent of the cost of the total bus purchase.

Yolo County is part of the Sacramento nonattainment air basin and would face serious sanctions if aggressive efforts are not taken to reduce emissions. Compressed natural gas buses have made a significant impact on the air quality in Yolo County. YCTA already operates 4 compressed natural gas buses and has seen its emissions reduced by over 50,000 pounds due to the operation of these buses.

BUS ACQUISITION—CITY OF FAIRFIELD

I am pleased that the conference committee agreed to fund the purchase of seven new commuter buses for the city of Fairfield. While Fairfield is no longer in my district, it is adjacent to the Third Congressional District and more importantly, the new buses will serve constituents in my district.

The purpose of this bus acquisition is to provide for a commuter service along the I–80/680 corridors between northern Solano County—Fairfield/Suisun/Vacaville—and the Pleasant Hill BART in central Contra Costa County. The new commuter service is intended to reduce the level of congestion on I–80 and I–680, to improve local and regional multimodal connectivity, to improve the region's air quality, and to provide a mass transit alternative for commuters and large employers.

SOUTH-LINE EXTENSION

Also included in this legislation is $6 million for final design of an extension of Sacramento's light rail system. Although the amount is less than the Senate's mark of $7 million, I do think that $6 million puts us on the right track. The extension will run southward from the existing rail hub in the downtown business district toward two community colleges, two hospitals, several major employment centers and redeveloping areas, and many of the region's most disadvantaged neighborhoods. These areas comprise the most transit-dependent sections of Sacramento, where no light rail service is available today.

In closing, Mr. Speaker, I want to express my thanks to the conference committee for their fine work and urge my colleagues to support this bill.

Ms. ESHOO. Mr. Speaker, I am pleased to support the Transportation appropriations bill before the House today. In particular, I want to highlight the inclusion of $27.5 million in funding for the Tasman Light Rail extension and the BART Airport Extension projects. This funding is just the latest step forward for these two projects and wish to acknowledge the leadership of Chairman WOLF and Congressman COLEMAN for their continued support.

Both BART and Tasman enjoy broad support. And while there are detractors, I believe the transit authority has made an honest effort to address concerns raised along the way. This latest appropriation is a validation of the value to the bay area that these projects represent.

Earlier this year, the Tasman project finalized its full funding grant agreement with the Federal Transit Authority. With the Federal Government committed as a full partner in this project, there should not be any derailments along the way to completion. With many major Silicon Valley employers located along the new route, the Tasman project's value to the region is apparent to anyone who has toured the site. Every effort has been by local authorities to ensure that the scarce funds available for the light rail extension will be put to the greatest use and provide the greatest benefit to the community.

As a supporter of both the Tasman and BART projects since coming to Congress almost 4 years ago, it is gratifying to have my colleagues recognize the value of these efforts and support the funding necessary to make them a reality.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I want to commend the Appropriations Committee for the yeoman's job of meeting the numerous funding requests in this tough fiscal environment.

Many of us take for granted and do not recognize the arduous task the committee faces each time they are asked to balance fiscal responsibility with economic development.

I would also like to thank the chairman and the members of the Committee for having the vision to provide the funding for the Alameda Corridor, to support the $400 million in direct loans as requested by the President through the Federal Highway Administration.

While I am disappointed that unfortunate, unforseen circumstances caused the Alameda Corridor Project to be removed from this funding bill, I stand assured that this important infrastructure project will be a part of another funding bill later this year.

The Alameda Corridor will provide this country with a fast and efficient gateway to Pacific

Rim trade and will bolster our ability to compete in the burgeoning economic area.

Once completed the Alameda Corridor will generate more than 70,000 local jobs and close to 200,000 new jobs nationwide. The expanded trade, created by the construction of the Corridor, through the ports, will create new jobs related to manufacturing, production, and the shipping and trucking of goods.

Today's funding environment requires a strong public-private partnership to finance projects of this nature. With over 75 percent of the cost of the project funded by State and local sources, the Alameda Corridor truly exemplifies the kind of public-private partnership that this Congress has long urged States and localities to pursue for important infrastructure projects.

I would like to thank the members of the California delegation for working together in a bipartisan manner to effectively move the project through this body and to bring to fruition plans and blueprints that were conceived long before many of us were sworn into office.

Let history reflect that the success of the Alameda Corridor is rooted in the bipartisanship that has helped to bring us to this point. I look forward to continuing to work with my colleagues from both parties and with President Clinton to see the Alameda Corridor through to its completion.

I yield back the balance of my time.

Mr. WOLF. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BEREUTER). The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 395, nays 19, not voting 19, as follows:

[Roll No. 419]

YEAS—395

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cummings
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fields (LA)
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Hilleary
Hilliard
Hinchey
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Studds
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—19

Barrett (WI)
Beilenson
Berman
Cooley
Filner
Frank (MA)
Hancock
Hoekstra
Jacobs
Klug
Markey
Neal
Neumann
Olver
Royce
Sanford
Sensenbrenner
Stockman
Stump

NOT VOTING—19

Brown (CA)
Collins (IL)
Collins (MI)
Cubin
de la Garza
Durbin
Fazio
Fields (TX)
Furse
Ganske
Gibbons
Hastings (FL)
Hayes
Heineman
Herger
Jefferson
Johnston
Peterson (FL)
Torkildsen

□ 1351

Messrs. NEAL of Massachusetts, BARRETT of Wisconsin, HOEKSTRA, and MARKEY changed their vote from "yea" to "nay."

Mr. STEARNS changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1080. An act to amend chapters 83 and 84 of title 5, United States Code, to provide additional investment funds for the Thrift Savings Plan, to permit employees to gain additional liquidity in their Thrift Savings Accounts, and for other purposes;

S. 1965. An act to prevent the illegal manufacturing and use of methamphetamine;

S. 2085. An act to authorize the Capital Guide Service to accept voluntary services; and

S. Con. Res. 71. Concurrent resolution expressing the sense of the Senate with respect to the persecution of Christians worldwide.

"DEAR COLLEAGUE" LETTER FROM THE PAST APPLICABLE TO THE PRESENT

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, I would like to read from a "Dear Colleague" that was signed by the gentleman from Georgia [Mr. LEWIS] who just spoke, as well as the gentleman from Missouri [Mr. VOLKMER] just a few years ago.

Quote,

As the Ethics Committee prepares its recommendations to the full House, it should release only the information which the committee agrees is relevant and necessary to support its findings. To ask a Member, any Member, to also respond in the court of public opinion to allegations, rumors and innuendo not deemed worthy of charge by the

Committee would be totally unfair and a perversion of the process. Especially in a time of press sensationalism.

Public release of material not germane to formal Committee action would be similar to the process used during the Joe McCarthy era: Ignore the discipline of due process and firm evidence, and dump unproven allegations out in public and let the ensuing publicity destroy the person's reputation and career.

Signed, RICHARD GEPHARDT, PAT SCHROEDER, HAROLD VOLKMER, JOHN LEWIS, JOHN DINGELL, MARTIN FROST, et cetera.

Mr. Speaker, I include the following for the RECORD:

CONGRESS OF THE UNITED STATES,
Washington, DC, April 13, 1986.

Re: Wright case raises crucial fairness issue

DEAR COLLEAGUE: Calls by some Members of this House for release of all gathered background material on Speaker Wright—no matter how irrelevant to specific recommendations of the Ethics Committee—threatens every Member of Congress. And it should offend every Member who values this institution and fair play.

We all support the ability and the obligation of the Ethics Committee to take a close, hard look at all responsibly made charges formally brought against any House Member. But, every Member, from the newest freshman up to the Speaker, is entitled to protection and fair treatment at the conclusion of the internal inquiry.

This requires that only supporting material on those charges the Committee decides to proceed on should be released. Releasing the other material—unsubstantiated charges, rumors, innuendo and speculation—on Speaker Wright would be a terrible precedent for the House, threatens all Members and makes a mockery of fair play.

The Outside Counsel has followed every lead, pursued every rumor, and reported on each to the Committee. Appropriately so.

But as the Ethics Committee prepares its recommendations to the full House, it should release only the information which the Committee agrees is relevant and necessary to support its findings. To ask a Member, any Member, to also respond in the court of public opinion to allegations, rumors and innuendo not deemed worthy of charge by the Committee would be totally unfair and a perversion of due process. Especially in a time of press sensationalism.

Consider this: More than 70 Members of Congress were investigated in the outside counsel's inquiry into the sex/drugs page scandal in 1983, of which only two Members were eventually proceeded against. Would it have been fair to release unedited, unsubstantiated or inconsequential allegations that the Committee considered against the other 68 Members?

For the Ethics Committee to release raw material not deemed by the Committee to be worthy of formal action sets the stage for the ruination of any Member's career—possibly triggered by the political or personal animosity of any other Member or outside group.

Public release of material not germane to formal Committee action in the Wright case would be similar to the process used during the Joe McCarthy era: Ignore the discipline of due process and firm evidence, and dump unproven allegations out in public and let the ensuing publicity destroy the person's reputation and career.

Is that the procedure we want the House to adopt? Is that what this institution and our Ethics Committee stand for? We hope not.

We hope the Committee on Standards of Official Conduct will adhere to its distinguished history of fairness in the matter of releasing unsubstantiated, uncharged items. Fairness to all Members requires the same treatment now.

DAVE NAGLE.
JIM MOODY.
ROBERT T. MATSUI.

Below is a list of 100 Democrats who signed a "Dear Colleague" letter asking for the suppression of information in the Wright inquiry.

THESE MEMBERS DID NOT WANT FULL DISCLOSURE OF INFORMATION ON SPEAKER WRIGHT'S ETHICS

Alexander, Bill; Andrews, Michael; Bilbray, James; Borski, Robert; Brennan, Joseph; Brooks, Jack; Brown, George; Bryant, John; Bustamante, Albert; Campbell, Ben Nighthorse; Cardin, Benjamin; Chapman, Jim; Clarke, James McClure; Clay, William; Coleman, Ronald; Collins, Cardiss; Cooper, Jim; Coyne, William; Darden, George; DeFazio, Peter; de la Garza, E; Dellums, Ronald; Derrick, Butler; Dingell, John; Dorgan, Byron; Durbin, Richard; Dymally, Mervyn; Edwards, Don; Espy, Mike; Evans, Lane; Fascell, Dante; Flippo, Ronnie; Foglietta, Thomas; Ford, William; Frost, Martin; Garcia, Robert; Gejdenson, Sam; Gephardt, Richard; Gibbons, Sam; Glickman, Dan; Gordon, Bart; Harris, Claude; Hawkins, Augustine; Hayes, Charles; Hayes, James; Hefner, W.C. (Bill); Hughes, William; Jenkins, Ed; Jones, Ben.

Kaptur, Marcy; Kennedy, Joseph; Kennelly, Barbara; Kostmayer, Peter; Laughlin, Greg; Leath, Marvin; Lehman, Richard; Leland, Mickey; Levine, Mel; Lewis, John; Lowey, Nita; Luken, Thomas; McCloskey, Frank; McDermott, James; Manton, Thomas; Mavroules, Nicholas; Mfume, Kweisi; Moakley, Joe; Neal, Richard; Oberstar, James; Olin, Jim; Ortiz, Solomon; Owens, Major; Owens, Wayne; Payne, Donald; Pease, Donald; Penny, Timothy; Perkins, Carl; Pickle, J.J.; Rangel, Charles; Richardson, Bill; Rostenkowski, Dan; Roybal, Edward; Sabo, Martin; Savage, Gus; Sawyer, Thomas; Scheuer, James; Schroeder, Patricia; Slaughter, Louise; Staggers, Harley; Stenholm, Charles; Synar, Mike; Tallon, Robin; Tauzin, W.J. (Billy); Thomas, Robert; Unsoeld, Jolene; Volkmer, Harold; Williams, Pat; Wilson, Charles; Wise, Robert.

REVIEW OF TODAY'S HEARING IN THE COMMITTEE ON NATIONAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise this evening, or this afternoon, to review a hearing that was held this morning in the House Committee on National Security. I think that this should be of concern to every Member of this body. The hearing this morning, which lasted for approximately 3 hours, had before us Secretary Perry, Secretary of Defense; General Shalikashvili, Chairman of our Joint Chiefs of Staff; and Gen. Wayne Downing, director of the Downing Assessment Task Force. General Downing is the author of the report that was done following the attack that resulted in the deaths of 19 of our troops in that housing complex in Saudi Arabia jut a few short months ago.

Mr. Speaker, this hearing today was important because it revealed some concerns that I raised that I think should be the concern of every Member of this institution. During the discussion by General Downing of his assessment of the attack on the barracks in Saudi Arabia, he made some very critical comments about the Pentagon and the Defense Department and what we should have done and could have done to better protect our troops.

First of all, Mr. Speaker, one of the suggestions that he made was that the Pentagon needed to provide more focus on the operation in the Middle East in terms of protecting our pilots and the enforcement of the no-fly zone for the Iraqis. It was because we did not have it as a separate line item in the budget where we could provide adequate resources, where we could have had the backup materials and equipment in place to better support the command officer in that theater. When he made that comment and that suggestion, I was taken aback, Mr. Speaker, because exactly 1 year ago the House Committee on National Security included as a part of our defense authorization bill a very specific requirement addressing that very concern because a year ago we felt the same thing. We felt there was not enough focus within the Pentagon in terms of prioritizing resources for the Middle Eastern operation. We asked for that, and even though the Pentagon certified to us just a few short weeks ago that they were doing that, in fact they in fact had not done that.

So here we were recommending something that now after the fact we find out perhaps helped cause the loss of life in that barracks.

Secondarily, Mr. Speaker, they said we need more focus on terrorism, and I pointed out in the hearing, and I will point out to our colleagues, that it was our Committee on National Security in a bipartisan manner and this House in cooperation with the other body that included over $200 million of additional funds for antiterrorism initiatives to properly protect our troops, and when we approved that funding this year the President and the Secretary of Defense were criticizing us, saying we were giving the military more money than what they needed. These very dollars that we plused up, $200 million, the technology work in the area of bombs and weapons and antiterrorism, could have helped us in this situation, yet we in fact were criticized.

□ 1400

What bothered me most this morning, Mr. Speaker, and should bother every American is the fact that now we know the Air Force has assigned a three-star general to look at accountability and to possibly instigate a court-martial proceeding against the general in charge of the operations in Saudi Arabia. What is so outrageous about that is that there is no one looking at the general's level above him in terms of culpability, only below him.

When I asked Secretary Perry this morning who is going to look at those above that general, including the CINC commander, including the Secretary himself and his staff, the Secretary of Defense told me that this same three-star general was tasked with that responsibility.

What that means, Mr. Speaker, is that we now have a three-star Air Force general who has been charged with investigating a four-star Air Force general who happens to be his commanding officer, who absolutely had control over these decisions. Mr. Speaker, that is outrageous. I have never heard of a fair process occurring when the person doing the investigation actually reports to the person who may in fact be a subject of the inquiry. That does not even include the Secretary himself.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. WELDON of Pennsylvania. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I want to thank the gentleman for his excellent question to the Secretary this morning. I was reminded, as the Secretary and others talked about responsibility, and responsibility being on the base commander, I was reminded of Stonewall Jackson's comment that defending Harpers Ferry was like trying to defend the bottom of a teacup. Somebody placed those thousands of Americans in the bottom of a teacup right next to public roads where terrorists could drive up or down in large trucks. Then we are charging the base commander with the responsibility for defending the bottom of that teacup.

I think the gentleman made exactly the right questions when he asked whether responsibility could go up as well as down.

NATIONAL SECURITY AND RESPONSIBILITY

The SPEAKER pro tempore (Mr. McINNIS). Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I want to continue this discussion with my colleague, the gentleman from Pennsylvania [Mr. WELDON], concerning the national security hearings that just took place with the Secretary of Defense, Mr. Perry, and General Shalikashvili, chairman of the Joint Chiefs, and General Downing, the director of the task force assigned by the Secretary to investigate the bombing of the Khobar Towers.

I just want to ask the gentleman from Pennsylvania to go a little further into the assessment as to whether or not we should have an upward evaluation with respect to blame for this incident, as well as a downward direction, which appears to be the way it is going. It appears that blame is going to be laid at the feet of the base commander. Yet, there are a number of indications that show that this was an untenable position that this base commander was placed in.

As General Downing said this morning, he was dealt a fairly poor hand to begin with, because of a number of circumstances that he could not control.

Mr. WELDON of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Pennsylvania.

Mr. WELDON of Pennsylvania. Mr. Speaker, I appreciate the gentleman yielding. I would follow up by saying, and I think he would agree, Secretary Perry's statement was an eloquent statement. I think he did accept the responsibility himself for the incident, and I appreciate his candor in that regard.

Let me go further and state that the disappointment that we feel is that what is happening right now in the Pentagon is exactly what the New York Times today editorialized on. That is, they are using one low-level enlisted person as the scapegoat, much like was done in the crash of the Ron Brown airplane. There was a lower-level enlisted person who was held accountable.

As much as we have seen time and again, there is an investigation and there is blame, but it seems as though that blame only goes one way, and that is down. What I suggested today, and what I would ask our colleagues in this body to support me on, is the need for us to have not just the investigation by the Air Force three-star general about those lower who were involved in the chain of command, including the base commander, who has been criticized, and perhaps he deserves that; but I think we also need to know who is culpable above that level.

Is it, in fact, the commander of the CINC operation who, in fact, has the ultimate responsibility for that theater, and who, under the Goldwater-Nichols reform that this body passed a few years ago, reports directly to the office of the Secretary of Defense? Were there, in fact, any preliminary warnings made? Were there, in fact, any assessments of that facility? Why was the security of that facility in Saudi Arabia less than the security currently involved in Bosnia with our troops, where we have gone to great lengths?

These are questions that need answered, not just from the general on the scene, who is being blamed for what occurred and who will likely be, as the New York Times put it, the scapegoat, but who is looking at his superiors and what their role was?

When Secretary Perry says that he is confident that this three-star Air Force general can do this assessment, I say I cannot believe that. I cannot believe that we are empowering a three-star to investigate his four-star boss, and even, if necessary, the Secretary of Defense and his underlings in the Pentagon itself.

Therefore, in thanking my colleague for yielding, Mr. Speaker, I would say that this body needs to make sure that there is an independent assessment, whether it is done by the General Accounting Office, the Justice Department, or whatever. There needs to be an independent assessment so that general who is being targeted right now and may be the subject of a court-martial can feel confident that the same look is being done of those above him.

Mr. HUNTER. I thank the gentleman for his statement, Mr. Speaker.

Let us review the basic facts here. This bombing took place because we had a building housing thousands of Americans literally within feet, within 85 feet, of not only a public highway, down which any terrorist could drive a truck, but also a public parking lot, where the terrorists could park a truck.

This truck, loaded with explosives, with thousands of pounds of explosives, and the Secretary estimated it at 20,000 pounds, and General Downing said between 3,000 and 8,000; but even if you say it is 20,000 pounds, for country boys that is basically half the weight of a hay truck. Any large truck can carry that amount of weight very easily.

That truck was within 85 feet. It was closer to our personnel and their living area than the distance in the House Chamber from one end of the Chamber to the other. That happened. If we were to expand our perimeter, which should have been done, or we should have vacated the site, we would have had to expand out and take out part of the Saudi public road. If we had to do that, we had to do that. But the people who placed this contingent in this indefensible area should be examined.

CONCERNING THE APPROPRIATE PLACEMENT OF RESPONSIBILITY REGARDING THE ATTACK ON KHOBAR BARRACKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. HEFNER] is recognized for 5 minutes.

Mr. HEFNER. Mr. Speaker, I have served on the Subcommittee on National Security of the Committee on Appropriations. We seem to have gotten in a mode here to where we want to take the House floor and we want to blame the President for everything that happens all across the country.

I just want to bring back something that happened a few years ago when Ronald Reagan was President of the United States, and we lost 240 men in their sleep in Lebanon. We were in real secret negotiations and hearings upstairs in this Capitol, it was so secret. We had Navy people there, and we had these people, they had been informed there were three pickup loads of explosives in the area, and nobody acted on that. We did not blame President Reagan for being derelict of duty in that, because that was in Lebanon. We lost 240 Marines in Lebanon.

Mr. Speaker, it just seems that everybody is in the mood here, anything that happens in the world is a problem of the President of the United States. Mr. Speaker, down here in the well yesterday, one day last week, the gentleman from Pennsylvania said if we lose one person, if we lose one person in Iraq, we are going to hold the President of the United States to blame for losing that one person. Mr. Speaker, to me this is going a little bit far.

Mr. WELDON of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Pennsylvania.

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank my colleague.

First of all, we did not mention the President today. We mentioned a hearing with the Secretary of Defense, and the fact that we do want to find out, as the Secretary has said, who was responsible.

What we are saying is we do not just want to go from the middle down, we want everyone in the chain of command to be looked at. In terms of what happened with President Reagan, I was not here then, so I cannot speak about what you all did when President Reagan was President.

Mr. HEFNER. Let me tell my colleague what we did. When the hearings got real tight, heads were going to roll, guess what we did? We invaded Grenada. All the focus of the hearings went to the invasion of Grenada. We did not hear any more into the investigation of the people who were derelict in Lebanon.

It seems to me when we are kind of getting in the area of politics where elections are coming up, that it is in vogue here to blame the administration or the Secretary for everything that happens on somebody else's foreign soil. We cannot tell the Saudis, they tell us to some extent, because if you remember, when we were trying to keep the Persian Gulf open a few years ago they would not even let us fuel our ships and planes there. The same for Kuwait.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding, Mr. Speaker.

Let me just tell my friend, as a guy who went over to Lebanon shortly before the bombing and who stayed to work with Colonel Garrity, because I thought there were security problems, our problem is this, and not in terms of assigning blame, but you have two bombings. We see that truck bombs are the weapon of choice in the Middle East for terrorists. We had the Riyahd bombing 6 months ago. That showed us where we had public areas, public drive areas near troop concentrations, we were in danger of being hurt.

If this hearing today made people upset, if we got after people and we embarrassed them or made them feel uneasy, if that results in the Pentagon going back and saying, we will not have a troop concentration in the Middle East that is within 85 feet of a public road, then that is good.

Mr. HEFNER. Mr. Speaker, I take back my time.

I am not questioning the fact we need to have hearings, but it seems to me we oversimplify when we say we are going to decide right here what is going to be the policy of the Saudis as far as allowing us to do things for the protection of our troops. To me this goes just beyond where foreign policy ought to end.

Everybody, I do not know of any person in this building that does not want to support our troops and see that they are not put in harm's way. But I just wanted to remind the Members that there was not a hue and outcry in this body when 240 of our fine Marines were killed in their sleep. And we did not personally hold President Reagan, as we should not have done, we did not personally hold him responsible for the deaths of these fine young men.

In this well the other day, the gentleman from Pennsylvania said, if we lose one person, we are going to hold the President of the United States, we are going to hold him personally to blame for losing these lives.

BIPARTISAN PROGRESS ON THE USE OF FIREARMS IN LAW ENFORCEMENT

AMERICA'S PRESENCE IN THE MIDDLE EAST

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, as we can see, nerves are taut here. One of the things I would just like to put that into context about is I have always thought it was a shame that we had not done more on energy independence so we did not have to be in the Gulf anyway.

One of the problems we have is we are not defending great democracies. I have been very upset about how the Saudis treat our women in the military. They cannot drive, they cannot do this, they cannot do that. I think it is kind of ridiculous that when you are there to protect them, they then make it very difficult and put all sorts of restrictions on. Exactly the same thing had happened in Lebanon. I remember visiting Lebanon as a young member of the Committee on Armed Services, and saying this is an absolute nightmare. They said, this is the only place they will let us be.

That is one of the reasons I get so frustrated about burden-sharing. I keep figuring if we are there to help, we ought to be able to use our best military judgment and not have them say, no, no, we want you just over the horizon. We want you here to help, but we do not want you to be seen, and we do not want women out, or we do not want this or that.

Really, Mr. Speaker, what I came to talk about was something that we did today, I did today with the gentleman from New Mexico, Mr. STEVE SCHIFF. Mr. SCHIFF and I are probably about as far apart as you can be when you come to the issues of firearms. Yet today we had a joint press conference, because we do agree on one thing. I wish we could see more bipartisan types of progress such as this.

The gentleman from New Mexico [Mr. SCHIFF] and I have been working for the last 3 years trying to get money from the Defense Department to transfer it over so we could use it to better the world of law enforcement, to bring that up to speed. Today we had the people from Colt Manufacturing showing a prototype safe gun that was absolutely exciting, because it went from being a glint in our eye to a real thing, a real gun that people could see.

What does this gun do? Guess what, it only works for the owner. When you look at the numbers of law enforcement officers every year that are killed by their own gun, not to mention people who are guards in jail or guarding prisoners or on our border, we have all sorts of people. One of the major fears is your gun is stolen and used to kill you.

This gun would end that fear once and for all, because, as we demonstrated today, it would only go off for the owner. The technology is here and the gun was there, and we could show it. I think that is the type of thing I would hope Republicans and Democrats would work together on, so we could fight crime not only by beating our chest and saying who is the toughest, who is the meanest, who is the gruffest, but also who is the smartest. We have not fought crime as smartly as we should.

When you look at this gun and you look at the very high percentage of crimes committed with stolen weapons, all of that would go away, because if everybody had this type of weapon, you could steal it, but so what? It would be like a rock, it would not do you any good.

□ 1415

The tremendous number of gun accidents in the home with children, or with despondent teens or whatever finding the family gun, again, those would go away, because it would only work for the family member who was the owner. And, of course, the law enforcement thing was what we really, really put all of our force into.

So Sandia Labs, the National Institute of Justice, and law enforcement officers across the country have all been working to make sure that this gun is every bit as workable as the gun they have today. It cannot be some fancy-schmantsy thing that only works in a perfect climate, in a perfect temperature, with or without gloves, whatever.

This works all the way across the board. It works with a tiny little chip. I got to be ring bearer at this event. It could work with a ring. It can work with something in the watch. It can work with a chip in the hand. It can work any number of ways that sets this off, so that it would work in a certain radius around the person but be absolutely not able to be reprogrammed or worked by someone else unless they had mega, megacomputers that could rewrite the codes.

So my dream would be that we see more of these types of actions. Because while maybe many of the people who support me would like to see a gun-free world, and while many of the people who support the gentleman from New Mexico [Mr. SCHIFF] would like to have no restrictions, we know that there are going to be guns around and that law enforcement is going to need them. So why do we not use whatever we have got to make them as safe, as accident-free and as valueless if anyone steals them as possible. That is today what we did in the safe gun. I would hope we would see that as a model for future action.

MEDICARE

The SPEAKER pro tempore (Mr. MCINNIS). Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

Mr. SCARBOROUGH. Mr. Speaker, Medicare is bleeding to death. It is losing more money than it ever has before. In 1995 the President's Medicare trustees said that Medicare would be bankrupt by 2002. This year we hear that it is bleeding to death even faster and it is going to be bankrupt by 2000.

In 1993 President Clinton understood that fact and so he proposed that Medicare spending's rate of increase go to 6.9 percent. In 1995 we understood that, so we proposed a 7.1-percent increase. We were absolutely savaged by a minority that was so desperate to get back into control that the truth meant absolutely nothing and they shamelessly demagogued on this issue.

In fact, let me give you a few quotes, not from Republican publications but from publications that have consistently supported the Democratic Party. The Washington Post accused the Democratic minority of shameless demagoguery. Those are their words, not mine.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. SCARBOROUGH. I do not yield.

The SPEAKER pro tempore. The gentleman will not yield for that purpose. The gentleman may proceed.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentlewoman from Colorado

Mrs. SCHROEDER. I was concerned about the words "shameless demagoguery." I think those are words we could have taken down, and I do not really want to do that. But I think that is a very strong word.

Mr. SCARBOROUGH. Reclaiming my time, they are not my words, they are the words of the Washington Post. If you wish to try to take them down, you can, but I am not addressing one person, I am addressing what the Washington Post accused Democrats of doing. They accused them of shameless demagoguery.

An adviser to the President, Matthew Miller, wrote in the Washington Post and in the New Republican, "The President has taken the low road on Medicare in such a way that only political pundits could call it standing tall."

The New Republican, a traditionally liberal publication, said that "The Democrats' demagoguery on Medicare is even worse than we suspected."

Mr. Speaker, why do I bring this up? Nobody has talked about Medicare in a year. It is because they have been cowed down because they are afraid of hearing more lies in this Chamber. I bring it up because everybody on the Democratic side of the aisle recognizes, like everybody on the Republican side of the aisle, that Medicare is going broke and nobody is doing anything about it. Nobody. When we tried to do something last year, when the President tried to do something in 1993, they were attacked.

Now, I give you the past as prolog. David Broder had a column in the Washington Post this weekend talking to future chairmen if the Democrats were to take power. Let us hear what one such chairman said on Medicare, the same chairman-to-be who called us Nazis. You want to talk about taking down words. Called us Nazis for trying to save Medicare. And this is what he said about Medicare. His committee, and I will not give his name, whose committee has main jurisdiction said, "The people who have made out best in the last 20 years are the old folks. They have their pensions, Social Security and health care. The explosion in these programs has to be dramatically reduced."

Mr. Speaker, I harken back to the McCarthy hearings, when at the end of the McCarthy hearings in the dramatic conclusion, the question was asked, "Have you no shame, sir? Have you no shame?"

I would recommend to any Democrat that comes into the well and stands behind this podium and attacks any efforts to curb spending in Medicare, we suggested 7.1 percent last year and your chairman knows what is going to happen to Medicare next year regardless of who is elected. We are going to have to save it. We cannot afford demagoguery. I have got a 93-year-old grandmother, I have got two parents that are eligible for it, and we have got to put the political gamesmanship behind us. What we have done now by irresponsible actions last year is we have cowed politicians in this election year from talking about it. Bob Dole does not talk about it, Bill Clinton does not talk about it, while Rome is burning. We have got to grow up.

EDUCATION IS THE BRIDGE TO THE FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, we do have to be real when we deal with financial questions, with investment questions, and what America is going to be like in the future.

President Clinton talked about a bridge to the future. Every one of my constituents believes that the bridge to the future is education. Almost every American believes that one of the reasons we have opportunity in America is because we have educational access for every American.

This year, however, when we passed the Labor-HHS-Education appropriation bill out of the House, we cut education very substantially. Democrats wanted to add education funds at the subcommittee makeup. I offered an amendment to add $2.1 billion so that we would not lose Head Start slots, we would not lose Chapter 1 slots, we would not lose Goals 2000 dollars for investment in education.

Today there was an article in the Post written by David Broder, one of Washington's most respected columnists and political observers. It is entitled, "Empower Qualified Teachers." His point is that we are not spending sufficient sums on education.

I want to quickly add that I do not believe that money is the only answer or particularly the answer to solving the educational problems that confront our Nation. Nor, however, do I delude myself—nor should we delude the public—that not spending money, not paying teachers properly, not having Head

Start slots, not having Chapter 1 slots, not doing Goals 2000, not having objectives that will empower our young people to be competitive in a world marketplace, that not doing those things will enhance education in America.

We came to the subcommittee of the Committee on Appropriations and I offered the amendment to essentially keep education even. Even then it would fall behind the very sharply growing numbers of students in our school systems. There are more students in school in America today than ever before in history.

And what did we do in the House of Representatives when we passed the education bill? We sounded retreat. Terrel Bell, the Secretary of Education under Ronald Reagan, did a report on the status of education. The result of that was "A Nation At Risk," in which the Reagan administration said that we were at risk of becoming a nation of mediocrity because our education system was not up to speed.

Very frankly, in the Subcommittee on Labor-HHS appropriations, by a straight party-line vote, the Republicans rejected increasing education. When the bill came to the House floor, which is the process, subcommittee, full committee, and House floor, DAVID OBEY, the ranking member of our committee, again offered my amendment. He said, "My friends, on both sides of the aisle, let us not abandon our children," because they are our bridge to the future.

On an almost straight party-line vote, that amendment was again rejected, notwithstanding the fact that I had a chart that showed that education funding was going down in an era when student population was going up.

Mr. Speaker, that legislation then went to the Senate. And just yesterday, having, I presume, read the polls and figured out what the American public really wants, and talking not about their policies and principles of 1995 but their policies of 1996, Senate Republicans now suggested adding $2.3 billion to education. That is $200 million more than I suggested was necessary to keep education even, that DAVID OBEY suggested was necessary to keep kids from falling through the cracks.

I am pleased that the Senate has seen the light. I hope that the Republicans in the House have done their homework and that this amendment will be accepted when this bill again comes to the floor of the House of Representatives.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. LEWIS of Georgia. Mr. Speaker, pursuant to clause 2 of rule IX, I hereby give notice of my intention to offer a resolution which raises a question of the privileges of the House.

The form of the resolution is as follows:

> Whereas on December 6, 1995, the Committee on Standards of Official Conduct agreed to appoint an outside counsel to conduct an independent, nonpartisan investigation of allegations of ethical misconduct by Speaker NEWT GINGRICH;
>
> Whereas, after an eight-month investigation, that outside counsel has submitted an extensive document containing the results of his inquiry;
>
> Whereas the report of the outside counsel cost the taxpayers $500,000;
>
> Whereas the public has a right—and Members of Congress have a responsibility—to examine the work of the outside counsel and reach an independent judgment concerning the merits of the charges against the Speaker;
>
> Whereas these charges have been before the Ethics Committee for more than two years;
>
> Whereas a failure of the Committee to release the outside counsel's report before the adjournment of the 104th Congress will seriously undermine the credibility of the Ethics Committee and the integrity of the House of Representatives: Now, therefore, be it
>
> *Resolved*, That the Committee on Standards of Official Conduct shall immediately release to the public the outside counsel's report on Speaker NEWT GINGRICH, including any conclusions, recommendations, attachments, exhibits or accompanying material.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative schedule within 2 legislative days. The Chair will announce that designation at a later time.

A determination as to whether the resolution constitutes a question of privilege will be made at that later time.

□ 1430

WE NEED TO SUPPORT OUR TEACHERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, Senator Dole, at the Republican National Convention, blamed teachers for the failure of our educational system. Senator Dole attacked teachers and particularly teacher unions and associations.

I stand today to note that Senator Dole's logic disturbs me. Teachers in our schools are now required to do much more with much less, and they do not deserve this kind of treatment. Many resent this attack, because they work hard, day and night, to prepare our children for the future.

In last Saturday's edition of the Houston Chronicle there were several letters from teachers responding to Senator Dole's comments, and I want to read some of their remarks. Senator Dole was talking about unions or associations, and you cannot attack an association without attacking the members. The members, again, are the ones who are providing that opportunity for our children to be citizens, educated citizens for our tomorrow.

JoNell Parker of Humble, TX, wrote, "In referring to public funding of private schools, Bob Dole said in his acceptance speech before the Nation on August 15th, 'There is no reason why those who live on any street in America should not have the same right as the person who lives at 1600 Pennsylvania Avenue, the right to send their child to the school of your choice.' As a teacher and a member of the teachers' association whom Dole attacked, I have to admit I agree with the right to choose. I just don't believe I should have to pay for his choice. Public support of religious indoctrination is unconstitutional. Taking tax money from public schools and giving it to private, for-profit institutions is financially unsound and elitist at best."

In a letter to the editor that same day, Judy Hoya of Houston, TX, said, "Bob Dole's attack on teachers' unions in his acceptance speech tried to place the blame for the problems facing our schools on the people who are trying to solve them," and I will repeat, he is placing "the blame for the problems on the people trying to solve them" when you attack the classroom teachers. "Bob Dole is out of touch with the educational mainstream. He would be far wiser to join with the 80 percent of the teachers who are in the unions to help solve problems in our schools."

Martha Barrett of Kingwood, TX, remarked, "What a way to launch a Presidential campaign, attack teachers and kids in American schools. Bob Dole said in his acceptance speech that 'Teachers unions nominated Bill Clinton in 1992. They are funding his reelection campaign now and they, his most reliable supporters, know he will maintain the status quo.'"

Ms. Barrett of Kingwood continued, "I don't speak for all teachers, but I personally feel much better about a Presidential candidate supported and funded by teachers then one supported by tobacco interest."

Finally, Sherry Mutula of the Pasadena Education Association stated in Pasadena, TX, "I would like to set Bob Dole straight on the errors in his acceptance speech. Attacking America's schools and teachers, he said, 'Not for nothing are we the biggest educational spenders and among the lowest educational achievers of the leading industrial nations.'" He was wrong according to Ms. Mutula. "America does not lead the industrial nations in education spending for K–12 public education. We are not even close. Of the top 17, America ranks 12th.

"The American people have been named the most productive workers in the world. Know where 90 percent of those workers were educated, Bob Dole? In the public schools of America."

The 21st century will bring new challenges for our young people, and we have an obligation to educate them to deal with these challenges. Democrats believe that education is the key to our children's future and the key to our country's continued success.

Under this Republican Congress, however, education has not fared well. In 1995, Senator Dole supported the largest cuts in Federal education funding in the history of our Nation, and the assault continues. Instead of considering further education cuts, we should be involved in debating increasing Federal commitment to our children's education.

Most of education is paid for at the local and State level, but as a Nation we have to be competitive with the world. It is time to stop blaming teachers for our educational problems and start blaming those who have consistently opposed funding for education. We will be judged by how we treat and educate our children.

Senator Dole, who has a poor record on education, should be judged appropriately on November 5.

COMMUNICATION FROM THE HONORABLE THOMAS J. BLILEY, JR., MEMBER OF CONGRESS

The Speaker pro tempore laid before the House the following communication from the Honorable THOMAS J. BLILEY, Jr., Member of Congress:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, September 18, 1996.
Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that Reid Stuntz, currently the minority general counsel of the Committee on Commerce and formerly the staff director and chief counsel for the Subcommittee on Oversight and Investigations for the Committee on Energy and Commerce, has been served with a subpoena issued by the U.S. District Court for the District of Columbia in the matter of United States v. Jeffrey M. Levine, Cr. No. 94-034.

After consultation with the Office of General Counsel, I have determined that the subpoena appears not to be consistent with the rights and privileges of the House and, therefore, should be resisted.

Sincerely,
THOMAS J. BLILEY, Jr.

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After consultation with the Office of General Counsel, I have determined that the subpoena appears not to be consistent with the rights and privileges of the House and, therefore, should be resisted.

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THE EXAMPLE OF HARRY TRUMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, this is going to be hot stuff.

I said last week I would quote from battling Harry Truman. Everybody wants to be Harry Truman if they are coming from behind in an election, and I said that Harry Truman was tough on adultery, loyal to his Bess.

My dad was Harry Dornan, D Artillery Battalion, World War I, 30th Division. Harry was 34th Division, Battery D, Artillery. Harry. Harry.

Listen to this on adultery, Mr. Speaker, and I bring this up during a Presidential race period for obvious reasons. "Harry Truman said, 'Any man who was dissolute with women,' Truman believed, 'was not a man to be trusted entirely. He discovered that"—two names from the past—"both loved the ladies and kept telephone girls on the payroll. 'I'll say this for the big boss,'" referring to the Tom Pendergast of Pendergast machine fame, "'he has no feminine connections.'"

This is the book called "Truman" that won a Pulitzer Prize for an author and biographer of some note, David McCullough. David McCullough.

Listen to this paragraph. It seems that Harry Truman was plagued with headaches, as was my mother, as I was at one point studying for exams, but lucky in my later years. "Harry Truman says he worried always about possible entrapment with women,"—would have saved a lot of careers in the Senate and this body if people had taken this advice,—"an old device for destroying politicians. Once, responding to a call for a meeting in a room at the Baltimore Hotel,"—this is in Missouri,—"He asked Edgar Hine to go along, just in case. When they knocked at the room, Hine remembered a blond woman was there in a negligee. She opened the door. Harry Truman spun on his heels and ran back down the hall, disappearing around the corner. Hine thought it was a fear verging on the abnormal." Or maybe the decent.

"'Three things rule a man,' Harry would tell a reporter long afterward, 'power, money and women.'" The great archbishop and evangelist in the Catholic church, Fulton Sheen, told me the same thing. Only he put women in the first category, the downfall in the twenties and thirties; then came power, the obsession of men in their thirties, forties, and fifties; and then money, for men in their older years, the accretion of power, money you are never going to get to spend at the end of your life.

Hine wrote this: "I have been around Legion conventions with Harry Truman. He would have his room there. Naturally, everybody would kind of gravitate to the Senator's room. If some fellow brought a woman in there, or even his wife, I have seen Truman pick up his hat and coat, take off out of there, and that would be the last you would see of him until those women left. He just didn't want women around his hotel room. He had a phobia about it."

This is not the story of Little Rock, AK, folks. This is the story of Harry Truman and Missouri.

I would like to put in the RECORD, Mr. Speaker, the editorial from the Wall Street Journal on Monday, the 16th, titled "Will Anyone Believe?" It is all about the Clintons stonewalling on both their medical records, but particularly the commander-in-chief. Shalikashvili's medical records are out there.

Every combat commander down to a private, the whole chain of command, their whole medical records are out there. It was asked for of Perry before he became Secretary of Defense. But only these doctor summaries.

So the Wall Street Journal says nobody is going to believe because it is a stonewalling pattern, as it was with the tax return commodity trade stonewall, as it was with the health care task force stonewall, as it was with the White House passes stonewall, as it was with the billing records stonewall, as it stonewalled House committees here on Waco, on every other scandal, on Haiti, on Bosnia now, on Somalia, stonewalling on people in drug programs at the White House.

No, if America is going to pass a morality and an IQ test on November 5 in the Presidential race, they had better know something about the full physical records, the actual documents. Not summaries by doctors taking down, as when I get a physical, they say, "How is your health?"

"Pretty darn good, doc. Generally excellent." And they write all that down.

No, no, not testimony from Clinton himself, the medical records.

There are all sorts of ricochets flying around, like the center of the new book by Roger Morris called "Partners in Power." In the middle it has a brother who went to prison for cocaine under a cocaine pusher named Lassiter who got pardoned, saying my brother has a nose like a shovel. Guess of whom he was speaking, Mr. Speaker?

Rule XVIII prohibits me from telling the million or so people in our audience. Use your imagination. Who has a shovel for a nose in Federal Government today?

TEEN DRUG PROBLEM IS NATIONAL CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come to the floor again. I have been here just about every day recently, talking about what I consider a national crisis, as a parent, as a father, someone concerned about the future of my children, how I tried to raise my children, and talk about the serious problem of teen drug use and abuse.

What prompted me today to come to the floor is really an ad I have seen which features the President talking about his efforts to curtail drug use, and I just do not think that the President is really dealing with the facts here.

Now, if we listen to the ad, the President says the Republicans cut funding in programs. Now, I just have to remind the Congress and the American people that, in fact, from 1992 to 1994, the House of Representatives was controlled, by an overwhelming majority, 250 Democrats plus, I believe, and the Senate was controlled by the other party, and the White House was controlled by the Democrats. Now, we did not have the power to do anything in that time period except raise concerns.

I came to this floor repeatedly and raised concerns. I had over 100 Members sign a letter to the committee of jurisdiction asking for hearings because we knew then what was starting to happen; that we cannot put all our eggs in one basket in treatment, in the end, treating only the wounded, as it may be in a battle, and not paying attention to education, to interdiction, and also importantly to enforcement.

Here we see the results. Again I bring this to the floor. Twice as many teens using drugs as in 1992. These are the facts. This is not something that the Republicans have manufactured, the new majority has manufactured. It is the result of firing the Drug Czar's office, of hiring a Surgeon General, the chief health officer of the country, who says, "just say maybe."

□ 1445

Then we had a President who got on TV, and I still cannot believe it. I was personally offended by it because I have children, and he said if he had it to do over again, he would inhale. What kind of message does that send to our people? And what does it do? And the evidence is here again. These are the statistics and the latest.

Overall drug use by our teenagers 12 to 17, up 78 percent; marijuana use up 105 percent; LSD use up 105 percent during this time frame; and, cocaine use up 166 percent. And heroin is epidemic even in my own community. I brought the headlines from my community.

So what the President has sown, now we are reaping with our children. First of all, they controlled the House of Representatives, the other body, and the White House. Then, to top it off, they killed our interdiction program. And I spoke out against it on the floor. We even met with the President in Miami and we said this is a disaster. We stopped our radar sharing and our information sharing to shoot down drug planes in the Andean region.

They transferred, this administration transferred, and I met with the agents in South America who told me that they transferred, $40 million and left them with a shoestring operation in Haiti for their agenda and nation-building in that country.

So the facts are in that just treatment does not work. You have to have education, you have to have interdiction, and you have to have enforcement. The fact is in. The Republicans expressed concern, I expressed concern on the floor of this House in letters to the chairman and to the administration about what was going to take place.

The fact is that now this new majority is taking steps to restore money in interdiction. We are giving our military and our Coast Guard the tools to stop drugs cost-effectively at our borders and at their sources. So we are taking positive steps. We are providing the leadership that is lacking in the White House.

And, again, the President is wrong when he tells the American people that the Republicans, or the new majority, cut. We did not even have control. We did not have votes to change anything here, but we did express concern and this is the results you see today. Again, a situation out of control, a situation where we have lost our streets, lost our children, and we must turn this around.

ENVIRONMENT MUST BE PROTECTED AT ALL COSTS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, for more than a quarter of a century successive Congresses sought to strengthen environmental law in order to protect our air, water, and land from pollution and other threats, and from the time that Democratic Senator Gaylord Nelson organized the first Earth Day over 25 years ago and Republican President Richard Nixon created the Environmental Protection Agency in 1970, there was a consensus that we needed laws to protect the health of our families and the quality of our natural resources.

It is a consensus, a bipartisan consensus, that led to passage and strengthening of the Clean Water Act, the Clean Air Act, the Endangered Species Act, the Marine Mammal Protection Act, the Solid Waste Disposal Act, Superfund, Safe Drinking Water Act, and many other pieces of pro-environmental legislation.

However, that consensus, that bipartisan consensus that existed, both with the White House as well as with Congress, broke down during the Dole-Gingrich 104th Congress that we are now in, that is now about to end. Under the leadership of Dole and GINGRICH, Congress for the first time in 25 years devoted more time to rolling back environmental protection than to improving the health, safety, and well-being of our families and our Nation.

Now, many in Congress have tried to further environmental protection in ways that would be for the average American. But Bob Dole, NEWT GINGRICH, and their Republican leadership colleagues have instituted a campaign to reward special interests at the expense of the health and environmental heritage of our citizens. From the very first day of this current Congress, we saw the special interests, the polluters, actually sitting down in committee writing legislation that would gut many of the environmental bills that I already mentioned.

Clearly, it is the obligation of those who care about the purity of the water for their children, that their children drink and the air that they breathe, to actively oppose this extremist Republican agenda that we have seen in this 104th Congress. We have to make sure that the disastrous environmental record of this 104th Congress will not be repeated.

Now, I just wanted to say that this effort, if you will, to turn back the clock on environmental protection manifests itself in a major way in terms of the budget cuts that we have seen and have been proposed by the Republican leadership for those agencies that deal with the environment, such as the EPA, such as the Department of the Interior. And I know that we have to make tough decisions if we are going to balance the budget. We have to figure out where our priorities should be. But I do not believe that environmental protection in this country has to suffer because of belt tightening, or budget tightening if you will.

What we are seeing is that time and time again, Bob Dole and NEWT GINGRICH, the Speaker, have basically deprioritized environmental protection. They have taken money in budget cuts from the EPA and those agencies that protect the environment in order to primarily finance tax breaks for wealthy Americans.

The reason I am mentioning this today is because I am very concerned that with the economic plan that Bob Dole has put forward, that what we will see if he were elected and if that economic plan were put into place is a further deterioration of our environmental protection laws because less and less money would be available for investigation and for enforcement of violations of our environmental laws.

Basically, what we would see, what we would expect if the Dole economic plan went into effect is about a 40-percent cut, if you will, in environmental programs, 40-percent cut in enforcement and investigation against violations of our environmental protection laws.

And these cuts, if you will, these efforts to cut back on these agencies and what they can do for enforcement indirectly accomplish what the Republican leadership tried to do in this Congress by simply gutting the Clean Water Act or the Superfund Program outright. They were not able to make the changes in the substantive law, and so what they do instead is to go after the funding for those agencies that carry out the law because they know that if there is not adequate enforcement then the laws do not mean anything.

I just wanted to give an idea of what kind of impact these cuts would have if they were enacted into law. A 40-percent cut in enforcement would mean that the EPA, for example, would not be able to reach its normal average of 9,000 inspections per year. It would have a significant impact on the 3,700 enforcement actions normally taken by the EPA annually as a result of their inspection programs. So if you do not have the people to do inspection, then you cannot bring the enforcement actions, where you basically slap a fine on those who are violating the law.

Based upon estimates from last year's budget cuts, it is likely that scores of Superfund sites ready for significant new construction would not get funded and, furthermore, the cleanups at many of the hundreds of Superfund sites currently being remediated would be slowed down essentially to a snail's pace.

A 40-percent budget cut would also have a marked impact on the leaking underground storage tank trust fund that was established by the Superfund Amendments and Reauthorization Act of 1986. Leaking tanks have polluted drinking wells in many communities, and the trust fund has proven to be an effective effort to combat the problem. Current funding for this program represent about a 30-percent cut from fiscal year 1995 levels, and a further 40-percent cut would lead States to lay off hundreds of enforcement personnel and greatly reduce their cleanup activities.

So, even with the current appropriation levels we are seeing cutbacks in the enforcement actions and the inspections that these environmental agencies can do. Whatever cuts would come about as a result of the Dole economic plan would simply reduce the ability to enforce the law that much more.

I just wanted to point out some of these facts because I think it is important when we are debating the issue of what Bob Dole's economic plan would mean that we realize and that we take into consideration what the effect would be on the environment.

Now, I just wanted to point out also that interestingly enough, President Clinton has been very proactive in terms of what he says he would do if reelected on November 5. At the Democratic Convention he basically pointed out a progressive, if you will, environmental agenda. He said, for example, that he would accelerate Superfund toxic waste cleanup, nearly doubling the pace of cleanup. By the year 2000, approximately two-thirds of the Superfund priority sites would be cleaned up.

So here we have a situation where one person, the Republican in this case, is talking about cutting funds for some of these agencies that would mean less cleanups of Superfund sites, and President Clinton is actually talking about increasing the pace of cleanup at Superfund sites.

Also, the need to expand the right to know. One of the major reasons why we are able to bring enforcement actions against polluters for various violations that occur is because we have a community right to know law on the books now that allows individual Americans, individual citizens, to know some of the toxic substances that exist in the community around them. And oftentimes they will bring actions on their own or citizen groups will bring actions on their own so that it is not always necessary for the Federal Government to get involved. This supplements the enforcement action of the Federal agency.

Again, what the President has proposed is basically expanding Americans' rights to know about toxics in their community so that the EPA would do more investigation, release more information and individual companies that generate toxic waste, for example, would have to provide more information about what kind of toxic wastes are being generated in their communities.

I wanted to just give some examples about how President Clinton has worked to protect the environment, and how former Senator Dole has worked very hard to do just the opposite.

On August 6, 1996, President Clinton signed a bill reforming the Safe Drinking Water Act, which requires drinking water tests to eliminate dangerous contaminants. President Clinton also vetoed the extreme Republican leadership VA-HUD-EPA appropriations bill, which cut safe drinking water funding by 45 percent from the President's request. On the other hand, Senator Dole, Bob Dole when he was a Senator, in December 1995 voted for the extreme Republican VA-HUD-EPA appropriations bill which would have cut safe drinking water funding by 45 percent. The 1995 Dole regulatory reform bill, which was written by lobbyists for polluters, would have prevented the EPA from instituting effective safety regulations for drinking water.

Let us talk about toxic wastes. Since taking office, the Clinton administration has cleaned up more toxic waste dumps than in the first 12 years of the Superfund Program, increasing the pace of Superfund cleanups by 20 percent and reducing costs, reducing costs by 25 percent. In December 1995, President Clinton vetoed the GOP appropriations bill which cut Superfund toxic dump cleanup funding by 25 percent from his request. So not only has the President increased, accelerated the pace of the Superfund cleanup in this country in the 4 years that he has been in office, but he also vetoed these bills, the Republican leadership bills, that would have made it more difficult to clean up Superfund sites.

On the other hand, then Senator Dole in 1965 was one of only four Representatives, actually when he was a Congressman in this House, to vote against the Clean Air and Waste Disposal Act, which authorized $92.5 million during fiscal year 1966 through 1969 for research and development of methods to dispose of solid waste. The bill passed 294 to 4. Dole supported repealing the Superfund provision which forces polluters to pay for toxic waste cleanup, and he supported repeal of retroactive Superfund liability, which is also supported by his political contributors.

What the Republican leader has proposed and what then Senator Dole has basically supported is this idea that instead of having the corporations that polluted the environment, that caused the toxic waste sites to be created, the Superfund sites, instead of having those corporations clean up the sites, we would have the Federal Government clean up the sites or pay the polluters for the work that they already did to clean up the sites.

□ 1500

Essentially instead of polluter pays, it is government pays the polluters. I see that my colleague from Minnestoa is here. I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman for his statement that he has been making, calling attention to the dismal record of this Congress responding to environmental laws and policy.

The last point that Mr. PALLONE was making with regard to Superfund is an especially important one in the end because I think of what I would characterize as extreme positions in Congress, outside the mainstream of the last 20 or 30 years of environmental law, of what we have learned and what we know and have put that knowledge to use in terms of public policy, it has been disregarded and run roughshod over. As I said in the past, I think science to some of the new majority is what the Inquisition was to religion, something to be used basically to undermine and to keep raising questions against and to withdraw from what, I think, had been historically a bipartisan effort to deal with the conservation of our resources, the preservation of what deserves to be and the rehabilitation of our landscapes and air and water, a very important endeavor, one that is strongly supported by the American people. and it reaches back over across Democratic and Republican Presidents and on a bipartisan basis in Congress.

But that has not been what has happened in this Congress. It is a great tragedy, because it meant that we did not do the big things or the little things in this Congress that needed to be addressed with regards to environmental law.

In fact, one example the gentleman was just touching on was Superfund, which means that we are still without a current policy. I think all of us admit that the 1980 Superfund law that was passed has had its imperfections. But as an example, I work on the Committee on Banking and Financial Services. Many financial institutions are saddled with lender liability. And even that fundamental issue cannot be resolved in this Congress because those forces that want to keep all liable, even though a bank may have exercised its right to recover property and the damage that has been done to it has been done by a third party, that was delinquent in terms of their loan transfers the liability to the financial institution. So it is a great tragedy that we cannot focus on that because there has not been an adequate effort to resolve that lender liability issue, the polarized positions that have existed.

Frankly, in the first 2 years of the Clinton administration, a lot of progress was made, in spite of the hand that was dealt to him by his predecessor administration in terms of a host of issues highlighted by the northwest forests. The Clinton Northwest Forest plan, a controversial plan, one that all of a sudden forced everyone to face reality. Before that I think many in congress and certainly in the administration had been in a state of denial with regards to what was happening in the Pacific Northwest with regards to the harvesting of trees and the crashing of the ecosystem in that region.

But the Clinton administration had made a commitment for a positive effort, and all the news was not good news. As we learned more and more about these areas, we realized the fragility of those areas and what had to be done. The tragedy is that Congress on its own in the 1970's and 1980's had mandated cuts in timber harvests in these areas that were excessive over the carrying capacity of those lands in the Pacific Northwest. The truth is that dollars are gone that come from those historic big timber harvests. In so far as we do make some dollars in profitable sales areas, too often we do not have profitable sales but lose money and the forests. Today we are faced with very expensive land management schemes that are necessary to restore and maintain these landscapes in terms of forest restoration, in terms of watershed restoration, in terms of thinning and a whole range of different responsibilities in which the Forest Service itself and those that are involved in that industry could no longer sustain themselves. So they necessarily needed investment.

But beyond that, this administration had worked on the Endangered Species Act, working out significant problems in Florida with the Florida panther, working incidentally in the Everglades with regards to the water problem, arguably a good solution with regards to the sugar farmers there, the gnatcatcher in terms of the west coast in California. All across the Nation we saw a new spirit that existed, even with regards to our industries. This administration put in place something called the XL, XL means excellence in terms of environmental and compliance with rules, leaving industries and businesses to come up with solutions that really exceed the requirements of law that the Environmental Protection Agency may have with respect to air, to water, to other indices that are required. So we had, I think, for some time and throughout this administration a good positive effort embracing pragmatic solutions to problems which had festered for decades.

Unfortunately, that had not all been picked up. The whole idea of brownfield restoration, in other words, changing the whole dynamic and agenda of what we do in terms of cleanup was something that was put forth by this Clinton administration.

Many are now trying to emulate it, and that is good. In politics there is no law that bars us from taking other people's good ideas and putting them into law. I guess that is the idea. The competition of ideas, the competition of debate ought to bring forth the best that we have to offer with regard to solutions, especially I think in issues of the environment.

Of course, in the past 2 years much of that has changed, things are at a standstill here, fingers pointed back and forth. But I think as we look at what happened in the Clean Water Act, where it was an open secret that special interests reported that Washington, DC, K Street lobbyists on the front page of the newspaper had been responsible for writing the Clean Water Act. It turned out to be a very bad bill and that should have been no surprise. Fortunately, that did not pass the Senate. It left the House on almost a straight party line vote, and it has not been heard from in the Senate since.

The fact there were various actions taken on the Endangered Species Act which, incredibly, the policy came out of a committee that is supposed to be the specialists in this issue, which stated that species could exist without habitat, that you could have a living animal or plant without a habitat. So you could protect it in a zoo, I guess, and make a greenhouse for plants. The proponents actually wanted to count zoo populations as protected. But it was really pretty elemental in terms of the differences that existed there. I am sure that the point is well understood.

Mr. Speaker, as we looked, sadly, some measures were not considered by the committee and were enacted such as suspending the Endangered Species Act for a long period of time, and this action did irreparable harm to some of the fostering of biodiversity in our society. Other measures like the timber salvage bill today are still, because it was signed into law and in a must pass appropriation bill; of course many of us feel the President should have vetoed that bill a second time to make the point but the President relented.

Apparently some thought that there was more authority, executive flexibility and that the President could prevent the damage from the timber rider. The courts have ruled to the contrary. Now we see the harvest of not just salvage trees but the harvest of green trees, old growth trees in the Pacific Northwest because of provisions put on the affected section 318 lands.

We areas of Montana that were wilderness study areas at one time. They were administrative wilderness study area, roadless areas that have now been opened to harvest areas like the Yak that Bass has written about, Dick Bass, many other areas that really in a sense should have been set aside and left as the way they left the hand of the creator are now being spoiled because of specific provisions that related to Montana.

Of course, the whole issue of forest health and the science of that forestry, I think, was made a mockery of by the execution of this timber rider, which suspended all the environmental laws and fundamentally provided for expedited harvest of many areas. I think that the administration, frankly, the Clinton administration under Jack Ward Thomas had in fact moved ahead, administratively, with salvage sales.

In fact, that made up a greater part of the harvest in the Pacific Northwest where there was controversy about the limits of what could be cut. It concerned many of us, but they at least had put in place certain safeguards. This measure went far beyond that and has of course as its purpose to invade these green tree areas. It has done great damage with little money available really to offset that.

As we look at these forest sentinels that have stood for hundreds of years over the past centuries in terms of their evolution, we know that once they are harvested, they will not be back in our lifetime and the lifetime of my grandchild, my one grandchild or many, or any of, maybe perhaps his grandchildren.

Of course, this Congress attempted to put on the bidding block many, many different resources, selling our water resources, the grazing language, all very polarized, obviously we have to come to resolution with that. No one expects we are going to get wealthy as a nation and solve our fiscal problems on the back of ranchers and farmers. But clearly I think we need to expect a higher degree of conservation and stewardship on the part of those that use those lands. That is only reasonable, but not to many in this Congress.

Mr. Speaker, I think we are moving in that direction under the guidance of Secretary Babbitt. He tried very, very hard, I must say. It was partly my fault and others that we did not pick up on some of his work in the last session in 1993-94. We also committed the same trespasses that I suggested in opposite direction that others are doing in this session in despoiling our landscapes. ANWR, the Arctic National Wildlife Refuge, at 1.4 million acres in area on the Buford Sea north of the Brooks Range, was proposed by this Congress to be opened up.

This 1.4 million acres which is the calving area for 160,000 porcupine caribou herd really, I would say, represents a window on the Ice Age. It is the way life existed in North America 20,000 years ago when the glaciers pulled back and retreated from the ocean, the northern arctic oceans the current Buford Sea. It is an area that needs to be preserved.

It is something, I think, that while there may be a 1-in-10 chance of finding oil, there is a 100-percent chance of destroying this arctic tundra, this arctic desert, as it were, in the north of the Brooks Range.

So I think these examples indicate the actions that have taken place in the 10th Republican Congress. Of course it is no wonder that the record of this Congress is reported to be so dismal with regard to the environment. The Members have received such very low grades by objective groups looking at this, that the Republican majority have formed committees and groups on the side to try to restore their credibility.

It sort of reminds me of the story of the two Marx brothers that I adopt from my friend BARNEY FRANK. They said, when Groucho said to Harpo, he said, Harpo, who are you going to believe, me or your own eyes? So we have to look at what this 20-month record is that has occurred, not just the slogans that seems to characterize the election cycles, as we know, where everybody seems as a prerequisite of being elected they must be an environmentalist. But being an environmentalist or being someone that is working on these issues is enormously important not just for the political stump at home or for the political stump on this floor in election years but what happens over the course of our service in Congress.

There are many more things that should be talked about, the rules and regulations game that was played here, suggesting that a Member could be against bureaucrats and rules, the various ways we put laws into effect, ending up with more and more litigation and less and less effectiveness, the result effectively tying the hands of the EPA or departments or agencies that have these responsibilities, which I might say from the land management agencies, from the other agencies that regulate our air and water, we are very fortunate in this country that they are led by professionals, and staffed by professionals from the ground on up.

They are decisions that are not necessarily political, but they certainly are authorities with regard to science and the facts and what has to be done. So we have a great task here. I think Congress has a role, an unchallenged Federal role in terms of working with the States, the significant collaboration that has gone on between the Federal and State government, the great success in terms of turning the corner on solving environmental problems.

We see streams and rivers and landscapes that are being restored because of the 30 years and many decades before that of work that went on with the great Democratic Presidents and Republican Presidents. But this Congress itself obviously had not learned those lessons, it is very clear. Whether they are being educated today in the election cycle remains to be seen.

Mr. Speaker, I just came from committee sessions, at which the Republican majority were trying to strip away the U.S. authority to designate world heritage areas. We are one of 125 countries that participate, 146 signatories worldwide trying to preserve cultural and natural landscapes. All we would have is the power of persuasion, but this new majority on September 17, 1996, want to somehow take away that power, take away whatever authority exists. The United States, which led and created this list of man in the biosphere sites, seek to limit U.S. leadership that voluntarily seeks to build, educate nations around the globe. That did not happen last year. That is happening right now.

That bill has passed out of the Resources Committee today, the committee that holds itself up as your expertise and specialist, that is suppose to be a knowledgeable group of men and women that are to guide this Congress in terms of such issues. That is what they did this day. That is the type of Congress that we have. That is the type of House of Representatives that we have had for 2 long years. I submit that to the American people and to my colleagues in this body. I hold that up as an example of what not to do.

I thank the gentleman for yielding to me and for taking out this special order.

□ 1515

Mr. PALLONE. I appreciate the gentleman's comments, particularly since he brought out what this Republican leadership has been trying to do for the last 2 years on the natural resource issues, because that is the truth. They have basically been selling the store and trying to basically give away all of our natural resources, and I think it has to be brought out.

In addition, I know the gentleman from Minnesota [Mr. VENTO] talked about the record, if you will, by nonpartisan groups in basically analyzing this Republican Congress, and because of the poor record on the environment that was established by the Republican leadership, they put together this Republican Environmental Task Force early in this session in order to try to highlight how they were going to improve things, and the League of Conservation Voters actually gave the members of that task force, of that environmental task force on the Republican side, a 27-percent rating.

In fact, we heard just this past Monday that a group of the most antienvironmental Republicans in Congress had urged the Speaker, NEWT GINGRICH, to remove moderate Congressman SHERWOOD BOEHLERT from his position as cochair of this Republican Environmental Task Force. They were so outraged by his behavior in trying to moderate this terrible Republican antienvironmental agenda that they actually wanted him removed as the cochair of the task force, and if they, of course, had dropped Congressman BOEHLERT from the task force, the rating by the League of Conservation Voters would have even been less than 27 percent.

So this is not something that is going away. The Republican leadership continues to this day, with only a few weeks left in this Congress, to continue to try to turn back the clock on environmental protection.

I would like to yield now to my friend, Mr. MARKEY, the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman very much, and I thank you for calling this special order because it is so important to remind the American people here at the end of this congressional session that the GOP—you know, GOP used to stand for grand old party, but today it stands for gang of polluters. They took the whole first year and a half of this Congress trying their best to undermine the environmental law which were put on the books in this country over the last 25 years. They took the EPA and they wanted to change it from EPA to every polluter's ally.

You know, the American people, they have to ask the question: Is the water really too clean? Is the air too clean? Is there too little cryptosporidium in our water? Is there too little E. coli in our hamburger? Is the ozone hole too small? Can we really afford to cut the EPA, the Environmental Protection Agency, enforcement budget by 30 percent, which was the Republican proposal?

I do not think so. I do not think the American people want less environmental protection. I do not think they want their water to be dirtier, their air to be dirtier, their food to be less safe. They want it to be more safe. They appreciate the fact that in the 20th century, largely because of Democratic initiatives, we have extended the life expectancy of the average American from age 48 in 1900 to age 70 today. We have added 31 years to the life expectancy of the average American in this country in the 20th century, largely because the Democratic Party health and environmental and job safety initiatives.

What a radical change. We went from the Garden of Eden to 1900, and the life expectancy of the average American male or female was 48 years of age, added 31 years in the last 95 years, and the Republicans look at it, and they say, "Let's roll back Medicare, let's roll back Medicaid, let's roll back the Environmental Protection Agency, let's roll back all the safeguards we offered to ordinary people so their lives could be protected in ways that no one from the dawn of time until the introduction of these programs had ever been protected if they are working people, if they are ordinary people, white, black, hispanic, Asian, whatever, in our country they all get the protections."

Then they look at the Superfund Program. As you know, we have hundreds of sites across this country where polluters in the twenties, in the thirties, in the forties, fifties, sixties, they just dumped their chemicals into the water, into the ground near neighborhoods, turning the whole neighborhood into a neighborhood nightmare, but, more importantly, putting the children in those neighborhoods at risk because the water that they drank, the dirt which they might have been playing in, it came back to haunt communities, and so the Superfund Program was put into place. It is not perfect. It needed to be reformed, and the Democrats were more than willing to work to ensure that the imperfections were corrected.

But that was not the objective of the Republican Party. Their objective was to destroy the Superfund Program. In fact, they constructed something which I call the Ed McMahon polluters' clearinghouse sweepstakes, which meant that if you were a polluter, if you had already in a court of law or in an administrative proceeding accepted legal responsibility for having polluted a neighborhood and you had already cleaned it up, you will get a rebate from the Federal taxpayer, and it will be half of all the money which we, as taxpayers, put into the Superfund Program. We give the money to the polluters, but accepted legal responsibility.

And then they had a backup solution. It is the Evian solution: Well, we really cannot afford to clean up your site, but if there is an acceptable alternative for you to get water in your neighborhood, then the site will not be cleaned up. And this is called the Evian solution. That is, if you can go down to the corner store and buy bottles of Evian every day for the rest of your life, that is a good substitute for actually having water that is drinkable coming through the tap.

Now, there is a great innovation. Everyone in America, buy stock in Evian, buy stock in any water, and, by the way, you will get no Federal subsidies for that either.

And then you have the superfence. If there is a way in which you can build a superfence around the site, not cleaning it up, well, that is a good substitute, too, for ensuring that the hazardous waste material has been taken out of the community. It is the superfence superfiction, to be more accurate, because we all know that kids on their bikes are going to go right through these fences within about 15 minutes after they are put up, and they will be riding up and down these hills, these embankments of hazardous materials, not really aware of what the long-term consequences for them and their families will be.

That is the concept that the Republicans brought to environmental reform in our country.

And then I sit on the Committee on Natural Resources. What a great idea they came up with. We have subsidies on the public lands which we give to the mining industry. We have subsidies on the public lands of the United States that we give to the timber industry. We have subsidies; we are talking billions of dollars every year that come out of the Federal taxpayers' pockets. That is money we do not ask mining companies, timber companies, grazing companies to pay the American people for use of the public lands of our country. We just give it away to these Fortune 500 companies.

So the Republicans, they said, "Well, we have a deficit crisis in America. We're gong to have to do something in order to ensure we raise more money to reduce this deficit."

So they touched grazing subsidies of the Fortune 500 companies? No. Gas, timber, mining, no. We would not want to touch those people, those people who exploit our resources every day and then go and make a private sector profit on it.

What do they offer as a reform in our committee? Well, we allow grandmothers and grandfathers to get into national parks across our country for half price. What they did was strip out this spring the protection given to grandma to get in with her Golden Age passport into the national parks of America.

That is how we are going to balance the budget, on grandma's back, not the mining, not the oil, not the gas, not the timber, not the grazing industries that are on the public lands. They do not have to pay market price. But grandma, she loses her senior citizen pass.

And, by the way, and the gentleman from New Jersey knows this better than anybody, what a tough year and a half for grandma, huh? Boy, has she had a tough year and a half.

You know we have about 13 million elderly women in America who live on

$13,000 or less a year. The Republican proposal was to take their Medicare payment and increase it by $400 a year.

And grandma, of course, has sacrificed throughout her life. A lot of people think she has really been getting too much for free here in America; you know, all these grandmothers living on $13,000 a year and Medicaid. Well, grandpa might be in the nursing home, but the Republicans' proposal was to make grandma sell her home before she would qualify for any Federal help at all to keep grandpa in the nursing home, and we know the average cost of nursing home care in the United States is $55,000 a year in most of the larger States, $40,000 at a minimum even in the smaller States, $40,000 a year.

No matter how hard you try, no matter how many years you save, you cannot save enough money, if one of the spouses has Alzheimer's or Parkinson's, to pay $40,000, $50,000, $60,000 each year to keep them in a nursing home. And, by the way, 50 percent of all people in nursing homes in this country have Alzheimer's, and 70 percent of all people in nursing homes are on Medicaid. But let us make grandma sell the house before she qualifies for anything.

And, by the way, they also propose to strip off the books the regulation which said that grandpa cannot be drugged while he is in the nursing home or tied down just to keep him under control.

Mr. PALLONE. The gentleman forgot when he came to the well and challenged the Speaker on the qualified Medicaid beneficiaries we are going to take away from the poorest widows in the country where Medicaid was paying for their Medicare part B premium. You brought that up. The Speaker said he was going to correct it and he never did. You might want to mention that.

Mr. MARKEY. Again, when they were called on it out here on the floor, they said, "Don't worry, our intention is not to hurt grandma," and they never corrected it. We were forced to vote out here on the floor on the bill with grandma paying 400 extra bucks each year, and, by the way, the same bill giving $25,000 a year tax breaks for people who make $400,000 or $500,000 a year. It would take 70 or 80 grandmas, each kicking in 400 bucks to then turn around and hand away 25,000 tax breaks to people making over $400,000 or $500,000 a year.

Now let me say this about grandma. There was one weekend where she could get grandpa out of the nursing home, and they were so happy. They decided to take the grandkids to a national park, and so they got into the 1974 Ford Fairlane with the grandkids and headed off for the national park, and then the ultimate indignity: The Republicans propose to strip away the Golden Age passport so they can get into national parks.

Now is that right? I mean, yeah, OK, maybe we should look at some of these programs, but do you really think grandma and grandpa are getting too much? You know they took us through the thirties, the Depression, World War II, and then they built us into the greatest country in the world in the fifties, sixties, and seventies that has ever been known in the history of the planet. They have sacrificed to make this the great country it is.

Now is it really fair to tell yuppies who are making $500,000 that you deserve a $25,000 tax break and we are going to turn again to grandma and get $400 out of her in order to make that tax break possible? That is wrong. We should not be giving out those tax breaks to the wealthy.

And within the same bill we should not be telling the mining and the timber and the grazing industries that they should be paying market price. If you are taking coal, if you are taking oil, if you are taking timber, if you are taking grazing materials off of public lands, you should pay the same that you would pay if it was on a private piece of property. We should not be subsidizing you.

Adam Smith is spinning in his grave looking at this policy. We tip grandma upside-down on Medicare and Medicaid, and then we turn a blind eye to the people making $500,000 a year and say, "No, we're going to give you a tax break this year." Well, where is the sacrifice, the shared sacrifice? Grandma will always do what she always has, but is it fair, before you have gone to the people, that you should ask her to sacrifice for tax breaks? That is wrong. So that we do not have to touch the mining or the grazing or the coal or the other companies on—that is wrong.

So the environmental policies of the Republican Party over the last couple of years have been just upside-down, just completely misunderstanding what the American people want.

□ 1530

They want clean water, they want clean air, they want hazardous waste sites cleaned up. They want our national parks to be protected. Again, Americans are willing to sacrifice, but they want it to be fair. They want the priorities to be correct. They do not want it to be all skewed toward the wealthiest in our society. They want it to be balanced. if it is balanced, they will sacrifice. But there is no reason why the environment has to be sacrificed in this entire endeavor.

So my point is that we have a reckoning that has arrived where the American people have to decide whether or not in fact they are going to allow for a continued erosion, and by the way, a lot of the Republicans right now, they are engaging in the moderate macarena, where for about 6 weeks here they are going to pretend that they are as concerned with all these issues as we are. The point is, though, that once they get back in January, we are going right back to where we were over the last 1½ years. We have a 6-week macarena where they are walking around, I see nothing, I hear nothing, I am with you, and they do the little twist, and let us hope we make it through this election. But we are coming right back with the same agenda, cutting, slashing the environment of this country.

Mr. Speaker, I thank the gentleman for bringing this subject up. I think it is very important for us to have the American people know the critical nature of this election and the referendum that has been created on whether or not we should gut the EPA and Superfund and clean air and clean water, right down the whole line, all of these issues. I do not think that they do.

I hope that, working with the gentleman and those who have led this charge across the country, because it has been a grassroots movement, ordinary people in cities and towns all across this country, who have risen up against this environmental radicalism, I think that the day of reckoning is approaching where the voice of the people will be heard on clean air, clean water, and all the rest of the environmental issues.

Mr. PALLONE. Mr. Speaker, I just want to thank the gentleman, because I think he is bringing back the fact that we are talking about real people here when we are talking about these policies, whether they are natural resources, clean air, clean water. We are talking about real lives and individuals that are impacted by it.

We had a hearing today as part of our Democrats' Family First agenda on environmental issues. We had three just regular citizens, essentially, from the DC metropolitan area who talked about their own experiences with health problems or environmental problems that really have not been addressed.

In other words, here we are talking about the Republican leadership trying to turn the clock back, when there are real needs that have not even been addressed, when there is a need for legislation in certain health, safety, and environmental areas that has not even been addressed, that the Republicans have not even yet thought about.

We have one gentleman who actually lives in the District of Columbia who died from Salmonella poisoning, or I should not say died, nearly died from Salmonella poisoning. He went into the whole situation of how he was impacted. He was in the hospital for such a long period of time.

Last night on Dateline there was a whole expose, basically, about Salmonella poisoning, and how eggs, so many of the eggs that are now produced in the country and that people buy in the store have the potential for Salmonella poisoning. There have been hundreds of deaths and thousands of people who may have been made sick because the Federal Government has not addressed the issue of how to deal with eggs, not only producing them, but making sure they are properly processed before they get to the market and before people buy them.

Mr. MARKEY. If the gentleman will continue to yield, Mr. Speaker, it has come to my mind, listening to you, that there was another initiative which was absolutely preposterous. It was a national parks closings bill. We had a military base closings bill, because as the cold war ended, there was clearly going to be a need to consolidate military activities across this country to save a little bit of money.

The Republicans in this Congress, they decided they were going to have a national parks closings bill. They were going to close down national parks across the country. Mr. Speaker, I have been in Congress for a while and I have talked to thousands and thousands of people over my years in public service. I can tell the gentleman this, I have never had a person come up to me yet and say, "Ed, do you know what the problem with this country is? We have too many parks in this country. Really, we have to shut down the parks in this country." That is the preposterousness of their interpretation of what the American people were saying in 1994.

The American people want a balanced budget. We accept that. We are going to go along with it. We heard the message.

Mr. PALLONE. Mr. Speaker, that parks bill, I think they called it the parks decommissioning bill, they were trying to make out that they were going to do a study and see which parks should be decommissioned, and obviously it was a nice way of saying closed. When the bill was originally proposed, the sponsor sent a Dear Colleague to other Members of Congress and he used a national park, the Sandy Hook unit of Gateway National Park, in my district as an example of a park or recreation area that should be closed.

This summer we had somewhere between 2 million and 4 million people that visited Sandy Hook, mostly, pretty much from the New York metropolitan area; New York, New Jersey. Imagine that many people using this facility, and he is proposing to close it, and using it as an example of a national recreation area that should be closed. It is just incredible.

Mr. MARKEY. Again, Mr. Speaker, this bill is not going anywhere this year, but it just sits there right behind the moderate macarena for the next 6 weeks. They are sending out memos about adopting a tree, or go visit a zoo and show that you are politically sensitive to the environmental concerns of your constituents, but it is the agenda of the Contract With America.

I do not think the American people understood that in 1994, but as it has been outlined in detail, as each week and month has gone by in the last 1½ years, the American people have become quite aware that it is an environmentally radical program that has been put on the books that calls into question every environmental advance we have made over the last quarter of a century. I do not think the American people want to go backwards. I think they want even cleaner water, even cleaner air, even safer areas around hazardous waste sites.

Mr. PALLONE. I think the gentleman is correct.

Mr. MARKEY. In each and every one of these areas I think they have a big decision to make in 1996, and thanks to the gentleman, I think millions are having it explained to them here today.

Mr. PALLONE. I want to thank the gentleman for coming on the floor, Mr. Speaker, and talking about this issue. I think there is no question that if you ask the average person, and certainly all the polling data that both Republicans and Democrats have done shows that people feel that there needs to be more environmental protection and more health and safety protection.

When we had our Families First hearing today and we talked, and we had witnesses that talked about some of the problems they face, we had another gentleman who was infected with Cryptosporidium from tap water, and almost died. We had another woman who helped organize a community effort to reduce toxic waste in her neighborhood. She talked about how we need more right-to-know measures.

So the types of things that the President has proposed, accelerating the cleanup of Superfund sites, providing more right to know for citizens and citizen groups, trying to basically provide better enforcement and more money for enforcement, this is what my constituents are telling me, and I believe when I talk to other members of Congress and other colleagues, what their constituents are telling them, that there should be more protection and more funding where necessary for investigation and enforcement.

I just want to conclude the special order today just giving an idea of what, again, the Dole economic plan would mean in terms of environmental protection. The concern many of us have is that not only many of the environmental programs, whether it be the Clean Water Act, the Clean Air Act, Superfund, that the Republican leadership in this Congress tried to gut that legislation, but even more so, that by deprioritizing funding for environmental protection, by slashing the amount of money that was available to the EPA, to the Department of the Interior, to protect our national resources and protect our health, and to protect our environment, that by allowing those levels of cuts to be proposed and in some cases actually implemented, what we are seeing is the inability, if you will, of the Federal Government and also State governments that depend on Federal dollars to actually do the investigation and the enforcement that is necessary to carry out our environmental laws and to make sure that there is adequate protection of individual's health and safety and environmental concerns.

If the Dole economic plan were to be put into effect, we know that there would be essentially a 40-percent cut in environmental programs. So the types of cuts that were proposed in this last Congress for the last 2 years would even be deeper, and the effect would be that the environmental protection and the 25 years, if you will, of efforts on a bipartisan basis to protect the environment and improve the level of protection by the Federal Government would simply be reversed, because of the inability of Federal agencies to carry out the law.

That is what we do not want to see. That is what we do not think that the average American wants to see.

TRIBUTE TO THE HONORABLE TOM BEVILL AND THE HONORABLE GLEN BROWDER

The SPEAKER pro tempore (Mr. McINNIS). Under the Speaker's announced policy of May 12, 1995, the gentleman from Alabama [Mr. CALLAHAN] is recognized for 60 minutes as the designee of the majority leader.

WATCH FOR ELECTION-YEAR SPIN IN HOUSE FLOOR SPEECHES

Mr. CALLAHAN. Mr. Speaker, it must be confusing to the people who are watching this, both in the gallery and on C-SPAN, about what we are talking about today. During this time of our political careers in history, it is an election year. It is like selling Coca-Cola and Pepsi-Cola. You have one side that says Pepsi-Cola is better, and one side that says Coca-Cola is better. What we do is create spin efforts. We try to convince the American people that one side is going to do all of these evil things, and the sky is going to fall if indeed a certain individual is elected President.

You hear things about cutting Medicare. There is not a provision anywhere in Washington where anybody has introduced or even suggested that we cut Medicare. All of this is partisan politics, trying to convince you, trying to manipulate you, the audience, into believing their side or our side of any particular issue.

They just talked about the environment. We are not going to destroy the environment. Not one individual in this entire body wants to do anything to do harm to the environment.

So as you go through these little periods of speeches on the floor of the House, keep in mind that it is that time of year. You are intelligent people. You can make your own mind up. Base it on character, base it on history, base it upon the future, base it on whatever you want. But keep in mind that these are like television ads. They are just a few minutes dedicated to the Members of the House to come here and express their views, and to try to convince you that the future lies in someone else's hands, or the future lies in the hands of those that have it today.

Spin is interesting here in Washington, because, you know, I heard the Secretary of Defense went over to Kuwait. I think all of us in the House knew, and certainly everybody in television land knew, and certainly, Mr. Speaker, you knew, that the Kuwaitis decided they did not want us there, even though we sent 500,000 men over there to save their country. When we tried to send 3,500 men there, they balked. But in any event, the Secretary went over there and he explained it. Finally, they let us come in.

But the spin that came out of it, and I quote the Washington Post, Mr. Speaker, it said that the Kuwaitis are inviting us over there to protect their interests. That is spin.

But for the next hour, we are not going to be partisan. We are not going to be Republicans, we are not going to be Democrats. We are going to be telling you some of the things that have taken place during the last several sessions of the Congress, and about two or three individuals that have been an integral part of that. They are two Democrats, and I am a Republican, but there are two Democratic Members of the House who are retiring from Congress this year.

I have requested 1 hour of this time to come in a nonpartisan sense to talk about these two individuals, these two Members of Congress that have made a tremendous contribution to this country during the time that they have served.

We have not always agreed. We agreed generally only on those things that were very beneficial to Alabama, because in the Alabama delegation, unlike some of the other delegations in this Congress, we work together, whether we are Democrats or Republicans. If we have a problem, if we have a need in the State of Alabama, the delegation meets on a monthly basis and we discuss with each other the needs, and why we need it.

I had a home port in Mobile that I was trying to get and got it, because I brought it to our delegation. I said, I need the help of all seven of you. We have things in Huntsville, we had an Army base in Anniston that one of our Members had some problems with. We always work together.

Some States do not work together on anything. Some Democrats never work with Republicans, and some Republicans never work with Democrats. But in Alabama we have been blessed, blessed to have seven members of our delegation who do work together; who do not always agree on the national issues, who do not always agree on individual bills, but who do have a guidance and a direction that moves toward a better America and a better Alabama.

The gentleman from Alabama, Mr. TOM BEVILL, from Alabama's Fourth Congressional District, married to Lou, has three lovely children; born in Townley, AL, the son of a coal miner, he attained the rank of captain in the U.S. Army while serving in the European theater during World War II.

☐ 1545

He holds an LL.B. degree from the University of Alabama School of Law. He was first elected to the House of Representatives in 1966.

He was chairman for most of this time of the Appropriations Subcommittee on Energy and Water Development, from 1977 to 1994. As chairman, Congressman BEVILL encouraged substantial development of Alabama's waterways and the Port of Mobile and all the waterways and all of the ports of this entire Nation. For example, he was instrumental in the development of the Tennessee-Tombigbee Waterway. This development allowed the United States to assert its full power in international trade. He remains the ranking member of the Subcommittee on Energy and Water Development even today.

The other Member retiring is GLEN BROWDER from the Third Congressional District of the State of Alabama, married to Becky. They have one daughter, I think a student at Auburn. At least they live near Auburn. He holds a Ph.D. in political science from Emory University in Atlanta. He served as a political science professor at Jacksonville State University, served for 4 years in the Alabana State House of Representatives, and was elected to Congress in a special election in 1989. He serves on the House Committees on Budget and National Security. While serving on these committees in the House, Congressman BROWDER has exerted an influential, fiscally responsible philosophy. As I have said, we did not always agree on some national issues. But you could never, never worry about the integrity of these two individuals, or about the word of these two individuals. If they told you they were not going to vote for you, you just as well put it in your hat to know they were not going to vote for you, not because they disliked you, not because I was a Republican, but because they disagreed with me. And that is the way this body works. It is made up of 435 individual men and women from all walks of life, from all of the States. All of us have had some degree of success in our other lives or we would not be here today. You do not elect unsuccessful people to Congress. You elect people that have been responsible people and leaders in their community.

So while there is bickering between these two on all these partisan issues trying to convince you through their statements to vote for either Bob Dole or for Bill Clinton or to tell you that there ought to be a Republican majority versus a Democratic majority in the House, keep in mind that all of that is partisan spin politics. You are the people who make that decision, and I trust your decision.

We have only 1 hour today to talk about these two individuals, these two great Americans, and dozens of people have called and dozens have asked to come and to share with me this 1 hour that we have to pay tribute to these two great American people.

The first is a friend of mine from Indiana, Congressman JOHN MYERS. He is going to retire as well, but now he is chairman of the same subcommittee that TOM BEVILL once chaired.

Mr. MYERS of Indiana. Mr. Speaker, we thank our friend, the gentleman from Alabama, SONNY CALLAHAN, for taking this hour to remember and honor 30 years of service of our colleague.

On November 8, 1966, 72 new Members were elected to Congress, 59 Republicans and 13 Democrats. Today, there are three of us in that class remaining in the House of Representatives, and as has been mentioned already, all three of us have chosen this 30th year in Congress to retire: Congressman MONTGOMERY from Mississippi; the person we are honoring this afternoon, TOM BEVILL of Alabama; and I am from Indiana.

That class, there was another Member who went on, had trouble keeping a job here, served only 4 years in the House, but I talked with him this morning, former Vice President and former President of the United States, George Bush, said for me to extend best wishes and congratulations to TOM BEVILL and SONNY MONTGOMERY for their 30 years of service.

TOM, as I call him, has served 18 years as chairman of the subcommittee where we both have served those 18 years, and I served those 18 years as his ranking member; and the past 2 years, because of the election, I have been given the honor of holding the chairmanship and TOM has been the ranking member. But the relationship never changed; it is completely, absolutely nonpartisan.

TOM is a gentleman. Nothing went into a bill unless we both agreed, when he was chairman. The last 2 years, with the confrontation of a few people, partisanship does not play a role in our subcommittee; it continued the same way. The country was more important.

TOM grew up in Alabama, was born in Alabama. His family had a little country store, and TOM worked as a clerk in that country store, growing up. It was a coal mining area. He went on to graduate from Walker County High School in Alabama, went on to the University of Alabama, where he got his law degree, and then served in Europe in World War II.

He came back and practiced law for 18 years in Jasper, AL, where they still claim home. But the thing in Alabama, and I have visited his district many, many times, both Democrats and Republicans voted for TOM BEVILL because they knew they had a person that was fair, and just as the gentleman from Alabama [Mr. CALLAHAN] mentioned here, would tell you the truth and you knew you were not getting doubletalk. They loved TOM BEVILL and they still love TOM BEVILL.

So he is going to go back home, I understand, and be an Alabamian once again, go back with his wife, Lou. His wife, Lou, my wife, Carol, the two couples have been friends for the 30 years we have had the honor of serving together in this Congress, but TOM and Lou BEVILL are true great people. Their three children and their grandchildren, I know they are going to enjoy.

So today I am pleased to be able to join the many friends that TOM BEVILL has to say thank you, TOM, for your years of service and thank you for your courtesy. Thanks for being a gentleman all of those years when we served together.

Mr. CALLAHAN. Mr. Speaker, I yield to the gentleman from Mississippi, SONNY MONTGOMERY, another gentleman that is retiring this year, who was just mentioned by the gentleman from Indiana [Mr. MYERS].

Mr. MONTGOMERY. I thank the gentleman from Alabama [Mr. CALLAHAN] for giving me this opportunity, and I would like to pay tribute to both TOM BEVILL and GLEN BROWDER on their retirements.

Mr. Speaker, I am pleased to speak today about our longtime friend, TOM BEVILL. TOM and I both, as mentioned by JOHN MYERS, started as freshmen together. We have been friends ever since. That was 30 years ago. During that time, I have to say that there has never been a better representative for Alabama or for this Nation than TOM BEVILL.

Mr. Speaker, he served in the European theater during World War II and attained the rank of captain. We three, TOM BEVILL, JOHN MYERS and I, all three served in the European theater. We did not serve together, but we were there at the same time. So coming to Washington for TOM BEVILL was not a tough, big problem; because he had been in the war, he knew that he could handle the job.

His constituents are very proud of him. He has had an excellent record with the people of his State and his congressional district. Mr. Speaker, he might have had a tough race the first time he ran, the first 2 years, but after that, he has been elected without opposition and really has had no problems coming to the Congress again.

As has been mentioned, he is the senior member of the House Committee on Appropriations and served as chairman of the Subcommittee on Energy and Water Development from 1977 to 1994. He is now the ranking member, as we all know, and he and JOHN MYERS worked together so well. He did have a lot to do with the Tenn-Tom waterway system which goes between our two States, Alabama and Mississippi.

Mr. Speaker, on the Tenn-Tom, there is a lock and dam that bears the name of Tom Bevill Lock and Dam. And our congressional districts adjoin each other. But the biggest sign in my congressional district is Tom Bevill Lock and Dam and the sign points that way. I tease him a lot about that, but it is the biggest sign in my congressional district.

I have enjoyed having TOM BEVILL be a part of the prayer breakfast group, and PETE GEREN of Texas asked that I would mention about TOM BEVILL, he is known as the assistant to the assistant chaplain at our prayer breakfast. He does not get to act much, but he does come a lot, and we have enjoyed very much working together.

So about TOM, Lou has been wonderful. He has got three wonderful children. I wish him the best.

Moving to GLEN BROWDER, we are very proud of GLEN and what he has done since he has been in the Congress. I serve with him on the Committee on National Security, and he has performed his duties as well as any Member I know. Fort McClellan, AL, is in his congressional district. He has actually himself, with help from the other Members of the Alabama delegation, saved Fort McClellan, AL, from being closed. Fort McClellan has been on the base closure list for a number of years. I know for sure he has saved it for 2 years in a row.

We wish GLEN, his wife, Becky, and their daughter, Jenny Rebecca, the best in the future. GLEN, Washington and the House of Representatives will miss you.

Mr. CALLAHAN. Mr. Speaker, I would like to yield just a few minutes to one of the individuals we are retiring. To show you what kind of individual he is, he is here to give praise to the other Member we are talking about, Congressman TOM BEVILL of Alabama.

Mr. BEVILL. Mr. Speaker, I thank my good friend and colleague, Congressman CALLAHAN.

Mr. Speaker, I rise today to pay tribute to my good friend and colleague from Alabama, Congressman GLEN BROWDER.

GLEN is leaving office with a fine record of service to Alabama's Third Congressional District since 1989. As you know, GLEN was elected after the death of our long-time colleague Bill Nichols.

While no one could replace Bill Nichols, GLEN certainly has done an outstanding job picking up where Congressman Nichols left off. He has made a name for himself as a quietly determined, highly intelligent and well-focused Member of Congress.

Like Bill Nichols, GLEN BROWDER won a seat on the House National Security Committee where he has become a very effective advocate on a wide range of military issues. He fought to keep Fort McClellan off the base closure list and developed broad expertise on the use and storage of chemical weapons.

He has worked diligently on behalf of Persian Gulf veterans who have suffered strange symptoms since returning from the conflict with Iraq. GLEN has pushed the Pentagon to provide more information on their potential exposure to chemical agents.

GLEN BROWDER has always been fiscally conservative and has provided outstanding leadership on campaign reform issues and budget matters.

I have thoroughly enjoyed working with GLEN BROWDER, especially on projects of concern to Alabama. He has always been very dedicated, not only to his district, but also to our entire State of Alabama and our Nation.

Whatever course GLEN BROWDER chooses to pursue, I am confident he will be highly successful. Meanwhile, his accomplishments here in the Congress will always be remembered and appreciated.

GLEN, I wish you and your lovely wife Becky all the best in your future endeavors.

Mr. CALLAHAN. Mr. Speaker, at this time I would like to recognize, he has a conference he must attend, a little bit out of order but nevertheless not out of order with respect to his vitality to this conversation, Mr. ALAN MOLLOHAN of West Virginia.

Mr. MOLLOHAN. I thank the distinguished gentleman and chairman. I appreciate very much his making possible this special order.

Mr. Speaker, I thank you for allowing me to take the floor today for this fitting tribute to our distinguished colleagues from Alabama, TOM BEVILL and GLEN BROWDER. I am pleased to add my personal words of appreciation for their contributions to this House and to offer my best wishes to each of them as their terms come to a close and as they look to their future.

I had the great pleasure of serving with GLEN on the Committee on the Budget. He is particularly distinguished, bright, makes a wonderful contribution to that committee and brings a lot of common sense to the process. I know that he will prosper as he leaves the House and I certainly wish him well.

Naturally as a member of the Committee on Appropriations, I will acutely feel the absence of the gentleman from Alabama [Mr. BEVILL] and the leadership that he has provided to that committee as chairman and the ranking member of the Subcommittee on Energy and Water Development.

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He is one of the most respected members of our Committee on Appropriations and the entire U.S. House of Representatives, and it saddens me greatly to see him go.

For a long number of years, my father, who served in this body, served with TOM BEVILL, and dad always considered him to be as close as you could come to the ideal of a Member of Congress.

Since taking up the responsibilities of representing the First Congressional District here, I have found that dad is absolutely right. TOM BEVILL is bright, he is disciplined, he is full of integrity, and not only courteous but he is kind. These are the qualities that have made him an effective, popular Representative of the people of Alabama's Fourth Congressional District. They are the same qualities that have made him a widely admired Member of the House.

Of course, he has made his mark through his years of leadership of the Energy and Water Development Subcommittee. That can be a tough job. There are so many worthy projects brought to the attention of this subcommittee, real needs, urgent needs in communities all across the Nation, yet even in the best of times there are simply not enough resources to go around.

Being able to take up as many of them as possible and blend them into a thoughtful national policy, well, that is a real legislative art, and TOM BEVILL is the master of it.

Mr. Speaker, I doubt there is a district anywhere that has not benefited in some measure from TOM BEVILL's commitment to meeting America's energy and water development needs. His good work will be remembered long after he leaves this body. So, too, will his gracious manner and the good will he has consistently shown to Members on both sides of the aisle.

That is a real hallmark of his service. In fact, he has worked hand in hand in a real bipartisan spirit with another very distinguished and retiring Member of this House and of this committee, the gentleman from Indiana, JOHN MYERS.

JOHN MYERS has been equally an outstanding servant of the people. They are both wonderful men and a powerful legislative team.

TOM BEVILL is a true gentleman, as well as a distinguished legislator, and he will be missed sorely. Thank you, Mr. BEVILL, and thank you, too, Mr. BROWDER, for your faithful service to this House and to the people of West Virginia, and my best personal best wishes go with you.

I also want to share with you the great expression of appreciation from the constituents of the First Congressional District of West Virginia for all your consideration of their needs over these many years. God bless.

Mr. CALLAHAN. Mr. Speaker, at this time I would like to recognize one of the gentlemen we are talking about today so he can pay honor to the other gentleman we are talking about today. I am talking about Mr. BROWDER of Alabama.

Mr. BROWDER. Mr. Speaker, I want to thank SONNY CALLAHAN, my good friend and fellow Alabamian, for arranging this special order and for all who are participating here.

I was in the gallery with my wife, Mr. Speaker, and I heard TOM BEVILL speaking about me and now it is my turn to speak about him.

For the past 30 years, TOM BEVILL has been representing our State and our country with distinction and dedication. His sincere interest in the betterment of this great land of ours has meant a great deal to many of our districts.

In my own district of east Alabama, for example, TOM BEVILL has exercised his leadership to help Alabama, Georgia, and Florida avoid a nasty scrap over the water resources we share. Because of the work and studies he sponsored, we seem to be moving toward a regional understanding on this vital issue.

TOM served 18 years as chairman of the House Appropriations Committee's Subcommittee on Energy and Water Resources. There is not a State in this country that is not a better place because of TOM BEVILL's work and his knowledge. Without a doubt he will leave an indelible imprint on our country that cannot be erased and will not be duplicated.

TOM has always been a special friend. He introduced me to the House when I was sworn in as a Member after a special election in 1989. At a time like that, it is nice to have a man of his stature speaking for you.

TOM has the respect of Members on both sides of the aisle. He has earned this respect by his hard work, his attention to detail, and his willingness to help another Member, even when there is no political gain for himself.

On this occasion I also want to mention TOM's lovely wife, Lou, who is as strong and caring a person as TOM. I wish them both the best for all they have done for Alabama and the rest of the country.

Mr. CALLAHAN. Mr. Speaker, I thank Mr. BROWDER for his kind words and for his service.

I want to now introduce my next-door neighbor, the man who represents the congressional district next to mine, Congressman TERRY EVERETT, of Alabama.

Mr. EVERETT. Mr. Speaker, I would like to first thank my colleague, SONNY CALLAHAN, for giving me and the rest of us this opportunity to offer a personal tribute to two of my colleagues who leave this House having earned very distinguished records of service. TOM BEVILL, the Fourth District of Alabama, and GLEN BROWDER, of the Third District, are well-known to the people of Alabama for their active leadership to Alabama and the Nation.

TOM BEVILL is the dean of the Alabama delegation here in Washington, having been elected to this body 30 years ago. TOM's gentlemanly manner, his character, and his great legislative skills have earned him the respect of his peers.

Having served as a long-time chairman of the House Appropriations Subcommittee on Energy and Water Development, TOM's influence has, as has already been noted here, today has been felt over the entire Nation for decades in major energy research development and public works projects from coast to coast.

At home in Alabama, Chairman BEVILL led the drive to build the Tennessee-Tombigbee Waterway. We heard Mr. MONTGOMERY talk about signs in his district, in Mississippi, naming something after Mr. BEVILL. There is a joke that you cannot travel through a single town in Mr. BEVILL's district in north Alabama without seeing the Bevill name on a building somewhere. And while that may be true, let it also be known that there is a Bevill building on the campus of Sparks State Technical College in Eufaula, AL, down in my district in southeast Alabama.

TOM and his wife, Lou, will be missed here in Washington after January, but they certainly deserve a much earned rest back home in Jasper. I wish them both the very best, and I know that TOM will have more opportunities to meet with my good friend, our mutual friend, Doug Pearson, for coffee more often.

Mr. Speaker, I also want to speak about another departing colleague, GLEN BROWDER of Alabama of the Third District. GLEN BROWDER came to Congress in a special election in 1989 to fill the unexpired term of the late Congressman Bill Nichols.

GLEN, who sits with me on the House Committee on National Security, quickly proved his mettle in successfully blocking three out of four Base Closure Commission attempts to close Anniston's Fort McClellan Army base.

GLEN also made a name for himself as a budget hawk by gaining a seat on the House Committee on the Budget and adding focus to the congressional effort to reach a balanced budget. GLEN's fiscal conservatism and hard work in support of our Nation's military and veterans will be very, very much missed.

I wish him and his wife, Becky, the very best as they return to Jacksonville, AL.

Mr. Speaker, both these gentlemen have given great service to Alabama and to the Nation and have extended great courtesy to me personally and I thank them. God go with them.

Mr. CALLAHAN. Mr. Speaker, I thank the gentleman from Alabama, and at this time we are going to go outside the State of Alabama, Mr. Speaker. I yield time to the gentlewoman from Arkansas, Mrs. BLANCHE LINCOLN.

Mrs. LINCOLN. Mr. Speaker, I thank the gentleman from Alabama for yielding. I, too, Mr. Speaker, rise today to pay tribute to two fine gentlemen from the State of Alabama. I am also proud to be here among the other folks that are here paying tribute. I find myself in excellent company.

I have had the privilege of serving with these two gentlemen for my tenure here in the Congress. I feel like it has been a real honor to be along their side.

Congressman TOM BEVILL has served the Fourth District of Alabama with distinction since 1966, but in many ways he has served all of our districts at one time or another. As chairman of the Energy and Water Appropriations Subcommittee from 1977 to 1994, Congressman BEVILL has probably been more instrumental than any Member in protecting, preserving, and managing America's water resources.

His charge has not been an easy one in distributing an ever-shrinking amount of funds to an ever-increasing number of worthy projects from around the Nation. Yet he has always been fair and nonpartisan in his work, and his word is ironclad.

When I first came to Congress 4 years ago, the appropriations process was an unintelligible maze to me. In an effort to understand the process better and to serve my district, I went to TOM BEVILL for advice. It could have been a very intimidating experience, a young woman, new on Capitol Hill, visiting a powerful chairman, but it was not. TOM BEVILL welcomed me as an equal and treated me with the utmost of respect. He helped me learn more about the process and was instrumental in guiding several landmark Arkansas water projects through the Congress, one on behalf of the people of the First District of Arkansas. I want to thank him for his hard work on our behalf.

I know that Mr. BEVILL's best days are ahead of him as he leaves Congress to return to his life of a private citizen. I want to wish him and his wife Lou the best.

There is one story I think that I must share with the rest of my colleagues, and I think it says a little bit about Mr. BEVILL that we all really know.

Not only has he served the people of this country and of Alabama and all of our other districts well, he has done so in a very wise and gentlemanly way, but he has not forgotten the important things in life. One day as we sat on the floor here, Mr. BEVILL and I were visiting, and I had on a red jacket. And he looked at me and he said: I see you in that red jacket and, he said, I am reminded. My wife was wearing a red jacket the day that we first had our—I think it was the day you proposed to her, perhaps? Or maybe it was your first date.

TOM BEVILL does not forget, and he does not forget the most important things in life. He has served us all very well in this institution. He served our Nation and the folks of Alabama. We would all do well to follow the example of his career, commitment, fairness, grace, and humility. TOM BEVILL is the kind of Member and person that we all strive to be, and I am proud to have served here with him and to have learned so much.

Mr. Speaker, I also want to say a word about my fellow Congressman, GLEN BROWDER, from Alabama's Third District. I have had the true honor of serving as a blue dog with GLEN during the 104th Congress. GLEN, like myself, is a founding member of this notorious band of independent Democrats. We have worked hard for that name and have had a great deal of fun with it.

The blue dog mission, however, has been about meeting two principal goals: balancing the budget in a fiscally responsible as well as a fair way, and bringing commonsense solutions to Washington, DC.

Since coming to Congress in 1989, GLEN has never swayed from those goals. He was instrumental in crafting the blue dogs' balanced budget and had an active voice in all of our policy decisions.

I am not sure what GLEN's plans are for the future, but I certainly know he will bring the same dedications and honor to his new endeavors as he has to his work here in Congress. I join my colleagues in honoring these two gentlemen, and I wish them Godspeed in the future ahead for both of them.

Mr. CALLAHAN. Mr. Speaker, I thank the gentlewoman from Arkansas, and I now recognize the gentleman from north Alabama, Mr. CRAMER.

Mr. CRAMER. Mr. Speaker, I thank my colleague from Alabama. I, of course, want to stand here today to pay tribute to two of my best friends, TOM BEVILL and GLEN BROWDER. I joined this Alabama team in 1991, so I have been here for 6 years. During that time the entire Alabama delegation taught me that Alabama has a notorious reputation for sticking together. We put Alabama's issues first, we put our party labels second.

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And they demonstrated that all of the time that I was here. Of course, TOM BEVILL and I represent all of north Alabama. I have many industries in north Alabama that are dependent for their jobs on Federal budgets, like the NASA Marshall Space Flight Center and the Army presence at Redstone Arsenal. I have the Tennessee Valley Authority in north Alabama, as well.

We have so many connections to the Federal budget that if any part of it is squeezed, we feel part of the pain from that squeeze. TOM BEVILL jumped from the get-go when I got here to make sure that I had available to me his position of power, as I would put it, not as he would put it, there on the Subcommittee on Energy and Water and on the Committee on Appropriations, as well.

Whenever I needed to fight a battle, I could fight that battle with the presence of TOM BEVILL, literally. Tom and his wife Lou, his daughters Patty and Susan, and his son Don, are like family members to me, so it is very difficult for me to think of losing TOM BEVILL to this institution, much less as part of my professional life here in the Congress.

But as I stand here today in the presence of JOHN MYERS, and SONNY MONTGOMERY who left here, and listen to them talk, as I have both today and days before today, about their experiences here together and separately in this Congress, it makes me think that they just do not make people like that much anymore. They are all three illustrations to those of us here now that the behavior that we sometimes fall into does not have to be fallen into.

These are men who work well together. They put their partisan politics to the side. There is an appropriate place for that, but they bring into this institution daily a professionalism that would be hard to match this day and time. We are going to miss all three of them.

My colleague, GLEN BROWDER, was slightly behind me in his tenure here. I should say ahead of me; he came here slightly before I came here. And GLEN was, as well, an Alabama team member available to me when I got here; from Jacksonville State University, where he served on the faculty at that fine Alabama educational institution. He served also in the Alabama State House. He was Alabama Secretary of State as well. He brought that Alabama background to our Alabama team.

Of course, when you come to Congress you do not get to be on every committee you want to be on. GLEN was on the Armed Services Committee and, as I said, with our presence in north Alabama at the Redstone Arsenal, with the jobs that we had there, often I had to go to GLEN and say, "We in the Fifth District need your help."

And he was available to me just as the rest of the Alabama team was available to me. And because I have the kind of district that I have, I was often turning to GLEN for advice about how do I get ready to fight NASA's battles on the floor or how do I help my district with the weather service issues that we constantly have there? And he was always available to help me, whether that meant meeting with constituents there or whether it was joining with me to lobby on the floor to win the victories that we needed to win.

GLEN, to you and your wife Becky, and daughter, I will lose you as family members, as well. I have enjoyed your presence and your moral support here in Congress. You, as well as TOM BEVILL, represent the kind of personality and professionalism that I want to be a part of while I am here. We will miss you, but we will look forward to seeing you and working with you in different ways. TOM BEVILL, GLEN BROWDER, we will miss you. Alabama thanks you, as we should.

Mr. CALLAHAN. Mr. Speaker, I now yield time to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding and for taking out this special order to honor two of the very distinguished Members of this body who happen to be from the great State of Alabama.

GLEN BROWDER, whom we have known since he came here, one of the great and distinguished Members of this body who has served our country so very, very well in his tenure. And GLEN, we wish for you the best in your future endeavors, and we are going to miss your service around here. We hope we do not miss your company. We hope you will come back and be with us all the time that you can.

Of course, the other Member who is being honored here today, TOM BEVILL, whom I have had the pleasure of serving with not only in this body but in the committee and on his subcommittee of recent years, I do not know how I can summarize this man's life in Congress in 2 or 3 minutes. In fact, I do not think I can. But I am reminded of something that was written some years ago that I think applies to TOM BEVILL as well as anything that I could say, and I am just going to quote it.

The writing was, "Real generosity is doing something nice for someone who will never find it out."

And, Mr. Speaker, there are thousands of people in my district and in every district in this country who would not know TOM BEVILL's name and yet who have benefited magnificently from his work here in this body. He has been so many things to so many people, touching the lives of millions of people who would not know his name if they heard it and likely never will.

And that is the nature of the labors of TOM BEVILL. To his colleagues, he is both the quiet, genteel, gentle man who served as chairman of a very powerful subcommittee of this body, and he is a very caring southern gentleman in the corridors of this Capitol.

To his constituents back home, he was and is a man and leader who rose to one of the most powerful positions in the Federal Government and yet never forgot where he came from, where he lives, who he is, who sent him here, and what he could do for his district and his Nation.

And as has been said, the evidence of his devotion to his people back home is evident in every corner of his district in Alabama. And not just in his home district, as TERRY has said, but throughout the State of Alabama and certainly throughout the Nation.

His support for higher education is symbolized by the tremendous assistance he has been to the University of Alabama. His appreciation for his State's lands and rivers. I mentioned the Little River Canyon National Preserve as one star in his crown. And, of course, as has been mentioned, the Tennessee-Tombigbee Waterway. I will not forget going down to the dedication of that great economic boost to the entirety of the Southeast United States, and being so proud to stand there as TOM BEVILL was lauded by the people of his home region and the rest of this country for that signal improvement to the Southeast.

And of course I have been a very close friend with TOM over the years on so many fronts, but one comes to mind immediately, and that is his tremendous work on behalf of the Appalachian Regional Commission, a region that we share, and the ARC would not exist today had it not been for the work of TOM BEVILL. It would have been done away with years ago; certainly the funding would have been sliced to a negligible amount.

The same can be said of the Tennessee Valley Authority, which has meant so much to the economic growth of the entire South. And since TOM BEVILL has been here, the TVA has had no bigger and better or more effective supporter and promoter than TOM BEVILL.

We could talk about the silent work that he has done for which there is no notoriety or credit, even dating back to his very first days in the Congress, on this committee responsible, among other things, for the Nation's nuclear capability. It is this subcommittee that TOM BEVILL chaired for so many years that funded the Nation's nuclear weaponry, and of course that had to be done in supersecrecy.

And I know personally of the long hours that TOM BEVILL has sat and worked with the most powerful weaponry known to mankind, being sure that this Nation was prepared in the eventuality of that awful event of Armageddon. And through most of the cold war era it was TOM BEVILL who sat in the hall and decided how much money would be spent and for what in the Nation's preparation for our nuclear protection. That is a thankless job that TOM BEVILL did with great effectiveness and pride.

But my personal point of view, my district's point of view, there are literally thousands of people today in my district who are now protected from the ravages of nature, flooding, that TOM BEVILL saw to. And I suspect a great many Members of this body can say exactly the same thing, but I can say it with feeling, as can they, that TOM, our people thank you for your dedication to their well-being; people who never saw, people probably that would not recognize your name, except when I tell them who did it, that are now protected from these almost annual ravages of having their homes washed away, their family Bibles destroyed, their family pictures washed away. Everything they have would be gone. Today they can say they are safe because of your service to your country and to them in this great body. The infrastructure of our country has done well because of your tenure.

I am reminded of two stonecutters who were asked the same question, and I say this because TOM BEVILL kept in mind why he was here all the while. He did not waiver. He did not wander, he was always there. Two stonecutters were asked the same question: What are you doing? The first one said, "I am cutting this block into two pieces." The second one, though, said, "I am on a team and we are building a cathedral."

TOM has been on the team, and he has been building not a cathedral but a much, much better America, and for that we are eternally thankful to him.

I have to say this in closing, too. His wife, Lou, was one of my and my late wife Shirley's best friends. These two people, as his close friends and even distant friends know, are two of the best people that God ever created. Lou, an accomplished musician among other things in her life, is a true American and a great American, and someone that we are going to miss almost as much as TOM, if not more so. But we are going to miss the service of a gentle man. He was gentle, and yet when it came to the things that he believed in, a better America, he was tenacious and he persevered and at times was even ferocious in his defense of these things so important to him, his district, and our people across the country.

I know that TOM and Lou are going to enjoy the next phase of their life. We hope for the very, very best. We hope that they will at least come back and honor us with their presence, because we are going to sorely miss their personal friendship in their absence from us for what time they are absent.

So, TOM, in your next phase of your life, we wish you Godspeed.

Mr. CALLAHAN. Mr. Speaker, I thank the gentleman from Kentucky. And I now recognize the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS. Mr. Speaker, I thank Mr. CALLAHAN.

Mr. CRAMER mentioned the Alabama delegation and what a special group I think we are. I think he said it better than I would have said it when he said that party labels come second. We put the interest of the State first.

We have not had the partisan wrangling that we have sort of seen in this Congress in our delegation. We really like each other, we work well together, we cooperate together. It is the sort of bipartisanship that this country needs, and you see it in the Alabama delegation. And I think that the two gentleman we are here to give tribute to today are two of the big reasons for that.

GLEN BROWDER and TOM BEVILL, you all were here before I came. You worked well together. You worked well with SONNY CALLAHAN and Bill Dickenson, and you sort of established that tradition in the Alabama delegation, something that I benefited from, something that the State of Alabama has benefited from, our delegation, working together for the good of the State and for the Nation. And, first of all, I think that is a legacy that you all will leave with those who stay behind, that we will continue as an Alabama delegation to put aside petty politics and party labels for the best interests of our State.

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So I compliment you first for that.

Second, I compliment you for the fact that you have been a good example to me, both of you. When I came here, I came into a Congress where I was a Member of a minority party. And probably the first month I was here, the first legislation that I decided to sponsor, a little piece of legislation, saved a little bit of money in the total picture, but I went to TOM BEVILL. I am not sure at that time I appreciated that he was a powerful cardinal on appropriations. I probably did not even know that I was not supposed to be approaching him at the time, but I approached him and I asked him to cosponsor my bill with me.

He could have said, I am not going to cosponsor a bill with you. You are a little Republican freshman and I am not going to give you the benefit of my reputation. It is too small a bill. It is just too inconsequential. I am working on important issues that affect this country every day. I do not want to give a young Republican Congressman anything that might give him an advantage.

But, no, Mr. Speaker, he put all of that aside. He saw that it was good legislation, and he cosponsored it with me. I was able to get Members on both sides of the aisle to join with me in that legislation because TOM BEVILL's name was on that legislation.

I will never forget that, TOM. Mr. ROGERS from Kentucky, his district and your district are very much alike. One is in Kentucky; one is in Alabama. But they are Appalachia. They are hard-working people. They are God-fearing people. And he much better than I could describe, he served with you here longer. He has known you and Lou, he and his late wife Shirley. You all were good friends. He knows you man to man. He can much better talk about your legacy than I can. I enjoyed listening to that. I can simply say that I second everything that he said in that regard. He certainly gave a wonderful tribute to you.

I would only add to that by saying that I have been so impressed with your wife, Lou Bevill. She sort of, I guess if you pick out someone that you want your wife to sort of use as a role model, because she is here, she is up here and she, as my wife is, they are both here with us during the week. I am so impressed with her, her and Mike Heflin. It is hard to talk about GLEN BROWDER and TOM BEVILL without thinking about Senator HEFLIN because that is sort of a dynamic trio that we are going to be without. I am going to miss you; I am going to miss Lou. I am going to miss Senator HEFLIN, and I am going to miss Mike. It is hard to think of you without thinking of Lou. It is hard to think about Senator HEFLIN without thinking about Mike. I wanted to tell you how much I appreciated her and her example.

Mr. EVERETT mentioned the joke about every building in north Alabama having a Bevill center. I told you about a year ago at a reception that we had, I was actually trying to describe a town in your district to someone. And I described it as having a railroad that ran through it and about two traffic lights. It was on Highway 78. That really did not give them much of an indication.

I remembered that there was a building in the town that said the Bevill Building. I said, it has a building named after TOM BEVILL. And actually this person's remark back to me was, You have not eliminated one town on Highway 78 by saying it had a Bevill Building in it.

So you have left behind in your district a better place and something that you can be proud of.

They mentioned the University of Alabama. You have been committed also to our community colleges in Alabama. Even as a member of the State legislature, GLEN and I preceded you several years later, but you were one of the first in Alabama to recognize that not everybody could go to the University of Alabama; not everybody could go 120 miles to Auburn University. So some people had to go in their communities. If they had to travel over 20 or 30 or 40 miles, they simply would not get an education. And you were one of the people in Alabama who led the fight for community colleges. Thousands and literally millions of Alabamians owe that part of their education to your insight and your wisdom and your participation in that.

GLEN BROWDER, I will tell you a tribute, once a man asked me if I would recommend him for a job. I said that I would recommend him because he had coached my little boy in Little League and he had done a good job. You learn something about somebody when they coach your son in Little League baseball. You get a real insight into them. And I remember that when I came up here and GLEN BROWDER and I were going to serve together, I knew GLEN, as we had been in the State legislature together. You had been a constitutional officer in the State. I had been. But I knew you as capable. I knew you as articulate. I knew you as a good man. But Randy Dempsey, one of my law partners, he had been in your class. You taught him at Jacksonville State. And you had evidently been a mentor to him and you had encouraged him.

He shared with me what a fine teacher you were and how you really cared about your students and how your students really enjoyed your classes. You did a good job and you really cared about the students. GLEN, that has always impressed me, that someone who was there in your classroom had such a wonderful opinion of you.

Becky, your wife, people like Becky, people are impressed with Becky. There, again, both of you, you all have several similarities. One is that you are committed to your family. You are committed to your marriages. I commend you. You are a good example in that regard.

GLEN, you are going to leave a legacy to our gulf war veterans. That is something that I came about 25 minutes ago and I had not heard anybody mention. But I am not sure if you are not the first person to go over to the Pentagon and say, we have got people that have returned from the gulf war. They are sick.

Mr. CALLAHAN. Mr. Speaker, I hate to interrupt the gentleman from Birmingham, but we only have 4 minutes left and we have two more distinguished speakers.

Mr. BACHUS. I will simply say this, GLEN. That is a devastating illness. You have been at the forefront of that and you are to be commended on that. And all our gulf veterans and all of us who support the military owe you a debt of gratitude for that.

Mr. CALLAHAN. I certainly hate to interrupt the gentleman.

Mr. Speaker, I yield to the gentleman from Minnesota, Mr. VENTO.

Mr. VENTO. I thank the gentleman, Mr. CALLAHAN, for this special order and wanted to commend my friends and colleagues, Congressmen TOM BEVILL and GLEN BROWDER. I think that what we see epitomized in these two good national policymakers is the magic of what happens in Congress.

People are elected with many different talents and they assume responsibility here, and although they are not specialists in national security or specialists in the role, they grow into that role and do yeoman's service. That certainly is the case with our friend GLEN BROWDER, and TOM BEVILL has grown really to be a giant in the work he has done in trying to hold together programs like the Corps of Engineers.

Over 30 years we have seen that evolve from a far different role than what it has played before. It really shows up when you work with him on a different project, as we did with a park unit in his district. It was one of the easier jobs I have had chairing the committee because I did not have to ask anyone to help. TOM did all the work, and he had helped so many Members of Congress and had had such an impact that it was obviously with acclaim that that was enacted. TOM, it was a tough job for you but we commend you and Lou and GLEN and Becky, and we wish you well. I know in the case of GLEN it is just an interruption in terms of his public service. We look to see him back in action quite soon. Best wishes to you all. Thank you for your services for the country.

Mr. Speaker, let me congratulate TOM BEVILL and thank his colleague from Alabama for sponsoring this special order in TOM BEVILL's and GLEN BROWDER's honor. These are really two good Members who will be missed and reflect very positively upon the Congress, their good State of Alabama, and the Nation.

GLEN BROWDER a teacher, farmer, Alabama State legislator, and State official served in Congress for 8 years, and has made an impressive contribution in national security and congressional reform issues. GLEN sought election to the other body, and for the moment is sidelined from public service but I've every expectation that our friend GLEN BROWDER will be back in public service in the near future. My best to GLEN, Becky, and their family as they make a transition within public service.

TOM BEVILL for over 30 years has labored and contributed in his role of representing the people of Alabama in the U.S. House. His work on the Appropriations Committee has been very important, in the last years he has reformed and guided this program of projects based on merit not just legislative clout.

TOM has been my neighbor in the Rayburn Office Building these past 10 years. We've spent many days walking back and forth to the floor to vote, he has been a good counselor and friend. I was pleased to work with TOM on the Little River Canyon National Park Unit in the authorizing process as I led the Parks and Public Lands Subcommittee, one of the easier tasks I had because TOM really did the heavy lifting. He had more friends, both Democrats and Republicans, that were interested in helping which is a real tribute for TOM BEVILL. Naturally this became the first national park unit in Alabama, a legacy that will hopefully be in Alabama forever a testament to Congressman BEVILL.

My colleague, my friend, you have well earned your place in our affection and best wishes to you TOM, Lou and the family in the years ahead as you enjoy your free time from the duties of service in the Congress.

Mr. CALLAHAN. I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank my friend, Cardinal CALLAHAN, for yielding.

Mr. CALLAHAN. You may approach.

Mr. HOYER. I have just a few minutes. Two decent Americans are leaving the service of the people's House at the end of this year. This House will be a lesser body for their departure. Alabama will have suffered a significant loss.

Each of us individually in this House will have lost good friends. GLEN BROWDER is a relative newcomer relative to Mr. BEVILL but then again, most of us are relative newcomers relative to Mr. BEVILL. GLEN BROWDER, as SPENCE BACHUS indicated, is someone who cares about people, who is a capable, able, regular guy that you would be proud to have as your dad or your brother or your uncle or as your Congressman. I have been honored to serve with him.

TOM BEVILL is a giant. TOM BEVILL helped America invest in its future. One of the first votes I cast was on the Tennessee-Tombigbee when I came here to Congress. It was a controversial vote. It was the right vote. TOM BEVILL stood and said if America is to grow, if we are to create jobs, if we are to have economic viability and be competitive in world markets, we need to invest in America.

TOM BEVILL is my friend and he is an historic figure in this body. Few Members who have ever served in this House will be able to look back on their record of making America better. That is TOM BEVILL's. God bless you, TOM.

Mr. CALLAHAN. Mr. Speaker, I yield to the gentleman from Alabama, Mr. HILLIARD.

Mr. HILLIARD. Mr. Speaker, I am very appreciative for the time to both of my friends, TOM BEVILL as well as GLEN BROWDER. I am very happy to have had the pleasure to serve with both of them. I have known GLEN BROWDER for about 20 years. We served together in the Alabama State Legislature, and it was indeed a pleasure to have had the opportunity to serve with him there as well as here.

But to my good friend TOM BEVILL, he has been a true Alabamian, he has been a true American. He has been true to the cause. He has been fantastic in what he has done for this country. I congratulate him for his length of service, and I thank you for giving me the opportunity of being here with you.

I will surely miss both TOM BEVILL and GLEN BROWDER. We have been lucky, and yes, blessed, to have had two such strong Congressmen as these men, they are able and true. First, I must mention my good friend, TOM BEVILL of Alabama's Fourth District. Mr. BEVILL, as chairman of the Appropriations' Energy and Water Development Subcommittee created the Tenn-Tom Waterway which flows through the length of my district. Just last week, TOM helped me in my efforts to stop the flooding along Birmingham's Village Creek, an area which is not even close to Mr. BEVILL's district, but that is the kind of man he is, kind and caring, a real gentleman.

Also, Mr. Speaker, allow me to say how much I will also miss Alabama's GLEN BROWDER, of the Third District. GLEN, a former political science professor, as well as a member of the Alabama Legislature, brought a professionalism to the House and to the Armed Services Committee which is hard to beat.

We will miss both of you, Congressman BEVILL and Mr. BROWDER.

Mr. CALLAHAN. Mr. Speaker, in closing, let me thank the Speaker for his patience. I recognize our time has expired. The gentleman from Louisiana, I think, is next going to be recognized and he has indicated since so many Members want to pay homage to TOM that he may yield some time to them. But this is not a eulogy. This is just an appreciation ceremony to two great Americans.

Mr. STOKES. Mr. Speaker, I want to thank my colleague, the distinguished gentleman from Alabama, SONNY CALLAHAN, for reserving this special order. We gather today to pay tribute to retiring members of the Alabama congressional delegation. I am honored to join my colleagues in saluting Congressman GLEN BROWDER, who represents the Third Congressional District of Alabama.

GLEN BOWDER was elected to the U.S. Congress in a special election in 1989. Prior to his election, GLEN served in the Alabama State House of Representatives from 1982 to 1986. In 1986, GLEN BROWDER won election as Alabama's Secretary of State, and served with distinction in that capacity. Thus, he came to this legislative body armed with strong political skills and a commitment to public service. During his 7-year tenure in the Congress, the Nation has benefited as a result of his leadership on important issues.

Mr. Speaker, GLEN BROWDER has served with distinction on the National Security Committee where he is a member of the Subcommittee on Military Installations and Facilities, and Military Readiness. In addition, he is the ranking minority member of the Subcommittee on Morale, Welfare and Recreation. GLEN has also served with distinction as a member of the House Budget Committee.

During his career in the House, we recall GLEN BROWDER's efforts to serve his constituents by keeping Fort McClellan Army Base operational. He has pushed the Defense Department to be more forthcoming on the use of chemical weapons during the Persian Gulf war. GLEN BROWDER has also gained respect for spearheading efforts to reform our Nation's campaign finance regulations. His hard work has earned him the respect and admiration of his colleagues and others across the Nation.

Mr. Speaker, as he departs this legislative Chamber, we pause to pay tribute to GLEN

BROWDER. He is a skilled legislator whose voice will be missed in the Halls of Congress. We also extend our good wishes to his wife, Becky, and members of the Browder family. GLEN is a good friend who will always be remembered.

Mr. RICHARDSON. Mr. Speaker, I rise today to join my colleagues in acknowledging one of the finest Members of the House of Representatives, TOM BEVILL.

As a Member of this House since 1966, TOM has been a respected and intellectual leader. His work as chairman of the Subcommittee on Energy and Water Appropriations has produced the Nation's major energy research programs and America's water resource projects. TOM has also been a true advocate for senior citizens by working hard in defense of Social Security.

I want to specifically mention that TOM always found time amidst his extremely busy schedule to consider the concerns of other Members. I remember a time when TOM came to my home State of New Mexico to study the irrigation needs of the Hispanic communities in my district. Because of TOM's assistance and support, many of New Mexico's centuries old irrigation ditches, so-called acequias, have received critical congressional funding for needed repair and restoration. Not only did TOM devote his energy and skill to his constituents, but he also found time to care about mine.

TOM added dignity to this House by working in the spirit of bipartisanship, and he will definitely be missed. Good luck, TOM and thank you for all you have done for this great institution.

Mr. RAHALL. Mr. Speaker, I feel particularly privileged to be able to say farewell to Representatives TOM BEVILL and GLEN BROWDER of Alabama as friends as well as beloved colleagues in the House. I have learned much from them, and I appreciate their having allowed me to grow as a Member by drawing from the wealth of their experience and their knowledge.

TOM BEVILL was elected a full 10 years ahead of my election to the House, in 1966, and he has been reelected by overwhelming margins ever since by the folks he represents in Alabama's Fourth Congressional District.

As chairman of the Energy and Water Appropriations Subcommittee, TOM has stood with me many, many times on behalf of the people I serve in southern West Virginia as we worked together to facilitate development of West Virginia's waterways and energy development projects. My constituents have benefited greatly through TOM's willingness to listen and to understand and to respond to the needs of my congressional district with respect to water resources development and Corps of Engineers projects throughout southern West Virginia.

TOM BEVILL's mastery of the appropriations process is legendary. The people of the Fourth Congressional District of Alabama are indeed fortunate to have had such a champion fighting for their needs all these years, and he will be long remembered by all of us who remain behind here in this body as the man who helped each of us better serve our own constituents. He is a man who believed that every dollar he ever appropriated was spent on a worthy cause—to help someone down on his luck, to help a community grow, to help a university educate its young people, to ensure that a small child had enough to eat. And he believed that money for these purposes needed to be spent in Alabama, and in West Virginia, and in every State in the Union.

TOM BEVILL has served with distinction, pride, integrity and style. He will be sorely missed in the years to come by this House of Representatives.

GLEN BROWDER, elected in 1989, has served with distinction on the National Security Committee, formerly the Armed Services Committee, where he has labored to fulfill a responsibility to assure that our Nation's military readiness is second to none in the world.

While many of us in the House never served on committees with jurisdiction over out national security, I knew, and my colleagues knew, that we could rely upon GLEN's knowledge and expertise in the area of national defense in keeping us strong as a nation and ready to defend our country, its people, and our allies abroad. We knew that GLEN's thoroughness and his vast knowledge about our armed services and military readiness, would lead to a reasonable and responsible use of our vast military resources where they would do the most good.

GLEN also served his constituents in the Third Congressional District of Alabama, not only by making wise decisions of our Nation's security, but by taking great care to see to the domestic needs of the people in Alabama's Third Congressional District. He combined his natural leadership skills with his innate sensitivity to their socioeconomic circumstances in order to improve the lives of his people.

Above all, both TOM and GLEN deeply believed in good Government throughout their tenures in the House, and their years of service and commitment to good government is visible across this great country. I commend them for their diligent service to Alabama and to the United States.

I wish them both Godspeed.

Mr. STOKES. Mr. Speaker, I want to thank my colleague, the distinguished gentleman from Alabama, SONNY CALLAHAN, for reserving this special order. We gather today to pay tribute to retiring members of the Alabama congressional delegation. I am honored to join my colleagues in paying special tribute to TOM BEVILL, who will depart the U.S. Congress at the end of this legislative session.

TOM BEVILL was first elected to the U.S. Congress on November 8, 1966. His retirement brings to a close a 30-year career in public service. I share the sentiments of many others who state that TOM is one of the most respected and effective Members to have served in this legislative body.

Mr. Speaker, TOM BEVILL is a senior member of the House Appropriations Committee and the former chairman of its Subcommittee on Energy and Water Development. He is also a member of the Appropriations Subcommittee on the Interior. Through these assignments, TOM BEVILL has been instrumental in funding the Nation's major energy research programs and our Nation's water resource development projects.

The Fourth Congressional District of Alabama has benefited as a result of TOM BEVILL's commitment and hard work. I recall working closely with TOM BEVILL on the Tennessee-Tombigbee Waterway project. It was an important initiative that could not have gone forward without his strong leadership. During his tenure in Congress, TOM has also demonstrated a steadfast commitment to education. A leading defender of Social Security and Medicare, as well as a a strong advocate for health care, TOM has earned the support of our Nation's seniors.

Mr. Speaker, I have been privileged to serve in the Congress with TOM BEVILL. He is a skilled lawmaker and a dedicated public servant. He is also a gentleman and a close personal friend. Throughout our Appropriations Committee and floor deliberations, he as been the voice of reason and compassion. Members on both sides of the aisle will agree that over the years, TOM BEVILL has taught us valuable lessons about working together and public service. I am proud to share a very special relationship with TOM BEVILL. He is someone whom I greatly admire and respect.

Mr. Speaker, as he departs this legislative Chamber, I join my colleagues in saluting TOM BEVILL for a job well done. I also extend my best wishes to his charming wife, Lou, and members of the Bevill family. TOM BEVILL will be missed in the Halls of Congress. We take pride in knowing, however, that he leaves behind a record of legislative achievement and service that will stand in the years to come.

Mr. SENSENBRENNER. Mr. Speaker, I rise today to pay tribute to the gentleman from Alabama, Mr. GLEN BROWDER, for his service in the U.S. House of Representatives on behalf of Alabama's Third District residents.

Mr. BROWDER first entered the public arena in 1982, winning a seat to the Alabama House of Representatives. Four years later, he was elected secretary of state, where he succeeded in persuading the legislature to adopt stricter campaign finance disclosures.

In 1989, Mr. BROWDER won a special election contest for Congress, where he has honorably represented Alabama's Third District ever since.

While in Congress, Mr. BROWDER has been a bipartisan leader in the push for campaign finance reform. He deserves thanks for his leadership in attacking this and other difficult issues. Furthermore, he has been active on the House Budget Committee in attempting to eliminate wasteful Federal Government spending.

On behalf of the citizens of Wisconsin's Ninth District, I thank Mr. GLEN BROWDER for his outstanding service to the United States.

Mr. SENSENBRENNER. Mr. Speaker, today I rise to pay tribute to the gentleman from Alabama, Mr. TOM BEVILL, who has honorably served the residents of Alabama's Fourth District for the past 30 years as their Representative in the United States Congress.

Mr. BEVILL first served our country in the U.S. Army during World War II. A few years later, he began representing Alabama citizens in the Alabama House of Representatives, where he served for 8 years.

Beginning in 1967, Mr. BEVILL has represented the northern region of Alabama in Congress. Through his years, Mr. BEVILL has earned the respect of his congressional colleagues and the public alike. Thanks to his efforts, many water and energy project ideas became a reality.

Mr. BEVILL's constituents appreciated his hard work and efforts, rewarding him with large reelection margins each times.

Over his years in Congress, Mr. BEVILL has truly been the distinguished gentleman from Alabama.

On behalf of the citizens of Wisconsin's Ninth District, I thank Mr. TOM BEVILL for his outstanding service to the United States.

Ms. PELOSI. Mr. Speaker, I rise today to join with my colleagues in acknowledging the contribution of my good friend, TOM BEVILL, our esteemed colleague has provided such great leadership as chairman of the Energy and Water Development Appropriations Subcommittee and in this Congress as our distinguished ranking member. He will always be "Mr. Chairman."

Mr. TOM BEVILL was elected to this body more than 30 years ago and has proudly represented his constituents in Alabama. The Tennessee-Tombigbee Waterway is a monument to Chairman BEVILL's work. This barge canal stretches from North Alabama to the Gulf of Mexico and a lock and dam on the canal bear the chairman's name. He has fought Presidents in both parties to secure important development projects and has stood with Members from both sides of the aisle to work to move this country toward the 21st century.

I am proud to have served with TOM. He is an example for us all. TOM has always advanced a bipartisan agenda, and looked at the merits of water projects regardless of party. As chairman of the Energy and Water Subcommittee, Congressman BEVILL boasted that he had never brought a bill to the floor without the full consent and support of then ranking member Myers. I am proud to see that his example has extended to this Congress, and I commend him and the example he has set. His bipartisan spirit has created a model for committee efficiency and has crated lasting water projects as its legacy.

Chairman BEVILL has also been a strong advocate of important water projects in the San Francisco Bay area. His strong support of the San Francisco Bay has provided funds for dredging, erosion control programs and general maintenance. He has supported the Sacramento River Winter-Run Chinook Salmon Program and provided funds for a long-term planning strategy for the San Francisco Bay. His efforts resulted in the important San Francisco breakwater that protects the city shoreline from the ravages of storms. His support will long be remembered by many in San Francisco.

The House of Representatives will miss Chairman BEVILL. He is a friend, an example and a leader to all of us. I wish him well in his retirement. He will be missed but always remembered for his extraordinary leadership in this House.

Mr. PICKETT. Mr. Speaker, it is a pleasure to participate in the remarks being made at this special order today on behalf of our colleagues, Representative TOM BEVILL and Representative GLEN BROWDER, both of Alabama, who will be leaving the House of Representatives at the end of this session.

It has been my good fortune to have the opportunity to work with these two gentlemen and participate with them on activities and programs related to our work in the House of Representatives. Both men are of exemplary character and have always shown an interest in discussing and pursuing issues and programs beneficial to our citizens. They bring with them to every discussion the grace, dignity, and respect for others that arises only from strong and resolute religious convictions.

TOM BEVILL has been a much loved and respected member of the Appropriations Committee where he has served diligently and honorably as both chairman and ranking member of the Subcommittee on Energy and Water Development. He has gained a broad knowledge of the many needs existing in communities around our Nation for water projects beneficial for health, safety, and economic reasons. He has also been privileged to observe many water improvement projects where he has participated in the dedication after they have been successfully completed as a result of financial assistance provided at the direction of his subcommittee. His wise and prudent stewardship on this subcommittee will be fondly remembered by those who worked with him and deeply appreciated by those communities and citizens who have benefitted from his favorable action.

GLEN BROWDER has been no less diligent in his work on the National Security Committee, leaving his favorable mark on policies developed by the Morale, Welfare and Recreation Panel as well as issues related to base closings, force readiness, health benefits for veterans, and the structuring of the military depot maintenance system. Glen has pursued his objectives with quiet determination and has benefitted both his congressional district and our Nation's national security by his persistence and sincerity in seeing an issue through to a favorable conclusion.

I have a deep and abiding respect and admiration for both these fine Members of the House and know that they will continue to apply their energy and efforts in support of the people and communities they represent. It is our good fortune to have men with the temperament, drive, and ability of TOM BEVILL and GLEN BROWDER serving as Members of the House of Representatives. I wish them good health and happiness in their future endeavors, and success and joy in all their future undertakings. They deserve no less.

AFFIRMATIVE ACTION

The SPEAKER pro tempore (Mr. QUINN). Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. JACKSON] is recognized for 60 minutes.

CONTINUED TRIBUTE TO TOM BEVILL AND GLEN BROWDER

Mr. JACKSON of Illinois. Mr. Speaker, with that I yield to the distinguished ranking member, the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I thank the gentleman from Illinois for yielding to me. I will just take a couple of moments of his time. I am sorry that I did not arrive earlier to be able to speak on Mr. CALLAHAN's special order on behalf of TOM BEVILL and GLEN BROWDER. Mr. OBEY and I have been in a House-Senate conference on the VA-HUD bill, and we just got a chance to get here to the floor.

I will just take a moment, but I do want to say that with reference to TOM BEVILL, with whom I have served almost all the time that I have been in the Congress, that I have established a lot of friendships in this Congress but no greater friendship have I had than that I have had with TOM BEVILL. I do not know of any Member of Congress who is respected any more highly than he is, nor do I know of anyone who has made a greater contribution to this Nation than he has.

We have worked on a lot of projects together over the years and it has been a real privilege and honor to serve with him, to get to know not only him but members of his family, his lovely wife and members of his family. I want to say we are going to miss TOM here.

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His level of leadership has been something that we can all point to as a model and with great admiration.

In the same vein, I want to take just a second to say what a pleasure and privilege it has been to serve with GLEN BROWDER. He too, following in the footsteps of TOM BEVILL and other leaders from Alabama, has been a real model here. He has had a long and distinguished record legislatively and is someone whom all of us not only admire, but we will miss greatly when he leaves this body.

And just lastly, TOM, I might say that I am sure that our good friend, Bob Jones, is watching this special order this afternoon and I am sure there is a smile on his face with the knowledge that you and I shared a special friendship over the years.

Mr. JACKSON of Illinois. I thank you, Mr. STOKES.

Mr. Speaker, I yield to the distinguished ranking member of the Committee on Appropriations, Mr. OBEY.

Mr. OBEY. I thank the gentleman. I do not want to impose on his time. I would simply ask unanimous consent that the remarks I made about our good friend, TOM BEVILL, when we considered the energy and water appropriations bill be incorporated in my remarks at this point in the RECORD and to simply say again, TOM, how much I have enjoyed the opportunity to serve with you and how grateful we are for the service you have given the country.

And I want to say to GLEN that you have, I think, performed tremendous service in this institution with good humor and with grace, with understanding of other people's points of view and with deep commitment to the things that you believe in. That is what makes this country strong, and that is what makes this institution what it is supposed to be, and I thank you both for your service here.

Mr. JACKSON of Illinois. Mr. Speaker, I certainly want to take this opportunity to thank TOM BEVILL and GLEN

BROWDER, as well, for their years of service to this institution, and while I have not had the privilege of knowing and working with them at the level that I wish I could have, their reputations in this institution as genuine public servants certainly precedes them and I am just honored to have the privilege to be from the State of Illinois, to follow in their tradition of public service. The roles that they have represented in this institution are not without great distinction and without the kind of merit that truly needs to be bestowed upon public servants in this institution.

AFFIRMATIVE ACTION

Mr. JACKSON of Illinois. Today, Mr. Speaker, I am joined by the distinguished gentleman from Louisiana [Mr. FIELDS] to talk about an issue of critical importance during this electoral season, the issue of affirmative action, and with that, Mr. Speaker, I would like to ask the gentleman to engage with me in colloquy for the remainder and the balance of our time.

Mr. FIELDS of Louisiana. I thank the gentleman, and I, too, would like to add to the accolades that have been bestowed upon both TOM BEVILL and GLEN BROWDER for their years of service. As a young Member of this Congress, I want to thank each of you for the leadership that you have shown on the floor of the House. You have always conducted yourselves in a very professional manner, and I would hope that people outside of this Chamber have had the opportunity to watch the two of you on the floor, and also in committee. Hopefully, the Congress is better served because you had an opportunity, the two of you had the opportunity, to serve. And as a young Member, I say to you, I appreciate the leadership that you have given to others such as myself.

I want to thank the gentleman from Illinois [Mr. JACKSON] for yielding to me. I want to apologize to the gentleman. I had intended to be a part of this entire hour. I will not be able to participate the full hour, but I want to thank the gentleman for bringing such an important issue to the forefront, and that is affirmative action.

Today, the Small Business Committee held hearings which assessed the value and the continued need for the Small Business Administration's 8(a) program—one of the most successful programs for helping the socially and economically disadvantaged to become self-reliant entrepreneurs. It is no surprise that we find ourselves addressing the issue of affirmative action during this political season—for despite what all of the macroeconomic indicators may describe, many in our Nation find themselves dominated by economic anxiety. We know from past experience that in such a climate politicians use the fear-driven dynamic of scapegoating and blame to divide us from each other.

We are at a critical juncture in the way our Nation addresses issues of race and gender. The greatest civil rights gains were achieved in the 1950's and 1960's at a time of economic health, prosperity, and growth. Today, as we face the results of the globalization of the economy, the downsizing of Government and corporate America, fear-driven political divisiveness abounds and threatens the gains we have made.

There is probably no issue in current political discourse that speaks more to the Nation's acceptance or denial of the existence of race and gender discrimination than affirmative action. After his review of existing affirmative action programs, President Clinton strongly endorsed the principle of equal opportunity and the means to achieve it—strongly and adequately enforced affirmative action programs.

Opponents of affirmative action, who use the issue as a wedge to divide society for the sake of political expediency, uniformly deny that discrimination continues to be a pervasive evil—a fact of life for a majority of Americans. Opponents perpetuate the idea of achieving a colorblind society despite overwhelming evidence of discrimination against people of color. When opponents present their rationale for eliminating affirmative action as a remedy for such discrimination, they often take Dr. King's quote about "judging people by the content of their character and not the color of their skin" out of context. What Dr. King actually said was that "He looked forward to the day" that people would be judged by the content of their character, not the color of their skin. We know that such a day has yet to arrive.

In order to understand why we are discussing affirmative action today, it is important to place the development of affirmative action programs in their proper historical context. To this end, today we would like to first trace the history of affirmative action in America. Second, we will attempt to dispel the myths surrounding this complex arena, and finally, we will specifically address the merits of the 8(a) program and the positive effects it has had and will continue to have on our Nation's small businesses if we sustain this valuable program.

Mr. JACKSON of Illinois. Contrary to popular opinion, the concept of affirmative action has a very long and protracted history in the United States. The longer, more pervasive form has been exclusive affirmative action which established and perpetuated the dominance of white male Anglo-Saxon landowners. For a brief period following the Civil War and then not again until the Civil Rights era of this century, a positive inclusive affirmative action was enacted into law in an effort to end the institutionalized racism and sexism in our society.

The highest law of the land, the U.S. Constitution, codified State-sanctioned preferential treatment for white male landowners, guaranteeing the slave trade, the return of fugitive slaves and the counting of African descendants as three-fifths human. African descendants were prohibited from learning to read, from marrying or giving their children names. Women were not allowed to vote. Native Americans, the original inhabitants of the land, were decimated as a people, and survivors were stripped of political and human rights. Tenant farmers and other non-landowners lacked political rights. While white male landowners reaped the tremendous group benefits of the Homestead Act and the land reclamation laws which provided them with oil and soil-rich land they earned purely by luck of birth, those who had worked the land, mostly Mexican-Americans and Asian-Americans and immigrants, were prevented from owning land by anti-alien laws which were on the books until the 1950's. Asian men were imported to work on the railroad in the West while Asian women were employed in menial positions and Asians were often not allowed to marry.

The judicial branch also enforced exclusive affirmative action. In the 1857 Dred Scott ruling, the Supreme Court made the strongest possible statement of white males' preferred treatment and status, that a black man had no rights that a white was bound to respect. It was not until the Emancipation Proclamation that the concept of inclusive affirmative action originated with the Civil War amendments to the Constitution. The first major Reconstruction legislation was enacted specifically for the benefit of African Americans as a group. The Freedman's Bureau Act of 1865 allowed for provisions, clothing, and for land and for lease of land and sale to descendants of slaves. It also set up schools to educate freed slaves who had previously been denied access to education. This healing period, however, was short-lived.

In 1873, just 8 years later, the Supreme Court narrowly redefined the 14th amendment, giving States broad authority to reestablish second-class citizenship for former slaves. The Tilden-Hayes Compromise of 1877 cut short the potential reconstruction by eliminating the promise of "40 acres and a mule," taking land away from freed slaves, redistributing plantations to original Confederate owners, pulling out Federal troops who were sent in to protect the freed slaves and allow the Ku Klux Klan to reign by terror and oppression.

Then, in 1896, the Supreme Court in Plessy versus Ferguson codified American apartheid with its mandate of separate but equal, legally sanctioning the segregation of the races. Jim Crow laws strictly segregated African Americans in every facet of life from public transportation and accommodations to schools. The disparities were beyond severe with white schools spending more than 10 times the amount of money per pupil than black schools.

Mr. FIELDS of Louisiana. African Americans were not the only group to have suffered at the hands of white male supremacy. White women and women in general did not gain the right to vote until the 19th amendment afforded them suffrage in 1920. Mexican Americans in the southwest were subjected to widespread discrimination in housing, education, and employment. They were murdered, executed without trial, and lynched. Asians were denounced for taking white men's jobs, and the feat of yellow peril led to anti-Asian immigration laws on the books in 1924 and 1945. Japanese Americans were illegally confined to detention cams during World War II and lost most of their property while wrongfully incarcerated.

Exclusive affirmative action remained the law of the land until Brown versus Board of Education in 1954. Brown rejected "separate but equal" as inherently unequal and laid the legal basis to end segregation across the country. Momentum for this milestone had been building since the 1940's and had its roots in educational opportunity. Following WWII, the GI bill laid the groundwork for the first affirmative action plan in education. Upon their return from the war, veterans of all races were offered home loans, job training and a free college education. Veterans of all backgrounds benefited from the college waiver and lower interest requirements that were given extra points on entrance exams and provided extra help for education. Veterans prospered, and so did the Nation. It was in the spirit of equal opportunity that President Truman 47 years ago desegregated, not integrated, the Armed services in 1948. I yield to the gentleman from Illinois.

Mr. JACKSON of Illinois. President Kennedy was the first to coin the phrase of "affirmative action" in his Executive order of 1961 which barred discrimination in Federal employment and in private firms that entered into contracts with the Federal Government. His premise was that those who had been historically locked out by law or by practice would have the opportunity to prove themselves on the job. This order though had no enforcement powers.

In 1964, Lyndon Baines Johnson and Congress passed the Civil Rights Act—the first truly effective piece of civil rights legislation since Reconstruction. Title VII prohibited public and private employers from discriminating based upon race, gender, national origin, or religion. It specifically outlawed the use of "preferential treatment" to any protected group. The act established the right of courts to order affirmative action plans to remedy widespread practices of discrimination.

However, after its passage, individual victims of discrimination found it difficult to prove their cases in court since employers were able to craft counterstrategies which hid their bias. For example, how do you prove that the job has not already been filled, or that you would've received the job on your merit if the employer hadn't hired his son-in-law; or that the employer, upon finding that the most qualified applicant was a person of color, internally filled the slot; or that you were barred from tenure-track position because of your gender?

□ 1700

The reality is that it is really hard to do so, especially for unemployed victims of discrimination who are trying to find a job to survive.

It became clear to policymakers of that day that a proactive government strategy would be necessary to overcome the vestiges of discriminations past. It was not enough to merely cease discriminatory practices. We needed measures to undo or compensate for the effects of past discrimination. We needed an affirmative action to overcome a negative action.

Mr. FIELDS of Louisiana. Mr. Speaker, to that end, in 1965, President Johnson issued Executive order 11246, which required all employers with Federal contracts to file written affirmative action plans with the Office of Federal Contract Compliance Programs, giving a Federal Government review of one-third of the private work force. Announcing his rationale in his famous "to fulfill these rights" speech at Howard University commencement, he stated:

> You do not take a person who, for years, has been hobbled by chains and liberate him, bring him to the starting line of a race and then say, "You are free to compete with all others," and still justly believe that you have been completely fair.

He recognized that merely outlawing discrimination and equalizing the law of competition was not enough. He called for "equality as a result, not as a philosophy." In 1967 the order was extended to women.

By the end of his administration, LBJ was mired down by the Vietnam War and unable to carry out his enforcement and promise of his economic justice agenda. Interestingly, it was under President Richard Nixon that the parameters of modern affirmative action programs were set. Several hundred large corporations recommended use of a management by objective concept of goals and timetables, not quotas. The order required that employers make a good-faith effort to hire women and people of color by setting targets and timetables to achieve these goals. Penalties were not invoked if employers made good-faith efforts to make their goals, and the Executive order specifically prohibited the use of quotas.

This standard remains the state of the law today. In 1973, affirmative action was extended to people with disabilities, and in 1974, to veterans.

Mr. JACKSON of Illinois. Mr. Speaker, in 1978 a divided Supreme Court in University of California versus Bakke struck down a UC Davis admission program, which set aside 16 out of 100 slots for disadvantaged students, as an impermissible quota. The Bakke court did, however, affirm the use of race or ethnicity as a factor to be considered, along with many other factors.

It is commonplace for schools to seek out students with special talents or skills or leadership ability or unique geographic origins, to consider whether they are veterans, or promising athletes, or children of alumni. Significantly, the court recognized a diverse student body as a compelling State interest. The vote by the UC regents, however, has circumvented the Supreme Court's recognition of the public schools' ability to enrich their educations and the educational environment. We now sit in fear of the long-term implications that this will have, not only in California, for California residents, but for the students of other States who have followed suit.

Two decades of constitutional law have defined lawful affirmative action plans in employment, in contracting, and education, which include activities from recruiting and special outreach to goals, targets, and timetables, not quotas. The court requires that the following five guidelines are met when implementing an affirmative action plan:

No. 1, race, national origin, or gender is one of several factors to be considered;

No. 2, relevant and valid job or educational qualifications are not compromised;

No. 3, numbers do not amount to numerical straitjackets or quotas and reflect the relevant pool of applicants;

No. 4, timetables for achieving the goals are reasonable, and there is an appropriate review of the plan's continuing value;

No. 5, the rights of nonbeneficiaries are respected.

The court has held a plan is illegal if any of the following five situations occur:

An unqualified person receives a benefit over a qualified one;

Second, numeric goals are so strict to the degree of being inflexible;

Third, the numeric goals do not reflect the available pool of qualified candidates, and thus easily become a quota;

Fourth, the plan is of indeterminate length, causing it to outlast its objectives; and

Fifth, innocent bystanders are impermissibly burdened.

One year ago the Supreme Court dealt a blow to affirmative action policies. The court, in the Adarand versus

Pena decision, made it more difficult to implement Federal affirmative action programs as it raised the level of review to the highest measure of scrutiny. Significantly, seven out of nine justices, excepting Scalia and Thomas, rejected the notion of color-blind justice. Prior to Adarand, the court would defer to Congress and to Congress' expertise in crafting programs to ensure that victims of past governmental or societal discrimination were able to benefit from the educational opportunities and business of the Federal contracts that their tax dollars actually went to support.

Mr. Speaker, while strict scrutiny is certainly a higher threshold, the Department of Justice has studied affirmative action programs and is promulgating regulations to ensure that existing programs are narrowly tailored to meet their "compelling government interest."

Prior to the Adarand decision last year, the Supreme Court likewise declined to overrule a lower court decision which outlawed the University of Maryland's Banneker scholarships. This was a program which attracted high-achieving African-Americans to the university, leaving minority targeted scholarships severely jeopardized. Earlier this year, in the April Hopwood decision, the Fifth Circuit Court of Appeals ruled that the use of racial diversity as a remedy for past discrimination is not enough of a compelling Government interest to justify an affirmative action program.

Prior to Hopwood, the University of California dismantled its affirmative action programs, and several State universities are following suit. We are pleased to hear that the extremist Dole-Canady bill will not come to the floor for a vote due to the lack of support for the outright dismantling of this very effective mechanism for equal opportunity, and note that the same opposition applies to the so-called California civil rights initiative and other State efforts to undermine equal opportunity, whether in employment, in education, or in contracting.

Mr. FIELDS of Louisiana. Mr. Speaker, I want to talk a moment about dispelling the myths of what affirmative action is and what it is not.

Today most discussions of affirmative action start at the end, discounting the entire history of affirmative action by claiming that affirmative action really means quotas and preferential treatment. I thought it was important to start at the beginning and not at the end.

After 250 years of slavery, 100 years of apartheid, the 1954 decision ending segregation, nondiscrimination laws—negative action to offset negative behavior, and then positive action to overcome the vestiges of a discriminatory past—we are not yet to the day of Dr. King's rainbow. It is a myth that affirmative action is no longer necessary.

The Glass Ceiling Report, a study commissioned by the Department of Labor and created by the 1991 Civil Rights Act by a bipartisan majority in this Congress, and a Republican administration, found that women in the largest corporations hold less than 5 percent of the top management posts, while African-Americans, Latinos, and Asian-Americans, hold less than 1 percent of these positions. White males comprise 43 percent of the work force, yet hold 95 percent of these jobs.

The unemployment rates of African-Americans and Latinos are twice that of whites. Women are 53 percent of the population, African-Americans are 13 percent, Latinos, 10 percent. Yet, in the 1994 labor market 22 percent of all doctors were women, 4 percent African-American, and 5 percent Latino. Twenty-four percent of all lawyers were women, 3 percent African-American, and 3 percent Latino. Thirty-one percent of all scientists were women, 4 percent African-American, and 1 percent Latino.

The well-documented pay gap between white men, and women, and people of color persists. In 1993, on the average, for every dollar a white man earned, an African-American man made 74 cents, a white woman 70 cents, a Latino man 64 cents, and an African-American woman 63 cents.

Mr. JACKSON of Illinois. Divisive forces claim Asian-Americans no longer affirmative action protections against current discrimination. Yet, whites with high school degrees make up almost 11 percent more than Asian-Pacific-Americans with college degrees. As a group, whites make almost 26-percent more than Asian-Pacific-Americans. Asians remain vastly underrepresented in many occupations. Furthermore, many groups within the Asian community, the Vietnamese, the Laotians, and Filipinos, are characterized by high rates of illiteracy and poor job skills.

Asian-Americans are rarely seen in tenured faculty or administrative positions in academia, comprising only 4 percent of all full-time professors. It is manipulative to claim that Asian-Americans are the model minority in an effort to eliminate race-conscious inclusion policies.

A 1990 Urban Institute study stands as empirical proof of the pervasive nature of discrimination in the workplace. Comparing African-Americans and white job applicants with identical credentials, the study found unequal treatment was entrenched and widespread. In nearly a quarter of these cases, whites advanced further through the hiring process than blacks. A similar study with Latinos found whites received 33-percent more of the interviews and 52-percent more job offers than equally qualified Latinos. Even when African-Americans and Latinos are hired, they are promoted and paid less.

In 1992, Manufacturers Hanover Trust rejected 18 percent of loan applications from high-income whites, yet rejected twice as many, 43 and 45 percent, from high-income African-Americans and Latinos. In 1994, the Chevy Chase Federal Savings Bank agreed to an $11 million settlement of a lawsuit for redlining in mortgage lending, refusing to serve neighborhoods predominantly comprised of people of color.

Last summer the Chicago Federal Reserve Bank reported that African-Americans are twice as likely to be denied home loans, and Latino applicants one and one-half times more likely to be rejected as equally qualified whites.

Less than 2 weeks ago, on September 5, 1996, the Long Beach Mortgage Company paid a $3 million settlement to African-American, Latino, female, and elderly borrowers who were victims of unlawful pricing practices. The settlement resulted from allegations of race, gender, and age discrimination, in violation of the Equal Credit Opportunity Act and the Fair Housing Act.

Mr. FIELDS of Louisiana. Mr. Speaker, academia is not immune to discrimination. A study of faculty hiring practices found that once a hiring goal was met, departments would stop seeking out people of color, pulling their ads from relevant publications, despite the number of vacancies that subsequently arose. People of color, and in particular women of color, remain clustered on the lower tier of professorship as assistant professors and non-tenure track lecturers.

In 1989, for example, a study showed that 30 percent of all faculty members were women, 26 percent were white, with women of color making up about 4 percent. Without affirmative action, the precarious position of women of color in higher education is seriously threatened.

As in most States across the country in higher education, it is the perception or fear, rather than the reality of loss of which make opportunities. And I think that is something we must deal with, because that is what many people talk about today.

Even though more African-American, Latinos, Asian-Americans, Native Americans students have enrolled in higher education, whites still constitute 75 percent of the student body nationwide, earn 88 percent of the Ph.D.'s awarded to American citizens, are 87 percent of college administrators, hold 87 percent of full-time faculty positions. The Chronicle of Higher Education, for example, listed the racial composition of 3,400 schools across America and their student bodies. Thirty-two percent of the schools proved to be more than 90 percent majority.

Many have claimed that we do not need affirmative action any longer because we still have title VII in the statutes of the Civil Rights Act, and nondiscrimination laws to punish violators. Title VII is good, but it is not enough. It only kicks in after an instance of discrimination is claimed.

Affirmative action means taking positive or proactive and preemptive steps to root out the pervasive discrimination as we know exists. Rather than waiting for an after-the-fact lawsuit, it is there to provide an opportunity for people before they are faced with such problems. It provides a far less costly and disruptive alternative to a protracted litigation.

Mr. Speaker, I want to thank the gentleman for this special order. I want to thank the gentleman for basically putting together the historical context of affirmative action, because all too often, the gentleman is absolutely right, people view affirmative action as two parallel lines, where you take somebody who is not qualified and elevate them to the level of somebody who is. As the gentleman has stated over and over again, that is not affirmative action, it is a circle. The first requirement is one must be qualified to do the job.

People in America must realize this. People do not get jobs because of affirmative action, they only get a chance to compete because of affirmative action. I want to thank the gentleman for this special order today.

Mr. JACKSON of Illinois. I thank the gentleman, who has represented the people of the Fourth Congressional District of Louisiana with great distinction. I am really going to miss the gentleman from Louisiana, Mr. CLEO FIELDS, in the 105th Congress. He has opted not to return to this institution, in light of serious redistricting that is being challenged, that is not inconsistent with some of the history that we have discussed on this occasion.

□ 1715

I want to deal with some more myths concerning affirmative action. The distinguished gentleman from Louisiana spoke of just one myth, but there are others out there.

Some have suggested that affirmative action means quotas. Affirmative action has never been about quotas. It has always been about providing women and people of color with full educational and workplace opportunities. Quotas are illegal and they should be illegal.

What affirmative action programs do is provide a measurement of their own effectiveness. School admission officers and employers must only prove that they have made a good faith effort to achieve the flexible goals that they have set. If employers persist in illegal discrimination, then a court can impose a rigid quota to bring them up to the level of a nondiscriminating employer. Quotas are only imposed as a last resort and they are imposed only by the courts, not schools or employers or by the government.

Is it a myth that affirmative action is preferential treatment for the unqualified over the qualified? Now, this is one of the biggest myths of affirmative action. Affirmative action does not demean merit. In school admissions, race and gender are considered along with many other factors. Where two equally qualified applicants have applied for a job, then and only then can race or gender be considered. This is the only one, and I emphasize, very limited situation where preference arises.

Affirmative action is a conservative legal remedy. If affirmative action policies truly granted group preferences, African-Americans would have long ago received the proverbial 40 acres and a mule, native Americans would be governing vast areas of the country, and women would be at the helm of half of the country's major corporations, maybe even President of the United States and Speaker of this institution. Affirmative action is indeed a conservative form of redress when one takes into account that true reparation for past discriminations entail.

Practically, poor management on the part of an employer may have led to the hiring or promotion of an unqualified person. These abuses must be corrected and punished. We do not need to throw the baby out, however, with the bath water. These violations do not indict the overall effective mechanisms for achieving equal access for all.

What just amazes me about affirmative action, oftentimes when we look at the NCAA and we look at professional basketball, we see Michael Jordan and Toni Kukoc on the Chicago Bulls playing together, we see equal opportunity and we see fairness. As the football season begins, we see African-Americans and we see Anglo-Americans enjoying equal opportunity and playing because of their merit and their ability to play professional or college athletics.

But what do we not see as Americans? We do not see in the NCAA the vast recruitment mechanism that goes into finding qualified basketball players. The booster clubs all across our country send in newspaper articles to coaches and they say, listen, here is a qualified person who can shoot, here is a qualified person who can dribble, here is a qualified center, someone who can rebound and grab the ball and pass the ball.

We find qualified people based on merit until we get to the area of coaching, and then we have a problem when we suddenly cannot find coaches all across our country who may be female or who may be African-Americans. Suddenly when we are no longer on the football field, in the NCAA and colleges across our country, suddenly when we are no longer playing basketball where blacks and whites play together, and we start looking at the classroom, at these major universities, suddenly the same aggressive recruitment that went into looking for qualified basketball players and football players did not go into looking for qualified people who can write, people who can think, people who can administrate and run these institutions.

Here is another myth. It is a myth that affirmative action amounts to reverse discrimination against white males. Reverse discrimination is not only unlawful, it is also very rare. Of the 91,000 cases before the Equal Employment Opportunity Commission, less than 2 percent are reverse discrimination cases. A Rutgers University study commissioned by the Department of Labor found that reverse discrimination is not a significant problem in employment, and a high proportion of claims brought by white men are without merit. Many of the claims were brought about by disappointed job applicants who are found by the courts to be less qualified for the job than the successful applicant.

White men are 33 percent of the population and 48 percent of the college-educated work force, but they hold 90 percent of the top jobs in the news media, are over 90 percent of the officers of American corporations. They are 88 percent of the directors, they are 86 percent of the partners in major law firms. They are 85 percent of tenured professors. They are 88 percent of the management level training jobs in advertising, in marketing and public relations. They are 90 percent of the House of Representatives, 90 percent of the U.S. Senate, 100 percent of all Presidents. I fail to see why some of them could be so angry. Affirmative action has not caused jobs to go from white to black to brown.

It is also a myth that programs for the economically disadvantaged can substitute for race and gender-conscious programs. This nonsolution cynically rejects the notion that plain old-fashioned racism and sexism are alive and well.

I do not need to repeat the data above to drive in the point that such proposals would not rectify the realities of the glass ceiling. Women are sexually harassed no matter their income. Women and people of color are still denied promotion, job opportunities or access to credit and equal opportunities in education based upon their race or their gender, not their income.

Is it a myth that affirmative action has not benefited the Nation as a whole? Everyone has benefited from fair employment practices. Everyone has benefited from the Voting Rights Act of 1965 which desegregated this

Congress. It has allowed 39 African-Americans who represent majority-minority districts to come to this floor of this Congress and represent the disenfranchised, the locked out, points of view different than traditional Anglo-American points of view.

It was the desegregation of these laws and the desegregation of these institutions that were the goal of the civil rights movement of the 1960's. Since the standard of living started falling in 1973, fathers and husbands have benefited from two-wage-earner households. Pre-affirmative action, Mississippi State troopers were also adjusted under affirmative action laws. It is really a myth to assume that affirmative action has only helped African-Americans. It has ushered in a broad-based body of equal employment opportunity laws.

For example, there was a time in Mississippi where in order to be a State trooper you had to be 6 feet tall. Now, as a result of equal employment opportunity laws, as a result of affirmative action, you can be a 5 foot 8 white male applying for that job. You can be 5 foot 4, 5 foot 2. You do not have to be 6 feet tall to be a State trooper in Mississippi any longer. That law did not just help African-Americans. It made it possible for short white males in Mississippi to become State troopers.

Now with the elimination of such irrelevant job classifications, even African-Americans and women can also serve as State troopers in Mississippi.

Diversity in professional schools has been good for America. With the inclusion of women in medicine, strides have been made in breast cancer research and other areas of women's health. Recruitment and training of women police officers, of judges and prosecutors have led to treatment of domestic violence for the crime that it is. The enrollment of people of color in higher education has increased from practically zero percent to 20 percent over the last 20 years. But we still have a long way to go. Public services have benefited from the increase of African-Americans, of Latinos and Asians and native American personnel who more genuinely reflect the diversity and the needs of the communities that they serve. A diversified corporate America has become more competitive in this increasingly globalized economy. They have opened up new markets in the African-American community, in the Latino community, by advertising with not only African-Americans but also with female advertisers. Upgrading the educational and employment skills of a majority of the Nation has been good for the country. To turn back the clock on equal opportunity for the sake of political gain is not only immoral as public policy but it is also misguided. It is counterproductive, and it does not bode well for the future of our Nation.

To that end, today we began discussions in the House Committee on Small Business. In that particular committee, we are talking about the 8(a) program which was a program that has really been used to serve as an incubator for businesses, particularly businesses that affect minorities. But it is not limited to minorities. If white women can demonstrate that they qualify as a disadvantaged business, they can apply through the 8(a) program. White males can also apply through the 8(a) program. But there has been a history of Federal contracts that have historically denied African-Americans, women and those who have been historically disadvantaged the opportunity to participate. There is a movement afoot in this body to eliminate the 8(a) program. I am asking Democrats and Republicans on both sides of the aisle, particularly in this church-burning climate, to thwart that movement. We need not engage during this electoral season in race-based politics, and that is what challenging the 8(a) program really is.

One of the myths about the 8(a) program is that it is no longer necessary. Programs like 8(a) have not outlived their usefulness because discriminatory treatment of certain groups of Americans is really not a thing of the past. The burning of churches with predominantly African-American congregations is just one tragic example of this discrimination that persists. I have only been a Member of this institution for 10 months. Usually I do not wear this little pin right here which I do not particularly care that much for but it is a little identification that lets everyone around Capitol Hill know that you are a Congressman. Not long ago I was speaking to a group of African-American interns here in the U.S. Congress and I told them, when you walk down the halls of the U.S. Congress without this pin on, no one ever mistakes you for being a Member of Congress. But every time I see an elderly white gentleman with a briefcase or with gray hair in this institution, I have to assume first that they are a Member of Congress, and then second, I assume that maybe they are a lobbyist or maybe they are the head of some corporation coming to meet with some significant Member of Congress in this institution. But never, as a young African-American in this institution, am I ever mistaken for being a Congressman except for by my colleagues who know me.

Toward that end, I got up one morning a few months ago, at 7:30 in the morning I came to work determined to serve my country and the people of the Second Congressional District that day, and stayed here until 11:00 that night. After I got off work, the same time most Members of Congress got off work, I decided to go to my office and check for my schedule tomorrow to find out what time I had to come back to the institution. Once I got ready to go, my assistant asked me if she could give me a ride home, and I said "No, that's quite all right, I will just go outside and catch a taxi." Well, I went outside to catch a taxi. The first taxi passed me by at 11:30. I waited for a couple of minutes and another taxi passed me by. I could have just gone and asked someone from the Capitol Police to give me a ride home, but I just decided to wait as a young Member of Congress to find out how many taxis were going to pass me by in the District of Columbia. That night more than 17 taxis passed Congressman JESSE JACKSON, Jr., by. They did not see a Member of Congress first, they saw a young African-American first.

So why is it that the 8(a) program is so necessary? Because there are Federal agencies out there that engage in almost any kind of business, from selling widgets to selling bolts to selling airplanes, to selling F-22's, we sell everything to the Defense Department. The Defense Department must buy everything. There are hundreds of Federal agencies that make purchasing decisions in our Nation. The only issue really before us when we consider eliminating a program like the 8(a) program is whether or not those Federal agencies are going to drive right past qualified Latinos, qualified women, qualified African-Americans, or whether or not we are going to slow the Government down long enough to help people who have been historically locked out. Discrimination is not gone. If it is gone, it is only underground. Discrimination is insidious because it affects the individuals with whom one associates, the businesses one patronizes, the perception of who gets a job and when they get a job.

I was talking to another group of businessmen not along ago. They were very proud to hear from a young African-American, a Member of Congress, and so we began talking about affirmative action. Some of them began questioning whether or not affirmative action was necessary. And so I asked them, I said, "How many of you do business with the Federal Government?" A significant number of them raised their hand. I asked them how many of them did business with local municipal governments. A significant number of them raised their hands. I then turned around and asked them, "How many of you have an African-American that is a lawyer with your firm or with your business and general counsel?" Very few hands went up. How many of you have women that head up your accounting department or your finance department? Or how many of you put money in banks that are owned or operated by women or by African-Americans or by Latinos? How many of us spread the wealth out from the benefits that we have received from these local municipalities and the Federal Government? Very few hands went up.

So what are we suggesting? We are suggesting that these businesses and that these individuals continue to drive by at 11:30 at night, no matter who serves their country, they just drive right by in search of their friend who went to school with them.

□ 1730

They drive right by in search of someone who went to Harvard or someone who went to Yale or someone who went to North Carolina A&T State University.

How do we break up the good old boy network? One way to do it is to have programs on the books like the 8(a) program that make it possible for minorities to participate. It does not mean they do not compete. Of course they compete within the 8(a) program. But a lot of these businesses that have been in this incubator for 9 years and then subsequently leave the 8(a) program, they end up facing the same kind of discrimination that the 8(a) program sheltered them from and, therefore, beyond the 8(a) program many of these businesses, quite frankly, cannot survive.

It is a myth. The 1994 Federal Acquisition Streamlining Act, FASA, addresses all concerns of those seeking to assist the socially and the economically disadvantaged. FASA will expire in 2000, and it has not been implemented because all affirmative action programs have been attacked since the 1995 Adarand versus Peña Supreme Court decision.

Fact: While FASA regulations have not even been promulgated to avoid Adarand roadblocks, 8(a) has survived strict administration reviews because of its focus on business development.

Another myth: Many businesses see 8(a) as an end in itself. SBA rarely or never graduated businesses out of the 8(a) program.

Fact: Businesses participate in the 8(a) program for a maximum of 9 years and must withstand annual reassessments of their eligibility every year. This is a 4-year developmental stage, and then there is a 5-year transitional stage for these businesses that are being groomed to do business with the Federal Government.

In 1987, Alfred Ortiz, for example, went into business for himself and found Source Diversified Inc. in Laguna Hills, CA. His company customizes computer hardware. Now Source Diversified has $21 million in sales and employs 15 workers.

Alfred is just one successful graduate of the 8(a) program who attributes the strong and rapid growth of his business to the program.

Myth: If you teach a man to fish, he can feed himself for a lifetime. Well, I really like this one. Here are the facts. 8(a) participants do not have any fish handed to them. These minority-owned businesses competed with each other for those procurements which have been set aside. The 8(a) program teaches businesses to fish. It teaches businesses to fish. This is not about a handout, this is about a helping hand. It teaches businesses to fish.

When minority-owned businesses start out looking for contracts in the private sector, their proven ability to win a Government 8(a) contract is actually their diploma, or their doctorate in fishing, and in that way they can come back and approach the Federal Government or they can approach the private sector after having developed a proven track record under the shelter of the Government's protection, because racism, discrimination, and sexism exist outside of that shelter which does not allow those businesses the opportunity to foster, to grow and to develop.

Myth: The 8(a) program does not foster the free enterprise system. Nothing could be further from the truth.

Here are the facts. The free enterprise system flourishes when there is full participation, and without the 8(a) program there would not be as much participation for minority-owned businesses.

Supporting a development of minority-owned businesses through the 8(a) program puts market forces and the free enterprise system to work for all Americans because those minority-owned businesses eventually buy supplies and services from other businesses. Moreover, last year 8(a) participating firms paid more than $100 million in Federal taxes.

Myth: The 8(a) program does not encourage opportunity for everyone to compete. Nothing could be further from the truth. Here are the facts. The 8(a) program is precisely the ray of hope which encourages all Americans, regardless of ethnicity, gender, or economic condition. Those opponents of 8(a) who accuse it of excluding certain Americans from procurement opportunities are guilty of scapegoating.

The answer is not to turn one group of Americans against the other. Rather than dismantle 8(a), we need to improve and augment educational and training opportunities for all Americans so that no one in this country can complain about being overlooked.

The 8(a) program exists to provide opportunities for everyone to compete, opportunities many have not had and would not have without this program.

Here are three quick myths: 8(a) wastes money through reliance on sole source contracting. This is not true; 8(a) is riddled with fraud and abuse even after 3 congressional attempts to reform it. That is not true; and 8(a) has failed to help fledgling minority businesses and is primarily a rich-get-richer program for Beltway bandits. That is not altogether true.

Here are the facts. Total 8(a) contracts in 1994 represented only 3.2 percent of all Federal contracts. We are talking about only 3.2 percent of all Federal contracts.

And in this institution we have a budget of $1.7 trillion every year and we are talking about 3.2 percent of Federal contracts. That does not include the entire $1.7 trillion. It is even smaller than that, 3.2 percent of Federal contracts. Just 3.2 percent. The total 8(a) program received less than half of the actual contract dollars than were awarded to either of the top two defense contractors. The total program received less than half.

Reforms to further bring 8(a) into compliance with the strict Adarand standard are included in proposed regulatory changes that have been published in the Federal Register. The Department of Justice believes that these changes will, one, allow agencies to use race conscious tools to assist disadvantaged businesses, enable agencies to assess what level of minority procurement would be probable in the absence of discrimination, require agencies to implement measures that do not rely on race to broaden opportunities for small minority firms, tighten certification and eligibility requirements.

Mr. Speaker, I hope today that with our brief colloquy between the gentleman from Louisiana and myself on the issue of affirmative action, 8(a) programs, and the need to offset years of historical discrimination against African-Americans, minorities, women, and people of color in this country will not go unheeded and unheard by the membership in this august and esteemed body.

The challenges before us are great as a nation, and I am more convinced than ever if we can move beyond racial battle ground to economic common ground and on, as my father would say, to moral higher ground, we can make sense and make sense for all of America.

Many Americans still long for the day when they can say, "My country 'tis of thee, sweet land of liberty." That day has not yet arrived, and many African-Americans and disadvantaged businesses in our Nation need a helping hand. Not a handout, a helping hand. It would serve this institution well, it would serve all of us as Democrats and Republicans if we could move beyond the politics of divisiveness and expand programs that make sense for the most people.

GENERAL LEAVE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the special order today by the gentleman from Alabama [Mr. CALLAHAN].

The SPEAKER pro tempore (Mr. QUINN). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

JOINT ECONOMIC COMMITTEE SETS OUT TO DISCOVER SOURCE OF PESSIMISM REGARDING ECONOMY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. SAXTON] is recognized for 60 minutes.

Mr. SAXTON. Mr. Speaker, I have had the pleasure for the last 2 years of serving as the vice chairman of the Joint Economic Committee, and I found it to be quite an interesting task because I am not an economist and, in fact, I do not think any of the members of the Joint Economic Committee are true economists, although some studied history and some courses in economics, but none of us are truly economists.

Our job is, however, to try to understand as best we can, as Members of the House who are former schoolteachers or real estate salespeople or car salespeople or doctors or housewives or lawyers or whatever we may be, we need to understand the process of our Nation's economy so that when we enact laws here we will know, hopefully before we enact those laws, what effect those laws have on the performance of our country's economy.

And of course in order to do that we do talk with economists and we do read things that they have written and we try to understand ourselves and explain to our colleagues what it is that we have done or are about to do or may do in the future that will help our economy grow, help to provide jobs, help to provide a larger set of opportunities for people who are involved in the economic sector, as we all are as we make our daily livings.

And to the extent that we can be successful in doing that, and to the extent that we can successful in imparting what we think we have learned to our colleagues on both sides of the aisle, then we are successful as Members of the Joint Economic Committee in carrying out our function.

Now, as I have gone about the business of this task over the last couple of years, I have also talked with lots of American people who are involved every day in the economic system; people that work, people looking for jobs, people looking to advance, people looking to get wage increases and people just looking to go to work every day so they can earn a wage to bring home to their families.

And I have noticed in the last several years that there has been a marked upturn in people who know that I do this job here and who have come to me and have said, well, this year I am not making as much as I made last year. What is wrong? And people who have said, well, when I go to look for a job, like my son or daughter did when they graduated from college, all they could find was a temporary job because employers did not want to pay benefits. When other people go looking for a job or go into the workplace they say, well, gee, I have not been able to advance as I thought I would.

All of these kinds of things have made people nervous about the economy and nervous about opportunities, and for the first time public opinion polls show that it is the opinion of the younger generation that they probably will not do as well as the former generations.

This is unique in our country's history, because always before the new generation aspired to do better than the older generation and thought they would and were optimistic about it. But today that is not the case.

And so the Joint Economic Committee set about trying to find out what it was that was causing this aura of pessimism about our economy. We had a lot of research, read a lot of books, listened to a lot of economists and we began to see that there was, in fact, a trend that is occurring, and that trend was not necessarily good news for Americans.

I brought some charts with me today to try to demonstrate what it is that we have found about our economy. This chart has two lines on it. I hope those who are further away can see it has a solid line and kind of a dotted line. The dotted line shows what economic growth has been in our country and how well the economy has done since World War II.

It is a rather steady increase. That increase is actually about 3.5 percent, on average, each year. In other words, the economy grows. There are more jobs by a substantial margin each year since World War II than there were the year before. As the economy grew, wages went up and people prospered and everybody was happy.

The black line shows what actually happened in the economy at any given point along that trend, and we can see that at some point the black line, in terms of what was really happening, was above the dotted line and that other points, when there was a recession, it fell back to or below the dotted line. But by and large, until this point, the lines tracked along pretty well together.

Where the dark line begins to fall below the dotted line, that happens to be in 1993. And the Congressional Budget Office here, which does all kinds of economic projections and forecasts and estimates about money and what is going to happen and economic growth, has forecasted here that the outlook for the future is different than it has been since World War II.

□ 1745

The outlook in terms of economic growth actually falls off in the next decade or so, according to the Congressional Budget Office.

They say we will not grow at the traditional 3.5 percent any longer. It will be closer to 2.2 percent. That gap widens as we go out into the years beyond the year 2000, and once we get to about 2005 or 2007, our economy actually will be performing at 15 percent less on total performance than it is today.

And so, this is evidence that we see for the first time of what is making American workers nervous, have not been able to do so good on the job. I see direct evidence of it, says the worker. My wages have not gone up this year. In fact, they have gone down. I have not been able to find that new job that lets me advance. My kids graduated from college and can only find a temporary job. Companies are downsizing and rightsizing and merging and trying to find ways to do things because CBO's and managers of businesses, big businesses as well as small businesses have discovered that the CBO and other economic projectors, people who do projections, are saying that we probably, given these situations that we find ourselves in today's economy, we are probably not going to grow at the traditional 3.5 percent. We are probably going to grow at more like 2.2 percent. So this has caused concern throughout our economy.

Mr. Speaker, if we look at where this began to happen, it began to happen about 1993. Well, what does this mean to the American people? If we look at different segments of the economy we can see here, for example, what effect does this have on small businesses? I should say at this point that what happened in 1993, we think, is that we had a big tax increase. We had a tax increase that took more out of the pockets of the folks who have money to spend in the private sector who go to the grocery store, who buy appliances, who buy clothes for their kids when they go to school. Took money out of their pocket—and it was the Clinton tax increase—and said, send that money to Washington because we need to have more money to spend in Washington. We need to balance the Federal budget, as it was said. I think it was called the Deficit Reduction Act, which actually was the biggest tax increase in our country's history.

When we found out what happened, and all of you have heard about small business. You know, it has been said in our country year after year after year after year for decade after decade that small business is the economic engine that pulls the train. When we begin to look at what the Clinton tax increase did in the beginning of 1993, we find out that it had a tremendous effect on small business. This is one of the factors that we have identified as being bad for the economy, bad for new jobs, bad for economic growth, bad for wages, bad for opportunities.

Young people have started to say for the first time in our history we cannot aspire to do better than the last generation because things have gone awry. This is what happened to small business. The tax increase, the income tax increase that occurred is paid, 70.3 percent of it is paid by small business. And so no wonder those small businesses that provide the incentive, the engine that drives our economy, all of a sudden 70 percent of this new tax increase that this House passed—I am proud to say I did not vote for it—70 percent of those revenues are paid by small business.

So it has had a tremendous effect on the free enterprise system in our country. The young people who would like to get jobs at the corner grocery store, those jobs are not there; and if they are, they are temporary. All the folks that take part in that part of the economy are having a more difficult time, but it also had some other effects. It had some effects on all Americans or on most Americans. We can look at this next chart, and it shows what happened during this period of time to wages in our country.

Wages in our country have not done particularly well since that large tax increase because small business was directly affected by it. The median income has also suffered.

In 1992, the median weekly income in our country was $493. In 1993, the year the Federal Government increased taxes with the Clinton tax increase, in 1993 for the last time we saw growth in median family income, weekly income, I should say. It grew from $493 in 1992 to $498 in 1993. Then the rest of this chart is self-explanatory. Median weekly income for American workers has gone down consistently ever since.

It is more evidence that things are not going well for workers and another reason why today's young generation is not as optimistic about the future as they once were.

In fact, I stood right here at this podium in 1993 when that tax increase was being debated and said that this tax increase would be bad for our economy, and others of my colleagues did the same. But the tax increase went through anyway. So what do we do about this? Of course, this is one of the functions of Members of Congress who are interested in making our economy grow. Not only do we need to identify the problems, but we need to make some suggestion about how we can remedy the problems.

Mr. SMITH of Michigan. Would the gentleman yield?

Mr. SAXTON. I am pleased to yield.

Mr. SMITH of Michigan. I think one example is the taxes that we put on businesses that buy new equipment and machinery to put better tools in the hands of the American work force. So, we call it neutral cost recovery. But the fact is that Government, this Federal Government in an effort to get more taxes out of people says to a business, if you buy machinery and equipment, we are going to penalize you on the way we tax you because we make that business spread out that depreciation over 5, 15, 20 years, and that depreciation and inflation eat up the value of that deduction.

So if we were to allow a business to deduct the full amount of their purchase of machinery and equipment and state-of-the-art tools to make our workers more productive, that is going to increase that average weekly income of those workers. If we were to allow a business to deduct the full amount, it would reduce the cost of that equipment by 16 percent. I just use that as one example to show how tax penalties can discourage business efficiency and business productivity.

Mr. SAXTON. Mr. Speaker, I thank the gentleman for pointing that out. It is certainly one of the elements of things that we ought to get done around here to get business going again.

Obviously there are other people in this town who have similar ideas. For example, we all know that there is a Presidential campaign underway. One of the candidates, who happens to be Bob Dole, has suggested something similar to what Mr. SMITH has suggested. He has suggested that, as we saw in 1993 when this tax increase was imposed by the Clinton administration and primarily by the Democrats in the House, that we reverse that, that we begin to put in place something that we like to call growth policy.

So, Bob Dole has suggested that we ought to cut income taxes, that we ought to cut the capital gains tax, that we ought to have a family child tax credit and that other tax changes such as the one that Mr. SMITH just suggested might be part of the package as well, although in the case of the specific one, that is not part of his particular package.

But Dole has suggested that significant tax decreases would help to remedy the problem that we have identified in terms of the speed or the rate of growth of our economy. Bob Dole has suggested, for example, that under his program, a family making $35,000 a year in gross income would save $1,374 a year in tax savings under his plan, and a family making $45,000 a year would actually save $1,603 a year. This pumps money back in the economy and relieves the tax burden on families and small business and helps to get the economic engine fired up and going again.

Mr. Speaker, I am going to say something that some of the Members on this side of the aisle may have forgotten. I can remember in 1984, which happens to be the first time I aspired to run for Congress and come here and be a Member of this body, I can remember it was the time when Ronald Reagan was running for his second term. I was so proud to be on the ticket with Ronald Reagan because he talked about a growth policy. I went through that campaign, and I talked about the Reagan tax cuts that went into place in 1981 and 1982 and 1983 and how the economy began to grow. And then I came here and I began to study Reagan's policies. I found out that there was somebody before Ronald Reagan who had the same kinds of ideas and he was not from our party; he was from the other party. His name was John Kennedy. Surprising.

In 1963 John Kennedy said in his State of the Union Address from that podium: We cannot for long expect to lead the cause of peace and freedom around the world if we fail to set the economic pace at home.

He recognized that the economy was slowing down. He recognized that there were problems. He recognized that wages were not increasing the way they should be. And John Kennedy, the member of the other party, the Democrat President, went on in that speech to outline a series of tax cuts much like Bob Dole's, not exactly, but much like them. Unfortunately, his death occurred. But after his death, LBJ and the Democrat controlled Congress put in place those tax cuts, and guess what? The economy grew. The economy grew.

We took off again. We had good growth in jobs and good growth in wages, and it was a wonderful experience to have watched that.

So when I ran in 1984, I was so proud of Ronald Reagan. One of the first conclusions that I made here when I got my feet on the ground and began to understand a little bit about this growth policy, and I kind of laugh to myself now, I think Ronald Reagan read John Kennedy's speech. So this does not have to be a partisan issue. This does not have to be a part of a Presidential campaign. It just happens to be the truth. It happens to be what works.

And so what Bob Dole has suggested here really can work. And the experience that we had in the 1980's proves that it works. Did we do everything right in the 1980's? No. We did not do everything right in the 1980's, but we did some things right in the 1980's, and tax policy is part of what we did right.

Mr. Speaker, let us talk about what we did right for a minute. This next chart shows what happened in 1981, 1982, and 1983. This is where Ronald Reagan got elected. Our economy was flat, much the same condition only maybe a little bit worse than it is now. We are experiencing about 2.2 percent growth. I have forgotten exactly what the growth was, but we had a recession, which means we had negative growth, and Ronald Reagan said: I know how to fix this. We are going to reduce taxes and put in place growth policy like Bob

Dole is talking about in today's campaign. And in 1982 when the second installment of that tax cut went into place, the economy started to grow. It grew astonishingly throughout the decade of the 1980's.

So, not only did John Kennedy understand what it is that Bob Dole has suggested and why it works, we see in the 1980's that Ronald Reagan did much the same thing in terms of tax policy.

Let me just show what happened to wages during that period of time. We talked about what is happening with wages today. They are going down. During the Carter years, remember the years of malaise and inflation and high interest rates and the lousy economy, wages were going down during those Carter years, too. But as soon as Reagan's policies went into effect, wages started to go up again. It was better for families. People were optimistic again. We believed in our selves, and it was in large part of the economic policies that both Kennedy and Reagan have at different time in our history subscribed to and have helped to bring about changes in our country.

I mentioned a minute ago though that we did not do everything right in the 1980's, and we did not. We all know that, because we continued, collectively, and I think there is enough blame to go around for this, we continued the spending spree during the 1980's. In spite of the fact that the economy grew and in spite of the fact that we had economic growth, we did not balance the budget. But it is not because of the tax cuts that we did not balance the budget.

A lot of people will be very surprised to see this. This is a chart with a red line on the top and a blue line on the bottom.

□ 1800

The blue line shows what happened with our Federal revenue. When the economy grew, more people went back to work. They made higher wages, so they paid more in taxes, and that meant Washington had more money available to spend. And as the economy grew through the 1980's, this blue line shows that revenues went up. In fact, in 1980 we had at our disposal $517 million to spend in 1980. By 1990 we had $1.03 trillion. In other words, we had increased by $514 billion the money that we had to spend.

Let me say that again. We had tax cuts, that is right, tax rate decreases. And when the economy began to grow because of it, our revenues that we had available to us doubled between 1980 and 1990. Pretty astonishing. What did we do wrong? We kept right on spending.

Mr. WAMP. Mr. Speaker, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Speaker, I had to get up and pipe in here if I could, and I appreciate the gentleman yielding, because many people have asked me about these years in the 1980's. I am a freshman Member of this body. I have participated in the first Congress in 26 years that actually voted to cut spending. Not a single Congress for 26 straight years actually voted to cut spending. People ask me, how did this happen in the 1980's, if Reagan's tax policies actually worked? And you are, right here, right now, showing us exactly how that happened.

Frankly, I believe that if this Congress, the one we have now that has cut spending for the first time in 26 years, would have been the Congress under Ronald Reagan, the growth here, coupled with the spending cuts, would have achieved a balanced budget, because the two coming together is what you do. You cannot have spending rising above income. Income was going up. Spending was going up even higher. A lot of Members were getting reelected by giving away the ranch, so to speak, and continuing to do that. And we have just now accepted our fate as a nation and come to these tough votes to reduce spending for the first time.

The country does have a choice this fall. We cannot have President Reagan and this Congress, but we can have the next best thing. That is somebody who believes in Reagan's growth policies, tax policies, and this Congress. And what you will see, I believe firmly in my soul, is growth and spending reductions and the most responsible coming together of those two forces in our budget process, and achieve a balanced budget and help all families create more wealth and keep more of their take-home pay, as we make progress towards a balanced budget.

Mr. SAXTON. Well, the gentleman is exactly right. As your class, 70 freshman who came here, 71 freshmen who came here on the Republican side have clearly demonstrated that we can reduce the rate of growth in spending and that we can move these two lines closer together.

President Clinton, incidentally, Mr. WAMP, President Clinton has talked a lot during his campaign appearances about reducing the deficit. And it is kind of funny to say, but it seems to me that it was the Congrss that actually put in place the provisions and the budget process in the appropriations bills last year. And now, of course, we are following suit again this year, with the 71 freshman, with people like JOHN KASICH who have led us in the budget debate, like our majority leader, DICK ARMEY, who believes so much in what we are talking about here on the floor tonight. It is kind of interesting that President Clinton has found it possible, seemingly possible, to take credit for that.

Mr. SMITH of Michigan. Mr. Speaker, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Just to expand a little bit on why balancing the budget is important with this whole tax reduction to motivate economic and job expansion, if we can balance the budget at the same time, that means that the demand for borrowing money from the Federal Government will reduce the pressure on interest rates. Right last year the Federal Government borrowed 41 percent of all of the money lent out in the United States. Just think back to your Economics 101. If you lower that demand with Government borrowing 41 percent of the money, if you can balance the budget and have Government borrow less money, it is going to mean interest rates go down.

In our Committee on the Budget, Alan Greenspan, chairman of the Federal Reserve, came to our Committee on the Budget and said, look, if Congress balances the budget, we could see interest rates go down up to between 1½ and 2 percent. That means that if interest rates go down, every business in this country finds that whatever they are going to buy in terms of tools, in terms of expansion, they see a significant reduction in their costs. So interest rates going down means a tremendous stimulant to the economy.

A combination, like ZACH WAMP says, a combination of stimulating economic and job expansion, at the same time that we start pinching those pennies here at the national level and making sure we balance that budget, is going to see the greatest economic and job expansion this country has ever seen.

Mr. SAXTON. The interesting thing about what you say is that by reducing the tax burden on American families, by making it possible, again, to achieve this 3.5-percent growth that we have seen since World War II on average, and by balancing the budget by continuing the policies that we started during the last year in terms of reducing expenditures, by putting together a program like that it makes it better for all families in America. It makes it better for people who are workers. It makes it better for people who are entrepreneurs. It makes it better for people who are in all kinds of businesses across our country. It makes it better for the labor unions and the working folks because they can expect once again to see wages on the increase and our standard of living go up.

It is not extreme importance that we as Members of Congress and the American people generally come to grips with what it is that we have been attempting to do here the last 2 years and what it is that Bob Dole has suggested that we do, which is very similar to what John Kennedy and Ronald Reagan each in their time suggested.

I yield to the gentleman from Tennessee.

Mr. WAMP. I thank the gentleman for yielding. You have given a great historical perspective of how we got into this dilemma and what forces are necessary to pull us out of this dilemma with our debt and this issue of taxes. I think it is very important. We need tax reform. We need tax relief and tax reform, I think, at the same time.

I grew up as a member of the Democratic Party. Ronald Reagan and his tenure is what brought me to the Republican Party on some simple principles of exactly how large the Federal Government was going to be in our lives, exactly how intrusive. I remember he said at one time, I do not think it was an original quote, but he said a government big enough to give you everything you want is a government big enough to take from you everything you have. And I just wonder how far we are going to go down this road toward big government and more and more of our resources and our rights taken from the big central government.

Our Founding Fathers, I am sure, are rolling over in their graves, but it is this principle. I am not a partisan person, really becoming less and less partisan the longer I am involved in public policy. I think, though, that there are some stark differences between the Democratic agenda in 1996 and the Republican agenda.

One of them is a very simply issue of whether or not we are going to stand on the side of the American taxpayers, that they are already overtaxed.

Let me give you a historical perspective. We all know that the average family now, the mother and the father are both having to work. That is happening because one of them is working for the government and the other one is working for the family. And we know that is not right.

And just in my lifetime, this has happened. This has not been going on for a long time. In 1957, when I was born, my father paid less than 10 percent of every dollar that he made to the government combined. State, Federal, and local governments combined was 10 cents of the dollar, about what you are supposed to tithe in church. the Federal tax rate was between 3 and 4 percent. The whole thing was less than 10 percent.

Today, one generation later, that figure is roughly half of every dollar an American makes goes to the government. My son is 9 years old. Then he is my age, just going through one more generation. That figure is going to be about 84, 85 percent of every dollar he makes. Let me tell you, we cannot sustain our freedom going in this direction.

I have been to fundraisers. I have heard wealthier people say, we do not need tax relief. It is okay, just hold the line. Well, those wealthy people may not need tax relief. It is the people in the middle and at the bottom who need tax relief the most, and they are the ones that are having a hard time keeping their heads above water.

I constantly think of single moms who are working to get their kids ready for school during the morning and they are going to work, and they have no hope of ever getting ahead. They are barely keeping their heads above water, day in, day out.

I think of parents, both working, and they just have a little hope anymore in our society, knowing that as the government grows they are going to have to take an extra job. Many two-parent families are working multiple jobs because the government is taking a larger and larger chunk of our resources.

So this issue, fundamental issue, as we make measurable progress toward a balanced budget and our President continues to say, and this is one thing we agree on, we have got the lowest budget deficit in 15 years because this Congress cut spending for the first time in 26 years, and because the economy, albeit 2-percent growth versus 3-percent growth, has grown somewhat, we have this low budget deficit.

Is it reasonable and logical to give the American people some of their money back as we make real and measurable progress toward a balanced budget, give them some tax relief and tax reform, simplify the system and at the same time give them some of their money back? Yes, it is reasonable and logical. Why? Because we are at 50 percent, and we are climbing, of every dollar we make.

Our Founding Fathers warned us that the big central government could get bigger than the people that are supposed to control it. We have already passed that day in America. We need to go back slightly, ever so slightly, and give them some tax relief.

I am not going to endorse any plan. I am not going to endorse President Clinton's plan. I will not unilaterally endorse Mr. Dole's plan. I am going to endorse the notion of giving the American people some of their hard-earned money back and try to give it to everybody.

The Kemp Commission made some excellent recommendations about how to create growth and opportunity by using our Tax Code. We ought to go to that Kemp Commission recommendation.

We talked about what hourly workers make in this country just a few months ago in this body. But we talked about what 2 percent of the workers make, and that is minimum wage. We did not talk about what the other 98 percent of workers make. The other 98 percent of workers should have a pay increase now. We should do that by making that Social Security tax, that FICA tax deducted from their paycheck, fully deductible, so we are not taxing the tax, and putting money back in the pocket of every working American. That is a recommendation of the Kemp Commission, which worked for months to establish pro-growth policies, and there is tax relief that can return more money to the Federal Government.

A capital gains tax is a tax on inflation. It is an unfair tax to begin with. And if you reduce the rate, it is a pro-growth policy. When we reduced the capital gains tax rate in this country previously, the history shows the revenues for capital gains increased each and every year to the Federal Government. We return more revenues.

There are people out here pent up with assets, many of them poor to middle income, not rich, not wealthy, regular folk that are waiting to sell some stock that they may have inherited because the appreciation, the inflation that has set in made that asset worth so much. Why should we as a Nation tax inflation? Inflation on other things with Federal Government, we actually index them and compensate people for inflation. But with an investment we actually tax the investment. No wonder we do not have enough savings and investment in this country like they do in other industrialized countries.

Japan and Germany, they know not to overtax investment and savings. We need a pro-growth policy. We need some tax relief to be done in a reasonable way. This Congress, early next year, is going to address this issue, I am quite confident.

There is a big difference between the two parties on this issue of how much of your money you get to keep every time you get paid. We want you to keep more of your money and we are willing to make those tough votes to shrink the Government so you can keep more of our money. It is a defining issue, Mr. Speaker. I hope that the people in this country will wake up to these issues and realize there is a big difference and our future is at stake, because I want my son to keep more than 15 cents of every dollar he makes when he gets my age.

I thank the gentleman for yielding to me.

Mr. SAXTON. Mr. Speaker, I would just like to emphasize one of the things that you have correctly and articulately pointed out. I guess I would do it this way.

During the last 3 or 4 years we have gotten ourselves into a situation where wages have shrunk and taxes have increased. And so when you have shrinking wages and increased taxes, you get people in a pinch. You get people in a crunch. And, of course, that has happened during the Clinton administration, and there have been some around here who have called that Bill Clinton's crunch. In other words, we have got these lowering wages, increasing taxes, which means for every family in America less disposable income.

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Tougher to get a loan, tougher to get the kids clothes in September when they go back to school, tougher to go to the Acme Market or the Super Saver Market or whatever market you go to every week, and this issue of less disposable income is one of the primary reasons why the generation that you just spoke about, your kids, are looking at their adult life and saying: "Wow, did my parents have more opportunity than I did for the first time in the history of our country?"

Mr. SMITH of Michigan. If the gentleman will yield, you know it is so disconcerting that government is so hell bent on having more control over peoples' lives is disrupting and making those lives worse by having a bigger government and by having more and more taxes, because it hurts those jobs.

You know, I am an economist by education, but I always through the school of economics might be better in social studies because it is human reaction, economics is human reaction. If we want more and better jobs in this country, we have to decide what products the people in this country and other countries want to buy, and we have got to make a quality product at a competitive price. When we tax investment and saving more than any of these other countries because in government's eagerness to be bigger and do more things for more people, we have increased the tax.

You know, we heard a lot of discussion: How are we going to pay for the Dole Tax cut? It is $540 billion.

It is interesting to note that this liberal Congress in the last 5 years, not in the last 1½ years of Republican control, but in the last 5 years has increased taxes $540 billion, and so that tax increase is now being offset with a suggestion: "Let's reduce taxes by $540 billion."

The liberal press says, "Well, how are you going to pay for it?"

I like the Speaker's reaching in the pocket and bring out six pennies, because we have go a pinch pennies if we are going to pay for the tax cut.

But the fact is that if we can cut down the waste and the fraud and the abuse of Federal Government by just 6 cents out of a dollar, we are going to pay for that tax cut.

I mean, Mr. Speaker, if I could ask the American people right now how much fraud and abuse and waste do you think is in government, you know we could have a bidding process. We could say, I bet most of the people of America think we could cut out 10 percent, or even 15 percent.

But what we are talking about is pinching pennies in the Federal Government, just like every family has to do, and cutting down this budget by 6 percent and reducing those taxes by 15 percent, leaving more money in every citizen's pocket.

That is what we are interested in, take-home pay. We have got to have more and better jobs, but at the same time, if we can reduce those taxes by 15 percent, what we are talking about is for a family, for a man, a husband and wife and two kids, making $30,000, they will have $1.264 more in their pocket if we have this tax cut, and that is just what government and a liberal Congress has taken out of their pockets in the last 5 years.

So let us offset it, let us move ahead. It is ridiculous having bigger and bigger government that not only taxes more but takes over more of your freedom and more of your liberty.

Mr. SAXTON. I thank the gentleman for pointing that out, and certainly savings and finding ways to pinch pennies, as you have correctly pointed out, is crucial to our getting the job done that we need to get done. Because we can get more revenue through economic growth policies, but if we do wrong again, that which we did wrong in the 1980's, it will all be for naught because this has got to be a two-pronged program. We can do right, what we did in the 1980's, but we also have got to pinch pennies.

I saw the Speaker of the House, Mr. GINGRICH, give a speech on television the other day, and he was talking about this very subject. He did not have six pennies, but he had an ice bucket, and I thought what in the world is the Speaker going to do with this ice bucket? And he held it in his hand, and he pointed that when we took control of this House 2 years ago, or a year and a half ago, the Republican Party decided to do things differently around here, and prior to the time we took over every office, every Member of Congress had two buckets of ice delivered to his or her office every day.

I just kind of took it for granted in the 10 years or so that I had been here that ice showed up. I do not know whether anybody used it or not. I did not. But when we took over, we decided it was something we did not need to do, and let me tell you we saved.

According to the Speaker, from what I heard him say the other day, we saved $400,000 by pinching ice buckets, I guess, and not doing the foolish things that happened back in the days before we had refrigeration, back in the days when we maybe needed to put lunch on ice, literally. Today, every office has a refrigerator in it, and the Congress was continuing to spend $400,000 every year on ice.

Mr. SMITH of Michigan. If the gentleman would yield again, it is interesting because it is very personal. When I came to Congress in 1993, first thing, I told my staff, "Look, stop the delivery of ice," and they—after 5 days I said, "The ice is still coming," and they said, "Well, we can't stop it." They said it is in the labor contract, and they are required to deliver two buckets of ice to every congressional office.

So I wrote a letter to the Speaker, the Democratic Speaker at that time, and suggested that this was pretty ridiculous, that we had a small refrigerator, we had all the ice we needed. If we wanted cold pop, we had cold pop.

But, you know, there are so many examples like that.

The post office, the post office is another half a million dollars. Instead of the Government running its own post office and feeding out the stamps and allowing the kind of corruption that existed in the past, when this Congress, when this new Republican Congress, came in, we said the U.S. Postal Service is responsible for running the post office. That saved another half a billion dollars.

This, JIM, is so amazing. I wish everybody could know some of the things that have happened.

You know, when we took office in our term in Congress, we cut out 270 different agencies and programs. On the first day of the session when we came into session in 1995, on January 5 or something, what we did is did away with 23 subcommittees, four full committees; we cut legislative staff by almost 32 percent in an effort to do exactly what we are talking about, pinch pennies, and that is what we are going to continue to do.

And, you know, I for one, and I suspect you for another, and many of us in the Republican Caucus, among the Republican Members of Congress, are not going to vote for a tax increase unless it is paid for with spending cuts, because we are very determined that we are going to have a balanced budget.

Mr. SAXTON. I would just like to reclaim my time here for just a minute. I will be happy to continue the discourse, the dialog, with the gentleman.

One of the things that we have done on the Joint Economic Committee, and I am sure that, as the gentleman knows, we have done a number of studies to try to identify where we ought to be and how we ought to get there, and one of the things that surprised me—I had no idea this had happened, probably should have known.

When I was elected to Congress, the Federal Government was consuming something like 19 percent of the gross domestic product, and since I have been here, and I am not proud of this, since I have been here, usually voting against these policies, but since I have been here, in the 12 years we have grown so that our government today consumes 23 percent of the gross domestic product. In other words, over this short period of time, relatively short period of time, we have gone from consuming 18 percent of GDP to 23 percent of GDP. That is dangerous.

We talk about big government a lot around here and about how to make it smaller, and if there is anything that I think points to the necessity of remaining serious about the things that we have started here in the last 2 years, it is that statistic, because as government grows bigger and more expensive, obviously it take more money away and more freedoms away from the people that elect us to come here to safeguard those very freedoms and to run our government as economically as we can.

So when I saw that study which showed that kind of growth in government, it frightened me to death, and I hope that when people hear about it, it will sober some of our friends on the other side of the aisle as well.

Mr. SMITH of Michigan. I think it is important that we point out that under the Republican budget resolution that we passed, by the end of this 6-year effort to balance the budget we will be back down to 8 percent of GDP. So the effort is there.

It takes a lot of conviction. It is not easy for politicians to make those cuts. We have seen so much demagoguing as Republicans have tried to pinch pennies that the demagoguery to criticize Republicans for cutting any of this spending has resulted in an attitude among many Americans that, well, gosh, maybe those Republicans are too cruel and maybe they are putting burdens and pinching pennies for tax breaks for the rich.

JIM, I see you have got a chart down there, and I think this tax break for the rich idea is so ridiculous as we try to give middle-class tax breaks, and that is exactly what the Dole plan does, that is exactly what the Republican plan does. But I believe this is a recollection of what happened in the 1980's under Ronald Reagan.

Mr. SAXTON. This shows clearly what happened in terms of various income groups under the Reagan tax policies beginning in 1981 and going through the year 1988. The claim by some on the other side of the aisle always is that, well, Reagan was great for the rich people because their taxes were cut and they all profited, you know, the rich people, and Reagan took care of them.

Nothing could be further from the truth, and these statistics prove that.

There are three colored lines here which represent taxes paid by various income groups. Here in 1981 this green line shows that people who were in the top 1 percent of the wage-income earners in this country paid 17.6 percent of the total tax burden. People who were between the 51st and the 95th percentile paid 57 percent, and the bottom 50 percent of the taxpayers in the United States in 1981 paid 7.5 percent.

Now, if we jump all the way to the other end of this chart—of course each year goes across, 1982 and 1983, all the way over to 1988, we find that in 1988 the people who were in the top 1 percent of the income class in our country no longer paid 17.6 percent of the total taxes, but paid over 27 percent of the total taxes, an increase of nearly 10 percentage points. Conversely, people who were in the bottom 50 percent, who paid 7.5 percent of the taxes in 1981, by 1988 paid only 5.7 percent, and so they dropped almost 2 percentage points over the 8 years of the Reagan administration.

So this is a clear indication that once again these growth policies that we talk about, the Dole suggestion that we ought to once again reduce tax rates, the Dole suggestion that the capital gains tax is too high, the Dole suggestion that people ought to get a $500 tax credit for each child in the family to reduce the burden of taxes on families, is not only a nice thing to do for families, it not only makes them feel better and not only gives them a little bit more money to spend each year, it is a significant amount of money to spend each year; but more importantly, or at least equally importantly, it makes the economy do better, it makes the economy grow as we have historically done since World War II. It gets us out of the 2.2 percent rate of growth back on track toward 3.5 percent, which is so important to job creation, which is so important to increasing wages, which is so important to opportunities for young people to progress and move up.

So that is what the Dole program is about. If we can continue, as we have, under this leadership in the Senate to reduce spending, to continue, as we have, in this House to reduce spending and still get this growth policy in place, we will certainly do so much better for families than we have during the past 3 years since the huge Clinton tax increase went into place.

Mr. SMITH of Michigan. I would just say, JIM, it is true that American workers are currently the most productive in the world, but we cannot continue that kind of efficiency and productivity because the other countries are increasing their rate of productivity faster than the United States.

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Part of these reasons is because we make it so expensive under our Tax Code for people to save and invest. We penalize.

I am just reading some of the statistics here, where the average tax in the United States is 28 percent, compared to France at 18 percent, and this is for savings and investment; 28 percent in the United States, 18 percent in France. Canada has 23 percent, and Japan has 20 percent. So here the United States is making it more difficult to save and invest, and like we mentioned before, the capital gains tax relief means if the American family buys a home, for example, and it goes up with inflation but does not go up any faster than inflation, when they sell that house we penalize that family for the increased value of their house because of inflation.

So if we have some capital gains tax relief, then we say, look, if that house would only buy the equivalent of, say, five cars when you bought it, it doubles in price over 15 years, but it still only buys five cars, if we are going to tax on increased wealth, then we should not be taxing that inflation. That is what we are trying to do when we talk about capital gains tax relief.

Mr. SAXTON. Exactly. That is what the Dole suggestion is all about, about reducing the rate of taxation in order to promote this type of economic growth that we have seen before.

I would like to thank the gentleman for taking part in this special order, and just conclude by saying that it has been proven since the 1960's, when John Kennedy was President, he gave that famous speech right here at the podium where he said taxes are too high and the economy is suffering because of it, and Lyndon Johnson, his successor, actually put those programs into place and the economy grew. Then Ronald Reagan got elected in 1980 and said almost the same thing, almost the same words, almost the same policies, very similar, similar enough to promote the kind of growth that we got during the 1980's.

If we today, in 1996, can look at the examples set by Kennedy and Reagan, and if we can look at what they did right, and if we can duplicate, as nearly as we can in today's situation, the policies that they did which were so right for our country and so right for economic growth, and at the same time recognize what this House and the other House and the President did wrong in the 1980s; which was a failure to control spending, if we can do those two things and do them right, we will leave a legacy for our children that we can be very proud of.

I would like to thank both the gentleman from Michigan [Mr. SMITH] and the gentleman from Tennessee [Mr. WAMP] for taking part in this special order.

COMMUNICATION FROM THE HONORABLE JOHN D. DINGELL, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. QUINN) laid before the House the following communication from the Honorable JOHN D. DINGELL, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 18, 1996.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that a subpoena (for documents and testimony) issued by the U.S. District Court for the District of Columbia in the matter of *United States v. Jeffrey M. Levine*, Cr. No. 94-034, has been served on me.

After consultation with the Office of General Counsel, I have determined that the subpoena appears not to be consistent with the rights and privileges of the House and, therefore, should be resisted.

Sincerely,

JOHN D. DINGELL,
Member of Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT), for today, on account of illness.

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. SCHROEDER) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

(The following Members (at the request of Mr. WELDON of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Mr. MCINTOSH, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. HANSEN, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. HUNTER, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DORNAN, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. HEFNER, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. SCHROEDER) and to include extraneous matter:)

Mr. SERRANO.
Ms. DELAURO.
Mr. KANJORSKI.
Mr. HAMILTON.
Mr. KLECZKA.
Mr. VISCLOSKY.
Mr. FILNER.
Mr. ACKERMAN.
Mr. DELLUMS.
Mr. STARK.

(The following Members (at the request of Mr. WELDON of Pennsylvania) and to include extraneous material:)

Mr. FIELDS of Texas.
Mr. LARGENT in two instances.
Mr. BURR of North Carolina.

(The following Members (at the request of Mr. SAXTON) and to include extraneous material:)

Mr. VENTO.
Mr. WELLER.
Mr. WELDON of Pennsylvania.
Mr. ROTH.
Mr. WHITFIELD.
Mr. PASTOR.
Mr. LAHOOD.
Mr. GILMAN in two instances.
Mr. STARK.
Mr. DELLUMS.
Mr. VISCLOSKY.
Mr. BAKER of California.
Mrs. MEYERS of Kansas.
Mr. SOLOMON in two instances.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 67. Concurrent resolution to authorize printing of the report of the Commission on Protecting and Reducing Government Secrecy; to the Committee on House Oversight.

ADJOURNMENT

Mr. SAXTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 34 minutes p.m.), the House adjourned until tomorrow, Thursday, September 19, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5185. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Limes and Avacados Grown in Florida; Relaxation of Container Marking Requirements [Docket No. FV96–911–4FIR] received September 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5186. A letter from the Administrator, Rural Utilities Service, transmitting the Service's final rule—Use of Consultants Funded by Borrowers (RIN: 0572–AB17) received September 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5187. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of September 1, 1996, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 104–265); to the Committee on Appropriations and ordered to be printed.

5188. A letter from the Under Secretary of Defense, transmitting the Secretary's certification that the survivability and lethality testing of the UH–1N variant of the USMC H–1 upgrade program otherwise required by section 2366 would be unreasonably expensive and impractical, pursuant to 10 U.S.C. 2366(c)(2); to the Committee on National Security.

5189. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the annual report to Congress by the Division of Compliance and Consumer Affairs of the FDIC, pursuant to 15 U.S.C. 57a(f)(6); to the Committee on Banking and Financial Services.

5190. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by H.R. 3845, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–578); to the Committee on the Budget.

5191. A letter from the Assistant Secretary for Occupational Safety and Health, Department of Labor, transmitting the Department's final rule—Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite Final Rule: Corrections (RIN: 1218–AB25) received September 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Economic and Educational Opportunities.

5192. A letter from the Administrator, Energy Information Administration, transmitting the Energy Information Administration's "Annual Energy Review 1995," pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Commerce.

5193. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Topical Guidelines for the Licensing Support System (Regulatory Guide 3.69) received September 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5194. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Egypt for defense articles and services (Transmittal No. 96–78), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5195. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Egypt for defense articles and services (Transmittal No. 96–77), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5196. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of Pacific Whiting Regular Season [Docket No. 951227306–6117–02; I.D. 090696E] received September 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5197. A letter from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Reef Fish Fishery of the Gulf of Mexico Amendment 13 [Docket No. 96061317–6247–02; I.D. 050996C] (RIN: 0648–AI71) received September 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5198. A letter from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Northern Anchovy Fishery; Quotas for the 1996–97 Fishing Year [Docket No. 960903241–6241–01; I.D. 081996B] received September 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5199. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Closures from the U.S.-Canadian Border to Cape Alava, WA, and from the Queets River to Leadbetter Point, WA [Docket No. 960126016–6121–04; I.D. 090696B] received September 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5200. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustments from the U.S.-Canadian Border to the Queets River, WA [Docket No. 960126016–6121–04; I.D. 090696C] received September 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5201. A letter from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South America; Consolidation of Regulations [Docket No. 960313071–6237–03; I.D. 050996D] (RIN: 0648–AI20) received September 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5202. A letter from the Program Management Officer, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Allowing Quota Shares and Individual Fishing Quota to be Used on Smaller Vessels [Docket No. 960612171–6227–02; I.D. 060496A] (RIN: 0648–AI57) received September 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5203. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Regulatory Area of the Gulf of Alaska [Docket No. 960129018–6018–01; I.D. 090996A] received September 17, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5204. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Sharpchin and Northern Rockfish in the Aleutian Islands Subarea [Docket No. 960129019–6019–01; I.D. 090696D] received September 17, 1996, to the Committee on Resources.

5205. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to amend title 18, United States Code, to extend certain statutes of limitation; to the Committee on the Judiciary.

5206. A letter from the Chief Justice, Supreme Court of the United States, transmitting notification that the Court will open the October 1996 term on October 2, 1996; to the Committee on the Judiciary.

5207. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a memorandum of justification for Presidential determination regarding the POW/MIA military drawdown to Cambodia, pursuant to 22 U.S.C. 2348a; jointly, to the Committee on International Relations and Appropriations.

5208. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting obligation of funds for additional program proposals for purposes of nonproliferation and disarmament fund activities, pursuant to 22 U.S.C. 5858; jointly, to the Committees on International Relations and Appropriations.

5209. A letter from the Chairman, Railroad Retirement Board, transmitting the Board's budget request for fiscal year 1998, pursuant to 45 U.S.C. 231f; jointly, to the Committees on Transportation and Infrastructure, Appropriations, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calender, as follows:

Mr. SOLOMON: Committee on Rules. H.R. 3024. A bill to provide a process leading to full self-government for Puerto Rico; with an amendment (Rept. 104–713 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2988. A bill to amend the Clean Air Act to provide that traffic signal synchronization projects are exempt from certain requirements of Environmental Protection Agency rules; with an amendment (Rept. 104–807). Referred to the Committee of the Whole House on the State of the Union.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 4 of rule XIII, the Speaker, filed with the Clerk a notice requesting that the following bills be placed upon the Corrections Calendar:

H.R. 3153. A bill to amend title 49, United States Code, to exempt from regulation the transportation of certain hazardous materials by vehicles with a gross vehicle weight rating of 10,000 pounds or less.

H.R. 2988. A bill to amend the Clean Air Act to provide that traffic signal synchronization projects are exempt from certain requirements of Environmental Protection Agency Rules.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EWING (for himself, Mr. BUYER, Mr. POSHARD, Mr. BARCIA of Michigan, Mr. HASTERT, Mr. LATHAM, Mr. MANZULLO, Mr. LAHOOD, Mr. GANSKE, Mr. BEREUTER, Mr. BUNNING of Kentucky, Mr. GILLMOR, Mr. WELLER, Mr. MCINTOSH, Mr. DEAL of Georgia, Mr. LIGHTFOOT, Mr. COBLE, Mr. BOEHNER, Mr. LEACH, Mr. MILLER of Florida, Mr. NETHERCUTT, Mr. BARRETT of Nebraska, Mr. PETERSON of Minnesota, Mr. ROSE, Mr. LUCAS, Mr. COMBEST, Mr. MCHUGH, and Mr. TOWNS):

H.R. 4102. A bill to provide regulatory relief for certain farm transportation of hazardous materials; to the Committee on Transportation and Infrastructure.

By Mr. BILIRAKIS:

H.R. 4103. A bill to amend title 10, United States Code, to provide limited authority for concurrent payment of retired pay and veterans' disability compensation for certain disabled veterans; to the Committee on National Security, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BRYANT of Tennessee:

H.R. 4104. A bill to amend title 10, United States Code, to establish a sentence under the Uniform Code of Military Justice of confinement for life without eligibility for parole and to provide that a decision to deny parole for a military offender serving a sentence of confinement for life may be appealed only to the President; to the Committee on National Security.

By Mr. GRAHAM (for himself, Mr. FUNDERBURK, Mr. KASICH, Mr. LARGENT, Mr. SENSENBRENNER, Mr. STOCKMAN, Mr. MILLER of Florida, Mr. TALENT, Mr. HAYWORTH, Mr. DORNAN, Mr. SCARBOROUGH, Mr. BARTON of Texas, Mr. INGLIS of South Carolina, Mr. ROHRABACHER, Mr. HOKE, Mr. HERGER, Mr. LAHOOD, Mr. SMITH of Michigan, Mr. ISTOOK, Mr. BARR, Mr. SHADEGG, Mr. HILLEARY, Mr. HOSTETTLER, Mr. BOEHNER, Mr. FORBES, Ms. DUNN of Washington, Mr. BRYANT of Tennessee, Mr. CHAMBLISS, Mr. MCINTOSH, Mr. WICKER, Mrs. MYRICK, Mr. RADANOVICH, Mr. SOLOMON, Mr. COOLEY, Mr. JONES, Mr. WAMP, Mr. CHABOT, Mr. WATTS of Oklahoma, Mr. SAM JOHNSON, Mr. BURTON of Indiana, Mr. NORWOOD, Mr. KNOLLENBERG, Mr. LAUGHLIN, Mr. BARTLETT of Maryland, Mr. HASTERT, Mr. THORNBERRY, Mrs. SMITH of Washington, Mr. MCKEON, Mr. TAYLOR of North Carolina, Mrs. SEASTRAND, Mr. STUMP, and Mr. DEAL of Georgia):

H.R. 4105. A bill to repeal the Goals 2000: Educate America Act to allow local areas to develop elementary and secondary education programs that meet their needs; to the Committee on Economic and Educational Opportunities.

By Mrs. JOHNSON of Connecticut (for herself, Mr. CASTLE, Mr. CLINGER, Mr. HOUGHTON, Mr. SERRANO, Mr. BACHUS, and Mr. LEWIS of Georgia):

H.R. 4106. A bill to amend the Internal Revenue Code of 1986 to provide that 0.5 cent of the general revenue portion of the highway motor fuel taxes shall be deposited into an intercity passenger rail trust fund and to deposit the remainder of such portion into the highway trust fund; to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETERSON of Minnesota:

H.R. 4107. A bill to direct the Administrator of the Environmental Protection Agency to revise water quality criteria for ammonia, and for other purposes; to the

Committee on Transportation and Infrastructure.

By Mr. RICHARDSON (for himself, Mr. SCHIFF, Mr. CRAPO, and Ms. FURSE):

H.R. 4108. A bill to authorize the sale of excess Department of Defense aircraft to facilitate the suppression of wildfire; to the Committee on Government Reform and Oversight, and in addition to the Committee on Agriculture, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROTH:

H.R. 4109. A bill to extend the authority for certain export programs, and for other purposes; to the Committee on International Relations.

By Mr. STARK:

H.R. 4110. A bill to amend the Internal Revenue Code of 1986 to require that group health plans and insurers offer access to coverage for children and to assist families in the purchase of such coverage; to the Committee on Ways and Means.

By Mr. STUDDS (for himself, Mr. FOX, Mr. MOAKLEY, Mr. TORKILDSEN, Mr. KENNEDY of Massachusetts, Mr. FRANK of Massachusetts, Mr. MEEHAN, Mr. NEAL of Massachusetts, Mr. MARKEY, and Mr. OLVER):

H.R. 4111. A bill to provide educational assistance to the dependents of Federal law enforcement officials who are killed or are permanently and totally disabled in the line of duty; to the Committee on the Judiciary.

By Mr. TAYLOR of North Carolina:

H.R. 4112. A bill to provide for the settlement of claims of Swain County, NC, against the United States arising under the agreement entered into on July 30, 1943, by the Tennessee Valley Authority, the State of North Carolina, Swain County, NC, and the United States; to the Committee on Resources.

By Mr. VENTO:

H.R. 4113. A bill to regulate the use by interactive computer services of personally identifiable information provided by subscribers to such services; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 559: Mr. LANTOS.

H.R. 580: Mr. CUMMINGS.

H.R. 789: Mr. MARTINI, Mr. MYERS of Indiana, and Mr. STENHOLM.

H.R. 1130: Mr. HERGER.

H.R. 1148: Mr. CANADY.

H.R. 1386: Ms. DANNER.

H.R. 1434: Mr. KLECZKA.

H.R. 1462: Mr. ROMERO-BARCELÓ, Mr. BONO, and Mr. NORWOOD.

H.R. 1619: Mr. SPRATT.

H.R. 1889: Mr. LAHOOD, Mr. WARD, Mr. BROWDER, and Mr. KENNEDY of Massachusetts.

H.R. 2011: Mr. MCHUGH.

H.R. 2400: Mrs. CHENOWETH, Mr. DEFAZIO, Mr. BAKER of Louisiana, Mr. HINCHEY, and Mr. LONGLEY.

H.R. 2508: Mr. BRYANT of Tennessee, Mr. BISHOP, Mr. SENSENBRENNER, Mrs. MYRICK, and Mr. KASICH.

H.R. 2579: Mr. CALVERT

H.R. 2900: Mr. DAVIS, Mrs. CHENOWETH, Mr. KIM, Mr. SKELTON, Mr. SISISKY, Mr. BURR, Mr. LINDER, Mr. BRYANT of Tennessee, Mr. HUNTER, Mr. ROHRABACHER, Mr. HOBSON, Mr. PORTER, Mr. GOODLATTE, Mr. PACKARD, and Mr. MANZULLO.

H.R. 2976: Mr. BAKER of Louisiana, Mr. BROWNBACK, Ms. DANNER, Mr. GRAHAM, Mr. KING, and Mr. PAYNE of Virginia.

H.R. 3052: Ms. SLAUGHTER.

H.R. 3059: Mr. GREEN of Texas.

H.R. 3142: Mr. GILCHREST.

H.R. 3239: Mr. HUTCHINSON.

H.R. 3307: Mr. CRANE.

H.R. 3356: Mr. HUTCHINSON.

H.R. 3391: Mr. BURTON of Indiana.

H.R. 3393: Mr. OLVER.

H.R. 3401: Mr. NORWOOD and Mr. LONGLEY.

H.R. 3462: Mr. WAXMAN and Mr. KLECZKA.

H.R. 3508: Mr. SALMON.

H.R. 3514: Mr. NORWOOD.

H.R. 3551: Mr. SERRANO and Ms. ROS-LEHTINEN.

H.R. 3645: Mr. CLINGER, Mr. HOUGHTON, Mrs. KELLY, Mr. HAYES, Mr. BLUTE, Mr. SCHAEFER, Mr. MCHUGH, and Mr. BARRETT of Wisconsin.

H.R. 3714: Mr. BLUTE, Mrs. THURMAN, Mr. LAUGHLIN, Mr. ABERCROMBIE, Mr. COMBEST, Mr. SKAGGS, Mr. HERGER, Ms. LOFGREN, Mr. HILLIARD, and Mr. LAZIO of New York.

H.R. 3733: Ms. LOFGREN.

H.R. 3787: Mr. JOHNSTON of Florida.

H.R. 3895: Mr. GREEN of Texas, Mr. BARRETT of Wisconsin, Mr. BAKER of Louisiana, and Mr. BACHUS.

H.R. 4027: Mr. RAMSTAD and Mrs. MYRICK.

H.R. 4056: Mr. ABERCROMBIE.

H.R. 4062: Mr. GINGRICH.

H. Con. Res. 21: Mr. HOYER, Mr. KENNEDY of Massachusetts, Ms. DANNER, Mr. PASTOR, and Mr. TORRES.

H. Con. Res. 51: Mr. BEREUTER.

H. Con. Res. 63: Mr. HASTINGS of Florida.

H. Res. 423: Mr. QUINN and Mr. FOX.

H. Res. 490: Mr. UNDERWOOD and Mr. LIPINSKI.

H. Res. 515: Mrs. SMITH of Washington, Mr. SOUDER, Mr. FRANK of Massachusetts, Mr. DORNAN, Mr. CLEMENT, Mr. DURBIN, Mrs. MORELLA, Mr. LIPINSKI, Mr. PORTER, Mr. WATTS of Oklahoma, Mr. EVANS, Mr. LANTOS, Mr. HOYER, Mr. BUNN of Oregon, and Mr. HOKE.

SENATE—*Wednesday, September 18, 1996*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

The prophet Isaiah asked some very penetrating questions. The answers lead us to an authentic attitude for profound prayer:

"Who has measured the waters in the hollow of his hand, measured heaven with a span and calculated the dust of the earth in a measure? Weighed the mountains and the hills in a balance? Who has directed the Spirit of the Lord, or as His counselor has taught Him? With whom did He take counsel, and who instructed Him, and taught Him the path of justice? Who taught Him knowledge, and showed him the way of understanding?"—Isaiah 40:12–14.

Almighty God, these questions expose the shallowness of our understanding of prayer. So often we come to You in prayer as if it were our responsibility to brief You on world affairs or current national problems. Or we come to prayer with our shopping list of needs as if You did not know all about us. And then there are times we try to get You to bless our plans about which we never consulted You.

Father, You created prayer for us to be with You, to know You, to have our characters emulate Your character, and, most of all, to be filled with Your spirit. So we humble ourselves. Instead of telling You what to do, we open ourselves completely to receive Your marching orders and to follow You. In the name of the One who taught us to pray, "Not my will but Yours be done." Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

Mr. LOTT. Good morning, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, this morning, there will be a period of morning business until the hour of 11 a.m., and the first 45 minutes of morning business will be under the control of Senator HUTCHISON, and the second 45 minutes will be under the control of Senator DASCHLE, or his designee.

Following morning business at 11 a.m., the Senate will resume consideration of S. 1994, the FAA reauthorization bill. A unanimous-consent agreement limiting amendments to that bill was reached last night. Also under the order, all amendments listed must be filed at the desk by 11 a.m. this morning. It is hoped that most of those amendments can be agreed to or not be offered at all.

Upon disposition of the FAA bill, the Senate will be asked to turn to the consideration of the conference report to accompany the Transportation appropriations bill, if available, or the Magnuson fisheries bill under a previous consent agreement. In any case, there will probably be rollcall votes throughout the day, and Senators should expect those votes.

I am pleased with the progress that has been made on the FAA reauthorization bill. The Senator from Arizona, Senator MCCAIN, and the Senator from Kentucky, Senator FORD, have been working very hard on this. We need to get this done. In fact, we need to get it completed and we need to do it quickly so we can move on to other bills we need to get done. If we don't get this FAA reauthorization bill completed, there will be a prohibition at the end of the year on use of the airport trust fund. So we absolutely have to get it done.

Also, I would like to make sure Senators are aware that we are considering moving to other conference reports when they are available. We are also considering taking up, perhaps on tomorrow and Thursday, the maritime legislation from the Commerce Committee that will be managed by the Senator from Alaska, Senator STEVENS, and we are now beginning to see if we can clear the way on both sides of the aisle to take up the pipeline safety legislation, something, once again, we really need to do. Certainly, in America, we should make sure we have a program and plan for our pipelines being safe.

Until we see if we can work out some understanding that we can do our appropriations bills without a lot of delay or extraneous amendments, we will move forward on making progress on these other bills, these other issues. I had hoped we could get all of the appropriations bills done in regular order, but that has not been the case on the last two bills. Rather than just a squabble back and forth, I thought we could go on and do the people's business in other areas. I think we can do a lot of good work in that area over the next 3 or 4 days.

I yield the floor, Mr. President.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business until the hour of 11 a.m., with the first 45 minutes under the control of the Senator from Texas, Mrs. HUTCHISON, and the second 45 minutes under the control of the Democratic leader, Senator DASCHLE, or his designee.

Mrs. HUTCHISON addressed the Chair.

The PRESIDENT pro tempore. The able Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President. Mr. President, we are now in morning business, according to the order, and I control 45 minutes of time.

DEFENSE APPROPRIATIONS BILL AND INTERNATIONAL MILITARY COMMITMENTS

Mrs. HUTCHISON. Mr. President, the reason that I asked for the time this morning is I think we have a very crucial decision that is being made right now in our Nation's Capital, and that is how much we are going to fund the defense of our country. In fact, Congress is in a dispute with the President, as we speak, about how much we should spend to defend our Nation.

I find it ironic, if not sad, that as 3,500 of our American troops are on their way to Kuwait right this minute that the President would be threatening to veto the Defense appropriations bill if $2 to $3 billion is not cut from that bill.

Our troops are on their way, possibly for a conflict. We hope not. But, as you know, as the distinguished Presiding Officer is the chairman of the Armed Services Committee and the President pro tempore of the Senate, this is not the time to let down our defenses. This is not the time to say that we should be shifting valuable weapons systems for the protection of our troops and for their ability to protect the interests of the United States into unnamed other programs—social programs, perhaps education programs.

I don't know what the President has in mind. But I do know that the President of the United States is today saying he will veto an appropriations bill for the Defense Department at the same time that he is ratcheting up a conflict in the Middle East.

Mr. President, several people would like to speak on this issue. I have more to say, but at this time, I am going to yield to my colleague, the senior Senator from Idaho, LARRY CRAIG.

Mr. CRAIG addressed the Chair.

The PRESIDENT pro tempore. The able Senator from Idaho is recognized.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. CRAIG. Mr. President, I have comments that will take probably up to about 8 minutes. The Senator from Arizona is with us, and I understand he has a scheduling conflict, so I will be more than happy to yield to him.

Mr. KYL addressed the Chair.

Mrs. HUTCHISON. I will be happy to yield to the distinguished Senator from Arizona, who has provided so much leadership in our Nation's defenses, and ask how long, approximately, he would like.

Mr. KYL. Mr. President, I inform the Senator from Texas, probably about 5 minutes, if that is acceptable.

Mrs. HUTCHISON. That is acceptable. Thank you, and I yield the floor.

The PRESIDENT pro tempore. The able Senator from Arizona is recognized.

Mr. KYL. Mr. President, first of all, let me say the Senator from Texas is to be complimented for beginning this very important discussion which I think, frankly, is going to have to go on for some time here until we can get this matter resolved.

It boils down to something very, very simple. On the one hand, you have the administration making substantial international commitments for the deployment and use of American military forces which will cost billions of dollars of money, and, at the same time, you have the administration suggesting that unless the Congress is willing to take money from the defense budget and spend it on other things that the President wants, there is the possibility of a Presidential veto of the defense appropriations bill.

Mr. President, we have been, I think, appropriately discreet here in this body in sharing our views on international policy, especially as it relates to the Middle East and the President's action in Iraq. We passed a resolution here overwhelmingly supporting the action that the administration took and supporting our troops in Iraq. We have not gone out of our way to criticize the President's policy there, even though many of us have grave concerns and questions about where that policy is leading us.

But when it comes to passing the defense authorization and defense appropriations bill, this body has a responsibility to ensure that our military forces have what they need to carry out these commitments. And nobody, Mr. President, more than you, as the chairman of the Senate Armed Services Committee, has fought harder over the years to ensure that our troops have what they need.

I remember that after the Persian Gulf war was over and everyone was passing out compliments to Secretary Cheney and to President Bush and to the Chairman of the Joint Chiefs of Staff, Colin Powell, they all pointed out that what won that war was the character and skill of our men and women who were fighting there and the decisions that were made 10 or 12 years before by the Senate, by the House, and by the administrations at that time to begin the research and development of the smart weapons and other weapons that we used in the Persian Gulf war. That is what enabled us to win that war quickly and with a minimum of casualties.

Now we are again engaged in conflict in Iraq, and we are again using those same weapons, and at the same time the President is suggesting that we have to cut the defense budget because he wants to spend more money in other areas. I remind my colleagues that last year we added money back into the defense bill to buy Tomahawk missiles, more than the President requested. He did not request that money. We said, you are going to have to buy more Tomahawk missiles because that is what we are going to need if we have another conflict in the Middle East. And what happened? We had another challenge from Saddam Hussein, and the President ordered the firing of Tomahawk missiles. I am glad that the Senate disagreed with the President on that last year, added that money in, and we had those Tomahawk missiles ready to go to fight this conflict.

Now we have the same issue again. Are we going to be permitted to properly fund the military forces? What we are suggesting is still far less than the military was provided last year. So this is not an increase over last year's spending. It is less money. It is more money than the President requested, and that is because we have identified some areas in which we think the administration's request was deficient, just as it was with the Tomahawk missiles last year.

Mr. President, it boils down to this. I have a lot of statistics here and might ask for unanimous consent to submit some matters in writing that gets into the specifics, but I know that my other colleagues here wish to add their voices to this concern. So I am just going to make this statement very generally.

Mr. President, I ask unanimous consent to have printed in the RECORD this statistical information and related material.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Press release from the House Appropriations Committee]

LIVINGSTON TO CLINTON: NOW IS NOT THE TIME TO FURTHER CUT DEFENSE

WASHINGTON, DC.—Charging that President Clinton is putting the nation's servicemen and women at risk overseas, House Appropriations Committee Chairman Bob Livingston (R-LA) urged the President to reconsider reports that his Administration is now seeking $3 billion in additional cuts to the defense bill.

"Further cuts to the defense bill will mean less medical care funding for military personnel, a weakening of the drug war, and an inability to relocate troops in Saudi Arabia. If the President wants $3 billion more cut from the defense budget, he should present our committee with a list of cuts and we'll be happy to consider them.

The defense conference report added nearly a half billion dollars to the President's request for medical care, which was cut in the Clinton Budget; added $600 million to the President's request for barracks and base repair; and added $165 million to the President's request for drug interdiction and counter-drug activities.

"President Clinton claims Congress wants to spend $10 billion more than he wants, but he won't admit that he asked for $10 billion less than last year's funding level for defense. This cut comes at a time when our nation's military is preparing for a new round of bombing in Iraq; facing more than $100 million in costs for troop relocation in Saudi Arabia; and underfunding Bosnia by more than $200 million to date. It is a bad time to cut defense, yet that's all the Commander-In-Chief offers in relation to negotiations on unfinished appropriations bills," said Livingston.

Even more disconcerting is the fact that the President holds the Defense Appropriations bill hostage to more spending cuts, while he vows to sign to the $265.6 billion Defense Authorization bill (which actually authorizes more funding that the appropriation bills spends). When adjusted for inflation, defense spending actually declines between FY96 and FY97 marking the twelfth consecutive year defense spending has come down.

"I am simply amazed that the President thinks he can dupe the American public into thinking that he is pro-defense by signing the authorization bill, while threatening to veto the legislation that actually pays the defense bills. The President's veto would deny a 3% pay raise for military personnel, deny funding for a half billion dollar shortfall created in the President's request for medical programs, and deny essential upgrades to our nation's aging weapons systems, which the President's own Joint Chief of Staff say falls more than $100 billion short over the next five years," said Livingston.

ANOTHER CLINTON FOREIGN POLICY FAILURE—CRISIS IN IRAQ WORSENS

On August 31, 1996, Saddam Hussein sent 40,000 troops to seize the northern Kurdish city of Irbil.

The U.S. responded to this with cruise missiles in the South and by extending the "no fly."

Clinton declares this a success.

Rhetoric (declared victory) is inconsistent with the reality in the region.

Hussein has expanded his power over the whole Kurdish region.

A major CIA-funded effort to destabilize Saddam is virtually defunct.

The Gulf War international coalition is fractured. Kuwait balks at accepting U.S. troops and few voice opposition to Saddam's moves.

The 1991 humanitarian relief program is in shambles.

If the President is serious about achieving what he believes are U.S. goals, he must act now to set his case before the American people and to include their elected representatives in the Congress in his deliberations. Anything less would be a major failure of leadership.

3500 (not 5000) Fort Hood troops are enroute to Kuwait beginning this morning.

23 F-16s will go to Bahrain to help enforce the "no-fly" zone.

8 F-117 Sealth Bombers are in Kuwait with 4 B-52s at Diego Garcia.

Within days, the force will include 2 aircraft carriers with more than 150 Navy aircraft and more than 20 other warships and submarines.

Actions thus far are a replay of Administration actions in previous events, e.g., Somalia, Haiti, Bosnia, all of which are unraveling or failing to meet original administration promises.

No notification by the Administration.

No consultation with Congress.

No strategic goals/objectives presented to the American people.

Failure to state what actions Hussein must take to satisfy the U.S.

Mr. KYL. Thank you, Mr. President. Just to summarize it this way, nothing is more important than the defense of our country and ensuring that when the Commander in Chief gives the order for our young men and women to go into combat, to risk their lives, that ensuring that they have the means of achieving their missions in the safest way possible.

As I read a couple days ago about the first F-111 pilot at the beginning of the gulf war, on the very first night, who had to fly through the flak over Baghdad, he drew the lucky straw, or the unlucky straw, as it may be. He and his wing man told the story about how the night was black, it was eerie, but he could see the lights of Baghdad in the distance. And he said, as he got closer, it looked like a big fireworks display, there was so much flak over that city. He knew he had to fly through that. But he had the training and he had the equipment because we provided it, and he got through in good shape and performed his mission.

We can never shortchange the men and women that we send into combat without adequate equipment. That is why it is so important that the President get on board here and agree with us to fund the military to the degree that is necessary, to the degree that your committee has recommended.

Mrs. HUTCHISON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. I yield up to 10 minutes of our time to the Senator from Idaho.

The PRESIDENT pro tempore. The able Senator from Idaho.

Mr. CRAIG. Mr. President, let me thank the Senator from Texas for requesting this morning business and special order to talk about not only the situation of Defense appropriations, but the impending foreign policy crisis in this country. And as we begin to look seriously, Mr. President, at ending this legislative session and completing our work, there are some remaining appropriations bills that simply must be dealt with in a fair and honest way to effectively close down the Congress. One of those is the 1996 Department of Defense appropriations bill.

In short, Mr. President, saber rattling by this administration has occurred in places other than Iraq. Recent indications that President Clinton will veto the bill that the Senators from Arizona and Texas and I are talking about this morning, which provides funding to our Nation's armed services—including the current deployment in the gulf and those now preparing to respond to the President's call of another 3,500 troops to be deployed, and who may well be in the air at this moment headed for Kuwait—is, to me, a position that our President should find unconscionable, but yet at this very moment the message coming out of the White House is, veto Defense authorization.

The brave men and women serving this Nation and protecting our security and the Nation's interests should not be turned into pawns for Presidential election politics. I cannot begin to express my frustration over this situation because the timing for this President and his political agenda appears to be extraordinary. Therefore, I hope the President will respond by indicating his support for our Armed Forces and his willingness to sign this critical piece of legislation.

The deployment of our troops does not occur without cost. The Senator from Arizona has already referenced that very effectively. The President has deployed U.S. forces widely in peacekeeping efforts, and it is time to respond in kind by paying for it. That is what the American public would expect of a Commander in Chief.

Mr. President, I would like also to take a moment to again address some of the concerns that I mentioned last Friday in the press about the ongoing situation in Iraq, because it is fair to talk about that situation in the context of Defense appropriations, all in one statement, because they fit so well together. As I have said, they clash at this moment in what appears to be a Presidential political agenda that just does not fit.

What is our policy? What is our mission? What is our goal in Iraq? It is a straightforward question that deserves to be answered. The President, as I mentioned, is now deploying troops to Kuwait. More American lives could well be on the line. And it is past time—it is clearly past time—for this President to tell the American people what his answer to those three questions are.

Reports yesterday from CNN stated that 3,500 troops are headed to Kuwait. Claims were made that calling off the deployment now would send the wrong message of weakness to Iraq. I would argue that the message has already been sent in the form of a lack of foreign policy to address this situation. The deployment of troops to Kuwait is clearly a case in point. This announcement of sending 3,500 troops comes on the heels of comments by the President that he was reconsidering a decision to send several thousand troops to Kuwait.

The Washington Post quotes President Clinton as saying this:

> We have sought no confrontation with Saddam Hussein. We never did, and we don't now. My concern is that we limit Saddam Hussein's ability to threaten his neighbors, that we do it with the "no-fly" zone, and in so doing, we keep our pilots safe.

I am not here to criticize the worthy goal of keeping our pilots safe. However, this administration's policy is changing daily. The White House has not had its press conference this morning, so we do not know what the foreign policy of today is. We were told the actions of expanding the southern no-fly zone was a reaction and a lesson to Saddam Hussein that his use of force would be met with force. However, the message did not register. We did not address the area of violation, which was the introduction of 30,000 Republican Guard troops into the Kurdish safe haven at the request for help from one of the Kurdish factions. In addition, our reaction did little to dissuade Iraqi activities.

The administration claimed that our actions were justified because of the inhumane actions of the Iraqis against the Kurds. However, we have already lost that battle.

Hussein's troops moved into the safe haven under the vigilant watch of our intelligence sources and they have remained. We have done nothing to respond to Saddam Hussein's actions. In a recent article printed by the Canadian news magazine Maclean's, an unidentified State Department official was quoted as saying:

> By attacking in southern Iraq rather than striking at the forces that Saddam used against the Kurds in the north, the United States sent him a clear signal that it is concerned only about the security of the oil supplies from Kuwait and other Persian Gulf states, and does not care much about what he does inside his own borders. . . . We've not demonstrated [in all fairness, Mr. President] a lot of courage. . . . Our actions have not left the region any more secure. [Bluntly put] Saddam has gotten away with it.

Mr. President, this concern is not isolated but has been quite widely reported in news from Government officials and independent analysts.

These criticisms do not question the need to respond to Hussein. Rather, they question the nature of the response chosen by our President. An action was necessary, but it should have reflected Hussein's aggressive behavior. Brent Scowcroft, former national security adviser under Presidents Ford and Bush, put it very succinctly in an article printed in the September 23 edition of Newsweek.

> We were right to strike back, but we did so in a way that did no lasting military damage to him and inflicted significant collateral damage on us. The cruise-missile attack was

quick, clean, and easy. But, it may have sent Saddam the wrong message—that he would only pay the price of a pinprick. When the smoke cleared, it looked to most political leaders around the world as though Saddam was better off and the United States was worse off than before the current crisis began.

Mr. President, the article covers a number of other cogent issues on this situation. I ask unanimous consent that the article be printed in the RECORD following my statement.

The PRESIDING OFFICER (Mr. GREGG). Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRAIG. In addition to the loss of this high-stake game, I argue that Saddam Hussein won the divide-and-conquer battle. It is disturbing to note how many nations who were supportive of active participation in the coalition developed by President George Bush in the gulf war, have either failed to offer support or have condemned the American strikes and the American actions.

The Russians not only opposed United States actions, but they went so far as to criticize the administration for playing electoral politics. France, once an important ally in the region, has refused to participate in patrolling the expanded area of the southern no-fly zone. Turkey, an ally since World War II, Jordan, and Saudi Arabia have all expressed concern and refused to allow the United States to base some of their actions in their countries.

By moving unilaterally, the President has isolated the United States in the region and weakened our position not only in the gulf, but it could spill over into other regional issues such as the U.S. effort to further the Middle East peace process.

One point that has come to light which bothers me greatly is the lack of action to address growing concerns about the division and strains against the various Kurdish factions. Efforts to push diplomatic negotiations could have prevented the situation from escalating to the point that both Iran and Iraq were called into the conflict for support by the various factions.

In addition, when new intelligence reports indicated troop movement, why were there no efforts to deter the looming action before troops were allowed to reach the Kurdish safe haven and quickly move into Irbil, remove the Patriotic Union of Kurdistan, and execute approximately 100 non-Kurdish Iraqi dissidents who based their anti-Hussein activities out of the area?

Mr. President, the $1 billion-plus that the United States has spent establishing and maintaining the Kurdish safe haven is also lost. It has been acknowledged by U.S. officials that Saddam Hussein has left a massive security presence. That presence will keep his political opponents muted, and serve as a constant reminder to Iraqis and, indeed the world, that he intends to regain control of his entire country. Saddam is here to stay.

In closing, while I appreciate the President's efforts to brief congressional leaders yesterday, I remain frustrated at the lack of a clear and precise direction on the part of the administration in dealing with Saddam Hussein. He is not going away, and neither are our interests in the region. We have lost ground during this go-around. But, we have been given a reprieve by the Iraqis, who recently announced a discontinuance of attacks on United States aircraft patrolling the no-fly zone, and ceased efforts to rebuild air defense systems destroyed by our missiles. Therefore, time is of the essence, and the President must get his policy on track, and this situation back into balance.

And, President Clinton, you do accomplish this by vetoing the very bill that will fund our efforts in the Middle East and keep our men and women in uniform safe.

I say in conclusion that it is time that the White House woke up, that America demand the answer to the fundamental questions: Why are we there? What is our mission? What is our end game?

I must say to President Clinton, you have not demonstrated even the simple logic of why you would want to veto a defense appropriations bill at a time when you are offering expanded activities in an area where no mission is clear. I say, Mr. President, step up to the mike and step up to the country. Do what you are supposed to do as our Commander in Chief. Respond, in a clear, unequivocal message, as to what is our mission and work with us to not only defend our troops but to finance them, because as you send them in harm's way, you have a simple and most important obligation as our Commander in Chief, and that is to make sure that they are well financed and well cared for.

EXHIBIT 1

[From Newsweek, Sept. 23, 1996]

WHY WE STOPPED THE GULF WAR

(By Brent Scowcroft)

We have been listening to the same sad refrain for five years; if only George Bush had finished off Saddam Hussein when he had the chance at the end of the gulf war, we wouldn't be in this mess today. There are two things wrong with this reinterpretation of history. The first is that we never had the objective of destroying Saddam's regime during Desert Storm. The second is that had we continued the war and overthrown Saddam, we might be worse off today.

We had a crucial but limited objective in the gulf war, to reverse Iraqi aggression, and to cripple Saddam's offensive military capabilities. The international coalition that President Bush put together to fight the gulf war was based on this carefully defined goal. We certainly hoped that Iraq's defeat would lead to Saddam's collapse, but we viewed that prospect as a potentially beneficial by-product of our victory.

If we had made Saddam's overthrow part of the objective, there would have been no international coalition; even during Desert Storm, our Arab allies stopped their troops at Iraq's border because they wanted no part of an attack on Iraqi territory. If we had continued to prosecute the gulf war after we achieved or stated objectives, we would have destroyed the coalition and squandered much of what our victory had achieved.

So if we had pressed on to Baghdad in 1991, we would have been on our own. And if we had succeeded in overthrowing Saddam, we would have confronted a choice between occupying Iraq with thousands of American troops for the indefinite future and creating a gaping power vacuum in the Persian Gulf for Iran to fill. There was no support among the American people for the first alternative in 1991, and even less so today. The second alternative would have put our vital national-security interests in jeopardy.

Put simply, we recognized that the seemingly attractive goal of getting rid of Saddam would not solve our problems, or even necessarily serve our interests, any more than the overthrow of Diem was a silver bullet to the conundrum of Vietnam. So we pursued the kind of inelegant, messy alternative that is all too often the only one available in the real world. Having driven Saddam out of Kuwait and destroyed much of his offensive military capabilities, we concentrated on keeping the pressure on Iraq so that it could not and would not once again threaten its neighbors. This is the policy that the Clinton administration inherited. Saddam may have made his move into northern Iraq two weeks ago because he thought that with a presidential campaign underway in the United States, we would not respond. Not for the first time, Saddam miscalculated. We were right to strike back, but we did so in a way that did no lasting military damage to him and inflicted significant collateral political damage on us. The cruise-missile attack was quick, clean and easy. But it may have sent Saddam the wrong message—that he would only pay the price of a pinprick. When the smoke cleared, it looked to most political leaders around the world as though Saddam was better off and the United States was worse off than before the current crisis began.

A far more effective military response, though a more dangerous one, would have targeted the Republican Guard units that moved into northern Iraq. An air attack on those forces would have put Saddam on notice that he must pay a real price for his defiance. It also would have put on notice Iraqi soldiers—on whom Saddam depends to remain in power—that any time they march out on Saddam's orders, they will be subject to devastating aerial bombardment.

Now we are into the next round. Saddam has fired missiles at our aircraft patrolling the no-fly zones. In return, we have threatened a further "disproportionate" response and are ostentatiously augmenting our military forces in the area.

The next time we hit Saddam, we should hit him hard, and where it hurts him most, so that he cannot mistake our message. Airstrikes will have to focus tightly on Iraq's military machine, making it clear that we intend to punish Saddam, not harm the Iraqi people. The Republican Guard is an obvious target.

The key point, however, is that the "Iraq problem" is not susceptible to quick fixes. Dealing with Iraq will continue to require patience and persistence, leadership and skill. For the foreseeable future, a successful and sustainable—if unsatisfying—policy is likely to share the same objectives as the

> one we have followed since the end of the gulf war: relegating Saddam to the category of a nuisance and preventing him from re-emerging as a threat to his neighbors or our vital interests.

Mrs. HUTCHISON. Mr. President, I ask that I be notified at the end of 40 minutes, and I ask unanimous consent the remainder of my 45 minutes then be delayed until 10:55.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I want to thank the Senator from Idaho for talking about General Scowcroft, who is one of the great foreign policy minds of our country, and I thank the Senator for talking about the principles that we should have in foreign policy. I think it is very important we look at the principles of foreign policy with the eye toward letting our enemies, as well as our allies, know what they can expect from us.

Mr. President, what we are talking about today is a very important issue that is to be discussed in the Capitol, and that is defense spending. In fact, the President asked for $234 billion for defense spending. Congress asked the President to sign a bill for $244 billion. There is a difference of $9.5 billion between the President's request and that of Congress.

Now, Mr. President, we are in military operations in Haiti, in Bosnia, we have been in Somalia, which cost precious defense dollars, we now have an escalation in the Middle East, we have 3,500 troops as we speak on their way to Kuwait because we have an escalation there, and yet the President of the United States, while putting our troops into these missions that are costing approximately $10 billion all together, nevertheless is asking us to cut $10 billion from the defense budget.

Now, I point out some of the things that Congress would like to have in the defense budget that the President did not request. Two additional F–16's, to replace fighters that are lost due to combat, such as Captain O'Grady, who was shot down and was a true hero in surviving after being shot down by the Serbs. And, in fact, we are also sending F–16's right now to Kuwait and Saudi Arabia to try to make sure that we have enough F–16's, which are such an important base of our operations in the Middle East. In fact, we are sending 23 F–16's right now. We are asking for two additional ones, which the President wants us to cut from the budget.

We added $66 million above the President's request for additional up-armored Humvees. I am sure my colleagues will remember that it was up-armored Humvees that saved the life of one of our soldiers in the early days of the Bosnia conflict when his vehicle was destroyed—actually, it was struck by a landmine, but was not destroyed, because it was one of the up-armored Humvees. We want more of those to protect our troops if they are going to be in harm's way. But the President says "no," he wants to cut those, even though they are proven to have saved at least one life in the Bosnia operation.

Next, $190 million for additional scout helicopter aircraft. They are playing a major role in Bosnia today, and the Army is critically short of these scout helicopters. We are asking to upgrade the fleet of helicopters because they are such an important part of our military readiness. But the President says "no."

Then there is $53 million for night vision devices that allow our soldiers to fight and win at night against this adversary that can't see us. That's what we are asking, Mr. President, among other things, for the readiness of our forces. Yet, the President, as the troops are going into harm's way for the protection of our interests, says he will veto a defense budget, unless we cut $2 to $3 billion out of it. Mr. President, you can't have it both ways. You cannot send our American troops into the world to be police and peacekeepers and to secure the interests of America—you can't ask them to do that if we don't have the equipment and the protection for them with theater defenses. Mr. President, you can't do it.

Why would you threaten to veto a bill because it has $2 to $3 billion you would like to put somewhere else, when you are asking more from our military and they are performing? Mr. President, they are performing as they always do. They are performing with guts, with patriotism, and with belief in our country. They are representing our country. Mr. President, now is not the time to argue about cutting the defense budget.

How much is this operation in Kuwait going to cost to defend against an aggression that might occur from Iraq? How much? We don't know how much. So, of course, the idea of cutting our defenses beyond bone, beyond muscle, but into contingencies, does not make sense.

How could our Commander in Chief be talking about vetoing the Defense appropriations, the Defense appropriations bill? How could he be talking about vetoing the Defense appropriations bill at the time that he is sending our troops into a heightened area of awareness and caution and readiness in the Middle East? How could he do it, Mr. President?

It's not right, and we, today, are calling on the President of the United States, the Commander in Chief, to work with us to keep our defenses funded. He is commanding our armed services, and he must fund them. Congress is trying to do that. Mr. President, work with us. If you expect our troops to do the great job they always do, you must fund them. You must give them the equipment. You must give them the ballistic missile protection in the theater.

From my home State of Texas, we are sending 3,500 troops on the ground to Kuwait. We have sent about 120 from Fort Bliss, with the Patriot missiles, to protect them. Mr. President, we even have missiles that the President, the Commander in Chief, did not ask for, that have already been used in this conflict with Iraq. As the Senator from Arizona has said, the President did not ask for the missiles that he has already used. We must have the replacements. We have already used them. How could he at this time be talking about cutting $2 to $3 billion out of our defense budget at the same time we are having cost overruns in Bosnia that will have to be funded, and we don't even know what Iraq will cost? This is not the time, and this is not leadership.

Mr. President, I yield such time as he may consume to the distinguished President pro tempore, the dean of the Senate and the chairman of the Armed Services Committee, who has done so much to make sure that our men and women that serve our country are equipped and trained and protected, the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to commend the able Senator from Texas on this special order to have a discussion on this very important matter. She is a very able member of the Senate Armed Services Committee and stands for a strong defense. She does all she can to promote the welfare of our men and women in uniform.

Mr. President, I rise to join my colleagues in urging President Clinton to show his support for our men and women in uniform by indicating his support for the fiscal year 1997 Defense appropriations bill and conference report.

In his radio address on September 7, just days after he authorized the cruise missile strikes against Iraq, President Clinton indicated that he would sign the Defense authorization bill. This legislation, the result of our work on the Senate Armed Services Committee this year, authorizes appropriations for defense.

In expressing his support for the Defense authorization bill, President Clinton stated:

> Once more, we have seen that at home and abroad, our servicemen and women go the extra mile for us, and we must go the extra mile for them. This bill makes good our pledge to give our Armed Forces the finest equipment there is so that they have the technological edge to prevail on the battle fields of tomorrow . . . it also carries forward our commitment to give our troops the quality of life they deserve by funding family and troop housing improvements that we want and by providing a raise of 3 percent . . .

Mr. President, I believe the President was absolutely right in these statements of support for the Defense authorization bill and his decision to sign it. Yet, here we are within only a week or so of these statements, the administration is attempting to negotiate substantial reductions in the Defense appropriations bill.

I have tried to determine why the President might not want to support the Defense appropriations bill. What events have transpired that might have caused him to think that the Defense appropriations bill has too much money for defense?

The President has sent additonal airpower, seapower, and ground troops to the Middle East to bolster our military force in that troubled region. Every day, it appears more likely that the United States will have to continue some kind of military presence in Bosnia past the December 20 deadline currently set for the withdrawal of our forces currently serving in Bosnia. In addition, United States forces were recently dispatched to Haiti to help stabilize the government of President Preval.

Mr. President, the Defense authorization bill for fiscal year 1997 authorizes for appropriations $265.6 billion—$11.2 billion above the President's budget request. However, in real terms, this bill provides $7.4 billion less than last year's defense bill. Mr. President, this is a very modest bill. Is there a Senator here who believes that our military forces will be called upon to do less next fiscal year than we have done in this fiscal year?

Mr. President, the Congress has indicated strong support for the amounts of money provided for the Department of Defense in the Defense authorization bill and the Defense appropriations bill. We passed a budget resolution bill which supported this amount for defense. We passed a Defense authorization bill, voting several times in support of the amounts for defense in this bill. I do not believe we should now be negotiating these funds away for what appears to be political gamesmanship.

It is clear that this administration relies greatly on our military services. The President must recognize that we must maintain a strong military, capable of performing anywhere in the world and at a moment's notice.

Now is the time when the Congress and the administration must stand together in support of our men and women in uniform, as the President himself has stated, "our service men and women go the extra mile for us, and we must go the extra mile for them."

I urge the President to indicate clearly his support for the Defense appropriations bill as he has for the Defense authorization bill.

Thank you, Mr. President. I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that 3 of the 5 minutes that I have remaining at the end be allocated now to the Senator from Idaho.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object, Mr. President, it is my understanding that we provided 45 minutes of morning business to begin at 9:30 for the majority side of the aisle, with 45 minutes of morning business to follow by our side of the aisle beginning at 10:15. My understanding is that the unanimous-consent request was previously propounded without objection, I think, by anyone on our side of the aisle, to segregate the first 45 minutes so that the last 5 minutes of it would occur at the end of the hour and a half block.

If the Senator from Texas wished to change the agreement that was made last evening about morning business, then I would urge that we make that change in a manner that allows the additional 5 minutes between 10:55 and 11 to be controlled by the Senator from Texas and 5 minutes controlled by me from 11 to 11:05.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Reserving the right to object, I do object, Mr. President. What I would like to do is ask that 3 of the 5 minutes from my last 5 minutes go to the Senator from Idaho now, and then I would like to have the last 2 minutes of the morning business time. So if you would like to extend for 5 minutes, would you be willing to extend 5 minutes from 10:58 to 11:03?

Mr. DORGAN. Mr. President, I do not quite understand the request. My intention is not to prevent the Senator from Idaho from speaking in any order. My only point was that, if we are intending to change the agreement that was made last evening without consultation, then the agreement should provide, if the Senator from Texas has 5 minutes, at 10:55 to 11 o'clock, that we would have 5 minutes from 11 to 11:05.

Mrs. HUTCHISON. Let me add this. If you are wanting the last 5 minutes, how about your taking 10:55 to 11 and letting me have my last 5 minutes, giving 3 minutes to the Senator from Idaho at this time, and then 2 minutes, before you go into your last 5 minutes.

Mr. DORGAN. The only caveat to that would be, why don't we just provide that our side will have 45 minutes? To whatever extent that takes us over the 11 o'clock hour, it does. We would want to have the full 45 minutes. We have Senator FEINSTEIN who wants to speak, and Senator BIDEN may be here to speak on a couple of things. I would like to make sure that we have equal time.

I was surprised that the agreement last evening, which was 45 minutes on each side, was changed this morning without consultation. I have no objection to anyone speaking at any time except that we would like to have the last 5 minutes in this block today. So the Senator from Texas apparently now has, by unanimous consent, 5 minutes from 10:55 to 11, and she is asking consent that the Senator from Idaho be included in that.

Is that correct?

Mrs. HUTCHISON. That is correct.

Mr. DORGAN. I am asking consent that we also in that request add that we would have 5 minutes additional from 11 to 11:05 for our side to close in morning business.

Mrs. HUTCHISON. Let me see if I can make this easier. Let me just take my last 5 minutes right now and then the Senator can have—if you are still wanting to go over, I am concerned about going past 11 just because of the order of voting and what Senators have been told. So if you would like, the point is you would like to have the last part of the debate, would you be willing to let me give 3 minutes to the Senator from Idaho, let me finish with 2 minutes, and then you take until 11. Would that be acceptable?

Mr. DORGAN. No. The agreement last evening was that we would have 45 minutes. We would insist under the agreement that our side receive 45 minutes. It is certainly acceptable to having you complete your morning business now. In fact, if you wanted a couple of extra minutes, that is fine with me. We would simply provide that we would want an equal amount of time on our side.

Mrs. HUTCHISON. At this point, then, I would like to reserve my 2 minutes at the end and give the other 3 minutes to the Senator from Idaho.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object, I don't mean to quibble about this. But does that include the opportunity for our side then to extend beyond 11 o'clock, as I have indicated?

Mrs. HUTCHISON. Let me ask if we could do this. Let me ask the Senator from Idaho to have up to 3 minutes now, and then the Senator from North Dakota would be able to get 45 minutes, and then I would have 2 additional minutes, whatever that would take.

Mr. DORGAN. I would object. Let me say to the Senator from Texas with great respect that we had an agreement last evening about morning business. Without consultation, we have a unanimous-consent propounded and agreed to because no one on our side was on the floor. If you wish to propound a further unanimous-consent request, I will object unless we restore the agreement that was obtained last evening of 45 minutes on each side. You are certainly welcome to 5 minutes toward the end, provided you accord the same opportunity to us. If you choose not to do that, I would be constrained to object.

Mrs. HUTCHISON. In an effort to give the Senator everything I think he has asked for, not to be quibbling, the only reason that I would give up what I have by unanimous consent is because the Senator from Idaho has been waiting, and in order to give him 3 minutes I am going to give you whatever you want. So I will say that I will ask unanimous consent that the 3 minutes of the 5 minutes that I have left be given to the Senator from Idaho, and that then I will have 2 additional minutes for my 45 minutes, and then the Senator from North Dakota will control 45 minutes.

The PRESIDING OFFICER (Mr. DEWINE). Is there objection?

Without objection, it is so ordered. The Senator from Idaho is recognized.

Mr. KEMPTHORNE. Mr. President, I thank the Chair. These are precious 3 minutes. I will make the best use of them.

For the 11th year in a row, we have cut the defense of this Nation—11 years. Last year, the administration assured the Senate Armed Services Committee that this year there would be no further cuts and that we would see the adding of funds for procurement so that we could buy the ships and the tanks and the trucks our men and women in the military so critically need.

As passed, the current budget for the Department of Defense, the budget that is now in question and we are talking about this morning, does not even keep up with inflation. What is in it? Things that are so straightforward, such as a 3-percent pay increase for men and women in the military, a very real issue, and all of the equipment that they need.

Later today, the Senate Armed Services Committee will hold a hearing on General Downing's report on the terrorist bombing of Khobar Towers in Saudi Arabia. Nineteen Americans lost their lives in that bombing.

Yesterday, the President announced he was sending an additional 5,000 American soldiers to Kuwait to keep Saddam Hussein in Iraq. In Bosnia the elections have taken place. Now the administration is considering keeping the American soldiers in Bosnia after the 1-year deployment we were told would do the job. These so-called peacekeeping missions have shown us repeatedly that the world remains a very dangerous place for Americans and certainly for the men and women in uniform. We must make the hard decisions and spend what is required to protect our Nation's vital interests.

If the President wants to once again reduce funding for defense, I would ask him, which requirements does he propose to cut? Which requirements does he propose to cut? Is the President ready to remove our troops from Bosnia? If so, declare it. Is the President ready to end our enforcement of the no-fly zone over Iraq? If so, declare it. Is the President willing to now say there is no need to send the troops to Kuwait? If so, declare it. What do the cuts do to the responsibilities he is giving to our troops? We continually ask our troops to do more and more and we ask them to do it with less and less. That is wrong. That is not what a Commander in Chief should be asking of those troops that are under that Commander in Chief's command.

Last night, we had the celebration of the 180th anniversary of the Senate Armed Services Committee. We acknowledged the leaders that have been in that position. We acknowledged Senator STROM THURMOND and Senator SAM NUNN, who I believe are together on this issue. There was an interesting quote that was pointed out to us last night by President Calvin Coolidge who said:

> The Nation which forgets its defenders will be itself forgotten.

I think that says it all. Let us not forget our defenders. Let us not forget the men and women in uniform that we repeatedly ask to put their lives on the line.

No more cuts, Mr. President. No more cuts.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 45 minutes under the previous order.

Mrs. HUTCHISON. Mr. President, I think the previous order was that I had the last 2 minutes after Senator KEMPTHORNE's 3 minutes and then the Senator from North Dakota would have 45 minutes.

The PRESIDING OFFICER. If the Senator wishes to take the time now, that is fine, if there is no objection.

Mrs. HUTCHISON. That was the agreement. I thank the Chair.

I think the Senator from Idaho said it all. If you are going to cut the defense budget at the same time that you continue to ask our military to do more with less, tell us where you want to cut.

The President of the United States is now threatening to veto the Defense appropriations bill if we do not cut $2- to $3 billion out of it. As 3,500 troops are on their way to Kuwait to defend the interests of this country, the President is threatening to veto the Defense appropriations bill. How could he do it? With troops going into Haiti, with troops in Bosnia, overruns there right now, and more troops on the way to a hot spot in the Middle East, and he is telling Congress cut $2- to $3 billion out of the defense budget.

Mr. President, where do you want to cut? Are you going to cut F–16's, as you send 23 more to Kuwait and Saudi Arabia? Or are you going to cut the cruise missiles that you did not put in the budget in the first place which have already been used in your operation over Iraq? Is that what you want to cut? Or do you want to cut the Humvees with the added armor that has already saved one life in Bosnia when a landmine was run over by a Humvee but the protection was there and an American life was saved? Is that what you want to cut?

Those are the things in our budget that the President did not ask for and would be asking us to take out. Mr. President, step up to the line. If you are going to cut the defense budget, you tell us where you want to cut. It is very clear we are going to need Stealth bombers. We have already used them. Are we going to start cutting Stealth bombers as we are sending them into harm's way?

Mr. President, step up to the line. Tell us where you want to cut. Let us be responsible. Let us fund our men and women who are defending the interests of this country.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Under the previous unanimous consent agreement, the Senator from North Dakota is recognized for 45 minutes.

Mr. DORGAN. Mr. President, I shall not use the entire 45 minutes. Senator FEINSTEIN from California is here. I believe Senator BIDEN wishes to speak. I do want to call a couple of items to the attention of my colleagues and I do want to respond some to the comments that have been made this morning in the previous 45 minutes.

THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, I wish to make a couple of comments, first, about the Federal Reserve Board and a piece in this morning's newspaper about the Federal Reserve Board and, second, about the issue of confirming U.S. judges. First, the Federal Reserve Board.

Page 1 references the story on page 2 about the Federal Reserve Board. Next Tuesday, the Federal Reserve Board is going to meet in secret and make a decision about whether or not it wants to increase interest rates in our country. Apparently 8 of the 12 regional Federal Reserve Bank boards have made a recommendation to the Federal Reserve Board that they ought to increase interest rates and somehow that was leaked to the press. "Newspaper Story's Apparent Leak of Advice on Rates Shocks the Fed. Regional Banks' Opinions Are a Tightly Held Secret."

Why is this interesting? Because next Tuesday the Fed will make a decision that will affect every single American. If they increase interest rates, they will tax every single American with higher interest rate charges on their indebtedness. Will there be a debate about it? No. Will it be public? Will it be a democratic system? No. It will be done in secret, just as everything else is done in secret. That is why this story talks about the FBI being called out in other circumstances to find out who leaked information about what is happening at the Fed.

Why ought it be a crime to leak information? The American people ought to have information about what is happening in monetary policy. We ought to disinfect the Federal Reserve Board by opening the doors and providing some sunlight into their process, so the American people can become, at least in some minor way, a part of the process in determining whether this country ought to have higher interest rates.

I simply want to point out how incredible this story is, written by John Berry. John Berry always writes stories from the institutional side of the Fed. I do not know, if he stepped back, six or eight paces away, he would see the absurdity of this institution which is now a dinosaur, the last remaining dinosaur in Washington operating in secret behind closed doors with those who are coming from around the country, hired by their boards of directors in the regional Fed banks—the boards of directors are local bankers—coming to Washington, DC, to make public decisions about interest rate policy that all Americans will be confronting.

This obviously commends a much longer discussion than this. But next Tuesday the Federal Reserve Board, if it is thinking straight, will decide to just say no to higher interest rates.

Inflation is down one-tenth of 1 percent, announced last week. You can almost find no inflation in this economy. It is down 5 years in a row. Unemployment is down to 5.1 percent. The models that the Federal Reserve Board use simply are not working. They have always felt you cannot have lower unemployment because lower unemployment would mean higher inflation. Now they are scratching their heads, wondering how is this happening? How is it that unemployment has come down to 5.1 percent and there is no new inflation?

If the Fed would open its doors and send some of its folks around the country to talk to real people, they will find wage earners know what the Fed has not known for the last two decades. Wage earners know wages have not been going up, they have been going down. The pressure to create more inflation from higher wages is not happening in this global economy. The global economy and circumstances of our participation in it are pushing wages down, not up. It is time the Fed changes its models or goes out and talks to real American people about this and maybe they would come to the right conclusion next Tuesday.

FEDERAL JUDGES

Mr. DORGAN. One point about Federal judges. We are nearing the end of this congressional session. Some of us believe this Congress ought not adjourn until the majority party does for us what we did for them—yes, even in election years—and that is clear off the calendar and clear through the committee, judges, Federal judges that have been appointed by this President. The fact is, the record is not good. We have seen stutter-stepping and stalling. Some of us are going to decide, one of these days, nothing more is going to happen in this Senate until those many judges out there waiting for confirmation by this Senate are brought before this Senate for a vote.

DEFENSE POLICY AND DEFENSE SPENDING

Mr. DORGAN. Now, having said that, and there will be more discussion about that in future days, I want to turn just for a moment to the discussion we have seen on the floor of the Senate now for 45 minutes this morning.

Senators have every right to come to this floor and talk about defense policy, and the Senators who came are Senators for whom I have great respect. But I have real disagreement with those who would leverage the issue of American troops going in harm's way to the Persian Gulf this morning, leaving their loved ones because the Commander in Chief and our military people feel it is necessary to send them to the Persian Gulf. I have real concern about those who would leverage that with criticism of the President for his defense budget proposals just weeks before an election, in an obvious attempt to try to find a way to undermine President Clinton on this Senate floor. But it not only tries to pull the rug out from under President Clinton, I think it sends all the wrong signals at this moment as this country prepares to confront foreign policy initiatives that are serious.

The discussion on the floor is, "President Clinton wants to cut defense spending." Let us look at the record just for a moment. Oh, the President has cut some in defense. I will give you an example of what he cut, he and Vice President GORE. There was a 16-page regulation on how to buy cream-filled cookies at the Pentagon. They cut that. It does not take 16 pages of regulations anymore to buy cream-filled cookies because this administration said that does not make any sense. That is nuts. Let us streamline all that.

They tried to buy $25,000 worth of ant bait to kill ants. It took them months and dozens and dozens of pages of regulations and forms. They cut that.

So, has the President wanted to cut some in defense? Yes—unnecessary regulations, unnecessary bureaucracy. It is about time. We ought to commend them for that, not criticize them.

Now, on the question of spending, what was sent to this Congress from the Defense Department? A budget. The cold war is over. The Soviet Union does not exist. And from the height of the cold war we are now spending less than we were spending then. Does anyone in this country think that we ought to spend now as much on military preparedness and defense as we did at the very height of the cold war? Does anyone believe that? Of course not. We are not at the height of the cold war. Things have changed. Defense spending has come down some—not a great deal, but some. So what is the debate?

The debate is this. The Pentagon prepares a budget. The uniformed personnel, the service Secretaries going through the White House, they prepare a budget, send it to the Congress, and they say: Here is what we think, as an Army, Navy, a group of Marines, and the Air Force, here is what we think is necessary to defend America. Here is what we think we must build, what we must spend. Here is what we think we must accomplish to defend America.

That budget came to this Congress, giving us the best recommendations of those who wear our uniform in this country, the generals and the admirals, the service Secretaries, saying here is what we want to defend America. But when it got here it was not enough. We had folks in this Chamber saying, "You know, we think you are dead wrong. It is true we are the folks who stand up and boast every morning about how much we want to cut Federal spending, but we think you are wrong. We think, Mr. and Mrs. Pentagon, over there in that big building, we think you ought to spend $13 billion more. We think you ought to buy more trucks, more ships, more planes, more submarines. We think you ought to spend more money because we think you are wrong."

Everybody has a right to his or her opinion on what it takes to defend this country. Everybody has a right to stand up and talk about that. I do not deny that. But I would like to talk about a couple of the specifics, because I think in many respects this has a whole lot more to do with politics than it has to do with policy. It has a whole lot more to do with elections than it has to do with the defense of this country. I want to run through just a couple of charts, because I think it is instructive on this issue.

One of the big items we have been debating is the issue of star wars. I know they do not like to call it that, but star wars. There is a proposal called the Defend America Act. Who on Earth can be opposed to defending America? The Defend America Act is to build an astrodome over America, an astrodome effect that would prevent missiles from coming in and hitting our country. We have already spent somewhere around $99 billion on research and development on missiles. We have built one ABM site—incidentally, we built it in my

State. It was declared mothballed the very month it was declared operational, after the equivalent of today's $25 billion was spent on it. But we have people saying that it does not matter what the cost is, we need to build this.

The Congressional Budget Office says the proposal that they have been talking about here would cost up to $60 billion to build and up to $4 billion a year to operate. And, in a reasonable time period, would cost $116 billion. The question is, where does that come from? Senator Dole held a press conference about it, feeling—and it was in the Washington Post—feeling this would give him an edge in the election. This can be a wedge issue. We support defending America with the star wars program, somebody else does not, so therefore we are better than they are. At the press conference he was asked:

> Senator, how much do you think this is going to cost? And where is the money going to come from?
>
> Well, I'll leave that up to the experts.

The majority leader, asked the same question:

> We'll have to look at that . . . I don't have a fixed number in mind.

I will tell you what it costs, $60 billion to build, $4 billion a year to operate. The question is where are you going to get the money, who is going to pay for it, but, more important, do we need it? What kind of system do we need for our defense?

The reason I mention this issue is this issue happens to be one which is a very large expenditure that is proposed for which there is no proposed method of payment. It is just saying: We are for defense and the other folks are not. I happen to think the defense of this country is critically important. I think there is a lot of waste in defense. But I have been on plenty of military bases and seen men and women wearing the uniform of this country who do some wonderful things, and who sacrifice greatly for this country. They ought to have the best equipment that we can purchase for them. They ought to fly the best airplanes we can purchase. I know, despite what a lot of people say about our Defense Department, I think we have the best defense system in the world by far.

We spend far in excess of any other country or group of countries combined. If you take all the NATO countries combined and throw all their defense expenditures into one pot, they don't measure up to our knees on defense expenditures. The fact is, we spend an enormous amount of defense money, far more than any other country in the world—far more than any other country in the world—and for anyone to say somehow those men and women and the equipment we buy don't measure up, I just don't think they understand.

The controversy has not been that somebody is weak on defense. The controversy is some see defense as a jobs program. I have come to the floor and said, "Here are trucks the Pentagon said it didn't want that some insisted be built. Here are jet fighters the Pentagon didn't want to build that some in Congress insisted they build. Here are ships that the Defense Department said it didn't want to build at this point." The Congress said, "You must build."

I even found buried deep in the Defense authorization bill an authorization, I think, for $60 million to buy blimps. No hearings, no discussion, no debate, just somebody writing in, "Let's buy blimps." Lord knows what they would buy blimps for, but buried deep in an authorization bill, "Let's buy blimps." When the Defense bill is on the floor, the sky is the limit.

So the question is not for this President or for this Congress of whether we should have a strong defense, a defense this country can count on. The President wants that, I want that, all my colleagues want that. The question is, What kind of investments and expenditures will provide a strong defense?

Did it strengthen our country to have 16 pages of regulations to buy cream-filled cookies? I don't think so. I suppose you can make the case the person hired to interpret the regulations on how to buy cream-filled cookies was defending America. It seems to me they were defending cream-filled cookies. If we streamline that and that person is now doing something more meaningful in this country's defense, doesn't that strengthen defense?

I urge you to look at what this Vice President and this President have done in the area of reinventing Government and see what they have done in the Pentagon in streamlining rules and regulations, especially with respect to purchases and acquisitions. And if you are not impressed by that, you will not be impressed by anything.

This administration deserves credit for that. The fact is, the Pentagon is one of the largest organizations on this Earth, and like every large organization in the public or private sector, it has an enormous amount of bureaucracy and fat. And this administration has tackled that.

But the administration has done more than that. This administration has also proposed directed, specific investments in weapons programs and systems that will strengthen this country, and I think it ill behooves other Members of Congress to come to this floor and try to use this issue for leverage for an election. That is what this is about. This is not about troops moving to Iraq or the Persian Gulf today. It is about an election that is held in early November. When I heard that this morning, I thought, "This needs a response. This really needs a response."

I would like to just make a couple of other points. We are often, when we discuss these issues, having to economize, as is a classic case in the field of economics. We have to try to determine what are our wants and needs and what are our resources. The wants are almost unlimited and resources are limited. How do you respond to unlimited wants with limited resources? That is true in defense, and it is true in our entire budget.

I thought it was fascinating about a year ago when I was standing at this point in the well of the Senate, and we had conflicting proposals that I thought made it stark, as clear as it can be about priorities. We had a tiny little program called the Star Program, a tiny little program, and the proposal was, "Well, let's cut star schools 40 percent," and then a big program called star wars, "Let's increase star wars 120 percent." I can't think of anything clearer than where the priorities were for those who opposed it.

Is there a relationship between education and defense? You bet. Where do you think F-16's came from? Where do you think the stealth bombers came from? Where do you think the Patriot missile came from? It came from the product of this country's education and genius and people who invent, create, build, construct. That is where it all comes from.

My first job out of graduate school, after I got my MBA, was with the Martin Marietta Corp. I saw firsthand the marvels of engineering and the genius of invention in not only NASA but also defense programs with weapons systems. It is quite remarkable. But the Martin Marietta Corp. knew, as do most others in this country, that that starts with education.

You tell Americans that we will short change education and somehow we will be a stronger country, we will have a better defense, and most Americans will say, "No, no, you're not thinking very straight." Thomas Jefferson once said, and I have quoted this many times and I will again because it is so important, "Any country who believes it can be both ignorant and free believes in something that never was and never can be."

So my point is we are hearing now today about criticism of a President who some believe has not proposed enough money for defense. We have, in fact, a President who has proposed a defense budget that represents what the armed services believes is necessary to defend this country and that makes some very important strategic investments in new weapons programs and new systems, and I think the budget the President proposed is a good budget. In fact, if you take a look at last year's Republican budget enacted by the Senate and take a look at the President's proposed budget and go to the outyears, 2000 and 2002, you will see the President is proposing higher defense spending than those who are now criticizing him. I don't understand that either.

So, there is more to say, I guess, but we will likely hear a great deal about this and a dozen other issues where someone thinks they might be able to drive a wedge between now and election day. It is important, I think, now, however, for us to decide that as troops go to the Middle East and as we as a country try to speak with one voice about our goals, we ought to decide that debate about defense policy is perfectly appropriate for all of us. But mingling a defense policy debate at this point with the discussion about the role of our troops, I think, is not what we ought to do here in the Senate or elsewhere.

Mr. President, Senator FEINSTEIN is here and is prepared to speak, I believe, on this and another subject. I, at this point, yield the floor, and I may use some time later in the special order.

Mrs. FEINSTEIN. I thank the Senator from North Dakota. I also thank the Chair.

I must say, I came to this floor to speak for the fifth time about methamphetamine this morning. However, I happened to hear the preceding speakers, and I really want to identify myself with the comments just made by the Senator from North Dakota.

Even on this side of the aisle, there is legitimate difference about how much should be in the defense budget. I, for one, voted for more than the President put forward in his budget. I think that is legitimate, but I also think we should talk about it, and I think we should debate it.

However, it is clear to all of us, I think, that we are engaged in a military operation. Therefore, the lives of our pilots, of our men and women in the Armed Forces, and of innocent civilians are at risk.

I think during a military operation, an attack on the President, on the very policy that is determining that operation is, frankly, ill-advised, I think it is highly partisan, I think it could put American and other lives at risk, and, frankly, I think it is just plain tacky.

So I want to say that. I would be hopeful that during a time of some national emergency—and I think this operation does qualify—we can come together as Republicans and as Democrats to support the Commander in Chief of the United States of America, who happens to be the President, whether that President is Democratic or whether that President is Republican. I pledge as a Democrat that should the President be a Republican, I would do the same, because I think it is important.

COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1996

Mrs. FEINSTEIN. Mr. President, I come here because I have spoken on this floor five times about methamphetamine. There is good news. I think it is stellar news. It is how this body can work together to solve what is a very real problem in America. I mentioned before that methamphetamine has been a major problem in the State of California. As a matter of fact, the DEA has determined that California is the "source country" for methamphetamine, much like Colombia is for cocaine. In Operation Pipeline, conducted by the DEA, 92.8 percent of all methamphetamine seized in a national drug operation actually originated in California. Hospital admissions are up, way above that for cocaine. Deaths are up. Medical costs are up. Methamphetamine has become a real problem and a national emergency.

Last June and July—that is 1995—I wrote to the Attorney General laying out the vast extent of the methamphetamine problem in California and asking her for proposals to crack down on this trade, especially on the precursor chemicals used to make methamphetamine.

Over the ensuing months, my staff and I worked with prosecutors, narcotics officers, and the California Department of Justice, in a bipartisan way, to try to develop solutions. In February of this year, Senator GRASSLEY and I, along with Senator REID, introduced the Methamphetamine Control Act of 1996. We had a bipartisan group of Senators which also included Senator KYL. Representatives FAZIO and RIGGS in the House introduced the same bill.

In April, President Clinton announced his national methamphetamine strategy adding additional measures to attack meth. In July of this year, Senators HATCH, BIDEN, GRASSLEY, and I and others introduced the bill which was passed last night, incorporating our earlier proposals. Frankly, thanks to Chairman HATCH and Senator BIDEN, I think this is a much better bill than the original bill we introduced.

I note with some interest that yesterday was Senator GRASSLEY's birthday. How nice to have a birthday and at the same time to have a bill that you worked on which passed the Senate of the United States unanimously, and which will solve a major problem out there.

This would not have happened had it not been bipartisan. It would not have happened had it not been for the chairman of the Judiciary Committee and the ranking member of that committee coming together to work on a problem. A lot of staffs were involved across the aisle. I think they worked in the best bipartisan way this body can muster to solve a real problem. That is practical.

You know, I often hear a lot about ideology around here. I have never been in a place that is more partisan than around here. Yet, the fact of the matter is, some problems take very conservative solutions, some take more innovative solutions, and most take just plain sitting down at a table and working out a solution. And that is methamphetamine.

So last night the Hatch-Biden-Feinstein-Grassley bill, known as the Methamphetamine Control Act, was passed.

Among some of the things it does is it adds seizure and forfeiture authority for precursor chemical violations.

It provides for stiff escalating civil penalties for the reckless sale of chemicals used to manufacturer methamphetamine.

It gives the Attorney General the authority to shut down chemical supply houses which provide chemicals to clandestine methamphetamine manufacturers.

It provides for restitution for the cost of cleaning up clandestine methamphetamine labs, which runs about $7,000, $8,000 a lab.

It allows the Attorney General to require, by regulation, reporting the sales of ordinary, over-the-counter, pseudoephedrine-containing products in quantities above 24 grams. This is really important because as there are controls on ephedrine, pseudoephedrine, which goes into over-the-counter cold medication, developed as a major source for methamphetamine makers to buy. So they would go into something like a Long's drugstore that has maybe 30 feet of display space of over-the-counter cold medication and they would buy maybe 5,000 packages, everything they could get their hands on, ring it up, not have to give a name, address, a driver's license, anything, and walk out, open the packages or bottles, get children to open the blister packs, and go into their clandestine labs and make methamphetamine.

This bill cracks down on that. I have heard that Long's, for example, is interested in being part of a major education program, which is provided for in this bill, to educate people and their own retail outlets about what is happening in methamphetamine.

I am very proud to say that pharmaceutical houses, like Warner-Lambert, became solidly in support of this legislation once they understood what was actually happening with their products.

So I think this bill is a Republican win; it is a Democratic win. It is a good, strong, tough bill. Amazingly enough, 2 months before a Presidential election, on a bipartisan basis, it passed the Senate of the United States. We hope it will be marked up either today or tomorrow in the House of Representatives and we will get something done.

Mr. President, you are a Republican. I am a Democrat. I happen to think this is what the people of America sent us both here to do. So I would like to send my warm congratulations to Chairman HATCH, to Senators GRASSLEY, KYL, REID, most particularly to ranking member Senator BIDEN, whose staff worked very, very hard, and Senator HARKIN, who came aboard and was supportive early on. This is important legislation. Oh, and, Mr. President, my staff just told me, you are part of this effort as well. Let me salute you and say thank you. Californians are grateful, and I think all of America will be as well. Thank you very much.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1996

FINDINGS

A. Methamphetamine is a very dangerous and harmful drug. It is highly addictive and is associated with permanent brain damage in long-term users.

B. The abuse of methamphetamine has increased dramatically since 1990. This increased use has led to devastating effects on individuals and the community, including:

1. A dramatic increase in deaths associated with methamphetamine ingestion.
2. An increase in the number of violent crimes associated with methamphetamine ingestion.
3. An increase in criminal activity associated with the illegal importation of methamphetamine and precursor compounds to support the growing appetite for this drug in the United States.

C. Congress finds that illegal methamphetamine manufacturer and abuse presents an imminent public health threat that warrants aggressive law enforcement action, increased research on methamphetamine and other substance abuse, increased coordinated efforts to prevent methamphetamine abuse, and increased monitoring of the public health threat methamphetamine presents to the communities of the United States.

TITLE I.—IMPORTATION OF METHAMPHETAMINE AND PRECURSOR CHEMICALS

Sec. 101. International coordination

The Attorney General shall coordinate international drug enforcement efforts to decrease the movement of methamphetamine and methamphetamine precursors into the United States.

Sec. 102. Long arm provision

Imposes a maximum ten-year penalty on the manufacture outside the United States of a list I chemical with intent to import it into this country, by adding list I Chemicals to 21 U.S.C. §959(a).

This provision also makes it a crime to manufacture or distribute a List I chemical aboard an aircraft or to possess a List I chemical aboard an aircraft with the intention to distribute it by adding List I chemicals to 21 U.S.C. §959(b) (1) and (2).

TITLE II.—PROVISIONS TO CONTROL THE MANUFACTURE OF METHAMPHETAMINE

Sec. 201. Trafficking in precursor chemicals: seizure and forfeiture of precursor chemicals (List I chemicals)

Will amend various provisions of the Controlled Substances Act and the Tariff Act of 1930 to permit seizure and forfeiture of List I chemicals, even if the individual or firm involved is a non-registrant, or by a registrant whose registration has expired or been revoked or suspended.

Sec. 202. Study and report on measures to prevent sales of other agents used in methamphetamine production

The Attorney General is required to conduct a study and report to Congress on possible measures to effectively prevent the diversion of red phosphorous, iodine, hydrochloric gas and other agents for use in the production of methamphetamine.

Sec. 203. Increased penalties for manufacture and possession of equipment used to make controlled substances

Increases the penalties for the possession of equipment used to make controlled substances to 10 years and a $30,000 fine for the first offense and 20 years and a $60,000 fine for the second offense. Requires the Sentencing Commission to ensure that the manufacture of methamphetamine in violation of this section is treated as a significant violation.

Sec. 204. Addition of iodine and hydrochloric gas to List II

Adds iodine and hydrochloric gas to List II. Exempts iodine from the importation provisions for listed chemicals, but allows the Attorney General to impose these limitations, if warranted, under the provisions of current law.

Sec. 205. Civil penalties for firms that supply precursor chemicals

Imposes civil penalties for the distribution of a laboratory supply to a person who uses, or attempts to use that laboratory supply to manufacture a controlled substance or a listed chemical, if the distribution is done with reckless disregard for the illegal uses to which a laboratory supply will be put.

The civil penalties provided for in this provision are:

A. Up to $250,000 for the first violation, and

B. $250,000 or up to double the last previously imposed penalty, whichever is greater, for any succeeding violation.

Sec. 206. Injunctive relief

The Attorney General may commence a civil action under 21 U.S.C. §843 for appropriate relief, including a temporary or permanent injunction to shut down the production and sale of listed chemicals by individuals or companies that knowingly sell precursor agents for the purpose of methamphetamine production.

Any person convicted of a felony violation of Sec. 402. of the Controlled Substance Act related to the receipt, distribution, manufacture, exportation or importation of a listed chemical may be enjoined from engaging in any transaction involving a listed chemical for not more than 10 years.

Sec. 207. Restitution for clean up of clandestine laboratory sites

The court may order restitution for the costs associated with the investigation and clean up of a clandestine methamphetamine laboratory.

In addition, the court may order restitution for any person injured as a result of the operation of a clandestine lab.

Sec. 208. Record Retention

The record retention requirements for list I and II chemicals are two years after the date of the transaction.

Sec. 209. Technical Amendments

This section corrects misspellings of chemicals in the Controlled Substances Act.

TITLE III.—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

Sec. 301. Trafficking in methamphetamine

Sentencing scheme shall be comparable to crack cocaine: 5 g pure methamphetamine=5 year mandatory minimum term (5-40 years); 50 g pure methamphetamine=10 year mandatory minimum term (10-life).

Sec. 302. Illegal sale of listed chemicals

Increases the penalties for trafficking in listed chemicals to the penalty corresponding to the quantity of controlled substance that could reasonably have been manufactured according to a table to be developed by the Sentencing Commission.

Sec. 303. Enhanced penalty for dangerous handling of controlled substances: Amendment of sentencing guidelines

Requires the Sentencing Commission to determine whether current sentencing guidelines adequately punish violation of environmental laws during the operation of clandestine labs. If punishment is not adequate, the Sentencing Commission is required to promulgate guidelines or amend existing guidelines to provide an appropriate enhancement of the punishment for a defendant convicted of such an offense.

TITLE IV.—LEGAL MANUFACTURE, DISTRIBUTION AND SALE OF PRECURSOR CHEMICALS

Sec. 401. Retail Sales

Lawfully manufactured drug products are exempt from regulation unless the Attorney General finds a need to control them because of their diversion.

Reduces the single transaction reporting requirements for all retail sales other than ordinary over-the-counter pseudoephedrine and phenylpropanolamine containing products from 1,000 grams to 24 grams.

Defines ordinary over-the-counter pseudoephedrine or phenylpropanolamine products as those sold in package sizes of not more than 3.0 grams of pseudoephedrine base or 3.0 grams of phenylpropanolamine base, that is packaged in blister packs when technically feasible, each blister containing not more than two dosage units.

Except as defined below, the sale of ordinary over-the-counter pseudoephedrine or phenylpropanolamine products by a retail distributor shall not be a regulated transaction.

The Attorney General may, following documentation that ordinary over-the-counter pseudoephedrine and phenylpropanolamine-containing products purchased via retail sales constitute a significant source of precursor substance used in the illegal manufacture of a controlled substance, establish by a notice, comment and an informal hearing a single-transaction limit of 24 grams of pseudoephedrine or phenylpropanolamine base.

Any business or individual that violates the single transaction limit, if established, will receive a warning letter from the Attorney General for the first violation and, if a business, shall be required to conduct mandatory education of the sales employees of the firm with regard to the legal sales of pseudoephedrine. For any second violation occurring within 2 years of the first violation, the business or individual shall be subject to civil penalty of not more than $5,000. For any subsequent violation occurring within 2 years of the previous violation, the business or individual shall be subject to a civil penalty not to exceed the amount of the previous civil penalty plus $5,000.

Sec. 402. Mail Order Restrictions

Each regulated person or entity who engages in a transaction by mail with a nonregulated person involving ephedrine, pseudoephedrine, or phenylpropanolamine shall, on a monthly basis, submit to the Attorney General a record of each such transaction conducted during the previous month.

TITLE V.—EDUCATION AND RESEARCH

Sec. 501. Methamphetamine Interagency Task Force

Creates a Methamphetamine Interagency Task Force, headed by the Attorney General with DoJ, HHS and non-governmental experts in drug abuse prevention and treatment. This task force will be responsible for designing, implementing, and evaluating methamphetamine education, prevention and treatment practices and strategies.

Sec. 502. Public Health Monitoring.

Requires the Secretary, HHS to develop a public health monitoring program to monitor methamphetamine abuse in the United States. The program will include collection and dissemination of data related to methamphetamine abuse, which can be used by public health officials in policy development.

Sec. 503. Public-Private Education Program

Develop a Methamphetamine National Advisory Panel to develop a program to educate wholesale and retail distributors of precursor chemicals and supplies in the identification of suspicious transactions and their responsibility to report such transactions.

Sec. 504. Suspicious Orders Task Force

Establishes a Suspicious Orders Task Force to develop a proposal to define suspicious orders of listed chemicals and to evaluate proposals for the development of an electronic system for registrants to report suspicious orders.

Mrs. FEINSTEIN. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the call for the quorum be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I understand there are 14 minutes left on this side.

The PRESIDING OFFICER. There are 13½ minutes left.

Mr. FORD. So, 13½ minutes. I yield myself as much time as I might use.

The PRESIDING OFFICER. The Senator from Kentucky.

EDUCATION IN AMERICA

Mr. FORD. Coming from Kentucky, and I guess in some other States, we have heard about midnight conversions or death-bed conversions. "I've seen the light. Everything's going to be all right." Lo and behold, we found for a long time that this side of the aisle has been pushing for additional funding for education. And I read in the morning paper where there was a midnight conversion. Somebody has been reading the polls.

For the first time in a Presidential campaign, education is No. 1—No. 1. So rather than going out with a whimper, Republicans want to close this session down with a bang. It is not enough. If you read the stories in the press, the Republicans were forced into putting this money in the budget by Democrats. That is the story. That is the story.

The midnight conversion was one we have been pushing hard, trying to get our amendment up yesterday, were refused, objected to, everything, because you did not want Democrats to offer their amendment yesterday. That is parliamentary procedure. I understand it. Every Senator in here understands it. I think the public understood it.

So now the $2.3 billion or whatever the Republicans tried to put in last night in their midnight conversion, we think, is not enough. It should be a little over $3 billion. I hope that the Senate will allow us to vote on that amendment.

We are getting to a point now where we cannot get appropriations bills out. It is not our fault. We are left out. We have bills that are coming up here that only the Republicans have dealt with—Democrats have never been called into the room. That is the way it has happened for over 18 months now. Somebody said, "Why should Democrats be in?" Some old fellow in the back said, "Well, a blind hog finds an acorn once in a while."

Maybe, just maybe, they would have a good idea. A good idea has been education. I do not know who said it, but I want to tell you I will remember it as long as I live: A cut in education never heals—a cut in education never heals. That is what has happened here. The Republicans cutting education, that wound will never heal. I do not care how you try to paint it, how you try to phrase it in a 30-second ad, how the incumbents and challengers try to play it back home, that cut that was out there will never heal. The people will remember how you wanted to cut education.

Mr. President, I am delighted that the Republicans were converted last night. I am glad the death-bed conversion worked because at least we are a little over $2 billion closer to what the administration feels and we on this side feel should be available for education. It used to be, and now I think it is a foregone conclusion, that a high school education is not enough.

We worked hard in Kentucky with KET, with the Star Program, to get KET by television. It worked well. Practically every State in the Nation picked up on it, the Star Program, so that everybody would have an opportunity, even if they worked, they could stay at home and get their GED. I do not know how many tens of thousands of GED certificates were given as a result of the Star Program. It all came from Kentucky educational television. It was the pilot project that spread across this country.

Now the President says that 2 years of college, 2 years of college ought to be the norm. We hear all about this tax cut. I do not hear much about it now; it has kind of faded away—15 percent tax cut. For an individual making $200,000, your tax cut at the period of time proposed in the tax cut is $28,900. That is annual. That will put 19 students through the community college if my hometown. So we give one individual making over $200,000 a year, the equivalent of giving 19 students their tuition, getting them through community college.

I do not think Government ought to be in everything. I think they ought to be out of most things. But we have to give some leadership, and education is leadership in this country. The people understand it, constituents understand it, and, lo and behold, Republicans found out about it last night.

So as you read the story where Democrats forced Republicans to add over $2 billion in education, that is the story. They are cutting. The cut in education never heals, and the cut that was attempted in education under the Republican budget, under the Republican appropriations bill, that cut will never heal because the people will remember what was attempted to do.

Mr. President, I hope we will be able to bring our amendment up, and we will be able to offer it as we wanted to and which we were precluded. When you ask unanimous consent that your amendment be brought up and it is objected to, everybody understands that. You think it does not resonate beyond this Chamber? Of course it does. People that watch C-SPAN understand who is preventing the amendment to come forward to improve education, so that they, being the Republicans, could make their effort last might and make some headlines today. Read the story—the Democrats forced them to do it. The Democrats forced them to do it.

Mr. President, I am pleased at the movement in the right direction. I hope we can do a little bit more so that those students out there in my State and your State and other States will have an opportunity for education and will not continue to burden the families with the borrowing of money and the struggling in order to see that their family is educated.

I yield the floor.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from North Dakota.

FEDERAL JUDGES

Mr. DORGAN. Mr. President, let me take the remaining couple of minutes of morning business to further amplify about the number of judges we need still to clear. We have on this calendar six judges, four of them appeals judges, two district court judges. There is pending in the Judiciary Committee 22 judges, 4 appeals judges, and 17 district judges. In the last 40 years, Congress has never adjourned, ever, without confirming at least one Federal appellate court judge, and some are saying that will happen now. This would be most unfortunate.

Many of us have sent a letter on September 16 making this point. This confirmation process on judges has virtually ground to a halt. That is unfair. It is unfair to the judges that have been appointed and are awaiting confirmation. It is unfair to the Federal court system, unfair to the American people. This is only about politics—only about politics.

Now, the statistics are quite clear. In election years previously when we controlled the Senate, we did not do this. We pushed through a substantial number of judges. If you compare the numbers—I invite anybody to compare the numbers—what we see this year is a very few judges confirmed and many left on the calendar, with some proposing that that is it, we will not have time to do them, or refuse to do them, or will not do them. I think that is not fair to those awaiting confirmation or to the American people.

We have confirmed fewer than 20 district court judges and not a single appellate judge during this session of Congress. The number of confirmations—in our letter, we point out—even in past Presidential election years far exceeded what we are experiencing today. For example, the Senate confirmed an average of almost 55 Federal judges, including 10 appellate judges annually in the years 1980, 1984, 1988, 1992. In each of these years, the Senate Congress confirmed no fewer than seven appellate court judges. In our letter, we write, "Have circumstances changed so dramatically that the Senate would now turn its back on our rich tradition of bipartisanship in appellate court confirmations?"

I hope things have not changed that much. Circuit court dockets have grown by over 20 percent in the last 5 years, we are told by the judiciary. So the failure to do this is not just a political failure, but it is a failure that has profound impact on the Federal court system. To our knowledge, none of the nominees that are awaiting action on the floor have been opposed by any member of the Judiciary Committee for any ideological reasons. Some of us, who believe that the Senate ought to complete its work on this, simply say, let us have votes on these confirmations. The names are here, the nominations have been made, and the candidates are available.

There was a need for these judges to be placed in the Federal judiciary, and this Senate has a responsibility to act. As I said previously, this is not a circumstance that existed in prior years. But this year it has been like pulling teeth to get any judgeships through this Senate, because some believe that since they control the Senate, there should be no judges appointed by an opposing party. It reminds me of the line-item veto legislation, which I supported for years in the House, and I supported it here. We passed it here, and the majority party said they wanted it, but they did not want this President to have it during his term. We passed it, but they prevented President Clinton from having it this year. They control the Senate, and they were able to do that.

That didn't make much sense to me. Nor does this make any sense to me. Let's confirm judges. That's our job and our responsibility. It doesn't matter who is President; appointments come and confirmations ought to be made. This Senate ought to act.

So if there are those who think we are going to adjourn and slap each other on the back and thank each other for a job well done and leave all these judgeships in the lurch, for political reasons, they need to think again, because a fair number of us will insist that we do our work before we adjourn.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL AVIATION REAUTHORIZATION ACT OF 1996

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1994, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1994) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Chafee amendment No. 5361, to remove certain provisions with regard to FAA's authority to regulate aircraft engine standards.

Simon/Jeffords amendment No. 5364, to amend the Employee Retirement Income Security Act of 1974 with respect to the auditing of employee benefit plans.

AMENDMENT NO. 5364

The PRESIDING OFFICER. The pending question is the Simon amendment No. 5364.

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOWARD O. GREENE

Mr. BYRD. Mr. President, I rise today to pay tribute to a true professional, a loyal public servant, a staff member and Senate official who has served the Senate with allegiance and honor during his 28 years of working for this body, in this body, and with this body—Howard O. Greene.

It isn't enough that we say in our hearts
That we like a man for his ways;
And it isn't enough that we fill our minds
With psalms of silent praise;
Nor is it enough that we honor a man
As our confidence upward mounts;
It's going right up to the man himself
And telling him so that counts.
Then when a man does a deed that you really admire,
Don't leave a kind word unsaid,
For fear to do so might make him vain
Or cause him to lose his head;
But reach out your hand and tell him, "Well done",
And see how his gratitude swells;
It isn't the flowers we strew on the grave,
It's the word to the living that tells.

Yesterday, a goodly number of Senators on both sides of the aisle expressed their word to the living. Howard Greene served the Senate since 1968 as a door messenger, a Cloakroom assistant, the Assistant Secretary for the Minority, Secretary for the Majority, Secretary for the Minority, and most recently as Senate Sergeant at Arms.

Now, these are the bare facts about Howard Greene's Senate career. But there is much more than one could say about Howard Greene's work. Over the years, I found him to be an individual of unfailing courtesy and cooperativeness, one who was always respectful of the Senators on this side of the aisle as well as those on the other side. His word was always his bond, and that counts a great deal in this day and time. He was a man of strict principle in this Chamber, and absolute dedication to duty, dedication to his party, dedication to the Senate.

He carried out his many responsibilities in the various Senate offices which he held with distinction and uncommon integrity. He unfailingly presented his views in an objective and straightforward manner.

During my years in the majority as leader of my party, and during my years in the minority as leader of my party in the Senate, I always found Howard Greene to be trustworthy, forthright, straightforward, honest. It was not just a job for Howard Greene; it was a calling. He literally devoted his life to this institution. And so today, he richly deserves all of the accolades of yesterday, when a resolution commending him for his outstanding service and an outstanding career was adopted by the full Senate.

He will be missed on both sides of the aisle. I will miss him, and he will be missed on a personal and on a professional basis. I wish him all the best in his future endeavors, and I hope that he will come around and see his old friends.

I consider him to be my friend. Friendship crosses the aisle, friendship crosses party lines. "He that hath friends must show himself friendly."

I say to my true and dear friend, JOHN CHAFEE, a Republican Senator from the State of Rhode Island, who is my friend, has been my friend, and will always be my friend, that we should treasure friendships. I treasure a friend and a friendship like that of Howard Greene.

I shot an arrow into the air,
It fell to earth, I knew not where;
For, so swiftly it flew, the sight
Could not follow it in its flight.

I breathed a song into the air,
It fell to earth, I knew not where;
For who has sight so keen and strong,
That it can follow the flight of song?

Long, long afterward, in an oak
I found the arrow, still unbroke;
And the song, from beginning to end,
I found again in the heart of a friend——

Howard Greene.

Mr. President, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the distinguished senior Senator from West Virginia for the very kind comments that he made about the friendship that we have had. I am here now in my 20th year, and as I look back on the individuals I have known here and the friends I have had and the respect I have for them, there is none that stands higher than the distinguished senior Senator from West Virginia, who I feel lucky to have known. We have worked together on issues. Sometimes we have been in opposition on issues, I will confess to that, but never with rancor and always with friendship and always with, certainly from my point of view, respect, and I would like to believe the respect was mutual.

I am absolutely confident that there is no tribute that Howard Greene has received on this floor that will mean more to him than the one he has received from the distinguished senior Senator from West Virginia, because he has, as do all the Members on this side and all the Members of the Senate, tremendous respect and affection for the gentleman who once upon a time was majority leader, and he has been minority leader. He has had every post in the Senate. And Howard Greene, I know, will be very, very pleased to receive the accolades that came from the distinguished senior Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Rhode Island for his kind remarks. He is a gentleman, and his high dedication to purpose is worthy of adulation and emulation. I shall always treasure our associations over the years, and I look forward to the future years of service with my friend, John CHAFEE.

Mr. CHAFEE. Mr. President, again, I thank the Senator and say how flattered I am by the kind comments that the Senator from West Virginia made about me.

FEDERAL AVIATION REAUTHORIZATION ACT OF 1996

The Senate continued with the consideration of the bill.

AMENDMENT NO. 5361

Mr. CHAFEE. Mr. President, I call now for my amendment No. 5361.

The PRESIDING OFFICER. The Senator has that right. It is now the pending question.

AMENDMENT NO. 5361, AS MODIFIED

Mr. CHAFEE. Mr. President, I ask unanimous consent to modify my amendment, and I send that modification to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment is so modified.

The amendment (No. 5361), as modified, is as follows:

Page 78, line 12, strike "and aircraft engine emissions,".

Page 78, line 19 through 24, strike all of paragraph (C) and insert the following:

(C)(1) The Environmental Protection Agency shall consult with the Federal Aviation Administration on aircraft engine emission standards.

(2) The Environmental Protection Agency shall not change the aircraft engine emission standards if such change would significantly increase noise and adversely affect safety.

(3) The Administrator, as the Administrator deems appropriate, shall provide for the participation of a representative of the Environmental Protection Agency on such advisory committees or associated working groups that advise the Administrator on matters related to the environmental effects of aircraft and aircraft engines.

Mr. BAUCUS. Mr. President, I am pleased that we have been able to reach an agreement with the managers on this issue. The amendment offered on behalf of Senator CHAFEE and myself corrects language in the bill that creates overlapping authority in the EPA and the FAA, conflicting regulations, and fiscal waste.

The result of the Commerce Committee's proposal contained in S. 1994 would have been confusion and uncertainty for the airline industry, and unnecessary burdens for the taxpayers.

Let me explain the situation briefly. The Clean Air Act Amendments of 1990 require the EPA to set emission standards for new aircraft engines. The bill before us, however, grants the FAA the very same authority. Thus, two different agencies would have the same authority.

With all the effort by this administration and Congress to downsize the bureaucracy and trim agency budgets, I don't think the committee intended this duplication. The Secretary of Transportation acknowledges that, if this provision became law, the FAA would have had to develop the expertise and capacity to set emission standards. So this bill would have required an entirely new office, with a new budget and new workers all to do a job already being done by the EPA.

This just didn't make sense. The FAA is now straining to meet its basic responsibilities in aviation security and safety. We should not divert them from those critical missions by forcing them to duplicate work already being performed by another agency.

Mr. President, this amendment corrects the situation by eliminating the provision in S. 1994 which creates the FAA's duplicate authority over emission standards. I'm pleased that the compromise we reached with the managers also requires greater cooperation between the two agencies by directing the EPA to consult with the FAA prior to setting new emission standards for aircraft engines. The amendment also allows the FAA Administrator to include representatives from the EPA on advisory committees that deal with issues of aircraft standards.

This should facilitate coordination between EPA, the FAA and interested parties early in the development of any future regulations.

In conclusion, I believe this amendment makes good sense all around. It protects the taxpayer by eliminating unnecessary bureaucracy and duplication. It encourages better dialogue between government and industry. And it avoids any weakening of our environmental standards.

I'm pleased the managers of the bill have accepted the amendment and I thank them for their willingness to work with us on this important issue.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I thank the Senator from Rhode Island for his cooperation and the modification of his amendment. As far as this Senator is concerned, as far as our side is concerned and the administration is concerned, his modification makes his amendment now acceptable.

The chairman of the subcommittee, Senator MCCAIN, is working on one other amendment. We feel we are ready to go at some point with your amendment, which will be accepted, I am sure. I do thank him, again, for his cooperation and congeniality.

Mr. CHAFEE. Mr. President, let me express my appreciation to the distinguished Senator from Kentucky for his help on this and also Senator MCCAIN, the floor manager of this legislation. This is something that has been worked out. Amazingly enough, we seem to have everybody satisfied. Having seen these things in the past, I am a great believer in getting things done, if we can.

I will suggest the absence of a quorum and see perhaps if we can get Senator MCCAIN here just briefly and get this one accepted, if it is agreeable. If there is no other business, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

Mr. FORD. As far as Senator Chafee's amendment is concerned, now, as modified, this side has no objection.

Mr. MCCAIN. Mr. President, we have no objection to the amendment. But also I would like to thank Senator CHAFEE. He is the watchdog in this body for environmental issues. I am very grateful that he would reach this compromise so that we can move forward with the bill. Frankly, I think the bill will be stronger now that we have his seal of approval. So we have no objection.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment No. 5361, as modified.

The amendment (No. 5361), as modified, was agreed to.

Mr. MCCAIN. I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on the Simon amendment No. 5364.

Mr. FORD. Mr. President, I ask unanimous consent that the Simon amendment be set aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Again, I want to express my appreciation to Senator MCCAIN and Senator FORD for their assistance in this, also the folks from the FAA and EPA. I think we have worked out a good solution here, and I am very pleased with that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, we sometimes appear not to be working as it relates to the camera in the Senate Chamber. However, those that have been observing from the balcony and those who are staff and Senators will understand we have been working feverishly for about the last 2 hours in order to accommodate Senators who have amendments that are reworded and so forth so that we might move forward with legislation that is meaningful and that is doable.

I thank the distinguished Senator from Rhode Island, Senator CHAFEE. We arrived at an agreement and modified his amendment and we were able to accept that.

I want everyone to know we have been working hard to put this piece of legislation together. It is important. Hopefully, we will be able to finish by 2 o'clock.

AMENDMENT NO.5359

(Purpose: To express the sense of the Senate regarding acts of international terrorism)

Mr. FORD. Mr. President, I call up amendment 5359, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. REID, proposes an amendment numbered 5359.

Mr. FORD. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) there has been an intensification in the oppression and disregard for human life among nations that are willing to export terrorism;

(2) there has been an increase in attempts by criminal terrorists to murder airline passengers through the destruction of civilian airliners and the deliberate fear and death inflicted through bombings of buildings and the kidnapping of tourists and Americans residing abroad; and

(3) information widely available demonstrates that a significant portion of international terrorist activity is state-sponsored, -organized, -condoned, or -directed.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that if evidence establishes beyond a clear and reasonable doubt that any act of hostility toward any United States citizen was an act of international terrorism sponsored, organized, condoned, or directed by any nation, a state of war should be considered to exist or to have existed between the United States of America and that nation, beginning as of the moment that the act of aggression occurs.

Mr. FORD. Mr. President, this is a sense of the Senate as it relates to evidence established relating to hostilities toward any U.S. citizen as it relates to the airlines. I believe this amendment is cleared and we can move forward.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5359) was agreed to.

Mr. FORD. I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

AMENDMENT NO. 5369

(Purpose: To provide for additional days for comment for proposed regulations establishing special flight rules in the vicinity of Grand Canyon National Park)

Mr. FORD. Mr. President, I send an amendment to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BRYAN, proposes an amendment numbered 5369.

Mr. FORD. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . SPECIAL FLIGHT RULES IN THE VICINITY OF GRAND CANYON NATIONAL PARK.

The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall take such action as may be necessary to provide 30 additional days for comment by interested persons on the special flight rules in the vicinity of Grand Canyon National Park described in the notice of proposed rulemaking issued on July 31, 1996, at 61 Fed. Reg. 40120 et seq.

Mr. FORD. On behalf of Senator BRYAN, this amendment relates to flying over the Grand Canyon National Park. I believe this is also agreed to.

The PRESIDING OFFICER. Is there debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 5369) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5372

(Purpose: To prohibit the Surface Transportation Board from increasing user fees)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. DORGAN, for himself and Mr. PRESSLER, proposes an amendment numbered 5372.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following: "Notwithstanding any other provision of law, the Surface Transportation Board shall not increase fees for services in connection with rail maximum rate complaints pursuant to 49 CFR Part 1002, STB Ex Parte No. 542,".

Mr. FORD. Mr. President, I ask unanimous consent that Senator PRESSLER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, this is an amendment relating to increasing fees in connection with rail rates. I believe this is agreed to.

The PRESIDING OFFICER. Is there debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 5372) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5371

(Purpose: To assure adequate resources for the Essential Air Service program)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. EXON, for himself, Mr. DASCHLE, Mr. DORGAN, and Mr. PRESSLER, proposes an amendment numbered 5371.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 95 at the end of line 11 insert the following new sentence: "Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States."

Mr. FORD. Mr. President, I ask unanimous consent that Senator DASCHLE, Senator DORGAN, and Senator PRESSLER, be added as cosponsors of this amendment by Senator EXON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I believe this amendment is also agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5371) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5368

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. DOMENICI, proposes an amendment numbered 5368.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 119, line 1, strike all after "activities", through "collections" on line 2.

Mr. DOMENICI. Mr. President, my amendment would make a technical change to a provision contained in the bill regarding the budgetary treatment of certain fees. The amendment would not change the budget scoring of the bill by the Congressional Budget Office, nor would it change the budget treatment of the user fees created in the bill for international overflights.

The amendment has been cleared by both managers of the bill and I urge its adoption.

Mr. McCAIN. Mr. President, this is a technical amendment that has to do with offsetting budgetary considerations. It is acceptable to both sides. I have no further comment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5368) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, I ask unanimous consent for the consideration of an amendment by Senator HELMS, and I ask unanimous consent because this amendment by Senator HELMS had been intended to be included in the package last night. We neglected to do so by oversight. So, again, I ask unanimous consent that an amendment by Senator HELMS be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 5377

(Purpose: To provide for the transfer of the United States' interest in the Hickory, North Carolina Air Traffic Control Tower)

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. HELMS, for himself and Mr. PRESSLER, proposes an amendment numbered 5377.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 41 . TRANSFER OF AIR TRAFFIC CONTROL TOWER; CLOSING OF FLIGHT SERVICE STATIONS.

(a) HICKORY, NORTH CAROLINA TOWER.—

(1) TRANSFER.—The Administrator of the Federal Aviation Administration may transfer any title, right, or interest the United States has in the air traffic control tower located at the Hickory Regional Airport to the City of Hickory, North Carolina, for the purpose of enabling the city to provide air traffic control services to operators of aircraft.

Mr. McCAIN. Mr. President, this amendment by Senator HELMS has to do with flight service stations and an air control tower. It is acceptable by both sides.

I have no further comment on the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 5377) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, Senator ROTH will be coming to the floor momentarily to propose an amendment, which is without controversy. We are ready to accept that amendment. That will leave us with three amendments remaining—one by Senator BROWN of Colorado, one by Senator GRAHAM of Florida, and one by Senator SIMON of Illinois.

We are in the process of working out language on these three final amendments, and I am hopeful that following Senator ROTH's statement, within a very short period of time, we will have completed all pending amendments on this bill. We will then be prepared to move to third reading and a vote, and that decision is to be made by the majority leader and Democratic leader.

Until Senator ROTH arrives and we finish working out this language, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware is recognized.

AMENDMENT NO. 5370

(Purpose: To provide for expenditures from the Airport and Airway Trust Fund)

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. If there is no objection, the SIMON amendment will be set aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself and Mr. MOYNIHAN, proposes an amendment numbered 5370.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

TITLE—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. . EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.

Section 9502(d)(1) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended by—

(1) striking "1996" and inserting "1997"; and

(2) inserting "or the Federal Aviation Reauthorization Act of 1996" after "Administration Authorization Act of 1994".

Mr. ROTH. Mr. President, this bill calls for expenditures from the airport and airway trust fund. The airport and airway trust fund is governed by the Internal Revenue Code which is exclusively within the jurisdiction of the Finance Committee. Therefore, at the request of the Commerce Committee, Senator MOYNIHAN and I are offering an amendment to modify the Internal Revenue Code in order to allow expenditures from the airport and airway trust fund as provided in this bill. I am pleased to take action today to ensure continued funding for the airway system, particularly in light of current security and system concerns.

It is my understanding that this amendment has been cleared on both sides of the aisle and there is no objection to it.

I yield the floor.

Mr. FORD. Mr. President, this side has no objection. We accept the Senator's amendment and thank him for his interest.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 5370) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, I thank the distinguished chairman of the Finance Committee while he is in the Chamber. This legislation has a lot of implications associated with it concerning the way we are going to fund the Federal Aviation Administration, and a great deal of what is going to happen in the future falls under the authority of the Finance Committee. I thank Senator ROTH for his cooperation, for joining us in an effort at reforming the Federal Aviation Administration financially and for finding ways that we can fully fund it. I believe we could not have done so without the spirit of cooperation that he and his staff have displayed.

I thank the Senator from Delaware.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Let me join my colleague in complimenting Senator ROTH. I believe it was almost unanimous among those Senators who were here last night who were very concerned about the so-called ticket tax expiring on December 31 and going through a 10-month hiatus as we had, and it was finally worked out. Many of our colleagues are going to be asking about additional security operations, new and innovative ideas, new machinery, LOI's, letters of intent, that we have on airports, things of that nature.

I encourage the Senator, if he could, to find a way in his good work to see if there is something we could do to extend the so-called ticket tax until such time as a report comes back with suggestions from the group on how to finance FAA. I think it would meet with a great many accolades and applause, and so forth, if he could do that.

Many of us have projects that are ongoing, and many of us have letters of intent. I do not want any Senator to look at me and say, "Where is the money?" and I did not make every effort to try to accomplish that. So I say that to my friend in a spirit of cooperation.

Mr. ROTH. Mr. President, I agree with my distinguished colleague as to the urgency for action in this area, and the desire for the Finance Committee to move expeditiously on the tax matters. I have to say, like the Senator from Kentucky, I am very concerned about the security of the airports and want to work very closely with the Commerce Committee in assuring it is adequate, and that whatever financing is necessary becomes available.

I yield the floor.

EMERGENCY REVOCATION AMENDMENT TO S. 1994

Mr. INHOFE. Mr. President, I had intended to offer an amendment regarding the Federal Aviation Administration's [FAA] emergency revocation powers; however, after conferring with the chairman and ranking member I have withdrawn my amendment because they have agreed to work with me on this issue in the 105th Congress.

Aviation safety not only requires consistent diligence, but also balance. It is balance that my amendment sought to achieve between the rights of the airmen to use their certificates and the need for the FAA to immediately revoke the certificates of unsafe operators. Over the past several years we have witnessed a sharp increase in the number of emergency revocations. In an revocation action, brought on an emergency basis, the airman or other certificate holder loses the use of the certificate immediately, without an intermediary review by an impartial third party. The result is that the airman is grounded and in most cases out of work until the issue is adjudicated.

My amendment would have established a procedure whereby the airman could request a hearing before the NTSB Board on an expedited basis to determine if a true emergency existed and therefore justified the immediate revocation of the airman's certificate. If the NTSB decided no emergency existed, then the airman could have use of his certificate while the FAA pursued their case against the airman. If the NTSB decided an emergency existed then the revocation would remain in effect until the case could be fully adjudicated.

Given the chairman's assurances of his willingness to work with me on this issue in the 105th Congress, I have withdrawn my amendment and look forward to working him and the ranking member to address this problem.

Mr. PRESSLER. Mr. President, if the Senator will yield, I want to assure him that it is my intention that the committee work closely with him on this issue.

Mr. MCCAIN. If the Senator will yield further, I concur with Chairman PRESSLER and want to add my assurances that the Subcommittee on Aviation will throughly examine this issue through the hearing process in the 105th Congress.

Mr. HOLLINGS. If the Senator will yield, I too want to assure the Senator from Oklahoma that we will work with him to address the problem he has highlighted.

Mr. FORD. If the Senator will yield, I agree with the chairman that we should review this issue more closely in the 105th Congress.

Mr. INHOFE. I thank the chairmen and ranking members. I appreciate their willingness to not only discuss this issue but to come to some resolution.

Mr. BURNS. I join my colleagues in calling for hearings on this important issue. This issue deserves our immediate attention and I look forward to working with the chairman in developing a record on this issue.

THE "AGE 60 RULE"

Mr. SIMPSON. Mr. President, I should like to address a critical issue that is very familiar to Members of this body who have been involved with the Federal Aviation Administration—it is the "age 60 rule." In 1959, the FAA implemented a regulation to prohibit pilots, having reached the age of 60, from flying jets regulated by part 121 of the FAA regulations—that is, passenger-carrying jets with more than 30 seats. This year, the FAA has extended that ban to include commuter jets with more than 10 seats.

I do not want to hold up this very important bill in order to carry out a lengthy debate on whether or not the ban is justifiable. I am not here to overturn that rule. Indeed, few of us here would be in any way qualified to do such a thing. Instead, I believe the FAA must certainly be willing to treat pilots over the age of 60 in a manner that is fair and consistent with its treatment of other pilots.

The FAA, acting in the interest of public safety has concluded that pilots—however experienced they may be—over the age of 60 should not be allowed to fly. I would submit, however, that this conclusion has not been supported through any independent study. It can not be accurately studied because no U.S. pilot over the age of 60 has been allowed to fly "part 121" aircraft at any time during the last 36 years.

In light of this situation, the judiciary—in a number of cases, but notably in the October 31, 1990 Baker versus FAA (7th Circuit Court of Appeals)—has upheld the FAA's position for the reason, as they stated, that the issue of age discrimination is clearly subordinate to that of passenger safety. The court did point out, however, that one of the FAA's own studies on flight time for class III pilots indicated that pilots between 60 and 70 with more than 1,000 hours of total flight time and more than 50 hours of recent flight time had the lowest accident rates of any age group of pilots.

In conclusion, the court admitted that these pilots face a catch 22 in that they are unable to obtain exemptions from the age 60 rule until they can show they can fly large passenger aircraft safely, yet they cannot show such ability until they obtain an exemption. In the end, the court affirmed the FAA's order, saying, "it is supported by substantial, albeit certainly not compelling evidence."

In the FAA's "part 121" regulations, the FAA is empowered to grant exemptions to this rule if it "finds that such action would be in the public interest," however, no exemptions have ever been granted regardless of physical condition or safety record. This is in spite of the fact that the FAA currently issues special certificates to pilots under the age of 60 with histories of alcohol abuse or even heart conditions. The FAA's explanation is that it has "present tests that can predict the expected course of a known medical deficiency" such as heart disease or alcoholism "with sufficient accuracy to allow valid, individualized judgments" but that "the same accuracy is not possible when assessing the decrements associated with the aging process." I do not believe this is a consistent policy or a fair treatment of many pilots with impeccable records, but who also have more than 60 years of life behind them.

In this bill, which will do so much to advance the issue of airline safety, I think it is a tragedy that there has been no mention of the fact that hundreds of this country's potentially safest and most experienced pilots have been grounded because of a rule with little or no empirical basis. I strongly believe that the FAA should outline the criteria by which it would consider exempting certain pilots from the "age 60 rule," so that even a very small number of exceptionally fit pilots could be studied in order to form the basis for a future review of this outdated rule.

I know this issue was briefly touched upon in Commerce Committee hearings, but it was not explored in enough depth, so I would like to ask my friend from Arizona, chairman of the Aviation Subcommittee of the Senate Commerce Committee, whether he would consider calling hearings on this important issue to many airline pilots, the "age 60 rule."

Mr. McCAIN. I say to my friend that the Aviation Subcommittee has held a number of hearings on this in the past and I would again consider having additional hearings on this very important matter.

Mr. SIMPSON. I thank the Senator for his courtesy and his extremely hard work on this legislation.

TERRORISM AND AVIATION SECURITY

Mr. KERRY. Mr. President, I congratulate the distinguished chairman of the Commerce Committee for moving forward on this important bill and for including provisions that seek to address terrorism and aviation security. I have worked with the chairman on these important provisions for many months. The Gore Commission recommended that the FAA move forward expeditiously with deployment of advanced explosive detection equipment, and this legislation contains provisions to implement that recommendation.

For too long our efforts have fixated on finding the perfect technology that will give us a silver bullet against terrorism at our airports. While other countries have deployed explosive detection technology that is commercially available, economically reasonable, and compatible with realistic air carrier operating conditions, our research-oriented approach has resulted in the U.S. deploying nothing, and thus becoming an attractive target for terrorists.

It is my understanding that the language in the managers' amendment requires the FAA Administrator to deploy existing, commercially available, and operationally practicable explosive detection devices.

Mr. PRESSLER. Mr. President, the Senator from Massachusetts is correct. This legislation requires the FAA to begin immediate deployment of commercially available explosive detection equipment. This deployment will occur as an interim measure to address airport and air carrier security vulnerabilities while the FAA continues to undertake research and operational testing of equipment such as the CTX.

Mr. KERRY. Mr. President, I ask the Senator from South Dakota if I am correct that the language contained in this bill will result in the speedy deployment of a variety of explosive detection systems that are cost effective, and compatible with realistic operating conditions, such as those systems manufactured by Vivid Technologies, Thermedics Detection, EG&G, IonTrack, and AS&E.

Mr. PRESSLER. Mr. President, the Senator from Massachusetts is correct—that is the intent of this bill.

Mr. KERRY. Mr. President, I thank the Senator from South Dakota for his clarification and I voice my strong support for these security provisions.

Mr. HOLLINGS. Mr. President, for years we have been asking passengers to pay money to support the safety needs of the aviation system. In 1970, Congress created the airport and airway trust fund as a means to make sure that the Federal Aviation Administration [FAA] had enough money to build and support our Nation's airports and the FAA's own air traffic control system.

The FAA's mission is to oversee the safety of the traveling public. When any accident occurs, as we have seen in the recent ValuJet and TWA accidents, there are many possible reasons for the accident. People on television are quick to rush to conclusions. We use the expertise of the National Transportation Safety Board [NTSB] to determine the cause of a crash. The Everglades crash scene, as Bob Francis, Vice Chairman of the NTSB, has indicated, was extremely treacherous and necessitated a difficult investigation. The TWA accident presents the additional complication of a criminal investigation carried on side-by-side with the accident investigation. One thing is certain—the FAA must be fully funded to meet the challenges and aviation growth in the future.

S. 1994 incorporates much of the text of S. 1239, the FAA reform bill, reported by the Commerce Committee last November. Those provisions call for an independent review of the precise needs of the FAA, followed by the submission of a funding proposal to finance the agency. The industry must recognize that ultimately we have to decide how best to support and fund the agency. Delay is no longer an option.

OVERSIGHT OF SAFETY

When we take a broad perspective, we do know that aviation is the safest form of transportation. More than 40,000 people die each year in highway accidents. According to testimony before the Commerce Committee, more people die each year because of electrocution—525—than because of airline crashes. Yet, the tragic crash of ValuJet flight 592 into the Florida Everglades on May 11 is significant because it may well have been avoidable.

We can go back over every action by the FAA, every inspector general [IG] report, every report by the General Accounting Office [GAO], and still not resolve what is safe. If someone says "you need more inspectors or better training for inspectors," and a crash occurs, the person pushing for more inspectors and training is touted as a sage by the media. Anyone, however, can pick any issue in the aviation field, make a broad statement, and tomorrow there may be a crash that may make the statement appear to be the essence of wisdom.

The FAA oversees the activities of carriers and maintenance facilities through its inspector work force. Each air carrier is assigned a principal operations, maintenance, and avionics inspector. For a large carrier, there may be 30 to 60 FAA inspectors assigned to oversee its operations. In addition, the FAA uses "geographic" inspectors who, for example, are responsible for air carrier operations at a particular airport or area. The geographic inspector may conduct ramp inspections on a wide variety of aircraft types, even though the inspector may only be certificated on one aircraft type. As a general matter, FAA inspectors are extremely well qualified. An air carrier operations inspector, for example, is required to hold a pilot's license, with a minimum of 1,500 flight hours.

The DOT IG's office testified on April 30 before the Senate Governmental Affairs Committee on problems concerning the inspector work force. Substantial and serious concerns were raised and as a result I asked the chairman for a hearing on that matter. The concerns raised by the IG included insufficient training for inspectors and the inadequate computerization of inspection reports. These are legitimate concerns that must be addressed.

The FAA will be completing a review of its inspector work force perhaps this week. I wrote to the FAA Administrator expressing my desire to work with him to address the inspector issues. GAO has indicated that the FAA inspectors need substantial training, perhaps $17 million more than requested by the FAA. The training budget has been cut by 42 percent from the 1993 level. If we are to expect the FAA inspectors to do their job properly, they must be adequately trained and have the tools needed to do their job. For example, the FAA is struggling with developing a computer system to track inspector safety reports. The inspectors are frustrated with the new computer system, and spend far too much time inputting data, rather than doing inspections. The system is supposed to be able to aid the FAA in targeting its resources. FAA management must work with its work force to get that system back on track so that the inspectors have confidence in the system. DOT needs additional inspectors.

AVIATION SECURITY

Aviation security is an extremely complex issue. It involves technology, people, intelligence information, national security, and a recognition that there are people willing to commit heinous crimes aimed at our government and our citizens.

On December 21, 1988, Pan Am flight 103 blew up over Lockerbie, Scotland, killing 270 people. It took almost 2 years to pass legislation to address some of the problems that stemmed from that crash.

Investigators in New York have not yet identified the cause of the crash of TWA flight 800, and numerous options are being considered. We have to let the investigators complete their mission. The NTSB, Navy, FBI, and State and local personnel are working hard to determine the cause of the accident. We do know this, however—the public deserves the best technology operated by the best trained individuals, to reduce the risks of a terrorist attack.

Another thing is clear—security is going to be costly. The FAA has estimated that it will cost as much as $2.2 billion to install up to 1,800 machines at 75 airports. Today, there are approximately 14,000 to 18,000 screeners, paid an average of $10,000 to $15,000 per year. These screeners are one line of defense, but a critical one in the fight against terrorism. They need training, and they need to be paid in accordance with their responsibilities. The present turnover rate among these employees is extremely high. Unless we change the way we provide security, we cannot upgrade it. All the technology in the world still requires a person to watch a screen, listen to alarms, and be able to recognize materials that should not go on board an aircraft.

No matter what we do, safety comes first. Nothing should go onto an aircraft without being screened. Cargo, company material, and baggage all should be subject to inspection.

Security changes may require a fundamental alteration in the way air carriers provide services. Longer lines can be expected. Unfortunately, it is a price we must pay to deal with people in this world willing to stop at nothing.

I urge my colleagues to vote for passage of this bill.

NOISE MITIGATION PROGRAMS

Mr. GORTON. Within the programs authorized in S. 1994, the Federal Aviation Administration reauthorization bill, are allocations for noise mitigation. Under the Airport Improvement Program [AIP], the Federal Aviation Administration [FAA] has allocated funds to airports of all sizes to implement noise mitigation programs. Due to lower funding levels of the AIP, the FAA has recently implemented a rule that limits an airport to $8 million maximum for Federal noise mitigation funds—$5 million a year for single family housing and $3 million a year for all other uses.

Mr. President, while this type of new cap may be appropriate in certain circumstances, I believe that a single cap, regardless of an airport interests or needs, is inappropriate for two reasons. First, in evaluating existing noise programs around the country, I think it is evident that certain airports have made noise mitigation a top priority. Seattle-Tacoma International Airport, for example, has been the national leader and was the first to implement the local housing insulation program to reduce noise impacts in houses surrounding the airport. Having enacted noise mitigation programs, certain airports that enacted plans prior to imposition of this new cap, and after extensive negotiations and commitments with both the surrounding communities and the FAA, are now expected to follow through on previous commitments. If the program cost exceeds the new cap, the FAA is essentially abandoning its previous commitments. I believe that is unacceptable.

Second, it is clear that large airports in densely populated areas should have to implement broader noise mitigation programs than small, general aviation airports. For that reason, a single, hard cap for all airports, regardless of size and location, is not the best way to distribute funds in an equitable manner.

Mr. President, the Senator from Arizona knows that I included language in the fiscal year 1997 Transportation appropriations Senate report that directs the FAA to consider pledges and agreements made by the airport authority, in consultation with the FAA, to communities prior to the promulgation of the new ceiling, and to make appropriate exceptions to the policy where necessary to meet legitimate expectations of neighborhoods near airports. Because the fiscal year 1997 Transportation appropriations House report was silent on the issue, the Senate language is the prevailing language that should be followed by the FAA.

I believe it is appropriate, however, to also discuss this matter within the context of this legislation to ensure that my sentiments on this issue are correct.

Mr. MCCAIN. I agree with the Senator from Washington. We all understand that, in an era of constrained budgets, it may be necessary for the FAA to try to limit noise mitigation funds per airport. As the Senator mentioned, however, I agree that where prior commitments have been made it is necessary and appropriate that the FAA show flexibility so that those commitments may be honored.

TRAIN WHISTLE PROVISION

Ms. MOSELEY-BRAUN. Mr. President, the managers' amendment to the legislation before us includes a provision that provides important direction to the Department of Transportation with regard to the implementation of a provision of the Swift Rail Development Act of 1994.

Under this 1994 law, the Federal Government is required to develop regulations that direct trains to sound their whistles at all hours of the day and night at most at-grade railroad crossings around the country, unless the local communities can afford to act on a specified list of alternatives. The Swift Rail Development Act will require trains to blow their whistles at approximately 168,000 railroad crossings in the United States and more than 9,900 in Illinois—including about 2,000 in the Chicago area and 1,000 in Cook County alone.

This provision was inserted into the 1994 law without debate or discussion. Communities had no input into the process, even though it will be communities that will be most affected.

I am acutely aware of the need to improve the safety of railroad crossings. A recent tragedy in my home State involving a train and a schoolbus in Fox River Grove, IL, killed seven children and shattered the lives of many more families. According to statistics published by the Department of Transportation, someone is hit by a train every 90 minutes. In 1994, there were nearly 2,000 injuries and 615 fatalities caused by accidents at railroad crossings around the country. Clearly, ensuring the safety of our rail crossings is imperative.

The Swift Rail Development Act mandates that trains sound their whistles at every railroad crossing around the country that does not conform to specific safety standards. It does not take into consideration the effect of this action on communities, nor does it require the Department of Transportation to take into consideration the past safety records at affected at-grade crossings.

Requiring trains to blow their whistles at every crossing would have a considerable effect on people living near these crossings. It is unclear, however, that there would be a commensurate improvement in safety. In Fox River Grove, for example, the engineer blew his whistle as he approached the road crossing, but the schoolbus did not move.

At many railroad crossings in Illinois and elsewhere, accidents never or rarely occur, while some crossings are the sites of frequent tragedies. Just as we do not impose the same safety mandates on every traffic intersection in the country, we should not universally require trains to blow their whistles at every railroad crossing in the country.

When transportation officials decide to make safety improvements at a highway intersection, they consider a wide range of factors, including its accident history, traffic patterns, and conditions in the surrounding area. Every intersection is a case study. There are guidelines, but not inflexible rules.

The approach to railroad crossing safety should be no less reasoned. The train whistle should be one tool in the transportation safety official's regulatory repertoire; it should not be the only one. Because every community has a different history and different needs, I do not believe that a one-size-fits-all, top-down approach to railroad crossing safety is appropriate.

In Dupage County, IL, for example, there are 159 public railroad crossings. In 1994, there were accidents at only 18 of these crossings, and 45 have not experienced an accident in at least 40 years. On one of METRA's commuter rail lines, 64 trains per day pass through 35 crossings. In the last 5 years, there have been a total of three accidents and one fatality along the entire length of this corridor.

Every one of the crossings on this METRA commuter line has a whistle ban in place to preserve the quiet of the surrounding communities. The imposition of a Federal train whistle mandate on this line would, therefore, have a considerable negative impact on the quality of life of area residents. The safety benefits, on the other hand, would, at best, be only marginal.

METRA's Chicago to Fox Lake line has 54 crossings and is used by 86 trains per day. A whistle ban is in place on 37 of these crossings. Between 1991 and 1995, there were a total of 13 accidents on this line, with 5 injuries and 1 fatality.

In Des Plaines, IL, one of my constituents reports that she lives near 5 crossings. In the last 11 years, there has been only one accident at any of these crossings. She will hear a train whistle at least 64 times per day and night.

In Arlington Heights, IL, there are four crossings in the downtown area about 300 feet away from one another. A total of 5,400 residents live within one-half mile of downtown, and 3,500 people commute to the area every day for work. Sixty-three commuter and four freight trains pass through Arlington Heights every weekday between the hours of 5:30 a.m. and 1:15 a.m.

Train whistles are blown at nearly 150 decibels, and depending on the weather, they can be heard for miles. According to one Burlington Northern railroad conductor, a train traveling from Downers Grove, IL to La Vergne, IL—a distance of approximately 12 miles—would have to blow its whistle 124 times. There are 144 trains traveling this route every day.

Mr. President, the residents of these communities, and others across Illinois and the country, are confused by the 1994 law that will require train whistles to sound at all hours of the day and night in their communities—in some cases hundreds of times per day—at railroad crossings that have not experienced accidents in decades, if ever.

Under a Federal train whistle mandate, homeowners in many of these communities would experience a decline in their property values, or an increase in their local taxes in order to pay for expensive safety improvements. The 1994 law, in this respect, represents either a taking of private property value, or an unfunded mandate on local communities.

The train whistle mandate places the entire burden on the community. Trains will keep rolling through quiet, densely populated towns at all hours of the night, and both the railroads and the passengers will experience no disruptions.

In aviation, by contrast, airline flights are routinely routed to minimize the disturbance to surrounding communities. Flight curfews are established, and restrictions are placed on certain types of aircraft in efforts to minimize the disruption to area residents. These restrictions place burdens on airlines, passengers, and the communities; it is a joint effort.

The pending legislation includes a provision providing the Department of Transportation with important direction on how to implement the train whistle law in a more rational and flexible manner. It directs the Secretary of Transportation to consider the interests of affected communities, as well as the past safety records at affected railroad crossings. The concerns of local communities must be heard—not just the sounds of train whistles.

It also addresses safety concerns. In situations where railroad crossings are determined not to meet the supplementary safety requirements, communities will have up to a maximum of 3 years to install additional safety measures before the train whistle mandate takes affect. In these situations, the Department of Transportation will work in partnership with affected communities to develop a reasonable schedule for the installation of additional safety measures.

Mr. President, I have been concerned about the implementation of the Swift Rail Development Act since Karen Heckmann, one of my constituents, first brought it to my attention more than a year ago. Since that time, I have spoken and met with mayors, officials, and constituents from Illinois communities, and visited areas that would be most severely affected. In response to their concerns, I have written several letters to, and met with Transportation Secretary Peña and other officials numerous times, and have been working with the Department of Transportation to ensure that they implement the 1994 law in a manner that both works for communities and protects safety.

The pending legislation provides important congressional direction to the Department of Transportation that is consistent with the ongoing discussions that I, and other members of Congress, continue to have with the Department.

The Senate adopted a functionally identical amendment to the Transportation appropriations bill this summer. During conference committee consideration of that bill, the amendment was deleted and language was instead inserted into the conference report that accompanies that bill.

I am pleased that the Senate today will again pass the strong, legislative language providing direction to the Department of Transportation. I want to thank my colleague, Senator RON WYDEN, for his work on this issue, and also the members of the Commerce Committee for again accepting this important provision.

Mr. KERRY. This bill to reauthorize the Federal Aviation Administration is good legislation. I would like to commend the diligent efforts of several Senators in drafting this legislation and in shepherding it through the committee process—including Senators FORD, McCAIN, HOLLINGS, and PRESSLER, and also the work of their capable and helpful staffs.

Mr. President, this is a very important bill to our Nation because the FAA plays such a critical role in our nation's transportation infrastructure. We ask the FAA each year to ensure the safety of all civil aviation and to oversee the continued development of our national system of airports. Significantly, through a comprehensive program that includes a vast air traffic control network, and thousands of maintenance inspections of our nation's civilian airlines, the FAA carries out the important task of ensuring the safety of the millions of Americans that utilize air travel each year. This bill is also important to Massachusetts which relies very heavily on air transport for both people and cargo. From Logan Airport in Boston to the smaller airports located throughout Massachusetts, airports and air transport are critical to the economic and social travel needs of the people of Massachusetts.

Foremost, I support this bill because it provides the FAA with the necessary tools to carry out these important tasks. S. 1994 provides the FAA with $9.28 billion in total budget authority for fiscal year 1997 which includes $5 billion for operations, $2.28 billion for the airport improvement program, $1.8 billion for facilities and equipment, and $200 million for research, engineering, and development. This total figure represents an increase of $1.13 billion over the FAA's total budget authority for fiscal year 1996 and an increase of $1.07 billion over the administration's budget request.

But this bill does more than simply provide funding. In order to improve our civil aviation system, the bill seeks to reform and improve the FAA's operations. The bill affords the FAA a needed measure of autonomy from the larger Department of Transportation. For example, the FAA administrator will have the final authority to accept or reject proposed changes to FAA regulations. This change moves the final word to where it belongs: the agency with the expertise. In addition, the bill places time restrictions on the FAA's ability to act on pleadings from the aviation industry and other interested parties. This change will lend a measure of certainty to the timing of FAA actions and, thereby, make it easier for the industry to forge ahead with business plans that depend on FAA regulatory action.

The bill also contains a provision to make sure that smaller airports continue to receive sufficient financial assistance should FAA Federal funding levels decline. Specifically, S. 1994 caps the percentage of funding that can be allocated to large and medium airports. This provision will permit smaller airports, such as those in New Bedford and North Adams, MA, to continue to receive a substantial level of FAA funding.

I am pleased to note that the bill does not reverse the FAA's long-standing and sensible policy of permitting multi-modal independent authorities, such as the Massachusetts Port Authority, to function as intended by their enabling statutes. For years, MASSPORT has been permitted to manage a multi-modal transportation system for the Boston region, using revenues from Logan Airport, the Port of Boston, Tobin Bridge, and other activities, to administer the system as a whole. At different times, this has meant that one individual component has subsidized other components that MASSPORT operates. Because the region relies on all components working together, federal law has recognized such subsidies as legitimate and permissible. Indeed, without the authority to merge revenues, the entire transportation infrastructure of the greater Boston region would be thrown into chaos causing disastrous consequences for the region's economy. I want to thank Senator McCAIN and his staff for working with my staff on this issue so that a compromise could be reached that is acceptable to all parties involved. I also want to recognize the efforts of Minority Counsel Sam Whitehorn for his contributions to the discussions between our offices and the ultimate agreement.

I also would like to call the Senate's attention to the FAA's recent decision to award the contract for designing and constructing the next generation of air traffic control systems, known as the Standard Terminal Automation Replacement System or STARS, to the Raytheon Co. which is headquartered in Lexington, Massachusetts. The STARS program will provide a complete replacement of critical air traffic control radar displays of aircraft in the "terminal area"—the airspace within 50 miles of an airport.—The systems in use today are based on outdated technologies and their replacement is absolutely essential to keep up with our Nation's increased air traffic demands. I am proud that this Massachusetts company, known for years to be on the cutting edge of important technological advances, has been given the opportunity to reconstruct our air traffic control systems for the 21st century. I am equally pleased that the location of first implementation is to be Logan Airport.

Finally, and importantly, I am very pleased that this bill contains some very important steps toward enhancing airport security that will result in greater safety for commercial flights originating at U.S. airports. I have been pushing the FAA for several years to begin to use existing advanced technologies far more capable than x-rays and metal detectors to screen passenger baggage for explosives before it is placed on aircraft. At long last, based on the conclusions of the Gore Commission established by President Clinton to address airline security in the aftermath of the TWA crash off Long Island, the FAA will be instructed to move forward in this respect. Rather than awaiting the arrival of a new sensor technology that can meet all desired sensor standards perfectly or nearly perfectly, the FAA will be instructed to procure and implement use of the best currently available technology—which is the approach taken by virtually all European nations. It is long past time for the United States to take this step. I have addressed this subject at greater length with Chairman PRESSLER previously during this debate.

Mr. President, this is a well crafted bill. I will vote for this bill, and I urge my colleagues to support it.

SUPPORT FOR FAA AUTHORIZATION BILL AIR TRAVEL SAFETY AND SECURITY PROVISIONS

Mr. REID. Mr. President, I want to express my appreciation to the managers of the FAA reauthorization bill for incorporating into the bill many of the provisions of the Travelers Rights Act which I introduced prior to the August recess.

Mr. President, air travel is fundamental to our national transportation system. Americans who travel across this Nation and globally would not be able to conduct their business without the conveniences of air travel. However, recently the dangers of air travel have become even more clear. With the risks of air travel in mind, I introduced the Travelers Rights Act to provide for a way that consumers could obtain safety information. To provide to the public the safety background on airlines is a matter of common sense.

It is a matter of public policy to provide citizens the information necessary for them to make choices in most other areas basic to their health, safety, and welfare. Given that food labeling must reveal ingredients, automobile labels must indicate maintenance and mileage, and under the Safe Drinking Water Act, recently reauthorized, water contaminants must be revealed annually to the water users and communities, we should do require no less in regard to air travel.

Besides mandating intensified security and safety for air travel, the provisions of the Travelers Rights Act that have been incorporated were the travelers' access to information and the safety survey and reports that the FAA will be required to submit to Congress. There is information that ought to be available and if the customer seeks the information the airlines should expeditiously provide it. This bill is not to scare travelers about the safety and security of air travel, rather on the contrary, I believe this bill will inspire confidence through openness and knowledge. Additionally, if customers of air travel exercise their right to know about certain elements about the airlines, aircraft, and crew then that too will enhance the trust between customers and the airlines. In this effort to require knowledge and the coordination of information, Senators FORD and WYDEN have been extremely helpful in their communication with the Federal Aviation Administration.

I do regret that absent from title III of the FAA reauthorization is the Victims Rights Program, which I see as integral to expediting the distribution of information to the survivors of victims of terrible airline accidents and destruction. The responsible Federal agencies should be coordinated better to provide families the details and facts as quickly as possible and in such a manner so that survivors can grieve and cope with tragedy with all of the knowledge that they need.

But I do commend Senator FORD for integrating into title III of the bill the provisions of consumer access that the Travelers Rights Act contained.

Mr. LUGAR. Mr. President, as the Senate moves to a conference with the House of Representatives on the Federal Aviation Administration Reauthorization Act of 1996, I am hopeful conferees will give thoughtful consideration to the provisions included in the manager's amendment adopted Tuesday evening. I noted with some concern that a number of provisions in this amendment were new to the bill, and in some cases, not germane to the purpose of the legislation. I hope my colleagues will share my interest in assuring that an appropriate check and balance is maintained as the 104th Congress continues its legislative work.

While I support swift enactment of this important measure to reauthorize the Federal Aviation Administration, I am concerned about a provision of the bill included with the manager's amendment amending the Johnson Act. In response to concerns about the rapid growth of legalized gambling in the United States in recent years, Congress recently approved legislation to create a 2-year National Gambling Impact Study Commission. This Commission will conduct a comprehensive review of the social and economic impact of legalized gambling on our Nation, and will provide a report to Congress, the President, Governors, and others, on this important issue. Until we know more about the effects of this recent national trend, I have reservations about changing a Federal law that could allow for further expansion of legalized gambling in the United States.

AMENDMENT TO THE JOHNSTON ACT

Mr. SIMON. Mr. President, it is my understanding that there was language included in the manager's amendment to the Federal Aviation Authorization Act of 1996 that would allow a gambling operation off the coast of California.

I am the chief sponsor of legislation establishing a gambling commission to study the impact of gaming on municipalities, states and tribal governments. It is my feeling that we are making a mistake by sanctioning this new operation before we have a chance to study the Commission's findings.

The Federal Aviation Authorization legislation is an important bill, which is why I offered my support despite the language amending the Johnston Act.

Mr. BYRD. Mr. President, today we are considering the reauthorization of the Federal Aviation Administration [FAA]. The FAA performs a critical role in managing our nation's air traffic control system, which handles two takeoffs and landings of aircraft every second of every hour of every day. Yet most Americans are unaware of the complexity and scope of this system, and simply take it for granted.

Nonetheless, the deregulation of the airlines and expansion of the air transportation system have imposed significant strains upon the existing system. Some air control centers are using older equipment that is not as reliable as what is currently available. Other centers, that lack both equipment and sufficient numbers of air traffic controllers, are forced to delay flights. Reform of the FAA is needed, because increasing demand for air travel will only exacerbate these problems at our nation's major airports.

My own state of West Virginia, however, does not have a major hub airport. We have not had to worry about delays of frequently scheduled, and low-priced flights. Our problems have been of an entirely different magnitude. We have had to endure the cancellation of flights, the end of airline service to some of our communities, and a huge increase in fares charged to passengers who fly out of airports in West Virginia.

This dramatic decline in airline service to my state has occurred as a result of airline deregulation. On the day that I cast my 14,000 vote, I observed that one of the votes that I most regret was supporting airline deregulation. At the time, I was told it would lead to cheaper fares. It has, but only in some regions of the country and large urban areas, while my own constituents have paid hundreds of dollars more for even shorter flights. I was told that deregulation would lead to an increase in the number of flights, and make air service more convenient. Again, it has, but only if your city is fortunate to be at the center of a major market. My own constituents have far fewer flights to choose from, and in many cases, must drive to an airport in another state in order to fly at a reasonable price. This is a far cry from convenience.

This bill addresses these concerns, as it directs the Secretary of Transportation to conduct a study to examine air fares that are charged to passengers using airports located in small communities, as compared with air fares charged to passengers using large hub airports. The purpose of the report will be to determine if passengers using airports in small communities are paying "a disproportionately greater price" as compared with passengers using hub airports in large urban areas, as well as to indicate the number of small communities that have lost air service as a result of the deregulation of commercial air carriers.

I strongly support this study, and believe that an examination of the impact of deregulation on rural America is long overdue. Nonetheless, from the perspective of West Virginia, it is almost self evident that small communities are paying a disproportionately greater price. For example, if I want to fly from my office in Charleston, West Virginia's capital and largest city, to my office in Washington, I will pay a one-way walk-up coach fare of $332. If I want to benefit from airline deregulation, I must spend over two hours driving to Columbus, OH, in order to fly for $179. In other words, I must drive west, consuming gasoline and adding another automobile to the highways, in order to fly east at a reasonable fare. To use another example, it costs twice as much to fly from Charleston to Houston, TX, as compared with flying from Columbus to Houston.

In a 1996 study by the General Accounting Office (GAO), the GAO found that fares have decreased at small and large hub airports. However, airports serving small and medium-sized communities in the Southeast and Appalachian region "have experienced sharp increases in fares since deregulation." Not surprisingly, the GAO found that where low-cost carriers have entered a market, the fares have declined. But in areas that have not been so fortunate—where one or two higher cost airlines dominate service—fares have risen by more than 20 percent. When the GAO examined the fares charged per passenger mile at the Charleston airport, it found that fares had increased by 24.7 percent from 1979 to 1994.

Under the onslaught of deregulation, it is becoming increasingly difficult for small airports in West Virginia to continue to operate. Several of these airports benefit from Essential Air Service (EAS) support. The EAS program was created as a direct result of airline deregulation, for even as the supporters of deregulation trumpeted its benefits, they recognized that deregulation would hurt small airports. EAS was intended to be a temporary subsidy for small airports to help them develop profitable service. The impact of deregulation has been so severe that EAS has become a permanent necessity in order to keep some small airports open. This bill includes a provision that permanently funds the EAS program at a level of $50 million, which is an increase of $24.1 million, when compared to current appropriations. If less than $50 million is obligated for EAS programs, the remaining funds will be made available for grants to rural airports to improve rural air safety. This increase in EAS funding, and the provision calling for the study of rural air fares, was offered in the Commerce Committee by Senator BYRON DORGAN, and I wish to thank him for his efforts to help struggling airports in small communities.

S. 1994 also includes a provision that requires that funding to large and medium hub airports would be limited to a percentage of total AIP funding. This provision will help protect small airports from disproportionate cuts in AIP funding, in the event that future levels of appropriations to AIP should decline.

This bill is a significant and positive step in examining the impact of deregulation on small airports in our country. But it is not enough. Small airports across America are suffering under the burden of rising fares and declining service. As the Congress continues to examine the issues surrounding FAA reform in the next few years, it is my hope that the impact of deregulation on small community airports can be given additional consideration.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 5378

Mr. McCAIN. Mr. President, on behalf of Senator BROWN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Simon amendment is set aside.

Without objection, the amendment may be considered at this time.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. McCAIN), for Mr. BROWN, proposes an amendment numbered 5378.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . REPORTING FOR PROCUREMENT CONTRACTS.

Section 47112 is amended by adding at the end the following new subsection:

"(d) REPORTING FOR PROCUREMENT CONTRACTS.—(1) The Secretary of Transportation shall promulgate regulations to require that each grant agreement that includes the awarding of any contract that includes Federal funds in an amount greater than or equal to $5,000,000 under this subchapter provides for a report to the Secretary that states—

"(A) the number of bids from qualified, responsive and reasonable bidders that were in amounts lower than the amount specified in the bid submitted by the bidder awarded the contract;

"(B) for each bid referred to in subparagraph A (other than the bid submitted by the bidder awarded the contract) the amount by which the bid submitted by the bidder awarded the contract exceeded the lower bid.

"(2) APPLICABILITY.—This subsection shall apply to grants referred to in this paragraph that are awarded on or after the date of enactment of this Act.".

Mr. McCAIN. Mr. President, Senator FORD and I have examined this amendment. It has to do with disclosure of contract awards. We appreciate Senator BROWN's willingness to change the language so that it is acceptable to both sides.

I yield the floor.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 5378) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. WYDEN. Thank you, Mr. President.

Mr. President and colleagues, I rise in support of this legislation, S. 1994, to reauthorize the programs of the FAA. This is important legislation, and I especially want to commend the chairman of the Aviation Subcommittee, Mr. McCAIN, and also the distinguished ranking member of the Aviation Subcommittee, Senator FORD, for working closely with me on several provisions that have been included in this legislation.

Suffice it to say that when consideration of this bill began, it was a relatively modest reauthorization measure. No safety or security issues—certainly not any dramatic changes in safety or security policy—were envisioned at that time. Now these concerns are finally back to the forefront where they belong. It is my view that with this legislation the Senate takes the first step toward meaningful action to improving aviation safety and security in our country.

I think it has to be understood that there is still a long way to go even with the enactment of this legislation, but with the passage of this bill at least the prospect has begun in earnest to strengthen safety and security for the citizens who fly in our country.

My view is that in particular it is time to adopt new policies that empower the consumer, make it possible for consumers to be in a position to get critical information about aviation safety in our country. Right now it is possible for consumers to find out if their bags get crushed, and it is possible to find out if their flight is on time. But it is pretty darned hard for consumers to find out if the airline that they fly on has been fined for violating a major safety law.

At present what happens is, if there is a violation of a major safety law by an airline, for a citizen to find out they have to file a Freedom of Information Act request in order to get the information about a safety violation on the part of an airplane on an airline that they fly regularly. I do not think that is good enough. I think consumers deserve better. And Senator FORD and I have requested that the Federal Aviation Administration undertake an effort to make this kind of information available to the citizens of our country.

In the next few weeks we expect to receive a report from the Federal Aviation Administration about the best way to make important safety information available to the public, and this legislation that the Senate considers today requires a comparable report to the National Transportation Safety Board.

Mr. President, colleagues, let me say that from my standpoint this is only part of what needs to be done to empower consumers to get relevant information about safety and security. For example, today the Federal Aviation Administration posts signs in U.S. airports about the security dangers in foreign airports, but there are not any signs about security problems at our airports. It seems to me, again, that consumers, in line with certain uniform criteria so that the airlines and all who work in aviation understand what the standards are—the airlines would be expected to act in concert with those kinds of safety and security criteria, and the public would have a right to know whether airports in our country are meeting those safety and security criteria just as we now have postings with respect to security problems at foreign airports.

So I think that in these next few weeks we will begin to get information from the FAA with respect to how to make this key safety information public. I want it understood, Mr. President and colleagues, that I think this is just the beginning.

I want to thank the chairman of the Aviation Subcommittee. Both he and his staff have been very helpful to me in this effort to empower consumers. I am going to make a couple of other quick comments with respect to the legislation, but I want Chairman McCAIN to know that I very much appreciate the help that he and his staff, as well as Senator FORD, have given me on this; because, for the life of me, I cannot figure out why it is right for consumers to find out if their bags get crushed, find out if their flights are on time, but why they ought to have to go out and file a Freedom of Information Act request to determine whether an airline has violated major safety laws. That is not right. That has to be changed. On a bipartisan basis, working with Chairman McCAIN and ranking member FORD, I think we can get it changed. We will get that information with respect to the FAA in the next couple of weeks.

This legislation makes a positive step forward as well as by requiring a comparable report from the National Transportation Safety Board.

I also want to say to Chairman McCAIN that I want to work very closely with him on the matter of security postings at our airports. I have had a chance, both publicly and privately, to discuss this with officials in the aviation field. It is important to do it in line with certain recognized criteria. But it seems to me that, if an airline passenger in Phoenix, Portland, or anywhere else goes into an airport and finds out about overseas airports that have security problems, it seems to me they ought to have a right to know about the airports in our country where there are security concerns as well because I think those empowered consumers, once they have that kind of information, will help us and help us on a bipartisan basis to work for the kind of safety and security that the public deserves.

Mr. President, colleagues, one of the other aspects of this bill that I think makes a positive step forward deals with the need for uniformity in definitions relating to safety. Right now an accident involving a death or a serious injury or substantial damage to an aircraft is treated the same as an accident involving a plane backing into a truck or a coffee-cup spill that causes problems which are also reported as an accident. An incident involves less severe mishaps that affect safety in other ways, such as planes hitting birds or things of this nature. This legislation will provide some uniformity in terms of definitions in this area, and I think that is a fortunate step forward.

I also think this legislation is very helpful from the standpoint of requiring more comprehensive employment investigations, including criminal history record checks for individuals who will screen airline passengers, baggage and property. Under Senators McCAIN and FORD, what has happened here is the legislative straitjacket that has hamstrung FAA efforts in this area are removed. I think that is a helpful step forward as well.

Finally, I think this legislation is a very important measure with respect to the small airports of our country. These airports, such as Bandon and John Day and Klamath Falls, in my home State, serve citizens in rural Oregon. This legislation makes it possible for those small airports around the country to get some help at a critical time. Without the funding formula of this legislation, the smaller airports would suffer disproportionate cuts in grant funding at a time when appropriations are especially tight.

So this is a piece of legislation that needs to be enacted. I think, with respect to safety and security, it is important to note that when this reauthorization began, safety and security were not much measured in what looked, at that time, to be a modest reauthorization. But the events of the last few months have indicated that important and much more significant action needs to be taken, especially with respect to safety and security. I think the legislation that Chairman McCAIN and Ranking Member FORD bring to the Senate moves us significantly in the right direction.

Mr. President, I yield the floor and urge adoption of the legislation.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the Senator from Oregon for not only his kind words but, far more important, for the exuberance, passion, and knowledge that he brings to the Aviation Subcommittee and the Commerce, Science and Transportation Committee. Obviously, he is committed and knowledgeable on these issues. We value his participation and the very important contributions he has made to this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, let me join my colleague, Senator McCAIN, in complimenting the Senator from Oregon, Mr. WYDEN. He has been a great asset to this institution since he arrived and has been a tremendous asset to the Commerce Committee since he has joined us there. He has been thoughtful, he has been thorough, he has been amenable, but all the time pushing forward as it relates to help in all pieces of legislation, not particularly this one, in his effort to see that his constituents are protected and are helped.

I compliment him on the contribution he has made to having S. 1994 at this point, and I look forward to working with him in the future.

AMENDMENT NO. 5364

Mr. FORD. Mr. President, it is my understanding the Simon pension amendment is pending?

The PRESIDING OFFICER. The Senator is correct.

Mrs. KASSEBAUM. Mr. President, I rise for the purpose of entering into a colloquy with the Senator from Illinois regarding his limited scope audit amendment.

Mr. SIMON. I would be delighted to enter into such a colloquy.

Mrs. KASSEBAUM. We have drafted a sponsors' memorandum to accompany the amendment to assist with the interpretation of this legislation. Would the Senator agree that this interpretative memorandum embodies what the sponsors intend to accomplish with this legislative change to ERISA?

Mr. SIMON. Yes.

Mrs. KASSEBAUM. I would ask unanimous consent that the interpretive memorandum be printed in the RECORD immediately preceding the disposition of the amendment, and I thank the Senator from Illinois.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERPRETIVE MEMORANDUM FOR REPEAL OF PENSION LIMITED SCOPE AUDIT

This amendment addresses potential deficiencies with ERISA's current audit requirements for employee pension benefit plans. Specifically, the legislation addresses the "limited scope audit" provisions in ERISA. The sponsors of the amendment intend this memorandum to accompany the legislation to provide guidance to employee benefit plans, accountants, auditors, and regulated financial institutions.

Under current law, ERISA Sec. 103(a)(3) requires the administrator of a benefit plan to engage an independent qualified public accountant to examine the financial statements of the plan and render an opinion as to whether the financial statements are presented fairly in conformity with generally accepted auditing principles. However, under Sec. 103(a)(3)(C), the accountant need not render an opinion as to assets of the plan held by a bank, insurance company, or other financial institution subject to State or Federal regulation.

Since many pension plans have a material portion of their assets held by regulated financial institutions, and an accountant generally will not provide an opinion (e.g. the accountant provides a disclaimed opinion) as to a plan when a material portion of its assets are not accessible to the accountant, a great number of plans receive no opinion. The General Accounting Office and the Department of Labor's Inspector General have identified the large number of disclaimed opinions that have been issued as a source of concern.

The sponsors intend this amendment to require, in virtually every circumstance, that pension plan accountants rely upon the audits (e.g. SAS 70 reports) performed for banks and other regulated institutions. Thus, pension plan auditors, relying upon the audit report of the regulated entity, would be able to perform an audit and express an opinion on the plan's financial statements without any scope restriction.

The sponsors recognize the concerns of pension plan sponsors and regulated financial institutions regarding duplication of effort, increased cost, and disruption of operations that might otherwise be associated with modifying the limited scope audit provisions of ERISA. The sponsors do not intend that regulated institutions undergo multiple independent audits to satisfy the requirements of this legislation. Such a requirement would needlessly raise costs to plans and disrupt the operations of the regulated institution. For these reasons, the sponsors intend, in the vast majority of cases, that plan accountants will rely upon the audits (e.g. the SAS 70 report) performed by the auditors of the regulated financial institution.

However, there are a narrow set of circumstances where the SAS 70 report may not be, on its face, sufficient for the plan auditor's purpose. The auditor's response to those situations will vary depending on many factors, including the plan's own system of reviewing the results of the regulated institution's processing of the individual plan's activities. Significantly, the situations where the pension plan auditors needs physically to visit the regulated institution are very infrequent, and are most likely to occur when problems are identified with the regulated institution's processing.

The instances where the sponsors anticipate that plan auditors may need to perform additional audit work, beyond the SAS 70 report, include the following:

1. The SAS 70 report is a so-called Type I audit, which includes a description of whether the policies and procedures in place at the regulated institution's operation are fairly represented and are suitably designed. However, the Type I audit does not include an assurance on the functional, operating effectiveness of the regulated institution's policies and procedures, as would be provided under a Type II SAS 70 report. In this situation, the plan auditor may need to perform tests of the controls, depending upon whether it is more efficient to reduce the assessed level of control risk at the regulated institution or to perform additional work at the plan.

2. If the SAS 70 report covers a different reporting period than the plan's fiscal year, then the auditor may need to inquire of the regulated institution as to whether there were any changes to the institution's policies and procedures during the period not covered by the SAS 70 report. If the difference in coverage period is significant, or there have been material changes to the regulated institution's policies and procedures as they relate to the plan's transactions, then the plan auditor may need to gain an understanding of the policies and procedures in effect during the period not covered by the SAS 70.

3. If the SAS 70 report is limited as to its coverage of the regulated institution's policies and procedures as they relate to the plan being audited, then the auditor may need to gain an understanding of the policies and procedures not covered in the SAS 70 report. For instance, if the SAS 70 report does not address the policies and procedures specific to the services performed for the plan, or the report does not cover activities performed by subservices, then additional work may be required (such as, in the latter case, obtaining a SAS 70 report from the subservicer).

4. If the SAS 70 report identifies instances of noncompliance with the regulated institution's internal control structure policies and procedures, then the auditor would have to consider the effect of those findings on the assessed level of control risk of assertions in the plan's financial statements.

Mr. KENNEDY. I strongly support the Jeffords-Simon amendment, and I strongly urge the Senate to approve the Pension Audit Improvement Act of 1996. This will make a significant improvement in the safety of working Americans' pensions.

The amendment will require that every penny of assets held by pension plans is subject to rigorous annual audit. Plan participants and the Department of Labor will be able to identify where plan assets are held and what investment vehicles are being used to fund pension benefits.

Under current law, if a pension plan invests a large percentage of its assets in a highly leveraged insurance company, plan participants often have no way to know that their benefits are at risk.

Current law exempts nearly one-third of the $3 trillion in assets held by pension plans from the strict audit requirements of the ERISA statute. That's more than $950 billion in pension plan assets that pension plan participants and the Department of Labor cannot track.

This amendment will change all that. Under the amendment, plan sponsors will be required every year to provide a detailed audit of 100 percent of a plan's assets. Plan participants and the Department of Labor will have the tools necessary to assess whether plan sponsors are living up to strict fiduciary requirements. Hard-working Americans should not have to fear that their pensions will disappear before they retire.

This amendment is sensible and needed. It enhances the safety of the vast assets held by America's pension plans. Working Americans deserve the pensions they have labored hard and long to earn. This amendment will significantly advance that goal and I urge its adoption.

Mr. FORD. We are ready to accept the Simon amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 5364) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5373

(Purpose: To amend the Tariff Act of 1930 to clarify the authority of the Customs Service to require air carriers to provide by electronic transmission advance cargo and passenger manifest information)

Mr. FORD. Mr. President, I call up an amendment by Senator GRAHAM of Florida.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. GRAHAM, proposes an amendment numbered 5373.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . ADVANCE ELECTRONIC TRANSMISSION OF CARGO AND PASSENGER INFORMATION.

(a) CARGO INFORMATION.—

(1) IN GENERAL.—Section 431(b) of the Tariff Act of 1930 (19 U.S.C. 1431(b)) is amended—

(A) by striking "Any manifest" and inserting "(1) Any manifest", and

(B) by adding at the end the following new paragraph:

"(2)(A) Every passenger air carrier required to make entry or to obtain clearance under the customs laws of the United States (or the authorized agent of such carrier) shall provide by electronic transmission cargo manifest information described in subparagraph (B) in advance of such entry or clearance in such manner as the Secretary shall prescribe.

"(B) The information described in this subparagraph is as follows:

"(i) The airport of arrival or departure, which ever is appropriate.

"(ii) The airline prefix code.

"(iii) The carrier code.

"(iv) The flight number.

"(v) The date of scheduled arrival or date of departure, whichever is appropriate.

"(vi) The permit to proceed to the destination, if applicable.

"(vii) The master and house air waybill numbers and quantities.

"(viii) The first airport of lading of the cargo.

"(ix) A description and weight of the cargo.

"(x) The shipper's name and address from all air waybills.

"(xi) The consignee name and address from all air waybills.

"(xii) Notice that actual boarded quantities are not equal to air waybill quantities.

"(xiii) Transfer or transit information.

"(xiv) Warehouse or other location of the cargo.

"(xv) Any other data that the Secretary may by regulation prescribe.".

(2) CONFORMING AMENDMENT.—Subsection (d)(1)(A) of section 431 of such Act is amended by inserting before the semicolon "or subsection (b)(2)".

(b) PASSENGER INFORMATION.—The Part II of title IV of the Tariff Act of 1930 is amended by inserting after section 431 the following new section:

"SEC. 432. PASSENGER MANIFEST INFORMATION REQUIRED FOR AIR CARRIERS.

"(a) IN GENERAL.—Every passenger air carrier required to make entry or obtain clearance under the customs laws of the United States (or the authorized agent of such carrier) shall provide by electronic transmission passenger manifest information described in subsection (b) in advance of such entry or clearance in such manner and form as the Secretary shall prescribe.

"(b) INFORMATION DESCRIBED.—The information described in this subsection is as follows:

"(1) Full name of each passenger.

"(2) Date of birth and citizenship of each passenger.

"(3) Passport number and country of issuance of each passenger.

"(4) Passenger name record.

"(5) Any additional data that the Secretary, by regulation, determines is reasonably necessary to ensure aviation safety pursuant to the Customs laws of the United States.".

(c) DEFINITION.—Section 401 of the Tariff Act of 1930 is amended by adding at the end the following new subsection:

"(t) PASSENGER AIR CARRIER.—The term 'passenger air carrier' means an air carrier (as defined in section 40102(a)(2) of title 49, United States Code) or foreign air carrier (as defined in section 40102(a)(21) of such title 49) that provides transportation of passengers to or from any place in the United States.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 45 days after the date of the enactment of this Act.

Mr. FORD. Mr. President, we are now in a position to accept this amendment. I think our colleagues will be thankful that this is the last amendment on the agenda.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 5373) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5379

(Purpose: To change the caption of title III)

Mr. McCAIN. Mr. President, I have a technical amendment at the desk. I ask unanimous consent that it be considered at this time.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 5379.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, in the item relating to title III, strike "AIRPORT" and insert "AVIATION".

On page 14, line 11, strike "AIRPORT" and insert "AVIATION".

Mr. McCAIN. Mr. President, this is an amendment which is purely technical in nature. It was requested by the Finance Committee and is simply changing one word. I yield the floor.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 5379) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 5374

(Purpose: To provide for sequential referral of an implementing bill to the Committee on Commerce, Science, and Transportation and the Committee on Finance)

Mr. McCAIN. Mr. President, it is my understanding that amendment No. 5374 had never been called up. It was an oversight. I believed it had been called up last night. That was part of our unanimous-consent managers' amendment.

I ask that amendment No. 5374 be considered at this time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 5374.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 113, beginning with line 16, strike through line 10 on page 115 and insert the following:

"(c) CONSIDERATION IN SENATE.—An implementing bill introduced in the Senate shall be referred to the Committee on Commerce, Science, and Transportation. The Committee on Commerce, Science, and Transportation shall report the bill with its recommendations within 60 days following the date of introduction of that bill. Upon the reporting of the bill by the Committee on Commerce, Science, and Transportation, the reported bill shall be referred sequentially to the Committee on Finance for a period of 60 legislative days.

"On page 116, strike lines 3 through 9."

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 5374) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, there may be additional colloquies that may be submitted between now and 2 o'clock, when I intend to propound a unanimous consent agreement concerning a vote on this bill today. But, according to the unanimous consent agreement entered into last night, that completes the amendments that are applicable to the omnibus FAA bill. That would complete our consideration of the bill, with the exception of the entry of colloquies and final passage, on which we will be asking for a rollcall vote.

In that case, Mr. President, before I turn to my friend from Kentucky, I want to express my deep and profound appreciation for his effort on this legislation. This legislation is the product of many years of work together. He and I have been concerned about issues of aviation safety for the last 10 years that we have closely worked together. We have been concerned about the very serious issue of FAA reform and providing the right amount of funding for the FAA. We have been concerned about so many aspects of this bill from FAA reform to airport security to airline safety to airport revenue diversion and many others. We have been through a very long hearing process in all areas of this omnibus aviation bill. I think, when you look at the broad scope of this bill, it is really a fundamental piece of legislation as far as aviation in America is concerned. It would not have been possible without the bipartisan effort, especially led by my friend from Kentucky.

I want to express my appreciation to the chairman of the committee, Senator PRESSLER, who urged us on, who made valuable and important contributions, and without whose leadership this legislation would not be possible. Senator HOLLINGS, of course, who is one of the more knowledgeable individuals on the Commerce, Science, and Transportation Committee, has been extremely helpful, as well as Senator STEVENS.

Mr. President, I also would be remiss in not pointing out that Senator FORD, Senator PRESSLER, Senator HOLLINGS and I worked very closely with the Administration on this very important legislation. The Secretary of Transportation, Secretary Federico Peña, the Administrator of the Federal Aviation Administration, Mr. David Hinson, and especially—certainly especially—Ms. Linda Daschle, who did, really, the difficult spade work involved with this bill, especially FAA reform, spending literally hundreds of hours of negotiations in crafting this legislation between the Administration and Congress and Democrats and Republicans. So I especially thank Linda Daschle for her tireless stamina and outstanding work.

I also would like to thank our staff: Paddy Link, Tom Hohenthaner, Mike

Reynolds, and Mike Korens of Senator PRESSLER's staff, Mitch Rose of Senator STEVENS' staff, of course, Sam Whitehorn of Senator HOLLINGS' staff and Tom Zoeller of Senator FORD's staff. Sam and Tom have been extremely helpful and cooperative. Finally, I would like to personally thank the tireless efforts of Chris Paul and Mark Buse on my staff. They worked very hard and spent many long hours, and I am especially grateful to them, as well. As I have said earlier, the staff of the Finance Committee worked with us in order to complete this bill and I wish to recognize them.

I would like to add one final note before yielding the floor to my friend from Kentucky.

Last night and again today, the Senator from Kentucky and I talked about this issue of the ticket tax. Mr. President, it was a disaster. It was a disaster when we let this ticket tax lapse last December. I value the opinion of my friend from Kentucky on this. It is almost unconscionable for us to go out of session and let this ticket tax lapse again. We all know that the ticket tax lapses on the 31st of December. Congress will not be doing anything until, at best, late in January, and it could be much longer than that.

I would like to tell my colleagues that the Senator from Kentucky and I will be having to, if necessary, resort to parliamentary measures in order to get this ticket tax extended, ideally until such time as the commission reports out its recommendations or the Finance Committee will complete the entire process, but certainly a year, I would say, as a bare minimum. There is going to be a big crush of business coming up in a week or so. I do not intend to inflict further damage on our ability to complete our obligations—they are not our privileges; our obligations—to the American public concerning the maintenance, the improvement of and the safety of America's aviation system.

Again, I thank all of my colleagues for their cooperation on this bill. It is a very complex piece of legislation, encompassing a lot of different issues concerning aviation, in fact, just about everything we can think of. I thank my colleagues for their consideration.

I yield the floor, Mr. President. I know the Senator from Kentucky has comments before I propound the request concerning the vote at 2 p.m. I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. FORD] is recognized.

Mr. FORD. Mr. President, I am pleased to support S. 1994, the Federal Aviation Administration Reauthorization Act of 1996. As the ranking member of the Aviation Subcommittee, I want to thank the chairman of the subcommittee, Senator MCCAIN, for his leadership and determination in bringing this bill to the Senate floor.

Mr. President, as the 104th Congress comes to a close, there are many bills which are labeled as "must pass." But this bill truly is a must-pass piece of legislation.

The FAA reauthorization act includes provisions which reauthorize the Airport Improvement Program [AIP]. The AIP program funds hundreds of airport improvement and construction projects throughout our Nation. But the program expires on September 30. Without this reauthorization bill, the FAA would be unable to fund many worthy aviation infrastructure projects. We cannot let that happen. The FAA's forecasts for the aviation industry project tremendous growth. Those forecasts project an average increase of 3.7 percent in domestic passenger traffic by the year 2007. One of the big growth areas will most likely be in the regional and commuter industry. In 1995, regional and commuter air carriers carried 53.7 million passengers. By the year 2007, the FAA projects these same carriers to carry 96.9 million passengers—an annual growth of 5.4 percent.

The tremendous growth of air traffic will place tremendous challenges on airports and airways management. That is why it is so important for the Senate to pass S. 1994. We cannot permit the AIP program to lapse. We must continue to support many worthy airport construction and improvement projects that will help to sustain and support the growing demand for air carrier services, both passenger and cargo.

These increased demands on the air transport system require the Congress to re-examine the way in which the FAA is managed and funded. The FAA is predominantly funded through the airport and airway trust fund. The monies which are in the trust fund are distributed among specific programs and functions, including the FAA's operations account, the facilities and equipment account, research, the engineering and development account, as well as the Airport Improvement Program.

The trust funds is supported solely through revenue derived by a 10 percent passenger ticket tax, interest paid on Treasury certificates, and other taxes associated with air travel and aviation. However, on January 1, 1996, the aviation excise taxes lapsed. That lapse in the taxes resulted in a loss of $500 million a month in trust fund revenues. With the enactment of the minimum wage and small business tax credits act, the aviation excise taxes were reinstated, but only to the end of this calendar year.

This experience has highlighted some problems and concerns with the FAA. Without a steady and reliable source of revenue, the FAA cannot fulfill its mission to promote a safe and reliable aviation system. To that end, S. 1994 establishes a 11-member panel to conduct an independent assessment of the FAA financing and cost allocations through 2002. This independent panel shall include individuals who have expertise in the aviation industry and who are able, collectively, to represent a balanced view of the issues which are important to all segments of the aviation industry, including: general aviation, major air carriers, air cargo carriers, regional air carriers, business aviation, airports, aircraft manufacturers, the financial community, aviation industry workers, and airline passengers.

This independent assessment is required to complete its work within 12 months. At which time the panel will make a report to the Secretary of Transportation. S. 1994 includes provisions which would provide for expedited consideration of any legislative proposal forwarded by the independent panel.

It is important to point out that we want this panel to be independent. It is important that this panel consider all the options which can be considered for funding the FAA. By including all segments of the aviation industry, it is our hope that the independent panel will produce an unbiased and balanced report which considers all the pros and cons to funding options. We need to depoliticize the process for funding the FAA. By creating this independent panel, it is our hope that we can get a fair and reliable assessment of needs and funding sources. And through the expedited procedures contemplated in the bill, we hope to be able to enact those funding options as quickly as possible so that we will not face another funding lapse to the trust fund and the FAA.

This funding study will build upon personnel and procurement reforms already in place at the FAA, which were included in the Transportation Appropriations Act for fiscal year 1996.

In addition to the independent study on funding solutions for the FAA, the bill also includes provisions for the creation of a Management Advisory Council. Mr. President, I think we all acknowledge that the FAA has been an agency with its problems. Some of that criticism is well-deserved. But, I think that most Members will also acknowledge, that under the current leadership of David Hinson, the FAA is beginning to respond to the challenges. We want to build on these improvements and we want to enable the FAA to improve its management so that it is prepared to face the challenges of the 21st century.

The Management Advisory Council [MAC] will be composed of 15 members to provide the Administrator with input from the aviation industry and community. Membership on the MAC will include representatives from all government and all segments of the aviation industry; all of whom will be appointed by the President with the advice and consent of the Senate. Members of the MAC should be selected from among individuals who are experts in disciplines relevant to the aviation community and who are collectively able to represent a balanced view of the issues before the FAA. It is important to note that selection for MAC membership is not required to be based on political affiliation or other partisan considerations.

As was noted in the committee's report on S. 1994, the MAC is not another paper tiger. Rather, it is intended that the MAC's recommendations be taken under serious consideration by the Administrator.

Among the issues that we expect that the MAC to examine are: air traffic control modernization; FAA acquisition management; rulemakings and cost-benefit analysis; review the process by which the FAA determines to use advisory circulars and service bulletins; review of old rules, including FAR part 145.

Mr. President, since the Commerce Committee reported S. 1994, we experienced another air tragedy: the destruction of TWA flight 800 over the Atlantic Ocean. At this time, we do not know what caused that tragedy. But we do know that we need to reexamine our aviation security measures. Following this tragedy, the President appointed Vice President GORE to head a special commission on aviation security. Earlier this month, the Gore commission presented to the President's its initial report to the President. That report made a number of recommendations including the purchase of explosive detection equipment; the placing of security equipment at our major airports; increasing the use of passenger profiling through the use of existing data bases and air carrier computer reservation systems; criminal background checks and FBI fingerprint checks for all security screeners and other airport and airline personnel with access to secure areas; increasing funding to be used to facilitate a greater role for the U.S. Customs Service and other law enforcement agencies; designate the National Transportation Safety Board to deal with the families and relatives of crash victims; and provide additional funds for the training of airport security screeners. Within the managers amendment, we have included legislative language that will give the FAA the legal authority to undertake and implement the recommendations of the Gore commission.

It is important to note, however, Mr. President, that the Gore commission has not completed its work. In fact, the review of aviation security and safety is a dynamic and evolving process. While we have attempted to include security provisions within this bill, it is anticipated that the Congress will be considering further security recommendations and enhancements as the Gore commission continues its work.

I want to express my thanks to the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from Texas [Mrs. HUTCHISON] for their contributions to this effort. I look forward to working with them in the future on this issue.

Mr. President, let me thank all Members who have expressed an interest in this bill. As my colleagues are aware, last night, Senator MCCAIN and myself worked throughout the evening to fashion a managers' amendment. Within that amendment, we have tried to include provisions and language that are of concern to other Members. I want to express my appreciation to my colleagues for their willingness to work with us on drafting this managers' amendment. Because of their cooperation and assistance, I believe that we will be able to move this bill forward quickly and complete action prior to September 30.

Mr. President, let me conclude by addressing one particular issue, the privatization of airports. I am aware that the House bill includes a provision which would establish a pilot program for six airports. I oppose those efforts because the definition of privatization allows the new airport owner to divert revenues off of the airport; to receive Federal grants; to collect federally authorized PFC's; allow major carriers to dictate who runs an airport; and gives general aviation no say in privatization. In my mind, this form of privatization is a new form of corporate welfare. Moreover, Mr. President, privatization is opposed by the airlines, by general aviation, and by the airports. I am not opposed to finding new and innovative solutions to financing our airports. But I do not believe that privatization is a means to achieve that end.

Mr. President, let me thank my friend from Arizona, the chairman of the Subcommittee on Aviation of the Commerce and Transportation Committee. It is always a joy to watch him work. It is a joy to work with him. He has the kind of tenacity that is needed around here at times to accomplish something that is important not only to this country but internationally.

Senator MCCAIN is called on for more than just aviation. Senator MCCAIN is leaned on quite often as it relates to our defense policy. His love of the country and his defense of military personnel is always above reproach and without doubt.

So I am pleased that we have had this opportunity to work together, because the ingredients in this piece of legislation, if we can maintain it in conference, bring us to a point, I think, I say to Senator MCCAIN, that we have been striving for for a long time.

We have learned something, and I hope a lot of our colleagues have learned something. One of the top five Senators in the U.S. Senate over the centuries is from Kentucky. He is Henry Clay. Henry Clay was known as "the Great Compromiser." Compromise is not a nasty word, it is not a word that you ought to run from. But that is how you accomplish things around here.

Henry Clay described compromise as "a negotiated hurt." A compromise is a negotiated hurt. Sure, it hurts to lose something that you feel strongly about, but you usually get something. My father always told me, "You give up something, you get something," and that is compromise.

So I think in the proceedings on this bill, once it was brought up, that we have injected the Henry Clay philosophy. We have worked together. We have had give and take. We have had Senators who were very reluctant to give up what they wanted, but somehow or another we found a way to modify their amendment so that it would not be so onerous to some and yet pleasing to the offeror of the amendment.

So the experience of the moment is always something that builds on the education of the time spent in this institution.

Let me join with my friend in thanking his staff—I will not go through the list—for all of their fine cooperation, and my two—I want to say staffers, but they are my friends. That is the way I look at them, Sam Whitehorn and Tom Zoeller, and the others on the staff and those from other committees who have been working with us. We found an air of cooperation and camaraderie that has been unusual, I think. So I am very pleased with the cooperation we have had, and I thank my friends.

Mr. President, let me thank all Members, too, who have expressed an interest in this piece of legislation. As my colleagues are aware, last night, Senator MCCAIN and I worked throughout the evening to fashion what we referred to here as a "managers' amendment." Those are amendments to be offered to the bill that we were able to work out and find agreement on. Rather than go through the long harangue of debate and running back and forth, our staffs worked together and our Senators cooperated. So we worked hard to fashion what we refer to and what was offered, what was adopted, as the "managers' amendment." Of course, the leadership in putting that together is given to Senator MCCAIN for his extraordinary effort in putting this managers' amendment together.

Within that amendment, we have tried to include provisions and language that are of concern to not only our Members but others, because when we pass legislation, we either help or hurt our constituents. We either make it better or worse. So we have to be careful, once we agree on it, of what it does for the safety, for the betterment of the economy, whatever it might be. Even though we may agree, it is for those beyond this Chamber for whom we are here to work.

Sometimes I don't always vote the way I personally feel. I think it was Hamilton who said in referring to the Congress, "In these Halls, the people's voice shall be heard by their immediate representative." That is us, and we vote what we hear from our constituents. Sometimes it is not exactly the way we would want it, but you try to respond to those who are interested.

I think we have another interested group out there that we have not had before, and it is the so-called "C-SPAN junkies." I read the other day where some tape C-SPAN and come home at night and watch us. I didn't know we were that good. I thought maybe some of them just turned us off. But these are people who have watched us, listened to us, and have become informed.

I don't know how many calls you get, but every once in a while, someone will call and say, "I heard you speak. I don't agree with that. I think you ought to do this," and it has been an interesting period in the institution of the Senate.

I want to express my gratitude and appreciation to all my colleagues for their willingness to work with us in drafting this piece of legislation. Because of that cooperation and assistance, I believe we will be able to move this bill forward quickly and complete action, hopefully, before September 30.

So we have some time. I assure my colleagues, as Senator McCAIN and I have assured each other, as soon as this bill is passed, we are going to work. We are not going to rest on our laurels and beat our chests, We passed a bill. We are not finished. We have a conference to go to. We have a final bill to complete. We have to have one that the administration will agree to. As Senator McCAIN said, we have worked with the administration. We have tried to work with all parties. I believe in the end we will have a piece of legislation that will be acceptable all around.

Mr. President, let me conclude by reiterating one particular issue, and that is the privatization of airports. I am aware that the House bill includes a provision which would establish a pilot project of six airports. Up front—I am not trying to kid anybody—I oppose those efforts because the definition of privatization allows the new airport owner to divert revenues off of the airport, to receive Federal grants, to collect Federally authorized PFC's, allow major carriers to dictate who runs an airport, and gives general aviation no say—gives general aviation no say—in the privatization.

So in my mind, Mr. President, this form of privatization is a new form of corporate welfare—a new form of corporate welfare. Moreover, Mr. President, privatization is opposed by the airlines, by general aviation, and by the airports. I am not opposed to finding new and innovative solutions to financing our airports, but I do not believe that privatization is a means to achieve that end.

So having said that, Mr. President, I believe we are ready to go to third reading.

I yield the floor.

The PRESIDING OFFICER. Are there further amendments? If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. Under the previous order, the clerk will report calendar No. 588, H.R. 3539.

The bill clerk read as follows:

A bill (H.R. 3539) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken, and the text of S. 1994 as passed by the Senate is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona [Mr. McCAIN] is recognized.

Mr. McCAIN. Mr. President, again, I would like to thank my friend from Kentucky. I remember when I was a new Member of the Senate, he was kind enough, as chairman of the Aviation Subcommittee, to come to my State and have a hearing on the Grand Canyon and other issues. That has characterized our relationship now for more than 10 years.

Mr. President, I ask unanimous consent that final passage occur on H.R. 3539, at 2 p.m. today, and that paragraph 4 of rule 12 be waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask for the yeas and nays on the pending legislation.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

MORNING BUSINESS

Mr. McCAIN. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business until the hour of 2 p.m., with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to continue for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator is recognized for 15 minutes.

A NATIONAL MONUMENT IN UTAH

Mr. BENNETT. Mr. President, something is going to happen today in the State of Arizona that will have great impact on the State of Utah. I would like to discuss that issue in somewhat greater detail than I have been able to do in the press. Unfortunately, we now live in a time where the press looks for the 7-second sound bite or the two-sentence summary to print in the newspaper, and the overall issue gets lost. So I appreciate the opportunity to lay out the whole circumstance of what has happened, and is happening, for the record.

Several weeks ago in the Washington Post there was a story about a leak out of the White House saying that the President was considering creating a national monument in the State of Utah, somewhere in the neighborhood of 2 million acres. That came as unexpected news to me and the other Members in the Utah delegation, and we raised the issue. "Oh, no," we were assured, "nothing is really under consideration. These are just discussions that are taking place in the White House, and they probably should not have been leaked. There shouldn't be any press discussion about it because nothing really is going to happen."

But the rumors persisted. The buildup continued to the point that our Governor decided to call Secretary Babbitt. I also called Secretary Babbitt and asked about this issue. Finally, last Saturday, Senator HATCH and I were invited to go to the Interior Department to meet with Secretary Babbitt and members of the White House staff to talk about this proposed national monument.

When we got there, having been told in advance that the Secretary was going to calm our fears and lay out a full statement of what was going on, I got a little startled when the Secretary began the presentation by saying, "We're here just to listen." And that was all. Well, Senator HATCH and I indicated that we were very concerned that something as significant as this was going to be done without any consultation with Congress, let alone Members of the Utah delegation. Congress as a whole, having historically played a significant role in the creation of national monuments, was being cut out.

"Well," said Secretary Babbitt, "I can tell you categorically, no decision has been made with respect to this." We said, "We read in the newspapers that the President is going to announce it on Wednesday, when he's in Arizona at the Grand Canyon." And Secretary Babbitt repeated, "I tell you categorically, no decision has been made."

When we met with the press afterward, they asked us, "What do you think will happen?" I am afraid I am cynical enough, Mr. President, and I said, "I believe the President will make the announcement on Wednesday." Senator HATCH—perhaps he is a little more trusting—said, "I can't believe that the President would do that, given the assurances we've just been given."

It is not just Republicans that are involved; the Democratic Congressman who represents the district in which this monument will be formed, uttered the same concern, expressed the same amazement on the fact that he had not been consulted, and came away from his interview with Secretary Babbitt saying "I have been assured there is nothing imminent going to happen."

So we had the Democratic Congressman saying, "nothing imminent." We had the senior Senator from Utah saying he was sure there would be no announcements. As I say, I was more cynical. I predicted that there would be an announcement. I went away from the meeting convinced that, in spite of the assurances we were given that no decision had been made, in fact we were on a track toward a certainty of an announcement on Wednesday—today.

We then went through the weekend. And at the beginning of the week, the news reports started to come in, from CNN and elsewhere, that the President was going to announce the formation of a major national monument in Utah when he was at the Grand Canyon. "Oh, no," said the White House. "We deny these news reports. Anybody who says that is going to happen does not know what he is talking about. No decision has been made."

Once again, I continued to believe that the President was going to do it.

Today I received a phone call from Leon Panetta. He told me, to my great surprise, that today the President will announce the creation of a new national monument in the State of Utah in the neighborhood of 2 million acres. Among the other things Mr. Panetta told me was that there will be a 3-year period for the development of a management plan for this land. In that 3-year period, he said, all of the issues will be dealt with and sorted out.

That is, frankly, Mr. President, a "trust us" kind of statement on the part of the administration. "We are going to turn the process completely around. Instead of going through the development of the plan and then creating the monument, we will create the monument, and develop the plan after the fact," but "trust us, we will take care of all of your concerns." Given the history leading up to this announcement, Mr. President, it is fairly difficult for many people in Utah to trust the administration on this one.

That having been said, I want to take the balance of the time to talk about the misconceptions surrounding this entire circumstance. I cannot find a better place to summarize most of those misconceptions than today's New York Times. They have an editorial entitled "A New and Needed National Monument." Once again, Mr. President, the fact that this appears in the New York Times the day the President is making his announcement says to me that they knew far in advance of Leon Panetta's call to me that the President was going to do this, their protestations to the contrary notwithstanding. Based on the New York Times editorial, there are several misconceptions about western land use which continue to perpetuate myths, at least in Manhattan, if not all of the Eastern States that are unfamiliar with the realities in the West.

The editorial starts out praising the President for placing an area off limits to development. Now, I am sure that to the people in the New York area, development means hotels, condominiums, and other commercial activities. But this land is already developed in many areas by western definition; that is, there are grazing activities going on in this land.

Mr. Panetta assured me that the grazing would be allowed to continue. There is hunting that goes on in this area. Mr. Panetta assured me that the hunting would be allowed to continue. There are State parks already in this land, which means tourism. Mr. Panetta assured me the State parks would be excluded from the designation and tourism would be allowed to continue. Finally, there are thousands of people who live within the boundaries of this national monument. I assume they will be allowed to continue to live there under the same circumstances. We will not find out until we go through this 3-year process.

All these activities constitutes, in western terms, development, Mr. President, and I was assured by the Chief of Staff in the White House that that kind of development will be allowed to continue. So when the New York Times says the President is setting the area "off limits to development," the New York Times is at odds with the statement of the President's Chief of Staff.

It goes on to say:

> The President's move is also virtually certain to block plans by a Dutch company, Andalex Resources, to develop a coal reserve twice the size of Manhattan that sits right in the middle of the wilderness area. The administration has tried to persuade the company to swap these lands for an equivalent amount of coal in less vulnerable parts of the State, but the company has said no.

Two items, Mr. President. No. 1, the suggestion that the coal reserve is right in the middle of the wilderness area—"wilderness," by definition in the law, means land where there is no evidence of the presence of humans and, very specifically, land where there are no roads. I have, myself, driven over the existing road to the mine site. You cannot, by any stretch of the imagination, say that an area where there is an existing, used road, constitutes wilderness. The mine site is not smack in the middle of the wilderness area. The mine site is miles away from the wilderness area.

Second, the New York Times says the administration has tried to persuade the company to swap out for lands of equal value. That is a very interesting statement to make in the newspaper. Here are some of the facts, if you take the Bruce Babbitt method of appraisal of value.

The market value of the coal in this area is $1.2 trillion. There are some who say, why, that is an inflated figure. You cannot expect to get that much out. They are right. But that is the way Bruce Babbitt appraises minerals in the ground when he wants to make press release statements about how valuable a developing gold mine is. So we will use the Bruce Babbitt method of appraisal here and say we have 1.2 trillion dollars' worth of coal. I do not know of any other coalfield in the State, or the Nation or the world that comes to $1.2 trillion in projected value. How can they say "we are going to swap out equal value, but you, nasty coal company, are not willing to cooperate?" I would say to the administration, find me another coalfield with an estimated value of $1.2 trillion before you start talking about swaps. The New York Times conveniently does not mention that when they talk about the swap.

The New York Times goes on to talk about the way the President has done this. He is doing it under the Antiquities Act. He says that is what gives him the right to act without consulting Congress, and the New York Times obviously agrees. It says:

> The Antiquities Act, inspired by the discovery of archaeological treasures in the Southwest at the turn of the century, has served as a useful mechanism for Presidents to preserve valuable public lands without congressional consent. The act has been invoked 66 times, and many of the Nation's most treasured sites, including the Grand Canyon, where Mr. Clinton will make his announcement, began as protected monuments and ended up as national parks by act of Congress.

All true. What they do not tell us, however, Mr. President—and, indeed, what they may not know—is that the Antiquities Act has never been used by a President since the passage of the two landmark land usage acts by Congress, NEPA and FLMPA. For the C-SPAN junkies, NEPA is the National Environment Policy Act; FLMPA, the Federal Land Management Policy Act. NEPA and FLMPA were Congress' attempt to bring order to the process. NEPA and FLMPA have clear procedures for moving ahead on a matter of this kind, and no President has ever ignored NEPA and FLMPA to create a national monument until now. Citing the precedence of Theodore Roosevelt and his use of the Antiquities Act, as the New York Times by implication does, does not excuse Mr. Clinton from violating appropriate processes.

Enough about the misconceptions in the editorial. There are other things that need to be brought to our attention that we should understand about this proposal. One thing I hope the editorial writers in the New York Times will realize, if they do not already, is that there is a great difference between a national monument and wilderness. Wilderness, as defined by the law, is a territory that is set aside because there is no evidence that human beings have ever been there.

Although there is clear evidence of human activity in most of this area, there are about 350,000 acres that qualify as wilderness, under the most strict definition of that term. The Utah delegation wanted to set aside those 350,000 acres as wilderness. We were prevented from doing so by a filibuster on this floor. We had enough votes to pass it, but we did not have enough votes to shut off debate.

Those 350,000 acres of pristine wilderness will now be included in the national monument. What does that mean? That means that tourists can go there; that means people can camp there; that means people can take mechanized vehicles there, because all of that is permitted at a national monument. It is not permitted in a wilderness area, but it is permitted in a national monument.

Ironically, when you create a national monument, you must, of necessity, create visitor centers. There are buildings within a national monument, which would not be allowed in a wilderness area. You must pave the roads because the tourists don't go over Jeep trails. We have plenty of national monuments in Utah, with miles and miles of paved roads. Ironically, we are now going to see the road, which they are trying to stop the coal company from using, paved, so that tourist buses can go over it.

And then we must have concessions. If you have a 2 million acre area set apart for tourism, you have to have a place for them to relieve themselves, a place to refresh themselves. And you are going to see refreshment stands, hot dog stands; and you are going to maybe even see, in as in the big national parks, hotels, cafeterias, and movie theaters—all set up to meet the demands of the tourists. Do you do this to protect the wilderness? I am not sure that the people who are applauding this set-aside as being a way to protect the wilderness understand that a national monument is not a road to wilderness. A national monument is a road to a national park, and a national park is a major tourist attraction with hundreds of thousands, if not millions, of people coming to an area that is now completely desolate. This is what the New York Times thinks is a really good way to protect the wilderness and the pristine nature of this land.

Going on to further misconceptions, one thing that the folks in Manhattan have probably never heard of, because it is unheard of in the East, is something we in the West call school trust lands. When the Western States were created, the Congress, in addition to holding most of the land in Federal ownership, created a series of alternate sections every so often along the land. Almost thrown across the face of the land like smallpox eruptions, these sections would be owned by the State and held in trust for the value of the school children in that State. There are over 200,000 acres of school trust lands in the area that the President will set apart as a national monument. Oh, we are assured that the money that would come to the school children, if these lands were used for mineral development, will be made up some other way. If you go, again, to the Bruce Babbitt method of appraisal, at $1.2 trillion, the amount the schoolchildren would get out of it would be on the billions of dollars. Are we prepared in this Congress to appropriate billions of dollars to make the Utah schoolchildren whole? Of course, we are not. And, of course, that number is too high. But whatever the appropriate number is, the President is asking us to trust him that Utah schoolchildren will be made whole. I can tell you how Utah's schoolchildren have reacted. In Kane County, the county where the majority of this monument will lie, the city of Kanab has, today, shut down in protest. The schoolchildren have been let out of school and they are walking the streets of Kanab wearing black armbands and carrying posters protesting the administration's decision. The president of the Utah Education Association—a group not known for its Republican proclivities—has publicly said that the administration has committed "felonious assault on Utah schoolchildren" by the way they are approaching this.

That may come as news to the New York Times, who has never heard of school trust lands, but those are the reactions of the education leaders—not the Utah congressional delegation, not the Republican establishment—but the education leaders in the State of Utah.

So, Mr. President, I summarize this way. We have a proposal from the President to create a massive, new national monument in my State. Am I opposed to a new national monument in Utah? I can't be opposed in principle. A new national monument will indeed mean many tourists and great activity in my State. But we have been given this proposal after assurances that it was not going to happen, at a time when we were told it wasn't going to happen, with a presentation that we should now trust the administration to work out all of the details.

If, indeed, the whole thing is done in proper good faith, I believe we could end up with a national monument that makes sense in one area, wilderness that made sense in another area, and mineral activity that made sense, environmentally, in the third area.

The President's actions do not lead me to believe that that will be the result. On the contrary, the way he has proceeded leads me to believe that we are in for a protracted period of controversy and difficulty over this issue. I wish the President had followed the procedures laid down by the Congress in NEPA and FLPMA and had given us an orderly process to produce a worthwhile result. Instead, he has chosen a photo op that will undoubtedly be gorgeous. As we look at the evening news, we will see the President with the Grand Canyon in the background, with Vice President GORE standing at one side and Carol Browner at the other side, proclaiming his protection of the beauties of nature from the plunderers. Then when the photo op has passed and the television images have faded from our screen, the realities of what he has done will leave us with 3 years of hard slogging trying to sort this out and come up with the proper kind of result.

I don't wish to say that I do not trust the administration. They say, "Trust us in this circumstance," but I conclude with the advice that was left by Ronald Reagan: "Trust but verify."

I intend to do whatever I can through this process to see that the administration keeps its initial pledges of guaranteeing that existing rights will not be trampled, and that the schoolchildren of Utah will be taken care of. "Trust but verify" should become our watchword.

Mr. President, there is one other thing about the coal mine that people should understand and is not outlined in most of the press reports dealing with this land. We have images of coal mining that are very, very hurtful. We see strip mines in Kentucky and West Virginia. We see smokestacks belching out black smoke and blaming it on coal. When the administration talks about stopping coal mining in this area, there is an immediate emotional reaction that this is a good thing to do.

I have personally been to the proposed location of this mine. We are not talking about strip mining here, Mr. President, we are talking about mining below the surface of the ground. The only impact on the ground would be a mine opening smaller than one of the walls here on the side of the Senate—an opening just wide enough to bring out the trams carrying the coal, and that is it. With long-wall mining technology, you can go into the mine and produce the coal with no more impact on the surface than that.

Second, we are not talking about the kind of coal that comes out of West Virginia and Kentucky, a high-sulfur coal which when burned produces dramatic damage to the atmosphere. We are talking about the low-sulfur coal that the environmentalists are hoping we can find to burn in this country. We are talking about coal that will produce the right kind of environmental impact when it ultimately ends up in a furnace somewhere.

So, by saying we are going to stop the production of low-sulfur coal in Utah, people are in fact admitting they are going to increase or at least maintain the burning of high-sulfur coal that comes from elsewhere with the appropriate damage to the environment.

Finally, all of this talk about a Dutch company implies that you are going to see a giant come from overseas to somehow fasten itself on Utah and suck things out of Utah's ground. The company may indeed have its shareholders as citizens of a European country. I do not know exactly where they live. I do know the company has been a responsible, tax-paying, job-producing corporate citizen of the State of Utah for decades. It is already mining coal in an environmentally sensitive way in central Utah. It has demonstrated that it knows how to do it, minimizing any kind of environmental impact. If there ever was a company I would want to proceed with the development of these coal resources, it would be one with the experience and the track record of good corporate citizenship which this company has shown in the years it has operated in Utah. So it is true to say that their shareholders don't live in Utah or maybe in the United States. But that I find is irrelevant when one recognizes what they have done for our State and how important the economic activity that they have generated for our State has been.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL AVIATION REAUTHORIZATION ACT OF 1996

Ms. MOSELEY-BRAUN. Mr. President, I would like for a moment to comment on the pending legislation, the FAA Reauthorization Act, to add a few words in support of comments made by Senator WYDEN earlier regarding the train whistle amendment.

I am particularly gratified at the activity of the managers in accepting the language of the train whistle amendment because I think it does represent a step in the right direction in calling for Federal-State cooperation, Federal-State partnership and engagement and involvement of local governments in the decisionmaking process.

Certainly, we are all concerned about safety, and safety is at the core of the legislative authority pertaining to the train whistle requirement. At the same time, our laws have to achieve a balance. We have to balance the various interests, particularly the interests of local communities in maintaining quality of life in those communities—areas like my own and those represented by Senator WYDEN. There are parts of my State, for example, in which you have the confluence of many different railroad lines, in particular in suburban communities, which may mean that, at the behest of safety, the communities lose whatever quality of life they have because you may have train whistles sounding every 5 minutes.

As you know, Mr. President, the Chicago area has been known historically as the transportation hub of the United States. So in the hub, when we have the confluence of many different rail lines, the train whistle issue cuts to the heart of our ability to balance the needs of communities, to maintain communities where people can live versus our national need for safety.

So I think the language of this amendment goes a long way in encouraging local input, in encouraging flexibility, and encouraging the kind of cooperation we need. The days of heavy-handed bureaucratic responses to these kinds of issues have to be over. We have to begin to explore ways in which we can maximize local input, at the same time recognizing our connection as a national community.

I believe the train whistle language does that, recognizes the overarching interests that bring us together, but it also provides local governments the capacity and ability to be heard without having to spend a lot of money for lawyers and hiring specialists and the like, that they can do it in a simplified and straightforward manner.

So I thank the managers of this legislation. I thank Senator WYDEN for his leadership in this area.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, morning business is now concluded.

FEDERAL AVIATION REAUTHORIZATION ACT OF 1996

The Senate continued with the consideration of the bill.

VOTE

The PRESIDING OFFICER. Under the previous order, the question is on passage of H.R. 3539, as amended. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The PRESIDING OFFICER (Ms. SNOWE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 293 Leg.]

YEAS—99

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frahm
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NOT VOTING—1

Rockefeller

The bill (H.R. 3539), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3539) entitled "An Act to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Aviation Reauthorization Act of 1996".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to title 49, United States Code.

TITLE I—REAUTHORIZATION OF FAA PROGRAMS
Sec. 101. Federal Aviation Administration operations.
Sec. 102. Air navigation facilities.
Sec. 103. Research and development.
Sec. 104. Airport improvement program.
Sec. 105. Interaccount flexibility.
TITLE II—AIRPORT IMPROVEMENT PROGRAM MODIFICATIONS
Sec. 201. Pavement maintenance program.
Sec. 202. Maximum percentages of amount made available for grants to certain primary airports.
Sec. 203. Discretionary fund.
Sec. 204. Designating current and former military airports.
Sec. 205. State block grant program.
Sec. 206. Access to airports by intercity buses.
TITLE III—AVIATION SAFETY AND SECURITY
Sec. 301. Report including proposed legislation on funding for airport security.
Sec. 302. Family advocacy.
Sec. 303. Accident and safety data classification; report on effects of publication and automated surveillance targeting systems.
Sec. 304. Weapons and explosive detection study.
Sec. 305. Requirement for criminal history records checks.
Sec. 306. Interim deployment of commercially available explosive detection equipment.
Sec. 307. Audit of performance of background checks for certain personnel.
Sec. 308. Sense of the Senate on passenger profiling.
Sec. 309. Authority to use certain funds for airport security programs and activities.
Sec. 310. Development of aviation security liaison agreement.
Sec. 311. Regular joint threat assessments.
Sec. 312. Baggage match report.
Sec. 313. Enhanced security programs.
Sec. 314. Report on air cargo.
TITLE IV—MISCELLANEOUS PROVISIONS
Sec. 401. Acquisition of housing units.
Sec. 402. Protection of voluntarily submitted information.
Sec. 403. Application of FAA regulations.
Sec. 404. Sense of the Senate regarding the funding of the Federal Aviation Administration.
Sec. 405. Authorization for State-specific safety measures.
Sec. 406. Sense of the Senate regarding the air ambulance exemption from certain Federal excise taxes.
Sec. 407. FAA safety mission.
Sec. 408. Carriage of candidates in State and local elections.
Sec. 409. Train whistle requirements.
Sec. 410. Limitation on authority of States to regulate gambling devices on vessels.
Sec. 411. Special flight rules in the vicinity of Grand Canyon National Park.
Sec. 412. Increased fees.
Sec. 413. Transfer of air traffic control tower; closing of flight service stations.
Sec. 414. Sense of the Senate regarding acts of international terrorism.
Sec. 415. Reporting for procurement contracts.
Sec. 416. Provisions relating to limited scope audit.
Sec. 417. Advance electronic transmission of cargo and passenger information.
TITLE V—COMMERCIAL SPACE LAUNCH ACT AMENDMENTS
Sec. 501. Commercial space launch amendments.
TITLE VI—AIR TRAFFIC MANAGEMENT SYSTEM PERFORMANCE IMPROVEMENT ACT
Sec. 601. Short title.
Sec. 602. Definitions.
Sec. 603. Effective date.
Subtitle A—General Provisions
Sec. 621. Findings.
Sec. 622. Purposes.
Sec. 623. Regulation of civilian air transportation and related services by the Federal Aviation Administration and Department of Transportation.
Sec. 624. Regulations.
Sec. 625. Personnel and services.
Sec. 626. Contracts.
Sec. 627. Facilities.
Sec. 628. Property.
Sec. 629. Transfers of funds from other Federal agencies.
Sec. 630. Management Advisory Council.
Sec. 631. Aircraft engine standards.
Sec. 632. Rural air fare study.
Subtitle B—Federal Aviation Administration Streamlining Programs
Sec. 651. Review of acquisition management system.
Sec. 652. Air traffic control modernization reviews.
Sec. 653. Federal Aviation Administration personnel management system.
Sec. 654. Conforming amendment.
Subtitle C—System To Fund Certain Federal Aviation Administration Functions
Sec. 671. Findings.
Sec. 672. Purposes.
Sec. 673. User fees for various Federal Aviation Administration services.
Sec. 674. Independent assessment and task force to review existing and innovative funding mechanisms.
Sec. 675. Procedure for consideration of certain funding proposals.
Sec. 676. Administrative provisions.
Sec. 677. Advance appropriations for Airport and Airway Trust Fund activities.
Sec. 678. Rural Air Service Survival Act.
TITLE VII—PILOT RECORDS
Sec. 701. Short title.
Sec. 702. Employment investigations of pilot applicants.
Sec. 703. Study of minimum standards for pilot qualifications.
TITLE VIII—ABOLITION OF BOARD OF REVIEW
Sec. 801. Abolition of Board of Review and related authority.
Sec. 802. Sense of the Senate.
Sec. 803. Conforming amendments in other law.
Sec. 804. Definitions.
Sec. 805. Increase in number of Presidentially appointed members of Board.
Sec. 806. Reconstituted Board to function without interruption.
Sec. 807. Operational slots at National Airport.
Sec. 808. Airports authority support of Board.
TITLE IX—AIRPORT REVENUE PROTECTION
Sec. 901. Short title.
Sec. 902. Findings; purpose.
Sec. 903. Definitions.
Sec. 904. Restriction on use of airport revenues.
Sec. 905. Regulations; audits and accountability.
Sec. 906. Conforming amendments to the Internal Revenue Code of 1986.
TITLE X—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY
Sec. 1001. Expenditures from airport and airway trust fund.

SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

TITLE I—REAUTHORIZATION OF FAA PROGRAMS

SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FROM GENERAL FUND.—Section 106(k) is amended—

(1) by striking "and" after "1995,"; and

(2) by inserting before the period at the end the following: ", and $5,000,000,000 for fiscal year 1997.".

(b) AUTHORIZATION OF APPROPRIATIONS FROM TRUST FUND.—Section 48104(b) is amended—

(1) in the subsection heading by striking "FOR FISCAL YEARS 1993"; and

(2) by striking the phrase "for fiscal year 1993".

(c) CLERICAL AMENDMENT.—Section 48108 is amended by striking subsection (c).

SEC. 102. AIR NAVIGATION FACILITIES.

Section 48101(a) is amended by adding at the end the following:

"(5) For the fiscal years ending September 30, 1991–1997, $17,929,000,000.".

SEC. 103. RESEARCH AND DEVELOPMENT.

Section 48102(a) is amended by striking "title:" and all that follows through the end of the subsection, and inserting the following: "title, $206,000,000 for fiscal year 1997.".

SEC. 104. AIRPORT IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48103 is amended—

(1) by striking "and $21,958,500,000" and inserting "$19,200,500,000"; and

(2) by inserting before the period at the end the following: ", $21,480,500,000 for fiscal years ending before October 1, 1997.

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking "1996" and inserting "1997".

SEC. 105. INTERACCOUNT FLEXIBILITY.

Section 106 is amended by adding at the end the following new subsection:

"(l) INTERACCOUNT FLEXIBILITY.—

"(1) Except as provided in paragraph (2), the Administrator may transfer budget authority derived from trust funds among appropriations authorized by subsection (k) and sections 48101 and 48102, if the aggregate estimated outlays in such accounts in the fiscal year in which the transfers are made will not be increased as a result of such transfer.

"(2) The transfer of budget authority under paragraph (1) may be made only to the extent that outlays do not exceed the aggregate estimated outlays.

"(3) A transfer of budget authority under paragraph (1) may not result in a net decrease of more than 5 percent, or a net increase of more than 10 percent, in the budget authority available under any appropriation involved in that transfer.

"(4) Any action taken pursuant to this section shall be treated as a reprogramming of funds that is subject to review by the appropriate committees of the Congress.

"(5) The Administrator may transfer budget authority pursuant to this section only after—

"(A) submitting a written explanation of the proposed transfer to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate; and

"(B) 30 days have passed after the explanation is submitted and none of the committees

notifies the Administrator in writing that it objects to the proposed transfer within the 30 day period.".

TITLE II—AIRPORT IMPROVEMENT PROGRAM MODIFICATIONS

SEC. 201. PAVEMENT MAINTENANCE PROGRAM.

(a) PAVEMENT MAINTENANCE.—Chapter 471 is amended by adding the following section at the end of subchapter I:

"§47132. Pavement maintenance

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall issue guidelines to carry out a pavement maintenance pilot project to preserve and extend the useful life of runways, taxiways, and aprons at airports for which apportionments are made under section 47114(d). The regulations shall provide that the Administrator may designate not more than 10 projects. The regulations shall provide criteria for the Administrator to use in choosing the projects. At least 2 such projects must be in States without a primary airport that had 0.25 percent or more of the total boardings in the United States in the preceding calendar year. In designating a project, the Administrator shall take into consideration geographical, climatological, and soil diversity.

"(b) EFFECTIVE DATE.—This section shall be effective beginning on the date of enactment of the Federal Aviation Reauthorization Act of 1996 and ending on September 30, 1999.".

(b) COMPLIANCE WITH FEDERAL MANDATES.—

(1) USE OF AIP GRANTS.—Section 47102(3) is amended—

(A) in subparagraph (E) by inserting "or under section 40117" before the period at the end; and

(B) in subparagraph (F) by striking "paid for by a grant under this subchapter and".

(2) USE OF PASSENGER FACILITY CHARGES.—Section 40117(a)(3) is amended—

(A) by inserting "and" at the end of subparagraph (D);

(B) by striking "; and" at the end of subparagraph (E) and inserting a period; and

(C) by striking subparagraph (F).

(c) CONFORMING AMENDMENT.—The chapter analysis for subchapter I of chapter 471 is amended by inserting after the item relating to section 47131 the following new item:

"47132. Pavement maintenance.".

SEC. 202. MAXIMUM PERCENTAGES OF AMOUNT MADE AVAILABLE FOR GRANTS TO CERTAIN PRIMARY AIRPORTS.

Section 47114 is amended by adding at the end thereof the following:

"(g) SLIDING SCALE.—

"(1) Notwithstanding any other provision of this title, of the amount newly made available under section 48103 of this title for fiscal year 1997 to make grants, not more than the percentage of such amount newly made available that is specified in paragraph (2) shall be distributed in total in such fiscal year for grants described in paragraph (3).

"(2) If the amount newly made available is—

"(A) not more than $1,150,000,000, then the percentage is 47.0;

"(B) more than $1,150,000,000 but not more than $1,250,000,000, then the percentage is 46.0;

"(C) more than $1,250,000,000 but not more than $1,350,000,000, then the percentage is 45.4;

"(D) more than $1,350,000,000 but not more than $1,450,000,000, then the percentage is 44.8; or

"(E) more than $1,450,000,000 but not more than $1,550,000,000, then the percentage is 44.3.

"(3) This subsection applies to the aggregate amount of grants in a fiscal year for projects at those primary airports that each have not less than 0.25 per centum of the total passenger boardings in the United States in the preceding calendar year.".

SEC. 203. DISCRETIONARY FUND.

Section 47115 is amended—

(1) by striking "and" at the end of subsection (d)(2) and inserting a comma and the following: ", including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to that reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;";

(2) by redesignating paragraph (3) of subsection (d) as paragraph (5), and by inserting after paragraph (2) of that subsection the following:

"(3) the airport improvement priorities of the States, and regional offices of the Administration, to the extent such priorities are not in conflict with paragraphs (1) and (2) of this subsection;

"(4) any increase in the number of passenger boardings in the preceding 12-month period at the airport at which the project will be carried out, with priority consideration to be given to projects at airports at which, during that period, the number of passenger boardings was 20 percent or greater than the number of such boardings during the 12-month period preceding that period; and";

(3) by redesignating the second subsection (f) as subsection (g); and

(4) by adding at the end the following:

"(h) PRIORITY FOR LETTERS OF INTENT.—In making grants in a fiscal year with funds made available under this section, the Secretary shall fulfill intentions to obligate under section 47110(e).".

SEC. 204. DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.

(a) GENERAL REQUIREMENTS.—Section 47118(a) is amended to read as follows:

"(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate current or former military airports for which grants may be made under section 47117(e)(1)(E) of this title. The maximum number of airports bearing such designation at any time is 12. The Secretary may only so designate an airport (other than an airport so designated before August 24, 1994) if—

"(1) the airport is a former military installation closed or realigned under—

"(A) section 2687 of title 10;

"(B) section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); or

"(C) section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); or

"(2) the Secretary finds that such grants would—

"(A) reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

"(B) enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays.".

(b) ADDITIONAL DESIGNATION PERIODS.—Section 47118(d) is amended by striking "designation." and inserting "designation, and for subsequent 5-fiscal-year periods if the Secretary determines that the airport satisfies the designation criteria under subsection (a) at the beginning of each such subsequent 5-fiscal-year period.".

(c) PARKING LOTS, FUEL FARMS, AND UTILITIES.—Subsection (f) of section 47118 is amended by striking "the fiscal years ending September 30, 1993–1996," and inserting "for fiscal years beginning after September 30, 1992,".

(d) ONE-YEAR EXTENSION.—Section 47117(e)(1)(E) is amended by striking "and 1996," and inserting "1996, and 1997,".

SEC. 205. STATE BLOCK GRANT PROGRAM.

(a) PARTICIPATING STATES.—Section 47128(b) is amended—

(1) by striking paragraph (2);

(2) by redesignating subparagraphs (A) through (E) of paragraph (1) as paragraphs (1) through (5), respectively; and

(3) by striking "(1) A State" and inserting "A State".

(b) USE OF STATE PRIORITY SYSTEM.—Section 47128(c) is amended by adding at the end the following: "In carrying out this subsection, the Secretary shall permit a State to use the priority system of the State if such system is not inconsistent with the national priority system.".

(c) CHANGE OF EXPIRATION DATE.—Section 47128(d) is amended by striking "1996" and inserting "1997".

SEC. 206. ACCESS TO AIRPORTS BY INTERCITY BUSES.

Section 47107 (a) is amended—

(1) by striking "and" at the end of paragraph (18);

(2) by striking the period at the end of paragraph (19) and inserting "; and"; and

(3) by adding at the end the following:

"(20) the airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, but the sponsor does not have any obligation under this paragraph, or because of it, to fund special facilities for intercity bus service or for other modes of transportation.".

TITLE III—AVIATION SAFETY AND SECURITY

SEC. 301. REPORT INCLUDING PROPOSED LEGISLATION ON FUNDING FOR AIRPORT SECURITY.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Administrator shall conduct a study and submit to the Congress a report on whether, and if so, how to transfer certain responsibilities of air carriers under Federal law for security activities conducted onsite at airports to airport operators who are subject to section 44903 of title 49, United States Code, or to the Federal Government or providing for shared responsibilities between air carriers and airport operators or the Federal Government.

(b) CONTENTS OF REPORT.—The report submitted under this section shall—

(1) examine potential sources of Federal and non-Federal revenue that may be used to fund security activities including but not limited to providing grants from funds received as fees collected under a fee system established under subpart C of this title and the amendments made by that subpart; and

(2) provide legislative proposals, if necessary, for accomplishing the transfer of responsibilities referred to in subsection (a).

(c) CERTIFICATION OF SCREENING COMPANIES.—The Federal Aviation Administrator is directed to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services.

SEC. 302. FAMILY ADVOCACY.

(a) IN GENERAL.—Subchapter III of chapter 11 of title 49, United States Code, is amended by adding at the end the following new section:

"§1136. Family advocacy

"(a) IN GENERAL.—The National Transportation Safety Board shall establish a program consistent with its existing authority to provide family advocacy services for aircraft accidents described in subsection (b)(1) and serve as the lead agency in coordinating the provision of the services described in subsection (b). The National Transportation Safety Board shall, as necessary, in carrying out the program, cooperate with the Secretary of Transportation, the Administrator of the Federal Aviation Administration, and such other public and private organizations as may be appropriate.

"(b) FAMILY ADVOCACY SERVICES.—

"(1) IN GENERAL.—The National Transportation Safety Board shall work with an air carrier involved in an accident in air commerce and facilitate the procurement by that air carrier of the services of family advocates who are not otherwise employed by an air carrier and who are not employed by the Federal Aviation Administration to, in the event of an accident in air commerce—

"(A) apply standards of conduct specified by the National Transportation Safety Board;

"(B) to the extent practicable, direct and facilitate all communication among air carriers, surviving passengers, families of passengers, news reporters, the Federal Government, and the governments of States and political subdivisions thereof;

"(C) coordinate with a representative of the air carrier to jointly direct the notification of the next of kin of victims of the accident; and

"(D) carry out such other related duties as the National Transportation Safety Board determines to be appropriate.

"(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) AIR CARRIER.—The term 'air carrier' has the meaning provided that term in section 40102(a)(2).

"(B) FAMILY ADVOCATE.—The term 'family advocate' shall have the meaning provided that term by the National Transportation Safety Board by regulation.".

(b) GUIDELINES.—Not later than 90 days after the date of enactment of this Act, the National Transportation Safety Board shall issue guidelines for the implementation of the program established by the Board under section 1136 of title 49, United States Code, as added by subsection (a).

(c) CONFORMING AMENDMENT.—The chapter analysis for subchapter III of chapter 11 of title 49, United States Code, is amended by adding at the end the following:

"1136. Family advocacy.".

SEC. 303. ACCIDENT AND SAFETY DATA CLASSIFICATION; REPORT ON EFFECTS OF PUBLICATION AND AUTOMATED SURVEILLANCE TARGETING SYSTEMS.

(a) ACCIDENT AND SAFETY DATA CLASSIFICATION.—

(1) IN GENERAL.—Subchapter II of chapter 11 of title 49, United States Code, is amended by adding at the end the following new section:

"§1119. Accident and safety data classification and publication

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the National Transportation Safety Board (hereafter in this section referred to as the 'Board') shall, in consultation and coordination with the Administrator of the Federal Aviation Administration (hereafter in this section referred to as the 'Administrator'), develop a system for classifying air carrier accident and pertinent safety data maintained by the Board.

"(b) REQUIREMENTS FOR CLASSIFICATION SYSTEM.—

"(1) IN GENERAL.—The system developed under this section shall provide for the classification of accident and safety data in a manner that, in comparison to the system in effect on the date of enactment of this section, provides for—

"(A) safety-related categories that provide clearer descriptions of the passenger safety effects associated with air transportation;

"(B) clearer descriptions of passenger safety concerns associated with air transportation accidents; and

"(C) a report to the Congress by the Board that describes methods for accurately informing the public of the concerns referred to in subparagraph (B) through regular reporting of accident and safety data obtained through the system developed under this section.

"(2) PUBLIC COMMENT.—Upon developing a system of classification under paragraph (1), the Board shall provide adequate opportunity for public review and comment.

"(3) FINAL CLASSIFICATION.—After providing for public review and comment, and after consulting with the Administrator, the Board shall issue final classifications. The Board shall ensure that air travel accident and safety data covered under this section is classified in accordance with the final classifications issued under this section for data for calendar year 1997, and for each subsequent calendar year.

"(4) REPORT ON THE EFFECTS ASSOCIATED WITH PUBLICATION OF AIR TRANSPORTATION ACCIDENT AND SAFETY INFORMATION.—

"(A) IN GENERAL.—Not later than the date specified in subsection (a), the Board shall prepare and submit to the Congress a report on the effects and potential of the publication of air transportation accident safety information.

"(B) CONTENT AND FORM OF REPORT.—The report prepared under this paragraph shall include recommendations concerning the adoption or revision of requirements for reporting accident and safety data.

"(5) RECOMMENDATIONS OF THE ADMINISTRATOR.—The Administrator may, from time to time, request the Board to consider revisions (including additions to the classification system developed under this section). The Board shall respond to any request made by the Administrator under this section not later than 90 days after receiving that request.

"(c) PRESENTATION OF FINAL CLASSIFICATIONS TO THE INTERNATIONAL CIVIL AVIATION ORGANIZATION.—Not later than 90 days after final classifications are issued under subsection (b)(3), the Administrator shall—

"(1) present to the International Civil Aviation Organization the final classification system developed under this section; and

"(2) seek the adoption of that system by the International Civil Aviation Organization.".

(2) CONFORMING AMENDMENT.—The chapter analysis for subchapter II of chapter 11 of title 49, United States Code, is amended by adding at the end the following new item:

"1119. Accident and safety data classification and publication.".

(b) AUTOMATED SURVEILLANCE TARGETING SYSTEMS.—Section 44713 is amended by adding at the end the following new subsection:

"(e) AUTOMATED SURVEILLANCE TARGETING SYSTEMS.—

"(1) IN GENERAL.—The Administrator shall give high priority to developing and deploying a fully enhanced safety performance analysis system that includes automated surveillance to assist the Administrator in prioritizing and targeting surveillance and inspection activities of the Federal Aviation Administration.

"(2) DEADLINES FOR DEPLOYMENT.—

"(A) INITIAL PHASE.—The initial phase of the operational deployment of the system developed under this subsection shall begin not later than December 31, 1997.

"(B) FINAL PHASE.—The final phase of field deployment of the system developed under this subsection shall begin not later than December 31, 1999. By that date, all principal operations and maintenance inspectors of the Administration, and appropriate supervisors and analysts of the Administration shall have been provided access to the necessary information and resources to carry out the system.

"(3) INTEGRATION OF INFORMATION.—In developing the system under this section, the Administration shall consider the near-term integration of accident and incident data into the safety performance analysis system under this subsection.".

SEC. 304. WEAPONS AND EXPLOSIVE DETECTION STUDY.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration (hereafter in this section referred to as the "Administrator") shall enter into an arrangement with the Director of the National Academy of Sciences (or if the National Academy of Sciences is not available, the head of another equivalent entity) to conduct a study in accordance to this section.

(b) PANEL OF EXPERTS.—

(1) IN GENERAL.—In carrying out a study under this section, the Director of the National Academy of Sciences (or the head of another equivalent entity) shall establish a panel (hereinafter in this section as the "panel").

(2) EXPERTISE.—Each member of the panel established under this subsection shall have expertise in weapons and explosive detection technology, security, air carrier and airport operations, or another appropriate area. The Director of the National Academy of Sciences (or the head of another equivalent entity) shall ensure that the panel has an appropriate number of representatives of the areas specified in the preceding sentence.

(c) STUDY.—The panel established under subsection (b), in consultation with the National Science and Technology Council, representatives of appropriate Federal agencies, and appropriate members of the private sector, shall—

(1) assess the weapons and explosive detection technologies that are available at the time of the study that are capable of being effectively deployed in commercial aviation;

(2) determine how the technologies referred to in paragraph (1) may more effectively be used for promotion and improvement of security at airport and aviation facilities and other secured areas; and

(3) on the basis of the assessments and determinations made under paragraphs (1) and (2), identify the most promising technologies for the improvement of the efficiency and cost-effectiveness of weapons and explosive detection.

(d) COOPERATION.—The National Science and Technology Council shall take such action as may be necessary to facilitate, to the maximum extent practicable and upon request of the Director of the National Academy of Sciences (or the head of another equivalent entity), the cooperation of representatives of appropriate Federal agencies, as provided for in subsection (c), in providing the panel, for the study under this section—

(1) expertise; and

(2) to the extent allowable by law, resources and facilities.

(e) REPORTS.—The Director of the National Academy of Sciences (or the head of another equivalent entity) shall, pursuant to an arrangement entered into under subsection (a), submit to the Administrator such reports as the Administrator considers to be appropriate. Upon receipt of a report under this subsection, the Administrator shall submit a copy of the report to the appropriate committees of the Congress.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each of fiscal years 1997 through 2001, such sums as may be necessary to carry out this section.

SEC. 305. REQUIREMENT FOR CRIMINAL HISTORY RECORDS CHECKS.

(a) IN GENERAL.—Section 44936(a)(1) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking "(1)" and inserting "(1)(A)"; and

(3) by adding at the end the following:

"(B) The Administrator shall require by regulation that an employment investigation (including a criminal history record check in any

case described in subparagraph (C)) be conducted for—

"(i) individuals who will be responsible for screening passengers or property under section 44901 of this title;

"(ii) supervisors of the individuals described in clause (i); and

"(iii) such other individuals who exercise security functions associated with baggage or cargo, as the Administrator determines is necessary to ensure air transportation security.

"(C) Under the regulations issued under subparagraph (B), a criminal history record check shall, as a minimum, be conducted in any case in which—

"(i) an employment investigation reveals a gap in employment of 12 months or more that the individual who is the subject of the investigation does not satisfactorily account for;

"(ii) that individual is unable to support statements made on the application of that individual;

"(iii) there are significant inconsistencies in the information provided on the application of that individual; or

"(iv) information becomes available during the employment investigation indicating a possible conviction for one of the crimes listed in subsection (b)(1)(B).".

(b) APPLICABILITY.—The amendment made by subsection (a)(3) shall apply to individuals hired to perform functions described in section 44936(a)(1)(B) of title 49, United States Code, after the date of the enactment of this Act, except that the Administrator may, as the Administrator determines to be appropriate, require such employment investigations or criminal history records checks for individuals performing those functions on the date of enactment of this Act. Nothing in section 44936 of title 49, United States Code, as amended by subsection (a) precludes the Administration from permitting the employment of an individual on an interim basis while employment or criminal history record checks required by that section are being conducted.

SEC. 306. INTERIM DEPLOYMENT OF COMMERCIALLY AVAILABLE EXPLOSIVE DETECTION EQUIPMENT.

Section 44913(a) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) Until such time as the Administrator determines that equipment certified under paragraph (1) is commercially available and has successfully completed operational testing as provided in paragraph (1), the Administrator shall facilitate the deployment of such approved commercially available explosive detection devices as the Administrator determines will enhance aviation security significantly. The Administrator shall require that equipment deployed under this paragraph be replaced by equipment certified under paragraph (1) when equipment certified under paragraph (1) becomes commercially available. The Administrator is authorized, based on operational considerations at individual airports, to waive the required installation of commercially available equipment under paragraph (1) in the interests of aviation security.".

SEC. 307. AUDIT OF PERFORMANCE OF BACKGROUND CHECKS FOR CERTAIN PERSONNEL.

Section 44936(a) is amended by adding at the end the following:

"(3) The Administrator shall provide for the periodic audit of the effectiveness of criminal history record checks conducted under paragraph (1) of this subsection.".

SEC. 308. SENSE OF THE SENATE ON PASSENGER PROFILING.

It is the sense of the Senate that the Administrator of the Federal Aviation Administration, in consultation with the intelligence and law enforcement communities, should continue to assist air carriers in developing computer-assisted and other appropriate passenger profiling programs which should be used in conjunction with other security measures and technologies.

SEC. 309. AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, funds referred to in subsection (b) may be used to expand and enhance air transportation security programs and other activities (including the improvement of facilities and the purchase and deployment of equipment) to ensure the safety and security of passengers and other persons involved in air travel.

(b) COVERED FUNDS.—The following funds may be used under subsection (a):

(1) Project grants made under subchapter 1 of chapter 471 of title 49, United States Code.

(2) Passenger facility fees collected under section 40117 of title 49, United States Code.

SEC. 310. DEVELOPMENT OF AVIATION SECURITY LIAISON AGREEMENT.

The Secretary of Transportation and the Attorney General, acting through the Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation, shall enter into an interagency agreement providing for the establishment of an aviation security liaison at existing appropriate Federal agencies' field offices in or near cities served by a designated high-risk airport.

SEC. 311. REGULAR JOINT THREAT ASSESSMENTS.

The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall carry out joint threat and vulnerability assessments on security every 3 years, or more frequently, as necessary, at airports determined to be high risk.

SEC. 312. BAGGAGE MATCH REPORT.

Within 30 days after the completion of the passenger bag match pilot program recommended by the Vice President's Commission on Aviation Security, the Administrator shall submit a report to Congress on the safety effectiveness and operational effectiveness of the pilot program. The report shall also assess the extent to which implementation of baggage match requirements, coupled with the best available technologies and methodologies, such as passenger profiling, enhance domestic aviation security.

SEC. 313. ENHANCED SECURITY PROGRAMS.

(a) IN GENERAL.—Chapter 449 is amended by adding at the end of subchapter I the following:

"§44916. Assessments and evaluations

"(a) IN GENERAL.—

"(1) PERIODIC ASSESSMENTS.—The Administrator shall require each air carrier and airport (including the airport owner or operator in cooperation with the air carriers and vendors serving each airport) that provides for intrastate, interstate, or foreign air transportation to conduct periodic vulnerability assessments of the security systems of that air carrier or airport, respectively. The Administration shall perform periodic audits of the assessments referred to in paragraph (1).

"(2) INVESTIGATIONS.—The Administrator shall conduct periodic and unannounced inspections of security systems of airports and air carriers to determine the effectiveness and vulnerabilities of such systems. To the extent allowable by law, the Administrator may provide for anonymous tests of those security systems.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 44915 the following:

"44916. Assessments and evaluations.".

SEC. 314. REPORT ON AIR CARGO.

Within —— days after the date of enactment of this Act, the Secretary of Transportation shall prepare a report for the Congress on any changes recommended and implemented as a result of the Vice President's Commission on Aviation Security to enhance and supplement screening and inspection of cargo, mail, and company-shipped materials transported in air commerce. The report shall include an assessment of the effectiveness of such changes, any additional recommendations, and, if necessary, any legislative proposals necessary to carry out additional changes.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. ACQUISITION OF HOUSING UNITS.

Section 40110 is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) ACQUISITION OF HOUSING UNITS.—

"(1) AUTHORITY.—In carrying out this part, the Administrator may acquire interests in housing units outside the contiguous United States.

"(2) CONTINUING OBLIGATIONS.—Notwithstanding section 1341 of title 31, United States Code, the Administrator may acquire an interest in a housing unit under paragraph (1) even if there is an obligation thereafter to pay necessary and reasonable fees duly assessed upon such unit, including fees related to operation, maintenance, taxes, and insurance.

"(3) CERTIFICATION TO CONGRESS.—The Administrator may acquire an interest in a housing unit under paragraph (1) only if the Administrator transmits to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate at least 30 days before completing the acquisition a report containing—

"(A) a description of the housing unit and its price; and

"(B) a certification that acquiring the housing unit is the most cost-beneficial means of providing necessary accommodations in carrying out this part.

"(4) PAYMENT OF FEES.—The Administrator may pay, when due, fees resulting from the acquisition of an interest in a housing unit under this subsection from any amounts made available to the Administrator.".

SEC. 402. PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION.

(a) IN GENERAL.—Chapter 401 is amended by redesignating section 40120 as section 40121 and by inserting after section 40119 the following:

"§40120. Protection of voluntarily submitted information

"(a) IN GENERAL.—Notwithstanding any other provision of law, neither the Administrator of the Federal Aviation Administration, nor any agency receiving information from the Administrator, shall disclose voluntarily-provided safety or security related information if the Administrator finds that—

"(1) the disclosure of the information would inhibit the voluntary provision of that type of information and that the receipt of that type of information aids in fulfilling the Administrator's safety and security responsibilities; and

"(2) withholding such information from disclosure would be consistent with the Administrator's safety and security responsibilities.

"(b) REGULATIONS.—The Administrator shall issue regulations to carry out this section.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 401 is amended by striking the item relating to section 40120 and inserting the following:

"40120. Protection of voluntarily submitted information.

"40121. Relationship to other laws.".

SEC. 403. APPLICATION OF FAA REGULATIONS.

In revising title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator deems appropriate.

SEC. 404. SENSE OF THE SENATE REGARDING THE FUNDING OF THE FEDERAL AVIATION ADMINISTRATION.

(a) FINDINGS.—The Senate finds that—

(1) the Congress is responsible for ensuring that the financial needs of the Federal Aviation Administration, the agency that performs the critical function of overseeing the Nation's air traffic control system and ensuring the safety of air travelers in the United States, are met;

(2) the number of air traffic control equipment and power failures is increasing, which could place at risk the reliability of our Nation's air traffic control system;

(3) aviation excise taxes that constitute the Airport and Airway Trust Fund, which provides most of the funding for the Federal Aviation Administration, have expired;

(4) the surplus in the Airport and Airway Trust Fund will be spent by the Federal Aviation Administration by December 1996;

(5) the existing system of funding the Federal Aviation Administration will not provide the agency with sufficient short-term or long-term funding;

(6) this Act creates a sound process to review Federal Aviation Administration funding and develop a funding system to meet the Federal Aviation Administration's long-term funding needs; and

(7) without immediate action by the Congress to ensure that the Federal Aviation Administration's financial needs are met, air travelers' confidence in the system could be undermined.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that there should be an immediate enactment of an 18-month reinstatement of the aviation excise taxes to provide short-term funding for the Federal Aviation Administration.

SEC. 405. AUTHORIZATION FOR STATE-SPECIFIC SAFETY MEASURES.

There are authorized to be appropriated to the Federal Aviation Administration not more than $10,000,000 for fiscal year 1997 for the purpose of addressing State-specific aviation safety problems identified by the National Transportation Safety Board.

SEC. 406. SENSE OF THE SENATE REGARDING THE AIR AMBULANCE EXEMPTION FROM CERTAIN FEDERAL EXCISE TAXES.

It is the sense of the Senate that, if the excise taxes imposed by section 4261 or 4271 of the Internal Revenue Code of 1986 are reinstated, the exemption from those taxes provided by section 4261(f) of such Code for air transportation by helicopter for the purpose of providing emergency medical services should be broadened to include air transportation by fixed-wing aircraft for that purpose.

SEC. 407. FAA SAFETY MISSION.

(a) IN GENERAL.—Section 40104 is amended—

(1) by inserting "safety of" before "air commerce" in the section caption;

(2) by inserting "SAFETY OF" before "AIR COMMERCE" in the caption of subsection (a); and

(3) by and inserting "safety of" before "air commerce" in subsection (a).

(b) CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by striking the item relating to section 40104 and inserting:

"40104. Promotion of civil aeronautics and air commerce safety.".

SEC. 408. CARRIAGE OF CANDIDATES IN STATE AND LOCAL ELECTIONS.

The Administrator of the Federal Aviation Administration shall revise section 91.321 of the Administration's regulations (14 C.F.R. 91.321), relating to the carriage of candidates in Federal elections, to make the same or similar rules applicable to the carriage of candidates for election to public office in State and local government elections.

SEC. 409. TRAIN WHISTLE REQUIREMENTS.

The Secretary of Transportation may not implement regulations issued under section 20153(b) of title 49, United States Code, requiring audible warnings to be sounded by a locomotive horn at highway-rail grade crossings, unless—

(1) in implementing the regulations or providing an exception to the regulations under section 20158(c) of such title, the Secretary of Transportation takes into account, among other criteria—

(A) the interest of the communities that, as of July 30, 1996—

(i) have in effect restrictions on sounding of a locomotive horn at highway-rail grade crossings; or

(ii) have not been subject to the routine (as the term is defined by the Secretary) sounding of a locomotive horn at highway-rail grade crossings; and

(B) the past safety record at each grade crossing involved; and

(2) whenever the Secretary determines that supplementary safety measures (as that term is defined in section 20153(a) of title 49, United States Code) are necessary to provide an exception referred to in paragraph (1), the Secretary—

(A) having considered the extent to which local communities have established public awareness initiatives and highway-rail crossing traffic law enforcement programs allows for a period of not to exceed 3 years, beginning on the date of that determination, for the installation of those measures; and

(B) works in partnership with affected communities to provide technical assistance and to develop a reasonable schedule for the installation of those measures.

SEC. 410. LIMITATION ON AUTHORITY OF STATES TO REGULATE GAMBLING DEVICES ON VESSELS.

Subsection (b)(2) of section 5 of the Act of January 2, 1951 (commonly referred to as the "Johnson Act") (64 Stat. 1135, chapter 1194; 15 U.S.C. 1175), is amended by adding at the end the following:

"(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if such voyage or segment includes or consists of a segment—

"(i) that begins that ends in the same State;

"(ii) that is part of a voyage to another State or to a foreign country; and

"(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which such segment begins.".

SEC. 411. SPECIAL FLIGHT RULES IN THE VICINITY OF GRAND CANYON NATIONAL PARK.

The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall take such action as may be necessary to provide 30 additional days for comment by interested persons on the special flight rules in the vicinity of Grand Canyon National Park described in the notice of proposed rulemaking issued on July 31, 1996, at 61 Fed. Reg. 40120 et seq.

SEC. 412. INCREASED FEES.

Notwithstanding any other provision of law, the Surface Transportation Board shall not increase fees for services in connection with rail maximum rate complaints pursuant to 49 CFR part 1002, STB Ex Parte No. 542.

SEC. 413. TRANSFER OF AIR TRAFFIC CONTROL TOWER; CLOSING OF FLIGHT SERVICE STATIONS.

(a) HICKORY, NORTH CAROLINA TOWER.—

(1) TRANSFER.—The Administrator of the Federal Aviation Administration may transfer any title, right, or interest the United States has in the air traffic control tower located at the Hickory Regional Airport to the City of Hickory, North Carolina, for the purpose of enabling the city to provide air traffic control services to operators of aircraft.

(2) STUDY.—The Administrator shall conduct a study to determine whether the number of operations at Hickory Regional Airport meet the criteria for contract towers and shall certify in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce and Infrastructure of the House of Representatives whether that airport meets those criteria.

(b) NEW BERN–CRAVEN COUNTY STATION.—The Administrator shall not close the New Bern–Craven County flight services station or the Hickory Regional Airport flight service station unless the Administrator certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that such closure will not result in a derogation of air safety and that it will reduce costs to taxpayers.

SEC. 414. SENSE OF THE SENATE REGARDING ACTS OF INTERNATIONAL TERRORISM.

(a) FINDINGS.—The Senate finds that—

(1) there has been an intensification in the oppression and disregard for human life among nations that are willing to export terrorism;

(2) there has been an increase in attempts by criminal terrorists to murder airline passengers through the destruction of civilian airliners and the deliberate fear and death inflicted through bombings of buildings and the kidnapping of tourists and Americans residing abroad; and

(3) information widely available demonstrates that a significant portion of international terrorist activity is state-sponsored, -organized, -condoned, or -directed.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that if evidence establishes beyond a clear and reasonable doubt that any act of hostility towards any United States citizen was an act of international terrorism sponsored, organized, condoned, or directed by any nation, a state of war should be considered to exist or to have existed between the United States of America and that nation, beginning as of the moment that the act of aggression occurs.

SEC. 415. REPORTING FOR PROCUREMENT CONTRACTS.

Section 47112 is amended by adding at the end the following new subsection:

"(d) REPORTING FOR PROCUREMENT CONTRACTS.—(1) The Secretary of Transportation shall promulgate regulations to require that each grant agreement that includes the awarding of any contract that includes Federal funds in an amount greater than or equal to $5,000,000 under this subchapter provides for a report to the Secretary that states—

"(A) the number of bids from qualified, responsive and reasonable bidders that were in amounts lower than the amount specified in the bid submitted by the bidder awarded the contract;

"(B) for each bid referred to in subparagraph A (other than the bid submitted by the bidder awarded the contract) the amount by which the bid submitted by the bidder awarded the contract exceeded the lower bid.

"(2) APPLICABILITY.—This subsection shall apply to grants referred to in this paragraph that are awarded on or after the date of enactment of this Act.".

SEC. 416. PROVISIONS RELATING TO LIMITED SCOPE AUDIT.

(a) IN GENERAL.—Subparagraph (C) of section 103(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(C)) is amended by adding at the end the following new clause:

"(ii) If an accountant is offering his opinion under this section in the case of an employee pension benefit plan, the accountant shall, to the extent consistent with generally accepted auditing standards, rely on the work of any independent public accountant of any bank or similar institution or insurance carrier regulated and supervised and subject to periodic investigation by a State or Federal agency that holds assets or processes transactions of the employee pension benefit plan.".

(b) CONFORMING AMENDMENTS.—

(1) Section 103(a)(3)(A) of such Act (29 U.S.C. 1023(a)(3)(A)) is amended by striking "subparagraph (C)" and inserting "subparagraph (C)(i)".

(2) Section 103(a)(3)(C) of such Act (29 U.S.C. 1023(a)(3)(C)) is amended by striking "(C) The" and inserting "(C)(i) In the case of an employee benefit plan other than an employee pension benefit plan, the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to opinions required under section 103(a)(3)(A) of the Employee Retirement Income Security Act of 1974 for plan years beginning on or after January 1 of the calendar year following the date of the enactment of this Act.

SEC. 417. ADVANCE ELECTRONIC TRANSMISSION OF CARGO AND PASSENGER INFORMATION.

(a) CARGO INFORMATION.—

(1) IN GENERAL.—Section 431(b) of the Tariff Act of 1930 (19 U.S.C. 1431(b)) is amended—

(A) by striking "Any manifest" and inserting "(1) Any manifest", and

(B) by adding at the end the following new paragraph:

"(2)(A) Every passenger air carrier required to make entry or to obtain clearance under the customs laws of the United States (or the authorized agent of such carrier) shall provide by electronic transmission cargo manifest information described in subparagraph (B) in advance of such entry or clearance in such manner as the Secretary shall prescribe.

"(B) The information described in this subparagraph is as follows:

"(i) The airport of arrival or departure, whichever is appropriate.

"(ii) The airline prefix code.

"(iii) The carrier code.

"(iv) The flight number.

"(v) The date of scheduled arrival or date of departure, whichever is appropriate.

"(vi) The permit to proceed to the destination, if applicable.

"(vii) The master and house air waybill numbers and quantities.

"(viii) The first airport of lading of the cargo.

"(ix) A description and weight of the cargo.

"(x) The shipper's name and address from all air waybills.

"(xi) The consignee name and address from all air waybills.

"(xii) Notice that actual boarded quantities are not equal to air waybill quantities.

"(xiii) Transfer or transit information.

"(xiv) Warehouse or other location of the cargo.

"(xv) Any other data that the Secretary may by regulation prescribe.".

(2) CONFORMING AMENDMENT.—Subsection (d)(1)(A) of section 431 of such Act is amended by inserting before the semicolon "or subsection (b)(2)".

(b) PASSENGER INFORMATION.—The Part II of title IV of the Tariff Act of 1930 is amended by inserting after section 431 the following new section:

"SEC. 432. PASSENGER MANIFEST INFORMATION REQUIRED FOR AIR CARRIERS.

"(a) IN GENERAL.—Every passenger air carrier required to make entry or obtain clearance under the customs laws of the United States (or the authorized agent of such carrier) shall provide by electronic transmission passenger manifest information described in subsection (b) in advance of such entry or clearance in such manner and form as the Secretary shall prescribe.

"(b) INFORMATION DESCRIBED.—The information described in this subsection is as follows:

"(1) Full name of each passenger.

"(2) Date of birth and citizenship of each passenger.

"(3) Passport number and country of issuance of each passenger.

"(4) Passenger name record.

"(5) Any additional data that the Secretary, by regulation, determines is reasonably necessary to ensure aviation safety pursuant to the Customs laws of the United States.".

(c) DEFINITION.—Section 401 of the Tariff Act of 1930 is amended by adding at the end the following new subsection:

"(t) PASSENGER AIR CARRIER.—The term 'passenger air carrier' means an air carrier (as defined in section 40102(a)(2) of title 49, United States Code) or foreign air carrier (as defined in section 40102(a)(21) of such title 49) that provides transportation of passengers to or from any place in the United States.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 45 days after the date of the enactment of this Act.

TITLE V—COMMERCIAL SPACE LAUNCH ACT AMENDMENTS

SEC. 501. COMMERCIAL SPACE LAUNCH AMENDMENTS.

(a) AMENDMENTS.—Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, operations, and reentries.";

(B) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries.";

and

(C) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches or reentries.";

(2) in section 70101—

(A) by inserting "microgravity research," after "information services," in subsection (a)(3);

(B) by inserting ", reentry," after "launching" both places it appears in subsection (a)(4);

(C) by inserting ", reentry vehicles," after "launch vehicles" in subsection (a)(5);

(D) by inserting "and reentry services" after "launch services" in subsection (a)(6);

(E) by inserting ", reentries," after "launches" both places it appears in subsection (a)(7);

(F) by inserting ", reentry sites," after "launch sites" in subsection (a)(8);

(G) by inserting "and reentry services" after "launch services" in subsection (a)(8);

(H) by inserting "reentry sites," after "launch sites," in subsection (a)(9);

(I) by inserting "and reentry site" after "launch site" in subsection (a)(9);

(J) by inserting "reentry vehicles," after "launch vehicles" in subsection (b)(2);

(K) by striking "launch" in subsection (b)(2)(A);

(L) by inserting "and reentry" after "commercial launch" in subsection (b)(3);

(M) by striking "launch" after "and transfer commercial" in subsection (b)(3); and

(N) by inserting "and development of reentry sites," after "launch-site support facilities," in subsection (b)(4);

(3) in section 70102—

(A) by striking "and any payload" and inserting in lieu thereof "or reentry vehicle and any payload from Earth" in paragraph (3);

(B) by inserting "or reentry vehicle" after "means of a launch vehicle" in paragraph (8);

(C) by redesignating paragraphs (10) through (12) as paragraphs (14) through (16), respectively;

(D) by inserting after paragraph (9) the following new paragraphs:

"(10) 'reenter' and 'reentry' mean to return or attempt to return, purposefully, a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth.

"(11) 'reentry services' means—

"(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

"(B) the conduct of a reentry.

"(12) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

"(13) 'reentry vehicle' means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from outer space substantially intact."; and

(E) by inserting "or reentry services" after "launch services" each place it appears in paragraph (15), as so redesignated by subparagraph (C) of this paragraph;

(4) in section 70103(b)—

(A) by inserting "AND REENTRIES" after "LAUNCHES" in the subsection heading;

(B) by inserting "and reentries" after "space launches" in paragraph (1); and

(C) by inserting "and reentry" after "space launch" in paragraph (2);

(5) in section 70104—

(A) by amending the section designation and heading to read as follows:

"§70104. Restrictions on launches, operations, and reentries";

(B) by inserting "or reentry site, or to reenter a reentry vehicle," after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting in lieu thereof "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "PREVENTING LAUNCHES AND REENTRIES.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(6) in section 70105—

(A) by inserting "or a reentry site, or the reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1); and

(B) by striking "or operation" and inserting in lieu thereof ", operation, or reentry" in subsection (b)(2)(A);

(7) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site";

(B) by inserting "or reentry vehicle" after "assemble a launch vehicle"; and

(C) by inserting "or reentry vehicle" after "with a launch vehicle";

(8) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries";

and

(B) in subsection (a)—

(i) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(9) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting ", reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site," after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(10) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(11) in section 70111—

(A) by inserting "or reentry" after "launch" in subsection (a)(1)(A);

(B) by inserting "and reentry services" after "launch services" in subsection (a)(1)(B);

(C) by inserting "or reentry services" after "or launch services" in subsection (a)(2);

(D) by inserting "or reentry" after "commercial launch" both places it appears in subsection (b)(1);

(E) by inserting "or reentry services" after "launch services" in subsection (b)(2)(C);

(F) by striking "or its payload for launch" in subsection (d) and inserting in lieu thereof "or reentry vehicle, or the payload of either, for launch or reentry"; and

(G) by inserting ", reentry vehicle," after "manufacturer of the launch vehicle" in subsection (d);

(12) in section 70112—

(A) by inserting "or reentry" after "one launch" in subsection (a)(3);

(B) by inserting "or reentry services" after "launch services" in subsection (a)(4);

(C) by inserting "or reentry services" after "launch services" each place it appears in subsection (b);

(D) by inserting "applicable" after "carried out under the" in paragraphs (1) and (2) of subsection (b);

(E) by striking ", Space, and Technology" in subsection (d)(1);

(F) by inserting "OR REENTRIES" after "LAUNCHES" in the heading for subsection (e); and

(G) by inserting "or reentry site or a reentry" after "launch site" in subsection (e);

(13) in section 70113(a)(1) and (d)(1) and (2), by inserting "or reentry" after "one launch" each place it appears;

(14) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site," after "launch site,"; and

(B) by inserting "or reentry vehicle" after "launch vehicle" both places it appears; and

(15) in section 70117—

(A) by inserting "or reentry site, or to reenter a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) by amending subsection (f) to read as follows:

"(f) LAUNCH NOT AN EXPORT; REENTRY NOT AN IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports."; and

(D) in subsection (g)—

(i) by striking "operation of a launch vehicle or launch site," in paragraph (1) and inserting in lieu thereof "reentry, operation of a launch vehicle or reentry vehicle, or operation of a launch site or reentry site,"; and

(ii) by inserting "reentry," after "launch," in paragraph (2).

(b) ADDITIONAL AMENDMENTS.—(1) Section 70105 of title 49, United States Code, is amended—

(A) by inserting "(1)" before "A person may apply" in subsection (a);

(B) by striking "receiving an application" both places it appears in subsection (a) and inserting in lieu thereof "accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D)";

(C) by adding at the end of subsection (a) the following new paragraph:

"(2) In carrying out paragraph (1), the Secretary may establish procedures for certification of the safety of a launch vehicle, reentry vehicle, or safety system, procedure, service, or personnel that may be used in conducting licensed commercial space launch or reentry activities.";

(D) by striking "and" at the end of subsection (b)(2)(B);

(E) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof "; and";

(F) by adding at the end of subsection (b)(2) the following new subparagraph:

"(D) regulations establishing criteria for accepting or rejecting an application for a license under this chapter within 60 days after receipt of such application."; and

(G) by inserting ", or the requirement to obtain a license," after "waive a requirement" in subsection (b)(3).

(2) The amendment made by paragraph (1)(B) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by paragraph (1)(F) of this subsection.

(3) Section 70102(5) of title 49, United States Code, is amended—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting before subparagraph (B), as so redesignated by subparagraph (A) of this paragraph, the following new subparagraph:

"(A) activities directly related to the preparation of a launch site or payload facility for one or more launches;".

(4) Section 70103(b) of title 49, United States Code, is amended—

(A) in the subsection heading, as amended by subsection (a)(4)(A) of this section, by inserting "AND STATE SPONSORED SPACEPORTS" after "AND REENTRIES"; and

(B) in paragraph (1), by inserting "and State sponsored spaceports" after "private sector".

(5) Section 70105(a)(1) of title 49, United States Code, as amended by subsection (b)(1) of this section, is amended by inserting at the end the following: "The Secretary shall submit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 7 days after any occurrence when a license is not issued within the deadline established by this subsection.".

(6) Section 70111 of title 49, United States Code, is amended—

(A) in subsection (a)(1), by inserting after subparagraph (B) the following:

"The Secretary shall establish criteria and procedures for determining the priority of competing requests from the private sector and State governments for property and services under this section.";

(B) by striking "actual costs" in subsection (b)(1) and inserting in lieu thereof "additive costs only"; and

(C) by inserting after subsection (b)(2) the following new paragraph:

"(3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.".

(7) Section 70112 of title 49, United States Code, is amended—

(A) in subsection (a)(1), by inserting "launch, reentry, or site operator" after "(1) When a";

(B) in subsection (b)(1), by inserting "launch, reentry, or site operator" after "(1)A"; and

(C) in subsection (f), by inserting "launch, reentry, or site operator" after "carried out under a".

(c) REGULATIONS.—(1) Chapter 701 of title 49, United States Code, is amended by adding at the end the following new section:

"§70120. Regulations

"The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include—

"(1) guidelines for industry to obtain sufficient insurance coverage for potential damages to third parties;

"(2) procedures for requesting and obtaining licenses to operate a commercial launch vehicle and reentry vehicle;

"(3) procedures for requesting and obtaining operator licenses for launch and reentry; and

"(4) procedures for the application of government indemnification.".

(2) The table of sections for such chapter 701 is amended by adding after the item relating to section 70119 the following new item:

"70120. Regulations.".

TITLE VI—AIR TRAFFIC MANAGEMENT SYSTEM PERFORMANCE IMPROVEMENT ACT

SEC. 601. SHORT TITLE.

This title may be cited as the "Air Traffic Management System Performance Improvement Act of 1996".

SEC. 602. DEFINITIONS.

For the purposes of this title, the following definitions shall apply:

(1) ADMINISTRATION.—The term "Administration" means the Federal Aviation Administration.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(3) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 603. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect on the date that is 30 days after the date of the enactment of this Act.

Subtitle A—General Provisions

SEC. 621. FINDINGS.

The Congress finds the following:

(1) In many respects the Administration is a unique agency, being one of the few non-defense government agencies that operates 24 hours a day, 365 days of the year, while continuing to rely on outdated technology to carry out its responsibilities for a state-of-the-art industry.

(2) Until January 1, 1996, users of the air transportation system paid 70 percent of the budget of the Administration, with the remaining 30 percent coming from the General Fund. The General Fund contribution over the years is one measure of the benefit received by the general public, military, and other users of Administration's services.

(3) The Administration must become a more efficient, effective, and different organization to meet future challenges.

(4) The need to balance the Federal budget means that it may become more and more difficult to obtain sufficient General Fund contributions to meet the Administration's future budget needs.

(5) Congress must keep its commitment to the users of the national air transportation system by seeking to spend all moneys collected from them each year and deposited into the Airport and Airway Trust Fund. Existing surpluses representing past receipts must also be spent for the purposes for which such funds were collected.

(6) The aviation community and the employees of the Administration must come together to improve the system. The Administration must continue to recognize who its customers are and what their needs are, and to design and redesign the system to make safety improvements and increase productivity.

(7) The Administration projects that commercial operations will increase by 18 percent and passenger traffic by 35 percent by the year 2002. Without effective airport expansion and system modernization, these needs cannot be met.

(8) Absent significant and meaningful reform, future challenges and needs cannot be met.

(9) The Administration must have a new way of doing business.

(10) There is widespread agreement within government and the aviation industry that reform of the Administration is essential to safely and efficiently accommodate the projected growth of aviation within the next decade.

(11) To the extent that the Congress determines that certain segments of the aviation community are not required to pay all of the costs of the government services which they require and benefits which they receive, the Congress should appropriate the difference between such costs and any receipts received from such segment.

(12) Prior to the imposition of any new charges or user fees on segments of the industry, an independent review must be performed to assess the funding needs and assumptions for operations, capital spending, and airport infrastructure.

(13) An independent, thorough, and complete study and assessment must be performed of the costs to the Administration and the costs driven by each segment of the aviation system for safety and operational services, including the use of the air traffic control system and the Nation's airports.

(14) Because the Administration is a unique Federal entity in that it is a participant in the daily operations of an industry, and because the national air transportation system faces significant problems without significant changes, the Administration has been authorized to change the Federal procurement and personnel systems to ensure that the Administration has the ability to keep pace with new technology and is able to match resources with the real personnel needs of the Administration.

(15) The existing budget system does not allow for long-term planning or timely acquisition of technology by the Administration.

(16) Without reforms in the areas of procurement, personnel, funding, and governance, the Administration will continue to experience delays and cost overruns in its major modernization programs and needed improvements in the performance of the air traffic management system will not occur.

(17) All reforms should be designed to help the Administration become more responsive to the needs of its customers and maintain the highest standards of safety.

SEC. 622. PURPOSES.

The purposes of this title are—

(1) to ensure that final action shall be taken on all notices of proposed rulemaking of the Administration within 18 months after the date of their publication;

(2) to permit the Administration, with Congressional review, to establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

(3) to establish a more autonomous and accountable Administration within the Department of Transportation; and

(4) to make the Administration a more efficient and effective organization, able to meet the needs of a dynamic, growing industry, and to ensure the safety of the traveling public.

SEC. 623. REGULATION OF CIVILIAN AIR TRANSPORTATION AND RELATED SERVICES BY THE FEDERAL AVIATION ADMINISTRATION AND DEPARTMENT OF TRANSPORTATION.

(a) IN GENERAL.—Section 106 is amended—

(1) by striking "The Administrator" in the fifth sentence of subsection (b) and inserting "Except as provided in subsection (f) of this section or in other provisions of law, the Administrator"; and

(2) by striking subsection (f) and inserting the following:

"(f) AUTHORITY OF THE SECRETARY AND THE ADMINISTRATOR.—

"(1) AUTHORITY OF THE SECRETARY.—Except as provided in paragraph (2), the Secretary of Transportation shall carry out the duties and powers of the Administration.

"(2) AUTHORITY OF THE ADMINISTRATOR.—The Administrator—

"(A) is the final authority for carrying out all functions, powers, and duties of the Administration relating to—

"(i) except as otherwise provided in paragraph (3), the promulgation of regulations, rules, orders, circulars, bulletins, and other official publications of the Administration; and

"(ii) any obligation imposed on the Administrator, or power conferred on the Administrator, by the Air Traffic Management System Performance Improvement Act of 1996 (or any amendment made by that Act);

"(B) shall offer advice and counsel to the President with respect to the appointment and qualifications of any officer or employee of the Administration to be appointed by the President or as a political appointee;

"(C) may delegate, and authorize successive redelegations of, to an officer or employee of the Administration any function, power, or duty conferred upon the Administrator, unless such delegation is prohibited by law; and

"(D) except as otherwise provided for in this title, and notwithstanding any other provision of law to the contrary, shall not be required to coordinate, submit for approval or concurrence, or seek the advice or views of the Secretary or any other officer or employee of the Department of Transportation on any matter with respect to which the Administrator is the final authority.

"(3) DEFINITION OF POLITICAL APPOINTEE.—For purposes of this subsection, the term 'political appointee' means any individual who—

"(A) is employed in a position on the Executive Schedule under sections 5312 through 5316 of title 5;

"(B) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service as defined under section 3132(a) (5), (6), and (7) of title 5, respectively; or

"(C) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.".

(b) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this title or the amendments made by this title limits any authority granted to the Administrator by statute or by delegation that was in effect on the day before the date of enactment of this Act.

SEC. 624. REGULATIONS.

Section 106(f), as amended by section 623, is further amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) REGULATIONS.—

"(A) IN GENERAL.—In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to issue, rescind, and revise such regulations as are necessary to carry out those functions. The issuance of such regulations shall be governed by the provisions of chapter 5 of title 5. The Administrator shall act upon all petitions for rulemaking no later than 6 months after the date such petitions are filed by dismissing such petitions, by informing the petitioner of an intention to dismiss, or by issuing a notice of proposed rulemaking or advanced notice of proposed rulemaking. The Administrator shall issue a final regulation, or take other final action, not later than 18 months after the date of publication in the Federal Register of a notice of proposed rulemaking or, in the case of an advanced notice of proposed rulemaking, if issued, not later than 24 months after that date.

"(B) APPROVAL OF SECRETARY OF TRANSPORTATION.—

"(i) The Administrator may not issue a proposed regulation or final regulation that is likely to result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $50,000,000 or more (adjusted annually for inflation beginning with the year following the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996) in any 1 year, or any regulation which is significant, unless the Secretary of Transportation approves the issuance of the regulation in advance. For purposes of this paragraph, a regulation is significant if it is likely to—

"(I) have an annual effect on the economy of $100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

"(II) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

"(III) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

"(IV) raise novel legal or policy issues arising out of legal mandates.

"(ii) In an emergency, the Administrator may issue a regulation described in clause (i) without

prior approval by the Secretary, but any such emergency regulation is subject to ratification by the Secretary after it is issued and shall be rescinded by the Administrator within 5 days (excluding Saturdays, Sundays, and legal public holidays) after issuance if the Secretary fails to ratify its issuance.

"(iii) Any regulation that does not meet the criteria of clause (i), and any regulation or other action that is a routine or frequent action or a procedural action, may be issued by the Administrator without review or approval by the Secretary.

"(iv) The Administrator shall submit a copy of any regulation requiring approval by the Secretary under clause (i) to the Secretary, who shall either approve it or return it to the Administrator with comments within 45 days after receiving it.

"(C) PERIODIC REVIEW.—(i) Beginning on the date which is 3 years after the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall review any unusually burdensome regulation issued by the Administrator after the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996 beginning not later than 3 years after the effective date of the regulation to determine if the cost assumptions were accurate, the benefit of the regulations, and the need to continue such regulations in force in their present form.

"(ii) The Administrator may identify for review under the criteria set forth in clause (i) unusually burdensome regulations that were issued before the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996 and that have been in force for more than 3 years.

"(iii) For purposes of this subparagraph, the term 'unusually burdensome regulation' means any regulation that results in the annual expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $25,000,000 or more (adjusted annually for inflation beginning with the year following the date of enactment of the Air Traffic Management System Performance Act of 1996) in any year.

"(iv) The periodic review of regulations may be performed by advisory committees and the Management Advisory Council established under subsection (p).".

SEC. 625. PERSONNEL AND SERVICES.

Section 106 is amended by adding at the end the following new subsection:

"(l) PERSONNEL AND SERVICES.—

"(1) OFFICERS AND EMPLOYEES.—Except as provided in section 40121(a) of this title and section 347 of Public Law 104–50, the Administrator is authorized, in the performance of the functions of the Administrator, to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. In fixing compensation and benefits of officers and employees, the Administrator shall not engage in any type of bargaining, except to the extent provided for in section 40121(a), nor shall the Administrator be bound by any requirement to establish such compensation or benefits at particular levels.

"(2) EXPERTS AND CONSULTANTS.—The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5.

"(3) TRANSPORTATION AND PER DIEM EXPENSES.—The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5.

"(4) USE OF PERSONNEL FROM OTHER AGENCIES.—The Administrator is authorized to utilize the services of personnel of any other Federal agency (as such term is defined under section 551(1) of title 5).

"(5) VOLUNTARY SERVICES.—

"(A) IN GENERAL.—(i) In exercising the authority to accept gifts and voluntary services under section 326 of this title, and without regard to section 1342 of title 31, the Administrator may not accept voluntary and uncompensated services if such services are used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

"(ii) The Administrator is authorized to provide for incidental expenses, including transportation, lodging, and subsistence for volunteers who provide voluntary services under this subsection.

"(iii) An individual who provides voluntary services under this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, relating to compensation for work injuries, and chapter 171 of title 28, relating to tort claims.".

SEC. 626. CONTRACTS.

Section 106(l), as added by section 625 of this title, is amended by adding at the end the following new paragraph:

"(6) CONTRACTS.—The Administrator is authorized to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into such contracts, leases, cooperative agreements, and other transactions with any Federal agency (as such term is defined in section 551(1) of title 5) or any instrumentality of the United States, any State, territory, or possession, or political subdivision thereof, any other governmental entity, or any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate.".

SEC. 627. FACILITIES.

Section 106, as amended by section 625 of this title, is further amended by adding at the end the following new subsection:

"(m) COOPERATION BY ADMINISTRATOR.—With the consent of appropriate officials, the Administrator may, with or without reimbursement, use or accept the services, equipment, personnel, and facilities of any other Federal agency (as such term is defined in section 551(1) of title 5) and any other public or private entity. The Administrator may also cooperate with appropriate officials of other public and private agencies and instrumentalities concerning the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, supplies and equipment other than administrative supplies or equipment.".

SEC. 628. PROPERTY.

Section 106, as amended by section 627 of this title, is further amended by adding at the end the following new subsection:

"(n) ACQUISITION.—

"(1) IN GENERAL.—The Administrator is authorized—

"(A) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

"(i) air traffic control facilities and equipment;

"(ii) research and testing sites and facilities; and

"(iii) such other real and personal property (including office space and patents), or any interest therein, within and outside the continental United States as the Administrator considers necessary;

"(B) to lease to others such real and personal property; and

"(C) to provide by contract or otherwise for eating facilities and other necessary facilities for the welfare of employees of the Administration at the installations of the Administration, and to acquire, operate, and maintain equipment for these facilities.

"(2) TITLE.—Title to any property or interest therein acquired pursuant to this subsection shall be held by the Government of the United States.".

SEC. 629. TRANSFERS OF FUNDS FROM OTHER FEDERAL AGENCIES.

Section 106, as amended by section 628 of this title, is further amended by adding at the end the following new subsection:

"(o) TRANSFERS OF FUNDS.—The Administrator is authorized to accept transfers of unobligated balances and unexpended balances of funds appropriated to other Federal agencies (as such term is defined in section 551(1) of title 5) to carry out functions transferred by law to the Administrator or functions transferred pursuant to law to the Administrator on or after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996.".

SEC. 630. MANAGEMENT ADVISORY COUNCIL.

Section 106, as amended by section 629 of this title, is further amended by adding at the end the following new subsection:

"(p) MANAGEMENT ADVISORY COUNCIL.—

"(1) ESTABLISHMENT.—Within 3 months after the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall establish an advisory council which shall be known as the Federal Aviation Management Advisory Council (in this subsection referred to as the 'Council'). With respect to Administration management, policy, spending, funding, and regulatory matters affecting the aviation industry, the Council may submit comments, recommended modifications, and dissenting views to the Administrator. The Administrator shall include in any submission to Congress, the Secretary, or the general public, and in any submission for publication in the Federal Register, a description of the comments, recommended modifications, and dissenting views received from the Council, together with the reasons for any differences between the views of the Council and the views or actions of the Administrator.

"(2) MEMBERSHIP.—The Council shall consist of 15 members, who shall consist of—

"(A) a designee of the Secretary of Transportation;

"(B) a designee of the Secretary of Defense; and

"(C) 13 members representing aviation interests, appointed by the President by and with the advice and consent of the Senate.

"(3) QUALIFICATIONS.—No member appointed under paragraph (2)(C) may serve as an officer or employee of the United States Government while serving as a member of the Council.

"(4) FUNCTIONS.—

"(A) IN GENERAL.—(i) The Council shall provide advice and counsel to the Administrator on issues which affect or are affected by the operations of the Administrator. The Council shall function as an oversight resource for management, policy, spending, and regulatory matters under the jurisdiction of the Administration.

"(ii) The Council shall review the rulemaking cost-benefit analysis process and develop recommendations to improve the analysis and ensure that the public interest is fully protected.

"(iii) The Council shall review the process through which the Administration determines to use advisory circulars and service bulletins.

"(B) MEETINGS.—The Council shall meet on a regular and periodic basis or at the call of the chairman or of the Administrator.

"(C) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the Council appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5 (commonly known as the 'Freedom of Information Act'), cost data associated with the acquisition and operation of air traffic service systems. Any member of the Council who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, pertaining to unauthorized disclosure of such information.

"(5) FEDERAL ADVISORY COMMITTEE ACT NOT TO APPLY.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Council or such aviation rulemaking committees as the Administrator shall designate.

"(6) ADMINISTRATIVE MATTERS.—

"(A) TERMS OF MEMBERS.—(i) Except as provided in subparagraph (B), members of the Council appointed by the President under paragraph (2)(C) shall be appointed for a term of 3 years.

"(ii) Of the members first appointed by the President—

"(I) 4 shall be appointed for terms of 1 year;

"(II) 5 shall be appointed for terms of 2 years; and

"(III) 4 shall be appointed for terms of 3 years.

"(iii) An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(iv) A member whose term expires shall continue to serve until the date on which the member's successor takes office.

"(B) CHAIRMAN; VICE CHAIRMAN.—The Council shall elect a chair and a vice chair from among the members appointed under paragraph (2)(C), each of whom shall serve for a term of 1 year. The vice chair shall perform the duties of the chairman in the absence of the chairman.

"(C) TRAVEL AND PER DIEM.—Each member of the Council shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5.

"(D) DETAIL OF PERSONNEL FROM THE ADMINISTRATION.—The Administrator shall make available to the Council such staff, information, and administrative services and assistance as may reasonably be required to enable the Council to carry out its responsibilities under this subsection.

"(7) REPORT TO CONGRESS.—The Council, in conjunction with the Administration, shall undertake a review of the overall condition of aviation safety in the United States and emerging trends in the safety of particular sections of the aviation industry. This shall include an examination of—

"(A) the extent to which the dual mission of the Administration to promote and regulate civil aviation may affect aviation safety and provide recommendations to Congress for any necessary changes the Council, in conjunction with Administration, deems appropriate; and

"(B) the adequacy of staffing and training resources for safety personnel of the Administration, including safety inspectors.

The Council shall report to Congress within 180 days after the date of enactment of this Act on its findings and recommendations under this paragraph.

SEC. 631. AIRCRAFT ENGINE STANDARDS.

Subsection (a)(1) of section 44715 is amended to read as follows:

"(a) STANDARDS AND REGULATIONS.—(1) To relieve and protect the public health and welfare from aircraft noise, sonic boom, the Administrator of the Federal Aviation Administration, as he deems necessary, shall prescribe—

"(A) standards to measure aircraft noise and sonic boom;

"(B) regulations to control and abate aircraft noise and sonic boom; and

"(C)(i) the Environmental Protection Agency shall consult with the Federal Aviation Administration on aircraft engine emission standards;

"(ii) the Environmental Protection Agency shall not change the aircraft engine emission standards if such change would significantly increase noise and adversely affect safety;

"(iii) the Administrator, as the Administrator deems appropriate, shall provide for the participation of a representative of the Environmental Protection Agency on such advisory committees or associated working groups that advise the Administrator on matters related to the environmental effects of aircraft and aircraft engines.".

SEC. 632. RURAL AIR FARE STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study to—

(1) compare air fares paid (calculated as both actual and adjusted air fares) for air transportation on flights conducted by commercial air carriers—

(A) between—

(i) nonhub airports located in small communities; and

(ii) large hub airports; and

(B) between large hub airports;

(2) analyze—

(A) the extent to which passenger service that is provided from nonhub airports is provided on—

(i) regional commuter commercial air carriers; or

(ii) major air carriers;

(B) the type of aircraft employed in providing passenger service at nonhub airports; and

(C) whether there is competition among commercial air carriers with respect to the provision of air service to passengers from nonhub airports.

(b) FINDINGS.—The Secretary shall include in the report of the study conducted under subsection (a) findings concerning—

(1) whether passengers who use commercial air carriers to and from rural areas (as defined by the Secretary) pay a disproportionately greater price for that transportation than passengers who use commercial air carriers between urban areas (as defined by the Secretary);

(2) the nature of competition, if any, in rural markets (as defined by the Secretary) for commercial air carriers;

(3) whether a relationship exists between higher air fares and competition among commercial air carriers for passengers traveling on jet aircraft from small communities (as defined by the Secretary) and, if such a relation exists, the nature of that relationship;

(4) the number of small communities that have lost air service as a result of the deregulation of commercial air carriers with respect to air fares;

(5) the number of small communities served by airports with respect to which, after commercial air carrier fares were deregulated, jet aircraft service was replaced by turboprop aircraft service; and

(6) where such replacement occurred, any corresponding decreases in available seat capacity for consumers at the airports referred to in that subparagraph.

(c) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall submit a final report on the study carried out under subsection (a) to the Committee on Commerce, Science, and Transportation of the Senate.

(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ADJUSTED AIR FARE.—The term "adjusted air fare" means an actual air fare that is adjusted for distance traveled by a passenger.

(2) AIR CARRIER.—The term "air carrier" is defined in section 40102(a)(2) of title 49, United States Code.

(3) AIRPORT.—The term "airport" is defined in section 40102(9) of such title.

(4) COMMERCIAL AIR CARRIER.—The term "commercial air carrier" means an air carrier that provides air transportation for commercial purposes (as determined by the Secretary).

(5) HUB AIRPORT.—The term "hub airport" is defined in section 41731(a)(2) of such title.

(6) LARGE HUB AIRPORT.—The term "large hub airport" shall be defined by the Secretary but the definition may not include a small hub airport, as that term is defined in section 41731(a)(5) of such title.

(7) MAJOR AIR CARRIER.—The term "major air carrier" shall be defined by the Secretary.

(8) NONHUB AIRPORT.—The term "nonhub airport" is defined in section 41731(a)(4) of such title.

(9) REGIONAL COMMUTER AIR CARRIER.—The term "regional commuter air carrier" shall be defined by the Secretary.

Subtitle B—Federal Aviation Administration Streamlining Programs

SEC. 651. REVIEW OF ACQUISITION MANAGEMENT SYSTEM.

Not later than April 1, 1999, the Administration shall employ outside experts to provide an independent evaluation of the effectiveness of its acquisition management system within 3 months after such date. The Administrator shall transmit a copy of the evaluation to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 652. AIR TRAFFIC CONTROL MODERNIZATION REVIEWS.

Chapter 401, as amended by section 402 of this Act, is amended by redesignating section 40121 as 40123, and by inserting after section 40120 the following new section:

"§40121. Air traffic control modernization reviews

"(a) REQUIRED TERMINATIONS OF ACQUISITIONS.—The Administrator of the Federal Aviation Administration (hereafter referred to in this section as the 'Administrator') shall terminate any program initiated after the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996 and funded under the Facilities and Equipment account that—

"(1) is more than 50 percent over the cost goal established for the program;

"(2) fails to achieve at least 50 percent of the performance goals established for the program; or

"(3) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program.

"(b) AUTHORIZED TERMINATIONS OF ACQUISITIONS.—The Administrator shall consider terminating, under the authority of subsection (a), any substantial acquisition that—

"(1) is more than 10 percent over the cost goal established for the program;

"(2) fails to achieve at least 90 percent of the performance goals established for the program; or

"(3) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program.

"(c) EXCEPTIONS AND REPORT.—

"(1) CONTINUANCE OF PROGRAM, ETC.—Notwithstanding subsection (a), the Administrator may continue an acquisitions program required to be terminated under subsection (a) if the Administrator determines that termination would be inconsistent with the development or operation of the national air transportation system in a safe and efficient manner.

"(2) DEPARTMENT OF DEFENSE.—The Department of Defense shall have the same exemptions from acquisition laws as are waived by the Administrator under section 348(b) of Public Law 104–50 when engaged in joint actions to improve or replenish the national air traffic control system. The Administration may acquire real property, goods, and services through the Department of Defense, or other appropriate agencies, but is bound by the acquisition laws and regulations governing those cases.

"(3) REPORT.—If the Administrator makes a determination under paragraph (1), the Administrator shall transmit a copy of the determination, together with a statement of the basis for the determination, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.".

SEC. 653. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

Chapter 401, as amended by section 652, is further amended by inserting after section 40121 the following new section:

"§40122. Federal Aviation Administration personnel management system

"(a) IN GENERAL.—

"(1) CONSULTATION AND NEGOTIATION.—In developing and making changes to the personnel management system initially implemented by the Administrator on April 1, 1996, the Administrator shall negotiate with the exclusive bargaining representatives of employees of the Administration certified under section 7111 of title 5 and consult with other employees of the Administration.

"(2) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator's proposed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to the Congress.

"(3) COST SAVINGS AND PRODUCTIVITY GOALS.—The Administration and the exclusive bargaining representatives of the employees shall use every reasonable effort to find cost savings and to increase productivity within each of the affected bargaining units.

"(4) ANNUAL BUDGET DISCUSSIONS.—The Administration and the exclusive bargaining representatives of the employees shall meet annually for the purpose of finding additional cost savings within the Administration's annual budget as it applies to each of the affected bargaining units and throughout the agency.

"(b) EXPERT EVALUATION.—On the date that is 3 years after the personnel management system is implemented, the Administration shall employ outside experts to provide an independent evaluation of the effectiveness of the system within 3 months after such date. For this purpose, the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary.

"(c) PAY RESTRICTION.—No officer or employee of the Administration may receive an annual rate of basic pay in excess of the annual rate of basic pay payable to the Administrator.

"(d) ETHICS.—The Administration shall be subject to Executive Order No. 12674 and regulations and opinions promulgated by the Office of Government Ethics, including those set forth in section 2635 of title 5 of the Code of Federal Regulations.

"(e) EMPLOYEE PROTECTIONS.—Until July 1, 1999, basic wages (including locality pay) and operational differential pay provided employees of the Administration shall not be involuntarily adversely affected by reason of the enactment of this section, except for unacceptable performance or by reason of a reduction in force or reorganization or by agreement between the Administration and the affected employees' exclusive bargaining representative.

"(f) LABOR-MANAGEMENT AGREEMENTS.—Except as otherwise provided by this title, all labor-management agreements covering employees of the Administration that are in effect on the effective date of the Air Traffic Management System Performance Improvement Act of 1996 shall remain in effect until their normal expiration date, unless the Administrator and the exclusive bargaining representative agree to the contrary.".

SEC. 654. CONFORMING AMENDMENT.

The chapter analysis for chapter 401, as amended by section 403(b) of this Act, is amended by striking the item relating to section 40120 and inserting the following new items:

"40121. Air traffic control modernization reviews.
"40122. Federal Aviation Administration personnel management system.
"40123. Relationship to other laws.".

Subtitle C—System To Fund Certain Federal Aviation Administration Functions

SEC. 671. FINDINGS.

The Congress finds the following:

(1) The Administration is recognized throughout the world as a leader in aviation safety.

(2) The Administration certifies aircraft, engines, propellers, and other manufactured parts.

(3) The Administration certifies more than 650 training schools for pilots and nonpilots, more than 4,858 repair stations, and more than 193 maintenance schools.

(4) The Administration certifies pilot examiners, who are then qualified to determine if a person has the skills necessary to become a pilot.

(5) The Administration certifies more than 6,000 medical examiners, each of whom is then qualified to medically certify the qualifications of pilots and nonpilots.

(6) The Administration certifies more than 470 airports, and provides a limited certification for another 205 airports. Other airports in the United States are also reviewed by the Administration.

(7) The Administration each year performs more than 355,000 inspections.

(8) The Administration issues more than 655,000 pilot's licenses and more than 560,000 nonpilot's licenses (including mechanics).

(9) The Administration's certification means that the product meets worldwide recognized standards of safety and reliability.

(10) The Administration's certification means aviation-related equipment and services meet world-wide recognized standards.

(11) The Administration's certification is recognized by governments and businesses throughout the world and as such may be a valuable element for any company desiring to sell aviation-related products throughout the world.

(12) The Administration's certification may constitute a valuable license, franchise, privilege or benefits for the holders.

(13) The Administration also is a major purchaser of computers, radars, and other systems needed to run the air traffic control system. The Administration's design, acceptance, commissioning, or certification of such equipment enables the private sector to market those products around the world, and as such confers a benefit on the manufacturer.

(14) The Administration provides extensive services to public use aircraft.

SEC. 672. PURPOSES.

The purposes of this title are—

(1) to provide a financial structure for the Administration so that it will be able to support the future growth in the national aviation and airport system;

(2) to review existing and alternative funding options, including incentive-based fees for services, and establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

(3) to ensure that any funding will be dedicated solely for the use of the Administration;

(4) to authorize the Administration to recover the costs of its services from those who benefit from, but do not contribute to, the national aviation system and the services provided by the Administration;

(5) to consider a fee system based on the cost or value of the services provided and other funding alternatives;

(6) to develop funding options for the Congress in order to provide for the long-term efficient and cost-effective support of the Administration and the aviation system; and

(7) to achieve a more efficient and effective Administration for the benefit of the aviation transportation industry.

SEC. 673. USER FEES FOR VARIOUS FEDERAL AVIATION ADMINISTRATION SERVICES.

(a) IN GENERAL.—Chapter 453 is amended by striking section 45301 and inserting the following new section:

"§45301. General provisions

"(a) SCHEDULE OF FEES.—The Administrator shall establish a schedule of new fees, and a collection process for such fees, for the following services provided by the Administration:

"(1) Air traffic control and related services provided to aircraft other than military and civilian aircraft of the United States government or of a foreign government that neither take off from, nor land in, the United States.

"(2) Services (other than air traffic control services) provided to a foreign government.

"(b) LIMITATIONS.—

"(1) AUTHORIZATION AND IMPACT CONSIDERATIONS.—In establishing fees under subsection (a), the Administrator—

"(A) is authorized to recover in fiscal year 1997 $100,000,000; and

"(B) shall ensure that each of the fees required by subsection (a) is directly related to the Administration's costs of providing the service rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States.

"(2) PUBLICATION; COMMENT.—The Administrator shall publish in the Federal Register an initial fee schedule and associated collection process as an interim final rule, pursuant to which public comment will be sought and a final rule issued.

"(c) USE OF EXPERTS AND CONSULTANTS.—In developing the system, the Administrator may consult with such nongovernmental experts as the Administrator may employ and the Administrator may utilize the services of experts and *consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary. Notwithstanding any other provision of law to the contrary, the Administrator may retain such experts under a contract awarded on a basis other than a competitive basis and without regard to any such provisions requiring competitive bidding or precluding sole source contract authority.".*

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 453 is amended by striking the item relating to section 45301 and inserting the following new item:

"45301. General provisions.".

(c) REPEAL.—

(1) IN GENERAL.—Section 70118 is repealed.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 is amended by striking the item relating to section 70118.

SEC. 674. INDEPENDENT ASSESSMENT AND TASK FORCE TO REVIEW EXISTING AND INNOVATIVE FUNDING MECHANISMS.

(a) INDEPENDENT ASSESSMENT.—

(1) INITIATION.—As soon as all members of the task force are appointed under subsection (b) of this section, the Administrator shall contract with an entity independent of the Administration and the Department of Transportation to conduct a complete independent assessment of the financial requirements of the Administration through the year 2002.

(2) ASSESSMENT CRITERIA.—The Administrator shall provide to the independent entity estimates of the financial requirements of the Administration for the period described in paragraph (1), using as a base the fiscal year 1997 authorization levels established by the Congress. The independent assessment shall be based on an objective analysis of agency funding needs.

(3) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including—

(A) anticipated air traffic forecasts;

(B) other workload measures;

(C) estimated productivity gains, if any, which contribute to budgetary requirements;

(D) the need for programs; and

(E) the need to provide for continued improvements in all facets of aviation safety, along with operational improvements in air traffic control.

(4) COST ALLOCATION.—The independent assessment shall also assess the costs to the Administration occasioned by the provision of services to each segment of the aviation system.

(5) DEADLINE.—The independent assessment shall be completed no later than 90 days after the contract is awarded, and shall be submitted to the task force, the Secretary, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

(b) TASK FORCE.—

(1) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Treasury, shall establish an 11-member task force, independent of the Administration and the Department of Transportation.

(2) MEMBERSHIP.—The members of the task force shall be selected from among individuals who have expertise in the aviation industry and who are able, collectively, to represent a balanced view of the issues important to general aviation, major air carriers, air cargo carriers, regional air carriers, business aviation, airports, aircraft manufacturers, the financial community, aviation industry workers, and airline passengers. At least one member of the task force shall have detailed knowledge of the congressional budgetary process.

(3) HEARINGS AND CONSULTATION.—

(A) HEARINGS.—The task force shall take such testimony and solicit and receive such comments from the public and other interested parties as it considers appropriate, shall conduct 2 public hearings after affording adequate notice to the public thereof, and is authorized to conduct such additional hearings as may be necessary.

(B) CONSULTATION.—The task force shall consult on a regular and frequent basis with the Secretary of Transportation, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

(C) FACA NOT TO APPLY.—The task force shall not be considered an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(4) DUTIES.—

(A) REPORT TO SECRETARY.—

(i) IN GENERAL.—The task force shall submit a report setting forth a comprehensive analysis of the Administration's budgetary requirements through fiscal year 2002, based upon the independent assessment under subsection (a), that analyzes alternative financing and funding means for meeting the needs of the aviation system through the year 2002. The task force shall submit a preliminary report of that analysis to the Secretary not later than 6 months after the independent assessment is completed under subsection (a). The Secretary shall provide comments on the preliminary report to the task force within 30 days after receiving it. The task force shall issue a final report of such comprehensive analysis within 30 days after receiving the Secretary's comments on its preliminary report.

(ii) CONTENTS.—The report submitted by the task force under clause (i)—

(I) shall consider the independent assessment under subsection (a);

(II) shall consider estimated cost savings, if any, resulting from the procurement and personnel reforms included in this Act or in sections 347 and 348 of Public Law 104–50, and additional financial initiatives;

(III) shall include specific recommendations to the Congress on how the Administration can reduce costs, raise additional revenue for the support of agency operations, and accelerate modernization efforts; and

(IV) shall include a draft bill containing the changes in law necessary to implement its recommendations.

(B) RECOMMENDATIONS.—The task force shall make such recommendations under subparagraph (A)(III) as the task force deems appropriate. Those recommendations may include—

(i) alternative financing and funding proposals, including linked financing proposals;

(ii) modifications to existing levels of Airport and Airways Trust Fund receipts and taxes for each type of tax;

(iii) establishment of a cost-based user fee system based on, but not limited to, criteria under subparagraph (F) and methods to ensure that costs are borne by users on a fair and equitable basis;

(iv) methods to ensure that funds collected from the aviation community are able to meet the needs of the agency;

(v) methods to ensure that funds collected from the aviation community and passengers are used to support the aviation system;

(vi) means of meeting the airport infrastructure needs for large, medium, and small airports; and

(vii) any other matter the task force deems appropriate to address the funding and needs of the Administration and the aviation system.

(C) ADDITIONAL RECOMMENDATIONS.—The task force report may also make recommendations concerning—

(i) means of improving productivity by expanding and accelerating the use of automation and other technology;

(ii) means of contracting out services consistent with this Act, other applicable law, and safety and national defense needs;

(iii) methods to accelerate air traffic control modernization and improvements in aviation safety and safety services;

(iv) the elimination of unneeded programs; and

(v) a limited innovative program based on funding mechanisms such as loan guarantees, financial partnerships with for-profit private sector entities, government-sponsored enterprises, and revolving loan funds, as a means of funding specific facilities and equipment projects, and to provide limited additional funding alternatives for airport capacity development.

(D) IMPACT ASSESSMENT FOR RECOMMENDATIONS.—For each recommendation contained in the task force's report, the report shall include a full analysis and assessment of the impact implementation of the recommendation would have on—

(i) safety;

(ii) administrative costs;

(iii) the congressional budget process;

(iv) the economics of the industry (including the proportionate share of all users);

(v) the ability of the Administration to utilize the sums collected; and

(vi) the funding needs of the Administration.

(E) TRUST FUND TAX RECOMMENDATIONS.—If the task force's report includes a recommendation that the existing Airport and Airways Trust Fund tax structure be modified, the report shall—

(i) state the specific rates for each group affected by the proposed modifications;

(ii) consider the impact such modifications shall have on specific users and the public (including passengers); and

(iii) state the basis for the recommendations.

(F) FEE SYSTEM RECOMMENDATIONS.—If the task force's report includes a recommendation that a fee system be established, including an air traffic control performance-based user fee system, the report shall consider—

(i) the impact such a recommendation would have on passengers, air fares (including low-fare, high frequency service), service, and competition;

(ii) existing contributions provided by individual air carriers toward funding the Administration and the air traffic control system through contributions to the Airport and Airways Trust Fund;

(iii) continuing the promotion of fair and competitive practices;

(iv) the unique circumstances associated with interisland air carrier service in Hawaii and rural air service in Alaska;

(v) the impact such a recommendation would have on service to small communities;

(vi) the impact such a recommendation would have on services provided by regional air carriers;

(vii) alternative methodologies for calculating fees so as to achieve a fair and reasonable distribution of costs of service among users;

(viii) the usefulness of phased-in approaches to implementing such a financing system;

(ix) means of assuring the provision of general fund contributions, as appropriate, toward the support of the Administration; and

(x) the provision of incentives to encourage greater efficiency in the provision of air traffic services by the Administration and greater efficiency in the use of air traffic services by aircraft operators.

(G) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the task force appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5, United States Code (commonly known as the 'Freedom of Information Act') cost data associated with the acquisition and operation of air traffic service systems. Any member of the task force who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, United States Code, pertaining to unauthorized disclosure of such information.

(H) TRAVEL AND PER DIEM.—Each member of the task force shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5, United States Code.

(I) DETAIL OF PERSONNEL FROM THE ADMINISTRATION.—The Administrator shall make available to the task force such staff, information, and administrative services and assistance as may reasonably be required to enable the task force to carry out its responsibilities under this subsection.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(c) REPORT BY SECRETARY TO CONGRESS.—

(1) CONSIDERATION OF TASK FORCE'S PRELIMINARY REPORT.—Within 30 days after receiving the preliminary report of the task force under subsection (b), the Secretary, in consultation with the Secretary of the Treasury, shall furnish comments on that report to the task force.

(2) SECRETARY'S REPORT TO CONGRESS.—Within 30 days after receiving the final report of the task force and in no event more than 1 year after the date of enactment of this Act, the Secretary, after consulting the Secretary of the Treasury, shall submit a report, based upon the final report of the task force, containing the Secretary's recommendations for funding the needs of the aviation system through the year 2002 to the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate and the Committee on Transportation and Infrastructure and the Committee on Ways and means of the House of Representatives.

(3) CONTENTS.—The Secretary shall include in his report to the Congress under paragraph (2)—

(A) a copy of the final report of the task force; and

(B) a draft bill containing the changes in law necessary to implement the Secretary's recommendations.

(4) PUBLICATION.—The Secretary shall cause a copy of the reports to be printed in the Federal Register upon their submission to Congress.

(d) GAO AUDIT OF COST ALLOCATION.—The Comptroller General shall conduct an assessment of the manner in which costs for air traffic control services are allocated between the Administration and the Department of Defense. The Comptroller General shall report the results of the assessment, together with any recommendations the Comptroller General may have for reallocation of costs and for opportunities to increase the efficiency of air traffic control services provided by the Administration and by the Department of Defense, to the task force, the Administrator, the Secretary of Defense, the Committee on Transportation and Infrastructuree of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate not later than 120 days after the date of enactment of this Act.

SEC. 675. PROCEDURE FOR CONSIDERATION OF CERTAIN FUNDING PROPOSALS.

(a) IN GENERAL.—Chapter 481 is amended by adding at the end thereof the following:

"§48111. Funding proposals

"(a) INTRODUCTION AND REFERRAL.—Within 15 days (not counting any day on which either House is not in session) after a funding proposal is submitted to the House of Representatives and the Senate by the Secretary of Transportation under section 674(c) of the Air Traffic Management System Performance Improvement Act of 1996, an implementing bill with respect to such funding proposal shall be introduced in the House by the Majority Leader of the House, for himself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House; and shall be introduced in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. The implementing bill shall be referred by the Presiding Officers of the respective Houses to the appropriate committee, or, in the case of a bill containing provisions within the jurisdiction of two or more committees, jointly to such committees for consideration of those provisions within their respective jurisdictions.

"(b) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

"(1) REFERRAL AND REPORTING.—Any committee of the House of Representatives to which an implementing bill is referred shall report it, with or without recommendation, not later than the 45th calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

"(2) CONSIDERATION OF IMPLEMENTING BILL.—After an implementing bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the bill is in order except an amendment that is relevant to aviation funding and the Federal Aviation Administration. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

"(3) APPEALS OF RULINGS.—Appeals from decision of the Chair regarding application of the rules of the House of Representatives to the procedure relating to an implementing bill shall be decided without debate.

"(4) CONSIDERATION OF MORE THAN ONE IMPLEMENTING BILL.—It shall not be in order to consider under this subsection more than one implementing bill under this section, except for consideration of a similar Senate bill (unless the House has already rejected an implementing bill) or more than one motion to discharge described in paragraph (1) with respect to an implementing bill.

"(c) CONSIDERATION IN THE SENATE.—An implementing bill introduced in the Senate shall be referred to the Committee on Commerce, Science, and Transportation. The Committee on Commerce, Science, and Transportation shall report the bill with its recommendations within 60 days following the date of introduction of that bill. Upon the reporting of the bill by the Committee on Commerce, Science, and Transportation, the reported bill shall be referred sequentially to the Committee on Finance for a period of 60 legislative days.

"(d) CONSIDERATION IN CONFERENCE.—

"(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to an implementing bill passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

"(2) HOUSE CONSIDERATION.—Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to an implementing bill if such report has been available for one calendar day (excluding Saturdays, Sundays, and legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.

"(3) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on an implementing bill shall be limited to not more than 4 hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

"(e) DEFINITIONS.—For purposes of this section—

"(1) IMPLEMENTING BILL.—The term 'implementing bill' means only a bill of either House of Congress which is introduced as provided in subsection (a) with respect to one or more Federal Aviation Administration funding proposals which contain changes in existing laws or new statutory authority required to implement such funding proposal or proposals.

"(2) FUNDING PROPOSAL.—The term 'funding proposal' means a proposal to provide interim or permanent funding for operations of the Federal Aviation Administration.

"(f) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by the Congress—

"(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be

followed in that House in the case of implementing bills described in subsection (d); and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 481 is amended by adding at the end thereof the following:

"48111. Funding proposals.".

SEC. 676. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—Chapter 453, as amended by section 654 of this title, is further amended by—

(1) redesignating section 45303 as section 45304; and

(2) by inserting after section 45302 the following:

"§45303. Administrative provisions

"(a) IN GENERAL.—

"(1) FEES PAYABLE TO ADMINISTRATOR.—All fees imposed and amounts collected under this chapter for services performed, or materials furnished, by the Federal Aviation Administration (hereafter in this section referred to as the 'Administration') are payable to the Administrator.

"(2) REFUNDS.—The Administrator may refund any fee paid by mistake or any amount paid in excess of that required.

"(3) RECEIPTS CREDITED TO ACCOUNT.—Notwithstanding section 3302 of title 31 all fees and amounts collected by the Administration, except insurance premiums and other fees charged for the provision of insurance and deposited in the Aviation Insurance Revolving Fund and interest earned on investments of such Fund, and except amounts which on the date of enactment of the Air Traffic Management System Performance Improvement Act of 1996 are required to be credited to the general fund of the Treasury (whether imposed under this section or not)—

"(A) shall be credited to a separate account established in the Treasury and made available for Administration activities;

"(B) shall be available immediately for expenditure but only for congressionally authorized and intended purposes; and

"(C) shall remain available until expended.

"(4) ANNUAL BUDGET REPORT BY ADMINISTRATOR.—The Administrator shall, on the same day each year as the President submits the annual budget to the Congress, provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(A) a list of fee collections by the Administration during the preceding fiscal year;

"(B) a list of activities by the Administration during the preceding fiscal year that were supported by fee expenditures and appropriations;

"(C) budget plans for significant programs, projects, and activities of the Administration, including out-year funding estimates;

"(D) any proposed disposition of surplus fees by the Administration; and

"(E) such other information as those committees consider necessary.

"(5) DEVELOPMENT OF COST ACCOUNTING SYSTEM.—The Administration shall develop a cost accounting system that adequately and accurately reflects the investments, operating and overhead costs, revenues, and other financial measurement and reporting aspects of its operations.

"(6) COMPENSATION TO CARRIERS FOR ACTING AS COLLECTION AGENTS.—The Administration shall prescribe regulations to ensure that any air carrier required, pursuant to the Air Traffic Management System Performance Improvement Act of 1996 or any amendments made by that Act, to collect a fee imposed on another party by the Administrator may collect from such other party an additional uniform amount that the Administrator determines reflects the necessary and reasonable expenses (net of interest accruing to the carrier after collection and before remittance) incurred in collecting and handling the fee.

"(7) COST REDUCTION AND EFFICIENCY REPORT.—Prior to the submission of any proposal for establishment, implementation, or expansion of any fees or taxes imposed on the aviation industry, the Administrator shall prepare a report for submission to the Congress which includes—

"(A) a justification of the need for the proposed fees or taxes;

"(B) a statement of steps taken by the Administrator to reduce costs and improve efficiency within the Administration;

"(C) an analysis of the impact of any fee or tax increase on each sector of the aviation transportation industry; and

"(D) a comparative analysis of any decrease in tax amounts equal to the receipts from which are credited to the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 453 is amended by striking the item relating to section 45303 and inserting the following:

"45303. Administrative provisions.

"45304. Maximum fees for private person services.".

SEC. 677. ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FUND ACTIVITIES.

(a) IN GENERAL.—Part C of subtitle VII is amended by adding at the end the following new chapter:

"CHAPTER 482—ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FACILITIES

"Sec.

"48201. Advance appropriations.

"§48201. Advance appropriations

"(a) MULTIYEAR AUTHORIZATIONS.—Beginning with fiscal year 1998, any authorization of appropriations for an activity for which amounts are to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 shall provide funds for a period of not less than 3 fiscal years unless the activity for which appropriations are authorized is to be concluded before the end of that period.

"(b) MULTIYEAR APPROPRIATIONS.—Beginning with fiscal year 1998, amounts appropriated from the Airport and Airway Trust Fund shall be appropriated for periods of 3 fiscal years rather than annually.".

(b) CONFORMING AMENDMENT.—The analysis for subtitle VIII is amended by adding at the end the following new item:

"482. Advance appropriations for airport and airway trust facilities ....48201.".

SEC. 678. RURAL AIR SERVICE SURVIVAL ACT.

(a) SHORT TITLE.—This section may be cited as the "Rural Air Service Survival Act".

(b) FINDINGS.—The Congress finds that—

(1) air service in rural areas is essential to a national transportation network;

(2) the rural air service infrastructure supports the safe operation of all air travel;

(3) rural air service creates economic benefits for all air carriers by making the national aviation system available to passengers from rural areas;

(4) rural air service has suffered since deregulation;

(5) the essential air service program under the Department of Transportation—

(A) provides essential airline access to rural and isolated rural communities throughout the Nation;

(B) is necessary for the economic growth and development of rural communities;

(C) is a critical component of the national transportation system of the United States; and

(D) has endured serious funding cuts in recent years; and

(6) a reliable source of funding must be established to maintain air service in rural areas and the essential air service program.

(c) ESSENTIAL AIR SERVICE AUTHORIZATION.—Section 41742 is amended to read as follows:

"§41742. Essential air service authorization

"(a) IN GENERAL.—Out of the amounts received by the Administration credited to the account established under section 45303(a)(3) or otherwise provided to the Administration, the sum of $50,000,000 is authorized and shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter for each fiscal year.

"(b) FUNDING FOR SMALL COMMUNITY AIR SERVICE.—Notwithstanding any other provision of law, moneys credited to the account established under section 45303(a), including the funds derived from fees imposed under the authority contained in section 45301(a), shall be used to carry out the essential air service program under this subchapter. Notwithstanding section 47114(g) of this title, any amounts from those fees that are not obligated or expended at the end of the fiscal year for the purpose of funding the essential air service program under this subchapter shall be made available to the Administration for use in improving rural air safety under subchapter I of chapter 471 of this title and shall be used exclusively for projects at rural airports under this subchapter.".

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 is amended by striking the item relating to section 41742 and inserting the following:

"41742. Essential air service authorization.".

(e) SECRETARY MAY REQUIRE MATCHING LOCAL FUNDS.—Section 41737 is amended by adding at the end thereof the following:

"(e) MATCHING FUNDS.—No earlier than 2 years after the effective date of section 679 of the Air Traffic Management System Performance Improvement Act of 1996, the Secretary may require an eligible agency, as defined in section 40117(a)(2) of this title, to provide matching funds of up to 10 percent for any payments it receives under this subchapter.".

(f) TRANSFER OF ESSENTIAL AIR SERVICE PROGRAM TO FAA.—The responsibility for administration of subchapter II of chapter 417 is transferred from the Secretary of Transportation to the Administrator.

TITLE VII—PILOT RECORDS

SEC. 701. SHORT TITLE.

This title may be cited as the "Pilot Records Improvement Act of 1996".

SEC. 702. EMPLOYMENT INVESTIGATIONS OF PILOT APPLICANTS.

(a) IN GENERAL.—Section 44936 is amended by adding at the end the following new subsection:

"(f) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—

"(1) IN GENERAL.—Before hiring an individual as a pilot, an air carrier shall request and receive the following information:

"(A) FAA RECORDS.—From the Administrator of the Federal Aviation Administration (hereafter in this subsection referred to as the 'Administrator'), records pertaining to the individual that are maintained by the Administrator concerning—

"(i) current airman certificates (including airman medical certificates) and associated type *ratings, including any limitations to those certificates and ratings; and*

"(ii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not subsequently overturned.

"(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person that has employed the individual at any time during the 5-year period preceding the date of the employment application of the individual, or from the trustee in bankruptcy for such air carrier or person—

"(i) records pertaining to the individual that are maintained by an air carrier under regulations set forth in—

"(I) section 121.683 of title 14, Code of Federal Regulations;

"(II) paragraph (A) of section VI, appendix I, part 121 of such title;

"(III) paragraph (A) of section IV, appendix J, part 121 of such title;

"(IV) section 125.401 of such title; and

"(V) section 135.63(a)(4) of such title; and

"(ii) other records pertaining to the individual that are maintained by the air carrier or person concerning—

"(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

"(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

"(III) any release from employment or resignation, termination, or disqualification with respect to employment.

"(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(7), from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

"(2) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier making a request for records under paragraph (1)—

"(A) shall be required to obtain written consent to the release of those records from the individual that is the subject of the records requested; and

"(B) may, notwithstanding any other provision of law or agreement to the contrary, require the individual who is the subject of the records to request to execute a release from liability for any claim arising from the furnishing of such records to or the use of such records by such air carrier (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

"(3) 5-YEAR REPORTING PERIOD.—A person shall not furnish a record in response to a request made under paragraph (1) if the record was entered more than 5 years before the date of the request, unless the information concerns a revocation or suspension of an airman certificate or motor vehicle license that is in effect on the date of the request.

"(4) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator shall maintain pilot records described in paragraph (1)(A) for a period of at least 5 years.

"(5) RECEIPT OF CONSENT; PROVISION OF INFORMATION.—A person shall not furnish a record in response to a request made under paragraph (1) without first obtaining a copy of the written consent of the individual who is the subject of the records requested. A person who receives a request for records under this paragraph shall furnish a copy of all of such requested records maintained by the person not later than 30 days after receiving the request.

"(6) RIGHT TO RECEIVE NOTICE AND COPY OF ANY RECORD FURNISHED.—A person who receives a request for records under paragraph (1) shall provide to the individual who is the subject of the records—

"(A) written notice of the request and of the right of that individual to receive a copy of such records; and

"(B) a copy of such records, if requested by the individual.

"(7) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—A person who receives a request under paragraph (1) or (6) may establish a reasonable charge for the cost of processing the request and furnishing copies of the requested records.

"(8) STANDARD FORMS.—The Administrator shall promulgate—

"(A) standard forms that may be used by an air carrier to request records under paragraph (1); and

"(B) standard forms that may be used by an air carrier to—

"(i) obtain the written consent of the individual who is the subject of a request under paragraph (1); and

"(ii) inform the individual of—

"(I) the request; and

"(II) the individual right of that individual to receive a copy of any records furnished in response to the request.

"(9) RIGHT TO CORRECT INACCURACIES.—An air carrier that maintains or requests and receives the records of an individual under paragraph (1) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

"(10) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS.—Notwithstanding any other provision of law or agreement, an air carrier shall, upon written request from a pilot employed by such carrier, make available, within a reasonable time of the request, to the pilot for review, any and all employment records referred to in paragraph (1)(B) (i) or (ii) pertaining to the employment of the pilot.

"(11) PRIVACY PROTECTIONS.—An air carrier that receives the records of an individual under paragraph (1) may use such records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the pilot and the confidentiality of the records, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

"(12) PERIODIC REVIEW.—Not later than 18 months after the date of enactment of the Pilot Records Improvement Act of 1996, and at least once every 3 years thereafter, the Administrator shall transmit to the Congress a statement that contains, taking into account recent developments in the aviation industry—

"(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be furnished under subparagraphs (A) and (B) of paragraph (1); or

"(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

"(13) REGULATIONS.—The Administrator may prescribe such regulations as may be necessary—

"(A) to protect—

"(i) the personal privacy of any individual whose records are requested under paragraph (1); and

"(ii) the confidentiality of those records;

"(B) to preclude the further dissemination of records received under paragraph (1) by the person who requested those records; and

"(C) to ensure prompt compliance with any request made under paragraph (1).

"(g) LIMITATION ON LIABILITY; PREEMPTION OF STATE LAW.—

"(1) LIMITATION ON LIABILITY.—No action or proceeding may be brought by or on behalf of an individual who has applied for or is seeking a position with an air carrier as a pilot and who has signed a release from liability, as provided for under paragraph (2), against—

"(A) the air carrier requesting the records of that individual under subsection (a)(1);

"(B) a person who has complied with such request; or

"(C) an agent or employee of a person described in subparagraph (A) or (B);

in the nature of an action for defamation, invasion of privacy, negligence, interference with contract, or otherwise, or under any Federal or State law with respect to the furnishing or use of such records in accordance with subsection (a).

"(2) PREEMPTION.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using records in accordance with subsection (a).

"(3) PROVISION OF KNOWINGLY FALSE INFORMATION.—Paragraphs (1) and (2) shall not apply with respect to a person who furnishes information in response to a request made under subsection (f)(1), that—

"(A) the person knows is false; and

"(B) was maintained in violation of a criminal statute of the United States.".

(b) CONFORMING AMENDMENT.—Section 30305(b) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following:

"(7) An individual who is seeking employment by an air carrier as a pilot may request the chief driver licensing official of a State to provide information about the individual under paragraph (2) to the prospective employer of the individual or to the Secretary of Transportation. Information may not be obtained from the National Driver Register under this subsection if the information was entered in the Register more than 5 years before the request unless the information is about a revocation or suspension still in effect on the date of the request.".

(c) APPLICABILITY.—The amendments made by this section shall apply to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day after the date of enactment of this Act.

SEC. 703. STUDY OF MINIMUM STANDARDS FOR PILOT QUALIFICATIONS.

The Administrator shall appoint a task force consisting of appropriate representatives of the aviation industry to conduct a study directed toward the development of—

(1) standards and criteria for preemployment screening tests measuring the psychomotor coordination, general intellectual capacity, instrument and mechanical comprehension, and physical and mental fitness of an applicant for employment as a pilot by an air carrier; and

(2) standards and criteria for pilot training facilities to be licensed by the Administrator and which will assure that pilots trained at such facilities meet the preemployment screening standards and criteria described in paragraph (1).

TITLE VIII—ABOLITION OF BOARD OF REVIEW

SEC. 801. ABOLITION OF BOARD OF REVIEW AND RELATED AUTHORITY.

(a) ABOLITION OF BOARD OF REVIEW.—Section 6007 of the Metropolitan Washington Airports

Act of 1986 (formerly 49 U.S.C. App. 2456) is amended—

(1) by striking subsections (f) and (h);

(2) by redesignating subsection (g) as subsection (f); and

(3) by redesignating subsection (i) as subsection (g).

(b) CONFORMING AMENDMENTS.—

(1) RELATIONSHIP TO AND EFFECT OF OTHER LAWS.—Section 6009(b) of the Metropolitan Washington Airports Act of 1986 (formerly 49 U.S.C. App. 2458(b)) is amended by striking "or by reason of the authority" and all that follows through the end of the subsection and inserting a period.

(2) SEPARABILITY.—Section 6011 of the Metropolitan Washington Airports Act of 1986 (formerly 49 U.S.C. App. 2460) is amended by striking "Except as provided in section 6007(h), if" and inserting "If".

(c) PROTECTION OF CERTAIN ACTIONS.—Any action taken by the Airports Authority and submitted to the Board of Review pursuant to section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986 before April 1, 1995, shall remain in effect and shall not be set aside solely by reason of a judicial order invalidating certain functions of the Board.

SEC. 802. SENSE OF THE SENATE.

It is the sense of the Senate that the Airports Authority—

(1) should not provide any reserved parking areas free of charge to Members of Congress, other Government officials, or diplomats at Washington National Airport or Washington Dulles International Airport; and

(2) should establish a parking policy for such airports that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, or diplomats.

SEC. 803. CONFORMING AMENDMENTS IN OTHER LAW.

Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority to the Board of Review or the provisions of law repealed under this title is hereby repealed.

SEC. 804. DEFINITIONS.

For purposes of this title—

(1) the terms "Airports Authority", "Washington National Airport", and "Washington Dulles International Airport" have the same meanings as in section 6004 of the Metropolitan Washington Airports Act of 1986; and

(2) the term "Board of Review" means the Board of Review of the Airports Authority.

SEC. 805. INCREASE IN NUMBER OF PRESIDENTIALLY APPOINTED MEMBERS OF BOARD.

(a) IN GENERAL.—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (formerly 49 U.S.C. 2456(e)) is amended—

(1) by striking "11 members," in paragraph (1) and inserting "13 members,";

(2) by striking "one member" in paragraph (1)(D) and inserting "3 members"; and

(3) by striking "Seven" in paragraph (5) and inserting "Eight".

(b) STAGGERING TERMS FOR PRESIDENTIAL APPOINTEES.—Of the members first appointed by the President after the date of enactment of this Act—

(1) one shall be appointed for a term that expires simultaneously with the term of the member of the Metropolitan Washington Airports Authority board of directors serving on that date (or, if there is a vacancy in that office, the member appointed to fill the existing vacancy and the member to whom this paragraph applies shall be appointed for 2 years);

(2) one shall be appointed for a term ending 2 years after the term of the member (or members) to whom paragraph (1) applies expires; and

(3) one shall be appointed for a term ending 4 years after the term of the member (or members) to whom paragraph (1) applies expires.

SEC. 806. RECONSTITUTED BOARD TO FUNCTION WITHOUT INTERRUPTION.

Notwithstanding any provision of State law, including those provisions establishing, providing for the establishment of, or recognizing the Metropolitan Washington Airports Authority, and based upon the Federal interest in the continued functions of the Metropolitan Washington Airports (as defined in section 6004(4) of the Metropolitan Washington Airports Authority Act of 1986 (formerly 49 U.S.C. 2451(4)), the board of directors of such Authority, including any members appointed under the amendments made by section 805, shall continue to meet and act after the date of enactment of this Act until such time as necessary conforming changes in State law are made in the same manner as if those conforming changes had been enacted on the date of enactment of this Act.

SEC. 807. OPERATIONAL SLOTS AT NATIONAL AIRPORT.

Nothing in this title shall affect the number or distribution of operational slots at National Airport.

SEC. 808. AIRPORTS AUTHORITY SUPPORT OF BOARD.

Section 6005 of the Metropolitan Washington Airports Authority Act of 1986 (formerly 49 U.S.C. 2454) is amended by adding at the end thereof the following:

"(f) FEDERAL AGENCY OVERSIGHT.—The Airports Authority shall not be required—

"(1) to pay any person;

"(2) to provide office space or administrative support; or

"(3) to reimburse the Secretary of Transportation for expenses incurred,

for carrying out any Federal agency oversight responsibilities under this Act. Nothing in this subsection precludes the Airport Authority from providing services or expenses to any member of the Board of Directors.".

TITLE IX—AIRPORT REVENUE PROTECTION

SEC. 901. SHORT TITLE.

This title may be cited as the "Airport Revenue Protection Act of 1996".

SEC. 902. FINDINGS; PURPOSE.

(a) IN GENERAL.—The Congress finds that—

(1) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

(2) a grant recipient that uses airport revenue for purposes that are not airport related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

(3) any diversion of airport revenues in violation of the condition referred to in paragraph (1) undermines the interest of the United States in promoting a strong national air transportation system that is responsive to the needs of airport users;

(4) the Secretary and the Administrator have not enforced airport revenue diversion rules adequately and must have additional regulatory tools to increase enforcement efforts; and

(5) sponsors who have been found to have illegally diverted airport revenues—

(A) have not reimbursed or made restitution to airports in a timely manner; and

(B) must be encouraged to do so.

(b) PURPOSE.—The purpose of this title is to ensure that airport users are not burdened with hidden taxation for unrelated municipal services and activities by—

(1) eliminating the ability of any State or political subdivision thereof that is a recipient of a project grant to divert airport revenues for purposes that are not related to an airport, in violation of section 47107 of title 49, United States Code;

(2) imposing financial reporting requirements that are designed to identify instances of illegal diversions referred to in paragraph (1);

(3) establishing a statute of limitations for airport revenue diversion actions;

(4) clarifying limitations on revenue diversion that are permitted under chapter 471 of title 49, United States Code; and

(5) establishing clear penalties and enforcement mechanisms for identifying and prosecuting airport revenue diversion.

SEC. 903. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AIRPORT.—The term "airport" has the meaning provided that term in section 47102(2) of title 49, United States Code.

(3) PROJECT GRANT.—The term "project grant" has the meaning provided that term in section 47102(14) of title 49, United States Code.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) SPONSOR.—The term "sponsor" has the meaning provided that term in section 47102(19) of title 49, United States Code.

SEC. 904. RESTRICTION ON USE OF AIRPORT REVENUES.

(a) IN GENERAL.—Subchapter I of chapter 471, as amended by section 201(a) of this Act, is further amended by adding at the end of subchapter I the following new section:

"§47133. Restriction on use of revenues

"(a) PROHIBITION.—Local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of—

"(1) the airport;

"(2) the local airport system; or

"(3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

"(b) EXCEPTIONS.—Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

"(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.".

(b) CONFORMING AMENDMENT.—The chapter analysis for subchapter I of chapter 471 is amended by adding at the end the following new item:

"47133. Restriction on use of revenues.".

SEC. 905. REGULATIONS; AUDITS AND ACCOUNTABILITY.

(a) IN GENERAL.—Section 47107 is amended by adding at the end the following new subsections:

"(m) AUDIT CERTIFICATION.—

"(1) IN GENERAL.—The Secretary of Transportation (hereafter in this section referred to as the 'Secretary'), acting through the Administrator of the Federal Aviation Administration (hereafter in this section referred to as the 'Administrator'), shall promulgate regulations that

require a recipient of a project grant (or any other recipient of Federal financial assistance that is provided for an airport) to include as part of an annual audit conducted under sections 7501 through 7505 of title 31, a review and opinion of the review concerning the funding activities with respect to an airport that is the subject of the project grant (or other Federal financial assistance) and the sponsors, owners, or operators (or other recipients) involved.

"(2) CONTENT OF REVIEW.—A review conducted under paragraph (1) shall provide reasonable assurances that funds paid or transferred to sponsors are paid or transferred in a manner consistent with the applicable requirements of this chapter and any other applicable provision of law (including regulations promulgated by the Secretary or the Administrator).

"(3) REQUIREMENTS FOR AUDIT REPORT.—The report submitted to the Secretary under this subsection shall include a specific determination and opinion regarding the appropriateness of the disposition of airport funds paid or transferred to a sponsor.

"(n) RECOVERY OF ILLEGALLY DIVERTED FUNDS.—

"(1) IN GENERAL.—Not later than 180 days after the issuance of an audit or any other report that identifies an illegal diversion of airport revenues (as determined under subsections (b) and (l) and section 47133), the Secretary, acting through the Administrator, shall—

"(A) review the audit or report;

"(B) perform appropriate factfinding; and

"(C) conduct a hearing and render a final determination concerning whether the illegal diversion of airport revenues asserted in the audit or report occurred.

"(2) NOTIFICATION.—Upon making such a finding, the Secretary, acting through the Administrator, shall provide written notification to the sponsor and the airport of—

"(A) the finding; and

"(B) the obligations of the sponsor to reimburse the airport involved under this paragraph.

"(3) ADMINISTRATIVE ACTION.—The Secretary may withhold any amount from funds that would otherwise be made available to the sponsor, including funds that would otherwise be made available to a State, municipality, or political subdivision thereof (including any multimodal transportation agency or transit authority of which the sponsor is a member entity) as part of an apportionment or grant made available pursuant to this title, if the sponsor—

"(A) receives notification that the sponsor is required to reimburse an airport; and

"(B) has had an opportunity to reimburse the airport, but has failed to do so.

"(4) CIVIL ACTION.—If a sponsor fails to pay an amount specified under paragraph (3) during the 180-day period beginning on the date of notification and the Secretary is unable to withhold a sufficient amount under paragraph (3), the Secretary, acting through the Administrator, may initiate a civil action under which the sponsor shall be liable for civil penalty in an amount equal to the illegal diversion in question plus interest (as determined under subsection (o)).

"(5) DISPOSITION OF PENALTIES.—

"(A) AMOUNTS WITHHELD.—The Secretary or the Administrator shall transfer any amounts withheld under paragraph (3) to the Airport and Airway Trust Fund.

"(B) CIVIL PENALTIES.—With respect to any amount collected by a court in a civil action under paragraph (4), the court shall cause to be transferred to the Airport and Airway Trust Fund any amount collected as a civil penalty under paragraph (4).

"(6) REIMBURSEMENT.—The Secretary, acting through the Administrator, shall, as soon as practicable after any amount is collected from a sponsor under paragraph (4), cause to be transferred from the Airport and Airway Trust Fund to an airport affected by a diversion that is the subject of a civil action under paragraph (4), reimbursement in an amount equal to the amount that has been collected from the sponsor under paragraph (4) (including any amount of interest calculated under subsection (o)).

"(7) STATUTE OF LIMITATIONS.—No person may bring an action for the recovery of funds illegally diverted in violation of this section (as determined under subsections (b) and (l)) or section 47133 after the date that is 6 years after the date on which the diversion occurred.

"(o) INTEREST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, acting through the Administrator, shall charge a minimum annual rate of interest on the amount of any illegal diversion of revenues referred to in subsection (n) in an amount equal to the average investment interest rate for tax and loan accounts of the Department of the Treasury (as determined by the Secretary of the Treasury) for the applicable calendar year, rounded to the nearest whole percentage point.

"(2) ADJUSTMENT OF INTEREST RATES.—If, with respect to a calendar quarter, the average investment interest rate for tax and loan accounts of the Department of the Treasury exceeds the average investment interest rate for the immediately preceding calendar quarter, rounded to the nearest whole percentage point, the Secretary of the Treasury may adjust the interest rate charged under this subsection in a manner that reflects that change.

"(3) ACCRUAL.—Interest assessed under subsection (n) shall accrue from the date of the actual illegal diversion of revenues referred to in subsection (n).

"(4) DETERMINATION OF APPLICABLE RATE.—The applicable rate of interest charged under paragraph (1) shall—

"(A) be the rate in effect on the date on which interest begins to accrue under paragraph (3); and

"(B) remain at a rate fixed under subparagraph (A) during the duration of the indebtedness.

"(p) PAYMENT BY AIRPORT TO SPONSOR.—If, in the course of an audit or other review conducted under this section, the Secretary or the Administrator determines that an airport owes a sponsor funds as a result of activities conducted by the sponsor or expenditures by the sponsor for the benefit of the airport, interest on that amount shall be determined in the same manner as provided in paragraphs (1) through (4) of subsection (o), except that the amount of any interest assessed under this subsection shall be determined from the date on which the Secretary or the Administrator makes that determination.".

(b) REVISION OF POLICIES AND PROCEDURES; DEADLINES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, acting through the Administrator, shall revise the policies and procedures established under section 47107(l) of title 49, United States Code, to take into account the amendments made to that section by this title.

(2) STATUTE OF LIMITATIONS.—Section 47107(l) is amended by adding at the end the following new paragraph:

"(5) STATUTE OF LIMITATIONS.—In addition to the statute of limitations specified in subsection (n)(7), with respect to project grants made under this chapter—

"(A) any request by a sponsor to any airport for additional payments for services conducted off of the airport or for reimbursement for capital contributions or operating expenses shall be filed not later than 6 years after the date on which the expense is incurred; and

"(B) any amount of airport funds that are used to make a payment or reimbursement as described in subparagraph (A) after the date specified in that subparagraph shall be considered to be an illegal diversion of airport revenues that is subject to subsection (n).".

SEC. 906. CONFORMING AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Section 9502 of the Internal Revenue Code of 1986 is amended—

(1) by striking "and" at the end of subsection (b)(3);

(2) by striking the period at the end of subsection (b)(4) and inserting ", and"; and

(3) by adding at the end of subsection (b) the following:

"(5) amounts determined by the Secretary of the Treasury to be equivalent to the amounts of civil penalties collected under section 47107(n) of title 49, United States Code."; and

(4) in subsection (d), by adding at the end of subsection (d) the following:

"(4) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN AIRPORTS.—The Secretary of the Treasury may transfer from the Airport and Airway Trust Fund to the Secretary of Transportation or the Administrator of the Federal Aviation Administration an amount to make a payment to an airport affected by a diversion that is the subject of an administrative action under paragraph (3) or a civil action under paragraph (4) of section 47107(n) of title 49, United States Code.".

TITLE X—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. 1001. EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.

Section 9502(d)(1) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended by—

(1) striking "1996" and inserting "1997"; and

(2) inserting "or the Federal Aviation Reauthorization Act of 1996" after "Administration Authorization Act of 1994".

Mr. LOTT. I move to reconsider the vote.

Mrs. FEINSTEIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Was that motion to reconsider laid on the table?

The PRESIDING OFFICER. It was.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The distinguished Senate majority leader.

Mr. LOTT. Thank you, Madam President. I ask unanimous consent that the Senate insist on its amendment to H.R. 3539, that the Senate request a conference with the House on the disagreeing votes, and the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Madam President, for the information of all of our colleagues, we are awaiting receipt of the Transportation appropriations conference report. We expect to have it here momentarily, hopefully in 10 minutes or so. We would then ask consent to take up that Transportation conference report and proceed to its conclusion.

Following that, then we would go to the Magnuson fisheries bill. I know that the Senators from Massachusetts and Alaska and the two from Washington are interested in that. It is our intent to go to Magnuson as soon as we complete action on the Transportation appropriations conference report. In view of that, while we await the receipt momentarily of the Transportation conference report, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Madam President, I ask that I be allowed to speak as in morning business.

Mr. LOTT. I do reserve objection just to make this point. How long?

Mr. BINGAMAN. Eight minutes I was planning to speak.

MORNING BUSINESS

Mr. LOTT. Madam President, at this point I ask unanimous consent that there be a period of morning business for 15 minutes. Would that be all right?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BINGAMAN. I thank the Chair, Madam President.

EDUCATION IN AMERICA

Mr. BINGAMAN. Madam President, I want to speak for a few minutes on the issue of education funding, which is of vital importance to most Americans and certainly is to the people in my State.

First of all, I think we need to put the issue into context. When I go around my State of New Mexico, I talk to people at townhall meetings and I ask, what percentage of the Federal budget do you believe is committed to improving education? Usually I start by saying, "How many of you think 15 percent of the Federal budget is committed to education?" Quite a few hands go up in the audience. Then I say, "How about 10 percent?" and even more hands go up. I say, "Five percent?" and not that many hands. So the consensus in my State is that perhaps we are spending about 10 percent of our Federal budget on education.

Madam President, the truth is, we are spending 1.4 percent, less than 2 percent, of our Federal budget on education. It is in this context that we need to consider the proposals which have come forward in this Congress to actually cut back on Federal support for education.

At the same time, as baby boomers' children enter the schools, as enrollment grows in my State, as it is growing in many States around this country, we are seeing Federal support for education dropping in absolute terms.

I had a chance to visit Las Cruces, NM, with a group of experts on education who were looking at the problem of Hispanic students who are dropping out of our schools in very large numbers in my State and throughout the country. We were having lunch in a restaurant, an excellent restaurant named Roberto's in Las Cruces. I recommend it to anybody. But we were having lunch there, and a woman recognized me and came over to introduce herself.

She said that she was a seventh grade teacher. She taught math in the seventh grade. So I suggested she sit down with this group of experts and talk to them about what needs she saw in education.

The first thing she raised was, "We would certainly appreciate anything that you can do to get us more money for supplies." And I said, "What do you mean, 'supplies?'" She said, "We get an allocation. I, as a seventh grade teacher, get an allocation of $50 a year for supplies for my entire class, and that includes the cost of copying materials that I want to pass out to my students. So we wind up either with me not providing the materials or with me paying for it out of my pocket or having bake sales or depending upon charity of some kind to cover this cost."

Madam President, it is in that context that we are talking about cutting funds for education here at the national level. It is also in the context of a defense bill which is pending or will be pending soon here in the Senate that goes $9.4 billion over what the Pentagon requested this year.

So we are cutting back on education funds and adding over $9 billion to what the Defense Department requested, and I think the American people believe that our priorities are out of whack. The priorities of this Congress are not the priorities of the American people. The American people would like us to spend more than 1.4 percent of the Federal budget on education.

I also want to say that this issue about whether the Federal Government should help or whether it is none of the Federal Government's business is really an inside-the-beltway kind of an issue, as far as I can tell. When I go home and talk to teachers and parents, they are not particularly concerned about which level of government is providing the support. What they want is to see the local school district and the State and the Federal Government working together to solve the real problems of providing quality education.

This is a real issue here. Today, as I understand it, some Members on the House side announced yet another proposal to repeal Goals 2000. They did so by making a statement about how this is a first step toward eliminating Federal involvement in education. Madam President, this is not the burning issue, this issue of eliminating Federal involvement. It is not the burning issue in my State. The issue is how do we get the resources and the support to educate our children in the way we believe they should be educated.

In a State like mine, which is growing, student enrollment is also growing. It is estimated by the year 2002 we will have 20,000 additional students in my State. These are students who we are not presently planning funding to support.

We need technology in our schools. I think everybody here, the Presiding Officer, has been a leader in trying to assist schools in obtaining technology to improve education.

We need to put our money where our mouth is on this issue of technology for education, and begin here at the Federal level to support local school districts and States in their efforts to obtain technology and upgrade the quality of education through the use of technology.

We simply have to do more than the House has proposed to do. In my view, I am encouraged that there have been negotiations. I am encouraged there seems to be a bipartisan consensus to restore funds to a previous level in most areas. Frankly, Madam President, I believe we need to do better than this bipartisan discussion seems to be taking us.

As I understand it, the majority leader has an amendment he will offer in this area. It should be praised in several respects. It is strong in such areas as special education grants to the States and title I funding and several smaller student aid programs. However, as I understand the amendment, it would be at a level of $2.3 billion, which is still substantially less than the $3.1 billion that Senator HARKIN would propose in his alternative amendment. By cutting away at some of those funds that Senator HARKIN would provide, it keeps us from addressing some key areas.

In particular, as I understand it, the Lott amendment provides no additional funds for key programs such as the Goals 2000 Program, for bilingual education, for school-to-work, for teacher training, for the TRIO Program, nor does the Lott amendment provide $68 million in additional funds the Department needs to continue its very successful direct lending program. This amendment also fails to increase education technology programs to the same extent that the Harkin amendment would. In addition, the Lott amendment would appear to not include any additional funding for Head Start or job training programs.

As I understand the Harkin amendment, in contrast, it increases spending levels for key programs well beyond the previous year's level in the committee bill or in the Lott amendment.

There is $136 million more for Goals 2000, $77 million for bilingual and immigrant education, $227 million more for education technology programs. Clearly, those are very important to us as we approach the new century.

Cutting, freezing, or even reluctantly supporting minor increases in education funding is simply the wrong way to go, in my opinion. We need some restructuring in our schools. All of the problems in our schools cannot be solved by additional resources. That is clear. We need smaller schools. We need better trained teachers. We need to have classrooms that are better equipped. Clearly, funding is part of the solution. Just as funding is part of the solution to improving and modernizing our defense capability, adequate resources are part of the solution to improving and upgrading the quality of education for our students.

I hope very much, Madam President, before the Congress adjourns, we can get a chance here on the floor of the Senate to vote for a level of funding which is equal to what the President requested in education. I do not think his request was in any way excessive. It still keeps us at about 1.5 percent of the official budget. It is a very modest increase by any measure. I believe that is consistent with what the American people would like to see in the area of education.

I hope, very much, that we will have a chance to vote on that level which is represented by the Harkin amendment. I urge my colleagues to support that. I know it is consistent with the people I speak to in my home State. I believe it is consistent with the majority view throughout this country.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1997—CONFERENCE REPORT

Mr. LOTT. Madam President, I submit a report of the committee of conference on H.R. 3675 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3675) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 16, 1996.)

Mr. LOTT. Madam President, I understand the managers of the legislation are on their way here. The Senator from New Jersey will be here momentarily. We will proceed at that time.

For now, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

MEASURE RETURNED TO THE CALENDAR—S. 1994

Mr. HATFIELD. Mr. President, I ask unanimous consent that S. 1994 be returned to the calendar.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATFIELD. Mr. President, I understand the conference report on the Transportation Subcommittee of the Appropriations Committee is now before us.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. I move that the Senate adopt the conference report.

Mr. President, I withhold making that motion at this time.

Mr. President, we are here to present the conference report, myself and Senator FRANK LAUTENBERG, representing the State of New Jersey and the ranking member of the Transportation Subcommittee of the Appropriations Committee. We have enjoyed a marvelous working relationship, and I take another opportunity to thank Senator LAUTENBERG for his fine support. His contribution has been great. We have had not only a wonderful working relationship, but we enjoy a deep personal friendship as well, by which I am blessed.

Also, at this time I would like to comment that Anne Miano of my staff took on this role as being the chief clerk of the Transportation Subcommittee really kind of in the winding down days of the Senate, showing her great capacity to move into the No. 1 slot upon the retirement of Pat McCann, who had held that position for many years. I thank her especially for her efficiency and her quick comprehension of all the details which she now has performed so well as the chief clerk for the majority on this subcommittee.

Peter Rogoff is also a very fundamental part of our operation. As I have said frequently and I say again, Mr. President, the relationship that exists between the minority and the majority—and I have been in both—is that we hardly know a distinction, at the staff level especially, and he has filled in, provided me with information as well as Senator LAUTENBERG. We have no distinctions of partisanship, no labels that separate us. It is a marvelous kind of collaborative effort that Peter Rogoff and Anne Miano now—and before Pat McCann—enjoy.

We have now concluded our conference for the fiscal year 1997 Department of Transportation and related agencies appropriations bill, H.R. 3675. In total, this conference report contains $12 billion in new budget authority for transportation programs and projects and $35 billion in outlays.

The conference report includes funds to continue the vital air traffic control operations for the Federal Aviation Administration, the search and rescue activities of the U.S. Coast Guard, as well as many other critical functions of the department. In addition, it will provide billions of dollars for needed infrastructure projects across the Nation.

I am particularly pleased to point out that this report includes $150 million for State infrastructure banks programs. This program will permit interested States to use innovative financing to stretch their transportation dollars and maximize the Federal investment in transportation. Ten States are already in the program and this appropriation will allow even more States to participate. I believe that the SIB's Program will become increasingly important in the years ahead as States work to find modern financing tools to help improve their State's transportation networks.

The Essential Air Service has been funded at $25.9 million, the Senate-passed level for this Program. I have heard from many Senators in support of the EAS Program. They have told me that without the EAS program, people in communities dependent on EAS service would find themselves isolated and be forced to drive long distances to reach their destinations. I am pleased that we were able to increase the funds for this program, which had received only $10 million in the House-passed bill. In other words, we are now more than 2½ times that House figure.

The conference report includes an increase for FAA operations of $254.3 million above the fiscal year 1996 level. This 5-percent increase will support the hiring of 500 new air traffic controllers, 367 new aviation safety inspectors, and other regulatory oversight personnel. It also provides a 9-percent increase in funding for field maintenance of air traffic equipment.

In light of the recent TWA flight 800 tragedy, the conferees have fully funded the administration's request of $36.055 million for aviation security technology. This amount includes $27.4 million for research and development into new devices to detect explosives and weapons, and $1.3 million to harden aircraft against the effects of explosives. We have fully funded the administration's request for operational security by providing $71.9 million to fund about 780 security personnel.

The conferees included $13 million for FAA research, engineering, and development in order to improve aviation safety in hazardous weather. This amount is about $6.6 million above the administration's request for weather research and will enable FAA to place a higher priority on aviation weather safety research.

The conference report contains $1.46 billion for grants for the Airport Improvement Program [AIP]. This is an increase of $10 million above the fiscal year 1996 level and $110 million above the administration's request. I believe that these grants are very important for airports around the Nation and will do much to improve the quality of aviation service for the public.

I would also like to underscore that we have provided an obligation limitation of $18 billion for grants to States from the highway trust fund. This amount is $450 million above the fiscal year 1996 level for the Federal-aid highway program. We have rejected the administration's request to make some previously exempt highway programs part of the overall obligation ceiling and rescind $300 million of previously authorized ISTEA projects. The conferees were not able to include an amendment that was adopted on the Senate floor to address the impact of the reporting of excise tax data on the allocation of Federal-aid highway funds. This issue and other related issues will be taken up during next year's debate on reauthorizing the ISTEA Program.

A total of $760.45 million is provided for all Amtrak accounts—including the Northeast corridor—an increase of $10.45 million above the fiscal year 1996 level. This appropriation includes $115 million for the Northeast corridor, a freeze at the current level. It also includes $80 million in high-speed rail funds for Amtrak, as well as $342 million for operations, the amount requested by the administration. Amtrak capital is funded at $223.45 million, which is close to the fiscal year 1996 level of $230 million.

The conferees were mindful of Amtrak's need for more funds and added $38 million to the Transportation Subcommittee's conference allocation in order to increase Amtrak's capital account. Amtrak's long-term problems require legislative solutions that cannot be addressed by the Appropriations Committee on this bill. The conference report includes language assuring States where Amtrak has announced service cuts that they may use their CMAQ—Congestion Mitigation and Air Quality Improvement Program—funds to preserve rail service.

In addition, this conference report contains $1.9 billion for discretionary transit capital grants. This includes $380 million for bus-related projects, $760 million for new starts, and $760 million for fixed guideway modernization. The conferees also added $97 million to transit formula capital grants, and agreed to the Senate-passed level of $2.149 billion—this program includes $400 million in operating aid.

Transit helps to provide affordable, efficient, and reliable transportation to get people to work, school, and to reach needed services. Moreover, transit funds help to improve air quality, mitigate highway congestion, and provide expanded mobility for elderly and disabled persons.

I believe that the funds contained in this conference report will assist States in making their transportation systems more efficient. They also will enhance transportation safety throughout the Nation.

Mr. President, I could go on at considerable length in identifying many of these accounts. I think these that I have identified very clearly indicate what the committee's priorities have been, both from our creating the Senate bill, as well as our defense of that Senate action in the conference with the House of Representatives. I want to say, we have had excellent support from the House of Representatives in our conference. It was a very efficient conference. It did not drag on forever. I believe we had over 170 amendments that we had to deal with in conference. As I recall, at the staff level the staff had resolved over 153 of them. Then, as the principals got together prior to the formal conference, we resolved further. This was, I would say, a harmonious, effective, cooperative conference experience.

So, I really do not think we have any unresolved, vital, important issues. We have not been able to get the level of funding we would like for many of these important issues, but nevertheless I think we have covered the basic priorities of the administration, of the Senate, and of the House of Representatives.

In closing, I want to say I do not believe we can overemphasize the important and vital need of addressing our national infrastructure, whether it be by water, by highway, by rail, by air, by all the modes we have employed in transportation. Urban centers are in deep need of further assistance in the infrastructure to maintain the viability of urban centers. And rural areas, which figure so much into our overall economy, have to have, certainly, consideration as well in their special needs.

I always like to repeat a factor, here, that I think sometimes we forget. A lot of people think the infrastructure is sort of a local matter, a local interest, a local priority. Let us not forget, when the great President, and the great general, Dwight Eisenhower, out in Topeka, KS, in his administration, launched the Interstate Highway System, he launched it as an Interstate Defense Highway System. He said such a tying together by a complex infrastructure of transportation was as vital to our national security as were the armaments in our arsenal.

He also said that about his Education Defense Act, relating to moneys for education, for health, for housing, for a productive economy.

So, I hope we will see this, not as individual States, individual communities, as important as that is, but also as a national interest of high priority for the security of the Nation.

Again, it was not only President Eisenhower who gave us that lesson, but we have been reminded frequently by the Senator from West Virginia [Mr. BYRD] of the importance of maintaining our commitment to the infrastructure, as I have sat on everything from a summit with the White House settling certain budget problems, as well as having heard his admonitions on the floor of the Senate. I yield the floor at this time.

Mr. BYRD. Will the Senator yield? I do not believe Senator LAUTENBERG has spoken yet, but I want to respond to something the distinguished Senator from Oregon said.

Daniel Webster, in his reply to Hayne, in 1830, January 26, was critical of Hayne for asking a question as to why he, the Senator from South Carolina, should support a canal of importance to the State of Ohio.

And Webster said that we who represent the people of New England do not limit our patriotic feeling to geographical limits such as "rivers and mountains, and lines of latitude, beyond which public improvements do not benefit us."

But, he said, "I look upon a road over the Alleghanies"—and that struck me as being pretty significant. Daniel Webster, speaking of a road across the Alleghenies, or "a canal round the falls of the Ohio, or a . . . railway from the Atlantic to the western waters" saw these as being "an object large and extensive enough to be . . . for the common benefit." If he were to question such things, said Webster, since they are of sufficient import to be "for the common benefit," he would not be willing to face his constituents in New England.

So, long before our time, Webster and Clay—Clay was an advocate of the great American system which dealt with the banks, with tariffs, and with public investments in highways and canals and railroads, so these were early advocates of infrastructure. They looked at the importance and benefits that would accrue to the Nation, not just to a locality or community or a State. I wish that some of those critics who criticize what they call pork, which is really infrastructure, will go back and read the speeches of those great Senators—Clay and Webster.

Perhaps those of today will get a new understanding and light upon these very important subjects, and 10, 15, 20 years from today, people are going to look at the crumbling infrastructure and wonder where we have been.

When God went to the Garden of Eden looking for Adam in the cool of the evening, Adam hid from God. God said, "Adam, where art thou? Adam, where art thou?" And one day our constituents will say, "Where were you? Where were you when you failed to build infrastructure for the future?"

I have a statement commending the chairman and ranking member, but I will withhold my statement until Members have had an opportunity to respond. I just could not resist recalling the words of Webster when he spoke of the significance of building for the future, building highways, canals and railroads. I shall remember MARK HATFIELD as one who thought and believed the same way as Daniel Webster. I thank the Senator.

Mr. HATFIELD. Mr. President, I thank the Senator from West Virginia. His eloquence is always very commending. But I couldn't help but reflect when he goes back to Daniel Webster, that this bill has been crafted across this aisle, between Democrats and Republicans. But if we lived in that period of time, I am convinced all three of us would have been Whigs, because we have to attribute to the Whig Party, even though we sort of fluff it off as an insignificant part of our great history, that it was the Whig Party that held fast in the words of Daniel Webster and Henry Clay and others that building a national infrastructure was of the utmost priority. It was the Democrats who took issue with them on that subject, and is an interesting way of how our political labels and our political philosophies tend to evolve and flow. But I have no doubt that on this issue, the three of us would have been of one party.

Mr. BYRD. We're Whigs at heart. We're Whigs at heart.

Mr. HATFIELD. I yield to my colleague at this time for his opening remarks.

Mr. LAUTENBERG. Thank you very much, Mr. President.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, obviously, as the ranking member of the Subcommittee on Transportation of Appropriations, I strongly support H.R. 3675, the Transportation appropriations bill for this coming fiscal year. The conference report was filed by the Transportation appropriations conference on September 16, just a couple of days ago. But this bill is marked by more than just dollar amounts or designated programs. This bill exhibits the extraordinary leadership of the distinguished chairman of the Appropriations Committee, the chairman of the subcommittee, as well as the very distinguished former chairman of the Appropriations Committee—two gentlemen who have left, to use the expression, a mark on this body that will endure far beyond the lives of anybody within earshot of our voices.

It has been a real privilege for me to work with these gentlemen. I came here at a rather mature status in life. I spent 30 years in the corporate world before coming to the U.S. Senate. But one of the great delights of serving here is to have the occasional respite from the tensions and the differences that are so prominent in this body of ours when we hear from people like Senator MARK HATFIELD or Senator ROBERT BYRD, who bring not only experience but wisdom to our deliberations.

Frankly, Mr. President, I have to tell you that I worry about the U.S. Senate. I worry about our governance and our congressional responsibilities when we lose contact with someone like MARK HATFIELD, who has chosen to retire, and many other fine colleagues who have also chosen to make this their last year in the U.S. Senate.

I find it to be a very depressing prospect, because so much experience and so much knowledge will leave the floor of this U.S. Senate, and I hope those of us who are left to carry on for however long that is, can learn from the examples set by Senator MARK HATFIELD and by Senator ROBERT BYRD.

Senator BYRD is going to stay with us and he is going to keep working, thank the Lord for that. But this bill is uniquely marked by the fact that it is the last transportation bill that Senator MARK HATFIELD is going to manage. His is a very special legacy. He will be remembered for his spirit, his integrity, for his character, for his intelligence, and for his friendship. I will sorely miss him. I don't want this to turn into a eulogy, Mr. President, but I couldn't let this bill be considered without noting the unique contribution made to our country in these transportation programs by Senator HATFIELD.

Given the funding limitations we face in this year's appropriations process, I think this conference agreement does a very good job. It addresses numerous and sometimes competing transportation needs throughout the country.

There is no question that the conference agreement before us represents a much more balanced approach than did the House-passed bill. The conference agreement goes a long way toward addressing the priorities of Members. Moreover, the conference agreement also addresses many of the priorities of the administration.

As such, the President has indicated that he will sign this bill when he receives it. I almost want to say "hallelujah," because it gives us added reason to get it over there.

As is the case with all appropriations conferences, I cannot say that the Senate position ruled the day on all contentious matters addressed by the conferees. Indeed, I am disappointed with several individual issues contained in the conference report. However, by no means is it the fault of our distinguished chairman. After hours of tough negotiation, matters were necessarily resolved in a fashion that would ensure the passage of the separate and independent transportation bill, again, that will gain the President's signature and avoid getting caught up in the quagmire of a continuing resolution.

One result that I find to be exceedingly disappointing is the action by the conferees in rejecting an amendment that I offered to ensure that no State endures a cut in its annual highway funding from the huge Federal-Aid Highway Program.

The conference agreement before us calls for the overall obligation ceiling for the major highway formula program for the Nation to increase to a record-high level of $18 billion. This level is a full $450 million higher than the current year's level, $450 million higher than the House-passed level, and $350 million higher than the original Senate-passed bill.

I have always—and again I join with the other Whigs here—I have always supported increased infrastructure spending, especially in the highway area. I was shocked, however, to find that under formulas contained in the authorizing law, ISTEA, 28 States—28—will actually receive less money from the highway program in 1997 than they did in 1996. I want to restate that. At the same time as we are going to be providing an unprecedented increase in the highway formula program, a larger increase than was granted in either the House or Senate bill, a majority of the States will actually endure a cut in their highway obligation ceiling below the current year's level.

This situation stems from the formulas contained in ISTEA, Mr. President. It is a formula already established. However, I do feel that, when we provide historic funding increases to the program, States should at least be held harmless—they should be guaranteed at least what they received for the preceding year.

Mr. President, I ask unanimous consent that a table be printed in the RECORD which displays each State's highway obligation ceiling at the current funding level opposite the level they can expect to receive in fiscal year 1997.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF ESTIMATED FY 1997 OBLIGATION LIMITATION

[Dollars in thousands]

State	Fiscal year 1996 actual	Conference	Percent	Dollar loss/gain
Alabama	270,610	329,746	122	59,136
Alaska	203,994	182,075	89	(21,919)
Arizona	196,433	244,013	124	47,580
Arkansas	175,359	205,117	117	29,758
California	1,406,489	1,528,545	109	122,056
Colorado	199,342	198,171	99	(1,171)
Connecticut	353,689	316,202	89	(37,487)
Delaware	77,484	69,282	89	(8,202)
Dist. of Col	78,920	73,582	93	(5,338)
Florida	598,880	711,991	119	113,111
Georgia	403,493	526,148	130	122,655
Hawaii	121,729	108,983	90	(12,746)
Idaho	105,691	98,510	93	(7,181)
Illinois	660,503	589,620	89	(70,883)
Indiana	341,554	390,495	114	48,941
Iowa	197,960	177,316	90	(20,644)
Kansas	205,052	183,204	89	(21,848)
Kentucky	225,745	286,319	127	60,574
Louisiana	235,699	265,287	113	29,588
Maine	91,559	84,182	82	(7,377)
Maryland	265,587	262,322	99	(3,265)
Massachusetts	690,634	617,631	89	(73,103)
Michigan	467,061	491,589	105	24,528
Minnesota	252,289	219,855	87	(32,434)
Mississipi	183,481	203,112	111	19,631
Missouri	356,657	402,267	113	45,610
Montana	154,849	133,659	86	(21,190)
Nebraska	139,084	124,262	89	(14,822)
Nevada	104,575	105,029	100	454
New Hampshire	85,554	76,434	89	(9,120)
New Jersey	478,929	434,884	91	(44,045)
New Mexico	169,082	149,360	88	(19,722)
New York	1,044,890	933,790	89	(111,100)
North Carolina	399,218	446,693	112	47,475
North Dakota	102,064	91,086	89	(10,978)
Ohio	594,508	575,591	97	(18,917)
Oklahoma	227,795	258,883	114	31,088
Oregon	202,782	204,437	101	1,655
Pennsylvania	660,889	671,171	102	10,282
Rhode Island	85,850	71,582	83	(14,268)
South Carolina	211,129	263,985	125	52,856
South Dakota	111,380	99,417	89	(11,963)
Tennessee	325,654	371,667	114	46,013
Texas	984,970	1,167,763	119	182,793
Utah	125,684	121,489	97	(4,195)
Vermont	78,511	70,155	89	(8,356)
Virginia	341,432	393,580	115	52,148
Washington	324,150	291,059	90	(33,091)
West Virginia	158,810	141,509	89	(17,301)
Wisconsin	291,760	296,896	102	5,136
Wyoming	111,281	99,388	89	(11,893)
Puerto Rico	76,122	73,648	97	(2,474)
Subtotal	15,956,846	16,432,881		
Administration	529,843	521,119		
Federal lands	416,000	426,000		
Reserve	647,311	620,000		
Total	17,550,000	18,000,000		

Mr. LAUTENBERG. As I earlier stated, I offered an amendment in the conference on this bill to implement a hold-harmless provision to ensure that, as we added a half billion dollars to the National Highway Program, no State would be cut below the current year's level. Unfortunately, my amendment was not accepted, and we are where we are.

Mr. President, this is a scenario that will serve as the backdrop as we attempt to reauthorize ISTEA in the next congressional session. More than half the States will actually see their highway funding cut as we appropriate—a historic funding increase to the National Highway Program. As we approach ISTEA reauthorization, I hope and expect that all Members will focus on these formula issues and work to restore fairness to the highway program so all States will benefit when we add substantial sums to the program.

Mr. President, Amtrak funding is a favorite subject of mine; it is a favorite subject, I know, of the chairman of the Finance Committee and of our other colleagues who recognize the value of having Amtrak, the national passenger rail service, improved, maintained and available. When it comes to Amtrak funding, the conference agreement is a vast improvement over the House-passed bill.

I am grateful to my many Senate colleagues who joined us to try to get an adjustment. I am disappointed, however, that the funding for Amtrak's Northeast Corridor Improvement Program—that is the corridor that runs from Washington up through Boston —will be funded at $115 million, which is well below the President's request.

Mr. President, the key to Amtrak's future is the expeditious completion of the major infrastructure improvements that have begun in the Northeast corridor. If these things are forced to drag out, costs go up, changes come in, and as we all know, sometimes even political influences begin to change the course of events.

Amtrak's own studies indicate that all—and I emphasize all—of the increased revenue that Amtrak can hope to capture in the near-term will come from the Northeast corridor. That is where the traffic is, the largest share of the population that is served by the railroad.

In recent months we have heard the usual arguments from Members of Congress that Amtrak must become self-sufficient. Now many of the Members who have advocated substantial cuts in the railroad's operating subsidy are bemoaning the fact that they are going to lose Amtrak service. The conference agreement before us, they should be aware, cuts Amtrak's operating account some $50 million below Amtrak's request.

Some of these Members are now trying to find a way to restore service to their constituents. I know that Amtrak service is valuable wherever it exists, but funding cuts cannot be inflicted without pain. The solution is improving Amtrak's revenue wherever possible.

I have long believed, Mr. President, that we should have a financially healthy and adequately capitalized national railroad that serves as many areas of the country as possible. I want to support Members' efforts to maintain service throughout the country, but I also believe that my colleagues need to recognize that the key to Amtrak's self-sufficiency, the key to Amtrak having enough revenue to operate these lines throughout the Midwest and the Far West, is adequate funding for Amtrak's Northeast corridor. That is where the revenue opportunities lie. That is where the investment has to be made in order to generate the revenue to feed these less productive, less revenue-producing parts of the system.

Amtrak's president, Tom Downs, recently testified at the Senate Commerce Committee. He explained that, were it not for the recent positive financial performance of the Northeast corridor, the trains now slated for termination in the next few months would have been terminated several months ago.

The corridor carries half of all Amtrak riders, and generates well over half of Amtrak's passenger-related revenues. As I stated during the conference on the transportation bill, I expect to seek increased funding for the Northeast corridor on any legislative vehicle seeks to provide funding to Amtrak to maintain service on the lines currently slated for termination.

Finally, I want to point out where this bill sits in regard to the funding stream for the airport and airways trust fund. As many Members know, the tax-writing committees extended the ticket tax, which finances the aviation trust fund, only through December of this year. Once again, come the beginning of the year, the ticket tax will expire, leaving the trust fund without an adequate revenue stream.

The conference agreement before us assumes obligations from the aviation trust fund totaling $5.1 billion in fiscal year 1997. I am told by the FAA that, with the termination of the ticket tax this coming December, the trust fund will be between $400 and $500 million short in financing the FAA's 1997 appropriation.

I want everybody to think about that, that while there are substantial funds in there right now, they are drawn down at a rate of half a billion dollars a month. With the expiration of the ticket tax, the FAA will literally run out of money absent any further action of the tax-writing committees. The agency will either be required to cease making airport grants, terminate certain procurements, terminate some research projects, or slow down expenditures in critical operating areas, such as controller training and safety inspections.

Mr. President, these shenanigans with the aviation trust fund must come to a stop. It is not fair to the employees of the FAA, not fair to the airports, not fair to the traveling public. So I want to add my voice to those of Senator MCCAIN, Senator FORD, Senator DORGAN, and others who are insisting that some action be taken before the end of this session to make sure that the ticket tax is extended beyond the end of the year. I feel that it is critical to point out that no Senator has been more diligent in advocating appropriate action by the authorizing and tax-writing committees than our distinguished chairman of the full committee and subcommittee, Senator HATFIELD.

The conference agreement on the transportation bill was truly a bipartisan effort. Throughout the process, Chairman HATFIELD exhibited his customary openness, fair-mindedness, and delicate hand. He was, once again, the conductor of the orchestra, trying to make rhythm and good sound out of the cacophony that prevails at times during these conferences.

In those 2 years as chairman of the Transportation Subcommittee, once again, Senator HATFIELD has left his mark. He is an informed, wise, just policymaker in the transportation arena. He believes deeply in the infrastructure investment that our country has to make. I agree with him. I admire his leadership and will always treasure his friendship.

The Senator from Oregon mentioned President Eisenhower and his creation of the highway system in 1952. My graduation certificate from my Columbia diploma carries President Eisenhower's signature because he was then president of Columbia. I served under his leadership in World War II. I do not think he knew I existed. I knew he existed because he came through my area one time and we scraped and cleaned and made sure everything looked right. I did join him here, but I came a long time later. It was a pleasure to have him lead our country.

Once again, Mr. President, I voice my support for the conference agreement, and thank Senator HATFIELD for his courtesy throughout his tenure as chairman of the Appropriations Committee and the Transportation Subcommittee. I also want to note the excellent job done by staff, by Peter Rogoff on my side, Anne Miano on the other side, Mike Brennan, and those staff people who worked throughout the process. We had a retirement take place in the middle of this bill, and Anne jumped into the fray, as did Peter. We are grateful to them for superb and loyal service.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I rise to express my thanks to the chairman of the Appropriations Committee for his dedicated work throughout the year in this body, his work on the Appropriations Committee, where he has always stood as a solid rock in the interest of the economy, in the interest of improving our country's infrastructure, and where he has been a dedicated servant of his State.

This will be the last appropriations bill he will manage on the floor of the Senate. I say to him I shall not forget him in the coming years. I shall remember him as one who demonstrated supreme courage, high integrity and steadfast patriotism always. I also should think of him as one who could very well have sat during the deliberations of the Constitutional Convention, which operated behind closed doors during those days, from May into September, and which, 209 years ago yesterday, completed its work.

Benjamin Franklin, according to a story, which may or may not have been apocryphal, said in response to a lady's question after the Convention had finished its work—the lady's question was, "Dr. Franklin, what have you given us?" And his answer, according to the story, was, "A republic, madam, if you can keep it." He did not say, "A democracy." He said, "A republic, madam, if you can keep it."

I think of that, and Senator HATFIELD as someone who could very well have graced the membership of that Convention, along with Benjamin Franklin, Elbridge Gerry, James Madison, Alexander Hamilton, and George Washington, who presided over the Convention.

So it was on yesterday, 209 years ago, that that conference completed its work. It was a gamble. Those who wrote the Constitution did not know, of course, what the future would be, how their work would be accepted, or how long they would be in the minds of their countrymen.

MARK HATFIELD is one who has stood steadfast in the defense of that Constitution. I remember him for many things. I will thank him again and again for the inspiration he has provided to me and to others in this body.

While I did sign the conference report to accompany this bill, the RECORD will note that I excepted myself as to the disposition of amendment No. 150, to which the distinguished Senator from New Jersey, Mr. LAUTENBERG, has referred. This amendment pertained to the Baucus amendment and the overall issues surrounding the distribution of Federal aid highway funds for the coming fiscal year. I was disappointed that the Senate receded to the House regarding the Baucus amendment, since it sought to correct an error made by the Treasury Department in calculating highway gas tax revenues.

The result of the insistence in the House conferees in not correcting the error is that my State of West Virginia will see $6 million less in Federal aid highway funding than it would have received had this genuine mistake been corrected.

Moreover, I am especially disappointed that the conferees did not accept Senator LAUTENBERG's amendment which would have ensured that no State would see a cut in Federal aid highway funding below the 1996 level. Members should take note of the fact that the conferees on the transportation bill increased the Federal aid highway formula obligation ceiling to a historically high level of $18 billion.

Now, I have been an advocate for increased infrastructure spending in our Nation especially in the area of highways. Normally, I would be here to praise the conferees' work in finding more money for highways than was contained in either the House or Senate bill. But a thorough review of the impact of the existing highway formulas on this program shows, as Senator LAUTENBERG has just stated, that only 22 States will enjoy any increase at all in highway formula funding next year. Those States will see very sizable increases of up to 25 percent, while a majority of States—28 in number—will see their funding cut below the current year's level, by anywhere from 1 percent to 17 percent. All of this takes place as the overall obligation ceiling for highways is increased 2.6 percent. I cannot support a policy of this kind, which directs all the increased funds for the highway program to 22 States and indeed reallocates funds from those other States to give more money to the 22 States. The problem that gives rise to this situation is embedded in the formulas pertaining to the highway program as contained in ISTEA.

I, perhaps, ought to do as Demosthenes did, speak with pebbles in my mouth, so that I can better be heard above the sound of the "waves of the sea."

I fully expect these issues to be revisited thoroughly during the upcoming reauthorization of that bill. Careful review of the distribution of highway obligation authority for next year indicates that the two States that will lose a larger percentage than any others are Rhode Island and Montana—precisely the two States represented by our chairman and ranking member of the Environment and Public Works Committee. As such, I am confident that Senators CHAFEE and BAUCUS will take a hard look at these formula issues and rectify this problem as we reauthorize ISTEA next year—and I hope that my voice is better by then. I apologize to the Senators for such a weak voice today. I am imposing on other Senators who are straining to hear me, I am sure. But I intend to work with the Senators to rectify this and other problems in connection with next year's ISTEA reauthorization.

Let me make clear that my upset concerning the disposition of this item should not be viewed as a reflection on the efforts made by the chairman of the Transportation Subcommittee and the chairman of the full committee, Senator HATFIELD, nor on the very capable ranking member, Senator LAUTENBERG. Senator HATFIELD has been very attentive to my transportation concerns throughout this year's process. He has been a most able and conscientious steward of the transportation budget of the Nation. I appreciate his efforts, as well as those of Senator LAUTENBERG, who has been an excellent chairman in the past and an equally excellent ranking member. I appreciate not only their efforts, but that of all the conferees on this very important transportation measure.

Mr. President, I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, first of all, I want to join my distinguished colleague from New Jersey in the very kind and gracious remarks he made about the chairman, the distinguished senior Senator from Oregon. Like him, it has been my pleasure to join with him from time to time. I have often sought his counsel. He is a leader, he is a doer, he has brought great wisdom to the Senate, and we will be poorer as an institution without him.

I say to the distinguished Senator from New Jersey, as I was listening to his remarks and I looked at these two Senators—one from West Virginia and one from Oregon—it seemed to me one of the best reasons to be against a two-term limitation, because of the expertise, knowledge, and good judgment they bring to this institution. We are indeed all richer for it.

I must rise to express my disappointment in the funding levels for Amtrak in the fiscal year 1997 Department of Transportation conference report. While the House-Senate conference committee did not reduce Amtrak funding as drastically as the House originally proposed, I am, as I already stated, very disappointed that Amtrak will not receive the full funding contained in the Senate-passed bill.

Frankly, we would not have done as well if it hadn't been for the Senate conferees. I do want to express my great appreciation to Senator HATFIELD and Senator LAUTENBERG for their leadership, for their efforts on behalf of Amtrak, and I say that the fight is not over.

Mr. President, I believe the appropriation numbers for Amtrak are, frankly, shortsighted and do not help the Nation's transportation needs. Our goal is for Amtrak to be self-sufficient, and we cannot achieve that goal without adequate funding for capital improvements. How can Amtrak be expected to provide better service and attract more riders without the needed funding to modernize?

Now, as you know, twice this year, the Senate has voted in support of providing Amtrak the capital funds needed to preserve innercity passenger rail as a critical component of our country's transportation network. On May 23, the Senate overwhelmingly approved a sense-of-the-Senate resolution supporting the creation of a capital trust fund for Amtrak. On July 30, the Senate resoundingly defeated—82–17—an attempt to cut fiscal year 1997 appropriations for Amtrak expenses to a level which would have crippled passenger rail services. But those votes of confidence from the Senate cannot balance Amtrak's books. Financial investment in the system by Congress is critical. Recently, Amtrak announced that fiscal year 1997 included cost-cutting and revenue-enhancing initiatives, designed to keep Amtrak on a course of reducing its dependence on Federal operating grants.

Amtrak is committed to the goal of totally eliminating its dependence on Federal operating grants by the year 2002. But it cannot do this without a strong source of capital funding. As my colleagues are well aware, I have been working to provide a dedicated source of capital funding for Amtrak to avoid just this sort of annual appropriation crisis, in which Amtrak's viability hangs by a thread.

My staff and Senator ROBERT BYRD's staff have been meeting in an effort to craft a proposal that would take 4.3 cents per gallon fuel tax to the highway trust fund, with one-half cent of that tax going to Amtrak for 5 years. The legislation would provide a total of $2.8 billion for Amtrak over the next 5 years. Under this proposal, for the first time ever, Amtrak would have a dedicated source of funding. New revenue for capital improvements would allow Amtrak to purchase new locomotives, to operate more efficiently, and to attract new passengers.

As my good friend, the Senator from New Jersey, pointed out, there must be Northeast corridor improvement if we are going to increase the number of passengers that utilize the system and thereby increase the revenue available to help make the railroad system self-supporting.

As a Nation I believe that we must take steps now to make sure that passenger rail service remains a viable means of transportation into the next century. The current funding levels for Amtrak will not allow this to happen.

I might add that the conference report does include my earlier proposal to allow States to use remaining dollars for Amtrak, and I believe this is a wise move.

In closing, I want to again restate my disappointment in this conference report but urge my colleagues to support Senator LAUTENBERG's and other efforts to boost Amtrak's funding for next year through an omnibus appropriations bill.

In addition, I also ask that my colleagues continue to support my efforts to give Amtrak a secure funding source for capital improvements to avoid just this sort of appropriations crisis.

In closing, I once more thank my distinguished chairman and ranking member for their efforts in this regard, and for that I am indeed grateful.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the Senator from Delaware for his kind personal remarks. I also thank him for focusing again on this vital part of our national transportation system, Amtrak.

I have to say to the Senator that I can't disagree with a word he said vis-a-vis the importance of Amtrak not only to the East and Northeast corridor specifically but throughout the whole Nation. I have to say that we lost a leg of that Amtrak due to cutbacks and reductions from Portland to Boise, the Pioneer. It was a hard pill to swallow. That affected my constituency very directly. We lost a number of other legs to the Amtrak.

But, Mr. President, I have to come back to some fundamentals here in which we operate, and to say not only have we at the Senate level—we came into the conference with $872 million for Amtrak. That is all the funding relating to Amtrak; and had to deal with the House of Representatives with $542 million. We came out with $760 million which is still $10 million more than the level of 1996.

When I say we have to look at the context in which we in the Appropriations Committee operate, we have to go back to the budget resolution. We have to go back to the proposition that there are those who think we can balance the budget by only an 18 percent baseline; namely, the nondefense discretionary programs.

Mr. President, I want to say—now from my perspective—that we will never balance the budget on that kind of a baseline. But we exempt all entitlements, we exempt all mandated spending programs, we exempt the military, or the defense programs, and then we come down to 18 percent which is the nondefense discretionary part of the budget. We say we are going to balance the budget on that. With the expansion of these others, particularly the entitlement programs, by the year 2011 or 2015—wherever you want to light on with these economic projections—we will not have a penny of money left for nondefense programs and challenging even defense programs because they will all be swallowed up by the entitlements. But, oh, we get so nervous any time we talk about touching those entitlements. When I say "entitlements," I mean including Social Security. You can say, "Well, HATFIELD, it is easy for you to say that. You are on your way out. You do not have to face the consequences." I want you to know that I voted in 1986 for an across-the-board freeze on all entitlements. I had a reelection campaign facing me in 1990.

Nevertheless, that is not the important part of it. I am making the point simply that we cut $22 billion off of Federal spending levels, and it was all in nondefense discretionary.

A lot of people talk about reducing the size of Government. It is easy to talk that. But let me tell you. It has been the appropriators that have been really at the business of reducing the size of Government, but with, of course, the assistance of the Budget Committee, and many other committees as well. But I am saying we are the executioners. And we have been put into a situation, as I have said before, of performing surgery without the benefit of anesthetics. We have to face up to these. And we shoulder the burden.

So I say that we are going to have to begin to really put this into context when we are dealing with the lesser amount for Amtrak—or the lesser amount for some other favorite program, or worthy program such as Amtrak—that what the appropriators ended up doing was the command of the reductions made by the body. And that command took place in many different forms—not just the Budget Committee or the budget resolution. I am happy to say that we have raised the level for Amtrak. Maybe it is a very small amount. But many other accounts went down 10 percent, or 15 percent, or 20 percent. Amtrak went up a fraction. But, nevertheless, we had what you might call a freeze level of Amtrak.

I want to say, too, at this point that I am very, very impressed with Tom Downs. I am a staunch supporter of Tom Downs. He has been given a tremendous task of administering Amtrak, and he has not been given the tools really to do the job or to fulfill the mission which has been set for Amtrak. The Senator from Delaware, Mr. ROTH, made that very clear—about Amtrak ultimately becoming self-supporting.

So, Mr. President, I join with the critics of this appropriations bill. But all I can say is we have done our very best under limited conditions of not only dollars but policies that surround us.

Senator BYRD brought up the Baucus amendment. I have to say again that my State was not affected that much one way or the other. But when you get into rewriting formulas, it is very, very difficult to do that without the support or the acquiescence of the authorizing committees. I have to say that we dropped that. We receded to the House because the information we had was the House authorizing committee would not consent to those formula changes proposed by the Baucus amendment. The House operates under perhaps more structure than the Senate. Being a much larger body it is incumbent that they do operate that way. I am not being critical. But the chairman of the Subcommittee on Transportation of the Appropriations Committee brings in a statement of the chairman of the House authorizing committee that he will in no way acquiesce for the appropriators to take this kind of action, that sort of freezes in the appropriators on the House side more so than it does with us because we are a smaller body and we operate a little more informally, and we communicate quickly maybe even on the floor while we are debating an authorization action that is being offered on an appropriations bill as a rider. Not so the House.

So I think there we were really in a situation where we needed a bill. We wanted a bill. We have a bill now that I am convinced the administration will sign, and we can have one less bill in the continuing resolution that we are going to face this next week. My friends, it is going to be a very, very difficult continuing resolution even with fewer bills but it certainly would be more complex with more bills.

So I am only here to say that we have done our very best under the circumstances. So it is not just a decision rendered by Senator LAUTENBERG and myself as leaders of this appropriations subcommittee. Much of the problem we are facing here responding to critics has been imposed by the body, by the Congress, through the budget resolution process, and by their orders to exclude military spending—exclude the programs of entitlements from this commitment we have to balance the budget by the year 2002 and the reductions have to take place in Government spending. I just want to put it in that context.

One last thing I want to do here today before I yield the floor. I was negligent a moment ago because I did mention Anne Miano and Peter Rogoff on their contributions as staff people. I did forget Joyce Rose because, like many people in this institution who quietly operate at staff level, in the background, we sometimes forget them, and I apologize for that. I cannot really say I have forgotten her because it was merely an oversight. She has been an integral part of our operation by which we have been able to bring this bill to the floor, and I am very grateful.

Mr. NICKLES. Mr. President, I thank the chairman of the committee, Senator HATFIELD, for his support of Oklahoma City's proposal to construct a rail trolley system in the downtown area, which includes the acquisition of additional buses and bus routes connecting various parts of the city to the downtown circulator. The transportation system is an integral component of the city's $285 million locally funded Metropolitan Area Projects [MAPS] Program. MAPS, funded through a 5-year, 1-cent city sales tax, is an aggressive project which includes the construction of an indoor sports arena, a professional baseball park, renovations of convention and civic centers, and construction of a canal system in downtown Oklahoma City. Federal funding for the transportation system is the only Federal assistance included in the MAPS program.

The conference report for fiscal year 1997 transportation appropriations includes $2 million for the Oklahoma City project. It is my understanding the committee supports the city's proposal to acquire equipment with these funds, such as buses and bus stops, which will be an integral component of the downtown transportation system. The Federal funds provided in this bill for this purpose will be matched with local funds.

Mr. HATFIELD. I applaud the city's effort and support its proposal to proceed in the manner outlined by the Senator from Oklahoma.

Mr. DOMENICI. Mr. President, I wish to speak on the conference report to the Department of Transportation and related agencies appropriations bill for fiscal year 1997.

I commend both the distinguished chairman of the Appropriations Committee, Chairman HATFIELD, and the chairman of the House Appropriations Subcommittee on Transportation, Congressman WOLF, for bringing us a balanced bill considering current budget constraints.

The conference report provides $12.6 billion in budget authority and $12.3 billion in new outlays to fund the programs of the Department of Transportation, including Federal-aid highway, mass transit, aviation, and maritime activities.

When outlays from prior-year budget authority are taken into account, the bill totals $36.1 billion in outlays.

The subcommittee is essentially at 602(b) allocation in both budget authority and outlays.

While I am pleased with many aspects of the bill, I must object to the manner in which the conference dealt with the Baucus amendment. The Senate had unanimously agreed to this important amendment during floor consideration of H.R. 3675.

The rejection of the Baucus amendment will directly lead to 31 States losing 1997 highway funding. New Mexico will lose $20 million when compared to 1996—a reduction of 12 percent.

This reduction is totally unacceptable and I will be working with my colleagues over the next few weeks to address this critical issue before the end of this congressional session.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the final bill be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TRANSPORTATION SUBCOMMITTEE SPENDING TOTALS—CONFERENCE REPORT

[Fiscal year 1997, in millions of dollars]

	Budget authority	Outlays
Defense discretionary:		
Outlays from prior-year BA and other actions completed	....	37
H.R. 3675, conference report	....	....
Scorekeeping adjustment	....	....
Subtotal defense discretionary	....	37
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed	....	23,748
H.R. 3675, conference report	11,991	11,668
Scorekeeping adjustment	....	....
Subtotal nondefense discretionary	11,991	35,416
Mandatory:		
Outlays from prior-year BA and other actions completed	....	....
H.R. 3675, conference report	....	....
Adjustment to conform mandatory programs with Budget	....	....
Resolution assumptions	605	602
Subtotal mandatory	605	602
Adjusted bill total	12,596	36,055
Senate Subcommittee 602(b) allocation:		
Defense discretionary	....	37
Nondefense discretionary	12,050	35,416
Violent crime reduction trust fund	....	....
Mandatory	605	602
Total allocation	12,655	36,055
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary	....	....
Nondefense discretionary	−59	....
Violent crime reduction trust fund	....	....
Mandatory	....	....
Total allocation	−59	....

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

HOOD RIVER, OREGON BUSES

Mr. HATFIELD. The bus and bus facilities distribution table included in the statement of managers accompanying the conference report—House Report 104–785—directs funds to Hood River, OR, for buses. However, it has lately been brought to my attention that these funds can best be used for intermodal purposes. I ask my colleague if he will agree that the notation "buses" should be interpreted by the Federal Transit Administration to include an intermodal project at Hood River?

Mr. LAUTENBERG. Yes. It is my understanding that this interpretation is acceptable to the conferees.

Mr. HATFIELD. I thank the Senator. This interpretation will enable Hood River to make the best use of these funds according to local priorities.

AMTRAK PRIVATIZATION STUDY

Mr. GORTON. Mr. President, I am pleased that the conference report on H.R. 3675, the Department of Transportation and related agencies appropriations bill for FY 1997, incorporated the Amtrak Privatization Study that was included in the Senate report.

As my colleagues know, within 1 year, the Federal Railroad Administration is to conduct a study of reforms and specific privatization options that I believe hold the potential to revitalizing intercity passenger rail service in the United States. As the sponsor of the Senate report language, I want to emphasize that this is a very important undertaking. Congress has failed to enact much-needed reforms in liability and other areas during this Congress, and Amtrak is facing numerous financial difficulties. Accordingly, Amtrak announced its intention last month to cut back routes as a means of reducing its current operating deficit. In my view, Congress must not sit by and watch Amtrak wither away.

The language included in the "Statement of Managers" refers to the Senate initiative, which permits the Federal Railroad Administration's study to include the recommendations of the Discovery Institute Inquiry on Passenger Rail Privatization of October 1995. As many may know, representatives from the Discovery Institute in Seattle, WA, have already done substantial work on passenger rail privatization. In fact, I recently met with Bruce Chapman, president of Discovery Institute, who indicated that the Discovery Institute intends to give this matter high priority. Already, Discovery has scripted plans to form a high-level Public-Private Council, which would assist in the study process, analyze various options, and make recommendations to the Federal Railroad Administrator for the final report, which is to be transmitted to Congress by August 1, 1997. Because of its continued enthusiasm regarding this issue, I would hope that the Discovery Institute is allowed to play a significant role in the Federal Railroad Administration study following its commencement later this year.

Mr. HATFIELD. Let me thank the Senator from Washington for his thoughts on this matter. I was pleased to work with Senator GORTON on this issue because I recognize the importance of passenger rail in the Pacific Northwest, and I agree with his comments.

Mr. KERRY. Mr. President, I wish to commend the leadership of my colleagues from Oregon and New Jersey, Senators HATFIELD and LAUTENBERG, for their key role in bringing this Transportation appropriations bill to this point, which should take it to a White House signature.

No bill is ever all that we might like it to be, of course, and this bill is not an exception. Among its disappointments is the fact it does not reverse the troubling course of this Congress towards disinvestment in critical areas of our infrastructure such as passenger rail. Amtrak continues to be underfunded; this bill contains $565 million for Amtrak in fiscal year 1997. This number is simply not sufficient for Amtrak to function effectively and to meet the intercity passenger rail needs of our Nation's rail passengers. We continue, for ideological and other reasons, to insist on inadequately funding Amtrak. The results are already apparent. The difficult cuts in Amtrak service with which we now struggle in central and western Massachusetts and other areas of the country are a direct result of this course. Ironically, as Amtrak is beginning to cut service and eliminate routes, Senators who often oppose Amtrak funding suddenly emerged at a hearing last week as strong proponents of intercity passenger rail service. I hope these Senators will join me next year as I continue to fight for increased funding for Amtrak and to ensure that we have a sufficiently capitalized intercity passenger rail system.

In addition, the conference report appropriates only $115 million for the Northeast Corridor Improvement Project. This is another example of the Congress failing to respond to important needs of its citizens. The Northeast corridor is where the greatest proportion of Amtrak's passengers are, and NECIP, therefore, represents the key to Amtrak's future. We cannot continue to attract riders if we do not furnish them with a first class mode of transportation. Those Members who seek to see Amtrak "whither on the vine," in the words of the Speaker of the House, are attempting to achieve this goal by short-funding NECIP. I will continue to fight in the future for sufficient funding of this important project.

Before I depart this topic, I want to express my sincere gratitude to Senator LAUTENBERG of New Jersey, who continues to be one of the best friends that Amtrak has in the Congress. I know that the Senator from New Jersey did all he could to maximize funding for Amtrak in the coming year, and I look forward to working with my friend next year as we continue to fight for Amtrak and our Nation's rail passengers.

Senator LAUTENBERG also sought through this bill to ameliorate the effects of a formula alteration affecting highway funding under the Intermodal Surface Transportation Efficiency Act—or ISTEA. His efforts would have been helpful to Massachusetts and 27 other States who are losers under that alteration. I regret his proposal for a temporary hold harmless was rejected. The result is that this important funding distribution issue will have to be confronted next year when ISTEA reauthorization legislation is considered.

As much as I wish the conference report could have provided more adequately for Amtrak and provided the hold harmless for highway funding, I still deeply appreciate the work of Chairman HATFIELD and Senator LAUTENBERG with respect to many other provisions in this bill. This bill makes extremely important commitments to Massachusetts on several projects which form the backbone of intracity and commuter rail traffic in my State, and in these very tight fiscal times, such commitments are all the more important.

This bill continues the Federal Government's commitment to the rebuilding of Worcester's historic Union Station, the hub of transportation in that city and, indeed, for all of central Massachusetts. It continues the Federal Government's commitment to the further development of the Gallagher Terminal in Lowell, which has become one of the Nation's most successful intermodal facilities, and a pivot point for commuter traffic among and between the Merrimack Valley, southern New Hampshire, and greater Boston.

This bill makes a critical initial commitment to the creation of a true intermodal facility at Springfield's Union Station, which, like Worcester's, will become the focal point for expanded transit in its area—which is the Pioneer Valley. And this bill makes a similar commitment to Cape Cod, which will create a new intermodal center in Hyannis to help the Cape address its need to provide alternative transportation in a region often choked with cars.

Finally, this bill continues the government's commitment to the South Boston Piers Transitway Project, on which the city of Boston has rested so much hope and expectation for a renaissance along its waterfront.

On another matter, with regard to the Coast Guard budget, I would like to bring attention to the fact that this is the 7th year in a row where the Congress has failed to appropriate for the Coast Guard the amount sought in the President's budget. I am pleased that we came closer than we have the past 6 years, but we still failed to meet the mark. I find this action very troubling when the Coast Guard has been one of the star performers in the administration's efforts to reduce the size of Government and eliminate all excess waste from the budget. Just this past year, the Coast Guard executed, very successfully I might add, a very aggressive internal streamlining effort without commensurate reductions in any of the services that it provides to the American public. The Coast Guard continues to do more with less.

With the renewed focus on the war on drugs, the Coast Guard will be one of the lead agencies in our effort to stop drugs from entering our country and ultimately ending up in the hands of people—even children—in our neighborhoods and schools, yet no additional resources are being provided for this purpose, so the Coast Guard will have to absorb the cost of executing this renewed effort. If we want the Coast Guard to continue to provide the services that many Americans have come to take for granted, we must not continue to shoulder it with greater responsibilities and more missions without adequate resources to do the job.

We must be vigilant in our obligation to the men and women of our Nation's oldest continuous seagoing service, and the world's premier maritime experts and guardians of the sea. We must ensure that they have what they need to do the job, and to remain "Semper Paratus" (always ready).

This bill bears the mark of Chairman HATFIELD's thoughtful leadership, which we will so sorely miss in the next Senate, and of the distinguished ranking member of the subcommittee, Senator LAUTENBERG, on whose knowledge and leadership on transportation issues I and many of my colleagues have come to depend.

We in Massachusetts owe Senator LAUTENBERG a continuing debt of gratitude, not only for the work he has done in this Congress under very difficult conditions, but for the work he has done for so many years past. Senator LAUTENBERG understands the needs and priorities of our State and all the Northeastern States, and he understands them almost instinctively. He has been our champion for a fair and equitable approach to Federal transportation policy that supports the economies and the public convenience of every area of this country, including the kind of enormously complex urban areas that we both represent. I want to thank him, once again, for his help with these important matters. It also is fitting that I say thanks to his staff, Peter Rogoff, who consistently has been helpful and accessible to me and my staff. In fact, it is a pleasure to deal with all the staff for this subcommittee, who epitomize the professionalism that enables this institution to get its work done for the American people.

Mr. BINGAMAN. Mr. President, when we passed the fiscal year 1997 Transportation appropriations bill in this Chamber, it passed with an important amendment offered by my distinguished colleague, Senator BAUCUS. The Baucus amendment would have corrected an accounting error made by the Treasury Department with regard to the State distribution formula for highway trust fund obligation authority.

When the Transportation appropriations bill went to conference, the conferees refused to accept the Baucus amendment, which would have empowered the Federal Highway Administration to remedy this error and would have given Congress the time needed to adjust this formulaic distribution issue next year when we consider ISTEA's reauthorization.

The bottom line result in this conference report is that 28 States are losing money for general road repair, construction, maintenance, and service in a year in which the overall obligation ceiling for these expenditures is rising to its highest level in history. This conference report increases overall highway spending authority to $18 billion. a full $450 million higher than the current year's level. Thus, in a year in which we are pumping half a billion dollars into this program, 28 States are getting hit with reductions, some of which are very serious.

In contrast, there are some big winners because of this accounting error. Texas is receiving a $183 million increase, which is about 19 percent greater than last year. Arizona, which also borders New Mexico, is receiving a 24 percent increase; and California is receiving a 9 percent increase. Clearly, in a year in which we are raising the level of expenditures for highways, some States will naturally see an increase in spending authority. But I do not feel that there is any justification for the serious cuts that many States are now facing because of this conference report.

My own State of New Mexico received approximately $169 million from the Federal Highway Administration during the last fiscal year. New Mexico would have received roughly the same level of spending authority if the conference report had followed the Senate bill recommendation. But as we can now see, New Mexico is getting a real decrease of about 12 percent, amounting to a $20 million reduction from last year's levels. New Mexico's total obligation limitation from Federal Highway Administration funds is $149 million. I can't accept this.

I had intended to support this year's Transportation Appropriations Conference Report. I was pleased that the Albuquerque, NM-based Urban/Rural Intelligent Corridor Application [URICA] project had been funded at a level of $2 million. The Alliance for Transportation Research, a consortia of Sandia National Laboratory, the city of Albuquerque, Los Alamos National Laboratory, and the University of New Mexico, has been at the forefront of many important innovative transportation initiatives. New Mexico has been well-positioned in advanced efforts in transportation system problem solving.

The goal of this URICA project is to implement a system that helps integrate the transportation needs of physically challenged citizens with fixed transportation systems in both rural and urban regions.

This conference report also encourages cities and regions in the United States to consult with Los Alamos National Laboratory on the problem of transportation and air emissions. Los Alamos has also worked within the New Mexico-based Alliance for Transportation Research to tie together technologies from this important national laboratory with air quality monitoring programs and remediation efforts.

This report also provided ongoing essential air service funding, which is critically important to three regions in my State which are Clovis, Alamogordo, and Silver City.

And I also endorse the $1 million appropriation included in this bill that would be provided to Texas, New Mexico, Arizona, and California for increased Mexican border law enforcement activities.

I did want to support this conference report, but unfortunately, without much warning and little fanfare, 28 States will be seeing less highway funding authority next year while 22 States will be reaping increases, some of which are very large increases.

Mr. President, I regret that I must vote against this Transportation Appropriations Conference Report, and if asked by the President about my opposition, I will recommend that he veto this legislation from the Congress. We were not sent here to protect and defend the results of accounting errors. I urge my colleagues to reject this conference result as well.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, let me begin by saying that the criticisms I am about to make are in no way directed at the chairman of the full committee and the ranking member of the subcommittee. I think they share my views on these issues. I am under no illusions; the chairman said earlier that the Senate had straitjacketed the committee in many ways and the House had stiffed the committee in other ways, that what we were able to do here on the Senate side in conference was not made extremely difficult. I understand that.

I rise today to point out what I believe to be some serious flaws in this legislation. This Transportation appropriations bill, I am sorry to say, is unacceptable.

I do not want to mislead my colleagues. I am not sure there was a request for a time agreement, but I indicated to floor staff if there was I would object, and to be completely blunt with my two colleagues, I have never engaged in a filibuster in my 23 years, almost 24 years in the Senate, and I am, quite frankly, weighing as I speak and my staff talks whether or not there would be any utility in my doing that.

The chairman makes a very important point relative to the continuing resolution. My fear and concern is that even were I successful in keeping this bill from passing, the continuing resolution would, in effect, include the numbers that, in fact, are the ones that disturb me the most about the bill.

So to the extent that I do not want to mess up their schedules and be straightforward with them, which is what I am going to do, I would just suggest they stay tuned for another few minutes. I will, quite frankly, make that judgment and determine whether to do what I have never done before, to engage in what we say is extended debate.

Let me direct my comments this afternoon to what I think are the most serious flaws in this legislation.

First, I think this appropriations bill badly fumbles the task of putting our Nation's passenger rail service, Amtrak, on its feet, earning operating income and ending its operating subsidies. I want to remind you that is the goal we all signed on to—we, the Congress. We said that our goal is, in the Senate and the House, that Amtrak will be able to operate without subsidies by the year 2002, or, put another way, we are not going to help them after that.

Implicit in setting that goal—and I remember how reluctant some of us were to agree to that goal because there is no other major passenger rail service in the world that does not have some government subsidy, none that I am aware of. It always surprises me; my friends in my home State, my friends in the Senate will be somewhere on business or pleasure that takes them to another country, and they will come back and they will talk about, gosh, I was on that bullet train in Japan, or, gosh, I was on the train in Germany, or, gosh, I was on that train in Sweden. It is remarkable. They are clean and they are fast and they are on time. Why can't we have that here?

The reason we do not have it is we do not support the passenger rail service like they do in other countries. Now, there are a lot of reasons we do not do that, not the least of which is our industries, like the cement industry, like the blacktop industry, the trucking industry, see rail as a threat. They do not see it as an adjunct to the economic growth and vitality of the Nation. They see it as a threat.

So we have had incredible difficulty doing what other countries have done, and that is to look at transportation as a whole, not look at transportation as airplanes and highways but looking at the entire component of what constitutes transportation—passenger transportation and freight transportation in this country.

I know Senator LAUTENBERG has labored mightily, and I mean that literally, to try to convince people—along with Senator MOYNIHAN, before he went over to the Finance Committee—that we have to look at transportation in a different way than we have up to now, thinking only in terms of highways.

There is a lot of money in it, and for the life of me I cannot understand why the highway interests in this country, which we support by hundreds of millions of dollars—it is not as if we are against highways if you are for mass transit or you are for mass transit passenger service. They have fought tooth and nail anything that spends any of our highway trust fund moneys or any moneys for anything other than laying concrete and blacktop.

Now, it does not take a rocket scientist to figure out that in certain parts of our country we cannot lay much more concrete and blacktop. In the Northeast corridor, from Richmond up to Boston, there is not a whole lot more land available to accommodate the increased traffic patterns.

What do we do, make I-95 20 lanes wide? By the way, you think I am joking. In some places, I-95 is already 10 lanes wide. Where are we going to accommodate this extra movement of people when Amtrak is no longer available in our corridor? And also, what happens when, as we repeatedly see happening, there is a constant cutback in Amtrak into rural areas and into States in the Midwest and the Northwest that profited very much from the access to Amtrak?

It is a funny thing, it seems, that old expression of "the more things change, the more they remain the same." I used to be a county councilman in 1970 in our State's largest county before I was elected to the Senate. I was a big booster in the late 1960's and 1970 when I was a council person, for mass transportation, because it was obvious at that time the county I lived in, was the fastest growing county in America. As a matter of fact, "Candid Camera," Allen Funt's "Candid Camera," did a whole program on taking the four-lane highway that connected Pennsylvania and Delaware at the Pennsylvania-Delaware border at the northern part of the county and on the Pennsylvania side as they crossed into Delaware put up a giant sign with the permission of the highway department: "Sorry, Delaware Closed Today," and people were actually stopping. People actually stopped. It was a "Candid Camera" stunt.

So, in the midst of all of that, some of us, myself in particular, started to turn toward trying to deal with mass transit, a minor thing. We are talking about 450,000 people in the county. It is not like we are talking about—there are 10 counties in New Jersey bigger than that and there are probably 20 cities bigger than that. And so we are not talking about a vast number of people in relative terms in relation to other places.

I found something interesting. This is the part about "the more things change, the more they remain the same." I would be told that the bus service—we had no rail service—the bus service we have, that is, servicing the community, is losing money. And so when it starts to lose money, what we do is we go out and cut out a route. Let us assume for the sake of discussion there were 50 bus routes, and the system is losing money. They say, well, we have to cut some expenditures here, and so we are going to cut out two routes.

Now, assume it had 50 routes and 100,000 people getting on the bus. If you cut out two routes, you would think that you would have, then, a commensurate reduction in the amount of ridership. But that is not how it works. When you cut out two routes, twice as many people who rode those routes stopped taking the bus because the choices are diminished, not just the people who rode that one route. What happens is, it has a geometric impact. As you cut a piece in terms of your operation, what you do is you cut a much larger piece in terms of ridership. That is how it works.

So, here we are. In the name of saving Amtrak, we put Amtrak's leadership in a position of having to make significant operational cuts in service. So, when they cut the train that goes through Montana to the State of Washington, what do they do? They cut alternatives, so that means fewer people ride the train in Illinois as well. It means fewer people ride the train in Indiana. It increases in geometrical proportion to the cut that is made.

It also has a very serious political impact. Then the Senators from Montana or the Senators from other States that got cut say, "What interest do I have in funding this Amtrak thing, it does not service my State anymore?" And it becomes a self-fulfilling prophesy.

There was one place, one section in the National Passenger Rail Service System that, if we improved it, could make money, money enough to, in turn, through Amtrak, subsidize other Amtrak routes so that you would be able to, without coming back to the Government or the taxpayers, say, OK, we can keep that train going through Montana because Amtrak management says we make a surplus in the trains that run from Boston to Washington. That was part of the whole deal we made here. We said, OK, we will run the risk of having this whole passenger rail service go belly up by the year 2000 by committing not to have any more subsidies. But we need to do some things in the interim to put the system in a position to be able to make it.

So what did we do? In this legislation we went out and we slashed, by a significant amount, the amount of money that would be available to further modernize the corridor, as they call it, between New York and Boston.

What has happened is that Amtrak is an electrified system. What has happened, once you get above New York City—actually in New Haven, CT—you have to switch the trains you use. The tracks are old and some of the bridges need to be repaired and some of the curves have to be straightened out, et cetera, because it is not electrified. So we made a deal. We said, OK, we are going to electrify the whole system so it is unified all the way along that megalopolis, and we said we are going to bring in modern high-speed trains that allow us to compete, in fact, with air transportation and road transportation between Boston and Washington. We even picked out the trains we were going to purchase. And because the projections were that ridership would be up because we had improved the number and type of trains that were being used, so that we would generate enough capital, and we would generate enough money to operate as well as maintain the system. And we would have money left over to go out and continue the train in Texas which is being cut, continue the train in Louisiana which is being cut, in Montana, et cetera, so we could build the system.

By the way, obviously, I am sure some are sitting there, willing and ready, and I do not blame them, to make the ad hominem argument, which is: Obviously, JOE BIDEN wants this because it affects the Northeast corridor where he lives. It affects his State employment, affects his State's economy, it affects the whole region.

That is true. But look beyond that. Notwithstanding the fact that it positively affects my State and the Northeast corridor, it is the only salvation for the rest of the system. We can duplicate that process over time on the west coast. So we can have the capability of similarly moving people rapidly, with high speed, on the west coast. We do not need quite as much improvement because you do not have to electrify the system, and so on and so forth.

What have we done? We have done what we used to do in the county council days. In order to save money, allegedly, we will, by this legislation, force Amtrak to make further cuts, further reducing Amtrak's capability to meet the goal which we all set and insist that they be able to meet by the year 2002. We are guaranteeing, unless we get a supplemental or defeat this or change the number that is in this, we are guaranteeing that Amtrak cannot meet the goal.

It is a little bit like saying to someone you are coaching on the track team who has great potential:

Look, I will tell you what we are going to do. You do not have much money. You have to pay me my salary, and I know you don't have enough money to have me train you, and you have 9-second capability in the hundred meter, which is world class. But I will tell you, in order to save money, you have to wear old Keds sneakers. You cannot wear shoes that, in fact, are the kind that are light, lightweight, modern and functional. By the way, we cannot afford starting blocks. So I am going to continue to coach you if you can break the record. But, in order for you to get me as a coach, what you have to do is we have to cut out these frills—the frills meaning your shoes and the starting blocks—guaranteeing you will never get out of the blocks in order to keep me as your coach, because you never get to the number, you can never get to the speed, you can never get to the time I am going to be satisfied with in order to be able to continue to coach you.

So why start the process in the first place? That is kind of where we are now. I mean, the idea that the rail connection between Boston, Washington, and New York, will basically have to be put on hold—by the way, we need to up the authorization in this bill for the Northeast corridor to be able to keep Amtrak on track, which is about $17 million in outlays, I believe that is the number, to be spent next year to continue to complete the project.

I know my colleagues understand all this Senate jargon, congressional jargon, but the bottom line is, unless the number is higher, we do not have $17 million to do what needs to be done to keep the Northeast corridor project on time and be able to get us in a position where we can buy those train sets and where we can in fact begin to generate the revenue you need in order to meet the objective of being free of subsidies by the year 2002.

Let me point out one other thing that has been pointed out repeatedly by Senator LAUTENBERG. If you deal with this fairly and you measure "the Government subsidies," both in direct expenditures and in tax expenditures that go for highways, that go for the airlines and go for mass transit, Amtrak gets subsidized less.

For example, all you may not realize, when you pay for your plane ticket, the Government subsidizes an air traffic controller that makes sure you can land or not land, it subsidizes the building of that airport and runway, it subsidizes that control tower. The airline does not pay for that. They pay part of it, but they do not pay anywhere near the cost of it. It is a significant subsidy.

So all the airlines are out there touting that this is a subsidy to—I should not say that—touting this is a subsidy to Amtrak, "Why should we pay to subsidize a person's ticket, a woman who wants to get on a train in Gainesville, FL, and go to Raleigh, NC? Why should we do that?"

I ask the reciprocal question: Why should we do that for someone getting on an airplane? The subsidy is greater for the airline industry than it is for the passenger rail service, and the same way with highways. We have a highway trust fund that pays for the laying of the concrete and the putting up of the barriers, et cetera, but it does not pay for all those cops that are out there, it does not pay for all those maintenance crews, it does not pay for the accidents when they occur, it does not pay for a lot of things. So we subsidize beyond—beyond—what we, in fact, collect in the gasoline tax for the highway system.

Why is it we apply a different standard when we are talking about the "subsidies for passenger rail service?" I will tell you why. Because there are a lot of people who make a lot of money and have a lot of influence down here who, in fact—and they are good people—who, in fact, make the concrete that gets poured on the highways. If you are going to spend money on a railroad, you are not pouring concrete on a highway. That is how they view it.

A lot of people out there make an awful lot of money in the trucking industry. I suggest to you all that you walk down the corridor connecting the House and the Senate Chambers, and there are political cartoons that are on display, historical cartoons on display—I believe it is on the first floor—that show cartoons from the days of the turn of the century. Some of them you will remember from your grade school and high school civic books where they have the pictures of the bloated Senators, like blimps, representing the big mega interests, the oil cartels and the railroad interests and the rest.

This is an ongoing fight. This is money; this is power. This is a big deal to a lot of different people. They do not think of the national interest. What they are thinking of—and it is human nature—is their own particular selfish interests.

Look, how many railroads at the turn of the century were happy to see automobiles come into existence, and then trucks? They did everything in the world to keep trucks and highways from being built, because they knew if you were able to put this stuff on the back of a truck and cart it down the highway, then they did not have the cargo going on top of a rail car where they were charging a fee to send it to folks. The folks who owned the railroads did not want that, and here we have come full circle. The folks who pour the concrete, the folks who make the blacktop, the folks who put up the reflectors on the highways do not want rail passenger service. They don't want it, because they view it as somehow that will affect how many more highways they build.

In a sense, it will. If we, in fact, have Amtrak go belly up in the Northeast corridor, we are going to have to build other lanes of I-95—not figuratively, literally—we are going to have to build more lanes, unless you want to get on 95 and go bumper to bumper from Washington to New York, or maybe you do not want to go to New York anymore, but that is what it is going to take. You will have to do that.

You will have a few people make a whole lot of money, but you sure won't help the environment. You are going to pollute the environment more. You sure won't help in terms of safety, and you sure won't help in terms of public policy, and I do not know why we cannot get that through to people, why that doesn't resonate.

I realize we have a love affair with the automobile. I have a love affair with my automobile. I have a 1967 Corvette I had restored. Next to my kids—maybe my dog comes next—I love it. So I have a love affair with my car, too, but that does not mean I also cannot be rational in how I am going to approach what are the environmental and transportation needs for this country.

So what happens here? What happens here is that we are in a circumstance where—and I have not even mentioned yet the cuts to the 28 States that are small States in highway trust fund moneys. You have tens of millions of people going through my little old State of Delaware on I-95, and you just got our transportation money, highway money, too. You give us a nice double whammy here. I mean "you" in an editorial sense. The appropriations bill makes sure that we diminish the prospects of Amtrak, which is critically important to my region, and I think to the Nation. By the way, you are going to force us to have to build more highways, and then you turn around and say, "By the way, we're not going to give you as much in highways." We are going to get less money this year with a $400 million increase in expenditures than we did last year with a highway bill that was $400 million less. Talk about sharing in the wealth. There is a lot of wealth to be shared, but the small States, 28 States, are not sharing this.

Without belaboring the point about the highways, it is not long ago the Senate passed its version of the Transportation appropriations bill. Under the leadership of Senators LAUTENBERG and HATFIELD, that bill provided funding for Amtrak's capital function and important Northeast corridor improvement projects at appropriated levels. Some of my colleagues may recall, and I know that I do, that my good friend, Senator McCAIN from Arizona, offered an amendment to return to the completely inadequate funding levels that Amtrak had in the House version of the bill, which is what we are closer to now in this version. Specifically, his amendment would have cut the Northeast corridor funding to zero from $200 million in the Senate bill and would have cut overall capital spending in half from $250 million in the Senate bill down to $120 million.

Mr. President, we had what I would like to think was a pretty good exchange of views on the role of passenger rail in our Nation's transportation system and how our Federal system of Government allocates the many benefits and burdens shared by the citizens of all 50 States.

Senator McCAIN's proposal in the end was defeated by 82 to 17—82 to 17—and that was an overwhelming endorsement of the funding levels provided for Amtrak by the Senate in its version of the bill. But despite the best efforts of Senator LAUTENBERG, this conference report was a giant step backward toward the wholly inadequate numbers of the House bill, which is what Senator McCAIN was pushing.

The bill before us today is not just a step backward, it is a step on a very slippery slope toward the demise of our country's passenger rail system. Under the mistaken assumption that a penny cut from Amtrak's investment functions somehow is a penny saved, this bill actually offers us the formula for failure, as I referenced earlier, by cutting important investment functions.

Mr. President, the legislation actually reduces the efficiency of the remaining dollars spent on Amtrak. Good business practice that Congress has demanded of Amtrak requires investment in equipment and services that will increase ridership, increase revenues and increase Amtrak's ability to become self-sufficient when it comes to its operating expenditures.

Amtrak has undertaken just such an investment program, and the Northeast corridor improvement project is a major portion of it. By straightening out the right-of-ways, by strengthening bridges and overpasses, by extending electrification along the route between Boston and Washington, this project is going to make possible the inauguration of the most modern, high-speed rail connections along one of the country's most populous transportation corridors—and be able to be transferred, I might add, as well to the west coast.

All over the globe other advanced economies and some not so advanced are also providing such services to their citizens. This country is finally approaching the standard set elsewhere for clean air, fuel efficiency, and convenient passenger rail service that can take some of the load off the rest of our overburdened transportation system.

Mr. President, I wonder if anyone really thinks that the answers to our transportation problems lie in more asphalt, lie in more concrete, increasing our dependency on an already overloaded highway system in significant sectors of the country? If the improvements to Amtrak's Northeast corridor were fully funded and completed, it would remove 325,000 drivers from the crowded I-95 corridor—325,000. That does not even raise the issue of, if it goes under, how many people will it add to that corridor.

Herein lies the problem. Highway guys do not like that, to pull a third of a million people off I-95. Your maintenance is down, you do not have to pour as much concrete, you do not have to expand as much, though the air would be cleaner, there will be fewer accidents, there will be less overall cost to the economy, and there will be greater comfort and efficiency. That is what it is about.

Are we prepared to undertake the construction of more expensive airports? My friend from New Jersey and I are bordering States. One of the things they are trying to figure out in South Jersey and Northern Delaware is, as the Philadelphia airport continues to get overcrowded, what relief airports are we going to build? Where are we going to build other airports? How congested can the air get in a Delaware valley that is 10 million people? Think of what it is for my colleague from New Jersey in the northern part of his State where there is probably closer to 15 million. I do not know what the number is, but it is bigger than the Delaware valley.

Where do you go? How many airplanes can you circle? Come with me on a Friday night, sit out in my yard, which is just 22 miles from the Philadelphia airport. It looks like fireflies lined up as far as the eye can see, wasting fuel, wasting time, increasing dangers, because there is not enough space to be able to land all those planes at one time.

So what are we going to do? Are we going to build more airports? Let me tell you, that will cost you more than building more Amtrak capability. What it also does—concrete guys are happy. There is an awful lot of concrete in those airports, an awful lot of concrete.

So I just do not understand where people think this is going to go. I do not know where they think our traffic and control systems—how many more flights can they take, especially now? If you live in the middle of Montana or the middle of Nebraska or the middle of other parts of other big States, yeah, there is all kinds of room for this; there are not many people, but all kinds of room for more airports. But they do not need the airports there. They need the airports where we are.

So what you are saying to us on the west coast and the east coast and the congested areas is, you are saying, "OK. Pick your poison, BIDEN." We either are going to congest the airways or we are going to congest the highways. We are going to increase the safety risk. Which do you want? I say, you are giving me a Hobson's choice. It is a false choice.

Have those systems in place, improve them—they will probably have to be expanded anyway—but give us also another alternative, a clean alternative, an economical alternative, in relative terms. Allow us to have rail transportation which will benefit the whole country.

As the distinguished ranking member of the Transportation Appropriations Subcommittee understands, and as Senator LAUTENBERG likes to remind us, annual ridership on Amtrak's Northeast corridor alone is equivalent to 7,500 fully loaded 757 jets. I did not know that number until he raised it. But think of that. Just the passengers in the Northeast corridor. Understand, the passengers in the Northeast corridor are going, in the Northeast, to either Washington, Baltimore, Wilmington, Philadelphia, Trenton, Camden, et cetera.

Mr. LAUTENBERG. If the Senator would yield.

Mr. BIDEN. I will be glad to.

Mr. LAUTENBERG. I was going to remind him as we discuss this and ask if he was aware of the fact we would be loading the skies with some 1,500 more flights a week—that is typically in a 5-day week—where the delays now are unbearable, even when the sun shines bright.

Mr. BIDEN. That is right.

Mr. LAUTENBERG. Plus the fact that I want to know whether the Senator was aware that if we had to relocate or substantially expand the Logan Airport, which would be required in the Boston area absent substantial Amtrak improvements, the cost to the taxpayer would be several billion dollars.

Mr. BIDEN. With a "B," billion.

Mr. LAUTENBERG. Hardly compares with a few hundred million dollars spent to get Amtrak's Northeast corridor up to shape where we could produce a surplus revenue cash flow that would not have us here with the beggar cup waiting every year to try to get a few dollars.

I want to say to the Senator that the case you make is so clear. I hope that some of our colleagues who come from distant places are able to see the connection. It is just like the Army Corps of Engineers. If they are not financed to take care of the problems out West, then they are not available nor would they be available in the East. This is a national thing, even though its presence is principally in the heaviest populated area of our country.

When it comes to services that are headquartered here, like the FAA—one does not say, "Well, wait a second. Don't put more money in the FAA safety research office in Washington, because we are out in Colorado or New Mexico or someplace"? They say, "No. Keep on investing because we all benefit from such investments." Would the Senator agree?

Mr. BIDEN. I would agree fully. The Senator from New Jersey, since he has been here—I am not being solicitous here—has been a leader on a number of issues, but two in particular, on environmental issues, and on this issue of transportation.

That image, of which is literally true, of 7,500 fully loaded 757's is something I hope everybody kind of keeps in their minds. But put it another way. I ask my colleagues from other States that do not have the same congestion problems, OK, Amtrak goes belly up. Who do you think is going to come after your highway money? Who do you think is coming after your highway money then? Do you think we are going to sit around and say, OK, we are just going to go to gridlock in the East? We are just not going to do anything? We are going to have a new battle. So the money you think you are benefiting from by not spending on Amtrak and putting more money in the highways in States that do not have Amtrak because we are not competing for as many of those dollars with you, we will have to if it changes.

What formula will you be able to draft that in fact will not justify our getting the significantly larger amount of the highway trust fund moneys? We are talking about a third of the Nation's population. This is a big deal. We are not asking for anything that we are not entitled to, that does not make good public policy, that is not in the national interest, and that is not anything any other mode of transportation is not already getting.

But, again, keep that image in mind. I just see it now, folks, those 7,500 fully loaded 757's bouncing around annually beyond what we have now. Try to get home from National Airport when you are going home for the weekend to whatever State you are from.

Mr. LAUTENBERG. Will the Senator yield?

Mr. BIDEN. I am delighted to yield.

Mr. LAUTENBERG. What do you think would happen if there was a bad weather day along the way? The economy of the country would grind to a halt because we are inextricably linked with our other sections of the country in our business, the stock market, you name it. What might happen when those 7,500 airplane trips try to deal with a snowstorm in the East, or tornadoes or hurricanes, whatever else is the latest in the mode of weather disasters?

Mr. BIDEN. The Senator makes a good point. He and I ride Amtrak a lot. When I leave my house in the morning, I commute every day. I have clean hands here; I have a naked self-interest. I ride Amtrak every day, OK, and have been doing it for 24 years. As my mother says, "When you are hung by your thumbs long enough, you get used to it." I have been riding a long time.

Literally one of my rituals, I say to my friend from New Jersey, as I shave, I turn on the weather channel, because if airports are socked in, I will not get a seat on Amtrak. I better get to the station early. The converse of that is true. What happens if there is no place to go? Right now Amtrak ridership increases exponentially when there is bad weather because the airports are not flying, the airlines are not flying, or they are so delayed the business people and others cannot count on them.

The funding levels in this bill that delay the upgrade are adding to the cost of air pollution, wasted time in traffic, airport delays, highway and airport maintenance costs, and safety problems. Even more foolishly, Mr. President, by indefinitely delaying the completion of the Northeast corridor improvements, this bill will indefinitely delay the day when new high-speed transit—already ordered, already funded in the same legislation—will be able to go into full operation. Not only is this a pointless waste of the new equipment, but a false economy.

By postponing the day when full high-speed rail service becomes available between Boston and Washington, this bill means Amtrak will lose indefinitely the ability to generate profits, precisely the goals we have been told and we have told Amtrak they must, in fact, meet.

Once lost, these profits will never be made up. Every year without profits is another year Amtrak routes suffer and go further in the red ink, another year in which Amtrak will need operating subsidies from the Congress. Instead of committing to the investment now that will start generating this income, that could support other less profitable routes, this legislation guarantees that Amtrak will remain hobbled. So the consequence and impact will be that train that our friends from Texas—and I compliment them on their effort—are trying to maintain going into Texas will be lost, that train that the Governor of Montana wants to get back in Montana will not be able to be routed because it cannot sustain itself.

It is like the business of setting up electric and telephone service. It is not as profitable to run a line 8 miles down a road to a farm to light a farmhouse and a barn as it is to run a line a mile and a half into a neighborhood that has 450 homes. So what happens? The people who live in the 450-home neighborhood end up subsidizing the person who lives out there on the farm. That is what we are about as a Nation. That is why, for example, we subsidize water in the West. My mother pays her taxes and I pay my taxes in the East so that somebody else's mother can have a glass of water in Arizona or in southern California or in many of the Rocky Mountain area States that are fed by the Colorado River, and the billions of dollars we have spent on dams.

I do not complain about that. That is not a complaint. It is an observation. That is what we are supposed to do. We are one Nation. We are one Nation and different areas of the Nation have different needs. If the taxpayer of the United States stops subsidizing, or never subsidized in the first place, what was done to the Colorado River, there would not be 32 million people in California.

Mr. BENNETT. Will the Senator yield?

Mr. BIDEN. I am happy to yield to the Senator.

Mr. BENNETT. I am about to do something I have been warned is unwise, and that is to enter into debate and ask questions without knowing in advance what my position will be. I do this in the hope I might learn something, but I realize I might get caught. It is with some trepidation I do this.

I say to the Senator from Delaware, first, in the spirit of full disclosure, I am sure he does not know this. I would plead guilty. I am the lobbyist in the Nixon administration who was responsible for convincing the Congress to create Amtrak in the first place. I worked as a head lobbyist for John Volpe of the Department of Transportation. My final assignment in the Nixon administration was to convince the Congress to create Amtrak. In the process of convincing the Congress, I remember saying to the appropriate chairmen of the appropriate committees that Congress only has to subsidize Amtrak for a few years, that within 3 and certainly no more than 4, Amtrak would become a profitmaking corporation, stand alone, based on the projections that were then being made for the use of train service.

Then political reality set in after the bill was passed. The blessed Harley Staggers, late chairman of the House Commerce Committee, made it very clear that nothing would proceed unless a train servicing all of the junior colleges in West Virginia was kept on. Indeed, the senior Senator from Montana, who was then the majority leader, made it clear that nothing would pass the Senate unless a train to Yellowstone in Montana was kept on.

Now, my question is this, Mr. President. I recognize fully that passenger transportation in the Eastern corridor—we abbreviate and say Boston to Washington—is a very intelligent use of the rails. I question, however, from personal experience, all of the rest of Amtrak's route structure. I ask the Senator from Delaware if he has any sense of whether or not trains are being kept on for those parts of the country where they have nostalgic value but not the kind of practical value that he has described in his own commute, daily, from Delaware.

Mr. BIDEN. Mr. President, I am happy to answer my colleague's question. Let me first say to him that one of the reasons why he is so well-respected in this institution, and he is on both sides of the aisle, is because he has such intellectual integrity and he is so straightforward. I assure you, my answers to this or other questions will not attempt to nor could they in any way cause you trepidation.

I must admit I did not know that the Senator was with Secretary Volpe at the time. It is just one more reason I admire you.

You did the right thing. Maybe the projections were not what they should have been. The Senator is correct. What happened was a number of Senators on both sides of the aisle—and Members of the House—who had some significant power said, we want you to run a train into a section of the country or a section of my State where we could not justify the cost that it would entail to run the train relative to the number of people it serviced. That actually happened.

What also happened was, we came along over the years and we finally told Amtrak that they, in fact, had to make some significant cuts, particularly the last 3 years. So they went out and they went after all those nonprofitable routes. I will not say with certainty because I cannot say, I do not know, to the best of my knowledge, but all of the most egregiously costly routes that were maintained are gone now—gone, in the last 3 years. I cannot say to him I know that every route that continues to exist is fully justified if you use a cost-benefit ratio in terms of the number of people riding it versus the cost of maintaining the service.

Let me add one other point. I think the problem is not merely that one person gets on the train when you need 15 people to meet the cost of running the train. What we should do, and what we did in part with the landmark highway bill that we passed several years ago, the so-called ISTEA, we did what should have been done but did not quite take it far enough. We should have said to the State of West Virginia, or the State of Delaware, Montana or Utah, we should have said what ISTEA started. That is, we should say we have the transportation moneys, most of which are generated by the highway trust fund. Now, you in your State should be able to, after you meet the minimum-plus of your highway needs, you should be able to take some of your highway trust fund moneys if you choose, Governor, and State legislator, and you should be able to take that and say to Amtrak in West Virginia, "Look, it may be nostalgic, but it is important to us, and we are willing to put up our money to you, Amtrak, so that you, Amtrak, nationally, don't have to swallow the loss of maintaining a train that goes to every junior college," or whatever the example you gave was.

That should be a decision that the State should be able to make. Now, that State may say, "Look, we want to be able to connect those junior colleges. It is cheaper for us to add a lane of blacktop connecting those," or, "We want to put on a bus that is maintained by the West Virginia Department of Transportation," or whatever. And so the one piece that I don't think my colleague from Utah could have envisioned back in 1970, or thereabouts, was that you had to look at the whole transportation component. I think you did the right thing back then. But what we did not do about this and a lot of other things, like we just did on welfare—we have to give States more flexibility to be able to use their funds. What we do now is straitjacket them.

Senator ROTH and I have been pushing three things. In your State, Senator, you have, in addition to your State highway—I know you know this much better than I do, and I am not being solicitous. But for the purpose of people understanding our dialog here—your State, your Governor, your legislature gets, figuratively and literally speaking, a check for highways. Now, you get it in two or three different ways, sometimes, under the new highway bill. You get one that comes for interstate, you get one that comes—and then you get one for rural transportation. There is a section of the highway trust fund, the highway bill, the so-called ISTEA bill, that says if you don't want to build a highway to connect Provo to some small little town, then you can take some—only a small portion—of your highway trust fund money going to your State and you can buy buses—and this goes from the ridiculous to the sublime—or you can build bicycle paths or walking paths, but you can take some of those highway moneys.

But you are not allowed to take any of that money for inner-city rail transportation. It may be that you want to connect to Las Vegas, NV, to Salt Lake City because a lot of people go that route. That is a long way, by eastern standards, but not so long by western standards. You may say, instead of us building a highway to have the economic benefit that we anticipate—although I suspect that many in Salt Lake would not want to be connected to Las Vegas, but I don't know.

Assuming that was the decision. Then it seems to me that you should be able to say, and the Governor of the State of Nevada should be able to say, "We want to take these highway trust funds and build a rail, and we want to have a train run this way. It is better for us, less damage to our environment," or whatever. You may say, "No, we want to build a highway."

So what the missing link here is, and what we are fighting so hard for is to get basically three things that will put Amtrak in the circumstance where they can be as you asserted in 1970 they would be in 3 years. Let me tick them off and I will stop and I will be happy to hear what my friend has to say.

One is to say, look, there are certain basic capital improvements that are needed in areas where we know there is a need, where we know there is a ridership, where we know there is the market to get this thing up to the point where it is running a surplus. No. 1. That relates to the Northeast corridor expansion—that is, electrifying and straightening out the old routes, et cetera, and buying these train sets. By the way, these train sets are also available for the west coast because there is a growing need, and the Governors in the States of Washington, Oregon, and California say they see how it would be profitable for them to have it available. So that is one thing we do.

The second thing we have to do, it seems to me, is say that in order to deal with this transportation component in the areas where we know the need exists, we should take one-half cent of a highway trust fund, which is now about 18 or 19 cents for a gasoline tax—take one-half cent and dedicate it to a trust fund for intercity rail service. That would generate $600 million a year, one-half cent. Then we would be out of the business of us having to depend on direct appropriations. And by every estimate, that would maintain the entirety of Amtrak's national capital needs per year.

The third thing we should do, in my humble opinion, is we should not keep unprofitable routes on, making Amtrak have to swallow the cost of that. We know why it works that way—in order to get votes. You have to get 51 votes here for anything to happen. So we should say to the States, if you want Amtrak, where it is not profitable for them to send a train, pay them, just like you pay to build a highway, like you pay to build an airport, or for anything else. Here is how you can do that. We are going to allow you—you, the State—to have the flexibility of the funds that are available, one small portion of the funds you get, instead of building another highway. I am oversimplifying it—it costs $200,000 a year to run this train through Montana to the ski resorts, which you say generates—I think $30 million, the Governor said, a year. Now, Amtrak can make on its own $100,000 of the $200,000. You have to come up with the rest.

Make a choice, Montana legislature, make a choice. Do you want to build an extra route or highway into Sun Valley, or do you want a train to continue to run? If you don't want to do it, fine, you don't have to do it. Amtrak shuts down that train. But it's flexibility, and it seems to me it is consistent with a rational national transportation policy. We are then not telling the people of Utah that they have to spend money to build rail systems out there that they don't want, where, environmentally, practically, politically, substantively, it makes more sense to build a highway. Conversely, we are saying to Amtrak, you no longer have to carry the burden of training the system to maintain systems that don't meet the economic imperative of breaking even. And so that is what this whole game plan was supposed to be.

My complaint about this bill is, I say to my friend from Utah, before I yield to him, is that they have taken one of the legs out of that three-legged stool—the only way Amtrak is going to make it. It is a catch-22 situation. I think the Senator may have gone with some of us over to the Library of Congress the other night where Joseph Heller, the author of "Catch-22," was one of the readers. And TRENT LOTT, the majority leader, read a passage from a great book series that they are doing. It was quite an interesting event. I hadn't read "Catch-22" since college. Hearing Heller get up there and read a passage of "Catch-22," and watching him laugh at his own passages, was kind of infectious. But this is kind of a catch-22 for Amtrak. We need your vote. We need the vote from the Senators from Texas and the Senators from Montana and the Senators from Arkansas. But if you don't have a train going into your State, then you say—and I am not being critical—you say, well, why should I vote for this? Why should I vote for this? So what Amtrak has done up until now is they have been caught in that catch-22. They know if they don't keep the train going—I will pick somebody deceased, Harley Staggers—if we don't keep the train going for Harley Staggers into his district in West Virginia, they ain't going to get the money. They are not going to get enough votes to get it passed.

So we blame Amtrak for continuing to run on unprofitable routes. But Amtrak management sits there and says, "I know if I don't run that train, we don't get to run them anywhere." And so the bottom line, for me, is that this particular bill takes out one of the three pieces of the equation that are needed to make the assertion of the Senator from Utah in 1970, in fact, true. I think the three things that need to be done—and I will not repeat them—are things that meet the test of equity, fairness, national interest, and parochial needs, without the Federal Government demanding any State do anything they do not want to do.

I would be happy—I see my friend—to yield to him.

(Mr. THOMAS assumed the chair.)

Mr. BENNETT. I thank my friend from Delaware.

Mr. President, I would like to comment with the understanding that my friend retains the floor.

First, let me share a bit of history that I am sure my friend from Delaware will find instructive in this. What the Senator from Delaware has described was, in fact, in the original legislation where we had the opportunity to say to the Governor, "If you want this to continue in your State, you have to pay *x* amount." And that is how we got rid of a lot of the trackage.

I remember one New England Governor, whose State will remain nameless, who complained bitterly that certain trains had to stay. We realized that quickly it was a matter of State pride. And we ran the numbers. We sat down with him, and said, "Governor, for the amount of money you have to pay you could afford to pick up every one of the passengers that get on this train at his or her home in a limousine and drive them to any location in the United States cheaper than you could keep this train." When he looked at it, he said, "You mean the average boarding of that train is 3 per day?" We said, "Yes. You are trying to hang onto this train as a matter of State pride. That is what it is."

That is how we got rid of a very large chunk of the original passenger network. And that is what led us to believe in 1970 that we could, in fact, rationalize this network to the point where it would perhaps become profitable. But a number of things happened in the meantime. I have had people say to me that the airplane has destroyed passenger services in the United States—rail passenger service—as people prefer to take the airplane. That is not true. It was the Interstate Highway System that destroyed the rail passenger service in this country. Something like 98 percent of intercity trips in this country are still done on the Interstate Highway System. When we built the Interstate Highway System we sounded the death knell for rail passenger service except in congested corridors like Washington to Boston where it is just as fast to take the train as it would be to fly.

I had an office in New York as well as an office in Washington when I was in private business. I found that I could get to downtown New York just as fast on a metroliner as I could by taking the plane to LaGuardia and then fighting the traffic with a taxicab.

So I assure the Senator from Delaware that I am in favor of doing what I can to see to it that intelligent rail passenger service continues in the heavily congested corridors, primarily the Northeast corridor.

So all I would say to my friend is that I was unaware of the details of this bill until I heard him speaking. I will now examine it. I assure him that my vote will not be based on whether or not there is a train running through Utah but on what makes good national policy sense. That does not mean that I will vote with the Senator. That just means that I will look at the issue in the way I would not have had I not heard him speak on it.

I will make one comment on the discussion he has had with respect to the National Highway Trust Fund. Again, during my years in the Department of Transportation, I was getting intimately acquainted with the National Highway Trust Fund. And one of the other programs that I was responsible for convincing the Congress to pass in that same period was the airport and airways trust fund. We naively believed when we got that bill through both Houses of Congress and down to President Nixon's desk that we had solved the funding crisis for the FAA for perpetuity. Now there is a trust fund set up to be funded by ticket revenues and takeoff and landing charges at the various airports that would see to it that the FAA never need compete with any other agency for Federal funds. It had its own trust fund and its own source of funding.

Well, Mr. President, then came along the unified budget. I do not know which President it was that did it. I am afraid if I checked it that I would discover that it was probably a Republican. But the fact is that the highway trust fund always runs a surplus. The funds are subjected to appropriations, and the money to build our highway infrastructure is always constrained by political decisions made on this floor and at the other end of the Capitol. And the people who run the Federal Highway Administration can no longer, as it was envisioned that they would when President Eisenhower worked to create it, depend on a steady source of income for their fund. Neither can the people who run the FAA depend on a steady source of funds because their fund is always overfunded and Presidents always dip into that fund. Now they say they do not dip into the fund. They use the mechanisms of the unified budget to underappropriate from the fund so the money in paper is still there but in fact it is never spent.

I say to the Senator that, if he created a trust fund for rail, he would discover that subsequent Presidents would do the same thing to that trust fund that they have done to the highway trust fund and the airport and airways trust fund, and every other fund. They would render it, frankly, a dead letter.

If we were to spend the amount of money—to conclude this on the airport and airways trust fund—on the airport and airways trust fund actually on airports and airways right up to the full amount that comes into the trust fund every year, we wouldn't have the current problems that we have.

Not to delay the debate, but my friend enjoys a good anecdote. So I will leave him with this as I leave the floor.

In a discussion about computer systems and their vulnerability to hackers getting into computer systems and having access to information that they do not have, the expert who was running that discussion said, "All parts of the Government are vulnerable. The hackers can get into anything—the Pentagon, the Social Security files, anything—with one exception; and, that is the FAA computer system running our air traffic control system. The reason it is not vulnerable to a hacker is that it is so obsolete and so ancient that no amount of modern computer activity can get into that."

So I share that with my friend and indicate to him that a trust fund might not be the answer to his problem. I assure the Senator that I will now look at this bill in a new light.

Mr. BIDEN. Mr. President, I realize I still have the floor. A number of people want to speak. Before my colleague leaves the floor, let me say that one of the things that I know he has knowledge about is how so much has changed in the last 30 years. And that is that we had plenty of room to expand with airports in certain areas. We do not have that same flexibility now. We had the ability to expand the highways in certain areas. We do not have that now. He may be right that this trust fund might in fact meet the same fate that he suggested the others had. But the bottom line is that I am a lot better off with this than I am with any other alternative that I can think of. I think that is fair. I thank him. I know he sincerely means it when he says he will listen. And I thank him very much for that. I thank my friend from Oregon. He indicated that he might have a question. I yield for a question.

Mr. WYDEN. Mr. President, I thank the Senator from Delaware for yielding.

I want to discuss briefly the Amtrak issue with him, and in effect pose the question that I am having to wrestle with at home, and your sense of how you handle it. I have been both as a Member of the House and in the Senate a member of the Commerce Committee a very strong supporter of Amtrak. I think that it is important to have a national rail program. It is important policy for our country. I have been in support of the Senator from Delaware. In fact, I remember, as the Senator from Delaware does, your Governor, our former colleague. He called me a bit ago in terms of the funding formula that we all wanted. And I was in strong support of it at that time because I think it is important that the east coast of the United States have good rail service. But I tell my friend that because of what I have seen with Amtrak in the last few months in terms of their handling of the Pioneer, which is a run that serves rural Oregon—it also serves Idaho and Wyoming, and the rural west—that it leaves me very troubled.

I want to just take a quick minute and tell the Senator my concern.

My concern is that the new philosophy in terms of Amtrak is essentially to tell people I represent in rural eastern Oregon you are supposed to put up your hard-earned tax dollars today to support the development of all these runs on the east coast of the United States, in densely populated areas, and then maybe if those runs are exceptionally profitable we will come back and one day have rural Oregon get served with Amtrak service. My constituents are very exasperated by this.

I had a community forum in Hermiston, OR, on this, and Amtrak officials came. Now, this is not the Senator from Oregon. These are Amtrak officials. And they told the community: We have given you lousy service. In fact, people don't even know when the train is going to show up. That is kind of the joke. There has been absolutely no promotion, and there has been absolutely no investment in infrastructure.

Now, what our communities have said—and I think this is a reasonable proposition—is that what they would like to have is 1 year to get the State governments out in the West and local governments and the Federal Government together to try to come up with a new cost-effective strategy to keep that Pioneer serving rural Oregon open. They did not say the Federal Government is supposed to write out a check today for everything. They said give us a year in order to try to have a new partnership that acknowledges what the Senator from Delaware has correctly said, which is that times really have changed. We understand that. And so, give our communities and our staffs 1 year to try to come up with a new plan, and the Amtrak officials, who very much like this Senator to vote for their budget covering east coast lines, will not give our part of the country, rural Oregon, a 1-year deferral to try to work it out.

I would just close this by asking my friend from Delaware, if the Senator were in front of a community meeting in rural Oregon where those folks are being asked to support the lines in the East and they are being told after Amtrak admits that there has not been any service, there has not been any promotion, there has not been any investment, that they still cannot have a year for self-help to come back. What would the Senator tell those folks in that community? I say this out of friendship to the Senator and as one who voted for the Senator's request.

Mr. BIDEN. I understand. Mr. President, let me respond by saying that that is an incredibly difficult position for the Senator from Oregon to be placed in.

What I would try to do is explain to my constituency in eastern Oregon what the facts are. I would point out to them that the Amtrak officials who went back from that meeting and met with the Amtrak board said, you know, we should keep this going for another year to give them a chance to work this out, and were met with a response that said, if we do not cut 10 more routes and cut out another $1.5 million or $2.6 million, whatever the number may be, Mr. WOLF, the chairman of the committee over on the House side, is going to cut everything out, because he is going to turn to us and say that Amtrak is doing what the Senator from Utah has said. Amtrak is continuing to put money into a line that costs money. And we have run out of runway. We, the Amtrak management, have run out of runway.

Then I would say to them that Amtrak's inability to give you another year is not related to what they really want to do. The truth of the matter is, Amtrak knows that their ultimate future lies in a national rail system—not a Northeast rail system, but a national rail system—and the reason it does is that we are going to, over the next 30 years, have increases in population and shifts in population around this country that cannot be accommodated merely by building more airports and highways. So for every day that we grow older as a country, the necessity for extending rail as a mode of transportation increases exponentially.

Then I would say to them that we had a problem back in 1934 and 1935 and 1936 when all those Eastern Senators and their constituency said, why in God's name are we paying to build those dams out there in the West? Why are we doing that? I do not understand that. I am taking my hard-earned tax dollars to build a dam on the Columbia River, or on the whatever river, and I do not know eastern Oregon well enough to cite a specific dam, if it does affect eastern Oregon. And I would say what happened then was somebody stood up and said, look, this is in the national interest.

Now, if we spend the billions of dollars to build those dams out West, if we spend the billions of dollars to do those things, what we will eventually do is our economy will grow in the East as well. We will benefit, but you are not going to see it for a day, a week, a year, 10 years, a decade. It may take several decades for that to be seen. And that is the hardest thing to convince any constituency that understandably is aggrieved and understandably has need for a service and has money being taken out of their pockets for something they do not see develop quickly.

The last thing I would say to them is that those who are pushing the hardest to continue to fund Amtrak are the people who support you the most, who are the people who are saying, we should give you a year and we should give you more than that, we should give you flexibility to be able to work out compacts with the other States in the region in order to be able to use other moneys that are available to you to keep the Pioneer running.

However, I do not in any way suggest that it is an easy sell. We are a nation, whether we are in the East, West, South or North, that is very much accustomed to and seeks an instant answer to a larger problem. My experience has not been in eastern Oregon, although I have been there once at a major political event, but my experience has been that when one explains in honest terms to your constituency the overall benefit that will accrue to them, in fact, sometimes they are willing to forbear them not having movement immediately.

But I certainly appreciate the Senator's problem. Let me tell you something that happened to me recently. I will not mention the Senator. I got a call from the president of Amtrak saying, "I don't know what to do. One of the States that we need help from is telling us that they want to keep their particular train going in their State. These two Senators have said basically, if you don't continue to keep this train moving, we are not going to be willing to vote for the things that need to be done," whether it was the half-cent gas tax, whether it was the use of rural funds, or whether it was the direct funding. And, he says, "Then I got a call from a major political figure who holds significant office beyond Senator here in this body, saying, if you continue to fund that train which is not making money, I will not be willing to support Amtrak's long-term needs."

It is really a catch-22 circumstance. That is why I wish we could all basically say time out, time out for a couple of years.

Let us explain two things. Unless you get the Northeast corridor up and running with the new train sets, you have no section of the system that is going to be generating a profit. Unless you provide more flexibility to the States to be able to kick in and work in compacts—you helped me in the compact amendment we had last year.

Mr. WYDEN. Right.

Mr. BIDEN. With no compacts, we are not going to be able to run certain lines. And unless we provide an alternative source of revenue for capital investment, we are not going to be able to maintain the system.

So why don't we look at transportation needs as a whole? That is why this is so debilitating. I will yield the floor——

Mr. WYDEN. Will the Senator yield just one second more? I will be very brief.

Mr. BIDEN. Surely.

Mr. WYDEN. The Senator's case would be logical, in many respects, to my constituents, if my constituents were not acknowledging there does need to be change. The Senator mentioned the dams in Bonneville. We are now reinventing Bonneville. We have all our Governors out, trying to set about to adopt practices that relate to the next century.

The same is true in the Amtrak area. But what would not make sense to my constituents is to say, "Look, we are going to slam the door on you. We are not going to give you the chance to try to change, to have local communities do more, to have States do more, to be cost effective. We are just going to shut the door on you and, instead, adopt what sounds almost like supply-side transportation policy, which is have the east coast of the United States make lots of money on their runs and presumably some day some of it may trickle down."

I know the Senator does not intend that, but I want him to understand I intend to work closely with him. I am a supporter of Amtrak and supporter of a national rail system. But it is getting harder and harder to explain to folks in rural Oregon how they are supposed to wait, they are supposed to be cut off, when they are committed to change. The citizens of my region are saying, "You bet, it is different now than it was 30 years ago, and we are not being given the chance to change."

Mr. BIDEN. I say to my friend from Oregon, I truly do understand that. At the beginning of my comments, which started some time ago, I started off by saying that the more things change the more they remain the same. I cited my experience as a county councilman dealing with bus service in our most populous county. Some of my friends said it had to be totally self-sufficient. So the bus service was put in the position of having to cut routes that were not, in fact, profitable. As they cut routes that were not profitable, exponentially ridership dropped off. The more they cut one route, twice as many riders dropped off because fewer options were available because of transit changes.

Once you start down that road, you are headed for the demise of the system. What I am saying to the Senator is that this is only one of the three pieces of effort we have to have underway. I am suggesting that I, personally, and I suspect everyone who supports Amtrak, understands and appreciates that it is in everybody's best interests if eastern Oregon has access, if eastern Oregon has the Pioneer. The more you invest, the more ridership you generate. But I think we put an artificial timeframe on Amtrak and a standard, a bar, so high they cannot possibly meet it.

I see my colleagues are standing on the floor here. Before I yield to the chairman of the subcommittee and the ranking member, I would like to acknowledge, because he asked for a couple of minutes and I will let the ranking member conclude when that should occur, but the man who, in fact, wrote the book about the megalopolis, I mean literally, not figuratively, literally, literally the guy who wrote the book is the senior Senator from Rhode Island. I say to my friend from New Jersey—he asked whether or not at some point, shortly, we would be willing to yield him 2 minutes. But I will yield the floor and let the chairman make the decision.

Mr. LAUTENBERG. Mr. President, I ask recognition from the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I will be happy, in a moment, to yield to whomever the Chair recognizes. But we are getting lots of inquiries because I know that there is a request to have a rollcall vote. That has not yet been propounded. In fairness to our colleagues who have work to do, as everyone here on the floor has, we started this debate shortly after 2 o'clock this afternoon, and I think in fairness it would be a good idea if I could ask the Senator from Delaware how long the Senator from Delaware thinks the debate might go? I wonder if the Senator from Delaware would answer that question?

If the Senator from Delaware could answer the question as to how much longer he needs? Obviously, he has as much time as he requires. There is a request for a rollcall vote I know.

Mr. BIDEN. Mr. President, in response to my friend's question, and in response to his counsel, I will seek no more time. I, frankly, was going to attempt a filibuster on this bill but I think—I am not being facetious when I say this—the wisdom of the chairman is correct. I probably would end up no better off, even if I succeed, in terms of what would come out of a continuing resolution.

But I will tell the chairman, although I am not going to pursue any strategy other than voting "no" on this legislation and on a continuing resolution, I am hoping to convince some of our colleagues, notwithstanding the fact we will have passed this legislation today, and I expect it will pass, that we get a supplemental to, in fact, give us an opportunity to work out things we are working out with the Senator from Oregon. But I do not seek recognition beyond voting "yes" or "no" when the time comes.

Mr. LAUTENBERG. I thank the Senator very much. Mr. President, I wonder if I might yield to the distinguished Senator from Rhode Island, and I ask unanimous consent I be able to yield up to 3 minutes or 4 minutes, as the Senator needs, and still retain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. PELL. Mr. President, my purpose for rising was to congratulate and thank the Senator from Delaware for underlining this point. Those of us living on the east coast in the corridor have it as part of our lives. It has been in my own life. I know what it means to many millions of people.

The book to which he referred, which was written about 30 years ago on this subject, is still pretty well current, because in this 30 years so little progress has truly been made. I look forward to the day, while I may not be here, but I look forward to the day in the not too distant future where we will have high-speed railroads, really high speeds, as our friends in Europe have, speeding around the country to the different cities of our great land.

In this regard, I am struck by the number of States that are traversed by the high-speed railroad. And, from a political viewpoint for both parties, about a fifth of the electoral votes in the United States are traversed by the high-speed railroad. I hope that will help spur on support.

I have some regrets about retiring myself. I look forward to visiting Washington in the years to come on a high-speed railroad.

I thank the Chair.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, by agreement with our colleagues on the Republican side, I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the conference report accompanying H.R. 3675, the Transportation appropriations bill for fiscal year 1997. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 14, as follows:

[Rollcall Vote No. 294 Leg.]

YEAS—85

Abraham
Akaka
Ashcroft
Baucus
Bennett
Bond
Boxer
Bradley
Breaux
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Domenici
Faircloth
Feingold
Feinstein
Ford
Frahm
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Robb
Rockefeller
Santorum
Sarbanes
Shelby
Simon
Simpson
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NAYS—14

Biden
Bingaman
Brown
Bryan
Byrd
Dodd
Dorgan
Exon
Kyl
Lieberman
Reid
Roth
Smith
Specter

NOT VOTING—1

Gregg

The conference report was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, for the information of all Senators, there will be no further votes during today's session.

The Senate will now begin consideration, though, of S. 39, the Magnuson Fisheries Act, under a previous unanimous-consent agreement reached in August. Any votes ordered with respect to that bill will be stacked to occur at 11 a.m. on Thursday.

Also, during the session of the Senate on Thursday, I expect the Senate to consider the Merchant Marine Act, H.R. 1350, possibly the pipeline safety bill, and any other calendar items that may be cleared for action. The Senate may also consider available appropriations bills conference reports, if agreements can be reached with respect to amendments in order on those.

I know a lot of work has been put into this Magnuson fisheries bill. I think it is a very good piece of legislation, and it is very important for fisheries and conservation all over our country—the Northeast, Northwest, the Gulf of Mexico. I see the Senator from Massachusetts here. He has worked on it, and, obviously, the Senators from Washington, and Senator STEVENS, of course, has been very instrumental in this legislation. I commend one and all that have been involved in it.

It would have been a real travesty if we would have left this very important piece of fisheries legislation on the table. I hope you can get it done tonight. I assume there could be as many as three votes tomorrow. I assume most of the amendments have been worked out, and I know you will continue to work on that.

I yield the floor.

SUSTAINABLE FISHERIES ACT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 39) to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Sustainable Fisheries Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Amendment of the Magnuson Fishery Conservation and Management Act.
Sec. 102. Findings; purposes; policy.
Sec. 103. Definitions.
Sec. 104. Authorization of appropriations.
Sec. 105. Highly migratory species.
Sec. 106. Foreign fishing and international fishery agreements.
Sec. 107. National standards.
Sec. 108. Regional Fishery Management Councils.
Sec. 109. Fishery management plans.
Sec. 110. Action by the Secretary.
Sec. 111. Other requirements and authority.
Sec. 112. Pacific community fisheries.
Sec. 113. State jurisdiction.
Sec. 114. Prohibited acts.
Sec. 115. Civil penalties and permit sanctions; rebuttable presumptions
Sec. 116. Enforcement.
Sec. 117. North Pacific and Northwest Atlantic Ocean Fisheries.
Sec. 118. Transition to sustainable fisheries.

TITLE II—FISHERY MONITORING AND RESEARCH

Sec. 201. Change of title.
Sec. 202. Registration and data management.
Sec. 203. Data collection.
Sec. 204. Observers.
Sec. 205. Fisheries research.
Sec. 206. Incidental harvest research.
Sec. 207. Miscellaneous research.
Sec. 208. Study of contribution of bycatch to charitable organizations.
Sec. 209. Study of identification methods for harvest stocks.
Sec. 210. Clerical amendments.

TITLE III—FISHERIES FINANCING

Sec. 301. Short title.
Sec. 302. Fisheries financing and capacity reduction.
Sec. 303. Fisheries loan guarantee reform.

TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS

Sec. 401. Marine fish program authorization of appropriations.
Sec. 402. Interjurisdictional Fisheries Act amendments.
Sec. 403. Anadromous fisheries amendments.
Sec. 404. Atlantic Coastal Cooperative Management Act amendments.
Sec. 405. Technical amendments to Maritime Boundary Agreement.

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. AMENDMENT OF MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 102. FINDINGS; PURPOSES; POLICY.

Section 2 (16 U.S.C. 1801) is amended—

(1) by striking subsection (a)(2) and inserting the following:

"(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.";

(2) by inserting "to facilitate long-term protection of essential fish habitats," in subsection (a)(6) after "conservation,";

(3) by adding at the end of subsection (a) the following:

"(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

"(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.";

(4) by striking "and" after the semicolon at the end of subsection (b)(5);

(5) by striking "development." in subsection (b)(6) and inserting "development in a nonwasteful manner; and";

(6) by adding at the end of subsection (b) the following:

"(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.";

(7) by inserting "minimize bycatch and" after "practical measures that" in subsection (c)(3);

(8) striking "and" at the end of paragraph (c)(5);

(9) striking the period at the end of paragraph (c)(6) and inserting "; and"; and

(10) adding at the end a new paragraph as follows:

"(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.".

SEC. 103. DEFINITIONS.

Section 3 (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (2) through (32) as paragraphs (4) through (34), respectively, and inserting after paragraph (1) the following:

"(2) The term 'bycatch' means fish which are harvested by a fishing vessel, but which are not sold or kept for personal use, and includes economic discards and regulatory discards but does not include fish caught and released alive that are the target species of recreational fishing under catch and release programs.

"(3) The term 'commercial fishing' means fishing in which the fish harvested, either in whole or in part, enter commerce through sale, barter or trade.";

(2) in paragraph (6) (as redesignated)—

(A) by striking "COELENTERATA" from the heading of the list of corals and inserting "CNIDARIA"; and

(B) in the list appearing under the heading "CRUSTACEA", by striking "Deep-sea Red Crab—Geryon quinquedens" and inserting "Deep-sea Red Crab—Chaceon quinquedens";

(3) by redesignating paragraphs (8) through (34) (as redesignated) as paragraphs (10) through (36), respectively, and inserting after paragraph (7) (as redesignated) the following:

"(8) The term 'economic discards' means fish which are the target of a fishery, but which are not retained by a fishing vessel because they are of an undesirable size, sex, or quality, or for other economic reasons."

"(9) The term 'essential fish habitat' means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.";

(4) by redesignating paragraphs (15) through (36) (as redesignated) as paragraphs (16) through (37), respectively, and inserting after paragraph (14) (as redesignated) the following:

"(15) The term 'fishing community' means a community which is substantially dependent on

the harvest of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators and crew and United States fish processors that are based in such community.'';

(5) by redesignating paragraphs (20) through (37) (as redesignated) as paragraphs (21) through (38), respectively, and inserting after paragraph (19) (as redesignated) the following:

''(20) The term 'individual fishing quota' means a revocable Federal permit under a limited access system to harvest a quantity of fish that is expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person.'';

(6) by striking ''of one and one-half miles'' in paragraph (22) (as redesignated) and inserting ''of two and one-half kilometers'';

(7) by striking paragraph (27), as redesignated, and inserting the following:

''(27) The term 'optimum', with respect to the yield from a fishery, means the amount of fish which—

''(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

''(B) is prescribed on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant social, economic, or ecological factor; and

''(C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.'';

(8) by redesignating paragraphs (28) through (38) (as redesignated) as paragraphs (30) through (40), respectively, and inserting after paragraph (27) (as redesignated) the following:

''(28) The terms 'overfishing' and 'overfished' mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.'';

''(29) The term ''Pacific Insular Area'' means American Samoa, Guam, the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Wake Island, or Palmyra Atoll, as applicable, and includes all islands and reefs appurtenant to such island, reef, or atoll.

(9) by redesignating paragraphs (31) through (40) (as redesignated) as paragraphs (33) through (42), respectively, and inserting after paragraph (30) (as redesignated) the following:

''(31) The term 'recreational fishing' means fishing for sport or pleasure.

''(32) The term 'regulatory discards' means fish caught in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.'';

(10) by redesignating paragraphs (34) through (42) (as redesignated) as paragraphs (35) through (43), respectively, and inserting after paragraph (33) (as redesignated) the following:

''(34) The term 'special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.'';

(11) by striking ''for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(h) has been implemented'' in paragraph (42) (as redesignated) and inserting ''regulated under this Act'';

(12) by redesignating paragraph (43), as redesignated, as paragraph (44), and inserting after paragraph (42) the following:

''(43) The term 'vessel subject to the jurisdiction of the United States' has the same meaning such term has in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).''; and

(13) by redesignating paragraph (33) as paragraph (45).

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

The Act is amended by inserting after section 3 (16 U.S.C. 1802) the following:

''SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act, not to exceed the following sums (of which not less than 10 percent in each fiscal year shall be used for enforcement activities):

''(1) $147,000,000 for fiscal year 1996;

''(2) $151,000,000 for fiscal year 1997;

''(3) $155,000,000 for fiscal year 1998;

''(4) $159,000,000 for fiscal year 1999; and

''(5) $163,000,000 for fiscal year 2000.''.

SEC. 105. HIGHLY MIGRATORY SPECIES.

Section 102 (16 U.S.C. 1812) is amended by striking ''promoting the objective of optimum utilization'' and inserting ''shall promote the achievement of optimum yield''.

SEC. 106. FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS.

(a) AUTHORITY TO OPERATE UNDER TRANSSHIPMENT PERMITS.—Section 201(a)(1) (16 U.S.C. 1821(a)(1)) is amended to read as follows:

''(1) is authorized under subsections (b) or (c) or section 204(e), under a permit issued under section 204(d);''.

(b) INTERNATIONAL FISHERY AGREEMENTS.—Section 202 (16 U.S.C. 1822) is amended—

(1) by adding at the end of subsection (c) ''or section 204(e)'';

(2) by adding at the end the following:

''(h) BYCATCH REDUCTION AGREEMENTS.—(1) The Secretary of State, in cooperation with the Secretary, shall seek to secure an international agreement to establish standards and measures for bycatch reduction that are comparable to the standards and measures applicable to United States fishermen for such purposes in any fishery regulated pursuant to this Act for which the Secretary, in consultation with the Secretary of State, determines that such an international agreement is necessary and appropriate.

''(2) An international agreement negotiated under this subsection shall be—

''(A) consistent with the policies and purposes of this Act; and

''(B) approved by Congress in the manner established in section 203 for approval of a governing international fishery agreement.

''(3) Not later than January 1, 1997, and annually thereafter, the Secretary, in consultation with the Secretary of State, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing actions taken under this subsection and section 205(a)(5).''.

(c) PERIOD FOR CONGRESSIONAL REVIEW OF GOVERNING INTERNATIONAL FISHERY AGREEMENTS.—Section 203 (16 U.S.C. 1823) is amended—

(1) in subsection (a) by striking ''60 calendar days of continuous session of the Congress'' and inserting ''120 days (excluding any days in a period for which the Congress is adjourned sine die)'';

(2) by striking subsection (c); and

(3) by redesignating subsection (d) as subsection (c).

(d) TRANSSHIPMENT PERMITS AND PACIFIC INSULAR AREA FISHING.—Section 204 (16 U.S.C. 1824) is amended by adding at the end the following:

''(d) TRANSSHIPMENT PERMITS.—

''(1) AUTHORITY TO ISSUE PERMITS.—The Secretary may issue a transshipment permit under this subsection which authorizes a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish products at sea from a point within the boundaries of any State or the exclusive economic zone to a point outside the United States to any person who—

''(A) submits an application which is approved by the Secretary under paragraph (3); and

''(B) pays a fee imposed under paragraph (7).

''(2) TRANSMITTAL.—Upon receipt of an application for a permit under this subsection, the Secretary shall promptly transmit copies of the application to the Secretary of the department in which the Coast Guard is operating, any appropriate Council, and any interested State.

''(3) APPROVAL OF APPLICATION.—The Secretary may approve, with the concurrence of the appropriate Council, an application for a permit under this section if the Secretary determines that—

''(A) the transportation of fish products to be conducted under the permit, as described in the application, will be in the interest of the United States and will meet the applicable requirements of this Act;

''(B) the applicant will comply with the requirements described in section 201(c)(2) with respect to activities authorized by any permit issued pursuant to the application;

''(C) the applicant has established any bonds or financial assurances that may be required by the Secretary; and

''(D) no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated to the Secretary an interest in performing the transportation at fair and reasonable rates.

''(4) WHOLE OR PARTIAL APPROVAL.—The Secretary may approve all or any portion of an application under paragraph (3).

''(5) FAILURE TO APPROVE APPLICATION.—If the Secretary does not approve any portion of an application submitted under paragraph (1), the Secretary shall promptly inform the applicant and specify the reasons therefore.

''(6) CONDITIONS AND RESTRICTIONS.—The Secretary shall establish and include in each permit under this subsection conditions and restrictions which shall be complied with by the owner and operator of the vessel for which the permit is issued. The conditions and restrictions shall include the requirements, regulations, and restrictions set forth in subsection (b)(7).

''(7) FEES.—The Secretary shall collect a fee for each permit issued under this subsection, in an amount adequate to recover the costs incurred by the United States in issuing the permit.

''(e) PACIFIC INSULAR AREAS.—

''(1) At the request of and with the concurrence of the Governor of the applicable Pacific Insular Area, the Secretary of State in concurrence with the Secretary of Commerce, and the Western Pacific Council, may negotiate and enter into a Pacific Insular Area Fishery Agreement (hereinafter in this subsection referred to as a 'Pacific Fishery Agreement') to authorize foreign fishing within the exclusive economic zone adjacent to such Pacific Insular Area.

''(2) In the case of a Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands, the Secretary of State, with the concurrence of the Secretary of Commerce and the Western Pacific Council, may

negotiate and enter into a Pacific Fishery Agreement to authorize foreign fishing within the exclusive economic zone adjacent to such an area.

"(3) In the case of American Samoa, Guam, or the Northern Mariana Islands, the Secretary of State shall not negotiate a Pacific Fishery Agreement to authorize foreign fishing within the exclusive economic zone adjacent to such a Pacific Insular Area without consultation with and the concurrence of the Governor of the applicable Pacific Insular Area.

"(4) A Pacific Fishery Agreement shall not be considered to supersede any governing international fishery agreement currently in effect under this Act, but shall provide an alternative basis for the conduct of foreign fishing within the exclusive economic zone adjacent to Pacific Insular Areas.

"(5) A Pacific Fishery Agreement shall not be entered into if it is determined by the Governor of the appropriate Pacific Insular Area, the Secretary, or the Western Pacific Council that such an agreement will adversely affect the fishing activities of the indigenous peoples of such Pacific Insular Area.

"(6) Foreign fishing authorized under a Pacific Fishery Agreement shall conform to the terms of such agreement establishing the conditions under which a permit is issued and held valid. These terms, at a minimum, shall require that a Pacific Fishery Agreement include provisions for a Western Pacific based observer program, annual determination of the quantity of fish that may be harvested, annual determination of fees, data collection and reporting systems, research plans, and monitoring and enforcement tools such as the Vessel Monitoring System (VMS) to ensure effective compliance with the provisions of the Pacific Fishery Agreement and any other terms and conditions deemed appropriate by the Secretary of State, in consultation with the Secretary, the Governor of the appropriate Pacific Insular Area, and the Western Pacific Council.

"(7) The Secretary of State may not negotiate a Pacific Fishery Agreement with a country that is in violation of a governing international fishery agreement in effect under this Act.

"(8) A Pacific Fishery Agreement shall be valid for a period not to exceed three years and shall become effective according to the procedure of section 203 of this Act.

"(9) Foreign Fishing under a Pacific Fishery Agreement shall not be subject to sections 201(d) through (f) and section 201(i) of this Act.

"(10) Prior to entering into a Pacific Fishery Agreement, the Western Pacific Council or the appropriate Governor shall develop a three-year plan detailing uses for funds to be collected by the Secretary pursuant to such agreement. Such plan shall include conservation goals and guidelines and prioritize planned conservation and management projects. In the case of American Samoa, Guam, and the Northern Mariana Islands, the appropriate Governor shall develop such a plan in consultation with the Western Pacific Council. In the case of other Pacific Insular Areas, the Western Pacific Council shall develop such a plan in consultation with the Secretary. If a Governor or the Western Pacific Council intends to renew a Pacific Fishery Agreement, a subsequent three-year plan shall be developed at the end of the second year of the existing three-year plan.

"(11) Fees established pursuant to a Pacific Fishery Agreement shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section. The prescription of such fees is not subject to 31 U.S.C. 9701. The amount of fees may exceed administrative costs and shall be reasonable, fair, and equitable to all participants in the fisheries.

"(12) Amounts collected by the Secretary from a Pacific Fishery Agreement for American Samoa, Guam, or the Northern Mariana Islands shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which those funds were collected. After the transfer of such funds, the Governor of each appropriate Pacific Insular Area shall compensate:

"(A) the Western Pacific Council for mutually agreed upon administrative costs incurred relating to any Pacific Fishery Agreement of the respective Pacific Insular Area; and

"(B) the Secretary of State for mutually agreed upon travel expenses for no more than two federal representatives incurred as a direct result of complying with section 204(e)(1).

"(13) There is established in the United States Treasury a Western Pacific Sustainable Fisheries Fund into which amounts collected by the Secretary from a Pacific Fisheries Agreement in any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands shall be deposited. The Fund shall be made available, without appropriation or fiscal year limitation, by the Secretary to the Western Pacific Council, for the purpose of carrying out the provisions of this section.

"(14) Amounts used from this Fund to carry out the provisions of this section shall not diminish other funding received by the Western Pacific Council for the purpose of carrying out activities within the Western Pacific Council's mandate other than Pacific Fisheries Agreements.

"(15) Amounts generated by Pacific Fishery Agreements in American Samoa, Guam, or the Northern Mariana Islands shall be used for purposes, as described in a three year conservation and management plan developed under paragraph (10), that have been determined by the Governors of the respective Pacific Insular Areas in consultation with the Western Pacific Council to contribute to fishery conservation and management in the respective Pacific Insular Area.

"(16) The Western Pacific Sustainable Fisheries Fund, shall be made available by the Secretary to the Western Pacific Council for purposes, as described in the three year conservation and management plan, that have been determined by the Western Pacific Council in consultation with the Secretary to contribute to fishery conservation and management in the Western Pacific Region. Travel costs of no more than two federal representatives, incurred by the Secretary of State as a direct result of complying with paragraph (2) shall be reimbursed from the Western Pacific Sustainable Fisheries Fund.

"(17) 'Fishery conservation and management' as used in paragraphs (15) and (16) includes but is not limited to:

"(A) An approved Western Pacific based observer program to be operated by the Secretary, subject to the approval of the Western Pacific Council, and in consultation with the Governor of the relevant Pacific Insular Area;

"(B) Marine and fisheries research, including but not limited to: data collection, analysis, evaluation, and reporting;

"(C) Conservation, education, and enforcement, including but not limited to: living marine resource, habitat monitoring and coastal studies;

"(D) Grants to the University of Hawaii for technical assistance projects in the United States Pacific Insular Areas and the Freely Associated States including but not limited to: Education and training in the development and implementation of sustainable marine resources development projects, scientific research, data collection and analysis, and conservation strategies;

"(E) Western Pacific Community-Based Demonstration Projects to foster and promote the management, conservation, and economic enhancement of the indigenous, traditional fishery practices of Western Pacific Communities.

"(18) Monies collected by the Secretary from a Pacific Fishery Agreement for a Pacific Insular Area may be allocated for other marine and coastal related uses by the government of each Pacific Insular Area or in the case of Pacific Insular Areas other than American Samoa, Guam, and the Northern Mariana Islands by the Western Pacific Council only after the costs of uses specified in paragraphs (6) and (17)(A) through (17)(E) under this title and the administrative costs of Pacific Fisheries Agreements have been met. The determination of when conservation and management and administrative costs have been met shall be made, in the case of American Samoa, Guam, and the Northern Mariana Islands by the Governor of the respective Pacific Insular Area with the concurrence of the Western Pacific Council, and in the case of any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands by the Western Pacific Council.

"(19) The Western Pacific Sustainable Fisheries Fund of the United States Treasury, shall be made available by the Secretary for the purpose of fisheries conservation and management in the State of Hawaii and the Western Pacific Region only after fisheries conservation and management needs in such Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands have been met as determined by the Western Pacific Council in accordance with its operational standards, policies, procedures, and program milestones.

"(20) In the case of American Samoa, Guam, or the Northern Mariana Islands, amounts received by the Secretary which are attributable to fines or penalties imposed under this Act, including such sums collected from the forfeiture and disposition or sale of property seized subject to its authority, will be covered over to the Treasury of the Pacific Island Area adjacent to the exclusive economic zone in which the violation occurred, after payment of direct costs of the enforcement action to other entities involved in such enforcement action. The Governor of the respective Pacific Insular Area may use such monies available under this paragraph for purposes other than fisheries conservation and management. In the case of violations occurring in the exclusive economic zone adjacent to a Pacific Insular Area other than American Samoa, Guam, and the Northern Mariana Islands, amounts received by the Secretary which are attributable to fines or penalties imposed under this Act, including such sums collected from the forfeiture and disposition or sale of property seized subject to its authority, will be covered over to the Western Pacific Sustainable Fisheries Fund of the United States Treasury to be used for conservation and management as described in paragraphs (6) and (17)(A) through (17)(E) or other related marine and coastal projects.".

(e) IMPORT PROHIBITIONS.—Section 205(a) (16 U.S.C. 1825(a)) is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by inserting "or" after the semicolon at the end of paragraph (4); and

(3) by adding at the end the following:

"(5) he has been unable, within a reasonable period of time, to conclude with any foreign nation an international agreement to establish standards and measures for bycatch reduction under section 202(g),".

(f) LARGE SCALE DRIFTNET FISHING.—Section 206 (16 U.S.C. 1826) is amended—

(1) in subsection (e), by striking paragraphs (3) and (4), and redesignating paragraphs (5) and (6) as (3) and (4), respectively; and

(2) in subsection (f), by striking "(e)(6)," and inserting "(e)(4),".

SEC. 107. NATIONAL STANDARDS.

(a) Section 301(a)(5) (16 U.S.C. 1851(a)(5)) is amended by striking "promote" and inserting "consider".

(b) Section 301(a) (16 U.S.C. 1851(a)) is amended by adding at the end thereof the following:

"(8) Conservation and management measures shall take into account the importance of the harvest of fishery resources to minimize, to the extent practicable, adverse economic impacts on, and provide for the sustained participation of, fishing communities; except that no such measure shall have economic allocation as its sole purpose.

"(9) Conservation and management measures shall, to the extent practicable, minimize bycatch and the mortality of bycatch which cannot be avoided.

"(10) Conservation and management measures shall promote the safety of human life at sea.".

SEC. 108. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) Section 302(a) (16 U.S.C. 1852(a)) is amended—

(1) by inserting "(1)" after the subsection heading;

(2) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively;

(3) by striking "section 304(f)(3)" wherever it appears and inserting "paragraph (3)";

(4) in paragraph (1)(B), as amended—

(A) by striking "and Virginia" and inserting "Virginia, and North Carolina";

(B) by inserting "North Carolina, and" after "except";

(C) by striking "19" and inserting "21"; and

(D) by striking "12" and inserting "13"; and

(5) by striking paragraph (1)(F), as redesignated, and inserting the following:

"(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).";

(6) by indenting the sentence at the end thereof and inserting "(2)" in front of "Each Council"; and

(7) by adding at the end the following:

"(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.".

(b) Section 302(b) (16 U.S.C. 1852(b)) is amended—

(1) by striking "subsection (b)(2)" in paragraph (1)(C) and inserting "paragraphs (2) and (5) of this subsection";

(2) by inserting "full" before "consecutive" in the second sentence of paragraph (3); and

(3) by striking paragraph (5) and inserting after paragraph (4) the following:

"(5)(A) The Secretary shall appoint to the Pacific Fishery Management Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho, from a list of not less than 3 individuals submitted by the tribal governments. The representative shall serve for a term of 3 years and may not serve more than 3 full consecutive terms. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting lists under this subparagraph.

"(B) Representation shall be rotated among the tribes taking into consideration—

"(i) the qualifications of the individuals on the list referred to in subparagraph (A),

"(ii) the various treaty rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and

"(iii) the geographic area in which the tribe of the representative is located.

"(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.

"(6) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with subsection (b)(2) if—

"(A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or

"(B) the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307(1)(O).".

(c) Section 302(d) (16 U.S.C. 1852(d)) is amended in the first sentence—

(1) by striking "each Council," and inserting "each Council who are required to be appointed by the Secretary and"; and

(2) by striking "shall, until January 1, 1992," and all that follows through "GS–16" and inserting "shall receive compensation at the daily rate for GS–15, step 7".

(d) Section 302(e) (16 U.S.C. 1852(e)) is amended by adding at the end the following:

"(5) At the request of any voting member of a Council, the Council shall hold a rollcall vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all rollcall votes held, the name of each voting member present during each rollcall vote, and how each member voted on each rollcall vote.".

(e) Section 302(g) (16 U.S.C. 1852(g)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following:

"(4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment under section 304(g). Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among—

"(A) members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

"(B) other interested persons.".

(f) Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) by striking "section 304(f)(3)" in paragraphs (1) and (5) and inserting "subsection (a)(3)"; and

(2) by striking "section 204(b)(4)(C)," in paragraph (2) and inserting "section 204(b)(4)(C) or section 204(d),".

(g) Section 302 is amended further by striking subsection (i), and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(h) Section 302(i), as redesignated, is amended—

(1) by striking "of the Councils" in paragraph (1) and inserting "established under subsection (g)";

(2) by striking "of a Council:" in paragraph (2) and inserting "established under subsection (g):";

(3) in paragraph (2)(C)—

(A) by striking "Council's";

(B) by adding the following at the end: "The published agenda of the meeting may not be modified without public notice or within 14 days prior to the meeting date.";

(4) by adding the following at the end of paragraph (2)(D): "All written data submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.";

(5) by striking paragraph (2)(E) and inserting:

"(E) Detailed minutes of each meeting of the Council shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction."; and

(6) in paragraph (2)(F)—

(A) by striking "by the Council" the first place it appears;

(B) by inserting "or the Secretary, as appropriate" after "of the Council"; and

(C) by striking "303(d)" each place it appears and inserting "402(b)".

(i) Section 302(j), as redesignated, is amended—

(1) by inserting "AND RECUSAL" after "INTEREST" in the subsection heading;

(2) by striking paragraph (1) and inserting the following:

"(1) For the purposes of this subsection—

"(A) the term 'affected individual' means an individual who—

"(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

"(ii) is a voting member of a Council appointed under subsection (b)(2); and

"(B) the term 'designated official' means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, with the concurrence of a majority of the voting members of the Council, to attend Council meetings and make determinations under paragraph (7)(B).";

(3) by striking "(1)(A)" in paragraph (3)(A) and inserting "(1)(A)(i)";

(4) by striking "(1) (B) or (C)" in paragraph (3)(B) and inserting "(1)(A)(ii)";

(5) by striking "(1) (B) or (C)" in paragraph (4) and inserting "(1)(A)(ii)";

(6)(A) by striking "and" at the end of paragraph (5)(A);

(B) by striking the period at the end of paragraph (5)(B) and inserting a semicolon and the word "and"; and

(C) by adding at the end of paragraph (5) the following:

"(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.";

(7) by striking "(1) (B) or (C)" in paragraph (6) and inserting "(1)(A)(ii)";

(8) by redesignating paragraph (7) as (8) and inserting after paragraph (6) the following:

"(7)(A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and disproportionate benefit, shared only by a minority of persons within the same fishery and gear type, to the financial interest. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

"(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

"(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

"(D) Any affected individual who does not vote in a Council decision in accordance with this subsection shall state for the record how he or she would have voted on such decision if he or she had voted.

"(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

"(F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of this Act, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C)."; and

(9) by striking "(1) (B) or (C)" in paragraph (8), as redesignated, and inserting "(1)(A)(ii)".

SEC. 109. FISHERY MANAGEMENT PLANS.

(a) REQUIRED PROVISIONS.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) by striking paragraph (7) and inserting the following:

"(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize where practicable adverse effects on such habitat caused by fishing, and identify other actions which should be considered to encourage the conservation and enhancement of such habitat."

(2) by striking "and" at the end of paragraph (8);

(3) by inserting "and fishing communities" after "fisheries" in paragraph (9)(A);

(4) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(5) by adding at the end the following:

"(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or Secretary has determined is overfished, or is approaching an overfished condition, contain conservation and management measures to rebuild the fishery;

"(11) assess the amount and type of bycatch occurring in the fishery, and, to the extent practicable and in the following priority, include conservation and management measures to—

"(A) minimize bycatch; and

"(B) minimize the mortality of bycatch which cannot be avoided;

"(12) assess the amount and type of fish caught during recreational fishing, and to the extent practicable, include conservation and management measures to minimize the mortality of fish caught and released that are the target species of recreational fishing, under catch and release programs;

"(13) take into account the safety of human life at sea.".

(b) IMPLEMENTATION.—Not later than 18 months after the date of enactment of this Act, each Regional Fishery Management Council shall submit to the Secretary of Commerce amendments to each fishery management plan under its authority to comply with the amendments made in subsection (a) of this Act.

(c) DISCRETIONARY PROVISIONS.—Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) in paragraph (6)—

(A) by striking "system for limiting access to" and inserting "limited access system for"; and

(B) by striking "fishery" in subparagraph (E) and inserting "fishery and fishing community";

(2) by inserting "one or more" in paragraph (8) after "require";

(3) by striking "and" at the end of paragraph (9);

(4) by redesignating paragraph (10) as paragraph (11); and

(5) by inserting after paragraph (9) the following:

"(10) include, consistent with the other provisions of this Act, conservation and management measures that provide a harvest preference or other incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch; and".

(d) REGULATIONS.—Section 303 (16 U.S.C. 1853) is amended by striking subsection (c) and inserting the following:

"(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of implementing a fishery management plan or plan amendment may be submitted to the Secretary for action under section 304—

"(1) simultaneously with submission of the plan or amendment to the Secretary for action under section 304; or

"(2) at any time after the plan or amendment is approved.".

(e) INDIVIDUAL FISHING QUOTAS.—Subsection 303 (16 U.S.C. 1853) is amended further by striking subsections (d), (e), and (f), and inserting the following:

"(d) INDIVIDUAL FISHING QUOTAS.—

"(1)(A) A Council may not recommend and the Secretary may not approve or implement any fishery management plan, plan amendment or regulation under this Act which creates a new individual fishing quota program during the fiscal years for which funds are authorized under section 4.

"(B) Any fishery management plan, plan amendment or regulation approved by the Secretary on or after January 4, 1995 which creates any new individual fishing quota program shall be repealed and immediately resubmitted by the Secretary to the appropriate Council and shall not be recommended, approved or implemented during the moratorium set forth in paragraph (1).

"(2)(A) No provision of law shall be construed to limit the authority of a Council to recommend and the Secretary to approve the termination or limitation, without compensation to holders of any limited access system permits, of a fishery management plan, plan amendment or regulation that provides for a limited access system, including an individual fishing quota system.

"(B) This subsection shall not be construed to prohibit a Council from recommending and the Secretary from approving amendments to a fishery management plan, plan amendment, or regulation which implement an individual fishing quota program, if such program was approved prior to January 4, 1995.

"(3) Individual fishing quotas shall be considered permits for the purposes of sections 307, 308 and 309.

"(4)(A) A Council may recommend, and the Secretary may approve and administer, a program which allows up to 25 percent of any fees collected under section 304(d)(2) to be used, pursuant to section 1104A(a)(7) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to guarantee or make a commitment to guarantee, payment of principal of and interest on an obligation which aids in financing the—

"(i) purchase of individual fishing quotas by fishermen who fish from small vessels; and

"(ii) first-time purchase of individual fishing quotas by entry level fishermen.

"(B) A Council making a recommendation under subparagraph (A) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under clauses (i) and (ii) of subparagraph (A) and the portion of funds to be allocated for guarantees under each clause.".

(f) INDIVIDUAL FISHING QUOTA REPORT.—(1) Not later than June 1, 1999, the Secretary, in consultation with the Councils and National Academy of Sciences, shall submit to the Congress a comprehensive report on individual fishing quotas, which shall propose amendments to the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to implement a national policy with respect to individual fishing quotas. The report shall address all aspects of such quotas, including an assessment of the impacts and advisability of—

(A) limiting or prohibiting the transferability of such quotas;

(B) mechanisms to prevent foreign control of United States fisheries under individual fishing quota programs, including mechanisms to prohibit persons who are not eligible to be deemed a citizen of the United States for the purpose of operating a vessel in the coastwise trade under section 2(a) and section 2(c) of the Shipping Act, 1916 (46 U.S.C. 802) from holding individual fishing quotas;

(C) limiting the duration of individual fishing quota programs;

(D) providing revocable Federal permits to process a quantity of fish that correspond to individual fishing quotas;

(E) mechanisms to provide for diversity and to minimize adverse social and economic impacts on fishing communities, other fisheries affected by the displacement of vessels, and any impacts associated with the shifting of capital value from fishing vessels to individual fishing quotas, as well as the advisability of allowing capital construction funds to be used to purchase individual fishing quotas;

(F) mechanisms to provide for effective monitoring and enforcement, including incentives to reduce economic discards and allow for the inspection of fish harvested;

(G) establishing threshold criteria for determining whether a fishery may be considered for individual fishing quota management, including criteria related to geographical range, population dynamics and condition of a fish stock, characteristics of a fishery, and participation by commercial and recreational fishermen in the fishery;

(H) mechanisms to ensure that vessel owners, vessel masters, crew members, and United States fish processors are treated fairly and equitably in initial allocations, to require persons holding individual fishing quotas to be on board a vessel, and to facilitate new entry under individual fishing quota programs;

(I) allowing individual fishing quotas to be sold by the Federal government through auctions; and

(J) such other matters as the Secretary deems appropriate.

(2) The report shall include a detailed analysis of individual fishing quota programs already implemented in the United States, including the impacts of transferability, the impacts on past and present participants, on fishing communities, on the rate and total amount of bycatch (including economic and regulatory discards) in the fishery, on the safety of life and vessels in the fishery, on any excess harvesting or processing capacity in the fishery, on any gear conflicts in the fishery, on product quality from the fishery, on the effectiveness of enforcement in the fishery, and on the size and composition of fishing vessel fleets. The report shall also include any information about individual fishing quota programs in other countries that may be useful.

(3) The report shall identify alternative conservation and management measures, including other limited access systems, that could accomplish the same objectives as individual fishing quota programs, as well as characteristics that are unique to individual fishing quotas.

(4) The Secretary shall, in consultation with the Councils, the fishing industry, affected States, conservation organizations and other interested persons, establish two individual fishing quota review groups to assist in the preparation of the report, which shall represent: (A) Alaska, Hawaii, and Pacific Coast States; and (B) Atlantic Coast and Gulf of Mexico States. The Secretary shall, to the maximum extent practicable, attempt to achieve a balanced representation of viewpoints among the individuals on each review group. The review groups shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

(5) The Secretary shall conduct public hearings in each Council region to obtain comments on individual fishing quotas in preparing the report, and shall publish in the Federal Register a notice and opportunity for public comment on the draft of the report, or any revision thereof. The dissenting views of any Council or affected State shall be included in the final report.

(6) In the event that the authorization of appropriations under section 4 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) expires prior to enactment of amendments to such Act implementing a national policy with respect to individual fishing quotas, a Council may recommend and the Secretary may approve new individual fishing quota programs only with the approval of a two-thirds majority of voting members of the Council. In such event, the Councils and Secretary shall take into account changes that may be required upon enactment of such amendments.

(g) North Pacific Loan Program.—(1) By not later than January 1, 1997, the North Pacific Fishery Management Council shall recommend to the Secretary a program which uses the full amount of fees authorized to be used under section 303(d)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)) in the halibut and sablefish fisheries off Alaska to guarantee obligations in accordance with such section.

(2)(A) For the purposes of this subsection, the phrase "fishermen who fish from small vessels" in section 303(d)(4)(A)(i) of such Act shall mean fishermen wishing to purchase individual fishing quotas for use from Category B, Category C, or Category D vessels, as defined in 50 CFR 676.20(a)(2) (iii) and (iv), whose aggregate ownership of individual fishing quotas will not exceed the equivalent of a total of 50,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made if the guarantee is approved, who will participate aboard the vessel in the harvest of fish caught under such quotas, who have at least 150 days' experience working as part of the harvesting crew in any U.S. commercial fishery, and who do not own in whole or in part any Category A or Category B vessel.

(B) For the purposes of this subsection, the phrase "entry level fishermen" in section 303(d)(4)(A)(ii) of such Act shall mean fishermen who do not own any individual fishing quotas, who wish to obtain the equivalent of not more than a total of 8,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made, and who will participate aboard a vessel in the harvest of fish caught under such quotas.

(h) Nothing in the Sustainable Fisheries Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program.

SEC. 110. ACTION BY THE SECRETARY.

(a) Secretarial Review of Plans and Regulations.—Section 304 (16 U.S.C. 1854) is amended by striking subsections (a) and (b) and inserting the following:

"(a) Review of Plans.—

"(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

"(A) immediately commence a review of the plan or plan amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

"(B) immediately publish in the Federal Register a notice stating that the plan or plan amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

"(2) In undertaking the review required under paragraph (1), the Secretary shall—

"(A) take into account the data, views, and comments received from interested persons;

"(B) consult with the Secretary of State with respect to foreign fishing; and

"(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

"(3) The Secretary shall approve, disapprove, or partially approve a plan or plan amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

"(A) the applicable law with which the plan or amendment is inconsistent;

"(B) the nature of such inconsistencies; and

"(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

"(4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

"(5) For purposes of this subsection and subsection (b), the term 'immediately' means on or before the 5th day after the day on which a Council transmits to the Secretary a plan, amendment, or proposed regulation that the Council characterizes as final.

"(b) Review of Regulations.—

"(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

"(A) if that determination is affirmative, the Secretary shall publish such regulations, with such technical changes as may be necessary for clarity and an explanation of those changes, in the Federal Register for a public comment period of 15 to 60 days; or

"(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, this Act, and other applicable law.

"(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

"(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.";

(b) Preparation by the Secretary.—Section 304(c) (16 U.S.C. 1854(c)) is amended—

(1) by striking "fishery," in paragraph (1) and inserting "fishery (other than a fishery to which section 302(a)(3) applies),"

(2) by striking all that follows "as the case may be." in paragraph (1);

(3) by striking paragraph (2) and inserting :

"(2) In preparing any plan or amendment under this subsection, the Secretary shall consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.";

(4) by inserting "under this subsection" after "him" in paragraph (3); and

(5) by striking "system described in section 303(b)(6)" in paragraph (3) and inserting "system, including any individual fishing quota system".

(c) Individual Fishing Quota Fees.—Section 304(d) (16 U.S.C. 1854(d)) is amended—

(1) by inserting "(1)" immediately before the first sentence; and

(2) by inserting the at the end the following:

"(2) Notwithstanding paragraph (1), the Secretary is authorized and shall collect a fee of up to 3 percent of the annual ex-vessel value of fish harvested under any individual fishing quota program or community development quota program to recover the costs directly related to the management and enforcement of such program. Fees collected under this paragraph shall be in addition to any other fees charged under this Act and shall be an offsetting collection available only to the Secretary for the purposes of administering and implementing this Act in the fishery in which the fees were collected.".

(d) Delay of Fees.—Notwithstanding any other law, the Secretary shall not begin the collection of fees under section 304(d)(2) from persons holding individual fishing quotas in the surf clam and ocean quahog fishery or in the wreckfish fishery until January 1, 2000.

(e) Overfishing.—Section 304(e) (16 U.S.C. 1854(e)) is amended to read as follows:

"(e) Rebuilding Overfished Fisheries.—

"(1) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are overfished or are approaching a condition of being overfished. For those fisheries managed under a fishery management plan or international agreement, the status shall be determined using the criteria for overfishing specified in such plan or agreement. A fishery shall

be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within two years.

“(2) In addition, if the Secretary determines at any time that a fishery is overfished, the Secretary immediately shall notify the appropriate Council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks of fish. The Secretary shall publish each notice under this paragraph in the Federal Register.

“(3) Within one year of an identification or notification under this subsection, the Council (or the Secretary, consistent with section 304(g) and where practicable for fisheries under section 302(a)(3)) shall prepare a fishery management plan, a plan amendment, or proposed regulations for fisheries under the authority of such Council or the Secretary—

“(A) to end overfishing in the fishery and to rebuild affected stocks of fish; or

“(B) to prevent overfishing from occurring in the fishery whenever such fishery is identified as approaching an overfished condition.

“(4) For a fishery that is overfished, any fishery management plan, amendment or proposed regulations prepared under this section shall—

“(A) specify a time period for ending overfishing and rebuilding the fishery that shall—

“(i) be as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities and other economic interests, recommendations by international organizations in which the United States participates and the interaction of the overfished stock of fish within the marine ecosystem; and

“(ii) not exceed 10 years, except in cases where the biology of the stock of fish or other environmental conditions dictate otherwise.

“(B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and

“(C) for fisheries managed under an international agreement, reflect the traditional participation by fishermen of the United States in the fishery relative to other nations.

“(5) If, within the one-year period beginning on the date of identification or notification, the Council does not submit to the Secretary a fishery management plan, plan amendment or proposed regulations under paragraph (3)(A), the Secretary shall within nine months prepare under subsection (c) a fishery management plan or plan amendment to stop overfishing and rebuild affected stocks of fish.

“(6) During the development of a fishery management plan, a plan amendment, or proposed regulations under this subsection, the Council may request the Secretary to implement interim measures, to be replaced by such plan, amendment or regulations, to reduce overfishing. Such measures, if otherwise in compliance with the provisions of this Act, may be implemented even though they are not sufficient by themselves to stop overfishing of a fishery.

“(7) The Secretary shall review any fishery management plan, plan amendment or regulations implemented under this subsection at routine intervals that may not exceed two years. If the Secretary finds as a result of the review that such plan, amendment or regulations have not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks, the Secretary shall—

“(A) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress; or

“(B) for all other fisheries, immediately notify the appropriate Council under paragraph (2).”.

(f) FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL.—Section 304(f) is amended by striking paragraph (3).

(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—Section 304 (16 U.S.C. 1854) is amended further by striking subsection (g) and inserting the following:

“(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—The Secretary shall prepare a fishery management plan or plan amendment with respect to any highly migratory species fishery to which section 302(a)(3) applies that requires conservation and management, in accordance with the national standards, the other provisions of this Act, and any other applicable law. In preparing and implementing any such plan or amendment, the Secretary shall—

“(1) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan;

“(2)(A) consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea; and

“(B) consult with and consider the comments and views of affected Councils, as well as commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species and the advisory panel established under section 302(g);

“(3) establish an advisory panel under section 302(g) for each fishery management plan to be prepared under this paragraph;

“(4) evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors;

“(5) with respect to a highly migratory species for which the United States is authorized to harvest an allocation, quota, or at a fishing mortality level under a relevant international fishery agreement, provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation, quota, or fishing mortality level;

“(6) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan;

“(7) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and

“(8) ensure that conservation and management measures adopted under this paragraph—

“(A) promote international conservation of the affected fishery;

“(B) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

“(C) are fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose;

“(D) minimize the discarding of Atlantic highly migratory species which cannot be returned to the sea alive; and

“(E) promote, to the extent practicable, implementation of scientific research programs that include the tag and release of Atlantic highly migratory species.”.

(h) REVIEW OF SECRETARIAL PLAN.—Section 304, as amended, is amended further by adding at the end the following:

“(h) REVIEW OF SECRETARIAL PLAN.—

“(1)(A) Whenever the Secretary prepares a fishery management plan or plan amendment under this section, the Secretary shall immediately—

“(i) for a plan or amendment prepared under subsection (c), submit such plan or amendment to the appropriate Council for consideration and comment; and

“(ii) publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

“(B) Whenever a plan or amendment is submitted under paragraph (1)(A)(i), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in subparagraph (A)(ii). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, data, or comments submitted under subparagraph (A)(ii), may adopt such plan or amendment.

“(2) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.

“(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (3). The Secretary must publish in the Federal Register an explanation of any substantive differences between the proposed and final rules. All final regulations must be consistent with the plan, with the national standards and other provisions of this Act, and with any other applicable law.”.

SEC. 111. OTHER REQUIREMENTS AND AUTHORITY.

(a) Section 305 (18 U.S.C. 1855) is amended—

(1) by striking the title and subsection (a);

(2) by redesignating subsection (b) as subsection (f); and

(3) by inserting the following before subsection (f), as redesignated:

“SEC. 305. OTHER REQUIREMENTS AND AUTHORITY.

“(a) GEAR EVALUATION AND NOTIFICATION OF ENTRY.—

“(1) Not later than 18 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register, after notice and an opportunity for public comment, a list of all fisheries

“(A) under the authority of each Council and all fishing gear used in such fisheries, based on information submitted by the Councils under section 303(a); and

“(B) to which section 302(a)(3) applies and all fishing gear used in such fisheries.

“(2) The Secretary shall include with such list guidelines for determining when fishing gear or a fishery is sufficiently different from those listed as to require notification under paragraph (3).

“(3) Effective 180 days after the publication of such list, no person or vessel shall employ fishing gear or engage in a fishery not included on such list without giving 90 days advance written notice to the appropriate Council, or the Secretary with respect to a fishery to which section 302(a)(3) applies. A signed return receipt shall serve as adequate evidence of such notice and as the date upon which the 90-day period begins.

“(4) A Council may submit to the Secretary any proposed changes to such list or such guidelines the Council deems appropriate. The Secretary shall publish a revised list, after notice

and an opportunity for public comment, upon receiving any such proposed changes from a Council.

"(5) A Council may request the Secretary to promulgate emergency regulations under subsection (c) to prohibit any persons or vessels from using an unlisted fishing gear or engaging in an unlisted fishery if the appropriate Council, or the Secretary for fisheries to which section 302(a)(3) applies, determines that such unlisted gear or unlisted fishery would compromise the effectiveness of conservation and management efforts under this Act.

"(b) FISH HABITAT.—

"(1)(A) The Secretary shall, within six months of the date of enactment of the Sustainable Fisheries Act, establish guidelines to assist the Councils in the description and identification of essential fish habitat in fishery management plans (including adverse impacts on such habitat) and the actions which should be considered to ensure the conservation and enhancement of such habitat, and set forth a schedule for the amendment of fishery management plans to include the identification of essential fish habitat.

"(B) The Secretary shall provide each Council with recommendations and information regarding each fishery under that Council's authority to assist it in the identification of essential fish habitat, the adverse impacts on that habitat, and the actions that should be considered to ensure the conservation and enhancement of that habitat.

"(C) The Secretary shall review programs administered by the Department of Commerce and ensure that any relevant programs further the conservation and enhancement of essential fish habitat.

"(D) The Secretary shall coordinate with and provide information to other Federal agencies to further the conservation and enhancement of essential fish habitat.

"(2) Each Federal agency shall consult with the Secretary with respect to any action undertaken, or proposed to be undertaken by such agency that may adversely affect any essential fish habitat identified under this Act.

"(3) Each Council—

"(A) may comment on and make recommendations to the Secretary and any Federal or State agency concerning any activity undertaken, or proposed to be undertaken, by any Federal or State agency that, in the view of the Council, may affect the habitat, including essential fish habitat, of a fishery resource under its authority; and

"(B) shall comment on and make recommendations to the Secretary and any Federal or State agency concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource under its authority.

"(4)(A) If the Secretary receives information from a Council or Federal or State agency or determines from other sources that an action undertaken, or proposed to be undertaken by any State or Federal agency would adversely affect any essential fish habitat identified under this Act, the Secretary shall recommend to such agency measures that can be taken by such agency to conserve such habitat.

"(B) Within 30 days after receiving a recommendation under paragraph (4)(A), a Federal agency shall provide a detailed response, in writing, to the commenting Council and the Secretary regarding the matter. The response shall include a description of measures being considered by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Secretary, the Federal agency shall explain its reasons for not following the recommendations.".

(b) Section 305(c) (16 U.S.C. 1855(c) is amended by striking paragraph (3) and by inserting the following after paragraph (2):

"(3) Any emergency regulation which changes an existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection—

"(A) shall be published in the Federal Register together with the reasons therefor;

"(B) shall, except as provided in subparagraph (C), remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for an additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulation, and, in the case of a Council recommendation for emergency regulations, the Council is actively preparing a fishery management plan, amendment, or proposed regulations to address the emergency on a permanent basis;

"(C) that responds to a public health emergency may remain in effect until the circumstances that created the emergency no longer exist, provided that the Secretary of Health and Human Services concurs with the Secretary's action and the public has an opportunity to comment after the regulation is published; and

"(D) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the Council concerned.".

(c) Section 305(e) is amended by striking "12291, dated February 17, 1981" and inserting "12866, dated September 30, 1993".

(d) Section 305, as amended, is further amended by adding at the end the following:

"(g) NEGOTIATED CONSERVATION AND MANAGEMENT MEASURES.—(1)(A) A Council or the Secretary may, in accordance with regulations promulgated by the Secretary pursuant to this paragraph, establish a fishery negotiation panel to assist in the development of specific conservation and management measures for a fishery under authority of such Council or the Secretary.

"(B) No later than 180 days after the enactment of this section, the Secretary shall promulgate regulations establishing procedures, developed in cooperation with the Administrative Conference of the United States, for the establishment and operation of fishery negotiation panels. Such procedures shall be comparable to the procedures for negotiated rulemaking established by subchapter III of chapter 5 of title 5, United States Code.

"(2) Upon receipt of a report containing proposed conservation and management measures from a negotiation panel convened under this subsection, the report shall be published in the Federal Register for public comment.

"(3) Nothing in this subsection shall be construed to require either a Council or the Secretary, whichever is appropriate, to include all or any portion of a report from a negotiation panel established under this subsection in a fishery management plan or plan amendment for the fishery for which the panel was established.

"(h) CENTRAL REGISTRY SYSTEM FOR LIMITED ACCESS SYSTEM PERMITS.—

"(1) Within 6 months after the date of enactment of the Sustainable Fishery Act, the Secretary shall establish an exclusive central registry system (which may be administered on a regional basis) for any limited access system permits established under section 303(b)(6) or other Federal law, including individual fishing quotas, which shall provide for the registration of title to, and interests in, such permits, as well as for procedures for changes in the registration of title to such permits upon the occurrence of involuntary transfers, judicial or nonjudicial foreclosure of interests, enforcement of judgments thereon, and related matters deemed appropriate by the Secretary. Such registry system shall—

"(A) provide a mechanism for filing notice of a nonjudicial foreclosure or enforcement of a judgment by which the holder of a senior security interest acquires or conveys ownership of a permit, and in the event of a nonjudicial foreclosure, by which the interests of the holders of junior security interests are released when the permit is transferred;

"(B) provide for public access to the information filed under such system, notwithstanding section 402(b); and

"(C) provide such notice and other requirements of applicable law that the Secretary deems necessary for an effective registry system.

"(2) The Secretary shall promulgate such regulations as may be necessary to carry out this subsection, after consulting with the Councils and providing an opportunity for public comment. The Secretary is authorized to contract with non-federal entities to administer the central registry system.

"(3) To be effective and perfected against any person except the transferor, its heirs and devisees, and persons having actual notice thereof, all security interests, and all sales and other transfers of permits described in paragraph (1), shall be registered in compliance with the regulations promulgated under paragraph (2). Such registration shall constitute the exclusive means of perfection of title to, and security interests in, such permits, except for federal tax liens thereon, which shall be perfected exclusively in accordance with section 6323 of the Internal Revenue Code of 1986 (26 U.S.C. 6323).

"(4) The priority of security interests shall be determined in order of filing, the first filed having the highest priority. A validly-filed security interest shall remain valid and perfected notwithstanding a change in residence or place of business of the owner of record. For the purposes of this subsection, "security interest" shall include security interests, assignments, liens and other encumbrances of whatever kind.

"(5) Notwithstanding section 304(d)(1), the Secretary may collect a reasonable fee of not more than one-half of one percent of the value of limited access system permits upon registration and transfer to recover the costs of administering the central registry system.".

(e) REGISTRY TRANSITION.—Security interests on permits described under section 305(h)(1) that are effective and perfected by otherwise applicable law on the date of the final regulations implementing section 305(h) shall remain effective and perfected if, within 120 days after such date, the secured party submits evidence satisfactory to the Secretary and in compliance with such regulations of the perfection of such security.

SEC. 112. PACIFIC COMMUNITY FISHERIES.

(a) HAROLD SPARCK MEMORIAL COMMUNITY DEVELOPMENT PROGRAM.—Section 305, as amended, is amended further by adding at the end:

"(i) ALASKA AND WESTERN PACIFIC COMMUNITY DEVELOPMENT PROGRAMS.—

"(1)(A) The North Pacific Council and the Secretary shall establish a western Alaska community development quota program under which a percentage of the total allowable catch of any Bering Sea fishery is allocated to the program.

"(B) To be eligible to participate in the western Alaska community development quota program under paragraph (1), a community shall—

"(i) be located within 50 nautical miles from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or an island within the Bering Sea;

"(ii) not be located on the Gulf of Alaska coast of the north Pacific Ocean;

"(iii) meet criteria developed by the Governor of Alaska, approved by the Secretary, and published in the Federal Register; and

"(iv) be certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act to be a Native village;

"(v) consist of residents who conduct more than one-half of their current commercial or subsistence fishing effort in the waters of the Bering Sea and Aleutian Islands management area; and

"(vi) not have previously developed harvesting or processing capability sufficient to support substantial participation in the groundfish fisheries in the Bering Sea, unless the community can show that the benefits from an approved Community Development Plan would be the only way for the community to realize a return from previous investments.

"(C)(i) During the fiscal years for which funds are authorized under section 4, the North Pacific Council may not recommend to the Secretary any fishery management plan, plan amendment, or regulation that allocates to the western Alaska community development quota program a percentage of the total allowable catch of any Bering Sea fishery for which, prior to October 1, 1995, the Council had not recommended that a percentage of the total allowable catch be allocated to western Alaska community development quota programs.

"(ii) During the fiscal years for which funds are authorized under section 4, with respect to a fishery management plan, plan amendment, or regulation for a Bering Sea fishery that—

"(I) allocates to the western Alaska community development quota program a percentage of the total allowable catch of such fishery; and

"(II) was recommended by the North Pacific Council to the Secretary prior to October 1, 1995, the Secretary shall, notwithstanding any expiration date in such plan, plan amendment, or regulation, allocate to the program a percentage of the total allowable catch that is no greater than the percentage described in such plan or plan amendment.

"(D) The Secretary shall deduct from any fees collected under section 304(d)(2) for fish harvested under the western Alaska community development quota program costs incurred by fishing vessels in the program for observer or reporting requirements which are in addition to observer or reporting requirements of other fishing vessels in the fishery in which the allocation to such program has been made.

"(2)(A) The Western Pacific Council and the Secretary may establish a western Pacific community development program which may include an allocation of a percentage of the total catch of any fishery, limited entry permits, or other quotas related to vessel size and fishing zones to western Pacific communities that participate in the program.

"(B) To be eligible to participate in the western Pacific community development program, a community shall—

"(i) be located within the Western Pacific Regional Fishery Management Area;

"(ii) meet criteria developed by the Western Pacific Council, approved by the Secretary and published in the Federal Register, and based on historical fishing practices in and dependence on the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery;

"(iii) consist of community residents who conduct more than one-half of their current commercial or subsistence fishing effort in the waters within the Western Pacific Regional Management Area;

"(iv) not have previously developed harvesting or processing capability sufficient to support substantial participation in the western Pacific Regional Fishery Management Area; and

"(v) develop and submit a Community Development Plan to the Western Pacific Council and Secretary.

"(C) For the purposes of this subsection—

"(i) 'Western Pacific Regional Management Area' means the area under the jurisdiction of the Western Pacific Council, or an island within such area; and

"(ii) 'western Pacific community' means any community located in the Western Pacific Regional Management Area where a majority of the inhabitants are descended from the aboriginal peoples indigenous to the area and in which traditional fishing practices are or have been historically used for subsistence or commercial purposes.

"(D) Notwithstanding any other provision of this Act, the Western Pacific Council shall take into account traditional indigenous fishing practices in preparing any fishery management plan.

"(E) After the date of enactment of the Sustainable Fisheries Act, no Council may recommend a community development quota program except as provided in this subsection.".

(b) WESTERN PACIFIC DEMONSTRATION PROJECTS.—(1) The Secretary and Secretary of Interior are authorized to make direct grants to eligible western Pacific communities, as recommended by the Western Pacific Fishery Management Council, for the purpose of establishing not less than three and not more than five fishery demonstration projects to foster and promote traditional indigenous fishing practices, which shall not exceed a total of $500,000 in each fiscal year.

(2) Demonstration project funded pursuant to this subsection shall foster and promote the involvement of western Pacific communities in western Pacific fisheries and may—

(A) identify and apply traditional indigenous fishing practices;

(B) develop or enhance western Pacific community-based fishing opportunities; and

(C) involve research, community education, or the acquisition of materials and equipment necessary to carry any such demonstration project.

(3)(A) The Western Pacific Fishery Management Council, in consultation with the Secretary shall establish an advisory panel under section 302(g)(2) of the Sustainable Fisheries Act to evaluate, determine the relative merits of, and annually rank applications for such grants, which shall consist of not more than eight individuals who are knowledgeable or experienced in traditional indigenous fishery practices of western Pacific communities and who are not members or employees of the Western Pacific Fishery Management Council.

(B) If the Secretary or Secretary of Interior awards a grant for a demonstration project not in accordance with the rank given to such project by the advisory panel, the Secretary shall provide a detailed written explanation for the reasons thereof.

(4) The Western Pacific Fishery Management Council shall, with the assistance of such advisory panel, submit an annual report to the Congress assessing the status and progress of demonstration projects carried out under this subsection.

(5) Appropriate Federal agencies may provide technical assistance to western Pacific community-based entities to assist in carrying out demonstration projects under this subsection.

(6) For the purposes of this subsection, 'western Pacific community' shall have the same meaning as such term has in section 305(i)(2)(C)(ii) of the Magnuson Fishery Conservation and Management Act.

SEC. 113. STATE JURISDICTION.

(a) Paragraph (3) of section 306(a) (16 U.S.C. 1856(a)) is amended to read as follows:

"(3)(A) A State may regulate a fishing vessel outside the boundaries of the State if the fishing vessel is registered under the law of that State, and—

"(i) there is no fishery management plan in place for that fishery; or

"(ii) if there is a fishery management plan or plan amendment in place for that fishery, the State's laws and regulations are consistent with the purposes of that fishery management plan or plan amendment.

"(B) For the purposes of this paragraph, the term 'registered under the law of that State' means that—

"(i) the owner, captain, or vessel holds a fishing license, or other document that is a prerequisite to participating in the fishery, issued by the State;

"(ii) the vessel is numbered by the State in accordance with chapter 123 of title 46, United States Code; or

"(iii) the documentation of the vessel under chapter 121 of title 46, United States Code, identifies the vessel's homeport as located in the State.".

(b) Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

"(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).

"(4) For any fishery occurring off Alaska for which there is no fishery management plan approved and implemented under this Act, or pursuant to a fishery management plan under this Act, the State of Alaska may enforce its fishing laws and regulations in the exclusive economic zone off Alaska, provided there is a legitimate State interest in the conservation and management of the fishery, until a Federal fishery management plan is implemented for any such fishery which does not allow for such enforcement. Fisheries in the exclusive economic zone off Alaska currently managed pursuant to a Federal fishery management plan shall not be removed from Federal management and placed under State authority without the unanimous consent (except for the Regional Director of the National Marine Fisheries Service) of the North Pacific Council. The preceding sentence shall not be construed to require the North Pacific Council to unanimously vote to continue a fishery management plan under which the State of Alaska is already principally involved in the management or enforcement of a fishery.".

(c) Section 306(c)(1) (16 U.S.C. 1856(c)(1)) is amended—

(1) by striking "and" in subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and the word "and"; and

(3) by inserting after subparagraph (B) the following:

"(C) the owner or operator of the vessel submits reports on the tonnage of fish received from vessels of the United States and the locations from which such fish were harvested, in accordance with such procedures as the Secretary by regulation shall prescribe.".

SEC. 114. PROHIBITED ACTS.

(a) Section 307(1)(J)(i) (16 U.S.C. 1857(1)(J)(i)) is amended—

(1) by striking "plan," and inserting "plan"; and

(2) by inserting before the semicolon the following: ", or in the absence of any such plan is smaller than the minimum possession size in effect at the time under the Atlantic States Marine Fisheries Commission's American Lobster

Fishery Management Plan (and, for purposes of this clause, if the Secretary withdraws the Federal plan or any successor to that plan, and the Atlantic States Marine Fisheries Commission has not implemented a plan to manage the American Lobster Fishery, the minimum possession size in effect at the time the American Lobster Fishery Management Plan was withdrawn shall remain in effect until the Atlantic States Marine Fisheries Commission implements a plan that contains a minimum possession size)".

(b) Section 307(1)(K) (16 U.S.C. 1857(1)(K)) is amended by striking "knowingly steal or without authorization, to" and inserting "to steal or to negligently and without authorization".

(c) Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is amended to read as follows:

"(L) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, or interfere with any observer on a vessel under this Act, or any data collector employed by the National Marine Fisheries Service or under contract to carry out responsibilities under this Act;".

(d) Section 307(1) (16 U.S.C. 1857(1)) is amended—

(1) by striking "or" at the end of subparagraph (M);

(2) by striking "pollock." in subparagraph (N) and inserting "pollock; or", and

(3) by adding at the end the following:

"(O) to knowingly and willfully fail to disclose or falsely disclose any financial interest as required under section 302(j), or to knowingly vote on a Council decision in violation of section 302(j)(7)(A).".

(e) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is amended to read as follows:

"(A) in fishing within the boundaries of any State, except—

"(i) recreational fishing permitted under section 201(i),

"(ii) fish processing permitted under section 306(c), or

"(iii) transhipment at sea of fish products within the boundaries of any State in accordance with a permit approved under section 204(b)(6)(A)(ii);".

(f) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended by striking "204 (b) or (c)" and inserting "204 (b), (c), or (d)".

(f) Section 307(3) (16 U.S.C. 1857(3)) is amended to read as follows:

"(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under section 204(b)(6)(B) or section 306(c) to receive such fish;".

(g) Section 307(4) (16 U.S.C. 1857(4)) is amended by inserting "or within the boundaries of any State" after "zone".

SEC. 115. CIVIL PENALTIES AND PERMIT SANCTIONS; REBUTTABLE PRESUMPTIONS.

(a) Section 308(a) (16 U.S.C. 1858(a)) is amended by striking "ability to pay,".

(b) The first sentence of section 308(b) (16 U.S.C. 1858(b)) is amended to read as follows: "Any person against whom a civil penalty is assessed under subsection (a) or against whom a permit sanction is imposed under subsection (g) (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such order.".

(c) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C)) is amended by striking the matter from "(C) any" through "overdue," and inserting the following: "(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary, has not been paid and is overdue,".

(d) Section 310(e) (16 U.S.C. 1860(e)) is amended by adding at the end the following new paragraph:

"(3) For purposes of this Act, it shall be a rebuttable presumption that any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has gear on board that is capable of use for large-scale driftnet fishing, is engaged in such fishing.".

SEC. 116. ENFORCEMENT.

(a) The second sentence of section 311(d) (16 U.S.C. 1861(d)) is amended—

(1) by striking "Guam, any Commonwealth, territory, or" and inserting "Guam or any"; and

(2) by inserting a comma before the period and the following: "and except that in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands".

(b) Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is amended—

(1) by striking "fishery" each place it appears and inserting "marine";

(2) by inserting "of not less than 20 percent of the penalty collected" after "reward" in subparagraph (B), and

(3) by striking subparagraph (E) and inserting the following:

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), as made applicable by section 310(c) of this Act or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and".

(c) Section 311(e)(2) (16 U.S.C. 1861(e)(2)) is amended to read as follows:

"(2) Any person found in an administrative or judicial proceeding to have violated this Act or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation.".

(d) Section 311 (16 U.S.C. 1861) is amended by redesignating subsection (g) as subsection (i), and by inserting the following after subsection (f):

"(g) ENFORCEMENT IN THE PACIFIC INSULAR AREAS.—The Secretary, in consultation with the Governors of the Pacific Insular Areas and the Western Pacific Regional Fishery Management Council, shall to the extent practicable support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.

"(h) ANNUAL REPORT ON ENFORCEMENT.—Each year at the time the President's budget is submitted to the Congress, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, after consultation with the Councils, submit a report on the effectiveness of the enforcement of fishery management plans and regulations to implement such plans under the jurisdiction of each Council, including—

"(1) an analysis of the adequacy of Federal personnel and funding resources related to the enforcement of fishery management plans and regulations to implement such plans; and

"(2) recommendations to improve enforcement that should be considered in developing plan amendments or regulations implementing such plans.".

(e) Section 311 (16 U.S.C. 1861), as amended by subsection (d), is amended by striking "201 (b), (c)," in subsection (i)(1), as redesignated, and inserting "201 (b) or (c), or section 204(d),".

SEC. 117. NORTH PACIFIC AND NORTHWEST ATLANTIC OCEAN FISHERIES.

(a) NORTH PACIFIC FISHERIES CONSERVATION.—Section 313 (16 U.S.C. 1862) is amended—

(1) by striking "RESEARCH PLAN" in the section heading and inserting "CONSERVATION"; and

(2) by adding at the end the following:

"(f) BYCATCH REDUCTION.—In implementing section 303(a)(11) and this section, the North Pacific Council shall recommend conservation and management measures to lower, on an annual basis for a period of not less than four years, the total amount of economic discards occurring in the fisheries under its jurisdiction.

"(g) BYCATCH REDUCTION INCENTIVES.—(1) Notwithstanding section 304(d), the North Pacific Council may recommend, and the Secretary may approve, consistent with the provisions of this Act, a system of fees in a fishery to provide incentives to reduce bycatch and bycatch rates; except that such fees shall not exceed one percent of the estimated annual ex-vessel value of the target species in the fishery. Any fees collected shall be deposited in the North Pacific Fishery Observer Fund, and may be made available by the Secretary to offset costs related to the reduction of bycatch in the fishery from which such fees were derived, including conservation and management measures and research, and to the State of Alaska to offset costs incurred by the State in the fishery from which such fees were derived and in which the State is directly involved in management or enforcement.

"(2)(A) Notwithstanding section 303(d), and in addition to the authority provided in section 303(b)(10), the North Pacific Council may recommend, and the Secretary may approve, conservation and management measures which provide allocations of regulatory discards to individual fishing vessels as an incentive to reduce per vessel bycatch and bycatch rates in a fishery, provided that—

"(i) such allocations may not be transferred for monetary consideration and are made only on an annual basis; and

"(ii) any such conservation and management measures will meet the requirements of subsection (h) and will result in an actual reduction in regulatory discards in the fishery.

"(B) The North Pacific Council may recommend restrictions in addition to the restriction imposed by clause (i) of subparagraph (A) on the transferability of any such allocations, and the Secretary may approve such recommendation.

"(h) CATCH MEASUREMENT.—(1) By June 1, 1997, the North Pacific Council shall recommend, and the Secretary may approve, consistent with the other provisions of this Act, conservation and management measures to ensure total catch measurement in each fishery under its jurisdiction. Such measures shall ensure the accurate enumeration, at a minimum, of target species, economic discards, and regulatory discards.

"(2) To the extent the measures submitted under paragraph (1) do not require United States fish processors and fish processing vessels (as defined in chapter 21 of title 46, United States Code) to weigh fish, the North Pacific Council and Secretary shall submit a plan to the Congress by January 1, 1998, to allow for weighing, including recommendations to assist such processors and processing vessels in acquiring necessary equipment, unless the Council determines that such weighing is not necessary to meet the requirements of this subsection.

"(i) FULL RETENTION AND UTILIZATION.—(1) The North Pacific Council shall submit to the Secretary by June 1, 1999, a report on the advisability of requiring the full retention by fishing vessels and full utilization by United States fish processors of economic discards in fisheries under its jurisdiction if such economic discards, or the mortality of such economic discards, cannot be avoided. The report shall address the projected impacts of such requirements on participants in the fishery.

"(2) The report shall address the advisability of measures to minimize processing waste, including standards setting minimum percentages which must be processed for human consumption. For the purpose of the report, 'processing waste' means that portion of any fish which is processed and which could be used for human consumption or other commercial use, but which is not so used.".

(b) NORTHEAST ATLANTIC OCEAN FISHERIES.—Section 314 (16 U.S.C. 1863) is amended by striking "1997" in subsection (a)(4) and inserting "2000".

SEC. 118. TRANSITION TO SUSTAINABLE FISHERIES.

(a) The Act is amended by adding at the end of title III the following:

"SEC. 315. FISHING CAPACITY REDUCTION PROGRAMS.

"(a) IN GENERAL.—(1) The Secretary, with the approval of the appropriate Council, may conduct a fishing capacity reduction program (referred to in this section as the 'program') in a fishery if the Secretary determines that—

"(A) the program is necessary to prevent or end overfishing, rebuild stocks of fish, or adequate to achieve measurable and significant improvements in the conservation and management of the fishery;

"(B) the fishery management plan implemented for the fishery—

"(i) is consistent with the program objective;

"(ii) will prevent the replacement of fishing capacity removed by the program through a moratorium on new entrants, restrictions on vessel upgrades, and other effort control measures and accounting for the full potential capacity of the fleet; and

"(iii) establishes a specified or target total allowable catch that triggers closure of the fishery or proportional adjustments to reduce catch; and

"(C) the program is cost-effective and capable of repaying any debt obligation incurred under section 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271 et seq.).

"(2) The objective of the program shall be to obtain the maximum sustained reduction in fishing capacity at the least cost and in a minimum period of time. To achieve that objective, the Secretary is authorized to pay the owners of—

"(A) permits authorizing participation in the fishery, Provided that such permits are surrendered for permanent revocation; or

"(B) fishing vessels, Provided that any such vessel is—

"(i) scrapped; or

"(ii) through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions that permanently prohibit and effectively prevent its use in fishing.

"(3) Participation in the program shall be voluntary, but the Secretary shall ensure compliance by all who do participate.

"(4) The Secretary shall consult with the appropriate Council, other Federal agencies, appropriate regional authorities, affected States and fishing communities, participants in the fishery, conservation organizations, and other interested parties throughout the development and implementation of any program.

"(b) PROGRAM FUNDING.—(1) The program may be funded by any combination of amounts—

"(A) available under clause (iv) of section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.A. 713c–3(b)(1)(A); Saltonstall-Kennedy Act);

"(B) appropriated for fisheries disaster relief under section 316 of this Act or section 308 of the Interjurisdictional Fisheries Act (16 U.S.C. 4107);

"(C) provided by an industry fee system under this section and in accordance with section 1112 of title XI of the Merchant Marine Act, 1936; and

"(D) provided from any State or other public sources and private or nonprofit organizations.

"(2) All funds for the program, including any fees established under subsection (c), shall be paid into the fishing capacity reduction fund established under section 1112 of title XI of the Merchant Marine Act, 1936.

"(c) INDUSTRY FEE SYSTEM.—(1)(A) If an industry fee system is necessary to fund the program, the Secretary, with the approval of the appropriate Council, may conduct a referendum on such system. Prior to the referendum, the Secretary, in consultation with the Council, shall—

"(i) identify, to the extent practicable, and notify all permit or vessel owners who would be affected by the program and who meet eligibility requirements for participation in the referendum; and

"(ii) make available to such owners information about the industry fee system describing the schedule and procedures for the referendum, the proposed program, and the amount and duration and any other terms and conditions of the fee system.

"(B) The industry fee system shall be considered approved if the referendum votes which are cast in favor of the proposed system constitute a two-thirds majority of the participants voting.

"(2) Notwithstanding section 304(d) and consistent with an approved industry fee system, the Secretary is authorized to establish such a system to fund the program and repay debt obligations incurred pursuant to section 1112 of title XI of the Merchant Marine Act, 1936. The fees for a program under this section shall—

"(A) be established by the Secretary and adjusted from time to time as the Secretary determines necessary to ensure the availability of sufficient funds to repay such debt obligations;

"(B) not exceed 5 percent of the gross sale proceeds of all fish landed from the fishery for which the program is established;

"(C) be deducted by the first ex-vessel fish purchaser from the gross fish sales proceeds otherwise payable to the seller and accounted for and forwarded by such fish purchasers to the Secretary in such manner as the Secretary may establish; and

"(D) be in effect only until such time as the debt obligation has been fully paid.

"(d) IMPLEMENTATION PLAN.—(1) The Secretary, in consultation with the appropriate Council and other interested parties, shall prepare and publish in the Federal Register for a 60-day public comment period, an implementation plan for each program. The implementation plan shall—

"(A) define criteria for determining types and numbers of vessels which are eligible for participation in the program taking into account characteristics of the fishery, the requirements of applicable fishery management plans, the needs of fishing communities, any strategy developed under section 316, and the need to minimize program costs; and

"(B) establish procedures for program participation (such as submission of owner bid under an auction system or fair market-value assessment) including any terms and conditions for participation which the Secretary deems to be reasonably necessary to meet the goals of the program;

"(2) During the 60-day public comment period—

"(A) the Secretary shall conduct a public hearing in each State affected by the program; and

"(B) the appropriate Council shall submit its comments and recommendations, if any, regarding the plan and regulations.

"(3) Within 45 days after the close of the public comment period, the Secretary, in consultation with the appropriate Council, shall analyze the public comment received and publish in the Federal Register a final implementation plan for the program and regulations for its implementation. The Secretary may not adopt a final implementation plan involving industry fees or debt obligation unless an industry fee system has been approved by a referendum under this section.".

(b) The Secretary of Commerce shall establish a task force comprised of interested parties to study and report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives within two years of the date of enactment of this Act on the role of the Federal government in—

(1) subsidizing the expansion and contraction of fishing capacity in fishing fleets managed under the Magnuson Fishery Conservation and Management Act; and

(2) otherwise influencing the aggregate capital investments in fisheries.

(c) The Act, as amended by subsection (a), is amended by adding at the end of title III the following:

"SEC. 316. TRANSITION TO SUSTAINABLE FISHERIES.

"(a) SUSTAINABLE DEVELOPMENT STRATEGY.—(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary, in consultation with the Councils and Federal agencies, as appropriate, may work with regional authorities, affected States, fishing communities, the fishing industry, conservation organizations, and other interested parties, to develop a sustainable development strategy for any fishery identified as overfished under section 304(d) or determined to be a commercial fishery failure under this section or any other Federal fishery for which a fishery management plan is being developed or amended under section 303.

"(2) Such sustainable development strategy shall—

"(A) develop a balanced and comprehensive long-term plan to guide the transition to a sustainable fishery and the development of fishery management plan under section 303 or a fishery rebuilding effort under section 304(d) which—

"(i) takes into consideration the economic, social, and environmental factors affecting the fishery;

"(ii) identifies alternative economic opportunities; and

"(iii) establishes long-term objectives for the fishery including vessel types and sizes, harvesting and processing capacity, and optimal fleet size;

"(B) identify Federal and State programs which can be used to provide assistance to fishing communities during development and implementation of a fishery recovery effort; and

"(C) establish procedures to implement such a plan and facilitate consensus and coordination in regional decision-making;

"(3) The Secretary shall complete and submit to the Congress a report on any sustainable development strategy developed under this section within 6 months after it is developed and annually thereafter.

"(b) FISHERIES DISASTER RELIEF.—(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishery *community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—*

"(A) natural causes;

"(B) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures; or

"(C) undetermined causes.

"(2) Upon the determination under paragraph (1) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishing community, or by the Secretary in cooperation with the affected State or fishing community for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure into other fisheries or other geographic regions.

"(3) The Federal share of the cost of any activity carried out under the authority of this section shall not exceed 75 percent of the cost of that activity.

"(4) There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 1995, 1996, 1997, 1998, 1999, and 2000.".

(d) Section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c3(b)(1)(A)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting a semicolon and the word "and"; and

(3) by adding at the end the following new clause:

"(iv) to fund the Federal share of a buy-out program established under section 315(b) of the Magnuson Fishery Conservation and Management Act; and".

TITLE II—FISHERY MONITORING AND RESEARCH

SEC. 201. CHANGE OF TITLE.

The heading of title IV (16 U.S.C. 1881 et seq.) is amended to read as follows:

"TITLE IV—FISHERY MONITORING AND RESEARCH".

SEC. 202. REGISTRATION AND DATA MANAGEMENT.

Title IV (16 U.S.C. 1881 et seq.) is amended by inserting after the title heading the following:

"SEC. 401. REGISTRATION AND DATA MANAGEMENT.

"(a) STANDARDIZED FISHING VESSEL REGISTRATION AND DATA MANAGEMENT SYSTEM.—The Secretary shall, in cooperation with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, develop recommendations for implementation of a standardized fishing vessel registration and data management system on a regional basis. The proposed system shall be developed after consultation with interested governmental and nongovernmental parties and shall—

"(1) be designed to standardize the requirements of vessel registration and data collection systems required by this Act, the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), and any other marine resource law implemented by the Secretary, and, with the permission of a State, any marine resource law implemented by such State;

"(2) integrate programs under existing fishery management plans into a nonduplicative data collection and management system;

"(3) avoid duplication of existing state, tribal, or federal systems (other than a federal system under paragraph (1)) and utilize, to the maximum extent practicable, information collected from existing systems;

"(4) provide for implementation through cooperative agreements with, appropriate State, regional, or tribal entities and Marine Fisheries Commissions;

"(5) provide for authorization of funding (subject to appropriations) to assist appropriate State, regional, or tribal entities and Marine Fisheries Commissions in implementation;

"(6) establish standardized units of measurement, nomenclature, and formats for the collection and submission of information;

"(7) minimize the paperwork required for vessels registered under the system;

"(8) include all species of fish within the geographic areas of authority of the Councils and all fishing vessels including vessels carrying a passenger for hire engaged in recreational fishing, except for private recreational fishing vessels used exclusively for pleasure;

"(9) require United States fish processors, and fish dealers and other first ex-vessel purchasers of fish that are subject to the proposed system to submit data (other than economic data) which may be necessary to meet the goals of the proposed system; and

"(10) prescribe procedures necessary to ensure—

"(A) the confidentiality of information collected under this section in accordance with section 402(b); and

"(B) the timely release or availability to the public of complete and accurate information collected under this section.

"(b) FISHING VESSEL REGISTRATION.—The registration system should, at a minimum, obtain the following information for each fishing vessel—

"(1) the name and official number or other identification, together with the name and address of the owner or operator or both;

"(2) gross tonnage, vessel capacity, type and quantity of fishing gear, mode of operation (catcher, catcher processor or other), and such other pertinent information with respect to vessel characteristics as the Secretary may require; and

"(3) identification (by species, gear type, geographic area of operations, and season) of the fisheries in which the fishing vessel participates.

"(c) FISHERY INFORMATION.—The data management system should, at a minimum, provide basic fisheries performance data for each fishery, including—

"(1) the number of vessels participating in the fishery including vessels carrying a passenger for hire engaged in recreational fishing;

"(2) the time period in which the fishery occurs;

"(3) the approximate geographic location, or official reporting area where the fishery occurs;

"(4) a description of fishing gear used in the fishery, including the amount and type of such gear and the appropriate unit of fishery effort; and

"(5) other such data as required under subsection 303(a)(5).

"(d) DEFINITION.—For the purposes of this section, the term 'passenger for hire' shall have the same meaning as the definition for such term in section 2102(21a) of title 46, United States Code.

"(e) USE OF REGISTRATION.—Any registration under this section shall not be considered a permit for the purposes of this Act, and the Secretary may not revoke, suspend, deny, or impose any other conditions or restrictions on any such registration or the use of such registration under this Act.

"(f) PUBLIC COMMENT.—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register for a 60-day public comment period, a proposal that would provide for implementation of a standardized fishing vessel registration and data collection system that meets the requirements of subsections (a) through (c). The proposal shall include—

"(1) a description of the arrangements for consultation and cooperation with the department in which the Coast Guard is operating, the States, the Councils, Marine Fisheries Commissions, the fishing industry and other interested parties; and

"(2) any proposed regulations or legislation necessary to implement the proposal.

"(g) CONGRESSIONAL TRANSMITTAL.—Within 60 days after the end of the comment period and after consideration of comments received under subsection (d), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a proposal for implementation of a national fishing vessel registration system that includes—

"(1) any modifications made after comment and consultation;

"(2) a proposed implementation schedule; and

"(3) recommendations for any such additional legislation as the Secretary considers necessary or desirable to implement the proposed system.

"(h) REPORT TO CONGRESS.—Within 15 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall report to Congress on the need to include private recreational fishing vessels used exclusively for pleasure into a national fishing vessel registration and data collection system. In preparing its report, the Secretary shall cooperate with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, and consult with governmental and nongovernmental parties.".

SEC. 203. DATA COLLECTION.

Section 402 is amended to read as follows:

"SEC. 402. DATA COLLECTION.

"(a) COUNCIL REQUESTS.—If a Council determines that additional information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement a data collection program for the fishery which would provide the types of information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall approve such a data collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for a data collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after receipt of that request.

"(b) CONFIDENTIALITY OF INFORMATION.—(1) Any information submitted to the Secretary by any person in compliance with any requirement under this Act shall be confidential and shall not be disclosed, except—

"(A) to Federal employees and Council employees who are responsible for fishery management plan development and monitoring;

"(B) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order;

"(D) when such information is used to verify catch under an individual fishing quota system;

"(E) unless the Secretary has obtained written authorization from the person submitting such information to release such information and such release does not violate other requirements of this subsection; or

"(F) that observer data collected under the North Pacific Research Plan may be released as specified for weekly summary bycatch data identified by vessel, and haul-specific bycatch data without vessel identification.

Nothing in this paragraph prevents the use by the Secretary, or (with the approval of the Secretary) the Council, for conservation and management purposes information submitted in compliance with regulations promulgated under this Act, or the use, release, or publication of bycatch data pursuant to paragraph (1)(F).

"(2) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with regulations promulgated under this Act or the use, release, or publication of bycatch data pursuant to paragraph (1)(F).

"(c) Restriction on Use of Certain Data.—(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), or the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

"(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a Federal fishing permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

"(d) Contracting Authority.—In case of a program for which—

"(1) the recipient of a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, a State, Council, or a Marine Fisheries Commission; or

"(2) the Secretary has entered into a cooperative agreement with a State, Council, or Marine Fisheries Commission,

such financial assistance may be provided by the Secretary to that recipient on a sole-source basis, notwithstanding any other provision of law.

"(e) Resource Assessments.—(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

"(2) The Secretary, in consultation with the appropriate Council and the fishing industry—

"(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage; and

"(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery.

"(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.".

SEC. 204. OBSERVERS.

Section 403 is amended to read as follows:

"SEC. 403. OBSERVERS.

"(a) Guidelines for Carrying Observers.—Within one year of the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

"(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

"(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

"(b) Training.—The Secretary, in cooperation with the appropriate States and the National Sea Grant College Program, shall—

"(1) establish programs to ensure that each observer receives adequate training in collecting and analyzing data necessary for the conservation and management purposes of the fishery to which such observer is assigned; and

"(2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position;

"(3) ensure that an observer has received adequate training in basic vessel safety; and

"(4) make use of university training facilities and resources, where possible, in carrying out this subsection.

"(c) Wages as Maritime Liens.— Claims for observers' wages shall be considered maritime liens against the vessel and be accorded the same priority as seamen's liens under admiralty and general maritime law.

"(d) Observer Status.—(1) An observer on a vessel and under contract to carry out responsibilities under this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall be deemed to be a Federal employee for the purpose of compensation for work injuries under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.)

"(2) Paragraph (1) does not apply if the observer is engaged by the owner, master, or individual in charge of the vessel to perform any duties in service to the vessel.".

SEC. 205. FISHERIES RESEARCH.

Section 404 is amended to read as follows:

"SEC. 404. FISHERIES RESEARCH.

"(a) In General.—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.

"(b) Strategic Plan.— Within one year after the date of enactment of the Sustainable Fisheries Act, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall—

"(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);

"(2) indicate the goals and timetables for the program described in paragraph (1); and

"(3) provide a role for commercial fishermen in such research, including involvement in field testing.

"(4) provide for collection and dissemination, in a timely manner, of complete and accurate data concerning fishing activities, catch, effort, stock assessments, and other research conducted under this section.

"(c) Areas of Research.—The areas of research referred to in subsection (a) are as follows:

"(1) Research to support fishery conservation and management, including but not limited to, research on the economics of fisheries and biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other factors affecting the abundance and availability of fish.

"(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

"(3) Information management research, including the development of a fishery information base and an information management system that will permit the full use of data in the support of effective fishery conservation and management.

"(d) Public Notice.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.".

SEC. 206. INCIDENTAL HARVEST RESEARCH.

Section 405 is amended to read as follows:

"SEC. 405. INCIDENTAL HARVEST RESEARCH.

"(a) Collection of Data.— Within 9 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, conclude the collection of data in the program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Within the same time period, the Secretary shall make available to the public aggregated summaries of data collected prior to June 30, 1994 under such program.

"(b) Identification of Stock.—The program concluded pursuant to subsection (a) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(c) Collection and Assessment of Specific Stock Data.— For stocks of fish identified pursuant to subsection (b), with priority given to

stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(1) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(2) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(3) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(d) BYCATCH REDUCTION PROGRAM.—Not later than twelve months after the enactment of the Sustainable Fisheries Act, the Secretary shall, in cooperation with affected interests, and based upon the best scientific information available, complete a program to—

"(1) develop technological devices and other changes in fishing operations necessary and appropriate to minimize the incidental mortality of bycatch in the course of shrimp trawl activity to the extent practicable, taking into account the level of bycatch mortality in the fishery on November 28, 1990;

"(2) evaluate the ecological impacts and the benefits and costs of such devices and changes in fishing operations; and

"(3) assess whether it is practicable to utilize bycatch which is not avoidable.

"(e) REPORT TO CONGRESS.—The Secretary shall, within one year of completing the programs required by this section, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

"(f) IMPLEMENTATION CRITERIA.— Any conservation and management measure implemented under this Act to reduce the incidental mortality of bycatch in the course of shrimp trawl fishing must be consistent with—

"(1) measures applicable to fishing throughout the range of the bycatch species concerned; and

"(2) the need to avoid any serious adverse environmental impacts on such bycatch species or the ecology of the affected area.".

SEC. 207. MISCELLANEOUS RESEARCH.

(a) FISHERIES ECOSYSTEM MANAGEMENT RESEARCH.—Section 406 (16 U.S.C. 1882) is amended to read as follows:

"SEC. 406. FISHERIES ECOSYSTEM MANAGEMENT RESEARCH.

"(a) ESTABLISHMENT OF PANEL.—Not later than 180 days after the enactment of the Sustainable Fisheries Act, the Secretary shall establish a fisheries ecosystem management advisory panel under this Act to develop recommendations to expand the application of ecosystem principles in fishery conservation and management activities.

"(b) PANEL MEMBERSHIP.—The advisory panel shall consist of not more than 20 individuals and include—

"(1) individuals with expertise in the structures, functions, and physical and biological characteristics of ecosystems; and

"(2) representatives from the Councils, States, fishing industry, conservation organizations, or others with expertise in the management of marine resources.

"(c) RECOMMENDATIONS.—Prior to selecting advisory panel members, the Secretary shall, with respect to panel members described in subsection (b)(1), solicit recommendations from the National Academy of Sciences.

"(d) ECOSYSTEM REPORT.—Within two years of the date of enactment of this Act, the Secretary shall submit to the Congress a completed report of the fisheries ecosystem management advisory panel, which shall include—

"(1) an analysis of the extent to which ecosystem principles are being applied in fishery conservation and management activities, including research activities;

"(2) proposed actions by the Secretary and by the Congress that should be undertaken to expand the application of ecosystem principles in fishery conservation and management; and

"(3) such other information as may be appropriate.

"(e) PROCEDURAL MATTER.—The procedural matters under section 302(j) with respect to advisory panels shall apply to the Fisheries Ecosystem Management advisory panel".

(b) GULF OF MEXICO RED SNAPPER RESEARCH.—Title IV of the Act (16 U.S.C. 1882) is amended by adding the following new section.

"SEC. 407. GULF OF MEXICO RED SNAPPER RESEARCH.

"(a) THE SECRETARY OF COMMERCE SHALL ENSURE THAT—

"(1) no later than one year after the effective date of the Sustainable Fisheries Act, an independent peer review is completed of whether—

"(A) the fishery statistics of the Secretary concerning the red snapper fishery in the Gulf of Mexico accurately and completely account for all commercial and recreational harvests and fishing effort on the stock;

"(B) the scientific methods, data and models used by the Secretary to assess the status and trends of the Gulf of Mexico red snapper stock are appropriate under this Act;

"(C) the scientific information upon which the fishery management plan for red snapper in the Gulf of Mexico is based is appropriate under this Act;

"(D) the management measures in the fishery management plan for red snapper in the Gulf of Mexico are appropriate for conserving and managing the red snapper fishery under this Act; and

"(E) the benefits and costs of establishing an individual fishing quota program for the red snapper fishery in the Gulf of Mexico and reasonable alternatives thereto have been properly evaluated under this Act; and

"(2) commercial and recreational fishermen in the red snapper fishery in the Gulf of Mexico are provided an opportunity to—

"(A) participate in the peer review under paragraph (1); and

"(B) provide information to the Secretary of Commerce in connection with the review of fishery statistics under paragraph (a)(1) without being subject to penalty under this Act or other applicable law for any past violation of a requirement to report such information to the Secretary of Commerce.

"(b) The Secretary of Commerce shall submit a detailed written report on the findings of the peer review conducted under subsection (a)(1) to the Gulf of Mexico Fishery Management Council no later than one year after the effective date of the Sustainable Fisheries Act.".

SEC. 208. STUDY OF CONTRIBUTION OF BYCATCH TO CHARITABLE ORGANIZATIONS.

(a) STUDY.—The Secretary of Commerce shall conduct a study of the contribution of bycatch to charitable organizations by commercial fishermen. The study shall include determination of—

(1) the amount of bycatch that is contributed each year to charitable organizations by commercial fishermen;

(2) the economic benefits to commercial fishermen from those contributions; and

(3) the impact on fisheries of the availability of those benefits.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Congress a report containing determinations made in the study under subsection (a).

(c) BYCATCH DEFINED.—In this section the term "bycatch" has the meaning given that term in section 3(2) of the Magnuson Fishery Conservation and Management Act, as amended by section 103 of this Act.

SEC. 209. STUDY OF IDENTIFICATION METHODS FOR HARVEST STOCKS.

(a) IN GENERAL.—The Secretary of Commerce shall conduct a study to determine the best possible method of identifying various Atlantic and Pacific salmon and steelhead stocks in the ocean at time of harvest. The study shall include an assessment of—

(1) coded wire tags;

(2) fin clipping; and

(3) other identification methods.

(b) REPORT.—The Secretary shall report the results of the study, together with any recommendations for legislation deemed necessary based on the study, within 6 months after the date of enactment of this Act to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 210. CLERICAL AMENDMENTS.

The table of contents is amended by striking the matter relating to title IV and inserting the following:

"Sec. 315. Fishing Capacity Reduction Programs.
"Sec. 316. Transition to sustainable fisheries.

"TITLE IV—FISHERY MONITORING AND RESEARCH

"Sec. 401. Registration and data management.
"Sec. 402. Data collection.
"Sec. 403. Observers.
"Sec. 404. Fisheries research.
"Sec. 405. Incidental harvest research.
"Sec. 406. Fisheries ecosystem management research.
"Sec. 407. Gulf of Mexico red snapper research.

TITLE III—FISHERIES FINANCING

SEC. 301. SHORT TITLE.

This title may be cited as the "Fisheries Financing Act".

SEC. 302. FISHERIES FINANCING AND CAPACITY REDUCTION.

Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), is amended by adding at the end the following new sections:

"SEC. 1111. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary may, under such terms and conditions as the Secretary shall prescribe by regulation, guarantee and make commitments to guarantee the principal of, and interest on, obligations which aid in refinancing, in a manner consistent with the reduced cash flows available to obligors because of reduced harvesting allocations during implementation of a fishery recovery effort, existing obligations relating to fishing vessels or fishery facilities. Guarantees under this section shall be subject to all other provisions of this title not inconsistent with the provisions of this section. The provisions of this section shall, notwithstanding any other provisions of this title, apply to guarantees under this section.

"(b) Obligations eligible to be refinanced under this section shall include all obligations which financed or refinanced any expenditures associated with the ownership or operation of fishing vessels or fishery facilities, including but not limited to expenditures for reconstructing, reconditioning, purchasing, equipping, maintaining, repairing, supplying, or any other aspect whatsoever of operating fishing vessels or fishery facilities, excluding only such obligations—

"(1) which were not in existence prior to the time the Secretary approved a fishery rebuilding effort eligible for guarantees under this section and whose purpose, in whole or in part, involved expenditures which resulted in increased vessel harvesting capacity; and

"(2) as may be owed by an obligor either to any stockholder, partner, guarantor, or other principal of such obligor or to any unrelated party if the purpose of such obligation had been to pay an obligor's preexisting obligation to such stockholder, partner, guarantor, or other principal of such obligor.

"(c) The Secretary may refinance up to 100 percent of the principal of, and interest on, such obligations, but, in no event, shall the Secretary refinance an amount exceeding 75 percent of the unencumbered (after deducting the amount to be refinanced by guaranteed obligations under this section) market value, as determined by an independent marine surveyor or other competent person for a fishery facility, of the fishing vessel or fishery facility to which such obligations relate plus 75 percent of the unencumbered (including but not limited to homestead exemptions) market value, as determined by an independent marine surveyor, of all other supplementary collateral. The Secretary shall do so regardless of—

"(1) any fishing vessel or fishery facility's actual cost or depreciated actual cost; and

"(2) any limitations elsewhere in this title on the amount of obligations to be guaranteed or such amount's relationship to actual cost or depreciated actual cost.

"(d) Obligations guaranteed under this section shall have such maturity dates and other provisions as are consistent with the intent and purpose of this section (including but not limited to provisions for obligors to pay only the interest accruing on the principal of such obligations during the period in which fisheries stocks are recovering, with the principal and interest accruing thereon being fully amortized between the date stock recovery is projected to be completed and the maturity date of such obligations).

"(e) No provision of section 1104A(d) of this title shall apply to obligations guaranteed under this section.

"(f) The Secretary shall neither make commitments to guarantee nor guarantee obligations under this section unless—

"(1) the Secretary has first approved the fishery rebuilding effort for the fishery in which vessels eligible for the guarantee of obligations under this section are participants and has determined that such guarantees will have no adverse impacts on other fisheries in the region;

"(2) the Secretary has considered such factors as—

"(A) the projected degree and duration of reduced fisheries allocations;

"(B) the projected reduction in fishing vessel and fishery facility cash flows;

"(C) the projected severity of the impact on fishing vessels and fishery facilities;

"(D) the projected effect of the fishery rebuilding effort;

"(E) the provisions of any related fishery management plan under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

"(F) the need for and advisability of guarantees under this section;

"(3) the Secretary finds that the obligation to be guaranteed will, considering the projected effect of the fishery recovery effort involved and all other aspects of the obligor, project, property, collateral, and any other aspects whatsoever of the obligation involved, constitute, in the Secretary's opinion, a reasonable prospect of full repayment; and

"(4) the obligors agree to provide such security and meet such other terms and conditions as the Secretary may, pursuant to regulations prescribed under this section, require to protect the interest of the United States and carry out the purpose of this section.

"(g) All obligations guaranteed under this section shall be accounted for separately, in a subaccount of the Federal Ship Financing Fund to be known as the Fishery Recovery Refinancing Account, from all other obligations guaranteed under the other provisions of this title and the assets and liabilities of the Federal Ship Financing Fund and the Fishery Recovery Refinancing Account shall be segregated accordingly.

"(h) For the purposes of this section, the term 'fishery rebuilding effort' means a fishery management plan, amendment, or regulations required under section 304(e) of the Magnuson Fishery Conservation and Management Act to rebuild a fishery which the Secretary has determined to be a commercial fishery failure under section 316 of such Act.

"SEC. 1112. (a) The Secretary is authorized to guarantee the repayment of debt obligations issued by entities under this section. Debt obligations to be guaranteed may be issued by any entity that has been approved by the Secretary and has agreed with the Secretary to such conditions as the Secretary deems necessary for this section to achieve the objective of the program and to protect the interest of the United States.

"(b) Any debt obligation guaranteed under this section shall—

"(1) be treated in the same manner and to the same extent as other obligations guaranteed under this title, except with respect to provisions of this title that by their nature cannot be applied to obligations guaranteed under this section;

"(2) have the fishing fees established under the program paid into a separate subaccount of the fishing capacity reduction fund established under this section;

"(3) not exceed $100,000,000 in an unpaid principal amount outstanding at any one time for a program;

"(4) have such maturity (not to exceed 20 years), take such form, and contain such conditions as the Secretary determines necessary for the program to which they relate;

"(5) have as the exclusive source of repayment (subject to the proviso in subsection (c)(2)) and as the exclusive payment security, the fishing fees established under the program; and

"(6) at the discretion of the Secretary be issued in the public market or sold to the Federal Financing Bank.

"(c)(1) There is established in the Treasury of the United States a separate account which shall be known as the fishing capacity reduction fund (referred to in this section as the 'fund'). Within the fund, at least one subaccount shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

"(2) Amounts in the fund shall be available, without appropriation or fiscal year limitation, to the Secretary to pay the cost of the program, including payments to financial institutions to pay debt obligations incurred by entities under this section, Provided that funds available for this purpose from other amounts available for the program may also be used to pay such debt obligations.

"(3) Sums in the fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States.

"(d) The Secretary is authorized and directed to issue such regulations as the Secretary deems necessary to carry out this section.

"(e) For the purposes of this section, the term 'program' means a fishing capacity reduction program established under section 315 of the Magnuson Fishery Conservation and Management Act.".

SEC. 303. FISHERIES LOAN GUARANTEE REFORM.

(a) AMENDMENT OF MERCHANT MARINE ACT, 1936.—Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274) is amended—

(1) in paragraph (a)—

(A) by striking "or" and the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; or";

(C) by inserting the following new paragraph:

"(7) financing or refinancing, including, but not limited to, the reimbursement of obligors for expenditures previously made for, the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)).”; and

(D) in the last sentence, by striking "paragraph (6)" and inserting "paragraphs (6) and (7)"; and

(2) in paragraph (b)(2)—

(A) by striking "equal to" in the third proviso and inserting "not to exceed"; and

(B) by striking "except that no debt may be placed under this proviso through the Federal Financing Bank:" in the third proviso and inserting "and obligations related to fishing vessels and fishery facilities under this title shall be placed through the Federal Financing Bank unless placement through the Federal Financing Bank is not reasonably available or placement elsewhere is available at a lower annual yield than placement through the Federal Financing Bank:".

(b) LIMIT ON GUARANTEES.—Fishing Vessel Obligation loan guarantees may not exceed $40,000,000 annually for the purposes of section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)).

(c) ADJUSTMENT OF FEES.—The Secretary of Commerce may take such actions as necessary to adjust fees imposed on new loan guarantee applicants to capture any savings from placement of loan guarantee obligations through the Federal Financing Bank if the total fees charged to applicants do not exceed the percentage amounts paid before the date of enactment of this Act.

(d) ADMINISTRATIVE COSTS.—(1) Fees generated from the adjustment in subsection (c) shall be deposited in the appropriate account of the Federal Ship Financing Fund. The Secretary of Commerce may transfer annually up to $1,700,000 from such account to pay for the administrative costs associated with the Fisheries Obligation Guarantee Program if that program has resulted in job cost, as defined in section 502(5) of the Federal Credit Reform Act (2 U.S.C. 661a(5)).

(2) Fees allocated to an individual fishing quota obligation guarantee program pursuant to section 303(d)(4)(A) (16 U.S.C. 1853(d)(4)(A)) shall be placed in a separate account for each such program in the Federal Ship Financing Fund for the purpose of providing budget authority for each such program. Amounts in any such accounts shall be identified in future fiscal year budget submissions of the Executive Branch.

(e) PROHIBITION.—Until October 1, 2001, no new loans may be guaranteed by the Federal Government for the construction of new fishing vessels if the construction will result in an increased harvesting capacity within the United States exclusive economic zone.

TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS

SEC. 401. MARINE FISH PROGRAM AUTHORIZATION OF APPROPRIATIONS.

(a) FISHERIES INFORMATION COLLECTION AND ANALYSIS.—There are authorized to be appropriated to the Secretary of Commerce, to enable

the National Oceanic and Atmospheric Administration to carry out fisheries information and analysis activities under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $49,340,000 for fiscal year 1996, $50,820,000 for fiscal year 1997, and $52,345,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, the collection, analysis and dissemination of scientific data necessary for the management of living marine resources and associated marine habitat.

(b) FISHERIES CONSERVATION AND MANAGEMENT OPERATIONS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out activities relating to fisheries conservation and management operations under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $28,183,000 for fiscal year 1996, $29,028,000 for fiscal year 1997, $29,899,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, development, implementation, and enforcement of conservation and management measures to achieve continued optimum use of living marine resources, hatchery operations, habitat conservation, and protected species management.

(c) FISHERIES STATE AND INDUSTRY COOPERATIVE PROGRAMS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out State and industry cooperative programs under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $22,405,000 for fiscal year 1996, $23,077,000 for fiscal year 1997, and $23,769,000 for each of the fiscal years 1998, 1999, and 2000. These activities include, but are not limited to ensuring the quality and safety of seafood products and providing grants to States for improving the management of interstate fisheries.

(d) AUTHORIZATION OF APPROPRIATIONS FOR CHESAPEAKE BAY OFFICE.—Section 2(e) of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended—

(1) by striking "1992 and 1993" and inserting "1996 and 1997";

(2) by striking "establish" and inserting "operate";

(3) by striking "306" and inserting "307"; and

(4) by striking "1991" and inserting "1992".

(e) RELATION TO OTHER LAWS.—Authorizations under this section shall be in addition to monies authorized under the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 3301 et seq.), the Anadromous Fish Conservation Act (16 U.S.C. 757 et seq.), and the Interjurisdictional Fisheries Act (16 U.S.C. 4107 et seq.).

SEC. 402. INTERJURISDICTIONAL FISHERIES ACT AMENDMENTS.

(a) REAUTHORIZATION.—Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

"(1) $3,400,000 for fiscal year 1996;

"(2) $3,900,000 for fiscal year 1997;

"(3) $4,400,000 for each of the fiscal years 1998, 1999, and 2000.";

(2) by striking "1994 and 1995," in subsection (b) and inserting "1994, 1995, 1996, 1997, 1998, 1999, and 2000"; and

(3) by striking "$350,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, and $600,000 for each of the fiscal years 1994 and 1995," in subsection (c) and inserting "$650,000 for fiscal year 1996, $700,000 for fiscal year 1997, $750,000 for each of the fiscal years 1998, 1999, and 2000,".

(b) AMENDMENT TO IMPLEMENT THE NORTHEAST, NORTHWEST, AND GULF OF MEXICO DISASTER RELIEF PROGRAMS.—Section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)) is amended—

(1) by striking "award grants to persons engaged in commercial fisheries, for uninsured losses determined by the Secretary to have been suffered" in paragraph (1) and inserting "assist persons engaged in commercial fisheries, either directly through assistance to persons or indirectly through assistance to State and local government agencies and non-profit organizations, for projects or other measures designed to alleviate impacts determined by the Secretary to have been incurred";

(2) by striking "a grant" in paragraph (3) and inserting "assistance";

(3) by inserting ", if provided directly to a person," in paragraph (3) after "subsection";

(4) by striking out "gross revenues annually," in paragraph (3) and inserting "net annual revenue from commercial fisheries,";

(5) by striking paragraph (4) and inserting the following:

"(4) Assistance may not be provided under this subsection as part of a fishing capacity reduction program in a fishery unless the Secretary determines that—

"(A) adequate conservation and management measures are in place in that fishery; and

"(B) adequate measures are in place to prevent the replacement of fishing capacity eliminated by the program in that fishery."; and

(6) by striking "awarding" and all that follows in paragraph (5) and inserting "assistance provided under this subsection.".

SEC. 403. ANADROMOUS FISHERIES AMENDMENTS.

Section 4(a)(2) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)(2)) is amended by striking "and 1995." and inserting "1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 404. ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT AMENDMENTS.

(a) DEFINITION.—Paragraph (1) of section 803 of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5102) is amended—

(1) by inserting "and" after the semicolon in subparagraph (A);

(2) by striking "States; and" in subparagraph (B) and inserting "States."; and

(3) by striking subparagraph (C).

(b) IMPLEMENTATION STANDARD FOR FEDERAL REGULATION.—Subparagraph (A) of section 804(b)(1) of such Act (16 U.S.C. 5103(b)(1)) is amended by striking "necessary to support" and inserting "compatible with".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 809 of such Act (16 U.S.C. 5108) is amended—

(1) by striking "and" after "1995,"; and

(2) striking "1996." and inserting "1996, and $7,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000.".

SEC. 405. TECHNICAL AMENDMENTS TO MARITIME BOUNDARY AGREEMENT.

(a) EXECUTION OF PRIOR AMENDMENTS TO DEFINITIONS.—Notwithstanding section 308 of the Act entitled "An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary", approved March 9, 1992 (Public Law 102–251; 106 Stat. 66) hereinafter referred to as the "FGB Act", section 301(b) of that Act (adding a definition of the term "special areas") shall take effect on the date of enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) Section 301(h)(2)(A) of the FGB Act is repealed.

(2) Section 304 of the FGB Act is repealed.

(3) Section 3(15) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)) is amended to read as follows:

"(15) The term 'waters under the jurisdiction of the United States' means—

"(A) the territorial sea of the United States;

"(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the other boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

"(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured, except that this subparagraph shall not apply before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.".

Mr. STEVENS. Mr. President, I thank the leader for his courtesy and for his support in moving forward on this bill. The statement made by the leader is correct. As I understand it, there could be, possibly, three votes tomorrow. We are going to try to work that out tonight and see what happens. It is my intention this evening to offer the managers' amendment to S. 39, which is a bill to reauthorize and strengthen the Magnuson Fisheries Conservation Management Act.

This managers' amendment will replace the substitute that was approved and reported by the Commerce Committee and will be adopted as original text when it is adopted by the Senate. This is bipartisan legislation that has been in the works now for over 3 years. We called it the "Sustainable Fisheries Act." It is the most significant revision of the Magnuson Act since that bill was enacted in 1976.

I first introduced that 200-mile limit concept in the Senate, Mr. President, in 1971. We never envisioned the problems that exist today. I was very grateful to my friend from the State of Washington—I used to call him my "southern neighbor"—Senator Magnuson, for having worked on that bill for a period of time. It was my motion, made after the bill was passed, that named the bill after the former Senator from Washington, who had been chairman of the Commerce Committee and of the Appropriations Committee.

At that time, in the 1970's, we had two primary goals—to Americanize the fisheries off our shores within a 200-

mile limit and to protect the U.S. fishery resources, or to protect the capability of the fisheries to sustain themselves.

We thought Americanization would go a long way toward conserving the fishery resources of this Nation. Foreign vessels have now given way to U.S. vessels that are capitalized now far beyond what we ever envisioned in the seventies, and the fisheries waste continues to get worse in many areas.

This bill, S. 39, revitalizes the conservation measures of the Magnuson Act. Senators KERRY, PRESSLER, HOLLINGS, MURKOWSKI, INOUYE, LOTT, SIMPSON, and PELL have cosponsored this bill that I have introduced.

I ask unanimous consent that these and others who may wish to be added as cosponsors to this bill be added for the RECORD if their request is made before the close of business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. S. 39, for the first time, would require: First, the reduction of bycatch in fisheries; require the fishery management councils and the Secretary of Commerce to prevent overfishing; authorize a vessel and permit reduction program to help eliminate overcapacity in our fisheries capability; require council members to recuse themselves from voting on matters they would personally benefit from; require fishing communities to be considered in fishery management decisions; create a lien registry to keep track of encumbrances on limited access permits; and create a new registration system to keep track of fishing vessels themselves.

This bill, S. 39, will strengthen existing sections of the Magnuson Act to protect essential fish habitat; streamline the approval process for fishery management plans and regulations; strengthen emergency regulatory authority, and expand research activities.

The waste reduction provisions of S. 39 are particularly needed now, Mr. President. Under S. 39, the regional councils will be required to include measures in every fisheries management plan to prevent overfishing. If a council allows a fishery to become overfished, the Secretary of Commerce will be required to step in and stop it.

We continue to support having management decisions made in the regions themselves. But if the fisheries management councils have allowed a fishery to become overfished, we want it to be stopped immediately. And this bill will authorize the Secretary of Commerce to step in at that point.

But I remind the Senate that the management decisions may be made and should be made by the councils themselves, and this bill preserves that authority.

Under S. 39, the councils will also be required to reduce the amount of bycatch in every fishery around our country. This bill will give the councils new tools, including harvest incentives and penalty fees, to stop wasteful practices.

The bycatch problem is of great concern in my State of Alaska, where over half of the Nation's fish are harvested each year off our shores.

In 1995, 60 factory trawlers discarded nearly as much fish in the Bering Sea as was kept in the New England lobster fishery, the Atlantic mackerel fishery, the Gulf of Mexico shrimp fishery, the Pacific sablefish fishery, and the North Pacific halibut fishery combined.

The waste in that area was as great as the total catch of all the major fisheries off our shores. These 60 factory trawlers threw overboard—dead and unused—about one out of every four fish they caught.

I have a chart here to call to the attention of the Senate. Last year, the Bering Sea trawl vessels—this is all the trawl vessels and not just factory trawlers that are committing waste—threw 17 percent of their catch overboard, dead and not used. That total catch, as you can see by the chart, exceeds by almost 500 million pounds the total catch of all five of the major fisheries of the United States.

That is the way we are trying to find to reduce their bycatch. Bycatch is the harvest of fisheries that are not in the targeted fishery area; not the fish that a vessel is trying to catch, but the fish that is caught incidentally.

I hope that this bill will bring a stop to this inexcusable amount of waste.

This bill also addresses the divisive issue of individual fisheries quotas, the so-called IFQ's, or CTQ's.

The "individual fishing quota" as defined in S. 39 means both the transferable and nontransferable quotas that are known as IFQ's. We place a moratorium on new IFQ programs until September 30 in the year 2000.

In the meantime, the National Academy of Sciences will study IFQ's with the Secretary of Commerce, the councils, the regional councils, and two regional working groups to address many unresolved issues.

There are only three IFQ plans in our Nation today. Two of them are on the east coast: the wreckfish IFQ program and the surf clam IFQ program.

The largest IFQ program went into effect last year in the halibut/black cod fisheries off my State of Alaska. The Alaska program involves almost 100 times as much fishing vessels as the two east coast programs.

IFQ's are a new tool that we did not even consider in 1990, the last time we reauthorized the Magnuson Act. They were not even dreamed of when we first passed the Magnuson Act.

Unlike other limited access systems, IFQ's allow the potential consolidation of fishing efforts in a fishery. This characteristic may provide a useful tool to allow the market to drive a reduction in fishing capacity when needed, Mr. President. However, it has potential negative and other unknown effects.

We are worried about the new level of capital requirements of IFQ's. We are worried that fisheries will become investor owned totally under IFQ's and not the family traditional fishing that has been the hallmark of America's fisheries. We are worried about the impact of IFQ's on the fishing communities themselves. And we are worried about foreign control of IFQ's, once they are established, and the fisheries themselves if a rigid U.S. ownership standard is not set for them.

In other words, we Americanized the system. And, now, if we really let IFQ's go unrestrained, we could really end up with more ownership of the IFQ's and destroy the whole purpose of the Magnuson Act to create an Americanized zone within which we would protect our fisheries and have a conservation ethic to be the major goal of the Magnuson Act.

The Magnuson Act, this bill, would permanently ban transferable IFQ's in the House version that we received. That was H.R. 39.

Our Senate bill puts a 4-year moratorium on both transferable and nontransferable IFQ's. We just do not have enough information yet, Mr. President, to decide what limitations ought to be put on the IFQ's, if any. We need facts, and we need a study.

I believe the House will agree with this approach, Mr. President.

The academy's IFQ report will be due in the year 1998, one year before the next reauthorization of the Magnuson Act.

S. 39 includes measures important to predominantly Native and aboriginal communities in both Alaska and Hawaii. For Alaska, this bill will codify the community development quota programs already adopted by the North Pacific Council. For Hawaii, it will provide CDQ authority based on the concepts that have already been developed in Alaska.

As I mentioned, this bill has been a bipartisan effort. It has not been an easy job, Mr. President, to bring together all of the diverse views in this body on this issue. But it is the best of what this body should be doing—responding together to the devastating, wasteful practices that we know of, and making every vessel follow sound conservation practices.

I want to take the time to specifically thank my good friend from Massachusetts, Senator KERRY, who has worked with me for some time on this issue. Through the change of political control, we find ourselves working together with very slight difference. This time I was chairman. The last time he was. But in purpose we have had a singular purpose, and that is to stop the wasteful practices.

Senator PRESSLER and Senator HOLLINGS, the chairman and ranking member of our committee, and Senators

LOTT, SNOWE, INOUYE, MURKOWSKI, GORTON, HUTCHISON, BREAUX, and MURRAY, and all their staffs, have been very cooperative in this effort.

As I said, it has been contentious. Anyone that has ever dealt with fisheries and fishermen know the issues will get contentious. It takes a long time to work out these disputes.

I thank the staff involved: Trevor McCabe and Earl Comstock, who have worked with me; Tom Melius, who worked with Senator PRESSLER; Penny Dalton, who worked with Senator KERRY and Senator HOLLINGS; and Glenn Merrill and Alex Elkan, Sea Grant fellows in the Commerce Committee who worked with us this year.

Mr. President, this bill is the product of hearings we have held throughout this country.

We went to Maine; we went to Massachusetts, North Carolina, South Carolina, Louisiana; we went into Seattle; several places in my State, and we have held several hearings right here in Washington. This is the way I think the Senate should work. We should go out to the people, get their views and come back and try to find a way to meet the major contentions that have been pressed on us from out in our country.

It is not an easy bill for us to handle in the way we are now compelled to handle it because of the timeframe as we close the session. It has taken the cooperation of the majority and minority leader—and I do congratulate Senator DASCHLE for his role in this also—to make certain that we have had the time to proceed.

Where we are now is we have a time agreement and we have a specific allocation of opportunities for Members to offer their amendments. I believe most of those amendments have been cared for in our revisions of the managers' amendment which is a bipartisan effort by myself and Senator KERRY and our staffs, working with all the staffs of the Senate that were interested in this issue.

It is my intention now to yield to my good friend, and I know he has a statement to make. But we are hopeful that Senators who may have some interest in making comments realize what the leader has said. We will debate this tonight. We will debate the amendments that are offered pursuant to the agreement tonight but tomorrow there will be no debate. We have not asked for debate tomorrow. We just want to vote on the amendments that might be presented to us tonight and then final passage of this bill.

To me this is the most significant piece of legislation to be presented to this Congress. It will be the hallmark of conservation of fisheries throughout the world. I hope the Senate does not miss that. The world is looking to us to see what we are going to do with regard to protecting the fisheries within our 200-mile limit. These are strong measures, Mr. President. The authorizations going to these councils are very strong. The regional fisheries councils were a creature of this Congress, as a matter of fact of this Senate. They amount to delegation of authority from the Federal Government to a new body created by Federal legislation and requests the States to delegate similar authority to those bodies. That has been carried out, and nowhere has the council been more involved in the daily lives of people than in my State through the activities of the North Pacific Fisheries Council. It is a unique council. It is totally off the waters of one State but it has members from the States of Washington and Oregon and a national representative also.

So it is something I hope the Senate realizes means a very great deal to me personally and to my State. Half of the coastline of the United States is off our shores. More than half of the fisheries are off our shores. More than half of the fish that our people consume come from the waters off the shores of Alaska. We want to preserve the reproductive capability of those fisheries. We do not want to see a continuation of the numbers on this chart.

When we see the possibility of hundreds of millions of pounds of fish being wasted because of fishing practices that could be avoided, we believe it is time for the Congress to act. I am glad that we have reached the point now where I believe the Congress will act, and I am hopeful that the House of Representatives will be willing to accept our changes and modifications to this bill.

Again, I commend my good friend who has traveled with me throughout the country for hearings on this measure, and I yield to the Senator from Massachusetts.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I thank the Senator from Alaska not just for his comments but I particularly thank him for the great personal friendship that we have built over the course of these years working together on this and also for the great bipartisan approach to this.

This is tough legislation. There are enormous competing interests all across this country—sport fishermen, commercial fishermen, 15 different kinds of commercial fishermen in one particular area, all of them tugging at each other, a huge amount of vendors and others with interests to each of those fishermen, processors, foreign export involvement. The competing interests are as broad and as complicated as almost any that I have confronted in the course of my time in the Senate, perhaps with the exception of the Clean Air Act or something that similarly brings every part of the country against another.

I think the distinguished Senator from Alaska has done a terrific job of helping to build that bipartisan effort here. We started out 4 years ago when I was chairman of the subcommittee, and at that time we held hearings in various parts of the country. At the time that the Senate switched control this bill basically stayed the same. The names switched, Senator STEVENS took over the subcommittee, but we continued to work in the same bipartisan way, and I think it is a tribute to his efforts and to Senator HOLLINGS' efforts as the ranking member of the full committee that we are now able to be here and able to proceed.

It is with great satisfaction that I am able to commend to my colleagues this piece of legislation which is appropriately called the Sustainable Fisheries Act of 1996. It is without question the most important rewrite of our fishing laws, the Federal fishing laws since 1976 when the Magnuson Fisheries and Conservation Management Act was enacted, and at that time as many remember we Americanized the fisheries within 200 miles of our shore. We reached out and said we are going to try to manage that 200-mile coastline better.

It has been a long time in coming, but this bill is going to result in a significantly improved regime for the management of the Nation's marine fishery resources. These amendments improve and strengthen the standards upon which the current management regime is based, and it enables us to further enhance our capacity to be able to restore and maintain healthy and sustainable fisheries.

The amendments that are offered in this bill were developed in conjunction with and for the most part supported by a diverse representation of groups, all of them with an interest in the marine fisheries including the commercial and recreational fishermen, the environmental community, coastal communities, and States.

In recent months we have all read many editorials that have been building up support around the country for the passage of this bill. I will share a quick piece from my hometown newspaper, the Boston Globe which wrote that "Before U.S. Senators go home . . . they have an obligation to complete legislation extending the Magnuson Fishery Conservation and Management Act, the foundation for rescuing America's troubled fishing industry."

Enactment of S. 39 is critical if we are going to put our fisheries back onto a sustainable path and literally avert an environmental catastrophe on a national level.

Of the 157 fishery resources for which the National Marine Fisheries Service manages, 36 percent—51 different stocks—are overfished; 44 percent or 69 stocks are fully harvested, and 20 percent are underutilized. The main point illustrated by these figures is that many of the fishery resources that have provided the greatest economic benefit to fishermen and to this Nation are just simply overfished or approaching the overfished level. This situation is being exacerbated by the demands of a population with an increasing appetite for eating fish. The net effect has been that we have too many fishermen chasing too few fish.

We are precariously close to fisheries failures in many of our most commercially important fish stocks, and it is imperative that we take immediate action if we are to avert disasters such as the one that we are currently experiencing, literally living in, off the waters of New England. S. 39 provides guidance and the tools necessary to help ensure that fishery failures will be avoided and the fish stocks can be rebuilt to provide the greatest possible economic benefit to our Nation.

As I mentioned earlier, this bill came neither easily nor quickly. It is the result of 4 years of work, the subject of 15 hearings and countless staff hours and meetings among Senators and interested parties. I commend all of those parties for the fact that we are now on the floor, able to pass this legislation, as I am confident we will in a matter of hours. I would like to point out that, from the start, it has been the willingness to be bipartisan that has brought all of us to this point, and I think that is a tribute to the way in which the Senate can work when people set their minds to it.

It has been my sense that Senator STEVENS' own commitment to this obviously came out of the fact, which many may not realize, that he was one of the original crafters of the Magnuson bill when it was first passed in 1976. He has had a long-time commitment to achieving this. Obviously, because he represents the State of Alaska, he has enormous interests in what we are doing here today.

I also would like to express my gratitude to Senators GORTON and MURRAY for their recognition of the importance of this bill and the benefit that it holds out to our Nation as a whole. Fishery issues rarely lend themselves to unanimous agreement, as both Senator STEVENS and I have described, and the scope and breadth of the changes that are offered in this bill are such that the competing interest groups have had to fight fiercely to try to reach accommodation and compromise. The Senators from Washington have, quite rightly, represented the interests of their State. That is what they are supposed to do and that is how we are supposed to work through this process. I commend both of them for having done that diligently and tenaciously in this effort.

But in the end, it is our final responsibility to balance all of the parochial interests with the interests of the Nation as a whole. I believe that, while there may be parts of this bill which may not provide the full level of benefits that one particular group or another may want, in the end this bill provides an overall benefit and balance to the Nation that greatly exceeds the sum of its parts.

Fishing has been and continues to be an extraordinarily important part of this Nation's heritage. We know that very, very well in Massachusetts, in New Hampshire—the Chair's State—in Maine, and all down our coastline. Since the first settlers came to this country, we have been dependent on the sea. We have, however, found that as Federal data on the overutilization of fish stocks has increased, we now understand there is a growing problem in the management of these resources. That growing problem threatens the sustainability of these recreationally and commercially valuable resources. So, before I elaborate on the benefits of S. 39, I would just like to highlight for a moment the economic asset that the fishing industry carries to this country.

Directly or indirectly, the seafood industry contributes nearly $50 billion annually to the U.S. economy. According to data for 1994, U.S. commercial fishermen landed 10.5 billion pounds of fish and seafood products, producing a record $3.8 billion in dockside revenues. By weight of catch, we are now the world's fifth leading fishing nation, and the United States is also the world's top seafood exporter, with exports valued at $7.4 billion. Millions of salt water anglers have turned marine recreational fisheries into a multimillion dollar industry that caught an estimated 361.9 million fish—that includes those caught and released alive—and an estimated 66.1 million fishing trips; an extraordinary amount of activity. As an economic asset, recreational fisheries and related industries generate over $7 billion annually to our economy.

In New England, we have, tragically, become all too familiar with the downside of all of this. We have seen the collapse of the cod and the haddock fisheries. It has come about principally because of overfishing and, as a result of that overfishing, our fishermen have fallen on hard times. In 1992, overfishing was estimated to cost Massachusetts alone about 88 million pounds of groundfish harvests worth at least $193 million annually. For all of New England, annual losses total at least $350 million and 14,000 jobs. While we do not have specific numbers for New England, at the national level the Department of Commerce estimates that rebuilding our fisheries to a more productive level could create 300,000 new jobs and billions of dollars in additional revenues.

So, I want to emphasize what we are doing here today is not the signal of the end of the fishing era, it is not the signal of a continuing decline in fisheries; it is our effort to guarantee that there is a growth industry, that there is an industry for the future. I repeat, the national estimates are, if we do this properly, we can create 300,000 new jobs, billions of dollars of additional revenue, and we can have sustainable fisheries for generations to come.

The testimony of Nantucket fisherman Capt. Mark Simonitsch at a hearing I held in New Bedford summarizes the cost of overfishing very, very well. Let me just share his words. He said:

> You sit there and you think over the years that, if you can finally pay your mortgage off, that the money is all going to go into your pocket. This year, I've yet to catch 50,000 pounds of fish. I have lost thousands of dollars. And my crew has made so little, a crew that has been with me, believe it or not, for 17 years, they may not come back next year. So I have chosen today to talk about solving the hard problem, Senator, and that's getting fish back.

That statement was from a Massachusetts fishing captain who called this crisis to the attention of all of us.

The Sustainable Fisheries Act goes a long way toward solving the problem of getting the fish back. In addition, the bill calls for monitoring the health of fisheries and limits on harvests to prevent overfishing from recurring. To quote Captain Simonitsch again, he said it's time to stop "all this wheelhouse thinking and tire kicking" and get the bill enacted.

The bill also continues my fight for assistance to New England fishermen, extending Federal authority for fisheries disaster relief and authorizing vessel and permit buyout programs to reduce excess fishing capacity and pressure on the fishing industry itself.

In addition to preventing overfishing, the Sustainable Fisheries Act calls for action to address two other important environmental concerns—reducing bycatch and waste, and protecting fish habitat.

As the director of the New England Aquarium pointed out in a recent letter:

> At least 20 percent of our total fishery catch is thrown overboard dead or dying. In 1994, the U.S. fishing fleet off Alaska dumped a staggering 750 million pounds of bycatch, more fish [was dumped overboard and thrown away] than was caught by the entire New England fleet last year.

The letter goes on to say:

> The greatest long-term threat to the viability of our nation's marine resources could be the continuing loss and degradation of coastal marine habitat. Louisiana alone has lost half a million acres of wetland since the mid-1950's. The National Marine Fisheries Service estimates that $200 million is lost annually in reduced catches due to ongoing habitat loss.

As all of us know, if you destroy the habitat, you destroy the nurseries and you destroy the ecosystem on which those nurseries are dependent, which then diminishes the ability to have a sustainable fishery. We need to understand the linkage of those wetlands and the role they play in the spawning of fish and of the ecosystem to the total catch that will ultimately be available.

I might add that a couple of years ago, the Senator from Alaska and I took steps through the United Nations to end driftnet fishing. Driftnets, 30,000 miles of monofilament nets were being laid out at night in the northwest Pacific. These nets would break off and fish on their own. They would be what are called phantom nets or ghost fisheries where they would float to the surface as plastic and trap fish, mostly salmon coming out of the Columbia River, and they would sink to the bottom where the scavengers would eat the carcasses until it was light enough and drift some more.

There are still some individuals in certain nations who are continuing this outlawed practice of driftnet fishing. That is the kind of example of protection we need to be involved with to deal with the concerns of habitat and of bycatch and waste. This bill would require the fishery management plans to assess bycatch levels in each fishery and take steps to minimize the bycatch and the mortality of bycatch which cannot be avoided.

In addition, fishery managers are required under this bill to identify essential fish habitat and to minimize the adverse effects on habitat due to fishing.

In summary, Mr. President, the bill before us addresses many of the problems affecting the management of our fisheries and provides essential tools to reversing the damaging trends that I have outlined. Our Nation's fisheries are literally at a crossroads, and significant action is required to remedy our marine resource management problems and preserve the way of life of our coastal communities.

I believe that this bill goes a long way toward solving the hard problems and providing help for fishermen and coastal communities during the difficult rebuilding period. The opportunity to fish and to have fish on the dinner table is something that many Americans have simply taken for granted in the past. But unless we take the steps that are set forth in this bill to ensure that these vital resources are conserved, they will not be there for future generations.

This is a vital bill. It is a good bill for the environment, as Senator STEVENS said, and I share the view it is the most important environmental legislation that we will pass in this session. It is good for fishermen, it is good for economic welfare of this Nation, and I remain committed to the goal that fishing will continue to be a part, an essential part, of the culture of our coastal communities of the United States and of Massachusetts and of our economies. It is that important, and it means that much

Finally, Mr. President, I would just like to say that there has been an extraordinary effort by both the majority staff and the minority staff who have labored literally for years, but particularly in the last few months, and an extraordinary amount of time has been put into developing this bill.

I would like to thank, on the Democratic side, Penny Dalton, Lila Helms, and Kate English, who each have done just a tremendous job. On the Republican side, I would like to thank Trevor McCabe, Earl Comstock, and Tom Melius. And during the past 2 years there have been a number of people on my staff who have served as legislative fellows on my staff or on the Commerce Committee and who have put in an enormous amount of time and energy to make this bill possible. Particularly I would like to thank Steve Metruck, Alex Elkan, Peter Hill, and Tom Richey for their contribution to this legislation.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, are we under controlled time?

The PRESIDING OFFICER. Yes.

Mr. KERRY. Are we divided equally?

The PRESIDING OFFICER. Yes, 60 minutes equally divided. The Senator from Massachusetts has 11 minutes remaining. The Senator from Alaska has 14 minutes 15 seconds remaining.

Mr. GORTON. Mr. President, there being relatively few people here, I ask unanimous consent that that time be extended at least for those Members who are willing to speak on this issue tonight.

Mr. KERRY. Mr. President, in order to keep an agreement here so we can know the time, I ask how much time the Senator from Washington needs.

Mr. GORTON. Somewhere in the neighborhood of 20 minutes.

Mr. KERRY. How much time does Senator MURRAY need?

Mrs. MURRAY. Approximately 10 minutes or less.

Mr. KERRY. Mr. President, I ask unanimous consent, in addition to the time allotted to both sides, the Senators from Washington be allowed to speak: Senator GORTON for 15 minutes and Senator MURRAY for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recognized.

Mr. GORTON. Mr. President, our journey to this point on this bill has been long and tortured. And at the end of the road I find a product that, from the Washington State perspective, is greatly improved from the measure that passed out of committee and immeasurably better than H.R. 39, which was rejected by every Member of the Washington delegation, Republican and Democrat alike, and which has my support. Let me make absolutely clear, however, that even though I will vote for S. 39, as amended by the manager's amendment, any unilateral changes made by the House will be the death knell to the Sustainable Fisheries Act in this Congress.

The Sustainable Fisheries Act has been sold, and bought hook, line, and sinker, by the national press and the majority of my colleagues, as the strongest environmental bill of this Congress. That is, I am afraid, an overly simplistic characterization.

I do not, and have not, taken issue with the true conservation measures in S. 39. But the act is as much a social and economic manifesto as an environmental one. The bill is as much about the allocation of fishery resources—the allocation between commercial and recreational fishers, between processors and harvesters, between onshore and offshore processors, and yes, between Washington and Alaska, as it is about the conservation of fish.

Before I comment on what I think is wrong with this measure, I would like to recognize those aspects that are sound. I generally endorse the measure's conservation provisions; its treatment of individual fishing quotas; and its efforts to mitigate the effects of the Federal court's allocation of shellfish resources to Indian tribes in Washington State.

CONSERVATION OF FISHERY RESOURCES

The conservation provisions in S. 39 are the only aspect of the bill that most of the public knows or cares about. Contrary to reports, I join my colleagues in lauding those provisions that aim to reduce waste and bycatch in the fisheries, to prevent overfishing, and to restore overfished fisheries to health. But I take a more cautious view of the extent to which these worthy goals will be achieved than do most of my colleagues and members of the national press.

This bill pushes the regional fishery management councils, some of which have proven unwilling to practice sound management, in the direction of responsible conduct. In fact, I don't believe that the Sustainable Fisheries Act empowers the fishery management councils, or the Secretary of Commerce, to do much more than these entities already are empowered to do. Rather, the Sustainable Fisheries Act is a statement by Congress that conservation of the resource must be a priority, and the bill highlights the tools that councils and the Secretary can use to achieve this goal.

I approve of inviting fishery managers to act more responsibly, but I urge vigilance. Regional politics and short-term interests have conspired in the past to undermine responsible resource management to certain fisheries. It is naive to think that this bill alone can correct this condition. It cannot. So while I support the conservation provisions in S. 39, I caution that the work of ensuring responsible conservation and management of fishery resources does not end with the passage of the Sustainable Fisheries Act—it only begins.

Ironically, the fishery that has been singled out in S. 39 for particularly stringent waste and bycatch reduction measures is the North Pacific groundfish fishery. I do not now object, and have never objected to the bill's prescriptions for this Washington State-dominated trawl fishery, but it is important to note that the singling out of this fishery is a function of politics and not sound science.

Despite its Alaska-heavy composition, the North Pacific Council, to which many of the bill's waste and bycatch reduction provisions are addressed, has been praised for its resource conservation measures. Despite its recent dramatic public demonstrations, even GreenPeace acknowledged in 1992 that "The North Pacific * * * provide[s] a model for the way other [regional fishery management] Councils should be managing the fisheries in this nation and probably in the world." Again, I do not oppose strong and sensible bycatch and waste reduction measures in the North Pacific groundfish fishery, but only so long as the singling out of any sector of a fishery is supported by scientific evidence. I note that recently, GreenPeace launched a public relations attack on the Seattle-based factory trawlers in the Bering Sea pollock fishery. Certainly GreenPeace is within its rights to do so. I sincerely hope, however, that as we continue to strive toward responsible management of our fisheries, that we do not allow policy to be set by meretricious activists whose often uninformed rantings drown out the voices of scientists, fishery managers, and environmentalists who properly place conservation ahead of a radical social agenda.

IFQ'S

My opposition to this bill has often mistakenly been reduced only to a disagreement over the treatment of individual fishing quotas. Ironically, I believe that Senator STEVENS and I were, from the beginning, more in agreement on this issue than on a number of others that affect the allocation of resources in the North Pacific.

Although I am not an unqualified supporter of IFQ's, it is hard to ignore the success of the North Pacific halibut-sablefish IFQ program that was implemented last year. The program has not been flawless, but its initial effectiveness in improving safety, providing fresh fish year round to consumers, and reducing overcapitalization in a fishery—without a regional epidemic of bankruptcies or a hemorrhage of the Federal budget in the form of Federal buy-out assistance—is promising. Throughout this process, I have tried to ensure that this infant program will continue without interruption. I sincerely appreciate Senator STEVENS' support on this issue.

I believe that Senator STEVENS and I agree that IFQ's are a powerful tool, and that it is reasonable to adopt a moratorium to suspend, for a time, the implementation of new IFQ programs until we have had the chance further to study and better to understand the social and economic effects of IFQ's on the conservation and management of resources, on participants in all sectors of the industry—harvesters and processor alike, and on the American public.

Senator STEVENS and I have disagreed, however, on the duration of this moratorium. We also had a critical disagreement over whether or not IFQ's should be barred indefinitely in the North Pacific by requiring a supermajority vote of a council to adopt new IFQ's in the absence of further congressional action on this subject.

Despite these disagreements, the Senate has reached a reasonable compromise. The moratorium on the implementation of new IFQ's is longer than I would have liked—it is 4 years—but it is finite, and requires no supermajority vote of councils after the moratorium expires. The compromise provisions also permit councils to study and develop IFQ's during the moratorium. Moreover, the moratorium on IFQ's will not preclude the implementation of a new bycatch accountability system that should help to reduce bycatch by holding every vessel accountable for what it catches.

Significantly, the Sustainable Fisheries Act provides for a comprehensive study of IFQ's by the National Academy of Sciences, which study which will be available to educate Congress when we next consider this issue. Education is critical: despite my reservations about implementing new IFQ's in the North Pacific at this time, I consider it pure folly to adopt the House approach of crippling all prospective quota programs before we have had the chance to assess them adequately.

MITIGATING THE EFFECTS OF U.S. VERSUS WASHINGTON

I fully support the provisions of the bill that attempt to mitigate the loss to Washington's commercial crabbers caused by the adjudication of tribal claims to shellfish in a subproceeding of U.S. versus Washington. Last year, a decision by a district court, a decision that is now on appeal, allocated a large portion of the catch to Indian tribes and threatens to deprive nontribal fishermen, who have been fishing for generations, of their livelihoods.

We have amended S. 39 in two ways to try to mitigate the loss to nontribal commercial crabbers in Washington. First, the manager's amendment now authorizes State-managed fisheries, such as the 250-vessel inner Puget Sound dungeness crab fishery, to obtain Federal funds for a license buy-out program.

Second, for the coastal dungeness fishery, the manager's amendment gives Washington, for a limited time until a Fishery Management Plan is in place, tools to regulate all crabbers equally in the exclusive economic zone adjacent to the State. This new regulatory authority will help to ensure that the cost of the tribal allocation will be borne more fairly by all commercial crabbers who fish in the EEZ adjacent to Washington, not just crabbers whose vessels are registered in the State.

The managers amendment permits the Washington Department of Fish and Wildlife, among other things, to set pot limits to slow the pace of fishing by all nontribal commercial crabbers to help facilitate management or settlement with the tribes.

Although this provision gives Washington, Oregon, and California new powers to regulate vessels not registered in these respective States, and restates these States' ability to regulate landings, the provision is intentionally silent on whether the limited access program in each State can be enforced in the EEZ. I anticipate, however, that when it prepares a Fishery Management Plan for dungeness crab, the Pacific Council will be guided by the limited access programs already in place on the west coast.

Having just described those aspects of the bill that I support heartily, I would like to speak for a moment to those that I believe are subject to serious reservations.

There are three provisions in this bill that I think are misguided. They are: The provision regarding fishing communities; the demotion of the role of efficiency in fishery management; and the creation of a permanent entitlement program for Native Alaskans in the form of community development quotas.

FISHING COMMUNITIES

The managers' amendment corrects a fundamental inequity in the original S. 39, that would have further skewed the allocation of North Pacific fishery resources in Alaska's favor by giving economic protections and preferences to fishing communities, and by defining these communities so as apparently to exclude any in the State of Washington.

While my parochial concerns have been fully addressed in the manager's amendment by redefining "fishing communities" to include the communities of tens of thousands of Washingtonians employed in the fishing industry, I continue to believe that establishing a national standard to protect fishing communities is bad policy. It authorizes nothing certain except for bad policy and litigation.

Moreover, it seems to me to be contrary to the purported conservation goals of this bill to attempt to insulate fishing communities from the economic effects of instituting sound management and restoring healthy stocks. Correcting years of irresponsible management and concern for short-term profit cannot be accomplished painlessly, though we should strive to minimize that pain. Continuing to delay the inevitable, however, by giving councils another excuse for ineffective conservation measures will only make more likely the total demise of our fisheries.

EFFICIENCY

The Sustainable Fisheries Act demotes the role of efficiency in fishery management and conservation by changing national standard five from one of promoting efficiency in the use of fishery resources, where practicable, to merely considering efficiency. Again, this change was made on the pretext of improving conservation, but the provision's authors have never been able to explain how the current standard undermines conservation efforts, and why this change is needed.

Under the guise of promoting conservation, this provision promotes a foolish social agenda—one that fails to reorganize a sensible balance between the legitimate interests of traditional small-vessel fishers, the interests of consumers, and the need to improve productivity to remain competitive in a global economy.

There is, I believe, a perception that an attack on efficiency is a triumph for small vessels and a blow to what are perceived to be the larger, more cost-effective vessels such as those in Washington's factory trawlers fleet. This perception reveals a disturbing trend toward unfairly demonizing more productive, more efficient fleets. I repeat my earlier adomination—we need to recognize that good management, not small vessels or large vessels, leads to sound conservation and healthy fisheries, and that there is room in a healthy and efficient fishery for both.

CDQ'S

Without a doubt, the allocation-related provision in this bill that I find most objectionable is the provision mandating a permanent entitlement program for Native Alaskans through community development quotas—an entitlement program that will be paid for largely by the Washington fishing industry. Codifying this assistance program is not only inappropriate in a bill that purports to deal with resources, not social management, but is inappropriate in this Congress, which just recently succeeded in reforming another entitlement program called welfare.

CDQ's are set-aside programs that reserve a sizable percentage of various fisheries for Native Alaskan communities. Currently, CDQ's are not authorized by the Magnuson Act. Nevertheless, the Alaska-dominated North Pacific Council has reserved 7½ percent of the largely Washington-fished Bering Sea pollock stock for Native Alaskan communities, and even larger percentages in the halibut and sablefish fisheries. Recently, the council recommended CDQ's for crab and groundfish, but this recommendation has not yet been approved by the Secretary of Commerce. Not surprisingly, the council has not imposed CDQ's on fisheries dominated by Alaskans.

The fundamental unfairness of CDQ's was certainly appreciated by other Members of this body, for the Sustainable Fisheries Act, while going after fishermen from Washington State, protects other fishermen from this particular poison by specifically prohibiting CDQ programs in almost every other part of the country.

But since CDQ's would be a reality even in the absence of a Magnuson Act reauthorization, our ability to limit this unfair practice was slight indeed.

In exchange for allowing this bill to proceed, I have exacted concessions on the issues of CDQ's. But these concessions are small. First, to provide relief for the Bering Sea crabbers who, even before the implementation of CDQ's are struggling to survive amid record low stocks, the managers' amendment provides for a graduated phase-in of development quotas. In addition, the manager's amendment provides for a study of CDQ's to determine if these development quotas are meeting their stated purpose of facilitating participating communities' entry into commercial fisheries, and to recommend how long this social assistance program should last.

Having commented on some of the substantive provisions in this bill, I would like to speak for a moment on the process that brought us to this point. As I stated in my opening remarks, getting here has not been easy. And I have come as far as I intend to go.

The committee mark of S. 39 was sprinkled with sweeteners for most interested parties—except Washington harvesters. Washington's sizable fishing fleet was presented with a poison pill more palatable only than the outrage our House delegation was forced to swallow last October.

Despite this strategic isolation, I had two invaluable assets—time, and the unwavering support of Senator MURRAY. As much as I would like to avoid having to repeat this process, I have truly appreciated the opportunity to work so closely with my colleague form Washington State.

When it became clear that Senator MURRAY and I had no intention of succumbing to the attack on our State's fishing industry, a sincere effort was made to address our concerns. Much of the credit for this final compromise is due to the tireless and creative efforts of Senator KERRY and his staff, Senator PRESSLER and his staff, and the majority leader and his assistants. Credit is due, too, to Senator STEVENS and his staff. Because of the different composition of our industries and our constituencies, the Senators from Washington and Alaska may rarely agree on the substance of fishery bills. But although we may lack agreement, I have never lacked trust and respect—I sincerely appreciate the constructive manner with which Senator STEVENS and his staff have worked with me and my office even as he resolutely protected the interests of his constituents.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington is recognized for 10 minutes.

Mrs. MURRAY. Mr. President, the bill before the Senate this afternoon is the Sustainable Fishery Act, the Magnuson Act, and is the outcome of a very long and very difficult process. Only great willingness to compromise on everyone's part has enabled this bill to reach the Senate floor this evening.

This bill has been almost 4 years in the making, and it has gone through many changes, and improvements have been made along the way. I want to take this opportunity to thank the chairman and the ranking member of the subcommittee for their willingness to work through the difficult allocation issues in this bill so that the strong conservation provisions of this bill can move forward.

Mr. President, I also want to take this opportunity to thank my senior Senator, Senator GORTON, for his tremendous work on this bill and the opportunity to work with him on an issue of natural resources. His tenacity and perseverance throughout this debate has been very instructive and very much appreciated. I also want to take this opportunity to thank both his staff and my staff, Justin Le Blanc and Jeanne Bumpus, for their tireless work on this bill, as well.

Mr. President, we have reached a fair and reasonable compromise on this bill. As we send this bill to the House, I urge them not to undermine this bill by altering it to reflect parochial interests.

This bill serves two purposes: to conserve fishery resources and to preserve the fishing industry. It contains new provisions to address overfishing, bycatch, and impacts on fish habitat.

These provisions will strengthen our ability to conserve fish resources, and they will allow us to develop long-term, sustainable fisheries. This bill will enable us to turn around depleted fisheries and ensure we have fish for the future.

The help of the fishing industry is directly related to the health of the resource. The conservation provisions will, therefore, benefit the fisheries as well. By protecting the fish, the bill also protects jobs.

The bill sustains the fishing industry in other ways, as well. Natural standards promoting efficient use of fishing resources and promoting the safety of life at sea will help our fishers continue fishing. New consideration for fishing communities recognizes all fishers, no matter where they live, depend upon the fish.

Detailed studies of controversial fishery quota programs will be conducted by the National Academy of Sciences. A study of individual fishing quota programs will allow us to evaluate the potential benefits of such programs. A short moratorium on IFQs will allow us to review this study and to evaluate the success of existing programs. We should not prejudge the appropriateness of IFQ's at this time. Let's allow the study to provide us guidance on this important issue.

The Academy will also study community development quotas. The impacts of the new mandate for CDQ's on the fishing industry in the North Pacific need to be evaluated.

These programs will transfer considerable sums of money from Washington's distant water fleet to Alaskan coastal communities. The study will allow us to discern the effectiveness and appropriateness of this social assistance program.

The bill provides authority for fishery disaster relief programs, particularly buy-back programs which will help stabilize fishing fleets. Many fishing fleets are suffering from tremendous harvest reductions as a result of natural disasters or man-made situations.

The recent Federal court decision in Washington State awarding native American tribes 50 percent of the shellfish has severely impacted the non-Indian shellfish harvesters. These provisions will provide an opportunity to help these fishers.

The temporary extension of Washington State jurisdiction into Federal waters will also allow the State to implement the reduction in non-Indian shellfish harvests fairly and equitably. I thank the junior Senator from Oregon for his willingness to reach an agreement on this issue.

In its original form, this bill could well have undermined the fishing industry of Washington State. But thanks to compromise and concession on all sides we have reached an agreement. We are now debating a bill that, in many ways, will benefit the Washington State fishing industry.

It keeps options open for Washington State fishers, and it ensures that we will have a strong, vital, sustainable industry long into the future. I support passage of this legislation and look forward to its timely submission to the President for his signature.

This bill will reauthorize the Magnuson Fishery Conservation and Management Act. The Magnuson Act was first passed in 1976 to Americanize the fisheries off the coasts of the United States and to ensure that the bountiful harvests being extracted from these seas were benefiting U.S. citizens and our economy. Over the last 20 years, this goal has by and large been achieved. In 1996, a new challenge faces us: The development of sustainable fishing practices that will guarantee a continued abundance of fish and continued opportunities for U.S. fishers.

The Sustainable Fisheries Act will improve the conservation and management of our fishery resources by re-emphasizing both. While the original intent of the Magnuson Act was to Americanize the fisheries and invest the management of the resources in those who know them best, the fishers; the outcome has not always been sound management or longterm conservation. This bill will help improve this situation. With provisions to prevent overfishing, to ensure the rebuilding of overfished stocks, to minimize bycatch, and to consider fish habitat, this bill places a greater degree of focus on the long-term sustainability of both the resource and the fishers harvesting the resource.

Strong new measures to reduce bycatch, the catching of unwanted or prohibited fish, and new considerations of essential fish habitat will help to maintain healthy fish stocks. The distant water fleet of the North Pacific, based in my State, is often accused of wasting an incredible amount of fish. Estimates suggest that up to 580 million pounds a year of fish are dumped overboard dead or dying.

Federal fishery scientists have determined that the total population of Bering Sea groundfish alone is 44 billion pounds. Of that 44 billion pounds, scientists have determined that the acceptable biological catch, that is, the sustainable harvest level, is nearly 6.6 billion pounds. As an extra precaution, the North Pacific Fishery Management Council has established an annual groundfish harvest cap of 4.4 billion pounds, leaving one-third of the allowable biological catch unharvested.

With a total groundfish harvest of 4.4 billion pounds, 580 million pounds of discards suggests a bycatch rate of approximately 13 percent. The largest fishery in the United States, the North Pacific pollack fishery, is one of the cleanest fisheries in the world, with a bycatch rate of only 2 percent according to the United Nations Food and Agriculture Organization [FAO]. Compare these numbers with the average discard rate in world fisheries of 30 percent.

It is also important to note that the discarded fish in the North Pacific are quantified by Federal Fishery Observers and are counted against to the total allowable catch levels of the various species. To reduce bycatch is to make more efficient and responsible use of fishery resources. That is why this bill seeks to reduce bycatch in our Nation's fisheries. And that is why participants in the North Pacific groundfish fisheries have proposed requiring all fishers to retain all pollack and cod caught, regardless of what species the fishers are targeting. This step alone should reduce the amount of fish discarded in the North Pacific by one-half.

The amount of bycatch in the North Pacific is still very high. While the participants in those fisheries are beginning to address the problem, this bill will create new and stronger incentives to fish more cleanly. I strongly support the conservation provisions of this bill. I look forward to the improvement management of our fishery resources they will allow.

This bill also recognizes that the health and sustainability of fish stocks are more than just conservation issues, they are also economic and social issues. The people who take part in U.S. fisheries, the fishers, processors, and supporting industries, are all vitally dependent upon the fishery resources, their abundance and sustainability. This bill recognizes that dependence by requiring new considerations of the impacts of fishery management decisions on fishing communities.

The definition of fishing communities in this bill will work well. Fishing communities are those communities "substantially dependent upon or substantially engaged in the harvest of fishery resources." This definition recognizes that fishers are fishers no matter where they live. An individual fisher and his or her family, whether they work on a big boat and or a small boat, are equally dependent upon the fish for their livelihoods no matter where they live. The fisher from a small New England port, an Alaska coastal town, or a metropolitan area like Seattle all make their living from the sea, their lives are all tied to the health and abundance of the fish they catch. They all deserve to be considered when difficult and painful fishery management practices need to be implemented. Under this bill, they will be.

In addition, this bill preserves the National Standard to promote efficiency in fishery management plans. According to the National Marine Fisheries Service [NMFS], an efficient fishery harvests fish with a minimal use of labor capital, interest, and fuel. Management regimes that allow a fishery to operate at the lowest possible cost are considered efficient. In encouraging efficient use of fishery resources, this National Standard highlights one way that a fishery can contribute to the Nation's benefit with the least cost to society. To weaken the efficiency standard would be to suggest that overcapitalization, too many boats fishing for too few fish, is acceptable when we all know it is not. It is in the Nation's best interest to promote efficient and sustainable use of our natural resources. Methods of efficiently harvesting fish within acceptable conservation limits should be the norm if the United States wants to continue to be competitive in the growing global market for fish products.

This bill places a 4-year moratorium on a somewhat controversial fishery management tool, individual fishing quotas or IFQ's. IFQ's allocate percentages of the total allowable catch of a fishery to individual participants. If they are transferable, they can be bought and sold either among participants or in a larger market. While opponents of IFQ's feel they are a privatization of a public resource and will result in large corporations owning the bulk of U.S. fisheries, proponents view IFQ's as an important fishery management tool that can address a number of the problems plaguing U.S. fisheries today.

Under current open access systems, there is a race for fish. Those who fish fast and furious win. This management style leads participants to fish inefficiently, catching as much fish as they can as quickly as they can without consideration for high bycatch rates or the harvest of lower value target fish. It creates incentives to invest in excess harvesting and processing capacity—bigger and better boats, bigger nets, more gear, and larger plants—than are needed to efficiently and sustainably harvest and process the allowable catch. This overcapitalization, while not creating huge conservation issues, weakens the economic viability of the fleet, threatening participants with bankruptcy and ruin. While it hasn't been much of an issue in the North Pacific, overcapitalization can create enormous pressure to increase harvest levels beyond acceptable limits.

In addition, this race for fish creates serious safety considerations in many fisheries. Under this race, fishers feel compelled to keep fishing even when the weather or the conditions of the vessel or the health of the captain or crew would suggest otherwise. Unless fishery management plans provide opportunities and incentives for fishers to sit out storms and return to port for repairs or medical attention, lives will continue to be lost. The crab fishery in the North Pacific is the most dangerous occupation in the Nation. According to the U.S. Coast Guard, the 1990–94 average annual fatality rate in the crab fishery is 350 deaths per 100,000 workers, with a 1990–94 annual average of 7 deaths among 2,000 crabbers. The fatality rate for all U.S. fisheries over the same time is only 71 deaths per 100,000 workers. The all occupations rate is only 7 deaths per 100,000 workers.

For this very reason we included the promotion of safety of life at sea in the National Standards of the Magnuson Act. This provision remains in the bill. Fishery management plans will now be required to promote safe fishery practices. The Fishery Management Councils will not only have to consider safety, they will have to promote it to extent practicable. There are many ways to promote safety, and IFQ's may be one way.

When the halibut fishery in the North Pacific was conducted under open access, the fatality rate was almost as bad as crab, with 250 deaths per 100,000 workers. Under the IFQ plan of the last two seasons, the halibut fishery fatality rate dropped to zero. While two seasons of data is certainly not proof, it does suggest that IFQ's can address the safety issue by eliminating the race for fish.

Because of their potential to address issues such as waste, overcapitalization, and safety, IFQ's are considered by fishery managers in academia and State and Federal Government agencies, as well as environmental groups such as the Center for Marine Conservation, Environmental Defense Fund, and the World Wildlife Fund, as a promising fishery management tool that should be available to the Fishery Management Councils for their consideration. I agree. I believe that IFQ's should remain in the Councils' toolbox. Many of the concerns raised by opponents of IFQ's can be addressed within the design of any given IFQ system, much as they have been in the halibut/sablefish IFQ program. Issues such as entry-level quota share opportunities, ownership requirements, and caps on consolidation of shares can and have been incorporated into IFQ plans at the Council level.

Despite all this, I understand a fair degree of controversy remains over IFQ's. Because of that, I have agreed to a short moratorium on the implementation of IFQ's while the Councils consider, discuss, and develop potential IFQ plans. However, I objected to provisions that prejudged the appropriateness of IFQ's as a management tool and created undue hurdles for IFQ's plans to overcome. This bill includes a comprehensive study of IFQ's by the National Academy of Sciences [NAS]. The assessment of IFQ's by the NAS will allow us, if it is determined necessary, to develop a broadly supported national policy on IFQ's during the next reauthorization of the Magnuson Act in 1999. This study should provide us the guidance we need in our assessment of IFQ's as a fishery management tool. We should withhold from determining their fate now, before we have the insights of the NAS study.

However, there are a number of issues regarding IFQ's on which there is currently agreement and these have been included in the bill. IFQ's may be revoked or limited at any time in accordance with procedures under the Magnuson Act. They shall not confer the right of compensation to the holder if revoked or limited. They shall not create a private property right to the fish before the fish are harvested. IFQ allocations should be fair and equitable and opportunities should be provided for small vessel owners and entry-level fishers. These are broadly-supported provisions on IFQ's and have appropriately been included in the bill

Unresolved issues regarding IFQ's will be assessed by the NAS. Issues such as transferability, duration, corresponding processor quotas, conservation impacts, fishery characteristics, and potential social and economic costs and benefits to the Nation and to participants in the fishery all will be analyzed by the NAS. The NAS will also study mechanisms to prevent foreign control of our Nations fishery resources and should investigate foreign ownership in both the harvesting and processing sectors. In addition, the NAS is required to study the appropriate level of U.S. ownership of fishery vessels with particular reference to a relatively high U.S. ownership threshold. The NAS should consider this threshold in light of existing requirements for participation in U.S. fisheries.

I look forward to the outcome of this study of IFQ's by the NAS and to the discussion with my colleagues that will undoubtedly ensue upon the report's release.

While this bill imposes a moratorium on IFQ's, it mandates the development of another quota program: Community Development Quotas or CDQ's. CDQ's are guaranteed allocations of Bering Sea fishery resources to Native Alaskan coastal communities. It is argued that these communities have had a historical and traditional participation in these fisheries and were excluded from the Americanization of the fisheries during the late 1970's and the 1980's. While these communities certainly engaged in the harvest of near-shore fish species, it is less clear that they participated in the Deep Ocean fisheries of the North Pacific. The existing CDQ program in pollock has transferred approximately $25 million from the participants in the fishery, predominantly the distant water fleet from Washington state, to the CDQ communities. The mandated expansion of CDQ's will increase this cash transfer almost 5 times to $117 million.

CDQ's were originally proposed as a temporary program to provide these communities with the capital and expertise to venture into the fisheries on their own. Under this bill, the CDQ program has been turned into a permanent entitlement. I want to make myself clear on this issue. I think it is laudable to empower these impoverished communities to develop independent business ventures and sustainable economies. The question arises as to whom should bear the burden of such efforts. Unfortunately, under the CDQ programs mandated under this bill, the participants in the Bering Sea fisheries, Washington State fishers fishing in Federal waters, bear the entire burden alone. A burden that should be borne by society at large, and particularly by the neighbors of those communities, other Alaskans.

However, this bill contains a study of CDQ's, again by the NAS, to investigate the implications of these programs for the Native Alaskan communities and fishery participants. The study will evaluate the effectiveness of the program in meeting the stated objectives of developing self-sustaining commercial fishing activities in the communities and employing community residents in commercial fishing operations. The study shall evaluate the social and economic conditions in the communities. I think it is important for this evaluation to include an assessment of what other types of assistance programs are or could be made available to these communities. This study will provide valuable insights into the effectiveness and appropriateness of the CDQ program.

In addition, this bill recognizes that not all of the Bering Sea fisheries can bear the full burden of the proposed CDQ programs at this time. The Bering Sea crab fishery is in a serious state of decline at this time and the crabbers are suffering under the strain of reduced catches. This bill recognizes the state of affairs in the crab fishery by phasing in the CDQ percentage allocation over the next several years, to ease the crab fishery into the larger CDQ allocations.

This bill contains important provisions that will enable Washington State to mitigate the impacts on shellfish harvesters of the recent Federal court decision allocating 50 percent of shellfish to the treaty tribes of Washington State in their usual and accustomed areas. These provisions include a limited extension of State management authority into the Federal Exclusive Economic Zone [EEZ] for Dungeness crab. This extension, although rather limited in scope and time, provides the State of Washington the authority it must have to effectively implement the court order to comanage the shellfish resources such that the tribes may harvest 50 percent of the resource.

In addition, this bill contains authority to implement fishing capacity reduction programs, or buy-back programs. These programs will allow fishing fleets severely impacted by a natural disaster or some man-made decision beyond the control of fishery managers, such as the recent Federal court order regarding tribal shellfish harvests, to mitigate the impacts of such situations by buying people out of the fishery in order to restore viability to the fleet. It is anticipated that the state of Washington could use such authority to develop a buy-back program for the Inner Sound Dungeness crab fleet so severely impacted by the recent shellfish decision.

We have all come a long way on this bill. I reiterate my support for passage of this legislation.

The PRESIDING OFFICER. The Chair announces that, by leadership agreement, previous time restraints have been removed.

The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I take a few minutes to make comments about a bill that I have been fooling around with for almost as many years as I have served in the Congress. I remember quite well when I was in the other body and served as chairman of the Fisheries Committee back in 1972, I hate to say how long it has been that we started working on the concept, over 20 years ago, to say that the fishing areas around the United States belong to the people of the United States.

At that time, we were being literally inundated by foreign fishing fleets from Japan and other nations which saw the areas around the coastal waters of the entire United States off of our 30 coastal States as very valuable areas. They were coming in and really displacing our own American fishing men and women, and doing it at a rate that would have soon, I think, destroyed the areas of the United States as far as fisheries is concerned.

We came up with the Fisheries Management Conservation Act. It was a very long and drawn-out process that we entered into to come up with this legislation that said that these waters are going to be reserved for the U.S. industry first, and that you could only fish if you are a foreigner if you had a fishing agreement with our country that gave you an allocation of how much you could fish for.

It was an interesting effort to try and get the foreign fishermen out. We came up with an acronym, one that I was proud of coming up with. The whole premise of the bill was to "phase out foreign fishermen." We called it POFF. Puff—they were gone. Today, the foreign fishermen have been essentially removed from our U.S. waters. It is mainly now being fished by American fishing men and women, and the industry is really an American industry. So now the great challenge is not to keep the foreigners out, but rather to manage the stocks in a way that preserves them for the U.S. industry. This is what this legislation is about.

All of the councils that we have around the country are composed of experts in the fishing area, men and women who represent recreational fishermen, commercial fishermen, scientists, who serve on the fishing council, and their job is to come up with management programs for the various species. It took a long time to reach the point where we are today. Today, the challenge is sound management. You can only have good management if you have good science. You cannot come up with a fishery plan that makes sense if you do not know how many fish you have in the waters off of our coasts.

Therefore, the science is incredibly important, to have the best available scientific information about the conditions of the stock. This legislation moves in that direction to allow for even better science to be obtained, to make these decisions. I applaud the Members who have been involved in insisting this be what our standard is.

In addition, the question of bycatch, something that every fisherman is affected by: If you are fishing for shrimp and catching a lot of other fish that you are not targeting, you have a bycatch, an extra catch that you are not trying to do. We need a lot more studies on bycatch, on how to prevent bycatch without destroying the fishermen who are going after a targeted species. In this legislation, there is more work in that area as well.

By and large, we have to resist the temptation for us to try and manage fisheries from here in Washington. I don't think we have a fish biologist as a Member of the Senate. We are not biologists. I don't think anybody has that background. We should make sure that the councils do the management plans, working with the National Marine Fishery Service. We have to be very careful if we try and say that the councils cannot do this or that because we in Washington know better. The councils have the first obligation of coming up with management plans based on science. Now and then, we get inundated by one particular group of fishermen, maybe recreational fishermen, that say, "You have to ban all catches of red snapper," and then the commercial boys say, "No, you need to catch more red snapper because there are a lot more out there."

We are tempted to enact amendments to legislation here in Washington that would do fishery management from the floor of the Senate or from the Commerce Committee. I suggest that that is the wrong way to do it. We ought to strengthen the councils and not weaken them, and let them come up with the proper management plans. This is an issue that never has been Democratic or Republican; it's where you are from, the different areas of the northeast, the southeast, the gulf coast, and the Northwest. We have intermural battles here between Alaska and Oregon and Washington, between Texas and Louisiana and the gulf and Florida. But we have come together with this piece of legislation.

I commend JOHN KERRY and TED STEVENS for their ability to bring this product to the floor. Is it perfect? Of course not. Nothing here ever will be. But it is a good bill and one that makes sense. I congratulate the ranking member and the chairman of the subcommittee for their work. I support this legislation. We will monitor how it is implemented very carefully to see if further improvements can be made in the future. It has been a long time since 1976 and all those years since we tried to put this together. It is working. We can take a lot of credit and be proud of the work we have done. There is a lot more that needs to be done, and this legislation moves us in that direction. I support the legislation.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. How much time is remaining?

Mr. SMITH. The Senator from Massachusetts has 11 minutes remaining. The Senator from Alaska has 14 minutes.

Mr. KERRY. The Senator from Oregon requests how much time?

Mr. WYDEN. Does the Senator have 5 or 6 minutes?

Mr. KERRY. I yield 6 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I rise in support of S. 39, the Sustainable Fisheries Management Act. This bill is a good step forward in the management of our Nations' fisheries, addressing important areas of concern such as rebuilding over-fished stocks and collecting better data so we can manage our fisheries more effectively. I guess I'm the only Member of Congress in the position of voting for this legislation in both Houses of the Congress.

I want to thank Senators STEVENS and KERRY, and their staffs especially, for their help and guidance to me, the newest member on the Commerce Committee, on issues of great importance to the fishermen, fishing communities, and the fishing industry in Oregon. I commend them for their hard work on this legislation and hope that we will be signing this bill into law in the very near future.

I would also like to thank Senators MURRAY and GORTON for their willingness to address an issue critical to the Oregon crab fishery. I am satisfied that the compromise we have reached will go a long way to helping the State of Washington address its crab management concerns, and assure Oregon crab fishermen continued access to crab fishing areas off of the Washington coast.

The State of Washington is currently struggling to address management issues arising from a recent Federal court decision that requires the State of Washington to provide Washington's Indian tribes with 50 percent of the Washington crab fishery. Historically, Oregon crabbers have also fished off of Washington's coast and it is easy to see how this new situation could create conflict.

Historically as well, Oregon, Washington, and California have enjoyed an excellent working relationship with regard to the crab fishery. So, it was with concern that I reviewed the original proposal to extend state jurisdiction into the Exclusive Economic Zone [EEZ] for all fisheries without a Federal management plan. In my view, this original proposal had the potential to restrict many Oregon fishermen from fishing in their traditional areas.

With respect to the crab fishery alone, the potential effects were ominous for all segments of the crab fishery in Oregon, crab fishermen, the coastal communities of Astoria and Warrenton and the crab processors in those communities who provide employment to hundreds of workers.

The Oregon crabbers fishing off the Washington coast represent a significant percentage of the crab landings to Astoria and Warrenton: these boats land almost 85 percent of the crab processed in these two ports. To say that this fishery is significant to these communities barely coveys the vital importance of this fishery to the economy of Oregon's north coast. Fishermen, equipment suppliers, crab processors, and their employees are all intimately tied to this natural resource.

The compromise Senators MURRAY, GORTON, and I have reached restricts the extension of State jurisdiction to conservation measures within the crab fishery only. These restrictions would apply equally to all boats fishing in the same waters. Each State's limited entry programs and landing laws are respected. To address the harvest requirements of Federal Court Order, *U.S.* v. *Washington* 89–3, the State of Washington may close areas or restrict the number of crab pots laid by crabbers. Our intent is to give the State of Washington flexibility in meeting requirements of the Federal court order while minimizing the restrictions on Oregon's crabbers.

Perhaps the most important part of the State jurisdiction provisions is a clause stating that the Pacific Fisheries Management Council should develop and submit a fishery management plan for Dungeness crab and other shellfish. The timely development of a Federal fishery management plan for Dungeness crab is essential if we are to avoid inter-State conflicts in the future. To this end, the bill also requires the Pacific Fisheries Management Council to report to the relevant Senate and House Committees within a year regarding their progress on a plan.

Again, I appreciate the willingness of the Senators from Washington to address this issue. I look forward to working with them on these issues in the future.

As I mentioned above, I have voted on both the House and Senate versions of this bill. Not only did I support the House bill, I voted for key conservation amendments that were adopted as floor amendments, including those on overfishing and habitat protection. The conservation provisions of S. 39 are also significant, several of which are of particular importance to Oregon. Reauthorization of the Magnuson Act is a high priority for Oregon fishermen and conservation groups alike.

The new mandatory provisions requiring fishery management councils to develop criteria for determining when a fishery is over-fished, and for rebuilding those fisheries, will help us set a solid target for rebuilding overfished stocks both in the Pacific Northwest.

Likewise the measure adding a new national standard to the Magnuson Act requiring that conservation and management measures minimize by-catch—the incidental harvest of nontarget fish—makes a good effort at reducing one of the most distressing aspects of our fisheries.

The bill also defines essential fish habitat and requires the councils to minimize adverse effects on habitat due to fishing.

I shall note at this time some disappointment with regard to the communities provisions. While in the House I supported Congressman MILLER's proposal on communities. The Oregon fishery is in large measure family owned and shore-based, and I would have preferred to have communities language in the bill that recognized and protected our fishing communities more fully.

During our discussions on passage of the bill, it was made clear to me that a protracted fight over the communities language would jeopardize the entire Magnuson reauthorization. In my view this would have hurt Oregon more than it would have helped. Reluctantly, I have for now agreed not to insist on stronger communities language and get this reauthorization done.

Mr. President, although S. 39 is not perfect, it is one of the strongest pieces of conservation legislation to pass the Senate this year. I urge passage of this legislation.

Mr. HOLLINGS. Mr. President, this year marks the 20th anniversary of the Magnuson Fishery Conservation and Management Act, our Nation's primary law to protect and develop the wealth of fishery resources found off American coasts. Those resources are a valuable national heritage. In 1995, U.S. commercial fishermen landed a record 9.9 billion pounds of fish, producing over $3.7 billion in dockside revenues. By weight of catch, the United States is the fifth largest fishing nation. We are also the world's top seafood exporter, with exports valued at $3.3 billion in 1995.

Over the past two decades, the Magnuson Act has guided the development of the U.S. fishing industry, as we successfully Americanized our fisheries.

However, in some regions we unfortunately were more successful in promoting fishing than in preserving fish. As the competition among U.S. fishermen grew, the unique and participatory process established by the Magnuson Act began to show a few signs of aging. Three years ago the Commerce Committee began a systematic review of Federal programs and regulations that affect marine fisheries management. Since then we have held over a dozen hearings here in Washington and in fishing communities around the Nation. We have heard from almost 200 witnesses from South Carolina to Maine and from Hawaii to Alaska. The final result of that review is the bill before the Senate today. S. 39, the Sustainable Fisheries Act, represents the efforts of Senators STEVENS and KERRY, myself and other Members to address the issues identified. This reauthorization of the Magnuson Act builds upon our past experience to stop overfishing and waste, protect essential marine habitat, and streamline the management process.

Turning to the Southeast, where commercial fishermen landed over 275 million pounds of seafood—valued at $238 million—in 1995, fishing plays a vital role in the economies of many coastal communities like Murrells Inlet, Charleston, McClellanville, and Beaufort. In addition, the sportfishing industry is an important part of the regional and local economies. In 1995, an estimated 2.3 million anglers participated in marine recreational fisheries in the south Atlantic region. These fishermen made over 18 million fishing trips, catching more than 65 million fish, including seatrout, catfish, and red drum.

The south Atlantic Spanish mackerel fishery, in particular, has been cited as a Magnuson Act success story. Prior to the 1980's, mackerel catches essentially were unregulated, leading to over-harvesting by both commercial fishermen and sport anglers. The South Atlantic Council then stepped in to implement quotas, bag limits, and trip limits and this once-depleted population now seems well on its way to rebuilding. Unfortunately, for every success story like Spanish mackerel or striped bass, we still hear all too many tragedies.

In addition, we have seen growing interest in reducing waste and unnecessary bycatch in our fisheries. The United Nations estimates that about 27 million tons of fish each year—about a third of world harvests—are caught and thrown back because they are too small, there is no market, or a quota has been exceeded. South Carolina shrimpers are far too familiar with this issue and have struggled for years to prevent endangered sea turtles from drowning in their nets. The spirit of cooperation and innovation that they have shown in working with State and Federal managers to successfully tackle the sea turtle problem demonstrates an approach which should be effective in dealing with other bycatch problems.

Habitat protection also has become a greater concern in recent years as coastal development and marine pollution threaten the environment and subsequently the health of many fish stocks. Half of the world's population now lives within 40 miles of the coastline, and scientists estimate that by the turn of the century, more than three-quarters of Americans will live within 50 miles of the U.S. coastline. Essential fish habitat must be identified and conserved if we are going to maintain healthy fish stocks in the future.

Finally, while the growing frustration with large government bureaucracies and overregulation is not confined to marine fisheries, we certainly need to take steps to streamline the process and eliminate unnecessary redtape. The goal of the council process established under the Magnuson Act was to ensure the participation of all those affected by fishery regulations. However, we cannot allow that process to become so cumbersome that it fails to effectively conserve our fisheries resources, and we must have in place reasonable safeguards against conflicts of interest.

Those of us who are interested in the protection and responsible use of our marine resources have learned a lot about managing marine fisheries over the past two decades. We recognize that the days of superabundant fish stocks are gone forever, and we are confronting a basic fact of life—there aren't enough fish to go around. We also have seen that rebuilding efforts, like the plan for Spanish mackerel, can be successful. And we now understand the importance of ecological considerations like habitat and bycatch in managing our fisheries.

Building on that increased understanding, S. 39, the Sustainable Fisheries Act, extends the authorization of appropriations for the Magnuson Act through fiscal year 1999. The bill also: First, caps fishery harvests at the maximum sustainable levels and requires action to prevent overfishing and rebuild depleted fisheries; second, broadens existing Federal authority to identify and protect essential fish habitat; third, minimizes waste and discards of unusable fish; fourth, streamlines the approval process for fishery management plans and regulations; fifth, tightens financial disclosure and conflict-of-interest requirements for council members; sixth, establishes a moratorium on management plans that allow private ownership of harvest quotas and fees to cover the administrative costs of such a plan; and seventh, reauthorizes other fishery programs and statutes, including the Interjurisdictional Fisheries Act, the Anadromous Fish Conservation Act, and the Atlantic Coastal Fisheries Cooperative Management Act.

Mr. President, S. 39 is the result of extensive bipartisan efforts by Senator KERRY and Senator STEVENS. As a result of their hard work, we have before us a good bill that furthers the goals and policies of the Magnuson Act. I encourage my colleagues to vote for this vital legislation today.

Mr. MURKOWSKI. Mr. President, I very strongly support the passage of S. 39, a bill to reauthorize and revitalize the Fishery Conservation and Management Act, also known as the Magnuson Act. This is without a doubt the single most important conservation bill that has come before this Congress.

The text before us today has changed greatly since the bill I had the honor to cosponsor, along with Senator STEVENS and Senator KERRY, in the final days of the 103d Congress. In the almost 2 years since that day, Senator STEVENS and Senator KERRY have led a remarkable bipartisan effort to resolve other Members' problems with the bill as originally introduced.

I cannot say, Mr. President, that I am completely happy with all of the changes that have been necessary to accommodate the interests of various Members. However, Mr. President, I can say that I have watched the evolution of this legislation with very close attention, and am confident that the managers have made every possible effort to make those accommodations without violating the integrity of the bill.

I also want to recognize the tremendous effort that has been made by by fishing industry groups, the environmental community and others, all of whom participated in bringing this bill to this point, just steps from completion.

My own efforts in connection with this bill have largely focused on certain issues that have recently exploded into international prominence—fishery bycatch and discard.

Worldwide, the Food and Agriculture Organization of the United Nations reports that with total fishery landings of 83 million metric tons, plus discards of up to 27 million metric tons, we may be taking as much as 10 million tons per year more than the oceans can sustain.

I introduced the first bill to address bycatch and discard back in 1993. Today, almost 3 years later, I am very pleased to say we are finally on the verge of taking action. The bill before us follows the lead of my early bill by establishing a new national standard calling for bycatch to be avoided where possible, and where it cannot be avoided, for steps to minimize the resulting fishery mortalities. This will put us on the road to stopping the shameful waste that is currently occurring in many fisheries.

Following this principle, Senator STEVENS has authored a separate section of the bill for Alaska only, which calls for annual bycatch reductions for the Gulf of Alaska and Bering Sea off Alaska.

Among other provisions, this bill will improve fisheries conservation and utilization, on which so many individuals in our coastal communities depend. It will for the first time address the problem of overfishing by requiring corrective action to be taken when a fishery is or is in danger of becoming overfished. It will also strengthen the fisheries management process by improving the way that regional fishery councils function, improve the way fisheries research is conducted and make many other changes of great importance and urgent need.

Mr. President, two issues which have been most contentious during this reauthorization process are the prospects for a new type of fishery limitation called an individual fishing quota program, and for a community development quota program intended to pass through some of the benefits from fisheries in the Bering Sea to disadvantaged, largely Native communities in that area.

In Alaska, and elsewhere, there has been considerable debate on redesigning fishery management using an individual fishing quota system. I won't attempt to get into the level of detail necessary to explain how this would differ from the existing system of management. Suffice it to say that supporters believe this would solve most of today's problems of overcapitalized fisheries with the least government interference, and opponents claim it would not only be costly to the government but hugely unfair to those who are excluded and to communities dependent on fishing.

The bill before us represents a compromise between these two positions. It contains a moratorium on new individual fishing quota systems, and a comprehensive study of their potential—both good and bad—and of their actual impacts in those cases where they have already been used. I believe this is a compromise worthy of the Senate's support.

In the case of the community development program proposal, we also see the results of sensible, needed compromise. The bill before us today provides a mechanism to assign some of the volume of fish coming from Bering Sea fisheries to the task of helping provide a stable, permanent economic base for some of the poorest, most disadvantaged communities in the country. This is a very worthy goal, and it is also one that I believe deserves the support of my colleagues.

There are far too many other specifics in this bill to recount them all, or to provide my views on each and every issue the bill addresses. Instead, let me close with this: if there is anything on which we can agree, it is the need for productive, healthy oceans. That is the goal of this bill, and this bill is Congress' farthest ever reach toward reaching it. Let's not waste it.

Mr. INOUYE. Mr. President, I rise to join my colleague, the senior Senator from Alaska, in support of the manager's substitute for the Committee on Commerce, Science and Transportation's amendment to S. 39. I wish to thank my colleagues Senator STEVENS and Senator KERRY for their leadership in accommodating a multitude of diverse concerns and requests and bringing this monumental legislation to the Senate floor. S. 39 represents a truly bipartisan approach to fisheries issues that are of vital importance to our nation's economy and environment.

There are many commendable features to the manager's amendment including a section which provides authority for the western Alaska and western Pacific community development quota (CDQ) programs.

Mr. President, for 190 years the United States limited its authority to regulate fishing in the waters surrounding its coast to the three-mile territorial sea. Exploiting that forbearance, by the mid-1930s, foreign fishing vessels routinely fished for salmon, crab, and other fish stocks within sight of the Alaska coast.

In 1976, in order to end foreign fishing within 200 miles of the coast of the United States, the Congress enacted the Magnuson Fishery Conservation and Management Act (MFCMA). Section 302 of the Act divides the 200-mile zone—which today is known as the exclusive economic zone (EEZ)—into eight subzones and establishes a fishery management council for each subzone. The Act authorizes each council to prepare a fishery management plan and authorizes the Secretary of Commerce to approve and by regulation implement each fishery management plan (FMP) for each fish stock located within its subzone that the council determines "requires conservation and management."

In addition to preventing overfishing, the Congress intended the Secretary's implementation of fishery management plans to advance an equally important policy objective—the transfer of the economic benefits derived from fishing inside the EEZ from foreign fishermen to United States fishermen. When the Magnuson Act was enacted, with little exception, American fishermen were not participating in fisheries beyond the territorial sea.

In the EEZ Alaska subzone, for example, in 1975 Japanese and Soviet fishermen harvested 1,310,000 metric tons of pollock, while United States fishermen harvested less than 3,000 metric tons. And Japanese fishermen harvested 30,000 metric tons of sablefish, while United States fishermen harvested 1,000 metric tons. By 1987, United States fishermen had replaced foreign fishermen in the Alaska subzone. And by 1991, United States processors had replaced foreign processors. As a consequence, in 1992, U.S. fishermen harvested pollock and other groundfish in the Alaska subzone that had an ex-vessel value of $675 million.

Between 1984 and 1992, the catch of pollock by U.S. fishermen increased from 8,400 metric tons to 1,402,300 metric tons, and the catch of sablefish by U.S. fishermen increased from 9,900 metric tons to 23,700 metric tons.

The revenues realized by U.S. fishermen who replaced foreign fishermen in the pollock fishery conducted in the Alaska subzone increased from $1.4 million in 1984 to $388.8 million in 1992. And the earnings of U.S. fishermen who replaced foreign fishermen in the sablefish fishery increased from $7 million to $53.5 million.

However, there was one group of U.S. fishermen—the Eskimo and Aleut fishermen residing in 55 Native villages scattered along the windswept coast of the Bering Sea—who, through no fault of their own, were precluded from participating in the fisheries which the Secretary's implementation of fishery management plans in the Alaska subzone had forced open.

For generations, life in the Native villages had revolved around subsistence fishing, hunting, and gathering. Isolated by their distant locations and indigenous cultures, between the entry of Alaska into the Union in 1959 and the enactment of the Magnuson Act in 1976, residents of the 55 villages were left out of Alaska's poststatehood rush to economic and social modernity. In 1990, the median population of the 55 villages was 278 persons.

In 1968, the Federal Field Committee for Development Planning in Alaska described the situation in the region in which most of the villages are located as follows:

> Bluntly put, the region has no apparent base for economic growth. It has a rapidly growing population without local employment prospects and generally without the cultural, educational, and skill prerequisites for successful out-migration. In the foreseeable future, outside of the conversion of the present subsistence [salmon] fishery in the Yukon and Kuskokwim Rivers to a more efficient commercial operation, any growth of opportunity either for employment or for enterprise in the region, will result directly from government action. The only prospect for expansion of the public sector, in turn, can be anticipated as a result of efforts to overcome the cultural and economic handicaps of the region's population.

The Field Committee's assessment accurately described the underlying cause of a growing social crisis in Bering Sea coastal villages that, over the succeeding 20 years, intensified. In 1970–71, for example, the village of Nome experienced 9 suicides and 22 suicide attempts in 24 months, committed primarily by Eskimo adolescents. A knowledgeable local physician described the epidemic of self-destruction as "the end result of a long series of problems" caused by "the traditional village life dying out and the [subsistence] culture becoming nonexistent;" a social upheaval that young Natives returning home "from outside schools to find their skills unneeded in the village" exacerbated.

Seventeen years later, the situation both in Bering Sea coastal villages and in other Native villages had deteriorated to the point that as the Anchorage Daily News, which won a Pulitzer Prize for its coverage, explained in 1988:

> Across the state, the Eskimos, Indians and Aleuts of Bush Alaska are dying in astonishing numbers. By suicide, accident and other untimely, violent means, death is stealing the heart of a generation and painting the survivors with despair . . . An epidemic of suicide, murder and self-destruction threatens to overwhelm cultures that have for centuries survived and prospered in the harshest environments on earth . . . The village of Alakanuk [one of the 55 Bering Sea coastal villages referred to above] lived on the razor's edge: a town of 550 with eight suicides, dozens of attempts, two murders and four drownings in 16 months. This was Eskimo Armageddon. But while Alakanuk's experience has been the worst, it is by no means an isolated example. The pace of suicide, self-destruction and abuse is accelerating all over Alaska.

The Daily News series, which was entitled "People in Peril," drew public attention to a social crisis of which Native leaders long had been aware. Seizing the opportunity, the Alaska Federation of Natives [AFN], a statewide organization representing Native interests, prepared a report documenting the conditions and challenges confronting the Native people, entitled "A Call for Action," that was submitted to the Congress. In pertinent part, "A Call to Action" concluded that:

> [L]arge numbers of Natives who want to work in their home villages or region have no possibility of doing so. In most Native villages, the prospects for private sector economic development are limited, and due to declining oil revenues, state spending is projected to steadily decline throughout the 1990s. The projected decline in economic activity in rural Alaska coincides with the steadily increasing number of young Native adults who will be seeking to enter the work force. Every effort to take advantage of limited opportunities for private economic development should be encouraged.

For Eskimo and Aleut residents of Bering Sea coastal villages, AFN's admonition was particularly ironic because, due in large part to the Magnuson Act, the ocean lapping at their doorsteps was roiling with private economic activity that for 16 years had been regulated by the North Pacific Fishery Management Council [Council] and the Secretary in a manner that had for the most part excluded their participation. even though section 301(a)(4)(A) of the act required the Council and the Secretary to regulate the opportunity to participate in Bering Sea fisheries in a manner that was "fair and equitable" to all fishermen, including Eskimo and Aleut fishermen who reside in Bering Sea coastal villages.

The Council and the Secretary's failure to regulate Bering Sea fisheries in a manner that provided fishermen in Bering Sea coastal villages a "fair and equitable" opportunity to participate was particularly troubling given the fact that the Council and the Secretary both have a fiduciary obligation to exercise their regulatory authority in a manner that advances the well-being of Alaska Natives.

Two months after the Alaska Federation of Natives presented A Call for Action to Congress, in May of 1989, the Council planning committee recommended that the Council amend its relevant fishery management plans to establish a western Alaska community development quota program. The objective of the program was to facilitate access to Bering Sea fisheries by Eskimo and Aleut residents of Bering Sea coastal villages by providing the villages in which they reside an opportunity to harvest a small portion of the total allowable catch of certain fish stocks.

After careful review and numerous opportunities for public comment, in June of 1991, the Council approved an amendment to the Bering Sea and Aleutian Islands groundfish fisheries management plan that established a western Alaska community development quota program for Bering Sea pollock and allocated 7.5 percent of the Bering Sea pollock total allowable catch to "communities of the Bering Sea coast" that participate in the program. In May of 1992, the Secretary approved the amendment and in November of that year promulgated a rule adopting regulations which established a procedure for village participation in the program.

The regulations identified 55 eligible Bering Sea coastal villages. To be eligible, a village was required to be located within fifty miles of the Bering Sea coast and to have been determined by the Secretary of the Interior, pursuant to the Alaska Native Claims Settlement Act, to be a "Native village." In addition, the residents of an eligible village must have conducted more than half of their commercial or subsistence fishing effort in the waters of the Bering Sea. Finally, an eligible village "must not have previously developed harvesting or processing capability sufficient to support substantial" participation in the Bering Sea groundfish fishery.

To participate in the western Alaska pollock community development quota program, the 55 villages formed six organizations: the Yukon Delta Fisheries Development Association, the Bristol Bay Economic Development Corporation, the Norton Sound Economic Development Corporation, the Coastal Villages Fishing Cooperative, the Aleutian Pribilof Island Development Association, and the Central Bering Sea Fishermen's Association. Each organization then submitted a community development plan to the Governor of Alaska. When the Governor approved the plans, in December of 1992, the Secretary issued each organization the share of the 7.5 percent of the pollock total allowable catch that the Governor had determined was needed by the organization to implement its community development plan.

Each community development quota organization has entered into a joint venture with an experienced fishing company to assist in the harvesting of its share of the pollock community development quota allocation. These joint venture efforts have provided employment for village residents on joint venture fishing vessels, in the processing of the pollock catch, and in the management of the joint ventures. Of coequal importance, the sale of the catch has provided working capital that each organization has used to finance village fishery-related economic development activities that otherwise would not be occurring.

To what extent has the western Alaska pollock community development quota program contributed to alleviating the social problems described in "A Call for Action"?

Alarmed by "A Call for Action's" documentation of the accelerating social disintegration taking place in Native villages, in 1990, the Congress established a Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives to conduct "a comprehensive study" of "the social and economic status of Alaska Natives," and to recommend actions that the Congress and the State of Alaska should take to better address the needs of Alaska Natives for "economic self-sufficiency * * * and reduced incidence of social problems."

In 1994, the Commission published a three-volume report that summarized the results of its investigation. Among the recommendations listed in its report, the Commission urged the Council "to expand the community development quota [program] to other fisheries in the future."

In fact, while the Commission was studying the community development quota program, the Council had already acted upon the Commission's report by recommending to the Secretary that he establish a western Alaska community development quota program for Bering Sea halibut and sablefish, in which the six community development quota organizations are presently participating. And in June of 1995, the Council recommended to the Secretary that he establish a third western Alaska community development quota program for Bering Sea crab species and other groundfish species.

To facilitate the efficient implementation of the programs, the substitute amendment to the Sustainable Fisheries Act amends the Magnuson Act to require the North Pacific Fishery Management Council and the Secretary to establish a single western Alaska community development quota program and to annually allocate a percentage of the total allowable catch and guideline harvest levels of each Bering Sea fishery to the program. The eligibility standards for participating in the program are the same standards that the Secretary previously established by regulation.

Mr. President, I am pleased to note that the substitute amendment also authorizes the Western Pacific Regional Fishery Management Council and the Secretary to establish a western Pacific community development program.

Much like their brothers and sisters in Alaska, those indigenous people who for centuries had traditionally fished in the waters of the Western Pacific, have been increasingly foreclosed from access to the fishery, largely due to the fleets of foreign fishing vessels whose number, vessel size, and methods of harvesting have dominated the Western Pacific fishery.

The Western Pacific community development quota program would be applied in the Western Pacific Region but would not, in all likelihood, employ a percentage of the total allowable catch of any particular species. Accordingly, while there is a section of the substitute bill that addresses fees associated with the allocation of a percentage of total allowable catch, it is not anticipated that the requirements of the section addressing fees would apply. Rather, it is anticipated that the Western Pacific program would place a priority on enabling access to the fishery for those that have been economically-fore closed from such access. Measures to enhance access might include regulation of limited entry permits, area closures, fishing zones, and vessel size. Joint venture agreements for the harvesting and processing of fish might also be employed as they are in the north Pacific region.

In addition, under the western Pacific program authority, the Western Pacific Regional Fishery Management Council would be authorized to take into account traditional indigenous fishing practices in preparing any fishery management plan.

The substitute also establishes authority for the Secretary of Commerce and the Secretary of the Interior to make direct grants to eligible western Pacific communities, as recommended by the Western Pacific Fishery Management Council, for the purpose of establishing fishery demonstration projects to foster and promote traditional indigenous fishing practices. The demonstration projects are intended to foster and promote the involvement of western Pacific communities in the conservation and management of fisheries through the application of traditional fishing practices as a means for developing or enhancing western Pacific community-based fishing opportunities, the preservation of the island-based cultural values that shape their historical conservation ethic, and the development and implementation of community-based research and education programs.

I am also pleased that the manager's substitute includes a provision authorizing Pacific Insular Area Fisheries Agreements for the purpose of enhancing fisheries conservation and management in the Pacific. This program will be funded under terms similar to those imposed on U.S. fishermen who seek access to fish resources in foreign waters. This program will greatly benefit our Nation and fisheries resources throughout the Pacific Ocean.

I congratulate Senator STEVENS, Senator KERRY and their staff, particularly Penny Dalton, Alex Elkan, Trevor McCabe, Earl Comstock, GLENN Merrill and Tom Melius for this great accomplishment.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. STEVENS. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Alaska has 14 minutes under his control.

Mr. STEVENS. I ask unanimous consent that we be permitted to maintain the control of the time we have on the bill and that the Senator from Maine now be able to present her amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Maine.

There will be 30 minutes, equally divided, on this amendment.

AMENDMENT NO. 5381

(Purpose: To limit lobstering other than by pots or traps if no regulations to implement a coastal fishery management plan for American lobster have been issued by December 31, 1997)

Ms. SNOWE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. SNOWE] proposes an amendment numbered 5381.

Ms. SNOWE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 161, line 21, strike "810 and 811," and insert "811 and 812,".

On page 163, line 4, strike the closing quotation marks and the second period.

On page 163, between lines 4 and 5, insert the following:

"SEC. 810. TRANSITION TO MANAGEMENT OF AMERICAN LOBSTER FISHERY BY COMMISSION.

"(a) TEMPORARY LIMITS.—Notwithstanding any other provision of this Act or of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), if no regulations have been issued under section 804(b) of this Act by December 31, 1997, to implement a coastal fishery management plan for American lobster, then the Secretary shall issue interim regulations before March 1, 1998, that will prohibit any vessel that takes lobsters in the exclusive economic zone by a method other than pots or traps from landing lobsters (or any parts thereof) at any location within the United States in excess of—

"(1) 100 lobsters (or parts thereof) for each fishing trip of 24 hours or less duration (up to a maximum of 500 lobsters, or parts thereof, during any 5-day period); or

"(2) 500 lobsters (or parts thereof) for a fishing trip of 5 days or longer.

"(b) SECRETARY TO MONITOR LANDINGS.—Before January 1, 1998, the Secretary shall monitor, on a timely basis, landings of American lobster, and, if the Secretary determines that catches from vessels that take lobsters in the exclusive economic zone by a method other than pots or traps have increased significantly, then the Secretary may, consistent with the national standards in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801), and after opportunity for public comment and consultation with the Atlantic States Marine Fisheries Commission, implement regulations under section 804(b) of this Act that are necessary for the conservation of American lobster.

"(c) REGULATIONS TO REMAIN IN EFFECT UNTIL PLAN IMPLEMENTED.—Regulations issued under subsection (a) or (b) shall remain in effect until the Secretary implements regulations under section 804(b) of this Act to implement a coastal fishery management plan for American lobster.".

Ms. SNOWE. Mr. President, first of all, I want to thank Senator STEVENS for giving me the opportunity to offer this amendment. Before discussing some of the provisions of this amendment, I want to commend Senator STEVENS for his achievement in bringing this bill before the Senate and for ultimate passage.

As those of us from coastal States know, fisheries management issues can be extremely complex in both technical and political senses. These complexities are greatly heightened at the present time when so many of our fisheries are either fully or overexploited.

That is why the reauthorization of the Magnuson Act has been a long and arduous process. But Senator STEVENS and Senator KERRY have been able to work through the complexities and conundrums and resolve seemingly intractable disputes in an effort to fashion compromise legislation that we are considering today. It is truly a monumental achievement. Senator STEVENS in particular has been a leader in fisheries issues for a decade and, as a framer of the original Magnuson Act, deserves our appreciation.

Mr. President, if you ask any American what they think of when they think of Maine, they will tell you lobsters. Maine is indelibly linked with its lobster industry, and with good reason. Lobstering is a proud and historic tradition in our State. It exemplifies some of the best qualities of Maine, and indeed, the American character—rugged independence, a willingness to work hard, and a profound respect for mother nature.

Of course, lobstering is also an essential element of the Maine and New England economies. If you drive along the coast of Maine and see the lobster boats moored in the harbors of our 144 fishing villages, and the lobster traps spread out in the yards of the homes nearby, it won't take you long to understand how many people depend on the lobster industry for a living.

My amendment is designed to protect the lobstering tradition in Maine and New England. It is a very important amendment, Mr. President, because the lobster resource now faces a serious threat. And if this threat remains unaddressed, our lobstering tradition could be jeopardized.

My amendment deals with a wasteful and destructive form of lobster harvesting known as dragging. The original amendment I was prepared to offer would have imposed tough new restrictions on dragging within 60 days. But after listening to concerns expressed by other Senators, I have agreed to substantially revise the amendment. This is a true compromise, and it is very deserving of the Senate's support.

Most people know that lobstering is general conducted with traps that are baited and rest on the ocean bottom. This is the time honored and sustainable method of catching lobsters. The trap method permits the lobstermen to bring lobsters to the surface alive and unharmed, and then to safely discard those lobsters that should not be retained, such as juveniles, egg-bearing females, and older brood stock lobsters—lobsters that are essential to replenishing the resource.

There are other ways to catch lobsters, however. Some fishermen drag nets, like those used to catch finfish such as cod, along the ocean bottom to scoop up the lobsters. But these nets are indiscriminate. Undersized and oversized lobsters, along with egg-bearing females, get swept into the nets. When the nets are dragged across the bottom, and they hauled up to the surface, many lobsters are broken and crushed, including those that should be protected and returned to the water safely to reproduce.

This method of harvest is very damaging to the resource. That's why Canada, the world's largest lobster producer, and Maine, the United States' largest producer, prohibit any of their vessels from dragging for lobsters. That's why Massachusetts, America's second largest lobster producer, just enacted a new law to sharply restrict dragging by any of its vessels. And it's why Massachusetts and New Hampshire prohibit dragging for lobsters in State waters.

Inexplicably, however, dragging for lobsters is permitted under the status quo in Federal waters. And because Federal lobster management is currently in a state of limbo, we do not have comprehensive and active lobster management in the Federal zone at this time. The Commerce Department has turned Federal lobster management over to the Atlantic States Marine Fisheries Commission [ASMFC], a State-based organization. But the commission is not expected to complete a plan until sometime late in 1997.

Obviously, lobsters don't recognize the State-Federal line. They cross it at will. So anything that happens on one side of the line affects the lobster resource on the other side. It's the same stock. Thus, lobstermen in State waters can abide by the strictest regulations possible, but their conservation efforts will be undermined as long as dragging occurs right across the State line—and there is no doubt that it is occurring.

Reports in New England indicate that there are increasing numbers of dragging vessels engaged in directed fishing for lobsters in the Federal zone just outside State waters. The Maine Marine Patrol has seen an increase in directed dragging in the Federal zone. And lobster industry officials from Maine, Massachusetts, and New Hampshire are reporting it.

And these officials expect dragging activity to increase further over the next couple of years as new groundfishing restrictions take effect and prompt more displaced groundfishermen to seek alternative fishing opportunities.

My original amendment sought to control the unwise practice of directed, or intentional, dragging for lobsters. A dragger would have been prohibited from landing more than 100 lobsters per 24-hour fishing day, with a maximum limit of 500 lobsters for a fishing trip of 5 days or longer. These landings limits were taken straight from the law enacted this summer by Massachusetts and signed by the Governor. States could have set the tighter limits, but landings would have been capped at the levels in the amendment.

These landings limits were intended to make it economically infeasible for dragger vessels to intentionally target lobsters, while permitting draggers that unintentionally catch lobsters when they are fishing for other species, like cod, to sell their incidental bycatch. It would have prevented draggers from easily circumventing the conservation laws of Maine and Massachusetts.

While I thought the amendment was a very reasonable one, other States expressed concern about the abrupt imposition of new Federal regulations on them, so I agreed to a substantial compromise. Instead of imposing the landings limits immediately, the amendment I am offering today permits the Atlantic States Marine Fisheries Commission and the Secretary of Commerce to develop and issue regulations for a Federal management plan for American lobster by December 31, 1997.

If a plan is not completed by the end of 1997, then the amendment would require the Secretary to implement the landings limits that were contained in the earlier amendment. To prevent an explosion in new dragging effort before the deadline, the amendment directs the Secretary to monitor lobster landings, and if he determines that a substantial increase in dragging is occurring, he is given discretionary—and I repeat, discretionary—authority to issue interim regulations to control the increase.

Mr. President, the deadline in my amendment is obviously more than a year away and it gives the ASMFC and the Secretary ample time to get a handle on Federal lobster management. In fact, the commission has said that it can complete a plan by the fall of 1997, so the deadline is realistic. My amendment will simply help to ensure that the commission meets its own schedule for a plan, which will, hopefully, address the dragging issue. If the commission fails to meet this deadline, then and only then will the dragging restrictions go into effect. Once the commission completes its plan, the restrictions would be voided.

This is a very fair amendment, Mr. President, and, frankly, it represents a substantial compromise on the part of the American lobster industry. It provides plenty of time for the management process to work, while sending a message to the appropriate authorities that the issue of dragging for lobsters must be addressed. But if that process bogs down, and we're faced with the prospect of more and more dragging for lobsters, then responsible lobstermen will receive some interim protection until the commission completes its plan.

Lobster dragging is not only inconsistent with the conservation of this fully exploited resource, it discourages conservation efforts aimed at trap lobstermen. Trap lobstermen in Maine are facing stringent new State regulations. All lobstermen who fish in the Federal zone will have to reduce fishing effort by at least 20 percent in order for the ASMFC to meet its goals. How can we expect these responsible lobstermen to sacrifice and accept burdensome new regulations when wasteful and destructive dragging is allowed to continue unabated just across the State line?

The answer is that we can't. What we can expect is that these lobstermen will resist new regulations imposed on them, and the conservation program for the entire resource will be undermined.

Mr. President, this amendment is about responsible fishing practices. And it is about equity for responsible fishermen. With the substantial concessions that I have agreed to, this amendment gives the appropriate authorities plenty of time to work out a comprehensive plan. But if the process fails, then we have to act.

The amendment is pro-conservation, and it is pro-lobsterman. It is strongly supported by the State of Maine, the State of Massachusetts, and the entire lobster industry throughout New England and the Northeast.

Mr. President, my amendment presents an opportunity for Senators to cast a vote for equity for the great majority of America's lobstermen who fish the right way, and for a healthy lobster resource. It would be the height of irony if the Senate passed this Magnuson reauthorization bill, whose hallmark is the protection of America's fisheries, without approving this modest amendment. We can't let that happen, Mr. President. I urge my colleagues to support my amendment.

Mr. KERRY. Mr. President, I thank the Senator from Maine for her efforts. As she knows, we had a number of issues for a number of different Senators. But I think she has gone a long way in helping to get resolved any of those issues, and we are delighted to accept the amendment.

Mr. STEVENS. Mr. President, we are prepared to accept the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5381) was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator's amendment be made a part of the managers' amendment when I present it later this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I could extend comments at length because of some of the comments made by the Senators from Washington. I do not intend to prolong the debate.

I want to state, however, that the provisions for the community development quotas are based in part on the authority of Congress to regulate the commerce of the Indian tribes. The communities of the west coast of Alaska are predominantly Alaska Native people. They were there and fishing a long time before anyone else came on the fishing scene. As a matter of fact, there were no factory trawlers off Alaska from the State of Washington until about 9 years ago. During the period of time since then the amount of fish taken by those trawlers has come up from zero to at one time as high as 65 percent. As a result of negotiations, there is now allocated 65 percent to the fisheries offshore and 35 for the onshore fisheries.

We are allocating a portion of the fisheries to the communities involved that are historic native communities along our coast. I am sad that the Members from Washington do not agree with that concept. We have watched, I might say, with awe the development of the Indian law in the State of Washington that leads to a substantial claim by the Indians of Washington on the fish of the rivers, particularly the Columbia.

This is not the place to get into the argument about it, but we have worked out in Alaska a basis of allocation to protect the species. The Magnuson Act was designed to protect the fish, not fishermen. The amendments for CDQ allocation are to protect communities, not fishermen. They are to protect the traditional fishing communities along the west coast, and as I said half the coastline of the United States is involved and very few communities are protected under the provisions of the CDQ concept.

I do appreciate the comments they made and the attitude that has been demonstrated here by all Senators to try to get this bill resolved in the Senate and get it to the House and hopefully to the President before this Congress adjourns. I do want the Senate to know, however, that this is not a subject that will go away. We will be involved in fisheries legislation, I am sure, as long as the Senate and the Congress are in being and as long as there are fisheries because it is a matter of Federal jurisdiction. Whether we like it or not, we have to exercise our responsibility and we have to find a way to accommodate the claims of persons who are entitled to fish in the waters off our shores.

We have tried our best to do that while at the same time protecting those people who have traditionally relied upon the sole source for their income, and that is the fish resources off the State of Alaska. That is the case for those Native communities. They are devastated now, Mr. President, and we are trying to find a way to protect their future.

I do believe we have the right as the Congress of the United States to pass a law which commits a portion of the fish resources to those communities under the constitutional powers of the United States Congress to deal with the rights of Indian people, and that is why I am pleased to have the provisions in this bill which I think confirm the action of our regional council. The fisheries development quotas were first put into being by action of the council itself. We are now confirming that that is legitimate action under the concept of the Magnuson Act.

Mr. President, it is my intention now to offer the managers' amendment. I would like to ask at the same time that the clerk under the direction of the staffs of myself and Senator KERRY be authorized to make the technical amendments necessary to incorporate the amendments that have already been adopted. The amendments that were covered by the time agreement are to be put into the managers' amendment, and we are doing that at the present time. And the amendment of Senator SNOWE will also be put in the managers' amendment.

So I suggest the absence of a quorum, if I might just do it for a moment. I will yield to my friend from Massachusetts if he wishes to make some comment.

I suggest the absence of a quorum, Mr. President,

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 5382

(Purpose: To amend the Magnuson Fishery Conservation and Management Act to authorize appropriations to provide for sustainable fisheries, and for other purposes)

Mr. STEVENS. Mr. President, I send to the desk the managers' amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. KERRY, proposes an amendment numbered 5382.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. STEVENS. Mr. President, I ask unanimous consent that a summary of the managers' amendment be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF MANAGER'S AMENDMENT TO S. 39

AUTHORIZATION OF APPROPRIATION

The manager's amendment authorizes appropriations through fiscal year (FY) 1999 for the purposes of carrying out the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

DEFINITIONS

The amendment defines a number of new terms for the proposes of the Magnuson Act and amends a number of existing definitions. New defined terms include: "bycatch"; "charter fishing"; "commercial fishing"; "economic discards"; "essential fish habitat"; "fishing community"; "individual fishing quota"; "overfishing"; "Pacific Insular areas"; "recreational fishing"; "regulatory discards"; "special areas"; and "vessel subject to the jurisdiction of the United

States." The amendment amends the existing definition of "optimum" with respect to the yield of fishery to mean the amount of fish prescribed on the basis of the maximum sustainable yield "as reduced" (rather than "as modified") by any relevant economic, social, or ecological factor. This change prevents the maximum sustainable yield of a fishery from being exceeded.

BYCATCH REDUCTION

The amendment adds a new national standard to the Magnuson Act requiring that, to the extent practicable, conservation and management measures minimize bycatch and minimize the mortality of bycatch that cannot be avoided. The amendment specifically requires the Councils to establish standard reporting methods under fishery management plans to assess the amount and type of bycatch occurring in each fishery, and to include measures to minimize bycatch to the maximum extent they can, and to minimize the mortality of bycatch that cannot be avoided in the first place. The amendment provides the Councils with the new tools of harvest preferences and other harvest incentives to achieve this bycatch reduction. In addition, the amendment requires the Councils to assess the type and amount of fish being caught and released alive in recreational fisheries, and include measures to ensure the extended survival of such fish.

The amendment requires the Secretary of State to seek to secure international agreements for bycatch standards and measures equivalent of those of the United States.

The amendment requires the North Pacific Council, in carrying out the new bycatch requirements, to reduce the total amount of bycatch occurring in the North Pacific, and authorizes the North Pacific Council to use, in addition to harvest preferences or other harvest incentives, fines and non-transferable annual allocations of regulatory discards as incentives to reduce bycatch and bycatch rates. The amendment requires the North Pacific Council to submit a report on the advisability of requiring the full retention and full utilization of the economic discards in the North Pacific that cannot be avoided in the first place. The Council must report on any measures it already has approved, or approves during the period of the study, to require full retention or full utilization, and is not meant to preclude the Council from taking all actions that it can to achieve these goals.

The amendment requires the Secretary to conclude within nine months the collection of data in the program to assess the impact on fishery resources of incidental harvest by shrimp trawl fisheries, and to conduct additional data collection and evaluation activities for stocks identified by the program which are considered to be overfished. Within 12 months of enactment, the Secretary must complete a program to develop technology, devices, and changes in fishing operations necessary to minimize the incidental mortality of bycatch in the course of shrimp trawl activity to the extent practicable as measured against the level of mortality which occurred in a fishery before November 28, 1990. Any measures taken are required to be consistent with measures that are applicable to fishing throughout the range within the United States by the bycatch species.

OVERFISHING

The amendment defines "overfishing" to mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis. It requires the Councils to specify, in each FMP, criteria for determining when a fishery is overfished and to include measures to rebuild any overfished fishery. It also requires the Secretary to report annually to Congress and the Councils on the status of fisheries, and to identify fisheries that are overfished or approaching a condition of being overfished using the Council's overfishing criteria. The Secretary is required to notify the Council immediately if a fishery is overfished.

Within one year of the Secretary's annual report, the appropriate Council must submit an FMP, amendment or regulation to prevent overfishing in fisheries determined to be approaching that condition, and to stop overfishing and begin to rebuild fisheries classified as overfished. For an overfished fishery, the Councils must specify as short a time period as possible to stop the overfishing, taking into account the harvest status and biology of the overfished stock, the needs of fishing communities, recommendations by international organizations in which the United States participates, and interaction between the stock and the ecosystem. The duration cannot exceed 10 years except under extraordinary circumstances. The Secretary is required to prepare an FMP or amendment if a Council fails to take sufficient action within one year on an FMP, amendment or regulations to rebuild an overfished fishery. The amendment allows the Secretary to recommend appropriate measures to the Council, and requires that the allocation of both overfishing restrictions and recovery benefits be fairly and equitably distributed among sectors of the fishery.

The manager's amendment allows the Secretary to use interim authority to reduce overfishing for up to 180 days, with one additional 180 day period, provided that a public comment period on the measure is provided.

HABITAT PROTECTION

The amendment defines "essential fish habitat" for the purposes of the Magnuson Act as "waters and substrate necessary to fish for spawning, breeding, or growth to maturity." It requires the Councils to identify essential fish habitat under each FMP, to minimize, where practicable, adverse impacts on the habitat caused by fishing, and to identify actions that should be considered to encourage the conservation and enhancement of essential fish habitat. The Secretary is required to establish guidelines to assist the Councils in describing and identifying essential fish habitat and to review programs administered by the Department of Commerce to ensure they further the conservation and enhancement of essential fish habitat. Federal agencies are required to consult with the Secretary with respect to any action authorized, funded or proposed to be undertaken that may adversely affect any essential fish habitat identified under the Magnuson Act.

The amendment authorizes the Councils (similar to existing law) to comment on and make recommendations to the Secretary and other Federal or State agencies on any agency actions that may affect habitat, including essential fish habitat, and requires the Councils to comment on and make recommendations on agency activities that in the view of the Council are likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource.

Upon notification of any action authorized, funded, undertaken, or proposed to be authorized, funded, or undertaken by a Federal agency that may adversely affect essential fish habitat, the Secretary is required to recommend measures that can be taken to conserve the habitat. Federal agencies must respond in writing to such recommendations, and explain reasons for not following any recommendations.

COUNCIL REFORM

The amendment requires Council members to recuse themselves from voting on Council decisions that would have a "significant and predictable effect" on their financial interests. Such a decision is defined as one where there is "a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery." This language is intended to prevent Council members from voting on decisions that would bring substantially disproportionate financial benefits to themselves, but not to prevent Council members from voting on most matters on which they have expertise.

The Secretary, in consultation with the Council, is required to select a "designated official" with Federal conflict-of-interest experience to attend Council meetings and make determinations on conflicts of interest. The determinations will occur at the request of the affected Council member or at the initiative of the designated official. Any Council member may request a review by the Secretary of a determination. Regulations for the recusal process are required to be promulgated by the Secretary within one year of enactment.

The amendment adds an additional seat to the Pacific Council for Pacific Northwest Indian tribes, to be selected by the Secretary from a list of 3 individuals from tribes with Federally recognized fishing rights. The amendment adds two additional seats to the Mid-Atlantic Council to provide representation for the State of North Carolina.

The amendment requires the Councils to keep detailed minutes of meetings. It also allows any voting member of the Council to request that a matter be decided by roll call vote, and requires all roll call votes to be identified in the Council's minutes. All written data submitted to the Council are required to include a statement of the information's source. The reported bill allows the Councils (and the Secretary with respect to Atlantic highly migratory species) to establish fishery negotiation panels to assist in the development of difficult conservation and management measures.

FISHERY MANAGEMENT PLANS

The amendment simplifies the review process by the Secretary of proposed FMPs and amendments submitted by the Councils, and includes a new section addressing proposed regulations submitted by the Councils. It eliminates the preliminary FMP evaluation required under current law. After transmittal of an FMP or amendment by the Council to the Secretary, the Secretary immediately must publish notice of the plan in the Federal Register and provide a 60-day comment period. The Secretary must approve, partially approve, or disapprove a plan within 30 days of the end of the comment period.

The amendment creates a new framework for the Secretary to review proposed regulations from the Councils and allows the Councils to submit proposed regulations simultaneously with an FMP or amendment, or at any time after an FMP or amendment has been approved. The Secretary has 15 days to review proposed regulations for their consistency with an FMP. If they are consistent, regulations must be published in the Federal Register for a comment period of 15 to 60 days. The Secretary must publish final regulations within 30 days of the end of the comment period.

The amendment requires the Councils to describe the commercial, recreational, and charter fishing occurring in each fishery and to allocate any harvest restrictions or recovery benefits fairly and equitably among these three sectors. The amendment codifies existing authority of the Councils to restrict the sale of fish for conservation and management purposes, including to ensure that any fish that is sold complies with federal and state safety and quality requirements.

INDIVIDUAL FISHING QUOTAS

The amendment prevents Councils from submitting and the Secretary from approving or implementing any new individual fishing quota (IFQ) programs until after September 30, 2000, and directs the National Academy of Sciences, in consultation with the Secretary, Councils, and others, to submit a comprehensive report on IFQs to the Congress by October 1, 1998.

The Academy report must address, among other things, IFQ transferability, foreign ownership, processor quotas, effective IFQ enforcement, IFQ auctions, windfall profits, and potential economic impacts including capital gains revenue. The report must additionally analyze IFQ programs already in existence in the United States (wreckfish, surf clam/ocean quahog, and halibut/sablefish), IFQs outside the United States, and characteristics unique to IFQs as well as alternative measures that accomplish the same objectives as IFQs. Two working groups (West Coast/Alaska/Hawaii and East Coast/Gulf) will assist in preparing the report. After September 30, 2000, in the event that amendments to the Magnuson Act have not been adopted to implement a national IFQ policy, the councils will be allowed to submit new IFQ programs to the Secretary following certain guidelines.

The amendment requires the Secretary to establish a fee of up to three percent of the annual ex-vessel value of fish harvested under IFQ programs to pay for management costs. The surf clam/ocean quahog and wreckfish IFQ fisheries will not begin paying fees until January 1, 2000. The amendment allows the Councils to reserve up to 25 percent of these fees be used for loan obligations for IFQs for small vessel fishermen and entry level fishermen. The North Pacific Council is required to reserve the full 25 percent for such a program in the halibut and sablefish fisheries.

The amendment requires the Secretary to collect a fee under the authority of a new section 304(d)(2)(A)(i) to recover the actual costs directly related to the management and enforcement of any IFQ program, including any program that may be created under section 313(g)(2) in the North Pacific to reduce per vessel bycatch and bycatch rates. It is expected that the fee collected under any program created under section 313(g)(2) would not exceed one percent of the estimated annual value of the target species in the fishery in which the program is created.

STATE JURISDICTION

The manager's amendment restates in greater detail existing law with respect to a state's ability to regulate fishing vessels registered in that state in federal waters. It allows states to regulate all fishing vessels in a fishery in the EEZ off that State if a fishery management plan delegates such authority to the State. Further, it allows the State of Alaska to regulate fishing vessels not registered under Alaska laws in the EEZ off Alaska if there is no fishery management plan in place for a fishery, and allows the states of California, Oregon and Washington to enforce certain state laws in the EEZs off their respective coasts with respect to dungeness crab fishing until October 1, 1999, or if a fishery management plan for that species is implemented.

LIEN REGISTRY

The amendment requires the Secretary to establish a central registry system for limited access permits (including IFQ permits), 6 months after the enactment of the Act, and requires the Secretary to charge a fee of not more than one half of one percent of the value of a permit upon registration and transfer to pay for the system. The amendment requires the Secretary to determine whether the Secretary of the Treasury has placed any liens against limited access system permits and to provide this information to both the buyer and seller of any permit before collecting a fee on the transfer of a permit. Consistent with the requirements of the Internal Revenue Code of 1986, the Secretary of the Treasury may withdraw a notice of lien filed against a limited access system permit if the withdrawal will facilitate the collection of a tax liability by allowing the owner of the permit to derive income from the use of the permit. The amendment establishes a Limited Access System Administration Fund in the Treasury. Funds from this fund are available without appropriation to the Secretary to administer the central lien registry system and manage the fishery in which IFQ fees were collected. Any fees collected on the ex-vessel value of the fish harvested under an IFQ system can be spent only in the fishery in which they were collected.

PACIFIC COMMUNITY FISHERIES

The amendment requires the North Pacific Council and Secretary to establish a western Alaska community development quota (CDQ) program under which a percentage of the total allowable catch of each Bering Sea fishery is allocated to western Alaska communities that participate in the program. The amendment prevents the North Pacific Council from increasing the percentage of any CDQ allocation approved by the Council prior to October 1, 1995 until after September 30, 2001. The amendment includes a sentence at the end of a new section 305(i)(1)(C)(i) making clear that this cap through September 30, 2001 does not prevent the extension of the pollock CDQ allocation beyond 1998. In complying with the western Alaska CDQ requirement, a percentage of the pollock fishery (and each Bering Sea fishery) must be allocated to the program every year. In the event that the North Pacific Council fails to submit an extension of the pollock CDQ in 1998, it is the intent that the Secretary continue to allocate to the western Alaska CDQ program the percentage of pollock approved by the Council for previous years until the Council submits an extension.

The Council retains the ability to revise CDQ allocations, except as provided in the amendment for crab fisheries, provided that the allocations not exceed the levels approved by the Council prior to October 1, 1995 (after September 30, 2001, the Councils retains the full ability to revise CDQ allocations). The Secretary is required to phase in the CDQ percentage already approved by the North Pacific Council for the Bering crab fisheries, allocating 3.5 percent in 1998, 5 percent in 1999 and 7.5 percent in 2000 and thereafter, unless the Council submits a percentage no greater than 7.5 percent for 2001 or any other percentage on or after October 1, 2001. CDQ allocations already approved by the Council (pollock, halibut, sablefish, crab and groundfish) do not need to be resubmitted by the Council or reapproved (if already approved) by the Secretary.

The amendment requires the National Academy of Sciences to submit a report to Congress on the performance and effectiveness of the community development quota programs under the authority of the North Pacific Council. The amendment requires CDQ fees collected by the Secretary to be reduced by the amount of costs imposed on CDQ program participants that are not imposed on other participants in the fishery. The Secretary is required to transfer to the State of Alaska up to 33 percent of any CDQ fees to reimburse the State for its costs in the CDQ program.

The amendment authorizes the Western Pacific Council to establish a western Pacific community development program. It additionally authorizes the Secretary and Secretary of Interior to make direct grants, not to exceed a total of $500,000 annually, to eligible western Pacific communities to establish from three to five fishery demonstration projects which foster and promote the involvement of western Pacific communities.

REDUCING FISHING CAPACITY

The amendment authorizes the Secretary to implement a vessel and/or permit buyout program at the request of a Council (or Governor for a fishery under a State's authority) if adequate steps are taken to ensure that vessels and permits are removed permanently and the program is needed for conservation and management. Eligible funding sources could include Saltonstall-Kennedy funds, funds appropriated for the purpose of the buyout section, funds provided by an industry fee system (which cannot exceed 5 percent of the ex-vessel value of fish harvested), of funds provided by a State or other source. The amendment authorizes the Secretary to provide direct loan obligations of up to $100 million per fishery to finance buyout programs, which must be paid back over a twenty year period. Any catch history must be forfeited by the owner of a vessel or permit that is purchased under a buyout program.

FISHERIES DISASTER RELIEF

At the discretion of the Secretary or at the request of an affected state or fishing community, the Secretary must determine whether a commercial fishery failure has occurred, caused by natural causes; man-made causes beyond the control of a Council; or undetermined causes. If the Secretary determines that a commercial fishery failure has occurred, the Secretary may make funds available to an affected State, fishing community or other activity the Secretary determines appropriate to restore the fishery or prevent a similar failure in the future. The Federal share of the cost of any activity under the authority of the section cannot exceed 75 percent of the total cost. The amendment authorizes such sums as are necessary for each fiscal year for fisheries disaster relief.

RESEARCH

The amendment creates a new title IV of the Magnuson Act, titled "Fishery Monitoring and Research" that contains existing Magnuson sections (with some modifications) dealing with information collection, confidentiality, fisheries research, shrimp trawl incidental harvest research, observers.

It also contains new sections dealing with vessel registration, and the creation of an advisory panel to develop recommendations to expand the application of ecosystem principles in fishery conservation and management activities. The amendment requires the National Academy of Sciences to complete a peer review of the Northeast Multispecies Fishery Management Plan by February 1, 1997.

VESSEL REGISTRATION

The amendment requires the Secretary to develop recommendations for implementation of a standardized vessel registration and data management system, centralized on a regional basis, that would be required to integrate and standardize all federal marine resource vessel registration and data collection requirements, as well as State requirements if a State chooses to participate. The system must avoid duplication with any existing State or other systems. Within 16 months of the date of enactment, and after providing for public comment, the Secretary must transmit the proposal to Congress. Within 15 months of enactment, the Secretary must report to Congress on the need to include private recreational fishing vessels in a national fishing vessel registration and data collection system.

OBSERVERS

The Secretary is required to promulgate regulations for vessels required to carry observers, including guidelines to determine when the facilities of a vessel are not safe or adequate for an observer, or how to reasonably make them safe or adequate. The Secretary also must establish, in cooperation with States and Sea Grant College Programs, programs to train and ensure the competence of observers. The Secretary is required to use university training facilities, such as the North Pacific Observer Training Center, where possible, to carry out the observer section. The amendment treats observers as Federal employees for the purposes of compensation under the Federal Employee Compensation Act. Data collectors are protected from being forcibly assaulted, impeded, intimidated, sexually harassed, interfered with, or bribed, while carrying out responsibilities under the Magnuson Act.

OTHER REAUTHORIZATIONS

The amendment extends the authorization of appropriations for several other marine statutes, including the Inter Jurisdictional Fisheries Act, the Atlantic Coastal Cooperative Fisheries Management Act, the Anadromous Fish Conservation Act and an authorization for other NOAA marine fisheries programs. The amendment requires the Secretary to submit a report reviewing New England fishing capacity reduction programs.

Mr. STEVENS. Mr. President, I ask unanimous consent this amendment be adopted now as original text, and if the Senator from Texas wishes to offer an amendment, that that be in order when she arrives——

Mr. KERRY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. And the amendment offered by the Senator from Texas be subject to a time agreement we have already entered into, 30 minutes in the usual form, subject to the restrictions contained in the time agreement that has already been entered into on S. 39.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska?

Mr. KERRY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts reserves the right to object.

Mr. KERRY. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

The amendment (No. 5382) was agreed to.

Mr. KERRY. Mr. President, but I do want to request a time agreement with respect to——

Mr. STEVENS. We did. Subject to the consideration—30 minutes was allowed on any amendment in the first degree. It will not be subject to second-degree amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I do now ask that we have the agreement I sought previously; the clerk, working with the staffs of the two managers, myself and Senator KERRY, be permitted to make technical changes necessary to conform this amendment. I have sent to the desk the managers' amendment with the Snowe amendment. We will now have another amendment offered, which I intend to oppose, by the way, but it will be offered. Should it be adopted tomorrow, then it would be inserted into this amendment. So it would be an amendment to this managers' amendment we offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I now ask no further amendments be in order, other than the one amendment of the Senator from Texas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, I rise in support of the committee substitute and of S. 39, the Sustainable Fisheries Act, as amended.

Before discussing some of the provisions of the bill, I wanted to commend Senator STEVENS for his achievement in bringing this bill to the verge of Senate passage. As those of us from coastal States know, fisheries management issues can be extremely complex, in both the technical and political senses. And these complexities are greatly heightened at the present time when so many of our fisheries are either fully exploited or overexploited.

That is why the reauthorization of the Magnuson Act has been a long and arduous process. But Senator STEVENS, working with Senator KERRY, have been able to plow through the complexities and the conundrums, and to resolve seemingly intractable disputes, in an effort to fashion the compromise legislation that we are considering today. It's truly a monumental achievement. And Senator STEVENS, in particular, who has been a leader on fisheries issues for decades, and a framer of the original Magnuson Act, deserves our appreciation.

Mr. President, as other Senators have mentioned, this bill strengthens the conservation provisions of the Magnuson Act, and it will lead to the elimination of overfishing and fisheries rebuilding in all our our marine fisheries. Consistent with the title, letter, and spirit of the bill, I firmly believe that our fisheries must be sustainably managed. And sustainable management will require regulation.

Given the state of many of our fisheries, we cannot avoid conservation measures. But in the course of developing these measures, it is also equally important that the Federal Government consider the economic costs of fisheries conservation. In some cases, those costs can be severe, as in the case of the New England groundfish industry, which is now facing a mandatory 80 percent fishing effort reduction in 2 years. Yet despite the importance of economic considerations, there is no requirement in the Magnuson Act to require fishery management councils to try to minimize the adverse economic impacts of fisheries regulations on fishing communities.

During markup in the Commerce Committee, I offered an amendment which establishes a new national standard requiring all fishery management plans to minimize adverse economic impacts on fishing communities. The amendment was adopted by voice vote. This provision is retained in the bill on the floor today, although we have modified it to make clear that these economic considerations are not designed to trump conservation considerations in the process of developing fishery management plans.

In addition to the economic impacts language, the bill before us contains other provisions that I had offered as amendments during the committee process. One directs the Secretary of Commerce to establish an advisory panel consisting of scientists, State officials, fishermen, and conservationists to study and explore ways that the National Marine Fisheries Service can expand the application of ecosystems principles in its fisheries research and management programs.

Currently, the service takes a narrow approach that focuses primarily on individual fish populations. I, along with many scientists, believe that the Government should take a more holistic approach that looks at fisheries in the context of the ecosystems in which they live. The report required by my amendment would be completed within 2 years.

Another of my provisions from the committee bill would preserve the existing ban on the sale of undersized lobsters in the United States. This language insures that the ban will remain in place even after the Atlantic States Marine Fisheries Commission assumes responsibility for lobster management in the Federal zone. Obviously, this ban protects juvenile lobsters that must, if we are going to conserve this resource, be given an opportunity to reach sexual maturity.

Negotiated rulemaking was the subject of another of my amendments in committee, and the bill retains those provisions. Negotiated rulemaking is a form of alternative dispute resolution in which representatives of all of the stakeholders in a dispute hold a series of negotiations with a professional facilitator to achieve consensus. Negotiated rulemaking provides an opportunity to overcome some of the divisiveness that we have seen in some fisheries controversies. My amendment would authorize the Councils, as well as the Secretary, to use negotiated rulemaking when they develop fishery management plans.

Mr. President, I would also like to mention three amendments that I offered prior to floor consideration, and that have been included in the manager's amendment.

The first directs the National Academy of Sciences to conduct an independent scientific peer review of the scientific information which forms a basis of the northeast multispecies fishery management plan. This is the plan that covers the New England groundfish industry.

As I noted earlier, due to serious concerns about the health of the groundfish resource, the New England Council has implemented a management plan that will reduce fishing effort by 80 percent within 2 years. This science has been controversial within the industry in the New England region, and before moving forward with such draconian regulations, I think we owe it to those most affected by the plan to get a second opinion on this science before it's too late. This peer review amendment will give us that second opinion.

My other amendments allow the State of Maine to permit Maine-licensed lobstermen to continue to fish in four pockets of Federal water that are surrounded on three sides by State waters, and make transshipment permits available to certain Canadian transport vessels involved in the sardine trade between Maine and Canada.

Mr. President, the bill is a fair product which resolves many competing concerns. I urge its adoption.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 5383

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 5383.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 142, line 7, "insert "To the maximum extent practicable", before "Any".

On page 142, line 10, "strike "must" and insert in lieu thereof "should".

On page 148, strike lines 1 through 17.

Mrs. HUTCHISON. Mr. President, we are going to try to work to see if we can get these amendments in a form that is acceptable to the others that are interested in this bill. It is very important to many of the recreational fishermen in my State that we try to have a level playing field for the recreational fishing people. I would like to try to work this out, and hopefully put off the vote until tomorrow.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Just to inquire of the Chair, under the existing agreement of the managers, is there time to discuss the amendment before the vote would occur tomorrow?

Mr. STEVENS. No.

The PRESIDING OFFICER. Currently there are 49 seconds left. Under the current guidelines we are operating under, there is no time set aside for debate tomorrow, the Chair is advised.

Mr. BREAUX. I will suggest at least a couple minutes on each side, for the author of the amendment and those who oppose the amendment, to make comments before we vote tomorrow.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I notified the Senator from Texas it is my intention, and I believe it is the intention of the Senator from Massachusetts, to join together to oppose this amendment in its present form. Should it be modified in a way that is acceptable, it would, of course, be acceptable to the Senator from Louisiana. At the present time it is my understanding there is not the opportunity to debate the amendment, but it is my understanding the Senator has offered the amendment with the hopes that through the night that this can be negotiated out to be acceptable to all concerned, including the Senator from Louisiana.

I state, it would be my intention, if there is to be any discussion of this tomorrow, it would be by whatever agreement we make now. And if the Senator wishes some time tomorrow, I do not think that is impossible.

How much time would the Senator like tomorrow?

Mr. KERRY. Two minutes on each side.

Mr. BREAUX. I think we have more than one amendment at the desk in its current form.

Mr. STEVENS. One amendment that hits the bill in two spots. The Senator is correct. Again, we intend to oppose this amendment, and ask the Senate to oppose it in its present form. If it is modified, it will be modified to meet the Senator's acceptance. It would have to take unanimous consent.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, obviously, the purpose of the agreement which we entered into previously was to set aside time tonight for the purposes of debate. And it is my understanding, the majority leader said there would be no debate tomorrow, there would only be votes.

I think it is fair to allow both sides 2 minutes, but I would be adverse to opening it up to a whole process of debate tomorrow. I mean, if they reach agreement, then there is no need for debate. If they do not reach agreement, then it is going to take a very quick explanation of the two sides because both managers are going to be opposing this. I do not think we ought to open it up for a lengthy period.

Mr. BREAUX. Two minutes.

Mr. KERRY. Mr. President, I ask unanimous consent that there be 2 minutes for each side tomorrow prior to a vote, if there is to be a vote, in order to explain both positions.

The PRESIDING OFFICER. Is there objection to 4 minutes equally divided?

Mr. STEVENS. Mr. President, I shall not object, but I want to make it clear in the RECORD, if we can, that the Senator from Texas has the right to modify her amendment tomorrow in any form she wishes to do so. We will oppose it in its present form, and we will oppose it unless it meets an agreement of the managers of the bill.

The PRESIDING OFFICER. The unanimous consent before the Senate is a request for 4 minutes equally divided between the two sides, with the Senator from Texas retaining the right to modify her amendment. Is there objection? Without objection, it is so ordered.

Who seeks recognition.

Mr. STEVENS. Mr. President, I know of no further business to come before the Senate on this bill. As I understand it, all of the amendments that were to be considered by the time agreement have now been brought before the Senate, and there is no more time left—I yield back whatever time I have.

Mr. President, I ask unanimous consent that Senator COHEN be added as a cosponsor of the amendment of Senator SNOWE, which was previously adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I yield back whatever time I have.

The PRESIDING OFFICER. The Senator from Massachusetts yields back his time. The Senator from Alaska yields back his time. All time has been yielded back.

Mr. STEVENS. If all time is yielded back, Mr. President, I would like to move on now to the matter of closing. I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESCALANTE NATIONAL MONUMENT PROPOSAL

Mr. HATCH. Mr. President, for my colleagues who may have missed it, today President Clinton used executive power under the 1906 Antiquities Act to designate nearly 2 million acres in southern Utah as a national monument.

A national monument, as my colleagues know, effectively locks up land within its boundaries preventing any kind of responsible development and limiting existing rights, including water rights, in the second driest State in this Union.

Utah is already home to five national parks, two national monuments, two national recreation areas, seven national forests, one national wildlife refuge, and 800,000 acres of wilderness.

We prize our land in Utah. We believe we ought to preserve as much of it as we can, and we would like to continue working on legislation to designate more wilderness in Utah.

But the process the President is using is flawed and inherently unfair. I just say, the unilateral action taken by the President today is out of bounds. Members from Utah's congressional delegation and our State Governor had to read about this proposal in the Washington Post. That is the first time we heard about it. There has been no consultation whatsoever in the development of the proposal. We have seen no maps; no boundaries; there have been no phone conversations; no TV or radio discussion shows; no public hearings; absolutely nothing from this President.

None of the procedures for review and comment that are built into our environmental laws, such as the National Environmental Policy Act or FLPMA have been followed. These procedures are a part of our law precisely to guard against the Federal Government from usurping State or local prerogatives without public knowledge or comment.

While the 1906 Antiquities Act may, indeed, give the President the literal authority to take this action, it is quite clear to me that in using this authority, President Clinton is violating the spirit of U.S. environmental laws and, indeed, of American democracy itself.

It was no doubt inconceivable before today that any President of the United States would take such dramatic action—action that so dramatically affects any State—without due diligence. And it is plain to this Senator that the White House either flunks the test of due diligence or takes this action deliberately without regard to its negative impact on our State.

What should be especially relevant, and alarming, to every Senator is that this disregard for established public law requiring public input, let alone the disregard of established traditions of democracy, can be applied elsewhere other than Utah. Today, Utah; tomorrow, your State.

I hope my colleagues will not brush off the precedent this Executive action creates. There are numerous negative consequences to this President's action today. Among the most serious is the effect on education in Utah.

Many States in the West depend on school trust lands to help finance their educational systems. In fact, 22 States, most of the States west of the Mississippi River, have trust lands.

Utah relies heavily on the income produced by these trust lands to help finance our schools. The national monument proclaimed by President Clinton will capture approximately 200,000 acres of Utah school trust lands and render them useless to Utah schoolchildren. I say to my colleagues, and to President Clinton if he is listening, this is a potential loss of $1 billion to Utah schools, and these environmental extremists are already talking that it is only $36,000 a year. That is how ridiculous they are.

There is not a single State in America that can afford to lose that kind of money for education—that is $1 billion worth —let alone Utah, which, because we have so much public nontaxable land, is always straining to fund education.

What is even more appalling is the fact that the resources President Clinton is taking away from Utah kids, in effect, is their own land. These school trust lands were deeded to Utah to be held in trust for our children's education, and with one stroke of the pen, these 200,000 acres will be gone.

The Utah Public Education Coalition, which includes professional educators, State and local administrators, the PTA and school employees, have come out strongly against this arbitrary action by the President.

I ask unanimous consent that their letter to President Clinton, position statement and resolution, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. Mr. President, another adverse ramification of the President's action today is inability to responsibly extract the high-quality, clean-burning, low-sulfur coal that lies in the Kaiparowits coal basin. Please note, the coal is in the basin, not on the Kaiparowits Plateau. This is not a strip mine. This is a mine right in the side that will not even show.

The basin has been called the "Saudi Arabia of coal." There are about 62 billion tons of coal here, about 16 billion tons of which can be mined with existing technologies. That is enough coal to fulfill Utah's energy needs for the next 1,000 years, and, I might add, the energy needs of this country. That is environmentally sound coal that could be blended with the dirty coal from the East, and it would be in the best interest of the environment of this country.

I find it a little ironic that the President wants to prevent the mining of this clean, environmentally beneficial coal while we are still paying billions of dollars to clean our dirty air from burning high-sulfur, dirty coal.

These coal reserves, in addition to being a financial asset to our State, are a critical energy resource for our entire country. We are being extremely shortsighted if we forget this fact.

How can we justify sending U.S. troops to keep the Middle East stable and to keep the oil flowing when President Clinton refuses to develop energy resources right here in our own country? We have to do both. We have to act in the best interest of the energy needs of this country. What the President did today is not in the best interest.

Mr. President, we should not forget the impact the restrictions on water rights will have, not only on Utah, but also on Colorado, New Mexico, Nevada, Arizona, and California.

Utah is the second driest state in the union. This action by President Clinton would deny our state the right to develop its water in southern Utah.

Finally, Mr. President, I wonder how the Administration plans to pay for the operations and maintenance of what would be the largest national monument in the United States.

Already, the National Park Service is stretched to the limit. Adding nearly 2 million acres to their inventory—almost the size of Yellowstone—raises real questions about our stewardship of this land. We want to preserve land in southern Utah.

There is no question that Utahns want to protect as much land as we can. We would support a well thought out proposal for additional national park or wilderness areas in southern Utah.

We also recognize that there are differences of opinion concerning the number of acres and management prerogatives. We believe those are matters for negotiation and compromise, not for making political hay with important special interest groups.

We would like to work with President Clinton to develop a sound preservation plan. And, the offer is still open to work together on this.

But, frankly, I say to my colleagues, real damage has been done here—both to Utah and to the tradition of open debate. The failure even to consult prior to making this decision should be considered devastating to representative democracy.

Our Utah newspapers have thus far been unanimous in their criticism of the President's action. But, they also represent the people of Utah. They may be sympathetic to environmental concerns—just as Utahns are—and they may support more protected land in southern Utah—just as many Utahns do—but they draw the line on a Federal Government exercising what they construe as abusive power—just as Utahns do.

So permit me to quote from an editorial this morning from the San Francisco Chronicle: "The question is whether a decision of such magnitude should be carried out by executive order. We think not."

While acknowledging their differences with me and my colleagues on the specifics of the wilderness bill proposed earlier, the Chronicle goes on to suggest that:

> "In this case, Clinton is taking the wrong route—an election-year shortcut—to the right goal."

The bottom line here, Mr. President, is that any proposal that is going to have such an incredible impact on the people of Utah—or of any other State—ought to be vetted by our political process.

People ought to be able to debate it in the press, on talk radio, in civic clubs, and across back fences. They ought to be able to write their Congressman. They ought to be able to support it or protest it.

Utahns have had little opportunity to do either. There is something fundamentally wrong with a Presidential action that deprives a State of $6.5 billion in revenue, $1 billion for education, surrounding States with water resources, and the entire Nation of important energy resources without even a hearing or a vote.

One last thing: I want to put the Senate, the House, and the President on notice that this issue is not over. William Jefferson Clinton's signature on this order isn't the end of it.

We cannot suffer this kind of an assault on Utah without a fight. So, today it begins.

Mr. President, I will just conclude with these comments. There is no question that Utahans want to protect as much lands as we can. We would support a well-thought-out proposal for additional national park or wilderness areas in southern Utah and even a national monument, which is not as good as wilderness areas or national parks.

We also recognize that there are differences of opinion concerning the number of acres in management prerogatives. We believe those are matters for negotiation and compromise, not for making political hay with important special interest groups.

We would like to work with President Clinton, if he would, to develop a sound preservation plan. And the offer is still open for us to still work together on this. But, frankly, I say to my colleagues, real damage has been done here, both to Utah and to the tradition of open debate. The failure to even consult prior to making this decision is to be considered devastating to representative democracy.

I ask unanimous consent that a number of documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Standard-Examiner, Sept. 10, 1996]

BILL CLINTON SHOULD WAIT FOR UTAH'S INPUT

In the battle between environmentalists, the federal government and Utah's congressional delegation, the battle for wilderness has taken a creative turn.

President Clinton and his Secretary of the Interior, Bruce Babbitt, have floated an unusual trial balloon: The administration may invoke a 1906 statute to create a 1.8 million-acre national monument encompassing Utah's Kaiparowits Plateau.

It would be called Canyons of the Escalante National Monument, and the thing that's driving Gov. Mike Leavitt and Utah's congressional delegation crazy is that Clinton can accomplish the task with a stroke of his pen—Congress and the state be damned.

It's the kind of bold move Clinton might enjoy taking in an election year, cuddling up to and solidifying his support among environmentalists across the nation, who have been pushing for designation of 5.7 million acres of wilderness in Utah.

Such a move would surely anger the less environmentally inclined of Southern Utah, though, since they've been counting on the mining of Kaiparowits Plateau coal by the Dutch firm Andalex Resources Inc., which plans to start a 50-year coal mining operation within the next year, bringing in paved roads and about 1,000 jobs.

The Kaiparowits is pretty much ground zero in the battleground between those lobbying for 5.7 million acres of wilderness and those who prefer 2 million acres. In the 5.7 million-acre plan, virtually all of the Kaiparowits Plateau is set aside as wilderness, whereas in the 2 million-acre alternative only about 12 percent would be preserved.

Debate is a good thing, but this latest move by the White House ought to be alarming to all sides. It means the president, if he has a mind to, can bypass public comment and unilaterally create de facto wilderness. As the administration has said, the 1906 law permitting Clinton this discretion can be used to protect objects of historical, biological or archaeological importance.

If, indeed, that is the case with the Kaiparowits Plateau—and it may well be—Clinton should use the standard means for coming to that conclusion: study, debate and action. To do otherwise in an election year can be seen as nothing but what it is: pandering to a specific constituency.

[From the San Francisco Chronicle, Sept. 18, 1996]

CANYONS OF THE ESCALANTE

Our concern with President Clinton's intention to establish the Canyons of the Escalante National Monument has nothing to do with its paleontological or archeological value.

Indeed, there are compelling reasons to preserve a 1.8 million-acre, red-rocked patch of southern Utah, with its stunning buttes, steep canyons and array of artifacts from tribes that once inhabited the foreboding terrain.

The question is whether a decision of such magnitude should be carried out by executive order.

We think not.

This may well be a worthy idea, but it deserves a fair hearing. It deserves to go through public deliberations—as slow and messy as democracy may be—to fully air the concerns about sealing off access to a potentially rich coal field.

There is no dispute that President Clinton has the legal authority under the Antiquities Act of 1906 to declare the national monument. President Teddy Roosevelt invoked the same statute in 1908 to protect the Grand Canyon.

Utah's congressional delegation is understandably irate at the prospect of a Clinton-decreed monument. In their view, the president is rolling over their concerns—and scoffing at the five electoral votes he had no chance of getting anyway—to score points with the broader electorate. Polls show that voters are concerned about environmental protection, and the deficiency of such a sensibility in Congress.

We certainly would not want to defer to Utah politicians on this issue. After all, their pro-development bent was clearly evident in a Utah Wilderness Bill that has been languishing in the U.S. Senate.

Still, they deserve to be heard. Some of the canyon land in the new monument would have been designated as wilderness in the Utah bill. Which approach would provide the proper level of protection? That and other land-management issues were worth exploring—in a public process.

By drawing a circle around a chunk of southern Utah, Clinton will have headed off the exploitation of a precious area.

In doing it by executive order, however, Clinton and the environmental community are likely to encounter intensified hostility in future skirmishes over development and preservation. Utah may not matter on the electoral map, but small Western states pack disproportionate clout on Capitol Hill, particularly in the U.S. Senate, and they often band together on land issues.

In this case, Clinton is taking the wrong route—an election-year shortcut-to the right goal.

[From the Salt Lake Tribune, Sept. 13, 1996]

A MONUMENT TO RASHNESS

The Clinton administration would be denying its own land-management process if it were to create unilaterally a huge Canyons of the Escalante National Monument on federal land in southern Utah. It should forgo such rash action and await results from processes already in motion.

The concept of a Canyons of the Escalante National Monument blindsided most everybody last weekend, when a Washington Post story revealed that President Clinton was considering such protection for 1.8 million acres in Kane and Garfield counties. Under the 1906 Antiquities Act, he has the right to establish national monuments, just as other presidents have on Utah's public lands. But a designation of this magnitude, at this time, would not be well-advised.

There are two intertwined developments here, and the administration ought to let them run their course rather than pre-empt them with a national monument designation. One is the ongoing preparation of an environmental impact statement (EIS) for Andalex Resources' request to develop its coal-mining claims on the Kaiparowits Plateau. The other is the ongoing fight over wilderness designation on Utah's Bureau of Land Management lands.

The Interior Department is involved in both, developing an EIS on Andalex that is now projected to be ready sometime next year and, at the recent behest of Secretary Bruce Babbitt, conducting a new inventory of BLM lands in Utah for wilderness designation. Wilderness advocates, who oppose the Andalex mine, have been critical of the EIS process, yet they endorse the re-inventory. It is a bit disingenuous to applaud the agency on one project and distrust it on a related one.

Of course, the Utah Wilderness Coalition, which wants 5.7 million acres of wilderness designation on Utah's BLM lands and hopes Babbitt's re-inventory will facilitate that, is primarily looking for results—and, concurrently, for the blocking of the Andalex mine. And Clinton's designation of a national monument would give it more than it ever envisioned.

The proposed national monument would involve three potential wilderness areas—the Kaiparowits Plateau, the Grand Staircase and the Escalante Canyons. The UWC recommended 1.27 million acres of wilderness in those three areas. So, President Clinton's designation of a 1.8-million-acre national monument would give environmentalists a half-million more acres of protection than even they suggested. Obviously, that's a stretch.

By the same token, little sympathy should be reserved for the members of the Utah congressional delegation, who whined about learning of the national monument idea through the press. They already know about an unbalanced process, since they were accused of conducting one last year prior to unveiling their original 1.8-million-acre wilderness bill.

The delegation bill was inadequate on acreage and was particularly short in the Escalante-Kaiparowits areas, where it recommended only about 360,000 acres of wilderness. The wilderness study areas that the BLM had established a decade earlier covered 2 times that much in this precious region. So, while a national monument providing 1.8 million acres of protection may be off the scale, so too was the delegation's meager 360,000 acres.

Other considerations that should cause the president to look before he leaps include Utah's school trust lands and the future of the Kaiparowits coal reserves. If a national monument were designated, some sort of compensation for school trust lands within the area would be necessary. But the educators protest too much; their windfall from the development of these lands is not a primary consideration on which to base land-management decisions.

As for the estimated 62 billion tons of coal under the Kaiparowits Plateau, that is a natural resource as well as the unusual land above it. The president ought to think twice before considering a designation that would inhibit the use of that resource, which, if not developed now by Andalex, may be needed decades from now.

Obviously, the process for determining how much of southern Utah's public lands to protect—whether by wilderness designation, national monument, conservation area, eco-region or some other brand name—has not been productive so far. But if the president's own Interior Department is assessing the impact of the proposed Andalex mine and re-assessing wilderness acreage, it makes little sense for him to obviate the agency's work now by cavalierly dubbing the whole area a national monument.

U.S. SENATE,
Washington, September 17, 1996.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Last Saturday, we met with Secretary of Interior Babbitt and Council on Environmental Quality (CEQ) Director McGinty to discuss the possible designation to the Canyons of the Escalante National Monument. We are writing to strenuously voice our opposition to this action.

Since the proposal surfaced in a Washington Post article in September 7, we have been unable to ascertain any information on the specifics of this proposal now under review by the White House. Repeated requests for information from both CEQ and the Department of Interior have resulted in no further clarification of the story. Even our meeting last Saturday yielded nothing new on this subject. It has been very frustrating to know that senior officials in the Administration have been considering creating a new national monument in Utah, and yet we are unable to learn any of the details—i.e., the exact location, the specific boundaries, the impact on existing rights-of-way and permits, which federal agency will manage the proposed monument, the impact to state school trust lands, etc. In our opinion, this is not the way to go about the establishment of a new national monument, let alone carrying out the public's business.

We have expressed our specific concerns to Secretary Babbitt and Director McGinty, and we trust they will bring these items to your attention prior to your making any decision to proceed further on this project this week or, for that matter, anytime in the coming months. However, we would like to reiterate these concerns to you so there can be no misunderstanding.

As we indicated on Saturday, we believe this proposal, as indicated in the Post article, should be rejected for several critical reasons:

The total acreage of the Monument proposal will be approximately 1.8 million acres. If this acreage figure is correct, this proposal would create the largest national monument in the continental United States, 1½ times the size of the Grand Canyon National Park. This land will be withdrawn from multiple use without any public comment and review, including congressional hearings and meetings, and without consulting the land managers on the ground who must deal with any conflicts that will occur.

The State of Utah is bound by this fiduciary responsibility to show complete and undivided loyalty to the school children of Utah—the sole beneficiaries of the trust created at statehood—and properly manage these lands to enhance our schools. That is the reason for their existence. Placing these lands within the proposed Monument's boundaries will create state inholdings within a national monument, which severely limits the proper management of these lands by the trustee, the Utah State Schools and Institutional Trust Lands Board.

Understandably, the Board is very concerned about the future of the billions of tons of clean, low sulfur coal that is located on these school trust lands. The Utah Geological Survey has estimated the net present value of the coal in this area at over $1 billion. This revenue flow is vital to Utah, as the Utah Public Education Coalition has stated. If this much land is taken from the school children of Utah, the state and board of education would have no choice but to file a lawsuit as trustees for the beneficiaries for taking over a billion dollars of school resources without fair and timely compensation.

Those who support the Monument proposal have spoken of the need to protect the land for generations to come; we would argue for support of a better and more responsible proposal that protects the beauty of our land while enhancing the educational component of our society for these future generations. As we understand the proposal, it would not achieve both results.

Acceptance of the Monument proposal would send the message to every public lands state in the nation that at anytime the Executive Branch could withdraw millions of acres of lands within that state from multiple use purposes without the benefit of a single comment from the affected state. In fact, it may occur without any notification.

The Monument proposal will basically withdraw from future development the largest untapped energy reserve in the United States, valued by the State of Utah to be more than $1 trillion. The energy in the Kaiparowits Coal Basin is comparable to 20 to 30 billion barrels of OPEC oil, and would satisfy the energy needs of Utah for many generations to come. The inclusion of this resource within the Monument proposal will have an enormous fiscal impact on all taxpayers of approximately $6 to $9 billion in lost federal royalties. Under the Monument proposal, this resource will never be available for future generations. We question whether these economic and national security issues have been thoroughly discussed by the administration prior to the formulation of this proposal.

Mr. President, for these and many other compelling reasons, we have very serious reservations about the Monument proposal. We have been provided with no details on this proposal. That is why we strongly encourage you to resist any temptation or campaign advice to issue a proclamation designating a new national monument in Utah this week or in the coming weeks, until a complete analysis conducted through a public process can be undertaken with us and the citizens of our state. It is only through such an open process that these and the many other issues related to the establishment of a national monument can be properly addressed.

We would appreciate your serious consideration of these issues.

Sincerely,

MICHAEL O. LEAVITT,
Governor.
ROBERT F. BENNETT,
U.S. Senator.
ORRIN G. HATCH,
U.S. Senator.
JAMES V. HANSEN,
Member of Congress.
ENID GREENE,
Member of Congress.

EXHIBIT 1

THE UTAH PUBLIC
EDUCATION COALITION,
September 11, 1996.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The Utah Public Education Coalition is adamantly opposed to the proposed designation of the Kaiparowits Coal Basin and other lands in Utah as the Escalante National Monument. We oppose this designation as currently proposed for a variety of reasons.

First of all, there has been so little discussion and review of the proposal that it is not clear what the boundaries are. Potentially 200,000 acres of school trust lands granted to support our schools are within the boundaries of the proposed designation. If this much land is taken from the school children of Utah, the state and board of education would have no choice but to file a lawsuit as trustees for the beneficiaries for taking over a billion dollars of school resources without fair and timely compensation.

One of our major concerns is over the designation of the Kaiparowits Coal Basin as part of this national monument. This land is separate from the Kaiparowits Plateau which is known for its scenic beauty and unique land formations. The Kaiparowits Coal Basin is composed of considerably less scenic terrain and is interlaced with many miles of country roads, an airstrip, an old coal mine, drill sites, and abandoned mine sites.

The designation would frustrate environmentally sound recovery of an important national resource. The coal resources in the Kaiparowits Coal Basin represent the largest untapped energy reserve in the United States, and this coal is among the least polluting in the world Development of this underground coal will be important to our nation and will return $6 to $9 billion to the national treasury in royalties plus additional funds through the multiplier effect.

We further believe that there is no reason to declare this a national monument to protect the canyons of the Escalante as they are already protected. At this time, 90 percent of the canyons of the Escalante are already in the Glen Canyon National Recreation Area. The remaining 10 percent are near the town of Escalante and are in current wilderness study areas.

On behalf of the children and our schools, we ask that you not designate any further lands in Utah as a national monument without full consideration of the impacts on education in Utah and full compensation for any restrictions placed Utah's school trust lands.

Sincerely,

Linda M. Sarkinson, Utah PTA, Brent Thure, Utah School Superintendents Association; Mossi W. White, Utah School Boards Association; W. Lee Glad, Utah Association of Elementary School Principals; Janet A. Cannon, Utah State Board of Education; Phil Oyler, Utah Association of Secondary School Principals; Scott W. Bean, Utah State Office of Education; Kelly Atkinson, Utah School Employees Association; Phyllis Sorensen, Utah Education Association.

POSITION STATEMENT IN OPPOSITION TO THE PROPOSED DECLARATION OF THE CANYONS OF THE ESCALANTE NATIONAL MONUMENT

(By the Utah Public Education Coalition)

The position of the Utah Public Education Coalition is in support of careful consideration of the environment. Additionally, our position is in defense of educational opportunities for our children, a strong adherence to issues of integrity, and a position that the best decisions are made in an environment of information, communication, balance, and knowledge.

The following educational issues are important:

Within the boundaries of the proposed 1.8 million acres under consideration are approximately 200,000 acres of SCHOOL TRUST LANDS that do not belong to the federal government.

At statehood, the federal government entered into a compact with the state of Utah in which it was agreed not to tax the federal lands in exchange for 5.8 million acres being granted to support education. Utah is bound by the fiduciary duty to show undivided loyalty to the schools of Utah, who are the beneficiaries of the trust created by the Enabling Act. The federal government is also bound, as grantor, by the terms of the grant. We expect our President to show integrity in abiding by its compacts with its own people.

Any attempt to deny the schools of Utah full fair market value for the lands so granted would initiate a takings procedure by the education family and the state as trustee for the full value plus interest. Governor Mike Leavitt's office and the Utah Geological Survey has estimated that the net present value of the coal underlying the Kaiparowits Coal Basin on the school lands alone is between $640 million and $1.1 billion.

The National Education Association Legislative Platform has a plank to protect land set aside to support schools. There are 22 states that have trust lands (Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Louisiana, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming).

The energy in the Kaiparowits Coal Basin represents the largest untapped energy reserve in the continental United States. This is not just a Utah issue; this issue is a national issue, especially with the recent power outages on the west coast.

Inclusion of the Kaiparowits Coal Basin in the proposal has an enormous fiscal impact on the taxpayers of approximately $6 billion to $9 billion in lost royalty.

Designation of 1.8 million acres is not necessarily a pro-environmental position as the coal from the Kaiparowits is among the cleanest coal with the lowest sulfur content. At this time, 90% of the canyons of the Escalante are already in the Glen Canyon National Recreation Area. The remaining 10% are near the town of Escalante and are in current wilderness study areas.

The coal resources are NOT located on the Kaiparowits Plateau. The coal resources are located in the Kaiparowits Coal Basin to the west of the plateau.

The Kaiparowits Coal Basin is not pristine. Within 2 miles radius there are 36 miles of publicly maintained roads, an air strip, drill holes, a previously mined coal site, numerous other mining sites, fences and cattle watering holes.

The Kaiparowits Plateau is composed of towering cliffs and spectacular, stark scenery. On the other hand, the Kaiparowits Coal Basin has been described an undulating grey terrain. Parts of "Planet of the Apes" were filmed there.

There is a middle ground. Development of the coal resources can occur under the ground with the mine portal occupying only 40 acres of the surface, about .004% of the Kaiparowits Coal Basin. Citizens can continue to enjoy the Canyons of the Escalante and the Kaiparowits Plateau under the protection of a National Recreation Area and wilderness study areas. Improvement of the existing road would eliminate the need for additional road construction.

RESOLUTION IN SUPPORT OF AN EXCHANGE OF UTAH SCHOOL TRUST LANDS FOR FEDERAL LANDS IN THE SMOKY HOLLOW AREA OF KANE COUNTY, UTAH

(By The Utah Public Education Coalition)

Whereas, Under the Utah Enabling Act the federal government granted to the state certain sections of the public domain, now known as School Trust lands, to be used exclusively for generating revenue to support Utah's public education system; and

Whereas, These School Trust lands are scattered and isolated parcels which are now totally surrounded within a larger matrix of federal lands, and management of the surrounding federal lands by the federal government for non-economic purposes is in direct conflict with the state's fiduciary responsibility to create revenue from these trust lands for the state's public education system, and that such federal land management conflicts are in direct violation of the grant made by the United States government to the State of Utah; and

Whereas, Utah School Trust lands located within the Kaiparowits and Alton coalfields of southern Utah contain hundreds of millions of recoverable tons of high-grade bituminous coal, enough to supply all the electrical power requirements for the entire state of Utah for the next 100 years at present rates of consumption; and

Whereas, This coal reserve constitutes one of the most important sources of future revenue for Utah's School Trust and shall be protected by the State now and forever in the future; and

Whereas, Most of these School Trust coal reserves are scattered throughout federally designated wilderness study areas in the interior of the Kaiparowits coalfield or in areas of the Alton coalfield designated by the federal government as "unsuitable for mining" because of proximity to the viewshed from Bryce Canyon National Park; and

Whereas, These federal non-use designations prevent the development of the inheld School Trust resources for the support of the schools within these areas; and

Whereas, The development of underground coal deposits by modern underground mining methods requires large blocks of contiguous acreage; and

Whereas, It is the responsibility of the State of Utah to assure the beneficiaries of the Utah school trust that in the future the federal government will be required to provide just and adequate compensation for any defacto takings of any and all School Trust assets within the Kaiparowits/Alton coalfields resulting from any federal action or land designation which effectively renders inheld trust lands incapable of providing revenue to Utah's education system as mandated by the Utah Enabling Act; and

Whereas, Present and future management conflicts between the Utah School Trust and the federal government could be quickly, easily and permanently resolved to the mutual benefit of all parties by simply trading School Trust coal resources within federal wilderness study areas/unsuitability areas for federal coal resources of equal value located outside of these designated areas; and

Whereas, Such an exchange would allow the Utah School Trust to provide long term economic benefits to the state's education system as required by law while allowing the federal government the ability to manage its land in accordance with non-economic objectives (wilderness values, national park viewsheds, etc.) and thereby avoid serious, and inevitable, future land use conflicts between the federal government and the Utah School Trust involving the Kaiparowits/Alton areas; and

Whereas, Andalex Resources is now proposing an underground coal mine on existing federal and school trust leases located in the Smoky Hollow area at the southern tip of the Kaiparowits coalfield, and the federal government has formally and officially determined that this area clearly and obviously does not qualify for wilderness designation; and

Whereas, The state of Utah Division of Oil, Gas and Mining has approved the Smoky Hollow Mine Permit Application Package and has determined that the mine can be constructed, operated and reclaimed in accordance with all necessary state and federal environmental protection laws and regulations; and

Whereas, The Utah Public Education Coalition, the Utah School Trust Administration, the Utah Association of Counties, and the Utah State Legislature have gone on record in support of responsible development of the Smoky Hollow coal reserves as is now being proposed by Andalex; therefore be it

Resolved, That the Utah Public Education Coalition hereby reaffirms its strong support for responsible development of the Smoky Hollow coal resources as proposed by Andalex; and be it further

Resolved, That the Utah Public Education Coalition supports and advocated an exchange of scattered School Trust coal lands located within the Kaiparowits wilderness study areas and the Alton unsuitability area for a block of land located in the Smoky Hollow area which could be developed as part of the Smoky Hollow underground coal mining operation; and be it further

Resolved, That the Utah Public Education Coalition urges the Board of Trustees of the School and Institutional Trust Lands Administration, the Utah Governor's office, and Utah's congressional delegation to jointly petition the US Department of Interior to expedite this exchange on an equal-value basis, subject to valid existing rights, as being in the best and highest interest of Utah's public education system and the people of the state of Utah and the United States.

Linda M. Sarkinson, Utah PTA; Brent Thurie, Utah School Superintendents Association; Mossi W. White, Utah School Boards Association; W. Lee Glad, Utah Association of Elementary School Principals; Janet A. Cannon, Utah State Board of Education; Phil Oyler, Utah Association of Secondary School Principals; Scott W. Bean, Utah State Office of Education; Kelly Atkinson, Utah School Employees Association; Phyllis Sorensen, Utah Education Association.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, September 17, 1996 the Federal debt stood at $5,190,807,990,011.88.

Five years ago, September 17, 1991, the Federal debt stood at $3,625,799,000,000.

Ten years ago, September 17, 1986, the Federal debt stood at $2,106,475,000,000.

Fifteen years ago, September 17, 1981, the Federal debt stood at $976,369,000,000.

Twenty-five years ago, September 17, 1971, the Federal debt stood at $415,338,000,000. This reflects an increase of more than $4 trillion ($4,775,469,990,011.88) during the 25 years from 1971 to 1996.

AIR BAG SAFETY AND EFFECTIVENESS

Mr. PRESSLER. Mr. President, I rise to make a few remarks concerning child passenger vehicle occupant protection.

Earlier this year, the Senate Committee on Commerce, Science, and Transportation held an oversight hearing on the safety and effectiveness of driver side and passenger side air bags. At the hearing, we learned that generally air bags are safe. They are credited with saving approximately 900 lives since 1987 and with reducing the severity of injury in many more instances. So it is abundantly clear that air bags are an important automotive safety device.

Unfortunately, there is a downside to air bag use. While usually minor in nature, in some cases they cause injuries. In the worst cases, they have caused death. This is especially true in the case of children with some data showing two children die because of a passenger side air bag deployment for every one saved by the deployment.

The Committee's oversight hearing highlighted issues like this and also explored actions underway at the National Highway Traffic Safety Administration (NHTSA) to improve child passenger safety. At the hearing, I stressed the need to publicize the importance of putting child safety seats in the back seat and not in a passenger seat equipped with an air bag.

Subsequent to our hearing, I was pleased that a coalition was formed to alert the public of passenger side air bag dangers to infants and children. I also have followed closely the initiatives at NHTSA to change federal air bag requirements, encourage the introduction of new air bag technology, and improve child restraint system performance.

These steps are needed and they hold promise for child passenger safety improvements. However, more comprehensive action is needed.

Yesterday, the National Transportation Safety Board (NTSB) released the findings of its 2-year child occupant safety study. Pointing to the dangers and risks to children posed by passenger-side air bags and improperly used child restraint systems, the NTSB called on NHTSA, State Governors, and automobile manufacturers to take steps to address continuing safety problems.

For instance, the NTSB study found inadequacies in NHTSA's proposed rulemaking on smart air bags and air bag warning labels. On August 1, 1996, NHTSA proposed changes to federal air bag requirements to encourage the introduction of new air bag technology. If automobile manufacturers do not provide the so-called smart air bags, the NHTSA proposal would require manufacturers to post new and more prominent air bag warning labels inside the vehicle.

The safety study, however, concluded that the NHTSA proposal will not accelerate the development of more intelligent systems. As a result of its review of the proposed rulemaking, the NTSB called on NHTSA to do more to encourage automobile manufacturers to install intelligent air bag systems and specifically recommended that NHTSA establish an implementation timetable.

In another area, the NTSB safety study investigated air bag deployment rates and recommended that NHTSA's technical air bag deployment threshold standards be reevaluated. The recommendation urges the consideration of technical standards for less aggressive air bag deployment, particularly for those on the passenger side of motor vehicles.

Its my recollection that NHTSA has said the technology for less aggressive air bag deployment currently is not available. However, technically it can be done. Canada, as I understand it, is on the verge of requiring less aggressive deployment standards for air bags in any car sold in Canada. Until "smart" air bags are available, this may be the best interim solution and NHTSA should carefully investigate this possibility. The NTSB recommendations make clear the lack of testing that was done prior to putting passenger side air bags into the automotive fleet.

The NTSB also asked NHTSA to revise several motor vehicle safety standards governing air bags and passenger restraint systems. As revisions are made, testing and performance standards that reflect an actual accident environment must be developed.

Quick action on these recommendations is required because there are nearly 22 million vehicles currently on the road with passenger-side air bags. NHTSA's proposed rulemaking will not affect these vehicles. Also, an estimated 13 million additional vehicles will be sold yearly before the new standards take effect.

Something must be done to protect children in vehicles like these. Changes in air bag deployment rates and the installation of on-off deployment switches are two of the options that could be evaluated.

The NTSB's safety study also explores in detail the difficulties parents and care givers have in securing a child restraint system properly in vehicles. Inadequacies in the design of child restraint systems themselves and the need to improve seatbelt fit for children were singled out by the NTSB as an area in which safety improvements can be made.

These problems warrant action and I encourage NHTSA to act swiftly on the NTSB recommendations. I will continue to follow this safety issue closely and plan on holding a hearing early in the next Congress to examine the NTSB's safety study.

Mr. President, finally we need to get a simple message to parents. We must tell parents that until less aggressive passenger side air bags or "smart" air bags are available there is something they can do to protect their children. Specifically, they should consider placing all children under 12 in the back seat of their vehicles whenever the vehicle is in motion. Studies have shown the back seat to be the safest place for children in passenger vehicles. In fact, Germany already requires this by law.

I want to applaud the NTSB's call for educational campaigns emphasizing the importance of transporting children in the back seat of passenger vehicles. I know of one car manufacturer that recently developed an advertising campaign urging this safety measure as part of its efforts to raise public awareness on the dangers of passenger side air bags to children. We must improve vehicle occupant protection and initiatives like these offer significant safety benefits.

TRIBUTE TO SENATOR MICHAEL ANTHONY FIGURES

Mr. HEFLIN. Mr. President, Alabama State Senator Michael Anthony Figures, of Mobile, passed away on Friday, September 13, 1996. He was President Pro Tem of the State Senate, making him the highest-ranking African-American in the State legislature.

This is the second highest-ranking position in the Alabama Senate and one of the most powerful and visible posts in State government. Senator Figures was the first black to ever hold the job and was exceptionally effective and politically astute. He could dissect an issue and get to its essence very quickly and directly. He was very close to Lieutenant Governor Don Siegelman, President of the Senate, and was instrumental in carrying out his legislative agenda.

Senator Figures, who was only 48 years of age, was almost universally admired by the people who knew and worked with him. Both friends and political adversaries admired and appreciated his honesty, integrity, and work ethic.

Senator Figures was born on October 13, 1947, the youngest of three sons of Reverend Coleman and Mrs. Augusta Mitchell Figures. He attended Stillman College and the University of Alabama Law School. He was first elected to the State Senate in 1978 as a Democrat, at that time only the third black person to serve in the Senate. He represented District 33, which includes part of Mobile and Prichard.

Over the years, he built a solid legislative record on local and statewide issues. He worked long and hard to ensure minority representation while helping to create a "strong" mayoral position in Mobile's city government. Many view his finest legislative accomplishment the 1994 Senate passage of former Governor Jim Folsom's "Alabama First" education reform plan. Although it did not pass the House, it received 32 out of 35 votes in the Senate, due largely to Senator Figures' tenacious leadership and persuasion.

Senator Figures was a founder of the Alabama New South Coalition, started in the 1980's to promote progressive causes and candidates. This influential political caucus has been instrumental in bringing blacks and whites in Alabama together. Senator Figures's wife, Vivian Davis Figures, is a member of the Mobile City Council. They had four sons together, Jelani Anthony, Shomari Coleman, Akil Michael, and Derrick.

Senator Figures was a visionary and progressive leader who will be sorely missed by the people of Alabama. He had considerable ability, intellect, and drive. As one of the most influential politicians in Alabama's government, he had an unyielding desire to correct what he perceived as wrongs in society. He was an outstanding orator and had a quick mind and will be impossible to replace. He had an uncommon ability to smooth over disagreements and build bridges. Other members of the Senate really listened to him and responded to his arguments.

Much of his success was rooted in his high degree of integrity. He was a stickler for following the Senate's procedural rules, even if bending those rules might have helped his side prevail. He never compromised his honesty or credibility as he quickly ascended to the heights of power and influence.

The sad and untimely death of State Senator Michael Figures is an immeasurable loss for my State. He was an uncommon force for justice and progress who accomplished a great deal in a relatively short time. I extend my sincerest condolences to Vivian and their entire family in the wake of this loss. I hope they find some solace in the fact that he truly made Alabama a better state and better place to live. His many lasting contributions will stand as his personal legacy and as a testament to his ideals and leadership.

WHY TAMPER WITH AN ENVIRONMENTAL SUCCESS STORY

Mr. LOTT. Mr. President, I am pleased to note that, once again, American business has succeeded in significantly reducing the amount of chemicals released into the environment. According to the most recent report from the Toxic Release Inventory (TRI) Data Release of 1994, releases of chemicals declined nearly nine, percent between 1993 and 1994. Since the TRI began in 1988, overall chemical releases have dropped more than 44 percent. This decline is particularly impressive because it has occurred in tandem with economic growth. This is an environmental success story.

This successful reduction affirms that an approach to environmental protection which encourages the participation of states and businesses can and does work. It argues for a continuation of approaches to environmental protection that use voluntary solutions, technological innovations and increased flexibility. As the report shows, we should have confidence in this successful public policy strategy.

Unfortunately, though, these promising statistics have been ignored. The TRI facts have not deterred the Clinton Administration from considering further burdens on America's society.

The Environmental Protection Agency (EPA) has announced that it plans to require businesses to file new extensive reports about how chemicals are used in the manufacturing process. This proposal is called "Materials Accounting," and it is flawed for several reasons.

First, the proposal to track materials would place a new and very costly hardship on the business community. Initial estimates indicate that the additional cost to our Nation's businesses in direct reporting paperwork costs alone could be as much as $800 million. In addition to being extremely costly, this proposal is completely at odds with the President's pledge in March 1995 to simplify and ease paperwork burdens on American businesses.

I'm even reminded of the President's recent speech in Kalamazoo, MI, where he reaffirmed this goal to reduce administrative burdens. Well, for me, nearly $1 billion is real money. It is a real cost for America's business community. It is a real paperwork burden that cannot be ignored.

Already TRI generates 80,000 reports per year. And, it takes EPA nearly 2 years to provide this existing information to the communities nearest to the facilities producing these reports. It seems very basic—before EPA unilaterally increases the size of its two-inches thick report and further delays its publication, specific statutory authority should be provided. The EPA's actions to expand it reporting requirements are not authorized in law. How can EPA be responsive and concerned about the risks faced by communities living near the reporting facilities, when it requires a 2-year detour of the data with its Washington bureaucrats?

Apart from the billion-dollar administrative cost, Materials Accounting will jeopardize America's global competitiveness by putting our most innovative technologies at risk. Our country's position in the world's economy is dependent upon the development of superior technology and the ability to protect that technology from competitors, both international and domestic. Information about the amounts of chemicals used in and created during a production process will provide competitors with access to trade secrets. This does not make good business sense. In fact this seriously endangers the confidentiality of proprietary business information which is essential in the marketplace.

Third, this approach would make sense only if substantial, tangible and quantified environmental benefits clearly exceeded the costs. However, I have seen no analysis which supports this premise. On the contrary, I believe the implementation of a Materials Accounting program will dilute the focus of TRI by forcing businesses to commit finite resources to trivial or even nonexistent risks, rather than more pressing, real risks. It will also unnecessarily confuse citizens. This does not make good policy sense. Chemical use is not directly related to information a community must receive about the real risks faced from actual releases from neighborhood facilities.

In my view, TRI should focus on telling the American public about the risks directly associated with exposure to chemical releases. This was the view of Congress back in 1988 when TRI was enacted. If EPA is looking for a new mission, it should expand its public outreach efforts by the communication of risk information that is both meaningful and understandable.

EPA should undertake practical and timely risk communications which are locally based. Risk communication is the heart and soul of a community's right-to-know. Reporting to citizens the number of pounds per year release of a certain chemical is neither valuable nor worthwhile information. It says nothing about potential risks to human health or the environment. Real risk depends on three factors: First, inherent toxicity of the material; second, its concentration; and third, its location relative to humans. Unfortunately, this simple scientific formula has been ignored by EPA.

EPA also should stop trying to increase the number of chemicals on the list without first ensuring that sound science-based criteria are in place. More listings without scientific criteria will not automatically make a community safer. EPA must first have a clear understanding of the real exposure risk to avoid public confusion. EPA should use the accepted basic risk formula.

Last, EPA does not have the statutory authority to collect and then disseminate information about chemical use. The Emergency Planning and Community Right-to-Know Act explicitly states the types of information that may be collected by EPA. While all this information bears an indirect relationship to potential releases and emissions, the Act does not allow EPA to disperse sensitive chemical use information. This proposal, therefore, is well beyond the scope of the basic statute which established the TRI Program.

Let me remind my colleagues that Congress considered the use aspect when the original program was created. And, chemical use was explicitly and consciously rejected.

"Materials Accounting" raises more questions than it answers.

Regulations are powerful, but they shift America's resources poorly. Because regulations cause consumers and businesses to spend a good deal of their money in ways they do not freely choose, Congress must first consider the consequences of this coerced spending before it becomes our public policy. A rule that has a $1 billion consequence is a rule that deserves the attention of Congress.

With claims, counterclaims and even the withdrawal-of-claims that there are growing risks from everything around us, it is even more imperative for every citizen to know where the true risks are coming from. I believe the American people want their elected officials to look carefully into all aspects of environmental protection. The following questions need to have a response in the public record:

(a) What benefit does the public derive from the publication of incomprehensible data on chemical use which has no correlation to risk from exposure?

(b) Would the public benefit more from a prioritization of "worst case" emission risks to human health then use reporting?

(c) How will EPA protect the proprietary formulations that are a valuable intellectual property?

Mr. President, it is clear that the administration's materials accounting approach has no statutory basis. It is also clear that it will place an enormous burden on America's industrial communities. As a result, American jobs will be sacrificed for questionable, even limited, community environmental benefit.

It is clear to me that congressional action must precede any administration action.

Mr. President, I stand here today, along with many of my Senate colleagues who are committed to protecting and informing communities in our home States. We want to work on refining the policies which will update the TRI program. We want to make it truly responsive to the communities living nearest the facilities while preserving the right of businesses to remain competitive in the global marketplace.

I would like to pause and take a philosophical view for just a moment. Let's step back from TRI and consider all regulations in general. In the aggregate, regulatory compliance costs Americans around $670 billion every year—nearly 10 percent of our economy's GDP. This is substantial both in terms of dollars and percentage. This is why our public policy must meet this challenge in a systematic, responsive and balanced manner.

Basic fairness must be an integral part of the solution as Congress reviews and updates any regulation. Basic fairness should also be part of the equation used by the administration as it approaches new initiatives. Basic fairness is the American way.

The focus of the issue must not be whether we need environmental protection enforcement—of course we do. Rather we must look at how to achieve effective and appropriate environmental protection. Congress must ensure that both the enforcement agencies and the regulated community have incentives to encourage compliance. There must also be a mechanism for the agencies to prioritize environmental initiatives. And, of course, this process must respect our Bill of Rights.

I started today by reporting on TRI's success story, and the agency's response of adding more reports and more costs. This could undermine the existing voluntary efforts of industry. I think everyone would agree that cooperative problem solving approaches work better than adversarial methods. The latter could even produce disdain and lawlessness.

I also started by saying that states deserve part of the credit for the TRI success story. State governments have come a long way in terms of developing their own core levels of expertise. As regulations are updated, Congress must recognize states as a genuine partner in protecting our environment.

The wisdom of this is demonstrated in a separate but vital illustration of state ingenuity. Seventeen states, including my own state of Mississippi, have developed a voluntary environmental audit process, and early indications are that the process is working. It is an alternative to the one-size-fits-all, Washington-expert, command-and-control methods mandated in the past. It is common sense, and it actually produces positive results for our environment at less cost. It represents basic fairness. This is what Congress ought to be advocating.

Mr. President, I want to conclude by saying that Congress needs to turn the spotlight back to TRI's original intent. This can be achieved by having both Congress and the EPA answer one fundamental question: What chemical release information will be useful to people living near an industrial facility?

TRIBUTE TO RALPH GABBARD

Mr. FORD. Mr. President, Kentucky and the Nation suffered a great loss last week with the passing of Mr. Ralph Gabbard. Ralph was a nationally known broadcast executive, serving as president of Gray Communications. He was a leader in the television broadcast industry in my State, and ultimately was a national leader as well. Ralph was at the forefront of the industry's development in Kentucky for the better part of the last 30 years, including successful efforts to bring a television station to the mountains of eastern Kentucky.

Among other things, he served as chairman of the CBS Affiliates Advisory Board and the National Association of Broadcasters television board. Most recently, Ralph played a significant role in industry discussions with the Clinton administration which led to the announcement of steps to improve the quality of children's programming.

But beyond the long list of personal accomplishments, Ralph was probably best known for his integrity, his honesty, and his common courtesy in dealing with others. I was privileged to deal with Ralph on more than one occasion, and had great respect and trust in his abilities. He was a true asset for my State, and his presence will be missed.

Mr. President, I ask that two articles which recently appeared in the Lexington Herald-Leader describing the life and accomplishments of Ralph Gabbard be inserted into the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

NATIONALLY KNOWN BROADCAST EXECUTIVE ROSE FROM KENTUCKY TEEN DISC JOCKEY

(By Jennifer Hewlett)

Ralph Gabbard, who rose from teen-age disc jockey to a TV station executive in Lexington to a nationally known figure in the broadcast industry, died while in Boston on a business trip. He was 50.

Security workers at the Four Seasons Hotel found Mr. Gabbard, president and board member of Gray Communications Systems Inc., dead about 7 a.m. yesterday, apparently of a heart attack, after he failed to answer a wake-up call, said Bill Fielder, chief financial officer of Gray, who had dinner with Mr. Gabbard Monday night.

Gray Communications, based in Georgia, owns several TV stations, including WKYT (Channel 27) in Lexington and WYMT (Channel 57) in Hazard.

Mr. Gabbard was perhaps best known for his affiliation with the two Kentucky CBS-affiliated stations, where he spent much of his career before moving up the industry ladder.

He was thought to have been the first person to do on-air television editorials in the Lexington market. He also was credited with bringing the people of the mountains of Eastern Kentucky closer together through WYMT.

"No one will disagree with this statement; no one can. Ralph Gabbard defined and dominated this television market for a quarter century. All you had to do with Ralph was convince him something was necessary to be the best, to be No. 1, and it was done," said Barry Peel, who covers state government for WKYT's Frankfort bureau.

Peel said that Mr. Gabbard was instrumental in WKYT's decision to outbid WLEX-TV (Channel 18) for the University of Kentucky coaches' shows and the right to broadcast replays of UK games. Some thought he was "nuts" because the high bid initially lost money for the station. In the end, Channel 27's identity with UK sports has been a key to its dominance, Peel said.

"To be identified with UK sports is a major component of image, and, let's face it, we're in the image business. He knew that and time has proven him right," Peel said.

Mr. Gabbard recently stepped down as chairman of the National Association of Broadcasters television board. He had served as chairman of the CBS Affiliates Advisory Board, which represents more than 200 CBS stations nationwide, and was a member of the Network Affiliated Stations Alliance Steering Committee, which represents more than 650 CBS, ABC and NBC affiliates in congressional issues affecting telecommunications.

He met with President Clinton in March to discuss children's television.

"Ralph was an exceptional person in so many ways. He was an honest man with a real commitment to the business of broadcasting and the audiences we serve," said Peter Lund, president and chief executive officer of CBS Inc.

Mr. Gabbard also led the drive several years ago to revitalize Renfro Valley in Rockcastle County, where many country music stars had performed.

"He had the vision of what Renfro Valley is today. It had a special place in his heart," said Connie Hunt, vice president of entertainment for the Renfro Valley Entertainment Center.

Mr. Gabbard had grown up listening to country music and even dabbled in writing songs, mostly lyrics. Two songs he wrote or cowrote—"Lone Star Cafe" and "Please Play More Kenny Rogers"—got on the country charts. The Rogers song edged into the Top 40. He also wrote a song called "I've Always Wanted to Sing in Renfro Valley."

J.P. Pennington of the musical group Exile, who had known Mr. Gabbard since they were children, said that he and Mr. Gabbard recently collaborated on two songs, "Lovin' Machine" and "Two-Heart Harmony." The first song they wrote together at Pennington's house. Mr. Gabbard supplied the title for the second song.

Mr. Gabbard was "too shy" to sing before an audience himself, but "he had definitely a keen musical sense about him," Pennington said.

BROADCAST EXECUTIVE

Mr. Gabbard had been president and general manager of Kentucky Central Television Inc., which sold its holdings, including the Kentucky stations, to Gray a couple of years ago. Mr. Gabbard had tried to put together a group of people to buy WKYT and WYMT, but they were outbid. He was named president and chief executive officer of Gray Communications Broadcast Group in September 1994, and president and board member of Gray Communications Systems Inc. last December.

He was in Boston to meet with potential investors in an effort to raise $150 million for Gray Communications to buy John H. Phipps Inc. of Tallahassee, Fla., whose holdings include TV stations in Tallahassee and Knoxville.

"We've lost a very special friend, and most of us will tell you that we lost a very special mentor," said Wayne Martin, WKYT president and general manager. "The loss is significant to others beyond WKYT—he was nationally recognized."

Jim Jordan, a longtime friend and business associate, said: "It's a very sad day . . . he was the best broadcaster I ever met, period."

Jordan said that Mr. Gabbard had a great eye for spotting on-air and management talent.

Cawood Ledford, former broadcast voice of the University of Kentucky Wildcats, said: "His word was as good as a contract to me. I'll miss him tremendously as a personal friend."

Ledford also said he always "borrowed generously" from Mr. Gabbard when he was invited to give speeches. Mr. Gabbard, he said, had a knack for remembering jokes, and when Ledford was scheduled to give a speech, he often called Mr. Gabbard to refresh his memory on jokes that Mr. Gabbard had told him, then used them in his speeches.

SPINNING DISCS

Mr. Gabbard, a Berea native, was just a teenager when he had his first disc jockey job. He was a disc jockey, announcer and advertising salesman for WEKY-1340 AM in Richmond and a disc jockey and sales manager at WRVK-AM in Renfro Valley in the early to mid-1960s. He went on to become an advertising salesman and announcer for Lexington's WVLK radio and station manager of WEKY.

"I loved being a disc jockey more than anything I ever did, I guess. I got a charge out of talking to people and having them respond," he said several years ago.

He said he got into broadcasting in 1963 by accident. A high school teacher assigned students topics for speeches, and Gabbard—who was a "very average student"—got the topic that was left over: radio.

He drove from Berea to a Richmond radio station to ask for Associated press copy so he could practice reading.

The station had a young disc jockey named Ralph Hacker, who told Mr. Gabbard the station was looking for an announcer. He asked Mr. Gabbard to apply for the job.

Mr. Gabbard made an audition tape, and the station's manager told him he was pretty bad, but the manager was desperate for announcers and hired him anyway, he said in a 1987 interview.

He found his niche selling advertising.

After high school, he enrolled at Eastern Kentucky University with the idea of becoming a pharmacist. But by the end of his freshman year, he was making so much money selling ads that he quit school.

After the series of radio jobs, Mr. Gabbard became general sales manager of WKYT about 1970.

WKYT was struggling, Mr. Gabbard had said. His reaction was to develop creative sales packages and market them aggressively.

Later in the mid-1970s, he was promoted to vice president and general manager of WKYT. The move made him the youngest vice president and general manager of a top 100-market, network-affiliated television station in the country.

The TV business was simple then, with just the three commercial networks and Kentucky Educational Television. Lexington didn't have an independent station.

As vice president and general manager, Mr. Gabbard hired executives from outside the television industry because he wanted people who would "come in unprejudiced." He also put more emphasis on news.

When Mr. Gabbard got WKYT on more solid ground, he turned his attention to the mountains.

He was largely responsible for the opening of WYMT in Hazard, a satellite station of WKYT. The purpose of the Hazard station was to capture Eastern Kentucky audiences previously reached by television stations in West Virginia and other states, he said.

"It stands for 'We're your mountain television,'" he said in 1991.

After the first five years, the station still hadn't shown a net profit but Mr. Gabbard maintained it was still a wise investment.

"It's good to be able to say, 'There's a little crown jewel sitting there that we're proud of,'" he said.

He liked to say that WYMT had united Kentucky's mountain communities.

"Without Ralph Gabbard, there would be no 'YMT,'" said Tony Turner, WYMT news director. "It was his dream, his idea. He mapped it out, and there were a lot of obstacles."

Mr. Gabbard also went to Washington to urge Kentucky congressmen and senators to promote legislation that would discourage Eastern Kentucky cable systems from dropping KET.

He was a past president of the Kentucky Broadcasters Association and received its most prestigious honor, the Al Temple Award, in 1993.

He also had served on many boards, including local and regional hospital boards, and the boards of the Chamber of Commerce, Big Brothers, United Way and Boy Scouts. He was a member of the Georgetown College board of trustees at his death. He also was a member of the board of Host Communications Inc. in Lexington.

Mr. Gabbard is survived by his wife, Jackie Upton Gabbard; four sons, Joseph Marlon Gabbard, Jason Ralph Gabbard, James Matthew Gabbard and Jesse Eden Gabbard; his mother, Maggie Eden Gabbard; and a sister, Charlotte Moore, all of Lexington.

Services will be at 11 a.m. Friday at Calvary Baptist Church in Lexington. Visitation will be from 1 to 4 p.m. and from 6 to 9 p.m. Thursday at W.R. Milward Mortuary—Broadway. Burial will be in Lexington Cemetery.

RALPH GABBARD SHAPED AND EXPANDED TV'S INFLUENCE

Lexington broadcasting executive Ralph Gabbard was a bona fide success story, rising from his Berea boyhood to a position of national leadership in the television industry.

His untimely death this week at 50 leaves his many friends and colleagues in shock, but the end of a life lived so fully and energetically leaves an example worth heeding.

As the driving force behind WKYT-TV (Channel 27) in the Lexington market, Mr. Gabbard realized early on that the advent of cable TV was a threat—or perhaps an opportunity. His response was typically savvy and creative.

Mr. Gabbard believed that his station would thrive the more it stressed its local identity. Thus he built a strong news team, became the TV flagship for University of Kentucky sports and made sure that WKYT played a role in every possible civic activity.

He extended this philosophy when WKYT bought and beefed up its sister station in the mountains, WYMT-TV. The stations enhanced each other naturally, giving each a toehold exactly where needed, and extending their company's influence throughout Kentucky.

By serving his community and region the best way he knew, Mr. Gabbard also bolstered a thriving business. He had been the station's president and general manager when it was part of the old Garvice Kincaid empire, and when WKYT was sold to Gray Communications Inc. in 1994, he was named president of the new parent company.

By then, Mr. Gabbard was a respected national figure in the TV industry, a true accomplishment for someone outside the big-city markets. He served as chairman of the CBS-TV affiliates and was a director of the National Association of Broadcasters.

Mr. Gabbard played a key role in the recent compromise between the TV industry and the Clinton administration to improve children's programming.

Throughout his career, Mr. Gabbard forged ahead with boldness, tenacity and innovation. He treated the Lexington TV market as if it were in the big leagues, and that's where he ultimately put himself.

That's a notable legacy and the reason that Ralph Gabbard will be sorely missed.

HONORING THE SCHEPKER'S ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Madam President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of till death us do part seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong. For these important reasons, I rise today to honor Jacob and Sophie Schepker of St. Louis, MO, who on August 10, 1996, celebrated their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. Jacob and Sophie's commitment to the principles and values of their marriage deserves to be saluted and recognized.

INTELLIGENCE REAUTHORIZATION BILL

Mr. HATCH. Mr. President, I rise in support of S. 1718, the intelligence reauthorization bill, with the understanding that one inequity contained in the bill will be corrected in conference.

The bill in its current form contains what I believe is an inappropriate encroachment on the authority of the Federal Bureau of Investigation to staff its position of Assistant Director, National Security Division.

The current bill requires that the FBI consult with the DCI prior to this appointment. The FBI, like any other agency, should be vested with the sound discretion to fill its ranks in a manner that is not burdened by outside Agency influence. I perceive this proposed requirement as an infringement by the foreign intelligence community upon domestic law enforcement.

I recognize that, with respect to the FBI's National Security Division, there is some overlap between intelligence and law enforcement, but that alone does not justify the necessity of this measure. Let's not place an unnecessary check upon the FBI by imposing this additional requirement.

Remember, it was the National Security Division which, notwithstanding bureaucratic hostility within the CIA, vigorously pursued the Aldrich Ames case. How zealous will future NSD higher ups be if they feel their career may turn on CIA approval?

I urge each of you to support language which we have negotiated with the Intelligence Committee and the administration, which deletes the requirement that the FBI Director consult with the DCI prior to the appointment of its Assistant Director, National Security Division.

Replacing this requirement is a provision whereby the FBI Director notifies the DCI of its selection to this vital position. The DCI may then, but is not required, to consult with the FBI Director concerning the selection.

It is my belief that this provision more clearly recognizes the separate and distinct missions, as well as the differing standards by which the intelligence and law enforcement communities must operate. I urge each of my colleagues to endorse this proposed change.

HAPPY BIRTHDAY TO MARY SINGLETARY TAYLOR

Mr. HEFLIN. Mr. President, I rise today to extend my birthday wishes to

Mrs. Mary Singletary Taylor, a native of Henry County, AL. She was born 98 years ago today—September 18, 1898. I understand that with the exception of some hearing loss, Mrs. Taylor is in good shape and still reads the Dothan Eagle newspaper each morning before working on her tatting. She calls her tatting, which is a handmade lace and somewhat of a lost art, her therapy.

Mary's parents were W.B. and LaNora Singletary and her husband was Jasper Taylor, a farmer. Her niece is our own LaRose Taylor Shirley, who most of us know as a 16-year member of the U.S. Capitol Police Force. LaRose also hails from Henry County, which is located in the southeastern corner of Alabama.

Mary S. Taylor was a lifelong resident of Newville, AL, in Henry County, and now resides in the Henry County Nursing Home in Abbeville. She attended a one-room school in Caps, AL, until she finished the fifth grade and then transferred to the Abbeville Normal School, where she completed her education. She was an active and dedicated member of the Tolbert Baptist Church for approximately 70 wonderful years.

Mary was a homemaker and was known far and wide as an excellent and talented seamstress. She was especially known for her handmade baby clothes and her tatting.

I am pleased to congratulate Mrs. Taylor for reaching this milestone in her life and wish her many, many more happy birthdays.

MESSAGES FROM THE HOUSE

At 11:57 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 533. An act to clarify the rules governing removal of cases to Federal court, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1507. An act to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes.

The message further announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1684. An act to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the death of Dolly Madison.

H.R. 1776. An act to require the Secretary of the Treasury to mint coins in commemoration of Black Revolutionary War patriots and the 275th anniversary of the 1st Black Revolutionary War patriot, Crispus Attucks.

H.R. 1886. An act for the relief of John Wesley Davis.

H.R. 2026. An act to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

H.R. 2941. An act to improve the quantity and quality of the quarters of land management agency field employees, and for other purposes.

H.R. 3676. An act to amend title 18, United States Code, to clarify the intent of Congress with respect to the Federal carjacking prohibition.

H.R. 3723. An act to amend title 18, United States Code, to protect proprietary economic information, and for other purposes.

H.R. 3802. An act to amend section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, to provide for public access to information in an electronic format, and for other purposes.

H.R. 3803. An act to authorize funds for the George Bush School of Government and Public Service.

H.R. 3936. An act to encourage the development of a commercial space industry in the United States, and for other purposes.

H.R. 3968. An act to make improvements in the operation and administration of the Federal courts, and for other purposes.

H.R. 4039. An act to make technical and clarifying amendments to recently enacted provisions relating to titles II and XVI of the Social Security Act and to provide for a temporary extension of demonstration project authority in the Social Security Administration.

H.J. Res. 191. An act to confer honorary citizenship of the United States on Agnes Gonxha Bojaxhiu, also known as Mother Teresa.

At 12:51 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4040. An act to amend title 49, United States Code, relating to intermodal safe container transportation.

The message also announced that the House insists upon its amendment to the bill (S. 640) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, disagreed to by the Senate, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. SHUSTER, Mr. YOUNG of Alaska, Mr. BOEHLERT, Mr. OBERSTAR, and Mr. BORSKI as the managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3259) to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. COMBEST, Mr. DORNAN, Mr. YOUNG of Florida, Mr. HANSEN, Mr. LEWIS of California, Mr. GOSS, Mr. SHUSTER, Mr. MCCOLLUM, Mr. CASTLE, Mr. DICKS, Mr. RICHARDSON, Mr. DIXON, Mr. TORRICELLI, Mr. COLEMAN, Mr. SKAGGS, and Ms. PELOSI.

From the Committee on National Security, for consideration of defense tactical intelligence and related agencies: Mr. STUMP, Mr. SPENCE, and Mr. DELLUMS.

At 2:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1636. An act to designate the United States Courthouse under construction at 1030 Southwest 3rd Avenue, Portland, Oregon, as the "Mark O. Hatfield United States Courthouse," and for other purposes.

S. 1995. An act to authorize construction of the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport, and for other purposes.

The message also announced that the House agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3675) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4102. A communication from the Director of the Office of Congressional Affairs, transmitting, pursuant to law, a rule entitled "Topical Guidelines for the Licensing Support System," received on September 17, 1996; to the Committee on Environment and Public Works.

EC-4103. A communication from the Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a rule entitled "Migratory Bird Hunting," (RIN1018-AD69) received on September 16, 1996; to the Committee on Environment and Public Works.

EC-4104. A communication from the Inspector General of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the annual report relative to the Superfund program for fiscal year 1995; to the Committee on Environment and Public Works.

EC-4105. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, a rule entitled "Approval and Promulgation of Implementation Plans State,' (FRL5606-3) received on September 16, 1996;

to the Committee on Environment and Public Works.

EC–4106. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, two rules including a rule entitled "Pesticide Tolerances for Emergency Exemptions," (FRL5395-8, 5612-2) received on September 17, 1996; to the Committee on Environment and Public Works.

EC–4107. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Poplar Island, Maryland environmental restoration project; to the Committee on Environment and Public Works.

EC–4108. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, a draft of proposed legislation to modify the project for deep-draft navigation at Wilmington Harbor, Northeast Cape Fear River, North Carolina; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–670. A resolution adopted by the Board of Commissioners of Broward County, Florida, relative to East Coast Buffer/Water Preserve Areas; to the Committee on Appropriations.

POM–671. A resolution adopted by the the Council of the Borough of Stone Harbor, New Jersey, relative to funding for Energy and Water Development; to the Committee on Appropriations.

POM–672. A resolution adopted by the the Council of the Borough of Stone Harbor, New Jersey, relative to funding for Energy and Water Development; to the Committee on Environment and Public Works.

POM–673. A joint resolution adopted by the the General Assembly of the State of Colorado; to the Committee on Foreign Relations.

"HOUSE JOINT RESOLUTION 96–1022

"Whereas, on April 26, 1986, an accident at the Soviet-designed nuclear reactor at Chernobyl caused the worst nuclear disaster in history; and

"Whereas, the response of the Soviet government to this disaster included a temporary one-hundred-fold increase in the levels of permissible iodine contamination; and

"Whereas, this disaster caused the death of untold numbers of people, the evacuation of many thousands from their homes, and the radioactive contamination of more than 38,000 square miles of Ukraine and Belarus; and

"Whereas, three nuclear reactors still operate at the site under precarious conditions; and

"Whereas, the long term environmental and public health effects of this disaster are still unknown; and

"Whereas, the concrete shell built to contain the radiation remaining at the site is deteriorating and estimates for the construction of a proper containment shell run into the billions of dollars; and

"Whereas, the people of Ukraine are still struggling to cope with the effects of the Chernobyl disaster, including the threat of the structural failure of the containment shell, which could release up to ten tons of highly radioactive material into the environment: Now, therefore, be it

"*Resolved by the House of Representatives of the Sixtieth General Assembly of the State of Colorado, the Senate concurring herein:* (1) That the General Assembly expresses sympathy with and extends condolences to the people of Ukraine on the tenth anniversary of the Chernobyl disaster;

"(2) That the General Assembly urges that if the United States government provides assistance to mitigate the effects of the Chernobyl disaster, this aid should be targeted to the affected areas of Ukraine, be it further

"*Resolved*, That a copy of this resolution be sent to the President of the United States, the Secretary of State of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and the Ukrainian Ambassador to the United States."

POM–674. A resolution adopted by the Association of Hawaiian Civic Clubs relative to funding for current Hawaiian programs; to the Committee on Indian Affairs.

POM–675. A joint resolution adopted by the General Assembly of the State of Colorado; to the Committee on Rules and Administration.

"HOUSE JOINT RESOLUTION 96–1006

"Whereas, John L. "Jack" Swigert, Jr., was born in Denver, Colorado, on August 30, 1931, to Virginia and John Leonard Swigert, both noted citizens of the community; and

"Whereas, Jack Swigert excelled in academics and athletics while attending Regis and East high schools in Denver and the University of Colorado in Boulder, where he earned a degree in mechanical engineering and also played guard on the varsity football team; and

"Whereas, Jack Swigert early in life manifested what was to become a lifelong passion for flying, earning a pilot's license at sixteen years of age, participating in the Air Force Officer Training Corps at the University of Colorado, and joining the United States Air Force after his graduation; and

"Whereas, Jack Swigert served and flew missions in Korea and Japan from 1953 to 1956 in support of the United States and Allied Forces; and

"Whereas, from 1957 to 1965, Jack Swigert was a test pilot for North American Aviation, Inc., and Pratt and Whitney Aircraft, making significant contributions to aviation science and receiving the AIAA Octave Chanute Award for demonstrating the feasibility of the Rogallo Wing as a landing system for returning space vehicles; and

"Whereas, Jack Swigert logged over 2,900 hours of flight time with the United States Air Force, the National Aeronautics and Space Administration, and the Air National Guard; and

"Whereas, in 1966, after earning a master's degree in aerospace science from Rensselaer Polytechnic Institute in Troy, New York, Jack Swigert was selected by NASA to be one of the few civilians to participate in the Apollo moon missions; and

"Whereas, in 1970, while Jack Swigert served as Command Module Pilot of the Apollo 13 Mission, an oxygen tank explosion damaged the service module and threatened to maroon the spacecraft in outer space. Along with fellow astronauts James Lovell, Jr., and Fred Haise, Jr., and with the assistance of the Houston ground controllers, Jack Swigert executed a daring "slingshot" maneuver around the moon that whirled the space craft onto a new flight path and safety piloted the damaged spacecraft back to earth; and

"Whereas, from 1973 to 1979, Jack Swigert served as executive director of the Committee on Science and Technology of the United States House of Representatives, where he advocated advanced scientific development and exploration; and

"Whereas, upon his return to Colorado, Jack Swigert entered politics and, in 1982, ran a successful campaign for the newly created Sixth Congressional District seat, campaigning vigorously despite increasingly serious diagnoses of cancer; and

"Whereas, Jack Swigert as he had throughout his life, maintained his courage, discipline, and sense of humor in his final battle; and

"Whereas, Jack Swigert was a pioneer in space industries, and his efforts assisted Colorado's rapidly growing involvement in space and space-related activities in the 1970s; and

"Whereas, Colorado has since acquired and developed the necessary attributes to become in internationally recognized center for excellence in space operations and planetary environmental technology; and

"Whereas, in the spirit of Jack Swigert, Colorado's universities and colleges have made significant contributions to the advancement of space research and development; Now, therefore, be it

Resolved by the House of Representatives of the Sixtieth General Assembly of the State of Colorado, the Senate concurring herein: That John L. "Jack" Swigert, Jr., pilot, scientist, administrator, pioneer, and explorer, who demonstrated heroism, political faith, and passionate devotion to his country and who represents an ideal to all citizens of this state and nation, is hereby designated by the General Assembly of the State of Colorado to be honored and memorialized by a statue in the United States Capitol in Washington, D.C., be it further

"*Resolved:* 1. That the Jack Swigert Memorial Commission is hereby established and shall consist of seven citizens of Colorado, with members appointed as follows:

"(a) One member to be appointed by the Speaker of the Colorado House of Representatives;

"(b) One member to be appointed by the Majority Leader of the Colorado House of Representatives;

"(c) One member to be appointed by the Minority Leader of the Colorado House of Representatives;

"(d) One member to be appointed by the President of the Colorado State Senate;

"(e) One member to be appointed by the Majority Leader of the Colorado State Senate;

"(f) One member to be appointed by the Minority Leader of the Colorado State Senate; and

"(g) One member to be appointed by the Governor of the State of Colorado.

"2. That the Jack Swigert Memorial Commission is hereby authorized and is hereby required to raise sufficient donations through public subscription from private sources to cover all costs of the entire project, including sculpture, transportation, and erection in the United States Capitol.

"3. That the Jack Swigert Memorial Commission shall direct such donations to the state treasurer to be accepted pursuant to section 24–22–105, Colorado Revised Statutes.

"4. That the Jack Swigert Memorial Commission shall give account of income and expenditures to the Joint Budget Committee of the Colorado General Assembly.

"5. That no public moneys shall be expended by the Jack Swigert Memorial Commission and the members thereof shall not be paid any salary or per diem for serving on the commission. The Jack Swigert Memorial Commission may use public facilities to hold public meetings.

"6. That ownership of the completed sculpture shall vest in the State of Colorado; be it further

"*Resolved*, That copies of this Memorial be transmitted to the President of the Senate and the Speaker of the House of Representatives of the United States Congress and to each member of the Congressional delegation from Colorado."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 2504. A bill to designate the Federal Building located at the corner of Patton Avenue and Otis Street, and the United States Courthouse located on Otis Street, in Asheville, North Carolina, as the "Veach-Baley Federal Complex."

H.R. 3186. A bill to designate the Federal building located at 1655 Woodson Road in Overland, Missouri, as the "Sammy L. Davis Federal Building."

H.R. 3400. A bill to designate the United States courthouse to be constructed at a site on 18th Street between Dodge and Douglas Streets in Omaha, Nebraska, as the "Roman L. Hruska United States Courthouse."

H.R. 3572. A bill to designate the bridge on United States Route 231 which crosses the Ohio River between Maceo, Kentucky, and Rockport, Indiana, as the "William H. Natcher Bridge."

S. 1875. A bill to designate the United States Courthouse in Medford, Oregon, as the "James A. Redden Federal Courthouse."

S. 1977. A bill to designate a United States courthouse located in Tampa, Florida, as the "Sam M. Gibbons United States Courthouse," and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KOHL:

S. 2088. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

By Mr. THOMAS:

S. 2089. A bill to transfer land administered by the Bureau of Land Management to the States in which the land is located; to the Committee on Energy and Natural Resources.

By Mrs. BOXER:

S. 2090. A bill to provide for the conveyance of certain land in the State of California to the Hoopa Valley Tribe; to the Committee on Energy and Natural Resources.

By Mr. PRESSLER (for himself and Mr. HARKIN):

S. 2091. A bill to provide for small business and agriculture regulatory relief; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENS (for Mr. THURMOND (for himself and Mr. HEFLIN)):

S.J. Res. 61. A joint resolution granting the consent of Congress to the Emergency Management Assistance Compact; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Mr. ABRAHAM, Mr. AKAKA, Mr. BAUCUS, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. BRYAN, Mr. BURNS, Mr. CHAFEE, Mr. COHEN, Mr. COVERDELL, Mr. D'AMATO, Mr. DOMENICI, Mr. DORGAN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. FRIST, Mr. GLENN, Mr. GRASSLEY, Mr. GREGG, Mr. HATCH, Mrs. HUTCHISON, Mr. INOUYE, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. PELL, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SARBANES, Mr. SIMON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THURMOND, and Mr. WELLSTONE):

S. Res. 295. A resolution to designate October 18, 1996, as "National Mammography Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 2088. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide childcare assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

THE CHILD CARE INFRASTRUCTURE ACT

• Mr. KOHL. Mr. President, as we reach the end of the 104th Congress, we can be proud of the business we have finished, and we should look forward to finishing the business we have just begun. In that spirit, I introduce the Child Care Infrastructure Act of 1996—a tax credit designed to encourage employers to increase the supply of quality child care by providing it to their employees.

My bill responds to the challenges presented by the landmark welfare legislation recently enacted. And it responds to the fundamental changes in the American economy that have led to parents entering the workforce in record numbers.

Already in my State of Wisconsin, 67 percent of the women with children under 6 are in the workforce, yet there is only 1 accredited child care center for every 2,800 of these kids. Wisconsin has 6,500 children from 4,000 families on waiting lists for child care. What is most amazing is that Wisconsin, even with this sort of supply bottleneck, is considered by many to be one of the best States in which to find quality child care.

With the advent of welfare reform, and the movement of more mothers of young children into the workforce, the shortage of good child care will only get worse. Conservative estimates show that at least 8,000 new, full-time child care slots will be needed in Milwaukee County alone to provide for the children of welfare mothers moving into work.

Quality child care is the answer on many levels to the challenges of an economy fueled more and more by working parents. Safe child care is the link that makes it possible for welfare mothers to move from dependency to a decent job. Stimulating child care gives our youngest children a leg up on a lifetime of learning. Employer-provided child care gives working parents the peace of mind to perform their jobs well.

The Child Care Infrastructure Act of 1996 creates a tax credit for employers who get involved in increasing the supply of quality child care. The credit goes to employers who engage in activities like: building and subsidizing an entire child care center, reserving slots in a child care center for employees, or contracting with a resource and referral agency to provide services such as placement or the design of a family day care network to employees. The credit is designed so that any company—small or large—has an incentive to get involved in the provision of quality child care to its employees.

The credit is limited to 50 percent of $150,000 per year. The credit will sunset after 3 years. With this legislation, I want to encourage companies to consider providing child care as an employee benefit. However, I believe, and study after study has shown, that once a company offers this benefit, they will want to continue it even without a tax write-off. That is because companies that provide child care find their workers stay in their jobs longer (cutting training costs), have higher morale, work harder, and take less sick leave.

I had the opportunity during the August recess to visit Quad Graphics, a large printing firm in Wisconsin that is known for its provision of quality child care to its employees through on-site child care centers. Quad Graphics is one of Working Mothers magazine's "100 Best Companies"—primarily because of the quality of its on-site child care centers. Talking to the parents of children at one of those centers—seeing the happy and healthy children greeting their parents on their breaks and at lunch—was all the evidence I needed to convince me that we ought to be encouraging this sort of corporate involvement nationwide. Their 24 hour facility improves the company's bottom line—Quad Graphics is able to attract and retain dedicated employees who want a job that allows them to be near their children. And that day care center improves the participating families' bottom line as well—many parents I spoke with told me they would not be able to work, or to work well, if they had to worry each day about whether their children were cared for, safe, and happy.

The 21st century economy will be one in which more of us are working, and more of us are trying to balance work and family. How well we adjust to that balance will determine how strong we are as an economy and as a nation of families. My legislation is an attempt to encourage businesses to play an active role in this deeply important transition.

In the 1950's, Federal, State, local governments, communities and businesses banded together to build a highway system that is the most impressive in the world. Those roads allowed our economy to flourish and our people to move safely and quickly to work. In the 1990's, we need the same sort of national, comprehensive effort to build safe and affordable child care for our children. As more and more parents—of all income levels—move into the work force, they need access to quality child care just as much as their parents needed quality highways to drive to work. And if we are successful—and I plan to be successful—in the 21st century excellent child care—like the care these kids are getting—will be as common as interstate highways.

Child care is an investment that is good for children, good for business, good for our States, and good for the Nation. We need to involve every level of government—and private communities and private businesses—in building a child care infrastructure that is the best in the world. My legislation is a first, essential step toward this end.

Mr. President, I ask unanimous consent that the text of my legislation and a section-by-section summary be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Care Infrastructure Act of 1996".

SEC. 2. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified child care expenditures of the taxpayer for such taxable year.

"(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

"(A) to acquire, construct, rehabilitate, or expand property—

"(i) which is to be used as part of a qualified child care facility of the taxpayer,

"(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

"(iii) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

"(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

"(C) under a contract with a qualified child care facility to provide dependent care services to employees of the taxpayer, or

"(D) under a contract to provide dependent care resource and referral services to employees of the taxpayer.

"(2) QUALIFIED CHILD CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

"(i) the principal use of which is to provide dependent care assistance, and

"(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

"(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

"(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

"(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

"(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

"(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1999."

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking out "plus" at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and "plus", and

(C) by adding at the end the following new paragraph:

"(13) the employer-provided child care credit determined under section 45D."

SECTION-BY-SECTION

SECTION 1. SHORT TITLE

The bill's short title is the "Child Care Infrastructure Act of 1996".

SECTION 2. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE

This section adds a new business related credit called the "employer-provided child care credit." The credit is set at 50 percent of eligible expenditures up to a limit of $150,000 per taxpayer per tax year. Qualified expenditures mean amounts spent to: build, rehabilitate or expand a qualified child care facility for the taxpayer's employees; to subsidize the operating costs of such a facility; to contract with a child care facility to provide services for the taxpayer's employees; and to contract with a resource and referral service for the taxpayers' employees. The tax credit will not be available to build, rehabilitate, or expand a child care facility if that facility is also the home of the taxpayer or one of the taxpayer's employees.

A child care facility is considered "qualified" if its principle use is to provide dependent care assistance, and if the facility meets all applicable state licensing requirements and other regulations. If the facility is a family day care center located in a home, i.e., if the facility is the primary residence of the operator of the facility, then the requirement that the facility's principle use be as a dependent care center is waived.

A facility also will not be treated as "qualified" unless enrollment is open to employees of the taxpayer, and unless the facility does not discriminate in favor of highly compensated employees. A taxpayer whose primary business is the provision of dependent care assistance will not be eligible for the credit unless the taxpayer's investment is in a facility in which 30 percent of the enrollees are dependents of employees of the taxpayer. The provision was added to ensure that for-profit day care centers would not be eligible for a tax credit simply for engaging in their primary business by building a center. They will, however, be eligible if they build a center chiefly for the children of their employees.

Under a set of recapture rules, a taxpayer who invests in a facility that ceases activity or changes ownership in less than ten years will have some of his or her credit clawed back. The applicable recapture percentage ranges from 100 percent in years 1 through 3 of the center's operation to 10 percent in years 9 and 10.

The credit will be in effect beginning after December 21, 1996 and sunset on December 31, 1999.•

By Mr. THOMAS:

S. 2089. A bill to transfer land administered by the Bureau of Land Management to the States in which the land is located; to the Committee on Energy and Natural Resources.

BUREAU OF LAND MANAGEMENT LEGISLATION

• Mr. THOMAS. Mr. President, today, I introduce legislation that would transfer the lands controlled by the Bureau of Land Management [BLM] to the States. This bill is similar to legislation I introduced in the Senate last year, but has a number of very important changes designed to improve the measure and ensure these public lands remain in public hands. In addition, the measure also protects access to these lands after they are transferred to ensure that multiple use activities will continue on them when they become State property.

After I introduced S. 1031 last year, some folks misleadingly claimed my legislation would allow the States to selloff the lands that were transferred to them and give them to the highest bidder. False claims were also made that access to these lands for hunting, fishing, and recreation would be limited. These attacks may have played well with the environmental community, unfortunately they have nothing to do with the truth about this effort.

Currently, the BLM controls nearly 270 million acres of land in the United States. The agency administers over 18 million acres of land in Wyoming and much more in other Western States. This landownership pattern puts a heavy burden on the people of Wyoming and throughout the West and affects our economy and communities across the West. The bill I am introducing today would ensure that these lands remain public—only administered by the States rather than the Federal Government. It is also important to note that this bill only deals with lands administered by the BLM. This legislation would do nothing to alter the management of our national parks, national forests, or wilderness areas.

Let me be clear, I believe strongly that the State governments can do a much better job of managing the BLM lands in their States. Transferring these lands to the States is a commonsense approach to bring public management of these areas closer to local people. However, I also feel strongly that these lands should remain public and available to folks for a variety of uses. The key is to allow local people to make decisions regarding management of these public resources rather than bureaucrats in Washington, DC.

The principle behind my efforts to transfer the BLM lands is to give local people the opportunity to have real input into how these areas are managed. It has never been the intent of any supporters of this legislation to privatize or restrict access to these public lands. Although the opponents of this bill use every scare tactic imaginable, the real issue regarding my legislation is whether you believe land management decisions can be made better by folks in Washington or Cheyenne? This is not a question about making public lands private, this is a question about fairness and who can do a better job of listening to the concerns of local people.

I trust the people of Wyoming and the other States to make the proper decisions for themselves. Hopefully, the legislation I introduce today will allow us to begin focusing on the real questions in this matter, rather than the attacks and half-truths used by the opponents of my bill.•

By Mrs. BOXER:

S. 2090. A bill to provide for the conveyance of certain land in the State of California to the Hoopa Valley Tribe; to the Committee on Energy and Natural Resources.

THE HOOPA VALLEY RESERVATION SOUTH BOUNDARY ADJUSTMENT ACT

• Mrs. BOXER. Mr. President, I am pleased to introduce legislation that would allow the Hoopa Valley Tribe to obtain lands of deep cultural and historical significance.

The Hoopa Valley Tribe has resided in Hoopa Valley, beginning at the mouth of the Trinity River Canyon in Humbolt County for 10,000 years. In the 1950s, a settlement agreement between the Hoopa Valley Tribe and the United States Government designated a 12-by-12 mile area for the Hoopa Valley Reservation. When this land was surveyed and demarcated, a "dog-leg" was created along the southern boundary which omitted certain lands the Tribe has deemed culturally and religiously significant.

My legislation will remedy this situation by transferring 2,641 acres of the Six Rivers National Forest to the Hoopa Valley Tribe. I join the United States Forest Service in commending the Hoopa Valley Tribe for its history of natural resource management and expertise. This legislation enjoys broad bipartisan support in California and in the House, where it was sponsored by Congressman FRANK RIGGS.

I urge my colleagues to support this bill, so that we can quickly provide the

Hoopa Valley Tribe with lands necessary to maintain their cultural and religious heritage.●

By Mr. PRESSLER (for himself and Mr. HARKIN):

S. 2091. A bill to provide for small business and agriculture regulatory relief; to the Committee on Commerce, Science, and Transportation.

THE SMALL BUSINESS AND FARM TRANSPORTATION REGULATORY RELIEF ACT OF 1996

Mr. PRESSLER. Mr. President, today I am introducing the Small Business and Farm Transportation Regulatory Relief Act of 1996. I am pleased to be joined in this effort by Senator HARKIN. This legislation is designed to address transportation and economic concerns raised recently by the agriculture community and small business owners and operators. These concerns stem from a U.S. Department of Transportation [DOT] proposal to apply Federal hazardous materials regulations to intrastate commerce. Let me explain.

Since 1987, a rulemaking has been underway at DOT to fully impose Federal hazardous materials regulations on intrastate commerce. The intent is to achieve compatibility between Federal and State hazardous materials transportation regulations. If implemented as currently planned, however, farmers and agriculture retailers could face new costs and regulatory burdens.

Mr. President, I understand the rationale behind DOT's push for uniformity in hazardous materials regulations. Indeed, the Congress has a lengthy record promoting Federal and State compatibility of motor carrier and hazardous materials transportation regulations. However, the legitimate need for exceptions to these regulations should not be ignored.

States have already achieved general compatibility with Federal hazardous materials regulations. In doing so, some agricultural States have also provided limited regulatory exemptions in this area to farmers and retailers. These exceptions are due to the seasonal nature of the planting and harvesting seasons associated with a farmer's work and the minimal risk associated with the transport of agricultural production materials.

For example, the very nature of a farmer's work requires the use of fuel, fertilizers, and pesticides. These products are transported from retail sites to farm and from farm to field, primarily on sparsely traveled roads. Have these exceptions from stringent hazardous materials regulations jeopardized safety? No. The record is clear. Public safety has not been adversely affected by farmers doing their jobs free of regulatory burdens.

Mr. President, the agriculture industry has worked to explain its position to DOT throughout the public comment periods. Unfortunately, we cannot be sure to what extent DOT will address these concerns until the rule is final. Waiting until then could be too late. Congressional action is necessary to prevent unnecessary regulations and economic burdens on our farmers.

The legislation we are introducing today would ensure States are allowed to maintain existing exceptions for farmers and agribusinesses. It also ensures States can continue to grant targeted exceptions for farmers in the future, as long as such exceptions will not adversely impact public safety.

In addition to addressing farm-related transportation concerns, this legislation would also streamline regulatory requirements for small business operators. It is based on a DOT supplemental notice of proposed rulemaking, Docket No. HM 200, issued March 20, 1996.

The DOT proposal would, in part, exempt certain quantities and types of hazardous materials from regulations concerning their transport. These so-called materials of trade are often the types of products used by small businesses across our country. Because transporting these small quantities of materials pose minimal risks to public safety and property, DOT is correctly proposing to lift the stringent hazardous materials transportation regulations currently imposed on operators. In my view, and the view of many others, DOT is on the right track. However, Congress should ensure DOT stays on that track.

According to DOT officials, the rulemaking is expected to be completed by the end of this year. But there is no firm deadline. Given this issue has been part of the rulemaking under consideration for the past 10 years, many small business owners are skeptical about DOT meeting its target date. Indeed, there is no legal assurance that DOT will finish what it has started. After all, Federal agencies are known to miss target dates for completing rulemakings or implementing regulations. DOT is no exception.

Small business owners have no way of knowing when or if the proposed materials of trade regulatory exceptions will be a reality. Therefore, we are introducing legislation today to address this uncertainty and impose a needed congressional directive. This bill would establish a deadline for DOT and help ensure unnecessary regulatory burdens on small business owners are lifted in a timely manner. The deadline for DOT to complete the small business exception final rule would be December 31, 1996. That is the same date DOT announced as its target.

Mr. President, I want to acknowledge the efforts going on in the other body to address the concerns I have just outlined. Representatives DELAY, EWING, BUYER, and POSHARD have been working on legislative measures very similar to the proposal Senator HARKIN and I are introducing. We share a common goal. Sound transportation and policy cannot be achieved by a one-size-fits-all approach.

I urge my colleagues to join in sponsoring this very important and necessary legislation and urge its swift passage.

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. STEVENS, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 39, a bill to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

S. 55

At the request of Mr. INOUYE, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 55, a bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs.

S. 607

At the request of Mr. WARNER, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 880

At the request of Mrs. HUTCHISON, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 880, a bill to enhance fairness in compensating owners of patents used by the United States.

S. 912

At the request of Mr. KOHL, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 912, a bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes.

S. 1379

At the request of Mr. SIMPSON, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1379, a bill to make technical amendments to the Fair Debt Collection Practices Act, and for other purposes.

S. 1967

At the request of Mr. BROWN, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1967, a bill to provide that members of the Armed Forces who performed services for the peacekeeping efforts in Somalia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes.

S. 1987

At the request of Mr. FAIRCLOTH, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1987, a bill to amend titles II and XVIII of the Social Security Act to prohibit the use of social security and medicare trust funds for certain expenditures relating to union representatives at the Social Security Administration and the Department of Health and Human Services.

S. 2054

At the request of Mr. COCHRAN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2054, a bill to amend the Higher Education Act of 1965 to exempt certain small lenders from the audit requirements of the guaranteed student loan program.

SENATE RESOLUTION 295—TO DESIGNATE OCTOBER 18, 1996, AS NATIONAL MAMMOGRAPHY DAY

Mr. BIDEN (for himself, Mr. ABRAHAM, Mr. AKAKA, Mr. BAUCUS, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. BRYAN, Mr. BURNS, Mr. CHAFEE, Mr. COHEN, Mr. COVERDELL, Mr. D'AMATO, Mr. DOMENICI, Mr. DORGAN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. FRIST, Mr. GLENN, Mr. GRASSLEY, Mr. GREGG, Mr. HATCH, Mrs. HUTCHISON, Mr. INOUYE, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. PELL, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SARBANES, Mr. SIMON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THURMOND, and Mr. WELLSTONE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S.RES. 295

Whereas according to the American Cancer Society, 184,300 women will be diagnosed with breast cancer in 1996, and 44,300 women will die from this disease;

Whereas in the decade of the 1990's, it is estimated that about 2,000,000 women will be diagnosed with breast cancer, resulting in nearly 500,000 deaths;

Whereas the risk of breast cancer increases with age, with a woman at age 70 having twice as much of a chance of developing the disease than a woman at age 50;

Whereas at least 80 percent of the women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at a certified facility, can provide a safe and quick diagnosis;

Whereas experts agree that mammography is the best method of early detection of breast cancer, and early detection is the key to saving lives; and

Whereas mammograms can reveal the presence of small cancers of up to 2 years or more before regular clinical breast examination or breast self-examination (BSE), savings as many as 30 percent more lives: Now, therefore, be it.

Resolved, That the Senate designates October 18, 1996, as "National Mammography Day". The Senate requests that the President issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

Mr. BIDEN. Mr. President, I submit a resolution designating October 18, 1996 as National Mammography Day.

Over the course of the past 3 years, I have submitted resolutions that designate a special day to encourage women to get mammograms as part of the early detection process in the fight against breast cancer. Historically this day has been designated as October 19, but because it falls on a Saturday this year, October 18 will be National Mammography Day.

In 1992 and 1993 a joint resolution was adopted by the Congress and signed into law by the President. And, last year, even though the House refused to take up commemoratives, this resolution was approved by the Senate. I feel that the Senate should again go on record to continue to educate and raise the consciousness about the importance of early detection and the value of mammography.

Mr. President, according to the American Cancer Society, national figures on breast cancer indicate that, in 1996 alone, 184,300 women will be diagnosed with breast cancer. Forty-four thousand three hundred women will succumb to this disease.

My home State of Delaware still ranks among the worst in breast cancer mortality among the 50 states, with an estimated 660 new breast cancer cases and over 160 breast cancer deaths for 1996.

Although a cure for breast cancer may be some time away, early detection and treatment are crucial to ensure survival. Studies have shown and experts agree, that mammography is one of the best methods to detect breast cancer in its early stages. Mammograms can reveal the presence of small cancers up to 2 years before regular clinical breast examinations or breast self-examinations [BSE], saving as many as a third more lives of those diagnosed with the disease.

With 50 percent of the breast cancer cases occurring in women over age 65, no women can be considered immune from the disease; in fact, at least 80 percent of the women who get breast cancer have no family history of the disease.

Mr. President, the resolution I am submitting today sets aside 1 day in the midst of National Breast Cancer Awareness Month to encourage women to receive or sign up for a mammogram, as well as to bring about greater awareness and understanding of one of the key components in fighting this disease.

AMENDMENTS SUBMITTED

THE FEDERAL AVIATION REAUTHORIZATION ACT OF 1996

DOMENICI AMENDMENT NO. 5368

Mr. DOMENICI proposed an amendment to the bill (S. 1994) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes; as follows:

On page 119, line 1, strike all after "activities", through "collections" on line 2.

BRYAN AMENDMENT NO. 5369

Mr. BRYAN proposed an amendment to the bill, S. 1994, supra; as follows:

At the appropriate place, insert the following:

SEC. . SPECIAL FLIGHT RULES IN THE VICINITY OF GRAND CANYON NATIONAL PARK.

The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall take such action as may be necessary to provide 30 additional days for comment by interested persons on the special flight rules in the vicinity of Grand Canyon National Park described in the notice of proposed rulemaking issued on July 31, 1996, at 61 Fed. Reg. 40120 et seq.

ROTH (AND MOYNIHAN) AMENDMENT NO. 5370

Mr. ROTH (for himself and Mr. MOYNIHAN) proposed an amendment to the bill, S. 1994, supra; as follows:

At the appropriate place, insert the following:

TITLE —EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. . EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.

Section 9502(d)(1) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended by—

(1) striking "1996" and inserting "1997"; and

(2) inserting "or the Federal Aviation Reauthorization Act of 1996" after "Administration Authorization Act of 1994".

EXON (AND OTHERS) AMENDMENT NO. 5371

Mr. EXON (for himself, Mr. DASCHLE, Mr. DORGAN, and Mr. PRESSLER) proposed an amendment to the bill, S. 1994, supra; as follows:

On page 95 at the end of line 11 insert the following new sentence: "Services for which costs may be recovered included the costs of air traffic control, navigation, weather services, training and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States."

DORGAN (AND PRESSLER) AMENDMENT NO. 5372

Mr. DORGAN (for himself and Mr. PRESSLER) proposed an amendment to the bill, S. 1994, supra; as follows:

At the appropriate place, insert the following: "Notwithstanding any other provision of law, the Surface Transportation Board shall not increase fees for services in connection with rail maximum rate complaints pursuant to 49 CFR Part 1002, STB Ex Parte No. 542,".

GRAHAM AMENDMENT NO. 5373

Mr. FORD (for Mr. GRAHAM) proposed an amendment to the bill, S. 1994, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. ADVANCE ELECTRONIC TRANSMISSION OF CARGO AND PASSENGER INFORMATION.

(a) CARGO INFORMATION.—

(1) IN GENERAL.—Section 431(b) of the Tariff Act of 1930 (19 U.S.C. 1431(b)) is amended—

(A) by striking "Any manifest" and inserting "(1) Any manifest", and

(B) by adding at the end the following new paragraph:

"(2)(A) Every passenger air carrier required to make entry or to obtain clearance under the customs laws of the United States (or the authorized agent of such carrier) shall provide by electronic transmission cargo manifest information described in subparagraph (B) in advance of such entry or clearance in such manner as the Secretary shall prescribe.

"(B) The information described in this subparagraph is as follows:

"(i) The airport of arrival or departure, whichever is appropriate.

"(ii) The airline prefix code.

"(iii) The carrier code.

"(iv) The flight number.

"(v) The date of scheduled arrival or date of departure, whichever is appropriate.

"(vi) The permit to proceed to the destination, if applicable.

"(vii) The master and house air waybill numbers and quantities.

"(viii) The first airport of lading of the cargo.

"(ix) A description and weight of the cargo.

"(x) The shipper's name and address from all air waybills.

"(xi) The consignee name and address from all air waybills.

"(xii) Notice that actual boarded quantities are not equal to air waybill quantities.

"(xiii) Transfer or transit information.

"(xiv) Warehouse or other location of the cargo.

"(xv) Any other data that the Secretary may by regulation prescribe.".

(2) CONFORMING AMENDMENT.—Subsection (d)(1)(A) of section 431 of such Act is amended by inserting before the semicolon "or subsection (b)(2)".

(b) PASSENGER INFORMATION.—The Part II of title IV of the Tariff Act of 1930 is amended by inserting after section 431 the following new section:

"SEC. 432. PASSENGER MANIFEST INFORMATION REQUIRED FOR AIR CARRIERS.

"(a) IN GENERAL.—Every passenger air carrier required to make entry or obtain clearance under the customs laws of the United States (or the authorized agent of such carrier) shall provide by electronic transmission passenger manifest information described in subsection (b) in advance of such entry or clearance in such manner and form as the Secretary shall prescribe.

"(b) INFORMATION DESCRIBED.—The information described in this subsection is as follows:

"(1) Full name of each passenger.

"(2) Date of birth and citizenship of each passenger.

"(3) Passport number and country of issuance of each passenger.

"(4) Passenger name record.

"(5) Any additional data that the Secretary, by regulation, determines is reasonably necessary to ensure aviation safety pursuant to the Customs laws of the United States.".

(c) DEFINITION.—Section 401 of the Tariff Act of 1930 is amended by adding at the end the following new subsection:

"(t) PASSENGER AIR CARRIER.—The term 'passenger air carrier' means an air carrier (as defined in section 40102(a)(2) of title 49, United States Code) or foreign air carrier (as defined in section 40102(a)(21) of such title 49) that provides transportation of passengers to or from any place in the United States.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 45 days after the date of the enactment of this Act.

McCAIN AMENDMENT NO. 5374

Mr. McCAIN proposed an amendment to the bill, S. 1994, supra; as follows:

On page 111, beginning with line 16, strike through line 10 on page 115 and insert the following:

(c) CONSIDERATION IN SENATE.—An implementing bill introduced in the Senate shall be referred to the Committee on Commerce, Science, and Transportation. The Committee on Commerce, Science, and Transportation shall report the bill with its recommendations within 60 days following the date of introduction of that bill. Upon the reporting of the bill by the Committee on Commerce, Science, and Transportation, the reported bill shall be referred sequentially to the Committee on Finance for a period of 60 legislative days.

On page 116, strike lines 3 through 9.

BROWN AMENDMENT NO. 5375

(Ordered to lie on the table.)

Mr. BROWN submitted an amendment intended to be proposed by him to the bill, S. 1994, supra; as follows:

At the appropriate place in title VI, insert the following new section:

SEC. 6 . REQUIREMENTS FOR PROCUREMENT CONTRACTS.

(a) GRANTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, neither the Secretary nor the Administrator may award a grant for an airport-related project unless the grant agreement specifies that, subject to paragraph (2)—

(A) competitive procedures shall be used for awarding any contract in an amount greater than or equal to $5,000,000 that is funded in whole or in part with funds made available by the grant; and

(B) the reporting requirements under subsection (b) shall apply to any contract funded in whole or in part with such funds that is awarded without using competitive procedures.

(2) EXCEPTIONS.—The exclusion of a particular source by a contractor for reasons described in subsection (b) of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) and a failure to use competitive procedures for reasons that, under subsection (c) of such section, would justify a failure of the head of an executive agency to use competitive procedures shall not be considered a violation of a clause included in a grant agreement under paragraph (1) and shall not necessitate a report under that paragraph.

(3) APPLICABILITY.—Paragraph (1) shall apply to grants referred to in this paragraph that are awarded on or after the date of enactment of this Act.

(b) CONTENT OF REPORT.—A report submitted under this section shall state—

(1) the number of bids from qualified bidders that were in amounts lower than the amount specified in the bid submitted by the bidder awarded the contract;

(2) for each bid referred to in paragraph (1) (other than the bid submitted by the bidder awarded the contract)—

(A) the amount by which the bid submitted by the bidder awarded the contract exceeded the lower bid;

(B) a description of any qualitative differences between the property or services that were the subject of the lower bid and the property or services that are the subject of the bid submitted by the bidder awarded the contract; and

(C) a justification for rejecting the lower bid, including any exception under applicable law.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) COMPETITIVE PROCEDURES.—The term "competitive procedures"—

(A) with respect to the awarding of a contract by the Secretary or the Administrator, has the meaning provided that term in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5)); and

(B) with respect to the awarding of a contract or subcontract by a contractor, contracting procedures that the Secretary or the Administrator (as the case may be) determines are substantially similar to the competitive procedures used by the Secretary for the acquisition of the same or similar property or services.

(3) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SIMPSON AMENDMENT NO. 5376

(Ordered to lie on the table.)

Mr. SIMPSON submitted an amendment intended to be proposed by him to the bill, S. 1994, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . PILOT AGE RESTRICTION.

The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall—

(1) determine criteria for granting exemptions to the regulations of the Federal Aviation Administration that restrict commercial pilots who have attained the age of 60; and

(2) revise to the regulations of the Federal Aviation Administration to provide for exemptions referred to in paragraph (1).

HELMS AMENDMENT NO. 5377

Mr. McCAIN (for Mr. HELMS) proposed an amendment to the bill, S. 1994, supra; as follows:

On page 39, line 20, insert the following:

SEC. 41 . TRANSFER OF AIR TRAFFIC CONTROL TOWER; CLOSING OF FLIGHT SERVICE STATIONS.

(a) HICKORY, NORTH CAROLINA TOWER.—

(1) TRANSFER.—The Administrator of the Federal Aviation Administration may transfer any title, right, or interest the United Stats has in the air traffic control tower located at the Hickory Regional Airport to the City of Hickory, North Carolina, for the purpose of enabling the city to provide air traffic control services to operators of aircraft.

BROWN AMENDMENT NO. 5378

Mr. MCCAIN (for Mr. BROWN) proposed an amendment to the bill, S. 1994, supra; as follows:

At the appropriate place insert the following:

SEC. . REPORTING FOR PROCUREMENT CONTRACTS.

Section 47112 is amended by adding at the end the following new subsection:

"(d) REPORTING FOR PROCUREMENT CONTRACTS.—(1) The Secretary of Transportation shall promulgate regulations to require that each grant agreement that includes the awarding of any contract that includes Federal funds in an amount greater than or equal to $5,000,000 under this subchapter provides for a report to the Secretary that states—

"(A) the number of bids from qualified, responsive and reasonable bidders that were in amounts lower than the amount specified in the bid submitted by the bidder awarded the contract;

"(B) for each bid referred to in subparagraph A (other than the bid submitted by the bidder awarded the contract) the amount by which the bid submitted by the bidder awarded the contract exceeded the lower bid.

"(2) APPLICABILITY.—This subsection shall apply to grants referred to in this paragraph that are awarded on or after the date of enactment of this Act.".

MCCAIN AMENDMENT NO. 5379

Mr. MCCAIN proposed an amendment to the bill, S. 1994, supra; as follows:

On page 2, in the item relating to title III, strike "AIRPORT" and insert "AVIATION".

On page 14, line 11, strike "AIRPORT" and insert "AVIATION".

THE DEPARTMENT OF JUSTICE APPROPRIATIONS ACT, 1997

FAIRCLOTH (AND OTHERS) AMENDMENT NO. 5380

(Ordered to lie on the table.)

Mr. FAIRCLOTH (for himself, Mr. SIMON, Ms. MOSELEY-BRAUN, and Mr. ABRAHAM) submitted an amendment intended to be proposed by them to the bill (H.R. 3814) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997, and for other purposes; as follows:

At the appropriate place, insert the following new section:

EXTENSION OF AUTHORIZED PERIOD OF STAY FOR CERTAIN NURSES

SEC. . (a) ALIENS WHO PREVIOUSLY ENTERED THE UNITED STATES PURSUANT TO AN H-1A VISA.—

(1) Notwithstanding any other provision of law, the authorized period of stay in the United States of any nonimmigrant described in paragraph (2) is hereby extended through September 30, 1997.

(2) A nonimmigrant described in this paragraph is a nonimmigrant—

(A) who entered the United States as a nonimmigrant described in section 101(a)(15)(H)(i)(a);

(B) who was within the United States on or after September 1, 1995, and who is within the United States on the date of the enactment of this Act; and

(C) whose period of authorized stay has expired or would expire before September 30, 1997 but for the provisions of this section.

(3) Nothing in this section may be construed to extend the validity of any visa issued to a nonimmigrant described in section 101(a)(15)(H)(i)(A) of the Immigration and Nationality Act or to authorize the reentry of any person outside the United States on the date of the enactment of this Act.

(b) CHANGE OF EMPLOYMENT.—A nonimmigrant whose authorized period of stay is extended by operation of this section shall be eligible to change employers in accordance with section 214.2(h)(2)(i)(D) of title 8, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

(c) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Attorney General shall issue regulations to carry out the provisions of this section.

(d) INTERIM TREATMENT.—A nonimmigrant whose authorized period of stay is extended by operation of this section, and the spouse and child of such nonimmigrant, shall be considered as having continued to maintain lawful status as a nonimmigrant through September 30, 1997.

THE SUSTAINABLE FISHERIES ACT FISHERIES STOCK RECOVERY FINANCING ACT

SNOWE (AND COHEN) AMENDMENT NO. 5381

Ms. SNOWE (for herself and Mr. COHEN) proposed an amendment to the bill (S. 39) to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes; as follows:

On page 161, line 21, strike "810 and 811," and insert "811 and 812,".

On page 163, line 4, strike the closing quotation marks and the second period.

On page 163, between lines 4 and 5, insert the following:

"SEC. 810. TRANSITION TO MANAGEMENT OF AMERICAN LOBSTER FISHERY BY COMMISSION.

"(a) TEMPORARY LIMITS.—Notwithstanding any other provision of this Act or of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), if no regulations have been issued under section 804(b) of this Act by December 31, 1997, to implement a coastal fishery management plan for American lobster, then the Secretary shall issue interim regulations before March 1, 1998, that will prohibit any vessel that takes lobsters in the exclusive economic zone by a method other than pots or traps from landing lobsters (or any parts thereof) at any location within the United States in excess of—

"(1) 100 lobsters (or part thereof) for each fishing trip of 24 hours or less during (up to a maximum of 500 lobsters, or parts thereof, during any 5-day period); or

"(2) 500 lobsters (or parts thereof) for a fishing trip of 5 days or longer.

"(b) SECRETARY TO MONITOR LANDINGS.—Before January 1, 1998, the Secretary shall monitor, on a timely basis, landings of American lobster, and, if the Secretary determines that catches from vessels that take lobsters in the exclusive economic zone by a method other than pots or traps have increased significantly, then the Secretary may, consistent with the national standards in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801), and after opportunity for public comment and consultation with the Atlantic States Marine Fisheries Commission, implement regulations under section 804(b) of this Act that are necessary for the conservation of American lobster.

"(c) REGULATIONS TO REMAIN IN EFFECT UNTIL PLAN IMPLEMENTED.—Regulations issued under subsection (a) or (b) shall remain in effect until the Secretary implements regulations under section 804(b) of this Act to implement a coastal fishery management plan for American lobster.".

STEVENS (AND KERRY) AMENDMENT NO 5382

Mr. STEVENS (for himself and Mr. KERRY) proposed an amendment to the bill, S. 39, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Sustainable Fisheries Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of the Magnuson Fishery Conservation and Management Act.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Findings; purposes; policy.
Sec. 102. Definitions.
Sec. 103. Authorization of appropriations.
Sec. 104. Highly migratory species.
Sec. 105. Foreign fishing and international fishery agreements.
Sec. 106. National standards.
Sec. 107. Regional fishery management councils.
Sec. 108. Fishery management plans.
Sec. 109. Action by the Secretary.
Sec. 110. Other requirements and authority.
Sec. 111. Pacific community fisheries.
Sec. 112. State jurisdiction.
Sec. 113. Prohibited acts.
Sec. 114. Civil penalties and permit sanctions; rebuttable presumptions.
Sec. 115. Enforcement.
Sec. 116. Transition to sustainable fisheries.
Sec. 117. North Pacific and northwest Atlantic Ocean fisheries.

TITLE II—FISHERY MONITORING AND RESEARCH

Sec. 201. Change of title.
Sec. 202. Registration and information management.
Sec. 203. Information collection.
Sec. 204. Observers.
Sec. 205. Fisheries research.
Sec. 206. Incidental harvest research.
Sec. 207. Miscellaneous research.
Sec. 208. Study of contribution of bycatch to charitable organizations.

Sec. 209. Study of identification methods for harvest stocks.
Sec. 210. Review of Northeast fishery stock assessments.
Sec. 211. Clerical amendments.
TITLE II—FISHERIES FINANCING
Sec. 301. Short title.
Sec. 302. Individual fishing quota loans
Sec. 303. Fisheries financing and capacity reduction.
TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS
Sec. 401. Marine fish program authorization of appropriations.
Sec. 402. Interjurisdictional Fisheries Act amendments.
Sec. 403. Anadromous fisheries amendments.
Sec. 404. Atlantic coastal fisheries amendments.
Sec. 405. Technical amendments to maritime boundary agreement.
Sec. 406. Amendments to the Fisheries Act.

SEC. 2. AMENDMENT OF MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. FINDINGS; PURPOSES; POLICY.

Section 2 (16 U.S.C. 1801) is amended—

(1) by striking subsection (a)(2) and inserting the following:

"(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.";

(2) by inserting "to facilitate long-term protection of essential fish habitats," in subsection (a)(6) after "conservation,";

(3) by adding at the end of subsection (a) the following:

"(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

"(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.";

(4) by striking "principles;" in subsection (b)(3) and inserting "principles, including the promotion of catch and release programs in recreational fishing;";

(5) by striking "and" after the semicolon at the end of subsection (b)(5);

(6) by striking "development." in subsection (b)(6) and inserting "development in a non-wasteful manner; and";

(7) by adding at the end of subsection (b) the following:

"(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.";

(8) in subsection (c)(3)—

(A) by striking "promotes" and inserting "considers"; and

(B) by inserting "minimize bycatch and" after "practical measures that";

(9) striking "and" at the end of paragraph (c)(5);

(10) striking the period at the end of paragraph (c)(6) and inserting "; and"; and

(11) adding at the end of subsection (c) a new paragraph as follows:

"(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.".

SEC. 102. DEFINITIONS.

Section 3 (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (2) through (32) as paragraphs (5) through (35) respectively, and inserting after paragraph (1) the following:

"(2) The term 'bycatch' means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

"(3) The term 'charter fishing' means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46, United States Code) who is engaged in recreational fishing.

"(4) The term 'commercial fishing' means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.";

(2) in paragraph (7) (as redesignated)—

(A) by striking "COELENTERATA" from the heading of the list of corals and inserting "CNIDARIA"; and

(B) in the list appearing under the heading "CRUSTACEA", by striking "Deep-sea Red Crab—Geryon quinquedens" and inserting "Deep-sea Red Crab—Chaceon quinquedens";

(3) by redesignating paragraphs (9) through (35) (as redesignated) as paragraphs (11) through (37), respectively, and inserting after paragraph (8) (as redesignated) the following:

"(9) The term 'economic discards' means fish which are the target of a fishery, but which are not retained because they are of an undesirable size, sex, or quality, or for other economic reasons.

"(10) The term 'essential fish habitat' means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.";

(4) by redesignating paragraphs (16) through (37) (as redesignated) as paragraphs (17) through (38), respectively, and inserting after paragraph (15) (as redesignated) the following:

"(16) The term 'fishing community' means a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operator, and crew and United States fish processors that are based in such community.";

(5) by redesignating paragraphs (21) through (38) (as redesignated) as paragraphs (22) through (39), respectively, and inserting after paragraph (20) (as redesignated) the following:

"(21) The term 'individual fishing quota' means a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. Such term does not include community development quotas as described in section 305(i).";

(6) by striking "of one and one-half miles" in paragraph (23) (as redesignated) and inserting "of two and one-half kilometers";

(7) by striking paragraph (28) (as redesignated), and inserting the following:

"(28) The term 'optimum', with respect to the yield from a fishery, means the amount of fish which—

"(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

"(B) is prescribed on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant social, economic, or ecological factor; and

"(C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.";

(8) by redesignating paragraphs (29) through (39) (as redesignated) as paragraphs (31) through (41), respectively, and inserting after paragraph (28)(as redesignated) the following:

"(29) The terms 'overfishing' and 'overfished' mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.

"(30) The term 'Pacific Insular Area' means American Samoa, Guam, the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Wake Island, or Palmyra Atoll, as applicable, and includes all islands and reefs appurtenant to such island, reef, or atoll.";

(9) by redesignating paragraphs (32) through (41) (as redesignated) as paragraphs (34) through (43), respectively, and inserting after paragraph (31) (as redesignated) the following:

"(32) The term 'recreational fishing' means fishing for sport or pleasure.

"(33) The term 'regulatory discards' means fish harvested in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.";

(10) by redesignating paragraphs (36) through (43) (as redesignated) as paragraphs (37) through (44), respectively, and inserting after paragraph (35) (as redesignated) the following:

"(36) The term 'special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990. In particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.";

(11) by striking "for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(g) has been implemented" in paragraph (42) (as redesignated) and inserting "regulated under this Act"; and

(12) by redesignating paragraph (44) (as redesignated) as paragraph (45), and inserting after paragraph (43) the following:

"(44) The term 'vessel subject to the jurisdiction of the United States' has the same meaning such term has in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).".

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

The Act is amended by inserting after section 3 (16 U.S.C. 1802) the following:

"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act, not to exceed the following sums:

"(1) $147,000,000 for fiscal year 1996;

"(2) $151,000,000 for fiscal year 1997;

"(2) $155,000,000 for fiscal year 1998; and

"(4) $159,000,000 for fiscal year 1999.".

SEC. 104. HIGHLY MIGRATORY SPECIES.

Section 102 (16 U.S.C. 1812) is amended by striking "promoting the objective of optimum utilization" and inserting "shall promote the achievement of optimum yield".

SEC. 105. FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS.

(a) AUTHORITY TO OPERATE UNDER TRANSSHIPMENT PERMITS.—Section 201 (16 U.S.C. 1821) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

"(1) is authorized under subsections (b) or (c) or section 204(e), or under a permit issued under section 204(d);

"(2) is not prohibited under subsection (f); and";

(2) by striking "(i)" in subsection (c)(2)(D) and inserting "(h)";

(3) by striking subsection (f);

(4) by redesignating subsections (g) through (j) as subsections (f) through (i), respectively;

(5) in paragraph (2) of subsection (h) (as redesignated), redesignate subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and insert after subparagraph (A) the following:

"(B) in a situation where the foreign fishing vessel is operating under a Pacific Insular Area fishing agreement, the Governor of the applicable Pacific Insular Area, in consultation with the Western Pacific Council, has established an observer coverage program that is at least equal in effectiveness to the program established by the Secretary;"; and

(6) in subsection (i) (as redesignated) by striking "305" and inserting "304".

(b) INTERNATIONAL FISHERY AGREEMENTS.—Section 202 (16 U.S.C. 1822) is amended—

(1) by adding before the period at the end of subsection (c) "or section 204(e)";

(2) by adding at the end the following:

"(h) BYCATCH REDUCTION AGREEMENTS.—

"(1) The Secretary of State, in cooperation with the Secretary, shall seek to secure an international agreement to establish standards and measures for bycatch reduction that are comparable to the standards and measures applicable to United States fishermen for such purposes in any fishery regulated pursuant to this Act for which the Secretary, in consultation with the Secretary of State, determines that such an international agreement is necessary and appropriate.

"(2) An international agreement negotiated under this subsection shall be—

"(A) consistent with the policies and purposes of this Act; and

"(B) subject to approval by Congress under section 203.

"(3) Not later than January 1, 1997, and annually thereafter, the Secretary, in consultation with the Secretary of State, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing actions taken under this subsection.".

(c) PERIOD FOR CONGRESSIONAL REVIEW OF INTERNATIONAL FISHERY AGREEMENTS.—Section 203 (16 U.S.C. 1823) is amended—

(1) by striking "GOVERNING" in the section heading;

(2) by striking "agreement" each place it appears in subsection (a) and inserting "agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement";

(3) by striking "60 calendar days of continuous session of the Congress" in subsection (a) and inserting "120 days (excluding any days in a period for which the Congress is adjourned sine die)";

(4) by striking subsection (c);

(5) by redesignating subsection (d) as subsection (c); and

(6) by striking "agreement" in subsection (c)(2)(A), as redesignated, and inserting "agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement".

(d) TRANSSHIPMENT PERMITS AND PACIFIC INSULAR AREA FISHING.—Section 204 (16 U.S.C. 1824) is amended—

(1) by inserting "or subsection (d)" in the first sentence of subsection (b)(7) after "under paragraph (6)";

(2) by striking "the regulations promulgated to implement any such plan" in subsection (b)(7)(A) and inserting "any applicable federal or State fishing regulations";

(3) by inserting "or subsection (d)" in subsection (b)(7)(D) after "paragraph (6)(B)"; and

(4) by adding at the end the following:

"(d) TRANSSHIPMENT PERMITS.—

"(1) AUTHORITY TO ISSUE PERMITS.—The Secretary may issue a transshipment permit under this subsection which authorizes a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish or fish products at sea from a point within the exclusive economic zone or, with the concurrence of a State, within the boundaries of that State, to a point outside the United States to any person who—

"(A) submits an application which is approved by the Secretary under paragraph (3); and

"(B) pays a fee imposed under paragraph (7).

"(2) TRANSMITTAL.—Upon receipt of an application for a permit under this subsection, the Secretary shall promptly transmit copies of the application to the Secretary of State, Secretary of the department in which the Coast Guard is operating, any appropriate Council, and any affected State.

"(3) APPROVAL OF APPLICATION.—The Secretary may approve, in consultation with the appropriate Council or Marine Fisheries Commission, an application for a permit under this section if the Secretary determines that—

"(A) the transportation of fish or fish products to be conducted under the permit, as described in the application, will be in the interest of the United States and will meet the applicable requirements of this Act;

"(B) the applicant will comply with the requirements described in section 201(c)(2) with respect to activities authorized by any permit issued pursuant to the application;

"(C) the applicant has established any bonds or financial assurances that may be required by the Secretary; and

"(D) no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated to the Secretary an interest in performing the transportation at fair and reasonable rates.

"(4) WHOLE OR PARTIAL APPROVAL.—The Secretary may approve all or any portion of an application under paragraph (3).

"(5) FAILURE TO APPROVE APPLICATION.—If the Secretary does not approve any portion of an application submitted under paragraph (1), the Secretary shall promptly inform the applicant and specify the reasons therefor.

"(6) CONDITIONS AND RESTRICTIONS.—The Secretary shall establish and include in each permit under this subsection conditions and restrictions, including those conditions and restrictions set forth in subsection (b)(7), which shall be complied with by the owner and operator of the vessel for which the permit is issued.

"(7) FEES.—The Secretary shall collect a fee for each permit issued under this subsection, in an amount adequate to recover the costs incurred by the United States in issuing the permit, except that the Secretary shall waive the fee for the permit if the foreign nation under which the vessel is registered does not collect a fee from a vessel of the United States engaged in similar activities in the waters of such foreign nation.

"(e) PACIFIC INSULAR AREAS.—

"(1) NEGOTIATION OF PACIFIC INSULAR AREA FISHERY AGREEMENTS.—The Secretary of State, with the concurrence of the Secretary and in consultation with any appropriate Council, may negotiate and enter into a Pacific Insular Area fishery agreement to authorize foreign fishing within the exclusive economic zone adjacent to a Pacific Insular Area—

"(A) in the case of American Samoa, Guam, or the Northern Mariana Islands, at the request and with the concurrence of, and in consultation with, the Governor of the Pacific Insular Area to which such agreement applies; and

"(B) in the case of a Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands, at the request of the Western Pacific Council.

"(2) AGREEMENT TERMS AND CONDITIONS.—A Pacific Insular Area fishery agreement—

"(A) shall not be considered to supersede any governing international fishery agreement currently in effect under this Act, but shall provide an alternative basis for the conduct of foreign fishing within the exclusive economic zone adjacent to Pacific Insular Areas;

"(B) shall be negotiated and implemented consistent only with the governing international fishery agreement provisions of this title specifically made applicable in this subsection;

"(C) may not be negotiated with a nation that is in violation of a governing international fishery agreement in effect under this Act;

"(D) shall not be entered into if it is determined by the Governor of the applicable Pacific Insular Area with respect to agreements initiated under paragraph (1)(A), or the Western Pacific Council with respect to agreements initiated under paragraph (1)(B), that such an agreement will adversely affect the fishing activities of the indigenous people of such Pacific Insular Area;

"(E) shall be valid for a period not to exceed three years and shall only become effective according to the procedures in section 203; and

"(F) shall require the foreign nation and its fishing vessels to comply with the requirements of paragraphs (1), (2), (3) and (4)(A) of section 201(c), section 201(d), and section 201(h).

"(3) PERMITS FOR FOREIGN FISHING.—

"(A) Application for permits for foreign fishing authorized under a Pacific Insular

Areas fishing agreement shall be made, considered and approved or disapproved in accordance with paragraphs (3), (4), (5), (6), (7)(A) and (B), (8), and (9) of subsection (b), and shall include any conditions and restrictions established by the Secretary in consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, the Governor of the applicable Pacific Insular Area, and the appropriate Council.

"(B) If a foreign nation notifies the Secretary of State of its acceptance of the requirements of this paragraph, paragraph (2)(F), and paragraph (5), including any conditions and restrictions established under subparagraph (A), the Secretary of State shall promptly transmit such notification to the Secretary. Upon receipt of any payment required under a Pacific Insular Area fishing agreement, the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all of the requirements, conditions, and restrictions established under this subsection which apply to the fishing vessel for which the permit is issued.

"(4) MARINE CONSERVATION PLANS.—

"(A) Prior to entering into a Pacific Insular Area fishery agreement, the Western Pacific Council and the appropriate Governor shall develop a 3-year marine conservation plan detailing uses for funds to be collected by the Secretary pursuant to such agreement. Such plan shall be consistent with any applicable fishery management plan, identify conservation and management objectives (including criteria for determining when such objectives have been met), and prioritize planned marine conservation projects. Conservation and Management objectives shall include, but not be limited to—

"(i) establishment of Pacific Insular Area observer programs, approved by the Secretary in consultation with the Western Pacific Council, that provide observer coverage for foreign fishing under Pacific Insular Area fishery agreements that is at least equal in effectiveness to the program established by the Secretary under section 201(h);

"(ii) conduct of marine and fisheries research, including development of systems for information collection, analysis, evaluation, and reporting;

"(iii) conservation, education, and enforcement activities related to marine and coastal management, such as living marine resource assessments, habitat monitoring and coastal studies;

"(iv) grants to the University of Hawaii for technical assistance projects by the Pacific Island Network, such as education and training in the development and implementation of sustainable marine resources development projects, scientific research, and conservation strategies; and

"(v) western Pacific community-based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects to foster and promote the management, conservation, and economic enhancement of the Pacific Insular Areas.

"(B) In the case of American Samoa, Guam, and the Northern Mariana Islands, the appropriate Governor, with the concurrence of the Western Pacific Council, shall develop the marine conservation plan described in subparagraph (A) and submit such plan to the Secretary for approval. In the case of other Pacific Insular Areas, the Western pacific Council shall develop and submit the marine conservation plan described in subparagraph (A) to the Secretary for approval.

"(C) If a Governor or the Western Pacific Council intends to request that the Secretary of State renew a Pacific Insular Area fishery agreement, a subsequent 3-year plan shall be submitted to the Secretary for approval by the end of the second year of the existing 3-year plan.

"(5) RECIPROCAL CONDITIONS.—Except as expressly provided otherwise in this subsection, a Pacific Insular Area fishing agreement may include terms similar to the terms applicable to United States fishing vessels for access to similar fisheries in waters subject to the fisheries jurisdiction of another nation.

"(6) USE OF PAYMENTS BY AMERICAN SAMOA, GUAM, NORTHERN MARIANA ISLANDS.—Any payment received by the Secretary under a Pacific Insular Area fishery agreement for American Samoa, Guam, or the Northern Mariana Islands shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which those funds were collected. Amounts deposited in the Treasury of a Pacific Insular Area shall be available, without appropriation for fiscal year limitation, to the Governor of the Pacific Insular Area—

"(A) to carry out the purposes of this subsection;

"(B) to compensate (i) the Western Pacific Council for mutually agreed upon administrative costs incurred relating to any Pacific Insular Area fishery agreement for such Pacific Insular Area, and (ii) the Secretary of State for mutually agreed upon travel expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(A); and

"(C) to implement a marine conservation plan developed and approved under paragraph (4).

"(7) WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.—There is established in the United States Treasury a Western Pacific Sustainable Fisheries Fund into which any payments received by the Secretary under a Pacific Insular Area fishery agreement for any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands shall be deposited. The Western Pacific Sustainable Fisheries Fund shall be made available, without appropriation or fiscal year limitation, to the Secretary, who shall provide such funds only to—

"(A) the Western Pacific Council for the purpose of carrying out the provisions of this subsection, including implementation of a marine conservation plan approved under paragraph (4);

"(B) the Secretary of State for mutually agreed upon travel expenses for no more than 2 federal representatives incurred as a direct result of complying with paragraph (1)(B); and

"(C) the Western Pacific Council to meet conservation and management objectives in the State of Hawaii if monies remain in the Western Pacific Sustainable Fisheries Fund after the funding requirements of subparagraphs (A) and (B) have been satisfied.

Amounts deposited in such fund shall not diminish funding received by the Western Pacific Council for the purpose of carrying out other responsibilities under this Act.

"(8) USE OF FINES AND PENALTIES.—In the case of violations occurring within the exclusive economic zone off American Samoa, Guam, or the Northern Mariana Islands, amounts received by the Secretary which are attributable to fines or penalties imposed under this Act, including such sums collected from the forfeiture and disposition or sale of property seized subject to its authority, after payment of direct costs of the enforcement action to all entities involved in such action, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the exclusive economic zone in which the violation occurred, to be used for fisheries enforcement and for implementation of a marine conservation plan under paragraph (4).".

(e) ATLANTIC HERRING TRANSSHIPMENT.—Within 30 days of receiving an application, the Secretary shall, under Section 204(d) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, issue permits to up to fourteen Canadian transport vessels that are not equipped for fish harvesting or processing, for the transshipment, within the boundaries of the State of Maine or within the portion of the exclusive economic zone east of the line 69 degrees 30 minutes west and within 12 nautical miles from the seaward boundary of that State, of Atlantic herring harvested by United States fishermen within the area described and used solely in sardine processing. In issuing a permit pursuant to this subsection, the Secretary shall provide a waiver under section 201(h)(2)(C) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, provided that such vessels comply with Federal or State monitoring and reporting requirements for the Atlantic herring fishery, including the stationing of United States observers aboard such vessels, if necessary.

(f) LARGE SCALE DRIFTNET FISHING.—Section 206 (16 U.S.C. 1826) is amended—

(1) in subsection (e), by striking paragraphs (3) and (4), and redesignating paragraphs (5) and (6) as (3) and (4), respectively; and

(2) in subsection (f), by striking "(e)(6)," and inserting "(e)(4),".

(g) RUSSIAN FISHING IN THE BERING SEA.—No later than September 30, 1997, the North Pacific Fishery Management Council, in consultation with the North Pacific and Bering Sea Advisory Body, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing the institutional structures in Russia pertaining to stock assessment, management, and enforcement for fishery harvests in the Bering Sea, and recommendations for improving coordination between the United States and Russia for managing and conserving Bering Sea fishery resources of mutual concern.

SEC. 106. NATIONAL STANDARDS.

(a) Section 301(a)(5) (16 U.S.C. 1851(a)(5)) is amended by striking "promote" and inserting "consider".

(b) Section 301(a) (16 U.S.C. 1851(a)) is amended by adding at the end thereof the following:

"(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts of such communities.

"(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

"(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.".

SEC. 107. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) Section 302(a) (16 U.S.C. 1852(a)) is amended—

(1) by inserting "(1)" after the subsection heading;

(2) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively;

(3) by striking "section 304(f)(3)" wherever it appears and inserting "paragraph (3)";

(4) in paragraph (1)(B), as amended—

(A) by striking "and Virginia" and inserting "Virginia, and North Carolina";

(B) by inserting "North Carolina, and" after "except";

(C) by striking "19" and inserting "21"; and

(D) by striking "12" and inserting "13";

(5) by striking paragraph (1)(F), as redesignated, and inserting the following:

(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).";

(6) by indenting the sentence at the end thereof and inserting "(2)" before "Each Council"; and

(7) by adding at the end the following:

"(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.".

(b) Section 302(b) (16 U.S.C. 1852(b)) is amended—

(1) by striking "subsection (b)(2)" in paragraphs (1)(C) and (3), and inserting in both places "paragraphs (2) and (5)";

(2) by striking the last sentence in paragraph (3) and inserting the following: "Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member."; and

(3) by striking paragraph (5) and inserting after paragraph (4) the following:

"(5)(A) The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph.

"(B) Representation shall be rotated among the tribes taking into consideration—

"(i) the qualifications of the individuals on the list referred to in subparagraph (A),

"(ii) the various rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and

"(iii) the geographic area in which the tribe of the representative is located.

"(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.

"(6) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with paragraphs (2) or (5) if—

"(A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or

"(B) the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 3071(1)(O).".

(c) Section 302(d) (16 U.S.C. 1852(d)) is amended in the first sentence—

(1) by striking "each Council," and inserting "each Council who are required to be appointed by the Secretary and"; and

(2) by striking "shall, until January 1, 1992," and all that follows through "GS-16" and inserting "shall receive compensation at the daily rate of GS-15, step 7".

(d) Section 302(e) (16 U.S.C. 1852(e)) is amended by adding at the end the following:

"(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.".

(e) Section 302(g) (16 U.S.C. 1852(g)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following:

"(4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery to which subsection (a)(3) applies. Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among—

"(A) members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

"(B) other interested persons.".

(f) Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);"

(2) in paragraph (2)—

(A) by striking "section 204(b)(4)(C)," in paragraph (2) and inserting "section 204(b)(4)(C) or section 204(d),";

(B) by striking "304(c)(2)" and inserting "304(c)(4)"; and

(3) by striking "304(f)(3) "in paragraph (5) and inserting "subsection (a)(3)".

(g) Section 302 is amended further by striking subsection (i), and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(h) Section 302(i), as redesignated, is amended—

(1) by striking "of the Councils" in paragraph (1) and inserting "established under subsection (g)";

(2) by striking "of a Council:" in paragraph (2) and inserting "established under subsection (g):";

(3) by striking "Council's" in paragraph (2)(C);

(4) by adding the following at the end of paragraph (2)(C): "The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c), in which case public notice shall be given immediately.";

(5) by adding the following at the end of paragraph (2)(D): "All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.";

(6) by striking paragraph (2)(E) and inserting:

"(E) Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.";

(7) by striking "by the Council" the first place it appears in paragraph (2)(F);

(8) by inserting "or the Secretary, as appropriate" in paragraph (2)(F) after "of the Council"; and

(9) by striking "303(d)" each place it appears in paragraph (2)(F) and inserting "402(b)"; and

(10) by striking "303(d)" in paragraph (4) and inserting "402(b)".

(i) Section 302(j), as redesignated, is amended—

(1) by inserting "and Recusal" after "Interest" in the subsection heading;

(2) by striking paragraph (1) and inserting the following:

"(1) For the purposes of this subsection—

"(A) the term 'affected individual' means an individual who—

"(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

"(ii) is a voting member of a Council appointed—

"(I) under subsection (b)(2); or

"(II) under subsection (b)(5) who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and

"(B) the term 'designated official' means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).";

(3) by striking "(1)(A)" in paragraph (3)(A) and inserting "(1)(A)(i)";

(4) by striking "(1)(B) or (C)" in paragraph (3)(B) and inserting "(1)(A)(ii)";

(5) by striking "(1)(B) or (C)" in paragraph (4) and inserting "(1)(A)(ii)";

(6)(A) by striking "and" at the end of paragraph (5)(A);

(B) by striking the period at the end of paragraph (5)(B) and inserting a semicolon and the word "and"; and

(C) by adding at the end of paragraph (5) the following:

"(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.";

(7) by striking "(1)(B) or (C)" in paragraph (6) and inserting "(1)(A)(ii)";

(8) by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following:

"(7)(A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

"(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

"(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

"(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

"(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

"(F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of the Sustainable Fisheries Act, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C)."; and

(9) by striking "(1)(B) or (C)" in paragraph (8), as redesignated, and inserting "(1)(A)(ii)".

SEC. 108. FISHERY MANAGEMENT PLANS.

(a) REQUIRED PROVISIONS.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (1)(A) by inserting "and rebuild overfished stocks" after "overfishing";

(2) by inserting "commercial, recreational, and charter fishing in" in paragraph (5) after "with respect to";

(3) by striking paragraph (7) and inserting the following:

"(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;";

(4) by striking "and" at the end of paragraph (8);

(5) by inserting "and fishing communities" after "fisheries" in paragraph (9)(A);

(6) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(7) by adding at the end the following:

"(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

"(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

"(A) minimize bycatch; and

"(B) minimize the mortality of bycatch which cannot be avoided;

"(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

"(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

"(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.".

(b) IMPLEMENTATION.—Not later than 24 months after the date of enactment of this Act, each Regional Fishery Management Council shall submit to the Secretary of Commerce amendments to each fishery management plan under its authority to comply with the amendments made in subsection (a) of this section.

(c) DISCRETIONARY PROVISIONS.—Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

"(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

"(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

"(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;";

(2) by striking "system for limiting access to" in paragraph (6) and inserting "limited access system for";

(3) by striking "fishery" in subparagraph (E) of paragraph (6) and inserting "fishery and any affected fishing communities";

(4) by inserting "one or more" in paragraph (8) after "require that";

(5) by striking "and" at the end of paragraph (9);

(6) by redesignating paragraph (10) as paragraph (12); and

(7) by inserting after paragraph (9) the following:

"(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

"(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and".

(d) REGULATIONS.—Section 303 (16 U.S.C. 1853) is amended by striking subsection (c) and inserting the following:

"(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or apppropriate for the purposes of—

"(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

"(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.".

(e) INDIVIDUAL FISHING QUOTAS.—Subsection 303 (16 U.S.C. 1853) is amended further by striking subsection (d), (e), and (f), and inserting the following:

"(d) INDIVIDUAL FISH QUOTAS.—

"(1)(A) A Council may not submit and the Secretary may not approve or implement before October 1, 2000, any fishery management plan, plan amendment, or regulation under this Act which creates a new individual fishing quota program.

"(B) Any fishery management plan, plan amendment, or regulation approved by the Secretary on or after January 4, 1995, which creates any new individual fishing quota program shall be replaced and immediately returned by the Secretary to the appropriate Council and shall not be resubmitted, reapproved, or implemented during the moratorium set forth in subparagraph (A).

"(2)(A) No provision of law shall be construed to limit the authority of a Council to submit and the Secretary to approve the termination or limitation, without compensation to holders of any limited access system permits, of a fishery management plan, plan amendment, or regulation that provides for a limited access system, including an individual fishing quota program.

"(B) This subsection shall not be construed to prohibit a Council from submitting, or the Secretary from approving and implementing, amendments to the North Pacific halibut and sablefish, South Atlantic wreckfish, or Mid-Atlantic surf clam and ocean (including mahogany) quahog individual fishing quota programs.

"(3) An individual fishing quota or other limited access system authorization—

"(A) shall be considered a permit for the purposes of sections 307, 308, and 309;

"(B) may be revoked or limited at any time in accordance with this Act;

"(C) shall not confer any right of compensation to the holder of such individual fishing quota or other such limited access system authorization if it is revoked or limited; and

"(D) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested.

"(4)(A) A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 1104(a)(7), to issue obligations that aid is financing the—

"(i) purchase of individual fishing quotas in that fishery by fishermen who fish from small vessels; and

"(ii) first-time purchase of individual fishing quotas in that fishery by entry level fishermen.

"(B) A Council making a submission under subparagraph (A) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under clauses (i) and (ii) of subparagraph (A) and the portion of funds to be allocated for guarantees under each clause.

"(5) In submitting and approving any new individual fishing quota program on or after October 1, 2000, the Councils and the Secretary shall consider the report of the National Academy of Sciences required under section 108(f) of the Sustainable Fisheries Act, and any recommendation contained in such report, and shall ensure that any such program—

"(A) establishes procedures and requirements for the review and revision of the terms of any such program (including any revisions that may be necessary once a national policy with respect to individual fishing quota programs is implemented), and, if appropriate for the renewal reallocation, or reisssuance of individual fishing quotas;

"(B) provides for the effective enforcement and management of any such program, including adequate observer coverage, and for fees under section 304(d)(2) to recover actual costs directly related to such enforcement and management; and

"(C) provides for a fair and equitable initial allocation of individual fishing quotas, prevents any person from acquiring an excessive share of the individual fishing quotas issued, and considers the allocation of a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, and crew members who do not hold or qualify for individual fishing quotas.".

(f) INDIVIDUAL FISHING QUOTA REPORT.—(1) Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary of Commerce and the Regional Fishery Management Councils, shall submit to the Congress a comprehensive final report on individual fishing quotas, which shall include recommendations to implement a national policy with respect to individual fishing quotas. The report shall address all aspects of such quotas, including an analysis of—

(A) the effects of limiting or prohibiting the transferability of such quotas;

(B) mechanisms to prevent foreign control of the harvest of United States fisheries under individual fishing quota programs, including mechanisms to prohibit persons who are not eligible to be deemed a citizen of the United States for the purpose of operating a vessel in the coastwise trade under section 2(a) and section 2(c) of the Shipping Act, 1916 (46 U.S.C. 802 (a) and (c) from holding individual fishing quotas;

(C) the impact of limiting the duration of individual fishing quota programs;

(D) the impact of authorizing Federal permits to process a quantity of fish that correspond to individual fishing quotas, and of the value created for recipients of any such permits, including a comparison of such value to the value of the corresponding individual fishing quotas;

(E) mechanisms to provide for diversity and to minimize adverse social and economic impacts on fishing communities, other fisheries affected by the displacement of vessels, and any impacts associated with the shifting of capital value from fishing vessels to individual fishing quotas, as well as the use of capital construction funds to purchase individual fishing quotas;

(F) mechanisms to provide for effective monitoring and enforcement, including the inspection of fish harvested and incentives to reduce bycatch, and in particular economic discards;

(G) threshold criteria for determining whether a fishery may be considered for individual fishing quota management, including criteria related to the geographical range, population dynamics and condition of a fish stock, the socioeconomic characteristics of a fishery (including participants' involvement in multiple fisheries in the region), and participation by commercial, charter, and recreational fishing sectors in the fishery;

(H) mechanisms to ensure that vessel owners, vessel masters, crew members, and United States fish processors are treated fairly and equitably in initial allocations, to require persons holding individual fishing quotas to be on board the vessel during such quotas, and to facilitate new entry under individual fishing quota programs;

(I) potential social and economic costs and benefits to the nation, individual fishing quota recipients, and any recipients of Federal permits described in subparagraph (D) under individual fishing quota programs, including from capital gains revenue, the allocation of such quotas or permits through Federal auctions, annual fees and transfer fees at various levels, or other measures;

(J) the value created for recipients of individual fishing quotas, including a comparison of such value to the value of the fish harvested under such quotas and to the value of permits created by other types of limited access systems, and the effects of creating such value on fishery management and conservation; and

(K) such other matters as the National Academy of Sciences deems appropriate.

(2) The report shall include a detailed analysis of individual fishing quota programs already implemented in the United States, including the impacts: of any limits on transferability, on past and present participants, on fishing communities, on the rate and total amount of bycatch (including economic and regulatory discards) in the fishery, on the safety of life and vessels in the fishery, on any excess harvesting or processing capacity in the fishery, on any gear conflicts in the fishery, on product quality from the fishery, on the effectiveness of enforcement in the fishery, on the size and composition of fishing vessel fleets, of the economic value created by individual fishing quotas for initial recipients and non-recipients, on conservation of the fishery resource, on fishermen who rely on participation in several fisheries, on the success in meeting any fishery management plan goals, and the fairness and effectiveness of the methods used for allocating quotas and controlling transferability. The report shall also include any information about individual fishing quota programs in other countries that may be useful.

(3) The report shall identify and analyze alternative conservation and management measures, including other limited access systems such as individual transferable effort systems, that could accomplish the same objectives as individual fishing quota programs, as well as characteristics that are unique to individual fishing quota programs.

(4) The Secretary of Commerce shall, in consultation with the National Academy of Sciences, the Councils, the fishing industry, affected States, conservation organizations and other interested persons, establish two individual fishing quota review groups to assist in the preparation of the report, which shall represent: (A) Alaska, Hawaii, and the other Pacific coastal States; and (B) Atlantic coastal States and the Gulf of Mexico coastal States. The Secretary shall, to the extent practicable, achieve a balanced representation of viewpoints among the individuals on each review group. The review groups shall be deemed to be advisory panels under section 302(g) of the Magnuson Fishery Conservation and Management Act, as amended by this Act.

(5) The Secretary of Commerce, in consultation with the National Academy of Sciences and the Councils, shall conduct public hearings in each Council region to obtain comments on individual fishing quotas for use by the National Academy of Sciences in preparing the report required by this subsection. The National Academy of Sciences shall submit a draft report to the Secretary of Commerce by January 1, 1998. The Secretary of Commerce shall publish in the Federal Register a notice and opportunity for public comment on the draft of the report, or any revision thereof. A detailed summary of comments received and views presented at the hearings, including any dissenting views, shall be included by the National Academy of Sciences in the final report.

(6) Section 210 of Public Law 104–134 is hereby repealed.

(g) NORTH PACIFIC LOAN PROGRAM.—(1) By not later than October 1, 1997 the North Pacific Fishery Management Council shall recommend to the Secretary of Commerce a program which uses the full amount of fees authorized to be used under section 303(d)(4) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, in the halibut and sablefish fisheries off Alaska to guarantee obligations in accordance with such section.

(2)(A) For the purposes of this subsection, the phrase "fishermen who fish from small vessels" in section 303(d)(4)(A)(i) of such Act shall mean fishermen wishing to purchase individual fishing quotas for use from Category B, Category C, or Category D vessels, as defined in part 676.20(c) of title 50, Code of Federal Regulations (as revised as of October 1, 1995), whose aggregate ownership of individual fishing quotas will not exceed the equivalent of a total of 50,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made if the guarantee is approved, who will participate aboard the fishing vessel in the harvest of fish caught under such quotas, who have at least 150 days of experience working as part of the harvesting crew in any U.S. commercial fishery, and who do not own in whole or in part any Category A or Category B vessel, as defined in such part and title of the Code of Federal Regulations.

(B) For the purposes of this subsection, the phrase "entry level fishermen" in section 303(d)(4)(A)(ii) of such Act shall mean fishermen who do not own any individual fishing quotas, who wish to obtain the equivalent of not more than a total of 8,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made, and who will participate aboard the fishing vessel in the harvest of fish caught under such quotas.

(h) COMMUNITY DEVELOPMENT QUOTA REPORT.—Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary, the North Pacific and Western Pacific Councils, communities and organizations participating in the program, participants in affected fisheries, and the affected States, shall submit to the Secretary of Commerce and Congress a comprehensive report on the performance and effectiveness of the community development quota programs under the authority of the North Pacific and Western Pacific Councils. The report shall—

(1) evaluate the extent to which such programs have met the objective of providing communities with the means to develop ongoing commercial fishing activities;

(2) evaluate the manner and extent to which such programs have resulted in the communities and residents—

(A) receiving employment opportunities in commercial fishing and processing; and

(B) obtaining the capital necessary to invest in commercial fishing, fish processing, and commercial fishing support projects (including infrastructure to support commercial fishing);

(3) evaluate the social and economic conditions in the participating communities and the extent to which alternative private sector employment opportunities exist;

(4) evaluate the economic impacts on participants in the affected fisheries, taking into account the condition of the fishery resource, the market, and other relevant factors;

(5) recommend a proposed schedule for accomplishing the development purposes of community development quotas; and

(6) address such other matters as the National Academy of Sciences deems appropriate.

(i) EXISTING QUOTA PLANS.—Nothing in this Act or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

SEC. 109. ACTION BY THE SECRETARY.

(a) SECRETARIAL REVIEW OF PLANS AND REGULATIONS.—Section 304 (16 U.S.C. 1854) is amended by striking subsections (a) and (b) and inserting the following:

"(a) REVIEW OF PLANS.—

"(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

"(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

"(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

"(2) In undertaking the review required under paragraph (1), the Secretary shall—

"(A) take into account the information, views, and comments received from interested persons;

"(B) consult with the Secretary of State with respect to foreign fishing; and

"(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

"(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

"(A) the applicable law with which the plan or amendment is inconsistent;

"(B) the nature of such inconsistencies; and

"(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

"(4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

"(5) For purposes of this subsection and subsection (b), the term 'immediately' means on or before the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, plan amendment, or proposed regulation that the Council characterizes as final.

"(b) REVIEW OF REGULATIONS.—

"(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

"(A) if the determination is affirmative, the Secretary shall publish such regulations in the Federal Register, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days; or

"(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, plan amendment, this Act, and other applicable law.

"(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for re-evaluation under paragraph (1).

"(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.".

(b) PREPARATION BY THE SECRETARY.—Section 304(c) (16 U.S.C. 1854(c)) is amended—

(1) by striking the subsection heading and inserting "PREPARATION AND REVIEW OF SECRETARIAL PLANS";

(2) by striking "or" at the end of paragraph (1)(A);

(3) by striking all that follows "further revised plan" in paragraph (1) and inserting "or amendment; or";

(4) by inserting after subparagraph (1)(B), as amended, the following new subparagraph:

"(C) the Secretary is given authority to prepare such plan or amendment under this section.";

(5) by striking paragraph (2) and inserting:

"(2) In preparing any plan or amendment under this subsection, the Secretary shall—

"(A) conduct public hearings, at appropriate times and locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan; and

"(B) consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.";

(6) by inserting "for a fishery under the authority of a Council" after "paragraph (1)" in paragraph (3);

(7) by striking "system described in section 303(b)(6)" in paragraph (3) and inserting "system, including any individual fishing quota program"; and

(8) by inserting after paragraph (3) the following new paragraphs:

"(4) Whenever the Secretary prepares a fishery management plan or plan amendment under this section, the Secretary shall immediately—

"(A) for a plan or amendment for a fishery under the authority of a Council, submit such plan or amendment to the appropriate Council for consideration and comment; and

"(B) publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

"(5) Whenever a plan or amendment is submitted under paragraph (4)(A), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in paragraph (4)(B). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, information, or comments submitted under paragraph (4)(B), may adopt such plan or amendment.

"(6) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. In the case of a plan or amendment to which paragraph (4)(A) applies, such regulations shall be submitted to the Council with such plan or amendment. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.

"(7) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (6). The Secretary must publish in the Federal Register an explanation of any substantive differences between the proposed and final rules. All final regulations must be consistent with the fishery management plan, with the national standards and other provisions of this Act, and with any other applicable law.".

(c) INDIVIDUAL FISHING QUOTA AND COMMUNITY DEVELOPMENT QUOTA FEES.—Section 304(d) (16 U.S.C. 1854(d)) is amended—

(1) by inserting "(1)" immediately before the first sentence; and

(2) by inserting at the end the following:

"(2)(A) Notwithstanding paragraph (1), the Secretary is authorized and shall collect a fee to recover the actual costs directly related to the management and enforcement of any—

"(i) individual fishing quota program; and

"(ii) community development quota program that allocates a percentage of the total allowable catch of a fishery to such program.

"(B) Such fee shall not exceed 3 percent of the ex-vessel value of fish harvested under any such program, and shall be collected at either the time of the landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

"(C)(i) Fees collected under this paragraph shall be in addition to any other fees charged under this Act and shall be deposited in the Limited Access System Administration Fund established under section 305(h)(5)(B), except that the portion of any such fees reserved under section 303(d)(4)(A) shall be deposited in the Treasury and available, subject to annual appropriations, to cover the costs of new direct loan obligations and new loan guarantee commitments as required by section 504(b)(1) of the Federal Credit Reform Act (2 U.S.C. 661c(b)(1)).

"(ii) Upon application by a State, the Secretary shall transfer to such State up to 33 percent of any fee collected pursuant to subparagraph (A) under a community development quota program and deposited in the Limited Access System Administration Fund in order to reimburse such State for actual costs directly incurred in the management and enforcement of such program.".

(d) DELAY OF FEES.—Notwithstanding any other provision of law, the Secretary shall not begin the collection of fees under section 304(d)(2) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, in the surf clam and ocean (including mahogany) quahog fishery or in the wreckfish fishery until after January 1, 2000.

(e) OVERFISHING.—Section 304(e) (16 U.S.C. 1854(e)) is amended to read as follows:

"(e) REBUILDING OVERFISHED FISHERIES.—

"(1) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are overfished or are approaching a condition of being overfished. For those fisheries managed under a fishery management plan or international agreement, the status shall be determined using the criteria for overfishing specified in such plan or agreement. A fishery shall be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within two years.

"(2) If the Secretary determines at any time that a fishery is overfished, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks of fish. The Secretary shall publish each notice under this paragraph in the Federal Register.

"(3) Within one year of an identification under paragraph (1) or notification under paragraphs (2) or (7), the appropriate Council (or the Secretary, for fisheries under section 302(a)(3)) shall prepare a fishery management plan, plan amendment, or proposed regulations for the fishery to which the identification or notice applies—

"(A) to end overfishing in the fishery and to rebuild affected stocks of fish; or

"(B) to prevent overfishing from occurring in the fishery whenever such fishery is identified as approaching an overfished condition.

"(4) For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—

"(A) specify a time period for ending overfishing and rebuilding the fishery that shall—

"(i) be as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and

"(ii) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

"(B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and

"(C) for fisheries managed under an international agreement, reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States.

"(5) If, within the one-year period beginning on the date of identification or notification that a fishery is overfished, the Council does not submit to the Secretary a fishery management plan, plan amendment, or proposed regulations required by paragraph (3)(A), the Secretary shall prepare a fishery management plan or plan amendment and any accompanying regulations to stop overfishing and rebuild affected stocks of fish within 9 months under subsection (c).

"(6) During the development of a fishery management plan, a plan amendment, or proposed regulations required by this subsection, the Council may request the Secretary to implement interim measures to reduce overfishing under section 305(c) until such measures can be replaced by such plan, amendment, or regulations. Such measures, if otherwise in compliance with the provisions of this Act, may be implemented even though they are not sufficient by themselves to stop overfishing of a fishery.

"(7) The Secretary shall review any fishery management plan, plan amendment, or regulations required by this subsection at routine intervals that may not exceed two years. If the Secretary finds as a result of the review that such plan, amendment, or regulations have not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks, the Secretary shall—

"(A) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress; or

"(B) for all other fisheries, immediately notify the appropriate Council. Such notification shall recommend further conservation and management measures which the Council should consider under paragraph (3) to achieve adequate progress.".

(f) FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL.—Section 304(f) is amended by striking paragraph (3).

(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—Section 304 (16 U.S.C. 1854) is amended further by striking subsection (g) and inserting the following:

"(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—

"(1) PREPARATION AND IMPLEMENTATION OF PLAN OR PLAN AMENDMENT.—The Secretary shall prepare a fishery management plan or plan amendment under subsection (c) with respect to any highly migratory species fishery to which section 302(a)(3) applies. In preparing and implementing any such plan or amendment, the Secretary shall—

"(A) consult with and consider the comments and views of affected Councils, commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species, and the advisory panel established under section 302(g);

"(B) establish an advisory panel under section 302(g) for each fishery management plan to be prepared under this paragraph;

"(C) evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors;

"(D) with respect to a highly migratory species for which the United States is authorized to harvest an allocation, quota, or at a fishing mortality level under a relevant international fishery agreement, provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation, quota, or at such fishing mortality level;

"(E) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan;

"(F) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and

"(G) ensure that conservation and management measures under this subsection—

"(i) promote international conservation of the affected fishery;

"(ii) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

"(iii) are fair and equitable in allocating fishing privileges among United States fishermen and do not have economic allocation as the sole purpose; and

"(iv) promote, to the extent practicable, implementation of scientific research programs that include the tagging and release of Atlantic highly migratory species.

"(2) CERTAIN FISH EXCLUDED FROM 'BYCATCH' DEFINITION.—Notwithstanding section 3(2) fish harvested in a commercial fishery managed by the Secretary under this subsection or the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d) that are not regulatory discards and that are tagged and released alive under a scientific tagging and release program established by the Secretary shall not be considered bycatch for purposes of this Act.".

(h) COMPREHENSIVE MANAGEMENT SYSTEM FOR ATLANTIC PELAGIC LONGLINE FISHERY.—(1) The Secretary of Commerce shall—

(A) establish an advisory panel under section 302(g)(4) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species;

(B) conduct surveys and workshops with affected fishery participants to provide information and identify options for future management programs;

(C) to the extent practicable and necessary for the evaluation of options for a comprehensive management system, recover vessel production records; and

(D) complete by January 1, 1998, a comprehensive study on the feasibility of implementing a comprehensive management system for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species, including, but not limited to, individual fishing quota programs and other limited access systems.

(2) Based on the study under paragraph (1)(D) and consistent with requirements of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), in cooperation with affected participants in the fishery, the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas, and the advisory panel established under paragraph (1)(A), the Secretary of Commerce may, after October 1, 1998, implement a comprehensive management system pursuant to section 304 of such Act (16 U.S.C. 1854) for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species. Such a system may not implement an individual fishing quota program until after October 1, 2000.

(i) REPEAL OR REVOCATION OF A FISHERY MANAGEMENT PLAN.—Section 304, as amended, is further amended by adding at the end the following:

"(h) REPEAL OR REVOCATION OF A FISHERY MANAGEMENT PLAN.—The Secretary may repeal or revoke a fishery management plan for a fishery under the authority of a Council only if the Council approves the repeal or revocation by a three-quarters majority of the voting members of the Council.".

(j) AMERICAN LOBSTER FISHERY.—Section 304(h) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, shall not apply to the American Lobster Fishery Management Plan.

SEC. 110. OTHER REQUIREMENTS AND AUTHORITY.

(a) Section 305 (18 U.S.C. 1855) is amended—

(1) by striking the title and subsection (a);

(2) by redesignating subsection (b) as subsection (f); and

(3) by inserting the following before subsection (c):

"SEC. 305. OTHER REQUIREMENTS AND AUTHORITY.

"(a) GEAR EVALUATION AND NOTIFICATION OF ENTRY.—

"(1) Not later than 18 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register, after notice and an opportunity for public comment, a list of all fisheries—

"(A) Under the authority of each Council and all fishing gear used in such fisheries, based on information submitted by the Councils under section 303(a); and

"(B) to which section 302(a)(3) applies and all fishing gear used in such fisheries.

"(2) The Secretary shall include with such list guidelines for determining when fishing gear or a fishery is sufficiently different from those listed as to require notification under paragraph (3).

"(3) Effective 180 days after the publication of such list, no person or vessel may employ fishing gear or engage in a fishery not included on such list without giving 90 days advance written notice to the appropriate Council, or the Secretary with respect to a fishery to which section 302(a)(3) applies. A signed return receipt shall serve as adequate evidence of such notice and as the date upon which the 90-day period begins.

"(4) A Council may submit to the Secretary any proposed changes to such list or such guidelines the Council deems appropriate. The Secretary shall publish a revised list, after notice and an opportunity for public comment, upon receiving any such proposed changes from a Council.

"(5) A Council may request the Secretary to promulgate emergency regulations under subsection (c) to prohibit any persons or vessels from using an unlisted fishing gear or engaging in an unlisted fishery if the appropriate Council, or the Secretary for fisheries to which section 302(a)(3) applies, determines that such unlisted gear or unlisted fishery would compromise the effectiveness of conservation and management efforts under this Act.

"(6) Nothing in this subsection shall be construed to permit a person or vessel to engage in fishing or employ fishing gear when such fishing or gear is prohibited or restricted by regulation under a fishery management plan or plan amendment, or under other applicable law.

"(b) FISH HABITAT.—(1)(A) The Secretary shall, within 6 months of the date of enactment of the Sustainable Fisheries Act, establish by regulation guidelines to assist the Councils in the description and identification of essential fish habitat in fishery management plans (including adverse impacts on such habitat) and in the consideration of actions to ensure the conservation and enhancement of such habitat. The Secretary shall set forth a schedule for the amendment of fishery management plans to include the identification of essential fish habitat and for the review and updating of such identifications based on new scientific evidence or other relevant information.

"(B) The Secretary, in consultation with participants in the fishery, shall provide each Council with recommendations and information regarding each fishery under that Council's authority to assist it in the identification of essential fish habitat, the adverse impacts on that habitat, and the actions that should be considered to ensure the conservation and enhancement of that habitat.

"(C) The Secretary shall review programs administered by the Department of Commerce and ensure that any relevant programs further the conservation and enhancement of essential fish habitat.

"(D) The Secretary shall coordinate with and provide information to other Federal agencies to further the conservation and enhancement of essential fish habitat.

"(2) Each Federal agency shall consult with the Secretary with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat identified under this Act.

"(3) Each Council—

"(A) may comment on and make recommendations to the Secretary and any Federal or State agency concerning any activity authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any Federal or State agency that, in the view of the Council, may affect the habitat, including essential fish habitat, of a fishery resource under its authority; and

"(B) shall comment on and make recommendations to the Secretary and any Federal or State agency concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource under its authority.

"(4)(A) If the Secretary receives information from a Council or Federal or State agency or determines from other sources that an action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any State or Federal agency would adversely affect any essential fish habitat identified under this Act, the Secretary shall recommend to such agency measures that can be taken by such agency to conserve such habitat.

"(B) Within 30 days after receiving a recommendation under subparagraph (A), a Federal agency shall provide a detailed response in writing to any Council commenting under paragraph (3) and the Secretary regarding the matter. The response shall include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Secretary, the Federal agency shall explain its reasons for not following the recommendations.".

(b) Section 305(c) (16 U.S.C. 1855(c)) is amended—

(1) in the heading by striking "ACTIONS" and inserting "ACTIONS AND INTERIM MEASURES";

(2) in paragraphs (1) and (2)—

(A) by striking "involving" and inserting "or that interim measures are needed to reduce overfishing for"; and

(B) by inserting "or interim measures" after "emergency regulations"; and

(C) by inserting "or overfishing" after "emergency"; and

(3) in paragraph (3)—

(A) by inserting "or interim measure" after "emergency regulation" each place such term appears;

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (D); and

(D) by inserting after subparagraph (A) the following:

"(B) shall, except as provided in subparagraph (C), remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for one additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulation or interim measure, and, in the case of a Council recommendation for emergency regulations or interim measures, the Council is actively preparing a fishery management plan, plan amendment, or proposed regulations to address the emergency or overfishing on a permanent basis;

"(C) that responds to a public health emergency or an oil spill may remain in effect until the circumstances that created the emergency no longer exist, provided that the public has an opportunity to comment after the regulation is published, and, in the case of a public health emergency, the Secretary of Health and Human Services concurs with the Secretary's action; and".

(c) Section 305(e) is amended—

(1) by striking "12291, dated February 17, 1981," and inserting "12866, dated September 30, 1993,"; and

(2) by striking "subsection (c) or section 304(a) and (b)" and inserting "subsections (a), (b), and (c) of section 304".

(d) Section 305, as amended, is further amended by adding at the end the following:

"(g) NEGOTIATED CONSERVATION AND MANAGEMENT MEASURES.—

"(1)(A) In accordance with regulations promulgated by the Secretary pursuant to this paragraph, a Council may establish a fishery negotiation panel to assist in the development of specific conservation and management measures for a fishery under its authority. The Secretary may establish a fishery negotiation panel to assist in the development of specific conservation and management measures required for a fishery under section 304(e)(5), for a fishery for which the Secretary has authority under section 304(g), or for any other fishery with the approval of the appropriate Council.

"(B) No later than 180 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations establishing procedures, developed in cooperation with the Administrative Conference of the United States, for the establishment and operation of fishery negotiation panels. Such procedures shall be comparable to the procedures for negotiated rulemaking established by subchapter III of chapter 5 of title 5, United States Code.

"(2) If a negotiation panel submits a report, such report shall specify all the areas where consensus was reached by the panel, including, if appropriate, proposed conservation and management measures, as well as any other information submitted by members of the negotiation panel. Upon receipt, the Secretary shall publish such report in the Federal Register for public comment.

"(3) Nothing in this subsection shall be construed to require either a Council or the Secretary, whichever is appropriate, to use all or any portion of a report from a negotiation panel established under this subsection in the development of specific conservation and management measures for the fishery for which the panel was established.

"(h) CENTRAL REGISTRY SYSTEM FOR LIMITED ACCESS SYSTEM PERMITS.—

"(1) Within 6 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an exclusive central registry system (which may be administered on a regional basis) for limited access system permits established under section 303(b)(6) or other Federal law, including individual fishing quotas, which shall provide for the registration of title to, and interests in, such permits, as well as for procedures for changes in the registration of title to such permits upon the occurrence of involuntary transfers, judicial or nonjudicial foreclosure of interests, enforcement of judgments thereon, and related matters deemed appropriate by the Secretary. Such registry system shall—

"(A) provide a mechanism for filing notice of a nonjudicial foreclosure or enforcement of a judgment by which the holder of a senior security interest acquires or conveys ownership of a permit, and in the event of a nonjudicial foreclosure, by which the interests of the holders of junior security interests are released when the permit is transferred;

"(B) provide for public access to the information filed under such system, notwithstanding section 402(b); and

"(C) provide such notice and other requirements of applicable law that the Secretary deems necessary for an effective registry system.

"(2) The Secretary shall promulgate such regulations as may be necessary to carry out this subsection, after consulting with the Councils and providing an opportunity for public comment. The Secretary is authorized to contract with non-federal entities to administer the central registry system.

"(3) To be effective and perfected against any person except the transferor, its heirs and devisees, and persons having actual notice thereof, all security interests, and all sales and other transfers of permits described in paragraph (1), shall be registered in compliance with the regulations promulgated under paragraph (2). Such registration shall constitute the exclusive means of perfection of title to, and security interests in, such permits, except for federal tax liens thereon, which shall be perfected exclusively in accordance with the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.). The Secretary shall notify both the buyer and seller of a permit if a lien has been filed by the Secretary of Treasury against the permit before collecting any transfer fee under paragraph (5) of this subsection.

"(4) The priority of security interests shall be determined in order of filing, the first filed having the highest priority. A validly-filed security interest shall remain valid and perfected notwithstanding a change in residence or place of business of the owner of record. For the purposes of this subsection, 'security interest' shall include security interests, assignments, liens and other encumbrances of whatever kind.

"(5)(A) Notwithstanding section 304(d)(1), the Secretary shall collect a reasonable fee of not more than one-half of one percent of the value of a limited access system permit upon registration of the title to such permit with the central registry system and upon the transfer of such registered title. Any such fee collected shall be deposited in the Limited Access System Administration Fund established under subparagraph (B).

"(B) There is established in the Treasury a Limited Access System Administration Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purposes of—

"(i) administering the central registry system; and

"(ii) administering and implementing this Act in the fishery in which the fees were collected. Sums in the Fund that are not currently needed for these purposes shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.".

(e) REGISTRY TRANSITION.—Security interests on permits described under section 305(h)(1) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, that are effective and perfected by otherwise applicable law on the date of the final regulations implementing section 305(h) shall remain effective and perfected if, within 120 days after such date, the secured party submits evidence satisfactory to the Secretary of Commerce and in compliance with such regulations of the perfection of such security.

SEC. 111. PACIFIC COMMUNITY FISHERIES.

(a) HAROLD SPARCK MEMORIAL COMMUNITY DEVELOPMENT QUOTA PROGRAM.—Section 305, as amended, is amended further by adding at the end:

"(i) ALASKA AND WESTERN PACIFIC COMMUNITY DEVELOPMENT PROGRAMS.—

"(1)(A) The North Pacific Council and the Secretary shall establish a western Alaska community development quota program under which a percentage of the total allowable catch of any Bering Sea fishery is allocated to the program.

"(B) To be eligible to participate in the western Alaska community development quota program under subparagraph (A) a community shall—

"(i) be located within 50 nautical miles from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the westernmost of the Aleutian Islands, or on an island within the Bering Sea;

"(ii) not be located on the Gulf of Alaska coast of the north Pacific Ocean;

"(iii) meet criteria developed by the Governor of Alaska, approved by the Secretary, and published in the Federal Register;

"(iv) be certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to be a Native village;

"(v) consist of residents who conduct more than one-half of their current commercial or subsistence fishing effort in the waters of the Bering Sea or waters surrounding the Aleutian Islands; and

"(vi) not have previously developed harvesting or processing capability sufficient to support substantial participation in the groundfish fisheries in the Bering Sea, unless the community can show that the benefits from an approved Community Development Plan would be the only way for the community to realize a return from previous investments.

"(C)(i) Prior to October 1, 2001, the North Pacific Council may not submit to the Secretary any fishery management plan, plan amendment, or regulation that allocates to the western Alaska community development quota program a percentage of the total allowable catch of any Bering Sea fishery for which, prior to October 1, 1995, the Council had not approved a percentage of the total allowable catch for allocation to such community development quota program. The expiration of any plan, amendment, or regulation that meets the requirements of clause (ii) prior to October 1, 2001, shall not be construed to prohibit the Council from submitting a revision or extension of such plan, amendment, or regulation to the Secretary if such revision or extension complies with the other requirements of this paragraph.

"(ii) With respect to a fishery management plan, plan amendment, or regulation for a Bering Sea fishery that—

"(I) allocates to the western Alaska community development quota program a percentage of the total allowable catch of such fishery; and

"(II) was approved by the North Pacific Council prior to October 1, 1995;

the Secretary shall, except as provided in clause (iii) and after approval of such plan, amendment, or regulation under section 304, allocate to the program the percentage of the total allowable catch described in such plan, amendment, or regulation. Prior to October 1, 2001, the percentage submitted by the Council and approved by the Secretary for any such plan, amendment, or regulation shall be no greater than the percentage approved by the Council for such fishery prior to October 1, 1995.

"(iii) The Secretary shall phase in the percentage for community development quotas approved in 1995 by the North Pacific Council for the Bering Sea crab fisheries as follows:

"(I) 3.5 percent of the total allowable catch of each such fishery for 1998 shall be allocated to the western Alaska community development quota program;

"(II) 5 percent of the total allowable catch of each such fishery for 1999 shall be allocated to the western Alaska community development quota program; and

"(III) 7.5 percent of the total allowable catch of each such fishery for 2000 and thereafter shall be allocated to the western Alaska community development quota program, unless the North Pacific Council submits and the Secretary approves a percentage that is no greater than 7.5 percent of the total allowable catch of each such fishery for 2001 or the North Pacific Council submits and the Secretary approves any other percentage on or after October 1, 2001.

"(D) This paragraph shall not be construed to require the North Pacific Council to resubmit, or the Secretary to reapprove, any fishery management plan or plan amendment approved by the North Pacific Council prior to October 1, 1995, that includes a community development quota program, or any regulations to implement such plan or amendment.

"(2)(A) The Western Pacific Council and the Secretary may establish a western Pacific community development program for any fishery under the authority of such Council in order to provide access to such fishery for western Pacific communities that participate in the program.

"(B) To be eligible to participate in the western Pacific community development program, a community shall—

"(i) be located within the Western Pacific Regional Fishery Management Area;

"(ii) meet criteria developed by the Western Pacific Council, approved by the Secretary and published in the Federal Register;

"(iii) consist of community residents who are descended from the aboriginal people indigenous to the area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Western Pacific region;

"(iv) not have previously developed harvesting or processing capability sufficient to support substantial participation in fisheries in the Western Pacific Regional Fishery Management Area; and

"(v) develop and submit a Community Development Plan to the Western Pacific Council and the Secretary.

"(C) In developing the criteria for eligible communities under subparagraph (B)(ii), the Western Pacific Council shall base such criteria on traditional fishing practices in or dependence on the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery.

"(D) For the purposes of this subsection 'Western Pacific Regional Fishery Management Area' means the area under the jurisdiction of the Western Pacific Council, or an island within such area.

"(E) Notwithstanding any other provision of this Act, the Western Pacific Council shall take into account traditional indigenous fishing practices in preparing any fishery management plan.

"(3) The Secretary shall deduct from any fees collected from a community development quota program under section 304(d)(2) the costs incurred by participants in the program for observer and reporting requirements which are in addition to observer and reporting requirements of other participants in the fishery in which the allocation to such program has been made.

"(4) After the date of enactment of the Sustainable Fisheries Act, the North Pacific Council and Western Pacific Council may not submit to the Secretary a community development quota program that is not in compliance with this subsection.".

(b) WESTERN PACIFIC DEMONSTRATION PROJECTS.—(1) The Secretary of Commerce and the Secretary of the Interior are authorized to make direct grants to eligible western Pacific communities, as recommended by the Western Pacific Fishery Management Council, for the purpose of establishing not less than three and not more than five fishery demonstration projects to foster and promote traditional indigenous fishing practices. The total amount of grants awarded under this subsection shall not exceed $500,000 in each fiscal year.

(2) Demonstration projects funded pursuant to this subsection shall foster and promote the involvement of western Pacific communities in western Pacific fisheries and may—

(A) identify and apply traditional indigenous fishing practices;

(B) develop or enhance western Pacific community-based fishing opportunities; and

(C) involve research, community education, or the acquisition of materials and equipment necessary to carry out any such demonstration project.

(3)(A) The Western Pacific Fishery Management Council, in consultation with the Secretary of Commerce, shall establish an advisory panel under section 302(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(g)) to evaluate, determine the relative merits of, and annually rank applications for such grants. The panel shall consist of not more than 8 individuals who are knowledgeable or experienced in traditional indigenous fishery practices of western Pacific communities and who are not members or employees of the Western Pacific Fishery Management Council.

(B) If the Secretary of Commerce or the Secretary of the Interior awards a grant for a demonstration project not in accordance with the rank given to such project by the advisory panel, the Secretary shall provide a detailed written explanation of the reasons therefor.

(4) The Western Pacific Fishery Management Council shall, with the assistance of such advisory panel, submit an annual report to the Congress assessing the status and progress of demonstration projects carried out under this subsection.

(5) Appropriate Federal agencies may provide technical assistance to western Pacific community-based entities to assist in carrying out demonstration projects under this subsection.

(6) For the purposes of this subsection, 'western Pacific community' shall mean a community eligible to participate under section 305(i)(2)(B) of the Magnuson Fishery Conservation and Management Act, as amended by this Act.

SEC. 112. STATE JURISDICTION.

(a) Paragraph (3) of section 306(a) (16 U.S.C. 1856(a)) is amended to read as follows:

"(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

"(A) The fishing vessel is registered under the law of that State, and (i) there is no fishery management plan or other applicable federal fishing regulations for the fishery in which the vessel is operating; or (ii) the State's laws and regulations are consistent with the fishery management plan and applicable federal fishing regulations for the fishery in which the vessel is operating.

"(B) The fishery management plan for the fishery in which the fishing vessel is operating delegates management of the fishery to a State and the State's laws and regulations are consistent with such fishery management plan. If at any time the Secretary determines that a State law or regulation applicable to a fishing vessel under this circumstance is not consistent with the fishery management plan, the Secretary shall promptly notify the State and the appropriate Council of such determination and provide an opportunity for the State to correct any inconsistencies identified in the notification. If, after notice and opportunity for corrective action, the State does not correct the inconsistencies identified by the Secretary, the authority granted to the State under this subparagraph shall not apply until the Secretary and the appropriate Council find that the State has corrected the inconsistencies. For a fishery for which there was a fishery management plan in place on August 1, 1996 that did not delegate management of the fishery to a State as of that date, the authority provided by this subparagraph applies only if the Council approves the delegation of management of the fishery to the State by a three-quarters majority vote of the voting members of the Council.

"(C) The fishing vessel is not registered under the law of the State of Alaska and is operating in a fishery in the exclusive economic zone off Alaska for which there was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery. The authority provided under this subparagraph shall terminate when a fishery management plan under this Act is approved and implemented for such fishery.".

(b) Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

"(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).".

(c) Section 306(c)(1) (16 U.S.C. 1856(c)(1)) is amended—

(1) by striking "(4)(C); and" in subparagraph (A) and inserting "(4)(C) or has received a permit under section 204(d);";

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and the word "and"; and

(3) by inserting after subparagraph (B) the following:

"(C) the owner or operator of the vessel submits reports on the tonnage of fish received from vessels of the United States and the locations from which such fish were harvested, in accordance with such procedures as the Secretary by regulation shall prescribe.".

(d) INTERIM AUTHORITY FOR DUNGENESS CRAB.—(1) Subject to the provisions of this subsection and notwithstanding section 306(a)) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856(a)), the States of Washington, Oregon, and California may each enforce State laws and regulations governing fish harvesting and processing against any vessel operating in the exclusive economic zone off each respective State in a fishery for Dungeness crab (Cancer magister) for which there is no fishery management plan implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) Any law or regulation promulgated under this subsection shall apply equally to vessels operating in the exclusive economic zone and adjacent State waters and shall be limited to—

(A) establishment of season opening and closing dates, including presoak dates for crab pots;

(B) setting of minimum sizes and crab meat recovery rates;

(C) restrictions on the retention of crab of a certain sex; and

(D) closure of areas or pot limitations to meet the harvest requirements arising under the jurisdiction of *United States* v. *Washington*, subproceeding 89-3.

(3) With respect to the States of Washington, Oregon, and California—

(A) any State law limiting entry to a fishery subject to regulation under this subsection may not be enforced against a vessel that is operating in the exclusive economic zone off that State and is not registered under the law of that State, if the vessel is otherwise legally fishing in the exclusive economic zone, except that State laws regulating landings may be enforced; and

(B) no vessel may harvest or process fish which is subject to regulation under this subsection unless under an appropriate State permit or pursuant to a Federal court order.

(4) The authority provided under this subsection to regulate the Dungeness crab fishery shall terminate on October 1, 1999, or when a fishery management plan is implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) for such fishery, whichever date is earlier.

(5) Nothing in this subsection shall reduce the authority of any State, as such authority existed on July 1, 1996, to regulate fishing, fish processing, or landing of fish.

(6)(A) It is the sense of Congress that the Pacific Fishery Management Council, at the earliest practicable date, should develop and submit to the Secretary fishery management plans for shellfish fisheries conducted in the geographic area of authority of the Council, especially Dungeness crab, which are not subject to a fishery management plan on the date of enactment of this Act.

(B) Not later than December 1, 1997, the Pacific Fishery Management Council shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives describing the progress in developing the fishery management plans referred to in subparagraph (A) and any impediments to such progress.

SEC. 113. PROHIBITED ACTS.

(a) Section 307(1)(J)(i) (16 U.S.C. 1857(1)J)(i)) is amended—

(1) be striking "plan," and inserting "plan"; and

(2) by inserting before the semicolon the following: ", or in the absence of any such plan, is smaller than the minimum possession size in effect at the time under a coastal fishery management plan for American lobster adopted by the Atlantic States Marine Fisheries Commission under the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.)".

(b) Section 307(1)(K) (16 U.S.C. 1857(1)(K)) is amended—

(1) by striking "knowingly steal or without authorization, to" and inserting "to steal or attempt to steal or to negligently and without authorization"; and

(2) by striking "gear, or attempt to do so;" and insert "gear;".

(c) Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is amended to read as follows:

"(L) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this Act, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act;".

(d) Section 307(1) (16 U.S.C. 1857(1)) is amended—

(1) by striking "or" at the end of subparagraph (M);

(2) by striking "pollock." in subparagraph (N) and inserting "pollock; or"; and

(3) by adding at the end the following:

"(O) to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required under section 302(j), or to knowingly vote on a Council decision in violation of section 302(j)(7))A).".

(e) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is amended to read as follows:

"(A) in fishing within the boundaries of any State, except—

"(i) recreational fishing permitted under section 201(i);

"(ii) fish processing permitted under section 306(c); or

"(iii transshipment at sea of fish or fish products within the boundaries of any State in accordance with a permit approved under section 204(d);".

(f) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended—

(1) by striking "(j)" and inserting "(i)"; and

(2) by striking "204(b) or (c)" and inserting "204(b), (c), (d)".

(g) Section 307(3) (16 U.S.C. 1857(3)) is amended to read as follows:

"(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under section 204(d) or section 306(c) to receive such fish;".

(h) Section 307(4) (16 U.S.C. 1857(4)) is amended by inserting "or within the boundaries of any State" after "zone".

SEC. 114. CIVIL PENALTIES AND PERMIT SANCTIONS; REBUTTABLE PRESUMPTIONS.

(a) Section 308(a) (16 U.S.C. 1858(a)) is amended by striking "ability to pay," and adding at the end the following new sentence: "In assessing such penalty the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay, provided that the information is served on the Secretary at least 30 days prior to an administrative hearing".

(b) The first sentence of section 308(b) (16 U.S.C. 1858(b)) is amended to read as follows: "Any person against whom a civil penalty is assessed under subsection (a) or against whom a permit sanction is imposed under subsection (g) (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such order.".

(c) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C)) is amended by striking the matter from "or (C) any" through "overdue," and inserting the following: "(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue, or (D) any payment required for observer services provided to or contracted by an owner or operator who has been issued a permit or applied for a permit under any marine resource law administered by the Secretary has not been paid and is overdue,".

(d) Section 310(e) (16 U.S.C. 1860(e)) is amended by adding at the end the following new paragraph:

"(3) For purposes of this Act, It shall be a rebuttable presumption that any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has gear on board that is capable of use for large-scale driftnet fishing, is engaged in such fishing.".

SEC. 115. ENFORCEMENT.

(a) the second sentence of section 311(d) (16 U.S.C. 1861(d)) is amended—

(1) by striking "Guam, any Commonwealth, territory, or" and inserting "Guam or any"; and

(2) by inserting a comma before the period and the following: "and except that in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands".

(b) Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is amended—

(1) by striking "fishery" each place it appears and inserting "marine";

(2) by inserting "of not less than 20 percent of the penalty collected or $20,000, which ever is the lesser amount," after "reward" in subparagraph (B), and

(3) by striking subparagraph (E) and inserting the following:

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), as made applicable by section 310(c) of this Act or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and".

(c) Section 311(e)(2) (16 U.S.C. 1861(e)(2)) is amended to read as follows:

"(2) Any person found in an administrative or judicial proceeding to have violated this Act or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation.".

(d) Section 311 (16 U.S.C. 1861) is amended by redesignating subsection (g) as subsection (h), and by inserting the following after subsection (f):

"(g) ENFORCEMENT IN THE PACIFIC INSULAR AREAS.—The Secretary, in consultation with the Governors of the Pacific Insular Areas and the Western Pacific Council, shall to the extent practicable support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.".

"(e) Section 311 (16 U.S.C. 1861), as amended by subsection (d), is amended by striking "201(b), (c)," in subsection (i)(1), as redesignated, and inserting "201(b) or (c), or section 204(d),".

SEC. 116. TRANSITION TO SUSTAINABLE FISHERIES.

"(A) Section 312 is amended to read as follows:

"SEC. 312. TRANSITION TO SUSTAINABLE FISHERIES.

"(a) FISHERIES DISASTER RELIEF.—(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

"(A) natural causes;

"(B) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures; or

"(C) undetermined causes.

"(2) Upon the determination under paragraph (1) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishing community, or by the Secretary in cooperation with the affected State or fishing community for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Before making funds available for an activity authorized under section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions.

"(3) The Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.

"(4) There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(b) FISHING CAPACITY REDUCTION PROGRAM.—(1) The Secretary, at the request of the appropriate Council for fisheries under the authority of such Council, or the Governor of a State for fisheries under State authority, may conduct a fishing capacity reduction program (referred to in this section as the 'program') in a fishery if the Secretary determines that the program—

"(A) is necessary to prevent or end overfishing, rebuild stocks of fish, or achieve measurable and significant improvements in the conservation and management of the fishery;

"(B) is consistent with the federal or State fishery management plan or program in effect for such fishery, as appropriate, and that the fish management plan—

"(i) will prevent the replacement of fishing capacity removed by the program through a moratorium on new entrants, restrictions on vessel upgrades, and other effort control measures, taking into account the full potential fishing capacity of the fleet; and

"(ii) establishes a specified or target total allowable catch or other measures that trigger closure of the fishery or adjustments to reduce catch; and

"(C) is cost-effective and capable of repaying any debt obligation incurred under section 111 of title XI of the Merchant Marine Act, 1936.

"(2) The objective of the program shall be to obtain the maximum sustained reduction in fishing capacity at the least cost and in a minimum period of time. To achieve that objective, the Secretary is authorized to pay—

"(A) the owner of a fishing vessel, if such vessel is (i) scrapped, or (ii) through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions that permanently prohibit and effectively prevent its use in fishing, and if the permit authorizing the participation of the vessel in the fishery is surrendered for permanent revocation and the owner relinquishes any claim associated with the vessel and permit that could qualify such owner for any present or future limited access system permit in the fishery for which the program is established; or

"(B) the holder of a permit authorizing participation in the fishery, if such permit is surrendered for permanent revocation, and such holder relinquishes any claim associated with the permit and vessel used to harvest fishery resources under the permit that could qualify such holder for any present or future limited access system permit in the fishery for which the program was established.

"(3) Participation in the program shall be voluntary, but the Secretary shall ensure compliance by all who do participate.

"(4) The Secretary shall consult, as appropriate, with Councils, Federal agencies, State and regional authorities, affected fishing communities, participants in the fishery, conservation organizations, and other interested parties throughout the development and implementation of any program under this section.

"(c) PROGRAM FUNDING.—(1) The program may be funded by any combination of amounts—

"(A) available under clause (iv) of section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)(1)(A); the Saltonstall-Kennedy Act);

"(B) appropriated for the purposes of this section;

"(C) provided by an industry fee system established under subsection (d) and in accordance with section 1111 of title XI of the Merchant Marine Act, 1936; or

"(D) provided from any State or other public sources or private or non-profit organizations.

"(2) All funds for the program, including any fees established under subsection (d), shall be paid into the fishing capacity reduction fund established under section 1111 of title XI of the Merchant Marine Act, 1936.

"(d) INDUSTRY FEE SYSTEM.—(1)(A) If an industry fee system is necessary to fund the program, the Secretary, at the request of the appropriate Council, may conduct a referendum on such system. Prior to the referendum, the Secretary, in consultation with the Council, shall—

"(i) identify, to the extent practicable, and notify all permit or vessel owners who would be affected by the program; and

"(ii) make available to such owners information about the industry fee system describing the schedule, procedures, and eligibility requirements for the referendum, the proposed program, and the amount and duration and any other terms and conditions of the proposed fee system.

"(B) The industry fee system shall be considered approved if the referendum votes which are cast in favor of the proposed system constitute a two-thirds majority of the participants voting.

"(2) Notwithstanding section 304(d) and consistent with an approved industry fee system, the Secretary is authorized to establish such a system to fund the program and repay debt obligations incurred pursuant to section 1111 of title XI of the Merchant Marine Act, 1936. The fees for a program established under this section shall—

"(A) be determined by the Secretary and adjusted from time to time as the Secretary considers necessary to ensure the availability of sufficient funds to repay such debt obligations;

"(B) not exceed 5 percent of the ex-vessel value of all fish harvested from the fishery for which the program is established;

"(C) be deducted by the first ex-vessel fish purchaser from the proceeds otherwise payable to the seller and accounted for and forwarded by such fish purchasers to the Secretary in such manner as the Secretary may establish; and

"(D) be in effect only until such time as the debt obligation has been fully paid.

"(e) IMPLEMENTATION PLAN.—(1) The Secretary, in consultation with the appropriate Council or State and other interested parties, shall prepare and publish in the Federal Register for a 60-day public comment period an implementation plan, including proposed regulations, for each program. The implementation plan shall—

"(A) define criteria for determining types and numbers of vessels which are eligible for participation in the program taking into account characteristics of the fishery, the requirements of applicable fishery management plans, the needs of fishing communities, and the need to minimize program costs; and

"(B) establish procedures for program participation (such as submission of owner bid under an auction system or fair market-value assessment) including any terms and conditions for participation which the Secretary deems to be reasonably necessary to meet the goals of the program.

"(2) During the 60-day public comment period—

"(A) the Secretary shall conduct a public hearing in each State affected by the program; and

"(B) the appropriate Council or State shall submit its comments and recommendations, if any, regarding the plan and regulations.

"(3) Within 45 days after the close of the public comment period, the Secretary, in consultation with the appropriate Council or State, shall analyze the public comment received and publish in the Federal Register a final implementation plan for the program and regulations for its implementation. The Secretary may not adopt a final implementation plan involving industry fees or debt obligation unless an industry fee system has been approved by a referendum under this section.".

(b) STUDY OF FEDERAL INVESTMENT.—The Secretary of Commerce shall establish a task force comprised of interested parties to study and report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives within 2 years of the date of enactment of this Act on the role of the Federal government in—

(1) subsidizing the expansion and contraction of fishing capacity in fishing fleets managed under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

(2) otherwise influencing the aggregate capital investments in fisheries.

(c) Section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c3(b)(1)(A)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the period at the end of clause (iii) and inserting a semicolon and the word "and"; and

(3) by adding at the end the following new clause:

"(iv) to fund the Federal share of a fishing capacity reduction program established under section 312 of the Magnuson fishery Conservation and Management Act; and".

SEC. 117. NORTH PACIFIC AND NORTHWEST ATLANTIC OCEAN FISHERIES.

(a) NORTH PACIFIC FISHERIES CONSERVATION.—Section 313 (16 U.S.C. 1862) is amended—

(1) by striking "RESEARCH PLAN" in the section heading and inserting "CONSERVATION";

(2) in subsection (a) by striking "North Pacific Fishery Management Council" and inserting "North Pacific Council"; and

(3) by adding at the end the following:

"(f) BYCATCH REDUCTION.—In implementing section 303(a)(11) and this section, the North Pacific Council shall submit conservation and management measures to lower, on an annual basis for a period of not less than four years, the total amount of economic discards occurring in the fisheries under its jurisdiction.

"(g) BYCATCH REDUCTION INCENTIVES.—(1) Notwithstanding section 304(d), the North Pacific Council may submit, and the Secretary may approve, consistent with the provisions of this Act, a system of fines in a fishery to provide incentives to reduce bycatch and bycatch rates; except that such fines shall not exceed $25,000 per vessel per season. Any fines collected shall be deposited in the North Pacific Fishery Observer Fund, and may be made available by the Secretary to offset costs related to the reduction of bycatch in the fishery from which such fines were derived, including conservation and management measures and research, and to the State of Alaska to offset costs incurred by the State in the fishery from which such penalties were derived or in fisheries in which the State is directly involved in management or enforcement and which are directly affected by the fishery from which such penalties were derived.

"(2)(A) Notwithstanding section 303(d), and in addition to the authority provided in section 303(b)(10), the North Pacific Council may submit, and the Secretary may approve, conservation and management measures which provide allocations of regulatory discards to individual fishing vessels as an incentive to reduce per vessel bycatch and bycatch rates in a fishery, provided that—

"(i) such allocations may not be transferred for monetary consideration and are made only on an annual basis; and

"(ii) any such conservation and management measures will meet the requirements of subsection (h) and will result in an actual reduction in regulatory discards in the fishery.

"(B) The North Pacific Council may submit restrictions in addition to the restriction imposed by clause (i) of subparagraph (A) on the transferability of any such allocations, and the Secretary may approve such recommendation.

"(h) CATCH MEASUREMENT.—(1) By June 1, 1997 the North Pacific Council shall submit, and the Secretary may approve, consistent with the other provisions of this Act, conservation and management measures to ensure total catch measurement in each fishery under the jurisdiction of such Council. Such measures shall ensure the accurate enumeration, at a minimum, of target species, economic discards, and regulatory discards.

"(2) To the extent the measures submitted under paragraph (1) do not require United States fish processing vessels (as defined in chapter 21 of title 46, United States Code) to weigh fish, the North Pacific Council and the Secretary shall submit a plan to the Congress by January 1, 1998, to allow for weighing, including recommendations to assist such processors and processing vessels in acquiring necessary equipment, unless the Council determines that such weighing is not necessary to meet the requirements of this subsection.

"(i) FULL RETENTION AND UTILIZATION.—(1) The North Pacific Council shall submit to the Secretary by October 1, 1998 a report on the advisability of requiring the full retention by fishing vessels and full utilization by United States fish processors of economic discards in fisheries under its jurisdiction if such economic discards, or the mortality of such economic discards, cannot be avoided. The report shall address the projected impacts of such requirements on participants in the fishery and describe any full retention and full utilization requirements that have been implemented.

"(2) The report shall address the advisability of measures to minimize processing waste, including standards setting minimum percentages which must be processed for human consumption. For the purpose of the report, 'processing waste' means that portion of any fish which is processed and which could be used for human consumption or other commercial use, but which is not so used.".

"(b) NORTHWEST ATLANTIC OCEAN FISHERIES.—Section 314 (16 U.S.C. 1863) is amended by striking "1997" in subsection (a)(4) and inserting "1999".

TITLE II—FISHERY MONITORING AND RESEARCH

SEC. 201. CHANGE OF TITLE.

The heading of title IV (16 U.S.C. 1881 et seq.) is amended to read as follows:

"TITLE IV—FISHERY MONITORING AND RESEARCH".

SEC. 202. REGISTRATION AND INFORMATION MANAGEMENT.

Title IV (16 U.S.C. 1881 et seq.) is amended by inserting after the title heading the following:

"SEC. 401. REGISTRATION AND INFORMATION MANAGEMENT.

"(a) STANDARD FISHING VESSEL REGISTRATION AND INFORMATION MANAGEMENT SYSTEM.—The Secretary shall, in cooperation with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, develop recommendations for implementation of a standardized fishing vessel registration and information management system on a regional basis. The recommendations shall be developed after consultation with interested governmental and nongovernmental parties and shall—

"(1) be designed to standardize the requirements of vessel registration and information collection systems required by this Act, the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), and any other marine resource law implemented by the Secretary, and, with the permission of a State, any marine resource law implemented by such State;

"(2) integrate information collection programs under existing fishery management plans into a nonduplicative information collection and management system;

"(3) avoid duplication of existing state, tribal, or federal systems and shall utilize, to the maximum extent practicable, information collected from existing systems;

"(4) provide for implementation of the system through cooperative agreements with appropriate State, regional, or tribal entities and Marine Fisheries Commissions;

"(5) provide for funding (subject to appropriations) to assist appropriate State, regional, or tribal entities and Marine Fisheries Commissions in implementation;

"(6) establish standardized units of measurement, nomenclature, and formats for the collection and submission of information;

"(7) minimize the paperwork required for vessels registered under the system;

"(8) include all species of fish within the geographic areas of authority of the Councils and all fishing vessels including charter fishing vessels, but excluding recreational fishing vessels;

"(9) require United States fish processors, and fish dealers and other first ex-vessel purchasers of fish that are subject to the proposed system, to submit information (other than economic information) which may be necessary to meet the goals of the proposed system; and

"(10) include procedures necessary to ensure—

"(A) the confidentiality of information collected under this section in accordance with section 403(b); and

"(B) the timely release or availability to the public of information collected under this section consistent with section 402(b).

"(b) FISHING VESSEL REGISTRATION.—The proposed registration system should, at a minimum, obtain the following information for each fishing vessel—

"(1) the name and official number or other identification, together with the name and address of the owner or operator or both;

"(2) gross tonnage, vessel capacity, type and quantity of fishing gear, mode of operation (catcher, catcher processor, or other), and such other pertinent information with respect to vessel characteristics as the Secretary may require; and

"(3) identification (by species, gear type, geographic area of operations, and season) of the fisheries in which the fishing vessel participates.

"(c) FISHERY INFORMATION.—The proposed information management system should, at a minimum, provide basic fisheries performance information for each fishery, including—

"(1) the number of vessels participating in the fishery including charter fishing vessels;

"(2) the time period in which the fishery occurs;

"(3) the approximate geographic location or official reporting area where the fishery occurs;

"(4) a description of fishing gear used in the fishery, including the amount and type of such gear and the appropriate unit of fishing effort; and

"(5) other information required under subsection 303(a)(5) or requested by the Council under section 402.

"(d) USE OF REGISTRATION.—Any registration recommended under this section shall not be considered a permit for the purposes of this Act, and the Secretary may not propose to revoke, suspend, deny, or impose any other conditions or restrictions on any such registration or the use of such registration under this Act.

"(e) PUBLIC COMMENT.—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register for a 60-day public comment period a proposal that would provide for implementation of a standardized fishing vessel registration and information collection system that meets the requirements of subsections (a) through (c). The proposal shall include—

"(1) a description of the arrangements of the Secretary for consultation and cooperation with the department in which the Coast Guard is operating, the States, the Councils, Marine Fisheries Commissions, the fishing industry and other interested parties; and

"(2) any proposed regulations or legislation necessary to implement the proposal.

"(f) CONGRESSIONAL TRANSMITTAL.—Within 60 days after the end of the comment period and after consideration of comments received under subsection (e), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a recommended proposal for implementation of a national fishing vessel registration system that includes—

"(1) any modifications made after comment and consultation;

"(2) a proposed implementation schedule, including a schedule for the proposed cooperative agreements required under subsection (a)(4); and

"(3) recommendations for any such additional legislation as the Secretary considers necessary or desirable to implement the proposed system.

"(g) Report to Congress.—Within 15 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall report to Congress on the need to include recreational fishing vessels into a national fishing vessel registration and information collection system. In preparing its report, the Secretary shall cooperate with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, and consult with governmental and nongovernmental parties.".

SEC. 203. INFORMATION COLLECTION.

Section 402 is amended to read as follows:

"SEC. 402. INFORMATION COLLECTION.

"(a) Council Requests.—If a Council determines that additional information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after receipt of that request.

"(b) Confidentiality of Information.—(1) Any information submitted to the Secretary by an person in compliance with any requirement under this Act shall be confidential and shall not be disclosed, except—

"(A) to Federal employees and Council employees who are responsible for fishery management plan development and monitoring;

"(B) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identify or business of any person;

"(C) when required by court order;

"(D) when such information is used to verify catch under an individual fishing quota program;

"(E) that observer information collected in fisheries under the authority of the North Pacific Council may be released to the public as specified in a fishery management plan or regulation for weekly summary bycatch information identified by vessel, and for haul-specific bycatch information without vessel identification; or

"(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act.

"(2) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (1)(E).

"(c) Restriction on Use of Certain Information.—(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

"(2) The Secretary may not require the submission of a federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

"(d) Contracting Authority.—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

"(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

"(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

"(e) Resource Assessments.—(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

"(2) The Secretary, in consultation with the appropriate Council and the fishing industry—

"(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

"(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

"(C) may permit fish harvested during such survey to count towards a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

"(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.".

SEC. 204. OBSERVERS.

Section 403 is amended to read as follows:

"SEC. 403. OBSERVERS.

"(a) Guidelines for Carrying Observers.—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

"(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

"(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

"(b) Training.—The Secretary, in cooperation with the appropriate States and the National Sea Grant College Program, shall—

"(1) establish programs to ensure that each observer receives adequate training in collecting and analyzing the information necessary for the conservation and management purposes of the fishery to which such observer is assigned;

"(2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position;

"(3) ensure that an observer has received adequate training in basic vessel safety; and

"(4) make use of university and any appropriate private nonprofit organization training facilities and resources, where possible, in carrying out this subsection.

"(c) Observer Status.—An observer on a vessel and under contract to carry out responsibilities under this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall be deemed to be a Federal employee for the purpose of compensation under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.)."

SEC. 205. FISHERIES RESEARCH.

Section 404 is amended to read as follows:

"SEC. 404. FISHERIES RESEARCH.

"(a) In General.—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics and social characteristics of the fisheries.

"(b) Strategic Plan.—Within one year after the date of enactment of the Sustainable Fisheries Act, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall—

"(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);

"(2) indicate goals and timetables for the program described in paragraph (1);

"(3) provide a role for commercial fishermen in such research, including involvement in field testing;

"(4) provide for collection and dissemination, in a timely manner, of complete and accurate information concerning fishing activities, catch, effort, stock assessments, and other research conducted under this section; and

"(5) be developed in cooperation with the Councils and affected States, and provide for coordination with the Councils, affected States, and other research entities.

"(c) Areas of Research.—Areas of research are as follows:

"(1) Research to support fishery conservation and management, including but not limited to, biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other factors affecting the abundance and availability of fish.

"(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

"(3) Research on the fisheries, including the social cultural, and economic relationships among fishing vessel owners, crew, United States fish processors, associated shoreside labor, seafood markets and fishing communities.

"(4) Information management research, including the development of a fishery information base and an information management system under section 401 that will permit the full use of information in the support of effective fishery conservation and management.

"(d) Public Notice.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.".

SEC. 206. INCIDENTAL HARVEST RESEARCH.

Section 405 is amended to read as follows:

"SEC. 405. INCIDENTAL HARVEST RESEARCH.

"(a) Collection of Information.—Within nine months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall, after consultation with the Gulf Council and South Atlantic Council, conclude the collection of information in the program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Within the same time period, the Secretary shall make available to the public aggregated summaries of information collected prior to June 30, 1994 under such program.

"(b) Identification of Stock.—The program concluded pursuant to subsection (a) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(c) Collection and Assessment of Specific Stock Information.—For stocks of fish identified pursuant to subsection (b), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(1) a program to collect and evaluate information on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(2) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(3) a program of information collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(d) Bycatch Reduction Program.—Not later than 12 months after the enactment of the Sustainable Fisheries Act, the Secretary shall, in cooperation with affected interests, and based upon the best scientific information available, complete a program to—

"(1) develop technological devices and other changes in fishing operations necessary and appropriate to minimize the incidental mortality of bycatch in the course of shrimp trawl activity to the extent practicable, taking into account the level of bycatch mortality in the fishery on November 28, 1990;

"(2) evaluate the ecological impacts and the benefit and costs of such devices and changes in fishing operations; and

"(3) assess whether it is practicable to utilize bycatch which is not avoidable.

"(e) Report to Congress.—The Secretary shall, within one year of completing the programs required by this section, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

"(f) Implementation Criteria.—Any conservation and management measure implemented under this Act to reduce the incidental mortality of bycatch in the course of shrimp trawl fishing shall be consistent with—

"(1) measures applicable to fishing throughout the range in United States waters of the bycatch species concerned; and

"(2) the need to avoid any serious adverse environmental impacts on such bycatch species or the ecology of the affected area.".

SEC. 207. MISCELLANEOUS RESEARCH.

(A) Fisheries Systems Research.—Section 406 (16 U.S.C. 1882) is amendment to read as follows:

"SEC. 406. FISHERIES SYSTEMS RESEARCH.

"(a) Establishment of Panel.—Not later than 180 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an advisory panel under this Act to develop recommendations to expand the application of ecosystem principles in fishery conservation and management activities.

"(b) Panel Membership.—The advisory panel shall consist of not more than 20 individual and include—

"(1) individuals with expertise in the structures, functions, and physical and biological characteristics of ecosystem; and

"(2) representatives from the Councils, States, fishing industry, conservation organizations, or others with expertise in the management of marine resources.

"(c) Recommendations.—Prior to selecting advisory panel members, the Secretary shall, with respect to panel members described in subsection (b)(1), solicit recommendations from the National Academy of Sciences.

"(d) Report.—Within 2 years after the date of enactment of this Act, the Secretary shall submit to the Congress a completed report of the panel established under this section, which shall include—

"(1) an analysis of the extent to which ecosystem principles are being applied in fishery conservation and management activities, including research activities;

"(2) proposed actions by the Secretary and by the Congress that should be undertaken to expand the application of ecosystem principles in fishery conservation and management; and

"(3) such other information as may be appropriate.

"(e) Procedural Matter.—The advisory panel established under this section shall be deemed an advisory panel under section 302(g).".

(b) Gulf of Mexico Red Snapper Research.—Title IV of the Act (16 U.S.C. 1882) is amended by adding the following new section:

"SEC. 407. GULF OF MEXICO RED SNAPPER RESEARCH.

"(a) Independent Peer Review.—(1) Within 30 days of the date of enactment of the Sustainable Fisheries Act, the Secretary shall initiate an independent peer review to evaluate—

"(A) the accuracy and adequacy of fishery statistics used by the Secretary for the red snapper fishery in the Gulf of Mexico to account for all commercial, recreational, and charter fishing harvests and fishing effort on the stock;

"(B) the appropriateness of the scientific methods, information, and models used by the Secretary to assess the status and trends of the Gulf of Mexico red snapper stock and as the basis for the fishery management plan for the Gulf of Mexico red snapper fishery;

"(C) the appropriateness and adequacy of the management measures in the fishery management plan for red snapper in the Gulf of Mexico for conserving and managing the red snapper fishery under this Act; and

"(D) the costs and benefits of all reasonable alternatives to an individual fishing quota program for the red snapper fishery in the Gulf of Mexico.

"(2) The Secretary shall ensure that commercial, recreational, and charter fishermen in the red snapper fishery in the Gulf of Mexico are provided an opportunity to—

"(A) participate in the peer review under this subsection; and

"(B) provide information to the Secretary concerning the review of fishery statistics under this subsection without being subject to penalty under this Act or other applicable law for any past violation of a requirement to report such information to the Secretary.

"(3) The Secretary shall submit a detailed written report on the findings of the peer review conducted under this subsection to the Gulf Council no later than one year after the date of enactment of the Sustainable Fisheries Act.

"(b) Prohibition.—In addition to the restrictions under section 303(d)(1)(A), the Gulf Council may not, prior to October 1, 2000, undertake or continue the preparation of any fishery management plan, plan amendment or regulation under this Act for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class.

"(c) REFERENDUM.—

"(1) On or after October 1, 2000, the Gulf Council may prepare and submit a fishery management plan, plan amendment, or regulation for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class, only if the preparation of such plan, amendment, or regulation is approved in a referendum conducted under paragraph (2) and only if the submission to the Secretary of such plan, amendment, or regulation is approved in a subsequent referendum conducted under paragraph (2).

"(2) The Secretary, at the request of the Gulf Council, shall conduct referendums under this subsection. Only a person who held an annual vessel permit with a red snapper endorsement for such permit on September 1, 1996 (or any person to whom such permit with such endorsement was transferred after such date) and vessel captains who harvested red snapper in a commercial fishery using such endorsement in each red snapper fishing season occurring between January 1, 1993 and such date may vote in a referendum under this subsection. The referendum shall be decided by a majority of the votes cast. The Secretary shall develop a formula to weight votes based on the proportional harvest under each such permit and endorsement and by each such captain in the fishery between January 1, 1993 and September 1, 1996. Prior to each referendum, the Secretary, in consultation with the Council, shall—

"(A) identify and notify all such persons holding permits with red snapper endorsements and all such vessel captains; and

"(B) make available to all such persons and vessel captains information about the schedule, procedures, and eligibility requirements for the referendum and the proposed individual fishing quota program.

"(d) CATCH LIMITS.—Any fishery management plan, plan amendment, or regulation submitted by the Gulf Council for the red snapper fishery after the date of enactment of the Sustainable Fisheries Act shall contain conservation and management measures that—

"(1) establish separate quotas for recreational fishing (which, for the purposes of this subsection shall include charter fishing) and commercial fishing that, when reached, result in a prohibition on the retention of fish caught during recreational fishing and commercial fishing, respectively, for the remainder of the fishing year; and

"(2) ensure that such quotas reflect allocations among such sectors specified in part 641.24 and 641.25 of title 50, Code of Federal Regulations (as revised as of October 1, 1995), and do not reflect any harvests in excess of such allocations.".

SEC. 208. STUDY OF CONTRIBUTION OF BYCATCH TO CHARITABLE ORGANIZATIONS.

(a) STUDY.—The Secretary of Commerce shall conduct a study of the contribution of bycatch to charitable organizations by commercial fishermen. The study shall include determinations of—

(1) the amount of bycatch that is contributed each year to charitable organizations by commercial fishermen;

(2) the economic benefits to commercial fishermen from those contributions; and

(3) the impact on fisheries of the availability of those benefits.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce shall submit to the Congress a report containing determinations made in the study under subsection (a).

(c) BYCATCH DEFINED.—In this section the term "bycatch" has the meaning given that term in section 3 of the Magnuson Fishery Conservation and Management Act, as amended by section 102 of this Act.

SEC. 209. STUDY OF IDENTIFICATION METHODS FOR HARVEST STOCKS.

(a) IN GENERAL.—The Secretary of Commerce shall conduct a study to determine the best possible method of identifying various Atlantic and Pacific salmon and steelhead stocks in the ocean at time of harvest. The study shall include an assessment of—

(1) coded wire tags;

(2) fin clipping; and

(3) other identification methods.

(b) REPORT.—The Secretary shall report the results of the study, together with any recommendations for legislation deemed necessary based on the study, within 6 months after the date of enactment of this Act to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 210. REVIEW OF NORTHEAST FISHERY STOCK ASSESSMENTS.

The National Academy of Sciences, in consultation with regionally recognized fishery experts, shall conduct a peer review of Canadian and United States stock assessments, information collection methodologies, biological assumptions and projections, and other relevant scientific information used as the basis for conservation and management in the Northeast multispecies fishery. The National Academy of Sciences shall submit the results of such review to the Congress and the Secretary of Commerce no later than March 1, 1997.

SEC. 211. CLERICAL AMENDMENTS.

The table of contents is amended by striking the matter relating to title IV and inserting the following:

"Sec. 312. Transition to sustainable fisheries.
"Sec. 313. North Pacific fisheries conservation.
"Sec. 314. Northwest Atlantic Ocean fisheries reinvestment program.

"TITLE IV—FISHERY MONITORING AND RESEARCH

"Sec. 401. Registration and information management.
"Sec. 402. Information collection.
"Sec. 403. Observers.
"Sec. 404. Fisheries research.
"Sec. 405. Incidental harvest research.
"Sec. 406. Fisheries systems research.
"Sec. 407. Gulf of Mexico red snapper research.".

TITLE III—FISHERIES FINANCING

SEC. 301. SHORT TITLE.

This title may be cited as the "Fisheries Financing Act".

SEC. 302. INDIVIDUAL FISHING QUOTA LOANS.

(a) AMENDMENT OF MERCHANT MARINE ACT, 1936.—Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274) is amended—

(1) by striking "or" at the end of subsection (a)(5);

(2) by striking the period at the end of subsection (a)(6) and inserting a semicolon and "or";

(3) by adding at the end of subsection (a) the following:

"(7) financing or refinancing, including, but not limited to, the reimbursement of obligors for expenditures previously made, for the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)).''; and

(4) by striking "paragraph (6)" in the last sentence of subsection (a) and inserting "paragraphs (6) and (7)"; and

(5) by striking "equal to" in the third proviso of subsection (b)(2) and inserting "not to exceed".

(b) PROHIBITION.—Until October 1, 2001, no new loans may be guaranteed by the Federal Government for the construction of new fishing vessels if the construction will result in an increased harvesting capacity within the United States exclusive economic zone.

SEC. 303. FISHERIES FINANCING AND CAPACITY REDUCTION.

(a) CAPACITY REDUCTION AND FINANCING AUTHORITY.—Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), is amended by adding at the end the following new sections:

"SEC. 1111. (a) The Secretary is authorized to guarantee the repayment of debt obligations issued by entities under this section. Debt obligations to be guaranteed may be issued by any entity that has been approved by the Secretary and has agreed with the Secretary to such conditions as the Secretary deems necessary for this section to achieve the objective of the program and to protect the interest of the United States.

"(b) Any debt obligation guaranteed under this section shall—

"(1) be treated in the same manner and to the same extent as other obligations guaranteed under this title, except with respect to provisions of this title that by their nature cannot be applied to obligations guaranteed under this section;

"(2) have the fishing fees established under the program paid into a separate subaccount of the fishing capacity reduction fund established under this section;

"(3) not exceed $100,000,000 in an unpaid principal amount outstanding at any one time for a program;

"(4) have such maturity (not to exceed 20 years), take such form, and contain such conditions as the Secretary determines necessary for the program to which they relate;

"(5) have as the exclusive source of repayment (subject to the proviso in subsection (c)(2)) and as the exclusive payment security, the fishing fees established under the program; and

"(6) at the discretion of the Secretary be issued in the public market or sold to the Federal Financing Bank.

"(c)(1) There is established in the Treasury of the United States a separate account which shall be known as the fishing capacity reduction fund (referred to in this section as the 'fund'). Within the fund, at least one sub= account shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

"(2) Amounts in the fund shall be available, without appropriation or fiscal year limitation, to the Secretary to pay the cost of the program, including payments to financial institutions to pay debt obligations incurred by entities under this section; provided that funds available for this purpose from other amounts available for the program may also be used to pay such debt obligations.

"(3) Sums in the fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States.

"(d) The Secretary is authorized and directed to issue such regulations as the Secretary deems necessary to carry out this section.

"(e) For the purposes of this section, the term 'program' means a fishing capacity reduction program established under section 312 of the Magnuson Fishery Conservation and Management Act.

"SEC. 1112. (a) Notwithstanding any other provision of this title, all obligations involving any fishing vessel, fishery facility, aquaculture facility, individual fishing quota, or fishing capacity reduction program issued under this title after the date of enactment of the Sustainable Fisheries Act shall be direct loan obligations, for which the Secretary shall be the obligee, rather than obligations issued to obligees other than the Secretary and guaranteed by the Secretary. All direct loan obligations under this section shall be treated in the same manner and to the same extent as obligations guaranteed under this title except with respect to provisions of this title which by their nature can only be applied to obligations guaranteed under this title.

"(b) Notwithstanding any other provisions of this title, the annual rate of interest which obligors shall pay on direct loan obligations under this section shall be fixed at two percent of the principal amount of such obligations outstanding plus such additional percent as the Secretary shall be obligated to pay as the interest cost of borrowing from the United States Treasury the funds with which to make such direct loans.".

TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS

SEC. 401. MARINE FISH PROGRAM AUTHORIZATION OF APPROPRIATIONS.

(a) FISHERIES INFORMATION COLLECTION AND ANALYSIS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out fisheries information and analysis activities under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $51,800,000 for fiscal year 1997, and $52,345,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, the collection, analysis, and dissemination of scientific information necessary for the management of living marine resources and associated marine habitat.

(b) FISHERIES CONSERVATION AND MANAGEMENT OPERATIONS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out activities relating to fisheries conservation and management operations under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $29,028,000 for fiscal year 1997, and $29,899,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, development, implementation, and enforcement of conservation and management measures to achieve continued optimum use of living marine resources, hatchery operations, habitat conservation, and protected species management.

(c) FISHERIES STATE AND INDUSTRY COOPERATIVE PROGRAMS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out State and industry cooperative programs under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $27,932,000 for fiscal year 1997, and $28,226,000 for each of the fiscal years 1998, 1999, and 2000. These activities include, but are not limited to, ensuring the quality and safety of seafood products and providing grants to States for improving the management of interstate fisheries.

(d) AUTHORIZATION OF APPROPRIATIONS FOR CHESAPEAKE BAY OFFICE.—Section 2(e) of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) by striking "1992 and 1993" and inserting "1997 and 1998";

(2) by striking "establish" and inserting "operate";

(3) by striking "306" and inserting "307"; and

(4) by striking "1991" and inserting "1992".

(e) RELATION TO OTHER LAWS.—Authorizations under this section shall be in addition to monies authorized under the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 3301 et seq.), the Anadromous Fish Conservation Act (16 U.S.C. 757 et seq.), and the Interjurisdictional Fisheries Act (16 U.S.C. 4107 et seq.).

(f) NEW ENGLAND HEALTH PLAN.—The Secretary of Commerce is authorized to provide up to $2,000,000 from previously appropriated funds to Caritas Christi for the implementation of a health care plan for fishermen in New England if Caritas Christi submits such plan to the Secretary no later than January 1, 1997, and the Secretary, in consultation with the Secretary of Health and Human Services, approves such plan.

SEC. 402. INTERJURISDICTIONAL FISHERIES ACT AMENDMENTS.

(a) REAUTHORIZATION.—Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

"(1) $3,400,000 for fiscal year 1996;

"(2) $3,900,000 for fiscal year 1997;

"(3) $4,400,000 for each of the fiscal years 1998, 1999, and 2000.";

(2) by striking "$350,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, and $600,000 for each of the fiscal years 1994 and 1995," in subsection (c) and inserting "$700,000 for fiscal year 1997, and $750,000 for each of the fiscal years 1998, 1999, and 2000,".

(b) NEW ENGLAND REPORT.—Section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)) is amended by adding at the end the following new paragraph:

"(7) With respect to funds available for the New England region, the Secretary shall submit to the Congress by January 1, 1997, with annual updates thereafter as appropriate, a report on the New England fishing capacity reduction initiative which provides:

"(A) the total number of Northeast multispecies permits in each permit category and calculates the maximum potential fishing capacity of vessels holding such permits based on the principal gear, gross registered tonnage, engine horsepower, length, age, and other relevant characteristics;

"(B) the total number of days at sea available to the permitted Northeast multispecies fishing fleet and the total days at sea weighted by the maximum potential fishing capacity of the fleet;

"(C) an analysis of the extent to which the weighted days at sea are used by the active participants in the fishery and of the reduction in such days as a result of the fishing capacity reduction program; and

"(D) an estimate of conservation benefits (such as reduction in fishing mortality) directly attributable to the fishing capacity reduction program.".

SEC. 403. ANADROMOUS FISHERIES AMENDMENTS.

Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

"SEC. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

"(A) $4,000,000 for fiscal year 1997; and

"(B) $4,250,000 for each of fiscal years 1998, 1999, and 2000.

"(2) Sums appropriated under this subsection are authorized to remain available until expended.

"(b) Not more than $625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.".

SEC. 404. ATLANTIC COASTAL FISHERIES AMENDMENTS.

(a) DEFINITION.—Paragraph (1) of section 803 of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5102) is amended—

(1) by inserting "and" after the semicolon in subparagraph (A);

(2) by striking "States; and" in subparagraph (B) and inserting "States."; and

(3) by striking subparagraph (C);

(b) IMPLEMENTATION STANDARD FOR FEDERAL REGULATION.—Subparagraph (A) of section 804(b)(1) of such Act (16 U.S.C. 5103(b)(1)) is amended by striking "necessary to support" and inserting "compatible with".

(c) AMERICAN LOBSTER MANAGEMENT.—Section 809 (16 U.S.C. 5108) and section 810 of such Act are redesignated as section 811 and 812, respectively, and the following new section is inserted at the end of section 808:

"SEC. 809. STATE PERMITS VALID IN CERTAIN WATERS.

"(a) PERMITS.—Notwithstanding any provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.), or any requirement of a fishery management plan or coastal fishery management plan to the contrary, a person holding a valid license issued by the State of Maine which lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American Lobster in the following areas designated as federal waters, if such fishing is conducted in such waters in accordance with all other applicable federal and state regulations:

"(1) west of Monhegan Island in the area located north of the line 43° 42′ 08″ N, 69° 34′ 18″ W and 43° 42′ 15″ N, 69° 19′ 18″ W;

"(2) east of Monhegan Island in the area located west of the line 43° 44′ 00″ N, 69° 15′ 05″ W and 43° 48′ 10″ N, 69° 08′ 01″ W;

"(3) south of Vinalhaven in the area located west of the line 43° 52′ 21″ N, 68° 39′ 54″ W and 43° 48′ 10″ N, 69° 08′ 01″ W; and

"(4) south of Bois Bubert Island in the area located north of the line 44° 19′ 15″ N, 67° 49′ 30″ W and 44° 23′ 45″ N, 67° 40′ 33″ W.

"(b) ENFORCEMENT.—The exemption from federal fishery permitting requirements granted by subsection (a) may be revoked or suspended by the Secretary in accordance with section 308(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858(g)) for violations of such Act or this Act.

"SEC. 810. TRANSITION TO MANAGEMENT OF AMERICAN LOBSTER FISHERY BY COMMISSION.

"(a) TEMPORARY LIMITS.—Notwithstanding any other provision of this Act or of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), if no regulations have been issued under section 804(b) of this Act by December 31, 1997, to implement a coastal fishery management plan for American lobster, then the Secretary shall issue interim regulations before March 1, 1998, that will prohibit any vessel that takes lobsters in the exclusive economic zone by a method other than pots or traps from landing lobsters (or any parts thereof) at any location within the United States in excess of—

"(1) 100 lobsters (or parts thereof) for each fishing trip of 24 hours or less duration (up to a maximum of 500 lobsters, or parts thereof, during any 5-day period); or

"(2) 500 lobsters (or parts thereof) for a fishing trip of 5 days or longer.

"(b) SECRETARY TO MONITOR LANDINGS.—Before January 1, 1998, the Secretary shall monitor, on a timely basis, landings of American lobster, and, if the Secretary determines that catches from vessels that take lobsters in the exclusive economic zone by a method other than pots or traps have increased significantly, then the Secretary may, consistent with the national standards in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801), and after opportunity for public comment and consultation with the Atlantic States Marine Fisheries Commission, implement regulations under section 804(b) of this Act that are necessary for the conservation of American lobster.

"(c) REGULATIONS TO REMAIN IN EFFECT UNTIL PLAN IMPLEMENTED.—Regulations issued under subsection (a) or (b) shall remain in effect until the Secretary implements regulations under section 804(b) of this Act to implement a coastal fishery management plan for American lobster.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 810 of such Act, as amended by this Act, is amended further by striking "1996." and inserting "1996, and $7,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000.".

SEC. 405. TECHNICAL AMENDMENTS TO MARITIME BOUNDARY AGREEMENT.

(a) EXECUTION OF PRIOR AMENDMENTS TO DEFINITIONS.—Notwithstanding section 308 of the Act entitled "An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary", approved March 9, 1992 (Public Law 102–251; 106 Stat. 66) hereinafter referred to as the "FGB Act", section 301(b) of that Act (adding a definition of the term "special areas") shall take effect on the date of enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) Section 301(h)(2)(A) of the FGB Act is repealed.

(2) Section 304 of the FGB Act is repealed.

(3) Section 3(15) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)) is amended to read as follows:

"(15) The term 'waters under the jurisdiction of the United States' means—

"(A) the territorial sea of the United States;

"(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the other boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

"(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured, except that this subparagraph shall not apply before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.".

SEC. 406. AMENDMENTS TO THE FISHERIES ACT.

Section 309(b) of the Fisheries Act of 1995 (Public Law 104–43) is amended by striking "July 1, 1996" and inserting "July 1, 1997".

Mr. STEVENS. Mr. President, I ask unanimous consent that the summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF MANAGER'S AMENDMENT TO S. 39

AUTHORIZATION OF APPROPRIATION

The manager's amendment authorizes appropriations through fiscal year (FY) 1999 for the purposes of carrying out the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

DEFINITIONS

The amendment defines a number of new terms for the purposes of the Magnuson Act and amends a number of existing definitions. New defined terms include: "bycatch"; "charter fishing"; "commercial fishing"; "economic discards"; "essential fish habitat"; "fishing community"; "individual fishing quota"; "overfishing"; "Pacific Insular areas"; "recreational fishing"; "regulatory discards"; "special areas"; and "vessel subject to the jurisdiction of the United States." The amendment amends the existing definition of "optimum" with respect to the yield of fishery to mean the amount of fish prescribed on the basis of the maximum sustainable yield "as reduced" (rather than "as modified") by any relevant economic, social, or ecological factor. This change prevents the maximum sustainable yield of a fishery from being exceeded.

BYCATCH REDUCTION

The amendment adds a new national standard to the Magnuson Act requiring that, to the extent practicable, conservation and management measures minimize bycatch and minimize the mortality of bycatch that cannot be avoided. The amendment specifically requires the Councils to establish standard reporting methods under fishery management plans to assess the amount and type of bycatch occurring in each fishery, and to include measures to minimize bycatch to the maximum extent they can, and to minimize the mortality of bycatch that cannot be avoided in the first place. The amendment provides the Councils with the new tools of harvest preferences and other harvest incentives to achieve this bycatch reduction. In addition, the amendment requires the Councils to assess the type and amount of fish being caught and released alive in recreational fisheries, and include measures to ensure the extended survival of such fish.

The amendment requires the Secretary of State to seek to secure international agreements for bycatch standards and measures equivalent to those of the United States.

The amendment requires the North Pacific Council, in carrying out the new bycatch requirements, to reduce the total amount of bycatch occurring in the North Pacific, and authorizes the North Pacific Council to use, in addition to harvest preferences or other harvest incentives, fines and non-transferable annual allocations of regulatory discards as incentives to reduce bycatch and bycatch rates. The amendment requires the North Pacific Council to submit a report on the advisability of requiring the full retention and full utilization of the economic discards in the North Pacific that cannot be avoided in the first place. The Council must report on any measures it already has approved, or approves during the period of the study, to require full retention or full utilization, and is not meant to preclude the Council from taking all actions that it can to achieve these goals.

The amendment requires the Secretary to conclude within nine months the collection of data in the program to assess the impact on fishery resources of incidental harvest by shrimp trawl fisheries, and to conduct additional data collection and evaluation activities for stocks identified by the program which are considered to be overfished. Within 12 months of enactment, the Secretary must complete a program to develop technology, devices, and changes in fishing operations necessary to minimize the incidental mortality of bycatch in the course of shrimp trawl activity to the extent practicable as measured against the level of mortality which occurred in a fishery before November 28, 1990. Any measures taken are required to be consistent with measures that are applicable to fishing throughout the range within the United States of the bycatch species.

OVERFISHING

The amendment defines "overfishing" to mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis. It requires the Councils to specify, in each FMP, criteria for determining when a fishery is overfished and to include measures to rebuild any overfished fishery. It also requires the Secretary to report annually to Congress and the Councils on the status of fisheries, and to identify fisheries that are overfished or approaching a condition of being overfished using the Council's overfishing criteria. The Secretary is required to notify the Council immediately if a fishery is overfished.

Within one year of the Secretary's annual report, the appropriate Council must submit an FMP, amendment or regulation to prevent overfishing in fisheries determined to be approaching that condition, and to stop overfishing and begin to rebuild fisheries classified as overfished. For an overfished fishery, the Councils must specify as short a time period as possible to stop the overfishing, taking into account the harvest status and biology of the overfished stock, the needs of fishing communities, recommendations by international organizations in which the United States participates, and interaction between the stock and ecosystem. The duration cannot exceed 10 years except under extraordinary circumstances. The Secretary is required to prepare an FMP or amendment if a Council fails to take sufficient action within one year on an FMP, amendment or regulations to rebuild an overfished fishery. The amendment allows the Secretary to recommend appropriate measures to the Council, and requires that the allocation of both overfishing restrictions and recovery benefits be fairly and equitably distributed among sectors of the fishery.

The manager's amendment allows the Secretary to use interim authority to reduce overfishing for up to 180 days, with one additional 180 day period, provided that a public comment period on the measure is provided.

HABITAT PROTECTION

The amendment defines "essential fish habitat" for the purposes of the Magnuson Act as "waters and substrate necessary to fish for spawning, breeding, or growth to maturity." It requires the Councils to identify essential fish habitat under each FMP, to minimize, where practicable, adverse impacts on the habitat caused by fishing, and to identify actions that should be considered to encourage the conservation and enhancement of essential fish habitat. The Secretary is required to establish guidelines to assist the Councils in describing and identifying essential fish habitat and to review programs administered by the Department of Commerce to ensure they further the conservation and enhancement of essential fish habitat. Federal agencies are required to consult with the Secretary with respect to any action authorized, funded or proposed to be undertaken that may adversely affect any essential fish habitat identified under the Magnuson Act.

The amendment authorizes the Councils (similar to existing law) to comment on and make recommendations to the Secretary and other Federal or State agencies on any agency actions that may affect habitat, including essential fish habitat, and requires the Councils to comment on and make recommendations on agency activities that in the view of the Council are likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource.

Upon notification of any action authorized, funded, undertaken, or proposed to be authorized, funded, or undertaken by a Federal agency that may adversely affect essential fish habitat, the Secretary is required to recommend measures that can be taken to conserve the habitat. Federal agencies must respond in writing to such recommendations, and explain reasons for not following any recommendations.

COUNCIL REFORM

The amendment requires Council members to recuse themselves from voting on Council decisions that would have a "significant and predictable effect" on their financial interests. Such a decision is defined as one where there is "a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery." This language is intended to prevent Council members from voting on decisions that would bring substantially disproportionate financial benefits to themselves, but not to prevent Council members from voting on most matters on which they have expertise.

The Secretary, in consultation with the Council, is required to select a "designated official" with Federal conflict-of-interest experience to attend Council meetings and make determinations on conflicts of interest. The determinations will occur at the request of the affected Council member of at the initiative of the designated official. Any Council member may request a review by the Secretary of a determination. Regulations for the recusal process are required to be promulgated by the Secretary within one year of enactment.

The amendment adds an additional seat to the Pacific Council for Pacific Northwest Indian tribes, to be selected by the Secretary from a list of 3 individuals from tribes with Federally recognized fishing rights. The amendment adds two additional seats to the Mid-Atlantic Council to provide representation for the State of North Carolina.

The amendment requires the Councils to keep detailed minutes of meetings. It also allows any voting members of the Council to request that a matter be decided by roll call vote, and requires all roll call votes to be identified in the Council's minutes. All written data submitted to the Council are required to include a statement of the information's source. The reported bill allows the Councils (and the Secretary with respect to Atlantic highly migratory species) to establish fishery negotiation panels to assist in the development of difficult conservation and management measures.

FISHERY MANAGEMENT PLANS

The amendment simplifies the review process by the Secretary of proposed FMPs and amendments submitted by the Councils, and includes a new section addressing proposed regulations submitted by the Councils. It eliminates the preliminary FMP evaluation required under current law. After transmittal of an FMP or amendment by the Council to the Secretary, the Secretary immediately must publish notice of the plan in the Federal Register and provide a 60-day comment period. The Secretary must approve, partially approve, or disapprove a plan within 30 days of the end of the comment period.

The amendment creates a new framework for the Secretary to review proposed regulations from the Councils and allows the Councils to submit proposed regulations simultaneously with an FMP or amendment, or at any time after an FMP or amendment has been approved. The Secretary has 15 days to review proposed regulations for their consistency with an FMP. If they are consistent, regulations must be published in the Federal Register for a comment period of 15 to 60 days. The Secretary must publish final regulations within 30 days of the end of the comment period.

The amendment requires the Councils to describe the commercial, recreational, and charter fishing occurring in each fishery and to allocate any harvest restrictions or recovery benefits fairly and equitably among these three sectors. The amendment codifies existing authority of the Councils to restrict the sale of fish for conversation and management purposes, including to ensure that any fish that is sold complies with federal and state safety and quality requirements.

INDIVIDUAL FISHING QUOTAS

The amendment prevents Councils from submitting and the Secretary from approving or implementing any new individual fishing quota (IFQ) programs until after September 30, 2000, and directs the National Academy of Sciences, in consultation with the Secretary, Councils, and others, to submit a comprehensive report on IFQs to the Congress by October 1, 1998.

The Academy report must address, among other things, IFQ transferability foreign ownership, processor quotas, effective IFQ enforcement, IFQ auctions, windfall profits, and potential economic impacts including capital gains revenue. The report must additionally analyze IFQ programs already in existence in the United States (wreckfish, surf clam/ocean quahog, and halibut/sablefish), IFQs outside the United States, and characteristics unique to IFQs as well as alternative measures that accomplish the same objectives as IFQs. Two working groups (West Coast/Alaska/Hawaii and East Coast/Gulf) will assist in preparing the report. After September 30, 2000, in the event that amendments to the Magnuson Act have not been adopted to implement a national IFQ policy, the Councils will be allowed to submit new IFQ programs to the Secretary following certain guidelines.

The amendment requires the Secretary to establish a fee of up to three percent of the annual ex-vessel value of fish harvested under IFQ programs to pay for management costs. The surf clam/ocean quahog and wreckfish IFQ fisheries will not begin paying fees until January 1, 2000. The amendment allows the Councils to reserve up to 25 percent of these fees be used for loan obligations for IFQs for small vessel fishermen and entry level fishermen. The North Pacific Council is required to reserve the full 25 percent for such a program in the halibut and sablefish fisheries.

The amendment requires the Secretary to collect a fee under the authority of a new section 304(d)(2)(A)(i) to recover the actual costs directly related to the management and enforcement of any IFQ program, including any program that may be created under section 313(g)(2) in the North Pacific to reduce per vessel bycatch and bycatch rates. It is expected that the fee collected under any program created under section 313(g)(2) would not exceed one percent of the estimated annual value of the target species in the fishery in which the program is created.

STATE JURISDICTION

The manager's amendment restates in greater detail existing law with respect to a state's ability to regulate fishing vessels registered in that state in federal waters. It allows states to regulate all fishing vessels in a fishery in the EEZ off that State if a fishery management plan delegates such authority to the State. Further, it allows the State of Alaska to regulate fishing vessels not registered under Alaska laws in the EEZ off Alaska if there is no fishery management plan in place for a fishery, and allows the states of California, Oregon and Washington to enforce certain state laws in the EEZs off their respective coasts with respect to dungeness crab fishing until October 1, 1999, or if a fishery management plan for that species is implemented.

LIEN REGISTRY

The amendment requires the Secretary to establish a central registry system for limited access permits (including IFQ permits), 6 months after the enactment of the Act, and requires the Secretary to charge a fee of not more than one half of one percent of the value of a permit upon registration and transfer to pay for the system. The amendment requires the Secretary to determine whether the Secretary of the Treasury has placed any liens against limited access system permits and to provide this information to both the buyer and seller of any permit before collecting a fee on the transfer of a permit. Consistent with the requirements of the Internal Revenue Code of 1986, the Secretary of the Treasury may withdraw a notice of lien filed against a limited access system permit if the withdrawal will facilitate the collection of a tax liability by allowing the owner of the permit to derive income from the use of the permit. The amendment establishes a Limited Access System Administration Fund in the Treasury. Funds from this fund are available without appropriation to the Secretary to administer the central lien registry system and manage the fishery in which IFQ fees were collected. Any fees collected on the ex-vessel value of the fish harvested under an IFQ system can be spent only in the fishery in which they were collected.

PACIFIC COMMUNITY FISHERIES

The amendment requires the North Pacific Council and Secretary to establish a western Alaska community development quota (CDQ) program under which a percentage of the total allowable catch of each Bering Sea fishery is allocated to western Alaska communities that participate in the program. The amendment prevents the North Pacific Council form increasing the percentage of any CDQ allocation approved by the Council prior to October 1, 1995 until after September 30, 2001. The amendment includes a sentence at the end of a new section 305(i)(1)(C)(i) making clear that this cap through September 30, 2001 does not prevent the extension of the pollock CDQ allocation beyond 1998. In complying with the western Alaska CDQ requirement, a percentage of the pollock fishery (and each Bering Sea fishery) must be allocated to the program every year. In the event that the North Pacific Council fails to submit an extension of the pollock CDQ in 1998, it is the intent that the Secretary continues to allocate to the western Alaska CDQ program the percentage of pollock approved by the Council for previous years until the Council submits an extension.

The Council retains the ability to revise CDQ allocations, except as provided in the amendment for crab fisheries, provided that the allocations not exceed the levels approved by the Council prior to October 1, 1995 (after September 30, 2001, the Councils retains the full ability to revise CDQ allocations). The Secretary is required to phase in the CDQ percentage already approved by the North Pacific Council for the Bering crab fisheries, allocating 3.5 percent in 1998, 5 percent in 1999 and 7.5 percent in 2000 and thereafter, unless the Council submits a percentage no greater than 7.5 percent for 2001 or any other percentage on or after October 1, 2001. CDQ allocations already approved by the Council (pollock, halibut, sablefish, crab and groundfish) do not need to be resubmitted by the Council or reapproved (if already approved) by the Secretary.

The amendment requires the National Academy of Sciences to submit a report to Congress on the performance and effectiveness of the community development quota programs under the authority of the North Pacific Council. The amendment requires CDQ fees collected by the Secretary to be reduced by the amount of the costs imposed on CDQ program participants that are not imposed on other participants in the fishery. The Secretary is required to transfer to the State of Alaska up to 33 percent of any CDQ fees to reimburse the State for its costs in the CDQ program.

The amendment authorizes the Western Pacific Council to establish a western Pacific community development program. It additionally authorizes the Secretary and Secretary of Interior to make direct grants, not to exceed a total of $500,000 annually, to eligible western Pacific communities to establish from three to five fishery demonstration projects which foster and promote the involvement of western Pacific communities.

REDUCING FISHING CAPACITY

The amendment authorizes the Secretary to implement a vessel and/or permit buyout program at the request of a Council (or Governor for a fishery under a State's authority) if adequate steps are taken to ensure that vessels and permits are removed permanently and the program is needed for conservation and management. Eligible funding sources could include Saltonstall-Kennedy funds, funds appropriated for the purpose of the buyout section, funds provided by an industry fee system (which cannot exceed 5 percent of the ex-vessel value of fish harvested), of funds provided by a State or other source. The amendment authorizes the Secretary to provide direct loan obligations of up to $100 million per fishery to finance buyout programs, which must be paid back over a twenty year period. Any catch history must be forfeitd by the owner of a vessel or permit that is purchased under a buyout program.

FISHERIES DISASTER RELIEF

At the discretion of the Secretary or at the request of an affected state or fishing community, the Secretary must determine whether a commercial fishery failure has occurred, caused by natural causes; man-made causes beyond the control of a Council; or undetermined causes. If the Secretary determines that a commercial fishery failure has occurred, the Secretary may make funds available to an affected State, fishing community or other activity the Secretary determines appropriate to restore the fishery or prevent a similar failure in the future. The Federal share of the cost of any activity under the authority of the section cannot exceed 75 percent of the total cost. The amendment authorizes such sums as are necessary for each fiscal year for fisheries disaster relief.

RESEARCH

The amendment creates a new title IV of the Magnuson Act, titled "FISHERY MONITORING AND RESEARCH" that contains existing Magnuson sections (with some modifications) dealing with information collection, confidentiality, fisheries research, shrimp trawl incidental harvest research, observers. It also contains new section dealing with vessel registration, and the creation of an advisory panel to develop recommendations to expand the application of ecosystem principles in fishery conservation and management activities. The amendment requires the National Academy of Sciences to complete a peer review of the Northeast Multispecies Fishery Management Plan by February 1, 1997.

VESSEL REGISTRATION

The amendment requires the Secretary to develop recommendations for implementation of a standardized vessel registration and data management system, centralized on a regional basis, that would be required to integrate and standardize all federal marine resource vessel registration and data collection requirements, as well as State requirements if a State chooses to participate. The system must avoid duplication with any existing State or other systems. Within 16 months of the date of enactment, and after providing for public comment, the Secretary must transmit the proposal to Congress. Within 15 months of enactment, the Secretary must report to Congress on the need to include private recreational fishing vessels in a national fishing vessel registration and data collection system.

OBSERVERS

The Secretary is required to promulgate regulations for vessels required to carry observers, including guidelines to determine when the facilities of a vessel are not safe or adequate for an observer, or how to reasonably make them safe or adequate. The Secretary also must establish, in cooperation with States and Sea Grant College Programs, programs to train and ensure the competence of observers. The Secretary is required to use university training facilities, such as the North Pacific Observer Training Center, where possible, to carry out the observer section. The amendment treats observers as Federal employees for the purposes of compensation under the Federal Employee Compensation Act. Data collectors are protected from being forcibly assaulted, impeded, intimidated, sexually harassed, interfered with, or bribed, while carrying out responsibilities under the Magnuson Act.

OTHER REAUTHORIZATIONS

The amendment extends the authorization of appropriations for several other marine statutes, including the Interjurisdictional Fisheries Act, the Atlantic Coastal Cooperative Fisheries Management Act, the Anadromous Fish Conservation Act and an authorization for other NOAA marine fisheries programs. The amendment requires the Secretary to submit a report reviewing New England fishing capacity reduction programs.

HUTCHISON AMENDMENT NO. 5383

Mrs. HUTCHISON proposed an amendment to the bill, S. 39, supra; as follows:

On page 142, line 7, insert "To the maximum extent practicable," before "Any".

On page 142, line 10, strike "must" and insert in lieu thereof "should".

On page 148, strike lines 1 through 17.

ECONOMIC ESPIONAGE ACT OF 1996

SPECTER (AND KOHL) AMENDMENT NO. 5384

Mr. STEVENS (for Mr. SPECTER for himself and Mr. KOHL) proposed an amendment to the bill (H.R. 3723) to amend title 18, United States Code, to protect proprietary economic information, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Espionage Act of 1996".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) sustaining a healthy and competitive national economy is imperative;

(2) the development and production of proprietary economic information involves every aspect of interstate commerce and business;

(3) the development, production, protection, and lawful exchange, sale, and transfer of proprietary economic information is essential to maintaining the health and competitiveness of interstate commerce and the national economy;

(4) much proprietary economic information moves in interstate and foreign commerce

and proprietary economic information that does not move in interstate or foreign commerce directly and substantially affects proprietary economic information that does;

(5) the theft, wrongful destruction or alteration, misappropriation, and wrongful conversion of proprietary economic information substantially affects and harms interstate commerce, costing United States firms, businesses, industries, and consumers millions of dollars each year; and

(6) enforcement of existing State laws protecting proprietary economic information is frustrated by the ease with which stolen or wrongfully appropriated proprietary economic information is transferred across State and national boundaries.

(b) PURPOSE.—The purpose of this Act is—

(1) to promote the development and lawful utilization of United States proprietary economic information produced for, or placed in, interstate and foreign commerce by protecting it from theft, wrongful destruction or alteration, misappropriation, and conversion; and

(2) to secure to authors and inventors the exclusive right to their respective writings and discoveries.

SEC. 3. PREVENTION OF ECONOMIC ESPIONAGE AND PROTECTION OF PROPRIETARY ECONOMIC INFORMATION IN INTERSTATE AND FOREIGN COMMERCE.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 89 the following new chapter:

“CHAPTER 90—PROTECTION OF PROPRIETARY ECONOMIC INFORMATION

“Sec.
“1831. Definitions.
“1832. Criminal activities affecting proprietary economic information.
“1833. Criminal forfeiture.
“1834. Civil remedies.
“1835. Extraterritoriality.
“1836. Construction with other laws.
“1837. Preservation of confidentiality.
“1838. Prior authorization requirement.
“1839. Law enforcement and intelligence activities.

“§ 1831. Definitions

“As used in this chapter:

“(1) The term ‘person’ means a natural person, corporation, agency, association, institution, or any other legal, commercial, or business entity.

“(2) The term ‘proprietary economic information’ means all forms and types of financial, business, scientific, technical, economic, or engineering information, including data, plans, tools, mechanisms, compounds, formulas, designs, prototypes, processes, procedures, programs, codes, or commercial strategies, whether tangible or intangible, and whether stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing that—

“(A) the owner thereof has taken reasonable measures, under the circumstances, to keep such information confidential; and

“(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable, acquired, or developed by legal means by the public.

The term does not include any general knowledge, experience, training, or skill that a person lawfully has acquired due to his work as an employee of or as an independent contractor for any person.

“(3) The term ‘owner’ means the person or persons in whom, or government component, department, or agency in which, rightful legal, or equitable title to, or license in, proprietary economic information is reposed.

“(4) The term ‘without authorization’ means not permitted, expressly or implicitly, by the owner.

“§ 1832. Criminal activities affecting proprietary economic information

“(a) Any person, with intent to, or reason to believe that it will, injure any owner of proprietary economic information and with intent to convert it to his or her own use or benefit or the use or benefit of another, who knowingly—

“(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains such information;

“(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys such information;

“(3) receives, buys, or possesses such information, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

“(4) attempts to commit any offense described in paragraphs (1) through (3);

“(5) solicits another to commit any offense described in paragraphs (1) through (3); or

“(6) conspires with one or more other persons to commit any offense described in paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined up to $250,000, or twice the value of the proprietary economic information, whichever is greater, or imprisoned not more than 10 years, or both.

“(b) Any organization that commits any offense described in subsection (a) shall be fined up to $10,000,000, or twice the value of the proprietary economic information, whichever is greater.

“(c) This section does not prohibit the reporting of any suspected criminal activity or regulatory violation to any appropriate agency or instrumentality of the United States, a State, a political subdivision of a State, or to Congress.

“§ 1833. Criminal forfeiture

“(a) Notwithstanding any provision of State law, any person or organization convicted of a violation under this chapter shall forfeit to the United States—

“(1) any property constituting or derived from, any proceeds the person or organization obtained, directly or indirectly, as the result of such violation; and

“(2) any of the person's or organization's property used, or intended to be used, in any manner or part to commit or facilitate the commission of such violation.

“(b) The court, in imposing a sentence on such person or organization, shall order, in addition to any other sentence imposed pursuant to this chapter, that the person or organization forfeit to the United States all property described in this section.

“(c) Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except for subsection 413(d) which shall not apply to forfeitures under this section.

“(d) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) all amounts from the forfeiture of property under this section remaining after the payment of expenses and sale authorized by law.

“§ 1834. Civil remedies

“(a) The district courts of the United States shall have jurisdiction to prevent and restrain violations of sections 1832 of this chapter by issuing appropriate orders.

“(b) The Attorney General may institute proceedings under this section. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

“(c) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

“§ 1835. Extraterritoriality

“(a) This chapter applies to conduct occurring within the United States.

“(b) This chapter also applies to conduct occurring outside the United States if—

“(1) the offender is a natural person who is a citizen or permanent resident alien of the United States, or an organization organized under the laws of the United States or a State or political subdivision thereof; or

“(2) an act in furtherance of the offense was committed in the United States.

“§ 1836. Construction with other laws

“This chapter shall not be construed to preempt or displace any other Federal or State remedies, whether civil or criminal, for the misappropriation of proprietary economic information, or to affect the otherwise lawful disclosure of information by any government employee under section 552 of title 5 (commonly known as the Freedom of Information Act).

“§ 1837. Preservation of confidentiality

“In any prosecution or other proceeding under this chapter, the court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of proprietary economic information, consistent with rule 16 of the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and other applicable laws. An interlocutory appeal by the United States shall lie from a decision or order of a district court authorizing or directing the disclosure of proprietary economic information.

“§ 1838. Prior authorization requirement

“The United States may not file a charge under this chapter or use a violation of this chapter as a predicate offense under any other law without the personal approval of the Attorney General, the Deputy Attorney General, or the Assistant Attorney General for the Criminal Division of the Department of Justice or the Acting Attorney General, the Acting Deputy Attorney General, or the Acting Assistant Attorney General for the Criminal Division of the Department of Justice.

“§ 1839. Law enforcement and intelligence activities

“This chapter does not prohibit any and shall not impair otherwise lawful activity conducted by an agency or instrumentality of the United States, a State, or a political subdivision of a State.”.

(b) TECHNICAL AMENDMENT.—The table of chapters for title 18, United States Code, is amended by inserting after the item relating to chapter 89 the following new item:

"90. Protection of Proprietary Economic Information .... 1831".

(c) REPORT.—Not later than 2 years and 4 years after the date of enactment of this Act, the Attorney General shall report to Congress on the amounts received and distributed from forfeitures of property deposited as provided in section 1833(d) of title 18, United States Code, as added by subsection (a) of this section.

SEC. 4. WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS.

Section 2516(1)(a) of title 18, United States Code, is amended by inserting "chapter 90 (relating to economic espionage and protection of proprietary economic information in interstate and foreign commerce)," after "title:".

SEC. 5. PREVENTION OF FOREIGN ECONOMIC ESPIONAGE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 27 the following new chapter:

"CHAPTER 28—ECONOMIC ESPIONAGE

"Sec.
"571. Definitions.
"572. Economic espionage.
"573. Criminal forfeiture.
"574. Civil remedies.
"575. Prior authorization requirement.
"576. Construction with other laws.
"577. Preservation of confidentiality.
"578. Law enforcement and intelligence activities.

"§ 571. Definitions

"For purposes of this chapter, the following definitions shall apply:

"(1) FOREIGN AGENT.—The term 'foreign agent' means any officer, employee, proxy, servant, delegate, or representative of a foreign government.

"(2) FOREIGN INSTRUMENTALITY.—The term 'foreign instrumentality' means any agency, bureau, ministry, component, institution, association, or any legal, commercial, or business organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government or subdivision thereof.

"(3) OWNER.—The term 'owner' means the person or persons in whom, or the government component, department, or agency in which, rightful legal, or equitable title to, or license in, proprietary economic information is reposed.

"(4) PROPRIETARY ECONOMIC INFORMATION.—The term 'proprietary economic information' means all forms and types of financial, business, scientific, technical, economic, or engineering information (including data, plans, tools, mechanisms, compounds, formulas, designs, prototypes, processes, procedures, programs, codes, or commercial strategies) whether tangible or intangible, and whether stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing, if—

"(A) the owner thereof has taken reasonable measures to keep such information confidential; and

"(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through legal means by, the public.

"(5) WITHOUT AUTHORIZATION.—The term 'without authorization' means not permitted, expressly or implicitly, by the owner.

"§ 572. Economic espionage

"(a) IN GENERAL.—Any person who, with knowledge or reason to believe that he or she is acting on behalf of, or with the intent to benefit, any foreign government, instrumentality, or agent, knowingly—

"(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains proprietary economic information;

"(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys proprietary economic information;

"(3) receives, buys, or possesses proprietary economic information, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

"(4) attempts to commit any offense described in any of paragraphs (1) through (3);

"(5) solicits another to commit any offense described in any of paragraphs (1) through (4); or

"(6) conspires with one or more other persons to commit any offense described in any of paragraphs (1) through (4), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined not more than $500,000, or twice the value of the proprietary economic information, whichever is greater, or imprisoned not more than 25 years, or both.

"(b) ORGANIZATIONS.—Any organization that commits any offense described in subsection (a) shall be fined not more than $10,000,000, or twice the value of the proprietary economic information, whichever is greater.

"(c) EXCEPTION.—It shall not be a violation of this section to disclose proprietary economic information in the case of—

"(1) appropriate disclosures to Congress; or

"(2) disclosures to an authorized official of an executive agency that are deemed essential to reporting a violation of United States law.

"§ 573. Criminal forfeiture

"(a) IN GENERAL.—Notwithstanding any provision of State law to the contrary, any person or organization convicted of a violation under this chapter shall forfeit to the United States—

"(1) any property constituting, or derived from, any proceeds the person or organization obtained, directly or indirectly, as the result of such violation; and

"(2) any of the property of that person or organization used, or intended to be used, in any manner or part, to commit or facilitate the commission of such violation.

"(b) COURT ACTION.—The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this chapter, that the person forfeit to the United States all property described in this section.

"(c) APPLICABILITY OF OTHER LAW.—Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

"§ 574. Scope of extraterritorial jurisdiction

"(a) This chapter applies to conduct occurring within the United States.

"(b) This chapter also applies to conduct occurring outside the United States if—

"(1) the offender is a natural person who is a citizen or permanent resident alien of the United States, or an organization organized under the laws of the United States or a State or political subdivision thereof; or

"(2) an act in furtherance of the offense was committed in the United States.

"§ 575. Civil remedies

"(a) The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 572 of this chapter by issuing appropriate orders.

"(b) The Attorney General may institute proceedings under this section. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

"(c) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

"§ 576. Prior authorization requirement

"The United States may not file a charge under this chapter or use a violation of this chapter as a predicate offense under any other law without the personal approval of the Attorney General, the Deputy Attorney General, or the Assistant Attorney General for the Criminal Division of the Department of Justice or the Acting Attorney General, the Acting Deputy Attorney General, or the Acting Assistant Attorney General for the Criminal Division of the Department of Justice.

"§ 577. Construction with other laws

"This chapter shall not be construed to preempt or displace any other remedies, whether civil or criminal, provided by Federal, State, commonwealth, possession, or territorial laws that are applicable to the misappropriation of proprietary economic information.

"§ 578. Preservation of confidentiality

"In any prosecution or other proceeding under this chapter, the court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of proprietary economic information, consistent with the requirements of the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and all other applicable laws. An interlocutory appeal by the United States shall lie from a decision or order of a district court authorizing or directing the disclosure of proprietary economic information.

"§ 579. Law enforcement and intelligence activities

"This chapter does not prohibit, and shall not impair, otherwise lawful activity conducted by an agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 27 the following new item:

"28. Economic Espionage .... 571".

(c) CONFORMING AMENDMENT.—Section 2516(1)(a) of title 18, United States Code, is amended by inserting "chapter 28 (relating to economic espionage)," after "or under the following chapters of this title:".

GRASSLEY (AND KYL) AMENDMENT NO. 5835

Mr. STEVENS (for Mr. GRASSLEY, for himself and Mr. KYL) proposed an amendment to amendment No. 5384 to the bill, H.R. 3723, supra; as follows:

At the appropriate place, add the following new section:

SEC. 6. (a) WIRE AND COMPUTER FRAUD.—Section 1343 of title 18, United States Code, is amended—

(1) by adding at the end the following new subsection:

"(b) SECRET SERVICE JURISDICTION.—"The Secretary of the Treasury and the Attorney General are authorized to enter into an agreement under which the United States Secret service may investigate certain offenses under this section."

(b) USE OF CERTAIN TECHNOLOGY TO FACILITATE CRIMINAL CONDUCT.—

(1) INFORMATION.—The Administrative Office of the United States Courts shall establish policies and procedures for the inclusion in all Presentence Reports of information that specifically identifies and describes any use of encryption or scrambling technology that would be relevant to an enhancement under Section 3C1.1 (dealing with Obstructing or Impeding the Administration of Justice) of the Sentencing Guidelines or to offense conduct under the Sentencing Guidelines.

(2) COMPILING AND REPORT.—The United States Sentencing Commission shall—

(A) compile and analyze any information contained in documentation described in paragraph (1) relating to the use of encryption or scrambling technology to facilitate or conceal criminal conduct; and

(B) based on the information compiled and analyzed under subparagraph (A), annually report to the Congress on the nature and extent of the use of encryption or scrambling technology to facilitate or conceal criminal conduct."

(c) Section 1029 of Title 18, United States Code is amended by—"Striking the (a)(5) in the second place it appears and replacing it with (a)(8); by striking the (a)(6) the second place it appears and replacing it with (a)(9); and by adding the following new section:

"(a)(10) knowingly and with intent to defraud uses, produces, traffics in, or possesses any device containing electronically stored monetary value."

HATCH AMENDMENT NO. 5386

Mr. STEVENS (for Mr. HATCH) proposed an amendment to amendment No. 5384 to the bill, H.R. 3723, supra; as follows:

At the appropriate place in the bill, add the following:

SEC. ___. TRANSFER OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY.

(a) AMENDMENT OF SECTION 4243 OF TITLE 18.—Section 4243 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) CERTAIN PERSONS FOUND NOT GUILTY BY REASON OF INSANITY IN THE DISTRICT OF COLUMBIA.—

"(1) TRANSFER TO CUSTODY OF THE ATTORNEY GENERAL.—Notwithstanding section 301(h) of title 24 of the District of Columbia Code, and notwithstanding subsection 4247(j) of this title, all persons who have been committed to a hospital for the mentally ill pursuant to section 301(d)(1) of title 24 of the District of Columbia Code, and for whom the United States has continuing financial responsibility, may be transferred to the custody of the Attorney General, who shall hospitalize the person for treatment in a suitable facility.

"(2) APPLICATION.—

"(A) IN GENERAL.—The Attorney General may establish custody over such persons by filing an application in the United States District Court for the District of Columbia, demonstrating that the person to be transferred is a person described in this subsection.

"(B) NOTICE.—The Attorney General shall, by any means reasonably designed to do so, provide written notice of the proposed transfer of custody to such person or such person's guardian, legal representative, or other lawful agent. The person to be transferred shall be afforded an opportunity, not to exceed 15 days, to respond to the proposed transfer of custody, and may, at the court's discretion, be afforded a hearing on the proposed transfer of custody. Such hearing, if granted, shall be limited to a determination of whether the constitutional rights of such person would be violated by the proposed transfer of custody.

"(C) ORDER.—Upon application of the Attorney General, the court shall order the person transferred to the custody of the Attorney General, unless, pursuant to a hearing under this paragraph, the court finds that the proposed transfer would violate a right of such person under the United States Constitution.

"(D) EFFECT.—Nothing in this paragraph shall be construed to—

"(i) create in any person a liberty interest in being granted a hearing or notice on any matter;

"(ii) create in favor of any person a cause of action against the United States or any officer or employee of the United States; or

"(iii) limit in any manner or degree the ability of the Attorney General to move, transfer, or otherwise manage any person committed to the custody of the Attorney General.

"(3) CONSTRUCTION WITH OTHER SECTIONS.—Subsections (f) and (g) and section 4247 shall apply to any person transferred to the custody of the Attorney General pursuant to this subsection.".

(b) TRANSFER OF RECORDS.—Notwithstanding any provision of the District of Columbia Code or any other provision of law, the District of Columbia and St. Elizabeth's Hospital—

(1) not later than 30 days after the date of enactment of this Act, shall provide to the Attorney General copies of all records in the custody or control of the District or the Hospital on such date of enactment pertaining to persons described in section 4243(i) of title 18, United States Code (as added by subsection (a));

(2) not later than 30 days after the creation of any records by employees, agents, or contractors of the District of Columbia or of St. Elizabeth's Hospital pertaining to persons described in section 4243(i) of title 18, United States Code, provide to the Attorney General copies of all such records created after the date of enactment of this Act;

(3) shall not prevent or impede any employee, agent, or contractor of the District of Columbia or of St. Elizabeth's Hospital who has obtained knowledge of the persons described in section 4243(i) of title 18, United States Code, in the employee's professional capacity from providing that knowledge to the Attorney General, nor shall civil or criminal liability attach to such employees, agents, or contractors who provide such knowledge; and

(4) shall not prevent or impede interviews of persons described in section 4243(i) of title 18, United States Code, by representatives of the Attorney General, if such persons voluntarily consent to such interviews.

(c) CLARIFICATION OF EFFECT ON CERTAIN TESTIMONIAL PRIVILEGES.—The amendments made by this section shall not be construed to affect in any manner any doctor-patient or psychotherapist-patient testimonial privilege that may be otherwise applicable to persons found not guilty by reason of insanity and affected by this section.

(d) SEVERABILITY.—If any provision of this section, an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section and the amendments made by this section shall not be affected thereby.

HATCH (AND KOHL) AMENDMENT NO. 5387

Mr. STEVENS (for Mr. HATCH, for himself and Mr. KOHL) proposed an amendment to amendment No. 5384 proposed by Mr. SPECTER to the bill, H.R. 3723, supra; as follows:

At the appropriate place in the bill, add the following:

SEC. ___. ESTABLISHING BOYS AND GIRLS CLUBS.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the Boys and Girls Clubs of America, chartered by an Act of Congress on December 10, 1991, during its 90-year history as a national organization, has proven itself as a positive force in the communities it serves;

(B) there are 1,810 Boys and Girls Clubs facilities throughout the United States, Puerto Rico, and the United States Virgin Islands, serving 2,420,000 youths nationwide;

(C) 71 percent of the young people who benefit from Boys and Girls Clubs programs live in our inner cities and urban areas;

(D) Boys and Girls Clubs are locally run and have been exceptionally successful in balancing public funds with private sector donations and maximizing community involvement;

(E) Boys and Girls Clubs are located in 289 public housing sites across the Nation;

(F) public housing projects in which there is an active Boys and Girls Club have experienced a 25 percent reduction in the presence of crack cocaine, a 22 percent reduction in overall drug activity, and a 13 percent reduction in juvenile crime;

(G) these results have been achieved in the face of national trends in which overall drug use by youth has increased 105 percent since 1992 and 10.9 percent of the Nation's young people use drugs on a monthly basis; and

(H) many public housing projects and other distressed areas are still underserved by Boys and Girls Clubs.

(2) PURPOSE.—It is the purpose of this section to provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to establish 1,000 additional local Boys and Girls Clubs in public housing projects and other distressed areas by 2001.

(b) DEFINITIONS.—For purposes of this section—

(1) the terms "public housing" and "project" have the same meanings as in section 3(b) of the United States Housing Act of 1937; and

(2) the term "distressed area" means an urban, suburban, or rural area with a high percentage of high risk youth as defined in

section 509A of the Public Health Service Act (42 U.S.C. 290aa–8(f).

(c) ESTABLISHMENT.—

(1) IN GENERAL.—For each of the fiscal years 1997, 1998, 1999, 2000, and 2001, the Director of the Bureau of Justice Assistance of the Department of Justice shall provide a grant to the Boys and Girls Clubs of America for the purpose of establishing Boys and Girls Clubs in public housing projects and other distressed areas.

(2) CONTRACTING AUTHORITY.—Where appropriate, the Secretary of Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the Boys and Girls Clubs of America to establish clubs pursuant to the grants under paragraph (1).

(d) REPORT.—Not later than May 1 of each fiscal year for which amounts are made available to carry out this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that details the progress made under this Act in establishing Boys and Girls Clubs in public housing projects and other distressed areas, and the effectiveness of the programs in reducing drug abuse and juvenile crime.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $20,000,000 for fiscal year 1997;

(B) $20,000,000 for fiscal year 1998;

(C) $20,000,000 for fiscal year 1999;

(D) $20,000,000 for fiscal year 2000; and

(E) $20,000,000 for fiscal year 2001.

(2) VIOLENT CRIME REDUCTION TRUST FUND.—The sums authorized to be appropriated by this subsection may be made from the Violent Crime Reduction Trust Fund.

THE NATIONAL INFORMATION INFRASTRUCTURE PROTECTION ACT OF 1996

HATCH AMENDMENTS NOS. 5388–5389

Mr. STEVENS (for Mr. HATCH) proposed two amendments to the bill (S. 982) to protect the national information infrastructure, and for other purposes; as follows:

AMENDMENT NO. 5388

At the appropriate place in the bill, add the following:

SEC. . TRANSFER OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY.

(a) AMENDMENT OF SECTION 4243 OF TITLE 18.—Section 4243 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) CERTAIN PERSONS FOUND NOT GUILTY BY REASON OF INSANITY IN THE DISTRICT OF COLUMBIA.—

"(1) TRANSFER TO CUSTODY OF THE ATTORNEY GENERAL.—Notwithstanding section 301(h) of title 24 of the District of Columbia Code, and notwithstanding subsection 4247(j) of this title, all persons who have been committed to a hospital for the mentally ill pursuant to section 301(d)(1) of title 24 of the District of Columbia Code, and for whom the United States has continuing financial responsibility, may be transferred to the custody of the Attorney General, who shall hospitalize the person for treatment in a suitable facility.

"(2) APPLICATION.—

"(A) IN GENERAL.—The Attorney General may establish custody over such persons by filing an application in the United States District Court for the District of Columbia, demonstrating that the person to be transferred is a person described in this subsection.

"(B) NOTICE.—The Attorney General shall, by any means reasonably designed to do so, provide written notice of the proposed transfer of custody to such person or such person's guardian, legal representative, or other lawful agent. The person to be transferred shall be afforded an opportunity, not to exceed 15 days, to respond to the proposed transfer of custody, and may, at the court's discretion, be afforded a hearing on the proposed transfer of custody. Such hearing, if granted, shall be limited to a determination of whether the constitutional rights of such person would be violated by the proposed transfer of custody.

"(C) ORDER.—Upon application of the Attorney General, the court shall order the person transferred to the custody of the Attorney General, unless, pursuant to a hearing under this paragraph, the court finds that the proposed transfer would violate a right of such person under the United States Constitution.

"(D) EFFECT.—Nothing in this paragraph shall be construed to—

"(i) create in any person a liberty interest in being granted a hearing or notice on any matter;

"(ii) create in favor of any person a cause of action against the United States or any officer or employee of the United States; or

"(iii) limit in any manner or degree the ability of the Attorney General to move, transfer, or otherwise manage any person committed to the custody of the Attorney General.

"(3) CONSTRUCTION WITH OTHER SECTIONS.—Subsections (f) and (g) and section 4247 shall apply to any person transferred to the custody of the Attorney General pursuant to this subsection.".

(b) TRANSFER OF RECORDS.—Notwithstanding any provision of the District of Columbia Code or any other provision of law, the District of Columbia and St. Elizabeth's Hospital—

(1) not later than 30 days after the date of enactment of this Act, shall provide to the Attorney General copies of all records in the custody or control of the District or the Hospital on such date of enactment pertaining to persons described in section 4243(i) of title 18, United States Code (as added by subsection (a));

(2) not later than 30 days after the creation of any records by employees, agents, or contractors of the District of Columbia or of St. Elizabeth's Hospital pertaining to persons described in section 4243(i) of title 18, United States Code, provide to the Attorney General copies of all such records created after the date of enactment of this Act;

(3) shall not prevent or impede any employee, agent, or contractor of the District of Columbia or of St. Elizabeth's Hospital who has obtained knowledge of the persons described in section 4243(i) of title 18, United States Code, in the employee's professional capacity from providing that knowledge to the Attorney General, nor shall civil or criminal liability attach to such employees, agents, or contractors who provide such knowledge; and

(4) shall not prevent or impede interviews of persons described in section 4243(i) of title 18, United States Code, by representatives of the Attorney General, if such persons voluntarily consent to such interviews.

(c) CLARIFICATION OF EFFECT ON CERTAIN TESTIMONIAL PRIVILEGES.—The amendments made by this section shall not be construed to affect in any manner any doctor-patient or psychotherapist-patient testimonial privilege that may be otherwise applicable to persons found not guilty by reason of insanity and affected by this section.

(d) SEVERABILITY.—If any provision of this section, an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section and the amendments made by this section shall not be affected thereby.

AMENDMENT NO. 5389

At the appropriate place in the bill, add the following:

SEC. . ESTABLISHING BOYS AND GIRLS CLUBS.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the Boys and Girls Clubs of America, chartered by an Act of Congress on December 10, 1991, during its 90-year history as a national organization, has proven itself as a positive force in the communities it serves;

(B) there are 1,810 Boys and Girls Clubs facilities throughout the United States, Puerto Rico, and the United States Virgin Islands, serving 2,420,000 youths nationwide;

(C) 71 percent of the young people who benefit from Boys and Girls Clubs programs live in our inner cities and urban areas;

(D) Boys and Girls Clubs are locally run and have been exceptionally successful in balancing public funds with private sector donations and maximizing community involvement;

(E) Boys and Girls Clubs are located in 289 public housing sites across the Nation;

(F) public housing projects in which there is an active Boys and Girls Club have experienced a 25 percent reduction in the presence of crack cocaine, a 22 percent reduction in overall drug activity, and a 13 percent reduction in juvenile crime;

(G) these results have been achieved in the face of national trends in which overall drug use by youth has increased 105 percent since 1992 and 10.9 percent of the Nation's young people use drugs on a monthly basis; and

(H) many public housing projects and other distressed areas are still underserved by Boys and Girls Clubs.

(2) PURPOSE.—It is the purpose of this section to provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to establish 1,000 additional local Boys and Girls Clubs in public housing projects and other distressed areas by 2001.

(b) DEFINITIONS.—For purposes of this section—

(1) the terms "public housing" and "project" have the same meanings as in section 3(b) of the United States Housing Act of 1937; and

(2) the term "distressed area" means an urban, suburban, or rural area with a high percentage of high risk youth as defined in section 509A of the Public Health Service Act (42 U.S.C. 290aa–8(f)).

(c) ESTABLISHMENT.—

(1) IN GENERAL.—For each of the fiscal years 1997, 1998, 1999, 2000, and 2001, the Director of the Bureau of Justice Assistance of the Department of Justice shall provide a grant to the Boys and Girls Clubs of America for the purpose of establishing Boys and Girls Clubs in public housing projects and other distressed areas.

(2) CONTRACTING AUTHORITY.—Where appropriate, the Secretary of Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the Boys and Girls Clubs of America to

establish clubs pursuant to the grants under paragraph (1).

(d) REPORT.—Not later than May 1 of each fiscal year for which amounts are made available to carry out this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that details the progress made under this Act in establishing Boys and Girls Clubs in public housing projects and other distressed areas, and the effectiveness of the programs in reducing drug abuse and juvenile crime.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $20,000,000 for fiscal year 1997;

(B) $20,000,000 for fiscal year 1998;

(C) $20,000,000 for fiscal year 1999;

(D) $20,000,000 for fiscal year 2000; and

(E) $20,000,000 for fiscal year 2001.

(2) VIOLENT CRIME REDUCTION TRUST FUND.—The sums authorized to be appropriated by this subsection may be made from the Violent Crime Reduction Trust Fund.

THE NATIONAL TRANSPORTATION SAFETY BOARD AMENDMENTS OF 1996

PRESSLER AMENDMENT NO. 5390

Mr. STEVENS (for Mr. PRESSLER) proposed an amendment to the bill (S. 1831) to amend title 49, United States Code, to authorize appropriations for fiscal years 1997, 1998, and 1999 for the National Transportation Safety Board, and for other purposes; as follows:

On page 2, before line 1, insert the following:

TITLE I—NTSB AMENDMENTS

On page 2, line 1, strike "**SECTION 1.**" and insert "**SEC. 101.**".

On page 2, line 4, strike "**SEC. 2.**" and insert "**SEC. 102.**".

On page 3, line 3, strike "**SEC. 3.**" and insert "**SEC. 103.**".

On page 3, line 17, strike "**SEC. 4.**" and insert "**SEC. 104.**".

On page 4, line 8, strike "**SEC. 5.**" and insert "**SEC. 105.**".

On page 4, after line 15, insert the following:

TITLE II—INTERMODAL TRANSPORTATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Intermodal Safe Container Transportation Amendments Act of 1996".

SEC. 202. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49 of the United States Code.

SEC. 203. DEFINITIONS.

Section 5901 (relating to definitions) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) except as otherwise provided in this chapter, the definitions in sections 10102 and 13102 of this title apply.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) 'gross cargo weight' means the weight of the cargo, packaging materials (including ice), pallets, and dunnage.".

SEC. 204. NOTIFICATION AND CERTIFICATION.

(a) PRIOR NOTIFICATION.—Subsection (a) of section 5902 (relating to prior notification) is amended—

(1) by striking "Before a person tenders to a first carrier for intermodal transportation a" and inserting "If the first carrier to which any";

(2) by striking "10,000 pounds (including packing material and pallets), the person shall give the carrier a written" and inserting "29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a";

(3) by striking "trailer." and inserting "trailer before the tendering of the container or trailer.";

(4) by striking "electronically." and inserting "electronically or by telephone."; and

(5) by adding at the end thereof the following: "This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier."

(b) CERTIFICATION.—Subsection (b) of section 5902 (relating to certification) is amended to read as follows:

"(b) CERTIFICATION.—

"(1) IN GENERAL.—A person who tenders a loaded container or trailer with an actual gross cargo weight of more than 29,000 pounds to a first carrier for intermodal transportation shall provide a certification of the contents of the container or trailer in writing, or electronically, before or when the container or trailer is so tendered.

"(2) CONTENTS OF CERTIFICATION.—The certification required by paragraph (1) shall include—

"(A) the actual gross cargo weight;

"(B) a reasonable description of the contents of the container or trailer;

"(C) the identity of the certifying party;

"(D) the container or trailer number; and

"(E) the date of certification or transfer of data to another document, as provided for in paragraph (3).

"(3) TRANSFER OF CERTIFICATION DATA.—A carrier who receives a certification may transfer the information contained in the certification to another document or to electric format for forwarding to a subsequent carrier. The person transferring the information shall state on the forwarded document the date on which the data was transferred and the identity of the party who performed the transfer.

"(4) SHIPPING DOCUMENTS.—For purposes of this chapter, a shipping document, prepared by the person who tenders a container or trailer to a first carrier, that contains the information required by paragraph (2) meets the requirements of paragraph (1).

"(5) USE OF 'FREIGHT ALL KINDS' TERM.—The term 'Freight All Kinds' or 'FAK' may not be used for the purpose of certification under section 5902(b) after December 31, 2000, as a commodity description for a trailer or container if the weight of any commodity in the trailer or container equals or exceeds 20 percent of the total weight of the contents of the trailer or container. This subsection does not prohibit the use of the term after that date for rating purposes.

"(6) SEPARATE DOCUMENT MARKING.—If a separate document is used to meet the requirements of paragraph (1), it shall be conspicuously marked 'INTERMODAL CERTIFICATION'.

"(7) APPLICABILITY.—This subsection applies to any person, domestic or foreign, who first tenders a container or trailer subject to this chapter for intermodal transportation within the United States.".

(c) FORWARDING CERTIFICATIONS.—Subsection (c) of section 5902 (relating to forwarding certifications to subsequent carriers) is amended—

(1) by striking "transportation." and inserting "transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required."; and

(2) by adding at the end thereof the following: "If a person inaccurately transfers the information on the certification, or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.".

(d) LIABILITY.—Section 5902 is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following:

"(d) LIABILITY TO OWNER OR BENEFICIAL OWNER.—If—

"(1) a person inaccurately transfers information on a certification required by subsection (b)(1), or fails to forward a certification to the subsequent carrier;

"(2) as a result of the inaccurate transfer of such information or a failure to forward a certification, the subsequent carrier incurs a bond, fine, penalty, or cost (including storage), or interest; and

"(3) that subsequent carrier exercises its rights to a lien under section 5905,

then that person is liable to the owner or beneficial owner, or to any other person paying the amount of the lien to the subsequent carrier, for the amount of the lien and all costs related to the imposition of the lien, including court costs and legal fees incurred in connection with it.".

(e) NONAPPLICATION.—Subsection (e) of section 5902, as redesignated, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated, the following:

"(1) The notification and certification requirements of subsections (a) and (b) of this section do not apply to any intermodal container or trailer containing consolidated shipments loaded by a motor carrier if that motor carrier—

"(A) performs the highway portion of the intermodal movement; or

"(B) assumes the responsibility for any weight-related fine or penalty incurred by any other motor carrier that performs a part of the highway transportation.".

SEC. 205. PROHIBITIONS.

Section 5903 (relating to prohibitions) is amended—

(1) by inserting after "person" a comma and the following: "To whom section 5902(b) applies,";

(2) by striking subsection (b) and inserting the following:

"(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—

"(1) PRESUMPTION.—If no certification is received by a motor carrier before or when a loaded intermodal container or trailer is tendered to it, the motor carrier may presume that the gross cargo weight of the container or trailer is less than 29,001 pounds.

"(2) COPY OF CERTIFICATION NOT REQUIRED TO ACCOMPANY CONTAINER OR TRAILER.—Notwithstanding any other provision of this chapter to the contrary, a copy of the certification required by section 5902(b) is not required to accompany the intermodal container or trailer.";

(3) by striking "10,000 pounds (including packing materials and pallets)" in subsection (c)(1) and inserting "29,000 pounds"; and

(4) by adding at the end the following:

"(d) NOTICE TO LEASED OPERATORS.—

"(1) IN GENERAL.—If a motor carrier knows that the gross cargo weight of an intermodal container or trailer subject to the certification requirements of section 5902(b) would result in a violation of applicable State gross vehicle weight laws, then—

"(A) the motor carrier shall give notice to the operator of a vehicle which is leased by the vehicle operator to a motor carrier that transports an intermodal container or trailer of the gross cargo weight of the container or trailer as certified to the motor carrier under section 5902(b);

"(B) the notice shall be provided to the operator prior to the operator being tendered the container or trailer;

"(C) the notice required by this subsection shall be in writing, but may be transmitted electronically; and

"(D) the motor carrier shall bear the burden of proof to establish that it tendered the required notice to the operator.

"(2) REIMBURSEMENT.—If the operator of a leased vehicle transporting a container or trailer subject to this chapter is fined because of a violation of a State's gross vehicle weight laws or regulations and the lessee motor carrier cannot establish that it tendered to the operator the notice required by paragraph (1) of this subsection, then the operator shall be entitled to reimbursement from the motor carrier in the amount of any fine and court costs resulting from the failure of the motor carrier to tender the notice to the operator.".

SEC. 206. LIENS.

Section 5905 (relating to liens) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required, because of a violation of a State's gross vehicle weight laws or regulations, to post a bond or pay a fine, penalty, cost (including storage), or interest resulting from—

"(1) erroneous information provided by the certifying party in the certification to the first carrier in violation of section 4903(a) of this title;

"(2) the failure of the party required to provide the certification to the first carrier to provide it;

"(3) the failure of a person required under section 5902(c) to forward the certification to forward it; or

"(4) an error occurring in the transfer of information on the certification to another document under section 5902(b)(3) or (c), then the person posting the bond, or paying the fine, penalty, costs (including storage), or interest has a lien against the contents equal to the amount of the bond, fine, penalty, cost (including storage), or interest incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents, or from the person responsible for making or forwarding the certification, or transferring the information from the certification to another document.";

(2) by inserting a comma and "or the owner or beneficial owner of the contents," after "first carrier" in subsection 9(b)(1); and

(3) by striking "cost, or interest." in subsection (b)(1) and inserting "cost (including storage), or interest. The lien shall remain in effect until the lien holder has received payment for all costs and expenses described in subsection (a) of this section.".

SEC. 207. PERISHABLE AGRICULTURAL COMMODITIES.

Section 5906 (relating to perishable agricultural commodities) is amended by striking "Sections 5904(a)(2) an 5905 of this title do" and inserting "Section 5905 of this title does".

SEC. 208. EFFECTIVE DATE.

(a) IN GENERAL.—Section 5907 (relating to regulations and effective date) is amended to read as follows:

"§ 5907. Effective date

"This chapter shall take effect 180 days after the date of enactment of the Intermodal Safe Container Transportation Amendments Act of 1996.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 59 is amended by striking the item relating to section 5709 and inserting the following:

"§ 5907. Effective date".

SEC. 209. RELATIONSHIP TO OTHER LAWS.

(a) IN GENERAL.—Chapter 59 is amended by adding at the end thereof the following:

"§ 5908. Relationship to other laws

"Nothing in this chapter affects—

"(1) chapter 51 (relating to transportation of hazardous material) or the regulations promulgated under that chapter; or

"(2) any State highway weight or size law or regulation applicable to tractor-trailer combinations.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by adding at the end thereof the following:

"5908. Relationship to other laws"

NOTICE OF HEARING

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Tuesday, September 24, 1996, at 9 a.m., in room 628 of the Dirksen Senate Office Building. The hearing will discuss Social Security reform.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2 p.m. on Wednesday, September 18, 1996, in closed/open session, to receive testimony on the report of the Downing Assessment Task Force on the bomb attack on Khobar Towers in Saudi Arabia, and other issues related to United States policy in the Middle East.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, September 18, 1996, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider S. 1920, a bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes; and S. 1998, a bill to provide for expedited negotiations between the Secretary of the Interior and the villages of Chickaloon-Moose Creek Native Association, Inc., Ninilchik Native Association, Inc., Seldovia Native Association, Inc., Tyonek Native Corporation, and Knikatnu, Inc., regarding the conveyances of certain lands in Alaska under the Alaska Native Claims Settlement Act, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 18, 1996, at 10 a.m. to hold a hearing on S. 1961, the Omnibus Patent Act of 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 18, 1996, at 2 p.m. to hold a hearing on violent and drug trafficking crimes: the Bailey decision's effect on prosecutions under 924(c).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 18, 1996, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HUD OVERSIGHT

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Subcommittee on HUD Oversight and Structure of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, September 18, 1996, to conduct a hearing on oversight of the Fair Housing Act and its enforcement.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ENTHRONEMENT OF ARCHBISHOP SPYRIDON

• Ms. SNOWE. Mr. President, as a member of the Greek Orthodox faith, I would like to join my colleagues and so many other Americans in honoring the enthronement for His Eminence Metropolitan Spyridon to become the fifth Archbishop of America since the establishment in 1922 of the Greek Orthodox Archdiocese of North and South America. The Christian Orthodox faith, under the spiritual guidance of the Ecumenical Patriarch, is one of the world's great religions. It traces its roots to the original Holy Apostles, and today includes over 250 million faithful worldwide.

Archbishop Spyridon's enthronement this Saturday, September 21, at the Archdiocesan Cathedral of the Holy Trinity in New York City, is an historic occasion. This event, coming after the long and venerated reign of Archbishop Iakovos, is a hallowed symbol of the Church's continuity in the Americas under the spiritual guidance and jurisdiction of the Ecumenical Patriarchate. At the same time, this sacred event demonstrates the growth and maturation of the Greek Orthodox Church in our hemisphere, with the enthronement of the first Archbishop born and raised within the Archdiocese of North and South America.

Archbishop Spyridon, the son of Clara and the late Dr. Constantine Papageorge, was born in Warren, OH, on September 24, 1944. He attended school in the United States, and graduated from high school in Tarpon Springs, FL.

Archbishop Spyridon then went on to study at the renowned Theological School of Halki in Turkey, where he graduated in 1966 with highest honors. Until closed by the Turkish Government in 1971, this was the only theological school maintained by the Christian Orthodox Ecumenical Patriarchate. The Halki Theological School, if it were still in operation, would last year have celebrated its 150th anniversary. Archbishop Spyridon undertook subsequent postgraduate studies at the University of Geneva in Switzerland and at the Bochum University in Germany.

Since finishing his education, Archbishop Spyridon undertook high religious missions in a variety of locales. Early in his career, he served as secretary of the Ecumenical Patriarchate delegation to the World Council of Churches, as secretary of the Orthodox Center of the Ecumenical Patriarchate at Chambesy in Geneva, and as dean of the Greek Orthodox Community of St. Andrew in Rome. In 1985 the Ecumenical Patriarchate selected him titular bishop of Apamea and assigned him as the auxiliary bishop to the Greek Orthodox Archdiocese of Austria and Exarchate of Italy. In 1991 the Holy Synod of the Ecumenical Patriarchate elected Spyridon as the first Metropolitan for the newly created Archdiocese of Italy and Exarchate of Southern Europe.

Mr. President, these are just the highlights of service so far of this tremendously skilled, youthful and devoted man of faith, a man who is fluent in Greek, French, Italian, German, and, of course, English. Now he will bring his energy and experiences to his new calling as Archbishop of the Greek Orthodox Archdiocese of North and South America, where, in America alone, he will preside over 550 Greek Orthodox parishes, with over 1.5 million members.

I again wish to add my voice to all those honoring Archbishop Spyridon at the time of his enthronement. This is, of course, a time for celebration and prayer. But it is also a time for welcoming the Archbishop home after his decades of service to the faith throughout the world.•

EVOLUTION OF A PLATFORM PLANK

• Mr. MOYNIHAN. Mr. President, I would like to make a few, brief comments about the evolution of the welfare plank in the Democratic Party's national platform for the coming election.

JULY 8: FIRST DRAFT

Staff members of the Democratic National Committee wrote the initial draft of the party platform. The document was dated July 8, 1996, and contained the following plank on welfare:

> Welfare Reform. There is no greater gap between mainstream American values and modern American government than our failed welfare system. When Bill Clinton became President, the welfare system undermined the very values—work, family, and, especially, personal responsibility—that it should promote. Over the past four years, President Clinton—without help from Congress—has dramatically transformed the welfare system. He has freed 40 states from federal rules and regulations so they can reform their welfare systems. The Clinton Administration has granted [70] waivers—more than twice as many waivers as granted in the Reagan-Bush years. For 75 percent of all Americans on welfare, the rules have changed for good, and welfare is becoming what it should be: a second chance, not a way of life. Welfare rolls are finally coming down—there are 1.3 million fewer people on welfare today than there were in 1992.
>
> The President has also taken strong executive action to make sure that the welfare system strengthens families and demands responsibility. He ordered states to require minor mothers to stay in school and turn their lives around so they can get a job and get off welfare for good. He also ordered states to require mothers to name the father of their children before they can get welfare, so we can find those fathers and make them pay the child support they owe.
>
> Now we must finish the job. We should pass national welfare reform to end welfare as we know it across America. Unfortunately, the plan proposed by Senator Dole and Speaker Gingrich was weak on work and tough on children. That's the wrong approach. We should be tough on work and demand responsibility, but we shouldn't punish children for their parents' mistakes. A real bipartisan welfare reform plan should require that anyone on welfare who can work, goes to work. And we should provide child care and health care so parents can work. We should impose strict time limits so that no one who can work can stay on welfare forever. We should require minor mothers to live with their parents or another responsible adult.

JULY 26: INITIAL DRAFT REVISED BY DRAFTING COMMITTEE

The initial draft was sent to members of the drafting committee, chaired by Georgia Gov. Zell Miller. The 15 members of the drafting committee met on July 11 in Kansas City to revise the initial draft. On July 26, the drafting committee issued its revised draft of the platform and sent it to the members of the platform committee. The revised welfare plank was slightly longer, but contained essentially the same language as the first version:

> Welfare reform. Today's Democratic Party knows there is no greater gap between mainstream American values and modern American government than our failed welfare system. When Bill Clinton became President, the welfare system undermined the very values—work, family, and personal responsibility—that it should promote. The welfare system should reflect those values: we want to help people who want to help themselves and their children.
>
> Over the past 4 years, President Clinton—acting alone—has dramatically transformed the welfare system. He has freed 41 states from federal rules and regulations so they can reform their welfare systems. The Clinton Administration has granted 69 waivers—more than twice as many waivers as granted in the Reagan-Bush years. For 75 percent of all Americans on welfare, the rules have changed for good already, and welfare is becoming what it should be: a second chance, not a way of life. Welfare rolls are finally coming down—there are 1.3 million fewer people on welfare today than there were when President Clinton took office in January 1993.
>
> The President has also taken strong executive action to make sure that the welfare system strengthens families and demands responsibility. He ordered states to require minor mothers to stay in school and turn their lives around so they can get a job and get off welfare for good. He also directed states to require mothers to help identify and find absent fathers so we can make them pay the child support they owe. He challenged all states to require teen mothers to live at home or with a responsible adult. And the President fought to make sure that poor children get health care and nutrition to meet their basic needs.
>
> Now we must finish the job, and pass national welfare reform. Unfortunately, the

> plan proposed by Senator Dole and Speaker Gingrich was weak on work and tough on children. That is the wrong approach. We should be tough on work and demand responsibility, but we should not punish children for their parents' mistakes. A real bipartisan welfare reform plan should require that, anyone on welfare who can work, goes to work. And we should provide child care and health care so parents can work. We should impose strict time limits so that no one who can work can stay on welfare forever. We should require minor mothers to live with their parents or another responsible adult. If the Republican Party puts politics aside, we can finish the job President Clinton started, and end welfare as we know it across America. Passing legislation is not enough; we should make sure people get the skills they need to get jobs, and that there are jobs for them to go to so they leave welfare and stay off. Welfare reform should put more people to work and move them into the economic mainstream, not take jobs away from working families.

JULY 31–AUGUST 4: DNC STAFF CHANGE PLATFORM

The President announced on July 31 that he would sign the Dole-Gingrich welfare plan into law—which he did on August 22. Democratic National Committee staff thereupon revised the platform plank on welfare to reflect the President's newly announced intentions. The platform plank on welfare, which previously denounced the legislation Congress had passed, now endorsed it.

AUGUST 5: FINAL PLATFORM ISSUED

The full platform committee met in Pittsburgh, PA on August 5 and approved the changes to the Kansas City draft. The new platform plank on welfare, as changed by DNC staff, was nearly identical to the final version approved by the convention delegates in Chicago on August 27 with the exception of one sentence noted below which was formally added as an amendment during the Pittsburgh session. The new plank reads as follows:

> Welfare reform. Today's Democratic Party knows there is no greater gap between mainstream American values and modern American government than our failed welfare system. When Bill Clinton became President, the welfare system undermined the very values—work, family, and personal responsibility—that it should promote. The welfare system should reflect those values: we want to help people who want to help themselves and their children.
>
> Over the past 4 years, President Clinton has dramatically transformed the welfare system. He has freed 41 states from federal rules and regulations so they can reform their welfare systems. The Clinton Administration has granted 69 waivers—more than twice as many waivers as granted in the Reagan-Bush years. For 75 percent of all Americans on welfare, the rules have changed for good already, and welfare is becoming what it should be: a second chance, not a way of life. Welfare rolls are finally coming down —there are 1.3 million fewer people on welfare today than there were when President Clinton took office in January 1993.
>
> Now, because of the President's leadership and with the support of a majority of the Democrats in Congress, national welfare reform is going to make work and responsibility the law of the land. Thanks to President Clinton and the Democrats, the new welfare bill includes the health care and child care people need so they can go to work confident their children will be cared for. Thanks to President Clinton and the Democrats, the new welfare bill imposes time limits and real work requirements—so anyone who can work, does work, and so that no one who can work can stay on welfare forever. Thanks to President Clinton and the Democrats, the new welfare bill cracks down on deadbeat parents and requires minor mothers to live at home with their parents or with another responsible adult.
>
> We are proud the President forced Congressional Republicans to abandon their wrong-headed and mean-spirited efforts to punish the poor. Republicans wanted to eliminate the guarantee of health care for the poor, the elderly, and the disabled. They were wrong, and we stopped them. Republicans wanted to destroy the food stamp and school lunch programs that provide basic nutrition to millions of working families and poor children. They were wrong, and we stopped them. Republicans wanted to gut child abuse prevention and foster care. They were wrong, and we stopped them. Republicans wanted to cut off young, unwed mothers—because they actually thought their children would be better off living in an orphanage. They were dead wrong, and we stopped them. The bill Republicans in Congress passed last year was values-backward—it was soft on work and tough on children, and we applaud the President for stopping it.
>
> We know the new bill passed by Congress is far from perfect—parts of it should be fixed because they go too far and have nothing to do with welfare reform. First, Republicans cut too far into nutritional assistance for working families with children; we are committed to correcting that. Second, Republicans insisted on using welfare reform as a vehicle to cut off help to legal immigrants. That was wrong. Legal immigrants work hard, pay their taxes, and serve America. It is wrong to single them out for punishment just because they are immigrants. We pledge to make sure that legal immigrant families with children who fall on hard times through no fault of their own can get help when they need it. And we are committed to continuing the President's efforts to make it easier for legal immigrants who are prepared to accept the responsibilities of citizenship to do so.
>
> But the new welfare plan gives America an historic chance: to break the cycle of dependency for millions of Americans, and give them a real chance for an independent future. It reflects the principles the President has insisted upon since he started the process that led to welfare reform. Our job now is to make sure this welfare reform plan succeeds, transforming a broken system that holds people down into a working system that lifts people up and gives them a real chance to build a better life.
>
> States asked for this responsibility—now we have to make sure they shoulder it. We must make sure as many people as possible move from welfare to work. We must make sure that children are protected. In addition to health care and nutritional assistance, states should provide in-kind vouchers to children whose parents have reached the time limit. We challenge states to exempt battered women from time limits and other restrictions. [We challenge states to ensure that hard-earned, federal taxpayer dollars are spent effectively and fraud and abuse are prevented.] (The preceding sentence was added as an amendment to the platform during the Pittsburgh meeting.) We challenge the business community to provide more of the private sector jobs people on welfare need to build good lives and strong families. We know that passing legislation is not enough; we must make sure people get the skills they need to get jobs, and that there are jobs for them to go to so they leave welfare and stay off. We want to make sure welfare reform will put more people to work and move them into the economic mainstream, not take jobs away from working families.
>
> We call on all Americans to make the most of this opportunity—never to use welfare reform as an excuse to demonize or demean people, but rather as a chance to bring all our people fully into the economic mainstream, to have a chance to share in the prosperity and the promise of American life.

Following the Pittsburgh meeting, in an August 6 Washington Post article by Kevin Merida entitled "Democrats Play Down Platform Differences," White House deputy chief of staff Harold Ickes was quoted as characterizing disputes over platform planks as "some fusses around the edges," and as stating, "I can't think of any changes of consequence since the drafting" of the platform in Kansas City.

In an August 29 Washington Post column entitled "Bathos and Nothingness," columnist Robert D. Novak wrote, "The platform's denunciation of Republican welfare reform was obediently reversed, with neither protest nor debate, once Clinton signed the bill. Nor was the change mentioned on the convention floor in the non-debate preceding voice-vote approval of the platform. Far from being debated, the declaration of party principles was not even explained." Indeed.●

TRIBUTE TO THE VERMONT EXPOS

● Mr. LEAHY. Mr. President, I stand here today to pay tribute to Vermont's only professional sports team, the Vermont Expos, who won the New York Penn League baseball championship last week.

In 1994, the Vermont Expos arrived in Burlington thanks to my good friend Ray Pecor, who worked exhaustively with State and local officials to bring professional baseball back to Vermont. He wanted the Expos to be a team the entire State could be proud of. Now, after just 3 years in Vermont, the Expos are champions.

This year, the Expos played with a never say die style. They came from behind regularly to snatch victory from the jaws of defeat. In the championship series, the Expos came from behind to win in three of their four playoff victories. This never say die attitude not only made baseball extremely exciting in Vermont this summer, but helped the Expos develop a mystique that many teams take years to build.

The gritty style of play the Expos showed throughout the year reflects the attitude of their manager, Kevin

Higgins, who had the responsibility of molding a team of rookies into a championship ball club. After the Expos beat the St. Catharines Stompers, 4 to 3, on Wednesday to win the championship, Higgins acknowledged that "these are the best fans in the league and I think they know it."

The workmanlike efforts of the Expos also reflect the hard work of their General Manager, Kyle Bostwick of St. Albans, and his predecessor, the late Tom Racine of Burlington. These two men were major factors in bringing a championship ball club to Burlington.

Never before have I seen a community become so attached to a team so quickly. Take John Douglas of Colchester, who housed Expos teammates Jamey Carroll and Shannon Swaino for the season. Douglas said he treats the two young men as if they were his own.

But the bond between the team and their fans goes beyond the cool summer nights at Centennial Field. It stretches into the very culture of our State. In Vermont, we take pride in our work ethic. We believe that hard work will be rewarded. In all my years of following professional sports, I have never seen a team that so typified the culture around them. I can honestly say this group of young ballplayers will never be forgotten.

I ask my colleagues to join me in congratulating the Vermont Expos and their fans for winning the 1996 New York Penn League championship. Now there are two "Champs" in Vermont.•

ENTHRONEMENT OF ARCHBISHOP SPYRIDON

• Mr. SARBANES. Mr. President, a new chapter commences in the life of the Greek Orthodox Church of America this Saturday with the enthronement in New York of new Archbishop Spyridon at the Holy Trinity Cathedral in New York City. Archbishop Spyridon, the first American-born hierarch to hold this position, assumes this important responsibility at a time when the Orthodox Church in America faces great challenges and opportunities. All Americans of Greek Orthodox faith have great hope that this new spiritual leader will continue the Greek Orthodox Church's positive role in the religious life of our country.

In pursuing this mission, the new Archbishop will build on a firm foundation established by his predecessors—Archbishop Iakovos, who did so much to advance Orthodoxy in the Americas, Archbishop Michael, and the late Patriarch Athenagoras, who led the church during its early and difficult period in America.

Archbishop Spyridon was born in Warren, OH, the son of Clara and the late Dr. Constantine Papageorge, and spent most of his youth in Tarpon Springs, FL where, as a teenager, he divided his summers between Florida and the Island of Rhodes, the home of his father. The Archbishop graduated high school in Tarpon Springs and then enrolled in the Theological School of Halki near Istanbul, Turkey, where he was graduated with honors. He pursued graduate studies in Switzerland and Germany and is fluent in English, French, Greek, German, and Italian. He eventually was assigned to the permanent delegation of the Ecumenical Patriarchate to the World Council of Churches in Geneva, Switzerland, and later served as Secretary of the Orthodox Center of the Ecumenical Patriarchate located in Chambesy, Switzerland. In 1976 he was assigned to duties as Dean of the Greek Orthodox community of St. Andrew's in Rome and later assumed added responsibilities as Orthodox Executive Secretary of the International Joint Commission for Theological Dialogue Between the Orthodox and Roman Catholic Churches. He was elected a Bishop on November 5, 1985; and in 1991 he became the first person ever elevated to Metropolitan of Venice, Italy.

The new Archbishop's responsibility includes serving as the direct representative in the United States of the Ecumenical Patriarchate in Istanbul, the spiritual center of world Orthodox Christianity. His personal and ecclesiastical experience combine a rich grounding in Orthodox spirituality, a meaningful involvement in interfaith-ecumenical activities, and an understanding of the American tradition of religious freedom and separation of church and state.

I join with Orthodox throughout our country and all Americans of good faith who wish His Eminence a long life, a productive ministry, and the strength and wisdom to meet the many challenges which await him.•

SWISS AGREEMENT TO INVESTIGATE JEWISH FUNDS IN SWISS BANKS

• Mr. D'AMATO. Mr. President, I rise today to discuss the recent agreement of the Swiss to investigate the issue of Jewish money, as well as looted assets that were deposited in Swiss banks before and during the war.

The Swiss, in responding to overwhelming international pressure have agreed to yet another commission to investigate the issue. I must state that we have heard this before. We were told at the end of the WWII that the Swiss would look for Jewish assets and they responded by saying that they found nothing. Yet in 1949, the Swiss concluded an agreement with the Polish Government to turn over the assets of heirless, largely meaning Jewish assets. The problem was that they made this agreement with the Communist-run Polish Government and not the Jewish people to whom the assets belonged. According to their own sources, the Swiss had no laws on the books providing for this. Nevertheless, they did the same thing the following year with the Communist-run Hungarian and Czech Governments. While saying all along they had no Jewish assets in Switzerland, the Swiss nevertheless found enough to conclude agreements with other governments to turn over funds that did not belong to them. Clearly they have not been forthcoming with the world.

The Swiss again investigated the subject in the early 1960's. Again, they found money, some $2 million. Yet, all along there were public statements to the effect that little money would be found.

In 1995, another search was made and some $32 million in dormant accounts were found. Again, Swiss banks and Swiss Government officials said this proves that there was not a lot of money left over.

One must ask oneself, however, if the Swiss keep saying that there is no Jewish money in Switzerland from the 1930's and 1940's, why then do they keep finding money? Clearly the answer must be that they are in fact sitting on great sums of money and are letting it come out in drips and drabs, only in response to immense international pressure. They seem to think that they can outlast us. Well, they are wrong.

They can create commission after commission to study the issue, but the only way to solve the issue once and for all is to open their books, entirely, and put this all to rest. Stonewalling will not work, we understand what they are trying to do. Enough is enough. Open the books now.•

REV STEVEN D. RILEY

• Mr. LEVIN. Mr. President, I rise today to honor a distinguished Michigan citizen, Rev. Steven D. Riley, who celebrates his 15th year as Pastor of Christ Temple Baptist Church in Ypsilanti, MI.

Reverend Riley was born and educated in Michigan, and is the only child of Geraldine Riley. He was baptized into the Christian faith in 1967, ordained a Minister of the Baptist Church on March 17, 1974, and installed as Pastor of Christ Temple Baptist Church on January 25, 1981. Reverend Riley has traveled across the country conducting numerous preaching revivals in his service to the Christian faith. He has also served the Ypsilanti community at hundreds of weddings and funerals. Reverend Riley's public service also extends to affiliations with the NAACP, the Fraternal Order of Police, and Operation PUSH.

Rev. Steven D. Riley has devoted his life to his community and the betterment of humankind, and in doing so has become a role model for us all. I know that my Senate colleagues join me in honoring Reverend Riley on his 15 years of outstanding service at Christ Temple Baptist Church.•

WILMINGTON BLUE ROCKS WIN CAROLINA LEAGUE CHAMPIONSHIP

• Mr. BIDEN. Mr. President, last Wednesday evening, with a 6-4, 11th-inning victory over the Kinston Indians, the Wilmington Blue Rocks captured the Carolina League championship for the second time in their 4-year history. I would like to take this opportunity to join all Delawareans in congratulating Manager John Mizerock, his players and coaches, and the entire Blue Rocks' organization for their oustanding season, and—again on behalf of all Delawareans—I'd like to thank them for providing us with yet another summer of enjoyable family entertainment.

For 40 years, up until the spring of 1993, Wilmington was without professional baseball until our late Mayor Dan Frawley, former State Representative Steve Taylor, and dozens of other public officials, businesspersons, and community leaders made a commitment to build a stadium and lure a minor league franchise to the city. Now, "The Boys of Summer" have returned each spring, averaging more than 300,000 fans annually as the Blue Rocks have captured the Northern Division title in each of their 4 years, winning the League Championship in 1994 and again this year.

But for all of their success on the field, the Blue Rocks' real contribution has been the sense of community pride which they have brought to the Wilmington area. The people of Wilmington have welcomed these young men from around the country and from as far away as Latin America into their homes and their hearts, and in droves have brought their families out to Frawley Stadium on spring and summer afternoons and evenings to share a few hours of family fun watching their boys in action. In return, the Blue Rocks players and management have involved themselves in the community, visiting schools and conducting baseball clinics, providing our youngsters with fine role models. What's more, the construction of Frawley Stadium and the activity at the stadium has led to the revitalization of an old neighborhood, with the South Madison Street corridor becoming a prime location for restaurants and community events.

Matt Minker and his partners, including my good friends Frank and Fran Long, have given the club ownership with a local flavor, ensuring that the franchise is more than just a business, but an integral part of community life in Wilmington. Ken Shepard, the vice president of baseball operations, and his fine staff have run a first-rate operation where excellent baseball is played in a stadium that is fan-friendly—and especially kid-friendly—and always immaculately clean. A friend of mine remembers hearing Ken Shepard tell his staff just minutes after the Blue Rocks concluded their championship season of 1994, that even though there wouldn't be another game for more than 6 months, he wanted the stadium cleaned up "as if there was going to be a game here tomorrow night"—and it was. That commitment to excellence has led to national recognition of the Wilmington Blue Rocks' as one of the premier minor-league organizations in the Nation.

Blue Rocks' fans will remember another season of first-rate baseball on the diamond at Frawley Stadium; the dramatic win last Wednesday night on Matt Smith's 11th-inning home run; Sean McNally's ninth-inning scamper around the bases to score all the way from first-base on Michael Evans' hit to right-center field clinching the Northern Division title on Labor Day night; Jimmy Byington playing all nine positions in a single game in June; and countless other late-inning rallies, dramatic home runs, and superb pitching performances.

But they've taken home a lot of other memories this summer as well. Memories of clear blue-sky afternoons when the yard work took a back seat to a couple of hours with the kids in the sun at Frawley Stadium; and of summer evenings with the sun setting beyond the stands down the left-field line as a crowd of 5 or 6,000 stood and cheered as the Blue Rocks' pitcher fired a strike to open the game. There'll be memories of legions of kids trailing along behind Rocky Bluewinkle, the blue moose who is the team's mascot; and memories of the mad scrambles to catch the souvenir frisbees that Rocky threw into the stands; of the hilarious Dizzy Bat Races which every evening left several volunteers from the audience sprawled on the green grass, disoriented, and having the time of their lives; and of The Macarena dance at the end of the fifth inning and thousands of fans moving in unison to "YMCA" during the seventh-inning stretch each evening.

Nor will fans forget some of the characters who highlighted their afternoons and evenings at our "Field of Dreams"; Blue Rocks employee Chris "The Dancing Machine" Parise standing on the third-base dugout and leading the fans in "The Chicken Dance"; stadium organist Mike Mixon playing "McNamara's Band" whenever third-baseman Sean McNally came to bat; Jimmy, the soft-pretzel vendor in the stands whose energy and charisma probably doubled the sale of soft pretzels at the stadium; the "Balloon Man" enchanting the younger children with hats and animals made out of balloons; and countless other players, employees, and fans who made each trip to the ballpark a memorable one.

For most fans, however, the Blue Rocks memories of summer 1996 will revolve around the family and friends who shared those good times with them. It is the sharing of good times like that that binds families and friends together, and as we congratulate the Blue Rocks on their Carolina League championship, we thank them for allowing us to share their success with one another.•

"COUNTDOWN TO A MELTDOWN"

• Mr. MOYNIHAN. Mr. President, this past Sunday, September 15, 1996, the Outlook section of the Washington Post contained an excellent article, "Countdown to a Meltdown," by Lanny J. Davis, an attorney with the firm of Patton Boggs, L.L.P. The article concerns the Y2K problem, as the computer literate refer to it. What happens to the internal clocks and software of the Nation's—indeed, the world's—government, business, and personal computers at 12:01 a.m. on January 1, 2000, when they need date code space for four digits, rather than two? Will the computers crash? Will they assume the year is 1900? Mr. Davis quotes one industry expert as calling the Y2K defect "the most devastating virus ever to infect the world's business and information technology systems." Estimates of the cost of fixing this defect range as high as $75 billion—if we act expeditiously. The longer we delay, the more costly the solution.

On July 31, I wrote to the President concerning this problem. I offered the following suggestion:

> A presidential aide should be appointed to take responsibility for assuring that all Federal agencies including the military be Y2K date compliant by January 1, 1999 and that all commercial and industrial firms doing business with the Federal government also be compliant by that date. I am advised that the Pentagon is further ahead on the curve here than any of the Federal agencies. You may wish to turn to the military to take command of dealing with the problem.

A general—given the national security implications—to take charge, to determine what the Federal government must do to respond to this looming menace, and how it ought to go about doing it. I put a copy of this letter, along with the summary of a Congressional Research Service (CRS) report I requested on the subject, in the September 5 CONGRESSIONAL RECORD.

I will introduce legislation shortly to establish a commission to investigate the problem and suggest remedies. There is not much time left to resolve it. The consequences of procrastination, as the attached article indicates, are grave indeed.

I ask that the article, "Countdown to a Meltdown," appear in the RECORD at this point.

The article follows:

[The Washington Post, Sept. 15, 1996]

COUNTDOWN TO A MELTDOWN

BEFORE THE YEAR 2000, WE HAVE TO SPEND BILLIONS TO FIX A VERY STRANGE GLITCH

(By Lanny J. Davis)

In the classic '50s science fiction film "The Day the Earth Stood Still," an alien lands his flying saucer in front of the Washington Monument and demands that the earthlings destroy their nuclear weapons. When they doubt his powers, the alien gives them a demonstration. At noon on a designated day, he eliminates all sources of energy on the planet, from electricity to water power to gasoline. Cars stop. Trains stop. Telephones stop. The lights go out.

At 12:01 a.m., Jan. 1, year 2000—or the "Y2K," as computer aficionados refer to it—the world won't exactly "stand still." But it could come close unless the world's major governments and businesses start to fix their computer systems right away.

The general public knows Y2K (for Year Two Kilo—the Greek prefix kilo meaning 1,000) as the "Year 200 Problem." Although it's finally beginning to get some attention, there is still little sense of urgency because it is seen as three years away. But the fact is that for some institutions, including parts of the federal government, it will very soon be too late. We could end up with a real catastrophe that could affect many people's lives around the globe in annoying and profound ways.

The reason is simple: Virtually all computers used by business and government won't know what to do when their internal clocks try to switch from 1999 to 2000. They'll go haywire. (Most newer personal computers for home use will be unaffected.)

The problem is that computers (and the software inside that tells them what to do) are programmed with only the last two digits in the year being variable, i.e., 19XX. But when the clock moves to 12:01 a.m. on Jan 1, 2000, the computer's program will need code space for four digits. One of two things will happen: The computer will cease functioning ("crash"); or more likely, it will change the last two digits from "99" to "00," thus causing the computer's internal calendar to register as if the current date is Jan. 1, 1900.

There is a solution, but it is time consuming and costly.

Current estimates for business and government range from $50 billion to $75 billion—and will only increase as 2000 draws closer. Unfortunately, the alternative is unthinkable. One industry expert has called the Y2K defect "the most devastating virus ever to infect the world's business and information technology systems." If the problem isn't fixed, here are just some of the things that will happen:

Vital military and defense systems will shut down.

Taxpayers will receive notices from the IRS saying that they owe millions of dollars in back taxes.

Banks will shut off credit and send foreclosure notices to millions.

Social Security, Medicare and other government benefit programs based on age will not function, as the computer determines, for instance, that retirees are minus 35 years old, instead of 65 (take the year 1900 and subtract their birth year of 1935). Millions of workers will not receive their pension checks.

Thousands of airplanes all over the world will be grounded when records show that maintenance has not been done for 100 years.

For the same reason, prison records will show criminals overdue for release.

The economic and political ramifications of this issue are immense. Kevin Shick, research director of the Gartner Group, a consulting firm that developed early expertise on this issue, told the House Information and Technology subcommittee in April that it is highly probable that 90 percent of all computer program applications in the world are dependent on the correct date being recorded.

The questions are: How'd we get into this mess? Who's to blame? What do we do about it? Who's going to pay to fix it?

A major sub-industry has arisen in the last few years to correct the problems. There are many small software houses and consulting companies that have developed "software for the calendrically challenged" and other "tools" to address the problem. And such giants as Oracle, Computer Associates, IBM and Arthur Anderson have shown interest in assisting companies to solve the Y2K problems, often at costs in the tens of millions of dollars or more.

Experts differ on the extent of corporate America's state of readiness for the Y2K: The computer magazine Datamation estimated that, as of last year, more than two-thirds of the companies that use mainframe computers at least has a team in place to consider how to deal with the problem. However the Gartner Group's Schick says that only 17 percent of the companies have sought the necessary outside help.

Governments are waking up, but slowly. At a recent Y2K conference in Austin, an industry expert warned that fewer than 25 percent of state government systems will be ready. One of the first public officials to take notice of the problem, Sen. Daniel Patrick Moynihan (D-N.Y.), is just now planning to ask President Clinton to appoint a blue ribbon commission to study and make recommendations on this issue. They're going to need to work fast. Recently, the Securities and Exchange Commission announced that it may promulgate rules requiring public companies to detail their readiness for the Y2K.

One reason for the urgency is that this is not a simple problem to fix. There are three options: replace all old software, which would likely be prohibitively expensive; modify the software's two-digit year code to a four-digit code, with instructions that 2000 follows 1999, which would require the location and correction of every "time field" in millions of lines of code in every software and hardware system; or program the computer so that, when faced with two double-zero dates, it chooses the more logical of them. For example, a computer can be told that a 1996 driver's license with a five-year term has expired in the year 2001, even though the internal clock reads 1901. This last solution seems on its face the simplest, and cheapest. Unfortunately, it doesn't do the job in most instances. For example, if the issue is knowing the person's age, the computer has no way of knowing whether someone born in the year 2002 is 2 years old or 102 years old.

Finding a solution that identifies and corrects all Y2K defects may well prove impossible. Certain programs were deliberately written in obscure programming languages. In the Pentagon, for example, many of the codes were uniquely written by one or two individuals using top-secret technology and cannot be addressed by off-the-shelf software.

Even for the best technicians, the nightmare is finding all the Y2K defects in a computer system. For instance, the dates themselves have been expressed in a variety of ways by programmers—December 12, 1945, 12 December 1945, 12-12-45, etc. All conceivable methods of expressing those date fields must be located and corrections made. If only a few have been missed, it can cause a ripple effect through a computer network, leading to a crash.

The solution is time and money.

But why should those who bought computer products be left with the tab for cleaning this mess up? Wasn't it obvious when software was being written that at some point the year 2000 would come? Why didn't programmers anticipate the problem and deal with it?

As one leading Y2K commentator, Warren Reid, notes: "The Year 2000 problem was caused by shortsightedness and human error." One thing is certain—there is plenty of blame to go around.

Programmers and software houses say the main reason was cost. George Munoz, chief financial officer of the Treasury Department, testified recently that in the early 1980s, when most of these systems were being developed, memory was expensive and the cost of adding another two digits to every date field would have been considerable. Thus, he and other industry experts explain, programmers decided to save the money and make the fix when 2000 got closer.

For this reason, many in the industry suggest that responsibility for the Y2K problem is not assignable. As Munoz testified in April: "Did this problem arise because of someone's negligence? To this, we emphatically respond: No."

But if that is the "no fault" explanation, why weren't the purchasers and licensees of these software programs and computer systems at least informed about the coming problem? Why weren't they allowed to decide for themselves whether they wanted to pay then or pay later? And what about hardware and software sold in the recent years, when memory is much less of a problem (with today's PCs having more storage space and processing capacity than many mainframes 30 years ago)?

These questions may get answered in court as businesses go looking to recover their costs from the vendors who sold them these products, though no major Y2K lawsuits have yet been filed.

On the other hand, vendors (and their attorneys) are likely to remind any customers pressing these theories that they should have known that when the year 2000 tolled, the problem would arise. For the most part, the buyers of these big systems are sophisticated information managers.

Ultimately, the verdict is likely to be that everyone shares a piece of the blame—both vendors who failed to inform and buyers who chose to ignore, figuring someone else would fix it. Perhaps it's human nature: Governments, and people, are more likely to respond to a crisis than anticipate it.

Though costs are hard to estimate, they can be approximated, based on the amount of computer code within a particular company or government agency. Coopers & Lybrand has found that on average one of every 50 lines of code contains a date reference. Each individual application may contain thousands of lines of code. All software must be searched line by line; for every million lines of code, nine to 16 staff years will be needed to correct the problem.

It costs about $1–$2 per line of code, most industry analysts say. The Information Technology Association of America, representing the software and information services industry, estimates the total U.S. cost in the range of $50 billion to $75 billion. The Social Security Administration says it will take between $30 million and $60 million to fix its programs, the Defense Department over $1 billion. For the state of Maryland, current estimates for the fix exceed $25 million. Recent hearings by the House Information Technology Subcommittee found that when state and local government costs are taken into account, as well as the various indirect costs of lost productivity and diversion of personnel and resources, the public sector costs of the Y2K crisis reaches tens of billions of dollars in the United States alone.

Private sector costs are likely to be as high. The Gartner Group estimates that a mid-sized company with 8,000 computer programs will spend between $3.6 million and $4.2 million to repair "date challenged" software.

Who's left paying the bill? Surprise: first and foremost, the taxpayer. Then, either in the courts or by negotiation, the rest of the pain of solving the problem is likely to be shared by vendors, users and consumers. And the longer a company or an agency waits, the more it will cost. At the start of 1999, the cost will be three times that of starting today, because the supply of trained programmers able to fix the problem will not keep up with demand.

Once the alien in the movie made the Earth stand still, he convened the leaders of the world to a meeting in front of his space ship. The Earth's leaders told him they now believed in his powers and promised to destroy all the planet's nuclear weapons forthwith. But as soon as the alien left, they went back to their old habits of building more.

The real-life inhabitants of a planet that is so dependent on computers might take a lesson from that. Having let the technology experts put one past us this time, we shouldn't let them do it again.•

RECLAMATION RECYCLING AND WATER CONSERVATION ACT

• Mr. REID. Mr. President, I want to express my support for the Reclamation Recycling and Water Conservation Act, S. 1901, and its companion bill, H.R. 3660, that promotes the desalination and water reclamation projects in the arid West. I have long supported water reclamation and desalination as a means of conserving water which is a precious commodity in Nevada and other Western States.

In the past, with the senior Senator from Illinois [Senator SIMON], I have advocated legislation that would authorize desalination technology research on a national scale. Public investment in desalination technology is vital to the future of fresh water supply of the Nation. Nevertheless, I support this regional legislation because of the special water needs of NV, Utah, California, and New Mexico. I particularly note that this bill will provide for Clark County, NV, the fastest growing county in the Nation, to reduce its dependence on fresh water from the Colorado River and rely on desalination and wastewater recycling to meet the needs of the expanding community. This approach by Clark County and other Western communities to their water problems appears to be insightful recognition of the limited fresh water resources of the West.

This legislation is good common sense and I commend my colleague from Utah [Senator BENNETT], for his sponsorship. Not only does reclamation and reuse make good conservation policy but will also prove cost effective because it will cost less for municipalities to provide for recycling than to build new reservoirs and conduits. Consequently, there should not be any opposition to a bill that encourages conservation initiatives as well as fiscal responsibility of municipalities and Federal assistance.

I recommend this authorizing bill to my colleagues for unanimous consent so that the Secretary of the Interior can initiate such planning, designing, and construction of the projects that are itemized within the bill.•

NATIONAL PAYROLL WEEK

• Mr. WARNER. Mr. President, I rise today during National Payroll Week to recognize the contributions to American businesses and workers that are regularly made by payroll professionals. I am proud to participate in National Payroll Week by paying tribute to the professionals who pay the wages, report the earnings, and withhold the taxes of over 124 million American workers annually.

Payroll departments collectively withhold, report, and deposit nearly $880 billion in taxes on behalf of the Federal Government alone. They spend more than $15 billion each year just to comply with the huge web of Federal, State, and local wage and tax laws and an additional $6 billion annually complying with Federal, State, and local, unemployment insurance laws.

More importantly, however, payroll professionals routinely protect American workers by helping to enforce fair labor practices by ensuring that workers receive overtime pay that they are due. Payroll departments also ensure through wage reporting that retirees' Social Security benefits accurately reflect their career earnings.

The work of payroll departments transcends office matters, though. Payroll professionals help identify deadbeat parents by filing new hire reports to child support enforcement agencies in more than two dozen States. This action helps identify noncustodial parents and ensures that child support payments can be withheld from a parent's pay, if appropriate. In fact, payroll departments collect from noncustodial parents more than half of all child support payments—more than $8.1 billion over the last 10 years.

Mr. President, payroll professionals clearly play an essential role benefiting millions of Americans across our Nation. I am indeed glad to take this opportunity to express my appreciation and that of the people of Virginia for the fine work of America's payroll professionals.•

THE IMPORTANCE OF DIET IN CANCER PREVENTION

• Mr. HOLLINGS. Mr. President, very few cancer researchers have stressed the importance of diet in the prevention of cancer. Dr. Daniel Nixon of Charleston, SC is a pioneer in this field. I ask that there be printed in the RECORD an article from *the Post and Courier* profiling Dr. Nixon's professional accomplishments in preventative medicine.

The article follows:

DANIEL NIXON—HE FIGHTS CANCER WITH STRAWBERRIES

(By Dottie Ashley)

Some people dream of having a lavish home in the Bahamas or owning a private jet.

Dr. Daniel Nixon dreams of a super strawberry springing from the soil in South Carolina.

If Nixon's dream comes true, the results could prolong the lives of thousands of cancer patients so that they, too, may dream once more.

"South Carolina is a perfect place for cancer research because here we have both tumors of affluence and tumors of poverty, a large population of the very rich and of the very poor," say Nixon.

In the war against cancer, Nixon, associate director for Cancer Prevention and Control of the Hollings Cancer Center at the Medical University of South Carolina, is in charge of special weapons and tactics.

As the Folk Professor of Experimental Oncology at MUSC, Nixon has mounted his attack on cancer with an arsenal of cancer-preventing compounds that block the formation of cancer cells.

VOLUNTEERS ARE TESTED

A former associate director for the Cancer Prevention Research Program of the National Cancer Institute, Nixon has formed a networking arrangement between MUSC and other state agencies.

To conduct his research, which is funded largely by grants from the Washington State Raspberry Commission, Nixon has called on the services of the General Clinical Research Center at MUSC to monitor the concentrations of ellagic acid in the blood and urine of 12 healthy volunteers who are fed bowls of raspberries.

His research has been recognized by the Society for Nutritional Oncology Adjuvant Therapy, and Nixon will receive the Green Ribbon Award at a ceremony Sept. 18 in Philadelphia. The award is given by the society to recognize outstanding clinical research contributions to nutritional oncology in the areas of prevention, supportive nutrition and adjunctive therapy.

Nixon has seen both sides of the cancer-treatment coin.

"For 13 years, I administered chemotherapy to cancer patients, and finally I had to convince myself that we were not going to get rid of cancer by treatment only, that we had to have prevention as well," says Nixon, who also is the former head of medical oncology at Emory University's Winship Oncology clinic.

TREATED MISS LILLIAN

At Emory, Nixon was oncologist for Lillian Carter, mother of President Jimmy Carter.

"Dan Nixon is the most dedicated doctor I know. No matter how bad the news may be, he exudes hope," says Carter's sister-in-law, Sybil Carter, reached at her home in Plains, Ga. "He's Jimmy Carter's favorite physician."

Nixon recalls, "Miss Lillian was wonderful. She gave me a baseball that Fernando Valenzuela had signed and I still have it."

Prevention research is designed not only for those who do not have cancer, but also for those who have received, or are receiving treatment for cancer. Nixon believes that where cancer cells are already growing, in many cases, they may retreat when bombarded with raspberries and strawberries—more specifically, ellagic acid.

Raspberries and strawberries are extremely high in ellagic acid, a nutrient Nixon believes will prevent both the formation and advance of certain cancers, even in people considered to be at high risk for the disease.

"Ellagic acid is an effective cancer prevention agent in animals. It stops the development of several types of cancer tumors, and there's reason to believe it can do the same for humans," says Nixon.

His research efforts include gathering information linking the connection between diet and cancer in the body by using a whole-body calorimeter, a $80,000 machine that he had brought to MUSC which monitors fluctuations in whole-body temperature over a 90 to 120-minute period.

MEASURES HEAT LOSS

"This is the newest calorimeter in the United States. The calorimeter measures heat loss, which is calories expended. If a person is obese, he is calorically thrifty and suffers a greater cancer risk. The calorimeter helps us determine why that is."

Still retaining his soft-spoken Southern accent, despite time spent at Harvard and in Washington, D.C., Nixon has a calm demeanor that's reassuring to patients.

"The most important thing is to really take time and listen to your patients," he says. "They help you make the diagnosis and teach you so much about cancer treatment."

Born in Brunswick, Nixon moved with his family to Ware County and later to Bacon County, Ga., when his father, who was a forester, took a job in the Okefenokee Swamp.

After enrolling at the University of Georgia, Nixon double-majored in chemistry and zoology and went on to attend the Medical College of Georgia in Augusta.

He did his internship in Augusta, then served as a Clinical Fellow in Medicine (Oncology) at Massachusetts General Hospital and as a Research Fellow in The Huntington Laboratories at Harvard Medical School.

In spite of his gentle manner, Nixon is all business.

"I want people to realize that this work we are doing in science, not home economics," he says, as he points out that at work in his experiments are thousands of phytochemicals which have been manufactured by plants to protect themselves against insects and other predators.

FRUITS AND VEGETABLES

"These are not the usual vitamins and minerals that we are studying. We've known that fruits and vegetables are good for us. Now we want to know why."

As Nixon has investigated the connection between cancer and diet over the years, he has concluded that often the feeding of a normal American high-fat diet to a cancer patient may actually feed the tumor and encourage its growth.

"When I did a metabolic balance study, I found the cancer patients gained fat weight, not lean weight," he says. "People must learn to view eating food such as high-fiber cereal as the same as taking a drug to battle cancer. We need to learn how to feed our cancer patients without feeding their cancers."

For the past year, Nixon has worked in collaboration with scientific investigators at Clemson University who test the ellagic acid-laden blood which he sends them to find out what it does to tumor cells.

"We've found that the ellagic acid is readily absorbed and a lot of it gets into the blood stream. This is an effective delivery system to cells throughout the body.

"In animals it seems to protect genes against carcinogens, maybe even against tobacco carcinogens. Diets heavy in fats are the worst, as it appears that cancer thrives on fat calories."

He advises limiting fat intake to 20 to 25 percent of the total calories consumed daily.

WOMEN'S NUTRITION

Nixon's work with cancer prevention ranges from Emory's Winship clinic for Neoplastic Disease to working with the National Cancer Institute in Bethesda, Md., where he participated in a National Health Institute-funded Women's Intervention Nutrition Study designed to determine if reduced caloric intake contributes to a more favorable outcome in cancer therapy and reducing the chance of relapse.

After living in Bethesda for 2½ years, the Nixons returned to Atlanta, where Nixon served as vice president for cancer detection and treatment for the American Cancer Society.

In 1994, Nixon was asked to come to MUSC. He is enthusiastic concerning the support he has received from MUSC president Dr. James B. Edwards and Sen. Ernest F. Hollings.

"They have been wonderful about getting things going here in cancer prevention. For the past two years, we have been putting together a statewide network involving Clemson, the USC School of Public Health, oncologists in Spartanburg and Greenville as well as the S.C. Primary Research Consortium, based here at MUSC.

"We are working with a grant from the Centers for Disease Control which is funding volunteers in intervention control groups. People can be subjects in the groups or they can be counselors, whom we will train, to work with the cancer patients.

"We now know that about 70 percent of malignancies are either caused by tobacco or are in some way related to what we eat.

"If we can get rid of 70 percent of cancer, then we can turn our time and money to heart disease, diabetes, osteoporosis and toward antiaging research. There's no reason that humans can't live to be 120 years old."

WEIGHT LOSS

One of the cancer patients who volunteered in a clinical trial is Clare Howard, 64, who was the first patient to have her metabolic activity measured in the calorimeter.

Required to keep a record of what she has eaten each day, she has lost 26 pounds in the past year.

"I'm glad to take part in these cancer trials," she says. "And most of all, it's been wonderful to work with a doctor who is as compassionate as Dr. Nixon. I feel like he really cares."

Nixon's work is greatly admired by Dr. David Gangemi, director of Greenville Hospital System/Clemson University Biomedical Cooperative. "Dr. Nixon is a true star in the field of cancer prevention. And, going beyond that, this cooperation between Clemson and MUSC could change the economy of this state. If we are able to develop a strawberry with even more ellagic acid, then some farmers who grow tobacco could simply switch to strawberries.

"Also, this national grant we have will bring preventive medicine to the forefront, and this is greatly needed because there are some people in the medical community, such as some surgeons, who don't fully appreciate the preventive approach to cancer."

Dr. Dwight Camper of Clemson's Plant Pathology and Physiology Department, says of the MUSC partnership, "We are elated because this project gives us an opportunity to team the plant scientists with the medical professionals—the first time this has been done in South Carolina.

NAVAL RESERVE CAPTAIN

Nixon doesn't restrict his research to institutions of higher learning. About six years ago, Nixon, who holds the rank of captain in the Naval Reserve, worked with the Navy on a nutrition experiment that involved two destroyers which spent six months at sea.

"We worked with the chef on one of the destroyers to prepare food that followed the National Cancer Institute Dietary Guidelines and on the other ship they served regular Navy food," says Nixon.

"On the ship using the Dietary Guidelines, those who were obese lost weight. Also, the sailors seemed to like this food better," says Nixon.

Also, he has established a relationship with Johnson & Wales University to train future chefs to cook high-fiber, low-fat dishes.

"I tell them that chefs are the pharmacists of the future," says Nixon. "And I truly believe that.

"This year we have started to go into the schools systems to teach nutrition and we've opened a teaching center on St. Helena Island at the Beaufort-Jasper Comprehensive Health Agency clinic, near the Penn Center. There, we have teaching kitchens to demonstrate good nutrition because lots of diabetes and cancer can be found among the people there."

People can, in fact, alter their taste buds, Nixon says. "I grew up eating traditional, good Southern food, like fried chicken and vegetables cooked with fat. But I no longer enjoy fatty foods. Now, with all the no-fat and low-fat foods on the market, you don't really have to sacrifice enjoyment."

And to experience an impromptu dinner with the Nixons, indeed is proof.

It's a rainy summer evening and Nixon and his wife, Gayle, who is a cardiology research nurse, are in the middle of packing up their Sullivan's Island home to move into town for several months, while their new home is being built.

"We are donating this house to the United Methodist Relief Center, which is part of the Hibben Street United Methodist Church in Mount Pleasant," explains Mrs. Nixon, who points out after the house is moved, they plan to build their new home on the beachfront site.

For dinner, Mrs. Nixon serves boiled shrimp, along with carrots, grapes, blueberries, nonfat potato chips, as well as iced tea.

A careful shopper, she was glad when the National Labeling Education Act was implemented in 1993.

"When the amount of fat a food contains is listed on the bottle or box, they you know for sure whether you want to buy it," she says.

The Nixons met when she was a nurse in training at the Medical College of Georgia and he was in medical school.

"Gayle kind of pushed me into getting interested in nutrition," says Nixon. "She was also very interested in public health work and in the way that the food in people's diets had an impact on their well being."

This shared interest led to their book "The Cancer Recovery Eating Plan: The Right Foods to Help Fuel Your Recovery," published by Random House in 1994 and released in paperback last spring.

The Nixons say they don't miss the bustle of Atlanta.

"I was the 'stadium doc' at the home Atlanta Braves games, which meant if somebody got hit in the head with a foul ball that I would go and put an ice pack on it," Nixon says. "That was fun, but I don't really miss Atlanta at all."

Nixon feels he has found his dream job.

"Now I can really talk to patients; whereas, when I was doing chemotherapy, sometimes I would have as many as 60 patients a day, and I really had no time to talk."•

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Ernest F. Hollings:									
Korea	Won	252,590	323.00					252,590	323.00
China	Yuan	6,598	794.00					6,598	794.00
Hong Kong	Dollar	5,412.40	700.00					5,412.40	700.00
Malaysia	Ringgit	830.68	203.00					830.68	203.00
Scott B. Gudes:									
Korea	Won	252,590	323.00					252,590	323.00
China	Yuan	6,598	794.00					6,598	794.00
Hong Kong	Dollar	5,412.40	700.00					5,412.40	700.00
Malaysia	Ringgit	830.68	203.00					830.68	203.00
Total			4,040.00						4,040.00

MARK O. HATFIELD,
Chairman, Committee on Appropriations, July 15, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Dan Inouye:									
Israel	Dollar		1,470.00						1,470.00
Total			1,470.00						1,470.00

MARK O. HATFIELD,
Chairman, Committee on Appropriations, June 27, 1996.

ADDENDUM.—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Glenn:									
China	Dollar		866.40						866.40
Hong Kong	Dollar		904.98						904.98
Total			1,771.38						1,771.38

STROM THURMOND,
Chairman, Committee on Armed Services, Aug. 26, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator William S. Cohen:									
Korea	Won	252,590	323.00					252,590	323.00
China	Yuan	6,598	794.00					6,598	794.00
Hong Kong	Dollar	5,412.40	700.00					5,412.40	700.00
Malaysia	Ringgit	1,033.68	406.by00					1,033.68	406.00
James M. Bodner:									
Korea	Won	252,590	323.00					252,590	323.00
China	Yuan	6,598	794.00					6,598	794.00
Hong Kong	Dollar	5,412.40	700.00					5,412.40	700.00
Malaysia	Ringgit	1,033.68	406.00					1,033.68	406.00
Robert S. Tyrer:									
Korea	Won	252,590	323.00					252,590	323.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1996—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
China	Yuan	6,598	794.00					6,598	794.00
Hong Kong	Dollar	5,412.40	700.00					5,412.40	700.00
Malaysia	Ringgit	1,033.68	406.00					1,033.68	406.00
Senator Dan Coats:									
Croatia	Dollar		150.00						150.00
Germany	Dollar		100.00						100.00
Richard DeBobes:									
Italy	Dollar		1,420.00						1,420.00
Total			8,339.00						8,339.00

STROM THURMOND,
Chairman, Committee on Armed Services, Aug. 26, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Thomas O. Melius:									
Scotland	Dollar		1,550.00						1,550.00
United States	Dollar				1,878.05				1,878.05
Earl W. Comstock:									
Scotland	Dollar		2,050.00						2,050.00
United States	Dollar				1,164.05				1,164.05
Total			3,600.00		3,042.10				6,642.10

LARRY PRESSLER,
Chairman, Committee on Commerce, Science, and Transportation, July 10, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Frank Murkowski:									
Republic of Marshall Islands	Dollar		529.00		1,327.89				1,856.89
Taiwan	Dollar		632.00						632.00
Republic of Palau	Dollar		346.00						346.00
Federated States of Micronesia	Dollar		293.00						293.00
Senator Daniel Akaka:									
Republic of Marshall Islands	Dollar		529.00		1,327.89				1,856.89
Taiwan	Dollar		632.00						632.00
Republic of Palau	Dollar		346.00						346.00
Federated States of Micronesia	Dollar		293.00						293.00
James P. Beirne:									
Republic of Marshall Islands	Dollar		429.00		1,327.89				1,756.89
Taiwan	Dollar		532.00						532.00
Republic of Palau	Dollar		230.00						230.00
Federated States of Micronesia	Dollar		193.00						193.00
David Garman:									
Republic of Marshall Islands	Dollar		429.00		1,327.89				1756.89
Taiwan	Dollar		532.00						532.00
Republic of Palau	Dollar		230.00						230.00
Federated States of Micronesia	Dollar		193.00						193.00
Deanna Tanner Okun:									
Republic of Marshall Islands	Dollar		429.00		1,327.88				1,756.88
Taiwan	Dollar		532.00						532.00
Republic of Palau	Dollar		230.00						230.00
Federated States of Micronesia	Dollar		193.00						193.00
Charles Kleeschulte:									
Republic of Marshall Islands	Dollar		429.00		1,327.88				1,756.88
Taiwan	Dollar		532.00						532.00
Republic of Palau	Dollar		230.00						230.00
Federated States of Micronesia	Dollar		193.00						193.00
Esther Kiaaina:									
Republic of Marshall Islands	Dollar		429.00		1,327.88				1,756.88
Taiwan	Dollar		532.00						532.00
Republic of Palau	Dollar		230.00						230.00
Federated States of Micronesia	Dollar		193.00						193.00
Total			10,520.00		9,295.20				19,815.20

FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, July 19, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator J. Bennett Johnston:									
China	Yuan	3,116.25	375.00					3,116.25	375.00
Hong Kong	Dollar	5,412.40	700.00					5,412.40	700.00
Vietnam	Dollar		600.00						600.00
Thailand	Baht	10,919.50	434.00					10,919.50	434.00
Indonesia	Rupiah	11,595.00	500.00					11,595.00	500.00
Singapore	Dollar	355.72	253.00					355.72	253.00
Matthew S. Prince:									
China	Yuan	3,116.25	375.00					3,116.25	375.00
Hong Kong	Dollar	5,412.40	700.00					5,412.40	700.00
Vietnam	Dollar		600.00						600.00
Thailand	Baht	10,919.50	434.00					10,919.50	434.00
Indonesia	Rupiah	11,595.00	500.00					11,595.00	500.00
Singapore	Dollar	355.72	253.00					355.72	253.00
Eric E. Silagy:									
China	Yuan	3,116.25	375.00					3,116.25	375.00
Hong Kong	Dollar	5,412.40	700.00					5,412.40	700.00
Vietnam	Dollar		600.00						600.00
David K. Garman:									
United States	Dollar				1,810.95				1,810.95
Switzerland	Franc		520.00						520.00
Germany	Mark		86.00						86.00
United Kingdom	Pound		238.00						238.00
Robert M. Simon:									
United States	Dollar				1,810.95				1,810.95
Switzerland	Franc		520.00						520.00
Germany	Mark		86.00						86.00
United Kingdom	Pound		238.00						238.00
Brian P. Moran:									
United States	Dollar				2,308.25				2,308.25
Switzerland	Franc		520.00						520.00
Germany	Mark		86.00						86.00
United Kingdom	Pound		238.00						238.00
Total			9,931.00		5,930.15				15,861.15

FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources. July 19, 1996.

ADDENDUM.—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator William V. Roth, Jr.:									
Japan	Yen					19,229	180.85	19,229	180.85
Daniel Bob:									
Japan	Yen	56,780	534.00			19,229	180.85	76,009	714.84
Total			534.00				361.69		895.69

WILLIAM V. ROTH, JR.,
Chairman, Committee on Finance. July 24, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM APR. 1 TO JUN. 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Hank Brown:									
Turkey	Dollar		524.00						524.00
Syria	Dollar		208.15						208.15
Pakistan	Rupee	29,419.65	930.82					29,419.65	930.82
United Kingdom	Pound	172.50	279.34					172.50	279.34
United States	Dollar				4,502.75				4,502.75
Steve Biegun:									
Russia	Dollar		2,380.00						2,380.00
United States	Dollar				3,180.95				3,180.95
Dan Fisk:									
Nicaragua	Dollar		370.00						370.00
United States	Dollar		25.00		832.95				857.95
Ed Hall:									
Russia	Dollar		2,478.00						2,478.00
United States	Dollar				3,305.45				3,305.45
Gina Marie Lichaz:									
Chile	Dollar		494.29						494.29
Argentina	Dollar		489.41						489.41
Brazil	Dollar		607.33						607.33
Michelle Maynard:									
Russia	Dollar		2,070.00						2,070.00
United States	Dollar				3,180.95				3,180.95
Patty McNerny:									
Costa Rica	Colon	30,836	184.00					30,836	184.00
Diana Ohlbaum:									
Greece	Drachma	95,186	390.00	3,900	16.00	7,200	30.00	106,286	436.00
Cyprus	Pound	10	21.00	14	30.00	22	47.00	46	98.00
United States	Dollar				4,508.00				4,508.00
Chris Walker:									
Haiti	Gourde	3,188	199.00					3,188	199.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM APR. 1 TO JUN. 30, 1996—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar		187.00		642.00				829.00
Garrett Grigsby:									
Angola	Dollar		728.00						728.00
Namibia	Dollar	1,082.50	350.00					1,082.50	350.00
South Africa	Rand	3,350.48	772.00					3,350.48	772.00
United States	Dollar				6,099.45				6,099.45
Total			13,687.34		26,298.50		77.00		40,062.84

JESSE HELMS,
Chairman, Committee on Foreign Relations, July 31, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Arlen Specter			496.50		3,251.15				3,747.65
Charles Battaglia			860.00		3,448.15				4,308.15
Suzanne Spaulding			1,192.00		3,448.15				4,640.15
Barry Caldwell			1,140.70						1,140.70
Kenneth Myers			1,215.00		1,532.25				2,747.25
Gary Reese			1,257.00		3,149.75				4,406.75
Emily Francona			1,257.00		3,149.75				4,406.75
Total			7,418.20		17,979.20				25,397.40

ARLEN SPECTER,
Chairman, Select Committee on Intelligence, July 11, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE DEMOCRATIC LEADER FROM APR. 1, TO JUNE 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Claiborne Pell:									
Costa Rica	Dollar		196.00						196.00
Brazil	Dollar		700.00						700.00
Chile	Dollar		619.00						619.00
Senator Howell Heflin:									
Costa Rica	Dollar		230.09						230.09
Brazil	Dollar		760.08						760.08
Chile	Dollar		624.08						624.08
Total	Dollar		3,129.25						3,129.25

TOM DASCHLE,
Democratic Leader, July 25, 1996.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER FROM APR. 1 TO JUNE 30, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Randy Scheunemann:									
Haiti	Gourde	5,088	300.00					5,088	300.00
United States	Dollar				642.95				642.95
Senator Alan K. Simpson:									
Brazil	Dollar		755.33						755.33
Chile	Dollar		682.55						682.55
Costa Rica	Dollar		280.12						280.12
Senator Frank Murkowski:									
Costa Rica	Dollar		278.00						278.00
Brazil	Dollar		772.00						772.00
Chile	Dollar		748.00						748.00
Julia Hart:									
Costa Rica	Dollar		368.00						368.00
Brazil	Dollar		949.00						949.00
Chile	Dollar		801.00						801.00
Total			5,934.00		642.95				6,576.95

BOB DOLE,
Republican Leader, July 16, 1996.

COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1996

The text of the bill (S. 1965) to prevent the illegal manufacturing and use of methamphetamine, as passed by the Senate on September 17, 1996, is as follows:

S. 1965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Methamphetamine Control Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings.

TITLE I—IMPORTATION OF METHAMPHETAMINE AND PRECURSOR CHEMICALS

Sec. 101. Support for international efforts to control drugs.
Sec. 102. Penalties for manufacture of listed chemicals outside the United States with intent to import them into the United States.

TITLE II—PROVISIONS TO CONTROL THE MANUFACTURE OF METHAMPHETAMINE

Sec. 201. Seizure and forfeiture of regulated chemicals.
Sec. 202. Study and report on measures to prevent sales of agents used in methamphetamine production.
Sec. 203. Increased penalties for manufacture and possession of equipment used to make controlled substances.
Sec. 204. Addition of iodine and hydrochloric gas to list II.
Sec. 205. Civil penalties for firms that supply precursor chemicals.
Sec. 206. Injunctive relief.
Sec. 207. Restitution for cleanup of clandestine laboratory sites.
Sec. 208. Record retention.
Sec. 209. Technical amendments.
Sec. 210. Withdrawal of regulations.

TITLE III—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

Sec. 301. Penalty increases for trafficking in methamphetamine.
Sec. 302. Enhanced penalties for offenses involving certain listed chemicals.
Sec. 303. Enhanced penalty for dangerous handling of controlled substances: amendment of sentencing guidelines.

TITLE IV—LEGAL MANUFACTURE, DISTRIBUTION, AND SALE OF PRECURSOR CHEMICALS

Sec. 401. Diversion of certain precursor chemicals.
Sec. 402. Mail order restrictions.

TITLE V—EDUCATION AND RESEARCH

Sec. 501. Interagency methamphetamine task force.
Sec. 502. Public health monitoring.
Sec. 503. Public-private education program.
Sec. 504. Suspicious orders task force.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Methamphetamine is a very dangerous and harmful drug. It is highly addictive and is associated with permanent brain damage in long-term users.

(2) The abuse of methamphetamine has increased dramatically since 1990. This increased use has led to devastating effects on individuals and the community, including—

(A) a dramatic increase in deaths associated with methamphetamine ingestion;

(B) an increase in the number of violent crimes associated with methamphetamine ingestion; and

(C) an increase in criminal activity associated with the illegal importation of methamphetamine and precursor compounds to support the growing appetite for this drug in the United States.

(3) Illegal methamphetamine manufacture and abuse presents an imminent public health threat that warrants aggressive law enforcement action, increased research on methamphetamine and other substance abuse, increased coordinated efforts to prevent methamphetamine abuse, and increased monitoring of the public health threat methamphetamine presents to the communities of the United States.

TITLE I—IMPORTATION OF METHAMPHETAMINE AND PRECURSOR CHEMICALS

SEC. 101. SUPPORT FOR INTERNATIONAL EFFORTS TO CONTROL DRUGS.

The Attorney General, in consultation with the Secretary of State, shall coordinate international drug enforcement efforts to decrease the movement of methamphetamine and methamphetamine precursors into the United States.

SEC. 102. PENALTIES FOR MANUFACTURE OF LISTED CHEMICALS OUTSIDE THE UNITED STATES WITH INTENT TO IMPORT THEM INTO THE UNITED STATES.

(a) UNLAWFUL IMPORTATION.—Section 1009(a) of the Controlled Substances Import and Export Act (21 U.S.C. 959(a)) is amended—

(1) in the matter before paragraph (1), by inserting "or listed chemical" after "schedule I or II"; and

(2) in paragraphs (1) and (2), by inserting "or chemical" after "substance".

(b) UNLAWFUL MANUFACTURE OR DISTRIBUTION.—Paragraphs (1) and (2) of section 1009(b) of the Controlled Substances Import and Export Act (21 U.S.C. 959(b)) are amended by inserting "or listed chemical" after "controlled substance".

(c) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by striking the comma at the end and inserting "; or"; and

(3) by adding at the end the following:

"(7) manufactures, possesses with intent to distribute, or distributes a listed chemical in violation of section 959 of this title.".

TITLE II—PROVISIONS TO CONTROL THE MANUFACTURE OF METHAMPHETAMINE

SEC. 201. SEIZURE AND FORFEITURE OF REGULATED CHEMICALS.

(a) PENALTIES FOR SIMPLE POSSESSION.—Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended—

(1) in subsection (a)—

(A) by adding after the first sentence the following: "It shall be unlawful for any person knowingly or intentionally to possess any list I chemical obtained pursuant to or under authority of a registration issued to that person under section 303 of this title or section 1008 of title III if that registration has been revoked or suspended, if that registration has expired, or if the registrant has ceased to do business in the manner contemplated by his registration."; and

(B) by striking "drug or narcotic" and inserting "drug, narcotic, or chemical" each place it appears; and

(2) in subsection (c), by striking "drug or narcotic" and inserting "drug, narcotic, or chemical".

(b) FORFEITURES.—Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(1) in paragraphs (2) and (6), by inserting "or listed chemical" after "controlled substance" each place it appears; and

(2) in paragraph (9), by—

(A) inserting "dispensed, acquired," after "distributed," both places it appears; and

(B) striking "a felony provision of".

(c) SEIZURE.—Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended—

(1) in subsection (a)(3), by inserting "or listed chemical" after "controlled substance"; and

(2) by amending subsection (b) to read as follows:

"(b) As used in this section, the terms 'controlled substance' and 'listed chemical' have the meaning given such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

SEC. 202. STUDY AND REPORT ON MEASURES TO PREVENT SALES OF AGENTS USED IN METHAMPHETAMINE PRODUCTION.

(a) STUDY.—The Attorney General of the United States shall conduct a study on possible measures to effectively prevent the diversion of red phosphorous, iodine, hydrochloric gas, and other agents for use in the production of methamphetamine. Nothing in this section shall preclude the Attorney General from taking any action the Attorney General already is authorized to take with regard to the regulation of listed chemicals under current law.

(b) REPORT.—Not later than January 1, 1998, the Attorney General shall submit a report to the Congress of its findings pursuant to the study conducted under subsection (a) on the need for and advisability of preventive measures.

(c) CONSIDERATIONS.—In developing recommendations under subsection (b), the Attorney General shall consider—

(1) the use of red phosphorous, iodine, hydrochloric gas, and other agents in the illegal manufacture of methamphetamine;

(2) the use of red phosphorous, iodine, hydrochloric gas, and other agents for legitimate, legal purposes, and the impact any regulations may have on these legitimate purposes; and

(3) comments and recommendations from law enforcement, manufacturers of such chemicals, and the consumers of such chemicals for legitimate, legal purposes.

SEC. 203. INCREASED PENALTIES FOR MANUFACTURE AND POSSESSION OF EQUIPMENT USED TO MAKE CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Section 403(d) of the Controlled Substances Act (21 U.S.C. 843(d)) is amended—

(1) by striking "(d) Any person" and inserting "(d)(1) Except as provided in paragraph (2), any person"; and

(2) by adding at the end the following:

"(2) Any person who, with the intent to manufacture or to facilitate the manufacture of methamphetamine, violates paragraph (6) or (7) of subsection (a), shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $30,000, or both; except that if any person commits such a violation after one or more prior convictions of that person—

"(A) for a violation of paragraph (6) or (7) of subsection (a);

"(B) for a felony under any other provision of this subchapter or subchapter II of this chapter; or

"(C) under any other law of the United States or any State relating to controlled substances or listed chemicals,

has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $60,000, or both.".

(b) SENTENCING COMMISSION.—The United States Sentencing Commission shall amend the sentencing guidelines to ensure that the manufacture of methamphetamine in violation of section 403(d)(2) of the Controlled Substances Act, as added by subsection (a), is treated as a significant violation.

SEC. 204. ADDITION OF IODINE AND HYDROCHLORIC GAS TO LIST II.

(a) IN GENERAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended by adding at the end the following:

"(I) Iodine.

"(J) Hydrochloric gas.".

(b) IMPORTATION AND EXPORTATION REQUIREMENTS.—(1) Iodine shall not be subject to the requirements for listed chemicals provided in section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971).

(2) EFFECT OF EXCEPTION.—The exception made by paragraph (1) shall not limit the authority of the Attorney General to impose the requirements for listed chemicals provided in section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971).

SEC. 205. CIVIL PENALTIES FOR FIRMS THAT SUPPLY PRECURSOR CHEMICALS.

(a) OFFENSES.—Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (9), by striking "or" after the semicolon;

(2) in paragraph (10), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(11) to distribute a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, in violation of this title or title III, with reckless disregard for the illegal uses to which such a laboratory supply will be put.

As used in paragraph (11), the term 'laboratory supply' means a listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General, which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals. For purposes of paragraph (11), there is a rebuttable presumption of reckless disregard at trial if the Attorney General notifies a firm in writing that a laboratory supply sold by the firm, or any other person or firm, has been used by a customer of the notified firm, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals a firm distributes and 2 weeks or more after the notification the notified firm distributes a laboratory supply to the customer.".

(b) CIVIL PENALTY.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by adding at the end the following:

"(C) In addition to the penalties set forth elsewhere in this title or title III, any business that violates paragraph (11) of subsection (a) shall, with respect to the first such violation, be subject to a civil penalty of not more than $250,000, but shall not be subject to criminal penalties under this section, and shall, for any succeeding violation, be subject to a civil fine of not more than $250,000 or double the last previously imposed penalty, whichever is greater.".

SEC. 206. INJUNCTIVE RELIEF.

(a) TEN-YEAR INJUNCTION MAJOR OFFENSES.—Section 401(f) of the Controlled Substances Act (21 U.S.C. 841(f)) is amended by—

(1) inserting "manufacture, exportation," after "distribution,"; and

(2) striking "regulated".

(b) TEN-YEAR INJUNCTION OTHER OFFENSES.—Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) in subsection (e), by—

(A) inserting "manufacture, exportation," after "distribution,"; and

(B) striking "regulated"; and

(2) by adding at the end the following:

"(f) INJUNCTIONS.—(1) In addition to any penalty provided in this section, the Attorney General is authorized to commence a civil action for appropriate declaratory or injunctive relief relating to violations of this section or section 402.

"(2) Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business.

"(3) Any order or judgment issued by the court pursuant to this subsection shall be tailored to restrain violations of this section or section 402.

"(4) The court shall proceed as soon as practicable to the hearing and determination of such an action. An action under this subsection is governed by the Federal Rules of Civil Procedure except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.".

SEC. 207. RESTITUTION FOR CLEANUP OF CLANDESTINE LABORATORY SITES.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end the following:

"(q) The court, when sentencing a defendant convicted of an offense under this title or title III involving the manufacture of methamphetamine, may—

"(1) order restitution as provided in sections 3612 and 3664 of title 18, United States Code;

"(2) order the defendant to reimburse the United States for the costs incurred by the United States for the cleanup associated with the manufacture of methamphetamine by the defendant; and

"(3) order restitution to any person injured as a result of the offense as provided in section 3663 of title 18, United States Code.".

SEC. 208. RECORD RETENTION.

Section 310(a)(1) of the Controlled Substances Act (21 U.S.C. 830(a)(1)) is amended by striking the dash after "transaction" and subparagraphs (A) and (B) and inserting "for two years after the date of the transaction.".

SEC. 209. TECHNICAL AMENDMENTS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34), by amending subparagraphs (P), (S), and (U) to read as follows:

"(P) Isosafrole.

"(S) N-Methylephedrine.

"(U) Hydriodic acid."; and

(2) in paragraph (35), by amending subparagraph (G) to read as follows:

"(G) 2-Butanone (or Methyl Ethyl Ketone).".

SEC. 210. WITHDRAWAL OF REGULATIONS.

The final rule concerning removal of exemption for certain pseudoephedrine products marketed under the Federal Food, Drug, and Cosmetic Act published in the Federal Register of August 7, 1996 (61 FR 40981-40993) is null and void and of no force or effect.

TITLE III—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

SEC. 301. PENALTY INCREASES FOR TRAFFICKING IN METHAMPHETAMINE.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend its guidelines and its policy statements to provide for increased penalties for unlawful manufacturing, importing, exporting, and trafficking of methamphetamine, and other similar offenses, including unlawful possession with intent to commit any of those offenses, and attempt and conspiracy to commit any of those offenses. The Commission shall submit to Congress explanations therefor and any additional policy recommendations for combating methamphetamine offenses.

(b) IN GENERAL.—In carrying out this section, the Commission shall ensure that the sentencing guidelines and policy statements for offenders convicted of offenses described in subsection (a) and any recommendations submitted under such subsection reflect the heinous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving methamphetamine, including—

(1) the rapidly growing incidence of methamphetamine abuse and the threat to public safety such abuse poses;

(2) the high risk of methamphetamine addiction;

(3) the increased risk of violence associated with methamphetamine trafficking and abuse; and

(4) the recent increase in the illegal importation of methamphetamine and precursor chemicals.

SEC. 302. ENHANCED PENALTIES FOR OFFENSES INVOLVING CERTAIN LISTED CHEMICALS.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by striking "not more than 10 years," and inserting "not more than 20 years in the case of a violation of paragraph (1) or (2) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (2) involving a list I chemical,".

(b) CONTROLLED SUBSTANCE IMPORT AND EXPORT ACT.—Section 1010(d) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d)) is amended by striking "not more than 10 years," and inserting "not more than 20 years in the case of a violation of paragraph (1) or (3) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (3) involving a list I chemical,".

(c) SENTENCING GUIDELINES.—

(1) IN GENERAL.—The United States Sentencing Commission shall, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority of that section had not expired, amend the sentencing guidelines to increase by at least two levels the offense level for offenses involving list I chemicals under—

(A) section 401(d) (1) and (2) of the Controlled Substances Act (21 U.S.C 841(d) (1) and (2)); and

(B) section 1010(d) (1) and (3) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d) (1) and (3)).

(2) REQUIREMENT.—In carrying out this subsection, the Commission shall ensure that the offense levels for offenses referred to in paragraph (1) are calculated proportionally on the basis of the quantity of controlled substance that reasonably could have been manufactured in a clandestine setting using the quantity of the list I chemical possessed, distributed, imported, or exported.

SEC. 303. ENHANCED PENALTY FOR DANGEROUS HANDLING OF CONTROLLED SUBSTANCES: AMENDMENT OF SENTENCING GUIDELINES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall determine whether the Sentencing Guidelines adequately punish the offenses described in subsection (b) and, if not, promulgate guidelines or amend existing guidelines to provide an appropriate enhancement of the punishment for a defendant convicted of such an offense.

(b) OFFENSE.—The offense referred to in subsection (a) is a violation of section 401(d), 401(g)(1), 403(a)(6), or 403(a)(7) of The Controlled Substances Act (21 U.S.C. 841(d), 841(g)(1), 843(a)(6), and 843(a)(7)), in cases in which in the commission of the offense the defendant violated—

(1) subsection (d) or (e) of section 3008 of the Solid Waste Disposal Act (relating to handling hazardous waste in a manner inconsistent with Federal or applicable State law);

(2) section 103(b) of the Comprehensive Environmental Response, Compensation and Liability Act (relating to failure to notify as to the release of a reportable quantity of a hazardous substance into the environment);

(3) section 301(a), 307(d), 309(c)(2), 309(c)(3), 311(b)(3), or 311(b)(5) of the Federal Water Pollution Control Act (relating to the unlawful discharge of pollutants or hazardous substances, the operation of a source in violation of a pretreatment standard, and the failure to notify as to the release of a reportable quantity of a hazardous substance into the water); or

(4) section 5124 of title 49, United States Code (relating to violations of laws and regulations enforced by the Department of Transportation with respect to the transportation of hazardous material).

TITLE IV—LEGAL MANUFACTURE, DISTRIBUTION, AND SALE OF PRECURSOR CHEMICALS

SEC. 401. DIVERSION OF CERTAIN PRECURSOR CHEMICALS.

(a) IN GENERAL.—Section 102(39) of the Controlled Substances Act (21 U.S.C. 802(39)) is amended—

(1) in subparagraph (A)(iv)(I)(aa), by striking "as" through the semicolon and inserting ", pseudoephedrine or its salts, optical isomers, or salts of optical isomers, or phenylpropanolamine or its salts, optical isomers, or salts of optical isomers unless otherwise provided by regulation of the Attorney General issued pursuant to section 204(e) of this title;"; and

(2) in subparagraph (A)(iv)(II), by inserting ", pseudoephedrine, phenylpropanolamine," after "ephedrine".

(b) LEGITIMATE RETAILERS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (39)(A)(iv)(I)(aa), by adding before the semicolon the following: ", except that any sale of ordinary over-the-counter pseudoephedrine or phenylpropanolamine products by retail distributors shall not be a regulated transaction (except as provided in section 401(d) of the Comprehensive Methamphetamine Control Act of 1996)";

(2) in paragraph (39)(A)(iv)(II), by adding before the semicolon the following: ", except that the threshold for any sale of products containing pseudoephedrine or phenylpropanolamine products by retail distributors or by distributors required to submit reports by section 310(b)(3) of this title shall be 24 grams of pseudoephedrine or 24 grams of phenylpropanolamine in a single transaction";

(3) by redesignating paragraph (43) relating to felony drug offense as paragraph (44); and

(4) by adding at the end the following:

"(45) The term 'ordinary over-the-counter pseudoephedrine or phenylpropanolamine product' means any product containing pseudoephedrine or phenylpropanolamine that is—

"(A) regulated pursuant to this title; and

"(B)(i) except for liquids, sold in package sizes of not more than 3.0 grams of pseudoephedrine base or 3.0 grams of phenylpropanolamine base, and that is packaged in blister packs, each blister containing not more than two dosage units, or where the use of blister packs is technically infeasible, that is packaged in unit dose packets or pouches; and

"(ii) for liquids, sold in package sizes of not more than 3.0 grams of pseudoephedrine base or 3.0 grams of phenylpropanolamine base.

"(46)(A) The term 'retail distributor' means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to pseudoephedrine or phenylpropanolamine products are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

"(B) For purposes of this paragraph, sale for personal use means the sale of below-threshold quantities in a single transaction to an individual for legitimate medical use.

"(C) For purposes of this paragraph, entities are defined by reference to the Standard Industrial Classification (SIC) code, as follows:

"(i) A grocery store is an entity within SIC code 5411.

"(ii) A general merchandise store is an entity within SIC codes 5300 through 5399 and 5499.

"(iii) A drug store is an entity within SIC code 5912.".

(c) REINSTATEMENT OF LEGAL DRUG EXEMPTION.—Section 204 of the Controlled Substances Act (21 U.S.C. 814) is amended by adding at the end the following new subsection:

"(e) REINSTATEMENT OF EXEMPTION WITH RESPECT TO EPHEDRINE, PSEUDOEPHEDRINE, AND PHENYLPROPANOLAMINE DRUG PRODUCTS.—Pursuant to subsection (d)(1), the Attorney General shall by regulation reinstate the exemption with respect to a particular ephedrine, pseudoephedrine, or phenylpropanolamine drug product if the Attorney General determines that the drug product is manufactured and distributed in a manner that prevents diversion. In making this determination the Attorney General shall consider the factors listed in subsection (d)(2). Any regulation issued pursuant to this subsection may be amended or revoked based on the factors listed in subsection (d)(4).".

(d) REGULATION OF RETAIL SALES.—

(1) PSEUDOEPHEDRINE.—

(A) LIMIT.—

(i) IN GENERAL.—Not sooner than the effective date of this section and subject to the requirements of clause (ii), the Attorney General may establish by regulation a single-transaction limit of 24 grams of pseudoephedrine base for retail distributors. Notwithstanding any other provision of law, the single-transaction threshold quantity for pseudoephedrine-containing compounds may not be lowered beyond that established in this paragraph.

(ii) CONDITIONS.—In order to establish a single-transaction limit of 24 grams of pseudoephedrine base, the Attorney General shall establish, following notice, comment, and an informal hearing that since the date of enactment of this Act there are a significant number of instances where ordinary over-the-counter pseudoephedrine products as established in paragraph (45) of section 102 of the Controlled Substances Act (21 U.S.C. 802 (45)), as added by this Act, sold by retail distributors as established in paragraph (46) in section 102 of the Controlled Substances Act (21 U.S.C. 802(46)), are being widely used as a significant source of precursor chemicals for illegal manufacture of a controlled substance for distribution or sale.

(B) VIOLATION.—Any individual or business that violates the thresholds established in this paragraph shall, with respect to the first such violation, receive a warning letter from the Attorney General and, if a business, the business shall be required to conduct mandatory education of the sales employees of the firm with regard to the legal sales of pseudoephedrine. For a second violation occurring within 2 years of the first violation, the business or individual shall be subject to a civil penalty of not more than $5,000. For any subsequent violation occurring within 2 years of the previous violation, the business or individual shall be subject to a civil penalty not to exceed the amount of the previous civil penalty plus $5,000.

(2) PHENYLPROPANOLAMINE.—

(A) LIMIT.—

(i) IN GENERAL.—Not sooner than the effective date of this section and subject to the requirements of clause (ii), the Attorney General may establish by regulation a single-transaction limit of 24 grams of phenylpropanolamine base for retail distributors. Notwithstanding any other provision of law, the single-transaction threshold quantity for phenylpropanolamine-containing compounds may not be lowered beyond that established in this paragraph.

(ii) CONDITIONS.—In order to establish a single-transaction limit of 24 grams of phenylpropanolamine base, the Attorney General shall establish, following notice, comment, and an informal hearing, that since the date of enactment of this Act there are a significant number of instances where ordinary over-the-counter phenylpropanolamine products as established in paragraph (45) of section 102 of the Controlled Substances Act (21 U.S.C. 802(45)), as added by this Act, sold by retail distributors as established in paragraph (46) in section 102 of the Controlled Substances Act (21 U.S.C. 802(46)), are being used as a significant source of precursor chemicals for illegal manufacture of a controlled substance in bulk.

(B) VIOLATION.—Any individual or business that violates the thresholds established in this paragraph shall, with respect to the first such violation, receive a warning letter from the Attorney General and, if a business, the business shall be required to conduct mandatory education of the sales employees of the firm with regard to the legal sales of pseudoephedrine. For a second violation occurring within 2 years of the first violation, the business or individual shall be subject to a civil penalty of not more than $5,000. For any subsequent violation occurring within 2 years of the previous violation, the business or individual shall be subject to a civil penalty not to exceed the amount of the previous civil penalty plus $5,000.

(3) SIGNIFICANT NUMBER OF INSTANCES.—

(A) IN GENERAL.—For purposes of this subsection, isolated or infrequent use, or use in insubstantial quantities, of ordinary over-the-counter pseudoephedrine or phenylpropanolamine, as defined in section 102(45) of the Controlled Substances Act, as added by section 401(b) of this Act, and sold at the retail level for the illicit manufacture of methamphetamine or amphetamine may not be used by the Attorney General as the basis for establishing the conditions under paragraph (1)(A)(ii) of this subsection, with respect to pseudoephedrine, and paragraph (2)(A)(ii) of this subsection, with respect to phenylpropanolamine.

(B) CONSIDERATIONS AND REPORT.—The Attorney General shall—

(i) in establishing a finding under paragraph (1)(A)(ii) or (2)(A)(ii) of this subsection, consult with the Secretary of Health and Human Services in order to consider the effects on public health that would occur from the establishment of new single transaction limits as provided in such paragraph; and

(ii) upon establishing a finding, transmit a report to the Committees on the Judiciary in both, respectively, the House of Representatives and the Senate in which the Attorney General will provide the factual basis for establishing the new single transaction limits.

(4) DEFINITION OF BUSINESS.—For purposes of this subsection, the term "business" means the entity that makes the direct sale and does not include the parent company of a business not involved in a direct sale regulated by this subsection.

(5) JUDICIAL REVIEW.—Any regulation promulgated by the Attorney General under this section shall be subject to judicial review pursuant to section 507 of the Controlled Substances Act (21 U.S.C. 877).

(e) EFFECT ON THRESHOLDS.—Nothing in the amendments made by subsection (b) or the provisions of subsection (d) shall affect the authority of the Attorney General to modify thresholds (including cumulative thresholds) for retail distributors for products other than ordinary over-the-counter pseudoephedrine or phenylpropanolamine products (as defined in section 102(45) of the Controlled Substances Act, as added by this section) or for non-retail distributors, importers, or exporters.

(f) COMBINATION EPHEDRINE PRODUCTS.—

(1) IN GENERAL.—For the purposes of this section, combination ephedrine products shall be treated the same as pseudoephedrine products, except that—

(A) a single transaction limit of 24 grams shall be effective as of the date of enactment of this Act and shall apply to sales of all combination ephedrine products, notwithstanding the form in which those products are packaged, made by retail distributors or distributors required to submit a report under section 310(b)(3) of the Controlled Substances Act (as added by section 402 of this Act);

(B) for regulated transactions for combination ephedrine products other than sales described in subparagraph (A), the transaction limit shall be—

(i) 1 kilogram of ephedrine base, effective on the date of enactment of this Act; or

(ii) a threshold other than the threshold described in clause (i), if established by the Attorney General not earlier than 1 year after the date of enactment of this Act; and

(C) the penalties provided in subsection (d)(1)(B) of this section shall take effect on the date of enactment of this Act for any individual or business that violates the single transaction limit of 24 grams for combination ephedrine products.

(2) DEFINITION.—For the purposes of this section, the term "combination ephedrine product" means a drug product containing ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically significant quantities of another active medicinal ingredient.

(g) EFFECTIVE DATE OF THIS SECTION.—Notwithstanding any other provision of this Act, this section shall not apply to the sale of any pseudoephedrine or phenylpropanolamine product prior to 12 months after the date of enactment of this Act, except that, on application of a manufacturer of a particular pseudoephedrine or phenylpropanolamine drug product, the Attorney General may, in her sole discretion, extend such effective date up to an additional six months. Notwithstanding any other provision of law, the decision of the Attorney General on such an application shall not be subject to judicial review.

SEC. 402. MAIL ORDER RESTRICTIONS.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended by adding at the end the following:

"(3) MAIL ORDER REPORTING.—(A) Each regulated person who engages in a transaction with a nonregulated person which—

"(i) involves ephedrine, pseudoephedrine, or phenylpropanolamine (including drug products containing these chemicals); and

"(ii) uses or attempts to use the Postal Service or any private or commercial carrier;

shall, on a monthly basis, submit a report of each such transaction conducted during the previous month to the Attorney General in such form, containing such data, and at such times as the Attorney General shall establish by regulation.

"(B) The data required for such reports shall include—

"(i) the name of the purchaser;

"(ii) the quantity and form of the ephedrine, pseudoephedrine, or phenylpropanolamine purchased; and

"(iii) the address to which such ephedrine, pseudoephedrine, or phenylpropanolamine was sent.".

TITLE V—EDUCATION AND RESEARCH

SEC. 501. INTERAGENCY METHAMPHETAMINE TASK FORCE.

(a) ESTABLISHMENT.—There is established a "Methamphetamine Interagency Task Force" (referred to as the "interagency task force") which shall consist of the following members:

(1) The Attorney General, or a designee, who shall serve as chair.

(2) 2 representatives selected by the Attorney General.

(3) The Secretary of Education or a designee.

(4) The Secretary of Health and Human Services or a designee.

(5) 2 representatives of State and local law enforcement and regulatory agencies, to be selected by the Attorney General.

(6) 2 representatives selected by the Secretary of Health and Human Services.

(7) 5 nongovernmental experts in drug abuse prevention and treatment to be selected by the Attorney General.

(b) RESPONSIBILITIES.—The interagency task force shall be responsible for designing, implementing, and evaluating the education and prevention and treatment practices and strategies of the Federal Government with respect to methamphetamine and other synthetic stimulants.

(c) MEETINGS.—The interagency task force shall meet at least once every 6 months.

(d) FUNDING.—The administrative expenses of the interagency task force shall be paid out of existing Department of Justice appropriations.

(e) FACA.—The Federal Advisory Committee Act (5 U.S.C. App. 2) shall apply to the interagency task force.

(f) TERMINATION.—The interagency task force shall terminate 4 years after the date of enactment of this Act.

SEC. 502. PUBLIC HEALTH MONITORING.

The Secretary of Health and Human Services shall develop a public health monitoring program to monitor methamphetamine abuse in the United States. The program shall include the collection and dissemination of data related to methamphetamine abuse which can be used by public health officials in policy development.

SEC. 503. PUBLIC-PRIVATE EDUCATION PROGRAM.

(a) ADVISORY PANEL.—The Attorney General shall establish an advisory panel consisting of an appropriate number of representatives from Federal, State, and local law enforcement and regulatory agencies with experience in investigating and prosecuting illegal transactions of precursor chemicals. The Attorney General shall convene the panel as often as necessary to develop and coordinate educational programs for wholesale and retail distributors of precursor chemicals and supplies.

(b) CONTINUATION OF CURRENT EFFORTS.—The Attorney General shall continue to—

(1) maintain an active program of seminars and training to educate wholesale and retail distributors of precursor chemicals and supplies regarding the identification of suspicious transactions and their responsibility to report such transactions; and

(2) provide assistance to State and local law enforcement and regulatory agencies to facilitate the establishment and maintenance of educational programs for distributors of precursor chemicals and supplies.

SEC. 504. SUSPICIOUS ORDERS TASK FORCE.

(a) IN GENERAL.—The Attorney General shall establish a "Suspicious Orders Task Force" (the "Task Force") which shall consist of—

(1) appropriate personnel from the Drug Enforcement Administration (the "DEA") and other Federal, State, and local law enforcement and regulatory agencies with the experience in investigating and prosecuting illegal transactions of listed chemicals and supplies; and

(2) representatives from the chemical and pharmaceutical industry.

(b) RESPONSIBILITIES.—The Task Force shall be responsible for developing proposals to define suspicious orders of listed chemicals, and particularly to develop quantifiable parameters which can be used by registrants in determining if an order is a suspicious order which must be reported to DEA. The quantifiable parameters to be addressed will include frequency of orders, deviations from prior orders, and size of orders. The Task Force shall also recommend provisions as to what types of payment practices or unusual business practices shall constitute prima facie suspicious orders. In evaluating the proposals, the Task Force shall consider effectiveness, cost and feasibility for industry and government, an other relevant factors.

(c) MEETINGS.—The Task Force shall meet at least two times per year and at such other times as may be determined necessary by the Task Force.

(d) REPORT.—The Task Force shall present a report to the Attorney General on its proposals with regard to suspicious orders and the electronic reporting of suspicious orders within one year of the date of enactment of this Act. Copies of the report shall be forwarded to the Committees of the Senate and House of Representatives having jurisdiction over the regulation of listed chemical and controlled substances.

(e) FUNDING.—The administrative expenses of the Task Force shall be paid out of existing Department of Justice funds or appropriations.

(f) FACA.—The Federal Advisory Committee Act (5 U.S.C. App. 2) shall apply to the Task Force.

(g) TERMINATION.—The Task Force shall terminate upon presentation of its report to the Attorney General, or two years after the date of enactment of this Act, whichever is sooner.

MEASURE READ THE FIRST TIME—SENATE JOINT RESOLUTION 61

Mr. STEVENS. Mr. President, I send to the desk a joint resolution on behalf of Senators THURMOND and HEFLIN and ask for its first reading.

The PRESIDING OFFICER. The clerk will read the joint resolution for the first time.

A joint resolution (S.J. Res. 61) regarding the Emergency Management Assistant Compact.

Mr. STEVENS. Mr. President, I now ask for second reading, and I object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. The bill will be read on the next legislative day.

ECONOMIC ESPIONAGE ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3723, which is now at the desk.

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 3723) to amend Title 18 U.S. Code to protect proprietary economic information, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5384

(Purpose: To propose a substitute)

Mr. STEVENS. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. SPECTER, for himself and Mr. KOHL, proposes an amendment numbered 5384.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 5385 TO AMENDMENT NO. 5384

(Purpose: To amend title 18, United States Code, to prohibit certain activities relating to the use of computers, and for other purposes)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. GRASSLEY, for himself and Mr. KYL, proposes an amendment numbered 5385 to Amendment No. 5384.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section: Sec. 6.

(a) WIRE AND COMPUTER FRAUD.—Section 1343 of title 18, United States Code, is amended——

(1) by adding at the end the following new subsection:

"(b) SECRET SERVICE JURISDICTION.—"The Secretary of the Treasury and the Attorney General are authorized to enter into an agreement under which the United States Secret Service may investigate certain offenses under this section."

(a) USE OF CERTAIN TECHNOLOGY TO FACILITATE CRIMINAL CONDUCT.——

(1) INFORMATION.—The Administrative Office of the United States Courts shall establish policies and procedures for the inclusion in all Presentence Reports of information that specifically identifies and describes any use of encryption or scrambling technology that would be relevant to an enhancement under Section 3C1.1 (dealing with Obstructing or Impeding the Administration of Justice) of the Sentencing Guidelines or to offense conduct under the Sentencing Guidelines.

(2) COMPILING AND REPORT.—The United States Sentencing Commission shall——

(A) compile and analyze any information contained in documentation described in paragraph (1) relating to the use of encryption or scrambling technology to facilitate or conceal criminal conduct; and

(B) based on the information compiled and analyzed under subparagraph (A), annually report to the Congress on the nature and extent of the use of encryption or scrambling technology to facilitate or conceal criminal conduct."

(c) Section 1029 of Title 18, United States Code is amended by—"Striking the (a)(5) in the second place it appears and replacing it with (a)(8); by striking the (a)(6) the second place it appears and replacing it with (a)(9); and by adding the following new section:

"(a)(10) knowingly and with intent to defraud uses, produces, traffics in, or possesses any device containing electronically stored monetary value."

Mr. GRASSLEY. Mr. President, I'm pleased that the Senate has passed the eonomic espionage bill. This is an important measure that I believe will save American business significant amounts of money. The theft of confidential information from American businesses is a serious problem, and this bill takes important steps in the right direction.

I am particularly pleased that the Senate has accepted the amendment I offered with Senator KYL. This amendment commissions the first-ever study on the criminal misuse of encryption technologies. Under the Grassley-Kyl amendment, court officers who prepare pre-sentencing reports will include information on the use of encryption to conceal criminal conduct, obstruct investigations, and commit crimes. The sentencing commission will then collect and collate this information and include it in its annual report to congress.

In this way, I am hopeful that Congress and executive branch will have reliable data on whether the criminal misuse of encryption is actually a problem and, if so, what response to this problem would be appropriate.

As chairman of the Oversight Subcommittee on the Judiciary Committee, I did an informal survey of state-level law enforcement concerning the criminal misuse of encryption. This informal survey, while not scientific, provides valuable insights into the actions of the criminal element in our society.

Here are just some of the responses my subcommittee received.

In one case involving John Lucich of the New Jersey attorney general's office was involved, a computer was seized pursuant to a warrant in a serious assault case. Examination revealed that approximately 20 percent of the hard drive files were encrypted. Investigators sought the assistance of two different Federal agencies. Both of these agencies were unsuccessful in decrypting the files. Finally, a third Federal agency was successful in decrypting the files after expending considerable resources. The Decrypted files did not contain evidence of the assault but rather contained evidence of child pornography. The encryption type likely used was "DES."

And Officer Tim O'Neill of the Roseville, California Police Department reported to the subcommittee that he participated in a search involving a complaint against a subject who was on probation for solicitation/annoyance of minors. The subject had a hidden encrypted file on his personal computer. In the "slack" area at the end of the file the officer found names, addresses, school, grade, and phone numbers of 4-5 young teen girls. The encryption type used was known as "pincrypt."

Officer Mike Menz of the same department advised the subcommittee that he was working on a joint State/Federal major check fraud case where part of the potential evidence was encrypted.

Ivan Ortman, a senior prosecutor in Seattle, Washington, encountered some encrypted files and password protection in a cellular phone fraud investigation. For a number of files the popular and inexpensive "PGP" type of encryption was used. Orton indicated that no effort was even made to examine the files as the police could not locate any method for "cracking that encryption."

In other words, why try since such an effort is certain to be futile. Surely a rational society should look long and hard at this situation.

Agent Chuck Davis of the Colorado Bureau of Investigation reported to the subcommittee that he has encountered encryption as well as password protection problems. In one embezzlement case, a computer system has seized. Examination revealed that files on the hard disk were encrypted. The software manufacturers were contacted and the technical personnel who wrote the program advised that, "they had left no 'back door' access to the product as this would adversely impact sales. The hallmark of the program's appeal is that it cannot be broken, even by those who created it." Agent Davis advised that his investigation was "halted" due to the time and expense of a "brute force attack". The encryption program used was entitled "watchdog."

Agent Davis also advised the subcommittee that password protection also presents problems for other types of investigators. In cases involving theft of drugs from an emergency room by a doctor, bribery/extortion by a police officer, and the suicide by an 11 year-old boy after telling friends that he had been molested by a family friend, investigators encountered password protection. The first two cases were successfully resolved through assistance from the manufacturer of the software.

The third case, however, especially illustrates the seriousness of decryption problems—determining the unique key or in this case, password from a large number of possibilities. According to Agent Davis, a mere 4 character password has 1.9 million possibilities due to the number of keyboard characters. Can you imagine how difficult it must be to figure a short, 4 character password. What if the password were 10 characters or 20 or more? It's easy to see why criminals are moving toward password protection for their records.

Mr. President, I don't know what the Grassley-Kyl amendment's study will show. But at least anecdotally, there seems to be a serious and growing problem with criminals using encryption to commit crimes or conceal criminal conduct. I hope we can figure out what to do about the problem in a fair and balanced way. I yield the floor.

Mr. KYL. Mr. President, I rise to comment on the economic espionage bill introduced by Senators SPECTER and KOHL. I was pleased that the Senate Judiciary Committee passed this bill, which will strengthen current public law on crimes against our industries. It will protect our businesses by punishing those who steal vital proprietary information for the benefit of a foreign government or a corporation.

Economic espionage is not a new crime. The success of many U.S. firms has made them a large target for the theft of trade secrets. It is much easier for a foreign firm to steal American trade secrets, with little or no penalty, than it is for a firm to spend a large amount of capital on research and development. Economic espionage may be the future of intelligence.

Only recently have American firms begun to recognize the economic impact espionage has on U.S. firms. In 1992, a survey by the American society for Industrial Security discovered that American firms lost roughly $597 million in product development and specification data and $110 million in manufacturing process information, due to espionage. These losses are likely to continue. I am pleased that the Chairman and ranking member have produced a bill that will for the first time penalize those who try to steal ideas that Americans have worked hard to develop.

One problem not yet adequately addressed is how to collect necessary intelligence in an age when encryption protects computer communication. In order to maintain our national security interests, I support some measure of constitutional authority to collect intelligence even in situations where communications have been encrypted. To that end, Mr. President, I am hopeful that my colleagues will adopt an amendment to this bill that Senator GRASSLEY and I have sponsored. It will amend the federal sentencing guidelines to require that the Federal Sentencing Commission collect, compile, and report annually on information collected from pretrial sentence reports and other relevant documents indicating the use of encryption to further or conceal criminal conduct.

Whatever one's view of export policy, it is clear that law enforcement must have better records of criminals who use encryption technology. This amendment will accomplish that.

Mr. President, passing an economic espionage law will deter criminals from stealing trade secrets from American businesses. I urge my colleagues to adopt our amendment and pass the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5385) was agreed to.

Mr. GRASSLEY. I am pleased that the amendment I offered with my good friend Senator KYL has been accepted. This amendment requires the Sentencing Commission to report to Congress every year on the criminal misuse of encryption technologies, including to obstruct or impede the administration of justice. I think that this will help Congress obtain reliable data on the question of whether encryption is actually being used by criminals to commit crimes.

The Grassley-Kyl amendment also provides the Attorney General and Secretary of the Treasury with the authority to enter into an agreement providing the United States Secret Service with concurrent jurisdiction to investigate certain types of wire fraud offenses. I considered amending 18 U.S.C. 1343 to specifically encompass computer frauds, but after reviewing the case law (see, *E.G., U.S.* v. *Riggs*, 967 F.2d 561 (11th Cir. 1992)) and consulting with the Justice Department, I have decided that this is not necessary. My hope is that Federal law enforcement and the Justice Department will make more use of section 1343 to prosecute computer crimes. Specifically, I would like this interpretation to be committed to writing and distributed to Federal prosecutors in the field.

Mr. LEAHY. I concur in the view of the Senator from Iowa that amending section 1343 as he originally considered is not necessary. Section 1343 already encompasses frauds effected by the interstate or foreign transmission of wire communications involving, among other things, writings, signs, or signals and, consequently, would encompass frauds effected by means of computers in interstate or foreign commerce. I know the Justice Department already interprets 1343 in this way. I too would urge the Justice Department to ensure that Federal prosecutors in the field are familiar with the scope of criminal conduct, including fraud effected by means of computers, encompassed by the wire fraud statute.

Regarding the new requirement that the Sentencing Commission report on the criminal misuse of encryption technologies. I caution that the results of this report—whatever they may be—will be necessarily incomplete and should not be viewed out of context. Instances in which encryption technologies have been used to thwart the theft of valuable computerized data, which has been encrypted, and to prevent crimes, such as economic espionage, do not usually draw the attention of law enforcement and therefore will not be included in the report.

Mr. GRASSLEY. I wonder whether the chairman and ranking member of the Technology Subcommittee agree with this analysis of section 1343.

Mr. SPECTER. I have listened to your exchange with Senator LEAHY and I fully agree that section 1343 already encompasses computer fraud and that amending it is not necessary.

Mr. KOHL. I too listened to your exchange with Senator LEAHY, and I am also of the view that section 1343 covers some computer crimes and that no amendment was necessary.

AMENDMENT NO. 5386

(Purpose: To improve the treatment and security of certain persons found not guilty by reason of insanity in the District of Columbia, and for other purposes)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. HATCH, proposes an amendment numbered 5386.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

SEC. . TRANSFER OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY.

(a) AMENDMENT OF SECTION 4243 OF TITLE 18.—Section 4243 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) CERTAIN PERSONS FOUND NOT GUILTY BY REASON OF INSANITY IN THE DISTRICT OF COLUMBIA.—

"(1) TRANSFER TO CUSTODY OF THE ATTORNEY GENERAL.—Notwithstanding section 301(h) of title 24 of the District of Columbia Code, and notwithstanding subsection 4247(j) of this title, all persons who have been committed to a hospital for the mentally ill pursuant to section 301(d)(1) of title 24 of the District of Columbia Code, and for whom the United States has continuing financial responsibility, may be transferred to the custody of the Attorney General, who shall hospitalize the person for treatment in a suitable facility.

"(2) APPLICATION.—

"(A) IN GENERAL.—The Attorney General may establish custody over such persons by filing an application in the United States District Court for the District of Columbia, demonstrating that the person to be transferred is a person described in this subsection.

"(B) NOTICE.—The Attorney General shall, by any means reasonably designed to do so, provide written notice of the proposed transfer of custody to such person or such person's guardian, legal representative, or other lawful agent. The person to be transferred shall be afforded an opportunity, not to exceed 15 days, to respond to the proposed transfer of custody, and may, at the court's discretion, be afforded a hearing on the proposed transfer of custody. Such hearing, if granted, shall be limited to a determination of whether the constitutional rights of such person would be violated by the proposed transfer of custody.

"(C) ORDER.—Upon application of the Attorney General, the court shall order the person transferred to the custody of the Attorney General, unless, pursuant to a hearing under this paragraph, the court finds that the proposed transfer would violate a right of such person under the United States Constitution.

"(D) EFFECT.—Nothing in this paragraph shall be construed to—

"(i) create in any person a liberty interest in being granted a hearing or notice on any matter;

"(ii) create in favor of any person a cause of action against the United States or any officer or employee of the United States; or

"(iii) limit in any manner or degree the ability of the Attorney General to move, transfer, or otherwise manage any person committed to the custody of the Attorney General.

"(3) CONSTRUCTION WITH OTHER SECTIONS.—Subsections (f) and (g) and section 4247 shall apply to any person transferred to the custody of the Attorney General pursuant to this subsection.".

(b) TRANSFER OF RECORDS.—Notwithstanding any provision of the District of Columbia Code or any other provision of law, the District of Columbia and St. Elizabeth's Hospital—

(1) not later than 30 days after the date of enactment of this Act, shall provide to the Attorney General copies of all records in the custody or control of the District or the Hospital on such date of enactment pertaining to persons described in section 4243(i) of title 18, United States Code (as added by subsection (a));

(2) not later than 30 days after the creation of any records by employees, agents, or contractors of the District of Columbia or of St. Elizabeth's Hospital pertaining to persons described in section 4243(i) of title 18, United States Code, provide to the Attorney General copies of all such records created after the date of enactment of this Act;

(3) shall not prevent or impede any employee, agent, or contractor of the District of Columbia or of St. Elizabeth's Hospital who has obtained knowledge of the persons described in section 4243(i) of title 18, United States Code, in the employee's professional capacity from providing that knowledge to the Attorney General, nor shall civil or criminal liability attach to such employees, agents, or contractors who provide such knowledge; and

(4) shall not prevent or impede interviews of persons described in section 4243(i) of title 18, United States Code, by representatives of the Attorney General, if such persons voluntarily consent to such interviews.

(c) CLARIFICATION OF EFFECT ON CERTAIN TESTIMONIAL PRIVILEGES.—The amendments made by this section shall not be construed to affect in any manner any doctor-patient or psychotherapist-patient testimonial privilege that may be otherwise applicable to persons found not guilty by reason of insanity and affected by this section.

(d) SEVERABILITY.—If any provision of this section, an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section and the amendments made by this section shall not be affected thereby.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5386) was agreed to.

AMENDMENT NO. 5387 TO AMENDMENT NO. 5384

(Purpose: To provide funding for the establishment of Boys and Girls Clubs in public housing projects and other distressed areas, and for other purposes)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. HATCH, for himself, and Mr. KOHL, proposes an amendment numbered 5387 to amendment No. 5384.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

SEC. . ESTABLISHING BOYS AND GIRLS CLUBS.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the Boys and Girls Clubs of America, chartered by an Act of Congress on December 10, 1991, during its 90-year history as a national organization, has proven itself as a positive force in the communities it serves;

(B) there are 1,810 Boys and Girls Clubs facilities throughout the United States, Puerto Rico, and the United States Virgin Islands, serving 2,420,000 youths nationwide;

(C) 71 percent of the young people who benefit from Boys and Girls Clubs programs live in our inner cities and urban areas;

(D) Boys and Girls Clubs are locally run and have been exceptionally successful in balancing public funds with private sector donations and maximizing community involvement;

(E) Boys and Girls Clubs are located in 289 public housing sites across the Nation;

(F) public housing projects in which there is an active Boys and Girls Club have experienced a 25 percent reduction in the presence of crack cocaine, a 22 percent reduction in overall drug activity, and a 13 percent reduction in juvenile crime;

(G) these results have been achieved in the face of national trends in which overall drug use by youth has increased 105 percent since 1992 and 10.9 percent of the Nation's young people use drugs on a monthly basis; and

(H) many public housing projects and other distressed areas are still underserved by Boys and Girls Clubs.

(2) PURPOSE.—It is the purpose of this section to provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to establish 1,000 additional local Boys and Girls Clubs in public housing projects and other distressed areas by 2001.

(b) DEFINITIONS.—For purposes of this section—

(1) the terms "public housing" and "project" have the same meanings as in section 3(b) of the United States Housing Act of 1937; and

(2) the term "distressed area" means an urban, suburban, or rural area with the high percentage of high risk youth as defined in section 509A of the Public Health Service Act (42 U.S.C. 290aa–8(f)).

(c) ESTABLISHMENT.—

(1) IN GENERAL.—For each of the fiscal years 1997, 1998, 1999, 2000, and 2001, the Director of the Bureau of Justice Assistance of the Department of Justice shall provide a grant to the Boys and Girls Clubs of America

for the purpose of establishing Boys and Girls Clubs in public housing projects and other distressed areas.

(2) CONTRACTING AUTHORITY.—Where appropriate, the Secretary of Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the Boys and Girls Clubs of America to establish clubs pursuant to the grants under paragraph (1).

(d) REPORT.—Not later than May 1 of each fiscal year for which amounts are made available to carry out this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that details the progress made under this Act in establishing Boys and Girls Clubs in public housing projects and other distressed areas, and the effectiveness of the programs in reducing drug abuse and juvenile crime.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $20,000,000 for fiscal year 1997;
(B) $20,000,000 for fiscal year 1998;
(C) $20,000,000 for fiscal year 1999;
(D) $20,000,000 for fiscal year 2000; and
(E) $20,000,000 for fiscal year 2001;

(2) VIOLENT CRIME REDUCTION TRUST FUND.—The sums authorized to be appropriated by this subsection may be made from the Violent Crime Reduction Trust Fund.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5387) was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the substitute, as amended, be agreed to, the bill be deemed read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee substitute amendment was agreed to.

The bill (H.R. 3723), as amended, was passed.

Mr. KOHL. Mr. President, I am pleased that today the Senate has taken up and passed H.R. 3723. We are sending that bill back to the House with substitute. This language, which I drafted with Senator SPECTER, is based on our companion measures, S. 1556 ("The Economic Espionage Act") and S.1557 ("The Economic Security Act").

I would like to take this opportunity to point out several provisions of our legislation and explain their purpose and meaning.

This legislation includes a provision penalizing the theft of proprietary economic information and a second provision penalizing that theft when it is done on behalf of or to benefit a foreign government, instrumentality, or agent. The principle purpose of this second (foreign government) provision is not to punish conventional commercial theft and misappropriation of trade secrets (which is covered by the first provision). Thus, to make out an offense under this section, the prosecution must show in each instance that the perpetrator intended to, or had reason to believe that his or her actions would aid a foreign government, instrumentality, or agent. Enforcement agencies should administer this section with its principle purpose in mind and therefore should not apply section 572 to foreign corporations when there is no evidence of foreign government sponsored or coordinated intelligence activity. This particular concern is borne out in our understanding of the definition of "foreign instrumentality," which indicates that a foreign organization must be "substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government or subdivision thereof." We do not mean for the test of substantial control to be mechanistic or mathematical. The simple fact that the majority of the stock of a company is owned by a foreign government will not suffice under this definition, nor for that matter will the fact that a foreign government only owns 10 percent of a company exempt it from scrutiny. Rather the pertinent inquiry is whether the activities of the company are, from a practical and substantive standpoint, foreign government directed.

To make out a case under these two provisions (sections 1832 and 572), the prosecution would have to show that the accused knew or had reason to know that a trade secret had been stolen or appropriated without authorization. This threshold separates conduct that is criminal from that which is innocent. Thus, for example, these sections would not give rise to prosecution for legitimate economic collection or reporting by personnel of foreign governments or international financial institutions, such as the World Bank, because such legitimate collection or reporting would not include the collection or reporting of trade secrets that had been stolen, misappropriated or converted without authorization.

In the section dealing with foreign government sponsored espionage, and derived from S. 1557, the definition of proprietary economic information is different from the definition of proprietary economic information in section 2. In particular, the definition contained in section 1831(2) indicates that "general knowledge" is not included in the term, while the definition in section 571(4) does not. We do not intend to imply by this difference that general knowledge can or should be the subject of a prosecution under section 572. Of course, someone can use their general experience and skills and work for a foreign government. They cannot, however, steal a piece of proprietary economic information for an owner and thereby violate section 572 of this provision. Our point is simply that when a person is working on behalf of a foreign government, instrumentality or agency, that person has to be particularly careful to ensure that the information being used is not proprietary economic information.

Some people have asked whether a piece of proprietary economic information has to be novel or inventive. Unlike patented material, something does not have to be novel, in the patent law sense, in order to be a piece of proprietary economic information. Of course, often it will be because an owner will have a patented invention that he or she has chosen to maintain the material as a piece of proprietary economic information rather than reveal it through the patent process. Even if the material is not novel in the patent law sense, some form of novelty is probably inevitable since "that which does not possess novelty is usually known; secrecy, in the context of trade secrets implies at least minimal novelty." *Kewanee Oil Co.* v. *Bicron Corp.*, 416 U.S. 470, 476 (1974). While we do not strictly impose a novelty or inventiveness requirement in order for material to be considered proprietary economic information, looking at the novelty or uniqueness of a piece of information or knowledge should inform courts in determining whether something is a matter of general knowledge, skill or experience.

Although we do not require novelty or inventiveness, the definition of proprietary economic information includes the provision that an owner have taken reasonable measures under the circumstances to keep the information confidential. We do not with this definition impose any requirements on companies or owners. Each owner must assess the value of the material it seeks to protect, the extent of a threat of theft, and the ease of theft in determining how extensive their protective measures should be. We anticipate that what constitutes reasonable measures in one particular field of knowledge or industry may vary significantly from what is reasonable in another field or industry. However, some common sense measures are likely to be common across the board. For example, it is only natural that an owner would restrict access to proprietary economic information to the people who actually need to use the information. It is only natural also that an owner clearly indicate in some form or another that the information is proprietary. However, owners need not take heroic or extreme protective measures in order for their efforts to be reasonable.

Some people have asked how this legislation might affect reverse engineering. Reverse engineering is a broad term that encompasses a variety of actions. The important thing is to focus on whether the accused has committed one of the prohibited acts of this statute rather than whether he or she has "reverse engineered." If someone has lawfully gained access to a trade secret or a piece or proprietary economic information, and can replicate it without violating copyright, patent or this law, then that form of "reverse engineering" should be fine. For example, if a person can drink Coca-Cola and, because he happens to have highly refined taste buds, can figure out what the formula is, then this legislation cannot be used against him. Likewise, if a person can look at a product and, by using their own general skills and expertise, dissect the necessary attributes of the product, then that person should be free from any threat of prosecution.

We have been deeply concerned about the efforts taken by courts to protect the confidentiality of proprietary economic information. It is important that in the early stages of a prosecution the issue whether material is proprietary economic information not be litigated. Rather, courts should, when entering these orders, always assume that the material at issue is in fact proprietary economic information.

We are also concerned that victims of economic espionage receive compensation for their losses. This legislation incorporates through reference existing law to provide procedures to be used in the detention, seizure, forfeiture, and ultimate disposition of property forfeited under the section. Under these procedures, the Attorney General is authorized to grant petitions for mitigation or remission of forfeiture and for the restoration of forfeited property to the victims of an offense. The Attorney General may also take any other necessary or proper action to protect the rights of innocent people in the interest of justice. In practice, under the forfeiture laws, victims are afforded priority in the disposition of forfeited property since it is the policy of the Department of Justice to provide restitution to the victims of criminal acts whenever permitted to do so by the law. Procedures for victims to obtain restitution may be found at Section 9 of Title 28, Code of Federal Regulations.

In addition to requesting redress from the Attorney General, any person—including a victim—asserting an interest in property ordered forfeited may petition for a judicial hearings to adjudicate the validity of the alleged interest and to revise the order of forfeiture. Additionally, forfeitures are subject to a requirement of proportionality under the Eight Amendment; that is, the value of the property forfeited must not be excessively disproportionate to the crimes in question.

Finally, we have required that the Attorney General report back to us on victim restitution two and four years after the enactment of this legislation. We have heard from some companies that they only rarely obtain restitution awards despite their eligibility. We wish to carefully monitor restitution to ensure that the current system is working well and make any changes that may be necessary.

Mr. President, we have worked closely in cooperation with the Administration in drafting this legislation. It is a bipartisan measure, broadly supported, and necessary for our country's future industrial vitality.

NATIONAL INFORMATION INFRASTRUCTURE PROTECTION ACT OF 1996

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 563, S. 982.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 982) to protect the national information infrastructure, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Information Infrastructure Protection Act of 1996".

SEC. 2. COMPUTER CRIME.

Section 1030 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "knowingly accesses" and inserting "having knowingly accessed";

(ii) by striking "exceeds" and inserting "exceeding";

(iii) by striking "obtains information" and inserting "having obtained information";

(iv) by striking "the intent or";

(v) by striking "is to be used" and inserting "could be used"; and

(vi) in inserting before the semicolon at the end the following: "willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it";

(B) in paragraph (2)—

(i) by striking "obtains information" and inserting "obtains—

"(A) information"; and

(ii) by adding at the end the following new subparagraphs:

"(B) information from any department or agency of the United States; or

"(C) information from any protected computer if the conduct involved an interstate or foreign communication;";

(C) in paragraph (3)—

(i) by inserting "nonpublic" before "computer of a department or agency";

(ii) by striking "adversely"; and

(iii) by striking "the use of the Government's operation of such computer" and inserting "that use by or for the Government of the United States";

(D) in paragraph (4)—

(i) by striking "Federal interest" and inserting "protected"; and

(ii) by inserting before the semicolon the following: "and the value of such use is not more than $5,000 in any 1-year period";

(E) by striking paragraph (5) and inserting the following:

"(5)(A) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer;

"(B) intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage; or

"(C) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage;"; and

(F) by inserting after paragraph (6) the following new paragraph:

"(7) with intent to extort from any person, firm, association, educational institution, financial institution, government entity, or other legal entity, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to cause damage to a protected computer;";

(2) in subsection (c)—

(A) in paragraph (1), by striking "such subsection" each place that term appears and inserting "this section";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by inserting ", (a)(5)(C)," after "(a)(3)"; and

(II) by striking "such subsection" and inserting "this section";

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by inserting immediately after subparagraph (A) the following:

"(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(2), if—

"(i) the offense was committed for purposes of commercial advantage or private financial gain;

"(ii) the offense was committed in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or of any State; or

"(iii) the value of the information obtained exceeds $5,000;"; and

(iv) in subparagraph (C) (as redesignated)—

(I) by striking "such subsection" and inserting "this section"; and

(II) by adding "and" at the end;

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking "(a)(4) or (a)(5)(A)" and inserting "(a)(4), (a)(5)(A), (a)(5)(B), or (a)(7)"; and

(II) by striking "such subsection" and inserting "this section"; and

(ii) in subparagraph (B)—

(I) by striking "(a)(4) or (a)(5)" and inserting "(a)(4), (a)(5)(A), (a)(5)(B), (a)(5)(C), or (a)(7)"; and

(II) by striking "such subsection" and inserting "this section"; and

(D) by striking paragraph (4);

(3) in subsection (d), by inserting "subsections (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6) of" before "this section.";

(4) in subsection (e)—

(A) in paragraph (2)—

(i) by striking "Federal interest" and inserting "protected";

(ii) in subparagraph (A), by striking "the use of the financial institution's operation or the Government's operation of such computer" and inserting "that use by or for the financial institution or the Government"; and

(iii) by striking subparagraph (B) and inserting the following:

"(B) which is used in interstate or foreign commerce or communication;";

(B) in paragraph (6), by striking "and" at the end;

(C) in paragraph (7), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new paragraphs:

"(8) the term 'damage' means any impairment to the integrity or availability of data, a program, a system, or information, that—

"(A) causes loss aggregating at least $5,000 in value during any 1-year period to one or more individuals;

"(B) modifies or impairs, or potentially modifies or impairs, the medical examination, diagnosis, treatment, or care of one or more individuals;

"(C) causes physical injury to any person; or

"(D) threatens public health or safety; and

"(9) the term 'government entity' includes the Government of the United States, any State or political subdivision of the United States, any foreign country, and any state, province, municipality, or other political subdivision of a foreign country."; and

(5) in subsection (g)—

(A) by striking ", other than a violation of subsection (a)(5)(B),"; and

(B) by striking "of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb)" and inserting "involving damage as defined in subsection (e)(8)(A)".

AMENDMENTS NOS. 5388 AND 5389 EN BLOC

Mr. STEVENS. Mr. President, I send two amendments to the desk, en bloc, on behalf of Senator HATCH, and I ask for their consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. HATCH, proposes amendments numbered 5388 and 5389, en bloc.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 5388

(Purpose: To improve the treatment and security of certain persons found not guilty by reason of insanity in the District of Columbia)

At the appropriate place in the bill, add the following:

SEC. ___. TRANSFER OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY.

(a) AMENDMENT OF SECTION 4243 OF TITLE 18.—Section 4243 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) CERTAIN PERSONS FOUND NOT GUILTY BY REASON OF INSANITY IN THE DISTRICT OF COLUMBIA.—

"(1) TRANSFER TO CUSTODY OF THE ATTORNEY GENERAL.—Notwithstanding section 301(h) of title 24 of the District of Columbia Code, and notwithstanding subsection 4247(j) of this title, all persons who have been committed to a hospital for the mentally ill pursuant to section 301(d)(1) of title 24 of the District of Columbia Code, and for whom the United States has continuing financial responsibility, may be transferred to the custody of the Attorney General, who shall hospitalize the person for treatment in a suitable facility.

"(2) APPLICATION.—

"(A) IN GENERAL.—The Attorney General may establish custody over such persons by filing an application in the United States District Court for the District of Columbia, demonstrating that the person to be transferred is a person described in this subsection.

"(B) NOTICE.—The Attorney General shall, by any means reasonably designed to do so, provide written notice of the proposed transfer of custody to such person or such person's guardian, legal representative, or other lawful agent. The person to be transferred shall be afforded an opportunity, not to exceed 15 days, to respond to the proposed transfer of custody, and may, at the court's discretion, be afforded a hearing on the proposed transfer of custody. Such hearing, if granted, shall be limited to a determination of whether the constitutional rights of such person would be violated by the proposed transfer of custody.

"(C) ORDER.—Upon application of the Attorney General, the court shall order the person transferred to the custody of the Attorney General, unless, pursuant to a hearing under this paragraph, the court finds that the proposed transfer would violate a right of such person under the United States Constitution.

"(D) EFFECT.—Nothing in this paragraph shall be construed to—

"(i) create in any person a liberty interest in being granted a hearing or notice on any matter;

"(ii) create in favor of any person a cause of action against the United States or any officer or employee of the United States; or

"(iii) limit in any manner or degree the ability of the Attorney General to move, transfer, or otherwise manage any person committed to the custody of the Attorney General.

"(3) CONSTRUCTION WITH OTHER SECTIONS.—Subsections (f) and (g) and section 4247 shall apply to any person transferred to the custody of the Attorney General pursuant to this subsection.".

(b) TRANSFER OF RECORDS.—Notwithstanding any provision of the District of Columbia Code or any other provision of law, the District of Columbia and St. Elizabeth's Hospital—

(1) not later than 30 days after the date of enactment of this Act, shall provide to the Attorney General copies of all records in the custody or control of the District or the Hospital on such date of enactment pertaining to persons described in section 4243(i) of title 18, United States Code (as added by subsection (a));

(2) not later than 30 days after the creation of any records by employees, agents, or contractors of the District of Columbia or of St. Elizabeth's Hospital pertaining to persons described in section 4243(i) of title 18, United States Code, provide to the Attorney General copies of all such records created after the date of enactment of this Act;

(3) shall not prevent or impede any employee, agent, or contractor of the District of Columbia or of St. Elizabeth's Hospital who has obtained knowledge of the persons described in section 4243(i) of title 18, United States Code, in the employee's professional capacity from providing that knowledge to the Attorney General, nor shall civil or criminal liability attach to such employees, agents, or contractors who provide such knowledge; and

(4) shall not prevent or impede interviews of persons described in section 4243(i) of title 18, United States Code, by representatives of the Attorney General, if such persons voluntarily consent to such interviews.

(c) CLARIFICATION OF EFFECT ON CERTAIN TESTIMONIAL PRIVILEGES.—The amendments made by this section shall not be construed to affect in any manner any doctor-patient or psychotherapist-patient testimonial privilege that may be otherwise applicable to persons found not guilty by reason of insanity and affected by this section.

(d) SEVERABILITY.—If any provision of this section, an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section and the amendments made by this section shall not be affected thereby.

AMENDMENT NO. 5389

(Purpose: To provide funding for the establishment of Boys and Girls Clubs in public housing projects and other distressed areas, and for other purposes)

At the appropriate place in the bill, add the following:

SEC. . ESTABLISHING BOYS AND GIRLS CLUBS.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the Boys and Girls Clubs of America, chartered by an Act of Congress on December 10, 1991, during its 90-year history as a national organization, has proven itself as a positive force in the communities it serves;

(B) there are 1,810 Boys and Girls Clubs facilities throughout the United States, Puerto Rico, and the United States Virgin Islands, serving 2,420,000 youths nationwide;

(C) 71 percent of the young people who benefit from Boys and Girls Clubs programs live in our inner cities and urban areas;

(D) Boys and Girls Clubs are locally run and have been exceptionally successful in balancing public funds with private sector donations and maximizing community involvement;

(E) Boys and Girls Clubs are located in 289 public housing sites across the Nation;

(F) public housing projects in which there is an active Boys and Girls Club have experienced a 25 percent reduction in the presence of crack cocaine, a 22 percent reduction in overall drug activity, and a 13 percent reduction in juvenile crime;

(G) these results have been achieved in the face of national trends in which overall drug use by youth has increased 105 percent since 1992 and 10.9 percent of the Nation's young people use drugs on a monthly basis; and

(H) many public housing projects and other distressed areas are still underserved by Boys and Girls Clubs.

(2) PURPOSE.—It is the purpose of this section to provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to establish 1,000 additional local Boys and Girls Clubs in public housing projects and other distressed areas by 2001.

(b) DEFINITIONS.—For purposes of this section—

(1) the terms "public housing" and "project" have the same meanings as in section 3(b) of the United States Housing Act of 1937; and

(2) the term "distressed area" means an urban, suburban, or rural area with a high percentage of high risk youth as defined in section 509A of the Public Health Service Act (42 U.S.C. 290aa–8(f)).

(c) ESTABLISHMENT.—

(1) IN GENERAL.—For each of the fiscal years 1997, 1998, 1999, 2000, and 2001, the Director of the Bureau of Justice Assistance of the Department of Justice shall provide a grant to the Boys and Girls Clubs of America for the purpose of establishing Boys and Girls Clubs in public housing projects and other distressed areas.

(2) CONTRACTING AUTHORITY.—Where appropriate, the Secretary of Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts

with the Boys and Girls Clubs of America to establish clubs pursuant to the grants under paragraph (1).

(d) REPORT.—Not later than May 1 of each fiscal year for which amounts are made available to carry out this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that details the progress made under this Act in establishing Boys and Girls Clubs in public housing projects and other distressed areas, and the effectiveness of the programs in reducing drug abuse and juvenile crime.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $20,000,000 for fiscal year 1997;
(B) $20,000,000 for fiscal year 1998;
(C) $20,000,000 for fiscal year 1999;
(D) $20,000,000 for fiscal year 2000; and
(E) $20,000,000 for fiscal year 2001.

(2) VIOLENT CRIME REDUCTION TRUST FUND.—The sums authorized to be appropriated by this subsection may be made from the Violent Crime Reduction Trust Fund.

Mr. KYL. Mr. President. I rise to comment on S. 982, the National Information Infrastructure Protection Act. I was pleased that the Senate Judiciary Committee unanimously passed the bill that Senator LEAHY and I introduced, which will strengthen current public law on computer crime and protect the national information infrastructure. It will protect banks, hospitals, and other information-intensive businesses which maintain sensitive computer files from those who improperly enter into computer systems.

Although there has never been an accurate nationwide reporting system for computer crime, it is clear that computer crime is rising. For example, the Computer Emergency and Response Team [CERT] at Carnegie-Mellon University reports that computer intrusions have increased from 132 in 1989 to 2,341 last year. A recent Rand Corporation study reported 1,172 hacking incidents during the first 6 months of 1994. Clearly there is a need to reform the current criminal statutes covering computer abuse.

The law needs to keep pace with technology. Crime is increasingly being perpetrated electronically, and we need to amend our laws to stop it. We, therefore, introduced the National Information Infrastructure Protection Act last year. Why is this bill important? First, it will protect against the interstate or foreign theft of information by computer. The provision is necessary because the court held, in the case of United States v. Brown, 925 F.2d 1301, 1308 (10th Cir. 1991), that purely intangible intellectual property, such as computer programs, do not count as goods, wares, merchandise, securities, or moneys which have been stolen, converted, or taken within the meaning of 18 U.S.C. §2314, the Interstate Transportation of Stolen Property. There are no Federal penalties for theft of computer information across state lines or internationally. In most cases, the Department of Justice attempts to use other statutes to prosecute these criminals.

Second, the provision adds a new section to the Computer Fraud and Abuse Act to provide penalties for the interstate or international transmission of threats against computers, computer networks, and their data and programs. Unlawful threats would include interference in any way with the normal operation of the computer or system in question, such as denying access to authorized users, erasing or corrupting data or programs, slowing down the operation of the computer or system, or encrypting data and then demanding money for the key. The provision is important because there have been cases where hackers have threatened to demolish a computer information system unless they were granted free access to accounts. It is sophisticated extortion.

Finally, S. 982 amends 18 U.S.C. §1030(a)(4) to ensure that felony-level sanctions apply when unauthorized use, or use in excess of authorization, is significant. Hackers, for example, have broken into computers only for the purpose of using their processing programs, sometimes amassing computer time worth far more than $5,000. The bill would penalize those whose trespassing, in which only computer use is obtained, amounts to greater than $5,000 during any 1-year period. Companies should not be stuck with the bill for electronic joyriders. Although they may not damage or steal information, hackers who browse through computer systems are a significant liability to businesses who must pay for a new security system, and the expensive time the hacker used.

There is widespread support for changes to the statute. For example, Attorney General Reno, in connection with the June 27, 1995 oversight hearing of the Department of Justice, said that S. 982 would "address many of the concerns that have been identified by computer security experts with respect to the need for greater protection of networks."

As FBI Director Louis Freeh responded, when asked during the February 28, 1996 joint hearing with the Select Committee on Intelligence on Economic Espionage, if he would appreciate the Senate acting on S. 982, "[S. 982] does fill a gap. It's very important."

On October 11, 1995 the Deputy Assistant Director of Investigations of the United States Secret Service, speaking before the House Committee on Banking and Financial Services Subcommittee on Domestic and International Monetary Policy, listed S. 982 as one of the bills that "enhance our ability to investigate and prosecute violations domestically, while offering guidelines for foreign government authorities."

This bill is timely because of the recent incident concerning the Department of Justice's homepage. Hackers penetrated the DOJ's computers, leaving pictures of swastikas and Adolph Hitler for the world to view. The damage caused by these criminals should not be prosecuted by relying on common law criminal mischief statutes. If our bill had been law, Federal prosecutors could have charged the hackers with violating more than trespassing statutes.

Mr. President, the Kyl-Leahy National Information Infrastructure Protection Act of 1995 will deter criminal activity and protect our Nation's infrastructure. I urge my colleagues to pass the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate has today taken the important step of passing the National Information Infrastructure Protection Act of 1996, NII Protection Act, which I have sponsored with Senators KYL and GRASSLEY.

This legislation will help safeguard the privacy, security, and reliability of our national computer systems and networks and the information stored in, and carried on, those networks. Those systems and networks are vulnerable to the threat of attack by hackers, high-technology criminals and spies. The NII Protection Act will increase protection for both government and private computers, and the information on those computers, from the growing threat of computer crime.

Our dependency on computers and the growth of the Internet are both integrally linked to people's confidence in the privacy, security, and reliability of computer networks. That is why I have worked over the past decade to make sure the laws we have in place foster both privacy and security, and provide a sound foundation for new communications technologies to flourish.

Every technological advance provides new opportunities for legitimate uses and the potential for criminal exploitation. Existing criminal statutes provide a good framework for prosecuting most types of computer-related criminal conduct. But as technology changes and high-technology criminals devise new ways to use technology to commit offenses we have yet to anticipate, we must be ready to readjust and update our criminal code.

The NII Protection Act closes a number of gaps in the Computer Fraud and Abuse statute, which was originally enacted in 1984. This legislation would strengthen law enforcement's hands in fighting crimes targeted at computers, networks, and computerized information by, among other things, designating new computer crimes, and by extending protection to computer systems used in foreign or interstate commerce or communications.

We need to protect both government and private computers, and the information on those computers, from the very real and growing threat of computer crime. The facts speak for themselves—computer crime is on the rise. On September 12, a computer hacker attack, which shut down an New York Internet access provider with thousands of business and individual customers, made front page news, and revealed the vulnerability of every network service provider to such an attack. The Computer Emergency and Response Team [CERT] at Carnegie-Mellon University reports that over 12,000 Internet computers were attacked in 2,412 incidents in 1995 alone. A 1996 survey conducted jointly by the Computer Security Institute and the FBI showed that 42 percent of the respondents sustained an unauthorized use or intrusion into their computer systems in the past 12 months.

Nevertheless, while our current statute, in section 1030(a)(2), prohibits misuse of a computer to obtain information from a financial institution, it falls short of protecting the privacy and confidentiality of information on computers used in interstate or foreign commerce and communications. This gap in the law has become only more glaring as more Americans have connected their home and business computers to the global Internet.

This is not just a law enforcement issue, but an economic one. Breaches of computer security result in direct financial losses to American companies from the theft of trade secrets and proprietary information. A December 1995 report by the Computer Systems Policy Project, comprised of the CEO's from 13 major computer companies, estimates that financial losses in 1995 from breaches of computer security systems ranged from $2 to $4 billion. The report predicts that these numbers could rise in the year 2000 to $40 to $80 billion worldwide. The estimated amount of these losses is staggering.

The NII Protection Act would extend the protection already given to the computerized information of financial institutions and consumer reporting agencies, to computerized information held on computers used in interstate or foreign commerce on communications, if the conduct involved interstate or foreign communications. The provision is designed to protect against the interstate or foreign theft of information by computer.

Computer hackers have accessed sensitive government data regarding Operation Desert Storm, penetrated NASA computers, and broken into Federal courthouse computer systems containing confidential records. These outside hackers are subject to criminal prosecution under section 1030(a)(3) of the computer fraud and abuse statute. Yet, this statute contains no prohibition against malicious insiders: Those Government employees who abuse their computer access privileges by snooping through confidential tax returns, or selling confidential criminal history information from the National Crime Information Center [NCIC]. The NCIC is currently the Nation's most extensive computerized criminal justice information system, containing criminal history information, files on wanted persons, and information on stolen vehicles and missing persons.

I am very concerned about continuing reports of unauthorized access to highly personal and sensitive government information about individual Americans, such as NCIC data. For example, a "Dear Abby" column that appeared on June 20, 1996 in newspapers across the country carried a letter by a woman who claimed her in-laws "ran her name through the FBI computer" and, apparently, used access to the NCIC for personal purposes.

This published complaint comes on the heels of a General Accounting Office [GAO] report presented on July 28, 1993, before the House Government Operations Committee, Subcommittee on Information, Justice, Agriculture, and Transportation, on the abuse of NCIC information. Following an investigation, GAO determined that NCIC information had been misused by insiders—individuals with authorized access—some of whom had sold NCIC information to outsiders and determined whether friends and relatives had criminal records. The GAO found that some of the misuse jeopardized the safety of citizens and potentially jeopardized law enforcement personnel. Yet, no Federal or State laws are specifically directed at NCIC misuse and most abusers of NCIC were not criminally prosecuted. GAO concluded that Congress should enact legislation with strong criminal sanctions for the misuse of NCIC data.

This bill would criminalize these activities by amending the privacy protection provision in section 1030(a)(2) and extending its coverage to Federal Government computers. If the information obtained is of minimal value, the penalty is only a misdemeanor. If, on the other hand, the offense is committed for purposes of commercial advantage or private financial gain, for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State, or if the value of the information obtained exceeds $5,000, the penalty is a felony.

The current statute, in section 1030(a)(5), protects computers and computer systems from damage caused by either outside hackers or malicious insiders "through means of a computer used in interstate commerce or communications." It does not, however, expressly prohibit the transmission of harmful computer viruses or programs from abroad, even though, a criminal armed with a modem and a computer can wreak havoc on computers located in the United States from virtually anywhere in the world. This is a significant challenge in fighting cybercrime: There are no borders or passport checkpoints in cyberspace. Communications flow seamlessly through cyberspace across datelines and the reach of local law enforcement.

Indeed, we have seen a number of examples of computer crimes directed from abroad, including the 1994 intrusion into the Rome Laboratory at Grifess Air Force Base in New York from the United Kingdom and the 1996 intrusion into Harvard University's computers from Buenos Aires, Argentina.

Additionally, the statute falls short of protecting our Government and financial institution computers from intrusive codes, such as computer viruses or worms. Generally, hacker intrusions that inject worms or viruses into a government or financial institution computer system, which is not used in interstate communications, are not federal offenses. The legislation would change that limitation and extend federal protection from intentionally damaging viruses to government and financial institution computers, even if they are not used in interstate communications.

The NII Protection Act would close these loopholes. Under the legislation, outside hackers—including those using foreign communications—and malicious insiders face criminal liability for intentionally damaging a computer. Outside hackers who break into a computer could also be punished for any reckless or other damage they cause by their trespass.

The current statute protects against computer abuses that cause computer "damage", a term that is defined to require either significant financial losses or potential impact on medical treatment. Yet, the NII and other computer systems are used for access to critical services such as emergency response systems, air traffic control, and the electrical power systems. These infrastructures are heavily dependent on computers. A computer attack that damages those computers could have significant repercussions for our public safety and our national security. The definition of "damage" in the Computer Fraud and Abuse statute should be sufficiently broad to encompass these types of harm against which people should be protected. The NII Protection Act addresses this concern and broadens the definition of "damage" to include causing physical injury to any person and threatening the public health or safety.

Finally, this legislation address a new and emerging problem of computer-age blackmail. This is a high-technology variation on old fashioned extortion. One case has been brought to my attention in which a person threatened to crash a computer system unless he was given free access to the system and an account. One can imagine situations in which hackers penetrate a system, encrypt a database and then demand money for the decoding key. This new provision would ensure law enforcement's ability to prosecute modern-day blackmailers, who threaten to harm or shut down computer networks unless their extortion demands are met.

Confronting cybercrime with up-to-date criminal laws, coupled with tough law enforcement, are critical for safeguarding the privacy, confidentiality and reliability of our critical computer systems and networks. I commend the Attorney General and the prosecutors within the Department of Justice who have worked diligently on this legislation and for their continuing efforts to address this critical area of our criminal law.

In sum, the NII Protection Act will provide much needed protection for our Nation's critical information infrastructure by penalizing those who abuse computers to damage computer networks, steal classified and valuable computer information, and commit other crimes on-line.

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendments be agreed to, the motions to reconsider be laid on the table, en bloc, the committee amendment be agreed to, the bill be deemed read for the third time, passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 5388 and 5389), en bloc, were agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 982), as amended, was deemed read the third time, and passed, as follows:

S. 982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Information Infrastructure Protection Act of 1996".

SEC. 2. COMPUTER CRIME.

Section 1030 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "knowingly accesses" and inserting "having knowingly accessed";

(ii) by striking "exceeds" and inserting "exceeding";

(iii) by striking "obtains information" and inserting "having obtained information";

(iv) by striking "the intent or";

(v) by striking "is to be used" and inserting "could be used"; and

(vi) by inserting before the semicolon at the end the following: "willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it";

(B) in paragraph (2)—

(i) by striking "obtains information" and inserting "obtains—

"(A) information"; and

(ii) by adding at the end the following new subparagraphs:

"(B) information from any department or agency of the United States; or

"(C) information from any protected computer if the conduct involved an interstate or foreign communication;";

(C) in paragraph (3)—

(i) by inserting "nonpublic" before "computer of a department or agency";

(ii) by striking "adversely"; and

(iii) by striking "the use of the Government's operation of such computer" and inserting "that use by or for the Government of the United States";

(D) in paragraph (4)—

(i) by striking "Federal interest" and inserting "protected"; and

(ii) by inserting before the semicolon the following: "and the value of such use is not more than $5,000 in any 1-year period";

(E) by striking paragraph (5) and inserting the following:

"(5)(A) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer;

"(B) intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage; or

"(C) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage;"; and

(F) by inserting after paragraph (6) the following new paragraph:

"(7) with intent to extort from any person, firm, association, educational institution, financial institution, government entity, or other legal entity, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to cause damage to a protected computer;";

(2) in subsection (c)—

(A) in paragraph (1), by striking "such subsection" each place that term appears and inserting "this section";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by inserting ", (a)(5)(C)," after "(a)(3)"; and

(II) by striking "such subsection" and inserting "this section";

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by inserting immediately after subparagraph (A) the following:

"(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(2), if—

"(i) the offense was committed for purposes of commercial advantage or private financial gain;

"(ii) the offense was committed in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or of any State; or

"(iii) the value of the information obtained exceeds $5,000;"; and

(iv) in subparagraph (C) (as redesignated)—

(I) by striking "such subsection" and inserting "this section"; and

(II) by adding "and" at the end;

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking "(a)(4) or (a)(5)(A)" and inserting "(a)(4), (a)(5)(A), (a)(5)(B), or (a)(7)"; and

(II) by striking "such subsection" and inserting "this section"; and

(ii) in subparagraph (B)—

(I) by striking "(a)(4) or (a)(5)" and inserting "(a)(4), (a)(5)(A), (a)(5)(B), (a)(5)(C), or (a)(7)"; and

(II) by striking "such subsection" and inserting "this section"; and

(D) by striking paragraph (4);

(3) in subsection (d), by inserting "subsections (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6) of" before "this section.";

(4) in subsection (e)—

(A) in paragraph (2)—

(i) by striking "Federal interest" and inserting "protected";

(ii) in subparagraph (A), by striking "the use of the financial institution's operation or the Government's operation of such computer" and inserting "that use by or for the financial institution or the Government"; and

(iii) by striking subparagraph (B) and inserting the following:

"(B) which is used in interstate or foreign commerce or communication;";

(B) in paragraph (6), by striking "and" at the end;

(C) in paragraph (7), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new paragraphs:

"(8) the term 'damage' means any impairment to the integrity or availability of data, a program, a system, or information, that—

"(A) causes loss aggregating at least $5,000 in value during any 1-year period to one or more individuals;

"(B) modifies or impairs, or potentially modifies or impairs, the medical examination, diagnosis, treatment, or care of one or more individuals;

"(C) causes physical injury to any person; or

"(D) threatens public health or safety; and

"(9) the term 'government entity' includes the Government of the United States, any State or political subdivision of the United States, any foreign country, and any state, province, municipality, or other political subdivision of a foreign country."; and

(5) in subsection (g)—

(A) by striking ", other than a violation of subsection (a)(5)(B),"; and

(B) by striking "of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb)" and inserting "involving damage as defined in subsection (e)(8)(A)".

SEC. 3. TRANSFER OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY.

(a) AMENDMENT OF SECTION 4243 OF TITLE 18.—Section 4243 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) CERTAIN PERSONS FOUND NOT GUILTY BY REASON OF INSANITY IN THE DISTRICT OF COLUMBIA.—

"(1) TRANSFER TO CUSTODY OF THE ATTORNEY GENERAL.—Notwithstanding section 301(h) of title 24 of the District of Columbia Code, and notwithstanding subsection 4247(j) of this title, all persons who have been committed to a hospital for the mentally ill pursuant to section 301(d)(1) of title 24 of the District of Columbia Code, and for whom the

United States has continuing financial responsibility, may be transferred to the custody of the Attorney General, who shall hospitalize the person for treatment in a suitable facility.

"(2) APPLICATION.—

"(A) IN GENERAL.—The Attorney General may establish custody over such persons by filing an application in the United States District Court for the District of Columbia, demonstrating that the person to be transferred is a person described in this subsection.

"(B) NOTICE.—The Attorney General shall, by any means reasonably designed to do so, provide written notice of the proposed transfer of custody to such person or such person's guardian, legal representative, or other lawful agent. The person to be transferred shall be afforded an opportunity, not to exceed 15 days, to respond to the proposed transfer of custody, and may, at the court's discretion, be afforded a hearing on the proposed transfer of custody. Such hearing, if granted, shall be limited to a determination of whether the constitutional rights of such person would be violated by the proposed transfer of custody.

"(C) ORDER.—Upon application of the Attorney General, the court shall order the person transferred to the custody of the Attorney General, unless, pursuant to a hearing under this paragraph, the court finds that the proposed transfer would violate a right of such person under the United States Constitution.

"(D) EFFECT.—Nothing in this paragraph shall be construed to—

"(i) create in any person a liberty interest in being granted a hearing or notice on any matter;

"(ii) create in favor of any person a cause of action against the United States or any officer or employee of the United States; or

"(iii) limit in any manner or degree the ability of the Attorney General to move, transfer, or otherwise manage any person committed to the custody of the Attorney General.

"(3) CONSTRUCTION WITH OTHER SECTIONS.—Subsections (f) and (g) and section 4247 shall apply to any person transferred to the custody of the Attorney General pursuant to this subsection.".

(b) TRANSFER OF RECORDS.—Notwithstanding any provision of the District of Columbia Code or any other provision of law, the District of Columbia and St. Elizabeth's Hospital—

(1) not later than 30 days after the date of enactment of this Act, shall provide to the Attorney General copies of all records in the custody or control of the District or the Hospital on such date of enactment pertaining to persons described in section 4243(i) of title 18, United States Code (as added by subsection (a));

(2) not later than 30 days after the creation of any records by employees, agents, or contractors of the District of Columbia or of St. Elizabeth's Hospital pertaining to persons described in section 4243(i) of title 18, United States Code, provide to the Attorney General copies of all such records created after the date of enactment of this Act;

(3) shall not prevent or impede any employee, agent, or contractor of the District of Columbia or of St. Elizabeth's Hospital who has obtained knowledge of the persons described in section 4243(i) of title 18, United States Code, in the employee's professional capacity from providing that knowledge to the Attorney General, nor shall civil or criminal liability attach to such employees, agents, or contractors who provide such knowledge; and

(4) shall not prevent or impede interviews of persons described in section 4243(i) of title 18, United States Code, by representatives of the Attorney General, if such persons voluntarily consent to such interviews.

(c) CLARIFICATION OF EFFECT ON CERTAIN TESTIMONIAL PRIVILEGES.—The amendments made by this section shall not be construed to affect in any manner any doctor-patient or psychotherapist-patient testimonial privilege that may be otherwise applicable to persons found not guilty by reason of insanity and affected by this section.

(d) SEVERABILITY.—If any provision of this section, an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section and the amendments made by this section shall not be affected thereby.

SEC. 4. ESTABLISHING BOYS AND GIRLS CLUBS.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the Boys and Girls Clubs of America, chartered by an Act of Congress on December 10, 1991, during its 90-year history as a national organization, has proven itself as a positive force in the communities it serves;

(B) there are 1,810 Boys and Girls Clubs facilities throughout the United States, Puerto Rico, and the United States Virgin Islands, serving 2,420,000 youths nationwide;

(C) 71 percent of the young people who benefit from Boys and Girls Clubs programs live in our inner cities and urban areas;

(D) Boys and Girls Clubs are locally run and have been exceptionally successful in balancing public funds with private sector donations and maximizing community involvement;

(E) Boys and Girls Clubs are located in 289 public housing sites across the Nation;

(F) public housing projects in which there is an active Boys and Girls Club have experienced a 25 percent reduction in the presence of crack cocaine, a 22 percent reduction in overall drug activity, and a 13 percent reduction in juvenile crime;

(G) these results have been achieved in the face of national trends in which overall drug use by youth has increased 105 percent since 1992 and 10.9 percent of the Nation's young people use drugs on a monthly basis; and

(H) many public housing projects and other distressed areas are still underserved by Boys and Girls Clubs.

(2) PURPOSE.—It is the purpose of this section to provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to establish 1,000 additional local Boys and Girls Clubs in public housing projects and other distressed areas by 2001.

(b) DEFINITIONS.—For purposes of this section—

(1) the terms "public housing" and "project" have the same meanings as in section 3(b) of the United States Housing Act of 1937; and

(2) the term "distressed area" means an urban, suburban, or rural area with a high percentage of high risk youth as defined in section 509A of the Public Health Service Act (42 U.S.C. 290aa–8(f)).

(c) ESTABLISHMENT.—

(1) IN GENERAL.—For each of the fiscal years 1997, 1998, 1999, 2000, and 2001, the Director of the Bureau of Justice Assistance of the Department of Justice shall provide a grant to the Boys and Girls Clubs of America for the purpose of establishing Boys and Girls Clubs in public housing projects and other distressed areas.

(2) CONTRACTING AUTHORITY.—Where appropriate, the Secretary of Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the Boys and Girls Clubs of America to establish clubs pursuant to the grants under paragraph (1).

(d) REPORT.—Not later than May 1 of each fiscal year for which amounts are made available to carry out this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that details the progress made under this Act in establishing Boys and Girls Clubs in public housing projects and other distressed areas, and the effectiveness of the programs in reducing drug abuse and juvenile crime.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $20,000,000 for fiscal year 1997;

(B) $20,000,000 for fiscal year 1998;

(C) $20,000,000 for fiscal year 1999;

(D) $20,000,000 for fiscal year 2000; and

(E) $20,000,000 for fiscal year 2001.

(2) VIOLENT CRIME REDUCTION TRUST FUND.—The sums authorized to be appropriated by this subsection may be made from the Violent Crime Reduction Trust Fund.

HONORARY CITIZENSHIP OF THE UNITED STATES ON MOTHER TERESA

Mr. STEVENS. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 191, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 191) to confer honorary citizenship of the United States on Agnes Gonxha Bojaxhiu also known as Mother Teresa.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. STEVENS. Mr. President, I am proud to be able to offer this resolution which confers honorary citizenship of the United States on Mother Teresa.

I ask unanimous consent that the resolution be deemed read the third time, passed, the preamble be agreed to, the motion to reconsider be laid on the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 191) was deemed read the third time, and passed.

The preamble was agreed to.

SUPPORTING THE INDEPENDENCE AND SOVEREIGNTY OF UKRAINE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate Foreign Relations Committee be discharged from further consideration of House Concurrent Resolution 120, and the Senate now proceed to its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 120) supporting the independence and sovereignty of Ukraine and the progress of its political and economic reforms.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. STEVENS. I ask unanimous consent the resolution be deemed agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and that any statements relating to the resolution appear in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 120) was agreed to.

The preamble was agreed to.

OAHU NATIONAL WILDLIFE REFUGE

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 459, H.R. 1772.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1772) to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. I ask unanimous consent that the bill be deemed read for a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1772) was deemed read for a third time and passed.

SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE ACT

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 517, H.R. 2909.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2909) to amend the Silvio O. Conte National Fish and Wildlife Refuge Act to provide that the Secretary of the Interior may acquire land for purposes of that Act only by donation or exchange, or otherwise with the consent of the owner of the lands.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that the bill be deemed read for a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2909) was deemed read for a third time and passed.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3676, S. 2006, AND S. 2007

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate now proceed to the consideration en bloc of H.R. 3676, which is at the desk, Calendar 560, which is S. 2006, and Calendar 561, which is S. 2007, that the bills be deemed read for a third time and passed, the motions to reconsider be laid on the table en bloc, and any statements relating to these bills appear at the appropriate point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

CARJACKING CORRECTION ACT OF 1996

A bill (H.R. 3676) to amend title 18, United States Code, to clarify the intent of Congress with respect to the Federal carjacking prohibition, was considered.

Mr. HATCH. Mr. President, I rise in strong support of the Carjacking Correction Act of 1996, a bill I introduced earlier this year in the Senate, the companion of which, H.R. 3676, has now come over from the House. This bill adds an important clarification to the Federal carjacking statute, to provide that a rape committed during a carjacking should be considered a serious bodily injury.

I am pleased to be joined in this effort by the ranking member of the Judiciary Committee, Senator BIDEN. He has long been a leader in addressing the threat of violence against women, and demonstrates that again today.

I also want to thank Representative JOHN CONYERS, the ranking member of the House Judiciary Committee, who brought this matter to my attention, and has led the effort in the House for passage of this legislation.

This correction to the law is necessitated by the fact that at least one court has held that under the Federal carjacking statute, rape would not constitute a "serious bodily injury." Few crimes are as brutal, vicious, and harmful to the victim than rape by an armed thug. Yet, under this interpretation, the sentencing enhancement for such injury may not be applied to a carjacker who brutally rapes his victim.

In my view, Congress should act now to clarify the law in this regard. The bill I introduced this year, S. 2006, and its companion House bill, H.R. 3676, would do this by specifically including rape as serious bodily injury under the statute.

I urge my colleagues to support this bill, and anticipate its swift passage.

The bill (H.R. 3676) was ordered to a third reading, was read the third time, and passed.

CARJACKING CORRECTION ACT OF 1996

The bill (S. 2006) to clarify the intent of Congress with respect to the Federal carjacking prohibition, was considered.

Mr. HATCH. Mr. President, I rise in strong support of the Carjacking Correction act of 1996, a bill I introduced earlier this year. This bill adds an important clarification to the Federal carjacking statute, to provide that a rape committed during a carjacking should be considered a serious bodily injury.

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In my view, Congress should act now to clarify the law in this regard. The bill I introduced this year, S. 2006, would do this, by specifically including rape as serious bodily injury under the statute.

I urge my colleagues to support this bill, and anticipate its swift passage.

The bill (S. 2006) was ordered to be engrossed for a third reading, was read the third time, and passed; as follows:

S. 2006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Carjacking Correction Act of 1996".

SEC. 2. CLARIFICATION OF INTENT OF CONGRESS WITH RESPECT TO THE FEDERAL CARJACKING PROHIBITION.

Section 2119(2) of title 18, United States Code, is amended by inserting ", including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title" after "(as defined in section 1365 of this title".;

CARJACKING CORRECTION ACT OF 1996

The bill (S. 2007) to clarify the intent of Congress with respect to the federal carjacking prohibition, was considered.

Mr. BIDEN. Mr. President, I am very pleased that this bill will soon become law. I commend my cosponsor, Senator HATCH, and I also commend Representative CONYERS, who championed this bill over in the House, and with whom I was proud to work on it.

A few months ago, the first circuit court of appeals made a mistake. It made, in my view, a very big mistake: It said that the term "serious bodily injury" in one of our Federal statutes does not include rape.

Let me tell you about the case. One night near midnight, a woman went to her car after work. While she was getting something out of the back seat, a man with a knife came up from behind and forced her back into the car. He drove her to a remote beach, ordered her to take off her clothes, and made her squat down on her hands and knees.

Then he raped her. After the rape, he drove off in her car, leaving her alone on the side of the road.

The man was convicted under the Federal carjacking statute. That statute provides for an enhanced sentence of up to 25 years if the defendant inflicts "serious bodily injury" in the course of a carjacking.

When it got time to sentence the defendant, the prosecutor asked the court to enhance the sentence because of the rape. Mind you, there was no dispute that the defendant had, in fact, raped the victim.

The trial judge agreed with the prosecutor, and gave the defendant the statutory 25 years maximum, finding that the rape constituted "serious bodily injury."

But when the case went up to the first circuit, that court said "no"—rape is not serious bodily injury. To support its ruling, and I'm now quoting the opinion, the court said that "There was no evidence of any cuts or bruises in her vaginal area."

That, in my view, is absolutely outrageous—and Senator HATCH and I proposed this bill to set matters straight.

Under the code, "serious bodily injury" has several definitions. It includes: a substantial risk of death; protracted and obvious disfigurement; protracted loss or impairment of a bodily part or mental faculty; and it also includes extreme physical pain.

It takes no great leap of logic to see that a rape involves extreme physical pain. and I would go so far as to say that only a panel of male judges could fail to make that leap and even think—let alone rule—that rape does not involve extreme pain.

Rape is one of the most brutal and serious crimes any woman can experience. It is a violation of the first order, but it has all too often been treated like a second class crime. According to a report I issued a few years ago, a robber is 30 percent more likely to be convicted than a rapist; a rape prosecution is more than twice as likely as a murder prosecution to be dismissed; a convicted rapist is 50 percent more likely to receive probation than a convicted robber.

No crime carries a perfect record of arrest, prosecution, and incarceration—but the record for rape is especially wanting.

And this first circuit decision helps explain why: too often, our criminal justice system just doesn't get it.

If the first circuit decision were allowed to stand, it would mean that a criminal would spend more time behind bars for breaking a man's arm than for raping a woman.

For 5 long years, I worked to pass a piece of legislation that I have cared about like no other: The Violence Against Women Act. The act does a great many practical things:

It funds more police and prosecutors specially trained and devoted to combating rape and family violence;

It trains police, prosecutors, and judges in the ways of rape and family violence—so they can better understand and respond to the problem;

It provides shelters for more than 60,000 battered women and their children;

It provides extra lighting and emergency phones in subways, bus stops, and parks;

It provides for more rape crises centers;

It set up a national hotline that battered women can call around the clock—to get advice and counseling when they are in the throes of a crisis;

And we're getting rape education efforts going with our young people—so we can break the cycle of violence before it gets started.

But the Violence Against Women Act also meant to do something else, beyond these concrete measures: it also sent a clarion call across our land that crimes against women will no longer be treated as second class crimes.

For too long, the victims of these crimes have been seen not as innocent targets of brutality, but as participants who somehow bear shame or even some responsibility for the violence.

This is especially true when it comes to victims who know their assailants. For too long, we have been quick to call theirs a private misfortune rather than a public disgrace. We have viewed the crime as less than criminal, the abuser less than culpable, and the victim less than worthy of justice.

We must remain ever vigilant in our efforts to make our streets and our neighborhoods and our homes safe for women.

And we need to make sure—right now—that no judge ever misreads the carjacking statute again. With this bill, we are telling them that we intend, that we always intended, for those words "serious bodily injury" to mean rape—no if's, and's or but's.

I thank my colleagues for their support.

The bill (S. 2007) was ordered to be engrossed for a third reading, was read the third time, and passed; as follows:

S. 2007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Carjacking Correction Act of 1996".

SEC. 2. CLARIFICATION OF INTENT OF CONGRESS WITH RESPECT TO THE FEDERAL CARJACKING PROHIBITION.

Section 2119(2) of title 18, United States Code, is amended by inserting ", including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title" after "(as defined in section 1365 of this title)".

ELECTRONIC FREEDOM OF INFORMATION ACT AMENDMENTS

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of H.R. 3802, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3802) to amend section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, to provide public access to information in an electronic format, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am delighted that we have today reached final passage of important amendments to the Freedom of Information Act that will bring the FOIA into the electronic age. Sending these amendments to the President for enactment is a tremendous way to mark the 30th anniversary of the Freedom of Information Act.

The FOIA has served the country well in maintaining the right of Americans to know what their government is doing—or not doing. As President Johnson said in 1966, when he signed the Freedom of Information Act into law:

> This legislation springs from one of our most essential principles: A democracy works best when the people have all the information that the security of the Nation permits.

Just over the past few months, records released under the FOIA have revealed FAA actions against Valujet before the May 11 crash in the Everglades, the government's treatment of South Vietnamese commandos who fought in a CIA-sponsored army in the early 1960's, the high salaries paid to independent counsels, the unsafe lead content of D.C. tap water, and the types of tax cases that the IRS recommends for criminal prosecution.

In the 30 years since the Freedom of Information Act became law, technology has dramatically altered the way government handles and stores information. Gone are the days when agency records were solely on paper stuffed into file cabinets. Instead, agencies depend on personal computers, computer databases and electronic storage media, such as CD—ROM's, to carry out their mission.

The time is long overdue to update this law to address new issues related to the increased use of computers by Federal agencies. Computers are just as ubiquitous in Federal agency offices as in the private sector. We need to make clear that the FOIA is not just a right to know what's on paper law, but that it applies equally to electronic records.

That is why Senator BROWN, Senator KERRY and I, with the strong support of many library, press, civil liberties, consumer and research groups, have pushed for passage of the Electronic FOIA bill. The Senate recognized the need to update the FOIA in the last Congress by passing an earlier version of this bill.

This legislation takes steps so that agencies use technology to make government more accessible and accountable to its citizens. Storing government information on computers should actually make it easier to provide public access to information in more meaningful formats. For example, people with sight or hearing impairments can use special computer programs to translate electronic information into braille or large print or synthetic speech output.

Electronic records also make it possible to provide dial-up access to any citizen who can use computer networks, such as the Internet. Those Americans living in the remotest rural area in Vermont, or in a distant State far from Federal agencies' public reading rooms here in Washington, DC, should be able to use computer networks to get direct access to the warehouse of unclassified information stored in government computer banks. The explosion of the Internet adds enormously to the need for clarification of the status of electronic government records under the FOIA and the significance of this legislation for citizen access. These amendments to the FOIA will encourage Federal agencies to use the Internet to increase access to Government records for all Americans.

Ensuring public access to electronic government records is not just important for broader citizen access. Information is a valuable commodity and the Federal Government is probably the largest single producer and repository of accurate information. This Government information is a national resource that commercial companies pay for under the FOIA, add value to, and then sell—creating jobs and generating revenue in the process. It is important for our economy and for American competitiveness that fast, easy access to that resource in electronic form be available. The electronic FOIA bill would contribute to our information economy.

I would like to highlight some of what this bill would accomplish. First, it would require agencies to provide records in a requested format whenever possible. Second, the bill would encourage agencies to increase on-line access to government records that agencies currently put in their public reading rooms. These records would include copies of records that are the subject of repeated FOIA requests.

Finally, the bill would address the biggest single complaint of people making FOIA requests: delays in getting a response. I understand that at the FBI, the delays can stretch to over 4 years. Because of these delays, writers, students and teachers and others working under time deadlines, have been frustrated in using FOIA to meet their research needs. Long delays in access can mean no access at all.

The current time limits in the FOIA are a joke. Few agencies actually respond to FOIA requests within the 10-day limit required in the law. Such routine failure to comply with the statutory time limits is bad for morale in the agencies and breeds contempt by citizens who expect government officials to abide by, not routinely break, the law.

I appreciate the budget and resource constraints under which agencies are operating. We have made every effort in this bill to make sure it works for both agencies and requestors. Some agencies, particularly those with huge backlogs of FOIA requests resulting in delays of up to four years for an agency response, are concerned that the bill removes backlogs as an automatic excuse to ignore the time limits. But we should not give agencies an incentive to create backlogs. Agencies will have to show that they are taking steps to reduce their backlogs before they qualify for additional time to respond to a FOIA request.

While increased computer access to government records may necessitate an initial outlay of money and effort, as more information is made available online, the labor intensive task of physically searching and producing documents should be reduced. The net result should be increased efficiency in satisfying agency FOIA obligations, reduced paperwork burdens, reduced errors and better service to the public.

The Electronic FOIA bill should help agencies comply with the law's time limits by doubling the ten-day time limit to give agencies a more realistic time period for responding to FOIA requests, making more information available on-line, requiring the use of better record management techniques, such as multi-track processing, and providing expedited access to requestors who demonstrate a compelling need for a speedy response.

All these steps, and others in the bill, may not provide a total cure but should help reduce the endemic delay problems.

This legislation has had a lengthy germination. Senator BROWN and I first introduced the bill in the 102d Congress, when I chaired extensive hearings on the bill. We introduced the legislation again in the 103d Congress, and saw the bill pass through the Judiciary Commitee and then the Senate only to falter in the House of Representatives. In this Congress, the Senate Judiciary Committee again considered this legislation, reported it favorably, and the Senate has passed it for the second time, bringing us to final passage of the legislation.

I commend members of the House Government Reform and Oversight Subcommittee on Government Management, Information and Technology, and, in particular, Chairman Horn, Ranking Member Maloney, and Representatives Tate and Peterson, for taking up the challenge and moving this legislation this year. They saw this bill for what it is: a good government issue, not a partisan one.

We have worked diligently to sort out any differences in the House and Senate bills, and we can all be proud of the final product reflected in the final legislation passed today. I want to specially thank Chairman HATCH and Chairman SPECTER for their cooperation in moving this bill through Committee and the staffs from the House and Senate. In particular, Mark Uncafer, Janie Kong and David McMillan from the House, and David Miller, Richard Hertling, Manus Cooney, and Elizabeth Kessler from the Senate, as well as my own Judiciary Committee staff, should be applauded for their hard work on this legislation and making sure the process worked.

I also want to commend the following organizations because without their support over the years, it would have been much more difficult to pass this legislation: the American Society of Newspaper Editors, the Newspaper Association of America, the National Newspaper Association, the Association of American Publishers, Radio and TV News Directors Association, the Society of Professional Journalists, the National Association of Broadcasters, Public Citizen, OMB Watch, American Library Association, the National Security Archive, the Federation of American Scientists, the ACLU, the Fund for Constitutional Government, the Lawyers Committee for Human Rights, the Electronic Frontier Foundation, the Electronic Privacy Information Center, the Center for Democracy and Technology, and Americans for Tax Reform.

Finally, I want to thank Sally Katzen, the Administrator of the Office of Information and Regulatory Affairs at OMB, for the time and effort she committed to working through the many concerns of Federal agencies who institutionally resist change in this area.

Even as we have worked on this legislation, new issues about the coverage of the FOIA have surfaced. I refer specifically to the recent D.C. Court of Appeals case that decided that the National Security Council is not an "agency" subject to the FOIA, despite the fact that the NSC has complied with the FOIA for years under both Republican and Democratic Presidents. Litigation on this matter continues and the case may now go to the U.S. Supreme Court. Clarification of the offices within the White House that are subject to the FOIA may be a matter requiring congressional attention in the next Congress.

As the Federal government increasingly maintains its records in electronic form, we need to make sure that this information is available to citizens on the same basis as information in paper files. Enactment of the Electronic Freedom of Information amendments of 1996 will fulfill the promise first made thirty years ago in the FOIA that citizens have a right to know and a right to see the records the government collects with their tax dollars.

Mr. STEVENS. I ask unanimous consent the bill be deemed read for a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3802) was deemed read for a third time and passed.

NATIONAL TRANSPORTATION SAFETY BOARD AMENDMENTS OF 1996

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 503, S. 1831.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1831) to amend title 49, United States Code, to authorize appropriations for fiscal years 1997, 1998, and 1999 for the National Transportation Safety Board, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PRESSLER. Mr. President, I am pleased to bring to the Senate S. 1831, the National Transportation Safety Board Amendments of 1996. This bill is sponsored by myself, along with Senators HOLLINGS, LOTT, FORD, and STEVENS. As chairman of the Committee on Commerce, Science, and Transportation, I urge swift passage of this bipartisan reauthorization bill.

Mr. President, the National Transportation Safety Board [NTSB] is one of our government's most important independent agencies. Its statutory mission is to determine the probable cause of transportation accidents and to promote transportation safety. The NTSB is world renown for its timely and expert determinations of accident causation and for issuing realistic and feasible safety recommendations.

The NTSB investigates all types of transportation accidents and incidents. It also conducts transportation safety studies and evaluates the effectiveness of other government agencies' programs for preventing transportation accidents. Indeed, its work product is critical.

As my colleagues are acutely aware, the NTSB is faced with an extremely heavy workload. In addition to investigating the two most recent major aviation accidents, TWA flight 800 and ValuJet flight 592, the NTSB continues its work on several other major ongoing investigations, including the USAir accident near Pittsburgh, Pennsylvania, the school bus/train collision in Fox River Grove, Illinois, and the MARC commuter Train/Amtrak collision near Silver Spring, MD. Many other investigations also are underway.

Mr. President, the NTSB's authorization expires at the end of fiscal year 1996—the end of this month. Earlier this year, the Senate Committee on Commerce, Science, and Transportation held a hearing on issues relating to reauthorization of the NTSB. On June 4, 1996, S. 1831 was introduced. It was ordered reported by a unanimous vote of the Commerce Committee on June 6, 1996.

S. 1831 provides a three year authorization of appropriations for fiscal years 1997, 1998 and 1999 at a level of 370 FTEs. It establishes sufficient funding levels to enable the NTSB to carry out its immense workload, yet does so in a fiscally responsible manner.

The bill also includes a few minor statutory changes as requested by the NTSB. First, the bill provides a temporary deferral of Freedom of Information Act (FOIA) requests regarding the release of foreign aviation accident or incident information for 2 years or until the foreign government leading the investigation approves the release of the information. This would apply to NTSB participation in foreign accident investigations only. Additionally, the NTSB would not be restricted from utilizing foreign accident investigation information in making safety recommendations.

Mr. President, the December 1995 American Airlines accident in Colombia is a good example of the kind of problem this provision seeks to remedy. Because of the location of the accident, the Colombian government is leading the investigation and the NTSB is participating. As a participant, NTSB has complete access to accident information, but the Government of Colombia—as lead investigator—determines when any information can be released. Since NTSB is covered by FOIA, any information in the Board's possession could be requested under FOIA. To avoid releasing information prior to the Colombian government's approval, I am told the NTSB avoids bringing any accident information into its actual possession and control. This hampers NTSB's ability to effectively assist in the investigation of this type of accident.

Second, the legislation creates a statutory exemption from FOIA for aviation data voluntarily supplied to the NTSB. The aviation industry currently generates a wealth of information not required to be collected by the government. While this data could be extremely useful to the NTSB, the industry is reluctant to share it because of concerns it will be released to the public through FOIA requests. This provision is designed to encourage the aviation industry to more freely share significant safety-related data with the Board.

Finally, S. 1831 grants authority to the Board to charge non-NTSB personnel attending its training courses for the costs associated with their attendance.

The NTSB carries out an enormously important public service. They do admirable work and deserve our full support. This legislation will ensure the NTSB can continue its essential work in an efficient manner.

Mr. President, the amendment I am offering to S. 1831 is almost identical to S. 1957, the Intermodal Safe Container Transportation Amendments Act of 1996, which I introduced on July 16, 1996. It is designed to give motor carriers the information necessary to prevent the carriage of overweight intermodal containers. S. 1957, cosponsored by Senators LOTT, INOUYE and BREAUX, is a bipartisan technical corrections bill to the Intermodal Safe Container Transportation Act of 1992.

To address legitimate concerns raised by shippers and carriers about implementation of the 1992 Act, including timely compliance and the need for world-wide education, this amendment would help streamline the implementation process. It would reduce unnecessary paperwork requirements that otherwise would be imposed and allow greater use of electronic interchange technology to expedite the transfer of information. It also would eliminate needless compliance burdens on smaller shipments, yet ensure the intent of the 1992 Act is not jeopardized.

Mr. President, overweight vehicles impair safety and cause severe damage to our nation's highway infrastructure. The purpose of the 1992 Act was to help prevent the operation of overweight vehicles on our nation's roads and highways. This amendment would help ensure the purpose of the 1992 Act is carried out by allowing the law to be implemented in a reasonable manner.

Mr. President, this amendment is critical to the future of intermodal transportation. I urge its adoption and passage of S. 1831.

Mr. FORD. Mr. President, the passage of S. 1831, which reauthorizes the National Transportation Safety Board [NTSB] is a very important matter.

One cannot watch television lately without seeing the NTSB in action. Everyone knows that the NTSB is the primary agency responsible for investigating each accident. When an accident occurs, it is the NTSB's job to secure the scene, and coordinate all activities. The Board has spent and is still spending countless hours trying to figure out the TWA crash off of Long Island, the ValuJet crash in Florida, the USAir crash in Pittsburgh, the American crash in Cali, Colombia, and the crash of Ron Brown's plane in Croatia, to name but a few. No matter what the circumstances of any accident, the NTSB is always there to fulfill their vital role. The Board's work in other transportation areas also continues. Rail, highway, and maritime accidents continue to receive the care and attention of the NTSB needed to make our transportation system safer.

I would like to commend all the NTSB staff and its Board members for their fine work and dedication. While we often recognize the Chairman of the Board, Jim Hall, and the Vice Chairman, Bob Francis, they know the quality of the NTSB employees. The staff's efforts are really an example of public service at its very best.

The President has also given the NTSB a new role. The NTSB has been designated as the lead agency for providing information and coordinating services for the families of victims of aviation disasters. This is a key role. The NTSB may require additional resources, and we may need to revisit the issue next year.

The bill before us today ensures that the NTSB will be able to continue carrying out its mandate. The bill provides $42.4 million for fiscal year 1997, $44.4 million for fiscal year 1998, and $46.6 million for fiscal year 1999. The bill authorizes 370 FTE's, an additional 20 FTE's from the original request submitted by the administration. It is clear from seeing the demands placed on the NTSB that the additional staff are needed.

As a cosponsor of the bill, I urge my colleagues to support it.

Mr. INOUYE. Mr. President, I rise in support of S. 1831 which is similar to H.R. 3152 which the Senate will pass tonight. Title I of this bill reauthorizes the National Transportation Safety Board [NTSB]. The NTSB plays an integral role in the transportation life of this nation and it deserves our continued support and respect. The NTSB has over many years acquitted itself in determining the cause of transportation accidents and recommending actions to prevent repetitions of these accidents. Particularly over the last several months NTSB has shown the World its professionalism. I wish to note my firm support for the agency its members and its personnel and assure them and this body of my continued support for an appropriation that allows it to accomplish its mission. Safety is the highest mission any agency can have and the NTSB clearly is a lead agency in ensuring the safety of the travelling public.

I also support title II of S. 1831, which contains the Intermodal Safe Container Transportation Amendments Act of 1996. These amendments modify the Intermodal Safe Container Transportation Act of 1992, Public Law 102–548 in an effort to strengthen that legislation. These amendments have been crafted in a true bipartisan manner. The Commerce Committee staff has crafted these amendments with industry representatives and in consultation with the Department of Transportation. In fact, these amendments are supported by a wide range of transportation and shipper interests. Carriers of every transportation mode have written in support of these amendments. In addition, the Nation's largest shipper associations and the nation's ports also support this effort.

These amendments will prevent cargo at the Nation's ports from simply lying at those ports and ensure rather that cargo speeds to its destination. Under the original legislation, cargo in containers weighing over 10,000 pounds would have to be certified, in writing, by the shipper before the container could leave the port for its next destination. The truck driver or the rail carrier taking the container to its next destination would be required to carry that certification and subject to a fine if he or she is caught without this piece of paper. Potentially, the certification could be delayed, or in the case of international cargo there could be delayed, or in the case of international cargo there could be confusion as to the requirement for a certificate. Should a container not have a certificate it would be required to stay at the port or at the point of shipment clogging the port and delaying delivery of critical time sensitive cargo.

These amendments clarify and simplify the procedures for certification. One provision of these amendments prevents delay and confusion by the simple expedient of raising the certification requirement to 29,000 pounds. Certification as to the weight of the container will be required if its weight is in excess of that amount. With this provision fewer containers will be required to remain at port or point of shipment awaiting certification.

Another provision dispenses with the requirement that the certification be carried with the container. Instead, the information on the certification will be required to be made available on request. Thus, police officers or state officials requesting the certification information could access it by fax or other electronic means. The information would be provided without the unnecessarily delaying transport.

It is important to note what these amendments do not do. They do not in anyway alter any State or Federal law limiting the amount of weight a motor carrier or rail carrier may carry. Likewise, the amendments do not change current limits concerning the amount of hazardous materials a carrier may transport. These limits are left intact. It bears repeating: These amendments do not change any law respecting the transportation of hazardous materials or place any additional burden on the Nation's highway and bridges.

I urge my colleagues to vote in favor of this legislation.

Mr. HOLLINGS. Mr. President, I am pleased the Senate is considering S. 1831, a bill which reauthorizes the National Transportation Safety Board [NTSB].

As we know, all too well I might add, the NTSB is required to investigate transportation accidents. It is called upon immediately following a transportation catastrophe to send out the right people to carry out a thorough examination of the facts and circumstances surrounding each event. We can see evidence of NTSB investigators carrying out this mandate every day on the news as they continue the grim task of investigating the crash of TWA Flight 800 off the coast of Long Island. This inquiry is being conducted simultaneously with the ValuJet Flight 592 investigation in the Everglades. The NTSB is asked repeatedly to assist in investigations overseas such as the one a few months ago in Croatia where my good friend Ron Brown was killed in a military plane crash. When a barge hits a railroad bridge, or a train collides with another train, the NTSB is called upon to figure out what happened, and more importantly, to figure out how to prevent tragedies from recurring.

Concerning TWA Flight 800, the NTSB is working with local and State officials, the FBI, the Navy, and most importantly, with the families. The investigation is a painstaking, detailed process—literally requiring divers to pick up by hand the wreckage 110 feet below the surface. The divers, working in teams, have done an extraordinary job to facilitate the NTSB's investigation. Teamwork is essential and the efforts of all involved are very much appreciated.

The NTSB does excellent work. I would especially like to commend its Chairman Jim Hall and Vice Chairman Robert Francis for all their hard work and dedication. Their service on the NTSB could not have come at a more critical time, and I appreciate their great efforts as well as those of the other members of the Board and all the NTSB staff.

As I have said before, if this were a perfect world, we would not need the NTSB. But as we have seen all too well in the last few months, we need the NTSB now more than ever. Ensuring the safety of our transportation system is of primary importance, and I believe passage of this bill is vital to that goal.

I urge my colleagues to vote in favor of this legislation.

Mr. BREAUX. Mr. President, I rise in support of the bill that reauthorizes the operations of the National Transportation Safety Board [NTSB]. The NTSB is an extremely important Federal agency, as evidenced by their professionalism in the investigation of the recent Valujet and TWA airplane disasters. Safety should be one of the paramount transportations issues confronting the Federal Government, and the Federal Government's paramount transportation safety agency is the NTSB. The NTSB deserves our support.

I am particularly pleased to see that the NTSB reauthorization has been amended to include a new Title II, which would add the provisions of S. 1957, the Intermodal Safe Container Transportation Act Amendments Act. The Intermodal Safe Container Transportation Amendments Act is a bill which would address some of the problems which were created with the 1992 enactment of the original Intermodal Safe Container Transportation Act.

The purpose for enacting the original Intermodal Safe Container Transportation Act was to ensure that intermodal shipping containers were not exceeding certain weight limitations. Overweight shipping containers constitute a significant threat to the safety of our Nations infrastructure. The principals of the original enactment were sound. Unfortunately, the implementation of that original Intermodal Safe Container Act has the potential to unnecessarily create a number of problems that could impede the transfer of intermodal containers and affect our international and domestic intermodal trade.

A coalition of ocean shipping companies, trucking companies, railroad companies, ports and shippings have worked hard to develop a legislative proposal to address the problems that could be caused through the implementation of the original law. Senate Commerce Committee staff has worked to further refine the industry proposal. I believe that the provisions embodies in S. 1957, balance the interests of all segments of the transportation community, while at the same time preserving the original bill's intent to protect our infrastructure from overweight containers. This bill in no way impedes the application of current laws governing the safe transportation of hazardous materials

As a Senator from the State of Louisiana, who represents the Port of the New Orleans, I understand the special importance of continuing to facilitate international and domestic trade in as safe a manner as possible. I urge my colleagues to support the NTSB reauthorization bill, and to help facilitate the implementation of the Intermodal Safe Contained Transportation Act.

AMENDMENT NO. 5390

(Purpose: To amend chapter 59 of title 49, United States Code, relating to intermodal safe container transportation)

Mr. STEVENS. Mr. President, Senator PRESSLER has an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. PRESSLER, proposes an amendment numbered 5390.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, before line 1, insert the following:

TITLE I—NTSB AMENDMENTS

On page 2, line 1, strike "SECTION 1." and insert "SEC. 101.".

On page 2, line 4, strike "SEC. 2." and insert "SEC. 102.".

On page 3, line 3, strike "SEC. 3." and insert "SEC. 103.".

On page 3, line 17, strike "SEC. 4." and insert "SEC. 104.".

On page 4, line 8, strike "SEC. 5." and insert "SEC. 105.".

On page 4, after line 15, insert the following:

TITLE II—INTERMODAL TRANSPORTATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Intermodal Safe Container Transportation Amendments Act of 1996".

SEC. 202. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49 of the United States Code.

SEC. 203. DEFINITIONS.

Section 5901 (relating to definitions) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) except as otherwise provided in this chapter, the definitions in sections 10102 and 13102 of this title apply.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) 'gross cargo weight' means the weight of the cargo, packaging materials (including ice), pallets, and dunnage.".

SEC. 204. NOTIFICATION AND CERTIFICATION.

(a) PRIOR NOTIFICATION.—Subsection (a) of section 5902 (relating to prior notification) is amended—

(1) by striking "Before a person tenders to a first carrier for intermodal transportation a" and inserting "If the first carrier to which any";

(2) by striking "10,000 pounds (including packing material and pallets), the person shall give the carrier a written" and inserting "29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a";

(3) by striking "trailer." and inserting "trailer before the tendering of the container or trailer.";

(4) by striking "electronically." and inserting "electronically or by telephone."; and

(5) by adding at the end thereof the following: "This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier."

(b) CERTIFICATION.—Subsection (b) of section 5902 (relating to certification) is amended to read as follows:

"(b) CERTIFICATION.—

"(1) IN GENERAL.—A person who tenders a loaded container or trailer with an actual gross cargo weight of more than 29,000 pounds to a first carrier for intermodal transportation shall provide a certification of the contents of the container or trailer in writing, or electronically, before or when the container or trailer is so tendered.

"(2) CONTENTS OF CERTIFICATION.—The certification required by paragraph (1) shall include—

"(A) the actual gross cargo weight;

"(B) a reasonable description of the contents of the container or trailer;

"(C) the identify of the certifying party;

"(D) the container or trailer number; and

"(E) the date of certification or transfer of data to another document, as provided for in paragraph (3).

"(3) TRANSFER OF CERTIFICATION DATA.—A carrier who receives a certification may transfer the information contained in the certification to another document or to electronic format for forwarding to a subsequent carries. The person transferring the information shall state on the forwarded document the date on which the data was transferred and the identify of the party who performed the transfer.

"(4) SHIPPING DOCUMENTS.—For purposes of this chapter, a shipping document, prepared by the person who tenders a container or trailer to a first carrier, that contains the information required by paragraph (2) meets the requirements of paragraph (1).

"(5) USE OF 'FREIGHT ALL KINDS' TERM.—The term 'Freight All Kinds' or 'FAK' may not be used for the purpose of certification under section 5902(b) after December 31, 2000, as a commodity description for a trailer or container if the weight of any commodity in the trailer or container equals or exceeds 20 percent of the total weight of the contents of the trailer or container. This subsection does not prohibit the use of the term after that date for rating purposes.

"(6) SEPARATE DOCUMENT MARKING.—If a separate document is used to meet the requirements of paragraph (1), it shall be conspicuously marked 'INTERMODAL CERTIFICATION'.

"(7) APPLICABILITY.—This subsection applies to any person, domestic or foreign, who first tenders a container or trailer subject to this chapter for intermodal transportation within the United States.".

(c) FORWARDING CERTIFICATIONS.—Subsection (c) of section 5902 (relating to forwarding certifications to subsequent carriers) is amended—

(1) by striking "transportation." and inserting "transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required."; and

(2) by adding at the end thereof the following: "If a person inaccurately transfers the information on the certification, or fails to forward the certification to a subsequent carries, then that person is liable to any person who incurs any bond, find, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the containers or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure."

(d) LIABILITY.—Section 5902 is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following:

"(d) LIABILITY TO OWNER OR BENEFICIAL OWNER.—If—

"(1) a person inaccurately transfers information on a certification required by subsection (b)(1), or fails to forward a certification to the subsequent carrier;

"(2) as a result of the inaccurate transfer of such information or a failure to forward a certification, the subsequent carrier incurs a bond, fine, penalty, or cost (including storage), or interest; and

"(3) that subsequent carrier exercises its rights to a lien under section 5905,

then that person is liable to the owner or beneficial owner, or to any other person paying the amount of the lien to the subsequent carrier, for the amount of the lien and all costs related to the imposition of the lien, including court costs and legal fees incurred in connection with it.".

(e) NONAPPLICATION.—Subsection (e) of section 5902, as redesignated, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated, the following:

"(1) The notification and certification requirements of subsections (a) and (b) of this section do not apply to any intermodal container or trailer containing consolidated shipments loaded by a motor carrier if that motor carrier—

"(A) performs the highway portion of the intermodal movement; or

"(B) assumes the responsibility for any weight-related fine or penalty incurred by any other motor carrier that performs a part of the highway transportation.".

SEC. 205. PROHIBITIONS

Section 5903 (relating to prohibitions) is amended—

(1) by inserting after "person" and comma and the following: "to whom section 5902(b) applies,";

(2) by striking subsection (b) and inserting the following:

"(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—

"(1) PRESUMPTION.—If no certification is received by a motor carrier before or when a loaded intermodal container or trailer is tendered to it, the motor carrier may presume that the gross cargo weight of the container or trailer is less than 29,001 pounds.

"(2) COPY OF CERTIFICATION NOT REQUIRED TO ACCOMPANY CONTAINER OR TRAILER.—Notwithstanding any other provision of this chapter to the contrary, a copy of the certification required by section 5902(b) is not required to accompany the intermodal container or trailer.";

(3) by striking "10,000 pounds (including packing materials and pallets)" in subsection (c)(1) and inserting "29,000 pounds"; and

(4)— by adding at the end the following:

"(d) NOTICE TO LEASED OPERATORS.—

"(1) IN GENERAL.—If a motor carrier knows that the gross cargo weight of an intermodal container or trailer subject to the certification requirements of section 5902(b) would result in a violation of applicable State gross vehicle weight laws, than—

"(A) the motor carrier shall give notice to the operator of a vehicle which is leased by the vehicle operator to a motor carrier that transports an intermodal container or trailer of the gross cargo weight of the container or trailer as certified to the motor carrier under section 5902(b);

"(B) the notice shall be provided to the operator prior to the operator being tendered the container or trailer;

"(C) the notice required by this subsection shall be in writing, but may be transmitted electronically; and

"(D) the motor carrier shall bear the burden of proof to establish that it tendered the required notice to the operator.

"(2) REIMBURSEMENT.—If the operator of a leased vehicle transporting a container or trailer subject to this chapter is fined because of a violation of a State's gross vehicle weight laws or regulations and the lessee motor carrier cannot establish that it tendered to the operator the notice required by paragraph (1) of this subsection, then the operator shall be entitled to reimbursement from the motor carrier in the amount of any fine and court costs resulting from the failure of the motor carrier to tender the notice to the operator.".

SEC. 206. LIENS.

Section 5905 (relating to liens) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required, because of a violation of a State's gross vehicle weight laws or regulations, to post a bond or pay a fine, penalty, cost (including storage), or interest resulting from—

"(1) erroneous information provided by the certifying party in the certification to the first carrier in violation of section 5903(a) of this title;

"(2) the failure of the party required to provide the certification to the first carrier to provide it;

"(3) the failure of a person required under section 5902(c) to forward the certification to forward it; or

"(4) an error occurring in the transfer of information on the certification to anther document under section 5902(b)(3) or (c), then the person posting the bond, or paying the fine, penalty, costs (including storage), or interest has a lien against the contents equal to the amount of the bond, fine, penalty, cost (including storage), or interest incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents, or from the person responsible for making or forwarding the certification, or transferring the information from the certification to another document.";

(2) by inserting a comma and "or the owner or beneficial owner of the contents," after "first carrier" in subsection (b)(1); and

(3) by striking "cost, or interest." in subsection (b)(1) and inserting "cost (including storage), or interest. The lien shall remain in effect until the lien holder has received payment for all costs and expenses described in subsection (a) of this section.".

SEC. 207. PERISHABLE AGRICULTURAL COMMODITIES.

Section 5906 (relating to perishable agricultural commodities) is amended by striking "Section 5904(a)(2) and 5905 of this title do" and inserting "Section 5905 of this title does".

SEC. 208. EFFECTIVE DATE.

(a) IN GENERAL.—Section 5907 (relating to regulations and effective date) is amended to read as follows:

§ 5907. Effective date

"This chapter shall take effect 180 days after the date of enactment of the Intermodal Safe Container Transportation Amendments Act of 1996.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 59 is amended by striking the items relating to section 5709 and inserting the following:

"5907. Effective date".

SEC. 209. RELATIONSHIP TO OTHER LAWS.

(a) IN GENERAL.—Chapter 59 is amended by adding at the end thereof the following:

§ 5908. Relationship to other laws

"Nothing in this chapter affects—

"(1) chapter 51 (relating to transportation of hazardous material) or the regulations promulgated under that chapter; or

"(2) any State highway weight or size law or regulation applicable to tractor-trailer combinations.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by adding at the end thereof the following:

"5908. Relationship to other laws"

Mr. STEVENS. I ask this amendment be agreed to.

The amendment (No. 5390) was agreed to.

Mr. STEVENS. I ask unanimous consent the bill be considered read for a third time, the Senate immediately proceed to Calendar 508, H.R. 3159, further, all after the enacting clause be stricken and the text of S. 1831, as amended, be inserted in lieu thereof, the bill be deemed read for a third time and passed, the motion to reconsider be laid upon the table, any statements related to the bill be printed at the appropriate place in the RECORD, and finally, S. 1831 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3159), as amended, was deemed read a third time and passed, as follows:

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

ORDERS FOR THURSDAY, SEPTEMBER 19, 1996

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Thursday, September 19; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with the following Senators to be recognized for the designated time: Senator THOMAS for 30 minutes; Senator CONRAD for 30 minutes; Senator HEFLIN for 10 minutes; Senator REID for 10 minutes; Senator MURKOWSKI for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I further ask unanimous consent that following morning business at 11 a.m., the Senate resume consideration of S. 39, the Magnuson fisheries bill. At that time, under a previous order, there will be 4 minutes of debate equally divided on a Hutchison amendment. Following that debate time, I ask unanimous consent that the Senate proceed to a rollcall vote on or in relation to the Hutchison amendment, if necessary, to be followed by a rollcall vote on passage of S. 39, the Magnuson fisheries bill, as amended, and I ask paragraph 4 of rule XII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. STEVENS. Mr. President, tomorrow at 11 a.m., following the 4 minutes of debate, the Senate will proceed to one, perhaps two, consecutive rollcall votes—first, on or in relation to the Hutchison amendment, if necessary, to be followed by a vote on the passage of the Magnuson fisheries bill. Following the votes, or vote, the Senate may be asked to turn to consideration of any of the following items: The pipeline safety bill, the maritime bill, H.R. 1350, available appropriations bills or conference reports. Rollcall votes are, therefore, possible throughout Thursday's session on the items just mentioned or any other items cleared for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:48 p.m., adjourned until Thursday, September 19, 1996, at 9:30 a.m.

EXTENSIONS OF REMARKS

IN RECOGNITION OF LYNN ROGERS, PRESIDENT OF THE DELAWARE VOLUNTEER FIREMEN'S ASSOCIATION

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. WELDON of Pennsylvania. Mr. Speaker, as founder and cochairman of the Congressional Fire Services Caucus [CFSI], I have had the distinct pleasure of traveling across the country and speaking to fire service organizations of every kind. In all my journeys, I cannot recall an organization that captures the spirit of the American fire services like the Delaware Volunteer Firemen's Association [DVFA].

At the end of this month, the entire Delaware volunteer fire service will assemble at Rehoboth Beach for its second annual conference and 76th anniversary. The purpose of the event is to reflect on a successful year of achievements and look ahead to the challenges facing them. There were many achievements which can be attributed to the tireless work of DVFA president, Mr. Lynn Rogers.

Like most volunteer firefighters, Lynn wears many hats. A successful businessman, fire chief and family man, Lynn has successfully balanced his time to ensure that the things most important to him receive the attention they deserve. In addition, he has played an important role within the fire service at the national level through his support of the Congressional Fire Services Institute.

To put it simply, Lynn Rogers is the quintessential volunteer. When CFSI had 15,000 dinner invitations to stuff, Lynn recruited over 100 friends and family members from Milton, DE and surrounding communities to help with the task. When the institute reserved a ballroom to accommodate 2,000 attendees for the Eighth Annual National Fire and Emergency Services Dinner, Lynn responded by bringing the largest delegation of fire service leaders to the event. And throughout his tenure as president of DVFA, Lynn graciously responded to calls for assistance, gladly providing whatever help he could to CFSI.

When my Delaware colleagues speak of their fire service as the State's third political party, they do so out of respect and admiration for the men and women who contribute their time and energy to public safety. I hold them in the same high esteem, and offer my congratulations to Lynn Rogers, the Delaware Volunteer Firemen's Association and the Ladies Auxiliary for a successful year.

HONORING MACMURRAY COLLEGE ON THE OCCASION OF ITS SESQUICENTENNIAL CELEBRATION ON OCTOBER 13, 1996

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. LAHOOD. Mr. Speaker, I rise today to pay tribute to MacMurray College of Jacksonville, IL. MacMurray College is celebrating its sesquicentennial anniversary and will be closing out its year-long celebration on October 12 and 13, 1996, in conjunction with its homecoming weekend.

MacMurray College was founded in 1846 as a small, liberal arts school. At that time, it was an all women's college; a brother school was formed in 1955. The two were merged in 1969, making MacMurray the coeducational school that it is today. For the past 150 years, it has given all of its students a broad-based and well-rounded education and has done a tremendous job preparing our children for the rigors of the real world.

MacMurray's small size and its 13-to-1 student-faculty ratio have given its students an opportunity to receive a highly personalized education, and to really form a close and lasting bond with their instructors. This is especially meaningful to me because of my teaching background. I understand how much students can benefit from forming close relationships with their instructors, an opportunity which is readily available at MacMurray.

Mr. Speaker, I am proud to be able to say that I represent this college and its students as a Member of Congress. It is institutions like MacMurray that help our children learn, grow, and become leaders, both in our own communities and throughout the country and the world. I hope that all of you will join me in congratulating the faculty, students, employees, and graduates of MacMurray College for all of their accomplishments and milestones reached during their first 150 years of existence, and I know you will all join me in wishing them well during the next 150.

CONGRATULATIONS TO MICHAEL SIMPSON, WINNER OF THE OKLAHOMA VOICE OF DEMOCRACY ESSAY SCHOLARSHIP PROGRAM

HON. STEVE LARGENT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. LARGENT. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct the Voice of Democracy broadcast script writing contest. The contest theme this year was "Answering America's Call." I am proud to report that Michael Simpson was named the Oklahoma State winner and he is from my district in Tulsa, OK.

Michael Simpson, a senior at Nathan Hale High School, is the son of Mr. and Mrs. Michael Simpson. He plans a career in engineering. Mike was sponsored by VFW Post 577 in Tulsa, OK.

It is with great pride that I submit for publication in the CONGRESSIONAL RECORD, the winning essay written by Mr. Michael Simpson of Tulsa, OK.

ANSWERING AMERICA'S CALL

(By Michael Simpson)

I know some people feel my generation isn't up to the challenge that will soon be bestowed upon us. I believe we are.

While developing my thoughts on this theme I tried to determine what my audience would like to hear. After much consideration and soul searching, I decided that I must speak from my heart . . . especially after a story my granddad told me.

Recently, while visiting with a young man, my granddad mentioned something about the Korean War. The young man, with a puzzled look on his face said, "The Korean War? Wasn't that a television show?" My granddad kind of chuckled, and then, with a sad look on his face said to me, "30,000 fatalities and this kid thought it was a television program."

I realized then what an awesome responsibility my generation faces; the stewardship of this great nation and the legacy entrusted to us.

Our values should define what we want to achieve in our lives and we are effective only when our actions are in line with those values. To that end, I have devised three personal goals that I invite my generation to adopt.

These include:

First, and foremost, taking responsibility; second, getting an education; and third, being a hero. Allow me to elaborate a little on each of these goals.

My first goal is taking responsibility. Each of us need to be responsible for our own actions . . . we need to vote, serve jury duty and provide for the children we bring into this world.

Everyone has an excuse these days. In general, society seems to be a broken record; I grew up poor, I came from a broken family, I'm the wrong gender. It's never-ending. Need I go on?

Now don't misunderstand, these are serious elements to overcome, but we cannot allow them to hinder our success. Stop making excuses . . . and start making choices. Stop pointing fingers . . . and start making a difference. As Eleanor Roosevelt said, "The choices we make are ultimately our responsibility."

My second goal is getting an education. Education is something that can never be taken from you. It is an asset that cannot be stolen. Years ago, it was possible for a person with a ninth-grade education to start in the company mail room, work hard, and eventually become president. Those days are gone. Hard work just isn't enough anymore.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Today's technology demands a higher level of education in order to survive and thrive. Not only does it prepare you for the work force, it also provides the tools needed to be a good citizen. Knowledge of current events, politics and economics are necessities in our ever-expanding global environment.

My third goal is being a hero. A hero doesn't always have to be the Audy Murphys, the Winston Churchills, or the fireman on the 6 o'clock news. You don't have to save a life or lead a country . . . you merely have to make a difference.

Small kindnesses can make lasting impressions. Delivering food baskets, returning a lost wallet, or coaching Little League Baseball—none of these acts go unnoticed and the rewards are priceless. The purpose is not recognition but to feel good about yourself and to inspire others. There are too few heroes these days—we should all strive to become one.

These three goals are my answer, my pledge, to America's Call—and it's a pledge that I've signed in my heart.

In closing, I would like to assure you, and my grandad, that I do know about the Korean War. I know that it was not a television program, and, for the record, there were actually 33,651 fatalities.

THE FUTURE OF AMTRAK

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am introducing legislation today that will create a 5-year dedicated capital funding program for Amtrak as it transitions away from Federal operating support. This proposal will redirect .5 cent of the existing 4.3 cents gas tax into a dedicated trust fund for Amtrak, allowing Amtrak to quickly reinvest in much needed capital improvements. The remaining 3.8 cents in gas tax revenues will be shifted to the highway trust fund.

Amtrak is an essential part of our national transportation system, providing 22 million intercity rail passenger trips per year to over 500 destination in 45 States. In 1995, Congress and the administration both determined that Amtrak must reduce its reliance on Federal funding—directing Amtrak to operate without Federal support by the year 2002.

Without adequate funding during this transition period, Amtrak cannot make the investments necessary to survive independently. Unfortunately, Amtrak will need an estimated $4 billion in capital improvements by 2002 due to funding shortages in the 1980's. This new capital investment alternative is necessary to improve rolling stock, cars and locomotives, upgrade maintenance facilities, and prevent the deterioration of track and signal equipment. Unless Amtrak's capital equipment is improved, it will not be able to operate as a self-sufficient entity as Congress directed.

Between 1982 and 1994, travel on Amtrak rose 40 percent. A dedicated capital funding source will cut Amtrak's operating and maintenance costs, improving reliability and performance. Moreover, these upgrades will reduce air pollution, fuel consumption, highway congestion, and urban parking problems. I urge my colleagues to cosponsor this important piece of legislation.

BRUCE F. VENTO CONSUMER INTERNET PRIVACY PROTECTION ACT OF 1996

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. VENTO. Mr. Speaker, the age of the Internet is upon us and evolving faster than we ever imagined. Each day new companies and industries grow out of the constant technological innovation that has come to symbolize this information superhighway. The Internet has reached into our schools, businesses and homes. It has allowed average Americans sitting in the privacy of their living rooms to connect with and explore the world. The Internet provides us with entertainment, information and communication. But with all the wonders of the Internet comes the potential for problems. Today, I am introducing the Consumer Internet Privacy Protection Act of 1996 in an effort to address just one such problem.

To gain access to the Internet's endless web of sites, users must work through an Internet provider or server. While these servers provide a valuable service to their customers, they are also capable of collecting an enormous amount of personal information about these individuals. Besides the personal information an Internet server may collect when they enroll a subscriber, servers are also capable of identifying the sites their subscribers visit. Without doubt such information would be quite valuable to direct marketers and those interested in marketing, while providing servers with yet another source of revenue for providing such personal private information. The result—subscribers are inundated with junk mail and/or e-mail.

My legislation is intended to inform and protect the privacy of the Internet user by requiring servers to obtain the written consent of their subscribers before disclosing any of their personal information to third parties. In addition, my bill requires a server to provide its subscribers access to any personal information collected by the server on its users, along with the identity of any recipients of such personal information.

As the Internet becomes a more integral part of our daily lives, it is important that we in Congress take a commonsense approach, like this legislation, to ensure the citizens of our nation are able to benefit from this technology without sacrificing their personal privacy. My legislation will not hamper the growth and innovation of the Internet in any way. It will merely provide an opportunity for the consumers of Internet services to protect their privacy if they so wish. After all, the preservation of our privacy is one of our Nation's most cherished freedoms, which technology must not be allowed to circumvent.

THANK YOU, BRYAN WIRWICZ, FOR YOUR LOYAL SERVICE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. FIELDS of Texas. Mr. Speaker, it was with mixed emotions that I announced last December 11 my decision to retire from Congress at the end of my current term. As I explained at the time, the decision to retire was made more difficult because of the loyalty and dedication of my staff—and because of the genuine friendship, I feel for each of them.

Today, I want to thank one member of my staff, Bryan Wirwicz, my longtime press secretary, for everything he's done for me and my constituents in the 16 years he has worked in my office.

I met Bryan during my first congressional campaign in 1980. He had recently graduated from the University of North Carolina at Chapel Hill with a degree in journalism and political science. Bryan had participated in a 3-day seminar, sponsored by the National Republican Congressional Committee, designed to teach young people how to handle media relations for congressional candidates. His name was passed along to me as someone who might be helpful to me in my campaign.

It was our first political campaign, and we learned together as we worked together. After I was elected, I asked Bryan if he would move to Washington, DC, to serve on my congressional staff.

He did so, but departed in mid-1982 to work in an unsuccessful congressional campaign in California. In early 1983, he went to work for our former colleague, Win Weber of Minnesota. Bryan and I stayed in touch, and we eventually decided to team up once again. He rejoined my staff in mid-1983, and has been with me since that time.

Through the years, Bryan has worked with local, statewide, and national news reporters—developing and maintaining excellent working relationships with them. I've told Bryan many times that I consider him to be the best writer around. In the op-ed pieces, newsletters press releases, and position papers he has prepared for me over the years, Bryan has been able to summarize and explain complex and oftentimes highly technical issues in plain English, allowing my constituents to more easily understand those issues and my positions on them.

Bryan is a generalist, but he is also a quick study—quickly gaining an understanding of maritime issues when I served as ranking minority member of the House Merchant Marine and Fisheries Committee, and gaining an understanding of telecommunications and securities issues when I became chairman of the House Telecommunications and Finance Subcommittee in 1995.

In 1993, when I ran for the U.S. Senate, I ask Bryan to take a leave of absence from my official staff, move to Houston, and join my campaign staff. As I told him at the time, his participation in my Senate campaign provided me with a "comfort level" that I would not have enjoyed had he not been with me. I lost that campaign, but Bryan's presence made the experience more enjoyable, or at least more bearable, that it would have been without him.

Mr. Speaker, Bryan is one of those hardworking men and women who make all of us in this institution look better than we deserve. I know he has done that for me, and I appreciate this opportunity to publicly thank him for his dedication, loyalty, and professionalism.

Bryan plans to continue working in the public relations and media relations arena. He also plans to continue devoting his spare time to his two primary hobbies—bicycling and investing. I wish him may more miles of scenic, safe, and relaxing bicycling, as well as many more years of double-digit returns on his Compaq, Merck, PepsiCo. and other stocks.

Mr. Speaker, I know you join with me in saying "thank you" to Bryan Wirwicz for his loyal service to me, to the men and women of Texas' Eighth Congressional District, and to this great institution, and I know you join me in wishing him the very best in all of his future endeavors.

TRIBUTE TO VRETENAR CONSTRUCTION 1996 ST. FRANCIS BUSINESS OF THE YEAR

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. KLECZKA. Mr. Speaker, I rise today in recognition of Vretenar Construction, city of St. Francis 1996 Business of the Year.

Vretenar Construction, formerly known as Vretenar & Sons, was founded by John Vretenar, Sr. in 1949 with a trailer, a wheel barrow, a mud box, and a lot of hard work. Forty seven years later, Vretenar Construction remains a family business, run by John's son Milton and Milt's wife Elizabeth since John's retirement in 1965. Even Milt and Betty's son Craig was involved in the family business until he became building inspector for the city of St. Francis.

Vretenar Construction has provided many years of service to the community, building homes, and buildings for area residents and businesses. But their dedication extends well beyond that. Milt, the longtime mayor of the city of St. Francis and a talented mason contractor, is constantly donating his time and skills to a city he loves so dearly. Milt quietly helps out wherever he can, from construction of the veteran's memorial to repairs on the St. Francis Historical Society house to a host of other projects too numerous to mention. He and Betty also remain involved in a number of community organizations and have for so many years been so committed to making St. Francis a great place to live and work.

Vretenar Construction is a perfect example of a business with a strong community spirit. It is certainly a well-deserving recipient of the city of St. Francis Economic Development Committee's Business of the Year honor. For the Vretenars, community service is truly a family affair.

TRIBUTE TO MISS ARIANE FRANCO

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to an extraordinary young Puerto Rican, Miss Ariane Franco, for her dedication to excel academically and serve the community. She is an inspiration and a role model for many young students in the Nation, specially the Puerto Rican and South Bronx communities to which she belongs.

Ariane was recently selected as the Boys and Girls Clubs of America's Northeast Youth of the Year. She will represent the Northeast as one of the five finalists in this year's competition, which is being held in Washington, DC.

Like many other youngsters across the Nation, Ariane was raised in a family which faced many difficulties. Her desire to do something positive led her to achieve academically and to serve the community.

Ariane has been an active member of the Kips Bay Boys and Girls Club over the past 4 years. At the club, she worked as a tutor for remedial math and reading, and as a computer instructor. She was also involved in numerous community service programs, including the Club's Smart Moves Program. Through this program, Ariane taught youngsters to be aware of and to prevent substance abuse, teen pregnancy, peer pressure and AIDS.

Ariane's strong determination to fight adversity, and her family's spiritual strength have molded her into a very positive individual, always full of optimism and with the desire to help others.

In addition to her community activism and leadership, Ariane is an excellent student. In spite of difficulties, she remained an honor student throughout her 4 years of high school at Stevenson's in the Bronx. She now attends the University of Scranton in Pennsylvania. Her strong desire to inform people about the truth has led her to major in communications with the goal of becoming a journalist.

Mr. Speaker, I ask my colleagues to join me in recognizing Miss Ariane Franco for her leadership and commitment to her community, and for serving as a role model for young people. Young individuals like Ariane make all of us proud, specially our Puerto Rican community of the South Bronx.

RECOGNITION OF THE METAL DYNAMICS CORPORATION'S CERTIFICATION TO NQS 9000

HON. STEVE LARGENT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. LARGENT. Mr. Speaker, I rise today to recognize the owner and employees of Metal Dynamics Corp. [MDC] of Tulsa, OK, for being the first foundry in the United States to be certified to NQS 9000. This certification recognizes that MDC has implemented and maintained a quality system fully compliant with each provision of ISO 9002–1994.

NQS 9000 is an industry-specific quality program created and administered by the Non-Ferrous Founders' Society [NFFS]. Sponsored by the Defense Logistics Agency Technical Enterprise Team as part of the AMC lead time and cost reduction program, NQS 9000 is a low cost alternative to traditional ISO 9000 registration for the foundry industry. ISO 9000 is the recognized standard in the quality control community. NFFS developed the NQS 9000 program so that a foundry can pursue a higher level of quality without paying the expensive fees charged by many ISO consultants. The Metal Dynamics Corp. was one of the first companies to enroll in NQS 9000 and achieved NQS certification in only 6 months.

The Metal Dynamics Corp., owned by Don Doss since 1976, has 43 employees, and works with stainless, ferrous and nonferrous materials to do investment casting and sand casting. Among their products are components for the Trident Seawolf Submarine. The employees of MDC are to be commended for their efforts to change old habits and learn new ones—to operate as a progressive and proactive team. Businesses such as Metal Dynamics Corp., which emphasize the importance of a commitment to quality and a proactive approach to achieving it, serve as an example and set a high standard for others in the industry. Their proven success is an incentive for achievement.

Don Doss, the president and owner of the Metal Dynamics Corp., continues to prove himself not only as an advocate, but also as a pioneer in quality control. A graduate from the University of Tulsa in mechanical engineering, he joined NFFS in 1976 when he gained ownership of MDC. He served as president of NFFS from 1982 to 1983, and on the Cast Metals Institute Board from 1986 to 1990. He is currently a board member of the American Foundryman's Society [AFS] and is chairman of the NFFS Quality Task Force, which established the NQS program. By implementing the program at his own foundry and earning the certification, Mr. Doss has demonstrated the benefit of the NFFS NQS 9000 program. By being the first foundry to be certified, the Metal Dynamics Corp. has secured respect and recognition for itself and other small foundries among world leaders in the industry.

Mr. Speaker, I would like to commend Don Doss and the employees of the Metal Dynamics Corp. for their admirable efforts to provide quality products, which in turn help our country to be economically stronger and more competitive. I would also like to recognize the other small foundries like Metal Dynamics Corp. It is their devoted hard work, commitment to success, and willingness to change for the better that stand out as encouragement for the rest of us. Theirs is the attitude that made our country great, and that will secure for us our future.

"REMEMBERING AMERICA'S POW/MIAS"

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. SOLOMON. Mr. Speaker, I would be remiss if I did not bring to your attention an inspirational essay by one of America's leading advocates for veterans, my very distinguished colleague, BOB STUMP of Arizona. Chairman STUMP has led the fight in the POW/MIA movement for years. His moving words on this most important subject need to be heard.

For that reason, Mr. Speaker, I would like to submit for the RECORD, Congressman STUMP's memorable tribute to those who have made the ultimate sacrifice for their Nation—and especially for those not fortunate enough to make it home.

On this Friday, September 20, 1996, I would urge all Americans to take the time to reflect upon Mr. STUMP's tribute to our Prisoners of War and Missing in Action. Thanks to the words and effort of people like Chairman STUMP, the tremendous sacrifices of these courageous Americans will not be forgotten. His words truly deserve the attention of every American who enjoys the freedom preserved by these courageous American heroes.

REMEMBERING AMERICA'S POW/MIA'S

(By Congressman Bob Stump)

As we commemorate National POW/MIA Recognition Day, it is altogether fitting that we pay homage to those Americans who were taken prisoner of war or listed as missing in action and presumed dead.

Throughout the history of the United States, in six major wars spanning 220 years, more than 500,000 Americans have been taken prisoner of war. Each has experienced horrors unimaginable and indefinable in the annals of civilized existence. Most endured long-term deprivation of freedom and the loss of human dignity.

How can we possibly acknowledge their sacrifice or their memory in the context of what they experienced or how they survived?

National POW/MIA Recognition Day allows Americans to comprehend and appreciate the dedication to life and freedom that these brave men and women endured in the service of their country. A just nation and its people must acknowledge their survival in captivity by continuing to assure them and their families that what they sacrificed and endured in the face of adversity was not offered in vain.

In the Revolutionary War, more than 20,000 Americans were taken prisoner and 8,500 died in captivity, mostly from disease.

During the Civil War, and estimated 194,000 Union soliders and 214,000 Confederates became prisoners of war. Between the North and the South, 56,194 Americans died in captivity, mostly from disease.

In world War I, 4,120 Americans were taken prisoner—147 of them died in captivity forcing a third Geneva Convention covering the humane treatment for prisoners-of-war.

No one could ever perceive nor comprehend the absolute barbaric treatment American prisoners experienced in World War II, especially at the hands of the Japanese. In the Pacific, 11,107 Americans, or 40 % of those taken prisoner, died in captivity. In contrast, of the 93,941 Americans taken prisoner in Europe, all but 1,121 or 1 percent were released.

Once again, outrage prompted the world community to pass four new Geneva Conventions, In August 1949, the new treaty strengthened the former ones by codifying the general principles of international law governing the treatment of civilians in wartime. Included in that treaty was a pledge, "to treat prisoners humanely, feed them adequately, and deliver relief supplies to them" Additionally, prisoners of war would not be forced to disclose more than minimal information to their captors.

These new provisions were soon tested during the Korean War where 8,177 Americans were classified as missing-in-action, and another 7,140 were identified as prisoners of war. Between April and September 1953, a total of 4,418 POWs were released by the Communist Chinese, leaving 2,722 Americans unaccounted for. Five months later, in February 1954, the United States declared the remaining 8,177 Americans missing and presumed dead.

Perhaps more than any war, Vietnam continues to illustrate the complexity of the POW/MIA issue. In 1973, the Pentagon listed almost 3,100 Americans as POW/MIA's. In April 1973, 591 Americans were released by the North Vietnamese. As of this date, The National League of Families of American Prisoners and Missing in Southeast Asia report that "2,146 Americans are still missing and unaccounted for from the Vietnam War."

For more than 20 years, the families of those men classified as missing-in-action have suffered the anguish of not knowing whether their sons, their fathers or their husbands are alive or dead. National POW/MIA Recognition Day allows us to keep their memories alive.

It is for that reason that we reflect upon the sacrifices made by Americans who were captured and returned home as well as to those still listed as missing-in-action.

Americans should never forget that their love of this country and all that it stands for, their dedication to service, their ideals, their courage, their convictions and their sacrifices must never be forgotten.

The most fitting words imaginable are those of President Abraham Lincoln to the mother of five sons lost on the field of battle: "I cannot refrain from tendering to you the tanks of the Republic they died to save. I pray that our heavenly father may assuage the anguish of your bereavement, and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom.

TRIBUTE TO THE JOB CORPS

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. WHITFIELD. Mr. Speaker, I rise today to voice my support for Job Corps and to commend the students and staff who participate in this remarkable program.

The largest Job Corps facility is located in my district. The Earle C. Clements Job Corps Center in Morganfield, KY, serves over 3,000 disadvantaged youth annually. Nationally, over 60,000 students benefit from this program.

Their mission is to provide quality job training in a student-oriented program. By targeting the needs of students to prepare them for the job market, Job Corps is providing a dual service—to the young men and women enrolled in training programs and to our society. It serves students by giving them the skills and esteem they need to become more responsible, employable and productive citizens. It also serves society by providing training to individuals who otherwise might not have the skills needed to hold a job or pursue a career. Students more than return the Government's investment in them through taxes they will later pay and reduced welfare, unemployment, and criminal justice costs.

Job Corps students also have an impact on local communities. In the past 5 years, students have contributed over $42 million nationwide.

In my district alone, Clements Job Corps Center students have constructed four houses in conjunction with the habitat for humanity program. The Student Government Association sponsors teams that annually participate in the local March of Dimes WalkAmerica and American Cancer Society Walk-a-thon. Students learning heavy equipment operations at the Clements center's satellite campus saved Hopkins County over $40,000 in equipment lease costs and manpower by constructing a water-retaining basin and earthen dam as the county closed its landfill, while they learned the skills that will lead them into productive careers.

Job Corps offers these students the opportunity to succeed.

Mr. Speaker, this is a program that works. National statistics show that last year 73 percent of all Job Corps participants found jobs or pursued higher education. Forty-six percent of those eligible obtained their GED.

The results at the Earle C. Clements Job Corps Center topped these national averages. At the Clements center, 83 percent of all participants found jobs or went on to higher education. This is impressive considering that 80 percent of the students were high school dropouts and 37 percent came from families on public assistance.

Across my district, business owners and management complain about the lack of skilled workers in the labor force. Job Corps helps meet that demand by providing individuals specialized training in such trades as carpentry, auto mechanics, computer repair, and health occupations. Students also learn social skills to complement their training.

Mr. Speaker, Job Corps is a success story. Learning about the Clements Job Corps Center and the entire national program has been an enriching experience for me. It is with great pleasure that I rise today to honor the dedicated staff and hard-working students at the Earle C. Clements Job Corps Center, who are having a positive impact on their community while taking the first step toward living the American dream.

CRIME

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. HAMILTON of Indiana. Mr. Speaker, I would like to insert my Washington Report for

Wednesday, September 18, 1996, into the CONGRESSIONAL RECORD.

FIGHTING CRIME

The fear of crime is a part of life for far too many Americans. Hoosiers tell me that insecurity from crime gnaws away at our spirit, restricts our freedom, and forces us to rearrange our lives. All of us are victims of crime. We pay the cost of crime in higher insurance rates, higher prices, higher taxes, and a poorer quality of life. Despite recent reductions in the crime rate, fear of crime continues to register as a top concern of Hoosiers in every poll. They worry that laws are not strictly enforced, that sentences are too light, that judges are too lenient, and that dangerous criminals are let free to roam the streets.

The most recent statistics indicate that the nation's crime rate has fallen by about 4% in recent years. This is an improvement, but Hoosiers are right to be skeptical and demand more progress. First, even a 10% or 20% reduction in crime would leave us far less safe than we were twenty or thirty years ago. Persons who remember what it was like to leave a home unlocked or the keys in the ignition will not and should not be satisfied with only a modest reduction in the crime rate. Second, while crime has declined significantly in cities, it continues to rise in small communities and rural areas. I have pushed for more attention to the unique crime problems in these communities, which are too often ignored by the media and policymakers. Crime has long been primarily a state and local matter, but there are things the federal government can do to help.

POLICE

One reason given for the reduction in urban crime rates is the increased focus cities have placed on community policing. More communities in southern Indiana are adapting this technique to fit our needs, and I am hopeful we can achieve a similar reduction in crime. For example, many officers meet regularly with local business and neighborhood organizations, patrol public places on foot and on bicycle, and run drug education programs in our local schools.

Our law enforcement officers are often overwhelmed, however, by increases in violent crime. In 1960, there were about 3 police officers for every violent crime in America. By 1993, that number was reversed: 3 violent crimes per police officer. More officers are clearly needed. I am pleased that the federal COPS program has provided funding for more than 70 new officers in southern Indiana, all paid for by reductions in the federal workforce. These officers are an important addition to the work of all Ninth District law enforcement, and we must continue our efforts to provide more police.

PROSECUTORS

Even the best police work will fall short without tough follow-up by prosecutors. My sense is that too little attention has been paid to the problems facing prosecutors. Anyone who watched the O.J. Simpson trial knows how difficult it is to prove a criminal case. Congress should help give prosecutors more tools and more resources, similar to the way it has assisted local police departments. At the county level, prosecutors and judges are so burdened with growing caseloads, it is difficult to prosecute minor offenses. the U.S. Attorney's office has too few resources to meet the demands placed on it, which means that less serious offenses get reduced sentences or plea bargains. Criminals who commit minor offenses are more likely to commit major offenses later. It is short-sighted to let them get off the hook.

PRISONS

With my support, Congress has passed a number of measures in recent years to increase funding for state and federal prisons. These were also paid for by reducing the federal workplace. I supported measures to encourage states to enact "truth-in-sentencing" laws that require prisoners to serve at least 85% of their sentences. At the federal level, tough provisions like the "three strikes and you're out" provision in 1994 anti-crime legislation mean that repeat violent felons will be kept off the streets.

For example, last year a New Albany man was sentenced to almost 30 years in prison for repeated felonies with a firearm. Although he had been arrested more than 30 times on charges of rape, sexual battery, trespassing, and other offenses, the state legislature provided only a three-year maximum sentence for his 1994 armed robbery. Because of the tough new federal sentences, however, this repeat criminal received a sentence ten times harsher than under state law.

As crime rates and sentences increase, prisons are becoming more crowded. Indiana prisons are 14% overcrowded today, and county jails face a similar situation. Without enough jail cells, courts are forced to reduce sentences or release prisoners early. In addition to building more prisons, one solution is to reduce recidivism, the rate ex-convicts return to crime. The primary purpose of prison must be to prevent them from committing crimes again. Many correctional facilities have begun to require more work from inmates, as well as drug treatment and literacy training. Congress has provided funds to create youth boot camps, which impose discipline and order on younger inmates. These are the inmates who are most likely to be corrupted by older, more seasoned criminals in traditional prisons, and the ones who will benefit most from tough training.

PREVENTION

We must also address the root causes of crime by providing strong alternatives to broken families, as well as opportunities for young people to pursue normal, law abiding lives. It is important to focus on our young people before they turn to criminal activity. I am particularly concerned that more of our young people are turning to illegal drugs. We must act now to ensure that this group is not lost to the cycle of drugs and violent crime. There are a number of outstanding community groups in southern Indiana, often working with churches, that run youth centers, drug treatment, job training, and counseling. These groups deserve our strong support. Parents, schools, churches, community groups, and public officials must do everything in their power to ensure that our children become productive, law-abiding citizens.

There is no single answer to fighting crime. It is a complex problem, with no easy solutions. Police, prosecution, prisons, and prevention are all critical components of an effective anti-crime strategy. Congress' role must be to facilitate the work of state and local governments to protect all our citizens from crime.

TOM BIGLER HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. KANJORSKI. Mr. Speaker, in 1993, I stood before my colleagues in the House of Representatives to bring to your attention the accomplishments of a good friend and community leader, Mr. Tom Bigler. I am pleased to once again join in a community salute to Tom as he is honored by the Ethics Institute of Northeast Pennsylvania.

Mr. Speaker, Tom Bigler spent much of his life as a broadcast journalist. His editorial commentary during his 20 years at WBRE–TV became legendary and he set the standard for local news broadcasting which is still practiced today.

Today Tom teaches journalism and communications at Wilkes University and continues his dedication to the community through his volunteer service. This month Tom will assume the presidency of the Board of Directors of the Family Service Association of the Wyoming Valley.

His affiliation with the Wilkes-Barre Chamber of Commerce, The Osterhout Library, Leadership Wilkes-Barre and of course the Ethics Institute have kept Tom on the forefront of local issues and policymaking.

For several years, Tom has brought his keen insight on current events to print as a columnist for the Times Leader.

Mr. Speaker, I am pleased to once again have the opportunity to bring the many accomplishments of this distinguished community leader, Mr. Tom Bigler to the attention of my colleagues. I applaud the choice of the Ethics Institute for selecting him as this year's honoree. I join with his many friends, family and the community in thanking Tom for his years of service and dedication to the community of northeastern Pennsylvania.

TRIBUTE TO BONITA HOUSE OF BERKELEY, CA

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. DELLUMS. Mr. Speaker, I rise today to pay tribute to the accomplishments of Bonita House of Berkeley, CA, on the occasion of their 25th anniversary of service to the community. Bonita House has provided extremely important services to our community and provided valuable assistance to thousands of Bay Area residents who struggle with mental disabilities and substance abuse problems, allowing them to regain their independence and become productive members of society.

Bonita House was the first psychiatric residential treatment facility in Alameda County. In 1971, Bonita House opened the Berkeley Creative Living Center which was the first living center of its kind. This center has been instrumental in supporting people living with mental disabilities to achieve relatively autonomous and independent lives. It also opened the doors to the Junkman's Palace Cafe. Junkman's Palace Cafe illustrates one of many creative and innovative treatment methods implemented by Bonita House. The cafe has been a productive source for alternative vocational training and rehabilitation.

In 1982, Bonita House was given a HUD grant to open a living facility for adults with mental disabilities.

In 1991, Bonita House implemented a treatment strategy to deal with the dual issues of substance abuse and mental health problems.

The expansion of programs, the establishment of subsidiary agencies, and the implementation of integrated treatment services, are testimony to Bonita House's commitment to our community. It is with these attributes in mind that it gives me great honor to recognize Bonita House on their 25 years of distinguished service.

CLARION COUNTY, PA: COMMUNITY OF THE YEAR

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. CLINGER. Mr. Speaker, all eyes in the Commonwealth of Pennsylvania—and increasingly throughout the Nation—are fixed admiringly on Clarion County.

I have the pleasure to report that Clarion County, in the Fifth Congressional District, is the selection for the prestigious Community of the Year honor by the Pennsylvania State Chamber of Business and Industry. And this distinction follows on the heels of the Clarion River's selection for tribute during Pennsylvania's River Month last June.

On what grounds, Mr. Speaker, is Clarion County sweeping all honors this year? I have a hunch, and I will share it with you. But I maintain that the best way for you and our colleagues to understand is for each of you to visit for yourselves.

That's because Clarion County is nothing short of a stunning natural treasure. And, importantly, those who call it home recognize its wonders and true value. They share a very real commitment to serve as its stewards not only for today but for all future generations.

And it's paying off. Their dedication to preserving the beauty of northwest Pennsylvania has contributed to the region's flourishing reputation as a tourist's haven. The dividends, cautiously earned, will continue to be paid through the years.

I am especially pleased, Mr. Speaker, to share this honor with my colleagues in the House today. Just hours ago, the Resources Committee reported legislation to designate 51.7 miles of the Clarion River as part of the National Wild and Scenic River System. This legislation is really the product of 4½ years of impassioned public effort, and I ask for the support of the House to enact it in the waning days of the 104th Congress.

Thank you, Mr. Speaker, for this opportunity to offer my most sincere congratulations to the people of Clarion County, PA.

HEALTH CARE FOR KIDS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. STARK. Mr. Speaker, I am introducing today a bill to require insurers to offer health insurance policies for kids, coupled with a sliding scale 80 percent refundable tax credit to help families buy such insurance policies.

There are 10 million children in the United States without health insurance. Health insurance equals access to health care. Access to health care equals better health and a better quality of life. It is that simple. As a recent article in the Journal of the American Medical Association (JAMA, August 14, 1996, p. 477) so well said:

> . . .access to health care is dramatically increased if one has health insurance, and this increased access has in turn been shown to improve outcomes, such as whether one lives or dies. The most significant action within the health system that we can take to preserve health and improve longevity is to provide health insurance to everyone.

The bill I am introducing is about the life and death—and lifetime productivity—of our Nation's children.

This bill is not a mandate; it does not require any individual to buy health insurance. It does, however, make sure that there is widespread competition in the offering of these health insurance policies and it does help families, even very low income families, buy a policy of their choice.

Health insurance for children in America is getting worse—not better. With the cuts in Medicaid, it may get disastrously worse. We desperately need to reverse the trend of rising uninsured rates for children. The General Accounting Office recently issued report to Senator CHRISTOPHER DODD, dated June 17, 1996, entitled "Health Insurance for Children: Private Insurance Coverage Continues to Deteriorate" (GAO/HEHS–96–129). The report states:

> The number of children without health insurance coverage was greater in 1994 than at any time in the last 8 years. In 1994, the percentage of children under 18 years old without any health insurance coverage reached its highest level since 1987—14.2 percent or 10 million children who were uninsured. In addition, the percentage of children with private coverage has decreased every year since 1987, and in 1994 reached its lowest level in the past 8 years—65.6 percent.

To repeat, health insurance can mean the difference between life and death—and between a good quality life and a stunted life. The GAO's report I have just cited provides a concise summary of why the lack of insurance is so important:

> Studies have shown that uninsured children are less likely than insured children to get needed health and preventive care. The lack of such care can adversely affect children's health status throughout their lives. Without health insurance, many families face difficulties getting preventive and basic care for their children. Children without health insurance or with gaps in coverage are less likely to have routine doctor visits or have a regular source of medical care. They are also less likely to get care for injuries, see a physician if chronically ill, or get dental care. They are less likely to be appropriately immunized to prevent childhood illness—which is considered by health experts to be one of the most basic elements of preventive care.

My bill is a small, incremental step forward. If is by no means everything I would like. If I could waive a magic wand, I would make sure that everyone in America had high quality health insurance tomorrow morning. That is not going to happen—but this small step, starting with children, could help millions of children grow up to be healthier, more productive citizens. Like my amendment which started the COBRA Health Continuation Program which has been used by 40 million Americans, this bill could make a world of difference to millions of Americans in the years ahead.

Under the bill, insurance companies would be subject to a tax penalty if they did not offer for sale—so-called guaranteed issue—a policy which provided a Medicare-type package of health benefits, with additions designed for well-baby and well-child care and with a 10 percent—but no more than $10 per Part B service—rather than Medicare's 20 percent copay. By requiring insurers to offer such a benefit package, consumers will be able to shop widely for a policy they can afford. The competition in this sector should help make affordable policies available.

The key problem is to make this policy affordable to the families of the 10 million uninsured. The basic reason so many children are uninsured is that they are in working families which are not eligible for Medicaid, but the families do not have health insurance offered through the workplace and cannot afford the $500 to $700 per child these policies will probably cost. Therefore, I propose a refundable tax credit to make the policies affordable. The tax credit/payment will be phased out at the rate of 50 cents per dollar of tax liability of the purchaser.

In the past, refundable tax credits have had integrity problems. I propose to avoid this abuse of the program by requiring that the taxpayer submit a 1099 type form with their tax form, in which the insurance company will certify that a tax-qualified kid's insurance policy has been purchased. The companies will, of course, also submit this documentation directly to the IRS so that a data match can be performed before refunds are issued.

I do not spell out how the 80 percent credit is to be financed, but the money can be found as part of a future reconciliation bill. If additional funds can be found, the credit percentage can be phased out more slowly to help additional families.

To repeat, the bill is not a mandate, but a chance for parents to have affordable private health insurance for their children. It uses the private market exclusively. It is a first step and as additional moneys become available, we can add a maternity and prenatal benefit for mothers-to-be and a slower phaseout of the credit.

I welcome cosponsors of the bill, and comments and suggestions from the public on ways to improve the bill and to help finance the proposal. I am introducing the bill late in this Congress so that the public can review the bill before the start of the 105th Congress and suggest changes and improvements before its reintroduction in the next Congress.

TRIBUTE TO ST. MARK CATHOLIC CHURCH

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. VISCLOSKY. Mr. Speaker, I rise to congratulate St. Mark Catholic Church, its pastor, the Reverend Robert P. Gehring, and the 421 parish families, on the celebration of St. Mark's 75th anniversary. On September 22, 1996, St. Mark Church, located in Gary IN, will hold a grand banquet at the Hellenic Cultural Center in Merriville, IN, to proclaim its celebration theme, "Continuing the Mission of Christ." This banquet will be preceded by a jubilee Mass at St. Mark Church celebrated by Bishop Dale J. Melczek.

I would also like to congratulate the current Pastoral Council, which include Maria Azcona, Richard Burgess, Joan Bynum, Pat Corgan, Jesse Covarrubias, Alma Erris, Maria Gutierrez, Marcia Mizen, Roni Opong-Duah, Natalie Ousley, Felicia Flowers Smith, and Carl Terlicher. In 1994, this council, which serves as an advisory body to assist the pastor in decisions concerning the operations of St. Mark Church, replaced the former parish council.

Early in this century, traveling missionaries ministered to the needs of Catholics in the northwest Indiana area, and small parishes were formed in scattered villages and towns to aid the missionaries in their work. However, there was a strong need to establish a permanent parish. Without waiting for church authorities to ease a critical situation, a group of laymen collaborated to begin a Catholic parish in Glen Park, IN. Members of that group included: J.J. Kelley, Thomas F. Kennedy, Maurice Cox, John B. Rockford, and John P. Churchill. These men purchased a building from the German Evangelical Church of North America on May 19, 1921, and they moved the building from 20th and Grant Street to a site at 39th and Broadway.

In August of that same year, Father John B. DeVille, an assistant at Holy Angels Parish, told the committee and Bishop Herman J. Alerding that he would accept the responsibility of ministering to the spirtual needs of the fledgling St. Mark Parish. Father DeVille celebrated Mass regularly in the church on Broadway, and he taught religious education classes to children.

On February 4, 1922, the first marriage at St. Mark Church took place between Carlo Terlicher and Aurelia Chiabai. Aurelia Terlicher, who is 92 years old this month, is still a member of the St. Mark Parish family. Albert Antonio Sgambelluri was the first to be baptized at St. Mark on October 2, 1921.

It wasn't until June 17, 1923, that Bishop Herman J. Alerding appointed Father Joseph Ryder as the first pastor of St. Mark Church. Within 5 years of its inception, the rapidly growing St. Mark Parish needed newer and larger facilities. As a result, construction of the combination church, school, and convent began in July, 1926, on the selected site at 501 West Ridge Road. The Right Reverend John Francis Noll presided over the dedication ceremony of the new facility in July, 1927.

At first, Sisters of the Poor Handmaids of Jesus Christ gave their time and service to the schoolchildren of St. Mark. However, after the school building was completed, Father Ryder secured the services of the Dominican Sisters and they assumed the role of faculty at the school and resided in the convent on Ridge Road. The Sisters of the Poor Handmaids of Jesus Christ eventually replaced the Dominican Sisters in September 1931. In June 1986, the Sisters reluctantly announced the end of their ministry at the school. A new principal, Ms. Muriel Lennstrum, was hired along with several other lay teachers.

In April, 1951, a new school building was completed to accommodate the evergrowing enrollment of schoolchildren. In the early years of the parish, St. Mark School originated from religious education classes. As St. Mark celebrates its 75th anniversary, Ms. Maria Vazquez serves as principal of St. Mark School, which boasts an enrollment of 149 pupils enrolled in the grade school. Clare Coppinger and Dorothy Pictor have organized an alumni association with over 1,000 members from the classes of 1932–1957.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in congratulating the current pastor, the Reverend Robert P. Gehring, and the 421 parish families of St. Mark as they celebrate the church's 75th Anniversary. St. Mark is a multiethnic and multicultural parish known for its caring and welcoming of all people. May they continue to celebrate for many years to come.

POW-MIA RECOGNITION DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. GILMAN. Mr. Speaker, I rise today to remind my colleagues of the importance of National POW–MIA Recognition Day on September 20, 1996. I urge my colleagues to participate in recognizing America's heroes, those who are presumed missing in action.

Our Nation has fought six major conflicts in its history. In those wars, over 500,000 Americans have been taken prisoner of war. Those servicemen and women experienced numerous hardships and treatment which could often be described only as barbaric during the course of captivity. Those Americans imprisoned by the Japanese during World War II faced the worst possible conditions in captivity and were firsthand witnesses to the utter depravity of their fellowmen.

I have been a strong advocate of an accounting of our POW–MIA's since I first came to the Congress in 1973. I proudly supported the creation of the Select Committee on Missing Persons in Southeast Asia, the National POW–MIA Recognition days, and POW–MIA legislation because I believe the families of those who are missing in action deserve no less. Hopefully 1996 will be the last year that such an occasion will be necessary. My hope is that by this time next year, our Government will have obtained a full accounting of those brave American's whose fates, at this time, are still unknown.

Permit me to focus special recognition on those POW–MIA's from Korea and Vietnam. Despite the administration's best assurances to the contrary, many of us remain unconvinced that the Governments of North Korea and Vietnam have been fully cooperating with the United States on this issue. Regrettably, by normalizing relations with Vietnam, I believe that we have withdrawn our leverage over the Vietnamese government on this issue.

On September 18, 1996, the Washington Times ran a front page story about the latest POW–MIA hearing held by Chairman DORNAN's Subcommittee on Military Personnel. This hearing, on September 17, 1996, consisted of several key witnesses, including a former aide to President Eisenhower, and a high ranking Czech defector who was a member of Czechoslovakia's Defense Ministry.

The defector, former Gen. Jan Sejna, testified that Soviet and Czech military doctors performed ghastly medical experiments on U.S. POW's in North Korea during the Korean war. Those experiments were used to test the psychological endurance of American GI's, as well as their resistance to chemical, biological, and radioactive agents. Moreover, Mr. Sejna also stated that he helped organize shipments of POW's to the U.S.S.R. during the Vietnam war, and that at least 200 were sent there between 1961 and 1968.

Hopefully this information will lead to a further investigation regarding the safe return of any living POW's who may still be in captivity in Korea or elsewhere.

Americans should always bear in mind the love of country that America's veterans have shown as well as their personal sacrifices, courage, convictions, and dedication to freedom that these individuals have exhibited.

Veterans Affairs Committee Chairman BOB STUMP recently quoted a portion of President Abraham Lincoln's letter to a mother who lost five sons on the battlefield: "I cannot refrain from tendering to you the thanks of the Republic they died to save. I pray that our heavenly Father may assuage the anguish of your bereavement, and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom.

May it be of some solace to the families and loved ones of our missing and POW's that there are many of us in the Congress committed to a full and final accounting of our missing.

A GREAT AMERICAN RETIRES AFTER 40 YEARS OF SERVICE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. SOLOMON. Mr. Speaker, today our Nation salutes the career of a distinguished Naval officer, Adm. Bruce DeMars, who will retire from the Navy this fall after more than 40 years of dedicated service to our country.

For the last 8 years, Admiral DeMars held the position of Director, Naval Nuclear Propulsion Program, and faced the task of strengthening the capability and quality of our Nation's nuclear powered warships despite ever-tightening budget constraints in the post-cold war era.

Admiral DeMars was appointed Director, Naval Nuclear Propulsion Program after compiling an impressive record of accomplishments, including tours as the Commanding Officer, U.S.S. *Cavalla* (SSN 684), Commander, U.S. Naval Forces Marinas/U.S. Naval Base Guam, and as Deputy Chief of Naval Operations for Submarine Warfare. At the time of his appointment, the Navy had plans for substantial nuclear powered warship construction—the product of a continuing Soviet threat. The sudden and dramatic collapse of the Soviet Union during the next few years called for a comprehensive review of our defense requirements. The *Seawolf* attack submarine program was terminated, and Admiral DeMars faced the difficult challenge of adjusting to drastically changing defense requirements while maintaining the program's long established reputation for technical excellence and uncompromising safety. The program's reputation had been established by Adm. Hyman G. Rickover, the program's founder, and later commended by President Reagan as recognized worldwide for excellence in all phases of its work.

Admiral DeMars met this challenge headon, continuing the superb performance, safety, and environmental record of nuclear powered warships. Our nuclear powered warships benefit from acceptance in foreign ports worldwide, which reflects the emphasis placed on safety—not only for the sailors who must work and live on these warships, but for preserving the environment which affects all of us. Over the past 8 years, these warships safely steamed over 40 million miles, and over 20,000 sailors and officers were trained to operate their nuclear propulsion plants. In 1994, nuclear powered warships reached the significant milestone of over 100 million miles safely steamed since the program's inception. In recognition of this event, the President wrote "* * * The Naval Nuclear Propulsion Program, with its high standards and efficiency, exemplifies the level of excellence we are working toward throughout our government." Congress highlighted this remarkable achievement in the conference report accompanying the fiscal year 1995 National Defense Authorization Act.

Admiral DeMars effectively managed fleet downsizing while facilitating force modernization initiatives. He oversaw the successful construction and delivery to the fleet of 35 nuclear powered warships, while directing the overhaul, refueling, or decommissioning of 98 ships. Of particular note, he sought to attain long-term cost savings by reducing the size of the Naval nuclear industrial base. In the wake of a sharply reduced rate of ship building, he made the necessary adjustment of going from multiple suppliers to, in most cases, one—a change crucial to achieving an economic defense while still fostering a viable industrial base in this highly specialized area.

Admiral DeMars completed development of the nuclear propulsion plant for the revolutionary *Seawolf* attack submarine class, which recently completed initial sea trials with exceptional success. The *Seawolf* will be the fastest, quietest, and most heavily armed submarine in the world. While concluding development of *Seawolf,* he initiated development of a new attack submarine class to capture the militarily significant *Seawolf* advances in a more affordable ship.

For five decades the use of nuclear energy as a means of propulsion in warships has been pivotal to our national security. Since the world's first true submersible, the *Nautilus,* broadcast her historic message "Underway on nuclear power.", nuclear powered warships have been a valuable asset in projecting U.S. naval dominance worldwide. Today, our submarines are deployed around the globe, and our nuclear powered aircraft carriers have answered the call to provide essential military assistance worldwide in regions such as the Persian Gulf, Bosnia, and the Straits of Taiwan. The Naval Nuclear Propulsion Program developed and implemented nuclear propulsion technology, and its continuing success has hinged on the exceptional leadership demonstrated by its director.

Mr. Speaker, Admiral DeMars' contributions to his Nation and his commitment to providing the best possible national defense demonstrate a record of excellence to which all military leaders should aspire. In a period of drastic change, he took tremendous strides in restructuring our Navy to help enable continued military superiority well into the next century. We thank him for a job masterfully done.

TRIBUTE TO THE DE ANZA HISTORIC TRAIL

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. BAKER of California. Mr. Speaker, the Juan Bautista De Anza National Historic Trail was a major link between my home State of California and Mexico. That's why, on October 12, a relay will begin over the trail's historical route starting in Hermosillo, Sonora, Mexico.

The De Anza Trail was designated as a historic trail in legislation passed almost unanimously in Congress and signed into law by August 15, 1990. The October 12 event is being organized and administered by Heritage Trails Fund, a non-profit organization headquartered in my district. Heritage Trails acts in concert with the National Park Service.

A host of volunteers in California, Arizona, and Mexico, coordinated by committees in some 20 United States and Mexican counties, have organized this memorable event, and they deserve great credit for their efforts.

The significance of the De Anza Trail is rooted in the late 18th century. In 1775–76, Colonel Juan Bautista de Anza led 240 colonists from Mexico to what is now San Francisco. They began a mission and built the Presidio, securing California for Mexico and preventing Russian and British advances in northern California. The rest, of course, is history, and the De Anza Trail was history's pathway.

Several people involved in this wonderful effort deserve specific recognition. George Cardinet, president of the Heritage Trails Fund, and Nancy DuPont, executive director of the fund, have done remarkable work in putting the event together. Arizona's Don Garate of the Tumacacori National Historic Park, Hermosillo's Senor Enrique Salgado of Cablagata de Kino fame, Dr. Juan Ignacio Rodriquez of Mexico City, chairman of the Anza Committee of Mexico, all deserve our thanks for their superb efforts. Rudy Col, director of the port of entry in Nogales also deserves our thanks for his work in coordinating a gala entry of the relay at the U.S. border.

The relay will carry this message from the CONGRESSIONAL RECORD, greetings to the mayor of San Francisco from officials in Mexico, as well as flasks of water from the Sonoran River to be poured into the waters of the Golden Gate at Fort Point, the site of Anza and Moraga's Castillo San Joaquin.

This is a signal international event, a sturdy link in the strong chain of United States-Mexican relations, and I trust that my colleagues will join me in wishing all who participate in it the very best as they celebrate this historic venture.

TRIBUTE TO THE REVEREND DR. CARLYLE F. STEWART

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. LEVIN. Mr. Speaker, I rise today to honor Rev. Carlyle F. Stewart III, who has provided many years of dedicated service to the Detroit metropolitan community.

Dr. Stewart has been the pastor of Hope United Methodist Church in Southfield, MI for the past 13 years. He is a leader who reaches out to the community offering spiritual guidance and enrichment. He listens to people. He leads.

Dr. Stewart is the cofounder of the Detroit Black United Methodist Youth Scholarship Committee which has awarded over $60,000 in scholarships to black United Methodist youths in the Detroit area. In addition, Dr. Stewart is the founder of the National African-American Youth Assistance Leadership Institute, Citizens Against Violence, and the Southfield Education Action Committee. Currently, Dr. Stewart is actively involved in the Boys to Men mentoring program for African-American males and the Bandele Project of the Spaulding Institute which finds homes for African-American children. This list of Dr. Stewart's accomplishments represents only the tip of the iceberg concerning his many initiatives dedicated to improving peoples' lives.

Under the leadership of Dr. Stewart, it is no surprise that the congregation at Hope United Methodist Church has been growing dramatically. I have been privileged to know Dr. Stewart over the years and to participate in a variety of activities in his church.

Mr. Speaker, on Saturday, September 21, Reverend Stewart will be honored in the city of Southfield. There will be a theatrical performance based on Dr. Stewart's book, "Street Corner Theology: Indigenous Reflections on the Reality of God in the African-American Experience." Many officials and other dignitaries will gather to recognize Dr. Carlyle Stewart's numerous accomplishments over the years. I would like to extend my sincere appreciation to Rev. Carlyle F. Stewart III, for his outstanding service to our community.

TRIBUTE TO WAYNE DOEDE

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. WELLER. Mr. Speaker, today I'd like to congratulate Wayne Doede as the New Lenox Chamber of Commerce's 1996 Citizen of the Year.

Mr. Doede is a long-time resident and small business owner in New Lenox whose contributions to the community have been greatly appreciated by the residents.

As the owner of Doede Nursery & Garden Center, Mr. Doede has been very active with the Chamber of Commerce. He has chaired the Chamber's Old Fashioned Christmas Tree Decorating event for 14 years, and has served on the Economic Development Committee. Retail Committee Chairman, Citizens of the Year Decorating Committee and has chaired the Candidates Forum for 10 years.

As a well-respected member of the community, Mr. Doede has also been named the "Rookie of the Year" 1981–1982 for the Lions Club, he was chairman of the United Methodist Men for 12 years and been active in the church's youth group organizing several events.

Mr. Doede and his wife Donna have been married for 30 years and have three children.

Many of his friends describe Wayne as hard-working, a person with a vision and a good person who is fun to be around. However, it is his commitment to family, church, and community earns him the Chamber's Citizen of the Year award.

Congratulations Wayne on this wonderful award. You are deserving and I thank you for your dedication and devotion to your community, neighbors, friends and family.

GORDON "GORDY" WILLIAMS SAN DIEGO'S NATIVE SON LABOR HERO

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. FILNER. Mr. Speaker, I rise today to recognize Gordon "Gordy" Williams, the San Diego County Building & Construction Trades Council's 1996 Retired Labor Leader of the Year.

Gordy Williams, a native of San Diego County, was raised in the great South Bay community of National City. He joined Painters' Union Local 333 at the age of 18. Four years later he was elected to the executive board of his union, where he became its business representative nearly 25-years ago.

Gordy Williams' enormously productive tenure in local 333 caught the attention of the International Brotherhood of Painters and Allied Trades, which soon made him a general representative for the International Union. Gordy also served as delegate to the Building Trades Council for many years, including a term as its president. He also served as an officer of the San Diego-Imperial Counties Labor Council, as well as the California State Council of Painters.

But Gordy Williams did not stop there. He found the time and energy to serve the community at large—including the board of directors of National City Parks Apartments, a low-income housing complex owned and operated by the San Diego Building & Construction Trades Corporation; the California Regional Coastal Commission; and as a trustee of the San Diego Leukemia Society. He also found the time to be the master chef at the Building Trades Holiday Bowl tailgate parties and the Letter Carriers' Annual Food Drive. And, he has done all this despite health problems which he has faced with great courage.

Mr. Speaker, Gordy Williams is a great man, and a true friend. I join his building and construction trades brothers and sisters in San Diego and around the country in thanking him for his dedication and great spirit, and in wishing him the very best in his retirement.

TRIBUTE TO RABBI MICHAEL EHRLICH

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents and the members of the Oakland Jewish Center as they honor their Rabbi, an outstanding leader, Michael Ehrlich.

For more than a quarter of a century Rabbi Ehrlich has served the community in a variety of effective positions that included youth leader, teacher, principal, and Rabbi. Imbued at home at an early age with a strong responsibility to serve both individuals and the community, Rabbi Ehrlich received his formal preparation at the Ramaz School and went on to study in a joint program at Colombia University and the Jewish Theological Seminary of America. He was ordained in 1968.

Before coming to the Oakland Jewish Center, Rabbi Ehrlich served at the Conservative Synagogue on Fifth Avenue and as a teacher and principal at the Jewish Center of Bayside Hills. He has been involved in religious and secular training since 1964 and recently retired from the New York City school system after more than a quarter-century of dedicated service.

Rabbi Ehrlich has these many years emerged as a distinguished spiritual leader, an educator and community servant. In all his endeavors he has demonstrated an unique ability to bring people of all beliefs together into a common bond to create that which is both beneficial, supportive and comforting to our community. The tribute from his congregation is a tribute to us all.

Mr. Speaker, I ask that you join with me and my colleagues, and rise in honor of this man, who has meant so much to his community, Rabbi Michael Ehrlich.

A TRIBUTE TO AMERICAN LEGION POST 91 FOR 75 YEARS OF SERVICE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. SOLOMON. Mr. Speaker, as a lifetime member of the American Legion myself, it is with great pride that I commemorate the Frederick L. Clark American Legion Post 91 of Mechanicville, NY, in my congressional district. And it is with great humility that I stand here today and try and do justice to all the tremendous service and good this post has done for veterans and their families, as well as the entire community over the past 75 years.

This past year, I had the tremendous good fortune of addressing both the New York State and the National American Legion Convention where I was awarded with the American Legion's Distinguished Public Service Award. Mr. Speaker, it occurred to me that among all the things I've done in this Congress, I literally cherish above all else the time I've spent working alongside the American Legion. Together we've achieved so much on behalf of flag and country.

But Mr. Speaker, those achievements are what makes the men and women of American Legion posts like No. 91 in Mechanicville the true heroes. Not only have they served their country in uniform, but they have served America and their fellow veterans as members of the Legion. A group that is always in the forefront of efforts to develop and maintain adequate veterans benefits and programs.

And as if that wasn't enough, there are the tremendous programs and activities the members of post 91 run on behalf of their community. I'm talking about things like scholarships and teams they sponsor for the youth in Mechanicville as well as community wide events.

Because of efforts like these, their promotion of pride, patriotism and good citizenship goes unparalleled. And that's why I can't wait to renew the fight for a constitutional amendment to protect Old Glory alongside my fellow Legionnaires from post 91 in Mechanicville, NY.

Mr. Speaker, protecting our flag, watching out for fellow veterans and ensuring a strong national defense may seem like a large and daunting agenda to some. But that's not half of what post 91 in Mechanicville has done. It's hard to even imagine all they have accomplished over the course of 75 years of service. But I know there's no limit to what they can accomplish. That's because this post is made up of patriotic Americans who have served their country and earned the right to call themselves veterans of the U.S. Armed Forces and proud members of the American Legion.

At this time, Mr. Speaker, I ask that you and all Members join me in paying tribute to all the members of Mechanicville Legion Post 91 for their tireless and selfless devotion to America and their community.

"THE EXPORT PROGRAMS EXTENSION ACT OF 1996"

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. ROTH. Mr. Speaker, today I have introduced the Export Programs Extension Act of 1996. This legislation provides for a 1-year reauthorization of three vitally important export agencies: the Overseas Private Investment Corporation [OPIC], the U.S. Trade and Development Agency [TDA], and the export programs of the International Trade Administration [ITA]. principally the U.S. and Foreign Commercial Service.

Each of these agencies generates increased exports by American companies, creating new jobs for American workers. During its 25 year history, OPIC's investment guarantees and insurance have supported $43 billion in exports, translating into 200,000 American jobs. In its 10 years of operation, TDA has supported $7 billion in U.S exports, resulting in nearly 140,000 jobs for U.S. workers. ITA facilitates $5 billion in U.S. exports annually, which result in 100,000 new jobs every year.

This bill provides a simple extension of authority for these three agencies for 1 year, at levels consistent with the anticipated appropriations levels and the administration's budget request for fiscal year 1997.

The bill further provides that the statutory ceilings on OPIC's investment guaranties and insurance liabilities would be combined into a single overall ceiling on both activities. By making this change in law, the ceiling on OPIC's overall contingent liability is kept at current levels for the upcoming year, while giving OPIC flexibility to meet the demand by U.S. exporters for their assistance to American companies.

In my view, the provisions of this bill represent a workable legislative compromise for the upcoming fiscal year and I recommend to my colleagues that these provisions form the basis for reauthorizing those important programs before the Congress adjourns for the year.

TRIBUTE TO LEROY PATTERSON

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to pay tribute to a good friend of mine, Leroy Patterson, who recently succumbed to cancer. After being on Houston radio for more than 21 years, Leroy was aptly introduced for his show as one of the world's most respected news people. He brought a broad range of programming to Houston's airways with his shows "Community Hot-line," "On the Frontline," "Wake-up Call Black America," and "Sports Time-out." He is not out of the talk-show host mold of today's hate radio. His daily shows reflected his own self-respect and competence. Careful preparation, thoughtfulness and totally objective demeanor on-air were the hallmarks of his work. Constructive community spirit is the lasting imprint that his work left on the entire city of Houston.

His roots grew strongly from his humble beginnings in Marshall, TX, where his parents instilled his positive attitude, wholesome character, and his desire to succeed. He was educated at H.B. Pemberton High School and Tennessee State University. He served in the Air Force and the Air Force Reserve and worked at the U.S. Post Office for a time.

In 1975, he started his work in communication and began broadcasting over th Houston airways. He was the news director and program director at KYOK–AM radio. At KYOK, he started a number of Afro-centric programs, including the "Community Hot Line" talk show. His interests conveyed his own broad spectrum of coverage involving politics, human interest, education, and sports.

In 1980, he joined the KMJQ–FM Majic 102 radio team. After being a member of the team for only a year, he was promoted to news and community afairs director. He found a home at Majic 102 and stayed there for 16 years. In June 1996, because of his health, he took a medical leave of absense and then retired.

After surviving prostate cancer surgery and participating in the million man march, he went through a period of introspection and decided to take an African name—Ambakisye Jabari. Ambakisye is a Tanzanian name that means, "God has been mericiful to me." Jabari is a Swahili name that means brave. He felt that changing his name was necessary to alevate my legal of consciousness to a higher plane and to set my spirit free. Indeed, his spirit is free and his consciousness is on a higher level. The conforting sound of his voice and his wonderful soul will be missed by everyone he touched.

His years of radio service to the Houston community earned him many public service awards. Among his awards and recognitions of his accomplishments are the "Kid-Care Family Service Award for helping to change the lives of children throughout the Houston area; West Houston Outreach and Family Counseling Center Award for his outstanding and dedicated community service; Shape Center Greater Houston Educational Task Force Award for the enhancement of education in the African-American community, the Black United Fund of Houston, Texas; American Cancer Society Award for starting the hotline for prostate cancer; Thurgood Marshall Law School Award; Over-The-Hil, Inc. Award as a person reform advocate; Black Data Processing Award for sponsoring the Houston High School Computer Team Competition; City Wide Club Award for exceptional community service, and many others too numerous to name.

His commitment to public service outside of his broadcasting duties was also widely known. He was a freqent worker and contributor to the Houston chapter of the NAACP as well as the Mount Olive Baptist Church, the South Post Oak Baptist Church, the Gethsemane Missionary Baptist Church, the Houston Community Anti-Drug Coalition, and the National Black United Front, amongst others.

Ambakisye Jabari is survived by his loving wife, Allie, and their four children: Lisa C. Milton, Cessandra J. Johnson, Ronie L. Johnson, and Kenneth R. Johnson.

WELFARE BILL SIGNALS REVOLUTION

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. GINGRICH. Mr. Speaker, I want to encourage my colleagues to read the following column by Dick Williams from the Atlanta Journal Constitution. Welfare reform must be implemented if our country is going to continue to prosper. The welfare reform bill which was recently signed into law is an historical achievement that encourages personal responsibility, imposes work requirements and time limits, ends welfare for noncitizens and felons, and moves power and responsibility back to the States and communities. Local solutions to local problems are more effective than wasteful and inefficient Federal bureaucracies. As Dick Williams points out, the welfare system is destroying the Nation by warping the behavior of millions. It must change and that change is better managed by the governments closest to the people:

WELFARE BILL SIGNALS REVOLUTION

(By Dick Williams)

History was made this week, the sort that will go in the textbooks. President Clinton's decision to spit in the face of his party's history and sign the Republican welfare reform bill means the beginning of the welfare state's going out-of-business sale.

It also answers a question first raised two years ago when Newt Gingrich and his Republicans won control of the people's House. Was it to be a revolution? Or was it simply a modest counterrevolution—one that would trim Democratic excesses?

The answer is revolution.

After Reconstruction, Jim Crow and the ascendancy of the nondemocratic elites in Washington, Congress has decided to trust the states to care for the poor, just as the Founding Fathers intended.

Three times Congress, with substantial Democratic support, tried to end welfare as we know it. Twice Clinton refused.

But this president, we know now, will stop at nothing to be reelected. Being re-elected was far more important than party principle, the so-called 60-year-old guarantees to the poor (with an outcome the New Deal neither envisioned nor would have countenanced).

As we in Atlanta emerge from the emotional peaks and valleys of the Olympics, the welfare picture will begin to emerge. The cynicism of Clinton and his spouse, the former head of the Children's Defense Fund, will be ever more apparent.

The Clintons know we are a conservative nation. They know candidate Clinton's election is inseparable from his pledge to end welfare as we know it. That statement alone made him a different kind of Democrat. He had to spend three years in office proving his campaign was just a trick.

In the meantime, Gingrich had put flesh on the vague Clinton bone. "It is impossible to maintain civilization," he said over and over, "with 12-year-olds having babies, 15-year-olds killing each other, 17-year-olds dying of AIDS and 18-year-olds getting diplomas they can't even read."

Specifics won, stabbing at the national mood. Now with Clinton's promise to sign the transfer of welfare to the states, time limits for welfare recipients and requirements for work after two years on the dole, the most important part of the Contract With America is about to become law.

"Where is the sense of decency?" railed U.S. Rep. John Lewis (D-Ga.). "Where is the heart of this Congress? This bill is mean; it is base; it is downright lowdown."

That is Lewis saying that the Democratic governor of Georgia and the Democratic speaker of the Georgia House and the Democratic General Assembly can't be counted on to care for the less fortunate.

Once the Olympic flame has moved on, the Centennial Park bomber is caught and the tragedy of TWA Flight 800 is resolved, such stories will pick up steam. It will take strong will to withstand the misfortunes of others, but the bigger picture is essential. The welfare system was destroying the nation by warping the behavior of millions. It must change, and that change is better managed by the governments closest to the people.

TRIBUTE TO THE HONORABLE JAMES H. QUILLEN ON HIS RETIREMENT FROM CONGRESS

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. MOAKLEY. Madam Speaker, I would like to take this opportunity to pay tribute to a dear friend of mine and my longtime colleague on the Rules Committee JIMMY QUILLEN.

JIMMY QUILLEN joined the Rules Committee with another dear friend of mine, Claude Pepper, in 1965.

But this year he will be retiring and the entire country will be the worse for the loss of his service.

JIMMY QUILLEN is the longest serving Republican on the House Rules Committee and the longest serving Tennessee Representative in history.

But JIMMY's service merits distinction for its quality as well as its longevity.

He began serving his country as I did, in the Navy in World War II.

He was elected to the Tennessee State House and eventually chosen as speaker of that body.

And in their wisdom, the people of the First District of Tennessee first elected him to Congress in 1963 and every other year thereafter.

He has been married for 44 years to his beloved Cecile. It is partly to spend more time with her that he is leaving us and I can think of no more compelling reason.

Although most Democrats may not realize it, JIMMY QUILLEN is one of the few Members with an assigned seat on the House Floor. He sits in the second seat in the second row from which he discussed his trademark wisdom and anecdotes. Anyone who tries to sit in that seat supposedly learns very quickly that it is not theirs to use.

But it has not only been in the Congress where JIMMY QUILLEN made his mark. I'm told that nearly every single road, medical school, and institution in eastern Tennessee is named after JIMMY QUILLEN. And, after 34 years of unparalleled service to the people of the First District of Tennessee, JIMMY deserves every accolade he gets.

Like many of my colleagues, I always admired JIMMY QUILLEN. I heard the story of his taking his office door off the hinges to represent his open-door policy when we was first elected and it has served as a great inspiration to me and to many of my colleagues as we work to emulate his great record of constituent service.

He has been a distinguished hard-working, kind member of the Rules Committee and although I often wished he were arguing on our side, he has been a very worthy adversary and he will be sorely missed.

Mr. Speaker, it has been a great honor serving with JIMMY QUILLEN on the Rules Committee and I join the entire Congress in wishing him well in his retirement.

CONSTITUTION WEEK, SEPTEMBER 17-23, 1996

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mrs. MYERS of Kansas. Mr. Speaker, September 17 to 23 is Constitution Week. On behalf of the Daughters of the American Revolution I take pride in reminding my colleagues and all Americans to take a few minutes to reflect on that great document written and ratified 209 years ago this week.

The Constitution of the United States of America is an enduring safeguard of our freedom. Its Framers knew then that personal liberty is inherent in every human, but that a careful balance between that liberty and social order was the key ingredient of a strong nation. Our Republic's longevity throughout the crucible of history is testament to their success at achieving that balance in our basic framework. Our generation will be judged by future generations on how well we maintain that delicate balance, not forgetting that with our unparalleled freedoms, each of us also shoulders unparalleled responsibilities.

My heartfelt thanks go to the Prairie Rose Chapter of the Kansas Society of the Daughters of the American Revolution for their distinguished service to our Nation by helping to make every American aware of the foundation of our glorious freedom. Hopefully, through the efforts of patriotic Americans such as they, our enhanced knowledge of our own Constitution will help make us a stronger and more cohesive nation.

A SALUTE TO PFC JAMES W. REESE OF CHESTER

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay special tribute to PFC James W. Reese on the occasion of the rededication of the James W. Reese Army Reserve Center.

PFC James W. Reese, a native son of Chester, PA, and Delaware County Congressional Medal of Honor winner, was born April 16, 1920. Bill, as he was affectionately referred to by his friends, attended public school in Chester, graduating from Chester High School in 1938. Entering the service in November 1941, Bill was assigned to the 26th Infantry, First Infantry Division stationed in Florida. Bill was with the division when they landed in North Africa and crossed the Mediterranean to assault the shores of Sicily at midnight on July 9, 1943. It was there that Bill won his country's highest decoration, the Congressional Medal of Honor, as he lost his life fighting bravely against heavy enemy odds. His citation reads:

> For conspicuous gallantry and intrepidity at the risk of life, above and beyond the call of duty in action involving actual conflict with the enemy on August 5, 1943 at Mt. Vassillio, Sicily. When the enemy launched a counterattack which threatened the position of his company, Private Reese, as Acting Squad Leader of a 60MM mortar squad, displayed superior leadership and on his own initiative, maneuvered his squad forward to a favorable position, from which, by skillfully directing the fire of his weapon, he caused many casualties in the enemy ranks and aided materially in repulsing the counterattack. When the enemy fire became so severe as to make his position untenable, he ordered the other members of his squad to withdraw to a safer position, but declined to seek safety for himself. So as to bring more effective fire upon the enemy, Private Reese, without assistance, moved his mortar to a new position and attacked an enemy machine gun nest. He had only three rounds of ammunition but secured a direct hit with his last round, completely destroying the nest and killing the occupants. Ammunition being exhausted, he abandoned the mortar, seized a rifle and continued to advance, moving into an exposed position overlooking the enemy. Despite a heavy concentration of machine gun, mortar, and artillery fire, the heaviest experienced by his unit throughout the entire Sicilian campaign, he remained at his position and continued to inflict casualties upon the enemy until he, himself was killed. His bravery coupled with his gallant and unswerving determination to close in on the enemy, regardless of the consequences and obstacles which he faced, are a priceless inspiration to our armed forces.

In light of these brave and unselfish acts in the face of enemy fire, I am honored to join the U.S. Army in rededicating this reserve center to Bill Reese who represents all of the many heroic service personnel both past and present who have made the ultimate sacrifice so that you and I may live as free Americans.

TRIBUTE TO DR. DONALD SUGGS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. CLAY. Mr. Speaker, I rise today to pay tribute to my good friend, constituent, and a wonderful American, Dr. Donald Suggs.

Dr. Suggs is a man of many gifts and talents, and shares each selflessly with his community and friends. As president and publisher of the No. 1 African-American weekly newspaper in America, the St. Louis American, Donald keeps the metropolitan St. Louis community apprised of prevalent issues on the Federal, State, and local levels. Each week more than 65,000 readers in the area pick up a copy of the free publication to read about politics, business, the arts, and other subjects of interest to the broader African-American community.

Each year the St. Louis American spotlights the community's unsung heroes at the "St. Louis American Salute to Excellence in the Community". Proceeds from the banquet held in honor of the recipients are used to fund scholarships for promising young men and women in the community.

In addition to running the newspaper company, Dr. Suggs provides medical service to indigent residents in his successful oral surgery practice. He is also president of Alexander-Suggs Gallery of African American Art, a founding board member of the Center for African Art in New York, and serves on the board of directors of the Regional Commerce and Growth Association.

It gives me great pleasure to share with our colleagues an inspirational account of the life of Dr. Donald Suggs as recorded in the September 1996 edition of St. Louis Commerce.

[From the St. Louis Commerce/September 1996]

THE AMERICAN WAY

In addition to being a practicing oral surgeon, an activist during the civil rights movement, an art dealer and collector, a managing principal in a pre-paid dental plan and a partner in an airport retail concession business. Donald M. Suggs somehow has found the time and energy to steer one of the most acclaimed African-American newspapers in the country into 40 to 45 percent of all African-American households in the St. Louis metro area.

Suggs and two partners bought the St. Louis American in 1980. A few years later, Suggs brought a majority share and took an active role in the paper's operation in 1984.

"The decision to be involved in The St. Louis American was not a well-thought-out business decision." remembers Suggs, who is president and publisher. "The paper was burdened with debt in a segment of publishing that didn't have any discernible prospects for growth."

As publisher, Suggs has been able to raise capital through his personal resources and company earnings, reduce the paper's debt load, increase circulation and bolster the staff in key positions.

"Revenues have multiplied by five in the last nine years and our revenue from the first two quarters of this year is up 23 percent over last year," remarks Suggs. The newspaper is distributed free from more than 650 distribution points throughout the St. Louis area.

Ten years ago, the circulation for the American averaged from 4,000 to 6,000 copies per week. Today, the audited circulation is 65,500, making the 68-year-old paper the area's largest black weekly, the largest black newspaper in Missouri and one of the largest in the country. In relation to the size of St. Louis' African-American population, the paper's percentage of household penetration ranks at or near the top in the nation.

In addition to increased revenues and circulation, The St. Louis American has improved dramatically the quality of the news content. Earlier this summer, the American was named the best African-American newspaper in the nation by the National Newspaper Publishers Association (NNPA) in competition with 220 other papers.

The John B. Russwurm Award is named after the co-publisher of the first African-American newspaper in America. On March 16, 1827, Russwurm and Samuel E. Cornish began publishing Freedom's Journal, whose goal was to "arrest the progress of prejudice and to shield ourselves against its consequent evils."

This year was the first time any newspaper in Missouri had received the Russwurm award. In the finals, the American topped the Baltimore Afro-American and the Los Angeles Sentinel.

Suggs says. "(The Russwrum) is a premier award and it has been a great boost for morale of the staff." Besides winning NNPA awards for general excellence and best paper, the American also won awards for writing, layout and design, special sections and advertising.

Another indication of the improved quality of the American has been the regularity with which it has either won or placed high in recent Missouri Press Association competitions which include all papers in Missouri. The American has 18 full-time employees.

Suggs' earlier interests didn't point to his becoming a newspaper publisher.

Born and raised in East Chicago, Ind., in a solid, 2-parent household, Suggs went to Indiana University where he received a bachelor's degree and a doctorate in dental surgery. He did his post-graduate work at Washington University and Homer G. Phillips Hospital. He was chief of oral surgery at Dover Air Force Base in Delaware before coming back to St. Louis.

"In 1961, I was completing my tour with the Air Force. I was offered a job at Washington University's dental school. When I arrived, the offer was rescinded because I was black," notes Suggs. He later was asked to join the faculty at Saint Louis University's dental school where he served as the school's first African-American associate clinical professor. During this period, Suggs also worked in anesthesia at various hospitals in St. Louis to supplement his income.

During his tenure as a part-time faculty member, Suggs became active in the civil rights movement during the 1960s and 1970s. In 1968, he served as St. Louis chairman of the Poor People's March in Washington.

"After my third child was born, I knew I had to have more money than the amount I was earning teaching and giving anesthesia, so I started my oral surgery practice on North Kingshighway. I'm still practicing part-time," says Suggs.

After his private practice became successful, Suggs was able to pursue his growing interest in serious art. "I slowly started acquiring pieces. Some time later, I had the opportunity to get into the business side of art," says Suggs.

As long-time president of the Alexander-Suggs Gallery of African Art based in St. Louis and New York City, he broadened his contacts in the art world. Later, as founder and chairman of the African Continuum, he helped bring non-commercial artistic endeavors to St. Louis. He also was a founding board member of the Center for African Art in New York City, now known as the Museum of African Art.

His involvement in the art world and the civil rights movement were an impetus for Suggs to buy The St. Louis American. "I got involved in the paper because of my interest in social change and my desire to have some influence on major public policy issues," Suggs says.

Now, Suggs feels he can help have a positive impact on the African-American community through involvement in major economic and infrastructure issues that affect the entire region. "It is much easier to make positive changes for African Americans in an economy that is growing. For instance, interest rates, trade policy and their effect on the economy have as much or more influence on the African-American community's well-being as do major social policies," says Suggs.

"That is why we are so interested in the RCGA's creation of the Greater St. Louis Economic Development Council and its commitment to create 100,000 new jobs. Transportation issues like airport expansion and MetroLink expansion are of great interest because of their potential economic benefits for the entire community." Suggs currently serves on RCGA's board of directors.

Suggs also is concerned with St. Louis' failure to give greater priority to the recruitment and nurturing of top-level, professional African Americans. The St. Louis region needs to be more proactive in encouraging and supporting minority business, he says.

"St. Louis has done, with a few notable expectations, a poor job of attracting well-prepared people—particularly entrepreneurs—who are now going to Atlanta, New York, Chicago, Houston or Los Angeles for opportunities. Although there has been some improvement in recent years, we still don't have our share of highly-motivated, talented African Americans and that is a big concern," he says. Minority entrepreneurship and business development are underutilized resources for this region.

What does the future hold for the American?

"Our strategic plan includes providing more comprehensive coverage of the black business community. A stronger black business community is a boon to St. Louis' economy. We also have expanded our working women's sections and we are developing a new minority health section in collaboration with some local African-American physicians that focuses on health education, behavior modification and health careers." says Suggs.

ARE OUR CHILDREN BETTER OFF TODAY THAN THEY WERE FOUR YEARS AGO?

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. SOLOMON. Mr. Speaker, the American people understand the connection between the drug crisis and our Nation's most critical domestic problems. Drug use permeates and exacerbates virtually every social, health and economic problem facing this country.

Education is one area where we can see the devastation caused by increasing drug use. Drug use is the major contributor to poor academic performance and accounts for our Nation's staggering dropout rate of 25 percent.

For this President to call himself the education president, when we have witnessed an across the board increase in drugs by school children under his watch, is at best disingenuous. Drug use erodes self-discipline, motivation and concentration, making it difficult for teachers to teach and for students to learn. Since Bill Clinton's election, marijuana use among young people has doubled.

Mr. Speaker, according to a report by the Partnership for a Drug Free America, the national dropout rate hovers at 25 percent, and the rate climbs to nearly 50 percent in New York City, Chicago and Detroit. The report states that the explanation for these shocking statistics is poor academic performance—caused or exacerbated by illegal drug use. And yet we have a President who tells America's young people that if he had to do over again be would inhale.

In research conducted among young male adults, 60 percent of those who had used illegal drugs by the age of 12 had also dropped out of school—with devastating consequences, for the users and for society. Drug use by 12-year-olds has skyrocketed under President Clinton's term. Dropouts are twice as likely as are high school graduates to live in poverty. A strong correlation also exists between educational failure and crime. In New York City, for example, a staggering 90 percent of the inmates of the city's prisons are former dropouts.

Illegal drug use has escalated dramatically during President Clinton's term of office. Today, one in three high school students are using illegal drugs and one in four are dropping out of school. The total lack of Presidential leadership concerning teen drug use will have lasting and devastating consequences on the educational process in the United States.

President Clinton's decision to place our country's drug problem on a back burner has reduced our children's chances of obtaining the education they need. In the America I know and love, people care more about their children than about themselves. Isn't it time for us to ask if our children and grandchildren are better off today than they were 4 years ago?

KILDEE HONORS MARCANTONIO MOROLLA

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. KILDEE. Mr. Speaker, I rise today to honor the recipient of the 1996 Golden Door Award, Marcantonio "Tony" Morolla. Mr. Morolla will receive the award at the annual dinner meeting of the International Institute of Flint on Tuesday, October 8.

The International Institute of Flint presents this award annually to a foreign-born citizen who has substantially improved life in the Flint community.

Tony was born in Triggiano, Bari in southern Italy. He immigrated to the United States with his parents, Girolamo and Antonia Morolla, and his two sisters in 1955. The family struggled during their early years in the United States. The automotive industry was in a downturn and layoffs at the automobile plants were frequent. During these years Girolamo often thought about leaving his job at the V–8 engine plant and moving his family back to Italy. The couple resolved to stay in the United States. They instilled their determination to thrive into their children.

Tony Morolla has lived his life as a testament to his parents' spirit. He completed 2 years of service in the U.S. Army. After obtaining his associate of arts degree he worked as a caseworker in the 7th District Congressional Office of then Congressman Donald Riegle. He continued his studies at the University of Michigan-Flint and received a bachelor of arts degree in Urban Studies/Political Science in 1973. Tony worked during this time as the consortium manager for the Flint Area Chamber of Commerce. He continued his public service career as the associate director of the YMCA outreach project. In 1974 the city of Flint employed him as a personnel technician. Two years later he was promoted to his present position as civil service director for the city of Flint. Tony was awarded a master's degree in public administration in 1990.

His commitment to the city of Flint extends beyond his professional career. The list of organizations he has volunteered for is long. It includes the Urban League of Flint, Holy Redeemer Church, Donovan-Mayotte School, Powers High School, St. Pius Church, American Society for Public Administration, YMCA, and the Optimists Club.

Two organizations in particular have benefitted from Tony's expertise. He has served in the capacity of president for both the Sons of Italy and the International Institute of Flint. He was instrumental in reactivating the State Lodge for the Sons of Italy and has devoted numerous hours in promoting the International Institute of Flint's mission for greater global understanding.

Recognizing that education is a stepping stone to a better life Tony shares his knowledge with the next generation by teaching courses at the University of Michigan-Flint and the Detroit College of Business. With his wife Hilary, he has three children, Marc, Heather, and Ashley.

Mr. Speaker, I ask the Congress to rise with me to honor this great American. My hometown of Flint has benefitted from the contributions of Tony Morolla. We are a better community because of his indomitable spirit.

HONORING BRISTOL TENNESSEE TREE CITY USA BOARD

HON. JAMES H. QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Mr. QUILLEN. Mr. Speaker, I rise today to recognize the Bristol Tennessee Tree City USA [TCUSA] Board for their outstanding efforts in planting over 1 million trees in the city of Bristol which is located in the First District of Tennessee. The individual responsible for the success of this project is Donald H. Ellis, D.D.S.

Seven years ago, Dr. Ellis embarked on an ambitious goal. With the help of thousands of Tennessee volunteers, Dr. Ellis began working to plant 1 million trees in Bristol before the Tennessee bicentennial in 1996. At that rate, 22 trees would be planted for every citizen living in Bristol.

I'm pleased to announce that as of September 6, 1996, Dr. Ellis and the city of Bristol have achieved this goal and more. In all, the citizens of Bristol have planted 1,003,402 trees since 1989, and I am so proud of their efforts.

Reforestation projects like this are important in helping to preserve our precious natural resources. In addition, planting over 1 million trees would not be possible without the help of true Tennessee volunteers.

Mr. Speaker, they call Tennessee the volunteer State, and in part, it is because of efforts like these. Once again, let me commend Dr. Donald H. Ellis, the Bristol Tennessee Tree City USA Board, and the city of Bristol for a job well done.

OPPOSING THE INCLUSION OF H.R. 1855, THE ELIZABETH MORGAN BILL, IN H.R. 3675, THE DEPARTMENT OF TRANSPORTATION APPROPRIATIONS BILL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 1996

Ms. NORTON. Mr. Speaker, I want to associate myself with the remarks of Members who have opposed on constitutional law and international treaty grounds the attachment to the Transportation appropriations bill of H.R. 1855, a bill which strips the District of Columbia courts of jurisdiction over the child custody case Morgan versus Foretich. In addition, I must oppose the bill on home rule grounds.

This matter now comes on the floor encased in a conference report which cannot be amended. The Chair of the full Government Reform Committee and the Chair of the D.C. Subcommittee have obtained a waiver of the relevant point of order. They have thus cleared the way for a matter that I believe to be deeply unconstitutional and that badly transgresses all principles of self-government to come to the floor.

In 1987, Elizabeth Morgan was held in jail for 2 years because she would not reveal the whereabouts of a child she said she believed had been sexually abused. In substantially less time than she had served, release of such a person is usually allowed or required. I was not a Member of Congress at that time. Apparently, largely because of the length of the incarceration, an act of Congress freed Ms. Morgan. No one is incarcerated; nor does the present matter have anything else in common with that situation, as is clear from remarks of Members from both parties, the majority of whom have spoken against this unprecedented trespass into the unique and exclusive realm of the judiciary.

I believe that what has transpired here today, in any case, is a complete nullity that guarantees the continuation of an inflammatory domestic dispute that has made a mockery of the legal concept of the best interests of the child. The constitutional doubt surrounding this matter is so large that it does not merit unworthy precedent set in the House today.

The adoption of this bill also puts the Congress on a collision course with international law. The New Zealand court that has jurisdiction over the child holds the child's passport and has ruled that she may not leave New

Zealand. David Howman, a barrister, the guardian appointed by the family court in New Zealand, has written the counsel to the D.C. Subcommittee that, "I am directed by His Honour Judge Mahony that the enclosed statement is to be made available to you for the purpose of * * * fully and properly informing the Congressional Subcommittee dealing with bill H.R. 1855 of the position relating to Hillary/Ellen." The court says:

> The Court has held [the child's] passport since 1990 when the question of her care and residence first came before the Court. There is also a condition on the custody order issued in 1990 that she not be taken from New Zealand without order of the Court. If and when it is appropriate for an application to be made to this Court for removal of that condition or return of the passport the application will be considered at that time.

Thus, if the Congress of the United States permits the child to return through H.R. 1855, it is almost certainly in violation of the Hague Convention as it relates to child custody.

The insult to the District, its residents, and its independent judiciary is no less serious. The home rule trespass is all the more serious because of the absolute and unfailing necessity for an independent judiciary at every level of Government. No principle of the Constitution was considered more fundamental by the framers. Imagine the chill this bill sends to the sitting judiciary in the Nation's capital. Now, not only the city council and the executive agencies of the District, but also the judiciary is fair game for imposition of a Member's views regarding his pet issues. No member would even think of attempting to intrude into the legitimate and exclusive jurisdiction of the courts in any other jurisdiction of the United States or the territories.

I am attaching the letter of the court appointed guardian and the statements of the New Zealand family court. I am also attaching a Legal Times article detailing further my position on this matter.

DAVID HOWMAN, BARRISTER,
WELLINGTON, NEW ZEALAND,
September 18, 1996.

MR. HOWARD A. DENIS,
Counsel, House of Representatives, Committee on Government Reform and Oversight, Washington, DC.

DEAR MR. DENIS: I was appointed by the Family Court in New Zealand to assist that Court in proceedings involving Hillary/Ellen Morgan. Principal Family Court Judge P.D. Mahony made that appointment late last year.

Subsequently the Family Court conducted a hearing to consider matters relating to the child. I have been asked to communicate with you on behalf of the Court as a result of the Court's decision. This communication is for the purpose of fully and properly informing the Congressional Sub-committee dealing with Bill H.R. 1855 of the position relating to Hillary/Ellen. I am directed by His Honour Judge Mahony that the enclosed statement is to be made available to you for that purpose.

Please could you write to confirm receipt and to confirm that the statement will be made available to your Congressional Subcommittee accordingly.

Yours sincerely

DAVID HOWMAN,
Barrister.

MORGAN VERSUS FORETICH

1. The New Zealand Family Court recently considered an application concerning the child Hillary Foretich/Ellen Morgan in relation to Bill HR 1588. The Court had received this application in July 1995 for Ellen to give evidence live by video-link to the Congressional sub-committee from Christchurch, New Zealand. That application was declined in the interim and subsequently dismissed. There is no current or further application before the Court concerning Ellen and Bill HR 1588.

2. Whether or not that Bill is passed is not an issue for this Court and it is not the business of the Court to express any view about it.

3. The Court has made no ruling concerning Ellen's return to the United States.

The Court has held her passport since 1990 when the question of her care and residence first came before the Court. There is also a condition on the custody order issued in 1990 that she not be taken from New Zealand without order of the Court. If and when it is appropriate for an application to be made to this Court for removal of that condition or return of the passport the application will be considered at that time.

4. In all issues affecting children in relation to their care, the overriding duty of the New Zealand Family Court is to treat the welfare of the child as the first and paramount consideration. A primary consideration in this case is the protection of privacy of the child. Proceedings before the New Zealand Family Court are held in private and there are statutory restrictions on reporting of cases heard by the Court, again directed at protecting the privacy of children.

It is the wish of this Court that those who have an official interest in relation to one or other aspect of Ellen's case, exercise care and restraint in order to preserve her privacy.

[From the Legal Times, Mar. 14, 1996]

CUSTODY SAGA'S LATEST TWIST—BID TO AID MORGAN HITS HOME-RULE SNAG

(By Jonathan Groner)

Over the last 11 years, the Elizabeth Morgan custody case has touched on everything from feminism and fathers' rights to the reach of courts' contempt powers. Now, thanks to D.C. Delegate Eleanor Holmes Norton, there's a new, and unlikely wrinkle: D.C. home rule.

In January, four U.S. representatives—including three from the D.C. suburbs—introduced legislation seeking to quash the D.C. courts' jurisdiction over Morgan's protracted battle with her ex-husband for custody of their daughter. The bill would allow Morgan and her daughter Hilary, 13, to return to the United States from New Zealand, secure from any orders of the D.C. Superior Court.

But Delegate Norton's objections have begun to stall the bill, which had earlier seemed to be on the fast track to approval in both houses of Congress.

"I looked deeply at the bill," Norton says, alluding to what she views as its unqualified assault on the independence of the District's local courts. "There is far more trouble in it than I had thought. What I learned is absolutely startling."

The legislation is intended to help Morgan, 48, who spent 25 months in D.C. jail in the 1980s on contempt charges in the highly publicized case. Asserting that her ex-husband Eric Foretich, 53, had sexually abused the girl, she refused to permit his visitations and sent the child out of the country. Foretich denies the charges.

Morgan, who was then a D.C. plastic surgeon was released in 1989 by an act of Congress and in 1990 joined Hilary in New Zealand.

Elizabeth Morgan and her daughter, who now prefers to be called Ellen, have both declared recently that they would like to return to the United States and be reunited with the rest of their family.

Elizabeth Morgan's second husband, Paul Michel, is a judge here on the U.S. Court of Appeals for the Federal Circuit, and her father, William, 85, also lives in the area; he is hospitalized at present, suffering from heart disease. Her mother, Antonia Morgan, 81, lives with Elizabeth and Hilary in Auckland.

Moreover, Elizabeth Morgan, suffering from ulcerative colitis, recently underwent emergency removal of her colon and reportedly would like to benefit from U.S. medical care.

The Morgans' desire to return home drew the attention of Reps. Thomas Davis III (R–Va.), Frank Wolf (R–Va.), Constance Morella (R–Md.), and Susan Molinari (R–N.Y.), who are pressing the legislation.

Until recently, little vocal opposition had emerged to the bill. But Norton, who says she supported Morgan's release from jail and doesn't express a view on the truth of the sexual-abuse allegations, has recently begun to oppose the measure publicly and has moved to slow the bill's progress.

NO RESPECT FOR HOME RULE

Since the bill would impinge on the jurisdiction of the D.C. courts, the views of the District's only congressional representative are likely to be taken seriously by House leaders. And for Norton, the Morgan case has become both a constitutional and a home rule issue.

"The sponsors show no respect for the home rule powers of my jurisdiction," says Norton, referring to the idea of a congressional act to remove a case from D.C.'s local courts. "The bill is two or three lawsuits waiting to happen."

Norton cites another objection: that the bill may be unconstitutional because it is "almost an open-and-shut bill of attainder." Bills of attainder, which are legislative measures that punish citizens without the safe-guards of trial and appeal, are banned by the U.S. Constitution.

Norton says the Morgan measure is a bill of attainder because it would legislatively "wipe out the rights of another party." She was referring to Foretich, a McLean, Va., oral surgeon, who in Norton's view would be denied the benefits of a 1987 order from D.C. Superior Court Judge Herbert Dixon Jr. that awarded him visitation rights.

Elizabeth Morgan is under a terrible misapprehension if she thinks Congress is going to bring her back," Norton adds. "It is just not going to happen."

Norton says that she and several other representatives objected to the bill's being placed on the "suspension calendar," a technique reserved for noncontroversial measures that are approved by the House without debate.

In deference to these objections, the office of Speaker Newt Gingrich (R–Ga.) removed the bill from the suspension calendar, and it remains pending in the House Government Reform and Oversight Subcommittee on the District of Columbia.

PRIVATE AGREEMENT SOUGHT

Norton says she is about to write an open letter to the members of the House, listing her objections to the bill and declaring that the best way to solve the long-simmering

Morgan-Foretich dispute is not through legislation, but by compromise between the parties.

Foretich has proposed a consent decree under which he would drop his demand for custody or visitation with his daughter as long as Dixon's court retains jurisdiction. Morgan has rejected this overture, terming it a ruse.

The Morgan case, which in the 1980's became a cause célèbre for feminists and their opponents, is now becoming caught up in thorny issues involving D.C. politics and home rule, in which suburban D.C. Republican representatives—Davis represents the district where Morgan grew up—face off against the District's Democratic delegate.

Also coming to the fore is the obscure constitutional ban on bills of attainder.

"The authors of this bill themselves could not have made it more clear that this is a bill of attainder," says Jonathan Turley, a professor at George Washington University Law School who recently entered the case as a pro bono lawyer for Foretich. "They created an extremely damning record. This bill will have a half-life of one day under judicial review."

LAWSUIT THREATENED

Should the bill pass both houses of Congress and be signed by President Bill Clinton, Turley says, he will immediately file suit in U.S. District Court against it.

"Not only is it grossly unfair to the targeted individual," Turley says, "but its potential for future abuse cannot be overstated."

Turley contends in court papers that the bill amounts to a legislative punishment of Foretich, even though it does not explicitly brand him a criminal. Turley says the bill implies that Hilary would not find "safety" unless Foretich were barred from seeing her, and that "the denial of a father's right to visitation or custody is punitive." Foretich declines comment.

But Howard Denis, counsel to the D.C. subcommittee, rejects Turley's arguments.

"Ultimately, it would be a matter for the courts to decide," says Denis. "But I take the view that it is not a bill of attainder, because it does not impose punishment on any individual.

"We have done research showing that the bill will pass constitutional muster," Denis adds. "But it's too soon to talk about the nuts and bolts of it."

Morgan's lead attorney, Stephen Sachs of D.C.'s Wilmer, Cutler & Pickering, was traveling and unavailable for comment. Co-counsel Juanita Crowley, also a Wilmer, Cutler partner, did not return calls, nor did Judge Michel, Morgan's husband.

Morgan's partisans have said that they are not trying to punish Foretich, but to permit Morgan and her daughter to return on humanitarian grounds.

Judge Dixon's order, said Davis on the House floor, is an "antiquated" one that "does not address the current circumstances of the welfare of a young teenage girl" who wants to return to the United States and "pursue her dreams."

In a Jan. 25, 1996, letter to Rep. Wolf, Michel described what he saw during a four-week visit to Auckland in December and January: "Contrary to what some people may assume, the difficulties of life in exile for all three of the women in my New Zealand family grow, not diminish, with each passing year. . . . In addition, Ellen's teenage years are not helped by being deprived of family life with her stepfather."

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 19, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 20

10:00 a.m.

Governmental Affairs

Business meeting, to consider pending calendar business.

SD–342

SEPTEMBER 24

9:00 a.m.

Special on Aging

To hold hearings to examine Social Security reform proposals.

SD–628

9:30 a.m.

Indian Affairs

To hold hearings to examine civil jurisdiction in Indian country.

SR–485

10:00 a.m.

Foreign Relations

To hold hearings to examine the need for ballistic missile defense.

SD–419

Judiciary

To hold hearings on the role of the Department of Justice in implementing the Prison Litigation Reform Act and the Civil Rights for Institutionalized Persons Act.

SD–226

SEPTEMBER 25

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on issues relating to the study of Mars.

SR–253

Indian Affairs

To hold hearings to examine the phase out of the Navajo/Hopi relocation program.

SR–485

10:00 a.m.

Judiciary

To resume hearings to examine White House access to FBI background summaries.

SD–226

10:30 a.m.

Veterans' Affairs

To hold joint hearings with the Select Committee on Intelligence on the Department of Defense and Intelligence reports of U.S. military personnel exposures to chemical agents during the Persian Gulf War.

SH–216

Select on Intelligence

To hold joint hearings with the Committee on Veterans Affairs on the Department of Defense and Intelligence reports of U.S. military personnel exposures to chemical agents during the Persian Gulf War.

SH–216

2:30 p.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 987, to provide for the full settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943.

SD–366

SEPTEMBER 26

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings to examine the status of air service to small communities.

SR–253

2:00 p.m.

Energy and Natural Resources

Oversight and Investigations Subcommittee

To hold hearings to examine the National Environmental Policy Act decision making process with regard to Federal Land Management Agencies and the role of the Council on Environmental Quality.

SD–366

Judiciary

To hold hearings to review the annual refugee consultation process.

SD–226

OCTOBER 2

9:30 a.m.

Indian Affairs

To hold oversight hearings on the regulatory activities of the National Indian Gaming Commission.

SH–216

10:00 a.m.

Judiciary

Immigration Subcommittee

To hold oversight hearings on activities of the Immigration and Naturalization Service.

SD–226

CANCELLATIONS

SEPTEMBER 19

9:30 a.m.

Energy and Natural Resources

Parks, Historic Preservation and Recreation Subcommittee

To hold hearings on S. 1539, to establish the Los Caminos del Rio National Heritage Area along the Lower Rio Grande Texas-Mexico border, S. 1583, to establish the Lower Eastern Shore American Heritage Area, S. 1785, to establish in the Department of the Interior the Essex National Heritage Area Commission, and S. 1808, to establish a program for the preservation of additional historic property throughout the Nation.

SD–366

HOUSE OF REPRESENTATIVES—*Thursday, September 19, 1996*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As the night brings the myriad stars to view and the day is warmed by the Sun, we are witnesses to the marvels of Your creation, O God, and the beauty of every living thing. In this world You have created the challenges and choices that are before Your people each day. May Your good Spirit, O gracious God, that points us in the way and heals us from all guilt and transgression, encourage us to make those choices that advance the cause of justice and promote the presence of virtue. May Your strong hand, that created the order of the heavens and the wonders of the Earth, guide, guard, and gird each person along the daily path. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. LAHOOD. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LAHOOD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Washington [Ms. DUNN] come forward and lead the House in the Pledge of Allegiance.

Ms. DUNN of Washington led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills, a joint resolution, and a concurrent resolution of the House of the following titles:

H.R. 1772. An act to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex;

H.R. 2909. An act to amend the Silvio O. Conte National Fish and Wildlife Refuge Act to provide that the Secretary of the Interior may acquire lands for purposes of that Act only by donation or exchange, or otherwise with the consent of the owner of the lands;

H.R. 3676. An act to amend title 18, United States Code, to clarify the intent of Congress with respect to the Federal carjacking prohibition;

H.R. 3802. An act to amend section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, to provide for public access to information in an electronic format, and for other purposes;

H.J. Res. 191. Joint resolution to confer honorary citizenship of the United States on Agnes Gonxha Bojaxhiu, also known as Mother Teresa; and

H. Con. Res. 120. Concurrent resolution supporting the independence and sovereignty of Ukraine and the progress of its political and economic reforms.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3675) "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes."

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 982. An act to protect the national information infrastructure, and for other purposes;

S. 1090. An act to amend section 552 of title 5, United States Code (commonly known as the Freedom of Information Act), to provide for public access to information in an electronic format, and for other purposes;

S. 2006. An act to clarify the intent of Congress with respect to the Federal carjacking prohibition; and

S. 2007. An act to clarify the intent of Congress with respect to the Federal carjacking prohibition.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The Chair will entertain ten 1-minutes on each side.

REFORM THE IRS

(Ms. DUNN of Washington asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN of Washington. Mr. Speaker, today I would like to present you with a clear and convincing contrast of two visions for America: The Republican vision and the Democrat vision.

First, the Democrat vision:

In Monday's Washington Post my good friend, the gentleman from New York, CHARLIE RANGEL, the House Ways and Means Democrat in line to become chairman of the committee if the Democrats pull off a miracle, defended the IRS and said, "We have the best and fairest tax collection system in the world."

Hmmm.

Now, for the Republican vision:

Earlier this month Bob Dole said, "It's time to end the IRS as we know it." He is calling for putting the word "service" back in the Internal Revenue Service by requiring IRS employees to help taxpayers understand the law rather than simply punish Americans for misapplying it.

I like the second vision, and I bet America will too. We need a solution to our IRS problem that empowers the hard-working American taxpayer. We need to reform the IRS.

ETHICS COMMITTEE PROCESS IS DEGENERATING

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO of California. Mr. Speaker, I want to talk today about a process that lies at the heart of this House's reputation, the Ethics Committee process.

Its strength historically has been the ability of Democrats and Republicans to separate nuisance complaints from substantive charges important to the reputation of this House and to pursue such matters with diligence no matter where that takes it.

As a former member of the Ethics Committee, 8 years as a matter of fact, I cast some of the toughest votes of my congressional career, just as many others who have served on the Ethics Committee have done on a bipartisan basis. We cast them because we believe the reputation of this House is more important than any Member. I underline any Member.

I believe this Republican-controlled House has done tremendous damage to

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

an already fragile process. The evidence: A year-long delay in appointing a special counsel in a case involving the leadership; the GOP leadership's initial refusal last December to even grant the Committee on Standards of Official Conduct floor time for a bipartisan recommendation on book royalties; now unreasonable delays in making an important report public.

We are watching the Committee on Standards of Official Conduct process completely degenerate.

FORTY REASONS TO SAY "NO" TO CLINTON REELECTION

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, late last week the Boston Globe ran the following article—"Four more years? Here are 40 reasons to say "no." I'd like to share their more amusing reasons to vote against Clinton.

His "Cabinet that looks like America" contained 14 lawyers and 10 millionaires; "100,000 more police on the street." Seen them yet?

"A tax cut for the middle class." Seen it yet?

George Bush was right: Clinton did want to turn the White House into the waffle house.

Shut down two of the four runways at Los Angeles International Airport so he could have his hair cut aboard Air Force one by Christophe of Beverly Hills; Christophe's going rate: $200 per haircut; Jocelyn Elders; Craig Livingstone.

Clinton went on national television and answered questions about his underwear.

Mr. Speaker, haven't we had enough?

SUPPORT MOTION TO RELEASE REPORT OF SPECIAL COUNSEL

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, I just wanted to follow up on the comments of my colleague of California about the Committee on Standards of Official Conduct.

The complaints that have been filed against the leader now are approximately 2 years old, having been originally filed in September 1994.

POINT OF ORDER

Mr. LINDER. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. LINDER. Mr. Speaker, the gentleman is referring to matters before the Committee on Standards of Official Conduct, which is against the rules of the House.

Mr. PALLONE. Mr. Speaker, my point is simply——

Mr. LINDER. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from New Jersey will suspend for a moment.

The Chair sustains the gentleman's point of order just raised. The gentleman from New Jersey may proceed in order.

Mr. PALLONE. Mr. Speaker, I am simply trying to point out that myself and the members of the public, including many of the editorials around the country, the New York Times, feel very strongly that the Committee on Standards of Official Conduct needs to proceed with the investigation in this matter.

We have actually made a motion, which I hope will come up today, asking that the report of the outside counsel be released to the public. I feel very strongly that that report should be released. The time has come to do so.

POINT OF ORDER

Mr. LINDER. Mr. Speaker, point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. LINDER. Mr. Speaker, in spite of the admonition of the Chair, the gentleman continues to refer to matters before the Committee on Standards of Official Conduct.

The SPEAKER pro tempore. Does the gentleman from New Jersey care to be heard on the point of order?

Mr. PALLONE. My only point, Mr. Speaker, is that a motion has been filed that this report should be released.

Mr. LINDER. Point of order, Mr. Speaker.

Mr. PALLONE. I understand it is coming up today.

The SPEAKER pro tempore. The gentleman will suspend.

The Chair sustains the point of order raised by the gentleman from Georgia, and the gentleman from New Jersey must suspend any reference to that matter, since the resolution is not under consideration in the House at this time.

Mr. PALLONE. I understand it will be coming up later today, and I would simply say I will be supporting that motion.

DRUG USE UP UNDER BILL CLINTON

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, in 1992, before Bill Clinton took over as President, the overall chances that an adolescent used drugs was 1 in 20. In 1995, after 3 years of Bill Clinton, the chances an adolescent was using drugs had skyrocketed to 1 in 9.

Mr. Speaker, our children are being lied to. They are being sold on messages from popular culture, the music industry, and Hollywood that drug use is acceptable; that it is glamorous; and that it is cool. Nothing could be further from the truth. Drugs destroy lives, they destroy families, indeed they destroy freedom.

Under Bill Clinton, the war on drugs has become a small skirmish; a rear guard action. Enforcement is down, interdiction is down, and prison time for drug dealers is down. And this is all compounded by Bill Clinton's own flippant remarks on MTV about his own drug use.

Mr. Speaker, we cannot surrender; we cannot give up; we must fight for our children and fight for their future.

WISHING MY COLLEAGUES WELL

(Mr. JACOBS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACOBS. Mr. Speaker, for me it is swansong time. I have two suggestions as I take my leave. The first is to my colleagues. Get to know each other and you will like each other. There is a lot to like in every Member of this body. In the words of Edward Wallis Hoch, "There is so much good in the worst of us and so much bad in the best of us that it hardly becomes any of us to say very much about the rest of us."

Say a prayer and do what you can for those unfortunate children of God who are addicted to tobacco and other deadly drugs. They will die before their time or wish they could.

As I prepare to yield back the sacred office in which I have been privileged to serve for nearly a third of a century, I wish you all Godspeed. You will remain in my heart and in my prayers forever.

CLINTON NAMES CASTRO APOLOGIST AS CHAIRMAN OF THE CORPORATION FOR PUBLIC BROADCASTING

(Mr. DIAZ-BALART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIAZ-BALART. Mr. Speaker, the real President Clinton showed himself by his appointment of Alan Sagner to head the Corporation for Public Broadcasting.

Mr. Sagner is proud of having been a founder of the so-called "Fair Play for Cuba Committee," the most active U.S. pro-Castro group in the history of the Castro regime. In fact, Sagner formed this group during the worst moments of Castro's mass murders and confiscations.

It would have been expected that by this time Sagner would at least admit his mistake, recognize that he failed to see Castro at the beginning of his dictatorship for what he was, a murderer, which he still is. But no, to this day Sagner proudly defends the Fair Play for Cuba Committee. Here is a fellow who still refuses to acknowledge the gulags, the mass executions, the political prisons, the totalitarian oppression, as the essence of the Castro regime; and he is now the head of the Corporation for Public Broadcasting.

Shameful appointment, Mr. President. Find someone else.

THE IRS BUREAUCRACY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the IRS told Joan Kilburn of Nevada she owed $92,000 that she said she did not. The IRS says, look, pay the $92,000, and we will leave you alone. Joan Kilburn said, you are wrong. And they said, prove it.

After 18 months, thousands of dollars, Joan Kilburn proved a very simple fact. Her ex-husband owed the money and owed the money before they were married. They finally agreed.

Ladies and gentlemen, tell me what has happened in our country when a Government bureaucrat can look at a citizen and say prove it. Prove it, and we will leave you alone.

□ 1015

God Almighty, if we want to reform the IRS, then change the burden-of-proof law. In America, a person is innocent until proven guilty. Where did we allow the IRS to go off half-cocked, accusing our citizens of wrongs without proving it? Joan Kilburn, bravo.

I yield back the balance of all those penalties.

AMERICANS LIKE TAX REFORM

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, throughout the 104th Congress no issue has struck a chord with the American people like tax reform: Fundamental radical tax reform to make paying taxes simpler and fair, tax reform that will get rid of the IRS.

This does not come from tax cheaters. It comes from hard-working Americans who are tired of being intimidated by their own Government in the form of the IRS.

During one of my meetings in August, I was given this very beautiful piece of modern art that I am wearing today, this T-shirt, to show how strongly people feel about the IRS. They said, take this back to Washington and tell them that we want the IRS gone, and to do that, we want a different tax system; and this particular group preferred the sales tax system. This should be a top priority of the 105th Congress.

They also gave me an additional shirt, a little lady come up to me and said, would you please take this shirt to the gentleman from Ohio [Mr. TRAFICANT] for his hard work to get rid of the IRS? So I have to put up with the gentleman's popularity even in my own district.

ETHICS COMMITTEE SHOULD RELEASE INDEPENDENT COUNSEL'S REPORT

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, as I said yesterday, over a year ago, I pointed out that this House has a severe dark cloud hanging over it, all because of the inaction of the Committee on Standards of Official Conduct on complaints that have been filed against our Speaker, NEWT GINGRICH. They have been stalled and stalled and stalled. Now we have a report that has been filed by the independent counsel, and they are not releasing the report.

POINTS OF ORDER

Mr. LINDER. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The gentleman will state it.

Mr. LINDER. Mr. Speaker, the gentleman has been here long enough to know the rules of the House. He shows it on the floor of the House all the time. He is abusing the rules of the House by referring to matters before the Committee on Standards of Official Conduct.

The SPEAKER pro tempore. The Chair sustains the point of order, and would permit the gentleman from Missouri [Mr. VOLKMER] to proceed in order.

Mr. VOLKMER. Mr. Speaker, one newspaper in Connecticut appropriately describes the chairperson of the Committee on Standards of Official Conduct as "Stonewall Johnson." That is a perfect, appropriate description of the gentlewoman from Connecticut, and she has handled well the delay so that none of the ethics violations by the Speaker will ever be seen in the light of day.

POINT OF ORDER

Mr. LINDER. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LINDER. The gentleman is continuing to refer to matters before the Committee on Standards of Official Conduct.

The SPEAKER pro tempore. The Chair would sustain the point of order of the gentleman from Georgia [Mr. LINDER] and would remind Members that it is inappropriate to refer to the Members of the Committee on Standards of Official Conduct and their work.

TAX CUTS SHOULD REDUCE TAXES

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, if a politician says that he wants to cut taxes, it would really help his case if the tax cuts would actually reduce the tax burden. President Clinton says he wants to cut taxes, but if you seriously look at his proposals, you will see not a tax cut, but voila, a tax increase.

A report released this week by the Joint Committee on Taxation shows that Bill Clinton's tax proposals will increase taxes $64 billion. Bill Clinton's bridge to the 21st century is evidently paved with the hard-earned tax dollars of the American family. Bill Clinton and the liberal Democrats have absolutely no intention of cutting taxes on any American family. Despite all the fancy terminology and all the sweet sounding words, Democrats remain the tax-and-spend liberals they have always been. Nothing has changed; they love big government. And the liberals claim that they want to cut your taxes in order to continue robbing the people of America to feather their nests here in Washington. This report proves it.

Shame on you liberal Democrats.

OUTSIDE COUNSEL'S REPORT PRIVILEGED RESOLUTION

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, today or tomorrow the House will consider a privileged resolution I have introduced calling on the Ethics Committee to release the report of the outside counsel investigating Speaker NEWT GINGRICH. I would like to read the text of that privileged resolution:

Whereas on December 6, 1995, the Committee on Standards of Official Conduct agreed to appoint an outside counsel to conduct an independent, nonpartisan investigation of allegations of ethical misconduct by Speaker Newt Gingrich;

Whereas, after an eight-month investigation, that outside counsel has submitted an extensive document containing the results of his inquiry;

Whereas the report of the outside counsel cost the taxpayers $500,000;

Whereas the public has a right—and members of Congress have a responsibility—to examine the work of the outside counsel and reach an independent judgment concerning the merits of the charges against the Speaker;

Whereas these charges have been before the Ethics Committee for more than two years:

Whereas a failure of the Committee to release the outside counsel's report before the adjournment of the 104th Congress will seriously undermine the credibility of the Ethics Committee and the integrity of the House of Representatives;

Therefore be it resolved that—

The Committee on Standards of Official Conduct shall immediately release to the public the outside counsel's report on Speaker Newt Gingrich, including any conclusions, recommendations, attachments, exhibits or accompanying material.

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT MUST COMPLETE ITS WORK

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, the gentleman from Georgia [Mr. LEWIS], the gentleman from California [Mr. FAZIO] earlier, are absolutely correct. I would like to join my colleagues on the other side of the aisle in publicly stating that the American people and this Congress have not only the right, but we as representatives of those people have the responsibility to see the Committee on Standards of Official Conduct complete its process, when it is complete. I repeat, when it is complete.

The Committee on Standards of Official Conduct, chaired by the gentlewoman from Connecticut [Mrs. JOHNSON], our colleague, has conducted this investigation in accordance with the rules established by this House.

When the committee has completed its responsibilities, I am confident that the report will be made public and then the American people and the House of Representatives will have the opportunity and the responsibility to respond to those conclusions.

Until such time, I would call on my colleagues on both sides of the aisle to let the rules of the House and the Committee on Standards of Official Conduct complete its task and its responsibility. I believe that will be done properly.

HOW LONG DOES IT TAKE FOR A REASONABLE INVESTIGATION?

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I listen to my words of my friend, the gentleman from Wisconsin [Mr. GUNDERSON], and I would agree with him that clearly we do not want any half-baked anything here. But as I get ready to leave this body, I am beginning to think about what I could will to the Committee on Standards of Official Conduct, and I am thinking about willing them an outbox. I guess the question is, how long does it take for a reasonable investigation? Our problem is 2 years seems like a very long time.

In the past, and we can bring those charts to the floor except they probably would be ruled out of order, but we have charts showing that all sorts of serious complaints before were dealt with in a matter of weeks or months, and sometimes days. But 2 years, 2 long years? And there is some suspicion that we may not see this until after the term is over and that people will then think, oh, well, it is moot now and we start all over again.

I think, if that happens, this body will really be operating under a very dark cloud.

"DEAR COLLEAGUE" LETTER FROM THE PAST APPLIES TO PRESENT ETHICS COMMITTEE SITUATION

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, three of the previous speakers, the gentlewoman from Colorado [Mrs. SCHROEDER], the gentleman from Georgia [Mr. LEWIS], and the gentleman from Missouri [Mr. VOLKMER], were all signatories to a letter that goes directly to this point that they are now arguing the other side of with respect to disclosure from the Committee on Standards of Official Conduct. It was written just a few short years ago.

Mr. Speaker, it says:

> As the Ethics Committee prepares its recommendations to the full House, it should only release the information which the Committee agrees is relevant and necessary to support its findings.

Why is that? Because, it goes on,

> to ask a Member, any Member, to also respond in the court of public opinion to allegations, rumors and innuendo not deemed worthy of charge by the Committee would be totally unfair and a perversion of the process. Especially in a time of press sensationalism.
>
> Public release of material not germane to formal Committee action

In the Wright case,

> would be similar to the process used during the Joe McCarthy era: Ignore the discipline of the process and firm evidence and dump unproven allegations out in public and let the ensuing publicity destroy the person's reputation and character.

THERE IS A DIFFERENCE BETWEEN DEMOCRATS AND REPUBLICANS

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield for just one second?

Mr. WYNN. I am delighted to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I just wanted to respond that in the Wright case it took 2 weeks to get a special counsel, and in the Gingrich case we talked about 15 months. I think there is a great difference. Thank you.

Mr. WYNN. Mr. Speaker, people often wonder: Is there a difference between Democrats and Republicans? There absolutely is. That difference is being played out in the closing weeks of this year's session.

Mr. Speaker, the Democrats are trying to get more money for education, about $3.1 billion for education and job training. No, it will not unbalance the budget. The budget will be fine. But it will enable us to provide funds for basic math and reading skills, Head Start, summer jobs for kids, dislocated worker assistance, school-to-work initiatives, and Pell grants for college students.

Mr. Speaker, we hear a lot of rhetoric about our children's future. The Democrats care about our children's future. That is why we are fighting for education. The American people want more Federal support for education. Strapped local and State governments want more money for education.

We have an opportunity in the closing weeks of this session to provide that assistance without affecting the budget. We ought to do it.

Mr. Speaker, there is a difference between the Democrats and Republicans: Democrats favor aid to education.

THE CLINTON ADMINISTRATION RETREATS

(Mr. MILLER of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Florida. Mr. Speaker, after a decade of progress under Ronald Reagan and George Bush, Bill Clinton is leading the full-scale retreat on the war on drugs.

Upon arriving in the White House, Bill Clinton began by dismantling the war on drugs. He began by slashing the U.S. military's drug interdiction budget by 1,000 positions. In February 1993, he eliminated 83 percent of the staff at the Office of National Drug Policy. That is where the drug czar works.

Bill Clinton cut Customs Service interdiction by 20 percent. And to top it off, in December 1993, the Clinton-appointed Surgeon General, Jocelyn Elders, publicly talked about drug legalization.

Mr. Speaker, is it any surprise that under Bill Clinton's watch the number of 12- to 17-year-olds using marijuana has doubled? And marijuana use today starts at a younger age. The average age of first use is about 13½ years.

The children of today are coming under the era of the President who said, I didn't inhale. And now it is our communities that are feeling the pain.

SELECT COMMITTEE NEEDED TO INVESTIGATE CIA/CRACK CONNECTIONS

(Ms. WATERS asked and was given permission to address the House for 1 minute.)

Ms. WATERS. Mr. Speaker, I demand that this House investigate recent reports of CIA-organized military efforts which led to the introduction of crack cocaine into south central Los Angeles and other inner city areas.

The San Jose Mercury News, in a recent series of newspaper articles, has documented the involvement of CIA operatives in the earliest trafficking of crack cocaine into this country.

Crack cocaine has ravaged our communities with despair, violence, addiction, and death. In what appears to be an overzealous attempt to raise money for the Nicaraguan Contras in the early 1980's, it is alleged that the CIA-run Contras used profits, profits made from selling drugs in the United States, to fund their movement.

Mr. Speaker, these charges are so severe that they require immediate congressional action. Today, I call on this House to pass legislation I have introduced enabling an Iran-Contra-type select committee to get to the bottom of the allegations that have been made.

We cannot wait to consider this matter, Mr. Speaker. Too much time has been lost already.

□ 1030

ENGLISH AS THE OFFICIAL LANGUAGE

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, as this session draws to a close there is much unfinished business, very important business that we must address. One such piece of legislation that we have addressed in this House, thankfully, is the English language bill.

I have spoken to the leadership in the other body, and I hope that they will bring that bill up for a vote before the end of the session. Many Members have and I have personally spent years, countless months, weeks, days, and hours on this effort.

I am thankful that again we in this House had the good sense to pass this bill, as the American people have so often requested in every single poll taken in America. Now we must see to it that we carry this bold action for America through to its cherished end. I am asking the Members of this House to help me in that effort.

LET THE PEOPLE BE HEARD

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning to speak on a very serious issue, and I truly believe that this should not be an issue, a cause of partisan stridency. But a friend of mine, Speaker Jim Wright, some years ago faced this House in a dignified manner. Interestingly enough, the report on Speaker Wright, an outstanding man, dealing with an ethics allegation, was issued and reported to this body in 14 days. Speaker Wright was a Democrat and a great American.

It seems to me quite contradictory and hypocritical that we now have a preliminary ethics report on the Speaker of the House and the American people cannot hear it. I do not need to rise to the floor of the House shouting at the top of my lungs. I only need to ask the question.

If there is a report of ethics violations on the Speaker of the House of the United States of America, let the people be heard and let the people hear the report. This report should be issued so that all of us can discuss it, understand it and respond to it. Release the special counsel's report now on behalf of the American people.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTIONS OF PRIVILEGES OF THE HOUSE

Mr. LINDER. Pursuant to clause 2, rule IX, I hereby give notice of my intention to offer a question of privileges of the House resolution.

I will read the contents of the resolution:

Whereas, a complaint filed against Rep. Gephardt alleges House Rules have been violated by Rep. Gephardt's concealment of profits gained through a complex series of real estate tax exchanges and;

Whereas, the complaint also alleges possible violations of banking disclosure and campaign finance laws or regulations and;

Whereas, the Committee on Standards of Official Conduct has in complex matters involving complaints hired outside counsel with expertise in tax laws and regulations and;

Whereas, the Committee on Standards of Office Conduct is responsible for determining whether Rep. Gephardt's financial transactions violated standards of conduct or specific rules of House of Representatives and;

Whereas, the complaint against Rep. Gephardt has been languishing before the committee for more than seven months and the integrity of the ethics process and the manner in which Members are disciplined is called into question; now, be it

Resolved, That the Committee on Standards of Official Conduct is authorized and directed to hire a special counsel to assist in the investigation of this matter.

Resolved, That all relevant materials presented to, or developed by, the committee to date on the complaint be submitted to a special counsel, for review and recommendation to determine whether the committee should proceed to a preliminary inquiry.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative schedule within 2 legislative days. The Chair will announce that designation at a later time.

A determination as to whether the resolution constitutes a question of privilege will be made at that later time.

APPOINTMENT OF CONFEREES ON H.R. 2977, ADMINISTRATIVE DISPUTE RESOLUTION ACT OF 1996

Mr. HYDE. Mr. Speaker, pursuant to clause 1 of rule XX and by direction of the Committee on the Judiciary, I move to take from the Speaker's table the bill (H.R. 2977) to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. HYDE] is recognized for 1 hour.

Mr. HYDE. Mr. Speaker, this is the customary request which will enable us to go to conference on this bill.

I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. HYDE].

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. HYDE, GEKAS, FLANAGAN, CONYERS, and REED.

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 339, nays 58, answered "present" 1, not voting 35, as follows:

[Roll No. 420]

YEAS—339

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Costello
Cox
Coyne
Cramer
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Engel
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Foglietta
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Gallegly
Gejdenson
Gekas
Geren
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefner
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Laughlin
Lazio
Leach
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meek
Metcalf
Meyers
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Rangel
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Studds
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff

NAYS—58

Abercrombie
Bonior
Borski
Brown (CA)
Bunn
Clay
Clyburn
Collins (IL)
Collins (MI)
Cooley
Crane
Dingell
English
Ensign
Everett
Fazio
Flake
Flanagan
Fox
Funderburk
Gephardt
Gibbons
Gillmor
Green (TX)
Gutknecht
Hefley
Hilleary
Hilliard
Hinchey
Hutchinson
Jacobs
Johnson, E. B.
Jones
Latham
Levin
Lewis (GA)
Lewis (KY)
Lipinski
Markey
Miller (CA)
Pickett
Pombo
Poshard
Ramstad
Rush
Sabo
Schroeder
Stockman
Stupak
Taylor (MS)
Thompson
Torkildsen
Vento
Visclosky
Volkmer
Watts (OK)
Weller
Zimmer

ANSWERED "PRESENT"—1

Harman

NOT VOTING—35

Beilenson
Bentsen
Bono
Chapman
Clayton
Conyers
de la Garza
DeFazio
Dickey
Dicks
Dornan
Fields (LA)
Fields (TX)
Filner
Furse
Ganske
Hastings (FL)
Hayes
Heineman
Johnston
Kasich
LaFalce
LaTourette
Lewis (CA)
Longley
McDermott
McNulty
Menendez
Peterson (FL)
Richardson
Stark
Stump
Thornton
Williams
Wilson

☐ 1054

Mr. HINCHEY changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BONO. Mr. Speaker, on Thursday, September 19, 1996, I was unavoidably delayed and missed the following vote: Rollcall vote 420, on approving the Journal.

Were I present, I certainly would have voted "aye" on the rollcall vote in support of this measure.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

DISCHARGING THE COMMITTEE ON THE JUDICIARY FROM FURTHER CONSIDERATION OF THE PRESIDENT'S VETO OF H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT OF 1995

Mr. CANADY of Florida. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore (Mr. LAHOOD). The clerk will report the motion.

The clerk read as follows:

Mr. CANADY of Florida moves to discharge the Committee on the Judiciary from the further consideration of the President's veto of the bill, H.R. 1833.

The SPEAKER pro tempore. The gentleman from Florida [Mr. CANADY] is recognized for 1 hour.

☐ 1100

Mr. CANADY of Florida. Mr. Speaker, I yield the customary 30 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], pending which I yield myself such time as I may consume.

Mr. Speaker, on April 15 this year President Bill Clinton vetoed H.R. 1833, the Partial Birth Abortion Ban Act.

As a result, the President is the one person standing in the way of Congress saving thousands of children from being partially delivered and then killed with an abortion procedure that has shocked the conscience of the American people.

The drawings here describe the procedure called partial-birth abortion. These drawings describe this horrible procedure step by step. Mr. Speaker, in the partial-birth abortion procedure, the physician or the abortionist begins in this way. Guided by ultrasound, he grabs the live baby's leg with forceps. Then the abortionist pulls the baby's leg out into the birth canal. The abortionist delivers the living baby's entire body except for the head, which is deliberately kept lodged just within the uterus, as is depicted in this drawing.

Then the abortionist jams scissors into the baby's skull. The scissors are opened to enlarge the hole. This is the step in this procedure which kills a living human child.

Next, in completing this horrible procedure, the abortionist removes the scissors and inserts a suction catheter into the baby's skull. The child's brains are removed, causing the skull to collapse, and the delivery of a dead child is completed. This tells the truth about partial-birth abortion. This is the truth that the proponents of partial-birth abortion have tried to conceal from the very day that the debate over this bill began. These are the drawings that the supporters of partial-birth abortion tried to censor and tried to prevent this House from even seeing and tried to prevent the American people from even seeing, but this is the truth that cannot be concealed.

After the President vetoed this bill, which was passed with strong bipartisan support here in this House and in the Senate, Senator DANIEL PATRICK MOYNIHAN of New York said, and I quote, "I think this is just too close to infanticide. A child has been born and it has exited the uterus, and what on earth is this procedure?"

Senator MOYNIHAN is right. The only difference between the partial-birth abortion procedure and homicide is a mere 3 inches. President Clinton and the abortion lobby have tried to defend this indefensible procedure by propagating a number of myths to mislead the press and the public.

Supporters of partial-birth abortion have repeatedly denied or misrepresented the facts about partial-birth abortion. But the truth cries out against them. Despite their relentless effort to misrepresent and confuse the issue, the evidence continues to mount against this horrible practice. Both the National Abortion Federation and the National Abortion Rights Action League claim that anesthesia administered to the mother before a partial-birth abortion is performed kills the child, and therefore the child feels no pain when those scissors are being inserted into the child's head. Norig Ellison, the President of the American Society of Anesthesiologists, unequivocally stated that those claims had absolutely no basis in scientific fact.

Dr. David Birnbach, the President-elect of the Society for Obstetric Anesthesia and Perinatology, said the claims were crazy, but despite these and other authoritative statements to the contrary, the abortion lobby continued to assert the falsehood concerning anesthesia.

Dr. Ellison said that he was deeply concerned that widespread publicity may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus.

Consequently, I held a hearing in the Subcommittee on the Constitution to put to rest the anesthesia myth. The facts were clear: Anesthesia administered to the mother during a partial-birth abortion does not kill the child, nor does the anesthesia alleviate the child's pain. Dr. Jean Wright, a professor of pediatrics and anesthesia at the Emory University School of Medicine in Atlanta, concluded that the partial-birth abortion procedure, if it were done on an animal in my institution, would not make it through the institutional review process. The animal would be more protected than this child is.

The National Abortion Federation, a lobbying group that represents abortion providers, also claims that partial-birth abortion was inconsequential because only 500 children per year were being aborted using the method. This myth exploded when the Record, a daily newspaper published in northern New Jersey, documented that doctors at a single abortion clinic in Englewood, NJ, performed 1,500 partial-birth abortions per year on women who are 20 to 24 weeks pregnant. That is three times the number the abortion lobby claims nationwide.

The paper also reported that the New Jersey doctors say only a minuscule amount are for medical reasons. That is very interesting that the National Abortion Federation, which represents abortion providers, did not know about this. The people who are doing this are represented by that organization. Yet they claim such a small number of these procedures were being performed. It simply was not true. I would suggest it is very likely they knew it was not true.

The admission of these New Jersey doctors that only a minuscule amount of the 1,500 partial-birth abortions they perform every year are for medical reasons brings me to the most pervasive myth promulgated by the abortion lobby. The abortion lobby claims that partial-birth abortion is only used in cases where a mother needs the procedure to spare her health or future fertility. President Clinton used this claim when he vetoed the Partial Birth Abortion Ban Act, asserting that the procedure is necessary for women's health.

Unfortunately, for the most part this claim has been reported uncritically, although the evidence is overwhelmingly against it. Former Surgeon General C. Everett Koop insists that the President is misinformed about partial-birth abortion. Dr. Koop explains:

> In no way can I twist my mind to see that the late-term abortion as described, partial-birth, and then destruction of the unborn child before the head is born, is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I'm opposed to partial-birth abortions.

Dr. Martin Haskell, who has performed over 1,000 partial-birth abortions, wrote that he routinely performs this procedure on all patients 20 through 24 weeks; that is, 4½ to 5½ months into pregnancy. Haskell told the American Medical News.

> I will be quite frank: Most of my abortions are elective in that 20- to 24-week range. In my particular case, probably 20 percent are for genetic reasons. And the other 80 percent are purely elective.

Another abortionist, Dr. James McMahon, who performed partial-birth abortions in the third trimester on five women who appeared with President Clinton at his April 15 veto event, submitted to Congress a detailed breakdown of a series of over 2,000 partial-birth abortions. He classified only 9 percent as involving maternal health indications, of which the most common was depression. Other health reasons included spousal drug exposure and the youth of the mother. That is what they are talking about when they talk about health.

Another 56 percent of these abortions were for fetal flaws, but these included a great many nonlethal disorders such as cleft lip and Down's syndrome.

Most strikingly, Dr. McMahon did not list reasons, not even depression or cleft lip, for more than one-third of the partial-birth abortions he performed. McMahon candidly admitted that he used the procedure for elective abortions, explaining "after 20 weeks, where it frankly is a child to me, I really agonize over it," but he added, "Who owns the child? Who owns the child? It's got to be the mother." Property can be disposed of in such a heinous manner.

Just this week the Washington Post described the real circumstances behind most partial-birth abortions. Dr. David Brown, a staff writer, wrote:

> The typical patients tend to be young, low-income women, often poorly-educated or naive, whose reasons for waiting so long to end their pregnancies are rarely medical.

Clearly, most partial-birth abortions are performed on the healthy children of healthy mothers. But let me address the small percentage of partial-birth abortions that are performed on children with conditions that may be incompatible with life outside the womb. The President of the United States used his bully pulpit to tell women throughout the country that the gruesome partial-birth abortion procedure must remain available because the only alternative is to allow doctors to "* * * rip your bodies to shreds, and you could never have another baby even though the baby you were carrying couldn't live."

In response to this statement, this outrageous statement, Dr. Nancy Romer, a practicing high-risk obstetrician-gynecologist who is also a professor of medicine, said, this is totally untrue. There is no basis in fact for what the President has claimed. There is no scientific evidence, there is no medical evidence, to support that.

The President has relied on a campaign of misinformation. The supporters of partial-birth abortion have relied on a campaign of misinformation. But it is time that we put a stop to the misinformation about partial-birth abortion.

We have had women who have come forward who have had similar circumstances to the women who were there at the White House at the veto ceremony. They went forward with their pregnancies. They delivered the babies without the use of this procedure, and there was no harm done to them. They have stood and given witness to that fact.

These brave women took it upon themselves to request that the President give them the same opportunity to meet with him that he extended to families who have had partial-birth abortions. On behalf of the women, Mrs. Jeannie French wrote to the President.

> Perhaps inadvertently, you sent a message of hopelessness to women and families who anticipate the birth of children with serious or fatal disabilities. This message is so wrong.

Unfortunately, the President flatly refused to meet with them.

When asked about vetoing the Partial-Birth Abortion Ban Act, Bill Clinton said:

> The President is the only place in this system of ours where there is one person who can stand up for the people with no voice, no power, who are going to be eviscerated.

Eviscerate has a medical meaning; that is, to remove the contents of a body organ.

Mr. Speaker, partially born children are being eviscerated. You can see it right here. Instead of standing up for these tiny, defenseless people, Bill Clinton stood in their way and stands in their way. I urge my colleagues to take this opportunity today to stand up for children with no voice, no power; children who are going to be eviscerated in the future unless we pass this bill over the President's veto.

Vote yes on the motion to discharge, and then vote yes to override President Clinton's veto of the Partial-Birth Abortion Ban Act. Let us put a stop to this horrendous procedure. Let us stop partial-birth abortion in America.

Mr. Speaker, I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER (Mr. LAHOOD). The Chair will remind all persons in the gallery that they are guests of the House, and that any manifestation of approval or disapproval of proceedings is a violation of the House rules.

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK], chairman of the subcommittee.

□ 1115

Mr. FRANK of Massachusetts. It is the chairman in exile, Mr. Speaker.

The gentleman who just spoke acknowledged that there are cases where there are health reasons. He said they are a small number. This bill is controversial for one reason and one reason only. The majority absolutely, in both branches, refused to allow an amendment that would have provided an exception where the health of the mother was at stake. In the other body, such an amendment was put forward and it was defeated. In this House, we went to the Committee on Rules and asked for the right to present it, and we were not allowed to do it.

If the majority feels that the health-generated abortions of this sort are such a minuscule portion of the total, why have they adamantly refused to allow us to vote on such an amendment? We are talking here when we talk about health, about cases where the child to be born is unfortunately so severely deformed as to have no chance of life whatsoever, and the question is, if a doctor decides late in a pregnancy when this is dicovered that the child will not survive if born and that this is the method of abortion that minimizes risk to the mother, this bill makes that a crime. We were not even allowed to vote on that.

Members have said that on the other side, "Well, if you just say health, it will be too vague." Well, they have got the votes. They could have defined health. They could have said physical health. They could have said significant physical health.

Understand that this bill would outlaw, as it is presented to us, and this is what the President justifiably discussed when he vetoed it, this would outlaw the doctor deciding in his or her judgment what is the best procedure for a fetus that has no chance of life outside the mother and the doctor says this is the safest way.

We have had people who have said, "Look, the doctor said to me if I didn't use this procedure, my ability to have children in the future would have been wiped out."

This bill says no. If in fact they believe that medical-generated cases are a small number, why did they not allow us to vote on this? The reason is, this is part of an effort by people who conscientiously believe that all abortion is wrong. The people pushing for this bill do not really differentiate in their own minds, morally, philosophically, any other way, between this particular form of abortion and any other form performed in the second or third month. They do not like the whole notion. No one does. It is not a pleasant thing to describe in any form. But the question is, if a doctor says to a woman in her sixth or seventh month, "Look, we have sad news, the child you will give birth to will have no chance whatsoever of life and in fact if you give birth in the normal fashion, this could damage your health, and I want to use this procedure"; the doctor says, "I advise that we follow this procedure, because in my medical judgment any other action would threaten your health," that doctor has just proposed the commission of a crime.

Send this back to conference, give us an amendment that says significant physical health effects would be a reason to allow this, and you would not have a controversy because the President would have signed the bill.

So that is the whole story. This bill refuses to allow a doctor and the pregnant woman to decide that in the case of a fetus that has no chance to live this is the best procedure and you would make that a crime.

Mr. CANADY of Florida. Mr. Speaker, I yield 2½ minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, we are talking today about a procedure that is defined as the following: "Partially delivers a living fetus before killing the fetus and completing the delivery." And we are talking about doing this with a pair of scissors inserted into the back of this baby's skull.

Now, let me gently try to contrast that image that you have right now with one that is given in a very popular book today on the bestseller list, "What To Expect When You're Expecting," when people are ready for the joy of a new birth in their family. In the fifth and the sixth month when many of these gruesome procedures are performed, here is what is happening to this baby:

> By the end of the sixth month, the fetus is about 13 inches long and weighs about a pound and a quarter. Its skin is thin and shiny with no underlying fat. Its finger and toe prints are visible. Eyelids begin to part. The eyes are opening. With intensive care, the fetus may survive now outside the womb.

So we are now contrasting a procedure that is brutal and gruesome and abominable with what we could put into care and technology and love and commitment to have that baby survive.

Let me say, Mr. Speaker, that in this body we spend billions of dollars on satellites in space that can pick up a license plate on Earth. We spend billions on defense, for F-117's to deliver cruise missiles. Can we not find a measure to ban these procedures?

Mr. Speaker, pro-life, pro-choice people, this is not a question of one's philosophy. We all agree abortion should be rare. This procedure should be banned. Let us vote today in a bipartisan way to save our children, to be bipartisan, and to permanently ban the procedure that takes these precious lives that might and could be saved.

Mrs. SCHROEDER. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE], a distinguished member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, with great emotion I rise this morning really to speak to the American people, for giving birth, as I have done, is not a pretty picture. But, oh, what a wonderful sight when that bouncing and wonderfully larger than life human being comes into your arms.

So as a member of the House Committee on the Judiciary, it was with great trepidation and tears and emotion that I listened to women come and not talk about death but talk about life, the kind of life that you see in these families.

I am pained now to be on the floor of the House because Republicans have made a medical procedure now a political cause. I am pained because I personally know the pain of praying for a fetus to survive and it did not. I am glad I had the support of my God, my doctor, and my family. I believe Americans are praying people, who believe in the right to privacy in this most difficult and private matter.

This is a medical procedure that is only done to save the life of the mother and to give a family the opportunity to bear children again. Note that I say a family, for this is a significant decision that must be made with the significant partner, the husband, the wife, the family, and, yes, the physician and their spiritual leader and their God.

Listening to the testimony about a woman who had a child that could not be viable, the doctors told this woman who testified that there was no hope, she asked about utero surgery, about shunts to remove the fluid that was on the brain. Nothing would work. There was pain. And the only thing that could work would be this procedure.

In trying to seek some relief, this particular woman who testified at the Judiciary Committee went to several specialists, looking for an opportunity to preserve life. I ask for mercy today that we would be allowed to go back to committee to address the question of life.

Birth is not pretty, but we want it to occur. This procedure is not pretty, and it should not be on the floor of the House, but God help us that we not take this time to deny American women and families the opportunity for life. Sustain the President. Allow us to fix it to provide life for Americans.

Mr. CANADY of Florida. Mr. Speaker, I would inquire of the Chair concerning the amount of time remaining on both sides.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Florida [Mr. CANADY] has 13½ minutes remaining and the gentlewoman from Colorado [Mrs. SCHROEDER] has 24 minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I reserve the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, I would like to speak in the short time that I have for the people who are not in this Chamber today, who cannot speak for themselves but have spoken in other settings.

This is a picture of Coreen Costello and her family. I am going to quote from a letter that she has written. If anyone wants it, they can ask their Member of Congress for the complete letter.

> Those who want to ban a controversial late-term abortion technique might think I would be an ally. I was raised in a conservative, religious family. My parents are Rush Limbaugh fans. I'm a Republican who always believed that abortion was wrong.
>
> Then I had one.
>
> Disaster struck in my seventh month. Ultrasound testing showed that something was terribly wrong with my baby. Because of a lethal neuromuscular disease, her body had stiffened up inside my uterus.
>
> Our doctors told us that Katherine Grace could not survive, and that her condition made giving birth dangerous for me—possibly even life threatening. Because she could not absorb amniotic fluid, it had gathered in my uterus to such dangerous levels that I weighed as much as if I were at full term.
>
> At first I wanted the doctors to induce labor, but they told me that Katherine was wedged so tightly in my pelvis that there was a good chance my uterus would rupture. We talked about a caesarean section. But they said this, too, would have been too dangerous for me.
>
> Finally we confronted the painful reality: Our only real option was to terminate the pregnancy.

She goes on to mention that "I'm pregnant again and due in June."

There are health issues that this procedure protects that would be banned and made criminal by this bill. That is a fact. The gentleman from Florida [Mr. CANADY] might want to ignore that, but it is a fact. I do not think there is any person that would want this.

The gentleman from Florida [Mr. CANADY], our colleague, we have got great news that he is engaged now, just got engaged, I guess, recently. Hopefully he is going to have children. I have a daughter who is 4 years old. Some day hopefully she will have children.

I pray that no one would ever have to face the choice that some of these women faced, but in the real world people will have those choices and they will have to make that choice of their own health or not, as to the best procedure that is available. I just do not think that it is the right thing for the U.S. Congress to do, to tell Mrs. Costello or other women that they should put their lives at risk in this type of situation.

Mrs. SCHROEDER. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. I thank the gentlewoman from Colorado for her leadership and for yielding me this time.

Mr. Speaker, I rise in opposition to this legislation and to the veto override of H.R. 1833. I believe it is unconstitutional and interferes directly with the practice of medicine. It is an unwarranted and unneeded government intrusion into medicine and into the family. The bill destroys the family's right to face a devastating circumstance with safety and dignity. But don't listen to me. I think that nothing speaks more eloquently to this issue than the voice of some of the families who have been through these very, very sad circumstances.

□ 1130

Many women who have undergone this procedure have bravely shared their stories with Members of Congress and the country, because of their great fear that other women facing tragic circumstances late in pregnancy will not have access to the safest possible procedures.

One such women is Vikki Stella, whose beautiful family is shown here. Vikki writes that her husband Archer and she live in Illinois, in a western suburb of Chicago. They have three children, Lindsay, Natalie, and Nicholas.

A little less than 2 years ago Vikki had a procedure that this legislation would ban. She was in the third trimester of pregnancy for a much-wanted son. She was diabetic and therefore her health was of particular concern. During the pregnancy she had to inject herself many times a day with insulin, et cetera.

She had prenatal tests showing her pregnancy was normal, but at 32 weeks she says her world was turned upside down. She went in for another ultrasound which found grave problems that had not been detected before. "Ultimately," she said, "my son was diagnosed with at least nine major anomalies that included a fluid-filled cranium with no brain tissue at all."

Vikki said never in the lives of her family would they have imagined a disaster like this could happen to them. Their options were extremely limited because of her diabetic situation. A C-section or a normal labor were not options available to her without having potentially severe health consequences.

The best option was a highly specialized surgical abortion procedure developed for women with similar difficult conditions, called an intact D&E. "This procedure was gentle," says Vikki. "Our baby was delivered intact. We held him in our arms and said our goodbyes. We named him Anthony."

Losing Anthony was a great tragedy for her, which she so generously, the Stella family has so generously shared with this Congress so that other women will have the best possible options available to them.

Mr. Speaker, I include for the RECORD the letter from Vikki Stella referred to above:

> JULY 29, 1996.
>
> Member of Congress,
> *U.S. House of Representatives,*
> *Washington, DC.*
>
> DEAR MEMBER OF CONGRESS: My name is Vikki Stella. My husband Archer and I live in Naperville, Illinois, in the western suburbs of Chicago. We have three children, Lindsay, who is twelve; Natalie, who is seven; and Nicholas Archer, who is seven months old. I am one of the women who stood with President Clinton as he vetoed H.R. 1833, the so-called "Partial Birth Abortion" Ban Act.
>
> A little less than two years ago I had a procedure that the legislation would ban. I was in my third trimester of pregnancy with a much-wanted son. I am diabetic and, therefore, my health is of particular concern. During the pregnancy, I injected myself twice a day with insulin and checked my blood sugars eight times a day by pricking my finger and using a glucose meter. I had more prenatal tests than most women including an

amniocentesis and five ultrasounds. Our doctor had pronounced my pregnancy "disgustingly normal." But then at 32 weeks, our world turned upside-down. I went in for another ultrasound, which found grave problems that had not been detected before. Ultimately, my son was diagnosed with at least nine major anomalies: these included a fluid-filled cranium with no brain tissue at all; compacted, flattened vertebrae; congenital hip dysplasia; skeletal dysplasia; and hypertoloric eyes. He would never have survived outside my womb.

Never in our lives had we imagined that a disaster like this could happen to us. We went home to our house in Naperville, to the bedroom prepared for out little boy—tiny clothes folded, crib assembled, walls painted—and we cried.

Our options were extremely limited because of my diabetes: I don't heal as well as other people so waiting for normal labor to occur, inducing labor early, or having a C-section would have had potentially severe health consequences for me. The best option was a highly specialized, surgical abortion procedure developed for women with similar difficult conditions called an intact D&E.

The procedure was gentle and our baby boy was delivered intact. We held him and said our goodbyes. We named him Anthony.

Losing Anthony was the most difficult thing we have gone through. When I was asked to come to Washington to share this personal grief, I agonized over the decision to come forward. This is not an easy story to tell. It's very private and very painful. But I know there will be other women after me who will need this procedure. Contrary to the image that is portrayed by supporters of this bill, we are not mothers who want "perfect babies" or mothers who are having third-trimester abortions because of cleft palates and missing fingers. Well, yes, Anthony had a cleft palate. I wish to God that was his only problem! He wasn't just imperfect—his anomalies were incompatible with life. The only thing that was keeping him alive was my body. He could never have survived outside my womb, so I did the kindest thing, the most loving thing I know to do. I took my son off life support.

When I went to Washington to tell Congress the truth about this procedure, my oldest daughter asked me why I was going. I told her that I was going because of Anthony. Lindsay who was eleven at the time and very smart for her age, wanted to know why I had to go to Washington because her baby brother died. So I told her the whole story. When I finished she looked up at me with her great big eyes and said, without hesitation, "Mommy, you did the right thing." It's a sad thing when an eleven-year-old is wiser than some Members of Congress.

Fortunately President Clinton listened to my story and the stories of families like mine and the tragedies we faced. He took the time to meet with me and hear how important it was for me to have the compassionate procedure. Holding Nicky in his arms, the President understood that that beautiful baby boy would not have been possible if it were not for the safety of the surgical procedure that protected my reproductive health.

Please stand with the President and vote to sustain his veto.

Sincerely,

VIKKI STELLA,
Naperville, Illinois.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, in the 14 years that I have served in Congress I have faced many votes on this issue. Not one of these votes has been an easy one. I have tried to make a decision of conscience in each case.

When I took a look at the drawings which the Republicans bring forward about this procedure, it troubled me. And I am sure as we hear this procedure described, it troubles us all, as it would most Americans.

But then one day a woman walked into my office whom I had never met before, from Naperville, IL. Her name was Vikki Stella. She said to me, "Congressman, let me tell you my story. We had several children in our family and our baby was on the way. We had named the child. We had painted the nursery. We had the baby shower. And we were told late in the pregnancy that a sonogram disclosed that this poor new baby of ours would never survive because of tragic deformities."

Because Vikki was also diabetic and had her own medical conditions to be concerned about, the doctors warned her that if she went through a normal pregnancy at that point she ran the risk of never having another child. A double tragedy: Losing this baby and never being able to bear another.

She and her husband laid awake at night crying over this decision. It was no frivolous, easy decision for selfish reasons, and they decided that it was best for them and their family to terminate that pregnancy with the procedure that would be prohibited and criminalized by this bill.

She cried as she told me this story, and I started to have a little tear in my eye too, as anyone would. And then she brightened up and she said, "You know what, Congressman? I'm pregnant again. We are going to have another baby. We will never forget our baby that we left and lost in this procedure, but our family is going to have another chance."

Think about that for a minute. Not one of us, not one of us would have wanted to face this tragedy with our family. But think of this possibility. If we override the President's veto, we would eliminate the medical procedure that gave Vikki Stella of Naperville, IL another chance to have a baby.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Speaker, I thank the gentlewoman from Colorado for yielding this time and for her leadership.

Mr. Speaker, I have only one thing to say today. I want to ask in this forum what one of the women who has had this procedure has been asking for weeks: Who are we to judge her and her family's heartache?

I want this body to know that I listened closely to Vikki Stella's story of her family tragedy. I saw the anguish in her eyes, but I marveled at her willingness to retell the story of her heartache, of learning in the third trimester of fatal fetal abnormalities and the tremendous threat her diabetes presented if she were to deliver such a child.

The Stella family's decision was not easy, and it has not been easy for her to spend the last year fighting against this legislation, but she has done it. She told me and she has told others so families faced with this personal tragedy have options.

I want my colleagues to think about us who have had critical family health emergencies. We know that it is important that the medical community has the opportunity to tell us what will best preserve and protect the health and safety of our families. Intact D&E gave the Stella family the chance to protect Vikki's health so she could continue to be a good healthy mother for her two daughters. It also allowed Vikki and her husband, Archer, to have a beautiful son, Nicholas, who is now 8 months old.

I do not support third trimester abortions except for in severe health situations. Vikki's story shows us why American families need this severe health exception, and this legislation does not contain it.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, today this body of Representatives decides one of the most profound moral debates in the history of our Nation. Our children will look upon this day to see if we stood for principle. Will we vote to defend and protect the women and future children of this Nation? Will we vote for principle over political party? Will we defend our children or the President's veto?

Almost as shameless as the President's veto were his efforts to paint himself as the defender of the health of women. According to Mr. Clinton, the life and health of women depend on the employment of this brutal procedure.

No less an authority than former Surgeon General C. Everett Koop has made it clear that a partial birth abortion is never necessary under any circumstance.

I commend Democrat leaders, the gentleman from Missouri [Mr. GEPHARDT] and the gentleman from Michigan [Mr. BONIOR], for their vote to ban partial birth abortions. And just as these two leaders stood up to their President, I hope all will follow their consciences and vote to override the President's veto.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, there is no issue that I agonize over, and I suspect many Members here agonize over, more than abortion. Except for the most committed on either side, the issues are not clear-cut and they are not easily resolved.

I also believe that reasonable limitations can be placed upon abortions performed late in pregnancy. But this legislation goes too far because it says doctors performing abortion using this procedure can be fined or jailed for 2 years.

The tragedy of this debate is not what is being said, it is what is not being said. Supporters say they want to prevent abortion. Yet the mothers who have this procedure, such as the women who have visited my office, did not want an abortion. They had to have this procedure to safeguard their health, their life, or because there was such a gross deformity of the fetus it was not likely to live.

It is important to note also what is not in this bill, Mr. Speaker: Any language that would permit the doctor to perform this procedure if the mother's health was seriously endangered. That is right. Even when a mother's health is seriously endangered a doctor performing this procedure can be jailed.

The supporters of this bill show dramatic pictures, artist's drawings, to make a case. Let me show a real photo to make my case. This is Coreen Costello, who visited my office, and this is her family. Late in her pregnancy she learned the child she was carrying had a severe and fatal disability. Her doctors recommended this procedure because her child could not live and her health was seriously endangered. She had this procedure.

Mr. Speaker, she has now had another child, Tucker, and so this photo becomes even more complete with Tucker being added to it. There are other photos, Mr. Speaker, and other real families: Vikki Stella; Claudia Ades and her family.

Mr. Speaker, I cannot believe that when a mother's health is seriously endangered this Congress would stand between the mother, her family, and her God. There can be reasonable limitations, yes, on abortion, but I cannot support, Mr. Speaker, any legislation that is going to tell a doctor that if he or she performs the procedure that they feel necessary because a mother's health is seriously endangered, they can go to jail. I do not believe the American people want that either.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, it is difficult to comprehend an act that takes away the life of an infant just moments before his or her first breath. It is just as difficult to comprehend the veto of the bill that would halt this life-ending procedure by a President who claims to promote family values and respect for human life.

I have received over 8,000 letters and postcards from my constituents urging me on to vote to override President Clinton's veto of the partial birth abortion ban. I completely agree with these people. This procedure is a violation of the sixth Commandment: Thou shalt not murder.

In fact, hundreds of doctors, including Dr. Karrer, from Jacksonville, FL, a practicing obstetrician-gynecologist with 30 years' experience, all of them have come forward to say that partial birth abortions are never, never needed to preserve the life or fertility of the mother.

As we may recall, President Clinton's argument for vetoing this legislation was that this procedure is needed to prevent a serious adverse health consequence. However, the Supreme Court's definition of the term "health" includes all factors: physical, emotional, psychological. Using these definitions, partial birth abortions are justified for reasons ranging from the mother's depression to a baby's cleft palate.

Perhaps the President was misinformed, perhaps he turned a deaf ear to those who tried to give him these facts, or maybe he did not hear that 80 percent of partial birth abortions are performed for purely elective reasons. Whatever the case, President Clinton's arguments are flat-out wrong.

If President Clinton hears nothing else in all of these arguments, I urge him to listen to the words of Mother Teresa who said, "The greatest destroyer of peace is abortion. Because if a mother can kill her own child, what is left? For me to kill you and you to kill me. There is nothing in between."

I strenuously object to President Clinton's veto of this ban, and I urge my colleagues today to vote to override this shameful veto.

Mrs. SCHROEDER. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, this debate has nothing to do with murdering babies; it has everything to do with murdering the truth.

It is a deplorable and cynical move that the sponsors of this measure engage in to exploit the very deeply held and genuine religious convictions of millions of Americans.

□ 1145

If anyone, no matter how religious and how committed on this issue, really believes the opening statement of the gentleman from Florida [Mr. CANADY] that there are thousands of babies across this country that are being stabbed to death moments before they are born into this world, then I would say to all these antichoice Republican militants, "The blood is on your hands this year, gentlemen, because you sat here after President Clinton wisely vetoed your bill on April 10."

They sat here at the scene of these alleged scissors murders. They sat here through April; they sat here through May; they sat here through June; they sat here through July; they sat here through August doing little or nothing as these supposed thousands of murders took place. They sat here until election eve because they were not concerned about these procedures; you were concerned about gaining political advantage with the millions of Americans who are genuinely concerned about the question of abortion.

And, of course, my colleagues and their Republican antichoice militants, they have a broader pledge. Their pledge is to end every abortion, even when it results from rape, even when it results from incest. By golly, in Texas they even went a little further. They said even when a teenage father who will not marry the mother objects, there is not going to be any abortion. And this is the first step, not the last step, in addressing that agenda that mandates motherhood, whether the mother wants to or not.

This same crowd will then come to this Congress and begin talking about scissor murders which are not occurring in America today; this same crowd will be here then telling the American people what kind of birth control, if any, they can use. Today is the first time that American women, facing a troubling health decision, are told: Do not ask your doctor; ask your Congressman.

We are not going to follow that troubled path. It is time to stop meddling in the personal lives, in the most personal decision that American people face, that American women face.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise to strongly urge Members to vote to override the President's veto on this legislation.

This legislation is much-needed if we are going to save the thousands of children who are killed unnecessarily each year by this procedure.

There is a provision in this bill that exempts those procedures where it is necessary in order to save the life of the mother. So all other procedures not necessary to save the life of the mother are just for the purpose of killing a baby, because the mother feels, or the doctor feels, that it is not appropriate to have this baby at this time.

It is a procedure that I feel, the scissors issues and the procedure is when this baby is at the moment of being born, taking its first breath and ready to live a life just like all of us, and then a moment comes where the doctor kills the baby, sucks it out and takes it out, and that is the end of it.

I say, let us vote to override the President's veto.

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, when this bill first came to the House floor, my wife was 8 months pregnant with our very first child. We were soon blessed to have a healthy baby who turned 9 months old yesterday. Our son is love of my wife's life and my life. He is the fulfillment of our hopes and dreams and prayers.

Yesterday, I met another little child named Nicholas Stella. Because Nicholas was born within 8 days of our own child, I could understand the joy of his mother as he playfully strode across my office floor.

Had this bill been law 2 years ago, Nicholas might not be alive today. As a new father, that is all the reason I need to vote to sustain this bill's veto.

This bill is not about saving baby's lives; it is about politics in an election year. This bill risks the fertility and health of women in order to make a political statement in a 30-second TV ad or 8-second sound bite.

What most citizens are not being told in America is that this bill will not outlaw late-term abortions; rather, it prohibits only one procedure that many physicians believe is needed to protect the health and fertility of a pregnant woman in tragic cases where her fetus has no chance of survival.

All other late-term abortion procedures under this bill would be perfectly legal, even if those procedures pose a greater threat to a woman's health or fertility.

For anyone, for anyone here or elsewhere to suggest that I as a new father or anyone else in this House would want to allow the abortion of a healthy baby just moments before normal childbirth is ludicrous, it is deceptive, and it is totally dishonest.

Mr. DORNAN. And it happens.

Mr. EDWARDS. It does not happen.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas has the time.

Mrs. SCHROEDER. Regular order.

The SPEAKER pro tempore. The Chair would ask the gentleman from California [Mr. DORNAN] to please be seated. The Chair would ask the gentleman from California to abide by the rules of the House. The gentleman from Texas [Mr. EDWARDS] has the time.

Mr. DORNAN. I will, Mr. Speaker, but it happens. It happens.

Mrs. SCHROEDER. Regular order.

The SPEAKER pro tempore. The Chair would ask the gentleman from California to abide by the rules of the House. The gentleman from Texas [Mr. EDWARDS] has the time.

Mr. DORNAN. I will, Mr. Speaker, but it happens.

The SPEAKER pro tempore. The Chair would ask all Members to abide by the rules. The gentleman from Texas has the time.

Mr. EDWARDS. Mr. Speaker, if that happens anywhere at any time, if these Members of the House, including the one that just spoke, would work with us to pass a bill, we could put into law in the next few weeks, we could stop it from happening.

But for anyone to suggest, as they have in fliers and ads, that we want to allow the abortion of a healthy baby just moments before childbirth is, as I said before and say again, totally dishonest and disgusting.

I helped pass a bill that outlawed not one late-term-abortion procedure in Texas; we outlawed all late-term-abortion procedures in Texas. But in that bill that is now law in Texas we did what this bill should do. We said if the life or the health or the fertility of a woman is at risk, that moral and medical decisions should be made by a woman, her family and her doctor, and not by politicians and not by the government.

Mr. Speaker, I urge the Members of this House to support the veto of this ill-fated, ill-designed legislation.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, I rise in support of this bill and against infanticide and I will do a 1 hour special order tonight continuing the debate. I say to my colleagues, please join me tonight.

Mr. CANADY of Florida. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Utah [Ms. GREENE].

Ms. GREENE of Utah. Mr. Speaker, I first learned about the partial-birth-abortion practice about a year-and-a-half ago when I was pregnant with my daughter. At that time, I was asked to be a part of the original cosponsors of that bill and, frankly, I did not want to be involved.

At that point, I felt that if, as a pregnant women, I stepped forward to engage in this debate, that the abortion supporters would pillory me as the poster child of the right. I did not want to tarnish the excitement and the joy of my pregnancy with this gruesome debate.

But, Mr. Speaker, I had to change my mind after I read this. It is the Medical Journal article prepared by the doctor who pioneered this so-called practice, this so-called procedure. I read it through. I tried to forget what I had read. It haunted me for 2 weeks. I daily thought about what I had read here about a procedure that is, in fact, infanticide. And I decided that I had to step forward.

Mr. Speaker, this so-called procedure has been defended as an emergency procedure when, in fact, this procedure takes 3 days to complete because the practitioner has to induce labor for 2 days before the person who is receiving the abortion can go in to partially deliver the child.

It has been defended as being painless for the fetus, and yet anesthesiologists say, if they are using anesthetics for the mother appropriately, quote, "Then it has little or no effect on the fetus. From a clinical point of view, you cannot depend on the fetus being asleep." That from the president of the Society for Obstetric Anesthesia and Perinatology.

Mr. Speaker, we have provided an exception where the life of the mother is at stake. This gruesome horrific practice is opposed by the American Medical Association legislative counsel. It has been opposed by C. Everett Koop, our former Surgeon General, who says he believes the President has been misled as to the medical facts behind this so-called procedure.

Mr. Speaker, I believe that the highest calling of this body is to protect the rights and interests of those who are too weak to protect themselves. Protect these children. Vote to override the President's veto and establish some civilized approach to a heinous practice that should not be allowed to continue in our Nation.

Mr. Speaker, today I will vote in favor of overriding President Clinton's veto of H.R. 1833, a bill to eliminate an abortion procedure commonly called a partial-birth abortion. I believe it is important for my colleagues to read a paper prepared by Dr. W. Martin Haskell describing the partial-birth abortion procedure, and to read an interview with Dr. Haskell in the Cincinnati Medicine. I would like to insert the interview and paper into the CONGRESSIONAL RECORD.

[From Cincinnati Medicine, Fall 1993]

SECOND TRIMESTER ABORTION

AN INTERVIEW WITH W. MARTIN HASKELL, MD

Last summer, American Medical News ran a story on abortion specialists. Included was W. Martin Haskell, MD, a Cincinnati physician who introduced the D&X procedure for second trimester abortions. The Academy received several calls requesting information about D&X. The following interview provides an overview.

Q. What motivated you to become an abortion specialist?

A: I stumbled into it by accident. I did an internship in anesthesia. I worked for a year in general practice in Alabama. I did two years in general surgery, then switched into family practice to get board certified. My intentions at that time were to go into emergency medicine. I enjoyed surgery, but I realized there was an abundance of really good surgeons here in Cincinnati. I didn't feel I'd make much of a contribution. I'd be just another good surgeon. While I was in family practice, I got a parttime job in the Women's Center. Over the course of several months. I recognized things there could be run a lot better, with a much more professional level of service—not necessarily in terms of medical care—in terms of counseling, the physical facility, patient flow, and in the quality of people who provided support services. The typical abortion patient spends less than ten minutes with the physician who performs the surgery. Yet, that patient might be in the facility for three hours. When I talked to other physicians whose patients were referred here, I saw problems that could be easily corrected. I realized there was an opportunity to improve overall quality of care, and make a contribution. I own the center now.

Q: Back in 1979 when you were making these decisions, did you consider yourself pro-choice?

A: I've never been an activist. I've always felt that no matter what the issue, you prove your convictions by your hard work—not by yelling and screaming.

Q: Have there been threats against you?

A: Not directly. Pro-life activist Randall Terry recently said to me that he was going to do everything within his power to have me tried like a Nazi war criminal.

Q: A recent American Medical News article stated that the medical community hadn't really established a point of fetal viability. Why not?

A: Probably because it can't be established with uniform certainty. Biological systems are highly variable. The generally accepted point of level viability is around 24–26 weeks. But you can't take a given point in fetal development and apply that 100 percent of the time. It just doesn't happen that way. If you look at premature deliveries and survival percentages at different weeks of gestation, you'll get 24-week fetuses with some survival rate. The fact that you get some survivors demonstrates the difficulty in defining a point.

Q: Most women who get abortions end pregnancies during the first trimester. Who is the typical second-trimester patient?

A: I don't know that there is a typical second-trimester abortion. But if you look at the spectrum of abortions (most women are between the ages of 19 and 29) they tend to be younger. Some are older. The typical thing that happens with older women is that they never realize they were pregnant because they were continuing to bleed during the pregnancy. The other thing we see with older women is fetal malformations or Down's Syndrome. These are being diagnosed much earlier now than they used to be. We're seeing a lot of genetic diagnoses with ultrasound and amniocentesis at 17–18 weeks instead of 22–24 weeks. With the teenagers, anybody who has ever worked with or had teenagers can appreciate how unpredictable they can be at times. They have adult bodies, but a lot of times they don't have adult minds. So their reaction to problems tends to get much more emotional than an adult's might be. It's a question of maturity. So even though they may have been educated about all kinds of issues in reproductive health, when a teenager becomes pregnant, depending up on her relationship with her family, the amount of peer support she has—every one is a highly-individual case—sometimes they delay until they can no longer contain their problem and it finally comes out. Sometimes it's money: It takes them a while to get the money. Sometimes its just denial.

Q: Do you think more information on abstinence and contraceptives would decrease the number of teenage pregnancies?

A: I grew up in the sixties and nobody talked about contraception with teenagers in the sixties. But today, though it may be controversial in some areas, there's a lot being taught about reproductive health in the high school curricula. I think a lot more is being done, but the bottom line is we're all still just human—with human emotions, and particularly with teenagers, a sense of invulnerability; it can't happen to me. So education helps a lot, but it's not going to eliminate the problem. You can teach a person the skills, but you can't make them use them.

Q. Does it bother you that a second trimester fetus so closely resembles a baby?

A: I really don't think about it. I don't have a problem with believing the fetus is a fertilized egg. Sure it becomes more physically developed but it lacks emotional development. It doesn't have the mental capacity for self-awareness. It's never been an ethical dilemma for me. For people for whom that is an ethical dilemma, this certainly wouldn't be a field they'd want to go into. Many of our patients have ethical dilemmas about abortion. I don't feel it's my role as a physician to tell her she should not have an abortion because of her ethical feelings. As individuals grow and mature, learn more, feel more, experience more, their perspective about themselves and life, morality and ethics change. Facing the situation of abortion is a part of that passage through life for some women—how they resolve that is their decision. I can be their advisor much as a lawyer can be; he can tell you your options, but he can't make you file a suit or tell you not to file a suit. My role is to provide a service and, to a limited degree, help women understand themselves when they make their decision. I'm not to tell them what's right or wrong.

Q. Do your patients ever reconsider?

A. Between our two centers, that happens maybe once a week. There's a patient who changes her mind or becomes truly ambivalent and goes home to reconsider, then might come back a week or two later. I feel that's one of the strengths of how we approach things here. We try not to create pressure to have an abortion. Our view has always been that there are enough women who want abortions that we don't have to coerce anyone to have one. We've always been strongly against pressure on our patients to go ahead with an abortion.

Q. How expensive is a second trimester abortion?

A: Fees range from $1,200–$1,600 depending on length of pregnancy. More insurance companies cover abortion that don't cover it. About 15 percent of our patients won't use insurance because they want to maintain privacy. About 10–20 percent use insurance. The rest pay out of pocket.

Q. What led you to develop D & X?

A: D & E's, the procedure typically used for later abortions, have always been somewhat problematic because of the toughness and development of the fetal tissues. Most physicians do terminations after 20 weeks by saline infusion or prosteglandin induction, which terminates the fetus and allows tissue to soften. Here in Cincinnati, I never really explored it, but I didn't think I had that option. There certainly weren't hospitals willing to allow inductions past 18 weeks—even Jewish, when they did abortions, their limit was 18 weeks. I don't know about University. What I saw here in my practice, because we did D & Es, was that we had patients who needed terminations at a later date. So we learned the skills. The later we did them, the more we saw patients who needed them still later. But I just kept doing D & Es because that was what I was comfortable with, up until 24 weeks. But they were very tough. Sometimes it was a 45-minute operation. I noticed that some of the later D & Es were very, very easy. So I asked myself why can't they all happen this way. You see the easy ones would have a foot length presentation, you'd reach up and grab the foot of the fetus, pull the fetus down and the head would hang up and then you would collapse the head and take it out. It was easy. At first, I would reach around trying to identify a lower extremity blindly with the tip of my instrument. I'd get it right about 30–50 percent of the time. Then I said, 'Well gee, if I just put the ultrasound up there I could see it all and I wouldn't have to feel around for it." I did that and sure enough, I found it 99 percent of the time. Kind of serendipity.

Q. Does the fetus feel pain?

A: Neurological pain and perception of pain are not the same. Abortion stimulates fibers, but the perception of pain, the memory of pain that we fear and dread are not there. I'm not an expert, but my understanding is that fetal development is insufficient for consciousness. It's a lot like pets. We like to think they think like we do. We ascribe human-like feelings to them, but they are not capable of the same self-awareness we are. It's the same with fetuses. It's natural to project what we feel for babies to a 24-week old fetus.

THE D & X PROCEDURE

Dilation and Extraction (D & X), a method for second trimester abortion up to 26 weeks, was developed in 1992 by Cincinnati physician W. Martin Haskell, MD. It is a modification of Dismemberment and Extraction (D & E) which has been used in the US since the 1970s. Haskel has performed more than 700 D & X procedures in his office.

Step One—The patient's cervix is dilated to 9–11 mm over a period of two days using Dilapan hydroscopic dilators. The patient remains at home during the dilation period.

Step Two—In the operating room, patients are given Valium, the Dilapan are removed and the cervix is scrubbed, anesthetized and grasped with a tenaculum. Membranes are ruptured.

Step Three—The surgical assistant scans the fetus with ultrasound, locating the lower extremities.

Step Four—Using a large forcep, the surgeon opens and closes its jaws to firmly grasp a lower extremity. The surgeon turns the fetus if necessary and pulls the extremity into the vagina.

Step Five—The surgeon uses his fingers to deliver the opposite lower extremity, then the torso, shoulders, and upper extremities.

Step Six—The skull lodges at the internal cervical os. Usually there is not enough dilation for it to pass through. The fetus is spine up.

Step Seven—A right-handed surgeon slides the fingers of his left hand along the back of the fetus and hooks the shoulders of the fetus with the index and ring fingers (palm down). He slides the tip of his middle finger along the spine towards the skull while applying traction to the shoulder and lower extremities. The middle finger lifts and pushes the anterior cervical lip out of the way.

Step Eight—While maintaining this tension, the surgeon takes a pair of blunt curved scissors in the right hand. He advances the tip, curved down, along the spine and under his middle finger until he feels it contact the base of the skull under the tip of his middle finger. The surgeon forces the scissors into the base of the skull and spreads the scissors to enlarge the opening.

Step Nine—The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents.

Step Ten—With the catheter still in place, he applies traction to the fetus, removing it completely from the patient, then removes the placenta.

DILATION AND EXTRACTION FOR LATE SECOND TRIMESTER ABORTION

(By Martin Haskell, M.D.)

INTRODUCTION

The surgical method described in this paper differs from classic D&E in that it does not rely upon dismemberment to remove the fetus. Nor are inductions or infusions used to expel the intact fetus.

Rather, the surgeon grasps and removes a nearly intact fetus through an adequately dilated cervix. The author has coined the term Dilation and Extraction or D&X to distinguish it from dismemberment-type D&E's.

This procedure can be performed in a properly equipped physician's office under local anesthesia. It can be used successfully in patients 20–26 weeks in pregnancy.

The author has performed over 700 of these procedures with a low rate of complications.

BACKGROUND

D&E evolved as an alternative to induction or instillation methods for second trimester abortion in the mid 1970's. This happened in part because of lack of hospital facilities allowing second trimester abortions in some geographic areas, in part because surgeons needed a "right now" solution to complete suction abortions inadvertently started in the second trimester and in part to provide a means of early second trimester abortion to avoid necessary delays for instillation methods.[1] The North Carolina Conference in 1978 established D&E as the preferred method for early second trimester abortions in the U.S.[2, 3, 4]

Classic D&E is accomplished by dismembering the fetus inside the uterus with instruments and removing the pieces through an adequately dilated cervix.[5]

However, most surgeons find dismemberment at twenty weeks and beyond to be difficult due to the toughness of fetal tissues at this stage of development. Consequently, most late second trimester abortions are performed by an induction method.[6, 7, 8]

Two techniques of late second trimester D&E's have been described at previous NAF meetings. The first relies on sterile urea intra-amniotic infusion to cause fetal demise and lysis (or softening) of fetal tissues prior to surgery.[9]

The second technique is to rupture the membranes 24 hours prior to surgery and cut the umbilical cord. Fetal death and ensuing autolysis soften the tissues. There are attendant risks of infection with this method.

In summary, approaches to late second trimester D&E's rely upon some means to induce early fetal demise to soften the fetal tissues making dismemberment easier.

PATIENT SELECTION

The author routinely performs this procedure on all patients 20 through 24 weeks LMP with certain exceptions. The author performs the procedure on selected patients 25 through 26 weeks LMP.

The author refers for induction patients falling into the following categories:

Previous C-section over 22 weeks.

Obese patients (more than 20 pounds over large frame ideal weight).

Twin pregnancy over 21 weeks.

Patients 26 weeks and over.

DESCRIPTION OF DILATION AND EXTRACTION METHOD

Dilation and extraction takes place over three days. In a nutshell, D&X can be described as follows:

Dilation
MORE DILATION
Real-time ultrasound visualization
Version (as needed)
Intact extraction
Fetal skull decompression
Removal
Clean-up
Recovery

Day 1—Dilation

The patient is evaluated with an ultrasound, hemoglobin and Rh. Hadlock scales are used to interpret all ultrasound measurements.

In the operating room, the cervix is prepped, anesthesized and dilated to 9–11mm. Five, six or seven large Dilapan hydroscopic dilators are placed in the cervix. The patient goes home or to a motel overnight.

Day 2—More Dilation

The patient returns to the operating room where the previous day's Dilapan are removed. The cervix is scrubbed and anesthesized. Between 15 and 25 Dilapan are placed in the cervical canal. The patient returns home or to a motel overnight.

Day 3—The Operation

The patient returns to the operating room where the previous day's Dilapan are removed. The surgical assistant administers 10 IU Pitocin intramuscularly. The cervix is scrubbed, anesthesized and grasped with a tenaculum. The membranes are ruptured, if they are not already.

The surgical assistant places an ultrasound probe on the patient's abdomen and scans the fetus, locating the lower extremities. This scan provides the surgeon information about the orientation of the fetus and approximate location of the lower extremities. The tranducer is then held in position over the lower extremities.

The surgeon introduces a large grasping forcep, such as a Bierer or Hern, through the vaginal and cervical canals into the corpus of the uterus. Based upon his knowledge of fetal orientation, he moves the tip of the instrument carefully towards the fetal lower extremities. When the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws to firmly and reliably grasp a lower extremity. The surgeon then applies firm traction to the instrument causing a version of the fetus (if necessary) and pulls the extremity into the vagina.

By observing the movement of the lower extremity and version of the fetus on the ultrasound screen, the surgeon is assured that his instrument has not inappropriately grasped a maternal structure.

With a lower extremity in the vagina, the surgeon uses his fingers to deliver the opposite lower extremity, then the torso, the shoulders and the upper extremities.

The skull lodges at the internal cervical os. Usually there is not enough dilation for it to pass through. The fetus is oriented dorsum or spine up.

At this point, the right-handed surgeon slides the fingers of the left hand along the back of the fetus and "hooks" the shoulders of the fetus with the index and ring fingers (palm down). Next he slides the tip of the middle finger along the spine towards the skull while applying traction to the shoulders and lower extremities. The middle finger lifts and pushes the anterior cervical lip out of the way.

While maintaining this tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand, the surgeon takes a pair of blunt curved Metzenbaum scissors in the right hand. He carefully advances the tip, curved down, along the spine and under his middle finger until he feels it contact the base of the skull under the tip of his middle finger.

Reassessing proper placement of the closed scissors tip and safe elevation of the cervix, the surgeon then forces the scissors into the base of the skull or into the foramen magnum. Having safely entered the skull, he spreads the scissors to enlarge the opening.

The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus, removing it completely from the patient.

The surgeon finally removes the placenta with forceps and scrapes the uterine walls with a large Evans and a 14 mm suction curette. The procedure ends.

Recovery

Patients are observed a minimum of 2 hours following surgery. A pad check and vital signs are performed every 30 minutes. Patients with minimal bleeding after 30 minutes are encouraged to walk about the building or outside between checks.

Intravenous fluids, pitocin and antibiotics are available for the exceptional times they are needed.

ANESTHESIA

Lidocaine 1% with epinephrine administered intra-cervically is the standard anesthesia. Nitrous-oxide/oxygen analgesia is administered nasally as an adjunct. For the Dilapan insert and Dilapan change, 12cc's is used in 3 equidistant locations around the cervix. For the surgery, 24cc's is used at 6 equidistant spots.

Carbocaine 1% is substituted for lidocaine for patients who expressed lidocaine sensitivity.

MEDICATIONS

All patients not allergic to tetracycline analogues receive doxycycline 200 mgm by mouth daily for 3 days beginning Day 1.

Patients with any history of gonorrhea, chlamydia or pelvic inflammatory disease receive additional doxycycline, 100 mgm by mouth twice daily for six additional days.

Patients allergic to tetracyclines are not given proplylactic antibiotics.

Ergotrate 0.2 mgm by mouth four times daily for three days is dispensed to each patient.

Pitocin 10 IU intramuscularly is administered upon removal of the Dilapan on Day 3.

Rhogam intramuscularly is provided to all Rh negative patients on Day 3.

Ibuprofen orally is provided liberally at a rate of 100 mgm per hour from Day 1 onward.

Patients with severe cramps with Dilapan dilation are provided Phenergan 25 mgm suppositories rectally every 4 hours as needed.

Rare patients require Synalogos DC in order to sleep during Dilapan dilation.

Patients with a hemoglobin less than 10 g/dl prior to surgery receive packed red blood cell transfusions.

FOLLOW-UP

All patients are given a 24 hour physician's number to call in case of a problem or concern.

At least three attempts to contact each patient by phone one week after surgery are made by the office staff.

All patients are asked to return for checkup three weeks following their surgery.

THIRD TRIMESTER

The author is aware of one other surgeon who uses a conceptually similar technique. He adds additional changes of Dilapan and/or lamineria in the 48 hour dilation period. Coupled with other refinements and a slower operating time, he performs these procedures up to 32 weeks or more.[10]

SUMMARY

In conclusion, Dilation and Extraction is an alternative method for achieving late second trimester abortions to 26 weeks. It can be used in the third trimester.

Footnotes are at the end of article.

Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia.

Among its disadvantages are that it requires a high degree of surgical skill, and may not be appropriate for a few patients.

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Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California [Ms. LOFGREN], a member of the committee.

Ms. LOFGREN. Mr. Speaker, this vote today regrettably has more to do with politics than it has to do with medicine or what families need. We know that the 30-second ads are running throughout the country—the hit pieces and mailers are going forward. It is a political issue for this Congress, but it is a real life issue for families that need this procedure.

I saw Viki Wilson, my friend, yesterday. I was friends with her mother-in-law, Suzy, for 20 years, and I remember April 8, 1994 when they lost their daughter, Abigail.

Abigail was a much-wanted child. They had two baby showers for her. The nursery was garnished with pink ribbons, but they found out in the eighth month that Abigail's brain had formed outside of the cranium and there was no way that Abigail could survive.

They sought medical help to see whether some medical procedure could be done to cure the defect in Abigail. They wanted her to live. But instead, their doctor advised that this procedure should be used so that Viki's uterus would not burst, so that they might have an opportunity to have another child, which they wanted to do.

I remember the tears and the prayers of the friends of the Wilson family at that time. They needed friendship. They needed the Lord's help and guidance. They did not need the Congress of the United States to be involved in political wedge issues.

This is about politics. Although I disagree with the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary, I do respect him. He has announced publicly that his goal is to have a constitutional amendment to preclude all abortions in America. I do not agree with him, but I respect his honesty in saying that.

This is the first step toward that. It is about politics, and I hope that the American people understand that.

In closing, I got a call from my late mother's very best friend, a devout Catholic who goes to Mass every single morning, and she told me that the priest had asked her to distribute cards against this procedure and she refused to do so.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding and I rise in strong support of this veto override. And I want to address one very important issue in this debate. I remember reading the original American Medical News article back in 1993 when it came across my desk, when I was still practicing medicine, describing this procedure. And the people on the other side keep talking about these particular cases where we may, on an emotional basis, be able to justify doing such a gruesome procedure, but those doctors, Haskell and McMahon, admitted that in 85 percent of the cases these were in perfectly normal, healthy babies.

☐ 1200

Partially delivering the baby, arms and legs moving, putting a scissors in the back of the head and then sucking the brains out in a perfectly normal healthy baby, 58 percent of the cases. In the 15 percent of cases where there was birth defects, the majority of them were nonlethal birth defects, cleft lip, cleft palate.

What kind of a nation are we, what kind of people are we where we would allow this procedure to be done on not only a healthy baby but a baby that simply has a cleft lip and a cleft palate? Where is our soul?

Mr. Speaker, I personally believe that when the President vetoed this bill, it was the most cynical and despicable thing that he has ever done in his 4 years in the White House. I urge all my colleagues to vote in support of this veto override.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Speaker, everything about this debate is heartbreaking. It is heartbreaking the misinformation that has been disseminated. The thing that hurts me most hurt me back in the days before abortion was legal for women. And that is that women have no rights or abilities to choose. They are not bright enough. They are not nurturing enough. They do not have enough sense. It is only up to men in suits and ties to tell them what is good for them and how to think.

Imagine a scene in a doctor's office where a doctor, a woman, her husband, awaiting a baby, desperately excited about it. The doctor says, I have bad news for you. Something seriously has gone wrong and we need to discuss our options. Now, they have some options. If this Congress has its ways, they will not.

I remember as I grew up, young girls, knew that their future at the point of giving birth, if there was to be a choice between their lives or the baby would die. I remember kids, when I was growing up, who had no mother. She had died in childbirth. The woman who would have been my mother-in-law died in childbirth. My husband had a very difficult time ever finding out anything about her. No one wanted to talk about her.

Before I gave birth to my first child, I worried terribly about that. I wondered, if my husband would be married again, would he marry a woman, as my father-in-law had, someone who would never discuss who I was or what I meant. Now, fewer women die in childbirth. There are options.

How in the world can we make these kinds of decisions? It is the height of hypocrisy for Congress to decide. These babies that are aborted are desperately wanted. If they were not wanted, if the woman did not want this baby, she would have had the abortion early. There would have been no question about it. After waiting this long, carrying that child, you may believe me that child is wanted. The tragedy of a woman who said she could feel life and learned later that this was only seizures because the baby's brain was outside its body, the tragedy of a woman whose fetus had no lungs and yet people on radio programs said to her, why could you not give it the chance to live. How could it live?

Can we please be sensible here and determine that American men and women really want what is best for their families. If we talk family values and family love, we have to say that families have some right to make some choices without an infallible Congress interfering.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. HALL].

Mr. HALL of Ohio. Mr. Speaker, this procedure is simply wrong. A compassionate society should not promote a procedure that is gruesome and inflicts pain on the victim. We have humane methods of capital punishment, and we have humane treatment of prisoners. We even have laws to protect animals. It seems to me we should have some standards for abortion as well.

This procedure is only performed in a few places around the country. Unfortunately one of those places is in my district. A local city council in Kettering, OH, took the rare step and passed a resolution supporting the override of the President's veto. I submit that in the RECORD at this time:

CITY OF KETTERING, OH, STATEMENT OF PERSONAL INTENT SUPPORTING AN OVERRIDE OF THE PRESIDENTIAL VETO OF THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

Whereas: the partial birth abortion method has been the subject of action by both the U.S. Senate through SB 939 and the U.S. House of Representatives through HB 1833 both of which pieces of legislation amend Title 18 of the United States Code; and

Whereas: this legislation received bi-partisan support and passed by sizeable majorities; and

Whereas: President Clinton vetoed that legislation on April 10, 1996; and

Whereas: the members of Council feel that the partial birth abortion procedure should not be permitted.

Now, therefore, be it made known:

SECTION 1. The members of the Council of the City of Kettering who are present urge the U.S. House of Representatives and the U.S. Senate to overrride President Clinton's veto of the legislation referred to in the introductory paragraphs of this resolution.

SECTION 2. The residents of Kettering are encouraged to become informed about this issue and then to contact Senator DeWine, Senator Glenn and Representative Hall, as well as other congressional representatives, to make their opinions known.

Mayor Richard P. Hartman, Vice Mayor Marilou W. Smith, Councilmember John J. Adams, Councilmember Keith Thompson, Councilmember Raymond P. Wasky, Councilmember John J. White.

July 23, 1996.

Finally, I do not want to discuss a bill relating to abortion without saying that I also have a deep moral obligation to improving the quality of life for children after they are born. I could not sit here and honestly debate this subject with a clear conscience if I did not spend a good portion of my time working on childhood hunger and trying to help families achieve a just life.

I urge my colleagues to vote for this bill.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Speaker, some of us are called to the ministry. Some of us are called to the priesthood or the rabbinate. We are called to be Members of Congress. When we take our obligation, we swear an oath to uphold and defend the Constitution of the United States.

This bill is unconstitutional. Our highest obligation is to uphold and defend the Constitution because that is the oath that we take. Hence, we should vote no.

Many conservative legal scholars applauded the Supreme Court's opinion in 1995, United States versus Lopez; so did I. In that case, the Supreme Court struck down the attempt by Congress to restrict the possession of handguns in schools. Not because it was a bad idea; I happen to think it is a great idea to restrict handguns in schools. But because it was beyond the ability of Congress; because it had nothing to do with interstate commerce. The Supreme Court said:

> The Constitution mandates * * * withholding from Congress a plenary police power that would authorize enactment of every type of legislation.

The Supreme Court ruled that, in order for the Federal Government to have authority, the subject matter of the bill there had to be control over a means of interstate commerce, or interstate commerce itself, or something which had a substantial effect upon interstate commerce. None of those premises was present in that instance.

The Supreme Court then gave examples of the kinds of things that the Federal Government constitutionally could not regulate. The examples they gave were "family law," "marriage," "divorce," "child custody," "criminal law enforcement," "child rearing." I am quoting each of those phrases from the Supreme Court opinion.

What we have today is an attempt to regulate beyond the ability of Congress to regulate. Conservatives, who are so careful to protect the rights of the individual States against the intrusion of the Federal Government, should listen to the words of James Madison in the Federalist No. 45 and agree that this is an unconstitutional act. Madison's words were, "The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State governments are numerous and indefinite."

Please obey your oath of office. Do not allow this unconstitutional law to become law.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

I would point out to the gentleman from California that the language of the bill specifically provides that any physician who in or affecting interstate or foreign commerce knowingly performs a partial birth abortion. The provisions of the bill, specifically, only govern those circumstances in or affecting interstate commerce.

Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. INGLIS].

Mr. INGLIS of South Carolina. Mr. Speaker, there are a lot of victims of abortion walking around today, people who now realize what they did. In fact, it is almost in all of our families, somebody had an abortion that now they know what it was.

I cannot believe the Orwellian language on this floor today, that Members actually defend this procedure. The gentlewoman from Texas in the back of the Chamber said earlier, this is only about life of the mother. It is not. The guy who does this says that 80 percent of his cases are solely for convenience. So why did she say that? Why did the gentleman from Texas say things like, this is only about life? Why did the gentleman from California say it is about interstate commerce?

Let me tell my colleagues what this is about: This is about a procedure where an abortionist delivers all but the head of a child. It does not deal with interstate commerce. That is not the essence of this. It is about sucking the brains of the child out. That is amazing that we would rely on that.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

I include for the RECORD letters from the American Nurses Association, the American College of Obstetricians and Gynecologists, and the American Medical Women's Association.

AMERICAN NURSES ASSOCIATION,
Washington, DC, July 30, 1996.

THE PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As the Congress prepares to reconsider vetoed legislation which would prohibit health care providers from performing a certain type of late-term abortions, I am writing to commend you for your veto of H.R. 1833 and to reiterate the opposition of the American Nurses Association to this legislation.

It is the view of the American Nurses Association that this proposal would involve an inappropriate intrusion of the federal government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider. ANA has long supported freedom of choice and equitable access of all women to basic health services, including services related to reproductive health. This legislation would impose a significant barrier to those principles.

Furthermore, very few of those late-term abortions are performed each year, and they are necessary either to protect the health of the mother or because of severe fetal abnormalities. It is inappropriate for Congress to mandate a course of action for a woman who is already faced with an intensely personal and difficult decision. This procedure can mean the difference between life and death for a woman.

The American Nurses Association is the only full-service professional organization representing the nation's 2.2 million Registered Nurses through its 53 constituent associations. ANA advances the nursing profession by fostering high standards of nursing practice, promoting the economic and general welfare of nurses in the workplace, projecting a positive and realistic view of nursing, and by lobbying the Congress and regulatory agencies on health care issues affecting nurses and the public.

The American Nurses Association respectfully urges members of Congress to uphold your veto when H.R. 1833 is considered again.

Sincerely,

GERI MARULLO, MNS, RN
Executive Director.

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Albany, NY, August 1, 1996.

WILLIAM JEFFERSON CLINTON,
The President of the United States of America,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The American College of Obstetricians and Gynecologists (ACOG), District II, an organization representing more than 3,000 physicians practicing in New York State, does not support HR 1833, the "Partial-Birth Abortion Ban Act of 1995." As an organization dedicated to improving women's health care, ACOG, District II is disturbed that Congress would take any action that would supersede the medical judgment of trained physicians and would criminalize medical procedures that may be necessary to save the life of a woman. Further, this legislation employs terminology that is not even recognized in the medical community to define what procedures doctors may or may not perform. This clearly demonstrates why Congressional opinion should never be substituted for professional medical judgment. For these reasons, ACOG, District II supports your decision to veto this legislation.

Thank you for considering our views on this important matter.

Sincerely,

JOHN G. BOYCE, MD,
Chairperson.

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Burlington, MA, August 1, 1996.

WILLIAM JEFFERSON CLINTON,
The President of the United States of America,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The American College of Obstetricians and Gynecologists (ACOG), an organization representing more than 37,000 physicians dedicated to improving women's health care, does not support H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. The College finds it very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, H.R. 1833 employs terminology that is not even recognized in the medical community—thus demonstrating that Congressional opinion should never be substituted for professional medical judgment. Accordingly, ACOG supports your decision to veto this legislation.

Thank you for considering our views on this important matter.

Sincerely,

JOSEPH K. HURD, Jr., M.D.,
Chairman, Massachusetts Section.

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Harrisburg, PA, August 1, 1996.

WILLIAM JEFFERSON CLINTON,
The President of the United States of America,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The Pennsylvania Section of the American College of Obstetricians and Gynecologists (ACOG), an organization representing more than 1,700 physicians dedicated to improving women's health care in the state of Pennsylvania, does not support H.R. 1833, the Partial-Birth Abortion Ban Act of 1995.

The PA Section of ACOG finds it very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, H.R. 1833, employs terminology that is not even recognized in the medical community—demonstrating why Congressional opinion should never be substituted for professional and medical judgment.

Accordingly, the PA Section of ACOG supports your decision to veto this legislation.

Thank you for considering our views on this important matter.

Sincerely,

OWN C. MONTGOMERY, MD,
Section Chairman.
KRISTI WASSON,
Executive Director.

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Albuquerque, NM, August 2, 1996.

WILLIAM JEFFERSON CLINTON,
The President of the United States of America,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The New Mexico section of ACOG fully supports your decision to veto H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. We find it very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman.

I am sending a copy of this letter to the New Mexico members of Congress hoping that you all will consider our views in this matter.

Respectfully,

LUIS B. CURET, M.D.,
Chairman, NM ACOG.

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Lincoln, NE, August 5, 1996.

WILLIAM JEFFERSON CLINTON,
The President of the United States of America,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The American College of Obstetricians and Gynecologists (ACOG), an organization representing more than 37,000 physicians dedicated to improving women's health care, does not support H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. The College finds very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, H.R. 1833 employs terminology that is not even recognized in the medical community—demonstrating why congressional opinion should never be substituted for professional medical judgment. Accordingly, ACOG supports your decision to veto this legislation.

Thank you for considering our views on this important matter.

Sincerely,

JOSEPH G. ROGERS, M.D.,
Chairman, Nebraska Section.

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Memphis, TN, August 6, 1996.

WILLIAM JEFFERSON CLINTON,
The President of the United States of America,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I write in support of your veto of H.R. 1833. The Tennessee Section of the American College of Obstetricians and Gynecologists similarly does not support any governmental action that would intervene in a Physician's ability to apply his or her best medical judgment. Similarly, we do not support any legislation which would criminalize medical procedures that may be necessary to save the life of a woman. Our particular concern is the terminology used in H.R. 1833. The term "partial-birth abortion" is not one which is an accepted or defined medical term. We fully support your decision to veto this legislation.

We appreciate your consideration in this matter.

Sincerely,

FRANK W. LING, M.D.,
Faculty Professor and Chair, Department of Obstetrics and Gynecology, University of Tennessee College of Medicine.

AMERICAN MEDICAL WOMEN'S
ASSOCIATION, INC.,
Alexandria, VA, July 31, 1996.

Hon. HERBERT H. KOHL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KOHL: On behalf of the American Medical Women's Association, a national organization representing more than 11,000 women physicians and medical students, and several of our branches, we are writing to urge your opposition to H.R. 1833, which would outlaw a particular abortion procedure—the D and E (dilation and extraction) technique, referred to as the "partial-birth" abortion method by those opposed to abortion. Although this bill was vetoed by President Clinton, we understand that efforts are under way to override his veto.

As physicians, we oppose any laws and court rulings that interfere with the doctor-patient relationship, either in requiring or proscribing specific medical advice to pregnant women. Further, we oppose any measures that limit access to medical care for pregnant women, particularly the poor or underserved, and measures that involve spousal or parental interference with a woman's personal decision to terminate pregnancy. This bill would not only restrict the reproductive rights of American women but also impose legal requirements for medical care decisions.

Our organization strongly oppose H.R. 1833 on several grounds. We support a woman's right to determine whether to continue or terminate her pregnancy without government restrictions placed on her physicians' medical judgment and without spousal or parental interference. This bill would subject physicians to civil action and criminal prosecution for making a particular medical decision. We do not believe that the federal government should dictate the decisions of physicians and feel that passage of H.R. 1833 would in effect prescribe the medical procedures to be used by physicians rather than allow physicians to use their medical judgment in determining the most appropriate treatment for their patients. The passage of this bill would set a dangerous precedent—undermining the ability of physicians to make medical decisions. It is medical professionals, not the President or Congress, who should determine appropriate medical options.

Sincerely,

Jean Fourcroy, MD, PhD, *President, American Medical Women's Association;* Robin Oshman, MD, *President, AMWA Branch 100, Fairfield County, Connecticut;* Jill Braverman Panza, MD, *President, AMWA Branch 102, Albany, New York;* Rosalinda Rubenstein, MD, *President, AMWA Branch 14, New York City,* *NY; Kathryn Budzack, MD, Co-President, AMWA Branch 86, Madison, Wisconsin.*

Mr. Speaker, I yield the balance of my time, 2 minutes, to the very distinguished gentlewoman from Michigan [Ms. RIVERS].

Ms. RIVERS. Mr. Speaker, this debate is not about abortion on demand in the 7th, 8th, or 9th month. Roe versus Wade and the law of the land allows for States to make that procedure illegal. So the specter of perfect babies being killed moments before they draw their first breaths is irrelevant to the discussion here today and are being used as a way to inflame the rhetoric and cloud the debate.

What we are fighting about today is whether or not we should have a specific provision in the law allowing when the mother's life or health is threatened, that this procedure be available.

We have started this debate with a picture. I wonder about some other pictures. Where is the picture of these moms who are for the most part older, married, have other children, are in the pregnancy that is desperately wanted, celebrated, with babies' rooms already decorated, tiny little clothes already purchased? Where is the picture of the agony that these families go through, cry through, pray through over the promise of a pregnancy that will never be fulfilled?

Where is the picture of the horrible second guessing, the terrible hoping against hope that some sort of miracle is going to save this baby that can never live, all the while the mother knows that her health or her ability to have another baby could very much be in jeopardy? Where is the picture of mothers like Tammi Watts who weeped when asked the question, do you have any other children? She said, well, I have one baby in heaven. That is not a woman who would cheerfully end a baby's life moments before it would draw its first breath.

Do not believe the discussion we are hearing today. Look at the pictures. Look at the facts. The debate is whether or not we will allow a woman's health to be an exemption from this law. One side says no, our side says yes. Get the real picture.

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey [Mr. SMITH].

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from New Jersey [Mr. SMITH] is recognized for 3 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, let us stop kidding ourselves. Partial birth abortion is child abuse. That some otherwise smart and even brilliant people have been so thoroughly fooled by the abortion industry's outrageous lies and distortions and half-truths and those surface appeal arguments is at best disappointing and unsettling.

How can anyone in this Chamber or in the White House defend sticking a pair of scissors into a partially born child's head so as to puncture the child's skull and then a suction catheter is inserted to suck out the child's brains? How can anybody defend that?

My wife Marie is a former elementary schoolteacher. This morning she said that, if a child or a student were to do that to her doll, stick the doll in the back of the head with scissors, we would think the child needed psychological counseling and would immediately call for that kind of help. Yet the abortion President, Bill Clinton, seeks to continue legal sanction of this gruesome assault on children, with real scissors and real babies.

Finally, we are seeing what the right to choose really means executing untold thousands of children by stabbing them and sucking out their brains. I guess we now know how far the so-called prochoice movement will go to sustain the Orwellian supermyth that abortion is somehow sane, somehow compassionate, and even prochild.

Americans will now see that the real extremists are not the people who insist on calling attention to the grisly details of abortion, dismemberment of the baby's fragile body, brain-sucking abortions or chemical injections. They will see that the people who actually dismember, poison, or hold the scissors at the base of the skull, they are the dangerous people.

Mr. Speaker, there are a lot of myths that the abortion lobby has circulated about partial-birth abortion. This past Sunday in the Sunday Record (of Bergen), a proabortion newspaper in my State, again exposed the lie that there are 500 partial-birth abortions in the country each year. The proabortion lobby seeks to trivialize the issue by grossly undercounting the actual number. The article, however, points out that in one New Jersey abortion mill alone, each year 1,500 partial-birth abortions are performed.

☐ 1215

The Record article also points out that the indicators for most of those abortions are nonmedical in that abortion clinic. Just like Dr. Haskill, one of the pioneers in this gruesome procedure, who has said that 80 percent of those who he sees are doing it for purely elective reasons. The Sunday Record pointed out, and I quote:

> Interviews with physicians who use the method reveal that in New Jersey alone at least 1,500 partial-birth abortions are performed each year, three times the supposed national rate. Moreover, doctors say that only a minuscule amount are for medical reasons.

Mr. Speaker, it is time to begin to stand up for these unborn children and these partially born children and these newly born children. This is a matter of human rights. The abortion side, the abortion lobby, has sanitized these killings, they have kept people in the dark. But, the dirty secret of the abortion rights movement is finally out: Abortion kills babies, it is child abuse and we can stop some of that abuse by overriding Bill Clinton's antichild veto.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CANADY] to discharge the Committee on the Judiciary from the further consideration of the veto message on H.R. 1833.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 288, nays 133, not voting 12, as follows:

[Roll No. 421]

YEAS—288

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Eshoo
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frisa
Funderburk
Gallegly
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Greene (UT)
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kildee
Kim

King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Martinez
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Wilson
Wise
Woolsey
Wynn
Yates
Zimmer

NAYS—133

Abercrombie
Ackerman
Andrews
Becerra
Beilenson
Bentsen
Berman
Bishop
Blumenauer
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Campbell
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cummings
DeFazio
DeLauro
Dellums
Deutsch
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (CT)
Frelinghuysen
Frost
Gejdenson
Gibbons
Gilman
Gonzalez
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Kelly
Kennelly
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pickett
Rangel
Reed
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman

NOT VOTING—12

Dicks
Fields (LA)
Fields (TX)
Furse
Ganske
Hayes
Heineman
Johnston
Lincoln
Longley
Peterson (FL)
Thornton

☐ 1236

The Clerk announced the following pair: On this vote:

Mr. Hayes for, with Ms. Furse against.

Mr. TORKILDSEN changed his vote from "yea" to "nay."

Ms. ESHOO and Mr. WILLIAMS changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARTIAL-BIRTH ABORTION BAN ACT OF 1995—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104-198)

The SPEAKER pro tempore. (Mr. LAHOOD). The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Florida [Mr. CANADY] is recognized for 1 hour.

Mr. CANADY of Florida. Mr. Speaker, I yield the customary 30 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I have thought a lot about how to best convey what my thoughts are on this subject. I stand here today, not as a member of one party or another, not as somebody who readily admits that they are pro-life. I am. But I stand here today as a doctor.

Mr. Speaker, I have spent the last 18 years of my life, including a great deal of the time of the last 2 years while I have been in this Congress, caring for women who deliver babies. I have personally been involved in over 3,000 births that I have attended. I have seen every complication and every anomaly that has been mentioned in this debate on partial-birth abortion.

I am not standing here as somebody who is pro-life, I am not standing here as somebody that is a freshman Republican. I stand here today to make known to Members that they can vote against an override for only two reasons on this bill. One is that they are totally misinformed of the true medical facts, or that they are pro-abortion at any stage, for any reason. The facts will bear that out.

That is not meant to offend anybody. If somebody feels that way, they should stand up and speak that truth. But this procedure, this procedure is designed to aid and abet the abortionist. There is no truth to the fact that this procedure protects the lives of women. There is no truth to the fact that this procedure preserves fertility. There is no truth to the fact that this procedure in fact is used on complicated, anomalous conceptions. This procedure is used to terminate mid and late second trimester pregnancies at the elective request of women who so desire it.

This has nothing to do with women's emotional health. This has to do with termination of oftentimes viable children by a gruesome and heinous procedure.

What we should hear from those who are going to vote against overriding this is that they agree, that they agree that this procedure is an adequate and expected procedure that should be used, and that it is all right to terminate the life of a 26-week fetus that otherwise the physicians would be held liable under the courts in every State to not save its life, should it be born spontaneously.

So this debate is not about health of women. This debate is about whether or not true facts are going to be discussed in this Chamber on the basis of knowledge and sound science, rather than a political endpoint that sacrifices children in this country.

☐ 1245

Mr. Speaker, this vote is about untruth tied to emotion. We should be willing in our country if we are going to heal our country, if we are going to repair our country, to stand and speak honestly about what this procedure is. I have the experience. There is no one else in this body that has handled all these complications. This procedure never needs to be done again in this United States.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. COBURN. If I have time, I would be happy to yield.

Mr. CONYERS. Have you performed this procedure?

The SPEAKER pro tempore (Mr. LAHOOD). The time of the gentleman from Oklahoma has expired.

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in opposition to the bill and in support of the President's veto.

Mr. Speaker, I do not speak as a doctor. I speak as a woman with three beautiful grown children. And, Mr. Speaker, and my colleagues, let us be very clear that this debate is all about.

President Clinton stated very clearly that he would sign this bill if it contained a narrow exception to protect the lives and health of American women. The President does not believe that this procedure should be commonly available, he does not believe it should be available on demand, but that it must remain an option for women facing serious risk to life and death and health. In cases where a woman faces a serious health risk like kidney failure, cancer, or diabetes, the decision of how to proceed must be left to the women and the doctor, not this Congress.

So I say to my friends on the other side, let us sit down together, as we offered several times, and write a bill that we could all accept and that the President could sign. In fact, we went to the Republican leadership 3 times, asked to craft a narrow health exception to this bill. Three times we were refused. Why? Because this Republican Congress does not want to ban, it wants an issue, and that is so unfortunate. This is not about abortion. It is about politics, election-year politics, plain and simple.

Mr. Speaker, today's debate is a fitting way to end the most anti-choice Congress in history. This vote is the 52d taken in just the past 2 years to restrict the right to choose, a new record. Bob Dole and NEWT GINGRICH have spent the last 2 years trying to eliminate abortion rights completely, and American women know it.

Thankfully, President Clinton has used his veto pen to protect American women from the back alley. He has stood with American women by protecting the right to choose. He has stood with women like Claudia Ades and Coreen Costello who have had this procedure to save their lives and protect their health when they wanted pregnancy, they wanted a child, but this pregnancy went wrong. President Clinton recognizes that Congress has no place in the operating room during a crisis pregnancy.

The President, Mr. Speaker, will sign a bill if it contains a narrow exception to protect the lives and health of women like Claudia Ades and Coreen Costello. This is not too much to ask. I urge my colleagues to support the President's veto.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, I would like to take this opportunity to share an eloquent and touching letter that I received from a constituent who lives in my hometown of Bay City, MI. It reads:

> Daniel John was diagnosed very early as being far less than perfect, according to acclaimed scientific researchers. We were counseled to abort him as our life would be much easier; he would be a difficult child to raise. However, rather than terminating Daniel's life, we "chose" to let God do the choosing.
>
> After a very difficult pregnancy, Daniel was brought forth into this world alive. He was grossly disfigured, but he was beautiful. The pregnancy wasn't convenient, but he was worth the wait. According to some, he was expendable; to me, he was a priceless jewel.
>
> Daniel lived for about four hours before leaving us. What I have today is the precious memory of holding my living, breathing son for a few short moments until he died in my arms. He wasn't a burden, he wasn't a tragedy. He was a blessing, and I loved him.

Mr. Speaker, a baby does not have a voice. I ask my colleagues who voted against H.R. 1833 to carefully and closely reconsider their position. A baby, sick or healthy, should not be thought of as an inconvenience, but as a miracle. Please vote "yes" to override the veto of H.R. 1833.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS], the distinguished ranking member of our committee.

Mr. CONYERS. Mr. Speaker, I say to Mr. BARCIA, my dear colleague from Michigan, nobody, no doctor would have forced you to have the procedure that is being debated today. Nobody would have recommended it to you without allowing you and your wife to make the choice. So why not let everybody else have that same privilege—that same choice—that you had?

Why is it that we as Members of Congress, have now become doctors, Mr. CANADY? Who gave us the right, for the first time in American history, to determine what procedures doctors will employ? Where do you think that inures to you as a humble Member of Congress? What medical background do you bring to this debate that is greater than the knowledge of the members of the American College of Obstetricians and Gynecologists? By what right do you tell people they cannot have this often medically necessary procedure? If Mr. and Mrs. Barcia do not want to undergo the procedure, they don't have to do it. They can choose not to.

Now, let me turn to Dr. COBURN from Oklahoma. Dr. COBURN from Oklahoma, I am not totally misinformed. I am seeking information. I do not have a violent position on this. The fact that I am not supporting you, but instead am supporting most of the doctors in your profession, does not make me totally misinformed. Nor does it make me totally pro-abortion. Let us be fair, doctor.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from Washington [Mrs. SMITH].

Mrs. SMITH of Washington. Mr. Speaker, this afternoon the House will be debating a procedure called partial-birth abortion. I think we need to look at the words that are in this. Notice it said birth. This is the clue.

As a woman, I want you to understand that I would be put into labor, I would go through hours of labor, when the baby dropped and the little body started coming out, they would turn it first, take it out feet-first, which is absolutely damaging to a woman, and then right before the little head came through, they would puncture the head.

There are late-term abortions. I was actually pro-abortion for many years. I was never late-term abortion supporting. But even we that might have supported abortion and you that might support late-term abortion need to think about this. This is not for the woman. This is for the abortionist. There are other humane ways, if you believe in late-term abortion, for both the mother and the baby. But this tells us something clear, folks. We have gone a long way from abortion as a rare circumstances to abortion on demand. A long way.

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to the motion to override the veto of the late-term medical abortion ban, and I urge my colleagues to vote to sustain this veto.

Today's vote is not about abortion. It is about voting to ban a medical procedure that can save the life of a mother. It is about voting to ban a medical procedure that would allow a mother to have children.

It is about voting against the medical procedure that Vikki Stella had to have to save her life, to see her children grow up and go to school and then to give birth to her son Nicholas.

Vikki wrote to me about the pain that she went through when she and her family discovered that her son was diagnosed with nine major anomalies, including a fluid-filled cranium with no brain tissue at all, compacted, flattened vertebrae, and skeletal dysplasia in the third trimester of her pregnancy. Her doctors told here that the baby would never live outside of her womb.

She wrote:

> My options were extremely limited because I am diabetic and don't heal as well as other people. Waiting for normal labor to occur, inducing labor early, or having a C-section would have put my life at risk. The only option that would ensure that my daughters would not grow up without their mother was a highly specialized, surgical abortion procedure developed for women with similar difficult conditions. Though we were distraught over losing our son, we knew the procedure was the right option . . . and, as promised, the surgery preserved my fertility. Our darling Nicholas was born in December of 1995.

This procedure that we seek to ban today is the procedure that saved Vikki's life and preserved here family. Vikki's situation was heart wrenching. But mothers and fathers need to be able to make medical decisions like that with their doctors, not with religious organizations and not with political organizations, and certainly, and most of all, not with the Congress.

The situation that these families are in is already difficult enough. Overriding this veto will only make it worse. I call on my colleagues, I plead with my colleagues, to vote no on the motion to override the veto.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, we have twice voted—by an overwhelming majority—to outlaw the partial birth abortion procedure. However, this procedure is still done on a daily basis in this country because the President ill-advisedly chose to veto this bill.

It makes me shudder to think that right now somewhere in this country there are little pre-born human beings in their mother's womb who are going to be subject to this brutal procedure.

I am only one of many who find this procedure horrifying. The American Medical Association's legislative council unanimously decided that this procedure was not a recognized medical technique and that this procedure is basically repulsive.

I have also received a multitude of postcards from my constituents in Nevada. They overwhelmingly object to this repugnant procedure, especially in light of the fact that 80 percent of these types of abortion are purely elective.

Regardless of whether you are prolife or pro-choice, it is obvious given the horrible nature of this type of abortion that it must be banned.

It is inhuman to begin the birthing process and nearly complete the delivery of the baby, only to suck the life out of the child.

What does it say about us as a nation when we allow our unborn children to be legally killed in this manner? It is imperative that this stop now.

I strongly urge my colleagues to override the veto of H.R. 1833, which would ban partial birth abortions.

☐ 1300

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BECERRA], a distinguished member of the Committee on the Judiciary.

Mr. BECERRA. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I want to ask each and every Member who is somewhat in doubt to please vote to sustain the President's veto of H.R. 1833, and let me relate it to something very personal.

My legislative director, Deirdre Martinez, right now is at the hospital. She is at the hospital because she is being induced in her delivery of her baby. She is in good hands, and I know she is in good hands because my wife happens to be her ob-gyn.

My wife, as I have mentioned in the past, is an ob-gyn, and she is a high-risk specialist. She deals with the type of issues we are discussing on the floor right now.

Deirdre is fortunate. My wife says her baby seems to be perfectly normal, good weight, and probably will be born very healthy. There are, unfortunately, too many women sometimes in this country who do not have the good fortune of Deirdre, and it is in time of need that some of these women ask doctors to help them out.

There are late-term abortions that are performed that are not pretty because—by the way, no abortion is pretty; and no woman, I suspect, can stand up here and say they like to see what may happen to that pregnancy. But there are cases where a late-term abortion must be performed. We are not talking about a healthy 8- or 9-month-old baby being extracted from the womb; we are talking about a child that will never have a chance to see the light of day because, for whatever reason, it will never become a child within the womb.

Sometimes there is a need, for the woman's health, for the woman's safety and her life, to perform an abortion, which we may not like. And as my wife has said, this is not a procedure that is done electively. A woman does not go into a hospital in her eighth month of pregnancy and ask that that fetus be extracted. No doctor in good conscience would do that. What we are talking about is preserving for this woman the opportunity to get past a very difficult situation.

Why we would want to ban that for this woman, I do not understand. How 435 Members who do not practice the profession nor live through that experience, how they can say that this is the best thing to legislate for the entire country, I do not understand, nor does my wife, and I suspect, nor does Deirdre, who I hope will have a healthy baby by today.

What I do understand is this: That we have politicized an issue because we have waited 6 months to take up the issue. If there was so much concern on the part of those who were for this bill to get this on the move so we would protect the lives of all these so-called unborn babies, why did we not try to overturn the President's veto right away?

It is unfortunate, because we know there is an election coming up and there is a point to be made. It is unfortunate because there are a lot of women who are suffering very traumatic times as a result of having these late-term abortions performed. And the saddest part about it is that we have decided to take this issue and politicize it, when it has become a very, very emotional and private issue for that woman.

I hope all those who have been able to watch this debate will learn something from this and take away that the experience is tough for them, but they should not have to worry about the politics of this particular procedure.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Speaker, my remarks are directed to the people who might be trying to decide right now whether to vote to override this veto or not. I strongly support the override of the veto.

This is not an issue of choice, of privacy, of not even medical necessity. This bill provides that we will abolish this very gruesome procedure, we have all seen pictures of it today, but it still allows the exception that if the mother's life is at issue and if there is no other procedure available, it can be done under those circumstances.

So this is not even an issue of medical necessity. This is an issue that says "no" to this type of terrible procedure.

We are a country, and we are debating this issue. I cannot believe we are standing here. We are a country that spends years of due process on convicted killers, murderers who commit the most heinous of crimes, and we would not dare think about executing those types of people by this gruesome procedure. Yet we are talking on this floor today about maintaining the legality of this type of terrible procedure when there are alternatives available.

I just cannot believe that. Is this an upside-down world or is it not?

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. WATERS], a distinguished member of the Committee on the Judiciary.

Ms. WATERS. Mr. Speaker, today I rise in support of the President's veto of a misguided bill, H.R. 1833.

This bill would instruct doctors on medical procedures that politicians know little about. It would put women at risk who deserve the safest, most effective treatment available under any circumstance.

Let me share with you the words of Erica Fox from Los Angeles, a woman who was told that there was something "seriously wrong" with her fetus during her sixth month of pregnancy. The outcome at best was very, very poor.

When she got the news, she explains, "I had my whole family with me, and at least 5 of them are M.D.'s. They had discussed everything with the doctors and they, too, felt there was no other option * * *."

Her father, Dr. Walter E. Fox, shared these words.

> As a doctor, I must say that it worries me greatly that those that represent me in Washington would think to take away my ability to care for my patients and their health to the best of my ability. And, as I see it, H.R. 1833 does just that.

He continues,

> You are not doctors and most of you have not had a daughter or a sister or a wife or a patient who has been in this situation. But for those of us who find ourselves there, we need to have every medical advancement working for us, and the choice to use it.

"I feel that [my doctor] saved my life," said Erika Fox.

"And that my fetus was spared any pain * * *.

She continues,

> My husband and I are now trying again. . . . There is hope that we will have a healthy baby sometime in the not to distant future. Hope is all you have left when your dreams are dashed the way ours were last October.
>
> Don't override Clinton's veto of 1833,

She says:

> Don't let the government take away our hope. . . .

I think Mrs. and Dr. Fox's words best explain why Congress must not outlaw a medical procedure. If this woman were your daughter, wife, sister—you would want as many medical options as possible, you would want the best doctor, and you would want her to be able to have children in the future. This bill would take away these options.

Let us leave this issue to people who know the facts. Let us support women, their safety, and their families. Doctors, women, and their families—not politicians—must make these decisions.

Oppose the veto override of H.R. 1833.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING of Kentucky. Mr. Speaker, I rise in strong support of the override of the Presidential veto on H.R. 1833.

Mr. Speaker, late last year, the House of Representatives took a very moderate step toward eliminating one, specific and particularly horrible method of abortion—the partial birth abortion.

No one can reasonably justify this kind of abortion. It is grotesque. It is repulsive.

Unfortunately, the President of the United States has caved into the pressure of pro-abortion extremists and vetoed this ban of one, single, indefensible procedure. Hopefully, today, the House of Representatives, guided by the voice of moderation and common decency will see fit to override that veto.

There are those who try to argue that this procedure is necessary to protect the life of some mothers. That is not true. Former Surgeon General C. Everett Koop says that partial birth abortion is unnecessary and in no way protects a woman's life.

There are those who say that this procedure is necessary to prevent the birth of children plagued with defects and deformity. As a grandfather of a disabled child, I am outraged that this argument is used to defend such a heinous practice.

Only an extremist could justify or defend partial birth abortion. I urge my colleagues to support moderation and decency, support the ban on partial birth abortions and override the President's veto.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Speaker, I, of course, rise to urge the override of the very ill-advised veto of the ban on partial-birth abortions.

Back, oh, earlier in the year, one of the most widely respected and politically moderate physicians I suppose ever to hold the office of Surgeon General, Dr. C. Everett Koop, criticized this practice. And as recently as August of this year, Dr. Koop granted an interview to an American Medical Association publication on this issue.

He states quite simply that he believes, "that the President was misled by his medical advisers on what is fact and what is fiction in reference to late-term abortion," going on to say that "In no way can he twist his mind to see that this late-term abortion technique is a necessity for the mother, and certainly can't be a necessity for the baby."

So I guess we are left to ask the question, why? Why would we even consider condoning a procedure like this when no medical necessity for it can actually be shown?

No acceptable answer can be given to this question because partial-birth abortion is completely unacceptable, unnecessary, and a cruel procedure that should not be permitted in our policy. I urge the override.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. LARGENT].

Mr. LARGENT. Mr. Speaker, in this age of high technology and medical wonders, there still are many things that are a mystery to the human mind and an awesome reminder of the work of the Creator.

We see it when longtime rivals drop their weapons and come together as friends. We see it when those struggling against oppression and adversity succeed and claim the human dignity that is theirs as children of God. And most often we see the fingerprint of the Almighty and his glorious majesty when we look into the bright eyes of our newborn son or daughter.

It defies logic and the experience of human history then to think that that which grows inside of the womb is not a part of us, not human, and not alive. Whether by technological means, pharmaceutical means, or surgical means, it is outside of our moral and ethical prerogative to snuff out that which was sown by the Creator.

The unborn child is precisely that, an unborn child, and deserves the chance to grasps as much life as Divine Providence will allow. It is up to us as legislators to uphold our sacred duty to protect the lives of the innocent.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, today marks the 52d antichoice vote taken on the floor of Congress during the 104th Congress. As one of my colleagues in the new majority has said, "We intend to repeal choice procedure by procedure." And they are doing it.

This is merely another effort to antagonize and terrorize young women like Becky Bruce of Ohio. At 22 weeks, doctors determined a lethal abnormality in her fetus. She and her husband decided to seek an abortion. Much like the abortion protesters who screamed and pointed at her, frightening her at the clinic, this legislation instills the same kind of fear.

This bill is an effort to chip away at the overall law of the land. Abortion is legal and safe. We cannot begin to make exceptions now. The antichoice supporters of this bill would love to start here, today, moving from their positions as lawmakers to become personal physicians. When women seek medical care, Congress has no place in their choices and no place in their tragedies. Apparently the supporters of this bill believe that it is more important to save a doomed fetus than to save the life and the health of its mother.

Had my colleagues in the majority allowed an amendment with an appropriate exception for the life or physical health of the mother, I would have supported this bill.

There have been many distortions put before Congress today. One is that this procedure is performed all the time. This procedure is performed rarely and only to save the life, health, and the ability to have children, of women. I urge a "no" vote.

☐ 1315

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I am very hesitant to speak on this issue. For one thing, I have been associated with the pro-choice side throughout my legislative career, and I do believe that when the issue of abortion is concerned, it really ought not be a legislative issue; it ought to be a personal decision determined by a woman with the advice of her physician, within the context of her religion and family. I do not believe that this issue falls within that rubric, within that context of decision-making.

I do agree with the Roe versus Wade decision which attempted to apply our human values, human judgment, to an issue on which none of us can ever be sure: at which point human life begins. And so we decided in Roe v. Wade, the

Supreme Court decided that in the first 3 months, the woman should be fully free to exercise her judgment; and in the second trimester, the democratic process through State legislatures should apply restrictions; and in the third trimester, we should try to make it as difficult as possible.

What we are talking about now, though, goes beyond that third trimester. We are talking about the delivery of a fetus clearly in the shape and with the functions of a human being. And when that human being is delivered in the birth canal, it cannot be masked as anything but a human being.

We should not act in any legislative way that sanctions the termination of that life. And that is why I urge my colleagues to vote to override the President's veto of this legislation.

Mr. Speaker, I wish that the prochoice groups, when they saw this issue, would have simply agreed, said, "You are right. We are not going to get involved in this because there are extremes on every one of these issues." This is an extreme that we ought not support.

Mr. CANADY of Florida. Mr. Speaker, I reserve the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, could the chair please tell us what the time difference is?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Florida [Mr. CANADY] has 17 minutes remaining, and the gentlewoman from Colorado [Mrs. SCHROEDER] has 14 minutes remaining.

Mrs. SCHROEDER. Mr. Speaker, would the gentleman from Florida prefer to use more of his time so it is more even?

Mr. CANADY of Florida. Mr. Speaker, I would inform the gentlewoman that I only have about two or three remaining speakers, so I would reserve the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from North Carolina [Mr. WATT], a member of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentlewoman from Colorado for yielding time. I rise in support of sustaining the veto of the President on this bill.

Mr. Speaker there is a tendency on the part of some of my colleagues to try to divide folks into groups, based on their vote on this issue, of whether they support life or do not support life. I respectfully submit that no Member of this body supports death over life; that there are always difficult choices on a number of these votes.

But we heard evidence submitted at hearings in the Committee on the Judiciary that indicated and confirmed that serious medical jeopardy can result to women, and that in some cases this procedure is the only procedure that is available in late-term abortion to save the life of the mother, to preserve the ability of the mother to have children in the future, to protect the health of a prospective mother in those situations.

And when that occurs, to put the doctor and that mother in the position of saying, "You will be a criminal if you exercise your right to protect yourself from serious health conditions, or to protect your reproductive capacity in the future, or protect even your life," I think is irresponsible.

This is not, as some folks would suggest, an easy decision. It is always a difficult decision. And the very people who are always talking about keeping the Government out of our personal lives it seems to me are the ones that are on the opposite side of this issue, because I do want the Government to leave some personal decisions to the individual American women and citizens of this country. And one of those decisions is when it is proper to save one's own life to, save the ability to have children in the future. That ought to be a personal decision made by the woman and her physician.

I want to make one final point that suggests, in the closing days of this Congress, that this is really not about this bill at all; it is really about politics.

The President vetoed this bill quite some time ago. It has been sitting over there in the Committee on the Judiciary, waiting. Well, what has it been waiting for? It could have come out in 2 days to have this vote. It could have come out in 2 weeks to have this vote. But it just sat there.

Mr. Speaker, when does it come out? Right before the election, so that somebody can inject the politics of the moment into a serious public policy discussion. This is about politics, my colleagues. It is about choice of a woman to protect her own health and safety and her own life. It is about keeping the Government out of our own personal lives, and I think we ought to sustain the President's veto on this bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Speaker, we cast hundreds of votes in this body every year. Very rarely do we vote on an issue as important as this one.

I hope that my colleagues will do the right thing today and overwhelmingly vote to override the President's veto of the Partial-Birth Abortion Ban Act. We have debated this issue for quite some time now. We have listened to the experts, and Americans from all across this Nation, both prolife and prochoice, have spoken out against this particularly gruesome procedure. I have had people who are prochoice call my office and agree that there is no place for a procedure that is as barbaric, as gruesome as this in a civilized society.

Mr. Speaker, I cannot urge my colleagues in strong enough terms to do the right thing: Vote to override the President's veto.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. MCINNIS].

Mr. MCINNIS. Mr. Speaker, this is the most barbaric procedure I have ever come across. There is never, ever, ever a reason that makes this necessary.

The previous speaker says we are attempting to divide. We are attempting to protect.

This body today, Republicans and Democrats, will vote overwhelmingly to ban this procedure. Let me quote from the Wall Street Journal, Nancy Romer, today in an article, Partial-birth Abortion Is Bad Medicine:

> Consider the dangers inherent in partial-birth abortion, which usually occurs after the fifth month of pregnancy. A woman's cervix is forcibly dilated over several days, which risks creating an "incompetent cervix," the leading cause of premature deliveries. It is also an invitation to infection, a major cause of infertility. The abortionist then reaches into the womb to pull the child feet first out of the mother, but leaves the head inside. Under normal circumstances, physicians avoid breech births whenever possible; in this case the doctor intentionally causes one—and risks tearing the uterus in the process.
>
> He then forces scissors through the base of the baby's scull, which remains lodged just within the birth canal. This is a partially "blind" procedure, done by feel, risking direct scissor injury to the uterus and laceration of the cervix or lower uterine segment, resulting in immediate and massive bleeding and the threat of shock or even death to the mother. None of this risk is ever necessary for any reason.

This is never, ever necessary, and I urge a "yes" vote to override the President's veto.

Mrs. SCHROEDER. The Speaker, I yield 2½ minutes to the distinguished gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, this veto override is a cruel attempt to make a political point. Make no mistake about it, this debate, with all the emotional rhetoric and exaggerated testimony on the other side of the aisle, is a frontal attack on Roe versus Wade, plain and simple.

The Gingrich majority wants to do away with Roe, the radical right wants to do away with Roe, and H.R. 1833 is the first step. So let us be honest about what this veto override is really about.

This bill, which the President courageously vetoed, will outlaw a medical procedure which is rarely used but sometimes required in extreme and tragic cases when the life or the future fertility of the mother is in danger or when a fetus is so malformed that it has no chance of survival.

Like when the fetus has no brain or the fetus is missing organs. Or the spine has grown outside of the body. When the fetus has zero chance of life.

When women are forced to carry a malformed fetus to term, there is danger of chronic hemorrhaging, danger of permanent infertility or death.

Let me read a brief list of organizations that oppose H.R. 1833: The American College of Obstetricians and Gynecologists; the American Public Health Association; the American Nurses Association; the American Medical Women's Association. The list goes on and on.

These medical professionals oppose this bill because they know that H.R. 1833 will cost women their lives or their reproductive health.

Mr. Speaker, the Gingrich majority has proven time and again its resolve to make Roe versus Wade ring hollow for most American women. Do not let this happen. Protect women's lives and women's health. Protect a woman's right to decide with her doctor what is the best medical procedure during very tragic times. Vote "no" on the veto override. But if you cannot vote "no," just vote "present."

Mrs. SCHROEDER. Mr. Speaker, we only have one remaining speaker, and I want to be sure the gentleman from Florida only has one remaining speaker, because they have double the time. Does the gentleman from Florida only have one remaining speaker?

Mr. CANADY of Florida. Mr. Speaker, I have one remaining speaker, as I indicated earlier. I reserve the balance of my time for closing.

Mrs. SCHROEDER. Mr. Speaker, I yield myself the balance of my time.

□ 1330

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 7½ minutes.

Mrs. SCHROEDER. Mr. Speaker, I must say in the time crunch, I felt terrible in having to cut off the distinguished gentlewoman from California who is a member of the committee. I really want her to stand up and finish what she was talking about. The gentlewoman from California [Ms. LOFGREN] was talking about her mother's best friend and her mother's best friend who was Catholic, going to church and being asked to organize on this issue.

I yield to the gentlewoman from California [Ms. LOFGREN] because I had to cut her off.

Ms. LOFGREN. Mr. Speaker, I did talk to the gentlewoman about my friends, the Wilsons, and the real truth, not the rhetoric, not the misinformation, and the comment is that good Catholics and good Christians do not want to hurt good mothers. If we could keep that in our minds, put aside the politics, I think we would do a far more decent job here today.

Mrs. SCHROEDER. Mr. Speaker, I wanted this body to hear what the gentlewoman said because that has been our position all along. We do not wish to hurt good mothers. That was the President's position. That is still our position.

I was the one who went to the Committee on Rules and went everywhere trying to get an amendment to deal with the serious health issues of a mother. Nobody wants this for vanity purposes. My skin crawls as I hear Members on this floor talking about thousands of women get these late term abortions for vanity purposes, like all women have such dark hearts they would wait to postviability and then suddenly decide, I changed my mind.

There may be some of those cases, I do not know. But I must tell you, all of us are willing to ban those cases. We are talking about the cases where women desperately want to have a family and something goes terribly wrong.

Many of my colleagues have heard about our friend here, have seen this picture before, but the real good news was after she had that procedure, look what she got. She got little Tucker. We really ought to say, this is what this is about, because this women was able to have this procedure late in her term in a very, very sad pregnancy that went very, very wrong. She was able to preserve her reproductive ability and go on to add to this happy American family.

Do we want the Congress of the United States saying no to that? I certainly do not. I certainly do not. I do not think we want the Congress of the United States standing in the same room with this woman and her husband and her doctor and probably her whole family in tears but the Congress says, but if your doctor tries to help you on this, after we pass this, he goes to jail. I do not think that is the American way.

If you really believe that women are running out and having these and this is a vanity issue and is about fitting into a prom dress or something, we are willing to do that. But you would not let us have the amendment. You would not let us have a serious health amendment. And every time we say health, you say, you mean headaches. We were talking about serious health. You know how to write it; we know how to write it. Let us not kid ourselves. That is what the President said. The President said, serious health amendment.

I find this a very sad day because I really find this is not about whether or not there are thousands of these going on and how awful this is. I think this is all about politics. The President vetoed this bill in April. Let me tell you, in early April he vetoed this bill. It has being sitting in the committee and it could have come to the floor any day thereafter. So if you really thought that this was going on, this is an epidemic, women are losing their minds and running in in late term, if you thought that, you should have stopped it right away. If you thought this was so grisly and horrible, that is when you should have done it. But no, we decided to let it wait until election eve, where we could let it bubble and burn and all of this stuff. So that we could build a huge issue and this is our 52d vote on choice. This is really an attempt to undo choice, this extreme, extreme Congress that we have.

You see the charts that are drawn over there. They are drawn and they eat at your heart and they eat at my heart because they show a perfect, beautiful child, a perfect, beautiful child like Tucker. But let me tell you, the child that came before Tucker that would have prevented Tucker from being born, had there not been this procedure, did not look like Tucker and did not look like those pretty little drawings.

These are seriously deformed children that we are talking about, very seriously deformed, or the mother has a very serious condition.

Do you know what is wrong in this debate? We have been so caught up in this choice/anti-choice debate that we have made pregnancy sound like it is a 9-month cruise and that absolutely nothing can go wrong during that 9-month cruise and the only thing that would ever happen is if they do that, the mother must be some selfish, terrible person with a dark heart. But let me tell you, my colleagues, many things can go wrong.

Do you know by statistics today 25 percent of the vaginal and caesarean births in this country have serious maternal complications, 25 percent? Do you know if a woman has a baby over the age of 40, she is nine times more apt to die in this country. There are serious safe motherhood issues. We have had Members so engaged with their pictures and charts and screaming and playing politics with women's uteruses that we have not really dealt with the safe motherhood issue.

So I find this a very sad vote to end my career on. I thank the President of the United States, who listened to those families. Those families have been in this Congress pushing their strollers around with their babies and their husbands, trying to get Members of Congress to listen. Many of them are right-to-life families who never in the world thought they would ever need this procedure. Yet their world collapsed on them, and they did not want this to be like Russian roulette. This would be like pregnancy Russian roulette. You get one shot at it and, if it does not work, you have blown your chance forever to have a baby. Is that what this Congress is trying to say?

Let me read the words of Coreen Costello. She goes on to say:

> I still do not believe in abortion. I have anguished over supporting an abortion procedure. However, I have chosen to come forward, despite my beliefs, because I believe

that this bill does not protect women and families.

Coreen was the mother of Tucker. This is Coreen. She never thought she would be there.

Please do not make this happen to everybody before you realize it. Do not take this right away from America's families. And please, please, please, preserve serious health conditions of mothers.

In today's debate, the picture of the American woman that will emerge from the other side is that she is a frivolous and shallow person who would lightly terminate a late-term pregnancy. The supporters of this bill would have you believe that Congress must deprive women of the right to make their own reproductive decisions, because American women and their families cannot be trusted to be responsible decisionmakers.

I have this picture of Coreen Costello and her family beside me as I speak, because I don't want any one to forget that this debate is not about political sound bites or the politics of pitting Americans against each other. This debate is about real American families and the agonizing decisions they have to make when wanted pregnancies go terribly wrong, when serious fetal anomalies or serious threats to the woman's health arise during the pregnancy.

I came to Congress 24 years ago determined to make sure that the Federal Government treats women as responsible adults who are the best decisionmakers with respect to their reproductive health. The bill before us today says that your Member of Congress is somehow better able to make decisions about your reproductive health than you are. For Congress to usurp the power of the American family in this way is not only unconstitutional, it is also an affront to our fundamental commitment to the integrity of the family, and the right that Americans have to be able to make significant medical decisions for themselves.

You may hear, during the course of this debate, allegations that some women have obtained late-term abortions for reasons other than their life or health. Remember this: the individual States as well as the Federal Government, have the power, under the Constitution and Roe versus Wade, to ban all post-viability, late-term abortions except those that are necessary to preserve the woman's life or to avoid serious health consequences to her. The President has made it clear that he would sign such a bill. But every attempt we made to amend this bill to provide an exception for life or serious health consequences was flatly rejected by the other side. Not once did the majority permit this body to vote on an exception to preserve women's health or their future fertility. Not once.

The majority has chosen to have a political campaign issue instead of having a bill that would pass constitutional muster and ban late-term abortions except when the women's life or health is at stake.

I want to show you another picture of Coreen Costello and her family. Look closely, and note that since the time that we first debated this bill, the Costellos have had joyous occasion to sit for a new family picture, because their family has changed. Baby Tucker is the newest member of this family, and his birth was made possible because Coreen Costello and her family were able to use the procedure this bill bans. Let me close with Coreen Costello's own words. She wrote me yesterday and said this about her tragic pregnancy:

> My daughter's stiff and rigid body as well as her unusual contorted position in my womb gave my team of doctors deep concern for my health and well-being * * *. With their knowledge and expertise and data from extensive diagnostic testing, my medical experts believed the safest option was an intact D&E, performed by specialist Dr. James McMahon. Reluctantly, my husband and I agreed.

She goes on to say:

> I still do not believe in abortion, and I have anguished over supporting an abortion procedure. However, I have chosen to come forward, despite my beliefs, as H.R. 1833 does not protect women and families like mine. President Clinton and Members of Congress asked for an amendment to allow exceptions for serious health consequences. Proponents of this extreme bill refused to allow such a vote. They do not want to believe stories like mine. My baby girl is gone. Not because of an abortion procedure, but because of a terrible disease. Please do not confuse this. It was hard enough for my husband and children to lose Katherine. I thank God they did not lose me, too.
>
> Not a day goes by that my heart doesn't ache for my daughter. Fortunately, my pain has been eased with the joyous birth of our healthy baby boy, Tucker. This would not have been possible without this procedure. It is time for my family to put the pieces of our lives back together. Please, please, give other women and their families this chance. Let us deal with our personal tragedies without any unnecessary interference from our government. Leave us with our God, our families, and our trusted medical experts. Sincerely, Coreen Costello.

Vote with these families. Vote against extremism that would make Congress the decisionmaker for your most intimate and difficult medical decisions. Vote no.

Mr. CARDIN. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, the issue presented by H.R. 1833, the partial birth abortion bill, is one that requires careful thought and consideration. The medical procedure that is addressed by this legislation is, in my judgment and in the judgment of hundreds of my constituents, gruesome. My vote today to sustain the President's veto in no way indicates my support for that procedure.

The fact is, however, that it is a medical procedure. With no medical training, I am not qualified, and I do not think this Congress is qualified, to rule on the necessity of specific medical decisions. This is a medical question, not a political one. If this bill were to become law, it would establish the precedent of Congress placing in our criminal statutes specific medical procedures. That would be a mistake.

It would a different matter to have a straightforward debate about the circumstances under which late-term abortions are medically justified. However, that is not what we're doing today. Instead, we are debating whether to outlaw a specific medical procedure.

I am dismayed that the American Medical Association, or other appropriate governing bodies of medical professionals, has not stepped forward on this issue. They have the expertise and the responsibility to rule on the necessity of this procedure, and I have urged them, in writing, to do so. I hope they will yet act to guide their members on whether this hideous procedure is, in fact, in some cases the only medically safe option to preserve the life and future health of the woman.

I have always defended the right of each woman to make her own decisions about her reproductive rights. The bill before us raises the question whether a particular medical procedure is ever appropriate for any woman. According to many doctors, there are horrific instances where this procedure is the best option for protecting the woman's life and/or health and her ability to have children in the future. I will vote against this bill because, for all the emotion of this issue, I do not believe Congress knows enough to tell doctors how to act in certain circumstances.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise in strong support of the motion to override.

On March 27, this House passed the conference report on H.R. 1833, the ban on partial birth abortions and sent it to our President for his signature. Sticking to his proabortion agenda, the President chose to distance himself from the American people and veto the ban on the most brutal form of infanticide. Following the President's decision, we set out to override his veto and to protect the life of the unborn childn. We have come far and are in sight of our destination.

Today, with the bipartisan support of 285 Members of Congress, this House was able to successfully override the veto. Today, with the support of 285 Members of Congress, this House was able to respond to the millions of Americans who are outraged by this brutal form of abortion. Today, with the support of 285 Members of Congress, this House was able to send the message of the American people to a President who doesn't really seem to care what they think.

Those of us who believe in the life of the unborn, those of us who fight against the crime of partial birth abortion cheer today for our success, but regret the lives and futures that have been lost since the 27th of March, since the hour that we first passed the ban. Let us delay no more, let us be resolute, and let us complete our task in overriding President Clinton's unjust and unjustified veto, that no other child may perish.

We have advanced confidently in the direction of our hopes, and we await the Senate to join us in the completion of our task.

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. HYDE] is recognized for 15 minutes.

Mr. HYDE. Mr. Speaker, I beg the indulgence of my colleagues not to ask me to yield because I cannot and will not and I would appreciate their courtesy. I also want to say briefly that those who have charge us with politics, invidious politics, for delaying this debate ought to understand that Americans cannot believe this practice exists and it has taken months to educate the American people and it will take many more months to educate them as to the nature and extent of this horrible practice. That is one reason it has taken so long.

The law exists to protect the weak from the strong. That is why we are here.

Mr. Speaker, in his classic novel "Crime and Punishment," Dostoyevsky has his murderous protagonist Raskolnikov complain that "Man can get used to anything, the beast!"

That we are even debating this issue, that we have to argue about the legality of an abortionist plunging a pair of scissors into the back of the tiny neck of a little child whose trunk, arms and legs have already been delivered, and then suctioning out his brains only confirms Dostoyevsky's harsh truth.

We were told in committee by an attending nurse that the little arms and legs stop flailing and suddenly stiffen as the scissors is plunged in. People who say "I feel your pain" are not referring to that little infant.

What kind of people have we become that this procedure is even a matter for debate? Can we not draw the line at torture, and baby torture at that? If we cannot, what has become of us? We are all incensed about ethnic cleansing. What about infant cleansing? There is no argument here about when human life begins. The child who is destroyed is unmistakably alive, unmistakably human and unmistakably brutally destroyed.

The justification for abortion has always been the claim that a women can do with her own body what she will. If you still believe that this four-fifths delivered little baby is a part of the woman's body, then I am afraid your ignorance is invincible.

I finally figured out why supporters of abortion on demand fight this infacticide ban tooth and claw, because for the first time since Roe v. Wade the focus is on the baby, not the mother, not the woman but the baby, and the harm that abortion inflicts on an unborn child, or in this instance a four-fifths born child. That child whom the advocates of abortion on demand have done everything in their power to make us ignore, to dehumznize, is as much a bearer of human rights as any Member of this House. To deny those rights is more than the betrayal of a powerless individual. It betrays the central promise of America, that there is, in this land, justice for all.

The supporters of abortion on demand have exercised an amazing capacity for self-deception by detaching themselves from any sympathy whatsoever for the unborn child, and in doing so they separate themselves from the instinct for justice that gave birth to this country.

The President, reacting angrily to this challenge to his veto, claims not to understand why the morality of those who support a ban on partial birth abortions is superior to the morality of "compassion" that he insists informed his decision to reject Congress' ban on what Senator MOYNIHAN has said is "too close to infanticide."

Let me explain, Mr. President. There is no moral nor, for that matter, medical justification for this barbaric assault on a partially born infant. Dr. Pamela Smith, director of medical education in the Department of Obstetrics and Gynecology at Chicago's Mount Sinai Hospital, testified to that, as have many other doctors.

Dr. C. Everett Koop, the last credible Surgeon General we had, was interviewed by the American Medical Association on August 19, and he was asked:

Question: "President Clinton just vetoed a bill on partial birth abortions. In so doing, he cited several cases in which women were told these procedures were necessary to preserve their health and their ability to have future pregnancies. How would you characterize the claims being made in favor of the medical need for this procedure?"

Answer: Quoting Dr. Koop, "I believe that Mr. Clinton was misled by his medical advisors on what is fact and what is fiction in reference to late term abortions."

Question: "In your practice as a pediatric surgeon, have you ever treated children with any of the disabilities cited in this debate? Have you operated on children born with organs outside of their bodies?"

Answer: "Oh, yes, indeed. I've done that many times. The prognosis usually is good. There are two common ways that children are born with organs outside of their body. One is an omphalocele, where the organs are out but still contained in the sac composed of the tissues of the umbilical cord. I have been repairing those since 1946. The other is when the sac has ruptured. That makes it a little more difficult. I don't know what the national mortality would be, but certainly more than half of those babies survive after surgery.

"Now every once in a while, you have other peculiar things, such as the chest being wide open and the heart being outside the body. And I have even replaced hearts back in the body and had children grow to adulthood."

□ 1345

Question: And live normal lives?

Answer: Living normal lives. In fact, the first child I ever did with a huge omphalocele much bigger than her head went on to develop well and become the head nurse in my intensive care unit many years later."

The abortionist who is a principal perpetrator of these atrocities, Dr. Martin Haskell, has conceded that at least 80 percent of the partial-birth abortions he performs are entirely elective; 80 percent are elective. And he admits to over a thousands of these abortions, and that is some years ago.

We are told about some extreme cases of malformed babies as though life is only for the privileged, the planned and the perfect. Dr. James McMahon, the late Dr. James McMahon, listed nine such abortions he performed because the baby had a cleft lip.

Many other physicians who care both about the mother and the unborn child have made it clear this is never a medical necessity, but it is a convenience for the abortionist. It is a convenience for those who choose to abort late in pregnancy when it becomes difficult to dismember the unborn child in the womb.

Well, the President claims he wants to solve a problem by adding a health exception to the partial-birth abortion ban. That is spurious, as anyone who has spent 10 minutes studying the Federal law, understands. Health exceptions are so broadly construed by the court, as to make any ban utterly meaningless.

If there is no consistent commitment that has survived the twists and the turns in policy during this administration, it is an unshakable commitment to a legal regime of abortion on demand. Nothing is or will be done to make abortion rare. No legislative or regulatory act will be allowed to impede the most permissive abortion license in the democratic world.

The President would do us all a favor and make a modest contribution to the health of our democratic process if he would simply concede this obvious fact.

In his memoirs Dwight Eisenhower wrote about the loss of 1.2 million lives in World War II, and he said:

"The loss of lives that might have otherwise been creatively lived scars the mind of the civilized world."

Mr. Speaker, our souls have been scarred by one and a half million abortions every year in this country. Our souls have so much scar tissue there is not room for any more.

And say, what do we mean by human dignity if we subject innocent children to brutal execution when they are almost born? We all hope and pray for death with dignity. Tell me what is dignified about a death caused by having a scissors stabbed into your neck so your brains can be sucked out.

We have had long and bitter debates in this House about assault weapons. Those scissors and that suction machine are assault weapons worse than any AK-47. One might miss with an AK-47; the doctor never misses with his assault weapon, I can assure my colleagues.

It is not just the babies that are dying for the lethal sin of being unwanted or being handicapped or malformed. We are dying, and not from the darkness, but from the cold, the coldness of self-brutalization that chills our sensibilities, deadens our conscience and allows us to think of this unspeakable act as an act of compassion.

If my colleagues vote to uphold this veto, if they vote to maintain the legality of a procedure that is revolting even to the most hardened heart, then please do not ever use the word compassion again.

A word about anesthesia. Advocates of partial-birth abortions tried to tell us the baby does not feel pain; the mother's anesthesia is transmitted to the baby. We took testimony from five of the country's top anesthesiologists, and they said it is impossible, that result will take so much anesthesia it would kill the mother.

By upholding this tragic veto, those colleagues join the network of complicity in supporting what is essentially a crime against humanity, for that little, almost born infant struggling to live is a member of the human family, and partial-birth abortion is a lethal assault against the very idea of human rights and destroys, along with a defenseless little baby, the moral foundation of our democracy because democracy is not, after all, a mere process. It assigns fundamental rights and values to each human being, the first of which is the inalienable right to life.

One of the great errors of modern politics is our foolish attempt to separate our private consciences from our public acts, and it cannot be done. At the end of the 20th century, is the crowning achievement of our democracy to treat the weak, the powerless, the unwanted as things? To be disposed of? If so, we have not elevated justice; we have disgraced it.

This is not a debate about sectarian religious doctrine nor about policy options. This is a debate about our understanding of human dignity, what does it mean to be human? Our moment in history is marked by a mortal conflict between culture of death and a culture of life, and today, here and now, we must choose sides.

I am not the least embarrassed to say that I believe one day each of us will be called upon to render an account for what we have done, and maybe more importantly, what we fail to do in our lifetime, and while I believe in a merciful God, I believe in a just God, and I would be terrified at the thought of having to explain at the final judgment why I stood unmoved while Herod's slaughter of the innocents was being reenacted here in my own country.

This debate has been about an unspeakable horror. While the details are graphic and grisly, it has been helpful for all of us to recognize the full brutality of what goes on in America's abortuaries day in and day out, week after week, year after year. We are not talking about abstractions here. We are talking about life and death at their most elemental, and we ought to face the truth of what we oppose or support stripped of all euphemisms, and the queen of all euphemisms is "choice" as though one is choosing vanilla and chocolate instead of a dead baby or a live baby.

Now, we have talked so much about the grotesque; permit me a word about beauty. We all have our own images of the beautiful; the face of a loved one, a dawn, a sunset, the evening star. I believe nothing in this world of wonders is more beautiful than the innocence of a child.

Do my colleagues know what a child is? She is an opportunity for love, and a handicapped child is an even greater opportunity for love.

Mr. Speaker, we risk our souls, we risk our humanity when we trifle with that innocence or demean it or brutalize it. We need more caring and less killing.

Let the innocence of the unborn have the last word in this debate. Let their innocence appeal to what President Lincoln called the better angels of our nature. Let our votes prove Raskolnikov is wrong. There is something we will never get use to. Make it clear once again there is justice for all, even for the tiniest, most defenseless in this, our land.

Mr. BISHOP. Mr. Speaker, I rise today to sustain President Bill Clinton's veto of H.R. 1833, the Partial Birth Abortion Ban Act of 1995. The bill makes it a crime to perform a so-called partial-birth abortion unless the abortion is necessary to save the life of the mother. Under the legislation, physicians who perform these abortions are subject to a maximum of 2 years imprisonment, fines, or both. The bill also establishes a civil cause of action for damages against the doctor who performs the procedure.

I am against abortion as a method of birth control and certainly against elective late-term abortions except where necessary to protect the life or health of the mother. Today, I vote to sustain the President's veto because H.R. 1833 would seriously infringe upon a family's right to choose what is best for them. In addition, it would seriously interfere with a physician's attempt to protect a woman's health or future reproductive capacity.

This rare procedure is primarily used in cases of desired pregnancies gone tragically wrong; when a family learns late in pregnancy of severe fetal anomalies or of a medical condition that threatens the woman's life or health. The American Public Health Association, the American Medical Women's Association, and the American College of Obstetricians and Gynecologists, all organizations dedicated to improving women's health care, oppose the measure. According to the American College of Obstetricians and Gynecologists, this type of procedure is "done primarily when the abnormalities of the fetus are so extreme that the independent life is not possible or when the fetus has died in utero." They further explain that the medical problems which a woman could develop that might require interruption of pregnancy during the third trimester include rare maternal problems that could threaten the life and/or health of the pregnant woman if the pregnancy continued such as severe heart disease, malignancies, kidney failure, or severe toxemia.

I simply cannot tell a mother that she must risk her life carrying a fetus that the medical community has determined would not live. That should be a family decision best left to the family and their God. In these situations, in which a family must make such a difficult decision, the ability to choose this procedure must be protected.

This measure outlaws a valid medical procedure. Other methods of late-term abortion may be more dangerous to the health or life of the woman. Moreover, it compromises the patient-physician relationship. Because it bans one of the safest, least invasive methods available later in pregnancy, physicians would be compelled to balance the health of their patients against the possibility of facing Federal criminal charges.

In short, I cannot vote to override the President's veto because it fails to protect women and families in such dire circumstances and because it treats doctors who perform the procedures as criminals. The life exception in the bill only covers cases in which the doctor believes that the woman will die. It fails to cover cases where, absent the procedure, serious physical harm is very likely to occur. I would support H.R. 1833 if it were amended to add an exception for serious health consequences.

I urge my colleagues to vote to sustain the President's veto.

Mrs. KELLY. Mr. Speaker, I rise in reluctant opposition to the veto override of H.R. 1833.

I am opposed to late-term abortions except in instances where they are necessary to save the life of the mother or for serious, very limited health reasons. Unfortunately, this well-intentioned legislation fails to make these exceptions. Tragedies involving severely deformed or dying fetuses sometimes occur in the late stages of pregnancy. In these crisis situations, women should have access to the safest medical procedure available, and on some occasions the safest such procedure is the intact dilation and evacuation procedure.

If we ban this procedure, Mr. Speaker, as this legislation seeks to do, doctors will resort to other procedures, such as a caesarean section or a dismemberment dilation and evacuation, which can and often do pose greater health risks to women, such as severe hemorrhaging, lacerations of the uterus, or other complications that can threaten a woman's life or her ability to have children again in the future.

Mr. Speaker, passage of H.R. 1833 will not end late-term abortions; the bill only bans one such procedure that, in the judgment of a doctor, might offer the surest way of protecting the mother. The New York chapter of the

American College of Obstetricians and Gynecologists opposes H.R. 1833, expressing concern that "* * * Congress would take any action that would supersede the medical judgment of trained physicians and would criminalize medical procedures that may be necessary to save the life of a woman * * *".

If H.R. 1833 were amended to include exceptions for situations where a woman's life or health is threatened, ensuring that decisions regarding the well-being of the mother are made by doctors, not politicians, I would gladly support the bill. Without this protection, however, I cannot in good conscience support this legislation today.

Good people will always disagree over the abortion issue, and I respect the passion and depth of feeling that so many of my constituents on both sides of this issue have expressed to me. Maintaining policies which promote healthy mothers and healthy babies should remain above the political fray, and it is for this reason that I oppose the veto override today.

Mr. BLUMENAUER. Mr. Speaker, I oppose the challenge to the President's veto of H.R. 1833. Whatever one's belief on abortion, the late-term procedure most be viewed separately, for this is a procedure to be used only as a last resort to save a woman's life or to avoid a devastating deterioration of her health. Late-term abortion is not about choice. It is about saving women from grave damage to their health, to their ability to bear children in the future, and from death. The President, and the medical community, have assured us that abuses of this procedure can be avoided. Regrettably, those voting to override this veto would apparently prefer to score political points than to heed those assurances. This is being done with indifference to women who face grave circumstances, and in disregard to the potential of this institution to render a serious policy determination on a matter of grave consequence.

Mr. FAZIO of California. I rise today to express my support for the President's position on H.R. 1833 and to urge my colleagues to support it.

This issue has been an incredibly difficult one for me as I'm sure it has been for most of my colleagues. The medical procedures involved are very disturbing, and moreover, intensely personal issues lie at the heart of this debate.

However, I opposed H.R. 1833 for several reasons when we debated this legislation earlier this year, and I remain opposed to this bill.

First, and most important, H.R. 1833 denies women the right to make extremely important and personal medical decisions. If passed, this bill would strip away many of the protections that exist for legal abortion.

Only the mother, in consultation with her doctor, should make the decision. We should not attempt to impose a "Congress Knows Best" medical solution on the women of America.

In additional, I opposed this bill because it doesn't contain an exception which would allow for this extremely rare procedure to be performed when circumstances are the most dire; that is, when the life of the mother is endangered. We should not accept a ban on a procedure which may represent the best hope for a woman to avoid serious risks to her health.

Of course we should not make this procedure, or any type of abortion, a purely elective procedure. But if we pass this bill, we are criminalizing a medical procedure that may one day be necessary to save the life of the mother and allow her to have a family.

I urge all of my colleagues to give careful thought to their vote today and oppose the veto override attempt before us.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in opposition to the motion to override the Presidential veto of H.R. 1833, the late-term abortion ban. The fact that we are voting on this motion today is a true testament to how extreme many of the Members of this House of Representatives are. Despite their campaign pledges to "get the U.S. government out of your life," Gingrich-Dole Republican Members have continued to advocate that the U.S. Congress take unprecedented steps into the personal lives of American women and their families—as well as into their doctor's offices—in order to influence public opinion and undermine current laws in a fashion that they cannot do through the highest court in our land. H.R. 1833 is an attempt by Gingrich extremists to prescribe their own view of proper medical strategy regarding partial birth abortion procedures.

In order to promote this bill, the Republicans have focused on certain aspects of this medical procedure that are intended to elicit emotional responses. What they refuse to focus on, however, is that the only women who seek such rare, third-trimester abortions are overwhelmingly in tragic, heart-rendering situations in which they must make one of the most difficult decisions of their lives.

Often they are faced with personal health risks that threaten their very lives and/or their ability to have children in the future. Others discover very late in their pregnancy—in some cases even after they already know the sex of the child, have picked out a name and gotten the baby's crib—that their child has horrific fetal anomalies that are incompatible with life and will cause the baby terrible pain and tragedy before the end of its short life.

Clearly, each of these situations is serious, tragic, and terribly difficult for the families involved. The decision to seek a late-term, partial-birth abortion is one that is not made carelessly or lightly. The U.S. Congress is the last entity that should be intruding into this type of personal, family decision.

Further, we in Congress have absolutely no right to interfere with a doctor's medical judgment when he or she is making critical decisions affecting the life of a woman, her health and her ability to bear children in the future. It is extremely important to note that this bill makes no exception for the health of the mother. In fact, it makes no mention of the health of the women whatsoever. Clearly, the mother's health and her reproductive future mean nothing to those Members of this body who are pushing this bill forward and who have failed to include this vital exception.

H.R. 1833 takes advantage of tragic circumstances and sacrifices the health and maybe lives of women in order to push an extremist agenda forward during this election year. I urge my colleagues to stay fast in their beliefs for individual rights and to continue to allow a woman's right to her own reproductive choices and not to be dictated to by partisan political action by mean spirited office seekers. I support the President's veto of this bill and will vote to sustain it.

Mr. CUNNINGHAM. Mr. Speaker, I rise today in support of overriding President Clinton's unwise veto of H.R. 1833, the Partial Birth Abortion Ban Act.

Last March, I joined 285 of my House colleagues in support of banning the procedure known as partial-birth abortion. The measure was supported by members like me who are pro-life, and even by many who consider themselves pro-choice. We shared our justification: As New York Senator DANIEL PATRICK MOYNIHAN said, the partial birth abortion procedure is just "too close to infantacide." And I agree.

Yet, after H.R. 1833 was adopted by bipartisan majorities in the House and Senate, President Clinton vetoed the Partial Birth Abortion Ban Act on April 10. The President's veto represents a truly mean and extreme position. His position is that the absolute, most extreme abortion procedure, no matter how barbaric, should continue to be permitted in America. This procedure is such that even a brief description of it causes strong men and women to wince.

Since the President's veto, more than 7,500 of my constituents have written or called me, urging me to support an override of the President's veto. But he did veto it. And on July 15, I wrote House Majority Leader DICK ARMEY, urging the House to fulfill its responsibility to a vote to override President Clinton's veto.

Today we will have that vote. And today I will vote to override the President's decision, which drawn the deep disappointment of pro-life and pro-choice Americans alike. This is a sad day, because one would hope that the President had not vetoed such commonsense, humane legislation in the first place.

Mrs. CHENOWETH. Mr. Speaker, when President Clinton vetoed H.R. 1833, the Partial-Birth Abortion Act, he claimed he was trying to protect women's health.

The President was distorting the truth.

Medical facts show the President's claim to be completely false.

Mr. Speaker, partial-birth abortion is not a legitimate medical procedure and is not needed for any particular circumstance. Doctors at the Metropolitan Medical Clinic in New Jersey say that only a "minuscule amount" of the 1,500 partial-birth abortions they perform are for medical reasons. One doctor is quoted as saying, "Most [partial-birth abortion patients] are Medicaid patients * * * and most are for elective, not medical, reasons; most who did not realize, or didn't care, how far along they were."

This procedure is used on babies who are four and a half months in the womb or older. It can be employed up until the ninth and final month of pregnancy. The ninth and final month, Mr. Speaker.

Opposition to this technique isn't merely the opinion of a handful of doctors. The American Medical Association has made its position clear.

The AMA's Council on Legislation voted unanimously to recommend that the AMA board of trustees endorse H.R. 1833. One member of AMA's legislative council said that, "partial birth abortion is not a recognized medical technique," and many AMA members agreed that, "the procedure is basically repulsive."

Mr. Speaker, my position on abortion has been clear and consistent. I oppose it, except in certain very specific cases.

But I do not understand how people can support this procedure. Abortion advocates will argue that a fetus in the early stages of pregnancy is not human life. I disagree with that. But surely even people who make that argument must understand in their hearts that a pre-born baby in the third trimester of pregnancy is in fact human life. And that human life deserves the protection of law.

The position of those who favor partial birth abortions rests on the absurd notion that if one does not have to look at the baby then one can somehow deny that the baby is alive.

Mr. Speaker, not only is the procedure itself medieval, but so is the logic of those who advocate and apologize for it.

Permitting this ghastly procedure to continue debases the whole medical profession, it debases our system of law, and indeed it debases our very notion of the concept of life.

Our system of laws, our American heritage, is based on the idea that people have certain God-given rights. Those rights are life, liberty, and the pursuit of happiness.

Those rights existed before laws were established. In fact, it is because those rights existed that laws were established in order to protect those rights.

First and foremost among those rights is the right to life.

As lawmakers we have a responsibility to protect the lives of our citizens, in this case, the very youngest, most vulnerable of American citizens.

I urge my colleagues to do the right thing.

I urge my colleagues to stand against this hideous, repugnant practice.

Let us stand up for a good principle and let us override the President's veto.

Mr. HASTERT. Mr. Speaker, I rise in support of this attempt to override President Clinton's veto of the partial birth abortion bill and I hope my colleagues will join me in this effort.

Mr. Speaker, I have listened with some care to the comments by my distinguished colleague from Colorado, Mrs. SCHROEDER, who is leading the effort to preserve this procedure. And I am reminded of some advice that the gentlelady from Colorado gave this House just a day or two ago when we were debating a bill to make Mother Teresa an honorary citizen of the United States. The gentlelady from Colorado, at that time said we could honor Mother Teresa best if, every day, as we considered how to vote on legislation brought to this floor, we reflected upon Mother Teresa's compassion, and her courageous stand for children and the helpless.

As the gentlelady from Colorado knows, I do not always agree with her advice. But on this occasion I think the gentlelady from Colorado's advice the other day does apply to our deliberation today. I think we should let the wisdom of Mother Teresa inform our hearts and our minds. And I think it is quite clear what that gentle woman from Calcutta, India, would say if she were here today—it is the same thing she has said so often—that the taking of innocent human life is wrong.

Mr. Speaker, I urge my colleagues to vote to end partial birth abortion in this country. Override the President's veto.

Mr. LEVIN. Mr. Speaker, I do not favor late-term abortions and believe they should only be allowed in cases where the life or health of the mother is threatened.

I voted to sustain the President's veto because the bill does not allow a physician to take into account even serious threats to a woman's health, as the Supreme Court has required.

I would have voted for H.R. 1833 if there had been an exception to allow their procedure where there is medical evidence that the health of the mother is indeed threatened.

Mr. BENTSEN. Mr. Speaker, today we are considering an override of the President's veto of H.R. 1833, the late-term abortion bill. I oppose the override because this legislation is fundamentally flawed and would put at risk the life, health, and fertility of women facing one of the most difficult, anguished, and personal decisions imaginable.

First, let me say that I oppose late-term abortions except, as the U.S. Supreme Court requires, when necessary to protect the life or health of a woman. H.R. 1833 falls woefully short of meeting this critical standard.

H.R. 1833 provides only a partial exception to protect the life of a woman, and even this partial exception may be invoked only under a very narrow set of circumstances. In other words, this legislation takes away the authority of a physician to select the best medical procedure for saving a woman's life.

Furthermore, this legislation includes no exception whatsoever when a woman faces a severe threat to her health or her ability to have children in the future.

I would support this legislation if its proponents would allow an amendment to reflect not only the Supreme Court's rulings, but State law in Texas. In Texas, late-term abortions are banned except when the woman's life or health is threatened. That is the approach this legislation should take as well.

While I am troubled by the procedure H.R. 1833 seeks to outlaw, I believe it is dangerous and wrong to ban a medical procedure that in some circumstances represents the best hope for a woman to avoid serious risk to her health. The procedure that H.R. 1833 would ban is utilized in the most emotionally wrenching circumstances imaginable—involving cases in which the fetus has developed severe abnormalities that will not allow it to sustain life outside the womb and in which a woman's life, health, and future fertility are jeopardized.

There is no simple solution to reducing the incidence of abortion. However, this Congress could have fashioned a commonsense bill limiting the use of this procedure to cases in which a woman and her doctor decide it is the best way to protect her life and health. Instead, the proponents of H.R. 1833 have chosen to exploit the anguish of families confronting this decision for political gain. How sad and how wrong.

Mrs. SMITH of Washington. Mr. Speaker, I submit for the RECORD the following:

STATEMENT OF DAVID J. BIRNBACH, M.D.

Mr. Chairman, Members of the Subcommittee, my name is David Birnbach, M.D. and I am presently the Director of Obstetric Anesthesiology at St. Luke's-Roosevelt Hospital Center, a teaching hospital of Columbia University College of Physicians and Surgeons in New York City. I am also president-elect of the Society for Obstetric Anesthesia and Perinatology, the society which represents my subspecialty.

I am here today to take issue with the previous testimony before committees of the Congress that suggests that anesthesia causes fetal demise. I believe that I am qualified to address this issue because I am a practicing obstetric anesthesiologist. Since completing my anesthesiology and obstetric anesthesiology training at Harvard University, I have administered analgesia to more than five thousand women in labor and anesthesia to over a thousand women undergoing cesarean section. Although the majority of these cases were at full term gestation, I have provided anesthesia to approximately 200 patients who were carrying fetuses of less than 30 weeks gestation and who needed emergency non-obstetric surgery during pregnancy. These operations have included appendectomies, gall bladder surgeries, numerous orthopedic procedures such as fractured ankles, uterine and ovarian procedures (including malignant tumor removal), breast surgery, neurosurgery, and cardiac surgery.

The anesthetics which I have administered have included general, epidural, spinal and local. The patients have included healthy as well as very sick pregnant patients. Although I often use spinal and epidural anesthesia in pregnant patients, I also administer general anesthesia to these patients and, on occasion, have needed to administer huge doses of general anesthesia in order to allow surgeons to perform cardiac surgery or neurosurgery.

In addition, I believe that I am also especially qualified to discuss the effect of maternally-administered anesthesia on the fetus, because I am one of only a handful of anesthesiologists who has administered anesthesia to a pregnant patient undergoing in-utero fetal surgery, thus allowing me to watch the fetus as I administered general anesthesia to the mother. A review of the experiences that my associates and I had while administering general anesthesia to a mother while a surgeon operated on her unborn fetus was published in the Journal of Clinical Anesthesia, vol. 1, 1989, pp. 363–367. In this paper, we suggested that general anesthesia provides several advantages to the fetus who will undergo surgery and then be replaced in the womb to continue to grow until mature enough to be delivered. Safe doses of anesthesia to the mother most certainly did not cause fetal demise when used for these operations.

Despite my extensive experience with providing anesthesia to the pregnant patient, I have never witnessed a case of fetal demise that could be attributed to an anesthetic. Although some drugs which we administer to the mother may cross the placenta and affect the fetus, in my medical judgment fetal demise is definitely not a consequence of a properly administered anesthetic. In order to cause fetal demise it would be necessary to give the mother dangerous and life-threatening doses of anesthetics. This is not the way we practice anesthesiology in the United States.

Mr. Chairman, I am deeply concerned that the previous congressional testimony and the widespread publicity that has been given this issue will cause unnecessary fear and anxiety in pregnant patients and may cause some to unnecessarily delay emergency surgery. As an example, several newspapers across the U.S. have stated that anesthesia causes fetal demise. Because this issue has been allowed to become a "controversy" several of my patients have recently expressed concerns about anesthesia, having seen newspaper or heard radio or television coverage of this issue. Evidence that patients are still receiving misinformation regarding the fetal effects of maternally administered anesthesia can be seen by review of an article that a pregnant patient recently brought with her to the labor and delivery floor. In last month's edition of Marie Claire, a magazine which many of my pregnant patients read, an article about partial birth abortion states: "The mother is put under general anesthetic, which reaches the fetus through her bloodstream. By the time the cervix is sufficiently dilated, the fetus has overdosed on the anesthesia and is brain-dead." These incorrect statements continue to find their way into newspapers and magazines around the country. Despite the previous testimony of Dr. Ellison, I have yet to see an article that states, in no uncertain terms, that anesthesia when used properly does not harm the fetus. This supposed controversy regarding the effects of anesthesia on the fetus must be finally and definitively put to rest.

In order to address this complex issue, I believe that it is necessary to comment on three of the statements which have recently been made to the Congress.

(1) Dr. James McMahon, now deceased, testified that anesthesia causes neurologic fetal demise.

(2) Dr. Lewis Koplick supported Dr. McMahon and stated: "I am certain that anyone who would call Dr. McMahon a liar is speaking from ignorance of abortions in later pregnancy and of Dr. McMahon's technique and integrity."

(3) Dr. Mary Campbell of Planned Parenthood has addressed this issue by writing the following: "Though these doses are high, the incremental administration of the drugs minimizes the probability of negative outcomes for the mother. In the fetus, these dosage levels may lead to fetal demise (death) in a fetus weakened by its own developmental anomalies."

My responses to these statements are as follows:

1. There is *absolutely* no scientific or clinical evidence that a properly administered maternal anesthetic causes fetal demise. To the contrary, there are hundreds of scientific articles which demonstrate the fetal safety of currently used anesthetics.

2. Dr. Koplick has stated that the "massive" doses used by Dr. McMahon are responsible for fetal demise. *This again, is incorrect and there is no scientific or clinical data to support this allegation.* I have personally administered "massive" doses of narcotics to intubated critically ill pregnant patients who were being treated in an intensive care unit. I am pleased to say that the fetuses were born alive and did well.

3. Dr. Campbell has described the narcotic protocol which Dr. McMahon had used during his D & X procedures: it includes the administration of Midazolam (10-40 mg) and Fentanyl (900-2500 μg). Although there is no evidence that this massive dose will cause fetal demise, there is clear evidence that this excessive dose could cause maternal death. These doses are far in excess of any anesthetic that would be used by an anesthesiologist and even if they were incrementally given over a two or three hour period these doses would in all probability cause enough respiratory depression of the mother, to necessitate intubation and/or assisted respiration. Since Dr. McMahon can not be questioned regarding his "heavy handed" anesthetic practice. I am unable to explain why he would willingly administer such huge amounts of drugs if he did indeed administer 2500 μg of fentanyl and 40mg of midazolam to a patient in a clinic, without an anesthesiologist present, he was definitely placing the mother's life at great risk.

In conclusion, I would like to say that I believe that I have a responsibility as a practicing obstetric anesthesiologist to refute any and all testimony that suggests that maternally administered anesthesia causes fetal demise. It is my opinion that in order to achieve that goal one would need to administer such huge doses of anesthetic to the mother as to place her life at jeopardy. Pregnant women *must* get the message that should they need anesthesia for surgery or analgesia for labor, they may do so without worrying about the effects on their unborn child.

Thank you for your attention. I am happy to respond to your questions.

STATEMENT OF NORIG ELLISON, M.D., PRESIDENT, AMERICAN SOCIETY OF ANESTHESIOLOGISTS

Chairman Canady, members of the Subcommittee. My name is Norig Ellison, M.D., I am the President of the American Society of Anesthesiologists (ASA), a national professional society consisting of over 34,000 anesthesiologists and other scientists engaged or specially interested in the medical practice of anesthesiology. I am also Professor and Vice-Chair of the Department of Anesthesiology at the University of Pennsylvania School of Medicine in Philadelphia and a staff anesthesiologist at the Hospital of the University of Pennsylvania.

I appear here today for one purpose, and one purpose only: to take this issue with the testimony of James T. McMahon, M.D., before this Subcommittee last June. According to his written testimony, of which I have a copy, Dr. McMahon stated that anesthesia given to the mother as part of dilation and extraction abortion procedure eliminates any pain to the fetus and that a medical coma is induced in the fetus, causing a "neurological fetal demise", or—in lay terms—"brain death".

I believe this statement to be entirely inaccurate. I am deeply concerned, moreover, that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary, even life-saving, medical procedures, total unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus. Annually over 50,000 pregnant women are anesthetized for such necessary procedures.

Although it is certainly true that some general analgesic medications given to the mother will reach the fetus and perhaps provide some pain relief, it is equally true that pregnant women are routinely heavily sedated during the second or third trimester for the performance of a variety of necessary surgical procedures with absolutely no adverse effect on the fetus, let alone death or "brain death". In my medical judgment, it would be necessary—in order to achieve "neurological demise" of the fetus in a "partial birth" abortion—to anesthetize the mother to such a degree as to place her own health in serious jeopardy.

As you are aware, Mr. Chairman, I gave the same testimony to a Senate committee four months ago. That testimony received wide circulation in anesthesiology circles and to a lesser extent in the lay press. You may be interested in the fact that since my appearance, not one single anesthesiologist or other physician has contacted me to dispute my stated conclusions. Indeed, two eminent obstetric anesthesiologists appear with me today, testifying on their own behalf and not as ASA representatives. I am pleased to note that their testimony reaches the same conclusions that I have expressed.

Thank you for your attention. I am happy to respond to your questions.

Mr. HOEKSTRA. Mr. Speaker, I submit for the RECORD the following:

SECOND TRIMESTER ABORTION: FROM EVERY ANGLE—FALL RISK MANAGEMENT SEMINAR

INTRODUCTION

The surgical method described in this paper differs from classic D&E in that it does not rely upon dismemberment to remove the fetus. Nor are inductions or infusions used to expel the intact fetus.

Rather, the surgeon grasps and removes a nearly intact fetus through an adequately dilated cervix. The author has coined the term Dilation and Extraction or D&X to distinguish it from dismemberment-type D&E's.

This procedure can be performed in a properly equipped physician's office under local anesthesia. It can be used successfully in patients 20-26 weeks in pregnancy.

The author has performed over 700 of these procedures with a low rate of complications.

BACKGROUND

D&E evolved as an alternative to induction or instillation methods for second trimester abortion in the mid 1970's. This happened in part because of lack of hospital facilities allowing second trimester abortions in some geographic areas, in part because surgeons needed a "right now" solution to complete suction abortions inadvertently started in the second trimester and in part to provide a means of early second trimester abortion to avoid necessary delays for instillation methods.[1] The North Carolina Conference in 1978 established D&E as the preferred method for early second trimester abortions in the U.S.[2,3,4]

Classic D&E is accomplished by dismembering the fetus inside the uterus with instruments and removing the pieces through an adequately dilated cervix.[5]

However, most surgeons find dismemberment at twenty weeks and beyond to be difficult due to the toughness of fetal tissues at this stage of development. Consequently, most late second trimester abortions are performed by an induction method.[6,7,8]

Two techniques of late second trimester D&E's have been described at previous NAF meetings. The first relies on sterile urea intra-amniotic infusion to cause fetal demise and lysis (or softening) of fetal tissues prior to surgery.[9]

The second technique is to rupture the membranes 24 hours prior to surgery and cut the umbilical cord. Fetal death and ensuing autolysis soften the tissues. There are attendant risks of infection with this method.

In summary, approaches to late second trimester D&E's rely upon some means to induce early fetal demise to soften the fetal tissues making dismemberment easier.

PATIENT SELECTION

The author routinely performs this procedure on all patients 20 through 24 weeks LMP with certain exceptions. The author performs the procedure on selected patients 25 through 26 weeks LMP.

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[1] Footnotes at end of article.

The author refers for induction patients falling into the following categories: Previous C-section over 22 weeks; obese patients (more than 20 pounds over large frame ideal weight); twin pregnancy over 21 weeks; and patients 26 weeks and over.

DESCRIPTION OF DILATION AND EXTRACTION METHOD

Dilation and extraction takes place over three days. In a nutshell, D&X can be described as follows: Dilation; more dilation; real-time ultrasound visualization; version (as needed); intact extraction; fetal skull decompression; removal; clean-up; and recovery.

Day 1—Dilation: The patient is evaluated with an ultrasound, hemoglobin and Rh. Hadlock scales are used to interpret all ultrasound measurements.

In the operating room, the cervix is prepped, anesthetized and dilated to 9.11 mm. Five, six of seven large Dilapan hydroscopic dilators are placed in the cervix. The patient goes home or to a motel overnight.

Day 2—More Dilation: The patient returns to the operating room where the previous day's Dilapan are removed. The cervix is scrubbed and anesthetized. Between 15 and 25 Dilapan are placed in the cervical canal. The patient returns home or to a motel overnight.

Day 3—The Operation: The patient returns to the operating room where the previous day's Dilapan are removed. The surgical assistant administers 10 IU Pitocin intramuscularly. The cervix is scrubbed, anesthetized and grasped with a tenaculum. The membranes are ruptured, if they are not already.

The surgical assistant places an ultrasound probe on the patient's abdomen and scans the fetus, locating the lower extremities. This scan provides the surgeon information about the orientation of the fetus and approximate location of the lower extremities. The tranducer is then held in position over the lower extremities.

The surgeon introduces a large grasping forcep, such as Bierer or Hern, through the vaginal and cervical canals into the corpus of the uterus. Based upon his knowledge of fetal orientation, he moves the tip of the instrument carefully towards the fetal lower extremities. When the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws to firmly and reliably grasp a lower extremity. The surgeon then applies firm traction to the instrument causing a version of the fetus (if necessary) and pulls the extremity into the vagina.

By observing the movement of the lower extremity and version of the fetus on the ultrasound screen, the surgeon is assured that his instrument has not inappropriately grasped a maternal structure.

With a lower extremity in the vagina, the surgeon uses his fingers to deliver the opposite lower extremity, then the torso, the shoulders and the upper extremities.

The skull lodges at the internal cervical os. Usually there is not enough dilation for it to pass through. The fetus is oriented dorsum or spine up.

At this point, the right-handed surgeon slides the fingers of the left hand along the back of the fetus and "hooks" the shoulders of the fetus wit the index and ring fingers (palm down). Next he slides the tip of the middle finger along the spine towards the skull while applying traction to the shoulders and lower extremities. The middle finger lifts and pushes the anterior cervical lip out of the way.

While maintaining this tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand, the surgeon takes a pair of blunt curved Metzenbaum scissors in the right hand. He carefully advances the tip, curved down along the spine and under his middle finger until he feels it contact the base of the skull under the tip of his middle finger.

Reassessing proper placement of the closed scissors tip and safe elevation of the cervix, the surgeon then forces the scissors into the base of the skull or into the foramen magnum. Having safely entered the skull, he spreads the scissors to enlarge the opening.

The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus, removing it completely from the patient.

The surgeon finally removes the placenta with forceps and scrapes the uterine walls with a large Evans and a 14 mm suction curette. The procedure ends.

Recovery: Patients are observed a minimum of 2 hours following surgery. A pad check and vital signs are performed every 30 minutes. Patients with minimal bleeding after 30 minutes are encouraged to walk about the building or outside between checks.

Intravenous fluids, pitocin and antibiotics are available for the exceptional times they are needed.

ANESTHESIA

Lidocaine 1% with epinephrine administered intra-cervically is the standard anesthesia. Nitrous-oxide/oxygen analgesia is administered nasally as an adjunct. For the Dilapan insert and Dilapan change. 12cc's is used in 3 equidistant locations around the cervix. For the surgery, 24cc's is used at 6 equidistant spots.

Carbocaine 1% is substituted for lidocaine for patients who expressed lidocaine sensitivity.

MEDICATIONS

All patients not allergic to tetracycline analogues receive doxycycline 200 mgm by mouth daily for 3 days beginning Day 1.

Patients with any history of gonorrhea, chlamydia or pelvic inflammatory disease receive additional doxycycline, 100 mgm by mouth twice daily for six additional days.

Patients allergic to tetracyclines are not given proplylactic antibiotics.

Ergotrate 0.2 mgm by mouth four times daily for three days is dispensed to each patient.

Pitocin 10 IU intramuscularly is administered upon removal of the Dilapan on Day 3.

Rhogam intramuscularly is provided to all Rh negative patients on Day 3.

Ibuprofen orally is provided liberally at a rate of 100 mgm per hour from Day 1 onward.

Patients with severe cramps with Dilapan dilation are provided Phenergan 25 mgm suppositories rectally every 4 hours as needed.

Rare patients require Synalogos DC in order to sleep during Dilapan dilation.

Patients with a hemoglobin less than 10 g/dl prior to surgery receive packed red blood cell transfusions.

FOLLOWUP

All patient are given a 24 hour physician's number to call in case of a problem or concern.

At least three attempts to contact each patient by phone one week after surgery are made by the office staff.

All patients are asked to return for checkup three weeks following their surgery.

THIRD TRIMESTER

The author is aware of one other surgeon who uses a conceptually similar technique. He adds additional changes of Dilapan and/or lamineria in the 48 hour dilation period. Coupled with other refinements and a slower operating time, he performs these procedures up to 32 weeks or more.[10]

SUMMARY

In conclusion, Dilation and Extraction is an alternative method for achieving late second trimester abortions to 26 weeks. It can be used in the third trimester.

Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia.

Among its disadvantages are that it requires a high degree of surgical skill, and may not be appropriate for a few patients.

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AMERICAN MEDICAL NEWS,
Chicago, IL, July 11, 1995.

Hon. CHARLES T. CANADY,
Chairman, Subcommittee on the Constitution, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE CANADY: We have received your July 7, letter outlining allegations of inaccuracies in a July 5, 1993, story in American Medical News, "Shock-tactic ads target late-term abortion procedure."

You noted that in public testimony before your committee, AMNews is alleged to have quoted physicians out of context. You also noted that one such physician submitted testimony contending that AMNews misrepresented his statements. We appreciate your offer of the opportunity to respond to these accusations, which now are part of the permanent subcommittee record.

AMNews stands behind the accuracy of the report cited in the testimony. The report was complete, fair, and balanced. The comments and positions expressed by those interviewed and quoted were reported accurately and in-context. The report was based on extensive research and interviews with experts on both sides of the abortion debate, including interviews with two physicians who perform the procedure in question.

We have full documentation of these interviews, including tape recordings and transcripts. Enclosed is a transcript of the contested quotes that relate to the allegations of inaccuracies made against AMNews.

Let me also note that in the two years since publication of our story, neither the organization nor the physician who complained about the report in testimony to your committee has contacted the reporter or any editor at AMNews to complain about it. AMNews has a longstanding reputation for—balance, fairness and accuracy in reporting, including reporting on abortion, an issue that is as divisive within medicine as it is within society in general. We believe that the story in question comports entirely with that reputation.

Thank you for your letter and the opportunity to clarify this matter.

Respectfully yours,
BARBARA BOLSEN,
Editor.

Attachment.

AMERICAN MEDICAL NEWS TRANSCRIPT

(Relevant portions of recorded interview with Martin Haskell, MD)

AMN: Let's talk first about whether or not the fetus is dead beforehand . . .

Haskell: No, it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are (sic) dead before I actually start to remove the fetus. And probably the other two-thirds are not.

AMN: Is the skull procedure also done to make sure that the fetus is dead so you're not going to have the problem of a live birth?

Haskell: It's immaterial. If you can't get it out, you can't get it out.

AMN: I mean, you couldn't dilate further? Or is that riskier?

Haskell: Well, you could dilate further over a period of days.

AMN: Would that just make it . . . would it go from a 3-day procedure to a 4- or a 5-?

Haskell: Exactly. The point here is to effect a safe legal abortion. I mean, you could say the same thing about the D&E procedure. You know, why do you do the D&E procedure? Why do you crush the fetus up inside the womb? To kill it before you take it out?

Well, that happens, yes. But that's not why you do it. You do it to get it out. I could do the same thing with a D&E procedure. I could put dilapan in for four or five days and say I'm doing a D&E procedure and the fetus could just fall out. But that's not really the point. The point here is you're attempting to do an abortion. And that's the goal of your work, is to complete an abortion. Not to see how do I manipulate the situation so that I get a live birth instead.

AMN, wrapping up the interview: I wanted to make sure I have both you and (Dr.) McMahon saying 'No' then. That this is misinformation, these letters to the editor saying it's only done when the baby's already dead, in case of fetal demise and you have to do an autopsy. But some of them are saying they[re getting that information from NAF. Have you talked to Barbara Radford or anyone over there? I called Barbara and she called back, but I haven't gotten back to her.

Haskell: Well, I had heard that they were giving that information, somebody over there might be giving information like that out. The people that staff the NAF office are not medical people. And many of them when I gave my paper, many of them came in, I learned later, to watch my paper because many of them have never seen an abortion performed of any kind.

AMN: Did you also show a video when you did that?

Haskell: Yeah. I taped a procedure a couple of years ago, a very brief video, that simply showed the technique. The old story about a picture's worth a thousand words.

AMN: As National Right to Life will tell you.

Haskell: Afterwards they were just amazed. They just had no idea. And here they're rapid supporters of abortion. They work in the office there. And . . . some of them have never seen one performed . . .

Comments on elective vs. non-elective abortions:

Haskell: And I'll be quite frank: most of my abortions are elective in that 20–24 week range . . . In my particular case, probably 20% are for genetic reasons. And the other 80% are purely elective . . .

[From the American Medical News]

SHOCK-TACTIC ADS TARGET LATE-TERM ABORTION PROCEDURE

FOES HOPE CAMPAIGN WILL SINK FEDERAL ABORTION RIGHTS LEGISLATION

(By Diane M. Gianelli)

WASHINGTON.—In an attempt to derail an abortion-rights bill maneuvering toward a congressional showdown, opponents have launched a full-scale campaign against late-term abortions.

The centerpieces of the effort are newspaper advertisements and brochures that graphically illustrate a technique used in some second- and third-trimester abortions. A handful of newspapers have run the ads so far, and the National Right to Life Committee has distributed 4 million of the brochures, which were inserted into about a dozen other papers.

By depicting a procedure expected to make most readers squeamish, campaign sponsors hope to convince voters and elected officials that a proposed federal abortion-rights bill is so extreme that states would have no authority to limit abortions—even on potentially viable fetuses.

According to the Alan Guttmacher Institute, a research group affiliated with Planned Parenthood, about 10% of the estimated 1.6 million abortions done each year are in the second and third trimesters.

Barbara Radford of the National Abortion Federation denounced the ad campaign as disingenuous, saying its "real agenda is to outlaw virtually all abortions, not just late-term ones." But she acknowledged it is having an impact, reporting scores of calls from congressional staffers and others who have seen the ads and brochures and are asking pointed questions about the procedure depicted.

The Minneapolis Star-Tribune ran the ad May 12, on its op-ed page. The anti-abortion group Minnesota Citizens Concerned for Life paid for it.

In a series of drawings, the ad illustrates a procedure called "dilation and extraction," or D&X, in which forceps are used to remove second- and third-trimester fetuses from the uterus intact, with only the head remaining inside the uterus.

The surgeon is then shown jamming scissors into the skull. The ad says this is done to create an opening large enough to insert a catheter that suctions the brain, while at the same time making the skull small enough to pull through the cervix.

"Do these drawings shock you?" the ad reads. "We're sorry, but we think you should know the truth."

The ad quotes Martin Haskell, MD, who described the procedure at a September 1992 abortion federation meeting, as saying he personally has performed 700 of them. It then states that the proposed "Freedom of Choice Act" now moving through Congress would "protect the practice of abortion at all stages and would lead to an increase in the use of this grisly procedure."

ACCURACY QUESTIONED

Some abortion rights advocates have questioned the ad's accuracy.

A letter to the Star-Tribune said the procedure shown "is only performed after fetal death when an autopsy is necessary or to save the life of the mother." And the Morrisville, Vt., Transcript, which said in an editorial that it allowed the brochure to be inserted in its paper only because it feared legal action if it refused quoted the abortion federation as providing similar information. "The fetus is dead 24 hours before the pictured procedure is undertaken," the editorial stated.

But Dr. Haskell and another doctor who routinely use the procedure for late-term abortions told AMNews that the majority of fetuses aborted this way are alive until the end of the procedure.

Dr. Haskell said the drawings were accurate "from a technical point of view." But he took issue with the implication that the fetuses were 'aware and resisting."

Radford also acknowledged that the information her group was quoted as providing was inaccurate. She has since sent a letter to federation members, outlining guidelines for discussing the matter. Among the points:

Don't apologize; this is a legal procedure.

No abortion method is acceptable to abortion opponents.

The language and graphics in the ads are disturbing to some readers. "Much of the negative reaction, however, is the same reaction that might be invoked if one were to listen to a surgeon describing step-by-step almost any other surgical procedure involving blood, human tissue, etc."

Late-abortion specialists

Only Dr. Haskell, James T. McMahon, MD. of Los Angeles, and a handful of other doctors perform the D&X procedure, which Dr. McMahon refers to as "intact D&E." The more common late-term abortion methods are the classic D&E and induction, which usually involves injecting digoxin or another substance into the fetal heart to kill it, then dilating the cervix and inducing labor.

Dr. Haskell, who owns abortion clinics in Cincinnati and Dayton, said he started performing D&Es for late abortions out of necessity. Local hospitals did not allow inductions pass 18 weeks, and he had no place to keep patients overnight while doing the procedure.

But the classic D&E, in which the fetus is broken apart inside the womb, carries the risk of perforation, tearing and hemorrhaging, he said. So he turned to the D&X, which he says is far less risky to the mother.

Dr. McMahon acknowledged that the procedure he, Dr. Haskell and a handful of other doctors use makes some people queasy. But he defends it. "Once you decide the uterus must be emptied, you then have to have 100% allegiance to maternal risk. There's no justification to doing a more dangerous procedure because somehow this doesn't offend your sensibilities as much."

Brochure cites N.Y. case

The four-page anti-abortion brochures also include a graphic depiction of the D&X procedure. But the cover features a photograph of 16-month-old Ana Rosa Rodriquez, whose right arm was severed during an abortion attempt when her mother was 7 months pregnant.

The child was born two days later, at 32 to 34 weeks' gestation. Abu Hayat, MD. of New York, was convicted of assault and performing an illegal abortion. He was sentenced to up to 29 years in prison for this and another related offense.

New York law bans abortions after 24 weeks, except to save the mother's life. The brochure states that Dr. Hayat never would have been prosecuted if the federal "Freedom of Choice Act" were in effect, because the act would invalidate the New York statute.

The proposed law would allow abortion for any reason until viability. But it would leave it up to individual practitoners—not the state—to define that point. Postviability abortions, however, could not be restricted if done to save a woman's life or health, including emotional health.

The abortion federation's Radford called the Hayat case "an aberration" and stressed that the vast majority of abortions occur within the first trimester. She also said that later abortions usually are done for reasons of fetal abnormality or maternal health.

But Douglas Johnston of the National Right to Life committee called that suggestion "blatantly false."

"The abortion practitioners themselves will admit the majority of their late-term abortions are elective," he said. "People like Dr. Haskell are just trying to teach others how to do it more efficiently."

Numbers game

Accurate figures on second- and third-trimester abortions are elusive because a number of states don't require doctors to report abortion statistics. For example, one-third of all abortions are said to occur in California, but the state has no reporting requirements. The Guttmacher Institute estimates there were nearly 168,000 second- and third-trimester abortions in 1988, the last year for which figures are available.

About 60,000 of those occurred in the 16- to 20-week period with 10,660 at week 21 and beyond the institute says. Estimates were based on actual gestational age, as opposed to last menstrual period.

There is particular debate over the number of third-trimester abortions. Former Surgeon General C. Everett Koop, MD, estimated in 1984 that 4,000 are performed annually. The abortion federation puts the number at 300 to 500. Dr. Haskell says that "probably Koop's numbers are more correct."

Dr. Haskell said he performs abortions "up until about 25 weeks" gestation, most of them elective. Dr. McMahon does abortions through all 40 weeks of pregnancy, but said he won't do an elective procedure after 26 weeks. About 80% of those he does after 21 weeks are nonelective, he said.

Mixed feelings

Dr. McMahon admits having mixed feelings about the procedure in which he has chosen to specialize.

"I have two positions that may be internally inconsistent, and that's probably why I fight with this all the time," he said.

"I do have moral compunctions. And if I see a case that's later, like after 20 weeks where it frankly is a child to me, I really agonize over it because the potential is so imminently there. I think, 'Gee, it's too bad that this child couldn't be adopted.'

"On the other hand, I have another position, which I think is superior in the hierarchy of questions, and that is: 'Who owns the child?' It's got to be the mother."

Dr. McMahon says he doesn't want to "hold patients hostage to my technical skill. I can say, 'No, I won't do that,' and then they're stuck with either some criminal solution or some other desperate maneuver."

Dr. Haskell, however, says whatever qualms he has about third-trimester abortions are "only for technical reasons, not for emotional reasons of fetal development."

"I think it's important to distinguish the two," he says, adding that his cutoff point is within the viability threshold noted in Roe v. Wade, the Supreme Court decision that legalized abortion. The decision said that point usually occurred at 28 weeks "but may occur earlier, even at 24 weeks."

Viability is generally accepted to be "somewhere between 25 and 26 weeks," said Dr. Haskell. "It just depends on who you talk to.

"We don't have a viability law in Ohio. In New York they have a 24-week limitation. That's how Dr. Hayat got in trouble. If somebody tells me I have to use 22 weeks, that's fine. . . . I'm not a trailblazer or activist trying to constantly press the limits."

Campaign's impact debated

Whether the ad and brochures will have the full impact abortion opponents intend is yet to be seen.

Congress has yet to schedule a final showdown on the bill. Although it has already passed through the necessary committees, supporters are reluctant to move it for a full House and Senate vote until they are sure they can win.

In fact, House Speaker Tom Foley (D, Wash.) has said he wants to bring the bill for a vote under a "closed rule" procedure, which would prohibit consideration of amendments.

But opponents are lobbying heavily against Foley's plan. Among the amendments they wish to offer is one that would allow, but not require, states to restrict abortion—except to save the mother's life—after 24 weeks.

Mr. BACHUS. Mr. Speaker, today I urge my colleagues to override President Clinton's veto of the most barbaric of abortion procedures. The Partial-Birth Abortion Ban Act will end this most cruel practice—a practice that even the American Medical Association's legislative council has publicly stated is, "not a recognized medical technique." They also called this procedure, "repulsive." I call it a cruel inhumane act—unfitting of a civilized society.

Abortion advocates argue that partial birth abortions are only used after 26 weeks of pregnancy in cases where the procedure is non-elective. But the abortionist's interpretation of non-elective has an enormous scope and includes: Severe fetal abnormality, Down's syndrome, cleft palate, pediatric pelvis—that is if the mother is under age 18, depression of the mother, and even ignorance of human reproduction.

Today, those who would support this horrible procedure tell us that it is not a common practice. Can anyone really take comfort in debating the number of babies subject to his death? And newly released information indicates that in New Jersey alone, over 1,500 partial birth abortions are performed annually—over three times the supposed national total. Whether it is a few hundred or tens of thousands or even one, wrong is wrong and no argument on how many will ever change that. A single life being taken in this way is reprehensible.

We as a society would not allow or condone the execution of a confessed, convicted mass murderer using this procedure. How could we in good conscience even consider its use against an innocent, unborn child.

The House has come so close to having the two-thirds majority necessary for a veto override. I say to my colleagues who have opposed this bill in the past—look again, deeply into your hearts, and I am sure you will come to the same conclusion that I have and act to end this terrible procedure.

Mr. POSHARD. Mr. Speaker, I rise in very strong support of the vote today to override the President's veto of the Partial-Birth Abortion Ban Act, and urge my colleagues to follow suit in finally banning this unethical abortion procedure.

Let me begin by saying, the question of whether partial-birth abortions are right or wrong goes far beyond whether an individual takes a pro-life or pro-choice stance. This debate is about using humane and ethical medical practices. Former Surgeon General C. Everett Koop said, "Such a procedure cannot truthfully be called medically necessary for either the mother or for the baby." As compassionate human beings, we should not allow physicians to continue to perform this procedure, one that was simply created to make it easier and faster for them to perform late-term abortions.

During my time in Congress, I have always opposed abortion except to save the life of a mother. Opponents of this legislation continue to argue the procedure is necessary to saving the lives of many expectant mothers. However, they fail to recognize that H.R. 1833 explicitly provides that the ban "shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury if no other medical procedure would suffice for that purpose." What the bill does is ban this procedure from being used electively, which a majority of those serving in Congress believes is the right and ethical thing to do.

The veto override of the Partial-Birth Abortion Ban Act deserves the support of every Member of Congress, regardless of your stance on the issue of abortion. I urge all of my colleagues—Democrat, Republican, pro-life, and pro-choice—to seriously consider the morality of this procedure. In fact because of the sheer nature of the procedure, a number of historically pro-choice members of this body supported the ban on both occasions it was considered by the House of Representatives. Let us again join together in a bipartisan manner and override the veto of the Partial-Birth Abortion Ban Act.

Ms. FURSE. Mr. Speaker, I rise to oppose the motion to override the President's veto of the Partial-Birth Abortion Ban Act, H.R. 1833. I voted against H.R. 1833 earlier this year. Sadly, there are rare and tragic circumstances in which a woman may be advised by her doctor that this procedure is medically necessary to save her life or avoid dire consequences to her health.

H.R. 1833 does not contain an exception for saving the health of the mother, and could actually increase risks to the mother's health. The exception in H.R. 1833 also fails to cover cases where the mother could lose her ability to have more children.

However rare, tragic circumstances surrounding a woman's pregnancy do sometimes exist. A woman who faces this awful choice should make her decision in consultation with her family and her physician, and I feel strongly that Congress should not second-guess the medical advice of licensed doctors or the moral decisions of families in such devastating situations.

I urge my colleagues to oppose this motion to override the President's veto.

Mr. BROWNBACK. Mr. Speaker, I submit the following for the Record:

Australian Planned Parenthood Director Lists Many Reasons for His Partial-Birth Abortions

(By Douglas Johnson, NRLC Federal Legislative Director)

The medical director for Planned Parenthood of Australia has revealed that he uses the partial-birth abortion procedure as his "method of choice" for abortions done after 20 weeks (4½ months), and that he performs such abortions for a broad variety of social reasons.

These revelations by Dr. David Grundmann have provoked a storm of controversy in the state of Queensland, the large state that occupies northeastern Australia.

Dr. Grundmann performs abortions at a Planned Parenthood clinic in Brisbane, the capital of Queensland. He described his abortion practices in a paper that he presented on August 30, 1994, at a conference at Monash University.

In the paper, Dr. Grundmann wrote that "abortion is an integral part of family planning. Theoretically this means abortion at any stage of gestation. Therefore I favor the availability of abortion beyond 20 weeks."

Dr. Grundmann wrote that "dilatation and extraction" is his "method of choice" for performing abortions from 20 weeks on. "Dilatation and extraction" (or "dilation and extraction") is a term "coined" by Dr. Martin Haskell of Dayton, Ohio, for the partial-birth abortion procedure, in which a living baby is partly delivered feet first, after which the skull is punctured and the brain removed by suction.

Dr. Grundmann himself described the procedure in a television interview as "essentially a breech delivery where the fetus is delivered feet first and then when the head of the fetus is brought down into the top of the cervical canal, it is decompressed with a puncturing instrument so that it fits through the cervical opening."

In his 1994 paper, Dr. Grundmann listed several "advantages" of this method, such as that it "can be performed under local and/or twi-light anesthetic" with "no need for narcotic analgesics," "can be performed as an ambulatory out-patient procedure," and there is "no-chance of delivering a live fetus."

Among the "disadvantages," Dr. Grundmann wrote, is "the aesthetics of the procedure are difficult for some people, and therefore it may be difficult to get staff."

Dr. Grundmann wrote that in Australia, late second-trimester abortion is available "in many major hospitals, in most capital cities and large provincial centres" in cases of "lethal fetal abnormalities" or "gross fetal abnormalities," or "risk to maternal life," including "psychotic/suicidal behavior."

However, Dr. Grundmann said, his Planned Parenthood clinic also offers the procedure after 20 weeks for women who fall into five additional "categories":

"Minor or doubtful fetal abnormalities."

"Extreme material immaturity, i.e., girls in the 11 to 14 year age group."

Women "who do not know they are pregnant," for example, because of amenorrhea [irregular menstruation] "in women who are very active such as athletes or those under extreme forms of stress, i.e., exam stress, relationship breakup . . ."

"Intellectually impaired women, who are unaware of basic biology . . ."

"Major life crises or major changes in socio-economic circumstances. The most common example of this is a planned or wanted pregnancy followed by the sudden death or desertion of the partner who is in all probability the bread winner."

"Abortion beyond 20 weeks is unavailable anywhere in Australia, except at our [Planned Parenthood] clinics for the last 5 categories," Dr. Grundmann wrote. Under the heading "What can be done to improve or expand this service?" Dr. Grundmann wrote, "Demystify abortion particularly late abortion by appropriate education of the population."

Election Issue: Dr. Grundmann's paper has been publicized by the Queensland Right to Life Association, and it has produced considerable controversy over the past two years, Dr. David van Gend said in an interview with NRL News. Dr. van Gend, a Brisbane general practitioner, is the secretary of the Queensland chapter of the World Federation of Doctors Who Respect Human Life (WFDWRHL).

Dr. van Gend took Dr. Grundmann's paper to Michael Horan, a member of the Queensland Parliament, who was the "shadow health minister" for the National-Liberal Coalition, which at that time was the opposition to the ruling government, which was headed by Premier Wayne Goss of the Labor Party.

Beginning in October 1994, Mr. Horan strongly attacked Dr. Grundmann's abortion practices in speeches on the floor of the Parliament. Mr. Horan demanded that the Goss Government take strong action to stop Dr. Grundmann's late abortions, which, he argued, violate Queensland law.

"What will it mean for the conscience of society and its respect for the law, if people are vividly aware of such brutality, such illegality, and then they see their leaders do nothing about it?" Mr. Horan said in one speech. "More importantly, what will it mean for all the defenseless babies who, unlike their peers in the hospital nurseries, will never see a human face, never feel a human touch, except that tight grip on their legs and the stab to the head?"

However, for more than a year, the Goss Government refused to take any meaningful action. Leaders of the Coalition promised to take steps against Dr. Grundmann if they were placed in power, and this became a major issue in the February 1996 elections, in which the Goss Government lost power.

"The late-term abortion issue was the clearest issue distinguishing the parties in the February election," Dr. van Gend told NRL News. "The Labor Government had refused to act against Dr. Grundmann, while the National-Liberal Coalition leaders promised to immediately investigate the matter."

For example, Liberal Party leader Joan Sheldon said that the partial-birth abortions "are horrific and should be stopped."

When the Coalition took over the government, Michael Horan became the Minister of Health. Recently, the government has placed an investigation of Dr. Grundmann in the hands of the state Medical Board, which has quasi-judicial investigative punitive powers, Dr. van Gend said.

AMA Rebukes Grundmann: The Queensland Branch of the Australian Medical Association (AMA) formed a "working party" on late abortion, which interviewed Dr. Grundmann regarding his abortion practices in September 1995.

As quoted by Mr. Horan in his speeches in Parliament, during this interview Dr. Grundmann said he has performed the partial-birth abortion procedure as late as 26½ weeks (past 6 months).

"There is no stage of pregnancy at which I regard the fetus as my patient," Dr. Grundmann told the panel.

Dr. Grundmann told the panel that just that month he had aborted a baby at 23 weeks for severe cleft palate. When it was pointed out that this condition can be corrected by surgery, Dr. Grundmann replied that this depends on whether the woman wants to put "her fetus" through all that surgery.

In April 1996, the AMA Queensland Branch issued a formal policy statement that said,"There is a duty of care to the fetus in the late second trimester of pregnancy." Therefore, the organization "opposes late second trimester termination of pregnancy except in the gravest of circumstances," these being "lethal" or "severe" fetal malformation or "unequivocal risk to the life of the mother where no other medical procedure would suffice to save the mother." This was viewed as a rebuke to Dr. Grundmann.

Dr. van Gend said that in an interview with Dr. Grundmann, "I asked him if there was not something cold and premeditated, even grotesque, about setting out to dilate the birth canal to 75% of the fetal skull diameter, in order to ensure the head will lodge in the cervix [the opening to the womb], in order to have leisure to push a puncturing instrument through that head, in order to ensure 'no chance of delivering a live fetus'—when by dilating the canal one more centimetre he would enable the baby to slip out and be given to the care of a pediatrician. His response was to the effect that he was there to terminate that pregnancy, not to put the woman's fetus in an incubator."

Asked by a radio interviewer, "At what point do you believe the fetus becomes a sentient being?," Dr. Grundmann responded, "When it is born."

Dr. van Gend told *NRL News,*"At no stage during the Australian debate over partial-birth abortions has Dr. Grundmann or anyone else tried to pretend that the baby is already dead before the head is punctured. The Baby is wide awake and fully sensitive."

Dr. van Gend explained that in Queensland, statutory law generally prohibits abortion, but a 1986 court ruling known as "the McGuire ruling" provides for exceptions in cases in which there is a "serious" danger to a woman's life or health, including mental health. Dr. Grundmann has asserted that all of his abortions fit under these criteria. However, in a 1995 civil case, a Queensland judge ruled, "I disbelieve Dr. Grundmann's assertions that he honestly and sincerely applied that test before each and every abortion which he performed."

"If Dr. Grundmann is ever prosecuted, a jury would be asked to decide whether these late abortions—for these reasons, by this method— are justified under our law," Dr. van Gend said.

Queensland law requires that a death certificate be filed for abortions performed after 20 weeks, which Dr. Grundmann wrote is "certainly an inconvenience."

Mr. WATTS of Oklahoma. Mr. Speaker, recently, a physician asked exactly what we meant by the term, partial-birth abortion ban and instead of going through the grotesque explanation, we told her that she was right—we had been calling it by the wrong name. Late-term, or just plain abortion was probably more accurate.

However, one physician from my home State of Oklahoma said that she called it infanticide. No matter what you call it, this veto needs to be overridden.

Mr. Speaker, we are not talking about a medically proven treatment that is going to save thousands of lives. In fact, we are stating the exact opposite. This is not a medically necessary procedure. This is a gruesome execution.

We need to be a Congress that stands for right causes, right decisions, and plain old doing the right thing.

This late-term abortion—when the fetus is a viable baby—is the right thing for this Congress to do. It is commanded by anyone who believes in the sanctity of life.

We have had hundreds and hundreds of postcards, a petition with literally thousands of names of it and letters of support from Catholic bishops, evangelical pastors, and rabbis.

To my colleagues, I have to tell you: This is the right thing to do. Please vote to override the veto and stop this infanticide.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H.R. 1833 and thus, in opposition to the misguided attempt to override the President's veto. I do so for many reasons, all of which I have stated before but will gladly reiterate in the hope of convincing those who might support this override attempt of the error of their actions.

The first is that in 1973, and more recently in 1992, the Supreme Court held that a woman has a constitutional right to choose whether or not to have an abortion. H.R. 1833 is a direct attack on the principles established in both Roe versus Wade and Planned Parenthood versus Casey.

H.R. 1833 is a direct challenge to Roe versus Wade (1973). This legislation would make it a crime to perform a particular abortion method utilized primarily after the 20th week of pregnancy. This legislation represents an unprecedented and unconstitutional attempt to ban abortion and interfere with a woman's right to choose and a physician's ability to provide the best medical care for their patients.

The second reason for my opposition is that H.R. 1833 would ban a range of late term abortion procedures that are used when a woman's health or life is threatened or when a fetus is diagnosed with severe abnormalities incompatible with life. Because H.R. 1833 does not use medical terminology, it fails to clearly identify which abortion procedures it seeks to prohibit, and as a result could prohibit physicians from using a range of abortion techniques, including those safest for the woman. If enacted, such a law would have a devastating effect on women who learn late in their pregnancies that their lives or health are at risk or that the fetuses they are carrying have severe, often fatal, anomalies.

The Republican Members of this body need look no further than their own party for women who have offered their own stories, as testimony to the need for such medical procedures.

Women like Coreen Costello, a loyal Republican and former abortion protester whose baby had a lethal neurological disease; Mary-Dorothy Lines, a conservative Republican who discovered her baby had severe hydrocephalus; and many others who needed this procedure to insure not only their health, but their ability to have more children in the future. These are the women who would be hurt by H.R. 1833—women and their families who face a terrible tragedy—the loss of a wanted pregnancy.

I heard first hand, during judiciary committee hearings, the pain of women who had this procedure. For hours we listened to their tales of emotional and physical suffering during their testimony.

In April, the President was joined by five women who were heartbroken to learn of their baby's fatal conditions. These women wanted their children more than life itself, but were advised that this procedure was their best chance to avert the risk of death or grave harm. He found their testimony moving, because for them, this was not about choice, but rather life. One of them described her predicament:

> Our little boy had hydrocephally. All the doctors told us there was no hope. We asked about in utero surgery, about shunts to remove the fluid, but there was absolutely nothing we could do. I cannot express the pain we still feel. This was our precious little baby, and he was being taken from us before we even had him. This was not our choice, for not only was our son going to die, but the complications of the pregnancy put my health in danger, as well.

In Roe, the Supreme Court established that after viability, abortion may be banned by States as long as an exception is provided in cases in which the woman's life or health is at risk. H.R. 1833 provides no true exceptions for cases in which a banned procedure would be necessary to preserve a woman's life or health.

Finally, and perhaps most importantly, this bill would create an unwarranted intrusion into the physician-patient relationship by preventing physicians from providing necessary medical care to their patients. It would further intrude into this sacred association by making doctors felons for doing that which they have taken an oath to do: protect the lives of their patients. I am incredulous that physicians will be seen as criminals in the eyes of the law for attempting to save the life of an innocent mother. Furthermore, it would impose a horrendous burden on families who are already facing a crushing personal situation.

In passing H.R. 1833, this Congress would set an undesirable precedent which goes way beyond the scope of the abortion debate. Will we someday be standing here debating the validity of a triple bypass or hip replacement procedure? Many of my colleagues decry the intrusion of the Federal Government into the lives of its citizens, but isn't interfering in the doctor-patient relationship one of the most intrusive actions that can be conceived?

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically best for them. By seeking to ban a safe and accepted medical technique, Members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of a specific medical procedure would mark a dramatic and unprecedented expansion of congressional regulation of health care.

The determination of the medical need for, and effectiveness of, particular medical procedures must be left to the medical profession, to be reflected in the standard of care.

While these are my reasons for opposing H.R. 1833 and this veto override, I believe it is time to clear up some facts associated with the procedure being debated here.

To begin with, the term "partial birth abortion" is not found in any medical dictionaries, textbooks or coding manuals. The definition in H.R. 1833 is so vague as to be uninterpretable, yet chilling. Many OB/GYN's fear that this language could be interpreted to ban all abortions where the fetus remains intact. The supporters of this bill want to intimidate doctors into refusing to do abortions. Given the bill's vagueness, few doctors will risk going to jail in order to perform this procedure. As a result, women and their families will find it even more difficult, if not impossible, to find a doctor who will perform a late-term abortion, and women's lives will be put in even more jeopardy.

In addition, late term abortions are not common. Ninety-five and five tenths percent of abortions take place before 15 weeks. Only a little more than one-half of one percent take place at or after 20 weeks. Fewer than 600 abortions per year are done in the third trimester and all are done for reasons of life or health of the mother—severe heart disease, kidney, failure, or rapidly advancing cancer—and in the case of severe fetal abnormalities incompatible with life—no eyes, no kidneys, a heart with one chamber instead of four or large amounts of brain tissue missing or positioned outside of the skull, which itself may be missing.

An abortion performed in the last second trimester or in the third trimester of pregnancy is extremely difficult for everyone involved. However, when serious fetal anomalies are discovered late in a pregnancy, or the mother develops a life-threatening medical condition that is inconsistent with the continuation of the pregnancy, abortion—however heart-wrenching—may be medically necessary.

In such cases, the intact dilation and extraction procedure [IDE]—which would be outlawed by this bill—may provide substantial medical benefits. It is safer in several respects than the alternatives, maintaining uterine integrity, and reducing blood loss and other potential complications.

Let me set the record straight, no one is advocating the abuse of this process and those who would state differently are exaggerating the frequency and circumstances under which this procedure is done. I have great confidence in the American doctors and women to do the right thing and not use this procedure for nothing less than saving the life of the mother.

The decision to have an abortion is a very difficult one for any woman, and I do not understand how the many Members of this House, who will never face the possibility, can belittle the anguish that such a decision causes. The determination of whether abortion is appropriate for any individual is something that should be left up to herself, her family and her God. And I am sickened and appalled that so many Members of this usually honorable body would use this very private issue for political gain. How they can minimize the tragedy that befalls families when the loved and desired child is found to be inviable and the ability for the mother to bear future children is in great jeopardy, I do not know nor do I understand. During these times of misfortune, one calls upon one's spiritual strength and to think the Government would have the effrontery to intrude makes a mockery of the Constitution and an individual's right to privacy. In short, we are not advocating this procedure on demand or for feeble complaints regarding health or convenience. To deny physicians the ability to use all of their medical resources to avoid loss of life and save the mother would be to treat these women less than human.

The legislative process is ill-suited to evaluate complex medical procedures whose importance may vary with a particular patient's case and with the state of scientific knowledge. The mothers and families who seek late term abortions are already severely distressed. They do not want an abortion—they want a child. Tammy Watts told us that she would have done anything to save her child. She said, "If I could have given my life for my child's I would have done it in a second."

This bill is bad medicine, bad law, and bad policy. Women facing late term abortions due to risks to their lives, health or severe fetal abnormalities incompatible with life must be able to make this decision in consultation with their families, their physicians, and their God. Women do not need medical instruction from the Government. To criminalize a physician for using a procedure which he or she deems to be safest for the mother is tantamount to legislating malpractice. I urge my colleagues to do what is right and sustain the President's veto.

Mr. COYNE. Mr. Speaker, I am opposed to H.R. 1833 because I oppose any legislation that fails to provide for the health concerns of the mother when she and her doctor believe that her health is in jeopardy. This legislation does not provide an exception for serious health risks to the mother.

This procedure should only be used in cases where there is a serious risk to a woman's health and I believe the legislation could have been drafted to allow a limited exception for those cases in which it is truly necessary. In fact, Pennsylvania has such an exception in its abortion law. Under Pennsylvania law, all late-term abortions are prohibited, except in cases in which it is necessary to preserve the life of the mother or to "prevent a substantial and irreversible impairment of a major bodily function." Surely the supporters of this legislation could have written a health exception that would prohibit the procedure in most cases but that would allow women and their physicians, in the most limited and serious of cases, access to a procedure that will preserve both the life and health of the women involved.

Further, I am opposed to this legislation because I believe that medical decisions of this nature should be left to trained medical professionals, in consultation with their patients. I do not believe that this legislation, which forecloses medical options for women, belongs before the Congress. This Congress is not comprised of medical professionals with the knowledge or expertise to make medical judgments about appropriate treatment for women in these tragic circumstances. I believe that these judgments must be left in the hands of people who are trained to give medical guidance to their patients, and then the decision regarding the course of action to take must rest with women, their families, their physicians and their religious counselors—not with Congress.

I am ready to support legislation that limits this abortion procedure to the most serious of cases, but I am not prepared to ban it in those cases where it represents the best hope for a woman to avoid serious risk of her health.

Mr. BUNN of Oregon. Mr. Speaker, over 300 physicians, including C. Everett Koop, have joined together to expose the misinformation campaign of the supporters of partial-birth abortion. I insert the facts provided by PHACT in the CONGRESSIONAL RECORD:

A National Coalition of Doctors Says It's Unsafe and Unnecessary

The Physicians' Ad Hoc Coalition for Truth (PHACT) was formed because we, as physicians, can no longer stand by while abortion advocates, the President of the United States and the media continue to repeat false claims to members of Congress and to the public about partial-birth abortion. We are over 300 doctors strong, most specialists in obstetrics, gynecology, maternal/fetal medicine and pediatrics.

By congressional definition, partial-birth abortion is the killing of an infant who has already been partially delivered outside his or her mother's body. Medically, it is accomplished by pulling an infant feet-first out of the birth-canal until all but the head is exposed. The surgeon then forces scissors into the base of the baby's skull, spreads them, and inserts a suction catheter through which he suctions out the brain.

Congress, the public—but most importantly women—need to know that partial-birth abortion is never medically necessary to protect a mother's health or her future fertility.

On the contrary, this procedure can pose a significant threat to both. I the words of former Surgeon General C. Everett Koop: "In no way can I twist my mind to see that partial birth—and then destruction of the unborn child before the head is born—is a medical necessity for the mother."

Now you know the facts.

We urge you to tell your representatives to stop this unnecessary and dangerous procedure. The vote is this week. Please call now.

Former Surgeon General Koop Separates Medical Fact From Fiction on Partial-Birth Abortions—Koop: The Partial-Birth Abortion Is "In No Way . . . A Medical Necessity"

ALEXANDRIA, VA.—In a wide ranging interview with the American Medical News, former Surgeon General C. Everett Koop expressed his opposition to partial-birth abortions and declared that they are not medically necessary.

The former Surgeon General was asked about President Clinton's recent veto of a bill to ban partial-birth abortions and claims regarding the medical need for them. Following is Dr. Koop's response, reported in the August 19th issue of American Medical News:

"I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction in reference to late-term abortions. Because in no way can I twist my mind to see that the late-term abortion as described—you know, partial-birth, and then destruction of the unborn child before the head is born—is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to * * * partial birth abortions."

Asked "have you ever treated children with any of the disabilities cited in the debate? For example have you operated on children with organs outside of their bodies," Koop responded:

"Oh, yes indeed. I've done that many times. The prognosis is usually good. [With an] omphalocele * * * organs are out but still contained in the sac composed of the tissues of the umbilical cord. I have been repairing those since 1946. In fact, the first child I ever did, with a huge omphalocele much bigger than her head, went on to develop well and become the head nurse in my intensive care unit many years later."

Dr. Koop's remarks echo over three hundred other medical professionals—leaders in the fields of obstetrics, gynecology and perinatology—who have joined the Physicians' Ad-hoc Coalition for Truth to help Americans and Congress understand that partial-birth abortion is never medically necessary, and in fact can threaten a mother's health and safety.

The Physicians' Ad-hoc Coalition for Truth (PHACT), with over three hundred members drawn from the medical community nationwide, exists to bring the medical facts to bear on the public policy debate regarding partial birth abortions. Members of the coalition are available to speak to public policy makers and the media. If you would like to speak with a member of PHACT, please contact Gene Tarne or Michelle Powers at 703-683-6004.

PHYSICIANS' AD HOC
COALITION FOR TRUTH,
Alexandria, VA, September 18, 1996.

DEAR MEMBER OF CONGRESS: We write to you as founding members of the Physicians' Ad-hoc Coalition for Truth (PHACT), an organization of over three hundred members drawn from the medical community nationwide—most ob/gyns, perinatologist and pediatricians—concerned and disturbed over the medical misinformation driving the partial-birth abortion debate. As doctors, we cannot remember another issue of public policy so directly related to the medical community that has been subject to such distortions and outright falsehoods.

The most damaging piece of medical disinformation that seems to be driving this debate is that the partial-birth abortion procedure may be necessary to protect the lives, health and future fertility of women. You have heard this claim most dramatically not from doctors, but from a handful of women who chose to have a partial-birth abortion when their children were diagnosed with some form of fetal abnormality.

As physicians who specialize in the care of pregnant women and their children, we have all treated women confronting the same tragic circumstances as the women who have publicly shared their experiences to justify this abortion procedure. So as doctors intimately familiar with such cases, let us be very clear: the partial-birth abortion procedure, as described by Dr. Martin Haskell (the nation's leading practitioner of the procedure) and defined in the Partial-Birth Abortion Ban Act, is never medically indicated and can itself pose serious risks to the health and future fertility of women.

There are simply no obstetrical situations encountered in this country which require a partially-delivered human fetus to be destroyed to preserve the life, health or future fertility of the mother. Not for hydrocephaly (excessive cerebrospinal fluid in the head); not for polyhydramnios (an excess of amniotic fluid collecting in the woman); and not for trisomy (genetic abnormalities characterized by an extra chromosome).

Our members concur with former Surgeon General C. Everett Koop's recent statement that "in no way can I twist my mind to see that [partial-birth abortion] is a medical necessity for the mother."

As case in point would be that of Ms. Coreen Costello, who has appeared several times before Congress to recount her personal experience in defense of this procedure. Her unborn child suffered from at least two conditions: "polyhydramnios secondary to abnormal fetal swallowing," which causes amniotic fluid to collect in the uterus, and "hydrocephalus", a condition that causes an excessive amount of fluid to accumulate in the fetal head.

The usual treatment for removing the large amount of fluid in the uterus is a procedure called amniocentesis. The usual treatment for draining excess fluid from the fetal head is a procedure called cephalocentesis. In both cases the excess fluid is drained by using a thin needle that can be placed inside the womb through the abdomen ("transabdominally"—the preferred route) or through the vagina ("transvaginally.") The transvaginal approach however, as performed by Dr. McMahon on Ms. Costello, puts the woman at an increased risk of infection because of the non-sterile environment of the vagina. Dr. McMahon used this approach most likely because he had no significant expertise in obstetrics and gynecology. After the fluid has been drained, and the head decreased in size, labor would be induced and attempts made to deliver the child vaginally. Given these medical realities, the partial-birth abortion procedure appropriate to address the medical complications described by Ms. Costello or any of the other women who were tragically misled into believing they had no other options.

Indeed, the partial-birth abortion procedure *itself* can pose both an immediate and significant risk to a woman's health and future fertility. To take just one example, to forcibly dilate a woman's cervix over the course of several days, as this procedure requires, risks creating an "incompetent cervix," a leading cause of future premature deliveries. It seems to have escaped anyone's attention that one of the five women who appeared at President Clinton's veto ceremony who had a partial-birth abortion subsequently had five miscarriages.

The medical evidence is clear and argues overwhelmingly against the partial-birth abortion procedure. Given the medical realities, a truly pro-woman vote would be to end the availability of a procedure that is so potentially dangerous to women. The health status of women and children in this country can only be enhanced by your unequivocal support of H.R. 1833.

Thank you for your consideration.

Sincerely,

NANCY G. ROMER, M.D.,
FACOG, Clinical Professor, Department of Obstetrics and Gynecology, Wright State University, Chairman, Dept. of Ob/Gyn, Miami Valley Hospital, OH.

CURTIS R. COOK, M.D.,
Maternal Fetal Medicine, Butterworth Hospital, Michigan State College of Human Medicine.

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DOCTORS' GROUP PROMOTING MEDICAL FACTS ABOUT PARTIAL-BIRTH ABORTION QUICKLY SWELLS TO OVER 300 MEMBERS—MEDICAL SPECIALISTS NATIONWIDE STAND FIRM: PARTIAL-BIRTH ABORTION NEVER A MEDICAL NECESSITY

ALEXANDRIA, VA.—The Physicians Ad-hoc Coalition for Truth (PHACT) has quickly grown to over 300 doctors nationwide, actively promoting the fact that partial-birth abortions are never medically necessary.

PHACT was formed by medical professionals concerned about repeated medical misstatements about the procedure known as partial-birth abortion. The misleading and false information is potentially dangerous to women and their children.

Specialists from around the country in the fields of obstetrics, gynecology, perinatology (maternal and fetal medicine) and pediatric medicine have joined PHACT to correct misstatements and distortions rampant in the debate over partial-birth abortions, and to promote the fact that a partial-birth abortion is never medically necessary to protect the health of a woman or to protect her future fertility. In fact, the procedure can pose grave dangers to the woman, and is not recognized in the medical community.

Recently, former Surgeon General G. Everett Koop publicly confirmed that the partial birth abortions are not medically necessary procedures. During an interview published in 8/19/96 issue of American Medical News, Dr. Koop remarked "I believe Mr. Clinton was misled by his medical advisors on what is fact and what is fiction in reference to late-term abortions. Because in no way can I twist my mind to see that late-term abortion as described—you know, the partial-birth, and then destruction of the unborn child before the head is born—is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to partial-birth abortions."

The current PHACT membership of over 300 far surpasses the founding members' stated goal to attract 200 members. PHACT was formed in late July of this year, and held a Congressional briefing on July 24 as their debut event to educate Congress and the public on the medical facts about partial-birth abortion.

The Physicians' Ad-hoc Coalition for Truth (PHACT) exists to bring the medical facts to bear on the public policy debate regarding partial birth abortions. Members of the coalition are available to speak to public policy makers and the media. If you would like to speak with a member of PHACT, please contact Gene Tarne and Michelle Powers at 703-683-5004.

THE CASE OF COREEN COSTELLO—PARTIAL-BIRTH ABORTION WAS NOT A MEDICAL NECESSITY FOR THE MOST VISIBLE "PERSONAL CASE" PROPONENT OF PROCEDURE

Coreen Costello is one of five women who appeared with President Clinton when he vetoed the Partial-Birth Abortion Ban Act (4/10/96). She has probably been the most active and the most visible of those women who have chosen to share with the public the very tragic circumstances of their pregnancies which, they say, made the partial-birth abortion procedure their only medical option to protect their health and future fertility.

But based on what Ms. Costello has publicly said so far, her abortion was not, in fact, medically necessary.

In addition to appearing with the President at the veto ceremony, Ms. Costello has twice recounted her story in testimony before both the House and Senate; the New York Times published an op-ed by Ms. Costello based on this testimony; she was featured in a full page ad in the Washington Post sponsored by several abortion advocacy groups; and, most recently (7/29/96) she has recounted her story for a "Dear Colleague" letter being circulated to House members by Rep. Peter Deutsch (FL).

Unless she were to decide otherwise, Ms. Costello's full medical records remain, of course, unavailable to the public, being a matter between her and her doctors. However, Ms. Costello has voluntarily chosen to share significant parts of her very tragic story with the general public and in very highly visible venues. Based on what Ms. Costello has revealed of her medical history—of her own accord and for the stated purpose of defeating the Partial-Birth Abortion Ban Act—doctors with PHACT can only conclude that Ms. Costello and others who have publicly acknowledged undergoing this procedure "are honest women who were sadly misinformed and whose decision to have a partial-birth abortion was based on a great deal of misinformation" (Dr. Joseph DeCook, Ob/Gyn, PHACT Congressional Briefing, 7/24/96). Ms. Costello's experience does not change the reality that a partial birth abortion is never medically indicated—in fact, there are available several alternative, standard medical procedures to treat women confronting unfortunate situations like Ms. Costello had to face.

The following analysis is based on Ms. Costello's public statements regarding events leading up to her abortion performed by the late Dr. James McMahon. This analysis was done by Dr. Curtis Cook, a perinatologist with the Michigan State College of Human Medicine and member of PHACT.

"Ms. Costello's child suffered from 'polyhydramnios secondary to fetal swallowing defect.' In other words, the child could not swallow the amniotic fluid, and an excess of the fluid therefore collected in the mother's uterus. Because of the swallowing defect, the child's lungs were not properly stimulated, and an underdevelopment of the lungs would likely be the cause of death if abortion had not intervened. The child had no significant chance of survival, but also would not likely die as soon as the umbilical cord was cut.

"The usual approach in such a case would be to reduce the amount of amniotic fluid collecting in the mother's uterus by serial amniocentesis. Excess fluid in the fetal ventricles could also be drained. Ordinarily, the draining would occur 'transabdominally.' Then the child would be vaginally delivered, after attempts were made to move the child into the usual, head-down position. Dr. McMahon, who performed the draining of cerebral fluid on Ms. Costello's child, did so 'transvaginally,' most likely because he had no significant expertise in obstetrics/gynecology. In other words, he would not be able to do it well transabdominally—the standard method used by ob/gyns—because that takes a degree of expertise he did not possess.

"Ms. Costello's statement that she was unable to have a vaginal delivery, or, as she called it, 'natural birth or an induced labor,' is contradicted by the fact that she did indeed have a vaginal delivery, conducted by Dr. McMahon. What Ms. Costello had was a breech vaginal delivery for purposes of aborting the child, however, as opposed to a vaginal delivery intended to result in a live birth. A cesarean section in this case would not be medically indicated—not because of any inherent danger—but because the baby could be safely delivered vaginally."

The Physicians' Ad-hoc Coalition for Truth (PHACT), with over three hundred members drawn from the medical community nationwide, exists to bring the medical facts to bear on the public policy debate regarding partial birth abortions. Members of the coalition are available to speak to public policy makers and the media. If you would like to speak with a member of PHACT, please contact Gene Tarne or Michelle Powers at 703-683-5004.

Mr. UNDERWOOD. Mr. Speaker, I rise today to urge my colleagues to vote for the override of the President's veto of the partial birth abortion bill. I sponsored the original legislation because it would protect the sanctity of life and prevent the cruel and inhumane killing of unborn children.

We know all too well the arguments on both sides of this issue. Opponents of the bill argue that the partial birth abortion procedure does not exist because it is only used to deliver babies who are already dead. This argument is nonsensical because the definition of a partial birth abortion requires the partial delivery of a fetus which is still alive. A living fetus is viable and we should respect its humananity.

Another argument offered by those who oppose the bill is that this procedure is rare and utilized only in dire circumstances, when the baby is defective or the mother's life is in danger. This is not true. Many doctors admit that partial birth abortions are elective and are quite common. There are many reasons why women have late-term abortions. Some cite the lack of money or adequate health insurance to support the child. Others may have social or psychological problems which hinder their ability to go to full term on their pregnancy.

No matter what reasons are cited, this brutal and senseless procedure should never be allowed.

We can certainly find humane ways to deal with whatever reasons or undue burdens which cause women to resort to partial birth abortions. But we should not, as a nation, sanction this procedure: it is wrong, wrong, wrong.

For me and the people of Guam whom I represent, the importance of childbearing and the worth of children in our culture are cornerstones for sustaining family values. For us, abortion is not an option; it is something we vigorously oppose because it destroys our concept of family preservation.

I join the U.S. Catholic Conference, a number of antiabortion groups, and a majority of my colleagues in the House in supporting the overturn of the veto on this important legislation. This is not a constitutional issue, nor a health policy issue—this is an issue of protecting children who are killed before they are given a chance to experience their humanity.

Mr. BEILENSON. Mr. Speaker, I rise in strong opposition to the ill-advised attempt to override the President's veto of H.R. 1833.

The President's veto should be sustained—especially because this is a bill that, on the pretense of seeking to ban certain vaguely defined abortion procedures, is in reality an assault on the constitutionally guaranteed right of women to reproductive freedom and on the freedom of physicians to practice medicine without government intrusion.

This legislation would be a direct blow to the fight many of us led for many, many years to secure—and then to preserve and to protect—the right of every woman to choose a safe medical procedure to terminate a wanted pregnancy that has gone tragically wrong, and when her life or health are endangered.

The President correctly vetoed the legislation because it does not contain a true life and health exception provision. It does contain an extremely narrow life exception, and it requires further that no other medial procedure would suffice. But it provides no exception at all to preserve the woman's health, no matter how seriously or permanently it will be damaged.

This exception is obviously a basic and fundamental concern to women and their families. Without it, the bill will force a woman and her physician to resort to procedures that may be more dangerous to the woman's health—and to her very life—and that may be more threatening to her ability to bear other children, than the method banned.

If this exception had been included, the bill would have at least shown some respect for the paramount importance of a woman's life, health, and future fertility.

The truth is, however, that we have absolutely no business considering this prohibition and criminalization of a constitutionally protected medical procedure.

This is a dangerous piece of legislation. It is the first time the Federal Government would ban a particular method of abortion, and it is part of an effort to make it almost impossible for any abortion to be performed late in a pregnancy—no matter how endangered the mother's life or health might be.

At stake here is whether or not we will be compassionate enough to recognize that none of us in this legislative body has all the answers to every tragic situation.

We are debating not merely whether to outlaw a procedure, but under what terms. If legislation must be passed that is unprecedented in telling physicians which medical procedures they may not, despite their own best judgment, use, then it must permit a life or adverse health exception. That is the only way that the legislation might possibly meet the requirements that have been handed down by the U.S. Supreme Court.

Mr. Speaker, on a personal note, I authored California's Therapeutic Abortion Act, which was one of the first laws in the Nation to protect the lives and health of women. Members may recall that then Gov. Ronald Reagan signed my legislation into law in 1967. That was a difficult and hard-won fight; it helped, I believe, save the lives of several million women, and as I look back on my legislative career, it is the legislation I am most proud of.

When the U.S. Supreme Court ruled subsequently that the Government cannot restrict abortion in cases where it is necessary to preserve a woman's life or health, I believed that we had come to at least accept the precept that every woman should have the right to choose, with her family and her physician, but without government interference, and when her life and health are endangered, how to deal with this most personal and difficult decision.

I see now that I was obviously wrong, because this Congress is willing even to criminalize for the first time a safe medical procedure that is used only very, very rarely and to end the most tragic of pregnancies. These are situations that are so desperate that it is hard to understand why most people, except those who are opposed to abortion under any circumstance at all, would not be able to understand that these are the very situations that should be protected.

This is not a moderate measure, Mr. Speaker. It is an absolute tragedy for women and their families who could very well find themselves in the very desperate and tragic situation of other women who have had the courage to talk about the seriously defective pregnancies they had to end if they were to live or to protect their health and future fertility.

We are talking about making a crime a medical procedure that is used only in very rare cases—fewer than 500 a year. It is a procedure that is needed only as a last resort, in cases where pregnancies that were planned, and that are wanted, have gone tragically wrong.

Choosing to have an abortion is always a terribly difficult and awful decision for a family to make. But we are dealing here with particularly wrenching decisions in particularly tragic circumstances. It seems to me that it would be more than fitting if we showed restraint and compassion for women who are facing those devastating decisions.

Mr. Speaker, we should uphold the President's veto of this legislation that is unwise, unconstitutional, and terrible public policy that would return us to the dangerous situation that existed over 30 years ago.

Mr. MCDADE. Mr. Speaker, today the House of Representatives has the opportunity to stop the appalling practice known as partial-birth abortion. I cosponsored and supported the legislation to ban partial-birth abortions both because I am committed to protecting the rights of the unborn and because they are particularly morally repugnant.

I will vote to override the President's veto and encourage my colleagues to join me so that H.R. 1833, the Partial Birth Abortion Ban Act can be enacted.

A partial-birth abortion is not, as President Clinton would have us believe, an ordinary medical procedure. It is a gruesome practice which pulls a baby from its mother's womb and ends its life.

There is no gray area in this debate. This heinous practice—coming very late in the pregnancy—is clearly the killing of a human baby.

Thousands of Americans have written and called this House to plead that we enact the Partial-Birth Abortion Ban Act and protect the right to life of these late-term children. I pray that we will hear their plea and override the President's veto.

Mr. SENSENBRENNER. Mr. Speaker, I strongly support overriding President Clinton's veto of H.R. 1833, the Partial Birth Abortion Ban Act.

The President's veto of the Partial Birth Abortion Ban Act is morally indefensible and his reason for vetoing the bill does not hold up under closer scrutiny. The President claims this abortion procedure is necessary, in fact, the "only way," for women with certain prenatal complications to avoid serious physical damage, including the ability to bear further children. If this is true, then why is partial-birth abortion not taught in a single medical residency program anywhere in the United States? Why is it not recognized as an accepted surgery by the American College of Obstetricians and Gynecologists? Actually, the American Medical Association's legislative council voted unanimously to endorse the partial-birth abortion ban.

The fact is, a partial-birth abortion is never necessary to preserve the health of future fertility of the mother. However, you do not have to take my word for it, listen to what former Surgeon General C. Everett Koop has to say on the subject. Mr. Koop stated:

> I believe that Mr. Clinton was misled by his medical advisors on what is fact and what is fiction in reference to late-term abortions. Because in no way can I twist my mind to see that the late-term abortions as described—you know, partial birth, and then destruction of the unborn child before the head is born—is a medical necessity for the mother.

The dangerous reality is, according to undisputed expert medical testimony given before the House Subcommittee on the Constitution, the partial-birth abortion can be harmful to the mother in several ways. First, the cervix must be forcefully dilated, threatening future pregnancies by weakening the cervix. Next, the surgeon's hand must be inserted into the uterus to turn the baby around. This maneuver is so dangerous that it has been avoided in obstetrical practice for decades. Finally, the removal of the baby's brain while the head remains in utero may expose sharp fragments of bone. Uterine laceration and severe hemorrhaging may result.

The difference between a partial-birth abortion and homicide is a mere three inches. A society that strives for civility should not tolerate such barbarism.

Mr. KLECZKA. Mr. Speaker, I rise today in strong support of H.R. 1833, which will stop the senseless and inhumane practice of partial birth abortions.

Patial birth abortions are gruesome, they are horrific and they are wrong.

I voted in favor of H.R. 1833 on November 1, 1995 and again on March 27, 1996. Today, I continue my support for this much-needed legislation by once again voting for H.R. 1833—and voting to override the President's veto.

Critics of this bill say the majority of these procedures are health related. Yet documents obtained by the committees studying this issue show that the majority of late-term abortions are not done for medical reasons at all.

Critics of this measure say it will harm mothers whose babies pose a life-threatening hazard to their health. Yet H.R. 1833 contains an exception that protects the mother if her life is in danger. This exception allows the procedure if it is ever "necessary to save the life of a woman whose life is endangered by a physician disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose."

We must, as a society, move to address this issue with compassion and with courage. The destruction of human life that results from a partial birth abortion must stop now. I am pleased to join my colleagues in voting to end this unnecessary and unethical procedure.

Mr. Christensen. Mr. Speaker, I rise today in favor of overriding the President's veto of the Partial-Birth Abortion Ban Act.

I was honored to be an original cosponsor of this legislation because it takes a stand against the most horrid abuses of the abortion industry—abortions that are committed on a child that is partially born before the abortionist kills the child.

This procedure is so indefensible that its proponents have been left to medical distortions and falsehoods to defend their position.

According to Dr. Nancy Romer, of Wright State University, "there is no medical evidence that the partial birth abortion procedure is safer or necessary to provide comprehensive health care to women." Dr. Romer dealt with the medical issues surrounding this procedure in greater detail in an op-ed in today's Wall Street Journal, and I submit it for the RECORD.

I believe that each of us—not just as Members of Congress but as citizens and as human beings—has a moral obligation to stand up in defense of our Nation's children and put an end to this horrible procedure, and I urge my colleagues to support over-riding the President's veto.

[From the Wall Street Journal, Sept. 19, 1996]

PARTIAL-BIRTH ABORTION IS BAD MEDICINE

(By Nancy Romer, Pamela Smith, Curtis R. Cook, and Joseph L. DeCook)

The House of Representatives will vote in the next few days on whether to override President Clinton's veto of the Partial Birth Abortion Ban Act. The debate on the subject has been noisy and rancorous. You've heard from the activists. You've heard from the politicians. Now may we speak?

We are the physicians who, on a daily basis, treat pregnant women and their babies. And we can no longer remain silent while abortion activists, the media and even the president of the United States continue to repeat false medical claims about partial-birth abortion. The appalling lack of medical credibility on the side of those defending this procedure has forced us—for the first time in our professional careers—to leave the sidelines in order to provide some sorely needed facts in a debate that has been dominated by anecdote, emotion and media stunts.

Since the debate on this issue began, those whose real agenda is to keep all types of abortion legal—at any stage of pregnancy, for any reason—have waged what can only be called an orchestrated misinformation campaign.

First the National Abortion Federation and other pro-abortion groups claimed the procedure didn't exist. When a paper written by the doctor who invented the procedure was produced, abortion proponents changed their story, claiming the procedure was only done when a women's life was in danger. Then the same doctor, the nation's main practitioner of the technique, was caught—on tape—admitting that 80% of his partial-birth abortions were "purely elective."

Then there was the anesthesia myth. The American public was told that it wasn't the abortion that killed the baby, but the anesthesia administered to the mother before the procedure. This claim was immediately and thoroughly denounced by the American Society of Anesthesiologists, which called the claim "entirely inaccurate." Yet Planned Parenthood and its allies continued to spread the myth, causing needless, concern among our pregnant patients who heard the claims and were terrified that epidurals during labor, or anesthesia during needed surgeries, would kill their babies.

The latest baseless statement was made by President Clinton himself when he said that if the mothers who opted for partial-birth abortions had delivered their children naturally, the women's bodies would have been "eviscerated" or "ripped to shreds" and they "could never have another baby."

That claim is totally and completely false. Contrary to what abortion activists would have us believe, partial-birth abortion is never medically indicated to protect a women's health or her fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant women's health and her fertility. It seems to have escaped anyone's attention that one of the five women who appeared at Mr. Clinton's veto ceremony had five miscarriages after her partial-birth abortion.

Consider the dangers inherent in partial-birth abortion, which usually occurs after the fifth month of pregnancy. A women's cervix is forcibly dilated over several days, which risks creating an "incompetent cervix," the leading cause of premature delivers. It is also an invitation to infection, a major cause of infertility. The abortionist then reaches into the womb to pull a child feet first out of the mother (internal podalic version), but leaves the head inside. Under normal circumstances, physicians avoid breech births whenever possible; in this case, the doctor intentionally causes one—and risks tearing the uterus in the process. He then forces scissors through the base of the baby's skull—which remains lodged just within the birth canal. This is a partially "blind" procedure, done by feel, risking direct scissor injury to the uterus and laceration of the cervix or lower uterine segment, resulting in immediate and massive bleeding and the threat of shock or even death to the mother.

None of this risk is ever necessary for any reason. We and many other doctors across the U.S. regularly treat women whose unborn children suffer the same conditions as those cited by the women who appeared at Mr. Clinton's veto ceremony. Never is the partial-birth procedure necessary. Not for hydrocephaly (excessive cerebrospinal fluid in the head), not for polyhydramnios (an excess of amniotic fluid collecting in the women) and not for trisomy (genetic abnormalities characterized by an extra chromosome). Sometimes, as in the case of hydrocephaly, it is first necessary to drain some of the fluid from the baby's head. And in some cases, when vaginal delivery is not possible, a doctor performs a Caesarean section. But in no case is it necessary to partially deliver an infant through the vagina and then kill the infant.

How telling it is that although Mr. Clinton met with women who claimed to have needed partial-birth abortions on account of these conditions, he has flat-out refused to meet with women who delivered babies with these same conditions, with no damage whatsoever to their health or future fertility.

Former Surgeon General C. Everett Koop was recently asked whether he'd ever operated on children who had any of the disabilities described in this debate. Indeed he had. In fact, one of his patients—"with a huge omphalocele [a sac containing the baby's organs] much bigger than her head"—went on to become the head nurse in his intensive care unit many years later.

Mr. Koop's reaction to the president's veto? "I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction" on the matter, he said. Such a procedure, he added, cannot truthfully be called medically necessary for either the mother or—he scarcely need point out—for the baby.

Considering these medical realities, one can only conclude that the women who thought they underwent partial-birth abortions for "medical" reasons were tragically misled. And those who purport to speak for women don't seem to care.

So whom are you going to believe? The activist-extremists who refuse to allow a little truth to get in the way of their agenda? The politicians who benefit from the activists' political action committees? Or doctors who have the facts?

[From the National Right to Life Committee, Inc., Tuesday, Sept. 17, 1996]

TWO MAJOR NEWSPAPERS DISCREDIT KEY CLAIMS OF WHITE HOUSE AND OTHER FOES OF PARTIAL-BIRTH ABORTION BAN

WASHINGTON.—The U.S. House of Representatives is scheduled to vote as early as Thursday, September 19, on whether to override President Clinton's veto of a bill to ban partial-birth abortions (except to save a mother's life). This week, two daily newspapers—the Washington Post and the Record of Bergen County, New Jersey—have published investigative reports that discredit false claims by the White House and pro-abortion advocacy groups that partial-birth abortions are "extremely rate" and are performed only or mainly in cases of risk to the mother or lethal disorders of the fetus/baby.

The Record's investigative report, titled "the Facts on Partial-Birth Abortions," was written by "women's issues" staff writer Ruth Padawer and published on September 15. The Record quoted the insistent claims of pro-abortion advocacy groups that partial-birth procedures are performed in rare and medically dire circumstances, before reporting: "But interviews with physicians who use the method reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year"—triple the 450-500 number which the National Abortion Federation (NAF), a lobby for abortion clinics, has claimed occur in the entire country.

The Record reported, "Doctors at Metropolitan Medical in Englewood [New Jersey] estimate that their clinic alone performs 3,000 abortions a year on fetuses between 20 and 24 weeks [i.e., 4½ to 5½ months], of which at least half are intact dilation and evacuation" [i.e., partial-birth abortion]. The abortion doctors at the Englewood facility "say only a 'minuscule amount' are for medical reasons," the Record reported.

"We have an occasional amnio abnormality, but it's a minuscule amount," said one of the doctors at Metropolitan Medical, an assessment confirmed by another doctor there. "Most are Medicaid patients, black and white, and most are for elective, not medical, reasons: people who didn't realize, or didn't care, how far along they were. Most are teenagers."

The September 17 edition of the Washington Post contained the results of an investigation conducted by reporters Barbara Vobejda and David M. Brown, M.D., who concluded:

> It is possible—and maybe even likely—that the majority of these [partial-birth] abortions are performed on normal fetuses, not on fetuses suffering genetic or other developmental abnormalities. Furthermore, in most cases where the procedure is used, the physical health of the woman whose pregnancy is being terminated is not in jeopardy. . . . Instead, the "typical" patients tend to be young, low-income women, often poorly educated or naive, whose reasons for waiting so long to end their pregnancies are rarely medical.

In addition to the abortionists at the Metropolitan Medical facility, the Record learned of at least five other doctors performing partial-birth abortions in the region: "Another metropolitan area doctor who works outside New Jersey said he does about 260 post-20-week abortions a year, of which half are by intact D&E. The doctor, who is also a professor at two prestigious teaching hospitals, said he has been teaching intact D&E since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure."

Both articles unfairly say that leading supporters of the Partial-Birth Abortion Ban Act have implied that partial-birth abortions are performed primarily during the last three months of pregnancy. In truth, it has been opponents of the bill, including President Clinton, who have tried to narrow the focus of the debate to "third trimester" procedures. In contrast, NRLC has publicly and consistently challenged attempts to characterize the bill as a ban on primarily "third trimester" procedures, and has stressed that most partial-birth abortions are performed from 20 to 26 weeks—4½ to 6 months—for entirely non-medical reasons. At even 24 weeks, an unborn baby is (on average) 10 inches long, and if born prematurely has a one-in-three chance of survival in a neonatal unit.

[However, it is also well documented that many partial-birth abortions have been performed even after 26 weeks (i.e., during the third trimester), and in a variety of circumstances besides "severe fetal anomalies." Indeed, in a 1995 written submission to the House Judiciary Committee, the late Dr. James McMahon indicated that even at 29-30 weeks, fully one-fourth of the partial-birth abortions that he performed were on fetuses with no "flaw" whatever.]

A questionnaire submitted to candidates by the U.S. Catholic Conference, published on September 16, asked, "What is your position on a law banning partial-birth abortion?" The Clinton campaign responded: "If Congress sends the president a bill that bars third-trimester abortions with an appropriate exception for life or health, the president would sign it." [emphasis added] By limiting this commitment to "third-trimester" abortions, Mr. Clinton's "restriction" effectively excludes most partial-birth abortions. Moreover, as the Washington Post reported in its Sept. 17 examination of the issue, the Supreme Court has defined "health" abortions to include those performed "in the light of all factors—physical, emotional, psychological, familial and the woman's age." The Post's reporters accurately concluded, "Because of this definition, life-threatening conditions need not exist in order for a woman to get a third-trimester abortion." [Sept. 17 Washington Post Health, page 17]

In an advertisement published today in USA Today and other newspapers, the Physicians' Ad Hoc Coalition for Truth (PHACT), a coalition of about 300 medical specialists including former Surgeon General C. Everett Koop, says emphatically that even in cases involving severe fetal disorders, "partial-birth abortion is never medically necessary to protect a mother's health or her future fertility."

Mr. HEFLEY. Mr. Speaker, today we will vote on whether to override President Clinton's veto of the Partial-Birth Abortion Ban Act which this body passed on November 1, 1995. The House voted overwhelmingly to ban this procedure, however, despite these earlier votes, this procedure is still being carried out today.

After many months of testimony and debate on this issue, and after seeing and hearing the grizzly details of this procedure, Congress voted to end its practice.

Dishearteningly, the cries of the children and those of their parents were ignored by the President when he vetoed this bill. Since the time of that veto, I have received over 2,000 letters and postcards from my constituents. All of these letters expressed the shock and sorrow they felt that the partial-birth abortion procedure was not brought to an end. These letters asked, pleaded, begged, and prayed that this Congress, that this House—the people's House—vote once again on this issue. They asked us, their representatives in Government, to vote again and override the President's veto. They asked us to ban partial-birth abortions.

I had hoped that we would not have had to vote on this again. I had hoped that the President would have joined this Congress to ban the cruel procedure that my colleagues here have so clearly described. Unfortunately, the President did not join with this Congress, nor did he join with the people of this great country in banning this procedure—he vetoed this bill. So, it is with a purposeful will and a compassionate heart that I ask my House colleagues to vote yes on this vote and override the President's veto and ban this callous act of partial-birth abortions.

Mr. CRANE. Mr. Speaker, opponents of H.R. 1833, the Partial-Birth Abortion Ban Act, justified their support of this form of infanticide by stating that the procedure was medically necessary in some cases. In fact, President Clinton, as he vetoed the bill, ensured that his photo-ops included women who had survived this gruesome procedure.

As my distinguished colleague HENRY HYDE mentioned in his closing remarks of the veto override debate, proabortion forces are disturbed by our attempt to outlaw these acts because the legislation shifts the focus from the woman's choice to the brutal and fatal act of the abortion procedure. In their attempt to justify all abortions, abortion advocates have fully exposed their agenda by lobbying to protect this form of baby murder. Apparently, they are ignoring the health risks to women who have been or could be subjected to the medically necessary procedure we seek to outlaw.

In fact, supporters of H.R. 1833 included many trained in the medical profession. Our colleague, Dr. TOM COBURN, a practicing obstetrician, assisted in writing the bill. Other well-trained physicians, true to their Hippocratic oath, lent their support to outlaw partial-birth abortions and exposed the serious health dangers inherent in such a brutal procedure.

Four physicians, all of whom are experts in obstetrics or fetal health, explained their support for H.R. 1833 in the September 19, 1996 Wall Street Journal article entitled, "Partial-Birth Abortion Is Bad Medicine". As our colleagues in the other body this week attempt to override the veto of this most humane legislation, I commend the article to their attention and urge them to follow the lead of the House, override the President's veto and make H.R. 1833 law.

[From the Wall Street Journal, Sept. 19, 1996]

PARTIAL-BIRTH ABORTION IS BAD MEDICINE

(By Nancy Romer, Pamela Smith, Curtis R. Cook, and Joseph L. DeCook)

The House of Representatives will vote in the next few days on whether to override President Clinton's veto of the Partial Birth Abortion Ban Act. The debate on the subject has been noisy and rancorous. You've heard from the activists. You've heard from the politicians. Now may we speak?

We are the physicians who, on a daily basis, treat pregnant women and their babies. And we can no longer remain silent while abortion activists, the media and even the president of the United States continue to repeat false medical claims about partial-birth abortion. The appalling lack of medical credibility on the side of those defending this procedure has forced us—for the first time in our professional careers—to leave the sidelines in order to provide some sorely needed facts in a debate that has been dominated by anecdote, emotion and media stunts.

Since the debate on this issue began, those whose real agenda is to keep all types of abortion legal—at any stage of pregnancy, for any reason—have waged what can only be called an orchestrated misinformation campaign.

First the National Abortion Federation and other pro-abortion groups claimed the procedure didn't exist. When a paper written by the doctor who invented the procedure was produced, abortion proponents changed their story, claiming the procedure was only done when a woman's life was in danger. Then the same doctor, the nation's main practitioner of the technique, was caught—on tape—admitting that 80% of his partial-birth abortions were "purely elective."

Then there was the anesthesia myth. The American public was told that it wasn't the abortion that killed the baby, but the anesthesia administered to the mother before the procedure. This claim was immediately and thoroughly denounced by the American Society of Anesthesiologists, which called the claim "entirely inaccurate." Yet Planned Parenthood and its allies continued to spread the myth, causing needless concern among our pregnant patients who heard the claims and were terrified that epidurals during labor, or anesthesia during needed surgeries, would kill their babies.

The latest baseless statement was made by President Clinton himself when he said that if the mothers who opted for partial-birth abortions had delivered their children naturally, the women's bodies would have been "eviscerated" or "ripped to shreds" and they "could never have another baby."

That claim is totally and completely false. Contrary to what abortion activists would have us believe, partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility. It seems to have escaped anyone's attention that one of the five women who appeared at Mr. Clinton's veto ceremony had five miscarriages after her partial-birth abortion.

Consider the dangers inherent in partial-birth abortion, which usually occurs after the fifth month of pregnancy. A woman's cervix is forcibly dilated over several days, which risks creating an "incompetent cervix," the leading cause of premature deliveries. It is also an invitation to infection, a major cause of infertility. The abortionist then reaches into the womb to pull a child feet first out of the mother (internal podalic version), but leaves the head inside. Under normal circumstances, physicians avoid breech births whenever possible; in this case, the doctor intentionally causes one—and risks tearing the uterus in the process. He then forces scissors through the base of the baby's skull—which remains lodged just within the birth canal. This is a partially "blind" procedure, done by feel, risking direct scissor injury to the uterus and laceration of the cervix or lower uterine segment, resulting in immediate and massive bleeding and the threat of shock or even death to the mother.

None of this risk is ever necessary for any reason. We and many other doctors across the U.S. regularly treat women whose unborn children suffer the same conditions as those cited by the women who appeared at Mr. Clinton's veto ceremony. Never is the partial-birth procedure necessary. Not for hydrocephaly (excessive cerebrospinal fluid in the head), not for polyhydramnios (an excess of amniotic fluid collecting in the women) and not for trisomy (genetic abnormalities characterized by an extra chromosome). Sometimes, as in the case of hydrocephaly, it is first necessary to drain some of the fluid from the baby's head. And in some cases, when vaginal delivery is not possible, a doctor performs a Caesarean section. But in no case is it necessary to partially deliver an infant through the vagina and then kill the infant.

How telling it is that although Mr. Clinton met with women who claimed to have needed partial-birth abortions on account of these conditions, he has flat-out refused to meet with women who delivered babies with these same conditions, with no damage whatsoever to their health or future fertility.

Former Surgeon General C. Everett Koop was recently asked whether he'd ever operated on children who had any of the disabilities described in this debate. Indeed he had. In fact, one of his patients—"with a huge omphalocele [a sac containing the baby's organs] much bigger than her head"—went on to become the head nurse in his intensive care unit many years later.

Mr. Koop's reaction to the president's veto? "I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction" on the matter, he said. Such a procedure, he added, cannot truthfully be called medically necessary for either the mother or—he scarcely need point out—for the baby.

Considering these medical realities, one can only conclude that the women who thought they underwent partial-birth-abortions for "medical" reasons were tragically misled. And those who purport to speak for women don't seem to care.

So whom are you going to believe? The activist-extremists who refuse to allow a little truth to get in the way of their agenda? The politicians who benefit from the activists' political action committees? Or doctors who have the facts?

Mrs. KELLY. Mr. Speaker, I rise in reluctant opposition to the veto override of H.R. 1833.

I am opposed to late-term abortions except in instances where they are necessary to save the life of the mother or for serious, very limited health reasons. Unfortunately, this well-intentioned legislation fails to make these exceptions. Tragedies involving severely deformed or dying fetuses sometimes occur in the late stages of pregnancy. In these crisis situations, women should have access to the safest medical procedure available, and in some occasions the safest such procedure is the intact dilation and evacuation procedure.

If we ban this procedure, Mr. Speaker, as this legislation seeks to do, doctors will resort to other procedures, such as a caesarean section or a dismemberment dilation and evacuation, which can and often do pose greater health risks to women, such as severe hemorrhaging, lacerations of the uterus, or other complications that can threaten a woman's life or her ability to have children again in the future.

Mr. Speaker, passage of H.R. 1833 will not end late-term abortions; the bill only bans one such procedure that, in the judgment of the doctor, might offer the surest way of protecting the mother. The New York chapter of the American College of Obstreticians and Gynecologists opposes H.R. 1833, expressing concern that "* * * Congress would take any action that would supersede the medical judgment of trained physicians and would criminalize medical procedures that may be necessary to save the life of a woman * * *".

If H.R. 1833 were amended to include exceptions for situations where a woman's life or health is threatened, ensuring that decisions regarding the well-being of the mother are made by doctors, not politicians, I would gladly support the bill. Without this protection, however, I cannot in good conscience support this legislation today.

Good people will always disagree over the abortion issue, and I respect the passion and depth of feeling that so many of my constituents on both sides of this issue have expressed to me. Maintaining policies which promote healthy mothers and healthy babies should remain above the political fray, and it is for this reason that I oppose the veto override today. Thank you, Mr. Speaker.

The SPEAKER pro tempore (Mr. LAHOOD). All time having expired, without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, the vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 285, nays 137, not voting 12, as follows:

[Roll No. 422]

YEAS—285

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Flake
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frisa
Funderburk
Gallegly
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greene (UT)
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kennedy (RI)
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Martinez
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—137

Abercrombie
Ackerman
Andrews
Baldacci
Becerra
Beilenson
Bentsen
Berman
Bishop
Blumenauer
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Campbell
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cummings
DeFazio
DeLauro
Dellums
Deutsch
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Franks (CT)
Frelinghuysen
Frost
Gejdenson
Gibbons
Gilman
Gonzalez
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E.B.
Kelly
Kennedy (MA)
Kennelly
Kolbe
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Meyers
Millender-McDonald
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pickett
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Zimmer

NOT VOTING—12

Dicks
Fields (LA)
Fields (TX)
Furse
Ganske
Hayes
Heineman
Johnston
Lincoln
Longley
Peterson (FL)
Thornton

☐ 1414

The Clerk announced the following pairs:

On this vote:

Mr. Hayes and Mr. Ganske for, with Ms. Furse against.

Mr. Longley and Mr. Fields of Texas for, with Mr. Johnston of Florida against.

Mr. DOGGETT changed his vote from "yea" to "nay."

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will notify the Senate of the action of the House.

PERSONAL EXPLANATION

Mr. LONGLEY. Mr. Speaker, due to surgery on a herniated disk on Thursday, September 19, I was absent for rollcall vote No. 422, the vote to override the President's veto of legislation to ban partial birth abortions.

Had I been present, I would have voted in the affirmative, to override the President's veto.

☐ 1415

PRIVILEGES OF THE HOUSE—RESOLUTION REQUIRING THAT INVESTIGATION INTO MATTERS SURROUNDING COMPLAINT ON REPRESENTATIVE RICHARD GEPHARDT BE ASSIGNED TO SPECIAL COUNSEL

Mr. LINDER. Mr. Speaker, pursuant to notice given earlier this day, under rule IX, I offer a resolution (H. Res. 524) raising a question of the privileges of the House, and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 524

Whereas, a complaint filed against Representative GEPHARDT alleges House Rules have been violated by Representative GEPHARDT's concealment of profits gained through a complex series of real estate tax exchanges and;

Whereas, the complaint also alleges possible violations of banking disclosure and campaign finance laws or regulations and;

Whereas, the Committee on Standards of Official Conduct has in complex matters involving complaints hired outside counsel with expertise in tax laws and regulations and;

Whereas, the Committee on Standards of Official Conduct is responsible for determining whether Representative GEPHARDT's financial transactions violated standards of conduct or specific rules of House of Representatives and;

Whereas, the complaint against Representative GEPHARDT has been languishing before the committee for more than seven months and the integrity of the ethics process and the manner in which Members are disciplined is called into question; now be it

Resolved that the Committee on Standards of Official Conduct is authorized and directed to hire a special counsel to assist in the investigation of this matter.

Resolved that all relevant materials presented to, or developed by, the committee to date on the complaint be submitted to a special counsel, for review and recommendation to determine whether the committee should proceed to a preliminary inquiry.

The SPEAKER pro tempore (Mr. LAHOOD). The resolution constitutes a question of privilege under rule IX.

MOTION TO TABLE OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. ARMEY moves to lay the resolution on the table.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARMEY. Mr. Speaker, I demand a recorded vote. A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 395, noes 9, answered "present" 10, not voting 19, as follows:

[Roll No. 423]

AYES—395

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—9

Doyle
Holden
Kanjorski
Klink
McDermott
McHale
Quinn
Taylor (MS)
Walsh

ANSWERED "PRESENT"—10

Borski
Cardin
Cooley
Gephardt
Goss
Hobson
Johnson (CT)
Pelosi
Sawyer
Schiff

NOT VOTING—19

Conyers
Dicks
Fields (LA)
Fields (TX)
Furse
Ganske
Gibbons
Hayes
Heineman
Johnston
Kaptur
Kennedy (RI)
Lincoln
Longley
Meyers
Peterson (FL)
Quillen
Stockman
Thornton

☐ 1437

Mr. KLINK changed his vote from "aye" to "no."

Mrs. MEEK of Florida, Ms. RIVERS, and Messrs. WATT of North Carolina, EVERETT, and DIXON changed their vote from "no" to "aye."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI REGARDING SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY COMMITTEE ON RULES

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–809), on the resolution (H. Res. 525) waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PRIVILEGES OF THE HOUSE—INSTRUCTING COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO IMMEDIATELY RELEASE OUTSIDE COUNSEL'S REPORT ON SPEAKER GINGRICH

Mr. LEWIS of Georgia. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a resolution pursuant to clause 2 of rule IX.

The SPEAKER pro tempore (Mr. LaHood). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

Whereas on December 6, 1995, the Committee on Standards of Official Conduct agreed to appoint an outside counsel to conduct an independent, nonpartisan investigation of allegations of ethical misconduct by Speaker Newt Gingrich;

Whereas, after an eight-month investigation, that outside counsel has submitted an extensive document containing the results of his inquiry;

Whereas the report of the outside counsel cost the taxpayers $500,000;

Whereas the public has a right—and Members of Congress have a responsibility—to examine the work of the outside counsel and reach an independent judgment concerning the merits of the charges against the Speaker;

Whereas these charges have been before the Ethics Committee for more than two years;

Whereas a failure of the Committee to release the outside counsel's report before the adjournment of the 104th Congress will seriously undermine the credibility of the Ethics Committee and the integrity of the House of Representatives: Now, therefore, be it

Resolved, That the Committee on Standards of Official Conduct shall immediately release to the public the outside counsel's report on Speaker Newt Gingrich, including any conclusions, recommendations, attachments, exhibits or accompanying material.

The SPEAKER pro tempore. The resolution constitutes a question of privilege under rule IX.

MOTION TO TABLE OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, in respect for the Committee on Standards of Official Conduct, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. ARMEY moves to lay the resolution on the table.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 225, noes 179, answered "present" 10, not voting 19, as follows:

[Roll No. 424]

AYES—225

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—179

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Blumenauer
Bonior
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Cummings
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Gejdenson
Gibbons
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pickett
Pomeroy
Poshard
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—10

Borski
Cardin
Cooley
Gephardt
Goss
Hobson
Johnson (CT)
Pelosi
Sawyer
Schiff

NOT VOTING—19

Ackerman
Cox
Dicks
Fields (LA)
Fields (TX)
Funderburk
Furse
Ganske
Hayes
Heineman
Johnston
Kaptur
Lincoln
Longley
Peterson (FL)
Quillen
Stark
Stockman
Thornton

□ 1500

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute.)

Mrs. KENNELLY. Mr. Speaker, I yield to the distinguished majority leader, the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I am pleased to announce that the House has finished its work for the week. We will next meet for legislative business on Tuesday, September 24, at 10:30 a.m. for morning hour and noon for legislative business. Votes will be held after 5 p.m. on Tuesday, September 24.

Mr. Speaker, on Tuesday we hope to consider the following measures: Correction day bill H.R. 3153, the Small Business Transport Correction Advancement Act; Correction Day bill H.R. 2988, a bill regarding traffic signal synchronization; a bill to permit same day consideration of rules and to allow suspensions on days other than Monday and Tuesday; and H.R. 3666, the VA/HUD appropriations conference report.

Mr. Speaker, the House will also take up a number of bills under suspension of the rules, a list of which will be distributed to Members' offices tomorrow afternoon.

For Wednesday, September 25 and the balance of the week, we hope to have a number of conference reports ready. Among the possibilities are H.R. 3540, the Foreign Operations Appropriations Act; H.R. 3259, the Intelligence Authorization Act; H.R. 2202, the Immigration in the National Interest Act; and H.R. 3005, the Securities Amendments of 1996.

The House may also consider a fiscal year 1997 omnibus appropriations bill next week.

Mr. Speaker, as we approach the end of the 104th Congress, we brace ourselves for our usual hectic pace. We expect that a number of other measures, both from the other body and from our own committees, may become available. Of course, we will keep Members apprised throughout the week of what might be brought under consideration.

As previously announced, we hope to conclude legislative business and adjourn the 104th Congress sine die on Friday, September 27.

Mr. Speaker, if I might just add, call me optimistic but it is still our hope that we may be able to conclude by that day and that is the target for which we shoot.

I thank the gentlewoman.

Mrs. KENNELLY. Mr. Speaker, should I take from the gentleman's last remarks that Members should not prepare to stay through the weekend next week?

Mr. ARMEY. Mr. Speaker, if the gentlewoman will continue to yield, as I said to my conference yesterday, we are at sine die. These are the end times and there are times of great tribulation. I think the prudent Member might be prepared to work not only Friday but possibly even Saturday next week as we try to clean up the year's final days of business. Again, I think it is always useful to speak in the most optimistic terms, but also to be prepared for the possibility delays keeping us either late Friday night or even into Saturday.

Mrs. KENNELLY. Mr. Speaker, last week in this very same exchange, in this forum, Mr. FAZIO asked you if you might schedule a vote so that we in the House could proclaim our support of the troops in the Iraq situation. The Senate took such a vote on September 5. I wonder, is there any possibility that we might schedule a vote so we, too, could share our support in this House for the troops that are in the Iraq situation?

Mr. ARMEY. Mr. Speaker, if the gentlewoman will continue to yield, I thank the gentlewoman for her inquiry.

If I might just also make a point, if I may just digress for a moment, as I talked about our concerns and hopes with respect to the 27th and/or the 28th, we should also recognize it is altogether possible we would perhaps have to work the following week. Nothing is settled until it is settled.

With respect to the kind of resolution that the gentlewoman has asked about, I have at this point not had any member of any committee, any chairman, approach me with any resolution and any inquiry with respect to placing it on the schedule.

Mrs. KENNELLY. Mr. Speaker, I think what I would hope is that maybe we could just take up the Senate bill.

Mr. ARMEY. Mr. Speaker, I thank the gentlewoman for the suggestion, and I will take it under consideration.

Mr. VOLKMER. Mr. Speaker, will the gentlewoman yield?

Mrs. KENNELLY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, the gentleman knows, having been here in the last Congress, we did not do the martial law resolution which we will be doing for this Congress. I do not have any great reservations about it because we used it many times before and I can understand in the closing days you use it.

But there is one part of this one that I have some serious problems with. I would like some assurances that perhaps we could get, depending on the circumstances, perhaps a little more notice. It says in here, "shall be in order for a time for the remainder of the second session for the Speaker to entertain motions to suspend the rules, provided that the object of a motion is announced from the floor at least 1 hour before the motion is offered."

Now, my concern about this is, let us say that we are in a recess, and as you know, there will be days toward the end when we will be in suspended recess, maybe for several hours. I would hope that we would make sure that Members have an opportunity, if a bill is brought up through a suspension, which it can be at any time, that at least we have an opportunity, knowing that it is going to be brought at a certain time, we have an opportunity to examine the bill, look at it, have our staff look at it so that we can appraise it before we vote. That is my biggest concern, not that you have the right to do the suspension but that Members could have sufficient time to be prepared to vote on it.

Mr. ARMEY. Mr. Speaker, I think the gentleman makes an important point and a point that I am in agreement with.

Let me just say, one, I would hope that we would not even need to use this authority from the Committee on Rules. Should it become necessary, I think again a primary consideration must be the orderly functioning of the body, and in due respect for the needs of the minority and all Members to be informed as timely as possible for any action pending. I will pledge to the gentleman my personal commitment to do that to the very utmost of my ability.

Mr. VOLKMER. Mr. Speaker, I thank the gentleman.

Mrs. SCHROEDER. Mr. Speaker, will the gentlewoman yield?

Mrs. KENNELLY. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, this last weekend the Speaker said he had no objection to a bill that some of us have offered, that passed unanimously in the Senate and the President said he would sign. I was wondering if there was any way we could get that to the floor in the last week. That is the bill that would expand the Brady bill so that people who have been convicted of domestic violence offenses could not be able to purchase a gun. I was really pleased to hear the Speaker say he did not have an objection to it, and was wondering, since it appears to have been cleared and so noncontroversial, could we get it out and could we get it passed?

Mr. ARMEY. Mr. Speaker, I thank the gentlewoman for that inquiry. Let me say, that is on a long list of bills that I hope to pour over, and perhaps we will be able to do so even this afternoon. But at this point I cannot make any comment on that, if for no other reason, out of respect for the other bills that I think Members want. I think it is fair for everybody to know that they had a fair look-see along with the rest.

Mrs. SCHROEDER. Mr. Speaker, I wanted to inquire about the suffragettes who are still in the basement of the rotunda, who have been down there since 1921. I understand that the funding has now been procured privately to raise them up to the first, to the main floor where they are supposed to be. Again, the Senate I guess has unanimously passed this. Would there be any way we could free those women, who have been relegated to the basement since 1921, before we could go home? Do you think we could work that in?

Mr. ARMEY. Mr. Speaker, I thank the gentlewoman for her compelling expression of concern. It would be very difficult for me to do anything but commit to, with all haste, find out more about this situation. I should suspect that perhaps I could begin by checking with the House administration committee, and I will look into it.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman.

ADJOURNMENT FROM FRIDAY, SEPTEMBER 20, 1996 TO MONDAY, SEPTEMBER 23, 1996

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow, September 20, 1996, it adjourns to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, SEPTEMBER 24, 1996

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, September 23, 1996, it adjourns to meet at 10:30 a.m. on Tuesday, September 24, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUEST TO EXPRESS HOUSE SUPPORT FOR MINNESOTA VIKINGS

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that it be the expression of this House that we favor the Minnesota Vikings over the Green Bay Packers on Sunday.

The SPEAKER pro tempore. The Chair is unable to entertain that request.

Mr. ARMEY. Mr. Speaker, I withdraw my request.

REPORT ON CONTINUING NATIONAL EMERGENCY WITH RESPECT TO ANGOLA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104-266)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I hereby report to the Congress on the developments since March 25, 1996, concerning the national emergency with respect to Angola that was declared in Executive Order 12865 of September 26, 1993. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

On September 26, 1993, I declared a national emergency with respect to Angola, invoking the authority, inter alia, of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) and the United Nations Participation Act of 1945 (22 U.S.C. 287c). Consistent with United Nations Security Council Resolution 864, dated September 15, 1993, the order prohibited the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to the territory of Angola other than through designated points of entry. The order also prohibited such sale or supply to the National Union for the Total Independence of Angola ("UNITA"). United States persons are prohibited from activities that promote or are calculated to promote such sales or supplies, or from attempted violations, or from evasion or avoidance or transactions that have the purpose of evasion or avoidance, of the stated prohibitions. The order authorized the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as might be necessary to carry out the purposes of the order.

1. On December 10, 1993, the Secretary of the Treasury's Office of Foreign Assets Control (OFAC) issued the UNITA (Angola) Sanctions Regulations (the "Regulations") (58 *Fed. Reg.* 64904) to implement the President's declaration of a national emergency and imposition of sanctions against Angola (UNITA). There have been no amendments to the Regulations since my report of March 25, 1996.

The Regulations prohibit the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to UNITA or to the territory of Angola other than through designated points. United States persons are also prohibited from activities that promote or are calculated to promote such sales or supplies to UNITA or Angola, or from any transaction by any United States persons that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive order. Also prohibited are transactions by United States persons, or involving the use of U.S.-registered vessels or aircraft, relating to transportation to Angola or UNITA of goods the exportation of which is prohibited.

The Government of Angola has designated the following points of entry as points in Angola to which the articles otherwise prohibited by the Regulations may be shipped: *Airports:* Luanda and Katumbela, Benguela Province; *Ports:* Luanda and Lobito, Benguela Province; and Namibe, Namibe Province; and *Entry Points:* Malongo, Cabinda Province. Although no specific license is required by the Department of the Treasury for shipments to these designated points of entry (unless the item is destined for UNITA), any such exports remain subject to the licensing requirements of the Departments of State and/or Commerce.

2. The OFAC has worked closely with the U.S. financial community to assure a heightened awareness of the sanctions against UNITA—through the dissemination of publications, seminars, and notices to electronic bulletin boards. This educational effort has resulted in frequent calls from banks to assure that they are not routing funds in violation of these prohibitions. United States exporters have also been notified of the sanctions through a variety of media, including special fliers and computer bulletin board information initiated by OFAC and posted through the U.S. Department of Commerce and the U.S. Government Printing Office. There have been no license applications under the program.

3. The expenses incurred by the Federal Government in the 6-month period from March 26, 1996, through September 25, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Angola (UNITA) are reported to be about $227,000, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel) and the Department of State (particularly the Office of Southern African Affairs).

I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 19, 1996.*

□ 1515

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

A HUGE CLOUD OVER THIS HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. VOLKMER] is recognized for 5 minutes.

Mr. VOLKMER. Mr. Speaker, we have just been through a little charade here in the House. The last two votes on motions to table were purely what I call a charade as part of the total coverup that is going on in the ethics investigation of our Speaker.

You know, they, majority Republicans, were advised that the minority, the gentleman from Michigan [Mr. BONIOR] and the gentleman from Georgia [Mr. LEWIS], are going to be offering a resolution that would require the Committee on Standards of Official Conduct to make public, to give all Members of the House and the public, the press, a copy of the report that was filed back around August 12 with the Committee on Standards of Official Conduct by the special counsel.

POINT OF ORDER

Mr. WALKER. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WALKER. Mr. Speaker, the gentleman from Missouri [Mr. VOLKMER] is discussing matters that are not appropriately addressed under the rules of the House.

Mr. VOLKMER. I am just going over what was going on in the House.

The SPEAKER pro tempore. The Chair will sustain the point of order inasmuch as the gentleman may not discuss such matters not currently pending.

Mr. VOLKMER. The Speaker, I am just talking about what went on in the House.

The SPEAKER pro tempore. The gentleman may proceed in order.

Mr. VOLKMER. That is very interesting, very, very interesting that the majority does not even want us to talk about what we just did earlier this afternoon.

When they heard about this resolution that is going to be offered, the gentleman from Georgia, Mr. LINDER—and according to an AP story that was just out today—in an admitted act of retaliation Mr. LINDER introduced a resolution to force the ethics panel to hire an outside counsel to investigate House Minority Leader RICHARD A. GEPHART in an ethics complaint filed 7 months ago that he concealed profits gained through vacation home real estate deals. LINDER says——

POINT OF ORDER

Mr. WALKER. Point of order, Mr. Speaker: The gentleman from Missouri [Mr. VOLKMER] continues to be out of order.

The SPEAKER pro tempore. The Chair will sustain the point of order and share at this point the ruling of November 17, 1995:

The prohibition against references in the debate to the official conduct of other Members where such conduct is not under consideration in the House includes reciting the content of a resolution raising a question of the privileges of the House which is no longer pending, having been tabled by the House.

The gentleman may proceed in order.

Mr. VOLKMER. Now the gentleman from Georgia [Mr. LINDER] goes on and says that the Lewis resolution reflected an ongoing and desperate action with a small band of Democrats who refused the ethics process by filing one baseless claim after another.

Now those claims are not baseless, those claims are legitimate. They are based on acts that were performed by the Speaker and that have been filed with complaints, and part of those complaints were investigated by the special counsel, and the special counsel filed the report way back over a month ago. But none of us have seen the report, none of us can get a copy of the report, and on the tabling motion there is no question——

POINT OF ORDER

Mr. WALKER. Mr. Speaker, the gentleman continues to be out of order, and it is an embarrassment to the House to have the gentleman continue to disobey the rules knowingly and completely with malice.

The SPEAKER pro tempore. The Chair sustains the point of order and requests that the gentleman proceed in order as indicated by the Chair earlier.

Mr. VOLKMER. Mr. Speaker, you know, there is a huge cloud over this House, and it has been here for over a year, almost 2 years, and it is all because of inaction of the Committee on Standards of Official Conduct on the complaints on NEWT GINGRICH, and it has brought discredit on this House.

POINT OF ORDER

Mr. WALKER. Point of order Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WALKER. The gentleman is obviously attempting to simply disobey the rules, and the gentleman obviously has no comport to the Oath of Office that he took earlier in this Congress and, you know, is embarrassing the House with his present disobeying of the rules, and I insist on my point of order.

The SPEAKER pro tempore. The point of order by the gentleman is sustained, and the Chair would remind the gentleman from Missouri that he may not speak to matters which are now under consideration by the Committee on Standards of Official Conduct or to the motivation of Members who bring questions before the House.

Mr. VOLKMER. I appreciate the ruling of the Chair, and it is very apparent to me and, I hope, to Members of this House that the majority does not want any of the minority, anybody, talking about ethics questions on the floor of the House. They just do not want us to discuss it. They want to keep it secret, they do not want anybody to know anything about it, they want it all to go away until after the election.

Well, there are those of us who feel that we in this House of Representatives, which has been a stalwart in the world as far as democracy is concerned, have a right to voice our opinion on the floor of the House on this subject because we feel that this subject is one that has to do with the image of the people, how the people look at the United States House of Representatives.

I do not think that the public really appreciates a House of Representatives where Members cannot even discuss on the floor those things—I can walk right out in that hall, I can go up into the press gallery, I can go up the steps and go back in my district, I could do it in my home, I could do it in my office, I can do it anyplace else. I can discuss all the problems that the Committee on Standards of Official Conduct has and NEWT GINGRICH has and the fact that the chairman of the Committee on Standards of Official Conduct has just stalled this whole process. I can do it all there, but I cannot do it here.

That is the ruling of the Chair. They do not want me to say it, folks. They do not want me to talk about it.

But guess what? We are going to continue to do it until that report is released to the public. They paid $500,000, Mr. Speaker, for that report, and they are keeping it quiet.

POINT OF ORDER

Mr. WALKER. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WALKER. The gentleman continues to be out of order.

The SPEAKER pro tempore. The Chair sustains the point of order.

Mr. VOLKMER. Would the gentleman from Pennsylvania like to take down my words?

The SPEAKER pro tempore. The Chair would remind the gentleman that Speakers in prior Congresses have also supported these rulings.

The gentleman from Missouri [Mr. VOLKMER] may proceed in order.

Mr. VOLKMER. Mr. Speaker, I would just like to continue to say that it is just not me that is being gagged, it is everbody out in the public, the media, everybody else in this whole country. Nobody knows what is in that report, and you are never going to know what is in that report because they are not going to let you have it.

REGARDING THE RULES OF THE HOUSE

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, what we have just seen is an act that everyone in the House should be concerned about because the rules of this House exist in large part to assure the civility of the proceedings of the House. They exist to try to make certain that all Members are protected and have certain rights.

These rules are not unique to this Congress. These are rules that the gentleman from Missouri [Mr. VOLKMER] regularly voted for when he was a Member of the majority. The rules with regard to discussion of matters before the Committee on Standards of Official Conduct on this House floor have been the heart of the rules for a long time. They are not something that this majority came up with. They are in fact the same rules that previous Speakers have enforced and have been in place for the previous Congresses.

All Members have an obligation to those rules. When Members think that they are above the law and above the rules, that is an embarrassment, and that destroys the underlying civility that needs to govern our processes here.

I do not know how we can, as a nation, solve the myriad of problems that we have if some Members take it upon themselves to disobey the rules. That is what we have seen happening on a regular basis.

UNITED STATES MUST GET ITS INTERNATIONAL TRADE FUNCTIONS IN ORDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I was just on the floor a few days ago and talked about a headline I saw where the trade deficit last month had gotten worse, and today I woke up to see today's news, and trade and jobs and opportunity for my children and for the future of all citizens of our country have been one of my top priorities since I got elected some 3 years ago.

Today I saw a headline that should send chills into the spine of every American and every Member of Congress. It says "U.S. trade gap grew by 43 percent in July."

Now if that does not knock your socks off and you are not concerned about this, then you are not awake.

The opportunities that we are destroying for our children by not getting our international trade functions in order are going to really ruin the future again for our children. Let me show you our current international trade organization.

This is 19 agencies deal with promoting, financing assistance for international trade. This is the current structure. It is a rat's maze. Any business person who could get Federal assistance from this rat's maze and have Government cooperate with business and industry so we could provide good paying jobs, they cannot do it under this structure.

When I first came to Congress, I introduced a reorganization that would put trade finance, trade promotion and trade assistance all together in a sound, reasonable package to provide assistance to give us an opportunity to increase our jobs.

Now look at what Mr. Kantor, our Secretary of Commerce, former Trade Representative said. His comment was "The U.S. trade picture reflects the underlying strength of the U.S. economy."

I cannot believe that he said anything. In fact, I pulled his bio to see if he had any business experience, and he does not. Neither does the gentleman who currently occupies the White House. They just do not understand at 1600 Pennsylvania Avenue, they do not understand in the Department of Commerce, and they do not understand in the trade agency or the 19 other Federal agencies that spend $3 billion in tax money.

Then you read about where the big trade deficit is. It is in Japan. Now where does 85 percent of all that money we that we spend promoting U.S. products, assisting U.S. companies go? It goes for, and would you believe this, it does for promoting raisins in Japan, and we already control the market there.

So you see why our children do not have an opportunity for the future. This is the disorganization, these are the comments, this is the statistics.

□ 1530

We heard about 10 million new jobs in this country. Where are those 10 million new jobs? They are part time, they are low paying, they are service jobs. They do not tell us that between 1993 and 1995 we lost 8.4 million good-paying jobs in this country. People were fired. They were fired in Binghamton, NY, they were fired in Tennessee, they were fired in Florida. They lost their jobs, and a majority of those 8.4 million people had to take lower paying jobs.

So the 10 million jobs, people I talked to in my district have two or three of them to make a living. So they have destroyed jobs. They killed the bridge to the future because they killed our bill to reorganize trade.

I worked with the gentleman form Michigan [Mr. CHRYSLER], a hero of this Congress, and others who tried to bring some business sense to our international trade effort, and they have destroyed that bridge. Maybe Mr. Canter is smiling today, because he helped destroy a bridge to the future, a bridge to good-paying jobs, a bridge to increase the median income of the average American. That median income has gone down. That is why Americans have less in their pockets today, because taxes went up, because this Congress will not address the problem of overregulation. One hundred thirty-two thousand Federal employees do nothing but regulate, so we take those jobs out of New York, Pennsylvania, California, Florida, and we send them across the border.

Finally, litigation. This administration vetoed litigation reform. When you sue everybody, what do you do? You send business and industry and good-paying jobs out of this country, so they have destroyed the bridge to the future for my children, for your children. They have relegated us to $5.15 an hour jobs. In my State, for not working, on welfare you get the equivalent of $8.75 for not working, and you get health coverage. So why work? You have to be dumb to work at $5.15, which they are promoting.

I urge my colleagues to look at this. Let us build bridges to the future, not destroy them.

ENVIRONMENTAL ARROGANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

Mr. HANSEN. Mr. Speaker, I chair the Subcommittee on National Parks, Forests and Lands. In the early 1970's, Congress passed a law called the National Environmental Protection Act, and in 1976, the FLPMA Act on other areas that would take care of the public lands. We determined there that anything that happened on public lands, that the public would have some input on it. They would have the opportunity to have hearings; anybody, they would have the opportunity to challenge what the Government did, so it would be adequately done without some high-handed individual coming along and shoving something down the throat of the population.

That was probably a pretty good piece of legislation. I mentioned, I chair the subcommittee, and every time we have a bill, and, Mr. Speaker, we have probably had more hearings than any other subcommittee on the Hill, the administration comes up. Here comes the BLM, here comes the Forest Service, here comes in Department of Reclamation. They say, "Mr. Chairman, there has to be more public input on this bill. We have to have more time for the public to have due process on this bill. You have got to be here and listen to these things."

I agree with most of that. People should have input. In the little State of Utah that I represent, as two other Members represent, we have some beautiful areas. We have six national monuments and a number of national parks. We have Arches, Canyonlands, Bryce, Zion, a piece of the Grand Canyon; we have some beautiful areas. Out of that, it seems like my friends from the East always want to come out and tell us how to determine our own lives.

Surprisingly enough, yesterday the President of the United States stood on the south rim of the Grand Canyon and announced a national monument in Utah of 2 million acres, 2 million acres. That is the size of Delaware. That is the size of Yellowstone National Park.

Lo and behold, guess who he told about it? Absolutely no one. The Governor of the State was not made aware, the two Senators were not made aware, the Members of the House, including of his own party, were not made aware. The President of the Senate and the Speaker of the House, the legislature, and the county commissioners, nobody was told except President Clinton decided he wanted to do it.

This particular area has the largest coal reserve there is in the history, anywhere we can find in America. There is enough coal in the ground for the energy of Utah for 1,000 years, low-sulfur coal, which can be mined environmentally sound. In this area happens to be 10 cities; the first time that I know of that 10 cities now find themselves in a national park with the stroke of a pen.

How did he get the right to use that pen? He got the right because of the antiquated Antiquities Act of 1906, which said the President could preserve and protect Indian ruins. That was the theory behind it, Indian ruins; not saying you could go create things bigger than about every park, bigger than a lot of States. No, that was not the idea.

But the extreme environmental community, who wants to kill our timber, wants to kill our mining, wants to keep people from going into the wilderness and enjoying it and fishing, hunting, standing there and looking at God's beauty, no, we do not get to do that, because the President of the United States, in his great, wonderful, awesome wisdom, greater than anybody, he had the right to say this beautiful area should be reserved.

Let me ask something, has the President been there? Has the President seen it? No, the President does not even know where it is. He could not come within 500 miles of it if you put a map down in front of him. That does stop him from coming in and signing the Antiquities law and saying, let us take care of this. Does that smack anybody of being political, considering that the environmental community is putting millions of dollars in this reelection? Does that smack anybody of that at all? Why did he not just wait? Why did he not wait until after, sitting down as we have down with every other park and national monument in the history of the State, in the history of the United States, and say, let us work this out?

No, I have never, in 26 years as an elected official, as past Speaker of the House of the State of Utah, I have never seen such arrogance in my life. I am totally disappointed in what happened.

What will this cost of the children of Utah? One billion dollars, $1 billion they are not going to get for education. What is this going to cost the little State of Utah, the Governor and his legislature? Six and one-half billion dollars. Tell me why? What is the reason behind this? I am really disappointed at this high-handed attitude that emanates from the White House. I surely think that the people of the West have just been written off.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES REFLECTING ACTION COMPLETED AS OF SEPTEMBER 12, 1996 FOR FISCAL YEARS 1997–2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1997 and for the 5-year period fiscal year 1997 through fiscal year 2001.

This report is to be used in applying the fiscal year 1997 budget resolution (H. Con. Res. 178), for legislation having spending or revenue effects in fiscal years 1997 through 2001.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, September 17, 1996.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 1997 and for the 5-year period fiscal year 1997 through fiscal year 2001.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of September 12, 1996.

The first table in the report compares the current level of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 178, the concurrent resolution on the budget for fiscal year 1997. These levels are consistent with the recent revisions made pursuant to section 606(e) of the Congressional Budget Act of 1974 as amended by the Contract with America Advancement Act (P.L. 104–121) which provides additional new budget authority and outlays to pay for continuing disability reviews. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 1997 because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority, outlays, and new entitlement authority of each direct spending committee with the "section 602(a)" allocations for discretionary action made under H. Con. Res. 178 for fiscal year 1997 and for fiscal years 1997 through 2001. "Discretionary action" refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 1997 with the revised "section 602(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, because the point of order under that section also applies to measures that would breach the applicable section 602(b) suballocation. The revised section 602(b) suballocations were filed by the Appropriations Committee on July 12, 1996.

Sincerely,

JOHN R. KASICH, *Chairman.*

Enclosures.

STATUS OF THE FISCAL YEAR 1997 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 178—REFLECTING ACTION COMPLETED AS OF SEPT. 12, 1996

[On-budget amounts, in millions of dollars]

	Fiscal year 1997	Fiscal year 1997–2001
Appropriate level (as set by H. Con. Res. 178):		
Budget authority	1,314,785	6,956,907
Outlays	1,311,171	6,898,627
Revenues	1,083,728	5,913,303
Current level:		
Budget authority	856,941	(1)
Outlays	1,037,292	(1)
Revenues	1,101,569	5,973,380
Current level over (+)/under (−) appropriate level:		
Budget authority	−457,844	(1)
Outlays	−273,879	(1)
Revenues	17,841	60,077

[1] Not applicable because annual appropriations acts for fiscal years 1997 through 2000 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing any new budget authority for FY 1997 in excess of $457,844,000,000 (if not already included in the current level estimate) would cause FY 1997 budget authority to exceed the appropriate level set by H. Con. Res. 178.

OUTLAYS

Enactment of measures providing any new budget or entitlement authority that would increase FY 1997 outlays in excess of $273,879,000,000 (if not already included in the current level estimate) would cause FY 1997 outlays to exceed the appropriate level set by H. Con. Res. 178.

REVENUES

Enactment of any measure that would result in any revenue loss in excess of $17,841,000,000 for FY 1997 (if not already included in the current level estimate) or in excess of $60,077,000,000 for FY 1997 through 2001 (if not already included in the current level) would increase the amount by which revenues are less than the recommended levels of revenue set by H. Con. Res. 178.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a) REFLECTING ACTION COMPLETED AS OF SEPT. 12, 1996

[Fiscal years, in millions of dollars]

	1997			1997–2001		
	Budget authority	Outlays	New entitlement authority	Budget authority	Outlays	New entitlement authority
House Committee:						
Agriculture:						
Allocation	0	0	0	0	0	4,996
Current level	5	5	5	55	55	55
Difference	5	5	5	55	55	−4,941
National Security:						
Allocation	−1,579	−1,579	0	−664	−664	0
Current level	−102	−102	−21	−289	−289	−34
Difference	1,477	1,477	−21	375	375	−34
Banking, Finance and Urban Affairs:						
Allocation	−128	−3,700	0	−711	−4,004	0
Current level	0	0	0	0	0	0
Difference	128	3,700	0	711	4,004	0
Economic and Educational Opportunities:						
Allocation	−912	−800	−152	−3,465	−3,153	7,669

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a) REFLECTING ACTION COMPLETED AS OF SEPT. 12, 1996—Continued

[Fiscal years, in millions of dollars]

	1997			1997–2001		
	Budget authority	Outlays	New entitlement authority	Budget authority	Outlays	New entitlement authority
Current level	1,967	1,635	1,816	11,135	10,296	8,852
Difference	2,879	2,435	1,968	14,600	13,449	1,183
Commerce:						
Allocation	0	0	370	−14,540	−14,540	−41,710
Current level	0	0	500	200	153	1,470
Difference	0	0	130	14,740	14,693	43,180
International Relations:						
Allocation	0	0	0	0	0	0
Current level	−1	−1	0	−1	−1	0
Difference	−1	−1	0	−1	−1	0
Government Reform and Oversight:						
Allocation	−1,078	−1,078	−289	−4,605	−4,605	−1,668
Current level	0	0	0	0	0	0
Difference	1,078	1,078	289	4,605	4,605	1,668
House Oversight:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Resources:						
Allocation	−91	−90	−12	−1,401	−1,460	−59
Current level	−2	−2	1	−30	−30	9
Difference	89	88	13	1,371	1,430	68
Judiciary:						
Allocation	0	0	0	−357	−357	0
Current level	0	0	0	3	3	3
Difference	0	0	0	360	360	3
Transportation and Infrastructure:						
Allocation	2,280	0	0	125,989	521	2
Current level	0	0	0	0	0	0
Difference	−2,280	0	0	−125,989	−521	−2
Science:						
Allocation	0	0	0	−13	−13	0
Current level	0	0	0	0	0	0
Difference	0	0	0	13	13	0
Small Business:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Allocation	−90	−90	224	−919	−919	3,475
Current level	0	0	0	0	0	0
Difference	90	90	−224	919	919	−3,475
Ways and Means:						
Allocation	−8,973	−9,132	−2,057	−134,211	−134,618	−10,743
Current level	8,337	8,301	−2,840	73,452	73,471	−38,717
Difference	17,310	17,433	−783	207,663	208,089	−27,974
Unassigned:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Total authorized:						
Allocation	−10,571	−16,469	−1,916	−34,897	−163,812	−38,038
Current level	10,204	9,836	−539	84,525	83,658	−28,362
Difference	20,775	26,305	1,377	119,422	247,470	9,676

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1997—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) suballocations (July 12, 1996)				Current level reflecting action completed as of Sept. 12, 1996				Difference			
	General purpose		Violent crime		General purpose		Violent crime		General purpose		Violent crime	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Rural Development	12,960	13,380	0	0	12,960	13,340	0	0	0	40	0	0
Commerce, Justice, State	24,493	24,939	4,525	2,951	16	6,451	0	1,477	24,477	18,488	4,525	1,474
Defense	245,065	243,372	0	0	0	80,745	0	0	245,065	162,627	0	0
District of Columbia	719	719	0	0	719	719	0	0	0	0	0	0
Energy & Water Development	19,421	19,652	0	0	0	6,833	0	0	19,421	12,819	0	0
Foreign Operations	11,950	13,311	0	0	72	8,253	0	0	11,878	5,058	0	0
Interior	12,118	12,920	0	0	138	4,855	0	0	11,980	8,065	0	0
Labor, HHS and Education	65,625	69,602	61	38	1,858	40,615	0	20	63,767	28,987	61	18
Legislative Branch	2,180	2,148	0	0	2,166	2,131	0	0	14	17	0	0
Military Construction	9,983	10,360	0	0	9,982	10,344	0	0	1	16	0	0
Transportation	12,190	35,453	0	0	0	23,785	0	0	12,190	11,668	0	0
Treasury-Postal Service	11,016	10,971	97	84	0	2,381	0	9	11,016	8,590	97	75
VA–HUD-Independent Agencies	64,354	78,803	0	0	365	47,492	0	0	63,989	31,311	0	0
Reserve	618	69	0	0	0	0	0	0	618	69	0	0
Grand total	492,692	535,699	4,683	3,073	28,276	247,944	0	1,506	464,416	287,755	4,683	1,567

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 17, 1996.
Hon. JOHN KASICH,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1997. These estimates are compared to the appropriate levels for those items contained in the 1997 Concurrent Resolution on the Budget (H. Con. Res. 178) and are current through September 12, 1996. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 178)	Current level +/− resolution
Budget authority	856,941	1,314,785	−457,844
Outlays	1,037,292	1,311,171	−273,879
Revenues			
1997	1,101,569	1,083,728	+17,841
1997–2001	5,973,380	5,913,303	+60,077

Since my last report, dated July 22, 1996, the Congress has cleared and the President has signed the Agriculture Appropriations Act (P.L. 104–180), the District of Columbia Appropriations Act (P.L. 104–194), the Federal Oil & Gas Royalty Simplifications & Fairness Act of 1996 (P.L. 104–185), the Small Business Job Protection Act of 1996 (P.L. 104–188), an Act to Authorize Voluntary Separation Incentives at A.I.D. (P.L. 104–190), the Health Insurance Portability and Accountability Act of 1996 (P.L. 104–191), and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193). The Congress has also cleared for the President's signature the Military Construction Appropriations Act (H.R. 3517), the Legislative Branch Appropriations Act (H.R. 3754), and the National Defense Authorization Act (H.R. 3230). These actions changed the current level of budget authority, outlays, and revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

PARLIAMENTARIAN STATUS REPORT—104TH CONGRESS 2D SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS SEPTEMBER 12, 1996

[In millions of dollars]

	Budget authority	Outlays	Revenues
PREVIOUSLY ENACTED			
Revenues			1,100,355
Permanents and other spending legislation	843,212	804,226	
Appropriation legislation		238,523	
Offsetting receipts	−199,772	−199,772	
Total previously enacted	643,440	842,977	1,100,355
ENACTED THIS SESSION			
Appropriations Bills:			
Agricultural Appropriations (P.L. 104–180)	52,345	44,922	
District of Columbia Appropriations (P.L. 104–194)	719	719	
Authorizations Bill:			
Taxpayer Bill of Rights 2 (P.L. 104–168			−15
Federal Oil & Gas Royalty Simplification & Fairness Act of 1996 (P.L. 104–185)	1	1	
Offsetting Receipts	−3	−3	
Small Business Job Protection Act of 1996 (P.L. 104–188)	−76	−76	579
An Act to Authorize Voluntary Separation Incentives at the A.I.D. (P.L. 104–190)	−1	−1	
Health Insurance Portability & Accountability Act of 1996 (P.L. 104–191)	305	315	590
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193)	10,080	9,702	60
Total enacted this session	63,370	55,579	1,214
PASSED PENDING SIGNATURE			
Military Construction Appropriations (H.R. 3517)	9,982	3,140	
Legislative Branch Appropriations (H.R. 3754)	2,166	1,917	
National Defense Authorization Act (H.R. 3230)	−102	−102	
Total passed pending signature	12,046	4,955	
APPROPRIATED ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	138,085	133,781	
Total Current Level [1]	856,941	1,037,292	1,101,569
Total Budget Resolution	1,314,785	1,311,171	1,083,728
Amount remaining:			
Under Budget Resolution	457,844	273,879	
Over Budget Resolution			−17,841

[1] In accordance with the Budget Enforcement Act, the total does not include $34 million in outlays for funding of emergencies that have been designated as such by the President and the Congress.

THE INCREASE IN ILLEGAL DRUG USE AMONG TEENAGERS IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. PORTMAN] is recognized for 60 minutes as the designee of the majority leader.

Mr. PORTMAN. Mr. Speaker, today I would like to take a few minutes to talk about the drug crisis in America, the problem we are faced with, some of the reasons for it, and at least one very good idea to address the problem.

I have devoted a lot of my time and my staff's time over the last year and a half on this issue, because I am convinced that our national leaders must take tangible steps to help communities across our country to send a clear and consistent message at every level that drugs are wrong and that they are dangerous. If we do not, I believe our society will be in real trouble.

It is not just about drug abuse, as I will explain later with the chart, because drug abuse impacts a whole host of other social problems we face in this country. I am actually encouraged by the recent press attention we see on this issue. This chart shows that in fact the headlines are starting to appear, people are starting to pay attention to the fact that we do, once again, have what is becoming a drug epidemic in this country. Though politics are certainly playing a role in it, I am glad the President is finally talking about this issue. I am glad that he has appointed a real leader, Gen. Barry McCaffrey, to be his new drug czar.

But so much more needs to be done. I have three children of my own. I know that what influences their decisions, what shapes their attitudes, is what my wife and I say, what we do, what their teachers tell them, what they hear in church, what they see on television, what they hear on the radio, what their friends tell them. We need to work together to fashion innovative solutions to this terrible drug problem in this country that will actually make a difference in the lives of my kids and all of our children.

This is why I have spent the last year and a half working with people in the field, those who have devoted literally decades to this issue, to reducing substance abuse, activists back home like Jackie Butler, Hope Taft, Tammy Sullivan; people at the State level, including my Governor, George Voinovich and his director of Alcohol and Drug Addiction Services, Lucille Fleming; people at the national level like Jim Burke, Tom Hedrick, with the Partnership for a Drug Free America, Jim Koppel of CADCA, Bill Oliver, Doug Hall of PRIDE, and many others.

We have also spent a lot of time talking to kids and parents, teachers and coaches, religious leaders, business people, and many others about the problem at the local level, and what we should do about it.

Two clear things have emerged. First, national leadership is important. It is critical. It keeps the issue on the agenda, it keeps it in the media, as we see here, and helps send a clear and consistent message that has a direct impact on the use of drugs.

The research could not be clearer on this issue. As important as national leadership, of course, is sustained national leadership, not on again-off again.

The second thing we have learned is that leadership must recognize that this problem is probably best addressed at the community level, at the local level. We need everyone who influences the decision of a child to be involved: The parents, the coaches, the teachers, our President, Members of Congress, community leaders, kids themselves. Until we understand that leadership has to be used to mobilize at each of these levels, I do not think we will ever adequately address the problem.

Mr. Speaker, the community antidrug coalition initiative that we have started here in the Congress, that has been spreading around the country for the last few years, is one attempt to bring sustained national leadership where we will have the most impact.

Alex de Tocqueville, when he visited this country over a century ago, he tried to describe America to people in Europe. One thing he said was, "All of the efforts and resources of the citizens", the citizens of America, "are turned to the eternal well-being of the community."

I think that is a pretty good observation. I think it continues to be true today, the recognition that people's energies are often devoted primarily at their neighborhoods and at their communities, where they feel they can have the most direct impact. I think that tells us a lot where we as Members of Congress ought to be devoting some of our energies, at the community level.

Drugs are a serious concern among all Americans. If you look at the most recent Gallup Poll results, or you look at the most recent Wall Street Journal NBC Poll, it is clear drugs and crimes are the number one issue most Americans believe we must address. It is also interesting when you ask parents what the most serious problem is facing our youth, they say drug abuse.

As interesting, when you ask kids themselves, when you ask our young people, what is the most serious concern you face, and this is teenagers, they do not say it is getting a job, they do not say it is their education. What do they say? Drugs. So kids themselves and their parents have recognized that. Frankly, I think they are far out in front of their elected leaders.

Just how big is this problem? to try to put it in some perspective, I will say that in just over a generation, the use of illegal drugs in this country has increased 40-fold, 40-fold. It is a huge problem. As I said earlier, it is not just about drug abuse, because drug abuse affects so many other things in this country.

Let me give the Members just a few examples on this chart. Crime and violence; over half of the violent crime committed in America today is directly related to illegal drug use. School dropouts; kids that use drugs are 2 to 5 times more likely to drop out of school. Health care costs; fully a quarter of our trillion dollar health care cost in this country is directly related to substance abuse. More than half of the new HIV cases are illegal drug related. Spousal and child abuse; again, data will show us that about half of the family abuse in this country is directly related to substance abuse.

Finally, productivity. Yes, it affects American businesses. Because of absenteeism, increased medical claims, businesses in America take a $60 billion hit every year, $60 billion, just because of illegal drugs. If you add alcohol abuse to that, it is another $80 billion a year.

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This is an issue that affects all of us.

This next chart I want to show is actually a hopeful one because it shows that we are not powerless to solve this problem. In fact, from 1979 until 1992, we saw a substantial decrease in the use of drugs. This chart will show that, among teenagers, we saw over a 70-percent decrease during that period.

Folks love to ridicule the Just Say No campaign. This is when it was in its heyday. It works. It works in concert with a lot of other things. A clear and consistent message from the White House on down is effective in reducing drug abuse.

The chart also shows, of course, that since 1992, there has been a sharp increase. Unfortunately, everything we know leads us to believe that that line, if anything, is increasing even more sharply. The tragedy is that it is among our younger and younger kids, too.

We have found, particularly with regard to marijuana use, the most dramatic increases are among our young people. Look at this. Among 8th graders, we see a 167-percent increase from 1991 to 1995. That means in a typical 8th grade class in America, 25 kids, 5 of them in the 8th grade have used marijuana.

All of the other drugs are also increasing, whether it is inhalants, whether it is stimulants, and here is a chart on stimulants which would be cocaine, amphetamines, methamphetamine. Look at these increases, 8th, 10th and 12th graders, the use of cocaine and other stimulants.

Some people who grew up in the 1960's might say, "Well, what's the big deal about some of these drugs increasing?" Well, look at this. LSD is now at record levels. This is record levels of LSD used in this country, again, 8th, 10th and 12th graders.

Some people will say, "Marijuana is not that big a deal. Yes, these other drugs concern me." Well, marijuana today is about 2 to 5 times stronger than it was back in the 1970's. Also, we know a lot more today about marijuana. We know, for example, that marijuana does in fact impair judgment, it does impair learning, it does keep kids from reaching their potential. It is also a powerful gateway to other drugs.

So you might ask, there is the problem; why is it occurring? Well, it is a complicated issue in some respects, but in other ways, it is not at all. This is very good research, well documented by the University of Michigan. Lloyd Johnson, every year with Monitoring the Future, does this study and it is widely accepted in the field as being very accurate and helpful. What does it show?

It shows, among other things, that drug use is not related so much to how much somebody makes, how much their parents make, what their race is, where they live, suburbs or urban areas. What it really relates to is their attitudes about drugs.

Look at the incredible correlation here between social disapproval, a sense that a teenager has of social disapproval and the use of drugs. As disapproval goes up, and you can see, between 1979 and 1992, it did go up, the sense of disapproval, use goes down dramatically. As the sense of social disapproval goes down, what happens? Use shoots up.

It is about attitudes. It is about society sending kids the right message, that it is not OK to use drugs.

The other important factor, other than the sense of social disapproval, is the sense of risk. Not only is it wrong to use drugs, it is harmful. When kids are told that, again use is reduced dramatically.

Look at this chart. This shows the sense out there that there is a risk, a danger in using drugs. Again between 1979 and 1992, we see an increase in the sense of risk, the perception of risk. At the same time, what happens to use? It goes down dramatically. When that sense of risk or danger begins to go down after 1992, again what do we see? Use shooting up.

It is a question of attitudes.

I think we know enough about it now to know that we have got to get to kids and get this message to them clearly, again at every level, from the White House right down to our communities.

The next question I often get asked back home is, Well, why are these antidrug attitudes weakening? What is going on out there?

The first thing I would say is that opinion leaders from the White House on down, including the U.S. Congress, have not until very recently been speaking out on this issue. There has also been declining media attention. This can be shown quantitatively.

In 1989, during the height of the so-called drug war, there were over 500 network news stories, not public service announcements—news stories—on the drug issue and the drug problem in this country. Over the last 4 years, there have been on average fewer than 100 stories. As public opinion leaders speak out, there is more media attention, and that is important to changing those attitudes we talked about earlier, baby boomer parents being conflicted. We talked about people's attitudes toward marijuana. We saw last week with the results from the CASA survey, Joe Califano's group, that in fact a lot of parents who used drugs are conflicted about whether their kids are going to use drugs or not. The expectations, in fact, are very low for their kids. As long as that is true, parents are not doing their job.

Finally, more pro-drug information out there, including reglamorization, whether it is MTV, whether it is Hollywood, whether it is our rock stars, our sports figures. We have seen a lot more reglamorization of drugs.

Finally, legalization discussion, whether it is Jocelyn Elders or whether it is Bill Buckley, that has an impact on kids.

How do we go about reversing this trend? How do we go about changing our policies and actually making a difference in the lives of our kids? Here are the four traditional approaches that we have taken: interdiction, criminal justice, treatment, and prevention.

At the Federal level, just to put this in some perspective, we spend about $1.5 billion a year on interdiction. In our criminal justice system for incarcerating and prosecuting drug offenders, we spend about $6.5 billion; treatment, about $2.6 billion; and prevention and education, about $1.4 billion.

In my view, we need to do all of these things. We need to increase interdiction, we need to lock up drug criminals, we need to increase treatment. But I think most of our effort should be devoted toward improving the education and the prevention side of this, because, again, it is a matter of attitudes. That is where I think we can get the most bang for the buck, frankly.

We need all of the other things, including a tough criminal justice system, but in my view, until we go back to the grassroots, go back to the community level and deal with this in terms of prevention and education, we will not ultimately be successful.

The idea I have is to do these community coalitions around the country. Let me give you a great story. This is about the Miami coalition. At one time Miami had the worst drug problem in America. In fact, Miami's drug rates were the highest, I think, among the top six cities in America. Once their coalition got going and they attacked it on a concerted basis, Miami's drug problem decreased significantly, so much so that by 1994, Miami not only saw its drug use going down dramatically, it was significantly less than the national average.

Community coalitions work. There are now several thousand community coalitions around the country. In our case, in greater Cincinnati, we have brought together business leaders; the media, very important; the faith community, nothing is more effective in my view, especially in terms of prevention, than faith-based prevention programs; parents, of course, which is a critical part we talked about before; youth themselves; law enforcement.

No one is more eager to attack this problem than our law enforcement. No one is more frustrated. Our educators, teachers, coaches and so on, people who have been at this for a long time at the grassroots, and of course again national and State help which we have had.

Our mission in Cincinnati is quite simple. It is, to develop and implement a comprehensive, long-term strategy to reduce and treat substance abuse one person at a time.

I would like to focus on three points in there. One is comprehensive, another is long-term; this is not going to be solved overnight. And finally one person at a time. This is not a Washington "one size fits all," top-down solution. This is trying to affect again all of those decisions that our kids make by affecting the various people that influence them.

In Cincinnati, we have divided our work into five task forces. One is the media task force. We now have one of the most aggressive antidrug media campaigns in the country. All of our major TV stations, all of our radio stations are playing public service announcements, talking about the issue.

We have done some local radio spots, as an example, with a rock and roll band, a local band that kids know, and that has the ability, I think, to get to kids a lot better than having parents or adults talking to them.

The workplace task force: Here for the first time ever, we have got health insurance companies being able and willing to offer discounts to companies that offer drug-free workplace plans.

Why is this so important? Well, most people who abuse drugs go to work every day. Second, that is where the parents are. So if we can get companies, particularly smaller companies and mid-size companies that up to now do not have a drug-free workplace plan in place, to do that, we will be able to affect this problem.

Why should insurance companies give a discount? Because it is a bottom line concern. It actually is in their interest to give a discount. Because if you have a drug-free workplace, you are going to have fewer accidents, fewer medical claims. We have convinced, again, major health care providers in our area to do that, and I think that can be done around the country.

We also have convinced our Bureau of Workers Compensation, an entity that is not looked upon with favor by a lot of our small businesses, to offer the same kinds of discounts to companies that, again, have drug-free workplace plans. We are working with these companies to develop these plans and giving them a bottom line incentive to do so.

It works. One quick story on that. One of the members of our coalition recently put a drug-free workplace program in place which included drug testing, and one day a young man came to his office, sat down and said, "I understand there's going to be random drug testing as part of this program." And the manager said, "Yes, there will."

He said, "Well, I would like to tell you something," and the man broke down. He said, "I'm a cocaine addict, have been for over a decade. I have had six different jobs. I have been able to hide it at every one of those places where I have worked. You're now giving me the opportunity to come forward."

That manager did not fire the guy. He got the guy in a treatment program. The guy is now more productive at work, of course, but much more importantly, his life has been changed in a fundamental way.

Mr. MILLER of Florida. Mr. Speaker, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from Florida.

Mr. MILLER of Florida. You talk about the drug-free workplace. I would like to make a couple of comments about that, if I may, because it started in my area back in the 1980's. It was very involved with Tropicana. I said, "We have a drug problem."

So they developed a program with the Florida Chamber of Commerce, with the Manatee Chamber of Commerce and developed a program that small businesses could do that. I am a small businessman. I put it into all my businesses, and I pretest for drugs.

It was an amazing thing. When Tropicana put a sign at their entrance to their employment office saying, Don't apply unless you are willing to be tested for drugs, they would have people walk to the door, see the sign, make a U-turn and leave.

Nowadays you have a sign that says, "If you don't want to be tested for drugs, don't apply here, go to the White House and apply," something like that. It is a dramatic change, especially for small businesses. So if a big business can make it available through their local chambers, because the question is getting the money and finding the facilities to have the testing done. That is what a task force can do.

We did it successfully many years ago back in Florida. It took our biggest employer, Tropicana, to take that lead. They made a contribution, put a part-time person on our staff at our Manatee Chamber, gave the Florida Chamber a $100,000 grant to help other chambers around.

That is what a group can do to help business. Because if you stop people from getting a job because of drugs, it starts sending that message to everybody.

Mr. PORTMAN. It sends a strong signal. In our area, Procter & Gamble has taken the lead in helping our smaller and mid-size companies because they have the resources, the staff, the expertise to help these smaller businesses.

But imagine what would happen if across America, health care insurers were to say to those small- and mid-size companies, we will give you a discount, say 5 percent, on your health care if you have a drug-free workplace plan in place. Of if the Bureau of Workers' Comp in Florida, I think Florida is not yet there but perhaps you are working on it, that that too will help to get these companies to do so and will help to solve this problem.

Let me just finish with the final two task forces, then I would like to open it up to some of my colleagues who have arrived. But after the workplace task force, I want to talk a little about the parent task force, what we did there, because as I said earlier, parents are key to this problem. The greatest social service agency in America is our parents. They are open at 11 on Saturday night, among other things, and if you can get our parents reengaged in this issue, we know it can make a difference.

PRIDE [Parent Resource Institute for Drug Education] has a good survey out which shows that if parents would simply talk to their kids about the issue of drug abuse, we could see drug abuse rates among our kids decrease by as much as 30 percent, just talking to their kids about it.

What have we done? Well, PRIDE has come into our district, and they have done a pilot program where they have trained parents, who then go out and train other parents. We started with 15 parents, went through an intensive couple of weeks training session; they are now out training an additional 600 parents. We are trying to do it in every school district in my area.

Again, I think it is very important that we get the parents back, engaged in this problem. The final two task forces are the community task force, and there I think some of the potential is in the religious community. Our faith-based programs work, and frankly, on a Sunday or on a Saturday in a church, in a temple, a synagogue, people I think are in a more reflective moment and willing to hear about this issue. I think it is incumbent upon our religious leaders to get the message out.

□ 1600

We have a commitment from a number of the churches, synagogues, and temples in our area to get that drug-free message out at least once a year and maybe twice a year on a concerted basis to complement all the other efforts we talked about.

The final task force we have is criminal justice. As I said earlier, no group is more desperate to find a solution to this problem than our law enforcement community. What we have done is, we have organized sort of a broad DARE Program. The DARE Program works very well in my area, as it does around the country, but there were some gaps in it. So our law enforcement, county by county, have sent out flyers to our schools, community centers, churches, and so on to offer educated speakers who can come in and talk about this issue and relate to the kids, to supplement the DARE Program.

We also have an innovative program to enlist citizens to close down crack houses in our inner city in Cincinnati. This is being led primarily by our city councilman Charlie Winburn in Cincinnati. And that will be effective, we think, in not only closing down crack houses and patrolling street corners, but getting the community involved in this effort because it is a community outreach effort.

Again, I will just say that I think Members of Congress can play a very effective role. It is not a traditional role. It is not about passing new laws. It is not about more Federal money, frankly. It is about acting as a facilitator back home to try to solve this problem, where I think it can be most effectively solved, which is at the community level.

Speaker GINGRICH has been supportive of this; Gen. Barry McCaffrey has been in our area, he has been supportive of it; and Senator Dole has been supportive of it. Each has come and spent time with our coalition and helped us in our efforts.

The initiative recognizes that the problem is not going to be solved solely by looking to Washington. It is going to be solved one kid at a time in our families and in our communities. And for the sake of our kids and our communities, I would urge all Members of Congress to engage in this.

We have about 20 to 25 Members of Congress who have already either established a coalition or are supporting existing coalitions. The goal is nothing short of getting every single Member of Congress involved in this effort. There is no reason we should not all be involved. We can blanket the country, all 435 districts.

The facts are in. Drug use is skyrocketing. Community coalitions work to address this problem. I think it is time we roll up our sleeves and get to work.

I would be happy to yield to the gentleman from Florida.

Mr. MILLER of Florida. Mr. Speaker, I want to commend the gentleman for taking the lead in this role. It takes leadership. And as leaders of our country, as elected members of the government, we have to take on a responsibility here. This is not just passing legislation, as the gentleman said.

I really commend the gentleman for taking the lead within this Congress, because it is a problem and it is a glaring problem. It does not take a lot of chart experts, Ross Perot people, to see that drug use had gone down for 11 years and then, when Bill Clinton gets elected, it goes up.

Now, there has to be some correlation to that. It is a complex issue and it is not one person's fault, there are a lot of reasons, but it has to start at the top. It is the moral leadership of our country.

When we have the President of the United States asked on MTV, and the question is, "If you had to do it all over again, would you inhale?" And the President laughs and says, "Sure, if I could, I tried it before," well, that is not the type of leadership we should have on this very serious issue dealing with crimes and such.

So we need to start at the top, using that bully pulpit. And Nancy Reagan used it so effectively by using the "just say no." And so I think all of us, whether it be as Members of Congress, State legislators, Senators, mayors, we should work together and do exactly as the gentleman is doing and learning from his experience in putting this together.

I remember back in the 1980's, when I was very involved in our Chamber of Commerce, I worked putting a task force together. I had two teenagers back home, and, fortunately, they were good kids, but we were concerned about the problem. So we got together with a group organizing things and through the Chamber trying to get businesses aware of it.

Because when we talk about businesses, businesses save money by having a drug treatment program, by keeping people off drugs. Workmen's comp rates will go down. It saves money. The turnover of employees, turnover costs money to a business. They do not want people to change jobs. Hiring a bad employee is bad business.

So I think whether it is business taking the leadership or Members of Congress or politicians, we all need to jump in and get involved in this. And Bob Dole, I know, has that commitment, and that is what makes me feel good, that he will continue the tradition that Ronald Reagan started and George Bush started.

So I commend the gentleman for taking that leadership and we need more people doing that. And I will be getting back active in that issue in my hometown of Bradenton.

Mr. PORTMAN. Mr. Speaker, I would now yield to the other gentleman from Florida who has arrived.

Mr. MICA. Mr. Speaker, I wanted to take just a minute to also express my deep appreciation to the gentleman from Ohio [Mr. PORTMAN] for his leadership on this issue. He has brought the issue to the Republican Conference, he has brought it to the Congress and to the attention of the American people and to his community, and he has tried to take steps in a positive way to bring people together to solve this problem.

It is a problem that we have to address from the White House to the courthouse, and it is a problem that is destroying our young people. Unless we act we will not have a future generation that is drug free. And until we act, we will continue to see juvenile crime and problems across this great land.

Seventy percent of the crimes in America, ask our police chiefs, ask our sheriffs, ask our State law enforcement and Federal officials, 70 percent of all the crimes in this Nation are, in fact, drug related. And people serving behind bars, there are 1.6 million Americans incarcerated, and about 70 percent of them are there because of drug use or abuse or some criminal activity that has led from crime.

Mr. PORTMAN. If the gentleman will yield back for a moment on that briefly.

Mr. MICA. Certainly.

Mr. PORTMAN. We talked about the impact of illegal drug use on violent crime, and the gentleman is right. When we ask police chiefs around the country what the best way would be to reduce violent crime, guess what they say?

Mr. MICA. What is that?

Mr. PORTMAN. Reducing drug abuse. They do not talk, frankly, about gun control, they do not talk about the death penalty, they do not talk about a lot of other issues that are ones we might naturally think would be the best way to reduce violent crimes. The No. 1 issue by far, for them, is illegal drug use. By far the No. 1 way to reduce violent crime in this country. These are the police chiefs, who are on the line.

Mr. MICA. Absolutely. If the gentleman will yield again.

Mr. PORTMAN. Certainly.

Mr. MICA. I come from central Florida. I have a wonderful area in east central Florida, from Orlando to Daytona Beach. Our blaring headlines are that teenage heroin use is at record epidemic levels.

In the last few weeks, just in the last weekend, we had one of these home invasions where a gentleman tried to defend someone. These people were out trying to get drug money and they shot in cold-blooded murder a young person in our peaceful community.

Another incident in my community just the week before. I admire hard work. I was raised to work from the time I was just a young person. And here in my community was a gentleman at 5 o'clock in the morning who was out filling newspaper racks in Orlando and trying to make a living and taking the change from his newspaper rack. He was a little vendor, again working in the early dawn, and these drug crazed individuals came up and blew him away. Just destroyed his life. Here is a man working, dogging, trying to make it.

I have thousands of senior citizens, but I met a young lady in K-Mart in my community, and I asked her how things were going and was she working and making it, and she is trying to go to school. But she says, Mr. MICA, I have to take the bus to get to work, and I can only work during the day, and it is difficult for me to get to class because I am afraid to be at a bus stop. I am afraid to go out at night. Here is a young lady trying to make it into community college.

So these are the problems. When we have 70 percent of the criminals behind bars and involved in this, and then we have a President that says just say maybe.

I have had two teenagers, just like the other gentleman from Florida [Mr. MILLER], in the last 4 years in my house, and I say just say no as a dad, just say no as a caring parent, just say no as a citizen of the community, and my wife joins me in that. And then we have the highest elected officer in the Nation, everyone we have always looked up to, just say, "Ha-ha-ha, I'd try it if I had the opportunity again." Now, what message does that send?

The other things that disturbs me, and one reason I came out tonight, is again I see the President on television saying that Republicans have cut drug programs. And nothing can be further from the truth. Nothing can be further from the facts. Let me, in fact, give my colleagues the facts.

I serve on the committee that oversees our drug war and have been working on this with the gentleman from Ohio [Mr. PORTMAN] since we both got elected some 3 years ago, when we called for hearings and they ignored us. When we said this is not going to work, putting all the money into treatment and ignoring the other parts, interdiction, enforcement, and education.

They gutted these programs. Now they have the nerve to say that we cut these. Let me talk about the safe and drug-free school program. Republicans never cut the safe and drug-free schools.

First, I want everyone to understand that the Republicans did not take control of the Congress until just the last 18 or 20 months. The first 24 months, from 1992, with the election in the fall and taking office in January, the President in fact controlled the executive branch. As I recall, there were over 250 Democrats in the House of Representatives, a great majority, greater than we ever had, and they controlled the other body by a majority. They had control of all three bodies.

They never held the hearings. In fact, in fiscal years 1994 and 1995 the Democrats controlled the Congress and cut the programs, safe and drug-free schools. President Clinton, in 1994, requested $598.2 million for the program; the Democrats in Congress cut this to $187 million. $187.2 million, to be exact. His own party cut $174 million from his request in 1995. Again, when we did not control this. They did that. They should be held responsible for it.

Now, what are we trying to do to restore it? Let me tell my colleagues. First of all, the drug czar's office. The President says he has downsized Government. Well, he started in the drug czar's office and he cut the staff of 150 positions down to about 25 positions. This Congress, through the leadership of the gentleman from Ohio, Mr. PORTMAN, the gentleman from Pennsylvania, Mr. CLINGER, the gentleman from Illinois, Mr. HASTERT, DENNY HASTERT, the gentleman from New Hampshire, Mr. ZELIFF, and others who worked so hard on trying to put this back together, we have put in the Treasury, Postal Service, and general government appropriations bill an increase in the budget of $7.9 million over last year, and we have restored from 25 to 154 positions in the drug czar's office.

So they dismantled it. It did not work. And we restored it and we took action when we controlled the House of Representatives and the other body.

In the Departments of Commerce, Justice, and State, the Judiciary, and related agencies appropriations, in the drug enforcement budget, we have increased the budget. We have added 75 new agents for source country programs.

They killed the interdiction program. They gutted the interdiction program. They put all the money in treatments; sort of treating the wounded in the battle and forgetting the rest of the battle.

We have been there, our subcommittee, and not one Member of the minority went to South America, to Columbia, to Bolivia, to Peru. They boycotted the visit. They did not go with us to any of those countries and meet with the leaders, meet with out DEA agents.

In fact, they tried to sabotage the trip and told the press we were taking too many staff when we included DEA agents and Customs officials and others to go down with us and see what we could do at first look at the situation: Was it as bad as the reports were; that this interdiction program, the cuts in it were a disaster by this administration? They did not want us to go and see firsthand.

We went and they tried to sabotage the trip and did not participate in the trip. An offense to the Congress and to our subcommittee.

So, then, they cut the military participation in the drug war and we have restored them. In military and drug interdiction and counter drug activities we are $132 million higher than the President's request.

In fact, when I was in the jungles of Bolivia, I was told by one of our agents that they took $40 million out of their program and sent it up to Haiti for their nation building program.

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Our agents, which were left in the jungle with a shoestring budget, actually some of them were even taking money out of their own pockets to make sure that some of these programs went forward, and what were the results? We had a hearing in our Subcommittee on National Security, International Affairs, and Criminal Justice. The result was that there are 10,000 hectares, expansive areas of heroin growing in Colombia. We even found in Peru heroin growing. When you cut the interdiction, when you cut these programs to stop drugs at their source, these cost-effective programs, you see the results. Heroin, the hearing that we held this morning, is flooding this country, in fact.

So we have restored money for all of these programs. We did not cut these. I take great offense at the President's comments that we cut them. We did not have control of the Congress at that time.

Mr. Speaker, then again you get back to the point of the leadership. When you appoint the chief health officer of our great Nation, a high office of respect, a chief health officer, and that health officer, Joycelyn Elders, says just say maybe, what message did that send? How did that echo across our land to our children, to our schools, and then have the President make a joke of inhaling on MTV as my colleague from Florida had just commented.

So, Republicans have again restored these programs. We have held hearings on the problem. We are not trying to politicize it. Some people say, oh, we are just making political commentary. This is not political commentary. This is the future of our next generation. This is the root of the problem of crime in this country. This is the root of many of the social ills that we see.

This is why we have the wrong people behind bars. In my State and here in Washington, DC, you have to live behind bars because you fear for your own life. You fear for going out at night if you are trying to make a living or go to school or be a productive citizen or student in this society.

So, again, I believe that you cannot cut interdiction, you cannot cut enforcement. You cannot cut the education programs, and we cannot cut the treatment programs.

Mr. Speaker, let me say one thing about the treatment programs that concerns me. We have put a great deal of money into the treatment programs. I am really concerned that the information we have gotten back, it is repeated information, studies. I know General McCaffrey got a report from the Department of Defense and has squashed that report. But those treatment programs have not been effective, 90 percent of those programs are a failure.

We find, in fact, that sometimes even some of the private sector programs, the church-related programs, the community programs that have been established are much more effective and should have our support. So yes, we have to attack drugs on four prongs: on education, interdiction, and we have got to look at treatment and enforcement. We cannot let any of those four legs of that stool be broken or damaged.

So we have done our part. When I was a Member in the minority and the gentleman from Ohio [Mr. PORTMAN] signed with me and the gentleman from Florida [Mr. MILLER] signed with me, we called for hearings. Over 119 of us, I believe, signed petitions calling for hearings, and our pleas were ignored.

The last day of the session, a hearing was held for a very brief period of time. The meeting was adjourned when I tried to ask questions. It was a farcical charade, and now we see the result of it. The results are very clear, and someone has to take the responsibility.

Mr. Speaker, the leadership is not just Mr. PORTMAN from Ohio, Mr. MILLER from Florida, Mr. ZELIFF from New Hampshire, Mr. CLINGER from Pennsylvania, Mr. MICA from Florida. The leadership starts at the White House, the highest level.

Tomorrow I have to do something that I wish I did not have to do, but as chairman of the House Civil Service Subcommittee that overseas our Federal employees and our Federal work force, I have to hold hearings tomorrow on the question of the employment of individuals to the highest office of the land, the White House.

We are not talking about some little remote Arkansas community or some Third World country. We are talking about the White House, the highest office in this land. I am holding hearings tomorrow to find out why our chief law enforcement agencies, the FBI and the Secret Service, became so concerned about people who were coming into this administration, who were not taking background checks, who could have access to national security, who could be advising the Chief Executive of the land who makes the decisions about what we do on an instantaneous basis, what prompted them when they testified before us that these folks that were coming in had recent histories of not just—we are not talking about marijuana 20 years ago. We are talking about hallucinogenic drugs. We are talking about cocaine. We are talking about hard narcotics and subverting the process. Do we need a law to protect us from this type of situation?

So I will chair that hearing, but it is with great dismay that I have to examine the highest office of our land in this fashion and bring this into question but provide in fact, as my responsibility as chair of this committee, as part of the oversight responsibility of this Congress, to see what is going on in the highest office of our land, and to see that our national security is protected and to see that future White Houses have the respect of this Congress and of every citizen. If our highest office sets our lowest standards, what have we come to in this Nation?

So, again, I commend the gentleman. He has been outspoken. He has been persistent. He has been productive because he has helped get the attention of the Congress, of the leadership. He has helped us put Humpty Dumpty back on the wall and back together again; and, hopefully, hopefully, my children and children of people around this country will have a safe street; will have safe schools, where we are not employing another law enforcement officer at the school and following the arts teacher and the music teacher and the teachers that we need; where we can walk our streets as free Americans; where seniors do not have to fear walking outside in their own streets and neighborhoods and only go out in daylight.

So I thank you for shedding light and for the leadership of the gentleman from Ohio [Mr. PORTMAN]. I thank my colleague, my dear friend from Florida [Mr. MILLER], for his leadership and I yield back.

Mr. PORTMAN. Mr. Speaker, I commend the gentleman from Florida [Mr. MICA] for putting this in perspective for us and also for all the time and effort that he has put into this issue. He has become a true expert on it. He is one of our leading policy makers on this issue now, and I wish him luck in his hearing tomorrow in getting some answers.

We have a little time left, and I would like to yield to the other gentleman from Florida who has joined us.

Mr. MILLER of Florida. Mr. Speaker, my friend from Florida was talking about the tie-in between crime and drugs and the need for the leadership at the top. When the President of the United States, as we have said, laughs about whether he would do it again, he says, sure if I could, I tried it before. When the spokesman for the White House says, when asked about marijuana, quote: I was a kid in the 1970's, did I spoke a joint from time to time? Of course, I did.

They do not say it is wrong. They do not say it was a mistake. They do not apologize for it. They just kind of laugh it off.

Starting with marijuana is where we have to attack the problem, and that is where moral leadership is so important. There was a study out by Joseph Califano, the head of the center on addiction and substance abuse. He was Secretary of HHS under Jimmy Carter, a Democrat. A teenager who uses marijuana is 85 times more likely to graduate to cocaine than those who abstain. The percentage of children who are using marijuana that graduated from high school in 1992, 22 percent of graduating seniors had used marijuana during the past year. Last year, in 1995, that increased to 35 percent, going from 22 to 35 percent in 4 short years.

Mr. Speaker, let me read what Joseph Califano said, quote: The jump in marijuana use among America's children from 1992 to 1994 signals that 820,000 more of these children will try cocaine in their lifetime. Of that number, about 58,000 will become regular users and cocaine addicts.

It is terrible what is happening. I wish the President would put as much focus on drugs as he does on tobacco. Tobacco is wrong. I oppose some of the programs in tobacco, too, but focus on drugs that are killing people at the youngest age and that is cruel to the kids and the families and the communities today.

I thank my colleague for having this special order. I appreciate the possibility to have been able to join with you.

Mr. PORTMAN. Let me add, Mr. MILLER, what I view as a hopeful statistic to those that you have mentioned. That is, if you can keep a kid drug-free until that kid is 19 years old, then he or she has a 90-percent chance of being drug-free for the rest of his or her life.

Those are those critical years, those teenage years. This is why, as I said earlier, it is tragic that this drug use is occurring at an earlier and earlier age. We talked about the eighth graders. In a typical class of eighth graders, five kids have now tried marijuana. What we have got to do is address this problem at every level. Mr. MICA talked about it in terms of interdiction, source country, treatment, our criminal justice system, and finally prevention and education.

Mr. Speaker, I would again like to close by saying that it is my view that part of what we need to do is to increase our efforts at the community level, the grassroots level. It is a philosophy that I think is very consistent with where this Congress is headed in terms of giving people more a sense of personal responsibility, the sense that our communities are where we are going to solve a lot of our problems.

Certainly, the drug problem is one of those. I urge all of my colleagues to do whatever they can, not only at the national level where it is very important but also in their communities, in their homes, in their neighborhoods, in the school districts they represent, to attack this problem. We know it can help. We know it can begin to reduce the dramatic increase in drug use that we have seen since 1992. And with that, Mr. Speaker, I yield back the remainder of my time.

IMPACT OF CHERNOBYL DISASTER ON NATION OF BELARUS

The SPEAKER pro tempore (Mr. COBLE). Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I know that I will be joined by some other colleagues to talk about education cuts and the effect of Mr. Dole's economic plan on education programs in the Nation.

Before my colleagues join me, I would just like to take some of the time here during this 60 minutes to talk about another issue unrelated to the issue of education but an important issue to many constituents in my district.

This Saturday I will be appearing at a dinner sponsored by members of the Belorussian community in my district in New Jersey. They will be raising money for the victims of Chernobyl, of the Chernobyl nuclear accident which took place about 10 years ago now.

Mr. Speaker, I just wanted to detail, if I could, for about 5 minutes some of the problems that resulted from the Chernobyl disaster in the country of Belarus and also talk about some of the problems that that nation now faces to its very independence.

On April 26, 1986, reactor No. 4 of the Chernobyl nuclear power plant caught fire and caused an explosion of epic proportions. This explosion measured 7 on the 7-level scale of nuclear accidents in comparison to the Three Mile Island accident, which measured 5.

Although one decade has passed since this explosion, the aftermath and truth remain very clouded about what happened. Even though this explosion spewed highly radioactive elements into the atmosphere, the Soviet Union, or the government of the then-Soviet Union, remained largely silent. Twelve hours passed before the Kremlin leadership created a government commission to respond to the blast. It took an additional 24 hours before they began to evacuate the nuclear plant's company town.

□ 1630

And 48 hours after the meltdown, the government publicly announced the Chernobyl explosion. This announcement told the victims very little. It was not until August of that same year that the Soviets announced that 50 million curies of radiation had been released by the Chernobyl nuclear reactor. Current research states that the actual amount of radiation spewed by the power plant ranged from 150 million to 200 million curies. In comparison the Three Mile Island accident released a mere 15 curies.

Years have passed and the Soviet Union is no more, and Belarus and neighboring nations such as the Ukraine are still suffering from the sickness and misery from that accident. I am particularly concerned about the state of the millions of children who suffered and continue to suffer from the effects of radiation and who will probably suffer most of their lives from the long-term effects of radiation. The medical, environmental, and psychological effects still plague the affected regions which, as I said, include parts of Belarus, Ukraine, and Russia. A study in the Nature Journal states that children born in Belarus in 1994 to parents who lived in the area during the meltdown suffered from twice the normal rate of a specific type of mutation. Germline mutations, found in sperm and egg DNA, are being passed on from generation to generation. The World Health Organization speculates that one in every 10 children living in the irradiated zones during the summer of 1986 have contracted thyroid cancer.

In addition to the medical effects, the impact of the environmental damage is still felt today. The 1986 meltdown contaminated 100,000 square miles of once arable farmland. This encompasses approximately 20 percent of all of Belarus, 8 percent of Ukraine, and 1 percent of the Russian Federation. The irradiated soil poses seemingly endless problems for these countries' agrarian communities.

I do not want to keep talking about this terrible disaster and its effects all day. I think that it is, it is really important and it is certainly commendable that my own constituents who are Belarusan Americans continue to make the point that we must address the problem of radiation in the aftermath of the Chernobyl explosion. They continue to raise money for the victims. They continue to be concerned about the victims and help them with medical supplies and other needs. That effort needs to continue. This country certainly, both on a government and on a nonprofit private basis, needs to continue to help the victims and their children.

I also wanted to point out today, though, just as we must continue our international efforts to assist Belarus in the aftermath of Chernobyl, we must show our staunch support for that nation's independence. Belarus does not receive much attention in the media. Many of, most Americans probably, maybe not, maybe they do not even know where it is. But a recent New York Times editorial underscores the imminent dangers posed by the President of Belarus, Mr. Aleksandr Lukashenka.

Shortly after Belarus freed itself from the oppressive clutches of the Soviet Union, this newly independent nation began its transition to a stable democracy. This 5-year political and economic progress may come to an abrupt halt if we do not press the current President to change his ways. President Lukashenka has actually proposed the reintegration of Belarus with Russia.

In response to this new reintegration plan, 15,000 members of the Belarusan Popular Front marched in opposition to the threat of reintegration. These marchers fear that President Lukashenka will in fact relinquish Belarus' current democratic sovereignty.

I just wanted to read, if I could, some sections of the New York Times editorial that was dated August 31 of this year that is entitled "The Tyrant of Belarus." It talks about the undemocratic manner in which President Lukashenka is conducting his leadership in the country.

Last year Interior Ministry troops broke up a parliamentary protest against the President's leadership and bludgeoned 18 lawmakers. Imagine for those of us who are Members of the House of Representatives and who really do not have to even fear, I do not think in most cases, the possibility of being attacked, in this case the executive of the country actually came into the parliament building and was attacking lawmakers.

This President has thrown political opponents in jail, closed independent newspapers and reimposed Soviet era restrictions on travel abroad. Fearing imprisonment or worse in this new police state, two opposition political leaders recently asked for political asylum in the United States and Washington promptly granted the request to ensure the safety of the two men.

I am not sure I am pronouncing it properly, but they are Zenon Paznyak and Sergei Nayumchik. Essentially, I am proud of the fact that the United States did grant them asylum. Mr. Lukashenka is also rolling back many of the economic reforms initiated in the first months of Belarusan independence. He has frozen the Government's privatization program and slapped banks with strict state controls threatening to nationalize many of them. These measures can only further destabilize an economy that shrank 10 percent last year and has left many Belarusans impoverished. The debt relief and economic bailout Mr. Lukashenko hopes to get from Russia are not likely to materialize, and alarmed by developments, the International Monetary Fund has sensibly delayed a $300 million loan.

Just one more section from the New York Times article editorial. They say:

> It may be too much to expect Boris Yeltsin and his colleagues in the Kremlin to press Mr. Lukashenka to change his ways, but the United States and democratic nations of Europe should make their concern plain to him. The rising of a new dictatorship in the heart of eastern Europe must not be ignored.

We certainly do not intend to ignore it, and it is one of the reasons that I am here today pointing it out. As a Congressman representing a large Belarusan-American community and a supporter of those members of the Popular Front, I strongly believe that we must act to prevent this new union of Russia and Belarus. We cannot allow a new autocratic regime to rise up in the midst of Eastern Europe's struggle toward democracy.

I recently introduced House Concurrent Resolution 163, which supports the newly independent and democratic Belarus for which generations of Belarusan patriots fought and died. This resolution urges Members of Congress to unanimously call upon the entire population of Belarus and all Belarusans throughout the world to defend statehood and democracy of Belarus, help sustain the country's Constitution, prevent the loss of its hard won nationhood and encourage its chance to survive as an equal and full-fledged member State among the sovereign nations of the world.

I promise to continue to support Belarus in its advancement toward stability and democracy, not the turn that its current president has taken us.

EDUCATION CUTS

Mr. Speaker, with that, I will end my discussion of Belarus and the concerns that I have expressed and turn to the other issue that I would like to discuss and I believe we have some of my colleagues that will be joining us later. That is the issue of education cuts and the impact of the Dole economic plan on education, on Federal education policy.

If I could just take a minute, Mr. Speaker, and point out that earlier this week, we received another indication of not only Mr. Dole but also the Republican leadership's view of Federal education programs.

On Tuesday the Senate majority leader, TRENT LOTT, denounced congressional Democrats for their push to restore $3.1 billion in education and job training funding, saying "I cannot, as leader of the majority, allow the minority to throw out their political garbage one after the other and expect our people to just bat it down repeatedly with votes."

Mimicking the process which characterized last year's budget debate when extremists shut down the Federal Government two times, Republican leaders are now backtracking from Senator LOTT's statements and reportedly are considering a watered down version of the Democrats education agenda.

My point, Mr. Speaker, is that education should be a priority for this Congress and for the Federal Government, if we are going to talk about our future as a country and the future of our citizens, education and the role of Federal education is very important, the role of the Federal Government and our ability to influence and help States and local governments at the secondary school level and also our ability to help those who would like to go on to college or to university for either undergraduate or graduate degrees. Senator LOTT's statement indicates that when it comes to the Republican leadership on education, the old adage about teaching old dogs new tricks is true. It simply cannot be done.

They essentially tell the American people that they understand how important education is and they rail against the Democrats for accusing them of not wanting all Americans to be educated, but then they push plans to gut education programs.

I only have to reflect back on what has happened over the last 2 years to give an indication of how the Republican leadership has deprioritized education in this Congress. We can even really skip over the cuts of 1995 and just talk about the current year 1996.

In the fiscal year 1997 budget resolution that would essentially take effect October of this year, 1996, funding for education and training programs is essentially frozen below the previous year's fiscal year levels for 6 years. So what we have is essentially that when adjusted for inflation, we have a 21-percent reduction in Federal funding for education over the next 6 years, by the year 2002, providing no assistance for helping schools meet projected enrollment increases of 12 percent over the next decade. So what the Republican leadership is saying to us is, even though they understand that there are going to be more students, there is going to be a larger enrollment, that they are going to freeze funding for education programs.

In other words, the Republican plan is basically to provide less as the demand for education assistance increases around the country. In many school districts, such as New York City, where the school year opened with closets doubling as classrooms due to a lack of space, there is already immense suffering from skyrocketing enrollments.

It is not the time to cut back on education funding or even freeze funding at previous fiscal year levels. The House-passed fiscal year 1997 education appropriations bill includes cuts spanning the entire spectrum of Federal education programs from preschool students trying to get a jump on life through Head Start to the high school student looking for some assistance to get to college.

Under the bill, funding for title I supplemental education services would be frozen, denying assistance to 150,000 fewer children than in fiscal year 1996, simply because the same services will cost more in 1997. The Goals 2000 education reform program, which President Clinton has talked about and basically introduced, would be eliminated, denying reform grants to 8,500 schools serving 4.5 million children across the country.

At the same time the Republicans attacked the President on the issue of drug abuse, and we have heard that repeatedly today, they continue to push an education bill that cuts the safe and drug free schools program by $25 million, weakening our ability to educate our children in safer, drug free environments.

I am sick and tired of hearing my colleagues on the other side of the aisle talk about funding for drug abuse and then come in here and cut the very programs that would prevent drug abuse, particularly on behalf of the young people.

With respect to higher education, the Republican bill allows for a mere 1.2-percent increase in the maximum Pell grants award compared to the administration's proposed 9.3-percent increase. Federal contributions for Perkins loans would be eliminated, thereby denying low-interest loans to 96,000 students in the coming year.

These are the very programs that allow students who cannot afford to go on to higher education, Pell grants, Perkins loans, and also the AmeriCorps Program. The AmeriCorps Program was a program that was proposed and enacted into law under President Clinton that basically allows students to do volunteer service in the community, and that service is used to pay back their loans. It is a new source of funding to pay for higher education. But the AmeriCorps Program would be terminated under the Republican appropriations bill. Through the back door the GOP would realize its long desired dream of effectively ending the Direct Loan Program by reducing the funds to administer it. The Direct Loan Program is another innovative program that instead of going through lenders, banks, to get a student loan, the university administers the loan program directly. It allows for more students at various colleges and universities to get loans, basically expanding the amount of loans that are available because you do not have to use the middle person. Again, they are trying to reduce that, reducing the funds to administer. That would mean that a lot of colleges and universities simply would not be able to have the direct loan programs.

These programs that I mentioned, the ones that give our youngest children an early start on life, that teach our disadvantaged students how to read and write and solve mathematical problems, that keep drugs out of our schools, that expand access to higher education and that send our children to college, are the ones that Republicans would have you believe are, to use the words of the Senate majority leader, "political garbage."

I obviously could not disagree more with that statement. They are not political garbage. It is important that the funding be increased for those programs in this year's appropriations bill, and it is important that over the long term, that we expand educational opportunity through student loans and the rest of these devices.

I just wanted to say a little bit about what the Republicans have been trying to do since they controlled Congress. On the other hand, we see the President and congressional Democrats coming up with new ideas to try to expand educational opportunity and provide good funding and new innovative programs to expand educational opportunities.

☐ 1645

Just to give you an example of that, and I have talked about it before on the floor, in July the administration announced a school construction initiative to improve the physical infrastructure, the actual buildings in which our children are taught over the next 5 years. Last month the President announced the America Reads challenge, which proposes to make every child in the country literate by the third grade. And then the congressional Democrats have the Families First agenda that basically provides American families a $10,000 tax deduction for college and job training, and we have also proposed to provide a $1,500 tax credit for the first 2 years of college for students who work hard, keep a B average and basically stay off drugs.

What we are doing as Democrats essentially is trying to see how we can come up with innovative ways, whether it is through the Tax Code, whether it is through loan programs, whether it is through grant programs, to try to expand educational opportunity, and I think it is quite clear that there is a major contrast between the President and Mr. Dole on this issue.

I see that one of my colleagues has joined us, Mr. HINCHEY from New York, and I would be glad to yield to him at this time.

Mr. HINCHEY. Mr. Speaker, I was listening to the remarks that the gentleman was making about education and the need for improving the quality of our education here in United States, and actually that is an ongoing process. Improving the quality of education is something that has been happening here since the very beginning, and it is an evolutionary process and will continue to be so. We will never be at a condition when we have done everything perfectly with regard to education, but the fact of the matter is that in this particular Congress, over the course of most of the last 2 years we have seen a compilation, frankly, of what can only be called a shameful record on the issue of education.

Just for example, last year the congressional leadership here in this House produced a budget resolution that called for the largest cuts in Federal funding for education and job training that we have ever seen in the Nation's history. Also, that same budget resolution attempted to sharply limit access to student loans, making it much more difficult and in some cases, many cases, frankly would have made it impossible for young people to get a college education.

The Federal Government shut down in part last winter because the majority party here insisted on cutting elementary and secondary education programs by $3.3 billion, and they did that in order to finance a tax cut for the wealthy. The Government shut down because the President said no to that. The President said that it would be a shocking retreat from our education responsibilities to cut back on the Federal funding of education by $3.3 billion. Not only would that make education more difficult and less meaningful and less accessible to millions of American children, but it would also force up local real property taxes around the country.

In New York and in New Jersey education is financed in large part, frankly too much, by the real property tax, and whenever the Federal Government cuts back on its funding, its contributions to elementary and secondary education, the result is that education suffers but also real property taxpayers, senior citizens on fixed incomes, end up paying more that they cannot afford. So it is really a transfer of taxing obligation from the Federal Government to the local government, from the broad-based Federal taxes which are much fairer.

I mean, no one likes taxes. Taxes are never popular. But at least the taxes levied by the Federal Government are in almost every instance broad-based, progressive and much fairer than local real property taxes. And so when you have this transfer of obligation for funding from the Federal Government to the local government, you also have a shift in taxing obligation, and you shift the cost of education from the broad-based, more progressive Federal taxes to the more narrowly based, more regressive local real property taxes.

That is another aspect of this budget resolution that the President vetoed and the majority here insisted upon for week after week. Ultimately they lost because the President would not give in to them, but they attempted to blackmail the minority here in this House, they attempted to blackmail the President into signing those terrible budget bills which would have done the things that we are talking about here.

So that is part of the record here. And then, furthermore, still ignoring that quality education is a top priority for America's parents, Congress passed a budget resolution in 1996 that will result in a real cut in educational services all across the country by 20 percent over the next 6 years.

Now that is the attitude that this majority has in this House on education. That is the record, and I think it is a shameful one. The House leadership has turned the 3 R's of education, which are reading, writing, and arithmetic, into retraction, reduction, and retreat. That is what they would do with the educational system here in our country. Fortunately, we were able to prevent them from doing it by the President's veto and our ability to sustain that veto. So by putting a freeze on Federal education spending, we would be denying our children opportunities to succeed in the workplace.

Now supporters of the fiscal 1997 budget resolution and the House-passed appropriations bill are ignoring the realities of education today, and what are those realities? First of all, enrollment in elementary and secondary schools will grow by 7 million students between 1993 and the year 2005. So the burden on elementary and secondary schools is not going to decline, it is going to increase. We are going to have more students in school, and we need to educate them. That is a basic responsibility of any society, to educate the next generation. This government, this majority in this House, wants to wash its hands of that responsibility completely and pass it on to somebody else.

What else? United States schools need right now $112 billion to repair or upgrade dangerous facilities. That is not to make the schools shining and perfect and lovely, as we all might want them to be. That $112 billion is the cost of repairing facilities so that they would no longer be dangerous.

Our young people face a job market that is more competitive, more technologically advanced than ever before. We should be preparing our children to meet these challenges, instead of removing critical funding from our school system and slashing student loans.

The Senate has one last chance to keep the doors of educational opportunity open for our children and maintain our investment in the future. Follow the lead of Senate Democrats and restore $3.1 billion in education and job training funding to the Labor-HHS-Education appropriations bill. That is what you support, that is what I support, that is what most of us in our party in this House support, and that is what I think we need to do.

I call on all of the people in this House to break with the extreme agenda of the leadership here and listen to what American families are saying. Education is a top priority in households across the country, and it should be a top priority here in Washington. We are doing precisely the wrong thing by reducing funding for education, if that is what they succeed in doing. They would be doing exactly the opposite of what we ought to be doing. We ought to be promoting the best quality educational system that we can afford. We should be ensuring that every child has access to good quality education from Head Start through college and on to graduate education, if they have the ability and the interest to do so. Advanced degrees are going to be critically more important in the future.

My 9-year-old daughter will be engaging in various kinds of activities in whatever professional pursuit she follows, things that we can hardly imagine today, because of the technological advancements that we are experiencing. We are moving into an era that is less and less dependent on natural resource industries and more and more dependent upon intellectual resource industries. We need the next generation to be highly educated and well trained and sophisticated in their approach to the job market and the marketplace, and we have a responsibility now, those of us who are serving in these positions now have a responsibility, to ensure that they have those opportunities, and if we fail to meet that responsibility, then our country will be a much different place as we enter the 21st century.

Mr. PALLONE. I thank the gentleman for joining me and pointing out not only what we have seen in the last 2 years under this Republican leadership in Congress and the negative impact on education programs, but also how important it is for the future to make sure that education remains a priority for the Federal Government in Federal funding.

And one of the reasons that I took to the floor this evening, and I know you did too, is because of our concern that if you look at Mr. Dole's economic plan, that it would force even further reductions in education spending and again deprioritize, if you will, education in terms of the Federal role.

Just to give an indication of that, there was an independent analysis of Mr. Dole's economic plan by Business Week, the Concord Coalition and others, that showed that his risky plan would require 40-percent cuts in a broad range of domestic programs, including education, and what they are saying is that a 40-percent cut in education and training would mean 300,000 children could be denied Head Start preschool opportunities, 5,800 local school districts could be denied safe and drug-free school services, 9.700 young people could be denied AmeriCorps national service opportunities and 1.5 million students could be denied Pell Grant scholarships.

So what we would see, the very concerns that we have over what is happened the last 2 years with some of these important education programs, would only be magnified much more if Mr. Dole's economic plan was put into place, and I do not see how the Federal Government can essentially get out of the role of helping with education programs and leave that responsibility in terms of the funding to the States and the local governments, because, as you say, the end result would be that State and local taxes could simply increase, particularly local property taxes, because so many States, including my own State of New Jersey, rely primarily on local property taxes to pay for education programs, and if they do not get Federal help to supplement State help, they would just either have to cut back significantly or raise their local property taxes in order to pay for those same programs just to keep going, just to keep the existing programs going.

Mr. HINCHEY. No question about it. I mean the interesting thing about—actually there are many interesting things about Mr. Dole's proposals—one of the interesting things about his proposal for an almost $550 billion tax cut comes about when people ask him how is he going to do that: How will you cut taxes by $550 billion? What are the programs specifically that you will cut?

Well, he does not come up with specifics. He does not tell us what he is going to do. What he says is: "Trust me, where there is a will, there is a way."

And I have heard Jack Kemp say that exactly that way: Where there is a will, there is a way. And Bob Dole has the will; I do not doubt that. I do not doubt that for one moment. I am convinced that Bob Dole has the will to cut Medicare so that it no longer is able to serve our elderly citizens' health care needs, to gut Medicaid so that people who need health care, around-the-clock supervision in nursing homes, people who are elderly, frail elderly, people with total disabilities will be thrown out on the street. I do not doubt that he has the will to do that.

I do not doubt, either, that he has the will to cut education, because they have tried to do it. They have tried to cut education. We have seen them do it in this Congress here this year and last year. We have seen them try in every way they could. We stood in their way and prevented them from doing it, but they tried everything they could to cut education.

One of the things about that that astounded me the most was when they tried to cut the Eisenhower Teacher Training Program. That has been around for a long time. I was a sailor, a white hat sailor on a tin can destroyer in the western Pacific sailing in the Straits of Taiwan when the Soviet Union launched something called sputnik. It was the first satellite ever launched. Dwight Eisenhower was President of the United States, and it was a wake-up call to the President and to this Congress back then in the late 1950's.

□ 1700

What they did was they decided that they needed to concentrate more on education, and particularly on education in mathematics and science, in physics. So the Eisenhower education program was started to do a very good and very important thing. That was to ensure the best quality teachers in our high schools to teach young people in mathematics and algebra, in calculus, in trigonometry, in physics and basic physics and applied physics, and in other scientific pursuits, so that we could not only compete with the Soviet Union, the then Soviet Union, but surpass them.

As a matter of fact, that program was successful, because we did precisely that. We went on not only to catch up to the Soviets in the space program, but to go far beyond them, surpass them by leaps and bounds. Now the situation is that we are cooperating with them in space today.

But that cooperation would never have come about if the initiative had been left to them. That cooperation has come about only because we surpassed them, because we were better than they were. We then invited them to participate with us, as this very generous Nation had done many times in the past with other people.

But now this Congress wants to eliminate even the Eisenhower education program. That has been a target on their cuts. One of their Presidents, one of their heroes, one of the people that the American people elected who served us well for 8 years in the Presidency in the decade of the 1950's and established this very foresightful, meaningful, important and successful educational program, they want to cut that as well. That is ow far they will go. It is astonishing, I think.

Mr. PALLONE. The amazing thing about it, too, is that it is not that the Democrats do not want to see tax cuts. Essentially, the difference is that we are talking about targeted tax cuts, or tax credits that would actually improve education, in other words; and I know the gentleman shares my feeling. We feel that if there are going to be tax cuts or there are going to be tax credits, they should be used in a very targeted way to help, to help education, to help with environmental concerns, and that what we do not want to see is just tax breaks that primarily go to wealthy individuals and do not help the average person.

When I was talking about these two tax cuts, the Hope scholarship for the first 2 years of college that the President has proposed, $1,500 for your first 2 years, and the $10,000 tuition education tax deduction, when I talked to my constituents about those kinds of tax breaks, they think they are great, because they know that paying for higher education is very difficult. They see that as a way of the Federal Government actually using the Tax Code, if you will, to help improve education and educational opportunities.

Democrats would like to see tax cuts or tax initiatives that actually give a break to individuals, but we want to use them in ways that are going to help our constituents, and not just throw money toward the large corporations or wealthy Americans.

Mr. HINCHEY. That is exactly right. It is the kind of thing we support. I think that is intelligent. I think it is intelligent to provide tax support for people who want to provide their children an education to be able to deduct those costs.

The cost of a college education, I think, makes eminently good sense, obviously, for the young person in that family, for the family itself, but also, very importantly, for the entire country, because our society benefits every time we graduate another person from college, another person with an advanced degree. That person goes out, applies that learning, and it is a synergistic effect.

It is a situation where all of this education coming together, working out there, higher and better education all the time, creates a circumstance where the whole is more than the sum of the parts. It is a very good investment, indeed.

But these guys here, the Gingrich crowd in this House, they have never seen a problem that a tax cut for a millionaire would not solve. They have never seen a problem that they do not want to throw a big tax cut out to the wealthiest people in the country. Their solution to every problem is, find the richest people you can in the country and cut their taxes, and that will solve your problem, because it is the people that they represent.

They have turned their back on middle class America, they have turned their back on the working people of this country by trying to cut their health care and the health care for their parents and grandparents, they have turned their backs on them by trying to cut the educational opportunities for their children, but they never turn their backs on the millionaires. They are willing to cut taxes for them every opportunity they get.

Mr. PALLONE. The amazing thing, too, if I could add, is that the President has been expanding these educational opportunity programs, you know, starting AmeriCorps, the National Service Program, moving to a direct lending program, increasing the amount of money for Pell grants, at the same time that he is reducing the deficit. The deficit, the actual deficit, has actually been going down every year since he has been in office.

The reason you can expand programs, I will use the direct student loan program as an example. I think we talked about it before, how you are actually eliminating the bank as the middle person, so the money, if you will, that will have gone to pay for the bank's administration of services now goes to the college or university directly to pay essentially for more students to get a loan. So you are actually saving the taxpayers money.

You are eliminating the special-interest middle person, if you will, and the reason that the Republican leadership has been opposing that is because they get money from the special-interest bank or savings association, whatever it is, that actually is making that extra dollar; and, instead, you could abolish the middleman, save money for the taxpayers, probably millions or billions of dollars, and give more students direct loans.

That is what is amazing to me, that you have seen this administration actually expand the programs and give more educational opportunities at less cost and bring the deficit down.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Ohio

Mr. BROWN of Ohio. Mr. Speaker, I appreciate the gentleman's leadership, and that of the gentleman from New York, and the work they have done on continuing to get education finally on the right track in this country.

We as a nation have come to a consensus pretty much about the role of local, State and Federal Government in education. No one in this body, certainly on the Democratic side, but I think on the Republican side, too, thinks that the Federal Government should come in and take over the schools and run all the schools' programs. But we have come to a consensus in that local government, by and large, controls the schools.

State government does much of the funding for education. But the Federal Government's role is very important and very precise. It is some support for Head Start, it is student loans, it is programs like drug-free schools. It is helping community colleges from time to time with Federal money. But it is limited.

What we have done is, we have protected, tried to protect that consensus. The leader of the other body, Mr. LOTT's comments were particularly amazing when he talked about education and job training as garbage amendments that Democrats want to put in bills. I do not quite understand what he meant, but I understand his attitude.

His attitude is that programs like drug-free schools and programs to help community colleges, like Lorain County Community College in my district, which is really the jewel of our county in terms of training a lot of people that are not just in their teens but in their twenties and thirties, going back, working full-time, going back to school and preparing for the future. That is so important.

We are finally, with the President's leadership and people like the gentleman from New Jersey, Mr. PALLONE, and the gentleman from New York, Mr. HINCHEY, in this House, aiming education in the right direction: giving tax breaks to people for college tuition, so middle class families can send their kids on to school; providing student loans and strengthening the direct loan program, as you suggested, Mr. PALLONE, so the middleman is cut out, and we can give those loans directly and not see banks and others basically take their cut off the top of these student loan programs or of these student loans.

One of the things that the President said, I think that makes the most sense with the Families First agenda and in the President's agenda, in the President's plan, is a 2-year college scholarship for students who maintain a B average.

In Elyria, OH, in my district, there is Lorain County Community College. That opportunity for students has given Lorain County the highest rate of 2-year associate degrees of any county, I believe, in all of Ohio. It has prepared people for all kinds of good employment, given people all kinds of opportunity.

I also know people that are going to LC, to Lorain County Community College, that have really struggled, because they have not been able to put together the money and raise their children while they are working. They have done all they could do to come up with money to go to school. They sometimes have been in and out of Lorain Community College and not been able to continue their education, uninterrupted.

The President's program will make sure that we are on the right track to be able to do that, so Lorain County Community College can continue to provide the sort of opportunities to get people, to get them into the middle class, to allow them to continue to stay in the middle class when their job is downsized and their company cuts back, as is happening all over this country.

For us to follow Mr. LOTT, the Republican leader of the other body, his idea to just junk some of these education programs and this job training, makes no sense. If we are going to compete internationally, if we are going to compete around the globe, we cannot cut education. We cannot end the student loan program. We cannot cut out the Pell grants. We cannot cut out the drug-free school programs and defund Head Start and some of these programs that have really simply provided an opportunity for America's middle class and poor kids.

There is nothing more important that government can do than provide opportunity, nothing. The best programs that come out of this institution, the best direction of government, is to help people have opportunity. Lorain County Community College has done that in Elyria, OH. All kinds of community colleges and other schools around the country have done that.

We have no business ever restricting opportunity. We should work toward expanding opportunity with student loans and tax breaks for parents in middle-class families to send their kids on to school, whether it is a 4-year university or a community college. It just does not make sense to do anything otherwise.

Mr. PALLONE. Mr. Speaker, I agree. The amazing thing about it is that we continue to hear statements during this presidential campaign from Mr. Dole saying how he is going to be the education President, or that he is going to prioritize education.

Yet we know from his own record that he has consistently voted against expanding education programs and that the President, President Clinton, in the last 4 years has probably done more to expand educational opportunities, particularly at the higher education level, college and for graduate programs, than anybody else.

I just saw it myself, but twice he came to my district in the last 3 years or so and talked about, he was at Rutgers University on both occasions, and talked about the National Direct Student Loan Program, the AmeriCorps Program. I have actually witnessed students that are involved in these programs, and they are just very helpful. They are not only helpful in terms of helping the students, but they also help the community.

For example, we have AmeriCorps students in some of the secondary schools that are basically supplementing the programs, the normal education program students get in school; you know, basically providing them with extra instruction after school or whatever. We have AmeriCorps students that have been working on clean water projects, basically testing the water in the Raritan River and looking for ways to try to do better, further cleanup.

So that program, just as an example, is one where students get money for college or pay back their loan. They are working in the community, so they build up a community spirit. At the same time, they are actually accomplishing something that helps people.

Mr. BROWN of Ohio. Mr. Speaker, if the gentleman will continue to yield, the gentleman said this benefits the community at large. There are about 40 million Americans today who have gotten some student loan or grant assistance from the Federal Government to further their educations. Some 40 million Americans have gotten this, whether it is the GI bill, Perkins, or some other program, direct loan, through the Federal Government, sponsored by the Federal Government, whatever.

Think, if the Government had not been involved in any of these, the GI bill or the student loans of any kind, or Perkins or whatever, think how many of those 40 million would not be able to contribute to the community the way they are doing. They are scientists, teachers, nurses, people who are working as electricians, people doing all kinds of things to make this society a better place.

If we had not provided those loans from the 1940's on, or those grants from the 1940's on, where would we be as a society? For us, all in the name, as Mr. HINCHEY said, in order to give tax breaks to the richest people in those countries, the only way to pay for those tax breaks, as the gentleman from New Jersey [Mr. PALLONE] has said on the floor, would be to cut Medicare, cut student loans. It is unconscionable.

To give tax breaks to the tune of $500 billion, as Mr. Dole is suggesting, or the $300 billion that the gentleman from Georgia [Mr. GINGRICH] has suggested, and tried to get through this House time after time after time, and actually shut down the government over, to give those tax breaks to the wealthy, the only way to pay for it is cuts in Medicare and student loans.

Why would we sacrifice potentially tens of millions of students who could benefit in the next decade or so, who could benefit from student loans, direct student loans, and various kinds of Federal grants and loans, why would we sacrifice them so we could give a tax break, mostly to people who do not need it, people making $250,000 to $300,000 a year?

Also they could give this break and really restrict the opportunity that millions of Americans, middle-class Americans and poor kids, would have in the next decade or so.

Mr. HINCHEY. There is an irony here also that should not be lost. There are a great many people in this Congress, including a great many who are advocating the abolition of student loans, or to make student loans more difficult, or the abolition of Pell grants, or to make Pell grants more difficult, or cutting of education in various ways, who themselves would not have had the opportunity for education if it had not been for the GI bill, say, for example, or Perkins, or a Pell grant, or something of that nature.

There is something terribly ironic and difficult to understand about that, how people who are here by virtue of the fact that they had help from the public purse in some way, at some point in their life, to expand themselves, to expand their careers and expand their opportunities, now want to deny that to another generation.

□ 1715

I think that is terribly perverse at best. The example of student loans is just another one that I think just cries out for understanding. Where is the logic here, unless it is that you just want to provide a few extra dollars to some banker to make it more costly for a student to get an education, to make it more costly for the taxpayer to help provide educational opportunity for the next generation of Americans. And in denying that taxpayer the opportunity for a little lower taxes and denying the student the opportunity for education, you simply are just transferring that benefit to some banker who does not need it, by introducing some third party into the student loan process.

I think that making the student loans direct was one of the simplest yet one of the most effective things that the President has done with regard to the availability of higher education. I applaud him for it. I think anybody who recognizes the value of that program does the same.

Mr. PALLONE. I know from my own experience that there was no way that I would have been able to go to college or law school or graduate school without a combination of the student loan program, scholarships from the college or graduate school that I went to as well as the work study program. In fact, when the session began 2 years ago, the Republican leadership was also talking about either abolishing or cutting back significantly on the work study program. Again, how absurd.

Mr. Speaker, here we have students working their way through college. You would think that would be the epitome of a type of program we would want to keep, a work study program, but they were talking about cutting back on that. Plus a lot of people will say to me, particularly if they go to a private school, they will say, I got a scholarship from the private school or from an individual that donated money to the private school. But the fact of the matter is that a large portion of the money, whether they are private or public institutions, given out in scholarships, in other words, when a student gets a scholarship from the university, be it private or public, a lot of that money is also coming from the Federal Government. So it is not just the Pell grants, the Perkins loans, or the student loans. Even the money that is coming directly in scholarships from the college oftentimes a lot of that is coming from the Federal Government as well.

Mr. BROWN of Ohio. It is so shortsighted to think about making cuts in education, whether it is the student loan, the drug free schools program that, while Senator Dole runs around the country talking about drugs and illegal drugs that we have got to deal with it, and he votes and leads the charge against with Mr. GINGRICH, the leader of this House, to try to cut back on the drug free schools program, it is just so shortsighted.

When you think of what, as a nation, are we going to do if we cut these kinds of programs, these kinds of opportunities for kids to go on to school, whether it is a 2-year school, a 2-year community college, or 4-year degree at a State university or whatever. Interestingly, one of the things, as Mr. Dole has gone around the country talking about his $550 billion tax break, which is going to make these education cuts even worse that Mr. GINGRICH and Mr. Dole have already tried to pass through this institution that the President has vetoed, but as he has gone around the country talking about this $550 billion tax break, mostly for the wealthy, he has also promised group after group after group that he is not going to cut them.

He has said to military groups, I am going to increase military spending. He says to veterans groups, I am not going to cut you. But the other day he said most interestingly, I am going to double the amount of money that the Federal Government spends on prisons. So he is going to keep increasing this, this, this, and this, and what is left to cut? The only thing left to cut unfortunately is Medicare, Medicaid, Social Security, student loans, environmental protection. That is about all that is left in all the things he has talked about because he has promised every other group he is not going to cut them.

Mr. Speaker, it is interesting to juxtapose cutting education, putting it next to increasing money on prisons. If we are going to cut education, we are going to have to build more prisons. If we are going to restrict opportunity for middle-class kids, for working class or poor kids, we just better start planning to spend more money on prisons, more money on alcohol abuse programs and drug abuse programs, and all of that if kids do not have the opportunity when they are 18 or 22 years old when they finish school. Again, it is so shortsighted. To restrict kids' opportunity, to restrict people when they are 30 years old that are working in a job, and trying to go back to Lorain Community College or somewhere else and simply cannot scrape the money together, and the Government is not interested in helping. What are people going to do to stay in the middle class, to achieve middle-class status and lifestyles and stay in the middle class?

To me, our country in all the opportunities we have provided with things like the GI bill are to build a strong middle class. If we are going to just throw up our hands as a government and say, sorry, no more, the Government is no longer on the side of helping to provide opportunity for young people, we are just going to give up, give tax breaks to the wealthy and forget about opportunity and forget about education, I wonder what is going to happen to this country. It is a scary thought.

Mr. PALLONE. I agree. I know we do not have a lot of time left. I guess maybe we should wrap up at this point. I am just so glad that both of you came here and joined me to talk about this, because I know that Congressman BROWN kept using the term educational opportunity. I think that is really what it is all about. We are not talking about handouts here to people who do not want to learn. We are talking about providing an opportunity so that everyone in this country can get an education at the highest level that they want and that they deserve and that they are willing to work for. That is what it is all about.

That is the promise, if you will, of America. If that promise is not there anymore, it makes it much more difficult for us to talk to our constituents or our children about equal opportunity. The equal opportunity just will not be there anymore. That is why I think it is really important that we continue to work toward that equal opportunity goal, particularly when it comes to education, which is so important for the future. I want to thank both of you for joining me.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to take up a cause that is the No. 1 concern of millions of working parents and is an issue that the Republicans have called garbage. I am talking about the education of our children. I am talking about the future of our democracy and how we as a nation will take on the challenges of the 21st century. Let's look at the record of the Gingrich Congress. In 1995, the Republican Congress voted for the largest education cuts in history—slashing education programs by 15 percent or $3.6 billion. They voted to eliminate the funding for Goals 2000 School Reform which sought to raise the achievement levels of 44 million children. They voted to cut the Safe and Drug Free Schools Program by 57 percent—denying 23 million students services that keep drugs and violence away from children and their schools. They voted to cut Head Start by $137 million.

All of these cuts were in the face of the largest school enrollment in the history of our Nation—this is the time of the baby-boom echo. these are the children of the baby-boom generation that Republicans want to face their future with less resources for their education.

Finally, yesterday, the Republicans could no longer take the heat that they were shortchanging our Nation's schoolchildren and are now prepared to restore $2.3 billion of education cuts they took out of President Clinton's proposed spending for schools in fiscal year 1997. They now want to bury this issue and go home and try to forget about how they have done our children the worst disservice possible. How they want to forget that there are fewer teachers in the classrooms this fall because of what they did last year. They want to wash away their guilt when they see classrooms in school lunchrooms and even closets. We need to be increasing education funding, in light of growing school enrollments—not cutting. We need to invest more in our future and the future of our children.

Still, Mr. Speaker, Republicans have had the audacity to call our efforts to increase spending for education political garbage. Well, is it political garbage for working parents to see Republicans cut valuable funding for basic reading and math skills, Head Start, summer jobs for kids, school-to-work initiatives and Pell grants for college students. It may be garbage to them, but it's the key to our future.

So, don't be fooled by these 11th hour Republican conversions. Republicans can't go home now and undo the damage they have done to our schools. We have to keep up the pressure—Republicans can't be trusted with our children's education. This November, let's throw out the real garbage.

Democrats have a real agenda for working families that helps them to prepare their children for the challenges of the 21st century. Our Families First Agenda offers a brighter path for the future education for our children. It offers a better chance for helping get our kids to college.

With stagnating household incomes and the ever-increasing costs of a college education, American families are worried about how they are going to send their children to college. And what have the Republicans done to help? They have voted again and again over the last 2 years to slash student loan programs and to eliminate direct student loans. They have also voted to cut back on Pell grants and Perkins loans. All of this in the face of a fact that every working person knows—a college degree is a ticket to a higher income. It is a ticket to a better life and a life that is becoming more and more out of reach for greater numbers of people every year.

Families First Agenda includes a HOPE Scholarship Program that President Clinton offered in June. It would provide all students with a $1,500 refundable tax credit for full time students who keep up their grades. The HOPE Scholarship Program tries to make 2 years of college as universally accessible as high school is today.

This Democratic Families First educational initiative also includes a $10,000 tax deduction for education and training expenses. This deduction is up to $10,000 a year for each family. It would be available even for families that don't itemize their deductions. And this is in addition to the tax credit which is $1,500 for each student. It all adds up to help for families that want to see their children get a college education and have a better life.

Mr. Speaker, education is the key that will unlock our potential for the country's future. We have to at least help our families put the key in the door. Congress should not go home without giving our children a chance at a better life. We need to provide for safe and drug free schools and for strong investments in education and training of America's young people and workers. That, Mr. Speaker is the right way to prepare our country to compete in the world economy of the 21st century.

Mr. Speaker, we have finally gotten the Republicans to see the light. Quoting from the Washington Post of September 18, 1996:

GOP RESTORES $2.3 BILLION IT CUT IN EDUCATION FUNDS—REPUBLICANS WANT TO AVOID PREELECTION GRIDLOCK

Bombarded by Democratic charges that they were shortchanging the country's schoolchildren, Senate Republicans agreed to match President Clinton's proposed spending for schools by restoring $2.3 billion that Republicans had cut from education accounts for next year.

The GOP concession on education spending came only minutes before Democrats were prepared to offer a proposal to add $3.1 billion for education and job training to an Interior Department spending bill. Before they could offer their proposal, Lott told reporters Republicans were prepared to add back $2.3 billion for education alone.

AFFIRMATIVE ACTION

The SPEAKER pro tempore (Mr. QUINN). Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. JACKSON] is recognized for 60 minutes.

CONTINUED TRIBUTE TO TOM BEVILL AND GLEN BROWDER

Mr. JACKSON of Illinois. Mr. Speaker, with that I yield to the distinguished ranking member, the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I thank the gentleman from Illinois for yielding to me. I will just take a couple of moments of his time. I am sorry that I did not arrive earlier to be able to speak on Mr. CALLAHAN's special order on behalf of TOM BEVILL and GLEN BROWDER. Mr. OBEY and I have been in a House-Senate conference on the VA-HUD bill, and we just got a chance to get here to the floor.

I will just take a moment, but I do want to say that with reference to TOM BEVILL, with whom I have served almost all the time that I have been in the Congress, that I have established a lot of friendships in this Congress but no greater friendship have I had than that I have had with TOM BEVILL. I do not know of any Member of Congress who is respected any more highly than he is, nor do I know of anyone who has made a greater contribution to this Nation than he has.

We have worked on a lot of projects together over the years and it has been a real privilege and honor to serve with him, to get to know not only him but members of his family, his lovely wife and members of his family. I want to say we are going to miss TOM here.

□ 1645

His level of leadership has been something that we can all point to as a model and with great admiration.

In the same vein, I want to take just a second to say what a pleasure and privilege it has been to serve with GLEN BROWDER. He too, following in the footsteps of TOM BEVILL and other leaders from Alabama, has been a real model here. He has had a long and distinguished record legislatively and is someone whom all of us not only admire, but we will miss greatly when he leaves this body.

And just lastly, TOM, I might say that I am sure that our good friend, Bob Jones, is watching this special order this afternoon and I am sure there is a smile on his face with the knowledge that you and I shared a special friendship over the years.

Mr. JACKSON of Illinois. I thank you, Mr. STOKES.

Mr. Speaker, I yield to the distinguished ranking member of the Committee on Appropriations, Mr. OBEY.

Mr. OBEY. I thank the gentleman. I do not want to impose on his time. I would simply ask unanimous consent that the remarks I made about our good friend, TOM BEVILL, when we considered the energy and water appropriations bill be incorporated in my remarks at this point in the RECORD and to simply say again, TOM, how much I have enjoyed the opportunity to serve with you and how grateful we are for the service you have given the country.

And I want to say to GLEN that you have, I think, performed tremendous service in this institution with good humor and with grace, with understanding of other people's points of view and with deep commitment to the things that you believe in. That is what makes this country strong, and that is what makes this institution what it is supposed to be, and I thank you both for your service here.

Mr. JACKSON of Illinois. Mr. Speaker, I certainly want to take this opportunity to thank TOM BEVILL and GLEN BROWDER, as well, for their years of service to this institution, and while I have not had the privilege of knowing and working with them at the level that I wish I could have, their reputations in this institution as genuine public servants certainly precedes them and I am just honored to have the privilege to be from the State of Illinois, to follow in their tradition of public service. The roles that they have represented in this institution are not without great distinction and without the kind of merit that truly needs to be bestowed upon public servants in this institution.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FIELDS of Louisiana (at the request of Mr. GEPHARDT), for today, on account of family illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. VOLKMER) to revise and extend their remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

Mr. VOLKMER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. HASTERT) to revise and extend their remarks and include extraneous material:)

Mrs. MORELLA, for 5 minutes on September 25.

Mr. CHRISTENSEN, for 5 minutes, today.

Mr. BUYER, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. TALENT, for 5 minutes, today.

Mr. HANSEN, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. KASICH, for 5 minutes, today.

Mr. GOSS, for 5 minutes on September 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

The following Members (at the request of Mr. VOLKMER) and to include extraneous material:

Ms. PELOSI.

Mr. LANTOS.

Mr. LEVIN.

Mr. MILLER of California.

Ms. DELAURO.

Mr. MOAKLEY.

Mr. MENENDEZ.

Mr. KLECZKA.

Mr. REED.

Mr. TORRICELLI.

(The following Members (at the request of Mr. HASTERT) and to include extraneous material:)

Mr. ROTH.

Mr. BURTON of Indiana.

Mr. SKEEN.

Mr. QUINN.

Mr. WOLF.

Mr. BROWNBACK.

Mr. SMITH of New Jersey in two instances.

Mr. FIELDS of Texas.

Mr. FORBES in two instances.

Mr. SENSENBRENNER in two instances.

Mrs. MEYERS of Kansas.

(The following Members (at the request of Mr. BROWN of Ohio) and to include extraneous material:)

Mr. SHAW.

Mr. LEVIN.

Mr. BECERRA.

Mr. BARCIA in two instances.

Mr. MANTON.

Mr. GOODLING in two instances.

Ms. HARMAN.

Mr. STUMP.

Mr. LEWIS of Kentucky.

Mr. WELDON of Florida.

Mr. RAMSTAD.

Mr. TORRES in two instances.

Mr. STUPAK.

Mr. PICKETT.

Mr. FAZIO of California.

Mr. PAYNE of Virginia.

Mr. HOKE.

Mr. MCINTOSH.

Mr. SMITH of Michigan.

Ms. BROWN of Florida.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 982. An act to protect the national information infrastructure, and for other purposes.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2679. An act to revise the boundry of the North Platte National Wildlife Refuge, to expand the Pettaquamscutt Cove National Wildlife Refuge, and for other purposes;

H.R. 3060. An act to implement the Protocol on Environmental Protection to the Antarctic Treaty;

H.R. 3396. An act to define and protect the institution of marriage;

H.R. 3553. An act to amend the Federal Trade Commission Act to authorize appropriations for the Federal Trade Commission; and

H.R. 3816. An act making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 533. To clarify the rules governing removal of cases to Federal court, and for other purposes; and

S. 677. To repeal a redundant venue provision, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

On September 19, 1996:

H.R. 2428. An act to encourage the donation of food and grocery products to nonprofit organizations for distribution to needy individuals by giving the Model Good Samaritan Food Donation Act the full force and effect of law.

ADJOURNMENT

Mr. BROWN of Ohio. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 24 minutes p.m.), the House adjourned until tomorrow, Friday, September 20, 1996, at 9 a.m.

NOTICE OF ADOPTION OF AMENDMENTS TO PROCEDURAL RULES

U.S. CONGRESS,
OFFICE OF COMPLIANCE
Washington, DC, September 18, 1996.

Hon. NEWT GINGRICH,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. section 1383(b), I am transmitting a Notice of Adoption of Amendments to the Procedural Rules, together with a copy of the adopted amendments to the procedural rules. The Congressional Accountability act specifies that the Notice and the amendments to the rules be published in the Congressional Record on the first day on which both Houses of Congress are in session following this transmittal.

Sincerely,

RICKY SILBERMAN,
Executive Director.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: AMENDMENTS TO PROCEDURAL RULES

NOTICE OF ADOPTION OF AMENDMENTS TO PROCEDURAL RULES

Summary: After considering comments to the Notice of Proposed Rulemaking published July 11, 1996 in the Congressional Record, the Executive Director has adopted and is publishing amendments to the rules governing the procedures for the Office of Compliance under the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3). The amendments to the procedural rules have been approved by the Board of Directors, Office of Compliance.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540–1999. Telephone No. 202–724–9250.

SUPPLEMENTARY INFORMATION:

I. Background

The Congressional Accountability Act of 1995 ("CAA" or "Act") was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 303 of the CAA directs that the Executive Director of the Office of Compliance ("Office") shall, subject to the approval of the Board of Directors ("Board") of the Office, adopt rules governing the procedures for the Office, and may amend those rules in the same manner. The procedural rules currently in effect, approved by the Board and adopted by the Executive Director, were published December 22, 1995 in the Congressional Record (141 Cong. R. S 19239 (daily ed., Dec. 22, 1995)). The revisions and additions that follow amend certain of the existing procedures by which the Office provides for the consideration and resolution of alleged violations of the laws made applicable under Part A of title II of the CAA, and establish procedures for consideration of matters arising under Part D of title II of the CAA, which is generally effective October 1, 1996.

Pursuant to section 303(b) of the CAA, the Executive Director published for comment a Notice of Proposed Rulemaking in the Congressional Record on July 11, 1996 (142 Cong. R. S7685-88, H7450-54 (daily ed., July 11, 1996)) inviting comments regarding the proposed amendments to the procedural rules. Three comments were received in response to the NPR: two from Congressional offices and one from a labor organization. After full consideration of the comments received, the Executive Director has, with the approval of the Board, adopted these amendments to the procedural rules.

II. Consideration of Comments and Conclusions

A. Definition of participant

One commenter suggested deleting the terms "labor organization" and "employing office" from the definition of "participant" found at section 1.07(c) of the proposed rules.

The commenter noted that a "party" is included in the definition of participant and the term "party" is defined in section 1.02(i) of the rules as including a labor organization or employing office.

The final rule, as adopted and approved, incorporates the modification suggested by the commenter.

B. Contents or records of confidential proceedings

One commenter asked that section 1.07(d) of the rules be revised to reflect the commenter s understanding that "an employing office may acknowledge the existence of a complaint and the general allegations being made by an employee, and the employing office may deny the allegations." This commenter further requested that the phrase "information forming the basis for the allegation," found in the same section of the rules, be defined. According to the commenter, the phrase is ambiguous. The commenter did not, however, identify the asserted ambiguity.

The statute requires that the filing of a complaint and its subject matter be kept confidential. Thus, it is not permissible under the statute, as enacted—much less the procedural rules implementing the statute—for an employing office to disclose the information described. Moreover, no ambiguity has been identified or is apparent which would warrant modifying the proposed rule. Accordingly, the rule has been adopted and approved without modification.

C. Requests for extension of the mediation period

Two commenters correctly point out that, although it was noted in the preamble of the NPR that section 2.04(e)(2) is proposed to be modified to allow oral as well as written requests for the extension of the mediation period, the actual text of the proposed revision was inadvertently omitted. Although neither commenter stated an objection to the substance of the proposed revision, one commenter requested that the text of the proposed amendment be published and the comment period be extended prior to its adoption.

The proposed amendment, and its intent, were clearly explained in the NPR so as to give sufficient notice of the proposed modification. And as the adoption of the amended rule will not work a disservice to any party to a mediation, but rather will enable all parties to more fully utilize the mediation process, the proposed modification to the rule has been adopted and approved.

D. Answer to complaint

All three commenters expressed concern that proposed section 5.01(f) could be interpreted to foreclose a respondent from raising certain affirmative defenses or interposing certain denials. One commenter further urged the adoption of a specific rule that would allow the filing of a motion to dismiss or a motion for a more definitive statement in lieu of an answer.

With respect to the request that the Executive Director adopt a rule allowing for the filing of the specific motions suggested, it is noted that, although not specifically provided for, such matters are already permitted under the existing procedural rules. Thus, no modification is necessary.

As to the commenters' other concerns, the language of section 5.01(f), as adopted and approved, has been clarified to provide that only affirmative defenses that could have reasonably been anticipated based on the facts alleged in the complaint shall be deemed waived if not raised in an answer. In addition, the rule has been modified to describe the circumstances under which motions for leave to amend an answer to raise defenses or interpose denials will be granted.

E. Withdrawal of complaints

One commenter argued that the requirement contained in section 5.03 that the withdrawal of a complaint be approved by a Hearing Officer should be deleted because, according to the commenter, under the CAA a complaint may be withdrawn at any time. In the commenter's view, a rule requiring Hearing Officer approval of such a withdrawal is "an inappropriate exercise of the Executive Director's authority." This commenter further took issue with the distinction made in the rule between approval of the withdrawal of a complaint by a covered employee, which must always be approved by a Hearing Officer, and the withdrawal of a complaint by the General Counsel, which may occur without Hearing Officer approval prior to the opening of a hearing.

Contrary to the commenter's assertion, it is entirely appropriate and, indeed, the norm in our legal system to require approval of the withdrawal of an action after formal proceedings have been initiated. *See, e.g.*, Federal Rule of Civil Procedure 41. Moreover, the different restrictions placed on covered employees and the General Counsel are also appropriate. Under section 220 of the CAA, and the regulations adopted by the Board pursuant to section 220(d) to implement section 220, the General Counsel's prosecutorial discretion has been properly acknowledged by permitting the General Counsel to withdraw a complaint without Hearing Officer approval prior to the opening of the hearing. Accordingly, the final rule, as adopted and approved, has not been modified.

F. Objections not made are deemed waived

Two commenters expressed the concern that proposed section 7.01(e) could operate to work a disservice to unrepresented parties or to preclude Board consideration of appropriate matters on appeal.

The rule, as adopted and approved, has been modified. Further, it is noted that a Hearing Officer is always free to consider issues about which objections were not made.

G. Reconsideration

One commenter asked that proposed section 8.02 be clarified to advise parties concerning how the filing of a motion for reconsideration of a Board decision affects the requirements for filing an appeal of that decision.

The final rule makes clear that the filing of a motion for reconsideration does not relieve a party of the obligation to file a timely appeal.

H. Judicial review

One commenter asserted that section 8.04 should be deleted either as superfluous because it merely reiterates parts of section 407 of the CAA or as confusing because it does not incorporate all of section 407.

Section 8.04 incorporates the provisions of section 407 that are applicable to the provisions of the CAA that are currently in effect. As section 8.04 is neither superfluous nor confusing, the proposed rule has been adopted and approved unmodified.

I. Signing of Pleadings, motions and other filings; violation of rules; sanctions

One commenter recommended that "the Board further elaborate" on proposed section 9.02 and that there be an extension of time to comment "after the Board provides further explanation." In the event the commenter's recommendation was not accepted, the commenter proposed adding the requirement that a pleading must be warranted by a "non-frivolous" argument. Another commenter objected to the possible sanction of attorney s fees, arguing that it could have a chilling effect on individual complainants.

Section 9.02 of the rules is virtually identical to Rule 11 of the Federal Rules of Civil Procedure. Rule 11 has a rich history and tradition and is an essential procedural part of any sound dispute resolution scheme. Therefore, further explanation or modification is unnecessary and, the rule, as adopted and approved, is the same as that proposed.

J. Ex parte communications

Two commenters asked for a definition of the term "interested person" as used in proposed section 9.04. One of these commenters argued that, as drafted, the proposed rule appeared to be so broad as to restrict access to the Office of Compliance personnel, including the Executive Director and Deputy Executive Directors. The same two commenters also urged the deletion of proposed section 9.04(e)(2), which provides that censure or the suspension or revocation of the privilege of practice before the Office is a possible sanction for engaging in prohibited communications. Both commenters considered such sanctions to be too harsh and questioned the authority of the Board to impose such sanctions. The third commenter urged that section 9.04(c)(3)(iii) be modified to disallow communications on matters of general significance because, according to the commenter, such communications could have an impact on specific pending matters. This commenter also expressed concern about the imposition of sanctions on unrepresented complainants who might inadvertently violate the prohibitions on ex parte communications.

In response to the commenters' concerns, the Executive Director is modifying section 9.04(a)(1) to define "interested person" for the purposes of the rule. But, contrary to one commenter's understanding, the rule only prohibits interested persons from engaging in prohibited communications with Hearing Officers and Board members; nothing in the proposed or adopted rule prohibits contact with Office of Compliance personnel, including the Office's statutory appointees. Indeed, interaction between Office personnel and employing offices, covered employees, labor organizations and their agents, as well as other interested individuals or organizations, is encouraged.

With respect to proposed section 9.04(e)(2), the sanctions of censure or suspension or revocation of the privilege of practice before the Board, although substantial, may properly be imposed in certain circumstances. However, as they are available to the Board under section 9.04(e)(1), proposed section 9.04(e)(2) has been omitted from the final rule. In addition, to further address concerns, language has been added to section 9.04(e)(1) to confirm that sanctions shall be commensurate with the nature of the offense.

K. Informal resolutions and settlement agreements

One commenter offered specific suggested revisions to proposed section 9.05(a). The commenter believed that these revisions are necessary to make it clear that section 9.05 applies only after a covered employee has initiated counseling.

The proposed rule, by its terms, applies only in instances where a covered employee has filed a formal request for counseling.

Moreover, in the NPR, it was specifically noted that the rule is being amended to make it clear that section 9.05 of the rules applies only where covered employees have initiated proceedings under the CAA. Accordingly, the proposed rule has been adopted and approved without modification.

L. Additional comments

Two of the commenters also offered several comments and suggestions on existing procedural rules and other matters that were not the subject of or germane to the proposals in the NPR. For example, the commenters suggested: (1) changes in the special procedures for the Architect of the Capitol and Capitol Police; (2) a rule allowing parties to negotiate changes to the Agreement to Mediate; (3) a procedure by which the parties, instead of the Executive Director, would select Hearing Officers; (4) procedures by which the Office would notify employing offices of various matters; (5) additional requirements for the filing of a complaint; (6) changes in counseling procedures; and (7) a procedure which would allow parties to petition for the recusal of individual Board members.

As there was no notice given to the public or interested persons that such amendments to the procedural rules were being considered, it would be inappropriate to amend the rules in the manner requested by the commenters. However, the Office will consider the comments as part of its ongoing review of its operations and, to the extent appropriate, may issue another notice of proposed rulemaking at an appropriate time to address some or all of these comments.

Signed at Washington, D.C., on this 18th day of September, 1996.

R. GAULL SILBERMAN,
Executive Director,
Office of Compliance.

Adopted Amendment to the Procedural Rules

A. Comparison table

The rules have been reorganized and re-ordered; as a result, some sections have been moved and/or renumbered. Cross-references in appropriate sections of the procedural rules have been modified accordingly. The organizational changes are listed in the following comparison table.

Former Section No.	*New Section No.*
§2.06 Complaints	§5.01
§2.07 Appointment of the Hearing Officer	§5.02
§2.08 Filing, Service and Size Limitations of Motions, Briefs, Responses and Other Documents	§9.01
§2.09 Dismissal of Complaint	§5.03
§2.10 Confidentiality	§5.04
§2.11 Filing of Civil Action	§2.06
§8.02 Compliance with Final Decisions, Requests for Enforcement	§8.03
§8.03 Judicial Review	§8.04
§9.01 Attorney's Fees and Costs	§9.03
§9.02 Ex Parte Communications	§9.04
§9.03 Settlement Agreements	§9.05
§9.04 Revocation, Amendment or Waiver of Rules	§9.06

B. Text of Amendments to Procedural Rules

§1.01 Scope and policy

These rules of the Office of Compliance govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Parts A and D of title II of the Congressional Accountability Act of 1995. The rules include procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance. It is the policy of the Office that these rules shall be applied with due regard to the rights of all parties and in a manner that expedites the resolution of disputes.

§1.02(c)

Employee. The term employee includes an applicant for employment and a former employee, except as provided in section 2421.3(b) of the Board s rules under section 220 of the Act.

§1.02(i)

Party. The term party means: (1) the employee or the employing office in a proceeding under Part A of title II of the Act; or (2) the labor organization, individual employing office or employing activity, or, as appropriate, the General Counsel in a proceeding under Part D of title II of the Act.

§1.02(j)

Respondent. The term "respondent" means the party against which a complaint is filed.

§1.05 Designation of Representative.

(a) An employee, a witness, a labor organization, or an employing office wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney.

(b) *Service where there is a representative.* All service of documents shall be directed to the representative, unless the represented individual, labor organization, or employing office specifies otherwise and until such time as that individual, labor organization, or employing office notifies the Executive Director of an amendment or revocation of the designation of representative. Where a designation of representative is in effect, all time limitations for receipt of materials by the represented individual or entity shall be computed in the same manner as for unrepresented individuals or entities with service of the documents, however, directed to the representative, as provided.

§1.07(b)

Prohibition. Unless specifically authorized by the provisions of the CAA or by order of the Board, the Hearing Officer or a court, or by the procedural rules of the Office, no participant in counseling, mediation or other proceedings made confidential under section 416 of the CAA ("confidential proceedings") may disclose the contents or records of those proceedings to any person or entity. Nothing in these rules prohibits a bona fide representative of a party under section 1.05 from engaging in communications with that party for the purpose of participation in the proceedings, provided that such disclosure is not made in the presence of individuals not reasonably necessary to the representative's representation of that party. Moreover, nothing in these rules prohibits a party or its representative from disclosing information obtained in confidential proceedings for the limited purposes of investigating claims, ensuring compliance with the Act or preparing its prosecution or defense, to the extent that such disclosure is reasonably necessary to accomplish the aforementioned purposes and provided that the party making the disclosure takes all reasonably appropriate steps to ensure that persons to whom the information is disclosed maintain the confidentiality of such information.

§1.07(c)

Participant. For the purposes of this rule, participant means any individual or party, including a designated representative, that becomes a participant in counseling under section 402, mediation under section 403, the complaint and hearing process under section 405, or an appeal to the Board under section 406 of the Act, or any related proceeding which is expressly or by necessity deemed confidential under the Act or these rules.

§1.07(d)

Contents or records of confidential proceedings. For the purpose of this rule, the contents or records of counseling, mediation or other proceeding includes the information disclosed by participants to the proceedings, and records disclosed by either the opposing party, witnesses or the Office. A participant is free to disclose facts and other information obtained from any source outside of the confidential proceedings. For example, an employing office or its representatives may disclose information about its employment practices and personnel actions, provided that the information was not obtained in a confidential proceeding. However, an employee who obtains that information in mediation or other confidential proceeding may not disclose such information. Similarly, information forming the basis for the allegation of a complaining employee may be disclosed by that employee, provided that the information contained in those allegations was not obtained in a confidential proceeding. However, the employing office or its representatives may not disclose that information if it was obtained in a confidential proceeding.

§2.04(a)

(a) *Explanation.* Mediation is a process in which employees, employing offices and their representatives, if any, meet separately and/or jointly with a neutral trained to assist them in resolving disputes. As parties to the mediation, employees, employing offices and their representatives discuss alternatives to continuing their dispute, including the possibility of reaching a voluntary, mutually satisfactory resolution. The neutral has no power to impose a specific resolution, and the mediation process, whether or not a resolution is reached, is strictly confidential, pursuant to section 416 of the Act.

§2.04(e)

(e) *Duration and Extension.* (1) The mediation period shall be 30 days beginning on the date the request for mediation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint request of the parties. The request may be oral or written and shall be noted and filed with the Office no later than the last day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Requests for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

§2.04(f)(2)

(2) *The Agreement to Mediate.* At the commencement of the mediation, the neutral

will ask the parties to sign an agreement prepared by the Office ("the Agreement to Mediate"). The Agreement to Mediate will set out the conditions under which mediation will occur, including the requirement that the participants adhere to the confidentiality of the process. The Agreement to Mediate will also provide that the parties to the mediation will not seek to have the counselor or the neutral participate, testify or otherwise present evidence in any subsequent civil action under section 408 of the Act or any other proceeding.

§ 2.04(h)

Informal Resolutions and Settlement Agreements. At any time during mediation the parties may resolve or settle a dispute in accordance with section 9.05 of these rules.

§ 5.01 Complaints

(a) *Who may file.* (1) An employee who has completed mediation under section 2.04 may timely file a complaint with the Office alleging any violation of sections 201 through 207 of the Act.

(2) The General Counsel may file a complaint alleging a violation of section 220 of the Act.

(b) *When to file.* (1) A complaint may be filed by an employee no sooner than 30 days after the date of receipt of the notice under section 2.04(i), but no later than 90 days after receipt of that notice.

(2) A complaint may be filed by the General Counsel after the investigation of a charge filed under section 220 of the Act.

(c) *Form and Contents.* (1) Complaints filed by covered employees. A complaint shall be written or typed on a complaint form available from the Office. All complaints shall be signed by the covered employee, or his or her representative, and shall contain the following information:

(i) the name, mailing address, and telephone number(s) of the complainant;

(ii) the name, address and telephone number of the employing office against which the complaint is brought;

(iii) the name(s) and title(s) of the individual(s) involved in the conduct that the employee claims is a violation of the Act;

(iv) a description of the conduct being challenged, including the date(s) of the conduct;

(v) a brief description of why the complainant believes the challenged conduct is a violation of the Act and the section(s) of the Act involved;

(vi) a statement of the relief or remedy sought; and

(vii) the name, address, and telephone number of the representative, if any, who will act on behalf of the complainant.

(2) Complaints filed by the General Counsel. A complaint filed by the General Counsel shall be typed, signed by the General Counsel or his designee and shall contain the following information:

(i) the name, address and telephone number of the employing office and/or labor organization alleged to have violated section 220 against which the complaint is brought;

(ii) notice of the charge filed alleging a violation of section 220;

(iii) a description of the acts and conduct that are alleged to be violations of the Act, including all relevant dates and places and the names and titles of the responsible individuals; and

(iv) a statement of the relief or remedy sought.

(d) *Amendments.* Amendments to the complaint may be permitted by the Office or, after assignment, by a Hearing Officer, on the following conditions: that all parties to the proceeding have adequate notice to prepare to meet the new allegations; that the amendments, as appropriate, relate to the violations for which the employee has completed counseling and mediation, or relate to the charge(s) investigated by the General Counsel; and that permitting such amendments will not unduly prejudice the rights of the employing office, the labor organization, or other parties, unduly delay the completion of the hearing or otherwise interfere with or impede the proceedings.

(e) *Service of Complaint.* Upon receipt of a complaint or an amended complaint, the Office shall serve the respondent, or its designated representative, by hand delivery or certified mail, with a copy of the complaint or amended complaint and a copy of these rules. The Office shall include a service list containing the names and addresses of the parties and their designated representatives.

(f) *Answer.* Within 15 days after receipt of a copy of a complaint or an amended complaint, the respondent shall file an answer with the Office and serve one copy on the complainant. The answer shall contain a statement of the position of the respondent on each of the issues raised in the complaint or amended complaint, including admissions, denials, or explanations of each allegation made in the complaint and any affirmative defenses or other defenses to the complaint.

Failure to file an answer or to raise a claim or defense as to any allegation(s) shall constitute an admission of such allegation(s). Affirmative defenses not raised in an answer that could have reasonably been anticipated based on the facts alleged in the complaint shall be deemed waived. A respondent's motion for leave to amend an answer to interpose a denial or affirmative defense will ordinarily be granted unless to do so would unduly prejudice the rights of the other party or unduly delay or otherwise interfere with or impede the proceedings.

§ 5.03 Dismissal of complaints

(a) A Hearing Officer may, after notice and an opportunity to respond, dismiss any claim that the Hearing Officer finds to be frivolous or that fails to state a claim upon which relief may be granted, including, but not limited to, claims that were not advanced in counseling or mediation.

(b) A Hearing Officer may, after notice and an opportunity to respond, dismiss a complaint because it fails to comply with the applicable time limits or other requirements under the Act or these rules.

(c) If the General Counsel or any complainant fails to proceed with an action, the Hearing Officer may dismiss the complaint with prejudice.

(d) *Appeal.* A dismissal by the Hearing Officer made under section 5.03(a)-(c) or 7.16 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under section 8.01.

(e) *Withdrawal of Complaint by Complainant.* At any time a complainant may withdraw his or her own complaint by filing a notice with the Office for transmittal to the Hearing Officer and by serving a copy on the employing office or representative. Any such withdrawal must be approved by the Hearing Officer.

(f) *Withdrawal of Complaint by the General Counsel.* At any time prior to the opening of the hearing the General Counsel may withdraw his complaint by filing a notice with the Executive Director and the Hearing Officer and by serving a copy on the respondent. After opening of the hearing, any such withdrawal must be approved by the Hearing Officer.

§ 7.04(b)

Scheduling of the Prehearing Conference. Within 7 days after assignment, the Hearing Officer shall serve on the parties and their designated representatives written notice setting forth the time, date, and place of the prehearing conference.

§ 7.07(e)

(e) Any evidentiary objection not timely made before a Hearing Officer shall, in the absence of clear error, be deemed waived on appeal to the Board.

§ 7.07(f)

(f) If the Hearing Officer concludes that a representative of an employee, a witness, a labor organization, or an employing office has a conflict of interest, he or she may, after giving the representative an opportunity to respond, disqualify the representative. In that event, within the time limits for hearing and decision established by the Act, the affected party will have a reasonable time to retain other representation.

§ 8.01(i)

The Board may invite amicus participation, in appropriate circumstances, in a manner consistent with the requirements of section 416 of the CAA.

§ 8.02 Reconsideration

After a final decision or order of the Board has been issued, a party to the proceeding before the Board, who can establish in its moving papers that reconsideration is necessary because the Board has overlooked or misapprehended points of law or fact, may move for reconsideration of such final decision or order. The motion shall be filed within 15 days after service of the Board's decision or order. No response shall be filed unless the Board so orders. The filing and pendency of a motion under this provision shall not relieve a party of the obligation to file a timely appeal or operate to stay the action of the Board unless so ordered by the Board.

§ 8.04 Judicial review

Pursuant to section 407 of the Act,

(a) the United States Court of Appeals for the Federal Circuit shall have jurisdiction over any proceeding commenced by a petition of:

(1) a party aggrieved by a final decision of the Board under section 406(e) in cases arising under part A of title II, or

(2) the General Counsel or a respondent before the Board who files a petition under section 220(c)(3) of the Act.

(b) The U.S. Court of Appeals for the Federal Circuit shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 405(g) or 406(e) with respect to a violation of part A or D of title II of the Act.

(c) The party filing a petition for review shall serve a copy on the opposing party or parties or their representative(s).

§ 9.02 Signing of pleadings, motions and other filings; violation of rules; sanctions

Every pleading, motion, and other filing of a party represented by an attorney or other designated representative shall be signed by the attorney or representative. A party who is not represented shall sign the pleading, motion or other filing. The signature of a representative or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other filing; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other filing is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the person who is required to sign. If a pleading, motion, or other filing is signed in violation of this rule, a Hearing Officer or the Board, as appropriate, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other filing, including a reasonable attorney's fee. A Hearing Officer or the Board, as appropriate, upon motion or its own initiative may also impose an appropriate sanction, which may include the sanctions specified in section 7.02, for any other violation of these rules that does not result from reasonable error.

§ 9.04 Ex parte communications.

(a) *Definitions.* (1) The term *interested person outside the Office* means any covered employee and agent thereof who is not an employee or agent of the Office, any labor organization and agent thereof, any employing office and agent thereof, and any individual or organization and agent thereof, who is or may reasonably be expected to be involved in a proceeding or a rulemaking, and the General Counsel and any agent thereof when prosecuting a complaint proceeding before the Office pursuant to sections 210, 215, or 220 of the CAA. The term also includes any employee of the Office who becomes a party or a witness for a party other than the Office in proceedings as defined in these rules.

(2) The term *ex parte communication* means an oral or written communication (a) that is between an interested person outside the Office and a Board member or Hearing Officer who is or may reasonably be expected to be involved in a proceeding or a rulemaking; (b) that is related to a proceeding or a rulemaking; (c) that is not made on the public record; (d) that is not made in the presence of all parties to a proceeding or a rulemaking; and (5) that is made without reasonable prior notice to all parties to a proceeding or a rulemaking.

(3) For purposes of section 9.04, the term *proceeding* means the complaint and hearing proceeding under section 405 of the CAA, an appeal to the Board under section 406 of the CAA, a pre-election investigatory hearing under section 220 of the CAA, and any other proceeding of the Office established pursuant to regulations issued by the Board under the CAA.

(4) The term *period of rulemaking* means the period commencing with the issuance of an advance notice of proposed rulemaking or of a notice of proposed rulemaking, whichever issues first, and concluding with the issuance of a final rule.

(b) *Exception to Coverage.* The rules set forth in this section do not apply during periods that the Board designates as periods of negotiated rulemaking.

(c) *Prohibited Ex Parte Communications and Exceptions.* (1) During a proceeding, it is prohibited knowingly to make or cause to be made:

(i) a written ex parte communication if copies thereof are not promptly served by the communicator on all parties to the proceeding in accordance with section 9.01 of these Rules; or

(ii) an oral ex parte communication unless all parties have received advance notice thereof by the communicator and have an adequate opportunity to be present.

(2) During the period of rulemaking, it is prohibited knowingly to make or cause to be made a written or an oral ex parte communication. During the period of rulemaking, the Office shall treat any written ex parte communication as a comment in response to the advance notice of proposed rulemaking or the notice of proposed rulemaking, whichever is pending, and such communications will therefore be part of the public rulemaking record.

(3) Notwithstanding the prohibitions set forth in (1) and (2), the following ex parte communications are not prohibited:

(i) those which relate solely to matters which the Board member or Hearing Officer is authorized by law, Office rules, or order of the Board or Hearing Officer to entertain or dispose of on an ex parte basis;

(ii) those which all parties to the proceeding agree, or which the responsible official formally rules, may be made on an ex parte basis;

(iii) those which concern only matters of general significance to the field of labor and employment law or administrative practice;

(iv) those from the General Counsel to the Office or the Board when the General Counsel is acting on behalf of the Office or the Board under any section of the CAA; and

(v) those which could not reasonably be construed to create either unfairness or the appearance of unfairness in a proceeding or rulemaking.

(4) It is prohibited knowingly to solicit or cause to be solicited any prohibited ex parte communication.

(d) *Reporting of Prohibited Ex Parte Communications.* (1) Any Board member or Hearing Officer who is or may reasonably be expected to be involved in a proceeding or a rulemaking and who determines that he or she is being asked to receive a prohibited ex parte communication shall refuse to do so and inform the communicator of this rule.

(2) Any Board member or Hearing Officer who is or may reasonably be expected to be involved in a proceeding who knowingly receives a prohibited ex parte communication shall (a) notify the parties to the proceeding that such a communication has been received; and (b) provide the parties with a copy of the communication and of any response thereto (if written) or with a memorandum stating the substance of the communication and any response thereto (if oral). If a proceeding is then pending before either the Board or a Hearing Officer, and if the Board or Hearing Officer so orders, these materials shall then be placed in the record of the proceeding. Upon order of the Hearing Officer or the Board, the parties may be provided with a full opportunity to respond to the alleged prohibited ex parte communication and to address what action, if any, should be taken in the proceeding as a result of the prohibited communication.

(3) Any Board member involved in a rulemaking who knowingly receives a prohibited ex parte communication shall cause to be published in the Congressional Record a notice that such a communication has been received and a copy of the communication and of any response thereto (if written) or with a memorandum stating the substance of the communication and any response thereto (if oral). Upon order of the Board, these materials shall then be placed in the record of the rulemaking and the Board shall provide interested persons with a full opportunity to respond to the alleged prohibited ex parte communication and to address what action, if any, should be taken in the proceeding as a result of the prohibited communication.

(4) Any Board member or Hearing Officer who is or may reasonably be expected to be involved in a proceeding or a rulemaking and who knowingly receives a prohibited ex parte communication and who fails to comply with the requirements of subsections (1), (2), or (3) above, is subject to internal censure or discipline through the same procedures that the Board utilizes to address and resolve ethical issues.

(e) *Penalties and Enforcement.* (1) Where a person is alleged to have made or caused another to make a prohibited ex parte communication, the Board or the Hearing Officer (as appropriate) may issue to the person a notice to show cause, returnable within a stated period not less than seven days from the date thereof, why the Board or the Hearing Officer should not determine that the interests of law or justice require that the person be sanctioned by, where applicable, dismissal of his or her claim or interest, the striking of his or her answer, or the imposition of some other appropriate sanction, including but not limited to the award of attorneys' fees and costs incurred in responding to a prohibited ex parte communication. Sanctions shall be commensurate with the seriousness and unreasonableness of the offense, accounting for, among other things, the advertency or inadvertency of the prohibited communication.

(2) Any Board member or Hearing Officer who is or may reasonably be expected to be involved in a proceeding or a rulemaking and who knowingly makes or causes to be made a prohibited ex parte communication is subject to internal censure or discipline through the same procedures that the Board utilizes to address and resolve ethical issues.

§ 9.05(a)

(a) *Informal Resolution.* At any time before a covered employee who has filed a formal request for counseling files a complaint under section 405, a covered employee and the employing office, on their own, may agree voluntarily and informally to resolve a dispute, so long as the resolution does not require a waiver of a covered employee's rights or the commitment by the employing office to an enforceable obligation.

NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, September 18, 1996.

Hon. NEWT GINGRICH,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. §1384(b)), I am transmitting on behalf of the Board of Directors the enclosed notice of proposed rulemaking regulations under Sections 210 and 215 of the Act for publication in the Congressional Record.

The Congressional Accountability Act specifies that the enclosed notice be published on the first day on which both Houses are in session following this transmittal.

Sincerely,

GLEN D. NAGER,
Chair of the Board.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS

NOTICE OF PROPOSED RULEMAKING

Summary: The Board of Directors of the Office of Compliance is publishing proposed regulations to implement Section 210 of the Congressional Accountability Act of 1995 ("CAA"), 2 U.S.C. §§1301-1438, as applied to covered entities of the House of Representatives, the Senate, and certain Congressional instrumentalities listed below.

The CAA applies the rights and protections of eleven labor and employment and public access statutes to covered entities within the Legislative Branch. Section 210(b) provides that the rights and protections against discrimination in the provision of public services and accommodations established by sections 201 through 230, 302, 303, and 309 of the Americans With Disabilities Act of 1990, 42 U.S.C. §§12131-12150, 12182, 12183, and 12189 ("ADA") shall apply to certain covered entities. 2 U.S.C. §1331(b). The above provisions of section 210 are effective on January 1, 1997. 2 U.S.C. §1331(h).

In addition to inviting comment in this Notice, the Board, through the statutory appointees of the Office, sought consultation with the Department of Justice and the Secretary of Transportation regarding the development of these regulations in accordance with section 304(g)(2) of the CAA. The Civil Rights Division of the Justice Department and the Department of Transportation provided helpful comments and assistance during the development of these regulations. The Board also notes that the General Counsel of the Office of Compliance has completed an inspection of all covered facilities for compliance with disability access standards under section 210 of the CAA and has submitted his final report to Congress. Based on information gleaned from these consultations and the experience gained from the General Counsel's inspections, the Board is publishing these proposed regulations, pursuant to section 210(e) of the CAA, 2 U.S.C. §1331(e).

The purpose of these regulations is to implement section 210 of the CAA. In this Notice of Proposed Rulemaking ("NPRM" or "Notice") the Board proposes that virtually identical regulations be adopted for the Senate, the House of Representatives, and the seven Congressional instrumentalities. Accordingly:

(1) *Senate.* It is proposed that regulations as described in this Notice be included in the body of regulations that shall apply to entities within the Senate, and this proposal regarding the Senate entities is recommended by the Office of Compliance's Deputy Executive Director for the Senate.

(2) *House of Representatives.* It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to entities within the House of Representatives, and this proposal regarding the House of Representatives entities is recommended by the Office of Compliance's Deputy Executive Director for the House of Representatives.

(3) *Certain Congressional instrumentalities.* It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance; and this proposal regarding these six Congressional instrumentalities is recommended by the Office of Compliance s Executive Director.

Dates: Comments are due within 30 days after the date of publication of this Notice in the Congressional Record.

Addresses: Submit written comments (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 426-1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM-201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Office of Compliance, at (202) 724-9250 (voice), (202) 426-1912 (TTY). This Notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Services Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, at (202) 224-2705 (voice), (202) 224-5574 (TTY).

SUPPLEMENTARY INFORMATION

Background and Summary

The Congressional Accountability Act of 1995 (CAA), Pub.L. 104-1, 109 Stat. 3, was enacted on January 23, 1995. 2 U.S.C. §§1301-1438. In general, the CAA applies the rights and protections of eleven federal labor and employment and public access statutes to covered employees and employing offices.

Section 210(b) provides that the rights and protections against discrimination in the provision of public services and accommodations established by the provisions of Titles II and III (sections 201 through 230, 302, 303, and 309) of the Americans With Disabilities Act of 1990, 42 U.S.C. §§12131-12150, 12182, 12183, and 12189 ("ADA") shall apply to the following entities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

2 U.S.C. §1331(b).

Title II of the ADA generally prohibits discrimination on the basis of disability in the provision of services, programs, or activities by any "public entity". Section 210(b)(2) of the CAA defines the term "public entity" for Title II purposes as any entity listed above that provides public services, programs, or activities. 2 U.S.C. §1331(b)(2).

Title III of the ADA generally prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with accessibility standards. Section 225(f) of the CAA provides that, "[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions of the [ADA] shall apply under this Act." 2 U.S.C. §1361(f)(1).

Section 210(f) of the CAA requires that the General Counsel of the Office of Compliance on a regular basis, and at least once each Congress, conduct periodic inspections of all covered facilities and report to Congress on compliance with disability access standards under section 210. 2 U.S.C. §1331(f).

Section 210(e) of the CAA requires the Board of Directors of the Office of Compliance established under the CAA to issue regulations implementing the section. 2 U.S.C. §1331(e). Section 210(e) further states that such regulations "shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." *Id.* Section 210(e) further provides that the regulations shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (b), the entity responsible for correction of a particular violation. 2 U.S.C. §1331(e).

In developing these proposed regulations, a number of issues have been identified and explored. The Board has proposed to resolve these issues as described below.

A. In general

1. *Public services and accommodations regulations promulgated by the Attorney General and the Secretary of Transportation that the board will adopt under section 210(e) of the CAA.*—Section 210(e) requires the Board to issue regulations that are the same as "substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C. §1331(e).

Consistent with its prior decisions on this issue, the Board has determined that all regulations promulgated after a notice and comment by the Attorney General and/or the Secretary of Transportation to implement the provisions of Title II and Title III of the ADA applied by section 210(b) of the CAA are "substantive regulations" within the meaning of section 210(e). *See, e.g.*, 142 Cong.Rec. S5070, S5071-72 (daily ed. May 15, 1996) (NPRM implementing section 220(d) regulations); 141 Cong. Rec. S17605 (daily ed. Nov. 28, 1995) (NPRM implementing section 203 regulations). *See also Reves v. Ernst & Young*, 113 S.Ct. 1163, 1169 (1993) (where same phrase or term is used in two different places in the same statute, it is reasonable for court to give each use a similar construction); *Sorenson v. Secretary of the Treasury*, 475 U.S. 851, 860 (1986) (normal rule of statutory construction assumes that identical words in different parts of the same act are intended to have the same meaning).

In this regard, the Board has reviewed the provisions of section 210 of the CAA, the sections of the ADA applied by that section, and the regulations of the Attorney General and the Secretary of Transportation, to determine whether and to what extent those regulations are substantive regulations which implement the provisions of Title II and Title III of the ADA applied by section 210(b) of the CAA. As explained more fully below, the Board proposes to adopt the following otherwise applicable regulations of the Attorney General published at Parts 35 and 36 of Title 28 of the Code of Federal Regulations ("CFR") and those of the Secretary of Transportation published at Parts 37 and 38 of Title 49 of the CFR:

1. *Attorney General's regulations at Part 35 of Title 28 of the CFR:* The Attorney General's regulations at Part 35 implement subtitle A of Title II of the ADA (sections 201 through 205), the rights and protections of which are applied to covered entities under section 210(b) of the CAA. *See* 28 CFR §35.101 (Purpose). Therefore, the Board determines that these regulations will be adopted in the proposed regulations under section 210(e).

2. *Attorney General's regulations at Part 36 of Title 28 of the CFR:* The Attorney General's regulations at Part 36 implement Title III of the ADA (sections 301 through 309). *See* 28 CFR §36.101 (Purpose). Section 210(b) only applies the rights and protections of three sections of Title III with respect to public accommodations: prohibitions against discrimination (section 302), provisions regarding new construction and alterations (section 303), and provisions regarding examinations and courses (section 309). Therefore, only those regulations in Part 36 that are reasonably necessary to implement the statutory provisions of sections 302, 303, and 309 will be adopted by the Board under section 210(e) of the CAA.

3. *Secretary of Transportation regulations at Parts 37 and 38 of Title 49 of the CFR:* The Secretary's regulations at Parts 37 and 38 implement the transportation provisions of Title II and Title III of the ADA. *See* 49 CFR §§37.101 (Purpose) and 38.1 (Purpose). The provisions of Title II and Title III of the ADA relating to transportation and applied to covered entities by section 210(b) of the CAA are subtitle B of Title II (sections 221 through 230) and certain portions of section 302 of Title III. Thus, those regulations of the Secretary that are reasonably necessary to implement the statutory provisions of sections 221 through 230, 302, and 303 of the ADA will be adopted by the Board under section 210(e) of the CAA.

The Board proposes not to adopt those regulatory provisions of the regulations of the Attorney General or those of the Secretary that have no conceivable applicability to operations of entities within the Legislative Branch or are unlikely to be invoked. *See* 141 Cong. Rec. at S17604 (daily ed. Nov. 28, 1995) (NPRM implementing section 203 regulations). Unless public comments demonstrate otherwise, the Board intends to include in the adopted regulations a provision stating that the Board has issued substantive regulations on all matters for which section 210(e) requires a regulation. *See* section 411 of the CAA, 2 U.S.C. §1411.

In addition, the Board has proposed to make technical changes in definitions and nomenclature so that the regulations comport with the CAA and the organizational structure of the Office of Compliance. In the Board's judgment, making such changes satisfies the CAA's "good cause" requirement. With the exception of these technical and nomenclature changes, the Board does not propose substantial departure from otherwise applicable Secretary's regulations.

The Board notes that the General Counsel applied the above-referenced standards of Parts 35 and 36 of the Attorney General's regulations and Parts 37 and 38 of the Secretary's regulations during his initial inspection of all Legislative Branch facilities pursuant to section 210(f) of the CAA. In contrast to other sections of the CAA, which generally give the Office of Compliance only adjudicatory and regulatory responsibilities, the General Counsel has the authority to investigate and prosecute alleged violations of disability standards under section 210, as well as the responsibility for inspecting covered facilities to ensure compliance. According to the General Counsel's final inspection report, the Title II and Title III regulations encompass the following requirements:

1. *Program accessibility:* This standard is applied to ensure physical access to public programs, services, or activities. Under this standard, covered entities must modify policies, practices, and procedures to ensure an equal opportunity for individuals with disabilities. If policy and procedural modifications are ineffective, then structural modifications may be required.

2. *Effective communication:* This standard requires covered entities to make sure that their communications with individuals with disabilities (such as in the context of constituent meetings and committee hearings) are as effective as their communications with others. Covered entities are required to make information available in alternate formats such as large print, Braille, or audio tape, or use methods that provide individuals with disabilities the opportunity to effectively communicate, such as sign language interpreters or the use of pen and paper. Primary consideration must be given to the method preferred by the individual. For telecommunications, the use of text telephones (TTY's) or the use of relay services is required.

3. *ADA Standards for Accessible Design:* These standards are applied to architectural barriers, including structural barriers to communication, such as telephone booths, to ensure that existing facilities, new construction, and new alterations, are accessible to individuals with disabilities.

See Inspection Report, App. A-3—A-4.

The Board recognizes that, as with other obligations under the CAA, covered entities will need information and guidance regarding compliance with these ADA standards as adopted in these proposed regulations, which the Office will provide as part of its education and information activities.

2. *Modification of regulations of the Attorney General and the Secretary.*—The Board has considered whether and to what extent it should modify otherwise applicable substantive public service and accommodation standards of the Attorney General and the Secretary. As the Board has noted in prior rulemakings, the language and legislative history of the CAA leads the Board to conclude that, absent clear statutory language to the contrary, the Board should hew as closely as possible to the text of otherwise applicable regulations promulgated by the appropriate executive branch agency to implement the statutory provisions applied to the Legislative Branch by the CAA. *See* 142 Cong. Rec. S221, S222 (daily ed. Jan. 22, 1996) (Notice of Adoption of Rules Implementing Section 203 regulations) ("The CAA was intended not only to bring covered employees the benefits of the . . . incorporated laws, but also require Congress to experience the same compliance burdens faced by other employers so that it could more fairly legislate in this area."). Thus, consistent with its prior decisions, the Board proposes to issue the regulations of the Attorney General and the Secretary with only technical changes in the nomenclature and deletion of those sections clearly inapplicable to the Legislative Branch. *See, e.g.,* 141 Cong. Rec. S17603-S17604 (daily ed. Nov. 28, 1995) (NPRM implementing section 203 regulations).

This conclusion is supported by the General Counsel's inspection report, which applied the substantive public service and accommodation standards to covered facilities in the course of his initial inspections under section 210(f) of the CAA. Specifically, there was nothing about the reported condition of facilities within the Legislative Branch that suggested that they were so different from comparable private sector and state and local governmental facilities as to require a public service and accommodations standard different than those applied by the Attorney General and the Secretary. *See generally* Gen. Couns., Off. Compliance, "Report on Initial Inspections of Facilities for Compliance with Americans With Disability Act Standards Under Section 210" (1996) ("Disability Access Report"). Thus, with the exception of nonsubstantive technical and nomenclature changes, the Board proposes no departure from the text of otherwise applicable portions of the regulations of the Attorney General and those of the Secretary.

3. Specific issues regarding the Attorney General's title II regulations (part 35, 28 CFR).

a. *Self-evaluation, notice, and designation of responsible employee and adoption of grievance provisions (sections 35.105, 35.106, and 35.107).*—Section 35.105 of the Attorney General's regulations establishes a requirement that all "public entities" evaluate their current policies and practices to identify and correct any that are inconsistent with accessibility requirements under the regulation. Those that employ 50 or more persons are required to maintain the self-evaluation on file and make it available for public inspection for three years. This self-evaluation does not cover activities covered by the Department of Transportation regulations (implementing sections 221 through 230 of the ADA). Section 35.106 requires a public entity to disseminate sufficient information to applicants, participants, beneficiaries, and other interested persons to inform them of the rights and protections afforded by the ADA and the regulations. Methods of providing this information include, for example, the publication of information in handbooks, manuals, and pamphlets that are distributed to the public and that describe a public entity's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio. *See* 56 Fed. Reg. 35694, 35702 (July 26, 1991) (preamble to final rule regarding Part 35). Section 35.107 requires that public entities with 50 or more employees designate a responsible employee and adopt grievance procedures. This provision establishes an alternative dispute resolution mechanism without requiring the complainant to resort to legal complaint procedures under the ADA. However, the complainant is not required to exhaust these procedures before filing a complaint under the ADA. *See* 56 Fed. Reg. at 35702.

The Board has considered whether and to what extent it may and should impose these recordkeeping, notice, and grievance requirements on covered entities. In contrast to the recordkeeping requirements of other laws applied by the CAA (such as the Fair Labor Standards Act) which were not included in sections of the laws applied to covered employees and employing offices by the CAA, the recordkeeping, notice, and grievance requirements in sections 35.105, 35.106, and

35.107 of the Attorney General's regulations implement subtitle A of Title II of the ADA, which is applied to covered entities under section 210(b) of the CAA. *See* 28 CFR §35.101; *see also* 28 CFR, pt. 35, App. A at 456–57 (section-by-section analysis). Thus, these regulations have been included in the Board's proposed regulations. *Compare* 141 Cong. Rec. S17603, S17604 (daily ed. Nov. 28, 1995) (recordkeeping requirements of the FLSA not included within the provisions applied by section 203 of the CAA cannot be the subject of Board rulemaking), 142 Cong. Rec. S221, S222 (daily ed. Jan. 22, 1996) (Notice of Adoption of Regulations Implementing Section 203) (same), and 141 Cong. Rec. S17628 (same rationale regarding recordkeeping requirements of the Family and Medical Leave Act) *with* 141 Cong. Rec. at 17657 (daily ed. Jan. 22, 1996) (recordkeeping requirements included within portion of Employee Polygraph Protection Act applied by section 204 of the CAA must be included within the proposed rules).

The Board also retains the 50 employee cut-off for imposing self-evaluation recordkeeping and grievance requirements on covered entities. Given that state and local government entities covered by Title II of the ADA have agencies of comparable size to entities within the Legislative Branch, the Board at present sees no reason to impose a different threshold for such obligations. Therefore, these provisions will be adopted as written, unless comments establish that there is "good cause" for modification.

b. *Retaliation or coercion (section 35.134).*—Section 35.134 of the Attorney General's regulations implements section 503 of the ADA, which prohibits retaliation against any individual who exercises his or her rights under the ADA. 28 CFR pt. 35, App. A at 464 (section-by-section analysis). Section 35.134 is not a provision which implements a right or protection applied to covered entities under section 210(b) of the CAA and, therefore, it will not be included within the adopted regulations.

c. *Employment discrimination provisions (section 35.140).*—Section 35.140 of the Attorney General's regulations prohibits employment discrimination by covered public entities. Section 35.140 implements Title II of the ADA, which has been interpreted to apply to all activities of a public entity, including employment. *See* 56 Fed. Reg. at 35707 (preamble to final rule regarding Part 35). However, section 210(c) of the CAA states that, "with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 201 of [the CAA]." 2 U.S.C. §1331(c). The Board proposes to adopt the employment discrimination provisions of section 35.140 as part of its regulations under section 210(e), and also to add a statement that, pursuant to section 210(c) of the CAA, section 201 of the CAA provides the exclusive remedy for any such employment discrimination. In the Board's judgment, making such a change satisfies the CAA's "good cause" requirement.

d. *Effective dates.*—In several portions of Part 35 of the Attorney General's regulations, references are made to dates such as the effective date of the Part 35 regulations or effective dates derived from the statutory provisions of the ADA. *See, e.g.*, 28 CFR §§35.150(c), (d), and 35.151(a); *see also* 56 Fed. Reg. at 35710 (preamble to final rule regarding Part 35). The Board proposes to substitute dates which correspond to analogous periods for the purposes of the CAA. In this way covered entities under section 210 may have the same time to come into compliance relative to the effective date of section 210 of the CAA afforded public entities subject to Title II of the ADA. In the Board's judgment, such changes satisfy the CAA's "good cause" requirement.

e. *Compliance procedures.*—Subpart F of the Attorney General's regulations (sections 35.170 through 35.189) set forth administrative enforcement procedures under Title II. Subpart F implements the provisions of section 203 of the ADA, which is applied to covered entities under section 210 of the CAA. Although procedural in nature, such provisions address the remedies, procedures, and rights under section 203 of the ADA, and thus the otherwise applicable provisions of these regulations are "substantive regulations" for section 210(e) purposes. *See* 142 Cong. Rec. at S5071–72 (similar analysis under section 220(d) of the CAA). However, since section 303 reserves to the Executive Director the authority to promulgate regulations that "govern the procedures of the Office," and since the Board believes that the benefit of having one set of procedural rules provides the "good cause" for modifying the Attorney General's regulations, the Board proposes to incorporate the provisions of Subpart F into the Office's procedural rules, to omit provisions that set forth procedures which conflict with express provisions of section 210 of the CAA or are already provided for under comparable provisions of the Office's rules, and to omit rules with no applicability to the Legislative Branch (such as provisions covering entities subject to section 504 of the Rehabilitation Act, provisions regarding State immunity, and provisions regarding referral of complaints to the Justice Department). *See* 142 Cong. Rec. at S5071–72 (similar analysis and conclusion under section 220(d) of the CAA).

f. *Designated agencies (Subpart G).*—Subpart G of the Attorney General's regulations designates the Federal agencies responsible for investigating complaints under Title II of the ADA. Given the structure of the CAA, such provisions are not applicable to covered Legislative Branch entities and, therefore, will not be adopted under section 210(e).

g. *Appendix to Part 35.*—The Board proposes not to adopt Appendix A to Part 35, the section-by-section analysis of Part 35. Since the Board has only adopted portions of the Attorney General's Part 35 regulations and modified several provisions to conform to the CAA, it does not appear appropriate to include Appendix A. However, the Board notes that the section-by-section analysis may have some relevance to interpreting sections of Part 35 which the Board has adopted without change.

4. *Specific issues regarding the Attorney General's title III regulations (part 36, 28 CFR).*

a. *"Ownership" or "leasing" of places of public accommodation, landlord and tenant obligations (sections 36.104 and 36.201(b)).*—In section 36.104 of the Attorney General's regulations (Definitions), the term "public accommodations" is defined as "a private entity that owns, leases (or leases to), or operates a place of public accommodation." Section 36.201(b) delineates the respective obligations of landlords and tenants under the ADA. It provides that the landlord that owns the building that houses the place of public accommodation, as well as the tenant that owns or operates the place of public accommodation, are public accommodations that have obligations under the regulations. Section 36.201(b) further provides that, as between the parties, allocation of responsibility for compliance may be determined by lease or other contract. *See* 36 CFR, pt. 36, App. B at 593–94 (section-by-section analysis).

On its face, these provisions do not apply to facilities within the Legislative Branch. For example, covered entities do not "own" the buildings or facilities housing a place of public accommodation in the way that private entities do. Similarly, the Board is unaware of any situations in which an otherwise covered entity within the Legislative Branch may "lease" its facilities to another Legislative Branch entity. The only lease agreements of which the Board is aware would be between otherwise covered entities and persons or entities over which the CAA has no jurisdiction. For example, the General Services Administration or a private building owner may lease space to Congressional offices, but neither entity would fall within the CAA's definition of a covered entity.

Although the concepts of "ownership" or "leasing" do not appear to apply to facilities within the Legislative Branch, the Architect of the Capitol does have statutory superintendence responsibility for certain legislative branch buildings and facilities, including the Capitol Building, which includes duties and responsibilities analogous to those of a "landlord". *See* 40 U.S.C. §§ 163–166 (Capitol Building), 167–175 and 185a (House and Senate office buildings), 193a (Capitol grounds), and 216b (Botanical Garden). As noted in section B.2 of this Notice, *infra*, the concept of "superintendence" may be relevant to determining whether an entity "operates" a place of public accommodation within the meaning of section 210(b). Although the provisions of section 36.201(b) of the Attorney General's regulations are not directly applicable, the Board believes that, where two or more entities may have compliance obligations under section 210(b) as "responsible entities" under the proposed regulations, those entities should have the ability to allocate responsibility by agreement similar to the case of landlords and tenants with respect to public accommodations under Title III of the ADA. Thus, the proposed regulations adopt such provisions modeled after section 36.201(b) of the Attorney General's regulations. However, by promulgating this provision, the Board does not intend any substantive change in the statutory responsibility of entities under section 210(b) or the applicable substantive rights and protections of the ADA applied thereunder. *See* 142 Cong. Rec. at S270 (final rule under section 205 of the CAA substitutes the term "privatization" for "sale of business" in the Secretary of Labor's regulations under the Worker Adjustment Retraining and Notification Act).

b. *Effective dates.*—Section 36.401(a) of the Attorney General's regulations provides generally that all facilities designed and constructed for first occupancy later than January 26, 1993 (30 months after the date of enactment of the ADA) must be readily accessible to and usable by individual with disabilities. Section 36.401 implements section 303 of the ADA, which is applied to covered facilities under section 210(b) of the CAA. Section 303 provides the compliance date regarding new construction is 30 months after the date of enactment. Consistent with its resolution of a similar issue with respect to adoption of the Attorney General's Title II regulations, the Board proposes to substitute a date 30 months after the date of enactment of section 210 of the CAA (*i.e.*, July 23, 1997) in the places that it appears in section 36.401(a)(1), (a)(2), (a)(2)(i), and (a)(2)(ii). In the Board's judgment, making such changes satisfies the CAA's "good cause" requirement. Similarly, the Board will substitute the effective date of section 210 of the CAA (January 1, 1997) for the effective date of Titles II and III of the ADA (July 26, 1992) wherever it appears in sections 36.151, 36.401, 36.402, and 36.403 to give covered entities the equivalent time benefits under the CAA that public and private entities enjoyed prior to the effective date of their obligations under the ADA. *See* 56 Fed. Reg. 7452, 7472 (Feb. 22, 1991) (preamble to NPRM regarding Part 36), and section 3.d. of this Notice (similar resolution of issue under Part 35 regulations). Other dates contained in these regulations are derived from the statutory provisions of the ADA. The Board has determined there is "good cause" to substitute dates that correspond to analogous periods for the purposes of the CAA.

c. *Retaliation or coercion (section 36.206).*—Section 36.206 of the Attorney General's regulations implements section 503 of the ADA, which prohibits retaliation against any individual who exercises his or her rights under the ADA. 56 Fed. Reg. at 7462–63 (preamble to NPRM regarding Part 36); 28 CFR pt. 36, App. B at 598 (section-by-section analysis). Section 36.206 is not a provision which implements a right or protection applied to covered entities under section 210(b) of the CAA and therefore will not be included within the adopted regulations. The Board notes, however, that section 207 of the CAA provides a comprehensive retaliation protection for employees (including applicants and former employees) who may invoke their rights under section 210, although section 207 does not apply to nonemployees who may enjoy rights and protections against discrimination under section 210.

d. *Places of public accommodations in private residences (section 36.207).*—Section 36.207 of the Attorney General's regulations deals with the situation where all or part of a home may be used to house a place of public accommodation. *See* 28 CFR pt. 36, App. B at 599 (section-by-section analysis). The Board takes notice that some Members of the Congress may use all or part of their own residences as a District or State office in which they may receive constituents, conduct meetings, and other activities which may result in the area being deemed a place of public accommodation within the meaning of section 210 of the CAA. Therefore, the Board proposes adoption of this provision.

e. *Insurance provisions (section 36.212).*—Section 36.212 of the Attorney General's regulations restates section 501(c) of the ADA, which provides that the ADA shall not be construed to restrict certain insurance practices on the part of insurance companies and employers, so long as such practices are not used to evade the purposes of the ADA. *See* 56 Fed. Reg. at 7464–65 (preamble to NPRM regarding Part 36); 28 CFR pt. 36, App. B at 603 (section-by-section analysis). As a limitation on the scope of the rights and protections of Title III of the ADA, these provisions may be applied under the CAA. *See* section 225(f) of the CAA, 2 U.S.C. §1361(f). Although section 36.212 appears intended primarily to cover insurance companies, some of the terms of its provisions may be broad enough to have applicability to covered entities. Accordingly, the Board proposes to adopt, with appropriate modifications, section 36.212.

f. *Enforcement Procedures (Subpart E).*—Subpart E of the Attorney General's regulations (sections 36.501 through 36.599) set forth the enforcement procedures under Title III of the ADA. As the Justice Department noted in its NPRM regarding subpart E, the Department of Justice does not have the authority to establish procedures for judicial review and enforcement and, therefore, "Subpart E generally restates the statutory procedures for enforcement". 28 CFR pt. 36, App. B at 638 (section-by-section analysis). Additionally, the regulations derive from the provisions of section 308 of the ADA, which is not applied to covered entities under section 210(b) of the CAA. Thus, the regulations in subpart E are not promulgated by the Attorney General as substantive regulations to implement the statutory provisions of the ADA referred to in section 210(b), within the meaning of section 210(e).

g. *Certification of State Laws or Local Building Codes (subpart F).*—Subpart F of the Attorney General's regulations establishes procedures to implement section 308(b)(1)(A)(ii) of the ADA regarding compliance with State laws or building codes as evidence of compliance with accessibility standards under the ADA. 28 CFR pt. 36, App. B at 640 (section-by-section analysis). Section 308 is not one of the laws applied to covered entities under section 210(b) of the CAA and, therefore, these regulations will not be adopted under section 210(e).

h. *Appendices to Part 36.*—Part 36 of the Attorney General's regulations includes two appendices, only one of which the Board proposes to adopt as part of these regulations. The Board proposes to adopt as an appendix to these regulations Appendix A (ADA Accessibility Guidelines for Buildings and Facilities ("ADAAG")), which provides guidance regarding the design, construction, and alteration of buildings and facilities covered by Titles II and III of the ADA. 28 CFR pt. 36, App. A. The Board also proposes to adopt as Appendix B to these regulations the Uniform Federal Accessibility Standards (UFAS) (Appendix A to 41 CFR pt. 101–19.6). Such guidelines, where not inconsistent with express provisions of the CAA or of the regulations adopted by the Board, may be relied upon by covered entities and others in proceedings under section 210 of the CAA to the same extent as similarly situated persons may rely upon them in actions brought under Title III of the ADA. *See* 142 Cong. Rec. at S222 and 141 Cong. Rec. at S17606 (similar resolution regarding Secretary of Labor's interpretative bulletins under the Fair Labor Standards Act for section 203 purposes). Covered entities may also use the Attorney General's ADA Technical Assistance Manual and other similar publications for guidance regarding their obligations under regulations adopted by the Board without change.

The Board proposes not to adopt Appendix B, the section-by-section analysis of Part 36. Since the Board has only adopted portions of the Attorney General's Part 36 regulations and modified several provisions to conform to the CAA, it does not appear appropriate to include Appendix B. However, the Board notes that the section-by-section analysis may have some relevance to interpreting the sections of Part 36 that the Board has adopted without change.

5. *Specific issues regarding the Secretary of Transportation's title II and title III regulations (parts 37 and 38, 49 CFR).*

a. *Definitions (section 37.3).*—As noted above, the Board will make technical and nomenclature changes to the included regulations to adapt them to the CAA. In addition, certain definitions in section 37.3 of the Secretary's regulations relate strictly to implementation of Part II of Title II of the ADA (sections 241 through 246), dealing with public transportation by intercity and commuter rail. Sections 241 through 246 of the ADA were not within the rights and protections applied to covered entities under section 210(b) and, therefore, the regulations implementing such sections are not substantive regulations of the Secretary required to be adopted by the Board within the meaning of section 210(e). Accordingly, the Board will exclude from its regulations the definitions of terms such as "commerce," "commuter authority," "commuter rail car," "commuter rail transportation," "intercity rail passenger car," and "intercity rail transportation," which relate to sections 241 through 246 of the ADA.

b. *Nondiscrimination (section 37.5).*—Subsection (f) of section 37.5 of the Secretary's regulations relates to private entities primarily engaged in the business of transporting people and whose operations affect commerce. This subsection implements section 304 of the ADA, which is not a right or protection applied to covered entities under section 210(b) of the CAA. *See* 56 Fed. Reg. 13856, 13858 (April 4, 1991) (preamble to NPRM regarding Part 37). Therefore, it is not a regulation of the Secretary included within the scope of rulemaking under section 210(e) of the CAA and will not be included in these regulations.

c. *References to the Administrator.*—In several provisions of the Secretary's regulations which the Board will include as substantive regulations, reference is made to the Administrator of the Federal Transit Administration ("Administrator" or "FTA"). Several regulations provide that entities may make requests to the Administrator for waivers or other relief from the accessibility requirements of the regulations. *See, e.g.*, section 37.7(b) (determination of equivalent facilitation), 37.71 (waiver of accessibility requirements for new buses), 37.135 (submission of paratransit plans), and 37.153 (FTA waiver determinations).

These provisions will be invoked rarely, if at all. Nevertheless, the Board proposes to adopt these provisions and has determined that there is "good cause" to substitute the General Counsel of the Office of Compliance for the Administrator of the FTA. There is some concern that authorizing the FTA, an executive branch agency, to relieve covered entities from the accessibility requirements of section 210 may be tantamount to executive enforcement of section 210. *See* section 225(f)(3) ("This Act shall not be construed to authorize enforcement by the executive branch of this Act."). In this context, the General Counsel, as the officer responsible for investigating and prosecuting complaints under section 210, *see* section 210(d) and (f) of the CAA, is the appropriate analogue for the Administrator. Moreover, if such a waiver request is made by covered entities which requires FTA expertise, such assistance may be obtained by the Executive Director through the use of detailees or consultants. *See* CAA sections 210(f)(4) and 302(e) and (f).

d. *State Administering Agencies.*— Several portions of the Secretary's regulations refer to obligations of entities regulated by state agencies administering federal transportation funds. *See, e.g.*, sections 37.77(d) (requires filing of equivalent service certificates with state administering agency), 37.135(f) (submission of paratransit development plan to state administering agency) and 37.145 (State comments on paratransit plans). Any references to obligations not imposed on covered entities, such as state law requirements and laws regulating entities that receive Federal financial assistance, will be excluded from these proposed regulations.

e. *Dates (sections 37.9, 37.71 through 37.87, 37.91, and 37.151).*—There are several references in the Secretary's regulations to dates from which duties commence and by which certain action should be taken. *See* sections 37.9, 37.13, 37.41, 37.43, 37.47, 37.71 through 37.87, 37.91, and 37.151. The dates set forth in the regulations are derived from the statutory provisions of the ADA. *See, e.g.*, 49 CFR, pt. 37, App. D at 497, 501-02 (section-by-section analysis). The Board has determined that there is "good cause" to substitute dates which correspond to analogous periods for purposes of the CAA.

f. *Administrative Enforcement (section 37.11).*—Section 37.11 of the Secretary's regulations does not implement any provision of the ADA applied to covered entities under section 210 of the CAA. Moreover, the enforcement procedures of section 210 are explicitly provided for in section 210(d) ("Available Procedures"). Accordingly, this section will not be included within the Board's proposed regulations. The subject matter of enforcement procedures will be addressed, if necessary, under the Office's procedural rules.

g. *Applicability and Transportation Facilities (subparts B and C).*—Certain sections of Subparts B (Applicability) and C (Transportation Facilities) of the Secretary's regulations were promulgated to implement sections 242 and 304 of the ADA, provisions that are not applied to covered entities under section 210(b) of the CAA or are otherwise inapplicable to Legislative Branch entities. Therefore, the Board will exclude the following sections from its substantive regulations on that basis: 37.21(a)(2) and (b) (relating to private entities under section 304 of the ADA and private entities receiving Federal assistance from the Transportation Department), 37.25 (university transportation systems), 37.29 (private taxi services), 37.33 (airport transportation systems), 37.37(a) and 37.37(e)-(g) (relating to coverage of private entities and other entities under section 304 of the ADA), and 37.49–37.57 (relating to intercity and commuter rail systems). Similarly, the Board proposes modifying sections 37.21(c), 37.37(d), and 37.37(h) and other sections where references are made to requirements or circumstances strictly encompassed by the provisions of section 304 of the ADA and, therefore, not applicable to covered entities under the CAA. *See, e.g.*, sections 37.25–37.27 (transportation for elementary and secondary education systems).

h. *Acquisition of Accessible Vehicles by Public Entities (Subpart D).*—Subpart D (sections 37.71 through 37.95) of the Secretary's regulations relate to acquisition of accessible vehicles by public entities. Certain sections of subpart D were promulgated to implement sections 242 and 304 of the ADA, which were not applied to covered entities under section 210(b) of the CAA, or are otherwise inapplicable to Legislative Branch entities. Therefore, the Board will exclude the following sections from its substantive regulations on that basis: 37.87–37.91 and 37.93(b) (relating to intercity and commuter rail service).

i. *Acquisition of Accessible Vehicles by Private Entities (Subpart E).*—Subpart E (sections 37.101 through 37.109) of the Secretary's regulations relates to acquisition of accessible vehicles by private entities. Section 37.101, relating to acquisition of vehicles by private entities not primarily engaged in the business of transporting people, implements section 302 of the ADA, which is applied to covered entities under section 210(b). Therefore, the Board will adopt section 37.101 as part of its section 210(e) regulations. Sections 37.103, 37.107, and 37.109 of the regulations implement section 304 of the ADA, which is inapplicable to covered entities under the ADA. Therefore, the Board proposes not to include them within its substantive regulations under section 210(e) of the CAA.

j. *Appendices to Part 37.*—Part 37 of the Secretary's regulations includes several appendices, only one of which the Board proposes to adopt as part of these regulations. The Board proposes to adopt as an appendix to these regulations Appendix A (Standards for Accessible Transportation Facilities, ADA Accessibility Guidelines for Buildings and Facilities), which provides guidance regarding the design, construction, and alteration of buildings and facilities covered by Titles II and III of the ADA. 49 CFR pt. 37, App. A. Such guidelines, where not inconsistent with express provisions of the CAA or of the regulations adopted by the Board, may be relied upon by covered entities and other in proceedings under section 210 of the CAA to the same extent as similarly situated persons may rely upon them in actions brought under Title II and Title III of the ADA. *See* 142 Cong. Rec. at S222 and 141 Cong. Rec. at S17606 (similar resolution regarding Secretary of Labor's interpretative bulletins under the Fair Labor Standards Act for section 203 purposes).

The Board proposes not to adopt Appendix B, which gives the addresses of FTA regional offices. Such information is not relevant to covered entities under the CAA. The Board also proposes to adopt portions of Appendix C, which contain forms for certification of equivalent service. The Board will delete reference to the requirement that public entities receiving financial assistance under the Federal Transit Act submit the certification to their state program office before procuring any inaccessible vehicle. This certification form appears to be irrelevant to entities covered by the CAA and therefore will not be adopted by the Board.

Finally, the Board does not adopt Appendix D to Part 37, the section-by-section analysis of Part 37. Since the Board has only adopted portions of the Secretary's Part 37 regulations and has modified several provisions to conform to the CAA, it does not appear appropriate to include Appendix D. However, the Board notes that the section-by-section analysis may have some relevance in interpreting the sections of Part 37 that the Board has adopted without change.

k. *ADA Accessibility Specifications for Transportation Vehicles (Part 38).*—Part 38 of the Secretary's regulations contains accessibility standards for all types of transportation vehicles. Part 38 is divided into vehicle types: Subpart B, Buses, Vans, and Systems; Subpart C, Rapid Rail Vehicles and Systems; Subpart D, Light Rail Vehicles and Systems; Subpart E, Commuter Rail Cars and Systems; Subpart F, Intercity Rail Cars and Systems; Subpart G, Over-the-Road Buses and Systems; and Subpart H, Other Vehicles and Systems. Section 38.2 contains the concept of equivalent facilitation, under which an entity is permitted to request approval for an alternative method of compliance. As noted in section 5.c. of this Notice, the Board proposes that such determinations be made by the General Counsel rather than the Administrator.

The Board proposes to adopt, with minimal technical and nomenclature changes, the regulations contained in Part 38 and accompanying appendix, with the exception of the following subparts which the Board has determined implement portions of the ADA not applied to covered entities under section 210(b) of the CAA and/or the Board believe have no conceivable applicability to legislative branch operations: Subpart E, Commuter Rail Cars and Systems; and Subpart F, Intercity Rail Cars and Systems.

B. Proposed regulations

1. *General Provisions.*—The proposed regulations include a section on matters of general applicability including the purpose and scope of the regulations, definitions, coverage, and the administrative authority of the Board and the Office of Compliance.

2. *Method for Identifying Responsible Entities and Establishing Categories of Violations.*—Section 210(e)(3) of the CAA directs the Board to include in its regulations a method for identifying, for purposes of section 210 and for different categories of violations of subsection (b), the entity responsible for correction of a particular violation. In developing these proposed rules, the Board considered the final Report of the General Counsel, which applied the public services and accommodations standards of section 210 to covered entities during his initial inspections under section 210(f). *See* Disability Access Report.

In developing a method for identifying the entity responsible for a correction of a violation of section 210, the Board must consider the terms of section 210 of the CAA and the precise nature of the obligations imposed on covered entities under Titles II and III of the ADA under section 210(b). The Board cannot promulgate regulations which purport to expand or limit these obligations contrary to the language of the statute or the intent of Congress. *See, e.g., White v. I.N.S.*, 75 F.3d 213, 215 (5th Cir. 1996) (agency cannot promulgate even substantive rules that are contrary to statute; if intent of Congress is clear, agency must give effect to that unambiguously expressed intent); *Conlan v. U.S. Dep't of Labor*, 76 F.3d 271, 274 (9th Cir. 1996). As set forth below, the Board has developed a method for identifying the entity responsible for correction of a violation of section 210(b) which includes providing definitions for terms such as "operate a place of public accommodation," and "public entity" for the purpose of section 210.

Section 210(b) applies the rights and protections of two separate and independent provisions of the ADA to covered entities:

The rights and protections of Title II of the ADA (sections 201 through 230) applied by section 210(b) of the CAA deals with "public entities." It prohibits discrimination against any qualified individual with a disability by any "public entity" regarding all public activities, programs, and services of that entity. Title II imposes an obligation on public entities to make "reasonable modifications to rules, policies, or practices," to achieve "the removal of architectural, communication, or transportation barriers," and to ensure "provision of auxiliary aids and services." Title II also includes provisions regarding accessibility of public transportation systems.

The rights and protections of Title III of the ADA applied by section 210(b) of the CAA (sections 302, 303, and 309) deals with "public accommodations." It prohibits discrimination on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of "any place of public accommodation." Specifically, such discrimination includes: (1) discriminatory eligibility criteria; (2) failure to make reasonable modifications; (3) failure to provide auxiliary aids and services; (4) failure to remove architectural barriers and communication barriers that are structural in nature where removal of such barriers are "readily achievable"; and (5) failure to make goods, services, facilities, privileges, advantages, or accommodations available through alternative methods where removal of barriers is not readily achievable. In contrast to Title II, Title III defines a "place of public accommodation" as "private entities" (which excludes "public entities" covered under Title II) falling within twelve specified categories of activities. Title III also contains requirements regarding specified transportation services.

As set forth in the ADA, Title II and Title III were designed to impose separate legal obligations (which are expressed in slightly different terms) on two separate and independent classes of actors: "public entities" (which have Title II obligations) and private entities that are "places of public accommodation" (which have Title III obligations). Under the ADA, a public entity, by definition, can never be subjected to Title III of the ADA, which covers only private entities. Conversely, private entities cannot be covered by Title II. *See, e.g.*, 28 CFR, pt. 36, App. B at 587 (section-by-section analysis of Part 36) ("Facilities operated by government agencies or other public entities as defined in this section do not qualify as places of public accommodation. The action of public entities are governed by title II of the ADA"); ADA Title III Technical Assistance Manual at p. 7 (1993).

In section 210(b) of the CAA, Congress applied the rights and protections of all of Title II and parts of Title III to specified Legislative Branch entities without making either Title's coverage mutually exclusive. Thus, in contrast to the ADA, under the CAA, a single entity could conceivably have obligations under both Title II and Title III, if it meets the criteria for coverage under both Titles.

The method developed by the Board in these regulations to identify the entity responsible for correcting a violation of section 210(b) is set forth in section 1.105 of the proposed regulations. Section 1.105 is based on the Board's interpretation of the statutory coverage for Legislative Branch entities under Title II and Title III, as applied by section 210(b).

Under the proposed rule, the entity responsible for correcting a violation of the obligations under Title II of the ADA with respect to the provision of public services, programs, or activities, as applied by section 210(b) is the entity that, with respect to the particular violation, is a covered "public entity" within the meaning of section 210(b) that provided the particular public service, program, or activity that forms the basis of the violation. Similarly, the entity responsible for correcting a violation of the obligations under Title III of the ADA, as applied by section 210(b) is the entity that, with respect to the particular violation, operates the "place of public accommodation" within the meaning of section 210(b) that forms the basis of the violation. Thus, the regulations distinguish responsible entities for Title II and Title III purposes as follows:

1. *The rights and protections of Title II (sections 201 through 203 of the ADA):* For the purpose of the rights and protections against discrimination under Title II of the ADA, the entity responsible for a violation would be any entity listed in subsection (a) of section 210 of the CAA that is a "public entity" as defined by section 210(b)(2) of the CAA and that provided the public service, program, or activity that formed the basis for the particular violation of Title II set forth in the charge filed with the General Counsel or the complaint filed by the General Counsel with the Office under section 210(d) of the CAA. Conversely, if the entity is not a "public entity" (that is, the entity provides no public services, programs, or activities) or did not provide the public service, program, or activity that formed the basis for the particular violation of Title II, the entity is not an "entity responsible for correction of the violation" within the meaning of these regulations.

2. *The rights and protections of Title III (sections 302, 303, and 309 of the ADA):* For the purpose of the rights and protections against discrimination under Title III of the ADA, the entity responsible for a violation would be any entity listed in subsection (a) of section 210 of the CAA that "operates a place of public accommodation" (as defined in these regulations) that forms in whole or in part the basis for the particular violation of Title III.

a. "Place of public accommodation." As used in these regulations, the term "place of public accommodation" follows the definition of section 301(7) of the ADA, with appropriate modification to delete the phrase "private" and the requirement that the activities affect commerce. These modifications conform the definition to the CAA. *See* section 225(f) of the CAA, 2 U.S.C. §1361(f).

b. "Operate (a place of public accommodation)." As applied by section 210(b) of the CAA, section 302(a) of the ADA prohibits discrimination on the basis of disability by any "[Legislative Branch entity that] owns, leases (or leases to), or operates a place of public accommodation." On its face, the terms "owns, leases (or leases to)" do not apply to entities within the Legislative Branch. For example, the Board is not aware of any individual covered entity that "owns" the buildings or facilities housing a place of public accommodation in the way that private entities do. Similarly, the Board is unaware of any situations in which an otherwise covered entity within the Legislative Branch may "lease" its facilities to another Legislative Branch entity. The only lease agreements of which the Board is aware would be between otherwise covered entities and persons or entities over which the CAA has no jurisdiction. For example, the General Services Administration or a private building owner may lease space to Congressional offices, but neither entity would fall within the CAA's definition of covered entity. Thus, the only issue in any case under Title III of the ADA as applied under section 210 would be whether a Legislative Branch entity "operates" a place of public accommodation within the meaning of the ADA.

The ADA does not define the term "operate." Thus, the Board "construe[s] it in accord with its ordinary and natural meaning." *Smith v. United States*, 113 S.Ct. 2050, 2054 (1993); *White v. I.N.S.*, 75 F.3d 213, 215 (5th Cir. 1996), *quoting Pioneer Investment Servs. v. Brunswick Assocs.*, 113 S.Ct. 1489, 1495 (1993) ("Congress intends the words in its enactments to carry their ordinary, contemporary, common meaning.").

To "operate," in the context of a business operation, means "to put or keep in operation," The Random House College Dictionary 931 (Rev. ed. 1980), "[t]o control or direct the functioning of," Webster's II: New Riverside Dictionary 823 (1988), "[t]o conduct the affairs of; manage," The American Heritage Dictionary 1268 (3d ed. 1992). *Neff v. American Dairy Queen Corp.*, 58 F.3d 1063, 1066 (5th Cir. 1995), *cert. denied* 116 S.Ct. 704 (1996). *See also* Webster's New Universal Unabridged Dictionary 1253 (2d ed. 1983) ("to superintend; to manage; to direct the affairs of; as, to *operate* a mine.").

In Neff v. American Dairy Queen Corp., supra, the Fifth Circuit considered the meaning of the term "operate" in the ADA in the context of franchise store operations. The plaintiff sued American Dairy Queen ("ADQ") under Title III of the ADA, arguing that the franchise agreement between ADQ and its franchisee (R & S Dairy Queens), in which ADQ retained the right to set standards for buildings and equipment maintenance and the right to "veto" proposed structural changes, made it an "operator" of the franchisees' stores within the meaning of section 302. The Fifth Circuit rejected this argument:

"Instead, the relevant question in this case is whether ADQ, according to the terms of the franchise agreements with R & S Dairy Queens, controls modification of the San Antonio Stores to cause them to comply with the ADA. * * *

* * * * *

"In sum, while the terms of the [agreement] demonstrate that ADQ retains the right to set standards for building and equipment maintenance and to "veto" proposed structural changes, we hold that this supervisory authority, without more, is insufficient to support a holding that ADQ "operates," in the ordinary and natural meaning of that term, the [franchisee store]." 58 F.3d at 1068. The Board finds the reasoning of the *Neff* court persuasive and adopts its application of the term "operate" for Title III purposes in these regulations.

Specifically, for the purposes of determining responsibility under Title III, an entity "operates" a place of public accommodation if it superintends, directly controls, or directs the functioning of or manages the specific aspects of the public accommodation that constitute an architectural barrier or a communication barrier that is structural in nature or that otherwise forms the basis for a violation of section 302 of the ADA, as applied by section 210(b) of the CAA. In addition, an entity "operates" a place of public accommodation if it assigns such superintendence, control, direction, or management to another entity or person by means of contract or other arrangement. An entity, whether or not a covered entity under these regulations, which contracts with a covered entity stands in the shoes of the covered entity for purposes of determining the application of Title III requirements. Thus, the definition of "operate" in these regulations "includes operation of the place of public accommodation by a person under a contractual or other arrangement or relationship with a covered entity."

In the absence of such a provision, it is possible that a covered entity, instead of directly controlling the inaccessible features of places of public accommodation, could contract with a private entity, which would then manage the accommodation in such a way as to maintain its inaccessible features. Allowing such self-insulation from liability would clearly conflict with the principles of the ADA as applied by section 210(b) of the CAA. The proposed definition is intended to prevent an otherwise covered entity from "contracting out" of its Title III obligations. Where the entity exercises no authority with respect to the modification of the specific aspects of the facilities, programs, activities, or other features of the place of public accommodation that make them inaccessible within the meaning of section 302 of the

CAA, the proposed regulation states that the entity does not "operate" the place of public accommodation within the meaning of these regulations.

Where an entity merely maintains the general authority to set standards regarding a particular facility or condition at issue, and to "veto" proposed changes in the facility or condition, this oversight or supervisory authority, without more, is insufficient to support a finding that the entity "operates" the facility or condition within the meaning of these regulations. *See Neff*, 58 F.3d at 1068. Conversely, if the correction of a violation of section 210 of the CAA, including the modification of the facility or condition at issue, can only be accomplished with the active approval or permission of a particular entity, then that entity "operates" the facility or condition and is otherwise a responsible entity under this section of the regulations, but only to the extent that the entity withholds such approval or permission.

3. *Future changes in the text of regulations of the Attorney General and the Secretary which have been adopted by the Board.*—The Board proposes that the section 210 regulations adopt the text of the referenced portions of parts the regulations of the Attorney General and the Secretary of Transportation in effect as of the effective date of these regulations. The Board takes notice that the Attorney General and the Secretary have in recent years made frequent changes, both technical and nontechnical, to their Title II and Title III regulations and to the ADAAG standards incorporated by reference therein. The Board interprets the incorporation by reference in the text of the adopted Title II and Title III regulations of documents (such as the ADAAG standards at appendix A to Part 36) to include any future changes to such documents. As the Office receives notice of such changes by the Attorney General or the Secretary, it will advise covered entities and employees as part of its education and information activities. As to changes in the text of the adopted regulations themselves, however, the Board finds that, under the CAA statutory scheme, additional Board rulemaking under section 210(e) will be required. The Board believes that it should afford covered Legislative Branch entities and employees potentially affected by adoption of such changes the opportunity to comment on the propriety of Board adoption of any such changes, and that the Congress should have the opportunity to specifically approve such adoption by the Board. The Board specifically invites comments on this proposal.

4. *Technical and nomenclature changes.*—The proposed regulations make technical and nomenclature changes, where appropriate, to conform to the provisions of the CAA.

Recommended method of approval: The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and entities and facilities of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and entities and facilities of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered entities and facilities be approved by the Congress by concurrent resolution. Signed at Washington, D.C., on this 18th day of September, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

APPLICATION OF RIGHTS AND PROTECTIONS OF THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS (SECTION 210 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

Part 1—Matters of General Applicability to All Regulations Promulgated Under Section 210 of the Congressional Accountability Act of 1995

Sec.
1.101 Purpose and scope
1.102 Definitions
1.103 Coverage
1.104 Notice of protection
1.105 Authority of the Board
1.106 Method for identifying the entity responsible for correction of violations of section 210

§1.101 Purpose and scope.

(a) *Section 210 of the CAA.* Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of eleven federal labor and employment law and public access statutes to covered employees and employing offices within the legislative branch. Section 210(b) of the CAA provides that the rights and protections against discrimination in the provision of public services and accommodations established by the provisions of Title II and III (sections 201 through 230, 302, 303, and 309) of the Americans With Disabilities Act of 1990, 42 U.S.C. §§12131–12150, 12182, 12183, and 12189 ("ADA") shall apply to the following entities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician and

(9) the Office of Compliance.

2 U.S.C. §1331(b). Title II of the ADA generally prohibits discrimination on the basis of disability in the provision of public services, programs, activities by any "public entity." Section 210(b)(2) of the CAA provides that for the purpose of applying Title II of the ADA the term "public entity" means any entity listed above that provides public services, programs, or activities. Title III of the ADA generally prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with accessibility standards. Section 225(f) of the CAA provides that, "[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions of the [ADA] shall apply under this Act." 2 U.S.C. §1361(f)(1).

Section 210(f) of the CAA requires that the General Counsel of the Office of Compliance on a regular basis, and at least once each Congress, conduct periodic inspections of all covered facilities and to report to Congress on compliance with disability access standards under section 210. 2 U.S.C. §1331(f).

(b) *Purpose and scope of regulations.* The regulations set forth herein (Parts 1, 35, 36, 37, and 38) are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 210(e) of the CAA. Part 1 contains the general provisions applicable to all regulations under section 210, including the method of identifying entities responsible for correcting a violation of section 210. Part 35 contains the provisions regarding nondiscrimination on the basis of disability in the provision of public services, programs, or activities of covered entities. Part 36 contains the provisions regarding nondiscrimination on the basis of disability by public accommodations. Part 37 contains the provisions regarding transportation services for individuals with disabilities. Part 38 contains the provisions regarding accessibility specifications for transportation vehicles.

§1.102 Definitions.

Except as otherwise specifically provided in these regulations, as used in these regulations:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *ADA* means the Americans With Disabilities Act of 1990 (42 U.S.C. §§12131–12150, 12182, 12183, and 12189) as applied to covered entities by Section 210 of the CAA.

(c) The term *covered entity* includes any of the following entities that either provides public services, programs, or activities, and/or that operates a place of public accommodation within the meaning of section 210 of the CAA: (1) each office of the Senate, including each office of a Senator and each committee; (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee; (3) each joint committee of the Congress; (4) the Capitol Guide Service; (5) the Capitol Police; (6) the Congressional Budget Office; (7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden); (8) the Office of the Attending Physician; and (9) the Office of Compliance.

(d) *Board* means the Board of Directors of the Office of Compliance.

(e) *Office* means the Office of Compliance.

(f) *General Counsel* means the General Counsel of the Office of Compliance.

§1.103 Notice of protection.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 210 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

§1.104 Authority of the Board.

Pursuant to sections 210 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections against discrimination on the basis of disability in the provision of public services and accommodations under the ADA. Section 210(e) of the CAA directs the Board to promulgate regulations implementing section 210 that are "the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C. §1331(e). The regulations issued by the Board herein are on all matters for which section 210 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) [of section 210 of the CAA]" that need be adopted.

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Attorney General and the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Attorney General and/or the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulations or of the statutory provisions of the CAA upon which they are based.

§1.105 Method for identifying the entity responsible for correction of violations of section 210.

(a) *Purpose and scope.* Section 210(e)(3) of the CAA provides that regulations under section 210(e) include a method of identifying, for purposes of this section and for categories of violations of section 210(b), the entity responsible for correcting a particular violation. This section 1.105 sets forth the method for identifying responsible entities for the purpose of allocating responsibility for correcting violations of section 210(b).

(b) *Categories of violations.* Violations of the rights and protections established in section 210(b) of the CAA that may form the basis for a charge filed with the General Counsel under section 210(d)(1) of the CAA or for a complaint filed by the General Counsel under section 210(d)(3) of the CAA fall into one (or both) of two categories:

(i) *Title II violations.* A covered entity may violate section 210(b) if it discriminates against a qualified individual with a disability within the meaning of Title II of the ADA (sections 210 through 230), as applied to Legislative Branch entities under section 210(b) of the CAA.

(ii) *Title III violations.* A covered entity may also violate section 210(b) if it discriminates against a qualified individual with a disability within the meaning of Title III of the ADA (sections 302, 303, and 309), as applied to Legislative Branch entities under section 210(b) of the CAA.

(c) *Entity Responsible for Correcting a Violation of Title II Rights and Protections.* Correction of a violation of the rights and protections against discrimination under Title II of the ADA, as applied by section 210(b) of the CAA, is the responsibility of any entity listed in subsection (a) of section 210 of the CAA that is a "public entity," as defined by section 210(b)(2) of the CAA, and that provides the specific public service, program, or activity that forms the basis for the particular violation of Title II rights and protections set forth in the charge of discrimination filed with the General Counsel under section 210(d)(1) of the CAA or the complaint filed by the General Counsel with the Office under section 210(d)(3) of the CAA. As used in this section, an entity provides a public service, program, or activity if it does so itself, or by a person or other entity (whether public or private and regardless of whether that entity is covered under the CAA) under a contractual or other arrangement or relationship with the entity.

(d) *Entity Responsible for Correction of Title III Rights and Protections.* Correction of a violation of the rights and protections against discrimination under Title III of the ADA, as applied by section 210(b) of the CAA, is the responsibility of any entity listed in subsection (a) of section 210 of the CAA that "operates a place of public accommodation" (as defined in this section) that forms the basis, in whole or in part, for the particular violation of Title III rights and protections set forth in the charge filed with the General Counsel under section 210(d)(1) of the CAA and/or the complaint filed by the General Counsel with the Office under section 210(d)(3) of the CAA.

(i) Definitions.

As used in this section:

Public accommodation has the meaning set forth in Part 36 of these regulations.

Operates, with respect to the operations of a place of public accommodation, includes the superintendence, control, management, or direction of the function of the aspects of the public accommodation that constitute an architectural barrier or communication barrier that is structural in nature, or that otherwise forms the basis for a violation of the rights and protections of Title III of the ADA as applied under section 210(b) of the CAA.

(ii) As used in this section, an entity operates a place of public accommodation if it does so itself, or by a person or other entity (whether public or private and regardless of whether that entity is covered under the CAA) under a contractual or other arrangement or relationship with the entity.

(e) *Allocation of Responsibility for Correction of Title II and/or Title III Violations.* Where more than one entity is deemed an entity responsible for correction of a violation of Title II and/or Title III rights and protections under the method set forth in this section, as between those parties, allocation of responsibility for complying with the obligations of Title II and/or Title III of the ADA as applied by section 210(b), and for correction of violations thereunder, may be determined by contract or other enforceable arrangement or relationship.

Part 35—Nondiscrimination on the Basis of Disability in Public Services, Programs, or Activities

Subpart A—General

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SUBPART A—GENERAL

§35.101 Purpose.

The purpose of this part is to effectuate section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 *et seq.*) which, *inter alia*, applies the rights and protections of subtitle A of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131-12150), which prohibits discrimination on the basis of disability by public entities.

§35.102 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to all public services, programs, and activities provided or made available by public entities as defined by section 210 of the Congressional Accountability Act of 1995.

(b) To the extent that public transportation services, programs, and activities of public entities are covered by subtitle B of title II of the ADA, as applied by section 210 of the Congressional Accountability Act, they are not subject to the requirements of this part.

§35.103 Relationship to other laws.

(a) *Rule of interpretation.* Except as otherwise provided in this part, this part shall not be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 791) or the regulations issued by Federal agencies pursuant to that title.

(b) *Other laws.* This part does not invalidate or limit the remedies, rights, and procedures of any other Federal laws otherwise applicable to covered entities that provide greater or equal protection for the rights of individuals with disabilities or individuals associated with them.

§35.104 Definitions.

For purposes of this part, the term—

Act or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

ADA means the Americans with Disabilities Act (Pub. L. 101-336, 104 Stat. 327, 42 U.S.C. 12101–12213 and 47 U.S.C. 225 and 611), as applied to covered entities by section 210 of the CAA.

Auxiliary aids and services includes—

(1) Qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, text telephones (TTY's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

Board means the Board of Directors of the Office of Compliance.

Current illegal use of drugs means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1)(i) The phrase *physical or mental impairment* means—

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;

(B) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) The phrase *physical or mental impairment* includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

(iii) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase *is regarded as having an impairment means*—

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public entity as having such an impairment.

(5) The term *disability* does not include—

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania; or

(iii) Psychoactive substance use disorders resulting from current illegal use of drugs.

Drug means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

General Counsel means the General Counsel of the Office of Compliance.

Historic preservation programs means programs conducted by a public entity that have preservation of historic properties as a primary purpose.

Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under State or local law.

Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term *illegal use of drugs* does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

Individual with a disability means a person who has a disability. The term *individual with a disability* does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Qualified individual with a disability means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

Qualified interpreter means an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

Section 504 means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794)), as amended.

§35.105 Self-evaluation.

(a) A public entity shall, within one year of the effective date of this part, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.

(b) A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

(c) A public entity that employs 50 or more persons shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:

(1) A list of the interested persons consulted;

(2) A description of areas examined and any problems identified; and

(3) A description of any modifications made.

§35.106 Notice.

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the public services, programs, or activities of the public entity, and make such information available to them in such manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured them by the CAA and this part.

§35.107 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph.

(b) *Complaint procedure.* A public entity that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part.

§§35.108–35.129 [Reserved]

SUBPART B—GENERAL REQUIREMENTS

§35.130 General prohibitions against discrimination.

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the public services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

(b)(1) A public entity, in providing any public aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—

(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the public aid, benefit, or service;

(ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the public aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with a disability with a public aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate public aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with public aids, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any public aid, benefit, or service to beneficiaries of the public entity's program;

(vi) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards;

(vii) Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the public aid, benefit, or service.

(2) A public entity may not deny a qualified individual with a disability the opportunity to participate in public services, programs, or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(i) That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;

(ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's public program with respect to individuals with disabilities; or

(iii) That perpetuate the discrimination of another public entity if both public entities are subject to common administrative control.

(4) A public entity may not, in determining the site or location of a facility, make selections—

(i) That have the effect of excluding individuals with disabilities from, denying them the public benefits of, or otherwise subjecting them to discrimination; or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the public service, program, or activity with respect to individuals with disabilities.

(5) A public entity, in the selection of procurement contractors, may not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

(6) A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a public entity establish requirements for the public programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. The public programs or activities of entities that are licensed or certified by a public entity are not, themselves, covered by this part.

(7) A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the public service, program, or activity.

(8) A public entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any public service, program, or activity, unless such criteria can be shown to be necessary for the provision of the public service, program, or activity being offered.

(c) Nothing in this part prohibits a public entity from providing public benefits, services, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities beyond those required by this part.

(d) A public entity shall administer public services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

(e)(1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit provided under the CAA or this part which such individual chooses not to accept.

(2) Nothing in the CAA or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

(f) A public entity may not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by the CAA or this part.

(g) A public entity shall not exclude or otherwise deny equal public services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

§ 35.131 Illegal use of drugs.

(a) *General.* (1) Except as provided in paragraph (b) of this section, this part does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.

(2) A public entity shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who—

(i) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;

(ii) Is participating in a supervised rehabilitation program; or

(iii) Is erroneously regarded as engaging in such use.

(b) *Health and drug rehabilitation services.* (1) A public entity shall not deny public health services, or public services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.

(2) A drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.

(c) *Drug testing.* (1) This part does not prohibit a public entity from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

(2) Nothing in paragraph (c) of this section shall be construed to encourage, prohibit, restrict, or authorize the conduct of testing for the illegal use of drugs.

§ 35.132 Smoking.

This part does not preclude the prohibition of, or the imposition of restrictions on, smoking in transportation covered by this part.

§ 35.133 Maintenance of accessible features.

(a) A public entity shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the CAA or this part.

(b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§ 35.134 [Reserved]

§ 35.135 Personal devices and services.

This part does not require a public entity to provide to individuals with disabilities personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; readers for personal use or study; or services of a personal nature including assistance in eating, toileting, or dressing.

§§ 35.136–35.139 [Reserved]

SUBPART C—EMPLOYMENT

§ 35.140 Employment discrimination prohibited.

(a) No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any service, program, or activity conducted by a public entity.

(b)(1) For purposes of this part, the requirements of title I of the Americans With Disabilities Act ("ADA"), as established by the regulations of the Equal Employment Opportunity Commission in 29 CFR part 1630, apply to employment in any service, program, or activity conducted by a public entity if that public entity is also subject to the jurisdiction of title I of the ADA, as applied by section 201 of the CAA.

(2) For the purposes of this part, the requirements of section 504 of the Rehabilitation Act of 1973, as established by the regulations of the Department of Justice in 28 CFR part 41, as those requirements pertain to employment, apply to employment in any service, program, or activity conducted by a public entity if that public entity is not also subject to the jurisdiction of title I of the ADA, as applied by section 201 of the CAA.

(c) Notwithstanding anything contained in this subpart, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 201 of the CAA.

§§ 35.141–35.148 [Reserved]

SUBPART D—PROGRAM ACCESSIBILITY

§ 35.149 Discrimination prohibited.

Except as otherwise provided in § 35.150, no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the public services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

§ 35.150 Existing facilities.

(a) *General.* A public entity shall operate each public service, program, or activity so that the public service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not—

(1) Necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities;

(2) Require a public entity to take any action that would threaten or destroy the historic significance of an historic property; or

(3) Require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a public service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the public service, program, or activity or would result

in undue financial and administrative burdens, a public entity has the burden of proving that compliance with §35.150(a) of this part would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of a public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the public benefits or services provided by the public entity.

(b) *Methods*—(1) *General*. A public entity may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock or other conveyances, or any other methods that result in making its public services, programs, or activities readily accessible to and usable by individuals with disabilities. A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. A public entity, in making alterations to existing buildings, shall meet the accessibility requirements of §35.151. In choosing among available methods for meeting the requirements of this section, a public entity shall give priority to those methods that offer public services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

(2) *Historic preservation programs*. In meeting the requirements of §35.150(a) in historic preservation programs, a public entity shall give priority to methods that provide physical access to individuals with disabilities. In cases where a physical alteration to an historic property is not required because of paragraph (a)(2) or (a)(3) of this section, alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide individuals with handicaps into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance*. Where structural changes in facilities are undertaken to comply with the obligations established under this section, such changes shall be made by within three years of January 1, 1997, but in any event as expeditiously as possible.

(d) *Transition plan*. (1) In the event that structural changes to facilities will be undertaken to achieve program accessibility, a public entity that employs 50 or more persons shall develop, within six months of January 1, 1997, a transition plan setting forth the steps necessary to complete such changes. A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. A copy of the transition plan shall be made available for public inspection.

(2) If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the CAA, including covered offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.

(3) The plan shall, at a minimum—

(i) Identify physical obstacles in the public entity's facilities that limit the accessibility of its public programs or activities to individuals with disabilities;

(ii) Describe in detail the methods that will be used to make the facilities accessible;

(iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(iv) Indicate the official responsible for implementation of the plan.

§35.151 New construction and alterations.

(a) *Design and construction*. Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 1, 1997.

(b) *Alteration*. Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 1, 1997.

(c) *Accessibility standards*. Design, construction, or alteration of facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) (Appendix B to Part 36 of these regulations) or with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) (Appendix A to Part 36 of these regulations) shall be deemed to comply with the requirements of this section with respect to those facilities, except that the elevator exemption contained at 4.1.3(5) and 4.1.6(1)(j) of ADAAG shall not apply. Departures from particular requirements of either standard by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

(d) *Alterations: Historic properties*. (1) Alterations to historic properties shall comply, to the maximum extent feasible, with section 4.1.7 of UFAS or section 4.1.7 of ADAAG.

(2) If it is not feasible to provide physical access to an historic property in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of §35.150.

(e) *Curb ramps*. (1) Newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway.

(2) Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways.

§§35.152–35.159 [Reserved]

SUBPART E—COMMUNICATIONS

§35.160 General.

(a) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

(b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a public service, program, or activity conducted by a public entity.

(2) In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.

§35.161 Text telephones (TTY's).

Where a public entity communicates by telephone with applicants and beneficiaries, TTY's or equally effective telecommunication systems shall be used to communicate with individuals with impaired hearing or speech.

§35.162 Telephone emergency services.

Telephone emergency services, including 911 services, shall provide direct access to individuals who use TTY's and computer modems.

§35.163 Information and signage.

(a) A public entity shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible public services, activities, and facilities.

(b) A public entity shall provide signage at all inaccessible entrances to each of its public facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible public facilities. The international symbol for accessibility shall be used at each accessible entrance of a public facility.

§35.164 Duties.

This subpart does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a public service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the public service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with this subpart would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the public service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this subpart would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the public benefits or services provided by the public entity.

§§ 35.165–35.169 [Reserved]

§§ 35.170–35.999 [Reserved]

Part 36—Nondiscrimination on the Basis of Disability by Public Accommodations

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SUBPART A—GENERAL

§ 36.101 Purpose.

The purpose of this part is to implement section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 et seq.) which, *inter alia*, applies the rights and protections of sections of title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181), which prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation to be designed, constructed, and altered in compliance with the accessibility standards established by this part.

§ 36.102 Application.

(a) *General*. This part applies to any—

(1) Public accommodation; or

(2) covered entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes.

(b) *Public accommodations*. (1) The requirements of this part applicable to public accommodations are set forth in subparts B, C, and D of this part.

(2) The requirements of subparts B and C of this part obligate a public accommodation only with respect to the operations of a place of public accommodation.

(3) The requirements of subpart D of this part obligate a public accommodation only with respect to a facility used as, or designed or constructed for use as, a place of public accommodation.

(c) *Examinations and courses*. The requirements of this part applicable to covered entities that offer examinations or courses as specified in paragraph (a) of this section are set forth in § 36.309.

§ 36.103 Relationship to other laws.

(a) *Rule of interpretation*. Except as otherwise provided in this part, this part shall not be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 791) or the regulations issued by Federal agencies pursuant to that title.

(b) *Other laws*. This part does not invalidate or limit the remedies, rights, and procedures of any other Federal laws otherwise applicable to covered entities that provide greater or equal protection for the rights of individuals with disabilities or individuals associated with them.

§ 36.104 Definitions.

For purposes of this part, the term—

Act or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§ 1301-1438).

ADA means the Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327, 42 U.S.C. 12101–12213 and 47 U.S.C. 225 and 611), as applied to covered entities by section 210 of the CAA.

Covered entity means any entity listed in section 210(a) of the CAA that operates a place of public accommodation.

Current illegal use of drugs means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) The phrase *physical or mental impairment* means

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine;

(ii) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) The phrase *physical or mental impairment* includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism;

(iv) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The phrase *has a record of such an impairment* means has a history of, or as been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase is *regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a covered entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a covered entity as having such an impairment.

(5) The term *disability* does not include—

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania; or

(iii) Psychoactive substance use disorders resulting from current illegal use of drugs.

Drug means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term "illegal use of drugs" does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

Individual with a disability means a person who has a disability. The term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

Place of public accommodation means a facility, operated by a covered entity, whose operations fall within at least one of the following categories—

(1) An inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor;

(2) A restaurant, bar, or other establishment serving food or drink;

(3) A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(4) An auditorium, convention center, lecture hall, or other place of public gathering;

(5) A bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(6) A laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy,

insurance office, professional office of a health care provider, hospital, or other service establishment;

(7) A terminal, depot, or other station used for specified public transportation;

(8) A museum, library, gallery, or other place of public display or collection;

(9) A park, zoo, amusement park, or other place of recreation;

(10) A nursery, elementary, secondary, undergraduate, or postgraduate covered school, or other place of education;

(11) A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(12) A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

Public accommodation means a covered entity that operates a place of public accommodation.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Qualified interpreter means an interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.

Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable factors to be considered include—

(1) The nature and cost of the action needed under this part;

(2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent entity;

(4) If applicable, the overall financial resources of any parent entity; the overall size of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and

(5) If applicable, the type of operation or operations of any parent entity, including the composition, structure, and functions of the workforce of the parent entity.

Service animal means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Specified public transportation means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

Undue burden means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered include—

(1) The nature and cost of the action needed under this part;

(2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent entity;

(4) If applicable, the overall financial resources of any parent entity; the overall size of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and

(5) If applicable, the type of operation or operations of any parent entity, including the composition, structure, and functions of the workforce of the parent entity.

SUBPART B—GENERAL REQUIREMENTS

§ 36.201 General.

Prohibition of discrimination. No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any covered entity who operates a place of public accommodation.

§ 36.202 Activities.

(a) *Denial of participation.* A public accommodation shall not subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

(b) *Participation in unequal benefit.* A public accommodation shall not afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(c) *Separate benefit.* A public accommodation shall not provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(d) *Individual or class of individuals.* For purposes of paragraphs (a) through (c) of this section, the term individual or class of individuals refers to the clients or customers of the public accommodation that enter into the contractual, licensing, or other arrangement.

§ 36.203 Integrated settings.

(a) *General.* A public accommodation shall afford goods, services, facilities, privileges, advantages, and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(b) *Opportunity to participate.* Notwithstanding the existence of separate or different programs or activities provided in accordance with this subpart, a public accommodation shall not deny an individual with a disability an opportunity to participate in such programs or activities that are not separate or different.

(c) *Accommodations and services.* (1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit available under this part that such individual chooses not to accept.

(2) Nothing in the CAA or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

§ 36.204 Administrative methods.

A public accommodation shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration that have the effect of discriminating on the basis of disability, or that perpetuate the discrimination of others who are subject to common administrative control.

§ 36.205 Association.

A public accommodation shall not exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

§ 36.206 [Reserved]

§ 36.207 Places of public accommodation located in private residences.

(a) When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this part, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for residential purposes is covered by this part.

(b) The portion of the residence covered under paragraph (a) of this section extends to those elements used to enter the place of public accommodation, including the homeowner's front sidewalk, if any, the door or entryway, and hallways; and those portions of the residence, interior or exterior, available to or used by customers or clients, including restrooms.

§ 36.208 Direct threat.

(a) This part does not require a public accommodation to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that public accommodation when that individual poses a direct threat to the health or safety of others.

(b) *Direct threat* means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.

(c) In determining whether an individual poses a direct threat to the health or safety of others, a public accommodation must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk.

§ 36.209 Illegal use of drugs.

(a) *General.* (1) Except as provided in paragraph (b) of this section, this part does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.

(2) A public accommodation shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who—

(i) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;

(ii) Is participating in a supervised rehabilitation program; or

(iii) Is erroneously regarded as engaging in such use.

(b) *Health and drug rehabilitation services.* (1) A public accommodation shall not deny health services, or services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.

(2) A drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.

(c) *Drug testing.* (1) This part does not prohibit a public accommodation from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

(2) Nothing in this paragraph (c) shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

§ 36.210 Smoking.

This part does not preclude the prohibition of, or the imposition of restrictions on, smoking in places of public accommodation.

§ 36.211 Maintenance of accessible features.

(a) A public accommodation shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the CAA or this part.

(b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§ 36.212 Insurance.

(a) This part shall not be construed to prohibit or restrict—

(1) A covered entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with applicable law; or

(2) A person or organization covered by this part from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with applicable law; or

(3) A person or organization covered by this part from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to applicable laws that regulate insurance.

(b) Paragraphs (a)(1), (2), and (3) of this section shall not be used as a subterfuge to evade the purposes of the CAA or this part.

(c) A public accommodation shall not refuse to serve an individual with a disability because its insurance company conditions coverage or rates on the absence of individuals with disabilities.

§ 36.213 Relationship of subpart B to subparts C and D of this part.

Subpart B of this part sets forth the general principles of nondiscrimination applicable to all entities subject to this part. Subparts C and D of this part provide guidance on the application of the statute to specific situations. The specific provisions, including the limitations on those provisions, control over the general provisions in circumstances where both specific and general provisions apply.

§§ 36.214–36.299 [Reserved]

SUBPART C SPECIFIC REQUIREMENTS

§ 36.301 Eligibility criteria.

(a) *General.* A public accommodation shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered.

(b) *Safety.* A public accommodation may impose legitimate safety requirements that are necessary for safe operation. Safety requirements must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.

(c) *Charges.* A public accommodation may not impose a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids, barrier removal, alternatives to barrier removal, and reasonable modifications in policies, practices, or procedures, that are required to provide that individual or group with the nondiscriminatory treatment required by the CAA or this part.

§ 36.302 Modifications in policies, practices, or procedures.

(a) *General.* A public accommodation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.

(b) *Specialties*—(1) *General.* A public accommodation may refer an individual with a disability to another public accommodation, if that individual is seeking, or requires, treatment or services outside of the referring public accommodation's area of specialization, and if, in the normal course of its operations, the referring public accommodation would make a similar referral for an individual without a disability who seeks or requires the same treatment or services.

(2) *Illustration—medical specialties.* A health care provider may refer an individual with a disability to another provider, if that individual is seeking, or requires, treatment or services outside of the referring provider's area of specialization, and if the referring provider would make a similar referral for an individual without a disability who seeks or requires the same treatment or services. A physician who specializes in treating only a particular condition cannot refuse to treat an individual with a disability for that condition, but is not required to treat the individual for a different condition.

(c) *Service animals*—(1) *General.* Generally, a public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

(2) *Care or supervision of service animals.* Nothing in this part requires a public accommodation to supervise or care for a service animal.

(d) *Check-out aisles.* A store with check-out aisles shall ensure that an adequate number of accessible check-out aisles is kept open during store hours, or shall otherwise modify its policies and practices, in order to ensure that an equivalent level of convenient service is provided to individuals with disabilities as is provided to others. If only one check-out aisle is accessible, and it is generally used for express service, one way of providing equivalent service is to allow persons with mobility impairments to make all their purchases at that aisle.

§ 36.303 Auxiliary aids and services.

(a) *General.* A public accommodation shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden, i.e., significant difficulty or expense.

(b) *Examples.* The term "auxiliary aids and service" includes—

(1) Qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, text telephones (TTY's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

(c) *Effective communication.* A public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities.

(d) Text telephones (TTY's). (1) A public accommodation that offers a customer, client, patient, or participant the opportunity to make outgoing telephone calls on more than an incidental convenience basis shall make available, upon request, a TTY for the use of an individual who has impaired hearing or a communication disorder.

(2) This part does not require a public accommodation to use a TTY for receiving or making telephone calls incident to its operations.

(f) *Alternatives.* If provision of a particular auxiliary aid or service by a public accommodation would result in a fundamental alteration in the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or is an undue burden, i.e., significant difficulty or expense, the public accommodation shall provide an alternative auxiliary aid or service, if one exists, that would not result in such an alteration or such burden but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the goods, services, facilities, privileges, advantages, or accommodations offered by the public accommodation.

§ 36.304 *Removal of barriers.*

(a) *General.* A public accommodation shall remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense.

(b) *Examples.* Examples of steps to remove barriers include, but are not limited to, the following actions—

(1) Installing ramps;

(2) Making curb cuts in sidewalks and entrances;

(3) Repositioning shelves;

(4) Rearranging tables, chairs, vending machines, display racks, and other furniture;

(5) Repositioning telephones;

(6) Adding raised markings on elevator control buttons;

(7) Installing flashing alarm lights;

(8) Widening doors;

(9) Installing offset hinges to widen doorways;

(10) Eliminating a turnstile or providing an alternative accessible path;

(11) Installing accessible door hardware;

(12) Installing grab bars in toilet stalls;

(13) Rearranging toilet partitions to increase maneuvering space;

(14) Insulating lavatory pipes under sinks to prevent burns;

(15) Installing a raised toilet seat;

(16) Installing a full-length bathroom mirror;

(17) Repositioning the paper towel dispenser in a bathroom;

(18) Creating designated accessible parking spaces;

(19) Installing an accessible paper cup dispenser at an existing inaccessible water fountain;

(20) Removing high pile, low density carpeting; or

(21) Installing vehicle hand controls.

(c) *Priorities.* A public accommodation is urged to take measures to comply with the barrier removal requirements of this section in accordance with the following order of priorities.

(1) First, a public accommodation should take measures to provide access to a place of public accommodation from public sidewalks, parking, or public transportation. These measures include, for example, installing an entrance ramp, widening entrances, and providing accessible parking spaces.

(2) Second, a public accommodation should take measures to provide access to those areas of a place of public accommodation where goods and services are made available to the public. These measures include, for example, adjusting the layout of display racks, rearranging tables, providing Brailled and raised character signage, widening doors, providing visual alarms, and installing ramps.

(3) Third, a public accommodation should take measures to provide access to restroom facilities. These measures include, for example, removal of obstructing furniture or vending machines, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls, and installation of grab bars.

(4) Fourth, a public accommodation should take any other measures necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

(d) *Relationship to alterations requirements of subpart D of this part.* (1) Except as provided in paragraph (d)(2) of this section, measures taken to comply with the barrier removal requirements of this section shall comply with the applicable requirements for alterations in § 36.402 and §§ 36.404–36.406 of this part for the element being altered. The path of travel requirements of § 36.403 shall not apply to measures taken solely to comply with the barrier removal requirements of this section.

(2) If, as a result of compliance with the alterations requirements specified in paragraph (d)(1) of this section, the measures required to remove a barrier would not be readily achievable, a public accommodation may take other readily achievable measures to remove the barrier that do not fully comply with the specified requirements. Such measures include, for example, providing a ramp with a steeper slope or widening a doorway to a narrower width than that mandated by the alterations requirements. No measure shall be taken, however, that poses a significant risk to the health or safety of individuals with disabilities or others.

(e) *Portable ramps.* Portable ramps should be used to comply with this section only when installation of a permanent ramp is not readily achievable. In order to avoid any significant risk to the health or safety of individuals with disabilities or others in using portable ramps, due consideration shall be given to safety features such as nonslip surfaces, railings, anchoring, and strength of materials.

(f) *Selling or serving space.* The rearrangement of temporary or movable structures, such as furniture, equipment, and display racks is not readily achievable to the extent that it results in a significant loss of selling or serving space.

(g) *Limitation on barrier removal obligations.* (1) The requirements for barrier removal under § 36.304 shall not be interpreted to exceed the standards for alterations in subpart D of this part.

(2) To the extent that relevant standards for alterations are not provided in subpart D of this part, then the requirements of § 36.304 shall not be interpreted to exceed the standards for new construction in subpart D of this part.

(3) This section does not apply to rolling stock and other conveyances to the extent that § 36.310 applies to rolling stock and other conveyances.

§ 36.305 *Alternatives to barrier removal.*

(a) *General.* Where a public accommodation can demonstrate that barrier removal is not readily achievable, the public accommodation shall not fail to make its goods, services, facilities, privileges, advantages, or accommodations available through alternative methods, if those methods are readily achievable.

(b) *Examples.* Examples of alternatives to barrier removal include, but are not limited to, the following actions—

(1) Providing curb service or home delivery;

(2) Retrieving merchandise from inaccessible shelves or racks;

(3) Relocating activities to accessible locations;

(c) *Multiscreen cinemas.* If it is not readily achievable to remove barriers to provide access by persons with mobility impairments to all of the theaters of a multiscreen cinema, the cinema shall establish a film rotation schedule that provides reasonable access for individuals who use wheelchairs to all films. Reasonable notice shall be provided to the public as to the location and time of accessible showings.

§ 36.306 *Personal devices and services.*

This part does not require a public accommodation to provide its customers, clients, or participants with personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; or services of a personal nature including assistance in eating, toileting, or dressing.

§ 36.307 *Accessible or special goods.*

(a) This part does not require a public accommodation to alter its inventory to include accessible or special goods that are designed for, or facilitate use by, individuals with disabilities.

(b) A public accommodation shall order accessible or special goods at the request of an individual with disabilities, if, in the normal course of its operation, it makes special orders on request for unstocked goods, and if the accessible or special goods can be obtained from a supplier with whom the public accommodation customarily does business.

(c) Examples of accessible or special goods include items such as Brailled versions of books, books on audio cassettes, closed-captioned video tapes, special sizes or lines of clothing, and special foods to meet particular dietary needs.

§ 36.308 *Seating in assembly areas.*

(a) *Existing facilities.* (1) To the extent that it is readily achievable, a public accommodation in assembly areas shall—

(i) Provide a reasonable number of wheelchair seating spaces and seats with removable aisle-side arm rests; and

(ii) Locate the wheelchair seating spaces so that they—

(A) Are dispersed throughout the seating area;

(B) Provide lines of sight and choice of admission prices comparable to those for members of the general public;

(C) Adjoin an accessible route that also serves as a means of egress in case of emergency; and

(D) Permit individuals who use wheelchairs to sit with family members or other companions.

(2) If removal of seats is not readily achievable, a public accommodation shall provide, to the extent that it is readily achievable to do so, a portable chair or other means to permit a family member or other companion to sit with an individual who uses a wheelchair.

(3) The requirements of paragraph (a) of this section shall not be interpreted to exceed the standards for alterations in subpart D of this part.

(b) *New construction and alterations.* The provision and location of wheelchair seating spaces in newly constructed or altered assembly areas shall be governed by the standards for new construction and alterations in subpart D of this part.

§ 36.309 *Examinations and courses.*

(a) *General.* Any covered entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

(b) *Examinations.* (1) Any covered entity offering an examination covered by this section must assure that—

(i) The examination is selected and administered so as to best ensure that, when the examination is administered to an individual with a disability that impairs sensory, manual, or speaking skills, the examination results accurately reflect the individual's aptitude or achievement level or whatever other factor the examination purports to measure, rather than reflecting the individual's impaired sensory, manual, or speaking skills (except where those skills are the factors that the examination purports to measure);

(ii) An examination that is designed for individuals with impaired sensory, manual, or speaking skills is offered at equally convenient locations, as often, and in as timely a manner as are other examinations; and

(iii) The examination is administered in facilities that are accessible to individuals with disabilities or alternative accessible arrangements are made.

(2) Required modifications to an examination may include changes in the length of time permitted for completion of the examination and adaptation of the manner in which the examination is given.

(3) A covered entity offering an examination covered by this section shall provide appropriate auxiliary aids for persons with impaired sensory, manual, or speaking skills, unless that covered entity can demonstrate that offering a particular auxiliary aid would fundamentally alter the measurement of the skills or knowledge the examination is intended to test or would result in an undue burden. Auxiliary aids and services required by this section may include taped examinations, interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments, Brailled or large print examinations and answer sheets or qualified readers for individuals with visual impairments or learning disabilities, transcribers for individuals with manual impairments, and other similar services and actions.

(4) Alternative accessible arrangements may include, for example, provision of an examination at an individual's home with a proctor if accessible facilities or equipment are unavailable. Alternative arrangements must provide comparable conditions to those provided for nondisabled individuals.

(c) *Courses.* (1) Any covered entity that offers a course covered by this section must make such modifications to that course as are necessary to ensure that the place and manner in which the course is given are accessible to individuals with disabilities.

(2) Required modifications may include changes in the length of time permitted for the completion of the course, substitution of specific requirements, or adaptation of the manner in which the course is conducted or course materials are distributed.

(3) A covered entity that offers a course covered by this section shall provide appropriate auxiliary aids and services for persons with impaired sensory, manual, or speaking skills, unless the covered entity can demonstrate that offering a particular auxiliary aid or service would fundamentally alter the course or would result in an undue burden. Auxiliary aids and services required by this section may include taped texts, interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments, Brailled or large print texts or qualified readers for individuals with visual impairments and learning disabilities, classroom equipment adapted for use by individuals with manual impairments, and other similar services and actions.

(4) Courses must be administered in facilities that are accessible to individuals with disabilities or alternative accessible arrangements must be made.

(5) Alternative accessible arrangements may include, for example, provision of the course through videotape, cassettes, or prepared notes. Alternative arrangements must provide comparable conditions to those provided for nondisabled individuals.

§ 36.310 Transportation provided by public accommodations.

(a) *General.* (1) A public accommodation that provides transportation services, but that is not primarily engaged in the business of transporting people, is subject to the general and specific provisions in subparts B, C, and D of this part for its transportation operations, except as provided in this section.

(2) *Examples.* Transportation services subject to this section include, but are not limited to, shuttle services operated between transportation terminals and places of public accommodation and customer shuttle bus services operated by covered entities

(b) *Barrier removal.* A public accommodation subject to this section shall remove transportation barriers in existing vehicles and rail passenger cars used for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift) where such removal is readily achievable.

(c) *Requirements for vehicles and systems.* A public accommodation subject to this section shall comply with the requirements pertaining to vehicles and transportation systems in the regulations issued by the Board of Directors of the Office of Compliance.

§§ 36.311–36.400 [Reserved]

SUBPART D—NEW CONSTRUCTION AND ALTERATIONS

§ 36.401 New construction.

(a) *General.* (1) Except as provided in paragraphs (b) and (c) of this section, discrimination for purposes of this part includes a failure to design and construct facilities for first occupancy after July 23, 1997, that are readily accessible to and usable by individuals with disabilities.

(2) For purposes of this section, a facility is designed and constructed for first occupancy after July 23, 1997, only—

(i) If the last application for a building permit or permit extension for the facility is certified to be complete, by an appropriate governmental authority after January 1, 1997 (or, in those jurisdictions where the government does not certify completion of applications, if the last application for a building permit or permit extension for the facility is received by the appropriate governmental authority after January 1, 1997); and

(ii) If the first certificate of occupancy for the facility is issued after July 23, 1997.

(b) *Place of public accommodation located in private residences.* (1) When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this subpart, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for residential purposes is covered by the new construction and alterations requirements of this subpart.

(2) The portion of the residence covered under paragraph (b)(1) of this section extends to those elements used to enter the place of public accommodation, including the homeowner's front sidewalk, if any, the door or entryway, and hallways; and those portions of the residence, interior or exterior, available to or used by employees or visitors of the place of public accommodation, including restrooms.

(c) *Exception for structural impracticability.* (1) Full compliance with the requirements of this section is not required where an entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.

(2) If full compliance with this section would be structurally impracticable, compliance with this section is required to the extent that it is not structurally impracticable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable.

(3) If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities (e.g., those who use crutches or who have sight, hearing, or mental impairments) in accordance with this section.

(d) *Elevator exemption.* (1) For purposes of this paragraph (d)—

Professional office of a health care provider means a location where a person or entity regulated by a State to provide professional services related to the physical or mental health of an individual makes such services available to the public. The facility housing the "professional office of a health care provider" only includes floor levels housing at least one health care provider, or any floor level designed or intended for use by at least one health care provider.

(2) This section does not require the installation of an elevator in a facility that is less than three stories or has less than 3000 square feet per story, except with respect to any facility that houses one or more of the following:

(i) A professional office of a health care provider.

(ii) A terminal, depot, or other station used for specified public transportation. In such a facility, any area housing passenger services, including boarding and debarking, loading and unloading, baggage claim, dining facilities, and other common areas open to the public, must be on an accessible route from an accessible entrance.

(3) The elevator exemption set forth in this paragraph (d) does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in paragraph (a) of this section. For example, in a facility that houses a professional office of a health care provider, the floors that are above or below an accessible ground floor and that do not house a professional office of a health care provider, must meet the requirements of this section but for the elevator.

§ 36.402 Alterations.

(a) *General.* (1) Any alteration to a place of public accommodation, after January 1, 1997, shall be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) An alteration is deemed to be undertaken after January 1, 1997, if the physical alteration of the property begins after that date.

(b) *Alteration.* For the purposes of this part, an alteration is a change to a place of public accommodation that affects or could affect the usability of the building or facility or any part thereof.

(1) Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal, or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility.

(2) If existing elements, spaces, or common areas are altered, then each such altered element, space, or area shall comply with the applicable provisions of appendix A to this part.

(c) *To the maximum extent feasible.* The phrase "to the maximum extent feasible," as used in this section, applies to the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible shall be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to persons with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

§ 36.403 Alterations: Path of travel.

(a) *General.* An alteration that affects or could affect the usability of or access to an area of a facility that contains a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration.

(b) *Primary function.* A primary function is a major activity for which the facility is intended. Areas that contain a primary function include, but are not limited to, the customer services lobby of a bank, the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public accommodation or other covered entity using the facility are carried out. Mechanical rooms, boiler rooms, supply storage rooms, employee lounges or locker rooms, janitorial closets, entrances, corridors, and restrooms are not areas containing a primary function.

(c) *Alterations to an area containing a primary function.* (1) Alterations that affect the usability of or access to an area containing a primary function include, but are not limited to—

(i) Remodeling merchandise display areas or employee work areas in a department store;

(ii) Replacing an inaccessible floor surface in the customer service or employee work areas of a bank;

(iii) Redesigning the assembly line area of a factory; or

(iv) Installing a computer center in an accounting firm.

(2) For the purposes of this section, alterations to windows, hardware, controls, electrical outlets, and signage shall not be deemed to be alterations that affect the usability of or access to an area containing a primary function.

(d) *Path of travel.* (1) A "path of travel" includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, streets, and parking areas), an entrance to the facility, and other parts of the facility.

(2) An accessible path of travel may consist of walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps; clear floor paths through lobbies, corridors, rooms, and other improved areas; parking access aisles; elevators and lifts; or a combination of these elements.

(3) For the purposes of this part, the term "path of travel" also includes the restrooms, telephones, and drinking fountains serving the altered area.

(e) *Disproportionality.* (1) Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area.

(2) Costs that may be counted as expenditures required to provide an accessible path of travel may include:

(i) Costs associated with providing an accessible entrance and an accessible route to the altered area, for example, the cost of widening doorways or installing ramps;

(ii) Costs associated with making restrooms accessible, such as installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls;

(iii) Costs associated with providing accessible telephones, such as relocating the telephone to an accessible height, installing amplification devices, or installing a text telephone (TTY);

(iv) Costs associated with relocating an inaccessible drinking fountain.

(f) *Duty to provide accessible features in the event of disproportionality.* (1) When the cost of alterations necessary to make the path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, the path of travel shall be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

(2) In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access, in the following order:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom;

(iv) Accessible telephones;

(v) Accessible drinking fountains; and

(vi) When possible, additional accessible elements such as parking, storage, and alarms.

(g) *Series of smaller alterations.* (1) The obligation to provide an accessible path of travel may not be evaded by performing a series of small alterations to the area served by a single path of travel if those alterations could have been performed as a single undertaking.

(2)(i) If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alterations to the primary function areas on that path of travel during the preceding three year period shall be considered in determining whether the cost of making that path of travel accessible is disproportionate.

(ii) Only alterations undertaken after January 1, 1997, shall be considered in determining if the cost of providing an accessible path of travel is disproportionate to the overall cost of the alterations.

§ 36.404 Alterations: Elevator exemption.

(a) This section does not require the installation of an elevator in an altered facility that is less than three stories or has less than 3,000 square feet per story, except with respect to any facility that houses the professional office of a health care provider, a terminal, depot, or other station used for specified public transportation.

For the purposes of this section, "professional office of a health care provider" means a location where a person or entity employed by a covered entity and/or regulated by a State to provide professional services related to the physical or mental health of an individual makes such services available to the public. The facility that houses a "professional office of a health care provider" only includes floor levels housing by at least one health care provider, or any floor level designed or intended for use by at least one health care provider.

(b) The exemption provided in paragraph (a) of this section does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in this subpart. For example, alterations to floors above or below the accessible ground floor must be accessible regardless of whether the altered facility has an elevator.

§ 36.405 Alterations: Historic preservation.

(a) Alterations to buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), or are designated as historic under State or local law, shall comply to the maximum extent feasible with section 4.1.7 of appendix A to this part.

(b) If it is determined under the procedures set out in section 4.1.7 of appendix A that it is not feasible to provide physical access to an historic property that is a place of public accommodation in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of subpart C of this part.

§ 36.406 Standards for new construction and alterations.

(a) New construction and alterations subject to this part shall comply with the standards for accessible design published as appendix A to this part (ADAAG).

(b) The chart in the appendix to this section provides guidance to the user in reading appendix A to this part (ADAAG) together with subparts A through D of this part, when determining requirements for a particular facility.

Appendix to § 36.406

This chart has no effect for purposes of compliance or enforcement. It does not necessarily provide complete or mandatory information.

	Subparts A–D	ADAAG
Application: General.	36.102(b)(3): public accommodations	1,2,3,4.1.1.
	36.102(c): commercial facilities	
	36.102(e): public entities	
	36.103 (other laws)	
	36.401 ("for first occupancy")	
	36.402(a)(alterations)	
Definitions	36.104: facility, place of public accommodation, public accommodation, public entity.	3.5 Definitions, including: addition, alteration, building, element, facility, space, story.
	36.401(d)(1)(i), 36.404(a)(1): professional office of a health care provider	4.1.6(i), technical infeasibility.
	36.402: alteration; usability.	
	36.402(c): to the maximum extent feasible.	
	36.401(a) General	4.1.2.
New construction: General	36.207 Places of public accommodation in private residences	4.1.3.
Work areas		4.1.1(3)
Structural impracticability	36.401(c)	4.1.1(5)(a).
Elevator exemption	36.401(d)	4.1.3(5).
	36.404	
Other exceptions		4.1.1(5), 4.1.3(5) and throughout.
Alterations: general	36.402	4.1.6(1).
Alterations affecting an area containing a primary function; path of travel; disproportionality.	36.403	4.1.6(2).
Alterations: Special Technical provisions		4.1.6(3).
Additions	36.401–36.405	4.1.5.
Historic preservation	36.405	4.1.7.
Technical provisions		4.2 through 4.35.
Restaurants and cafeterias		5.
Facilites		6.
Business and mercantile		7.
Libraries		8.
Transient lodging (hotels, homeless shelters, etc.)		9.
Transportation facilities		10.

§ 36.407. Temporary suspension of certain detectable warning requirements.

The detectable warning requirements contained in sections 4.7.7, 4.29.5, and 4.29.6 of appendix A to this part are suspended temporarily until July 26, 1998.

§§ 36.408–36.499 [Reserved]

§§ 36.501–36.608 [Reserved]

Appendix A to Part 36—Standards for Accessible Design

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999.]

Appendix B to Part 36—Uniform Federal Accessibility Standards

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999.]

Part 37—Transportation Services for Individuals With Disabilities (CAA)

Subpart A—General

Sec.
37.1 Purpose.
37.3 Definitions
37.5 Nondiscrimination.
37.7 Standards for accessible vehicles.
37.9 Standards for accessible transportation facilities.
37.11 [Reserved]
37.13 Effective date for certain vehicle lift specifications.
37.15–37.19 [Reserved]

Subpart B—Applicability

37.21 Applicability: General.
37.23 Service under contract.
37.25 [Reserved]
37.27 Transportation for elementary and secondary education systems.
37.29 [Reserved]
37.31 Vanpools.
37.33–37.35 [Reserved]
37.37 Other applications.
37.39 [Reserved]

Subpart C—Transportation Facilities

37.41 Construction of transportation facilities by public entities.
37.43 Alteration of transportation facilities by public entities.
37.45 Construction and alteration of transportation facilities by covered entities.
37.47 Key stations in light and rapid rail systems.
37.49–37.59 [Reserved]
37.61 Public transportation programs and activities in existing facilities.
37.63–37.69 [Reserved]

Subpart D—Acquisition of Accessible Vehicles by Public Entities

37.71 Purchase or lease of new non-rail vehicles by public entities operating fixed route systems.
37.73 Purchase or lease of used non-rail vehicles by public entities operating fixed route systems.
37.75 Remanufacture of non-rail vehicles and purchase or lease of remanufactured non-rail vehicles by public entities operating fixed route systems.
37.77 Purchase or lease of new non-rail vehicles by public entities operating demand responsive systems for the general public.
37.79 Purchase or lease of new rail vehicles by public entities operating rapid or light rail systems.
37.81 Purchase or lease of used rail vehicles by public entities operating rapid or light rail systems.
37.83 Remanufacture of rail vehicles and purchase or lease of remanufactured rail vehicles by public entities operating rapid or light rail systems.
37.85–37.91 [Reserved]
37.93 One car per train rule.
37.95 [Reserved]
37.97–37.99 [Reserved]

Subpart E—Acquisition of Accessible Vehicles by Covered Entities

37.101 Purchase or lease of vehicles by covered entities not primarily engaged in the business of transporting people.
37.103 [Reserved]
37.105 Equivalent service standard.
37.107–37.109 [Reserved]
37.111–37.119 [Reserved]

Subpart F—Paratransit as a complement to fixed route service

37.121 Requirement for comparable complementary paratransit service.
37.123 ADA paratransit eligibility: Standards.
37.125 ADA paratransit eligibility: Process.
37.127 Complementary paratransit for visitors.
37.129 Types of service.
37.131 Service criteria for complementary paratransit.
37.133 Subscription service.
37.135 Submission of paratransit plan.
37.137 Paratransit plan development.
37.139 Plan contents.
37.141 Requirements for a joint paratransit plan.
37.143 Paratransit plan implementation.
37.145 [Reserved]
37.147 Considerations during General Counsel review.
37.149 Disapproved plans.
37.151 Waiver for undue financial burden.
37.153 General Counsel waiver determination.
37.155 Factors in decision to grant undue financial burden waiver.
37.157–37.159 [Reserved]

Subpart G—Provision of Service.

37.161 Maintenance of accessible features: General.
37.163 Keeping vehicle lifts in operative condition public entities.
37.165 Lift and securement use.
37.167 Other service requirements.
37.169 Interim requirements for over-the-road bus service operated by covered entities.
37.171 Equivalency requirement for demand responsive service by covered entities not primarily engaged in the business of transporting people.
37.173 Training requirements.
Appendix A to Part 37 Standards for Accessible Transportation Facilities
Appendix B to Part 37 Certifications

SUBPART A—GENERAL

§ 37.1 Purpose.

The purpose of this part is to implement the transportation and related provisions of titles II and III of the Americans with Disabilities Act of 1990, as applied by section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 *et seq.*).

§ 37.3 Definitions

As used in this part:

Accessible means, with respect to vehicles and facilities, complying with the accessibility requirements of parts 37 and 38 of these regulations.

Act or *CAA* means the Congressional Accountability Act of 1995 (Pub.L. 104-1, 109 Stat. 3, 2 U.S.C. §§ 1301-1438).

ADA means the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131- 12150, 12182, 12183, and 12189) as applied to covered entities by section 210 of the CAA.

Alteration means a change to an existing facility, including, but not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal, or changes to mechanical or electrical systems are not alterations unless they affect the usability of the building or facility.

Automated guideway transit system or AGT means a fixed-guideway transit system which operates with automated (driverless) individual vehicles or multi-car trains. Service may be on a fixed schedule or in response to a passenger-activated call button.

Auxiliary aids and services includes:

(1) Qualified interpreters, notetakers, transcription services, written materials, telephone headset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, closed and open captioning, text telephones (also known as TTYs), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; or

(4) Other similar services or actions.

Board means the Board of Directors of the Office of Compliance.

Bus means any of several types of self-propelled vehicles, generally rubber-tired, intended for use on city streets, highways, and busways, including but not limited to minibuses, forty- and thirty- foot buses, articulated buses, double-deck buses, and electrically powered trolley buses, used by public entities to provide designated public transportation service and by covered entities to provide transportation service including, but not limited to, specified public transportation services. Self-propelled, rubber-tired vehicles designed to look like antique or vintage trolleys are considered buses.

Commuter bus service means fixed route bus service, characterized by service predominantly in one direction during peak periods, limited stops, use of multi-ride tickets, and routes of extended length, usually between the central business district and outlying suburbs. Commuter bus service may also include other service, characterized by a limited route structure, limited stops, and a coordinated relationship to another mode of transportation.

Covered entity means any entity listed in section 210(a) of the CAA that operates a place of public accommodation within the meaning of section 210 of the CAA.

Demand responsive system means any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by covered entities, including but not limited to specified public transportation service, which is not a fixed route system.

Designated public transportation means transportation provided by a public entity (other than public school transportation) by bus, rail, or other conveyance (other than transportation by aircraft or intercity or commuter rail transportation) that provides the general public with general or special service, including charter service, on a regular and continuing basis.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) The phrase *physical or mental impairment* means

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine;

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) The term *physical or mental impairment* includes, but is not limited to, such contagious or noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease, tuberculosis, drug addiction and alcoholism;

(iv) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; or

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities; or

(4) The phrase *is regarded as having such an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities, but which is treated by a public or covered entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward such an impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public or covered entity as having such an impairment.

(5) The term *disability* does not include—

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania;

(iii) Psychoactive substance abuse disorders resulting from the current illegal use of drugs.

Facility means all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Fixed route system means a system of transporting individuals (other than by aircraft), including the provision of designated public transportation service by public entities and the provision of transportation service by covered entities, including, but not limited to, specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule.

General Counsel means the General Counsel of the Office of Compliance.

Individual with a disability means a person who has a disability, but does not include an individual who is currently engaging in the illegal use of drugs, when a public or covered entity acts on the basis of such use.

Light rail means a streetcar-type vehicle operated on city streets, semi-exclusive rights of way, or exclusive rights of way. Service may be provided by step-entry vehicles or by level boarding.

New vehicle means a vehicle which is offered for sale or lease after manufacture without any prior use.

Office means the Office of Compliance.

Operates includes, with respect to a fixed route or demand responsive system, the provision of transportation service by a public or covered entity itself or by a person under a contractual or other arrangement or relationship with the entity.

Over-the-road bus means a bus characterized by an elevated passenger deck located over a baggage compartment.

Paratransit means comparable transportation service required by the CAA for individuals with disabilities who are unable to use fixed route transportation systems.

Private entity means any entity other than a public or covered entity.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Purchase or lease, with respect to vehicles, means the time at which a public or covered entity is legally obligated to obtain the vehicles, such as the time of contract execution.

Public school transportation means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

Rapid rail means a subway-type transit vehicle railway operated on exclusive private rights of way with high level platform stations. Rapid rail also may operate on elevated or at grade level track separated from other traffic.

Remanufactured vehicle means a vehicle which has been structurally restored and has had new or rebuilt major components installed to extend its service life.

Service animal means any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Solicitation means the closing date for the submission of bids or offers in a procurement.

Station means where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but this term does not include flag stops (i.e., stations which are not regularly scheduled stops but at which trains will stop board or detrain passengers only on signal or advance notice).

Transit facility means, for purposes of determining the number of text telephones needed consistent with §10.3.1(12) of Appendix A to this part, a physical structure the primary function of which is to facilitate access to and from a transportation system which has scheduled stops at the structure. The term does not include an open structure or a physical structure the primary purpose of which is other than providing transportation services.

Used vehicle means a vehicle with prior use.

Vanpool means a voluntary commuter ridesharing arrangement, using vans with a seating capacity greater than 7 persons (including the driver) or buses, which provides transportation to a group of individuals traveling directly from their homes to their regular places of work within the same geographical area, and in which the commuter/driver does not receive compensation beyond reimbursement for his or her costs of providing the service.

Vehicle, as the term is applied to covered entities, does not include a rail passenger car, railroad locomotive, railroad freight car, or railroad caboose, or other rail rolling stock described in section 242 or title III of the Americans With Disabilities Act, which is not applied to covered entities by section 210 of the CAA.

Wheelchair means a mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "*common wheelchair*" is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

§37.5 Nondiscrimination.

(a) No covered entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

(b) Notwithstanding the provision of any special transportation service to individuals with disabilities, an entity shall not, on the basis of disability, deny to any individual with a disability the opportunity to use the entity's transportation service for the general public, if the individual is capable of using that service.

(c) An entity shall not require an individual with a disability to use designated priority seats, if the individual does not choose to use these seats.

(d) An entity shall not impose special charges, not authorized by this part, on individuals with disabilities, including individuals who use wheelchairs, for providing services required by this part or otherwise necessary to accommodate them.

(e) An entity shall not require that an individual with disabilities be accompanied by an attendant.

(f) An entity shall not refuse to serve an individual with a disability or require anything contrary to this part because its insurance company conditions coverage or rates on the absence of individuals with disabilities or requirements contrary to this part.

(g) It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

§37.7 Standards for accessible vehicles.

(a) For purposes of this part, a vehicle shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the standards set forth in part 38 of these regulations.

(b)(1) For purposes of implementing the equivalent facilitation provision in §38.2 of these regulations, the following parties may submit to the General Counsel of the applicable operating administration a request for a determination of equivalent facilitation:

(i) A public or covered entity that provides transportation services and is subject to the provisions of subpart D or subpart E of this part; or

(ii) The manufacturer of a vehicle or a vehicle component or subsystem to be used by such entity to comply with this part.

(2) The requesting party shall provide the following information with its request:

(i) Entity name, address, contact person and telephone;

(ii) Specific provision of part 38 of these regulations concerning which the entity is seeking a determination of equivalent facilitation;

(iii) [Reserved];

(iv) Alternative method of compliance, with demonstration of how the alternative meets or exceeds the level of accessibility or usability of the vehicle provided in part 38; and

(v) Documentation of the public participation used in developing an alternative method of compliance.

(3) In the case of a request by a public entity that provides transportation services subject to the provisions of subpart D of this part, the required public participation shall include the following:

(i) The entity shall contact individuals with disabilities and groups representing them in the community. Consultation with these individuals and groups shall take place at all stages of the development of the request for equivalent facilitation. All documents and other information concerning the request shall be available, upon request to members of the public.

(ii) The entity shall make its proposed request available for public comment before the request is made final or transmitted to the General Counsel. In making the request available for public review, the entity shall ensure that it is available, upon request, in accessible formats.

(iii) The entity shall sponsor at least one public hearing on the request and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements.

(4) In the case of a request by a covered entity that provides transportation services subject to the provisions of subpart E of this part, the covered entity shall consult, in person, in writing, or by other appropriate means, with representatives of national and local organizations representing people with those disabilities who would be affected by the request.

(5) A determination of compliance will be made by the General Counsel of the concerned operating administration on a case-by-case basis.

(6) Determinations of equivalent facilitation are made only with respect to vehicles or vehicle components used in the provision of transportation services covered by subpart D or subpart E of this part, and pertain only to the specific situation concerning which the determination is made. Entities shall not cite these determinations as indicating that a product or method constitute equivalent facilitation in situations other than those to which the determination is made. Entities shall not claim that a determination of equivalent facilitation indicates approval or endorsement of any product or method by the Office.

(c) Over-the-road buses acquired by public entities (or by a contractor to a public entity as provided in §37.23 of this part) shall comply with §38.23 and subpart G of part 38 of these regulations.

§37.9 Standards for accessible transportation facilities.

(a) For purposes of this part, a transportation facility shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the standards set forth in Appendix A to this part.

(b) Facility alterations begun before January 1, 1997, in a good faith effort to make a facility accessible to individuals with disabilities may be used to meet the key station requirements set forth in §37.47 of this part, even if these alterations are not consistent with the standards set forth in Appendix A to this part, if the modifications complied with the Uniform Federal Accessibility Standard (UFAS) or ANSI A117.1(1980) (American National Standards Specification for Making Buildings and Facilities Accessible to and Usable by, the Physically Handicapped). This paragraph applies only to alterations of individual elements and spaces and only to the extent that provisions covering those elements or spaces are contained in UFAS or ANSI A117.1, as applicable.

(c) Public entities shall ensure the construction of new bus stop pads are in compliance with section 10.2.1(1) of appendix A to this part, to the extent construction specifications are within their control.

(d)(1) For purposes of implementing the equivalent facilitation provision in section 2.2 of appendix A to this part, the following parties may submit to the General Counsel a request for a determination of equivalent facilitation:

(i) A public or covered entity that provides transportation services subject to the provisions of subpart C of this part, or any other appropriate party with the concurrence of the General Counsel.

(ii) The manufacturer of a product or accessibility feature to be used in the facility of such entity to comply with this part.

(2) The requesting party shall provide the following information with its request:

(i) Entity name, address, contact person and telephone;

(ii) Specific provision of appendix A to part 37 of these regulations concerning which the entity is seeking a determination of equivalent facilitation;

(iii) [Reserved];

(iv) Alternative method of compliance, with demonstration of how the alternative meets or exceeds the level of accessibility or usability of the vehicle provided in appendix A to this part; and

(v) Documentation of the public participation used in developing an alternative method of compliance.

(3) In the case of a request by a public entity that provides transportation facilities,

the required public participation shall include the following:

(i) The entity shall contact individuals with disabilities and groups representing them in the community. Consultation with these individuals and groups shall take place at all stages of the development of the request for equivalent facilitation. All documents and other information concerning the request shall be available, upon request to members of the public.

(ii) The entity shall make its proposed request available for public comment before the request is made final or transmitted to the General Counsel. In making the request available for public review, the entity shall ensure that it is available, upon request, in accessible formats.

(iii) The entity shall sponsor at least one public hearing on the request and shall provide adequate notice of the hearing, including advertisement in appropriate medial, such as newspapers of general and special interest circulation and radio announcements.

(4) In the case of a request by a covered entity, the covered entity shall consult, in person, in writing, or by other appropriate means, with representatives of national and local organizations representing people with those disabilities who would be affected by the request.

(5) A determination of compliance will be made by the General Counsel on a case-by-case basis.

(6) Determinations of equivalent facilitation are made only with respect to vehicles or vehicle components used in the provision of transportation services covered by subpart D or subpart E of this part, and pertain only to the specific situation concerning which the determination is made. Entities shall not cite these determinations as indicating that a product or method constitute equivalent facilitations in situations other than those to which the determination is made. Entities shall not claim that a determination of equivalent facilitation indicates approval or endorsement of any product or method by the Office.

§37.11 [Reserved]

§37.13 Effective date for certain vehicle lift specifications.

The vehicle lift specifications identified in §§38.23(b)(6) and 38.83(b)(6) apply to solicitations for vehicles under this part after December 31, 1996.

§§37.15 Temporary suspension of certain detectable warning requirements.

The detectable warning requirements contained in sections 4.7.7, 4.29.5, and 3.29.6 of appendix A to this part are suspended temporarily until July 26, 1998.

§§37.17–37.19 [Reserved]

SUBPART B—APPLICABILITY

§37.21 Applicability: General.

(a) This part applies to the following entities:

(1) Any public entity that provides designated public transportation; and

(2) Any covered entity that is not primarily engaged in the business of transporting people but operates a demand responsive or fixed route system.

(b) Entities to which this part applies also may be subject to CAA regulations of the Office of Compliance (parts 35 or 36, as applicable). The provisions of this part shall be interpreted in a manner that will make them consistent with applicable Office of Compliance regulations. In any case of apparent inconsistency, the provisions of this part shall prevail.

§37.23 Service under contract.

(a) When a public entity enters into a contractual or other arrangement or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public entity itself provided the service.

(b) A public entity which enters into a contractual or other arrangement or relationship with a private entity to provide fixed route service shall ensure that the percentage of accessible vehicles operated by the public entity in its overall fixed route or demand responsive fleet is not diminished as a result.

§37.25 [Reserved]

§37.27 Transportation for elementary and secondary education systems.

(a) The requirements of this part do not apply to public school transportation.

(b) The requirements of this part do not apply to the transportation of school children to and from a covered elementary or secondary school, and its school-related activities, if the school is providing transportation service to students with disabilities equivalent to that provided to students without disabilities. The test of equivalence is the same as that provided in §37.105. If the school does not meet the criteria of this paragraph for exemption from the requirements of this part, it is subject to the requirements of this part for covered entities not primarily engaged in transporting people.

§37.29 [Reserved]

§37.31 Vanpools.

Vanpool systems which are operated by public entities, or in which public entities own or purchase or lease the vehicles, are subject to the requirements of this part for demand responsive service for the general public operated by public entities. A vanpool system in this category is deemed to be providing equivalent service to individuals with disabilities if a vehicle that an individual with disabilities can use is made available to and used by a vanpool in which such an individual chooses to participate.

§§37.33–37.35 [Reserved]

§37.37 Other applications.

(a) Shuttle systems and other transportation services operated by public accommodations are subject to the requirements of this part for covered entities not primarily engaged in the business of transporting people. Either the requirements for demand responsive or fixed route service may apply, depending upon the characteristics of each individual system of transportation.

(b) Conveyances used by members of the public primarily for recreational purposes rather than for transportation (e.g., amusement park rides, ski lifts, or historic rail cars or trolleys operated in museum settings) are not subject to the requirements of this part. Such conveyances are subject to the Board's regulations implementing the non-transportation provisions of title II or title III of the ADA, as applied by section 210 of the CAA, as applicable.

(c) Transportation services provided by an employer solely for its own employees are not subject to the requirements of this part. Such services are subject to the requirements of section 201 of the CAA .

§37.39 [Reserved]

SUBPART C—TRANSPORTATION FACILITIES

§37.41 Construction of transportation facilities by public entities.

A public entity shall construct any new facility to be used in providing designated public transportation services so that the facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. For purposes of this section, a facility or station is 'new' if its construction begins (i.e., issuance of notice to proceed) after December 31, 1996.

§37.43 Alteration of transportation facilities by public entity.

(a)(1) When a public entity alters an existing facility or a part of an existing facility used in providing designated public transportation services in a way that affects or could affect the usability of the facility or part of the facility, the entity shall make the alterations (or ensure that the alterations are made) in such a manner, to the maximum extent feasible, that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations.

(2) When a public entity undertakes an alteration that affects or could affect the usability of or access to an area of a facility containing a primary function, the entity shall make the alteration in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of the alterations. *Provided*, that alterations to the path of travel, drinking fountains, telephones and bathrooms are not required to be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if the cost and scope of doing so would be disproportionate.

(3) The requirements of this paragraph also apply to the alteration of existing intercity or commuter rail stations by the responsible person for, owner of, or person in control of the station.

(4) The requirements of this section apply to any alteration which begins (i.e., issuance of notice to proceed or work order, as applicable) after December 31, 1996.

(b) As used in this section, the phrase *to the maximum extent feasible* applies to the occasional case where the nature of an existing facility makes it impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the entity shall provide the maximum physical accessibility feasible. Any altered features of the facility or portion of the facility that can be made accessible shall be made accessible. If providing accessibility to certain individuals with disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to individuals with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

(c) As used in this section, a *primary function* is a major activity for which the facility is intended. Areas of transportation facilities that involve primary functions include, but are not necessarily limited to, ticket purchase and collection areas, passenger waiting areas, train or bus platforms, baggage checking and return areas and employment areas (except those involving non-occupiable spaces accessed only by ladders, catwalks, crawl spaces, vary narrow passageways, or freight [non-passenger] elevators which are frequented only by repair personnel).

(d) As used in this section, a *path of travel* includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, parking areas, and streets), an entrance to the facility, and other parts of the facility. The term also includes the restrooms, telephones, and drinking fountains serving the altered area. An accessible path of travel may include walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps, clear floor paths through corridors, waiting areas, concourses, and other improved areas, parking access aisles, elevators and lifts, bridges, tunnels, or other passageways between platforms, or a combination of these and other elements.

(e)(1) Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20 percent of the cost of the alteration to the primary function area (without regard to the costs of accessibility modifications).

(2) Costs that may be counted as expenditures required to provide an accessible path of travel include:

(i) Costs associated with providing an accessible entrance and an accessible route to the altered area (e.g., widening doorways and installing ramps);

(ii) Costs associated with making restrooms accessible (e.g., grab bars, enlarged toilet stalls, accessible faucet controls);

(iii) Costs associated with providing accessible telephones (e.g., relocation of phones to an accessible height, installation of amplification devices or TTYs);

(iv) Costs associated with relocating an inaccessible drinking fountain.

(f)(1) When the cost of alterations necessary to make a path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, then such areas shall be made accessible to the maximum extent without resulting in disproportionate costs;

(2) In this situation, the public entity should give priority to accessible elements that will provide the greatest access, in the following order:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom (where there are one or more restrooms);

(iv) Accessible telephones;

(v) Accessible drinking fountains;

(vi) When possible, other accessible elements (e.g., parking, storage, alarms).

(g) If a public entity performs a series of small alterations to the area served by a single path of travel rather than making the alterations as part of a single undertaking, it shall nonetheless be responsible for providing an accessible path of travel.

(h)(1) If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alteration to the primary function areas on that path of travel during the preceding three year period shall be considered in determining whether the cost of making that path of travel is disproportionate;

(2) For the first three years after January 1, 1997, only alterations undertaken between that date and the date of the alteration at issue shall be considered in determining if the cost of providing accessible features is disproportionate to the overall cost of the alteration.

(3) Only alterations undertaken after January 1, 1997, shall be considered in determining if the cost of providing an accessible path of travel is disproportionate to the overall cost of the alteration.

§37.45 Construction and alteration of transportation facilities by covered entities.

In constructing and altering transit facilities, covered entities shall comply with the regulations of the Board implementing title III of the ADA, as applied by section 210 of the CAA (part 36).

§37.47 Key stations in light and rapid rail systems.

(a) Each public entity that provides designated public transportation by means of a light or rapid rail system shall make key stations on its system readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. This requirement is separate from and in addition to requirements set forth in §37.43 of this part.

(b) Each public entity shall determine which stations on its system are key stations. The entity shall identify key stations, using the planning and public participation process set forth in paragraph (d) of this section, and taking into consideration the following criteria:

(1) Stations where passenger boardings exceed average station passenger boardings on the rail system by at least fifteen percent, unless such a station is close to another accessible station;

(2) Transfer stations on a rail line or between rail lines;

(3) Major interchange points with other transportation modes, including stations connecting with major parking facilities, bus terminals, intercity or commuter rail stations, passenger vessel terminals, or airports;

(4) End stations, unless an end station is close to another accessible station; and

(5) Stations serving major activity centers, such as employment or government centers, institutions of higher education, hospitals or other major health care facilities, or other facilities that are major trip generators for individuals with disabilities.

(c)(1) Unless an entity receives an extension under paragraph (c)(2) of this section, the public entity shall achieve accessibility of key stations as soon as practicable, but in no case later than January 1, 2000, except that an entity is not required to complete installation of detectable warnings required by section 10.3.2(2) of appendix A to this part until January 1, 2001.

(2) The General Counsel may grant an extension of this completion date for key station accessibility for a period up to January 1, 2025, provided that two-thirds of key stations are made accessible by January 1, 2015. Extensions may be granted as provided in paragraph (e) of this section.

(d) The public entity shall develop a plan for compliance for this section. The plan shall be submitted to the General Counsel's office by July 1, 1997.

(1) The public entity shall consult with individuals with disabilities affected by the plan. The public entity also shall hold at least one public hearing on the plan and solicit comments on it. The plan submitted to General Counsel shall document this public participation, including summaries of the consultation with individuals with disabilities and the comments received at the hearing and during the comment period. The plan also shall summarize the public entity's responses to the comments and consultation.

(2) The plan shall establish milestones for the achievement of required accessibility of key stations, consistent with the requirements of this section.

(e) A public entity wishing to apply for an extension of the January 1, 2000, deadline for key station accessibility shall include a request for an extension with its plan submitted to the General Counsel under paragraph (d) of this section. Extensions may be granted only with respect to key stations which need extraordinarily expensive structural changes to, or replacement of, existing facilities (e.g., installations of elevators, raising the entire passenger platform, or alterations of similar magnitude and cost). Requests for extensions shall provide for completion of key station accessibility within the time limits set forth in paragraph (c) of this section. The General Counsel may approve, approve with conditions, modify, or disapprove any request for an extension.

§§37.49–37.59 [Reserved]

§37.61 Public transportation programs and activities in existing facilities.

(a) A public entity shall operate a designated public transportation program or activity conducted in an existing facility so that, when viewed in its entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(b) This section does not require a public entity to make structural changes to existing facilities in order to make the facilities accessible by individuals who use wheelchairs, unless and to the extent required by §37.43 (with respect to alterations) or §37.47 of this part (with respect to key stations). Entities shall comply with other applicable accessibility requirements for such facilities.

(c) Public entities, with respect to facilities that, as provided in paragraph (b) of this section, are not required to be made accessible to individuals who use wheelchairs, are not required to provide to such individuals services made available to the general public at such facilities when the individuals could not utilize or benefit from the services.

§§37.63–37.69 [Reserved]

SUBPART D—ACQUISITION OF ACCESSIBLE VEHICLES BY PUBLIC ENTITIES.

§37.71 Purchase or lease of new non-rail vehicles by public entities operating fixed route systems.

(a) Except as provided elsewhere in this section, each public entity operating a fixed route system making a solicitation after January 31, 1997, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a new bus that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if it applies for, and the General Counsel grants, a waiver as provided for in this section.

(c) Before submitting a request for such a waiver, the public entity shall hold at least one public hearing concerning the proposed request.

(d) The General Counsel may grant a request for such a waiver if the public entity demonstrates to the General Counsel's satisfaction that—

(1) The initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) Hydraulic, electromechanical, or other lifts for such new buses could not be provided

by any qualified lift manufacturer to the manufacturer of such new buses in sufficient time to comply with the solicitation; and

(3) Any further delay in purchasing new buses equipped with such necessary lifts would significantly impair transportation services in the community served by the public entity.

(e) The public entity shall include with its waiver request a copy of the initial solicitation and written documentation from the bus manufacturer of its good faith efforts to obtain lifts in time to comply with the solicitation, and a full justification for the assertion that the delay in bus procurement needed to obtain a lift-equipped bus would significantly impair transportation services in the community. This documentation shall include a specific date at which the lifts could be supplied, copies of advertisements in trade publications and inquiries to trade associations seeking lifts, and documentation of the public hearing.

(f) Any waiver granted by the General Counsel under this section shall be subject to the following conditions:

(1) The waiver shall apply only to the particular bus delivery to which the waiver request pertains;

(2) The waiver shall include a termination date, which will be based on information concerning when lifts will become available for installation on the new buses the public entity is purchasing. Buses delivered after this date, even though procured under a solicitation to which a waiver applied, shall be equipped with lifts;

(3) Any bus obtained subject to the waiver shall be capable of accepting a lift, and the public entity shall install a lift as soon as soon as one becomes available;

(4) Such other terms and conditions as the General Counsel may impose.

(g)(1) When the General Counsel grants a waiver under this section, he/she shall promptly notify any appropriate committees of Congress.

(2) If the General Counsel has reasonable cause to believe that a public entity fraudulently applied for a waiver under this section, the General Counsel shall:

(i) Cancel the waiver if it is still in effect; and

(ii) Take other appropriate action.

§37.73 Purchase or lease of used non-rail vehicles by public entities operating a fixed route system.

(a) Except as provided elsewhere in this section, each public entity operating a fixed route system purchasing or leasing, after January 31, 1997, a used bus or other used vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a used vehicle for use on its fixed route system that is not readily accessible to and usable by individuals with disabilities if, after making demonstrated good faith efforts to obtain an accessible vehicle, it is unable to do so.

(c) Good faith efforts shall include at least the following steps:

(1) An initial solicitation for used vehicles specifying that all used vehicles are to be lift-equipped and otherwise accessible to and usable by individuals with disabilities, or, if an initial solicitation is not used, a documented communication so stating;

(2) A nationwide search for accessible vehicles, involving specific inquiries to used vehicle dealers and other transit providers; and

(3) Advertising in trade publications and contacting trade associations.

(d) Each public entity purchasing or leasing used vehicles that are not readily accessible to and usable by individuals with disabilities shall retain documentation of the specific good faith efforts it made for three years from the date the vehicles were purchased. These records shall be made available, on request, to the General Counsel and the public.

§37.75 Remanufacture of non-rail vehicles and purchase or lease of remanufactured non-rail vehicles by public entities operating fixed route systems.

(a) This section applies to any public entity operating a fixed route system which takes one of the following actions:

(1) After January 31, 1997, remanufactures a bus or other vehicle so as to extend its useful life for five years or more or makes a solicitation for such remanufacturing; or

(2) Purchases or leases a bus or other vehicle which has been remanufactured so as to extend its useful life for five years or more, where the purchase or lease occurs after January 31, 1997, and during the period in which the useful life of the vehicle is extended.

(b) Vehicles acquired through the actions listed in paragraph (a) of this section shall, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) For purposes of this section, it shall be considered feasible to remanufacture a bus or other motor vehicle so as to be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless an engineering analysis demonstrates that including accessibility features required by this part would have a significant adverse effect on the structural integrity of the vehicle.

(d) If a public entity operates a fixed route system, any segment of which is included on the National Register of Historic Places, and if making a vehicle of historic character used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity has only to make (or purchase or lease a remanufactured vehicle with) those modifications to make the vehicle accessible which do not alter the historic character of such vehicle, in consultation with the National Register of Historic Places.

(e) A public entity operating a fixed route system as described in paragraph (d) of this section may apply in writing to the General Counsel for a determination of the historic character of the vehicle. The General Counsel shall refer such requests to the National Register of Historic Places, and shall rely on its advice in making determinations of the historic character of the vehicle.

§37.77 Purchase or lease of new non-rail vehicles by public entities operating a demand responsive system for the general public.

(a) Except as provided in this section, a public entity operating a demand responsive system for the general public making a solicitation after January 31, 1997, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) If the system, when viewed in its entirety, provides a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service it provides to individuals without disabilities, it may purchase new vehicles that are not readily accessible to and usable by individuals with disabilities.

(c) For purposes of this section, a demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

(1) Response time;

(2) Fares;

(3) Geographic area of service;

(4) Hours and days of service;

(5) Restrictions or priorities based on trip purpose;

(6) Availability of information and reservations capability; and

(7) Any constraints on capacity or service availability.

(d) A public entity, which determines that its service to individuals with disabilities is equivalent to that provided other persons shall, before any procurement of an inaccessible vehicle, make a certificate that it provides equivalent service meeting the standards of paragraph (c) of this section. A public entity shall make such a certificate and retain it in its files, subject to inspection on request of the General Counsel. All certificates under this paragraph may be made in connection with a particular procurement or in advance of a procurement; however, no certificate shall be valid for more than one year.

(e) The waiver mechanism set forth in §37.71(b)–(g) (unavailability of lifts) of this subpart shall also be available to public entities operating a demand responsive system for the general public.

§37.79 Purchase or lease of new rail vehicles by public entities operating rapid or light rail systems.

Each public entity operating a rapid or light rail system making a solicitation after January 31, 1997, to purchase or lease a new rapid or light rail vehicle for use on the system shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

§37.81 Purchase or lease of used rail vehicles by public entities operating rapid or light rail systems.

(a) Except as provided elsewhere in this section, each public entity operating a rapid or light rail system which, after January 31, 1997, purchases or leases a used rapid or light rail vehicle for use on the system shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a used rapid or light rail vehicle for use on its rapid or light rail system that is not readily accessible to and usable by individuals if, after making demonstrated good faith efforts to obtain an accessible vehicle, it is unable to do so.

(c) Good faith efforts shall include at least the following steps:

(1) The initial solicitation for used vehicles made by the public entity specifying that all used vehicles were to be accessible to and usable by individuals with disabilities, or, if a solicitation is not used, a documented communication so stating;

(2) A nationwide search for accessible vehicles, involving specific inquiries to manufacturers and other transit providers; and

(3) Advertising in trade publications and contacting trade associations.

(d) Each public entity purchasing or leasing used rapid or light rail vehicles that are not readily accessible to and usable by individuals with disabilities shall retain documentation of the specific good faith efforts it made for three years from the date the vehicles were purchased. These records shall be made available, on request, to the General Counsel and the public.

§37.83 Remanufacture of rail vehicles and purchase or lease of remanufactured rail vehicles by public entities operating rapid or light rail systems.

(a) This section applies to any public entity operating a rapid or light rail system which takes one of the following actions:

(1) After January 31, 1997, remanufactures a light or rapid rail vehicle so as to extend its useful life for five years or more or makes a solicitation for such remanufacturing;

(2) Purchases or leases a light or rapid rail vehicle which has been remanufactured so as to extend its useful life for five years or more, where the purchase or lease occurs after January 31, 1997, and during the period in which the useful life of the vehicle is extended.

(b) Vehicles acquired through the actions listed in paragraph (a) of this section shall, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) For purposes of this section, it shall be considered feasible to remanufacture a rapid or light rail vehicle so as to be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless an engineering analysis demonstrates that doing so would have a significant adverse effect on the structural integrity of the vehicle.

(d) If a public entity operates a rapid or light rail system any segment of which is included on the National Register of Historic Places and if making a rapid or light rail vehicle of historic character used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity need only make (or purchase or lease a remanufactured vehicle with) those modifications that do not alter the historic character of such vehicle.

(e) A public entity operating a fixed route system as described in paragraph (d) of this section may apply in writing to the General Counsel for a determination of the historic character of the vehicle. The General Counsel shall refer such requests to the National Register of Historic Places and shall rely on its advice in making a determination of the historic character of the vehicle.

§§37.85–37.91 [Reserved]

§37.93 One car per train rule.

(a) The definition of accessible for purposes of meeting the one car per train rule is spelled out in the applicable subpart for each transportation system type in part 38 of these regulations.

(b) Each public entity providing light or rapid rail service shall ensure that each train, consisting of two or more vehicles, includes at least one car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no case later than December 31, 2001.

§37.95 [Reserved]

§§37.97–37.99 [Reserved]

SUBPART E—ACQUISITION OF ACCESSIBLE VEHICLES BY COVERED ENTITIES

§37.101 Purchase or lease of vehicles by covered entities not primarily engaged in the business of transporting people.

(a) *Application.* This section applies to all purchases or leases of vehicles by covered entities which are not primarily engaged in the business of transporting people, in which a solicitation for the vehicle is made after January 31, 1997.

(b) *Fixed Route System, Vehicle Capacity Over 16.* If the entity operates a fixed route system and purchases or leases a vehicle with a seating capacity of over 16 passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) *Fixed Route System, Vehicle Capacity of 16 or Fewer.* If the entity operates a fixed route system and purchases or leases a vehicle with a seating capacity of 16 or fewer passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of §37.105 of this part.

(d) *Demand Responsive System, Vehicle Capacity Over 16.* If the entity operates a demand responsive system, and purchases or leases a vehicle with a seating capacity of over 16 passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of §37.105 of this part.

(e) *Demand Responsive System, Vehicle Capacity of 16 or Fewer.* Entities providing demand responsive transportation covered under this section are not specifically required to ensure that new vehicles with seating capacity of 16 or fewer are accessible to individuals with wheelchairs. These entities are required to ensure that their systems, when viewed in their entirety, meet the equivalent service requirements of §§37.171 and 37.105, regardless of whether or not the entities purchase a new vehicle.

§37.103 [Reserved]

§37.105 Equivalent service standard.

For purposes of § 37.101 of this part, a fixed route system or demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

(a) (1) Schedules/headways (if the system is fixed route);

(2) Response time (if the system is demand responsive);

(b) Fares;

(c) Geographic area of service;

(d) Hours and days of service;

(e) Availability of information;

(f) Reservations capability (if the system is demand responsive);

(g) Any constraints on capacity or service availability;

(h) Restrictions priorities based on trip purpose (if the system is demand responsive).

§§37.107–37.109 [Reserved]

§§37.111–37.119 [Reserved]

SUBPART F—PARATRANSIT AS A COMPLEMENT TO FIXED ROUTE SERVICE

§37.121 Requirement for comparable complementary paratransit service.

(a) Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

(b) To be deemed comparable to fixed route service, a complementary paratransit system shall meet the requirements of §§37.123–37.133 of this subpart. The requirement to comply with §37.131 may be modified in accordance with the provisions of this subpart relating to undue financial burden.

(c) Requirements for complementary paratransit do not apply to commuter bus systems.

§37.123 CAA paratransit eligibility—standards.

(a) Public entities required by §37.121 of this subpart to provide complementary paratransit service shall provide the service to the CAA paratransit eligible individuals described in paragraph (e) of this section.

(b) If an individual meets the eligibility criteria of this section with respect to some trips but not others, the individual shall be CAA paratransit eligible only for those trips for which he or she meets the criteria.

(c) Individuals may be CAA paratransit eligible on the basis of a permanent or temporary disability.

(d) Public entities may provide complementary paratransit service to persons other than CAA paratransit eligible individuals. However, only the cost of service to CAA paratransit eligible individuals may be considered in a public entity's request for an undue financial burden waiver under §§37.151–37.155 of this part.

(e) The following individuals are CAA paratransit eligible:

(1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities.

(2) Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route.

(i) An individual is eligible under this paragraph with respect to travel on an otherwise accessible route on which the boarding or disembarking location which the individual would use is one at which boarding or disembarking from the vehicle is precluded as provided in § 37.167(g) of this part.

(ii) An individual using a common wheelchair is eligible under this paragraph if the individual's wheelchair cannot be accommodated on an existing vehicle (e.g., because the vehicle's lift does not meet the standards of part 38 of these regulations), even if that vehicle is accessible to other individuals with disabilities and their mobility wheelchairs.

(iii) With respect to rail systems, an individual is eligible under this paragraph if the individual could use an accessible rail system, but

(A) there is not yet one accessible car per train on the system; or

(B) key stations have not yet been made accessible.

(3) Any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

(i) Only a specific impairment-related condition which prevents the individual from traveling to a boarding location or from a disembarking location is a basis for eligibility under this paragraph. A condition which makes traveling to boarding location or from a disembarking location more difficult for a person with a specific impairment-related condition than for an individual who does not have the condition, but does not prevent the travel, is not a basis for eligibility under this paragraph.

(ii) Architectural barriers not under the control of the public entity providing fixed route service and environmental barriers (e.g., distance, terrain, weather) do not, standing alone, form a basis for eligibility under this paragraph. The interaction of such barriers with an individual's specific impairment-related condition may form a basis for eligibility under this paragraph, if the effect is to prevent the individual from traveling to a boarding location or from a disembarking location.

(f) Individuals accompanying a CAA paratransit eligible individual shall be provided service as follows:

(1) One other individual accompanying the CAA paratransit eligible individual shall be provided service.

(i) If the CAA paratransit eligible individual is traveling with a personal care attendant, the entity shall provide service to one other individual in addition to the attendant who is accompanying the eligible individual.

(ii) A family member or friend is regarded as a person accompanying the eligible individual, and not as a personal care attendant, unless the family member or friend registered is acting in the capacity of a personal care attendant;

(2) Additional individuals accompanying the CAA paratransit eligible individual shall be provided service, provided that space is available for them on the paratransit vehicle carrying the CAA paratransit eligible individual and that transportation of the additional individuals will not result in a denial of service to CAA paratransit eligible individuals.

(3) In order to be considered as "accompanying" the eligible individual for purposes of this paragraph, the other individual(s) shall have the same origin and destination as the eligible individual.

§ 37.125 CAA paratransit eligibility: process.

Each public entity required to provide complementary paratransit service by § 37.121 of this part shall establish a process for determining CAA paratransit eligibility.

(a) The process shall strictly limit CAA paratransit eligibility to individuals specified in § 37.123 of this part.

(b) All information about the process, materials necessary to apply for eligibility, and notices and determinations concerning eligibility shall be made available in accessible formats, upon request.

(c) If, by a date 21 days following the submission of a complete application, the entity has not made a determination of eligibility, the applicant shall be treated as eligible and provided service until and unless the entity denies the application.

(d) The entity's determination concerning eligibility shall be in writing. If the determination is that the individual is ineligible, the determination shall state the reasons for the finding.

(e) The public entity shall provide documentation to each eligible individual stating that he or she is "CAA Paratransit Eligible." The documentation shall include the name of the eligible individual, the name of the transit provider, the telephone number of the entity's paratransit coordinator, an expiration date for eligibility, and any conditions or limitations on the individual's eligibility including the use of a personal care attendant.

(f) The entity may require recertification of the eligibility of CAA paratransit eligible individuals at reasonable intervals.

(g) The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial.

(1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application.

(2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it;

(3) The entity is not required to provide paratransit service to the individual pending the determination on appeal. However, if the entity has not made a decision within 30 days of the completion of the appeal process, the entity shall provide paratransit service from that time until and unless a decision to deny the appeal is issued.

(h) The entity may establish an administrative process to suspend, for a reasonable period of time, the provision of complementary paratransit service to CAA eligible individuals who establish a pattern or practice of missing scheduled trips.

(1) Trips missed by the individual for reasons beyond his or her control (including, but not limited to, trips which are missed due to operator error) shall not be a basis for determining that such a pattern or practice exists.

(2) Before suspending service, the entity shall take the following steps:

(i) Notify the individual in writing that the entity proposes to suspend service, citing with specificity the basis of the proposed suspension and setting forth the proposed sanction;

(ii) Provide the individual an opportunity to be heard and to present information and arguments;

(iii) Provide the individual with written notification of the decision and the reasons for it.

(3) The appeals process of paragraph (g) of this section is available to an individual on whom sanctions have been imposed under this paragraph. The sanction is stayed pending the outcome of the appeal.

(i) In applications for CAA paratransit eligibility, the entity may require the applicant to indicate whether or not he or she travels with a personal care attendant.

§ 37.127 Complementary paratransit service for visitors.

(a) Each public entity required to provide complementary paratransit service under § 37.121 of this part shall make the service available to visitors as provided in this section.

(b) For purposes of this section, a visitor is an individual with disabilities who does not reside in the jurisdiction(s) served by the public entity or other entities with which the public entity provides coordinated complementary paratransit service within a region.

(c) Each public entity shall treat as eligible for its complementary paratransit service all visitors who present documentation that they are CAA paratransit eligible, under the criteria of § 37.125 of this part, in the jurisdiction in which they reside.

(d) With respect to visitors with disabilities who do not present such documentation, the public entity may require the documentation of the individual's place of residence and, if the individual's disability is not apparent, of his or her disability. The entity shall provide paratransit service to individuals with disabilities who qualify as visitors under paragraph (b) of this section. The entity shall accept a certification by such individuals that they are unable to use fixed route transit.

(e) A public entity shall make the service to a visitor required by this section available for any combination of 21 days during any 365-day period beginning with the visitor's first use of the service during such 365-day period. In no case shall the public entity require a visitor to apply for or receive eligibility certification from the public entity before receiving the service required by this section.

§ 37.129 Types of service.

(a) Except as provided in this section, complementary paratransit service for CAA paratransit eligible persons shall be origin-to-destination service.

(b) Complementary paratransit service for CAA paratransit eligible persons described in § 37.123(e)(2) of this part may also be provided by on-call bus service or paratransit feeder service to an accessible fixed route, where such service enables the individual to use the fixed route bus system for his or her trip.

(c) Complementary paratransit service for CAA eligible persons described in § 37.123 (e)(3) of this part also may be provided by paratransit feeder service to and/or from an accessible fixed route.

§ 37.131 Service criteria for complementary paratransit.

The following service criteria apply to complementary paratransit required by § 37.121 of this part.

(a) *Service Area*—(1) Bus. (i) The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

(ii) Within the core service area, the entity also shall provide service to small areas not inside any of the corridors but which are surrounded by corridors.

(iii) Outside the core service area, the entity may designate corridors with widths from three-fourths of a mile up to one and one-half miles on each side of a fixed route, based on local circumstances.

(iv) For purposes of this paragraph, the core service area is that area in which corridors with a width of three-fourths of a mile on each side of each fixed route merge together such that, with few and small exceptions, all origins and destinations within the area would be served.

(2) *Rail.* (i) For rail systems, the service area shall consist of a circle with a radius of a mile around each station.

(ii) At end stations and other stations in outlying areas, the entity may designate circles with radii of up to 1½ miles as part of its service area, based on local circumstances.

(3) *Jurisdictional Boundaries.* Notwithstanding any other provision of this paragraph, an entity is not required to provide paratransit service in an area outside the boundaries of the jurisdiction(s) in which it operates, if the entity does not have legal authority to operate in that area. The entity shall take all practicable steps to provide paratransit service to any part of its service area.

(b) *Response Time.* The entity shall schedule and provide paratransit service to any CAA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day. Reservations may be taken by reservation agents or by mechanical means.

(1) The entity shall make reservation service available during at least all normal business hours of the entity's administrative offices, as well as during times, comparable to normal business hours, on a day when the entity's offices are not open before a service day.

(2) The entity may negotiate pickup times with the individual, but the entity shall not require a CAA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

(3) The entity may use real-time scheduling in providing complementary paratransit service.

(4) The entity may permit advance reservations to be made up to 14 days in advance of a CAA paratransit eligible individual's desired trips. When an entity proposes to change its reservations system, it shall comply with the public participation requirements equivalent to those of §37.131(b) and (c).

(c) *Fares.* The fare for a trip charged to a CAA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system.

(1) In calculating the full fare that would be paid by an individual using the fixed route system, the entity may include transfer and premium charges applicable to a trip of similar length, at a similar time of day, on the fixed route system.

(2) The fares for individuals accompanying CAA paratransit eligible individuals, who are provided service under §37.123 (f) of this part, shall be the same as for the CAA paratransit eligible individuals they are accompanying.

(3) A personal care attendant shall not be charged for complementary paratransit service.

(4) The entity may charge a fare higher than otherwise permitted by this paragraph to a social service agency or other organization for agency trips (i.e., trips guaranteed to the organization).

(d) *Trip Purpose Restrictions.* The entity shall not impose restrictions or priorities based on trip purpose.

(e) *Hours and Days of Service.* The complementary paratransit service shall be available throughout the same hours and days as the entity's fixed route service.

(f) *Capacity Constraints.* The entity shall not limit the availability of complementary paratransit service to CAA paratransit eligible individuals by any of the following:

(1) Restrictions on the number of trips an individual will be provided;

(2) Waiting lists for access to the service; or

(3) Any operational pattern or practice that significantly limits the availability of service to CAA paratransit eligible persons.

(i) Such patterns or practices include, but are not limited to, the following:

(A) Substantial numbers of significantly untimely pickups for initial or return trips;

(B) Substantial numbers of trip denials or missed trips;

(C) Substantial numbers of trips with excessive trip lengths.

(ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

(g) *Additional Service.* Public entities may provide complementary paratransit service to CAA paratransit eligible individuals exceeding that provided for in this section. However, only the cost of service provided for in this section may be considered in a public entity's request for an undue financial burden waiver under §§37.151–37.155 of this part.

§37.133 Subscription Service.

(a) This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section.

(b) Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is excess non-subscription capacity.

(c) Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

§37.135 Submission of paratransit plan.

(a) *General.* Each public entity operating fixed route transportation service, which is required by §37.121 to provide complementary paratransit service, shall develop a paratransit plan.

(b) *Initial Submission.* Except as provided in §37.141 of this part, each entity shall submit its initial plan for compliance with the complementary paratransit service provision by June 1, 1998, to the appropriate location identified in paragraph (f) of this section.

(c) *Annual Updates.* Except as provided in this paragraph, each entity shall submit its annual update to the plan on June 1 of each succeeding year.

(1) If an entity has met and is continuing to meet all requirements for complementary paratransit in §§37.121–37.133 of this part, the entity may submit to the General Counsel an annual certification of continued compliance in lieu of a plan update. Entities that have submitted a joint plan under §37.141 may submit a joint certification under this paragraph. The requirements of §§37.137(a) and (b), 37.138 and 37.139 do not apply when a certification is submitted under this paragraph.

(2) In the event of any change in circumstances that results in an entity which has submitted a certification of continued compliance falling short of compliance with §§37.121–37.133, the entity shall immediately notify the General Counsel in writing of the problem. In this case, the entity shall also file a plan update meeting the requirements of §§37.137–37.139 of this part on the next following June 1 and in each succeeding year until the entity returns to full compliance.

(3) An entity that has demonstrated undue financial burden to the General Counsel shall file a plan update meeting the requirements of §§37.137–37.139 of this part on each June 1 until full compliance with §§37.121–37.133 is attained.

(4) If the General Counsel reasonably believes that an entity may not be fully complying with all service criteria, the General Counsel may require the entity to provide an annual update to its plan.

(d) *Phase-in of Implementation.* Each plan shall provide for full compliance by no later than June 1, 2003, unless the entity has received a waiver based on undue financial burden. If the date for full compliance specified in the plan is after June 1, 1999, the plan shall include milestones, providing for measured, proportional progress toward full compliance.

(e) *Plan Implementation.* Each entity shall begin implementation of its plan on June 1, 1998.

(f) *Submission Locations.* An entity shall submit its plan to the General Counsel's office.

§37.137 Paratransit plan development.

(a) *Survey of existing services.* Each submitting entity shall survey the area to be covered by the plan to identify any person or entity (public or covered) which provides a paratransit or other special transportation service for CAA paratransit eligible individuals in the service area to which the plan applies.

(b) *Public participation.*

Each submitting entity shall ensure public participation in the development of its paratransit plan, including at least the following:

(1) *Outreach.* Each submitting entity shall solicit participation in the development of its plan by the widest range of persons anticipated to use its paratransit service. Each entity shall develop contacts, mailing lists and other appropriate means for notification of opportunities to participate in the development of the paratransit plan.

(2) *Consultation with individuals with disabilities.* Each entity shall contact individuals with disabilities and groups representing them in the community. Consultation shall begin at an early stage in the plan development and should involve persons with disabilities in all phases of plan development. All documents and other information concerning the planning procedure and the provision of service shall be available, upon request, to members of the pubic, except where disclosure would be an unwarranted invasion of personal privacy.

(3) *Opportunity for public comment.* The submitting entity shall make its plan available for review before the plan is finalized. In making the plan available for public review, the entity shall ensure that the plan is available upon request in accessible formats.

(4) *Public hearing.* The entity shall sponsor at a minimum one public hearing and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements; and

(5) *Special requirements.* If the entity intends to phase-in its paratransit service over a multi-year period, or request a waiver based on undue financial burden, the public hearing shall afford the opportunity for interested citizens to express their views concerning the phase-in, the request, and which service criteria may be delayed in implementation.

(c) *Ongoing requirement.* The entity shall create an ongoing mechanism for the participation of individuals with disabilities in the continued development and assessment of services to persons with disabilities. This includes, but is not limited to, the development of the initial plan, any request for an undue financial burden waiver, and each annual submission.

§ 37.139 Plan contents.

Each plan shall contain the following information:

(a) Identification of the entity or entities submitting the plan, specifying for each

(1) Name and address; and

(2) Contact person for the plan, with telephone number and facsimile telephone number (FAX), if applicable.

(b) A description of the fixed route system as of January 1, 1997 (or subsequent year for annual updates), including—

(1) A description of the service area, route structure, days and hours of service, fare structure, and population served. This includes maps and tables, if appropriate;

(2) The total number of vehicles (bus, van, or rail) operated in fixed route service (including contracted service), and percentage of accessible vehicles and percentage of routes accessible to and usable by persons with disabilities, including persons who use wheelchairs;

(3) Any other information about the fixed route service that is relevant to establishing the basis for comparability of fixed route and paratransit service.

(c) A description of existing paratransit services, including:

(1) An inventory of service provided by the public entity submitting the plan;

(2) An inventory of service provided by other agencies or organizations, which may in whole or in part be used to meet the requirement for complementary paratransit service; and

(3) A description of the available paratransit services in paragraphs (c)(2) and (c)(3) of this section as they relate to the service criteria described in §37.131 of this part of service area, response time, fares, restrictions on trip purpose, hours and days of service, and capacity constraints; and to the requirements of CAA paratransit eligibility.

(d) A description of the plan to provide comparable paratransit, including:

(1) An estimate of demand for comparable paratransit service by CAA eligible individuals and a brief description of the demand estimation methodology used;

(2) An analysis of differences between the paratransit service currently provided and what is required under this part by the entity(ies) submitting the plan and other entities, as described in paragraph (c) of this section;

(3) A brief description of planned modifications to existing paratransit and fixed route service and the new paratransit service planned to comply with the CAA paratransit service criteria;

(4) A description of the planned comparable paratransit service as it relates to each of the service criteria described in § 37.131 of this part-service area, absence of restrictions or priorities based on trip purpose, response time, fares, hours and days of service, and lack of capacity constraints. If the paratransit plan is to be phased in, this paragraph shall be coordinated with the information being provided in paragraphs (d)(5) and (d)(6) of this paragraph;

(5) A timetable for implementing comparable paratransit service, with a specific date indicating when the planned service will be completely operational. In no case may full implementation be completed later than June 1, 2003. The plan shall include milestones for implementing phases of the plan, with progress that can be objectively measured yearly;

(6) A budget for comparable paratransit service, including capital and operating expenditures over five years.

(e) A description of the process used to certify individuals with disabilities as CAA paratransit eligible. At a minimum, this must include—

(1) A description of the application and certification process, including—

(i) The availability of information about the process and application materials in accessible formats;

(ii) The process for determining eligibility according to the provisions of §§37.123–37.125 of this part and notifying individuals of the determination made;

(iii) The entity's system and timetable for processing applications and allowing presumptive eligibility; and

(iv) The documentation given to eligible individuals.

(2) A description of the administrative appeals process for individuals denied eligibility.

(3) A policy for visitors, consistent with §37.127 of this part.

(f) Description of the public participation process including—

(1) Notice given of opportunity for public comment, the date(s) of completed public hearing(s), availability of the plan in accessible formats, outreach efforts, and consultation with persons with disabilities.

(2) A summary of significant issues raised during the public comment period, along with a response to significant comments and discussion of how the issues were resolved.

(g) Efforts to coordinate service with other entities subject to the complementary paratransit requirements of this part which have overlapping or contiguous service areas or jurisdictions.

(h) The following endorsements or certifications:

(1) a resolution adopted by the entity authorizing the plan, as submitted. If more than one entity is submitting the plan there must be an authorizing resolution from each board. If the entity does not function with a board, a statement shall be submitted by the entity's chief executive;

(2) a certification that the survey of existing paratransit service was conducted as required in § 37.137(a) of this part;

(3) To the extent service provided by other entities is included in the entity's plan for comparable paratransit service, the entity must certify that:

(i) CAA paratransit eligible individuals have access to the service;

(ii) The service is provided in the manner represented; and

(iii) Efforts will be made to coordinate the provision of paratransit service by other providers.

(i) a request for a waiver based on undue financial burden, if applicable. The waiver request should include information sufficient for the General Counsel to consider the factors in § 37.155 of this part. If a request for an undue financial burden waiver is made, the plan must include a description of additional paratransit services that would be provided to achieve full compliance with the requirement for comparable paratransit in the event the waiver is not granted, and the timetable for the implementation of these additional services.

(j) *Annual plan updates.* (1) The annual plan updates submitted June 1, 1999, and annually thereafter, shall include information necessary to update the information requirements of this section. Information submitted annually must include all significant changes and revisions to the timetable for implementation;

(2) If the paratransit service is being phased in over more than one year, the entity must demonstrate that the milestones identified in the current paratransit plans have been achieved. If the milestones have not been achieved, the plan must explain any slippage and what actions are being taken to compensate for the slippage.

(3) The annual plan must describe specifically the means used to comply with the public participation requirements, as described in § 37.137 of this part.

§ 37.141 Requirements for a joint paratransit plan.

(a) Two or more public entities with overlapping or contiguous service areas or jurisdictions may develop and submit a joint plan providing for coordinated paratransit service. Joint plans shall identify the participating entities and indicate their commitment to participate in the plan.

(b) To the maximum extent feasible, all elements of the coordinated plan shall be submitted on June 1, 1998. If a coordinated plan is not completed by June 1, 1998, those entities intending to coordinate paratransit service must submit a general statement declaring their intention to provide coordinated service and each element of the plan specified in § 37.139 to the extent practicable. In addition, the plan must include the following certifications from each entity involved in the coordination effort:

(1) a certification that the entity is committed to providing CAA paratransit service as part of a coordinated plan.

(2) a certification from each public entity participating in the plan that it will maintain current levels of paratransit service until the coordinated plan goes into effect.

(c) Entities submitting the above certifications and plan elements in lieu of a completed plan on June 1, 1998, must submit a complete plan by December 1, 1998.

(d) Filing of an individual plan does not preclude an entity from cooperating with other entities in the development or implementation of a joint plan. An entity wishing to join with other entities after its initial submission may do so by meeting the filing requirements of this section.

§ 37.143 Paratransit plan implementation.

(a) Each entity shall begin implementation of its complementary paratransit plan, pending notice from the General Counsel. The implementation of the plan shall be consistent with the terms of the plan, including any specified phase-in period.

(b) If the plan contains a request for a waiver based on undue financial burden, the entity shall begin implementation of its plan, pending a determination on its waiver request.

§ 37.145 [Reserved]

§ 37.147 Considerations during General Counsel review.

In reviewing each plan, at a minimum the General Counsel will consider the following:

(a) Whether the plan was filed on time;

(b) Comments submitted by the state, if applicable;

(c) Whether the plan contains responsive elements for each component required under § 37.139 of this part;

(d) Whether the plan, when viewed in its entirety, provides for paratransit service comparable to the entity's fixed route service;

(e) Whether the entity complied with the public participation efforts required by this part; and

(f) The extent to which efforts were made to coordinate with other public entities with overlapping or contiguous service areas or jurisdictions.

§37.149 Disapproved plans.

(a) If a plan is disapproved in whole or in part, the General Counsel will specify which provisions are disapproved. Each entity shall amend its plan consistent with this information and resubmit the plan to the General Counsel's office within 90 days of receipt of the disapproval letter.

(b) Each entity revising its plan shall continue to comply with the public participation requirements applicable to the initial development of the plan (set out in §37.137 of this part).

§37.151 Waiver for undue financial burden.

If compliance with the service criteria of §37.131 of this part creates an undue financial burden, an entity may request a waiver from all or some of the provisions if the entity has complied with the public participation requirements in §37.137 of this part and if the following conditions apply:

(a) At the time of submission of the initial plan on June 1, 1998

(1) The entity determines that it cannot meet all of the service criteria by June 1, 2003; or

(2) The entity determines that it cannot make measured progress toward compliance in any year before full compliance is required. For purposes of this part, measured progress means implementing milestones as scheduled, such as incorporating an additional paratransit service criterion or improving an aspect of a specific service criterion.

(b) At the time of its annual plan update submission, if the entity believes that circumstances have changed since its last submission, and it is no longer able to comply by June 1, 2003, or make measured progress in any year before 2003, as described in paragraph (a)(2) of this section.

§37.153 General Counsel waiver determination.

(a) The General Counsel will determine whether to grant a waiver for undue financial burden on a case-by-case basis, after considering the factors identified in §37.155 of this part and the information accompanying the request. If necessary, the General Counsel will return the application with a request for additional information.

(b) Any waiver granted will be for a limited and specified period of time. (c) If the General Counsel grants the applicant a waiver, the General Counsel will do one of the following:

(1) Require the public entity to provide complementary paratransit to the extent it can do so without incurring an undue financial burden. The entity shall make changes in its plan that the General Counsel determines are appropriate to maximize the complementary paratransit service that is provided to CAA paratransit eligible individuals. When making changes to its plan, the entity shall use the public participation process specified for plan development and shall consider first a reduction in number of trips provided to each CAA paratransit eligible person per month, while attempting to meet all other service criteria.

(2) Require the public entity to provide basic complementary paratransit services to all CAA paratransit eligible individuals, even if doing so would cause the public entity to incur an undue financial burden. Basic complementary paratransit service shall include at least complementary paratransit service in corridors defined as provided in § 37.131(a) along the public entity's key routes during core service hours.

(i) For purposes of this section, key routes are defined as routes along which there is service at least hourly throughout the day.

(ii) For purposes of this section, core service hours encompass at least peak periods, as these periods are defined locally for fixed route service, consistent with industry practice.

(3) If the General Counsel determines that the public entity will incur an undue financial burden as the result of providing basic complementary paratransit service, such that it is infeasible for the entity to provide basic complementary paratransit service, the Administrator shall require the public entity to coordinate with other available providers of demand responsive service in the area served by the public entity to maximize the service to CAA paratransit eligible individuals to the maximum extent feasible.

§37.155 Factors in decision to grant an undue financial burden waiver.

(a) In making an undue financial burden determination, the General Counsel will consider the following factors:

(1) Effects on current fixed route service, including reallocation of accessible fixed route vehicles and potential reduction in service, measured by service miles;

(2) Average number of trips made by the entity's general population, on a per capita basis, compared with the average number of trips to be made by registered CAA paratransit eligible persons, on a per capita basis;

(3) Reductions in other services, including other special services;

(4) Increases in fares;

(5) Resources available to implement complementary paratransit service over the period covered by the plan;

(6) Percentage of budget needed to implement the plan, both as a percentage of operating budget and a percentage of entire budget;

(7) The current level of accessible service, both fixed route and paratransit;

(8) Cooperation/coordination among area transportation providers;

(9) Evidence of increased efficiencies, that have been or could be effectuated, that would benefit the level and quality of available resources for complementary paratransit service; and

(10) Unique circumstances in the submitting entity's area that affect the ability of the entity to provide paratransit, that militate against the need to provide paratransit, or in some other respect create a circumstance considered exceptional by the submitting entity.

(b)(1) Costs attributable to complementary paratransit shall be limited to costs of providing service specifically required by this part to CAA paratransit eligible individuals, by entities responsible under this part for providing such service.

(2) If the entity determines that it is impracticable to distinguish between trips mandated by the CAA and other trips on a trip-by-trip basis, the entity shall attribute to CAA complementary paratransit requirements a percentage of its overall paratransit costs. This percentage shall be determined by a statistically valid methodology that determines the percentage of trips that are required by this part. The entity shall submit information concerning its methodology and the data on which its percentage is based with its request for a waiver. Only costs attributable to CAA-mandated trips may be considered with respect to a request for an undue financial burden waiver.

(3) Funds to which the entity would be legally entitled, but which, as a matter of state or local funding arrangements, are provided to another entity and used by that entity to provide paratransit service which is part of a coordinated system of paratransit meeting the requirements of this part, may be counted in determining the burden associated with the waiver request.

SUBPART G—PROVISION OF SERVICE

§37.161 Maintenance of accessible features: general.

(a) Public and covered entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§37.163 Keeping vehicle lifts in operative condition: public entities.

(a) This section applies only to public entities with respect to lifts in non-rail vehicles.

(b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

(c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

(d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.

(e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.

(f) In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

§37.165 Lift and securement use.

(a) This section applies to public and covered entities.

(b) All common wheelchairs and their users shall be transported in the entity's vehicles or other conveyances. The entity is not required to permit wheelchairs to ride in places other than designated securement locations in the vehicle, where such locations exist.

(c)(1) For vehicles complying with part 38 of these regulations, the entity shall use the securement system to secure wheelchairs as provided in that part.

(2) For other vehicles transporting individuals who use wheelchairs, the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area.

(3) The entity may require that an individual permit his or her wheelchair to be secured.

(d) The entity may not deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system.

(e) The entity may recommend to a user of a wheelchair that the individual transfer to a vehicle seat. The entity may not require the individual to transfer.

(f) Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

(g) The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle. Provided that an entity is not required to permit such individuals to use a lift Model 141 manufactured by EEC, Inc. If the entity chooses not to allow such individuals to use such a lift, it shall clearly notify consumers of this fact by signage on the exterior of the vehicle (adjacent to and of equivalent size with the accessibility symbol).

§37.167 Other service requirements

(a) This section applies to public and covered entities.

(b) On fixed route systems, the entity shall announce stops as follows:

(1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.

(2) The entity shall announce any stop on request of an individual with a disability.

(c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

(d) The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities.

(e) The entity shall ensure that vehicle operators and other personnel make use of accessibility-related equipment or features required by part 38 of these regulations.

(f) The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

(g) The entity shall not refuse to permit a passenger who uses a lift to disembark from a vehicle at any designated stop, unless the lift cannot be deployed, the lift will be damaged if it is deployed, or temporary conditions at the stop, not under the control of the entity, preclude the safe use of the stop by all passengers.

(h) The entity shall not prohibit an individual with a disability from traveling with a respirator or portable oxygen supply, consistent with applicable Department of Transportation rules on the transportation of hazardous materials.

(i) The entity shall ensure that adequate time is provided to allow individuals with disabilities to complete boarding or disembarking from the vehicle.

(j)(1) When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following person to move in order to allow the individual with a disability to occupy the seat or securement location:

(i) Individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly and handicapped persons (or other seat as necessary);

(ii) Individuals sitting in or a fold-down or other movable seat in a wheelchair securement location.

(2) This requirement applies to light rail and rapid rail systems only to the extent practicable.

(3) The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

(4) In all signage designating priority seating areas for elderly persons or persons with disabilities, or designating wheelchair securement areas, the entity shall include language informing persons siting in these locations that they should comply with requests by transit provider personnel to vacate their seats to make room for an individual with a disability. This requirement applies to all fixed route vehicles when they are acquired by the entity or to new or replacement signage in the entity's existing fixed route vehicles.

§37.169 Interim requirements for over-the-road bus service operated by covered entities.

(a) Covered entities operating over-the-road buses, in addition to compliance with other applicable provisions of this part, shall provide accessible service as provided in this section.

(b) The covered entity shall provide assistance, as needed, to individuals with disabilities in boarding and disembarking, including moving to and from the bus seat for the purpose of boarding and disembarking. The covered entity shall ensure that personnel are trained to provide this assistance safely and appropriately.

(c) To the extent that they can be accommodated in the areas of the passenger compartment provided for passengers' personal effects, wheelchairs or other mobility aids and assistive devices used by individuals with disabilities, or components of such devices, shall be permitted in the passenger compartment. When the bus is at rest at a stop, the driver or other personnel shall assist individuals with disabilities with the stowage and retrieval of mobility aids, assistive devices, or other items that can be accommodated in the passenger compartment of the bus.

(d) Wheelchairs and other mobility aids or assistive devices that cannot be accommodated in the passenger compartment (including electric wheelchairs) shall be accommodated in the baggage compartment of the bus, unless the size of the baggage compartment prevents such accommodation.

(e) At any given stop, individuals with disabilities shall have the opportunity to have their wheelchairs or other mobility aids or assistive devices stowed in the baggage compartment before other baggage or cargo is loaded, but baggage or cargo already on the bus does not have to be off-loaded in order to make room for such devices.

(f) The entity may require up to 48 hours' advance notice only for providing boarding assistance. If the individual does not provide such notice, the entity shall nonetheless provide the service if it can do so by making a reasonable effort, without delaying the bus service.

§37.171 Equivalency requirement for demand responsive service operated by covered entities not primarily engaged in the business of transporting people.

A covered entity not primarily engaged in the business of transporting people which operates a demand responsive system shall ensure that its system, when viewed in its entirety, provides equivalent service to individuals with disabilities, including individuals who use wheelchairs, as it does to individuals without disabilities. The standards of §37.105 shall be used to determine if the entity is providing equivalent service.

§37.173 Training.

Each public or covered entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the differences among individuals with disabilities.

Appendix A to Part 37—Standards for Accessible Transportation Facilities

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999.]

Appendix B to Part 37—Certifications

Certification of Equivalent Service

The (name of agency) certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Such service, when viewed in its entirety, is provided in the most integrated setting feasible and is equivalent with respect to:

(1) Response time;
(2) Fares;
(3) Geographic service area;
(4) Hours and days of service;
(5) Restrictions on trip purpose;
(6) Availability of information and reservation capability; and
(7) Constraints on capacity or service availability.

This certification is valid for no longer than one year from its date of filing.

____
signature

____
name of authorized official

____
title

____
date

Existing Paratransit Service Survey

This is to certify that (name of public entity (ies)) has conducted a survey of existing paratransit services as required by section 37.137 (a) of the CAA regulations.

signature

name of authorized official

title

date

Included Service Certification

This is to certify that service provided by other entities but included in the CAA paratransit plan submitted by (name of submitting entity (ies)) meets the requirements of part 37, subpart F of the CAA regulations providing that CAA eligible individuals have access to the service; the service is provided in the manner represented; and, that efforts will be made to coordinate the provision of paratransit service offered by other providers.

signature

name of authorized official

title

date

Joint Plan Certification I

This is to certify that (name of entity covered by joint plan) is committed to providing CAA paratransit service as part of this coordinated plan and in conformance with the requirements of part 37 subpart F of the CAA regulations.

signature

name of authorized official

title

date

Joint Plan Certification II

This is to certify that (name of entity covered by joint plan) will, in accordance with section 37.141 of the CAA regulations, maintain current levels of paratransit service until the coordinated plan goes into effect.

signature

name of authorized official

title

date

Part 38—Congressional Accountability Act [CAA] Accessibility Guidelines for Transportation Vehicles

Subpart A—General

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Subpart B—Buses, Vans and Systems

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SUBPART A—GENERAL

§ 38.1 Purpose.

This part provides minimum guidelines and requirements for accessibility standards in part 37 of these regulations for transportation vehicles required to be accessible by section 210 of the Congressional Accountability Act (2 U.S.C. 1331, *et seq.*) which, *inter alia*, applies the rights and protections of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 *et seq.*) to covered entities within the Legislative Branch.

§ 38.2 Equivalent facilitation.

Departures from particular technical and scoping requirements of these guidelines by use of other designs and technologies are permitted where the alternative designs and technologies used will provide substantially equivalent or greater access to and usability of the vehicle. Departures are to be considered on a case-by-case basis by the Office of Compliance under the procedure set forth in § 37.7 of these regulations.

§ 38.3 Definitions.

See § 37.3 of these regulations.

§ 38.4 Miscellaneous instructions.

(a) *Dimensional conventions.* Dimensions that are not noted as minimum or maximum are absolute.

(b) *Dimensional tolerances.* All dimensions are subject to conventional engineering tolerances for material properties and field conditions, including normal anticipated wear not exceeding accepted industry-wide standards and practices.

(c) *Notes.* The text of these guidelines does not contain notes or footnotes. Additional information, explanations, and advisory materials are located in the Appendix.

(d) *General terminology.* (1) *Comply with* means meet one or more specification of these guidelines.

(2) *If,* or *if * * * then* denotes a specification that applies only when the conditions described are present.

(3) *May* denotes an option or alternative.

(4) *Shall* denotes a mandatory specification or requirement.

(5) *Should* denotes an advisory specification or recommendation and is used only in the appendix to this part.

SUBPART B—BUSES, VANS AND SYSTEMS

§ 38.21 General.

(a) New, used or remanufactured buses and vans (except over-the-road buses covered by subpart G of this part), to be considered accessible by regulations issued by the Board of Directors of the Office of Compliance in part 37 of these regulations, shall comply with the applicable provisions of this subpart.

(b) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible buses be retrofitted with lifts, ramps or other boarding devices.

§ 38.23 Mobility aid accessibility.

(a) *General.* All vehicles covered by this subpart shall provide a level-change mechanism or boarding device (e.g., lift or ramp) complying with paragraph (b) or (c) of this section and sufficient clearances to permit a wheelchair or other mobility aid user to reach a securement location. At least two securement locations and devices, complying with paragraph (d) of this section, shall be provided on vehicles in excess of 22 feet in length; at least one securement location and device, complying with paragraph (d) of this section, shall be provided on vehicles 22 feet in length or less.

(b) *Vehicle lift*—(1) *Design load.* The design load of the lift shall be at least 600 pounds. Working parts, such as cables, pulleys, and shafts, which can be expected to wear, and upon which the lift depends for support of the load, shall have a safety factor of at least six, based on the ultimate strength of the material. Nonworking parts, such as platform, frame, and attachment hardware which would not be expected to wear, shall have a safety factor of at least three, based on the ultimate strength of the material.

(2) *Controls*—(i) *Requirements.* The controls shall be interlocked with the vehicle brakes, transmission, or door, or shall provide other appropriate mechanisms or systems, to ensure that the vehicle cannot be moved when the lift is not stowed and so the lift cannot be deployed unless the interlocks or systems are engaged. The lift shall deploy to all levels (i.e., ground, curb, and intermediate positions) normally encountered in the operating environment. Where provided, each control for deploying, lowering, raising, and stowing the lift and lowering the roll-off barrier shall be of a momentary contact type requiring continuous manual pressure by the operator and shall not allow improper lift sequencing when the lift platform is occupied. The controls shall allow reversal of the lift operation sequence, such as raising or lowering a platform that is part way down, without allowing an occupied platform to fold or retract into the stowed position.

(ii) *Exception.* Where the lift is designed to deploy with its long dimension parallel to the vehicle axis and which pivots into or out of the vehicle while occupied (i.e., "rotary lift"), the requirements of this paragraph prohibiting the lift from being stowed while occupied shall not apply if the stowed position is within the passenger compartment and the lift is intended to be stowed while occupied.

(3) *Emergency operation.* The lift shall incorporate an emergency method of deploying, lowering to ground level with a lift occupant, and raising and stowing the empty lift if the power to the lift fails. No emergency method, manual or otherwise, shall be capable of being operated in a manner that could be hazardous to the lift occupant or to the operator when operated according to manufacturer's instructions, and shall not permit the platform to be stowed or folded when occupied, unless the lift is a rotary lift and is intended to be stowed while occupied.

(4) *Power or equipment failure.* Platforms stowed in a vertical position, and deployed platforms when occupied, shall have provisions to prevent their deploying, falling, or folding any faster than 12 inches/second or their dropping of an occupant in the event of a single failure of any load carrying component.

(5) *Platform barriers.* The lift platform shall be equipped with barriers to prevent any of the wheels of a wheelchair or mobility aid from rolling off the platform during its operation. A movable barrier or inherent design feature shall prevent a wheelchair or mobility aid from rolling off the edge closest to the vehicle until the platform is in its fully raised position. Each side of the lift platform which extends beyond the vehicle in its raised position shall have a barrier a minimum 1½ inches high. Such barriers shall not interfere with maneuvering into or out of the aisle. The loading-edge barrier (outer barrier) which functions as a loading ramp when the lift is at ground level, shall be sufficient when raised or closed, or a supplementary system shall be provided, to prevent a power wheelchair or mobility aid from riding over or defeating it. The outer barrier of the lift shall automatically raise or close, or a supplementary system shall automatically engage, and remain raised, closed, or engaged at all times that the platform is more than 3 inches above the roadway or sidewalk and the platform is occupied. Alternatively, a barrier or system may be raised, lowered, opened, closed, engaged, or disengaged by the lift operator, provided an interlock or inherent design feature prevents the lift from rising unless the barrier is raised or closed or the supplementary system is engaged.

(6) *Platform surface.* The platform surface shall be free of any protrusions over ¼ inch high and shall be slip resistant. The platform shall have a minimum clear width of 28½ inches at the platform, a minimum clear width of 30 inches measured from 2 inches above the platform surface to 30 inches above the platform, and a minimum clear length of 48 inches measured from 2 inches above the surface of the platform to 30 inches above the surface of the platform. (See Fig. 1)

(7) *Platform gaps.* Any openings between the platform surface and the raised barriers shall not exceed ⅝ inch in width. When the platform is at vehicle floor height with the inner barrier (if applicable) down or retracted, gaps between the forward lift platform edge and the vehicle floor shall not exceed ½ inch horizontally and ⅝ inch vertically. Platforms on semiautomatic lifts may have a hand hold not exceeding 1½ inches by 4½ inches located between the edge barriers.

(8) *Platform entrance ramp.* The entrance ramp, or loading-edge barrier used as a ramp, shall not exceed a slope of 1:8, measured on level ground, for a maximum rise of 3 inches, and the transition from roadway or sidewalk to ramp may be vertical without edge treatment up to ¼ inch. Thresholds between ¼ inch and ½ inch high shall be beveled with a slope no greater than 1:2.

(9) *Platform deflection.* The lift platform (not including the entrance ramp) shall not deflect more than 3 degrees (exclusive of vehicle roll or pitch) in any direction between its unloaded position and its position when loaded with 600 pounds applied through a 26 inch by 26 inch test pallet at the centroid of the platform.

(10) *Platform movement.* No part of the platform shall move at a rate exceeding 6 inches/second during lowering and lifting an occupant, and shall not exceed 12 inches/second during deploying or stowing. This requirement does not apply to the deployment or stowage cycles of lifts that are manually deployed or stowed. The maximum platform horizontal and vertical acceleration when occupied shall be 0.3g.

(11) *Boarding direction.* The lift shall permit both inboard and outboard facing of wheelchair and mobility aid users.

(12) *Use by standees.* Lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The platform may be marked to indicate a preferred standing position.

(13) *Handrails.* Platforms on lifts shall be equipped with handrails on two sides, which move in tandem with the lift, and which shall be graspable and provide support to standees throughout the entire lift operation. Handrails shall have a usable component at least 8 inches long with the lowest portion a minimum 30 inches above the platform and the highest portion a maximum 38 inches above the platform. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(c) *Vehicle ramp*—(1) *Design load.* Ramps 30 inches or longer shall support a load of 600 pounds, placed at the centroid of the ramp distributed over an area of 26 inches by 26 inches, with a safety factor of at least 3 based on the ultimate strength of the material. Ramps shorter than 30 inches shall support a load of 300 pounds.

(2) *Ramp surface.* The ramp surface shall be continuous and slip resistant; shall not have protrusions from the surface greater than ¼ inch high; shall have a clear width of 30 inches; and shall accommodate both four-wheel and three-wheel mobility aids.

(3) *Ramp threshold.* The transition from roadway or sidewalk and the transition from vehicle floor to the ramp may be vertical without edge treatment up to ¼ inch. Changes in level between ¼ inch and ½ inch shall be beveled with a slope no greater than 1:2.

(4) *Ramp barriers.* Each side of the ramp shall have barriers at least 2 inches high to prevent mobility aid wheels from slipping off.

(5) *Slope.* Ramps shall have the least slope practicable and shall not exceed 1:4 when deployed to ground level. If the height of the vehicle floor from which the ramp is deployed is 3 inches or less above a 6-inch curb, a maximum slope of 1:4 is permitted; if the height of the vehicle floor from which the ramp is deployed is 6 inches or less, but greater than 3 inches, above a 6-inch curb, a maximum slope of 1:6 is permitted; if the height of the vehicle floor from which the ramp is deployed is 9 inches or less, but greater than 6 inches, above a 6-inch curb, a maximum slope of 1:8 is permitted; if the height of the vehicle floor from which the ramp is deployed is greater than 9 inches above a 6-inch curb, a slope of 1:12 shall be achieved. Folding or telescoping ramps are permitted provided they meet all structural requirements of this section.

(6) *Attachment.* When in use for boarding or alighting, the ramp shall be firmly attached to the vehicle so that it is not subject to displacement when loading or unloading a heavy power mobility aid and that no gap between vehicle and ramp exceeds inch.

(7) *Stowage.* A compartment, securement system, or other appropriate method shall be provided to ensure that stowed ramps, including portable ramps stowed in the passenger area, do not impinge on a passenger's wheelchair or mobility aid or pose any hazard to passengers in the event of a sudden stop or maneuver.

(8) *Handrails.* If provided, handrails shall allow persons with disabilities to grasp them from outside the vehicle while starting to board, and to continue to use them throughout the boarding process, and shall have the top between 30 inches and 38 inches above the ramp surface. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than inch. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(d) *Securement devices*—(1) *Design load.* Securement systems on vehicles with GVWRs of 30,000 pounds or above, and their attachments to such vehicles, shall restrain a force in the forward longitudinal direction of up to 2,000 pounds per securement leg or clamping mechanism and a minimum of 4,000 pounds for each mobility aid. Securement systems on vehicles with GVWRs of up to 30,000 pounds, and their attachments to such vehicles, shall restrain a force in the forward longitudinal direction of up to 2,500 pounds per securement leg or clamping mechanism and a minimum of 5,000 pounds for each mobility aid.

(2) *Location and size.* The securement system shall be placed as near to the accessible entrance as practicable and shall have a clear floor area of 30 inches by 48 inches. Such space shall adjoin, and may overlap, an access path. Not more than 6 inches of the required clear floor space may be accommodated for footrests under another seat provided there is a minimum of 9 inches from the floor to the lowest part of the seat overhanging the space. Securement areas may have fold-down seats to accommodate other passengers when a wheelchair or mobility aid is not occupying the area, provided the seats, when folded up, do not obstruct the clear floor space required.

(3) *Mobility aids accommodated.* The securement system shall secure common wheelchairs and mobility aids and shall either be automatic or easily attached by a person familiar with the system and mobility aid and having average dexterity.

(4) *Orientation.* In vehicles in excess of 22 feet in length, at least one securement device or system required by paragraph (a) of this section shall secure the wheelchair or

mobility aid facing toward the front of the vehicle. In vehicles 22 feet in length or less, the required securement device may secure the wheelchair or mobility aid either facing toward the front of the vehicle or rearward. Additional securement devices or systems shall secure the wheelchair or mobility aid facing forward or rearward. Where the wheelchair or mobility aid is secured facing the rear of the vehicle, a padded barrier shall be provided. The padded barrier shall extend from a height of 38 inches from the vehicle floor to a height of 56 inches from the vehicle floor with a width of 18 inches, laterally centered immediately in back of the seated individual. Such barriers need not be solid provided equivalent protection is afforded.

(5) *Movement*. When the wheelchair or mobility aid is secured in accordance with manufacturer's instructions, the securement system shall limit the movement of an occupied wheelchair or mobility aid to no more than 2 inches in any direction under normal vehicle operating conditions.

(6) *Stowage*. When not being used for securement, or when the securement area can be used by standees, the securement system shall not interfere with passenger movement, shall not present any hazardous condition, shall be reasonably protected from vandalism, and shall be readily accessed when needed for use.

(7) *Seat belt and shoulder harness*. For each wheelchair or mobility aid securement device provided, a passenger seat belt and shoulder harness, complying with all applicable provisions of part 571 of title 49 CFR, shall also be provided for use by wheelchair or mobility aid users. Such seat belts and shoulder harnesses shall not be used in lieu of a device which secures the wheelchair or mobility aid itself.

§ 38.25 Doors, steps and thresholds.

(a) *Slip resistance*. All aisles, steps, floor areas where people walk and floors in securement locations shall have slip-resistant surfaces.

(b) *Contrast*. All step edges, thresholds, and the boarding edge of ramps or lift platforms shall have a band of color(s) running the full width of the step or edge which contrasts from the step tread and riser, or lift or ramp surface, either light-on-dark or dark-on-light.

(c) *Door height*. For vehicles in excess of 22 feet in length, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of a ramp, shall be a minimum of 68 inches. For vehicles of 22 feet in length or less, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of a ramp, shall be a minimum of 56 inches.

§ 38.27 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that seats in the front of the vehicle are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them. At least one set of forward-facing seats shall be so designated.

(b) Each securement location shall have a sign designating it as such.

(c) Characters on signs required by paragraphs (a) and (b) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of ⅝ inch, with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background either light-on-dark or dark-on-light.

§ 38.29 Interior circulation, handrails and stanchions.

(a) Interior handrails and stanchions shall permit sufficient turning and maneuvering space for wheelchairs and other mobility aids to reach a securement location from the lift or ramp.

(b) Handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows persons with disabilities to grasp such assists from outside the vehicle while starting to board, and to continue using such assists throughout the boarding and fare collection process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used on vehicles in excess of 22 feet in length, a horizontal passenger assist shall be located across the front of the vehicle and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the front door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(c) For vehicles in excess of 22 feet in length, overhead handrail(s) shall be provided which shall be continuous except for a gap at the rear doorway.

(d) Handrails and stanchions shall be sufficient to permit safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(e) For vehicles in excess of 22 feet in length with front-door lifts or ramps, vertical stanchions immediately behind the driver shall either terminate at the lower edge of the aisle-facing seats, if applicable, or be "dog-legged" so that the floor attachment does not impede or interfere with wheelchair footrests. If the driver seat platform must be passed by a wheelchair or mobility aid user entering the vehicle, the platform, to the maximum extent practicable, shall not extend into the aisle or vestibule beyond the wheel housing.

(f) For vehicles in excess of 22 feet in length, the minimum interior height along the path from the lift to the securement location shall be 68 inches. For vehicles of 22 feet in length or less, the minimum interior height from lift to securement location shall be 56 inches.

§ 38.31 Lighting.

(a) Any stepwell or doorway immediately adjacent to the driver shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread or lift platform.

(b) Other stepwells and doorways, including doorways in which lifts or ramps are installed, shall have, at all times, at least 2 foot-candles of illumination measured on the step tread, or lift or ramp, when deployed at the vehicle floor level.

(c) The vehicle doorways, including doorways in which lifts or ramps are installed, shall have outside light(s) which, when the door is open, provide at least 1 foot-candle of illumination on the street surface for a distance of 3 feet perpendicular to all points on the bottom step tread outer edge. Such light(s) shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§ 38.33 Fare box.

Where provided, the farebox shall be located as far forward as practicable and shall not obstruct traffic in the vestibule, especially wheelchairs or mobility aids.

§ 38.35 Public information system.

(a) Vehicles in excess of 22 feet in length, used in multiple-stop, fixed-route service, shall be equipped with a public address system permitting the driver, or recorded or digitized human speech messages, to announce stops and provide other passenger information within the vehicle.

(b) [Reserved]

§ 38.37 Stop request.

(a) Where passengers may board or alight at multiple stops at their option, vehicles in excess of 22 feet in length shall provide controls adjacent to the securement location for requesting stops and which alerts the driver that a mobility aid user wishes to disembark. Such a system shall provide auditory and visual indications that the request has been made.

(b) Controls required by paragraph (a) of this section shall be mounted no higher than 48 inches and no lower than 15 inches above the floor, shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf (22.2 N).

§ 38.39 Destination and route signs.

(a) Where destination or route information is displayed on the exterior of a vehicle, each vehicle shall have illuminated signs on the front and boarding side of the vehicle.

(b) Characters on signs required by paragraph (a) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of 1 inch for signs on the boarding side and a minimum character height of 2 inches for front "headsigns", with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background, either dark-on-light or light-on-dark.

SUBPART C—RAPID RAIL VEHICLES AND SYSTEMS

§ 38.51 General.

(a) New, used and remanufactured rapid rail vehicles, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

(c) Existing vehicles which are retrofitted to comply with the one-car-per-train rule of § 37.93 of these regulations shall comply with §§ 38.55, 38.57(b), 38.59 of this part and shall have, in new and key stations, at least one door complying with §§ 38.53(a)(1), (b) and (d) of this part. Removal of seats is not required. Vehicles previously designed and manufactured in accordance with the accessibility requirements of part 609 of title 49 CFR or the Secretary of Transportation regulations implementing section 504 of the Rehabilitation Act of 1973 that were in effect before October 7, 1991 and which can be entered and used from stations in which they are to be operated, may be used to satisfy the requirements of §37.93 of these regulations.

§38.53 Doorways.

(a) *Clear width.* (1) Passenger doorways on vehicle sides shall have clear openings at least 32 inches wide when open.

(2) If doorways connecting adjoining cars in a multi-car train are provided, and if such doorway is connected by an aisle with a minimum clear width of 30 inches to one or more spaces where wheelchair or mobility aid users can be accommodated, then such doorway shall have a minimum clear opening of 30 inches to permit wheelchair and mobility aid users to be evacuated to an adjoining vehicle in an emergency.

(b) *Signage.* The International Symbol of Accessibility shall be displayed on the exterior of accessible vehicles operating on an accessible rapid rail system unless all vehicles are accessible and are not marked by the access symbol. (See Fig. 6)

(c) *Signals.* Auditory and visual warning signals shall be provided to alert passengers of closing doors.

(d) *Coordination with boarding platform*—(1) *Requirements.* Where new vehicles will operate in new stations, the design of vehicles shall be coordinated with the boarding platform design such that the horizontal gap between each vehicle door at rest and the platform shall be no greater than 3 inches and the height of the vehicle floor shall be within plus or minus ⅝ inch of the platform height under all normal passenger load conditions. Vertical alignment may be accomplished by vehicle air suspension or other suitable means of meeting the requirement.

(2) *Exception.* New vehicles operating in existing stations may have a floor height within plus or minus 1½ inches of the platform height. At key stations, the horizontal gap between at least one door of each such vehicle and the platform shall be no greater than 3 inches.

(3) *Exception.* Retrofitted vehicles shall be coordinated with the platform in new and key stations such that the horizontal gap shall be no greater than 4 inches and the height of the vehicle floor, under 50% passenger load, shall be within plus or minus 2 inches of the platform height.

§38.55 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that certain seats are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them.

(b) Characters on signs required by paragraph (a) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of ⅝ inch, with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background, either light-on-dark or dark-on-light.

§38.57 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be provided to assist safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(b) Handrails, stanchions, and seats shall allow a route at least 32 inches wide so that at least two wheelchair or mobility aid users can enter the vehicle and position the wheelchairs or mobility aids in areas, each having a minimum clear space of 48 inches by 30 inches, which do not unduly restrict movement of other passengers. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required. Particular attention shall be given to ensuring maximum maneuverability immediately inside doors. Ample vertical stanchions from ceiling to seat-back rails shall be provided. Vertical stanchions from ceiling to floor shall not interfere with wheelchair or mobility aid user circulation and shall be kept to a minimum in the vicinity of doors.

(c) The diameter or width of the gripping surface of handrails and stanchions shall be 1¼ inches to 1½ inches or provide an equivalent gripping surface and shall provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface.

§38.59 Floor surfaces.

Floor surfaces on aisles, places for standees, and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

§38.61 Public information system.

(a)(1) *Requirements.* Each vehicle shall be equipped with a public address system permitting transportation system personnel, or recorded or digitized human speech messages, to announce stations and provide other passenger information. Alternative systems or devices which provide equivalent access are also permitted. Each vehicle operating in stations having more than one line or route shall have an external public address system to permit transportation system personnel, or recorded or digitized human speech messages, to announce train, route, or line identification information.

(2) *Exception.* Where station announcement systems provide information on arriving trains, an external train speaker is not required.

(b) [Reserved]

§38.63 Between-car barriers.

(a) *Requirement.* Suitable devices or systems shall be provided to prevent, deter or warn individuals from inadvertently stepping off the platform between cars. Acceptable solutions include, but are not limited to, pantograph gates, chains, motion detectors or similar devices.

(b) *Exception.* Between-car barriers are not required where platform screens are provided which close off the platform edge and open only when trains are correctly aligned with the doors.

SUBPART D—LIGHT RAIL VEHICLES AND SYSTEMS

§38.71 General.

(a) New, used and remanufactured light rail vehicles, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b)(1) Vehicles intended to be operated solely in light rail systems confined entirely to a dedicated right-of-way, and for which all stations or stops are designed and constructed for revenue service after the effective date of standards for design and construction §37.21 and §37.23 of these regulations, shall provide level boarding and shall comply with §38.73(d)(1) and §38.85 of this part.

(2) Vehicles designed for, and operated on, pedestrian malls, city streets, or other areas where level boarding is not practicable shall provide wayside or car-borne lifts, mini-high platforms, or other means of access in compliance with §38.83(b) or (c) of this part.

(c) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

(d) Existing vehicles retrofitted to comply with the "one-car-per-train rule" at §37.93 of these regulations shall comply with §38.75, §38.77(c), §38.79(a) and §38.83(a) of this part and shall have, in new and key stations, at least one door which complies with §§38.73(a)(1), (b) and (d). Vehicles previously designed and manufactured in accordance with the accessibility requirements of 49 CFR part 609 or the Secretary of Transportation regulations implementing section 504 of the Rehabilitation Act of 1973 that were in effect before October 7, 1991 and which can be entered and used from stations in which they are to be operated, may be used to satisfy the requirements of §37.93 of these regulations.

§38.73 Doorways.

(a) *Clear width.* (1) All passenger doorways on vehicle sides shall have minimum clear openings of 32 inches when open.

(2) If doorways connecting adjoining cars in a multi-car train are provided, and if such doorway is connected by an aisle with a minimum clear width of 30 inches to one or more spaces where wheelchair or mobility aid users can be accommodated, then such doorway shall have a minimum clear opening of 30 inches to permit wheelchair and mobility aid users to be evacuated to an adjoining vehicle in an emergency.

(b) *Signage.* The International Symbol of Accessibility shall be displayed on the exterior of each vehicle operating on an accessible light rail system unless all vehicles are accessible and are not marked by the access symbol. (See Fig. 6)

(c) *Signals.* Auditory and visual warning signals shall be provided to alert passengers of closing doors.

(d) *Coordination with boarding platform*—(1) *Requirements.* The design of level-entry vehicles shall be coordinated with the boarding platform or mini-high platform design so that the horizontal gap between a vehicle at rest and the platform shall be no greater than 3 inches and the height of the vehicle floor shall be within plus or minus ⅝ inch of the platform height. Vertical alignment may be accomplished by vehicle air suspension, automatic ramps or lifts, or any combination.

(2) *Exception.* New vehicles operating in existing stations may have a floor height within plus or minus 1½ inches of the platform height. At key stations, the horizontal gap between at least one door of each such vehicle and the platform shall be no greater than 3 inches.

(3) *Exception.* Retrofitted vehicles shall be coordinated with the platform in new and key stations such that the horizontal gap shall be no greater than 4 inches and the height of the vehicle floor, under 50% passenger load, shall be within plus or minus 2 inches of the platform height.

(4) *Exception.* Where it is not operationally or structurally practicable to meet the horizontal or vertical requirements of paragraphs (d)(1), (2) or (3) of this section, platform or vehicle devices complying with §38.83(b) or platform or vehicle mounted ramps or bridge plates complying with §38.83(c) shall be provided.

§38.75 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that certain seats are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them.

(b) Where designated wheelchair or mobility aid seating locations are provided, signs shall indicate the location and advise other passengers of the need to permit wheelchair and mobility aid users to occupy them.

(c) Characters on signs required by paragraphs (a) or (b) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case X'') of ⅝ inch, with wide spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background, either light-on-dark or dark-on-light.

§ 38.77 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be sufficient to permit safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(b) At entrances equipped with steps, handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows passengers to grasp such assists from outside the vehicle while starting to board, and to continue using such handrails or stanchions throughout the boarding process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used, a horizontal passenger assist shall be located between boarding passengers and the fare collection device and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(c) At all doors on level-entry vehicles, and at each entrance accessible by lift, ramp, bridge plate or other suitable means, handrails, stanchions, passenger seats, vehicle driver seat platforms, and fare boxes, if applicable, shall be located so as to allow a route at least 32 inches wide so that at least two wheelchair or mobility aid users can enter the vehicle and position the wheelchairs or mobility aids in areas, each having a minimum clear space of 48 inches by 30 inches, which do not unduly restrict movement of other passengers. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required. Particular attention shall be given to ensuring maximum maneuverability immediately inside doors. Ample vertical stanchions from ceiling to seat-back rails shall be provided. Vertical stanchions from ceiling to floor shall not interfere with wheelchair or mobility aid circulation and shall be kept to a minimum in the vicinity of accessible doors.

§ 38.79 Floors, steps and thresholds.

(a) Floor surfaces on aisles, step treads, places for standees, and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

(b) All thresholds and step edges shall have a band of color(s) running the full width of the step or threshold which contrasts from the step tread and riser or adjacent floor, either light-on-dark or dark-on-light.

§ 38.81 Lighting.

(a) Any stepwell or doorway with a lift, ramp or bridge plate immediately adjacent to the driver shall have, when the door is open, at least 2 footcandles of illumination measured on the step tread or lift platform.

(b) Other stepwells, and doorways with lifts, ramps or bridge plates, shall have, at all times, at least 2 footcandles of illumination measured on the step tread or lift or ramp, when deployed at the vehicle floor level.

(c) The doorways of vehicles not operating at lighted station platforms shall have outside lights which provide at least 1 foot candle of illumination on the station platform or street surface for a distance of 3 feet perpendicular to all points on the bottom step tread. Such lights shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§ 38.83 Mobility aid accessibility.

(a)(1) *General.* All new light rail vehicles, other than level entry vehicles, covered by this subpart shall provide a level-change mechanism or boarding device (e.g., lift, ramp or bridge plate) complying with either paragraph (b) or (c) of this section and sufficient clearances to permit at least two wheelchair or mobility aid users to reach areas, each with a minimum clear floor space of 48 inches by 30 inches, which do not unduly restrict passenger flow. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required.

(2) *Exception.* If lifts, ramps or bridge plates meeting the requirements of this section are provided on station platforms or other stops required to be accessible, or mini-high platforms complying with § 38.73(d) of this part are provided, the vehicle is not required to be equipped with a car-borne device. Where each new vehicle is compatible with a single platform-mounted access system or device, additional systems or devices are not required for each vehicle provided that the single device could be used to provide access to each new vehicle if passengers using wheelchairs or mobility aids could not be accommodated on a single vehicle.

(b) *Vehicle lift*—(1) *Design load.* The design load of the lift shall be at least 600 pounds. Working parts, such as cables, pulleys, and shafts, which can be expected to wear, and upon which the lift depends for support of the load, shall have a safety factor of at least six, based on the ultimate strength of the material. Nonworking parts, such as platform, frame, and attachment hardware which would not be expected to wear, shall have a safety factor of at least three, based on the ultimate strength of the material.

(2) *Controls*—(i) *Requirements.* The controls shall be interlocked with the vehicle brakes, propulsion system, or door, or shall provide other appropriate mechanisms or systems, to ensure that the vehicle cannot be moved when the lift is not stowed and so the lift cannot be deployed unless the interlocks or systems are engaged. The lift shall deploy to all levels (i.e., ground, curb, and intermediate positions) normally encountered in the operating environment. Where provided, each control for deploying, lowering, raising, and stowing the lift and lowering the roll-off barrier shall be of a momentary contact type requiring continuous manual pressure by the operator and shall not allow improper lift sequencing when the lift platform is occupied. The controls shall allow reversal of the lift operation sequence, such as raising or lowering a platform that is part way down, without allowing an occupied platform to fold or retract into the stowed position.

(ii) *Exception.* Where physical or safety constraints prevent the deployment at some stops of a lift having its long dimension perpendicular to the vehicle axis, the transportation entity may specify a lift which is designed to deploy with its long dimension parallel to the vehicle axis and which pivots into or out of the vehicle while occupied (i.e., "rotary lift"). The requirements of paragraph (b)(2)(i) of this section prohibiting the lift from being stowed while occupied shall not apply to a lift design of this type if the stowed position is within the passenger compartment and the lift is intended to be stowed while occupied.

(iii) *Exception.* The brake or propulsion system interlocks requirement does not apply to a station platform mounted lift provided that a mechanical, electrical or other system operates to ensure that vehicles do not move when the lift is in use.

(3) *Emergency operation.* The lift shall incorporate an emergency method of deploying, lowering to ground level with a lift occupant, and raising and stowing the empty lift if the power to the lift fails. No emergency method, manual or otherwise, shall be capable of being operated in a manner that could be hazardous to the lift occupant or to the operator when operated according to manufacturer's instructions, and shall not permit the platform to be stowed or folded when occupied, unless the lift is a rotary lift intended to be stowed while occupied.

(4) *Power or equipment failure.* Lift platforms stowed in a vertical position, and deployed platforms when occupied, shall have provisions to prevent their deploying, falling, or folding any faster than 12 inches/second or their dropping of an occupant in the event of a single failure of any load carrying component.

(5) *Platform barriers.* The lift platform shall be equipped with barriers to prevent any of the wheels of a wheelchair or mobility aid from rolling off the lift during its operation. A movable barrier or inherent design feature shall prevent a wheelchair or mobility aid from rolling off the edge closest to the vehicle until the lift is in its fully raised position. Each side of the lift platform which extends beyond the vehicle in its raised position shall have a barrier a minimum 1½ inches high. Such barriers shall not interfere with maneuvering into or out of the aisle. The loading-edge barrier (outer barrier) which functions as a loading ramp when the lift is at ground level, shall be sufficient when raised or closed, or a supplementary system shall be provided, to prevent a power wheelchair or mobility aid from riding over or defeating it. The outer barrier of the lift shall automatically rise or close, or a supplementary system shall automatically engage, and remain raised, closed, or engaged at all times that the lift is more than 3 inches above the station platform or roadway and the lift is occupied. Alternatively, a barrier or system may be raised, lowered, opened, closed, engaged or disengaged by the lift operator provided an interlock or inherent design feature prevents the lift from rising unless the barrier is raised or closed or the supplementary system is engaged.

(6) *Platform surface.* The lift platform surface shall be free of any protrusions over ¼ inch high and shall be slip resistant. The lift platform shall have a minimum clear width of 28½ inches at the platform, a minimum

clear width of 30 inches measured from 2 inches above the lift platform surface to 30 inches above the surface, and a minimum clear length of 48 inches measured from 2 inches above the surface of the platform to 30 inches above the surface. (See Fig. 1)

(7) *Platform gaps*. Any openings between the lift platform surface and the raised barriers shall not exceed ⅝ inch wide. When the lift is at vehicle floor height with the inner barrier (if applicable) down or retracted, gaps between the forward lift platform edge and vehicle floor shall not exceed ½ inch horizontally and ⅝ inch vertically. Platforms on semi-automatic lifts may have a hand hold not exceeding 1½ inches by 4½ inches located between the edge barriers.

(8) *Platform entrance ramp*. The entrance ramp, or loading-edge barrier used as a ramp, shall not exceed a slope of 1:8 measured on level ground, for a maximum rise of 3 inches, and the transition from the station platform or roadway to ramp may be vertical without edge treatment up to ¼ inch. Thresholds between ¼ inch and ½ inch high shall be beveled with a slope no greater than 1:2.

(9) *Platform deflection*. The lift platform (not including the entrance ramp) shall not deflect more than 3 degrees (exclusive of vehicle roll) in any direction between its unloaded position and its position when loaded with 600 pounds applied through a 26 inch by 26 inch test pallet at the centroid of the lift platform.

(10) *Platform movement*. No part of the platform shall move at a rate exceeding 6 inches/second during lowering and lifting an occupant, and shall not exceed 12 inches/second during deploying or stowing. This requirement does not apply to the deployment or stowage cycles of lifts that are manually deployed or stowed. The maximum platform horizontal and vertical acceleration when occupied shall be 0.3g.

(11) *Boarding direction*. The lift shall permit both inboard and outboard facing of wheelchairs and mobility aids.

(12) *Use by standees*. Lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The lift may be marked to indicate a preferred standing position.

(13) *Handrails*. Platforms on lifts shall be equipped with handrails, on two sides, which move in tandem with the lift which shall be graspable and provide support to standees throughout the entire lift operation. Handrails shall have a usable component at least 8 inches long with the lowest portion a minimum 30 inches above the platform and the highest portion a maximum 38 inches above the platform. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(c) *Vehicle ramp or bridge plate*—(1) *Design load*. Ramps or bridge plates 30 inches or longer shall support a load of 600 pounds, placed at the centroid of the ramp or bridge plate distributed over an area of 26 inches by 26 inches, with a safety factor of at least 3 based on the ultimate strength of the material. Ramps or bridge plates shorter than 30 inches shall support a load of 300 pounds.

(2) *Ramp surface*. The ramp or bridge plate surface shall be continuous and slip resistant, shall not have protrusions from the surface greater than ¼ inch, shall have a clear width of 30 inches, and shall accommodate both four-wheel and three-wheel mobility aids.

(3) *Ramp threshold*. The transition from roadway or station platform and the transition from vehicle floor to the ramp or bridge plate may be vertical without edge treatment up to ¼ inch. Changes in level between ¼ inch and ½ inch shall be beveled with a slope no greater than 1:2.

(4) *Ramp barriers*. Each side of the ramp or bridge plate shall have barriers at least 2 inches high to prevent mobility aid wheels from slipping off.

(5) *Slope*. Ramps or bridge plates shall have the least slope practicable. If the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 3 inches or less above the station platform a maximum slope of 1:4 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 6 inches or less, but more than 3 inches, above the station platform a maximum slope of 1:6 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 9 inches or less, but more than 6 inches, above the station platform a maximum slope of 1:8 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is greater than 9 inches above the station platform a slope of 1:12 shall be achieved. Folding or telescoping ramps are permitted provided they meet all structural requirements of this section.

(6) *Attachment*.—(i) *Requirement*. When in use for boarding or alighting, the ramp or bridge plate shall be attached to the vehicle, or otherwise prevented from moving such that it is not subject to displacement when loading or unloading a heavy power mobility aid and that any gaps between vehicle and ramp or bridge plate, and station platform and ramp or bridge plate, shall not exceed ⅝ inch.

(ii) *Exception*. Ramps or bridge plates which are attached to, and deployed from, station platforms are permitted in lieu of vehicle devices provided they meet the displacement requirements of paragraph (c)(6)(i) of this section.

(7) *Stowage*. A compartment, securement system, or other appropriate method shall be provided to ensure that stowed ramps or bridge plates, including portable ramps or bridge plates stowed in the passenger area, do not impinge on a passenger's wheelchair or mobility aid or pose any hazard to passengers in the event of a sudden stop.

(8) *Handrails*. If provided, handrails shall allow persons with disabilities to grasp them from outside the vehicle while starting to board, and to continue to use them throughout the boarding process, and shall have the top between 30 inches and 38 inches above the ramp surface. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

§ 38.85 Between-car barriers

Where vehicles operate in a high-platform, level-boarding mode, devices or systems shall be provided to prevent, deter or warn individuals from inadvertently stepping off the platform between cars. Appropriate devices include, but are not limited to, pantograph gates, chains, motion detectors or other suitable devices.

§ 38.87 Public information system.

(a) Each vehicle shall be equipped with an interior public address system permitting transportation system personnel, or recorded or digitized human speech messages, to announce stations and provide other passenger information. Alternative systems or devices which provide equivalent access are also permitted.

(b) [Reserved].

§ 38.91-38.127 [Reserved]

SUBPART F—OVER-THE-ROAD BUSES AND SYSTEMS

§ 38.151 General.

(a) New, used and remanufactured over-the-road buses, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) Over-the-road buses covered by § 37.7(c) of these regulations shall comply with § 38.23 and this subpart.

§ 38.153 Doors, steps and thresholds.

(a) Floor surfaces on aisles, step treads and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

(b) All step edges shall have a band of color(s) running the full width of the step which contrasts from the step tread and riser, either dark-on-light or light-on-dark.

(c) To the maximum extent practicable, doors shall have a minimum clear width when open of 30 inches, but in no case less than 27 inches.

§ 38.155 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows passengers to grasp such assists from outside the vehicle while starting to board, and to continue using such handrails or stanchions throughout the boarding process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used, a horizontal passenger assist shall be located between boarding passengers and the fare collection device and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(b) Where provided within passenger compartments, handrails or stanchions shall be sufficient to permit safe on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

§ 38.157 Lighting.

(a) Any stepwell or doorway immediately adjacent to the driver shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread.

(b) The vehicle doorway shall have outside light(s) which, when the door is open, provide at least 1 foot-candle of illumination on the street surface for a distance of 3 feet perpendicular to all points on the bottom step tread outer edge. Such light(s) shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§ 38.159 Mobility aid accessibility. [Reserved]

SUBPART G—OTHER VEHICLES AND SYSTEMS

§ 38.171 General.

(a) New, used and remanufactured vehicles and conveyances for systems not covered by other subparts of this part, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) If portions of the vehicle or conveyance are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

§ 38.173 Automated guideway transit vehicles and systems.

(a) Automated Guideway Transit (AGT) vehicles and systems, sometimes called "people movers," operated in airports and other areas where AGT vehicles travel at slow speed (i.e., at a speed of no more than 20 miles per hour at any location on their route during normal operation), shall comply with the provisions of § 38.53(a) through (c), and §§ 38.55 through 38.61 of this part for rapid rail vehicles and systems.

(b) Where the vehicle covered by paragraph (a) of this section will operate in an accessible station, the design of vehicles shall be coordinated with the boarding platform design such that the horizontal gap between a vehicle door at rest and the platform shall be no greater than 1 inch and the height of the vehicle floor shall be within plus or minus ½ inch of the platform height under all normal passenger load conditions. Vertical alignment may be accomplished by vehicle air suspension or other suitable means of meeting the requirement.

(c) In stations where open platforms are not protected by platform screens, a suitable device or system shall be provided to prevent, deter or warn individuals from stepping off the platform between cars. Acceptable devices include, but are not limited to, pantograph gates, chains, motion detectors or other appropriate devices.

(d) Light rail and rapid rail AGT vehicles and systems shall comply with subparts D and C of this part, respectively. AGT systems whose vehicles travel at a speed of more than 20 miles per hour at any location on their route during normal operation are covered under this paragraph rather than under paragraph (a) of this subsection.

§ 38.175 [Reserved]

§ 38.177 [Reserved]

§ 38.179 Trams, similar vehicles and systems.

(a) New and used trams consisting of a tractor unit, with or without passenger accommodations, and one or more passenger trailer units, including but not limited to vehicles providing shuttle service to remote parking areas, between hotels and other public accommodations, and between and within amusement parks and other recreation areas, shall comply with this section. For purposes of determining applicability of §§ 37.101 or 37.105 of these regulations, the capacity of such a vehicle or "train" shall consist of the total combined seating capacity of all units, plus the driver, prior to any modification for accessibility.

(b) Each tractor unit which accommodates passengers and each trailer unit shall comply with § 38.25 and § 38.29 of this part. In addition, each such unit shall comply with §§ 38.23(b) or (c) and shall provide at least one space for wheelchair or mobility aid users complying with § 38.23(d) of this part unless the complete operating unit consisting of tractor and one or more trailers can already accommodate at least two wheelchair or mobility aid users.

Figures in Part 38

[Copies of these figures may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999.]

Appendix to Part 38—Guidance Material

This appendix contains materials of an advisory nature and provides additional information that should help the reader to understand the minimum requirements of the guidelines or to design vehicles for greater accessibility. Each entry is applicable to all subparts of this part except where noted. Nothing in this appendix shall in any way obviate any obligation to comply with the requirements of the guidelines themselves.

I. Slip Resistant Surfaces—Aisles, Steps, Floor Area Where People Walk, Floor Areas in Securement Locations, Lift Platforms, Ramps

Slip resistance is based on the frictional force necessary to keep a shoe heel or crutch tip from slipping on a walking surface under conditions likely to be found on the surface. While the dynamic coefficient of friction during walking varies in a complex and nonuniform way, the static coefficient of friction, which can be measured in several ways, provides a close approximation of the slip resistance of a surface. Contrary to popular belief, some slippage is necessary to walking, especially for persons with restricted gaits; a truly "non-slip" surface could not be negotiated.

The Occupational Safety and Health Administration recommends that walking surfaces have a static coefficient of friction of 0.5. A research project sponsored by the Architectural and Transportation Barriers Compliance Board (Access Board) conducted tests with persons with disabilities and concluded that a higher coefficient of friction was needed by such persons. A static coefficient of friction of 0.6 is recommended for steps, floors, and lift platforms and 0.8 for ramps.

The coefficient of friction varies considerably due to the presence of contaminants, water, floor finishes, and other factors not under the control of transit providers and may be difficult to measure. Nevertheless, many common materials suitable for flooring are now labeled with information on the static coefficient of friction. While it may not be possible to compare one product directly with another, or to guarantee a constant measure, transit operators or vehicle designers and manufacturers are encouraged to specify materials with appropriate values. As more products include information on slip resistance, improved uniformity in measurement and specification is likely. The Access Board's advisory guidelines on Slip Resistant Surfaces provides additional information on this subject.

II. Color Contrast—Step Edges, Lift Platform Edges

The material used to provide contrast should contrast by at least 70%. Contrast in percent is determined by:

Contrast = $[(B_1-B_2)/B_1]\ 100$

Where B_1 = light reflectance value (LRV) of the lighter area and B_2 = light reflectance value (LRV) of the darker area.

Note that in any application both white and black are never absolute; thus, B_1 never equals 100 and B_2 is always greater than 0.

III. Handrails and Stanchions

In addition to the requirements for handrails and stanchions for rapid, light, and commuter rail vehicles, consideration should be given to the proximity of handrails or stanchions to the area in which wheelchair or mobility aid users may position themselves. When identifying the clear floor space where a wheelchair or mobility aid user can be accommodated, it is suggested that at least one such area be adjacent or in close proximity to a handrail or stanchion. Of course, such a handrail or stanchion cannot encroach upon the required 32 inch width required for the doorway or the route leading to the clear floor space which must be at least 30 by 48 inches in size.

IV. Priority Seating Signs and Other Signage

A. *Finish and Contrast.* The characters and background of signs should be eggshell, matte, or other non-glare finish. An eggshell finish (11 to 19 degree gloss on 60 degree glossimeter) is recommended. Characters and symbols should contrast with their background either light characters on a dark background or dark characters on a light background. Research indicates that signs are more legible for persons with low vision when characters contrast with their background by at least 70 percent. Contrast in percent is determined by:

Contrast = $[(B_1-B_2)/B_1]\ 100$

Where B_1 = light reflectance value (LRV) of the lighter area and B_2 = light reflectance value (LRV) of the darker area.

Note that in any application both white and black are never absolute; thus, B_1 never equals 100 and B_2 is always greater than 0.

The greatest readability is usually achieved through the use of light-colored characters or symbols on a dark background.

B. *Destination and Route Signs.* The following specifications, which are required for buses (§ 38.39), are recommended for other types of vehicles, particularly light rail vehicles, where appropriate.

1. Where destination or route information is displayed on the exterior of a vehicle, each vehicle should have illuminated signs on the front and boarding side of the vehicle.

2. Characters on signs covered by paragraph IV.B.1 of this appendix should have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of 1 inch for signs on the boarding side and a minimum character height of 2 inches for front "headsigns," with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and should contrast with the background, either dark-on-light or light-on-dark, or as recommended above.

C. *Designation of Accessible Vehicles.* The International Symbol of Accessibility should be displayed as shown in Figure 6.

V. Public Information Systems

There is currently no requirement that vehicles be equipped with an information system which is capable of providing the same or equivalent information to persons with hearing loss. While the Department of Transportation assesses available and soon-to-be available technology during a study conducted during Fiscal Year 1992, entities are encouraged to employ whatever services, signage or alternative systems or devices that provide equivalent access and are available. Two possible types of devices are visual display systems and listening systems. However, it should be noted that while visual display systems accommodate persons who are deaf or are hearing impaired, assistive listening systems aid only those with a partial loss of hearing.

A. *Visual Display Systems.* Announcements may be provided in a visual format by the use of electronic message boards or video monitors.

Electronic message boards using a light emitting diode (LED) or "flip-dot" display are currently provided in some transit stations and terminals and may be usable in vehicles. These devices may be used to provide real time or pre-programmed messages; however, real time message displays require the availability of an employee for keyboard entry of the information to be announced.

Video monitor systems, such as visual paging systems provided in some airports (e.g., Baltimore-Washington International Airport), are another alternative. The Architectural and Transportation Barriers Compliance Board (Access Board) can provide technical assistance and information on these systems ("Airport TDD Access: Two Case Studies," (1990)).

B. *Assistive Listening Systems.* Assistive listening systems (ALS) are intended to augment standard public address and audio systems by providing signals which can be received directly by persons with special receivers or their own hearing aids and which eliminate or filter background noise. Magnetic induction loops, infra-red and radio frequency systems are types of listening systems which are appropriate for various applications.

An assistive listening system appropriate for transit vehicles, where a group of persons or where the specific individuals are not known in advance, may be different from the system appropriate for a particular individual provided as an auxiliary aid or as part of a reasonable accommodation. The appropriate device for an individual is the type that individual can use, whereas the appropriate system for a station or vehicle will necessarily be geared toward the "average" or aggregate needs of various individuals. Earphone jacks with variable volume controls can benefit only people who have slight hearing loss and do not help people who use hearing aids. At the present time, magnetic induction loops are the most feasible type of listening system for people who use hearing aids equipped with "T-coils", but people without hearing aids or those with hearing aids not equipped with inductive pick-ups cannot use them without special receivers. Radio frequency systems can be extremely effective and inexpensive. People without hearing aids can use them, but people with hearing aids need a special receiver to use them as they are presently designed. If hearing aids had a jack to allow a by-pass of microphones, then radio frequency systems would be suitable for people with and without hearing aids. Some listening systems may be subject to interference from other equipment and feedback from hearing aids of people who are using the systems. Such interference can be controlled by careful engineering design that anticipates feedback sources in the surrounding area.

The Architectural and Transportation Barriers Compliance Board (Access Board) has published a pamphlet on Assistive Listening Systems which lists demonstration centers across the country where technical assistance can be obtained in selecting and installing appropriate systems. The state of New York has also adopted a detailed technical specification which may be useful.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

NOTICE OF PROPOSED RULEMAKING

Summary: The Board of Directors of the Office of Compliance is publishing proposed regulations to implement Section 215 of the Congressional Accountability Act of 1995 ("CAA"), Pub. L. 104-1, 109 Stat. 3, as applied to covered employing offices and employees of the House of Representatives, the Senate, and certain Congressional instrumentalities listed below.

The CAA applies the rights and protections of eleven labor and employment and public access statutes to covered employees within the Legislative Branch. Section 215(a) provides that each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970, 29 U.S.C. §654 ("OSHAct"). 2 U.S.C. §1341(a). The provisions of section 215 are effective on January 1, 1997 for all employing offices except the General Accounting Office and the Library of Congress. 2 U.S.C. §1341(g). Accordingly, the rules included in this Notice of Proposed Rulemaking ("NPRM or Notice") do not apply to the General Accounting Office or the Library of Congress at this time.

In addition to inviting comment in this NPRM, the Board, through the statutory appointees of the Office, sought consultation with the Secretary of Labor with regard to the development of these regulations in accordance with section 304(g) of the CAA. Specifically, the Occupational Safety and Health Administration provided helpful suggestions during the development of the proposed regulations. The Board also notes that the General Counsel of the Office has completed an inspection of all covered facilities for compliance with safety and health standards under section 215 of the CAA and has submitted his final report to Congress. Based on the information gleaned from these consultations and the experience gained from the inspections, the Board of Directors of the Office of Compliance is publishing these proposed regulations, pursuant to section 215(d) of the CAA, 2 U.S.C. §1341(d).

The purpose of these regulations is to implement section 215 of the CAA. This Notice proposes that virtually identical regulations be adopted for the Senate, the House of Representatives, and the seven Congressional instrumentalities; and their employees. Accordingly:

(1) *Senate.* It is proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Senate and employees of the Senate, and this proposal regarding the Senate and its employees is recommended by the Office of Compliance's Deputy Executive Director for the Senate.

(2) *House of Representatives.* It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the House of Representatives and employees of the House of Representatives, and this proposal regarding the House of Representatives and its employees is recommended by the Office of Compliance's Deputy Executive Director for the House of Representatives.

(3) *Certain Congressional instrumentalities.* It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance, and their employees; and this proposal regarding these six Congressional instrumentalities is recommended by the Office of Compliance's Executive Director.

Dates: Comments are due within 30 days after the date of publication of this Notice in the Congressional Record.

Addresses: Submit written comments (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 426-1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM-201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m. In addition, a copy of the material listed in the section of the proposed regulations entitled "Incorporation by Reference" is available for inspection and review at the Law Library Reading Room, Room LM-201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Office of Compliance, at (202) 724-9250 (voice), (202) 426-1912 (TTY). This Notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Services Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, at (202) 224-2705 (voice), (202) 224-5574 (TTY).

SUPPLEMENTARY INFORMATION

Background and Summary

The Congressional Accountability Act of 1995 ("CAA"), Pub. L. 104-1, 109 Stat. 3, was enacted on January 23, 1995. 2 U.S.C. §§1301-1438. In general, the CAA applies the rights and protections of eleven federal labor and employment and public access statutes to covered employees and employing offices.

Section 215(a) of the CAA provides that each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 ("OSHAct"), 29 U.S.C. §654. 2 U.S.C. §1341(a). Section 5(a) of the OSHAct provides that every covered employer has a general duty to furnish each employee with employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to those employees and a specific duty to comply with occupational safety and health standards promulgated under the law. Section 5(b) requires covered employees to comply with occupational safety and health standards and with all rules, regulations and orders issued which are applicable to their actions and conduct.

Section 215(c) of the CAA provides that, upon the written request of any employing office or covered employee, the General Counsel of the Office shall exercise the authorities granted to the Secretary of Labor by subsections (a), (d), (e), and (f) of section 8 of the OSHAct to inspect and investigate places of employment under the jurisdiction of employing offices. 2 U.S.C. §1341(c). For the purposes of section 215, the General Counsel shall exercise the authorities granted to the Secretary of Labor in sections 9 and 10 of the OSHAct to issue a citation or notice to any employing office responsible for correcting a violation, or a notification to any employing office that the General Counsel believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction. *Id.* Section 215(e) also requires that the General Counsel of the Office of Compliance on a regular basis, and at least once each Congress, conduct periodic inspections of all covered facilities and report to Congress on compliance with health and safety standards. 2 U.S.C. §1341(e).

Section 215(d) of the CAA requires the Board of Directors of the Office of Compliance established under the CAA to issue regulations implementing the section. 2 U.S.C. §1341(d). Section 215(d) further states that such regulations "shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." *Id.* Section 215(d) further provides that the regulations "shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation." *Id.*

In developing these proposed regulations, a number of issues have been identified and explored. The Board has proposed to resolve these issues as described below.

A. In general

1. *Substantive regulations promulgated by the Secretary of Labor.*—Section 215(d)(2) requires the Board to issue regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C. §1341(d)(2).

Consistent with its prior decisions on this issue, the Board has determined that all regulations promulgated by the Secretary of Labor after notice and comment to implement section 5 of the OSHAct are "substantive regulations" within the meaning of section 215(d). *See, e.g.*, 142 Cong. Rec. S5070, S5071–72 (daily ed. May 15, 1996) (NPRM implementing section 220(d)); 141 Cong. Rec. S17605 (daily ed. Nov. 28, 1995) (NPRM implementing section 203); see also *Reves v. Ernst & Young*, 113 S.Ct. 1163, 1169 (1993) (where same phrase or term is used in two different places in the same statute, reasonable for court to give each use a similar construction); *Sorenson v. Secretary of the Treasury*, 475 U.S. 851, 860 (1986) (normal rule of statutory construction assumes that identical words in different parts of same act are intended to have the same meaning).

In this regard, the Board has reviewed the provisions of section 215 of the CAA, the provisions of the OSHAct applied by that section, and the regulations of the Secretary of Labor to determine whether and to what extent those regulations are substantive regulations promulgated to implement the substantive safety and health standards of section 5 of the OSHAct. As explained more fully below, the Board proposes to adopt otherwise applicable substantive health and safety standards of the Secretary's regulations published at Parts 1910 and 1926 of Title 29 of the Code of Federal Regulations ("29 CFR") with only limited modifications. The Board proposes not to adopt as substantive regulations under section 215(d) of the CAA those provisions of the Secretary's regulations that were not promulgated to implement provisions of section 5 of the OSHAct.

In addition, the Board has proposed to make technical changes in definitions and nomenclature so that the regulations comport with the CAA and the organizational structure of the Office of Compliance. In the Board's judgment, making such changes satisfies the Act's "good cause" requirement. With the exception of such technical and nomenclature changes, however, the Board does not propose substantial departure from otherwise applicable regulations of the Secretary.

2. *The board will adopt the substantive safety and health standards contained in Parts 1910 and 1926 of title 29 of the Code of Federal Regulations.*—Section 215(a) requires each employing office and covered employee to comply with the provisions of section 5 of the OSHAct, 29 U.S.C. §654. 2 U.S.C. §1341(a). Section 5(a) of the OSHAct provides that every covered employer has a general duty to furnish each employee with employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to those employees, and a specific duty to comply with occupational safety and health standards promulgated by the Occupational Safety and Health Administration ("OSHA") under the law. Section 5(b) requires covered employees to comply with occupational safety and health standards and with all rules, regulations and orders issued which are applicable to their actions and conduct.

The substantive occupational safety and health standards promulgated by OSHA which the Board intends to adopt are set forth at 29 CFR, Parts 1910 (general industry standards) and 1926 (construction industry standards). Although Part 1926 was originally promulgated by the Secretary under section 107 of the Contract Work Hours and Safety Standards Act, the substantive safety and health standards (subparts C through Z) are adopted and incorporated by reference into Part 1910. *See* 29 CFR §1910.12. These regulations implement the substantive safety and health standards referred to in section 5 of the OSHAct and thus are "substantive regulations" which the Board proposes to adopt under section 215(d) of the CAA. However, the Board proposes not to adopt those regulatory provisions in Parts 1910 and 1926 that have no conceivable applicability to operations of employing offices within the Legislative Branch or are unlikely to be invoked. See 141 Cong. Rec. at S17604 (Nov. 28, 1995) (NPRM implementing section 203).

Adoption of the substantive safety and health standards of Parts 1910 and 1926 is consistent with the language and legislative history of section 215, which confirms that Congress expected the law as enacted to require that covered employing offices and covered employees comply with the existing substantive occupational safety and health standards promulgated by the Secretary of Labor. 141 Cong. Rec. S621, S625 (Jan. 9, 1995) (section 215 "requires employees and employing offices . . . to comply with . . . the Occupational Safety and Health Standards promulgated by the Secretary of Labor under section 6 of that act."). Similarly, the section-by-section analysis of H.R. 4822, a precursor to the CAA, clearly states that Congress expected the Board to adopt OSHA occupational safety and health standards promulgated under section 6 of the OSHAct as its own:

"It is not intended that the Board will replicate the work of the Secretary of Labor by promulgating its own standards similar to those promulgated by the Secretary of Labor under section 6 of the OSHA [citation omitted]. Rather, it is intended that the Board will adopt the Secretary's [occupational safety and health] standards, and only where the Board believes different rules would better serve the interests of OSHA and this Act will it adopt different rules." S.Rep. 103–396 (Oct. 3, 1994).

Adoption of the substantive safety and health standards of Parts 1910 and 1926 is also consistent with existing safety and health practices of employing entities within the Legislative Branch. For example, the Architect of the Capitol, which has direct superintendence responsibility for the majority of facilities subject to section 215, has maintained a policy of voluntary compliance with the safety and health standards under Parts 1910 and 1926 through its safety and health program. *See Congressional Coverage Legislation: Applying Laws to Congress: Hearings on S.29, S.103, S.357, S.207, and S.2194*, Before the Senate Comm. on Govt. Affairs, 103d Cong., 3d Sess. 55–56 (1995) (testimony of J. Raymond Carroll, Director of Engineering, Office of the Architect of the Capitol).

The Board also notes that the General Counsel applied the occupational safety and health standards under Parts 1910 and 1926 in his initial inspection of Legislative Branch facilities pursuant to section 215(c) of the CAA. In contrast to other sections of the CAA, which generally give the Office of Compliance only adjudicatory and regulatory responsibilities, the General Counsel has the authority to investigate and prosecute alleged violations of safety and health standards under section 215, as well as the responsibility for inspecting covered facilities to ensure compliance. In his final inspection report, the General Counsel stated his view that application of Parts 1910 and 1926 standards appeared appropriate for such operations. *See* Report on Initial Inspections of Facilities for Compliance with the Occupational Safety and Health Standards Under Section 215 ("Safety and Health Report"), p. I–2 (June 28, 1996).

For all of these reasons, the Board proposes to adopt all otherwise applicable sections of Parts 1910 and 1926 as substantive regulations under section 215(d).

3. *Modification of Parts 1910 and 1926, 29 CFR.*—The Board has considered whether and to what extent it should modify otherwise applicable substantive safety and health standards at 29 CFR, Parts 1910 and 1926. As the Board has noted in prior rulemakings, the language and legislative history of the CAA leads the Board to conclude that, absent clear statutory language to the contrary, the Board should hew as closely as possible to the text of otherwise applicable regulations implementing the statutory provisions applied to the Legislative Branch. *See, e.g.*, 142 Cong. Rec. S221, S222 (Jan. 22, 1996) (Notice of Adoption of Rules Implementing Section 203) ("The CAA was intended not only to bring covered employees the benefits of the . . . incorporated laws, but also require Congress to experience the same compliance burdens faced by other employers so that it could more fairly legislate in this area."). Thus, consistent with its prior decisions, the Board proposes to issue Parts 1910 and 1926 of the Secretary's regulations

with only technical changes in the nomenclature and deletion of those sections clearly inapplicable to the Legislative Branch. *See, e.g.*, 141 Cong. Rec. S17603–S17604 (Nov. 28, 1995) (preamble to NPRM under section 203 of the CAA).

This conclusion is also supported by the General Counsel's inspection report, which applied the substantive safety and health standards to covered facilities in the course of his initial inspections under section 215(e) of the CAA. Specifically, the report found nothing about work operations within facilities of the Legislative Branch that suggested that they were so different from those in comparable private sector facilities as to require a different safety and health standard. *See generally* Safety and Health Report. Thus, with the exception of nonsubstantive technical and nomenclature changes, the Board proposes no departure from the text of otherwise applicable portions of Parts 1910 and 1926.

4. *Secretary of Labor's regulations that the board proposes not to adopt.*—In reviewing the remaining parts of the Secretary's regulations, it is apparent that they either were not promulgated by the Secretary of Labor to implement the safety and health standards referred to in section 5 of the OSHAct and/or have no application to employing offices or other facilities within the Legislative Branch. For this reason, the Board is not including them within its substantive regulations. Among the excluded regulations are the following parts of 29 CFR: Part 1902 (adoption of health and safety standards and enforcement plans by States); Part 1908 (cooperative agreements between OSHA and the States); Parts 1911 and 1912 (procedure for promulgating, modifying or revoking occupational safety and health standards by OSHA); Parts 1915–1922 (occupational safety and health standards and procedures for shipyards, marine terminals, and longshoring operations); Part 1914 (safety and health standards applicable to workshops and rehabilitation facilities assisted by federal grants); Part 1925 (safety and health requirements under the Service Contract Act of 1965); Part 1928 (occupational safety and health standards applicable to agricultural operations); Part 1949 (OSHA Office of Training and Education regulations); Parts 1950–1956 (State occupational safety and health regulation and enforcement plans and planning grants to States); Part 1960 (occupational safety and health regulation of Federal executive branch employees and agencies, implementing section 19 of the OSHAct); Part 1975 (regulations clarifying the definition of employer under the OSHAct); Part 1978 (regulations implementing section 405 of the Surface Transportation Assistance Act of 1982); Part 1990 (regulations relating to identification, classification, and regulation of potential occupational carcinogens); Part 2201 (regulations implementing the Freedom of Information Act); Part 2202 (rules of ethics and conduct of Occupational Safety and Health Review Commission employees); Part 2203 (regulations implementing the Government in the Sunshine Act); Part 2204 (regulations implementing the Equal Access to Justice Act in Proceedings before the Occupational Safety and Health Review Commission); Part 2205 (regulations enforcing the provisions prohibiting discrimination on the basis of handicap in programs or activities conducted by the OSHRC); and Part 2400 (regulations implementing the Privacy Act). Unless public comments demonstrate otherwise, the Board intends to include in the adopted regulations a provision stating that the Board has issued substantive regulations on all matters for which section 215(d) requires a regulation. *See* 2 U.S.C. §1411.

The Board will also not adopt as part of its regulations under section 215(d) of the CAA the rules of agency practice and procedure for the Occupational Safety and Health Review Commission (Part 2200), rules of agency practice and procedure regarding OSHA access to employee medical records (Part 1913), and rules implementing the rights and procedures regarding the antidiscrimination and anti-retaliation provisions of section 11 of the OSHAct (Part 1977). Although not within the scope of rulemaking under section 215(d), the Board has determined that the subject matter of these provisions may have general applicability to Board and Office proceedings under the CAA. Thus, these matters should be addressed, if at all, in the Office's development of appropriate changes in the procedural rules for section 215 cases that the Executive Director promulgates pursuant to section 303 of the CAA.

5. *Variance procedures.*—Section 215(c)(4) of the CAA authorizes the Board to consider and act on requests for variances by employing offices from otherwise applicable safety and health standards applied to them under this section, consistent with sections 6(b)(6) and 6(d) of the OSHAct. 2 U.S.C. §1341(c)(4). Part 1905, 29 CFR, contains the Secretary's rules of practice and procedure for variances under the OSHAct. Part 1905 was not promulgated to implement the health and safety standards referred to in section 5 of the OSHAct. Accordingly, it will not be adopted as part of the Board's section 215(d) regulations. However, the Board has determined that these regulations may concern matters "governing the procedure of the Office" and, therefore, may be addressed as part of a rulemaking under section 303 of the CAA.

6. *Procedure regarding inspections, citations, and notices.*—Section 215(c) of the CAA grants the General Counsel of the Office the authority under sections 8 and 9 of the OSHAct to inspect and investigate places of employment and issue citations and notices to employing offices responsible for correcting violations. 2 U.S.C. §1341(c). Part 1903 of the Secretary's regulations, which relates to the procedure for conducting inspections, and for issuing and contesting citations and proposed penalties, implements sections 8 and 9 of the OSHAct. The purpose of Part 1903, according to the Secretary, is to prescribe rules and to set forth general policies for enforcement of the inspection, citation, and proposed penalty provisions of the OSHAct. *See* 29 CFR 1903.1. Part 1903 does not implement any substantive right or protection under section 5 of the OSHAct or of any substantive health and safety standard thereunder. Accordingly, the Board will not adopt part 1903 as part of its section 215(d) regulations. However, the Executive Director may consider adopting some or all of the rules contained in Part 1903 as part of the procedural rules of the Office, as applicable and appropriate.

7. *Notice posting and recordkeeping requirements.*—Section 215(c)(1) of the CAA grants to the General Counsel of the Office of Compliance the authorities of the Secretary of Labor under the following subsections of section 8 of the OSHAct: (a) (authority of Secretary to enter, inspect, and investigate places of employment), (d) (methods of obtaining information), (e) (employer and employee representatives authorized to accompany inspectors), and (f) (requests for inspections), 29 U.S.C. section 657(a), (d), (e), and (f). 2 U.S.C. §1341(c)(1). Section 215 does not incorporate or make reference to section 8(c) of the OSHAct (requiring safety and health recordkeeping and posting of notices). More specifically, section 8(c) of the OSHAct is not a part of the rights and protections of section 5 of the OSHAct, nor is it a substantive safety and health standard referred to therein. Thus, section 215(d) of the CAA does not authorize the Board to incorporate the general notice and recordkeeping requirements promulgated by the Secretary to implement section 8(c) of the OSHAct and, consequently, such requirements (set forth at Part 1904) will not be imposed at this time. *See* 141 Cong. Rec. at S17604 (NPRM implementing section 203); 141 Cong. Rec. at S17656 (Nov. 28, 1995) (NPRM implementing section 204); 142 Cong. Rec. S221, S222 (Jan. 22, 1996) (Notice of Adoption of Regulations Implementing Section 203).

The Board also notes that there are certain recordkeeping requirements that are part of the substantive safety and health standards under parts 1910 and 1926, 29 CFR, such as employee exposure records under subpart Z. Thus, these regulations have been included in the Board's proposed regulations. *See* 141 Cong. Rec. at 17657 (daily ed. Jan. 22, 1996) (recordkeeping requirements included within portion of Employee Polygraph Protection Act applied by section 204 of the CAA must be included within the proposed rules).

The Board is also aware that Congress has enacted two special statutory provisions regarding safety and health that may already apply to some covered employing offices. Section 19(a) of the OSHAct, 29 U.S.C. §668(a), requires the head of each federal agency to "establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated [by OSHA] under section 655." Agency heads are also required to submit annual reports to the Secretary on occupational accidents and injuries and on the agency programs established under section 668. However, the statute itself gives the Secretary no enforcement authority against federal agencies. OSHA regulations implementing section 668 are not binding on Legislative Branch agencies unless by agreement between OSHA and the head of the agency. *See* 29 C.F.R. §1960.2(b).

The related provisions of 5 U.S.C. §7902 cover an agency in "any branch of the Government of the United States." Section 7902 imposes recordkeeping and report requirements on each agency similar to the requirements of 29 U.S.C. §668. There is no apparent mechanism for enforcement of section 7902 obligations regarding Legislative Branch agencies.

The above two provisions may arguably impose general recordkeeping requirements with respect to occupational accidents and injuries on some covered employing offices independent of the CAA, to the extent that such employing offices are found to be "agencies" within the meaning of those statutory provisions. The Board's resolution of the recordkeeping issue under section 215(e) of the CAA is not an attempt to modify the statutory provisions of 29 U.S.C. §668 and 5 U.S.C. §7902 and their applicability to Legislative Branch entities. Whether section 215 of the CAA and the regulations the Board proposes to implement thereunder can be harmonized with these preexisting statutory requirements not within the scope of the CAA that might independently apply to Legislative Branch entities is an issue that the Board has no occasion to address. *See* 142 Cong. Rec. at S224 (daily ed., Jan. 22, 1996)

(Notice of Adoption of Regulations and Submission for Approval and Issuance of Interim Regulations under section 203 of the CAA) (declining to address issue of harmonizing regulations regarding overtime exemption for law enforcement officers under section 203 with preexisting statutory overtime exemption for Capitol Police under 40 U.S.C. §§206b–206c).

B. Proposed regulations

1. *General provisions.*—The proposed regulations include a section on matters of general applicability including the purpose and scope of the regulations, definitions, coverage, and the administrative authority of the Board and the Office of Compliance.

2. *Incorporation by Reference of Part 1910 and Part 1926 Standards.*—The Board will incorporate by reference the portions of 29 CFR, Parts 1910 and 1926, it proposes to adopt, rather than setting forth the full text of those provisions in this Notice.

Incorporation by reference of the safety and health standards set forth in Parts 1910 and 1926 is appropriate under the circumstances and meets the "good cause" requirement of the CAA. The portions of Parts 1910 and 1926 that the Board proposes to adopt by reference contain only substantive safety and health standards that are published in Title 29 of the Code of Federal Regulations and that are thus reasonably available to commenters and to affected employing offices and covered employees. Moreover, incorporation by reference of Parts 1910 and 1926 would substantially reduce the volume of material published in the Congressional Record: Part 1910 and 1926 are set forth in three volumes of the Code of Federal Regulations. If restated herein, the material would consist of almost 6,500 pages of text and accompanying illustrations. Given that these standards are proposed to be adopted without change by the Board and are readily accessible to potential commenters, incorporation by reference is appropriate.

3. *Method for Identifying Responsible Employing Offices and Establishing Categories of Violations.*—Section 215(d)(3) of the CAA directs the Board to include in its regulations a method for identifying, for purposes of section 215 and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation. 2 U.S.C. §1341(d)(3). The method developed by the Board to identify entities responsible for correcting a violation of section 215(a) is set forth in section 1.106 of the proposed regulations. Section 1.106 is based in large part on the methods adopted and applied by the General Counsel during his initial inspections of covered employing offices under section 215(e). *See* Safety and Health Report, App. V.

a. Identifying the employing office responsible for correcting violations. In considering rules for identifying the employing office responsible for correcting violations under section 215, the Board is mindful that any regulation that it promulgates should neither expand nor contract the statutory safety and health obligations of employing offices under section 215. *See White v. I.N.S.*, 75 F.3d 213, 215 (5th Cir. 1996) (agency cannot promulgate even substantive rules that are contrary tc statute; if intent of Congress is clear, agency must give effect to that unambiguously expressed intent); *Conlan v. U.S. Dep't of Labor*, 76 F.23 271, 274 (9th Cir. 1996). Therefore, the Board has considered the nature of the safety and health obligations imposed on employing offices under the OSHAct, as applied by the terms of section 215(a). Specifically, the Board notes that section 215(a)(2)(C) expressly assigns liability to the employing office responsible for correcting the violation, "irrespective of whether the particular employing office has an employment relationship with any covered employee in any employing office in which such violation occurs."

In many cases, the primary employing office responsible for correcting the hazards identified under section 215 and for addressing the recommendations made by the General Counsel is the Architect of the Capitol, given the Architect's statutory responsibility for superintendence and control over the Capitol Building, House and Senate office buildings, and other similar facilities. *See, e.g.*, 40 U.S.C. §§163-166 (Capitol Building), 167-175 and 185a (House and Senate office buildings), 185 (Capitol Power Plant), 193a (Capitol grounds), and 216b (Botanical Garden). However, it is recognized that in some cases other employing offices, particularly the staff or occupants of office buildings under the Architect's superintendence, may have varying degrees of actual or apparent jurisdiction, authority, and responsibility for correction of violations. In other cases, the employing office may have a responsibility to notify or coordinate abatement of the hazard with the Architect of the Capitol or other employing office actually responsible for implementing the correction. Accordingly, proposed section 1.106 assigns responsibility to employing offices in four situations:

1. The employing office that actually created the hazard or condition identified. Frequently, the employing office that created the hazard is in the best position to correct the hazard, and has control over the manner and method of operations sufficient to avoid the hazard in the first place or reduce the hazard once created.

2. The employing office that is exposing its employees to the hazard or condition. Under the OSHAct, an employer has responsibility for the safety of its own employees and is required to instruct them about the hazards that might be encountered, including what protective measures to use. In the case of hazardous conditions, facilities, or equipment over which the employer has no control, it has a duty to at least warn its employees of the hazard and/or to prevent the employees exposure to the hazard by utilizing alternative locations or means to perform the work. *See Secretary of Labor v. Baker Tank Co.*, 17 OSHC 1177, 1180 (OSHRC April 10, 1995).

3. The employing office that is responsible for safety and health conditions in the workplace and has day-to-day control, in whole or in part, of the area where the hazard or condition is found. For example, a Member has effective control over his or her own office area, and has the responsibility for notifying the Architect or other responsible offices, when hazards are identified in his or her spaces, even though the Member may have no direct responsibility in many cases for carrying out the correction of the condition.

4. The employing office that is responsible for actually carrying out the correction (or for contacting other offices or otherwise arranging for correction of the hazard or condition). In many cases, the Architect is responsible for repairing and correcting physical hazards identified in his area of superintendence, such as electrical hazards. In some cases, other employing offices may have responsibility to actually carry out the correction, such as the Chief Administrative Officer of the House of Representatives with respect to carpet repair in House office buildings. In other cases, an employing office may have responsibility for arranging for such corrections. For example, in House office buildings, repair of carpeting falls within the jurisdiction of the Chief Administrative Officer. However, the Superintendent of the House Office buildings, an Architect official, may have some responsibility for notifying the Chief Administrative Officer that such repairs are needed, if the Member or office staff does not do so.

The above rules are derived from the so-called multi-employer doctrine applied by OSHA as a means of apportioning liability for abatement and penalties at multi-employer worksites where one employer created the hazard and some employees, but not necessarily its own, are exposed to it. *See generally Brennan v. OSHRC (Underhill Construction Corp.)*, 513 F.2d 1032, 1038 (2d Cir. 1975); Mark A. Rothstein, *Occupational Safety and Health Law* §§161–169 (3d ed. 1990). Under this doctrine, an employer at a multi-employer worksite is responsible, even in the absence of exposure of its own employees, for any hazardous conditions which it creates or controls. *Id. See also H.B. Zachry Co.*, 8 OSHC 1669, 1980 OSHD ¶25,588 (1980), *affirmed* 638 F.2d 812 (5th Cir. 1981); OSHA Field Inspection Reference Manual III–28 (1994).

There is an issue whether application of the multi-employer doctrine by OSHA in the private sector context is in all situations authorized by the OSHAct. *Compare Teal v. E.I. Du Pont de Nemours & Co.*, 728 F.2d 799, 804–05 (6th Cir. 1984) ("Once an employer is deemed responsible for complying with OSHA regulations, it is obligated to protect every employee who works at its workplace.") and *Beatty Equip. Leasing v. Secretary of Labor*, F.2d 534, 537 (9th Cir. 1978) (subcontractor who supplied and erected scaffolding liable even where his own employees not exposed) with *Melerine v. Avondale Shipyards, Inc.*, 659 F.2d 706, 712 (5th Cir. 1981) ("In this circuit, therefore, the class protected by OSHA regulations comprises only employer's own employees."). However, the Board need not address this issue because the CAA expressly imposes responsibility for correction of health and safety violations on an otherwise covered Legislative Branch entity "irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs." 2 U.S.C. §1341(a)(2)(C). Accordingly, the above regulations are consistent with the OSHAct as modified by the express terms of section 215 of the CAA.

b. Classifying the level of risk/seriousness of the violation. The proposed regulations do not include a provision classifying categories of violations. The method for identifying the employing offices responsible for correcting a violation of section 215(a) set forth in section 1.106 of the proposed regulations is not affected by the category or type of violation. Moreover, such categories of violations are not set forth in any substantive regulations of the Secretary required to be adopted under section 215(d). Therefore, the Board does not propose any substantive regulations which set forth categories of violations.

The Board notes that the General Counsel has developed, as part of his authority to inspect covered facilities under section 215(e), classifications of violations to guide employing offices and covered employees in assigning priority for correction and abatement of hazards. The General Counsel's guidelines are based on those issued by OSHA in determining the amount of proposed penalties in cases involving private employers. *See generally* 29 U.S.C. §§666(j) and (k). Although neither the General Counsel nor the Office has authority to impose monetary penalties under section 215 of the CAA, *see* 2 U.S.C. §§1341(b) and 1361(c) (limiting remedy under section 215 to injunctive provisions of section 13(a) of the OSHAct and providing that no civil penalty may be awarded with respect to any claim under the CAA), the factors considered by OSHA in determining the amount of penalty may be useful as an expression of the gravity of the deficiency involved. A further description of these categories is set forth in the General Counsel's inspection report. *See* Safety and Health Report, App. I.

4. *Future changes in the text of the health and safety standards which the Board has adopted.*—The Board proposes that the section 215 regulations incorporate the text of the referenced health and safety standards of parts 1910 and 1926 in effect as of the effective date of these regulations. The Board takes notice that OSHA has in recent years made frequent changes, both technical and nontechnical, to its part 1910 and 1926 regulations, and is in the process of developing additional safety and health standards in some areas. The Board interprets the incorporation by reference of external documents or standards in the text of the adopted Parts 1910 and 1926 regulations (such as the provisions of the National Electrical Code) to include any future changes to such documents or standards. As the Office receives notice of such changes by OSHA, it will advise covered employing offices and employees of them as part of its education and information activities. As to changes in the text of the adopted regulations themselves, however, the Board finds that, under the CAA statutory scheme, additional Board rulemaking under section 215(d) will be required. The Board believes that it should afford Legislative Branch entities and employees potentially affected by adoption of such changes the opportunity to comment on the propriety of Board adoption of any such changes, and that the Congress should have the opportunity to specifically approve such adoption by the Board. The Board specifically invites comments on this proposal.

5. *Technical and nomenclature changes.*—The proposed regulations make technical and nomenclature changes, where appropriate, to conform to the provisions of the CAA.

Recommended method of approval: The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 18th day of September, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

APPLICATION OF RIGHTS AND PROTECTIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (SECTION 215 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

Part 1——Matters of General Applicability to All Regulations Promulgated Under Section 215 of the Congressional Accountability Act of 1995

Sec.
1.101 Purpose and scope
1.102 Definitions
1.103 Notice of protection
1.104 Authority of the Board
1.105 Method for identifying the entity responsible for correction of violations of section 215

§1.101 Purpose and scope.

(a) *Section 215 of the CAA.* Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of eleven federal labor and employment law and public access statutes to covered employees and employing offices within the Legislative Branch. Section 215(a) of the CAA provides that each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 ("OSHAct"), 29 U.S.C. §654. Section 5(a) of the OSHAct provides that every covered employer has a general duty to furnish each employee with employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to those employees, and a specific duty to comply with occupational safety and health standards promulgated under the law. Section 5(b) requires covered employees to comply with occupational safety and health standards and with all rules, regulations and orders which are applicable to their actions and conduct. Set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 215(d) of the CAA.

(b) *Purpose and scope of regulations.* The regulations set forth herein (Parts 1 and 1900) are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 215(d) of the CAA. Part 1 contains the general provisions applicable to all regulations under section 215, including the method of identifying entities responsible for correcting a violation of section 215. Part 1900 contains the substantive safety and health standards which the Board has adopted as substantive regulations under section 215(e).

§1.102 Definitions.

Except as otherwise specifically provided in these regulations, as used in these regulations:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (Pub.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *OSHAct* means the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. §§651, *et seq.*), as applied to covered employees and employing offices by Section 215 of the CAA.

(c) The term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means: (1) the personal office of a Member of the House of Representatives or the Senate or a joint committee; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(j) The term *employing office* includes any of the following entities that is responsible for correction of a violation of this section, irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such violation occurs: (1) each office of the Senate, including each office of a Senator and each committee; (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee; (3) each joint committee of the Congress; (4) the Capitol Guide Service; (5) the Capitol Police; (6) the Congressional Budget Office; (7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden); (8) the Office of the Attending Physician; and (9) the Office of Compliance.

(k) *Board* means the Board of Directors of the Office of Compliance.

(l) *Office* means the Office of Compliance.

(m) *General Counsel* means the General Counsel of the Office of Compliance.

§1.103 Coverage.

The coverage of Section 215 of the CAA extends to any "covered employee." It also extends to any "covered employing office," which includes any of the following entities that is responsible for correcting a violation of section 215 (as determined under section 1.106), irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

§1.104 Notice of protection.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 215 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

§1.105 Authority of the Board.

Pursuant to section 215 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections of section 215(a). Section 215(d) of the CAA directs the Board to promulgate regulations implementing section 215 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C. §1341(d). The regulations issued by the Board herein are on all matters for which section 215 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 215 of the CAA]" that need be adopted.

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§1.106 Method for identifying the entity responsible for correction of violations of section 215.

(a) *Purpose and scope.* Section 215(d)(3) of the CAA provides that regulations under section 215(d) include a method of identifying, for purposes of this section and for categories of violations of section 215(a), the employing office responsible for correcting a particular violation. This section sets forth the method for identifying responsible employing offices for the purpose of allocating responsibility for correcting violations of section 215(a) of the CAA. These rules apply to the General Counsel in the exercise of his authority to issue citations or notices to employing offices under sections 215(c)(2)(A) and (B), and to the Office and the Board in the adjudication of complaints under section 215(c)(3).

(b) *Employing Office(s) Responsible for Correcting a Violation of Section 215(a) of the CAA.* With respect to the safety and health standards and other obligations imposed upon employing offices under section 215(a) of the CAA, correction of a violation of section 215(a) is the responsibility of any employing office that is an exposing employing office, a creating employing office, a controlling employing office, and/or a correcting employing office, as defined in this subsection, to the extent that the employing office is in a position to correct or abate the hazard or to ensure its correction or abatement.

(i) *Creating employing office* means the employing office that actually created the hazard forming the basis of the violation or violations of section 215(a).

(ii) *Exposing employing office* means the employing office whose employees are exposed to the hazard forming the basis of the violation or violations of section 215(a).

(iii) *Controlling employing office* means the employing office that is responsible, by agreement or legal authority or through actual practice, for safety and health conditions in the location where the hazard forming the basis for the violation or violations of section 215(a) occurred.

(iv) *Correcting employing office* means the employing office that has the responsibility for actually performing (or the authority or power to order or arrange for) the work necessary to correct or abate the hazard forming the basis of the violation or violations of section 215(a).

(c) *Exposing Employing Office Duties.* Employing offices have direct responsibility for the safety and health of their own employees and are required to instruct them about the hazards that might be encountered, including what protective measures to use. An employing office may not contract away these legal duties to its employees or its ultimate responsibilities under section 215(a) of the CAA by requiring another party or entity to perform them. In addition, if equipment or facilities to be used by an employing office, but not under the control of the employing office, do not meet applicable health and safety standards or otherwise constitutes a violation of section 215(a), it is the responsibility of the employing office not to permit its employees to utilize such equipment or facilities. In such circumstances, the employing office is in violation if, and only if, it permits its employees to utilize such equipment or facilities. It is not the responsibility of an employing office to effect the correction of any such deficiencies itself, but this does not relieve it of its duty to use only equipment or facilities that meet the requirements of section 215(a).

Part 1900—Adoption of Occupational Safety and Health Standards

Sec.

1900.1 Purpose and scope

1900.2 Definitions; provisions regarding scope, applicability, and coverage; and exemptions

1900.3 Adoption of occupational safety and health standards

§1900.1 Purpose and scope.

(a) The provisions of this subpart B adopt and extend the applicability of occupational safety and health standards established and promulgated by the Occupational Safety and Health Administration ("OSHA") and set forth at Parts 1910 and 1926 of title 29 of the Code of Federal Regulations, with respect to every employing office, employee, and employment covered by section 215 of the Congressional Accountability Act.

(b) It bears emphasis that only standards (i.e., substantive rules) relating to safety or health are adopted by any incorporations by reference of standards prescribed in this Part. Other materials contained in the referenced parts are not adopted. Illustrations of the types of materials which are not adopted are these. The incorporation by reference of part 1926, 29 CFR, is not intended to include references to interpretative rules having relevance to the application of the Construction Safety Act, but having no relevance to the Occupational Safety and Health Act. Similarly, the incorporation by reference of part 1910, 29 CFR, is not intended to include any reference to the Assistant Secretary of Labor and the authorities of the Assistant Secretary. The authority to adopt, promulgate, and amend or revoke standards applicable to covered employment under the CAA rests with the Board of Directors of the Office of Compliance pursuant to sections 215(d) and 304 of the CAA. Notwithstanding anything to the contrary contained in the incorporated standards, the exclusive means for enforcement of these standards with respect to covered employment are the procedures and remedies provided for in section 215 of the CAA.

(c) This part incorporates the referenced safety and health standards in effect as of the effective date of these regulations.

§1900.2 Definitions, provisions regarding scope, applicability and coverage, and exemptions.

(a) Except where inconsistent with the definitions, provisions regarding scope, application and coverage, and exemptions provided in the CAA or other sections of these regulations, the definitions, provisions regarding scope, application and coverage, and exemptions provided in Parts 1910 and 1926, 29 CFR, as incorporated into these regulations, shall apply under these regulations. For example, any reference to "employer" in Parts 1910 and 1926 shall be deemed to refer to "employing office." Similarly, any limitation on coverage in Parts 1910 and 1926 to employers engaged "in a business that affects commerce" shall not apply in these regulations.

(b) The provisions of section 1910.6, 29 CFR, regarding the force and effect of standards of agencies of the U.S. Government and organizations that are not agencies of the U.S. Government, which are incorporated by reference in Part 1910, shall apply to the standards incorporated into these regulations.

(c) It is the Board's intent that the standards adopted in these regulations shall have the same force and effect as applied to covered employing offices and employees under section 215 of the CAA as those standards have when applied by OSHA to employers, employees, and places of employment under the jurisdiction of OSHA and the OSHAct.

§1900.3 Adoption of occupational safety and health standards.

(a) *Part 1910 Standards.* The standards prescribed in 29 CFR part 1910, Subparts B through S, and Subpart Z, as specifically referenced and set forth herein at Appendix A, are adopted as occupational safety and health standards under Section 215(d) of the CAA and shall apply, according to the provisions thereof, to every employment and place of employment of every covered employee engaged in work in an employing office. Each employing office shall protect the employment and places of employment of each of its covered employees by complying with the appropriate standards described in this paragraph.

(b) *Part 1926 Standards.* The standards prescribed in 29 CFR part 1926, Subparts C through X and Subpart Z, as specifically referenced and forth herein at Appendix B, are adopted as occupational safety and health standards under Section 215(d) of the CAA and shall apply, according to the provisions thereof, to every employment and place of employment of every covered employee engaged in work in an employing office. Each employing office shall protect the employment and places of employment of each of its covered employees by complying with the appropriate standards described in this paragraph.

(c) *Standards not adopted.* This section adopts as occupational safety and health standards under section 215(d) of the CAA the standards which are prescribed in Parts 1910 and 1926 of 29 CFR. Thus, the standards (substantive rules) published in subparts B through S and Z of part 1910 and subparts C through X and Z of part 1926 are applied. As set forth in Appendix A and Appendix B to this Part, this section does not incorporate all sections contained in these subparts. For example, this section does not incorporate sections 1910.15, 1910.16, and 1910.142, relating to shipyard employment, longshoring and marine terminals, and temporary labor camps, because such provisions have no application to employment within entities covered by the CAA.

(d) Copies of the standards which are incorporated by reference may be examined at the Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540–1999. The OSHA standards may also be found at 29 CFR Parts 1910 and 1926. Copies of the standards may also be examined at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210, and their regional offices. Copies of private standards may be obtained from the issuing organizations. Their names and addresses are listed in the pertinent subparts of Parts 1910 and 1926, 29 CFR.

(e) Any changes in the standards incorporated by reference in the portions of Parts 1910 and 1926, 29 CFR, adopted herein and an official historic file of such changes are available for inspection at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210.

Appendix A To Part 1900—References to Sections of Part 1910, 29 CFR, Adopted as Occupational Safety and Health Standards Under Section 215(d) of the CAA

The following is a reference listing of the sections and subparts of Part 1910, 29 CFR, which are adopted as occupational safety and health standards under section 215(d) of the Congressional Accountability Act. Unless otherwise specifically noted, any reference to a section number includes any appendices to that section.

Part 1910—Occupational Safety and Health Standards

Subpart B—Adoption and Extension of Established Federal Standards

Sec.
1910.12 Construction work.
1910.18 Changes in established Federal standards.
1910.19 Special provisions for air contaminants.

Subpart C—General Safety and Health Provisions [Reserved]

Subpart D—Walking—Working Surfaces

1910.21 Definitions.
1910.22 General requirements.
1910.23 Guarding floor and wall openings and holes.
1910.24 Fixed industrial stairs.
1910.25 Portable wood ladders.
1910.26 Portable metal ladders.
1910.27 Fixed ladders.
1910.28 Safety requirements for scaffolding.
1910.29 Manually propelled mobile ladder stands and scaffolds (towers).
1910.30 Other working surfaces.

Subpart E—Means of Egress

1910.35 Definitions.
1910.36 General requirements.
1910.37 Means of egress, general.
1910.38 Employee emergency plans and fire prevention plans.
APPENDIX TO SUBPART E—MEANS OF EGRESS

Subpart F—Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms

1910.66 Powered platforms for building maintenance.
1910.67 Vehicle-mounted elevating and rotating work platforms.
1910.68 Manlifts.

Subpart G—Occupational Health and Environmental Control

1910.94 Ventilation.
1910.95 Occupational noise exposure.
1910.97 Nonionizing radiation.

Subpart H—Hazardous Materials

1910.101 Compressed gases (general requirements).
1910.102 Acetylene.
1910.103 Hydrogen.
1910.104 Oxygen.
1910.105 Nitrous oxide.
1910.106 Flammable and combustible liquids.
1910.107 Spray finishing using flammable and combustible materials.
1910.108 Dip tanks containing flammable or combustible liquids.
1910.109 Explosives and blasting agents.
1910.110 Storage and handling of liquefied petroleum gases.
1910.111 Storage and handling of anhydrous ammonia.
1910.112 [Reserved]
1910.113 [Reserved]
1910.119 Process safety management of highly hazardous chemicals.
1910.120 Hazardous waste operations and emergency response.

Subpart I—Personal Protective Equipment

1910.132 General requirements.
1910.133 Eye and face protection.
1910.134 Respiratory protection.
1910.135 Head protection.
1910.136 Foot protection.
1910.137 Electrical protective devices.
1910.138 Hand Protection.

Subpart J—General Environmental Controls

1910.141 Sanitation.
1910.143 Nonwater carriage disposal systems. [Reserved]
1910.144 Safety color code for marking physical hazards.
1910.145 Specifications for accident prevention signs and tags.
1910.146 Permit-required confined spaces.
1910.147 The control of hazardous energy (lockout/tagout).

Subpart K—Medical and First Aid

1910.151 Medical services and first aid.
1910.152 [Reserved]

Subpart L—Fire Protection

1910.155 Scope, application and definitions applicable to this subpart.
1910.156 Fire brigades.
PORTABLE FIRE SUPPRESSION EQUIPMENT
1910.157 Portable fire extinguishers.
1910.158 Standpipe and hose systems.
FIXED FIRE SUPPRESSION EQUIPMENT
1910.159 Automatic sprinkler systems.
1910.160 Fixed extinguishing systems, general.
1910.161 Fixed extinguishing systems, dry chemical.
1910.162 Fixed extinguishing systems, gaseous agent.
1910.163 Fixed extinguishing systems, water spray and foam.
OTHER FIRE PROTECTIVE SYSTEMS
1910.164 Fire detection systems.
1910.165 Employee alarm systems.
APPENDICES TO SUBPART L
APPENDIX A TO SUBPART L—FIRE PROTECTION
APPENDIX B TO SUBPART L—NATIONAL CONSENSUS STANDARDS
APPENDIX C TO SUBPART L—FIRE PROTECTION REFERENCES FOR FURTHER INFORMATION
APPENDIX D TO SUBPART L—AVAILABILITY OF PUBLICATIONS INCORPORATED BY REFERENCE IN SECTION 1910.156 FIRE BRIGADES
APPENDIX E TO SUBPART L—TEST METHODS FOR PROTECTIVE CLOTHING

Subpart M—Compressed Gas and Compressed Air Equipment

1910.166 [Reserved]
1910.167 [Reserved]
1910.168 [Reserved]
1910.169 Air receivers.

Subpart N—Materials Handling and Storage

1910.176 Handling material—general.
1910.177 Servicing multi-piece and single piece rim wheels.
1910.178 Powered industrial trucks.
1910.179 Overhead and gantry cranes.
1910.180 Crawler locomotive and truck cranes.
1910.181 Derricks.
1910.183 Helicopters.
1910.184 Slings.

Subpart O—Machinery and Machine Guarding

1910.211 Definitions.
1910.212 General requirements for all machines.
1910.213 Woodworking machinery requirements.
1910.215 Abrasive wheel machinery.
1910.216 Mills and calenders in the rubber and plastics industries.
1910.217 Mechanical power presses.
1910.218 Forging machines.
1910.219 Mechanical power-transmission apparatus.

Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment

1910.241 Definitions.
1910.242 Hand and portable powered tools and equipment, general.
1910.243 Guarding of portable powered tools.
1910.244 Other portable tools and equipment.

Subpart Q—Welding, Cutting, and Brazing

1910.251 Definitions.
1910.252 General requirements.
1910.253 Oxygen-fuel gas welding and cutting.
1910.254 Arc welding and cutting.
1910.255 Resistance welding.

Subpart R—Special Industries

1910.263 Bakery equipment.
1910.264 Laundry machinery and operations.
1910.266 Logging operations.
1910.268 Telecommunications.
1910.269 Electric power generation, transmission, and distribution.

Subpart S—Electrical

GENERAL
1910.301 Introduction.
DESIGN SAFETY STANDARDS FOR ELECTRICAL SYSTEMS
1910.302 Electric utilization systems.
1910.303 General requirements.
1910.304 Wiring design and protection.
1910.305 Wiring methods, components, and equipment for general use.
1910.306 Specific purpose equipment and installations.
1910.307 Hazardous (classified) locations.
1910.308 Special systems.
1910.309–1910.330 [Reserved]
SAFETY-RELATED WORK PRACTICES
1910.331 Scope.
1910.332 Training.
1910.333 Selection and use of work practices.
1910.334 Use of equipment.
1910.335 Safeguards for personnel protection.

1910.336–1910.360 [Reserved]
SAFETY-RELATED MAINTENANCE REQUIREMENTS
1910.361–1910.380 [Reserved]
SAFETY REQUIREMENTS FOR SPECIAL EQUIPMENT
1910.381–1910.398 [Reserved]
DEFINITIONS
1910.399 Definitions applicable to this subpart.
APPENDIX A TO SUBPART S—REFERENCE DOCUMENTS
APPENDIX B TO SUBPART S—EXPLANATORY DATA [RESERVED]
APPENDIX C TO SUBPART S—TABLES, NOTES, AND CHARTS [RESERVED]

Subparts U–Y [Reserved]

1910.442–1910.999 [Reserved]

Subpart Z—Toxic and Hazardous Substances

1910.1000 Air contaminants.
1910.1001 Asbestos.
1910.1002 Coal tar pitch volatiles; interpretation of term.
1910.1003 13 Carcinogens (4-Nitrobiphenyl, etc.)
1910.1004 alpha-Naphthylamine.
1910.1005 [Reserved]
1910.1006 Methyl chloromethyl ether.
1910.1007 3,3'-Dichlorobenzidine (and its salts).
1910.1008 bis-Chloromethyl ether.
1910.1009 beta-Naphthylamine.
1910.1010 Benzidine.
1910.1011 4-Aminodiphenyl.
1910.1012 Ethyleneimine.
1910.1013 beta-Propiolactone.
1910.1014 2-Acetylaminofluorene.
1910.1015 4-Dimethylaminoazobenzene.
1910.1016 N-Nitrosodimethylamine.
1910.1017 Vinyl chloride.
1910.1018 Inorganic arsenic.
1910.1020 Access to employee exposure and medical records.
1910.1025 Lead.
1910.1027 Cadmium.
1910.1028 Benzine.
1910.1029 Coke oven emissions.
1910.1030 Bloodborne pathogens.
1910.1043 Cotton dust.
1910.1044 1,2-dibromo-3-chloropropane.
1910.1045 Acrylonitrile.
1910.1047 Ethylene oxide.
1910.1048 Formaldehyde.
1910.1050 Methylenedianiline.
1910.1096 Ionizing radiation.
1910.1200 Hazard communication.
1910.1201 Retention of DOT markings, placards and labels.
1910.1450 Occupational exposure to hazardous chemicals in laboratories.

Appendix B to Part 1900—References to Sections of Part 1926, 29 CFR, Adopted as Occupational Safety and Health Standards Under Section 215(d) of the CAA

The following is a reference listing of the sections and subparts of Part 1926, 29 CFR, which are adopted as occupational safety and health standards under section 215(d) of the Congressional Accountability Act. Unless otherwise specifically noted, any reference to a section number includes the appendices to that section.

Part 1926—Safety and Health Regulations for Construction

Part C—General Safety and Health Provisions

Sec.
1926.20 General safety and health provisions.
1926.21 Safety training and education.
1926.22 Recording and reporting of injuries. [Reserved]
1926.23 First aid and medical attention.
1926.24 Fire protection and prevention.
1926.25 Housekeeping.
1926.26 Illumination.
1926.27 Sanitation.
1926.28 Personal protective equipment.
1926.29 Acceptable certifications.
1926.31 Incorporation by reference.
1926.32 Definitions.
1926.33 Access to employee exposure and medical records.
1926.34 Means of egress.
1926.35 Employee emergency action plans.

Subpart D—Occupational Health and Environmental Controls

1926.50 Medical services and first aid.
1926.51 Sanitation.
1926.52 Occupational noise exposure.
1926.53 Ionizing radiation.
1926.54 Nonionizing radiation.
1926.55 Gases, vapors, fumes, dusts, and mists.
1926.56 Illumination.
1926.57 Ventilation.
1926.58 [Reserved]
1926.59 Hazard communication.
1926.60 Methylenedianiline.
1926.61 Retention of DOT markings, placards and labels.
1926.62 Lead.
1926.63 Cadmium (This standard has been redesignated as 1926.1127).
1926.64 Process safety management of highly hazardous chemicals.
1926.65 Hazardous waste operations and emergency response.
1926.66 Criteria for design and construction for spray booths.

Subpart E—Personal Protective and Life Saving Equipment

1926.95 Criteria for personal protective equipment.
1926.96 Occupational foot protection.
1926.97 [Reserved]
1926.98 [Reserved]
1926.99 [Reserved]
1926.100 Head protection.
1926.101 Hearing protection.
1926.102 Eye and face protection.
1926.103 Respiratory protection.
1926.104 Safety belts, lifelines, and lanyards
1926.105 Safety nets
1926.106 Working over or near water.
1926.107 Definitions applicable to this subpart.

Subpart F—Fire Protection and Prevention

1926.150 Fire protection.
1926.151 Fire prevention.
1926.152 Flammable and combustible liquids.
1926.153 Liquefied petroleum gas (LP-Gas).
1926.154 Temporary heating devices.
1926.155 Definitions applicable to this subpart.
1926.156 Fixed extinguishing systems, general.
1926.157 Fixed extinguishing systems, gaseous agent.
1926.158 Fire detection systems.
1926.159 Employee alarm systems.

Subpart G—Signs, Signals, and Barricades

1926.200 Accident prevention signs and tags.
1926.201 Signaling.
1926.202 Barricades.
1926.203 Definitions applicable to this subpart.

Subpart H—Materials Handling, Storage, Use, and Disposal

1926.250 General requirements for storage.
1926.251 Rigging equipment for material handling.
1926.252 Disposal of waste materials.

Subpart I—Tools—Hand and Power

1926.300 General requirements.
1926.301 Hand tools.
1926.302 Power operated hand tools.
1926.303 Abrasive wheels and tools.
1926.304 Woodworking tools.
1926.305 Jacks—lever and ratchet, screw and hydraulic.
1926.306 Air Receivers.
1926.307 Mechanical power-transmission apparatus.

Subpart J—Welding and Cutting

1926.350 Gas welding and cutting.
1926.351 Arc welding and cutting.
1926.352 Fire prevention.
1926.353 Ventilation and protection in welding, cutting, and heating.
1926.354 Welding, cutting and heating in way of preservative coatings.

Subpart K—Electrical

GENERAL
1926.400 Introduction.
1926.401 [Reserved]
INSTALLATION SAFETY REQUIREMENTS
1926.402 Applicability.
1926.403 General requirements.
1926.404 Wiring design and protection.
1926.405 Wiring methods, components, and equipment for general use.
1926.406 Specific purpose equipment and installations.
1926.407 Hazardous (classified) locations.
1926.408 Special systems.
1926.409–1926.415 [Reserved]
SAFETY-RELATED WORK PRACTICES
1926.416 General requirements.
1926.417 Lockout and tagging of circuits.
1926.418-1926.430 [Reserved]
SAFETY-RELATED MAINTENANCE AND ENVIRONMENTAL CONSIDERATIONS
1926.431 Maintenance of equipment.
1926.432 Environmental deterioration of equipment.
1926.433-1926.440 [Reserved]
SAFETY REQUIREMENTS FOR SPECIAL EQUIPMENT
1926.441 Battery locations and battery charging.
1926.442-1926.448 [Reserved]
DEFINITIONS
1926.449 Definitions applicable to this subpart.

Subpart L—Scaffolding

1926.450 [Reserved]
1926.451 Scaffolding.
1926.452 Guardrails, handrails, and covers.
1926.453 Manually propelled mobile ladder stands and scaffolds (towers).

Subpart M—Fall Protection

1926.500 Scope, application, and definitions applicable to this subpart.
1926.501 Duty to have fall protection.
1926.502 Fall protection systems criteria and practices.
1926.503 Training requirements.
APPENDIX A TO SUBPART M—DETERMINING ROOF WIDTHS
APPENDIX B TO SUBPART M—GUARDRAIL SYSTEMS
APPENDIX C TO SUBPART M—PERSONAL FALL ARREST SYSTEMS
APPENDIX D TO SUBPART M—POSITIONING DEVICE SYSTEMS
APPENDIX E TO SUBPART M—SAMPLE FALL PROTECTION PLANS

Subpart N—Cranes, Derricks, Hoists, Elevators, and Conveyors

1926.550 Cranes and derricks.
1926.551 Helicopters.
1926.552 Material hoists, personnel hoists and elevators.
1926.553 Base-mounted drum hoists.

1926.554 Overhead hoists.
1926.555 Conveyors.
1926.556 Aerial lifts.

Subpart O—Motor Vehicles and Mechanized Equipment

1926.600 Equipment.
1926.601 Motor vehicles.
1926.602 Material handling equipment.
1926.603 Pile driving equipment.
1926.604 Site clearing.

Subpart P—Excavations

1926.650 Scope, application, and definitions applicable to this subpart.
1926.651 Specific Excavation Requirements.
1926.652 Requirements for protective systems.
APPENDIX A TO SUBPART P—SOIL CLASSIFICATION
APPENDIX B TO SUBPART P—SLOPING AND BENCHING
APPENDIX C TO SUBPART P—TIMBER SHORING FOR TRENCHES
APPENDIX D TO SUBPART P—ALUMINUM HYDRAULIC SHORING FOR TRENCHES
APPENDIX E TO SUBPART P—ALTERNATIVES TO TIMBER SHORING
APPENDIX F TO SUBPART P—SELECTION OF PROTECTIVE SYSTEMS

Subpart Q—Concrete and Masonry Construction

1926.700 Scope, application, and definitions, applicable to this subpart.
1926.701 General requirements.
1926.702 Requirements for equipment and tools.
1926.703 Requirements for cast-in-place concrete.
1926.704 Requirements for precast concrete.
1926.705 Requirements for lift-slab construction operations.
1926.706 Requirements of masonry construction.
APPENDIX TO SUBPART Q—REFERENCES TO SUBPART Q OF PART 1926

Subpart R—Steel Erection

1926.750 Flooring requirements.
1926.751 Structural steel assembly.
1926.752 Bolting, riveting, fitting-up, and plumbing-up.
1926.753 Safety Nets.

Subpart S—Tunnels and Shafts, Caissons, Cofferdams, and Compressed Air

1926.800 Underground construction.
1926.801 Caissons.
1926.802 Cofferdams.
1926.803 Compressed air.
1926.804 Definitions applicable to this subpart.
APPENDIX A TO SUBPART S—DECOMPRESSION TABLES

Subpart T—Demolition

1926.850 Preparatory operations.
1926.851 Stairs, passageways, and ladders.
1926.852 Chutes.
1926.853 Removal of materials through floor openings.
1926.854 Removal of walls, masonry sections, and chimneys.
1926.855 Manual removal of floors.
1926.856 Removal of walls, floors, and material with equipment.
1926.857 Storage.
1926.858 Removal of steel construction.
1926.859 Mechanical demolition.
1926.860 Selective demolition by explosives.

Subpart U—Blasting and Use of Explosives

1926.900 General provisions.
1926.901 Blaster qualifications.
1926.902 Surface transportation of explosives.
1926.903 Underground transportation of explosives.
1926.904 Storage of explosives and blasting agents.
1926.905 Loading of explosives or blasting agents.
1926.906 Initiation of explosive charges—electric blasting.
1926.907 Use of safety fuse.
1926.908 Use of detonating cord.
1926.909 Firing the blast.
1926.910 Inspection after blasting.
1926.911 Misfires.
1926.912 Underwater blasting.
1926.913 Blasting in excavation work under compressed air.
1926.914 Definitions applicable to this subpart.

Subpart V—Power Transmission and Distribution

1926.950 General requirements.
1926.951 Tools and protective equipment.
1926.952 Mechanical equipment.
1926.953 Material handling.
1926.954 Grounding for protection of employees.
1926.955 Overhead lines.
1926.956 Underground lines.
1926.957 Construction in energized substations.
1926.958 External load helicopters.
1926.959 Lineman's body belts, safety straps, and lanyards.
1926.960 Definitions applicable to this subpart.

Subpart W—Rollover Protective Structures; Overhead Protection

1926.1000 Rollover protective structures (ROPS) for material handling equipment.
1926.1001 Minimum performance criteria for rollover protective structures for designated scrapers, loaders, dozers, graders, and crawler tractors.
1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction.
1926.1003 Overhead protection for operators of agricultural and industrial tractors.

Subpart X—Stairways and Ladders

1926.1050 Scope, application, and definitions applicable to this subpart.
1926.1051 General Requirements.
1926.1052 Stairways.
1926.1053 Ladders.
1926.1054–1926.1059 [Reserved]
1926.1060 Training Requirements
APPENDIX A TO SUBPART X—LADDERS

Subpart Z—Toxic and Hazardous Substances

1926.1100 [Reserved]
1926.1101 Asbestos
1926.1102 Coal tar pitch volatiles; interpretation of term.
1926.1103 4-Nitrobiphenyl.
1926.1104 alpha-Naphthylamine.
1926.1105 [Reserved]
1926.1106 Methyl chloromethyl ether.
1926.1107 3.3'-Dichlorobenzidine (and its salts).
1926.1108 bis-Chloromethyl ether.
1926.1109 beta-Naphthylamine.
1926.1110 Benzidine.
1926.1111 4-Aminodiphenyl.
1926.1112 Ethyleneimine.
1926.1113 beta-Propiolactone.
1926.1114 2-Acetylaminofluorene.
1926.1115 4-Dimethylaminoazobenzene.
1926.1116 N-Nitrosodimethylamine.
1926.1117 Vinyl chloride.
1926.1118 Inorganic arsenic.
1926.1127 Cadmium.
1926.1128 Benzene.
1926.1129 Coke oven emissions.
1926.1144 1,2-dibromo-3-chloropropane.
1926.1145 Acrylonitrile.
1926.1147 Ethylene oxide.
1926.1148 Formaldehyde.
APPENDIX A TO PART 1926—DESIGNATIONS FOR GENERAL INDUSTRY STANDARDS

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5210. A letter from the Secretaries of Education and Labor, transmitting a report on activities carried out under the School-to-Work Opportunities Act; to the Committee on Economic and Educational Opportunities.

5211. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans and Redesignation of Puget Sound, Washington, for Air Quality Planning Purposes: Ozone [FRL–5613–3] received September 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5212. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Approval and Promulgation of State Implementation Plan for Montana; Libby Moderate PM10 Nonattainment Area [FRL–5609–8] received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5213. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Operating Permits Program Interim Approval Extensions [FRL–5612–3] received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5214. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Delaware; Final Approval of State Underground Storage Tank Program [FRL–5614–6] received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5215. A letter from the Inspector General, Environmental Protection Agency, transmitting the annual report to Congress summarizing the Office of Inspector General's work in the Environmental Protection Agency's Superfund Program for fiscal 1995, pursuant to Public Law 99–499, section 120(e)(5) (100 Stat. 1669); to the Committee on Commerce.

5216. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Oman (Transmittal No. 28–96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

5217. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Oman (Transmittal No. 25–96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

5218. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting memorandum of justification for use of section 506(a)(2) special authority to draw down articles, services, and military education and training, pursuant to Public Law 101–513, section 547(a) (104 Stat. 2019); to the Committee on International Relations.

5219. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting memorandum of justification for use of section 506(a)(2) special authority to draw down articles, services, and military education and training, pursuant to Public Law 101–513, section 547(a) (104 Stat. 2019); to the Committee on International Relations.

5220. A letter from the General Counsel, Federal Emergency Management Agency, transmitting notification of an altered system report to amend an existing routine use in the Federal Emergency Management Agency's Privacy Act system of records entitled, "FEMA/REG–2, Disaster Recovery Assistance Files," pursuant to 5 U.S.C. 552a(e)(11); to the Committee on Government Reform and Oversight.

5221. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Migratory Bird Hunting; Seasons and Bag Limits for the 1996–97 Youth Waterfowl Hunting Day (RIN: 1018–AD69) received September 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5222. A letter from the General Counsel, Department of Energy, transmitting the Department's final rule—Western Area Power Administration's Policy for the Purchase of Non-Hydropower Renewable Resources (6450–01–P) received September 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5223. A letter from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting notification that the Secretary of the Army has approved the Poplar Island, MD, beneficial use of dredged material project; to the Committee on Transportation and Infrastructure.

5224. A letter from the Chief Counsel, Bureau of the Public Debt, transmitting the Bureau's final rule—Government Securities Act Regulations: Large Position Rule (RIN: 1505–AA53) received September 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5225. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Compliance with Tax-Exempt Bond Arbitrage Requirements (Notice 96–49) received September 18, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5226. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Regulatory Reinvention Initiative—Request for Comments (Notice 96–35) received September 12, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5227. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the Department's intent to provide $100,000 in fiscal year 1996 funds made available under chapter 6 of part II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, in the form of a voluntary contribution to the International Organization for Migration [IOM] for the use of the Commission for Real Property Claims of Displaced Persons and Refugees in Bosnia and Herzegovina, pursuant to 22 U.S.C. 2394–1(a); jointly, to the Committees on International Relations and Appropriations.

5228. A letter from the Executive Director, Office of Compliance, transmitting notice of proposed rulemaking for publication in the CONGRESSIONAL RECORD, pursuant to Public law 104–1, section 303(b) (109 Stat. 38); jointly, to the Committees on House Oversight and Economic and Educational Opportunities.

5229. A letter from the Board of Directors, Office of Compliance, transmitting notice of proposed rulemaking for publication in the CONGRESSIONAL RECORD, pursuant to Public Law 104–1, section 304(b)(1) (109 Stat. 29); jointly, to the Committees on House Oversight and Economic and Educational Opportunities.

5230. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled "Military Beneficiaries Medicare Reimbursement Model Project Act of 1996"; jointly, to the Committees on Ways and Means, National Security, and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3828. A bill to amend the Indian Child Welfare Act of 1978, and for other purposes (Rept. 104–808). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. House Resolution 525. Resolution waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, and for other purposes (Rept. 104–809). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WILLIAMS (for himself and Mr. OXLEY):

H.R. 4114. A bill to improve and expand the system of safety of precautions that protects the welfare of professional boxers, to assist State boxing commissions to provide proper oversight for professional boxing, and for other purposes; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRAZER (for himself, Ms. MCKINNEY, Mr. OWENS, Mr. LEWIS of Georgia, Ms. WATERS, Mr. MORAN, Mr. RUSH, Mr. LAFALCE, Mrs. CLAYTON, Mr. FALEOMAVAEGA, Ms. BROWN of Florida, Mr. GENE GREEN of Texas, Mr. HINCHEY, Mr. BROWN of Ohio, Mr. HASTINGS of Florida, Mr. WATT of North Carolina, Mr. SERRANO, Mr. RANGEL, Ms. KAPTUR, Mr. WARD, Mr. MARKEY, Mr. STUPAK, Mr. WYNN, Mr. CUMMINGS, Mrs. MEEK of Florida, Ms. JACKSON-LEE of Texas, and Mr. JEFFERSON):

H.R. 4115. A bill to require the Director of the Federal Emergency Management Agency to study the feasibility of a Residential Windstorm Insurance Program designed to provide windstorm insurance to residential property owners unable to obtain coverage in the private market and to require a study by the Comptroller General of the United States, the Secretary of the Treasury, and the Secretary of Commerce to evaluate the public policy issues associated with conferring favorable Federal tax treatment to insurance reserves set aside by private insurers for future catastropic natural disasters; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NADLER (for himself, Mr. SCHUMER, Mr. TOWNS, Mrs. MALONEY, and Ms. LOFGREN):

H.R. 4117. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. HANSEN:

H.R. 4118. A bill to amend the Antiquities Act to limit the authority of the President to designate areas in excess of 5,000 acres as national monuments, and for other purposes; to the Committee on Resources.

By Mr. CHAMBLISS:

H.R. 4119. A bill to designate the Federal building and U.S. courthouse located at 475 Mulberry Street in Macon, GA, as the "William Augustus Bootle Federal Building and United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mrs. CHENOWETH (for herself and Mr. CRAPO):

H.R. 4120. A bill to prohibit further extension or establishment of any national monument in Idaho without full public participation and an express act of Congress, and for other purposes; to the Committee on Resources.

By Mr. FRANK of Massachusetts:

H.R. 4121. A bill to amend title 18, United States Code, to penalize those who endanger children in hostage situations; to the Committee on the Judiciary.

By Mr. GUTIERREZ (for himself, Mr. EVANS, Mrs. MEEK of Florida, Mr. FILNER, Mr. DELLUMS, Mr. ABERCROMBIE, Ms. NORTON, Mr. SERRANO, Mr. CONYERS, Mr. FRANK of Massachusetts, Mr. HILLIARD, Ms. WATERS, Mr. STARK, Mr. TORRES, Mr. GONZALEZ, Mr. PASTOR, Mr. PAYNE of New Jersey, and Ms. ROYBAL-ALLARD):

H.R. 4122. A bill to rescind restrictions on welfare and public benefits for legal immigrants enacted by title 4 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, to reduce corporate welfare, to strengthen tax provisions regarding persons who relinquish U.S. citizenship, and for other purposes; to the Committee on Ways and Means.

By Mr. KENNEDY of Massachusetts:

H.R. 4123. A bill to amend certain provisions of law relating to child pornography, and for other purposes; to the Committee on the Judiciary.

By Mr. KLINK (for himself, Mr. MURTHA, Mr. LEWIS of Georgia, Mr. BARRETT of Wisconsin, Mr. OWENS, Mr. LAFALCE, Mr. HILLIARD, Mr. DELLUMS, and Mr. EVANS):

H.R. 4124. A bill to amend the Internal Revenue Code of 1986 to provide that the denial of deduction for excessive employee compensation shall apply to all employees and to expand the types of compensation to which such denial applies; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mr. ANDREWS, Mr. BALDACCI, Mr.

BARRETT of Wisconsin, Mr. BERMAN, Mr. BLUMENAUER, Mr. BONIOR, Mr. BORSKI, Mr. BROWN of California, Mrs. CLAYTON, Mr. CONYERS, Mr. DEFAZIO, Mr. DELLUMS, Mr. DURBIN, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEJDENSON, Mr. GEPHARDT, Mr. GENE GREEN of Texas, Mr. GUTIERREZ, Mr. HEFNER, Mr. HILLIARD, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. KAPTUR, Mr. KENNEDY of Massachusetts, Mr. LAFALCE, Mr. LANTOS, Mr. LEWIS of Georgia, Mr. LIPINSKI, Ms. LOFGREN, Mr. MANTON, Mr. MARKEY, Mr. MCDERMOTT, Ms. MCKINNEY, Mrs. MINK of Hawaii, Mr. MOAKLEY, Mr. MORAN, Mr. MURTHA, Mr. OBEY, Mr. OLVER, Mr. OWENS, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. RANGEL, Ms. RIVERS, Ms. ROYBAL-ALLARD, Mr. SAWYER, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SERRANO, Ms. SLAUGHTER, Mr. SPRATT, Mr. TORRICELLI, Mr. UNDERWOOD, Mr. VENTO, Mr. WATT of North Carolina, Ms. WOOLSEY, and Mr. YATES):

H.R. 4125. A bill to inform and empower consumers in the United States through a voluntary labeling system for wearing apparel and sporting goods made without abusive and exploitative child labor, and for other purposes; to the Committee on Commerce.

By Mr. BAKER of California (for himself, Mr. FAZIO of California, Mr. RADANOVICH, Mr. DOOLEY, Mr. RIGGS, Mr. MATSUI, Mrs. SEASTRAND, Mr. FARR, Mr. DREIER, Mr. FILNER, Mr. KIM, Mr. MILLER of California, Mr. CALVERT, Ms. HARMAN, Mr. BILBRAY, Ms. LOFGREN, Mr. GALLEGLY, Mr. STARK, Mr. PACKARD, Ms. PELOSI, Mr. MCKEON, Ms. ESHOO, Mr. HORN, Mr. DIXON, Mr. THOMAS, Mr. WAXMAN, Mr. COX, Mr. CONDIT, Mr. ROHRABACHER, Ms. ROYBAL-ALLARD, Mr. CUNNINGHAM, Mr. DELLUMS, Mr. HERGER, Mr. BROWN of California, Mr. LANTOS, Ms. WATERS, Mr. BERMAN, Ms. WOOLSEY, Mr. MARTINEZ, and Ms. MILLENDER-MCDONALD):

H.R. 4126. A bill to support the California-Federal [CALFED] Bay-Delta Program in developing, funding and implementing a balanced, long-term solution to the problems of ecosystem quality, water quality, water supply, and reliability, and system vulnerability affecting the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (the Bay-Delta) in California; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LINDER:

H. Res. 524. Resolution relating to a question of the privileges of the House; laid on the table.

By Mr. LEWIS of Georgia:

H. Res. 526. Resolution relating to a question of the privileges of the House; laid on the table.

By Mr. MCINTOSH:

H. Res. 527. Resolution relating to breast implants, the Food and Drug Administration, and public health; to the Committee on Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. YOUNG of Alaska:

H.R. 4116. A bill to provide for the issuance of a noncompetitive oil and gas lease for certain lands; to the Committee on Resources.

By Mr. MCNULTY:

H.R. 4127. A bill for the relief of David R. W. Light; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 103: Mr. WAMP and Mr. LANTOS.

H.R. 127: Mr. BRYANT of Texas.

H.R. 303: Mr. PALLONE.

H.R. 820: Mrs. MORELLA and Mr. SOUDER.

H.R. 878: Ms. LOFGREN.

H.R. 895: Mr. LEACH, Mr. HASTINGS of Washington, Mr. PETE GEREN of Texas, Mr. MASCARA, Mr. HAYWORTH, Mr. CLEMENT, and Mr. ENSIGN.

H.R. 974: Mrs. LOWEY.

H.R. 1073: Mr. RAMSTAD and Mr. BARCIA of Michigan.

H.R. 1074: Mr. RAMSTAD and Mr. FOX.

H.R. 1090: Mr. SCHIFF and Mr. LEWIS of Georgia.

H.R. 1161: Mr. HOUGHTON.

H.R. 1619: Mr. LONGLEY.

H.R. 2019: Mr. MASCARA.

H.R. 2152: Mr. SAXTON and Mr. CHAMBLISS.

H.R. 2450: Ms. DUNN of Washington.

H.R. 2508: Mr. PICKETT, Mr. NETHERCUTT, and Mr. CREMEANS.

H.R. 2535: Mr. HALL of Texas.

H.R. 2579: Mr. HOKE.

H.R. 2582: Mr. DAVIS.

H.R. 2585: Mrs. MORELLA.

H.R. 2651: Mr. NEUMANN.

H.R. 2741: Mrs. MEYERS of Kansas and Mrs. JOHNSON of Connecticut.

H.R. 2757: Mr. PASTOR.

H.R. 2979: Mr. BOEHLERT and Mr. BENTSEN.

H.R. 2992: Mr. KING.

H.R. 3142: Mrs. LINCOLN.

H.R. 3195: Mr. TAYLOR of Mississippi.

H.R. 3355: Mr. EVANS.

H.R. 3374: Ms. SLAUGHTER.

H.R. 3482: Mr. HILLIARD, Mr. MILLER of California, Mr. BARRETT of Wisconsin, and Mr. FROST.

H.R. 3522: Mr. RUSH, Miss COLLINS of Michigan, and Mr. SERRANO.

H.R. 3559: Mr. TRAFICANT, Mr. EHLERS, Mr. MCINTOSH, Ms. DUNN of Washington, Mrs. CHENOWETH, and Mr. MCHUGH.

H.R. 3601: Mr. PARKER, Mr. LAUGHLIN, Mr. LUCAS, Mr. STENHOLM, and Mr. MCCRERY.

H.R. 3631: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCCOLLUM, Mr. LEWIS of Georgia, Mr. DEAL of Georgia, Mr. WATT of North Carolina, Mrs. COLLINS of Illinois, and Mr. JACKSON.

H.R. 3654: Mr. NEY, Mr. BURTON of Indiana, and Mr. HOUGHTON.

H.R. 3714: Mr. DOOLEY, Mr. HASTINGS of Florida, Mr. BREWSTER, Mr. DURBIN, and Mr. EVANS.

H.R. 3766: Mr. ENGEL.

H.R. 3817: Mr. MYERS of Indiana, Mr. BRYANT of Tennessee, Mr. KLINK, Mr. SAXTON, Mr. POMBO, Mr. SOUDER, and Mr. HOLDEN.

H.R. 3831: Mr. TRAFICANT.

H.R. 3839: Mr. KENNEDY of Rhode Island, Mr. TRAFICANT, and Mr. SPRATT.

H.R. 3856: Mr. STUPAK.

H.R. 3937: Mr. STUMP, Mr. FRELINGHUYSEN, Mr. CRANE, Mr. FROST, Mr. PETE GEREN of Texas, and Mr. SANDERS.

H.R. 3996: Mr. WALSH.

H.R. 4001: Mr. SERRANO.

H.R. 4006: Mr. COX.

H.R. 4035: Mr. LIPINSKI and Ms. RIVERS.

H.R. 4046: Mr. TAYLOR of North Carolina, Mrs. MEEK of Florida, Mr. FILNER, and Mr. FROST.

H.R. 4047: Mr. ENSIGN, Mr. LEACH, Mr. DEUTSCH, Mr. GORDON, Mr. WAXMAN, Mrs. THURMAN, Mr. MILLER of California, Ms. SLAUGHTER, Mr. OLVER, Mr. DELLUMS, Ms. LOFGREN, and Mr. GEJDENSON.

H.R. 4068: Mr. STEARNS, Mr. HUTCHINSON, Mr. SMITH of New Jersey, Mr. KENNEDY of Massachusetts, Mr. FLANAGAN, Mr. CLEMENT, Mr. WELLER, Mr. FILNER, Mr. HAYWORTH, Mr. CLYBURN, Mr. COOLEY, Mr. DOYLE, Mr. MASCARA, Mr. BAESLER, Ms. BROWN of Florida, Mr. FOX, Mr. BARR, Mr. NEY, Mr. CALLAHAN, Mr. KOLBE, and Mr. SAM JOHNSON.

H.R. 4090: Mr. BUNNING of Kentucky.

H.R. 4102: Mr. BREWSTER, Mr. SMITH of Michigan, Ms. DANNER, Mr. EVANS, Mr. PASTOR, Mr. WATTS of Oklahoma, Mr. THORNBERRY, Mr. STENHOLM, Mr. BALDACCI, Mr. HOLDEN, Mr. OXLEY, Mr. THOMAS, Mr. BONO, Mr. WAMP, Mr. HOSTETTLER, and Mr. DINGELL.

H.R. 4111: Mr. BLUTE.

H.J. Res. 194: Ms. NORTON.

H. Con. Res. 63: Mr. FRELINGHUYSEN.

H. Con. Res. 175: Mr. GORDON.

H. Con. Res. 212: Mr. CHABOT.

H. Res. 491: Ms. ROYBAL-ALLARD, Mr. OWENS, and Mrs. LOWEY.

H. Res. 518: Miss COLLINS of Michigan, Mr. ABERCROMBIE, Mr. FRAZER, Ms. JACKSON-LEE, Mr. HASTINGS of Florida, Mr. THOMPSON, Mr. SCOTT, Mr. JEFFERSON, Mr. BISHOP, Mr. HILLIARD, Mr. LEWIS of Georgia, Mr. PAYNE of New Jersey, Ms. MCKINNEY, Ms. ROYBAL-ALLARD, and Ms. BROWN of Florida.

H. Res. 520: Mr. CLYBURN, Mr. BARRETT of Wisconsin, Mr. SANDERS, Ms. DANNER, Mr. DELLUMS, Mr. JACKSON, Mr. FATTAH, Mrs. MEEK of Florida, Mr. WYNN, Mr. FORD, Mr. TORRES, Mr. ORTIZ, Mr. TEJEDA, Mr. RUSH, Mr. EVANS, Mr. JEFFERSON, Mr. THOMPSON, Mrs. CLAYTON, Mr. BISHOP, Miss COLLINS of Michigan, Mr. GUTIERREZ, Mr. SERRANO, Mr. HASTINGS of Florida, Ms. BROWN of Florida, Ms. JACKSON-LEE, Ms. WOOLSEY, Ms. ROYBAL-ALLARD, Mr. BERMAN, Mr. MILLER of California, Mr. PAYNE of New Jersey, Mr. WAXMAN, Ms. SLAUGHTER, Ms. ESHOO, Ms. MCKINNEY, Mr. HINCHEY, Mr. STOKES, Mr. FAZIO of California, Mr. NADLER, Mr. ABERCROMBIE, Mr. ROSE, MR. SCOTT, Mr. FARR, and Mr. OWENS.

H. Res. 521: Mr. MATSUI, Mr. TRAFICANT, Ms. PELOSI, Mr. BOUCHER, Mrs. MALONEY, and Mr. FROST.

SENATE—*Thursday, September 19, 1996*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, make us maximum for the demanding responsibilities and relationships of this day. We say with the Psalmist, "The Lord is my strength and my shield; my heart trusted in Him, and I am helped; therefore, my heart greatly rejoices."—(Psalm 28:7).

Lord, our day is filled with challenges and decisions that will test our own knowledge and experience. We dare not only trust in our own understanding. In the quiet of this moment fill our inner wells with Your spirit. Our deepest desire is to live today for Your glory and by Your grace.

We praise You that it is Your desire to give good gifts to those who ask You. You give strength and courage when we seek You above anything else. You guide the humble and teach them Your way. We open our minds to receive Your inspiration. Astound us with new insight and fresh ideas we would not conceive without Your blessing. When we truly seek You and really desire Your will, You do guide us in what to ask. When we ask what You guide, You provide. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, today there will be a period for morning business until the hour of 11 a.m. Following morning business, at 11 the Senate will resume consideration of S. 39, the Magnuson fisheries bill. At that time there will be 4 minutes of debate time remaining on the Hutchison amendment. Following that debate time, the Senate will proceed to two consecutive votes, first in relation to the Hutchison amendment, if necessary, to be followed by a vote on passage of S. 39, as amended.

I want to say again how much I appreciate the good work that has been done on this legislation. This is very important conservation legislation that will help protect our fisheries and at the same time make them available for commercial fishermen and recreational fishermen. A lot of good work has been done by the Senator from Alaska, Senator STEVENS, and the Senators from Washington, and the Senator from Massachusetts, Senator KERRY. Senator HUTCHISON is very much involved. I think they have done really good work. I am pleased we are going to be able to complete this legislation this morning.

Following disposition of those votes, the Senate will then be asked to turn to the consideration of any of the following items—the maritime bill, H.R. 1350, the pipeline safety bill, and any available appropriations bills or conference reports. In the case of appropriations bills, if we could work out some sort of agreement as to how to proceed; otherwise, we may have a conference report come over from the House, perhaps today, the VA-HUD appropriations bill. I know they were trying to wrap it up last night or early this morning. The House hopes to be able to vote on that this afternoon, I believe.

Therefore, votes can be expected throughout today's session on these items or others that may be cleared. I will continue to make an effort to notify Members as early in the evening as possible as to what time we are going to finish up or whether or not there will be any additional votes, as we did at 6 o'clock last night when we notified Members there would be debate but no further votes. We will try to do that again tonight.

MEASURE PLACED ON THE CALENDAR—SENATE JOINT RESOLUTION 61

Mr. LOTT. Mr. President, I understand there is a resolution at the desk that is due for its second reading.

The PRESIDING OFFICER (Mr. SMITH). The clerk will read the resolution.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 61) granting the consent of Congress to the Emergency Management Assistance Compact.

Mr. LOTT. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The resolution will be placed on the Calendar of General Orders.

Mr. LOTT. I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUSTAINABLE FISHERIES ACT

Mr. MURKOWSKI. Mr. President, I rise to support the measure, S. 39, which is a bill to reauthorize and revitalize the Fisheries Conservation and Management Act, also known as the Magnuson Act. This is without a doubt one of the most important conservation bills that has come before this Congress, along with the nuclear waste bill.

The text of the bill before us, which was discussed at some length last night, has changed a good deal since the bill that I had the honor to cosponsor along with Senator STEVENS and Senator KERRY, in the final days of the 103d Congress. And almost 2 years since that day, Senator STEVENS and Senator KERRY have led, I think, a remarkable, bipartisan effort to resolve other Members' problems with the bill as originally introduced. I would like to commend both of them. I would like to also recognize the cooperation of Senator MURRAY, Senator GORTON, of course our leader, Senator LOTT, and many others who worked to bring this about.

I cannot say I am completely satisfied with all the changes that have been necessary to accommodate the interests of various Members but that how the process of legislating works. However, I can say that I have watched and participated in the evolution of this legislation with very close attention. I am confident the managers have made every possible effort to make those accommodations without violating the intent of and the integrity of the bill.

I also want to recognize the tremendous efforts that have been made by others, including Bill Woolf of my staff, and the staffs of Senator STEVENS and others, to bring this to fulfillment.

The fishing industry itself, the industry groups, the environmental community, and others who have participated in this bill to this point also deserve recognition. For without that cooperative effort, we would not be where we are today, ready to culminate this effort in a floor vote.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

My efforts in connection with this bill have largely focused on certain issues that have recently exploded in national prominence: fisheries bycatch and discard—in other words, the incidental catch that is picked up as the preferred species is pursued, and the disposed of by discarding it over the side of the fishing vessel.

My first association with that came as a consequence of being appointed by Senator Dole to represent the U.S. Senate at the United Nations. I learned of a report by the Food and Agriculture Organization of the United Nations that indicated that a world total fishery landing figures of about 83 million metric tons did not include the 27 million metric tons of incidental catch discarded overboard. The grand total of fish caught, I learned, could easily exceed the sustainable harvest level of the world's oceans by as much as 10 million metric tons.

Such incidental catch, Mr. President, is simply thrown over the side, back into the ocean. And it is not thrown over alive, it is thrown over dead. While it makes food for other fish, it is still an excessive waste. So what we are looking at is a total catch of about 110 million metric tons of which we discard 27 million metric tons and retain and consume 83 million metric tons.

The scientists tell us the ocean is capable of producing—on a renewable basis—about 100 million metric tons. Well, one can quickly see the possibility that we are overfishing the oceans of the world by about 10 million metric tons.

If we could just address the discard, to reduce that tonnage, we could get this thing in balance. That was of particular interest and a role that I played. I introduced the first bill to address bycatch and discard back in 1993. Today, almost 3 years later, I am pleased to say that we are finally on the verge of taking action. The bill before us follows the lead of my earlier efforts by establishing a new national standard calling for bycatch to be avoided, where possible, and where it cannot be avoided for steps to minimize the resulting fisheries mortalities. We focused in on this issue. This will put us on the road to reducing and, hopefully, stopping the shameful waste that is currently occurring in many fisheries.

Following this principle, my good friend, Senator STEVENS, has also authored a separate section of the bill for Alaska only, which calls for annual bycatch reductions in the Gulf of Alaska and in the Bering Sea off Alaska.

Among other provisions, this bill will improve fisheries conservation and utilization, on which so many individuals in our coastal communities depend. It will for the first time address the problem of overfishing by requiring corrective action to be taken when a fishery is or is in danger of becoming overfished. It will also strengthen the fisheries management process by improving the way that regional fishery councils function, improve the way fisheries research is conducted and make many other changes of great importance and urgent need.

Mr. President, two issues which have been most contentious during this reauthorization process are the prospects for a new type of fishery limitation called an individual fishing quota program, and for a community development quota program intended to pass through some of the benefits from fisheries in the Bering Sea to disadvantaged, largely small native communities in that area.

In Alaska, and elsewhere, there has been considerable debate on redesigning fishery management using an individual fishing quota system. I will not attempt to get into the level of detail necessary to explain how this would differ from the existing system of management. Suffice it to say that supporters believe this would solve most of today's problems of overcapitalized fisheries with the least Government interference, and opponents claim it would not only be costly to the Government but hugely unfair to those who are excluded and to communities dependent on fishing.

The bill before us represents a compromise between these two positions. It contains a moratorium on new individual fishing quota systems, and a comprehensive study of their potential—that is both good and bad—and of their actual impacts in those cases where they have already been used. I believe this is a compromise worthy of our support as a Senate body.

In the case of the community development program proposal, we also see the results of sensible, needed compromise. The bill before us today provides a mechanism to assign some of the volume of fish coming from Bering Sea fisheries to the task of helping provide a stable, permanent economic base for some of the poorest, most disadvantaged communities in the country. This is a very worthy goal, and it is also one that I believe deserves the support of my colleagues.

Finally, there are far too many other specifics in this bill to recount them all, or to provide my views on each and every issue the bill addresses. -Instead, let me close with this: If there is anything on which we can agree, it is the need for productive, healthy oceans. That is the goal of this bill, and this bill is Congress' farthest ever reach toward reaching it. Let's not waste the opportunity.

Finally, let me note that my good friend and colleague, the senior Senator, Senator STEVENS, worked with the late Senator Magnuson on the original formulation of this bill. I personally feel that this legislation should be referred to as the Magnuson-Stevens legislation, but recognizing the lateness of the date for such a change, I will reserve that name for my own thoughts about it.

I do want to congratulate my senior colleague for his tireless efforts, and that of his staff, as well as many other Senators, to bring this bill before the Senate today. Needless to say, I urge its successful passage.

I yield the floor.

Mr. CRAIG. Mr. President, we are now in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. CRAIG. Mr. President, I will speak no more than 5 minutes, but I ask unanimous consent Senator KENNEDY follow me for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. CRAIG pertaining to the introduction of S. 2092 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

IMMIGRATION

Mr. KENNEDY. Mr. President, Republicans in Congress say they want to work out an immigration bill that can become law. Yet, the only negotiations now going on are between Republicans and Republicans. The struggling Dole campaign is desperately trying to keep the poison pill Gallegly amendment in the bill, over the objections of many Republicans who want to deal responsibly with illegal immigration. Dr. Dole is prescribing a poison pill, but Congress doesn't have to swallow it.

The record is clear. Members of both parties have worked together effectively and intensively for the past 2 years to develop bipartisan legislation to address the crisis in illegal immigration, and it is irresponsible for Bob Dole to sabotage the possibility of agreement.

This bill had its origin in the work of the bipartisan Jordan commission, which conducted extensive hearings and produced a comprehensive set of recommendations in September 1994.

Senator SIMPSON then conducted extensive Judiciary Committee hearings in 1995 on needed enforcement at the border, and on measures to deny jobs to illegal immigrants and prevent document fraud. The Immigration Subcommittee held 3 days of markup in June 1995 and again in November.

The full Judiciary Committee considered almost 150 amendments during 8 days in February and March 1996.

The full Senate adopted by the bill by an overwhelming vote of 97 to 3 in May, after almost 2 weeks of intense debate.

So we know how to work together to develop responsible legislation to combat illegal immigration. But instead of working together in this final stage, Republicans Tuesday canceled our immigration meeting at the last minute.

So far, Republicans are still fighting among themselves because of Bob Dole's irresponsible 11th hour intervention to salvage his campaign by sinking the bill, so that President Clinton will not have this bill to sign.

We need a bill that is tough at the border and tough in the workplace, not tough on children. We need a bill that tackles the problem of document fraud head on, so that illegal immigrants can no longer steal American jobs by using counterfeit documents to pose as legal workers. We need a bill that continues to protect Americans and legal immigrants from job discrimination. We need a bill that preserves the ability of American citizens to bring close family members to the United States.

We need a bill that protects all refugees from exclusion, not just those from Cuba. We need a bill that treats legal immigrants fairly under the welfare laws.

The current Republican bill winks at unscrupulous employers, and then lowers the boom on innocent school children through the Gallegly amendment.

The Nation's police officers and educators vigorously oppose the Gallegly amendment, and for good reason. As Chief of Police Jerry Sanders of San Diego wrote in his June 25 letter to Congress:

> If the proposed legislation becomes law, thousands of children may be turned away from school. Many of these children will be drawn to trouble or victimized by it, and I believe that both gang activity and juvenile crime will increase. I hope you will take these factors into consideration, and I encourage you to oppose the legislation.

Expelling children from school and dumping them on the street is no solution to the problem of illegal immigration, and is not even a partial solution. It will only make other problems worse. The cost to America in crime and other social costs will be immense.

A UCLA study found that each student kicked out of school will cost the Los Angeles government $6,100 in police costs, judicial and penal costs, and health, welfare, and employment services.

Teenage pregnancy rates rise dramatically when students leave school. The pregnancy rate for teenagers in school is 8 percent, compared with 41 percent for those who are out of school. The result is huge costs in emergency medical services, intensive care for babies born prematurely to teenage mothers, and welfare costs for the children.

Every major study of illegal immigration reaches the same conclusion. The reason illegal immigrants come to the United States is for jobs. Jobs are the overwhelming magnet. They don't come so that their children can attend U.S. schools.

That was the conclusion of the 1976 report of the Ford administration's Domestic Council Committee on Illegal Immigration. That was the conclusion of the 1981 report of Select Commission on Immigration and Refugee Policy chaired by Father Theodore Hesburgh. That was the conclusion of the Bush administration survey of illegal immigrants in 1992. That was the conclusion of the Barbara Jordan commission in 1994. That was the conclusion this year of a study by the Center for Population Research at the National Institutes of Health, which concluded that "the estimated value of welfare, medical, and educational benefits that migrants could expect to receive in the United States had no clear relationship to the likehood of migrating."

Expelling children from school won't prevent illegal immigration. Some 80 percent of the children have brothers or sisters or parents who are legally in the United States or who may even be citizens. These families have roots here, and the Gallegly amendment won't make them leave.

Some versions of the Gallegly amendment have proposed that States charge tuition, rather than expelling children from school. The average cost of public school is $5,600 per child per year. Charging tuition is the same as kicking children out of school. Their parents can't afford tuition, even if they were willing to identify themselves by writing a check.

The Gallegly amendment is only the beginning of the problems with the current Republican bill. Republicans have kowtowed to special business interests and eliminated needed provisions to protect American jobs from illegal workers. In fact, for American workers under the Republican bill, it is three strikes and you're out.

First, the bill denies the Department of Labor the additional inspectors needed to make sure employers obey the law. The Senate bill added 350 more inspectors, a 50-percent increase. The House bill contained a similar increase when it was approved by the House Judiciary Committee. But under pressure from business lobbyists, the House Republican leadership quietly stripped that provision from the bill, with no vote and with no debate.

No one can say to the American people with a straight face that this bill combats illegal immigration, when it gives employers a slap on the wrist if they hire illegal immigrant workers.

Second, this bill fails to deal adequately with the serious problem of document fraud. Too many illegal workers obtain jobs by using fake documents to pass as legal immigrants or even U.S. citizens.

What's needed is more secure forms of birth certificates and other documents widely used to prove citizenship and identification. Birth certificates in particular are breeder documents. A fake birth certificate breeds a host of other fraud. With a fake birth certificate, an illegal immigrant can get a Social Security card—and often a passport, too. These fake documents enable them to get jobs illegally, and get welfare benefits illegally, too. Yet the Republican bill, under pressure from unscrupulous employers, doesn't crack down the way it should.

Third, this Republican bill gives employers who discriminate against Hispanic-American workers and Asian-American workers a green light to continue that discrimination. The bill sets an impossibly high standard for proving that employers put Hispanics and Asians through more hoops to get jobs than other American workers. This kind of job discrimination is flagrant and wrong, and Congress should not let employers continue to get away with it.

The Republican bill also puts an unfair dollar sign on family reunification. American citizens who want to bring in family members—even wives or husbands or young children—must meet excessive income standards. It doesn't matter if the family members they are sponsoring have a job or have assets of their own. These citizens are out of luck and out of hope for reuniting their families in America, and Congress should reject this harsh antifamily standard.

Finally, the Republican bill hurts refugees, makes the recent welfare reforms even worse, and gratuitously endangers the environment. All of these issues can be satisfactorily resolved in a fair bipartisan conference. But they cannot be resolved if Republicans continue to quarrel among themselves and let the Dole campaign dictate steps that have nothing to do with reasonable immigration legislation. Bob Dole may not want action by Congress on illegal immigration but the country does, and the vast majority of Americans and Congress do.

I also ask unanimous consent to have printed in the RECORD the excellent editorial in the New York Times today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A DANGEROUS IMMIGRATION BILL

As the White House and members of Congress make final decisions this week about a severely flawed immigration bill, they seem more concerned with protecting their political interests than the national interest. The bill should be killed.

Debate over the bill has concentrated on whether it should contain a punitive amendment that would close school doors to illegal-immigrant children. But even without that provision, it is filled with measures that would harm American workers and legal immigrants, and deny basic legal protections to all kinds of immigrants. At the same time, the bill contains no serious steps to prevent illegal immigrants from taking American jobs.

Its most dangerous provisions would block Federal courts from reviewing many Immigration and Naturalization Service actions. This would remove the only meaningful

> check on the I.N.S., an agency with a history of abuse. Under the bill, every court short of the Supreme Court would be effectively stripped of the power to issue injunctions against the I.N.S. when its decisions may violate the law or the Constitution.
>
> Injunctions have proven the only way to correct system-wide illegalities. A court injunction, for instance, forced the I.N.S. to drop its discriminatory policy of denying Haitian refugees the chance to seek political asylum.
>
> On an individual level, legal immigrants convicted of minor crimes would be deported with no judicial review. If they apply for naturalization, they would be deported for such crimes committed in the past. The I.N.S. would gain the power to pick up people it believes are illegal aliens anywhere, and deport them without a court review if they have been here for less than two years.
>
> The bill would also diminish America's tradition of providing asylum to the persecuted. Illegal immigrants entering the country, who may not speak English or be familiar with American law, would be summarily deported if they do not immediately request asylum or express fear of persecution. Those who do would have to prove that their fear was credible—a tougher standard than is internationally accepted—to an I.N.S. official on the spot, with no right to an interpreter or attorney.
>
> Scam artists with concocted stories would be more likely to pass the test than the genuinely persecuted, who are often afraid of authority and so traumatized they cannot recount their experiences. Applicants would have a week to appeal to a Justice Department administrative judge but no access to real courts before deportation.
>
> The bill would also go further than the recently adopted welfare law in attacking legal immigrants. Under the immigration bill they could be deported for using almost any form of public assistance for a year, including English classes. It would make family reunification more difficult by requiring high incomes for sponsors of new immigrants. The bill would also require workers who claim job discrimination to prove that an employer intended to discriminate, which is nearly impossible.
>
> A bill that grants so many unrestricted powers to the Government should alarm Republicans as well as Democrats. This is not an immigration bill but an immigrant-bashing bill. It deserves a quick demise.

Mr. KENNEDY. I will read the lead paragraph and the final paragraph.

> As the White House and Members of Congress make final decisions this week about a severely flawed immigration bill, they seem more concerned with protecting their political interests than the national interest. The bill should be killed.
>
> A bill that grants so much unrestricted powers to the Government should alarm Republicans as well as Democrats. This is not an immigration bill but an immigrant-bashing bill. It deserves a quick demise.

I yield the remainder of my time. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. FRAHM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for 30 minutes.

Mr. CONRAD. I thank the Chair.

THE DOLE ECONOMIC PLAN—IT DOESN'T ADD UP

Mr. CONRAD. Madam President, we are now about 7 weeks away from critically important decisions about our country's future. We are 7 weeks away from the Presidential election—7 weeks away from decisions on who will represent the United States in the Halls of Congress.

This election is becoming a debate on the economic policy that will guide this country's future. There can be no more important debate. For a long time the conduct of economic policy in this country has been central to the question of who will guide our country in terms of political leadership.

Madam President, once before we had a Presidential candidate who told the American people that we could cut taxes dramatically, we could increase defense spending while holding large parts of the Federal budget harmless, and that somehow it would all add up. We took that gamble once before. It didn't work. It didn't add up.

We can just go back to 1981, and administration of Ronald Reagan, when he told the American people we could have massive tax cuts, we could increase defense spending, large parts of the Federal budget would not be touched, and it would all add up. We can see what happened.

President Reagan inherited a deficit of about $80 billion, but it quickly exploded to $200 billion a year. Then we had years of some small improvement, and years when the deficit jumped back up. But the deficit was averaging over $200 billion. At the end of his term the deficit declined slightly.

Then President Bush came into office. He inherited a deficit of $153 billion, and it promptly skyrocketed to $290 billion in 1992. President Clinton came into office at that point, and every year since the unified budget deficit has declined. Four years in a row the unified deficit has gone down. It has now been reduced by 60 percent since 1992.

So that is the record of the last three administrations with respect to deficit reduction.

Madam President, this chart shows that, even though we have made significant progress on reducing the budget deficit, if we do not keep pressure on Federal spending and if we do not keep our eye on the need for deficit reduction, very quickly we are going to see the deficit rise again. In fact, if no changes are made, the deficit from 1997 to 2006 is going to start rising dramatically. This country faces a demographic time bomb. It is called the baby-boom generation. When those baby boomers start to retire in very short order they are going to double the number of people who are eligible for our basic Federal programs—Social Security, Medicare. And that is going to put enormous pressure on the Federal budget.

That is why it is critically important that we continue to keep our eye on deficit reduction. That means we have to do more, even though without question much has been accomplished under the leadership of President Clinton. The deficit has come down dramatically. But even with all the progress that has been made, much more needs to be done or this problem once more will get away from us.

This next chart shows in a very clear way the challenge that we face over the next 6 years. This chart shows what the spending will be under current law over the next 6 years—$11.3 trillion. That is what will happen if no changes are made. And on the revenue side, if no changes are made, over the next 6 years we will get $9.9 trillion in Federal revenue.

So we can see very clearly that we are going to be adding more than $1.4 trillion to the national debt over the next 6 years if we do nothing.

What does Senator Dole propose? Senator Dole suggests, looking at these numbers—$11.3 trillion of spending, $9.9 trillion of revenue—that the first thing we ought to do is cut our revenue. He says the first thing we ought to do is, since we are going to have $9.9 trillion of revenue, let us cut that $550 billion. Let us dig the hole deeper before we start filling it in. Madam President, it does not take any great mathematician to figure out, if we are going to add more than $1.4 trillion to the debt, if we do not make any changes, and the first change Senator Dole wants to make is to cut our revenue $550 billion, that instead of adding to the debt by more than $1.4 trillion we are going to add more than $2 trillion to the debt under the Dole plan.

Madam President, this is important for people to understand. Obviously, under the Dole plan we would add dramatically to the debt if we didn't do something. Senator Dole has said that his plan is to balance the budget by the year 2002.

Obviously, you would be adding to the debt held by the public until the point in 2002 when you finally reach unified balance. And so the debt would be increasing during this period, all the while we are moving toward unified balance in 2002, according to his statement about his plan.

So the question arises, how much do you need to cut the deficit in order to balance the unified budget by the year 2002? And we know the answers to those questions. We know that under the 1997 budget resolution, Republicans needed to cut the deficit by $584 billion to balance in the year 2002 the unified budget of the United States.

The unified budget is a big word. It is very simple what it means. It means all of the revenues and all of the expenditures of the Federal Government put into the same pot. That includes all of the Social Security surpluses that we will run over the next 6 years.

We need $584 billion of spending cuts in order to balance the unified budget over the next 6 years. But Senator Dole digs the hole deeper before we start filling it in. He wants $550 billion of tax cuts that reduces our revenue. So instead of needing $584 billion of spending cuts, we now need $1.1 trillion of spending cuts. Of course, as I said before, that is to balance the so-called unified budget that counts all of the Social Security surpluses. And that is not really balancing the budget.

If we were going to honestly balance the budget, we could not use those Social Security surpluses. So if one does the appropriate calculation, you can see we would need the $584 billion of spending cuts necessary to balance the unified budget, then we have to cover Senator Dole's $550 billion of tax cuts, and then we would need another $525 billion to stop using the Social Security surpluses, because under the Dole plan every penny of Social Security surplus between now and the year 2002 is going into the pot and is going to be used.

I call this a major problem with the Dole plan. Remember what we said here. To balance, counting his tax cuts, we would need $1.1 trillion of spending cuts, and if we were going to honestly balance the budget, not use the Social Security surpluses, we would need another $525 billion of cuts for a total of $1.6 trillion. So if we want to balance without counting Social Security surpluses, counting Senator Dole's tax cuts, you would need $1.6 trillion of cuts.

What has Senator Dole offered to us? What has he put on the table? Here are the numbers that Senator Dole has offered. He said he will start with the 1997 GOP budget, that cuts discretionary spending $300 billion. By the way, that is education, that is law enforcement, that is highways, that is bridges. He is going to cut that $302 billion for starters. Medicare, $158 billion; Medicaid, $72 billion; other mandatory programs and interest, $174 billion, for a total of $706 billion.

But remember, we said if you are going to balance this thing without counting Social Security surpluses, you need $1.6 trillion—$1.6 trillion. If you use the Social Security surpluses, you need $1.1 trillion. So he is not even close here. So he has suggested another $217 billion of cuts. By the way, he has not told anybody the specifics of these cuts. He has not told us where they are coming from. He has not told us what program he is going to cut to achieve this additional $200 billion. That will be, I guess, a secret plan. Maybe he will tell us after the election where that money is coming. But even with that, he has got total cuts of $923 billion. Remember, if we are going to balance and not count Social Security surpluses, we need $1.6 trillion. He is nowhere close. To balance using Social Security surpluses you need $1.1 trillion. He is not even close to that.

Madam President, this is what is wrong with the Dole economic plan. It does not add up. It does not add up. The spending cuts are not enough to balance this budget, even on a unified basis. They are not enough to balance it even if he uses all $525 billion of the Social Security surplus.

Now, why hasn't Senator Dole told us more specifically where the money is coming? I think the reason is that when you start getting into the specifics, it does not make much sense to the American people.

Senator Dole is looking at the spending. This chart shows the Federal spending for the next 6 years. We are going to spend $2 trillion on interest on the debt. We are going to spend $2.1 trillion on Social Security; $1.6 trillion on Medicare; defense, $1.7 trillion; $800 billion on Medicaid; other entitlements, $1.4 trillion.

What are those other entitlements? Well, those are veterans' benefits; those are Federal retirement benefits; those are food stamp programs. That is the kind of thing we are talking about—child nutrition—in this category of spending. Then there is what we call nondefense discretionary. Nondefense discretionary, that is education, environmental enforcement, parks, roads, bridges, law enforcement.

However, Senator Dole has said we are not going to touch Social Security. So 19 percent of our spending is off the table. He has said we are not going to cut defense. That is 15 percent. In fact, he said we are going to increase defense spending. He says, of course, we cannot cut interest payments; that we legally owe. We cannot cut that.

In just those three areas, he has taken half of the spending off the table, but he has not stopped there. He said, well, we are not going to cut veterans, not going to cut veterans. He said we are just going to cut Medicare by about 10 percent—$160 billion. And he says on nondefense discretionary, this is the one that is going to have to take the big hit—the big hit.

Remember, he has about $900 billion of cuts. Almost $500 billion is going to have to come out of nondefense discretionary just on the cuts he has identified. Remember, the cuts he has identified do not do the job. But he is going to take $500 billion out of discretionary spending of $1.7 trillion over the next 6 years. So he is going to have to cut 30 percent. Education is going to have to be cut 30 percent; environmental enforcement is going to have to be cut 30 percent; parks, roads, airports, bridges. All of it is going to have to be cut 30 percent, and it still does not add up. It still does not balance. And you know what? Law enforcement is going to have to be cut 30 percent under the Dole plan. Those are the cuts he is going to have to make—$500 billion out of this little chunk of Federal spending. This is the place he has targeted. This is the place he is going to take $500 billion out of the $1.7 trillion we are scheduled to spend.

So, this is the place that is really getting targeted. Because for all the rest of the budget he is just going to cut a little bit, or, he has said, he is not going to cut at all, or, he has said, he is going to increase. Madam President, there is no wonder this Dole plan does not add up. No wonder it does not add up. Because this is where the money is going and he said huge chunks of it are off the table.

Here is where the money is going to come from, over the next 6 years: Individual income taxes, about half of our income, 46 percent; corporate taxes, 10 percent; Social Security, 26 percent; and other revenue, 18 percent.

But let me just show kind of an interesting thing. Here is the revenue from Social Security. Here is the spending for Social Security. You notice something very interesting here—very interesting. They are not the same size. These are all on the same scale but there is a difference. Here is the revenue from Social Security: $2.6 trillion over the next 6 years. And here is the spending: $2.1 trillion over the next 6 years. We have way more revenue from Social Security than we have spending on Social Security. We have a difference of $500 billion over the next 6 years, $500 billion more in revenue for Social Security than we have expense for Social Security. Where is it going? Where is it going? Because I have already showed you that we have more expenditures planned over the next 6 years than we have revenue.

Madam President, I think we can see the $500 billion of Social Security surpluses that Senator Dole is going to use in his plan. Again, I remind everyone who is listening, even with using that $500 billion of Social Security surplus, every penny of it, his plan still does not balance, it still does not add up. But he is using it, $525 billion. It is interesting, that $525 billion of Social Security surpluses that are going to be used over the next 6 years is very close to the $551 billion of tax cuts that he has proposed. What earthly sense does this make? What earthly sense does this make? To take $525 billion of Social Security surpluses that we get from payroll taxes, that we ought to be saving for the time the baby boom generation retires, and turn around and give it out in tax cuts, when we are not balancing the budget in any true sense over the next 6 years with this economic plan?

You talk about a plan that is spending the money today and borrowing from the future; that is the Dole economic plan. It does not add up. It does not make sense. It digs a very deep hole for the economic future of our country.

Madam President, I think one reason Senator Dole has been reluctant to be more specific is because, when you start being specific, you see how clearly the Dole plan does not add up. Let us just look at the education cuts that would be necessary to finance the Dole tax cut. Remember, the GOP budget last year that was vetoed by the President and rejected by the American people had tax cuts of $245 billion. On education, they cut $42 billion. I think that begs the question: What happens when you have the Dole plan that has, instead of $245 billion of tax cuts, $550 billion of tax cuts? How much are you going to have to cut education then? How much is education going to have to be cut to accommodate a $550 billion tax cut?

The same can be asked of Medicare. Medicare—remember, the GOP budget last year had tax cuts of $245 billion; the Medicare cuts were $270 billion. Now Dole says he is going to have a $550 billion tax cut. How much would he have to cut Medicare in order to accommodate this plan?

This is where Dole has not been specific. Because, when you get into the specifics, very quickly anybody who has been involved in these budgets knows it does not add up.

Medicaid cuts necessary to finance the Dole tax cut? Last year, again, GOP budget vetoed by the President, rejected by the American people: $245 billion in tax cuts, Medicaid cuts were $163 billion. Now he says we are going to have a $550 billion tax cut. How big would the Medicaid cuts be? How big would they have to be in order to finance this plan?

Domestic discretionary spending: education, law enforcement, roads, highways, bridges. Last year, the GOP plan, $245 billion of tax cuts, domestic discretionary cuts $440 billion. With a $550 billion tax cut, how big would the domestic discretionary cuts have to be in order to finance the Dole plan? It does not add up.

Madam President, I hope I have been able to communicate that the Dole plan does not add up. There is no way there are enough spending cuts in order to balance the budget, even on a unified basis counting the Social Security surpluses, and certainly nowhere near enough to balance it without using every penny of the Social Security surplus.

In addition to that, we have to look at the Dole tax cut and who benefits. This chart shows the various income categories, who the big beneficiaries are. For example, for those who earn less than $10,000 a year, they get a $5 tax cut, on average; for those who are in the $10,000 to $20,000 category, they get $120, on average. For those who are in the $20,000 to $30,000 category, they get $400, on average. If you start adding these up, zero to $10,000, that is 18 percent of the American people; $10,000 to $20,000 is 21 percent; $20,000 to $30,000 is another 16 percent of the American people. If you add that up, it is 55 percent of the American people get less than $400 a year, on average, from this plan.

Look at what happens to those earning over $200,000 a year, the top 1 percent of people in this country. They would get an average benefit of $25,000. Does this strike you as fair? Does that strike you as a balanced plan? I do not think so. I do not think it is fair when the top 1 percent get a $25,000 reduction on average and the 55 percent of the American people who are below $30,000 a year in income get from $5 to $400 a year. That is not a fair plan.

One of the things that is perhaps most shocking, as you start to really look into the details of this Dole plan that has $500 tax credit for children, what you find out is 40 percent of the children in America do not qualify, they do not get anything. They do not get a $500 credit, they do not get a $400 credit, they do not get anything. The reason is that their families do not have enough income to be eligible. Because of other parts of the Dole plan, his reductions in the earned-income tax credit, many families with childcare costs are not going to get a cut; they are going to get an increase in their taxes.

Thousands, millions of people in this country are not going to get a tax reduction under the Dole plan, they are going to get a tax increase under the Dole plan, because a child care credit doesn't work for you unless you reached a certain income level, and he is cutting the earned income tax credit.

Let's look at two examples. A two-parent family, four people in the family with an income of $21,500 and $400 a month in child care costs, under current law they pay $172 in taxes. Under the Dole plan, they get a whopping increase. They pay $609 in taxes. No tax cut under the Dole plan for these folks. They are getting a big tax increase. Interesting, isn't it?

If you are at the top, you are going to get the gravy under the Dole plan. If you are one of the fortunate few in America, the top 1 percent that earns over $200,000 a year, you are going to get a $25,000 reduction on average. But if you are one of these folks earning $21,000 a year, have children, have child care costs, under the Dole plan you are not going to get a tax cut, you are going to get a tax increase.

Under another example, a two-parent family with two children with income of $25,000 and $400 a month in child care costs, under current law, they pay $1,176. Under the Dole plan, they would pay $1,734. Not a reduction, not a cut, but a big tax increase.

Madam President, this Dole plan doesn't add up any way you cut it. It doesn't balance the budget. It doesn't have enough cuts to balance, even if he uses all the Social Security surpluses, and goodness knows, we ought not to use Social Security surpluses to balance the budget. That is just mortgaging the future.

Interestingly enough, Bob Dole has always himself rejected the so-called supply-side economic theory. The supply-side theory is the one that was in vogue in the 1980's. It is the one that led us into this swamp of debt and deficits in the first place.

Senator Dole, just last year, said this about supply-side economics. This is Senator Dole. He said:

> What I could never understand is why, if you just cut taxes, you'd have this big, big revenue increase. You know, more jobs, more opportunity. And you didn't have to make hard choices about spending. That was the philosophy back in the eighties, particularly with Newt and the House Republicans. Don't make any painful decisions. Just cut taxes. In the eighties, we said, "Everything's going to be fine." Well, it wasn't.

That is Senator Bob Dole 1 year ago. Bob Dole was right a year ago when he said this. Bob Dole was exactly right. And I return to where I started. This demonstrates how right he was last year and how wrong he is this year. Because now Bob Dole, finding himself 20 points behind in the polls, all of a sudden is a born-again supply-side economist, believing in the tooth fairy, that somehow, somewhere the money will emerge.

Madam President, we tried that once before. We tried it back in 1981, and we know what the results were: the deficit skyrocketed—skyrocketed. It wasn't until President Clinton put in place an economic plan in 1993—an economic plan, by the way, that Senator Dole said would crater the economy—that we saw 4 years in a row of declining deficits, that we saw the country headed in the direction of a stronger economy, that we finally saw America getting back on the right course with dramatic deficit reduction, renewed economic growth, the creation of over 10 million jobs.

Madam President, we ought not to take the riverboat gamble of supply-side economics. That way lies a future of debt, deficits and decline.

I thank the Chair and yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I understand that Senator HEFLIN has the floor for the next 10 minutes. I ask unanimous consent that I be able to speak as in morning business just for 1 minute.

Mr. HEFLIN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Madam President, we have seen a lot of charts and everything. Here, again, we are scaring people. We are absolutely scaring people about things that, No. 1, President Clinton inherited a trend that was already started; that we know that tax cuts put a spur in the economy and more revenues come into the Treasury.

I want to put everybody on notice about these scare things—what is going to happen, what might happen—that Americans don't back up very quickly; we don't scare very easy. We know we have a problem, and it will take America to solve it. And this last illustration is absolutely bogus.

So I just want the American people to put them on notice that we don't scare too easy. We didn't build this country to the pinnacle we have today by backing up, going in reverse in this country. We are not prepared to do that.

I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

TRIBUTE TO THE RT. HON. MICHAEL JOPLING, D.L., M.P.

Mr. HEFLIN. Madam President, several of us in the U.S. Senate, as well as some in the House of Representatives, have had the pleasure over the years of knowing and working with the Right Honorable Michael Jopling, a British Member of Parliament and former Minister of Agriculture under Prime Minister Margaret Thatcher. He has been a familiar and most welcome participant at both the North Atlantic Assembly sessions and at the British-American Interparliamentary Group meetings in which some of us have participated. He is well respected by his fellow Members of Parliament, both Conservative and Labour alike. Mr. Jopling, whose retirement from the House of Commons is imminent after close to 33 years in the Parliament, has served as secretary to this important and engaging interparliamentary group for the past 9 years and served the previous 4 years as its vice chairman. The position of secretary is a most important responsibility, since that officer is the chief liaison official with the American delegation. The secretaries of the delegations make most of the logistical decisions. The exchange plan he helped institute is an excellent program and vehicle for dealing with issues common to our two countries. He has referred to his activities with the British-American group "as a labour of love" and believes "with a great deal of passion that the continued warm relationship between Britain and the United States is crucial for world peace."

Mr. Jopling was an outstanding and courageous Minister of Agriculture, Fisheries, and Food in the British government for two 4-year periods between 1979 and 1987. Some of his policies angered British farmers, since he was appointed at a time when food surpluses under the Common Agricultural Policy of Europe had reached very high levels. It has been said that he was a victim of Jopling's law, which says that whatever you do is going to be unpopular with the environmentalists for not going nearly far enough and with the farmers for doing far too much. For those of us who serve on the Agriculture Committee, Jopling's Law has particular resonance. Nevertheless, he stood firm and became a moving force during the 1980's for bringing the Common Agricultural Policy of Europe under control. Under trying circumstances, he endeavored to achieve a proper and reasonable balance on these issues and always acted in a manner that served the public interest. He was warmly praised and encouraged by former American Secretary of Agriculture Clayton Yeutter.

He also served as government chief whip. The government and the opposition in Parliament both appoint whips whose duty is to manage the affairs of the party and to organize their members to provide support. The government chief whip is in charge of the important responsibility of arranging the scheduling of the government's business in the House of Commons. This is done in consultation with the opposition chief whip.

In addition, he was assistant whip, spokesman on agriculture, deputy spokesman on agriculture, secretary of the conservative MPs' agriculture committee, and a member of the Select Committees on Science and Technology, Agriculture, Foreign Affairs, and Privileges. He was also vice chairman of the Commonwealth Parliamentary Association, chairman of the Select Committee on Sittings of the Commons, and president of the Auto Cycle Union.

Michael Jopling was born on December 10, 1930 in Ripon, Yorkshire. He was educated at Cheltenham College; King's College, Newcastle-upon-Tyne; and Durham University, where he earned a degree in agriculture. He is a farmer, sharing a 500-acre farm in Thirsk, Yorkshire "on some of the finest arable land in the country." He has also served as a consultant to the Hill and Knowlton public relations firm.

Mr. Jopling represents Westmorland and Lonsdale, an area of Great Britain which is dominated by agriculture and tourism, with some light industry. One British newspaper referred to it as "a curious mixture of farmers in tweeds and sprightly geriatrics * * *" While I do not think of him as being "geriatric," he certainly reflects the overall nature of his constituency. He has been called "a farmer in politics rather than a politician who makes agriculture his specialty." He is know as being likable, engaging, and affable. I have had the pleasure on several occasions to swap humorous stories with him about the politics, government, and cultural idiosyncracies of our respective nations. He is a practical joker who has said that "riding a motorcycle is one of the life's most exhilarating experiences."

He is also a serious leader who pays close attention to the nuances of public policy and who judges by eye and instinct. His voice of reason at NAA meetings has helped guide favorably its deliberations and improved its decisions.

He has always supported a strong national defense and strong NATO. He often criticized backsliders like Canada "with its miserable 1.2 percent of GNP" for defense expenditures. He also warned the British cabinet to take "unpopular decisions, if necessary" to ensure the Army had the best tank possible.

His natural manner is one of caution, of getting all the facts before making a decision. He instinctively distrusts high-flown theory, preferring instead the directness of personal dialog and negotiation. His height, square build, and rustic manner often conjure up the image of a genial giant, but his country gentleman appearance often masks his shrewdness, keen sense of politics, and anayltically sharp mind. All these traits come together to give him an unusual ability to take the full measure of a person, situation, or piece of legislation objectively, but always with an eye toward accomplishing his goals.

I am pleased to commend and congratulate the Right Honourable Michael Jopling for his outstanding leadership and dedication as a Member of the British Parliament and as a British good-will ambassador at-large. I wish him, as well as his red-haired, beautiful, and talented wife, Gail Dickinson Jopling, all the best as he approaches retirement. He deserves our profound thanks for his many lasting contributions over the years to British-American relations in general and for his personal commitment to preserving the special nature of the relationship between our two great nations. After he leaves government service, I hope he will continue to use his enormous talents and energies to benefit British-American relations.

Madam President, I thank the Chair, and I suggest the absence of a quorum.

Mr. REID. Will the Senator withhold?

Mr. HEFLIN. I yield the floor.

Mr. REID. Madam President, I understand, under the standing order, that I have 10 minutes. Is that correct?

The PRESIDING OFFICER. The Senator from Nevada is correct.

Mr. REID. Would the Chair advise me when I have used 8 minutes of the 10?

The PRESIDING OFFICER. We will let you know.

HOW GOVERNMENT WORKS FOR YOU: AMERICA'S NATIONAL PARK SYSTEM

Mr. REID. Madam President, I rise today to speak about an issue that has been bothering me for some time. As this Congress begins to wind down, I have reflected on the achievements and the failures during the past 2 years of this Congress. As I look back on the 104th Congress, I am struck by the public's negative perception, not only of this Congress, but our Government, our Federal Government. In my 10 years here in the Senate, I cannot recall a time when the American public had such a low regard for our Federal Government. It seems like our perception of Government in this country has gone from a view where all things are possible to a view by many where all things are suspect.

There has always been in this country a healthy tradition of political dissent, but what I am hearing today is something deeper and more negative than that. This troubles me because I hear it being echoed in the State of Nevada even by young people, the very generation who will lead us into the next century. I am not willing to stand by and watch an entire generation of Nevadans grow up distrusting our Government. The future, I believe, of Nevada, and our Nation, depends on this next generation's youthful energy and natural optimism to carry us forward.

So I would like to spend a little time today—and I will in the future—talking about how Government works for each of us. I think it is important to take a few minutes to remember how Government has changed our lives for the better. There are many areas about which we could speak, but today I am going to talk about our National Park System, which I personally am very proud of. I think all of us in America should be rightfully proud.

In the late 1700's and the early part of the 1800's, hunters and trappers would come back from passing through Yellowstone with incredible tales of soaring mountains, steaming lakes, of spouts of water going into the air hundreds of feet, stories that many people believed were untrue. But, of course, they were true.

In PBS's recent production on the West, "The Making of the West," there is a great story in the first couple of series about a mountain man by the name of Joe Mink, who came through Yellowstone, and some of the stories that he told.

Many stories were told about this great area in our country. These stories were passed on, some not believing them, as I mentioned, some thinking that they were nothing more than tall tales started by native Americans and then passed on by hunters and trappers.

But the stories persisted. Finally, expedition parties were sent out to check the stories about Yellowstone. One such expedition journeyed there to report back what they felt should be done with Yellowstone. What these men found there awed and really humbled them. At their campsite near the Madison River, members of the expedition party talked about what they had seen. Maybe the land, they said, could be mined, and surely a few fortunes could be made harvesting timber. The possibilities of development really seemed endless.

But a member of that expedition by the name of Cornelius Hedges, who was a Montana judge, had a different idea. There are a lot of fathers of our National Park System. Cornelius Hedges is one of those fathers. He thought that the land should be preserved as a national park, a word that was unheard of at the time.

The expedition returned and began to promote the idea that Hedges had. In 1872 this dream came to fruition when Congress established Yellowstone National Park. In 1916 the National Park Service was established by Congress. Today, 80 years after the birth of the National Park Service, there are more than 270 million visitors to our national parks. Of course, some people visit parks more than once.

Madam President, I read in this morning's paper about President Clinton yesterday being at the Grand Canyon. During his presentation yesterday at the Grand Canyon, he talked about an event that really changed his life. That was a time when as a young man he went to the Grand Canyon and spent 2 hours sitting in solitude, looking at this piece of nature. He said even today in his hustle and bustle world he is able to reflect back on the solitude that he experienced at Grand Canyon National Park.

I, too, a little over a year ago had the good fortune of traveling down the Colorado River through the Grand Canyon. It was a life-changing experience for me, also, as it has been for thousands and thousands and thousands of people over the years who have gone through this, one of our national parks, the Grand Canyon.

This year Nevada is celebrating the 10th anniversary of our only national park, the Great Basin National Park. This incredible wonder in Nevada is home to the southernmost glacier in all of America. Yes, a glacier in Nevada—incredible, but true. The oldest living thing in the world is in this national park, the bristlecone pine, a tree that is gnarled, and some say not statuesque like a lot of big green trees that we see. It is over 5,000 years old. Madam President, 2,500 years before the birth of Christ these trees were growing in the Great Basin National Park.

We have many other things that will cause one to wonder other than these twisted limbs of the bristlecone pine in Great Basin National Park, but it is something that we in Nevada are proud of and the entire Nation is proud of. This 77,000-acre park was visited last year by about 100,000 people. You do not have to be rich to take in the wonders of the Grand Canyon. You do not have to be rich to take in the wonders of Yellowstone or Great Basin.

Our National Park System is designed for everyone. It is something that we as a country should be very proud of and we are. You can travel the depths of the Earth to see the incredible wonders of Lehman Cave, also part of our great national park. This jewel, the Great Basin National Park, will be there for centuries to come, as will Grand Canyon, as will Yellowstone.

I have talked today, Madam President, about one example of about where I think Government has worked well for the people of this country in establishing our National Park System. Now, this is something, our National Park System, that we should all speak proudly of, positively of, and it is a function where Government has worked well. Instead of denigrating Government, we should work to improve our system of Government that is the envy of the world. Our National Park System is the envy of the world.

Unquestionably, the Federal Government needs to streamline, reform, and change. Burdens of regulations of unfunded mandates must be eliminated, and ridiculous paperwork requirements must be eliminated, also. However, Government oversight is not innately evil and can be designed not as an intrusive control mechanism over the States but as an insurance policy to guard against Americans falling through the cracks. Our goal should be for a more effective Federal Government, not one that is useless or so reduced that our citizens are the ones to suffer. As a nation, we cannot afford to have a Federal Government that is unable to provide for Americans to defend our interests in the world.

Madam President, I ask that we all reflect on a success that we have had as a Federal Government. That is, in establishing and maintaining our National Park System. Of course, we need to do more. We have a tremendous backlog of renovations and repairs that need to be made in our National Park System, but visiting a national park is an experience of a lifetime. It was for me as it has been for millions of other Americans.

Mr. FAIRCLOTH. Madam President, I thank the Chair.

(The remarks of Mr. FAIRCLOTH pertaining to the introduction of S. 2093 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. FRIST). Morning business is closed.

SUSTAINABLE FISHERIES ACT

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the Senate will resume consideration of S. 39, which the clerk will report.

The bill clerk read as follows:

A bill (S. 39) to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Hutchison amendment No. 5383, to make certain modifications to provisions with regard to regional fishery management councils.

AMENDMENT NO. 5383

The PRESIDING OFFICER (Mr. FRIST). The pending question is the Hutchison amendment, No. 5383. There will be 4 minutes of debate, equally divided, on the amendment.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 5383, AS MODIFIED

Mrs. HUTCHISON. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment will be so modified.

The amendment (No. 5383), as modified, is as follows:

On page 142, line 7, strike "Any" before "conservation" and insert in lieu thereof "To the extent practicable, any".

On page 148, beginning on line 14, strike "specified in part 641.24 and 641.25 of title 50, Code of Federal Regulations (as revised as of October 1, 1995),".

Mrs. HUTCHISON. Mr. President, I don't even need to take my 2 minutes. I will just say that this amendment has been agreed to by both sides. I want to especially thank Senators LOTT, STEVENS, BREAUX, and KERRY for helping me to make sure that the management of bycatch applies in the Gulf of Mexico like it will apply to the rest of the bill and to the other waters contiguous to our country. Everybody is satisfied with this.

I appreciate so much the cooperation and the staff cooperation. We could not have come to this agreement without a lot of hard work late last night and early this morning. I appreciate it very much. I ask for consideration of my amendment.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from Texas is correct. I am informed that this matter was worked out. I should explain to the Senate that we had in the managers' amendment one amendment—the one from the Senator from Texas—that could not be agreed to at the time we offered that amendment last night. We pulled it out and asked unanimous consent that the Senator from Texas be able to offer her amendment. It has now been worked out through the night. I am informed by the leader, and by the representatives of the other Senators involved, that it is acceptable. Therefore, I am prepared to accept this amendment and would ask that it be adopted on a voice vote.

Mr. SHELBY. Mr. President, I rise this morning in support of the Hutchison-Shelby amendment to S. 39, the Sustainable Fisheries Act.

Over the past several years, it has become increasingly clear that our marine fisheries are in serious trouble. The Sustainable Fisheries Act will significantly improve the management and conservation of our marine resources by allowing the regional councils to adopt measures to reduce overfishing, bycatch, and waste.

What is clear to all who have been involved in the reauthorization of the Magnuson Act is that decisionmaking authority over the adoption and implementation of bycatch reduction programs must lie with the councils. For the most part, the bill before us today furthers this insight. However, there is a provision which will significantly impair the authority of one of the councils, the Gulf Council, to manage the bycatch program of the red snapper.

The Hutchison-Shelby amendment corrects this oversight and restores the necessary discretion to the Gulf Council. I want to be clear that we are not adding additional powers. Our amendment merely brings the Gulf Council in line with the authority of the other regional councils.

Without the Hutchison-Shelby amendment, the red snapper fishery will be closed, which will shut down recreational fishermen and a thriving charter boat industry. In the city of Gulf Shores alone, red snapper fishing generates approximately $80 million annually. Salt water fishing in my State will soon become a billion dollar industry, and limiting the authority of the Gulf Council to manage these waters will devastate the economy of Alabama.

I thank the Senator from Texas for her leadership on this important issue, and I urge adoption of this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5383), as modified, was agreed to.

Mrs. HUTCHISON. I thank the Senator from Alaska.

Mr. President, I ask unanimous consent that Senator SHELBY from Alabama be added as a prime cosponsor of my amendment to this bill, to the managers' amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, as I make clear my strong support for S. 39, I also extend my congratulations to the distinguished Senator from Alaska [Mr. STEVENS] and to his fine staff for their efforts in crafting S. 39, the Sustainable Fisheries Act of 1996. This legislation strikes an appropriate balance between the needs of the various sectors of the U.S. fishing community while giving both commercial and recreational fishermen adequate opportunities to fish.

S. 39 is exceedingly important to our fishermen in North Carolina. I was very pleased last July when Senator STEVENS and I flew together to eastern North Carolina to hold hearings in Morehead City on this legislation. We heard many concerns and opinions from all sectors of the fishing community in my State. I appreciate TED STEVENS making the trip and also his allowing me to participate in those hearings.

Mr. President, testimony in that hearing indicated widespread support for adding North Carolina as a voting member on the Mid-Atlantic Fishery Management Council. My State has long participated in council proceedings as an observer and as nonvoting participant in council technical committees—but never before as a full-fledged voting member.

So I am grateful that this legislation allots to North Carolina voting memberships on the Mid-Atlantic Council. There have been so many decisions made by the Mid-Atlantic Council that have affected my fishermen; it is good that they will now be able to vote on decisions that affect our State.

Fish and fish products have become a greater staple of the diets of all Americans. Statistics gathered by the National Marine Fisheries Service in 1995, revealed that U.S. consumption of fish and fish products was 15 pounds of edible meat per capita. In 1992 Americans consumed 14.8 pounds of edible meat.

Mr. President, I greatly enjoy seafood. I have dined in many seafood restaurants in coastal North Carolina and many fish houses further inland. North Carolinians want to maintain a steady supply of good, high-quality seafood well into the future. We can do that if our fishery resources are well managed in an environmentally responsible manner.

At the same time, fishery regulations must not be allowed to hamstring North Carolina's hand-working, taxpaying fishermen in their efforts to earn a honest daily wage. The National Marine Fisheries Service should be put on notice that the Congress will not tolerate unfair and unreasonable regulatory practices that single out one sector of the fishing community for penalties.

Mr. President, this is a good bill. We must preserve our fisheries for future generations. If we don't, this country will face great adverse consequences.

None of us here wants to see entire areas closed to fishing, as has occurred off the coast of Massachusetts. Senators from that State are painfully aware that three areas near Georges Bank have been permanently closed to fishing, due to overfishing the resource. That situation must not be duplicated off the North Carolina coast—or any other State's coast for that matter. This bill will go a long way in preventing that from happening.

Mr. CHAFEE. Mr. President, I commend and thank the Senator from Alaska, Senator STEVENS, for his many months of hard work in getting this vitally important environmental legislation to the floor. I know that in writing and bringing this bill to the floor, Senator STEVENS has had to contend with a great many competing interests that were often at odds on some very complex issues. Despite this obstacle, he has been able to fashion what I believe to be a strong but fair piece of legislation. There remain several changes I would like to see in this bill, but on balance I support S. 39, legislation which should help our fisheries recover from years of overfishing, mismanagement and other negative factors. I would like to briefly share with my colleagues our unfortunate experience with the decline of fishing in New England, and hope that this experience and others like it might convince all Senators on the importance of passing this bill.

Commercial fishing has long been a great source of pride for Rhode Island and New England, its history in our region stretching back several hundred years. Explorers of the New World returned to England with reports of codfish so plentiful that men actually scooped them from the sea by the bucket. In addition, early colonists relied on fish for subsistence during their first, difficult years of settlement. More recently, commercial fishing remained a fruitful and profitable industry in New England throughout the 20th century. Fishing and all of its associated businesses have employed tens of thousands of New Englanders in ports along the coast, making it one of our region's most important industries.

But beginning in the 1960's, distant-water factory trawler fleets from more than a dozen countries were decimating fish stocks off New England. In response, Congress in 1976 passed the Magnuson Act, which sought to Americanize our fishing grounds within 200 miles of the U.S. coast and let stocks recover from foreign overfishing.

Unfortunately, though, the Americanization of our fishing grounds 20 years ago has not resulted in the intended conservation of this valuable national resource. Domestic fishermen have more than made up for the departure of foreign fleets—the introduction of more boats and the use of increasingly sophisticated fishing technology has resulted in destructive overfishing throughout New England's prime fishing grounds. In 1976, there were 775 New England boats licensed to catch groundfish. Today there are 4,000, of which 1,800 still actively fish. Overfishing and the resulting sharp downturn in our fishing industry, particularly in New England, is nothing short of a genuine tragedy.

A look at some of the consequences of years of fisheries mismanagement in New England is staggering: in 1980, Georges Bank cod biomass totalled about 90,000 metric tons; by last year it had declined to under 20,000 metric tons. Georges Bank haddock biomass was nearly 70,000 metric tons in 1978, while today it is under 20,000. Many of these once abundant fish stocks, which have been such a major influence on New England's economy and heritage, are now, sadly, at or near commercial extinction.

The question we now face in the context of the legislation before the Senate today is how do we best restore this sadly declining industry and bring life back to a marine resource that is disappearing? Unfortunately, efforts thus far to halt this collapse of fish stocks in New England have met with limited success at best. In fact, in 1991 it actually took a lawsuit by two Massachusetts environmental groups to force the notoriously slow New England Fishery Management Council to draft and implement a fishery management plan that contained the teeth needed to stem continued overfishing and stock decimation. And this plan, entitled amendment 5, did not even take effect until some 3 years after the lawsuit was filed.

But amendment 5, while its groundbreaking restrictions on fishing effort were significantly stronger than previous efforts, proved to be insufficient to stem the continuing decline in New England fish stocks. So amendment 7, which further restricts fishing off New England in several ways, was proposed and approved by the Department of Commerce several months ago. Those of us who are committed to restoring New England's fisheries are hopeful that amendment 7 might begin to reverse the tremendous damage that has been done to this resource.

Unfortunately, though, the New England and other regional fishery management councils, while their efforts have improved during recent years, still require additional tools to address the many conservation needs of our Nation's fisheries. Through a long series of hearings and a tremendous amount of hard work and patient listening, the Commerce Committee has succeeded in producing a far-reaching bill, S. 39, that provides the Councils these tools. I strongly endorse this legislation, and urge all of my colleagues, both from coastal and inland regions, to do so as well.

S. 39 defines "overfished" and "overfishing" in the Magnuson Act and requires fishery management plans to specify criteria for determining when a fishery is overfished and include measures to rebuild any overfished fishery. A council would have 1 year to come up with a plan to stop overfishing and rebuild the fishery, and the Secretary of Commerce would be required to step in if the council fails to act.

This bill also adds a new national standard to the Magnuson Act requiring that conservation and management measures minimize what we call bycatch, which is the incidental harvest of nontarget fish. Bycatch has caused much damage to many fisheries in the United States as unintentionally caught fish are often thrown back in the water dead or dying.

In addition, S. 39 imposes several significant reforms on the council process, including conflict-of-interest procedures and new mechanisms to push councils to develop difficult conservation and management measures. Our experience in New England, where an industry-dominated council for years stymied effective management, certainly illustrates the need for these council reforms.

Mr. President, the Sustainable Fisheries Act includes many other provisions aimed at restoring and sustaining some of our Nation's most valued resources. I look with amazement at the array of fishing and conservation organizations that have endorsed this vitally important legislation. These groups range from industry to environmental to recreational. I commend the work done by Senator STEVENS to obtain this wide-ranging level of support, and urge all of my colleagues to join me in voting for this bill.

JURISDICTION OVER FISHERIES IN THE EEZ

Mr. GRAHAM. Mr. President, I would like to commend the distinguished chairman for his dedication to the conservation of our Nation's fisheries, the industry, and its beneficiaries. The chairman and his staff have worked very hard to steer this important legislation through the tedious legislative process. I look forward to working with the chairman and the committee in working toward this bill's ultimate success.

Mr. President, I would like to ask the chairman a clarifying question regarding an issue that is of great importance to many States, including the State of Florida.

Mr. STEVENS. I would be happy to respond to a question from my friend, the senior Senator from Florida.

Mr. GRAHAM. The State of Florida has been firmly committed to the conservation of the State's natural resources. In the past year, the National Marine Fisheries Service, and the Regional Fishery Management Council had proposed giving authority to the State over certain fisheries, such as stone crab and spiny lobster, but could not do so because Federal courts have ruled that the States are preempted by the Magnuson Act from regulating in the EEZ. I am pleased, therefore, that the distinguished chairman has included in this reauthorization legislation, a provision which would allow a fishery management council to delegate jurisdiction over certain fisheries in the EEZ to a State, if the State has regulations consistent with the fishery management plan for that area.

Mr. STEVENS. The Senator from Florida is correct in his understanding of what is in the reauthorization bill. His interpretation is consistent with the drafter's intent.

Mr. GRAHAM. It is my understanding that the legislation give states the right to regulate any vessels in a fishery that the regional council has designated as being under State jurisdiction, including vessels registered outside that particular State. Is that correct?

Mr. STEVENS. The Senator from Florida is again correct in his understanding of what is in the legislation.

Mr. GRAHAM. Now in the case of my State, if the council designates jurisdiction of a particular fishery to the State, the officials in Florida would be able to regulate out-of-State vessels, in that portion of the EEZ, regardless of which ports it utilizes or chooses not to utilize.

Mr. STEVENS. Mr. President, if the State of Florida has been designated as having jurisdiction over a fishery in the EEZ, they would be entitled to regulate any vessel in that fishery, no matter where it comes from or what facilities it utilizes, so long as it does so consistent with the fishery management plan that delegates authority to the State.

Mr. GRAHAM. I thank the distinguished chairman for his clarification of the issue.

STATE JURISDICTION

Ms. SNOWE. Mr. President, I would like to engage the chairman of the Oceans and Fisheries Subcommittee and the author of this bill, Senator STEVENS, in a brief colloquy.

Mr. STEVENS. I would be pleased to join Senator SNOWE in a colloquy.

Ms. SNOWE. As the Senator knows, section 112 of the manager's amendment amends the Magnuson Act to clarify that the existing provision which allows a State to impose State laws and regulations on its State-registered vessels, even if those vessels fish in the exclusive economic zone. This provision greatly interests Maine because, in addition to the Federal rules, Maine imposes stringent State lobster conservation regulations on all of its vessels, regardless of where they fish. These State regulations are certainly consistent with the Federal lobster management plan in conserving and sustainably managing the lobster resource. But some of Maine's regulations do differ in design from some of the regulations currently in force in the Federal zone. For instance, Maine prohibits the possession or landing of lobsters by State vessels that do not use traps to harvest lobster, imposes a maximum-size lobster possession limit, prohibits the possession of egg-bearing female lobsters, and requires the v-notching technique to ensure the identification of these lobsters. The Federal lobster management plan does not contain conservation and management measures of the same design.

As I understand the amendment, section 112 would allow Maine to continue imposing its more stringent State lobster regulations on all of its State-registered fishing vessels because the regulations are consistent with the Federal lobster management plan. Am I correct in stating that it is the intent of the author and manager of this bill that section 112 of the manager's amendment dealing with State jurisdiction would permit a State like Maine to continue applying more stringent rules on its State-registered vessels that operate in the exclusive economic zone?

Mr. STEVENS. The Senator from Maine is correct. Section 112 of my amendment protects the existing authority of States to impose more stringent regulations which are not inconsistent with a management plan on its vessels in the Federal zone. Maine's more stringent regulations were consistent with the management plan for lobster before this amendment, and they would continue to be viewed that way after its enactment. Because regulations such as Maine's are not irreconcilable with the management plan, they will be viewed as consistent with it under my amendment.

HERRING TRANSSHIPMENT

Mr. CHAFEE. Mr. President, I would like to engage the Senator from Maine, Senator SNOWE, and the chairman of the Oceans and Fisheries Subcommittee, Senator STEVENS, in a colloquy.

Ms. SNOWE. I would be pleased to join the Senator from Rhode Island in a colloquy.

Mr. STEVENS. I would be happy to join Senator CHAFEE in a colloquy.

Mr. CHAFEE. Mr. President, section 105(e) of the manager's amendment directs the Secretary of Commerce to provide transshipment permits for up to 14 Canadian vessels for the purposes of transporting Atlantic herring caught off the coast of Maine in the sardine processing trade. I would like to ask the Senators whether the manager's amendment would also require this herring transshipment practice to be consistent with any applicable regulations, including fishery allocations, approved by the Atlantic States Marine Fisheries Commission. The ASMFC has management authority for Atlantic herring.

Ms. SNOWE. I sponsored and worked on, with other Commerce Committee members, the provision to which Senator CHAFEE refers, and I can assure the Senator that the provision does require these transshipment permits to be consistent with all relevant herring management measures approved by the Atlantic States Marine Fisheries Commission. I would simply mention that the ASMFC has expressed support for this provision.

Mr. STEVENS. I agree with Senator SNOWE's interpretation of this provision.

Mr. CHAFEE. I thank the Senators for the clarification.

CENTRAL REGISTRY

Mr. STEVENS. Mr. President, my manager's amendment to S. 39, the Sustainable Fisheries Act, adds a new section to the Magnuson Act requiring the Secretary of Commerce to create a central lien registry system for limited access permits. Among other things, the Secretary is required to notify both the buyer and seller of a permit if a lien has been filed by the Secretary of the Treasury against the permit.

Mr. ROTH. Mr. President, we have reviewed the central lien registry provisions in the amendment offered by the Senator from Alaska. He has removed language that involved matters within the Finance Committee's jurisdiction. We do hope, however, that the Secretary of the Treasury will work with the Secretary of Commerce as the Secretary of Commerce carries out the new requirement my friend from Alaska has described.

Mr. STEVENS. I thank the Senator from Delaware for his help with this new subsection. My amendment no longer contains the language that was within the Finance Committee's jurisdiction. I would, however, like to ask my friend from Delaware about his understanding of section 6323(j)(1)(C) of the Internal Revenue Code—26 U.S.C. 6323(j)(1)(C), a provision he helped write. Is that section intended to allow the Secretary of the Treasury to withdraw a notice of lien filed against a limited access fishing permit if such withdrawal will facilitate the collection of a tax liability by allowing the owner of the permit to derive income from the use of the permit?

Mr. ROTH. The Senator from Alaska is correct. Section 6323(j)(1)(C) gives the Secretary of the Treasury discretionary authority to withdraw a notice of lien filed against a fishing permit if the withdrawal will facilitate the collection of a tax liability by allowing the owner to derive income from the use of the permit.

Mr. STEVENS. I thank the Senator from Delaware.

Mr. PRESSLER. Mr. President, I am pleased we have been able to bring to the Senate S. 39, a bill to amend and reauthorize the Magnuson Fishery Conservation and Management Act of 1976. This bill, introduced by Senator STEVENS and cosponsored by Senators KERRY, MURKOWSKI, HOLLINGS, LOTT, INOUYE, SIMPSON, and myself, is crucial to continuing the sound management of our Nation's fishery resources.

On March 28, 1996, the Committee on Commerce, Science, and Transportation reported this legislation. The report was filed on May 23, 1996, and a cost estimate for the bill as prepared by the Congressional Budget Office was printed in the CONGRESSIONAL RECORD on July 10, 1996. Under the leadership of Senator STEVENS, chairman of our Oceans and Fisheries Subcommittee, seven field hearings were conducted last year gathering testimony from fishermen, industry representatives, Federal and State managers, and environmental organizations, throughout the Nation. While this legislation may not be perfect, the language we have before us today is an attempt to address the concerns raised at those hearings as well as issues brought to our attention by many of our colleagues in the Senate. This has been no small feat and I commend Senator STEVENS for his efforts.

Commercial fisheries are very important to many States and the Nation as a whole. In 1995, commercial landings by U.S. fishermen were over 9.9 billion pounds and valued at $3.8 billion. The State of Alaska led the Nation in value of landings with $1.4 billion. Other regions of the country have a similar dependency on commercial fisheries, some are strong and robust, others have not fared as well—their fish stocks have declined and communities in those regions are feeling that economic impact. Hopefully, provisions in this bill that call for reductions in bycatch, measures to prevent overfishing, and requirements for the protection of habitat, will again bring about healthy fisheries and healthy fishing communities.

Twenty years ago the Magnuson Act was enacted in direct response to the depletion of U.S. fishery resources by foreign vessels. The Magnuson Act secured U.S. jurisdiction and management authority over the fisheries out to 200 miles from our shores. It was intended that this action would provide long-term stability and sustainable fisheries, though today in many areas we are again overcapitalized and the stocks face a crisis similar to that of the 1970's.

The Magnuson Act is administered by the National Marine Fisheries Service and eight Regional Fishery Management Councils that manage the fisheries in their geographic areas through specific fishery management plans. Their actions provide the rules under which the fishing industry operates. They determine the harvest quotas, season length, gear restrictions, and license limitations. This is where tough management decisions need to be made.

One of the overall goals of the Magnuson Act is to provide a mechanism to determine the appropriate level of harvest to maximize the benefit to the Nation while still protecting the long-term sustainability of the fisheries. It is a balancing act among competing interests of commercial and recreational fishermen and even competing gear groups within the commercial industry.

Mr. President, I am pleased that Senator STEVENS, Senator GORTON, and others have been able to resolve any differences they may have had with the bill as reported. A manager's amendment that I fully support has been developed that addresses these issues. The amendment shortens the authorization period through fiscal year 1999, thereby reducing the time that a moratorium will be in effect concerning individual fishing quotas [IFQ's]; it requires the National Academy of Sciences to conduct a study on the value of IFQ's and community development quotas or CDQ's; it includes consideration for the sustained participation of fishing communities, and it also addresses the issue of State jurisdiction into Federal waters absent any applicable fishery management plan.

Mr. President, many of the provisions in this bill will strengthen the administration of the Magnuson Act and, in turn, the conservation and management of our fishery resources. I say to my Senate colleagues that this bill is a bipartisan effort to accommodate the interests of fishermen throughout the Nation. I again commend the leadership efforts of Senator STEVENS as well as many other members of the Commerce Committee in moving this legislation.

Mr. HATFIELD. Mr. President, we are obliged to be responsible stewards of our environment, both here and abroad. Even in these times of fiscal restraint, it would be counterproductive to cut back on the investment we have made in our environment and indeed in our own future. Growing concern over the deterioration of our global resources and environment has forced us to examine ways in which we can redouble our efforts to protect and conserve these valuable resources. However, protection need not be at the expense of our ability to enjoy, enhance, and utilize our resources. There are few industries whose future is as directly dependent on the conservation of a resource as commercial fishing.

As residents of Oregon's coastal communities recently learned, due to the closing of a commercial salmon season, when fish populations suffer that hardship is passed along to fishermen, processors, and consumers. The problem of dwindling fishery resources is not unique to the Pacific Northwest. Virtually every region of the country has experienced some form of decay in the commercial fishing industry. Therefore, it is critical that we fulfill our obligation to protect and responsibly manage our Nation's fisheries.

The Magnuson Fishery Conservation and Management Act has been our Nation's principal offshore fisheries conservation policy since it was enacted in 1976. I am gratified the Senate has overcome the substantial barriers that were preventing this important legislation from being considered. The House of Representatives overwhelmingly passed its version of this measure last year and it is my hope we will send a Magnuson reauthorization bill to the President for his signature this year. However, I recognize there are a number of outstanding issues which must be resolved before we can complete action on this important legislation.

Mr. President, I would like to take a brief moment to congratulate the sponsors of the Sustainable Fisheries Act of 1996, Senators STEVENS and KERRY. They have crafted a bill which enjoys support on a bipartisan basis in the Senate and is also endorsed by numerous conservation and industry groups. It has taken impressive dedication on the part of the sponsors of this bill and cooperation with many Members of the Senate to bring this measure before us today. I commend them for their leadership on this matter.

The Sustainable Fisheries Act of 1996, S. 39, would extend the authorization of appropriations for the Magnuson Fishery Conservation Management Act through fiscal year 2000 and build on the policy objectives of that landmark legislation. In the 20 years since its enactment, the Magnuson Act has provided a national framework for conserving and managing U.S. marine fisheries.

In addition to reauthorizing several important appropriations for marine statutes, the Sustainable Fisheries Act includes significant fishery conservation and management provisions. The bill contains language which requires fishery management plans to specify criteria for establishing when a fishery has been overfished and include methods to rebuild an overfished fishery. Additionally, the issue of bycatch, taking of nontarget fish in the process of catching marketable seafood, is also addressed by this legislation. It adds a national standard which would require measures to minimize bycatch and minimize the mortality of unavoidable bycatch. The legislation also mandates the eight regional fishery management councils to identify essential fish habitat and reduce negative effects on habitat due to fishing.

As with all natural resource policy matters, effective conservation and management of fisheries must be based on sound science and accurate research. The Sustainable Fisheries Act maintains existing Magnuson Act sections dealing with data collection and fisheries research. Additionally, it includes a section which establishes guidelines for fishing vessel observers and fishing vessel registration. The legislation also incorporates the National Academy of Sciences to conduct a review of the contentious individual fishing quota and community development quota programs.

Many individuals within my State have contacted me to express concern about specific provisions contained in this legislation. I recognize each issue within this bill may not be resolved to the satisfaction of all interested parties. However, the compromise package is a reasonable attempt to address these concerns and the accommodations made by the managers of the bill represent our best opportunity to see this overdue legislation enacted this year. Therefore, I will vote in favor of the Sustainable Fisheries Act.

Once again, I applaud the work of the sponsors of this legislation and thank them for their efforts on behalf of our Nation's fisheries and those who depend upon them. It is my hope the Senate will overwhelmingly pass this important measure and that action will be taken quickly by the White House to sign it into law.

BUDGETARY TREATMENT OF LOAN GUARANTEE PROGRAMS

Mr. DOMENICI. Mr. President, title III of S. 39, the Fisheries Financing Act, creates a new loan guarantee program and makes some changes to existing credit programs. Under the Federal Credit Reform Act of 1990, we reformed the budgetary treatment of Federal direct loan and loan guarantee programs to make sure we accurately reflected the costs of all these programs in the Federal budget. As a new credit program, this program will be governed under the terms of the Federal Credit Reform Act.

Mr. STEVENS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Have we disposed of all matters that were covered by the time agreement?

The PRESIDING OFFICER. Without objection, the committee substitute is agreed to.

The committee substitute was agreed to.

The PRESIDING OFFICER. The bill will be read for the third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, we have been waiting for one Senator, but we have waited a long time. I do ask unanimous consent now that there be a period after the vote of about, say, 10 minutes for Members who wish to make statements concerning this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, this bill took 5 years, from 1971 to 1976, to pass—the original bill. This one has been worked out in a very short period of time due to the total agreement of everyone concerned. I am thankful for that. I thank my good friend from Massachusetts in particular.

Mr. KERRY. Mr. President, I join my colleague in expressing gratitude for the bipartisan effort to bring forth this bill. As Senator STEVENS said yesterday, this is the most important conservation measure we will pass in this session, and I am grateful we are able to do it in a bipartisan way.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 295 Leg.]

YEAS—100

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frahm
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

The bill (S. 39), as amended, was passed, as follows:

S. 39

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Sustainable Fisheries Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of Magnuson Fishery Conservation and Management Act.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Findings; purposes; policy.
Sec. 102. Definitions.
Sec. 103. Authorization of appropriations.
Sec. 104. Highly migratory species.
Sec. 105. Foreign fishing and international fishery agreements.
Sec. 106. National standards.
Sec. 107. Regional fishery management councils.
Sec. 108. Fishery management plans.
Sec. 109. Action by the Secretary.
Sec. 110. Other requirements and authority.
Sec. 111. Pacific community fisheries.
Sec. 112. State jurisdiction.
Sec. 113. Prohibited acts.
Sec. 114. Civil penalties and permit sanctions; rebuttable presumptions.
Sec. 115. Enforcement.
Sec. 116. Transition to sustainable fisheries.
Sec. 117. North Pacific and northwest Atlantic Ocean fisheries.

TITLE II—FISHERY MONITORING AND RESEARCH

Sec. 201. Change of title.
Sec. 202. Registration and information management.
Sec. 203. Information collection.
Sec. 204. Observers.
Sec. 205. Fisheries research.
Sec. 206. Incidental harvest research.
Sec. 207. Miscellaneous research.
Sec. 208. Study of contribution of bycatch to charitable organizations.
Sec. 209. Study of identification methods for harvest stocks.
Sec. 210. Review of Northeast fishery stock assessments.
Sec. 211. Clerical amendments.

TITLE III—FISHERIES FINANCING

Sec. 301. Short title.
Sec. 302. Individual fishing quota loans.
Sec. 303. Fisheries financing and capacity reduction.

TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS

Sec. 401. Marine fish program authorization of appropriations.
Sec. 402. Interjurisdictional Fisheries Act amendments.
Sec. 403. Anadromous fisheries amendments.
Sec. 404. Atlantic coastal fisheries amendments.
Sec. 405. Technical amendments to maritime boundary agreement.
Sec. 406. Amendments to the Fisheries Act.

SEC. 2. AMENDMENT OF MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. FINDINGS; PURPOSES; POLICY.

Section 2 (16 U.S.C. 1801) is amended—

(1) by striking subsection (a)(2) and inserting the following:

"(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.";

(2) by inserting "to facilitate long-term protection of essential fish habitats," in subsection (a)(6) after "conservation,";

(3) by adding at the end of subsection (a) the following:

"(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

"(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.";

(4) by striking "principles;" in subsection (b)(3) and inserting "principles, including the promotion of catch and release programs in recreational fishing;";

(5) by striking "and" after the semicolon at the end of subsection (b)(5);

(6) by striking "development." in subsection (b)(6) and inserting "development in a non-wasteful manner; and";

(7) by adding at the end of subsection (b) the following:

"(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.";

(8) in subsection (c)(3)—

(A) by striking "promotes" and inserting "considers"; and

(B) by inserting "minimize bycatch and" after "practical measures that";

(9) striking "and" at the end of paragraph (c)(5);

(10) striking the period at the end of paragraph (c)(6) and inserting "; and"; and

(11) adding at the end of subsection (c) a new paragraph as follows:

"(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.".

SEC. 102. DEFINITIONS.

Section 3 (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (2) through (32) as paragraphs (5) through (35) respectively, and inserting after paragraph (1) the following:

"(2) The term 'bycatch' means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

"(3) The term 'charter fishing' means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46, United States Code) who is engaged in recreational fishing.

"(4) The term 'commercial fishing' means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.";

(2) in paragraph (7) (as redesignated)—

(A) by striking "COELENTERATA" from the heading of the list of corals and inserting "CNIDARIA"; and

(B) in the list appearing under the heading "CRUSTACEA", by striking "Deep-sea Red Crab—Geryon quinquedens" and inserting "Deep-sea Red Crab—Chaceon quinquedens";

(3) by redesignating paragraphs (9) through (35) (as redesignated) as paragraphs (11) through (37), respectively, and inserting after paragraph (8) (as redesignated) the following:

"(9) The term 'economic discards' means fish which are the target of a fishery, but which are not retained because they are of an undesirable size, sex, or quality, or for other economic reasons.

"(10) The term 'essential fish habitat' means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.";

(4) by redesignating paragraphs (16) through (37) (as redesignated) as paragraphs (17) through (38), respectively, and inserting after paragraph (15) (as redesignated) the following:

"(16) The term 'fishing community' means a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community.";

(5) by redesignating paragraphs (21) through (38) (as redesignated) as paragraphs (22) through (39), respectively, and inserting after paragraph (20) (as redesignated) the following:

"(21) The term 'individual fishing quota' means a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. Such term does not include community development quotas as described in section 305(i).";

(6) by striking "of one and one-half miles" in paragraph (23) (as redesignated) and inserting "of two and one-half kilometers";

(7) by striking paragraph (28) (as redesignated), and inserting the following:

"(28) The term 'optimum', with respect to the yield from a fishery, means the amount of fish which—

"(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

"(B) is prescribed on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant social, economic, or ecological factor; and

"(C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.";

(8) by redesignating paragraphs (29) through (39) (as redesignated) as paragraphs (31) through (41), respectively, and inserting after paragraph (28) (as redesignated) the following:

"(29) The terms 'overfishing' and 'overfished' mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.

"(30) The term "Pacific Insular Area" means American Samoa, Guam, the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Wake Island, or Palmyra Atoll, as applicable, and includes all islands and reefs appurtenant to such island, reef, or atoll.";

(9) by redesignating paragraphs (32) through (41) (as redesignated) as paragraphs (34) through (43), respectively, and inserting after paragraph (31) (as redesignated) the following:

"(32) The term 'recreational fishing' means fishing for sport or pleasure.

"(33) The term 'regulatory discards' means fish harvested in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.";

(10) by redesignating paragraphs (36) through (43) (as redesignated) as paragraphs (37) through (44), respectively, and inserting after paragraph (35) (as redesignated) the following:

"(36) The term 'special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990. In particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.";

(11) by striking "for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(g) has been implemented" in paragraph (42) (as redesignated) and inserting "regulated under this Act"; and

(12) by redesignating paragraph (44) (as redesignated) as paragraph (45), and inserting after paragraph (43) the following:

"(44) The term 'vessel subject to the jurisdiction of the United States' has the same meaning such term has in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).".

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

The Act is amended by inserting after section 3 (16 U.S.C. 1802) the following:

"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act, not to exceed the following sums:

"(1) $147,000,000 for fiscal year 1996;

"(2) $151,000,000 for fiscal year 1997;

"(3) $155,000,000 for fiscal year 1998; and

"(4) $159,000,000 for fiscal year 1999.".

SEC. 104. HIGHLY MIGRATORY SPECIES.

Section 102 (16 U.S.C. 1812) is amended by striking "promoting the objective of optimum utilization" and inserting "shall promote the achievement of optimum yield".

SEC. 105. FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS.

(a) AUTHORITY TO OPERATE UNDER TRANSSHIPMENT PERMITS.—Section 201 (16 U.S.C. 1821) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

"(1) is authorized under subsections (b) or (c) or section 204(e), or under a permit issued under section 204(d);

"(2) is not prohibited under subsection (f); and";

(2) by striking "(i)" in subsection (c)(2)(D) and inserting "(h)";

(3) by striking subsection (f);

(4) by redesignating subsections (g) through (j) as subsections (f) through (i), respectively;

(5) in paragraph (2) of subsection (h) (as redesignated), redesignate subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and insert after subparagraph (A) the following:

"(B) in a situation where the foreign fishing vessel is operating under a Pacific Insular Area fishing agreement, the Governor of the applicable Pacific Insular Area, in consultation with the Western Pacific Council, has established an observer coverage program that is at least equal in effectiveness to the program established by the Secretary;"; and

(6) in subsection (i) (as redesignated) by striking "305" and inserting "304".

(b) INTERNATIONAL FISHERY AGREEMENTS.—Section 202 (16 U.S.C. 1822) is amended—

(1) by adding before the period at the end of subsection (c) "or section 204(e)";

(2) by adding at the end the following:

"(h) BYCATCH REDUCTION AGREEMENTS.—

"(1) The Secretary of State, in cooperation with the Secretary, shall seek to secure an international agreement to establish standards and measures for bycatch reduction that are comparable to the standards and measures applicable to United States fishermen for such purposes in any fishery regulated pursuant to this Act for which the Secretary, in consultation with the Secretary of State, determines that such an international agreement is necessary and appropriate.

"(2) An international agreement negotiated under this subsection shall be—

"(A) consistent with the policies and purposes of this Act; and

"(B) subject to approval by Congress under section 203.

"(3) Not later than January 1, 1997, and annually thereafter, the Secretary, in consultation with the Secretary of State, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing actions taken under this subsection.".

(c) PERIOD FOR CONGRESSIONAL REVIEW OF INTERNATIONAL FISHERY AGREEMENTS.—Section 203 (16 U.S.C. 1823) is amended—

(1) by striking "GOVERNING" in the section heading;

(2) by striking "agreement" each place it appears in subsection (a) and inserting "agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement";

(3) by striking "60 calendar days of continuous session of the Congress" in subsection (a) and inserting "120 days (excluding any days in a period for which the Congress is adjourned sine die)";

(4) by striking subsection (c);

(5) by redesignating subsection (d) as subsection (c); and

(6) by striking "agreement" in subsection (c)(2)(A), as redesignated, and inserting "agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement".

(d) TRANSSHIPMENT PERMITS AND PACIFIC INSULAR AREA FISHING.— Section 204 (16 U.S.C. 1824) is amended—

(1) by inserting "or subsection (d)" in the first sentence of subsection (b)(7) after "under paragraph (6)";

(2) by striking "the regulations promulgated to implement any such plan" in subsection (b)(7)(A) and inserting "any applicable federal or State fishing regulations";

(3) by inserting "or subsection (d)" in subsection (b)(7)(D) after "paragraph (6)(B)"; and

(4) by adding at the end the following:

"(d) TRANSSHIPMENT PERMITS.—

"(1) AUTHORITY TO ISSUE PERMITS.—The Secretary may issue a transshipment permit under this subsection which authorizes a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish or fish products at sea from a point within the exclusive economic zone or, with the concurrence of a State, within the boundaries of that State, to a point outside the United States to any person who—

"(A) submits an application which is approved by the Secretary under paragraph (3); and

"(B) pays a fee imposed under paragraph (7).

"(2) TRANSMITTAL.—Upon receipt of an application for a permit under this subsection, the Secretary shall promptly transmit copies of the application to the Secretary of State, Secretary of the department in which the Coast Guard is operating, any appropriate Council, and any affected State.

"(3) APPROVAL OF APPLICATION.—The Secretary may approve, in consultation with the appropriate Council or Marine Fisheries Commission, an application for a permit under this section if the Secretary determines that—

"(A) the transportation of fish or fish products to be conducted under the permit, as described in the application, will be in the interest of the United States and will meet the applicable requirements of this Act;

"(B) the applicant will comply with the requirements described in section 201(c)(2) with respect to activities authorized by any permit issued pursuant to the application;

"(C) the applicant has established any bonds or financial assurances that may be required by the Secretary; and

"(D) no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated to the Secretary an interest in performing the transportation at fair and reasonable rates.

"(4) WHOLE OR PARTIAL APPROVAL.—The Secretary may approve all or any portion of an application under paragraph (3).

"(5) FAILURE TO APPROVE APPLICATION.—If the Secretary does not approve any portion of an application submitted under paragraph (1), the Secretary shall promptly inform the applicant and specify the reasons therefor.

"(6) CONDITIONS AND RESTRICTIONS.—The Secretary shall establish and include in each permit under this subsection conditions and restrictions, including those conditions and restrictions set forth in subsection (b)(7), which shall be complied with by the owner and operator of the vessel for which the permit is issued.

"(7) FEES.—The Secretary shall collect a fee for each permit issued under this subsection, in an amount adequate to recover the costs incurred by the United States in issuing the permit, except that the Secretary shall waive the fee for the permit if the foreign nation under which the vessel is registered does not collect a fee from a vessel of the United States engaged in similar activities in the waters of such foreign nation.

"(e) PACIFIC INSULAR AREAS.—

"(1) NEGOTIATION OF PACIFIC INSULAR AREA FISHERY AGREEMENTS.—The Secretary of State, with the concurrence of the Secretary and in consultation with any appropriate Council, may negotiate and enter into a Pacific Insular Area fishery agreement to authorize foreign fishing within the exclusive economic zone adjacent to a Pacific Insular Area—

"(A) in the case of American Samoa, Guam, or the Northern Mariana Islands, at the request and with the concurrence of, and in consultation with, the Governor of the Pacific Insular Area to which such agreement applies; and

"(B) in the case of a Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands, at the request of the Western Pacific Council.

"(2) AGREEMENT TERMS AND CONDITIONS.—A Pacific Insular Area fishery agreement—

"(A) shall not be considered to supersede any governing international fishery agreement currently in effect under this Act, but shall provide an alternative basis for the conduct of foreign fishing within the exclusive economic zone adjacent to Pacific Insular Areas;

"(B) shall be negotiated and implemented consistent only with the governing international fishery agreement provisions of this title specifically made applicable in this subsection;

"(C) may not be negotiated with a nation that is in violation of a governing international fishery agreement in effect under this Act;

"(D) shall not be entered into if it is determined by the Governor of the applicable Pacific Insular Area with respect to agreements initiated under paragraph (1)(A), or the Western Pacific Council with respect to agreements initiated under paragraph (1)(B), that such an agreement will adversely affect the fishing activities of the indigenous people of such Pacific Insular Area;

"(E) shall be valid for a period not to exceed three years and shall only become effective according to the procedures in section 203; and

"(F) shall require the foreign nation and its fishing vessels to comply with the requirements of paragraphs (1), (2), (3) and (4)(A) of section 201(c), section 201(d), and section 201(h).

"(3) PERMITS FOR FOREIGN FISHING.—

"(A) Application for permits for foreign fishing authorized under a Pacific Insular Areas fishing agreement shall be made, considered and approved or disapproved in accordance with paragraphs (3), (4), (5), (6), (7)(A) and (B), (8), and (9) of subsection (b), and shall include any conditions and restrictions established by the Secretary in consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, the Governor of the applicable Pacific Insular Area, and the appropriate Council.

"(B) If a foreign nation notifies the Secretary of State of its acceptance of the requirements of this paragraph, paragraph (2)(F), and paragraph (5), including any conditions and restrictions established under subparagraph (A), the Secretary of State shall promptly transmit such notification to the Secretary. Upon receipt of any payment required under a Pacific Insular Area fishing agreement, the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all of the requirements, conditions, and restrictions established under this subsection which apply to the fishing vessel for which the permit is issued.

"(4) MARINE CONSERVATION PLANS.—

"(A) Prior to entering into a Pacific Insular Area fishery agreement, the Western Pacific Council and the appropriate Governor shall develop a 3-year marine conservation plan detailing uses for funds to be collected by the Secretary pursuant to such agreement. Such plan shall be consistent with any applicable fishery management plan, identify conservation and management objectives (including criteria for determining when such objectives have been met), and prioritize planned marine conservation projects. Conservation and management objectives shall include, but not be limited to—

"(i) establishment of Pacific Insular Area observer programs, approved by the Secretary in consultation with the Western Pacific Council, that provide observer coverage for foreign fishing under Pacific Insular Area fishery agreements that is at least equal in effectiveness to the program established by the Secretary under section 201(h);

"(ii) conduct of marine and fisheries research, including development of systems for information collection, analysis, evaluation, and reporting;

"(iii) conservation, education, and enforcement activities related to marine and coastal management, such as living marine resource assessments, habitat monitoring and coastal studies;

"(iv) grants to the University of Hawaii for technical assistance projects by the Pacific Island Network, such as education and training in the development and implementation of sustainable marine resources development projects, scientific research, and conservation strategies; and

"(v) western Pacific community-based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects to foster and promote the management, conservation, and economic enhancement of the Pacific Insular Areas.

"(B) In the case of American Samoa, Guam, and the Northern Mariana Islands, the appropriate Governor, with the concurrence of the Western Pacific Council, shall develop the marine conservation plan described in subparagraph (A) and submit such plan to the Secretary for approval. In the case of other Pacific Insular Areas, the Western Pacific Council shall develop and submit the marine conservation plan described in subparagraph (A) to the Secretary for approval.

"(C) If a Governor or the Western Pacific Council intends to request that the Secretary of State renew a Pacific Insular Area fishery agreement, a subsequent 3-year plan shall be submitted to the Secretary for approval by the end of the second year of the existing 3-year plan.

"(5) RECIPROCAL CONDITIONS.—Except as expressly provided otherwise in this subsection, a Pacific Insular Area fishing agreemeent may include terms similar to the terms applicable to United States fishing vessels for access to similar fisheries in waters subject to the fisheries jurisdiction of another nation.

"(6) USE OF PAYMENTS BY AMERICAN SAMOA, GUAM, NORTHERN MARIANA ISLANDS.—Any payments received by the Secretary under a Pacific Insular Area fishery agreement for American Samoa, Guam, or the Northern Mariana Islands shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which those funds were collected. Amounts deposited in the Treasury of a Pacific Insular Area shall be available, without appropriation or fiscal year limitation, to the Governor of the Pacific Insular Area—

"(A) to carry out the purposes of this subsection;

"(B) to compensate (i) the Western Pacific Council for mutually agreed upon administrative costs incurred relating to any Pacific Insular Area fishery agreement for such Pacific Insular Area, and (ii) the Secretary of State for mutually agreed upon travel expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(A); and

"(C) to implement a marine conservation plan developed and approved under paragraph (4).

"(7) WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.—There is established in the United States Treasury a Western Pacific Sustainable Fisheries Fund into which any payments received by the Secretary under a Pacific Insular Area fishery agreement for any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands shall be deposited. The Western Pacific Sustainable Fisheries Fund shall be made available, without appropriation or fiscal year limitation, to the Secretary, who shall provide such funds only to—

"(A) the Western Pacific Council for the purpose of carrying out the provisions of this subsection, including implementation of a marine conservation plan approved under paragraph (4);

"(B) the Secretary of State for mutually agreed upon travel expenses for no more than 2 federal representatives incurred as a direct result of complying with paragraph (1)(B); and

"(C) the Western Pacific Council to meet conservation and management objectives in the State of Hawaii if monies remain in the Western Pacific Sustainable Fisheries Fund after the funding requirements of subparagraphs (A) and (B) have been satisfied.

Amounts deposited in such fund shall not diminish funding received by the Western Pacific Council for the purpose of carrying out other responsibilities under this Act.

"(8) USE OF FINES AND PENALTIES.—In the case of violations occurring within the exclusive economic zone off American Samoa, Guam, or the Northern Mariana Islands, amounts received by the Secretary which are attributable to fines or penalties imposed under this Act, including such sums collected from the forfeiture and disposition or sale of property seized subject to its authority, after payment of direct costs of the enforcement action to all entities involved in such action, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the exclusive economic zone in which the violation occurred, to be used for fisheries enforcement and for implementation of a marine conservation plan under paragraph (4).".

(e) ATLANTIC HERRING TRANSSHIPMENT.—Within 30 days of receiving an application, the Secretary shall, under Section 204(d) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, issue permits to up to fourteen Canadian transport vessels that are not equipped for fish harvesting or processing, for the transshipment, within the boundaries of the State of Maine or within the portion of the exclusive economic zone east of the line 69 degrees 30 minutes west and within 12 nautical miles from the seaward boundary of that State, of Atlantic herring harvested by United States fishermen within the area described and used solely in sardine processing. In issuing a permit pursuant to this subsection, the Secretary shall provide a waiver under section 201(h)(2)(C) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, provided that such vessels comply with Federal or State monitoring and reporting requirements for the Atlantic herring fishery, including the stationing of United States observers aboard such vessels, if necessary.

(f) LARGE SCALE DRIFTNET FISHING.—Section 206 (16 U.S.C. 1826) is amended—

(1) in subsection (e), by striking paragraphs (3) and (4), and redesignating paragraphs (5) and (6) as (3) and (4), respectively; and

(2) in subsection (f), by striking "(e)(6)," and inserting "(e)(4),".

(g) RUSSIAN FISHING IN THE BERING SEA.—No later than September 30, 1997, the North Pacific Fishery Management Council, in consultation with the North Pacific and Bering Sea Advisory Body, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing the institutional structures in Russia pertaining to stock assessment, management, and enforcement for fishery harvests in the Bering Sea, and recommendations for improving coordination between the United States and Russia for managing and conserving Bering Sea fishery resources of mutual concern.

SEC. 106. NATIONAL STANDARDS.

(a) Section 301(a)(5) (16 U.S.C. 1851(a)(5)) is amended by striking "promote" and inserting "consider".

(b) Section 301(a) (16 U.S.C. 1851(a)) is amended by adding at the end thereof the following:

"(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

"(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

"(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.".

SEC. 107. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) Section 302(a) (16 U.S.C. 1852(a)) is amended—

(1) by inserting "(1)" after the subsection heading;

(2) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively;

(3) by striking "section 304(f)(3)" wherever it appears and inserting "paragraph (3)";

(4) in paragraph (1)(B), as amended—

(A) by striking "and Virginia" and inserting "Virginia, and North Carolina";

(B) by inserting "North Carolina, and" after "except";

(C) by striking "19" and inserting "21"; and

(D) by striking "12" and inserting "13";

(5) by striking paragraph (1)(F), as redesignated, and inserting the following:

"(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).";

(6) by indenting the sentence at the end thereof and inserting "(2)" before "Each Council"; and

(7) by adding at the end the following:

"(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.".

(b) Section 302(b) (16 U.S.C. 1852(b)) is amended—

(1) by striking "subsection (b)(2)" in paragraphs (1)(C) and (3), and inserting in both places "paragraphs (2) and (5)";

(2) by striking the last sentence in paragraph (3) and inserting the following: "Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member."; and

(3) by striking paragraph (5) and inserting after paragraph (4) the following:

"(5)(A) The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph.

"(B) Representation shall be rotated among the tribes taking into consideration—

"(i) the qualifications of the individuals on the list referred to in subparagraph (A),

"(ii) the various rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and

"(iii) the geographic area in which the tribe of the representative is located.

"(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.

"(6) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with paragraphs (2) or (5) if—

"(A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or

"(B) the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307(1)(O).".

(c) Section 302(d) (16 U.S.C. 1852(d)) is amended in the first sentence—

(1) by striking "each Council," and inserting "each Council who are required to be appointed by the Secretary and"; and

(2) by striking "shall, until January 1, 1992," and all that follows through "GS-16" and inserting "shall receive compensation at the daily rate for GS-15, step 7".

(d) Section 302(e) (16 U.S.C. 1852(e)) is amended by adding at the end the following:

"(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.".

(e) Section 302(g) (16 U.S.C. 1852(g)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following:

"(4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery to which subsection (a)(3) applies. Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among—

"(A) members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

"(B) other interested persons.".

(f) Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);";

(2) in paragraph (2)—

(A) by striking "section 204(b)(4)(C)," in paragraph (2) and inserting "section 204(b)(4)(C) or section 204(d),";

(B) by striking "304(c)(2)" and inserting "304(c)(4)"; and

(3) by striking "304(f)(3) "in paragraph (5) and inserting "subsection (a)(3)".

(g) Section 302 is amended further by striking subsection (i), and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(h) Section 302(i), as redesignated, is amended—

(1) by striking "of the Councils" in paragraph (1) and inserting "established under subsection (g)";

(2) by striking "of a Council:" in paragraph (2) and inserting "established under subsection (g):";

(3) by striking "Council's" in paragraph (2)(C);

(4) by adding the following at the end of paragraph (2)(C): "The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c), in which case public notice shall be given immediately.";

(5) by adding the following at the end of paragraph (2)(D): "All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.";

(6) by striking paragraph (2)(E) and inserting:

"(E) Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.";

(7) by striking "by the Council" the first place it appears in paragraph (2)(F);

(8) by inserting "or the Secretary, as appropriate" in paragraph (2)(F) after "of the Council"; and

(9) by striking "303(d)" each place it appears in paragraph (2)(F) and inserting "402(b)"; and

(10) by striking "303(d)" in paragraph (4) and inserting "402(b)".

(i) Section 302(j), as redesignated, is amended—

(1) by inserting "and Recusal" after "Interest" in the subsection heading;

(2) by striking paragraph (1) and inserting the following:

"(1) For the purposes of this subsection—

"(A) the term 'affected individual' means an individual who—

"(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

"(ii) is a voting member of a Council appointed—

"(I) under subsection (b)(2); or

"(II) under subsection (b)(5) who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and

"(B) the term 'designated official' means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).";

(3) by striking "(1)(A)" in paragraph (3)(A) and inserting "(1)(A)(i)";

(4) by striking "(1)(B) or (C)" in paragraph (3)(B) and inserting "(1)(A)(ii)";

(5) by striking "(1)(B) or (C)" in paragraph (4) and inserting "(1)(A)(ii)";

(6)(A) by striking "and" at the end of paragraph (5)(A);

(B) by striking the period at the end of paragraph (5)(B) and inserting a semicolon and the word "and"; and

(C) by adding at the end of paragraph (5) the following:

"(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.";

(7) by striking "(1)(B) or (C)" in paragraph (6) and inserting "(1)(A)(ii)";

(8) by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following:

"(7)(A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

"(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

"(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

"(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

"(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

"(F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of the Sustainable Fisheries Act, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C)."; and

(9) by striking "(1)(B) or (C)" in paragraph (8), as redesignated, and inserting "(1)(A)(ii)".

SEC. 108. FISHERY MANAGEMENT PLANS.

(a) REQUIRED PROVISIONS.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (1)(A) by inserting "and rebuild overfished stocks" after "overfishing";

(2) by inserting "commercial, recreational, and charter fishing in" in paragraph (5) after "with respect to";

(3) by striking paragraph (7) and inserting the following:

"(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;";

(4) by striking "and" at the end of paragraph (8);

(5) by inserting "and fishing communities" after "fisheries" in paragraph (9)(A);

(6) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(7) by adding at the end the following:

"(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

"(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

"(A) minimize bycatch; and

"(B) minimize the mortality of bycatch which cannot be avoided;

"(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

"(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

"(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.".

(b) IMPLEMENTATION.—Not later than 24 months after the date of enactment of this Act, each Regional Fishery Management Council shall submit to the Secretary of Commerce amendments to each fishery management plan under its authority to comply with the amendments made in subsection (a) of this section.

(c) DISCRETIONARY PROVISIONS.—Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the —

"(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

"(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

"(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;";

(2) by striking "system for limiting access to" in paragraph (6) and inserting "limited access system for";

(3) by striking "fishery" in subparagraph (E) of paragraph (6) and inserting "fishery and any affected fishing communities";

(4) by inserting "one or more" in paragraph (8) after "require that";

(5) by striking "and" at the end of paragraph (9);

(6) by redesignating paragraph (10) as paragraph (12); and

(7) by inserting after paragraph (9) the following:

"(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

"(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and".

(d) REGULATIONS.—Section 303 (16 U.S.C. 1853) is amended by striking subsection (c) and inserting the following:

"(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

"(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

"(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.".

(e) INDIVIDUAL FISHING QUOTAS.—Subsection 303 (16 U.S.C. 1853) is amended further by striking subsections (d), (e), and (f), and inserting the following:

"(d) INDIVIDUAL FISHING QUOTAS.—

"(1)(A) A Council may not submit and the Secretary may not approve or implement before October 1, 2000, any fishery management plan, plan amendment, or regulation under this Act which creates a new individual fishing quota program.

"(B) Any fishery management plan, plan amendment, or regulation approved by the Secretary on or after January 4, 1995, which creates any new individual fishing quota program shall be repealed and immediately returned by the Secretary to the appropriate Council and shall not be resubmitted, reapproved, or implemented during the moratorium set forth in subparagraph (A).

"(2)(A) No provision of law shall be construed to limit the authority of a Council to submit and the Secretary to approve the termination or limitation, without compensation to holders of any limited access system permits, of a fishery management plan, plan amendment, or regulation that provides for a limited access system, including an individual fishing quota program.

"(B) This subsection shall not be construed to prohibit a Council from submitting, or the Secretary from approving and implementing, amendments to the North Pacific halibut and sablefish, South Atlantic wreckfish, or Mid-Atlantic surf clam and ocean (including mahogany) quahog individual fishing quota programs.

"(3) An individual fishing quota or other limited access system authorization—

"(A) shall be considered a permit for the purposes of sections 307, 308, and 309;

"(B) may be revoked or limited at any time in accordance with this Act;

"(C) shall not confer any right of compensation to the holder of such individual fishing quota or other such limited access system authorization if it is revoked or limited; and

"(D) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested.

"(4)(A) A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 1104A(a)(7) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to issue obligations that aid in financing the—

"(i) purchase of individual fishing quotas in that fishery by fishermen who fish from small vessels; and

"(ii) first-time purchase of individual fishing quotas in that fishery by entry level fishermen.

"(B) A Council making a submission under subparagraph (A) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under clauses (i) and (ii) of subparagraph (A) and the portion of funds to be allocated for guarantees under each clause.

"(5) In submitting and approving any new individual fishing quota program on or after October 1, 2000, the Councils and the Secretary shall consider the report of the National Academy of Sciences required under section 108(f) of the Sustainable Fisheries Act, and any recommendations contained in such report, and shall ensure that any such program—

"(A) establishes procedures and requirements for the review and revision of the terms of any such program (including any revisions that may be necessary once a national policy with respect to individual fishing quota programs is implemented), and, if appropriate, for the renewal, reallocation, or reissuance of individual fishing quotas;

"(B) provides for the effective enforcement and management of any such program, including adequate observer coverage, and for fees under section 304(d)(2) to recover actual costs directly related to such enforcement and management; and

"(C) provides for a fair and equitable initial allocation of individual fishing quotas, prevents any person from acquiring an excessive share of the individual fishing quotas issued, and considers the allocation of a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, and crew members who do not hold or qualify for individual fishing quotas.".

(f) INDIVIDUAL FISHING QUOTA REPORT.— (1) Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary of Commerce and the Regional Fishery Management Councils, shall submit to the Congress a comprehensive final report on individual fishing quotas, which shall include recommendations to implement a national policy with respect to individual fishing quotas. The report shall address all aspects of such quotas, including an analysis of—

(A) the effects of limiting or prohibiting the transferability of such quotas;

(B) mechanisms to prevent foreign control of the harvest of United States fisheries under individual fishing quota programs, including mechanisms to prohibit persons who are not eligible to be deemed a citizen of the United States for the purpose of operating a vessel in the coastwise trade under section 2(a) and section 2(c) of the Shipping Act, 1916 (46 U.S.C. 802 (a) and (c)) from holding individual fishing quotas;

(C) the impact of limiting the duration of individual fishing quota programs;

(D) the impact of authorizing Federal permits to process a quantity of fish that correspond to individual fishing quotas, and of the value created for recipients of any such permits, including a comparison of such value to the value of the corresponding individual fishing quotas;

(E) mechanisms to provide for diversity and to minimize adverse social and economic impacts on fishing communities, other fisheries affected by the displacement of vessels, and any impacts associated with the shifting of capital value from fishing vessels to individual fishing quotas, as well as the use of capital construction funds to purchase individual fishing quotas;

(F) mechanisms to provide for effective monitoring and enforcement, including the inspection of fish harvested and incentives to reduce bycatch, and in particular economic discards;

(G) threshold criteria for determining whether a fishery may be considered for individual fishing quota management, including criteria related to the geographical range, population dynamics and condition of a fish stock, the socioeconomic characteristics of a fishery (including participants' involvement in multiple fisheries in the region), and participation by commercial, charter, and recreational fishing sectors in the fishery;

(H) mechanisms to ensure that vessel owners, vessel masters, crew members, and United States fish processors are treated fairly and equitably in initial allocations, to require persons holding individual fishing quotas to be on board the vessel using such quotas, and to facilitate new entry under individual fishing quota programs;

(I) potential social and economic costs and benefits to the nation, individual fishing quota recipients, and any recipients of Federal permits described in subparagraph (D) under individual fishing quota programs, including from capital gains revenue, the allocation of such quotas or permits through Federal auctions, annual fees and transfer fees at various levels, or other measures;

(J) the value created for recipients of individual fishing quotas, including a comparison of such value to the value of the fish harvested under such quotas and to the value of permits created by other types of limited access systems, and the effects of creating such value on fishery management and conservation; and

(K) such other matters as the National Academy of Sciences deems appropriate.

(2) The report shall include a detailed analysis of individual fishing quota programs already implemented in the United States, including the impacts: of any limits on transferability, on past and present participants, on fishing communities, on the rate and total amount of bycatch (including economic and regulatory discards) in the fishery, on the safety of life and vessels in the fishery, on any excess harvesting or processing capacity in the fishery, on any gear conflicts in the fishery, on product quality from the fishery, on the effectiveness of enforcement in the fishery, on the size and composition of fishing vessel fleets, of the economic value created by individual fishing quotas for initial recipients and non-recipients, on conservation of the fishery resource, on fishermen who rely on participation in several fisheries, on the success in meeting any fishery management plan goals, and the fairness and effectiveness of the methods used for allocating quotas and controlling transferability. The report shall also include any information about individual fishing quota programs in other countries that may be useful.

(3) The report shall identify and analyze alternative conservation and management measures, including other limited access systems such as individual transferable effort systems, that could accomplish the same objectives as individual fishing quota programs, as well as characteristics that are unique to individual fishing quota programs.

(4) The Secretary of Commerce shall, in consultation with the National Academy of Sciences, the Councils, the fishing industry, affected States, conservation organizations and other interested persons, establish two individual fishing quota review groups to assist in the preparation of the report, which shall represent: (A) Alaska, Hawaii, and the other Pacific coastal States; and (B) Atlantic coastal States and the Gulf of Mexico coastal States. The Secretary shall, to the extent practicable, achieve a balanced representation of viewpoints among the individuals on each review group. The review groups shall be deemed to be advisory panels under section 302(g) of the Magnuson Fishery Conservation and Management Act, as amended by this Act.

(5) The Secretary of Commerce, in consultation with the National Academy of Sciences and the Councils, shall conduct public hearings in each Council region to obtain comments on individual fishing quotas for use by the National Academy of Sciences in preparing the report required by this subsection. The National Academy of Sciences shall submit a draft report to the Secretary of Commerce by January 1, 1998. The Secretary of Commerce shall publish in the Federal Register a notice and opportunity for public comment on the draft of the report, or any revision thereof. A detailed summary of comments received and views presented at the hearings, including any dissenting views, shall be included by the National Academy of Sciences in the final report.

(6) Section 210 of Public Law 104-134 is hereby repealed.

(g) NORTH PACIFIC LOAN PROGRAM.—(1) By not later than October 1, 1997 the North Pacific Fishery Management Council shall recommend to the Secretary of Commerce a program which uses the full amount of fees authorized to be used under section 303(d)(4) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, in the halibut and sablefish fisheries off Alaska to guarantee obligations in accordance with such section.

(2)(A) For the purposes of this subsection, the phrase "fishermen who fish from small vessels" in section 303(d)(4)(A)(i) of such Act shall mean fishermen wishing to purchase individual fishing quotas for use from Category B, Category C, or Category D vessels, as defined in part 676.20(c) of title 50, Code of Federal Regulations (as revised as of October 1, 1995), whose aggregate ownership of individual fishing quotas will not exceed the equivalent of a total of 50,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made if the guarantee is approved, who will participate aboard the fishing vessel in the harvest of fish caught under such quotas, who have at least 150 days of experience working as part of the harvesting crew in any U.S. commercial fishery, and who do not own in whole or in part any Category A or Category B vessel, as defined in such part and title of the Code of Federal Regulations.

(B) For the purposes of this subsection, the phrase "entry level fishermen" in section 303(d)(4)(A)(ii) of such Act shall mean fishermen who do not own any individual fishing quotas, who wish to obtain the equivalent of not more than a total of 8,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made, and who will participate aboard the fishing vessel in the harvest of fish caught under such quotas.

(h) COMMUNITY DEVELOPMENT QUOTA REPORT.—Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary, the North Pacific and Western Pacific Councils, communities and organizations participating in the program, participants in affected fisheries, and the affected States, shall submit to the Secretary of Commerce and Congress a comprehensive report on the performance and effectiveness of the community development quota programs under the authority of the North Pacific and Western Pacific Councils. The report shall—

(1) evaluate the extent to which such programs have met the objective of providing

communities with the means to develop ongoing commercial fishing activities;

(2) evaluate the manner and extent to which such programs have resulted in the communities and residents—

(A) receiving employment opportunities in commercial fishing and processing; and

(B) obtaining the capital necessary to invest in commercial fishing, fish processing, and commercial fishing support projects (including infrastructure to support commercial fishing);

(3) evaluate the social and economic conditions in the participating communities and the extent to which alternative private sector employment opportunities exist;

(4) evaluate the economic impacts on participants in the affected fisheries, taking into account the condition of the fishery resource, the market, and other relevant factors;

(5) recommend a proposed schedule for accomplishing the developmental purposes of community development quotas; and

(6) address such other matters as the National Academy of Sciences deems appropriate.

(i) EXISTING QUOTA PLANS.—Nothing in this Act or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

SEC. 109. ACTION BY THE SECRETARY.

(a) SECRETARIAL REVIEW OF PLANS AND REGULATIONS.—Section 304 (16 U.S.C. 1854) is amended by striking subsections (a) and (b) and inserting the following:

"(a) REVIEW OF PLANS.—

"(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

"(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

"(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

"(2) In undertaking the review required under paragraph (1), the Secretary shall—

"(A) take into account the information, views, and comments received from interested persons;

"(B) consult with the Secretary of State with respect to foreign fishing; and

"(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

"(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

"(A) the applicable law with which the plan or amendment is inconsistent;

"(B) the nature of such inconsistencies; and

"(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

"(4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

"(5) For purposes of this subsection and subsection (b), the term 'immediately' means on or before the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, plan amendment, or proposed regulation that the Council characterizes as final.

"(b) REVIEW OF REGULATIONS.—

"(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

"(A) if that determination is affirmative, the Secretary shall publish such regulations in the Federal Register, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days; or

"(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, plan amendment, this Act, and other applicable law.

"(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

"(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.".

(b) PREPARATION BY THE SECRETARY.—Section 304(c) (16 U.S.C. 1854(c)) is amended—

(1) by striking the subsection heading and inserting "PREPARATION AND REVIEW OF SECRETARIAL PLANS";

(2) by striking "or" at the end of paragraph (1)(A);

(3) by striking all that follows "further revised plan" in paragraph (1) and inserting "or amendment; or";

(4) by inserting after subparagraph (1)(B), as amended, the following new subparagraph:

"(C) the Secretary is given authority to prepare such plan or amendment under this section.";

(5) by striking paragraph (2) and inserting:

"(2) In preparing any plan or amendment under this subsection, the Secretary shall—

"(A) conduct public hearings, at appropriate times and locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan; and

"(B) consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.";

(6) by inserting "for a fishery under the authority of a Council" after "paragraph (1)" in paragraph (3);

(7) by striking "system described in section 303(b)(6)" in paragraph (3) and inserting "system, including any individual fishing quota program"; and

(8) by inserting after paragraph (3) the following new paragraphs:

"(4) Whenever the Secretary prepares a fishery management plan or plan amendment under this section, the Secretary shall immediately—

"(A) for a plan or amendment for a fishery under the authority of a Council, submit such plan or amendment to the appropriate Council for consideration and comment; and

"(B) publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

"(5) Whenever a plan or amendment is submitted under paragraph (4)(A), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in paragraph (4)(B). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, information, or comments submitted under paragraph (4)(B), may adopt such plan or amendment.

"(6) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. In the case of a plan or amendment to which paragraph (4)(A) applies, such regulations shall be submitted to the Council with such plan or amendment. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.

"(7) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (6). The Secretary must publish in the Federal Register an explanation of any substantive differences between the proposed and final rules. All final regulations must be consistent with the fishery management plan, with the national standards and other provisions of this Act, and with any other applicable law.".

(c) INDIVIDUAL FISHING QUOTA AND COMMUNITY DEVELOPMENT QUOTA FEES.—Section 304(d) (16 U.S.C. 1854(d)) is amended—

(1) by inserting "(1)" immediately before the first sentence; and

(2) by inserting the at the end the following:

"(2)(A) Notwithstanding paragraph (1), the Secretary is authorized and shall collect a fee to recover the actual costs directly related to the management and enforcement of any—

"(i) individual fishing quota program; and

"(ii) community development quota program that allocates a percentage of the total allowable catch of a fishery to such program.

"(B) Such fee shall not exceed 3 percent of the ex-vessel value of fish harvested under any such program, and shall be collected at either the time of the landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

"(C)(i) Fees collected under this paragraph shall be in addition to any other fees charged under this Act and shall be deposited in the Limited Access System Administration Fund established under section 305(h)(5)(B), except that the portion of any such fees reserved under section 303(d)(4)(A) shall be deposited in the Treasury and available, subject to annual appropriations, to cover the costs of new direct loan obligations and new loan guarantee commitments as required by section 504(b)(1) of the Federal Credit Reform Act (2 U.S.C. 661c(b)(1)).

"(ii) Upon application by a State, the Secretary shall transfer to such State up to 33 percent of any fee collected pursuant to subparagraph (A) under a community development quota program and deposited in the Limited Access System Administration Fund in order to reimburse such State for actual costs directly incurred in the management and enforcement of such program.".

(d) Delay of Fees.—Notwithstanding any other provision of law, the Secretary shall not begin the collection of fees under section 304(d)(2) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, in the surf clam and ocean (including mahogany) quahog fishery or in the wreckfish fishery until after January 1, 2000.

(e) Overfishing.—Section 304(e) (16 U.S.C. 1854(e)) is amended to read as follows:

"(e) Rebuilding Overfished Fisheries.—

"(1) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are overfished or are approaching a condition of being overfished. For those fisheries managed under a fishery management plan or international agreement, the status shall be determined using the criteria for overfishing specified in such plan or agreement. A fishery shall be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within two years.

"(2) If the Secretary determines at any time that a fishery is overfished, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks of fish. The Secretary shall publish each notice under this paragraph in the Federal Register.

"(3) Within one year of an identification under paragraph (1) or notification under paragraphs (2) or (7), the appropriate Council (or the Secretary, for fisheries under section 302(a)(3)) shall prepare a fishery management plan, plan amendment, or proposed regulations for the fishery to which the identification or notice applies—

"(A) to end overfishing in the fishery and to rebuild affected stocks of fish; or

"(B) to prevent overfishing from occurring in the fishery whenever such fishery is identified as approaching an overfished condition.

"(4) For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—

"(A) specify a time period for ending overfishing and rebuilding the fishery that shall—

"(i) be as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and

"(ii) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

"(B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and

"(C) for fisheries managed under an international agreement, reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States.

"(5) If, within the one-year period beginning on the date of identification or notification that a fishery is overfished, the Council does not submit to the Secretary a fishery management plan, plan amendment, or proposed regulations required by paragraph (3)(A), the Secretary shall prepare a fishery management plan or plan amendment and any accompanying regulations to stop overfishing and rebuild affected stocks of fish within 9 months under subsection (c).

"(6) During the development of a fishery management plan, a plan amendment, or proposed regulations required by this subsection, the Council may request the Secretary to implement interim measures to reduce overfishing under section 305(c) until such measures can be replaced by such plan, amendment, or regulations. Such measures, if otherwise in compliance with the provisions of this Act, may be implemented even though they are not sufficient by themselves to stop overfishing of a fishery.

"(7) The Secretary shall review any fishery management plan, plan amendment, or regulations required by this subsection at routine intervals that may not exceed two years. If the Secretary finds as a result of the review that such plan, amendment, or regulations have not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks, the Secretary shall—

"(A) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress; or

"(B) for all other fisheries, immediately notify the appropriate Council. Such notification shall recommend further conservation and management measures which the Council should consider under paragraph (3) to achieve adequate progress.".

(f) Fisheries Under Authority of More Than One Council.—Section 304(f) is amended by striking paragraph (3).

(g) Atlantic Highly Migratory Species.—Section 304 (16 U.S.C. 1854) is amended further by striking subsection (g) and inserting the following:

"(g) Atlantic Highly Migratory Species.—(1) Preparation and implementation of plan or plan amendment.—The Secretary shall prepare a fishery management plan or plan amendment under subsection (c) with respect to any highly migratory species fishery to which section 302(a)(3) applies. In preparing and implementing any such plan or amendment, the Secretary shall—

"(A) consult with and consider the comments and views of affected Councils, commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species, and the advisory panel established under section 302(g);

"(B) establish an advisory panel under section 302(g) for each fishery management plan to be prepared under this paragraph;

"(C) evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors;

"(D) with respect to a highly migratory species for which the United States is authorized to harvest an allocation, quota, or at a fishing mortality level under a relevant international fishery agreement, provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation, quota, or at such fishing mortality level;

"(E) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan;

"(F) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and

"(G) ensure that conservation and management measures under this subsection—

"(i) promote international conservation of the affected fishery;

"(ii) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

"(iii) are fair and equitable in allocating fishing privileges among United States fishermen and do not have economic allocation as the sole purpose; and

"(iv) promote, to the extent practicable, implementation of scientific research programs that include the tagging and release of Atlantic highly migratory species.

"(2) Certain fish excluded from 'bycatch' definition.—Notwithstanding section 3(2), fish harvested in a commercial fishery managed by the Secretary under this subsection or the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d) that are not regulatory discards and that are tagged and released alive under a scientific tagging and release program established by the Secretary shall not be considered bycatch for purposes of this Act.".

(h) Comprehensive Management System for Atlantic Pelagic Longline Fishery.—(1) The Secretary of Commerce shall—

(A) establish an advisory panel under section 302(g)(4) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species;

(B) conduct surveys and workshops with affected fishery participants to provide information and identify options for future management programs;

(C) to the extent practicable and necessary for the evaluation of options for a comprehensive management system, recover vessel production records; and

(D) complete by January 1, 1998, a comprehensive study on the feasibility of implementing a comprehensive management system for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species, including, but not limited to, individual fishing quota programs and other limited access systems.

(2) Based on the study under paragraph (1)(D) and consistent with the requirements of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), in cooperation with affected participants in the fishery, the United States Commissioners on

the International Commission for the Conservation of Atlantic Tunas, and the advisory panel established under paragraph (1)(A), the Secretary of Commerce may, after October 1, 1998, implement a comprehensive management system pursuant to section 304 of such Act (16 U.S.C. 1854) for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species. Such a system may not implement an individual fishing quota program until after October 1, 2000.

(i) Repeal or Revocation of a Fishery Management Plan.—Section 304, as amended, is further amended by adding at the end the following:

"(h) Repeal or Revocation of a Fishery Management Plan.—The Secretary may repeal or revoke a fishery management plan for a fishery under the authority of a Council only if the Council approves the repeal or revocation by a three-quarters majority of the voting members of the Council.".

(j) American Lobster Fishery.—Section 304(h) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, shall not apply to the American Lobster Fishery Management Plan.

SEC. 110. OTHER REQUIREMENTS AND AUTHORITY.

(a) Section 305 (18 U.S.C. 1855) is amended—

(1) by striking the title and subsection (a);

(2) by redesignating subsection (b) as subsection (f); and

(3) by inserting the following before subsection (c):

"SEC. 305. OTHER REQUIREMENTS AND AUTHORITY.

"(a) Gear Evaluation and Notification of Entry.—

"(1) Not later than 18 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register, after notice and an opportunity for public comment, a list of all fisheries—

"(A) under the authority of each Council and all fishing gear used in such fisheries, based on information submitted by the Councils under section 303(a); and

"(B) to which section 302(a)(3) applies and all fishing gear used in such fisheries.

"(2) The Secretary shall include with such list guidelines for determining when fishing gear or a fishery is sufficiently different from those listed as to require notification under paragraph (3).

"(3) Effective 180 days after the publication of such list, no person or vessel may employ fishing gear or engage in a fishery not included on such list without giving 90 days advance written notice to the appropriate Council, or the Secretary with respect to a fishery to which section 302(a)(3) applies. A signed return receipt shall serve as adequate evidence of such notice and as the date upon which the 90-day period begins.

"(4) A Council may submit to the Secretary any proposed changes to such list or such guidelines the Council deems appropriate. The Secretary shall publish a revised list, after notice and an opportunity for public comment, upon receiving any such proposed changes from a Council.

"(5) A Council may request the Secretary to promulgate emergency regulations under subsection (c) to prohibit any persons or vessels from using an unlisted fishing gear or engaging in an unlisted fishery if the appropriate Council, or the Secretary for fisheries to which section 302(a)(3) applies, determines that such unlisted gear or unlisted fishery would compromise the effectiveness of conservation and management efforts under this Act.

"(6) Nothing in this subsection shall be construed to permit a person or vessel to engage in fishing or employ fishing gear when such fishing or gear is prohibited or restricted by regulation under a fishery management plan or plan amendment, or under other applicable law.

"(b) Fish Habitat.—(1)(A) The Secretary shall, within 6 months of the date of enactment of the Sustainable Fisheries Act, establish by regulation guidelines to assist the Councils in the description and identification of essential fish habitat in fishery management plans (including adverse impacts on such habitat) and in the consideration of actions to ensure the conservation and enhancement of such habitat. The Secretary shall set forth a schedule for the amendment of fishery management plans to include the identification of essential fish habitat and for the review and updating of such identifications based on new scientific evidence or other relevant information.

"(B) The Secretary, in consultation with participants in the fishery, shall provide each Council with recommendations and information regarding each fishery under that Council's authority to assist it in the identification of essential fish habitat, the adverse impacts on that habitat, and the actions that should be considered to ensure the conservation and enhancement of that habitat.

"(C) The Secretary shall review programs administered by the Department of Commerce and ensure that any relevant programs further the conservation and enhancement of essential fish habitat.

"(D) The Secretary shall coordinate with and provide information to other Federal agencies to further the conservation and enhancement of essential fish habitat.

"(2) Each Federal agency shall consult with the Secretary with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat identified under this Act.

"(3) Each Council—

"(A) may comment on and make recommendations to the Secretary and any Federal or State agency concerning any activity authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any Federal or State agency that, in the view of the Council, may affect the habitat, including essential fish habitat, of a fishery resource under its authority; and

"(B) shall comment on and make recommendations to the Secretary and any Federal or State agency concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource under its authority.

"(4)(A) If the Secretary receives information from a Council or Federal or State agency or determines from other sources that an action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any State or Federal agency would adversely affect any essential fish habitat identified under this Act, the Secretary shall recommend to such agency measures that can be taken by such agency to conserve such habitat.

"(B) Within 30 days after receiving a recommendation under subparagraph (A), a Federal agency shall provide a detailed response in writing to any Council commenting under paragraph (3) and the Secretary regarding the matter. The response shall include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Secretary, the Federal agency shall explain its reasons for not following the recommendations.".

(b) Section 305(c) (16 U.S.C. 1855(c) is amended—

(1) in the heading by striking "Actions" and inserting "Actions and Interim Measures";

(2) in paragraphs (1) and (2)—

(A) by striking "involving" and inserting "or that interim measures are needed to reduce overfishing for"; and

(B) by inserting "or interim measures" after "emergency regulations"; and

(C) by inserting "or overfishing" after "emergency"; and

(3) in paragraph (3)—

(A) by inserting "or interim measure" after "emergency regulation" each place such term appears;

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (D); and

(D) by inserting after subparagraph (A) the following:

"(B) shall, except as provided in subparagraph (C), remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for one additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulation or interim measure, and, in the case of a Council recommendation for emergency regulations or interim measures, the Council is actively preparing a fishery management plan, plan amendment, or proposed regulations to address the emergency or overfishing on a permanent basis;

"(C) that responds to a public health emergency or an oil spill may remain in effect until the circumstances that created the emergency no longer exist, provided that the public has an opportunity to comment after the regulation is published, and, in the case of a public health emergency, the Secretary of Health and Human Services concurs with the Secretary's action; and".

(c) Section 305(e) is amended—

(1) by striking "12291, dated February 17, 1981," and inserting "12866, dated September 30, 1993,"; and

(2) by striking "subsection (c) or section 304(a) and (b)" and inserting "subsections (a), (b), and (c) of section 304".

(d) Section 305, as amended, is further amended by adding at the end the following:

"(g) Negotiated Conservation and Management Measures.—

"(1)(A) In accordance with regulations promulgated by the Secretary pursuant to this paragraph, a Council may establish a fishery negotiation panel to assist in the development of specific conservation and management measures for a fishery under its authority. The Secretary may establish a fishery negotiation panel to assist in the development of specific conservation and management measures required for a fishery under section 304(e)(5), for a fishery for which the Secretary has authority under section 304(g), or for any other fishery with the approval of the appropriate Council.

"(B) No later than 180 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations establishing procedures, developed in cooperation with the Administrative Conference of the United States, for the establishment and operation of fishery negotiation panels. Such procedures shall be comparable to the procedures for negotiated rulemaking established by subchapter III of chapter 5 of title 5, United States Code.

"(2) If a negotiation panel submits a report, such report shall specify all the areas where consensus was reached by the panel, including, if appropriate, proposed conservation and management measures, as well as any other information submitted by members of the negotiation panel. Upon receipt, the Secretary shall publish such report in the Federal Register for public comment.

"(3) Nothing in this subsection shall be construed to require either a Council or the Secretary, whichever is appropriate, to use all or any portion of a report from a negotiation panel established under this subsection in the development of specific conservation and management measures for the fishery for which the panel was established.

"(h) CENTRAL REGISTRY SYSTEM FOR LIMITED ACCESS SYSTEM PERMITS.—

"(1) Within 6 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an exclusive central registry system (which may be administered on a regional basis) for limited access system permits established under section 303(b)(6) or other Federal law, including individual fishing quotas, which shall provide for the registration of title to, and interests in, such permits, as well as for procedures for changes in the registration of title to such permits upon the occurrence of involuntary transfers, judicial or nonjudicial foreclosure of interests, enforcement of judgments thereon, and related matters deemed appropriate by the Secretary. Such registry system shall—

"(A) provide a mechanism for filing notice of a nonjudicial foreclosure or enforcement of a judgment by which the holder of a senior security interest acquires or conveys ownership of a permit, and in the event of a nonjudicial foreclosure, by which the interests of the holders of junior security interests are released when the permit is transferred;

"(B) provide for public access to the information filed under such system, notwithstanding section 402(b); and

"(C) provide such notice and other requirements of applicable law that the Secretary deems necessary for an effective registry system.

"(2) The Secretary shall promulgate such regulations as may be necessary to carry out this subsection, after consulting with the Councils and providing an opportunity for public comment. The Secretary is authorized to contract with non-federal entities to administer the central registry system.

"(3) To be effective and perfected against any person except the transferor, its heirs and devisees, and persons having actual notice thereof, all security interests, and all sales and other transfers of permits described in paragraph (1), shall be registered in compliance with the regulations promulgated under paragraph (2). Such registration shall constitute the exclusive means of perfection of title to, and security interests in, such permits, except for federal tax liens thereon, which shall be perfected exclusively in accordance with the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.). The Secretary shall notify both the buyer and seller of a permit if a lien has been filed by the Secretary of Treasury against the permit before collecting any transfer fee under paragraph (5) of this subsection.

"(4) The priority of security interests shall be determined in order of filing, the first filed having the highest priority. A validly-filed security interest shall remain valid and perfected notwithstanding a change in residence or place of business of the owner of record. For the purposes of this subsection, 'security interest' shall include security interests, assignments, liens and other encumbrances of whatever kind.

"(5)(A) Notwithstanding section 304(d)(1), the Secretary shall collect a reasonable fee of not more than one-half of one percent of the value of a limited access system permit upon registration of the title to such permit with the central registry system and upon the transfer of such registered title. Any such fee collected shall be deposited in the Limited Access System Administration Fund established under subparagraph (B).

"(B) There is established in the Treasury a Limited Access System Administration Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purposes of—

"(i) administering the central registry system; and

"(ii) administering and implementing this Act in the fishery in which the fees were collected. Sums in the Fund that are not currently needed for these purposes shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.".

(e) REGISTRY TRANSITION.—Security interests on permits described under section 305(h)(1) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, that are effective and perfected by otherwise applicable law on the date of the final regulations implementing section 305(h) shall remain effective and perfected if, within 120 days after such date, the secured party submits evidence satisfactory to the Secretary of Commerce and in compliance with such regulations of the perfection of such security.

SEC. 111. PACIFIC COMMUNITY FISHERIES.

(a) HAROLD SPARCK MEMORIAL COMMUNITY DEVELOPMENT QUOTA PROGRAM.—Section 305, as amended, is amended further by adding at the end:

"(i) ALASKA AND WESTERN PACIFIC COMMUNITY DEVELOPMENT PROGRAMS.—

"(1)(A) The North Pacific Council and the Secretary shall establish a western Alaska community development quota program under which a percentage of the total allowable catch of any Bering Sea fishery is allocated to the program.

"(B) To be eligible to participate in the western Alaska community development quota program under subparagraph (A) a community shall—

"(i) be located within 50 nautical miles from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or on an island within the Bering Sea;

"(ii) not be located on the Gulf of Alaska coast of the north Pacific Ocean;

"(iii) meet criteria developed by the Governor of Alaska, approved by the Secretary, and published in the Federal Register;

"(iv) be certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to be a Native village;

"(v) consist of residents who conduct more than one-half of their current commercial or subsistence fishing effort in the waters of the Bering Sea or waters surrounding the Aleutian Islands; and

"(vi) not have previously developed harvesting or processing capability sufficient to support substantial participation in the groundfish fisheries in the Bering Sea, unless the community can show that the benefits from an approved Community Development Plan would be the only way for the community to realize a return from previous investments.

"(C)(i) Prior to October 1, 2001, the North Pacific Council may not submit to the Secretary any fishery management plan, plan amendment, or regulation that allocates to the western Alaska community development quota program a percentage of the total allowable catch of any Bering Sea fishery for which, prior to October 1, 1995, the Council had not approved a percentage of the total allowable catch for allocation to such community development quota program. The expiration of any plan, amendment, or regulation that meets the requirements of clause (ii) prior to October 1, 2001, shall not be construed to prohibit the Council from submitting a revision or extension of such plan, amendment, or regulation to the Secretary if such revision or extension complies with the other requirements of this paragraph.

"(ii) With respect to a fishery management plan, plan amendment, or regulation for a Bering Sea fishery that—

"(I) allocates to the western Alaska community development quota program a percentage of the total allowable catch of such fishery; and

"(II) was approved by the North Pacific Council prior to October 1, 1995;

the Secretary shall, except as provided in clause (iii) and after approval of such plan, amendment, or regulation under section 304, allocate to the program the percentage of the total allowable catch described in such plan, amendment, or regulation. Prior to October 1, 2001, the percentage submitted by the Council and approved by the Secretary for any such plan, amendment, or regulation shall be no greater than the percentage approved by the Council for such fishery prior to October 1, 1995.

"(iii) The Secretary shall phase in the percentage for community development quotas approved in 1995 by the North Pacific Council for the Bering Sea crab fisheries as follows:

"(I) 3.5 percent of the total allowable catch of each such fishery for 1998 shall be allocated to the western Alaska community development quota program;

"(II) 5 percent of the total allowable catch of each such fishery for 1999 shall be allocated to the western Alaska community development quota program; and

"(III) 7.5 percent of the total allowable catch of each such fishery for 2000 and thereafter shall be allocated to the western Alaska community development quota program, unless the North Pacific Council submits and the Secretary approves a percentage that is no greater than 7.5 percent of the total allowable catch of each such fishery for 2001 or the North Pacific Council submits and the Secretary approves any other percentage on or after October 1, 2001.

"(D) This paragraph shall not be construed to require the North Pacific Council to resubmit, or the Secretary to reapprove, any fishery management plan or plan amendment approved by the North Pacific Council prior to October 1, 1995, that includes a community development quota program, or any regulations to implement such plan or amendment.

"(2)(A) The Western Pacific Council and the Secretary may establish a western Pacific community development program for any fishery under the authority of such Council in order to provide access to such fishery for western Pacific communities that participate in the program.

"(B) To be eligible to participate in the western Pacific community development program, a community shall—

"(i) be located within the Western Pacific Regional Fishery Management Area;

"(ii) meet criteria developed by the Western Pacific Council, approved by the Secretary and published in the Federal Register;

"(iii) consist of community residents who are descended from the aboriginal people indigenous to the area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Western Pacific region;

"(iv) not have previously developed harvesting or processing capability sufficient to support substantial participation in fisheries in the Western Pacific Regional Fishery Management Area; and

"(v) develop and submit a Community Development Plan to the Western Pacific Council and the Secretary.

"(C) In developing the criteria for eligible communities under subparagraph (B)(ii), the Western Pacific Council shall base such criteria on traditional fishing practices in or dependence on the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery.

"(D) For the purposes of this subsection 'Western Pacific Regional Fishery Management Area' means the area under the jurisdiction of the Western Pacific Council, or an island within such area.

"(E) Notwithstanding any other provision of this Act, the Western Pacific Council shall take into account traditional indigenous fishing practices in preparing any fishery management plan.

"(3) The Secretary shall deduct from any fees collected from a community development quota program under section 304(d)(2) the costs incurred by participants in the program for observer and reporting requirements which are in addition to observer and reporting requirements of other participants in the fishery in which the allocation to such program has been made.

"(4) After the date of enactment of the Sustainable Fisheries Act, the North Pacific Council and Western Pacific Council may not submit to the Secretary a community development quota program that is not in compliance with this subsection.".

(b) WESTERN PACIFIC DEMONSTRATION PROJECTS.—(1) The Secretary of Commerce and the Secretary of the Interior are authorized to make direct grants to eligible western Pacific communities, as recommended by the Western Pacific Fishery Management Council, for the purpose of establishing not less than three and not more than five fishery demonstration projects to foster and promote traditional indigenous fishing practices. The total amount of grants awarded under this subsection shall not exceed $500,000 in each fiscal year.

(2) Demonstration projects funded pursuant to this subsection shall foster and promote the involvement of western Pacific communities in western Pacific fisheries and may—

(A) identify and apply traditional indigenous fishing practices;

(B) develop or enhance western Pacific community-based fishing opportunities; and

(C) involve research, community education, or the acquisition of materials and equipment necessary to carry out any such demonstration project.

(3)(A) The Western Pacific Fishery Management Council, in consultation with the Secretary of Commerce, shall establish an advisory panel under section 302(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(g)) to evaluate, determine the relative merits of, and annually rank applications for such grants. The panel shall consist of not more than 8 individuals who are knowledgeable or experienced in traditional indigenous fishery practices of western Pacific communities and who are not members or employees of the Western Pacific Fishery Management Council.

(B) If the Secretary of Commerce or the Secretary of the Interior awards a grant for a demonstration project not in accordance with the rank given to such project by the advisory panel, the Secretary shall provide a detailed written explanation of the reasons therefor.

(4) The Western Pacific Fishery Management Council shall, with the assistance of such advisory panel, submit an annual report to the Congress assessing the status and progress of demonstration projects carried out under this subsection.

(5) Appropriate Federal agencies may provide technical assistance to western Pacific community-based entities to assist in carrying out demonstration projects under this subsection.

(6) For the purposes of this subsection, 'western Pacific community' shall mean a community eligible to participate under section 305(i)(2)(B) of the Magnuson Fishery Conservation and Management Act, as amended by this Act.

SEC. 112. STATE JURISDICTION.

(a) Paragraph (3) of section 306(a) (16 U.S.C. 1856(a)) is amended to read as follows:

"(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

"(A) The fishing vessel is registered under the law of that State, and (i) there is no fishery management plan or other applicable federal fishing regulations for the fishery in which the vessel is operating; or (ii) the State's laws and regulations are consistent with the fishery management plan and applicable federal fishing regulations for the fishery in which the vessel is operating.

"(B) The fishery management plan for the fishery in which the fishing vessel is operating delegates management of the fishery to a State and the State's laws and regulations are consistent with such fishery management plan. If at any time the Secretary determines that a State law or regulation applicable to a fishing vessel under this circumstance is not consistent with the fishery management plan, the Secretary shall promptly notify the State and the appropriate Council of such determination and provide an opportunity for the State to correct any inconsistencies identified in the notification. If, after notice and opportunity for corrective action, the State does not correct the inconsistencies identified by the Secretary, the authority granted to the State under this subparagraph shall not apply until the Secretary and the appropriate Council find that the State has corrected the inconsistencies. For a fishery for which there was a fishery management plan in place on August 1, 1996 that did not delegate management of the fishery to a State as of that date, the authority provided by this subparagraph applies only if the Council approves the delegation of management of the fishery to the State by a three-quarters majority vote of the voting members of the Council.

"(C) The fishing vessel is not registered under the law of the State of Alaska and is operating in a fishery in the exclusive economic zone off Alaska for which there was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery. The authority provided under this subparagraph shall terminate when a fishery management plan under this Act is approved and implemented for such fishery.".

(b) Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

"(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).".

(c) Section 306(c)(1) (16 U.S.C. 1856(c)(1)) is amended—

(1) by striking "(4)(C); and" in subparagraph (A) and inserting "(4)(C) or has received a permit under section 204(d);";

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and the word "and"; and

(3) by inserting after subparagraph (B) the following:

"(C) the owner or operator of the vessel submits reports on the tonnage of fish received from vessels of the United States and the locations from which such fish were harvested, in accordance with such procedures as the Secretary by regulation shall prescribe.".

(d) INTERIM AUTHORITY FOR DUNGENESS CRAB.—(1) Subject to the provisions of this subsection and notwithstanding section 306(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856(a)), the States of Washington, Oregon, and California may each enforce State laws and regulations governing fish harvesting and processing against any vessel operating in the exclusive economic zone off each respective State in a fishery for Dungeness crab (Cancer magister) for which there is no fishery management plan implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) Any law or regulation promulgated under this subsection shall apply equally to vessels operating in the exclusive economic zone and adjacent State waters and shall be limited to—

(A) establishment of season opening and closing dates, including presoak dates for crab pots;

(B) setting of minimum sizes and crab meat recovery rates;

(C) restrictions on the retention of crab of a certain sex; and

(D) closure of areas or pot limitations to meet the harvest requirements arising under the jurisdiction of United States v. Washington, subproceeding 89-3.

(3) With respect to the States of Washington, Oregon, and California—

(A) any State law limiting entry to a fishery subject to regulation under this subsection may not be enforced against a vessel that is operating in the exclusive economic zone off that State and is not registered under the law of that State, if the vessel is otherwise legally fishing in the exclusive economic zone, except that State laws regulating landings may be enforced; and

(B) no vessel may harvest or process fish which is subject to regulation under this subsection unless under an appropriate State permit or pursuant to a Federal court order.

(4) The authority provided under this subsection to regulate the Dungeness crab fishery shall terminate on October 1, 1999, or

when a fishery management plan is implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) for such fishery, whichever date is earlier.

(5) Nothing in this subsection shall reduce the authority of any State, as such authority existed on July 1, 1996, to regulate fishing, fish processing, or landing of fish.

(6)(A) It is the sense of Congress that the Pacific Fishery Management Council, at the earliest practicable date, should develop and submit to the Secretary fishery management plans for shellfish fisheries conducted in the geographic area of authority of the Council, especially Dungeness crab, which are not subject to a fishery management plan on the date of enactment of this Act.

(B) Not later than December 1, 1997, the Pacific Fishery Management Council shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives describing the progress in developing the fishery management plans referred to in subparagraph (A) and any impediments to such progress.

SEC. 113. PROHIBITED ACTS.

(a) Section 307(1)(J)(i) (16 U.S.C. 1857(1)(J)(i)) is amended—

(1) by striking "plan," and inserting "plan"; and

(2) by inserting before the semicolon the following: ", or in the absence of any such plan, is smaller than the minimum possession size in effect at the time under a coastal fishery management plan for American lobster adopted by the Atlantic States Marine Fisheries Commission under the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.)".

(b) Section 307(1)(K) (16 U.S.C. 1857(1)(K)) is amended—

(1) by striking "knowingly steal or without authorization, to" and inserting "to steal or attempt to steal or to negligently and without authorization"; and

(2) by striking "gear, or attempt to do so;" and insert "gear;".

(c) Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is amended to read as follows:

"(L) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this Act, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act;".

(d) Section 307(1) (16 U.S.C. 1857(1)) is amended—

(1) by striking "or" at the end of subparagraph (M);

(2) by striking "pollock." in subparagraph (N) and inserting "pollock; or"; and

(3) by adding at the end the following:

"(O) to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required under section 302(j), or to knowingly vote on a Council decision in violation of section 302(j)(7)(A).".

(e) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is amended to read as follows:

"(A) in fishing within the boundaries of any State, except—

"(i) recreational fishing permitted under section 201(i);

"(ii) fish processing permitted under section 306(c); or

"(iii) transshipment at sea of fish or fish products within the boundaries of any State in accordance with a permit approved under section 204(d);".

(f) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended—

(1) by striking "(j)" and inserting "(i)"; and

(2) by striking "204(b) or (c)" and inserting "204(b), (c), or (d)".

(g) Section 307(3) (16 U.S.C. 1857(3)) is amended to read as follows:

"(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under section 204(d) or section 306(c) to receive such fish;".

(h) Section 307(4) (16 U.S.C. 1857(4)) is amended by inserting "or within the boundaries of any State" after "zone".

SEC. 114. CIVIL PENALTIES AND PERMIT SANCTIONS; REBUTTABLE PRESUMPTIONS.

(a) Section 308(a) (16 U.S.C. 1858(a)) is amended by striking "ability to pay," and adding at the end the following new sentence: "In assessing such penalty the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay, provided that the information is served on the Secretary at least 30 days prior to an administrative hearing.".

(b) The first sentence of section 308(b) (16 U.S.C. 1858(b)) is amended to read as follows: "Any person against whom a civil penalty is assessed under subsection (a) or against whom a permit sanction is imposed under subsection (g) (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such order.".

(c) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C)) is amended by striking the matter from "or (C) any" through "overdue," and inserting the following: "(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue, or (D) any payment required for observer services provided to or contracted by an owner or operator who has been issued a permit or applied for a permit under any marine resource law administered by the Secretary has not been paid and is overdue,".

(d) Section 310(e) (16 U.S.C. 1860(e)) is amended by adding at the end the following new paragraph:

"(3) For purposes of this Act, it shall be a rebuttable presumption that any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has gear on board that is capable of use for large-scale driftnet fishing, is engaged in such fishing.".

SEC. 115. ENFORCEMENT.

(a) The second sentence of section 311(d) (16 U.S.C. 1861(d)) is amended—

(1) by striking "Guam, any Commonwealth, territory, or" and inserting "Guam or any"; and

(2) by inserting a comma before the period and the following: "and except that in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands".

(b) Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is amended—

(1) by striking "fishery" each place it appears and inserting "marine";

(2) by inserting "of not less than 20 percent of the penalty collected or $20,000, whichever is the lesser amount," after "reward" in subparagraph (B), and

(3) by striking subparagraph (E) and inserting the following:

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), as made applicable by section 310(c) of this Act or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and".

(c) Section 311(e)(2) (16 U.S.C. 1861(e)(2)) is amended to read as follows:

"(2) Any person found in an administrative or judicial proceeding to have violated this Act or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation.".

(d) Section 311 (16 U.S.C. 1861) is amended by redesignating subsection (g) as subsection (h) , and by inserting the following after subsection (f):

"(g) ENFORCEMENT IN THE PACIFIC INSULAR AREAS.—The Secretary, in consultation with the Governors of the Pacific Insular Areas and the Western Pacific Council, shall to the extent practicable support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.".

(e) Section 311 (16 U.S.C. 1861), as amended by subsection (d), is amended by striking "201(b), (c)," in subsection (i)(1), as redesignated, and inserting "201(b) or (c), or section 204(d),".

SEC. 116. TRANSITION TO SUSTAINABLE FISHERIES.

(a) Section 312 is amended to read as follows:

"SEC. 312. TRANSITION TO SUSTAINABLE FISHERIES.

"(a) FISHERIES DISASTER RELIEF.—(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

"(A) natural causes;

"(B) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures; or

"(C) undetermined causes.

"(2) Upon the determination under paragraph (1) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishing community, or by the Secretary in cooperation with the affected State or fishing community for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions.

"(3) The Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.

"(4) There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(b) Fishing Capacity Reduction Program.—(1) The Secretary, at the request of the appropriate Council for fisheries under the authority of such Council, or the Governor of a State for fisheries under State authority, may conduct a fishing capacity reduction program (referred to in this section as the 'program') in a fishery if the Secretary determines that the program—

"(A) is necessary to prevent or end overfishing, rebuild stocks of fish, or achieve measurable and significant improvements in the conservation and management of the fishery;

"(B) is consistent with the federal or State fishery management plan or program in effect for such fishery, as appropriate, and that the fishery management plan—

"(i) will prevent the replacement of fishing capacity removed by the program through a moratorium on new entrants, restrictions on vessel upgrades, and other effort control measures, taking into account the full potential fishing capacity of the fleet; and

"(ii) establishes a specified or target total allowable catch or other measures that trigger closure of the fishery or adjustments to reduce catch; and

"(C) is cost-effective and capable of repaying any debt obligation incurred under section 1111 of title XI of the Merchant Marine Act, 1936.

"(2) The objective of the program shall be to obtain the maximum sustained reduction in fishing capacity at the least cost and in a minimum period of time. To achieve that objective, the Secretary is authorized to pay—

"(A) the owner of a fishing vessel, if such vessel is (i) scrapped, or (ii) through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions that permanently prohibit and effectively prevent its use in fishing, and if the permit authorizing the participation of the vessel in the fishery is surrendered for permanent revocation and the owner relinquishes any claim associated with the vessel and permit that could qualify such owner for any present or future limited access system permit in the fishery for which the program is established; or

"(B) the holder of a permit authorizing participation in the fishery, if such permit is surrendered for permanent revocation, and such holder relinquishes any claim associated with the permit and vessel used to harvest fishery resources under the permit that could qualify such holder for any present or future limited access system permit in the fishery for which the program was established.

"(3) Participation in the program shall be voluntary, but the Secretary shall ensure compliance by all who do participate.

"(4) The Secretary shall consult, as appropriate, with Councils, Federal agencies, State and regional authorities, affected fishing communities, participants in the fishery, conservation organizations, and other interested parties throughout the development and implementation of any program under this section.

"(c) Program Funding.—(1) The program may be funded by any combination of amounts—

"(A) available under clause (iv) of section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)(1)(A); the Saltonstall-Kennedy Act);

"(B) appropriated for the purposes of this section;

"(C) provided by an industry fee system established under subsection (d) and in accordance with section 1111 of title XI of the Merchant Marine Act, 1936; or

"(D) provided from any State or other public sources or private or non-profit organizations.

"(2) All funds for the program, including any fees established under subsection (d), shall be paid into the fishing capacity reduction fund established under section 1111 of title XI of the Merchant Marine Act, 1936.

"(d) Industry Fee System.—(1)(A) If an industry fee system is necessary to fund the program, the Secretary, at the request of the appropriate Council, may conduct a referendum on such system. Prior to the referendum, the Secretary, in consultation with the Council, shall—

"(i) identify, to the extent practicable, and notify all permit or vessel owners who would be affected by the program; and

"(ii) make available to such owners information about the industry fee system describing the schedule, procedures, and eligibility requirements for the referendum, the proposed program, and the amount and duration and any other terms and conditions of the proposed fee system.

"(B) The industry fee system shall be considered approved if the referendum votes which are cast in favor of the proposed system constitute a two-thirds majority of the participants voting.

"(2) Notwithstanding section 304(d) and consistent with an approved industry fee system, the Secretary is authorized to establish such a system to fund the program and repay debt obligations incurred pursuant to section 1111 of title XI of the Merchant Marine Act, 1936. The fees for a program established under this section shall—

"(A) be determined by the Secretary and adjusted from time to time as the Secretary considers necessary to ensure the availability of sufficient funds to repay such debt obligations;

"(B) not exceed 5 percent of the ex-vessel value of all fish harvested from the fishery for which the program is established;

"(C) be deducted by the first ex-vessel fish purchaser from the proceeds otherwise payable to the seller and accounted for and forwarded by such fish purchasers to the Secretary in such manner as the Secretary may establish; and

"(D) be in effect only until such time as the debt obligation has been fully paid.

"(e) Implementation Plan.—(1) The Secretary, in consultation with the appropriate Council or State and other interested parties, shall prepare and publish in the Federal Register for a 60-day public comment period an implementation plan, including proposed regulations, for each program. The implementation plan shall—

"(A) define criteria for determining types and numbers of vessels which are eligible for participation in the program taking into account characteristics of the fishery, the requirements of applicable fishery management plans, the needs of fishing communities, and the need to minimize program costs; and

"(B) establish procedures for program participation (such as submission of owner bid under an auction system or fair market-value assessment) including any terms and conditions for participation which the Secretary deems to be reasonably necessary to meet the goals of the program.

"(2) During the 60-day public comment period—

"(A) the Secretary shall conduct a public hearing in each State affected by the program; and

"(B) the appropriate Council or State shall submit its comments and recommendations, if any, regarding the plan and regulations.

"(3) Within 45 days after the close of the public comment period, the Secretary, in consultation with the appropriate Council or State, shall analyze the public comment received and publish in the Federal Register a final implementation plan for the program and regulations for its implementation. The Secretary may not adopt a final implementation plan involving industry fees or debt obligation unless an industry fee system has been approved by a referendum under this section.".

(b) Study of Federal Investment.—The Secretary of Commerce shall establish a task force comprised of interested parties to study and report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives within 2 years of the date of enactment of this Act on the role of the Federal Government in—

(1) subsidizing the expansion and contraction of fishing capacity in fishing fleets managed under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

(2) otherwise influencing the aggregate capital investments in fisheries.

(c) Section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c3(b)(1)(A)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting a semicolon and the word "and"; and

(3) by adding at the end the following new clause:

"(iv) to fund the Federal share of a fishing capacity reduction program established under section 312 of the Magnuson Fishery Conservation and Management Act; and".

SEC. 117. NORTH PACIFIC AND NORTHWEST ATLANTIC OCEAN FISHERIES.

(a) North Pacific Fisheries Conservation.—Section 313 (16 U.S.C. 1862) is amended—

(1) by striking "RESEARCH PLAN" in the section heading and inserting "CONSERVATION";

(2) in subsection (a) by striking "North Pacific Fishery Management Council" and inserting "North Pacific Council"; and

(3) by adding at the end the following:

"(f) Bycatch Reduction.—In implementing section 303(a)(11) and this section, the North Pacific Council shall submit conservation and management measures to lower, on an annual basis for a period of not less than four years, the total amount of economic discards occurring in the fisheries under its jurisdiction.

"(g) Bycatch Reduction Incentives.—(1) Notwithstanding section 304(d), the North Pacific Council may submit, and the Secretary may approve, consistent with the provisions of this Act, a system of fines in a fishery to provide incentives to reduce bycatch and bycatch rates; except that such fines shall not exceed $25,000 per vessel per season. Any fines collected shall be deposited in the North Pacific Fishery Observer Fund, and may be made available by the Secretary to offset costs related to the reduction of bycatch in the fishery from which such fines were derived, including conservation and management measures and research, and to the State of Alaska to offset costs incurred by the State in the fishery from which such penalties were derived or in fisheries in which the State is directly involved in management or enforcement and which are directly affected by the fishery from which such penalties were derived.

"(2)(A) Notwithstanding section 303(d), and in addition to the authority provided in section 303(b)(10), the North Pacific Council may submit, and the Secretary may approve, conservation and management measures which provide allocations of regulatory discards to individual fishing vessels as an incentive to reduce per vessel bycatch and bycatch rates in a fishery, provided that—

"(i) such allocations may not be transferred for monetary consideration and are made only on an annual basis; and

"(ii) any such conservation and management measures will meet the requirements of subsection (h) and will result in an actual reduction in regulatory discards in the fishery.

"(B) The North Pacific Council may submit restrictions in addition to the restriction imposed by clause (i) of subparagraph (A) on the transferability of any such allocations, and the Secretary may approve such recommendation.

"(h) CATCH MEASUREMENT.—(1) By June 1, 1997 the North Pacific Council shall submit, and the Secretary may approve, consistent with the other provisions of this Act, conservation and management measures to ensure total catch measurement in each fishery under the jurisdiction of such Council. Such measures shall ensure the accurate enumeration, at a minimum, of target species, economic discards, and regulatory discards.

"(2) To the extent the measures submitted under paragraph (1) do not require United States fish processors and fish processing vessels (as defined in chapter 21 of title 46, United States Code) to weigh fish, the North Pacific Council and the Secretary shall submit a plan to the Congress by January 1, 1998, to allow for weighing, including recommendations to assist such processors and processing vessels in acquiring necessary equipment, unless the Council determines that such weighing is not necessary to meet the requirements of this subsection.

"(i) FULL RETENTION AND UTILIZATION.—(1) The North Pacific Council shall submit to the Secretary by October 1, 1998 a report on the advisability of requiring the full retention by fishing vessels and full utilization by United States fish processors of economic discards in fisheries under its jurisdiction if such economic discards, or the mortality of such economic discards, cannot be avoided. The report shall address the projected impacts of such requirements on participants in the fishery and describe any full retention and full utilization requirements that have been implemented.

"(2) The report shall address the advisability of measures to minimize processing waste, including standards setting minimum percentages which must be processed for human consumption. For the purpose of the report, 'processing waste' means that portion of any fish which is processed and which could be used for human consumption or other commercial use, but which is not so used.".

(b) NORTHWEST ATLANTIC OCEAN FISHERIES.—Section 314 (16 U.S.C. 1863) is amended by striking "1997" in subsection (a)(4) and inserting "1999".

TITLE II—FISHERY MONITORING AND RESEARCH

SEC. 201. CHANGE OF TITLE.

The heading of title IV (16 U.S.C. 1881 et seq.) is amended to read as follows:

"TITLE IV—FISHERY MONITORING AND RESEARCH".

SEC. 202. REGISTRATION AND INFORMATION MANAGEMENT.

Title IV (16 U.S.C. 1881 et seq.) is amended by inserting after the title heading the following:

"SEC. 401. REGISTRATION AND INFORMATION MANAGEMENT.

"(a) STANDARDIZED FISHING VESSEL REGISTRATION AND INFORMATION MANAGEMENT SYSTEM.—The Secretary shall, in cooperation with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, develop recommendations for implementation of a standardized fishing vessel registration and information management system on a regional basis. The recommendations shall be developed after consultation with interested governmental and nongovernmental parties and shall—

"(1) be designed to standardize the requirements of vessel registration and information collection systems required by this Act, the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), and any other marine resource law implemented by the Secretary, and, with the permission of a State, any marine resource law implemented by such State;

"(2) integrate information collection programs under existing fishery management plans into a non-duplicative information collection and management system;

"(3) avoid duplication of existing state, tribal, or federal systems and shall utilize, to the maximum extent practicable, information collected from existing systems;

"(4) provide for implementation of the system through cooperative agreements with appropriate State, regional, or tribal entities and Marine Fisheries Commissions;

"(5) provide for funding (subject to appropriations) to assist appropriate State, regional, or tribal entities and Marine Fisheries Commissions in implementation;

"(6) establish standardized units of measurement, nomenclature, and formats for the collection and submission of information;

"(7) minimize the paperwork required for vessels registered under the system;

"(8) include all species of fish within the geographic areas of authority of the Councils and all fishing vessels including charter fishing vessels, but excluding recreational fishing vessels;

"(9) require United States fish processors, and fish dealers and other first ex-vessel purchasers of fish that are subject to the proposed system, to submit information (other than economic information) which may be necessary to meet the goals of the proposed system; and

"(10) include procedures necessary to ensure—

"(A) the confidentiality of information collected under this section in accordance with section 402(b); and

"(B) the timely release or availability to the public of information collected under this section consistent with section 402(b).

"(b) FISHING VESSEL REGISTRATION.—The proposed registration system should, at a minimum, obtain the following information for each fishing vessel—

"(1) the name and official number or other identification, together with the name and address of the owner or operator or both;

"(2) gross tonnage, vessel capacity, type and quantity of fishing gear, mode of operation (catcher, catcher processor, or other), and such other pertinent information with respect to vessel characteristics as the Secretary may require; and

"(3) identification (by species, gear type, geographic area of operations, and season) of the fisheries in which the fishing vessel participates.

"(c) FISHERY INFORMATION.—The proposed information management system should, at a minimum, provide basic fisheries performance information for each fishery, including—

"(1) the number of vessels participating in the fishery including charter fishing vessels;

"(2) the time period in which the fishery occurs;

"(3) the approximate geographic location or official reporting area where the fishery occurs;

"(4) a description of fishing gear used in the fishery, including the amount and type of such gear and the appropriate unit of fishing effort; and

"(5) other information required under subsection 303(a)(5) or requested by the Council under section 402 .

"(d) USE OF REGISTRATION.—Any registration recommended under this section shall not be considered a permit for the purposes of this Act, and the Secretary may not propose to revoke, suspend, deny, or impose any other conditions or restrictions on any such registration or the use of such registration under this Act.

"(e) PUBLIC COMMENT.—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register for a 60-day public comment period a proposal that would provide for implementation of a standardized fishing vessel registration and information collection system that meets the requirements of subsections (a) through (c). The proposal shall include—

"(1) a description of the arrangements of the Secretary for consultation and cooperation with the department in which the Coast Guard is operating, the States, the Councils, Marine Fisheries Commissions, the fishing industry and other interested parties; and

"(2) any proposed regulations or legislation necessary to implement the proposal.

"(f) CONGRESSIONAL TRANSMITTAL.—Within 60 days after the end of the comment period and after consideration of comments received under subsection (e), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a recommended proposal for implementation of a national fishing vessel registration system that includes—

"(1) any modifications made after comment and consultation;

"(2) a proposed implementation schedule, including a schedule for the proposed cooperative agreements required under subsection (a)(4); and

"(3) recommendations for any such additional legislation as the Secretary considers necessary or desirable to implement the proposed system.

"(g) REPORT TO CONGRESS.—Within 15 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall report to Congress on the need to include recreational fishing vessels into a national fishing vessel registration and information collection system. In preparing its report, the Secretary shall cooperate with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, and consult with governmental and nongovernmental parties.''.

SEC. 203. INFORMATION COLLECTION.

Section 402 is amended to read as follows:

"SEC. 402. INFORMATION COLLECTION.

"(a) COUNCIL REQUESTS.—If a Council determines that additional information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after receipt of that request.

"(b) CONFIDENTIALITY OF INFORMATION.—(1) Any information submitted to the Secretary by any person in compliance with any requirement under this Act shall be confidential and shall not be disclosed, except—

"(A) to Federal employees and Council employees who are responsible for fishery management plan development and monitoring;

"(B) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order;

"(D) when such information is used to verify catch under an individual fishing quota program;

"(E) that observer information collected in fisheries under the authority of the North Pacific Council may be released to the public as specified in a fishery management plan or regulation for weekly summary bycatch information identified by vessel, and for haul-specific bycatch information without vessel identification; or

"(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act.

"(2) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (1)(E).

"(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

"(2) The Secretary may not require the submission of a federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

"(d) CONTRACTING AUTHORITY.—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

"(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

"(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

"(e) RESOURCE ASSESSMENTS.—(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

"(2) The Secretary, in consultation with the appropriate Council and the fishing industry—

"(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

"(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

"(C) may permit fish harvested during such survey to count towards a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

"(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.''.

SEC. 204. OBSERVERS.

Section 403 is amended to read as follows:

"SEC. 403. OBSERVERS.

"(a) GUIDELINES FOR CARRYING OBSERVERS.—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

"(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

"(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

"(b) TRAINING.—The Secretary, in cooperation with the appropriate States and the National Sea Grant College Program, shall—

"(1) establish programs to ensure that each observer receives adequate training in collecting and analyzing the information necessary for the conservation and management purposes of the fishery to which such observer is assigned;

"(2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position;

"(3) ensure that an observer has received adequate training in basic vessel safety; and

"(4) make use of university and any appropriate private nonprofit organization training facilities and resources, where possible, in carrying out this subsection.

"(c) OBSERVER STATUS.—An observer on a vessel and under contract to carry out responsibilities under this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall be deemed to be a Federal employee for the purpose of compensation under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.).''.

SEC. 205. FISHERIES RESEARCH.

Section 404 is amended to read as follows:

"SEC. 404. FISHERIES RESEARCH.

"(a) IN GENERAL.—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics and social characteristics of the fisheries.

"(b) STRATEGIC PLAN.—Within one year after the date of enactment of the Sustainable Fisheries Act, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall—

"(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);

"(2) indicate goals and timetables for the program described in paragraph (1);

"(3) provide a role for commercial fishermen in such research, including involvement in field testing;

"(4) provide for collection and dissemination, in a timely manner, of complete and accurate information concerning fishing activities, catch, effort, stock assessments, and other research conducted under this section; and

"(5) be developed in cooperation with the Councils and affected States, and provide for coordination with the Councils, affected States, and other research entities.

"(c) AREAS OF RESEARCH.—Areas of research are as follows:

"(1) Research to support fishery conservation and management, including but not limited to, biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other factors affecting the abundance and availability of fish.

"(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

"(3) Research on the fisheries, including the social, cultural, and economic relationships among fishing vessel owners, crew, United States fish processors, associated shoreside labor, seafood markets and fishing communities.

"(4) Information management research, including the development of a fishery information base and an information management system under section 401 that will permit the full use of information in the support of effective fishery conservation and management.

"(d) PUBLIC NOTICE.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.".

SEC. 206. INCIDENTAL HARVEST RESEARCH.

Section 405 is amended to read as follows:

"SEC. 405. INCIDENTAL HARVEST RESEARCH.

"(a) COLLECTION OF INFORMATION.—Within nine months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall, after consultation with the Gulf Council and South Atlantic Council, conclude the collection of information in the program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Within the same time period, the Secretary shall make available to the public aggregated summaries of information collected prior to June 30, 1994 under such program.

"(b) IDENTIFICATION OF STOCK.—The program concluded pursuant to subsection (a) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(c) COLLECTION AND ASSESSMENT OF SPECIFIC STOCK INFORMATION.—For stocks of fish identified pursuant to subsection (b), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(1) a program to collect and evaluate information on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(2) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(3) a program of information collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(d) BYCATCH REDUCTION PROGRAM.—Not later than 12 months after the enactment of the Sustainable Fisheries Act, the Secretary shall, in cooperation with affected interests, and based upon the best scientific information available, complete a program to—

"(1) develop technological devices and other changes in fishing operations necessary and appropriate to minimize the incidental mortality of bycatch in the course of shrimp trawl activity to the extent practicable, taking into account the level of bycatch mortality in the fishery on November 28, 1990;

"(2) evaluate the ecological impacts and the benefits and costs of such devices and changes in fishing operations; and

"(3) assess whether it is practicable to utilize bycatch which is not avoidable.

"(e) REPORT TO CONGRESS.—The Secretary shall, within one year of completing the programs required by this section, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

"(f) IMPLEMENTATION CRITERIA.—To the extent practicable, any conservation and management measure implemented under this Act to reduce the incidental mortality of bycatch in the course of shrimp trawl fishing shall be consistent with—

"(1) measures applicable to fishing throughout the range in United States waters of the bycatch species concerned; and

"(2) the need to avoid any serious adverse environmental impacts on such bycatch species or the ecology of the affected area.".

SEC. 207. MISCELLANEOUS RESEARCH.

(a) FISHERIES SYSTEMS RESEARCH.—Section 406 (16 U.S.C. 1882) is amended to read as follows:

"SEC. 406. FISHERIES SYSTEMS RESEARCH.

"(a) ESTABLISHMENT OF PANEL.—Not later than 180 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an advisory panel under this Act to develop recommendations to expand the application of ecosystem principles in fishery conservation and management activities.

"(b) PANEL MEMBERSHIP.—The advisory panel shall consist of not more than 20 individuals and include—

"(1) individuals with expertise in the structures, functions, and physical and biological characteristics of ecosystems; and

"(2) representatives from the Councils, States, fishing industry, conservation organizations, or others with expertise in the management of marine resources.

"(c) RECOMMENDATIONS.—Prior to selecting advisory panel members, the Secretary shall, with respect to panel members described in subsection (b)(1), solicit recommendations from the National Academy of Sciences.

"(d) REPORT.—Within 2 years after the date of enactment of this Act, the Secretary shall submit to the Congress a completed report of the panel established under this section, which shall include—

"(1) an analysis of the extent to which ecosystem principles are being applied in fishery conservation and management activities, including research activities;

"(2) proposed actions by the Secretary and by the Congress that should be undertaken to expand the application of ecosystem principles in fishery conservation and management; and

"(3) such other information as may be appropriate.

"(e) PROCEDURAL MATTER.—The advisory panel established under this section shall be deemed an advisory panel under section 302(g).".

(b) GULF OF MEXICO RED SNAPPER RESEARCH.—Title IV of the Act (16 U.S.C. 1882) is amended by adding the following new section:

"SEC. 407. GULF OF MEXICO RED SNAPPER RESEARCH.

"(a) INDEPENDENT PEER REVIEW.—(1) Within 30 days of the date of enactment of the Sustainable Fisheries Act, the Secretary shall initiate an independent peer review to evaluate—

"(A) the accuracy and adequacy of fishery statistics used by the Secretary for the red snapper fishery in the Gulf of Mexico to account for all commercial, recreational, and charter fishing harvests and fishing effort on the stock;

"(B) the appropriateness of the scientific methods, information, and models used by the Secretary to assess the status and trends of the Gulf of Mexico red snapper stock and as the basis for the fishery management plan for the Gulf of Mexico red snapper fishery;

"(C) the appropriateness and adequacy of the management measures in the fishery management plan for red snapper in the Gulf of Mexico for conserving and managing the red snapper fishery under this Act; and

"(D) the costs and benefits of all reasonable alternatives to an individual fishing quota program for the red snapper fishery in the Gulf of Mexico.

"(2) The Secretary shall ensure that commercial, recreational, and charter fishermen in the red snapper fishery in the Gulf of Mexico are provided an opportunity to—

"(A) participate in the peer review under this subsection; and

"(B) provide information to the Secretary concerning the review of fishery statistics under this subsection without being subject to penalty under this Act or other applicable law for any past violation of a requirement to report such information to the Secretary.

"(3) The Secretary shall submit a detailed written report on the findings of the peer review conducted under this subsection to the Gulf Council no later than one year after the date of enactment of the Sustainable Fisheries Act.

"(b) PROHIBITION.—In addition to the restrictions under section 303(d)(1)(A), the Gulf Council may not, prior to October 1, 2000, undertake or continue the preparation of any fishery management plan, plan amendment or regulation under this Act for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class.

"(c) REFERENDUM.—

"(1) On or after October 1, 2000, the Gulf Council may prepare and submit a fishery management plan, plan amendment, or regulation for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class, only if the preparation of such plan, amendment, or regulation is approved in a referendum conducted under paragraph (2) and only if the submission to the Secretary of such plan, amendment, or regulation is approved in a subsequent referendum conducted under paragraph (2).

"(2) The Secretary, at the request of the Gulf Council, shall conduct referendums under this subsection. Only a person who held an annual vessel permit with a red snapper endorsement for such permit on September 1, 1996 (or any person to whom such permit with such endorsement was transferred after such date) and vessel captains who harvested red snapper in a commercial fishery using such endorsement in each red snapper fishing season occurring between January 1, 1993, and such date may vote in a referendum under this subsection. The referendum shall be decided by a majority of the votes cast. The Secretary shall develop a formula to weight votes based on the proportional harvest under each such permit and endorsement and by each such captain in the fishery between January 1, 1993, and September 1, 1996. Prior to each referendum, the Secretary, in consultation with the Council, shall—

"(A) identify and notify all such persons holding permits with red snapper endorsements and all such vessel captains; and

"(B) make available to all such persons and vessel captains information about the schedule, procedures, and eligibility requirements for the referendum and the proposed individual fishing quota program.

"(d) CATCH LIMITS.—Any fishery management plan, plan amendment, or regulation submitted by the Gulf Council for the red snapper fishery after the date of enactment of the Sustainable Fisheries Act shall contain conservation and management measures that—

"(1) establish separate quotas for recreational fishing (which, for the purposes of this subsection shall include charter fishing) and commercial fishing that, when reached, result in a prohibition on the retention of fish caught during recreational fishing and commercial fishing, respectively, for the remainder of the fishing year; and

"(2) ensure that such quotas reflect allocations among such sectors and do not reflect any harvests in excess of such allocations.".

SEC. 208. STUDY OF CONTRIBUTION OF BYCATCH TO CHARITABLE ORGANIZATIONS.

(a) STUDY.—The Secretary of Commerce shall conduct a study of the contribution of bycatch to charitable organizations by commercial fishermen. The study shall include determinations of—

(1) the amount of bycatch that is contributed each year to charitable organizations by commercial fishermen;

(2) the economic benefits to commercial fishermen from those contributions; and

(3) the impact on fisheries of the availability of those benefits.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce shall submit to the Congress a report containing determinations made in the study under subsection (a).

(c) BYCATCH DEFINED.—In this section the term "bycatch" has the meaning given that term in section 3 of the Magnuson Fishery Conservation and Management Act, as amended by section 102 of this Act.

SEC. 209. STUDY OF IDENTIFICATION METHODS FOR HARVEST STOCKS.

(a) IN GENERAL.—The Secretary of Commerce shall conduct a study to determine the best possible method of identifying various Atlantic and Pacific salmon and steelhead stocks in the ocean at time of harvest. The study shall include an assessment of—

(1) coded wire tags;

(2) fin clipping; and

(3) other identification methods.

(b) REPORT.—The Secretary shall report the results of the study, together with any recommendations for legislation deemed necessary based on the study, within 6 months after the date of enactment of this Act to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 210. REVIEW OF NORTHEAST FISHERY STOCK ASSESSMENTS.

The National Academy of Sciences, in consultation with regionally recognized fishery experts, shall conduct a peer review of Canadian and United States stock assessments, information collection methodologies, biological assumptions and projections, and other relevant scientific information used as the basis for conservation and management in the Northeast multispecies fishery. The National Academy of Sciences shall submit the results of such review to the Congress and the Secretary of Commerce no later than March 1, 1997.

SEC. 211. CLERICAL AMENDMENTS.

The table of contents is amended by striking the matter relating to title IV and inserting the following:

"Sec. 312. Transition to sustainable fisheries.
"Sec. 313. North Pacific fisheries conservation.
"Sec. 314. Northwest Atlantic Ocean fisheries reinvestment program.

"TITLE IV—FISHERY MONITORING AND RESEARCH

"Sec. 401. Registration and information management.
"Sec. 402. Information collection.
"Sec. 403. Observers.
"Sec. 404. Fisheries research.
"Sec. 405. Incidental harvest research.
"Sec. 406. Fisheries systems research.
"Sec. 407. Gulf of Mexico red snapper research.".

TITLE III—FISHERIES FINANCING

SEC. 301. SHORT TITLE.

This title may be cited as the "Fisheries Financing Act".

SEC. 302. INDIVIDUAL FISHING QUOTA LOANS.

(a) AMENDMENT OF MERCHANT MARINE ACT, 1936.—Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274) is amended—

(1) by striking "or" at the end of subsection (a)(5);

(2) by striking the period at the end of subsection (a)(6) and inserting a semicolon and "or";

(3) by adding at the end of subsection (a) the following:

"(7) financing or refinancing, including, but not limited to, the reimbursement of obligors for expenditures previously made, for the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)).''; and

(4) by striking "paragraph (6)" in the last sentence of subsection (a) and inserting "paragraphs (6) and (7)"; and

(5) by striking "equal to" in the third proviso of subsection (b)(2) and inserting "not to exceed".

(b) PROHIBITION.—Until October 1, 2001, no new loans may be guaranteed by the Federal Government for the construction of new fishing vessels if the construction will result in an increased harvesting capacity within the United States exclusive economic zone.

SEC. 303. FISHERIES FINANCING AND CAPACITY REDUCTION.

(a) CAPACITY REDUCTION AND FINANCING AUTHORITY.—Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), is amended by adding at the end the following new sections:

"SEC. 1111. (a) The Secretary is authorized to guarantee the repayment of debt obligations issued by entities under this section. Debt obligations to be guaranteed may be issued by any entity that has been approved by the Secretary and has agreed with the Secretary to such conditions as the Secretary deems necessary for this section to achieve the objective of the program and to protect the interest of the United States.

"(b) Any debt obligation guaranteed under this section shall—

"(1) be treated in the same manner and to the same extent as other obligations guaranteed under this title, except with respect to provisions of this title that by their nature cannot be applied to obligations guaranteed under this section;

"(2) have the fishing fees established under the program paid into a separate subaccount of the fishing capacity reduction fund established under this section;

"(3) not exceed $100,000,000 in an unpaid principal amount outstanding at any one time for a program;

"(4) have such maturity (not to exceed 20 years), take such form, and contain such conditions as the Secretary determines necessary for the program to which they relate;

"(5) have as the exclusive source of repayment (subject to the proviso in subsection (c)(2)) and as the exclusive payment security, the fishing fees established under the program; and

"(6) at the discretion of the Secretary be issued in the public market or sold to the Federal Financing Bank.

"(c)(1) There is established in the Treasury of the United States a separate account which shall be known as the fishing capacity reduction fund (referred to in this section as the 'fund'). Within the fund, at least one subaccount shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

"(2) Amounts in the fund shall be available, without appropriation or fiscal year limitation, to the Secretary to pay the cost of the program, including payments to financial institutions to pay debt obligations incurred by entities under this section; provided that funds available for this purpose from other amounts available for the program may also be used to pay such debt obligations.

"(3) Sums in the fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States.

"(d) The Secretary is authorized and directed to issue such regulations as the Secretary deems necessary to carry out this section.

"(e) For the purposes of this section, the term 'program' means a fishing capacity reduction program established under section 312 of the Magnuson Fishery Conservation and Management Act.

"SEC. 1112. (a) Notwithstanding any other provision of this title, all obligations involving any fishing vessel, fishery facility, aquaculture facility, individual fishing quota, or fishing capacity reduction program issued under this title after the date of enactment of the Sustainable Fisheries Act shall be direct loan obligations, for which the Secretary shall be the obligee, rather than obligations issued to obligees other than the Secretary and guaranteed by the Secretary. All direct loan obligations under this section shall be treated in the same manner and to the same extent as obligations guaranteed under this title except with respect to provisions of this title which by their nature can only be applied to obligations guaranteed under this title.

"(b) Notwithstanding any other provisions of this title, the annual rate of interest which obligors shall pay on direct loan obligations under this section shall be fixed at two percent of the principal amount of such obligations outstanding plus such additional percent as the Secretary shall be obligated to pay as the interest cost of borrowing from the United States Treasury the funds with which to make such direct loans.".

TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS

SEC. 401. MARINE FISH PROGRAM AUTHORIZATION OF APPROPRIATIONS.

(a) FISHERIES INFORMATION COLLECTION AND ANALYSIS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out fisheries information and analysis activities under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $51,800,000 for fiscal year 1997, and $52,345,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, the collection, analysis, and dissemination of scientific information necessary for the management of living marine resources and associated marine habitat.

(b) FISHERIES CONSERVATION AND MANAGEMENT OPERATIONS.— There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out activities relating to fisheries conservation and management operations under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $29,028,000 for fiscal year 1997, and $29,899,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, development, implementation, and enforcement of conservation and management measures to achieve continued optimum use of living marine resources, hatchery operations, habitat conservation, and protected species management.

(c) FISHERIES STATE AND INDUSTRY COOPERATIVE PROGRAMS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out State and industry cooperative programs under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $27,932,000 for fiscal year 1997, and $28,226,000 for each of the fiscal years 1998, 1999, and 2000. These activities include, but are not limited to, ensuring the quality and safety of seafood products and providing grants to States for improving the management of interstate fisheries.

(d) AUTHORIZATION OF APPROPRIATIONS FOR CHESAPEAKE BAY OFFICE.—Section 2(e) of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) by striking "1992 and 1993" and inserting "1997 and 1998";

(2) by striking "establish" and inserting "operate";

(3) by striking "306" and inserting "307"; and

(4) by striking "1991" and inserting "1992".

(e) RELATION TO OTHER LAWS.—Authorizations under this section shall be in addition to monies authorized under the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 3301 et seq.), the Anadromous Fish Conservation Act (16 U.S.C. 757 et seq.), and the Interjurisdictional Fisheries Act (16 U.S.C. 4107 et seq.).

(f) NEW ENGLAND HEALTH PLAN.—The Secretary of Commerce is authorized to provide up to $2,000,000 from previously appropriated funds to Caritas Christi for the implementation of a health care plan for fishermen in New England if Caritas Christi submits such plan to the Secretary no later than January 1, 1997, and the Secretary, in consultation with the Secretary of Health and Human Services, approves such plan.

SEC. 402. INTERJURISDICTIONAL FISHERIES ACT AMENDMENTS.

(a) REAUTHORIZATION.—Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

"(1) $3,400,000 for fiscal year 1996;

"(2) $3,900,000 for fiscal year 1997;

"(3) $4,400,000 for each of the fiscal years 1998, 1999, and 2000.";

(2) by striking "$350,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, and $600,000 for each of the fiscal years 1994 and 1995," in subsection (c) and inserting "$700,000 for fiscal year 1997, and $750,000 for each of the fiscal years 1998, 1999, and 2000,".

(b) NEW ENGLAND REPORT.—Section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)) is amended by adding at the end the following new paragraph:

"(7) With respect to funds available for the New England region, the Secretary shall submit to the Congress by January 1, 1997, with annual updates thereafter as appropriate, a report on the New England fishing capacity reduction initiative which provides:

"(A) the total number of Northeast multispecies permits in each permit category and calculates the maximum potential fishing capacity of vessels holding such permits based on the principal gear, gross registered tonnage, engine horsepower, length, age, and other relevant characteristics;

"(B) the total number of days at sea available to the permitted Northeast multispecies fishing fleet and the total days at sea weighted by the maximum potential fishing capacity of the fleet;

"(C) an analysis of the extent to which the weighted days at sea are used by the active participants in the fishery and of the reduction in such days as a result of the fishing capacity reduction program; and

"(D) an estimate of conservation benefits (such as reduction in fishing mortality) directly attributable to the fishing capacity reduction program.".

SEC. 403. ANADROMOUS FISHERIES AMENDMENTS.

Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

"SEC. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

"(A) $4,000,000 for fiscal year 1997; and

"(B) $4,250,000 for each of fiscal years 1998, 1999, and 2000.

"(2) Sums appropriated under this subsection are authorized to remain available until expended.

"(b) Not more than $625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.".

SEC. 404. ATLANTIC COASTAL FISHERIES AMENDMENTS.

(a) DEFINITION.—Paragraph (1) of section 803 of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5102) is amended—

(1) by inserting "and" after the semicolon in subparagraph (A);

(2) by striking "States; and" in subparagraph (B) and inserting "States."; and

(3) by striking subparagraph (C).

(b) IMPLEMENTATION STANDARD FOR FEDERAL REGULATION.—Subparagraph (A) of section 804(b)(1) of such Act (16 U.S.C. 5103(b)(1)) is amended by striking "necessary to support" and inserting "compatible with".

(c) AMERICAN LOBSTER MANAGEMENT.—Section 809 (16 U.S.C. 5108) and section 810 of such Act are redesignated as sections 811 and 812, respectively, and the following new sections are inserted at the end of section 808:

"SEC. 809. STATE PERMITS VALID IN CERTAIN WATERS.

"(a) PERMITS.—Notwithstanding any provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.), or any requirement of a fishery management plan or coastal fishery management plan to the contrary, a person holding a valid license issued by the State of Maine which lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American Lobster in the following areas designated as federal waters, if such fishing is conducted in such waters in accordance with all other applicable federal and state regulations:

"(1) west of Monhegan Island in the area located north of the line 43° 42′ 08″ N, 69° 34′ 18″ W and 43° 42′ 15″ N, 69° 19′ 18″ W;

"(2) east of Monhegan Island in the area located west of the line 43° 44′ 00″ N, 69° 15′ 05″ W and 43° 48′ 10″ N, 69° 08′ 01″ W;

"(3) south of Vinalhaven in the area located west of the line 43° 52′ 21″ N, 68° 39′ 54″ W and 43° 48′ 10″ N, 69° 08′ 01″ W; and

"(4) south of Bois Bubert Island in the area located north of the line 44° 19′ 15″ N, 67° 49′ 30″ W and 44° 23′ 45″ N, 67° 40′ 33″ W.

"(b) ENFORCEMENT.—The exemption from federal fishery permitting requirements granted by subsection (a) may be revoked or suspended by the Secretary in accordance with section 308(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858(g)) for violations of such Act or this Act.

"SEC. 810. TRANSITION TO MANAGEMENT OF AMERICAN LOBSTER FISHERY BY COMMISSION.

"(a) TEMPORARY LIMITS.—Notwithstanding any other provision of this Act or of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), if no regulations have been issued under section 804(b) of this Act by December 31, 1997, to implement a coastal fishery management plan for American lobster, then the Secretary shall issue interim regulations before March 1, 1998, that will prohibit any vessel that takes lobsters in the exclusive economic zone by a method other than pots or traps from landing lobsters (or any parts thereof) at any location within the United States in excess of—

"(1) 100 lobsters (or parts thereof) for each fishing trip of 24 hours or less duration (up to a maximum of 500 lobsters, or parts thereof, during any 5-day period); or

"(2) 500 lobsters (or parts thereof) for a fishing trip of 5 days or longer.

"(b) SECRETARY TO MONITOR LANDINGS.—Before January 1, 1998, the Secretary shall monitor, on a timely basis, landings of American lobster, and, if the Secretary determines that catches from vessels that take lobsters in the exclusive economic zone by a method other than pots or traps have increased significantly, then the Secretary may, consistent with the national standards in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801), and after opportunity for public comment and consultation with the Atlantic States Marine Fisheries Commission, implement regulations under section 804(b) of this Act that are necessary for the conservation of American lobster.

"(c) REGULATIONS TO REMAIN IN EFFECT UNTIL PLAN IMPLEMENTED.—Regulations issued under subsection (a) or (b) shall remain in effect until the Secretary implements regulations under section 804(b) of this Act to implement a coastal fishery management plan for American lobster.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 810 of such Act, as amended by this Act, is amended further by striking "1996." and inserting "1996, and $7,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000.".

SEC. 405. TECHNICAL AMENDMENTS TO MARITIME BOUNDARY AGREEMENT.

(a) EXECUTION OF PRIOR AMENDMENTS TO DEFINITIONS.—Notwithstanding section 308 of the Act entitled "An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary", approved March 9, 1992 (Public Law 102-251; 106 Stat. 66) hereinafter referred to as the "FGB Act", section 301(b) of that Act (adding a definition of the term "special areas") shall take effect on the date of enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) Section 301(h)(2)(A) of the FGB Act is repealed.

(2) Section 304 of the FGB Act is repealed.

(3) Section 3(15) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)) is amended to read as follows:

"(15) The term 'waters under the jurisdiction of the United States' means—

"(A) the territorial sea of the United States;

"(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the other boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

"(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured, except that this subparagraph shall not apply before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.".

SEC. 406. AMENDMENTS TO THE FISHERIES ACT.

Section 309(b) of the Fisheries Act of 1995 (Public Law 104-43) is amended by striking "July 1, 1996" and inserting "July 1, 1997".

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, once again I thank and congratulate all those who worked on this very important legislation. I especially thank the distinguished Senator from Alaska for the work that he did from the Commerce Committee at the subcommittee level.

There was a lot of pressure to move earlier. If we had, there would have been all kinds of problems. By persistence and negotiations, I think we came up with really good legislation.

I thank the Senator from Alaska, the Senator from Washington, Senator GORTON, the Senator from Massachusetts, Senator KERRY, and everybody who worked on it. This is very, very important legislation.

Now we want to move forward getting through the process so we have it done before we go out.

UNANIMOUS-CONSENT AGREEMENT—S. 1505

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 540, S. 1505, and that no amendment relative to the tuna-dolphin issue or the Panama declaration issue be in order.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Mr. President, reserving the right to object, it was my understanding that request would be notwithstanding the previous unanimous consent request regarding 10 minutes.

Mr. LOTT. Absolutely, Mr. President. At least one Senator wanted to speak and was not able to get here before the vote.

The PRESIDING OFFICER. There will be 10 minutes.

Mr. LOTT. That 10 minutes will be the next thing we go to, so we can get the closing statements. That is our intent.

Mr. BRADLEY. Reserving my right to object, it is my understanding the amendment that had been discussed between the majority leader and the Senator from New Jersey is on its way to the floor and the manager will offer it as an amendment to the committee amendment; is that correct, that would be in order?

Mr. LOTT. That is absolutely correct. We apologize for our not getting a highlighted copy of it to the Senator. We are going to get that to him. I am absolutely committed to the agreement we have.

Mr. STEVENS. Reserving the right to object, Mr. President, does the leader's unanimous-consent request apply to the pipeline safety bill?

Mr. LOTT. It only applies to the pipeline safety bill, Mr. President, except that it does say we would not go to the tuna-dolphin issue or the Panama declaration issue, that they would not be in order, but it only takes up the pipeline safety bill.

Mr. STEVENS. Thank you.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table—Mr. President, I withdraw that request. I understand there has been objection.

SUSTAINABLE FISHERIES ACT

The PRESIDING OFFICER. Under the previous order, the Senators who wish to speak on S. 39 have 10 minutes.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I again thank the people who were involved in this. As I said, prior to the passage of the bill, this is a bill we have worked out in 18 months. When it was previously before the Senate, it took 5 years. This has required a tremendous amount of staff time.

I am particularly indebted to my staff people:

Trevor McCabe and Earl Comstock; and to Tom Melius, who has worked with the chairman of the committee, Senator PRESSLER, and Penny Dalton, who has worked with Senator KERRY and Senator HOLLINGS from on the committee.

Let me also thank Jeanne Bumpus with Senator GORTON; Justin LeBlanc with Senator MURRAY; Margaret Commisky and Scott Atkinson with Senator INOUYE; Clark LeBlanc who is with Senator SNOWE; Mike Parks and Darla Romfo with Senator BREAUX; GLENN Merrill and Alex Elkan, Sea Grant fellows with the Commerce Committee; Peter Hill and Tom Richy on Senator KERRY's staff; Alex Buell on

Senator WYDEN's staff; Carl Biersak, who has worked with the majority leader, Senator LOTT; Carol Dubard with Senator HUTCHISON; Rick Murphy with Senator CHAFEE; and Wayne Boyles with Senator HELMS.

Mr. President, this bill would not have come before us if it had not been for the tremendous support from the Marine Fish Conservation Network. I particularly want to thank Greenpeace and the Alaska Marine Conservation Network for working very actively for the passage of S. 39, as well as the Center for Marine Conservation and the World Wildlife Fund.

I ask unanimous consent to have printed in the RECORD the entire list of the fish network, who have all been helpful.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

THE MARINE FISH CONSERVATION NETWORK

(100 Member Organizations Representing More Than Six Million Americans, as of June, 1996)

Alaska Longline Fishermen's Association
Alaska Marine Conservation Council
Alliance of Rhode Island Saltwater Fishing Clubs
W.H. Amaru Fisheries Research and Conservation
American Oceans Campaign
Atlantic Salmon Federation
Bass Anglers Sportsman's Society
The Billfish Foundation
Biodiversity Legal Foundation
Caribbean Conservation Corporation
Carrying Capacity Network
Center for Marine Conservation
Chesapeake Bay Foundation
City of St. Paul/Bering Sea Coalition
Coastal Waters Project
Columbus (OH) Zoological Gardens
Concerned Citizens of Montauk
Connecticut River Stripped Bass Club
Conservation Law Foundation
Croal Reef Action Group
Deep Pacific Fishing Company
Defenders of Wildlife
Environmental Advocacy Outreach
Environmental Defense Fund
Environmental Solutions International
Federation of Fly Fishers
Fisheries Defense Fund
Fishermen's Emergency Fund
Fish Forever
Fish Unlimited
Florida League of Anglers
Friends of the Earth
Glacier Creek Smoked Salmon
Good Knight Campaign for Protection of Children and the Earth
GreenLife Society—North American Chapter
Greenpeace
Hawaii Fishermen's Foundation
Hawaiian International Billfish Association
Interfaith Council for the Protection of Animals and Nature
International Game Fish Association
Jersey Coast Anglers Association
King and Sons Fishing Company, Inc.
Kodiak Conservation Network
F/V Lady Anne, Inc.
Maine Animal Coalition
Maine Lobsterman's Association
The Marine Mammal Center
Maryland Saltwater Sportfishermen's Association
Massachusetts Audubon Society
Massachusetts Wildlife Federation
Mid-Coast Anglers
Monterey Bay Aquarium
Mystic River-Whitford Brook Watershed Association
Nahant SWIM (Safer Waters in Massachusetts)
The National Aquarium (DC)
NAUI (National Assoc. of Underwater Instructors)
National Audubon Society
National Coalition for Marine Conservation
National Fishing Association
Natural Resource Consultants (Idaho)
Natural Resources Defense Council
New England Aquarium
New England Coast Conservation Association
New Pioneer Co-op Fresh Food Market (IA)
NY/NJ Harbor Baykeeper
New York Sportfishing Federation
North Pacific Fisheries Protection Association
North Pacific Longline Association
Ocean Futures Foundation
Oregon Natural Resources Council
Oregon Trout
Oregon Wildlife Federation
People for Puget Sound
PADI (Professional Assoc. of Diving Instructors)
Project ReefKeeper
Puget Soundkeeper Alliance
Reid International
Salt Water Sportsman Magazine
Save Our Shores
Save the Sound
Save the Bay
Sierra Club
Sierra Club Legal Defense Fund
Society for Conservation Biology
Sport Fishing Institute
Stripers Unlimited
Surfer Environmental Alliance
Surfrider Foundation
Tampa BAYWATCH, Inc.
Trout Unlimited
Trustees for Alaska
United Anglers of California
United Fishermen's Association
Wildlife Conservation Society
World Wildlife Fund

Mr. STEVENS. Let me also thank representatives of the Western Alaska Fisheries Development Association, the Pacific Seafoods Processors Association, the Alaska Groundfish Data Bank, the Alaska Draggers Association, the Petersburg Vessel Owners Association, and the Kodiak Longline Vessel Owners Association.

Mr. President, I am sad to report that the two people who urged me in the first instance to support the original act and introduce it in 1971 and then helped us get started once again on the revision that passed in 1976, Oscar Dyson and Harold Sparck, two Alaskans, are now deceased. I do want to recognize their memory in connection with this legislation, which they have also been instrumental in creating.

Mr. President, I will not take all the time, but I do once again want to thank my good friend from Massachusetts. Had it not been for his determination and consistency, we would not be where we are today, having passed a significant, bipartisan bill.

But beyond that, Mr. President, I want to issue one word of warning as I close. We have passed a bill to try to eliminate waste in the fisheries off our shores. Mr. President, if these mechanisms we have adopted through compromise do not work, I intend to be back with a stronger bill because it is the area off my shores, the shores of Alaska, that produce over half of the fisheries of this country.

The waste has become just unacceptable, totally unacceptable. When we reached the level of 500 to 700 million pounds a year of fish being wasted because of the distant water fishing vessels, we have reached a level beyond our acceptance in the fisheries.

Mr. President, I introduced the original 200-mile bill in 1971 because I flew from Kodiak to the Pribilof Islands and counted over 100 Japanese trollers off our shores. We sought to find a way to eliminate that scourge on our fisheries, and we did so by passing, finally 5 years later, the bill that is now known as the Magnuson Act, at my request.

That law brought into effect a new distant water fleet. It is the factory trollers. And 75 percent of that waste comes from the factory trollers. If they do not put their business back in order and get away from bottom line fisheries and start thinking about the conservation of our fisheries and the sustainability of our fisheries, we will be back because Alaska will not put up with the total depletion of our fisheries.

There are no known species off our shores that are overfished now. Several may be very close to it. The day that we get one—even one—caused by factory trollers, I will be back with another bill, because we demand that the reproductive capability of our fisheries be sustained. That is what this bill does. That is the intent of the bill. If it does not work, Mr. President, thanks to God and my Alaska voters, I will be here 6 more years, and we will see to it that a bill will pass that will eliminate these vessels that are destroying the reproductive capability of the North Pacific. Thank you, Mr. President.

Mr. KERRY. Mr. President, how much time remains on the 10 minutes allotted?

The PRESIDING OFFICER. Four minutes.

Mr. STEVENS. Mr. President, I used too much time. Mr. President, I ask unanimous consent for an extra 5 minutes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I thank the distinguished Senator from Alaska for his comments. It is my hope that both God and some other voters will help me be back here to work with him.

Let me just say, Mr. President, I thank the Senator for his comments about our joint work. It has been a great privilege working with the Senator from Alaska and his staff in an effort to try to move this very important piece of legislation. I think it is fair to say—and I know the Senator from Alaska will join me in this—a lot of countries around the world were waiting to see how the United States was going to respond to its crisis of dealing with its fishing stocks and the protection of our available fishing grounds from the waters off Alaska to the waters south all the way to San Diego, the tuna fleet, all through the gulf coast, the Gulf of Mexico, around to Florida all the way up to Charleston, SC, North Carolina, New York, New Jersey, to Maine.

We have had different interests that have been tugging within this bill. We have commercial fishermen tugging against recreational fishermen. This is a $50 billion a year industry to the United States on the commercial side and it is a $7 billion industry with respect to the recreational side. There are enormous pressures by that monetary interest to continue to deplete. But this is a finite resource, and we have to manage it.

Other countries are wrestling with this. Great Britain is doing a buyout. Iceland, Russia, other nations, Norway, all of them have implemented particular environmental concerns. What we did here today was important to say that we are going to be a leader in that international effort and that we are serious. I join the Senator from Alaska in saying that this must work. If it does not, we will come back with tougher measures in order to guarantee that the stocks are able to replenish and that fishing is an ongoing effort.

I simply repeat what I said yesterday. This is not a signal of an end to fishing nor even the downturn. If we do our job properly and if the management councils do their jobs properly, 300,000 new jobs can be created. This can be a growth industry for the United States of America. That is our goal.

I want to thank the Senator from Louisiana for his continued and ever-present counsel and assistance in these efforts. He understands the issues as well as any person in the Senate, and his help has been instrumental in building the consensus that we brought here today. I yield the remainder of the time to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I will just take a moment, but I say, that if the work on this legislation is any measure of the voters of Alaska and voters of Massachusetts, both of our colleagues will in fact be back in the next Congress to work on this legislation and many other areas.

I just say to the Senator from Massachusetts, who has just spoken, that his fisheries area was on the brink of disaster, but because of his outstanding work on this legislation, I suggest that the New England fisheries are going to be much better off. Maybe not just this afternoon, but in the next year and the years after that and for the next several decades, that very vital fisheries area of the United States, the New England fisheries, is going to be better off because this bill will provide better science, better management tools for local fishery management organizations to manage the fisheries in that area.

I think he deserves a great deal of credit, as does the Senator from Alaska, for putting together a bill that really has been nonpartisan. To be able to get the Gulf of Mexico and the New England fisheries to agree with the fishermen in the Northwest and in Alaska is quite a political achievement. I want to say to both of these leaders what an outstanding job they have done in bringing forward this piece of legislation. Millions and millions will be much better off because of their work today in this legislation.

I want to also thank two members of my staff, Mr. Mike Parks, who has worked on this legislation for so long, and also my legislative director, Ms. Darla Romfo, for stepping in at the last minute. This is not her area, not her expertise, but she became a very quick expert in the area of fisheries. We thank them both for their effort. I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I see that the chairman of the committee is here now, Senator PRESSLER. I want to add to the comments that I made previously that he and Senator HOLLINGS, the leader and ranking member on our committee, the Commerce Committee, have allowed us broad leeway and literally allowed us, with almost all our funding from the Commerce Committee, to travel in connection with the hearings we conducted on this bill in the period of 2 years.

Senator PRESSLER has contributed very greatly to the outcome of this legislation. I want to acknowledge his leadership as well as his cooperation. Both he and the staff of the full committee have assisted us in every way. I do thank him. And Senator HOLLINGS has done the same for Senator KERRY. So it was with the absolute cooperation of the leadership of the committee that we were able to achieve the passage of this bill. It is another bipartisan bill that goes down on the record of Senator PRESSLER during his chairmanship of this committee. We look forward to working with him in the years to come.

I would also like to add my special thanks to Senator INOUYE, who has stood beside us and made a major contribution to this bill.

Mrs. HUTCHISON. I just want to add, once again, my thanks to the leaders of this bill. We have talked about the importance of this bill to the management of the waters of the United States. It could not have come about without the leadership of Senator PRESSLER, the chairman of the committee, who really made it come together when there were many issues still left on the table.

Certainly, the distinguished chairman of the subcommittee, Senator STEVENS, along with Senator KERRY, Senator HOLLINGS, Senator BREAUX, Senator LOTT—everyone worked so hard to do something that I think really will be for the benefit of all of the people who care about our waters, and use them either for commercial use or for recreation and conservation. Kudos to all.

I yield the floor.

MORNING BUSINESS

Mr. LOTT. Mr. President, we do have one issue we need to get resolved on this bill. While that is being worked on, I ask unanimous consent that there be a period of morning business for the next 30 minutes with time limited to 5 minutes each.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

Mr. LOTT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous-consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, is the Senate now in a period of morning business?

The PRESIDING OFFICER. The Senate is in a period of morning business, with a unanimous consent order limiting the time of each Senator to 5 minutes.

Mr. DORGAN. I ask unanimous consent that I be allowed to speak for 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

GUNS IN SCHOOLS

Mr. DORGAN. Mr. President, this morning I was watching a morning television show and heard a report that was dumbfounding to me. It was a report on a decision by an appellate court of New York State dealing with a young man who had brought a gun to school. The gun had been discovered and taken from the youth. The boy was expelled from school. This case has made its way through the New York court system to the appellate court, which ruled Tuesday that the security guard had acted improperly in removing the gun from the boy who was in a school.

I came to the office this morning after hearing that report and asked for some information about the appellate court decision and got it. I read through it and there are times when you scratch your head and wonder why there are people serving in public office in any branch of government who are so completely devoid of common sense. I read this decision and wondered how anyone could really have decided that it is all right for a boy to carry a gun in school and not be punished for it.

There is a law on the books now, the Gun-Free Schools Act, that says schools must have zero tolerance for guns in our Nation's classrooms and hallways. I wrote it. I, along with the Senator from California, Senator FEINSTEIN, wrote this legislation that is now law. It says with respect to the issue of guns in schools, we are sending a message that is very clear anywhere in America.

The message ought to be clear to every student and every parent: There is zero tolerance for guns in schools. Do not bring a gun to school. If you do, you will face certain punishment. Now, that is law.

In the report I heard today about the court case in New York regarding the young man, identified as Juan, in the Bronx, at William Howard Taft High School, a security guard testified that he spotted what looked like the handle of a gun inside Juan's jacket. A search turned up the weapon, which was loaded. Juan was suspended for a year, and criminal charges were filed against him. A Bronx family court kicked out the charges, ruling that the outline of the gun was not clearly visible. The slight bulge was not, in any particular shape or form, remotely suspicious, so the security guard had conducted an unreasonable search. The appellate court went a step further and said, since the guard improperly removed the gun, the boy should not have been suspended from school.

I think that is nuts. When I get on an airplane to fly to North Dakota, I have to walk through a metal detector. They want to know whether I have a weapon on my person. They also have a right to search my briefcase and my luggage, and they have a right to determine that the people who board that airplane have no guns or weapons on them.

This court says that a security guard, or teachers, or principals have no right to determine whether a student with a suspicious bulge in his clothing has a gun in his pocket or in his jacket as he walks down a hallway or sits in a classroom at a school in the Bronx. Where is the common sense here? Of course, we have a right to determine that no kids in schools have guns. When a court says that a school has no right to expel a student who was caught with a gun by a security guard who saw a bulge in the student's pocket, then there is something fundamentally wrong with that court.

Now, as I said, I wrote the provision 2 years ago that says there is zero tolerance for guns in schools, and there are certain penalties for every student who brings a gun to school anywhere in this country. That does not vary from New Mexico to Indiana to North Dakota. If you bring a gun, you are expelled—no ifs, ands, or buts. This court decision, along with some background on other court decisions that I just heard about this morning on television, so angered me—to believe that we have the capacity in a country like this to prevent people from bringing guns onto airplanes but we can't expel a kid who is caught with a gun in school.

I have a young son in school today. He is 9 years old. He is sitting in a classroom in a wonderful school. I, just like every other parent in this country, want to make certain that if there is any kid that comes into that school, or any other school, with a gun, our children are safe, and that someone can intercept those students, and if they find a gun, they are going to remove the gun and the student. We have every right to expect that to be the case in our schools.

This court decision, as I said, denies all common sense. I fully intend to pursue additional Federal legislation, if necessary, in order to remedy this sort of circumstance. A country that can decide that people who board airplanes can be searched—and we can make certain that people will not take guns in airplanes—ought to be able to decide that children in school will be free from having another child in a classroom or in the hallway packing a .45 or a .38.

Parents ought to be able to believe that security guards who intercept people with guns in schools will be able to remove those students. Not too long ago, at a school about 2 miles from where I stand, a young boy was shot. I had visited that school about a month before the young boy was shot. I went to a school with nine students in the senior class, in a town of 300. But I wanted to tour this inner-city school and see what it was like. As I walked in, I went through a metal detector, and I saw security guards. I went into a school that is in a lockdown state when the school day begins. When the students are in, the doors are locked. They have metal detectors and security guards to try to make certain there are no students bringing in weapons and no unauthorized people are coming through the doors. Frankly, the security was pretty good at that school. They felt that there was a need to have substantial security.

About a month or so after I toured that school, a young boy was in the basement of that school in the lunch room at a water fountain. Another young boy named Jerome bumped him at the water fountain. For bumping the boy at the water fountain, Jerome was shot four times. I just read about it in the papers. I didn't know Jerome. He was shot four times and he lay on the floor critically wounded. He survived those wounds. He graduated from school. I visited with Jerome a couple of times, just trying to understand what is happening in these schools. It was prior to my passing legislation here dealing with the issue of zero tolerance and guns in schools. I found it unusual that a school with that security still had a boy in the cafeteria with a gun—a gun available to shoot someone who bumped him at a water fountain.

Now comes, this morning, a court case where this boy Juan was in school 4 years ago. It has taken that long for this case to get through the courts. This boy isn't even in school anymore. But the decision is that a security guard at school improperly removed a gun from the pocket of this student. I find this so preposterous. I know if we talk to the judges, they would give a million reasons why they reached this decision. I don't want 10 reasons or 5 reasons. I want one person to give me one reason why we ought to believe it is ever appropriate for a young student to put a pistol in his pocket in order to go to school in this country.

If we can't keep guns out of schools, we can't take the first baby step in dealing with this country's education problems. So I come to the floor to express enormous dismay over what I heard and read this morning and to say to those who are making these decisions: If need be, there will be Federal legislation, once again, telling those who are trying to keep guns out of our schools that you have the authority to do it. We are going to give school officials the ability to keep our children safe.

I am not antigun. I hunt. In my State we have great hunting. But guns have no place in schools. No kid ought to bring a pistol to school. Those who do ought not to be told by the courts that it is OK. They ought to be told by parents and security guards, and by the law in this country, that it is not OK. If necessary, we are going to pass Federal legislation to make that occur.

Mr. President, I thank the Chair. I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Before the distinguished Senator from North Dakota leaves the floor, I would like to ask him a question or two.

I have been listening, with keen interest, to his addressing this issue that I know he has been involved in for a long, long time. I have some comments to make on this. But I simply would like to ask him, who brought the action? Under whose auspices was the case filed that he has just addressed, where the decision came down yesterday? Where was this case and who brought the action?

Mr. DORGAN. Well, I say to the Senator from Nebraska, this was in an appellate court of New York State. I don't have, at this moment, the information about who brought the action. I assume that attorneys on behalf of the student, or the student's parents, brought an action against the school and, also, of course, contested the criminal charges. This student who brought a gun to school, which was then seized by the security guard, eventually had the criminal charges against him dropped.

Mr. EXON. Were there any other organizations involved in this, to your knowledge? Or was it just an individual action by a parent?

Mr. DORGAN. Well, other organizations are quoted in the press stories, but there is not a reference about whether they were involved in the case. So I will not use their names, except to say that my expectation is that there are organizations who would join parents of the student and who would contest these sorts of policies. But it is beyond my comprehension to understand how anyone can argue anywhere that it is appropriate under any circumstance for a kid to pack a weapon to go to school. If we can't as parents, as school administrators, and as public officials decide that our schools are places where kids can learn and feel safe in an environment in which they can learn, then we cannot solve our education problems in this country.

Mr. EXON. I have not seen the information that the Senator from North Dakota has. I guess I am specifically asking whether or not there were other organizations who hired attorneys or had attorneys there representing those who brought the action.

Mr. DORGAN. I will get that information. I do not feel comfortable giving you the names of the other organizations named in the news articles I have because I do not know whether they were actively involved in bringing the case. But I hope by Monday or so to have all of that information, and I will come to the floor again and provide it for the Senator.

Mr. EXON. I appreciate that very, very much. The fact that the Senator has the courage to stand up on the floor of the U.S. Senate and make such an obvious, commonsense argument encourages me that we are beginning to look at some of the real problems in America. One of the problems in America today is kids with guns. Certainly I would agree with my friend from North Dakota. If we are powerless to do anything about that, regardless of the status, the opinion, the background of one court, or one judge, then we are in serious trouble.

As a former Governor who had appointed lots of judges, I have never launched an attack on the courts per se because I think by and large the courts do a good job. Unfortunately, it is obvious to me from some of the recent decisions that I have seen on a whole series of areas—it indicates to me that perhaps all too often the courts think they are not the third branch of Government but they are the branch of Government, and they seemingly are becoming all powerful.

There was a time when the courts of the United States were somewhat restrained and did not become activists for causes. It seems to me that all too often those who are foremost in bringing these actions have scrutinized the judiciary to the point where they know what judge to go to on a certain issue and what judge would be most likely to go along with this particular point of view. To me, that is not a good comment on the judiciary that is supposed to be under the law, ones that make legitimate decisions based on law. And breaking new ground in the judiciary at one time was somewhat reserved. These days the judiciary is breaking more new ground more often and, in the opinion of this Senator, more wrongly than ever before.

So I will be looking forward to hearing the next comment on this.

Mr. DORGAN. I am mindful of the dilemma of criticizing the courts. I generally don't do that. I may have used some intemperate language today to do so, but I am a little tired of the judiciary saying, "Well, you know, don't ever comment about us. We are over here way above comment." I called a judge one day when I picked up the Washington Post some while ago. A couple of people put a pistol to a man's head in a pizza delivery murder and killed him. The trigger man was let out on, I think, $10,000 bond by the judge. I read that story. I thought to myself, "What on Earth are we doing?" I called the judge. The judge says, "How dare you call me. You have no right to call me." I said, "Of course, I have a right to call you." It turned out a lot of other people in that community called him, and he decided to change the bail. That young fellow was brought back to jail and was subsequently convicted of murder and put into prison.

But the point is that I do not criticize the judiciary lightly. I do not want to taint the judiciary. The fact is a lot of people are doing a lot of wonderful work, I am sure. But there are times when you see decisions come out that are so unsound and so devoid of common sense.

I try to be mindful of the point about criticizing the judiciary. But, frankly, I think sometimes they deserve a little criticism. I am going to do it when I feel they have made decisions like this that we can remedy with some Federal legislation, and they should know it is coming.

Mr. EXON. Mr. President, I thank my friend. I find myself aligned almost identically with the viewpoints that the Senator has just addressed. I was very much interested to see how a judge resented the fact that a U.S. Senator called him asking the reasons for the decision that the judge had rendered. That takes me to the place that, while I recognize the courts as the legitimate third force of government, the courts are not sacrosanct, and the courts had better get off of the kick that they seem to be increasingly on, as evidenced at least by the one instance that the Senator from North Dakota addressed. Judges are human beings like all of us. Those of us who are in public service expect to receive criticism. That is what making hard decisions is all about.

But I simply say that, from what I know of the case that the Senator from North Dakota referenced today about the most recent decision, probably the most recent outrage by at least one court against what thinking people are trying to do to provide at least some degree of safe haven for our kids in school, highlights the point that the Senator from North Dakota is making and this Senator from Nebraska is making about the way things are happening today. The three equal branches of Government—the executive, the judiciary, and the legislative—had better be looked on.

I say as a legislator to the courts, "Do your job but don't trample on us as a second-class part of the equal three-part series of our Government that has served this Nation and this country so well for so very long."

ORDER OF PROCEDURE

Mr. EXON. Mr. President, before I yield the floor, I will simply advise the Senate that we were ready to take up a bill that came out of the Justice Department, and I think through misunderstanding it was temporarily delayed. I simply say that the previous matter before the Senate that was temporarily set aside has now been cleared for action—the pipeline safety bill, with amendments. As the manager on this side on that bill, I am prepared to move ahead, if that is the will of the majority.

I thank the Chair.

The PRESIDING OFFICER. The Chair in his capacity as a Senator from Missouri suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACCOUNTABLE PIPELINE SAFETY AND PARTNERSHIP ACT OF 1996

Mr. EXON. May I inquire of the Chair, what is currently the procedure in the Senate and what matter are we on?

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 1505) to reduce risks to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquid, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Accountable Pipeline Safety and Partnership Act of 1996".

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 60101(a) is amended—

(1) by striking the periods at the end of paragraphs (1) through (22) and inserting semicolons;

(2) by striking paragraph (21)(B) and inserting the following:

"(B) does not include the gathering of gas, other than gathering through regulated gathering lines, in those rural locations that are located outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area (including a subdivision, business, shopping center, or community development) or any similar populated area that the Secretary of Transportation determines to be a nonrural area, except that the term 'transporting gas' includes the movement of gas through regulated gathering lines;"; and

(3) by adding at the end the following:

"(23) 'risk management' means the systematic application, by the owner or operator of a pipeline facility, of management policies, procedures, finite resources, and practices to the tasks of identifying, analyzing, assessing, reducing, and controlling risk in order to protect employees, the general public, the environment, and pipeline facilities;

"(24) 'risk management plan' means a management plan utilized by a gas or hazardous liquid pipeline facility owner or operator that encompasses risk management; and

"(25) 'Secretary' means the Secretary of Transportation.".

(b) GATHERING LINES.—Section 60101(b)(2) is amended by inserting ", if appropriate," after "Secretary" the first place it appears.

SEC. 4. GENERAL AUTHORITY.

(a) MINIMUM SAFETY STANDARDS.—Section 60102(a) is amended—

(1) by striking "transporters of gas and hazardous liquid and to" in paragraph (1)(A);

(2) by striking paragraph (1)(C) and inserting the following:

"(C) shall include a requirement that all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities."; and

(3) by striking paragraph (2) and inserting the following:

"(2) The qualifications applicable to an individual who operates and maintains a pipeline facility shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits. The operator of a pipeline facility shall ensure that employees who operate and maintain the facility are qualified to operate and maintain the pipeline facilities.".

(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—Section 60102(b) is amended to read as follows:

"(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—

"(1) IN GENERAL.—A standard prescribed under subsection (a) shall be—

"(A) practicable; and

"(B) designed to meet the need for—

"(i) gas pipeline safety, or safely transporting hazardous liquids, as appropriate; and

"(ii) protecting the environment.

"(2) FACTORS FOR CONSIDERATION.—When prescribing any standard under this section or section 60101(b), 60103, 60108, 60109, 60110, or 60113, the Secretary shall consider—

"(A) relevant available—

"(i) gas pipeline safety information;

"(ii) hazardous liquid pipeline safety information; and

"(iii) environmental information;

"(B) the appropriateness of the standard for the particular type of pipeline transportation or facility;

"(C) the reasonableness of the standard;

"(D) based on a risk assessment, the reasonably identifiable or estimated benefits expected to result from implementation or compliance with the standard;

"(E) based on a risk assessment, the reasonably identifiable or estimated costs expected to result from implementation or compliance with the standard;

"(F) comments and information received from the public; and

"(G) the comments and recommendations of the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate.

"(3) RISK ASSESSMENT.—In prescribing a standard referred to in paragraph (2), the Secretary shall—

"(A) identify the regulatory and nonregulatory options that the Secretary considered in prescribing a proposed standard;

"(B) identify the costs and benefits associated with the proposed standard;

"(C) include—

"(i) an explanation of the reasons for the selection of the proposed standard in lieu of the other options identified; and

"(ii) with respect to each of those other options, a brief explanation of the reasons that the Secretary did not select the option; and

"(D) identify technical data or other information upon which the risk assessment information and proposed standard is based.

"(4) REVIEW.—

"(A) IN GENERAL.—The Secretary shall—

"(i) submit risk assessment information prepared under paragraph (3) of this subsection to the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate; and

"(ii) make that risk assessment information available to the general public.

"(B) PEER REVIEW PANELS.—The committees referred to in subparagraph (A) shall serve as peer review panels to review risk assessment information prepared under this section. Not later than 90 days after receiving risk assessment information for review pursuant to subparagraph (A), each committee that receives that risk assessment information shall prepare and submit to the Secretary a report that includes—

"(i) an evaluation of the merit of the data and methods used; and

"(ii) any recommended options relating to that risk assessment information and the associated standard that the committee determines to be appropriate.

"(C) REVIEW BY SECRETARY.—Not later than 90 days after receiving a report submitted by a committee under subparagraph (B), the Secretary—

"(i) shall review the report;

"(ii) shall provide a written response to the committee that is the author of the report concerning all significant peer review comments and recommended alternatives contained in the report; and

"(iii) may revise the risk assessment and the proposed standard before promulgating the final standard.

"(5) SECRETARIAL DECISIONMAKING.—Except where otherwise required by statute, the Secretary shall propose or issue a standard under this Chapter only upon a reasoned determination that the benefits of the intended standard justify its costs.

"(6) EXCEPTIONS FROM APPLICATION.—The requirements of this subsection do not apply when—

"(A) the standard is the product of a negotiated rulemaking, or other rulemaking including the adoption of industry standards that receives no significant adverse comment within 60 days of notice in the Federal Register;

"(B) based on a recommendation (in which three-fourths of the members voting concur) by the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as applicable, the Secretary waives the requirements; or

"(C) the Secretary finds, pursuant to section 553(b)(3)(B) of title 5, United States Code, that notice and public procedure are not required.

"(7) REPORT.—Not later than March 31, 2000, the Secretary shall transmit to the Congress a report that—

"(A) describes the implementation of the risk assessment requirements of this section, including the extent to which those requirements have improved regulatory decision making; and

"(B) includes any recommendations that the Secretary determines would make the risk assessment process conducted pursuant to the requirements under this chapter a more effective means of assessing the benefits and costs associated with alternative regulatory and nonregulatory options in prescribing standards under the Federal pipeline safety regulatory program under this chapter.".

(c) FACILITY OPERATION INFORMATION STANDARDS.—The first sentence of section 60102(d) is amended—

(1) by inserting "as required by the standards prescribed under this chapter" after "operating the facility";

(2) by striking "to provide the information" and inserting "to make the information available"; and

(3) by inserting "as determined by the Secretary" after "to the Secretary and an appropriate State official".

(d) PIPE INVENTORY STANDARDS.—The first sentence of section 60102(e) is amended—

(1) by striking "and, to the extent the Secretary considers necessary, an operator of a gathering line that is not a regulated gather line (as defined under section 60101(b)(2) of this title),"; and

(2) by striking "transmission" and inserting "transportation".

(e) SMART PIGS.—

(1) MINIMUM SAFETY STANDARDS.—Section 60102(f) is amended by striking paragraph (1) and inserting the following:

"(1) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards requiring that—

"(A) the design and construction of new natural gas transmission pipeline or hazardous liquid pipeline facilities, and

"(B) when the replacement of existing natural gas transmission pipeline or hazardous liquid pipeline facilities or equipment is required, the replacement of such existing facilities be carried out, to the extent practicable, in a manner so as to accommodate the passage through such natural gas transmission pipeline or hazardous liquid pipeline facilities of instrumented internal inspection devices (commonly referred to as 'smart pigs'). The Secretary may extend such standards to require existing natural gas transmission pipeline or hazardous liquid pipeline facilities, whose basic construction would accommodate an instrumented internal inspection device to be modified to permit the inspection of such facilities with instrumented internal inspection devices.".

(2) PERIODIC INSPECTIONS.—Section 60102(f)(2) is amended—

(A) by striking "(2) Not later than" and inserting the following:

"(2) PERIODIC INSPECTIONS.—Not later than"; and

(B) by inserting ", if necessary, additional" after "the Secretary shall prescribe".

(f) UPDATING STANDARDS.—Section 60102 is amended by adding at the end the following:

"(l) UPDATING STANDARDS.—The Secretary shall, to the extent appropriate and practicable, update incorporated industry standards that have been adopted as part of the Federal pipeline safety regulatory program under this chapter.".

SEC. 5. RISK MANAGEMENT.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

"§60126. Risk management

"(a) RISK MANAGEMENT PROGRAM DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall establish risk management demonstration projects—

"(A) to demonstrate, through the voluntary participation by owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities, the application of risk management; and

"(B) to evaluate the application of risk management referred to in subparagraph (A).

"(2) EXEMPTIONS.—In carrying out a demonstration project under this subsection, the Secretary, by order—

"(A) may exempt an owner or operator of the pipeline facility covered under the project (referred to in this subsection as a 'covered pipeline facility'), from the applicability of all or a portion of the requirements under this chapter that would otherwise apply to the covered pipeline facility; and

"(B) shall exempt, for the period of the project, an owner or operator of the covered pipeline facility, from the applicability of any new standard that the Secretary promulgates under this chapter during the period of that participation, with respect to the covered facility.

"(b) REQUIREMENTS.—In carrying out a demonstration project under this section, the Secretary shall—

"(1) invite owners and operators of pipeline facilities to submit risk management plans for timely approval by the Secretary;

"(2) require, as a condition of approval, that a risk management plan submitted under this subsection contain measures that are designed to achieve an equivalent or greater overall level of safety than would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter;

"(3) provide for—

"(A) collaborative government and industry training;

"(B) methods to measure the safety performance of risk management plans;

"(C) the development and application of new technologies;

"(D) the promotion of community awareness concerning how the overall level of safety will be maintained or enhanced by the demonstration project;

"(E) the development of models that categorize the risks inherent to each covered pipeline facility, taking into consideration the location, volume, pressure, and material transported or stored by that pipeline facility;

"(F) the application of risk assessment and risk management methodologies that are suitable to the inherent risks that are determined to exist through the use of models developed under subparagraph (E);

"(G) the development of project elements that are necessary to ensure that—

"(i) the owners and operators that participate in the demonstration project demonstrate that they are effectively managing the risks referred to in subparagraph (E); and

"(ii) the risk management plans carried out under the demonstration project under this subsection can be audited;

"(H) a process whereby an owner or operator of a pipeline facility is able to terminate a risk management plan or, with the approval of the Secretary, to amend, modify, or otherwise adjust a risk management plan referred to in paragraph (1) that has been approved by the Secretary pursuant to that paragraph to respond to—

"(i) changed circumstances; or

"(ii) a determination by the Secretary that the owner or operator is not achieving an overall level of safety that is at least equivalent to the level that would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter; and

"(I) such other elements as the Secretary, with the agreement of the owners and operators that participate in the demonstration project under this section, determines to further the purposes of this section; and

"(4) in selecting participants for the demonstration project, take into consideration the past safety and regulatory performance of each applicant who submits a risk management plan pursuant to paragraph (1).

"(c) EMERGENCIES AND REVOCATIONS.—Nothing in this section diminishes or modifies the Secretary's authority under this title to act in case of an emergency. The Secretary may revoke any exemption granted under this section for substantial noncompliance with the terms and conditions of an approved risk management plan.

"(d) PARTICIPATION BY STATE AUTHORITY.—In carrying out this section, the Secretary may provide for consultation by a State that has in effect a certification under section 60105. To the extent that a demonstration project comprises an intrastate natural gas pipeline or an intrastate hazardous liquid pipeline facility, the Secretary may make an agreement with the State agency to carry out the duties of the Secretary for approval and administration of the project.

"(e) REPORT.—Not later than March 31, 2000, the Secretary shall transmit to the Congress a report on the results of the demonstration projects carried out under this section that includes—

"(1) an evaluation of each such demonstration project, including an evaluation of the performance of each participant in that project with respect to safety and environmental protection; and

"(2) recommendations concerning whether the applications of risk management demonstrated under the demonstration project should be incorporated into the Federal pipeline safety program under this chapter on a permanent basis.".

(f) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

"60126. Risk management.".

SEC. 6. INSPECTION AND MAINTENANCE.

Section 60108 is amended—

(1) by striking "transporting gas or hazardous liquid or" in subsection (a)(1) each place it appears;

(2) by striking the second sentence in subsection (b)(2);

(3) by striking "NAVIGABLE WATERS" in the heading for subsection (c) and inserting "OTHER WATERS"; and

(4) by striking clause (ii) of subsection (c)(2)(A) and inserting the following:

"(ii) any other pipeline facility crossing under, over, or through waters where a substantial likelihood of commercial navigation exists, if the Secretary decides that the location of the facility in those waters could pose a hazard to navigation or public safety.".

SEC. 7. HIGH-DENSITY POPULATION AREAS AND ENVIRONMENTALLY SENSITIVE AREAS.

(a) IDENTIFICATION.—Section 60109(a)(1)(B)(i) is amended by striking "a navigable waterway (as the Secretary defines by regulation)" and inserting "waters where a substantial likelihood of commercial navigation exists".

(b) UNUSUALLY SENSITIVE AREAS.—Section 60109(b) is amended to read as follows:

"(b) AREAS TO BE INCLUDED AS UNUSUALLY SENSITIVE.—When describing areas that are unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the Secretary shall consider areas where a pipeline rupture would likely cause permanent or long-term environmental damage, including—

"(1) locations near pipeline rights-of-way that are critical to drinking water, including intake locations for community water systems and critical sole source aquifer protection areas; and

"(2) locations near pipeline rights-of-way that have been identified as critical wetlands, riverine or estuarine systems, national parks, wilderness areas, wildlife preservation areas or refuges, wild and scenic rivers, or critical habitat areas for threatened and endangered species.".

SEC. 8. EXCESS FLOW VALVES.

Section 60110 is amended—

(1) by inserting ", if any," in the first sentence of subsection (b)(1) after "circumstances";

(2) by inserting ", operating, and maintaining" in subsection (b)(4) after "cost of installing";

(3) by inserting ", maintenance, and replacement" in subsection (c)(1)(C) after "installation"; and

(4) by inserting after the first sentence in subsection (e) the following: "The Secretary may adopt industry accepted performance standards in order to comply with the requirement under the preceding sentence.".

SEC. 9. CUSTOMER-OWNED NATURAL GAS SERVICE LINES.

Section 60113 is amended—

(1) by striking the caption of subsection (a); and

(2) by striking subsection (b).

SEC. 10. TECHNICAL SAFETY STANDARDS COMMITTEES.

(a) PEER REVIEW.—Section 60115(a) is amended by adding at the end the following: "The committees referred to in the preceding sentence shall serve as peer review committees for carrying out this chapter. Peer reviews conducted by

the committees shall be treated for purposes of all Federal laws relating to risk assessment and peer review (including laws that take effect after the date of the enactment of the Accountable Pipeline Safety and Partnership Act of 1996) as meeting any peer review requirements of such laws.".

(b) COMPOSITION AND APPOINTMENT.—Section 60115(b) is amended—

(1) by inserting "or risk management principles" in paragraph (1) before the period at the end;

(2) by inserting "or risk management principles" in paragraph (2) before the period at the end;

(3) by striking "4" in paragraph (3)(B) and inserting "5";

(4) by striking "6" in paragraph (3)(C) and inserting "5";

(5) by adding at the end of paragraph (4)(B) the following: "At least 1 of the individuals selected for each committee under paragraph (3)(B) shall have education, background, or experience in risk assessment and cost-benefit analysis. The Secretary shall consult with the national organizations representing the owners and operators of pipeline facilities before selecting individuals under paragraph (3)(B)."; and

(6) by inserting after the first sentence of paragraph (4)(C) the following: "At least 1 of the individuals selected for each committee under paragraph (3)(C) shall have education, background, or experience in risk assessment and cost-benefit analysis.".

(c) COMMITTEE REPORTS.—Section 60115(c) is amended—

(1) by inserting "including the risk assessment information and other analyses supporting each proposed standard" before the semicolon in paragraph (1)(A);

(2) by inserting "including the risk assessment information and other analyses supporting each proposed standard" before the period in paragraph (1)(B);

(3) by inserting "and supporting analyses" before the first comma in the first sentence of paragraph (2);

(4) by inserting "and submit to the Secretary" in the first sentence of paragraph (2) after "prepare";

(5) by inserting "cost-effectiveness," in the first sentence of paragraph (2) after "reasonableness,"; and

(6) by inserting "and include in the report recommended actions" before the period at the end of the first sentence of paragraph (2); and

(7) by inserting "any recommended actions and" in the second sentence of paragraph (2) after "including".

(d) MEETINGS.—Section 60115(e) is amended by striking "twice" and inserting "up to 4 times".

(e) EXPENSES.—Section 60115(f) is amended—

(1) by striking "PAY AND" in the subsection heading;

(2) by striking the first 2 sentences; and

(3) by inserting "of a committee under this section" after "A member".

SEC. 11. PUBLIC EDUCATION PROGRAMS.

Section 60116 is amended—

(1) by striking "person transporting gas" and inserting "owner or operator of a gas pipeline facility";

(2) by inserting "the use of a one-call notification system prior to excavation," after "educate the public on"; and

(3) by inserting a comma after "gas leaks".

SEC. 12. ADMINISTRATIVE.

Section 60117 is amended—

(1) by adding at the end of subsection (b) the following: "The Secretary may require owners and operators of gathering lines to provide the Secretary information pertinent to the Secretary's ability to make a determination as to whether and to what extent to regulate gathering lines.";

(2) by adding at the end thereof the following:

"(k) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, or any other entity to further the objectives of this chapter. The objectives of this chapter include the development, improvement, and promotion of one-call damage prevention programs, research, risk assessment, and mapping."; and

(3) by striking "transporting gas or hazardous liquid" in subsection (b) and inserting "owning".

SEC. 13. COMPLIANCE.

(a) Section 60118 (a) is amended—

(1) by striking "transporting gas or hazardous liquid or" in subsection (a); and

(2) by striking paragraph (1) and inserting the following:

"(1) comply with applicable safety standards prescribed under this chapter, except as provided in this section or in section 60126;".

(b) Section 60118 (b) is amended to read as follows:

"(b) COMPLIANCE ORDERS.—The Secretary of Transportation may issue orders directing compliance with this chapter, an order under section 60126, or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply.".

(c) Section 60118(c) is amended by striking "transporting gas or hazardous liquid" and inserting "owning".

SEC. 14. DAMAGE REPORTING.

Section 60123(d)(2) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

"(B) a pipeline facility that does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or".

SEC. 15. BIENNIAL REPORTS.

(a) BIENNIAL REPORTS.—

(1) SECTION HEADING.—The section heading of section 60124 is amended to read as follows:

"§60124. Biennial reports".

(2) REPORTS.—Section 60124(a) is amended by striking the first sentence and inserting the following: "Not later than August 15, 1997, and every 2 years thereafter, the Secretary of Transportation shall submit to Congress a report on carrying out this chapter for the 2 immediately preceding calendar years for gas and a report on carrying out this chapter for such period for hazardous liquid.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by striking the item relating to section 60124 and inserting the following:

"60124. Biennial reports.".

SEC. 16. POPULATION ENCROACHMENT.

(a) IN GENERAL.—Chapter 601, as amended by section 5, is further amended by adding at the end the following new section:

"§60127. Population encroachment

"(a) LAND USE RECOMMENDATIONS.—The Secretary of Transportation shall make available to an appropriate official of each State, as determined by the Secretary, the land use recommendations of the special report numbered 219 of the Transportation Research Board, entitled 'Pipelines and Public Safety'.

"(b) EVALUATION.—The Secretary shall—

"(1) evaluate the recommendations in the report referred to in subsection (a);

"(2) determine to what extent the recommendations are being implemented;

"(3) consider ways to improve the implementation of the recommendations; and

"(4) consider other initiatives to further improve awareness of local planning and zoning entities regarding issues involved with population encroachment in proximity to the rights-of-way of any interstate gas pipeline facility or interstate hazardous liquid pipeline facility.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by inserting after the item relating to section 60126 the following:

"60127. Population encroachment.".

SEC. 17. USER FEES.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall transmit to the Congress a report analyzing the present assessment of pipeline safety user fees solely on the basis of mileage to determine whether—

(1) that measure of the resources of the Department of Transportation is the most appropriate measure of the resources used by the Department of Transportation in the regulation of pipeline transportation; or

(2) another basis of assessment would be a more appropriate measure of those resources.

(b) CONSIDERATIONS.—In making the report, the Secretary shall consider a wide range of assessment factors and suggestions and comments from the public.

SEC. 18. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.

(a) AMENDMENT.—Chapter 601, as amended by section 16, is further amended by adding at the end the following new section:

"§60128. Dumping within pipeline rights-of-way

"(a) PROHIBITION.—No person shall excavate for the purpose of unauthorized disposal within the right-of-way of an interstate gas pipeline facility or interstate hazardous liquid pipeline facility, or any other limited area in the vicinity of any such interstate pipeline facility established by the Secretary of Transportation, and dispose solid waste therein.

"(b) DEFINITION.—For purposes of this section, the term 'solid waste' has the meaning given that term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).".

(b) CONFORMING AMENDMENTS.—

(1) CROSS-REFERENCE.—Section 60123(a) is amended by striking "or 60118(a)" and inserting ", 60118(a), or 60128".

(2) CHAPTER ANALYSIS.—The analysis for chapter 601 is amended by adding at the end the following new item:

"60128. Dumping within pipeline rights-of-way.".

SEC. 19. PREVENTION OF DAMAGE TO PIPELINE FACILITIES.

Section 60117(a) is amended by inserting after "and training activities" the following: "and promotional activities relating to prevention of damage to pipeline facilities".

SEC. 20. TECHNICAL CORRECTIONS.

(a) SECTION 60105.—The heading for section 60105 is amended by inserting "**pipeline safety program**" after "**State**".

(b) SECTION 60106.—The heading for section 60106 is amended by inserting "**pipeline safety**" after "**State**".

(c) SECTION 60107.—The heading for section 60107 is amended by inserting "**pipeline safety**" after "**State**".

(d) SECTION 60114.—Section 60114 is amended—

(1) by striking "60120, 60122, and 60123" in subsection (a)(9) and inserting "60120 and 60122";

(2) by striking subsections (b) and (d); and

(3) by redesignating subsections (c) and (e) as subsections (b) and (d), respectively.

(e) CHAPTER ANALYSIS.—The analysis for chapter 601 is amended—

(1) by inserting "pipeline safety program" in the item relating to section 60105 after "State";

(2) by inserting "pipeline safety" in the item relating to section 60106 after "State"; and

(3) by inserting "pipeline safety" in the item relating to section 60107 after "State".

(f) SECTION 60101.—Section 60101(b) is amended by striking "define by regulation" each place it appears and inserting "prescribe standards defining".

(g) SECTION 60102.—Section 60102 is amended by striking "regulations" each place it appears in subsections (f)(2), (i), and (j)(2) and inserting "standards".

(h) SECTION 60108.—Section 60108 is amended—

(1) by striking "regulations" in subsections (c)(2)(B), (c)(4)(B), and (d)(3) and inserting "standards"; and

(2) by striking "require by regulation" in subsection (c)(4)(A) and inserting "establish a standard".

(i) SECTION 60109.—Section 60109(a) is amended by striking "regulations" and inserting "standards".

(j) SECTION 60110.—Section 60110 is amended by striking "regulations" in subsections (b), (c)(1), and (c)(2) and inserting "standards".

(k) SECTION 60113.—Section 60113(a) is amended by striking "regulations" and inserting "standards".

SEC. 21. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—Section 60125 is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for sections 60107 and 60114(b)) related to gas and hazardous liquid, there are authorized to be appropriated to the Department of Transportation—

"(1) $19,448,000 for fiscal year 1996;

"(2) $20,028,000 for fiscal year 1997, of which $14,600,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title;

"(3) $20,729,000 for fiscal year 1998, of which $15,100,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title;

"(4) $21,442,000 for fiscal year 1999, of which $15,700,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title"; and

"(5) $22,194,000 for fiscal year 2000, of which $16,300,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title.".

(b) STATE GRANTS.—Section 60125(c)(1) is amended by adding at the end the following:

"(D) $12,000,000 for fiscal year 1996.

"(E) $14,000,000 for fiscal year 1997, of which $12,500,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title.

"(F) $14,490,000 for fiscal year 1998, of which $12,900,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title.

"(G) $15,000,000 for fiscal year 1999, of which $13,300,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title.

"(H) $15,524,000 for fiscal year 2000, of which $13,700,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title.".

Mr. EXON. Mr. President, as I understand it, the manager of the bill on the other side will be here briefly. Since this matter is now before the Senate, I would like to proceed with a statement on this particular measure. I assure all that contrary to the misunderstanding of half an hour ago, I am convinced that all possible disagreement with certain points of the bill had been earlier cleared today. The bill I believe is ready for acceptance on both sides of the aisle, so I will, since the measure, S. 1505, is before us, continue with my statement on the bill, with the hopes that the manager on the other side will be here and ready to act on the measure, and we will not attempt to act on the measure until the majority representative is here.

Mr. President, the amendment in the nature of a substitute to S. 1505, the Accountable Pipeline Safety and Partnership Act of 1996, is an important piece of legislation. We worked this out in the Commerce Committee. We have worked out some word and language concerns with other Members of the Senate, and I think the measure is ready to pass.

Pipeline safety is an extremely important issue for me. I have tried during my years in the Senate to give the issue of pipeline safety the visibility that it deserves, which it did not receive previously. I am very proud of what the Senate has been able to accomplish in this important area.

Just to name one such recent effort, we can point to the Pipeline Safety Improvement Act of 1991. With favorable Senate action on the Accountable Pipeline Safety and Partnership Act today, we will continue our efforts to make gas and hazardous liquid pipelines safer and to do it while allowing the pipeline industry to continue to provide effective and efficient service to the Nation's consumers, as they obviously do today.

The bill is aptly named. After long negotiations between the regulators, the Department of Transportation Office of Pipeline Safety, and the pipeline industry, the parties agree that this bill can create a working partnership to improve pipeline safety while allowing the safe pipelines to operate with a reduced regulatory burden and allowing the OPS to put its resources where and when the problems exist. In other words, putting cops on the beat in the neighborhoods that need them.

The cornerstone of this bill is the risk management program. The program would allow the Secretary of Transportation to establish criteria under which the pipeline owners and operators can present pipeline safety plans that provide at least an equivalent level of safety with the level of safety already provided by the existing OPS regulations. In return for participation in the program, the eligible pipeline owner will be allowed to operate free of regulations that the Secretary determines are no longer necessary in light of the facility's safety plan.

In return, the OPS can concentrate its resources on those pipeline facilities, the safety record of which can and should be improved. I believe that the parties have agreed to a workable plan for increasing the safety of gas and hazardous liquid pipelines while reducing the regulatory burden on the affected industries. I ask my Senate colleagues to join in supporting this legislation.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION FUNDING

Mr. BINGAMAN. Mr. President, I wanted to address for just a few minutes the issue I spoke about yesterday, and that is the level of support we are providing in this Congress to education. I wanted to do it by showing some charts that I was shown yesterday which I think are particularly instructive. Let me just put them up for the benefit of my colleagues so that they can see what we are talking about.

There are really two items on this first chart. The first is projected enrollment. You see here, starting in 1996, we have 52 million students enrolled and by the year 2002 that goes up to 70 million. We are seeing that kind of increase and even more of a percentage increase in my State, in States like New Mexico, where there is substantial growth in population.

This chart also shows the funding proposal which was in the budget resolution that was adopted last year during the Congress, and that is to go from $39.5 billion in 1995 down to $35 billion, an absolute cut of over $4 billion in that period. This is an issue about which I think there is some confusion. As I travel around my State, people say, well, there is really not a cut in education being considered; it is only a cut in the level of increase.

That is not accurate. This is a cut. When you go from $39.5 billion in 1995 to $35 billion in 2002, that is a cut that is not a cut in the rate of increase.

Mr. President, this second chart makes the same point. That is, each year up until the last few years, we had seen an increase in education. Some years it was a modest increase, some years it was a more significant increase, but there was always some increase and there was bipartisan agreement to do that. Beginning in fiscal year 1995 this Congress for the first time saw a $3.7 billion cut and, of course, we are trying to reduce the level of that cut this year.

Another chart which makes the same point, Mr. President, is this one which says "Education Is Cut $3.2 Billion From the Original FY 1995 Program Level Spending."

This shows in 1995 through rescissions of spending in that year we eliminated $600 million; in the fiscal year 1996 appropriations, it was a cumulative $1.1 billion cut; the 1997 House appropriation was a $1.5 billion cut and the total funding loss from the original 1995 level is $3.2 billion.

Mr. President, let me just show this final chart here which I think makes the obvious point that I think all Americans would understand, and that is that our "Unmet Education Needs" are large and growing. This shows that in the school year 1994 through 1995, there were 10 million students eligible for title I funding—that is, they attended schools where the income level was such that they should have been receiving title I funding. Only 6.5 million of them actually received it. There were 3.5 million students in that school year who were not able to receive the funding because of funding levels. When you combine this chart with the first of the charts that I showed, which is the increase in enrollment that our schools are experiencing, you can see the problem is growing worse, and that is the only point I am trying to make here.

In this last 2 weeks of the session, I hope very much we can get back to the 1995 funding level for education. It is a small request to make. I think it is one that is certainly justified.

I appreciate the chance to point out these charts to my colleagues.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACCOUNTABLE PIPELINE SAFETY AND PARTNERSHIP ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. PRESSLER. Mr. President, I am pleased we are considering S. 1505, the Accountable Pipeline Safety and Partnership Act of 1996. This is needed and important legislation, and I urge my colleagues' full and enthusiastic support.

On June 6, 1996, S. 1505 was amended by the Committee on Commerce, Science, and Transportation and ordered to be reported without objection. I also have one technical amendment that I believe has been cleared by the majority and the minority.

S. 1505 reauthorizes appropriations for Natural Gas and Hazardous Liquid Pipeline Safety Programs and seeks to reduce the risks and enhance environmental protection associated with pipeline transportation. As chairman of the Senate Committee on Commerce, Science, and Transportation, I want to take a moment to highlight some of the most important provisions of S. 1505.

But first, Mr. President, I want to share some brief background on how S. 1505 reached this point. It was a long, but fruitful journey.

Last December, our distinguished majority leader, Mr. LOTT, introduced S. 1505. Mr. LOTT's original bill was cosponsored by Mr. BREAUX, Mrs. HUTCHISON, Mr. EXON, Mr. BURNS, Mr. FORD, Mr. INOUYE, Mr. SHELBY, Mr. COCHRAN, Mr. FRIST, Mr. INHOFE, and myself.

S. 1505 was based on a bill (H.R. 1323) pending in the House. The House legislation had been approved by two panels, but it has not been debated on the House floor. Because of the majority leader's initiative, emphasis shifted to our Chamber.

On April 16, my committee held a hearing on pipeline transportation safety and S. 1505. At the hearing, pipeline owners and operators, as well as Federal and State safety regulators, voiced their individual views on how to reauthorize and enhance pipeline safety.

At the hearing, I stated my view that with a little give and take, we could reach agreement on how best to improve pipeline safety. I am pleased that our efforts succeeded.

The text of S. 1505 reflects an agreement reached over several months. The negotiators in this process represented two offices in the Department of Transportation DOT—one of which was the Office of Pipeline Safety OPS—natural gas pipeline operators, hazardous liquid pipeline operators, and majority and minority committee staff. Valuable input was also received from the dedicated staff of the Congressional Research Service and groups like the National Association of Pipeline Safety Representatives and the Natural Resources Defense Council. I commend the work of all those involved.

Mr. President, I have been involved with pipeline safety issues for several years. A vast network of underground pipes safely transports fuel to our homes and businesses.

National Transportation Safety Board statistics show pipelines to be one of the safest modes of transportation. Among all modes—highway, rail, aviation, marine, and pipeline—fatalities from pipeline accidents represent less than 3/1000 of 1 percent of the total number of transportation fatalities on an annual basis.

At the same time, we must do everything possible to prevent natural gas and hazardous liquid pipeline transportation accidents. A few years ago, a pipeline leak occurred near Sioux Falls in my home State of South Dakota. I met with Federal, state and local officials at the time to discuss many public health and safety aspects of pipeline transportation. I also initiated efforts to improve hazardous liquid pipeline inspection programs and to add inspectors to focus on States like South Dakota that did not have their own hazardous liquid pipeline safety programs.

Through this experience, I came to realize that pipeline transportation is one of the United States' most unique transportation modes. There are individual product characteristics and product-specific types of piping materials. A subterranean network of underground pipelines runs under farms, rural communities, suburbs, metropolitan regions, rivers, and environmentally sensitive areas. Given this unique transportation environment, it became clear that a single uniform set of safety standards cannot effectively address all risks.

S. 1505 responds to this unique pipeline operating environment by applying a simple, flexible, commonsense risk assessment and cost-benefit analysis for new pipeline safety standards. The legislation moves pipeline safety away from prescriptive, command-and-control approaches and focuses future standards on actions that address assessed safety risks.

S. 1505 also provides statutory authority for the Office of Pipeline Safety to initiate the risk management demonstration project it has had under development for 2 years. Under the demonstration program, pipeline operators would be given more flexibility in applying their resources to solutions that best fit their unique pipeline operation problems.

As I mentioned earlier, the technical provision at the desk to be added to S. 1505 has been cleared by both the majority and the minority. The language in the provision provides for the opportunity for public comment in a demonstration project's approval process.

The Office of Pipeline Safety testified that there "are too many variations" in pipeline operations to think "we in Washington are in a position to mandate solutions to fit all problems."

I wholeheartedly agree. One-size-fits-all regulations do not and cannot address the thousands of differences between pipeline operations nationwide.

S. 1505 is a responsible bill and it represents sound public policy. The risk assessment and risk management provisions of the legislation rest on the foundation already built by the Office of Pipeline Safety. The bill also builds on initiatives undertaken at OPS to focus its regulatory and programmatic agenda on the most important public safety and environmental protection standards.

Aside from the risk assessment and risk management provisions, S. 1505 contains many other noteworthy provisions. Although I cannot mention each one individually, I do want to touch on one particular issue.

States currently represent more than 90 percent of the State/Federal inspector work force that oversees pipelines nationwide. For more than two decades, OPS has leveraged its resources, thereby increasing its pipeline inspection capabilities, by reimbursing States for up to fifty percent of their program costs. This leverage is a key link in the pipeline safety network. I am pleased that despite severe budget pressures, S. 1505 maintains this important State/Federal cost-sharing partnership.

Mr. President, I again want to thank all those involved in bringing S. 1505 to the floor today. I want to again acknowledge the role the majority leader played. S. 1505's development and evolution was difficult, but the end result is a bill worthy of enactment.

Also, I would like to cite the staff who did a great deal of work:

Charlotte Casey, Tom Hohenthaner, and Paddy Link of the majority staff of the Commerce Committee; Carl Biersack with Senator LOTT; Clyde Hart, Carl Bentzel and Jim Drewry of the minority staff of the Commerce Committee; and Chris McLean with Senator EXON.

Mr. President, I have completed my statement. On this side of the aisle, we are ready to proceed. At this time, I suggest the absence of a quorum.

Mr. EXON. Will the Senator withhold that? Mr. President, has he offered a manager's amendment? We have it here now. It is his amendment. You must have it. We approve it as drafted. Therefore, I suggest if the Senator will go ahead and offer that, we can probably pass the bill.

MODIFICATIONS TO THE COMMITTEE AMENDMENT

Mr. PRESSLER. Mr. President, I ask unanimous consent to send modifications to the committee substitute to the desk and ask that the committee substitute, as modified, be considered as original text for purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The committee amendment is so modified.

The modifications are as follows:

On page 48, line 4, strike "and".

On page 48, between lines 9 and 10, insert the following:

"(J) an opportunity for public comment in the approval process; and

On page 44, between lines 11 and 12, insert the following:

(g) MAPPING.—Section 60102(c) is amended by adding at the end thereof the following:

"(4) PROMOTING PUBLIC AWARENESS.—

"(A) Not later than one year after the date of enactment of Accountable Pipeline Safety and Accountability Act of 1996, and annually thereafter, the owner or operator of each interstate gas pipeline facility shall provide to the governing body of each municipality in which the interstate gas pipeline facility is located, a map identifying the location of such facility; and

"(B)(i) Not later than June 1, 1998, the Secretary shall survey and assess the public education programs under section 60116 and the public safety programs under section 60102(c) and determine their effectiveness and applicability as components of a model program. In particular, the survey shall include the methods by which operators notify residents of the location of the facility and its right of way, public information regarding existing One-Call programs, and appropriate procedures to be followed by residents of affected municipalities in the event of accidents involving interstate gas pipeline facilities.

"(ii) Not later than one year after the survey and assessment are completed, the Secretary shall institute a rulemaking to determine the most effective public safety and education program components and promulgate if appropriate, standards implementing those components on a nationwide basis. In the event that the Secretary finds that promulgation of such standards are not appropriate, the Secretary shall report to Congress the reasons for that finding.".

(h) REMOTE CONTROL.—Section 60102(j) is amended by adding at the end thereof the following:

"(3) REMOTELY CONTROLLED VALVES.—(A) Not later than June 1, 1998, the Secretary shall survey and assess the effectiveness of remotely controlled valves to shut off the flow of natural gas in the event of a rupture of an interstate natural gas pipeline facility and shall make a determination about whether the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility.

"(B) Not later than one year after the survey and assessment are completed, if the Secretary has determined that the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility, the Secretary shall prescribe standards under which an operator of an interstate natural gas pipeline facility must use a remotely controlled valve. These standards shall include but not be limited to requirements for high-density population areas."

On page 38, beginning in line 1, strike "In prescribing a standard referred to in paragraph (2)," and inserts "In conducting a risk assessment referred to in subparagraph (D) and (E) of paragraph (2),".

On page 38, line 22, insert "any" after "submit".

On page 40, line 15, strike "this subsection" and insert "subparagraphs (D) and (E) of paragraph (2)".

On page 41, line 13, strike "improved regulatory decision making" and insert "affected regulatory decision making and pipeline safety".

On page 45, strike lines 1 and 2 and insert the following:

"(B) to evaluate the safety and cost-effectiveness of the program."

Mr. EXON. Have we adopted the manager's amendment?

Mr. PRESSLER. Yes.

Mr. EXON. It was my hope, Mr. President, that we were ready to pass the bill. It was my hope that we would pass the bill in wrap-up last night. That was not possible. It was my hope that we would wrap it up and pass it earlier today at noon. That was not possible.

It was my hope, Mr. President, that we could wrap it up now. I am advised that is not possible, and the responsibility at this time is on this side of the aisle, I say to my friends on the other side of the aisle. The measure is open to amendment, and if anyone ever wonders why it takes so long to get anything done in the U.S. Senate, after endless hours of consultation, double consultation, this is a typical case in point. Therefore, I suggest the absence of a quorum.

Mr. PRESSLER. Mr. President, I join that request for a quorum call, but I just would like to join in those remarks 100 percent. I might also take this opportunity to say that I am in the process of placing a statement in the CONGRESSIONAL RECORD relative to what a great Senator Senator EXON has been in the Senate and what a great colleague he has been to work with.

I share his frustration at this moment. He is a lucky man in that he is retiring from this body, so he will not have these frustrations in the future. I do not think they are going to change very much, but I am equally frustrated. We are ready to pass this bill on this side of the aisle. Whenever you give me the nod, we will go.

Mr. EXON. Mr. President, I thank my friend from South Dakota for those kind remarks. I simply say to him that I was misinformed. I will check into this. I will see who in the world it is that wants to make an amendment to this measure but is not here to do it in an orderly fashion. I will report back to the Senate and to my friend from South Dakota as soon as I am able to get that information, if I can get the information.

Mr. PRESSLER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. PRESSLER. Mr. President, I ask unanimous consent that Jim Sartucci, a Coast Guard Fellow with the Committee on Commerce, Science, and Transportation, be granted floor privileges today and during Senate consideration of H.R. 1350, an act to amend the Merchant Marine Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I might proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO THE U.S. HOCKEY TEAM

Mr. CHAFEE. Mr. President, I will take a moment to pay tribute to the U.S. hockey team. As many of my colleagues may know, Team USA won the World Cup of Hockey last Saturday night with a decisive 5–2 victory over Canada.

This was an extraordinary tournament. All the traditional hockey powers—countries such as Canada, Russia, and Sweden—sent their very best players to this competition. Unlike the Olympics, in which the teams have been made up principally of amateur players, these players were strictly professionals. It was the best in the world against the best in the world.

At the outset, the Americans were the underdogs. In the end, however, not only did we win, but we dominated play throughout the tournament.

As an American, I was thrilled to read about Team USA's outstanding performance. But I am particularly proud of this team's accomplishments as a Rhode Islander.

The team was assembled by Lou Lamoriello—a native of Rhode Island and a former head coach of the Providence College hockey team. Lou is now the president and general manager of the New Jersey Devils.

The team's assistant general manager was Jack Ferreira, a graduate of LaSalle Academy in Providence, and a former assistant coach for Brown University.

The team was coached by Ron Wilson. He grew up in East Providence and played hockey for Providence College. He's now the head coach of the Anaheim Mighty Ducks.

Defenseman Mathieu Schneider is a graduate of Mount Saint Charles High School in Woonsocket, RI.

The athletic trainer, Peter Demers, a long-time trainer for the Los Angeles Kings, is originally from Pawtucket.

To top it off, the team trained at Providence College's Schneider Arena.

So you can see that this team had a distinct Rhode Island flavor to it. And so, I join with all Rhode Islanders and Americans in congratulating the U.S. hockey team for their marvelous achievement.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, has the Pastore rule expired?

The PRESIDING OFFICER. It has not expired.

Mr. BYRD. It has not? Mr. President, I ask unanimous consent to speak out of order for not to exceed 15 minutes.

The PRESIDING OFFICER. Hearing no objection, the Senator is recognized for 15 minutes.

Mr. BYRD. I thank the Chair.

SENATOR DAVID PRYOR

Mr. BYRD. Mr. President, Senator DAVID PRYOR is retiring from the Senate at the end of this session after giving 18 years of exceptional service to the people of Arkansas and to the Nation. His quiet, thoughtful manner, his unfailing good humor, his wise counsel, and his natural leadership will be missed here.

I think of that quotation from Edmund Burke, the great Irish statesman, orator, and writer, who observed in his "Reflections on the Revolution in France":

> Because half a dozen grasshoppers under a fern make the field ring with their importunate chink, whilst thousands of great cattle, reposed beneath the shadow of the British oak, chew the cud and are silent, pray do not imagine that those who make the noise are the only inhabitants of the field . . .

The Congress is an open field for serenading grasshoppers, who make a lot of noise unmatched by significant accomplishment. Senator PRYOR, on the other hand, shuns the limelight of the Senate stage to devote his energies to quietly and tenaciously improving living conditions for American citizens, particularly the elderly.

Senator PRYOR began his political career in Arkansas investigating abuses in nursing homes, even working undercover as an orderly to gather firsthand evidence. As the Chairman of the Senate Special Committee on Aging for 6 years, Senator PRYOR has led the crusade to protect America's elderly and to oversee Medicare. On the health care front, Senator PRYOR labored valiantly to craft a workable solution to the massive health care reform effort in the last Congress.

His concern for the elderly has led Senator PRYOR to become an expert on, and a vocal critic of, the prices pharmaceutical companies charge for prescription drugs. And he has matched his criticism with action. Senator PRYOR was instrumental in requiring drug companies to charge the same prices to state-federal Medicaid programs for the poor as they do to other bulk-drug purchasers.

During this Congress, Senator PRYOR has led a fight to close a loophole in the General Agreement on Tariffs and Trade legislation that creates a windfall for name-brand pharmaceutical companies by protecting them from generic competition under GATT. This loophole, a creation of error rather than of intent, means that consumers, and especially pensioners dependent on prescriptions that eat up a large percentage of their fixed incomes, are paying more for their prescriptions than otherwise would have been the case. I am proud to have supported Senator PRYOR's tenacious and repeated efforts to remedy this problem. Although unsuccessful to date, Senator PRYOR's leadership on this important issue merits commendation.

On the Finance Committee, Senator PRYOR has consistently worked to improve the notoriously painful interactions between the IRS and individual taxpayers. On the Agriculture Committee, he has championed issues important to the hardworking farmers laboring in the cotton and rice fields of Arkansas. This search for a balm to smooth the rough edges of life, to offer oil to calm the troubled waters of public exchange, is characteristic of the gentle Senator from Arkansas.

In the behind-the-scenes life of the Senate, Senator PRYOR has worked to encourage civility and order. He has provided leadership as the Secretary of the Democratic Conference in the 102nd and 103rd Congresses. He built the consensus that over a decade ago introduced family-friendly procedural changes, some of which are still in effect today, that restored some discipline to the way this body conducts its business. The time limits on votes and the recess schedule that we still attempt to follow are the lasting fruits of his labors.

Senator PRYOR has not limited his concern for family time to Senators alone. He cast a critical vote to override President Bush's veto of the Family and Medical Leave Act in the 102nd Congress, helping to provide a safety net for family members to look after a newborn, or a sick or dying relative, without risking the loss of their job.

Another way in which Senator PRYOR has enriched the life of the Senate and demonstrated his sincere devotion to young people is his continuing consideration for the Senate pages. These young people, whom we see every day on the floor and busily running our errands throughout the Capitol complex, have come from around the Nation to learn from us, as well as to assist us. Whether from large cities or rural areas, few, if any, of these young people are ever fully prepared for the demands and challenges of life on Capitol Hill, as many of us are not, until they have plunged into the midst of it. Having been a page himself, Senator PRYOR knows firsthand that sometimes the learning part of this heady experience can be swamped under the working part.

But he makes the time and takes the time to talk with the pages—and that is quite a learning experience, for those of us who take the time to talk with them; I have often done that over the years—and to share with them his insight and his wisdom, to decipher for them the importance of what might be occurring on the floor, and to listen to their questions and their concerns.

His interest in them is genuine, and it has made him a favorite of generations of pages. This is yet another facet of the quiet but extraordinary legacy of courtesy and accomplishment bequeathed to the Senate and to the Nation by Senator PRYOR.

Mr. President, I thank Senator PRYOR for his service to the Senate and to the Nation. He has not trumpeted his ambitions, not made big noises like half a dozen grasshoppers under a fern, but has led by example, earning the genuine esteem and respect of his colleagues and the admiration of so many others whose lives he has touched. I wish him good health and happiness in his retirement. As he listens to the crickets chirping in the Arkansas dusk, raising their noisy chorus to the rising Arkansas moon, I hope that he remembers us as fondly as we will remember him.

Mr. President, I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota [Mr. PRESSLER] is recognized.

Mr. PRESSLER. Mr. President, DAVID PRYOR is a good friend of mine. Over the years, I have had the privilege of getting to know David and his wife Barbara quite well. I have attended several events he has sponsored in Texarkana, AR, to raise needed funds for charitable organizations. I even have traveled to Little Rock to speak at colleges.

Mr. President, DAVID PRYOR is a legendary figure in this body and I have followed his career with great interest and admiration. I recall that he first began his public service in Washington as a Congressional page. Some time later he returned to Washington when he was elected to serve as a United States Congressman. In fact, for a while we served together in the House of Representatives. Aside from this association, I also have had the privilege of working closely with him on the Senate Finance Committee and the Senate Committee on Aging.

As many of my colleagues know, DAVID PRYOR is one of the President's best and closest friends. This friendship has enabled him to go directly to the President on critical matters confronting the Senate. That is an unusual and serious responsibility for a Senator to have, and DAVID PRYOR has acted commendably.

Mr. President, I personally will miss DAVID PRYOR's friendship. But, I also will miss his intelligence and counsel tremendously.

The PRESIDING OFFICER (Ms. SNOWE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. PRESSLER. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. PRESSLER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Madam President, I objected regarding the Pipeline Safety Act, which I am trying very hard to pass. I will not object if the Senator desires to discuss issues unrelated.

Mr. KENNEDY. I would like to discuss an unrelated matter. If it becomes apparent that you can move ahead in terms of final disposition, I will withhold further comments. If I could, I ask unanimous consent to proceed with what I expect to be 12 or 15 minutes on the issue of education.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION

Mr. KENNEDY. Madam President, on Tuesday, the Republicans announced, with great fanfare, an education amendment that is a day late and $800 million short. It restores $2.3 billion of $3.1 billion necessary to meet the President's request for fiscal year 1997. But this amendment is hardly motivated by concern for the students of America. It is an election-eve conversion, and the American people should not be fooled.

As costs, student enrollments and college debts soar, the Republicans are offering "education lite." The increase they offer falls well short of the funding needed just to keep pace with inflation and enrollment increases.

Senator LOTT himself admitted the amendment was designed to meet the political needs of the Republican Party, not the educational needs of American students. Senator LOTT said on Tuesday, "We can either get our brains beat out politically, or we can get in there and mix it up with them, and that's what we are going to do."

Republicans are running scared from the fact that the American people support education. Their change of heart is cynical and hypocritical, and it will not last past the November election.

What TRENT LOTT gives with one hand, NEWT GINGRICH is already planning to take away with the other. The Republican leaders in the House are telling their rank and file not to get excited because they can rescind the money later. House Republican conference member JOHN BOEHNER said, in appropriations —and BOB LIVINGSTONE agreed—that "we can always have a rescissions bill in January."

Senator LOTT and the Republicans are fleeing from their anti-education record, but they better not look back, because if they do, the sight of all their cuts in education might turn them into pillars of salt.

When the Dole-Gingrich Republican leadership took over in 1995, their education agenda was stark and severe: abolish the Department of Education and slash Federal support for schools and college students.

From January 1995 to the present, Republicans have proposed education cuts every chance they have had: on rescission bills, on budget resolutions, on appropriations bills and continuing resolutions. When Democrats refused to let these devastating cuts pass, Republicans shut down the Government because they could not get their way.

With the help of students and parents across the country, we turned back the worst of these anti-education funding measures for fiscal year 1996.

Republicans did not learn. In this year's budget resolution, they again propose to slash education, this time by 20 percent over the next 6 years.

The record of the past 2 years is clear. It is clear that Republicans are no friends of education, and it is equally clear that the American people do not want education cut. The current election-eve Republican "education lite" amendment has no credibility. It is written in disappearing ink. NEWT GINGRICH, Bob Dole, and their allies have an irresistible impulse to slash education to pay for tax breaks for the wealthy. And Democrats will not let that happen.

Madam President, this chart illustrates clearly exactly where we are on the issue of education. The black line going back to 1995 is President Clinton's request. That line represents inflation plus expanded enrollment. We have expanded enrollment in the elementary and secondary schools, going up to 52 million or 53 million, and expanded enrollment as well in higher education. This particular line reflects the increase that is necessary to deal with the problems of inflation, expanded student population in the K–12 well as in higher education.

This line here reflects what was actually the fiscal year 1995 level of funding in terms of constant dollars. This $600 million loss represents the figure that was effectively agreed to after the proposal by the Republicans of $1.7 billion in rescissions in 1995. Their proposal was to cut $1.7 billion. We were able to resist that, and the final figure that was set was $600 million in rescissions. These were moneys already going out to schools all across the country, K–12—also available, some of the funding, in terms of higher education appropriated in previous years. Their proposal reduced this by $1.7 billion.

We see that this $3.9 billion cut represents the House appropriations in 1995. The continuing resolution brought it back to $3.1 billion. Finally, just before the Government shutdown that took place here, there was an add-on of $2.7 billion, and the negotiation which took place at that time brought us to $400 million less than level funding—in absolute dollars. There is a significant reduction here in terms of the real purchasing power in education. We see, once again, in this year's House appropriations, a cut of $1.5 billion. The Senate cuts in appropriations are not as severe as in the House appropriations.

The press asked us why we are bringing this up at this particular time. The fact is that the Senate Appropriations Committee met last week and finally resolved the dollar figure that was reached by that committee. Within a day, under the leadership of Senator DASCHLE, Senator HARKIN, Senator KERRY, Senator LEVIN, Senator WELLSTONE, and others, we announced that we would be offering an amendment that would restore the $3.1 billion difference between the President's request and what was actually coming out of the Senate Appropriations Committee. So we did that at the end of last week. We tried to offer the amendment earlier this week. We were denied that opportunity, and we were notified then that the Republicans had decided to an add-on of some $2.3 billion.

Mr. President, of course, if they had made that add-on last week, for a good chunk of these education programs, we would not have this kind of difference. So I say election year conversion because what a difference a week makes. What a difference a week makes in terms of the Republican position.

The fact of the matter is, on each and every occasion since 1995, on any budget, any appropriation, any reconciliation, any continuing resolution, any time the issue of funding for education has been out there, there has been a reduction.

I want to take notice here, Madam President, and say that there have been some notable exceptions among our Republican friends. I acknowledge the Senator from Maine, who has placed a high priority in education, and Senator HATFIELD, and a few others. But this chart represents the ongoing and continuing record that has taken place.

Basically, we are talking about the rescissions of 1995, where it was $1.7 billion. In the 7-year budget resolution of 1996, they proposed a Federal slash of one-third over 7 years in Federal investment in education. The deep cuts came in college aid, $10.6 billion in student loan cuts, and a freeze on Pell grants, which reduces their value by 40 percent, or effectively eliminates grants to 1 million students. You can have it either way. That is the effect of their recommendation in terms of funding the Pell grant. Cutbacks in other education—and this is in 1996—such as 350,000 preschool children who would lose Head Start, 2 million children who would lose title I, reading and math, and programs to keep schools safe and drug-free would be cut back for 39 million students. That was in 1996.

On the budget reconciliation, listen to what was recommended. The Republican majority carried out of our Labor Committee a 2-percent student loan tax on every college and university in the country. Do we understand that? A 2-percent tax on every college. That 2-percent tax would be on the amount of scholarship aid and assistance. So when you take a school like Northeastern University, 80 percent of the kids that go there, their parents never have completed college; 85 percent are working 25 hours a week or more. These are individuals who are hungry, they are gifted, but they don't have great resources and they are trying to make it to enhance their own opportunities for advancement in our society. This 2-percent tax would have particularly hit Boston University by $750,000 to $800,000 a year, which meant anywhere from 18 to 20 students' scholarship help that the university would not have been able to provide. That was one aspect. They raised interest rates on the Plus Loan. The Plus Loans are basically for middle-income, working families. It gives them additional opportunity at a somewhat lower rate for educational loans to supplement their children who are in college. The Republicans eliminated the interest-free grace period for students beginning to repay after graduation. We now have a 6-month period.

The fact remains that that 6 months is a key period for the student to get a decent job. They wanted to eliminate it and start repayment at the time of graduation, which would have put additional pressure on the students to become employed because they would have had to start repaying their debt. If you ask Secretary Riley what is the impact of that grace period on students repaying their debt, his testimony, and all the testimony, is that if you give them a grace period, they have more time to get a good job, one that they want to stay with and one where they will have an enhanced opportunity for repayment.

So those are some of the areas of the cuts, as well as cutting back and putting a cap of 10 percent on the direct loan program. That direct loan program, which moved us up toward a division of total student aid so that we would have competition between the guarantee and direct loan programs, was agreed to by Republicans and Democrats in the previous Congress. Nonetheless, this was closed down, and it would only be 10 percent.

The amendment that was offered here on the floor of the U.S. Senate to permit each college to make its own judgment whether it wanted to go to direct loan or guaranteed loan was overwhelmingly defeated by those who want to continue the guaranteed loan program, which will mean that $127 billion will go through the guaranteed agencies over a 6- to 7-year period. It means anywhere from $7 to $10 billion in profits to those agencies, which is basically money that is coming out of the pockets and pocketbooks of working families.

The 1996 appropriations bill is cutting education 16 percent. It terminated Perkins loans and student initiative grants for the neediest students. It raised the Pell minimum grant to $600. The effect of that is that you eliminate awards to 175,000 low-income students. The bill cuts back title I by $1.1 billion to deny reading and math to over a million children. It cuts back Head Start by $140 million, denying preschool to 48,000 children.

Then we come to the continuing resolution of January 26, 1996. That cut education by $3.1 billion from 1995 levels, a 13-percent cut.

The final omnibus resolution reduced education $400 million, after the Senate adopted the Specter-Harkin amendment, which restored $2.7 billion in education. That amendment passed 84 to 16.

So during this national debate about how there is a distortion and misrepresentation about who is for education, even when we had the principal instrument to recover and restore some of that education, supported at that time by a number of Republicans—there were 16 Republican Members of the Senate who said "no."

Now, a 6-year budget resolution, which was passed in May and June 1996, cuts Pell grants by $6.2 billion over 6 years. It cuts work study for 800,000 students. It cuts title I for over 300,000 children. The list goes on.

The final point I make, Mr. President—and I will include this analysis as part of the RECORD—is that the Republican platform, in August, said, "We will abolish the Department of Education."

Maybe there have to be adjustments in some of the agencies of Government.

But I would suggest that most American families want to have the Secretary of Education at the President's elbow every single day of the year saying, "What about the education of the children of this country? What are we going to do about that?"

Money can't solve all of the problems. But what changes are necessary to make academic achievement and accomplishment, enhanced standards, and improved quality education available? I think most Americans would say of all the agencies of Government, certainly you need Defense, certainly you need the Secretary of State and maybe the Treasury. But I tell you. The Secretary of Education is right up there among American priorities.

So why do the Republicans want to abolish the Department of Education, and now in the final hours come back and say, "Oh, well, we are really for education—we are the education Congress?" It is something that I have difficulty understanding.

Earlier in the day we were asked, "What about the Republicans' proposal, the Lott amendment?" I just point out very briefly that this amendment does not meet critical needs—no increase in the Head Start Program, and no increase in teacher training.

We just had the Carnegie Commission report a week ago that one of the principal deficiencies in our educational system is that we are not getting enough teachers that are well trained, nor are teachers getting enhanced training. We have tried to restore the administration's request in this area. The Republicans offer no additional funding for teacher training; no money for the TRIO Program, which is academic support for disadvantaged students; and no money for School to Work. These are crucial programs. Twenty years ago, if you graduated from high school you were making 65 or 70 percent of what a college graduate was making. That percentage has dropped to about 55 percent—the growing income gap that is taking place.

We tried with School to Work to move three out of four kids that do not go on to college into the private sector. It has been strongly supported by Republicans in a number of States.

Again, I refer to the distinguished Governor of Maine, the husband of our chair, who is one of the very innovative Governors in moving toward the School to Work Program, and other Republican Governors and Democratic Governors as well.

There is no money for summer jobs, even though about 40 percent of all the summer job programs have academic provisions. There were funds in terms of other education programs. I had hoped that we would take those increases and put them in for increases to the President's request here on the floor of the Senate, or in the continuing resolution. We would get a positive response—an overwhelming response—in favor of those measures.

Madam President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUNDING EDUCATION

Mrs. KASSEBAUM. Madam President, I am here to answer some of the statements made by the distinguished ranking member of the Senate Labor and Human Resources Committee, Senator KENNEDY. Unfortunately, I did not hear all of the comments but some that I heard made by Senator KENNEDY regarding education need to be answered.

It just is not the case that education has been slashed by Republicans over the last 6 to 8 years, and I really find it very disappointing that somehow this keeps coming up. It is easy to make a statement saying education has been slashed and decimated by Republicans without any real understanding of the programs under discussion, what has been debated and what resolutions have been made because, actually, education budgets have continued to climb.

I think nearly all of us at least would acknowledge that money alone is not the answer to quality education. It certainly has been important for us to have a support system when we are asked to help with special education moneys, moneys for disadvantaged students, moneys for disabled students, for the student loan program. But money alone is not the answer.

We are now spending more than $25 billion in our budget for education, and there has to be some understanding of what it is all about. For one thing, we have dramatically increased money for Head Start programs, which are preschool programs for those young children who need most to have that assistance.

At the time we worked on the legislation to increase Head Start funding, we also incorporated changes in the program which were designed to enhance the quality of delivery of Head Start programs. Some States have outstanding Head Start programs. Other States have not pulled together the network that I think is necessary for quality preschool education. But that money has been increased.

As for student loans, I think it is exceptionally misleading to claim that the student loan program has been decimated. For one thing, all eligible students applying for a student loan receive a student loan. In 1993, the volume of student loans was $16.1 billion; 3 years later, it is $26.6 billion. Students are not being denied student loans.

The Pell grant program and the other grant and work-study programs have not been appropriated to the level that has been authorized, and that has always been a concern. But it is also a fact that funding for those programs has not been reduced. Whether it has grown to the level it should grow perhaps should be the question. I think it is very important for us to debate these issues in the context of understanding what is, and is not, occurring in education.

We have figures which show, as I pointed out earlier, that we are increasing, and have continued to increase every year, the budget for our education programs. Whether it should be increased more or less has been a subject of debate.

I particularly would like to address the student loan program because the Senator from Massachusetts, Mr. KENNEDY, attacked the efforts to cut the student loan program. When we debated whether to have direct lending for student loans, the intent was to help if students wanted to get their student loan money immediately when they registered for postsecondary education. It did not in any way mean a student was going to pay less on their student loan, and in fact, it was through Republican initiatives in trying to reduce some of the bureaucracy and some of the requirements on the student loan that did produce what savings could be achieved for students.

Direct lending, as such, in no way changed the amount of funding that is available to students. This has been, I think, poorly understood. Somehow it has been portrayed as a choice between supposedly greedy banks or the Federal Government that would handle student loans. We missed completely, I think, the part of the debate regarding who should be responsible for cutting the checks for the student loan program, who can do it the best, and who should bear the responsibility for those loans and for payments that have not been collected.

I, myself, thought it was something we should go somewhat slowly on, so that we could understand the effects of the Federal Government totally handling the student loan program, or whether we should continue to let it also be an initiative in which the banks and the student lending guaranty agencies could be involved, believing they were going to be better able to collect on the loans than the Federal Government. I believe it is something we can and should continue to debate. But that program has not been decimated by efforts of Republicans to somehow cut student loans.

I think it is interesting that, in the first half of President Clinton's administration, when the Democrats controlled the Congress, actual spending for education programs fell on the average of $1 billion below the President's request. I do not intend to get into a tit for tat on educational spending, however. Being a member of a local school board at one time before I came to the Senate, and as chairman of the Labor and Human Resources Committee responsible for education funding, there is nothing that I care more about than being certain that we do have quality education in this country. That is something everyone is dedicated to. How much of that can be guaranteed by moneys we spend here in Washington is another matter. In some cases it is clearly something we need to do, particularly when we mandate certain requirements on schools. Then, we must be willing to be a participant in helping to pay for those mandates. That, I think, has been particularly true with initiatives such as the education for disabled students. We mandated the inclusion of those students in public schools, and I think we should be willing to help continue to fund the needs of that mandate.

But I suggest that, as we debate education today, most citizens in this country realize the success of excellence in education really depends on our local communities, our local school boards, and students and parents who will recognize the importance of quality education and are willing to invest the time and the resources to see that we have it. I think there is no sadder indictment of education in general than the fact that some students are taking student loans when they graduate from high school but then have to take remedial reading when they get to college. We are doing a great disservice to the students in our Nation when they pile up an indebtedness of student loans but are not prepared to take advantage of the higher education they are receiving, whether it be in liberal arts or vocational-technical education.

We have to give those students—and it is not just we here in the Federal Government, but each and every one of us—the ability and the opportunity to achieve excellence in education. It should be the students themselves who will have the self-discipline to recognize the importance of that to them.

But right here in the Nation's Capitol we have not been able, with all the money that has gone into the District of Columbia, to hold up our heads with the primary and secondary schools that we have here in the District of Columbia. It is a shame that we have students who have to walk through metal detectors for fear of what might occur, a shooting in a high school. It is a shame that we have leaking roofs and crumbling infrastructure in our elementary schools. Every child in this country should be able to attend the elementary school in their neighborhood that has the highest quality of education to be offered.

But I would just suggest, and I am sure the Senator from Massachusetts believes the same as I do, that this is something that our Nation does care about. We have always been a country that cares about education. We have always been a country that hands off, as a legacy to the next generation, our belief in the importance of education. But it is totally wrong to say that we have decimated this opportunity for excellence in education because Republicans have slashed the education budget. That is not the case, Madam President, and that is not the answer to excellence and quality in education. We need to work together to the extent that we can to find those programs that can be of help. We have done that before and we should continue to do so.

It has been a big disappointment to me that the Democratic side of the aisle has not been supportive of efforts which we have undertaken, and which we passed unanimously, except for two votes, to initiate job training reform efforts and strong support for vocational education initiatives, which are an important component of our desires to achieve a working partnership between the Federal, State and local governments. That, I think, is one of the answers that we need to look to when we look at what the Federal responsibilities may be in assisting in education.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I made some comments earlier in a presentation about the record, about the resources of the Congress in the last several years. When I returned to my office, I saw my good friend and colleague, Senator KASSEBAUM, addressing the issue of education, and returned to hear her pearls of wisdom on this issue.

Senator KASSEBAUM's suggestion that education funding has been slashed over a 6-year period is simply mistaken. In every year since fiscal year 1990, education spending has increased. In fiscal years 1994 and 1995, education appropriations increased by $1.1 billion and $0.9 billion. It was not until the Republican takeover that Congress proposed to slash education spending.

There are just a few more points I want to add at this time. I tried earlier to point out what the Congress had actually done in allocating resources. The fact that you spend money does not necessarily mean you are going to end up with good education. That is a given. But it is a reflection of your priorities. And when we have a reduction in real terms, given the expanded student population, both in K–12 and higher education, cutting back in technology and other programs, that is a reflection of national priorities.

What basically we do as legislators, as the Senator from Kansas understands so well, is make choices. And we make choices about priorities. When we see, now, funding in education at about 1.3 percent of our national budget, I think most American families think it is considerably higher. That number is not concomitant with our commitment to the young people of this country. I think it is worthy of pointing that out.

The fact of the matter is, if a child goes to school hungry in the morning, that child is not going to be able to learn, even if you spend money on books and teachers. If you go to a school, you will find that classrooms are in a deteriorating condition. Many of the classrooms in my own State are. A recent report by the General Accounting Office shows the deterioration of the physical structures. It is primarily a State and local responsibility. But some of the schools in my own city of Boston will reach a temperature in the wintertime that is sufficiently cold that many of the students will be affected by that cold. It will be difficult to teach. If you have inadequate books or inadequate training for teachers, students will not learn.

We know in many of the schools that we have in this country they are spending, by and large, probably double what is being expended in other schools, and we know they are getting, by and large, students who are graduating with high abilities. We know, really, what needs to be done.

There are shared responsibilities in attempting to do it, but I would think our challenge is how we will push the envelope in this area. How are we going to encourage the local communities to enhance and support additional help? How are we going to get the States to recognize this as the priority? If we here in the Congress of the United States are seen as constantly reducing our commitment in this area, that sends a very powerful message. It is a very powerful message.

I do take exception to what has happened in recent years, frankly, under Republican administrations, in higher education. Education in the 1960 election was one of the prime differences, that, I think, played a major role: Was the Federal Government going to become involved in scholarship help and assistance? One candidate said yes. The other candidate, effectively, said no.

And then it was set up for higher education that $3 out of every $4 invested by the Federal Government went into grants, not into loans. Now it is just the reverse: $3 out of the $4 are loans, not grants. Yet reviews have demonstrated, time and again, that the Federal Treasury profited $8 for every dollar invested in education grants through the GI bill.

Investments in education pay off, and that has been the lesson. Maybe there are some programs that should be changed. To move back from that ongoing and continuing commitment is a reflection of different priorities, and that is essentially what I think is the point being made.

The fact of the matter is, a week ago when we saw the significant cuts made by the Senate Republicans and then a week later they come back and add $2.2 billion, I doubt very much that somehow the Republican leadership suddenly discovered increasing value in education.

A final point I want to make is about questions of higher education and the indebtedness of students. One of the very important aspects of the Direct Loan Program is not only in the facility of lower interest rates and the facility of students to deal with those, but also tuition contingency repayments, which said that if you are a student and you graduate, you might have $10,000 or $15,000 of loans obligated; if you want to be a teacher or you want to be a social worker or you want to be a police officer or you want to be a child care worker or you want to be a teacher's aide, then what it is going to mean, in terms of your repayment, is a percent of your income—just a percent —for a period of time.

That says to the young people, OK, maybe we haven't gotten it quite right at the Federal level in terms of the ratio of direct loans to grants, but I tell you what we are going to do. Even if you have to borrow, we will make it affordable so you only have to pay it at 5 percent or 7 percent.

That is an enormous, enormous advantage to students. I don't think you could find a handful of students in this country who would turn their backs on that particular opportunity. That was part of our Direct Loan Program. We stood out here on the floor of the U.S. Senate and said, "Let the colleges make their own decision whether they want the Direct Loan Program or the Guaranteed Loan Program. Let the colleges, let the students."

What is more democratic than that? What is more local empowerment than that? What gets more power from the Federal Government back to the States and the colleges than that particular proposal? You would think that was a proposal that would carry. Absolutely not. We were closed down. Virtually unanimous support in opposition to that by our Republican friends.

So I hope as we come into these last days that parents, students, business leaders, and young people who are not going on to college—those who are concerned about the future of this country—really study this record well.

Any time Senator KASSEBAUM speaks about education, there is a great deal for us to learn from her comments. I always do. Although I missed her remarks earlier, I look forward to reading them in the RECORD.

But I do think there is a pretty central difference in the record of the two political parties on the priority of education. The President has stated that education, Medicare, and environmental issues are his priorities, and it was only after there were significant cuts in those that the Government was shut down. I think the American people remember that.

We speak today about one aspect of those priorities, and it is education. I think the American people place a very high priority on it. They place a great responsibility on all of us to try and make whatever we allocate more effective in enhancing student achievement and accomplishments in schools and colleges across this country.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, if I can comment for a moment. We can probably go on all afternoon talking about education, but I am sure there are those who would like to get back to the pipeline bill.

We can have dueling charts. I don't think that helps us at this juncture. The Senator from Massachusetts raised many of the same priorities in education that I did. We worry about crumbling infrastructure, we worry about the quality of education, we worry about being able to attract the best and the brightest teachers into teaching. All of these things are a part of the educational debate.

I think where we differ, and differ significantly, is whether the Federal Government is the answer to all of those questions, and I suggest not. I believe most Americans realize that is so. Federal dollars in education are less than 10 percent of the education dollars spent in this country. Local and State governments spend, I think, about $508 billion in education. I happen to believe that it still should be a question of local and State authority on education.

The Federal Government can provide support, but if we start to rely more and more on Federal dollars coming from here in Washington and believe that solves the problem, then I suggest, Mr. President, that we are in trouble. That is where we differ: Who bears the main responsibility for the funding of our educational system?

I suggest it has worked well, and it will continue and should work best, at the local level. I think that is where there is a fundamental difference.

I yield the floor, Mr. President.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Texas is recognized.

ACCOUNTABLE PIPELINE SAFETY AND PARTNERSHIP ACT OF 1996

The Senate continued with the consideration of the bill.

Mrs. HUTCHISON. Mr. President, I would like to make a few remarks about the pipeline bill, because I think this is a very important bill for the future and safety of our country. This is a bill that has been worked on for quite a long time. It is a bipartisan bill.

I am very pleased that we have a safety pipeline program, we have a funding source. We are reauthorizing the Federal Pipeline Safety Program. I think everyone has worked in good faith. In fact, the bill is sponsored by Senator LOTT, cosponsored by Senators PRESSLER, STEVENS, HUTCHISON, BURNS, SHELBY, COCHRAN, FRIST, INHOFE, BREAUX, FORD, EXON, INOUYE, JOHNSTON, and HEFLIN. I think all of us want to make sure that the pipelines that are running through the ground in our country are as safe as they can possibly be.

Of course, we have user fees that pay for the safety inspections and the Office of Pipeline Safety. I think this bill also adds some simple and flexible risk assessments and cost-benefit analyses to some of these new regulations. So I think we are going to be taking a giant step in the right direction with this bill.

It does authorize the Office of Pipeline Safety funding through the year 2000 so that we will know that the source is good and that it is at a reasonable level. It is about what our budget resolution is today, and I think that we have made a great improvement.

So I am very pleased to support this bill as the new chairman of the subcommittee from which this bill came.

I think we have a good, bipartisan compromise that is going to move pipeline safety very, very much into the forefront of our consciousness as we continue to put down more pipeline and take more energy to the people of this country.

Mr. President, I think Senator LAUTENBERG, who has also worked very hard on this bill, has remarks to make. Is that correct?

Mr. LAUTENBERG. Yes. Thank you.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator from Texas. I know that she has an interest in safety with our pipelines. Obviously, coming from a State like she does, there is a great deal of interest in providing the resource, the gas, that travels through these pipelines because it is an efficient and cost-effective way of taking care of our energy needs.

I want to also extend my accommodation to the majority leader, Senator LOTT, for his work on this bill, as well as the chairman and the ranking minority member of the Commerce Committee, Senator PRESSLER and Senator HOLLINGS, and the other Senators who have worked hard and who have contributed to this legislation.

The bill before us enhances our existing pipeline safety program in a number of ways. For example, it would promote one-call programs to ensure that those who dig in the ground can easily find out where the pipelines are located—not only find out, but must know where the pipelines are located.

The bill would also increase funding for pipeline safety programs and make other improvements. At the same time, I do have some concerns about certain provisions in the legislation which could limit the regulators' abilities to adequately manage the program.

Frankly, it does not go all the way that I would like it to go, but it certainly is an improvement on the status quo and should improve pipeline safety significantly.

Mr. President, I have a special interest in this bill—I am sure many in this room are aware of it—because an explosion took place in my State a couple of years ago, and our experience with it was one that will stay permanently etched in the memories of people in New Jersey.

What happened there was almost inexplicable because, though the damage, the physical damage, was extensive, fortunately it was limited to one death. There could have been many more. That one death was as a result of someone's physical disability who had come in to be in touch with friends who lived in the neighborhood. It was terrible. That was 2½ years ago.

That rupture in a gas pipeline led to a terrible explosion in Edison, NJ. The blast created an enormous fireball that could be seen for miles around. It leveled eight apartment buildings and left a gaping hole in the ground. It reminded me, very frankly, Mr. President, of some of my wartime experiences when bombed-out areas were left with buildings flattened and holes, craters, in the ground. That is what this looked like.

The explosion and the fire injured more than 100 people and brought on, as I said, the death of one person, a fatal heart attack of a 32-year-old woman who had come to visit friends who were in the area. And 150 families were made homeless. Not surprisingly, many of the victims are still dealing with the emotional, psychological, and financial consequences of the explosion.

Mr. President, I visited the site of this disaster with Senator BRADLEY very shortly after it took place. We saw the devastation firsthand. It was a sobering experience. Nobody could witness a scene like that without being committed to doing everything possible to prevent similar tragedies from happening in the future.

In response to the explosion in New Jersey, I began to explore various ways that pipelines could be made safer. I talked with experts from around the country, and I developed legislation, now introduced as S. 162, that did propose a variety of steps.

First, my bill promoted the establishment of the so-called one-call program. One-call very simply requires anyone who is about to dig—a builder, construction company—to simply make a telephone call to make sure that where they are going to dig is not dangerous because of pipelines. This is important because two-thirds of all pipeline accidents are caused by people who dig without knowing where they are digging.

So I say, they must know. So I am pleased that the bill before us, like my own, would promote one-call programs and direct the Office of Pipeline Safety to help States establish these programs.

Another provision in my bill required the use of remote control shutoff valves. Mr. President, given the state of technology in the world today, you would think this kind of thing would be used routinely, which simply means that someone in a remote location with some visual contact through electronic means could see what is happening and start turning down the cutoff valves. Unfortunately, that very simple technology was not used in this case. But it is now being used.

Too often when a major leak occurs, pipeline operators must physically travel to the site of the leak and manually turn off a huge valve. This process can take many hours. After the Edison explosion, it took over 3 hours to shut off the valve, the valve that was producing the gas flow to continue the flames and the destruction that was taking place, in large part, because the shutoff valve was manual and took over 700 turns to close. Meanwhile, again, the dangerous gas was escaping into the environment. Remote control shutoff valves would have solved this problem in fairly quick fashion.

So I am pleased that the managers of the bill were able to include a provision in the managers' amendment that would require that DOT, which has jurisdiction here, study the feasibility of these devices. If, as I expect, the Secretary determines that the devices are feasible and would reduce risks of pipeline accidents, the Secretary would be required to mandate their use.

Another proposal in my bill would allow residents to be notified of the location of the pipelines in their neighborhoods. Citizens have a right to know this information. A better informed public leads to improved safety. So I am pleased that the managers of the bill have included in their amendment, the managers' amendment, a provision that requires that all operators provide a pipeline map to local communities.

The provision also requires that the Secretary review existing pipeline safety education programs, determine which ones are the most effective, and implement appropriate programs nationwide.

My legislation also would have helped ensure that pipeline leaks and weaknesses were detected before disasters by promoting the use of so-called smart pigs. The term "smart pigs" refers to technology that essentially permits a device to travel through a pipeline and evaluate whether or not there are weaknesses that have to be attended to or that otherwise could lead to problems in the future. The use of this smart pig technology is important, especially as more pipes grow older and thus more vulnerable to problems.

The bill before us would authorize OPS, the Office of Pipeline Safety, to require the use of smart pigs, though it does not mandate their regular use, as I would prefer. I am hopeful that OPS will promote these tools aggressively.

There are other provisions in this bill before us that also mirror proposals of mine. One provision would make it a Federal crime to dump waste in pipeline rights of way. This will help protect these rights of way from large volumes of material which can damage the pipeline.

So, Mr. President, there are several provisions in this bill that I support and that can help, and will help, to improve pipeline safety. At the same time, however, in my view, the legislation should go farther.

For example, I am concerned that the public will not have adequate input in the review of proposed risk demonstration projects. I am also concerned that the bill could make it harder for the Office of Pipeline Safety to propose and adopt pipeline safety standards because of new cost/benefit requirements.

On balance, though, Mr. President, this bill represents a very good step forward. Although far from perfect—and we know around here that the perfect is the enemy of the good; it is said so often and proves true almost every time—although far from perfect, it should improve pipeline safety, and it deserves our support.

Once more, I thank the majority leader and the other Senators involved for their work on this bill. I look forward to working with them in the future to ensure that the legislation is implemented properly and effectively, and to consider other steps that can be taken that promote pipeline safety in our communities.

I yield the floor.

Mr. LOTT. Mr. President, I rise today in support of the reauthorization of the Office of Pipeline Safety (S. 1505).

This is a bill which is bipartisan with seven Democratic and nine Republican cosponsors.

This is a bill which was unanimously approved by our Commerce Committee.

This is a bill which is supported by both the administration and the regulated pipeline industry.

This is a bill which focuses on just the statute which regulates the natural gas and liquid transmission and distribution industry.

This is a bill which is targeted on the role and responsibilities of the Office of Pipeline Safety within the Department of Transportation.

This is a bill which deals in a responsive and responsible manner the way rules are made for this sector of the energy community; but, I want to be very very clear, nothing in this bill will jeopardize the integrity and safety of America's natural gas transmission system. And nothing in this bill will reverse the environmental success story of this industry.

This is a bill which permits demonstration projects by recognizing opportunities for regulatory flexibility.

This is a bill where the one-size-fits-all mandate mentality is replaced by responsible creative yet accountable rulemaking.

This is a bill which will intimately affect 160 million Americans because they live in gas heated buildings.

This is a bill which governs enough natural gas pipes to go around the Earth 48 times.

And, finally this is a bill which has direct impact on under a million Americans because they work in some aspect of the natural gas industry.

The leadership of Senator PRESSLER and Senator EXON has made this manager's amendment possible, and I want to publicly thank them for both their time and attention to advancing this consensus compromise.

Let me say in conclusion: Safety on America's interstate natural gas pipelines will be enhanced by this legislation. And I want to underscore that environmental protection along America's pipeline right-of-ways will also be enhanced by S. 1505.

Mr. HOLLINGS. Mr. President, I rise in support of S. 1505, the Accountable Pipeline Safety and Partnership Act of 1996.

This legislation reauthorizes the pipeline safety programs that are the responsibility of the Department of Transportation's Office of Pipeline Safety (OPS). OPS has a tremendous responsibility in ensuring the safety of the nation's gas and hazardous liquid pipelines. The combined interstate pipeline system has approximately 1.8 million miles of pipeline, consisting of approximately 1.6 million miles of gas pipeline and 155,000 miles of hazardous liquid pipeline. Any map of the nation's pipeline system shows how much our population depends on safe pipelines. The question is not whether pipeline safety programs should be reauthorized. Rather, we must determine the best way to maintain the safety of the interstate pipeline system while allowing the pipeline operators and owners to provide the service so necessary to the nation's well-being.

The importance of OPS is not theoretical. Many of us can report on gas line ruptures and spills in our states in the past. For example, there was a gas pipeline rupture in New Jersey two years ago. There was a horrible spill in my home state of South Carolina this summer. Over 1 million gallons was spilled. My staff has spent countless hours in monitoring this disaster. Luckily, the skill and dedication of OPS prevented that spill from becoming a major environmental disaster. The OPS training exercise with the pipeline owner held just prior to the spill contributed to the speed with which the adverse effects of this spill were mitigated—most of the spill was cleaned up and the remainder evaporated. In this regard, I extend my appreciation to OPS for keeping me informed of the spill and the efforts to redress the harm done to the land and water in South Carolina. Of course, I intend to continue monitoring our pipeline situation in South Carolina until I am satisfied that our pipelines are truly safe.

This bill provides authorization levels that are consistent with the Administration's budget request for OPS, but unfortunately, the appropriations for OPS that just passed the Congress are about 10 percent below the budget request. Obviously, OPS will be able to do its job better if it does not have to shift resources constantly to cope with funding difficulties. Despite its funding shortfall, however, I have reason to believe that OPS will ensure that our situation in South Carolina is rectified.

This legislation was crafted from many discussions between OPS and the pipeline industry. The bill refines the present OPS regulatory program so that OPS's scarce resources are put to the nation's best advantage. This greater ability to target its resources will help OPS to concentrate on the most serious problems, like the one we have faced in South Carolina. The bill also allows OPS and the pipeline industry to cooperate in designing risk management programs which will provide an appropriate level of safety while relieving pipeline facility owners and operators of unnecessary paperwork. In addition, this legislation contemplates a true partnership between the parties by including the states in the regulatory process with OPS and the pipeline industry.

Mr. President, I urge my colleagues to support passage of S. 1505.

Mr. LEVIN. Mr. President, the bill before us would establish a new statutory standard for the Secretary of Transportation to meet when issuing a standard for pipeline safety. Section 4 of the bill provides that: "Except where otherwise required by statute, the Secretary shall propose or issue a standard under this Chapter only upon a reasoned determination that the benefits of the intended standard justify its costs."

When the Senate was debating governmentwide regulatory reform legislation earlier in this Congress, much of the debate focused on the issue of whether or not it was appropriate to set an across-the-board standard for the application of cost-benefit analysis to major rules. We referred to this issue as "decisional criteria"—which basically meant the standard to be applied by the agency in selecting a rule for promulgation based on an analysis of the rule's benefits and costs. We were unable to reach agreement.

Some thought there should be a strict standard—that the head of an agency should have to show that the benefits of the rule justify the costs. Some thought we should apply that standard, but permit important exceptions for uncertainty in the data and rules where the public interest was significantly at stake. Others thought we should require the agency to do the analysis and explain, based on the cost-benefit analysis, whether the benefits of the rule justify its costs and if not, explain why the rule is still being issued.

As a body, we have not been able to agree on the formulation for this standard. That is why Senator GLENN and I have had some concern about the standard being adopted for the Office of Pipeline Safety. We don't want anyone to view acceptance of the standard in this bill as a precedent for adopting a similar standard in any other Federal program. That's because what may work well and be appropriate for the Office of Pipeline Safety and the safety rules issued by that office, is not necessarily an appropriate standard for any other Federal agency.

So I wish to ask my colleagues who have been working on this bill a few questions about the scope of the standard contained in this bill.

Mr. President, would the Senator from Nebraska, Senator EXON, who has worked so hard on this legislation, agree that it is not the committee's intent that the standard for the application of cost-benefit analysis included in this legislation be applied to any other agency?

Mr. EXON. Mr. President, the provision in this legislation with respect to cost-benefit analysis is unique to the Office of Pipeline Safety. It is not my intent, nor was it ever suggested by any member of the committee that the standard we use in this bill, be applied to the regulatory process of any other Federal agency.

Cost benefit analysis for pipeline safety is straight forward and largely quantifiable. Assessing the effects of pipeline safety ruptures is not as uncertain as health-related analyses, such as lead exposure levels or other long-term exposure to toxics. Pipelines are fixed facilities in known locations that carry finite quantities of specific products. The consequences of different types of ruptures or problems is therefore very quantifiable. The costs of various proposed requirements is usually also very quantifiable as most proposals seek to use existing procedures, processes, or tools with which pipeline operators have actual field experience. This makes cost and benefits more readily identifiable regarding pipeline safety regulations.

Mr. PRESSLER. Mr. President, will the Senator yield for a comment? If I may, I agree with the Senator from Nebraska. This standard we've set in this bill for the issuance of pipeline safety standards is unique to the Pipeline Safety Office. That's why we have the support for this legislation of the Department of Transportation and the regulated industry. The Department of Transportation says it can live with this standard, and that's why we are able to include it in this bill.

Mr. GLENN. Will the Senator from Michigan yield?

Mr. LEVIN. I am happy to yield to the Senator from Ohio.

Mr. GLENN. Mr. President, I have been pleased to work with the Senator from Michigan on this matter as well as the overall issue of regulatory reform. In August I wrote to the majority leader, Senator LOTT, who has taken a strong interest in drafting this legislation, and explained to him our concern about the cost-benefit standard contained in this bill. My concern, like Senator LEVIN's, was that this legislation could be used as a precedent in the debate on the larger regulatory reform bill. The majority leader, in a letter dated August 9, 1996, assured me that would not be the case. He said in that letter, "S. 1505 only applies to the federal pipeline statute. In fact, it will affect only one federal agency with 100 employees and could impact less than ten rules per year. This is not a precedent setting proposal."

Would the majority leader be able to confirm his earlier statement?

Mr. LOTT. Mr. President, I would be happy to respond to the Senator's request. The cost-benefit standard included in S. 1505 is not intended to be used, nor will I use it, as a precedent for a cost-benefit standard to be applied to other agencies. It works for pipeline safety, because it was specifically written with the knowledge of that office and its unique responsibilities in mind.

Mr. GLENN. I thank the Senator from Mississippi and I yield the floor.

Mr. LEVIN. Mr. President, with those assurances by the majority leader and the key members of the Commerce subcommittee who've been working on this bill, I can support this legislation.

In the recently enacted, bipartisan Safe Drinking Water Act, we adopted a very different standard for rulemaking. In that legislation we said: "At the time the Administrator (of EPA) proposes a national primary drinking water regulation under this paragraph, the Administrator shall publish a determination as to whether the benefits of the maximum contaminant level justify, or do not justify, the costs based on the analysis conducted under paragraph (3)(C)."

We will now be able to see how each of these proposals works in real life. I look forward to seeing and analyzing the results.

Mr. GLENN. Mr. President, I join with my colleague and friend from Michigan, Senator LEVIN, in saying that I can support this legislation with respect to this issue. I am also happy to support the inclusion of added language to protect the public's right to participate in the development and approval of the risk management demonstration projects provided udner this bill.

I was concerned that as initially drafted, communities affected by these projects might not have a voice in commenting on the proposals made by pipeline owners and operators for alternative methods of complying with the law. The sponsors of the legislation agreed to add statutory language to protect that right to public participation. With that addition, as well as the statement of the sponsors as to the scope of the bill, I will support this legislation.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARITIME SECURITY ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate temporarily set aside Senate bill 1505 and that the Senate now proceed to the consideration of Calendar No. 262, House bill 1350, the maritime security bill.

I further ask unanimous consent that no amendment relative to the tuna-dolphin issue on the Panama declaration issue be in order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1350) to amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, the Senate will soon consider House bill 1350, the Maritime Security Act of 1995. This is the companion legislation to Senate bill 1139, the maritime reform legislation approved by the Senate Committee on Commerce, Science, and Transportation earlier this year.

This historic legislation is the culmination of over two decades of work by the Senate Commerce Committee. I said two decades.

For most of the 1980's the senior Senator from Hawaii and myself spent hundreds of hours in congressional hearings, consultation with administration officials, and discussions with affected industry in seeking to find a way to stabilize and reform the Federal maritime programs.

We became involved in this debate in large part because of our responsibility to the Senate and the Nation to find methods of improving our military support capabilities for the Department of Defense.

The Navy and the Marines deploy the Maritime Prepositioning Force, which is our core capability to respond in an emergency to hostile actions worldwide which threaten the security interests of the United States.

We have known for many years that advance military capability must be combined with the ability to provide both surge sealift capability and sustainment sealift capability.

Without both surge and sustainment, we expose our fighting men and women to the dangers inherent in any military involvement far from our shores.

The Congress has appropriated billions of dollars over the last 15 years to improve our surge sealift transportation capability.

We have procured Fast Sealift Ships, Large Roll-On, Roll-Off ships, Ready Reserve Force vessels, and strategic lift aircraft to support our military forces in the initial days and months of battle.

We now have the most technologically advanced surge sealift capability in the history of the world, and are approaching a maximum state of initial readiness.

Military capability and surge sealift capability are, however, only two legs of the three legged stool for our advance deployed military force.

The third leg is the ability to sustain these forces over extended periods of time, after we place them in foreign territory, far from home. The maritime security program in H.R. 1350 provides that third leg.

Why is it necessary for the Federal Government to provide supplemental payments to U.S. companies to keep their ships under U.S.-flag?

The answer is simple. We hold our U.S.-flag carriers to operating, safety, and labor standards far superior and far more costly than those imposed on foreign-flag carriers by their governments.

Operators of U.S.-flag vessels must meet payroll taxes, including social security, unemployment insurance, Medicare, and Medicaid. U.S. carriers pay income taxes and a 50 percent penalty for repairing their ships overseas.

These ships must be in compliance with more restrictive Coast Guard and OSHA safety regulations. In short, our Federal laws build in economic disincentives for U.S. companies to keep their vessels under the national flag.

What is the national interest in keeping these ships under U.S.-flag? Opponents of the bill have pointed to Desert Shield/Desert Storm as evidence that commercial sealift can be procured in times of emergency.

My questions to the Senate are twofold: At what price, and in what state of readiness? Let me reemphasize to my colleagues in the Senate that there are no free meals in the real world.

There will always be a price for an immediately available sustainment sealift capability in a trained and effective state of readiness.

As chairman of the Senate Defense Appropriations Subcommittee responsible for managing the long-term costs of the Defense Department, I have come away with a much different lesson learned from Desert Storm.

The costs of contracting with the private sector in an emergency come at a high premium and the state of readiness is inadequate.

Logistical support is like an athlete's muscle—you must exercise these muscles early and often if you are going to compete and win in the field.

The first lesson we learned from Desert Shield/Desert Storm is that foreign shipping companies can easily gauge the needs of the U.S. military and the availability of tonnage to meet these needs.

The average cost to the United States for procuring U.S.-flag ships for sustainment sealift during Desert Shield was $122 per ton. Foreign-flag shipping, in contrast, charged rates averaging $174 per ton of cargo.

Norwegian and Italian shipping companies, for example, extracted premiums in excess of 50 percent higher than their normal charter price and, in some cases, doubled their charter price.

The second lesson from Desert Shield/Desert Storm is that the callup and coordination of civilian private sector operations to meet military surge requirements takes time.

At the height of Desert Shield, we had over 120 U.S.-flag vessels called up and in service in the supply line to the Persian Gulf.

Fifty-one of these ships were immediately available to the Department of Defense pursuant to their subsidy contracts with the Department of Transportation, and sixty ships were called up from the Ready Reserve Force [RRF] to supplement the commercial fleet.

We also chartered over a dozen large roll-on, roll-off vessels from foreign shipping companies to carry heavy equipment and inventories.

The RRF callup was painful in its early stages. The ships were being operated in a reduced state of readiness, and many were required to undergo extensive repair work in our shipyards before they could accept cargo.

We experienced serious short-term manning problems as our maritime labor force scrambled to bring people out of retirement or other sectors of the economy to fill the berths in a national emergency.

We had to wipe the cobwebs off the RRF and scrape for anybody who had ever sailed the high seas with a mariner's license.

At the end, we had an active force of U.S. Flag ships with 3000 civilian, volunteer merchant mariners crewing the RRF ships and 100 U.S.-flag private sector ships time chartered to the Military Sealift Command.

It was the U.S.-flag fleet which stepped into the gap and provided the sustainment sealift during the initial months of Desert Storm.

These ships were fully crewed and ready to serve because they were operating in regular commercial service in the foreign waterborne commerce. These companies and mariners were ready when our Nation called, and they honored their contractual commitments to the Federal Government.

The United States was not treated the same way by the foreign shipping community.

We had foreign ships refuse to enter the war zone and saw foreign crews desert their ships rather than carry cargo to the Persian Gulf.

In many instances the promise of double pay was not sufficient to keep these crews recruited and in active service during the Desert Shield/Desert Storm period.

When we were able to get the foreign ships under contract, we paid the premium.

It is my message to the Senate that we must not repeat the mistakes of the past. The Congress owes an obligation to this Nation to properly sustain our fighting men and women when the U.S. asks them to risk their lives in protecting America's security interests abroad.

I do not stand before the Senate today to defend an old and obsolete subsidy program.

With my good friend from Hawaii, I know the current system is dysfunctional and in need of a comprehensive overhaul.

The task that began in the 1970's and ends today is simple: How do we ensure an adequate U.S.-flag, U.S.-crewed private sector fleet to provide sustained sealift in a cost-effective and logistically efficient manner?

This Bill, H.R. 1350, is the answer to that question.

There are two cornerstones of this proposed revision of our sustainment strategy: reform of the maritime program itself and inclusion of a new, state-of-the-art commercial fleet into the Emergency Preparedness Program.

The first removes the inefficiencies that have crept into the old maritime programs over the last 50 years.

The second acts as our Nation's insurance policy on the costs of sealift and provides the link between those water-borne assets and the Department of Defense mobility structure.

When I served as chairman of the Senate Merchant Marine Subcommittee in the 1980's, the existing operating differential subsidy—the ODS program—was costing the Federal Government well over $350 million per year. U.S. companies were receiving differential payments for crew costs, insurance, vessel maintenance, and other associated ship costs.

The per ship costs ranged between $4 and $5 million annually. We had no effective fiscal controls over this program because ODS was a contract entitlement.

Today, the administration has the authority to enter into new subsidy contracts without the approval of the Congress or any prior appropriation of funds.

We first started the discussion about substitution for the system of contract entitlement with a system of annual appropriations in 1986. This bill, H.R. 1350, would finally accomplish this objective, which is what the Senator from Hawaii and I started out to achieve.

This bill would authorize only $100 million annually for the new sustainment sealift program, $250 million less than the funded levels in the 1980's and $150 million less than the costs of the existing program as it stands today.

We are proposing a firm fixed price system rather than a differential cost program. Participating companies are to receive roughly $2 million per ship per year, half the amount these companies receive under the current entitlement program.

U.S. companies will be forced to continue their improvements in productivity, capital and labor cost reductions, and intermodal transportation capability in order to remain competitive in the foreign water-borne commerce.

In order to assist them in this goal, this bill would eliminate unnecessary trade route regulation and allow them to better adjust to the changing trends in international cargo movements.

We would also be procuring participation in the Emergency Preparedness Program.

There has been surprisingly little discussion about one of the more important features of the proposed reform effort in this bill.

A major requirement of the new Maritime Security Program is enrollment in the Emergency Preparedness Program. This program is currently being tested as a pilot called the Voluntary

Intermodal Sealift Agreement, or the VISA program. The United States Transportation Company, in consultation with the Maritime Administration, developed VISA in response to lessons learned in the Persian Gulf war.

The objective of VISA is to tie U.S. carrier sustainment commercial sealift and their worldwide intermodal transportation and management networks into the DOD sealift program.

Mr. President, worldwide water-borne transportation is no longer just a port-to-port movement of goods. It now involves multibillion-dollar intermodal transportation networks, including ships, the rail industry, the trucking industry, and aviation links.

The industry's capital base includes sophisticated marine terminal and port facilities, worldwide computerization of cargo movements, and new age management systems.

The VISA program accesses this multibillion-dollar shipping network. The objective of VISA is to promote and facilitate Department of Defense use of these existing systems.

It would literally break the bank if Congress were forced to replicate, operate, and maintain a similar system.

The Government costs for such a transportation system ranges from $800 million per year and up, we are told, and we simply cannot afford those costs in this time of budget control.

An essential feature of the Maritime Security Program envisioned by this bill, H.R. 1350, is advance rate-setting through the Emergency Preparedness Program.

As a precondition for a fixed price MSP contract, the participating company must agree to rates established in advance for the chartering of its ships to DOD in the event of a call-up.

The MSP contract price paid to the carriers is, in its essential form, an insurance premium being paid for access to the multibillion dollar intermodal transportation network. This is clearly, in my judgment, the most cost-effective method yet proposed to allow for DOD access to sophisticated sustainment capability.

Finally, the Emergency Preparedness Program will also require periodic training exercises with the commercial fleet.

The United States Transportation Command is already conducting training exercises with select carriers on a voluntary basis as part of the VISA pilot program.

As part of the Maritime Security Program, training exercises through simulated call-ups will become an integral part of the Department of Defense's Sealift Readiness Program.

We will begin to exercise our sustained commercial sealift muscles on a regular basis. The next time an international incident, such as the Persian Gulf, arises, God forbid, the United States should be and will be ready under this bill.

As we debate this bill today, I ask my colleagues in the Senate to look at the large picture now and avoid getting caught up in issues and subissues that are being raised as reasons to block the passage of the House bill, H.R. 1350, today.

I believe that if we do not act on this bill today, there will be no U.S. flag sustainment fleet in the immediate future. The loss of our private commercial sealift will, in turn, result in huge defense costs and a gaping hole in our national sealift strategy.

Mr. President, the Senate has the opportunity to close the book on an issue that has been ongoing for decades and, I believe, may and should act in a manner which strengthens our national security.

I commend this bill to the Senate on the basis of the many hours I have spent with my colleague from Hawaii in trying to find a solution to the problems which beset our sealift capability.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I wish to congratulate Senator LOTT, the distinguished former chairman of the Subcommittee on Surface Transportation and Merchant Marine, for his commitment to the cause of reformulating our maritime policies, and also welcome Senator HUTCHISON, who was recently appointed chairman of the subcommittee.

I also wish to commend my colleague from Alaska for once again coming to the front and distinguishing himself in managing this bill before us.

Mr. President, the measure before us truly represents a bipartisan effort, and I urge all of the Members of this body to support this bill.

In recent years, we have spent a great deal of time and effort in evaluating and discussing maritime policy. Unfortunately, to date, this evaluation and discussion has not resulted in action. It is time to step forward and to ensure the continuing presence of U.S.-flag vessels.

This country, the sole remaining superpower, cannot be put in a position of relying on the goodwill of foreign nations to transport vital military cargo. And, we cannot rely on the goodwill of foreign nations to achieve the transportation of cargoes vital to our economic interests. It is not an acceptable or prudent national policy.

One of the issues that the Department of Defense [DOD] was forced to confront in the aftermath of the Persian Gulf conflict was the inadequacy of U.S. sealift assets.

While the logistical efforts put forth by the military in the gulf war were truly astounding, including the sealift of more than 10 million tons of surge and sustainment materiel by sea, it was evident that U.S. forces could not have accomplished this sealift alone without the support of foreign nations.

While the Persian Gulf conflict unified international opposition to the actions of the Iraqi government, and allowed for the international coordination of sealift, we cannot expect international support for every conflict.

We must be able to ensure that U.S.-flag shipping is available to bring materiel and ammunition to soldiers who are defending our interests on foreign soil.

One only has to look as far as the recent developments in Iraq. Our allies were less than forthcoming in efforts to provide assistance. If we need to proceed on a unilateral basis we must have the requisite sealift.

We must also remember that the United States is a maritime nation.

As a Senator from the only island State in the United States, I appreciate the importance of ocean shipping. The continued disintegration of the U.S.-flag transportation fleet greatly concerns me. I fear the possibility of being completely reliant on foreign corporations and foreign nations for transportation service.

A study of history will reveal the cyclical patterns of U.S. maritime development. Historically, the U.S.-flag fleet has suffered through long periods of neglect and disregard, only to reemerge. Reemergence usually occurs in times of national emergency, and usually only after the Government has spent considerable sums in reestablishing our fleet. Today we cannot afford to repeat this cycle again. Once more we are approaching a precipice. But this time it is one from which we may not be able to turn back. We are facing the total elimination of the international presence of U.S.-flag carriage.

After the end of the Civil War, interest in maritime activities waned, leaving waterborne commerce and shipbuilding mainly in the hands of foreign countries. In 1914, with the onset of World War I, ocean shipping rates rose 300 to 400 percent. In 1916, the U.S. Government realized the need for a strong U.S.-flag merchant fleet and began a massive shipbuilding campaign.

However, most of these ships were not complete by the end of the war and throughout the war, the United States depended largely on foreign shipping to support American soldiers. Unfortunately, little was learned from this, and most of these ships were allowed to fall into disuse within only a few years.

In 1936, Congress passed the Merchant Marine Act which would revolutionize American shipping. It provided a workable basis for building and maintaining a strong U.S.-flag merchant marine. This act came at precisely the right time—with the onset of World War II just a few years later.

In this war, once again, one of the most critical shortages was merchant shipping, but the United States was prepared and able to construct many vessels. By the end of the war, the United States had used over 4,000 war-built merchant ships. The U.S.-flag merchant marine was vital to war efforts and suffered great casualties.

At the end of the war more than 700 U.S.-flag vessels had been sunk and more than 6,000 civilian merchant mariners had lost their lives. Their casualty rate was second only to the U.S. Marine Corps.

In 1950, the private U.S.-flag merchant marine was comprised of 1,170 ships totaling 14.1 million deadweight tonnage. With this surplus of ships, once again, the merchant marine was allowed to become stagnant and shipbuilding was greatly reduced.

In 1970, the U.S.-flag merchant marine comprised 793 ships totaling 14.4 million deadweight tons. The number of ships had been greatly reduced, but, because of new, larger vessels, tonnage was increased by 300,000 tons. The United States was then ranked No. 8 in the world in deadweight tonnage. As we all know, in 1945, at the end of the Great War, we were No. 1. It may interest you to know we are at this moment No. 14. The superpower of this planet is No. 14 when it comes to shipping.

Today our merchant fleet has fewer than 350 vessels, although our tonnage capacity is over 20 million deadweight tons as U.S. operators use larger, more efficient vessels.

Although the United States has many of the most innovative ships in the world in its fleet, it still is increasingly difficult for American vessels to compete in the international trades against foreign subsidies, state-owned fleets, and the tax advantages and lack of meaningful foreign regulation of foreign vessels.

In addition, we have seen the promulgation of the operation of vessels under flags of convenience. Flag-of-convenience vessels have nominal connection to the country whose flag it flies. They sail under the Liberian flag, Panamanian flag and, believe it or not, under the Swiss flag. There are no harbors in Switzerland, but they have a fleet which, incidentally is larger than ours. They do not pay taxes, nor do their workers pay tax to the nation whose law they operate under. In fact, they do not even employ citizens from the host nation, and they may never even visit that nation.

In the last decade many U.S. shipping companies have begun placing their vessels under flag-of-convenience registries. The high cost of doing business under the American flag—paying full U.S. taxes, abiding by all U.S. laws and the numerous rules and regulations imposed by the Federal Government—have contributed greatly to this movement.

The simple fact is that today, if these trends continue, the U.S.-flag fleet will disappear from the sealanes of the world in less than 10 years. We cannot allow this to happen. This is why we must act now.

In the early 1990's, the Persian Gulf war once again proved the importance of a strong, vital U.S.-flag merchant marine. This conflict proved that the only reliable choice is to use American vessels with American crews. Too often during the Persian Gulf war, foreign-flag ships with foreign crews refused to enter the war zone.

We did not see this on our front pages, but on 16 different occasions foreign-flag vessels with our cargo declined to provide transportation service into the Persian Gulf. But we were fortunate in the Persian Gulf war. Saddam Hussein did not attack Saudi Arabia. Why he hesitated we have no idea. We had the time to get the job done with a unified coalition. We may not be so lucky in the future.

We must, therefore, have in place a modern, capable, and reliable U.S.-flag fleet with the same loyal Americans to crew them whose predecessors have never let us down in the more than 200 years of our Nation's history.

The Maritime Security Act of 1995 is essential to the military security of our Nation.

Specifically, this legislation will do the following: It will guarantee a pool of American citizen crews and a 50-ship fleet of militarily useful U.S.-flag commercial sealift vessels for our national security; it will also provide that the companies' entire intermodal logistical support systems—containers, rail cars, computer tracking, port operations, and management—will be available to the DOD when needed; it will guarantee the availability of American mariners to crew the DOD's sealift fleet of fast sealift ships, prepositioned ships and Ready Reserve Force vessels; and it will ensure that military supplies are on reliable U.S.-flag ships with patriotic, dependable American citizen crews. Many people are unaware that even our DOD reserve fleet vessels are operated by civilian merchant marines, because they cost less to operate than vessels directly controlled by the Navy.

This Maritime Security Act will cut costs by more than 50 percent compared to today's program. It will reduce burdensome Government regulations that hamstring U.S.-flag operators which give competitive advantage to foreign-flag companies.

And it will save the Defense Department billions of dollars—because the DOD will be able to use modern, state-of-the-art commercial assets rather than buying and maintaining this capability on their own. It is eight times cheaper to have the private sector perform this vital national security task—and this point alone makes the Maritime Security Act a commonsense bargain for America.

My fellow colleagues, in the past we have often taken for granted the role of the merchant marine in the economy and security of the United States. We cannot afford to do so today—nor can we suddenly rebuild a maritime capability in the future if we need it urgently.

It is simply not economically feasible or realistic to repeat the mistakes—the ups and downs of maritime support—we have made in the past.

We need a merchant marine in place that is strong and reliable in both peacetime and wartime. The new maritime security program will help our Nation reach this goal in a cost-effective, more efficient and more competitive manner. So I urge all my colleagues to support this program, and to enact it into law.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I think the Senate will note my partner across the aisle and I have been involved in a lot of issues together, particularly defense issues. With regard to these issues, at times the Senator from Hawaii has been chairman of the subcommittee. At other times, I have, depending upon the political winds of our country. But the Senator from Hawaii and I, as I have said in my opening statement, spent many hours over the last two decades trying to find a way to solve this problem.

At one time when I was both chairman of the subcommittee of Appropriations and the subcommittee of Commerce, I secured the approval of the Senate, not once but twice, of a special program, the Eisenhower Build and Lease program. We tried to put it back into effect. We actually had the Congress appropriate more than $1 billion in a reserve to start that program. It was not possible to get it started because of the various conflicts within our merchant marine industry.

We are now in a position of, really, suggesting to the Senate what amounts to a proposal like the Civil Air Reserve Fleet that we use in the event of emergency, where we have preexisting contracts with airlines that enable us to, really, commandeer our civilian airline fleet in order to meet our emergency needs. That is what we are talking about.

We have now switched over to a concept of relying upon the private sector to build and we will lease. The Eisenhower program was building and then leasing. That went on for a period of time, but it just did not work because of the problem within the industry of subsidizing one line and not subsidizing another. It led to, really, problems within the merchant marine fleet.

This answer that has come to us from the House, I think, is the most worthwhile approach that I have seen. It has taken a long time to work out. I am hopeful we will see approval of it today.

Does the Senator from Iowa seek the floor at this time?

Mr. GRASSLEY. Shortly.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMPSON). Without objection, it is so ordered.

Mr. FORD. Mr. President, I have checked with the participants in this piece of legislation. It may be some time before they will be able to start their deliberation. Therefore, I ask unanimous consent that I might proceed for up to 10 minutes, as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT TO THE FISCAL YEAR 1997 INTERIOR APPROPRIATIONS BILL

Mr. FORD. Mr. President, when the Senate returns to the consideration of the Interior appropriations bill, I intend to offer an amendment that would redirect the bill's earmark of $3 million to create a 20,000 acre national wildlife refuge in western Kentucky.

On Monday, the Senate approved the energy and water appropriations bill that, due to budget constraints imposed by this Congress, will not adequately fund an important, existing environmental project in western Kentucky called the Land Between the Lakes. LBL is a 170,000-acre preserve located just 15 miles east of the Interior bill's proposed wildlife refuge.

I fail to see the logic of what some people are proposing here: inadequately fund one outdoor facility, the Land Between the Lakes, on Monday, and then, just days later, try to appropriate funding for a new facility just 15 miles away. In Marshall County, where most of the proposed refuge would be located, the judge/executive has asked me, "why don't we take care of what we've got before we open a new nature preserve?" I could not agree more. The fact of the matter is that we are not taking care of the Land Between the Lakes. Its appropriation has dropped by one-third since 1994 even as millions of dollars' worth of maintenance projects pile up.

The rider in the Interior appropriations bill will ensure that LBL and other wilderness projects continue to go begging in years to come. That is because the $3 million earmarked in the Interior appropriations bill is just a fraction of the $15–20 million it will cost to actually create the refuge. That is not just me talking. Those estimates are from the Congressional Budget Office and the U.S. Fish and Wildlife Service. So, Mr. President, supporters of the earmark will be back next year, and the year after, looking for more money for this new project.

What is worse is that Kentuckians living in the surrounding counties do not even support the proposed wildlife refuge created by the bill. I have already mentioned the statement of the Marshall County Judge executive. Well, the Marshall County Soil and Water Conservation District has also gone on record, saying, "Our opposition to making a Federal Wildlife Refuge of the East Ford of Clark's River stems from the overwhelming opposition of land owners and tenants in the proposed area."

The sentiment if the same in Murray, KY, located in the adjacent county of Calloway. I ask unanimous consent to have printed in the RECORD an editorial from the Murray Ledger-Times.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

> [From the Murray Ledger & Times, Feb. 8, 1996]
>
> NATIONAL REFUGE AT ODDS WITH LBL DILEMMA
>
> We're scratching our heads over the latest from Sen. Mitch McConnell.
>
> What could McConnell be thinking?
>
> We know it's an election year, but can his plan to create a national wildlife refuge just 15 miles west of Land Between the Lakes be serious?
>
> The senator wants to buy up to 20,000 acres of land located on the east fork of Clarks River which is the site of the only major bottomland hardwood area left in Kentucky.
>
> Listening to McConnell's plans for the area reminds us of a brochure for LBL.
>
> The senator stresses the environmental and educational benefits of such a wildlife refuge.
>
> Hmmm—they say the same thing about LBL.
>
> McConnell's proposal is puzzling in light of his involvement in securing operational funds for LBL.
>
> The Tennessee Valley Authority has been under a constant barrage from congressional critics the last two years. We don't expect that scrutiny to lessen in the future.
>
> McConnell has created his own catch-22 with a plan to spend federal money to establish a wildlife refuge while TVA officials are busy peddling a commercialized LBL.
>
> If adequate funding can be assured for both wildlife areas, we gladly embrace McConnell's plan.
>
> However, Washington, D.C. becomes a twilight zone for such promises.
>
> Unless LBL's status becomes more secure, we'll have to say thanks, but no thanks, Mitch.

Mr. FORD. The Ledger-Times reminds us that the refuge and the project at Land Between the Lakes would provide very similar services and that the creation of the refuge will put future LBL funding at risk.

Mr. President, supporters of the refuge have compiled a seemingly impressive list of endorsements. But listen to who is on the list: Mall Interiors, the Rocky Mountain Elk Foundation, and Pride, Inc. I have no doubt that these are fine organizations, but how are they qualified to speak to a proposed wildlife refuge in western Kentucky?

Of course, there is also a list of Kentucky environmental organizations who support the refuge. But again, you will not hear the name of a single county or county organization in or near the proposed wildlife refuge that supports it. In fact, the closes organization is located over 80 miles and five counties away from where the refuge would be located.

We should listen to the people of western Kentucky before creating a refuge that currently includes at least 7,000 acres of cropland. What will happen to that cropland? What about the communities and families in and around the refuge? At a minimum, we should be holding official public hearings in the community and inviting public comment before establishing a wildlife refuge instead of creating it through an appropriations earmark.

Mr. President, my amendment redirects the bill's earmarked funds toward Land Between the Lakes projects that already enjoy wide support in Kentucky. First, my amendment provides $2.25 million for the repair and maintenance costs of "the Trace," which is the north-south roadway in the Land Between the Lakes. Over 2 million people visit the LBL every year and they ought to be able to get from one end to the other on a decent, safe road.

Second, my amendment directs $275,000 to repair the Brandon Springs Resident Center, which serves as a youth camp for underprivileged and disabled children. Brandon Springs is a great resource that we need to protect and preserve, but its facilities are inadequate and overextended. We need to make a commitment to Brandon Springs, not just for children from Kentucky, but for the children who come from Tennessee, Alabama, the Carolinas, Arkansas, Missouri, Illinois, Virginia, and Ohio for a real wilderness experience. This is not just a local operation. It is a national operation, Mr. President.

Last, my amendment directs $475,000 to provide water and sewer service and disabled access for the youth station in the Land Between the Lakes. Mr. President, it was heartbreaking to see this facility closed due to lack of funds, which gave kids the chance to live in the great outdoors and learn how to be good stewards of our natural resources. Until it was closed due to lack of funding, the youth station provided environmental education to thousands of schoolchildren, including my own grandchildren—and I have that personal experience, Mr. President—as well as adults. Teachers came to youth station to receive valuable training in environmental education at the facility and took that information back to their students. If the center is reopened, I understand that at least two different universities in the area have offered to assume the operational and programming responsibilities of the facility, which will allow programs to continue with virtually no Federal cost.

I have letters of support for what I propose today, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MAYFIELD, KY.

Senator WENDELL FORD,
Russell Senate Office Building, Washington, DC.

TO SENATOR FORD: I am writing this letter to you about a matter I feel is of great importance to our region in Western Kentucky. My name is Tawnya Hunter and I am a teacher at Graves County High School in Mayfield, Kentucky. The matter which I would like to inform you about is the closing of the Youth Station in Land Between the Lakes.

As you know TVA has been cutting back on its funding of LBL and one of its major cut backs was the closing of the Youth Station. The Youth Station has been serving children and adults of this area as well as across the country for about twenty years. Children come and stay for various camps though fewer and fewer have been offered to them in the last five to six years. Murray State has been using the Youth Station for about twelve years for several different teacher training courses. This is how I got involved. I attended a week long class on Environmental Education in which I got graduate credit for. The experiences and materials obtained during that week far surpass other classes and courses that are required to take for masters classes. The same course taught in a regular classroom would not have the same effect.

Since the impending closure Murray State has come up with a proposal to run the Youth Station for TVA. TVA turned the proposal down stating it could not afford what Murray State proposed. What was proposed was that TVA allow Murray State to run the facility and take over all costs after TVA restored the place to a running condition (i.e., fix the plumbing, telephones). This is where TVA said they could not afford this. To let a facility like this go would be a tremendous waste. If TVA truly cannot afford this proposal then maybe Congress could pass a one time appropriation to cover the initial cost to fix the Youth Station. This is where I need your help. I am not in the habit of writing Congressmen about problems but this is something that I feel very strongly about, and I do not know where else to turn. If there is anything that you could do to help, it would be well worth your time and would be greatly appreciated. Dr. Joseph Baust is the contact person at Murray State and has been working extensively on saving the Youth Station since 1991. He would be more than willing to meet with you or talk to you about this any place and at any time. He can also tell you much more about this than I can. I have really only told you the very basics of this issue. Irene Riley is my "Granny" (my husband's Grandma but I consider her mine too) and I know that she talked to you on your trip to Mayfield. Thank you in advance for any consideration you give this issue.

Sincerely yours,
TAWNYA HUNTER.

HOPKINSVILLE ELECTRIC SYSTEM,
Hopkinsville, KY, May 7, 1996.

MS. MOIRA SHEA,
Senator Ford's Office, Russell Senate Office Building, Washington, DC.

DEAR MOIRA: Thank you for your call and Senator Ford's interest in Land Between the Lakes (LBL). As I mentioned, the LBL budget request for this year is $6.6 million which includes $900,000 for TVA police services not included last year.

As a user of LBL, I personally think the budget has already been cut too far. Attractions have been closed and roads and facilities continue to deteriorate.

For example, "The Trace", which is the major north/south roadway, is falling into disrepair. The cost to repave it this year is $2.15 million which is not in the budget request.

The Brandon Spring Group Camp had to be closed because there was just not enough money to keep it in repair. This facility was used by Murray State and other schools as a youth camp, including under-privileged and disabled kids. There, these kids could feel the great outdoors and study the protection of our natural environment. The cost to refurbish this facility, which includes repairing the ceilings, a new HVAC unit, along with trail, fishing pier and parking lot renovation (handicapped access), is $261,000—also not in the budget request.

Funding of the above projects would go a long way toward restoring LBL to a more usable state and would be much appreciated by this region. However, this needs to be an add-on to the budget request as funding of TVA's other Land and Water Stewardship projects has already been cut to the bone. We, the friends of LBL, certainly would be obliged by any assistance Senator Ford could provide. Say "hello" to Senator Ford and Charles for me.

Sincerely,
AUSTIN B. CARROLL,
General Manager.

Mr. FORD. Mr. President, I am not opposed to the creation of a wildlife refuge, as proposed in the bill. What concerns me is the idea that we here in the Senate can or should designate thousands of acres of cropland—over 7,000 acres of cropland—as a wildlife refuge without even consulting affected farmers. What concerns me is that we would make this designation without consulting or seeking the consent of the affected localities. What concerns me is a proposal that results in Kentuckians writing to me to say, "no one seems to listen" isn't that something?—"no one seems to listen to what the majority of landowners and farmers, who are directly involved, are saying."

With my amendment, we will be listening to the people of western Kentucky. My amendment, unlike the proposal in the bill, has the support of citizens in Kentucky who live around the Land Between the Lakes and helps to preserve a vital natural resource we already have.

I urge my colleagues, if we get to the Interior bill, that they support the adoption of my amendment.

I thank the Chair and yield the floor.

UNANIMOUS-CONSENT AGREEMENT—VETO MESSAGE TO ACCOMPANY H.R. 1833

Mr. LOTT. Mr. President, I ask unanimous consent that the veto message to accompany H.R. 1833 be temporarily set aside to be called up by the majority leader after consultation with the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARITIME SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. GRASSLEY. Mr. President, I rise to speak on the maritime bill that is before us. I, first of all, want to compliment the leadership of the Senate, plus the managers of this legislation, because we are bringing up maritime legislation in the daylight. The last time it was brought up it was the last item on an omnibus bill, a very big omnibus bill. It was at 9 o'clock at night. It was just before we were taking a week's recess. And it was to finance a subsidy for the maritime industry.

For something that costly, for something that important, it seems to me it is not something that we should try to sneak through in the dark of night as the last piece of business because controversy that is connected with it might not be so welcomed to be answered. And, consequently, we just avoided all the necessary discussion we ought to have of very costly legislation.

So here we are not doing it on a Friday. We are not doing it late in the evening. And I want to compliment the leadership for bringing up a very important new program, a very costly new program, at a time when it can be given some legitimate consideration.

I also want to compliment our majority leader because he has been very forthright with me and very open with me in making sure that I had opportunities to present my point of view and to offer amendments. And it was not handled in the stealth manner that I have teased him about in the past as this bill was working its way out of committee. So I think again it is being done in an open and very forthright manner so we can have discussion on this.

I see the leader has come in. And if he is here to do other business, I would be happy to yield to him for that sole purpose.

Mr. LOTT. Mr. President, would the Senator yield just briefly?

Mr. GRASSLEY. I will yield, not losing my right to the floor, yes.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. I want to thank the distinguished Senator from Iowa for his comments. I know that this is an issue that he has an interest in. We talked about it. And I had indicated to him earlier, even though we picked at each other for years on this subject, that this would certainly be something that he would be given notice on and that we would meet with him and talk to him about the substance, about what was within it and not within it, and to give him ample time to study it and prepare remarks and amendments.

The only reason we are starting as late in the afternoon as we are is because I believe he had a conflict, and we wanted to try to accommodate him earlier. We are going to continue to proceed in that way. We want to make sure everybody has a chance to make their case and look at this legislation very carefully. I appreciate his attitude and his comments very much. I just wanted to thank him for that.

Mr. GRASSLEY. While we are talking about accommodating me, from 8 to 8:30 I have my monthly town meeting via television satellite with the people of Iowa. I would like to be able to keep that.

Mr. LOTT. If the Senator would yield for me to respond to that, and for no other purposes, Mr. President, we certainly have other Senators that want to make statements and maybe debate on amendments. We will make sure that nothing happens during that time that would be a problem for him. I yield the floor.

Mr. GRASSLEY. Mr. President, why are the taxpayers up in arms about Washington, DC? I think it is because they know how to spend their money better than Washington does. Americans are overtaxed. Ask any of them. Washington is also overweight. Today American workers work longer, they work harder, just so that Washington can spend more of their money. Taxpayers sacrifice more, I am sorry to say, so that Washington can spend more. That is just not right.

I want to make it possible for taxpayers to keep more of their own money. Part of that is to get Congress then to stop spending so darn much of it in the first place. That is why whenever I see a grossly wasteful program, I feel obliged to squeeze the fat out of it. And I urge my colleagues to help in that effort.

Maritime subsidies, the subject of this legislation, is one, one blatant example of how Washington wastes taxpayers' hard-earned money. It is a case study in how Washington turns common sense upside down. Instead of competition for lower costs, this program creates a monopoly that raises costs. Now we all expect competition to lower costs, and in most instances it does lower costs, but the program that is in this legislation creates a monopoly. And you know what happens most of the time when you have a monopoly? That ends up raising costs.

Instead of supporting the national security, as this program purports to do, this program is becoming irrelevant to national security.

This program delivers to the taxpayers higher costs and no national security benefit. Should that not be a clue that this program is wasteful? I know how the taxpayers would answer that question, Mr. President, but I am not sure yet how my 99 other colleagues will answer that question.

There is an old way and a new way of doing business in Washington. The old way is to spend money to get reelected. Just tax the citizenry more to pay for that effort. The money goes to wealthy companies—we call that corporate welfare—and it goes to powerful unions. It becomes corporate and union welfare. They keep getting more money from the Treasury and then they have clout. They pay contributions to reelect friends; that way they do not have to be accountable for the taxpayers' money.

A very ineffective program can exist and survive in Washington simply because it has so much clout. That is the political game in Washington. That is the political game that the grassroots of America, if people are candid with you, are sick and tired of. That is also how Washington wastes the taxpayers' money. To Washington, it is not waste. No, it is not waste. It is currency. It is the cost of getting reelected. That is the old way of doing business in Washington.

The new way, beginning with this Congress, is to be frugal. The era of big Government is over. Even President Clinton said that in his State of the Union Message. Of course, even big-spending liberals are saying that. We are a vote or two shy of the balanced budget constitutional amendment, and maybe then, eventually, of getting a balanced budget. The days of fiscal responsibility are nearly upon us.

That is why, Mr. President, I view this vote on this bill, my amendments to this bill, as a test case for this Congress, a test between doing business the old way and doing business the new way. Taxpayers are tired of the burden we place on the taxpayers to feed the appetite of Washington bureaucracy. It is time for Washington to sacrifice for a change.

Mr. President, I am pleased to have this opportunity to share my concerns about the bill before the Senate. That bill is H.R. 1350, the Maritime Security Act. I am pleased to have the opportunity to offer a few amendments to address these problems.

Frankly, if these amendments pass, I intend to support the bill. When I talk about supporting and when I talk about amendments, because of my historical opposition to maritime legislation subsidies, the subsidies that are in the legislation, people might feel, well, I am gearing up to talk this bill to death and to not let it come to a vote. I have assured the leader that we are talking about minutes on amendments and some time for me to make opening statements. The legislative process in this body on this bill, even though maybe the outcome may not be to my liking, should work its will.

Mr. President, my criticism of maritime subsidies has centered upon the fact that taxpayers and consumers have suffered under the burden of monopoly. Let me emphasize that monopoly, maritime rates, and also hidden back-door subsidies, all meant to materially and beneficially impact our national security, but all the time we have these monopoly rates and these hidden back-door subsidies, the sad commentary is that it only marginally assists. I want to emphasize, only marginally assists our national defense.

This may be one reason that the Defense Department resisted so strongly having to pay for H.R. 1350, the Maritime Security Act. The Department of Defense resists paying for this cost, and yet it is being offered to us as necessary for our national security. Who is more concerned about the national security of the United States of America and our responsibilities in the world than, of course, the Department of Defense? Yet, let me say to you, this bill is being offered as necessary for our national security, yet the Department of Defense resists strongly having to pay for H.R. 1350.

It seems these subsidies have far more to do with maritime union welfare and with corporate welfare and much less to do with the defense of our Nation. The maritime union welfare focus is clearly borne out by the 1993 maritime decision memo prepared by President Clinton's very own Cabinet officials. These Cabinet officials told President Clinton that the primary purpose of these maritime subsidies is to pay high-priced wages and benefits of seafarers. This is not Republican Senator Chuck GRASSLEY saying why we are having this bill before the Senate. This is the President's own Cabinet people saying that the primary purpose of these subsidies is to pay high-priced wages and benefits of seafarers.

Mr. President, now, again, besides the President's own Cabinet, I am not alone in opposition to our current system of maritime subsidies. Prominent public interest in taxpayer organizations such as the Citizens Against Government Waste, the National Taxpayers Union, Citizens for a Sound Economy, and Americans for Tax Reform all oppose H.R. 1350, the Maritime

Security Act. These are the people who issue report cards at election time. These are the people that your constituents—who expect you to be fiscally responsible—look at how they rate you, as fiscally responsible or fiscally irresponsible, who put out reports, and legitimately so, in the spirit of free speech and the process of representative government, to tell you or your constituents, are you pro-taxpayer or anti-taxpayer? These organizations oppose this legislation.

I might add, however, that these groups do support the changes I seek, the amendments I offer. They support my amendments because this is clearly a taxpayer/good government issue. My amendments are also supported by a number of retired admirals.

Now, for my colleagues on the floor who are so closely and legitimately associated with uniform military leadership of America, I want to remind you the very same admirals I am talking about are the ones who had previously been listed as supporters of this legislation but had been given some sparse information about it. Their comments are revealing.

I refer, first of all, to a letter I received June 8, 1996, from Vice Adm. George P. Steele, U.S. Navy, retired. I will not read the entire letter, but he said in part:

> My signature is on a form submitted by the American Security Council. I only signed that form to gain time for a mature study of a then-pending bill which could have resulted in subsidies for the VLCC's, and now that I see how my name is being used, I much regret it. I was invited to help that council formulate positions and I met with their representative, and I have not heard from them since, but I am not surprised that my opinions do not suit them.
>
> I do believe that this country needs and should pay for only that part of the U.S. Merchant Marine that is configured in type and numbers to support our authenticated defense requirements. I am opposed to the continuation of Federal programs mostly designed to line the pockets of unions, owners, and shipbuilders unwilling to give up grossly inefficient practices. We desperately need a fresh start, not a continuing jobs program.

Signed, "George P. Steele, Vice Admiral, U.S. Navy, retired."

Then we have a Karl J. Bernstein. This is a handwritten note that I received in June 1996:

> Thank you for your letter of May 30, 1996. It was most informative. Had I been aware of the facts, I certainly would not have agreed to the Maritime Reform and Security Act of 1995, as recommended by the American Security Council. Their pitch was the usual one: "We need adequate sealift." Of course, everyone will agree to that.

Then I have a letter from Rear Adm. J. L. Abbott, retired, U.S. Navy, June 11, 1996:

> Of all the words, those quoted from a Defense Department memo—

That is the one that I said the Clinton Cabinet presented to the President to make a final choice on this legislation.

I will start over:

> Of all the words, those quoted from a Defense Department memo strike me as most compelling. The issue of two major U.S.-flag container ship operators disposing of their U.S.-flag fleet is primarily an economic policy issue rather than a national security issue and should be treated accordingly. I certainly support additional hearings by both the Senate Commerce Committee and the Senate Armed Services Committee to probe exhaustively into the above-quoted statement in order to find out where the truth lies.

Mr. President, my staff has just advised me that when I was quoting from that last letter and I referred to the Defense Department memo, I said that was the very same memo the Cabinet people had given to the President for him to make his judgment on. I was in error. That memo referred to in Admiral Abbott's letter was the memo of former DOD Assistant Secretary Colin McMillen. That was Colin McMillen's quote I just gave.

I could give a lot of letters. I want to finish with this one. These are Charles Minter's comments, a vice admiral, and this is penciled in at the top of a questionnaire that I sent to him asking him to fill out. He said:

> I greatly appreciate your bringing to my attention facts of which I was previously unaware. I strongly support additional hearings at which voices in opposition can be heard so that legislation which best deals with our sealift capability to be effected.

I only bring these letters to my colleagues' attention because there is going to be a lot of weight put on by the proponents of this legislation in support of this legislation, saying that we have all these retired admirals who are saying this legislation is absolutely essential. I didn't know what sort of reaction I would get from these admirals. Obviously, all of them did not write back saying that they disagreed with their original position. But I would like to have my colleagues take with some caution this reference to their support, because we have a lot of these admirals who have questioned the use of their name.

We also have Admirals Minter, Edward Martin, Victor Long, Theodore Almstedt, Robert Stroh, and I have already talked about Karl Bernstein. These folks particularly were on record that we needed further hearings on this bill. We worked very hard with the chairman of the Commerce Committee to get hearings, and he consented to have those hearings, and they never materialized because of legislative responsibilities. But the reason for further hearings was that, at the time this bill had a hearing on it, opponents asked for an opportunity to be heard and there was no opportunity for the opposition to be heard. So the committee record, obviously, is not complete, because you should have both a balance between those who support legislation and those against the legislation. But the leadership wanted to move this bill out of committee very rapidly. That caused me some concern a year ago. I wish it hadn't happened, but it does happen, and when those hurdles are crossed, we are where we are now. So, hopefully, some of these things could have been worked out in committee.

Now, these admirals that I referred to also support my amendments to, first of all, restrict tax-supported seafarer war bonuses to those given regular military, so that there is a parity between our full-time military people who get war bonuses along with seafarers who get bonuses. I will show you where there is a terrible distortion and unfairness in that.

Seafarers, unlike people in the military, reserve some right to serve when called on, and our full-time military people do not have that right. So I have an amendment dealing with that subject. The next one requires subsidized U.S. carriers to provide both U.S.-flag vessels and crews in meeting its military obligations and does not allow them to substitute foreign flags and foreign crews for any or all of their military sustainment voyage responsibilities.

That amendment is a direct result of something Senator LOTT said before he was floor leader, when this issue was up, as I referred to well over a year ago, when it was brought up late in the evening on a Friday before we were taking a recess. He said that we have to have this program because we have to make sure that American merchant mariners with American-flag ships are available to transport our materiel. This legislation does not require that. This legislation allows contracting for non-American-flag ships to do that.

Fourth, we would provide for the Department of Defense, and other agencies, buy-America type laws that protect taxpayers from price gouging. Again, all of these admirals are listed by the American Security Council as supporters of this bill before us. Yet, when given some facts—and we mailed them the Rubin-Clinton maritime memo, which is a memo that I previously referred to that the Cabinet sent to the President to make his decision as to whether or not he should get behind this legislation. These admirals, particularly after reading the Rubin-Clinton maritime memo, agreed that my amendment should pass and that further hearings should have been held.

I offer these as basic commonsense amendments. They are protaxpayer and prodefense amendments. If we continue to subsidize maritime in the name of national defense then the U.S.-flag carriers and seafarers must serve when called. It must not be optional. It is not optional for the people right now who are leaving the United States on their way to Kuwait because of problems in Iraq with Saddam Hussein, and the President defines those problems as needing another 5,000 troops on the ground in Kuwait. You saw those families on television last night with tears in their eyes but with an understanding that this is their job. And without question, they just pack up and go when called. The people operating our maritime fleets have an option.

Of course, as with any taxpayer subsidies, taxpayer protections ought to be provided. So my amendments will do that.

I want to highlight a few problems, and be more specific than I have with H.R. 1350.

Problem No. 1: It is simple—maritime union and corporate welfare. If someone told you, Mr. President, that the Clinton administration was trying to mislead us, someone might respond, "What's new?" What would be new is after receiving clear evidence that this ploy involves a jobs program for the maritime union that the Republican-controlled Congress went along with it. And the Republican Congress, when I am done, is going to know that this is what this is. How people vote is their choice. But it is not the Clinton administration that is misleading us. We bear some responsibility on the majority side of the aisle for that. Earlier this year, Citizens Against Government Waste delivered to every Senate office such evidence. And it is this internal White House memo from Secretary of the Treasury, Robert Rubin, to President Clinton discussing maritime subsidies. This memo represents the deliberations and conclusions of the political heads of 16 different executive branch agencies—departments, and agencies. We have a memo from the President's own people to the President. I suggest that it was never intended that this would ever get into the public domain. This memo now shows that 15 of 16 agencies supported a deficit-neutral maritime subsidy option that—this is from the memo—"would meet the Department of Defense maximum military requirements."

There were three options in this memo. There was one of deficit neutral. That means, if you change your program, there is enough money someplace else in the budget to pay for it, or it is not going to cost any more than what is in the budget presently for that program. You have 15 out of 16 agencies. These are appointed by a Democratic President. They support a deficit-neutral option. Only the Transportation Secretary opposed this prodefense, taxpayer-friendly option because—again from the memo—"it provides less support than is sought by the industry and its supporters." Fifteen out of sixteen Democratic heads of agencies say we ought to take this option because it is deficit neutral, and it would still meet our military needs. You have 1 out of the 16, the Department of Transportation Secretary, who suggests that the other 15 ought to be ignored because their option provides less support than is sought by the industry and its supporters.

Here is the President of the United States representing 269 million people, the only political office representing the entire Nation, who is given a memo by 15 of his advisers saying here is a revenue-neutral option that will meet our military needs. But he has one who says, "Well, forget about the military needs. Forget about being deficit neutral. The industry wants this, and its supporters want this."

So instead of listening to the people, instead of listening to 15 of your 16 department heads, you get a recommendation from one person who says it is based upon what the industry wants and what its supporters want.

And that is what we have before us. What is truly remarkable about this memo is the admission that "subsidies are needed principally to offset the higher wages of U.S. mariners." President Clinton ignored the plan supported by 15 of his agency heads including, let me say, the agency that is concerned and which administers our national security—the Defense Department —and sent to Congress a far more expensive bill that 3 years later is basically included in H.R. 1350.

In other words, for President Clinton, the era of expensive Government is not over. With regard to the maritime labor subsidies he still supports wasteful Washington spending, and the subsidies that that spending means.

We all thought that this Congress was going to reform welfare as we know it. If we can eliminate welfare affecting the poor, you would think that we could eliminate welfare of the wealthy maritime companies such as Sealand and powerful maritime unions. But, of course, as we all know, welfare is great, if you can get it.

I suppose that might be what MIT's Defense and Arms Control Studies Institute Director, Harvey Sapolsky, was driving at when he was quoted in the August 1991 Defense News. He said this, and I quote: "Despite any accompanying rhetoric about national security, subsidies for the Merchant Marine fulfill the commonplace desire of obtaining a livelihood without the burden of having to compete to earn a living."

So I want to get it straight from the beginning of this debate. Both the Clinton administration officials and the Massachusetts Institute of Technology defense experts agree that maritime subsidies are little more than welfare.

What I find really interesting in this whole approach is that Members of Congress—particularly my friends on the other side of the aisle—denounce corporate welfare. And you even have Republicans saying that because we had in our tax bill of a year ago $30 billion for elimination of corporate welfare. So you are on to something. Yet, I will bet most Democrats plan to vote in favor of H.R. 1350 which will give wealthy maritime corporations hard-earned taxpayer dollars that these companies hardly need; hardly need.

For instance, after years of opposing subsidies, Sealand looks to gain the most from H.R. 1350. Why should taxpayers of this great country, people that work 40 hours or more a week, or families where two people work and can't pay their bills at the end of the week because so much of their income goes for taxes—why should these hard-working American taxpayers subsidize one of the world's largest and most successful container vessel companies that in recent years has posted record-breaking profits? Are Democrats for corporate welfare? Are these the Democrats, who have awakened Republicans to the crime of corporate welfare so that we put $30 billion of reduction of corporate welfare in our tax bill—are they for corporate welfare now when they support this bill? It appears so. But now what is really up? It is that, while Republicans complained about the millions upon millions of dollars that the AFL-CIO is spending to return Congress to Democratic Party control, my Republican-controlled Congress is on the verge of approving $1 billion in subsidies for some of the most politically active labor unions in the country.

How many Tuesdays and Wednesdays that Republicans meet—this is no clandestine meeting. These meetings are on everybody's schedule. How often do we meet as a Republican Party —I suppose the Democrats meet as the Democratic Party, and they may talk about the same things we talk about but from a different perspective—how many times do we meet and the subject is always coming up of the $35 million that the AFL-CIO is raising by taxing their members more—that $35 million is on top of what they are paying in labor union dues—this $35 million for the campaign for Democrats to regain control of the U.S. Senate?

We are always talking about that. We are nervous about that. We think it is awful that 40 percent of the union members who vote Republican are taxed by their leadership to run these horrible ads, and let me say intellectually dishonest ads, scaring the old people of America against Republicans. Forty percent of those union members vote Republican. They are taxed to run these ads against the political philosophy that they agree with, and they do not even have anything to say about it because this administration rescinded a rule that the Supreme Court gave the minority of American union members the right to ask for their dues back, that portion of which goes for political education. That rule was rescinded by this administration, so that 40 percent of the union members this year pay these dues to perpetuate a lie on television.

We are concerned about that in our Republican caucus, and yet here we have a Republican-controlled Congress on the verge of approving $1 billion in subsidies for some of the most politically active labor unions in this country.

Now, I want to give this some perspective because this is not just $1 billion, and this is not just $35 million that is being spent for this advertising now; this is real money per seafarer.

In an old report, in 1977, by the former House Merchant Marine Subcommittee ranking Republican, because the Republicans were in the minority then, Congressman McCloskey of California said all of the AFL-CIO members each averaged about 11 cents towards campaign contributions.

Obviously, that is way up now with the $35 million.

But there is a contrast between the rest of the AFL–CIO and the Seafarers International Union that contributed $29.06 to political activity. The Marine Engineers Beneficial Association gave a whopping $56.81 per seafarer, which is over 500 times what the average AFL-CIO member gave.

So here we Republicans stand today about to approve a 10-year $1 billion subsidy to pay maritime labor which, at least back in the 1970's, was about 500 times more politically active than the rest of the AFL-CIO unions.

Remember, that is what the Clinton Cabinet told us these subsidies were for—to pay for high-cost maritime labor unions. And I want to read that quote again. Secretary Peña said that you could not go with that option that 15 out of 16 Democrat agency heads wanted because it provided "less support than is sought by the industry and its supporters."

Now, that is problem No. 1 of this bill.

Problem No. 2 is that the Department of Defense already has VISA. VISA is an acronym for Volunteer Intermodal Sealift Agreement—VISA, V-I-S-A, Volunteer Intermodal Sealift Agreement. We are being told that this bill, H.R. 1350, will provide our national defense with a wonderful new intermodal transportation system that is crucial in time of national emergency. What is not commonly known is that VISA—again, the Volunteer Intermodal Sealift Agreement—is already in place and will be used to implement H.R. 1350.

Most U.S.-flag carriers have already transferred from the Sealift Readiness Program to VISA. The key point is legal authority already exists for VISA, and that is the Defense Production Act of 1950, and therefore H.R. 1350 and S. 1139 are not needed—not needed unless, of course, you want to funnel welfare subsidies to maritime unions, as revealed in the Rubin-Clinton memo.

So not only is this a high-cost program, but it adds little national security benefit. What kind of a deal is that for the already heavily burdened taxpayers of this great country, people who are spending for State, local, and Federal taxation 40 cents. A Washington bureaucracy is going to waste this money.

Problem No. 3 is that in the process of consideration of this legislation and building grassroots support for it, the active and retired military was misinformed. So some would ask the question, is this merely labor and corporate welfare? And, if so, why does our military support H.R. 1350 and S. 1139? The answer is simple. The Rubin-Clinton memo is evidence of the real position of our defense officials—not this bill. They offered a deficit-neutral plan that would subsidize their true military requirements—as few as 20 U.S.-flag vessels.

But when the Commander in Chief—and that is President Clinton—ignores his defense officials—he ignored the Department of Defense; he ignored 14 other agency heads—and he chooses a more expensive plan, the subsidies that are now included in this bill, then, of course, at that point you know he is the Commander in Chief. The military heads have no other choice but to publicly support their Commander in Chief's decision. Anybody participating in defense budget hearings has experienced firsthand this problem. Military leaders have to fall in line with the Commander in Chief.

But what about all of those retired admirals who support the Maritime Security Act? You can legitimately ask, shouldn't their view be entertained with some degree of authority because of their lifetime commitment to the national security of our country?

It has become clear to me that these retired admirals lent their name to an effort for which they had few reliable facts. Certainly, they did not know about the specific problems with the bill, nor did they know anything about the Defense Department's position, and they surely did not know about the Rubin-Clinton maritime memo.

As I stated earlier, I wrote to a number of these retired admirals giving them a copy of the Rubin-Clinton maritime memo, and I also sent them other information.

I received those very interesting responses that I have already quoted from. Some felt that they had not been fully informed and now support, at the very least, further hearings, and some support these amendments.

Problem No. 4 is that we have adequate sealift capacity with or without these subsidies. Now, here you get to the nitty-gritty of this legislation. It has been the same nitty-gritty for 50 years that we have been trying to promote a strong maritime industry. The excuse is we need it for our national security. I say, and the Department of Defense says, in a deficit-neutral way, with one of the other three options, their demands for the shipment of materiel in wartime can be met.

U.S.-flag companies have made it clear that their vessels will be available for national defense sealift if they reflag. In fact, our Government makes certain that, if they reflag, they flag under a country that allows the United States to maintain control over the vessels. The Defense Department Joint Chiefs of Staff prepared a definitive analysis of the sealift capacity and availability. It is included in the MRS Mobility Review Study, Bottom-Up Review update.

I ask unanimous consent to have printed in the RECORD an unclassified table from this study, which details the projected sealift capacity upon which our military can depend.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE C–17.—(U) FISCAL YEAR 2001 PROJECTED SEALIFT ASSETS WITHOUT MARITIME REFORM

[Unclassified]

Fleet	Ship type	Number	SqFt capacity	TEU capacity	Cube capacity
RRF	Breakbulk	47	551,111	0	842,074
	RO/RO	36	5,699,660	0	0
	Barge Trans	7		1,264	299,000
	CONT—RO/RO	1	47,906	501	
	T—ACS	9	359,816	667	48,170
	Passenger	2		175	42,140
MSC	FSS	8	1,705,385	360	
	LMSR	11	3,955,276		
	Breakbulk	3	44,361		68,200
	RO/RO	3	525,464		
	CONT—BB	1		726	34,600
MPS	RO/RO	13	2,044,835	6,053	
T–AVB	CONT—RO/RO	2		600	
APS	LMSR	8	2,721,388	2,400	
	RO/RO	3	274,663		34,500
	CONT—NSS40	2		4,000	
	Barge Trans	5			174,888

TABLE C–17.—(U) FISCAL YEAR 2001 PROJECTED SEALIFT ASSETS WITHOUT MARITIME REFORM—Continued

[Unclassified]

Fleet	Ship type	Number	SqFt capacity	TEU capacity	Cube capacity
U.S. Flag[1]	Heavy Lift	2	88,912	—	—
	T–ACS	1	53,642	36	5,785
	Breakbulk	1	4,054		3,250
	RO/RO	2	284,902		
	CONT—NSS20	2		2,140	
	CONT—NSS40	6		13,700	
EUSC	Breakbulk	24	558,553		309,195
	Car Transport	7	1,235,000		
	CONT—RO/RO	3	36,450	5,580	
	CONT—NSS20	2		890	
	CONT—NSS40	52		175,368	
	CONT—SS40	2		1,136	
Allied	Breakbulk	22	205,108		135,000
	Car Transport	3	733,482		
	CONT—NSS20	5		9,583	
	CONT—NSS40	10		12,003	
	CONT—SS40	1		250	
	CONT—BB40	2		276	12,386

[1] U.S. flag numbers are less economic withholds.

Mr. GRASSLEY. What is striking about this table is the extent of the vast array of sealift capacity that will be available to the United States in the event that H.R. 1350 subsidies are not passed.

I want my colleagues to note in particular the large number of vessels available to us. These vessels are what we call "effective U.S.-controlled vessels," and they include vessels that are owned by American companies. Foreign flags are reliable. First of all, keep in mind that many foreign-flag vessels are actually owned and controlled by American companies. They flag foreign, they flag under a foreign nation primarily to avoid the unbearable cost of the high salaries and benefits of U.S. seafarers. Foreign-flag vessels delivered about 50 percent of all cargo in the Persian Gulf war. Nearly 200 foreign ships were chartered from 36 nations. Only one ship loaded under DOD contract did not complete its voyage. The handful of small foreign feeder problems were the result of contract disputes with U.S.-flag carriers, not foreign flags.

But far more important is the fact that Congress has already funded the Department of Defense's wartime sealift requirements. Congress provided over $7 billion in the 1980's and will provide another $10 billion in this decade to meet the Department of Defense's unique strategic sealift requirements. The Department of Defense has, over the last two decades, constructed and purchased a sealift force to unilaterally meet our prepositioning and surge sealift wartime requirements as specified by the Bottom-Up Review. The ships of the Department of Defense's strategic sealift force are of the unique military design required to transport heavy tanks and other outsized fighting equipment.

Remember, most of the vessels subsidized by the Maritime Security Act are container vessels that will carry, primarily, sustainment supplies, such as clothing and food, and not sensitive military equipment. This brings all the more light to the significance of the conclusion of Massachusetts Institute of Technology's defense expert, Harvey Sapolsky, who stated:

> Most of the amount hauled in a crisis is done by government-owned standby and reserve ships.
>
> Moreover, there is a ready charter market for commercial cargo vessels when more ships are needed.
>
> The price required for these services in a crisis is cheaper than the cost of maintaining a large subsidized commercial fleet for a mobilization that may not happen again for years.

So, with problem No. 4, the Department of Defense has the capability of meeting our national security needs, getting our materiel from wherever it is now to wherever it must be to conduct war. They do not need this legislation. The Department of Defense said that when they recommended, along with 14 other department heads, to the President of the United States that there is a revenue-neutral, there is a budget-neutral way of doing this that meets our national security needs. That is the Department of Defense. That is 14 other department heads that say that.

Problem No. 5, this bill is not needed to maintain an adequate pool of American seafarers for defense sealift. This, again, refers to the Rubin-Clinton maritime memo. These subsidies will preserve about 2,500 seafaring jobs. There are numerous other sealift manning options. Mr. President, $100 million a year to save 2,500 jobs is too steep a price for taxpayers, in view of all these other options; $100 million to save 2,500 jobs.

This is the high cost of maintaining a monopoly, as I said earlier. This high cost reflects the great success in playing the Washington power game.

Modern, highly automated ships require fewer seafarers. The Government has carefully studied many measures to crew sealift. These include expanding the Naval and Merchant Marine Reserve programs.

What would be particularly cost effective is the option of certifying the mariners employed in the Great Lakes and inland waterways. This option would provide a very large labor pool of over 60,000 mariners who could be used during a national emergency.

Again, if you read the Rubin-Clinton memo, at the bottom of page 3—and this will be made available; it has been made available for everybody this morning in their offices, so every staff person has this. The Clinton administration argues this:

> Subsidizing carriers simply to preserve jobs would leave the Administration hard pressed to explain why it should not also subsidize every other industry that suffers job losses.

It is too bad that part of the Rubin memo was not followed, because that lays it out as plain and simple as you can. If you spend $100 million to save these 2,500 jobs, it is going to open it up so the President is letting down the floodgates for efforts for other new subsidies for other whole industries that suffer job losses.

I might ask, just what kind of seafarers' salaries and benefits are we forcing taxpayers to support? Again, in the Massachusetts Institute of Technology Manning study—according to this study, a master or a captain billet costs about $34,000 per month to pay for salary, benefits, and overtime; $34,000 per month. The earlier draft report placed the monthly cost at $44,000, but was lowered in the final report when I made it public that the taxpayers are forced to subsidize about 85 percent of these salary and benefit costs.

This MIT study concluded that with adequate reforms, such as eliminating featherbedding, we can lower subsidies to a little over $1 million per year. Unfortunately, H.R. 1350 provides well over twice that recommended by the Massachusetts Institute of Technology, which is $2 million per year.

Again, the Rubin-Clinton memo says at the bottom of page 9:

> Subsidies are needed principally to offset the higher wages of U.S. mariners.

Let's face it, these high-priced wages and benefits taxpayers are forced to subsidize are at the heart of the demise of our merchant marine fleet. A dozen years ago, then military sealift commander, Vice Adm. Kent Carroll, warned our merchant marine was crumbling. Twelve years ago, we had a vice admiral warning us about the crumbling of our merchant marine:

> Why are we in such a mess? One of the reasons is that crew costs continue to be the highest in the world. Monthly crew costs of U.S.-flag ships are as much as three times higher than those of countries with comparable standards of living, such as Norway.

Mr. President, the former military sealift commander hit it on the head. The taxpayer-supported crew costs are driving U.S. carriers to reflag. It makes a mess of the U.S.-flag merchant marine, and it makes a mess for the American taxpayers. It is time for real reform, but that has to be real commonsense reform.

I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, for more than 5 years, the Congress and two administrations have worked on a bipartisan basis to develop and enact into law a critical program to reform Federal support for the U.S. flag maritime industry and to revitalize our merchant marine as an element of our national defense sealift.

As chairman of the Subcommittee on Surface Transportation and Merchant Marine of the Commerce Committee, I am proud to say that this job is nearly complete. On December 6 of last year, the legislation that embodies this program, H.R. 1350, the Maritime Security Act of 1995, passed the House of Representatives with overwhelming support by voice vote, with full leadership support on both sides of the aisle. Here in the Senate, we have held full, open and public hearings in the Commerce Committee with all interested parties having the opportunity to present their views for and against this program. Significantly, all individuals or organizations affiliated or associated with national defense indicated support for this proposal.

I think you can see from the bipartisan nature of this bill—my colleague on the other side of the aisle and I, working with Senator STEVENS, who is the manager of this bill—that there is agreement on a very important reform that we must produce, and it improves the efficiency of the current program.

Here is what the bill does:

The Maritime Security Act will provide a fleet of militarily useful U.S.-flag commercial vessels and their American citizen crews for our Nation's defense airlift and sealift, as well as guaranteed access to modern intermodal transportation networks and management that can deliver cargo from Kansas to Kuwait and track it every step of the way.

For DOD to duplicate this necessary capability, it would cost over $800 million per year, eight times the yearly cost of the Maritime Security Program. When you think about it, maintaining that kind of ship fleet would be something that the Department of Defense would say would certainly increase their budget. But here we can do it for half the amount than has been done in the past, and it will do the job.

The Maritime Security Program Act, the bill we are discussing, will cut the cost of Federal support for these sealift vessels more than 50 percent from the program now in existence. This will have a spending limit of $100 million a year, compared to the current level of roughly $210 million per year, and this funding is subject to appropriations, not an entitlement, which is currently the case. So you can see that we are cutting back on the subsidy while maintaining this fleet at a much more efficient rate than we could do if we had to maintain the fleets within the Department of Defense.

The Maritime Security Act will eliminate outdated and unnecessary rules and regulations which impede the ability of U.S.-flag commercial vessels to compete, and that prevents, of course, the expansion and modernization of the U.S.-flag fleet. These changes will give our fleet more incentive to hold down costs.

This act will encourage the construction of commercial vessels in U.S. shipyards, a vital program for our economy and for our defense industrial base.

This act is essential to our defense. It is needed now, more than ever. Let me give you an example of how this works.

During Operation Desert Shield and Desert Storm, more than 350 ships in more than 500 voyages supported the multinational coalition, delivering an average of 42,000 tons of cargo each day. Under this program, 350 ships participated. At the height of this activity, there was a ship every 50 miles, a steel bridge along an 8,000-mile sea lane between the United States and the Persian Gulf. Ninety-five percent of all equipment and supplies needed by American soldiers in the field was moved by sealift. One-third was shipped on privately owned U.S. flag vessels, just what we are talking about today.

Using U.S.-flag vessels was more cost effective during Desert Storm. It cost about $174 per ton of cargo under non-U.S.-flag vessels, but with U.S. flags, it was $122, a 30-percent savings.

But more important, we were able to put American cargo on American ships using American crews to deliver to our American troops. In a time of crisis, we cannot depend on foreign ships. We cannot depend on foreign crews for sealift and sustainment requirements. Without this legislation, our Armed Forces would have to trust foreign vessels for the supplies and support they need to fight and win.

Mr. President, that is not right, and we are not going to let it happen. More recent events in the Persian Gulf area, where many of our closest allies have either refused to participate or refused to allow their soil to support American military operations, should make it very clear to everyone that we must have sealift fleets of vessels that we can count on under our flag and manned by Americans, and that is what this act does.

This act has the strong endorsement of the Department of Defense. General Rutherford, the commander in chief of the U.S. Transportation Command, our Nation's top logistics commander, testified at our Commerce Committee hearing last July that his command wants assured access to this type of quality and quantity of sealift capacity and mariners necessary to meet Department of Defense contingency operations.

This bill provides that. Without the enactment of this legislation this year, America's merchant marine on the sea lanes of the world could essentially disappear.

I am told that our number of U.S.-flagged ships could drop to below 100. Forty years ago, this country had the largest merchant marine fleet in the world and over 4,000 vessels flying the U.S. flag in international trade. Today, there are fewer than 400. Today, we are the world's largest trading nation, but 15 countries have bigger fleets than we do. We send 96 percent of U.S. exports overseas on foreign-flagged ships. The United States must not become a second-class maritime power.

Geography dictates that lesson today as much as it did 50 years ago. This Maritime Security Act is sound and vitally important. It is important legislation for our Nation's security, and it has been carefully developed by both Houses of Congress. It is essential to maintaining our maritime industry and defense readiness.

Mr. President, this bill is a bill whose time has come. I urge all of my colleagues to support it. I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. I thank the Chair and my colleagues.

Mr. President, I would like to start off by saying how much we all appreciate the work that Senator INOUYE and Senator STEVENS and other members of the committee have done in bringing this legislation to the floor.

It was interesting that one of our colleagues earlier said this is a new subsidy program. Well, it certainly is not a new subsidy program. We have had a maritime bill since 1936 which has done essentially what this bill does, and that is to support the American maritime industry. There is nothing new about this program. It certainly is not a new subsidy program.

It is new only in the sense that it is a major reform plan. It is a major reform plan in a number of significant ways because we on the committee, and I think most Members of Congress, know that while the old program has been a great help to our American maritime industry, there were some ways it could be improved.

I am not going to take a long time to hear myself talk on this proposition because I am not sure that there are right now any amendments even pending to the bill. I would like to think we ought to go ahead and pass it and move on to something else rather than spend time talking to each other about why we think it is a good bill.

I have only heard one of our colleagues talk in opposition to the bill. I think we ought to go along and get it passed. If anybody has any amendments, bring them up, let us debate them and move on with them.

I would like to point out that this is a major improvement. This is a major reform bill. No. 1, it greatly reduces the amount of money available to the American maritime industry to keep these private vessels available for the Department of Defense. It used to be running about $225 million a year. We have cut it by more than half. The assistance that is in this bill is less than half of what the assistance to the ships in the American fleet used to be. When there is a greater demand for more, we in this bill have come up with substantially less.

So to those who say, well, we may have been spending more than we should have, this bill addresses it. Instead of $225 million a year being available to keep these ships afloat, this bill has $100 million a year.

The second major improvement is that it is not an entitlement program. Throughout the history of the bill it has been an entitlement program. Whatever money was required was automatically available to the ship owners. This bill provides, for the first time—and this is a major, major change—that any of the assistance programs available to any of these ships has to be appropriated funds, appropriated by the Congress of the United States. It is no longer an entitlement program. That, obviously, is a major, major, and a very substantial improvement over the existing program.

It is subject to annual appropriations. That simply means—we all understand this—that every Member of Congress will get to look at this piece of legislation and this program, see how it is working, see whether we can justify the money each year and, if so, appropriate those amounts of money. On the other hand, if they think it is not working, then we have the same ability to lessen those appropriations. I think this is an absolute minimum that cannot go down any further than this.

As the distinguished Senator from Texas—and I was listening to her remarks—was talking about, this bill is important to the national security, the national defense of the United States. Simply put, we are spending a lot less money to have ships available in times of a national emergency than if we did not have this program, because if we did not have this program we would be spending up to $300 million per ship to have them just sit there and wait to be used in a time of national emergency.

It is far better to say that we are going to help the operation of some American commercial vessels that are operating every day out there, that are crewed with U.S. men and women who have been trained and who are able-bodied seamen, who understand how to run these ships, do it every day, that we can call on those ships and say, yes, this is an emergency in a particular part of the world, and we need this ship right away to transport ammunition and equipment to some far part of the world to take care of a national emergency.

If we had to spend defense dollars to have these ships sitting there when there is not an emergency, we would be spending a lot more money than a paltry $100 million. It would pale in comparison, if we had to build five or six $300 million vessels just to sit there in case someday we might need them and they will be there.

Not only that, if we had the ships there, there is no guarantee the crew would be there. If the ships are just sitting somewhere in dry dock, what is the crew doing? The crew is not doing anything—it probably does not have a crew. So then you have to go out and find the crew members in the time of a national emergency. Guess what? They are not going to be there.

So this legislation takes a very careful approach by helping to assist commercial vessels to operate with U.S.-trained crews, to have them available in times of a national emergency. They are ready to go from day one. And every private company that gets an assistance program under this legislation has to agree in advance that that ship will be available in times of a national emergency.

That is what this program is all about. It has been there since 1936. I suggest that when everybody says, well, we should not have subsidy programs, let us start off by saying, well, let us eliminate subsidies all over the world. It would be a great world. But that is not the real world. We have agricultural programs which have subsidies. I have supported them. I think they are necessary. But we also ought to have programs that make sense from a national security standpoint, from a national defense standpoint. I suggest that this is that bill.

This is not a new bill. This is not a new subsidy bill. It is a major reform bill subject to annual appropriations every year, and we have reduced the amount available by over 50 percent, from $225 to $100 million a year. That is a substantial and major, major change.

The other good news is, it has always been bipartisan. This has never been a Democrat-versus-Republican piece of legislation. It has the support that we have today. The majority leader, TRENT LOTT, from Mississippi, strongly supports it. Senator INOUYE from Hawaii strongly supports it. Senator STEVENS strongly supports it. Senator HUTCHISON, from Texas, myself, from Louisiana, we all recognize that this is important for the national security of this country. It has always been bipartisan.

The first proposal which, in fact, really moved toward reforming this program was by President Bush, who really, for the first time in a long time, got involved in this and really had a Secretary of Transportation, Andy Card, who really said, "Yes, I'm going to put this deal together." And we worked on it in a bipartisan fashion. And, lo and behold, we now have this bill that President Clinton supports, that Secretary Peña has worked on for so long and so hard. It has been bipartisan. It was very similar before under President Bush and is very similar now under President Clinton and the Secretary of Transportation.

So this is truly a bipartisan piece of legislation. It has national defense implications. It is not a runaway program. We have drastically curtailed it. We have made it subject to annual appropriations.

I suggest, let us get on with the voting. I mean, if we have amendments, let us offer them and let us debate them. Let us finish this. We are wasting time by just, I think, looking at it and talking about it and talking about it and talking about it and talking about it. I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I want to say that I agree totally with the Senator from Louisiana. This is a bill that has been worked on for a long time, and if there are going to be amendments—and that is fine—let us bring them up. Let us talk about them.

I think it is time to move this bill. It is a good bill. It is reform. It is going to save the taxpayers of this country $100 million while preserving the right of our Department of Defense to take those ships when we need them, as we did in Desert Storm. It worked. It worked. And it is going to be better.

I think it is time for us to come together. Let us talk about the amendments. Let them have their fair shot, and let us get on with it. I appreciate his remarks. I yield the floor.

Mr. GRASSLEY. Mr. President, I had the opportunity to hear the Republican manager of the bill, the Senator from Texas, speak about her support of this legislation, and for part of my remarks, she was absent. I wanted to remind her of some concerns I have about this legislation.

That concern is the oddity we have here of the Democratic Members of this body campaigning to end corporate welfare, to such an extent that they even have us Republicans proposing tax legislation to eliminate $30 billion of corporate welfare in our tax bill last year, and now the party that encourages doing away with corporate welfare, the Democratic Party, is very much for this legislation. Then you have the oddity of Republicans who considering the upcoming election are very, very concerned about the labor unions spending $35 million for the Democratic Party, to help the Democratic Party regain control of the Congress, and Republicans abhorring that situation. Then here we have a bill that is corporate welfare. It is also maritime union welfare.

So we have the oddity of Democrats who condemn corporate welfare voting for a bill that is going to establish more corporate welfare, and you have Republicans who say how awful it is that men and women who belong to unions do not have any choice about the assessment for $35 million more so that the unions can run ads against Republicans when 40 percent of the union Members vote Republican. Then here we are as Republicans, promoting legislation that is going to feed the treasury of the maritime unions.

This follows on that memo to the President where Secretary Peña was advising the President to ignore the recommendations of 15 out of 16 Cabinet agencies who said an option that was budget neutral and would still meet the national security demands of our country should be ignored because the industry—meaning the maritime industry; and its supporters, meaning the maritime unions—wanted this legislation that had this subsidy in it.

So I hear the Senator from Texas suggesting support for this legislation, contrary to a lot of concerns we have on this side of the aisle. And when we have meetings of our party—and she is one of the leader's of our party—very concerned about what is being done through the use of mandatory checkoff of union dues. In our councils, we are concerned about this. Then I see the leaders of our party supporting, almost, the buying of the rope to hang ourselves.

I remind the Senator from Texas that we have letters here from four organizations who I think she would agree with 95 percent of the time, who we would agree with 95 percent of the time, who oppose this legislation. From Americans for Tax Reform, I have a letter that says:

> This legislation, the Maritime Reform and Security Act of 1995 now pending in the Senate, Americans for Tax Reform strongly oppose the continuation of commercial maritime subsidies in any form, and strongly urges you to remove any such subsidies from this bill.

I have a letter from the National Taxpayer Union, also cosigned by the Council for Citizens Against Government Waste that says:

> Most Members of the 104th Congress have prided themselves in ending welfare as we know it. Unfortunately, the Senate may soon consider H.R. 1350, the Maritime Security Act, which is nothing more than a corporate and labor union welfare. The Council for Citizens Against Government Waste will key vote these votes for 1996 congressional ratings.

and then it says that they are very much against this legislation.

Then I will read from Citizens for a Sound Economy:

> On behalf of the 250,000 members across America, I want to express our strong opposition to H.R. 1350, the so-called Maritime Security Act and our strong support for amendments to this bill offered by Senator CHARLES GRASSLEY. The amendments would limit the cost to the taxpayer from this proposal without weakening our national defense.

I encourage leaders of our party, particularly those who are leaders of the group of us that have the most fiscally sound voting records, people who are always abhorring in our party meetings the waste of the taxpayers' money, and particularly when we have respected organizations like I just quoted from, those which we agree with about 90 percent of the time, why are we off the beaten path on this issue? Why are we Republicans, who pride ourselves for fiscal conservatism, subsidizing an industry, some of the same companies in the industry, that have the very highest of profits in recent months?

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, before the Senator from Iowa leaves, let me tell him I compliment him for his courage in taking on this issue. I agree with him. I think the subsidies that the Senator outlined are outlandish, they are not sustainable, they are not necessary, and they should be eliminated.

I look forward to working with the Senator in the near future to have an amendment to do that. I compliment him for his statement, for his work, and for the work of the organizations trying to save taxpayers' dollars and to ensure that Government act responsibly.

Mr. HOLLINGS. Mr. President, I rise in support of H.R. 1350, legislation to revitalize and stabilize our maritime industry. It is long past time for legislation to stop the flight away from the U.S. flag. The United States has a long and honorable maritime heritage and tradition, but we are facing the prospect that our maritime industry might not be part of our future.

The U.S. Government has imposed regulatory demands on the U.S. shipping industry, demands that are similar to those we impose on other industries. These demands reflect our national interest in protecting the safety of our workers and our environment and include tax liabilities, safety regulations, and operating requirements. While our maritime industry carries these regulatory responsibilities, other advanced nations have given special treatment to their maritime industries in efforts to maintain core shipping capacity. But even such special treatment has often been insufficient to help shipping companies to resist the temptation to shift their operations to unregulated, untaxed flags of convenience offered by certain less developed countries. Currently, over two-thirds of the world ocean-going fleet is operated under flags of convenience.

The Maritime Security Program is designed to offset the costs of operating under the application of U.S. law, and to stem the flight of U.S. vessels from U.S.-flag to flags of convenience. H.R. 1350 completely overhauls the existing maritime subsidy program, and ultimately will reduce Government expenditures on maritime policies by over one-half. The program will help our vessels compete globally by reducing some of the regulatory burdens that have restricted the commercial operations of U.S.-flag operators.

In exchange for receiving payments under this program, U.S.-flag operators will be required to sign agreements to make their vessels and related intermodal assets available to the Department of Defense [DOD] to sustain U.S. defense operations. Additionally, the operation of U.S. vessels generates a surplus of U.S. mariners. U.S. vessels operate 7 days a week, all year round, thus necessitating more than one mariner for each particular position. This surplus of mariners is instrumental in the crewing and operation of our reserve fleet of vessels. In the Persian Gulf war, the ability to crew our reserve fleet was seriously questioned, and the United States was forced to rely on 60- and 70-year-old merchant marine pensioners. Without the Maritime Security Program, we will not be able to crew the reserve fleet.

The United States relies on ocean transportation for international trade purposes and almost 99 percent of our international trade arrives on board a ship. Without a U.S.-flag merchant marine, we will be held hostage to the trade policies of foreign nations who would transport our goods abroad. The United States also relies on ocean transportation to protect our national security interests. U.S. shipping companies are required to sustain U.S. troops in foreign conflicts, and U.S. seamen not presently serving aboard ships are capable of being utilized to activate our reserve fleet of vessels in order to transport military equipment and other military surge cargoes. The continued presence of an active maritime industry ensures that the United

States will not have to rely on the kindness of other nations to achieve important national economic and national security objectives.

The United States is the world's only remaining superpower, but we could be put in the position of sending U.S. troops into war with only the promise that we would supply them, and then only if DOD can charter vessels willing to deliver cargo into the war zone. This position would be simply unacceptable. Ironically, DOD has spent billions of dollars in the construction of surge sealift vessels, and billions of dollars in maintaining a Reserve Fleet of vessels. However, DOD has neglected the most important component in marine transportation: who will navigate those ships and deliver the cargo. The commercial U.S.-flag industry provides a labor pool of experienced personnel capable of contributing to any defense logistical support need. If we do not pass this legislation, DOD will be forced to implement a new, and I will guarantee, costly program to train mariners for use in reserve situations.

Attempts to formulate a maritime reform bill over the years have had bipartisan support, and I look forward to continued efforts with my colleagues to revitalize our maritime industry. However, today we should take the necessary steps forward to ensure that the United States continues to have a maritime industrial base—it is simply too important to our national and economic interests to allow to vanish into the mist.

Mr. BAUCUS. Mr. President, the U.S. merchant marine is facing an uncertain future. The U.S. commercial fleet is falling behind which diminishes its power to protect the United States' interests abroad and at home.

This is why I strongly support the Maritime Security Act of 1995, H.R. 1350. This bill would be the beginning of the rebuilding of the U.S. merchant marine fleet. It will establish a fleet of privately owned, active and military capable ships to help maintain the defense of the United States' interests. This will help maintain peace and protect cargo during times of crisis in the world. The fleet would also be updated because of the bylines in the bill which in itself would make the merchant marine stronger and allow it to continue being competitive in the world market.

This bill through the building of the fleet will create jobs in many sectors of the economy. The increase in the economy will range from the workers on the ship all the way to those manufacturing the parts. The bill will also change the way that the costs of running a ship in the United States are offset. This will encourage more owners to register their ships under the U.S. flag. From the changes, old outdated regulations will be cut, such as the way to replace older vessels. This in itself will help keep costs down and help generate profits and revenues for all.

This legislation is very much in our national interest. And I, therefore urge its passage.

Mr. McCAIN. Mr. President, I would like to take this opportunity to address a very serious concern about the pending legislation.

The bill authorizes the payment of $1 billion to American shipping companies over the next 10 years to subsidize a 47-vessel, commercially owned Maritime Security Fleet.

Operators of American-owned, flagged and manned merchant marine ships participating in the MSF will receive a yearly $2.1-million retainer to remain on call to provide sealift services in the time of national emergency.

I appreciate that this new approach replaces the current, more costly program, which pays American shipowners an "operating differential subsidy" to remain available in the event of conflict. Under the ODS program, the Federal Treasury pays carriers the added cost of operating a ship under the American flag rather than foreign flag—a yearly figure that has hovered around $4 million.

So, I agree this program improves on the current situation. But, Mr. President, I believe we can do much better. I hope all Senators would agree we have an obligation to fully meet our military needs as cost-effectively as possible. The fact that the new program is more cost-effective than the existing scheme does not relieve us of our obligation to ensure that we continue to pursue the most cost-effective approach to meet our needs.

Let me emphasize: I profoundly appreciate that sealift is essential to effectively meet our security obligations across the globe, and that we must assure access to dependable vessels and qualified crews who will remain loyal to our cause.

Nevertheless, I am concerned that we are embarking on a program that may be excessively expensive. One that is not based on reasonable contingency scenarios and one that does not take into account our access to vessels and manpower other than the domestic carriers qualified to participate in the MSF.

When I asked the Joint Chiefs of Staff the number of American commercial ships which are necessary to meet our readiness needs, I was informed that they do not have a definitive answer to that question. I am very dubious about authorizing a $1-billion program without such basic information.

It is important to point out that the 47-ship level is based on assumptions that the United States must fight two major wars simultaneously with no allied assistance.

Sealift planning, like all readiness programs, should be based on realistic scenarios. Failing to plan realistically wastes money and skews priorities.

For instance, I don't believe it is realistic to expect that, in a scenario in which the United States is fighting two major wars, we will not have access to any allied ships.

Second, according to the Bottom-Up Review, the United States has access to nearly 90 ships which are operated under a foreign flag but are owned by United States citizens or companies and can be called upon in time of war. Our planning scenarios do not take into consideration our access to those vessels, many of which might be militarily useful.

My overwhelming desire is that we have strong and prosperous domestic merchant marine. I would hope, however, that we could accomplish that goal without having to resort to expensive subsidy programs. I would prefer that we address the core problems that make it much more expensive and difficult to operate under the American flag and eliminate incentives for carriers to operate under foreign flag.

I have discussed this matter with the distinguished majority leader. He understands my concerns, and we have agreed to jointly request from the Pentagon an analysis to determine the number of ships needed for the MSF, taking into account reasonable planning scenarios and our needs, factoring in: our access to allied ships; the availability of U.S.-owned vessels operated under a foreign flag; the impact of the ongoing equipment prepositioning program; and the Pentagon's own sealift shipbuilding program. We should only subsidize those ships to provide services which far less costly alternatives cannot provide. We will request the Pentagon to report its findings no later than May 1, 1997.

Mr. LOTT. I first want to thank my colleague for his careful attention to this very important matter of national security and economic security. The Senator from Arizona has given our Nation's future maritime policy very thorough scrutiny, and he should be applauded for his efforts. Our colleague, Senator PRESSLER, has also been in close consultation with me regarding maritime policy, and I wish to acknowledge his concern and his constructive efforts as well.

Let me begin by saying to the Senator from Arizona that I understand his concern and will join with him to request a report from the Department of Defense which describes under various reasonable and realistic scenarios the number of ships that should be included in the Maritime Security Fleet Program. I am firmly convinced that American-flag ships, crewed with loyal, American-citizen mariners, provide the most reliable, effective, and efficient means of meeting our Nation's sustainment sealift requirements and for providing the dedicated manpower to crew the Defense Department's organic surge vessels. At the same time, I agree it will be helpful for the Defense Department's report to also include information relating to DOD's reasonable expectations for access to allied ships; the availability of vessels operated under foreign flag but owned by U.S. interests; the impact of prepositioning programs; the need to crew the Ready Reserve Fleet; and the Pentagon's own shipbuilding program.

But I also want to emphasize that the Maritime Security Act is first and foremost about security. It is about protecting our national security, by ensuring that we will continue to have at our disposal a fleet of militarily useful U.S.-flag commercial vessels, and a trained, loyal American-citizen maritime workforce, to provide our military with reliable, global sustainment sealift capabilities. And it is about economic security, because only through maintaining a viable U.S.-flag merchant fleet in international commerce can we ensure fair ocean transportation rates for American businesses and consumers.

I want to assure the Senator that I understand his concerns with our Government's past maritime policies. That is why it is so important for me to make it clear that the Maritime Security Act is not business as usual. First, it will replace the existing Operating Differential Subsidy Program—at less than half the cost. Second, it is not an entitlement program. Only militarily useful vessels will be accepted into the Maritime Security Program; the vessel owners must apply to the Maritime Administration for admittance into the program. And third, for the first time ever, the military will have guaranteed access to the state-of-the-art land and sea intermodal logistical apparatus of the U.S.-flag commercial fleet. The people whose business it is to move cargo around the world will be actively assisting the Pentagon's transportation commanders, providing logistical know-how, intermodal equipment, and port facilities around the world.

The Maritime Security Program is the product of years of consultation among the military, the U.S. maritime community, and Congress. It is a well-designed, bipartisan solution to meeting our Nation's military sealift requirements for the next 10 years.

That said, I would like to briefly address some of my colleague's concerns with this legislation.

It is most significant that we are engaged in this debate at a time when the United States is deeply involved in military operations in different parts of the world—specifically, Bosnia and the Middle East—which demonstrates the wisdom of our top military planners who have sought to prepare contingency plans should the United States become involved in two major regional conflicts simultaneously. And this discussion also comes at a time when we have seen several of our closest friends in the Middle East and elsewhere refuse to cooperate with the United States in opposing Saddam Hussein's aggression.

The events of the past few weeks in Iraq demonstrate most clearly that the United States cannot, and should not, rely on other countries to support our military operations. If some of our closest allies cannot be counted upon to allow the U.S. military to overfly their airspace, or to use our own American military bases located on their soil to carry out our Commander-in-Chief's instructions, then how can we put the safety and well-being of our troops in the hands of foreign-flag ships and foreign crews?

Furthermore, in recent years many of the vessels once in our allies' fleets have flagged out to flags of convenience, or joined second registers, and most of their crews come from Third World nations. The report that the Senator from Arizona is proposing may reinforce the need for the Maritime Security Program, because the fleets of our allies are no longer what they once were.

Some of our Nation's most distinguished current and former military leaders have said, time and again, that we must have U.S.-flag commercial ships and American-citizen crews to effectively and reliably meet our sustainment sealift requirements. I agree with their assessment. We must make sure that our soldiers, sailors, marines, and airmen will not have to count on foreign-flag ships to bring their supplies and ammunition to a hostile shore. They have also urged us to support the U.S.-flag merchant marine, because they know that the Government-owned Ready Reserve Force—the Pentagon's rapid deployment fleet—relies absolutely on the availability of American-citizen merchant mariners to crew its ships. If there is no maritime employment, there will be no merchant mariners, and we will be forced to turn elsewhere.

Foreign-flag ships and foreign crews have proved unreliable in the past, they have turned around and fled in the face of danger. The U.S.-flag merchant marine, on the other hand, has served with distinction and honor since the Revolutionary War.

Additionally, if we put our trust in foreign-flag vessel operators to provide our sustainment sealift, we can count on them to do one thing—gouge us on shipping rates. During operations Desert Shield and Desert Storm, our Government paid $122 per ton for U.S.-flag ships to carry our military cargo. We had to pay foreign ships $172 per ton. If there is no U.S.-flag alternative to carry that cargo, I cannot imagine how that price could go anywhere but up.

It is true that there are foreign-flag ships under the effective control of U.S. citizens. But I would point out to my colleagues that some of these are vessels that are not useful to the military, and some of them have foreign crews upon which we cannot rely in a crisis or conflict. I would also point out that the Maritime Security Act would create a partnership between U.S.-flag vessel operators and military logistics planners—a partnership that is already underway, and that promotes joint planning and shared logistics capabilities. That, to me, is a much more preferable alternative to requisitioning a foreign-flag ship that happens to be owned by an American citizen, and then facing the task of refitting it, or forcing its owners to bring it to a U.S. port. The latter solution gets America a vessel at best, if all goes well. The MSP gets America an entire intermodal network that can carry a container from Kansas to Kuwait—under any circumstances, with complete reliability, and tracked every single step of the way.

Once again, I would like to thank my colleague for his input on this issue. I respect his recommendations and I welcome his assistance in this matter.

Mr. McCAIN. The majority leader agrees then that before any contracts are renewed for the second year of the program, the fleet will be adjusted to the number of ships identified by the Pentagon as truly necessary?

Mr. LOTT. As I noted earlier, the legislation we are considering subjects the Maritime Security Fleet Program to the annual appropriations process. Consequently, my colleague is correct in that we have guaranteed Congress the right to review each year the size and scope of the Maritime Security Fleet.

Mr. McCAIN. I might add the quadrennial defense review provides an excellent opportunity to examine and update our needs in the area of commercial sealift.

The majority leader is aware of a second concern I have about the pending legislation regarding $2.1 million per vessel subsidy.

While the $2.1 million figure is roughly half of the per ships ODS subsidy, the figure is still somewhat an arbitrary amount.

I believe that in acquiring necessary sealift services, we should apply the same mechanisms of competition that we employ in other areas of Federal procurement and acquisition.

I'm disappointed that the bill contains no competitive bid process. It may be that the number of available vessels to fully meet MSF requirements will exceed the number of MSP slots.

In that case, we should have some mechanism to test the market and acquire the needed services at the lowest cost to the taxpayer through some appropriate bidding procedure. Again, the majority leader and I have discussed this issue. We have agreed to request the Pentagon, the Department of Transportation, and the General Accounting Office to work together to craft an appropriate competitive bidding procedure. The Agencies will report their recommendation no later than April 1, 1997, so that the procedure can be employed prior to the renewal of any contracts in fiscal year 1998. Implementing the procedure will require statutory changes and the majority leader has pledged to assist in effecting this modification.

Mr. LOTT. My colleague is correct in that I am pleased to join with him to request the appropriate Federal agencies to determine whether a competitive bidding process is appropriate to the Maritime Security Program and, if so, to recommend procedures for Congress to consider. Such a determination and any recommendations should be submitted to us so that we can proceed accordingly for fiscal year 1998 appropriations.

In finally deciding on a competitive bidding process, however, we must not undermine the program in the interest of competition. If operators do not have some assurance of stability if they are doing a good job, they will not participate in the program and upgrade their vessels. In that event, we will be throwing our money away.

Mr. McCAIN. Mr. President, I would like to raise with the majority leader an additional question. Section 16(e) of the bill requires the Secretary of Defense to select nine ships in the DOD's Ready Reserve Fleet to receive regular maintenance and the bill directs the Secretary to geographically distribute the maintenance contracts. As we learned in the Gulf war, properly maintaining RRF vessels is critical to ensuring timely and efficient sealift capabilities.

Two issues are raised. First, we must make it absolutely clear that in selecting which Ready Reserve ships will be maintained, our national defense needs take priority over any secondary goal of geographically distributing the contracts.

Those ships best able to meet our sealift needs under the most likely contingency scenarios should be selected without any extraneous considerations.

Second, the goal of geographically spreading out the maintenance work must not take precedence over the Secretary's responsibility to obtain the highest quality services at the lowest price to the taxpayers. Quality and price must remain the primary consideration of where we choose to have maintenance work conducted. Would the majority leader comment on that?

Mr. LOTT. I appreciate the Senator's concerns. It is certainly our intent that the Secretary choose those ships that are most militarily useful no matter where they are ported. Furthermore, it is not our intention that efforts to geographically distribute RRF maintenance contracts take precedence over quality and cost considerations.

Mr. McCAIN. So the intent of the legislation is that the Government acquire the highest quality services at the lowest prices, irrespective of where the shipyard is located, and that the ships are selected for maintenance based on their military utility first and foremost.

Mr. LOTT. The Senator is correct. I appreciate the opportunity to make the clarification.

Mr. McCAIN. Finally, Mr. President, I would like to express my concern about a perhaps unintended impact of a provision of this legislation regarding Maritime Security Fleet carriers who also contract with the Federal Government to carry non-military cargo and are paid the U.S.-flag vessel contract price.

Such carriers will now be allowed to subcontract non-contingency related Government work to foreign-flag carriers as a replacement for U.S. vessels called up under the Maritime Security Fleet Program to serve in a time of conflict.

We must be sure that when such subcontracts are entered into, the U.S. carrier receives from the Federal Government only the amount it pays for the subcontracted services, not the amount the carrier would otherwise receive for providing the services directly. I think this is a very important point.

Mr. LOTT. I thank the Senator. It is certainly our intention that carriers do not automatically receive the U.S.-flag vessel contract price if an MSP carrier subcontracts its work to a foreign-flag vessel. It is our intent that the Federal Government be able to renegotiate such contracts, based on the cost of the replacement vessel. Again, I thank the Senator for making this clarification.

Mr. McCAIN. One final point: When the Pentagon analyzes our sea lift need they should work with the DOT to determine what the availability of American-flagged ships would be without the subsidy program. This is important information we must have before any contracts are renewed.

Mr. BURNS. I understand the benefits that the Maritime Security Program will bring to the United States. However, I am concerned that, because this program will be funded through yearly appropriations, folks will come looking for offsets every year, which might result in new tax proposals, user fee proposals, new duties, or other revenue raising mechanisms to be imposed upon the maritime industry at some point down the road.

This would be devastating to the export/import trade in my home State of Montana, as well as in other States, because a tonnage tax is particularly harmful to bulk commodities. Bulk commodities, as we all know, are highly price sensitive in the extremely competitive world market—an increase of a few cents a ton, caused by new taxes or fees, can make the difference between whether a foreign purchaser buys U.S. grain or grain from some other country.

I do not believe that exporters and importers should bear the burden of funding—through tonnage taxes or user fees—this program. On the contrary, because the program is designed to benefit the country as a whole, it should be funded from general receipts from the treasury, and, as I understand it, that is what this act does, is that correct?

Mr. STEVENS. That is correct. It is an annual appropriation.

Mr. BURNS. So this act does not, in any way, contemplate funding this program by imposing new taxes, user fees, or other revenue raising devices that would adversely affect the maritime industry customers like the good farmers in Montana.

Mr. STEVENS. That is correct.

Mr. NICKLES. I ask unanimous consent to speak as in morning business for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DISTRICT OF COLUMBIA WELFARE WAIVER

Mr. NICKLES. Mr. President, most of my colleagues are well aware that I have introduced legislation to rescind the portion of the DC welfare waiver that was recently enacted by President Clinton, because it went directly in opposition to the welfare bill that was passed overwhelmingly by this body and the House of Representatives and was signed by the President and is now the law of the land.

What a lot of people didn't know—I didn't know it—is that when the President signed the welfare reform bill that had 5-year time limits for everybody in America, where no longer could you get cash assistance for the rest of your life—and President Clinton campaigned on 5-year limits, on limitations of cash benefits, and also on work requirements—what I didn't know is that the District of Columbia was granted a waiver, which the President signed a couple of days before, that allowed the District of Columbia to have a 10-year waiver from time limits. So there is a 5-year limit in Michigan, a 5-year limit everywhere else in the country, but not for the District of Columbia, and there are no work requirements for the District of Columbia.

Frankly, I find that to be very deceitful and misleading by the administration—to go out and tell everybody, hey, we have ended welfare as we know it—and every time I have heard that line, I applaud, because I know the present welfare system hasn't worked. It has hurt a lot of people who it tried to help. You don't need anymore evidence than to look at the District of Columbia. If anywhere is in need of welfare reform, it is the District of Columbia.

Why in the world would the President, at the same time he is signing welfare reform for the rest of the country, and bragging about it, getting great accolades—and it helps his rise in the polls and his move back toward the political center—suddenly decide to support a bill that had already passed Congress twice? He vetoed it the first time. The third time was a charm. He decided to sign it the third time. But at the same time he signs it, he exempts the District of Columbia from welfare reform, from time limits, and he exempts the District of Columbia from work requirements.

Unbelievable. Misleading. Deceitful. All of the above apply to President Clinton's position on welfare reform. Guess what? He got caught. I didn't know about the DC waiver when he signed the welfare bill. Somebody started to tell me about it, and I looked at it and I said, "I can't believe it. I can't believe that the same administration that has said, yes, we are going to have real time limits, real limitations, real work requirements, would totally exempt the District of Columbia where 1 out of 6 people is now on welfare. That is so misleading, it is unbelievable.

Now, I am very pleased that the Department of Health and Human Services has withdrawn the waiver today. I have a letter that I will have inserted into the CONGRESSIONAL RECORD, signed by Mary Jo Bane, Assistant Secretary for Children and Families, stating that DC's waiver approval as it pertained to work requirements and time limits has been withdrawn by HHS.

Why did they decide to do this? I think because they got caught. I know the House was interested in legislation I introduced, with time limits that would apply to every State and the District of Columbia. We were going to pass that. I think the administration realized they were going to be embarrassed politically for trying to be on both sides of welfare reform, saying they are for welfare reform and, at the same time, exempting the District of Columbia. They realized that that wasn't politically defensible. They figured they better cut their losses and repeal the waiver. That is my guess.

It is interesting to note—and I will put this in the RECORD. I received this. This waiver that protects the District of Columbia from potential welfare reforms is getting a cool reception from some members of the city council. Linda Cropp, a DC council member who chairs the subcommittee on human services, announced Tuesday, at a September 30 hearing on the Federal waiver, that she was concerned that welfare waiver would make the city a "welfare magnet" since there are tougher standards in nearby jurisdictions.

She is exactly right. If you have tougher restrictions in Virginia and Maryland, and in every other State, but you have no restrictions and no limitations on welfare in the District of Columbia, it would be more than a welfare magnet, it would be receiving welfare recipients from all around. DC council member Harold Brazil said the waiver "encourages dependency and ruins initiative." He is exactly right. I will enter that in the RECORD as well.

I have a couple of articles that dealt with this issue. One was an op ed piece that was in the Washington Post on September 15, 1996. It is entitled, "Welfare as Usual in D.C.; The bureaucrats Conspire to Block Reforms," by Matthew Rees, as well as an op ed article by Naomi Lopes and Michael Tanner, entitled, "Welfare Reform Bypass for DC," and one final op ed piece from Investor's Business Daily, "Will Clinton Undo Welfare Reform?"

I ask unanimous consent that all of the material I have referenced be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 15, 1996]

WELFARE AS USUAL IN D.C.; THE BUREAUCRATS CONSPIRED TO BLOCK REFORMS HERE

(By Matthew Rees)

It doesn't really matter how you measure the District's social conditions, because by nearly every standard they are appalling. The infant mortality rate is the highest in the nation, the percentage of the population receiving benefits through Aid to Families with Dependent Children (AFDC) is double the national average, more than one-third of the children are living in poverty and more than two-thirds are born to single mothers. With the District leading the nation in so many of the wrong categories, it could be an ideal place to gauge the effectiveness of the welfare bill President Clinton signed last month. Unfortunately, some last-minute collaboration between the District and the federal government means the nation's capital will be experiencing little in the way of genuine welfare reform.

To better understand why the prospects for reform are dim, you have to go back to Aug. 19. That was the day the Clinton administration's Department of Health and Human Services (HHS) issued a landmark announcement, telling the District it was free to make cash payments to welfare recipients for up to 10 years so long as the recipients "made a good-faith effort to find employment." The announcement also declared that the District would be granted a relatively liberal definition of what constitutes "work." According to top District officials, obtaining a driver's license, or attending self-esteem classes, would meet the work standard.

The net effect of this decision was obvious: It undermined the welfare legislation the president was about to sign. The District would have no real obligation to comply with the bill's five-year time limit on cash welfare benefits, and the requirement that 50 percent of each state's welfare caseload be engaged in strictly defined work activities by 2002 would be considerably watered down. "If you wanted to send a message to the District that 'we're not serious about welfare reform,' a 10-year waiver was a pretty good way to do it," intones Mickey Kaus, a neoliberal commentator who's written extensively on welfare.

Some see nothing wrong with the HHS exemption, known as a "waiver," because it gets the District out from under the new law's mandates and allows for local flexibility. That would be an attractive argument if the District had followed the lead of states with pioneering welfare reform projects, such as Michigan and Wisconsin. Unfortunately, just the opposite has been the case: The District maintains a welfare system that is viewed by many welfare experts as one of the country's least demanding, and least oriented toward reform. The results speak for themselves.

That's why allowing the District to opt out of major provisions of the new welfare law is such a grave error. Even when confronted with scenes straight out of Dickens, the District government has chosen to maintain the infrastructure supporting these conditions. The genius of the federal welfare bill is that while it gives states the freedom to craft their own public assistance programs, it also gives them positive and negative incentives to get people off welfare before five years and require them to go to work after two years. For the District to even come close to complying with these demands would require trying new and innovative approaches to old problems. With the waiver, however, it's unlikely such approaches will be considered.

The pro-waiver arguments rested on a simple belief: The District would suffocate under the new rules. It was, therefore, preferable to preserve the old ones. HHS spokeswoman Melissa Scolfield justified the waiver with the explanation that "we are, of course, sympathetic to the special situation of the District."

The shortcoming in this paternalistic approach is self evident. Given the option of doing nothing versus implementing reforms that result in some short-term pain for some greater long-term gain, it's all too easy to choose the former. The Clinton administration was in a position to remove this option by denying the waiver request. But far from discouraging it, top HHS officials saw the District as an opportunity to subvert Clinton's stated intentions of ending "welfare as we know it." The waiver was originally needed because of the welfare reform legislation approved by Mayor Marion Barry in August 1995. Among other things, that legislation instituted a "family cap," which meant mothers on welfare who had additional children would be denied increased AFDC payments. Teen mothers could also be required to attend school and live with a parent, guardian or adult relative. While these are steps in the right direction—though they appear to have substantial loopholes—they are not the sweeping reforms the District desperately needs. Nonetheless the District needed a waiver before it could proceed because parts of the legislation conflicted with federal law. Financial constraints meant the waiver application wasn't submitted to HHS for nearly a year, and it only happened then because President Clinton announced the he would sign the Republican welfare bill.

The president's July 31 announcement set off a flurry of activity at the upper echelons of HHS. Many of the agency's welfare analysts opposed Clinton's decision—three of them have resigned in protest—and they immediately set out to soften the bill's impact, on the District in particular. Top welfare officials in the District government were alerted to the consequences of the legislation by Wendell Primus—one of the HHS officials who has since resigned—and Robert Greenstein, an influential private welfare analyst. HHS helped fill out the waiver and put it through the "fast track" approval process.

Most striking was the waiver's approval time. Republican governors such as Tommy Thompson of Wisconsin and John Engler of Michigan have been highly critical of waiver delays, charging that HHS bureaucrats have taken forever to approve changes that have already been approved by their state legislatures. Some have been held up for years, yet the District's sailed through in just 13 days. Mary Jo Bane, another of the HHS officials who resigned, was one of the lead staffers who decided that the D.C. waiver—and seven others—would be granted at the last minute.

This incurred the wrath of Bob Dole, the Republican presidential nominee and congressional Republicans such as Representative E. Clay Shaw, chairman of the congressional subcommittee responsible for welfare legislation. Senator Don Nickles, an Oklahoma Republican, has gone so far as to introduce legislation seeking to repeal the waiver, charging that the administration had approved it only because the president was "trying to placate some liberal people who did not like him signing the welfare reform bill." The House Ways and Means Committee will also be holding hearings on the matter this week.

Certainly there are reasons for concern about how the District would fare under a more restrictive system. HHS officials were sure that the District wouldn't be able to meet the legislation's work participation rates. Stephen Fuller, a professor at George Mason University, points out that the District had a net loss of 15,000 jobs over the past 12 months and has lost 60,000 job over the previous five years. While there's been healthy employment growth in Northern Virginia over the past year (25,000 new jobs), nearly all of this growth has occurred outside the Beltway, and it's been in sectors such as engineering and business services.

Another factor is the District's unique demographics: Welfare populations tend to be concentrated in the inner cities, but each state's overall percentage of welfare recipients levels out once it's balanced against the lower percentage found in rural and suburban areas. The District has no suburbs within its rapidly declining population of 560,000—the only state with fewer people is Wyoming—and most of the recent population loss has come from those not on welfare. In other words, there's good reason to expect the proportion of District residents receiving AFDC—currently about 13 percent—to remain stable or increase.

Yet some of these concerns may be exaggerated. The work participation rates, for example, are nowhere near as demanding as many analysts have claimed. Indeed, the District—and all 50 states—have considerable flexibility in determining how they meet the rates. Because the law contains an array of loopholes, a state could have work participation as low as 20 percent—as opposed to the 50 percent rate spelled out in the legislation—and still be in full compliance.

When the federal welfare legislation is viewed in this light, the District's situation doesn't look so dire. The current work participation rate among District welfare recipients is 6 percent, and the District program is recognized as one of the most poorly run in the country. Once the new rules went into effect, as much as 10 percent of the caseload could be expected to stop asking for welfare (studies have shown this has happened elsewhere, probably because some portion of welfare recipients are already working in underground jobs). And at least some of the rest would presumably respond to the threat of having their benefits cut off and go to work. But extending the waiver for such a long period of time ensures only that the status quo will be preserved.

Or, it could get worse. One long-term effect of the waiver could be that it attracts the poor of nearby states such as Virginia and Maryland, which do have tough reforms in place. In Virginia, for example, welfare recipients must go to work within 90 days of beginning to receive public assistance.

"We want to make sure the District doesn't become a welfare magnet," says D.C. Council member Linda W. Cropp (D-At Large).

The fear grows out of the District's past experience with providing relatively generous benefits to the homeless, only to see the homeless population rapidly expand. The situation with welfare is similar: The District's 1994 AFDC benefits were $428 per month for a parent and two children (the 18th highest when compared to the 50 states). This was $55 a month higher than in Maryland, and $137 a month higher than in Virginia, according to a recent study by the Washington-based Population Reference Bureau. When these figures are mixed with the generous time limits on the receipt of cash benefits, and liberal regulations on work, the magnet effect begins to look plausible.

District and HHS officials emphasize there was nothing extraordinary about the waiver, which they claim was similar to those granted other states, such as Wisconsin. But the Wisconsin waiver is part of a strongly reform-oriented plan, where the District's is not. The District will allow welfare recipients to continue receiving cash benefits for a decade or more, with minimal threat of being cut off. That guarantees the District will have little or no real incentive to begin the welfare-to-work experiments found in so many other states.

At a time when the District's social conditions so clearly scream out for major changes, it seems tragically misguided to declare that the nation's capital will be not the first place where there's welfare reform, but the last.

[Briefs from Washington]

WASHINGTON.—A waiver that protects the District of Columbia from stringent welfare reforms is getting a cool reception from some members of the city council.

Council member Linda Cropp, who chairs the committee on human services, announced on Tuesday a September 30 hearing on the Federal waiver.

Cropp said she was concerned the waiver will make the city a "welfare magnet" since there are tougher standards in nearby jurisdictions.

Under reform legislation passed by Congress, most welfare recipients who do not find work cannot continue to receive benefits for more than five years.

The waiver backed by President Clinton and Mayor Marion Barry gives the city a 10-year exemption.

Councilman Harold Brazil said the waiver encourages dependency and "ruins initiative."

The council members aren't alone. Some Republicans in Congress have already voiced their opposition to the waiver.

At a hearing Tuesday before the Human Resources subcommittee of the House Ways and Means Committee, Congressman E. Clay Shaw Jr., R-Fla., said if the city plans to use the waiver to exempt more than 20 percent of its current caseload, he will move to repeal the exemption.

Democrats countered by saying Idaho, Michigan, Massachusetts and Washington state have all been granted similar exemptions.

WILL CLINTON UNDO WELFARE REFORM?

Having shifted right by signing the Republican welfare-reform bill, President Clinton is now doing all he can to assure the left that he will "correct" the new law. Machiavelli would be proud.

We can see why Clinton would like political cover on welfare: the left is dead certain the new law will cause untold suffering. And the media seem to feel obliged to give heavy play to anything—instant studies, predictable resignations—that feeds those fears.

Why is the hue and cry so much greater after the fact? Some on the left no doubt were surprised when the president signed the law. Others may think the suffering they expect to see is necessary, but still feel guilty about it. Now that it's too late to change matters, they can safely stand on principle—and demonstrate their purity, too.

Such mixed motives are natural to any large group. Much stranger are the conflicting signals that come from a single man: our president.

Clinton has already promised that, if he can't get the members of Congress to revise the law in the ways he wants, he'll enforce it as if they had.

Thus, he signed a bill into law, but he's actually going to implement something else. It's an incredible bait-and-switch, even for Bill Clinton.

But this is just the culmination of his welfare politics. In 1992, "New Democrat" Clinton vowed to "end welfare as we know it." But in 1993 and 1994, when his own Democrats ran Congress, he dropped the ball.

After voters handed Congress to Republicans, the GOP called Clinton's bluff by sending him a welfare-reform bill not wholly unlike the one he just signed. Clinton vetoed it. Congress sent up another: He vetoed that, too.

Enter '96, a campaign year. Republicans drafted a third welfare-reform bill. Bob Dole prepared to bash Clinton for delivering three vetoes where he had promised reform. So the president finally, reluctantly, signed.

As he's done so often before, Clinton thus signaled to the voters that he'd learned his ways, that he'd moved permanently to the right. Yet he knows full well that he'll turn left after the election. With welfare reform, though, he's signaling left at the same time. Clinton has his hazard lights on.

The welfare backflip exposes what's fundamentally wrong with this White House: It governs by fraud. What's more, it has no shame.

Take Vice President Al Gore's comments on a recent Sunday talk show:

The vice president admitted the welfare system is "cruel" and needs to be changed. Yet, seconds later, he pointed out that the welfare act's changes do not go into effect until July 1, 1997—leaving plenty of time for Clinton and a Democrat Congress to scrap the law.

And if Republicans maintain control, Gore added, Clinton would use the line-item veto to fix things Clinton and liberals don't like about the bill.

What things are those? Ask the first lady. Interviewed in Chicago, she said she didn't like the limits on food stamps or on payouts to legal immigrants. She said she'll speak out next year to "correct" the welfare-reform bill that her husband signed.

If the bill was so flawed, why sign it in the first place? No one held a gun to the president's head. Why not work to fix it, and sign it later?

The questions are obvious. But such logic doesn't work with Clinton. Stand on principle? Avoid shame? This politician never shoots straight: Everything is a bank-shot, or worse.

It's no wonder polls show a majority of us do not trust our president. How can we? Not only can we not trust him to do what he says. We can't even trust him to do what he does, because he undoes what he does. Next thing, he'll be telling us that's not what he did.

Accepting the GOP nomination, Bob Dole spoke scornfully of leaders "unwilling to risk the truth, to speak without calculation." he went on: "All things flow from doing what is right."

Reforming welfare is right. Now we just need a leader who will do what is right.

[From the Washington Times]

WELFARE REFORM BYPASS FOR D.C.

(By Naomi Lopez/Michael Tanner)

"Welfare as we know it" has been ended, right? Well, not in the District of Columbia. Even as President Clinton was signing the new welfare reform bill with one hand, with the other he was simultaneously granting the District, a 10-year waiver exempting it from most of the requirements in the new welfare bill, including time-limited assistance and certain work requirements.

The waiver for D.C.'s "Project on Work, Employment, and Responsibility" (POWER), submitted in early August, was rushed through the Department of Health and Human Services' "fast track" waiver approval process just three days before Mr. Clinton signed welfare reform into law. As a result, welfare reform will have only a minimal impact on welfare dependency in the District and an even smaller impact on D.C. welfare spending.

For example, the welfare reform bill calls for a five-year lifetime limit on welfare benefits. Not under the District's waiver; there would be no cutoff of benefits for any D.C. resident who could not find a job that pays more than welfare benefits. The most unfortunate aspect of this exemption is that the District, aided and abetted by the Clinton administration, is sending a message that the rules will not apply to its residents and that cash assistance is still an entitlement.

While one of the big selling points of the new welfare reform law was its requirement that welfare recipients work in exchange for benefits, the District's waiver defines work activities so liberally as to be meaningless. Attending a job-training program or engaging in job search (i.e., looking for work) will be enough to satisfy the District's work requirement. Thus, welfare in the District will remain pretty much as we know it. Yet few welfare systems are as badly in need of reform.

Despite the fact that 1 in 6 District residents are on welfare, more than a third of District children still live in poverty. Out-of-wedlock births have reached alarming proportions. Of the District's more than 50,000 children in welfare families, 83 percent were born out of wedlock and 10 percent come from broken homes. Only a mere 1 percent of Aid to Families with Dependent Children (AFDC) households contain two parents.

* * *

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Despite the fact that 1 in 6 District residents are on welfare, more than a third of District children still live in poverty. Out-of-wedlock births have reached alarming proportions. Of the District's more than 50,000 children in welfare families, 83 percent were born out of wedlock and 10 percent come from broken homes. Only a mere 1 percent of Aid to Families with Dependent Children (AFDC) households contain two parents. Long-term dependency is increasingly the norm as is second- and third-generation welfare dependence.

D.C. has followed the liberal route of trying to solve its welfare problems with money. On a per capita basis, the District has the highest federal social welfare program spending in the nation. Of the 50 states and District, the District ranks:

First in per capita federal spending on AFDC, food stamps, Medicaid, housing assistance, job training under the Job Training Partnership Act, and community development.

Second on Medicare and state employment services.

Fourth on compensatory education for disadvantaged children.

Fifth on Supplemental Security Income and the social service block grant.

Twelfth on child nutrition programs.

The value of the full package of welfare benefits in the District (including cash assistance, food stamps and nutrition assistance, housing assistance, Medicaid and so on) totals more than $22,745 per year for a single mother with two children. Because welfare benefits are tax-free, a working person would have to earn nearly $14 per hour to take home an equivalent paycheck. Indeed, the District's welfare package is the fifth-most-generous in the nation. Is it any wonder that so many recipients make the rational choice of welfare over work?

The welfare reform bill fell far short of what is necessary to truly end welfare as we know it. But the District, with the complicity of the Clinton administration, seems unwilling to make any change in the status quo.

The District government is setting up a social time bomb that the rest of the nation will, most likely, be responsible for defusing. In 10 years, the District's waiver will expire only after it will have promoted and perpetuated a failed and reckless system. And at that time, the federal government will be called upon to bail out the District again. By that time, the damage may be irreversible.

Mr. NICKLES. Mr. President, the Washington Post today had an editorial that was critical of me. Basically, it said, wait a minute, we granted waivers to other areas. Why would you try and take away parts of the waiver—they actually said we were repealing the entire waiver. They were wrong. Why would you do this just for the District of Columbia if not for other areas?

The legislation I introduced, frankly, did not apply just to the District of Columbia. It says a 5-year time limit applies to everybody in the country. There won't be a single waiver to exempt someone from the 5-year limit. That was the guts of the bill. There would not be a waiver that would undo work requirements. Those were the two major elements of the bill. It just so happens that the District of Columbia was the only waiver request that went directly away from welfare reform.

There are 30 States, plus the District of Columbia, who have received welfare waivers. Guess what? All 30, except for the District of Columbia, moved toward work requirements, toward time limits—most of which had shorter time limits than 5 years. But not the District of Columbia; it was a waiver away from welfare reform, a waiver for the status quo, and it was a waiver, basically, where President Clinton and the Clinton administration was saying: District of Columbia, you are exempt from welfare reform. We don't think you need to do it.

I am pleased I finally hear that HHS has rescinded the order. I believe they did it because it is the political season, and they knew they were going to take some heat. They made a serious mistake. But we have to make sure they are not just postponing it for 2 months. We want to make absolutely sure that there is no way that sometime after the election, in November or December, they would go ahead and grant a 10-year waiver. We want to make sure that is not up their sleeve. If we have to pass legislation to make sure of that, we will do it. There is no reason in the world why we would work as hard as we did for real welfare reform for everybody in the country—to end cash assistance as an open-ended entitlement, a perpetual way of living—and not do it in the District of Columbia.

I might mention, Mr. President, I think there are some games that were played. This waiver request by the Clinton administration was granted in 14 days. I might tell my colleagues that some areas have had waiver requests pending before the administration for months, some for years, some for 2 years, all of which were trying to have a waiver from the old law, which would not allow time limits. Most of the waivers that States wanted to enact, like Wisconsin, Illinois, Oklahoma, and others, wanted to have time limits and work requirements. They wanted people to get off welfare and go to work. They wanted to have learnfare requirements where children of welfare recipients would be required to go to school, like every other child. If they didn't have their kids in school, they would lose welfare payments; or they have to make sure their kids receive vaccinations, or they might receive penalties.

States have had great initiatives. So this administration has been very slow on many of those States. As a matter of fact, the President, in May, made a nationwide radio address complimenting Wisconsin on their welfare reform and talked about granting their waiver, and this is great. Guess what? He hasn't granted the Wisconsin waiver yet. That was months ago. But he granted the DC waiver in 14 days. That was granted right before signing the welfare reform bill. And the DC waiver had no time limits. It has a 10-year exemption. How is that fair to the people in New Hampshire? They are going to have a limitation on how long they can receive cash payments. The State of Hawaii had a waiver request granted by the administration in just the last couple of months, since signing the bill. But the State of Hawaii had a 5-year limit. Indiana got a waiver request signed, but it was a 2-year limit, not a 5-year limit. But the District of Columbia comes up and, in 14 days—unbelievable speed for the Department of Health and Human Services—they get a waiver signed by the President that says you are going to have a 10-year exemption—10 years, no limit, and no work requirement. What a sham. What a shame. What a shame that this President and this administration would be so deceitful as to try to pull that over on the American people.

I am pleased that the Department of Health and Human Services realized their mistake. My guess is that the political people said, "Hey. This could come back to hurt us, or haunt us. Therefore, let us withdraw it."

I am pleased that the District of Columbia City Council, which never requested a 10-year waiver on work requirements, never requested a 10-year waiver on lifetime benefits—I am pleased that some of the council members realized that this is terrible. This would be a disaster for the District of Columbia. So I am pleased that evidently not only are they going to have some hearings but some Members think it would be a serious mistake, and they don't want the District of Columbia to become the welfare capital of the United States.

So I am pleased with the announcement of HHS today. I think the administration got caught in trying to have it both ways on welfare reform. To say "Yes, we need welfare reform with time limits and work requirements" while at the same time trying to undo welfare reform—to exempt work requirements, to exempt time limits—they should be ashamed of themselves. I am pleased they reversed themselves for about the fourth time on this issue.

I thank the Chair. I yield the floor.

MARITIME SECURITY ACT

The Senate resumed the consideration of the bill.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Hawaii.

Mr. INOUYE. What is the pending business, Mr. President?

The PRESIDING OFFICER. H.R. 1350 is the pending business.

Mr. INOUYE. Mr. President, I just wanted to advise my colleagues that we have not received any requests to submit amendments on this side. Do we have any amendments pending at this moment?

The PRESIDING OFFICER. There are no amendments pending that the Chair is aware of.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. INOUYE. Yes.

Mr. STEVENS. Mr. President, the Senator from Iowa is conferring off the floor concerning amendments that he may offer. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate stand in recess subject to the call of the Chair. I will state to the Chair it will be about 30 minutes.

There being no objection, at 6:27 p.m., the Senate recessed subject to the call of the Chair.

The Senate reassembled at 7:08 p.m., when called to order by the Presiding Officer (Mr. SANTORUM).

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. H.R. 1350.

Mr. MCCONNELL. I ask unanimous consent to proceed for 8 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL WILDLIFE REFUGES

Mr. MCCONNELL. Mr. President, in the United States, there are 571 Federal wildlife refuges. There is only one State that doesn't have any, and that, unfortunately, is the Commonwealth of Kentucky.

To look at a couple of States that are comparable in the size of population to my State, Oklahoma has 9, Louisiana has 16, Alabama has 7.

Mr. President, it is pretty clear that Kentucky, when it comes to Federal wildlife refuges, has not been treated properly down through the years. I have been working on this issue since 1989. I introduced the first bill to create the first Federal wildlife refuge in Kentucky. It is not easy to find appropriate spots in the east. Many of our friends out west have more public land than they want. But in the east, it is not so.

We isolated—"we," working with the Kentucky Fish and Wildlife Service and the U.S. Fish and Wildlife Service—identified an area in Kentucky that makes sense. I introduced a bill which was reported out of the Environment and Public Works committee to authorize this refuge. It is my hope that the Interior appropriations bill will include both the authorization and appropriation to begin the acquisition.

Let me just say that no land will be condemned under this proposal. Only land will be purchased from willing sellers. That is a little bit different from the way some Federal wildlife refuges have been created. As a result of that, there is very minor opposition in our State to the creation of our first Federal wildlife refuge.

My dear colleague from Kentucky earlier today took to the floor to point out that this was not needed, and that we had another facility called the Land Between the Lakes—which is operated by the Tennessee Valley Authority; it is a wonderful facility; a wonderful place—but that it really needed the money; and, if he were given the opportunity to do so, would offer an amendment to take the money away from the Federal wildlife refuge and give it to the Land Between the Lakes.

Mr. President, the Land Between the Lakes has already been given all the money they asked for. I am on the appropriations Subcommittee of Energy and Water which receives the request. We gave them all they asked for. They may ask for more someplace down the road, and it may be appropriate to give them more someplace down the road. But I do not think, particularly in these tight times, that it makes sense to throw money at a group, or a project, or an activity that is not asking for it.

So, if this amendment is offered at some subsequent time, obviously I am going to oppose it. I find it somewhat astonishing that my colleague would find it inappropriate for Kentucky to finally—it came into the Union in 1792—to finally have a Federal wildlife refuge.

It was suggested by my colleague that this was an incredibly controversial proposal. In fact, it is just the opposite. There are few who may oppose it, although if they own land in the area and don't want to sell they don't have to. And a wildlife refuge is a good neighbor. If you do not want to sell, it is a great neighbor to have right next to you. There is nothing that would keep any landowner in this area from keeping this property forever in this proposal.

There are 57 conservation groups and sportsmen from Kentucky who support this.

I ask unanimous consent that it be printed in the RECORD, Mr. President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS THAT HAVE ENDORSED THE CREATION OF THE KENTUCKY NATIONAL WILDLIFE REFUGE

Appalachia Science in the Public Interest.
Association of Chenoweth Run Environmentalists.
Audubon Society of Kentucky.
Bell County Beautification Association.
Berea College Biology Club.
Brushy Fork Water Watch.
Community Farm Alliance.
Daviess County Audubon Society & Kentucky Ornithological Society.
Department of Parks.
Eastern Kentucky University Wildlife Society.
Elkhorn Land & Historic Trust Inc.
Floyds Fork Environmental Association.
Friends of Mill Creek.
Gun Powder Creek Water Watch.
Harlan County Clean Community Association.
Hart County Environmental Group.
Highlands Group Cumberland Chapter Sierra Club.
Kentucky Academy of Science.
Kentucky Association for Environmental Education.
Kentucky Audubon Council.
Kentucky Citizens Accountability Project.
Kentucky Conservation Committee.
Kentucky Fish & Wildlife Education & Resource Foundation.
Kentucky Houndsmen Association.
Kentucky Native Plant Society.
Kentucky Society of Natural History.
Kentucky State Nature Preserve Commission.
Lake Cumberland Water Watch.
Land & Nature Trust of the Bluegrass.
League of Kentucky Sportsman.
League of Women Voters of Kentucky.
Leslie County KAB System.
Little River Audubon Society.
Louisville Audobon Society.
Louisville Chapter 476 of Trout Unlimited.
Louisville Nature Center.
Madison County Clean Community Committee.
Madison Environment.
Mall Interiors.
Midway Area Environmental Committee.
National Wild Turkey Federation.
Oldham Community Center & Nature Preserve, Inc.
Peterson's Fault Farm.
Pleasant Hill Recreation Association.
Pride Inc.
Quail Unlimited.
Rockcastle River Rebirth.
Rocky Mountain Elk Foundation.
Ruddles Mill Conservation Project.
Scenic Kentucky.
Shelby Clean Community Program.
Shelby County Clean Community Council.
Sierra Club Cumberland Chapter.
Steve & Janet Kistler.
The Nature Conservancy/Kentucky Chapter.
The Wildlife Connection.
Trout Unlimited/KYOUA Chapter.

Mr. McCONNELL. Mr. President, my colleague made reference to the Rocky Mountain Elk Foundation, and said that was a bunch of "foreigners" and didn't have a presence in Kentucky. He might want to know that there are several thousand supporters of this group in Kentucky. Just because it is called the Rocky Mountain Elk Foundation does not mean it does not have a lot of Kentucky members. Mr. President, I have a letter from the Kentucky State chairman of the Rocky Mountain Elk Foundation.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ROCKY MOUNTAIN ELK FOUNDATION,
Bowling Green, KY, March 19, 1996.

Senator MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: Please accept this letter as my support of your intention to propose legislation that would establish and fund the Clark's River National Wildlife Refuge in Western Kentucky. I sincerely appreciate your efforts to establish this area as Kentucky's first National Wildlife Refuge.

I am the Kentucky State Chairman for the Rocky Mountain Elk Foundation. The Rocky Mountain Elk Foundation is one of the cooperating partners that have helped to establish the Elk and Bison Prairie at TVA's Land Between the Lakes. Additionally, I am the Co-Chairman for the fund raising committee charged with the effort of raising $244,000 for the first phases of this very important project at Land Between the Lakes. I am very happy to report to you that this project is not even open to the public yet and we have already raised $222,000 toward our goal. However, I certainly see a distinction and a need for you to create Kentucky's first National Wildlife Refuge at the East Fork of the Clark's River. As you are aware, the NWR site evaluation team determined that not only did this site best fit the Untied States Fish and Wildlife Services biological and feasibility criteria, this area was deemed most worthy of perpetual protection from degradation and development that would be afforded by establishment of a refuge.

I am certainly one of the strongest supporters of LBL and am aware of the budget problems that this agency faces. I can assure you, as State Chairman for the RMEF that I donate hundreds of hours of my time in support of LBL and the Elk and Bison Prairie project. The bottom line is both of these projects are very worthy projects and both of these projects are worthy of your support, but in my opinion, the creation of Kentucky's first National Wildlife Refuge should be established at the Clark's River.

I would be happy to discuss this issue with you personally if you should have any other questions.

Working for Wildlife.

Sincerely,

THOMAS M. BAKER,
Kentucky State Chairman.

Mr. McCONNELL. Mr. President, in addition to that we worked with the Kentucky Farm Bureau. They typically don't endorse these kinds of projects. But what is interesting to note is that they chose not to oppose this one, and the reason they chose not to is because we worked with them on the "willing seller provision" so that nobody involved in agriculture in this area would be required to sell. It is very important to me that we protect farmers property rights.

Mr. President, with regard to the Land Between the Lakes, which my colleague would give more funding than they asked for by taking it away from the Federal wildlife refuge, I would like to place in the RECORD a letter from the chairman of the Tennessee Valley Authority, Mr. Craven Crowell, who said, "I want to express my sincere appreciation for your support for TVA's fiscal year 1997 budget. You played a significant role in achieving our goals."

In other words, with regard to LBL, TVA got everything it wanted.

In addition to that, Mr. President, I would like to also have printed in the RECORD a letter I received yesterday from William Kennoy, who is the Director of the Tennessee Valley Authority, and a Kentuckian, who also confirms that the Land Between the Lakes operated by TVA was given all they asked for in this year's budget.

I ask unanimous consent that it, along with the letters from Mr. Crowell and the Kentucky Farm Bureau, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KENTUCKY FARM
BUREAU FEDERATION,
Louisville, KY, April 20, 1996.

Mr. DON OVERBY,
President, Calloway County Farm Bureau, Almo, KY.

DEAR DONNIE: This is to acknowledge and thank you and Calloway County for your attendance and participation in the Measure the Candidate training session held April 8. Also, I wanted to reply to your question on the proposed Clarks River National Wildlife Refuge.

As I had mentioned, Laura Knoth has been working diligently with Senator McConnell's staff to ensure Farm Bureau's policy is contained in the language of the proposed legislation. Specifically, language which protects farmer's property rights. The following provisions, your Farm bureau policy, have been successfully integrated into S. 1611, "The Kentucky National Wildlife Refuge Authorization Act:"

Section 2:6 . . . the refuge should not restrict agricultural and silvicultural activities on private lands.

Section 6C(I) no activity carried out in the refuge will result in the obstruction of the flow of water so as to affect any private land adjacent to the refuge; and

(ii) no buffer zone regulating any land use (other than hunting and fishing) is established.

On March 28, the Environment and Public Works Committee passed S. 1611 by unanimous consent. As of this date, it has not been placed on the Senate calendar to receive floor action.

Donnie, I have also enclosed for your review a copy of a letter from Tom Bennett, Commissioner, Kentucky Department of Fish and Wildlife Resources, which outlines significant and unique criteria the Clarks River possesses for the proposed wildlife refuge. I am hopeful that his information is helpful. If you have any further questions, please do not hesitate to contact Laura, or myself.

Sincerely,

TIMOTHY A. CANSLER,
Director, National Affairs and Political Education.

TENNESSEE VALLEY AUTHORITY,
Knoxville, TN, September 13, 1996.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR: I want to express my sincere appreciation for your support of TVA's fiscal year 1997 budget. You played a significant role in achieving our goals.

We will wisely manage these funds for the benefit of the people of the Tennessee Valley. We hope you will be pleased with the results.

Thank you for being a good friend to TVA. With warm regards,

CRAVEN CROWELL.

TENNESSEE VALLEY AUTHORITY,
Knoxville, TN, September 18, 1996.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: Yesterday an article appeared in the Paducah Sun referring to a letter I sent Congressman Whitfield on funding for LBL. The letter was inadvertently faxed without my authorization or signature.

The level of funding provided in the Energy and Water Conference report will fully meet TVA and LBL requirements that we have requested of Congress.

I am in the process of preparing an inventory of the needs of LBL's infrastructure for the next few years but this is not yet complete and we have, therefore, made no request to Congress for this future funding.

I understand TVA Chairman Crowell recently wrote you expressing his appreciation for your support for TVA's Budget and noted the "significant role you played in achieving our goals." You have been a strong supporter of TVA and we have no desire to jeopardize that relationship because of inaccurate comments through miscommunications. We appreciate your dedication to LBL over the years.

Sincerely,

WILLIAM H. KENNOY, P.E.

Mr. MCCONNELL. Mr. President, in conclusion, let me say that it is unusual, to say the least, for two Senators from the same State to differ on projects of this matter. I am sorry that seems to be the case here. But let me say in conclusion and in summary that there are 571 Federal wildlife refuges in the Nation but not one in Kentucky. We are long overdue for our first Federal wildlife refuge. This proposal was developed over a number of years in cooperation with the Kentucky Fish and Wildlife Service, and over 57 sportsmen and conservation groups from across Kentucky feel that this great need should be met.

No land under this proposal will be taken from anyone—only from willing sellers. It is my hope, Mr. President, that this proposal authorizing and appropriating some money to begin Kentucky's first Federal wildlife refuge will be a part of the Interior appropriations bill.

I hope my colleague will not offer an amendment to strip out the money provided—whatever money is ultimately provided—for this first Federal wildlife refuge in order to give it to the Tennessee Valley Authority which says it does not need it.

With that, Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LOTT. I know there are a number of Members who are waiting and wondering what the schedule might be for the remainder of the evening. We are working very aggressively to try to come to a unanimous consent agreement that would allow us to go forward with amendments and debate on those amendments tonight and complete those amendments tonight, if we could get this agreement worked out, with the votes stacked beginning at 10 o'clock on Friday morning.

We are still working with Members on both sides. I think it is, frankly, urgent that we go ahead and get this agreement entered into momentarily. We are very close to that. But as usual, we are trying to check with all the Senators who are interested in the subject matter to see if we can get that worked out.

In the meantime, Mr. President, before I do a statement, let me again observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST— S. 1174

Mr. SMITH. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of S. 1174, regarding the Lamprey River in New Hampshire, the bill be advanced to third reading and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. INOUYE. Mr. President, speaking on behalf of the leader on our side, I reserve the right to object.

I wonder if the Senator from New Hampshire would amend his request to include the following: That the Senate proceed to the immediate consideration of Calendar No. 599, S. 608, that the committee amendments be agreed to, the bill be read a third time, passed, and the motion to reconsider be laid on the table?

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, on behalf of the leadership, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SMITH. Mr. President, do I still have the floor?

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, I do not know about the other bill that was attempted to be added to my request for consideration of a bill, but I would just like my colleagues to know that this bill, S. 1174, passed unanimously out of committee with bipartisan support. It was placed on the calendar by the majority leader. It has the unanimous support of everyone on the Republican side. It has the support of my State of New Hampshire. It has the support of the individuals who helped to put this river into the wild and scenic bill. It is 12 miles of a beautiful river that we now preserve under the National Wild and Scenic Rivers Act, if this legislation passes.

I find it outrageous that, for whatever reasons, political or otherwise, a piece of legislation that has that much support would be objected to; tying it, linking it to some other legislation. I think the other legislation can rise or fall on its own merit. This is a good bill.

Mr. President, on August 10, 1995, Senator GREGG and I introduced S. 1174, the Lamprey Wild and Scenic River Act, to designate a segment of the Lamprey River in New Hampshire as part of the National Wild and Scenic Rivers System. Since introduction, a hearing was held on the legislation in the Energy and Natural Resources Committee, and soon thereafter, as I said, the bill was reported unanimously out of the committee.

I introduced this legislation after receiving the vote of support from each of the affected communities along this segment of the River. Ordinarily I do not encourage Federal ownership and control of State or private property, however, this legislation is different.

The process for developing this legislation was different for two reasons. First, the legislation was developed from the bottom up, from environmentally conscious communities and local people. It is not a Washington initiative. Second, the bill is drafted to allow for maximum control at the local level in making land use and conservation decisions.

The history of this legislation goes back almost 5 years when Senator Rudman and I introduced the Lamprey

River study bill in February 1991, which was subsequently signed into law by President Bush later that year. Once the National Park Service determined the Lamprey River's eligibility for the National Wild and Scenic Rivers System, a local advisory committee was formed to work with local communities, landowners, the National Park Service and New Hampshire's environment department in preparing a comprehensive management plan. This management plan was completed in January 1995.

The Lamprey River Management Plan was subsequently endorsed by the advisory committee as well as the local governments affected by this designation. The primary criteria for my sponsorship of this legislation was the support of the local communities. If the affected towns did not vote in favor of designation, I would not be here today seeking support for this legislation.

In fact, the town of Epping had expressed some reservation about designating the segment of the Lamprey which runs through the town and, out of respect for their concerns, the bill excludes that segment of the river. However, that segment was studied and found to be eligible, so we have included a section in our bill that would allow the town of Epping to be involved in the implementation of the management plan and, upon the town's request, be considered for future designation.

The Lamprey River is well deserving of this designation for a number of reasons. Not only is the river listed on the 1982 National Park Service's inventory of outstanding rivers, but it has also been recognized by the State of New Hampshire as the "most important coastal river for anadromous fish in the State." Herring, Shad and Salmon are among the anadromous species found in the river. In fact, New Hampshire fishing maps describe the Lamprey as "a truly exceptional river offering a vast variety of fishing. It contains every type of stream and river fish you could expect to find in New England."

The Lamprey is approximately 60 miles in length and serves as the major tributary for the Great Bay, which is part of the National Estuarine Research Reserve System. The Great Bay Refuge is also nearby, which was established several years ago following the closure of Pease Air Force Base. The preservation of the Lamprey is a significant component to protecting this entire ecosystem.

The 11.5-mile segment, as proposed by our legislation, has been the focus of local protection efforts for many years. The towns of Lee, Durham, and Newmarket, local conservationists, the State government, as well as the congressional delegation have all come together in support of this legislation. I believe the management philosophy adopted by the Advisory Committee best articulates our goals for this legislation:

> . . . management of the river must strike a balance among desires to protect the river as an ecosystem, maintain the river for legitimate community use, and protect the interests and property rights of those who own its shorelands.

I just cannot understand why, at this hour, with all the work and all of the background, that the other side would play politics on this issue. It is an outrage. I think everybody should know it. I hope the people in New Hampshire hear me and know it, that this very significant piece of environmental legislation is being deliberately held up for whatever purposes. I will leave people to decide.

But I do want to recognize two members of the Lamprey River Advisory Committee, Judith Spang of Durham, NH, and Richard Wellington of Lee, NH, who worked so hard and so long to pass this legislation.

I might say to them, I apologize to you for the outrage that is being committed here on the floor of the Senate tonight. This is not the way we should do business in the U.S. Senate. This is an environmentally sound piece of legislation. It has the support of the communities, support of the State, support of every single Republican on my side, the support of most Democrats on the other side, and it has been passed out of the committee unanimously. And here it is held up deliberately.

I find it an outrage. I do not know what I can do about it. Obviously, Senators have rights and I respect those rights. They have a right to object. But, having the right to object and objecting for good reason are two different things. There should be a good reason to object. There is no good reason to object to a piece of legislation that has unanimous support.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARITIME SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, we have been working very hard to get a unanimous consent agreement on a major piece of legislation, maritime security. It, I think, is urgent we get this legislation passed. It has bipartisan support. It is a major move in making sure that we have an American merchant marine. It also actually would save money. We have worked very hard to accommodate all of the interests and clear up some concerns about this major legislation.

I had hoped we could get an agreement tonight that would allow us to complete action with a series of votes tomorrow morning at 10 o'clock. It appears now that that may not be possible. I would like to announce now that there will be no further votes tonight. We will continue to work to see if we can get an agreement. We will have debate. Hopefully, we will get an agreement still tonight to have these stacked votes in the morning at 10 o'clock. We have not been able to reach that agreement.

Senator GRASSLEY has been here. He has made his statements. He has identified seven amendments that he is very interested in. We had an agreement that would have said that all debate on all amendments—we were trying to get an agreement that said seven amendments would be offered by Senator GRASSLEY, and if votes were necessary, they would all occur starting at 10 o'clock in the morning.

I think Senator GRASSLEY has had the opportunity to make his points on the bill in general. I know he would like to be heard on these amendments. I think that he has been reasonable in working out the framework of an agreement here, but we do not yet have it clear. But I think it is important we go ahead and notify Members there will not be additional votes tonight.

I will not make this unanimous consent request at this time. The distinguished manager of the bill on the Democratic side of the aisle, the great Senator from Hawaii, will be talking to Senators that are concerned.

I just want to emphasize, we are on the verge of passing major legislation. We have an agreement in hand that would limit the amendments, get it done, and get it to final passage. If we do not get this agreement tonight, I fear this bill will never get passed this year, because Senators will be leaving tomorrow around noon. If we cannot get the votes done tomorrow, if we are going to have seven votes—and we have no guarantee that we could even get those on Tuesday morning—plus on Tuesday of next week we are going to be very much into the continuing resolution debate. We need to get that done. That is the overall final agreement that will allow the Senate to leave for the year.

So I urge my colleagues, let us see if we can come to final closure on the amendments and a series of votes at 10 o'clock in the morning. But I want to emphasize, no further votes tonight. We do not have an agreement at this point that we will definitely have votes at 10 o'clock in the morning but we will keep working on that. We will notify all Members through the rotary announcement and in every other way we can, but you should expect the possibility of votes in the morning at 10 o'clock.

Mr. President, I now turn to a statement so that Senators can be checking with their colleagues and see if we can get an agreement on the unanimous consent request.

The Senate has been considering this afternoon the Maritime Security Act, H.R. 1350. I urge my colleagues, when we do get an agreement, if we get an agreement, to support this critically important national security legislation.

H.R. 1350 will ensure that our Nation and our Armed Forces will have available a modern fleet of vessels, and reliable, loyal American crews to provide a readily available sealift.

It also puts at the disposal of the Department of Defense vast intermodal and management transportation assets that are essential to modern military logistics.

For the Department of Defense to duplicate the capabilities this legislation will provide would cost $800 million a year—eight times the yearly cost of the entire maritime security program.

So this legislation is quite simply a cost-effective bargain for our Nation's security. It is also essential.

If any of my colleagues were undecided on this legislation before the recent crisis in the Persian Gulf, they should not be now. What has happened in the last 2 weeks has demonstrated that we must be prepared and able to act on our own when our national interest so requires.

During the Persian Gulf war in 1990 and 1991, we had the support of a worldwide coalition with almost unlimited access to staging areas, to modern ports and infrastructure, and to vessels and crews of many nations. Even then, however, some foreign-flag vessels and crews refused to enter the Gulf, or it took weeks to decide whether they would sail or not—delays that could have been catastrophic in certain circumstances or in future conflicts. Still, with U.S.-flag ships and crews carrying nearly 80 percent of all the seaborne cargo, the job did get done and, frankly, done quite well.

During this recent crisis, however, we are seeing that our relatively good fortune in that war was probably the exception rather than what might be the rule in the future.

For example, according to press reports, every Arab State, even those on our side in 1990 and 1991, condemned the strikes on Saddam Hussein.

Our B-52 bombers had to fly the long way around—all the way from Louisiana to Guam to the Middle East—in order to avoid overflying countries that disagreed with the U.S. actions.

Our cruise missiles came from U.S. Navy ships in the Persian Gulf and could not be supplemented by aircraft based in Jordan, Turkey, and even Saudi Arabia because these nations could not permit their strikes to originate from their soil.

A proposed western-Iraqi no-fly zone was rejected because of our ability to use Jordanian, Turkish, and Saudi bases.

And France—France—refused to participate in the new expanded air patrol zone over Iraq.

I ask my colleagues tonight, what will happen in some future conflict if the issue is not just overflight rights but access to ports, transportation infrastructure, and vessels?

What will happen if the crews of foreign-flag vessels refuse to carry our supplies for political or even religious reasons?

What will happen if foreign vessels and foreign companies are pressured to take a walk?

During the Yom Kippur War in 1973, Arab nations pressured flag-of-convenience vessels not to sail to Israel—and they did not sail. It has happened before—and it will happen again.

In the future, we may have allies and vessels—and we may not. H.R. 1350, the Maritime Security Act, is an insurance policy that we will always have at least the essential minimum of vessels and crews ready and able to serve our Nation whenever they are called to do so.

We are, after all, the world's only remaining superpower—with global interests and responsibilities.

No nation in history has survived very long without a strong maritime, without a strong merchants fleet. The Navy cannot do the job unless there are ships to carry the cargo and to carry the men and women that need to get to a troubled site. I think that is a very strong reason to vote for this bill.

This bill is also clearly beneficial in many other respects. First of all, it is identical to the one that passed the House, so we can complete action and send this bill straight to the President for his signature.

By authorizing investment in the operation of U.S.-flag vessels, the bill would strengthen and improve our economy, also. It achieves the dual goals of improving defense and our economy because it is highly effective in the way it is set up. The private sealift capability that this program helps make available to DOD would come at a small fraction of the cost it would take to the Department of Defense to acquire the ships and the crews that would be needed.

By helping ensure that there is a U.S.-flag merchant fleet, the bill also would help ensure that there is a pool of U.S. citizen mariners to man DOD's own Reserve ships in times of emergency. We found out during the Persian Gulf War that if we had not had a lot of old merchant mariners to come out of retirement, we could not have had the ships manned. They did come out of retirement, and a lot of them worked long hours. Obviously, they did the job.

It would help ensure that we will not have to depend on foreign vessels or crews to supply these ships overseas.

Economically, the bill would help ensure that our Nation's commerce is not entirely under the control of foreign-flag vessels. It would also help level the playing field for U.S.-based carriers whose foreign-based competitors usually operate under more generous tax codes and have other advantages.

In my own hometown, when I come over the bridge entering my hometown, I look down at the river and I see ships with flags from Panama, Liberia, Greece, Russia—no U.S. flags, no U.S. flags. That worries me. They are lined up along the docks, the grain elevators, and the other cargo-loading areas, right next to one of the world's most sophisticated shipyards where we build cruisers, destroyers, and LHD's, and there, right next to those various sophisticated ships and the construction that goes on, there lies a Russian ship or a Greek ship. There is something that is bent out of sorts in my mind to see that sight. I would like there to be a guarantee that we would have at least a minimum of U.S.-flag ships. This bill would do that.

On a program basis, this bill is a major improvement compared to the present support program for U.S.-flag vessels. This bill would reduce—I want to emphasize that, reduce—the annual payments per ship by perhaps as much as 50 percent and achieve similar reductions in annual program levels.

I worked on this bill for 2 years and I went into it saying we have to put the merchant marine fleet on a basis where we can call on them if we need them, and also where we will not waste money, and to save money in the way it is set up. That is what we have done. This will be a highly efficient program.

Let me also say that to the extent anyone has heard loose talk about this bill establishing a new program, that is not the case. A Maritime Support Program exists now. It is not as efficient as it should be, and it is not structured the way it should be, but we are changing that with this bill and continuing an existing program. It retains the benefits of the maritime program, but by far more efficiency. This is, in terms of real impact, a program streamlining, not creating a new program.

I am also pleased to tell my colleagues this bill would greatly reduce regulation accompanying the program. Our American carriers need to be able to respond quickly to meet foreign competition. If they have to wait for Government rulings before taking steps needed to meet foreign competition, it costs them money, it costs them business. So I need hardly say what the commercial consequences would be for these carriers.

The Nation, in turn, could lose the benefits of having privately owned U.S.-flag merchant ships. This has already happened to a large degree under the outdated present program. The ships are going down to nothing, and that is where we are headed.

If we do not pass this bill, we will not have a merchant marine in a very few years. If we do not have this program improved and in place when we go into the next century, there will not be a U.S. merchant fleet.

This bill would promptly end regulation concerning where vessels can go in foreign commerce or how frequently. Some of the regulations that have been on the books do not make any sense at all. Why should we have this kind of regulatory control of where they go in foreign commerce or how frequently?

It also would newly ensure the U.S.-flag carriers, like their foreign-based competitors, will have the flexibility to respond to commercial needs by time chartering or using space on the vessels of others—without having to ask our Government for approval. Why should they? If space is available and you can save money by using it, why should you have to go through the process of asking the Government's approval, and maybe even having it denied?

Other provisions eliminate reporting, recordkeeping and other requirements. When you are involved with the Federal program, there is plenty of that to be done if you get rid of some of the paperwork. With such changes, we can expect the executive branch to be able to implement the bill effectively and promptly.

The application process, for example, should not be burdensome and should require carriers to provide data only to the extent that it is necessary for decisions which the statute requires the agency to make.

The bill will allow our Nation to have the defense and economic benefits of a merchant marine but overhauls the past program so that we can achieve those benefits in a way that is far more cost efficient and reduces the regulatory burdens on the carriers.

Let me also make clear that, in taking up H.R. 1350, we are taking up a bill which is virtually identical to S. 1139 as reported by the Commerce Committee.

Very few provisions differ at all.

As a result, the Senate Committee report will be completely applicable as to the meaning of provisions of the House bill which are comparable to those in the Senate reported bill.

There are only a handful of aspects of the House bill that differ from the Senate bill. Let me note some of them.

Under the bill, carriers participating in the program are to be available to provide assistance to the Nation under certain emergency circumstances.

Compensation for providing resources which includes, for the purposes of this provision, services is required and is in addition to basic program payments made by the Transportation Department.

The House bill differs from the Senate committee bill on a few aspects of this Emergency Preparedness Program [EPP].

One provision added on the House floor would make clear that a carrier's obligations under the emergency preparedness program do not continue when an operating agreement under the basic program is no longer in effect.

Another change made on the House floor would make clear that the range of circumstances in which the Defense Department can activate an emergency preparedness agreement is not limited to times of declared war, but also makes clear that the authority to activate an emergency preparedness agreement requires a significant event, and a considered and carefully coordinated decision.

These are both clarifying changes, consistent with the intent set forth in the Commerce Committee report.

The House bill would also specify, in proposed section 653(c)(3), that the amount of compensation paid under an Emergency Preparedness Agreement must be approved by the Secretary of Defense.

We support this clarification because it is DOD, not DOT, that is expected to provide this EPP compensation, which is in addition to basic program payments made by DOT. Section 653(c)(3), however, does not authorize the Defense Department to fail to meet the compensation requirements set forth in section 653.

Let me note here, in conjunction with the EPP, that we have seen some erroneous statements that this bill would eliminate the requirement in law today that U.S.-flag vessels be made available in times of emergency.

What the bill does is say that certain of today's statutory provisions would not be in effect for a vessel during such time as that vessel is covered by an Emergency Preparedness Agreement.

We have developed the EPP because it will provide more flexible, better sealift service to the Government than is available now.

This concept, which focuses on the whole transportation system and process, not individual vessels, has been worked on by DOD, and the industry for years.

That program allows for calling up U.S.-flag vessels to meet true emergencies, but it allows other options not expressly available under current statute.

The creation of this alternative is a plus for the Government. And, as I said, at such time as a U.S.-flag vessel is not covered by an Emergency Preparedness Agreement, the present statutes continue.

So, any statements that this bill removes obligations for vessel operators to help the Government in emergency is simply wrong. To the contrary, we have improved the program for the Government.

The House bill does not include the Senate bill's provision which would ensure that companies which choose to enroll their modern, foreign-flag vessels in this program do not have to incur additional costs to comply with Coast Guard vessel regulations.

I intend to continue to pursue legislative reform in this area, but the specific changes may not be enacted before implementation of this bill. In that regard, I want to make clear that the Secretary of Transportation has the authority, to swiftly take clear and conclusive administrative action in this area.

The Secretary can and should ensure that operators of modern vessels, vessels which the Coast Guard accepts as safe under international standards, will not incur additional vessel costs if they do what we want them to do—which is to put those vessels under U.S.-flag and enter into contracts under this program.

I will be looking to the Secretary to ensure that before a carrier changes the registry of a foreign-flag ship meeting international standards to United States to participate in this program, it will not be required to incur additional costs due to U.S.-flag vessel standards.

The House bill includes a provision, section 651(b)(4), not in the Senate bill. This provision specifies that, to be eligible for the program, a vessel "will be" eligible for U.S. documentation at the time an operating agreement is entered into for the vessel.

As a technical matter, this does not mean that the vessel must be eligible at the time the operating agreement is entered into, but means that it must be determined at the time the operating agreement is signed that the vessel will be eligible at the appropriate later point—as it cannot receive payments under the program until it is actually documented as a U.S.-flag vessel.

Also, under the Senate bill, a provision for certain vessel operators to notify certain U.S. shipyards with respect to certain possible construction opportunities was to be effectuated by having the vessel operator notify the Secretary of Transportation, who would, in turn, notify shipyards. It is our view that, under the bill, DOT has the authority to make an administrative determination to utilize such an approach, so that vessel operators would be able to meet the requirement without having to separately notify various shipyards.

While there are a handful of other differences between the House passed and Senate reported bill, these technical explanations indicate how small those differences are. Their relatively minor scope underscores that it is appropriate for us to proceed to pass the House bill and enact this long overdue legislation—so that the American people can receive the defense and economic benefits it provides at such a low cost.

Mr. President, I hope that our colleagues and those that are outside following this debate will review all of the remarks I have put in the RECORD, because I did go into some additional specific changes that we have made. That has been my intent all along, to improve the system and to save money while we are doing it. I think we have accomplished that in this bill.

I have worked with parties on all sides. Obviously, Senator STEVENS has been very involved in this, as has Senator INOUYE, Senator BREAUX, and Senator HUTCHISON has a lot of interest in it. We are this close to getting it done. And yet, because of the objection that we have heard so far tonight, we could lose this whole bill. I think it would be a great mistake. But I am going to yield the floor in a moment. I understand that Senator GRASSLEY will be back in just a few moments and he will then, hopefully, begin offering amendments. In the meantime, we will continue to work for a unanimous-consent agreement as to how it will be considered.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Mr. President, I rise to discuss some of the concerns I have about the Maritime Security Act, H.R. 1350, pending before the Senate today.

On March 6, 1996, I joined several of my colleagues in a letter to Commerce Committee Chairman PRESSLER requesting that additional hearings be held on this bill. While there had been one hearing, groups opposing this legislation did not testify. Since many groups vigorously oppose H.R. 1350, such as Citizens Against Government Waste, National Taxpayers Union, Citizens for a Sound Economy, Heritage Foundation, Competitive Enterprise Institute, CATO, and National Grain and Feed Association, we believe a hearing should be held to fully air these concerns.

That hearing did not occur. Nor did a markup of the Senate companion bill occur. We are today taking a controversial House bill from the desk that has not gone through the Senate process. The bill was rushed through the House in a similar manner and passed by a voice vote. I understand, however, that there are now many House Members who believe they did not have a good understanding of the bill at the time of the vote and would now have preferred a more thorough consideration.

Mr. President, maritime subsidies have long been on priority lists for termination by many deficit hawks. They were heralded by Republicans early in the 104th Congress as a prime example of corporate welfare that must be terminated. Correspondingly, it has been known for some time that operating differential subsidies would be terminated. Now that we are closer to termination, the subsidies were dusted off and repacked in new authorization legislation called the "Maritime Security Bill." Now, subsidizing U.S.-flag ships, and their noncompetitive labor rates, is an important U.S. security interest.

National security is vitally important to me. But I am not convinced that this bill has raised national security concerns that justify the authorization of $100 million to subsidize 50 U.S. ships to the tune of $2 million a piece.

During the gulf war, the Government has the authority to call up commercial vessels receiving maritime subsidies. However, three-quarters of the ships chartered during the crisis were foreign-flagged—and only 20 percent of the cargo rode on these ships. Most of the cargo was carried on Government ships. There is also a ready charter market for commercial cargo vessels when more ships are needed. Further, the few U.S.-flagged ships that were called up didn't even deliver their 8 percent of the total cargo to the war zone. They transferred their cargo to foreign-flagged ships at foreign ports. And they charged the Government far more than the cost incurred by either military or foreign-flagged crews—on top of the subsidies.

There is no evidence that this continuation of the ODI subsidies would work any differently. Also, there is plenty of room for shipping companies to continue to substitute foreign flag ships if they are too busy, as they can now. Why subsidize ships that are not even available in crisis times? Doesn't that gut the intent of the national security argument?

Even the Clinton administration has admitted that this program is just one which is necessary to preserve union jobs by subsidizing higher U.S. maritime wages. Why not subsidize all union jobs, not just those of the maritime unions?

Mr. President, in my judgment, there are many reasons why we should terminate maritime subsidies, including cargo preference and Jones Act preferences. Since my colleague, Senator GRASSLEY, had done such a good job of presenting them, I will not repeat them other than to say that it is my preference that all of the maritime subsidies be terminated—for the industry to become competitive on its own without the Government crutch—and the burdensome Government regulations that come with the subsidies.

There is no reason to believe that the Government, during times of crisis, cannot call into service its own vessels, foreign-flagged ships owned by American companies, charter vessels or obtain this kind of assistance from our allies. These subsidies are not needed and should be terminated, as determined earlier.

Vice President GORE's National Performance Review recommended that maritime subsidies be ended. In 1995, the DOT Inspector General recommended termination. A MIT study opposes them. Many deficit hawks decry the waste of taxpayers money.

Senator GRASSLEY has also determined that nine retired Navy admirals who originally supported the American Security Council's effort to promote this legislation now have questions about it and support additional hearings before further consideration. They were as snowed as our colleagues on the House side.

The extension of the shipbuilding loan guarantee program has also been criticized by many and deserves a closer examination as well.

The one positive aspect of this bill is the relief it gives the Great Lakes Ports, including the Port of Duluth, to cargo preference restrictions. While I would prefer to terminate this subsidy as well, the bill does give the ports the ability to compete based on price rather than whether the ship is U.S. or foreign flagged. While cargo preference laws act to subsidize U.S.-flagged crews, they can actually jeopardize jobs of dockworkers in ports, such as the Port of Duluth, where U.S.-flag ships are scarce.

Mr. President, I realize that this bill may pass. The proponents carry a lot of weight in this body, and the national security argument, flawed as it is, is one that many choose not to challenge. Again, I have great admiration for the good work of my colleague, Senator GRASSLEY, who is willing to call a spade a spade.

For that reason, and because of the great respect Senator GRASSLEY holds in this body, I would urge my colleagues to listen carefully as he offers his amendments to this bill. Each one of them attempts to ameliorate a serious concern in this legislation. They should not be dismissed for procedural or substantive reasons. They are not offerred to filibuster the bill. They are offerred to improve it. Each one should have been considered in a committee markup, which, again, was never held.

In my judgment, the Grassley amendments are no-brainers that should not be controversial. One would ensure that the ships receiving the subsidies are available for service, not foreign-flagged subsitutes. Why would we subsidize ships that don't even have to be available in emergencies?

Another amendment would force U.S. seafarers to serve in these crises. If the Government is subsidizing sizable seafarer wages, shouldn't they be required to serve if called? Right now that is not a requirement. Senator GRASSLEY would include exceptions similar to those granted to military reservists. Again, what is controversial about this amendment?

The next Grassley amendment would equalize seafarer war bonuses to the same rate as military reservists. Right now they receive far more. Why?

An amendment would prohibit use of the subsidies for pro-maritime lobbying efforts. Last year we voted to restrict use of public funds from lobbying use. These funds should be restricted as well.

Another amendment would prohibit subsidies being used for campaign contributions. Subsidized wages of seafarers have enabled these workers to contribute 500 times more than other union workers to campaigns.

One amendment will require U.S.-flag ships and crews to deliver their cargoes directly to the war zone. Incredibly, now they can, and have, shifted their cargo to a foreign-flagged and foreign-crewed vessel at a port far from the war zone. They then can charge the Government U.S.-flag premium rates while providing lower foreign-flag rates. Or they can use a foreign-flag ship the entire route, receiving the same premium rates. Why is this acceptable if all of the proponents of this bill claim that we need a U.S.-flag capability.

The bill provides for fair and reasonable reimbursement during use by the Government. The Pentagon paid $70,000 to the U.S. cargo ship operators to send war materiels to the gulf. The foreign bid was $6,000. This is wrong—a betrayal of the taxpayers. The last Grassley amendment would give the government the right to hire foreign-flag vessels if U.S.-flag costs are greater than 6 percent over the foreign cost. U.S. flags would also have to charge the government the same rate provided to volume customers.

If the amendments offered by Senator GRASSLEY are adopted, it would be easier for me to consider supporting this legislation. However, the entire premise for this bill is flawed. There simply is not a good case for this expenditure of taxpayers' dollars.

Mr. GRASSLEY. Mr. President, before I send an amendment to the desk, I am going to talk about the amendment. This is one of those seven amendments that I had suggested, and it deals with our seafarers being paid bonuses during time of war and to equalize the bonuses between people who are seafarers and the bonuses that people in our Navy would receive in the very same part of the world under the very same conditions.

If seafarers do decide to serve, I think I pointed out in my original remarks on the bill, they have many more options than people who are military. When the people in Texas were told by the President of the United States, "Pack up, you're going to go to Kuwait," the families had tears in their eyes, and we saw on television the men and women of America who are committed to the defense of our country respond to the Commander in Chief.

Seafarers have options: to go or not. And if seafarers do decide to serve and sail into the designated war zone, they are paid 100-percent base pay as a warzone bonus. The military sealift command reported to me that one seafarer was paid $15,700 for a 2-month Persian Gulf war bonus. That is on top of the regular pay that they would get.

The most that our men and women in the regular military or Reserve could get for that 2-month period is $300, or $150 a month. So compare this $15,700 for a 2-month war bonus for a seafarer with the $300 that one of our men or women would have received during that same period of time.

But that isn't the end of it. Our seafarers are eligible for much more—much, much more. If their vessel is in a harbor that is attacked, a seafarer can get an extra $400 per day. If their vessel is actually attacked, not just in the harbor that is attacked, they get an extra $600 per day.

So the amendment that I am offering puts an end to this nonsensical approach and inequitable approach between our men and women in the regular military or Reserve compared with what the seafarers get. Taxpayers' support for seafarers' war bonuses will be limited to the level provided for the men and women in our Reserves and regular military.

This amendment makes very certain taxpayers don't pay seafarers higher war bonuses than the active military.

Seafarers get this extra 100-percent base pay. I think everybody would agree that this is clearly nonsense and unfair. It ought to be demoralizing to our troops to look at the paycheck of one person and have $300 compared to the paycheck of a person in the same environment with $15,700 and some. We ought to realize that this is inequitable. It might even be considered a huge waste of taxpayers' money, or it could be equitable to pay our men and women in uniform more.

The seafarers get incredibly large salary and benefits year in and year out from taxpayers supposedly so they will serve Uncle Sam when needed. It seems to me it is not right to gouge the taxpayers a second time when they are actually called into a war zone.

It is fair for them to get a bonus, but it is not fair for them to get a bonus well beyond what regular military people get who, by the way, get paid a lot less than the seafarers get anyway. I want to talk about the biggest war bonus paid to a civilian mariner assigned to an MSC ship during Operation Desert Shield/Desert Storm. On March 27, 1991, the Department of Defense approved the payment of war zone bonuses to those mariners operating in the Persian Gulf area west of 53 degrees east longitude. Civilian mariners were eligible for war zone bonuses equal to 100 percent of pay for each day their ships were within the designated war zone. Payments were effective retroactive to January 17, 1991, and ceased on April 11, 1991, the day of the final cease-fire.

The largest war bonus payment made to a civilian mariner aboard an MSC controlled ship was approximately $15,700 for that 2-month period. The ship was anchored within the designated war zone area approximately 56 consecutive days. Consequently, the crew members earned larger payments than those assigned to other MSC controlled ships.

The vast majority of the MSC's vessels transported military equipment and other supplies from the continental United States and European ports to the Middle East. These ships were only in the war zone area for approximately 2 to 5 days per voyage. As a result, war bonus payments for these civilian mariners averaged approximately $69.50 to $1,467 per voyage.

The war zone areas for military personnel included the Persian Gulf, the Gulf of Oman, that portion of the Arabian Sea which lies north of the 10 degrees north latitude and west of the 68th degrees east longitude or the Gulf Aden and all of the Red Sea. This made it more likely that active-duty sailors would qualify for hazardous pay.

This is the guidance that clarified which bonuses are paid and when under Desert Shield/Desert Storm. The imminent danger pay on applicable contracts, the actual direct costs of a reasonable crew imminent danger pay mandated by compulsory regulations or collective bargaining agreements, not to exceed $130 per month, are payable to each crew member under the following circumstances: Vessels in the Persian Gulf, the Red Sea, the Gulf of Oman, the portion of the Arabian Sea that lies north of the 10 degrees north latitude, west of the 68th degrees east longitude, or the Gulf of Aden, and vessels in this zone for a minimum of 6 days within one calendar month or 6 consecutive days beginning in one month and ending in the next, and vessels in this zone between August 2, 1990, and until the time in which the Secretary of Defense determines that an imminent danger no longer exists in the region. And the $130 is not prorated. The full amount is paid to anyone satisfying the above criteria.

Time spent in the war bonus zone described below does not count toward the 6 days criteria.

Let me point out that my war bonus amendment is supported by the retired admirals. These were the admirals that I had named earlier. I think it is fair to say that retired admirals know that it is not fair to pay $15,700 to a seafarer for 2 months, but only $300 to our men and women in the reserve or the regular military and Navy.

In regard to the war bonus—because I just told you about the imminent danger pay—in regard to the war bonus, on applicable contracts, actual direct costs of the reasonable crew war bonuses, mandated by compulsory regulation or collective bargaining agreement not in excess of an extra 100 percent of the crew's base pay, exclusive of supply penalties, are payable to each crew member under these circumstances: The vessel is in the Persian Gulf west of the 53 degrees east longitude, a bonus is payable for any day or portion of a day in this zone continuing until one day after the vessel passes east of the zone, and the vessel then is zoned between January 17, 1991 and the time when the final cease-fire marks an end to the hostilities, as referred to in the U.N. Security Resolution 686 of April 11, 1991.

Then we have next the war bonus for harbor attack. I gave a slight definition of this earlier. But this would apply in circumstances where war bonuses are applicable. It would then be $400, payable to each crew member aboard a ship in a harbor which is attacked. This is MARAD's determination. Only one harbor attack bonus is payable per day. A harbor attack bonus is not payable to a crew member earning a vessel attack bonus for the same day.

Then we have the war bonus that applies, not to the harbor attack, but to the actual attack on the vessel. In circumstances where war bonuses are applicable, $600 is payable to each crew member aboard a ship which is attacked. And that also is MARAD's determination.

There are certain document requirements. There is a requirement to submit imminent danger pay and war bonus invoices to appropriate MARAD paying offices in accordance with billing instructions clearly identifying which imminent danger war zone is being built, the corresponding dates and times in the zone. Note that the base wages must be identified for each rating, and MARAD then will request vessel deck logs and payroll sheets and individual pay vouchers containing crew's signatures for reconciliation of crew wages.

We have had some instances where seafaring unions sued the U.S. Government to obtain bonuses for gulf war trips. Seafaring labor unions sued the Government. According to this article, they sued the Government in an effort to win war bonus payments for their members who worked on Government cargo ships during the war against Iraq.

The Sailors Union of the Pacific, the Marine Firemen's Union, and the Seafarers International Union filed suit in Federal District Court claiming the U.S. Maritime Administration unfairly cheated their members out of hazardous duty pay. War bonus payments, of course, as I said are extra compensation for ship crews that go into risky shipping zones. Generally, crews get twice their regular pay, plus extra lump sum payments, should their vessels or harboring areas come under direct attack.

The shipping areas where war bonus payments apply are usually the traffic lanes within war zone areas designated by the White House. When the Persian gulf conflict began in 1991, the unions and the American President Line, a primary carrier for U.S. forces agreed to use a war zone designated by President Bush as the area where the war bonus payments would apply. However, the Maritime Administration later established a war zone area that was smaller than the original White House designation.

The American President Line which operated 23 of its own ships, 11 Ready Reserve force ships for MARAD, argued that it had to use a smaller war zone area because it was relying on reimbursement from the Government for the Ready Reserve force operations.

The unions brought the case to an arbitrator from the Federal Mediation and Conciliation Service. Arbitrator William Eaton ruled that because of its earlier agreement, APL should pay seafarers on its own ships at war bonus rates for the entire zone established by the White House, but seafarers on the RRF ships could not be included, he decided. The union failed in an earlier attempt to get the Federal district court here to overturn the arbitration denial of war bonus payments to the RRF workers.

Another newspaper report on these bonuses says:

> The Defense Department officials have agreed to reimburse civilian ship operators for war bonuses up to 100 percent of normal wages paid to seafarers who crewed scores of military cargo ships supplying the Persian Gulf. Although strict conditions will apply, the Navy notified ship owners this week that it will pay for war bonuses given to men and women who entered the war zone after August 2, 1990, the day that Iraq invaded Kuwait. The higher levels of benefit will be paid for voyages after January 17, 1991, when the United States launched its air war against Iraq. The bonuses will continue to be reimbursed until the formal cease-fire is declared by the United Nations according to a notice from the Military Sealift Command, the Navy agency in charge of the ocean transportation.

Marge Holtz, director of public affairs for the Sealift Command, said she did not know how many ship crews would be affected or what the total costs would be. She added that certain military censorship policies are still in effect and will not be relaxed until the cease-fire is declared.

Sealift commander Admiral Francis Donavan said in early March that 446 voyages had been made into the gulf during the first 7 months of the operation. Some individual ships, especially those under the U.S. flag, have made multiple voyages.

At its peek operation, Desert Storm-Desert Shield employed 128 U.S.-flag ships, 111 foreign-flag ships; crew sizes of the ship ranged from about 20 to more than 70 on some specialized vessels. According to the Sealift Command notice, crew members on the ships sailing through much of the Persian Gulf, the Red Sea, the Gulf of Oman, and portions of the Arabian Sea will have their war bonuses paid by the U.S. Government. The maximum of $135 a month will be paid for voyages in the period leading up to January 17. After that and into the future, until the U.N. cease-fire, the war bonuses will be 100 percent of base daily wage of each crew member. The notice, however, will not ease one festering controversy with the U.S. merchant marine. It stems from the fact that reimbursement is not yet being made for ships that are part of the Government's Ready Reserve Fleet, a fleet of aging cargo ships kept for use in military enterprises. Seventy-eight ships for the Ready Reserve were activated to participate in the Persian Gulf buildup, and a fight is already on for war bonuses for those crews, said one West Coast maritime labor leader.

Whitey Disley, president of the Marine Firemen, Oilers, Watertenders and Wipers Association, said that shipping companies that operate Ready Reserve ships under contract to the Government are not paying war bonuses. Companies are refusing to pay, even though some of them have labor contracts that specifically call for war bonuses.

One such company is American President Line, Ltd., of Oakland, but representatives of the company indicated they will pay if the Government offers reimbursement.

"It looks like we will have to go to arbitration, a grievance procedure on this," the union leader said.

The issue is under "active review" by the Maritime Administration, the Transportation Department agency responsible for the Ready Reserve force. MARAD officials contacted this newspaper and had not responded with any comment at press time.

It is pretty complicated, Mr. President, but one thing that stands out here is that we do not have an equitable situation between people who are in the full-time military in a war zone with their life just as endangered as seafarers who get 100 percent base pay war bonuses. And remember, seafarer pay is already higher than what our military people get in the first place. It seems to me that we have a responsibility to our military personnel that they be treated fairly with the seafarers.

I want to alert my colleagues to actual amounts of money that are paid for these war bonuses to specific shipping companies. We paid $29,197.56 to Gulf Trader of the All Marine Service; to the American Foreign Shipping Company, war bonuses we paid, $40,512.48; to the American Overseas Marine, we paid a total of $599,747.98. That is broken down into separate figures for eight different ships, ranging in payment from a small amount of $5,937.58, all the way up to figures like $253,334.18 and $239,430.80 for a couple of other ships.

The International Marine Carriers received for two ships $259,642 total; for the Interocean Management Corporation, war bonuses totaled $369,279.27, ranging from a low of $14,276 for one ship to $105,884 for another ship; to the Marine Carriers, we paid $55,299.47, ranging from a low of $7,553 up to a high of $30,000 for another ship, spread out over four ships. Marine Transport Lines received $193,170. OMI Ship Management received a total of $439,646. That is a grand total of $1,987,496 war bonuses for these shipping lines.

As I stated previously, these are not the only bonuses that are available.

AMENDMENT NO. 5391

(Purpose: To provide for a uniform system of incentive pay for certain hazardous duties performed by merchant seamen)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 5391.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . UNIFORM PAYMENT FOR HAZARDOUS DUTY.

Title III of the Merchant Marine Act, 1936 (46 App. U.S.C. 1131), as amended by section 10 of this Act, is further amended by adding at the end the following new section:

"SEC. 303. PAYMENT OF MERCHANT SEAMEN FOR HAZARDOUS DUTY.

"(a) IN GENERAL.—The Secretary of Transportation, in cooperation with the Secretary of Defense, shall establish a wage scale for hazardous duty applicable to an individual who is employed on a vessel that is used by the United States for a war, armed conflict, national emergency, or maritime mobilization need (including training purposes or testing for readiness and suitability for mission performance).

"(b) CONTENT OF WAGE SCALE.—The wage scale established under this section shall be commensurate with the incentive pay for hazardous duty provided to members of the uniformed services under section 301 of title 37, United States Code.".

Mr. GRASSLEY. Mr. President, this is the language, this is the amendment that is going to bring war bonus parity between our seafarers—and added war bonus pay in some instances, 100 percent increases in pay—and regular military. Seafarers ought to get additional pay, because their life is endangered, but it must be equalized with that our full-time military personnel, who get a lot less for war bonuses for the endangerment that comes from being in a war zone situation.

We do this by giving the Secretary of Transportation, in cooperation with the Secretary of Defense, the right and power to establish a wage scale for hazardous duty applicable to an individual who is employed on a vessel that is used by the United States for a war, armed conflict, national emergency, or maritime mobilization need, including training purposes for testing for readiness and suitability for mission performance. And the content of the wage scale, then, as established, shall be commensurate with incentive pay for hazardous duty provided to members of the uniformed service under sections 301, title 37 U.S. Code.

I yield the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, most respectfully, I wish to suggest that this amendment is demeaning, unfair, and I say insulting to the civilian merchant mariner of the United States of America.

In World War II, I had the great honor and privilege of serving my country, and it is true that my pay, even as that of a captain, was less than that of most of the merchant mariners. But as a result of my injury, for the rest of my life, I will receive a pension. The merchant mariner who was injured in World War II is not receiving that pension. As a result of my service in the military, I received the bountiful gift of this Nation, the GI Bill of Rights. I received my law degree and my baccalaureate through the GI Bill of Rights. The merchant mariner who served during World War II did not receive the GI Bill of Rights. And because of my injury, Mr. President—and this sounds rather facetious—in order to assist me in my mobility throughout the neighborhood, my country gave me a car, an automobile. The disabled merchant mariner did not receive a car. Today, as a result of my injury in World War II, my wife and I receive full medical benefits for the rest of our lives. The merchant mariner doesn't receive that.

As a result of that, understandably, the merchant mariner said this will never happen again. So, since then, they have organized and they have said, "Though we cannot get the GI Bill, nor can we get lifetime pensions and hospitalization and dependents' benefits, we are going to insist that if we are going to stand in harm's way and risk our lives, we should be covered."

Mr. President, we are, by this amendment, comparing apples to coconuts—apples and oranges look alike in some cases, but this is apples and coconuts. I hope that at the appropriate time tomorrow morning—whatever my leader wishes to do—we will dispose of this with an overwhelming vote, because this is not fair. It is insulting to our merchant mariners.

Mr. STEVENS. Mr. President, unfortunately, the amendment that the Senator from Iowa has offered deals with another situation. Under this bill before the Senate, the U.S. Government will pay a flat fee for the use of the vessel fully crewed. What the shipowners pay the crew is a private matter. It will not affect the payment at all.

As I said in my opening statement, the problem with the Persian Gulf, Desert Shield and Desert Storm, was we had to go to get foreign shipping. And in most instances, the premiums extracted were 50 percent of the total cost, not just the crew cost. In some instances, it was double the charter price. In spite of that, crews refused to enter the war zone.

Now, the Senator's amendment deals with something that happened in the past, which would not be the situation in the future with regard to this bill. But even with regard to what happened under Desert Shield/Desert Storm, I think the Senator forgets that we recovered the cost of our participation in that crisis, that war, from Kuwait and Saudi Arabia. This wasn't taxpayer cost that the Senator was talking about at all.

So, as I indicated, if we had had an agreement, I would not make a motion to table.

I now move to table the amendment.

Under the leader's direction, there will be no vote on that tonight. The vote will occur tomorrow morning at 10 o'clock.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I now ask unanimous consent that the Senate go into a period of routine morning business so that we can bring about the closing of this day, and we will continue on this bill tomorrow morning following a vote on my motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

THE 125TH ANNIVERSARY OF THE SENATE LIBRARY

Mr. BYRD. Mr. President, Shakespeare wrote in *The Tempest*, "My library was dukedom large enough." With those few words he expressed the satisfaction, fulfillment and power available through the knowledge recorded and preserved in a well-stocked library.

With those thoughts in mind, I rise to pay tribute to the 125th anniversary of the establishment of the Senate's own "dukedom," the Senate Library.

The Library of the Senate is a legislative and general reference library that provides a wide variety of information services to Senate offices in a prompt and timely fashion.

It maintains a comprehensive collection of congressional and governmental publications, and of materials relating to the specialized information needs of the Senate: government and politics, history, political biography, economics, international relations and other topics. The Library's resources and services are dedicated to providing the Members of the Senate and their staffs with critically needed information on issues affecting legislative deliberation and decisionmaking.

The origins of the Senate Library can be traced back as early as 1792 when the Senate, then meeting in Philadelphia, directed the Secretary "to procure, and deposit in his office, the laws of the several states, for the use of the Senate," as well as maps of the country. During the first half of the nineteenth century, the Chief Clerk of the Senate added to these materials by collecting copies of the bills, resolutions and reports of each Congress. By the end of the 1850's, the need for a library to maintain this collection had become evident; efforts to establish the library culminated in resolutions in 1870 to designate rooms to be fitted—and I quote from the *Senate Journal*—"to hold and arrange for the convenience of the Senate books and documents now in charge of the Secretary of the Senate."

Let me say that again: "to hold and arrange for the convenience of the Senate books and documents now in charge of the Secretary of the Senate."

The first librarian to be appointed was George S. Wagner, who officially commenced his duties on July 1, 1871.

While today's Senate Library continues to maintain the core collection of legislative materials that necessitated its establishment 125 years ago, its operations have been transformed by modern technology. The current Senate Librarian, Roger K. Haley, is a veteran of 32 years in the library, and he has witnessed the transition from a completely paper-based service to one that now relies as well on electronic databases, the Internet, and microform. Another significant change occurring over the last twenty years has been the growth in professional staffing in response to the more diverse and sophisticated information needs of Senate patrons.

More than half of the current library staff of 22 consists of highly skilled librarians trained to meet the special requirements of Senate offices. This dedicated team performs an outstanding job in responding quickly to the some 70,000 inquiries that were received last year.

It is a pleasure for me to take this opportunity to commend the Senate Library for its vital service to the Senate and to extend a warm congratulations as it celebrates its 125th anniversary year.

Thomas Carlyle wrote that, "All that mankind has done, thought, gained or been: it is lying as in magic preservation in the pages of books."

Especially in this day and age when our Nation faces the turmoil of dramatic, far-reaching change, the knowledge, wisdom, and experience available to us through the source of an extensive and efficient in-house library is critical to helping us make considered judgments.

I thank all of the fine personnel involved with the Senate Library for helping us to light the corridors of our minds so that we may better lead the way for our Nation.

Mr. President, I know of no Senator—I would not have any reason to know if there were—any Senator who calls upon the Senate library more than I call upon it, more than my staff and I lean upon it and depend upon it. And I want to express my gratitude to the people in the Senate library who always respond so courteously and are so cooperative.

So there is a list of 16 persons who have served the Senate as Librarian since 1871. And I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIBRARIANS OF THE UNITED STATES SENATE

George S. Wagner, 1871–1875.
George F. Dawson, 1875–1879.
P. J. Pierce, 1879–1884.
George M. Weston, 1884–1887.
Alonzo W. Church, 1887–1906.
James M. Baker, 1898–1901[1].
Cliff Warden, 1901–1904[1].
James M. Baker, 1904–1904[1].
Edward C. Goodwin, 1904–1906[1].
Edward C. Goodwin, 1906–1921.
Walter P. Scott, 1921–1923.
Edward C. Goodwin, 1923–1930.
James D. Preston, 1931–1935.
Ruskin McArdle, 1935–1947.
George W. Straubinger, 1947–1951.
Richard D. Hupman, 1951–1953.
Sterling Dean, 1953–1954.
Richard D. Hupman, 1954–1954[1].
Gus J. Miller, 1954–1955.
Richard D. Hupman, 1955–1973.
Roger K. Haley, 1973– .

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[1] Acting Librarian

CONVENTION SPEECH OF SENATOR JAY ROCKEFELLER

Mr. BYRD. Mr. President, recently at the Democratic National Convention in Chicago, my colleague, Senator JAY ROCKEFELLER addressed the delegates assembled there. His remarks were, as usual, right on point, discussing some of the most important issues of our times. I ask unanimous consent that the full text of Senator ROCKEFELLER's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

[The Charleston Gazette, Wednesday, Aug. 28, 1996]

TEXT OF ROCKEFELLER'S CONVENTION SPEECH

(The Associated Press)

Prepared remarks of Sen. Jay Rockefeller, D-W.Va., at the Democratic National Convention in Chicago on Tuesday:

My name is Jay Rockefeller: I'm from West Virginia. And I'm a Democrat. Let me tell you why.

We Democrats understand what makes America different. In America, a lifetime of hard work adds up to something: owning your own home; putting your kids through college; having peace of mind when you retire.

And no return on a lifetime of hard work means more to more Americans than the peace of mind provided by Medicare and Medicaid.

Medicare—the rock solid guarantee that poor health won't put you in the poor house.

Medicare—part of the sacred trust that binds us together.

Medicare—conceived by Democrats. Passed by Democrats. Defended by Democrats.

In 1964, I went to West Virginia as a VISTA worker—to the small coal camp of Emmons. I worked in Emmons for two years to make a difference, to change some lives. But in the end, I was the one who was transformed. I learned that even the smallest changes can take a lifetime of effort. And I learned that even the smallest efforts count.

In 1965, Lyndon Johnson signed the Medicare and Medicaid bills into law. He carried on the work of Harry Truman and Jack Kennedy, fighting to see health security guaranteed for every senior citizen and working family.

Today, Democrats are fighting to extend that same peace of mind to every American. Today, we are fighting to protect our legacy from Republican rollbacks.

At the Republican convention, Bob Dole talked about going back to the America of his youth. Yes, there is a lot to be said about a time when life was simpler. But nostalgia can play tricks on you * * * not all aspects of the good old days were so good.

There was a time in America when our elderly often lived out the end of their lives in poverty and despair. There was a time when widows were left with nothing, when husbands would lose their homes after caring for a terminally ill spouse. There was a time in America when families' college savings could be wiped out and family farms were sold to pay parents' hospital bills.

But in 1965, we turned a corner. Because of Medicare and Medicaid, we live in a different America. A better America.

Remember, no family is immune to sudden tragedy, old age or illness. The heartbreak is the same for every one of us. That is why we must remember that Medicare and Medicaid are the only safety net protecting working families against impoverishment caused by catastrophic illness.

Today, Americans can all look toward their retirement years with hope and confidence, not fear and anxiety. Today, older Americans and people with disabilities can be assured that they will be treated with dignity.

Democrats are committed to a balanced budget, but we won't do it on the backs of the people who built this country and made it great.

Last year, Republicans tried to give out $245 billion of tax breaks for the rich and cut $270 billion to try to pay for it. And watch out! If the Republicans win, Medicare and Medicaid will be back on the chopping block.

Thirty years ago, Republicans fought against the creation of Medicare. Bob Dole voted against it. Remember what he said only a year ago, and I quote, "I was there, fighting the fight, one of the 12, voting against Medicare in 1965 . . . because it wouldn't work." And Newt Gingrich talks of letting Medicare wither on the vine. We will not let that happen.

And why will we defend Medicare for the family trying to take care of an aging parent? Because that's what families do.

And why will we defend Medicare for senior Americans who have lost their spouses? Because that's what families do.

And why will we be there to defend Medicaid for the family of a child with a disability? Because that's what families do.

And why will we be there to defend Medicare for the couple approaching retirement who need peace of mind? Because that's what families do.

Why will we safeguard Medicaid for children? Because that's what families do.

Why do we continue to push for health care for all Americans? Because that's what families do.

And why are we going to vote Clinton-Gore in '96?

Because that's what families do. And because of what they do for families.

TRIBUTE TO HELEN RILEY

Mr. THURMOND. Mr. President, I rise today to pay tribute to a special South Carolinian and well known Charlestonian, Mrs. Helen Schachte Riley, who passed away last week at the age of 81.

Mrs. Riley was a respected community servant and devoted Christian, mother, and wife. Throughout her long and distinguished life, this enthusiastic woman was actively involved in her community and many local and charitable organizations.

The strength of a community lies within its citizens, and Helen Riley contributed much to our great city of Charleston. Unquestionably, Mrs. Riley is a role model to many South Carolinians, including her son, Joe Riley, who serves as the Mayor of Charleston. Her legacy lives on and she leaves her children, grandchildren and great grand-children a proud heritage and fond memories of an outstanding and gracious lady.

Mr. President, Helen Schachte Riley's family has my deepest sympathies and condolences on their loss. I believe an article from yesterday's Charleston Post and Courier nicely sums up Mrs. Riley's life and many accomplishments, and I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[Charleston Post and Courier, Sept. 18, 1996]

HELEN SCHACHTE RILEY

Helen Schachte Riley didn't make headlines, as did her late husband, prominent civic leader Joseph P. Riley Sr., or her son, the long-time, popular mayor of Charleston. But she was a much-admired force in the community, known for her devotion to her family, the quality of her character and her gracious style.

While naturally shy, Helen Riley had long been in the limelight, either at the side of her husband, or as one of her sons staunchest supporters. She handled her public role with dignity and charm.

A native of the city in which her family would play such a prominent role, she was a bright student at the College of Charleston, graduating second in her class. Then it was on to Jefferson Medical College where she became a medical technologist.

But most of her life was spent as a wife and as a mother to three daughters and a son. Before her death last week at age 81, her devotion had extended to 12 grandchildren and one great-grandchild.

Mayor Joseph P. Riley Jr., who delivered the eulogy at his mother's funeral mass at the Roman Catholic Cathedral of St. John the Baptist, remembered her Tuesday as the "the best role model" and as "the-glue that held us together—our center of gravity."

Helen Riley's parents taught her the importance of community service, the mayor said, noting her involvement with the Association for the Blind and the Florence Crittenton Home. And she was "a wonderful child to her parents," he noted, "teaching us the joy and responsibility of caring for three generations at one time."

Her husband and her children had no question about their importance in her life. They knew, the mayor said, that they were her "very center" . . . "it was the bedrock of our existence." Deeply religious, she also taught the value of character above all else, according to her son, setting "a standard of goodness."

She has left behind many warm memories, not just for her family but for a multitude of her friends and acquaintances. The mayor said he has childhood friends who, 40 years later, can still describe the smell and taste of a typical Helen Riley summer dinner.

She also leaves behind the legacy of a gracious lady who became a role model, not just for her family, but for her community, of a life well-lived.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, September 18, 1996 the Federal debt stood at $5,193,856,710.104.18.

One year ago, September 18, 1995, the Federal debt stood at $4,963,469,000,000.

Five years ago, September 18, 1991, the Federal debt stood at $3,627,589,000,000.

Ten years ago, September 18, 1986, the Federal debt stood at $2,108,613,000,000.

Fifteen years ago, September 18, 1981, the Federal debt stood at $976,715,000,000. This reflects an increase of more than $4 trillion ($4,17,141,710,104.18) during the 15 years from 1981 to 1996.

FOREIGN OIL CONSUMPTION: HERE'S WEEKLY U.S. BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending September 13, the U.S. imported 7,572,000 barrels of oil each day, 393,000 less than the 7,965,000 imported during the same week a year ago.

Nevertheless, Americans relied on foreign oil for 54 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 7,572,000 barrels a day.

Mr. PELL. Mr. President, it appears to me that we find ourselves in a pleasant predicament when it comes to education appropriations for fiscal year 1997. On each side of the aisle we have leadership packages that would add some $2.3 billion in additional funding to education.

In several areas, the Democratic package, of which I am a cosponsor, is larger than the Republican package. It would, for instance, add $585 million to the Pell Grant program in order to fund a $2,700 maximum grant for the coming year. It would also add funds to the Goals 2000 Program, to the Professional Development Program for Teachers, to Education Technology, and to important higher education programs, such as TRIO and the SSIG Program.

In other areas, however, the Republican package is larger. In areas such as Title I, Adult Education, the SEOG Program, College Work Study, and Special Education, the Republican package contains more funding than the Democratic package.

Mr. President, there is a solution to the dilemma with which we are faced that is in the best interests of our nation. It is also an outcome that would get us out of a bipartisan battle, and bring the spirit of bipartisanship back to education policy making and appropriations. Very simply, I believe we should take the higher number from each package, put them together, and pass a package for which we can all take credit.

This would mean more money for education, and to my mind, that would be very good news, indeed. It would mean better funding in such critical areas as Pell Grants, Title I, Professional Development for Teachers, Special Education, and the campus-based student aid programs.

Instead of discussing which proposal is better in which area, we should resolve the dilemma and conclude an agreement that is in the best interests not of one political party or the other but of the American people.

NOTICE OF ADOPTION OF AMENDMENTS TO PROCEDURAL RULES

Mr. THURMOND. Mr. President, pursuant to section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1383(b)), a notice of adoption of amendments to procedural rules was submitted by the Office of Compliance, U.S. Congress. The notice publishes adopted amendments to the rules governing the procedures for the Office of Compliance under the Congressional Accountability Act.

Section 304(b) requires this notice and the amendments to the rules be printed in the CONGRESSIONAL RECORD. Therefore I ask unanimous consent that the notice and amendments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: AMENDMENTS TO PROCEDURAL RULES

NOTICE OF ADOPTION OF AMENDMENTS TO PROCEDURAL RULES

Summary: After considering comments to the Notice of Proposed Rulemaking published July 11, 1996 in the Congressional Record, the Executive Director has adopted and is publishing amendments to the rules governing the procedures for the Office of Compliance under the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3). The amendments to the procedural rules have been approved by the Board of Directors, Office of Compliance.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540–1999. Telephone No. 202-724-9250.

SUPPLEMENTARY INFORMATION:

I. Background

The Congressional Accountability Act of 1995 ("CAA" or "Act") was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 303 of the CAA directs that the Executive Director of the Office of Compliance ("Office") shall, subject to the approval of the Board of Directors ("Board") of the Office, adopt rules governing the procedures for the Office, and may amend those rules in the same manner. The procedural rules currently in effect, approved by the Board and adopted by the Executive Director, were published December 22, 1995 in the Congressional Record (141 Cong. R. S 19239 (daily ed., Dec. 22, 1995)). The revisions and additions that follow amend certain of the existing procedures by which the Office provides for the consideration and resolution of alleged violations of the laws made applicable under Part A of title II of the CAA, and establish procedures for consideration of matters arising under Part D of title II of the CAA, which is generally effective October 1, 1996.

Pursuant to section 303(b) of the CAA, the Executive Director published for comment a Notice of Proposed Rulemaking in the Congressional Record on July 11, 1996 (142 Cong. R. S7685-88, H7450-54 (daily ed., July 11, 1996)) inviting comments regarding the proposed amendments to the procedural rules. Three comments were received in response to the NPR: two from Congressional offices and one from a labor organization. After full consideration of the comments received, the Executive Director has, with the approval of the Board, adopted these amendments to the procedural rules.

II. Consideration of Comments and Conclusions

A. Definition of participant

One commenter suggested deleting the terms "labor organization" and "employing office" from the definition of "participant" found at section 1.07(c) of the proposed rules. The commenter noted that a "party" is included in the definition of participant and the term "party" is defined in section 1.02(i) of the rules as including a labor organization or employing office.

The final rule, as adopted and approved, incorporates the modification suggested by the commenter.

B. Contents or records of confidential proceedings

One commenter asked that section 1.07(d) of the rules be revised to reflect the commenter s understanding that "an employing office may acknowledge the existence of a complaint and the general allegations being made by an employee, and the employing office may deny the allegations." This commenter further requested that the phrase "information forming the basis for the allegation," found in the same section of the rules, be defined. According to the commenter, the phrase is ambiguous. The commenter did not, however, identify the asserted ambiguity.

The statute requires that the filing of a complaint and its subject matter be kept confidential. Thus, it is not permissible under the statute, as enacted—much less the procedural rules implementing the statute—for an employing office to disclose the information described. Moreover, no ambiguity has been identified or is apparent which would warrant modifying the proposed rule. Accordingly, the rule has been adopted and approved without modification.

C. Requests for extension of the mediation period

Two commenters correctly point out that, although it was noted in the preamble of the NPR that section 2.04(e)(2) is proposed to be modified to allow oral as well as written requests for the extension of the mediation period, the actual text of the proposed revision was inadvertently omitted. Although neither commenter stated an objection to the substance of the proposed revision, one commenter requested that the text of the proposed amendment be published and the comment period be extended prior to its adoption.

The proposed amendment, and its intent, were clearly explained in the NPR so as to give sufficient notice of the proposed modification. And as the adoption of the amended rule will not work a disservice to any party to a mediation, but rather will enable all parties to more fully utilize the mediation process, the proposed modification to the rule has been adopted and approved.

D. Answer to complaint

All three commenters expressed concern that proposed section 5.01(f) could be interpreted to foreclose a respondent from raising certain affirmative defenses or interposing certain denials. One commenter further urged the adoption of a specific rule that would allow the filing of a motion to dismiss or a motion for a more definitive statement in lieu of an answer.

With respect to the request that the Executive Director adopt a rule allowing for the filing of the specific motions suggested, it is noted that, although not specifically provided for, such matters are already permitted under the existing procedural rules. Thus, no modification is necessary.

As to the commenters' other concerns, the language of section 5.01(f), as adopted and approved, has been clarified to provide that only affirmative defenses that could have reasonably been anticipated based on the facts alleged in the complaint shall be deemed waived if not raised in an answer. In addition, the rule has been modified to describe the circumstances under which motions for leave to amend an answer to raise defenses or interpose denials will be granted.

E. Withdrawal of complaints

One commenter argued that the requirement contained in section 5.03 that the withdrawal of a complaint be approved by a Hearing Officer should be deleted because, according to the commenter, under the CAA a complaint may be withdrawn at any time. In the commenter's view, a rule requiring Hearing Officer approval of such a withdrawal is "an inappropriate exercise of the Executive Director's authority." This commenter further took issue with the distinction made in the rule between approval of the withdrawal of a complaint by a covered employee, which must always be approved by a Hearing Officer, and the withdrawal of a complaint by the General Counsel, which may occur without Hearing Officer approval prior to the opening of a hearing.

Contrary to the commenter's assertion, it is entirely appropriate and, indeed, the norm in our legal system to require approval of the withdrawal of an action after formal proceedings have been initiated. *See, e.g.*, Federal Rule of Civil Procedure 41. Moreover, the different restrictions placed on covered employees and the General Counsel are also appropriate. Under section 220 of the CAA, and the regulations adopted by the Board pursuant to section 220(d) to implement section 220, the General Counsel's prosecutorial discretion has been properly acknowledged by permitting the General Counsel to withdraw a complaint without Hearing Officer approval prior to the opening of the hearing. Accordingly, the final rule, as adopted and approved, has not been modified.

F. Objections not made are deemed waived

Two commenters expressed the concern that proposed section 7.01(e) could operate to work a disservice to unrepresented parties or to preclude Board consideration of appropriate matters on appeal.

The rule, as adopted and approved, has been modified. Further, it is noted that a Hearing Officer is always free to consider issues about which objections were not made.

G. Reconsideration

One commenter asked that proposed section 8.02 be clarified to advise parties concerning how the filing of a motion for reconsideration of a Board decision affects the requirements for filing an appeal of that decision.

The final rule makes clear that the filing of a motion for reconsideration does not relieve a party of the obligation to file a timely appeal.

H. Judicial review

One commenter asserted that section 8.04 should be deleted either as superfluous because it merely reiterates parts of section 407 of the CAA or as confusing because it does not incorporate all of section 407.

Section 8.04 incorporates the provisions of section 407 that are applicable to the provisions of the CAA that are currently in effect. As section 8.04 is neither superfluous nor confusing, the proposed rule has been adopted and approved unmodified.

I. Signing of Pleadings, motions and other filings; violation of rules; sanctions

One commenter recommended that "the Board further elaborate" on proposed section 9.02 and that there be an extension of time to comment "after the Board provides further explanation." In the event the commenter's recommendation was not accepted, the commenter proposed adding the requirement that a pleading must be warranted by a "non-frivolous" argument. Another commenter objected to the possible sanction of attorney s fees, arguing that it could have a chilling effect on individual complainants.

Section 9.02 of the rules is virtually identical to Rule 11 of the Federal Rules of Civil Procedure. Rule 11 has a rich history and tradition and is an essential procedural part of any sound dispute resolution scheme. Therefore, further explanation or modification is unnecessary and, the rule, as adopted and approved, is the same as that proposed.

J. Ex parte communications

Two commenters asked for a definition of the term "interested person" as used in proposed section 9.04. One of these commenters argued that, as drafted, the proposed rule appeared to be so broad as to restrict access to the Office of Compliance personnel, including the Executive Director and Deputy Executive Directors. The same two commenters also urged the deletion of proposed section 9.04(e)(2), which provides that censure or the suspension or revocation of the privilege of practice before the Office is a possible sanction for engaging in prohibited communications. Both commenters considered such sanctions to be too harsh and questioned the authority of the Board to impose such sanctions. The third commenter urged that section 9.04(c)(3)(iii) be modified to disallow communications on matters of general significance because, according to the commenter, such communications could have an impact on specific pending matters. This commenter also expressed concern about the imposition of sanctions on unrepresented complainants who might inadvertently violate the prohibitions on ex parte communications.

In response to the commenters' concerns, the Executive Director is modifying section 9.04(a)(1) to define "interested person" for the purposes of the rule. But, contrary to one commenter s understanding, the rule only prohibits interested persons from engaging in prohibited communications with Hearing Officers and Board members; nothing in the proposed or adopted rule prohibits contact with Office of Compliance personnel, including the Office's statutory appointees. Indeed, interaction between Office personnel and employing offices, covered employees, labor organizations and their agents, as well as other interested individuals or organizations, is encouraged.

With respect to proposed section 9.04(e)(2), the sanctions of censure or suspension or revocation of the privilege of practice before the Board, although substantial, may properly be imposed in certain circumstances. However, as they are available to the Board under section 9.04(e)(1), proposed section 9.04(e)(2) has been omitted from the final rule. In addition, to further address concerns, language has been added to section 9.04(e)(1) to confirm that sanctions shall be commensurate with the nature of the offense.

K. Informal resolutions and settlement agreements

One commenter offered specific suggested revisions to proposed section 9.05(a). The commenter believed that these revisions are necessary to make it clear that section 9.05 applies only after a covered employee has initiated counseling.

The proposed rule, by its terms, applies only in instances where a covered employee has filed a formal request for counseling. Moreover, in the NPR, it was specifically noted that the rule is being amended to make it clear that section 9.05 of the rules applies only where covered employees have initiated proceedings under the CAA. Accordingly, the proposed rule has been adopted and approved without modification.

L. Additional comments

Two of the commenters also offered several comments and suggestions on existing procedural rules and other matters that were not the subject of or germane to the proposals in the NPR. For example, the commenters suggested: (1) changes in the special procedures for the Architect of the Capitol and Capitol Police; (2) a rule allowing parties to negotiate changes to the Agreement to Mediate; (3) a procedure by which the parties, instead of the Executive Director, would select Hearing Officers; (4) procedures by which the Office would notify employing offices of various matters; (5) additional requirements for the filing of a complaint; (6) changes in counseling procedures; and (7) a procedure which would allow parties to petition for the recusal of individual Board members.

As there was no notice given to the public or interested persons that such amendments to the procedural rules were being considered, it would be inappropriate to amend the rules in the manner requested by the commenters. However, the Office will consider the comments as part of its ongoing review of its operations and, to the extent appropriate, may issue another notice of proposed rulemaking at an appropriate time to address some or all of these comments.

Signed at Washington, D.C., on this 18th day of September, 1996.

R. GAULL SILBERMAN,
Executive Director,
Office of Compliance.

Adopted Amendment to the Procedural Rules

A. Comparison table

The rules have been reorganized and re-ordered; as a result, some sections have been moved and/or renumbered. Cross-references in appropriate sections of the procedural rules have been modified accordingly. The organizational changes are listed in the following comparison table.

Former Section No.	*New Section No.*
§2.06 Complaints	§5.01
§2.07 Appointment of the Hearing Officer	§5.02
§2.08 Filing, Service and Size Limitations of Motions, Briefs, Responses and Other Documents	§9.01
§2.09 Dismissal of Complaint	§5.03
§2.10 Confidentiality	§5.04
§2.11 Filing of Civil Action	§2.06
§8.02 Compliance with Final Decisions, Requests for Enforcement	§8.03
§8.03 Judicial Review	§8.04
§9.01 Attorney's Fees and Costs	§9.03
§9.02 Ex Parte Communications	§9.04
§9.03 Settlement Agreements	§9.05
§9.04 Revocation, Amendment or Waiver of Rules	§9.06

B. Text of Amendments to Procedural Rules

§1.01 Scope and policy

These rules of the Office of Compliance govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Parts A and D of title II of the Congressional Accountability Act of 1995. The rules include procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance. It is the policy of the Office that these rules shall be applied with due regard to the rights of all parties and in a manner that expedites the resolution of disputes.

§1.02(c)

Employee. The term employee includes an applicant for employment and a former employee, except as provided in section 2421.3(b) of the Board s rules under section 220 of the Act.

§1.02(i)

Party. The term party means: (1) the employee or the employing office in a proceeding under Part A of title II of the Act; or (2) the labor organization, individual employing office or employing activity, or, as appropriate, the General Counsel in a proceeding under Part D of title II of the Act.

§1.02(j)

Respondent. The term "respondent" means the party against which a complaint is filed.

§1.05 Designation of Representative.

(a) An employee, a witness, a labor organization, or an employing office wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney.

(b) *Service where there is a representative.* All service of documents shall be directed to the representative, unless the represented individual, labor organization, or employing office specifies otherwise and until such time as that individual, labor organization, or employing office notifies the Executive Director of an amendment or revocation of the designation of representative. Where a designation of representative is in effect, all time limitations for receipt of materials by the represented individual or entity shall be computed in the same manner as for unrepresented individuals or entities with service of the documents, however, directed to the representative, as provided.

§1.07(b)

Prohibition. Unless specifically authorized by the provisions of the CAA or by order of the Board, the Hearing Officer or a court, or by the procedural rules of the Office, no participant in counseling, mediation or other proceedings made confidential under section 416 of the CAA ("confidential proceedings") may disclose the contents or records of those proceedings to any person or entity. Nothing in these rules prohibits a bona fide representative of a party under section 1.05 from engaging in communications with that party for the purpose of participation in the proceedings, provided that such disclosure is not made in the presence of individuals not reasonably necessary to the representative's representation of that party. Moreover, nothing in these rules prohibits a party or its representative from disclosing information obtained in confidential proceedings for the limited purposes of investigating claims, ensuring compliance with the Act or preparing its prosecution or defense, to the extent that such disclosure is reasonably necessary to accomplish the aforementioned purposes and provided that the party making the disclosure takes all reasonably appropriate steps to ensure that persons to whom the information is disclosed maintain the confidentiality of such information.

§1.07(c)

Participant. For the purposes of this rule, participant means any individual or party, including a designated representative, that becomes a participant in counseling under section 402, mediation under section 403, the complaint and hearing process under section 405, or an appeal to the Board under section 406 of the Act, or any related proceeding which is expressly or by necessity deemed confidential under the Act or these rules.

§1.07(d)

Contents or records of confidential proceedings. For the purpose of this rule, the contents or records of counseling, mediation or other proceeding includes the information disclosed by participants to the proceedings, and records disclosed by either the opposing party, witnesses or the Office. A participant is free to disclose facts and other information obtained from any source outside of the confidential proceedings. For example, an employing office or its representatives may disclose information about its employment practices and personnel actions, provided that the information was not obtained in a confidential proceeding. However, an employee who obtains that information in mediation or other confidential proceeding may not disclose such information. Similarly, information forming the basis for the allegation of a complaining employee may be disclosed by that employee, provided that the information contained in those allegations was not obtained in a confidential proceeding. However, the employing office or its representatives may not disclose that information if it was obtained in a confidential proceeding.

§2.04(a)

(a) *Explanation.* Mediation is a process in which employees, employing offices and their representatives, if any, meet separately and/or jointly with a neutral trained to assist them in resolving disputes. As parties to the mediation, employees, employing offices and their representatives discuss alternatives to continuing their dispute, including the possibility of reaching a voluntary, mutually satisfactory resolution. The neutral has no power to impose a specific resolution, and the mediation process, whether or not a resolution is reached, is strictly confidential, pursuant to section 416 of the Act.

§2.04(e)

(e) *Duration and Extension.* (1) The mediation period shall be 30 days beginning on the date the request for mediation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint request of the parties. The request may be oral or written and shall be noted and filed with the Office no later than the last day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Requests for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

§2.04(f)(2)

(2) *The Agreement to Mediate.* At the commencement of the mediation, the neutral will ask the parties to sign an agreement prepared by the Office ("the Agreement to Mediate"). The Agreement to Mediate will set out the conditions under which mediation will occur, including the requirement that the participants adhere to the confidentiality of the process. The Agreement to Mediate will also provide that the parties to the mediation will not seek to have the counselor or the neutral participate, testify or otherwise present evidence in any subsequent civil action under section 408 of the Act or any other proceeding.

§2.04(h)

Informal Resolutions and Settlement Agreements. At any time during mediation the parties may resolve or settle a dispute in accordance with section 9.05 of these rules.

§5.01 Complaints

(a) *Who may file.* (1) An employee who has completed mediation under section 2.04 may timely file a complaint with the Office alleging any violation of sections 201 through 207 of the Act.

(2) The General Counsel may file a complaint alleging a violation of section 220 of the Act.

(b) *When to file.* (1) A complaint may be filed by an employee no sooner than 30 days after the date of receipt of the notice under section 2.04(i), but no later than 90 days after receipt of that notice.

(2) A complaint may be filed by the General Counsel after the investigation of a charge filed under section 220 of the Act.

(c) *Form and Contents.* (1) Complaints filed by covered employees. A complaint shall be written or typed on a complaint form available from the Office. All complaints shall be signed by the covered employee, or his or her representative, and shall contain the following information:

(i) the name, mailing address, and telephone number(s) of the complainant;

(ii) the name, address and telephone number of the employing office against which the complaint is brought;

(iii) the name(s) and title(s) of the individual(s) involved in the conduct that the employee claims is a violation of the Act;

(iv) a description of the conduct being challenged, including the date(s) of the conduct;

(v) a brief description of why the complainant believes the challenged conduct is a violation of the Act and the section(s) of the Act involved;

(vi) a statement of the relief or remedy sought; and

(vii) the name, address, and telephone number of the representative, if any, who will act on behalf of the complainant.

(2) Complaints filed by the General Counsel. A complaint filed by the General Counsel shall be typed, signed by the General Counsel or his designee and shall contain the following information:

(i) the name, address and telephone number of the employing office and/or labor organization alleged to have violated section 220 against which the complaint is brought;

(ii) notice of the charge filed alleging a violation of section 220;

(iii) a description of the acts and conduct that are alleged to be violations of the Act, including all relevant dates and places and the names and titles of the responsible individuals; and

(iv) a statement of the relief or remedy sought.

(d) *Amendments.* Amendments to the complaint may be permitted by the Office or, after assignment, by a Hearing Officer, on the following conditions: that all parties to the proceeding have adequate notice to prepare to meet the new allegations; that the amendments, as appropriate, relate to the violations for which the employee has completed counseling and mediation, or relate to the charge(s) investigated by the General Counsel; and that permitting such amendments will not unduly prejudice the rights of the employing office, the labor organization, or other parties, unduly delay the completion of the hearing or otherwise interfere with or impede the proceedings.

(e) *Service of Complaint.* Upon receipt of a complaint or an amended complaint, the Office shall serve the respondent, or its designated representative, by hand delivery or certified mail, with a copy of the complaint or amended complaint and a copy of these rules. The Office shall include a service list containing the names and addresses of the parties and their designated representatives.

(f) *Answer.* Within 15 days after receipt of a copy of a complaint or an amended complaint, the respondent shall file an answer with the Office and serve one copy on the complainant. The answer shall contain a statement of the position of the respondent on each of the issues raised in the complaint or amended complaint, including admissions, denials, or explanations of each allegation made in the complaint and any affirmative defenses or other defenses to the complaint.

Failure to file an answer or to raise a claim or defense as to any allegation(s) shall constitute an admission of such allegation(s). Affirmative defenses not raised in an answer that could have reasonably been anticipated based on the facts alleged in the complaint shall be deemed waived. A respondent's motion for leave to amend an answer to interpose a denial or affirmative defense will ordinarily be granted unless to do so would unduly prejudice the rights of the other party or unduly delay or otherwise interfere with or impede the proceedings.

§5.03 Dismissal of complaints

(a) A Hearing Officer may, after notice and an opportunity to respond, dismiss any claim that the Hearing Officer finds to be frivolous or that fails to state a claim upon which relief may be granted, including, but not limited to, claims that were not advanced in counseling or mediation.

(b) A Hearing Officer may, after notice and an opportunity to respond, dismiss a complaint because it fails to comply with the applicable time limits or other requirements under the Act or these rules.

(c) If the General Counsel or any complainant fails to proceed with an action, the Hearing Officer may dismiss the complaint with prejudice.

(d) *Appeal.* A dismissal by the Hearing Officer made under section 5.03(a)-(c) or 7.16 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under section 8.01.

(e) *Withdrawal of Complaint by Complainant.* At any time a complainant may withdraw his or her own complaint by filing a notice with the Office for transmittal to the Hearing Officer and by serving a copy on the employing office or representative. Any such withdrawal must be approved by the Hearing Officer.

(f) *Withdrawal of Complaint by the General Counsel.* At any time prior to the opening of the hearing the General Counsel may withdraw his complaint by filing a notice with the Executive Director and the Hearing Officer and by serving a copy on the respondent. After opening of the hearing, any such withdrawal must be approved by the Hearing Officer.

§7.04(b)

Scheduling of the Prehearing Conference. Within 7 days after assignment, the Hearing Officer shall serve on the parties and their designated representatives written notice setting forth the time, date, and place of the prehearing conference.

§7.07(e)

(e) Any evidentiary objection not timely made before a Hearing Officer shall, in the absence of clear error, be deemed waived on appeal to the Board.

§7.07(f)

(f) If the Hearing Officer concludes that a representative of an employee, a witness, a labor organization, or an employing office has a conflict of interest, he or she may, after giving the representative an opportunity to respond, disqualify the representative. In that event, within the time limits for hearing and decision established by the Act, the affected party will have a reasonable time to retain other representation.

§8.01(i)

The Board may invite amicus participation, in appropriate circumstances, in a manner consistent with the requirements of section 416 of the CAA.

§8.02 Reconsideration

After a final decision or order of the Board has been issued, a party to the proceeding before the Board, who can establish in its moving papers that reconsideration is necessary because the Board has overlooked or misapprehended points of law or fact, may move for reconsideration of such final decision or order. The motion shall be filed within 15 days after service of the Board's decision or order. No response shall be filed unless the Board so orders. The filing and pendency of a motion under this provision shall not relieve a party of the obligation to file a timely appeal or operate to stay the action of the Board unless so ordered by the Board.

§8.04 Judicial review

Pursuant to section 407 of the Act,

(a) the United States Court of Appeals for the Federal Circuit shall have jurisdiction over any proceeding commenced by a petition of:

(1) a party aggrieved by a final decision of the Board under section 406(e) in cases arising under part A of title II, or

(2) the General Counsel or a respondent before the Board who files a petition under section 220(c)(3) of the Act.

(b) The U.S. Court of Appeals for the Federal Circuit shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 405(g) or 406(e) with respect to a violation of part A or D of title II of the Act.

(c) The party filing a petition for review shall serve a copy on the opposing party or parties or their representative(s).

§9.02 Signing of pleadings, motions and other filings; violation of rules; sanctions

Every pleading, motion, and other filing of a party represented by an attorney or other designated representative shall be signed by the attorney or representative. A party who is not represented shall sign the pleading, motion or other filing. The signature of a representative or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other filing; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other filing is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the person who is required to sign. If a pleading, motion, or other filing is signed in violation of this rule, a Hearing Officer or the Board, as appropriate, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other filing, including a reasonable attorney's fee. A Hearing Officer or the Board, as appropriate, upon motion or its own initiative may also impose an appropriate sanction, which may include the sanctions specified in section 7.02, for any other violation of these rules that does not result from reasonable error.

§9.04 Ex parte communications.

(a) *Definitions.* (1) The term *interested person outside the Office* means any covered employee and agent thereof who is not an employee or agent of the Office, any labor organization and agent thereof, any employing office and agent thereof, and any individual or organization and agent thereof, who is or may reasonably be expected to be involved in a proceeding or a rulemaking, and the General Counsel and any agent thereof when prosecuting a complaint proceeding before the Office pursuant to sections 210, 215, or 220 of the CAA. The term also includes any employee of the Office who becomes a party or a witness for a party other than the Office in proceedings as defined in these rules.

(2) The term *ex parte communication* means an oral or written communication (a) that is between an interested person outside the Office and a Board member or Hearing Officer who is or may reasonably be expected to be involved in a proceeding or a rulemaking; (b) that is related to a proceeding or a rulemaking; (c) that is not made on the public record; (d) that is not made in the presence of all parties to a proceeding or a rulemaking; and (5) that is made without reasonable prior notice to all parties to a proceeding or a rulemaking.

(3) For purposes of section 9.04, the term *proceeding* means the complaint and hearing proceeding under section 405 of the CAA, an appeal to the Board under section 406 of the CAA, a pre-election investigatory hearing under section 220 of the CAA, and any other proceeding of the Office established pursuant to regulations issued by the Board under the CAA.

(4) The term *period of rulemaking* means the period commencing with the issuance of an advance notice of proposed rulemaking or of a notice of proposed rulemaking, whichever issues first, and concluding with the issuance of a final rule.

(b) *Exception to Coverage.* The rules set forth in this section do not apply during periods that the Board designates as periods of negotiated rulemaking.

(c) *Prohibited Ex Parte Communications and Exceptions.* (1) During a proceeding, it is prohibited knowingly to make or cause to be made:

(i) a written ex parte communication if copies thereof are not promptly served by the communicator on all parties to the proceeding in accordance with section 9.01 of these Rules; or

(ii) an oral ex parte communication unless all parties have received advance notice thereof by the communicator and have an adequate opportunity to be present.

(2) During the period of rulemaking, it is prohibited knowingly to make or cause to be made a written or an oral ex parte communication. During the period of rulemaking, the Office shall treat any written ex parte communication as a comment in response to the advance notice of proposed rulemaking or the notice of proposed rulemaking, whichever is pending, and such communications will therefore be part of the public rulemaking record.

(3) Notwithstanding the prohibitions set forth in (1) and (2), the following ex parte communications are not prohibited:

(i) those which relate solely to matters which the Board member or Hearing Officer is authorized by law, Office rules, or order of the Board or Hearing Officer to entertain or dispose of on an ex parte basis;

(ii) those which all parties to the proceeding agree, or which the responsible official formally rules, may be made on an ex parte basis;

(iii) those which concern only matters of general significance to the field of labor and employment law or administrative practice;

(iv) those from the General Counsel to the Office or the Board when the General Counsel is acting on behalf of the Office or the Board under any section of the CAA; and

(v) those which could not reasonably be construed to create either unfairness or the appearance of unfairness in a proceeding or rulemaking.

(4) It is prohibited knowingly to solicit or cause to be solicited any prohibited ex parte communication.

(d) *Reporting of Prohibited Ex Parte Communications.* (1) Any Board member or Hearing Officer who is or may reasonably be expected to be involved in a proceeding or a rulemaking and who determines that he or she is being asked to receive a prohibited ex parte communication shall refuse to do so and inform the communicator of this rule.

(2) Any Board member or Hearing Officer who is or may reasonably be expected to be involved in a proceeding who knowingly receives a prohibited ex parte communication

shall (a) notify the parties to the proceeding that such a communication has been received; and (b) provide the parties with a copy of the communication and of any response thereto (if written) or with a memorandum stating the substance of the communication and any response thereto (if oral). If a proceeding is then pending before either the Board or a Hearing Officer, and if the Board or Hearing Officer so orders, these materials shall then be placed in the record of the proceeding. Upon order of the Hearing Officer or the Board, the parties may be provided with a full opportunity to respond to the alleged prohibited ex parte communication and to address what action, if any, should be taken in the proceeding as a result of the prohibited communication.

(3) Any Board member involved in a rulemaking who knowingly receives a prohibited ex parte communication shall cause to be published in the Congressional Record a notice that such a communication has been received and a copy of the communication and of any response thereto (if written) or with a memorandum stating the substance of the communication and any response thereto (if oral). Upon order of the Board, these materials shall then be placed in the record of the rulemaking and the Board shall provide interested persons with a full opportunity to respond to the alleged prohibited ex parte communication and to address what action, if any, should be taken in the proceeding as a result of the prohibited communication.

(4) Any Board member or Hearing Officer who is or may reasonably be expected to be involved in a proceeding or a rulemaking and who knowingly receives a prohibited ex parte communication and who fails to comply with the requirements of subsections (1), (2), or (3) above, is subject to internal censure or discipline through the same procedures that the Board utilizes to address and resolve ethical issues.

(e) *Penalties and Enforcement.* (1) Where a person is alleged to have made or caused another to make a prohibited ex parte communication, the Board or the Hearing Officer (as appropriate) may issue to the person a notice to show cause, returnable within a stated period not less than seven days from the date thereof, why the Board or the Hearing Officer should not determine that the interests of law or justice require that the person be sanctioned by, where applicable, dismissal of his or her claim or interest, the striking of his or her answer, or the imposition of some other appropriate sanction, including but not limited to the award of attorneys' fees and costs incurred in responding to a prohibited ex parte communication. Sanctions shall be commensurate with the seriousness and unreasonableness of the offense, accounting for, among other things, the advertency or inadvertency of the prohibited communication.

(2) Any Board member or Hearing Officer who is or may reasonably be expected to be involved in a proceeding or a rulemaking and who knowingly makes or causes to be made a prohibited ex parte communication is subject to internal censure or discipline through the same procedures that the Board utilizes to address and resolve ethical issues.

§9.05(a)

(a) *Informal Resolution.* At any time before a covered employee who has filed a formal request for counseling files a complaint under section 405, a covered employee and the employing office, on their own, may agree voluntarily and informally to resolve a dispute, so long as the resolution does not require a waiver of a covered employee's rights or the commitment by the employing office to an enforceable obligation.

NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1384(b)), a notice of proposed rulemaking was submitted by the Office of Compliance, U.S. Congress. The notice publishes proposed regulations to implement section 210 and section 215 of the Congressional Accountability Act of 1995.

Section 210 concerns the extension of rights and protections under the Americans with Disabilities Act of 1990 relating to public services and accommodations. Section 215 concerns the extension of rights and protections under the Occupational Safety and Health Act of 1970.

Section 304(b) requires this notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS

NOTICE OF PROPOSED RULEMAKING

Summary: The Board of Directors of the Office of Compliance is publishing proposed regulations to implement Section 210 of the Congressional Accountability Act of 1995 ("CAA"), 2 U.S.C. §§1301-1438, as applied to covered entities of the House of Representatives, the Senate, and certain Congressional instrumentalities listed below.

The CAA applies the rights and protections of eleven labor and employment and public access statutes to covered entities within the Legislative Branch. Section 210(b) provides that the rights and protections against discrimination in the provision of public services and accommodations established by sections 201 through 230, 302, 303, and 309 of the Americans With Disabilities Act of 1990, 42 U.S.C. §§12131-12150, 12182, 12183, and 12189 ("ADA") shall apply to certain covered entities. 2 U.S.C. §1331(b). The above provisions of section 210 are effective on January 1, 1997. 2 U.S.C. §1331(h).

In addition to inviting comment in this Notice, the Board, through the statutory appointees of the Office, sought consultation with the Department of Justice and the Secretary of Transportation regarding the development of these regulations in accordance with section 304(g)(2) of the CAA. The Civil Rights Division of the Justice Department and the Department of Transportation provided helpful comments and assistance during the development of these regulations. The Board also notes that the General Counsel of the Office of Compliance has completed an inspection of all covered facilities for compliance with disability access standards under section 210 of the CAA and has submitted his final report to Congress. Based on information gleaned from these consultations and the experience gained from the General Counsel's inspections, the Board is publishing these proposed regulations, pursuant to section 210(e) of the CAA, 2 U.S.C. §1331(e).

The purpose of these regulations is to implement section 210 of the CAA. In this Notice of Proposed Rulemaking ("NPRM" or "Notice") the Board proposes that virtually identical regulations be adopted for the Senate, the House of Representatives, and the seven Congressional instrumentalities. Accordingly:

(1) *Senate.* It is proposed that regulations as described in this Notice be included in the body of regulations that shall apply to entities within the Senate, and this proposal regarding the Senate entities is recommended by the Office of Compliance's Deputy Executive Director for the Senate.

(2) *House of Representatives.* It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to entities within the House of Representatives, and this proposal regarding the House of Representatives entities is recommended by the Office of Compliance's Deputy Executive Director for the House of Representatives.

(3) *Certain Congressional instrumentalities.* It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance; and this proposal regarding these six Congressional instrumentalities is recommended by the Office of Compliance s Executive Director.

Dates: Comments are due within 30 days after the date of publication of this Notice in the Congressional Record.

Addresses: Submit written comments (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 426-1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM-201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Office of Compliance, at (202) 724-9250 (voice), (202) 426-1912 (TTY). This Notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Services Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, at (202) 224-2705 (voice), (202) 224-5574 (TTY).

SUPPLEMENTARY INFORMATION

Background and Summary

The Congressional Accountability Act of 1995 ("CAA"), Pub.L. 104-1, 109 Stat. 3, was enacted on January 23, 1995. 2 U.S.C. §§1301-1438. In general, the CAA applies the rights and protections of eleven federal labor and employment and public access statutes to covered employees and employing offices.

Section 210(b) provides that the rights and protections against discrimination in the provision of public services and accommodations established by the provisions of Titles II and III (sections 201 through 230, 302, 303, and 309) of the Americans With Disabilities Act of 1990, 42 U.S.C. §§12131-12150, 12182, 12183, and 12189 ("ADA") shall apply to the following entities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

2 U.S.C. §1331(b).

Title II of the ADA generally prohibits discrimination on the basis of disability in the provision of services, programs, or activities by any "public entity". Section 210(b)(2) of the CAA defines the term "public entity" for Title II purposes as any entity listed above that provides public services, programs, or activities. 2 U.S.C. §1331(b)(2).

Title III of the ADA generally prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with accessibility standards. Section 225(f) of the CAA provides that, "[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions of the [ADA] shall apply under this Act." 2 U.S.C. §1361(f)(1).

Section 210(f) of the CAA requires that the General Counsel of the Office of Compliance on a regular basis, and at least once each Congress, conduct periodic inspections of all covered facilities and report to Congress on compliance with disability access standards under section 210. 2 U.S.C. §1331(f).

Section 210(e) of the CAA requires the Board of Directors of the Office of Compliance established under the CAA to issue regulations implementing the section. 2 U.S.C. §1331(e). Section 210(e) further states that such regulations "shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." *Id.* Section 210(e) further provides that the regulations shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (b), the entity responsible for correction of a particular violation. 2 U.S.C. §1331(e).

In developing these proposed regulations, a number of issues have been identified and explored. The Board has proposed to resolve these issues as described below.

A. In general

1. *Public services and accommodations regulations promulgated by the Attorney General and the Secretary of Transportation that the board will adopt under section 210(e) of the CAA.*—Section 210(e) requires the Board to issue regulations that are the same as "substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C. §1331(e).

Consistent with its prior decisions on this issue, the Board has determined that all regulations promulgated after a notice and comment by the Attorney General and/or the Secretary of Transportation to implement the provisions of Title II and Title III of the ADA applied by section 210(b) of the CAA are "substantive regulations" within the meaning of section 210(e). *See, e.g.*, 142 Cong.Rec. S5070, S5071–72 (daily ed. May 15, 1996) (NPRM implementing section 220(d) regulations); 141 Cong. Rec. S17605 (daily ed. Nov. 28, 1995) (NPRM implementing section 203 regulations). *See also Reves v. Ernst & Young*, 113 S.Ct. 1163, 1169 (1993) (where same phrase or term is used in two different places in the same statute, it is reasonable for court to give each use a similar construction); *Sorenson v. Secretary of the Treasury*, 475 U.S. 851, 860 (1986) (normal rule of statutory construction assumes that identical words in different parts of the same act are intended to have the same meaning).

In this regard, the Board has reviewed the provisions of section 210 of the CAA, the sections of the ADA applied by that section, and the regulations of the Attorney General and the Secretary of Transportation, to determine whether and to what extent those regulations are substantive regulations which implement the provisions of Title II and Title III of the ADA applied by section 210(b) of the CAA. As explained more fully below, the Board proposes to adopt the following otherwise applicable regulations of the Attorney General published at Parts 35 and 36 of Title 28 of the Code of Federal Regulations ("CFR") and those of the Secretary of Transportation published at Parts 37 and 38 of Title 49 of the CFR:

1. *Attorney General's regulations at Part 35 of Title 28 of the CFR:* The Attorney General's regulations at Part 35 implement subtitle A of Title II of the ADA (sections 201 through 205), the rights and protections of which are applied to covered entities under section 210(b) of the CAA. *See* 28 CFR §35.101 (Purpose). Therefore, the Board determines that these regulations will be adopted in the proposed regulations under section 210(e).

2. *Attorney General's regulations at Part 36 of Title 28 of the CFR:* The Attorney General's regulations at Part 36 implement Title III of the ADA (sections 301 through 309). *See* 28 CFR §36.101 (Purpose). Section 210(b) only applies the rights and protections of three sections of Title III with respect to public accommodations: prohibitions against discrimination (section 302), provisions regarding new construction and alterations (section 303), and provisions regarding examinations and courses (section 309). Therefore, only those regulations in Part 36 that are reasonably necessary to implement the statutory provisions of sections 302, 303, and 309 will be adopted by the Board under section 210(e) of the CAA.

3. *Secretary of Transportation regulations at Parts 37 and 38 of Title 49 of the CFR:* The Secretary's regulations at Parts 37 and 38 implement the transportation provisions of Title II and Title III of the ADA. *See* 49 CFR §§37.101 (Purpose) and 38.1 (Purpose). The provisions of Title II and Title III of the ADA relating to transportation and applied to covered entities by section 210(b) of the CAA are subtitle B of Title II (sections 221 through 230) and certain portions of section 302 of Title III. Thus, those regulations of the Secretary that are reasonably necessary to implement the statutory provisions of sections 221 through 230, 302, and 303 of the ADA will be adopted by the Board under section 210(e) of the CAA.

The Board proposes not to adopt those regulatory provisions of the regulations of the Attorney General or those of the Secretary that have no conceivable applicability to operations of entities within the Legislative Branch or are unlikely to be invoked. *See* 141 Cong. Rec. at S17604 (daily ed. Nov. 28, 1995) (NPRM implementing section 203 regulations). Unless public comments demonstrate otherwise, the Board intends to include in the adopted regulations a provision stating that the Board has issued substantive regulations on all matters for which section 210(e) requires a regulation. *See* section 411 of the CAA, 2 U.S.C. §1411.

In addition, the Board has proposed to make technical changes in definitions and nomenclature so that the regulations comport with the CAA and the organizational structure of the Office of Compliance. In the Board's judgment, making such changes satisfies the CAA's "good cause" requirement. With the exception of these technical and nomenclature changes, the Board does not propose substantial departure from otherwise applicable Secretary's regulations.

The Board notes that the General Counsel applied the above-referenced standards of Parts 35 and 36 of the Attorney General's regulations and Parts 37 and 38 of the Secretary's regulations during his initial inspection of all Legislative Branch facilities pursuant to section 210(f) of the CAA. In contrast to other sections of the CAA, which generally give the Office of Compliance only adjudicatory and regulatory responsibilities, the General Counsel has the authority to investigate and prosecute alleged violations of disability standards under section 210, as well as the responsibility for inspecting covered facilities to ensure compliance. According to the General Counsel's final inspection report, the Title II and Title III regulations encompass the following requirements:

1. *Program accessibility:* This standard is applied to ensure physical access to public programs, services, or activities. Under this standard, covered entities must modify policies, practices, and procedures to ensure an equal opportunity for individuals with disabilities. If policy and procedural modifications are ineffective, then structural modifications may be required.

2. *Effective communication:* This standard requires covered entities to make sure that their communications with individuals with disabilities (such as in the context of constituent meetings and committee hearings) are as effective as their communications with others. Covered entities are required to make information available in alternate formats such as large print, Braille, or audio tape, or use methods that provide individuals with disabilities the opportunity to effectively communicate, such as sign language interpreters or the use of pen and paper. Primary consideration must be given to the method preferred by the individual. For telecommunications, the use of text telephones (TTY's) or the use of relay services is required.

3. *ADA Standards for Accessible Design:* These standards are applied to architectural barriers, including structural barriers to communication, such as telephone booths, to ensure that existing facilities, new construction, and new alterations, are accessible to individuals with disabilities.

See Inspection Report, App. A-3—A-4.

The Board recognizes that, as with other obligations under the CAA, covered entities will need information and guidance regarding compliance with these ADA standards as adopted in these proposed regulations, which the Office will provide as part of its education and information activities.

2. *Modification of regulations of the Attorney General and the Secretary.*—The Board has considered whether and to what extent it should modify otherwise applicable substantive public service and accommodation standards of the Attorney General and the Secretary. As the Board has noted in prior rulemakings, the language and legislative history of the CAA leads the Board to conclude that, absent clear statutory language to the contrary, the Board should hew as closely as possible to the text of otherwise applicable regulations promulgated by the appropriate executive branch agency to implement the statutory provisions applied to the Legislative Branch by the CAA. *See* 142 Cong. Rec. S221, S222 (daily ed. Jan. 22, 1996) (Notice of Adoption of Rules Implementing Section 203 regulations) ("The CAA was intended not only to bring covered employees the benefits of the . . . incorporated laws, but also require Congress to experience the same compliance burdens faced by other employers so that it could more fairly legislate in this area."). Thus, consistent with its prior decisions, the Board proposes to issue the regulations of the Attorney General and the Secretary with only technical changes in the nomenclature and deletion of those sections clearly inapplicable to the Legislative Branch. *See, e.g.,* 141 Cong. Rec. S17603-S17604 (daily ed. Nov. 28, 1995) (NPRM implementing section 203 regulations).

This conclusion is supported by the General Counsel's inspection report, which applied the substantive public service and accommodation standards to covered facilities in the course of his initial inspections under section 210(f) of the CAA. Specifically, there was nothing about the reported condition of facilities within the Legislative Branch that suggested that they were so different from comparable private sector and state and local governmental facilities as to require a public service and accommodations standard different than those applied by the Attorney General and the Secretary. *See generally* Gen. Couns., Off. Compliance, "Report on Initial Inspections of Facilities for Compliance with Americans With Disability Act Standards Under Section 210" (1996) ("Disability Access Report"). Thus, with the exception of nonsubstantive technical and nomenclature changes, the Board proposes no departure from the text of otherwise applicable portions of the regulations of the Attorney General and those of the Secretary.

3. Specific issues regarding the Attorney General's title II regulations (part 35, 28 CFR).

a. *Self-evaluation, notice, and designation of responsible employee and adoption of grievance provisions (sections 35.105, 35.106, and 35.107).*—Section 35.105 of the Attorney General's regulations establishes a requirement that all "public entities" evaluate their current policies and practices to identify and correct any that are inconsistent with accessibility requirements under the regulation. Those that employ 50 or more persons are required to maintain the self-evaluation on file and make it available for public inspection for three years. This self-evaluation does not cover activities covered by the Department of Transportation regulations (implementing sections 221 through 230 of the ADA). Section 35.106 requires a public entity to disseminate sufficient information to applicants, participants, beneficiaries, and other interested persons to inform them of the rights and protections afforded by the ADA and the regulations. Methods of providing this information include, for example, the publication of information in handbooks, manuals, and pamphlets that are distributed to the public and that describe a public entity's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio. *See* 56 Fed. Reg. 35694, 35702 (July 26, 1991) (preamble to final rule regarding Part 35). Section 35.107 requires that public entities with 50 or more employees designate a responsible employee and adopt grievance procedures. This provision establishes an alternative dispute resolution mechanism without requiring the complainant to resort to legal complaint procedures under the ADA. However, the complainant is not required to exhaust these procedures before filing a complaint under the ADA. *See* 56 Fed. Reg. at 35702.

The Board has considered whether and to what extent it may and should impose these recordkeeping, notice, and grievance requirements on covered entities. In contrast to the recordkeeping requirements of other laws applied by the CAA (such as the Fair Labor Standards Act) which were not included in sections of the laws applied to covered employees and employing offices by the CAA, the recordkeeping, notice, and grievance requirements in sections 35.105, 35.106, and 35.107 of the Attorney General's regulations implement subtitle A of Title II of the ADA, which is applied to covered entities under section 210(b) of the CAA. *See* 28 CFR §35.101; *see also* 28 CFR, pt. 35, App. A at 456–57 (section-by-section analysis). Thus, these regulations have been included in the Board's proposed regulations. *Compare* 141 Cong. Rec. S17603, S17604 (daily ed. Nov. 28, 1995) (recordkeeping requirements of the FLSA not included within the provisions applied by section 203 of the CAA cannot be the subject of Board rulemaking), 142 Cong. Rec. S221, S222 (daily ed. Jan. 22, 1996) (Notice of Adoption of Regulations Implementing Section 203) (same), and 141 Cong. Rec. S17628 (same rationale regarding recordkeeping requirements of the Family and Medical Leave Act) *with* 141 Cong. Rec. at 17657 (daily ed. Jan. 22, 1996) (recordkeeping requirements included within portion of Employee Polygraph Protection Act applied by section 204 of the CAA must be included within the proposed rules).

The Board also retains the 50 employee cut-off for imposing self-evaluation recordkeeping and grievance requirements on covered entities. Given that state and local government entities covered by Title II of the ADA have agencies of comparable size to entities within the Legislative Branch, the Board at present sees no reason to impose a different threshold for such obligations. Therefore, these provisions will be adopted as written, unless comments establish that there is "good cause" for modification.

b. *Retaliation or coercion (section 35.134).*—Section 35.134 of the Attorney General's regulations implements section 503 of the ADA, which prohibits retaliation against any individual who exercises his or her rights under the ADA. 28 CFR pt. 35, App. A at 464 (section-by-section analysis). Section 35.134 is not a provision which implements a right or protection applied to covered entities under section 210(b) of the CAA and, therefore, it will not be included within the adopted regulations.

c. *Employment discrimination provisions (section 35.140).*—Section 35.140 of the Attorney General's regulations prohibits employment discrimination by covered public entities. Section 35.140 implements Title II of the ADA, which has been interpreted to apply to all activities of a public entity, including employment. *See* 56 Fed. Reg. at 35707 (preamble to final rule regarding Part 35). However, section 210(c) of the CAA states that, "with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 201 of [the CAA]." 2 U.S.C. §1331(c). The Board proposes to adopt the employment discrimination provisions of section 35.140 as part of its regulations under section 210(e), and also to add a statement that, pursuant to section 210(c) of the CAA, section 201 of the CAA provides the exclusive remedy for any such employment discrimination. In the Board's judgment, making such a change satisfies the CAA's "good cause" requirement.

d. *Effective dates.*—In several portions of Part 35 of the Attorney General's regulations, references are made to dates such as the effective date of the Part 35 regulations or effective dates derived from the statutory provisions of the ADA. *See, e.g.,* 28 CFR §§35.150(c), (d), and 35.151(a); *see also* 56 Fed. Reg. at 35710 (preamble to final rule regarding Part 35). The Board proposes to substitute dates which correspond to analogous periods for the purposes of the CAA. In this way covered entities under section 210 may have the same time to come into compliance relative to the effective date of section 210 of the CAA afforded public entities subject to Title II of the ADA. In the Board's judgment, such changes satisfy the CAA's "good cause" requirement.

e. *Compliance procedures.*—Subpart F of the Attorney General's regulations (sections 35.170 through 35.189) set forth administrative enforcement procedures under Title II. Subpart F implements the provisions of section 203 of the ADA, which is applied to covered entities under section 210 of the CAA. Although procedural in nature, such provisions address the remedies, procedures, and rights under section 203 of the ADA, and thus the otherwise applicable provisions of these regulations are "substantive regulations" for section 210(e) purposes. *See* 142 Cong. Rec. at S5071–72 (similar analysis under section 220(d) of the CAA). However, since section 303 reserves to the Executive Director the authority to promulgate regulations that "govern the procedures of the Office," and since the Board believes that the benefit of having one set of procedural rules provides the "good cause" for modifying the Attorney General's regulations, the Board proposes to incorporate the provisions of Subpart F into the Office's procedural rules, to omit provisions that set forth procedures which conflict with express provisions of section 210 of the CAA or are already provided for under comparable provisions of the Office s rules, and to omit rules with no applicability to the Legislative Branch (such as provisions covering entities subject to section 504 of the Rehabilitation Act, provisions regarding State immunity, and provisions regarding referral of complaints to the Justice Department). *See* 142 Cong. Rec. at S5071–72 (similar analysis and conclusion under section 220(d) of the CAA).

f. *Designated agencies (Subpart G).*—Subpart G of the Attorney General's regulations designates the Federal agencies responsible for investigating complaints under Title II of the ADA. Given the structure of the CAA, such provisions are not applicable to covered Legislative Branch entities and, therefore, will not be adopted under section 210(e).

g. *Appendix to Part 35.*—The Board proposes not to adopt Appendix A to Part 35, the section-by-section analysis of Part 35. Since the Board has only adopted portions of the Attorney General's Part 35 regulations and modified several provisions to conform to the CAA, it does not appear appropriate to include Appendix A. However, the Board notes that the section-by-section analysis may have some relevance to interpreting sections of Part 35 which the Board has adopted without change.

4. *Specific issues regarding the Attorney General's title III regulations (part 36, 28 CFR).*

a. *"Ownership" or "leasing" of places of public accommodation, landlord and tenant obligations (sections 36.104 and 36.201(b)).*—In section 36.104 of the Attorney General's regulations (Definitions), the term "public accommodations" is defined as "a private entity that owns, leases (or leases to), or operates a place of public accommodation." Section 36.201(b) delineates the respective obligations of landlords and tenants under the ADA. It provides that the landlord that owns the building that houses the place of public accommodation, as well as the tenant that owns or operates the place of public accommodation, are public accommodations that have obligations under the regulations. Section 36.201(b) further provides that, as between the parties, allocation of responsibility for compliance may be determined by lease or other contract. *See* 36 CFR, pt. 36, App. B at 593–94 (section-by-section analysis).

On its face, these provisions do not apply to facilities within the Legislative Branch. For example, covered entities do not "own" the buildings or facilities housing a place of public accommodation in the way that private entities do. Similarly, the Board is unaware of any situations in which an otherwise covered entity within the Legislative Branch may "lease" its facilities to another Legislative Branch entity. The only lease agreements of which the Board is aware would be between otherwise covered entities and persons or entities over which the CAA has no jurisdiction. For example, the General Services Administration or a private building owner may lease space to Congressional offices, but neither entity would fall within the CAA's definition of a covered entity.

Although the concepts of "ownership" or "leasing" do not appear to apply to facilities within the Legislative Branch, the Architect of the Capitol does have statutory superintendence responsibility for certain legislative branch buildings and facilities, including the Capitol Building, which includes duties and responsibilities analogous to those of a "landlord". *See* 40 U.S.C. §§ 163–166 (Capitol Building), 167–175 and 185a (House and Senate office buildings), 193a (Capitol grounds), and 216b (Botanical Garden). As noted in section B.2 of this Notice, *infra*, the concept of "superintendence" may be relevant to determining whether an entity "operates" a place of public accommodation within the meaning of section 210(b). Although the provisions of section 36.201(b) of the Attorney General's regulations are not directly applicable, the Board believes that, where two or more entities may have compliance obligations under section 210(b) as "responsible entities" under the proposed regulations, those entities should have the ability to allocate responsibility by agreement similar to the case of landlords and tenants with respect to public accommodations under Title III of the ADA. Thus, the proposed regulations adopt such provisions modeled after section 36.201(b) of the Attorney General's regulations. However, by promulgating this provision, the Board does not intend any substantive change in the statutory responsibility of entities under section 210(b) or the applicable substantive rights and protections of the ADA applied thereunder. *See* 142 Cong. Rec. at S270 (final rule under section 205 of the CAA substitutes the term "privatization" for "sale of business" in the Secretary of Labor's regulations under the Worker Adjustment Retraining and Notification Act).

b. *Effective dates.*—Section 36.401(a) of the Attorney General's regulations provides generally that all facilities designed and constructed for first occupancy later than January 26, 1993 (30 months after the date of enactment of the ADA) must be readily accessible to and usable by individual with disabilities. Section 36.401 implements section 303 of the ADA, which is applied to covered facilities under section 210(b) of the CAA. Section 303 provides the compliance date regarding new construction is 30 months after the date of enactment. Consistent with its resolution of a similar issue with respect to adoption of the Attorney General's Title II regulations, the Board proposes to substitute a date 30 months after the date of enactment of section 210 of the CAA (*i.e.*, July 23, 1997) in the places that it appears in section 36.401(a)(1), (a)(2), (a)(2)(i), and (a)(2)(ii). In the Board's judgment, making such changes satisfies the CAA's "good cause" requirement. Similarly, the Board will substitute the effective date of section 210 of the CAA (January 1, 1997) for the effective date of Titles II and III of the ADA (July 26, 1992) wherever it appears in sections 36.151, 36.401, 36.402, and 36.403 to give covered entities the equivalent time benefits under the CAA that public and private entities enjoyed prior to the effective date of their obligations under the ADA. *See* 56 Fed. Reg. 7452, 7472 (Feb. 22, 1991) (preamble to NPRM regarding Part 36), and section 3.d. of this Notice (similar resolution of issue under Part 35 regulations). Other dates contained in these regulations are derived from the statutory provisions of the ADA. The Board has determined there is "good cause" to substitute dates that correspond to analogous periods for the purposes of the CAA.

c. *Retaliation or coercion (section 36.206).*—Section 36.206 of the Attorney General's regulations implements section 503 of the ADA, which prohibits retaliation against any individual who exercises his or her rights under the ADA. 56 Fed. Reg. at 7462–63 (preamble to NPRM regarding Part 36); 28 CFR pt. 36, App. B at 598 (section-by-section analysis). Section 36.206 is not a provision which implements a right or protection applied to covered entities under section 210(b) of the CAA and therefore will not be included within the adopted regulations. The Board notes, however, that section 207 of the CAA provides a comprehensive retaliation protection for employees (including applicants and former employees) who may invoke their rights under section 210, although section 207 does not apply to nonemployees who may enjoy rights and protections against discrimination under section 210.

d. *Places of public accommodations in private residences (section 36.207).*—Section 36.207 of the Attorney General's regulations deals with the situation where all or part of a home may be used to house a place of public accommodation. *See* 28 CFR pt. 36, App. B at 599 (section-by-section analysis). The Board takes notice that some Members of the Congress may use all or part of their own residences as a District or State office in which they may receive constituents, conduct meetings, and other activities which may result in the area being deemed a place of public accommodation within the meaning of section 210 of the CAA. Therefore, the Board proposes adoption of this provision.

e. *Insurance provisions (section 36.212).*—Section 36.212 of the Attorney General's regulations restates section 501(c) of the ADA, which provides that the ADA shall not be construed to restrict certain insurance practices on the part of insurance companies and employers, so long as such practices are not used to evade the purposes of the ADA. *See* 56 Fed. Reg. at 7464-65 (preamble to NPRM regarding Part 36); 28 CFR pt. 36, App. B at 603 (section-by-section analysis). As a limitation on the scope of the rights and protections of Title III of the ADA, these provisions may be applied under the CAA. *See* section 225(f) of the CAA, 2 U.S.C. §1361(f). Although section 36.212 appears intended primarily to cover insurance companies, some of the terms of its provisions may be broad enough to have applicability to covered entities. Accordingly, the Board proposes to adopt, with appropriate modifications, section 36.212.

f. *Enforcement Procedures (Subpart E).*—Subpart E of the Attorney General's regulations (sections 36.501 through 36.599) set forth the enforcement procedures under Title III of the ADA. As the Justice Department noted in its NPRM regarding subpart E, the Department of Justice does not have the authority to establish procedures for judicial review and enforcement and, therefore, "Subpart E generally restates the statutory procedures for enforcement". 28 CFR pt. 36, App. B at 638 (section-by-section analysis). Additionally, the regulations derive from the provisions of section 308 of the ADA, which is not applied to covered entities under section 210(b) of the CAA. Thus, the regulations in subpart E are not promulgated by the Attorney General as substantive regulations to implement the statutory provisions of the ADA referred to in section 210(b), within the meaning of section 210(e).

g. *Certification of State Laws or Local Building Codes (subpart F).*—Subpart F of the Attorney General's regulations establishes procedures to implement section 308(b)(1)(A)(ii) of the ADA regarding compliance with State laws or building codes as evidence of compliance with accessibility standards under the ADA. 28 CFR pt. 36, App. B at 640 (section-by-section analysis). Section 308 is not one of the laws applied to covered entities under section 210(b) of the CAA and, therefore, these regulations will not be adopted under section 210(e).

h. *Appendices to Part 36.*—Part 36 of the Attorney General's regulations includes two appendices, only one of which the Board proposes to adopt as part of these regulations. The Board proposes to adopt as an appendix to these regulations Appendix A (ADA Accessibility Guidelines for Buildings and Facilities ("ADAAG")), which provides guidance regarding the design, construction, and alteration of buildings and facilities covered by Titles II and III of the ADA. 28 CFR pt. 36, App. A. The Board also proposes to adopt as Appendix B to these regulations the Uniform Federal Accessibility Standards (UFAS) (Appendix A to 41 CFR pt. 101–19.6). Such guidelines, where not inconsistent with express provisions of the CAA or of the regulations adopted by the Board, may be relied upon by covered entities and others in proceedings under section 210 of the CAA to the same extent as similarly situated persons may rely upon them in actions brought under Title III of the ADA. *See* 142 Cong. Rec. at S222 and 141 Cong. Rec. at S17606 (similar resolution regarding Secretary of Labor's interpretative bulletins under the Fair Labor Standards Act for section 203 purposes). Covered entities may also use the Attorney General's ADA Technical Assistance Manual and other similar publications for guidance regarding their obligations under regulations adopted by the Board without change.

The Board proposes not to adopt Appendix B, the section-by-section analysis of Part 36. Since the Board has only adopted portions of the Attorney General's Part 36 regulations and modified several provisions to conform to the CAA, it does not appear appropriate to include Appendix B. However, the Board notes that the section-by-section analysis may have some relevance to interpreting the sections of Part 36 that the Board has adopted without change.

5. *Specific issues regarding the Secretary of Transportation's title II and title III regulations (parts 37 and 38, 49 CFR).*

a. *Definitions (section 37.3).*—As noted above, the Board will make technical and nomenclature changes to the included regulations to adapt them to the CAA. In addition, certain definitions in section 37.3 of the Secretary's regulations relate strictly to implementation of Part II of Title II of the ADA (sections 241 through 246), dealing with public transportation by intercity and commuter rail. Sections 241 through 246 of the ADA were not within the rights and protections applied to covered entities under section 210(b) and, therefore, the regulations implementing such sections are not substantive regulations of the Secretary required to be adopted by the Board within the meaning of section 210(e). Accordingly, the Board will exclude from its regulations the definitions of terms such as "commerce," "commuter authority," "commuter rail car," "commuter rail transportation," "intercity rail passenger car," and "intercity rail transportation," which relate to sections 241 through 246 of the ADA.

b. *Nondiscrimination (section 37.5).*—Subsection (f) of section 37.5 of the Secretary's regulations relates to private entities primarily engaged in the business of transporting people and whose operations affect commerce. This subsection implements section 304 of the ADA, which is not a right or protection applied to covered entities under section 210(b) of the CAA. *See* 56 Fed. Reg. 13856, 13858 (April 4, 1991) (preamble to NPRM regarding Part 37). Therefore, it is not a regulation of the Secretary included within the scope of rulemaking under section 210(e) of the CAA and will not be included in these regulations.

c. *References to the Administrator.*—In several provisions of the Secretary's regulations which the Board will include as substantive regulations, reference is made to the Administrator of the Federal Transit Administration ("Administrator" or "FTA"). Several regulations provide that entities may make requests to the Administrator for waivers or other relief from the accessibility requirements of the regulations. *See, e.g.,* section 37.7(b) (determination of equivalent facilitation), 37.71 (waiver of accessibility requirements for new buses), 37.135 (submission of paratransit plans), and 37.153 (FTA waiver determinations).

These provisions will be invoked rarely, if at all. Nevertheless, the Board proposes to adopt these provisions and has determined that there is "good cause" to substitute the General Counsel of the Office of Compliance for the Administrator of the FTA. There is some concern that authorizing the FTA, an executive branch agency, to relieve covered entities from the accessibility requirements of section 210 may be tantamount to executive enforcement of section 210. *See* section 225(f)(3) ("This Act shall not be construed to authorize enforcement by the executive branch of this Act."). In this context, the General Counsel, as the officer responsible for investigating and prosecuting complaints under section 210, *see* section 210(d) and (f) of the CAA, is the appropriate analogue for the Administrator. Moreover, if such a waiver request is made by covered entities which requires FTA expertise, such assistance may be obtained by the Executive Director through the use of detailees or consultants. *See* CAA sections 210(f)(4) and 302(e) and (f).

d. *State Administering Agencies.*— Several portions of the Secretary's regulations refer to obligations of entities regulated by state agencies administering federal transportation funds. *See, e.g.,* sections 37.77(d) (requires filing of equivalent service certificates with state administering agency), 37.135(f) (submission of paratransit development plan to state administering agency) and 37.145 (State comments on paratransit plans). Any references to obligations not imposed on covered entities, such as state law requirements and laws regulating entities that receive Federal financial assistance, will be excluded from these proposed regulations.

e. *Dates (sections 37.9, 37.71 through 37.87, 37.91, and 37.151).*—There are several references in the Secretary's regulations to dates from which duties commence and by which certain action should be taken. *See* sections 37.9, 37.13, 37.41, 37.43, 37.47, 37.71 through 37.87, 37.91, and 37.151. The dates set forth in the regulations are derived from the statutory provisions of the ADA. *See, e.g.,* 49 CFR, pt. 37, App. D at 497, 501-02 (section-by-section analysis). The Board has determined that there is "good cause" to substitute dates which correspond to analogous periods for purposes of the CAA.

f. *Administrative Enforcement (section 37.11).*—Section 37.11 of the Secretary's regulations does not implement any provision of the ADA applied to covered entities under section 210 of the CAA. Moreover, the enforcement procedures of section 210 are explicitly provided for in section 210(d) ("Available Procedures"). Accordingly, this section will not be included within the Board's proposed regulations. The subject matter of enforcement procedures will be addressed, if necessary, under the Office's procedural rules.

g. *Applicability and Transportation Facilities (subparts B and C).*—Certain sections of Subparts B (Applicability) and C (Transportation Facilities) of the Secretary's regulations were promulgated to implement sections 242 and 304 of the ADA, provisions that are not applied to covered entities under section 210(b) of the CAA or are otherwise inapplicable to Legislative Branch entities. Therefore, the Board will exclude the following sections from its substantive regulations on that basis: 37.21(a)(2) and (b) (relating to private entities under section 304 of the ADA and private entities receiving Federal assistance from the Transportation Department), 37.25 (university transportation systems), 37.29 (private taxi services), 37.33 (airport transportation systems), 37.37(a) and 37.37(e)-(g) (relating to coverage of private entities and other entities under section 304 of the ADA), and 37.49-37.57 (relating to intercity and commuter rail systems). Similarly, the Board proposes modifying sections 37.21(c), 37.37(d), and 37.37(h) and other sections where references are made to requirements or circumstances strictly encompassed by the provisions of section 304 of the ADA and, therefore, not applicable to covered entities under the CAA. *See, e.g.,* sections 37.25-37.27 (transportation for elementary and secondary education systems).

h. *Acquisition of Accessible Vehicles by Public Entities (Subpart D).*—Subpart D (sections 37.71 through 37.95) of the Secretary's regulations relate to acquisition of accessible vehicles by public entities. Certain sections of subpart D were promulgated to implement sections 242 and 304 of the ADA, which were not applied to covered entities under section 210(b) of the CAA, or are otherwise inapplicable to Legislative Branch entities. Therefore, the Board will exclude the following sections from its substantive regulations on that basis: 37.87-37.91 and 37.93(b) (relating to intercity and commuter rail service).

i. *Acquisition of Accessible Vehicles by Private Entities (Subpart E).*—Subpart E (sections 37.101 through 37.109) of the Secretary's regulations relates to acquisition of accessible vehicles by private entities. Section 37.101, relating to acquisition of vehicles by private entities not primarily engaged in the business of transporting people, implements section 302 of the ADA, which is applied to covered entities under section 210(b). Therefore, the Board will adopt section 37.101 as part of its section 210(e) regulations. Sections 37.103, 37.107, and 37.109 of the regulations implement section 304 of the ADA, which is inapplicable to covered entities under the ADA. Therefore, the Board proposes not to include them within its substantive regulations under section 210(e) of the CAA.

j. *Appendices to Part 37.*—Part 37 of the Secretary's regulations includes several appendices, only one of which the Board proposes to adopt as part of these regulations. The Board proposes to adopt as an appendix to these regulations Appendix A (Standards for Accessible Transportation Facilities, ADA Accessibility Guidelines for Buildings and Facilities), which provides guidance regarding the design, construction, and alteration of buildings and facilities covered by Titles II and III of the ADA. 49 CFR pt. 37, App. A. Such guidelines, where not inconsistent with express provisions of the CAA or of the regulations adopted by the Board, may be relied upon by covered entities and other in proceedings under section 210 of the CAA to the same extent as similarly situated persons may rely upon them in actions brought under Title II and Title III of the ADA. *See* 142 Cong. Rec. at S222 and 141 Cong. Rec. at S17606 (similar resolution regarding Secretary of Labor's interpretative bulletins under the Fair Labor Standards Act for section 203 purposes).

The Board proposes not to adopt Appendix B, which gives the addresses of FTA regional offices. Such information is not relevant to covered entities under the CAA. The Board also proposes to adopt portions of Appendix C, which contain forms for certification of equivalent service. The Board will delete reference to the requirement that public entities receiving financial assistance under the Federal Transit Act submit the certification to their state program office before procuring any inaccessible vehicle. This certification form appears to be irrelevant to entities covered by the CAA and therefore will not be adopted by the Board.

Finally, the Board does not adopt Appendix D to Part 37, the section-by-section analysis of Part 37. Since the Board has only adopted portions of the Secretary's Part 37 regulations and has modified several provisions to conform to the CAA, it does not appear appropriate to include Appendix D. However, the Board notes that the section-by-section analysis may have some relevance in interpreting the sections of Part 37 that the Board has adopted without change.

k. *ADA Accessibility Specifications for Transportation Vehicles (Part 38)*.—Part 38 of the Secretary's regulations contains accessibility standards for all types of transportation vehicles. Part 38 is divided into vehicle types: Subpart B, Buses, Vans, and Systems; Subpart C, Rapid Rail Vehicles and Systems; Subpart D, Light Rail Vehicles and Systems; Subpart E, Commuter Rail Cars and Systems; Subpart F, Intercity Rail Cars and Systems; Subpart G, Over-the-Road Buses and Systems; and Subpart H, Other Vehicles and Systems. Section 38.2 contains the concept of equivalent facilitation, under which an entity is permitted to request approval for an alternative method of compliance. As noted in section 5.c. of this Notice, the Board proposes that such determinations be made by the General Counsel rather than the Administrator.

The Board proposes to adopt, with minimal technical and nomenclature changes, the regulations contained in Part 38 and accompanying appendix, with the exception of the following subparts which the Board has determined implement portions of the ADA not applied to covered entities under section 210(b) of the CAA and/or the Board believe have no conceivable applicability to legislative branch operations: Subpart E, Commuter Rail Cars and Systems; and Subpart F, Intercity Rail Cars and Systems.

B. Proposed regulations

1. *General Provisions*.—The proposed regulations include a section on matters of general applicability including the purpose and scope of the regulations, definitions, coverage, and the administrative authority of the Board and the Office of Compliance.

2. *Method for Identifying Responsible Entities and Establishing Categories of Violations*.—Section 210(e)(3) of the CAA directs the Board to include in its regulations a method for identifying, for purposes of section 210 and for different categories of violations of subsection (b), the entity responsible for correction of a particular violation. In developing these proposed rules, the Board considered the final Report of the General Counsel, which applied the public services and accommodations standards of section 210 to covered entities during his initial inspections under section 210(f). *See* Disability Access Report.

In developing a method for identifying the entity responsible for a correction of a violation of section 210, the Board must consider the terms of section 210 of the CAA and the precise nature of the obligations imposed on covered entities under Titles II and III of the ADA under section 210(b). The Board cannot promulgate regulations which purport to expand or limit these obligations contrary to the language of the statute or the intent of Congress. *See, e.g., White v. I.N.S.*, 75 F.3d 213, 215 (5th Cir. 1996) (agency cannot promulgate even substantive rules that are contrary to statute; if intent of Congress is clear, agency must give effect to that unambiguously expressed intent); *Conlan v. U.S. Dep't of Labor*, 76 F.3d 271, 274 (9th Cir. 1996). As set forth below, the Board has developed a method for identifying the entity responsible for correction of a violation of section 210(b) which includes providing definitions for terms such as "operate a place of public accommodation," and "public entity" for the purpose of section 210.

Section 210(b) applies the rights and protections of two separate and independent provisions of the ADA to covered entities:

The rights and protections of Title II of the ADA (sections 201 through 230) applied by section 210(b) of the CAA deals with "public entities." It prohibits discrimination against any qualified individual with a disability by any "public entity" regarding all public activities, programs, and services of that entity. Title II imposes an obligation on public entities to make "reasonable modifications to rules, policies, or practices," to achieve "the removal of architectural, communication, or transportation barriers," and to ensure "provision of auxiliary aids and services." Title II also includes provisions regarding accessibility of public transportation systems.

The rights and protections of Title III of the ADA applied by section 210(b) of the CAA (sections 302, 303, and 309) deals with "public accommodations." It prohibits discrimination on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of "any place of public accommodation." Specifically, such discrimination includes: (1) discriminatory eligibility criteria; (2) failure to make reasonable modifications; (3) failure to provide auxiliary aids and services; (4) failure to remove architectural barriers and communication barriers that are structural in nature where removal of such barriers are "readily achievable"; and (5) failure to make goods, services, facilities, privileges, advantages, or accommodations available through alternative methods where removal of barriers is not readily achievable. In contrast to Title II, Title III defines a "place of public accommodation" as "private entities" (which excludes "public entities" covered under Title II) falling within twelve specified categories of activities. Title III also contains requirements regarding specified transportation services.

As set forth in the ADA, Title II and Title III were designed to impose separate legal obligations (which are expressed in slightly different terms) on two separate and independent classes of actors: "public entities" (which have Title II obligations) and private entities that are 'places of public accommodation" (which have Title III obligations). Under the ADA, a public entity, by definition, can never be subjected to Title III of the ADA, which covers only private entities. Conversely, private entities cannot be covered by Title II. *See, e.g.*, 28 CFR, pt. 36, App. B at 587 (section-by-section analysis of Part 36) ("Facilities operated by government agencies or other public entities as defined in this section do not qualify as places of public accommodation. The action of public entities are governed by title II of the ADA"); ADA Title III Technical Assistance Manual at p. 7 (1993).

In section 210(b) of the CAA, Congress applied the rights and protections of all of Title II and parts of Title III to specified Legislative Branch entities without making either Title's coverage mutually exclusive. Thus, in contrast to the ADA, under the CAA, a single entity could conceivably have obligations under both Title II and Title III, if it meets the criteria for coverage under both Titles.

The method developed by the Board in these regulations to identify the entity responsible for correcting a violation of section 210(b) is set forth in section 1.105 of the proposed regulations. Section 1.105 is based on the Board's interpretation of the statutory coverage for Legislative Branch entities under Title II and Title III, as applied by section 210(b).

Under the proposed rule, the entity responsible for correcting a violation of the obligations under Title II of the ADA with respect to the provision of public services, programs, or activities, as applied by section 210(b) is the entity that, with respect to the particular violation, is a covered "public entity" within the meaning of section 210(b) that provided the particular public service, program, or activity that forms the basis of the violation. Similarly, the entity responsible for correcting a violation of the obligations under Title III of the ADA, as applied by section 210(b) is the entity that, with respect to the particular violation, operates the "place of public accommodation" within the meaning of section 210(b) that forms the basis of the violation. Thus, the regulations distinguish responsible entities for Title II and Title III purposes as follows:

1. *The rights and protections of Title II (sections 201 through 203 of the ADA)*: For the purpose of the rights and protections against discrimination under Title II of the ADA, the entity responsible for a violation would be any entity listed in subsection (a) of section 210 of the CAA that is a "public entity" as defined by section 210(b)(2) of the CAA and that provided the public service, program, or activity that formed the basis for the particular violation of Title II set forth in the charge filed with the General Counsel or the complaint filed by the General Counsel with the Office under section 210(d) of the CAA. Conversely, if the entity is not a "public entity" (that is, the entity provides no public services, programs, or activities) or did not provide the public service, program, or activity that formed the basis for the particular violation of Title II, the entity is not an "entity responsible for correction of the violation" within the meaning of these regulations.

2. *The rights and protections of Title III (sections 302, 303, and 309 of the ADA)*: For the purpose of the rights and protections against discrimination under Title III of the ADA, the entity responsible for a violation would be any entity listed in subsection (a) of section 210 of the CAA that "operates a place of public accommodation" (as defined in these regulations) that forms in whole or in part the basis for the particular violation of Title III.

a. "Place of public accommodation." As used in these regulations, the term "place of public accommodation" follows the definition of section 301(7) of the ADA, with appropriate modification to delete the phrase "private" and the requirement that the activities affect commerce. These modifications conform the definition to the CAA. *See* section 225(f) of the CAA, 2 U.S.C. §1361(f).

b. "Operate (a place of public accommodation)." As applied by section 210(b) of the CAA, section 302(a) of the ADA prohibits discrimination on the basis of disability by any "[Legislative Branch entity that] owns, leases (or leases to), or operates a place of public accommodation." On its face, the terms "owns, leases (or leases to)" do not apply to entities within the Legislative Branch. For example, the Board is not aware of any individual covered entity that owns the buildings or facilities housing a place of public accommodation in the way that private entities do. Similarly, the Board is unaware of any situations in which an otherwise covered entity within the Legislative

Branch may "lease" its facilities to another Legislative Branch entity. The only lease agreements of which the Board is aware would be between otherwise covered entities and persons or entities over which the CAA has no jurisdiction. For example, the General Services Administration or a private building owner may lease space to Congressional offices, but neither entity would fall within the CAA's definition of covered entity. Thus, the only issue in any case under Title III of the ADA as applied under section 210 would be whether a Legislative Branch entity "operates" a place of public accommodation within the meaning of the ADA.

The ADA does not define the term "operate." Thus, the Board "construe[s] it in accord with its ordinary and natural meaning." *Smith v. United States*, 113 S.Ct. 2050, 2054 (1993); *White v. I.N.S.*, 75 F.3d 213, 215 (5th Cir. 1996), *quoting Pioneer Investment Servs. v. Brunswick Assocs.*, 113 S.Ct. 1489, 1495 (1993) ("Congress intends the words in its enactments to carry their ordinary, contemporary, common meaning.").

To "operate," in the context of a business operation, means "to put or keep in operation," The Random House College Dictionary 931 (Rev. ed. 1980), "[t]o control or direct the functioning of," Webster's II: New Riverside Dictionary 823 (1988), "[t]o conduct the affairs of; manage," The American Heritage Dictionary 1268 (3d ed. 1992). *Neff v. American Dairy Queen Corp.*, 58 F.3d 1063, 1066 (5th Cir. 1995), *cert. denied* 116 S.Ct. 704 (1996). *See also* Webster's New Universal Unabridged Dictionary 1253 (2d ed. 1983) ("to superintend; to manage; to direct the affairs of; as, to *operate* a mine.").

In Neff v. American Dairy Queen Corp., supra, the Fifth Circuit considered the meaning of the term "operate" in the ADA in the context of franchise store operations. The plaintiff sued American Dairy Queen ("ADQ") under Title III of the ADA, arguing that the franchise agreement between ADQ and its franchisee (R & S Dairy Queens), in which ADQ retained the right to set standards for buildings and equipment maintenance and the right to "veto" proposed structural changes, made it an "operator" of the franchisees' stores within the meaning of section 302. The Fifth Circuit rejected this argument:

> "Instead, the relevant question in this case is whether ADQ, according to the terms of the franchise agreements with R & S Dairy Queens, controls modification of the San Antonio Stores to cause them to comply with the ADA. * * *
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> "In sum, while the terms of the [agreement] demonstrate that ADQ retains the right to set standards for building and equipment maintenance and to "veto" proposed structural changes, we hold that this supervisory authority, without more, is insufficient to support a holding that ADQ "operates," in the ordinary and natural meaning of that term, the [franchisee store]." 58 F.3d at 1068.

The Board finds the reasoning of the *Neff* court persuasive and adopts its application of the term "operate" for Title III purposes in these regulations.

Specifically, for the purposes of determining responsibility under Title III, an entity "operates" a place of public accommodation if it superintends, directly controls, or directs the functioning of or manages the specific aspects of the public accommodation that constitute an architectural barrier or a communication barrier that is structural in nature or that otherwise forms the basis for a violation of section 302 of the ADA, as applied by section 210(b) of the CAA. In addition, an entity "operates" a place of public accommodation if it assigns such superintendence, control, direction, or management to another entity or person by means of contract or other arrangement. An entity, whether or not a covered entity under these regulations, which contracts with a covered entity stands in the shoes of the covered entity for purposes of determining the application of Title III requirements. Thus, the definition of "operate" in these regulations "includes operation of the place of public accommodation by a person under a contractual or other arrangement or relationship with a covered entity."

In the absence of such a provision, it is possible that a covered entity, instead of directly controlling the inaccessible features of places of public accommodation, could contract with a private entity, which would then manage the accommodation in such a way as to maintain its inaccessible features. Allowing such self-insulation from liability would clearly conflict with the principles of the ADA as applied by section 210(b) of the CAA. The proposed definition is intended to prevent an otherwise covered entity from "contracting out" of its Title III obligations. Where the entity exercises no authority with respect to the modification of the specific aspects of the facilities, programs, activities, or other features of the place of public accommodation that make them inaccessible within the meaning of section 302 of the CAA, the proposed regulation states that the entity does not "operate" the place of public accommodation within the meaning of these regulations.

Where an entity merely maintains the general authority to set standards regarding a particular facility or condition at issue, and to "veto" proposed changes in the facility or condition, this oversight or supervisory authority, without more, is insufficient to support a finding that the entity "operates" the facility or condition within the meaning of these regulations. *See Neff*, 58 F.3d at 1068. Conversely, if the correction of a violation of section 210 of the CAA, including the modification of the facility or condition at issue, can only be accomplished with the active approval or permission of a particular entity, then that entity "operates" the facility or condition and is otherwise a responsible entity under this section of the regulations, but only to the extent that the entity withholds such approval or permission.

3. *Future changes in the text of regulations of the Attorney General and the Secretary which have been adopted by the Board.*—The Board proposes that the section 210 regulations adopt the text of the referenced portions of parts the regulations of the Attorney General and the Secretary of Transportation in effect as of the effective date of these regulations. The Board takes notice that the Attorney General and the Secretary have in recent years made frequent changes, both technical and nontechnical, to their Title II and Title III regulations and to the ADAAG standards incorporated by reference therein. The Board interprets the incorporation by reference in the text of the adopted Title II and Title III regulations of documents (such as the ADAAG standards at appendix A to Part 36) to include any future changes to such documents. As the Office receives notice of such changes by the Attorney General or the Secretary, it will advise covered entities and employees as part of its education and information activities. As to changes in the text of the adopted regulations themselves, however, the Board finds that, under the CAA statutory scheme, additional Board rulemaking under section 210(e) will be required. The Board believes that it should afford covered Legislative Branch entities and employees potentially affected by adoption of such changes the opportunity to comment on the propriety of Board adoption of any such changes, and that the Congress should have the opportunity to specifically approve such adoption by the Board. The Board specifically invites comments on this proposal.

4. *Technical and nomenclature changes.*—The proposed regulations make technical and nomenclature changes, where appropriate, to conform to the provisions of the CAA.

Recommended method of approval: The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and entities and facilities of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and entities and facilities of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered entities and facilities be approved by the Congress by concurrent resolution. Signed at Washington, D.C., on this 18th day of September, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

APPLICATION OF RIGHTS AND PROTECTIONS OF THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS (SECTION 210 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

Part 1—Matters of General Applicability to All Regulations Promulgated Under Section 210 of the Congressional Accountability Act of 1995

Sec.
1.101 Purpose and scope
1.102 Definitions
1.103 Coverage
1.104 Notice of protection
1.105 Authority of the Board
1.106 Method for identifying the entity responsible for correction of violations of section 210

§1.101 Purpose and scope.

(a) *Section 210 of the CAA.* Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of eleven federal labor and employment law and public access statutes to covered employees and employing offices within the legislative branch. Section 210(b) of the CAA provides that the rights and protections against discrimination in the provision of public services and accommodations established by the provisions of Title II and III (sections 201 through 230, 302, 303, and 309) of the Americans With Disabilities Act of 1990, 42 U.S.C. §§12131–12150, 12182, 12183, and 12189 ("ADA") shall apply to the following entities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician and

(9) the Office of Compliance.

2 U.S.C. §1331(b). Title II of the ADA generally prohibits discrimination on the basis of disability in the provision of public services, programs, activities by any "public entity." Section 210(b)(2) of the CAA provides that for the purpose of applying Title II of the ADA the term "public entity" means any entity listed above that provides public services, programs, or activities. Title III of the ADA generally prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with accessibility standards. Section 225(f) of the CAA provides that, "[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions of the [ADA] shall apply under this Act." 2 U.S.C. §1361(f)(1).

Section 210(f) of the CAA requires that the General Counsel of the Office of Compliance on a regular basis, and at least once each Congress, conduct periodic inspections of all covered facilities and to report to Congress on compliance with disability access standards under section 210. 2 U.S.C. §1331(f).

(b) *Purpose and scope of regulations.* The regulations set forth herein (Parts 1, 35, 36, 37, and 38) are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 210(e) of the CAA. Part 1 contains the general provisions applicable to all regulations under section 210, including the method of identifying entities responsible for correcting a violation of section 210. Part 35 contains the provisions regarding nondiscrimination on the basis of disability in the provision of public services, programs, or activities of covered entities. Part 36 contains the provisions regarding nondiscrimination on the basis of disability by public accommodations. Part 37 contains the provisions regarding transportation services for individuals with disabilities. Part 38 contains the provisions regarding accessibility specifications for transportation vehicles.

§1.102 Definitions.

Except as otherwise specifically provided in these regulations, as used in these regulations:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *ADA* means the Americans With Disabilities Act of 1990 (42 U.S.C. §§12131-12150, 12182, 12183, and 12189) as applied to covered entities by Section 210 of the CAA.

(c) The term *covered entity* includes any of the following entities that either provides public services, programs, or activities, and/or that operates a place of public accommodation within the meaning of section 210 of the CAA: (1) each office of the Senate, including each office of a Senator and each committee; (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee; (3) each joint committee of the Congress; (4) the Capitol Guide Service; (5) the Capitol Police; (6) the Congressional Budget Office; (7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden); (8) the Office of the Attending Physician; and (9) the Office of Compliance.

(d) *Board* means the Board of Directors of the Office of Compliance.

(e) *Office* means the Office of Compliance.

(f) *General Counsel* means the General Counsel of the Office of Compliance.

§1.103 Notice of protection.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 210 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

§1.104 Authority of the Board.

Pursuant to sections 210 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections against discrimination on the basis of disability in the provision of public services and accommodations under the ADA. Section 210(e) of the CAA directs the Board to promulgate regulations implementing section 210 that are "the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C. §1331(e). The regulations issued by the Board herein are on all matters for which section 210 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) [of section 210 of the CAA]" that need be adopted.

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Attorney General and the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Attorney General and/or the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulations or of the statutory provisions of the CAA upon which they are based.

§1.105 Method for identifying the entity responsible for correction of violations of section 210.

(a) *Purpose and scope.* Section 210(e)(3) of the CAA provides that regulations under section 210(e) include a method of identifying, for purposes of this section and for categories of violations of section 210(b), the entity responsible for correcting a particular violation. This section 1.105 sets forth the method for identifying responsible entities for the purpose of allocating responsibility for correcting violations of section 210(b).

(b) *Categories of violations.* Violations of the rights and protections established in section 210(b) of the CAA that may form the basis for a charge filed with the General Counsel under section 210(d)(1) of the CAA or for a complaint filed by the General Counsel under section 210(d)(3) of the CAA fall into one (or both) of two categories:

(i) *Title II violations.* A covered entity may violate section 210(b) if it discriminates against a qualified individual with a disability within the meaning of Title II of the ADA (sections 210 through 230), as applied to Legislative Branch entities under section 210(b) of the CAA.

(ii) *Title III violations.* A covered entity may also violate section 210(b) if it discriminates against a qualified individual with a disability within the meaning of Title III of the ADA (sections 302, 303, and 309), as applied to Legislative Branch entities under section 210(b) of the CAA.

(c) *Entity Responsible for Correcting a Violation of Title II Rights and Protections.* Correction of a violation of the rights and protections against discrimination under Title II of the ADA, as applied by section 210(b) of the CAA, is the responsibility of any entity listed in subsection (a) of section 210 of the CAA that is a "public entity," as defined by section 210(b)(2) of the CAA, and that provides the specific public service, program, or activity that forms the basis for the particular violation of Title II rights and protections set forth in the charge of discrimination filed with the General Counsel under section 210(d)(1) of the CAA or the complaint filed by the General Counsel with the Office under section 210(d)(3) of the CAA. As used in this section, an entity provides a public service, program, or activity if it does so itself, or by a person or other entity (whether public or private and regardless of whether that entity is covered under the CAA) under a contractual or other arrangement or relationship with the entity.

(d) *Entity Responsible for Correction of Title III Rights and Protections.* Correction of a violation of the rights and protections against discrimination under Title III of the ADA, as applied by section 210(b) of the CAA, is the responsibility of any entity listed in subsection (a) of section 210 of the CAA that "operates a place of public accommodation" (as defined in this section) that forms the basis, in whole or in part, for the particular violation of Title III rights and protections set forth in the charge filed with the General Counsel under section 210(d)(1) of the CAA and/or the complaint filed by the General Counsel with the Office under section 210(d)(3) of the CAA.

(i) Definitions.

As used in this section:

Public accommodation has the meaning set forth in Part 36 of these regulations.

Operates, with respect to the operations of a place of public accommodation, includes the superintendence, control, management, or direction of the function of the aspects of the public accommodation that constitute an architectural barrier or communication barrier that is structural in nature, or that otherwise forms the basis for a violation of the rights and protections of Title III of the ADA as applied under section 210(b) of the CAA.

(ii) As used in this section, an entity operates a place of public accommodation if it does so itself, or by a person or other entity (whether public or private and regardless of whether that entity is covered under the CAA) under a contractual or other arrangement or relationship with the entity.

(e) *Allocation of Responsibility for Correction of Title II and/or Title III Violations.* Where more than one entity is deemed an entity responsible for correction of a violation of Title II and/or Title III rights and protections under the method set forth in this section, as between those parties, allocation of responsibility for complying with the obligations of Title II and/or Title III of the ADA as applied by section 210(b), and for correction of violations thereunder, may be determined by contract or other enforceable arrangement or relationship.

Part 35—Nondiscrimination on the Basis of Disability in Public Services, Programs, or Activities

Subpart A—General

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SUBPART A—GENERAL

§ 35.101 Purpose.

The purpose of this part is to effectuate section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 *et seq.*) which, *inter alia*, applies the rights and protections of subtitle A of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131-12150), which prohibits discrimination on the basis of disability by public entities.

§ 35.102 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to all public services, programs, and activities provided or made available by public entities as defined by section 210 of the Congressional Accountability Act of 1995.

(b) To the extent that public transportation services, programs, and activities of public entities are covered by subtitle B of title II of the ADA, as applied by section 210 of the Congressional Accountability Act, they are not subject to the requirements of this part.

§ 35.103 Relationship to other laws.

(a) *Rule of interpretation.* Except as otherwise provided in this part, this part shall not be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 791) or the regulations issued by Federal agencies pursuant to that title.

(b) *Other laws.* This part does not invalidate or limit the remedies, rights, and procedures of any other Federal laws otherwise applicable to covered entities that provide greater or equal protection for the rights of individuals with disabilities or individuals associated with them.

§ 35.104 Definitions.

For purposes of this part, the term—

Act or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§ 1301-1438).

ADA means the Americans with Disabilities Act (Pub. L. 101-336, 104 Stat. 327, 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611), as applied to covered entities by section 210 of the CAA.

Auxiliary aids and services includes—

(1) Qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, text telephones (TTY's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

Board means the Board of Directors of the Office of Compliance.

Current illegal use of drugs means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1)(i) The phrase *physical or mental impairment* means—

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;

(B) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) The phrase *physical or mental impairment* includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

(iii) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase *is regarded as having an impairment means—*

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public entity as having such an impairment.

(5) The term *disability* does not include—

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania; or

(iii) Psychoactive substance use disorders resulting from current illegal use of drugs.

Drug means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

General Counsel means the General Counsel of the Office of Compliance.

Historic preservation programs means programs conducted by a public entity that have preservation of historic properties as a primary purpose.

Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under State or local law.

Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term *illegal use of drugs* does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

Individual with a disability means a person who has a disability. The term *individual with a disability* does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Qualified individual with a disability means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

Qualified interpreter means an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

Section 504 means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794)), as amended.

§ 35.105 Self-evaluation.

(a) A public entity shall, within one year of the effective date of this part, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.

(b) A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

(c) A public entity that employs 50 or more persons shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:

(1) A list of the interested persons consulted;

(2) A description of areas examined and any problems identified; and

(3) A description of any modifications made.

§ 35.106 Notice.

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the public services, programs, or activities of the public entity, and make such information available to them in such manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured them by the CAA and this part.

§ 35.107 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph.

(b) *Complaint procedure.* A public entity that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part.

§§35.108—35.129 [Reserved]

SUBPART B—GENERAL REQUIREMENTS

§ 35.130 General prohibitions against discrimination.

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the public services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

(b)(1) A public entity, in providing any public aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—

(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the public aid, benefit, or service;

(ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the public aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with a disability with a public aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate public aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with public aids, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any public aid, benefit, or service to beneficiaries of the public entity's program;

(vi) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards;

(vii) Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the public aid, benefit, or service.

(2) A public entity may not deny a qualified individual with a disability the opportunity to participate in public services, programs, or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(i) That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;

(ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's public program with respect to individuals with disabilities; or

(iii) That perpetuate the discrimination of another public entity if both public entities are subject to common administrative control.

(4) A public entity may not, in determining the site or location of a facility, make selections—

(i) That have the effect of excluding individuals with disabilities from, denying them the public benefits of, or otherwise subjecting them to discrimination; or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the public service, program, or activity with respect to individuals with disabilities.

(5) A public entity, in the selection of procurement contractors, may not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

(6) A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a public entity establish requirements for the public programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. The public programs or activities of entities that are licensed or certified by a public entity are not, themselves, covered by this part.

(7) A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the public service, program, or activity.

(8) A public entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any public service, program, or activity, unless such criteria can be shown to be necessary for the provision of the public service, program, or activity being offered.

(c) Nothing in this part prohibits a public entity from providing public benefits, services, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities beyond those required by this part.

(d) A public entity shall administer public services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

(e)(1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit provided under the CAA or this part which such individual chooses not to accept.

(2) Nothing in the CAA or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

(f) A public entity may not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by the CAA or this part.

(g) A public entity shall not exclude or otherwise deny equal public services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

§ 35.131 Illegal use of drugs.

(a) *General.* (1) Except as provided in paragraph (b) of this section, this part does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.

(2) A public entity shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who—

(i) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;

(ii) Is participating in a supervised rehabilitation program; or

(iii) Is erroneously regarded as engaging in such use.

(b) *Health and drug rehabilitation services.* (1) A public entity shall not deny public health services, or public services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.

(2) A drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.

(c) *Drug testing.* (1) This part does not prohibit a public entity from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

(2) Nothing in paragraph (c) of this section shall be construed to encourage, prohibit, restrict, or authorize the conduct of testing for the illegal use of drugs.

§ 35.132 Smoking.

This part does not preclude the prohibition of, or the imposition of restrictions on, smoking in transportation covered by this part.

§ 35.133 Maintenance of accessible features.

(a) A public entity shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the CAA or this part.

(b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§ 35.134 [Reserved]

§ 35.135 Personal devices and services.

This part does not require a public entity to provide to individuals with disabilities personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; readers for personal use or study; or services of a personal nature including assistance in eating, toileting, or dressing.

§§ 35.136-35.139 [Reserved]

SUBPART C—EMPLOYMENT

§ 35.140 Employment discrimination prohibited.

(a) No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any service, program, or activity conducted by a public entity.

(b)(1) For purposes of this part, the requirements of title I of the Americans With Disabilities Act ("ADA"), as established by the regulations of the Equal Employment Opportunity Commission in 29 CFR part 1630, apply to employment in any service, program, or activity conducted by a public entity if that public entity is also subject to the jurisdiction of title I of the ADA, as applied by section 201 of the CAA.

(2) For the purposes of this part, the requirements of section 504 of the Rehabilitation Act of 1973, as established by the regulations of the Department of Justice in 28 CFR part 41, as those requirements pertain to employment, apply to employment in any service, program, or activity conducted by a public entity if that public entity is not also subject to the jurisdiction of title I of the ADA, as applied by section 201 of the CAA.

(c) Notwithstanding anything contained in this subpart, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 201 of the CAA.

§§35.141–35.148 [Reserved]

SUBPART D—PROGRAM ACCESSIBILITY

§ 35.149 Discrimination prohibited.

Except as otherwise provided in § 35.150, no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the public services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

§ 35.150 Existing facilities.

(a) *General.* A public entity shall operate each public service, program, or activity so that the public service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not—

(1) Necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities;

(2) Require a public entity to take any action that would threaten or destroy the historic significance of an historic property; or

(3) Require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a public service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the public service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with § 35.150(a) of this part would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of a public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the public benefits or services provided by the public entity.

(b) *Methods*—(1) *General.* A public entity may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock or other conveyances, or any other methods that result in making its public services, programs, or activities readily accessible to and usable by individuals with disabilities. A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. A public entity, in making alterations to existing buildings, shall meet the accessibility requirements of § 35.151. In choosing among available methods for meeting the requirements of this section, a public entity shall give priority to those methods that offer public services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

(2) *Historic preservation programs.* In meeting the requirements of § 35.150(a) in historic preservation programs, a public entity shall give priority to methods that provide physical access to individuals with disabilities. In cases where a physical alteration to an historic property is not required because of paragraph (a)(2) or (a)(3) of this section, alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide individuals with handicaps into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance.* Where structural changes in facilities are undertaken to comply with the obligations established under this section, such changes shall be made by within three years of January 1, 1997, but in any event as expeditiously as possible.

(d) *Transition plan.* (1) In the event that structural changes to facilities will be undertaken to achieve program accessibility, a public entity that employs 50 or more persons shall develop, within six months of January 1, 1997, a transition plan setting forth the steps necessary to complete such changes. A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. A copy of the transition plan shall be made available for public inspection.

(2) If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the CAA, including covered offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.

(3) The plan shall, at a minimum—

(i) Identify physical obstacles in the public entity's facilities that limit the accessibility of its public programs or activities to individuals with disabilities;

(ii) Describe in detail the methods that will be used to make the facilities accessible;

(iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(iv) Indicate the official responsible for implementation of the plan.

§ 35.151 New construction and alterations.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 1, 1997.

(b) *Alteration.* Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 1, 1997.

(c) *Accessibility standards.* Design, construction, or alteration of facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) (Appendix B to Part 36 of these regulations) or with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) (Appendix A to Part 36 of these regulations) shall be deemed to comply with the requirements of this section with respect to those facilities, except that the elevator exemption contained at 4.1.3(5) and 4.1.6(1)(j) of ADAAG shall not apply. Departures from particular requirements of either standard by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

(d) *Alterations: Historic properties.* (1) Alterations to historic properties shall comply, to the maximum extent feasible, with section 4.1.7 of UFAS or section 4.1.7 of ADAAG.

(2) If it is not feasible to provide physical access to an historic property in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of §35.150.

(e) *Curb ramps.* (1) Newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway.

(2) Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways.

§§35.152—35.159 [Reserved]

SUBPART E—COMMUNICATIONS

§35.160 General.

(a) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

(b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a public service, program, or activity conducted by a public entity.

(2) In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.

§35.161 Text telephones (TTY's).

Where a public entity communicates by telephone with applicants and beneficiaries, TTY's or equally effective telecommunication systems shall be used to communicate with individuals with impaired hearing or speech.

§35.162 Telephone emergency services.

Telephone emergency services, including 911 services, shall provide direct access to individuals who use TTY's and computer modems.

§35.163 Information and signage.

(a) A public entity shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible public services, activities, and facilities.

(b) A public entity shall provide signage at all inaccessible entrances to each of its public facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible public facilities. The international symbol for accessibility shall be used at each accessible entrance of a public facility.

§35.164 Duties.

This subpart does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a public service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the public service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with this subpart would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the public service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this subpart would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the public benefits or services provided by the public entity.

§§35.165—35.169 [Reserved]

§§35.170—35.999 [Reserved]

Part 36—Nondiscrimination on the Basis of Disability by Public Accommodations

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SUBPART A—GENERAL

§36.101 Purpose.

The purpose of this part is to implement section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 et seq.) which, *inter alia*, applies the rights and protections of sections of title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181), which prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation to be designed, constructed, and altered in compliance with the accessibility standards established by this part.

§36.102 Application.

(a) *General.* This part applies to any—(1) Public accommodation; or

(2) covered entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes.

(b) *Public accommodations.* (1) The requirements of this part applicable to public accommodations are set forth in subparts B, C, and D of this part.

(2) The requirements of subparts B and C of this part obligate a public accommodation only with respect to the operations of a place of public accommodation.

(3) The requirements of subpart D of this part obligate a public accommodation only with respect to a facility used as, or designed or constructed for use as, a place of public accommodation.

(c) *Examinations and courses.* The requirements of this part applicable to covered entities that offer examinations or courses as specified in paragraph (a) of this section are set forth in §36.309.

§36.103 Relationship to other laws.

(a) *Rule of interpretation.* Except as otherwise provided in this part, this part shall not be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 791) or the regulations issued by Federal agencies pursuant to that title.

(b) *Other laws.* This part does not invalidate or limit the remedies, rights, and procedures of any other Federal laws otherwise applicable to covered entities that provide greater or equal protection for the rights of individuals with disabilities or individuals associated with them.

§36.104 Definitions.

For purposes of this part, the term—

Act or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

ADA means the Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327, 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611), as applied to covered entities by section 210 of the CAA.

Covered entity means any entity listed in section 210(a) of the CAA that operates a place of public accommodation.

Current illegal use of drugs means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) The phrase *physical or mental impairment* means

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine;

(ii) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) The phrase *physical or mental impairment* includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism;

(iv) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The phrase *has a record of such an impairment* means has a history of, or as been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase is *regarded as having an impairment* means

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a covered entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a covered entity as having such an impairment.

(5) The term *disability* does not include—

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania; or

(iii) Psychoactive substance use disorders resulting from current illegal use of drugs.

Drug means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term "illegal use of drugs" does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

Individual with a disability means a person who has a disability. The term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

Place of public accommodation means a facility, operated by a covered entity, whose operations fall within at least one of the following categories—

(1) An inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor;

(2) A restaurant, bar, or other establishment serving food or drink;

(3) A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(4) An auditorium, convention center, lecture hall, or other place of public gathering;

(5) A bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(6) A laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(7) A terminal, depot, or other station used for specified public transportation;

(8) A museum, library, gallery, or other place of public display or collection;

(9) A park, zoo, amusement park, or other place of recreation;

(10) A nursery, elementary, secondary, undergraduate, or postgraduate covered school, or other place of education;

(11) A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(12) A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

Public accommodation means a covered entity that operates a place of public accommodation.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Qualified interpreter means an interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.

Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable factors to be considered include—

(1) The nature and cost of the action needed under this part;

(2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent entity;

(4) If applicable, the overall financial resources of any parent entity; the overall size of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and

(5) If applicable, the type of operation or operations of any parent entity, including the composition, structure, and functions of the workforce of the parent entity.

Service animal means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Specified public transportation means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

Undue burden means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered include—

(1) The nature and cost of the action needed under this part;

(2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent entity;

(4) If applicable, the overall financial resources of any parent entity; the overall size of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and

(5) If applicable, the type of operation or operations of any parent entity, including the composition, structure, and functions of the workforce of the parent entity.

SUBPART B GENERAL REQUIREMENTS

§ 36.201 General.

Prohibition of discrimination. No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any covered entity who operates a place of public accommodation.

§ 36.202 Activities.

(a) *Denial of participation.* A public accommodation shall not subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

(b) *Participation in unequal benefit.* A public accommodation shall not afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(c) *Separate benefit.* A public accommodation shall not provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(d) *Individual or class of individuals.* For purposes of paragraphs (a) through (c) of this section, the term individual or class of individuals refers to the clients or customers of the public accommodation that enter into the contractual, licensing, or other arrangement.

§ 36.203 Integrated settings.

(a) *General.* A public accommodation shall afford goods, services, facilities, privileges, advantages, and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(b) *Opportunity to participate.* Notwithstanding the existence of separate or different programs or activities provided in accordance with this subpart, a public accommodation shall not deny an individual with a disability an opportunity to participate in such programs or activities that are not separate or different.

(c) *Accommodations and services.* (1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit available under this part that such individual chooses not to accept.

(2) Nothing in the CAA or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

§ 36.204 Administrative methods.

A public accommodation shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration that have the effect of discriminating on the basis of disability, or that perpetuate the discrimination of others who are subject to common administrative control.

§ 36.205 Association.

A public accommodation shall not exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

§ 36.206 [Reserved]

§ 36.207 Places of public accommodation located in private residences.

(a) When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this part, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for residential purposes is covered by this part.

(b) The portion of the residence covered under paragraph (a) of this section extends to those elements used to enter the place of public accommodation, including the homeowner's front sidewalk, if any, the door or entryway, and hallways; and those portions of the residence, interior or exterior, available to or used by customers or clients, including restrooms.

§ 36.208 Direct threat.

(a) This part does not require a public accommodation to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that public accommodation when that individual poses a direct threat to the health or safety of others.

(b) *Direct threat* means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.

(c) In determining whether an individual poses a direct threat to the health or safety of others, a public accommodation must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk.

§ 36.209 Illegal use of drugs.

(a) *General.* (1) Except as provided in paragraph (b) of this section, this part does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.

(2) A public accommodation shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who—

(i) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;

(ii) Is participating in a supervised rehabilitation program; or

(iii) Is erroneously regarded as engaging in such use.

(b) *Health and drug rehabilitation services.* (1) A public accommodation shall not deny health services, or services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.

(2) A drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.

(c) *Drug testing.* (1) This part does not prohibit a public accommodation from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

(2) Nothing in this paragraph (c) shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

§ 36.210 Smoking.

This part does not preclude the prohibition of, or the imposition of restrictions on, smoking in places of public accommodation.

§ 36.211 Maintenance of accessible features.

(a) A public accommodation shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the CAA or this part.

(b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§ 36.212 Insurance.

(a) This part shall not be construed to prohibit or restrict—

(1) A covered entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with applicable law; or

(2) A person or organization covered by this part from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with applicable law; or

(3) A person or organization covered by this part from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to applicable laws that regulate insurance.

(b) Paragraphs (a)(1), (2), and (3) of this section shall not be used as a subterfuge to evade the purposes of the CAA or this part.

(c) A public accommodation shall not refuse to serve an individual with a disability because its insurance company conditions coverage or rates on the absence of individuals with disabilities.

§ 36.213 Relationship of subpart B to subparts C and D of this part.

Subpart B of this part sets forth the general principles of nondiscrimination applicable to all entities subject to this part. Subparts C and D of this part provide guidance on the application of the statute to specific situations. The specific provisions, including the limitations on those provisions, control over the general provisions in circumstances where both specific and general provisions apply.

§§ 36.214–36.299 [Reserved]

SUBPART C SPECIFIC REQUIREMENTS

§ 36.301 Eligibility criteria.

(a) *General.* A public accommodation shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered.

(b) *Safety.* A public accommodation may impose legitimate safety requirements that are necessary for safe operation. Safety requirements must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.

(c) *Charges.* A public accommodation may not impose a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids, barrier removal, alternatives to barrier removal, and reasonable modifications in policies, practices, or procedures, that are required to provide that individual or group with the nondiscriminatory treatment required by the CAA or this part.

§ 36.302 Modifications in policies, practices, or procedures.

(a) *General.* A public accommodation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.

(b) *Specialties*—(1) *General*. A public accommodation may refer an individual with a disability to another public accommodation, if that individual is seeking, or requires, treatment or services outside of the referring public accommodation's area of specialization, and if, in the normal course of its operations, the referring public accommodation would make a similar referral for an individual without a disability who seeks or requires the same treatment or services.

(2) *Illustration—medical specialties*. A health care provider may refer an individual with a disability to another provider, if that individual is seeking, or requires, treatment or services outside of the referring provider's area of specialization, and if the referring provider would make a similar referral for an individual without a disability who seeks or requires the same treatment or services. A physician who specializes in treating only a particular condition cannot refuse to treat an individual with a disability for that condition, but is not required to treat the individual for a different condition.

(c) *Service animals*—(1) *General*. Generally, a public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

(2) *Care or supervision of service animals*. Nothing in this part requires a public accommodation to supervise or care for a service animal.

(d) *Check-out aisles*. A store with check-out aisles shall ensure that an adequate number of accessible check-out aisles is kept open during store hours, or shall otherwise modify its policies and practices, in order to ensure that an equivalent level of convenient service is provided to individuals with disabilities as is provided to others. If only one check-out aisle is accessible, and it is generally used for express service, one way of providing equivalent service is to allow persons with mobility impairments to make all their purchases at that aisle.

§ 36.303 Auxiliary aids and services.

(a) *General*. A public accommodation shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden, i.e., significant difficulty or expense.

(b) *Examples*. The term "auxiliary aids and service" includes—

(1) Qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, text telephones (TTY's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

(c) *Effective communication*. A public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities.

(d) Text telephones (TTY's). (1) A public accommodation that offers a customer, client, patient, or participant the opportunity to make outgoing telephone calls on more than an incidental convenience basis shall make available, upon request, a TTY for the use of an individual who has impaired hearing or a communication disorder.

(2) This part does not require a public accommodation to use a TTY for receiving or making telephone calls incident to its operations.

(f) *Alternatives*. If provision of a particular auxiliary aid or service by a public accommodation would result in a fundamental alteration in the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or is an undue burden, i.e., significant difficulty or expense, the public accommodation shall provide an alternative auxiliary aid or service, if one exists, that would not result in such an alteration or such burden but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the goods, services, facilities, privileges, advantages, or accommodations offered by the public accommodation.

§ 36.304 Removal of barriers.

(a) *General*. A public accommodation shall remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense.

(b) *Examples*. Examples of steps to remove barriers include, but are not limited to, the following actions—

(1) Installing ramps;

(2) Making curb cuts in sidewalks and entrances;

(3) Repositioning shelves;

(4) Rearranging tables, chairs, vending machines, display racks, and other furniture;

(5) Repositioning telephones;

(6) Adding raised markings on elevator control buttons;

(7) Installing flashing alarm lights;

(8) Widening doors;

(9) Installing offset hinges to widen doorways;

(10) Eliminating a turnstile or providing an alternative accessible path;

(11) Installing accessible door hardware;

(12) Installing grab bars in toilet stalls;

(13) Rearranging toilet partitions to increase maneuvering space;

(14) Insulating lavatory pipes under sinks to prevent burns;

(15) Installing a raised toilet seat;

(16) Installing a full-length bathroom mirror;

(17) Repositioning the paper towel dispenser in a bathroom;

(18) Creating designated accessible parking spaces;

(19) Installing an accessible paper cup dispenser at an existing inaccessible water fountain;

(20) Removing high pile, low density carpeting; or

(21) Installing vehicle hand controls.

(c) *Priorities*. A public accommodation is urged to take measures to comply with the barrier removal requirements of this section in accordance with the following order of priorities.

(1) First, a public accommodation should take measures to provide access to a place of public accommodation from public sidewalks, parking, or public transportation. These measures include, for example, installing an entrance ramp, widening entrances, and providing accessible parking spaces.

(2) Second, a public accommodation should take measures to provide access to those areas of a place of public accommodation where goods and services are made available to the public. These measures include, for example, adjusting the layout of display racks, rearranging tables, providing Brailled and raised character signage, widening doors, providing visual alarms, and installing ramps.

(3) Third, a public accommodation should take measures to provide access to restroom facilities. These measures include, for example, removal of obstructing furniture or vending machines, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls, and installation of grab bars.

(4) Fourth, a public accommodation should take any other measures necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

(d) *Relationship to alterations requirements of subpart D of this part*. (1) Except as provided in paragraph (d)(2) of this section, measures taken to comply with the barrier removal requirements of this section shall comply with the applicable requirements for alterations in §36.402 and §§36.404–36.406 of this part for the element being altered. The path of travel requirements of §36.403 shall not apply to measures taken solely to comply with the barrier removal requirements of this section.

(2) If, as a result of compliance with the alterations requirements specified in paragraph (d)(1) of this section, the measures required to remove a barrier would not be readily achievable, a public accommodation may take other readily achievable measures to remove the barrier that do not fully comply with the specified requirements. Such measures include, for example, providing a ramp with a steeper slope or widening a doorway to a narrower width than that mandated by the alterations requirements. No measure shall be taken, however, that poses a significant risk to the health or safety of individuals with disabilities or others.

(e) *Portable ramps*. Portable ramps should be used to comply with this section only when installation of a permanent ramp is not readily achievable. In order to avoid any significant risk to the health or safety of individuals with disabilities or others in using portable ramps, due consideration shall be given to safety features such as nonslip surfaces, railings, anchoring, and strength of materials.

(f) *Selling or serving space*. The rearrangement of temporary or movable structures, such as furniture, equipment, and display racks is not readily achievable to the extent that it results in a significant loss of selling or serving space.

(g) *Limitation on barrier removal obligations*. (1) The requirements for barrier removal under §36.304 shall not be interpreted to exceed the standards for alterations in subpart D of this part.

(2) To the extent that relevant standards for alterations are not provided in subpart D of this part, then the requirements of §36.304 shall not be interpreted to exceed the standards for new construction in subpart D of this part.

(3) This section does not apply to rolling stock and other conveyances to the extent that § 36.310 applies to rolling stock and other conveyances.

§ 36.305 Alternatives to barrier removal.

(a) *General.* Where a public accommodation can demonstrate that barrier removal is not readily achievable, the public accommodation shall not fail to make its goods, services, facilities, privileges, advantages, or accommodations available through alternative methods, if those methods are readily achievable.

(b) *Examples.* Examples of alternatives to barrier removal include, but are not limited to, the following actions—

(1) Providing curb service or home delivery;

(2) Retrieving merchandise from inaccessible shelves or racks;

(3) Relocating activities to accessible locations;

(c) *Multiscreen cinemas.* If it is not readily achievable to remove barriers to provide access by persons with mobility impairments to all of the theaters of a multiscreen cinema, the cinema shall establish a film rotation schedule that provides reasonable access for individuals who use wheelchairs to all films. Reasonable notice shall be provided to the public as to the location and time of accessible showings.

§ 36.306 Personal devices and services.

This part does not require a public accommodation to provide its customers, clients, or participants with personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; or services of a personal nature including assistance in eating, toileting, or dressing.

§ 36.307 Accessible or special goods.

(a) This part does not require a public accommodation to alter its inventory to include accessible or special goods that are designed for, or facilitate use by, individuals with disabilities.

(b) A public accommodation shall order accessible or special goods at the request of an individual with disabilities, if, in the normal course of its operation, it makes special orders on request for unstocked goods, and if the accessible or special goods can be obtained from a supplier with whom the public accommodation customarily does business.

(c) Examples of accessible or special goods include items such as Brailled versions of books, books on audio cassettes, closed-captioned video tapes, special sizes or lines of clothing, and special foods to meet particular dietary needs.

§ 36.308 Seating in assembly areas.

(a) *Existing facilities.* (1) To the extent that it is readily achievable, a public accommodation in assembly areas shall—

(i) Provide a reasonable number of wheelchair seating spaces and seats with removable aisle-side arm rests; and

(ii) Locate the wheelchair seating spaces so that they—

(A) Are dispersed throughout the seating area;

(B) Provide lines of sight and choice of admission prices comparable to those for members of the general public;

(C) Adjoin an accessible route that also serves as a means of egress in case of emergency; and

(D) Permit individuals who use wheelchairs to sit with family members or other companions.

(2) If removal of seats is not readily achievable, a public accommodation shall provide, to the extent that it is readily achievable to do so, a portable chair or other means to permit a family member or other companion to sit with an individual who uses a wheelchair.

(3) The requirements of paragraph (a) of this section shall not be interpreted to exceed the standards for alterations in subpart D of this part.

(b) *New construction and alterations.* The provision and location of wheelchair seating spaces in newly constructed or altered assembly areas shall be governed by the standards for new construction and alterations in subpart D of this part.

§ 36.309 Examinations and courses.

(a) *General.* Any covered entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

(b) *Examinations.* (1) Any covered entity offering an examination covered by this section must assure that—

(i) The examination is selected and administered so as to best ensure that, when the examination is administered to an individual with a disability that impairs sensory, manual, or speaking skills, the examination results accurately reflect the individual's aptitude or achievement level or whatever other factor the examination purports to measure, rather than reflecting the individual's impaired sensory, manual, or speaking skills (except where those skills are the factors that the examination purports to measure);

(ii) An examination that is designed for individuals with impaired sensory, manual, or speaking skills is offered at equally convenient locations, as often, and in as timely a manner as are other examinations; and

(iii) The examination is administered in facilities that are accessible to individuals with disabilities or alternative accessible arrangements are made.

(2) Required modifications to an examination may include changes in the length of time permitted for completion of the examination and adaptation of the manner in which the examination is given.

(3) A covered entity offering an examination covered by this section shall provide appropriate auxiliary aids for persons with impaired sensory, manual, or speaking skills, unless that covered entity can demonstrate that offering a particular auxiliary aid would fundamentally alter the measurement of the skills or knowledge the examination is intended to test or would result in an undue burden. Auxiliary aids and services required by this section may include taped examinations, interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments, Brailled or large print examinations and answer sheets or qualified readers for individuals with visual impairments or learning disabilities, transcribers for individuals with manual impairments, and other similar services and actions.

(4) Alternative accessible arrangements may include, for example, provision of an examination at an individual's home with a proctor if accessible facilities or equipment are unavailable. Alternative arrangements must provide comparable conditions to those provided for nondisabled individuals.

(c) *Courses.* (1) Any covered entity that offers a course covered by this section must make such modifications to that course as are necessary to ensure that the place and manner in which the course is given are accessible to individuals with disabilities.

(2) Required modifications may include changes in the length of time permitted for the completion of the course, substitution of specific requirements, or adaptation of the manner in which the course is conducted or course materials are distributed.

(3) A covered entity that offers a course covered by this section shall provide appropriate auxiliary aids and services for persons with impaired sensory, manual, or speaking skills, unless the covered entity can demonstrate that offering a particular auxiliary aid or service would fundamentally alter the course or would result in an undue burden. Auxiliary aids and services required by this section may include taped texts, interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments, Brailled or large print texts or qualified readers for individuals with visual impairments and learning disabilities, classroom equipment adapted for use by individuals with manual impairments, and other similar services and actions.

(4) Courses must be administered in facilities that are accessible to individuals with disabilities or alternative accessible arrangements must be made.

(5) Alternative accessible arrangements may include, for example, provision of the course through videotape, cassettes, or prepared notes. Alternative arrangements must provide comparable conditions to those provided for nondisabled individuals.

§ 36.310 Transportation provided by public accommodations.

(a) *General.* (1) A public accommodation that provides transportation services, but that is not primarily engaged in the business of transporting people, is subject to the general and specific provisions in subparts B, C, and D of this part for its transportation operations, except as provided in this section.

(2) *Examples.* Transportation services subject to this section include, but are not limited to, shuttle services operated between transportation terminals and places of public accommodation and customer shuttle bus services operated by covered entities

(b) *Barrier removal.* A public accommodation subject to this section shall remove transportation barriers in existing vehicles and rail passenger cars used for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift) where such removal is readily achievable.

(c) *Requirements for vehicles and systems.* A public accommodation subject to this section shall comply with the requirements pertaining to vehicles and transportation systems in the regulations issued by the Board of Directors of the Office of Compliance.

§§ 36.311–36.400 [Reserved]

SUBPART D—NEW CONSTRUCTION AND ALTERATIONS

§ 36.401 New construction.

(a) *General.* (1) Except as provided in paragraphs (b) and (c) of this section, discrimination for purposes of this part includes a failure to design and construct facilities for first occupancy after July 23, 1997, that are readily accessible to and usable by individuals with disabilities.

(2) For purposes of this section, a facility is designed and constructed for first occupancy after July 23, 1997, only—

(i) If the last application for a building permit or permit extension for the facility is certified to be complete, by an appropriate governmental authority after January 1, 1997 (or, in those jurisdictions where the government does not certify completion of applications, if the last application for a building permit or permit extension for the facility is received by the appropriate governmental authority after January 1, 1997); and

(ii) If the first certificate of occupancy for the facility is issued after July 23, 1997.

(b) *Place of public accommodation located in private residences.* (1) When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this subpart, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for residential purposes is covered by the new construction and alterations requirements of this subpart.

(2) The portion of the residence covered under paragraph (b)(1) of this section extends to those elements used to enter the place of public accommodation, including the homeowner's front sidewalk, if any, the door or entryway, and hallways; and those portions of the residence, interior or exterior, available to or used by employees or visitors of the place of public accommodation, including restrooms.

(c) *Exception for structural impracticability.* (1) Full compliance with the requirements of this section is not required where an entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.

(2) If full compliance with this section would be structurally impracticable, compliance with this section is required to the extent that it is not structurally impracticable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable.

(3) If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities (e.g., those who use crutches or who have sight, hearing, or mental impairments) in accordance with this section.

(d) *Elevator exemption.* (1) For purposes of this paragraph (d)—

Professional office of a health care provider means a location where a person or entity regulated by a State to provide professional services related to the physical or mental health of an individual makes such services available to the public. The facility housing the "professional office of a health care provider" only includes floor levels housing at least one health care provider, or any floor level designed or intended for use by at least one health care provider.

(2) This section does not require the installation of an elevator in a facility that is less than three stories or has less than 3000 square feet per story, except with respect to any facility that houses one or more of the following:

(i) A professional office of a health care provider.

(ii) A terminal, depot, or other station used for specified public transportation. In such a facility, any area housing passenger services, including boarding and debarking, loading and unloading, baggage claim, dining facilities, and other common areas open to the public, must be on an accessible route from an accessible entrance.

(3) The elevator exemption set forth in this paragraph (d) does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in paragraph (a) of this section. For example, in a facility that houses a professional office of a health care provider, the floors that are above or below an accessible ground floor and that do not house a professional office of a health care provider, must meet the requirements of this section but for the elevator.

§36.402 Alterations.

(a) *General.* (1) Any alteration to a place of public accommodation, after January 1, 1997, shall be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) An alteration is deemed to be undertaken after January 1, 1997, if the physical alteration of the property begins after that date.

(b) *Alteration.* For the purposes of this part, an alteration is a change to a place of public accommodation that affects or could affect the usability of the building or facility or any part thereof.

(1) Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal, or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility.

(2) If existing elements, spaces, or common areas are altered, then each such altered element, space, or area shall comply with the applicable provisions of appendix A to this part.

(c) *To the maximum extent feasible.* The phrase "to the maximum extent feasible," as used in this section, applies to the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible shall be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to persons with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

§36.403 Alterations: Path of travel.

(a) *General.* An alteration that affects or could affect the usability of or access to an area of a facility that contains a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration.

(b) *Primary function.* A primary function is a major activity for which the facility is intended. Areas that contain a primary function include, but are not limited to, the customer services lobby of a bank, the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public accommodation or other covered entity using the facility are carried out. Mechanical rooms, boiler rooms, supply storage rooms, employee lounges or locker rooms, janitorial closets, entrances, corridors, and restrooms are not areas containing a primary function.

(c) *Alterations to an area containing a primary function.* (1) Alterations that affect the usability of or access to an area containing a primary function include, but are not limited to—

(i) Remodeling merchandise display areas or employee work areas in a department store;

(ii) Replacing an inaccessible floor surface in the customer service or employee work areas of a bank;

(iii) Redesigning the assembly line area of a factory; or

(iv) Installing a computer center in an accounting firm.

(2) For the purposes of this section, alterations to windows, hardware, controls, electrical outlets, and signage shall not be deemed to be alterations that affect the usability of or access to an area containing a primary function.

(d) *Path of travel.* (1) A "path of travel" includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, streets, and parking areas), an entrance to the facility, and other parts of the facility.

(2) An accessible path of travel may consist of walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps; clear floor paths through lobbies, corridors, rooms, and other improved areas; parking access aisles; elevators and lifts; or a combination of these elements.

(3) For the purposes of this part, the term "path of travel" also includes the restrooms, telephones, and drinking fountains serving the altered area.

(e) *Disproportionality.* (1) Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area.

(2) Costs that may be counted as expenditures required to provide an accessible path of travel may include:

(i) Costs associated with providing an accessible entrance and an accessible route to the altered area, for example, the cost of widening doorways or installing ramps;

(ii) Costs associated with making restrooms accessible, such as installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls;

(iii) Costs associated with providing accessible telephones, such as relocating the telephone to an accessible height, installing amplification devices, or installing a text telephone (TTY);

(iv) Costs associated with relocating an inaccessible drinking fountain.

(f) *Duty to provide accessible features in the event of disproportionality.* (1) When the cost of alterations necessary to make the path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, the path of travel shall be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

(2) In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access, in the following order:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom;

(iv) Accessible telephones;

(v) Accessible drinking fountains; and

(vi) When possible, additional accessible elements such as parking, storage, and alarms.

(g) *Series of smaller alterations.* (1) The obligation to provide an accessible path of travel may not be evaded by performing a series of small alterations to the area served by a single path of travel if those alterations could have been performed as a single undertaking.

(2)(i) If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alterations to the primary function areas on that path of travel during the preceding three year period shall be considered in determining whether the cost of making that path of travel accessible is disproportionate.

(ii) Only alterations undertaken after January 1, 1997, shall be considered in determining if the cost of providing an accessible path of travel is disproportionate to the overall cost of the alterations.

§ 36.404 Alterations: Elevator exemption.

(a) This section does not require the installation of an elevator in an altered facility that is less than three stories or has less than 3,000 square feet per story, except with respect to any facility that houses the professional office of a health care provider, a terminal, depot, or other station used for specified public transportation.

For the purposes of this section, "professional office of a health care provider" means a location where a person or entity employed by a covered entity and/or regulated by a State to provide professional services related to the physical or mental health of an individual makes such services available to the public. The facility that houses a "professional office of a health care provider" only includes floor levels housing by at least one health care provider, or any floor level designed or intended for use by at least one health care provider.

(b) The exemption provided in paragraph (a) of this section does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in this subpart. For example, alterations to floors above or below the accessible ground floor must be accessible regardless of whether the altered facility has an elevator.

§ 36.405 Alterations: Historic preservation.

(a) Alterations to buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), or are designated as historic under State or local law, shall comply to the maximum extent feasible with section 4.1.7 of appendix A to this part.

(b) If it is determined under the procedures set out in section 4.1.7 of appendix A that it is not feasible to provide physical access to an historic property that is a place of public accommodation in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of subpart C of this part.

§ 36.406 Standards for new construction and alterations.

(a) New construction and alterations subject to this part shall comply with the standards for accessible design published as appendix A to this part (ADAAG).

(b) The chart in the appendix to this section provides guidance to the user in reading appendix A to this part (ADAAG) together with subparts A through D of this part, when determining requirements for a particular facility.

Appendix to § 36.406

This chart has no effect for purposes of compliance or enforcement. It does not necessarily provide complete or mandatory information.

	Subparts A–D	ADAAG
Application: General.	36.102(b)(3): public accommodations	1,2,3,4.1.1.
	36.102(c): commercial facilities	
	36.102(e): public entities	
	36.103 (other laws)	
	36.401 ("for first occupancy")	
	36.402(a)(alterations)	
Definitions	36.104: facility, place of public accommodation, public accommodation, public entity.	3.5 Definitions, including: addition, alteration, building, element, facility, space, story.
	36.401(d)(1)(i), 36.404(a)(1): professional office of a health care provider	4.1.6(i), technical infeasibility.
	36.402: alteration; usability.	
	36.402(c): to the maximum extent feasible.	
	36.401(a) General	4.1.2.
New construction: General	36.207 Places of public accommodation in private residences	4.1.3.
Work areas		4.1.1(3)
Structural impracticability	36.401(c)	4.1.1(5)(a).
Elevator exemption	36.401(d)	4.1.3(5).
	36.404	
Other exceptions		4.1.1(5), 4.1.3(5) and throughout.
Alterations: general	36.402	4.1.6(1).
Alterations affecting an area containing a primary function; path of travel; disproportionality.	36.403	4.1.6(2).
Alterations: Special Technical provisions		4.1.6(3).
Additions	36.401–36.405	4.1.5.
Historic preservation	36.405	4.1.7.
Technical provisions		4.2 through 4.35.
Restaurants and cafeterias		5.
Facilites		6.
Business and mercantile		7.
Libraries		8.
Transient lodging (hotels, homeless shelters, etc.)		9.
Transportation facilities		10.

§ 36.407. Temporary suspension of certain detectable warning requirements.

The detectable warning requirements contained in sections 4.7.7, 4.29.5, and 4.29.6 of appendix A to this part are suspended temporarily until July 26, 1998.

§§ 36.408–36.499 [Reserved]

§§ 36.501–36.608 [Reserved]

Appendix A to Part 36—Standards for Accessible Design

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999.]

Appendix B to Part 36—Uniform Federal Accessibility Standards

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999.]

Part 37—Transportation Services for Individuals With Disabilities (CAA)

Subpart A—General

Sec.
37.1 Purpose.
37.3 Definitions
37.5 Nondiscrimination.
37.7 Standards for accessible vehicles.
37.9 Standards for accessible transportation facilities.
37.11 [Reserved]
37.13 Effective date for certain vehicle lift specifications.
37.15–37.19 [Reserved]

Subpart B—Applicability

37.21 Applicability: General.
37.23 Service under contract.
37.25 [Reserved]
37.27 Transportation for elementary and secondary education systems.
37.29 [Reserved]
37.31 Vanpools.
37.33–37.35 [Reserved]
37.37 Other applications.
37.39 [Reserved]

Subpart C—Transportation Facilities

37.41 Construction of transportation facilities by public entities.
37.43 Alteration of transportation facilities by public entities.
37.45 Construction and alteration of transportation facilities by covered entities.
37.47 Key stations in light and rapid rail systems.
37.49–37.59 [Reserved]
37.61 Public transportation programs and activities in existing facilities.
37.63–37.69 [Reserved]

Subpart D—Acquisition of Accessible Vehicles by Public Entities

37.71 Purchase or lease of new non-rail vehicles by public entities operating fixed route systems.
37.73 Purchase or lease of used non-rail vehicles by public entities operating fixed route systems.
37.75 Remanufacture of non-rail vehicles and purchase or lease of remanufactured non-rail vehicles by public entities operating fixed route systems.
37.77 Purchase or lease of new non-rail vehicles by public entities operating demand responsive systems for the general public.
37.79 Purchase or lease of new rail vehicles by public entities operating rapid or light rail systems.
37.81 Purchase or lease of used rail vehicles by public entities operating rapid or light rail systems.
37.83 Remanufacture of rail vehicles and purchase or lease of remanufactured rail vehicles by public entities operating rapid or light rail systems.
37.85–37.91 [Reserved]
37.93 One car per train rule.
37.95 [Reserved]
37.97–37.99 [Reserved]

Subpart E—Acquisition of Accessible Vehicles by Covered Entities

37.101 Purchase or lease of vehicles by covered entities not primarily engaged in the business of transporting people.
37.103 [Reserved]
37.105 Equivalent service standard.
37.107–37.109 [Reserved]
37.111–37.119 [Reserved]

Subpart F—Paratransit as a complement to fixed route service

37.121 Requirement for comparable complementary paratransit service
37.123 ADA paratransit eligibility: Standards
37.125 ADA paratransit eligibility: Process.
37.127 Complementary paratransit for visitors.
37.129 Types of service.
37.131 Service criteria for complementary paratransit.
37.133 Subscription service.
37.135 Submission of paratransit plan.
37.137 Paratransit plan development.
37.139 Plan contents.
37.141 Requirements for a joint paratransit plan.
37.143 Paratransit plan implementation.
37.145 [Reserved]
37.147 Considerations during General Counsel review.
37.149 Disapproved plans.
37.151 Waiver for undue financial burden.
37.153 General Counsel waiver determination.
37.155 Factors in decision to grant undue financial burden waiver.
37.157–37.159 [Reserved]

Subpart G—Provision of Service.

37.161 Maintenance of accessible features: General.
37.163 Keeping vehicle lifts in operative condition public entities.
37.165 Lift and securement use.
37.167 Other service requirements.
37.169 Interim requirements for over-the-road bus service operated by covered entities.
37.171 Equivalency requirement for demand responsive service by covered entities not primarily engaged in the business of transporting people.
37.173 Training requirements.
Appendix A to Part 37 Standards for Accessible Transportation Facilities
Appendix B to Part 37 Certifications

SUBPART A—GENERAL

§ 37.1 Purpose.

The purpose of this part is to implement the transportation and related provisions of titles II and III of the Americans with Disabilities Act of 1990, as applied by section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 *et seq.*).

§ 37.3 Definitions

As used in this part:

Accessible means, with respect to vehicles and facilities, complying with the accessibility requirements of parts 37 and 38 of these regulations.

Act or *CAA* means the Congressional Accountability Act of 1995 (Pub.L. 104-1, 109 Stat. 3, 2 U.S.C. §§ 1301-1438).

ADA means the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131- 12150, 12182, 12183, and 12189) as applied to covered entities by section 210 of the CAA.

Alteration means a change to an existing facility, including, but not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal, or changes to mechanical or electrical systems are not alterations unless they affect the usability of the building or facility.

Automated guideway transit system or AGT means a fixed-guideway transit system which operates with automated (driverless) individual vehicles or multi-car trains. Service may be on a fixed schedule or in response to a passenger-activated call button.

Auxiliary aids and services includes:

(1) Qualified interpreters, notetakers, transcription services, written materials, telephone headset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, closed and open captioning, text telephones (also known as TTYs), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; or

(4) Other similar services or actions.

Board means the Board of Directors of the Office of Compliance.

Bus means any of several types of self-propelled vehicles, generally rubber-tired, intended for use on city streets, highways, and busways, including but not limited to minibuses, forty- and thirty- foot buses, articulated buses, double-deck buses, and electrically powered trolley buses, used by public entities to provide designated public transportation service and by covered entities to provide transportation service including, but not limited to, specified public transportation services. Self-propelled, rubber-tired vehicles designed to look like antique or vintage trolleys are considered buses.

Commuter bus service means fixed route bus service, characterized by service predominantly in one direction during peak periods, limited stops, use of multi-ride tickets, and routes of extended length, usually between the central business district and outlying suburbs. Commuter bus service may also include other service, characterized by a limited route structure, limited stops, and a coordinated relationship to another mode of transportation.

Covered entity means any entity listed in section 210(a) of the CAA that operates a place of public accommodation within the meaning of section 210 of the CAA.

Demand responsive system means any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by covered entities, including but not limited to specified public transportation service, which is not a fixed route system.

Designated public transportation means transportation provided by a public entity (other than public school transportation) by bus, rail, or other conveyance (other than transportation by aircraft or intercity or commuter rail transportation) that provides the general public with general or special service, including charter service, on a regular and continuing basis.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) *The phrase* physical or mental impairment means

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine;

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) The term *physical or mental impairment* includes, but is not limited to, such contagious or noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease, tuberculosis, drug addiction and alcoholism;

(iv) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; or

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities; or

(4) The phrase *is regarded as having such an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities, but which is treated by a public or covered entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward such an impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public or covered entity as having such an impairment.

(5) The term *disability* does not include—

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania;

(iii) Psychoactive substance abuse disorders resulting from the current illegal use of drugs.

Facility means all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Fixed route system means a system of transporting individuals (other than by aircraft), including the provision of designated public transportation service by public entities and the provision of transportation service by covered entities, including, but not limited to, specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule.

General Counsel means the General Counsel of the Office of Compliance.

Individual with a disability means a person who has a disability, but does not include an individual who is currently engaging in the illegal use of drugs, when a public or covered entity acts on the basis of such use.

Light rail means a streetcar-type vehicle operated on city streets, semi-exclusive rights of way, or exclusive rights of way. Service may be provided by step-entry vehicles or by level boarding.

New vehicle means a vehicle which is offered for sale or lease after manufacture without any prior use.

Office means the Office of Compliance.

Operates includes, with respect to a fixed route or demand responsive system, the provision of transportation service by a public or covered entity itself or by a person under a contractual or other arrangement or relationship with the entity.

Over-the-road bus means a bus characterized by an elevated passenger deck located over a baggage compartment.

Paratransit means comparable transportation service required by the CAA for individuals with disabilities who are unable to use fixed route transportation systems.

Private entity means any entity other than a public or covered entity.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Purchase or lease, with respect to vehicles, means the time at which a public or covered entity is legally obligated to obtain the vehicles, such as the time of contract execution.

Public school transportation means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

Rapid rail means a subway-type transit vehicle railway operated on exclusive private rights of way with high level platform stations. Rapid rail also may operate on elevated or at grade level track separated from other traffic.

Remanufactured vehicle means a vehicle which has been structurally restored and has had new or rebuilt major components installed to extend its service life.

Service animal means any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Solicitation means the closing date for the submission of bids or offers in a procurement.

Station means where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but this term does not include flag stops (i.e., stations which are not regularly scheduled stops but at which trains will stop board or detrain passengers only on signal or advance notice).

Transit facility means, for purposes of determining the number of text telephones needed consistent with §10.3.1(12) of Appendix A to this part, a physical structure the primary function of which is to facilitate access to and from a transportation system which has scheduled stops at the structure. The term does not include an open structure or a physical structure the primary purpose of which is other than providing transportation services.

Used vehicle means a vehicle with prior use.

Vanpool means a voluntary commuter ride-sharing arrangement, using vans with a seating capacity greater than 7 persons (including the driver) or buses, which provides transportation to a group of individuals traveling directly from their homes to their regular places of work within the same geographical area, and in which the commuter/driver does not receive compensation beyond reimbursement for his or her costs of providing the service.

Vehicle, as the term is applied to covered entities, does not include a rail passenger car, railroad locomotive, railroad freight car, or railroad caboose, or other rail rolling stock described in section 242 or title III of the Americans With Disabilities Act, which is not applied to covered entities by section 210 of the CAA.

Wheelchair means a mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "*common wheelchair*" is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

§37.5 Nondiscrimination.

(a) No covered entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

(b) Notwithstanding the provision of any special transportation service to individuals with disabilities, an entity shall not, on the basis of disability, deny to any individual with a disability the opportunity to use the entity's transportation service for the general public, if the individual is capable of using that service.

(c) An entity shall not require an individual with a disability to use designated priority seats, if the individual does not choose to use these seats.

(d) An entity shall not impose special charges, not authorized by this part, on individuals with disabilities, including individuals who use wheelchairs, for providing services required by this part or otherwise necessary to accommodate them.

(e) An entity shall not require that an individual with disabilities be accompanied by an attendant.

(f) An entity shall not refuse to serve an individual with a disability or require anything contrary to this part because its insurance company conditions coverage or rates on the absence of individuals with disabilities or requirements contrary to this part.

(g) It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

§37.7 Standards for accessible vehicles.

(a) For purposes of this part, a vehicle shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the standards set forth in part 38 of these regulations.

(b)(1) For purposes of implementing the equivalent facilitation provision in §38.2 of these regulations, the following parties may submit to the General Counsel of the applicable operating administration a request for a determination of equivalent facilitation:

(i) A public or covered entity that provides transportation services and is subject to the provisions of subpart D or subpart E of this part; or

(ii) The manufacturer of a vehicle or a vehicle component or subsystem to be used by such entity to comply with this part.

(2) The requesting party shall provide the following information with its request:

(i) Entity name, address, contact person and telephone;

(ii) Specific provision of part 38 of these regulations concerning which the entity is seeking a determination of equivalent facilitation;

(iii) [Reserved]

(iv) Alternative method of compliance, with demonstration of how the alternative meets or exceeds the level of accessibility or usability of the vehicle provided in part 38; and

(v) Documentation of the public participation used in developing an alternative method of compliance.

(3) In the case of a request by a public entity that provides transportation services subject to the provisions of subpart D of this part, the required public participation shall include the following:

(i) The entity shall contact individuals with disabilities and groups representing them in the community. Consultation with these individuals and groups shall take place at all stages of the development of the request for equivalent facilitation. All documents and other information concerning the request shall be available, upon request to members of the public.

(ii) The entity shall make its proposed request available for public comment before the request is made final or transmitted to the General Counsel. In making the request available for public review, the entity shall ensure that it is available, upon request, in accessible formats.

(iii) The entity shall sponsor at least one public hearing on the request and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements.

(4) In the case of a request by a covered entity that provides transportation services subject to the provisions of subpart E of this part, the covered entity shall consult, in person, in writing, or by other appropriate means, with representatives of national and local organizations representing people with those disabilities who would be affected by the request.

(5) A determination of compliance will be made by the General Counsel of the concerned operating administration on a case-by-case basis.

(6) Determinations of equivalent facilitation are made only with respect to vehicles or vehicle components used in the provision of transportation services covered by subpart D or subpart E of this part, and pertain only to the specific situation concerning which the determination is made. Entities shall not cite these determinations as indicating that a product or method constitute equivalent facilitation in situations other than those to which the determination is made. Entities shall not claim that a determination of equivalent facilitation indicates approval or endorsement of any product or method by the Office.

(c) Over-the-road buses acquired by public entities (or by a contractor to a public entity as provided in §37.23 of this part) shall comply with §38.23 and subpart G of part 38 of these regulations.

§37.9 Standards for accessible transportation facilities.

(a) For purposes of this part, a transportation facility shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the standards set forth in Appendix A to this part.

(b) Facility alterations begun before January 1, 1997, in a good faith effort to make a facility accessible to individuals with disabilities may be used to meet the key station requirements set forth in §37.47 of this part, even if these alterations are not consistent with the standards set forth in Appendix A to this part, if the modifications complied with the Uniform Federal Accessibility Standard (UFAS) or ANSI A117.1(1980) (American National Standards Specification for Making Buildings and Facilities Accessible to and Usable by, the Physically Handicapped). This paragraph applies only to alterations of individual elements and spaces and only to the extent that provisions covering those elements or spaces are contained in UFAS or ANSI A117.1, as applicable.

(c) Public entities shall ensure the construction of new bus stop pads are in compliance with section 10.2.1(1) of appendix A to this part, to the extent construction specifications are within their control.

(d)(1) For purposes of implementing the equivalent facilitation provision in section 2.2 of appendix A to this part, the following parties may submit to the General Counsel a request for a determination of equivalent facilitation:

(i) A public or covered entity that provides transportation services subject to the provisions of subpart C of this part, or any other appropriate party with the concurrence of the General Counsel.

(ii) The manufacturer of a product or accessibility feature to be used in the facility of such entity to comply with this part.

(2) The requesting party shall provide the following information with its request:

(i) Entity name, address, contact person and telephone;

(ii) Specific provision of appendix A to part 37 of these regulations concerning which the entity is seeking a determination of equivalent facilitation;

(iii) [Reserved];

(iv) Alternative method of compliance, with demonstration of how the alternative meets or exceeds the level of accessibility or usability of the vehicle provided in appendix A to this part; and

(v) Documentation of the public participation used in developing an alternative method of compliance.

(3) In the case of a request by a public entity that provides transportation facilities, the required public participation shall include the following:

(i) The entity shall contact individuals with disabilities and groups representing them in the community. Consultation with these individuals and groups shall take place at all stages of the development of the request for equivalent facilitation. All documents and other information concerning the request shall be available, upon request to members of the public.

(ii) The entity shall make its proposed request available for public comment before the request is made final or transmitted to the General Counsel. In making the request available for public review, the entity shall ensure that it is available, upon request, in accessible formats.

(iii) The entity shall sponsor at least one public hearing on the request and shall provide adequate notice of the hearing, including advertisement in appropriate medial, such as newspapers of general and special interest circulation and radio announcements.

(4) In the case of a request by a covered entity, the covered entity shall consult, in person, in writing, or by other appropriate means, with representatives of national and local organizations representing people with those disabilities who would be affected by the request.

(5) A determination of compliance will be made by the General Counsel on a case-by-case basis.

(6) Determinations of equivalent facilitation are made only with respect to vehicles or vehicle components used in the provision of transportation services covered by subpart D or subpart E of this part, and pertain only to the specific situation concerning which the determination is made. Entities shall not cite these determinations as indicating that a product or method constitute equivalent facilitations in situations other than those to which the determination is made. Entities shall not claim that a determination of equivalent facilitation indicates approval or endorsement of any product or method by the Office.

§37.11 [Reserved]

§37.13 Effective date for certain vehicle lift specifications.

The vehicle lift specifications identified in §§38.23(b)(6) and 38.83(b)(6) apply to solicitations for vehicles under this part after December 31, 1996.

§§37.15 Temporary suspension of certain detectable warning requirements.

The detectable warning requirements contained in sections 4.7.7, 4.29.5, and 3.29.6 of appendix A to this part are suspended temporarily until July 26, 1998.

§§37.17–37.19 [Reserved]

SUBPART B—APPLICABILITY.

§37.21 Applicability: General.

(a) This part applies to the following entities:

(1) Any public entity that provides designated public transportation; and

(2) Any covered entity that is not primarily engaged in the business of transporting people but operates a demand responsive or fixed route system.

(b) Entities to which this part applies also may be subject to CAA regulations of the Office of Compliance (parts 35 or 36, as applicable). The provisions of this part shall be interpreted in a manner that will make them consistent with applicable Office of Compliance regulations. In any case of apparent inconsistency, the provisions of this part shall prevail.

§37.23 Service under contract.

(a) When a public entity enters into a contractual or other arrangement or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public entity itself provided the service.

(b) A public entity which enters into a contractual or other arrangement or relationship with a private entity to provide fixed route service shall ensure that the percentage of accessible vehicles operated by the public entity in its overall fixed route or demand responsive fleet is not diminished as a result.

§37.25 [Reserved]

§37.27 Transportation for elementary and secondary education systems.

(a) The requirements of this part do not apply to public school transportation.

(b) The requirements of this part do not apply to the transportation of school children to and from a covered elementary or secondary school, and its school-related activities, if the school is providing transportation service to students with disabilities equivalent to that provided to students without disabilities. The test of equivalence is the same as that provided in §37.105. If the school does not meet the criteria of this paragraph for exemption from the requirements of this part, it is subject to the requirements of this part for covered entities not primarily engaged in transporting people.

§37.29 [Reserved]

§37.31 Vanpools.

Vanpool systems which are operated by public entities, or in which public entities own or purchase or lease the vehicles, are subject to the requirements of this part for demand responsive service for the general public operated by public entities. A vanpool system in this category is deemed to be providing equivalent service to individuals with disabilities if a vehicle that an individual with disabilities can use is made available to and used by a vanpool in which such an individual chooses to participate.

§§37.33–37.35 [Reserved]

§37.37 Other applications.

(a) Shuttle systems and other transportation services operated by public accommodations are subject to the requirements of this part for covered entities not primarily engaged in the business of transporting people. Either the requirements for demand responsive or fixed route service may apply, depending upon the characteristics of each individual system of transportation.

(b) Conveyances used by members of the public primarily for recreational purposes rather than for transportation (e.g., amusement park rides, ski lifts, or historic rail cars or trolleys operated in museum settings) are not subject to the requirements of this part. Such conveyances are subject to the Board's regulations implementing the nontransportation provisions of title II or title III of the ADA, as applied by section 210 of the CAA, as applicable.

(c) Transportation services provided by an employer solely for its own employees are not subject to the requirements of this part. Such services are subject to the requirements of section 201 of the CAA .

§ 37.39 [Reserved]

SUBPART C TRANSPORTATION FACILITIES

§ 37.41 Construction of transportation facilities by public entities.

A public entity shall construct any new facility to be used in providing designated public transportation services so that the facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. For purposes of this section, a facility or station is "new" if its construction begins (i.e., issuance of notice to proceed) after December 31, 1996.

§ 37.43 Alteration of transportation facilities by public entity.

(a)(1) When a public entity alters an existing facility or a part of an existing facility used in providing designated public transportation services in a way that affects or could affect the usability of the facility or part of the facility, the entity shall make the alterations (or ensure that the alterations are made) in such a manner, to the maximum extent feasible, that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations.

(2) When a public entity undertakes an alteration that affects or could affect the usability of or access to an area of a facility containing a primary function, the entity shall make the alteration in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of the alterations. *Provided*, that alterations to the path of travel, drinking fountains, telephones and bathrooms are not required to be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if the cost and scope of doing so would be disproportionate.

(3) The requirements of this paragraph also apply to the alteration of existing intercity or commuter rail stations by the responsible person for, owner of, or person in control of the station.

(4) The requirements of this section apply to any alteration which begins (i.e., issuance of notice to proceed or work order, as applicable) after December 31, 1996.

(b) As used in this section, the phrase *to the maximum extent feasible* applies to the occasional case where the nature of an existing facility makes it impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the entity shall provide the maximum physical accessibility feasible. Any altered features of the facility or portion of the facility that can be made accessible shall be made accessible. If providing accessibility to certain individuals with disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to individuals with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

(c) As used in this section, a *primary function* is a major activity for which the facility is intended. Areas of transportation facilities that involve primary functions include, but are not necessarily limited to, ticket purchase and collection areas, passenger waiting areas, train or bus platforms, baggage checking and return areas and employment areas (except those involving non-occupiable spaces accessed only by ladders, catwalks, crawl spaces, vary narrow passageways, or freight [non-passenger] elevators which are frequented only by repair personnel).

(d) As used in this section, a *path of travel* includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, parking areas, and streets), an entrance to the facility, and other parts of the facility. The term also includes the restrooms, telephones, and drinking fountains serving the altered area. An accessible path of travel may include walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps, clear floor paths through corridors, waiting areas, concourses, and other improved areas, parking access aisles, elevators and lifts, bridges, tunnels, or other passageways between platforms, or a combination of these and other elements.

(e)(1) Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20 percent of the cost of the alteration to the primary function area (without regard to the costs of accessibility modifications).

(2) Costs that may be counted as expenditures required to provide an accessible path of travel include:

(i) Costs associated with providing an accessible entrance and an accessible route to the altered area (e.g., widening doorways and installing ramps);

(ii) Costs associated with making restrooms accessible (e.g., grab bars, enlarged toilet stalls, accessible faucet controls);

(iii) Costs associated with providing accessible telephones (e.g., relocation of phones to an accessible height, installation of amplification devices or TTYs);

(iv) Costs associated with relocating an inaccessible drinking fountain.

(f)(1) When the cost of alterations necessary to make a path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, then such areas shall be made accessible to the maximum extent without resulting in disproportionate costs;

(2) In this situation, the public entity should give priority to accessible elements that will provide the greatest access, in the following order:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom (where there are one or more restrooms);

(iv) Accessible telephones;

(v) Accessible drinking fountains;

(vi) When possible, other accessible elements (e.g., parking, storage, alarms).

(g) If a public entity performs a series of small alterations to the area served by a single path of travel rather than making the alterations as part of a single undertaking, it shall nonetheless be responsible for providing an accessible path of travel.

(h)(1) If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alteration to the primary function areas on that path of travel during the preceding three year period shall be considered in determining whether the cost of making that path of travel is disproportionate;

(2) For the first three years after January 1, 1997, only alterations undertaken between that date and the date of the alteration at issue shall be considered in determining if the cost of providing accessible features is disproportionate to the overall cost of the alteration.

(3) Only alterations undertaken after January 1, 1997, shall be considered in determining if the cost of providing an accessible path of travel is disproportionate to the overall cost of the alteration.

§ 37.45 Construction and alteration of transportation facilities by covered entities.

In constructing and altering transit facilities, covered entities shall comply with the regulations of the Board implementing title III of the ADA, as applied by section 210 of the CAA (part 36).

§ 37.47 Key stations in light and rapid rail systems.

(a) Each public entity that provides designated public transportation by means of a light or rapid rail system shall make key stations on its system readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. This requirement is separate from and in addition to requirements set forth in § 37.43 of this part.

(b) Each public entity shall determine which stations on its system are key stations. The entity shall identify key stations, using the planning and public participation process set forth in paragraph (d) of this section, and taking into consideration the following criteria:

(1) Stations where passenger boardings exceed average station passenger boardings on the rail system by at least fifteen percent, unless such a station is close to another accessible station;

(2) Transfer stations on a rail line or between rail lines;

(3) Major interchange points with other transportation modes, including stations connecting with major parking facilities, bus terminals, intercity or commuter rail stations, passenger vessel terminals, or airports;

(4) End stations, unless an end station is close to another accessible station; and

(5) Stations serving major activity centers, such as employment or government centers, institutions of higher education, hospitals or other major health care facilities, or other facilities that are major trip generators for individuals with disabilities.

(c) (1) Unless an entity receives an extension under paragraph (c)(2) of this section, the public entity shall achieve accessibility of key stations as soon as practicable, but in no case later than January 1, 2000, except that an entity is not required to complete installation of detectable warnings required by section 10.3.2(2) of appendix A to this part until January 1, 2001.

(2) The General Counsel may grant an extension of this completion date for key station accessibility for a period up to January 1, 2025, provided that two-thirds of key stations are made accessible by January 1, 2015. Extensions may be granted as provided in paragraph (e) of this section.

(d) The public entity shall develop a plan for compliance for this section. The plan shall be submitted to the General Counsel's office by July 1, 1997.

(1) The public entity shall consult with individuals with disabilities affected by the plan. The public entity also shall hold at least one public hearing on the plan and solicit comments on it. The plan submitted to General Counsel shall document this public participation, including summaries of the consultation with individuals with disabilities and the comments received at the hearing and during the comment period. The plan also shall summarize the public entity's responses to the comments and consultation.

(2) The plan shall establish milestones for the achievement of required accessibility of key stations, consistent with the requirements of this section.

(e) A public entity wishing to apply for an extension of the January 1, 2000, deadline for key station accessibility shall include a request for an extension with its plan submitted to the General Counsel under paragraph (d) of this section. Extensions may be granted only with respect to key stations which need extraordinarily expensive structural changes to, or replacement of, existing facilities (e.g., installations of elevators, raising the entire passenger platform, or alterations of similar magnitude and cost). Requests for extensions shall provide for completion of key station accessibility within the time limits set forth in paragraph (c) of this section. The General Counsel may approve, approve with conditions, modify, or disapprove any request for an extension.

§§ 37.49–37.59 [Reserved]

§ 37.61 Public transportation programs and activities in existing facilities.

(a) A public entity shall operate a designated public transportation program or activity conducted in an existing facility so that, when viewed in its entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(b) This section does not require a public entity to make structural changes to existing facilities in order to make the facilities accessible by individuals who use wheelchairs, unless and to the extent required by § 37.43 (with respect to alterations) or § 37.47 of this part (with respect to key stations). Entities shall comply with other applicable accessibility requirements for such facilities.

(c) Public entities, with respect to facilities that, as provided in paragraph (b) of this section, are not required to be made accessible to individuals who use wheelchairs, are not required to provide to such individuals services made available to the general public at such facilities when the individuals could not utilize or benefit from the services.

§§ 37.63–37.69 [Reserved]

SUBPART D—ACQUISITION OF ACCESSIBLE VEHICLES BY PUBLIC ENTITIES.

§ 37.71 Purchase or lease of new non-rail vehicles by public entities operating fixed route systems.

(a) Except as provided elsewhere in this section, each public entity operating a fixed route system making a solicitation after January 31, 1997, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a new bus that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if it applies for, and the General Counsel grants, a waiver as provided for in this section.

(c) Before submitting a request for such a waiver, the public entity shall hold at least one public hearing concerning the proposed request.

(d) The General Counsel may grant a request for such a waiver if the public entity demonstrates to the General Counsel's satisfaction that—

(1) The initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) Hydraulic, electromechanical, or other lifts for such new buses could not be provided by any qualified lift manufacturer to the manufacturer of such new buses in sufficient time to comply with the solicitation; and

(3) Any further delay in purchasing new buses equipped with such necessary lifts would significantly impair transportation services in the community served by the public entity.

(e) The public entity shall include with its waiver request a copy of the initial solicitation and written documentation from the bus manufacturer of its good faith efforts to obtain lifts in time to comply with the solicitation, and a full justification for the assertion that the delay in bus procurement needed to obtain a lift-equipped bus would significantly impair transportation services in the community. This documentation shall include a specific date at which the lifts could be supplied, copies of advertisements in trade publications and inquiries to trade associations seeking lifts, and documentation of the public hearing.

(f) Any waiver granted by the General Counsel under this section shall be subject to the following conditions:

(1) The waiver shall apply only to the particular bus delivery to which the waiver request pertains;

(2) The waiver shall include a termination date, which will be based on information concerning when lifts will become available for installation on the new buses the public entity is purchasing. Buses delivered after this date, even though procured under a solicitation to which a waiver applied, shall be equipped with lifts;

(3) Any bus obtained subject to the waiver shall be capable of accepting a lift, and the public entity shall install a lift as soon as soon as one becomes available;

(4) Such other terms and conditions as the General Counsel may impose.

(g)(1) When the General Counsel grants a waiver under this section, he/she shall promptly notify any appropriate committees of Congress.

(2) If the General Counsel has reasonable cause to believe that a public entity fraudulently applied for a waiver under this section, the General Counsel shall:

(i) Cancel the waiver if it is still in effect; and

(ii) Take other appropriate action.

§ 37.73 Purchase or lease of used non-rail vehicles by public entities operating a fixed route system.

(a) Except as provided elsewhere in this section, each public entity operating a fixed route system purchasing or leasing, after January 31, 1997, a used bus or other used vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a used vehicle for use on its fixed route system that is not readily accessible to and usable by individuals with disabilities if, after making demonstrated good faith efforts to obtain an accessible vehicle, it is unable to do so.

(c) Good faith efforts shall include at least the following steps:

(1) An initial solicitation for used vehicles specifying that all used vehicles are to be lift-equipped and otherwise accessible to and usable by individuals with disabilities, or, if an initial solicitation is not used, a documented communication so stating;

(2) A nationwide search for accessible vehicles, involving specific inquiries to used vehicle dealers and other transit providers; and

(3) Advertising in trade publications and contacting trade associations.

(d) Each public entity purchasing or leasing used vehicles that are not readily accessible to and usable by individuals with disabilities shall retain documentation of the specific good faith efforts it made for three years from the date the vehicles were purchased. These records shall be made available, on request, to the General Counsel and the public.

§ 37.75 Remanufacture of non-rail vehicles and purchase or lease of remanufactured non-rail vehicles by public entities operating fixed route systems.

(a) This section applies to any public entity operating a fixed route system which takes one of the following actions:

(1) After January 31, 1997, remanufactures a bus or other vehicle so as to extend its useful life for five years or more or makes a solicitation for such remanufacturing; or

(2) Purchases or leases a bus or other vehicle which has been remanufactured so as to extend its useful life for five years or more, where the purchase or lease occurs after January 31, 1997, and during the period in which the useful life of the vehicle is extended.

(b) Vehicles acquired through the actions listed in paragraph (a) of this section shall, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) For purposes of this section, it shall be considered feasible to remanufacture a bus or other motor vehicle so as to be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless an engineering analysis demonstrates that including accessibility features required by this part would have a significant adverse effect on the structural integrity of the vehicle.

(d) If a public entity operates a fixed route system, any segment of which is included on the National Register of Historic Places, and if making a vehicle of historic character used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity has only to make (or purchase or lease a remanufactured vehicle with) those modifications to make the vehicle accessible which do not alter the historic character of such vehicle, in consultation with the National Register of Historic Places.

(e) A public entity operating a fixed route system as described in paragraph (d) of this section may apply in writing to the General

Counsel for a determination of the historic character of the vehicle. The General Counsel shall refer such requests to the National Register of Historic Places, and shall rely on its advice in making determinations of the historic character of the vehicle.

§ 37.77 Purchase or lease of new non-rail vehicles by public entities operating a demand responsive system for the general public.

(a) Except as provided in this section, a public entity operating a demand responsive system for the general public making a solicitation after January 31, 1997, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) If the system, when viewed in its entirety, provides a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service it provides to individuals without disabilities, it may purchase new vehicles that are not readily accessible to and usable by individuals with disabilities.

(c) For purposes of this section, a demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

(1) Response time;

(2) Fares;

(3) Geographic area of service;

(4) Hours and days of service;

(5) Restrictions or priorities based on trip purpose;

(6) Availability of information and reservations capability; and

(7) Any constraints on capacity or service availability.

(d) A public entity, which determines that its service to individuals with disabilities is equivalent to that provided other persons shall, before any procurement of an inaccessible vehicle, make a certificate that it provides equivalent service meeting the standards of paragraph (c) of this section. A public entity shall make such a certificate and retain it in its files, subject to inspection on request of the General Counsel. All certificates under this paragraph may be made in connection with a particular procurement or in advance of a procurement; however, no certificate shall be valid for more than one year.

(e) The waiver mechanism set forth in § 37.71(b)–(g) (unavailability of lifts) of this subpart shall also be available to public entities operating a demand responsive system for the general public.

§ 37.79 Purchase or lease of new rail vehicles by public entities operating rapid or light rail systems.

Each public entity operating a rapid or light rail system making a solicitation after January 31, 1997, to purchase or lease a new rapid or light rail vehicle for use on the system shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

§ 37.81 Purchase or lease of used rail vehicles by public entities operating rapid or light rail systems.

(a) Except as provided elsewhere in this section, each public entity operating a rapid or light rail system which, after January 31, 1997, purchases or leases a used rapid or light rail vehicle for use on the system shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a used rapid or light rail vehicle for use on its rapid or light rail system that is not readily accessible to and usable by individuals if, after making demonstrated good faith efforts to obtain an accessible vehicle, it is unable to do so.

(c) Good faith efforts shall include at least the following steps:

(1) The initial solicitation for used vehicles made by the public entity specifying that all used vehicles were to be accessible to and usable by individuals with disabilities, or, if a solicitation is not used, a documented communication so stating;

(2) A nationwide search for accessible vehicles, involving specific inquiries to manufacturers and other transit providers; and

(3) Advertising in trade publications and contacting trade associations.

(d) Each public entity purchasing or leasing used rapid or light rail vehicles that are not readily accessible to and usable by individuals with disabilities shall retain documentation of the specific good faith efforts it made for three years from the date the vehicles were purchased. These records shall be made available, on request, to the General Counsel and the public.

§ 37.83 Remanufacture of rail vehicles and purchase or lease of remanufactured rail vehicles by public entities operating rapid or light rail systems.

(a) This section applies to any public entity operating a rapid or light rail system which takes one of the following actions:

(1) After January 31, 1997, remanufactures a light or rapid rail vehicle so as to extend its useful life for five years or more or makes a solicitation for such remanufacturing;

(2) Purchases or leases a light or rapid rail vehicle which has been remanufactured so as to extend its useful life for five years or more, where the purchase or lease occurs after January 31, 1997, and during the period in which the useful life of the vehicle is extended.

(b) Vehicles acquired through the actions listed in paragraph (a) of this section shall, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) For purposes of this section, it shall be considered feasible to remanufacture a rapid or light rail vehicle so as to be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless an engineering analysis demonstrates that doing so would have a significant adverse effect on the structural integrity of the vehicle.

(d) If a public entity operates a rapid or light rail system any segment of which is included on the National Register of Historic Places and if making a rapid or light rail vehicle of historic character used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity need only make (or purchase or lease a remanufactured vehicle with) those modifications that do not alter the historic character of such vehicle.

(e) A public entity operating a fixed route system as described in paragraph (d) of this section may apply in writing to the General Counsel for a determination of the historic character of the vehicle. The General Counsel shall refer such requests to the National Register of Historic Places and shall rely on its advice in making a determination of the historic character of the vehicle.

§§ 37.85–37.91 [Reserved]

§ 37.93 One car per train rule.

(a) The definition of accessible for purposes of meeting the one car per train rule is spelled out in the applicable subpart for each transportation system type in part 38 of these regulations.

(b) Each public entity providing light or rapid rail service shall ensure that each train, consisting of two or more vehicles, includes at least one car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no case later than December 31, 2001.

§ 37.95 [Reserved]

§§ 37.97–37.99 [Reserved]

SUBPART E—ACQUISITION OF ACCESSIBLE VEHICLES BY COVERED ENTITIES

§ 37.101 Purchase or lease of vehicles by covered entities not primarily engaged in the business of transporting people.

(a) *Application.* This section applies to all purchases or leases of vehicles by covered entities which are not primarily engaged in the business of transporting people, in which a solicitation for the vehicle is made after January 31, 1997.

(b) *Fixed Route System, Vehicle Capacity Over 16.* If the entity operates a fixed route system and purchases or leases a vehicle with a seating capacity of over 16 passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) *Fixed Route System, Vehicle Capacity of 16 or Fewer.* If the entity operates a fixed route system and purchases or leases a vehicle with a seating capacity of 16 or fewer passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of § 37.105 of this part.

(d) *Demand Responsive System, Vehicle Capacity Over 16.* If the entity operates a demand responsive system, and purchases or leases a vehicle with a seating capacity of over 16 passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of § 37.105 of this part.

(e) *Demand Responsive System, Vehicle Capacity of 16 or Fewer.* Entities providing demand responsive transportation covered under this section are not specifically required to ensure that new vehicles with seating capacity of 16 or fewer are accessible to individuals with wheelchairs. These entities are required to ensure that their systems, when viewed in their entirety, meet the equivalent service requirements of §§ 37.171 and 37.105, regardless of whether or not the entities purchase a new vehicle.

§ 37.103 [Reserved]

§ 37.105 Equivalent service standard.

For purposes of § 37.101 of this part, a fixed route system or demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

(a) (1) Schedules/headways (if the system is fixed route);

(2) Response time (if the system is demand responsive);

(b) Fares;

(c) Geographic area of service;

(d) Hours and days of service;

(e) Availability of information;

(f) Reservations capability (if the system is demand responsive);

(g) Any constraints on capacity or service availability;

(h) Restrictions priorities based on trip purpose (if the system is demand responsive).

§§37.107–37.109 [Reserved]

§§37.111–37.119 [Reserved]

SUBPART F—PARATRANSIT AS A COMPLEMENT TO FIXED-ROUTE SERVICE

§37.121 Requirement for comparable complementary paratransit service.

(a) Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

(b) To be deemed comparable to fixed route service, a complementary paratransit system shall meet the requirements of §§37.123–37.133 of this subpart. The requirement to comply with §37.131 may be modified in accordance with the provisions of this subpart relating to undue financial burden.

(c) Requirements for complementary paratransit do not apply to commuter bus systems.

§37.123 CAA paratransit eligibility—standards.

(a) Public entities required by §37.121 of this subpart to provide complementary paratransit service shall provide the service to the CAA paratransit eligible individuals described in paragraph (e) of this section.

(b) If an individual meets the eligibility criteria of this section with respect to some trips but not others, the individual shall be CAA paratransit eligible only for those trips for which he or she meets the criteria.

(c) Individuals may be CAA paratransit eligible on the basis of a permanent or temporary disability.

(d) Public entities may provide complementary paratransit service to persons other than CAA paratransit eligible individuals. However, only the cost of service to CAA paratransit eligible individuals may be considered in a public entity's request for an undue financial burden waiver under §§37.151–37.155 of this part.

(e) The following individuals are CAA paratransit eligible:

(1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities.

(2) Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route.

(i) An individual is eligible under this paragraph with respect to travel on an otherwise accessible route on which the boarding or disembarking location which the individual would use is one at which boarding or disembarking from the vehicle is precluded as provided in § 37.167(g) of this part.

(ii) An individual using a common wheelchair is eligible under this paragraph if the individual's wheelchair cannot be accommodated on an existing vehicle (e.g., because the vehicle's lift does not meet the standards of part 38 of these regulations), even if that vehicle is accessible to other individuals with disabilities and their mobility wheelchairs.

(iii) With respect to rail systems, an individual is eligible under this paragraph if the individual could use an accessible rail system, but

(A) there is not yet one accessible car per train on the system; or

(B) key stations have not yet been made accessible.

(3) Any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

(i) Only a specific impairment-related condition which prevents the individual from traveling to a boarding location or from a disembarking location is a basis for eligibility under this paragraph. A condition which makes traveling to boarding location or from a disembarking location more difficult for a person with a specific impairment-related condition than for an individual who does not have the condition, but does not prevent the travel, is not a basis for eligibility under this paragraph.

(ii) Architectural barriers not under the control of the public entity providing fixed route service and environmental barriers (e.g., distance, terrain, weather) do not, standing alone, form a basis for eligibility under this paragraph. The interaction of such barriers with an individual's specific impairment-related condition may form a basis for eligibility under this paragraph, if the effect is to prevent the individual from traveling to a boarding location or from a disembarking location.

(f) Individuals accompanying a CAA paratransit eligible individual shall be provided service as follows:

(1) One other individual accompanying the CAA paratransit eligible individual shall be provided service.

(i) If the CAA paratransit eligible individual is traveling with a personal care attendant, the entity shall provide service to one other individual in addition to the attendant who is accompanying the eligible individual.

(ii) A family member or friend is regarded as a person accompanying the eligible individual, and not as a personal care attendant, unless the family member or friend registered is acting in the capacity of a personal care attendant;

(2) Additional individuals accompanying the CAA paratransit eligible individual shall be provided service, provided that space is available for them on the paratransit vehicle carrying the CAA paratransit eligible individual and that transportation of the additional individuals will not result in a denial of service to CAA paratransit eligible individuals.

(3) In order to be considered as "accompanying" the eligible individual for purposes of this paragraph, the other individual(s) shall have the same origin and destination as the eligible individual.

§37.125 CAA paratransit eligibility: process.

Each public entity required to provide complementary paratransit service by § 37.121 of this part shall establish a process for determining CAA paratransit eligibility.

(a) The process shall strictly limit CAA paratransit eligibility to individuals specified in §37.123 of this part.

(b) All information about the process, materials necessary to apply for eligibility, and notices and determinations concerning eligibility shall be made available in accessible formats, upon request.

(c) If, by a date 21 days following the submission of a complete application, the entity has not made a determination of eligibility, the applicant shall be treated as eligible and provided service until and unless the entity denies the application.

(d) The entity's determination concerning eligibility shall be in writing. If the determination is that the individual is ineligible, the determination shall state the reasons for the finding.

(e) The public entity shall provide documentation to each eligible individual stating that he or she is "CAA Paratransit Eligible." The documentation shall include the name of the eligible individual, the name of the transit provider, the telephone number of the entity's paratransit coordinator, an expiration date for eligibility, and any conditions or limitations on the individual's eligibility including the use of a personal care attendant.

(f) The entity may require recertification of the eligibility of CAA paratransit eligible individuals at reasonable intervals.

(g) The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial.

(1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application.

(2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it;

(3) The entity is not required to provide paratransit service to the individual pending the determination on appeal. However, if the entity has not made a decision within 30 days of the completion of the appeal process, the entity shall provide paratransit service from that time until and unless a decision to deny the appeal is issued.

(h) The entity may establish an administrative process to suspend, for a reasonable period of time, the provision of complementary paratransit service to CAA eligible individuals who establish a pattern or practice of missing scheduled trips.

(1) Trips missed by the individual for reasons beyond his or her control (including, but not limited to, trips which are missed due to operator error) shall not be a basis for determining that such a pattern or practice exists.

(2) Before suspending service, the entity shall take the following steps:

(i) Notify the individual in writing that the entity proposes to suspend service, citing with specificity the basis of the proposed suspension and setting forth the proposed sanction;

(ii) Provide the individual an opportunity to be heard and to present information and arguments;

(iii) Provide the individual with written notification of the decision and the reasons for it.

(3) The appeals process of paragraph (g) of this section is available to an individual on whom sanctions have been imposed under this paragraph. The sanction is stayed pending the outcome of the appeal.

(i) In applications for CAA paratransit eligibility, the entity may require the applicant to indicate whether or not he or she travels with a personal care attendant.

§37.127 Complementary paratransit service for visitors.

(a) Each public entity required to provide complementary paratransit service under § 37.121 of this part shall make the service available to visitors as provided in this section.

(b) For purposes of this section, a visitor is an individual with disabilities who does not reside in the jurisdiction(s) served by the public entity or other entities with which the public entity provides coordinated complementary paratransit service within a region.

(c) Each public entity shall treat as eligible for its complementary paratransit service all visitors who present documentation that they are CAA paratransit eligible, under the criteria of § 37.125 of this part, in the jurisdiction in which they reside.

(d) With respect to visitors with disabilities who do not present such documentation, the public entity may require the documentation of the individual's place of residence and, if the individual's disability is not apparent, of his or her disability. The entity shall provide paratransit service to individuals with disabilities who qualify as visitors under paragraph (b) of this section. The entity shall accept a certification by such individuals that they are unable to use fixed route transit.

(e) A public entity shall make the service to a visitor required by this section available for any combination of 21 days during any 365-day period beginning with the visitor's first use of the service during such 365-day period. In no case shall the public entity require a visitor to apply for or receive eligibility certification from the public entity before receiving the service required by this section.

§37.129 Types of service.

(a) Except as provided in this section, complementary paratransit service for CAA paratransit eligible persons shall be origin-to-destination service.

(b) Complementary paratransit service for CAA paratransit eligible persons described in §37.123(e)(2) of this part may also be provided by on-call bus service or paratransit feeder service to an accessible fixed route, where such service enables the individual to use the fixed route bus system for his or her trip.

(c) Complementary paratransit service for CAA eligible persons described in §37.123 (e)(3) of this part also may be provided by paratransit feeder service to and/or from an accessible fixed route.

§37.131 Service criteria for complementary paratransit.

The following service criteria apply to complementary paratransit required by §37.121 of this part.

(a) *Service Area*—(1) Bus. (i) The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

(ii) Within the core service area, the entity also shall provide service to small areas not inside any of the corridors but which are surrounded by corridors.

(iii) Outside the core service area, the entity may designate corridors with widths from three-fourths of a mile up to one and one-half miles on each side of a fixed route, based on local circumstances.

(iv) For purposes of this paragraph, the core service area is that area in which corridors with a width of three-fourths of a mile on each side of each fixed route merge together such that, with few and small exceptions, all origins and destinations within the area would be served.

(2) *Rail*. (i) For rail systems, the service area shall consist of a circle with a radius of a mile around each station.

(ii) At end stations and other stations in outlying areas, the entity may designate circles with radii of up to 1½ miles as part of its service area, based on local circumstances.

(3) *Jurisdictional Boundaries*. Notwithstanding any other provision of this paragraph, an entity is not required to provide paratransit service in an area outside the boundaries of the jurisdiction(s) in which it operates, if the entity does not have legal authority to operate in that area. The entity shall take all practicable steps to provide paratransit service to any part of its service area.

(b) *Response Time*. The entity shall schedule and provide paratransit service to any CAA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day. Reservations may be taken by reservation agents or by mechanical means.

(1) The entity shall make reservation service available during at least all normal business hours of the entity's administrative offices, as well as during times, comparable to normal business hours, on a day when the entity's offices are not open before a service day.

(2) The entity may negotiate pickup times with the individual, but the entity shall not require a CAA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

(3) The entity may use real-time scheduling in providing complementary paratransit service.

(4) The entity may permit advance reservations to be made up to 14 days in advance of a CAA paratransit eligible individual's desired trips. When an entity proposes to change its reservations system, it shall comply with the public participation requirements equivalent to those of §37.131(b) and (c).

(c) *Fares*. The fare for a trip charged to a CAA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system.

(1) In calculating the full fare that would be paid by an individual using the fixed route system, the entity may include transfer and premium charges applicable to a trip of similar length, at a similar time of day, on the fixed route system.

(2) The fares for individuals accompanying CAA paratransit eligible individuals, who are provided service under §37.123 (f) of this part, shall be the same as for the CAA paratransit eligible individuals they are accompanying.

(3) A personal care attendant shall not be charged for complementary paratransit service.

(4) The entity may charge a fare higher than otherwise permitted by this paragraph to a social service agency or other organization for agency trips (i.e., trips guaranteed to the organization).

(d) *Trip Purpose Restrictions*. The entity shall not impose restrictions or priorities based on trip purpose.

(e) *Hours and Days of Service*. The complementary paratransit service shall be available throughout the same hours and days as the entity's fixed route service.

(f) *Capacity Constraints*. The entity shall not limit the availability of complementary paratransit service to CAA paratransit eligible individuals by any of the following:

(1) Restrictions on the number of trips an individual will be provided;

(2) Waiting lists for access to the service; or

(3) Any operational pattern or practice that significantly limits the availability of service to CAA paratransit eligible persons.

(i) Such patterns or practices include, but are not limited to, the following:

(A) Substantial numbers of significantly untimely pickups for initial or return trips;

(B) Substantial numbers of trip denials or missed trips;

(C) Substantial numbers of trips with excessive trip lengths.

(ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

(g) *Additional Service*. Public entities may provide complementary paratransit service to CAA paratransit eligible individuals exceeding that provided for in this section. However, only the cost of service provided for in this section may be considered in a public entity's request for an undue financial burden waiver under §§37.151–37.155 of this part.

§37.133 Subscription Service.

(a) This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section.

(b) Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is excess non-subscription capacity.

(c) Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

§37.135 Submission of paratransit plan.

(a) *General*. Each public entity operating fixed route transportation service, which is required by §37.121 to provide complementary paratransit service, shall develop a paratransit plan.

(b) *Initial Submission*. Except as provided in §37.141 of this part, each entity shall submit its initial plan for compliance with the complementary paratransit service provision by June 1, 1998, to the appropriate location identified in paragraph (f) of this section.

(c) *Annual Updates*. Except as provided in this paragraph, each entity shall submit its annual update to the plan on June 1 of each succeeding year.

(1) If an entity has met and is continuing to meet all requirements for complementary paratransit in §§37.121–37.133 of this part, the entity may submit to the General Counsel an annual certification of continued compliance in lieu of a plan update. Entities that have submitted a joint plan under §37.141 may submit a joint certification under this paragraph. The requirements of §§37.137(a) and (b), 37.138 and 37.139 do not apply when a certification is submitted under this paragraph.

(2) In the event of any change in circumstances that results in an entity which has submitted a certification of continued compliance falling short of compliance with §§37.121–37.133, the entity shall immediately notify the General Counsel in writing of the problem. In this case, the entity shall also file a plan update meeting the requirements of §§37.137–37.139 of this part on the next following June 1 and in each succeeding year until the entity returns to full compliance.

(3) An entity that has demonstrated undue financial burden to the General Counsel shall file a plan update meeting the requirements of §§37.137–37.139 of this part on each June 1 until full compliance with §§37.121–37.133 is attained.

(4) If the General Counsel reasonably believes that an entity may not be fully complying with all service criteria, the General Counsel may require the entity to provide an annual update to its plan.

(d) *Phase-in of Implementation.* Each plan shall provide for full compliance by no later than June 1, 2003, unless the entity has received a waiver based on undue financial burden. If the date for full compliance specified in the plan is after June 1, 1999, the plan shall include milestones, providing for measured, proportional progress toward full compliance.

(e) *Plan Implementation.* Each entity shall begin implementation of its plan on June 1, 1998.

(f) *Submission Locations.* An entity shall submit its plan to the General Counsel's office.

§ 37.137 Paratransit plan development.

(a) *Survey of existing services.* Each submitting entity shall survey the area to be covered by the plan to identify any person or entity (public or covered) which provides a paratransit or other special transportation service for CAA paratransit eligible individuals in the service area to which the plan applies.

(b) *Public participation.*

Each submitting entity shall ensure public participation in the development of its paratransit plan, including at least the following:

(1) *Outreach.* Each submitting entity shall solicit participation in the development of its plan by the widest range of persons anticipated to use its paratransit service. Each entity shall develop contacts, mailing lists and other appropriate means for notification of opportunities to participate in the development of the paratransit plan.

(2) *Consultation with individuals with disabilities.* Each entity shall contact individuals with disabilities and groups representing them in the community. Consultation shall begin at an early stage in the plan development and should involve persons with disabilities in all phases of plan development. All documents and other information concerning the planning procedure and the provision of service shall be available, upon request, to members of the pubic, except where disclosure would be an unwarranted invasion of personal privacy.

(3) *Opportunity for public comment.* The submitting entity shall make its plan available for review before the plan is finalized. In making the plan available for public review, the entity shall ensure that the plan is available upon request in accessible formats.

(4) *Public hearing.* The entity shall sponsor at a minimum one public hearing and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements; and

(5) *Special requirements.* If the entity intends to phase-in its paratransit service over a multi-year period, or request a waiver based on undue financial burden, the public hearing shall afford the opportunity for interested citizens to express their views concerning the phase-in, the request, and which service criteria may be delayed in implementation.

(c) *Ongoing requirement.* The entity shall create an ongoing mechanism for the participation of individuals with disabilities in the continued development and assessment of services to persons with disabilities. This includes, but is not limited to, the development of the initial plan, any request for an undue financial burden waiver, and each annual submission.

§ 37.139 Plan contents.

Each plan shall contain the following information:

(a) Identification of the entity or entities submitting the plan, specifying for each

(1) Name and address; and

(2) Contact person for the plan, with telephone number and facsimile telephone number (FAX), if applicable.

(b) A description of the fixed route system as of January 1, 1997 (or subsequent year for annual updates), including—

(1) A description of the service area, route structure, days and hours of service, fare structure, and population served. This includes maps and tables, if appropriate;

(2) The total number of vehicles (bus, van, or rail) operated in fixed route service (including contracted service), and percentage of accessible vehicles and percentage of routes accessible to and usable by persons with disabilities, including persons who use wheelchairs;

(3) Any other information about the fixed route service that is relevant to establishing the basis for comparability of fixed route and paratransit service.

(c) A description of existing paratransit services, including:

(1) An inventory of service provided by the public entity submitting the plan;

(2) An inventory of service provided by other agencies or organizations, which may in whole or in part be used to meet the requirement for complementary paratransit service; and

(3) A description of the available paratransit services in paragraphs (c)(2) and (c)(3) of this section as they relate to the service criteria described in §37.131 of this part of service area, response time, fares, restrictions on trip purpose, hours and days of service, and capacity constraints; and to the requirements of CAA paratransit eligibility.

(d) A description of the plan to provide comparable paratransit, including:

(1) An estimate of demand for comparable paratransit service by CAA eligible individuals and a brief description of the demand estimation methodology used;

(2) An analysis of differences between the paratransit service currently provided and what is required under this part by the entity(ies) submitting the plan and other entities, as described in paragraph (c) of this section;

(3) A brief description of planned modifications to existing paratransit and fixed route service and the new paratransit service planned to comply with the CAA paratransit service criteria;

(4) A description of the planned comparable paratransit service as it relates to each of the service criteria described in § 37.131 of this part-service area, absence of restrictions or priorities based on trip purpose, response time, fares, hours and days of service, and lack of capacity constraints. If the paratransit plan is to be phased in, this paragraph shall be coordinated with the information being provided in paragraphs (d)(5) and (d)(6) of this paragraph;

(5) A timetable for implementing comparable paratransit service, with a specific date indicating when the planned service will be completely operational. In no case may full implementation be completed later than June 1, 2003. The plan shall include milestones for implementing phases of the plan, with progress that can be objectively measured yearly;

(6) A budget for comparable paratransit service, including capital and operating expenditures over five years.

(e) A description of the process used to certify individuals with disabilities as CAA paratransit eligible. At a minimum, this must include—

(1) A description of the application and certification process, including—

(i) The availability of information about the process and application materials in accessible formats;

(ii) The process for determining eligibility according to the provisions of §§37.123–37.125 of this part and notifying individuals of the determination made;

(iii) The entity's system and timetable for processing applications and allowing presumptive eligibility; and

(iv) The documentation given to eligible individuals.

(2) A description of the administrative appeals process for individuals denied eligibility.

(3) A policy for visitors, consistent with §37.127 of this part.

(f) Description of the public participation process including—

(1) Notice given of opportunity for public comment, the date(s) of completed public hearing(s), availability of the plan in accessible formats, outreach efforts, and consultation with persons with disabilities.

(2) A summary of significant issues raised during the public comment period, along with a response to significant comments and discussion of how the issues were resolved.

(g) Efforts to coordinate service with other entities subject to the complementary paratransit requirements of this part which have overlapping or contiguous service areas or jurisdictions.

(h) The following endorsements or certifications:

(1) a resolution adopted by the entity authorizing the plan, as submitted. If more than one entity is submitting the plan there must be an authorizing resolution from each board. If the entity does not function with a board, a statement shall be submitted by the entity's chief executive;

(2) a certification that the survey of existing paratransit service was conducted as required in § 37.137(a) of this part;

(3) To the extent service provided by other entities is included in the entity's plan for comparable paratransit service, the entity must certify that:

(i) CAA paratransit eligible individuals have access to the service;

(ii) The service is provided in the manner represented; and

(iii) Efforts will be made to coordinate the provision of paratransit service by other providers.

(i) a request for a waiver based on undue financial burden, if applicable. The waiver request should include information sufficient for the General Counsel to consider the factors in § 37.155 of this part. If a request for an undue financial burden waiver is made, the plan must include a description of additional paratransit services that would be provided to achieve full compliance with the requirement for comparable paratransit in the event the waiver is not granted, and the timetable for the implementation of these additional services.

(j) *Annual plan updates.* (1) The annual plan updates submitted June 1, 1999, and annually thereafter, shall include information necessary to update the information requirements of this section. Information submitted annually must include all significant changes and revisions to the timetable for implementation;

(2) If the paratransit service is being phased in over more than one year, the entity must demonstrate that the milestones identified in the current paratransit plans have been achieved. If the milestones have not been achieved, the plan must explain any slippage and what actions are being taken to compensate for the slippage.

(3) The annual plan must describe specifically the means used to comply with the public participation requirements, as described in § 37.137 of this part.

§ 37.141 Requirements for a joint paratransit plan.

(a) Two or more public entities with overlapping or contiguous service areas or jurisdictions may develop and submit a joint plan providing for coordinated paratransit service. Joint plans shall identify the participating entities and indicate their commitment to participate in the plan.

(b) To the maximum extent feasible, all elements of the coordinated plan shall be submitted on June 1, 1998. If a coordinated plan is not completed by June 1, 1998, those entities intending to coordinate paratransit service must submit a general statement declaring their intention to provide coordinated service and each element of the plan specified in § 37.139 to the extent practicable. In addition, the plan must include the following certifications from each entity involved in the coordination effort:

(1) a certification that the entity is committed to providing CAA paratransit service as part of a coordinated plan.

(2) a certification from each public entity participating in the plan that it will maintain current levels of paratransit service until the coordinated plan goes into effect.

(c) Entities submitting the above certifications and plan elements in lieu of a completed plan on June 1, 1998, must submit a complete plan by December 1, 1998.

(d) Filing of an individual plan does not preclude an entity from cooperating with other entities in the development or implementation of a joint plan. An entity wishing to join with other entities after its initial submission may do so by meeting the filing requirements of this section.

§ 37.143 Paratransit plan implementation.

(a) Each entity shall begin implementation of its complementary paratransit plan, pending notice from the General Counsel. The implementation of the plan shall be consistent with the terms of the plan, including any specified phase-in period.

(b) If the plan contains a request for a waiver based on undue financial burden, the entity shall begin implementation of its plan, pending a determination on its waiver request.

§ 37.145 [Reserved]

§ 37.147 Considerations during General Counsel review.

In reviewing each plan, at a minimum the General Counsel will consider the following:

(a) Whether the plan was filed on time;

(b) Comments submitted by the state, if applicable;

(c) Whether the plan contains responsive elements for each component required under § 37.139 of this part;

(d) Whether the plan, when viewed in its entirety, provides for paratransit service comparable to the entity's fixed route service;

(e) Whether the entity complied with the public participation efforts required by this part; and

(f) The extent to which efforts were made to coordinate with other public entities with overlapping or contiguous service areas or jurisdictions.

§ 37.149 Disapproved plans.

(a) If a plan is disapproved in whole or in part, the General Counsel will specify which provisions are disapproved. Each entity shall amend its plan consistent with this information and resubmit the plan to the General Counsel's office within 90 days of receipt of the disapproval letter.

(b) Each entity revising its plan shall continue to comply with the public participation requirements applicable to the initial development of the plan (set out in § 37.137 of this part).

§ 37.151 Waiver for undue financial burden.

If compliance with the service criteria of § 37.131 of this part creates an undue financial burden, an entity may request a waiver from all or some of the provisions if the entity has complied with the public participation requirements in § 37.137 of this part and if the following conditions apply:

(a) At the time of submission of the initial plan on June 1, 1998

(1) The entity determines that it cannot meet all of the service criteria by June 1, 2003; or

(2) The entity determines that it cannot make measured progress toward compliance in any year before full compliance is required. For purposes of this part, measured progress means implementing milestones as scheduled, such as incorporating an additional paratransit service criterion or improving an aspect of a specific service criterion.

(b) At the time of its annual plan update submission, if the entity believes that circumstances have changed since its last submission, and it is no longer able to comply by June 1, 2003, or make measured progress in any year before 2003, as described in paragraph (a)(2) of this section.

§ 37.153 General Counsel waiver determination.

(a) The General Counsel will determine whether to grant a waiver for undue financial burden on a case-by-case basis, after considering the factors identified in § 37.155 of this part and the information accompanying the request. If necessary, the General Counsel will return the application with a request for additional information.

(b) Any waiver granted will be for a limited and specified period of time. (c) If the General Counsel grants the applicant a waiver, the General Counsel will do one of the following:

(1) Require the public entity to provide complementary paratransit to the extent it can do so without incurring an undue financial burden. The entity shall make changes in its plan that the General Counsel determines are appropriate to maximize the complementary paratransit service that is provided to CAA paratransit eligible individuals. When making changes to its plan, the entity shall use the public participation process specified for plan development and shall consider first a reduction in number of trips provided to each CAA paratransit eligible person per month, while attempting to meet all other service criteria.

(2) Require the public entity to provide basic complementary paratransit services to all CAA paratransit eligible individuals, even if doing so would cause the public entity to incur an undue financial burden. Basic complementary paratransit service shall include at least complementary paratransit service in corridors defined as provided in § 37.131(a) along the public entity's key routes during core service hours.

(i) For purposes of this section, key routes are defined as routes along which there is service at least hourly throughout the day.

(ii) For purposes of this section, core service hours encompass at least peak periods, as these periods are defined locally for fixed route service, consistent with industry practice.

(3) If the General Counsel determines that the public entity will incur an undue financial burden as the result of providing basic complementary paratransit service, such that it is infeasible for the entity to provide basic complementary paratransit service, the Administrator shall require the public entity to coordinate with other available providers of demand responsive service in the area served by the public entity to maximize the service to CAA paratransit eligible individuals to the maximum extent feasible.

§ 37.155 Factors in decision to grant an undue financial burden waiver.

(a) In making an undue financial burden determination, the General Counsel will consider the following factors:

(1) Effects on current fixed route service, including reallocation of accessible fixed route vehicles and potential reduction in service, measured by service miles;

(2) Average number of trips made by the entity's general population, on a per capita basis, compared with the average number of trips to be made by registered CAA paratransit eligible persons, on a per capita basis;

(3) Reductions in other services, including other special services;

(4) Increases in fares;

(5) Resources available to implement complementary paratransit service over the period covered by the plan;

(6) Percentage of budget needed to implement the plan, both as a percentage of operating budget and a percentage of entire budget;

(7) The current level of accessible service, both fixed route and paratransit;

(8) Cooperation/coordination among area transportation providers;

(9) Evidence of increased efficiencies, that have been or could be effectuated, that would benefit the level and quality of available resources for complementary paratransit service; and

(10) Unique circumstances in the submitting entity's area that affect the ability of the entity to provide paratransit, that militate against the need to provide paratransit, or in some other respect create a circumstance considered exceptional by the submitting entity.

(b)(1) Costs attributable to complementary paratransit shall be limited to costs of providing service specifically required by this part to CAA paratransit eligible individuals, by entities responsible under this part for providing such service.

(2) If the entity determines that it is impracticable to distinguish between trips mandated by the CAA and other trips on a trip-by-trip basis, the entity shall attribute to CAA complementary paratransit requirements a percentage of its overall paratransit costs. This percentage shall be determined by a statistically valid methodology that determines the percentage of trips that are required by this part. The entity shall submit information concerning its methodology and the data on which its percentage is based with its request for a waiver. Only costs attributable to CAA-mandated trips may be considered with respect to a request for an undue financial burden waiver.

(3) Funds to which the entity would be legally entitled, but which, as a matter of state or local funding arrangements, are provided to another entity and used by that entity to provide paratransit service which is part of a coordinated system of paratransit meeting the requirements of this part, may be counted in determining the burden associated with the waiver request.

SUBPART G—PROVISION OF SERVICE

§37.161 Maintenance of accessible features: general.

(a) Public and covered entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§37.163 Keeping vehicle lifts in operative condition: public entities.

(a) This section applies only to public entities with respect to lifts in non-rail vehicles.

(b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

(c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

(d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.

(e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.

(f) In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

§37.165 Lift and securement use.

(a) This section applies to public and covered entities.

(b) All common wheelchairs and their users shall be transported in the entity's vehicles or other conveyances. The entity is not required to permit wheelchairs to ride in places other than designated securement locations in the vehicle, where such locations exist.

(c)(1) For vehicles complying with part 38 of these regulations, the entity shall use the securement system to secure wheelchairs as provided in that part.

(2) For other vehicles transporting individuals who use wheelchairs, the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area.

(3) The entity may require that an individual permit his or her wheelchair to be secured.

(d) The entity may not deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system.

(e) The entity may recommend to a user of a wheelchair that the individual transfer to a vehicle seat. The entity may not require the individual to transfer.

(f) Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

(g) The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle. Provided that an entity is not required to permit such individuals to use a lift Model 141 manufactured by EEC, Inc. If the entity chooses not to allow such individuals to use such a lift, it shall clearly notify consumers of this fact by signage on the exterior of the vehicle (adjacent to and of equivalent size with the accessibility symbol).

§37.167 Other service requirements

(a) This section applies to public and covered entities.

(b) On fixed route systems, the entity shall announce stops as follows:

(1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.

(2) The entity shall announce any stop on request of an individual with a disability.

(c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

(d) The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities.

(e) The entity shall ensure that vehicle operators and other personnel make use of accessibility-related equipment or features required by part 38 of these regulations.

(f) The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

(g) The entity shall not refuse to permit a passenger who uses a lift to disembark from a vehicle at any designated stop, unless the lift cannot be deployed, the lift will be damaged if it is deployed, or temporary conditions at the stop, not under the control of the entity, preclude the safe use of the stop by all passengers.

(h) The entity shall not prohibit an individual with a disability from traveling with a respirator or portable oxygen supply, consistent with applicable Department of Transportation rules on the transportation of hazardous materials.

(i) The entity shall ensure that adequate time is provided to allow individuals with disabilities to complete boarding or disembarking from the vehicle.

(j)(1) When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following person to move in order to allow the individual with a disability to occupy the seat or securement location:

(i) Individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly and handicapped persons (or other seat as necessary);

(ii) Individuals sitting in or a fold-down or other movable seat in a wheelchair securement location.

(2) This requirement applies to light rail and rapid rail systems only to the extent practicable.

(3) The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

(4) In all signage designating priority seating areas for elderly persons or persons with disabilities, or designating wheelchair securement areas, the entity shall include language informing persons siting in these locations that they should comply with requests by transit provider personnel to vacate their seats to make room for an individual with a disability. This requirement applies to all fixed route vehicles when they are acquired by the entity or to new or replacement signage in the entity's existing fixed route vehicles.

§37.169 Interim requirements for over-the-road bus service operated by covered entities.

(a) Covered entities operating over-the-road buses, in addition to compliance with other applicable provisions of this part, shall provide accessible service as provided in this section.

(b) The covered entity shall provide assistance, as needed, to individuals with disabilities in boarding and disembarking, including moving to and from the bus seat for the purpose of boarding and disembarking. The covered entity shall ensure that personnel are trained to provide this assistance safely and appropriately.

(c) To the extent that they can be accommodated in the areas of the passenger compartment provided for passengers' personal effects, wheelchairs or other mobility aids and assistive devices used by individuals with disabilities, or components of such devices, shall be permitted in the passenger compartment. When the bus is at rest at a stop, the driver or other personnel shall assist individuals with disabilities with the stowage and retrieval of mobility aids, assistive devices, or other items that can be accommodated in the passenger compartment of the bus.

(d) Wheelchairs and other mobility aids or assistive devices that cannot be accommodated in the passenger compartment (including electric wheelchairs) shall be accommodated in the baggage compartment of the bus, unless the size of the baggage compartment prevents such accommodation.

(e) At any given stop, individuals with disabilities shall have the opportunity to have their wheelchairs or other mobility aids or assistive devices stowed in the baggage compartment before other baggage or cargo is loaded, but baggage or cargo already on the bus does not have to be off-loaded in order to make room for such devices.

(f) The entity may require up to 48 hours' advance notice only for providing boarding assistance. If the individual does not provide such notice, the entity shall nonetheless provide the service if it can do so by making a reasonable effort, without delaying the bus service.

§37.171 Equivalency requirement for demand responsive service operated by covered entities not primarily engaged in the business of transporting people.

A covered entity not primarily engaged in the business of transporting people which operates a demand responsive system shall ensure that its system, when viewed in its entirety, provides equivalent service to individuals with disabilities, including individuals who use wheelchairs, as it does to individuals without disabilities. The standards of §37.105 shall be used to determine if the entity is providing equivalent service.

§37.173 Training.

Each public or covered entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the differences among individuals with disabilities.

Appendix A to Part 37—Standards for Accessible Transportation Facilities

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999.]

Appendix B to Part 37—Certifications

Certification of Equivalent Service

The (name of agency) certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Such service, when viewed in its entirety, is provided in the most integrated setting feasible and is equivalent with respect to:

(1) Response time;

(2) Fares;

(3) Geographic service area;

(4) Hours and days of service;

(5) Restrictions on trip purpose;

(6) Availability of information and reservation capability; and

(7) Constraints on capacity or service availability.

This certification is valid for no longer than one year from its date of filing.

signature

name of authorized official

title

date

Existing Paratransit Service Survey

This is to certify that (name of public entity (ies)) has conducted a survey of existing paratransit services as required by section 37.137 (a) of the CAA regulations.

signature

name of authorized official

title

date

Included Service Certification

This is to certify that service provided by other entities but included in the CAA paratransit plan submitted by (name of submitting entity (ies)) meets the requirements of part 37, subpart F of the CAA regulations providing that CAA eligible individuals have access to the service; the service is provided in the manner represented; and, that efforts will be made to coordinate the provision of paratransit service offered by other providers.

signature

name of authorized official

title

date

Joint Plan Certification I

This is to certify that (name of entity covered by joint plan) is committed to providing CAA paratransit service as part of this coordinated plan and in conformance with the requirements of part 37 subpart F of the CAA regulations.

signature

name of authorized official

title

date

Joint Plan Certification II

This is to certify that (name of entity covered by joint plan) will, in accordance with section 37.141 of the CAA regulations, maintain current levels of paratransit service until the coordinated plan goes into effect.

signature

name of authorized official

title

date

Part 38—Congressional Accountability Act [CAA] Accessibility Guidelines for Transportation Vehicles

Subpart A—General

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38.2 Equivalent facilitation.
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Subpart B—Buses, Vans and Systems

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38.51 General.
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Subpart F—Over-the-Road Buses and Systems

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Subpart G—Other Vehicles and Systems

38.171 General.
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38.177 [Reserved]
38.179 Trams, similar vehicles, and systems.
Figures in Part 38
Appendix to Part 38—Guidance Material

SUBPART A—GENERAL

§38.1 Purpose.

This part provides minimum guidelines and requirements for accessibility standards in part 37 of these regulations for transportation vehicles required to be accessible by section 210 of the Congressional Accountability Act (2 U.S.C. 1331, *et seq.*) which, *inter alia*, applies the rights and protections of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 *et seq.*) to covered entities within the Legislative Branch.

§38.2 Equivalent facilitation.

Departures from particular technical and scoping requirements of these guidelines by use of other designs and technologies are permitted where the alternative designs and technologies used will provide substantially equivalent or greater access to and usability of the vehicle. Departures are to be considered on a case-by-case basis by the Office of Compliance under the procedure set forth in §37.7 of these regulations.

§38.3 Definitions.

See §37.3 of these regulations.

§38.4 Miscellaneous instructions.

(a) *Dimensional conventions.* Dimensions that are not noted as minimum or maximum are absolute.

(b) *Dimensional tolerances.* All dimensions are subject to conventional engineering tolerances for material properties and field conditions, including normal anticipated wear not exceeding accepted industry-wide standards and practices.

(c) *Notes.* The text of these guidelines does not contain notes or footnotes. Additional information, explanations, and advisory materials are located in the Appendix.

(d) *General terminology.* (1) *Comply with* means meet one or more specification of these guidelines.

(2) *If*, or *if * * * then* denotes a specification that applies only when the conditions described are present.

(3) *May* denotes an option or alternative.

(4) *Shall* denotes a mandatory specification or requirement.

(5) *Should* denotes an advisory specification or recommendation and is used only in the appendix to this part.

SUBPART B—BUSES, VANS AND SYSTEMS

§ 38.21 General.

(a) New, used or remanufactured buses and vans (except over-the-road buses covered by subpart G of this part), to be considered accessible by regulations issued by the Board of Directors of the Office of Compliance in part 37 of these regulations, shall comply with the applicable provisions of this subpart.

(b) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible buses be retrofitted with lifts, ramps or other boarding devices.

§ 38.23 Mobility aid accessibility.

(a) *General.* All vehicles covered by this subpart shall provide a level-change mechanism or boarding device (e.g., lift or ramp) complying with paragraph (b) or (c) of this section and sufficient clearances to permit a wheelchair or other mobility aid user to reach a securement location. At least two securement locations and devices, complying with paragraph (d) of this section, shall be provided on vehicles in excess of 22 feet in length; at least one securement location and device, complying with paragraph (d) of this section, shall be provided on vehicles 22 feet in length or less.

(b) *Vehicle lift*—(1) *Design load.* The design load of the lift shall be at least 600 pounds. Working parts, such as cables, pulleys, and shafts, which can be expected to wear, and upon which the lift depends for support of the load, shall have a safety factor of at least six, based on the ultimate strength of the material. Nonworking parts, such as platform, frame, and attachment hardware which would not be expected to wear, shall have a safety factor of at least three, based on the ultimate strength of the material.

(2) *Controls*—(i) *Requirements.* The controls shall be interlocked with the vehicle brakes, transmission, or door, or shall provide other appropriate mechanisms or systems, to ensure that the vehicle cannot be moved when the lift is not stowed and so the lift cannot be deployed unless the interlocks or systems are engaged. The lift shall deploy to all levels (i.e., ground, curb, and intermediate positions) normally encountered in the operating environment. Where provided, each control for deploying, lowering, raising, and stowing the lift and lowering the roll-off barrier shall be of a momentary contact type requiring continuous manual pressure by the operator and shall not allow improper lift sequencing when the lift platform is occupied. The controls shall allow reversal of the lift operation sequence, such as raising or lowering a platform that is part way down, without allowing an occupied platform to fold or retract into the stowed position.

(ii) *Exception.* Where the lift is designed to deploy with its long dimension parallel to the vehicle axis and which pivots into or out of the vehicle while occupied (i.e., "rotary lift"), the requirements of this paragraph prohibiting the lift from being stowed while occupied shall not apply if the stowed position is within the passenger compartment and the lift is intended to be stowed while occupied.

(3) *Emergency operation.* The lift shall incorporate an emergency method of deploying, lowering to ground level with a lift occupant, and raising and stowing the empty lift if the power to the lift fails. No emergency method, manual or otherwise, shall be capable of being operated in a manner that could be hazardous to the lift occupant or to the operator when operated according to manufacturer's instructions, and shall not permit the platform to be stowed or folded when occupied, unless the lift is a rotary lift and is intended to be stowed while occupied.

(4) *Power or equipment failure.* Platforms stowed in a vertical position, and deployed platforms when occupied, shall have provisions to prevent their deploying, falling, or folding any faster than 12 inches/second or their dropping of an occupant in the event of a single failure of any load carrying component.

(5) *Platform barriers.* The lift platform shall be equipped with barriers to prevent any of the wheels of a wheelchair or mobility aid from rolling off the platform during its operation. A movable barrier or inherent design feature shall prevent a wheelchair or mobility aid from rolling off the edge closest to the vehicle until the platform is in its fully raised position. Each side of the lift platform which extends beyond the vehicle in its raised position shall have a barrier a minimum 1½ inches high. Such barriers shall not interfere with maneuvering into or out of the aisle. The loading-edge barrier (outer barrier) which functions as a loading ramp when the lift is at ground level, shall be sufficient when raised or closed, or a supplementary system shall be provided, to prevent a power wheelchair or mobility aid from riding over or defeating it. The outer barrier of the lift shall automatically raise or close, or a supplementary system shall automatically engage, and remain raised, closed, or engaged at all times that the platform is more than 3 inches above the roadway or sidewalk and the platform is occupied. Alternatively, a barrier or system may be raised, lowered, opened, closed, engaged, or disengaged by the lift operator, provided an interlock or inherent design feature prevents the lift from rising unless the barrier is raised or closed or the supplementary system is engaged.

(6) *Platform surface.* The platform surface shall be free of any protrusions over ¼ inch high and shall be slip resistant. The platform shall have a minimum clear width of 28½ inches at the platform, a minimum clear width of 30 inches measured from 2 inches above the platform surface to 30 inches above the platform, and a minimum clear length of 48 inches measured from 2 inches above the surface of the platform to 30 inches above the surface of the platform. (See Fig. 1)

(7) *Platform gaps.* Any openings between the platform surface and the raised barriers shall not exceed ⅝ inch in width. When the platform is at vehicle floor height with the inner barrier (if applicable) down or retracted, gaps between the forward lift platform edge and the vehicle floor shall not exceed ½ inch horizontally and ⅝ inch vertically. Platforms on semiautomatic lifts may have a hand hold not exceeding 1½ inches by 4½ inches located between the edge barriers.

(8) *Platform entrance ramp.* The entrance ramp, or loading-edge barrier used as a ramp, shall not exceed a slope of 1:8, measured on level ground, for a maximum rise of 3 inches, and the transition from roadway or sidewalk to ramp may be vertical without edge treatment up to ¼ inch. Thresholds between ¼ inch and ½ inch high shall be beveled with a slope no greater than 1:2.

(9) *Platform deflection.* The lift platform (not including the entrance ramp) shall not deflect more than 3 degrees (exclusive of vehicle roll or pitch) in any direction between its unloaded position and its position when loaded with 600 pounds applied through a 26 inch by 26 inch test pallet at the centroid of the platform.

(10) *Platform movement.* No part of the platform shall move at a rate exceeding 6 inches/second during lowering and lifting an occupant, and shall not exceed 12 inches/second during deploying or stowing. This requirement does not apply to the deployment or stowage cycles of lifts that are manually deployed or stowed. The maximum platform horizontal and vertical acceleration when occupied shall be 0.3g.

(11) *Boarding direction.* The lift shall permit both inboard and outboard facing of wheelchair and mobility aid users.

(12) *Use by standees.* Lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The platform may be marked to indicate a preferred standing position.

(13) *Handrails.* Platforms on lifts shall be equipped with handrails on two sides, which move in tandem with the lift, and which shall be graspable and provide support to standees throughout the entire lift operation. Handrails shall have a usable component at least 8 inches long with the lowest portion a minimum 30 inches above the platform and the highest portion a maximum 38 inches above the platform. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(c) *Vehicle ramp*—(1) *Design load.* Ramps 30 inches or longer shall support a load of 600 pounds, placed at the centroid of the ramp distributed over an area of 26 inches by 26 inches, with a safety factor of at least 3 based on the ultimate strength of the material. Ramps shorter than 30 inches shall support a load of 300 pounds.

(2) *Ramp surface.* The ramp surface shall be continuous and slip resistant; shall not have protrusions from the surface greater than ¼ inch high; shall have a clear width of 30 inches; and shall accommodate both four-wheel and three-wheel mobility aids.

(3) *Ramp threshold.* The transition from roadway or sidewalk and the transition from vehicle floor to the ramp may be vertical

without edge treatment up to ¼ inch. Changes in level between ¼ inch and ½ inch shall be beveled with a slope no greater than 1:2.

(4) *Ramp barriers*. Each side of the ramp shall have barriers at least 2 inches high to prevent mobility aid wheels from slipping off.

(5) *Slope*. Ramps shall have the least slope practicable and shall not exceed 1:4 when deployed to ground level. If the height of the vehicle floor from which the ramp is deployed is 3 inches or less above a 6-inch curb, a maximum slope of 1:4 is permitted; if the height of the vehicle floor from which the ramp is deployed is 6 inches or less, but greater than 3 inches, above a 6-inch curb, a maximum slope of 1:6 is permitted; if the height of the vehicle floor from which the ramp is deployed is 9 inches or less, but greater than 6 inches, above a 6-inch curb, a maximum slope of 1:8 is permitted; if the height of the vehicle floor from which the ramp is deployed is greater than 9 inches above a 6-inch curb, a slope of 1:12 shall be achieved. Folding or telescoping ramps are permitted provided they meet all structural requirements of this section.

(6) *Attachment*. When in use for boarding or alighting, the ramp shall be firmly attached to the vehicle so that it is not subject to displacement when loading or unloading a heavy power mobility aid and that no gap between vehicle and ramp exceeds inch.

(7) *Stowage*. A compartment, securement system, or other appropriate method shall be provided to ensure that stowed ramps, including portable ramps stowed in the passenger area, do not impinge on a passenger's wheelchair or mobility aid or pose any hazard to passengers in the event of a sudden stop or maneuver.

(8) *Handrails*. If provided, handrails shall allow persons with disabilities to grasp them from outside the vehicle while starting to board, and to continue to use them throughout the boarding process, and shall have the top between 30 inches and 38 inches above the ramp surface. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than inch. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(d) *Securement devices*—(1) *Design load*. Securement systems on vehicles with GVWRs of 30,000 pounds or above, and their attachments to such vehicles, shall restrain a force in the forward longitudinal direction of up to 2,000 pounds per securement leg or clamping mechanism and a minimum of 4,000 pounds for each mobility aid. Securement systems on vehicles with GVWRs of up to 30,000 pounds, and their attachments to such vehicles, shall restrain a force in the forward longitudinal direction of up to 2,500 pounds per securement leg or clamping mechanism and a minimum of 5,000 pounds for each mobility aid.

(2) *Location and size*. The securement system shall be placed as near to the accessible entrance as practicable and shall have a clear floor area of 30 inches by 48 inches. Such space shall adjoin, and may overlap, an access path. Not more than 6 inches of the required clear floor space may be accommodated for footrests under another seat provided there is a minimum of 9 inches from the floor to the lowest part of the seat overhanging the space. Securement areas may have fold-down seats to accommodate other passengers when a wheelchair or mobility aid is not occupying the area, provided the seats, when folded up, do not obstruct the clear floor space required.

(3) *Mobility aids accommodated*. The securement system shall secure common wheelchairs and mobility aids and shall either be automatic or easily attached by a person familiar with the system and mobility aid and having average dexterity.

(4) *Orientation*. In vehicles in excess of 22 feet in length, at least one securement device or system required by paragraph (a) of this section shall secure the wheelchair or mobility aid facing toward the front of the vehicle. In vehicles 22 feet in length or less, the required securement device may secure the wheelchair or mobility aid either facing toward the front of the vehicle or rearward. Additional securement devices or systems shall secure the wheelchair or mobility aid facing forward or rearward. Where the wheelchair or mobility aid is secured facing the rear of the vehicle, a padded barrier shall be provided. The padded barrier shall extend from a height of 38 inches from the vehicle floor to a height of 56 inches from the vehicle floor with a width of 18 inches, laterally centered immediately in back of the seated individual. Such barriers need not be solid provided equivalent protection is afforded.

(5) *Movement*. When the wheelchair or mobility aid is secured in accordance with manufacturer's instructions, the securement system shall limit the movement of an occupied wheelchair or mobility aid to no more than 2 inches in any direction under normal vehicle operating conditions.

(6) *Stowage*. When not being used for securement, or when the securement area can be used by standees, the securement system shall not interfere with passenger movement, shall not present any hazardous condition, shall be reasonably protected from vandalism, and shall be readily accessed when needed for use.

(7) *Seat belt and shoulder harness*. For each wheelchair or mobility aid securement device provided, a passenger seat belt and shoulder harness, complying with all applicable provisions of part 571 of title 49 CFR, shall also be provided for use by wheelchair or mobility aid users. Such seat belts and shoulder harnesses shall not be used in lieu of a device which secures the wheelchair or mobility aid itself.

§38.25 Doors, steps and thresholds.

(a) *Slip resistance*. All aisles, steps, floor areas where people walk and floors in securement locations shall have slip-resistant surfaces.

(b) *Contrast*. All step edges, thresholds, and the boarding edge of ramps or lift platforms shall have a band of color(s) running the full width of the step or edge which contrasts from the step tread and riser, or lift or ramp surface, either light-on-dark or dark-on-light.

(c) *Door height*. For vehicles in excess of 22 feet in length, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of a ramp, shall be a minimum of 68 inches. For vehicles of 22 feet in length or less, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of a ramp, shall be a minimum of 56 inches.

§38.27 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that seats in the front of the vehicle are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them. At least one set of forward-facing seats shall be so designated.

(b) Each securement location shall have a sign designating it as such.

(c) Characters on signs required by paragraphs (a) and (b) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of ⅝ inch, with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background either light-on-dark or dark-on-light.

§38.29 Interior circulation, handrails and stanchions.

(a) Interior handrails and stanchions shall permit sufficient turning and maneuvering space for wheelchairs and other mobility aids to reach a securement location from the lift or ramp.

(b) Handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows persons with disabilities to grasp such assists from outside the vehicle while starting to board, and to continue using such assists throughout the boarding and fare collection process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used on vehicles in excess of 22 feet in length, a horizontal passenger assist shall be located across the front of the vehicle and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the front door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(c) For vehicles in excess of 22 feet in length, overhead handrail(s) shall be provided which shall be continuous except for a gap at the rear doorway.

(d) Handrails and stanchions shall be sufficient to permit safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(e) For vehicles in excess of 22 feet in length with front-door lifts or ramps, vertical stanchions immediately behind the driver shall either terminate at the lower edge of the aisle-facing seats, if applicable, or be "dog-legged" so that the floor attachment does not impede or interfere with wheelchair footrests. If the driver seat platform must be passed by a wheelchair or mobility aid user entering the vehicle, the platform, to the maximum extent practicable, shall not extend into the aisle or vestibule beyond the wheel housing.

(f) For vehicles in excess of 22 feet in length, the minimum interior height along the path from the lift to the securement location shall be 68 inches. For vehicles of 22 feet in length or less, the minimum interior height from lift to securement location shall be 56 inches.

§38.31 Lighting.

(a) Any stepwell or doorway immediately adjacent to the driver shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread or lift platform.

(b) Other stepwells and doorways, including doorways in which lifts or ramps are installed, shall have, at all times, at least 2 foot-candles of illumination measured on the step tread, or lift or ramp, when deployed at the vehicle floor level.

(c) The vehicle doorways, including doorways in which lifts or ramps are installed, shall have outside light(s) which, when the door is open, provide at least 1 foot-candle of illumination on the street surface for a distance of 3 feet perpendicular to all points on the bottom step tread outer edge. Such light(s) shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§ 38.33 Fare box.

Where provided, the farebox shall be located as far forward as practicable and shall not obstruct traffic in the vestibule, especially wheelchairs or mobility aids.

§ 38.35 Public information system.

(a) Vehicles in excess of 22 feet in length, used in multiple-stop, fixed-route service, shall be equipped with a public address system permitting the driver, or recorded or digitized human speech messages, to announce stops and provide other passenger information within the vehicle.

(b) [Reserved]

§ 38.37 Stop request.

(a) Where passengers may board or alight at multiple stops at their option, vehicles in excess of 22 feet in length shall provide controls adjacent to the securement location for requesting stops and which alerts the driver that a mobility aid user wishes to disembark. Such a system shall provide auditory and visual indications that the request has been made.

(b) Controls required by paragraph (a) of this section shall be mounted no higher than 48 inches and no lower than 15 inches above the floor, shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf (22.2 N).

§ 38.39 Destination and route signs.

(a) Where destination or route information is displayed on the exterior of a vehicle, each vehicle shall have illuminated signs on the front and boarding side of the vehicle.

(b) Characters on signs required by paragraph (a) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of 1 inch for signs on the boarding side and a minimum character height of 2 inches for front "headsigns", with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background, either dark-on-light or light-on-dark.

SUBPART C—RAPID RAIL VEHICLES AND SYSTEMS

§ 38.51 General.

(a) New, used and remanufactured rapid rail vehicles, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

(c) Existing vehicles which are retrofitted to comply with the one-car-per-train rule of § 37.93 of these regulations shall comply with §§ 38.55, 38.57(b), 38.59 of this part and shall have, in new and key stations, at least one door complying with §§ 38.53(a)(1), (b) and (d) of this part. Removal of seats is not required. Vehicles previously designed and manufactured in accordance with the accessibility requirements of part 609 of title 49 CFR or the Secretary of Transportation regulations implementing section 504 of the Rehabilitation Act of 1973 that were in effect before October 7, 1991 and which can be entered and used from stations in which they are to be operated, may be used to satisfy the requirements of § 37.93 of these regulations.

§ 38.53 Doorways.

(a) *Clear width.* (1) Passenger doorways on vehicle sides shall have clear openings at least 32 inches wide when open.

(2) If doorways connecting adjoining cars in a multi-car train are provided, and if such doorway is connected by an aisle with a minimum clear width of 30 inches to one or more spaces where wheelchair or mobility aid users can be accommodated, then such doorway shall have a minimum clear opening of 30 inches to permit wheelchair and mobility aid users to be evacuated to an adjoining vehicle in an emergency.

(b) *Signage.* The International Symbol of Accessibility shall be displayed on the exterior of accessible vehicles operating on an accessible rapid rail system unless all vehicles are accessible and are not marked by the access symbol. (See Fig. 6)

(c) *Signals.* Auditory and visual warning signals shall be provided to alert passengers of closing doors.

(d) *Coordination with boarding platform*—(1) *Requirements.* Where new vehicles will operate in new stations, the design of vehicles shall be coordinated with the boarding platform design such that the horizontal gap between each vehicle door at rest and the platform shall be no greater than 3 inches and the height of the vehicle floor shall be within plus or minus ⅝ inch of the platform height under all normal passenger load conditions. Vertical alignment may be accomplished by vehicle air suspension or other suitable means of meeting the requirement.

(2) *Exception.* New vehicles operating in existing stations may have a floor height within plus or minus 1½ inches of the platform height. At key stations, the horizontal gap between at least one door of each such vehicle and the platform shall be no greater than 3 inches.

(3) *Exception.* Retrofitted vehicles shall be coordinated with the platform in new and key stations such that the horizontal gap shall be no greater than 4 inches and the height of the vehicle floor, under 50% passenger load, shall be within plus or minus 2 inches of the platform height.

§ 38.55 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that certain seats are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them.

(b) Characters on signs required by paragraph (a) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of ⅝ inch, with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background, either light-on-dark or dark-on-light.

§ 38.57 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be provided to assist safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(b) Handrails, stanchions, and seats shall allow a route at least 32 inches wide so that at least two wheelchair or mobility aid users can enter the vehicle and position the wheelchairs or mobility aids in areas, each having a minimum clear space of 48 inches by 30 inches, which do not unduly restrict movement of other passengers. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required. Particular attention shall be given to ensuring maximum maneuverability immediately inside doors. Ample vertical stanchions from ceiling to seat-back rails shall be provided. Vertical stanchions from ceiling to floor shall not interfere with wheelchair or mobility aid user circulation and shall be kept to a minimum in the vicinity of doors.

(c) The diameter or width of the gripping surface of handrails and stanchions shall be 1¼ inches to 1½ inches or provide an equivalent gripping surface and shall provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface.

§ 38.59 Floor surfaces.

Floor surfaces on aisles, places for standees, and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

§ 38.61 Public information system.

(a)(1) *Requirements.* Each vehicle shall be equipped with a public address system permitting transportation system personnel, or recorded or digitized human speech messages, to announce stations and provide other passenger information. Alternative systems or devices which provide equivalent access are also permitted. Each vehicle operating in stations having more than one line or route shall have an external public address system to permit transportation system personnel, or recorded or digitized human speech messages, to announce train, route, or line identification information.

(2) *Exception.* Where station announcement systems provide information on arriving trains, an external train speaker is not required.

(b) [Reserved]

§ 38.63 Between-car barriers.

(a) *Requirement.* Suitable devices or systems shall be provided to prevent, deter or warn individuals from inadvertently stepping off the platform between cars. Acceptable solutions include, but are not limited to, pantograph gates, chains, motion detectors or similar devices.

(b) *Exception.* Between-car barriers are not required where platform screens are provided which close off the platform edge and open only when trains are correctly aligned with the doors.

SUBPART D—LIGHT RAIL VEHICLES AND SYSTEMS

§ 38.71 General.

(a) New, used and remanufactured light rail vehicles, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b)(1) Vehicles intended to be operated solely in light rail systems confined entirely to a dedicated right-of-way, and for which all stations or stops are designed and constructed for revenue service after the effective date of standards for design and construction §37.21 and § 37.23 of these regulations, shall provide level boarding and shall comply with §38.73(d)(1) and §38.85 of this part.

(2) Vehicles designed for, and operated on, pedestrian malls, city streets, or other areas where level boarding is not practicable shall provide wayside or car-borne lifts, mini-high platforms, or other means of access in compliance with §38.83(b) or (c) of this part.

(c) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

(d) Existing vehicles retrofitted to comply with the "one-car-per-train rule" at §37.93 of these regulations shall comply with §38.75, §38.77(c), §38.79(a) and §38.83(a) of this part and shall have, in new and key stations, at least one door which complies with §§38.73(a)(1), (b) and (d). Vehicles previously designed and manufactured in accordance with the accessibility requirements of 49 CFR part 609 or the Secretary of Transportation regulations implementing section 504 of the Rehabilitation Act of 1973 that were in effect before October 7, 1991 and which can be entered and used from stations in which they are to be operated, may be used to satisfy the requirements of §37.93 of these regulations.

§38.73 Doorways.

(a) *Clear width.* (1) All passenger doorways on vehicle sides shall have minimum clear openings of 32 inches when open.

(2) If doorways connecting adjoining cars in a multi-car train are provided, and if such doorway is connected by an aisle with a minimum clear width of 30 inches to one or more spaces where wheelchair or mobility aid users can be accommodated, then such doorway shall have a minimum clear opening of 30 inches to permit wheelchair and mobility aid users to be evacuated to an adjoining vehicle in an emergency.

(b) *Signage.* The International Symbol of Accessibility shall be displayed on the exterior of each vehicle operating on an accessible light rail system unless all vehicles are accessible and are not marked by the access symbol. (See Fig. 6)

(c) *Signals.* Auditory and visual warning signals shall be provided to alert passengers of closing doors.

(d) *Coordination with boarding platform*—(1) *Requirements.* The design of level-entry vehicles shall be coordinated with the boarding platform or mini-high platform design so that the horizontal gap between a vehicle at rest and the platform shall be no greater than 3 inches and the height of the vehicle floor shall be within plus or minus ⅝ inch of the platform height. Vertical alignment may be accomplished by vehicle air suspension, automatic ramps or lifts, or any combination.

(2) *Exception.* New vehicles operating in existing stations may have a floor height within plus or minus 1½ inches of the platform height. At key stations, the horizontal gap between at least one door of each such vehicle and the platform shall be no greater than 3 inches.

(3) *Exception.* Retrofitted vehicles shall be coordinated with the platform in new and key stations such that the horizontal gap shall be no greater than 4 inches and the height of the vehicle floor, under 50% passenger load, shall be within plus or minus 2 inches of the platform height.

(4) *Exception.* Where it is not operationally or structurally practicable to meet the horizontal or vertical requirements of paragraphs (d)(1), (2) or (3) of this section, platform or vehicle devices complying with §38.83(b) or platform or vehicle mounted ramps or bridge plates complying with §38.83(c) shall be provided.

§38.75 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that certain seats are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them.

(b) Where designated wheelchair or mobility aid seating locations are provided, signs shall indicate the location and advise other passengers of the need to permit wheelchair and mobility aid users to occupy them.

(c) Characters on signs required by paragraphs (a) or (b) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case X") of ⅝ inch, with wide spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background, either light-on-dark or dark-on-light.

§38.77 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be sufficient to permit safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(b) At entrances equipped with steps, handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows passengers to grasp such assists from outside the vehicle while starting to board, and to continue using such handrails or stanchions throughout the boarding process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used, a horizontal passenger assist shall be located between boarding passengers and the fare collection device and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(c) At all doors on level-entry vehicles, and at each entrance accessible by lift, ramp, bridge plate or other suitable means, handrails, stanchions, passenger seats, vehicle driver seat platforms, and fare boxes, if applicable, shall be located so as to allow a route at least 32 inches wide so that at least two wheelchair or mobility aid users can enter the vehicle and position the wheelchairs or mobility aids in areas, each having a minimum clear space of 48 inches by 30 inches, which do not unduly restrict movement of other passengers. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required. Particular attention shall be given to ensuring maximum maneuverability immediately inside doors. Ample vertical stanchions from ceiling to seat-back rails shall be provided. Vertical stanchions from ceiling to floor shall not interfere with wheelchair or mobility aid circulation and shall be kept to a minimum in the vicinity of accessible doors.

§38.79 Floors, steps and thresholds.

(a) Floor surfaces on aisles, step treads, places for standees, and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

(b) All thresholds and step edges shall have a band of color(s) running the full width of the step or threshold which contrasts from the step tread and riser or adjacent floor, either light-on-dark or dark-on-light.

§38.81 Lighting.

(a) Any stepwell or doorway with a lift, ramp or bridge plate immediately adjacent to the driver shall have, when the door is open, at least 2 footcandles of illumination measured on the step tread or lift platform.

(b) Other stepwells, and doorways with lifts, ramps or bridge plates, shall have, at all times, at least 2 footcandles of illumination measured on the step tread or lift or ramp, when deployed at the vehicle floor level.

(c) The doorways of vehicles not operating at lighted station platforms shall have outside lights which provide at least 1 foot candle of illumination on the station platform or street surface for a distance of 3 feet perpendicular to all points on the bottom step tread. Such lights shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§38.83 Mobility aid accessibility.

(a)(1) *General.* All new light rail vehicles, other than level entry vehicles, covered by this subpart shall provide a level-change mechanism or boarding device (e.g., lift, ramp or bridge plate) complying with either paragraph (b) or (c) of this section and sufficient clearances to permit at least two wheelchair or mobility aid users to reach areas, each with a minimum clear floor space of 48 inches by 30 inches, which do not unduly restrict passenger flow. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required.

(2) *Exception.* If lifts, ramps or bridge plates meeting the requirements of this section are provided on station platforms or other stops required to be accessible, or mini-high platforms complying with §38.73(d) of this part are provided, the vehicle is not required to be equipped with a car-borne device. Where each new vehicle is compatible with a single platform-mounted access system or device, additional systems or devices are not required for each vehicle provided that the single device could be used to provide access to each new vehicle if passengers using wheelchairs or mobility aids could not be accommodated on a single vehicle.

(b) *Vehicle lift*—(1) *Design load.* The design load of the lift shall be at least 600 pounds. Working parts, such as cables, pulleys, and shafts, which can be expected to wear, and upon which the lift depends for support of the load, shall have a safety factor of at least six, based on the ultimate strength of the material. Nonworking parts, such as platform, frame, and attachment hardware which would not be expected to wear, shall have a safety factor of at least three, based on the ultimate strength of the material.

(2) *Controls*—(i) *Requirements.* The controls shall be interlocked with the vehicle brakes,

propulsion system, or door, or shall provide other appropriate mechanisms or systems, to ensure that the vehicle cannot be moved when the lift is not stowed and so the lift cannot be deployed unless the interlocks or systems are engaged. The lift shall deploy to all levels (i.e., ground, curb, and intermediate positions) normally encountered in the operating environment. Where provided, each control for deploying, lowering, raising, and stowing the lift and lowering the roll-off barrier shall be of a momentary contact type requiring continuous manual pressure by the operator and shall not allow improper lift sequencing when the lift platform is occupied. The controls shall allow reversal of the lift operation sequence, such as raising or lowering a platform that is part way down, without allowing an occupied platform to fold or retract into the stowed position.

(ii) *Exception*. Where physical or safety constraints prevent the deployment at some stops of a lift having its long dimension perpendicular to the vehicle axis, the transportation entity may specify a lift which is designed to deploy with its long dimension parallel to the vehicle axis and which pivots into or out of the vehicle while occupied (i.e., "rotary lift"). The requirements of paragraph (b)(2)(i) of this section prohibiting the lift from being stowed while occupied shall not apply to a lift design of this type if the stowed position is within the passenger compartment and the lift is intended to be stowed while occupied.

(iii) *Exception*. The brake or propulsion system interlocks requirement does not apply to a station platform mounted lift provided that a mechanical, electrical or other system operates to ensure that vehicles do not move when the lift is in use.

(3) *Emergency operation*. The lift shall incorporate an emergency method of deploying, lowering to ground level with a lift occupant, and raising and stowing the empty lift if the power to the lift fails. No emergency method, manual or otherwise, shall be capable of being operated in a manner that could be hazardous to the lift occupant or to the operator when operated according to manufacturer's instructions, and shall not permit the platform to be stowed or folded when occupied, unless the lift is a rotary lift intended to be stowed while occupied.

(4) *Power or equipment failure*. Lift platforms stowed in a vertical position, and deployed platforms when occupied, shall have provisions to prevent their deploying, falling, or folding any faster than 12 inches/second or their dropping of an occupant in the event of a single failure of any load carrying component.

(5) *Platform barriers*. The lift platform shall be equipped with barriers to prevent any of the wheels of a wheelchair or mobility aid from rolling off the lift during its operation. A movable barrier or inherent design feature shall prevent a wheelchair or mobility aid from rolling off the edge closest to the vehicle until the lift is in its fully raised position. Each side of the lift platform which extends beyond the vehicle in its raised position shall have a barrier a minimum 1½ inches high. Such barriers shall not interfere with maneuvering into or out of the aisle. The loading-edge barrier (outer barrier) which functions as a loading ramp when the lift is at ground level, shall be sufficient when raised or closed, or a supplementary system shall be provided, to prevent a power wheelchair or mobility aid from riding over or defeating it. The outer barrier of the lift shall automatically rise or close, or a supplementary system shall automatically engage, and remain raised, closed, or engaged at all times that the lift is more than 3 inches above the station platform or roadway and the lift is occupied. Alternatively, a barrier or system may be raised, lowered, opened, closed, engaged or disengaged by the lift operator provided an interlock or inherent design feature prevents the lift from rising unless the barrier is raised or closed or the supplementary system is engaged.

(6) *Platform surface*. The lift platform surface shall be free of any protrusions over ¼ inch high and shall be slip resistant. The lift platform shall have a minimum clear width of 28½ inches at the platform, a minimum clear width of 30 inches measured from 2 inches above the lift platform surface to 30 inches above the surface, and a minimum clear length of 48 inches measured from 2 inches above the surface of the platform to 30 inches above the surface. (See Fig. 1)

(7) *Platform gaps*. Any openings between the lift platform surface and the raised barriers shall not exceed ⅝ inch wide. When the lift is at vehicle floor height with the inner barrier (if applicable) down or retracted, gaps between the forward lift platform edge and vehicle floor shall not exceed ½ inch horizontally and ⅝ inch vertically. Platforms on semi-automatic lifts may have a hand hold not exceeding 1½ inches by 4½ inches located between the edge barriers.

(8) *Platform entrance ramp*. The entrance ramp, or loading-edge barrier used as a ramp, shall not exceed a slope of 1:8 measured on level ground, for a maximum rise of 3 inches, and the transition from the station platform or roadway to ramp may be vertical without edge treatment up to ¼ inch. Thresholds between ¼ inch and ½ inch high shall be beveled with a slope no greater than 1:2.

(9) *Platform deflection*. The lift platform (not including the entrance ramp) shall not deflect more than 3 degrees (exclusive of vehicle roll) in any direction between its unloaded position and its position when loaded with 600 pounds applied through a 26 inch by 26 inch test pallet at the centroid of the lift platform.

(10) *Platform movement*. No part of the platform shall move at a rate exceeding 6 inches/second during lowering and lifting an occupant, and shall not exceed 12 inches/second during deploying or stowing. This requirement does not apply to the deployment or stowage cycles of lifts that are manually deployed or stowed. The maximum platform horizontal and vertical acceleration when occupied shall be 0.3g.

(11) *Boarding direction*. The lift shall permit both inboard and outboard facing of wheelchairs and mobility aids.

(12) *Use by standees*. Lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The lift may be marked to indicate a preferred standing position.

(13) *Handrails*. Platforms on lifts shall be equipped with handrails, on two sides, which move in tandem with the lift which shall be graspable and provide support to standees throughout the entire lift operation. Handrails shall have a usable component at least 8 inches long with the lowest portion a minimum 30 inches above the platform and the highest portion a maximum 38 inches above the platform. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(c) *Vehicle ramp or bridge plate*—(1) *Design load*. Ramps or bridge plates 30 inches or longer shall support a load of 600 pounds, placed at the centroid of the ramp or bridge plate distributed over an area of 26 inches by 26 inches, with a safety factor of at least 3 based on the ultimate strength of the material. Ramps or bridge plates shorter than 30 inches shall support a load of 300 pounds.

(2) *Ramp surface*. The ramp or bridge plate surface shall be continuous and slip resistant, shall not have protrusions from the surface greater than ¼ inch, shall have a clear width of 30 inches, and shall accommodate both four-wheel and three-wheel mobility aids.

(3) *Ramp threshold*. The transition from roadway or station platform and the transition from vehicle floor to the ramp or bridge plate may be vertical without edge treatment up to ¼ inch. Changes in level between ¼ inch and ½ inch shall be beveled with a slope no greater than 1:2.

(4) *Ramp barriers*. Each side of the ramp or bridge plate shall have barriers at least 2 inches high to prevent mobility aid wheels from slipping off.

(5) *Slope*. Ramps or bridge plates shall have the least slope practicable. If the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 3 inches or less above the station platform a maximum slope of 1:4 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 6 inches or less, but more than 3 inches, above the station platform a maximum slope of 1:6 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 9 inches or less, but more than 6 inches, above the station platform a maximum slope of 1:8 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is greater than 9 inches above the station platform a slope of 1:12 shall be achieved. Folding or telescoping ramps are permitted provided they meet all structural requirements of this section.

(6) *Attachment*.—(i) *Requirement*. When in use for boarding or alighting, the ramp or bridge plate shall be attached to the vehicle, or otherwise prevented from moving such that it is not subject to displacement when loading or unloading a heavy power mobility aid and that any gaps between vehicle and ramp or bridge plate, and station platform and ramp or bridge plate, shall not exceed ⅝ inch.

(ii) *Exception*. Ramps or bridge plates which are attached to, and deployed from, station platforms are permitted in lieu of vehicle devices provided they meet the displacement requirements of paragraph (c)(6)(i) of this section.

(7) *Stowage*. A compartment, securement system, or other appropriate method shall be provided to ensure that stowed ramps or bridge plates, including portable ramps or bridge plates stowed in the passenger area, do not impinge on a passenger's wheelchair or mobility aid or pose any hazard to passengers in the event of a sudden stop.

(8) *Handrails*. If provided, handrails shall allow persons with disabilities to grasp them from outside the vehicle while starting to board, and to continue to use them throughout the boarding process, and shall have the

top between 30 inches and 38 inches above the ramp surface. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

§ 38.85 Between-car barriers

Where vehicles operate in a high-platform, level-boarding mode, devices or systems shall be provided to prevent, deter or warn individuals from inadvertently stepping off the platform between cars. Appropriate devices include, but are not limited to, pantograph gates, chains, motion detectors or other suitable devices.

§ 38.87 Public information system.

(a) Each vehicle shall be equipped with an interior public address system permitting transportation system personnel, or recorded or digitized human speech messages, to announce stations and provide other passenger information. Alternative systems or devices which provide equivalent access are also permitted.

(b) [Reserved].

38.91–38.127 [Reserved]

SUBPART F—OVER-THE-ROAD BUSES AND SYSTEMS

§ 38.151 General.

(a) New, used and remanufactured over-the-road buses, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) Over-the-road buses covered by § 37.7(c) of these regulations shall comply with § 38.23 and this subpart.

§ 38.153 Doors, steps and thresholds.

(a) Floor surfaces on aisles, step treads and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

(b) All step edges shall have a band of color(s) running the full width of the step which contrasts from the step tread and riser, either dark-on-light or light-on-dark.

(c) To the maximum extent practicable, doors shall have a minimum clear width when open of 30 inches, but in no case less than 27 inches.

§ 38.155 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows passengers to grasp such assists from outside the vehicle while starting to board, and to continue using such handrails or stanchions throughout the boarding process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used, a horizontal passenger assist shall be located between boarding passengers and the fare collection device and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(b) Where provided within passenger compartments, handrails or stanchions shall be sufficient to permit safe on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

§ 38.157 Lighting.

(a) Any stepwell or doorway immediately adjacent to the driver shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread.

(b) The vehicle doorway shall have outside light(s) which, when the door is open, provide at least 1 foot-candle of illumination on the street surface for a distance of 3 feet perpendicular to all points on the bottom step tread outer edge. Such light(s) shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§ 38.159 Mobility aid accessibility. [Reserved]

SUBPART G—OTHER VEHICLES AND SYSTEMS

§ 38.171 General.

(a) New, used and remanufactured vehicles and conveyances for systems not covered by other subparts of this part, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) If portions of the vehicle or conveyance are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

§ 38.173 Automated guideway transit vehicles and systems.

(a) Automated Guideway Transit (AGT) vehicles and systems, sometimes called "people movers," operated in airports and other areas where AGT vehicles travel at slow speed (i.e., at a speed of no more than 20 miles per hour at any location on their route during normal operation), shall comply with the provisions of § 38.53(a) through (c), and §§ 38.55 through 38.61 of this part for rapid rail vehicles and systems.

(b) Where the vehicle covered by paragraph (a) of this section will operate in an accessible station, the design of vehicles shall be coordinated with the boarding platform design such that the horizontal gap between a vehicle door at rest and the platform shall be no greater than 1 inch and the height of the vehicle floor shall be within plus or minus ½ inch of the platform height under all normal passenger load conditions. Vertical alignment may be accomplished by vehicle air suspension or other suitable means of meeting the requirement.

(c) In stations where open platforms are not protected by platform screens, a suitable device or system shall be provided to prevent, deter or warn individuals from stepping off the platform between cars. Acceptable devices include, but are not limited to, pantograph gates, chains, motion detectors or other appropriate devices.

(d) Light rail and rapid rail AGT vehicles and systems shall comply with subparts D and C of this part, respectively. AGT systems whose vehicles travel at a speed of more than 20 miles per hour at any location on their route during normal operation are covered under this paragraph rather than under paragraph (a) of this subsection.

§ 38.175 [Reserved]

§ 38.177 [Reserved]

§ 38.179 Trams, similar vehicles and systems.

(a) New and used trams consisting of a tractor unit, with or without passenger accommodations, and one or more passenger trailer units, including but not limited to vehicles providing shuttle service to remote parking areas, between hotels and other public accommodations, and between and within amusement parks and other recreation areas, shall comply with this section. For purposes of determining applicability of §§ 37.101 or 37.105 of these regulations, the capacity of such a vehicle or "train" shall consist of the total combined seating capacity of all units, plus the driver, prior to any modification for accessibility.

(b) Each tractor unit which accommodates passengers and each trailer unit shall comply with § 38.25 and § 38.29 of this part. In addition, each such unit shall comply with §§ 38.23(b) or (c) and shall provide at least one space for wheelchair or mobility aid users complying with § 38.23(d) of this part unless the complete operating unit consisting of tractor and one or more trailers can already accommodate at least two wheelchair or mobility aid users.

Figures in Part 38

[Copies of these figures may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999.]

Appendix to Part 38—Guidance Material

This appendix contains materials of an advisory nature and provides additional information that should help the reader to understand the minimum requirements of the guidelines or to design vehicles for greater accessibility. Each entry is applicable to all subparts of this part except where noted. Nothing in this appendix shall in any way obviate any obligation to comply with the requirements of the guidelines themselves.

I. Slip Resistant Surfaces—Aisles, Steps, Floor Area Where People Walk, Floor Areas in Securement Locations, Lift Platforms, Ramps

Slip resistance is based on the frictional force necessary to keep a shoe heel or crutch tip from slipping on a walking surface under conditions likely to be found on the surface. While the dynamic coefficient of friction during walking varies in a complex and non-uniform way, the static coefficient of friction, which can be measured in several ways, provides a close approximation of the slip resistance of a surface. Contrary to popular belief, some slippage is necessary to walking, especially for persons with restricted gaits; a truly "non-slip" surface could not be negotiated.

The Occupational Safety and Health Administration recommends that walking surfaces have a static coefficient of friction of 0.5. A research project sponsored by the Architectural and Transportation Barriers Compliance Board (Access Board) conducted tests with persons with disabilities and concluded that a higher coefficient of friction was needed by such persons. A static coefficient of friction of 0.6 is recommended for steps, floors, and lift platforms and 0.8 for ramps.

The coefficient of friction varies considerably due to the presence of contaminants, water, floor finishes, and other factors not under the control of transit providers and may be difficult to measure. Nevertheless, many common materials suitable for flooring are now labeled with information on the static coefficient of friction. While it may not be possible to compare one product directly with another, or to guarantee a constant measure, transit operators or vehicle designers and manufacturers are encouraged to specify materials with appropriate values. As more products include information on slip resistance, improved uniformity in measurement and specification is likely. The Access Board's advisory guidelines on Slip Resistant Surfaces provides additional information on this subject.

II. Color Contrast—Step Edges, Lift Platform Edges

The material used to provide contrast should contrast by at least 70%. Contrast in percent is determined by:

Contrast = $[(B_1-B_2)/B_1]$ 100

Where B_1 = light reflectance value (LRV) of the lighter area and B_2 = light reflectance value (LRV) of the darker area.

Note that in any application both white and black are never absolute; thus, B_1 never equals 100 and B_2 is always greater than 0.

III. Handrails and Stanchions

In addition to the requirements for handrails and stanchions for rapid, light, and commuter rail vehicles, consideration should be given to the proximity of handrails or stanchions to the area in which wheelchair or mobility aid users may position themselves. When identifying the clear floor space where a wheelchair or mobility aid user can be accommodated, it is suggested that at least one such area be adjacent or in close proximity to a handrail or stanchion. Of course, such a handrail or stanchion cannot encroach upon the required 32 inch width required for the doorway or the route leading to the clear floor space which must be at least 30 by 48 inches in size.

IV. Priority Seating Signs and Other Signage

A. *Finish and Contrast*. The characters and background of signs should be eggshell, matte, or other non-glare finish. An eggshell finish (11 to 19 degree gloss on 60 degree glossimeter) is recommended. Characters and symbols should contrast with their background either light characters on a dark background or dark characters on a light background. Research indicates that signs are more legible for persons with low vision when characters contrast with their background by at least 70 percent. Contrast in percent is determined by:

Contrast = $[(B_1-B_2)/B_1]$ 100

Where B_1 = light reflectance value (LRV) of the lighter area and B_2 = light reflectance value (LRV) of the darker area.

Note that in any application both white and black are never absolute; thus, B_1 never equals 100 and B_2 is always greater than 0.

The greatest readability is usually achieved through the use of light-colored characters or symbols on a dark background.

B. *Destination and Route Signs*. The following specifications, which are required for buses (§38.39), are recommended for other types of vehicles, particularly light rail vehicles, where appropriate.

1. Where destination or route information is displayed on the exterior of a vehicle, each vehicle should have illuminated signs on the front and boarding side of the vehicle.

2. Characters on signs covered by paragraph IV.B.1 of this appendix should have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of 1 inch for signs on the boarding side and a minimum character height of 2 inches for front "headsigns," with "wide" spacing (generally, the space between letters shall be $\frac{1}{16}$ the height of upper case letters), and should contrast with the background, either dark-on-light or light-on-dark, or as recommended above.

C. *Designation of Accessible Vehicles*. The International Symbol of Accessibility should be displayed as shown in Figure 6.

V. Public Information Systems

There is currently no requirement that vehicles be equipped with an information system which is capable of providing the same or equivalent information to persons with hearing loss. While the Department of Transportation assesses available and soon-to-be available technology during a study conducted during Fiscal Year 1992, entities are encouraged to employ whatever services, signage or alternative systems or devices that provide equivalent access and are available. Two possible types of devices are visual display systems and listening systems. However, it should be noted that while visual display systems accommodate persons who are deaf or are hearing impaired, assistive listening systems aid only those with a partial loss of hearing.

A. *Visual Display Systems*. Announcements may be provided in a visual format by the use of electronic message boards or video monitors.

Electronic message boards using a light emitting diode (LED) or "flip-dot" display are currently provided in some transit stations and terminals and may be usable in vehicles. These devices may be used to provide real time or pre-programmed messages; however, real time message displays require the availability of an employee for keyboard entry of the information to be announced.

Video monitor systems, such as visual paging systems provided in some airports (e.g., Baltimore-Washington International Airport), are another alternative. The Architectural and Transportation Barriers Compliance Board (Access Board) can provide technical assistance and information on these systems ("Airport TDD Access: Two Case Studies," (1990)).

B. *Assistive Listening Systems*. Assistive listening systems (ALS) are intended to augment standard public address and audio systems by providing signals which can be received directly by persons with special receivers or their own hearing aids and which eliminate or filter background noise. Magnetic induction loops, infra-red and radio frequency systems are types of listening systems which are appropriate for various applications.

An assistive listening system appropriate for transit vehicles, where a group of persons or where the specific individuals are not known in advance, may be different from the system appropriate for a particular individual provided as an auxiliary aid or as part of a reasonable accommodation. The appropriate device for an individual is the type that individual can use, whereas the appropriate system for a station or vehicle will necessarily be geared toward the "average" or aggregate needs of various individuals. Earphone jacks with variable volume controls can benefit only people who have slight hearing loss and do not help people who use hearing aids. At the present time, magnetic induction loops are the most feasible type of listening system for people who use hearing aids equipped with "T-coils", but people without hearing aids or those with hearing aids not equipped with inductive pick-ups cannot use them without special receivers. Radio frequency systems can be extremely effective and inexpensive. People without hearing aids can use them, but people with hearing aids need a special receiver to use them as they are presently designed. If hearing aids had a jack to allow a by-pass of microphones, then radio frequency systems would be suitable for people with and without hearing aids. Some listening systems may be subject to interference from other equipment and feedback from hearing aids of people who are using the systems. Such interference can be controlled by careful engineering design that anticipates feedback sources in the surrounding area.

The Architectural and Transportation Barriers Compliance Board (Access Board) has published a pamphlet on Assistive Listening Systems which lists demonstration centers across the country where technical assistance can be obtained in selecting and installing appropriate systems. The state of New York has also adopted a detailed technical specification which may be useful.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

NOTICE OF PROPOSED RULEMAKING

Summary: The Board of Directors of the Office of Compliance is publishing proposed regulations to implement Section 215 of the Congressional Accountability Act of 1995 ("CAA"), Pub. L. 104-1, 109 Stat. 3, as applied to covered employing offices and employees of the House of Representatives, the Senate, and certain Congressional instrumentalities listed below.

The CAA applies the rights and protections of eleven labor and employment and public access statutes to covered employees within the Legislative Branch. Section 215(a) provides that each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970, 29 U.S.C. §654 ("OSHAct"). 2 U.S.C. §1341(a). The provisions of section 215 are effective on January 1, 1997 for all employing offices except the General Accounting Office and the Library of Congress. 2 U.S.C. §1341(g). Accordingly, the rules included in this Notice of Proposed Rulemaking ("NPRM or Notice") do not apply to the General Accounting Office or the Library of Congress at this time.

In addition to inviting comment in this NPRM, the Board, through the statutory appointees of the Office, sought consultation with the Secretary of Labor with regard to the development of these regulations in accordance with section 304(g) of the CAA. Specifically, the Occupational Safety and Health Administration provided helpful suggestions during the development of the proposed regulations. The Board also notes that the General Counsel of the Office has completed an inspection of all covered facilities for compliance with safety and health standards under section 215 of the CAA and has submitted his final report to Congress. Based on the information gleaned from these consultations and the experience gained from the inspections, the Board of Directors of the Office of Compliance is publishing these proposed regulations, pursuant to section 215(d) of the CAA, 2 U.S.C. §1341(d).

The purpose of these regulations is to implement section 215 of the CAA. This Notice proposes that virtually identical regulations be adopted for the Senate, the House of Representatives, and the seven Congressional instrumentalities; and their employees. Accordingly:

(1) *Senate*. It is proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Senate and employees of the Senate, and this proposal regarding the Senate and its employees is recommended by the Office of Compliance's Deputy Executive Director for the Senate.

(2) *House of Representatives*. It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the House of Representatives and employees of the House of

Representatives, and this proposal regarding the House of Representatives and its employees is recommended by the Office of Compliance's Deputy Executive Director for the House of Representatives.

(3) *Certain Congressional instrumentalities.* It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance, and their employees; and this proposal regarding these six Congressional instrumentalities is recommended by the Office of Compliance's Executive Director.

Dates: Comments are due within 30 days after the date of publication of this Notice in the Congressional Record.

Addresses: Submit written comments (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 426–1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m. In addition, a copy of the material listed in the section of the proposed regulations entitled "Incorporation by Reference" is available for inspection and review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Office of Compliance, at (202) 724–9250 (voice), (202) 426–1912 (TTY). This Notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Services Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, at (202) 224–2705 (voice), (202) 224–5574 (TTY).

SUPPLEMENTARY INFORMATION

Background and Summary

The Congressional Accountability Act of 1995 ("CAA"), Pub. L. 104–1, 109 Stat. 3, was enacted on January 23, 1995. 2 U.S.C. §§1301–1438. In general, the CAA applies the rights and protections of eleven federal labor and employment and public access statutes to covered employees and employing offices.

Section 215(a) of the CAA provides that each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 ("OSHAct"), 29 U.S.C. §654. 2 U.S.C. §1341(a). Section 5(a) of the OSHAct provides that every covered employer has a general duty to furnish each employee with employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to those employees and a specific duty to comply with occupational safety and health standards promulgated under the law. Section 5(b) requires covered employees to comply with occupational safety and health standards and with all rules, regulations and orders issued which are applicable to their actions and conduct.

Section 215(c) of the CAA provides that, upon the written request of any employing office or covered employee, the General Counsel of the Office shall exercise the authorities granted to the Secretary of Labor by subsections (a), (d), (e), and (f) of section 8 of the OSHAct to inspect and investigate places of employment under the jurisdiction of employing offices. 2 U.S.C. §1341(c). For the purposes of section 215, the General Counsel shall exercise the authorities granted to the Secretary of Labor in sections 9 and 10 of the OSHAct to issue a citation or notice to any employing office responsible for correcting a violation, or a notification to any employing office that the General Counsel believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction. *Id.* Section 215(e) also requires that the General Counsel of the Office of Compliance on a regular basis, and at least once each Congress, conduct periodic inspections of all covered facilities and report to Congress on compliance with health and safety standards. 2 U.S.C. §1341(e).

Section 215(d) of the CAA requires the Board of Directors of the Office of Compliance established under the CAA to issue regulations implementing the section. 2 U.S.C. §1341(d). Section 215(d) further states that such regulations "shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." *Id.* Section 215(d) further provides that the regulations "shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation." *Id.*

In developing these proposed regulations, a number of issues have been identified and explored. The Board has proposed to resolve these issues as described below.

A. In general

1. *Substantive regulations promulgated by the Secretary of Labor.*—Section 215(d)(2) requires the Board to issue regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C. §1341(d)(2).

Consistent with its prior decisions on this issue, the Board has determined that all regulations promulgated by the Secretary of Labor after notice and comment to implement section 5 of the OSHAct are "substantive regulations" within the meaning of section 215(d). *See, e.g.*, 142 Cong. Rec. S5070, S5071–72 (daily ed. May 15, 1996) (NPRM implementing section 220(d)); 141 Cong. Rec. S17605 (daily ed. Nov. 28, 1995) (NPRM implementing section 203); see also *Reves v. Ernst & Young*, 113 S.Ct. 1163, 1169 (1993) (where same phrase or term is used in two different places in the same statute, reasonable for court to give each use a similar construction); *Sorenson v. Secretary of the Treasury*, 475 U.S. 851, 860 (1986) (normal rule of statutory construction assumes that identical words in different parts of same act are intended to have the same meaning).

In this regard, the Board has reviewed the provisions of section 215 of the CAA, the provisions of the OSHAct applied by that section, and the regulations of the Secretary of Labor to determine whether and to what extent those regulations are substantive regulations promulgated to implement the substantive safety and health standards of section 5 of the OSHAct. As explained more fully below, the Board proposes to adopt otherwise applicable substantive health and safety standards of the Secretary's regulations published at Parts 1910 and 1926 of Title 29 of the Code of Federal Regulations ("29 CFR") with only limited modifications. The Board proposes not to adopt as substantive regulations under section 215(d) of the CAA those provisions of the Secretary's regulations that were not promulgated to implement provisions of section 5 of the OSHAct.

In addition, the Board has proposed to make technical changes in definitions and nomenclature so that the regulations comport with the CAA and the organizational structure of the Office of Compliance. In the Board's judgment, making such changes satisfies the Act's "good cause" requirement. With the exception of such technical and nomenclature changes, however, the Board does not propose substantial departure from otherwise applicable regulations of the Secretary.

2. *The board will adopt the substantive safety and health standards contained in Parts 1910 and 1926 of title 29 of the Code of Federal Regulations.*—Section 215(a) requires each employing office and covered employee to comply with the provisions of section 5 of the OSHAct, 29 U.S.C. §654. 2 U.S.C. §1341(a). Section 5(a) of the OSHAct provides that every covered employer has a general duty to furnish each employee with employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to those employees, and a specific duty to comply with occupational safety and health standards promulgated by the Occupational Safety and Health Administration ("OSHA") under the law. Section 5(b) requires covered employees to comply with occupational safety and health standards and with all rules, regulations and orders issued which are applicable to their actions and conduct.

The substantive occupational safety and health standards promulgated by OSHA which the Board intends to adopt are set forth at 29 CFR, Parts 1910 (general industry standards) and 1926 (construction industry standards). Although Part 1926 was originally promulgated by the Secretary under section 107 of the Contract Work Hours and Safety Standards Act, the substantive safety and health standards (subparts C through Z) are adopted and incorporated by reference into Part 1910. *See* 29 CFR §1910.12. These regulations implement the substantive safety and health standards referred to in section 5 of the OSHAct and thus are "substantive regulations" which the Board proposes to adopt under section 215(d) of the CAA. However, the Board proposes not to adopt those regulatory provisions in Parts 1910 and 1926 that have no conceivable applicability to operations of employing offices within the Legislative Branch or are unlikely to be invoked. See 141 Cong. Rec. at S17604 (Nov. 28, 1995) (NPRM implementing section 203).

Adoption of the substantive safety and health standards of Parts 1910 and 1926 is consistent with the language and legislative history of section 215, which confirms that Congress expected the law as enacted to require that covered employing offices and covered employees comply with the existing substantive occupational safety and health standards promulgated by the Secretary of Labor. 141 Cong. Rec. S621, S625 (Jan. 9, 1995) (section 215 "requires employees and employing offices . . . to comply with . . . the Occupational Safety and Health Standards promulgated by the Secretary of Labor under section 6 of that act."). Similarly, the section-by-section analysis of H.R. 4822, a precursor to the CAA, clearly states that Congress expected the Board to adopt OSHA occupational safety and health standards promulgated under section 6 of the OSHAct as its own:

"It is not intended that the Board will replicate the work of the Secretary of Labor by promulgating its own standards similar to those promulgated by the Secretary of Labor under section 6 of the OSHA [citation omitted]. Rather, it is intended that the Board will adopt the Secretary's [occupational safety and health] standards, and only where the Board believes different rules would better serve the interests of OSHA and this Act will it adopt different rules." S.Rep. 103–396 (Oct. 3, 1994).

Adoption of the substantive safety and health standards of Parts 1910 and 1926 is also consistent with existing safety and health practices of employing entities within the Legislative Branch. For example, the Architect of the Capitol, which has direct superintendence responsibility for the majority of facilities subject to section 215, has maintained a policy of voluntary compliance with the safety and health standards under Parts 1910 and 1926 through its safety and health program. *See Congressional Coverage Legislation: Applying Laws to Congress: Hearings on S.29, S.103, S.357, S.207, and S.2194*, Before the Senate Comm. on Govt. Affairs, 103d Cong., 3d Sess. 55–56 (1995) (testimony of J. Raymond Carroll, Director of Engineering, Office of the Architect of the Capitol).

The Board also notes that the General Counsel applied the occupational safety and health standards under Parts 1910 and 1926 in his initial inspection of Legislative Branch facilities pursuant to section 215(c) of the CAA. In contrast to other sections of the CAA, which generally give the Office of Compliance only adjudicatory and regulatory responsibilities, the General Counsel has the authority to investigate and prosecute alleged violations of safety and health standards under section 215, as well as the responsibility for inspecting covered facilities to ensure compliance. In his final inspection report, the General Counsel stated his view that application of Parts 1910 and 1926 standards appeared appropriate for such operations. *See* Report on Initial Inspections of Facilities for Compliance with the Occupational Safety and Health Standards Under Section 215 ("Safety and Health Report"), p. I–2 (June 28, 1996).

For all of these reasons, the Board proposes to adopt all otherwise applicable sections of Parts 1910 and 1926 as substantive regulations under section 215(d).

3. *Modification of Parts 1910 and 1926, 29 CFR.*—The Board has considered whether and to what extent it should modify otherwise applicable substantive safety and health standards at 29 CFR, Parts 1910 and 1926. As the Board has noted in prior rulemakings, the language and legislative history of the CAA leads the Board to conclude that, absent clear statutory language to the contrary, the Board should hew as closely as possible to the text of otherwise applicable regulations implementing the statutory provisions applied to the Legislative Branch. *See, e.g.*, 142 Cong. Rec. S221, S222 (Jan. 22, 1996) (Notice of Adoption of Rules Implementing Section 203) ("The CAA was intended not only to bring covered employees the benefits of the . . . incorporated laws, but also require Congress to experience the same compliance burdens faced by other employers so that it could more fairly legislate in this area."). Thus, consistent with its prior decisions, the Board proposes to issue Parts 1910 and 1926 of the Secretary's regulations with only technical changes in the nomenclature and deletion of those sections clearly inapplicable to the Legislative Branch. *See, e.g.*, 141 Cong. Rec. S17603–S17604 (Nov. 28, 1995) (preamble to NPRM under section 203 of the CAA).

This conclusion is also supported by the General Counsel's inspection report, which applied the substantive safety and health standards to covered facilities in the course of his initial inspections under section 215(e) of the CAA. Specifically, the report found nothing about work operations within facilities of the Legislative Branch that suggested that they were so different from those in comparable private sector facilities as to require a different safety and health standard. *See generally* Safety and Health Report. Thus, with the exception of nonsubstantive technical and nomenclature changes, the Board proposes no departure from the text of otherwise applicable portions of Parts 1910 and 1926.

4. *Secretary of Labor's regulations that the board proposes not to adopt.*—In reviewing the remaining parts of the Secretary's regulations, it is apparent that they either were not promulgated by the Secretary of Labor to implement the safety and health standards referred to in section 5 of the OSHAct and/or have no application to employing offices or other facilities within the Legislative Branch. For this reason, the Board is not including them within its substantive regulations. Among the excluded regulations are the following parts of 29 CFR: Part 1902 (adoption of health and safety standards and enforcement plans by States); Part 1908 (cooperative agreements between OSHA and the States); Parts 1911 and 1912 (procedure for promulgating, modifying or revoking occupational safety and health standards by OSHA); Parts 1915–1922 (occupational safety and health standards and procedures for shipyards, marine terminals, and longshoring operations); Part 1914 (safety and health standards applicable to workshops and rehabilitation facilities assisted by federal grants); Part 1925 (safety and health requirements under the Service Contract Act of 1965); Part 1928 (occupational safety and health standards applicable to agricultural operations); Part 1949 (OSHA Office of Training and Education regulations); Parts 1950–1956 (State occupational safety and health regulation and enforcement plans and planning grants to States); Part 1960 (occupational safety and health regulation of Federal executive branch employees and agencies, implementing section 19 of the OSHAct); Part 1975 (regulations clarifying the definition of employer under the OSHAct); Part 1978 (regulations implementing section 405 of the Surface Transportation Assistance Act of 1982); Part 1990 (regulations relating to identification, classification, and regulation of potential occupational carcinogens); Part 2201 (regulations implementing the Freedom of Information Act); Part 2202 (rules of ethics and conduct of Occupational Safety and Health Review Commission employees); Part 2203 (regulations implementing the Government in the Sunshine Act); Part 2204 (regulations implementing the Equal Access to Justice Act in Proceedings before the Occupational Safety and Health Review Commission); Part 2205 (regulations enforcing the provisions prohibiting discrimination on the basis of handicap in programs or activities conducted by the OSHRC); and Part 2400 (regulations implementing the Privacy Act). Unless public comments demonstrate otherwise, the Board intends to include in the adopted regulations a provision stating that the Board has issued substantive regulations on all matters for which section 215(d) requires a regulation. *See* 2 U.S.C. §1411.

The Board will also not adopt as part of its regulations under section 215(d) of the CAA the rules of agency practice and procedure for the Occupational Safety and Health Review Commission (Part 2200), rules of agency practice and procedure regarding OSHA access to employee medical records (Part 1913), and rules implementing the rights and procedures regarding the antidiscrimination and anti-retaliation provisions of section 11 of the OSHAct (Part 1977). Although not within the scope of rulemaking under section 215(d), the Board has determined that the subject matter of these provisions may have general applicability to Board and Office proceedings under the CAA. Thus, these matters should be addressed, if at all, in the Office's development of appropriate changes in the procedural rules for section 215 cases that the Executive Director promulgates pursuant to section 303 of the CAA.

5. *Variance procedures.*—Section 215(c)(4) of the CAA authorizes the Board to consider and act on requests for variances by employing offices from otherwise applicable safety and health standards applied to them under this section, consistent with sections 6(b)(6) and 6(d) of the OSHAct. 2 U.S.C. §1341(c)(4). Part 1905, 29 CFR, contains the Secretary's rules of practice and procedure for variances under the OSHAct. Part 1905 was not promulgated to implement the health and safety standards referred to in section 5 of the OSHAct. Accordingly, it will not be adopted as part of the Board's section 215(d) regulations. However, the Board has determined that these regulations may concern matters "governing the procedure of the Office" and, therefore, may be addressed as part of a rulemaking under section 303 of the CAA.

6. *Procedure regarding inspections, citations, and notices.*—Section 215(c) of the CAA grants the General Counsel of the Office the authority under sections 8 and 9 of the OSHAct to inspect and investigate places of employment and issue citations and notices to employing offices responsible for correcting violations. 2 U.S.C. §1341(c). Part 1903 of the Secretary's regulations, which relates to the procedure for conducting inspections, and for issuing and contesting citations and proposed penalties, implements sections 8 and 9 of the OSHAct. The purpose of Part 1903, according to the Secretary, is to prescribe rules and to set forth general policies for enforcement of the inspection, citation, and proposed penalty provisions of the OSHAct. *See* 29 CFR 1903.1. Part 1903 does not implement any substantive right or protection under section 5 of the OSHAct or of any substantive health and safety standard thereunder. Accordingly, the Board will not adopt part 1903 as part of its section 215(d) regulations. However, the Executive Director may consider adopting some or all of the rules contained in Part 1903 as part of the procedural rules of the Office, as applicable and appropriate.

7. *Notice posting and recordkeeping requirements.*—Section 215(c)(1) of the CAA grants to

the General Counsel of the Office of Compliance the authorities of the Secretary of Labor under the following subsections of section 8 of the OSHAct: (a) (authority of Secretary to enter, inspect, and investigate places of employment), (d) (methods of obtaining information), (e) (employer and employee representatives authorized to accompany inspectors), and (f) (requests for inspections), 29 U.S.C. section 657(a), (d), (e), and (f). 2 U.S.C. §1341(c)(1). Section 215 does not incorporate or make reference to section 8(c) of the OSHAct (requiring safety and health recordkeeping and posting of notices). More specifically, section 8(c) of the OSHAct is not a part of the rights and protections of section 5 of the OSHAct, nor is it a substantive safety and health standard referred to therein. Thus, section 215(d) of the CAA does not authorize the Board to incorporate the general notice and recordkeeping requirements promulgated by the Secretary to implement section 8(c) of the OSHAct and, consequently, such requirements (set forth at Part 1904) will not be imposed at this time. *See* 141 Cong. Rec. at S17604 (NPRM implementing section 203); 141 Cong. Rec. at S17656 (Nov. 28, 1995) (NPRM implementing section 204); 142 Cong. Rec. S221, S222 (Jan. 22, 1996) (Notice of Adoption of Regulations Implementing Section 203).

The Board also notes that there are certain recordkeeping requirements that are part of the substantive safety and health standards under parts 1910 and 1926, 29 CFR, such as employee exposure records under subpart Z. Thus, these regulations have been included in the Board's proposed regulations. *See* 141 Cong. Rec. at 17657 (daily ed. Jan. 22, 1996) (recordkeeping requirements included within portion of Employee Polygraph Protection Act applied by section 204 of the CAA must be included within the proposed rules).

The Board is also aware that Congress has enacted two special statutory provisions regarding safety and health that may already apply to some covered employing offices. Section 19(a) of the OSHAct, 29 U.S.C. §668(a), requires the head of each federal agency to "establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated [by OSHA] under section 655." Agency heads are also required to submit annual reports to the Secretary on occupational accidents and injuries and on the agency programs established under section 668. However, the statute itself gives the Secretary no enforcement authority against federal agencies. OSHA regulations implementing section 668 are not binding on Legislative Branch agencies unless by agreement between OSHA and the head of the agency. *See* 29 C.F.R. §1960.2(b).

The related provisions of 5 U.S.C. §7902 cover an agency in "any branch of the Government of the United States." Section 7902 imposes recordkeeping and report requirements on each agency similar to the requirements of 29 U.S.C. §668. There is no apparent mechanism for enforcement of section 7902 obligations regarding Legislative Branch agencies.

The above two provisions may arguably impose general recordkeeping requirements with respect to occupational accidents and injuries on some covered employing offices independent of the CAA, to the extent that such employing offices are found to be "agencies" within the meaning of those statutory provisions. The Board's resolution of the recordkeeping issue under section 215(e) of the CAA is not an attempt to modify the statutory provisions of 29 U.S.C. §668 and 5 U.S.C. §7902 and their applicability to Legislative Branch entities. Whether section 215 of the CAA and the regulations the Board proposes to implement thereunder can be harmonized with these preexisting statutory requirements not within the scope of the CAA that might independently apply to Legislative Branch entities is an issue that the Board has no occasion to address. *See* 142 Cong. Rec. at S224 (daily ed., Jan. 22, 1996) (Notice of Adoption of Regulations and Submission for Approval and Issuance of Interim Regulations under section 203 of the CAA) (declining to address issue of harmonizing regulations regarding overtime exemption for law enforcement officers under section 203 with preexisting statutory overtime exemption for Capitol Police under 40 U.S.C. §§206b–206c).

B. Proposed regulations

1. General provisions.—The proposed regulations include a section on matters of general applicability including the purpose and scope of the regulations, definitions, coverage, and the administrative authority of the Board and the Office of Compliance.

2. *Incorporation by Reference of Part 1910 and Part 1926 Standards.—The Board will incorporate by reference the portions of 29 CFR, Parts 1910 and 1926, it proposes to adopt, rather than setting forth the full text of those provisions in this Notice.*

Incorporation by reference of the safety and health standards set forth in Parts 1910 and 1926 is appropriate under the circumstances and meets the "good cause" requirement of the CAA. The portions of Parts 1910 and 1926 that the Board proposes to adopt by reference contain only substantive safety and health standards that are published in Title 29 of the Code of Federal Regulations and that are thus reasonably available to commenters and to affected employing offices and covered employees. Moreover, incorporation by reference of Parts 1910 and 1926 would substantially reduce the volume of material published in the Congressional Record: Part 1910 and 1926 are set forth in three volumes of the Code of Federal Regulations. If restated herein, the material would consist of almost 6,500 pages of text and accompanying illustrations. Given that these standards are proposed to be adopted without change by the Board and are readily accessible to potential commenters, incorporation by reference is appropriate.

3. *Method for Identifying Responsible Employing Offices and Establishing Categories of Violations.*—Section 215(d)(3) of the CAA directs the Board to include in its regulations a method for identifying, for purposes of section 215 and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation. 2 U.S.C. §1341(d)(3). The method developed by the Board to identify entities responsible for correcting a violation of section 215(a) is set forth in section 1.106 of the proposed regulations. Section 1.106 is based in large part on the methods adopted and applied by the General Counsel during his initial inspections of covered employing offices under section 215(e). *See* Safety and Health Report, App. V.

a. Identifying the employing office responsible for correcting violations. In considering rules for identifying the employing office responsible for correcting violations under section 215, the Board is mindful that any regulation that it promulgates should neither expand nor contract the statutory safety and health obligations of employing offices under section 215. *See White v. I.N.S.*, 75 F.3d 213, 215 (5th Cir. 1996) (agency cannot promulgate even substantive rules that are contrary to statute; if intent of Congress is clear, agency must give effect to that unambiguously expressed intent); *Conlan v. U.S. Dep't of Labor*, 76 F.23 271, 274 (9th Cir. 1996). Therefore, the Board has considered the nature of the safety and health obligations imposed on employing offices under the OSHAct, as applied by the terms of section 215(a). Specifically, the Board notes that section 215(a)(2)(C) expressly assigns liability to the employing office responsible for correcting the violation, "irrespective of whether the particular employing office has an employment relationship with any covered employee in any employing office in which such violation occurs."

In many cases, the primary employing office responsible for correcting the hazards identified under section 215 and for addressing the recommendations made by the General Counsel is the Architect of the Capitol, given the Architect's statutory responsibility for superintendence and control over the Capitol Building, House and Senate office buildings, and other similar facilities. *See, e.g.*, 40 U.S.C. §§163-166 (Capitol Building), 167-175 and 185a (House and Senate office buildings), 185 (Capitol Power Plant), 193a (Capitol grounds), and 216b (Botanical Garden). However, it is recognized that in some cases other employing offices, particularly the staff or occupants of office buildings under the Architect's superintendence, may have varying degrees of actual or apparent jurisdiction, authority, and responsibility for correction of violations. In other cases, the employing office may have a responsibility to notify or coordinate abatement of the hazard with the Architect of the Capitol or other employing office actually responsible for implementing the correction. Accordingly, proposed section 1.106 assigns responsibility to employing offices in four situations:

1. The employing office that actually created the hazard or condition identified. Frequently, the employing office that created the hazard is in the best position to correct the hazard, and has control over the manner and method of operations sufficient to avoid the hazard in the first place or reduce the hazard once created.

2. The employing office that is exposing its employees to the hazard or condition. Under the OSHAct, an employer has responsibility for the safety of its own employees and is required to instruct them about the hazards that might be encountered, including what protective measures to use. In the case of hazardous conditions, facilities, or equipment over which the employer has no control, it has a duty to at least warn its employees of the hazard and/or to prevent the employees exposure to the hazard by utilizing alternative locations or means to perform the work. *See Secretary of Labor v. Baker Tank Co.*, 17 OSHC 1177, 1180 (OSHRC April 10, 1995).

3. The employing office that is responsible for safety and health conditions in the workplace and has day-to-day control, in whole or in part, of the area where the hazard or condition is found. For example, a Member has effective control over his or her own office area, and has the responsibility for notifying the Architect or other responsible offices, when hazards are identified in his or her spaces, even though the Member may have no direct responsibility in many cases for carrying out the correction of the condition.

4. The employing office that is responsible for actually carrying out the correction (or

for contacting other offices or otherwise arranging for correction of the hazard or condition). In many cases, the Architect is responsible for repairing and correcting physical hazards identified in his area of superintendence, such as electrical hazards. In some cases, other employing offices may have responsibility to actually carry out the correction, such as the Chief Administrative Officer of the House of Representatives with respect to carpet repair in House office buildings. In other cases, an employing office may have responsibility for arranging for such corrections. For example, in House office buildings, repair of carpeting falls within the jurisdiction of the Chief Administrative Officer. However, the Superintendent of the House Office buildings, an Architect official, may have some responsibility for notifying the Chief Administrative Officer that such repairs are needed, if the Member or office staff does not do so.

The above rules are derived from the so-called multi-employer doctrine applied by OSHA as a means of apportioning liability for abatement and penalties at multi-employer worksites where one employer created the hazard and some employees, but not necessarily its own, are exposed to it. *See generally Brennan v. OSHRC (Underhill Construction Corp.)*, 513 F.2d 1032, 1038 (2d Cir. 1975); Mark A. Rothstein, *Occupational Safety and Health Law* §§161–169 (3d ed. 1990). Under this doctrine, an employer at a multi-employer worksite is responsible, even in the absence of exposure of its own employees, for any hazardous conditions which it creates or controls. *Id. See also H.B. Zachry Co.*, 8 OSHC 1669, 1980 OSHD ¶25,588 (1980), *affirmed* 638 F.2d 812 (5th Cir. 1981); OSHA Field Inspection Reference Manual III–28 (1994).

There is an issue whether application of the multi-employer doctrine by OSHA in the private sector context is in all situations authorized by the OSHAct. *Compare Teal v. E.I. Du Pont de Nemours & Co.*, 728 F.2d 799, 804–05 (6th Cir. 1984) ("Once an employer is deemed responsible for complying with OSHA regulations, it is obligated to protect every employee who works at its workplace.") and *Beatty Equip. Leasing v. Secretary of Labor*, F.2d 534, 537 (9th Cir. 1978) (subcontractor who supplied and erected scaffolding liable even where his own employees not exposed) with *Melerine v. Avondale Shipyards, Inc.*, 659 F.2d 706, 712 (5th Cir. 1981) ("In this circuit, therefore, the class protected by OSHA regulations comprises only employer's own employees."). However, the Board need not address this issue because the CAA expressly imposes responsibility for correction of health and safety violations on an otherwise covered Legislative Branch entity "irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs." 2 U.S.C. §1341(a)(2)(C). Accordingly, the above regulations are consistent with the OSHAct as modified by the express terms of section 215 of the CAA.

b. Classifying the level of risk/seriousness of the violation. The proposed regulations do not include a provision classifying categories of violations. The method for identifying the employing offices responsible for correcting a violation of section 215(a) set forth in section 1.106 of the proposed regulations is not affected by the category or type of violation. Moreover, such categories of violations are not set forth in any substantive regulations of the Secretary required to be adopted under section 215(d). Therefore, the Board does not propose any substantive regulations which set forth categories of violations.

The Board notes that the General Counsel has developed, as part of his authority to inspect covered facilities under section 215(e), classifications of violations to guide employing offices and covered employees in assigning priority for correction and abatement of hazards. The General Counsel's guidelines are based on those issued by OSHA in determining the amount of proposed penalties in cases involving private employers. *See generally* 29 U.S.C. §§666(j) and (k). Although neither the General Counsel nor the Office has authority to impose monetary penalties under section 215 of the CAA, *see* 2 U.S.C. §§1341(b) and 1361(c) (limiting remedy under section 215 to injunctive provisions of section 13(a) of the OSHAct and providing that no civil penalty may be awarded with respect to any claim under the CAA), the factors considered by OSHA in determining the amount of penalty may be useful as an expression of the gravity of the deficiency involved. A further description of these categories is set forth in the General Counsel's inspection report. *See* Safety and Health Report, App. I.

4. *Future changes in the text of the health and safety standards which the Board has adopted.*—The Board proposes that the section 215 regulations incorporate the text of the referenced health and safety standards of parts 1910 and 1926 in effect as of the effective date of these regulations. The Board takes notice that OSHA has in recent years made frequent changes, both technical and nontechnical, to its part 1910 and 1926 regulations, and is in the process of developing additional safety and health standards in some areas. The Board interprets the incorporation by reference of external documents or standards in the text of the adopted Parts 1910 and 1926 regulations (such as the provisions of the National Electrical Code) to include any future changes to such documents or standards. As the Office receives notice of such changes by OSHA, it will advise covered employing offices and employees of them as part of its education and information activities. As to changes in the text of the adopted regulations themselves, however, the Board finds that, under the CAA statutory scheme, additional Board rulemaking under section 215(d) will be required. The Board believes that it should afford Legislative Branch entities and employees potentially affected by adoption of such changes the opportunity to comment on the propriety of Board adoption of any such changes, and that the Congress should have the opportunity to specifically approve such adoption by the Board. The Board specifically invites comments on this proposal.

5. *Technical and nomenclature changes.*—The proposed regulations make technical and nomenclature changes, where appropriate, to conform to the provisions of the CAA.

Recommended method of approval: The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 18th day of September, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

APPLICATION OF RIGHTS AND PROTECTIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (SECTION 215 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

Part 1——Matters of General Applicability to All Regulations Promulgated Uuder Section 215 of the Congressional Accountability Act of 1995

Sec.
1.101 Purpose and scope
1.102 Definitions
1.103 Notice of protection
1.104 Authority of the Board
1.105 Method for identifying the entity responsible for correction of violations of section 215

§1.101 Purpose and scope.

(a) *Section 215 of the CAA.* Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of eleven federal labor and employment law and public access statutes to covered employees and employing offices within the Legislative Branch. Section 215(a) of the CAA provides that each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 ("OSHAct"), 29 U.S.C. §654. Section 5(a) of the OSHAct provides that every covered employer has a general duty to furnish each employee with employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to those employees, and a specific duty to comply with occupational safety and health standards promulgated under the law. Section 5(b) requires covered employees to comply with occupational safety and health standards and with all rules, regulations and orders which are applicable to their actions and conduct. Set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 215(d) of the CAA.

(b) *Purpose and scope of regulations.* The regulations set forth herein (Parts 1 and 1900) are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 215(d) of the CAA. Part 1 contains the general provisions applicable to all regulations under section 215, including the method of identifying entities responsible for correcting a violation of section 215. Part 1900 contains the substantive safety and health standards which the Board has adopted as substantive regulations under section 215(e).

§1.102 Definitions.

Except as otherwise specifically provided in these regulations, as used in these regulations:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (Pub.L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *OSHAct* means the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. §§651, *et seq.*), as applied to covered employees and employing offices by Section 215 of the CAA.

(c) The term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means: (1) the personal office of a Member of the House of Representatives or the Senate or a joint committee; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(j) The term *employing office* includes any of the following entities that is responsible for correction of a violation of this section, irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such violation occurs: (1) each office of the Senate, including each office of a Senator and each committee; (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee; (3) each joint committee of the Congress; (4) the Capitol Guide Service; (5) the Capitol Police; (6) the Congressional Budget Office; (7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden); (8) the Office of the Attending Physician; and (9) the Office of Compliance.

(k) *Board* means the Board of Directors of the Office of Compliance.

(l) *Office* means the Office of Compliance.

(m) *General Counsel* means the General Counsel of the Office of Compliance.

§1.103 Coverage.

The coverage of Section 215 of the CAA extends to any "covered employee." It also extends to any "covered employing office," which includes any of the following entities that is responsible for correcting a violation of section 215 (as determined under section 1.106), irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

§1.104 Notice of protection.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 215 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

§1.105 Authority of the Board.

Pursuant to section 215 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections of section 215(a). Section 215(d) of the CAA directs the Board to promulgate regulations implementing section 215 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C. §1341(d). The regulations issued by the Board herein are on all matters for which section 215 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 215 of the CAA]" that need be adopted.

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§1.106 Method for identifying the entity responsible for correction of violations of section 215.

(a) *Purpose and scope.* Section 215(d)(3) of the CAA provides that regulations under section 215(d) include a method of identifying, for purposes of this section and for categories of violations of section 215(a), the employing office responsible for correcting a particular violation. This section sets forth the method for identifying responsible employing offices for the purpose of allocating responsibility for correcting violations of section 215(a) of the CAA. These rules apply to the General Counsel in the exercise of his authority to issue citations or notices to employing offices under sections 215(c)(2)(A) and (B), and to the Office and the Board in the adjudication of complaints under section 215(c)(3).

(b) *Employing Office(s) Responsible for Correcting a Violation of Section 215(a) of the CAA.* With respect to the safety and health standards and other obligations imposed upon employing offices under section 215(a) of the CAA, correction of a violation of section 215(a) is the responsibility of any employing office that is an exposing employing office, a creating employing office, a controlling employing office, and/or a correcting employing office, as defined in this subsection, to the extent that the employing office is in a position to correct or abate the hazard or to ensure its correction or abatement.

(i) *Creating employing office* means the employing office that actually created the hazard forming the basis of the violation or violations of section 215(a).

(ii) *Exposing employing office* means the employing office whose employees are exposed to the hazard forming the basis of the violation or violations of section 215(a).

(iii) *Controlling employing office* means the employing office that is responsible, by agreement or legal authority or through actual practice, for safety and health conditions in the location where the hazard forming the basis for the violation or violations of section 215(a) occurred.

(iv) *Correcting employing office* means the employing office that has the responsibility for actually performing (or the authority or power to order or arrange for) the work necessary to correct or abate the hazard forming the basis of the violation or violations of section 215(a).

(c) *Exposing Employing Office Duties.* Employing offices have direct responsibility for the safety and health of their own employees and are required to instruct them about the hazards that might be encountered, including what protective measures to use. An employing office may not contract away these legal duties to its employees or its ultimate responsibilities under section 215(a) of the CAA by requiring another party or entity to perform them. In addition, if equipment or facilities to be used by an employing office, but not under the control of the employing office, do not meet applicable health and safety standards or otherwise constitutes a violation of section 215(a), it is the responsibility of the employing office not to permit its employees to utilize such equipment or facilities. In such circumstances, the employing office is in violation if, and only if, it permits its employees to utilize such equipment or facilities. It is not the responsibility of an employing office to effect the correction of any such deficiencies itself, but this does not relieve it of its duty to use only equipment or facilities that meet the requirements of section 215(a).

Part 1900—Adoption of Occupational Safety and Health Standards

Sec.

1900.1 Purpose and scope

1900.2 Definitions; provisions regarding scope, applicability, and coverage; and exemptions

1900.3 Adoption of occupational safety and health standards

§1900.1 Purpose and scope.

(a) The provisions of this subpart B adopt and extend the applicability of occupational safety and health standards established and promulgated by the Occupational Safety and Health Administration ("OSHA") and set forth at Parts 1910 and 1926 of title 29 of the Code of Federal Regulations, with respect to every employing office, employee, and employment covered by section 215 of the Congressional Accountability Act.

(b) It bears emphasis that only standards (i.e., substantive rules) relating to safety or health are adopted by any incorporations by reference of standards prescribed in this Part. Other materials contained in the referenced parts are not adopted. Illustrations of the types of materials which are not adopted are these. The incorporation by reference of part 1926, 29 CFR, is not intended to include references to interpretative rules having relevance to the application of the Construction Safety Act, but having no relevance to the Occupational Safety and Health Act. Similarly, the incorporation by reference of part 1910, 29 CFR, is not intended to include any reference to the Assistant Secretary of Labor and the authorities of the Assistant Secretary. The authority to adopt, promulgate, and amend or revoke standards applicable to covered employment under the CAA rests with the Board of Directors of the Office of Compliance pursuant to sections 215(d) and 304 of the CAA. Notwithstanding anything to the contrary contained in the incorporated standards, the exclusive means for enforcement of these standards with respect to covered employment are the procedures and remedies provided for in section 215 of the CAA.

(c) This part incorporates the referenced safety and health standards in effect as of the effective date of these regulations.

§ 1900.2 Definitions, provisions regarding scope, applicability and coverage, and exemptions.

(a) Except where inconsistent with the definitions, provisions regarding scope, application and coverage, and exemptions provided in the CAA or other sections of these regulations, the definitions, provisions regarding scope, application and coverage, and exemptions provided in Parts 1910 and 1926, 29 CFR, as incorporated into these regulations, shall apply under these regulations. For example, any reference to "employer" in Parts 1910 and 1926 shall be deemed to refer to "employing office." Similarly, any limitation on coverage in Parts 1910 and 1926 to employers engaged "in a business that affects commerce" shall not apply in these regulations.

(b) The provisions of section 1910.6, 29 CFR, regarding the force and effect of standards of agencies of the U.S. Government and organizations that are not agencies of the U.S. Government, which are incorporated by reference in Part 1910, shall apply to the standards incorporated into these regulations.

(c) It is the Board's intent that the standards adopted in these regulations shall have the same force and effect as applied to covered employing offices and employees under section 215 of the CAA as those standards have when applied by OSHA to employers, employees, and places of employment under the jurisdiction of OSHA and the OSHAct.

§ 1900.3 Adoption of occupational safety and health standards.

(a) *Part 1910 Standards.* The standards prescribed in 29 CFR part 1910, Subparts B through S, and Subpart Z, as specifically referenced and set forth herein at Appendix A, are adopted as occupational safety and health standards under Section 215(d) of the CAA and shall apply, according to the provisions thereof, to every employment and place of employment of every covered employee engaged in work in an employing office. Each employing office shall protect the employment and places of employment of each of its covered employees by complying with the appropriate standards described in this paragraph.

(b) *Part 1926 Standards.* The standards prescribed in 29 CFR part 1926, Subparts C through X and Subpart Z, as specifically referenced and forth herein at Appendix B, are adopted as occupational safety and health standards under Section 215(d) of the CAA and shall apply, according to the provisions thereof, to every employment and place of employment of every covered employee engaged in work in an employing office. Each employing office shall protect the employment and places of employment of each of its covered employees by complying with the appropriate standards described in this paragraph.

(c) *Standards not adopted.* This section adopts as occupational safety and health standards under section 215(d) of the CAA the standards which are prescribed in Parts 1910 and 1926 of 29 CFR. Thus, the standards (substantive rules) published in subparts B through S and Z of part 1910 and subparts C through X and Z of part 1926 are applied. As set forth in Appendix A and Appendix B to this Part, this section does not incorporate all sections contained in these subparts. For example, this section does not incorporate sections 1910.15, 1910.16, and 1910.142, relating to shipyard employment, longshoring and marine terminals, and temporary labor camps, because such provisions have no application to employment within entities covered by the CAA.

(d) Copies of the standards which are incorporated by reference may be examined at the Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540–1999. The OSHA standards may also be found at 29 CFR Parts 1910 and 1926. Copies of the standards may also be examined at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210, and their regional offices. Copies of private standards may be obtained from the issuing organizations. Their names and addresses are listed in the pertinent subparts of Parts 1910 and 1926, 29 CFR.

(e) Any changes in the standards incorporated by reference in the portions of Parts 1910 and 1926, 29 CFR, adopted herein and an official historic file of such changes are available for inspection at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210.

Appendix A To Part 1900—References to Sections of Part 1910, 29 CFR, Adopted as Occupational Safety and Health Standards Under Section 215(d) of the CAA

The following is a reference listing of the sections and subparts of Part 1910, 29 CFR, which are adopted as occupational safety and health standards under section 215(d) of the Congressional Accountability Act. Unless otherwise specifically noted, any reference to a section number includes any appendices to that section.

Part 1910—Occupational Safety and Health Standards

Subpart B—Adoption and Extension of Established Federal Standards

Sec.
1910.12 Construction work.
1910.18 Changes in established Federal standards.
1910.19 Special provisions for air contaminants.

Subpart C—General Safety and Health Provisions [Reserved]

Subpart D—Walking—Working Surfaces

1910.21 Definitions.
1910.22 General requirements.
1910.23 Guarding floor and wall openings and holes.
1910.24 Fixed industrial stairs.
1910.25 Portable wood ladders.
1910.26 Portable metal ladders.
1910.27 Fixed ladders.
1910.28 Safety requirements for scaffolding.
1910.29 Manually propelled mobile ladder stands and scaffolds (towers).
1910.30 Other working surfaces.

Subpart E—Means of Egress

1910.35 Definitions.
1910.36 General requirements.
1910.37 Means of egress, general.
1910.38 Employee emergency plans and fire prevention plans.
APPENDIX TO SUBPART E—MEANS OF EGRESS

Subpart F—Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms

1910.66 Powered platforms for building maintenance.
1910.67 Vehicle-mounted elevating and rotating work platforms.
1910.68 Manlifts.

Subpart G—Occupational Health and Environmental Control

1910.94 Ventilation.
1910.95 Occupational noise exposure.
1910.97 Nonionizing radiation.

Subpart H—Hazardous Materials

1910.101 Compressed gases (general requirements).
1910.102 Acetylene.
1910.103 Hydrogen.
1910.104 Oxygen.
1910.105 Nitrous oxide.
1910.106 Flammable and combustible liquids.
1910.107 Spray finishing using flammable and combustible materials.
1910.108 Dip tanks containing flammable or combustible liquids.
1910.109 Explosives and blasting agents.
1910.110 Storage and handling of liquefied petroleum gases.
1910.111 Storage and handling of anhydrous ammonia.
1910.112 [Reserved]
1910.113 [Reserved]
1910.119 Process safety management of highly hazardous chemicals.
1910.120 Hazardous waste operations and emergency response.

Subpart I—Personal Protective Equipment

1910.132 General requirements.
1910.133 Eye and face protection.
1910.134 Respiratory protection.
1910.135 Head protection.
1910.136 Foot protection.
1910.137 Electrical protective devices.
1910.138 Hand Protection.

Subpart J—General Environmental Controls

1910.141 Sanitation.
1910.143 Nonwater carriage disposal systems. [Reserved]
1910.144 Safety color code for marking physical hazards.
1910.145 Specifications for accident prevention signs and tags.
1910.146 Permit-required confined spaces.
1910.147 The control of hazardous energy (lockout/tagout).

Subpart K—Medical and First Aid

1910.151 Medical services and first aid.
1910.152 [Reserved]

Subpart L—Fire Protection

1910.155 Scope, application and definitions applicable to this subpart.
1910.156 Fire brigades.
PORTABLE FIRE SUPPRESSION EQUIPMENT
1910.157 Portable fire extinguishers.
1910.158 Standpipe and hose systems.
FIXED FIRE SUPPRESSION EQUIPMENT
1910.159 Automatic sprinkler systems.
1910.160 Fixed extinguishing systems, general.
1910.161 Fixed extinguishing systems, dry chemical.
1910.162 Fixed extinguishing systems, gaseous agent.

1910.163 Fixed extinguishing systems, water spray and foam.
OTHER FIRE PROTECTIVE SYSTEMS
1910.164 Fire detection systems.
1910.165 Employee alarm systems.
APPENDICES TO SUBPART L
APPENDIX A TO SUBPART L—FIRE PROTECTION
APPENDIX B TO SUBPART L—NATIONAL CONSENSUS STANDARDS
APPENDIX C TO SUBPART L—FIRE PROTECTION REFERENCES FOR FURTHER INFORMATION
APPENDIX D TO SUBPART L—AVAILABILITY OF PUBLICATIONS INCORPORATED BY REFERENCE IN SECTION 1910.156 FIRE BRIGADES
APPENDIX E TO SUBPART L—TEST METHODS FOR PROTECTIVE CLOTHING

Subpart M—Compressed Gas and Compressed Air Equipment

1910.166 [Reserved]
1910.167 [Reserved]
1910.168 [Reserved]
1910.169 Air receivers.

Subpart N—Materials Handling and Storage

1910.176 Handling material—general.
1910.177 Servicing multi-piece and single piece rim wheels.
1910.178 Powered industrial trucks.
1910.179 Overhead and gantry cranes.
1910.180 Crawler locomotive and truck cranes.
1910.181 Derricks.
1910.183 Helicopters.
1910.184 Slings.

Subpart O—Machinery and Machine Guarding

1910.211 Definitions.
1910.212 General requirements for all machines.
1910.213 Woodworking machinery requirements.
1910.215 Abrasive wheel machinery.
1910.216 Mills and calenders in the rubber and plastics industries.
1910.217 Mechanical power presses.
1910.218 Forging machines.
1910.219 Mechanical power-transmission apparatus.

Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment

1910.241 Definitions.
1910.242 Hand and portable powered tools and equipment, general.
1910.243 Guarding of portable powered tools.
1910.244 Other portable tools and equipment.

Subpart Q—Welding, Cutting, and Brazing

1910.251 Definitions.
1910.252 General requirements.
1910.253 Oxygen-fuel gas welding and cutting.
1910.254 Arc welding and cutting.
1910.255 Resistance welding.

Subpart R—Special Industries

1910.263 Bakery equipment.
1910.264 Laundry machinery and operations.
1910.266 Logging operations.
1910.268 Telecommunications.
1910.269 Electric power generation, transmission, and distribution.

Subpart S—Electrical

GENERAL
1910.301 Introduction.
DESIGN SAFETY STANDARDS FOR ELECTRICAL SYSTEMS
1910.302 Electric utilization systems.
1910.303 General requirements.
1910.304 Wiring design and protection.
1910.305 Wiring methods, components, and equipment for general use.
1910.306 Specific purpose equipment and installations.
1910.307 Hazardous (classified) locations.
1910.308 Special systems.
1910.309–1910.330 [Reserved]
SAFETY-RELATED WORK PRACTICES
1910.331 Scope.
1910.332 Training.
1910.333 Selection and use of work practices.
1910.334 Use of equipment.
1910.335 Safeguards for personnel protection.
1910.336–1910.360 [Reserved]
SAFETY-RELATED MAINTENANCE REQUIREMENTS
1910.361–1910.380 [Reserved]
SAFETY REQUIREMENTS FOR SPECIAL EQUIPMENT
1910.381–1910.398 [Reserved]
DEFINITIONS
1910.399 Definitions applicable to this subpart.
APPENDIX A TO SUBPART S—REFERENCE DOCUMENTS
APPENDIX B TO SUBPART S—EXPLANATORY DATA [RESERVED]
APPENDIX C TO SUBPART S—TABLES, NOTES, AND CHARTS [RESERVED]

Subparts U–Y [Reserved]

1910.442–1910.999 [Reserved]

Subpart Z—Toxic and Hazardous Substances

1910.1000 Air contaminants.
1910.1001 Asbestos.
1910.1002 Coal tar pitch volatiles; interpretation of term.
1910.1003 13 Carcinogens (4-Nitrobiphenyl, etc.)
1910.1004 alpha-Naphthylamine.
1910.1005 [Reserved]
1910.1006 Methyl chloromethyl ether.
1910.1007 3,3'-Dichlorobenzidine (and its salts).
1910.1008 bis-Chloromethyl ether.
1910.1009 beta-Naphthylamine.
1910.1010 Benzidine.
1910.1011 4-Aminodiphenyl.
1910.1012 Ethyleneimine.
1910.1013 beta-Propiolactone.
1910.1014 2-Acetylaminofluorene.
1910.1015 4-Dimethylaminoazobenzene.
1910.1016 N-Nitrosodimethylamine.
1910.1017 Vinyl chloride.
1910.1018 Inorganic arsenic.
1910.1020 Access to employee exposure and medical records.
1910.1025 Lead.
1910.1027 Cadmium.
1910.1028 Benzine.
1910.1029 Coke oven emissions.
1910.1030 Bloodborne pathogens.
1910.1043 Cotton dust.
1910.1044 1,2-dibromo-3-chloropropane.
1910.1045 Acrylonitrile.
1910.1047 Ethylene oxide.
1910.1048 Formaldehyde.
1910.1050 Methylenedianiline.
1910.1096 Ionizing radiation.
1910.1200 Hazard communication.
1910.1201 Retention of DOT markings, placards and labels.
1910.1450 Occupational exposure to hazardous chemicals in laboratories.

Appendix B to Part 1900—References to Sections of Part 1926, 29 CFR, Adopted as Occupational Safety and Health Standards Under Section 215(d) of the CAA

The following is a reference listing of the sections and subparts of Part 1926, 29 CFR, which are adopted as occupational safety and health standards under section 215(d) of the Congressional Accountability Act. Unless otherwise specifically noted, any reference to a section number includes the appendices to that section.

Part 1926—Safety and Health Regulations for Construction

Part C—General Safety and Health Provisions

Sec.
1926.20 General safety and health provisions.
1926.21 Safety training and education.
1926.22 Recording and reporting of injuries. [Reserved]
1926.23 First aid and medical attention.
1926.24 Fire protection and prevention.
1926.25 Housekeeping.
1926.26 Illumination.
1926.27 Sanitation.
1926.28 Personal protective equipment.
1926.29 Acceptable certifications.
1926.31 Incorporation by reference.
1926.32 Definitions.
1926.33 Access to employee exposure and medical records.
1926.34 Means of egress.
1926.35 Employee emergency action plans.

Subpart D—Occupational Health and Environmental Controls

1926.50 Medical services and first aid.
1926.51 Sanitation.
1926.52 Occupational noise exposure.
1926.53 Ionizing radiation.
1926.54 Nonionizing radiation.
1926.55 Gases, vapors, fumes, dusts, and mists.
1926.56 Illumination.
1926.57 Ventilation.
1926.58 [Reserved]
1926.59 Hazard communication.
1926.60 Methylenedianiline.
1926.61 Retention of DOT markings, placards and labels.
1926.62 Lead.
1926.63 Cadmium (This standard has been redesignated as 1926.1127).
1926.64 Process safety management of highly hazardous chemicals.
1926.65 Hazardous waste operations and emergency response.
1926.66 Criteria for design and construction for spray booths.

Subpart E—Personal Protective and Life Saving Equipment

1926.95 Criteria for personal protective equipment.
1926.96 Occupational foot protection.
1926.97 [Reserved]
1926.98 [Reserved]
1926.99 [Reserved]
1926.100 Head protection.
1926.101 Hearing protection.
1926.102 Eye and face protection.
1926.103 Respiratory protection.
1926.104 Safety belts, lifelines, and lanyards
1926.105 Safety nets
1926.106 Working over or near water.
1926.107 Definitions applicable to this subpart.

Subpart F—Fire Protection and Prevention

1926.150 Fire protection.
1926.151 Fire prevention.
1926.152 Flammable and combustible liquids.
1926.153 Liquefied petroleum gas (LP-Gas).
1926.154 Temporary heating devices.
1926.155 Definitions applicable to this subpart.
1926.156 Fixed extinguishing systems, general.
1926.157 Fixed extinguishing systems, gaseous agent.
1926.158 Fire detection systems.
1926.159 Employee alarm systems.

Subpart G—Signs, Signals, and Barricades

1926.200 Accident prevention signs and tags.
1926.201 Signaling.

1926.202 Barricades.
1926.203 Definitions applicable to this subpart.

Subpart H—Materials Handling, Storage, Use, and Disposal

1926.250 General requirements for storage.
1926.251 Rigging equipment for material handling.
1926.252 Disposal of waste materials.

Subpart I—Tools—Hand and Power

1926.300 General requirements.
1926.301 Hand tools.
1926.302 Power operated hand tools.
1926.303 Abrasive wheels and tools.
1926.304 Woodworking tools.
1926.305 Jacks—lever and ratchet, screw and hydraulic.
1926.306 Air Receivers.
1926.307 Mechanical power-transmission apparatus.

Subpart J—Welding and Cutting

1926.350 Gas welding and cutting.
1926.351 Arc welding and cutting.
1926.352 Fire prevention.
1926.353 Ventilation and protection in welding, cutting, and heating.
1926.354 Welding, cutting and heating in way of preservative coatings.

Subpart K—Electrical

GENERAL
1926.400 Introduction.
1926.401 [Reserved]
INSTALLATION SAFETY REQUIREMENTS
1926.402 Applicability.
1926.403 General requirements.
1926.404 Wiring design and protection.
1926.405 Wiring methods, components, and equipment for general use.
1926.406 Specific purpose equipment and installations.
1926.407 Hazardous (classified) locations.
1926.408 Special systems.
1926.409–1926.415 [Reserved]
SAFETY-RELATED WORK PRACTICES
1926.416 General requirements.
1926.417 Lockout and tagging of circuits.
1926.418-1926.430 [Reserved]
SAFETY-RELATED MAINTENANCE AND ENVIRONMENTAL CONSIDERATIONS
1926.431 Maintenance of equipment.
1926.432 Environmental deterioration of equipment.
1926.433-1926.440 [Reserved]
SAFETY REQUIREMENTS FOR SPECIAL EQUIPMENT
1926.441 Battery locations and battery charging.
1926.442-1926.448 [Reserved]
DEFINITIONS
1926.449 Definitions applicable to this subpart.

Subpart L—Scaffolding

1926.450 [Reserved]
1926.451 Scaffolding.
1926.452 Guardrails, handrails, and covers.
1926.453 Manually propelled mobile ladder stands and scaffolds (towers).

Subpart M—Fall Protection

1926.500 Scope, application, and definitions applicable to this subpart.
1926.501 Duty to have fall protection.
1926.502 Fall protection systems criteria and practices.
1926.503 Training requirements.
APPENDIX A TO SUBPART M—DETERMINING ROOF WIDTHS
APPENDIX B TO SUBPART M—GUARDRAIL SYSTEMS
APPENDIX C TO SUBPART M—PERSONAL FALL ARREST SYSTEMS
APPENDIX D TO SUBPART M—POSITIONING DEVICE SYSTEMS
APPENDIX E TO SUBPART M—SAMPLE FALL PROTECTION PLANS

Subpart N—Cranes, Derricks, Hoists, Elevators, and Conveyors

1926.550 Cranes and derricks.
1926.551 Helicopters.
1926.552 Material hoists, personnel hoists and elevators.
1926.553 Base-mounted drum hoists.
1926.554 Overhead hoists.
1926.555 Conveyors.
1926.556 Aerial lifts.

Subpart O—Motor Vehicles and Mechanized Equipment

1926.600 Equipment.
1926.601 Motor vehicles.
1926.602 Material handling equipment.
1926.603 Pile driving equipment.
1926.604 Site clearing.

Subpart P—Excavations

1926.650 Scope, application, and definitions applicable to this subpart.
1926.651 Specific Excavation Requirements.
1926.652 Requirements for protective systems.
APPENDIX A TO SUBPART P—SOIL CLASSIFICATION
APPENDIX B TO SUBPART P—SLOPING AND BENCHING
APPENDIX C TO SUBPART P—TIMBER SHORING FOR TRENCHES
APPENDIX D TO SUBPART P—ALUMINUM HYDRAULIC SHORING FOR TRENCHES
APPENDIX E TO SUBPART P—ALTERNATIVES TO TIMBER SHORING
APPENDIX F TO SUBPART P—SELECTION OF PROTECTIVE SYSTEMS

Subpart Q—Concrete and Masonry Construction

1926.700 Scope, application, and definitions, applicable to this subpart.
1926.701 General requirements.
1926.702 Requirements for equipment and tools.
1926.703 Requirements for cast-in-place concrete.
1926.704 Requirements for precast concrete.
1926.705 Requirements for lift-slab construction operations.
1926.706 Requirements of masonry construction.
APPENDIX TO SUBPART Q—REFERENCES TO SUBPART Q OF PART 1926

Subpart R—Steel Erection

1926.750 Flooring requirements.
1926.751 Structural steel assembly.
1926.752 Bolting, riveting, fitting-up, and plumbing-up.
1926.753 Safety Nets.

Subpart S—Tunnels and Shafts, Caissons, Cofferdams, and Compressed Air

1926.800 Underground construction.
1926.801 Caissons.
1926.802 Cofferdams.
1926.803 Compressed air.
1926.804 Definitions applicable to this subpart.
APPENDIX A TO SUBPART S—DECOMPRESSION TABLES

Subpart T—Demolition

1926.850 Preparatory operations.
1926.851 Stairs, passageways, and ladders.
1926.852 Chutes.
1926.853 Removal of materials through floor openings.
1926.854 Removal of walls, masonry sections, and chimneys.
1926.855 Manual removal of floors.
1926.856 Removal of walls, floors, and material with equipment.
1926.857 Storage.
1926.858 Removal of steel construction.
1926.859 Mechanical demolition.
1926.860 Selective demolition by explosives.

Subpart U—Blasting and Use of Explosives

1926.900 General provisions.
1926.901 Blaster qualifications.
1926.902 Surface transportation of explosives.
1926.903 Underground transportation of explosives.
1926.904 Storage of explosives and blasting agents.
1926.905 Loading of explosives or blasting agents.
1926.906 Initiation of explosive charges—electric blasting.
1926.907 Use of safety fuse.
1926.908 Use of detonating cord.
1926.909 Firing the blast.
1926.910 Inspection after blasting.
1926.911 Misfires.
1926.912 Underwater blasting.
1926.913 Blasting in excavation work under compressed air.
1926.914 Definitions applicable to this subpart.

Subpart V—Power Transmission and Distribution

1926.950 General requirements.
1926.951 Tools and protective equipment.
1926.952 Mechanical equipment.
1926.953 Material handling.
1926.954 Grounding for protection of employees.
1926.955 Overhead lines.
1926.956 Underground lines.
1926.957 Construction in energized substations.
1926.958 External load helicopters.
1926.959 Lineman's body belts, safety straps, and lanyards.
1926.960 Definitions applicable to this subpart.

Subpart W—Rollover Protective Structures; Overhead Protection

1926.1000 Rollover protective structures (ROPS) for material handling equipment.
1926.1001 Minimum performance criteria for rollover protective structures for designated scrapers, loaders, dozers, graders, and crawler tractors.
1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction.
1926.1003 Overhead protection for operators of agricultural and industrial tractors.

Subpart X—Stairways and Ladders

1926.1050 Scope, application, and definitions applicable to this subpart.
1926.1051 General Requirements.
1926.1052 Stairways.
1926.1053 Ladders.
1926.1054–1926.1059 [Reserved]
1926.1060 Training Requirements
APPENDIX A TO SUBPART X—LADDERS

Subpart Z—Toxic and Hazardous Substances

1926.1100 [Reserved]
1926.1101 Asbestos
1926.1102 Coal tar pitch volatiles; interpretation of term.
1926.1103 4-Nitrobiphenyl.
1926.1104 alpha-Naphthylamine.
1926.1105 [Reserved]
1926.1106 Methyl chloromethyl ether.
1926.1107 3.3'-Dichlorobenzidine (and its salts).
1926.1108 bis-Chloromethyl ether.
1926.1109 beta-Naphthylamine.
1926.1110 Benzidine.
1926.1111 4-Aminodiphenyl.
1926.1112 Ethyleneimine.
1926.1113 beta-Propiolactone.

1926.1114	2-Acetylaminofluorene.
1926.1115	4-Dimethylaminoazobenzene.
1926.1116	N-Nitrosodimethylamine.
1926.1117	Vinyl chloride.
1926.1118	Inorganic arsenic.
1926.1127	Cadmium.
1926.1128	Benzene.
1926.1129	Coke oven emissions.
1926.1144	1,2-dibromo-3-chloropropane.
1926.1145	Acrylonitrile.
1926.1147	Ethylene oxide.
1926.1148	Formaldehyde.

APPENDIX A TO PART 1926—DESIGNATIONS FOR GENERAL INDUSTRY STANDARDS

NATIONAL TRANSPORTATION SAFETY BOARD AMENDMENTS OF 1996

The text of the bill (H.R. 3159) to amend title 49, United States Code, to authorize appropriations for fiscal years 1997, 1998, and 1999 for the National Transportation Safety Board, and for other purposes, as passed by the Senate on September 18, 1996, is as follows:

H.R. 3159

Resolved, That the bill from the House of Representatives (H.R. 3159) entitled "An Act to amend title 49, United States Code, to authorize appropriations for fiscal years 1997, 1998, and 1999 for the National Transportation Safety Board, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

TITLE I—NTSB AMENDMENTS

SEC. 101. SHORT TITLE.

This title may be cited as the "National Transportation Safety Board Amendments of 1996".

SEC. 102. FOREIGN INVESTIGATIONS.

Section 1114 of title 49, United States Code, is amended—

(1) by striking "(b) and (c)" in subsection (a) and inserting "(b), (c), and (e)"; and

(2) by adding at the end the following:

"(e) FOREIGN INVESTIGATIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, neither the Board, nor any agency receiving information from the Board, shall disclose records or information relating to its participation in foreign aircraft accident investigations; except that—

"(A) the Board shall release records pertaining to such an investigation when the country conducting the investigation issues its final report or 2 years following the date of the accident, whichever occurs first; and

"(B) the Board may disclose records and information when authorized to do so by the country conducting the investigation.

"(2) SAFETY RECOMMENDATIONS.—Nothing in this subsection shall restrict the Board at any time from referring to foreign accident investigation information in making safety recommendations.".

SEC. 103. PROTECTION OF VOLUNTARY SUBMISSION OF INFORMATION.

Section 1114(b) of title 49, United States Code, is amended by adding at the end the following:

"(3) PROTECTION OF VOLUNTARY SUBMISSION OF INFORMATION.—Notwithstanding any other provision of law, neither the Board, nor any agency receiving information from the Board, shall disclose voluntarily provided safety-related information if that information is not related to the exercise of the Board's accident or incident investigation authority under this chapter and if the Board finds that the disclosure of the information would inhibit the voluntary provision of that type of information.".

SEC. 104. TRAINING.

Section 1115 of title 49, United States Code, is amended by adding at the end the following:

"(d) TRAINING OF BOARD EMPLOYEES AND OTHERS.—The Board may conduct training of its employees in those subjects necessary for the proper performance of accident investigation. The Board may also authorize attendance at courses given under this subsection by other government personnel, personnel of foreign governments, and personnel from industry or otherwise who have a requirement for accident investigation training. The Board may require non-Board personnel to reimburse some or all of the training costs, and amounts so reimbursed shall be credited to the appropriation of the 'National Transportation Safety Board, Salaries and Expenses' as offsetting collections.".

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

Section 1118(a) of title 49, United States Code, is amended—

(1) by striking "and"; and

(2) by inserting before the period at the end of the first sentence the following: ", $42,400,00 for fiscal year 1997, $44,400,000 for fiscal year 1998, and $46,600,000 for fiscal year 1999.".

TITLE II—INTERMODAL TRANSPORTATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Intermodal Safe Container Transportation Amendments Act of 1996".

SEC. 202. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49 of the United States Code.

SEC. 203. DEFINITIONS.

Section 5901 (relating to definitions) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) except as otherwise provided in this chapter, the definitions in sections 10102 and 13102 of this title apply.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) 'gross cargo weight' means the weight of the cargo, packaging materials (including ice), pallets, and dunnage.".

SEC. 204. NOTIFICATION AND CERTIFICATION.

(a) PRIOR NOTIFICATION.—Subsection (a) of section 5902 (relating to prior notification) is amended—

(1) by striking "Before a person tenders to a first carrier for intermodal transportation a" and inserting "If the first carrier to which any";

(2) by striking "10,000 pounds (including packing material and pallets), the person shall give the carrier a written" and inserting "29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a";

(3) by striking "trailer." and inserting "trailer before the tendering of the container or trailer.";

(4) by striking "electronically." and inserting "electronically or by telephone."; and

(5) by adding at the end thereof the following: "This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier.".

(b) CERTIFICATION.—Subsection (b) of section 5902 (relating to certification) is amended to read as follows:

"(b) CERTIFICATION.—

"(1) IN GENERAL.—A person who tenders a loaded container or trailer with an actual gross cargo weight of more than 29,000 pounds to a first carrier for intermodal transportation shall provide a certification of the contents of the container or trailer in writing, or electronically, before or when the container or trailer is so tendered.

"(2) CONTENTS OF CERTIFICATION.—The certification required by paragraph (1) shall include—

"(A) the actual gross cargo weight;

"(B) a reasonable description of the contents of the container or trailer;

"(C) the identity of the certifying party;

"(D) the container or trailer number; and

"(E) the date of certification or transfer of data to another document, as provided for in paragraph (3).

"(3) TRANSFER OF CERTIFICATION DATA.—A carrier who receives a certification may transfer the information contained in the certification to another document or to electric format for forwarding to a subsequent carrier. The person transferring the information shall state on the forwarded document the date on which the data was transferred and the identity of the party who performed the transfer.

"(4) SHIPPING DOCUMENTS.—For purposes of this chapter, a shipping document, prepared by the person who tenders a container or trailer to a first carrier, that contains the information required by paragraph (2) meets the requirements of paragraph (1).

"(5) USE OF 'FREIGHT ALL KINDS' TERM.—The term 'Freight All Kinds' or 'FAK' may not be used for the purpose of certification under section 5902(b) after December 31, 2000, as a commodity description for a trailer or container if the weight of any commodity in the trailer or container equals or exceeds 20 percent of the total weight of the contents of the trailer or container. This subsection does not prohibit the use of the term after that date for rating purposes.

"(6) SEPARATE DOCUMENT MARKING.—If a separate document is used to meet the requirements of paragraph (1), it shall be conspicuously marked 'INTERMODAL CERTIFICATION'.

"(7) APPLICABILITY.—This subsection applies to any person, domestic or foreign, who first tenders a container or trailer subject to this chapter for intermodal transportation within the United States.".

(c) FORWARDING CERTIFICATIONS.—Subsection (c) of section 5902 (relating to forwarding certifications to subsequent carriers) is amended—

(1) by striking "transportation." and inserting "transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required."; and

(2) by adding at the end thereof the following: "If a person inaccurately transfers the information on the certification, or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the container or trailer under section 5905 in the amount of the

bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.".

(d) LIABILITY.—Section 5902 is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following:

"(d) LIABILITY TO OWNER OR BENEFICIAL OWNER.—If—

"(1) a person inaccurately transfers information on a certification required by subsection (b)(1), or fails to forward a certification to the subsequent carrier;

"(2) as a result of the inaccurate transfer of such information or a failure to forward a certification, the subsequent carrier incurs a bond, fine, penalty, or cost (including storage), or interest; and

"(3) that subsequent carrier exercises its rights to a lien under section 5905,

then that person is liable to the owner or beneficial owner, or to any other person paying the amount of the lien to the subsequent carrier, for the amount of the lien and all costs related to the imposition of the lien, including court costs and legal fees incurred in connection with it.".

(e) NONAPPLICATION.—Subsection (e) of section 5902, as redesignated, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated, the following:

"(1) The notification and certification requirements of subsections (a) and (b) of this section do not apply to any intermodal container or trailer containing consolidated shipments loaded by a motor carrier if that motor carrier—

"(A) performs the highway portion of the intermodal movement; or

"(B) assumes the responsibility for any weight-related fine or penalty incurred by any other motor carrier that performs a part of the highway transportation.".

SEC. 205. PROHIBITIONS.

Section 5903 (relating to prohibitions) is amended—

(1) by inserting after "person" a comma and the following: "To whom section 5902(b) applies,";

(2) by striking subsection (b) and inserting the following:

"(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—

"(1) PRESUMPTION.—If no certification is received by a motor carrier before or when a loaded intermodal container or trailer is tendered to it, the motor carrier may presume that the gross cargo weight of the container or trailer is less than 29,001 pounds.

"(2) COPY OF CERTIFICATION NOT REQUIRED TO ACCOMPANY CONTAINER OR TRAILER.—Notwithstanding any other provision of this chapter to the contrary, a copy of the certification required by section 5902(b) is not required to accompany the intermodal container or trailer.";

(3) by striking "10,000 pounds (including packing materials and pallets)" in subsection (c)(1) and inserting "29,000 pounds"; and

(4) by adding at the end the following:

"(d) NOTICE TO LEASED OPERATORS.—

"(1) IN GENERAL.—If a motor carrier knows that the gross cargo weight of an intermodal container or trailer subject to the certification requirements of section 5902(b) would result in a violation of applicable State gross vehicle weight laws, then—

"(A) the motor carrier shall give notice to the operator of a vehicle which is leased by the vehicle operator to a motor carrier that transports an intermodal container or trailer of the gross cargo weight of the container or trailer as certified to the motor carrier under section 5902(b);

"(B) the notice shall be provided to the operator prior to the operator being tendered the container or trailer;

"(C) the notice required by this subsection shall be in writing, but may be transmitted electronically; and

"(D) the motor carrier shall bear the burden of proof to establish that it tendered the required notice to the operator.

"(2) REIMBURSEMENT.—If the operator of a leased vehicle transporting a container or trailer subject to this chapter is fined because of a violation of a State's gross vehicle weight laws or regulations and the lessee motor carrier cannot establish that it tendered to the operator the notice required by paragraph (1) of this subsection, then the operator shall be entitled to reimbursement from the motor carrier in the amount of any fine and court costs resulting from the failure of the motor carrier to tender the notice to the operator.".

SEC. 206. LIENS.

Section 5905 (relating to liens) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required, because of a violation of a State's gross vehicle weight laws or regulations, to post a bond or pay a fine, penalty, cost (including storage), or interest resulting from—

"(1) erroneous information provided by the certifying party in the certification to the first carrier in violation of section 5903(a) of this title;

"(2) the failure of the party required to provide the certification to the first carrier to provide it;

"(3) the failure of a person required under section 5902(c) to forward the certification to forward it; or

"(4) an error occurring in the transfer of information on the certification to another document under section 5902(b)(3) or (c), then the person posting the bond, or paying the fine, penalty, costs (including storage), or interest has a lien against the contents equal to the amount of the bond, fine, penalty, cost (including storage), or interest incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents, or from the person responsible for making or forwarding the certification, or transferring the information from the certification to another document.";

(2) by inserting a comma and "or the owner or beneficial owner of the contents," after "first carrier" in subsection 9(b)(1); and

(3) by striking "cost, or interest." in subsection (b)(1) and inserting "cost (including storage), or interest. The lien shall remain in effect until the lien holder has received payment for all costs and expenses described in subsection (a) of this section.".

SEC. 207. PERISHABLE AGRICULTURAL COMMODITIES.

Section 5906 (relating to perishable agricultural commodities) is amended by striking "Sections 5904(a)(2) an 5905 of this title do" and inserting "Section 5905 of this title does".

SEC. 208. EFFECTIVE DATE.

(a) IN GENERAL.—Section 5907 (relating to regulations and effective date) is amended to read as follows:

"§5907. Effective date

"This chapter shall take effect 180 days after the date of enactment of the Intermodal Safe Container Transportation Amendments Act of 1996.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 59 is amended by striking the item relating to section 5907 and inserting the following:

"5907. Effective date".

SEC. 209. RELATIONSHIP TO OTHER LAWS.

(a) IN GENERAL.—Chapter 59 is amended by adding at the end thereof the following:

"§5908. Relationship to other laws

"Nothing in this chapter affects—

"(1) chapter 51 (relating to transportation of hazardous material) or the regulations promulgated under that chapter; or

"(2) any State highway weight or size law or regulation applicable to tractor-trailer combinations.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by adding at the end thereof the following:

"5908. Relationship to other laws".

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO ANGOLA—MESSAGE FROM THE PRESIDENT—PM 170

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on the developments since March 25, 1996, concerning the national emergency with respect to Angola that was declared in Executive Order 12865 of September 26, 1993. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

On September 26, 1993, I declared a national emergency with respect to Angola, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and the United Nations Participation Act of 1945 (22 U.S.C. 287c). Consistent with United Nations Security Council Resolution 864, dated September 15, 1993, the order prohibited the sale or supply by United States persons or from the United States, or using

U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to the territory of Angola other than through designated points of entry. The order also prohibited such sale or supply to the National Union for the Total Independence of Angola ("UNITA"). United States persons are prohibited from activities that promote or are calculated to promote such sales or supplies, or from attempted violations, or from evasion or avoidance or transactions that have the purpose of evasion or avoidance, of the stated prohibitions. The order authorized the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as might be necessary to carry out the purposes of the order.

1. On December 10, 1993, the Department of the Treasury's Office of Foreign Assets Control (OFAC) issued the UNITA (Angola) Sanctions Regulations (the "Regulations") (58 *Fed. Reg.* 64904) to implement the President's declaration of a national emergency and imposition of sanctions against Angola (UNITA). There have been no amendments to the Regulations since my report of March 25, 1996.

The Regulations prohibit the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to UNITA or to the territory of Angola other than through designated points. United States persons are also prohibited from activities that promote or are calculated to promote such sales or supplies to UNITA or Angola, or from any transaction by any United States persons that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive order. Also prohibited are transactions by United States persons, or involving the use of U.S.-registered vessels or aircraft, relating to transportation to Angola or UNITA of goods the exportation of which is prohibited.

The Government of Angola has designated the following points of entry as points in Angola to which the articles otherwise prohibited by the Regulations may be shipped: *Airports:* Luanda and Katumbela, Benguela Province; *Ports:* Luanda and Lobito, Benguela Province; and Namibe, Namibe Province; and *Entry Points:* Malongo, Cabinda Province. Although no specific license is required by the Department of the Treasury for shipments to these designated points of entry (unless the item is destined for UNITA), any such exports remain subject to the licensing requirements of the Departments of State and/or Commerce.

2. The OFAC has worked closely with the U.S. financial community to assure a heightened awareness of the sanctions against UNITA—through the dissemination of publications, seminars, and notices to electronic bulletin boards. This educational effort has resulted in frequent calls from banks to assure that they are not routing funds in violation of these prohibitions. United States exporters have also been notified of the sanctions through a variety of media, including special fliers and computer bulletin board information initiated by OFAC and posted through the U.S. Department of Commerce and the U.S. Government Printing Office. There have been no license applications under the program.

3. The expenses incurred by the Federal Government in the 6-month period from March 26, 1996, through September 25, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Angola (UNITA) are reported to be about $227,000, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel) and the Department of State (particularly the Office of Southern African Affairs).

I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 19, 1996.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2679. An act to revise the boundary of the North Platte National Wildlife Refuge, to expand the Pettaquamscutt Cover National Wildlife Refuge, and for other purposes.

H.R. 3060. An act to implement the Protocol on Environmental Protection to the Antarctic Treaty.

H.R. 3553. An act to amend the Federal Trade Commission Act to authorize appropriations for the Federal Trade Commission.

H.R. 3816. An act making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes.

S. 533. An act to clarify the rules governing removal of cases to Federal court, and for other purposes.

S. 677. An act to repeal a redundant venue provision, and for other purposes.

At 12:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3396. An act to define and protect the institution of marriage.

At 2:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2977) to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. HYDE, Mr. GEKAS, Mr. FLANAGAN, Mr. CONYERS, and Mr. REED as the managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the senate:

H.R. 2594. An act to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that act, and for other purposes.

H.R. 2940. An act to amend the Deepwater Port Act of 1974.

H.R. 3348. An act to direct the president to establish standards and criteria for the provision of major disaster and emergency assistance in response to snow-related events.

H.R. 3923. An act to amend title 49, United States Code, to require the National Transportation Safety Board and individual air carriers to take actions to address the needs of families of passengers involved in aircraft accidents.

At 4:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions, returned by the President of the United States with his objections, to the House of Representatives, in which it originated; that the said bill pass, two-thirds of House of Representatives agreeing to pass the same.

MEASURES PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S.J. Res. 61. Joint resolution granting the consent of Congress to the Emergency Management Assistance Compact.

The following bill, previously received from the House of Representatives for the concurrence of the senate, was read the first and second times by unanimous consent and placed on the calendar:

H.R. 3640. An act to provide for the settlement of issues and claims related to the trust lands of the Torres-Martinez Desert Cahuilla Indians, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4109. A communication from the President of the United States, transmitting, a request relative to the Department of Transportation; to the Committee on Appropriations.

EC-4110. A communication from the Under Secretary of Defense, transmitting, pursuant to law, a report regarding the H-1 Upgrades Program; to the Committee on Armed Services.

EC-4111. A communication from the Secretary of Defense, transmitting, a report concernining U.S. military personnel; to the Committee on Armed Services.

EC-4112. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule regarding limes and avocados grown in Florida (received on September 18, 1996); to the Committee on Agriculture, Nutrition, and Forestry.

EC-4113. A communication from the Administrator of the Department of Agriculture, transmitting, pursuant to law, a rule entitled "Title 7 Part 1789, Use of Consultants Funded by Borrowers," (RIN 0572-AB17), received on September 18, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4114. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, a rule (received on September 16, 1996); to the Committee on Commerce, Science, and Transportation.

EC-4115. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, three rules including one entitled "Stability and Control of Medium and Heavy Vehicles" (RIN 2127-AG06, 2127-AF90, 2115-AE47), received on September 16, 1996; to the Committee on Commerce, Science, and Transportation.

EC-4116. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, twelve rules including one entitled "Airworthiness Directives; American Champion Aircraft Corporation Models" (RIN 2120-AA64, 2120-AA66), received on September 16, 1996; to the Committee on Commerce, Science, and Transportation.

EC-4117. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service in the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule entitled "Reef Fish Fishery of the Gulf of Mexico; Amendment 13" (RIN 0648-AI71), received on September 16, 1996; to the Committee on Commerce, Science, and Transportation.

EC-4118. A communication from the Acting Director of the Office of Sustainable Fisheries of the National Marine Fisheries Service in the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law a rule regarding the end of the Pacific Whiting Regular season (received on September 16, 1996); to the Committee on Commerce, Science, and Transportation.

EC-4119. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Regulatory Actions Affecting Tourist Railroads;" to the Committee on Commerce, Science, and Transportation.

EC-4120. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service in the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule regarding fisheries of the Caribbean (RIN 0648-AG89), received on September 17, 1996; to the Committee on Commerce, Science, and Transportation.

EC-4121. A communication from the Program Management Officer of the National Marine Fisheries Service in the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule regarding fisheries of the exclusive economic zone off Alaska (received on September 17, 1996); to the Committee on Commerce, Science, and Transportation.

EC-4122. A communication from the Program Management Officer of the National Marine Fisheries Service in the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule regarding fisheries of the exclusive economic zone off Alaska (RIN 0648-AI57), received on September 17, 1996; to the Committee on Commerce, Science, and Transportation.

EC-4123. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service in the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule regarding fisheries of the Caribbean (RIN 0648-AI20), received on September 17, 1996; to the Committee on Commerce, Science, and Transportation.

EC-4124. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service in the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule entitled "Northern Anchovy Fishery; Quotas for the 1996-97 Fishing Year" (received on September 17, 1996); to the Committee on Commerce, Science, and Transportation.

EC-4125. A communication from the Acting Director of the Office of Sustainable Fisheries of the National Marine Fisheries Service in the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law a rule regarding fisheries off West Coast states and in the Western Pacific (received on September 17, 1996); to the Committee on Commerce, Science, and Transportation.

EC-4126. A communication from the Acting Director of the Office of Sustainable Fisheries of the National Marine Fisheries Service in the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule regarding fisheries off West Coast states and in the Western Pacific (received on September 17, 1996); to the Committee on Commerce, Science, and Transportation.

EC-4127. A communication from the Program Management Officer of the National Marine Fisheries Service in the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule regarding fisheries of the exclusive economic zone off Alaska (received on September 17, 1996); to the Committee on Commerce, Science, and Transportation.

EC-4128. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a report regarding U.S. exports to Australia; to the Committee on Banking, Housing, and Urban Affairs.

EC-4129. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report with respect to the Small Business Regulatory Enforcement Fairness Act of 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC-4130. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, a rule entitled "Government Securities Act Regulations: Large Position Rules" (RIN 1505-AA53), received on September 13, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC-4131. A communication from the Legislative and Regulatory Activities Division of the Administrator of National Banks, Comptroller of the Currency, transmitting, pursuant to law, a report with respect to a rule entitled "Community Development Corporation and Project Investments and Other Public Welfare Investments" (RIN 1557-AB46), received on September 18, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC-4132. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-4133. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, a rule regarding renewable resources (received on September 16, 1996); to the Committee on Energy and Natural Resources.

EC-4134. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, a rule relative to the Western Area Power Administration (received on September 16, 1996); to the Committee on Energy and Natural Resources.

EC-4135. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report with respect to Revenue Ruling 96-47 (received on September 16, 1996); to the Committee on Finance.

EC-4136. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report with respect to Revenue Ruling 96-48 (received on September 16, 1996); to the Committee on Finance.

EC-4137. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation regarding military beneficiaries medicare reimbursement; to the Committee on Finance.

EC-4138. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a Presidential Determination relative to POW/MIA Military Drawdown for Cambodia; to the Committee on Foreign Relations.

EC-4139. A communication from the Chief Judge of the United States Court of Veterans Appeals, transmitting, pursuant to law, the actuarial report for the year ending December 31, 1995; to the Committee on Governmental Affairs.

EC-4140. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, a report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC-4141. A communication from the Deputy Director of the Office of Personnel Management, transmitting, pursuant to law, a rule regarding prevailing rate systems (RIN 3206-AH59) received on September 17, 1996; to the Committee on Governmental Affairs.

EC-4142. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, a report regarding ammended routine use of Disaster Recovery Assistance Files; to the Committee on Governmental Affairs.

EC-4143. A communication from the National President of the Women's Army Corps Veterans Association, transmitting, pursuant to law, the report on financial statements for the year ended June 30, 1996; to the Committee on the Judiciary.

EC-4144. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, a rule regarding editorial amendments for classification and program review (RIN 1120-AA56) received on September 16, 1996; to the Committee on the Judiciary.

EC-4145. A communication from the Assistant Attorney General, transmitting, a proposal of draft legislation regarding capital offenses and Class A felonies involving murder; to the Committee on the Judiciary.

EC-4146. A communication from the Assistant Attorney General, transmitting, a proposal of draft legislation regarding capital offenses and Class A felonies involving murder; to the Committee on the Judiciary.

EC-4147. A communication from the Executive Director of the Martin Luther King Jr. Federal Holiday Commission, transmitting, the annual report for the calendar year 1996; to the Committee on the Judiciary.

EC-4148. A communication from the Assistant Secretary of Labor for OSHA, transmitting, pursuant to law, a rule regarding occupational exposure to asbestos (RIN 1218-AB25) received on September 18, 1996; to the Committee on Labor and Human Resources.

EC-4149. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the National Institute for Occupational Safety and Health (NIOSH) and Center for Disease Control and Prevention (CDC) annual reports for fiscal years 1993 and 1994; to the Committee on Labor and Human Resources.

EC-4150. A communication from the Assistant Attorney General in the Civil Rights Division, Department of Justice, transmitting, pursuant to law, a report with respect to a rule entitled "Americans with Disabilities Act Accessibility Guidelines; Detectable Warnings," (RIN 3014-AA18) received on September 16, 1996; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 389. A bill for the relief of Nguyen Quy An and his daughter, Nguyen Ngoc Kim Quy.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Alan H. Flanigan, of Virginia, to be Deputy Director for Supply Reduction, Office of National Drug Control Policy.

Colleen Kollar-Kotelly, of the District of Columbia, to be United States District Judge for the District of Columbia.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 2092. A bill to prohibit further extension or establishment of any national monument in Idaho without full public participation and an express Act of Congress, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FAIRCLOTH:

S. 2093. A bill to require the Secretary of Health and Human Services to rescind approval of the District of Columbia's welfare reform waiver; to the Committee on Finance.

By Mr. HARKIN:

S. 2094. A bill to inform and empower consumers in the United States through a voluntary labeling system for wearing apparel and sporting goods made without abusive and exploitative child labor, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON (for himself and Mr. PRYOR):

S. 2095. A bill to promote the capacity and accountability of Government corporations and Government sponsored enterprises; to the Committee on Governmental Affairs.

By Mr. LAUTENBERG (for himself, Mr. KERRY, and Mrs. BOXER):

S. 2096. A bill entitled the "Environmental Crimes and Enforcement Act of 1996"; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 2092. A bill to prohibit further extension or establishment of any national monument in Idaho without full public participation and an express Act of Congress, and for other purposes; to the Committee on Energy and Natural Resources.

IDAHO NATIONAL MONUMENT LEGISLATION

Mr. CRAIG. Mr. President, yesterday afternoon President Clinton stood on the edge of the Grand Canyon and proclaimed, by Executive order, through the National Antiquities Act, the designation of a national monument in southern Utah of 1.7 million acres.

Was his action illegal? No. It certainly was not, or it does not appear to be at this moment. What is frustrating to those of us in the West who have large expanses of public land is that the President sought no counsel, did not even consult with the Senators from Utah until the very last minute, did not talk to the Governor, to the State legislators or to the county commissioners in whose counties this large expanse of 1.7 million acres was involved. He simply stood on the banks or the edge of the Grand Canyon and proclaimed—yes, this is a device that was used by President Roosevelt who set aside the Grand Canyon years ago; it was a device that was oftentimes used prior to the enactment of the National Environmental Policy Act or the Federal Land Use Management Act, NEPA and FLMPA, because there was no certain public process to ensure the protection of valuable lands or, more importantly, to involve the public in them. The Congress simply had not moved in that direction at that time when the National Antiquities Act came about.

That is not the case today. In my opinion, the President yesterday standing on the edge of the Grand Canyon violated his public trust in failing to openly and publicly involve all of the necessary people in making this decision and making sure that private rights, property rights, water rights, grazing rights, mining rights, all of those kinds of things, were taken into consideration.

In fact, I stood at a press conference yesterday afternoon in which the Democrat Congressman from whose district this large expanse of land was proclaimed by the President yesterday, and he said that at 11 o'clock the night before he was on the phone with the President saying, "But, Mr. President," and the President was saying, "Oh, don't worry. We will take care of you here and we will take care of you there. We will protect hunting rights."

Well, Mr. President, those kind of things do not exist in a national monument. You do not allow hunting. You do not allow grazing. You do not allow mining. Yet, this President, in the dark of night, in the wee hours before he was planning this great publicity event for his reelection, was telling the Democrat Congressman, "I will take care of you," after the fact.

Now, the reason that was happening is because this President sought no public process. As certainly the Presiding Officer knows, over the last good number of years we have looked at a lot of public properties. We spent 10 years designating over 5 million acres of land in southern California as wilderness. I went to California three times in public hearings. It was thoroughly debated on the floor. All of the rights were taken care of.

Finally, this Congress acted and designated as wilderness a large chunk of the southern California desert. However, every issue was taken into consideration prior to that happening. That simply did not happen yesterday with this President. He was interested in the sound bite and the evening news and his politics and the campaign. He trampled all over the rights of citizens and all over the public process. I am saddened by that.

It is for that reason today I am introducing legislation that would deny him that right in the State of Idaho. I hope other Senators would join with me who have large expanses of public land that now might be at risk, because this President, for his environmental political gains, would select another piece of property. All I am saying is that the National Antiquities Act does not apply in Idaho unless there is a public process and unless the Congress agrees or consents or authorizes.

What is important here is that I am not denying what the President did. What I am denying is his right to do it in the back rooms in the dark of night, even with his own Secretary of Interior last Friday and through the weekend not being able to say that this, in fact, was going to happen.

It was the chief of staff of the White House, Leon Panetta, who finally called the Senators from Utah just before it happened and announced that it was going to happen. That should not happen. We want public process. This President has pounded us on public process. We will have public process in Idaho. I am not denying that some lands in Idaho might one day be selected as a national monument. But what I am saying is that the citizens of the State of Idaho, the Governor of the State of Idaho, the county commissioners, the congressional delegation, and this Congress, because it's public land, will participate in the process of making those decisions. We don't want this President, or any President, running roughshod over the State of Idaho, or any other State for that matter.

By Mr. FAIRCLOTH:

S. 2093. A bill to require the Secretary of Health and Human Services to rescind approval of the District of Columbia's welfare reform waiver; to the Committee on Finance.

DISTRICT OF COLUMBIA WELFARE LEGISLATION

Mr. FAIRCLOTH. Madam President, I rise today to introduce legislation that would rescind the approval granted in August to the District of Columbia's welfare waiver.

I would first like to acknowledge and I want to recognize the leadership of my colleague from Oklahoma, Senator NICKLES, who recently introduced similar legislation which would require the enforcement of a 5-year time limit on welfare benefits in the district.

Senator NICKLES' approach requires that the District live by the 5-year requirement. My legislation simply repeals the entire waiver.

Madam President, today's Washington Post reports that the waiver was completed just 2 days before the welfare bill became law. In fact, on July 31 when the District was given notice that the President was going to sign the welfare bill, the District sent its waiver application in within one week. Now, this is the fastest anything has ever happened in the District of Columbia. This is the one efficient thing they have ever done, getting their waiver papers in. The waiver application was granted within 2 weeks. Now, have you ever heard of the bureaucrats at HHS doing anything in 2 weeks? But they got this out.

Madam President, the whole episode is a sham. The District of Columbia is a flat joke that is not funny and its government is a laughingstock. Its welfare system is worse.

Madam President, it is apparent that the Clinton administration is not serious about welfare reform. The President signed the bill with his fingers crossed behind his back. He signed it because, according to Time magazine, the man who had his ear, his political consultant guru and advisor, Dick Morris, told him to sign it and got him to sign it.

It is crystal clear that should the Democrats regain control of Congress—which is not going to happen, but if they should—the welfare bill would be repealed immediately, and they as much as said so at the Chicago convention.

Madam President, it has gotten so bad in the District of Columbia you will be able to collect welfare for 15 years—for 15 years, as long as you are making a good-faith effort to find work.

Let me give you just an example or two of what finding work in the District of Columbia involves: Getting your driver's license is finding work; attending self-esteem classes is work. Now, where else in this country could attending self-esteem classes be called work?

Madam President, only in the District of Columbia would such a laughingstock of a welfare system continue. And only with the Clinton administration in power could it continue. Sadly, the joke is on us. The joke is on the people of this Nation. The joke is on the people of Kansas and North Carolina. They are the ones that are subsidizing and paying for the District of Columbia's folly.

We just passed a bill giving the District of Columbia $660 million. We do so every year. Now, how is the money used? It is not used. It is misused and it is thrown away at a rate that the average American could not understand.

They cannot open the schools on time. Only 52 percent of high school students actually graduate despite the fact they spend more money per student than any city in the United States—52 percent graduate. The District has the same number of public employees as the City of Chicago—which is five times larger. And Chicago is 5 times larger. Can you imagine a city when 1 of every 8 citizens is a city employee? It's a disaster. It has more employees per resident than any city in the Nation. They don't pave their roads, and they don't fix their roads. In fact, they are required, by law, to have a local match for Federal road money. But we had to waive that, too. Why did we have to waive it? Because they have thrown away their money on welfare, graft, and giveaway programs, and they simply don't have the money to match it. They have thrown it away in every conceivable way, such as fake employees and employees that don't work. One out of every 8 citizens is employed. They paid Medicaid payments to 20,00 people who weren't eligible; 20,000 people who weren't eligible, they paid it to. The water is contaminated. You have to get up in the morning and boil your water before you can drink it.

The prison system is notorious for its numerous escapes. In fact, it is not a prison system, it is a sieve. Mr. President, our capital is a disaster.

Now comes the mother of all bad ideas for the capital, and that is to give the District a massive tax cut. The concept is that people will move to the district, revenue will increase, and all will be fine.

First, the tax break will give a cushy tax break to the wealthy people who seek a nice tax shelter by maintaining a phony residence in Washington and living in Palm Beach.

Second, it will give all the overpaid bureaucrats that live here a tax break. But most important, the tax cut ignores what happens to the revenue. Will it be somehow be better spent, or will it be wasted, stolen, abused, and thrown away, as it is now? Of course, it will because we have done nothing to get to the root of the problem, which is the District's government and the people running it.

Mr. President, it has gotten so bad that a Los Angeles Times article on conditions in Washington opened with a quote from an Egyptian diplomat. He said:

> Every day here in Washington reminds me more and more of Cairo.

Doesn't that say it all? There isn't any way the city could be run worse.

Mr. President, the Nation's capital is just that. It belongs to the Nation. It was set apart as the District of Columbia by the Founding Fathers so that it would not become involved in local politics, and it has become a mishmash of bad local politics.

We need a capital that the people of America can be proud of, a capital that visitors from my State and every State can come to and feel safe. That isn't the case today. Rather than a massive tax cut, we need to seriously consider another form of government for the District—not home rule, not congressional rule, but input from the 50

States who are paying for the operation of this Capital City. It should be one we can be proud of, and it's one that we have to make continuous apologies for.

It is time for the people of this country to take control of it, as was intended by our forefathers. I think the sooner we do it the better.

By Mr. HARKIN:

S. 2094. A bill to inform and empower consumers in the United States through a voluntary labeling system for wearing apparel and sporting goods made without abusive and exploitative child labor, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE CHILD LABOR FREE CONSUMER INFORMATION ACT OF 1996

Mr. HARKIN. Mr. President, I rise to introduce the Child Labor Free Consumer Information Act of 1996, legislation to establish a voluntary labeling system to help inform American consumers whether wearing apparel or sporting goods they see on the store shelves are made without the use of abusive and exploitative child labor.

Although it is late in the session, I believe we should begin a substantive dialog about ending child labor right now. That is why I am introducing this legislation today. And I intend on reintroducing this measure at the beginning of the next Congress.

A WORLDWIDE SCOURGE

When I speak about child labor, I am not talking about children helping out on the family farm or running errands after school. I am speaking about children who are forced to work in hazardous and dangerous conditions—children denied the classroom and driven into the workrooms.

Child labor is a scourge around the world. But we can't dismiss the problem simply because it may occur an ocean away. We cannot ease our conscience by declaring it a "them" problem, because it is not. It is an "us" problem. And all of us can do something to stop it.

Take a moment to look around. Maybe it's the shirt you have on right now. Or the silk tie or blouse. Or the soccer ball you kick around with the kids in the backyard. Or the tennis shoes you wear on weekends.

Chances are that you have purchased something—perhaps many things—made with abusive and exploitative child labor. And chances are you were completely unaware that was the case. That is hardly surprising. Because the tag we see for items in our stores tell us how much we have to pay to buy it. But it doesn't tell us how much someone else had to pay to make it.

For example, the price tag on a soccer ball doesn't tell us that a young child in South Asia—perhaps no older than 5 years of age—paid to make it by working in cramped conditions, stitching together balls for hours at a time and a dollar a day.

Last year, the United States imported almost 50 percent of the wearing apparel sold in America and the garment industry netted $34 billion. According to the Department of Commerce, last year the United States imported 494.1 million pairs of athletic footwear and produced only 65.3 million here at home.

Americans may ask, "What does this have to do with us?" It is quite simple. By protecting the rights of workers everywhere, we will be protecting jobs and opportunities here at home. A U.S. worker cannot compete with a 12 year old working 12 hours a day for 12 cents an hour.

PUBLIC SUPPORT

As I have traveled around the country and spoken with people about the issue of abusive and exploitative child labor, I have found that consumers—ordinary Americans—want to get involved. They want information. They want to know if products on the shelves are made by children. And they do not want to buy it if it is.

Public opinion polls back that up. According to a survey sponsored by Marymount University last year, more than three out of four Americans said they would avoid shopping at stores if they were aware that the goods sold there were made by exploitative and abusive child labor. Consumers also said that they would be willing to pay an extra $1 on a $20 garment if it were guaranteed to be made under legitimate circumstances.

Mr. President, consumers have spoken. They do not want to reward companies with their hard earned dollars by buying products made with abusive and exploitative child labor.

This body has also spoken. On September 23, 1993, the Senate put itself on record in opposition to the abhorrent practice of exploiting children for commercial gain. This body passed a sense-of-the-Senate resolution that I introduced which asserted that it should be the policy of the United States to prohibit the importation of products made with the use of abusive and exploitative child labor. This was the first step to ending child labor. Now it's time for the next.

LET THE BUYER BE AWARE

The Child Labor Free Consumer Information Act of 1996 will inform and empower American consumers by establishing a voluntary labeling system for wearing apparel and sporting goods made without abusive and exploitative child labor.

In my view, a system of voluntary labeling holds the best promise of giving consumers the information they want—and giving the companies that manufacture these products the recognition they deserve.

The centerpiece of this legislation is the establishment of a working group of members from the wearing apparel and sporting goods industries; labor organizations; consumer advocacy and human rights groups; along with the Secretaries of Commerce, Treasury, and Labor. This Child Labor Free Commission would establish a labeling standard and develop a system to assure compliance that items were not made with abusive and exploitative child labor.

In my view, Congress cannot do it alone through legislation. The Department of Labor cannot do it alone through enforcement. It takes all of us—from the private sector to labor and human rights groups—to take responsibility and work together to end abusive and exploitative child labor.

VOLUNTARY APPROACH

Let me be clear, companies can choose whether to use the label. This bill is not about big government telling the private sector what to do. It is based on the commonsense approach that a fully informed American consumer will make the right and moral choice and vote against abusive and exploitative child labor with their pocketbook.

We have seen such an approach work effectively with the Rugmark label for hand-knotted oriental carpets. It is operating in some European countries. Consumers who want to buy child labor-free carpets can just look for the Rugmark label.

Over 150,000 carpets have received the Rugmark label and been shipped to Germany. Rugmark licenses already provide 30 percent of German carpet imports from India. And I am pleased to say that there are now two wholesalers in New York that offer carpets with the Rugmark label.

BUILDING ON PROGRESS

Mr. President, the progress that has been made on eradicating abusive and exploitative child labor is irreversible. We must continue working together to end child labor for all. And I believe my bill provides a road map to reaching that goal.

It allows the consumer to know more about the products they buy and it gives companies that use the label the recognition they deserve. I urge my colleagues to support my bill.

Our Nation began this century by working to end abusive and exploitative child labor in America, let us close this century by ending child labor around the world.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARYMOUNT UNIVERSITY CENTER FOR ETHICAL CONCERNS

NEW GARMENT WORKERS STUDY FINDS AMERICANS INTOLERANT OF SWEATSHOPS IN GARMENT INDUSTRY

ARLINGTON, VA—Retailers selling clothing made in sweatshops operating in the United

States could feel the ire of American consumers, suggests a new survey sponsored by Marymount University in Arlington, Virginia. The new study shows that consumers would avoid stores that sell goods made in sweatshops and be more inclined to shop at stores working actively to prevent garment worker abuses.

According to the survey, more than three-fourths of Americans would avoid shopping at stores if they were aware that the stores sold goods made in sweatshops. Consumers also are willing to pay a price for assurances that the goods they buy are not made in sweatshops. An overwhelming majority (84 percent) say they would be willing to pay up to an extra $1 on a $20 garment if were guaranteed to be made in a legitimate shop.

The study, sponsored by Marymount's Center for Ethical Concerns and the Department of Fashion Design and Merchandising, was prompted by the recent discovery of sweatshops operating in the United States in which illegal aliens smuggled into the country were forced to produce garments under almost slave labor conditions. In one factory, raided earlier this year by U.S. officials, workers had been confined in a barbed wire-enclosed compound and forced to work between 16 and 22 hours a day. Workers were paid less than $1 an hour and essentially held captive until they had repaid the cost of their passage to the United States, a process that took years in some cases.

Since these revelations, the U.S. Department of Labor has been working with retailers to encourage greater diligence in policing the industry voluntarily and plans in the near future to release a list of companies that have agreed to cooperate in these efforts. The new study shows that a substantial majority of Americans (66 percent) would be more likely to patronize stores that they know are cooperating with law enforcement officials to prevent sweatshops. If such a list were published, more than two-thirds (69 percent) of consumers say they would take this information into account when deciding where to do their shopping this holiday season.

"It is gratifying to know that Americans condemn these sweatshop conditions and are willing to demonstrate that commitment when they shop, even if it costs them a few pennies. The industry, including retailers, has a responsibility to make sure it is not selling garments made in sweatshops, and the public is willing to hold them accountable," said Sr. Eymard Gallagher, RSHM, president of Marymount University. "Despite the competitiveness in the industry, we can't close our eyes to these kinds of conditions that we thought had disappeared years ago," she said.

The telephone survey of 1,008 randomly selected adults, was conducted by ICR Survey Research Group of Media, PA, at the request of Marymount. The survey has a margin of error of plus or minus 3 percentage points.

Marymount University's fashion design and fashion merchandising programs are among the leaders in this field in the United States. Marymount is an independent, Catholic university, emphasizing excellence in teaching, attention to the individual, and values and ethics across the curriculum. Located in Arlington, Virginia, Marymount enrolls 4,200 men and women in its 34 undergraduate and 24 master's degree programs.

STUDY BACKGROUND AND OBJECTIVES

United States officials recently discovered that workers who had been smuggled into this country were making garments in sweatshops where they were forced to work long hours under extremely poor working conditions for less than the minimum wage. As a result, this research was conducted to determine:

Whether respondents would avoid shopping at retailers if aware they sold garments made in sweatshops;

Whether respondents would be more inclined to shop in retail stores cooperating with law enforcement officials to prevent sweatshops;

Whether respondents would be willing to pay $1 more for a $20 garment if it were guaranteed to be made in a legitimate shop;

Whether respondents would be more likely this holiday season to shop in retail stores on a forthcoming list of retailers assisting authorities in their effort to end abuse of United States garment workers; and

Whether the manufacturers or the retailers should have the responsibility of preventing sweatshops.

RESEARCH METHODOLOGY

The research entailed a telephone interview insert in ICR Survey Research Group's EXCEL Omnibus. Each EXCEL includes a national random sample of approximately 1,000 adults (18+), half male and half female.

Interviewing was conducted from Friday, October 27 through Tuesday, October 31. A total of 1008 interviews were completed. Data has been weighted to reflect the U.S. population 18 years of age and older (188,700,000).

IN A NUTSHELL . . . HERE ARE THE FINDINGS; RETAILERS—BEWARE OF SWEATSHOP GARMENTS

Americans overwhelmingly support the idea of officials publishing a list of retailers who assist law enforcement agencies in their effort to end abuse of United States garment workers. Seven-in-ten respondents indicate they would be more likely to shop at the stores this holiday season that cooperate to end garment worker abuse. Consumers are willing to pay a price for assurances that goods they buy are not made in sweathshops. 84% of consumers would pay an additional $1 on a $20 item if they knew the garment was guaranteed to be made in a legitimate shop.

Most Americans (76%) blame the existence of sweatshops on the manufacturers who employ the contractors or workers. However, if consumers knew a retailer sold garments that were made in sweatshops, nearly eight-in-ten would avoid shopping there. As the holiday season starts to kick-off, retailers would be wise to ensure their garments were in fact made in legitimate shops. Given the potential for enticing customers with legitimately made garments, and the potential for losing customers if caught selling sweatshop-made garments, promoting legitimately made garments provides a strategic business opportunity for retailers.

By Mr. SIMON (for himself and Mr. PRYOR):

S. 2095. A bill to promote the capacity and accountability of Government corporations and Government sponsored enterprises; to the Committee on Governmental Affairs.

THE GOVERNMENT CORPORATION AND GOVERNMENT SPONSORED ENTERPRISE STANDARDS ACT

• Mr. SIMON. Mr. President, my involvement in the issue of student aid over the past few years has given me a greater understanding of so-called government-sponsored enterprises. I have been critical of Sallie Mae, the Student Loan Marketing Association, for its lobbying activities and its high salaries. Five years ago I began calling for the elimination of Sallie Mae's ties to the Government.

But I would like to go further in addressing this question of corporations that are connected in some way with the Federal government. How do they know when their purpose has been achieved, and their ties to the government should be cut? How do we make sure that they do not become so strong politically that the ties can never be cut? Should they be exempt from federal, state, and local taxes? Should the securities laws apply them?

Today, along with my colleague, Senator PRYOR, I am introducing a bill that would address these and other questions. The bill would establish standards for the creation of new Government-sponsored enterprises, those corporations that are created by Congress but are owned by private investors. The bill also would set guidelines for a very different type of corporation: those that are actually owned by taxpayers as a part of the Federal Government structure.

This legislation is the result of concerns raised by the National Academy of Public Administration. Harold Seidman, in House testimony on behalf of the Academy last year, pointed out that the Congress has not used any consistent criteria for determining when a government corporation is appropriate and when it is not. He also raised questions about some of the privileges that have been granted to Government-sponsored enterprises.

The purpose of this legislation is to ensure that, as Congress considers the creation of new government corporations and government-sponsored enterprises, it does so with its eyes wide open. It would also require some of these entities to plan for eventual privatization, and would force Congress to review their status on a regular basis.

I know that it is not possible for Congress to act on this legislation in these final weeks. But I hope some of my colleagues will take up where I have left off, and work to establish much-needed standards where Government intersects with business.•

By Mr. LAUTENBERG (for himself, Mrs. BOXER, and Mr. KERRY):

S. 2096. A bill entitled the "Environmental Crimes and Enforcement Act of 1996"; to the Committee on Environment and Public Works.

THE ENVIRONMENTAL CRIMES AND ENFORCEMENT ACT OF 1996

• Mr. LAUTENBERG. Mr. President, today I am joined by Senator KERRY in introducing legislation, the Environmental Crimes and Enforcement Act of 1996, to increase penalties and strengthen enforcement for environmental crimes.

Mr. President, most Americans consider themselves environmentalists.

Millions of Americans participate in voluntary recycling and do what they can to save the environment. Similarly, many companies spend substantial amounts to comply with environmental laws, and many do much more than required.

Mr. President, expenditures for environmental controls are a cost of business that, in the short run, can adversely affect a company's bottom line. But these controls benefit all Americans. They lead to cleaner water, cleaner air, safer employees and healthier children.

Mr. President, when a business invests in environmental protection to comply with our laws, it should not be placed at a competitive disadvantage as a result. That is, it shouldn't have to compete against other firms that save costs by disregarding their environmental responsibilities. But to protect against that kind of unfairness, Mr. President, Government must strongly enforce environmental laws. And that is what this bill will help ensure.

Mr. President, this bill was developed by the Department of Justice after consultation with State, local and Federal prosecutors from around the country. It is aimed at bad actors who violate our environmental laws purposely, intentionally, or with knowing disregard for the impact of their actions. These are not people who accidently miss a deadline or even negligently forget to file for a needed permit.

They are criminals who know what they're doing, and who generally are flouting our laws simply to make a buck.

Mr. President, we need to get tough with those who intentionally violate environmental laws. This bill would help in several ways.

The bill would make it a federal crime to attempt to violate our environmental laws. This would make it much easier to enforce these laws, and to prevent environmental degradation before it happens. Most federal laws, other than criminal environmental laws now include provisions for attempted criminality.

The legislation also would give federal prosecutors tools to work more effectively with their state counterparts. It would improve training of law enforcement personnel in the investigation of environmental crimes. It also would facilitate prosecution by extending the statute of limitations when a violator has tried to conceal environmental crimes.

Another provision in the legislation would allow judges to force environmental criminals to pay to clean up the mess they made. That, Mr. President, is only fair. If a child has to clean up his own room, surely a corporation should have to clean up their own mess when they intentionally dump toxic chemicals.

Finally, Mr. President, this legislation would give judges the authority to increase penalties when an environmental crime leads to serious injury or death. This should help deter the most serious abuses of our laws.

Mr. President, none of these proposals, by itself, will solve the problem of environmental crime. But, together, they would make a real difference. They would help improve the quality of our environment. And they would help protect the majority of law-abiding businesses that invest in environmental protection, and that abide by our laws in good faith.

Mr. President, over the past 20 years, our economy has grown considerably, but pollution has been reduced. This has occurred not only because Congress passed environmental legislation.

It has also occurred because of the creativity of our scientists and the commitment of American businesses. These law-abiding businesses, as I have said, deserve to be treated fairly. They should be rewarded for their diligence, not placed at an unfair competitive disadvantage.

Mr. President, I recognize, given the limited time remaining in the 104th Congress, that this legislation will not become law this year. However, I intend to work in the next Congress to have hearings on this bill, and I would welcome input from any interested parties.

Next year, I am hopeful that we can move in a bipartisan manner to make any needed improvements, and to enact this legislation into law as soon as possible.

Mr. President, I ask unanimous consent that a copy of the bill, S. 2096, and a section-by-section analysis be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Crimes and Enforcement Act of 1996".

SEC. 2. FINDINGS.

The Congress finds that—

(1) Federal investigation and prosecution of environmental crimes play a critical role in the protection of human health, public safety, and the environment;

(2) the effectiveness of environmental criminal enforcement efforts is greatly strengthened by close cooperation and coordination among Federal, State, local, and tribal authorities; and

(3) legislation is needed to facilitate Federal investigation and prosecution of environmental crimes and to increase the effectiveness of joint Federal, State, local, and tribal criminal enforcement efforts.

SEC. 3. JOINT FEDERAL, STATE, LOCAL, AND TRIBAL ENVIRONMENTAL ENFORCEMENT.

(a) Chapter 232 of title 18 is amended by adding after section 3673 the following new section 3674—

"§ 3674. Reimbursement of State, local, or tribal government costs for assistance in Federal investigation and prosecution of environmental crimes.

"(a) Upon the motion of the United States, any person who is found guilty of a criminal violation of the Federal environmental laws set forth in subsection (b) below, or conspiracy to violate such laws, may be ordered to pay the costs incurred by a State, local, or tribal government or an agency thereof for assistance to the Federal government's investigation and criminal prosecution of the case. Such monies shall be paid to the State, local, or tribal government or agency thereof and be used solely for the purpose of environmental law enforcement.

"(b) This subsection applies to a violation of any of the following statues, or conspiracy to violate any of the following statutes—

"(1) Section 14(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136*l*(b));

"(2) Section 16(b) of the Toxic Substances Control Act (15 U.S.C. § 2615(b));

"(3) Sections 10, 12, 13, and 16 of the Rivers and Harbors Appropriations Act of 1899 (33 U.S.C. §§ 403, 406, 407, 411);

"(4) Sections 309(c) and 311(b)(5) of the Federal Water Pollution Control Act (33 U.S.C. §§ 1319(c), 1321(b)(5));

"(5) Section 105(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. § 1415(b));

"(6) Section 9(a) of the Act to Prevent Pollution from Ships (33 U.S.C. § 1908(a));

"(7) Section 4109(c) of the Shore Protection Act of 1988 (33 U.S.C. § 2609(c));

"(8) Sections 1423 and 1432 of the Safe Drinking Water Act (42 U.S.C. §§ 300h-2, 300i-1);

"(9) Sections 3008(d), 3008(e) and 3008(i) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§ 6928(d), 6928(e), 6928(i));

"(10) Section 113(c) of the Clean Air Act (42 U.S.C. § 7413(c));

"(11) Sections 103(b) and 103(d) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9603(b), 9603(d));

"(12) Section 325(b)(4) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. § 11045(b)(4));

"(13) Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1733(a)); or

"(14) Sections 5124, 60123(a), and 60123(b) of title 49, United States Code.".

(b) The table of sections of chapter 232 of title 18, United States Code is amended by adding the following after the item relating to section 3673;

"3674. Reimbursement of State, local, or tribal government costs for assistance in Federal investigation and prosecution of environmental crimes.".

SEC. 4. PROTECTION OF GOVERNMENT EMPLOYEES AND THE PUBLIC.

(a) Chapter 39 of title 18, United States Code, is amended by adding the following new section:

"§ 838. Protection of government employees and the public from environmental crimes.

"(a) Any person who commits a criminal violation of a Federal environmental law identified in this subsection that is the direct or proximate cause of serious bodily injury to or death of any other person, including a Federal, State, local or tribal government employee performing official duties as a result of the violation, shall be subject to a maximum term of imprisonment of twenty years, a fine of not more than $500,000, or both, and, if the defendant is an organization, to a fine of not more than $2,000,000.

The laws to which this subsection applies are—

"(1) Section 309(c)(2), 309(c)(4), or 311(b)(5) of the Federal Water Pollution Control Act (33 U.S.C. §§1319(c)(2), 1319(c)(4), 1321(b)(5));

"(2) Section 105(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. §1415(b));

"(3) Section 1423 or 1432 of the Safe Drinking Water Act (42 U.S.C. §§300h-2, 300i-1);

"(4) Section 3008(d) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6928(d));

"(5) Section 113(c)(1) or 113(c)(2) of the Clean Air Act (42 U.S.C. §§7413(c)(1), 7413(c)(2));

"(6) Section 103(b) or 103(d) of the Comprehensive Response, Compensation, and Liability Act (42 U.S.C. §§9603(b), 9603(d));

"(7) Section 325(b)(4) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §11045(b)(4)); or

"(8) Section 5124, 60123(a), or 60123(b) of title 49, United States Code.

"(b) Any person who commits a criminal violation of Federal environmental law identified in this subsection that is the direct or proximate cause of serious bodily injury to or death of any other person, including a Federal, State, local or tribal government employee performing official duties as a result of the violation, shall be subject to a maximum term of imprisonment of five years, a fine of not more than $250,000, or both, and, if a defendant is an organization, to a fine of not more than $1,000,000. The laws to which this subsection applies are—

"(1) Section 14(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §136*l*(b)); or

"(2) Section 16(b) of the Toxic Substances Control Act (15 U.S.C. §2615(b)).

"(c) For purposes of this section, the term "serious bodily injury" means bodily injury which involves—

"(1) unconsciousness;

"(2) extreme physical pain;

"(3) protracted and obvious disfigurement; or

"(4) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(d) For purposes of this section, the term "organization" means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons."

(b) The table of sections of chapter 39 of title 18, United States Code is amended by adding the following after the item relating to section 837:

"§838. Protection of government employees and the public from environmental crimes.".

SEC. 5. ENVIRONMENTAL CRIMES TRAINING FOR STATE, LOCAL, AND TRIBAL LAW ENFORCEMENT.

(a) This section may be cited as the "Environmental Crimes Training Act of 1996".

(b) The Administrator of the Environmental Protection Agency, as soon as practicable, within the Office of Enforcement and Compliance Assurance, shall establish the State, Local, and Tribal Environmental Enforcement Training Program to be administered by the National Enforcement Training Institute within the Office of Criminal Enforcement, Forensics and Training. This Program shall be dedicated to training State, local, and tribal law enforcement personnel in the investigation of environmental crimes at the Federal Law Enforcement Training Center (FLETC) in Glynn County, Georgia at the EPA-FLETC training center or other training sites which are accessible to State, local, and tribal law enforcement. State, local, and tribal law enforcement personnel shall include, among others, the following: inspectors, civil and criminal investigators, technical experts, regulators, government lawyers, and police.

SEC. 6. STATUTE OF LIMITATIONS.

(a) Chapter 213 of title 18, United States Code, is amended by adding after section 3294 the following new section—

"§3295. Felony environmental crimes.

"(a) No person shall be prosecuted, tried, or punished for a violation of, or a conspiracy to violate, any of the offenses listed in subsection (b) unless the indictment is returned or the information is filed within five years after the offense is committed; however, when a person commits an affirmative act that conceals the offense from any Federal, State, local, or tribal government agency, that person shall not be prosecuted, tried, or punished for a violation of, or a conspiracy to violate, any of the offenses listed below in subsection (b) unless the indictment is returned or the information is filed within five years after the offense is committed, or within three years after the offense is discovered by a government agency, whichever is later but in no event later than eight years after the offense is committed.

"(b) This section applies to a violation of—

"(1) Section 309(c)(2), 309(c)(3), 309(c)(4), or 311(b)(5) of the Federal Water Pollution Control Act (33 U.S.C. §§1319(c)(2), 1319(c)(3), 1319(c)(4), 1321(b)(5));

"(2) Section 105(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. §1415(b));

"(3) Section 9(a) of the Act to Prevent Pollution from Ships (33 U.S.C. §1908(a));

"(4) Section 4109(c) of the Shore Protection Act of 1988 (33 U.S.C. §2609(c));

"(5) Section 1423 or 1432 of the Safe Drinking Water Act (42 U.S.C. §§300h-2, 300i-1);

"(6) Section 3008(d) or 3008(e) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§6928(d), 6928(e));

"(7) Section 113(c)(1), 113(c)(2), 113(c)(3), or 113(c)(5) of the Clean Air Act (42 U.S.C. §§7413(c)(1), 7413(c)(2), 7413(c)(3), 7413(c)(5));

"(8) Section 103(b) or 103(d) of the Comprehensive Response, Compensation, and Liability Act (42 U.S.C. §§9603(b), 9603(d));

"(9) Section 325(b)(4) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §11045(b)(4)); or

"(10) Section 5124, 60123(a), or 60123(b) of title 49, United States Code.".

(b) The table of sections of chapter 213 of title 18, United States Code is amended by adding after the item referring to section 3294 the following new item—

"§3295. Felony environmental crimes.".

SEC. 7. ATTEMPTS.

(a) Section 14(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §1361(b)) is amended by adding a new paragraph 14(b)(5)—

"(5) ATTEMPTS.—Any person who attempts to commit the conduct that constitutes an offense under paragraph (1) of this subsection shall be subject to the same penalties as those prescribed for such an offense.".

(b) Section 16(b) of the Toxic Substances Control Act (15 U.S.C. §2615(b)), is amended by inserting "(1)" before "Any" and by adding the following new paragraph—

"(2) Any person who attempts to commit the conduct that constitutes any offense under paragraph (1) of this subsection shall be subject to the same penalties as those prescribed for such offense.".

(c) Section 309(c) of the Federal Water Pollution Control Act (33 U.S.C. §1319(c)), is amended by adding after paragraph (7) the following new paragraph 309(c)(8)—

"(8) Any person who attempts to commit the conduct that constitutes any offense under paragraphs (2), (3) or (4) of this subsection shall be subject to the same penalties as those prescribed for such offense.".

(d) Section 105(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. §1415(b)), is amended by striking "and" at the end of paragraph (1), striking the period at the end of (2)(B), and inserting "; and", and adding after paragraph (2) the following new paragraph—

"(3) Any person who attempts to commit the conduct that constitutes any offense under paragraph (1) of this subsection shall be subject to the same penalties as those prescribed for such offense.".

(e) Section 9(a) of the Act to Prevent Pollution from Ships (33 U.S.C. §1908(a)), is amended by inserting "(1)" before "(A)" and by adding the following new paragraph—

"(2) Any person who attempts to commit the conduct that constitutes any offense under paragraph (1) of this subsection shall be subject to the same penalties as those prescribed for such offense.".

(f) Section 3008 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6928), is amended by adding after subsection 3008(h) the following new subsection—

"(i) Any person who attempts to commit the conduct that constitutes any offense under subsections (d) or (e) of this section shall be subject to the same penalties as those prescribed for such offense.".

(g) Section 113(c) of the Clean Air Act (42 U.S.C. §7413(c)), is amended by adding after paragraph 6 the following new paragraph—

"(7) Any person who attempts to commit the conduct that constitutes any offense under subsections (1), (2), or (3) of this section shall be subject to the same penalties as those prescribed for such offense.".

SEC. 8. ENVIRONMENTAL CRIMES RESTITUTION.

(a) Section 3663(a)(1) of title 18, United States Code, is amended by striking "or" before "section 46312" and inserting "or an environmental crime listed in section 3674 of this title," after "section 3663A(c),"

(b) Subsection 3663(b) of title 18, United States Code, is amended by striking "and" at the end of paragraph (4), striking the period at the end of paragraph (5) and inserting "; and", and adding after paragraph (5) the following new paragraph—

"(6) in the case of an offense resulting in pollution of or damage to the environment, pay for removal and remediation of the environmental pollution or damage and restoration of the environment, to the extent of the pollution or damage resulting from the offense; in such a case, the term 'victim' in section 3663(a)(2) includes a community or communities, whether or not the members are individually identified.".

THE ENVIRONMENTAL CRIMES AND ENFORCEMENT ACT OF 1996

SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 sets out the short title of this bill, the "Environmental Crimes and Enforcement Act of 1996."

Section 2

Section 2 states the Congressional findings upon which the Act is based. Specifically, the findings are that environmental criminal enforcement plays a critical role in the protection of human health, public safety, and the environment, and that these efforts are greatly enhanced by close cooperation and coordination among Federal, State, local, and tribal authorities. The purpose of the legislation is to increase protection of the environment by strengthening Federal law enforcement and by increasing the effectiveness of joint Federal, State, local, and tribal criminal environmental enforcement efforts.

Section 3

Section 3 authorizes Federal district courts to order convicted criminals to reimburse States, localities, and tribes for costs they incur during Federal environmental prosecutions. Moneys paid to State, local, and tribal governments under this provision may be used solely for environmental law enforcement. This reimbursement provision applies to prosecutions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Toxic Substances Control Act (TSCA); the Rivers and Harbors Appropriations Act of 1899; the Federal Water Pollution Control Act; the Marine Protection, Research, and Sanctuaries Act; the Act to Prevent Pollution from Ships; the Shore Protection Act; the Safe Drinking Water Act; the Resource Conservation and Recovery Act; the Clean Air Act; the Comprehensive Environmental Response, Compensation, and Liability Act; the Emergency Planning and Community Right-to-Know Act; the Federal Land Policy and Management Act; and 49 U.S.C. §5124, relating to transportation of hazardous materials.

This provision will strengthen criminal environmental enforcement by fostering cooperative efforts among Federal, State, local, and tribal officials. State and local inspectors, and investigators often initiate what become Federal enforcement actions, and they continue to work with Federal officials through the trial stage. For example, State laboratories provide analytical support. Many State and local prosecutors participate in joint task forces and they sometimes are cross-designated as special assistant U.S. attorneys. Although certain State courts may award costs to State and local governments in State criminal proceedings, Federal courts are not now expressly authorized to order such reimbursement. Providing for reimbursement will greatly increase the ability of State, local, and tribal officials to cooperate in Federal criminal proceedings to address violations of environmental law. Joint enforcement efforts also make the Federal program more responsive to local communities.

Because the court may order reimbursement only upon motion of the United States, the discretion of both the Federal prosecutor and the court will serve as a check against unwarranted cost awards. Allowable costs are limited to those incurred by a State, local, or tribal government or agency for assistance to the Federal Government's investigation and prosecution of a case. Costs imposed on a defendant are payable directly to the State or local government in a manner analogous to the payment of restitution directly to the victims of a crime, thus obviating the need for a separate Federal fund or Federal administrator to collect and transfer the moneys.

Section 4

Section 4 provides for enhanced punishment where a criminal violation of specified environmental laws directly or proximately causes serious bodily injury or death to any person, including any Federal, State, local, or tribal government official.

Police officers, firefighters, paramedics, and other public safety and public health personnel often are the first on the scene of an environmental crime. In their efforts to protect others from harm, they themselves may suffer serious injury or death resulting from other people's criminal mishandling of dangerous materials or failure to comply with their legal duty to notify the government of releases of dangerous substances. Members of the public can also be injured or killed as a result of environmental crimes.

Section 4 will ensure that the criminals who cause this suffering will face an appropriately severe, enhanced punishment upon conviction. It does not establish a new or different crime, but instead provides for enhanced terms of imprisonment and enhanced fines for persons convicted of felony violations under specified Federal environmental laws where death or serious injury results. The laws covered by this provision are: the Federal Water Pollution Control Act; the Marine Protection, Research, and Sanctuaries Act; the Resource Conservation and Recovery Act; the Clean Air Act; the Comprehensive Environmental Response, Compensation, and Liability Act; the Emergency Planning and Community Right-to-Know Act; and 49 U.S.C. §5124. The section also provides for enhanced penalties for environmental misdemeanors under the Federal Insecticide, Fungicide and Rodenticide Act and the Toxic Substances Control Act where death or serious injury results, thereby transforming those violations into felonies.

For enhanced punishment to be imposed, section 4 requires that the defendant commit the underlying environmental crime and that the crime be the direct or proximate cause of serious bodily injury or death. The requirement of "direct or proximate" causation is in line with language used in other criminal provisions, see, e.g., 18 U.S.C. §844 (personal injury resulting from arson), and limits the sentence enhancement to appropriate cases. Those who commit environmental crimes, for example, by illegally storing hazardous waste, are on notice that their actions may cause serious injury or death to other persons. Unlike existing endangerment provisions in certain environmental statutes that apply to threatened injuries, Section 4 requires actual injury or death, but does not require that the defendant intend or know of the injury or death that the defendant's crime causes.

For the most part, the definition of "serious bodily injury" in Section 4 follows similar definitions in 18 U.S.C. §113 (assaults within maritime and territorial jurisdiction) and 18 U.S.C. §1365(g)(3) (tampering with consumer products). The definition in Section 4, however, does not include "substantial risk of death." In other words, actual serious bodily injury or death (not just the risk of injury or death) must occur for enhanced punishment to be imposed under Section 4. Section 4 also includes "unconsciousness" within the definition of "serious bodily injury," thereby conforming to the definition of that term in the Federal hazardous waste laws at 42 U.S.C. §6928(f)(6).

Section 4 specifically lists certain government employees whose death or injury could trigger enhanced punishment. This listing is not intended to exclude other persons, including other government employees, from the provision's coverage, but rather to emphasize that the specified government employees are exposed to special risks and are thus especially likely to benefit from the added deterrence and protection engendered by this provision.

Section 5

Section 5 responds to the urgent need expressed by State, local, and tribal officials for additional Federal training on environmental criminal enforcement. It establishes within the Environmental Protection Agency a separate program dedicated to the training of State, local, and tribal law enforcement personnel in the investigation of environmental crimes.

States and local governments are undertaking an expanded role in environmental enforcement, not only of their own laws but also of Federal statutes pursuant to delegated authority. The Pollution Prosecution Act of 1990 mandated that EPA deploy 200 criminal investigators across the country and establish the National Enforcement Training Institute (NETI) to train State, local, and tribal law enforcement in safe and effective investigation of environmental crimes. Section 5 will increase training for State, local, and tribal law enforcement officials and strengthen cooperative enforcement of the Nation's environmental laws. Under the mandate of the Pollution Prosecution Act of 1990, the Environmental Protection Agency has regularly trained State, local, and tribal investigators and regulatory personnel in courses conducted at the Federal Law Enforcement Training Center (FLETC) in Glynco, GA. The need and demand for such training, however, has been greatly increasing.

Section 6

Section 6 provides for an extension of the statute of limitations where a violator has engaged in affirmative acts of concealment of specified environmental crimes.

As is the case for most Federal crimes, Federal environmental crimes are currently subject to a five-year statute of limitations, which runs from the time the offense is committed. 18 U.S.C. §3282. Some environmental crimes, including some of the most egregious ones, involve affirmative acts of concealment by the wrongdoers. Criminals who are the most deceptive, and thus able to hide their wrongdoing the longest, are most likely to escape the legal consequences of their acts through expiration of the statute of limitations.

Section 6 addresses this problem for a specified list of felony violations of environmental statutes by extending the limitations period for up to three years beyond the traditional 5-year period when the defendant commits an affirmative act of concealment. In these circumstances, the limitation period extends to three years after discovery of the crime by the government. In no event does the limitations period extend beyond eight years after the offense was committed. This extended limitations period covers violations of various provisions under the Federal Water Pollution Control Act; the Marine Protection, Research, and Sanctuaries Act; the Act to Prevent Pollution from Ships; the Shore Protection Act; the Safe Drinking Water Act; the Resource Conservation and Recovery Act; the Clean Air Act; the Comprehensive Environmental Response, Compensation, and Liability Act; the Emergency Planning and Community Right-to-Know Act; and 49 U.S.C. §5124.

For example, if a violator committed an affirmative act of concealment and the environmental crime were not discovered until three, four, or five years after it was committed, Section 6 would extend the statute of limitations to 6, 7, or 8 years after the crime was committed, respectively—that is, up to three years after the time of discovery with an eight year cap. If a violator committed an affirmative act of concealment, but the crime were nevertheless discovered by any Federal, State, local, or tribal government agency immediately after it was committed, there would be no extension under Section 6, and the limitations period would be the 5-year period running from the time the crime was committed. Similarly, where there was no affirmative act of concealment, the five-year period would apply and would run from commission of the crime.

The burden rests on the government to prove an affirmative act of concealment under Section 6.

Section 7

Section 7 amends specified environmental statutes to add attempt provisions. Under these new provisions, any person who attempts to commit an offense shall be subject to the same penalties as those prescribed for the offense itself.

The rationale for these new attempt provisions is similar to that for comparable provisions in other Federal criminal statutes. Under these existing attempt laws, when law enforcement authorities uncover planned criminal activity and a substantial step is taken towards the commission of the crime, the crime can be stopped before it is completed and the perpetrator may still be prosecuted. For example, Federal law makes attempted bank robbery a crime, punishable the same as bank robbery. 18 U.S.C. §2113(a). Similar attempt provisions exist for numerous other crimes, such as uttering a Treasury check with forged endorsement (18 U.S.C. §510); bank fraud (18 U.S.C. §1344); damage to government property (18 U.S.C. §1361); obstruction of court orders (18 U.S.C. §1509); and obtaining mail by fraud or deception (18 U.S.C. §1708).

There has been only one attempt provision in Federal environmental criminal enforcement statutes. As a result, Federal agents can be placed in the untenable situation of choosing between obtaining evidence necessary for a criminal prosecution and preventing pollution from occurring. For example, without an attempt statute, if agents stop a would-be environmental criminal from dumping hazardous waste, the perpetrator cannot be prosecuted for illegal dumping because no environmental crime has occurred. Only if the agents allow the dumping to occur, with the possibility of damage to the environment and risk to the public health, could the perpetrator be prosecuted for illegal dumping. These attempt provisions allow law enforcement personnel to stop environmental crimes before they are completed and still bring the wrongdoer to justice.

Attempt statutes serve another very important purpose in law enforcement, related to undercover investigations. Attempt statutes allow prosecution where a defendant purposely engages in conduct that would constitute the crime if the circumstances were as the defendant believes them to be. Undercover operations are widely recognized as a valuable tool to ferret out serious crimes, and attempt provisions will make undercover environmental investigations safer to the public by allowing the government to substitute benign substances for the dangerous substances that make the conduct illegal, but still prosecute for attempt the person who believes he is engaging in the illegal conduct.

The new language added by Section 7 is analogous to the attempt provision contained in the Federal drug laws. 21 U.S.C. §846. An attempt to commit the conduct constituting one of specified environmental criminal offenses is punished in the same manner as the offense itself.

Section 8

Section 8 amends the Federal restitution statutes to clarify the authority of the courts to provide for restitution to victims in environmental crimes cases.

Existing restitution statutes provide for restitution for bodily injury and property loss. Those categories of restitution address the harm suffered by victims of violent and economic crimes and are intended to make them whole for their physical injuries and pecuniary damages. The victims of environmental crimes also may suffer physical injuries and pecuniary losses. Indeed, environmental crimes often are economic crimes. At the same time, however, an environmental crime also may cause more widespread and longstanding damage, with the harm inflicted on all members of a community or communities affected by the environmental pollution or damage.

Section 8 clarifies the existing authority of the courts by including environmental offenses among the crimes explicitly enumerated in the restitution statutes. It makes plain that the costs of removal and remediation of environmental pollution or damage, and required restoration of the environment, are included within the coverage of that statute, to the extent of the pollution or damage resulting from the offense. This section recognizes that environmental crimes can harm entire communities and clarifies that the definition of "victim" in the restitution statutes may include all members of a community or communities, whether or not they are individually identified.

Section 9

Section 9 authorizes the government, after notice to the defendant, to seek an order from the court to prevent a defendant charged with an environmental crime from dealing with its assets in a manner that would impair its ability to pay for the harm caused by its environmental violations. The government bears the burden of establishing the costs involved, and the defendant may avert such an order by showing that it retains sufficient assets to cover those costs or that it already has paid such costs. The Federal Rules of Criminal Procedure govern any proceedings under this section for an order to prevent the disposal or alienation of assets. Such an order expires at the point of sentencing, or of dismissal or acquittal of the prosecution.

This section expressly codifies the authority already available to a court under the All Writs Act, 28 U.S.C. §1651. It will prevent a defendant, during the pendency of criminal environmental charges, from concealing, disposing of, or otherwise dealing with its assets in such a manner that, if it is convicted and is ordered to pay the costs of the harm caused by its actions, sufficient assets no longer will be available for that purpose. If such authority were not available, defendants could easily thwart the purposes of the restitution provisions of this act and those found elsewhere in the law. Similar authority, to prevent the disposal of assets to pay for violations of law, can be found at 18 U.S.C. §1345 (Injunctions against Fraud). At the same time, the section allows a defendant that can show that defendant's other assets will be sufficient to pay for such harm, or that such costs already have been paid, to avoid being burdened by such an order.

SEC. 9. PREVENTION OF ALIENATION OR DISPOSAL OF ASSETS NEEDED TO REMEDY ENVIRONMENTAL HARMS CAUSED BY ENVIRONMENTAL CRIMES.

(a) Chapter 39 of title 18, United States Code, is amended by adding after section 838 the following new section—

"§ 839. Prejudgment orders to secure payment for environmental damage

"(a) At the time of filing of an indictment or information for the violation of any of the statutory provisions set forth in section 838(a) of this chapter, or at any time thereafter, if, after notice to the defendant, the United States shows probable cause to believe that—

(1) the defendant will conceal, alienate or dispose of property, or place property outside the jurisdiction of the Federal district courts; and,

(2) the defendant will thereby reduce or impair the defendant's ability to pay restitution, in whole or in part, including removal and remediation of environmental pollution or damage and restoration of the environment resulting from the statutory violation,

the district court may order the defendant not to alienate or dispose of any such property, or place such property outside the jurisdiction of the Federal district courts, without leave of the court. The United States shall bear the burden of proving, by a preponderance of the evidence, the projected cost for the removal and remediation of the environmental pollution or damage and restoration of the environment.

"(b) Defenses—

The defendant may establish the following affirmative defenses to a motion by the government under this section—

(1) that the defendant possesses other assets sufficient to pay restitution, including the costs of removal and remediation of the environmental pollution or damage and restoration of the environment resulting from the statutory violation, provided that the defendant places those other assets under the control of the court, or

(2) that the defendant has made full restitution, including the removal and remediation of the environmental pollution or damage and restoration of the environment.

"(c) Procedures—

Any proceeding under this section is governed by the Federal Rules of Criminal Procedure.

"(d) Property Defined—

For the purposes of this section, "property" shall include—

(1) Real property, including things growing on, affixed to, and found in land; and,

(2) Tangible and intangible personal property, including money, rights, privileges, interests, claims, and securities.

"(e) Expiration of Order—

The court may amend an Order issued pursuant to this section at any time. In no event, however, shall the Order extend beyond sentencing, in the case of a conviction, or a dismissal or acquittal of the prosecution.

"(f) All Writs Act—

Nothing in this section diminishes the powers of the court otherwise available under section 1651 of title 28 United States Code, the All Writs Act.".

(b) The table of sections of chapter 39 of Title 18, United States Code, is amended by adding after section 838, the following new section—

"§839. Prejudgment orders to secure payment for environmental damage.".•

• Mr. KERRY. Mr. President, I am proud to introduce today with my good friend Senator LAUTENBERG the Environmental Crimes and Enforcement Act of 1996. The American people have every right to expect their Government to protect their health and safety, and take swift action against those who choose to do harm. Our bill would strengthen efforts to ensure a safer, cleaner environment for the future and would enhance the Federal-State-local government partnership in fighting environmental crimes.

This administration has the strongest record in taking action against intransigent polluters, and it has collected among the biggest fines levied on those polluters in American history. However, for too long, many industrial polluters have gone largely unchecked and have consistently evaded responsibility for the severe damage they have done to our environment.

I would like to review quickly some of the more important provisions contained in our legislation.

One of the ground-breaking measures contained in this legislation is the provision amending existing environmental statutes to define the attempt to commit an offense as a crime, subject to the penalties of the offense itself. This makes environmental law consistent with other Federal criminal statutes. With only one exception, attempting to commit an environmental crime is itself not a Federal crime. It is this area of law enforcement that would greatly benefit from such provisions, which would in turn have the effect of better protecting the public's health and safety and our environment. Furthermore, this provision closes the gap between prosecution and environmental protection. In the past, law enforcement officials could not prosecute violators of environmental law until the crime was committed, causing damage to the environment and jeopardizing public health and safety. Now, would-be wrong-doers can be stopped and prosecuted before they do harm.

Let me provide you with a good example of how this would work, using a hypothetical case of hazardous waste dumping. While haulers are required by law to dispose of toxic materials in a permitted hazardous waste disposal facility, often renegade transporters dump in vacant lots, remote areas, and other unauthorized locales. Once they have received information that illegal dumping is occurring, Federal agents conduct surveillance of hazardous waste transporters. But, because there is no attempt provision in statutes defining environmental crimes, if agents prevent a transporter from dumping hazardous waste, the perpetrator cannot be prosecuted for illegal dumping because no environmental crime has occurred. Under current law, only by damaging the environment by allowing the hazardous waste dumping to occur, can the Government build a case to prosecute a person for illegal dumping. This does not make sense and we must change these laws.

This provision adds a new dimension to the protection of the environment: the capability of officials to engage in undercover operations. These investigations will allow Federal officials to conduct "sting" operations by substituting benign substances for the actual pollutants, and prosecute, to the fullest extent of the law, those violators who engaged in behavior they know to be illegal.

Another provision, and arguably the most important for cleaning up the environment in a fiscally responsible way, is the authority granted to Federal district courts to order convicted criminals to reimburse States, localities, and tribes for costs they incur during Federal environmental prosecutions. These recovered costs will be used exclusively for funding the enhancement of environmental law enforcement required in this bill.

Greater protection is also given to the first line of defense in many environmental crime scenes: police, firefighters, and public health personnel. This measure will strengthen the existing penalties for violations of the Clean Water Act, the Clean Air Act, the Community Right-to-Know Act, Superfund, the Marine Sanctuaries Act, and other key environmental statutes.

Our legislation also addresses the increasing need for additional training of law enforcement personnel. In response to the urgent requests of State, local, and tribal authorities, the Environmental Crimes and Enforcement Act would establish, under the Environmental Protection Agency, a separate program for environmental crimes investigations.

In addition, the act limits the effect of the affirmative acts of concealment that violators commit to prevent prosecution during the current statute of limitations for environmental crimes, which is 5 years. This bill extends the limitations period for up to 3 years beyond the traditional 5 years for cases in which the defendant deliberately conceals the original infraction.

This bill also adds environmental crimes to the list of statutes that provide for restitution to victims, such as violent and economic crime. The act recognizes that longstanding and widespread damage, in addition to the physical injuries and financial losses, may be caused by an environmental crime. The restitution provision includes the costs of removal and remediation of pollution and the necessary restoration of the environment.

Finally, the Environmental Crimes and Enforcement Act would authorize prosecutors to seize the assets of environmental criminals before conviction so that the defendant retains sufficient assets to make reparations. This measure ensures that environmental criminals cannot hide behind bankruptcy, or hide their assets so that the Government bears the burden of the cost of repairs.

Let me conclude, Mr. President, by saying that although this legislation is long overdue, the effects of it will be far-reaching. This issue is not only about the environment, it is about fiscal responsibility and taking responsibility for one's actions. This bill does not propose newer, stricter regulations, it does not call for any burdensome Federal mandates; it merely closes loopholes through which polluters have slipped for many years. Furthermore, it reduces the burden placed of Government to pay for environmental cleanups and places it firmly on the shoulders of the criminals, where it belongs. Once again, I complement the leadership of the Senator from New Jersey. It was a pleasure working together to develop this legislation, and I look forward to working with him to pass it.•

ADDITIONAL COSPONSORS

S. 1243

At the request of Mr. SPECTER, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1243, a bill to provide educational assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties.

S. 1385

At the request of Mr. BREAUX, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1385, a bill to amend title XVIII of the Social Security Act to provide for coverage of periodic colorectal screening services under Part B of the Medicare program.

S. 1628

At the request of Mr. BROWN, the names of the Senator from New Hampshire [Mr. GREGG] and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 1628, a bill to amend title 17, United States Code, relating to the copyright interests of certain musical performances, and for other purposes.

S. 2047

At the request of Mr. HATCH, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2047, a bill to amend the Internal Revenue Code of 1986 to modify the application of the pension nondiscrimination rules to governmental plans.

S. 2064

At the request of Ms. SNOWE, the name of the Senator from Kansas [Mrs. FRAHM] was added as a cosponsor of S. 2064, a bill to amend the Public Health Service Act to extend the program of research on breast cancer.

S. 2089

At the request of Mr. THOMAS, the name of the Senator from Wyoming

[Mr. SIMPSON] was added as a cosponsor of S. 2089, a bill to transfer land administered by the Bureau of Land Management to the States in which the land is located.

SENATE RESOLUTION 274

At the request of Mrs. FEINSTEIN, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of Senate Resolution 274, a resolution to express the sense of the Senate regarding the outstanding achievements of NetDay96.

SENATE RESOLUTION 292

At the request of Mr. GRAHAM, the names of the Senator from North Dakota [Mr. DORGAN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Washington [Mrs. MURRAY], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Resolution 292, a resolution designating the second Sunday in October 1996 as "National Children's Day," and for other purposes.

AMENDMENT NO. 5383

At the request of Mrs. HUTCHISON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of amendment No. 5383 proposed to S. 39, a bill to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

AMENDMENTS SUBMITTED

THE MARITIME SECURITY ACT OF 1996

GRASSLEY AMENDMENT NO. 5391

Mr. GRASSLEY proposed an amendment to the bill (H.R. 1350) a bill to amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, and for other purposes; as follows:

At the appropriate place, insert the following new section:

SEC. . UNIFORM PAYMENT FOR HAZARDOUS DUTY.

Title III of the Merchant Marine Act, 1936 (46 App. U.S.C. 1131), as amended by section 10 of this Act, is further amended by adding at the end the following new section:

"SEC. 303. PAYMENT OF MERCHANT SEAMEN FOR HAZARDOUS DUTY.

"(a) IN GENERAL.—The Secretary of Transportation, in cooperation with the Secretary of Defense, shall establish a wage scale for hazardous duty applicable to an individual who is employed on a vessel that is used by the United States for a war, armed conflict, national emergency, or maritime mobilization need (including training purposes or testing for readiness and suitability for mission performance).

"(b) CONTENT OF WAGE SCALE.—The wage scale established under this section shall be commensurate with the incentive pay for hazardous duty provided to members of the uniformed services under section 301 of title 37, United States Code.".

THE INDIAN HEALTH CARE IMPROVEMENT ACT AMENDMENT ACT OF 1996

McCAIN AMENDMENT NO. 5392

Mr. STEVENS (for Mr. MCCAIN) proposed an amendment to the bill (H.R. 3378) to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and other third party payors; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Indian Health Care Improvement Technical Corrections Act of 1996".

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act.

SEC. 2. TECHNICAL CORRECTIONS IN THE INDIAN HEALTH CARE IMPROVEMENT ACT.

(a) DEFINITION OF HEALTH PROFESSION.—Section 4(n) (25 U.S.C. 1603(n)) is amended—

(1) by inserting "allopathic medicine," before "family medicine"; and

(2) by striking "and allied health professions" and inserting "an allied health profession, or any other health profession".

(b) INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.—Section 104(b) of the Indian Health Care Improvement Act (25 U.S.C. 1613a(b)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking the matter preceding clause (i) and inserting the following:

"(3)(A) The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C. 254l) that an individual has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice, by service—";

(ii) by striking "or" at the end of clause (iii);

(iii) by striking the period at the end of clause (iv) and inserting "; or"; and

(iv) by adding at the end the following new clause:

"(v) in an academic setting (including a program that receives funding under section 102, 112, or 114, or any other academic setting that the Secretary, acting through the Service, determines to be appropriate for the purposes of this clause) in which the major duties and responsibilities of the recipient are the recruitment and training of Indian health professionals in the discipline of that recipient in a manner consistent with the purpose of this title, as specified in section 101.";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) At the request of any individual who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

"(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

"(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

"(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (v) of subparagraph (A).";

(D) in subparagraph (C), as so redesignated, by striking "prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) by service in a program specified in subparagraph (A)" and inserting "described in subparagraph (A) by service in a program specified in that subparagraph"; and

(E) in subparagraph (D), as so redesignated—

(i) by striking "Subject to subparagraph (B)," and inserting "Subject to subparagraph (C),"; and

(ii) by striking "prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m)" and inserting "described in subparagraph (A)";

(2) in paragraph (4)—

(A) in subparagraph (B), by striking the matter preceding clause (i) and inserting the following:

"(B) the period of obligated service described in paragraph (3)(A) shall be equal to the greater of—"; and

(B) in subparagraph (C), by striking "(42 U.S.C. 254m(g)(1)(B))" and inserting "(42 U.S.C. 254l(g)(1)(B))"; and

(3) in paragraph (5), by adding at the end the following new subparagraphs:

"(C) Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

"(D) The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary determines that—

"(i) it is not possible for the recipient to meet that obligation or make that payment;

"(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

"(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

"(E) Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

"(F) Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.".

(c) CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM.—Section 211(g) (25

U.S.C. 1621j(g)) is amended by striking "1993, 1994, 1995, 1996, and 1997" and inserting "1996 through 2000".

(d) EXTENSION OF CERTAIN DEMONSTRATION PROGRAM.—Section 405(c)(2) (25 U.S.C. 1645(c)(2)) is amended by striking "September 30, 1996" and inserting "September 30, 1998".

(e) GALLUP ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTER.—Section 706(d) (25 U.S.C. 1665e(d)) is amended to read as follows:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each of fiscal years 1996 through 2000, such sums as may be necessary to carry out subsection (b).".

(f) SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROGRAM.—Section 711(h) (25 U.S.C. 1665j(h)) is amended by striking "1993, 1994, 1995, 1996, and 1997" and inserting "1996 through 2000".

(g) HOME AND COMMUNITY-BASED CARE DEMONSTRATION PROGRAM.—Section 821(i) (25 U.S.C. 1680k(i)) is amended by striking "1993, 1994, 1995, 1996, and 1997" and inserting "1996 through 2000".

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Tuesday, September 24, 1996, beginning at 9:30 a.m. to conduct a hearing on tribal sovereign immunity issues. The hearing will be held in room 106 of the Dirksen Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, September 25, 1996, beginning at 1:30 p.m. to conduct a hearing on the phase-out of the Office of Navajo and Hopi Indian Relocation. The hearing will be held in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I wish to announce that the Special Committee on Aging, in conjunction with the Committee on Appropriations, will hold a hearing on Thursday, September 26, 1996, at 9 a.m., in room 216 of the Hart Senate Office Building. The hearing will discuss increasing funding for biomedical research.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate at 10:30 am on Thursday, September 19, 1996, and that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 19, 1996, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. PRESSLER. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, September 19, 1996, at 10 a.m. for a hearing on S. 1724, Freedom from Government Competition Act of 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, September 19, 1996, at 10 a.m., to hold an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 19, 1996, at 9:30 a.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, September 19, 1996, at 9:30 a.m. to hold a hearing to discuss Social Security reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 19, 1996, at 2:30 p.m. to hold a closed conference on the fiscal year 1997 intelligence authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DRINKING WATER, FISHERIES AND WILDLIFE

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Subcommittee on Drinking Water, Fisheries and Wildlife be granted permission to conduct a hearing Thursday, September 19, 1996, at 9:30 a.m. in hearing room SD–406 on S. 1660, the National Invasive Species Act of 1996, and to solicit testimony on efforts to reduce the threat posed by nonindigenous aquatic nuisance species.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO ADM. BRUCE DeMARS

• Mr. WARNER. Mr. President, I rise today to recognize and honor Adm. Bruce DeMars, U.S. Navy, as he prepares to retire upon completion of over 40 years of faithful service to our Nation.

During his distinguished career, he played a pivotal role in ensuring the effective and efficient employment of nuclear powered warships in providing for the security of this Nation. Over the past 8 years, Admiral DeMars provided invaluable leadership to the Naval Nuclear Propulsion Program, enabling Navy aircraft carriers, submarines, and cruisers to protect a strong, forward-deployed strategic defense force.

Among his many successes in the Navy, Admiral DeMars served as the commanding officer of the USS *Cavalla* (SSN 684), commander, U.S. Naval Forces Marianas-U.S. Naval Base Guam, and the deputy chief of Naval Operations for Submarine Warfare. Ultimately, he was appointed Director, Naval Nuclear Propulsion, where he was instrumental in addressing the worldwide Soviet threat. With the dissolution of the Soviet Union, Admiral DeMars answered the challenge to maintain the technical excellence and uncompromising safety of the Naval Nuclear Propulsion Program, while adhering to the new fiscal realities of the post-cold-war era.

Admiral DeMars' leadership was crucial to the continued exceptional performance, safety, and environmental record of the Navy's nuclear-powered ships. Under his oversight, the Nation's nuclear-powered warships steamed over 40 million miles reliably and safely. Moreover, more than 20,000 sailors and officers were trained as nuclear plant operators. The success of the program was recognized by the President in April 1994, as he wrote, "* * * The Naval Nuclear Propulsion Program, with its high standards and efficiency, exemplifies the level of excellence we are working toward throughout our government." I heartily agree with the President's assessment, and encourage all to follow the example set by the admiral.

Admiral DeMars modernized our nuclear-powered fleet. Thirty-five new nuclear-powered warships were completed on his watch, as well as the overhaul, refueling, or decommissioning of 98 ships. I commend him for meeting two diverse goals: achieving long-cost savings, while sustaining the industrial base in this highly specialized area.

Looking toward the future, the admiral steadfastly oversaw the development of the *Seawolf* attack submarine class. The recent, highly successful sea trials of the lead ship substantiate the high expectations for that class. The revolutionary developments embodied in the *Seawolf* will keep our Nation in the forefront of this critical area, and ongoing developments promise to further reduce the cost of the next generation of highly capable nuclear attack submarines.

Unfortunately, men of Admiral DeMars' caliber are few and far between.

Mr. President, I commend Admiral DeMars for a career of faithful service to his Nation. I wish him "Fair Winds and Following Seas" as he completes his honorable and distinguished service in the U.S. Navy.•

TRIBUTE TO GEORGETOWN UNIVERSITY'S NATIONAL SECURITY STUDIES PROGRAM AS IT CELEBRATES ITS 20TH ANNIVERSARY

• Mr. NUNN. Mr. President, this year marks the 20th anniversary of the National Security Studies Program at Georgetown University. I would like to take this opportunity to congratulate Dr. Stephen Gibert, the founder and current director of the National Security Studies Program, for his vision in establishing and running this highly successful program. In addition, I want to add my best wishes to the faculty, the administration, the program's graduates, and the current students as they celebrate this important milestone in the program's history.

The National Security Studies Program was started to provide military officers and civilian officials concerned with defense issues a high-quality graduate education with a concentration in national security studies. It represented an innovative and needed approach at that time. In the ensuing 20 years, the National Security Studies Program has kept pace with the changes that have occurred in the international security environment. As we move further along in the post-cold war era and encounter new types of threats to our Nation's security, it is encouraging to see that this program is sponsoring lectures on such timely issues as the proliferation of weapons of mass destruction, information warfare, terrorism, and computer security. The focus on new security threats complements a strong selection of courses offered by the National Security Studies Program in the categories of area studies, economics, and national security, as well as functional issues.

I have kept up with this program since its inception as a number of my staff have been students. In fact, my Armed Services Committee staff director, Arnold Punaro, is not only a graduate of the program but is also a member of its adjunct faculty. I want to extend my best wishes for continued success to the National Security Studies Program at Georgetown University as it prepares a future generation of America's national security leaders to meet the challenges of the 21st century.•

TRIBUTE TO WBEJ RADIO ON THEIR 50TH ANNIVERSARY

• Mr. FRIST. Mr. President, I rise today to salute WBEJ Radio for 50 great years of broadcasting excellence in Elizabethton and upper east Tennessee. This radio station has stood the test of time and has served its community as a source of entertainment, election coverage, local news, and national events. Over the years, WBEJ has undergone many technological and managerial changes and has become a pioneer in radio broadcasting by combining innovative technology with a genuine desire to provide reliable service to a growing community.

WBEJ made its debut in 1946 with the "Swap and Shop" show, which was sponsored by a local furniture store and acted as a radio-operated classified ad for the Elizabethton community. That show is still popular today and continues to bring citizens together to buy and trade items. Along with "Swap and Shop," news broadcasts and local entertainment combined to form the early roots of success for the radio station. In the early days, local news was broadcast three times a day. Today, the news is broadcast more often and provides a wide range of coverage from across the State and the Nation. Outdoor enthusiasts have relied on WBEJ to provide accurate reports on the hunting and fishing conditions in the Elizabethton area, and families have sat glued to the radio waiting for details and information on events like Elvis' death, the blizzard of 1993 and the *Challenger* crash of 1986.

Mr. President, budding local musicians found a welcome studio and a receptive audience when they performed live on WBEJ decades ago. And listeners were entertained by the station's many radio personalities, such as "Curley" the postman and his sidekick "Sgt. Jack."

Bill Wilkins was a sportscaster for WBEJ and his catchy phrases and nicknames for local players became slogans for community athletic events. Phrases like "get your tranquilizers ready," and "the little blond bomber" became popular terms for teams and athletes alike, and WBEJ sportcasters became regulars at the local high school athletic events with their play-by-play coverage. Over the years, the joy, sorrow, humor, and insight from all of these programs have been woven into the community's heart.

Mr. President, since 1946, WBEJ has been a part of every major event that has occurred in Tennessee and in the Nation. WBEJ has covered it all in a span of 50 years and has only gotten better with time. As such an important member of the Elizabethton community, WBEJ can celebrate its golden anniversary among many good and loyal friends. As Elizabethton continues to grow, I am certain that WBEJ will grow with it. It will maintain its high standards and strong foundation as it crosses the threshold into the 21st century. Dedication, philanthropy, foresight, and innovation have kept this Elizabethton station golden for 50 years and those same traits will carry it successfully into the future.•

REPEAL OF SECTION 434 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

• Mr. MOYNIHAN. Mr. President, on September 16, I introduced legislation to repeal section 434 of the recently enacted Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 434 provides that:

> Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service (INS) information regarding the immigration status, lawful or unlawful, of an alien in the United States.

This provision conflicts with an executive order, issued by the mayor of New York in 1985, prohibiting city employees from reporting suspected illegal aliens to the Immigration and Naturalization Service unless the alien has been charged with a crime. The executive order, which according to a report in the September 12, 1996, New York Times is similar to local laws in other States and cities, was intended to ensure that fear of deportation does not deter illegal aliens from seeking emergency medical attention, reporting crimes, and so forth.

On September 8, 1995, during Senate consideration of H.R. 4, the Work Opportunity Act of 1995, Senators SANTORUM and NICKLES offered this provision as an amendment. The amendment was adopted by a vote of 91 to 6. The Senators who voted "no" were: AKAKA, CAMPBELL, INOUYE, MOSELEY-BRAUN, MOYNIHAN, and SIMON.

Four of these six—Senators AKAKA, MOSELEY-BRAUN, SIMON, and the Senator from New York—were also among the 11 Democrats who voted against H.R. 4 when it passed the Senate 11 days later on September 19, 1995. The provision remained in H.R. 3734, the welfare bill recently signed by President Clinton.

Last week, Mayor Rudolph W. Giuliani of New York announced that the city planned to challenge section 434 of the new welfare law in court.•

FISCAL YEAR 1997 TRANSPORTATION APPROPRIATIONS—HIGHWAY OBLIGATION AUTHORITY

• Mr. D'AMATO. Mr. President, the Senate completed action on the conference report for the Department of

Transportation and related agencies appropriations bill yesterday, voting out the legislation 85 to 14. That bill, H.R. 3675, contained funding for the various transportation programs that this Nation undertakes—aviation, Coast Guard, highways, railroads, and transit. All in all, H.R. 3675 is a good bill for the United States and for the State of New York. However, Mr. President, as occurs in most pieces of legislation, it is not entirely perfect. In this respect, I must raise issue with a provision that was contained in the final version of this bill that will have serious adverse consequences on the State of New York.

When we considered this bill on the Senate floor in July, an amendment was debated and ultimately adopted that would require the Secretary of Transportation and the Secretary of the Treasury to investigate and report back to the Congress on the impact of and need to remedy an accounting error that was made in 1994 with respect to the crediting of receipts to the Highway Trust Fund. If uncorrected, this error had the potential to change the Federal highway obligation authority in a manner that would reconfigure highway funding for a number of States, allocating more dollars to States where the dollars were not supposed to go and away from States where the dollars were supposed to be allocated. The amendment that passed in the Senate corrected this error.

During the conference with the House of Representatives, this provision was not supported by a majority of conferees and was subsequently dropped. Even efforts to hold States harmless for the coming fiscal year because of this error were not agreed upon. Because of this, we are back where we started before the adoption of the amendment, with this accounting glitch in place and certain States in our Nation facing the denial of funding they deserve.

Unfortunately, New York is one of those States that will be denied its rightful amount of highway funding. The calculations that I have seen indicate that this uncorrected error will cost New York more than $100 million in Federal highway dollars that it should rightfully receive. This is not a small amount of money by any stretch. It is roughly 11 percent of the total highway funding New York should receive in the coming fiscal year. However, because of this accounting error, and because efforts to correct this error were not agreed upon in conference, those who travel New York's roadways will bear the brunt of this 11-percent cut.

It would be an understatement to say that I am displeased that this simple error was not able to be corrected in order to prevent any adverse impact on highway users in New York. However, the members of the conference committee were not inclined to accept the Senate amendment. While I do not agree with the decision by the conferees it is by no means an issue that has been solved.

In 1997, the Congress will be facing a multitude of issues involving the reauthorization of the Intermodal Surface Transportation Efficiency Act [ISTEA]. Issues involving funding allocations for the individual States will most assuredly be heavily discussed in the course of negotiations over any reauthorization bill. Perhaps this particular issue may need to be revisited in the context of that reauthorization. In the meantime, it still demands the attention and the action of the administration. Therefore, I intend to work with my colleagues whose States are similarly impacted as New York in an effort to remedy this Treasury Department accounting error.•

NIH REVITALIZATION ACT OF 1996

• Mrs. KASSEBAUM. Mr. President, due to time constraints, the report for the National Institutes of Health Revitalization Act of 1996, S. 1897, was filed prior to the receipt of the cost estimate from the Congressional Budget Office. The following is a letter from the Congressional Budget Office scoring the National Institutes of Health Revitalization Act of 1996, S. 1897. I ask unanimous consent that this letter be printed in the RECORD.

The letter follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 19, 1996.

Hon. NANCY LANDON KASSEBAUM,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1897, the National Institutes of Health Revitalization Act of 1996, as reported by the Committee on Labor and Human Resources on September 9, 1996.

Enactment of S. 1897 could affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1897.

2. Bill title: National Institutes of Health Revitalization Act of 1996.

3. Bill status: As reported by the Committee on Labor and Human Resources on September 9, 1996.

4. Bill purpose: S. 1897 would extend expiring provisions, eliminate duplicated or unnecessary advisory boards and reports, codify certain existing programs, and create new programs within the National Institutes of Health (NIH).

5. Estimated cost to the Federal Government: Assuming appropriation of the necessary funds, CBO estimates that the federal government would spend $31.6 billion over the fiscal years 1997–2002 period to implement the provisions of S. 1897.

Table 1 summaries the estimated authorizations and outlays that would result from S. 1897. The table provides the total authorizations and outlays under two different sets of assumptions. The first set of assumptions adjusts the estimated amounts for projected inflation after 1996, while the second set makes no allowance for projected inflation.

The bill could not affect direct spending by establishing the National Fund for Health Research. But S. 1897 does not specify a revenue source for this new trust fund, and no direct spending could occur until it receives funding.

TABLE 1.—ESTIMATED BUDGETARY IMPACT OF S. 1897

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATIONS ACTION							
Spending under current law:							
Budget authority	8,042	36	37				
Estimated outlays	7,673	4,518	756	34	10		
WITH ADJUSTMENT FOR INFLATION							
Proposed changes:							
Authorization level		10,222	10,518	10,858			
Estimated outlays		4,431	9,394	10,607	6,103	1,016	33
Spending under S. 1897							
Authorization level	8,042	10,258	10,556	10,858			
Estimated outlays	7,673	8,950	10,150	10,641	6,113	1,016	33
WITHOUT ADJUSTMENT FOR INFLATION							
Proposed changes:							
Authorization level		10,132	10,132	10,169			
Estimated outlays		4,390	9,183	10,118	5,745	953	31
Spending under S. 1897:							
Authorization level	8,042	10,168	10,169	10,169			
Estimated outlays	7,673	8,909	9,939	10,152	5,755	953	31

The cost of this bill fall within function 550.

6. Basis of the estimate: Most of the authorizations in the bill are for "such sums as may be necessary." For these, the estimated costs for 1997–1999 are based on 1996 appropriations (with and without adjustments for inflation). The authorization for general activities of the National Cancer Institute and the authorizations for the National Institute on Aging, the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, the National Institute of Mental Health, the National Library of Medicine, and Parkinson's reearch are for specified amounts for 1997 and such sums as may be necessary for 1998 and 1999. For these programs, the estimated costs in 1998 and 1999 are based on the 1997 authorization, with and without adjustments for inflation.

1The authorized amount for the pediatric research initiative is 450 million over the whole 1997–1999 period. Finally, S. 1897 would authorize for diabetes research each year from 1997 through 1999 the amount appropriated for this purpose in 1996 increased by 25 percent.

The estimate reflects these specific authorizations. Table 2 displays the authorizations estimated for each program with adjustments for inflation.

TABLE 2.—ESTIMATED AUTHORIZATION LEVELS WITH ADJUSTMENTS FOR INFLATION

[By fiscal year, in millions of dollars]

	1997	1998	1999
TITLE I AND II—PROVISIONS RELATING TO THE NATIONAL INSTITUTES OF HEALTH AND TO THE NATIONAL RESEARCH INSTITUTES			
Director's Discretionary Fund	12	12	13
Children's Vaccine Initiative	19	19	20
Research on Osteoporosis, Paget's Disease, and Related Bone Disorders	120	124	128
National Human Genome Research Institute [1]	175	180	185
TITLE III—SPECIFIC INSTITUTES AND CENTERS			
National Cancer Institute:			
Institute reauthorizations	3,456	3,560	3,664
DES study [2]	8	9	9
National Heart Lung and Blood Institute	1,600	1,647	1,695
National Institute of Allergy and Infectious Diseases:			
Research regarding tuberculosis	0	0	38
Terry Beirn community-based AIDS research initiative	26	27	27
National Institute of Child Health and Human Development:			
Research centers for contraception and infertility	5	5	5
National Institute on Aging	550	567	583
National Institute on Alcohol Abuse and Alcoholism	330	340	350
National Institute on Drug Abuse	480	494	508
National Institute of Mental Health	750	772	794
National Center for Research Resources:			
Authorizations—biomedical and behavioral research facilities	21	21	22
General clinical research centers	150	155	159
Enhancement awards	1	1	1
National Library of Medicine	160	165	170
TITLE IV, V, AND VI—AWARDS AND TRAINING, AIDS RESEARCH, AND GENERAL PROVISIONS			
AIDS Loan Repayment Program and Increase in Maximum Repayment	1	1	1
General Loan Repayment Program	2	2	2
Clincial Research Assistance [3]	1	1	1
Comprehensive Plan for Expenditure of AIDS Appropriations	1,453	1,499	1,547
Emergency AIDS discretionary fund	10	11	11
National Research Service Awards	408	421	435
National Foundation for Biomedical Research	(4)	(4)	(4)
Establishment of a Pediatric Research Initiative	17	17	17
Diabetes Research	387	387	387
Parkinson's Research	80	80	80
Total	10,222	10,518	10,858

[1] S. 1897 would create the National Human Genome Research Institute and transfer to it all obligations and balances of the National Center for Human Genome Research. In addition, the bill would provide the authorization estimated above.

[2] The National Institute of Child Health and Human Development and the National Institute of Environmental Health Sciences also participate in the DES program. However, approximately 80 percent of the program's spending is attributable to the National Cancer Institute.

[3] The amounts shown include both the costs that would result from the expansion of the loan programs in Title IV as well as their authorization under Title VI. In addition, the bill currently authorizes the loan program regarding clinical researchers indefinitely. However, it is CBO's understanding that the committee intended to provide authorization only through 1999.

[4] Costs of less than $500,000.

Titles I and II

Director's Discretionary Fund. S. 1897 would authorize appropriations, of such sums as may be necessary over the 1997–1999 period for the Director's discretionary fund within the Office of the Director of NIH. The fund enables the Director to respond to emerging research opportunities and health priorities. In addition, the Director uses the funds to support several awards and seminars. Funding for these activities in 1996 was $11 million.

Children Vaccine Initiative. The bill would also reauthorize the Children's Vaccine Initiative, extending funding through 1999. The National Institute on Allergy and Infectious Disease (NIAID), the National Institute on Child Health and Human Development, and the National Institute on Aging are also included in this initiative, but currently NIAID is the only institute participating. If funding at the 1996 level adjusted for inflation, CBO estimates this program would cost $57 million over the three-year period.

Osteoporosis, Paget's Disease and Related Bone Disorders. The bill would also reauthorize through 1999 the coordinated research program on osteoporosis, Paget's disease, and related bone disorders. This program is coordinated by the Directors of the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute on Aging, the National Institute of Dental Research, and the National Institute of Diabetes and Digestive and Kidney Diseases, and includes participation by several of the other institutes and centers. If funded at the 1996 level adjusted for inflation, this program would cost $372 million over the three-year period.

National Human Genome Research Institute. S. 1897 would create the National Human Genome Research Institute and transfer to it all functions, employees, assets, liabilities, contracts, and records that the National Center for Human Genome Research (NCHGR) performed and held before the enactment of this legislation. Giving the NCHGR the status of an institute would allow it to make awards of $100,000 or less without Advisory Council approval, to establish less extensive and time-consuming clearance requirements in the publication process: to complete for funds solely designated for research performed by institutes; and other freedoms. The bill would authorize this institute from 1997 through 1999. Based on the 1996 appropriation for the NCHGR adjusted for inflation, CBO estimates this authorization would cost $450 million over the three-year period.

Title III

Reauthorizations. This title would reauthorize all of the institutes and centers of NIH through 1999. The estimated authorizations with adjustments for inflation are shown in Table 2. They total $23.3 billion over the 1997–1999 period.

DES Program. S. 1897 would reauthorize from 1997 through 1999 the DES program, which conducts and supports research and training, the dissemination of health information, and other programs with respect to the diagnosis and treatment of conditions associated with exposure to the drug diethylstilbestrol (DES). Participating institutes include the National Cancer Institute, the National Institute of Child Health and Human Development, and the National Institute of Environmental Health Sciences. In 1996, 80 percent of the spending occurred in the National Cancer Institute. CBO estimates this provision would cost $26 million over the three-year period, assuming appropriations at the 1996 level adjusted for inflation.

General Clinical Research Centers. The bill would codify the existing General Clinical Research Centers and authorize them from 1997 through 1999. The Director of the National Center for Research Resources (NCRR) awards grants for these centers, which provide the infrastructure for clinical research. The centers support clinical studies and career development in all settings of the hospital or academic medical center involved. Funding for this program in 1996 was $146 million.

Enhancement Awards. The bill would also require the Director of NCRR to create two grant programs called the Clinical Research Career Enhancement Award and the Innovative Medical Science Award. The Clinical Research Enhancement Awards would support individual careers in clinical research, with grants not to exceed $130,000 per year per grant. The Innovative Medical Science Awards would support individual clinical research projects, with grants not to exceed $100,000 per year per grant. The Director of NIH, together with the Director of the NCRR, would establish a peer review mechanism to evaluate applications for clinical research fellowships, Clinical Research Enhancement Awards, and Innovative Medical Science Awards. The bill would authorize these programs from 1997 through 1999. Based on information provided by the NCRR, CBO estimates these grants would cost $3 million over the three-year period.

Titles IV, V, and VI

Loan Repayment Programs. S. 1897 would raise the maximum amount given to NIH to repay the educational loans of qualified health professionals who agree to conduct AIDS research, contraception and infertility research, and research generally as employees of NIH. The maximum loan repayment amount for clinical researchers would also be raised. The maximum loan repayment for each year of service would be increased from $20,000 to $35,000. Based on the number of researchers that would be affected by the loan repayment increase, CBO estimates increasing the maximum loan amount would cost $1 million over the three-year period. In addition, the bill would reauthorize from 1997–1999 the loan repayment program fro research with respect to AIDS. If funded at the 1996 level, CBO estimates the authorization would cost $2 million over the three-year period.

The bill would also establish a general loan repayment program. Like the other loan repayment programs, the Secretary of HHS would act through the Director of NIH and enter into agreements with qualified health professionals to conduct research identified by the Director. The Federal government would repay not more than $35,000 of the principal and interest of the educational loans of such professionals for each year of service. The loan repayment agreement would be for a minimum of two years. The bill authorizes funding for this program from 1997 through 1999. The Office of the Director projects that it would spend approximately $1.5 million per year as a result of this program. Based on this information, CBO estimates this new loan repayment program would cost $5 million over the three-year period.

S. 1897 would increase the cumulative number of contracts permitted for scholarships and loan repayments for the undergraduate scholarship program of the National Research Institutes and the loan repayment program for clinical researchers. Under current law, 50 such contracts are authorized from 1994 through 1996; the bill would increase the cumulative limit to 100 for the 1994 through 1999 period. It would also reauthorize these programs from 1997 through 1999. Based on past spending by these programs, CBO estimates that adding 50 contracts would cost $3 million over the 1997-1999 period.

AIDS Research. S. 1897 would reauthorize comprehensive AIDS research by the institutes and the AIDS emergency discretionary fund from 1997 through 1999. The emergency discretionary fund is used by the Director of the Office of AIDS Research to fund additional AIDS research the Director determines is needed. Assuming that appropriations are provided at the 1996 level adjusted for inflation, CBO estimates this provision would cost a total of $4,530 million over the three-year period.

National Research Service Awards. The bill would reauthorize the National Research Service Awards from 1997 through 1999. These awards are given for biomedical and behavioral research and training at NIH, at public and nonprofit entities, and for pre-doctoral and post-doctoral training of individuals to undertake biomedical and behavioral research. The Office of the Director estimates that NIH will spend $395 million on these awards in 1996. Assuming this level of spending adjusted for inflation, CBO estimates this provision would cost $1,265 million over the three-year period.

National Foundation for Biomedical Research. The bill would reauthorize the National Foundation of Biomedical Research, a nonprofit corporation, from 1997 through 1999. It was established by the Secretary of HHS to support NIH and advance collaboration with biomedical researchers from universities, industry, and nonprofit organizations. The foundation is currently in the initial stages of operation. NIH is requesting $200,000 for 1997 for this foundation and expects to need a similar level of funding for each of the fiscal years 1998 and 1999. Based on this information, CBO estimates the cost of this proposal would be less than $1 million over the three-year period.

National Fund for Health Research. The bill would establish the National Fund for Health Research. This fund would consist of amounts transferred to it and interest earned on it. The amount in the fund would be distributed each year to all of the research institutes and centers of NIH, provided that appropriations in that year are not less than those of the prior year. This provision would set up this account in the Treasury, but would not establish a source of funding for it. When and if a source of income is established for this trust fund, NIH would apparently have the authority to spend amounts in the fund, including interest earnings, without appropriations action. This would be direct spending, but CBO has no basis for estimating the amount of such spending until the source of revenues for the fund is established.

Pediatric Research Initiative. S. 1897 would require the Secretary to establish, within the Office of the Director of NIH, a Pediatric Research Initiative that would be headed by the Director. The initiative would encourage increased support for pediatric biomedical research within the NIH, enhance collaborative multi-disciplinary research among the institutes, increase pediatric research demonstrating how to improve the quality of children's health care while reducing cost, and develop clinical trials and information to promote the safe and effective use of prescription drugs in the pediatric population. The Director would have discretion in the allocation of assistance among the institutes, among the types of grants, and between basic and clinical research. The bill would authorize $50 million for the 1997-1999 period.

Diabetes Research. The bill would reauthorize and expand funding for the conduct and support of research related to diabetes by the NIH. The majority of this spending occurs within the National Institute of Diabetes and Digestive Kidney Diseases. S. 1897 would provide for each year from 1997 through 1999 the amount appropriated for this purpose in 1996 increased by 25 percent. In 1996, NIH spent $309 million on research related to diabetes. If appropriations are made for the full authorized amount, this research would cost $1,160 million over the three-year period.

Program for Parkinson's Disease. The bill would also require the Director of NIH to establish a program for the conduct and support of research and training concerning Parkinson's disease. The Director would coordinate research among all of the national research institutes conducting Parkinson's research and would convene a research planning conference at least every two years.

The Director would also be required to establish two grant programs pertaining to Parkinson's disease. The first would award up to 10 Core Center Grants to encourage the development of innovative multi-disciplinary research and provide training concerning Parkinson's disease. Support for a center would not be provided for a period longer than five years, but support could be extended after a review. The second grant program would support innovative proposals leading to significant breakthroughs in Parkinson's research.

S. 1897 would authorize $80 million for 1997 and such sums as necessary for 1998 and 1999 for the Parkinson's disease program. CBO estimates the cost of this provision to be $248 million over the three-year period, assuming adjustments for inflation.

7. Pay-as-you-go considerations: S. 1897 could affect direct spending by establishing the National Fund for Health Research. The bill does not establish a source of funding for it, but when and if a source of income is established, NIH would have the authority to spend amounts in the fund. Such spending would include any interest earned by the fund and would occur without appropriations action. This would be direct spending, but CBO has no basis for estimating the amount of such spending until the source of revenues for the fund is established.

8. Estimated cost to State and local governments: This bill contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) and would impose no cost on state, local, or tribal governments. Some of the funds made available by this bill for research activities would go to state and local governments, particularly public universities.

9. Estimated cost to the private sector: The bill would impose no new private-sector mandates as defined in Public Law 104-4.

10. Estimate comparison: None.

11. Previous estimate: None.

12. Estimate prepared by: Federal Cost Estimate: Cyndi Dudzinski (226-9010); Impact on State, Local, and Tribal Governments: John Patterson (225-3220); Impact on the Private Sector: Linda Bilheimer (225-2673).

13. Estimate approved by: Robert A. Sunshine, for Paul N. Van de Water, Assistant Director for Budget Analysis.•

TRIBUTE TO GEORGE SHAFFER ON COMPLETION OF HIS TERM AS PRESIDENT OF THE INDEPENDENT INSURANCE AGENTS OF AMERICA

• Mr. DOMENICI. Mr. President, I rise today to pay tribute to a fellow New Mexican and personal friend, George Shaffer of Albuquerque, who is nearing completion of his 1-year term as president of the Independent Insurance Agents of America [IIAA]. The closure of Mr. Shaffer's term as the elected leader of the Nation's largest insurance trade association will be the crowning accomplishment of a career filled with many years of distinguished service to IIAA, and to its 300,000 members across the country.

George has enjoyed an outstanding career as an independent insurance agent. After holding several elective offices in the New Mexico State association of IIAA, George became New Mexico's representative to IIAA's national board of State directors in 1982, and continued to serve in that position until 1990.

George served on IIAA's government affairs committee for 6 years, including 3 years as chairman. In 1990, IIAA presented him with its prestigious Sidney O. Smith Award, presented to an individual for excellence in government affairs activities. George was elected to IIAA's executive committee in Chicago in 1990, and was selected by his peers to become IIAA's 90th president last September in Las Vegas.

George's commitment to public service extends to his involvement in State and local community activities. He has served as a New Mexico State senator and as chairman of New Mexico's Better Business Bureau. In addition, George served a 4-year term as the lay member of the New Mexico Real Estate Commission, and for the past 16 years has served as a trustee of the Albuquerque Academy, a 6th-12th grade privately endowed school.

I congratulate my fellow New Mexican, public-spirited citizen, and friend for a job extremely well done. I am confident that George's admirable service to IIAA, his colleagues, and his fellow citizens of Albuquerque will continue well into the future.•

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar en bloc, Calendar Nos. 721 through 744, and all nominations placed on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid on the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

AIR FORCE

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John A. Gordon [redacted] United States Air Force.

The following-named officer for appointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 8036:

SURGEON GENERAL OF THE AIR FORCE

To be lieutenant general

Maj. Gen. Charles H. Roadman, II, [redacted] [redacted]

The following-named officer for appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of title 10, United States Code, sections 8374, 12201, 12204, and 12212:

To be brigadier general

Brig. Gen. Dwight M. Kealoha, USAF (Retired), [redacted] Air National Guard.

The following-named officer for appointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. William J. Donahue [redacted]

The following-named officer for appointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Normand G. Lezy [redacted]

The following-named officer for appointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. William P. Hallin [redacted]

The following-named officer for reappointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. George T. Babbitt, Jr [redacted]

The following-named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, United States Code, sections 8374, 12201, and 12212:

To be brigadier general

Col. Gerald W. Wright [redacted] Air National Guard of the United States.

ARMY

The following-named officer for appointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a) and 3036:

CHIEF OF ENGINEERS

To be lieutenant general

Maj. Gen. Joe N. Ballard [redacted]

The following-named officer for appointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Frederick E. Vollrath [redacted]

The following-named officer for appointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Edward G. Anderson III [redacted] [redacted] U.S. Army.

The following-named officer for appointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. George A. Crocker [redacted]

The following U.S. Army National Guard officers for promotion in the Reserve of the Army to the grades indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

To be major general

Brig. Gen. Frank A. Catalano, Jr. [redacted]

To be brigadier general

Col. Clarence E. Bayless, Jr. [redacted]
Col. John C. Bradberry [redacted]
Col. Roger B. Burrows [redacted]
Col. William G. Butts, Jr. [redacted]
Col. Dalton E. Diamond [redacted]
Col. George T. Garrett [redacted]
Col. Larry E. Gilman [redacted]
Col. John R. Groves, Jr. [redacted]
Col. Hugh J. Hall [redacted]
Col. Elmo C. Head, Jr. [redacted]
Col. Willie R. Johnson [redacted]
Col. Stephen D. Korenek [redacted]
Col. Bruce M. Lawlor [redacted]
Col. Paul M. Majerick [redacted]
Col. Timothy E. Neel [redacted]
Col. Jeff L. Neff [redacted]
Col. Anthony L. Olen [redacted]
Col. Terry L. Reed [redacted]
Col. Michael H. Taylor [redacted]
Col. Edwin H. Wright [redacted]

The following-named Judge Advocate General's Corps Competitive Category officers for promotion in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, United States Code, sections 611(a) and 624(c):

To be brigadier general

Col. Joseph R. Barnes [redacted]
Col. Michael J. Marchand [redacted]

The following U.S. Army National Guard officers for promotion in the Reserve of the Army to the grades indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

To be major general

Brig. Gen. Carroll D. Childers [redacted]
Brig. Gen. Cecil L. Dorten [redacted]
Brig. Gen. Clyde A. Hennies [redacted]
Brig. Gen. Warren L. Freeman [redacted]

To be brigadier general

Col. John E. Barnette [redacted]
Col. Roberto Benavides, Jr. [redacted]
Col. Ernest D. Brockman, Jr. [redacted]
Col. Danny B. Callahan [redacted]
Col. Reginald A. Centracchio [redacted]
Col. Terry J. Dorenbush [redacted]
Col. Thomas W. Eres [redacted]
Col. Edward A. Ferguson, Jr. [redacted]
Col. Gary L. Franch [redacted]
Col. Peter J. Gravett [redacted]
Col. Robert L. Halverson [redacted]
Col. Joseph G. Labrie [redacted]
Col. Bennett C. Landreneau [redacted]
Col. John W. Libby [redacted]
Col. Marianne Mathewson-Chapman [redacted]
Col. Edmond B. Nolley, Jr. [redacted]
Col. James F. Reed III [redacted]
Col. Darwin H. Simpson [redacted]
Col. Allen E. Tackett [redacted]
Col. Michael R. Van Patten [redacted]

The following-named officer for appointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code, section 3036:

SURGEON GENERAL, U.S. ARMY

To be lieutenant general

Maj. Gen. Ronald R. Blanck [redacted]

MARINE CORPS

The following-named officer for reappointment to the grade of lieutenant general in the U.S. Marine Corps while assigned to a position of importance and responsibility under the provisions of section 601, title 10, United States Code:

To be lieutenant general

Lt. Gen. Anthony C. Zinni [redacted]

NAVY

The following-named officers for promotion in the line in the Navy of the United States to the grade indicated under title 10, United States Code, section 624:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. Daniel R. Bowler, [redacted] U.S. Navy.
Capt. John E. Boyington, Jr. [redacted] U.S. Navy.
Capt. John T. Byrd [redacted] U.S. Navy.
Capt. John V. Chenevey [redacted] U.S. Navy.
Capt. Ronald L. Christenson, [redacted] U.S. Navy.
Capt. Albert T. Church III [redacted] U.S. Navy.
Capt. John P. Davis, [redacted] U.S. Navy.
Capt. Thomas J. Elliott, Jr. [redacted] U.S. Navy.
Capt. John B. Foley III [redacted] U.S. Navy.
Capt. Kevin P. Green, [redacted] U.S. Navy.
Capt. Alfred G. Harms, Jr. [redacted] U.S. Navy.
Capt. John M. Johnson [redacted] U.S. Navy.
Capt. Herbert C. Kaler [redacted] U.S. Navy.
Capt. Timothy J. Keating [redacted] U.S. Navy.
Capt. Gene R. Kendall, [redacted]
Capt. Timothy W. LaFleur [redacted]
Capt. Arthur N. Langston III, [redacted]

Capt. James W. Metzger [redacted]
Capt. David P. Polatty III [redacted]
Capt. Ronald A. Route [redacted]
Capt. Steven G. Smith [redacted]
Capt. Thomas W. Steffens [redacted]
Capt. Ralph E. Suggs [redacted]
Capt. Paul F. Sullivan [redacted]

ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

Capt. Roland B. Knapp, [redacted] U.S. Navy.
Capt. Kathleen K. Paige [redacted] U.S. Navy.

SPECIAL DUTY OFFICER (INTELLIGENCE)

To be rear admiral (lower half)

Capt. Perry M. Ratiff, [redacted] U.S. Navy.

SPECIAL DUTY OFFICER (FLEET SUPPORT)

To be rear admiral (lower half)

Capt. Jacqueline O. Allison [redacted] U.S. Navy.

The following-named officers for promotion in the line in the Navy of the United States to the grade indicated under title 10, United States Code, section 624:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. Harry M. Highfill, [redacted] U.S. Navy.
Capt. Richard J. Naughton, [redacted] U.S. Navy.
Capt. William G. Sutton [redacted] U.S. Navy.

The following-named officer for appointment to the grade of vice admiral in the U.S. Navy while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. William J. Hancock, [redacted]

The following-named officer for appointment to the grade of vice admiral in the U.S. Navy while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. William J. Fallon, [redacted]

The following-named officer for reappointment to the grade of vice admiral in the U.S. Navy while assigned to a position of importance and responsibility under title 10 United States Code, section 601:

To be vice admiral

Vice Adm. Conrad C. Lautenbacher, Jr., [redacted]

The following-named officer for promotion in the Naval Reserve of the United States to the grade indicated under title 10, United States Code, section 5912:

CIVIL ENGINEER CORPS OFFICER

To be rear admiral

Rear Adm. (lh) Thomas Joseph Gross, [redacted] U.S. Naval Reserve.

The following-named officer for promotion in the Navy of the United States to the grade indicated under title 10, United States Code, section 624:

MEDICAL CORPS

To be rear admiral (Lower Half)

Capt. Bonnie B. Potter, 9786, U.S. Navy.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Jeffrey I. Roller, and ending David B. Porter, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 1996.

Air Force nominations beginning Michael P. Allison, and ending John P. Smail, which nominations were received by the Senate and appeared in the Congressional Record of July 29, 1996.

Air Force nominations beginning John W. Baker, and ending Laurie L. Yankosky, which nominations were received by the Senate and appeared in the Congressional Record of July 29, 1996.

Air Force nomination of Edgar W. Hatcher, which was received by the Senate and appeared in the Congressional Record of September 3, 1996.

Air Force nominations beginning Malcolm N. Joseph III, and ending Etienne I. Tormos, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1996.

Air Force nominations beginning John W. Amshoff, Jr., and ending Salvatore J. Lombardi, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1996.

Air Force nominations beginning Johnny R. Almond, and ending Herbert R. Zucker, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1996.

Army nominations beginning *Anthony J. Abati, and ending 2425x, which nominations were received by the Senate and appeared in the Congressional Record of July 11, 1996.

Army nomination of Donald G. Higgins, which was received by the Senate and appeared in the Congressional Record of July 17, 1996.

Army nominations beginning Robert M. Carrothers, and ending Jeffrey T. Weller, which nominations were received by the Senate and appeared in the Congressional Record of July 19, 1996.

Army nominations beginning James R. Barr, and ending Michael D. Moser, which nominations were received by the Senate and appeared in the Congressional Record of July 19, 1996.

Army nominations of Col. George B. Forsythe, which was received by the Senate and appeared in the Congressional Record of September 3, 1996.

Marine Corps nominations of George W. Simmons, which was received by the Senate and appeared in the Congressional Record of May 22, 1996.

Marine Corps nominations beginning Robert E. Carney, and ending William P. Schulz, Jr., which nominations were received by the Senate and appeared in the Congressional Record of July 29, 1996.

Marine Corps nominations beginning Craig T. Boddington, and ending Frederick B. Witesman II, which nominations were received by the Senate and appeared in the Congressional Record of July 29, 1996.

Marine Corps nominations beginning Gary J. Couch, and ending Joel G. Ogren, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1996.

Marine Corps nominations beginning Ralph P. Dorn, and ending Michael F. Kenny, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1996.

Marine Corps nomination of John C. Sumner, which was received by the Senate and appeared in the Congressional Record of September 3, 1996.

Marine Corps nominations beginning Michael G. Alexander, and ending Joyce V. Woods, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1996.

Marine Corps nominations beginning James R. Adams, and ending John H. Williams, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1996.

Marine Corps nominations beginning Timothy Foley, and ending Micheal J. Colburn, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1996.

Navy nominations beginning Aaron C. Flannery, and ending James M. Ingalls, which nominations were received by the Senate and appeared in the Congressional Record of December 11, 1995.

Navy nomination of John L. Wilson, which was received by the Senate and appeared in the Congressional Record of September 3, 1996.

Navy nomination of Eric L. Pagenkopf, which was received by the Senate and appeared in the Congressional Record of September 3, 1996.

Navy nominations beginning Daniel C. Alder, and ending Terrance L. Nicholls, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1996.

Navy nominations beginning James C. Ackley, and ending Albert F. Vandervoort, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1996.

Navy nominations beginning Gregorio A. Abad, and ending Robert E. Zulick, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1996.

Navy nominations beginning Robert E. Aguirre, and ending Kurt D. Sisson, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1996.

Navy nominations beginning David W. Anderson, and ending Jerome J. Squatrito, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1996.

NOMINATION OF COLONEL ALLEN E. TACKETT

Mr. BYRD. Mr. President, I am pleased that the President has nominated Colonel Allen E. Tackett for the rank of Brigadier General. Colonel Tackett, a resident of Miami, West Virginia, graduated from East Bank High School and earned a Bachelor of Arts from the University of Charleston, Charleston, West Virginia.

Colonel Tackett currently serves as the Adjutant General, West Virginia National Guard, headquartered in Charleston. Prior to this, he held many demanding and key positions, before assuming his prestigious command of nearly six thousand men and women serving in the West Virginia National Guard.

At present, Colonel Tackett has over 32 years of dedicated service in the National Guard, to our country and the State of West Virginia. He earned a commission in June, 1967, from Infantry Officer Candidate School, at Fort Benning, Georgia. Colonel Tackett is a military graduate of the Special Warfare Center, Jumpmaster Course, Infantry Officer Basic and Advanced Courses, Command and General Staff College, and the Special Warfare Center, Techniques of Special Operations.

Colonel Tackett's major decorations include the Meritorious Service Medal, Army Commendation Medal, Army Achievement Medal, National Defense Medal, Humanitarian Service Medal and the Armed Forces Reserve Medal. He was awarded, through rigorous training and proven proficiency, the coveted Special Forces Tab and Master Parachutist Badge.

Mr. President, I am pleased to cast my vote for the confirmation of Colonel Allen E. Tackett as Brigadier General, and I urge my colleagues to support this nomination.

NOMINATION OF COLONEL JOHN E. BARNETTE

Mr. BYRD. Mr. President, I am pleased that the President has nominated Colonel John E. Barnette for the rank of Brigadier General. Colonel Barnette, a native of Princeton, West Virginia, earned an undergraduate degree from West Virginia State College, a master's degree from West Virginia College of Graduate Studies, and a Doctoral degree from West Virginia University.

Colonel Barnette has held many responsible positions within the West Virginia Army National Guard since he was commissioned in July, 1969, from Officer Candidate School, West Virginia Military Academy. Most recently, he has been assigned as the Assistant Adjutant General (Army) of the West Virginia National Guard, headquartered in Charleston.

Prior to his current assignment, Colonel Barnette served as the West Virginia Deputy State Area Commander, West Virginia Army National Guard.

Colonel Barnette has over 28 years of dedicated service in the National Guard. He is a graduate of the Armored Officer's Basic and Advanced Courses and the Command and General Staff College. Colonel Barnette's major decorations include the Meritorious Service Medal, Army Commendation Medal, National Defense Service Medal, Army Reserve Component Achievement Medal and the Humanitarian Service Medal.

Mr. President, I am pleased to cast my vote for the confirmation of Colonel John E. Barnette as Brigadier General, and I urge my colleagues to support this nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

CROW CREEK SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND ACT OF 1996

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 587, H.R. 2512.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2512) to provide for certain benefits of the Pick-Sloan Missouri River basin program to the Crow Creek Sioux Tribe, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

H.R. 2512

Mr. MCCAIN. Mr. President, I am pleased to rise in support of H.R. 2512, the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996. This bill provides for the long-delayed fulfillment of promises made by Congress to the Crow Creek Sioux Tribe of South Dakota. These promises were for compensation for the impacts on the Tribe that resulted from the inundation of more than 15,000 acres of the best land on the Crow Creek reservation, including the relocation of Fort Thompson, the principal community on the reservation. The inundation was caused by the construction of Fort Randall and Big Bend dams on the Missouri River pursuant to the Flood Control Act of 1944, otherwise known as the Missouri River Basin Pick-Sloan Project.

H.R. 2512 provides for creation of a trust fund in the United States Treasury for the benefit of the Crow Creek Sioux Tribe that would be funded with $27,500,000 from receipts of deposits from the Pick-Sloan power program of the Western Area Power Administration. Only the interest on the fund would be made available to the Tribe, without fiscal year limitations, to spend on implementing a plan for socioeconomic recovery and cultural preservation. This plan will include a variety of infrastruture and related projects that Congress in 1962 directed the Interior Department and the United States Corps of Engineers to provide to the Tribe, but which were either inadequately provided or not provided at all. Among these projects is a high school, a water system, and a community center with a gymnasium and auditorium.

The Committee on Indian Affairs and the House Resources Committee conducted a joint hearing on H.R. 2512 and on a Senate companion bill, S. 1264. The record of that hearing includes extensive historical information on the Big Bend and Fort Randall dam projects, the commitments made by the United States to the Crow Creek Tribe for compensation with respect to these projects, and the extent to which those commitments were not fulfilled. The record is clear that the additional compensation that would be provided by H.R. 2512 is not only well-justified but also long overdue.

It should be noted that the Crow Creek trust fund that would be provided by this legislation is proportionate to trust funds established by Congress in 1992 for the Standing Rock Sioux and Fort Berthold Tribes. The 1992 Standing Rock and Fort Berthold legislation was enacted based on the findings and recommendations of a congressionally mandated joint tribal-Federal task force. This task force studied the impacts of the construction of Oahe and Garrison dams on the Standing Rock and Fort Berthold Reservations, including the inundation of a combined total of more than 200,000 acres of the best lands on those reservations.

Mr. President, the construction of huge, multipurpose dam projects by the Corps of Engineers and the Bureau of Reclamation earlier in this century brought major economic and other benefits to large numbers of people and interests in various parts of the United States. However, these benefits often came at a very high price to others. In the case of the dam projects authorized under the Pick-Sloan Project, the greatest price was paid by Indian tribes whose reservations lie along the Missouri River in North and South Dakota. These tribes saw much of their best farm land flooded, long-established communities relocated, families disrupted, and a way of life changed forever. The human price they paid is beyond calculation.

Regrettably, the conduct of the agencies of the United States government, including the Congress, with respect to the Indian tribes affected by Pick-Sloan Project construction often did not live up to the fair and honorable dealings standard that the tribes had a right and reason to expect from the United States as their trustee. In light of the well-documented history of this conduct with respect to the Crow Creek Sioux Tribe, I believe that enacting H.R. 2512 is a fair and honorable course for this Congress to take.

Mr. President, this legislation is supported by the State of South Dakota, its congressional delegation, and the Administration, in addition to the Crow Creek Sioux Tribe. The House recently passed H.R. 2512 by voice vote, and the Committee on Indian Affairs has favorably reported companion legislation to the Senate. Accordingly, I strongly urge the Senate to pass H.R. 2512 and send it to the President for signature.

Mr. DASCHLE. Mr. President, I am very pleased that the Senate is considering the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1995. This measure, which is sponsored by Congressman TIM JOHNSON, is very important to South Dakota and the Crow Creek Tribe. I commend the Senate Indian Affairs Committee for its leadership in promoting the bill's companion measure, S. 1264, which I introduced. I also want to publicly thank the members of the Crow Creek Tribe for their many years of hard work. The tribe has worked closely with Congressman JOHNSON and I to shape this legislation that will help realize, at long last, the goals outlined in the Big Bend Act over 30 years ago.

This bill will provide for the development of certain tribal infrastructure projects funded by a trust fund set up for the Crow Creek Tribe within the Department of the Treasury. The trust fund would be capitalized within 1 to 2 years from a percentage of hydropower revenues and would be capped at $27.5 million. The tribe would then receive the interest from the fund and use it for economic development purposes according to a plan prepared in conjunction with the Bureau of Indian Affairs and the Indian Health Service.

It is instructive to review the long historic journey that has brought us to this point. The Flood Control Act of 1944 created five massive earthen dams on the Missouri River. This public works project, known as the Pick-Sloan Plan, provides the region with flood control, irrigation and hydropower. Four of the Pick-Sloan dams are located in South Dakota.

The impact of the Pick-Sloan plan on the Crow Creek Sioux Tribe has been devastating. The Big Bend and Fort Randall dams created losses to the Crow Creek Tribe for which they have not been adequately compensated. Over 15,000 acres of the tribe's most fertile and productive land, the Missouri River wooded bottomlands, were inundated as a result of the Fort Randall and Big Bend components of the Pick-Sloan project.

By and through the Big Bend Act of 1962, Congress directed the U.S. Army Corps of Engineers and the Department of the Interior to take certain actions to alleviate the problems caused by the dislocation of communities and inundation of tribal resources. These directives were either carried out inadequately or not carried out at all.

Congress established precedent for H.R. 2512 in 1992 with the passage of the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act, which I cosponsored. At that time, Congress determined that the U.S. Army Corps of Engineers had failed to provide adequate compensation to the tribes when their land was acquired for the Pick-Sloan projects. There is little question that the tribes bore an inordinate share of the cost of implementing the Pick-Sloan program. The Secretary of the Interior established the Joint Tribal Advisory Committee to resolve the inequities and find ways to finance the compensation of tribal claims. As a result, the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act set up a recovery fund financed entirely from a percentage of Pick-Sloan power revenues.

The Crow Creek Sioux Tribe Infrastructure Development Fund Act of 1995 is the next step in honoring commitments made when the Pick-Sloan dams were constructed in a fiscally sound manner while giving local entites the latitude to determine their own development priorities. This legislation not only benefits the tribe, but the entire State of South Dakota, since a sound infrastructure is essential to regional economic development.

This legislation has broad support in South Dakota. Gov. Bill Janklow strongly endorses this proposal to develop the infrastructure at the Crow Creek Indian reservation.

Mr. President, the impact of the Pick-Sloan projects have been devastating to other Missouri River tribes as well. I look forward to working with the Lower Brule Sioux Tribe and the Cheyenne River Sioux Tribe to address their claims.

Mr. STEVENS. Mr. President, I ask unanimous consent the bill be deemed read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2512) was deemed read a third time and passed.

UTAH SCHOOLS AND LANDS IMPROVEMENT ACT AMENDMENTS

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 558, H.R. 2464.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2464) to amend Public Law 103–93 to provide additional land within the State of Utah for the Indian reservation and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I am pleased to rise in support of H.R. 2464, a bill to amend Public Law 103–93 to add certain State and Federal lands to the Goshute Indian Reservation in Utah.

Public Law 103–93 authorizes the Secretary of the Interior to acquire about 200,000 acres of Utah school trust land located within the boundaries of national parks, forests, and Indian reservations in Utah. In exchange, the school trust will receive other Federal land and mineral rights of equal value.

H.R. 2464 amends the 1993 act to make an additional 7,000 acres of State land eligible for exchange for Federal lands or interests of equal value and their addition in trust to the Goshute Reservation. The bill also provides for about 1,280 acres of Federal land and mineral interests to be added to the reservation.

The addition of these lands to the Goshute Reservation will provide a more clearly defined and manageable reservation boundary. This will greatly improve the tribe's ability to deal with poaching, trespassing, and other problems along the reservation boundary.

Enactment of the legislation will also further assist the State of Utah and the Federal Government in consolidating their respective landholdings and thus contribute to more effective, environmentally responsible land management.

The Committee on Indian Affairs held a hearing on H.R. 2464 in July of this year. Hearing testimony established that the bill is without controversy and clearly in the beneficial interest of the Goshute Tribe, the State of Utah, and the United States. The Congressional Budget Office subsequently reported that enactment of the bill would have no significant impact on the Federal budget, nor would it affect direct spending or receipts.

I commend Utah's Senators ORRIN HATCH and ROBERT BENNETT for their cooperative efforts with the tribe, the State, and the administration that led to development of H.R. 2464 and its Senate counterpart, S. 1766.

Mr. President, H.R. 2464 is meritorious legislation, and I urge its passage by the Senate.

Mr. HATCH. Mr. President, I am delighted the Senate has scheduled consideration of H.R. 2464.

This legislation amends the Utah Schools and Lands Improvement Act of 1993 (Public Law 103–93) which provides a vehicle by which school trust lands located within Federal reservations in Utah—such as national parks, national forests, wilderness, and Indian reservations—could be exchanged for lands located elsewhere in Utah.

The act helps to ensure that Utah's schools receive the full and intended benefit of the trust lands by resolving Federal and State land management problems resulting from interspersed land ownership within Utah.

H.R. 2464 would amend the 1993 act to provide for the exchange of approximately 8,000 acres of additional State land, located within the Goshute Reservation boundaries, for Federal lands, or interests, of equal value.

The Goshute Tribe's reservation is located in a remote valley southwest of the Great Salt Lake and astride the border between Utah and Nevada with approximately half of the reservation within each State.

This bill will resolve a long standing problem associated with the southern boundary of the tribe's reservation. When Congress initially considered Public Law 103–93, the Goshute Tribe requested a resolution of the irregular configuration on the reservation's southern boundary. The irregular configuration and remote location of about 8,000 acres of land along that boundary make proper land management virtually impossible. In fact, the State of Utah, the Bureau of Land Management and the tribe have been unable to prevent trespassing and poaching in this area.

This measure will improve the tribe's ability to manage and preserve that land.

H.R. 2464 was introduced in the House by my good friend Congressman JIM HANSEN of Utah, and has wide support from many diverse groups including the Bureau of Land Management, the State of Utah, the Goshute Tribe, Juab County, and the Utah Wilderness Coalition.

This legislation is very important to the people of Utah—to our school system—and to the tribal members of the Goshute Tribe.

I urge my colleagues in the Senate to support its passage.

Mr. MURKOWSKI. I would like to ask my friend, the Senator from Arizona [Mr. MCCAIN], the Chairman of the Committee on Indian Affairs, if he would engage in a colloquy with me and the Senator from Idaho [Mr. CRAIG], the chairman of the Subcommittee on Forests and Public Land Management, on the bill H.R. 2464?

Mr. McCAIN. I will be pleased to have a colloquy with the Senator from Alaska and the Senator from Idaho.

Mr. MURKOWSKI. I thank the Senator. As he knows, H.R. 2464 amends the Utah Schools and Lands Improvement Act of 1993, an Act which, in the 103rd Congress, was considered exclusively by the Committee on Energy and Natural Resources.

I was therefore surprised to learn that on May 15th of this year the Parliamentarian referred H.R. 2464 to the Committee on Indian Affairs. I was further surprised to learn that on the very next day, May 16th, the Parliamentarian referred an identical Senate bill, S. 1766, introduced by our colleague, Senator BENNETT, to the Committee on Energy and Natural Resources, which then referred it to Senator CRAIG's Subcommittee.

So I ask my friend, the Chairman of the Committee on Indian Affairs, whether he would agree with me and Senator CRAIG that it would have been appropriate for the Parliamentarian to refer H.R. 2464 to the Committee on Energy and Natural Resources?

Mr. McCAIN. I agree with the Senators from Alaska and Idaho that referral of H.R. 2464 to the Committee on Energy and Natural Resources would have been appropriate. The rules of the Senate are clear that issues pertaining to the management of the public lands are within the jurisdiction of the Committee on Energy and Natural Resources.

I note, however, that both the 1993 Act and H.R. 2464 include provisions that deal with the issue of adding land in trust to Indian reservations in Utah. Would the Chairman of the Energy Committee agree with me that, with respect to this issue, referral of the legislation to the Committee on Indian Affairs is appropriate?

Mr. MURKOWSKI. I agree with the Senator from Arizona.

Mr. McCAIN. I thank the Senator. As he knows, the Committee on Indian Affairs held a hearing on H.R. 2464. The Committee found that the authority the bill would provide for addressing reservation boundary-related problems is appropriate and necessary and very important to the Goshute Indian Tribe. The Committee supports this meritorious and noncontroversial legislation.

Mr. MURKOWSKI. I thank the Senator from Arizona for his statement.

Mr. CRAIG. I am pleased to add that we have looked at the hearing record and the report of the Committee on Indian Affairs on H.R. 2464. The Subcommittee has reviewed the bill, and I am confident that had we had more time this session, we would have reported it favorably. We have no problems with the bill as reported by the Committee on Indian Affairs.

I see no reason for further consideration of the legislation by the Subcommittee on Forests and Public Lands or the Full Committee on Energy and Natural Resources.

Mr. MURKOWSKI. I concur with the Senator from Idaho, and I thank the Senator from Arizona for his Committee's expeditious work on this legislation. I am pleased to join with him in urging that it be passed.

Mr. STEVENS. Mr. President, I ask unanimous consent the bill be deemed read for a third time, passed, the motion to reconsider be laid on the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2464) was deemed read a third time and passed.

INDIAN HEALTH CARE IMPROVEMENT TECHNICAL CORRECTIONS ACT OF 1996

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate turn now to the immediate consideration of Calendar No. 577, H.R. 3378.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3378) to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and other third-party payors.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5392

(Purpose: To provide a substitute)

Mr. STEVENS. Mr. President, Senator MCCAIN has a substitute amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. MCCAIN, proposes an amendment numbered 5392.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Indian Health Care Improvement Technical Corrections Act of 1996".

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act.

SEC. 2. TECHNICAL CORRECTIONS IN THE INDIAN HEALTH CARE IMPROVEMENT ACT.

(a) DEFINITION OF HEALTH PROFESSION.—Section 4(n) (25 U.S.C. 1603(n)) is amended—

(1) by inserting "allopathic medicine," before "family medicine"; and

(2) by striking "and allied health professions" and inserting "an allied health profession, or any other health profession".

(b) INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.—Section 104(b) of the Indian Health Care Improvement Act (25 U.S.C. 1613a(b)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking the matter preceding clause (i) and inserting the following:

"(3)(A) The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C. 2541) that an individual has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice, by service—";

(ii) by striking "or" at the end of clause (iii);

(iii) by striking the period at the end of clause (iv) and inserting "; or"; and

(iv) by adding at the end the following new clause:

"(v) in an academic setting (including a program that receives funding under section 102, 112, or 114, or any other academic setting that the Secretary, acting through the Service, determines to be appropriate for the purposes of this clause) in which the major duties and responsibilities of the recipient are the recruitment and training of Indian health professionals in the discipline of that recipient in a manner consistent with the purpose of this title, as specified in section 101.";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) At the request of any individual who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

"(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

"(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

"(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (v) of subparagraph (A).";

(D) in subparagraph (C), as so redesignated, by striking "prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) by service in a program specified in subparagraph (A)" and inserting "described in subparagraph (A) by service in a program specified in that subparagraph"; and

(E) in subparagraph (D), as so redesignated—

(i) by striking "Subject to subparagraph (B)," and inserting "Subject to subparagraph (C),"; and

(ii) by striking "prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m)" and inserting "described in subparagraph (A)";

(2) in paragraph (4)—

(A) in subparagraph (B), by striking the matter preceding clause (i) and inserting the following:

"(B) the period of obligated service described in paragraph (3)(A) shall be equal to the greater of—"; and

(B) in subparagraph (C), by striking "(42 U.S.C. 254m(g)(1)(B))" and inserting "(42 U.S.C. 254l(g)(1)(B))"; and

(3) in paragraph (5), by adding at the end the following new subparagraphs:

"(C) Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

"(D) The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary determines that—

"(i) it is not possible for the recipient to meet that obligation or make that payment;

"(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

"(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

"(E) Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

"(F) Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.".

(c) CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM.—Section 211(g) (25 U.S.C. 1621j(g)) is amended by striking "1993, 1994, 1995, 1996, and 1997" and inserting "1996 through 2000".

(d) EXTENSION OF CERTAIN DEMONSTRATION PROGRAM.—Section 405(c)(2) (25 U.S.C. 1645(c)(2)) is amended by striking "September 30, 1996" and inserting "September 30, 1998".

(e) GALLUP ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTER.—Section 706(d) (25 U.S.C. 1665e(d)) is amended to read as follows:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each of fiscal years 1996 through 2000, such sums as may be necessary to carry out subsection (b).".

(f) SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROGRAM.—Section 711(h) (25 U.S.C. 1665j(h)) is amended by striking "1993, 1994, 1995, 1996, and 1997" and inserting "1996 through 2000".

(g) HOME AND COMMUNITY-BASED CARE DEMONSTRATION PROGRAM.—Section 821(i) (25 U.S.C. 1680k(i)) is amended by striking "1993, 1994, 1995, 1996, and 1997" and inserting "1996 through 2000".

Mr. McCAIN. Mr. President, I rise today in support of H.R. 3378, a bill to amend the Indian Health Care Improvement Act to extend the authorization of the Indian health demonstration program for direct billing of Medicare, Medicaid and other third party payors. I am pleased to support the House-passed provisions of H.R. 3378 and to offer a substitute amendment that will make additional technical corrections to the Indian Health Care Improvement Act and reauthorize additional Indian health demonstration programs.

Mr. President, approximately 20 years ago, the Congress enacted the Indian Health Care Improvement Act to meet the fundamental trust obligation of the United States to ensure that comprehensive health care would be provided to American Indians and Alaska Natives. Despite advances achieved through the implementation of the act, the health status of Indian people remains far below that of the national population.

The Indian Health Service, as the lead agency responsible for administering programs under the act, has identified several areas where the act requires modification to fulfill its intended purpose. The substitute amendment I have proposed incorporates those amendments to the act to allow maximum flexibility in the delivery of health services to American Indians and Alaska Natives.

First, the substitute amendment clarifies certain provisions in order to allow greater flexibility to the IHS in administering IHS scholarships and programs. The amendment modifies the definition of Health Profession in section 4(n) to include "allopathic medicine" in order to provide more flexibility to the IHS in awarding scholarship assistance to individuals enrolled in health degree professions. Prior to the 1992 amendments, individuals studying disciplines such as allopathic medicine were eligible to receive IHS assistance. Because the 1992 amendments omitted this reference, many individuals were denied eligibility for scholarship assistance. This amendment restores their eligibility for scholarship funds and fulfills the act's intent.

Next, the amendment also clarifies certain provisions under section 104(b), the Indian Health Professions Scholarship, to clarify the authority of the Secretary of the Department of Health and Human Services to waive or defer service or payment obligations of Indian health professionals under specified circumstances. Many requirements for a degree in the health professions include an internship, residency, or other advanced clinical program. The substitute amendment would clarify the authority of the Secretary to defer a scholarship recipient's service or repayment obligation until the recipient has completed his or her education program.

The Indian Health Care Improvement Act also authorizes several innovative demonstration projects to increase and improve services to Indian communities and to serve as models to be replicated on other reservations. The substitute amendment includes the extension for the Indian Health Medicare/Medicaid Program, as provided for in H.R. 3378, and reauthorizes several additional programs through the year 2000. Several of these demonstration projects, including the California Contract Health Services Demonstration Program, the Gallup Alcohol and Substance Abuse Demonstration Program, the Substance Abuse Counselor Education Demonstration Program and the Home and Community Based Care Demonstration Program, are due to sunset in this fiscal year.

The California Contract Health Services Demonstration Program authorizes the California Rural Indian Health Board to act as a contract care intermediary to improve the accessibility of health services to California Indians. The program has successfully enabled tribal programs to provide in-patient services and prevent high-cost cases from devastating many small tribal health programs in California. It is estimated that 41 percent of the California tribes participate in this program.

The Home and Community Based Care Demonstration Program authorizes Indian tribes to enter into contracts to establish demonstration projects for the delivery of home and community based services to functionally-disabled Indians. The Substance Abuse Counselor Education Demonstration Project authorizes the IHS to enter into contracts with, or make grants to, colleges, universities and tribally-controlled community colleges to develop educational curricula for substance abuse counseling.

The Gallup Alcohol and Substance Abuse Treatment Program has funded residential treatment for alcohol and substance abuse at the Navajo Adult Rehabilitation Demonstration Project. The grant program has also funded a protective custody program for alcohol abuse offenders at the Gallup Crisis Center. These programs are unique to the Navajo Nation area and provide valuable services as a community-based outpatient program.

Finally, the substitute amendment includes the House-passed language to extend the authorization for the Medicare/Medicaid Demonstration Program. This program allows four tribal health contract operators to directly bill and collect Medicare/Medicaid payments rather than operate through the current system of channeling payments through the IHS. The four participating Indian tribes include Mississippi Band of Choctaw Indians, Bristol Bay Area Health Corporation of Alaska, Choctaw Tribe of Oklahoma and South East Alaska Regional Health Consortium. The Medicare/Medicaid Demonstration Program has been a highly successful program for the participating tribes and the IHS, who have reported significantly increased collections for Medicare/Medicaid services and greater efficiency in the billing/payments process.

In an interim report on this program, Secretary Shalala of the Department of Health and Human Services describes the remarkable increase in Medicare and Medicaid collections by tribal health providers achieved through this program. For example, through the demonstration program, the Mississippi Band of Choctaw Indians has doubled its Medicare and Medicaid collections, which has led to further improvements to the overall quality of health care provided to its members. The Bristol Bay Area Health Corporation of Alaska has been able to expand its health care, disease prevention and health education services to an additional 32 villages in Alaska. The Southeast Alaska Regional Health Corporation reported a 600 percent increase in Medicaid collections during the first 2 years of the pilot project. This funding increase has allowed the Southeast Alaska Regional Health Corporation to upgrade its health care facilities and achieve "Accreditation with Commendation" from the Joint Commission on Accreditation of Healthcare Organizations. Unless this program is reauthorized, these tribal health facilities will be forced to return to the IHS-managed collection system and forego much of the progress that has been achieved. Based on the record of success of this program, I am pleased that my colleagues support the extension of this program for 2 years.

Mr. President, the changes I am proposing in this substitute amendment will bring us closer to meeting the goals of the Indian Health Care Improvement Act to raise the health status of Indian people and to ensure the continuation of several important Indian health care programs. The changes I have proposed in the substitute amendment have been cleared by the respective Committees of jurisdiction in the House of Representatives. I thank my colleagues for their support in passing this important legislation.

Mr. STEVENS. I ask unanimous consent that the amendment be agreed to, the bill be deemed read for a third time, passed, the motion to reconsider be laid on the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5392) was agreed to.

The bill (H.R. 3378), as amended, was agreed to.

INDIAN REORGANIZATION ACT AMENDMENTS

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate turn to immediate consideration of Calendar No. 573, H.R. 3068.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3068) to accept the request of the Prairie Island Indian Community to revoke their charter of incorporation issued under the Indian Reorganization Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. REVOCATION OF CHARTER OF INCORPORATION OF THE PRAIRIE ISLAND INDIAN COMMUNITY UNDER THE INDIAN REORGANIZATION ACT.

(a) ACCEPTANCE OF REQUEST TO REVOKE CHARTER.—The request of the Prairie Island Indian Community to surrender the charter of incorporation issued to that community on July 23, 1937, pursuant to section 17 of the Act of June 18, 1934, commonly known as the "Indian Reorganization Act" (48 Stat. 988, chapter 576; 25 U.S.C. 477) is hereby accepted.

(b) REVOCATION OF CHARTER.—The charter of incorporation referred to in subsection (a) is hereby revoked.

SEC. 2. AMENDMENT TO THE JICARILLA APACHE TRIBE WATER RIGHTS SETTLEMENT ACT.

Section 8(e)(3) The Jicarilla Apache Tribe Water Rights Settlement Act (106 Stat. 2241) is amended by striking "December 31, 1996" and inserting "December 31, 1998".

SEC. 3. AMENDMENT TO THE SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1992.

Section 3711(b)(1) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (106 Stat. 4752) is amended by striking "December 31, 1996" and inserting "June 30, 1997".

Mr. McCAIN. Mr.President, I am pleased to rise in support of H.R. 3068 and to urge its passage by the Senate.

The primary purpose of this legislation is to accept the request of the Prairie Island Indian Community of Minnesota to revoke the Federal charter of incorporation issued to the Community pursuant to the Indian Reorganization Act of 1934.

The Prairie Island Indian Community is organized under a Constitution and Bylaws adopted by the Community in 1936 pursuant to section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. 476). Article V of the Prairie Island Constitution, which enumerates the powers of the Community's Council, includes a provision that allows the Council to manage economic affairs and enterprises in accordance with the terms of a charter which may be issued to the Community by the Secretary of the Interior pursuant to section 17 of the Indian Reorganization Act. In 1937, the Secretary issued such a Federal charter to the Community.

For 60 years, the Prairie Island Community has relied upon the authorities of its Constitution and Bylaws for the operation of its government and for the operation of its business enterprises. Article V of the Constitution specifically provides authority for the Community to regulate the conduct of trade and the use and disposal of property on the reservation, as well as to charter subordinate organizations for economic purposes and to regulate the activities of such organizations.

The Community has come to view the 1937 charter, which hasn't been amended since it was issued, as outdated, cumbersome, and unnecessary to their efforts to operate successful business enterprises and become economically self-sufficient. Some charter provisions, such as one that precludes the Community from contracting for amounts in excess of $100 without approval by the Secretary of the Interior, are seen as particularly paternalistic and inappropriate for effective management of tribal resources. Accordingly, the Community has requested that the charter be revoked.

H.R. 3068 accepts the request of the Prairie Island Indian Community that its Federal charter of incorporation be revoked and declares the charter to be revoked. Legislation is needed because Amendment 10 of the charter states that the charter can be revoked only by an Act of Congress.

The Committee on Indian Affairs adopted an amendment in the nature of a substitute to H.R. 3068 that retains the unamended text of H.R. 3068, as passed by the House of Representatives, and adds two new sections that extend the deadlines for completion of two Indian water rights settlements enacted by the Congress in 1992.

The first new section extends until December 31, 1998, the deadline for completion of all requirements necessary to effect the Jicarilla Apache Tribe Water Rights Settlement Act of 1992. The availability to the Tribe of settlement funds and water from two Federal water projects in New Mexico is contingent upon dismissal of actions by the Tribe against the United States in Federal courts and a waiver of the Tribe's reserved water rights claims in general stream adjudications in state courts involving claims to the waters of the San Juan River and its tributaries and the Rio Chama and its tributaries. The 1992 Act requires partial final decrees agreed to by the United States, the Tribe, and the State of New Mexico to be entered into by December 31, 1996. However, this deadline cannot be met, due primarily to unforseen delays in the necessary state court proceedings to consider the settlement. Accordingly, the Tribe, the State of New Mexico, and the Administration support an extension of the 1992 Act's deadline in order to preserve the benefits of the settlement to all parties.

The second new section extends until June 30, 1997, the deadline for completion of all requirements necessary to effect the San Carlos Apache Tribe Water Rights Settlement Act of 1992. This extension is intended to provide the Tribe and the Phelps Dodge Corporation, and the Tribe and the city of Globe, Arizona, additional time to reach bilateral agreements that would be included as part of the overall Settlement Agreement that the Congress ratified in the 1992 Act. The relatively short time period is intended to ensure that the parties remain diligent in pursuing a final resolution of the issues between them. The Tribe, Phelps Dodge, Globe, and all other parties to the settlement, including the Administration, support this extension. The Committee recognizes that, in the event agreements are reached within the time provided by the amendment, an additional extension of time will be needed for the Arizona courts to consider the settlement in the context of the ongoing general stream adjudication of the waters of the Gila River basin.

Mr. President, by accepting the request of the Prairie Island Indian Community regarding its charter, H.R. 3068 demonstrates the Congress' respect for tribal self-government and tribal sovereignty. The amendments to the bill that provide extensions of time for completing two complex water settlements already approved and funded by Congress must be enacted if we are to preserve the benefits of those settlements for all parties involved, including the United States.

Mr. President, H.R. 3068 is extremely important legislation that is without controversy or opposition. The Congressional Budget Office reports that enactment of the bill will not effect direct spending nor create any pay-as-you-go problems. Accordingly, I strongly urge the Senate to pass H.R. 3068 and send it to the President.

Mr. STEVENS. Mr. President, I ask unanimous consent the committee amendment be agreed to, the bill be deemed read for a third time, passed, the motion to reconsider be laid on the table and any statements relating to the bill be placed at an appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (H.R. 3068), as amended, was deemed read for a third time and passed.

WITNESS RETALIATION, WITNESS TAMPERING AND JURY TAMPERING AMENDMENTS

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar 430, H.R. 3120.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3120) to amend title 18, United States Code, with respect to witness retaliation, witness tampering and jury tampering.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent the bill be deemed read for a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3120) was deemed read for a third time and passed.

CRAWFORD NATIONAL FISH HATCHERY CONVEYANCE ACT

Mr. STEVENS. Mr. President, I ask unanimous consent the Environment and Public Works Committee be discharged of H.R. 3287, and further that the Senate proceed now to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3287) to direct the Secretary of the Interior to convey the Crawford National Fish Hatchery to the city of Crawford, Nebraska.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3287) was deemed read for a third time and passed.

CARBON HILL NATIONAL FISH HATCHERY CONVEYANCE ACT

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar 462, H.R. 2982.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2982) to direct the Secretary of the Interior to convey the Carbon Hill National Fish Hatchery to the State of Alabama.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. I ask unanimous consent the bill be deemed read for a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

The bill (H.R. 2982) was deemed read for a third time and passed.

APPOINTMENT OF CONFEREES—H.R. 3539

The PRESIDING OFFICER. Pursuant to the order of the Senate on September 18, 1996, the Chair appoints the following conferees to H.R. 3539.

The Presiding Officer appointed Mr. PRESSLER, Mr. STEVENS, Mr. MCCAIN, Mr. HOLLINGS, and Mr. FORD conferees on the part of the Senate.

ORDERS FOR FRIDAY, SEPTEMBER 20, 1996

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Friday, September 20; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired and the time for the two leaders be reserved for their use later in the day and the Senate immediately resume consideration of H.R. 1350, the pending legislation, the maritime bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I further ask unanimous consent that the time between 9:30 a.m. and 10 a.m. be equally divided in the usual form prior to a vote on the motion to table the

Grassley amendment to occur at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. STEVENS. Mr. President, tomorrow morning at 10 a.m., the Senate will vote on or in relation to the Grassley amendment to the maritime bill. Other rollcall votes are possible on the remaining amendments to the maritime bill. It is hoped that a unanimous-consent agreement regarding the maritime bill can be reached tomorrow morning which would allow Members to know the voting schedule for the remainder of Friday's session. The Senate may also be asked to turn to consideration of any other items cleared for action.

ORDER FOR ADJOURNMENT

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment, in accordance with the previous order, following the remarks of Senator GRASSLEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

THE NEED FOR COHERENT DRUG POLICY

Mr. GRASSLEY. Mr. President, for my colleagues who may have missed the information during the August break, or the news since, the latest household survey numbers on drug use are out. For anyone concerned about drug use in this country, those numbers tell a depressing story. The story is quite simply this: more kids are using more drugs. Put what gloss you want on the numbers, the depressing fact is, we are in the midst of a new drug crisis.

There are five major surveys of drug use in this country. These include the Drug Abuse Warning Network, or DAWN, which surveys hospital emergency room admission rates. The high school survey, which studies use among seniors and others in high school. The Parents' Resource Institute for Drug Education, or PRIDE survey of high school substance abuse. The Drug Use Forecasting, or DUF, survey that tests for substance abuse among arrestees.

And the household survey, which samples over 17,000 households to look at drug use trends in the population age 12 and older. These surveys are our early warning network. And the alarm bells are ringing. The emergency lights are flashing. We need to heed the warning.

To understand the warning in its fullness, we need a little perspective. Today's growing problem does not occur in isolation. It is not the result of ignorance of the dangers of drug use.

The 1960's and 1970's taught us a bitter lesson about that. They taught us about the risks individuals and communities run in dealing, or failing to deal, with the drug problem. Since 1981, when we began to fight back seriously, we have spent $128 billion at the Federal level to combat illegal drug use. We have spent a like amount at the State and local levels. In addition, we have spent in the neighborhood of $1 trillion on the indirect costs of drug use and an additional $1 trillion, out of individual pockets, to buy illegal drugs.

This is only the fiscal summary. It does not begin to tote up the human toll. These numbers do not account for the tens of thousands of deaths or the millions of addicts. They do not make plain the toll of drug-addicted babies. Mere numbers do not convey the suffering, the loss of life, the damaged lives, the ruined prospects and shattered dreams that are all part of the legacy of this country's flirtation with dangerous drugs. In a generation, we went from a nation with no drug problem to a country in which one-fifth of the population has tried drugs and over 6 million people who are addicts.

There is not a single, major social pathology today that is not in some way linked to drugs. From family violence to drive-by shootings, from drug-addicted babies to devastated inner-city neighborhoods, the legacy of drugs is written in bold print across the face of this country.

We got ourselves into this mess because we allowed our cultural elite and others to persuade us, against our understanding, that drugs were really OK. That using drugs was merely a form of personal expression that did not hurt anyone, not even the user.

We bought into that idea and lived it through the 1960's and 1970's. We came dangerously close to legalizing drug use. And we delegitimized the notion of enforcing our laws against drug use. We are living with the consequences. Today's billions spent on the war on drugs are a direct result of the choices that we made yesterday. Our drug problem was no accident. Movies and music glorified drugs. Politicians publicly questioned the usefulness of preventing individual drug use.

Our cultural elite talked of legalization. In virtually all our means for communicating what we think is proper and appropriate, we sent the signal that drugs were OK. And who were we talking to? Who was listening? who got the message? It was our kids. And it was our kids who ended up as the principal casualties of this so-called enlightened policy. What were we thinking?

In the 1980's, however, we realized our mistake. We began to fight back. It was not that we just spent money on the problem. Parents and communities, schools and businesses, civic and political leaders came together to stop the nonsense. They formed coalitions, lobbied their public officials, and organized public and private efforts to fight back, to save the kids. And it was working. Between 1985 and 1992 drug use in this country went down. More important, attitudes among kids about drugs improved.

More and more kids came to see drugs as dangerous. More kids stayed away from using. That was no accident. Everywhere they looked the message they got was the drugs were bad. The message was, just say no. And they listened.

That did not mean that our difficulties were past. We still had a large addict population that was using more and more. We had enriched powerful drug organizations that had extensive networks for drug smuggling and money laundering.

We still had to deal with a lingering notion that somehow, despite the evidence before our eyes, drugs were OK. Nevertheless, we were on the right track. In recent years, however, we have gone off the rails. In some areas, we have been pulling up the tracks and shooting the engineers and conductors.

This is what the most recent household survey makes clear. It shows that marijuana use among young people is up over 100 percent since 1992.

It went up 37 percent last year alone. Overall drug use has risen 78 percent since 1992, 33 percent last year. Fully 10.9 percent of young people aged 12 to 17 reported using marijuana monthly last year. That is up from 8.2 percent the year before. At this rate, we will have lost all the ground that we won in the late 1980's and early 1990's. And the people who are at risk, once again, are kids and teenagers and young adults. If this trend continues, and it is showing no signs of changing under present policies, in the next few years we will have wiped out all the gains made in the 1980's.

Now, if you do not believe that legalization is a rational policy, then you cannot welcome the recent news. And if you do not think 10, 11, and 12 year olds ought to be making their own decisions about using heroin or cocaine, then you have to conclude that the present trend is a disaster in the making. As I suggested earlier, the warning lights are flashing.

When the oil light goes on in your car, it is time to check the engine. If you decide to ignore the light you risk making an expensive mistake.

Well, the Nation's warning light is on. And what do you find when you open the hood and check on the reasons? As it turns out, we've been trying to run our programs without the right stuff.

Despite what some of my colleagues have argued on this floor, this administration simply has not taken the drug issue seriously. Not from day one, and not, so far as I can see, yet. In fact, its policy, where one can be disconcerned, has downplayed the issue and distanced the President from any involvement.

Now, having said this, I know that one of my colleagues is likely to be down here any minute accusing me of playing politics. That seems to be the administration's line any time someone criticizes them. Indeed, Secretary Shalala and the Attorney General have been going around saying this. They have blamed Congress for lack of funding. They have pointed to increases of drug use in Europe. They have also taken to blaming the Bush administration for the present problem. When they do that, reaching back 4 years to try to blame someone else, that is not playing politics, of course.

That is not dodging. That's not blowing smoke. That is what passes for policy in this administration. But serious policy is more than artful dodging.

Let me remind you, that this administration came into office saying that the Bush administration had not fought a real drug war—that claim was made despite the fact of steady declines in teen use. The present occupant of the White House promised to do better. At the least, then, we should expect to see the trend of teen use continuing to decline.

We should expect that teenage attitudes about drug use would remain negative. But that is not the case. In fact, it is exactly the reverse. And it was not the Bush administration that presided over these recent increases. It was not past policies that created the present crisis. The administration's own numbers make this clear. All you have to do is look at those numbers. But, in keeping with this administration's whole program, the response is deny, deny, deny.

I am sure most parents have had the experience in dealing with their kids that when the crockery gets broken, it was some mysterious villain that did the deed. Just ask the child. "I didn't do it." Or, "George did it." Or, "I don't know how it happened." These excuses are what one expects. From children. As adults, however, we are supposed to know better. But, even as the numbers grow worse, the administration is still hoping to pin the blame on someone, anyone else. But, in the end, it is their policies, it is their programs, it is their attitudes that have shaped how we have dealt with the drug issue in the past 4 years.

And, the fact remains, after years of decline, drug use among kids is getting worse by the minute, and this administration cannot think of anything more constructive to do than pass the blame.

All of this is a matter of record. I and others here and across the country have documented this story. Even the President's drug czar now acknowledges that we are in the midst of a crisis of new drug use. In one of his most recent press releases outlining the problem, however, he wants us to develop amnesia about how we got into this mess.

He wants us to look only at what we must do about it. I understand why he may want us to overlook the recent past. But no serious effort to get our programs back on track can hope to succeed if we do not grasp why it is we are having the problem. This is not playing politics, this is talking about policy. It is talking seriously about responsibility.

We are in this mess because of choices that were made about what to do. We are talking about conscious decisions deliberately made.

But it is now clear, that those decisions were, are a mistake. Our present policies are simply not up to the task. Benign neglect, indifference, and just say maybe are not good policy choices. We have the evidence of what happens when they are, however, our policy.

Clearly, by all the warning systems that we have developed to give us feed back, those choices have failed. The extent of that failure is shocking. If we are to change this, we must start doing something different, we must do it better, and we must do it now. To repeat the mistakes of the 1960's and 1970's would be a shameful retreat from responsibility.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER (Mr. STEVENS). Under the previous order, the Senate stands in adjournment until 9:30 a.m., Friday, September 20, 1996.

Thereupon, the Senate, at 10:04 p.m., adjourned until Friday, September 20, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 19, 1996:

U.S. INSTITUTE OF PEACE

JOSEPH LANE KIRKLAND, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1997, VICE ALLEN WEINSTEIN, TERM EXPIRED.

JOSEPH LANE KIRKLAND, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2001. (REAPPOINTMENT)

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

LARRY CORBETT, OF NEVADA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

HANS J. AMRHEIN, OF VIRGINIA

DEPARTMENT OF STATE

PHYLLIS MARIE POWERS, OF TEXAS
MICHAEL S. TULLEY, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

KIMBERLY J. DELANEY, OF VIRGINIA
EDITH FAYSSOUX JONES HUMPHREYS, OF NORTH CAROLINA

DEPARTMENT OF STATE

JEMILE L. BERTOT, OF CONNECTICUT

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ALFRED B. ANZALDUA, OF CALIFORNIA
DAVID A. BEAM, OF PENNSYLVANIA
DONALD ARMIN BLOME, OF ILLINOIS
P.P. DECLAN BYRNE, OF WASHINGTON
LAUREN W. CATIPON, OF NEW JERSEY
JAMES PATRICK DEHART, OF MICHIGAN
JOSEPH DE MARIA, OF NEW JERSEY
MICHAEL RALPH DETAR, OF NEW YORK
RODGER JAN DEUERLEIN, OF CALIFORNIA
STEPHEN A. DRUZAK, OF WASHINGTON
MARY EILEEN EARL, OF VIRGINIA
LINDA LAURENTS EICHBLATT, OF TEXAS
JESSICA ELLIS, OF WASHINGTON
STEPHANIE JANE FOSSAN, OF VIRGINIA
CHRISTOPHER SCOTT HEGADORN, OF THE DISTRICT OF COLUMBIA
HARRY R. KAMIAN, OF CALIFORNIA
MARC E. KNAPPER, OF CALIFORNIA
BLAIR L. LA BARGE, OF UTAH
WILLIAM SCOTT LAIDLAW, OF WASHINGTON
KAYE-ANNE LEE, OF WASHINGTON
BRIAN LIEKE, OF TEXAS
BERNARD EDWARD LINK, OF DELAWARE
LEE MAC TAGGART, OF WASHINGTON
RICHARD T. REITER, OF CALIFORNIA
KAI RYSSDAL, OF VIRGINIA
NORMAN THATHCER SCHARPF, OF THE DISTRICT OF COLUMBIA
JENNIFER LEIGH SCHOOLS, OF TEXAS
JUSTIN H. SIBERELL, OF CALIFORNIA
ANTHONY SYRETT, OF WASHINGTON
HERBERT S. TRAUB III, OF FLORIDA
ARNOLDO VELA, OF TEXAS
J. RICHARD WALSH, OF ALABAMA
DAVID K. YOUNG, OF FLORIDA
DARCY FYOCK ZOTTER, OF VERMONT

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEREK A. BOWER, OF VIRGINIA
STEVEN P. CHISHOLM, OF VIRGINIA
HENRY J. HEIM JR., OF VIRGINIA
HOLLY ANN HERMAN, OF VIRGINIA
E. KEITH KIRKHAM, OF MAINE
MARY PAT MOYNIHAN, OF VIRGINIA
JOHN W. RATKIEWICZ, OF NEW JERSEY

SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

WILLIAM B. CLATANOFF, JR., OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE OCTOBER 18, 1992:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ELIZABETH B. BOLLMANN, OF MISSOURI
MARSHA D. VON DUERCKHEIM, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 18, 1992, NOW TO BE EFFECTIVE APRIL 7, 1991:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JOAN ELLEN CORBETT, OF VIRGINIA
JUDITH RODES JOHNSON, OF TEXAS
MARY ELIZABETH SWOPE, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 18, 1992, NOW TO BE EFFECTIVE OCTOBER 6, 1991:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

SYLVIA G. STANFIELD, OF TEXAS

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON NOVEMBER 6, 1988, NOW EFFECTIVE OCTOBER 12, 1986:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JOAN ELLEN CORBETT, OF VIRGINIA
JUDITH RODES JOHNSON, OF TEXAS
MARY ELIZABETH SWOPE, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON NOVEMBER 6, 1988, NOW EFFECTIVE JANUARY 3, 1988:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

SYLVIA G. STANFIELD, OF TEXAS

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON APRIL 7, 1991, NOW EFFECTIVE NOVEMBER 19, 1989:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

VIRGINIA CARSON YOUNG, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 6, 1991, NOW EFFECTIVE APRIL 7, 1991:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JUDITH M. HEIMANN, OF CONNECTICUT

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 18, 1992, NOW EFFECTIVE APRIL 7, 1991:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JUDYT LANDSTEIN MANDEL, OF THE DISTRICT OF COLUMBIA
MARY C. PENDLETON, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 18, 1992, NOW EFFECTIVE OCTOBER 6, 1991:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELORS:

JEAN ANNE LOUIS, OF VIRGINIA
SHARON K. MERCURIO, OF CALIFORNIA
RUTH H. VAN HEUVEN, OF CONNECTICUT
ROBIN LANE WHITE, OF MASSACHUSETTS

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE IN ACCORDANCE WITH SECTION 1552 OF TITLE 10, UNITED STATES CODE. THE DATE OF PROMOTION IS TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE:

LINE

To be colonel

WENDELL R. KELLER [redacted]

THE FOLLOWING OFFICERS, WHO WERE DISTINGUISHED GRADUATES FROM THE UNITED STATES AIR FORCE OFFICER TRAINING SCHOOL, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTION 531 OF TITLE 10, UNITED STATES CODE., WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE

To be second lieutenant

SEAN P. ABELL [redacted]
DANIEL G. AMEGIN [redacted]
LANE H. BOYD [redacted]
MICHAEL T. CLANCY [redacted]
JOHN C. DAVIDSON [redacted]
RUSSELL O. DAVIS [redacted]
KEVIN S. DOWLING [redacted]
MICHAEL K. EMBREE [redacted]
KENNETH C. GRACE [redacted]
VINCENT M. KREPPS [redacted]
ROBERT C. LANDIS, JR. [redacted]
DIONNE L. PAYNE [redacted]
JEFFREY D. ROBINSON [redacted]
TIMOTHY D. SCARBOROUGH, [redacted]
JEFFREY S. SUTTON [redacted]
BRIAN G. THOMAS, [redacted]
JOHNNIE A. VANCE [redacted]
TIMOTHY T. WILDAY [redacted]

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 12203 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE.

LINE

To be lieutenant colonel

RANDALL R. BALL, [redacted]
JOSEPH G. BALSKUS, [redacted]
FRANKLIN E. CHALK, SR., [redacted]
JOHN C. DIEFFENDERFER, [redacted]
ROBERT C. EDWARDS, JR., [redacted]
LARRY R. KAUFFMAN, [redacted]
DANNY U. LEWIS [redacted]
THADDEUS J. MARTIN, [redacted]
DONALD V. PADDOCK, [redacted]
WILLIAM M. PARSEL, [redacted]
JOHN J. SAMUHEL [redacted]
DAVID B. SJOSTROM, [redacted]
MICHAEL A. ZINNO [redacted]

MEDICAL CORPS

To be lieutenant colonel

STEPHEN J. GRAHAM, [redacted]

DENTAL CORPS

To be lieutenant colonel

LEFTER J. BAKLAS [redacted]
DANIEL P. BARTLETT [redacted]
DAVID B. GRUBLER, [redacted]

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 12203 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE.

LINE

To be lieutenant colonel

JAMES E. BALL [redacted]
RONALD D. BARTON, [redacted]
DANIEL L. BOONE, [redacted]
WILLIAM B. BURNEY, [redacted]
DANIEL G. COSHATT, [redacted]
MATTHEW J. DZIALO, [redacted]
DEONE G. GIEG, [redacted]
BRIAN D. GOMULA, [redacted]
MICHAEL J. GRIFFIN, [redacted]
WILLIAM S. HADAWAY, [redacted]
TIMOTHY B. HECK, [redacted]
ROGER L. HENRY, [redacted]
ROBERT A. HICKEY, [redacted]
MARK A. LYNN, [redacted]
JEFF A. MANOR, [redacted]
GREGORY L. MARSTON, [redacted]
NORMAN W. MILLER, [redacted]
HARRY D. MONTGOMERY, [redacted]
COLIS NEWBLE, JR. [redacted]
NICHOLAOS G. PEROULAKIS, [redacted]
HOWARD X. PLOUFFEE, [redacted]
RUSSELL A. RUSHE [redacted]
KENNETH L. SMITH [redacted]
WILLIAM A. SOBRERO, [redacted]
CLARK F. SPEICHER, [redacted]
DENNIS R. TAYLOR, [redacted]
SCOTT H. TURNER, [redacted]
CURTIS M. WHITAKER, [redacted]
JAMES H. YEAGLEY [redacted]

JUDGE ADVOCATE GENERALS DEPARTMENT

To be lieutenant colonel

DONALD L. SCHENSE, [redacted]
CHARLES A. WALDEN, [redacted]

BIO-MEDICAL SCIENCE CORPS

To be lieutenant colonel

AHMED E. HOSSAM [redacted]
THOMAS B. SPRATT II, [redacted]

MEDICAL CORPS

To be lieutenant colonel

WILLIAM W. DODSON, [redacted]

NURSE CORPS

To be lieutenant colonel

PHYLLIS M. CAMPBELL, [redacted]

IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE SECTIONS 12203 AND 3385:

ARMY PROMOTION LIST

To be colonel

ERNEST R. ADKINS [redacted]
JOHN G. ASAY, [redacted]
BARBARANETTE T. BOLDEN, [redacted]
RONALD I. BOTZ, [redacted]
MYRON K. BRUMAGHIM, [redacted]
CHARLES E. FLEMING, [redacted]
MICHAEL D. GILPIN, [redacted]
WALTER Y. KINOSHITA, [redacted]
GARY E. MATHEWSON, [redacted]
MARVING. METCALF, [redacted]
NORBERT L. MOHNEN, [redacted]
FRANCIS NELSON, [redacted]
DAVID G. POPHAM, [redacted]
LARRY B. SHELTON, [redacted]
ROGER R. TURCOTTE, [redacted]
WILLAIM H. WEIR, [redacted]
GARY W. WIDNER, [redacted]
SAMUEL A. WILKS, [redacted]

ARMY NURSE CORPS

To be colonel

HERMA J. TAYLOR, [redacted]

CHAPLAIN CORPS

To be colonel

LEROY J. DYER, [redacted]

MEDICAL CORPS

To be colonel

JAMES S. GREENE, [redacted]
CASEY ROGERS, [redacted]
JOHN C. STONER, [redacted]
ROBERT J. ZAHN, [redacted]

MEDICAL SERVICE CORPS

To be colonel

RAYMOND F. ROOT, [redacted]

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 12203 AND 3385:

ARMY PROMOTION LIST

To be lieutenant colonel

WILLIAM A. AYERS, JR., [redacted]
THOMAS D. CROWLEY, [redacted]
DENNIE L. DENSON, [redacted]
THADDEUS A. DMUCHOWSKI, [redacted]
WILLIAM F. ELROD, [redacted]
BRUCE W. FALCONE, [redacted]
ROBERT T. FORD III, [redacted]
JAMES D. HOGAN, [redacted]
GREGORY L. HOLLEY, [redacted]
GARY A. HUFF, [redacted]
JOHN R. JACKSON, [redacted]
MARK N. JONES, [redacted]
JOHN T. KOEHLER, [redacted]
WILLIAM R. MAY, [redacted]
GERALD D. MEANEY, [redacted]
ROBERT W. MITCHELL, [redacted]
RONALD O. MORROW, [redacted]
PATRICK A. MURPHY, [redacted]
JOSE A. ORTIZ, [redacted]
CLYDE L. OVERTON, JR., [redacted]
CARROLL ROHRICH, [redacted]
DELORAS J. RUSSO, [redacted]
TERRY W. SALTSMAN, [redacted]
LESLIE R. SHEETZ, [redacted]
CLIFTON A. SLADE, [redacted]
NATHAN D. SMITH, [redacted]
KEITH P. SULLIVAN, [redacted]
STANLEY M. STRICKLEN, [redacted]
DONALD P. WALKER, [redacted]
BRUCE A. WILHELM, [redacted]
THOMAS K. ZABASKY, [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

HALLAN L. KELLY, JR., [redacted]
EILEEN G. MCGONAGLE, [redacted]
MARJORIE C.L. PENEBACKER, [redacted]

DENTAL CORPS

To be lieutenant colonel

JERRY P. BROMAN, [redacted]

THE JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

WILLIAM L. ENYART, JR., [redacted]
KEVIN M. HOWARD, [redacted]
RICHARD A. MORTON, [redacted]

MEDICAL CORPS

To be lieutentant colonel

MICHARL D. DRISCOLL, [redacted]
WENIFREDO A. LISONDRA, [redacted]
MICHAEL B. RATH, [redacted]
JAMES W. SMITH, [redacted]
CHRISTOPHER A. WHITE, [redacted]

MEDICAL SERVICE CORPS

To be lieutentant colonel

JEFFREY HART, [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate September 19, 1996:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN A. GORDON, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. AIR FORCE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C. SECTION 8036:

SURGEON GENERAL OF THE AIR FORCE

To be lieutenant general

MAJ. GEN. CHARLES H. ROADMAN, II [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 8374, 12201, 12204, AND 12212:

To be brigadier general

BRIG. GEN. DWIGHT M. KEALOHA, USAF (RETIRED), [redacted] AIR NATIONAL GUARD.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. WILLIAM J. DONAHUE, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. NORMAND G. LEZY [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM P. HALLIN [redacted]

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. GEORGE T. BABBITT, JR. [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 8374, 12201, AND 12212:

To be brigadier general

COL. GERALD W. WRIGHT, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A) AND 3036.

CHIEF OF ENGINEERS

To be lieutenant general

MAJ. GEN. JOE N. BALLARD [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A).

To be lieutenant general

MAJ. GEN. FREDERICK E. VOLLRATH [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. EDWARD G. ANDERSON, III [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. GEORGE A. CROCKER [redacted]

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 3385, 3392, AND 12203(A):

To be major general

BRIG. GEN. FRANK A. CATALANO, JR. [redacted]

To be brigadier general

COL. CLARENCE E. BAYLESS, JR. [redacted]
COL. JOHN D. BRADBERRY [redacted]
COL. ROGER B. BURROWS [redacted]
COL. WILLIAM G. BUTTS, JR. [redacted]
COL. DALTON E. DIAMOND [redacted]
COL. GEORGE T. GARRETT [redacted]
COL. LARRY E. GILMAN [redacted]
COL. JOHN R. GROVES, JR. [redacted]
COL. HUGH J. HALL [redacted]
COL. ELMO C. HEAD, JR. [redacted]
COL. WILLIE R. JOHNSON [redacted]
COL. STEPHEN D. KORENEK [redacted]
COL. BRUCE M. LAWLOR [redacted]
COL. PAUL M. MAJERICK [redacted]
COL. TIMOTHY E. NEEL [redacted]
COL. JEFF L. NEFF [redacted]
COL. ANTHONY L. OIEN [redacted]
COL. TERRY L. REED [redacted]
COL. MICHAEL H. TAYLOR [redacted]
COL. EDWIN H. WRIGHT [redacted]

THE FOLLOWING-NAMED JUDGE ADVOCATE GENERAL'S CORPS COMPETITIVE CATEGORY OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be brigadier general

COL. JOSEPH R. BARNES [redacted]
COL. MICHAEL J. MARCHAND [redacted]

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 3385, 3392, AND 12203(A):

To be major general

BRIG. GEN. CARROLL D. CHILDERS [redacted]
BRIG. GEN. CECIL L. DORTEN [redacted]
BRIG. GEN. CLYDE A. HENNIES [redacted]
BRIG. GEN. WARREN L. FREEMAN [redacted]

To be brigadier general

COL. JOHN E. BARNETTE [redacted]
COL. ROBERTO BENAVIDES, JR. [redacted]
COL. ERNEST D. BROCKMAN, JR. [redacted]
COL. DANNY B. CALLAHAN [redacted]
COL. REGINALD A. CENTRACCHIO [redacted]
COL. TERRY J. DORENBUSH [redacted]
COL. THOMAS W. ERES [redacted]
COL. EDWARD A. FERGUSON, JR. [redacted]
COL. GARY L. FRANCH [redacted]
COL. PETER J. GRAVETT [redacted]
COL. ROBERT L. HALVERSON [redacted]
COL. JOSEPH G. LABRIE [redacted]
COL. BENNETT C. LANDRENEAU [redacted]
COL. JOHN W. LIBBY [redacted]
COL. MARIANNE MATHEWSON-CHAPMAN [redacted]
COL. EDMOND B. NOLLEY, JR. [redacted]
COL. JAMES F. REED, III [redacted]
COL. DARWIN H. SIMPSON [redacted]
COL. ALLEN E. TACKETT [redacted]
COL. MICHAEL R. VAN PATTEN [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 3036:

SURGEON GENERAL, U.S. ARMY

To be lieutenant general

MAJ. GEN. RONALD R. BLANCK, [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER THE PROVISIONS OF SECTION 601, TITLE 10, UNITED STATES CODE:

To be lieutenant general

LT. GEN. ANTHONY C. ZINNI [redacted]

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE LINE IN THE NAVY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

CAPT. DANIEL R. BOWLER [redacted]
CAPT. JOHN E. BOYINGTON, JR. [redacted]
CAPT. JOHN T. BYRD [redacted]
CAPT. JOHN V. CHENEVEY [redacted]
CAPT. RONALD L. CHRISTENSON [redacted]
CAPT. ALBERT T. CHURCH, III [redacted]
CAPT. JOHN P. DAVIS [redacted]
CAPT. THOMAS J. ELLIOTT, JR. [redacted]
CAPT. JOHN B. FOLEY, III [redacted]
CAPT. KEVIN P. GREEN [redacted]
CAPT. ALFRED G. HARMS, JR. [redacted]
CAPT. JOHN M. JOHNSON [redacted]
CAPT. HERBERT C. KALER [redacted]
CAPT. TIMOTHY J. KEATING [redacted]
CAPT. GENE R. KENDALL [redacted]
CAPT. TIMOTHY W. LA FLEUR [redacted]
CAPT. ARTHUR N. LANGSTON, III [redacted]
CAPT. JAMES W. METZGER [redacted]
CAPT. DAVID P. POLATTY, III [redacted]
CAPT. RONALD A. ROUTE [redacted]
CAPT. STEVEN G. SMITH [redacted]
CAPT. THOMAS W. STEFFENS [redacted]
CAPT. RALPH E. SUGGS [redacted]
CAPT. PAUL F. SULLIVAN [redacted]

ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

CAPT. ROLAND B. KNAPP [redacted]
CAPT. KATHLEEN K. PAIGE, [redacted]

SPECIAL DUTY OFFICER (INTELLIGENCE)

To be rear admiral (lower half)

CAPT. PERRY M. RATLIFF [redacted]

SPECIAL DUTY OFFICER (FLEET SUPPORT)

To be rear admiral (lower half)

CAPT. JACQUELINE O. ALLISON [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE LINE IN THE NAVY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

CAPT. HARRY M. HIGHFILL [redacted]
CAPT. RICHARD J. NAUGHTON [redacted]
CAPT. WILLIAM G. SUTTON [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL IN THE U.S. NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be vice admiral

REAR ADM. WILLIAM J. HANCOCK [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL IN THE U.S. NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be vice admiral

REAR ADM. WILLIAM J. FALLON [redacted]

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL IN THE UNITED STATES NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. CONRAD C. LAUTENBACHER, JR. [redacted]

THE FOLLOWING-NAMED OFFICER FOR PROMOTION IN THE NAVAL RESERVE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

CIVIL ENGINEER CORPS OFFICER

To be rear admiral

REAR ADM. (LH) THOMAS JOSEPH GROSS, [redacted] U.S. NAVAL RESERVE.

THE FOLLOWING-NAMED OFFICER FOR PROMOTION IN THE NAVY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

MEDICAL CORPS

To be rear admiral (lower half)

CAPT. BONNIE B. POTTER, [redacted] U.S. NAVY.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING JEFFREY I. ROLLER, AND ENDING DAVID B. PORTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 1996.

AIR FORCE NOMINATIONS BEGINNING MICHAEL P. ALLISON, AND ENDING JOHN P. SMAIL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 29, 1996.

AIR FORCE NOMINATIONS BEGINNING JOHN W. BAKER, AND ENDING LAURIE L. YANKOSKY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 29, 1996.

AIR FORCE NOMINATION OF EDGAR W. HATCHER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1996.

AIR FORCE NOMINATIONS BEGINNING MALCOLM N. JOSEPH, III, AND ENDING ETIENNE I. TORMOS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1996.

AIR FORCE NOMINATIONS BEGINNING JOHN W. AMSHOFF, JR., AND ENDING SALVATORE J. LOMBARDI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1996.

AIR FORCE NOMINATIONS BEGINNING JOHNNY R. ALMOND, AND ENDING HERBERT R. ZUCKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 9, 1996.

IN THE ARMY

ARMY NOMINATIONS BEGINNING *ANTHONY J. ABATI, AND ENDING 2425X, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 11, 1996.

ARMY NOMINATION OF DONALD G. HIGGINS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 17, 1996.

ARMY NOMINATIONS BEGINNING ROBERT M. CARROTHERS, AND ENDING JEFFREY T. WELLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 19, 1996.

ARMY NOMINATIONS BEGINNING JAMES R. BARR, AND ENDING MICHAEL D. MOSER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 19, 1996.

ARMY NOMINATION OF COL. GEORGE B. FORSYTHE, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1996.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF GEORGE W. SIMMONS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 22, 1996.

MARINE CORPS NOMINATIONS BEGINNING ROBERT E. CARNEY, AND ENDING WILLIAM P. SCHULZ, JR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 29, 1996.

MARINE CORPS NOMINATIONS BEGINNING CRAIG T. BODDINGTON, AND ENDING FREDERICK B. WITESMAN, II, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 29, 1996.

MARINE CORPS NOMINATIONS BEGINNING GARY J. COUCH, AND ENDING JOEL G. OGREN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1996.

MARINE CORPS NOMINATIONS BEGINNING RALPH P. DORN, AND ENDING MICHAEL F. KENNY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1996.

MARINE CORPS NOMINATION OF JOHN C. SUMNER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1996.

MARINE CORPS NOMINATIONS BEGINNING MICHAEL G. ALEXANDER, AND ENDING JOYCE V. WOODS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1996.

MARINE CORPS NOMINATIONS BEGINNING JAMES R. ADAMS, AND ENDING JOHN H. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1996.

MARINE CORPS NOMINATIONS BEGINNING TIMOTHY FOLEY, AND ENDING MICHAEL J. COLBURN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1996.

IN THE NAVY

NAVY NOMINATIONS BEGINNING AARON C. FLANNERY, AND ENDING JAMES M. INGALLS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 11, 1995.

NAVY NOMINATION OF JOHN L. WILSON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1996.

NAVY NOMINATION OF ERIC L. PAGENKOPH, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1996.

NAVY NOMINATIONS BEGINNING DANIEL C. ALDER, AND ENDING TERRANCE L. NICHOLLS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1996.

NAVY NOMINATIONS BEGINNING JAMES C. ACKLEY, AND ENDING ALBERT F. VANDERVOORT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1996.

NAVY NOMINATIONS BEGINNING GREGORIO A. ABAD, AND ENDING ROBERT E. ZULICK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1996.

NAVY NOMINATIONS BEGINNING ROBERT E. AGUIRRE, AND ENDING KURT D. SISSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1996.

NAVY NOMINATIONS BEGINNING DAVID W. ANDERSON, AND ENDING JEROME J. SQUATRITO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1996.

EXTENSIONS OF REMARKS

IT'S TIME TO DIVERSIFY THE UNITED NATIONS

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. TORRICELLI. Mr. Speaker, as the 104th Congress comes to an end, it may be time to again address the issue of United Nations reform. Earlier this Congress the new Republican majority attempted to gut America's commitment to the United Nations under the guise of reforming that institution. Their attempt went too far, and it was wisely rejected by the Senate and by the Clinton administration. But the need to reform the United Nations is still as present today as it was last year. Indeed, in early 1993 President Clinton announced his own plans for U.N. reform.

As soon as it took office, the Clinton administration signaled that, for the first time, America would actively promote the restructuring of the United Nations Security Council to recognize the emerging power realities of the 21st century. It boldly advanced a plan and pressed for U.N. action by 1995. The administration's laudable goal was to make the Council look more like the rest of the world.

Today, the administration plan for Security Council restructuring is dead in the water, a victim of bureaucratic infighting and a diminution of the image of the United Nations in the eyes of many Americans. President Clinton deserves credit for moving the issue of Council restructuring to the front burner. His predecessors had stonewalled growing pressures for reform, hoping to continue indefinitely the cozy arrangements of 1945 that gave the five victorious powers of World War II permanent seats and a veto in the Council.

But a half-century later, those five countries no longer have the collective dominance to maintain world security on their own. The empires of Britain, France, and Soviet Russia have all dissolved. The U.S. share of world economic output has been halved, from 50 percent in 1945 to 26 percent today, though America remains a military giant. Only China has grown in relative standing, but it is still essentially a non-contributor to world peace and security.

The defeated Axis countries have rebounded in economic and political influence, and leading developing countries such as India, Egypt, Brazil, and Pakistan have become frequent contributors to U.N. peace operations. As we increasingly rely on a complex mix of peacekeeping forces, economic sanctions, and occasional military enforcement to maintain international security, it has become more and more important for the Security Council to include this next tier of states with significant military, economic, and political resources.

Mr. Speaker, I believe it is time again to consider restructuring the Security Council. Neither the United States nor the world at large needs to add more veto-wielding members to the Security Council. The Council does not need more countries that can gum up decisionmaking with a veto, or to impede American-led initiatives to protect our global allies. If anything, it needs fewer. And Americans have had enough experience with China's subtle linkage of its Security Council veto power to bilateral Sino-American relations to want to invite more countries to play that kind of game.

For their part, the developing countries have made it clear they will not allow veto power on the Council to be tilted even more heavily toward the Northern industrial countries. But the proposed solution of many—adding some large developing countries as permanent members with veto power—would make the Security Council virtually unworkable.

It would be preposterous to grant Nigeria—or India, Brazil, Pakistan, or even Germany or Japan—a veto over Council decisions. None of them has the power in the real world to take decisive action beyond their borders, or to prevent the major powers from taking such action. Moreover, each of these regional actors is distrusted by the smaller countries in its region.

But it is equally preposterous to simply assume that we can continue to control the United Nations with a small group of nations that reflect neither the current and future centers of global power, nor the reality of ethnic and religious diversity. The Clinton administration had the right idea: we need to make the Security Council look more like the rest of the world, and we need to do it sooner rather than later.

This could be accomplished by expanding the Council's regional representation.

One way of expanding the Council by region is by calculating which two or three states in each region make the most substantial contribution to U.N. peace operations, and for a seat for each region to rotate between those states. The criteria for making this calculation would include their U.N. financial contributions; the number of troops and other military assets they provide and precommit to U.N. peace operations; their participation in U.N. arms control treaties; and their adherence to recognized human rights standards.

An ancillary benefit of this reform plan is that it would broaden the representation of the world's major ethnic and religious groups in the Security Council. Currently, only the Christian faith is represented; China, whose population is predominantly Buddhist, is represented by an ideologically secular government. By opening up the Council to regional representation the important voices of the Jewish, Islamic, and Hindu community would also be heard during critical deliberations on international crises. While not a central element for the United Nations, religion has become a growing undercurrent to many of its challenges and conflicts. Perhaps, by indirectly providing a voice for diverse religious beliefs, the United Nations may be better able to resolve particularly difficult and longstanding conflicts.

Because Israel is not a member of a friendly regional bloc, I propose that Israel be given permanent status on the Security Council. Many Middle East countries are, in varying degrees, hostile to the State of Israel, and would thus not represent its interests in the Council to the degree an African, Asian, or Latin American nation might represents its neighbors. In an expanded Security Council with greater regional representation, Israel would only be protected by having a permanent voice in the Council's deliberations.

On its merits, this framework gives the Council the benefit of regular participation by ten major states at the price of only six new seats. It avoids new vetoes. And with one exception, it does not lock in by name states whose influence or contributions may decline in the future. And, perhaps most important, it stabilizes the Security Council by making it more reflective of the world's ethnic, religious, and economic realities.

Mr. Speaker, I hope that when the 105th Congress convenes, the issue of United Nations reform will be a top priority.

TRIBUTE TO THE VILLAGE OF SAG HARBOR ON ITS 150TH ANNIVERSARY

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. FORBES. Mr. Speaker, I rise today to pay tribute to the Village of Sag Harbor, an historic seaside village on the South Fork of Long Island that is celebrating its 150th anniversary this year.

It is my great hope that my colleagues in the U.S. House of Representatives will join me in honoring this bucolic maritime port with a heritage as long and rich as America's. Settled in 1707, Sag Harbor and its residents have borne witness to nearly every significant event in this Nation's history. Strategically situated on Long Island's South Fork, with an ideal harbor that was home to a fleet of whaling ships in the 1800's, this village has pioneered many developments and milestones that have made America great.

During its 3 centuries, this colonial-era village has been first among its peers in many ways. Our Nation's first President, George Washington, designated Sag Harbor as the first port of entry in New York State, because at the time this east end port was busier than even the New York City harbor. In 1803, Sag Harbor was the first New York village to establish a volunteer fire department and in 1859 it was first on Long Island with gas street lights.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

On March 26, 1846, the State of New York approved the act of incorporation and the first meeting of the Incorporated Village of Sag Harbor was held on May 11. The original village board included Samuel A. Seely, Lemuel W. Reeves, and John Hildreth, who was elected president of the board of trustees.

From 1760 to 1850, during the height of the whaling industry, Sag Harbor was second only to New York City as a whaling port. When whaling declined in the latter half of the 1800's, Sag Harbor rode the industrial revolution to become a manufacturing center. Industries such as the Bulova Watchcase Factory, E.W. Bliss Torpedo Co., Agwam Aircraft, and Gruman located in Sag Harbor.

Whenever America called its citizens to serve, Sag Harbor residents were always first to answer that call. In 1777, Sag Harbor was the scene of one of the Revolutionary War's pivotal battles, when colonial troops captured the British garrison stationed there, opened the blockaded port and provided the fledgling Republic with an important supply line. More than 300 fathers and sons answered the Union's call during the Civil War, a contribution to the national effort that was repeated in World Wars I and II through Operation Desert Storm.

Now this bustling maritime port, nestled within the rich farmland of the Hamptons, is a destination for thousands of tourists and summer residents who enjoy the beautiful beaches and local sites. Its harbor is still busy, the whaling ships replaced by pleasure boats. Its bustling main street is packed with shops and restaurants, galleries and historic buildings that attract visitors from throughout the Northeast. This charming seaside village has again adapted to the changing times, building a prosperous year-round tourism industry.

This Saturday, September 21, the Village of Sag Harbor will celebrate its 150th anniversary with its HistoricFest Weekend and parade. I'd like to ask my colleagues to join me in saluting Sag Harbor and its residents on this special occasion. Congratulations.

TRIBUTE TO TED AND MARION SOBANSKI

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. KLECZKA. Mr. Speaker, I rise today to pay tribute to two outstanding individuals, Ted and Marion Sobanski who will be honored by the Polish Legion of American Veterans Heritage Committee on October 20, 1996.

By honoring them with the Outstanding Couple of the Year Award, the Polish Legion of American Veterans Heritage Committee is paying tribute to Ted and Marion for their many years of voluntary service and dedication to their community.

Ted and Marion have been happily married since March 1933. They have been blessed with five children, five grandchildren, seven great grandchildren, and three step great grandchildren.

Ted worked at Liberty Banking Co. for over 40 years and has led many clubs and organizations, many of which he is still active in. He has been president of the Blue Star Dads Club and the South Side Business Mens Club. Ted is currently the president of the Polish National Alliance, Council No. 8 as well as the treasurer of Polish Fest, one of Milwaukee's large ethnic festivals.

Following her four sons entering into service, Marion joined the Blue Star Mothers of America. She held all offices in this national organization and in 1980 was elected president. Marion also volunteered for the Veterans Administration Medical Center for 28 years, where she was known by everyone as "the sewing lady on the 9th Floor." She served as the president of the South Side Business Womens Club and was selected as the Polish American Woman of the Year in 1992.

The Polish Heritage Program which has made an excellent choice in honoring Ted and Marion has brought together many members of various organizations and community leaders to celebrate this occasion. Ted and Marion have shown exemplary commitment to their heritage and their community, and I am proud to have them as constituents of the Fourth Congressional District in Wisconsin.

Congratulations, Ted and Marion, this is an award that is truly well deserved.

HONORING THE LATINO PEACE OFFICER'S ASSOCIATION

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. TORRES. Mr. Speaker, I ask my colleagues to join me today in honoring the Latino Peace Officer's Association [LPOA] for its many years of dedication to providing opportunities for Latino peace officers. On September 22, 1996, the membership of the LPOA will gather in Las Vegas for their annual conference.

Founded in 1972 by Vincente Calderon of the California Highway Patrol, and John Parraz of the Sacramento County Sheriff's Department, LPOA formed to develop a system to address inequality and injustices which affected Latino peace officers in law enforcement organizations. The objectives of the LPOA at its formation were: recruiting qualified Latino peace officers; mentoring Latino officers engaged in the probationary phase of employment; educating and training Latino officers through conferences and workshops; and encouraging Latino officers to participate in the promotional process of their respective law enforcement agencies. Today, the LPOA continues to strive to meet these objectives, and operates as a nonprofit organization.

The LPOA has had many accomplishments since its formation. The LPOA was instrumental in obtaining bilingual pay for officers in the California Highway Patrol. As a result of this action, other police agencies within the State of California implemented the same bilingual pay program. In 1977, members of the Santa Clara chapter were instrumental in requiring Santa Clara County to show good faith efforts in their hiring and promotional process. This set a precedent and a mandate for all law enforcement agencies to show good faith in hiring.

The LPOA has shown its dedication to public service and to the communities it serves. The organization is committed to maintaining appropriate contact with both the community and legislative forces which can promote issues specific to LPOA's objectives, and the Latino community. Deserving special recognition are the National Executive Board: Gary A. Dominguez, president; Daniel D. Hernandez, first vice president; Adrian Garcia, second vice president; Fred V. Sainz, treasurer; Patricia M. Mora, secretary; Lorenzo Provencio, parliamentarian; Andrew J. Cruz, historian; John A. Messina, Jr., general counsel; Dr. Armando J. Islas, legislative chairman; and State presidents; Lou Espindola, Arizona; Jose C. Miramontes, California; Bill Aguirre, Kansas/Missouri; Eliezer Gonzalez, Massachusetts; Felipe A. Ortiz, Nevada; David L. Guzman, New Mexico; Richard Rodriguez, Texas; and J. Luis Lopez, Wisconsin.

Mr. Speaker, I ask my colleagues to join me in honoring the Latino Peace Officer's Association for its many years of dedication to the communities it serves.

DAVID HALLIWELL: AN OUTSTANDING CAREER IN SERVICE TO HIS COMMUNITY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. GOODLING. Mr. Speaker, I rise today in recognition of a resident of my district, Mr. David Halliwell. Mr. Halliwell is retiring from his position as president of the Rehabilitation and Industrial Training Center of York. His service as president of this organization is the capstone of a career of public service that has spanned 33 years at the RITC. Few people can boast of such a lengthy and worthwhile career of helping others in need.

Mr. Halliwell's efforts have helped individuals with disabilities make the transition into the mainstream work force. The inclusion of all persons so that they can experience the benefits of association with their fellow citizens is an essential role that all communities must undertake. This is not a one-way street, however. Each and every person has something to offer their community, and Mr. Halliwell has made it his calling to help those members of his community who might have the most difficulty in doing this to contribute to the fullest extent. His service to the citizens of York County has been unparalleled, and for this I commend him.

My constituents have had their lives enriched by Mr. Halliwell in many ways. In addition to his activities with individuals with disabilities, he has been a member of numerous community and public service organizations. He has served as a board member of many State and local associations, including the Pennsylvania Association of Sheltered Workshops, the Children's Growth and Development Clinic of York Hospital, the United Way of York County, and other community organizations.

Mr. Halliwell has led a long and illustrious career of helping others, especially those who are most in need. His commitment to this goal of inclusion and assimilation into the community of his community's retarded citizens has made York County a better place. I believe he has served as a role model, placing his reliance in doing what he believes is right to help others, rather than waiting for others to act. Mr. Speaker, I ask you and the rest of my colleagues to join me in congratulating Mr. Halliwell for the long career of public service he has given to York County. He is truly an outstanding citizen.

THANK YOU, GERRIE WOLVERTON

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to a woman who has been a leader not only in the field of health care but to other women and her community as well. On Wednesday, September 25, Gerrie Wolverton will be honored by the board of directors of Bay Health Systems. After 17 impressive years of service to Bay Health Systems and serving as corporate secretary to five Bay Health System boards, she will be retiring on September 30, 1996.

Gerrie Wolverton graduated from Central Michigan University with a degree in business administration. Through the years she has risen steadily through the company from secretary to vice president of corporate services in Bay Health Systems.

Gerrie presently directs the activities of the marketing department, which she initiated in 1985. She developed the corporate publication, Newsline, which is read by over 43,000 households and has received numerous awards in the field of health care publications. In 1993, Gerrie received the Apollo Award for achievement in community publications from the Michigan Hospital Public Relations Association. Always one to take the initiative, Gerrie has been instrumental in the formation of the patient representative program, which handles patient satisfaction and the senior class program, providing support and educational programs for seniors.

Gerrie has always championed the cause of women in business. In 1994, she won the Bay Area Chamber of Commerce Athena Award. Gerrie was nominated for the award for her involvement with the Bay County YWCA as well as her establishment of the marketing intern program with Saginaw Valley. The majority of the interns are women and true to form, Gerrie has acted as a mentor to several and model for all.

Over the years, Gerrie has been involved with numerous charitable associations including fundraising for the Annual Cancer Foundation, the United Way, and the Professional Women's Association. She also established partnerships for education, a program in which medical professionals visit students in their classrooms.

As if all of these accomplishments weren't enough, Gerrie also found time to marry H. James Wolverton and raise five children, and now she has a total of seven grandchildren. Her accomplishments and activities in business, charity, and family life could fill three lifetimes. She is a leader and trailblazer not only for women but for all of us. Gerrie Wolverton's involvement in Bay Health Systems and her community has touched and improved us all.

Mr. Speaker, I ask you and all of our colleagues to join me in congratulating Gerrie Wolverton as she celebrates her well-deserved retirement from Bay Health Services and best wishes for the new challenges ahead.

TRIBUTE TO MICHAEL CAMPBELL

HON. SAM BROWNBACK

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. BROWNBACK. Mr. Speaker, I rise today to pay tribute to Mr. Michael Campbell, a shrink-wrap operator at Wichita Industries and Services for the Blind [WISB] in Pittsburg, KS. On Tuesday, October 8, 1996, Mr. Campbell will be honored at the Annual Training Conference of the General Council of Industries for the Blind and National Industries for the Blind, as the 1996 Peter J. Salmon National Blind Employee of the Year.

Mr. Campbell was diagnosed with diabetes when he was six and diabetic retinopathy when he was 18. However, a series of laser treatments temporarily preserved some of his vision. He worked at various jobs after graduating from high school but diabetes ended his hopes of entering the military. As his vision loss progressed, it became increasingly difficult for Mr. Campbell to make a living. Then, after he was told that laser treatments could no longer be continued, Mr. Campbell, his wife, and their two daughters moved to Pittsburg, KS, to be near family.

Over the next 10 years, Mr. Campbell was out of work and took classes at Pittsburg State University, hoping to earn a business degree. Again, complications from diabetes arose, this time in the form of an infection resulting in the amputation of one of his legs.

In 1993 he contacted a rehabilitation center and was told about employment opportunities at a new manufacturing plant, WISB, which was opening in Pittsburg. Mr. Campbell was one of the first people to interview for a position at WISB and is still one of WISB's most dedicated employees. In 1994 his other leg showed signs of infection. Rather than risk getting sick again, doctors decided he should have it removed, but Mr. Campbell continues to succeed with unquenchable determination and dignity. He has worked as a machine operator, a box erector, and now a shrink-wrap operator.

Thanks to WISB, Mr. Campbell is once again supporting his family. Please join me in congratulating Mr. Michael Campbell, the 1996 National Blind Employee of the Year, a hard working Kansan, and a distinguished American.

CONGRATULATIONS TO THE BULLHEAD CITY LITTLE LEAGUE JUNIOR LEAGUE ALL STARS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. STUMP. Mr. Speaker, it is with great pride that I represent the champions of the Little League Baseball District Tournament and State Tournament, the Bullhead City Little League Junior League. This winning team went on to outshine teams in Arizona, New Mexico, Colorado, Nevada, Utah, and Wyoming to take the District 4 title. The State of Arizona could not have more pride in these super achievers.

Congratulations to the All Stars: Jake Dittler, Shannon Fernandez, Ross Gilbert, Mike Ingram, Lance Laven, Matt Long, Tom Messina, Shane Pollock, Chris Rivituso, Jason Scott, Art Strauss, Tom Talayumptewa, Jeremy Thompson, and Robert Tyler. Their success was led by their team manager, Ray Dittler and their coaches, Tom Messina and Tony Rivituso.

Mr. Speaker, I congratulate for 1996 Arizona District 9 Champions, Arizona State Champions, and District 4 Champions on their achievements this season, I wish them the best of luck as these fine young players advance to the Junior League World Series in Taylor, MI. The entire State of Arizona will be cheering you on to your next winning game.

TRIBUTE TO HARRIET FRANCES "BITA" LEE

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. SKEEN. Mr. Speaker, I rise today to speak of the accomplishments of a fellow New Mexican, rancher and a friend: Harriet Frances Lee. Harriet, better known as Bita, will be posthumously honored on this November 1, 1996, by being inducted into the National Cowgirl Hall of Fame.

The National Cowgirl Hall of Fame is a cultural and heritage museum which originated in Hereford, TX, in 1975. Now located in the heart of Fort Worth, this national hall of fame was formed in order to immortalize the women who embody the spirit of the West. From artist to rancher, each year the National Cowgirl Hall of Fame selects four women who have significantly contributed to the heritage of the West.

Last year alone, over 600 applicants were considered for the four positions. Nominated by a longtime family friend, Dr. Margaret Iden, Bita was selected to join women already inducted into the hall of fame; women such as Sacajawea, Patsy Cline, Dale Evens, Annie Oakley, and our fellow New Mexican, Georgia O'Keeffe.

Along with biographies of fellow hall of fame inductees, the museum includes historical and personal mementos of the West and the women who exemplified its strength.

Among Bita's mementos in the museum there may be a lasso, a tiny pair of boots and spurs, or a piece of turquoise. All of these items could be found on Bita at any time of the day. She was tiny in stature, but could organize and work over 250,000 acres with the force of someone twice her size.

A talented rider, Bita loved to rope and work with palominos and quarter horses. Bita also loved the sheep industry. The June marking of the lambs and the April shearing events were always important to Bita. She could be described as salt of the Earth; never wanting for frills or extravagance, loving and respective of animals and her land. Bita often made her own furniture, always liked working with her hands, and was caring of her dogs, cats, or—on occasion—raccoons.

Bita also took a great interest in family. A fraternal twin, she and her brother, Harry—or Bito—had worked side by side to help their parents operate the ranch through drought and economic hard times. Before and after her brother's untimely death, she took great interest in her nephews, Floyd and Harry, and her niece, Marron. Bita worked hard, helping them understand the importance of ranching and family. Furthermore, with Bita's help, her nephew Floyd learned how to ride and rope; Harry learned to work with his hands; and, Marron learned to appreciate poetry. In other words, she helped guide a new generation of Western ranchers.

Bita was a rancher from her birth in 1928, to her death in 1991. Bita was college educated; she could fly a plane; she could ride a horse with grace; she could rope the craftiest of calves; she could write poetry with humor; she could punch cattle; she could shear sheep; and, she always remained a strong and proud woman of New Mexico and the West. I am happy to salute Bita in this manner, and I am pleased to have recommended her to membership in the National Cowgirl Hall of Fame.

ANSWERING AMERICA'S CALL

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. WOLF. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct the national voice of democracy broadcast scriptwriting contest. This past year more than 116,000 secondary school students participated in the contest competing for the 54 national scholarships totaling more than $118,000, which was distributed among the winners. The patriotic theme for this year's contest was answering America's call.

I am proud to share with my colleagues the winning script of Sherri Barrier, my constituent from the 10th District of Virginia, the winner for the State of Virginia. Sherri, a junior at Luray High School, is the recipient of the $1,000 U.S.S. *Battleship Maine* Memorial Scholarship Award for her winning essay. The daughter of Mr. and Mrs. Ray Barrier, she plans a career as a surgeon and was sponsored in the contest by VFW Post 621 in Luray, VA.

ANSWERING AMERICA'S CALL

Somebody, get the phone. If it's Johnny, tell him I'm not home. If it's Elena, tell her I'll call her back. It's my country? I'm washing my hair, can you take a message? It's my country? What was the message? Responsibility. That's all? Anything else? Responsibility for myself, responsibility for others, and responsibility for my country?

Responsibility for myself: What does personal responsibility mean? Well, I guess one thing it could mean is to take responsibility for my values. Good values are important. My country relies on me to set standards for myself, and to uphold them. Education is a responsibility as well. I need to motivate myself to reach my maximum scholastic potential. Another is to set reachable goals that I can strive to achieve. I'm responsible for my future, and need to be all I can be. Yes, I also have to assume the task of being a leader, and not just a follower. My country depends on me to serve as a role model for others, and to possess certain leadership qualities pertinent to being a good citizen.

Responsibility for others: What responsibility for others do I have? Helping to prevent violence is a definite responsibility. I'm in charge of the way I act toward others. This means I have to regulate my behavior and need to help others use anger in a positive way before restoring to violence. I also have to be sensitive to racial issues. "All men are created equal," the Declaration of Independence states. It's up to me to refrain from discriminating against anyone, and to keep peace in the society. I also need to be aware of the drug problem in this country. I can dissuade friends from the use of drugs and show evident disgust with those who take drugs. I can also project a great influence on my friends. I could help them by giving good advice and by raising my standards in hope they will do the same.

Responsibility for my country: What responsibilities do I have for my country? Only I can involve myself in the government. I am able to do this by voting which gives me a chance to express my opinion on candidates and issues. Responsibility lies with me to be informed about world issues affecting our government. Building a better society is up to every individual. Even though I am only one person, I can convince others to accept their responsibilities. Together, we can ensure that America has a bright future and make this country an even better place to live. Wow! I didn't realize how much responsibility America entrusts in me. Our country depends on its youth to take responsibility and answer America's call.

TRIBUTE TO HONOR SOUTHOLD TOWN POLICE CHIEF STANLEY DROSKOSKI FOR 32 YEARS OF DEDICATED SERVICE TO THE PEOPLE OF SOUTHOLD

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. FORBES. Mr. Speaker, I rise today to honor and pay tribute to Southold Town Police Chief Stanley Droskoski for his 32 years of dedicated service to the people of Southold, Long Island, NY.

It is with great sincerity that I ask my colleagues in the House of Representatives to join me in congratulating Chief Droskoski on his retirement from Southold's police department. This great Nation's police forces are the backbone in maintaining a civil society in which to live and work, and safeguard us by protecting ourselves and our property that we, as a society, value so greatly. Our policemen and women also serve as role models for our youngsters, helping to instill in them a sense of pride and respect for their town, county, State and country. For Chief Droskoski, he has proudly taken on these responsibilities and turned them into personal accomplishments.

Beginning 32 years of distinguished service on May 30, 1964, Chief Droskoski steadily moved up the ranks, serving first as a patrol officer before becoming a detective, sergeant, and then lieutenant. He took over the reins as police chief on January 2, 1990, and served in that capacity until his retirement became effective on May 31, 1996. Joining him to enjoy his retirement is his wife of 40 years, Patricia, and his three children, Mark, Cheryl, and Chrissie, along with four grandchildren.

Too often, we take the services of our many dedicated police officers for granted. Police work is the type of employ where everyday achievements often go unnoticed, and where common mistakes seem highlighted. Chief Droskoski has proven himself over the years to be a man of honor and conviction by spending most of his adult life serving the public and aiding the development of this Nation, by making the Southold community a better place to live. Through his leadership and his work ethic, Chief Droskoski has been a positive influence on his department's quest to maintain a structured and balanced relationship between the police and the community they serve. I applaud him on his successful efforts in this regard, and the many benefits they have brought to Southold.

As citizens of this free and prosperous Nation, all Americans owe our local police officers a tremendous debt of gratitude for the sacrifices they have endured and the efforts they have made on our behalf. Please join me in saluting Police Chief Stanley Droskoski for all he has done for the people of the town of Southold.

Congratulations for your 32 years of service and, on behalf of the entire Congress, I wish you a long, healthy, and happy retirement.

IN RECOGNITION OF THE 75TH ANNIVERSARY OF THE POLISH NATIONAL ALLIANCE—MILWAUKEE SOCIETY

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. KLECZKA. Mr. Speaker, I rise today to commemorate the 75th anniversary of the Polish National Alliance—Milwaukee Society. I also congratulate my fellow members of the Milwaukee Society as they host the 50th annual Pulaski Day banquet.

Since 1921, the PNA Milwaukee Society has served as a leading and unifying force in the Milwaukee area's Polish-American community. The Milwaukee Society was formed with the idea of providing an opportunity for members of the professions, business and community leaders to meet and work together on issues of concern to Polish-Americans and to our community at large.

As an active component of the Polish National Alliance, the Milwaukee Society has from its inception, been committed to the preservation and promotion of our Polish-American heritage. In addition to sponsoring numerous cultural, fraternal, and social activities however, the Milwaukee Society has coordinated a variety of worthwhile charitable efforts. These efforts have included an annual Christmas food basket distribution and several scholarship programs. Throughout the past 75 years, members of the Milwaukee Society have taken active and leading roles in a variety of organizations and endeavors. In recent years for example, members of the society assumed leadership positions in the effort to construct a Polish-American community center and to promote and coordinate Milwaukee's Polishfest.

On Friday, September 20, members of the Milwaukee Society will gather, as they have done for the past half century, to celebrate the annual Pulaski Day banquet. Our city's first Pulaski Day banquet was conducted in 1946 when members of the Milwaukee Society sought to honor the memory of the American Revolutionary War hero, Casimir Pulaski. Since then, the banquet has provided the Milwaukee Society with an annual opportunity to recognize those whose efforts have benefited the Polish-American community.

Mr. Speaker, I am proud to congratulate member of the Milwaukee Society on the worthwhile work that they are doing and on the 75th anniversary of their outstanding organization.

HONORING ALBERT G. PEREZ FOR HIS MANY YEARS OF SERVICE TO THE COMMUNITY

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. TORRES. Mr. Speaker, I rise today to honor my good friend Albert G. Perez for his many years of selfless service to the residents of our community, and I ask my colleagues to join me today in paying tribute to this dedicated public servant.

Albert was born on December 25, 1931, in the town of Douglas, AR. After attending the University of Arizona, Albert moved to California. He has been a resident of South El Monte since 1965, working as a traffic electrical engineer for Cal Trans for 34 years. He was first elected to the South El Monte City Council in April 1972, and was appointed vice mayor 2 years later. In March 1975, he was appointed mayor for a 1-year term. He was re-elected to the city council in 1976 and 1980, and again appointed vice mayor in April 1980. Elected again to the city council in 1984, he was yet again vice mayor in 1985, and served as mayor for two consecutive terms in 1986 and 1988. He was appointed mayor in April 1995, for a 1-year term.

Albert has also served the community through his participation and membership in numerous organizations such as the California Contract Cities Association, the League of California Cities, the Mid Valley Manpower Consortium, the Los Angeles County Sanitation District, the Los Angeles County City Selection Committee, the Southern California Joint Powers Insurance Authority, and the Good Will Industries. He is also a member of the Knights of Columbus and the American Legion.

For 10 years I had the distinct honor and privilege of representing South El Monte in the House. During that time, I worked closely with Albert on hundreds of issues and prospects to benefit the residents of South El Monte and the greater San Gabriel Valley. He is an exemplary public official and an accomplished advocate for the residents of South El Monte. I am proud to call him my friend.

Mr. Speaker, it is with honor that I ask my colleagues to rise with me to honor my friend of many years, Albert G. Perez, for his many years of service to our community.

THE 100TH ANNIVERSARY OF BOROUGH OF FAIRFIELD, PA

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. GOODLING. Mr. Speaker, I rise today to commemorate the 100th anniversary of the Borough of Fairfield, Adams County, PA located in my congressional district.

Nearly 250 years ago, John Miller of Castle County acquired land in Carroll's Delight, MD and quickly sold off lots for the purpose of agriculture. Upon his death, his son, William Miller, became proprietor of the plantation, and in 1801 had the land surveyed and plotted for a town to be known as Millerstown.

However, it was soon learned that a town of the same name already existed with a post office on the Juniata River. The town then changed its name to Fairfield where it continued to prosper and develop from 1801 until 1896 adding inhabitants, businesses, churches, and commerce alike. On October 12, 1896, the governing council held its first meeting officially establishing the town of Fairfield.

Today, the Borough of Fairfield remains a quiet community nestled in the foothills of the grand Appalachian Mountains. Its citizens continue to hold onto its founder's pioneering spirit as it moves into the 21st century. With self-reliance and good old-fashioned American values, the Borough of Fairfield is a model for small-town America.

Mayor Lewis and the residents of Fairfield, I salute you on your 100th anniversary.

HONORING A DEVOTED GENTLEMAN, EMORY NESTOR

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. BARCIA. Mr. Speaker, the essence of humanity is giving of one's self to help others in need, particularly in times of emergency. This philosophy is epitomized by the work of the Society of St. Vincent De Paul. And we all know that the success of any organization is ultimately tied to the efforts of the members of that organization. The Bay County Council of the Society of St. Vincent De Paul has benefited for the past 42 years from the selfless efforts of one of its members, Emory Nestor, who is retiring as the president of the Bay County Council.

This gentleman has devoted a great deal of time to the work of the Bay County Council, having been a charter member of the St. Hyacinth Conference, one of the nine conferences in the Bay County Council, and the president of the council since 1990. His skills and leadership have also enabled him to serve as a member of the St. Vincent De Paul Mid East Region Eldercare Committee, which serves as a conduit for providing information about the special needs of the elderly, and an assessment of the various programs of assistance offered to the elderly throughout the region. He also was appointed to the Eastern Michigan Senior Advisory Committee Community Service Commission, where his familiarity with programs for the elderly has been an essential element of the commission's operations.

The key focus of the Society of St. Vincent De Paul has been to provide essential assistance at times of emergencies. Food assistance has been provided for families and individuals. Clothing has been provided through a thrift store. Help with utility bills has been given when urgently needed. And to a limited extent shelter has been provided when emergency conditions create a need, a need which is too often filled only by organizations like the Society of St. Vincent De Paul.

Mr. Nestor's devotion to helping others is equaled with his devotion to his religious faith. He has been a commissioned law minister at St. Hyacinth Parish since 1987. He has helped people at the parish, as well as through the Bay Area Stroke Support Group, at times of great personal difficulty and challenges.

A married gentleman who has been blessed with his loving wife Jean and who knows the value of community service after a long career at General Motors, Emory Nestor is the kind of man that we would all like to have as a neighbor and as a model for our young people.

As he retires from the presidency, and is recognized this weekend by the other members of the Bay County Council, I urge you and all of our colleagues, Mr. Speaker, to join me in thanking Emory Nestor for his devotion, his service, and his leadership.

FAREWELL TO THE GREATEST LEGISLATIVE BODY IN THE WORLD

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. ROTH. Mr. Speaker, September 19 is a memorable day in American history. Two hundred years ago today, our first President, George Washington, gave the American people his Farewell Address. This address is read annually to Congress. In it, George Washington offered the American people precious advice, which for the most part they have followed.

Today I'd like to offer my own farewell to Congress, but one that is simply a thank you to my family, friends and associates, who have meant so much to me since I entered this great institution.

Eighteen years ago I first walked onto this floor to be sworn in as a freshman member of the 96th Congress. It was one of the proudest moments of my life. To be elected by one's fellow citizens to serve in the U.S. House of Representatives is a special honor, one that I will always cherish and treasure.

Throughout those 18 years, I've kept in mind something Abraham Lincoln said about the turbulence of public life: "I do the very best I know how—the very best I can; and I mean to keep doing so until the end."

I couldn't have done it without my family, particularly my wife, Barb. From the beginning, I have been blessed with a supportive and understanding family. Every member of this House knows the sacrifices their families are required to make. Barb, Toby Jr., Vicky, Barbie, and my daughter-in-law Jeanne often went above and beyond what anyone reasonably could expect. I love them dearly—and to give them a big hug of love and thanks.

Representing the people of northeast Wisconsin has been a family affair. Barb has been my unofficial director of constituent affairs and chief campaigner, as well as the finest political strategist I could have ever had. Toby Jr., Vicky, Barbie, and Jeanne have marched with me in countless parades, typed labels, licked stamps, maintained voter lists, manned the telephones and staffed election night headquarters. As a result, they know more about the realities of American politics, I suspect, than the political science faculty at any university. For their help and encouragement I will always be grateful.

I couldn't have done it without the strong support and friendship of the people of northeast Wisconsin. I have made lasting friendships with the people of my district. I have spent every bit of time back in the district that I could, attending community meetings, speaking to small business groups, visiting homes for the elderly, and cheering on high school football teams.

Not once did I feel a trip back home was a chore. No place in America has greater natural beauty: the forests, the inland lakes, the riverways, the hills, the shores and bays of Lake Michigan, from Washington Island west to Northern Highland State Forest, through some of America's most scenic counties: Brown, Calumet, Door, Florence, Forest, Kewaunee, Langlade, Maintowoc, Marinette, Menominee, Oconto, Oneida, Outagamie, Shawano, and Vilas.

Above all, no Member of Congress has a more big-hearted, fun-loving, hard-working, family-oriented group of Americans to represent. Working for them in Washington and visiting them at home has been an honor and a pleasure.

For 18 years, they have placed their trust in me. Fifteen times, in primary and general elections, I asked the people of northeast Wisconsin for a vote of confidence. Fifteen times, they gave me their support. I hope I have met their high expectations.

I couldn't have done it without my staff. They have shared my deep commitment to public service, and they have served the people of Wisconsin and the American people well.

Finally, I couldn't have done it without the friendship and support of my fellow Members. This is a special place, and those who serve here are exceptional people. I have been proud to serve with you; I have learned much from you; and I believe it can be said that together we have made a lasting contribution to this great Nation. God bless all of you and God bless America.

Six months ago, when I announced that after 18 years of service in Congress I would move on to other endeavors, I did so in a statement to the people of northeast Wisconsin. I'd like to insert those comments in the RECORD.

We all know the passage from Ecclesiastes: "All things have their season, and in their times all things pass under heaven."

In short, there is a time for everything. Eighteen years ago, I announced my candidacy for Congress. I have devoted nearly two decades of my life to working for the people of Northeast Wisconsin. I have always worked hard—giving one thousand percent. So has my wife Barb and so have my children. Public service involves a commitment from everyone in my family. And the people have seen that.

In nine general elections and two primaries, the people have placed their trust and confidence in me, to represent them in the United States Congress. For me, this has been the highest honor. The people of Northeast Wisconsin are the finest people on earth. Everyday, they have shown me kindness, generosity and friendship. They have been good to me beyond measure, and it has made my job a pleasure as well as an honor.

Now, after eighteen years, it is the right time for me to come home. Therefore I am announcing today that I will not be a candidate for reelection this November. When the people of Northeast Wisconsin first elected me to Congress, Jimmy Carter was President, the Cold War still raged, the Soviet Union was the enemy and the Iron Curtain divided Europe.

As I reflect on my time in office, it has been an era of monumental change. Today, we are at peace. No nation threatens us. Our economy is strong, especially here at home in Northeast Wisconsin. To be sure, we have problems in our society, but I see America returning to the values that built our country and made us strong. My goal has always been to contribute to a better future for our country, and today I am optimistic for the children of America. I have cherished every moment of my service in Congress. When the American people, through their votes, freely choose a citizen to represent them in Congress, they not only vest a person with the power to make the laws, they reaffirm the power of the people to govern themselves. The Congress truly is the people's house. I will always be grateful to the people of Northeast Wisconsin.

As the Irish proverb goes, "May God in His wonderful love hold each of you in the hollow of his hand."

This has been a great journey of eighteen years. Thank you.

UNITED STATES AMBASSADORS TO HUNGARY AND ROMANIA ASSESS THE SIGNIFICANCE OF THE RECENTLY SIGNED HUNGARIAN-ROMANIAN TREATY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. LANTOS. Mr. Speaker, on Monday of this week, a Treaty of Understanding, Cooperation and Good Neighborliness was signed by representatives of the Governments of Romania and Hungary in the Romanian city of Timisoara/Temesvar. The document was signed by leaders of both governments—Romanian President Ion Iliescu, Hungarian Prime Minister Gyula Horn, and Romanian Prime Minister Nicolae Vacaroiu. The treaty represents another milestone in the process of reconciliation and improved relations between these two important central European countries.

The United States is particularly fortunate at this important time to have in Budapest and in Bucharest two outstanding ambassadors who have had an immense positive influence on U.S. relations with both countries and an equally positive influence as these two countries have made great strides in working to resolve the differences between them and to place their relationship on a higher level.

Donald M. Blinken, the United States Ambassador to Hungary, has had a distinguished career as an investment banker with an international reputation. He has served as our envoy in Budapest since late 1993. Alfred H. Moses, the United States Ambassador to Romania, is a distinguished attorney from Washington, DC, who has been active in a number of national organizations.

Today, the Washington Post has published a article written by these two prominent American diplomats which places in historical context the significance of the signing of the Treaty of Understanding, Cooperation and Good Neighborliness. I ask, Mr. Speaker, that this article be placed in the RECORD, and I urge my colleagues to give thoughtful consideration to the informed views of these outstanding representatives of the United States.

[From the Washington Post, Sept. 19, 1996]

LOOKING BEYOND BOSNIA

(By Donald M. Blinken and Alfred H. Moses)

The attention devoted to events in Bosnia overlooks other important and positive developments in the region which, in history's ledger, could prove equally important. This week Hungary and Romania signed a basic bilateral treaty marking the end to centuries of contention. The treaty has the same significance to Central Europe as the Franco-German reconciliation had to Western Europe. Similar treaties have been concluded between longtime rivals Slovakia and Hungary and between the former Yugoslav Republic of Macedonia and Greece.

Historic rivalry between Hungary and Romania dates back at least a thousand years to the Magyar migrations from Central Asia. This led to Hungarian domination of the Carpathian basin, including modern day Transylvania, now in Romania, which was part of Hungary until 1919, when the Treaty of Trianon put an end to 300 years of Austro-

Hungarian dominance in the region. Unfortunately, Trianon did not end the rivalry, and at the end of World War II, Budapest found itself occupied by Romanian troops for the second time in this century.

The people of Romania and Hungary liberated themselves from communism seven years ago. But their rivalry remained. Now, together, they are engaged in one final act of liberation, this time from the unresolved legacies of their own tragic and angry past.

The heart of the treaty also is the heart of post-Cold War Europe's security challenges: how to reconcile the rights and responsibilities of minorities with majorities in a part of the world where peoples and borders do not match.

Bosnia is a brutal reminder of the power of these ethnic and nationalistic hatreds. It shows how dangerous this power is to peace not just in the Balkans but to Europe as a whole, and how important it is to defuse ethnic grievances before they explode.

The basic treaty obligates both countries to protect the civil liberties and cultural identity of their national minorities. Education at all levels is guaranteed by the state in the minority's native tongue, as is the right to use one's historic language in administrative and judicial proceedings in areas of minority concentration. The same is true of road signs, print and broadcast media and almost every other aspect of communal life.

The test, of course, will come with implementation, but the overwhelming support for the treaty in both countries is reason for optimism. Moreover, both sides are committed because both know the treaty clears an important hurdle to an even more historic goal: integration with the West.

President Clinton's January 1994 decision, embraced by our allies, to open NATO to new members and new partners, together with efforts by the European Union to enlarge eastward, has given every nation of Central Europe an incentive to strengthen democracy and improve relations with its neighbors.

Both Hungary and Romania have been active participants in the Partnership for Peace, the innovative U.S. initiative that has as one of its purposes to prepare NATO aspirants for eventual membership. Romania was the first to join. And Hungary hosts U.S. forces engaged in Bosnia. Troops from both countries participate in joint Partnership for Peace exercises on the territory of the other and are serving with the implementation force in Bosnia.

NATO and the European Union have made it clear that states aspiring to membership that have unresolved border disputes or are unable to respect international norms on the treatment of minorities "need not apply."

This clear message moved Hungary and Romania to look beyond traditional boundaries and historical divisions toward a new vision of a secure and prosperous continent no longer mired in the conflicts of the past. In this spirit, both nations have committed in the basic treaty to support NATO and EU membership for the other.

By embracing countries in Central Europe that show the will and the means to contribute to the stability and prosperity of the continent as a whole, the EU and NATO can help bring an end to historic enmities based on ethnic, cultural and religious differences, including the historic divide between Catholic West and Orthodox East. The example of Hungary and Romania may point to the end of a millennium of Central European history marked by perpetual conflict and human tragedies past counting.

DISCOMFITTING DETAILS OF LATE-TERM ABORTIONS INTENSIFY DISPUTE

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. WELDON of Florida. Mr. Speaker, I submit the following for the RECORD.

HARSH DETAILS SHIFT TENOR OF ABORTION FIGHT

From the moment the medical paper arrived anonymously at the offices of the National Right to Life Committee three years ago, antiabortion activists knew they had been handed a powerful weapon.

The eight-page, double-spaced document described in precise, straightforward language an abortion procedure sometimes used during the second half of pregnancy, at 20 weeks and beyond. A copy of a medical paper that had been delivered at a recent seminar, it was written by an Ohio doctor who had performed the procedure hundreds of times.

It provide what abortion foes had long believed was crucial in turning public opinion their way: a graphic description of one type of abortion they felt would offend many, perhaps most, Americans. In this procedure, the doctor delivered the body of the fetus—feet first and sometimes still alive—into the birth canal before collapsing the skull so that the head could be drawn through the opening of the uterus. The medical world called the procedure "intact dilation and evacuation," but antiabortion activists soon coined a new name for it: "partial-birth" abortion.

The activists believed that publicizing the details of the procedure would fuel a national debate, pull many abortion rights liberals to their side and prompt Congress for the first time to ban a specific abortion procedure.

They were right.

President Clinton vetoed the legislation last April. But Congress is gearing up to vote on it again before adjourning at the end of next week. Although proponents of the ban believe they may have the necessary two-thirds vote in the House to override the veto, they acknowledge they still are at least a dozen short in the Senate.

Ongoing efforts to enact the ban have been aided by the considerable weight of leading Catholic clerics, who visited members of Congress last week to lobby for an override, and whose followers have deluged Capitol Hill with millions of postcards.

The issue also has played a role in the presidential campaign. Robert J. Dole, the Republican nominee who supports a constitutional amendment banning nearly all abortions, has said that Clinton's veto "pushed the limits of decency too far." Ten days ago, he told an audience of Catholics, "whether you're pro-life or pro-choice, there is one thing everyone can agree on: Partial-birth abortion is wrong."

Whatever the bill's ultimate fate, the clash over late-term abortions will be remembered as a benchmark in the decades-old abortion debate.

It has forced members of Congress and the general public to confront what happens during abortion—and most people find such details grisly, no matter what surgical method is used. It also has ignited a discussion of the ethical justifications for abortions performed when a pregnancy is more than half over. Such procedures—of which the procedure banned by the legislation is only one of several—make up only 1.3 percent of the 1.3 million abortions done in the United States each year, but they provoke ambivalence and discomfort even among abortion rights supporters.

"This legislation has so mobilized pro-lifers, that the effect of it . . . will strengthen them for a very long time," said Helen Alvare, spokeswoman for the National Conference of Catholic Bishops. "For years, the best we've been able to do in Congress is preserve some funding restrictions. To get from that into the question of abortion itself was a huge leap."

Those on the other side of the debate view the bill's success in Congress as an ominous precedent, and suggest that, if it were law, abortion opponents would try to expand or broadly interpret the ban to cover other kinds of abortions.

"This is the first time Congress has ever attempted to regulate the practice of medicine and abortion," said Kathryn Kolbert, vice president of the Center for Reproductive Law and Policy in New York, an abortion rights group.

Said Lewis Koplik, a New Mexico physician who performs late-stage abortions using a different method: "They don't want less than 1 percent of abortions stopped. . . . They want all abortions stopped."

ESTIMATES AND ANECDOTES

There are no reliable statistics on how many abortions are done each year using the technique that would be banned. Nor is there much information about the women who undergo the procedure or about the condition of the fetuses they carry. As a result, both sides of the debate have selectively used estimates and anecdotes to support their positions.

The National Abortion Federation, an organization of abortion providers, believes 400 to 600 cases of "intact D&E," as the procedure is often called, may be done each year. The National Right to Life Committee, which supports the ban, believes it may be several thousand.

Similarly, there are no reliable estimates on how many American doctors use the technique. Interviews with abortion providers suggest that they are fewer than 20, and perhaps fewer than 10.

Opponents of the ban, including President Clinton, have used patients and data drawn chiefly from the practice of one abortion doctor to portray the procedure as an extremely rare one, used almost exclusively in cases where a woman discovers that her pregnancy threatens her own life or that the fetus is severely deformed. They also have implied that in some cases, it is the only abortion technique that can safely be used.

Interviews with physicians, as well as information gleaned from published documents and congressional testimony, paint a different picture of these late-term abortions.

It is possible—and maybe even likely—that the majority of these abortions are performed on normal fetuses, not on fetuses suffering genetic or developmental abnormalities. Furthermore, in most cases where the procedure is used, the physical health of the woman whose pregnancy is being terminated is not in jeopardy. In virtually all cases, there are alternative ways to perform the abortion safely, through perhaps not as safely as when intact D&E is used.

Instead, the "typical" patients tend to be young, low-income women, often poorly educated or naive, whose reasons for waiting so long to end their pregnancies are rarely medical. Only in the small subgroup of women whose abortions are done extremely late-in the last one-third of gestation—are most of the fetuses malformed, and most of the pregnancies initially desired.

But if abortion rights advocates have painted a misleading picture of intact D&E, so have proponents of banning the procedure.

Much of their campaign has led people to believe that normal, viable fetuses are regularly being aborted very late in pregnancy—in the eighth or ninth month—using this technique. "Virtually every pro-choice American and every pro-life American agrees that aborting a child in the eighth or ninth month the way a partial-birth abortion does is wrong," House Speaker Newt Gingrich (R-Ga.) said in supporting a veto override on "Meet the Press" Sunday.

Most fetuses aborted by the "intact D&E" method are less than 24 weeks gestation; the number done later, when the chances of viability are greater, is very small.

There is no clear-cut moment in pregnancy when a fetus becomes "viable," or capable of surviving outside the womb. Of infants born at 24 weeks gestation, about one-third survive; at 23 weeks, fewer than one-quarter. Most abortion providers will not perform abortions of any type on a normal fetus, carried by a healthy woman, beyond the 24th week of pregnancy; many practitioners set the boundary even earlier.

Antiabortion groups also have cited the fact that the fetus, in some cases, is still alive when part of its body is outside the womb during the procedure. "The difference between the partial-birth abortion procedure and homicide is a mere three inches," Rep. Charles T. Canady (R-Fla.) said last year. Proponents also have argued that fetuses may suffer pain during the procedure.

The usual alternative to intact D&E is "dismemberment D&E," in which the fetal limbs are pulled off the body in utero, sometimes while the fetus is still alive. Proponents of the "partial-birth" abortion ban have not made clear why intact D&E should be outlawed, while "dismemberment D&E"—used to abort a fetus of similar age while still inside the uterus—is not. And, if the fetus has sensation—which is far from certain—then arguably dismemberment D&E is the more painful procedure.

What's indisputable is that public discussion of this method of ending pregnancy has thrown a spotlight on the anguish and ambivalence that lurks below many—if not all—abortions. It has forced doctors, patients and the public to face the "livingness" of the fetus in a way that abortion techniques used early in pregnancy do not.

VISUAL IMAGERY

Abortion opponents have always relied on visual imagery. They have carried posters depicting the tiny feet of aborted fetuses, and jars with the fetuses themselves. A 1986 antiabortion film, "The Silent Scream," showed an ultrasound image of the supposed agony of a 12-week fetus being aborted. But it was not until they provided drawings of the intact D&E procedure that were descriptive enough to make the point, but not so graphic they couldn't appear in the mass media, that they reached a wider audience.

Within weeks of Martin Haskell's description of the intact D&E procedure at a 1992 National Abortion Federation seminar in Dallas, his paper had been sent to the National Right to Life Committee, said its legislative director, Douglas Johnson. The committee took Haskell's paper, along with some rough sketches of the procedure that had appeared in an antiabortion publication, to an artist who produced more sophisticated drawings. These were circulated within the antiabortion community.

"I was horrified that such a procedure existed," said Canady, who was sent a copy of the paper and later introduced the ban. "It occurred to me that this was something the American people would overwhelmingly oppose if they were aware of it."

In 1993, Haskell said in interviews in two medical publications that he had discovered the procedure by accident, and had performed it more than 700 times. In most cases, he said, the abortions were not done because of a birth defect or a severe maternal illness.

Haskell is no longer granting interviews, "given the harassment he's under," said his lawyer, Kolbert.

The issue landed on Capitol Hill as Congress was debating the 1993 Freedom of Choice Act, a bill that would have prohibited many state restrictions on abortion. Canady argued that the bill would prevent states from banning even late-term abortion techniques, like the procedure described by Haskell, and offered an amendment banning the intact D&E method. But abortion rights supporters had long outnumbered abortion foes in Congress, and Canady's amendment failed by a narrow margin. A procedural fight kept the bill from ever coming up for a vote.

With Republican victories in the 1994 elections, however, more than 40 new antiabortion legislators arrived on Capitol Hill, and the abortion balance changed. And proponents of the "partial-birth" abortion ban believed their chances for a major antiabortion victory were further enhanced by the distastefulness of the late-term procedure.

Antiabortion leaders correctly suspected the issue could split the abortion rights opposition. Sen. Daniel Patrick Moynihan (D-N.Y.), who traditionally had voted for abortion rights, called the procedure "as close to infanticide as anything I have come upon in our judiciary." Previously dependable abortion rights supporters like House Minority Leader Richard A. Gephardt (D-Mo.) and Rep. Susan Molinari (R-N.Y.), similarly decided to support the ban.

It passed 286 to 129 in the House, and 54 to 44 in the Senate.

The emotion that marked the congressional debate has accompanied the issue into the presidential campaign. Dole has pledged that, as president, he would sign the ban on "partial-birth" abortion. He has attacked Clinton's veto, charging it represented his lack of "moral vision."

Clinton has countercharged that his decision was based on defending the health of women whose babies were seriously deformed. "I fail to see why [Dole's] moral position is superior to the one that I took," he said.

Polls suggest that, while Americans generally support a women's right to an abortion, there is also considerable support for the ban on the "partial-birth" procedure.

Respondents to a Gallup Poll last July were asked if they would favor "a law which would make it illegal to perform a specific abortion procedure conducted in the last six months of pregnancy known as a 'partial-birth abortion,' except in cases necessary to save the life of the mother." Seventy-one percent said yes.

Supporters of the ban argue that public opinion is shifting as they continue to place advertisements describing the procedure in newspapers and on television. Among the ads is one from a new group of 300 physicians, including former surgeon general C. Everett Koop, which argues that the procedure is never medically necessary.

The quest for public support has shaped strategies on both sides. Abortion opponents focus on the fetus and on the medical details of the procedure. Abortion rights supporters emphasize the rights and health of women and portray the proposed ban as an unwarranted government invasion of privacy.

SHAPING STRATEGIES

A contentious subtext in this war of images has been the question of why women seek late-term abortions.

"The anti-choice community has done a very good job at painting a picture of a woman who has an abortion as frivolous, irresponsible, one who engages in sex without responsibility," said Kate Michelman, president of the National Abortion and Reproductive Rights Action League.

She and others cited an advertisement run by the National Conference of Catholic Bishops listing examples of reasons a woman could use to obtain a "partial-birth" abortion if the legislation made an exception to preserve the health of the mother. The list included such examples as "won't fit into prom dress," "hates being fat", and "can't afford a baby and a new car."

But the women who have spoken out publicly about their experiences with the procedure have told a different story.

"We are not women popping up in the eighth month saying, 'I don't think I'll be a mom,'" Claudia Ades told a congressional hearing last November. Ades said she learned from a sonogram when she was 26 weeks pregnant that her fetus had a severely malformed brain and numerous other serious defects.

"These were desperately wanted children, where something went terribly wrong," she said.

In a recent interview, Ades said she and her husband, Richard, who live in Los Angeles, "begged for . . . someone that could fix my baby's brain or the hole in his heart," but were told their child had no chance of survival. She opted for abortion, she said, because she believed her fetus was in pain.

Four different doctors told her intact D&E was the safest way, Ades said. "We knew other options existed," including a Caesarean section, "but they were not considered as safe, as healthy or as appropriate for us. . . . What bothers me is that we have to defend what we did. We believe it was such a humane thing."

Johnson, of the National Right to Life Committee, and others argue that even in the case of severe developmental defects like the Ades fetus, the baby should be allowed to be born. "The premise that in some cases it is necessary to kill the baby to complete a delivery . . . there are no such cases," he said.

Clinton said he would have signed the legislation if it had included an exception for women who faced serious health risks without the procedure. But foes of such an exception argued that it "would gut the bill," in Johnson's words.

While the immediate future of the abortion debate clearly hangs on the November elections, it seems likely that this will not be the last time Congress focuses on a specific procedure.

Rep. Christopher H. Smith (R-N.J.), a leading abortion opponent in the House, said after the House approved the ban late last year that antiabortion lawmakers "would begin to focus on the methods and declare them to be illegal."

For abortion rights supporters, that is a daunting prospect.

"There is no abortion procedure when described that is aesthetically comforting, whether at six weeks or 32 weeks," said Frances Kissling, president of Catholics for a Free Choice. "This is exactly the kind of abortion issue that people don't want to think about. . . . They want women to be able to have this option in such extreme and terrible circumstances, but they know it's not pretty. It has to happen, but it shouldn't be in the newspaper."

VIABILITY AND THE LAW

The normal length of human gestation is 266 days, or 38 weeks. This is roughly 40 weeks from a women's last menstrual period. Pregnancy is often divided into three parts, or "trimesters." Both legally and medically, however, this division has little meaning. For one thing, there is little precise agreement about when one trimester ends and another begins. Some authorities describe the first trimester as going through the end of the 12th week of gestation. Others say the 13th week. Often the third trimester is defined as beginning after 24 weeks of fetal development.

Nevertheless, the trimester concept—and particularly the division between the second and third ones—commonly arises in discussion of late-stage abortion.

Contrary to a widely held public impression, third-trimester abortion is not outlawed in the United States. The landmark Supreme Court decisions, *Roe v. Wade* abortion on demand up until the time of fetal "viability." After that point, states can limit a women's access to abortion. The court did not specify when viability begins.

In *Doe v. Bolton* the court ruled that abortion could be performed after fetal viability if the operating physician judged the procedure necessary to protect the life or health of the woman. "Health" was broadly defined.

"Medical judgment may be exercised in the light of all factos—physical, emotional psychological familial and the women's age—relevant to the well-being of the patient." the court wrote. "All these factors may relate to health. This allows the attending physician the room he needs to make his best medical judgment."

Because of this definition, life-threatening conditions need not exist in order for a women to get a third-trimester abortion.

For most of the century, however, viability was confined to the third trimester because neonatal intensive care medicine was unable to keep fetuses younger than that alive. This is not longer the case.

In an article published in the journal Pediatrics in 1991, physicians reported the experience of 1,765 infants born with a very low birth weight at seven hospitals. About 20 percent of those babies were considered to be at 25 weeks' gestation or less. Of those that had completed 23 weeks' development, 23 percent survived. At 24 weeks 34 percent survived. None of those infants was yet in the third trimester.

THANK YOU, JUNE KENYON, FOR YOUR LOYAL SERVICE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. FIELDS of Texas. Mr. Speaker, it was with mixed emotions that I announced last December 11 my decision to retire from the House at the conclusion of my current term. As I explained at the time, the decision to retire was made more difficult because of the loyalty and dedication of my staff—and because of the genuine friendship I feel for them. Each one of them has served the men and women of Texas' 8th Congressional District in an extraordinary way.

Today, I want to thank one member of my staff—June Kenyon—for everything she's done for me and my constituents in the more than 6 years she has served on my official staff, and for the 6 years she has served on my campaign staff.

As a member of my congressional casework staff since early 1990, June has helped thousands of my constituents who have experienced problems with Federal departments and agencies, cutting through bureaucratic redtape to ensure that Federal programs help, not just frustrate, the people they were designed to help. At the same time, June has managed my Youth Advisory Board program, in which two students from each high school and college in my district meet semiannually to share with me their opinions and concerns on issues affecting them.

In addition, June has also managed the computer hardware and software that link my three district offices and contribute to my staff's efficiency.

Prior to joining my official staff, June worked for many years in my campaign office. In mid-1984, she began working as my campaign's systems manager, maintaining a massive mailing list and voluminous financial records. In later years, she served as my campaign's financial director, office manager, and scheduler. June has trained volunteers; organized fundraisers; maintained payroll, tax, and Federal Election Commission records; and made sure I was where I was supposed to be—one of the more challenging tasks anyone has ever undertaken.

It was June's reputation as a woman of many talents who is always ready and willing to do whatever is necessary to ensure that a project is seen through to completion that prompted my friend, Jack Rains, to ask for June's help in his 1988 gubernatorial campaign.

June has been an extremely active member of the Republican party for many years. She is a member of the Texas Federated Republican Women, as well as a member of the Kingwood Area Republican Women's Club. And she is a charter member of the Lake Houston Republican Women's Club.

June Kenyon is one of those hard-working men and women who make all of us in this institution look better than we deserve. I know she has done that for me, and I appreciate this opportunity to publicly thank her for the dedication, loyalty and professionalism she has exhibited throughout the years it has been my privilege to know and work with her. I'm so grateful to her for all she's done for me that I'm almost willing to overlook the fact, Mr. Speaker, that June was born in New York, not Texas.

June has yet to make a definite decision about what she wants to do in the years ahead. But I am confident that the skills and the personal qualities she has demonstrated in my office will lead to continued success in the future.

Mr. Speaker, I know you join with me in saying thank you to June Kenyon for her years of loyal service to me, to the men and women of Texas' Eighth Congressional District, and to this great institution. And I know you join with me in wishing June, and her two sons—Charles Thomas McDonough and George Kenyon McDonough, all the best in the years ahead.

Thank you, Mr. Speaker.

PARTIAL-BIRTH ABORTION IS CHILD ABUSE

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. SMITH of New Jersey. Mr. Speaker, partial-birth abortion is child abuse.

That some otherwise respectable and pleasant and well-mannered people would permit killing babies in this way—which Congress can stop if it has the will—is both baffling and extremely sad.

That some otherwise smart and even brilliant people have been so easily fooled by the abortion industry's outrageous lies, distortions, half-truths, and surface appeal arguments is, at best, disappointing and unsettling.

How can anyone in this Chamber or in the White House defend sticking a pair of scissors into a partially born baby's head so as to puncture the child's skull so a suction catheter can be inserted to suck out the child's brains? How can anyone support this and then say they're for kids?

My wife, Marie, is an elementary school teacher, and she said this morning that if a young student were to stab her doll in the back of the head, alarm bells would go off and we would say that this child might have deep psychological problems, was in need of professional help, and posed a potential threat to others.

If anyone did such an act to a young animal—a puppy or a kitten—we would say that he or she was sick and guilty of animal abuse.

Yet the abortion President Bill Clinton, seeks to continue legal sanction for this gruesome assault on children. Finally, we're seeing what the right to choose really means: Executing untold thousands of children by stabbing them and sucking out their brains?

Let's face it. Partial-birth abortion is a gross violation of human rights—it's child abuse.

Why the blind spot?

Why the unwillingness to see the brutality and savagery of brain-sucking abortion?

I guess we now know how far the so-called pro-choice movement will go to sustain the Orwellian super-myth that abortion is somehow sane, compassionate—even pro-child.

Americans will now see that the real extremists are not the people who insist on calling attention to the grisly details of abortion, such as dismemberment of the unborn child, injections of high concentrated salt solutions and other kinds of poisons that chemically burn and then kill the baby, or this particular method, a brain-sucking method of abortion. They will see that the real extremists are those who actually do these acts.

The dangerous person is not the one who shows us the pictures or who describes abortions, the dangerous person—the child abuser—is the person holding the scissors at the base of the baby's skull.

I would respectfully submit to my abortion-minded friends on both sides of the aisle, that the coverup is over. For more than two decades the abortion industry has sanitized abortion methods by aggressively employing the shrewdest and most benign euphemisms market research can buy.

I say to my friends on the other side of this issue, choose the path of Dr. Bernard Nathanson, a founder of NARAL—the National Abortion Rights Action League—and former big league abortionist who turned pro-life because he finally had to admit, in a fit of intellectual honesty, that the unborn child was a patient, too, in need of nurturing and caring and love, just like his or her mother.

For the first time ever, the debate over partial-birth abortion requires us to begin coming to grips with the grisly specifics of how abortion actually pains, tortures, and destroys innocent human babies. If slaughtering a partially born child is wrong, why is it OK to slice and suction a baby in utero with a high-powered vacuum, 20 to 30 times more powerful than an average household vacuum cleaner, a procedure that turns the baby into bloody pulp. In a later term D&E abortion, the baby is decapitated and dismembered, limb by limb, inside the womb.

The dirty secret of the abortion rights movement—the violent, painful methods of abortion—are finally getting scrutiny because of this debate. The partial-birth abortion debate is allowing us to just scratch the surface of the usually secret, hidden, and Byzantine world of abortion and the methods used to painfully kill unborn children. Even the Washington Post shed some light on the methods this week. The Post article says, in part,

> Most abortion doctors circumvent this problem by dismembering the fetus and removing it in pieces small enough to pass through the cervix . . .
>
> The physician generally injects the fetus with one or more toxic substances a day before surgery, a maneuver that softens the tissue and makes dismemberment easier. It also eliminates any possibility a live birth will occur. Alternatively, some doctors cut the umbilical cord, which kills the fetus, 15 or 20 minutes before the procedure.

Perhaps some of you are having—or beginning to have—second thoughts concerning the bill of goods the abortion lobby has been selling all these years.

They even lied about the number of partial-birth abortions performed each year in the United States.

This past Sunday, The Record of Bergen, NJ, published a lengthy investigate report about the partial-birth abortions. I was appalled to read that a single facility in New Jersey—Metropolitan Medical in Englewood—performs at least 1,500 partial-birth abortions every year. This is three times the number of brain suction abortions that the National Abortion Federation, Planned Parenthood, NARAL, and other pro-abortion groups have estimated are performed annually throughout the country.

This revelation belies the statement of Bill Clinton that the process of sucking a baby's brains out moments before his or her full delivery is limited to 500 children per year nationally. Even if the lower number were true, however, I am stunned that he or anyone else could belittle the horror of partial-birth abortion by saying it "only" kills 500 children each year. This is a higher death toll than the Oklahoma City bombing—an act that has been rightfully condemned.

What is equally as frightening is the fact that the same Record article reveals that most partial-birth abortions in New Jersey were done to teenagers, and they were done as elective procedures, not for medical reasons. Let me quote from the article.

> "We have an occasional amnio abnormality, but it's a minuscule amount," said one of the doctors at Metropolitan Medical, an assessment confirmed by another doctor there. "Most are Medicaid patients, black and white, and most are for elective, not medical, reasons: people who didn't realize, or didn't care, how far along they were. Most are teenagers."

And let us not forget Dr. Martin Haskell, the medical doctor who boasts about this grisly procedure and goes on tour teaching it to others. Dr. Haskell says 80 percent of his partial birth abortions are "purely elective."

This contradicts everything the abortion President has said to justify his veto of the Partial-Birth Abortion Ban bill passed by both the House and the Senate. President Clinton should stop hiding from the truth.

Override this antichild veto.

TRIBUTE TO PAUL MOLITOR, 3,000 HITS AND HOMETOWN HERO

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. RAMSTAD. Mr. Speaker, I rise today to praise a true Minnesota hero, whose athletic exploits in the all-American game of baseball have dominated headlines from coast to coast in recent days.

But as big a hit as Paul Molitor has been on the field for nearly two decades, Paul Molitor has been an even bigger hero to children and fans all across this great country for the person he is.

Mr. Speaker, it is common for this most uncommon man to stand for hours at a time and sign autographs for all comers, fans young and old. Paul Molitor of Minnesota and the Minnesota Twins is as classy a person as his classic swing.

A devoted family man who always answers the call of community organizations to help people in need, Paul Molitor gives us all much to admire. He visits to hospitals to cheer up suffering children in cities all across this great country are rarely covered in the newspapers. But the lives he has touched, the spirits he has raised are reason enough to celebrate this great American hero.

Joining only 20 of the greatest players in the history of the sport, Paul Molitor became a member of one of major league baseball's most exclusive clubs on Monday, September 16 in the fifth inning of a game at Kauffman Stadium in Kansas City, MO.

Showing his classic, never-give-up hustle, Molitor became the first player to enter the 3,000-hit club with a triple and an all-out, head-first slide into third.

And showing his strong love of family, Molitor immediately located his wife, Linda, and daughter, Blaire, in the stands and embraced them warmly.

Overcoming injury after injury, Paul Molitor's relentless pursuit of perfection and team goals has set a shining example for all of us in our everyday lives.

A fellow alumnus of the University of Minnesota, Paul Molitor has stolen our hearts with his heart for the game—just like he once stole second, third, and home in a single inning. His accomplishments in the game are already the stuff of legend.

This St. Paul native was the most valuable player of the 1993 World Series and scored the series-clinching run. His 1987 hitting streak of 39 games is the fifth longest in modern big-league history. In the first game of the 1982 World Series, he set a record with five hits.

From his sandlot days on the same playgrounds in St. Paul that produced—within just a few years—other future Hall of Famers Dave Winfield and Jack Morris, to his emergence as a star at the University of Minnesota, Paul Molitor has been gathering fans all across America.

In Milwaukee, Toronto, and Minnesota, Paul Molitor has collected a legion of loyal admirers who are devoted to our native Minnesota son as much for his character as his clutch fielding and hitting.

Mr. Speaker, we can all take a lesson from what Paul Molitor has done on and off the field: never give up; bear down at each and every opportunity; stay mentally tough; keep your eyes on the goal; don't let some bad breaks deter you from your objective; look out for your teammates; remember what's truly important.

Paul Molitor, the baseball player, is still going strong at age 40. He's leading the league in hits. But, more importantly, Paul Molitor, the person, is proving that Leo Durocher was wrong. Nice guys do finish first.

BRING GREATER ADMINISTRATIVE FLEXIBILITY TO HASKELL INDIAN NATIONS UNIVERSITY

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mrs. MEYERS of Kansas. Mr. Speaker, today I am introducing a bill to bring greater administrative flexibility to Haskell Indian Nations University located in Lawrence, KS.

Haskell has been educating native Americans since 1884. One of only two institutes of its kind in the United States, any person of native American descent can attend Haskell tuition-free in fulfillment of treaty obligations. Since it's inception, Haskell has grown into a cherished educational institution in the native American community and a respected neighbor in Lawrence, KS.

Under the leadership of President Bob Martin, Haskell University has begun a far-sighted transformation into a 4 year university specializing in training elementary and secondary education teachers, and environmental science and conservation programs. For the past 3 years, the first group of education baccalaureate students have been studying at Haskell and will graduate this spring.

However, in order to continue its transformation, Haskell needs the autonomy and authority to hire and retain faculty-rank teachers. That is what this bill does. Local control and authority has already been granted to all tribally-controlled community colleges. While I realize that the time before this Congress does not permit a thorough hearing of this bill, I want to alert my colleagues to both the need and importance of the legislation.

TRIBUTE TO FINANCIAL WOMEN INTERNATIONAL

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. REED. Mr. Speaker, I rise to recognize the contributions of women to the financial services industry and to honor an organization that makes this success possible: Financial Women International.

Women have made a major impact in the realm of financial services, leading to the industry's growth and flourishment. For 75 years, Financial Women International has advanced these goals by helping women in the financial services industry to expand their personal and professional capabilities.

When the group was founded in 1921, it claimed 59 members who held high positions in their banks. Today, Financial Women International counts more then 10,000 members from all 50 States and several foreign countries. These individuals come from all facets of the rapidly expanding world of financial services.

Financial Women International's impressive record stems from its emphasis on education. The group appreciates the importance of continual learning. For this reason, it offers seminars and many other programs that teach women in the financial services industry the skills they need to become and remain competitive.

In addition, Financial Women International advances the interests of working women by promoting pay equity and through its contributions to the efforts of the Glass Ceiling Commission.

I am pleased to honor Financial Women International. I ask my colleagues to join me in saluting this organization and the many hard-working women of the financial services industry.

THE INTRODUCTION OF THE CHILD LABOR FREE CONSUMER INFORMATION ACT OF 1996

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. MILLER of California. Mr. Speaker, I am pleased to be able to introduce today new legislation to aid consumers wanting to avoid products made with abusive and exploitative child labor. The measure, called the Child Labor Free Consumer Information Act of 1996, encourages apparel and sporting good companies to voluntarily adopt a "child labor free" label on their products or packaging.

Over 60 Members of the House have joined me in introducing this important piece of legislation that I wrote with my good friend Senator TOM HARKIN of Iowa, who has been a relentless fighter for children and for human rights.

Our bill would create the broadest anti-child labor label in today's market. It builds on successful efforts to use labels to inform consumers of socially responsible actions by manufacturers and retailers. The Rugmark label, for example, guarantees that certain hand-knotted Asian rugs were not made by exploited children. And the Green Seal and other environmental labels, such as the Dolphin Safe logo on cans of tuna fish and the European "E" label, provide important information to consumers concerned about environmental protection.

On most products today there is a world of information. You can know if a shirt was made in the United States or abroad, made with union labor, made of cotton or synthetics, and how to care for it. Nowhere, however, will you see reference to any labor protections adhered to in the manufacture. And yet, this is an important piece of information to consumers that could influence their purchasing decisions. It is important to workers, and it is important to the children that are being exploited and abused in the workplace because of insufficient pressure on countries and businesses to put these children in school rather than to work.

Mr. Speaker, the bottom line is that consumers want to avoid products made in sweatshops or by child labor, but they have no way of knowing which products to avoid. Our legislation asks companies to "put your money where your mouth is"—if your product is free of child labor, tell the consumer right on the label.

Numerous polls and surveys show consumers want information about socially responsible business practices. One study, by Marymount University in Virginia, found that three out of four Americans would boycott a store if they knew it sold goods made in sweatshops.

Regrettably, products made with abusive and exploitative child labor and in sweatshops are prevalent. The International Labor Organization estimates there are several hundred million children making goods, many of which are sold in U.S. markets.

Attention to this issue was heightened this year after it was disclosed at a hearing that I chaired by the Democratic Policy Committee that celebrity product lines, such as the Kathie Lee Gifford clothes sold at Wal-Mart stores, were made in part by underage youth and at sweatshops. Life magazine added to the attention by later reporting that most soccer balls in the world are made by poor children, some as young as 5 years old.

Last year, the United States imported almost 50 percent of the wearing apparel sold here and the garment industry netted $34 billion. And according to the Department of Commerce, last year the United States imported 494.1 million pairs of athletic footwear—enough shoes to encircle the Earth five and a half times—and produced only 65.3 million pairs domestically.

Many companies say their manufacturing contracts specifically prohibit the use of child labor and other labor violations and that they will terminate contracts with companies that violate those terms. Regrettably, these codes of conduct are rarely independently verified. In-fact, the Gifford line and Wal-Mart both have codes of conduct against child labor and sweatshops.

Gifford, who has become an outspoken opponent of these labor violations, told Good Housekeeping magazine this month that codes of conduct are inadequate:

> Other celebrities say, "Oh, I've got something in my contract that says this kind of labor can never be exploited." I've had the same clause in my contract since Day One. It's always been a concern of ours. But how much good does it do?

The Child Labor Free Consumer Information Act would establish a commission of government, business, union and non-profit members working together to create guidelines for the use of a "Child Labor Free" or "Not made With Child Labor" label. The label could be attached to or printed on the product or the product packaging. The Commission would also be charged with investigating complaints brought to it that a company may be fraudulently using the label. Even though use of the label would be voluntary, companies would face increased penalties under Federal Trade Commission law for fraudulently using it.

Companies that adopt this label will find that they will be rewarded in the marketplace by consumers that repeatedly state they don't want to support labor exploitation, particularly of small children. This is a socially responsible and economically attractive step for companies to take. We know we cannot rid child labor from the world, but we hope that consumers will be able to make an informed choice about whether they want to support products made with child labor or not.

I recognize that it is late in the legislative session to be introducing new legislation. And I expect to reintroduce this legislation again next year. But I believe it is important to remind the public and my colleagues that this issue will not simply fade away. And this legislation also contains an idea that businesses could act on today, without its passage, if they were so inclined. I hope they will consider a label seriously as a means to prove to consumers their commitment to stopping child labor violations.

Finally, Mr. Speaker, I would like to attach to this statement a report that I have prepared based on the information gathered at the April hearing and on subsequent investigations by my staff. The report makes a compelling argument for the use of voluntary product labels to achieve socially—and economically—desirable goals.

THE NEED FOR BETTER PRODUCT LABELING

INTRODUCTION

Although the rapidly expanding global marketplace has brought to U.S. consumers an ever-broadening array of goods from around the world, the market has not brought additional information to consumers on the potential impacts of their purchasing decisions. A highly competitive, unregulated global market is enticing some corporations to flee strong environmental protection or labor laws in the U.S. and other developed countries for nations where such protections are less stringent, or even non-existent. As nations compete to attract global capital, and developing nations strive to industrialize, lack of environmental regulations, unsafe working conditions and low-wage labor—including forced labor and child labor—may provide the competitive edge for many countries. This situation is legitimized by the virtual silence of trade agreements on these issues.

A growing number of investors, consumers, and companies believe that the power to force positive change lies in consumer education. These companies and consumer advocacy organizations are articulating a message that consumers, by choosing products manufactured in a way that does not harm the environment or undermine the rights of workers, will force corporations to produce their goods in a responsible fashion.

In response to concerns raised by the environmental, labor, and human rights communities, in April 1996 the House Democratic Policy Committee convened a hearing that I chaired in an effort to better inform the public and Members of Congress on this complex debate. It was at that hearing that the now infamous allegation about Kathie Lee Gifford's clothing line sold at Wal-Mart Stores was first made. This discussion paper is based on the issues raised at that hearing.

CONSUMERS WANT TO BE INFORMED

Polls consistently show that consumers want to be informed about the impacts of their purchases.

In 1993, Cone Communications collaborated in a poll with Roper Starch Worldwide Inc. To survey, 2,000 consumers on the extent to which socially responsible business practices entered into their purchasing decisions. Thirty-one percent of those surveyed responded that, after price and quality, a company's socially responsible business practices are one of the most important factors in deciding whether or not to buy a brand. (source: Council on Economic Priorities)

A 1992 Ad Age poll conducted by Yankelovich Clancy Shulman of 1,004 consumers found that 70% of respondents said environmental messages in labeling or advertising "sometimes" or "very often" influence their purchasing decisions. (source: Council on Economic Priorities)

And a 1995 survey of 1,008 consumers by Marymount University's Center for Ethical Concerns found more than 75% of those surveyed would boycott a store if they knew it sold goods made in sweatshops. Nearly 85% would pay an extra $1 on a $20 garment if it were guaranteed to be made in a legal shop. (source: Maryland University, Department of Fashion Design and Merchandising and Center for Ethical Concerns)

At issue is: how do consumers become informed about the "good" or "bad" product?

Those supporting better consumer information programs are considering how to implement most effectively a program to alert American consumers to the conditions under which products are made. Following the long tradition of environmental labeling, these organizations are also beginning to call for labor-related labels.

LESSONS FROM ECOLABELING PROGRAMS

For several years, some governments and a growing number of non-governmental organizations have promoted consumer information and product labeling as tools that can aid in improving the global environment. Currently, about two dozen regional or national ecolabeling programs exist around the world. Generally popular with consumers, they are increasingly coming under attack by manufacturers and developing nations who claim that ecolabels are a disguised barrier to trade. (source: National Journal; "Sticker Shock"; March 9, 1996) Critics also claim that ecolabels must be negotiated internationally, and raise the question of how—and whether—different nations' environmental rules can be reconciled.

According to a recent article in Business Ethics, Europeans tend to hold higher standards for their businesses than do most Americans. As a result, socially responsible businesses are better able to compete in Europe. (source: Business Ethics, "Growing Pains", January/February 1996) In recent years the European Union has undertaken a massive government-controlled ecolabeling program, with mixed results. The E.U. scheme covers washing machines, dishwashers, soil improvers, toilet tissue, kitchen paper rolls, laundry detergents, light bulbs, and indoor paints and varnishes. Some U.S. producers of these goods have protested that the E.U. system discriminates against U.S. manufacturers, although the seven types of washing machines that have been awarded the E.U. label to date are all made by U.S.-owned Hoover Ltd. Others criticize the bureaucratic procedures and the cost of attaining certification for an E.U. label.

Some of the ecolabeling debate has focused on the use of so-called "ecoseals", or symbols that are the equivalent of an environmental seal of approval. These seals are generally simple, and may be awarded following a third-party (non-government) approval process (U.S. "Green Seal") or may be the result of a government-approved and defined label (U.S. "Dolphin Safe", or the European Union's "E" label).

Supporters of ecoseals believe that, because the seals are simple and easy for consumers to understand, consumers are more likely to base their purchases on responsible choices. Opponents of ecoseals argue that seals stifle innovation and train customers to look for symbols rather than to learn factual information about environmental effects. They support information-based labeling, such as that used on nutrition labels.

"Dolphin Safe" label. One of the most well-known environmental labels in the United States is the "Dolphin Safe" label found on cans of tuna. Some supporters of ecolabeling have suggested using this statutorily defined label as a model for other ecolabeling efforts, and a brief history of the label's creation is worth noting here.

As a result of continued public outcry against the dolphin kills in the tuna fishery during the 1980's, Starkist Seafood Company announced in 1990 that it would no longer purchase any tuna caught by harming dolphins, and that it would begin labeling cans of Starkist tuna sold in the United States with "Dolphin Safe" symbols. Almost immediately, the rest of the U.S. tuna canners announced that they would no longer purchase tuna considered "dolphin unsafe". The voluntary announcement of the tuna processing industry raised a new labeling issue for the federal government: the definition and enforcement of a voluntary dolphin-safe label. In response, the Dolphin Protection Consumer Information Act (DPCIA) was enacted by the Congress in 1990. The purpose of the DPCIA was to establish criteria for labeling tuna and tuna products "dolphin safe", certification procedures, and enforcement standards for violations of the label.

Although the U.S. lags behind Europe in terms of both government-sponsored and third-party ecolabels, the issue is not likely to disappear anytime soon. The Organization for Economic Cooperation and Development (OECD) has been considering international standards for ecolabeling in its negotiations on the connection between trade and the environment. The issue will also be discussed at the Singapore meeting of the World Trade Organization in December, 1996.

CHILD LABOR AND OTHER HUMAN RIGHTS ISSUES

Can we apply our experience from ecolabeling to labor concerns?

One of the most emotional issues regarding goods—particularly textiles—manufactured in developing nations is the use of child labor. In a 1994 Department of Labor (DOL) report mandated by the Congressional Committees on Appropriations, DOL reported that between 100 million and 200 million children are in the workplace more than 95% of them in developing countries. The industries which employ children range from garments and carpets to small-scale mining and gem polishing. (source: Department of Labor, "By The Sweat And Toil Of Children: The Use of Child Labor in American Imports", July 15, 1994)

A recent survey by the International Labor Organization (ILO) found a positive correlation between child labor and factors such as poverty, illiteracy, rural under-development, urban slum conditions, and school non-attendance. About four-fifths of those children who worked did so seven days a week and, in many instances, girls worked longer hours than boys. (source: Child Labor Surveys: Results of methodological experiments in four countries, 1992–1993, International Labor Office. 1996. ISBN 92-2-110106-1)

The ILO estimates that at least half of all child workers are found in South and Southeast Asia. Asia probably boasts the highest percentage of children working in industries which export to the United States. Working conditions range from "crowded garment factories, where the doors are locked and the children work for 14 hours, to small dusty earthen huts which can seat four children to a loom, knotting carpets in a pit for hours on end." (source: Department of Labor report, previously cited)

A recent article in Life magazine on the manufacture of Nike soccer balls in Pakistan told of "children as young as six bought from their parents for as little as $15, sold and resold like furniture, branded, beaten, blinded as punishment for wanting to go home, rendered speechless by the trauma of their enslavement . . . Children are sought after, and bonded, and sometimes taken in outright slavery, because they do not cost as much." (source: Life, "Six Cents An Hour", June, 1996) Nike, as well as Reebok, have since announced that their soccer balls from Pakistan will soon be made in stitching centers where the labor can be closely monitored, as opposed to the current system that relies on children in small villages scattered throughout the country. Nike and Reebok hope that these stitching centers will eliminate child labor from their portion of the soccer ball industry. Nike and Reebok, however, are currently very small players in the manufacture of soccer balls, when compared with Addidas, Mikasa and other companies that have made no announcement on child labor.

Of equal concern are documented stories of so-called "sweatshop" labor, in which workers, frequently women, are locked into unsafe workplaces, and forced to work long hours for minimal wages. Last summer, U.S. papers carried front-page stories of a raid on an El Monte, California, sweatshop where most of the workers at the shop were recent female immigrants from Thailand who had been virtually enslaved by the manufacturer. Workers were forced to live in a compound encircled by razor wire, threatened with rape, and required to work 20-hour days for as little as $1 an hour. (source: People, "Labor Pains", June 10, 1996)

Early experience with labor-related labeling indicates that it can work.

One label gaining in popularity and market share in Europe and recently introduced in the U.S. is the "Rugmark" label awarded to some hand-knotted rugs made in Nepal and India without the use of child labor. Nearly 900,000 children under the age of 14—including children as young as 4—are working in the carpet industry in Pakistan; 200,000 in Nepal; and 300,000 in India. Children are frequently bonded to a looming operation to pay off the debts of their parents. The U.S. is the world's second-largest market for hand-knotted Oriental carpets, with imports of over $150 million annually form India alone, and has the potential to have a major impact on the manner in which these carpets are made.

CONCLUSION

Consumers and advertisers alike are obsessed with determining and declaring that a particular product is safe for children. But our economy fails to tell consumers whether products are safe for the children who made them. Parents have a right to know that the clothes and toys they buy for their children were not made by other exploited and abused children. Unfortunately, they have no way of knowing that in today's marketplace.

Voluntary labeling programs may continue to hold the key. These programs have not been easy to establish or to enforce. Nor will a "one size fits all" approach be practical—it is likely that different modes of labeling regimes will work best in different economic sectors. But our experiences with ecolabeling programs and the Rugmark label prove that voluntary labels are effective, and popular with consumers. If voluntary, they are consistent with our international trade obligations. Corporations who maintain that they have a reliable, enforceable code of conduct should be willing to translate that code into a reliable, enforceable label that informs consumers of the impacts of their purchases.

We must take responsibility for our purchasing and marketing decisions. The price of a product and the rate of profit cannot be allowed to overwhelm the moral obligation to protect children and to respect the rights of other workers. We have the means to inject this level of respect into the marketplace if we exert our will to do so. Through responsible consumer education our values of protection for the environment, for children and for workers can be reflected in the way we make our goods.

THE FAIR HAVEN COMMUNITY HEALTH CENTER

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Ms. DELAURO. Mr. Speaker, on Friday, September 20, 1996 the Fair Haven Community Health Center will hold an Open House to dedicate its new building and to celebrate 25 years of service to the Fair Haven area.

The Fair Haven Community Health Center has been a fixture on Grand Avenue for the past 25 years. During that time, it has been a part of the community people could always rely upon. The Center has undergone considerable change through the years. When it opened for two nights a week in 1971, it was housed in Columbus School with a storefront office and had a staff of five, including two VISTA volunteers. That year the Center was visited 500 times. By 1982, the Center had begun a prenatal and midwifery program and purchased, renovated, and added on the property at 374 Grand Avenue. The Center also opened the "Body Shop," a school based clinic, at Wilbur Cross High School.

Today, the Fair Haven Center has purchased, renovated and connected property at 362 Grand Avenue. The complete facility now has 24 exam rooms, a new laboratory, waiting area, health education and social service rooms. The Center has a staff of 80 including 10 physicians, 8 nurse practitioners, and 6 nurse midwives. The facilities include three buildings and three satellite clinics which received a total of 48,000 visits this past year. These new renovations and additions mean that the Center can continue to do what it does best, caring for people.

Throughout its history, the Fair Haven Community Health Center has remained committed to the ideal of providing health care for all those who need it, regardless of their ability to pay. While medicine today is increasingly cost-conscious, Fair Haven practices medicine which puts the patient's well-being first. By combining preventive care and education with a range of services from prenatal care to geriatric medicine, the Center ensures that all its patient's needs are met. This holistic, integrated approach is what defines the Center and makes it so valuable to New Haven. Center Director, Katrina Clark said, "We have always felt that we were part of the community, and I think that is why we've been so successful in meeting the health care needs of the people we serve. At a time when many people are alienated and rejected by the health care system, Fair Haven stands as a beacon of caring for our patients and providing excellent service."

I am proud to rise today to congratulate the Fair Haven Community Health Center. The newly renovated facilities will enable the Center to provide even better health services and preventive care to the people of Fair Haven.

BIPARTISANSHIP IS THE KEY TO ETHICS REFORM

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. MOAKLEY. Mr. Speaker, last week my dear friend Representative PORTER GOSS who serves on the Ethics Committee as well as the Rules Committee took out a special order to urge changes in the ethics process—September 12, 1996.

He proposed that changes in the ethics process should take effect in the next Congress and that the Rules Committee is the proper venue for ethics reform.

I must take strong exception to the claim that the Rules Committee is the right place to consider reforms of the ethics process. Given the primary job of the Rules Committee—reporting special rules for the consideration of legislation—the committee is properly a partisan committee with a 9 to 4 ratio. The Rules Committee is an arm of the majority leadership and so it is appropriate that all the Republican members of the committee—including Mr. GOSS—are appointed directly by Speaker GINGRICH. But this partisan makeup makes the Rules Committee the wrong venue for ethics reform.

The House ethics process must be the product of bipartisan consensus. The most recent ethics reforms, for example, issued from the work of the Bipartisan Ethics Task Force established in 1989. The task force was composed of 14 Members, 7 from each side of the aisle, including 2 ex officio leadership Members and others who had valuable experience on ethics reform issues.

The task force was bipartisan in fact as well as name. The Members and staff operated on a completely bipartisan—or nonpartisan—basis. The task force divided its work into subgroups of two Members each—one Republican and one Democrat. Each subgroup investigated problems and options in a specific area and reported its recommendations back to the full task force.

Obviously only bipartisan suggestions could be reported from any subgroup. And the full task force worked by consensus; no recommendation was issued from the full task force unless all Members were in agreement.

One subgroup was responsible for developing recommendations on the Ethics Committee's enforcement procedures. Because the Ethics Committee was considering complaints against Speaker Wright at that time, the task force decided that the subgroup on ethics enforcement should not include any task force member then serving on the Ethics Committee. Moreover, the subgroup, by consensus, delayed its first meeting until the Ethics Committee closed its investigation of Speaker Wright.

Again, the subgroup on ethics procedures needed unanimity to report any recommendation and the full task force proceeded by consensus requiring all members to sign off before including any provision in its comprehensive ethics reform package.

The paramount goal of any congressional reform must be to restore public confidence in the integrity of this institution. I believe the bipartisan approach is the only appropriate model for considering ethics reforms.

THE SACRED HEART CENTENNIAL TRIBUTE

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. STUPAK. Mr. Speaker, it is with great pride I bring to the attention of the House and the entire Nation the 100th anniversary of the founding of The Sacred Heart of Jesus Parish Family Church, in Munsing, MI.

From its humble beginnings in a community town hall, where Father Anthony Molinari spoke with his congregation from atop a piano for lack of a pulpit, The Sacred Heart of Jesus Parish has grown over the last 100 years to become an integral part of our community.

Sacred Heart Church was founded in the fall of 1896 to meet the spiritual needs of rapidly expanding Munsing. The first pastor, Father Anthony Molinari, started the church and spearheaded the initial fundraising efforts to build a permanent sanctuary. To accomplish this, the parish hosted benefit dinners with the slogan: "A hot meal guaranteed to satisfy, for the price of 25 cents". Their first benefit alone raised $600.

By the following fall, construction on a permanent building began and the church was finished in the spring of 1898. It was a small wooden structure with a towering belfry and living quarters for the priest. On September 11, 1898, the church was consecrated the Most Sacred Heart of Jesus.

During the following years, the church continued to grow along with the community. A new pipe organ was installed, a Belgian bell was added to the belfry, and a parochial school was build. The Sacred Heart School, offering 8 grades, opened in 1914 with 316 students enrolled. The church also added a convent for the Sisters of St. Dominic in 1924.

On April 27, 1933 The Most Sacred Heart of Jesus was destroyed by a devastating fire which started by a spark in the chimney. The church was completely demolished, and only the Blessed Sacrament was salvaged. Construction on a new church did not begin until the summer of 1949, and the cornerstone was finally laid on September 4 of that year. On the Feast of the Sacrament, June 19, 1950, the new church was dedicated.

In the spring of 1970, the Sacred Heart School was closed after 56 years of operation. To replace it, the Confraternity Christian Doctrine [CCD] program began the following October. Under the leadership of Brother Felix Butzman, of the Christian Brothers, 500 students were able to continue their religious instruction under the program which allowed students to be released early from public schools to attend CCD classes.

Since 1975, The Most Sacred Heart of Jesus has been under the spiritual leadership of Father Tim Desrochersm, Father Vincent Ouellette, and Father Raymond Moncher along with a caring parish staff. During these years, the church has continued to flourish and evolve. Improvements include a thriving choir under the leadership of Theresa Chartier, a barrier-free entrance for wheelchair bound members of the congregation, a new Rogers electronic-pipe organ, religious education classrooms, and the renovation of the Sacred Heart School building into low-income senior citizen housing.

The Sacred Heart of Jesus Church reaches out into the community through its ministries to the Munsing Hospital, the Superior Health Haven, Superior Shores Nursing Center, Cusino Corrections Facility, and Alger Maximum Security Prison Facility in addition to their own congregation. They also provide religious instruction to adults, teens, and children.

Mr. Speaker, The Most Sacred Heart of Jesus Church has provided a place of prayer, hope, and faith for the Munsing community throughout their 100-year history. The clergy and congregation have worked together to form a long-lasting institution of religious faith in this community. On behalf of the Upper Peninsula, State of Michigan, and the entire Nation. I would like to congratulate The Most Sacred Heart of Jesus Church on their 100-year anniversary and I wish them peace, joy, and happiness now and for future generations.

EXPLANATION OF MISSED VOTES

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. FAZIO of California. Mr. Speaker, because of illness, I missed 6 recorded votes on September 17 and 18. Had I been present, I would have voted in the following manner.

H.R. 3803—AYE; H.R. 3723—AYE; H.J. Res. 191—AYE; H.R. 3802—AYE; H.R. 3675—AYE; and H.R. 3923—AYE.

IN HONOR OF THREE OUTSTANDING COMMUNITY ACTIVISTS: BLANQUITA VALENTI, EDWIN GUTIERREZ, AND ANTHONY VEGA

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to three outstanding individuals, Blanquita Valenti, Edwin Gutierrez, and Tony Vega who are making a difference in the lives of their fellow community members through their work with the Puerto Rican Action Board. A celebration dinner will be held for these deserving people on September 20, 1996 at the Spain Inn in Piscataway, NJ.

The Puerto Rican Action Board, a nonprofit organization which seeks to improve the quality of life of low and moderate income families in New Jersey, has benefited from the exceptional efforts of Blanquita Valenti. Ms. Valenti has a distinguished record of service as a public official and educator. She has a strong educational background consisting of a masters degree in Spanish and Latin American literature, and certification by the American Translators Association. Ms. Valenti is a founding board member of a number of organizations, including the Puerto Rican Action Board, ASPIRA, Inc. of New Jersey, and the Puerto Rican Congress. She has also served on the city council for an 8-year term and as city president for 4 years.

Edwin Gutierrez, former president and executive director of the Puerto Rican Action Board, is a notable community activist. He has contributed has expertise to a number of worthwhile projects such as the New Brunswick Neighborhood Preservation Program, Community Block Grant and Homeowner Affordability Program, Rental Rehabilitation Program, and the Buy-it Fix-it Program. Mr. Gutierrez has also exhibited a commitment to excellence in education. He established the first bilingual-bicultural day care center in New Brunswick, instituted an English as second language [ESL] program for adults and initiated a bilingual high school equivalency program.

The Puerto Rican Action Board has received invaluable service from its former chairperson, Dr. Anthony Vega. He has had a long and distinguished career as a university educator and labor activist. Dr. Vega's educational efforts include earning the title of professor emeritus in labor studies at the labor education center of Rutgers University, establishing scholarship funds for labor studies, and the procuring funds to sponsor research programs like the Parent, Recruitment, Involvement, Education project [PRIDE], Rutgers' OSHA Center, and the Children's Development project. One of Dr. Vega's most prized accomplishments was the raising of $1 million for a multifaceted educational and manpower development program in 1980.

It is an honor to be able to acknowledge the extraordinary efforts of Blanquita Valenti, Edwin Gutierrez, and Anthony Vega. They exemplify the enormous positive difference individuals can make in our communities. I am certain that my colleagues will rise with me and honor these remarkable community leaders.

TRIBUTE TO DIANA LEWIS

HON. L.F. PAYNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. PAYNE of Virginia. Mr. Speaker, I rise today to pay tribute to Diana Lewis, an outstanding Virginian and a hard-work American. Ms. Lewis has overcome great personal odds and now serves in her community as a certified nursing assistant in Charlottesville, VA. On October 8, 1996, she will be honored at the Annual Training Conference of the General Council of Industries for the Blind and National Industries for the Blind as the 1996 private sector employee of the year.

The path to her well deserved recognition, however, has not been an easy one. Born with congenital cataracts, Ms. Lewis suffered additional setbacks as a child undergoing several eye surgeries resulting in her delayed entry to school. Undeterred, Ms. Lewis attended Romney School for the Blind in West Virginia, but left school before completing her education in order to marry, become a homemaker, and, eventually a mother of two sons.

By 1986, Ms. Lewis' circumstances had changed dramatically. She had moved to Virginia and found herself an unemployed single mother with two young boys to support, lacking education or employment skills. With the help of training program through Virginia Industries for the Blind, a division of the Virginia Department for the Visually Handicapped, Ms. Lewis rose to the challenge confronting her by training for and mastering numerous sewing operations. Before long, she had become an accomplished seamstress.

Her desire to seek new challenges and improve her circumstances inspired her to earn her GED and complete training as a certified nursing assistant. Ms. Lewis met her personal and professional challenges head on, in the face of long odds, and is now giving back to her community working in the skilled care unit of Westminister Canterbury of the Blue Ridge. As a certified nursing assistant, she selflessly gives comfort to elderly citizens who require constant care.

Ms. Lewis credits her employment at Virginia Industries for the Blind with instilling in her an unquenchable sense of self-confidence, enable her to continually seek new challenges and responsibilities. For her, the future is full of promise, as she seeks to fulfill her goal of one day becoming a physical therapist.

Ms. Lewis is truly representative of our country's ethic of service and its unfailing commitment to self-improvement.

Mr. Speaker, please join me in congratulating Diana Lewis, the 1996 private sector employee of the year.

TRIBUTE TO VIRGINIA ANDERSON BOONE

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. SHAW. Mr. Speaker, I rise today to honor the late Virginia Anderson Boone of Miami, FL, and to share in the festivities of a special event held in her honor.

As the founding principal of Highland Oaks Elementary School in North Miami Beach, FL, Virginia Boone tirelessly devoted 31 years of her career to the thousands of children who studied under her tutelage.

During Mrs. Boone's tenure, Highland Oaks Elementary became one of the finest schools in all of Dade County, the fourth largest county in these United States. Year after year, Highland Oaks ranked among the top schools for the best test scores which are compared to other schools across the Nation. Thanks to the strength and commitment of a woman who expected nothing less than the very best from her faculty and her students, Highland Oaks set standards which are still beyond the grasp of most other schools.

Although childless, Virginia Boone became a parent to her faculty, staff, and students. She treated those who worked for her, as well as those who studied in her school, as though they were her own children, caring for their health, attending their weddings and the myriad of bar and bat mitzvahs. Many of her former students, now adults, would often stop by for a visit. She even hired a teacher who had been a student in her first graduating class.

For decades it became near-impossible to find an opening on the Highland Oaks' faculty. Those who were the lucky ones because the envy of many who wanted to share in the good fortune of working for a woman who would become a mentor and a friend, sharing in the success of watching thousands of children benefit from their years at Highland Oaks Elementary.

It is a true gift for one to watch a child excel in life and know that they have played an important part. I am told that is what Virginia Boone lived for.

After her passing earlier this year, the faculty, the PTA, the northeast Dade community and the Dade County School Board unanimously voted to rename the school to honor the woman who touched so many lives. I am delighted to have the privilege of representing this involved, outstanding community on this very special occasion.

On September 25, 1996, Highland Oaks Elementary will be officially renamed, "Virginia A. Boone Highland Oaks Elementary." Congratulations and best wishes for continued success.

I ask unanimous consent that these remarks be included in the RECORD.

SUPPORTING NATO EXPANSION

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. HOKE. Mr. Speaker, I rise today in strong support of NATO expansion by encouraging qualified emerging democracies in Central and Eastern Europe to become members of the NATO Alliance. Since 1949, the North Atlantic Treaty Organization has provided the foundation for the peace and political solidarity of all of its European members. For this reason I encourage such expansion in order to provide for the continued security, freedom, and prosperity that has existed for NATO members since the formation of the NATO Alliance.

Among the countries seeking NATO membership, including Poland, the Czech Republic, and Hungary, I would like to acknowledge three additional countries namely, Romania, Slovakia, and Slovenia as strong, viable candidates that should be considered for NATO membership. Each of these countries, according to their individual preparations, can and should be granted NATO membership at the earliest possible date. For this reason I would like to ask that the President encourage other member countries of NATO to start negotiations for the accession to NATO, along with Poland, the Czech Republic, and Hungary, of Romania, Slovakia, and Slovenia.

Not only have each of these countries expressed an overwhelming desire to become full-fledged members of NATO, but they have actively pursued and achieved the qualifications for membership. According to Title II—NATO Participation Act of 1994, countries seeking membership in NATO must be full and active participants in the Partnership for Peace, and have demonstrated progress toward democratic institutions, free market economies, civilian control of their armed forces and the rule of law.

Poland, the Czech Republic, Hungary, Romania, Slovakia and Slovenia are all successful participants in the Partnership for Peace [PFP] and have succeeded in establishing western-style democracies and efficient market economies. Not only have these countries been successful in their membership with PFP, but each has also made great strides in preparing to become worthwhile and beneficial members of the NATO Alliance.

In particular, Romania, Slovakia, and Slovenia have made great advances toward compliance with the requirements for NATO membership. Romania was the first nation in Central and Eastern Europe to join the Partnership for Peace and is currently participating in a "sixteen plus one" dialog with NATO. Militarily, Romania has a coherent and valid national defence doctrine and has the only armed forces in former East Block whose structures are fully compatible with NATO. The Romanian military enjoys an excellent relationship with neighboring countries as well, especially Hungary, with whom there are regular meetings of defence ministers, an open sky agreement and other manifestations of cooperation.

In fact, on September 16, 1996, Romania and Hungary signed the Treaty on Understanding, Cooperation and Good-Neighborliness. This treaty allows both Romania and Hungary to continue to pursue their joint desires to integrate in the North Atlantic Treaty Organization, European Union and Western European Union; to improve the security and prosperity of Europe; help protect minority rights through the implementation of the Council of Europe Framework Convention; and, to work toward the continued success of the relationship between Romania and Hungary.

Slovakia has also made great strides. They have had considerable dialog with NATO regarding the Study on NATO Enlargement which detailed the conditions and steps to be undertaken by a prospective country in exchange for a full membership. Slovakia submitted a document called Preparation for NATO Membership, which was further elaborated in the Individual Discussion Paper [IDP] on March 18, 1996. Slovakia was the first country among PFP members to submit this paper.

Slovenia's accomplishments and cooperation within the PFP, has made them, according to general consultation in 1995 on expansion of NATO, one of the most qualified candidates for NATO membership. According to the Statements and Consultation of the Parliament and Government of Slovenia on April 11, 1996, membership in NATO is the strategic security aim of Slovenia.

Therefore, in order to expedite the process of NATO enlargement, grant membership in NATO to all qualifying countries, and strengthen the stability in Central and Eastern Europe, I would ask that the President, at the earliest possible date, to encourage other member countries of NATO to start negotiations for the accession to NATO, along with Poland, the Czech Republic, and Hungary, of Romania, Slovakia, and Slovenia.

Already Romania, Slovakia, and Slovenia have been successful in their attempt to meet the general requirements in order to be considered for NATO membership. And thus I am submitting legislation that will encourage and expedite the granting of membership in the North Atlantic Treaty Organization to these countries.

REPORT FROM INDIANA—TRIBUTE TO THOMAS JACKSON AND NATIONAL POLLUTION PREVENTION WEEK

HON. DAVID M. McINTOSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. McINTOSH. Mr. Speaker, I rise today to give my report from Indiana.

Each weekend, my wife Ruthie and I travel across Indiana to meet with Hoosiers. And every time to travel to the second District of Indiana, we become more impressed with the hundreds and hundreds of individuals who are out there working day and night to make a difference taking responsibility to make our communities better places to live. I like to call these individuals Hoosier heros.

Hoosier heros because they do good things for their friends and neighbors. For my first part of this weeks report, today I recognize Thomas Jackson of Anderson, IN, as a Hoosier hero. Ruthie recently spent a day with Thomas.

Afterward she shared with me Tom's tireless efforts to help children in Madison County. You see Tom owns and operates his own restaurant—the prime time deli and more.

And between spending time with his family and the responsibilities of running his own business, but that doesn't stop Tom from helping others.

He has taken on a crucial challenge. Thomas has taken on himself, the mission, to spread the message just say no to our young people. Tom travels to schools in Madison County educating, warning and teaching children to say: No to drugs and alcohol. Thomas' mission is special and close to his heart.

Nine years ago, his own son Thomas Jr., became involved with a drug cartel in the neighboring city of Muncie. His son almost lost his own life. Thomas Jr. was in pretty bad shape but with the love of his father and family, he survived. He turned his life around.

Thomas Jr. was recently married and today lives a happy life. Thomas Jackson, Sr., decided that the best way for others to avoid the same tragedy as his own son was to take a leadership role in warning children.

He started an alcohol and drug awareness program: Youth needs prime time. That's reassuring. Today he educates children about the very real danger and possible lethal consequences of drugs and alcohol use.

One of his volunteers is a 24 year old, ex gang member, Roosevelt Rees. Roosevelt has turned his life around, and is now dedicated to making sure kids don't make the same mistake of using drugs like he did.

The effort—is crucial, especially, when study after study tells us that drug use among America's children is at an alarming all-time high. Drug usage among 14 and 15 year olds are up 200 percent since 1992. And that's frightening. So today, I want to lift up Thomas Jackson as a Hoosier hero, for taking his own version of just say no to children of Anderson, IN.

For the second part of my report I will report on National Pollution Prevention Week efforts in Indiana. The week of September 16 to 22 is being recognized across America as National Pollution Prevention Week.

I strongly believe that pollution prevention is not only the most effective means of protecting human health and the environment, but also makes excellent business sense. I believe that free market principles can actually do a better job of ensuring we have a cleaner America.

In observance of this week, I would like to commend the efforts of those in Indiana to increase the development and use of pollution prevention methods.

In particular, I would like to applaud the work of the Indiana Pollution Prevention and Safe Materials Institute. This State-funded organization provides technical assistance and educational services to a variety of Indiana's industry.

Specifically, this institute helps businesses develop pollution prevention programs to reduce waste at the source and to prevent the environmental and health hazards of manufacturing wastes.

With the assistance of this institute, numerous Indiana manufacturing facilities have adopted pollution prevention strategies that have resulted in the significant reduction of pollutants being released into the environment.

They have also saved considerable dollars. Today, I also would like to recognize the metal finishing industry—a key segment of American manufacturing and a leader in pollution prevention initiatives.

This industry is dominated by small businesses, with most employing less than 25 people. For the past decade, the metal finishing sector has worked diligently to improve its environmental performance. Today, nearly 30 percent of the total expenditures of these small companies are invested in pollution prevention and control equipment.

However, current regulations imposed on this industry are actually hindering the achievement of additional environmental gains by stymieing the development and use of innovative technology that would allow reuse of valuable metals resulting from the manufacturing process. Under these regulations, businesses presently are given a choice of expensive offsite recycling or burying valuable resources in the ground.

In fact, companies like McDowell Enterprises in Elkhart, IN, pay a 25-percent premium to save their resources through recycling. Certainly, a better option exists. We should be encouraging onsite metal recovery or the use of the innovative treatment technologies

A sound national pollution prevention program should spur voluntary initiatives. We must promote a broad range of risk management options, for reducing environmental releases of toxic chemicals and in some cases eliminating the generation of hazardous wastes altogether. This includes such methods as source reduction, reuse, recycling treatment and other waste minimization techniques.

A broad program will permit businesses, large and small, the flexibility to design pollution prevention strategies based on the level of risk to public health and the environment.

I urge Congress and the Environmental Protection Agency to provide leadership to free America's innovative spirit. We must encourage all Americans to create new technologies that will allow industries to go beyond compliance and that will lead to a better environment.

TRIBUTE TO JIM ARMSTRONG

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Ms. HARMAN. Mr. Speaker, I rise today to salute one of America's beloved former teachers and former mayors, James Armstrong of Torrance, CA.

I call Mr. "Mr. Mayor." I doubt anyone in Torrance would dispute that appellation. During his 6 years (1972–78) on the Torrance City Council and eight more as Mayor (1978–86), Jim oversaw Torrance's renaissance into a beautifical and modern city.

Jim Armstrong is also an educator. He taught American Government at Torrance High from 1958 to 1986. Earlier in his career, he taught at Torrance Elementary School, where he was an inspiration to many generations of young people. Because of his influence, many of them have entered careers in which they too serve the community.

Through the years and in retirement, Jim has remained active by serving in leadership roles with many non-profit community organizations including the Torrance Cultural Arts Foundation, the Torrance Education Foundation, the Torrance YWCA Advisory Board, the Foundation of California State University Dominquez Hills and the Torrance Area Chamber of Commerce. In 1981, the city's municipal theater was named the James Armstrong Theater.

On September 21, the Torrance YWCA will be honoring Jim Armstrong as Man of the Year. I join with the YWCA and all the people of the South Bay by giving special recognition to our special friend.

CELEBRATION OF TAIWAN'S NATIONAL DAY

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. MANTON. Mr. Speaker, I want to take this opportunity to note that the Republic of China [ROC] is preparing to celebrate its 85th anniversary. Taiwan's National Day, October 10, is an important celebration for the people of Taiwan and for freedom loving people throughout the world.

Mr. Speaker, the ROC is the United States' sixth largest trading partner and one of our strongest allies in the Pacific rim. The ROC continues to purchase American goods and services at a healthy and growing rate. Hundreds of American corporations have offices in Taiwan, which has proven to be an excellent market for the United States in this rapidly growing region of the world.

Mr. Speaker, I was privileged to travel to Taiwan 10 years ago. At that time, I saw a government transitioning democracy. Now, 10 years later, that transition has been completed with the popular election earlier this year of President Lee Teng Hui. I am certain that if I am able to return to Taiwan in the near future, I will see not only massive economic development throughout the island, but also a vibrant democracy at work.

Mr. Speaker, Taiwan is our friend and supporter. I know my colleagues join me in congratulating President Lee and all 21 million people on Taiwan on the occasion of the 85th anniversary of the founding of the Republic of China.

THE COMMANDER IN CHIEF SHOULD DECIDE

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Ms. BROWN of Florida. Mr. Speaker, 2 weeks ago the House considered and passed H.R. 3308, the U.S. Armed Forces Protection Act, a misnomer, which I strongly opposed. I voted against this measure as a matter of upholding the intent of the U.S. Constitution.

The Constitution established Congress and the Presidency with equal powers in the area of military affairs. Congress is responsible for raising and maintaining forces and legislating policy. The President, as Commander in Chief, is responsible for setting up the chain of command within our forces and executing congressional policy.

As a Member of the House of Representatives, I am aware of Congress' need to protect its powers. However, I believe it is also my duty to acknowledge the President's role under the Constitution as Commander in Chief.

This measure, which originated in the flawed Contract With America, is a partisan attempt by the Republican majority to selectively use congressional prerogatives. American Presidents have directed U.S. forces to serve in allied forces since the Revolutionary War. Examples include World War I, World War II, NATO operations, and Operation Desert Storm.

Under H.R. 3308, in 1990 President Bush would have been prevented from sending U.S. troops to the Middle East to contain Saddam Hussein. H.R. 3308 specifically limits the powers of the Commander in Chief to direct U.S. forces and, therefore, it is unconstitutional. I believe the American President, regardless of political party affiliation, should decide when, where, and how to deploy U.S. military forces.

Secretary of Defense Perry and Attorney General Reno have stated that H.R. 3308 is unconstitutional. In a letter to House Minority Leader GEPHARDT, Secretary Perry wrote, "I believe that H.R. 3308 is both operationally unjustified and unconstitutional."

In terms of operations, H.R. 3308 is a misnomer because, if enacted as law, it will in fact endanger the lives of American military men and women by preventing our forces from wearing protective United Nations identification insignia.

The UN insignia in question are blue helments and blue shoulder patches designed to enable American forces, as well as others, to recognize friendly forces. Insignia are a proven method of protecting our soldiers' lives. They are worn to ensure the safety of our men and women. They help prevent friendly fire and make it possible to impose a recognized force on enemies.

Furthermore, the United Nation has established rules for protecting its forces by punishing those enemies who are against UN forces. These punishments can only be used to protect Americans who are fired upon while wearing UN insignia.

On this important issue of wearing insignia, all American military men and women must follow the commands of our Commander in Chief. Discipline is key to maintaining order in our services and, ultimately, to protecting our national security.

Only one American soldier has been court-martialed over the issue of wearing UN insignia. Thousands of American men and women have obeyed their President and served in multinational commands wearing U.S. uniforms and Allied forces insignia. These American military personnel have always retained their ultimate allegiance to the United States of America, while wearing UN or NATO insignia.

Americans serving in multinational commands have always followed the directions of the American President, from Allied operations in World War II, to the United Nations Command established for the Korean war, the Desert Storm Coalition in the Persian Gulf war, and multiple NATO operations, including the present NATO Implementation Force [IFOR] in Bosnia.

During these operations, command of our military men and women has ultimately resided with the President as our Commander in Chief and our military leaders in the Department of Defense.

Finally, Presidential Decision Directive 25, a classified directive issued early in the Clinton administration, established steps to allay concern over U.S. troops under UN control. A declassified summary of this directive states:

> The President retains and will never relinquish command authority over U.S. forces. On a case by case basis, the President will consider placing appropriate U.S. forces under the operational control of a competent UN commander for specific UN operations authorized by the Security Council [the UN security agency over whose decisions the U.S. has veto power]. The greater the U.S. military role, the less likely it will be that the U.S. will agree to have a UN commander exercise overall operational control over U.S. forces. Any large scale mission that is likely to involve combat should ordinarily be conducted under U.S. command and operational control or through competent regional organizations such as NATO or ad hoc coalitions.
>
> There is nothing new about this Administration's policy regarding the command and control of U.S. forces. U.S. military personnel have participated in UN peace operations since 1948.

For all of these reasons, I strongly believe H.R. 3308 should not become law. Since the House has already passed this bill, I urge my colleagues in the Senate to oppose this measure. And, if this irresponsible legislation does pass the Senate, I support President Clinton's pledge to veto it.

HONORING MR. HOLCOMB "HOKE" EVETTS 1996 KINGS COUNTY AGRICULTURIST OF THE YEAR

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. DOOLEY. Mr. Speaker, I rise before my colleagues today to recognize a legendary figure in Kings County's agricultural community, Mr. Holcomb "Hoke" Evetts. Because of his impressive accomplishments, which span the decades, Mr. Evetts is being honored by his community as Agriculturist of the Year.

Mr. Evetts is most widely recognized for his involvement with what many consider to be the finest stockyard in the State of California. Mr. Evetts and his business partner purchased the modest Overland Stockyards nearly 40 years ago, and built it into one of the largest and most reputable agricultural establishments in Kings County. Mr. Evetts has served as a well-respected auctioneer for 55 years, and has even taken his talent to the world of motion pictures.

Over 50 years ago, Mr. Evetts joined the Rodeo Cowboys of America, now known as the Professional Rodeo Cowboy Association. As a proud and caring husband, father and grandfather, Mr. Evetts has shared his love of the rodeo with his family members, some of whom have competed in rodeo events with his same enthusiasm.

As a leader in the effort to improve his community, Mr. Evetts has garnered wide respect. Mr. Evetts embodies what everyone seeks in a leader—a true individual who utilizes his talents in order to serve others. As an auctioneer, Mr. Evetts helped raise hundreds of thousands of dollars for dozens of needy organizations.

There is no question that for Mr. Evetts, commitment to community and to agriculture is a way of life. He is a dedicated Valley resident who has played a major role in the development of Kings County agriculture. I applaud the Lemoore Chamber of Commerce and the Kings County Farm Bureau for recognizing his contributions.

TRIBUTE TO ALFREDO PEREZ

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. BECERRA. Mr. Speaker, it is with the utmost pleasure and pride that I rise today to recognize Mr. Alfredo Perez for his inspiration as a hard working American, dedicated teacher and valiant victim of crime.

Alfredo Perez was born in a small town in Jalisco, Mexico on November 23, 1965. When he was a boy of 8, he, his mother Maria Guadalupe Contreras de Perez and his seven siblings, Carlos, Francisco, Bertha, Hector, Guillermo, Jesus and Abelam emigrated to Oxnard, CA, to rejoin his father, Jose Perez. He attended El Rio Elementary School, then went on to Rio Del Valle Junior High. Alfredo received his high school diploma from Rio Mesa High School.

In the Fall of 1985 Alfredo entered the University of California Los Angeles [UCLA]. In order to pay for his schooling, he worked several part-time jobs. Alfredo graduated from UCLA in 1989 with a major in Sociology and a specialization in Business Administration.

Shortly after graduating from UCLA, Alfredo decided to enter the teaching profession. The importance of educating future generations was a challenge he took on with great devotion, commitment and love for children. He wanted to be a role model for children in the inner city. His main goal was to instill in them the desire to educate themselves and to make a difference in this world.

On the morning of February 22, 1996, Alfredo Perez was where he wanted to be—with his students. His 5th grade students were in the library at Figueroa Street Elementary School in Los Angeles. Gunfire from a gang-related incident disrupted the quiet building, and a stray bullet struck and entered Alfredo's brain. Despite suffering this potentially fatal would, Alfredo's primary concern remained the safety of his school children. Paramedics found him waving the children to seek safe haven.

This incident has had a tremendous impact on our city for the simple fact that Alfredo is a gifted young individual who dedicated himself to helping the most vulnerable and precious members of our society: children. The obligation to work with the children of the inner city is all too often lost among other, often selfish, priorities. Continuing his studies to become a school principal, Alfredo considered his work with children in the inner city his calling.

While at UCLA, Alfredo met, fell in love with, and married Virginia Navar. Ms. Navar also studied to become a teacher and is presently on leave from the Los Angeles Unified School District assisting Alfredo with his recovery. Virginia, his supportive family and numerous well-wishers have been the constant hope in Alfredo's recuperation.

Mr. Speaker, on September 22, 1996, several alumni associations from some of California's most prestigious universities have joined forces and will host a special reception to pay tribute to Alfredo Perez for the mobilizing efforts he has inspired and for the dedication he has given to the children of Los Angeles. It is with great pride that I ask my colleagues to join me in saluting this exceptional individual for his outstanding service to the children of Los Angeles.

NATIONAL POW/MIA RECOGNITION DAY

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. QUINN. Mr. Speaker, as America observes National POW/MIA Recognition Day, 1996 it is fitting that we recall the sacrifices made by the brave men and women taken prisoner and who have returned home, as well as those who are listed as missing in action and presumed dead.

Words cannot aptly describe our feeling of gratitude for the dedicated service these courageous Americans have provided for our Nation. However much of our actions pale in comparison to our pride we must always make an effort to remember these heroes.

Just as we commemorate those who fought so selflessly for our country on Veterans Day and pay tribute to those who gave the ultimate sacrifice on behalf of their country during Memorial Day, so too should we remember America's POW/MIA's. We as a nation must not forget the sacrifices endured by our former prisoners of war and our missing in action.

I call on my colleagues in the House and the Senate, as well as all Americans to honor the service of our former POW's and pray for those Americans still unaccounted for.

TRIBUTE TO DAVID HERMELIN

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1996

Mr. LEVIN. Mr. Speaker, on Tuesday, September 24, David Hermelin will receive from the Jewish Federation of Metropolitan Detroit an award of unusual distinction, the Fred M. Butzel Award for Distinguished Community Service.

David Hermelin is synonymous with community. Community in its fullest and broadest sense. Like few others, his efforts have been as extensive as they have been intensive.

He has been a pillar within the Jewish Community of Metropolitan Detroit. He is President of World ORT Union, a member of the Board of Governors of the Jewish Federation, Vice Chairman of the United Jewish Appeal, and a Director-at-Large of the United Synagogue for Conservative Judaism. He has been a linchpin in a variety of efforts critical to the security and well-being of the State of Israel and to amicable relations between the United States and Israel.

His efforts has touched almost every other aspect of community life in and about Michigan. He has been deeply involved in the health needs of our State, as evidenced by his active work with the Barbara Ann Karmanos Cancer Institute and Children's Hospital, among others.

He has been instrumental in the flourishing of the arts, highlighted by his key role with the Detroit Symphony and Orchestra Hall, the Detroit Institute of Arts and the new Opera House of the Michigan Opera.

David Hermelin has also been active in the business world. His endeavors have spanned his highly successful insurance business to his role in the development of Palace of Auburn Hills.

While I have been lucky to know David Hermelin personally for many years, I do not know his middle name. Perhaps it is Peripatetic. David Hermelin has set an example for all to emulate, though few, if any, could quite do so.

Amidst all of this whirlwind of activity, David Hermelin has always found time for his beloved family. He and his wife Doreen have never lost sight of a central tenet of their heritage—the family comes first. I join the very large extended family of David Hermelin's friends and admirers in extending heartiest congratulations on his receipt of the Butzel Award.

HOUSE OF REPRESENTATIVES—*Friday, September 20, 1996*

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. MILLER of Florida].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 20, 1996.

I hereby designate the Honorable DAN MILLER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend Dr. Ronald F. Christian, office of the bishop, Evangelical Lutheran Church in America, Washington, DC, offered the following prayer:

Almighty God, with Your mercy new to us every day irrespective of our nature, and with Your grace provided to each one alike without regard to need, we pray, give to each one of us, O God, Your gift of peace, so that our lives will be an example of Your righteousness.

Give to our Nation, O God, the earnest search for justice, so that our conversations and actions will show a desire for what is right.

Give to those ordained with responsibility for leadership a sense of awe and a spirit of humility that will offer thoughtful and useful commentary on behalf of those without voice.

And give to us all a measure of Your love, so that compassion can be our benchmark for honor, kindness the waterline for friendship, patience the starting pole of brother and sisterhood, and hope the finish line for our lives. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Mississippi [Mr. MONTGOMERY] come forward and lead the House in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. LEWIS of Georgia. Mr. Speaker, pursuant to clause 2 of rule IX, I hereby give notice of my intention to offer a resolution which raises a question of the privileges of the House.

The form of the resolution is as follows:

Whereas on December 6, 1995, the Committee on Standards of Official Conduct agreed to appoint an outside counsel to conduct an independent, nonpartisan investigation of allegations of ethical misconduct by Speaker Newt Gingrich;

Whereas, after an eight-month investigation, that outside counsel has submitted an extensive document containing the results of his inquiry;

Whereas the report of the outside counsel cost the taxpayers $500,000;

Whereas the public has a right—and Members of Congress have a responsibility—to examine the work of the outside counsel and reach an independent judgment concerning the merits of the charges against the Speaker;

Whereas these charges have been before the Ethics Committee for more than two years;

Whereas a failure of the Committee to release the outside counsel's report before the adjournment of the 104th Congress will seriously undermine the credibility of the Ethics Committee and the integrity of the House of Representatives: Therefore, be it

Resolved, That the Committee on Standards of Official Conduct shall release to the public the outside counsel's report on Speaker Newt Gingrich—including any conclusions, recommendations, attachments, exhibits or accompanying material—no later than Wednesday, September 25, 1996.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative schedule within 2 legislative days. The Chair will announce that designation at a later date.

A determination as to whether the resolution constitutes a question of privilege will be made at a later time.

DRUG USE SKYROCKETING UNDER PRESIDENT CLINTON

(Mr. BURR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURR. Mr. Speaker, America is losing the war against drugs. As a father of two young children, I understand the fear felt by every parent as they send their kids off to school each morning.

Over the past several years, this administration—through its irresponsible actions and indifferent words—has created a world where drug use is not only blatantly ignored but is often the source of careless chuckles and thoughtless jokes. This is not the environment I want my children to grow up in—drug use is not funny.

But worse than the rhetoric is the record. Actions speak louder than words, Mr. Speaker. President Clinton has eliminated drug agent after drug agent. The number of people prosecuted for Federal drug charges has dropped and programs have been cut. I ask you, how many times have you heard the President of the United States tell your children to "Just say 'no'?"

President Clinton's abandonment of strict, effective drug policy has led our young people down a disturbing road of skyrocketing drug use. Jokes on MTV are not acceptable and reckless disregard from the bully pulpit is inexcusable.

THE ADMONISHMENT COMMITTEE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I am amazed. I think it is time we start calling the Committee on Standards of Official Conduct the admonishment committee. Yesterday they issued admonishment No. 6 for our Speaker, and they went on to say in there, which I find really quite amazing, the committee concludes that the Speaker's conduct of allowing the routine presence in his office of Mr. Jones demonstrates a continuing pattern of lax administration and poor judgment that has concerned this committee in the past with the other five admonishments.

They go on to say: Accordingly, the committee directs you to take immediate steps not only to prevent the recurrence of similar incidents and ensure compliance with standards but to guard against the appearance of impropriety.

Now, I think everyone in America ought to ask for the same standards.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

When you get stopped for a speeding ticket, until you get six admonishments I guess they are never really going to do anything. I would say the way Members of Congress get treated is how an average citizen should be treated. I find it absolutely amazing that the rules can be thrown over with such great abandonment.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

COCAINE IN SOUTH-CENTRAL LOS ANGELES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from California [Ms. WATERS] is recognized for 60 minutes as the designee of the minority leader.

Ms. WATERS. Mr. Speaker, I come today to continue my discussion on the matter of the San Jose Mercury News article that revealed the dumping of cocaine into south-central Los Angeles by CIA operatives, cocaine that was spread among the Cripps and Bloods gang members and eventually in cities throughout this Nation.

I am spending a lot of time on this issue because I believe it is important for the citizens of this country to know and understand how this country finds itself with crack addiction, crime, crack-born babies, hospitals overloaded with overdoses of crack cocaine, turf wars, all of this devastation. Where did it come from? Who caused it? This article, or these series of articles that were done by the San Jose Mercury News must be focused on. Mr. Gary Webb, the author of the series, is a Pulitzer Prize winning journalist.

This is not a fly-by-night journalist. This is not someone who just thought this up and decided they would write something. He spent over a year investigating the leads that came to him. And what did he uncover? It is absolutely startling. Mr. Gary Webb discovered that in the late 1970's, 1979, early 1980's, two CIA operatives, Mr. Danilo Blandon and one other gentlemen found their way into south-central Los Angeles. They connected up with a gentleman, a young man named Ricky "Freeway" Ross. They began to supply him with tons of cocaine. That cocaine was cooked into crack. Those are the rocks that plague our communities today.

Prior to the introduction of cocaine by Mr. Blandon and Mr. Meneses, cocaine was not a factor in minority neighborhoods, in the inner cities. Cocaine was the drug of the elite, of the more well-to-do, of kind of the rich and the famous. It was expensive. It could not be afforded by poor people, and it was really not a factor in poor communities. It was only when the CIA operatives, working with Ricky Ross, discovered that you could cook it and you could put it into crack form, that it could be sold cheaply because you could spread it around. You could get more out of it.

And so they began to cook up the crack. They put it out into the communities on consignment. What does that mean? Prior to this time, you had to have money to get into the drug business. If you wanted to be a drug dealer, you had to go and buy cocaine. You bought it by the kilos oftentimes. But when these CIA operatives started to work with Ricky Ross, they eliminated the need to have money to invest to become a drug dealer. They put it out on consignment.

□ 0915

When you understand this consignment spread of cocaine and crack, then you understand why they also brought the guns in with them.

We wondered in south central Los Angeles, where are these guns coming from? They were not simply handguns, they are Uzis and AK-47's, sophisticated weapons brought in by the same CIA operatives because they had to enforce bringing the profits back in.

About this time when you saw more and more guns coming into the community, you also saw more and more killings, more and more violence. Now we know what was going on. The drugs out in our communities on consignment were being put out to the gangs and others; if they did not bring the profits back, the guns were brought in so that they could enforce the control.

You got killed. People were sent out to kill others. The killings just mounted in south central Los Angeles, and people said what are they fighting about? What are these drive-by shootings about? What is this gang warfare about? And people said oh, it is about the colors; some like red, some like blue, well, you know it was about drugs. It was about crack cocaine introduced into our communities by people who brought it in with a purpose.

Why did they do this? According to Mr. Blandon, he is on record under oath testifying at a trial that, yes, he was a CIA operative but he was also engaged in funding the war in Nicaragua. He was one of those that helped form the army of the Contras, the FDN. He came from Nicaragua. He was the son of a very rich Nicaraguan. They were involved with Somoza and part of the Somoza government. When they were overthrown by the Sandinistas, they went out and formed their own army working with our Government.

They formed their own army and then they had to supply them. They had to get the guns to them; they had to feed the soldiers; they had to clothe the soldiers. They had to put together an Army. And, yes, they had a lot of support from the right wing, from conservatives right here in the Congress of the United States who set out to get the citizens of this Nation to use their hard-earned dollars to help fund that war.

That effort was resisted by many in this House, but they persisted. But long before they got any dollars, there was money flowing to the FDN and to the so-called resistance armies.

Where did that money come from? We know now that that money was coming from the sale of drugs to the citizens of America, the profits of which went back down to fund the FDN, working with Nicaraguans connected with Somoza, Nicaraguans that were embraced by the right wing of America.

America's children, American citizens exposed, crack cocaine fed into the neighborhoods in order to get money to fund the FDN and the other armies resisting, fighting against the Sandinistas.

It is an outrageous plot. It is an unconscionable plot. How would anybody ever dream up this kind of madness? Mr. Maneses, directly connected to the Cali drug cartel, got into this country and was given citizenship, even though people in our Government knew he was a murderer.

Since when do we let murderers and criminals into this Nation? I guess we let them in when they are going to do the bidding of those who have decided they can get support by allowing criminals and crooks to come in to sell drugs to fund the Army that they want to fund.

Everybody needs to read the San Jose Mercury news series under the banner of "The Dark Alliance." This is not simply a story about allegations; these are facts, names, places, dates.

I decided once I had read it that I was going to find out more. I have developed a communication with Gary Webb who wrote the story. I am in touch with him almost daily, asking questions.

Following the Democratic Convention, after I read the information, I flew back to Los Angeles and I went to San Diego and I visited Ricky "Freeway" Ross, one of the young men who is a principal in this story, an African-American young male who sold drugs, who got his drugs from Blandon and Maneses, a young man who had a 10-year relationship with Blandon, a young man who had been to Blandon's homes both in Rialto, CA, and in Florida, a young man who knew Blandon's wife, who had done business with both of them. The young man who had a long-term relationship because he was the recipient of the many kilos and the tons of cocaine that had been brought into south central Los Angeles.

I went to San Diego. I went to the San Diego metropolitan detention facility, a Federal facility where Mr. Rick "Freeway" Ross is now incarcerated. I spent time with him and I asked him about the article. I asked him about details in the article. He confirmed that and more.

He described to me the first time he had ever seen an Uzi and how it was given to him and his friends. And then he described how they continued to bring in the arms, and they had an extensive arsenal. It went so far until Mr. Blandon and his friends even tried to give them a grenade launcher. Ricky Ross said, "My God, what do we need with a grenade launcher?"

They had everything they needed. They had scramblers so that when they talked on the telephone they could not be eavesdropped on. They had money counters. They counted money 24 hours a day. At one point in this 10-year period, they made $54 million in 1 year. They were making $2 million a day oftentimes, $1 to $2 million a day just with Blandon and this gentleman who was selling drugs.

And the story goes on and on and on naming individuals, identifying situations.

Ricky Ross is in prison not because he was apprehended during the time he was selling all of these drugs. He is in prison now because he was set up by the man who was selling him the drugs.

Ricky Ross was contacted by Mr. Blandon years later, just a couple of years ago, asking him to get back into the trade. Ricky Ross said to me that he told him, "I do not want to get back in the trade." He was called any number of times by Mr. Blandon, who told him how easy it would be. Ricky Ross told me, he said to him, "I am trying to go straight. I am trying to build a studio. I am trying to have a cultural program. I am trying to find dollars to bring the young people in and work with them and get some programs and activities going for the many young man who are very vulnerable, young men who could be approached by drug dealers who would take a chance."

Mr. Blandon continued until Ricky Ross and two of his friends decided they were going to take another chance, and they went down to San Diego to pick up a truck loaded with 100 kilos of drugs supplied to them again by Mr. Blandon. When they got to the appointed spot, Mr. Blandon handed him the keys, they opened the truck, stepped in, and the DEA agents and others swooped down upon them, arresting him. He has been convicted and he is awaiting his sentence.

Ricky Ross should have known better. You do not get to go off without punishment when you perform these kinds of criminal acts. He should not have been involved in the trafficking of drugs. And he is going to have to do time, and so be it.

But what about Blandon? He has been selling, he is in the records if you check them. They have known about him since 1974. He is now on the payroll of the DEA. He is an informant now for the DEA.

Oh, they paid him $166,000 in the past year. Mr. Blandon, the drug dealer who introduced cocaine in large amounts into the black community into south central Los Angeles, that spread across this Nation, now in many cities whether we are talking about Harlem or the Bronx, St. Louis, Philadelphia, in southern cities, Mr. Blandon connected to Mr. Maneses and the Cali Cartel who flew drugs from Colombia, airplanes that land in Texas, in Arkansas, right in our own country, is free. He is under the protection of the DEA. He is one of their people. He is hired by them. He is an informant.

And so I guess Mr. Blandon goes free because he can go and encourage, solicit, and get another young black male involved in selling drugs, point the DEA to them, get a bust as if he has done something, while he remains free to do what he wants to do.

It is outrageous. We have got to do something about it. The Congressional Black Caucus has decided to appoint me chair of a special task force, and we are going to move to get investigations. We have got some updating that we are going to do, and we are going to come to this floor on a regular basis and we are going to give those updates.

At this time, before continuing, however, I would like to yield to the gentleman from New York, another one that is engaged in this battle, Congressman MAJOR OWENS.

Mr. OWENS. Mr. Speaker, I want to thank the gentlewoman from California for taking up this special order.

It is very not that we understand that this is a window of opportunity; the San Diego Mercury has given us that opportunity by bringing together some very important facts by exploring some court records and doing some interviews, and they have the embryo here of a truth that is very important for our community.

I was asked a question by several reporters yesterday, Why is this matter so important now? What difference does it make? The crack cocaine epidemic is out there. What difference is it going to make it these people are punished or not?

This is not about punishing a handful of people; this is about seizing this window of opportunity to fully expose one of the ways in which the African-American community has been victimized, one of the ways in which the inner-city community has been victimized. We have been victimized in so many different ways, starting with 232 years of slavery for which nobody was compensated, that free labor, 232 years where we could not acquire property, 232 years where family structures were not permitted. You could not pass down traditions. That is just one of the ways we were victimized.

Now the colored victimization takes place in various forms. We have the victimization through neglect. They do not have any policies or programs which allow our cities to get their fair share of the tax dollar. We do not have any programs which can help cities, although cities are where most of the people in America live. We have an anticity attitude in part of the Congress, especially the other body, and then we are victimized by blunders by Government programs and Government agencies. They make mistakes that mess up programs, and then the people who are the beneficiaries of those programs, they are the ones who suffer as a result of badly run programs.

□ 0930

Here is victimization again, probably by conspiracy, conspiracy. There was an agenda that they had, an agenda which they felt was more important than the welfare of the people in the inner cities, more important than the welfare of people in the African American communities. So masses of people in the inner cities and African American communities have been put at jeopardy because they felt it was necessary to make an emergency deal in order to get funds to finance a war in Nicaragua, the Contras against the Sandinista government.

Let us just take a look at the sequence when the Contras first launched their war against the Nicaraguan Government which was in control of the Sandinistas. At that time there was no American aid. There was no aid from this country officially, no American aid passed by the Congress.

When they first launched the war, we certainly supplied money through the various back door mechanisms that are available, through the CIA, their pockets deep but not deep enough to keep financing a war in Nicaragua interminably without some kind of new device. We certainly probably supplied money to the Contras through El Salvador, where we were funding the El Salvador Government, and the records show that the connection between the El Salvador drug trade and the key people in El Salvador with the Nicaraguan drug trade and the people involved in this story is a very close knit record. There is a connection there that comes up again and again.

So we were doing that through these back door methods, but that was not enough. They needed more money. This is then the first period of the Contra war against the Sandinistas. They needed more money. So here was an opportunity to sell drugs in the cities of America and take those profits and fund the Contras. And the CIA and American Government agents were needed to allow the Contras to get this avenue of funding from the cities of America.

We were all surprised at the swiftness with which crack cocaine came into the inner-city communities. Yes, there had been a drug problem for years, we have a problem with marijuana, a problem with heroin. It took decades for the problems of marijuana and heroin to really take a foothold in the communities. They were actually on their way out. You had a decline in the use of drugs in inner city communities at the point where crack cocaine entered.

Crack cocaine entered, and for $5 you could get that high, and it began this spread as an epidemic which continues until this day. Probably the Nicaraguan forces are not financing it or behind it today, but what happened was they had an opportunity to fund an infrastructure. They built their own infrastructure as a result of the opportunities given them by the CIA and Nicaraguan drug connection in the early days of the distribution of the crack cocaine.

So you had that era and then you had a period where we officially, Congress, authorized money for the Contras. $100 million we started out with under Reagan, authorizing money for the Contras, $100 million. So we officially, openly began to fund the Contras for a period.

And then we cut that off. I was in the Congress at that time. We cut off the funding for the Contras. The $100 million plus was cut off. It was no more. And then what happened? We had the Iran Contra deal from the basement of the White House, we know as a fact.

It is important to know that these facts because these facts have been clearly established by the special prosecutor, they have been clearly established by the joint investigation and the joint hearings of the Senate and the House. They are clearly established. Nobody refutes the fact that Oliver North was the mastermind of a scheme, hatched in the basement of the White House and then carried out, which was to supply money to fund the Contras.

How did they do it then? They went to sell weapons to Iran. While public policies were protesting that Iran was an evil empire, Iran was a terrorist nation and we would do no business with Iran, the deal was being hatched in the basement of the White House to sell weapons to Iran.

And they did it. They sold weapons to Iran, and they used the profits from the weapons sold to Iran to fund the Contras. That is in phase 3. That is so well established in fact.

Nobody was punished for it. Oliver North came into the hearings and acted as if he was America's chief Boy Scout. He stood up to them and flabbergasted a set of people that should not have been flabbergasted by his tactics, but he stood up to them and said he did it and he did it for America, but it was done. Nobody denied the fact that we went so far as to develop a deal with the evil Iranian Government in order to generate profits for the Contras, to fund the war in Nicaragua.

If we did it on the tail end, there is no reason to believe we did not have the same kind of fanaticism and the same kind of extremist reasoning did not take place at the beginning. Only they did not have an Iran Contra deal. They had a crack cocaine deal that started in Los Angeles with one set. I am sure at the same time they had another set of people who started in New York, on the east coast. It was not necessarily spread from Los Angeles. They probably spread from both ends of the Nation.

But this was to earn money when there was no other means to earn money, given the fact that at the tail end they were willing to go so far, and almost got an indictment of the President of the United States, who kept saying he did not remember, and I will not go into all that. Of course Oliver North came in and was pretty much exonerated in terms of, "He did it, but so what?" He ran for Senator and almost won a Senate seat in a neighboring State here. Things were that bad.

But he did it, and we know that profits to fund the Contras was the objective. So why can we not believe, why can we not accept the fact that profits to fund the Contras was also an objective at the beginning of the Contra war, and that objective was met on the backs of the people of the African-American community, the inner city communities.

Crack cocaine, a drug epidemic unlike any that has ever probably existed in the history of the world. For $5 you can get a high. For $5 you can begin the process of addicting people so that they have got to have it, and then on and on it goes to the point where they become murderers, prostitutes, they war against each other, they kill each other, shoot down innocent people. Murder on a mass scale in our big cities, and policymakers look at the cities and say there is something genetically wrong with the African-American people. You have the bell curve theory being promulgated, that they have low IQ's. There is nothing you can do about it.

All these theories are there because the truth is not known. So what Congresswoman WATERS is doing is important, to just get the truth out there, the fact that the inner-city collapse of the social order, collapse of families is partially due to the blunders of the Government, partially due to the neglect of the Government and partially due to the conspiracy, a conspiracy in which the Government has participated. Dealing drugs is probably the lowest form of conspiracy that we have seen yet that our Government has participated in.

I would like to come back later and talk about reparations and why it is important to talk about this, so we can talk about getting to the bottom of this with an investigation that the CIA director, Mr. DEUTSCH, has said he has already launched. But there will be other investigations, getting to the bottom of it, so that we can establish that a great deal of harm has been done here, a great wrong has been done and some reparations are necessary for this reason; many other reasons why reparations are necessary, but certainly for this reason.

Ms. WATERS. Mr. Speaker, I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. I thank the gentlewoman from California. I could not help as I was working in my office, to hear the gentlewoman from California and then my colleague, the gentleman from New York, speak about a topic that is moving fast across the Nation. For those individuals who are not un-American but simply are asking the question, who does the flag fly for. Who does the flag fly for? I want to commend the gentlewoman from California for her leadership and her persistence and perseverance on trying to answer the question for many young Americans across the Nation, African-Americans, Hispanics, Anglos, Asians, anyone who wants to believe that this country does work for us.

This is a frightening exposé that has come out in the recent weeks, and we recognize that this Nation has many responsibilities. In fact, in the Constitution it indicates that it has a responsibility of commerce. In the Constitution it indicates that there is a constitutional responsibility to defend the safety and sanctity of this Nation.

So certainly anyone who would argue, as MAJOR OWENS has said, and come before congressional hearings and talk about the need for clandestine operations to protect the sanctity of this Nation, would cause individuals in Congress and others to try to be sensitive to that, to try to understand what the needs were to protect this Nation, why we needed to be in Nicaragua and why we needed to be doing clandestine operations. But behind those words by the likes of an Oliver North, behind the White House of the 1980's, controlled by the Republicans, we now find a devastating and decided and directed effort to poison the lives of young African-Americans, inner-city youths in this Nation.

I know that we can be accused of crying wolf, making hysterical calls for investigations, suggesting that this country is in the hands of those on the other side of the law.

I would hope that good thinking people would just take a moment, and I think, as the Congresswoman has indicated, and my colleague from New

York, Gary Webb is not a fly-by-night writing for purposes of grandeur. This is a well researched report. That report clearly names the names and focuses us on the issues.

"Danilo Blandon is the Johnny Appleseed of crack cocaine in California," so noted in the report written in the San Jose Mercury News, "The Crips' and Bloods' first direct-connect to the cocaine cartels of Colombia." This Danilo Blandon, the first connect to inner-city gangs of crack cocaine or cocaine out of Colombia.

Remember when we begin to talk about a drug structure? There is really no drug structure that can really compare to the cartels in Colombia, cartels signifying major corporate structure, an infrastructure that permeates the entire Nation. This was their contact. Not someone down the street, not someone across the country in New York, but Danilo Blandon out of Columbia.

"The tons of cut-rate cocaine he brought into black L.A. in the 1980's and early 1990's became millions of rocks of crack, which spawned new crack markets wherever they landed.

"On a tape made by the Drug Enforcement Administration in July 1990, Blandon casually mentioned the flood of cocaine that corresponded through the streets of South-Central Los Angeles during the previous decade," in the 1980's.

"'These people have been working with me 10 years,' Blandon said. 'I've sold them about 2,000 or 4,000 kilos. I do not know. I do not remember how many.'" Some 2,000 to 4,000 kilos of drugs coming in from Colombia into one community then permeate, go throughout the Nation.

"But unlike the thousands of young blacks now serving long Federal prison sentences for selling mere handfuls of the drug, Blandon is a free man. He has a spacious new home in Nicaragua and a business exporting precious woods, courtesy of the United States Government."

What would we say about that? What would you say if crimes were done in Iowa, blatant crimes, and someone is set up in a fabulous house in Florida? Here we have got the story, right here, clearly exposing this situation.

Interestingly enough, this gentleman, Mr. Blandon, was paid more than $166,000 over the past 18 months, records show, for his help in the war on drugs. The help in the war on drugs, I would imagine that may be, though this is not a time and place for frivolity or humor, his help is to direct it into communities

"Nothing epitomizes the drug war's uneven impact on black Americans more clearly that the intertwined lives," here we come with the other player, "of Ricky Donnelly Ross, a high school dropout who became L.A.'s premier crack wholesaler, and his suave cocaine supplier," remember now, direct from Colombia, "Danilo Blandon, who has a master's degree in marketing," as written by Gary Webb, "and was one of the top civilian leaders in California of an anti-Communist guerrilla Army formed by the U.S. Central Intelligence Agency called the FDN. It became known to most Americans as the Contras."

There goes the very connection that drives our message day after day. That is why as we go home to our districts, as I will leave today, and face constituents on talk shows and in town hall meetings, the cry becomes, "Why us?"

□ 0945

The cry becomes, why us? The cry becomes, who does the flag fly for? And so I am here to support the gentlewoman from California, Ms. WATERS, and Senator BOXER and join my colleagues who believe there is a better America and would want a thorough investigation.

In a meeting with the CIA Director yesterday we have both requested and received commitment for a very strong, positive, and a noncoverup investigation. The words I used was to leave no stone unturned, for that would be the only basis upon which we have a better America.

Now, let me simply say as I close, this is not an indictment across the board, from my perspective, of all agencies who are responsible for upholding the law. It does say that behavior caused actions which we would not be proud of, and so I think it is important that the CIA's Inspector General announced on August 6 that it will conduct an internal inquiry into an air base at Mena, AR, that was reportedly used in the mid-1980's to fly guns to the Contras and drugs into Louisiana. There is another location, Houston, in Texas, close to the border and also a city that may be subject to this kind of intrusion. The base, according to former national security officer, staffer, Roger Morris, was run by the CIA and DEA informant named Barry Seale, who was murdered by Colombian gun men in Baton Rouge in 1996.

And as I said, to close, Congresswoman WATERS, it is interesting to read this article and to note when we begin to think of the so-called changes in welfare and the vigorous debate that many of us raised to disagree with this welfare reform because it did not address educating and providing bridges for changes, here we are noted by this article out of the San Jose Mercury News that it was not uncommon to move 2 to 3 million dollars' worth of crack in 1 day. It was not unusual to move this amount of money, and our good friend, Mr. Ross, who is here, indicated that the biggest problem they had was counting the money.

Now we say that the new policy of many of my Republican friends, "just say no or do not do it," we have been saying that. We join you in that. That is not a drug policy. That has nothing to do with this blatant activity that causes the need for our work to ensure that this never happens again and that, as well, the truth be told for our young people.

Mr. OWENS. This "just say no" slogan; was it not originated about the same time that the other hand of the Government, the CIA, was encouraging the sale of drugs?

Ms. JACKSON-LEE of Texas. Absolutely. In the 1980's the big cry was——

Mr. OWENS. The 1980's, same time.

Ms. JACKSON-LEE of Texas. Same time, "just say no," while at the same time we had a Government orchestrating, bringing in tons and tons of drugs and at the cost of some $2 million a day, resulting in the amounts of about 2 million to $3 million a day.

And let me say to you, Congresswoman WATERS, I really take my hat off to you because when I see these numbers, and as you have said, we do not know where it will lead, we are talking about 2 to 3 million dollars' worth of crack in 1 day in one community, and I think that is the magnitude of what you have been saying, what we join you in saying, what I have been saying and what we need to have all of America understand.

Ms. WATERS. I thank the gentlewoman for joining us in the sharing of information in this particular hour, and I appreciate the cooperation from all of the members of the Congressional Black Caucus and particularly from those of you who would take time from your schedules to make sure we share this information with the people of the United States.

Let me just continue here sharing the information of the series because it is so important to understand why we must ask for an investigation.

We have not just asked for an investigation because we do not know what we are able to get from whom. We have asked the Justice Department for an investigation, we have asked the CIA for an investigation, we asked the Speaker of this House to get an investigation going with the Permanent Select Committee on Intelligence. We have asked other committee chairs who we believe have some oversight to join in the investigation.

We also have a resolution, or resolutions, asking for a select committee, which we may have to have at some point if we find that we run into roadblocks.

It is important for us to go in all of these directions so that we can reap information and get to the bottom of what is going on. Let me tell you——

Mr. OWENS. Will the gentlewoman yield for 1 minute?

Ms. WATERS. Yes, I yield.

Mr. OWENS. Is it true that the Justice Department has already concluded that they do not need to investigate?

Ms. WATERS. The first response we received from the Justice Department was their preliminary inquiry did not reveal any of the facts of this article. However, they were going to start an investigation with the Inspector General, and of course when we met with the CIA Director last evening, he confirmed that that investigation had started. We talked to him about our concerns about that investigation. We said that nobody believes that the CIA, first of all, will investigate itself, and he assured us that the Inspector General was independent.

We also said to him that attempts in the past had only gotten the kind of response that said we cannot respond because of national security, and we did not want an investigation that would come back telling us that we cannot get information because of national security interests.

Third, we said to him we do not want an investigation where you come back with the report under national security interests you can only share with us and not with the public. It is important for it to be shared with the public. We discovered that the CIA Director has the authority to make that public. He also has the authority not to make it public, and this is one thing we are going to have to insist on.

Mr. OWENS. So the Justice Department will not conduct its own independent investigation; it is going to cooperate with the CIA Inspector General?

Ms. WATERS. That is right, that is exactly what is going on. When we first heard a response from Janet Reno of the Justice Department, she indicated that she could not comment because of an open case. Now what we are hearing is, oh, since the CIA has decided that indeed it would hold an investigation by way of the Inspector General, she is now saying that she supports that investigation and would await the results, the results of which we are supposed to get in 60 days.

Why an investigation, why must we insist on this? People say but you have done this before, you had investigations before. Let us take a look for a moment at what happened.

In 1988 one 1988 investigation by a U.S. Senate subcommittee ran into a wall of official secrecy at the Justice Department. In that case congressional records show Senate investigators were trying to determine why the U.S. attorney in San Francisco, Joseph Rosanello, had given $36,000 back to a Nicaragua cocaine dealer arrested by the FBI. The money was returned, court records show, after two Contra leaders—unbelievable—two Contra leaders sent letters to the court swearing that the drug dealer had given the cash to buy weapons for guerrillas, had been given the cash to buy weapons for guerrillas. Rosanello said it was cheaper to give the money back than to disprove that claim. The Justice Department flipped out to prevent us from getting access to people, records, finding out anything about it, recalled Jack Blum, former chief counsel to the Senate subcommittee that investigated allegations of cocaine Contra trafficking. "It was one of the most frustrating exercises that I could ever recall," said Jack Blum.

Now, Jack Blum was the former chief counsel to the Senate subcommittee that investigated these allegations of Contra cocaine trafficking. Again let me repeat. He said, "It was one of the most frustrating exercises that I can ever recall." It was not until 1989, a few months after the Contra Sandinista war ended and 5 years after Meneses, the big drug dealer, moved from the peninsula to a ranch in Costa Rica that the U.S. Government decided, oh, it is time to take some action, sort of, with a wink. Federal prosecutors in San Francisco finally charged Mr. Meneses with conspiracy to distribute, they said, 1 kilo of cocaine in 1984, a year in which he was working publicly with FDA.

So, when we talk about investigation, we know what we are going to run into, walls of secrecy, Justice Department shutdown. So we do not trust anybody.

I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. If the gentlewoman will yield, I imagine, and I just want to pose a question to you in being complete, therefore, as you mention these stumbling blocks that have occurred in times past. I recall the Select Committee on Assassinations that dealt with the assassinations of King and Kennedy, and people are still having questions about those issues, that it is necesary then to cast a broad net to try and reach every agency that might be involved: CIA, DEA, FBI, Justice Department, and then hearings.

Is that my understanding that you think is necessary after reviewing those materials with us of past investigations?

Ms. WATERS. Well, I think we have to be in this for the long haul. This is not something that is going to reap us any substantial answers in the short period of time. We are going to run into walls of secrecy; I just anticipate that. I anticipate that we are not going to be satisfied.

However, we have gotten representations of cooperation from the CIA Director. Everybody wants to cooperate, they say. The proof of the pudding is in the eating.

I think we have to be prepared to move at the right time to do whatever we have to do I order to continue, in order to approach it from a different direction, and so this is a beginning. We start with this possibility of investigation by the CIA, or rather by the Inspector General. We have gotten word from NEWT GINGRICH, who responded to me and wrote me a letter indicating that he indeed was going to proceed with the chair of the Permanent Select Committee on Intelligence, the gentleman from Texas, Mr. COMBEST, in opening an investigation. I am very pleased, and I would like to thank Mr. NEWT GINGRICH, and I would like to read that letter into the RECORD. He says:

> DEAR MAXINE: Thank you for your letter regarding a recent series of articles that appeared in the San Jose Mercury News that alleged CIA involvement in the introduction, financing and distribution of crack cocaine in Los Angeles. I have asked House Permanent Select Committee on Intelligence chairman, Larry Combest, to investigate the allegations contained in these articles, and I understand he has already begun to do so. In addition, I understand the Director of Central Intelligence, John Deutch, has asked the CIA Inspector General to investigate this matter despite his own rejection of the substance of the allegations. Assuming the Clinton administration will cooperate with our efforts, I am hopeful that the chairman Combest investigation as well as the CIA IG inquiry, will reveal whether or not the allegations contained in the Mercury News articles are true or false. Thank you again for your interest in this matter. Sincerely, Newt Gingrich, Speaker of the House.

□ 1000

Let me just say to the gentleman from New York that, because of our persistence, things are beginning to happen. As you know, the drug czar came out and called for an investigation. As you know, not only do we have this letter and this movement by the gentleman from Georgia, NEWT GINGRICH, and the movement by the CIA. Civil rights organizations, the NAACP, Mr. Kweisi Mfume; mayors, Mayor Kurt Schmoke, Mayor Wellington Webb; many groups up in Pennsylvania. In Los Angeles, the county board of supervisors just passed a resolution calling on the President to get involved in an investigation.

So because of our persistence, even though the major media tried to ignore us, would not carry the stories, when we held the Congressional Black Caucus weekend, 3,000 people showed up to our workshop demanding hearings, demanding investigations. My own paper, the Los Angeles Times, did not even carry that meeting, even though a Member from Los Angeles was in the forefront of the effort.

Mr. Speaker, we finally are getting a little bit of network attention, but so far most people are not able to read about this in their local newspapers. It has not been reproduced. It has not been paid attention to. But because of our persistence, we are finally making something happen.

Again, we are going to have to be in this for the long haul. We are going to have to organize in our communities. We are going to have to get our labor organizations, our community groups, our church groups, to reproduce this and pass it out, reproduce. We have already printed thousands of copies. People are clamoring for them.

Their local newspapers will not carry the story. Their local television stations will not carry the story. But we are getting it out, and I would like the Congressional Black Caucus to continue to develop this network, working through the churches, working through private organizations, to spread the word, to get the information out.

I would like to ask the gentleman, in a colloquy here, the gentleman from New York, to describe, if he will, even though he alluded to it and spoke to the devastation in our communities, and I have alluded to it or talked about it, and I will continue to talk about it. I do not know if people really understand what is going on in many of these cities, perhaps in parts of your own district, with crack cocaine addiction. How bad is it? I yield to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, the serious problems we face with the African-American community in most inner cities, one of the problems is no jobs. But I think more important than the fact that there are no jobs is the drug problem, which is more devastating, because the drug problem leads to criminal activity, including murder.

The drug problem decimates families. The drug problem leaves a legacy of babies. We are back to a problem of babies in the hospitals who are being abandoned, and many of these babies have problems as a result of their mothers being addicted, and there are high health costs. It devastates the community in many ways.

Mr. Speaker, we have had people on the one hand in the housing projects call for a National Guard to intervene in order to deal with the fact that the housing projects, certain projects are inundated with drug dealers. At the same time, other factions within the housing projects would be very much against it because it is their sons, their sons who are involved in the drug trade.

It is a problem that is interwoven so much into the community until you cannot separate it out. There is a lot of money flowing from the drug dealers that is held out to people for investment, and on and on it goes. They are in charge. They are the kingpins. They have an infrastructure now.

What started with the Nicaraguan trade and the encouragement of the CIA, the CIA does not have to be involved anymore. They allowed it to make enough money to build their own infrastructure, so they have an infrastructure which has a seemingly unlimited amount of money, and they have all these gangs that they can play against each other. There are the Colombians and the Dominicans in New York, and the so-called Jamaican Posse. What is happening is that the people behind all this, they play one group off against another. When it gets too hot for one, they shift the action to another, and it just goes on and on forever.

I do want to caution the gentlewoman from California that we must keep the heat on, because the CIA is quite a formidable foe. We may have a seeming acceptance of cooperation now. They want to investigate this fully. Certainly you may be confronted with a stone wall, as you were in the case of Haiti, where the CIA actually financed the people who stopped our troops from going in early in the implementation of the President's Haitian policy, and we had to wait for months and months after that. More and more people died, because we have been stopped from initiating a peaceful process for changing the government in Haiti.

The very person who did that, Emanuel Constans, who confessed that the CIA paid him to do it, and he was in charge, was held in jail for a while in this country and now he has been released. He is free in Queens, NY, for some strange reason. They do not explain why he is released. They will not explain why the papers that were captured from this same organization when the United States troops went into Haiti, why those papers will not be released to the Haitian Government. They have a way of suddenly deciding that whatever is not in the interests of national security they will withhold.

The danger is that we will get a stone wall here if the outrage of the American people is not expressed. If we do not understand the connection between what has happened here and the present political cry that President Clinton is the cause of drugs being used by more young people now, and just do not do it, please just say no; if you are going to deal with that kind of surface political situation without going deep and thoroughly investigating this, you are really not dealing with what is not jeopardizing just the inner cities, but it is jeopardizing youth everywhere. It spreads from the inner cities all over. I hope we will pursue it relentlessly.

Ms. WATERS. I thank the gentleman for reminding us of the kind of work and the kind of time we are going to have to put in on this issue.

Let me just say this, are your warnings about the stonewalling joined with warnings that I am getting all over about the danger of being involved in this kind of issue? People are wondering about my security and whether or not I am afraid that something may not happen.

Let me just say this from the floor of Congress: I do not fear anybody. I am aware, as we look through the records, that people have died mysteriously who are involved in investigations. But I want to put everybody on record, as we move through these investigations, that I had better not see any attempts, any attempts to violate me or anybody else involved in this work. We are not going to move with fear, we are not going to stop doing our work, because of anybody who tries to intimidate us. I just want to put anybody on record who thinks they may be able to stop us with intimidation that I have no fear.

Mr. OWENS. You have the overwhelming support of the African-American community. Our community overwhelmingly supports this effort. They want to see the truth come out. They want to get to the heart of this problem.

Ms. WATERS. That is absolutely correct. Let me also just say that, while Mr. Dole is making a part of his campaign, the priority part of his campaign, a discussion on drugs, I do not understand how he can talk about drugs and not even mention this revelation that came out August 18, 19, and 20. If you want to talk about drugs, you cannot dismiss this revelation, this series entitled "The Dark Alliance." It names names, dates, and places.

Mr. Speaker, I know what is going on. Mr. Dole is using this as a campaign issue, and they are playing with us one more time, the "just say no" kind of attitude. It is time to find another political issue to whip people up about.

I do not want Mr. Dole or anybody else playing with my community on this issue. We have been harmed enough. We have been harmed by a lack of a war, we have been harmed by the Reagan policies, we have been harmed by the Bush policies, we have been harmed by a policy that allowed the funding of a war, the FDN, the Contras, on the backs of my children, on the backs of the young people of the inner cities. I do not want anybody playing with me on this issue.

Let me just send a warning to Mr. Dole: If you stay out on that campaign trail, you ignore this issue, I am going to find you, Mr. Dole, and I am going to ask you publicly, why, then, are you not talking about the genesis of crack cocaine? Why are you not talking about the spread of cocaine in the inner city by CIA operatives under Reagan and under Bush? Why do you ignore the fact that we now have something that we can investigate?

If you are serious about why young people have increased their use of drugs, if you are serious about getting at the bottom of this, you will take up this issue. Not only will you join us in the investigation, you will tell the Republicans further, who are in charge, not only investigate it in the Select Committee on Intelligence but all the committees that have any kind of oversight, any kind of jurisdiction.

I challenge you today, Mr. Dole, to not just play with this issue, but to do the right thing and help us get to the bottom, and help us to understand how we are going to repair the harm, how we are going to deal with the devastation, how we are going to deal with the crack-addicted babies, how we are going to deal with the guns that you support being used in this country, coming into our communities.

WHAT IS THE CORRECT DEFINITION OF "CUTS"?

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. CUNNINGHAM] is recognized for 60 minutes as the designee of the majority leader.

REPUBLICANS SUPPORT INVESTIGATION INTO ORIGIN OF ILLEGAL DRUG SUPPLY

Mr. CUNNINGHAM. Mr. Speaker, many of us do support the investigation, because a lot of the drugs, about 90 percent of them, were purported to go out of Mena, ARK, when President Clinton was Governor. If you look at the Mena chronicles, in which a lot of those drugs went out, Malek, who was then Governor Clinton's chief investigator and coroner, ruled that two children that were killed on tracks had smoked a lot of marijuana and fell asleep. The parents got upset. They had outside forensics come in, and the children were stabbed to death.

Since then, 18 people that were going to testify against Governor Clinton, Malek, the judge appointed by then-Governor Clinton, and the district attorney, who also canceled the grand jury investigation, 18 people have been murdered. Yes, we look forward to that investigation.

Mr. Speaker, I came here today to talk about something that a lot of people do not talk about. I think it is a legitimate issue for both sides, both for conservatives and liberals, on what does it really mean to cut; what is cutting and what is being cut, or the differences, at least, in definition. I would like to clarify some of those.

First of all, Mr. Speaker, in education, 95 percent of education is paid for by State and local revenues. Only about 5 percent of education in our country is paid for by Federal dollars. That 5 percent of the dollars, do not misunderstand me, is no small amount. The Department of Education, for example, has an annual budget of about $35 billion, and that is a B, with a billion. So 5 percent is not a small amount of change.

The problem is, we are getting as little, especially in the district of the gentleman from New York [Mr. OWENS] who just spoke, we are getting as little as 23 cents out of every Federal dollar back to the classroooms. Why? Twenty-three cents on a dollar for every tax dollar. Did God create those dollars? No. He has to take it from hardworking American taxpayers. It comes to Washington, DC, and then goes back to the people that they took it from, at only 23 cents on a dollar. Why is that?

This Republican Conference identified 760 education programs in the Federal system. Yesterday in a hearing the gentleman from Virginia, Mr. PAYNE, a Democrat, and the gentleman from Oklahoma, J.C. WATTS, a Republican, introduced a bill. In the hearing there were about 15 different witnesses, Republicans and Democrats, appointed and asked to come by Republicans and Democrats.

They identified over nine programs within their communities that were working on antidrug and against juvenile justice. When the question was asked, how many of them had those programs in all of their districts, none of them had any one of the other eight in their particular district, but the one that worked, they were focusing on and they were using.

Mr. Speaker, what the Republicans have tried to do is direct the money to the local level, down to the people that have the Zip Code, that know the real problems of their particular community; not something one-size-fits-all, like the Federal Government does, and mandates that you will do this. If Head Start works, do it. If drug-free schools work, do it. But the emphasis is driving the money down to the local districts, to the school teachers, to the parents, to the school boards, to the juvenile justice groups, and letting them handle the problem.

□ 1015

The Federal Government has 760 Federal education programs. Just imagine trying to fund that. Every one of them has administrations. Every one of them has bureaucracies. Every one of them has paperwork that comes down to the States that affects the 95 percent that are raised at State and local levels, just because they have to use the funds on bureaucratic redtape, on paperwork that not only goes to their State department of educations, the Governor, and then has to travel back to Washington, DC, 23 cents on the dollar, Mr. Speaker. You could not compete in business like that, and you cannot work education systems with 23 cents on the dollar.

Let me give some classic examples of how government wastes money and that the other side of the aisle says that Republicans are cutting education. Let me define the term "cut." The President's direct-lending government student loan program was capped at 10 percent in a pilot project. That 10 percent cost $1 billion a year more, just to administer, than private lending institutions to do it. GAO conducted a study, said it is going to cost $5 billion more just to collect those student loans.

When the Government shut down, the President says, "Hey, this is one of my cornerstones. I want government to spend the money down and have the power to give it out, and I want to do that." So at conference, we let it go to 40 percent.

But what the liberals did not see is, we put in the language that capped the administrative fees at 10 percent, instead of going up to 40 percent, to restrict Government spending. We took the savings from that and we increased Pell grants to the highest level ever, grants for poor children that achieve and do well in school, but for some circumstance, they do not have the wherewithal to go to college.

I do not mind my tax dollars going to pay for that, Mr. Speaker, because there are some disadvantaged children in this world that work hard, that want a piece of the American dream, and I think that it is part of government's role to make sure that those children are taken care of.

With those savings from the direct lending program, we took and increased student loans through the private sector by 50 percent. Did we cut education? No, sir. We drove the money down to the children that need it, the poor children, in Pell grants, to the children that need the student loans to go to school.

What we cut is the liberals' precious bureaucracy here in River City, in Washington, DC, and we took those savings and we drove it to where it is supposed to go in the first place, at a much higher rate than 23 cents on a dollar.

Let me give another good example, Mr. Speaker: AmeriCorps, another great program, according to the President. Everything that this Congress has argued over in the 2 years, Mr. Speaker, is power. That is what the American people are upset about. Power to spend money from Washington, DC, so you can send it down to your local interest groups so that they think you are a great guy or a great lady, so you can get reelected, so then you have got the majority, so you have got the power.

And over here is a bureaucracy, whether it is a direct lending program, whether it is a First Lady's government bureaucracy health care system, or all the other programs that they purport, they want the power to spend the money in Washington, DC.

AmeriCorps is a classic example. They want the dollars to come up here so that they can rain them down to different people saying, "Look what good guys we are." Where does the money come from? Is there a cut?

In the first place, the money is taken from the American taxpayer. Second, the average volunteer in AmeriCorps gets $29,000. In Baltimore, just a hoot and a holler from here, the average was $50,000 per volunteer.

Can we do it better than that, Mr. Speaker? Absolutely. It is wasted dollars. Why? You pay somebody $50,000 for painting a fence, or pulling weeds, that is more than many of the steelworkers, that is more than many of your teachers make. I think we can better invest that, instead of letting the Federal Government, just because they want the ability to spend the money, force it down. And, yes, we wanted to eliminate it and use the dollars more wisely.

Let me give another example. They say, "DUKE, why do you hate Goals 2000?" I don't hate Goals 2000. As a matter of fact, I think the standards that are lauded in Goals 2000 are pretty noteworthy. I mean, to say that you want to have the best math standards and the best math scores in the world is a pretty noteworthy and laudable standard. But if you read the bill, Mr. Speaker, in Goals 2000, there are 43 instances in the bill that say States "will," and if you are a lawyer, or even the American people, you understand the difference between "will" and "shall" in any legal document. "Will" is a mandate; the State will have to do this.

What is one of the 43 "wills" of the 760 programs, Federal programs? Just one little tiny one. You have to establish a board at a local level. You have to establish an education program. They say, "DUKE, you are able to establish that local program. I mean, isn't that what you purport? You want education, you want teachers, you want parents, you want students and the administration to establish exactly what they are doing." You have to establish a separate board. They have to report this program to the principal.

My wife happens to be one of those principals, has a doctorate in education in Encinitas. She then has to give it to the superintendent. All of this paperwork from the superintendent then has to go to Governor Wilson in the State Department of Education in the State of California.

Think about all this paper flow from just the schools in my district. Now think about all the paper flow from all the schools in the State of California going to Sacramento. Now visualize all of that paperwork, all of that time and energy that is going to all of the State capitals to be reviewed.

What has to happen on a State capital level? There has to be a bureaucracy at a State level, Mr. Speaker, to receive and to review, to see if it is in compliance with the Federal regulations and the other "wills" that come forward in Goals 2000.

And then what does the State do with it? The State takes that same body of paperwork and sends it back here to River City, to Washington DC, to a giant $35 billion bureaucracy in the Department of Education. They review it to see if it falls within those 43 "wills" and some of those "shalls." After they have done it, there is more paperwork that goes down that the administrators have to handle, that paperwork goes back and forth. And think of the time, waste and energy; is it any wonder that the United States is number 13 of all 13 industrialized nations in education, but yet we are purported to spend more on education. We do not spend more, Mr. Speaker, on education. We spend about one-fourth of what is purported because the rest goes to bureaucracy.

What we did is, the Governors came to us and said to the committee, "Send us the money, do away with the paperwork, do away with the rules and regulations, let us establish our local programs and we can do it better." Mr. Speaker, I have yet to go to a graduation where you have students that do well, either on a high school or a college level, that you do not have parent involvement, you do not have the teachers that are lauded by the parents and by the students, and that teamwork and that fellowship. Yes, it does take a village to raise a child, and I am a Republican. But the problem is, under the Clinton plan, it takes another village to pay for it. We can do it better and we can afford to send other villages' dollars down into education where we can give the teachers the money they need to teach our children and ask for quality teachers.

Those are just a few of the reasons. I could literally go on all day on different examples of what we have done.

But you say, "DUKE, you've shown some of the problems. What is your vision for education?"

Mr. Speaker, as chairman of the Subcommittee on Early Childhood, Youth and Families of the Committee on Education, I want to do for education what John F. Kennedy did for the space program. We can do that. We can do that as a nation. We can make an investment in education. Not cut it. Liberals have been cutting education for the last 40 years because they have been spending it on bureaucracy. They have been taking your tax dollars, sending it to Washington, and returning it at a very low rate. That is wrong. That is cutting education. We are increasing education and the resources. How do you do that? What is your vision, then?

First of all, in the telecommunications bills, Mr. Speaker, we put in the language that encourages the AT&T's, the Baby Bell's, Apple, IBM with the computer programs, to be able to invest in our schools. Mr. Speaker, less than 12 percent of our schools in this Nation, the richest nation in the world, less than 12 percent of its classrooms have a single phone jack. We have had hearings where major representatives from industry have told us that over 80 percent of the jobs, both vocational and those that are professional-bound to colleges, are going to require high-technology equipment and a high-technology education to meet the needs of the 21st century. I only have 12 percent of the schools that are even wired for a phone jack to put in those systems. So what we did is encourage the Baby Bell's, the AT&T's, the Alcoa that lays the fiber optics, to be able to invest in our schools. The President jumps up and says, Look at V-chip. V-chip, yeah, it's good. But the idea in the bill we passed is going to enable us, let industry build up those schools, let them put in the fiber optics, let them put in the computers, let them work with the local districts so that that computer is not obsolete in 6 months.

When you have teachers that don't know how to turn on a computer or even teach our children high skills, then think about that delta that the liberals talk about so much, about the successful and the poor, that delta, the difference between. That is going to grow even higher if we don't have a system to train our children in the future. We can do that through private enterprise, which we are doing now.

Let me give you a good example. In my district, I have a school called Scripps Ranch. Scripps Ranch, we built and we got private enterprise to invest in it. We put fiber optics in it when the school was built. We have computers in every single classroom that the children use and other high-technology equipment, both in science, in math, and yes, in the arts as well. The students, those that are vocationally bound, are using those computers. They are actually designing modular housing units that they sell to other schools so that they can buy more equipment for themselves. Those that are college-bound, the students in architecture or design, are using those computers. They have redesigned the entire school. And both unions—union is not a dirty word—unions and private enterprise are hiring those children in the summer and giving them OJT in job areas so that they will have a better preparation when they leave high school.

Take a look at a school like Mira Mesa that I have in my district that does not have any of that. Think of the difference in the opportunity for the children at Scripps versus the children at another school that do not have those opportunities. It is exponential. What can we do?

A charter school is a school started up by teachers, parents, or local groups that is free from the Federal regulations, and they teach the basics, reading, writing, arithmetic or math, and vocational skills.

What about choice? The voucher system is often talked about. I think the Federal Government, Mr. Speaker, mandates too much. I do not believe that there is choice in schools right now. When my wife taught in a different district, my children traveled every day with her to that school.

□ 1030

That is choice. They did not have to go to the school in the District. They participated at Fletcher Elementary with the program for special education children, because they asked them to help these special education children. And that was choice.

I think we should at least offer the option to States and localities and local communities. If they want to use it, then do it, but not to mandate it from the Federal Government. Christine Whitman, in New Jersey, has done a good job with it; Governor Engler; Governor Weld. Wisconsin has a voucher program. It works. It may not work in an inner city where you have great transportation costs that are going to take away from that education system.

Again, the money should go to the local district and let the parents, the teachers, the administrators and the local groups that are in that zip code, because they know the particular problems that go on.

What is another function? Education, Mr. Speaker, is, I think, pretty close to a wherewithal that is going to save this country. It does not mean that the Federal Government has to do it. It does not mean that the taxpayers ought to send their taxes to Washington and have it turned around at such a low rate. It is ludicrous.

What about illegal immigration? In the State of California I have over, and listen to this, Mr. Speaker, I have over 400,000 illegals, kindergarten through 12th grade. Four hundred thousand, at a cost of $5,000 each per year. That is over $2.2 billion a year that comes out of California's education fund; $2.2 billion.

We could put a computer and fiber optics into every schoolroom in the State of California. We could upgrade to where education for American citizens and their children and student loans are cheaper in the State of California. But, no, we have been mandated from the Federal Government that we have to supply this education.

The school lunch program, just for illegals, costs $1.2 million a day, and we need to address that, Mr. Speaker. It is another problem within our schools that we have to face on a daily basis.

So I look at the cost of education, what the Federal Government is killing and cutting in education every single day for the last 40 years, and we need to change that, Mr. Speaker. We can do better as a nation. We can invest in education, and we need to do it at the local level.

Let me talk about some of the things that my colleagues on the other side of the aisle said that we cut. Let me give you a good example of the lies, the deceit, the misconceptions and the rhetoric that comes out about cutting.

The other side of the aisle will say that Republicans cut safe and drug-free schools. We put the money in a block grant, again to the States, and if safe and drug-free schools works in that particular district, they can fund it; if Head Start works.

Now, get this. The Department of Education, the Department of Education, not exactly a right-wing conservative group, did a study and said across this Nation you can take two children, one in Head Start, the other not, and at the end of the training there is no difference in the results. But yet in San Diego we have a pretty good Head Start Program. It works good in San Diego.

But across the Nation it only depends on the ability of the administrators, the teachers and the parents within that zip code if that is going to succeed or not. So what we do is send the money down to the local district and say use the money where it is effective to help children, and I think that is a big difference.

But drug-safe schools. In 1994 and 1995 Democrats controlled. They controlled the House, they controlled the Senate, Mr. Speaker, and they controlled the White House. The request for safe and drug-free schools was $598.2 million. Let me repeat it for you, $598.2 million. The Democrats in the Congress, they controlled the House, the Senate and the White House, cut to $487.2 million. In 1995 the request was for $660 million for safe and drug-free schools. Democrats cut it $194 million.

We did not cut safe and drug-free schools. We funded it at the same level, and we sent the money to the local districts and said if it works for you, do it, and fund it. Do not fund it at only 23 cents on the dollar, but fund it if it works, because that is a program you need to save for children.

Let me give you some fraud, waste and abuse in that particular program that we rooted out. In Michigan, Drug Czar Bob Peterson found $81,000 spent on a giant plastic teeth and toothbrushes for safe and drug-free schools. They said if children brush their teeth, they are not going to do drugs. It went to fund bicycle pumps. It funded sex education consultants at Clemsford High School in Massachusetts; they spent $1,000 to present a compulsory attendance on hot, sexy, and safer programs for students.

Fairfax County, just right next to us here in Washington, DC, spent $176,000 for staff to spend a weekend on Maryland's Eastern Shore. They spent funds for lumber to build steps for an aerobics class and funded a field trip to Deep Run Lodge for the board of education.

That is not what the money is meant for, Mr. Speaker, and that is what we are changing, is getting the money down to the local groups.

Commerce, Justice, and State appropriations, drug enforcement. My colleagues were talking about a study into contra and drug dealings. What Senator Dole has been campaigning around the country with is that drug use since the Clinton administration started, the use in our high schools, is up 143 percent, an increase. When Ronald Reagan and George Bush were in the White House, drug use went down 50 percent.

Yes, say no to drugs. With parents, it worked. It helped. Was it the wherewithal? Absolutely not, but I think there was an awareness that the Nation had a problem.

Remember Noriega and the interdiction that we used in Colombia and other countries in stopping and going after the drug cartels? That was effective. But is that by itself going to stop the war that we have on drugs? Absolutely not. Are treatment centers? In our schools, are the safe and drug-free schools and the DARE by themselves? No. It takes a compromise of a lot of different groups to make it work.

When we have a President his first week in the White House who cuts the drug czar from 154 staff to 25, and then in his next statement on MTV makes a statement, "I would have inhaled if I could," is that the message we want to come across to our children in this Nation?

Agents that are going out every day in our schools say there is not a case where the kids do not laugh and say, well, the President does it. Is that the message that we want to send to our children? Is that the message that we want to send with this nation's highest medical officer, Joycelyn Elders, who came across and said she wanted to legalize drugs in this country? I do not think that is the message we want to send to our youth.

This President cut the Coast Guard. One of our most effective stops of drugs entering this country, especially in Florida and in California, is through our Coast Guard. He cut that $328 million. We put the money back in, Mr. Speaker.

Foreign operations, State Department International Narcotics Control Program. We increased it $35 million that the President cut. DOD operations was cut by the President. Where? For drug interdiction.

When we take a look across the board at where this administration has cut drug interdiction, he even cut the White House drug testing program. And, just, what, 3 weeks ago, in the Washington Times and the Washington Post and papers across this country, it was found out that in the White House staff was using cocaine, heroin, and hallucinogens. And, guess what, the President did away with the White House drug testing program before that, even when he was warned by the FBI that these people were going to go on his staff. No wonder he took away the drug testing program. And it is a fact, it is not just a statement.

We have lost great support in our war against drugs, Mr. Speaker, and Republicans are putting that back. We elevate the war threat in the National Security Council, restore funding for interdiction efforts, restore funding on the ONDCP staff for policy support lost in 1993, restore for intelligence gathering that we lost between 1993 and 1995.

So, yes, we have a critical problem. When we talk to lawyers, Mr. Speaker, and go to your lawyers in your local district, and ask them what the No. 1 issue for juvenile justice, if they could stop it, what would they do, and I bet 99 percent of them will say stop the flow of drugs into our schools and into our Nation.

And those that are on it, let us help them get off it with our treatment centers. I know that personally because of my own son who was in a drug treatment center, Mr. Speaker, and it worked. But when he checked in, the staff there, Dr. Sambs, said, "Duke, there is only about 10 percent of these kids that are not going to come back to this facility."

But we can save some of those kids. My son was one of those: Drug free since 1986. And he even dates the daughter of a judge, so I guess he has to stay straight now. But it has been a success program, and there are other children like him across the Nation.

Mr. Speaker, we talk about education and the importance. I taught and coached at Hinsdale High School outside of Chicago. Evanston, Nutria are two other very fine schools in this Nation with good teachers. But you go just a short distance away, Mr. Speaker, and you will go through 4½ miles of Federal housing projects. In that 4½ miles, those kids do not carry books, they carry guns. Their icons are pimps and prostitutes and drug dealers.

The illegitimacy rate is above 50 percent for those children. The only male figure they ever see is an older male that impregnates the unmarried daughter. That daughter has a child, then they get welfare. And the only male figure they see is that figure. And usually it is the grandmother that raises the child.

And then if it is a male child, where does that child end up? Where does he go? Usually, the only family that many of these kids have are gangs. And we are seeing the problem in our country of juvenile justice and juvenile delinquency grow exponentially across the Nation.

So education, a hope for a job, putting resources into education, not wasting them on Federal bureaucracy, and purporting to do that, I think, is a noteworthy task, Mr. Speaker.

What have we done in this Congress? The Speaker of the House holds up a bucket of ice. The last icebox where you had to put ice in it was in 1937, but yet the Democrats have been, under Democrat leadership for 40 years, have been delivering ice to this body for 40 years, two times a day. Two times a day. Do you know what that bucket of ice cost? $500,000 a year.

Did we conduct a 5-year study? No. Did we retrain the ice deliverers? No. We just went cold turkey. We cut it. And can we save dollars in this body, Mr. Speaker? Absolutely. Right on down the line. For parking places for lobbyists that we cut. We cut the size of the bureaucracy and sold a building and saved taxpayer dollars. That bucket means about 400 families that can receive the Bob Dole tax relief.

☐ 1045

And the Bob Dole tax relief, let us take a look at it. A family of four, two children, earning $30,000, will receive a tax relief package of 86 percent of their taxes are going to be eliminated, 86 percent. And under this administration, if the tax system continues without the Bob Dole tax relief, you can send that 86 percent tax increase right to IRS.

We are going to rip it out by the roots, Mr. Speaker. We are going to have a safer, fairer tax for the American people because they do not want to send the valuable dollars to Washington, DC and only get 23 cents back on the dollar for education. They do not want to send it to Washington, DC, Mr. Speaker, and only get 30 cents of a dollar back down to welfare recipients. They want it effective.

They want a lean, mean government that walks beside its people, that helps them and gets off of their back. And there is a legitimate reason to have Federal help. Poor children. There is a legitimate need in medical research for AIDS and for cancer and Alzheimer's and other diseases.

States cannot do that, and that is why the speaker was insistent that our priority was to increase the dollars for medical research in the HHS bill, demanded it. And in many cases we took the dollars out of programs that some of us did not want, but overall it was a good program.

Mr. Speaker, in 2 years people say, well, DUKE, is it really worth it to stay in Congress? Is it really worth all of the battles that you go through? And I want to tell you it is one of the most difficult things I have ever done including fighting in combat for my country because you make an honest effort. You know a system, Medicare, is going broke. My mother, who lives in Escondido, is not going to have the system if we do not preserve it and save it. My little mom, my little Irish mom who fits under my arm, you think we are going to do anything to taint that? Or my children in the future?

But yet if we do not save it, and add the dollars that we need to over a period of time, we go from $4,800 to $7,300. That is not a cut, Mr. Speaker. And the most difficult thing in this body is to sit up and listen to all the demagoguery, to the smoke and mirrors, to the scare tactics when someone is saying you are cutting Medicare, when someone is saying that you are cutting education and what you are doing is cutting their precious bureaucracy.

Why do the unions dump large amounts, $35 million, into their campaigns? Because they know and they want a centralized government and the power. What we want to do, Mr. Speaker, is turn that power away from the Federal Government and turn it back to the American people.

That is a vision. In that we can increase education dollars, and we can do the rest of the things that we purport to do.

I want to thank you, Mr. Speaker. I think that the American people, when the elections are coming up on November 5, whether you are Republican or Democrat, take a look at the issues and take a look at the values, the character; take a look at the believability of the system and what we are trying to do. It is trying to make a better America, to preserve Medicare, to preserve the environment; not cut it but to cut the Federal bureaucracy that is taking away the dollars, that is taking away the American dream.

Let us give the dollars back to the pockets of the people so that we can improve education and the other systems.

CONFERENCE REPORT ON H.R. 3666, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

Mr. LEWIS of California (during the special order of the gentleman from Connecticut, Mr. SHAYS) submitted the following conference report and statement on the bill (H.R. 3666) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-812)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3666) "making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 11, 60, 107, and 112.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 5, 8, 12, 13, 15, 17, 19, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 36, 37, 38, 39, 42, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 61, 62, 63, 64, 65, 66, 69, 71, 73, 74, 75, 76, 77, 78, 79, 82, 85, 86, 87, 88, 90, 92, 93, 94, 96, 97, 98, 99, 100, 101, 103, 104, 106, 108, 109, 110, 114, 115, 116, and agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$700,000,000*; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$61,207,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$827,584,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$250,858,000, of which $32,100,000 shall be for the replacement hospital at Travis Air Force Base, Fairfield, California, and shall not be released for obligation prior to January 1, 1998, unless action is taken by Congress specifically making such funds available, and all funds appropriated under the above hearing are*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$175,000,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

DEVELOPMENT AND ADDITIONAL NEW SUBSIDIZED HOUSING

For assistance for the purchase, construction, acquisition, or development of additional public and subsidized housing units for low income families under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $1,039,000,000, to remain available until expended: Provided, That of the total amount provided under this head, $645,000,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959; and $194,000,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act: Provided further, That the Secretary may designate up to 25 percent of the amounts earmarked under this paragraph for section 811 of the Cranston-Gonzalez National Affordable Housing Act for tenant-based assistance, as authorized under that section, including such authority as may be waived under the next proviso, which assistance is five years in duration: Provided further, That the Secretary may waive any provision of section 202 of the Housing Act of 1959 and section 811 of the National Affordable Housing Act (including the provisions governing the terms and conditions of project rental assistance and tenant-based assistance) that the Secretary determines is not necessary to achieve the objectives of these programs, or that otherwise impedes the ability to develop, operate or administer projects assisted under these programs, and may make provision for alternative conditions or terms where appropriate: Provided further, That of the total amount provided under this head $200,000,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb).

PREVENTION OF RESIDENT DISPLACEMENT

For activities and assistance to prevent the involuntary displacement of low-income families, the elderly and the disabled because of the loss of affordable housing stock, expiration of subsidy contracts (other than contracts for which amounts are provided under the head "Preserving Existing Housing Investment") or expiration of use restrictions, or other changes in housing assistance arrangements, and for other purposes, $4,640,000,000, to remain available until expended: Provided, That of the total amount provided under this head, $3,600,000,000 shall be for assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) for use in connection with expiring or terminating section 8 subsidy contracts: Provided further, That the Secretary may determine not to apply section 8 (o)(6)(B) of the Act to housing vouchers during fiscal year 1997: Provided further, That of the total amount provided under this head, $850,000,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended: Provided further, That of the total amount provided under this head, $190,000,000 shall be for assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) to relocate residents of properties (i) that are owned by the Secretary and being disposed of; (ii) that are discontinuing section 8 project-based assistance; or (iii) subject to special workout assistance team intervention compliance actions; for the conversion of section 23 projects to assistance under section 8; for funds to carry out the family unification program; and for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency: Provided further, That of the total amount made available under this head, $50,000,000 shall be made available to nonelderly disabled families affected by the designation of a public housing development under Section 7 of such Act or the establishment of preferences in accordance with section 651 of the Housing and Community Development Act of 1992 (42 U.S.C. 13611).

PRESERVING EXISTING HOUSING INVESTMENT

For operating, maintaining, revitalizing, rehabilitating, preserving, and protecting existing housing developments for low income families, the elderly, and the disabled, $5,750,000,000, to remain available until expended: Provided, That of the total amount made available under this head, $2,900,000,000 shall be available for payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g): Provided further, That of the total amount made available under this head, $2,500,000,000 shall be available for modernization of existing public housing projects as authorized under section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 14371), of which $10,000,000 shall be for carrying out activities under section 6(j) of the United States Housing Act of 1937 and technical assistance for the inspection of public housing units, contract expertise, and training and technical assistance directly or indirectly, under grants, contracts, or cooperative agreements, to assist in the oversight and management of public and Indian housing (whether or not the housing is being modernized with assistance under this proviso) or tenant-based assistance, including, but not limited to, an annual resident survey, data collection and analysis, training and technical assistance by or to officials and employees of the department, and of public housing agencies and to residents in connection with the public and Indian housing program: Provided further, That of the total amount provided under this head, $350,000,000 shall be available for use in conjunction with properties that are eligible for assistance under the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low-Income Housing Preservation Act of 1987 (ELIHPA), of which $75,000,000 shall be available for obligation until March 1, 1997 for projects (1) that are subject to a repayment or settlement agreement that was executed between the owner and the Secretary prior to September 1, 1995; (2) whose submissions were delayed as a result of their locations in areas that were designated as a Federal disaster area in a Presidential Disaster Declaration; or (3) whose processing was, in fact or in practical effect, suspended, deferred, or interrupted for a period of twelve months or more because of differing interpretations, by the Secretary and an owner or by the Secretary and a State or local rent regulatory agency, concerning the timing of filing eligibility or the effect of a presumptively applicable State or local rent control law or regulation on the determination of preservation value under section 213 of LIHPRHA, as amended, if the owner of such project filed notice of intent to extend the low-income affordability restrictions of the housing, or transfer to a qualified purchaser who would extend such restrictions, on or before November 1, 1993; and of which, up to $100,000,000 may be used for rental assistance to prevent displacement of families residing in projects whose owners prepay their mortgages; and the balance of which shall be available from the effective date of this Act for sales to preferred priority purchasers: Provided further, That with the exception of projects described in clauses (1), (2), or (3) of the preceding proviso, the Secretary shall, notwithstanding any other provision of law, suspend further processing of preservation applications which have not heretofore received approval of a plan of action: Provided further, That $150,000,000 of amounts recaptured from interest reduction payment contracts for section 236 projects whose owners prepay their mortgages during fiscal year 1997 shall be rescinded: Provided further, That an owner of eligible low-income housing may prepay the mortgage or request voluntary termination of a mortgage insurance contract, so long as said owner agrees not to raise rents for sixty days after such prepayment: Provided *further, That such developments have been determined to have preservation equity at least equal to the lesser of $5,000 per unit or $500,000 per project or the equivalent of eight times the most recently published monthly fair market rent for the area in which the project is located as the appropriate unit size for all of the units in the eligible project: Provided further, That the Secretary may modify the regulatory agreement to permit owners and priority purchasers to retain rental income in excess of the basic rental charge in projects assisted under section 236 of the National Housing Act, for the purpose of preserving the low and moderate income character of the housing: Provided further, That eligible low-income housing shall include properties meeting the requirements of this paragraph with mortgages that are held by the State agency as a result of a sale by the Secretary without insurance which immediately before the sale would have been eligible low-income housing under LIHPRHA: Provided further, That notwithstanding any other provision of law, subject to the availability of appropriated funds, each low-income family, and moderate-income family who is elderly or disabled or is residing in a low-vacancy area, residing in the housing on the date of prepayment or voluntary termination, and whose rent, as a result of a rent increase occurring no later than one year after the date of the prepayment, exceeds 30 percent of adjusted income, shall be offered tenant-based assistance in accordance with section 8 or any successor program, under which the family shall pay no less for rent than it paid on such date: Provided further, That any family receiving tenant-based assistance under the preceding proviso may elect (1) to remain in the unit of the housing and if the rent exceeds the fair market rent or payment standard, as applicable, the rent shall be deemed to be the applicable standard, so long as the administering public housing agency finds that the rent is reasonable in comparison with rents charged for comparable unassisted housing units in the market or (2) to move from the housing and the rent will be subject to the fair market rent of the payment standard, as applicable, under existing program rules and procedures: Provided further, That the tenant-based assistance made available under the preceding two provisos are in lieu of benefits provided in subsections 223(b), (c), and (d) of the low Income Housing Preservation and Resident Homeownership Act of 1990: Provided further, That any sales shall be funded using the capital grant available under section 220(d)(3)(A) of LIHPRHA: Provided further, That any extensions shall be funded using a non-interest-bearing capital (direct) loan by the Secretary not in excess of the amount of the cost of rehabilitation approved in the plan of action plus 65 percent of the property's preservation equity and under such other terms and conditions as the Secretary may prescribe: Provided further, That any capital grant shall be limited to seven times, and any capital loan limited to six times, the annual fair market rent for the project, as determined using the fair market rent for fiscal year 1997 for the areas in which the project is located using the appropriate apartment sizes and mix in the eligible project, except where, upon the request of a priority purchaser, the Secretary determines that a greater amount is necessary and appropriate to preserve low-income housing: Provided further, That section 241(f) of the National Housing Act is repealed and insurance under such section shall not be offered as an incentive under LIHPRHA and ELIHPA: Provided further, That up to $10,000,000 of the amount of $350,000,000 made available by a preceding proviso in this paragraph may be used at the discretion of the Secretary to reimburse owners of eligible properties for which plans of action were submitted prior to the effective date of this Act, but were not executed for lack of available funds, with such reimbursement available only for documented costs directly applicable to the preparation of the plan of action as determined by the Secretary, and shall be made available on terms and conditions to be established by the Secretary: Provided further, That, notwithstanding any other provision of law, a priority purchaser may utilize assistance under the HOME Investment Partnerships Act or the Low Income Housing Tax Credit; Provided further, That projects with approved plans of action which exceed the limitations on eligibility for funding imposed by its Act may submit revised plans of action which conform to these limitations by March 1, 1997 and retain the priority for funding otherwise applicable from the original date of approval of their plan of action, subject to securing any additional necessary funding commitments by August 1, 1997.*

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING

For grants to public housing agencies for assisting in the demolition of obsolete public housing projects or portions thereof, the revitalization (where appropriate) of sites (including remaining public housing units) on which such projects are located, replacement housing which will avoid or lessen concentrations of very low-income families, and tenant-based assistance in accordance with section 8 of the United States Housing Act of 1937; and for providing replacement housing and assisting tenants to be displaced by the demolition, $550,000,000, to remain available until expended, of which the Secretary may use up to $2,500,000 for technical assistance, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies and to residents: Provided, That no funds appropriated in this title shall be used for any purpose that is not provided for herein, in the Housing Act of 1937, in the Appropriations Acts for Veterans Affairs, Housing and Urban Development, and Independent Agencies, for the fiscal years 1993, 1994, and 1995, and the Omnibus Consolidated Rescissions and Appropriations Act of 1996: Provided further, That none of such funds shall be used directly or indirectly by granting competitive advantage in awards to settle litigation or pay judgments, unless expressly permitted herein: Provided further, That, notwithstanding any other provision of law, the funds made available to the Housing Authority of New Orleans under HOPE VI for purposes of Desire Homes, shall not be obligated or expended for on-site construction until an independent third party has determined whether the site is appropriate.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING (INCLUDING TRANSFER OF FUNDS)

For grants to public and Indian housing agencies for use in eliminating crime in public housing projects authorized by 42 U.S.C. 11901–11908, for grants for federally assisted low-income housing authorized by 42 U.S.C. 11909, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $290,000,000, to remain available until expended, $10,000,000 of which shall be for grants, technical assistance, contracts and other assistance training, program assessment, and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training), $5,000,000 of which shall be used in connection with efforts to combat violent crime in public and assisted housing under the Operation Safe Home program administered by the Inspector General of the Department of Housing and Urban Development, and $5,000,000 of which shall be provided to the Office of Inspector General for Operation Safe Home: Provided further, That the term "drug-related crime", as defined in 42 U.S.C. 11905(2), shall also include other types of crime as determined by the Secretary: Provided further, That notwithstanding section 5130(c) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(c)), the Secretary may determine not to use any such funds to provide public housing youth sports grants.

And the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$67,000,000*; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

Of the Amount provided under this heading, the Secretary of Housing and Urban Development may use up to $60,000,000 for grants to public housing agencies (including Indian housing authorities), nonprofit corporations, and other appropriate entities for a supportive service program to assist residents of public and assisted housing, former residents of such housing receiving tenant-based assistance under section 8 of such Act (42 U.S.C. 1437f), and other low-income families and individuals to become self-sufficient: Provided, That the program shall provide supportive services, principally for the benefit of public housing residents, to the elderly and the disabled, and to families with children where the head of household would benefit for the receipt of supportive services and in working, seeking work, or in preparing for work by participating in job training or educational programs: Provided further, That the supportive services may include congregate services for the elderly and disabled, service coordinators, and coordinated educational, training, and other supportive services, including academic skills training, job search assistance, assistance related to retaining employment, vocational and entrepreneurship development and support programs, transportation, and child care: Provided further, That the Secretary shall require applications to demonstrate firm commitments of funding or services from other sources: Provided further, That the Secretary shall select public and Indian housing agencies to receive assistance under this head on a competitive basis, taking into account the quality of the proposed program (including any innovative approaches, the extent of the proposed coordination of supportive services, the extent of commitments of funding or services from other sources, the extent to which the proposed program includes reasonably achievable, quantifiable goals for measuring performance under the program over a three-year period, the extent of success an agency has had in carrying out other comparable initiatives, and other appropriate criteria established by the Secretary): Provided further, That from the foregoing $60,000,000, up to $5,000,000 shall be available for the Tenant Opportunity Program, and up to $5,000,000 shall be available for the Moving to Work Demonstration for public housing families.

And the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$30,000,000*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$976,840,000, of which $15,000,000 may be used for additional retraining, relocation, permanent change of station, and other activities related to downsizing only upon submission of a detailed and specific, multi-year downsizing plan to the Committee on Appropriations of the House of Representatives and the Senate, and*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$15,500,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

SEC. 201. EXTENDERS.—(a) PUBLIC HOUSING FUNDING FLEXIBILITY.—Section 201(a)(2) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 is amended by striking "1996" and inserting "1997".

(b) ONE-FOR-ONE REPLACEMENT OF PUBLIC AND INDIAN HOUSING.—Section 1002(d) of Public Law 104–19 is amended by striking "before September 30, 1996" and inserting "on or before September 30, 1997".

(c) PUBLIC AND ASSISTED HOUSING RENTS, INCOME ADJUSTMENTS, AND PREFERENCES.—(1)(A) Section 402(a) of The Balanced Budget Downpayment Act, I is amended—

(i) by striking "effective for fiscal year 1996 and no later than October 30, 1995" and inserting "and subsection (f) of this section, effective for fiscal year 1997";

(ii) in paragraphs (1), (2), and (4), by striking "not less than $25, and may require a minimum monthly rent of"; and

(iii) in paragraph (3), by striking "not less than $25 for the unit, and may require a minimum monthly rent of".

(B) Section 230 of Public Law 104–134 is hereby repealed.

(2) Section 402(f) of The Balanced Budget Downpayment Act, I is amended by striking "fiscal year 1996" and inserting "fiscal years 1996 and 1997".

(d) APPLICABILITY TO IHAS.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by subsections (a), (b), and (c) shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

(e) STREAMLINING SECTION 8 TENANT-BASED ASSISTANCE.—Section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 is amended by striking "fiscal year 1996" and inserting "fiscal years 1996 and 1997".

(f) SECTION 8 FAIR MARKET RENTALS AND DELAY IN REISSUANCE.—(1) The first sentence of section 403(a) of the Balanced Budget Downpayment Act, I, is amended by striking "1996" and inserting "1997".

(2) Section 403(c) of such Act is amended—

(A) by striking "fiscal year 1996" and inserting "fiscal years 1996 and 1997"; and

(B) by inserting before the semicolon the following: "for assistance made available during fiscal year 1996 and October 1, 1997 for assistance made available during fiscal year 1997".

(g) SECTION 8 RENT ADJUSTMENTS.—Section 8(c)(2)(A) of the United States Housing Act of 1937 is amended—

(1) in the third sentence by inserting ", fiscal year 1996 prior to April 26, 1996, and fiscal year 1997" after "1995";

(2) in the fourth sentence, by striking "For" and inserting "Except for assistance under the certificate program, for";

(3) after the fourth sentence, by inserting the following new sentence: "In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area."; and

(4) in the last sentence, by—

(A) striking "sentence" and inserting "two sentences"; and

(B) inserting ", fiscal year 1996 prior to April 26, 1996, and fiscal year 1997" after "1995".

And the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

At the end of the matter proposed by said amendment, insert the following: *Any grant or assistance made under this section shall be made in accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989 on a competitive basis.*

And the Senate agree to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 210. (a) FINANCING ADJUSTMENT FACTORS.—Fifty per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section.

(b) In addition to amounts otherwise provided by this Act, $464,442 is appropriated to the Department of Housing and Urban Development for payment to the Utah Housing Finance Agency, in lieu of amounts lost to such agency in bond refinancings during 1994, for its use in accordance with subsection (a).

And the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 211. SECTION 8 CONTRACT RENEWAL AUTHORITY.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "expiring contract" means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 that expires during fiscal year 1997;

(2) the term "family" has the same meaning as in section 3(b) of the United States Housing Act of 1937;

(3) the term "multifamily housing project" means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance under section 8 of the United States Housing Act of 1937;

(4) the term "owner" has the same meaning as in section 8(f) of the United States Housing Act of 1937;

(5) the term "project-based assistance" means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

(6) the term "public agency" means a State housing finance agency, a local housing agency, or other agency with a public purpose and status;

(7) the term "Secretary" means the Secretary of Housing and Urban Development; and

(8) the term "tenant-based assistance" has the same meaning as in section 8(f) of the United States Housing Act of 1937.

(b) SECTION 8 CONTRACT RENEWAL AUTHORITY.—

(1) IN GENERAL.—Notwithstanding section 405(a) of the Balanced Budget Downpayment Act, I, upon the request of the owner of a multifamily housing project that is covered by an expiring contract, the Secretary shall use amounts made available for the renewal of assistance under section 8 of the United States Housing Act of 1937 to renew the expiring contract as project-based assistance for a period of not more than 1 year, at rent levels that are equal to those under the expiring contract as of the date of which the contract expires, provided that those rent levels do not exceed 120 percent of the fair market rent for the market area in which the project is located. For a FHA-insured multifamily housing project with an expiring contract at rent levels that exceed 120 percent of the fair market rent for the market area, the Secretary shall provide, at the request of the owner, section 8 project-based assistance, for a period of not more than 1 year, at rent levels that do not exceed 120 percent of the fair market rent.

(2) EXEMPTION FOR STATE AND LOCAL HOUSING AGENCY PROJECTS.—Notwithstanding paragraph (1), upon the expiration of a contract with rent levels that exceed the percentage described in that paragraph, if the Secretary determines that the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract was provided by a public agency, the Secretary shall, at the request of the owner and the public agency, renew the expiring contract—

(A) for a period of not more than 1 year; and

(B) at rent levels that are equal to those under the expiring contract as of the date on which the contract expires.

(3) Section 202, Section 811, and Section 515 Projects. Notwithstanding paragraph (1), for section 202 projects, section 811 projects and section 515 projects, upon the expiration of a section 8 contract, the Secretary shall, at the request of the owner, renew the expiring contract—

(A) for a period of not more than 1 year; and

(B) at rent levels that are equal to those under the expiring contract as of the date on which the contract expires.

(4) OTHER CONTRACTS.—

(A) PARTICIPATION IN DEMONSTRATION.—For a contract covering an FHA-insured multifamily housing project that expires during fiscal year 1997 with rent levels that exceed the percentage

described in paragraph (1) and after notice to the tenants, the Secretary shall, at the request of the owner of the project and after notice to the tenants, include that multifamily housing project in the demonstration program under section 212 of this Act. The Secretary shall ensure that a multifamily housing project with an expiring contract in fiscal year 1997 shall be allowed to be included in the demonstration.

(B) EFFECT OF MATERIAL ADVERSE ACTIONS OR OMISSIONS.—Notwithstanding paragraph (1) or any other provision of law, the Secretary shall not renew an expiring contract if the Secretary determines that the owner of the multifamily housing project has engaged in material adverse financial or managerial actions or omissions with regard to the project (or with regard to other similar projects if the Secretary determines that such actions or omissions constitute a pattern of mismanagement that would warrant suspension or debarment by the Secretary).

(C) TRANSFER OF PROPERTY.—For properties disqualified from the demonstration program because of actions by an owner or purchaser in accordance with subparagraph (B), the Secretary shall establish procedures to facilitate the voluntary sale or transfer of the property, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary. The Secretary may include the transfer of section 8 project-based assistance.

(5) TENANT PROTECTIONS.—Any family residing in an assisted unit in a multifamily housing project that is covered by an expiring contract that is not renewed, shall be offered tenant-based assistance before the date on which the contract expires or is not renewed.

SEC. 212. FHA MULTIFAMILY DEMONSTRATION AUTHORITY.

(a) IN GENERAL.—

(1) REPEAL.—

(A) IN GENERAL.—Section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (110 Stat. 1321) is repealed.

(B) EXCEPTION.—Notwithstanding the repeal under subparagraph (A), amounts made available under section 210(f) the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 shall remain available for the demonstration program under this section through the end of fiscal year 1997.

(2) SAVINGS PROVISIONS.—Nothing in this section shall be construed to affect any commitment entered into before the date of enactment of this Act under the demonstration program under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996.

(3) DEFINITIONS.—For purposes of this section—

(A) the term "demonstration program" means the program established under subsection (b);

(B) the term "expiring contract" means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 that expires during fiscal year 1997;

(C) the term "family" has the same meaning as in section 3(b) of the United States Housing Act of 1937;

(D) the term "multifamily housing project" means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance;

(E) the term "owner" has the same meaning as in section 8(f) of the United States Housing Act of 1937;

(F) the term "project-based assistance" means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

(G) the term "Secretary" means the Secretary of Housing and Urban Development; and

(H) the term "tenant-based assistance" has the same meaning as in section 8(f) of the United States Housing Act of 1937.

(b) DEMONSTRATION AUTHORITY.—

(1) IN GENERAL.—Subject to the funding limitation in subsection (l), the Secretary shall administer a demonstration program with respect to multifamily projects—

(A) whose owners agree to participate;

(B) with rents on units assisted under section 8 of the United States Housing Act of 1937 that are, in the aggregate, in excess of 120 percent of the fair market rent of the market area in which the project is located; and

(C) the mortgages of which are insured under the National Housing Act.

(2) PURPOSE.—The demonstration program shall be designed to obtain as much information as is feasible on the economic viability and rehabilitation needs of the multifamily housing projects in the demonstration, to test various approaches for restructuring mortgages to reduce the financial risk to the FHA Insurance Fund while reducing the cost of section 8 subsidies, and to test the feasibility and desirability of—

(A) ensuring, to the maximum extent practicable, that the debt service and operating expenses, including adequate reserves, attributable to such multifamily projects can be supported at the comparable market rent with or without mortgage insurance under the National Housing Act and with or without additional section 8 rental subsidies;

(B) utilizing section 8 rental assistance, while taking into account the capital needs of the projects and the need for adequate rental assistance to support the low- and very low-income families residing in such projects; and

(C) preserving low-income rental housing affordability and availability while reducing the long-term cost of section 8 rental assistance.

(c) GOALS.—

(1) IN GENERAL.—The Secretary shall carry out the demonstration program in a manner that will protect the financial interests of the Federal Government through debt restructuring and subsidy reduction and, in the least costly fashion, address the goals of—

(A) maintaining existing affordable housing stock in a decent, safe, and sanitary condition;

(B) minimizing the involuntary displacement of tenants;

(C) taking into account housing market conditions;

(D) encouraging responsible ownership and management of property;

(E) minimizing any adverse income tax impact on property owners; and

(F) minimizing any adverse impacts on residential neighborhoods and local communities.

(2) BALANCE OF COMPETING GOALS.—In determining the manner in which a mortgage is to be restructured or a subsidy reduced under this subsection, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(d) PARTICIPATION ARRANGEMENTS.—

(1) IN GENERAL.—In carrying out the demonstration program, the Secretary may enter into participation arrangements with designees, under which the Secretary may provide for the assumption by designees (by delegation, by contract, or otherwise) of some or all of the functions, obligations, responsibilities and benefits of the Secretary.

(2) DESIGNEES.—In entering into any arrangement under this subsection, the Secretary shall select state housing finance agencies, housing agencies or nonprofits (separately or in conjunction with each other) to act as designees to the extent such agencies are determined to be qualified by the Secretary. In locations where there is no qualified state housing finance agency, housing agency or nonprofit to act as a designee, the Secretary may act as a designee. Each participation arrangement entered into under this subsection shall include a designee as the primary partner. Any organization selected by the Secretary under this section shall have a long-term record of service in providing low-income housing and meet standards of fiscal responsibility, as determined by the Secretary.

(3) DESIGNEE PARTNERSHIPS.—For purposes of any participation arrangement under this subsection, designees are encouraged to develop partnerships with each other, and to contract or subcontract with other entities, including—

(A) public housing agencies;

(B) financial institutions;

(C) mortgage servicers;

(D) nonprofit and for-profit housing organizations;

(E) the Federal National Mortgage Association;

(F) the Federal Home Loan Mortgage Corporation;

(G) Federal Home Loan Banks; and

(H) other State or local mortgage insurance companies or bank lending consortia.

(e) LONG-TERM AFFORDABILITY.—

(1) IN GENERAL.—After the renewal of a section 8 contract pursuant to a restructuring under this section, the owner shall accept each offer to renew the section 8 contract, for a period of 20 years from the date of the renewal under the demonstration, if the offer to renew is on terms and conditions, as agreed to by Secretary or designee and the owner under a restructuring.

(2) AFFORDABILITY REQUIREMENTS.—Except as otherwise provided by the Secretary, in exchange for any mortgage restructuring under this section, a project shall remain affordable for a period of not less than 20 years. Affordability requirements shall be determined in accordance with guidelines established by the Secretary or designee. The Secretary or designee may waive these requirements for good cause.

(f) PROCEDURES.—

(1) NOTICE OF PARTICIPATION IN DEMONSTRATION.—Not later than 45 days before the date of expiration of an expiring contract (or such later date, as determined by the Secretary, for good cause), the owner of the multifamily housing project covered by that expiring contract shall notify the Secretary or designee and the residents of the owner's intent to participate in the demonstration program.

(2) DEMONSTRATION CONTRACT.—Upon receipt of a notice under paragraph (1), the owner and the Secretary or designee shall enter into a demonstration contract, which shall provide for initial section 8 project-based rents at the same rent levels as those under the expiring contract or, if practical, the budget-based rent to cover debt service, reasonable operating expenses (including reasonable and appropriate services), and a reasonable return to the owner, as determined solely by the Secretary. The demonstration contract shall be for the minimum term necessary for the rents and mortgages of the multifamily housing project to be restructured under the demonstration program, but shall not be for a period of time to exceed 180 days, unless extended for good cause by the Secretary.

(g) PROJECT-BASED SECTION 8.—The Secretary shall renew all expiring contracts under the demonstration as section 8 project-based contracts, for a period of time not to exceed 1 year, unless otherwise provided under subsection (h).

(h) DEMONSTRATION ACTIONS.—

(1) DEMONSTRATION ACTIONS.—For purposes of carrying out the demonstration program, and in

order to ensure that contract rights are not abrogated, subject to such third party consents as are necessary (if any), including consent by the Government National Mortgage Association if it owns a mortgage insured by the Secretary, consent by an issuer under the mortgage-backed securities program of the Association, subject to the responsibilities of the issuer to its security holders an the Association under such program, and consent by parties to any contractual agreement which the Secretary proposes to modify or discontinue, the Secretary or, except with respect to subparagraph (B), designee, subject to the funding limitation in subsection (l), shall take not less than 1 of the actions specified in subparagraphs (G), (H), and (I) and may take any of the following actions:

(A) REMOVAL OF RESTRICTIONS.—

(i) IN GENERAL.—Consistent with the purposes of this section, subject to the agreement of the owner of the project and after consultation with the tenants of the project, the Secretary or designee may remove, relinquish, extinguish, modify, or agree to the removal of any mortgage, regulatory agreement, project-based assistance contract, use agreement, or restriction that had been imposed or required by the Secretary, including restrictions on distributions of income which the Secretary or designee determines would interfere with the ability of the project to operate without above-market rents.

(ii) ACCUMULATED RESIDUAL RECEIPTS.—The Secretary or designee may require an owner of a property assisted under the section 8 new construction/substantial rehabilitation program under the United States Housing Act of 1937 to apply any accumulated residual receipts toward effecting the purposes of this section.

(B) REINSURANCE.—With respect to not more than 5,000 units within the demonstration during fiscal year 1997, the Secretary may enter into contracts to purchase reinsurance, or enter into participations or otherwise transfer economic interest in contracts of insurance or in the premiums paid, or due to be paid, on such insurance, on such terms and conditions as the Secretary may determine. Any contract entered into under this paragraph shall require that any associated units be maintained as low-income units for the life of the mortgages, unless waived by the Secretary for good cause.

(C) PARTICIPATION BY THIRD PARTIES.—The Secretary or designee may enter into such agreement, provide such concessions, incur such costs, make such grants (including grants to cover all or a portion of the rehabilitation costs for a project) and other payments, and provide other valuable consideration as may reasonably be necessary for owners, lenders, services, third parties, and other entities to participate in the demonstration program. The Secretary may establish performance incentives for designees.

(D) SECTION 8 ADMINISTRATIVE FEES.—Notwithstanding any other provision of law, the Secretary may make fees available from the section 8 contract renewal appropriation to a designee for contract administration under section 8 of the United States Housing Act of 1937 for purposes of any contract restructured or renewed under the demonstration program.

(E) FULL OR PARTIAL PAYMENT OF CLAIM.—Notwithstanding any other provision of law, the Secretary may make a full payment of claim or partial payment of claim prior to default.

(F) CREDIT ENHANCEMENT.—

(i) IN GENERAL.—The Secretary or designee may provide FHA multifamily mortgage insurance, reinsurance, or other credit enhancement alternatives, including retaining the existing FHA mortgage insurance on a restructured first mortgage at market value or using the multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to insurance issued for purposes of the demonstration program.

(ii) MAXIMUM PERCENTAGE.—During fiscal year 1997, not more than 25 percent of the units in multifamily housing projects with expiring contracts in the demonstration, in the aggregate, may be restructured without FHA insurance, unless otherwise agreed to by the owner of a project.

(iii) CREDIT SUBSIDY.—Any credit subsidy costs of providing mortgage insurance shall be paid from amounts made available under subsection (l).

(G) MORTGAGE RESTRUCTURING.—

(i) IN GENERAL.—The Secretary or designee may restructure mortgages to provide a restructured first mortgage to cover debt service and operating expenses (including a reasonable rate of return to the owner) at the market rent, and a second mortgage equal to the difference between the restructured first mortgage and the mortgage balance of the eligible multifamily housing project at the time of restructuring.

(ii) CREDIT SUBSIDY.—Any credit subsidy costs of providing a second mortgage shall be paid from amounts made available under subsection (l).

(H) DEBT FORGIVENESS.—The Secretary or designee, for good cause and at the request of the owner of a multifamily housing project, may forgive at the time of the restructuring of a mortgage any portion of a debt on the project that exceeds the market value of the project.

(I) BUDGET-BASED RENTS.—The Secretary or designee may renew an expiring contract, including a contract for a project in which operating costs exceed comparable market rents, for a period of not more than 1 year, at a budget-based rent that covers debt service, reasonable operating expenses (including all reasonable and appropriate services), and a reasonable rate of return to the owner, as determined solely by the Secretary, provided that the contract does not exceed the rent levels under the expiring contract. The Secretary may establish a preference under the demonstration program for budget-based rents for unique housing projects, such as projects designated for occupancy by elderly families and projects in rural areas.

(J) SECTION 8 TENANT-BASED ASSISTANCE.—For not more than 10 percent of units in multifamily housing projects that have had their mortgages restructured in any fiscal year under the demonstration, the Secretary or designee may provide, with the agreement of an owner and in consultation with the tenants of the housing, section 8 tenant-based assistance for some or all of the assisted units in a multifamily housing project in lieu of section 8 project-based assistance. Section 8 tenant-based assistance may only be provided where the Secretary determines and certifies that there is adequate available and affordable housing within the local area and that tenants will be able to use the section 8 tenant-based assistance successfully.

(2) OFFER AND ACCEPTANCE.—Notwithstanding any other provision of law, an owner of a project in the demonstration must accept any reasonable offer made by the Secretary or a designee under this subsection. An owner may appeal the reasonableness of any offer to the Secretary and the Secretary shall respond within 30 days of the date of appeal with a final offer. If the final offer is not acceptable, the owner may opt out of the program.

(i) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures to provide appropriate and timely notice, including an opportunity for comment and timely access to all relevant information, to officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

(j) TRANSFER OF PROPERTY.—The Secretary shall establish procedures to facilitate the voluntary sale or transfer of multifamily housing projects under the demonstration to tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

(k) LIMITATION ON DEMONSTRATION AUTHORITY.—The Secretary shall carry out the demonstration program with respect to mortgages not to exceed 50,000 units.

(l) FUNDING.—In addition to the $30,000,000 made available under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (110 Stat. 1321), for the costs (including any credit subsidy costs associated with providing direct loans or mortgage insurance) of modifying and restructuring loans held or guaranteed by the Federal Housing Administration, as authorized under this section, $10,000,000 is hereby appropriated, to remain available until September 30, 1998.

(m) REPORT TO CONGRESS.—

(1) IN GENERAL.—

(A) QUARTERLY REPORTS.—Not less than every 3 months, the Secretary shall submit to the Congress a report describing and assessing the status of the projects in the demonstration program.

(B) FINAL REPORT.—Not later than 6 months after the end of the demonstration program, the Secretary shall submit to the Congress a final report on the demonstration program.

(2) CONTENTS.—Each report submitted under paragraph (1)(A) shall include a description of—

(A) each restructuring proposal submitted by an owner of a multifamily housing project, including a description of the physical, financial, tenancy, and market characteristics of the project;

(B) the Secretary's evaluation and reasons for each multifamily housing project selected or rejected for participation in the demonstration program;

(C) the costs to the FHA General Insurance and Special Risk Insurance funds;

(D) the subsidy costs provided before and after restructuring;

(E) the actions undertaken in the demonstration program, including the third party arrangements made; and

(F) the demonstration program's impact on the owners of the projects, including any tax consequences.

(3) CONTENTS OF FINAL REPORT.—The report submitted under paragraph (1)(B) shall include—

(A) the required contents under paragraph (2); and

(B) any findings and recommendations for legislative action.

And the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 214. USES OF CERTAIN ASSISTED HOUSING AMOUNTS.

(a) TRANSFER AUTHORITY.—The Secretary may transfer recaptured section 8 amounts from the Annual Contributions for Assisted Housing account under Public Law 104–134 (approved April 26, 1996; 110 Stat. 1321, 1321–265) and prior laws to the accounts and for the purposes set forth in subsection (b). The amounts transferred under this section shall be made available for use as prescribed under this section notwithstanding section 8(bb) of the United States Housing Act of 1937.

(b) RECEIVING ACCOUNTS.—

(1) PREVENTION OF RESIDENT DISPLACEMENT.—The Secretary may transfer to the Prevention of Resident Displacement account an amount up to $50,000,000, in addition to amounts in such account, that may be used to renew, under existing terms and conditions, existing project-based section 8 contracts in effect before a Plan of Action was approved, so that these contracts expire 5 years from the date on which funds were obligated for the Plan of Action approved under the Low Income Housing Preservation and Resident Homeownership Act of 1990 or the Emergency Low-Income Housing Preservation Act of 1987. The Secretary shall transfer all amounts that the Secretary determines to be necessary for fiscal year 1997 for the purposes of this paragraph before transferring any amounts under any other paragraph in this subsection.

(2) HOPWA.—The Secretary may transfer to the Housing Opportunities For Persons With AIDS account up to $25,000,000, for use in addition to amounts appropriated in such account.

And the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 218. ACCOUNT TRANSITION.

The amounts of obligated balances in appropriations accounts, as set forth in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 and prior Acts that are recaptured hereafter, to the extent not governed by the specific language in an account or provision in this Act, shall be held in reserve subject to reprogramming, notwithstanding any other provision of law.

SEC. 219. TREATMENT OF CERTAIN PROPERTIES.

Notwithstanding any other provision of law, rehabilitation activities undertaken in projects using the Low-Income Housing Tax Credit allocated to developments in the City of New Brunswick, New Jersey, in 1991, are deemed to have met the requirements for rehabilitation in accordance with clause (ii) of the third sentence of section 8(d)(2)(A) of the United States Housing Act of 1937, as in effect before the date of the enactment of this Act.

SEC. 220. AMENDMENT RELATING TO COMMUNITY DEVELOPMENT ASSISTANCE.

Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended by striking "through 1997" and inserting "through 1998".

SEC. 221. SECTION 236 PROGRAM AMENDMENTS.

(a) Section 236(f)(1) of the National Housing Act (12 U.S.C. 1715z-1), as amended by section 405(d)(1) of the Balanced Budget Downpayment Act, I, and by section 228(a) of The Balanced Budget Downpayment Act, II, is amended—

(1) in the second sentence, by striking "the lower of (i)";

(2) in the second sentence, by striking "or (ii) the fair market rental established under section 8(c) of the United States Housing Act of 1937 for the market area in which the housing is located, or (iii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located, "; and

(3) by inserting after the second sentence the following:

"However, in the case of a project which contains more than 5,000 units, is subject to an interest reduction payments contract, and is financed under a State or local program, the Secretary may reduce the rental charge ceiling, but in no case shall the rent be below basic rent. For plans of action approved for Capital Grants under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low Income Housing Preservation Act of 1987 (ELIHPA), the rental charge for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the lower of (i) the fair market rental charge determined pursuant to this paragraph, or (ii) the actual rent paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located, as represents 30 percent of the tenant's adjusted income, but in no case shall the rent be below basic rent.".

(b) Section 236(b) of the National Housing Act is amended by adding the following new paragraph at the end:

"(7) The Secretary shall determine whether and under what conditions the provisions of this subsection shall apply to mortgages sold by the Secretary on a negotiated basis.".

(c) Section 236(g) of the National Housing Act is amended to read as follows:

"(g) The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay the Secretary or such other entity as determined by the Secretary and upon such terms and conditions as the Secretary deems appropriate, all rental charges collected on a unit-by-unit basis in excess of the basic rental charges. Unless otherwise directed by the Secretary, such excess charges shall be credited to a reserve fund to be used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f). However, a project owner with a mortgage insured under this section may retain some or all of such excess charges for project use if authorized by the Secretary and upon such terms and conditions as established by the Secretary.".

And, the matter under the heading "Fair housing and equal opportunity, fair housing activities", on page 35, line 22, through page 36, line 5 of the House engrossed bill is amended to read as follows: *For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, $30,000,000, to remain available until September 30, 1998, of which $15,000,000 shall be to carry out activities pursuant to section 561. No funds made available under this heading shall be used to lobby the executive or legislative branches of the Federal Government in connection with a specific contract, grant or loan.*

And the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$542,000,000*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$1,710,000,000*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$87,220,000*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$2,875,207,000*; and the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$1,900,000,000*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *$136,000,000 for making grants for the construction of wastewater and water treatment facilities and the development of groundwater in accordance with the terms and conditions specified for such grants in the conference report and joint explanatory statement of the committee of conference accompanying this Act (H.R. 3666);* ; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$1,900,000,000*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided, That notwithstanding any other provision of this paragraph, amounts appropriated herein shall be available for obligation on October 1, 1996: Provided further, That the Director of the Federal Emergency Management Agency (FEMA) shall submit to the appropriate committees of Congress within 120 days of enactment of this Act a comprehensive report on FEMA's plans to reduce disaster relief expenditures and improve management controls on the Disaster Relief Fund*; and the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$167,500,000*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In Lieu of the sum proposed by said amendment, insert: *$206,701,000*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *The first sentence of section 1376(c) of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4127(c)), is amended by striking all after "this subsection" and inserting "such sums as may be necessary* *through September 30, 1997 for studies under this title.*".

And the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: *Upon the determination by the Administrator that such action is necessary, the Administrator may, with the approval of the Office of Management and Budget, transfer not to exceed $177,000,000 of funds made available in this Act to the National Aeronautics and Space Administration for the International Space Station between "Science, aeronautics and technology" and "Human space flight", to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items than those for which originally appropriated: Provided further, That the Administrator of the National Aeronautics and Space Administration shall notify the Congress promptly of all transfers made pursuant to this authority.*

And the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$619,000,000*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 421. (a) The purpose of this section is to provide for the special needs of certain children of Vietnam veterans who were born with the birth defect spina bifida, possibly as the result of the exposure of one or both parents to herbicides during active service in the Republic of Vietnam during the Vietnam era, through the provision of health care and monetary benefits.

(b)(1) Part II of title 38, United States Code, is amended by inserting after chapter 17 the following new chapter:

"CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS WHO ARE BORN WITH SPINA BIFIDA

"Sec.
"1801. Definitions.
"1802. Spina bifida conditions covered.
"1803. Health care.
"1804. Vocational training and rehabilitation.
"1805. Monetary allowance.
"1806. Effective date of awards.

"§1801. Definitions

"For the purposes of this chapter—

"(1) The term 'child', with respect to a Vietnam veteran, means a natural child of the Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the veteran first entered the Republic of Vietnam during the Vietnam era.

"(2) The term 'Vietnam veteran' means a veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"§1802. Spina bifida conditions covered

"This chapter applies with respect to all forms and manifestations of spina bifida except spina bifida occulta.

"§1803. Health care

"(a) In accordance with regulations which the Secretary shall prescribe, the Secretary shall provide a child of a Vietnam veteran who is suffering from spina bifida with such health care as the Secretary determines is needed by the child for the spina bifida or any disability that is associated with such condition.

"(b) The Secretary may provide health care under this section directly or by contract or other arrangement with any health care provider.

"(c) For the purposes of this section—

"(1) The term 'health care'—

"(A) means home care, hospital care, nursing home care, outpatient care, preventive care, habilitative care, case management, and respite care; and

"(B) includes—

"(i) the training of appropriate members of a child's family or household in the care of the child; and

"(ii) the provisions of such pharmaceuticals, supplies, equipment, devices, appliances, assistive technology, direct transportation costs to and from approved sources of health care, and other materials as the Secretary determines necessary.

"(2) The term 'health care provider' includes specialized spina bifida clinics, health care plans, insurers, organizations, institutions, and any other entity or individual who furnishes health care that the Secretary determines authorized under this section.

"(3) The term 'home care' means outpatient care, habilitative and rehabilitative care, preventive health services, and health-related services furnished to an individual in the individual's home or other place of residence.

"(4) The term 'hospital care' means care and treatment for a disability furnished to an individual who has been admitted to a hospital as a patient.

"(5) The term 'nursing home care' means care and treatment for a disability furnished to an individual who has been admitted to a nursing home as a resident.

"(6) The term 'outpatient care' means care and treatment of a disability, and preventive health services, furnished to an individual other than hospital care or nursing home care.

"(7) The term 'preventive care' means care and treatment furnished to prevent disability or illness, including periodic examinations, immunizations, patient health education, and such other services as the Secretary determines necessary to provide effective and economical preventive health care.

"(8) The term 'habilitative and rehabilitative care' means such professional, counseling, and guidance services and treatment programs (other than vocational training under section 1804 of this title) as are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of a disabled person.

"(9) The term 'respite care' means care furnished on an intermittent basis for a limited period to an individual who resides primarily in a private residence when such care will help the individual to continue residing in such private residence.

"§1804. Vocational training and rehabilitation

"(a) Pursuant to such regulations as the Secretary may prescribe, the Secretary may provide vocational training under this section to a child of a Vietnam veteran who is suffering from spina bifida if the Secretary determines that the achievement of a vocational goal by such child is reasonably feasible.

"(b) Any program of vocational training for a child under this section shall be designed in consultation with the child in order to meet the child's individual needs and shall be set forth in an individualized written plan of vocational rehabilitation.

"(c)(1) A vocational training program for a child under this section—

"(A) shall consist of such vocationally oriented services and assistance, including such placement and post-placement services and personal and work adjustment training, as the Secretary determines are necessary to enable the child to prepare for and participate in vocational training or employment; and

"(B) may include a program of education at an institution of higher education if the Secretary determines that the program of education is predominantly vocational in content.

"(2) A vocational training program under this subsection may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment.

"(d)(1) Except as provided in paragraph (2) and subject to subsection (e)(2), a vocational training program under this section may not exceed 24 months.

"(2) The Secretary may grant an extension of a vocational training program for a child under this section for up to 24 additional months if the Secretary determines that the extension is necessary in order for the child to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan of vocational rehabilitation formulated for the child pursuant to subsection (b).

"(e)(1) A child who is pursuing a program of vocational training under this section and is also eligible for assistance under a program under chapter 35 of this title may not receive assistance under both such programs concurrently. The child shall elect (in such form and manner as the Secretary may prescribe) the program under which the child is to receive assistance.

"(2) The aggregate period for which a child may receive assistance under this section and chapter 35 of this title may not exceed 48 months (or the part-time equivalent thereof).

"§1805. Monetary allowance

"(a) The Secretary shall pay a monthly allowance under this chapter to any child of a Vietnam veteran for any disability resulting from spina bifida suffered by such child.

"(b)(1) The amount of the allowance paid to a child under this section shall be based on the degree of disability suffered by the child, as determined in accordance with such schedule for rating disabilities resulting from spina bifida as the Secretary may prescribe.

"(2) The Secretary shall, in prescribing the rating schedule for the purposes of this section, establish three levels of disability upon which the amount of the allowance provided by this section shall be based.

"(3) The amounts of the allowance shall be $200 per month for the lowest level of disability prescribed, $700 per month for the intermediate level of disability prescribed, and $1,200 per month for the highest level of disability prescribed. Such amounts are subject to adjustment under section 5312 of this title.

"(c) Notwithstanding any other provision of law, receipt by a child of an allowance under this section shall not impair, infringe, or otherwise affect the right of the child to receive any other benefit to which the child may otherwise be entitled under any law administered by the Secretary, nor shall receipt of such an allowance impair, infringe, or otherwise affect the right of any individual to receive any benefit to which the individual is entitled under any law administered by the Secretary that is based on the child's relationship to the individual.

"(d) Notwithstanding any other provision of law, the allowance paid to a child under this section shall not be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program.

"§1806. Effective date of awards

"The effective date for an award of benefits under this chapter shall be fixed in accordance

with the facts found, but shall not be earlier than the date of receipt of application for the benefits.".

(2) The tables of chapters before part I and at the beginning of part II of such title are each amended by inserting after the item referring to chapter 17 the following new item:

"18. Benefits for Children of Vietnam Veterans Who Are Born With Spina Bifida .... 1801".

(c) Section 5312 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "and the rate of increased pension" and inserting in lieu thereof ", the rate of increased pension"; and

(B) by inserting after "on account of children," the following: "and each rate of monthly allowance paid under section 1805 of this title,"; and

(2) in subsection (c)(1), by striking out "and 1542" and inserting in lieu thereof "1542, and 1805".

(d) This section and the amendments made by this section shall take effect on January 1, 1997.

SEC. 422. (a) Section 1151 of title 38, United States Code, is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability or a qualifying death of a veteran in the same manner as if such additional disability or death were service-connected. For purposes of this section, a disability or death is a qualifying additional disability or qualifying death if the disability or death was not the result of the veteran's willful misconduct and—

"(1) the disability or death was caused by hospital care, medical or surgical treatment, or examination furnished the veteran under any law administered by the Secretary, either by a Department employee or in a Department facility as defined in section 1701(3)(A) of this title, and the proximate cause of the disability or death was—

"(A) carelessness, negligence, lack of proper skill, error in judgment, or similar instance of fault on the part of the Department in furnishing the hospital care, medical or surgical treatment, or examination; or

"(B) an event not reasonably foreseeable; or

"(2) the disability or death was proximately caused by the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title."; and

(2) in the second sentence—

(A) by redesignating that sentence as subsection (b);

(B) by striking out ", aggravation," both places it appears; and

(C) by striking out "sentence" and substituting in lieu thereof "subsection".

(b)(1) The amendments made by subsection (a) shall take effect on October 1, 1996.

(2) Section 1151 of title 38, United States Code (as amended by subsection (a)), shall govern all administrative and judicial determinations of eligibility for benefits under such section that are made with respect to claims filed on or after the effective date set forth in paragraph (1), including those based on original applications and applications seeking to reopen, revise, reconsider, or otherwise readjudicate on any basis claims for benefits under such section 1151 or any provision of law that is a predecessor of such section.

(c) Notwithstanding subsection (b)(1), section 421(d), or any other provision of this Act, section 421 and this section shall not take effect until October 1, 1997, unless legislation other than this Act is enacted to provide for a earlier effective date.

And the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 427. The amount provided in title I for "Veterans Health Administration—Medical Care" is hereby increased by $5,000,000.

And the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate number 105, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

SEC. 432. CALCULATION OF DOWNPAYMENT.—Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) is amended by adding at the end thereof the following new paragraph:

"(10) ALASKA AND HAWAII.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, with respect to a mortgage originated in the State of Alaska or the State of Hawaii and endorsed for insurance in fiscal year 1997, involve a principal obligation not in excess of the sum of—

"(i) the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

"(ii)(I) in the case of a mortgage for a property with an appraised value equal to or less than $50,000, 98.75 percent of the appraised value of the property;

"(II) in the case of a mortgage for a property with an appraised value in excess of $50,000 but not in excess of $125,000, 97.65 percent of the appraised value of the property.

"(III) in the case of a mortgage for a property with an appraised value in excess of $125,000, 97.15 percent of the appraised value of the property; or

"(IV) notwithstanding subclauses (II) and (III), in the case of a mortgage for a property with an appraised value in excess of $50,000 that is located in an area of the State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sale price of properties located in the State for which mortgages have been executed, 97.75 percent of the appraised value of the property.

"(B) AVERAGE CLOSING COST.—For purposes of this paragraph, the term 'average closing cost' means, with respect to a State, the average, for mortgages executed for properties that are located within the State, of the total amounts (as determined by the Secretary) of initial service charges, appraisal, inspection, and other fees (as the Secretary shall approve) that are paid in connection with such mortgages.".

SEC. 433. DELEGATION OF SINGLE FAMILY MORTGAGE INSURING AUTHORITY TO DIRECT ENDORSEMENT MORTGAGEES.—Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end the following new section:

"DELEGATION OF INSURING AUTHORITY TO DIRECT ENDORSEMENT MORTGAGEES

"SEC. 256. (a) AUTHORITY.—The Secretary may delegate, to one or more mortgages approved by the Secretary under the direct endorsement program, the authority of the Secretary under this Act to insure mortgages involving property upon which there is located a dwelling designed principally for occupancy by 1 to 4 families.

"(b) CONSIDERATIONS.—In determining whether to delegate authority to a mortgage under this section, the Secretary shall consider the experience and performance of the mortgage compared to the default rate of all insured mortgages in comparable markets, and such other factors as the Secretary determines appropriate to minimize risk of loss to the insurance funds under this Act.

"(c) ENFORCEMENT OF INSURANCE REQUIREMENTS.—

"(1) IN GENERAL.—If the Secretary determines that a mortgage insured by a mortgagee pursuant to delegation of authority under this section was not originated in accordance with the requirements established by the Secretary, and the Secretary pays an insurance claim with respect to the mortgage within a reasonable period specified by the Secretary, the Secretary may require the mortgagee approved under this section to indemnify the Secretary for the loss.

"(2) FRAUD OR MISREPRESENTATION.—If fraud or misrepresentation was involved in connection with the origination, the Secretary may require the mortgagee approved under this section to indemnify the Secretary for the loss regardless of when an insurance claim is paid.

"(d) TERMINATION OF MORTGAGEE'S AUTHORITY.—If a mortgagee to which the Secretary has made a delegation under this section violates the requirements and procedures established by the Secretary or the Secretary determines that other good cause exists, the Secretary may cancel a delegation of authority under this section to the mortgagee by giving notice to the mortgagee. Such a cancellation shall be effective upon receipt of the notice by the mortgagee or at a later date specified by the Secretary. A decision by the Secretary to cancel a delegation shall be final and conclusive and shall not be subject to judicial review.

"(e) REQUIREMENTS AND PROCEDURES.—Before approving a delegation under this section, the Secretary shall issue regulations establishing appropriate requirements and procedures, including requirements and procedures governing the indemnification of the Secretary by the Mortgagee.".

And the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 438. None of the funds appropriated or otherwise made available to the National Aeronautics and Space Administration by this Act, or any other Act enacted before the date of enactment of this Act, may be used by the Administrator of the National Aeronautics and Space Administration to relocate aircraft of the National Aeronautics and Space Administration based east of the Mississippi River to the Dryden Flight Research Center in California for the purpose of the consolidation of such aircraft.

And the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 439. To promote and support management reorganization of the National Aeronautics and Space Administration. Subsection may be cited as the "National Aeronautics and Space Administration Federal Employment Reduction Assistance Act of 1996."

SUBSECTION B. DEFINITIONS

(1) For the purposes of this section—

(a) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration; and

(b) the term "employee" means an employee of the National Aeronautics and Space Administration serving under an appointment without time limitation, who has been currently employed with NASA for a continuous period of at least 12 months, except that such term does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government;

(2) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(3) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 111), would qualify for a voluntary separation incentive payment under section 3 of such Act; or

(4) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this Act or any other authority and has not repaid such payment.

SUBSECTION C. INCENTIVE PAYMENT PROGRAM

In order to avoid or minimize the need for involuntary separations due to a reduction in force, installation closure, reorganization, transfer of function, or other similar action affecting the National Aeronautics and Space Administration, the Administrator shall establish a program under which separation pay, subject to the availability of appropriated funds, may be offered to encourage eligible employees to separate from service voluntarily (whether by retirement or resignation).

SUBSECTION D. INCENTIVE PAYMENTS

In order to receive a voluntary separation incentive payment, an employee must separate voluntarily (whether by retirement or resignation) during the period of time for which the payment of incentives has been authorized for the employee under the agency plan. Such separation payments—

(1) shall be paid in a lump sum after the employee's separation, and

(2) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or

(B) an amount that shall not exceed $25,000

(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

(4) shall not be taken into account for purposes of determining the amount of any severance pay to which an individual may be entitled under section 5595 of title 5, United States Code, based on any other separation;

(5) shall be considered payment for a voluntary separation; and

(6) shall be paid from the appropriations or funds available for payment of the basic pay of the employee.

SUBSECTION E. EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT

(1) An individual who has received a voluntary separation incentive payment under this section and accepts any employment with the Government of the United States within five years after the date of the separation on which the payment is based shall be required to repay, prior to the individual's first day of employment, the entire amount of the incentive payment to NASA.

(2) If the employment under paragraph (1) above is with an Executive agency (as defined by section 105 of title 5, United States Code), the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) If the employment under paragraph (1) above is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(4) If the employment under paragraph (1) above is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(5) For the purpose of this section, the term "employment"—

(a) includes employment of any length or under any type of appointment, but does not include employment that is without compensation; and

(b) includes employment under a personal services contract.

SUBSECTION F. EFFECT OF SUBSEQUENT DISABILITY RETIREMENT

An employee who has received an incentive payment is ineligible to receive an annuity for reasons of disability under applicable regulations, unless the incentive payment is repaid.

SUBSECTION G. ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND

(1) In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, NASA shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5 to whom a voluntary separation incentive has been paid under this Act.

(2) For the purpose of this section, the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full time basis, with appropriate adjustment therefor.

SUBSECTION H. REDUCTION OF AGENCY EMPLOYMENT LEVELS

(1) Total full time equivalent employment in NASA shall be reduced by one for each separation of an employee who receives a voluntary separation incentive payment under this Act. The reduction will be calculated by comparing the agency's full time equivalent employment for the fiscal year in which the voluntary separation payments are made with the authorized full time equivalent employment for the prior fiscal year.

(2) The Office of Management and Budget shall monitor and take appropriate action necessary to ensure that the requirements of this section are met.

(3) The President shall take appropriate action to ensure that functions involving more than 10 full time equivalent employees are not converted to contracts by reason of the enactment of this section, except in cases in which a cost comparison demonstrates such contracts would be to the advantage of the Government.

(4) The provisions of subsections (1) and (3) of this section may be waived upon a determination by the President that—

(1) the existence of a state of war or other national emergency so requires; or

(2) the existence of an extraordinary emergency which threatens life, health, safety, property, or the environment so requires.

SUBSECTION I. REPORTS

No later than March 31 of each fiscal year, NASA shall submit to the Office of Personnel Management, who will subsequently report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a report which, with respect to the preceding fiscal year, shall include—

(1) the number of employees who received voluntary separation incentives;

(2) the average amount of such incentives; and,

(3) the average grade or pay level of the employees who received incentives.

SUBSECTION J. EFFECTIVE DATE

(1) The provisions of this section shall take effect on the date of enactment of this section.

(2) No voluntary separation incentive under this section may be paid based on the separation of an employee after September 30, 2000.

SEC. 440. (a) Subject to the concurrence of the Administrator of the General Services Administration (GSA) and notwithstanding section 707 of Public Law 103–433, the Administrator of the National Aeronautics and Space Administration may convey to the city of Downey, California, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 60 acres and known as Parcels III, IV, V, and VI of the NASA Industrial Plant, Downey, California.

(b)(1) DELAY IN PAYMENT OF CONSIDERATION.—After the end of the 20-year period beginning on the date on which the conveyance under subsection (a) is completed, the City of Downey shall pay to the United States an amount equal to fair market value of the conveyed property as of the date of the Federal conveyance.

(2) EFFECT OF RECONVEYANCE BY THE CITY.—If the City of Downey reconveys all or any part of the conveyed property during such 20-year period, the City shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the City.

(3) DETERMINATION OF FAIR MARKET VALUE.—The Administrator of GSA shall determine fair market value in accordance with Federal appraisal standards and procedures.

(4) TREATMENT OF LEASES.—The Administrator of GSA may treat a lease of the property within such 20-year period as a reconveyance if the Administrator determines that the lease is being used to avoid application of paragraph (b)(2).

(5) DEPOSIT OF PROCEEDS.—The Administrator of GSA shall deposit any proceeds received under this subsection in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(c) The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Administrator of GSA. The cost of the survey shall be borne by the City of Downey, California.

(d) The Administrator of GSA may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator of GSA considers appropriate to protect the interests of the United States.

(e) If the City at any time after the conveyance of the property under subsection (a) notifies the Administrator of GSA that the City no longer wishes to retain the property, it may convey the property under the terms of subsection (b), or, it may revert all right, title, and interest in and to the property (including any facilities, equipment, or fixtures conveyed, but excluding

the value of any improvements made to the property by the City) to the United States, and the United States shall have the right of immediate entry onto the property.

And the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

TITLE VI—NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT OF 1996

SEC. 601. SHORT TITLE.

This title may be cited as the "Newborns' and Mothers' Health Protection Act of 1996".

SEC. 602. FINDING.

Congress finds that—

(1) the length of post-delivery hospital stay should be based on the unique characteristics of each mother and her newborn child, taking into consideration the health of the mother, the health and stability of the newborn, the ability and confidence of the mother and the father to care for their newborn, the adequacy of support systems at home, and the access of the mother and her newborn to appropriate follow-up health care; and

(2) the timing of the discharge of a mother and her newborn child from the hospital should be made by the attending provider in consultation with the mother.

SEC. 603. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

(a) In General.—Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (added by section 101(a) of the Health Insurance Port-ability and Accountability Act of 1996) is amended—

(1) by amending the heading of the part to read as follows:

"Part 7—Group Health Plan Requirements";

(2) by inserting after the part heading the following:

"Subpart A—Requirements Relating to Portability, Access, and Renewability";

(3) by redesignating sections 704 through 707 as sections 731 through 734, respectively;

(4) by inserting before section 731 (as so redesignated) the following new heading:

"Subpart C—General Provisions";

and

(5) by inserting after section 703 the following new subpart:

"Subpart B—Other Requirements

"SEC. 711. STANDARDS RELATING TO BENEFITS FOR MOTHERS AND NEWBORNS.

"(a) Requirements for Minimum Hospital Stay Following Birth.—

"(1) In general.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

"(A) except as provided in paragraph (2)—

"(i) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a normal vaginal delivery, to less than 48 hours, or

"(ii) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a caesarean section, to less than 96 hours; or

"(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

"(2) Exception.—Paragraph (1)(A) shall not apply in connection with any group health plan or health insurance issuer in any case in which the decision to discharge the mother or her newborn child prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by an attending provider in consultation with the mother.

"(b) Prohibitions.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

"(1) deny to the mother or her newborn child eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to mothers to encourage such mothers to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

"(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(c) Rules of Construction.—

"(1) Nothing in this section shall be construed to require a mother who is a participant or beneficiary—

"(A) to give birth in a hospital; or

"(B) to stay in the hospital for a fixed period of time following the birth of her child.

"(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with childbirth for a mother or her newborn child.

"(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or newborn child under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(d) Notice Under Group Health Plan.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

"(e) Level and Type of Reimbursements.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(f) Preemption; Exception for Health Insurance Coverage in Certain States.—

"(1) In general.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 731(d)(1)) for a State that regulates such coverage that is described in any of the following subparagraphs:

"(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a normal vaginal delivery and at least a 96-hour hospital length of stay following a cesarean section.

"(B) Such State law requires such coverage to provide for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

"(C) Such State law requires, in connection with such coverage for maternity care, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the mother.

"(2) Construction.—Section 731(a)(1) shall not be construed as superseding a State law described in paragraph (1).".

(b) Conforming Amendments.—

(1) Section 731(c) of such Act (as added by section 101 of the Health Insurance Portability and Accountability Act of 1996 and redesignated by the preceding provisions of this section) is amended by striking "Nothing" and inserting "Except as provided in section 711, nothing".

(2) Section 732(a) of such Act (as added by section 101 of the Health Insurance Portability and Accountability Act of 1996 and redesignated by the preceding provisions of this section) is amended by inserting "(other than section 711)" after "part".

(3) Title I of such Act (as amended by section 101 of the Health Insurance Portability and Accountability Act of 1996 and the preceding provisions of this section) is further amended—

(A) in the last sentence of section 4(b), by striking "section 706(b)(2)", "section 706(b)(1)", and "section 706(a)(1)" and inserting "section 733(b)(2)", "section 733(b)(1)", and "section 733(a)(1)", respectively;

(B) in section 101(g), by striking "section 706(a)(2)" and inserting "section 733(a)(2)";

(C) in section 102(b), by striking "section 706(a)(1)" each place it appears and inserting "section 733(a)(1), and by striking "section 706(b)(2)" and inserting "section 733(b)(2)";

(D) in section 104(b)(1), by striking "section 706(a)(1)" each place it appears and inserting "section 733(a)(1);

(E) in section 502(b)(3), by striking "section 706(a)(1)" and inserting "section 733(a)(1)";

(F) in section 506(c), by striking "section 706(a)(2)" and inserting "section 733(a)(2)";

(G) in section 514(b)(9), by striking "section 704" and inserting "section 731";

(H) in the last sentence of section 701(c)(1), by striking "section 706(c)" and inserting "section 733(c)";

(I) in section 732(b), by striking "section 706(c)(1)" and inserting "section 733(c)(1)";

(J) in section 732(c)(1), by striking "section 706(c)(2)" and inserting "section 733(c)(2)";

(K) in section 732(c)(2), by striking "section 706(c)(3)" and inserting "section 733(c)(3)"; and

(L) in section 732(c)(3), by striking "section 706(c)(4)" and inserting "section 733(c)(4)".

(4) The table of contents in section 1 of such Act is amended by striking the items relating to part 7 and inserting the following:

"Part 7—Group Health Plan Requirements

"Subpart A—Requirements Relating to Portability, Access, and Renewability

"Sec. 701. Increased portability through limitation on preexisting condition exclusions.

"Sec. 702. Prohibiting discrimination against individual participants and beneficiaries based on health status.

“Sec. 703. Guaranteed renewability in multiemployer plans and multiple employer welfare arrangements.

“SUBPART B—OTHER REQUIREMENTS

“Sec. 711. Standards relating to benefits for mothers and newborns.

“SUBPART C—GENERAL PROVISIONS

“Sec. 731. Preemption; State flexibility; construction.
“Sec.732. Special rules relating to group health plans.
“Sec. 733. Definitions.
“Sec. 734. Regulations.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.

SEC. 604. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act (as added by section 102 of the Health Insurance Portability and Accountability Act of 1996) is amended—

(1) by amending the title heading to read as follows:

“TITLE XXVII—REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE”;

(2) by redesignating subparts 2 and 3 of part A as subparts 3 and 4 of such part;

(3) by inserting after subpart 1 of part A the following new subpart:

“Subpart 2—Other Requirements

“SEC. 2704. STANDARDS RELATING TO BENEFITS FOR MOTHERS AND NEWBORNS.

“(a) REQUIREMENTS FOR MINIMUM HOSPITAL STAY FOLLOWING BIRTH.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

“(A) except as provided in paragraph (2)—

“(i) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a normal vaginal delivery, to less than 48 hours, or

“(ii) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a cesarean section, to less than 96 hours, or

“(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

“(2) EXCEPTION.—Paragraph (1)(A) shall not apply in connection with any group health plan or health insurance issuer in any case in which the decision to discharge the mother or her newborn child prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by an attending provider in consultation with the mother.

“(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

“(1) deny to the mother or her newborn child eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

“(2) provide monetary payments or rebates to mothers to encourage such mothers to accept less than the minimum protections available under this section;

“(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

“(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

“(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

“(c) RULES OF CONSTRUCTION.—

“(1) Nothing in this section shall be construed to require a mother who is a participant or beneficiary—

“(A) to give birth in a hospital; or

“(B) to stay in the hospital for a fixed period of time following the birth of her child.

“(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with childbirth for a mother or her newborn child.

“(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or newborn child under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

“(d) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

“(e) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

“(f) PREEMPTION; EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

“(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1)) for a State that regulates such coverage that is described in any of the following subparagraphs:

“(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a normal vaginal delivery and at least a 96-hour hospital length of stay following a cesarean section.

“(B) Such State law requires such coverage to provide for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

“(C) Such State law requires, in connection with such coverage for maternity care, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the mother.

“(2) CONSTRUCTION.—Section 2723(a)(1) shall not be construed as superseding a State law described in paragraph (1).”.

(b) CONFORMING AMENDMENTS.—

(1) Section 2721 of such Act (as added by section 102 of the Health Insurance Portability and Accountability Act of 1996) is amended—

(A) in subsection (a), by striking “subparts 1 and 2” and inserting “subparts 1 and 3”, and

(B) in subsections (b) through (d), by striking “subparts 1 and 2” each place it appears and inserting “subparts 1 through 3”.

(2) Section 2723(c) of such Act (as added by section 102 of the Health Insurance Portability and Accountability Act of 1996) is amended by inserting “(other than section 2704)” after “part”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.

SEC. 605. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) IN GENERAL.—Part B of title XXVII of the Public Health Service Act (as added by section 111 of the Health Insurance Portability and Accountability Act of 1996) is amended—

(1) by inserting after the part heading the following:

“Subpart 1—Portability, Access, and Renewability Requirements”;

(2) by redesignating sections 2745, 2746, and 2747 as sections 2761, 2762, and 2763, respectively;

(3) by inserting before section 2761 (as so redesignated) the following:

“Subpart 3—General Provisions”; and

(4) by inserting after section 2744 the following:

“Subpart 3—Other Requirements

“SEC. 2751. STANDARDS RELATING TO BENEFITS FOR MOTHERS AND NEWBORNS.

“(a) IN GENERAL.—The provisions of section 2704 (other than subsections (d) and (f)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

“(b) NOTICE REQUIREMENT.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.

“(c) PREEMPTION; EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

“(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1)) for a State that regulates such coverage that is described in any of the following subparagraphs:

“(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a normal vaginal delivery and at least a 96-hour hospital length of stay following a cesarean section.

“(B) Such State law requires such coverage to provide for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

“(C) Such State law requires, in connection with such coverage for maternity care, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the mother.

“(2) CONSTRUCTION.—Section 2762(a) shall not be construed as superseding a State law described in paragraph (1).”.

(b) CONFORMING AMENDMENTS.—Such part (as so added) is further amended as follows:

(1) In section 2744(a)(1), strike “2746(b)” and insert “2762(b)”.

(2) In section 2745(a)(1) (before redesignation under subsection (a)(1)), strike “2746” and insert “2762”.

(3) In section 2746(b) (before redesignation under subsection (a)(1))—

(A) by inserting "(1)" after the dash, and

(B) by adding at the end the following:

"(2) Nothing in this part (other than section 2751) shall be construed as requiring health insurance coverage offered in the individual market to provide specific benefits under the terms of such coverage.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 1998.

SEC. 606. REPORTS TO CONGRESS CONCERNING CHILDBIRTH.

(a) FINDINGS.—Congress finds that—

(1) childbirth is one part of a continuum of experience that includes prepregnancy, pregnancy and prenatal care, labor and delivery, the immediate postpartum period, and a longer period of adjustment for the newborn, the mother, and the family;

(2) health care practices across this continuum are changing in response to health care financing and delivery system changes, science and clinical research, and patient preferences; and

(3) there is a need—

(A) to examine the issues and consequences associated with the length of hospital stays following childbirth;

(B) to examine the follow-up practices for mothers and newborns used in conjunction with shorter hospital stays;

(C) to identify appropriate health care practices and procedures with regard to the hospital discharge of newborns and mothers;

(D) to examine the extent to which such care is affected by family and environmental factors; and

(E) to examine the content of care during hospital stays following childbirth.

(b) ADVISORY PANEL.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish an advisory panel (referred to in this section as the "advisory panel")—

(A) to guide and review methods, procedures, and data collection necessary to conduct the study described in subsection (c) in a manner that is intended to enhance the quality, safety, and effectiveness of health care services provided to mothers and newborns;

(B) to develop a consensus among the members of the advisory panel regarding the appropriateness of the specific requirements of this title; and

(C) to prepare and submit to the Secretary, as part of the report of the Secretary submitted under subsection (d), a report summarizing the consensus (if any) developed under subparagraph (B) or the reasons for not reaching such a consensus.

(2) PARTICIPATION.—

(A) DEPARTMENT REPRESENTATIVES.—The Secretary shall ensure that representatives from within the Department of Health and Human Services that have expertise in the area of material and child health or in outcomes research are appointed to the advisory panel.

(B) REPRESENTATIVES OF PUBLIC AND PRIVATE SECTOR ENTITIES.—

(i) IN GENERAL.—The Secretary shall ensure that members of the advisory panel include representatives of public and private sector entities having knowledge or experience in one or more of the following areas:

(I) Patient care.

(II) Patient education.

(III) Quality assurance.

(IV) Outcomes research.

(V) Consumer issues.

(ii) REQUIREMENT.—The panel shall include representatives of each of the following categories:

(I) Health care practitioners.

(II) Health plans.

(III) Hospitals.

(IV) Employers.

(V) States.

(VI) Consumers.

(c) STUDIES.—

(1) IN GENERAL.—The Secretary shall conduct a study of—

(A) the factors affecting the continuum of care with respect to maternal and child health care, including outcomes following childbirth;

(B) the factors determining the length of hospital stay following childbirth;

(C) the diversity of negative or positive outcomes affecting mothers, infants, and families;

(D) the manner in which post natal care has changed over time and the manner in which that care has adapted or related to changes in the length of hospital stay, taking into account—

(i) the types of post natal care available and the extent to which such care is accessed; and

(ii) the challenges associated with providing post natal care to all populations, including vulnerable populations, and solutions for overcoming these challenges; and

(E) the financial incentives that may—

(i) impact the health of newborns and mothers; and

(ii) influence the clinical decisionmaking of health care providers.

(2) RESOURCES.—The Secretary shall provide to the advisory panel the resources necessary to carry out the duties of the advisory panel.

(d) REPORTS.—

(1) IN GENERAL.—The Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report that contains—

(A) a summary of the study conducted under subsection (c);

(B) a summary of the best practices used in the public and private sectors for the care of newborns and mothers;

(C) recommendations for improvements in prenatal care, post natal care, delivery and follow-up care, and whether the implementation of such improvements should be accomplished by the private health care sector, Federal or State governments, or any combination thereof; and

(D) limitations on the databases in existence on the date of the enactment of this Act.

(2) DEADLINES.—The Secretary shall prepare and submit to the Committees referred to in paragraph (1)—

(A) an initial report concerning the study conducted under subsection (c) and elements described in paragraph (1), not later than 18 months after the date of the enactment of this Act;

(B) an interim report concerning such study and elements not later than 3 years after the date of the enactment of this Act; and

(C) a final report concerning such study and elements not later than 5 years after the date of the enactment of this Act.

(e) TERMINATION OF PANEL.—The advisory panel shall terminate on the date that occurs 60 days after the date on which the last report is submitted under subsection (d).

And the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

TITLE VII—PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS

SEC. 701. SHORT TITLE.

This title may be cited as the "Mental Health Parity Act of 1996".

SEC. 702. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by section 603(a)) is amended by adding at the end the following new section:

"SEC. 712. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

"(a) IN GENERAL.—

"(1) AGGREGATE LIFETIME LIMITS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits—

"(A) NO LIFETIME LIMIT.—If the plan or coverage does not include an aggregate lifetime limit on substantially all medical and surgical benefits, the plan or coverage may not impose any aggregate lifetime limit on mental health benefits.

"(B) LIFETIME LIMIT.—If the plan or coverage includes an aggregate lifetime limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable lifetime limit'), the plan or coverage shall either—

"(i) apply the applicable lifetime limit both to the medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit.

"(C) RULE IN CASE OF DIFFERENT LIMITS.—In the case of a plan or coverage that is not described in subparagraph (A) or (B) and that includes no or different aggregate lifetime limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan or coverage with respect to mental health benefits by substituting for the applicable lifetime limit an average aggregate lifetime limit that is computed taking into account the weighted average of the aggregate lifetime limits applicable to such categories.

"(2) ANNUAL LIMITS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits—

"(A) NO ANNUAL LIMIT.—If the plan or coverage does not include an annual limit on substantially all medical and surgical benefits, the plan or coverage may not impose any annual limit on mental health benefits.

"(B) ANNUAL LIMIT.—If the plan or coverage includes an annual limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable annual limit'), the plan or coverage shall either—

"(i) apply the applicable annual limit both to medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any annual limit on mental health benefits that is less than the applicable annual limit.

"(C) RULE IN CASE OF DIFFERENT LIMITS.—In the case of a plan or coverage that is not described in subparagraph (A) or (B) and that includes no or different annual limits on different

categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan or coverage with respect to mental health benefits by substituting for the applicable annual limit an average annual limit that is computed taking into account the weighted average of the annual limits applicable to such categories.

"(b) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits; or

"(2) in the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides mental health benefits, as affecting the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan or coverage, except as specifically provided in subsection (a) (in regard to parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits).

"(c) EXEMPTIONS.—

"(1) SMALL EMPLOYER EXEMPTION.—

"(A) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

"(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this paragraph—

"(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

"(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(iii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.

"(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) DEFINITIONS.—For purposes of this section:

"(1) AGGREGATE LIFETIME LIMIT.—The term 'aggregate lifetime limit' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan or health insurance coverage with respect to an individual or other coverage unit.

"(2) ANNUAL LIMIT.—The term 'annual limit' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the plan or health insurance coverage with respect to an individual or other coverage unit.

"(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include mental health benefits.

"(4) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to mental health services, as defined under the terms of the plan or coverage (as the case may be), but does not include benefits with respect to treatment of substance abuse or chemical dependency.

"(f) SUNSET.—This section shall not apply to benefits for services furnished on or after September 30, 2001.".

"(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act, as amended by section 602 of this Act, is amended by inserting after the item relating to section 711 the following new item:

"Sec. 712. Parity in the application of certain limits to mental health benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.

SEC. 703. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (as added by section 604(a)) is amended by adding at the end the following new section:

"SEC. 2705. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—

"(1) AGGREGATE LIFETIME LIMITS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits—

"(A) NO LIFETIME LIMIT.—If the plan or coverage does not include an aggregate lifetime limit on substantially all medical and surgical benefits, the plan or coverage may not impose any aggregate lifetime limit on mental health benefits.

(B) LIFETIME LIMIT.—If the plan or coverage includes an aggregate lifetime limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable lifetime limit"), the plan or coverage shall either—

"(i) apply the applicable lifetime limit both to the medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit.

"(C) RULE IN CASE OF DIFFERENT LIMITS.—In the case of a plan or coverage that is not described in subparagraph (A) or (B) and that includes no or different aggregate lifetime limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan or coverage with respect to mental health benefits by substituting for the applicable lifetime limit an average aggregate lifetime limit that is computed taking into account the weighted average of the aggregate lifetime limits applicable to such categories.

"(2) ANNUAL LIMITS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits—

"(A) NO ANNUAL LIMIT.—If the plan or coverage does not include an annual limit on substantially all medical and surgical benefits, the plan or coverage may not impose any annual limit on mental health benefits.

"(B) ANNUAL LIMIT.—If the plan or coverage includes an annual limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable annual limit'), the plan or coverage shall either—

"(i) apply the applicable annual limit both to medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any annual limit on mental health benefits that is less than the applicable annual limit.

"(C) RULE IN CASE OF DIFFERENT LIMITS.—In the case of a plan or coverage that is not described in subparagraph (A) or (B) and that includes no or different annual limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan or coverage with respect to mental health benefits by substituting for the applicable annual limit on average annual limit that is computed taking into account the weighted average of the annual limits applicable to such categories.

"(b) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits; or

"(2) in the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides mental health benefits, as affecting the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan or coverage, except as specifically provided in subsection (a) (in regard to parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits).

"(c) EXEMPTIONS.—

"(1) SMALL EMPLOYER EXEMPTION.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

"(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.

"(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) DEFINITIONS.—For purposes of this section;

"(1) AGGREGATE LIFETIME LIMIT.—The term 'aggregate lifetime limit' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the

total amount that may be paid with respect to such benefits under the plan or health insurance coverage with respect to an individual or other coverage unit.

"(2) ANNUAL LIMIT.—The term 'annual limit' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the plan or health insurance coverage with respect to an individual or other coverage unit.

"(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include mental health benefits.

"(4) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to mental health services, as defined under the terms of the plan or coverage (as the case may be), but does not include benefits with respect to treatment of substance abuse or chemical dependency.

"(f) SUNSET.—This section shall not apply to benefits for services furnished on or after September 30, 2001.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.

And the Senate agree to the same.

JERRY LEWIS,
BARBARA F. VUCANOVICH,
JAMES T. WALSH,
DAVID L. HOBSON,
JOE KNOLLENBERG,
RODNEY P. FRELINGHUYSEN,
BOB LIVINGSTON,
LOUIS STOKES,
ALAN B. MOLLOHAN,
JIM CHAPMAN,
MARCY KAPTUR,
DAVID R. OBEY,
Managers on the Part of the House.

CHRISTOPHER S. BOND,
CONRAD BURNS,
TED STEVENS,
RICHARD C. SHELBY,
ROBERT F. BENNETT,
BEN NIGHTHORSE CAMPBELL,
MARK O. HATFIELD,
BARBARA A. MIKULSKI,
PATRICK J. LEAHY,
J. BENNETT JOHNSTON,
FRANK R. LAUTENBERG,
J. ROBERT KERREY,
ROBERT C. BYRD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3666) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying report.

The language and allocations set forth in House Report 104–628 and Senate Report 104–318 should be complied with unless specifically addressed to the contrary in the conference report and statement of the managers. Report language included by the House which is not changed by the report of the Senate or the conference, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases in which the House or Senate have directed the submission of a report, such report is to be submitted to both House and Senate Committees on Appropriations.

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

Amendment No. 1: Appropriates $18,671,259,000 for compensation and pensions as proposed by the Senate, instead of $18,497,854,000 as proposed by the House.

Amendment No. 2: Appropriates $1,377,000,000 for readjustment benefits as proposed by the Senate, instead of $1,227,000,000 as proposed by the House.

Amendment No. 3: Limits the principal amount of direct loans in the vocational rehabilitation loans program account to not to exceed $2,822,000 as proposed by the Senate, instead of not to exceed $1,964,000 as proposed by the House.

VETERANS HEALTH ADMINISTRATION

Amendment No. 4: Delays the availability of $700,000,000 of the medical care appropriation in the equipment and land and structures object classifications until August 1, 1997, instead of delaying the availability of $570,000,000 as proposed by the House and $596,000,000 as proposed by the Senate.

The conference agreement includes medical care funding of $210,000 to expand services at the existing community-based outpatient clinic in Texarkana, Texas; and $400,000 for the homeless veterans domiciliary program in Alaska, including the purchase of transitional housing units (300,000) and the expansion of the domiciliary's video-conferencing capabilities ($100,000).

Amendment No. 5: Appropriates $262,000,000 for medical and prosthetic research as proposed by the Senate, instead of $257,000,000 proposed by the House. The house, in section 427 of the general provisions, increased this appropriation by $20,000,000—to a total of $277,000,000. The conference agreement deletes that general provision.

The committee of conference supports additional research activity on osteoporosis and related bone diseases, disorders which affect both women and men. In 1993, VA medical centers cared for hip fractures in 2,650 veterans over 65 years of age. The average length of acute hospital stay was approximately 25 days which resulted in a total of 65,720 hospital days of care. The conferees urge the VA to prepare a long-term strategy for research in this area, including the coordination of such efforts with the Department of Defense and the National Institutes of Health.

Amendment No. 6: Appropriates $61,207,000 for medical administration and miscellaneous operating expenses, instead of $59,207,000 as proposed by the House and $62,207,000 as proposed by the Senate.

DEPARTMENT ADMINISTRATION

Amendment No. 7: Appropriates $827,584,000 for general operating expenses, instead of $823,584,000 as proposed by the House and $813,730,000 as proposed by the Senate. The House, in section 426 of the general provisions, increased this appropriation by $17,000,000—to a total of $840,584,000. The conference agreement deletes that general provision.

The conferees agree that the decrease of $16,146,000 below the budget estimate be applied against funds requested for the Veterans Benefits Administration. The reduction to VBA reflects the conferees' continuing frustration with the lethargic approach to improving service to veterans, and is not intended to worsen the backlog of pending claims. The staffing requested for compensation and pension claims processing is fully funded. While the Secretary has discretion in applying the reduction, suggested areas include deferred relocation expenses, travel restructuring plans which will not be implemented, and cash awards and bonuses.

The conferees also agree not to earmark any specific level of funding to improve access for contact by telephone, but support this Veterans Benefits Administration's restructuring initiative to improve service to veterans.

Amendment No. 8: Makes technical language change as proposed by the Senate.

Amendment No. 9: Appropriates $250,858,000 for construction, major projects, instead of $245,358,000 as proposed by the House and $178,250,000 as proposed by the Senate.

The conference agreement include the following changes from the budget estimate:

−$42,600,000 for the new medical center and nursing home project in Brevard County, Florida.

−$15,100,000 for the renovation of psychiatric wards at the Perry Point, Maryland VA Medical Center.

+$5,000,000 for an ambulatory care addition project at the Leavenworth, Kansas VA Medical Center.

−$15,500,000 for the renovation of facilities and relocation of medical school functions project at the Mountain Home, Tennessee VA Medical Center.

+$20,000,000 for the first phase of the spinal cord injury unit and energy center project at the Tampa, Florida VA Medical Center.

−$12,400,000 for the $17,400,000 requested for the environmental improvements project at the Pittsburgh (UD), Pennsylvania VA Medical Center.

−$18,200,000 for the environmental enhancements project at the Salisbury, North Carolina VA Medical Center.

+$16,000,000 for the research addition project at the Portland, Oregon VA Medical Center.

+$1,000,000 for the planning of an ambulatory care addition at the Lyons, New Jersey VA Medical Center.

+$2,300,000 for the planning and design of a renovation/reconstruction of psychiatric care facilities project and the Murfreesboro, Tennessee VA Medical Center.

−5,000,000 of the $8,845,000 requested for the advance planning fund.

−$5,000,000 of the $15,000,000 requested for asbestos abatement.

+$13,000,000 for the phase I development of a new national cemetery in the Albany, New York area.

+$1,258,000 to complete the design of a new national cemetery in Guilford Township, Ohio.

−$5,000,000 requested for the judgment fund.

The conference agreement includes the budget request of $32,100,000 for the next funding increment of the replacement hospital at Travis Air Force Base, with bill language delaying the release of said funds until January 1, 1998, unless action is taken by the Congress specifically making the funds available sooner. The House provided $32,100,000 for the Travis project and the Senate deleted such funds.

The conference committee recognizes that currently there exist several scenarios for providing medical care to veterans in this area, including an outpatient clinic; a replacement hospital, which includes an outpatient clinic; dedication of additional beds for VA use at the Travis hospital; and utilization of the Mather Air Force hospital for veterans. The conference committee also recognizes a recent General Accounting Office report which concludes that the Travis construction project is not justified and that lower-cost alternatives should be more fully explored. However, the VA Secretary does not concur with the GAO report and its recommendation, and continues to fully support the project. Further, the VA is currently developing plans for restructuring the way health care services are provided in its Sierra Pacific network.

The Congress has provided for two approaches to this matter in the past few years. There is an authorization and a $25,000,000 appropriation for an outpatient clinic at Travis. Also, since 1991, a total of $22,600,000 has been appropriated for a hospital to replace the one at Martinez. Because the hospital project began before the current authorization process was enacted, it is "grandfathered" and no authorization for it is required.

The language included in the bill delaying the release of the funds prior to January 1, 1998, unless specific action is taken, will permit the Congress and the VA time to reassess the available options and fully consider the GAO recommendations. To assist in this effort, the VA is to make a report to the Congress with recommendations as how to best provide medical services to veterans in the area. The authorizing committees should review this situation and take whatever action regarding the construction authorization they deem appropriate.

Amendment No. 10: Appropriates $175,000,000 for construction, minor projects, instead of $160,000,000 as proposed by the House and $190,000,000 as proposed by the Senate. The conferees urge the VA to give priority to projects which will convert excess inpatient hospital space to outpatient care space needed to accommodate the increases in those activities.

Amendment No. 11: Appropriates $12,300,000 for the parking revolving fund as proposed by the House, instead of zero as proposed by the Senate. The conferees agree that these funds are for the parking structure component of the ambulatory care addition project at the Cleveland VA Medical Center.

ADMINISTRATIVE PROVISION

Amendment No. 12: Inserts language proposed by the Senate providing for the conveyance of a portion of the grounds at the Tuscaloosa VA Medical Center to the City of Tuscaloosa, Alabama.

TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

Amendment No. 13: Deletes HUD's account structure as proposed by the House and stricken by Senate. Amendment number 14 replaces it with a new structure that is more descriptive of the activities actually carried out under the particular accounts. Many of the activities carried out in the following accounts have been either merged into three more flexible categorical accounts and two specialized accounts or moved to the administrative provisions of this Title: annual contributions for assisted housing; housing for special populations: elderly and disabled housing; the flexible subsidy fund; rental housing assistance; the public and Indian housing certificate fund; public housing operating fund; public housing capital fund; revitalization of severely distressed public housing (HOPE VII); and drug elimination grants for low income housing.

Amendment No. 14: Inserts language providing a new account structure as proposed by the Senate with modifications as described below.

Appropriates $1,039,000,000 for a new "Development of additional new subsidized housing" account instead of $969,464,442 as proposed by the Senate. Incorporated into this account are the new construction housing programs, including housing for the elderly under section 202, housing for the disabled under section 811, and public housing for Indian families. Within the account, $645,000,000 is provided for developing or acquiring housing under the section 202 program, $194,000,000 for developing or acquiring housing under the section 811 program, and $200,000,000 for developing or acquiring public housing for Indian families.

Appropriates $4,640,000,000 for the second new account, called "Prevention of resident displacement," to assure against the disruptive and painful effects of displacement that families may confront from losing their subsidized housing. The largest component of this—$3,600,000,000—is appropriated to extend expiring rent subsidy contracts for one year. Appropriations for the remaining components are: $850,000,000 for section 8 contract amendments, of which $50,000,000 is for rental assistance contracts under the Low-Income Housing, Preservation and Resident Homeownership Act of 1990 (LIHPRHA) and the Emergency Low-Income Housing Preservation Act of 1987 (ELIHPA); and $190,000,000 for section 8 tenant-based certificates and vouchers necessary to avoid resident displacement, for witness relocation and family unification activities, and for other purposes.

HUD requested $290,000,000 for certificate and voucher and rental assistance. Of this amount, almost $100,000,000 was for purposes other than providing rental assistance, including such items as settlement of litigation, counseling services and a new, previously unauthorized "Welfare-to-Work" initiative. There is a trend at HUD to initiate programs without Congressional approval and fund them with money appropriated for authorized programs. The conferees plan to carefully monitor HUD's propensity to act without Congressional mandate. In the meantime, the Department is directed to present a budget request on a timely basis that outlines and justifies their priorities and, if funds are available and the program is authorized, the Appropriations Committees may provide funding after due consideration.

Appropriates $5,750,000,000 for the third new account, "Preserving existing housing investment," which incorporates public and Indian housing operating subsidies, modernization, and housing preservation activities under the LIHPRHA. A total of $2,900,000,000 is earmarked for public and Indian housing operating subsidies, as proposed by the Senate; $2,500,000,000 is earmarked for modernization, as proposed by the Senate and $350,000,000 is earmarked for LIHPRHA, instead of $500,000,000 as proposed by the Senate.

The conferees agree with the House report language directing HUD to create performance targets for the use of funds made available for technical assistance in the modernization earmark and to report on whether these targets are achieved.

The preservation program has been redesigned to reduce excessive program costs in the form of equity take-outs, renovations and transactions costs. To protect residents from possible displacement in the event an owner prepays the unpaid principal balance remaining on the mortgage, $100,000,000 is earmarked for tenant-based assistance. In addition, $75,000,000 is provided to fund projects not being sold to priority purchasers that have approved plans of action. Finally, $10,000,000 is provided to reimburse owners of eligible properties where plans of action were submitted prior to the effective date of this Act, but were not executed because of insufficient funds.

To assist the Congress in making a determination of whether this program is the most cost-effective way to provide affordable housing opportunities to low-income families, the conferees request the General Accounting Office (GAO) to evaluate and review the program. As part of this evaluation, GAO should review the level of compensation to the owner relative to the actual value of the property, the level of rehabilitation grants relative to the rehabilitation needs of the property and the problems of administering the program. Finally, because some of the issues are similar, GAO should evaluate whether there are lessons to be learned from the experience with the preservation program that can be applied to portfolio reengineering.

Two accounts have been retained separately because of their unique characteristics: the revitalization of severely distressed public housing account and the drug elimination grants for low income housing account, as proposed by the House. In these accounts, $550,000,000 is appropriated to the severely distressed program, and $290,000,000 is appropriated to the drug elimination grants program to assist public housing authorities to fight drug problems in their communities.

Language is inserted to ensure that HOPE VI funds are used for the purpose of revitalizing severely distressed public housing facilities. HUD attempted to provide funds to predetermined housing authorities to settle litigation unconnected with the HOPE VI program. Furthermore, preferential scoring was given to housing projects that included proposals for an unauthorized program. HUD is directed to end such practices immediately. Finally, in assessing public housing demolition/disposition applications, the conferees urge HUD to review closely the local housing needs of a community, including shortages of affordable housing for low-income families, the size of the waiting list for the public housing, as well as the size of the local homeless population.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT BLOCK GRANTS FUND

Amendment No. 15: Deletes the language proposed by the House and stricken by the Senate to delay the availability of $300,000,000 of this appropriation until the last day of the fiscal year.

Consistent with Congressional efforts to devolve greater authority to lower levels of government and to empower citizens to develop self-help solutions within their respective communities and neighborhoods, the conferees recommend that HUD encourage States and entitlement communities to support neighborhood revitalization activities sponsored or administered by small nonprofit community-based entities. The John

Heinz Neighborhood Development Program is a model that states could follow.

Amendment No. 16: Earmarks $67,000,000 for grants to Indian tribes instead of $61,400,000 as proposed by the House, and $68,500,000 as proposed by the Senate.

Amendment No. 17: Earmarks $1,500,000 for a grant to the National American Indian Housing Council (NAIHC) as proposed by the Senate, instead of $1,000,000 as proposed by the House.

Amendment No. 18: Earmarks $60,000,000 for grants promoting self-sufficiency for residents of public housing, which is $10,000,000 above the level proposed by the Senate. Earmarks up to $5,000,000 for the Tenant Opportunity Program and up to $5,000,000 for the Moving-to-Work demonstration created in the fiscal year 1996 appropriations measure.

Funds for the Tenant Opportunity Program shall not be available for any purpose until the Secretary certifies that the program is working effectively. The conferees are concerned about reports of wasteful spending practices and allegedly fraudulent activities within the program, practices which put the program at risk of elimination altogether.

Amendment No. 19: Earmarks $20,000,000 for public housing authorities and other federally-assisted low income housing programs to reimburse law enforcement entities and to augment security services, as proposed by the Senate.

Amendment No. 20: Earmarks $30,000,000 for the Youthbuild program, instead of $20,000,000 as proposed by the House and $40,000,000 as proposed by the Senate.

Amendment No. 21: Inserts a technical correction to the language as proposed by the Senate.

FEDERAL HOUSING ADMINISTRATION

FHA-MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

Amendment No. 22: Transfers $350,595,000 from FHA-mutual mortgage insurance guaranteed loan receipts for administrative expenses as proposed by the Senate, instead of $341,595,000 as proposed by the House.

Amendment No. 23: Limits use of transferred funds to $343,483,000 for departmental salaries and expenses as proposed by the Senate, instead of $334,483,000 as proposed by the House.

FHA-GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

Amendment No. 24: Transfers $207,470,000 from the FHA-General and Special Risk Program account for administrative expenses to carry out the guaranteed and direct loan program as proposed by the Senate, instead of $202,470,000, as proposed by the House. Of this transfer, $203,299,000 is for departmental salaries and expenses as proposed by the Senate instead of $198,299,000, as proposed by the House.

Amendment No. 25: Inserts a technical correction to the language as proposed by the Senate.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN

GUARANTEE PROGRAM ACCOUNT

Amendment No. 26: Transfers $9,383,000 from receipts generated by the GNMA-guarantees of mortgage-backed securities for administrative expenses necessary to carry out the guaranteed mortgage-backed securities program as proposed by the Senate, instead of $9,101,000 as proposed by the House.

Amendment No. 27: Limits use of transfer of $9,303,000 for salaries and expenses, as proposed by the Senate, instead of $9,101,000 as proposed by the House.

Amendment No. 28: Inserts a technical correction to the language as proposed by the Senate.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 29: Appropriates $976,840,000 for departmental salaries and expenses, as proposed by the Senate, instead of $919,147,000 as proposed by the House. The agreement also provides that $15,000,000 is contingent on HUD providing to the House and Senate Appropriations Committees a strategic plan that results in reducing the full-time equivalent (FTE) employment level to 7,500 in fiscal year 2000. Once the plan is reviewed, the additional funds will be made available to provide retraining programs for employees, to pay for related costs of personnel making permanent changes in station, and other costs related to downsizing the Department. During this process, it will be extremely important for senior management staff to engage in open discussions with the unions and career HUD employees.

Amendment No. 30: Transfers $546,782,000 from various funds of the Federal Housing Administration for salaries and expenses as proposed by the Senate, instead of $532,782,000 as proposed by the House.

Amendment No. 31: Transfers $9,383,000 from funds of GNMA for salaries and expenses as proposed by the Senate, instead of $9,101,000 as proposed by the House.

OFFICE OF INSPECTOR GENERAL

Amendment No. 32: Inserts a technical correction to the language as proposed by the Senate.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

Amendment No. 33: Appropriates $15,500,000 for the Office of Federal Housing Enterprise Oversight (OFHEO) instead of $14,895,000 as proposed by the House, and $15,751,000 as proposed by the Senate.

The conferees are concerned that this office is a growing bureaucracy which has not met its responsibilities to develop and implement financial safety and soundness requirements for the two housing government sponsored enterprises (GSEs): the Federal Home Loan Mortgage Corporation (FHLMC) and the Federal National Mortgage Association (FNMA).

Additonally, the conference agreement requires the General Accounting Office (GAO) to audit the operations of OFHEO relating to staff organization, expertise, capacity and contracting to ensure that resources are adequate and are being used appropriately for developing and implementing financial safety and soundness requirements for FNMA and FHLMC, as required under the Housing and Community Development Act of 1992.

The matter is addressed in Amendment No. 110.

ADMINISTRATIVE PROVISIONS

Amendment No. 34: Deletes language proposed by the House and stricken by the Senate regarding minimum rents, and inserts language proposed by the Senate to extend administrative provisions from the fiscal year 1996 VA/HUD Appropriations Act, amended to include modified House language regarding minimum rents. The conference agreement inserts language to allow minimum rents of up to $50 for public housing and section 8 housing. The remaining extensions of authority, as proposed by the Senate, are included in the provision including: suspension of the one-for-one replacement requirement, reforms to the public housing modernization program, rent reforms, the repeal of federal preferences, suspension of section 8(t) of the United States Housing Act of 1937, the "take one, take all" requirement, suspension of certain notice requirements for owners who participate in the certificate and voucher programs, suspension of section 8(d)(1)(B), the "endless lease" requirement and retaining fair market rents at the 40th percentile of modest cost existing housing instead of the 45th percentile calculation.

Additionally, the conference agreement modifies the manner in which administrative fees for tenant-based assistance are calculated, delays the reissuance of section 8 vouchers and certificates by three months, reduces annual adjustment factors by 1% for units where tenants do not move and limits high cost units. Finally, the conference agreement extends for one year those reforms made to the single family mortgage assignment program and reforms made to the disposition process of multifamily properties and mortgages owned or held by the Secretary.

Amendment No. 35: Amends language proposed by the Senate to provide up to $20,000,000 of unobligated balances from the Nehemiah Housing Opportunity Grant program for activities to promote and implement homeownership opportunities.

Amendment No. 36: Inserts language proposed by the Senate to cancel the indebtedness of the Greene County Rural Health Center.

Amendment No. 37: Inserts language proposed by the Senate to transfer all uncommitted balances of excess rental charges to the flexible subsidy fund.

Amendment No. 38: Inserts language proposed by the Senate which reduces by $2,000,000 all uncommitted balances of authorizations under section 236 of the National Housing Act.

Amendment No. 39: Inserts language proposed by the Senate which allows funds withheld by HUD from the District of Columbia's Department of Public and Assisted Housing (DPAH) to be used by DPAH's successor agency, the District of Columbia Housing Authority (DCHA), unless that agency is deemed troubled at the end of fiscal year 1998.

Amendment No. 40: Inserts language proposed by the Senate regarding financial adjustment factors, amended to appropriate $464,442 for the Utah Housing Finance Agency to pay for amounts lost to the agency in bond refinancings.

Amendment No. 41: Amends language proposed by the Senate regarding section 8 contract renewal authority repealing the section 8 Multifamily Housing Portfolio Restructuring Demonstration created in the fiscal year 1996 VA/HUD Appropriations Act, Public Law 104–134. The revised demonstration does not nullify any agreements or proposals that have been considered under the 1996 demonstration. Furthermore, to the extent those participants have requested tenant-based contracts, those units should not be counted under the cap included in this revised demonstration.

The revised demonstration is structured so that several distinct processes can be set up and their results evaluated. Stringent reporting requirements have been added so Congress will know how the demonstration is proceeding.

Given the uncertainty about how portfolio reengineering will work, the conferees believe it is critical to be able to evaluate the framework immediately. Furthermore, the information gathered through the demonstration will be valuable to the authorizing committees as they craft legislation to: (1) decrease the escalating costs of section 8 rental assistance; (2) prevent mortgage defaults; (3) protect against resident dislocation; and (4) resolve associated tax issues.

Under the legislation, HUD is required to renew for up to one year all FHA-insured mortgages with section 8 contracts with rents at or below 120 percent of the fair market rent for an area. This safe-harbor provides HUD with the administrative ability to focus on those FHA-insured multifamily housing projects with significantly oversubsidized rents. Projects with contract rents above 120 percent of fair market rent may have their section 8 contracts renewed at 120 percent of the fair market rent, enter into a mortgage workout, or participate in the demonstration.

HUD is provided with flexible tools, including reinsurance authority, the use of project-based and tenant-based assistance, authority to forgive debt, budget-based rents, the use of bifurcated mortgages, partial and full payment of claim authority, credit enhancements, the ability to enter into risk-sharing arrangements and the sale of benefits and burdens of FHA multifamily mortgage insurance.

HUD is authorized to enter into contracts with qualified state housing finance agencies, local housing agencies, and nonprofits as a partner or as a designee to administer the program for HUD. HUD may contract and subcontract with private-sector entities who have the expertise and capacity necessary to ensure that mortgage restructurings are handled to the best advantage of the Federal government, the development, the community and the residents.

The importance of carrying out this demonstration effectively cannot be overstated in light of the families the projects serve. Many of the properties are home to elderly and disabled families, and may be located in high-cost rental markets with little available, affordable housing or are in rural areas with scarce housing resources. In most cases, the projects are oversubsidized and are in danger of defaulting on their mortgage if the section 8 payments are reduced to market levels, raising concerns of owner disinvestment, resident displacement, and government ownership, management and disposition of the housing inventory. To achieve deficit reduction and a balance budget, continuing the existing subsidy arrangements is simply not an option.

Amendment No. 42: Inserts language proposed by the Senate to waive section 282 of the Cranston-Gonzalez National Affordable Housing Act as it applies to Hawaiian Home Lands.

Amendment No. 43: Deletes language proposed by the Senate allowing HUD to establish a buyout plan to downsize the Department and inserts language authorizing the Secretary to transfer from section 8 recaptures, up to $50,000,000 to be used to fund amendments for LIHPRHA contracts, and up to $25,000,000 for housing opportunities for persons with AIDs (HOPWA). The conferees intend that the recaptured funds shall be used first for LIHPRHA and remaining funds for HOPWA.

Amendment No. 44: Inserts language proposed by the Senate to require HUD to maintain public notice and comment rulemaking.

Amendment No. 45: Inserts language proposed by the Senate to change the definition of "urban county" to include those counties that have a population of at least 210,000 persons, that have experienced a population decrease and have had a 100-year old federal naval installation closed by the Base Closure and Realignment Commission.

Amendment No. 46: Inserts language proposed by the Senate to promote fair housing and free speech.

Amendment No. 47: Deletes language proposed by the Senate to limit HUD from insuring any section 220 projects under the National Housing Act for more than $250,000,000 without sending a justification to the Congress and inserts technical provisions to: 1) transition to the new account structure; 2) coordinate tax credits and section 8 assistance allocated to projects in New Brunswick, New Jersey; 3) extend the authority of the City of Los Angeles to use up to 25% of its CDBG allocation for public services; 4) determine rent level in the section 236 program; and 5) revise the Fair Housing Initiatives Program (FHIP) to clarify that funds shall not be used to lobby the Congress or executive branches of government.

TITLE III—INDEPENDENT AGENCIES—CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

Amendment No. 48: Appropriates $400,500,000 for national and community service programs operating expenses as proposed by the Senate, instead of $365,000,000 as proposed by the House. The House, in section 427 of the general provisions, reduced this appropriation and the appropriation for the Office of Inspector General to zero. The conference agreement deletes the part of that provision which eliminates funding for the national service programs.

Amendment No. 49: Limits funds for educational awards to not more than $59,000,000 as proposed by the Senate, instead of to not more than $40,000,000 as proposed by the House.

Amendment No. 50: Limits funds for grants under the National Service Trust, including the AmeriCorps program, to not more than $214,000,000 as proposed by the Senate, instead of $201,000,000 as proposed by the House.

Amendment No. 51: Inserts language proposed by the Senate limiting funds for national direct programs to not more than $40,000,000.

Amendment No. 52: Limits funds for the Points of Light Foundation to not more than $5,500,000 as proposed by the Senate, instead of $5,000,000 as proposed by the House.

Amendment No. 53: Limits funds for the Civilian Community Corps to not more than $18,000,000 as proposed by the Senate, instead of $17,500,000 as proposed by the House.

Amendment No. 54: Limits funds for the school-based and community-based service-learning programs to not more than $43,000,000 as proposed by the Senate, instead of $41,500,000 as proposed by the House.

COURT OF VETERANS APPEALS

Amendment No. 55: Deletes language proposed by the House and stricken by the Senate increasing the salaries and expenses appropriation by $1,411,000.

Amendment No. 56: Earmarks $700,000 of the salaries and expenses appropraiton for the pro bono representation program as proposed by the Senate, instead of $634,000 as proposed by the House.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

Amendment No. 57: Appropriates $542,000,000 for science and technology activities instead of $538,500,000 as proposed by the House and $545,000,000 as proposed by the Senate.

The conferees are in agreement with the following changes to the budget request:

+$2,150,000 for the Mickey Leland National Urban Air Toxics Research Center.

+$2,500,000 for the American Water Works Association Research Foundation.

+$700,000 for continued study of livestock and agricultural pollution abatement.

+$750,000 for oil spill remediation research at the Louisiana Environmental Research Center at McNeese State University.

+$1,100,000 to continue the PM-10 study in the San Joaquin Valley, California.

+$750,000 for continuation of the Resource and Agriculture Policy Systems Program at Iowa State University.

+$1,500,000 for EPSCoR.

+$1,000,000 for a study of the salinity of the Salton Sea by the University of Redlands.

+$1,200,000 for the lower Mississippi River interagency cancer study (LMRICS).

+$750,000 for research on environmental lung disease through the National Jewish Center for Immunology and Respiratory Medicine.

+$1,000,000 for the Center for Air Toxics Metals.

+$300,000 for the clean air status and trends network (CASTNet) monitoring stations in New England.

+$1,500,000 for the Water Environmental Research Foundation.

+$1,000,000 for research on the health effects of arsenic.

+$5,000,000 for the Mine Waste Technology Program.

+$250,000 for research and development needs in onsite and alternative water and wastewater systems through the National Decentralized Water Resources Capacity Development Project.

−$17,600,000 from the Environmental Technology Initiative, leaving $10,000,000 for technology verification activities.

−$10,000,000 from the increase proposed for the climate change action plan.

−$2,200,000 from the EMAP program.

−$7,000,000 from academic graduate fellowships.

−$20,398,000 as a general reduction. In determing the level of general reduction under this account, the conferees note that directed reductions were not taken for enforcement and for hiring additional employees. Rather, the conferees agree that this general reduction be taken on an equitable basis from all intramural (salaries and expenses) and extramural (contracts and grants) activities at the Agency, including management and support, research, enforcement, regulatory activities and technical assistance.

The conferees encourage EPA to work with institutions of higher learning to establish and operate small public water system technology assistance centers, the need for which was recognized in the recently enacted Safe Drinking Water Act Amendments.

The conferees support the continuation of the Superfund Innovative Technology Evaluation (SITE) program, which has been moved to the science and technology account, at the budget request level. The program is expected to focus on the validation and verification of the performance of innovative technologies developed by the private sector that will serve to reduce remediation times and costs.

Within 90 days of enactment of this Act, the conferees direct EPA to enter into an agreement with the National Academy of

Sciences (NAS) to conduct a comprehensive two-year study of the human health effects of synthetic and naturally occurring substances that may have an effect in humans that is similar to an effect produced by the hormone estrogen, and such other hormone related effects as EPA may designate. The conferees expect this study will examine the occurrence, toxicological data, mechanisms of action, and relative risk of synthetic and naturally occurring hormone related toxicants in the causation of human health problems. Because of the recent enactment of provisions mandating the development of screening programs for these substances, the study should also address issues central to the development of a cost-effective screening program, including how to select and prioritize chemicals for testing, which test or tests to include in a screening program, and the most appropriate way to use the resulting information in developing risk estimates. If the EPA has already entered into an agreement or agreements with the NAS with regard to hormone related toxicants, the EPA is expected to merge all such studies into one report. The conferees expect such study to be completed within two years and ask the NAS to transmit the subsequent report to the Committees on Appropriations as well as to the EPA. Prior to release of the study and before proposing any regulations or testing programs that address estrogen or hormone related characteristics, the Agency is directed to thoroughly consult with the NAS and to consider the findings and recommendations of this study. The conferees expect that any written comments submitted by the NAS on a proposed regulation, as well as any EPA response to such comments, will be published as part of any final EPA rulemaking on this matter.

Finally, the conferees agree that of the $35,000,000 transferred to science and technology from hazardous substance superfund, $2,500,000 is for the Gulf Coast Hazardous Substance Research Center.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

Amendment No. 58: Appropriates $1,710,000,000 for environmental programs and management instead of $1,704,500,000 as proposed by the House and $1,731,000,000 as proposed by the Senate.

The conferees are in agreement with the following changes to the budget request:

+$2,500,000 for environmental justice activities.

+$4,550,000 for rural water technical assistance activities in addition to the levels provided in the budget request, including $2,100,000 for activities of the National Rural Water Association; $900,000 for RCAPs; $150,000 for the GWPC; $350,000 for the Small Flows Clearinghouse; $1,000,000 for the National Environmental Training Center; and $50,000 to establish a regional waste water training center at Vermont Technical College.

+$1,000,000 to continue the onsite wastewater treatment demonstration program through the Small Flows Clearinghouse.

+$2,500,000 for the Southwest Center for Environmental Research and Policy.

+$700,000 to enable the Long Island Sound Office to continue the implementation of the Sound's long-term conservation and management plan.

+$250,000 for a study of EPA's Mobile Source Emissions Factor Model to be conducted by the National Academy of Sciences.

+$500,000 for ongoing programs of the Canaan Valley Institute.

+$900,000 for continuing work on the water quality management plan for Skaneateles, Owasco, and Otisco Lake watersheds.

+$300,000 for continuing work on the Cortland County, New York aquifer protection plan.

+$1,500,000 for the National Institute for Environmental Renewal for development of an integrated environmental monitoring and data management system.

+$3,000,000 for a sludge-to-oil-reactor (STORS) and nitrogen removal system demonstration project in the San Bernardino Valley Municipal Water District.

+$1,250,000 for the South Shore Tahoe Transportation demonstration.

+$3,500,000 for the Lake Hollingsworth lake dredging technology demonstration, Lakeland, Florida.

+$5,000,000 for the West Palm Beach, Florida potable water reuse demonstration project.

+$290,000 for an analysis of the perennial yield of good quality groundwater in the Wadsworth Sub-basin for the town of Fernley, Nevada.

+$2,000,000 for continuing work on the New York/New Jersey Dredge Decontamination pilot study authorized by section 405 of the Water Resources Development Act of 1992.

+$900,000 for continuation of the Sacramento River Toxic Pollutant Control program, to be cost shared.

+$500,000 for the small water system cooperative initiative at Montana State University.

+$320,000 for the regional environmental finance centers.

+$300,000 for recycling and reuse technology development at the Iowa Waste Reduction Center.

+$1,000,000 for the non-profit For the Sake of the Salmon to fund watershed coordinators for salmon protection in the Pacific Northwest.

+$2,000,000 to continue the leaking above ground storage tank demonstration in the State of Alaska.

+$250,000 for the final year of EPA's demonstration program on the Potomac River's north branch of an acid mine drainage remediation project.

+$300,000 to continue the evaluation of ground water quality in Missouri.

+$1,000,000 for a Missouri watershed initiative cooperative demonstration project with the Food and Agricultural Policy Research Institute to link economic and environmental data with ambient water quality.

+$750,000 for the Lake Champlain management plan.

+$2,000,000 to demonstrate the latest technology in utilizing reclaimed water from a wastewater treatment facility in Silverton, Oregon.

+$500,000 to continue the model coordinated tribal water quality program in Washington State.

+$400,000 to continue the Maui algal bloom project.

+$400,000 to continue support of the Ala Wai Canal water improvement demonstration project.

+$700,000 for the solar aquatic waste water treatment demonstration project in Vermont.

+$850,000 for the Nebraska municipal governments mandates initiative.

+$525,000 for an early childhood initiative in environmental education.

+$1,000,000 for a Federal contribution to the New York City watershed protection program.

+$250,000 for the Nature Conservancy of Alaska for protection of the Kenai River watershed.

+$1,500,000 for wastewater training grants under section 104(g) of the Clean Water Act.

+$200,000 to continue the cleanup of Five Island Lake.

+$500,000 for the Alabama Department of Environmental Management to conduct a study on innovations in sewer system development and operation.

+$100,000 for a demonstration project on the use of oysters to improve water quality in Chesapeake Bay tributaries.

+$1,000,000 for a small business compliance demonstration project pursuant to section 215 of the Small Business Regulatory Enforcement Fairness Act of 1996.

+$1,000,000 for a grant program to assist established conservancies to develop or complete stream restoration or watershed management plans as approved by CALFED consistent with the Bay-Delta Category III Program. The conferees expect that the Agency's fiscal year 1998 budget estimates will identify in detail the funds and programs dedicated to implementation of the Bay-Delta Accord, and, in addition, expect that the Agency's 1997 Operating Plan will identify the funding amounts provided all programs and projects which will serve to advance or are consistent with the implementation of the Accord.

+$1,000,000 for the Michigan Biotechnology Institute's pilot program for commercializing environmental technologies of national strategic benefit.

+$200,000 for the Alabama Water and Wastewater Institute to train and upgrade waste treatment works operators and maintenance personnel as required by the Clean Water Act.

−$5,000,000 from the new sustainable development challenge grant program.

−$43,500,000 from the ETI program. The conferees agree that the design for the environment (DfE) initiative should not be treated as part of the ETI program and is thus not included in this reduction.

−$48,000,000 from climate change action plan programs. The conferees note that these programs will remain funded at nearly $68,000,000, which is similar to that provided in fiscal year 1996.

−$500,000 from the Gulf of Mexico program.

−$2,000,000 from EPA's air programs.

−$1,000,000 from low priority programs specifically related to NAFTA.

−$2,500,000 from non-specific regulatory programs as outlined in the budget request.

−$2,000,000 from the National Service Initiative.

−$7,000,000 from the Montreal Protocol facilitation fund, thus level-funding this program at the 1996 level.

−$1,000,000 from the GLOBE program.

−$121,014,000 as a general reduction. In determining the level of general reduction under this account, the conferees note that directed reductions were not taken for enforcement, management and support, or for new hires. Rather, the conferees agree that this general reduction be taken on an equitable basis from all intramural (salaries and expenses) and extramural (contracts and grants) activities of the Agency, including management and support, enforcement, regulatory activities and technical assistance.

Of the amounts contained herein, the conferees have provided up to $500,000 to continue efforts to ensure smooth implementation of notification of lead-based paint hazards during real estate transactions, direct that no less than $300,000 be allocated to the Northeast States for Coordinated Air Use Management to provide technical assistance and policy guidance to its member States, and expect that the National Environmental Education and Training Foundation will be funded at the same ratio as it was during fiscal year 1996. Within the amount provided for the Office of Small and Disadvantaged Business Utilization, the Agency is encouraged to make training grants to small, minority and women-owned businesses for hazardous waste cleanup; for lead-based paint abatement; for radon activities; and for underground storage tank cleanup.

The conferees note that the implementation of new legislation on drinking water and food safety likely will require some redirection of EPA resources. Given that these bills were only recently enacted, the Committees on Appropriations were unable to consider associated funding requirements. The conferees therefore expect EPA to address any funding requirements for implementation of these important statutes, such as drinking water health effects research, in the Agency's operating plan.

The conferees recognize that leaking above ground tanks storing petroleum or petroleum products pose complex challenges for communities, and can threaten groundwater, the most critical source of drinking water. The conferees are concerned that EPA has yet to take substantive action on many recommendations made by the General Accounting Office in two reports. The conferees strongly urge EPA to address gaps in the program identified in the GAO reports, including secondary containment, overfill prevention, testing, inspection, compatibility, installation, corrosion protection, and structural integrity of petroleum tanks in excess of 42,000 gallons. EPA is further urged to consider ways of streamlining the administration of the above ground storage tank program.

The conferees direct the Agency to report to the Committees on Appropriations on the number of chemical waste landfills that have received waivers of the siting requirements under the Toxic Substances Control Act (TSCA), pursuant to 40 CFR 761.75(c)(4), and describe in detail the process by which requests for such waivers are considered and approved. Further, the conferees encourage the Agency to respond thoroughly to all comments filed by local governments and knowledgeable parties on the TSCA permit application for PCB-waste disposal in Wayne County, Michigan, prior to any final action on that application.

The conferees express their support for EPA's continued funding to allow the Sokaogon Chippewa Community to assess the environmental impacts of a proposed sulfide mine project. The conferees expect the EPA to work within existing funds to assist the Sokaogon Chippewa Community in their efforts to contribute adequate and up-to-date information to federal agencies reviewing the mine proposal.

The conferees are aware that the EPA is under court order to make a decision on whether to change the current National Ambient Air Quality Standard for Particulates. The court has ordered the EPA to issue a proposed decision by November 29, 1996, and a final decision by June 28, 1997. The conferees note that at present, there appears to be insufficient data available for the Agency to decide what changes, if any, should be made to the current standard. In particular, some scientists have concluded that current data do not adequately demonstrate causality or provide sufficient information to establish a specific new control strategy. Moreover, the EPA's Clean Air Scientific Advisory Committee is meeting soon to begin to design its recommended particulate research program for the Agency. The conferees further note that, at EPA's request, $18,800,000 has been included in the conference agreement for research on particulate matter. Given that monitoring and research into causality have only just begun, the conferees believe it may be premature for the Agency to promulgate new particulate standards at this time. The conferees encourage EPA to consider a "no change" option as part of its proposed decision due by November 29, 1996, and for its final decision due in June, 1997. The conferees expect to continue to support the EPA's research and monitoring programs to develop the necessary data as quickly as possible.

The conferees are concerned regarding the practical utility of requiring the submittal of more information from the regulated community associated with EPA's planned expansion of the Toxics Release Inventory (TRI). The conferees understand that the paperwork burden on businesses and state and local government associated with EPA requirements has increased over the past year, despite an initiative to reduce paperwork. Further, EPA has neither an integrated program to manage information nor an inventory of current reporting requirements on the regulated community. Despite new information-gathering initiatives, EPA has proposed no improvement in the collection, analysis, and communication of information to the public on its own priorities, performance, or the effectiveness of such initiatives in improving the public's "right-to-know." Moreover, EPA has not sufficiently considered options to maximize the use of information already reported by facilities and available to citizens locally under the federal Emergency Planning and Community Right-to-Know Act (EPCRA) in its efforts to expand TRI to include more data on chemical uses.

The conferees thus direct a study by the General Accounting Office to:

(1) Identify options for improving the right-to-know program to more effectively address community concerns regarding risks associated with chemicals and to communicate risks to the public;

(2) Evaluate EPA information management practices, their utility in implementing the Government Performance and Results Act (GPRA), and their overall effectiveness in reducing paperwork requirements.

(3) Recommend ways to increase accountability among federal agencies in complying with existing TRI reporting requirements.

(4) Address the effectiveness of current mechanisms required under EPCRA at the local level in providing existing information on chemicals to the public; and

(5) Assess whether existing and new information requirements are designed to support the Agency's planning, budgeting, and accountability system that will implement GPRA.

BUILDINGS AND FACILITIES

Amendment No. 59: Appropriates $87,220,000 for buildings and facilities instead of $107,220,000 as proposed by the House and $27,220,000 as proposed by the Senate.

Amendment No. 60: Inserts language proposed by the House and stricken by the Senate which authorizes construction of a consolidated research facility at Research Triangle Park, North Carolina. Such authorization provides for construction of this new facility through incrementally funded multiyear contracts at a total maximum cost of $232,000,000, permits obligation of funds provided in this Act, and prohibits EPA from obligating monies in excess of those amounts made available in Appropriations Acts.

The conferees note that of the $87,220,000, $27,220,000 is available for necessary repair and maintenance costs at all EPA facilities, as well as renovation and construction costs for EPA's new headquarters facilities. The remaining $60,000,000, added to the $50,000,000 appropriated in fiscal year 1996, provides nearly one-half of the total construction costs of this important and necessary new research facility.

HAZARDOUS SUBSTANCE SUPERFUND

Amendment No. 61: Appropriates $1,394,245,000 for hazardous substance superfund as proposed by the Senate instead of $2,201,200,000 as proposed by the House, and inserts language proposed by the Senate which provides that $100,000,000 of the appropriated amount shall not become available until September 1, 1997.

Included in the appropriated level are the following amounts:

$906,238,000 for response action/cleanup activities, including $36,754,000, the budget request, for brownfields activities.

$171,194,000, the budget request, for enforcement activities.

$124,874,000 for management and support, including $11,000,000 to be transferred to the Office of Inspector General.

$64,000,000 for the Agency for Toxic Substances and Disease Registry (ATSDR). Within this amount, the conferees direct that up to $4,000,000 be used for minority health professions, no less than the fiscal year 1996 level be made available for continuation of the health effects study on the consumption of Great Lakes fish, and $900,000 be made available for continuation of the cancer cluster study in the Toms River area of New Jersey. The conferees note in this regard that some $300,000 has previously been expended by ATSDR for this study, thus the $900,000 made available in this action will bring to $1,200,000 the amount so far available for this important activity.

$53,527,000 for the National Institute for Environmental Health Sciences (NIEHS), including $32,527,000 for research activities and $21,000,000 for worker training.

$30,000,000, the fiscal year 1996 level, for transfer to the Department of Justice.

$9,412,000, the budget request, for reimbursable activities of other Federal agencies, including the U.S. Coast Guard, NOAA, FEMA, OSHA and the Department of the Interior.

$35,000,000 to be transferred to the science and technology account for necessary and appropriate research activities. Of this amount, the conferees note that $2,500,000 is available for the Gulf Coast Hazardous Substance Research Center and direct that other such research centers be funded at an appropriate level at least equal to the funding level provided in fiscal year 1996.

The conferees expect the Agency to quickly act on the direction contained in the House report regarding an ATSDR study in Caldwell County, North Carolina. The conferees also direct that all fiscal year 1996 carryover funds be applied to response action/cleanup activities.

The conferees note that on June 4, 1996, EPA announced an administrative reform to allow interest to accrue on site-specific special accounts in which Superfund settlement funds dedicated to specific site cleanups are held. Under this new policy, accrued interest would directly benefit the Superfund site and the community where the site is located, and prevent the funds which parties pay in settlement from losing value over time. The conferees applaud the Agency's decision to move forward with this administrative reform which can control remedy costs, promote cost-effectiveness, decrease litigation, increase fairness in the enforcement process, and reduce transaction costs in the Superfund program. The conferees urge the EPA, as well as the Department of Justice, Office of Management and Budget, and the Department of the Treasury, to move forward to implement this administrative improvement as soon as possible.

Finally, the conferees are concerned about the lack of progress at Pepe Field Superfund Site, Boonton, New Jersey. EPA is directed to finalize the remedial design immediately and to proceed with the construction remedy.

Amendment No. 62: Provides $1,144,245,000 of the appropriated amount from the superfund trust fund as proposed by the Senate instead of $1,951,200,000 as proposed by the House.

Amendment No. 63: Provides $64,000,000 of the appropriated amount for the Agency for Toxic Substances and Disease Registry (ATSDR) as proposed by the Senate instead of $59,000,000 for ATSDR as proposed by the House.

Amendment No. 64: Deletes language proposed by the House and stricken by the Senate which provided that $861,000,000 of the appropriated level be available for obligation only upon enactment of future appropriations legislation that specifically makes these funds available for obligation.

Amendment No. 65: Deletes language proposed by the House and stricken by the Senate which provided that $1,200,000 of the appropriated amount be made available for the ATSDR to conduct a cancer cluster study in the Toms River area of the State of New Jersey. The conferees have provided an additional $900,000 for this study included in the appropriated amount for the ATSDR.

Amendment No. 66: Appropriates $60,000,000 for the leaking underground storage tank trust fund as proposed by the Senate instead of $66,500,000 as proposed by the House.

STATE AND TRIBAL ASSISTANCE GRANTS

Amendment No. 67: Appropriates $2,875,207,000 for state and tribal assistance grants instead of $2,768,207,000 as proposed by the House and $2,815,207,000 as proposed by the Senate.

From within the appropriated level, the conferees agree to the following amounts:

$625,000,000 for clean water State revolving fund capitalization grants.

$1,275,000,000 for drinking water State revolving fund capitalization grants.

$100,000,000 for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico border.

$50,000,000 for cost-shared grants to the State of Texas to improve wastewater treatment for colonias.

$15,000,000 for cost-shared grants to the State of Alaska to address water supply and wastewater infrastructure needs of rural and Alaska Native Villages.

$136,000,000 for special needs wastewater treatment and groundwater protection infrastructure grants.

$674,207,000 for state and tribal program/categorical grants. Of this amount, the conferees note that $28,000,000 is for multi-media tribal general assistance grants or performance partnership grants, at a Tribe's request. The conferees recognize that this level, which is the budget request, exceeds the authorized ceiling of $15,000,000 included in the Indian Environmental General Assistance Programs Act. The conferees also agree that, within the amount provided for wetlands implementation grants, EPA may make funds available to states to assist them with the routine expenses of conducting section 404 regulatory programs that have been assumed by the States.

Amendment No. 68: Provides $1,900,000,000 of the appropriated amount for capitalization grants for State revolving funds to support water infrastructure financing instead of $1,800,000,000 as proposed by the House and $1,976,000,000 as proposed by the Senate.

Amendment No. 69: Inserts language proposed by the Senate which permits a specific cost-shared grant to the State of Alaska to be used for water supply infrastructure needs of rural and Alaska Native Villages.

Amendment No. 70: Provides $136,000,000 of the appropriated amount for making specific wastewater, water and groundwater protection infrastructure grants instead of $129,000,000 as proposed by the House and no funding as proposed by the Senate, and inserts language proposed by the House and stricken by the Senate which makes such funds available in accordance with the terms and conditions set forth in the Conference Report and statement of managers accompanying this Act.

The conferees direct that such grants be used for the following projects in the following amounts:

$2,550,000 for continued wastewater needs in Bristol County, Mass.;

$40,000,000 for continued wastewater needs in Boston, Mass.;

$8,500,000 for continued wastewater needs in New Orleans, La.;

$11,000,000 for continued water development needs of the Mojave Water Agency, Calif.;

$8,500,000 for continued development of the Des Plaines River system TARP activity in Chicago, Ill.;

$16,000,000 for continuation of the Rouge River National Wet Weather Project;

$13,600,000 for continuing clean water improvements at Onondaga Lake;

$5,400,000 for wastewater improvements in the East Cooper Area of Berkeley County, S.C.;

$2,000,000 for sewer infrastructure improvements in Kodiak, Ak.;

$8,000,000 for water quality improvements to Tanner Creek in Portland, Ore.;

$2,850,000 for water treatment facility replacement and improvements for the Agua Sana Water Users Association, N.M.;

$5,000,000 for wastewater treatment improvements in Middlebury, Vt.;

$1,750,000 for wastewater treatment improvements in O'Neil, Neb.;

$5,000,000 for the Taney County, Mo. Common Sewer District for its wastewater improvements project;

$2,000,000 for the Northeast Ohio Regional Sewer District wet weather pollution abatement program;

$1,700,000 for nine wastewater improvement projects in Essex County, Mass., including $1,000,000 for the South Essex Sewage District;

$1,000,000 for water delivery system improvements in the Virgin Valley Water District, Nev.; and

$1,150,000 for wastewater improvement needs in Franklin, Huntington, and Clearfield Counties, Pennsylvania.

The conferees are in agreement that the Agency should work with the grant recipients on appropriate cost-share agreements and to that end the conferees direct the Agency to develop a standard cost-share consistent with fiscal year 1995.

Amendment No. 71: Inserts language as proposed by the Senate which permits the Administrator of EPA to make grants to States, from funds available for obligation in the State under title II of the Federal Water Pollution Control Act, as amended, for administering the completion and closeout of a State's construction grants program. The conferees agree that this provision is needed in many States due to the appropriation of over $1,800,000,000 since 1991 for wastewater grant projects and in view of the expiration of the section 205(g) reserve for such management activities.

Amendment No. 72: Provides $1,900,000,000 of the appropriated amount for capitalization grants for State revolving funds to support water infrastructure financing instead of $1,800,000,000 as proposed by the House and $1,976,000,000 as proposed by the Senate.

Amendment No. 73: Provides $1,275,000,000 for drinking water State revolving funds as proposed by the Senate instead of $450,000,000 as proposed by the House. Public Law 104–134 stipulated that drinking after SRF funds totaling $725,000,000—$225,000,000 of which was appropriated in fiscal year 1995 and $500,000,000 of which was appropriated in fiscal year 1996—would revert to the clean water SRF on August 1, 1996 unless authorization for the drinking water SRF was enacted prior to that date. This authorization was unfortunately not completely until shortly after that date, but too late to prevent the movement of funds to the clean water SRF. Noting that the clean water SRF thus received an infusion of $725,000,000 just prior to the beginning of fiscal year 1997, the conferees have agreed to reduce the 1997 clean water SRF appropriation by this amount and use the funds to increase the drinking water SRF over the $550,000,000 they have otherwise agreed upon as the appropriate fiscal year 1997 level.

The conferees note further, however, that because the authorization for the drinking water State revolving fund did not actually occur until just prior to the Senate completing action on the 1997 appropriation legislation, neither Appropriations Committee was able to review fully and make accommodation for all new provisions of this legislation. While the conferees expect that the funds provided for clean water State revolving fund capitalization grants will be distributed by the Agency in a manner similar to such distribution in prior years, the funds provided for drinking water State revolving fund capitalization grants should be distributed to all eligible governmental agencies and should be used solely for such capitalization grants and grants for public water system expenditures.

Amendment No. 74: Deletes language proposed by the House and stricken by the Senate which stipulated that if legislation authorizing a drinking water State revolving fund is not enacted prior to June 1, 1997, the funds appropriated for a drinking water State revolving fund shall immediately become available for making capitalization grants under title VI of the Federal Water Pollution Control Act, as amended. This provision became moot when such legislation was enacted on August 6, 1996.

Amendment No. 75: Inserts language proposed by the Senate which provides that the funds made available in Public Law 103–327 for a grant to the City of Bangor, Maine shall be available to that city as a grant for meeting combined sewer overflow requirements.

Amendment No. 76: Inserts language proposed by the Senate which provides that States which have not received funds allotted from the $725,000,000 (that, pursuant to law, became available on August 1, 1996) during fiscal year 1996, may still be eligible for reallotment of 1996 funds as long as they receive their allotment of the August 1, 1996 funds during fiscal year 1997.

ADMINISTRATIVE PROVISION

Amendment No. 77: Deletes language proposed by the House and stricken by the Senate which would have permitted the transfer of funds made available to any Environmental Protection Agency account to be transferred to the Science and Technology account for necessary research activities, subject to applicable reprogramming requirements.

The conferees note that this provision was intended to give the Agency flexibility in providing for new research found necessary and appropriate for a particular EPA program which was not known or specifically provided for when the budget was developed and the appropriations process completed. Because of the time lapse between the beginning and end of each fiscal year's overall process, specific research which was not planned for or given a low priority at the beginning of the budget process may become necessary or of much greater importance near the end of the fiscal year. This provision would have permitted limited transfers among EPA accounts to accommodate the changing research needs of the Agency in this circumstance.

In lieu of adopting this provision at this time, the conferees direct that the Agency review their potential need for such a provision and advise the Committees on Appropriations on the results of this review prior to Congressional hearings on the fiscal year 1998 budget request.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

Amendment No. 78: Appropriates $2,436,000 for the Council on Environmental Quality and Office of Environmental Quality as proposed by the Senate instead of $2,250,000 as proposed by the House.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Amendment No. 79: Appropriates $1,320,000,000 for disaster relief as proposed by the Senate instead of $1,120,000,000 as proposed by the House.

Amendment No. 80: Deletes language proposed by the Senate and inserts in lieu thereof language which requires the Director of the Federal Emergency Management Agency to submit a comprehensive report regarding disaster relief expenditures and management controls within 120 days of enactment of this Act. Language is also inserted which makes all disaster relief funds appropriated in this Act available for immediate obligation.

The conferees have provided $1,320,000,000 in disaster relief funds for fiscal year 1997, and have included language making all such funds immediately available for obligation. When the 1997 appropriation is added to the $3,700,000,000 appropriated in prior years and still available for obligation, FEMA will have in excess of $5,000,000,000 to respond to both past and anticipated 1996 disaster situations, including the recent Hurricane Fran. The conferees have been assured that this level of available disaster relief funds makes a disaster supplemental appropriation unnecessary at this time.

The conferees have agreed to a statutory provision requiring FEMA to submit a comprehensive report within 120 days of enactment of this Act on its plans to reduce disaster relief expenditures and improve management controls on the disaster relief fund. The Senate amendment prohibiting the expenditure of disaster relief funds for the repair of yacht harbors or golf courses, tree or shrub replacement except in public parks, and recreational facilities, has been deleted without prejudice, in order to give the Agency an opportunity to address the issue of controlling disaster relief expenditures in a comprehensive manner. The conferees are troubled by the findings of a recent Inspector General report, upon which the Senate amendment was based, which found substantial sums have been awarded from the disaster relief fund to restore golf courses, equestrian trails, and the like. While the Stafford Act may not disallow such expenditures, the conferees believe such disbursements may not be appropriate and can no longer be accommodated. There are many other examples of opportunities for reducing disaster relief expenditures and improving management controls on the fund, some of which can be implemented administratively, and some of which require statutory changes.

The conferees note that the FEMA Director testified before the Senate committee earlier this year that he would submit by October 1, 1996, a proposal for controlling disaster relief expenditures. Because it appears likely that this commitment will not be met, the conferees have included a statutory provision requiring such a submission within 120 days of enactment of this Act.

Last year, FEMA established a disaster resources board to oversee the process of developing and reviewing disaster relief funding requests for activities not associated with a specific disaster. The conferees are concerned that the board has a significant amount of autonomy in deciding whether or not to charge a particular non-disaster specific activity to the fund, and wish to be kept apprised of all activities of the board through reports detailing any decisions made to charge additional non-disaster specific activities to the fund. The first such report should be submitted along with the fiscal year 1998 budget request.

The conferees are aware of efforts in the State of California to develop a disaster response system to integrate local, regional, state, and federal emergency management organizations through the sharing of interrelated data applications which will aid and accelerate efficient planning, coordination, and response to disaster. FEMA is directed to work with the State in the development of this system and determine the type of assistance, both technical and financial, which would be of greatest help to the State in this effort.

Finally, the conferees note that urban search and rescue (USAR) is a critical element of effective response to earthquakes and other disasters, and are very supportive of this program. However, the conferees are concerned that not all of the FEMA USAR teams are considered fully operational at this time, and note that the geographical distribution of the teams appears to be inadequate, particularly in the Midwest. In addition, the conferees are aware of concerns that current funding for each of the teams may be insufficient. The conferees therefore direct FEMA to report within 60 days of enactment of this Act on, (1) the appropriate number and geographical distribution of USAR teams, (2) the process for discontinuing support to teams which are not fully operational, and the Agency's plans to discontinue such teams, and (3) funding requirements for a viable program. As a replacement for inadequately funded or not fully operational USAR teams, FEMA is further directed to establish at least one new USAR team, taking into account adequate financial support, operational abilities, and geographical distribution, as quickly as possible but no later than 180 days of enactment of this Act.

Amendment No. 81: Appropriates $167,500,000 for salaries and expenses instead of $168,000,000 as proposed by the House and $166,733,000 as proposed by the Senate.

Amendment No. 82: Appropriates $4,673,000 for the Office of Inspector General as proposed by the Senate instead of $4,533,000 as proposed by the House.

Amendment No. 83: Appropriates $206,701,000 for emergency management planning and assistance instead of $209,101,000 as proposed by the House and $199,101,000 as proposed by the Senate.

The conferees are in agreement with the following changes to the budget request:

+$500,000 for a comprehensive analysis and plan of all evacuation alternatives for the New Orleans metropolitan area.

+$3,400,000 for costs associated with the replacement and upgrade of emergency response vehicles and equipment. The conferees agree that much of FEMA's equipment is obsolete and in need of repair or replacement, and understand that there will be a significant long-term cost associated with the upgrade of such equipment. This additional $3,400,000 appropriation, for example, will only provide adequate resources to replace UHF/VHF radios and ancillary equipment. In light of the great needs to upgrade equipment and thus provide better response support to disaster events, the Agency is directed to provide a comprehensive list on a priority basis of all needs in this regard, including the purchase of necessary vehicles and equipment of MERS and MATTS, as well as new systems such as the MIDAS system. The first such list should be submitted along with the fiscal year 1998 budget request and should then be updated throughout each year on an as-needed basis.

+$1,700,000 to complete the Earthquake Hazard Mitigation Program with the City of Portland, Oregon and the Oregon Department of Geology and Mineral Industries (DOGAMI).

The conferees agree to up to $2,000,000 for FEMA's participation in appropriate pre-disaster mitigation efforts. The conferees agree with FEMA's Director that mitigation activities can ultimately save significant sums from past-disaster clean-up and response actions and that the Agency should be taking an increasingly active role in developing and participating in pre-disaster mitigation programs. Such programs range in scope from the development and/or funding of mitigation plans for communities to participation with industries, insurers, building code officials, government agencies, engineers, researchers and others in developing systems and facilities to test structures in disaster-like circumstances. The conferees understand that these activities will require an infusion of considerable up-front financial support as well as the possible movement over time of disaster relief funds to pre-disaster programs, and the Agency is expected to use up to the $2,000,000 provided herein in an appropriate manner to begin the process of movement toward a meaningful pre-disaster mitigation program. Expenditure of these funds may not, however, be made until submission to the Committees on Appropriations of an appropriate pre-disaster mitigation spending plan.

The conferees note the Administration's September 12, 1996 submission of a budget amendment for counter-terrorism activities for several agencies, including FEMA, totaling $1,097,000,000. The conferees strongly support counter-terrorism activities, such as grants to state and local emergency responders for specialized training and equipment, consequence management planning and coordination, and field training and exercises. The conferees direct FEMA to propose appropriate funding levels for necessary counter-terrorism activities in its operating plan.

Amendment No. 84: Inserts language proposed by the Senate, with a technical change, which permits FEMA to spend such sums as are necessary during fiscal year 1997 to conduct natural disaster studies consistent with law. The technical change refers to the citation of law, 42 U.S.C. 4127(c), in lieu of the citation referred to in the Senate amendment.

Amendment No. 85: Inserts language proposed by the Senate which extends the authorization for the National Flood Insurance Fund program for one year until September 30, 1997.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER FUND

Amendments Nos. 86 and 87: Deletes House language providing for a limitation of $2,602,000 on administrative expenses and inserts Senate language modifying the House provision establishing a gift fund for the purpose of defraying costs of operations of the Consumer Information Center.

The conferees agree that the Consumer Information Center is to take over responsibility for production and distribution of the Consumer Resource Handbook in addition to other duties it currently performs. The conferees further agree to include bill language which authorizes the Consumer Information Center to accept private sector donations to defray the costs of printing, publishing, and distributing consumer information and educational material, and undertaking consumer information activities.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

The conferees fully support deployment of the space station but recognize the funds appropriated by this Act for the development of the space station may not be adequate to cover all potential contractual commitments should the program be terminated for the convenience of the Government. Accordingly, if the space station is terminated for the convenience of the Government, additional appropriated funds may be necessary to cover such contractual commitments. In the event of such termination, it would be the intent of the conferees to provide such additional appropriations as may be necessary to provide fully for termination payments in a manner which avoids impacting the conduct of other ongoing NASA programs.

SCIENCE, AERONAUTICS AND TECHNOLOGY

Amendment No. 88: Appropriates $5,762,100,000 for Science, Aeronautics and Technology, as proposed by the Senate, instead of $5,662,100,000 as proposed by the House.

The conference agreement reflects the following changes from the budget request:

a general reduction of $95,000,000;

GLOBE is reduced by $5,000,000;

an increase of $4,000,000 for cardiac imaging;

an increase of $4,000,000 for the space radiation program;

an increase of $2,000,000 for high speed civil transport research;

an increase of $5,000,000 for the WindSat program;

an increase of $12,000,000 for radar satellite;

an increase of $10,000,000 for museum programs;

an increase of $12,000,000 for advanced space transportation;

an increase of $10,000,000 for the TIMED program; and

an increase of $10,000,000 for education programs.

The conferees have agreed to provide $12,000,000 for a new start for the Light SAR program. The conferees understand that this amount of funding is in conformance with NASA's expected execution of this program for fiscal year 1997 and that additional funding will be included in the fiscal year 1998 budget submission.

With the exception of the $5,000,000 reduction to GLOBE, the conferees are directing no specific reduction to Mission to Planet Earth programs.

The conferees agree to provide an additional $10,000,000 for education programs. Included in the increase is $300,000 for upgrades to the Mobile Aeronautics Education Laboratory, $250,000 is provided for a feasibility study to create a national residential high school at Lewis Research Center, $250,000 is provided to begin replication of the Science, Engineering, Mathematics, and Aeronautics Academy program, and $300,000 is for the Classroom of the Future's Astronomy Village Program to increase the learning effectiveness of the Classroom by assessing and improving student scientific inquiry abilities.

The conferees designated $10,000,000 for museum programs. It is the intent of the conferees that $8,000,000 is to be used for the purposes outlined on page 82 of House Report 104-628. An additional $2,000,000 is provided for initial development of a national prototype space education curriculum. This curriculum shall be designated to heighten student interest and involvement in science, technology and space programs by utilizing the education and technology base of NASA and the nation's science museum and planetarium network. The conferees expect NASA to provide approximately $1,000,000 of these funds to the Bishop Museum, Honolulu, Hawaii for development of the curriculum, with the remainder to be spent on replication and distribution of the curriculum to educational institutions nationwide.

MISSION SUPPORT

The conferees direct the NASA Administrator to submit a multi-year workforce restructuring plan on how NASA will achieve its stated fiscal year 2000 full-time equivalent (FTE) goal with the agency's fiscal year 1998 budget and updated annually with budget submissions through fiscal year 2000. This plan shall: 1) outline a timetable for restructuring the workforce at NASA Headquarters and field Centers; 2) incorporate annual FTE targets by broad occupational categories and address how these targets reflect the respective missions of Headquarters and the field Centers; 3) describe personnel initiatives, such as relocation assistance, early retirement incentives, and career transition assistance which NASA will use to achieve personnel reductions. The plan shall minimize social and economic impacts, using "reductions in force" to the minimum extent practicable. Consistent with applicable law and regulation, NASA shall provide advance notice of separations to employees and local entities and appropriate assistance to affected employees.

The conferees are concerned about NASA's plans to delay the Consolidated Space Operations Contract. In particular, the conferees note the potential increased costs associated with this delay. Given these potential costs, the conferees ask NASA to provide, within 90 days, the rationale behind the decision to delay and to outline its plans for the Consolidated Space Operations Contract.

The conferees direct NASA to implement a Wallops 2000 plan for NASA activities at Wallops Island which maintains sufficient agency investment to ensure stabilization, as well as full utilization, of the Wallops workforce.

ADMINISTRATIVE PROVISIONS

Amendment No. 89: Replaces Senate administrative provision providing for payments of up to $25,000 to employees who volunteer for separation from NASA with a new provision which gives the NASA Administrator authority to transfer up to $177,000,000 among accounts.

The conferees have deleted the administrative provision which will allow for payments of up to $25,000 to employees who volunteer for separation from NASA. Instead the conferees have included a general provision (Section 439) which will allow for payments of up to $25,000 to employees who volunteer for separation, provides for repayment to the government of the separation incentive if the employee accepts reemployment with the Government or receives an annuity for disability, requires an additional agency contribution to the Civil Service Retirement and Disability Fund, reduces full-time equivalent employment levels, and requires NASA to report to the Office of Personnel Management by March 31 of each fiscal year on the execution of this provision.

In place of the separation incentive administrative provision, the conferees have also included an administrative provision providing transfer authority to NASA. It is the intent of the conferees that this authority will be used to transfer funds between the Science, Aeronautics and Technology account and the Human Space Flight account to the extent required for development/construction to maintain the schedule of the space station program. To ensure that there is no adverse effect on any NASA program, the conferees provide general transfer authority of up toe $177,000,000 to be used at the discretion of the Administrator and subject to the case-by-case approval by the House and Senate Appropriations Committees. The conferees note that this authority is required because the current split between development/construction funding and science funding is not properly phased.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

Amendment No. 90: Appropriates $2,432,000,000 for Research and Related Activities, as proposed by the Senate instead of $2,431,110,000 as proposed by the House.

The conferees agree that the reduction from the budget request, $40,000,000, is to be allocated by the National Science Foundation in accordance with its internal procedures for resource allocation, subject to approval by the House and Senate Committees on Appropriations.

Of the increase provided for Research and Related Activities above the fiscal year 1996 level, the conferees direct the National Science Foundation to make available up to $1,400,000 to pay any tariff duties assessed on the Gemini project, consistent with Senate language under the Major Research Equipment account. In providing these funds, the conferees direct the Foundation to place them in reserve prior to all directorate allocations made in conjunction with their fiscal year 1997 operating plan.

The conferees note that government policy in the area of duties and/or tariffs on scientific instruments is under review with regard to this program and encourage the U.S. Customs Service to act in a responsive manner by recognizing that any assessed duties on this program will be paid by an arm of the U.S. government, in this case the National Science Foundation, and will do nothing to increase the net financial position of the United States Government.

The conferees are in receipt of a report by the National Science Foundation, requested by the House and Senate Committees on Appropriations, which addresses the possible addition of a new Navy-owned, university-operated Class 1 Oceanographic Research Vessel to the academic fleet. The report concludes that there is not current need to replace any of the four large general purpose oceanographic ships currently in the academic fleet because all of these ships have 10 to 30 years of service life remaining. While the conferees on the Department of Defense Appropriations Bill for fiscal year 1997 have agreed to provide funding for construction of a new large vessel, such a vessel is not needed at this time and the cost of operating the ship will most likely exacerbate an already constrained budget. Therefore, the conferees direct the Office of Naval Research to work with the University-National Oceanographic Laboratory System through its normal review process to ensure that the vessel will fit the needs of the oceanographic community and takes into consideration the overall balance between research funding and ship operations funding.

MAJOR RESEARCH EQUIPMENT

The conferees do not agree with the Senate direction to use $1,400,000 of funding in the Major Research Equipment account to pay U.S. Customs duties assessed on the Gemini Telescope project. The conferees have addressed this issue elsewhere in the report.

EDUCATION AND HUMAN RESOURCES

Amendment No. 91: Appropriates $619,000,000 for Education and Human Resources, instead of $612,000,000 as proposed by the House and $624,000,000 as proposed by the Senate.

The conference agreement includes the following reductions:

(1) $2,000,000 from grants for graduate fellowships;

(2) $5,000,000 from grants for undergraduate curriculum development;

(3) $2,500,000 from K–12 curriculum and assessment development; and

(4) $3,000,000 from research, evaluation and communication.

The conferees agree that these reductions are provided as guidance to the National Science Foundation; these funding levels are subject to established reprogramming procedures, subject to the approval of both the House and Senate Appropriations Committees.

Funding for Informal Science is increased by $10,000,000 which will result in a total of $36,000,000 for this vitally important program. The conferees expect that these additional funds will be used to support and strengthen systemic reform efforts funded elsewhere in this account. In addition, the conferees request that the National Science Foundation report back to the Committees on Appropriations of the House and Senate on its plans for implementing this direction. Funding for EPSCoR is increased by $2,500,000 for a total of $38,410,000. The increase for EPSCoR is to be used for advanced computing, networking and joint projects.

SALARIES AND EXPENSES

Amendment No. 92: Appropriates $134,310,000 for salaries and expenses as proposed by the Senate instead of $125,200,000 as proposed by the House.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

Amendment No. 93: Appropriates $49,900,000 for payment to the neighborhood reinvestment corporation as proposed by the Senate instead of $50,000,000 as proposed by the House.

TITLE IV—GENERAL PROVISIONS

Amendment No. 94: Inserts language proposed by the Senate modifying the travel expense limitation in section 401 to accommodate the change to budget estimates, including object classifications, which have been rounded to the nearest million dollars.

Amendment No. 95: Inserts language proposed by the Senate authorizing benefits for offspring of Vietnam veterans with spina bifida, and to offset the cost of such benefits by requiring that there be an element of fault as a precondition for entitlement to compensation for a disability or death resulting from health care or certain other services furnished by VA, amended to delay the effective date until October 1, 1997, unless legislation is enacted to provide for an earlier effective date. This delay will provide the committees of jurisdiction an opportunity to address this matter.

Amendment No. 96: Deletes language proposed by the House and stricken by the Senate prohibiting the payment of salaries of personnel who approve acquisition of supercomputing equipment when the Department of Commerce has determined that the equipment is being offered at other than fair value.

The National Center for Atmospheric Research (NCAR), which is operated largely with support from the National Science Foundation, has been conducting a competition for the acquisition of a new supercomputer. NCAR, in its bid process, selected a computer offered by a Japanese company. On August 20, 1996, the Department of Commerce announced that it was initiating an investigation to determine whether Japanese vector supercomputers were being dumped in the United States. Included in this investigation was a bid submitted in the NCAR procurement. On that same date, the National Science Foundation requested that the NCAR procurement be held in abeyance.

On September 11, 1996, the U.S. International Trade Commission determined in a preliminary investigation that there is a reasonable indication that a U.S. industry is threatened with material injury by reason of imports of vector supercomputers that are allegedly sold at less than fair value. As a result of this determination, the Department of Commerce will continue to conduct its antidumping investigation on imports of such equipment, with a preliminary determination expected by January 6, 1997, and a final determination by March 1997.

Amendment No. 97: Deletes language proposed by the House and stricken by the Senate prohibiting NASA from providing funds for the National Center for Science Literacy, Education and Technology at the American Museum of Natural History.

Amendment Nos. 98–100: Deletes language proposed by the House and stricken by the Senate prohibiting the use of funds made available by this Act for any institution of higher education which excludes Reserve Officer Training Corps or military recruiting from its campus or any entity that fails to comply with reporting requirements of law concerning the employment of certain veterans.

Amendment No. 101: Deletes language proposed by the House and stricken by the Senate increasing VA's medical care appropriation by $40,000,000 and general operating expenses appropriation by $17,000,000, offset by an across-the-board reduction of 0.4 percent. The conferees note that scorekeeping credit was not given for the offset.

Amendment No. 102: Deletes language proposed by the House and stricken by the Senate increasing VA's medical care appropriation by $20,000,000 and medical and prosthetic research appropriation by $20,000,000, offset by eliminating all funds for the Corporation for National and Community Service; and inserts language increasing the medical care appropriation carried in title I by $5,000,000. This amount, together with the funds carried in title I under the medical care heading, will provide $17,013,447,000 for medical care, an increase of $5,000,000 above the Administration's budget request.

Amendment No. 103: Deletes language proposed by the House and stricken by the Senate prohibiting the Environmental Protection Agency from using its funds to allow the importation of PCB waste to be incinerated in the United States.

Amendment No. 104: Deletes language proposed by the House and stricken by the Senate prohibiting the Environmental Protection Agency from using hazardous substance superfund funding to implement any retroactive liability discount reimbursement.

Amendment No. 105: Deletes language proposed by the House and stricken by the Senate simplifying downpayment methods on FHA-insured loans, and inserts language proposed by the Senate regarding the calculation of a downpayment on an FHA mortgage originated in Alaska or Hawaii and delegating single family mortgage insuring authority to direct endorsement mortgagees, amended to limit the applicability of the downpayment provisions to fiscal year 1997.

Amendment No. 106: Deletes language proposed by the House and stricken by the Senate prohibiting the National Aeronautics and Space Administration from continued participation in a joint Russia-France-United States cooperative life sciences experiment program known as Bion 11 and Bion 12.

Amendment No. 107: Deletes language proposed by Senate regarding compliance by the Environmental Protection Agency with international obligations under the World Trade organization. The House bill contained no similar provision.

The conferees have deleted, without prejudice, language expressing the sense of the Senate that EPA should provide a full and open administrative process in the formulation of any final rule regarding the importation of reformulated and conventional gasoline. The conferees note that, in response to a dispute settlement finding against the United States by the World Trade organization, the United States informed the WTO on June 19, 1996 that the U.S. intends to meet its international obligations with respect to the EPA requirements on imported reformulated and conventional gasoline. The conferees recognize that EPA has initiated an open process to examine any and all options for compliance with international obligations of the United States in which a key criterion will be fully protecting public health and the environment, and fully support such an open process and the involvement of interested environmental and industrial organizations.

However, the conferees expect that this process will not result in the reinstatement of the rule title "Regulations of Fuels and Fuel Additives: Individual Foreign Refinery Baseline Requirements for Reformulated Gasoline" proposed on May 3, 1994 (59 Fed. Reg. 84), or one similar to it. Further, the conferees direct the Administrator of the Environmental Protection Agency, in evaluating any option for compliance with international obligations, to: (1) take fully into account the protection of public health and the environment and the international obligations of the United States as a member of the World Trade Organization; (2) ensure that the compliance review process does not result in the degradation of gasoline quality required by the Clean Air Act with respect to conventional and reformulated gasoline; (3) not recognize individual foreign refiner baselines unless the Administrator determines that the issues of auditing, inspection of foreign facilities, and enforcement have been adequately addressed; and (4) provide a full and open administrative process in the formulation of any final rule.

Amendment No. 108: Inserts language proposed by the Senate permitting fiscal year 1997 and prior year funds provided under section 320(g) of the Federal Water Pollution Control Act, as amended, to be used for implementation (rather than just development) of conservation and management plans made pursuant to this section.

Amendment No. 109: Inserts language proposed by the Senate requiring a plan for the allocation of VA health care resources so veterans have similar access to such care regardless of where they live.

The conferees recognize that precipitous changes in allocations amongst VA's facilities could be very difficult for individual facilities to manage. While the conferees support VA's efforts to amend its resource allocation methodology based on a capitation model—which is intended to bring about a more equitable distribution of resources—they expect the Department to ensure that fiscal year 1997 serve as a "bridge" in moving to the new system so as to provide an adjustment period for facilities to adapt to the new model. The conferees further expect that no veteran currently receiving care by the VA will be denied VA health care services as a result of the new allocation methodology. The VA is to prepare a report by January 31, 1997, on its progress in adjusting to and impacts of the new methodology, and be prepared to discuss this matter during the fiscal year 1998 budget hearings.

Amendment No. 110: Inserts language proposed by the Senate requiring a General Accounting Office audit on staffing and contracting of the Office of Federal Housing Enterprise Oversight.

Amendment No. 111: Amends language proposed by the Senate prohibiting the consolidation of NASA aircraft based east of the Mississippi River to the Dryden Flight Research Center.

Amendment No. 112: Deletes language proposed by the Senate revising the name of the Japan-United States Friendship Commission.

Amendment No. 113: Inserts new language on separation incentive payments for NASA personnel which had been included in the Senate bill as an administrative provision and modifies the language to restrict its applicability. Modifies language proposed by the Senate authorizing the conveyance of certain real property under the jurisdiction of NASA to the City of Downey, California, amended to assign certain responsibilities to the Administrator of the General Services Administration.

The conferees intend that the concurrence of the Administrator of the General Services Administration in the conveyance by NASA of Parcels III through VI of the NASA Industrial Plant, Downey, California to the City of Downey shall be based upon completion of a disposal screening for possible utilization of the subject parcels by other Federal agencies initiated by GSA on September 10, 1996. Furthermore, it is the intent of the conferees that nothing in this amendment shall prevent the City of Downey from entering into ground leases for periods in excess of 20 years in order to secure construction financing without triggering the reconveyance provision.

TITLE V—SUPPLEMENTALS

Amendment No. 114: Inserts new heading as proposed by the Senate.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

Amendment No. 115: Inserts language appropriating a supplemental amount of $100,000,000 for compensation and pensions as proposed by the Senate.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

Amendment No. 116: Inserts language providing additional 1996 commitment authority of $20,000,000,000 in the guarantees of mortgage-backed securities loan guarantee program account as proposed by the Senate.

TITLE VI—NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT OF 1996

Amendment No. 117: The conference agreement includes the Senate amendment with modifications, including the deletion of offsets. It incorporates the requirements of the provision and the authority to enforce the requirements into the new part 7 of subtitle B of ERISA and the new title XXVII of the Public Health Service Act as established by P.L. 104-191. It does not include the exception to the requirement for the 48-hour or 96-hour minimum stay in the case that the plan provides for post-delivery follow-up care. It adds a prohibition that a health plan cannot restrict benefits for any portion of the required minimum 48-hour or 96-hour stay in a manner which is less favorable than the benefits providing for any preceding portion of such stay. In addition, the conference agreement provides that nothing in this provision is intended to be construed as preventing a group health plan or issuer from imposing coinsurance, deductibles, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or newborn child under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay. It is the intent of the conferees that cost-sharing not be used in a manner that circumvents the objectives of this title. It provides for a modification to the notice requirements by conforming them to the summary of material modifications under ERISA. In general, it conforms the provision relating to preemption to State laws to the Health Insurance Portability and Accountability Act of 1996. Notwithstanding section 731(a)(1) of ERISA and sections 2723(a)(1) and 2762 of the Public Health Service Act, the new provisions shall not preempt a State law that requires health insurance coverage to include coverage for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations. In addition, those sections shall not be construed as superseding a State law that leaves decisions regarding the appropriate hospital length of stay in connection with childbirth entirely to the attending provider in consultation with the mother. In addition, it is the intent of the conferees that, consistent with section 704 (redesignated as section 731) of ERISA and section 2723 of the Public Health Service Act, the application of the preemption provision should permit the operation of any State law or provision which requires more favorable treatment of maternity coverage under health insurance coverage than that required under this title.

It is the intent of the conferees that health plans have sufficient flexibility to encourage or specify that attending providers follow nationally recognized guidelines for maternal and perinatal care in determining when early discharge is medically appropriate.

Throughout the title, the conferees have used the term "hospital length of stay" to indicate that a requirement for coverage of a 48-hour stay following vaginal delivery and a 96-hour length of stay following a cesarean section delivery is triggered by any delivery in connection with hospital care, regardless of whether the delivery is in a hospital inpatient or outpatient setting.

It is the intent of the conferees that a detailed series of conforming changes shall be made as soon as possible to the Internal Revenue Code, specifically subtitle K of the Internal Revenue Code of 1986 (as added by section 401(a) of the Health Insurance Portability Accountability Act of 1996), in order to fully implement these provisions as part of chapter 100 of the Code.

TITLE VII—PARITY IN THE APPLICATION OF CERTAIN LIMITS TO HEALTH BENEFITS

Amendment No. 118. The conference agreement includes the Senate amendment with modifications. It incorporates the requirement into the new part 7 of subtitle B of title I of ERISA and the new title XXVII of the Public Health Service Act as established by Public Law 104-191. The construction clause has been modified to state that nothing in this section shall be construed as—

(1) requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits; or

(2) in the case of such a plan or coverage that provides such mental health benefits, as affecting the terms and conditions (including cost sharing, the limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan or coverage, except as specifically provided in regard to parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits.

This language affirms the intent of conferees that group health plans and issuers retain the flexibility, consistent with the requirements of the Act, to define the scope of benefits, establish cost-sharing requirements, and to impose limits on hospital days and out-patient visits. Parity of mental health services with medical and surgical services defined under a group health plan is limited solely to any aggregate dollar life-time limit and any annual dollar limit under such a plan. The conference agreement clarifies that the requirements apply to each group health plan, and, in the case of a group health plan that offers two or more benefit packages, the parity requirements shall be applied separately with respect to each such option. In addition, the conference agreement applies an exemption to small employers as defined in the Health Insurance Portability and Accountability Act; adds certain definitions; and applies the requirements of the provision to group health plan years beginning on or after January 1, 1998. The agreement does not include the Senate language relating to effective dates for the Federal Employee Health Benefit Plan.

It is the intent of the conferees that a detailed series of conforming changes shall be made as soon as possible to the Internal Revenue Code, specifically subtitle K of the Internal Revenue Code of 1986 (as added by section 401(a) of the Health Insurance Portability and Accountability Act of 1996), in order to fully implement these provisions as part of chapter 100 of the Code.

The conferees intend that a limit be considered to apply to "substantially all medical and surgical benefits" if it applies to at least two-thirds of all the medical and surgical benefits covered under the group health plan's benefit package.

It is the intent of the conferees that, consistent with section 704 (redesignated as section 731) of ERISA and section 2723 of the Public Health Service Act, the application of the preemption provision should permit the operation of any State law or provision which requires more favorable treatment of mental health benefits under health insurance coverage than that required under this section.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1997 recommended by the Committee of Conference, with comparisons to the fiscal year 1996 amount, the 1997 budget estimates, and the House and Senate bills for 1997 follow:

New budget (obligational) authority, fiscal year 1996	$82,442,966,000
Budget estimates of new (obligational) authority, fiscal year 1997	87,820,371,000
House bill, fiscal year 1997	83,995,260,000
Senate bill, fiscal year 1997	84,810,153,000
Conference agreement, fiscal year 1997	84,800,283,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1996	+2,357,317,000
Budget estimates of new (obligational) authority, fiscal year 1997	−3,020,088,000
House bill, fiscal year 1997	+805,023,000
Senate bill, fiscal year 1997	−9,870,000

JERRY LEWIS,
BARBARA F. VUCANOVICH,
JAMES T. WALSH,
DAVID L. HOBSON,
JOE KNOLLENBERG,
RODNEY P. FRELINGHUYSEN,
BOB LIVINGSTON,
LOUIS STOKES,
ALAN B. MOLLOHAN,
JIM CHAPMAN,
MARCY KAPTUR,
DAVID R. OBEY,
Managers on the Part of the House.

CHRISTOPHER S. BOND,
CONRAD BURNS,
TED STEVENS,
RICHARD C. SHELBY,
ROBERT F. BENNETT,
BEN NIGHTHORSE CAMPBELL,
MARK O. HATFIELD,
BARBARA A. MIKULSKI,
PATRICK J. LEAHY,
J. BENNETT JOHNSTON,
FRANK R. LAUTENBERG,
J. ROBERT KERREY,
ROBERT C. BYRD,
Managers on the Part of the Senate.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2464. An act to amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes;

H.R. 2512. An act to provide for certain benefits of the Pick-Sloan Missouri River basin program to the Crow Creek Sioux Tribe, and for other purposes;

H.R. 2982. An act to direct the Secretary of the Interior to convey the Carbon Hill National Fish Hatchery to the State of Alabama;

H.R. 3120. An act to amend title 18, United States Code, with respect to witness retaliation, witness tampering and jury tampering; and

H.R. 3287. An act to direct the Secretary of the Interior to convey the Crawford National Fish Hatchery to the city of Crawford, Nebraska.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3068. An act to accept the request of the Prairie Island Indian Community to revoke their charter of incorporation issued under the Indian Reorganization Act;

H.R. 3159. An act to amend title 49, United States Code, to authorize appropriations for fiscal years 1997, 1998, and 1999 for the National Transportation Safety Board, and for other purposes;

H.R. 3378. An act to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and other third party payors;

H.R. 3539. An act to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes; and

H.R. 3723. An act to amend title 18, United States Code, to protect proprietary economic information, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3539) "An Act to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints, Mr. PRESSLER, Mr. STEVENS, Mr. MCCAIN, Mr. HOLLINGS, and Mr. FORD, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 39. An act to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

NEW REPUBLICAN MAJORITY CHANGES DIRECTION OF THE NATION

The SPEAKER pro tempore (Mr. MILLER of Florida). Under the Speaker's announced policy of May 12, 1995, the gentleman from Connecticut [Mr. SHAYS] is recognized for 60 minutes.

Mr. SHAYS. Mr. Speaker, I appreciate the opportunity to follow my colleague from California, and also appreciate your willingness to take your time. I know you probably are getting ready to get back to your district. I will not take my full hour. I am not going to tell you how much time I will take, but I think it will be significantly less than that.

Mr. Speaker, I cannot tell you what it is like to think about what we have done in the last 2 years, because I have tremendous pride and satisfaction and gratitude that I have had the opportunity to serve in Congress and to be part of this new majority that really has attempted, and I think succeeded, in changing the direction that this country is headed.

I think we are starting to end 40 years of bloated government, inefficient government, ineffective government and starting to turn the power and the money and the influence back home where it belongs. That is where we are attempting to empower people back home, because we have, one, faith in their ability to make the right decisions but, also, that they will make the decisions that are necessary for them in their own local communities.

When we set out on this journey almost a year ago today, we were running on a Contract With America; 8 reforms on the opening day of the session and 10 reforms in the first 100 days. I remember some in the editorial boards would say how could I be part of this "Contract With America," as if I had done something wrong. The more I thought about it, I thought what an absurdity. We are passing eight reforms. We are passing 10 major issues in the first 100 days; and it does not criticize President Clinton, it does not criticize then the majority in Congress, our colleagues on the other side of the aisle. It is a positive plan for America.

So I wondered whey they asked the question. I proceeded to respond by simply asking them: What do you think of the majority party's Contract With America, the 8 things they want to do on the opening day of Congress; the 10 things they want to do in the first 100 days? And I just enjoyed the silence. And I said is it not amazing that the minority party then, this Republican Party, knew what it wanted to do, said then it would do, and was proud of that effort?

When we got elected people said we used this contract to get elected but we would not seek to implement it because it might be too controversial and take on some of the special interests that had been entrenched so long in Washington and we might stir up some things. We clearly stirred up some things, but for the good of the Nation.

Mr. Rabin, for former Prime Minister of Israel said: Politicians are elected by adults to represent the children. This is about what kind of world they going to have.

Mr. Speaker, we set out to implement these eight reforms the first day of Congress. The first was a bill that, Mr. Speaker, you and I worked on closely: Getting Congress under all the laws that we impose on everyone else. We were exempted for OSHA, civil rights, fair labor practices, the 40-hour work week. We put ourselves under the same laws as everyone else. What a great way to start that Congress.

We also reduced the size of committees by a third, reducing the staff by a third. We reduced by $220 million the size of our budget. So we started to set the example. We were going to ask government to do with less. We were going to start with our own Congress.

And so we saved in the last 2 years $420 million. Our budget is actually $220 million less than it was 2 years ago. So not only did we not add money for inflation, we actually are spending $220 million less; and over 2 years saved the taxpayers almost a half a billion in expenditures.

We got rid of absurd perks like the ice bucket. I am embarrassed to suggest that we even had the ice buckets, but before the refrigerators we had ice, but after the refrigerators we had ice. We had 28 people in this Congress that would go around and drop off an ice bucket to everyone, even though we had ice in our refrigerators. We eliminated that kind of absurdity and others as well.

We privatized some of the operations of Congress, making it more efficient and effective and making it more logical. There were times when we needed to use an office for extreme times of mail going out, and other times there was not enough mail going out. Yet we hired enough people to maximize for when we had that kind of workload.

We got rid of proxy voting. Proxy voting was an interesting concept. It was a sheet of paper that the chairman had in his pocket and he would take the sheet out of his pocket and when an amendment was offered by his own party that he did not like, the chairman—I say "he" because until this year there was never a woman that was chair of a committee—and the chairman would take it out, and he would have the list of all of his committee members and he would vote for them.

That was called proxy voting. It was right on his list. So the chairman was so powerful that he could even thwart the will of his own party and the will of his members because he always had enough in his pocket to defeat the amendment. So we did that, and we proceeded after the opening day of the session to do things like voting for a balanced budget amendment.

The press got back into it. They said how could we be for what was really a positive plan for America. Those 8 reforms on opening day; the 10 reforms in the first 100 days; asking how we could be supportive of something that did not criticize Congress or the President. A positive plan. We said we would do it and we started to do it. And then they said, "Well, you used it to get elected but you are not going to implement it."

Mr. Speaker, we voted for a balanced budget amendment. They said that was easy. Anyone could vote for an amendment. But you are not going to vote to balance the budget. And then we started to vote to balance the budget.

We dealt with tort reform and malpractice reform of some of these issues that the President vetoed, saving Medicare and so on. We proceeded to balance the Federal budget and make some tough decisions.

We have three primary objectives. We want to get our financial house in order and balance the Federal budget; we want to save our trust funds, particularly Medicare, for future generations; and, we want to transform this caretaking social and corporate and agricultural welfare state into a caring opportunity society. That is what we wanted to do, and that is what we set out to do.

Now, why would we balance the budget? Because in the last 22 years our national debt has gone up 10 times, from $480 billion to $5.2 trillion. Not doubled, not tripled, not quadrupled; 10 times in 22 years in a time of relative peace.

And getting back to Mr. Rabin, he said we are elected to represent our children. Just think what we are doing by ignoring that. We have taken a debt that was $480 billion and allowed it to grow to $5.2 trillion, and guess who pays for it? Our kids. That is the problem of deficit spending. We are asking someone else to pay for what we get to enjoy and what we get to consume.

Now, we do not have a fetish with balancing the budget. In other words this is not the end-all and be-all. That is simply not it. But how do you build a strong structure on a foundation that is crumbling? Getting our financial house in order is the financial basis on which we built smart, sensible, caring programs.

So that is what we are about. We are about building smart, caring, sensible programs and getting rid of a whole host of programs that have been there for so long that they do not make sense. They are just kind of like that ice bucket that we got rid of. It is symbolic, but think of how stupid it was to have the ice bucket every day coming to our office when we have refrigeration in our office. Spending $400,000 a year for those ice buckets times two, $800,000 in the course of 2 years for something dumb.

Now, you can relate to getting rid of an ice bucket because it did not have a particularly good sounding name, but there are a host of programs that we have.

The point about the ice bucket is simply this: Most people can understand the waste that exists there. But then there are programs that we have in a variety of departments and agencies that are just as wasteful. They have good-sounding names. They may be in the Education Department or they may be in HUD, but they end up being very small programs that have no critical mass and most of the money gets gobbled up by the administration and gets consumed by the executive branch.

I am not blaming this Government, I am blaming the process, and I am actually critical of the fact that we failed to eliminate these programs for so long until now. We are getting rid of some programs with good-sounding names that simply have no critical mass and do not accomplish anything. So we are balancing the Federal budget to get our financial house in order so that we have a strong foundation to do smart, sensible programs.

We are trying to save our trust funds, particularly Medicare. Medicare is fascinating. We are told in this political environment we are never to talk about Medicare, because it is called the third rail. You talk about Medicare, people on the other side can demagog it, and then you get hurt and you lost the election. Case closed. Unfortunately, with that kind of attitude, Medicare will continue to go deeper and deeper into the direction that it is headed which is literally bankruptcy.

□ 1100

How do I know that? Because we have one report from the administration that says, last year, that Medicare would go bankrupt in the year 2002. We then had them come back to us and then so what did we do? What did this Congress do? This Congress tried to save Medicare, to preserve and protect, basically to defend the system against bankruptcy. Medicare is health care for the elderly and for the disabled, and so what did we do? We devised a very important plan that saves this program.

In the process, we did not cut, but allowed the program to increase.

This is the most important thing I think I need to say. We allowed Medicare to grow from about $178 to $289 billion, a 60-percent increase from last year now to the 6th year in the year 2002. We allowed it to grow 60 percent. Some said, you have a lot more seniors. It is true. On a per senior basis we allow it to grow 49 percent. From $4,800, to $7,100.

So on a per person basis we are allowing Medicare to grow significantly in terms of total dollars, 7 percent more each year, 60 percent total in the course of the difference between last year to the 7th year, and on a per person basis it is going from $4,800 to $7,100. So we put lots more money into the program. But we were able to save the program.

How did we save the program? We did not save it by increasing the copayment. We did not save it by increasing the deductible. And we did not save it by increasing the premium. Seniors were going to be asked to pay 31.5 percent of their premium. We did not ask that that increase and the taxpayers would continue to pay 68.5 percent. What did we do to save the program? We allowed the private sector to come in and compete on a fair basis with a fee-for-service system and offer better programs. If a senior wanted to, a senior could continue to get their traditional fee-for-service program with no increase in copayment, no increase in the deductible or the premium. But we allowed the private sector to come in, and the only way the private sector was allowed to come into the program under our legislation was if they offered eye care, if they offered dental care, if they offered maybe a rebate on the copayment, deductible. Some were going to pay the premium and some even said they could pay the Medigap in some parts of the country. There is so much money in Medicare that the private sector said they knew that they could offer better programs than the traditional Medicare system.

Then we could have seniors simply say, I like my Medicare system, but if I can get eye care and dental care under the new Medicare system and I can get a rebate on the copayment or the premium and actually maybe even have my Medigap covered, I am going to go into that program.

A senior goes into that program. They get the eye care, the dental care. They get the rebate on their copayment and deductible. They have more money. They even get money for prescription drugs. Not a bad deal, the copayment and deductible and premium did not go up.

But let us say for some reason they did not like the new program. Maybe they did not like that HMO. Maybe they did not like the doctors. Maybe they did not like the attitude or the billing process. Maybe there was a reason they did not like it. For the next 24 months we allowed seniors to go back into their traditional fee-for-service program.

I suspect someone may have said, I am staying in my fee-for-service. I do not want to think about getting anything better. So they would never have gone into the program to start with. But say someone who is younger might have gone into the program. Then they did not like it, they could go back. Then they could get another program that they thought was better.

What was the big mistake that we had in our program. We made a big mistake. One big mistake. We saved $270 billion. I thought, that is a mistake? But that is what the President said. He did not call it a savings. He called it a cut. So did my colleagues on the other side of the aisle. Instead of allowing the program to grow at 10 percent a year we said it would grow at 7 percent a year. We put 60 percent more into the system. We gave a 49-percent increase per beneficiary. But we saved $270 billion. That is, in my judgment, something we should be very, very proud of.

I am happy about the bill that the chairman, the gentleman from California [Mr. LEWIS], is bringing forward. There is more money in it for HOPWA, housing opportunities for people with AIDS. He had said on the floor of the House that we would try to address that problem. I understand there is more money for EPA that both sides could agree on and a program that I am very supportive of, national service. I look forward to getting this bill and debating it because at the same time we are still slowing the growth and saving significant sums.

Mr. Speaker, just to conclude my point about Medicare, we did not increase the copayment, the deductible, or the premium. We gave seniors choice just like we have as Federal employees and we saved $270 billion. That $270 billion, half of which, as the Speaker knows because he led this fight, of the $270 billion, we put $132 billion right back into Medicare, part A and the $138 billion was available for Medicare, part B. We were looking to save the program.

As the Speaker knows, because he has been a leader in this field and has spoken out so often, we know today that Medicare is losing $22 million each day, $22 million each day. We know that next year it will lose $36 million each day and in the year after it will lose $60 million each day unless we save this program by slowing its growth and taking the money that we slow, that $270 million, that savings, and plow it right back into the program. That is what we are doing.

We did not increase the copayment, the deductible, or the premium and we saved Medicare until at least the year 2010. What to me was really surprising was how the President could call $270 billion a cut. I illustrate it, whatever opportunity I get, in saying that if I told my daughter that she could buy a car for $18,000 but I told her it had to be a full-sized car for $18,000, she could not have bucket seats, she could not have power windows and she could not have a CD, she could not have those things. I did not want her to buy a smaller car with those things. It had to be a good, large car that I wanted her to own. So I said, consistent with my trying to teach you how to do your own thing, you will go buy your own car.

So I give her the $18,000 or tell her it is available. She spends a week looking and comes back all excited and says, "Dad, I found the car of my dreams. I just love it, Dad, And, Dad, it has a sun roof and leather seats and it even has a CD." And I say to her, my daughter Jeramy, I say, "Jeramy, I told you you could not do those things. I told you not to get a car with all those extras. I told you to get a full-sized car." She says, "Dad, I did, I got a full-sized car but I got all those extras and here is $2,000 back because I did not spend $18,000, I only spent $16,000." And it would have been just as absurd if I had done this: I am ashamed of you for getting all these extras in the car and doing it and cutting $2,000. That would be absurd. That is no different than what the President did.

We did not cut Medicare. It grew 7 percent a year, 60 percent from the last year to the 7th year, 49 percent per beneficiary from $4,800 to $7,100, but we gave them no increase in copayment or deductible, no increase in the premium, but what did we do? We gave them choice, lots of choice. They will get better care, and we saved the program because we got $270 billion of savings, not cuts, $132 million of it to go into Medicare, part A and $138 million to do and be available for Medicare, part B, which gets me to the third area of concern.

The third area of concern is simply that we are trying to change this caretaking society into a caring society. The way we do that is to make government smaller and to empower people. All of those in our own family that we love dearly, we try to teach them to grow the seeds. The people we love the most, the people we care about the most, we do not give them something. We teach them, we help them, we push them. We encourage them to grow as individuals.

I would certainly never say to my daughter, "you do not need an education," and I certainly would not say to her, "you do not need a job because I will be there." What a destructive thing to do. But that is what government does. We do not do it for welfare, for people who do not have education and the poor who have children. We do it for corporations. We have certain tax write-offs, which I call corporate loopholes, and others call it that as well. It is really, in my judgment, programs that make large corporations dependent on government, and they do not need to be. It is the reason why lobbyists become so important in this country, because if government was not so important, if it was not doing things for welfare, for businesses and agriculture, et cetera, and it was not so intrusive in your life, lobbyists would not be so important in our life.

We want to make government less intrusive. We want to make it smaller. And we simply want to end the welfare that is destroying individuals. It is destroying corporations, and it is destroying the farmer. We are trying to help each become independent. That is why we passed the freedom to farm bill. We are allowing farmers to farm, not telling them they do not have to farm and then they are given a subsidy. They can compete. They can maximize the return on their farm. We are getting the Government out of the way.

We are getting the government to be less supportive of things that are simply not necessary for corporations because we want them to compete without a lot of rules and regulations, except for health and safety and environmental reasons. In the process, we are trying to strengthen people. We are trying to help individuals grow the seeds and not give them the food.

That is why I am so supportive of our welfare reform bill. What a destructive thing to have four, not three, four generations of people on welfare. They are doing what their parents did and they are doing what their grandparents did. They are staying on welfare because they were never taught to dream. They were not given the kind of push they needed and they were not given the kind of care they needed.

We had job training programs that did not work because these were job training programs that said, you come in here and stay a bit of time. We teach you something and then you are out on your own. Our job training programs, our career bill is designed so differently. It is designed to say, we want to give you the day care, the job training, and we are going to follow you through work. Six months from now we are still going to be on your back. We are going to be pushing, encouraging you.

The State of Connecticut has welfare reform, and it is very caring legislation. It is the kind of reason why we passed our bill in Washington. The caring legislation is this. We have 2 tracks, those who we think are employable and those who are not. Maybe they have mental challenges. Maybe they do not speak English well enough now so we have to teach them English. They have reasons why it may not be easy for them to get a job right away. But for the vast majority, we say, you are going to have to work. And Connecticut says, 21 months. And it does it this way: It helps people get the job. It allows them, this is really terrific, it does not penalize them for getting a job. They still can keep their entire welfare cash payment, they still keep their health care for the 21 months. So they get a job, they establish themselves for 2 years, they have this extra money coming in because they have their jobs plus they have the actual welfare benefits plus they get the health care benefits.

Mr. Speaker, I remember in a Committee on the Budget meeting one time you pointed out one reason why people do not get off welfare is because they lose their health care. I remember in the dialogue that we had on the Committee on the Budget, the point was made that people should be able to keep their health care when they are pushed off of welfare so that they are not tempted to stay on welfare. So we push them in that direction.

One bill that was controversial in this session was the minimum wage bill. I am so proud of how the Republican Party dealt with that issue because two-thirds of our party does not agree with that issue. They think that the minimum wage is too much of an intrusion on business. One-third supported it and a vast majority of people on the other side supported it. But we know that we had to do something else if we were going to pass the minimum wage, and that was to have some significant and meaningful tax cuts to small businesses who employ those who are considered the most unemployable, tax credits for those on welfare, tax credits for those who simply do not have the work experience to actually be yet credible to the employer.

They know they might have to spend a year or two to train that person because they are not well-educated and not well-trained and they need the training. It is a cost to the business. They actually are discouraged from doing it under the present system until we passed our tax cut bill, $8 billion. Our tax cut bill took some of the things that we had in terms of our tax cuts when we were trying to pass the tax cut legislation earlier, which the President vetoed. Because the President did veto our 7-year balanced budget bill, he did veto our changes to Medicare with no increase in the copayment, the deductible, the premium and lots of choice and a savings of $270 billion, put right back into Medicare. He vetoed it. He vetoed Medicaid reform. He vetoed welfare reform, but finally the third time he decided he could support it. That bill we passed was basically the same bill that we had given him the first two times.

□ 1115

So we have that bill, and he finally signed it.

Well, we want to help people off of dependency in government, corporations and agriculture; we want to give them the job training as it relates to individuals, we want to give them the day care, and we want to allow them to work in their business, still keeping some of their welfare benefits for a period of time in health care.

I am kind of drawing to a close, Mr. Speaker, but I do want to address this whole issue because we have had a lot of people criticizing this Congress, and for me, it is probably one of the most difficult things to contemplate. For the first time in the history of Congress, Congress is doing major heavy lifting. We are taking on some of the biggest and most powerful special interest groups to move this country to be more caring and less a caretaker. Those who want this Government to continue to be a caretaker are objecting to changes that we are making.

Now, we passed and slowed the growth of some of our entitlements, but one of the ways that we are going to balance the budget is to slow some runaway programs, and in the process of slowing these runaway programs, like the Earned Income Tax Credit, the school lunch program, the student loan program, Medicare, Medicaid, the student loan program actually is not running away. We are actually going along with exact numbers of loans that we did schedule to do; we are just continuing it.

But let us take the Earned Income Tax Credit. It is a payment made to people who do not make enough money, but are working to really support themselves, so instead of paying taxes to the Federal Government, they pay Social Security, but instead of paying other taxes, they actually get a cash payment from the Government that, if they do not pay enough taxes or any taxes, they do not just get a reduction in their tax, they actually get a payment from the Federal Government.

We allow that program to go from 19 billion to 25 billion, but our colleagues on the other side of the aisle say that program, the Earned Income Tax Credit, tax credits for the working poor, that we are destroying the program, cutting the program. Only in Washington when you go from 19 million to 25 million do people call it a "cut."

I mean, it is absurd. It is a growing program and a very important program. We did decide that it should apply to income levels of $28,000 or less, not income levels of $36,000 or less.

The school lunch program: I will never forget watching the President visit a school, trying to frighten the students and also the American people that we were cutting the school lunch program. I got pretty upset that we would cut the school lunch program, thinking we had done it. When I got back, I could not wait to speak to some of my colleagues who serve on the committees that would have done that, and this is what I found. What they were recommending and ultimately what we did until the President vetoed it: We allowed the school lunch program to grow from $5.2 to $6.8 billion. Only in Washington when you go from $5.2 to $6.8 billion do people call it a "cut." The President calls it a cut, I have constituents who think I cut it, but when the learned it grew from $5.2 to $6.8 billion, they find that that is very acceptable.

What did we do? The program is to grow at 5.2 percent more a year. We said, it should grow at 4.5 percent more a year, seven-tenths of a percent reduction in the growth. And what did we allow local communities to do? We cut the bureaucracy in Washington, which saved more than the money that we reduced in the growth. Then we gave to local communities and we allowed the State of Connecticut to say, for instance, that the school where my daughter goes to school and where her dad, who makes a good salary, and her mother, who makes a good salary, can find we do very well, my daughter's lunch is subsidized 17 cents by the Federal Government, every student in the country, 17 cents, rich or poor, wealthy communities and poor communities, 17 cents.

We allowed the State of Connecticut and every other State to say, we want the money that is going to the wealthy communities to continue for the poor kids in the wealthy communities, but not for the wealthy kids in the wealthy communities. We then allow them to take that money and put it into Bridgeport and Norwalk and Stamford, for instance, in my Fourth Congressional District, the district I represent, for kids who are poor in relatively poor communities.

Bridgeport is a working class, middle-income community, but it has a lot of poor people, and some kids do not get a breakfast, some kids do not get a dinner, they get that lunch. We do not want to take away that lunch. We want to give them a breakfast, and we want to give them a lunch and a dinner for those kids, and a kid in one of my suburban communities who is well-to-do should not be subsidized.

So we did not cut the school lunch program. We allowed it to grow from $5.2 to $6.8 billion.

The student loan program is the one that really gets me. $24 billion last year; that is what we spent, $36 billion in the seventh year. Those of you who are thinking mathematically know we increased it 50 percent. Only in Washington when you go from $24 billion to $36 billion would people call it a "cut." But my colleagues on the other side of the aisle call it a "cut," the President calls it a "cut." It is simply not true.

There is another word for when you say things are not true. It is not right for the President of the United States to go around the country and simply not say things that are not factually incorrect, in fact, factually so incorrect that he knows that. He knows that the student loan program is going from $24 to $36 billion.

Now what we did do to save money is, we got rid of the direct student loan program. This was a government student program that, basically, we tied it down by getting rid of it? No, we clamped it down to 10 percent of all student loans. That is what we did, and this is a direct student loan program that the administration tried to tell us was cheaper than doing it through the banks.

The only problem was they had not factored in all the people that the government had to hire to manage the student loans. So when you had a local college give a direct student loan bypassing the bank, you would think it would save money. But then who had to administer that student loan? You got it, the Federal Government, and the Federal Government did it with twice as many people as the banks and at twice the cost.

So we just simply said, we have got to make sure we do not get too deep into that program because it is going to be so expensive that we are going to be spending more on administrative costs than we should. We saved billions of dollars by slowing and condensing that program. We did try and failed. We did try and failed to say that from graduation to the first 6 months, when you do not pay back the loan yet, your grace period, the taxpayers pay the interest on that loan. We said the students should.

I am proud of the fact that we asked students to play a role in this process. Six months after they graduate they start paying back their 10-year or 15-year loan. In a basic 10-year loan, for the average loan, we were asking the students to pay $9 more a month. That is the price of a pizza. But where I live, it is the price of a movie and a small Coke. I have no problem saying to someone after they graduated from college or graduate school, 6 months after they graduate, they start to pay the loan back. It costs them $9 more a month.

I have no problem saying you do not have to go to a movie maybe once a month. You may not be going to get that pizza, for the good of the country, so you do not have to pay a big debt later on.

We are trying to get our financial house in order. It ends with the two points: Medicaid has grown from $89 to $127 billion. Again, only in Washington when you go from $89 to $127 billion do people call it a "cut," but my colleagues on the other side of the aisle call it a "cut." It is a significant increase in spending, and then, as I have already pointed out, Medicare is growing from $178 billion to $289 billion, $4,800 per senior to $7,100 per senior.

Mr. Speaker, you have been very patient. I am drawing to a close. My biggest concern of all is that I have colleagues on this side of the aisle who have done some very, very heavy lifting. They have put, in a sense, their political careers on the line for the good of the country.

We were told early on, when we got elected, the best way to get reelected is to avoid controversy, controversy is conceived as the enemy of the incumbent. We had a freshman class and a number of senior members and rank and file members of this conference that said, I do not want to be back if being back means we continue to allow the country to go bankrupt, if coming back means we ignore saving Medicare from bankruptcy, because, remember now, the President vetoed our Medicare plan.

He vetoed it last year when we thought the plan was going to go bankrupt by the year 2002. Now we know it is going to go bankrupt by the end of the year 2000. We know we are losing $22 million a day in Medicare, we are losing $36 billion next year, projected, and $60 billion the year after that, every day.

Who is going to deal with that problem? Are my colleagues on the other side of the aisle going to do that kind of heavy lifting? How could they possibly when they demagogue? How can they possibly do that if they simply oppose getting our financial house in order and balancing the budget and taking on the tough decisions?

And so, Mr. Speaker, I just would like to end with the basic concept that the people we love the most, the people we care about the most, we try to teach them to grow the seed and to be better Americans. We try to free them up to compete in a very competitive environment. We try to help those who cannot help themselves, but not help those who can help themselves. Those that can help themselves need to be encouraged to be on their own, to work and to study and to grow as individuals.

This Congress has taken on heavy lifting, and I hope and pray, whether they are Republicans or Democrats, I will say it this way: Those who have done the heavy lifting, those who have dealt squarely with the problems, those who have not demagogued the issues, those who have tried to serve this country with courage, those are the people who should be reelected and returned here; and if those are the people who are defeated, think of what the message will be. Those who survive, who were doing the heavy lifting, will say: "I had better not do that again," and those who were critical of this heavy lifting, those who may demagogue the issue, are in there saying, "Well, I had better just continue what

I am doing," and that unfortunately is what has happened for the last 20 years.

This is a crossroad in our country. I hope, I pray, that the true story will get out about the extraordinary job this Congress has done. We passed congressional accountability, we pass gift ban, we passed lobby disclosure, we passed the line item veto, we passed not imposing expenditures on local governments and State governments, the so-called unfunded mandate, bill, we passed welfare reform. We have changed welfare as we know it; it happened under our watch because of what we did. We have passed major changes in health care. We have passed the telecomm bill that will create 3 million jobs. We passed the Freedom to Farm bill. There are just so many other bills, the immigration bill that we hope to pass before we adjourn, and we have helped get our country's financial house in order.

I have never ever been more proud to be part of this institution.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. SCHROEDER) to revise and extend their remarks and include extraneous material:)

Mr. FILNER, for 5 minutes, today.

Ms. WATERS, for 60 minutes, today

(The following Member (at the request of Mr. SHAYS) to revise and extend his remarks and include extraneous material:)

Mr. WOLF, for 5 minutes on September 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mrs. SCHROEDER) and to include extraneous material:)

Mr. MENENDEZ.

(The following Members (at the request of Mr. SHAYS) and to include extraneous matter:)

Mr. BLUMENAUER.

Mr. BONO.

Mr. DINGELL.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1772. An act to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex;

H.R. 2909. An act to amend the Silvio O. Conte National Fish and Wildlife Refuge Act to provide that the Secretary of the Interior may acquire lands for purposes of that Act only by donation or exchange, or otherwise with the consent of the owner of the lands;

H.R. 3675. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes;

H.R. 3676. An act to amend title 18, United States Code, to clarify the intent of Congress with respect to the Federal carjacking prohibition;

H.R. 3802. An act to amend section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, to provide for public access to information in an electronic format, and for other purposes; and

H.J. Res. 191. Joint resolution to confer honorary citizenship of the United States on Agnes Gonxha Bojaxhiu, also known as Mother Teresa.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1636. An act to designate the United States Courthouse under construction at 1030 Southwest 3rd Avenue, Portland, Oregon, as the "Mark O. Hatfield United States Courthouse", and for other purposes; and

S. 1995. An act to authorize construction of the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport, and for other purposes.

ADJOURNMENT

Mr. SHAYS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 27 minutes p.m.), under its previous order, the House adjourned until Monday, September 23, 1996, at 12 noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LEWIS of California: Committee of Conference. Conference report on H.R. 3666. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes (Rept. 104–812). Ordered to be printed.

Mr. BLILEY: Committee on Commerce. H.R. 4083. A bill to extend certain programs under the Energy Policy and Conservation Act through September 30, 1997 (Rept. 104–814). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on the Judiciary. H.R. 1031. A bill for the relief of Oscar Salas-Velazquez; with an amendment (Rept. 104–810). Referred to the Committee of the Whole House.

Mr. HYDE: Committee on the Judiciary. H.R. 1087. A bill for the relief of Nguyen Quy An and Nguyen Ngoc Kim Quy; with amendments (Rept. 104–811). Referred to the Committee of the Whole House.

Mr. HYDE: Committee on the Judiciary. H.R. 4025. A bill for the relief of the estate of Gail E. Dobert (Rept. 104–813). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X. bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 3217. A bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes; with an amendment; referred to the Committee on Science for a period ending not later than September 27, 1996, for consideration of such provisions of the amendment recommended by the Committee on Transportation and Infrastructure as fall within the jurisdiction of the Committee on Science pursuant to clause 1(n), rule X (Rept. 104–815, Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 2740. Referral to the Committee on Commerce extended for a period ending not later than September 27, 1996.

H.R. 3217. Referral to the Committee on Resources extended for a period ending not later than September 27, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLUMENAUER:

H.R. 4128. A bill to amend title 23, United States Code, concerning eligibility for grants to implement alcohol-impaired driving counter measures; to the Committee on Transportation and Infrastructure.

By Mr. HOKE:

H.R. 4129. A bill to enforce the constitutional right to the free exercise of religion; to the Committee on the Judiciary.

H.R. 4130. A bill to enforce the constitutional right to the free exercise of religion; to the Committee on the Judiciary, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2209: Mr. SERRANO

H.R. 2223: Mr. DEUTSCH, Mr. MENENDEZ, Mr. FUNDERBURK, Mr. EVANS, Mr. LIPINSKI, and Mr. OLVER.

H.R. 3012: Mr. COMMINGS and Mr. SCOTT.

H.R. 3632: Mr. MINGE.

H.R. 3633: Mr. MINGE.

H.R. 3725: Mr. SERRANO.

H. Res. 515: Mr. DOYLE, Mr. LAFALCE, Mr. FUNDERBURK, Mr. HOSTETTLER, Mr. HOEKSTRA, and Mr. CANADY.

SENATE—*Friday, September 20, 1996*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Creator and Sovereign of all, slow us down, we are moving too fast; we do not realize Your blessings until they are past. We jet at high speed to our destinations only to circle in holding patterns. Life also has its holding patterns when we must wait. We are not very good at waiting. We want everything yesterday. Help us to trust in Your timing. You are always on time. Keep us from running ahead of You or lagging behind. Today, help us to enjoy life as it unfolds, to live to the fullest in each hour, and to relish the sheer wonder of Your grace and goodness. Open our eyes so that we may see Your glory in the people and opportunities You give us. Unstop the ears of our hearts so we may hear Your guidance. Release our wills from the bondage of our controlling attitudes so we can act on what You call us to do. Replenish our physical strength so we can have resiliency for each challenge. So, if life dishes out a holding pattern today, may we use it wisely to remember where we have been by Your grace and where we are going under Your guidance. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, I thank the Chaplain for that meaningful prayer this morning, as we are in a holding pattern. I think maybe it is going to produce results very shortly. This morning, the Senate will immediately resume consideration of the maritime bill, H.R. 1350. There will be 30 minutes of debate, equally divided, on the Grassley amendment No. 5391, regarding war bonus, also with a vote on the motion to table that amendment occurring at 10 a.m. this morning.

We have been unable to reach an agreement, or we were last night, but we feel that maybe progress is being made now and we can get an agreement shortly, so that we can complete the amendments that are desired by some of the Senators to be offered and get to final passage on this very important maritime legislation.

Members can expect additional votes beyond the 10 a.m. vote on or in relation to amendments to the bill. As all Senators are aware, we are fast approaching adjournment and there are a number of other important issues yet to be resolved. So I hope all Senators will accommodate this schedule.

We have indicated throughout the last couple of months that we should expect votes on Friday, at least up until noon. We hope we can get this bill finished by then, and we would not be back in session until Tuesday morning beginning at 9:30. We may be asked to consider other legislative items that are cleared for action. We are still looking for other appropriations conference reports that may be coming over, perhaps not today, but we have at least one more we think we may be able to take up early next week. I thank all Senators in advance for their cooperation.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. BURNS). Under the previous order, leadership time is reserved.

MARITIME SECURITY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 1350, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1350) to amend the Merchant Marine Act, 1936, to revitalize the United States flag merchant marine, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Grassley amendment No. 5391, to provide for a uniform system of incentive pay for certain hazardous duties performed by merchant seamen.

AMENDMENT NO. 5391

The PRESIDING OFFICER. There will now be a period of 30 minutes of debate, equally divided, on the motion to table the Grassley amendment No. 5391.

Who seeks time?

Mr. GRASSLEY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 5 minutes.

Mr. GRASSLEY. Mr. President, during wartime, in an area where there is military conflict between the United States and an opponent, there are legitimate war bonuses paid to people in the military for serving under more severe conditions, and there are also war bonuses paid to our seafarers for serving under those same conditions. The only problem is that there is a great inequity between what the seafarers get as a bonus and what our regular military gets paid. The purpose of this amendment is to make sure that those bonuses are the same.

So my amendment, which is about to be voted on at 10 o'clock, represents common sense. What people don't like about Washington is they see their money being wasted because we don't use commonsense approaches to governing and spending the taxpayers' money—the same commonsense way that the average family and small business has to use to live within their income and balance their budgets.

Why should taxpayers be saddled with war bonuses for seafarers, which evidence shows can be 50 times as high as those war bonuses that we give the men and women in the Reserve or the regular military? One Persian Gulf seafarer got a bonus of $15,700 for 2 months. The regular military would get, during that same period of time, a 2-month war bonus of $300—$300 as compared to $15,700.

The argument was made last night that the taxpayers don't end up paying these war bonuses. Well, the taxpayers do end up paying. The argument was made last night that, well, our Treasury was reimbursed by a lot of nations around the world for our efforts in Kuwait. That is true, we were. I was part of the effort to make that happen. But we don't conduct war, or at least we should not be conducting war, to make a profit.

At any time in the future when our military ends up paying these bonuses, the taxpayers are going to be paying them. But this is not just a taxpayer issue. This is an issue of equity between seafarers and our full-time military people.

My colleagues have received letters from a number of taxpayers and public-interest organizations, representing hundreds of thousands of Americans, who adamantly oppose this legislation that is before us. Three of them have expressed support for my amendments, for instance, Citizens Against Government Waste will key vote my amendment. The National Taxpayers Union will weight it heavily in their annual voting analysis. And Citizens for a Sound Economy strongly supports this amendment as well.

Furthermore, this war bonus amendment is supported by a number of retired admirals—admirals, I might add,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

whose good names were lent to the American Security Council letter in support of this bill, and who now support my pro-taxpayer, pro-defense amendments.

Taxpayers do end up paying for seafarers' war bonuses. as well as the incredibly high salaries and benefits they receive year in and year out.

This is so because we in Congress have allowed an unaccountable payment system to the U.S.-flag carriers that allow them to pass on to Uncle Sam virtually all of their costs plus a hefty profit for any business they do for the Government.

Mr. President, collective bargaining is great when Congress allows us to have an open checking account to the United States Treasury to cover salaries, benefits, and war bonuses.

This chart includes the salaries, benefits, and overtime of seafarers that this bill will subsidize—$310,915 per month, and most of this paid for by taxpayers. Seafarers get these generous benefits from taxpayers year in and year out, and then, if they do someday deliver goods into a war zone, they can get a war bonus.

Take a look at this category called "able-bodied seaman." His base pay is $12,192 per month. His war bonus for a month could therefore, be $12,192 and he could get an extra $600 per day if his vessel is actually shot at.

My amendment was characterized last night, and I quote as "demeaning, unfair, and insulting to seafarers." There is no way that you can see it that way. What this amendment tries to do is to seek fairness to our men and women in the regular military, but most importantly accountability for the American taxpayer.

I reserve the remainder of my time.

Mr. STEVENS. Mr. President, the bill before us sets up a prospect of having the merchant marine available to the United States in the event of emergency on a daily charge basis. The taxpayers will not pay any more regardless of the contract between the seafarers and their employer, the operator of the vessel. This is a new approach.

The Senator from Iowa is mistaken. The funds that were paid for those ships that were in the Persian Gulf were not taxpayer dollars. They were dollars provided by our Persian Gulf allies. In any event, we are trying to change that.

I say to my friend from Iowa that these people are not in the military. They are civilians. They are not subject to the control of the Federal Government. Their salaries are not in the control of the Federal Government. The Constitution prevents what the Senator from Iowa wants to do, and that is for Congress to legislate an amendment to a private contract between the seafarers and their employers.

I have to say that, if this is the Taxpayers Union provision, as the Senator from Iowa said, someone has misinformed that organization because this bill has nothing to do with payment to the people who man these ships. That is between the employer and the employee. It is not a Government affair.

As I said last night, our alternative is to once again try to contract with foreign ships to provide us vessels to carry our goods to supply our men and women in the field in times of crisis. In the last Persian Gulf crisis we did that. We paid a minimum of 50 percent more on the total contract—not just the seafarers' contract moneys for entering into a war zone but for the whole vessel. And some of them, despite the fact that we paid them a 100-percent bonus, refused to enter the war zone.

This is a bill to give us the merchant marine we need in times of emergency, particularly in times of a war. These people are not in the military. They are not subject to the draft. They are not required to go in harm's way by any law that I know of, and there is no way to conscript them, which is what the amendment of the Senator from Iowa will do. It literally conscripts them, and says, "In the event of the war, you are working for the Federal Government."

I have never heard of such an approach. I want to say again that I moved to table the amendment last night because it really does nothing to help this bill. It is an attempt to drag a red herring across the Senate floor and tell us that somehow or other the taxpayers will be forced to pay for these people extraordinary rates if they are called upon to provide service during times of war, that under the bill we have to pay whatever their contract provides that their employer is going to pay them. The Secretary of Defense sets the rate for the cost of those vessels—fully crewed—under this bill; what is paid to the seafarer is between the employer and the employee. It is none of the Federal Government's business.

Does the Senator wish time?

Mr. INOUYE. Yes.

Mr. STEVENS. I yield such time as the Senator from Hawaii wants.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, let the record indicate that we began this debate on this amendment last evening. So what I say may be a bit repetitive but I believe it must be repeated.

In World War II, 700 merchant marine ships were sunk, and most of them are now resting, hopefully peacefully, at the bottom of either the Atlantic Ocean or the Pacific Ocean.

When these ships went under nearly 6,000 men, civilians who were carrying military cargo, went down with the ships. The casualties that exceeded 6,000 in World War II was second only to that experienced by the U.S. Marine Corps.

There is a difference. This amendment would suggest that merchant mariners should receive the same combat pay as our GI's suggesting that merchant mariners are overpaid for standing in harm's way.

Mr. President, as some of my colleagues are aware, I had the great honor of serving my country in uniform. And for serving in harm's way I received combat pay, which was a token amount. I believe at that time it was $10 a month. But we were not in the service for pay purposes. However, at the end of the war because of my injuries I receive a lifetime pension; a very generous one. I have a lifetime privilege of hospitalization and medical care. And that privilege also extends to my dependent, my wife. I received education under the GI bill of rights. And, as a result, I received my law degree and my baccalaureate. I can, if I wish to, purchase goods at the PX, or at the commissary. There are many privileges. For example, when I die the Government will pay for my coffin, and will pay for my headstone. On the other hand, for the man who serves in the merchant marine, if he should be wounded in action he will not receive a lifetime pension, nor will his wife receive hospitalization for the rest of her life. He will not get a tombstone; a headstone. He will not receive the benefits of the GI bill of rights.

We are not talking about apples and apples, Mr. President. We cannot compare the merchant marine and a man on a naval vessel.

I can understand why the merchant marine decided after World War II that something had to be done to bring about equity. In World War II, none of the benefits were available. Now, this small amount, $12,000 a month, for standing in harm's way and risking death is not much. As my colleague from Alaska pointed out, we were not providing that war bonus. It was by the coalition forces.

Whatever it is, this amendment is demeaning to the merchant mariners—to suggest that merchant marine seamen are mercenaries. They are not mercenaries. In Desert Storm, many of the countries that were asked to deliver goods to our fighting forces refused to enter the Persian Gulf. Sixteen ships refused to go into the Persian Gulf. On the other hand, our American seamen, all of them, without hesitation, went into the most dangerous of waters. Yes, it is insulting to suggest that they are mercenaries. They are not. They are good, patriotic, dependable Americans.

Mr. President, I will support the motion to table this amendment.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I have 8 minutes—7 minutes remaining?

The PRESIDING OFFICER. The Senator has approximately 6 minutes remaining.

Mr. GRASSLEY. I yield myself such time as I consume.

I rise to respond to what the Senator from Alaska said, where he is right and where he is wrong. He is right that we are paying in corporate welfare $2.1 million per ship to have these ships available, and the responsibility to the companies to provide shipping to meet their contracts, to meet our national defense needs.

That is under section 652. But when those ships are called up to deliver materiel to the war zone, then you move to page 19, and this is where the Senator from Alaska is wrong. It says:

> Compensation. In general, the Secretary of Transportation shall provide in each Emergency Preparedness Agreement fair and reasonable compensation for all commercial transportation resources provided pursuant to this section.

That is above that $2.1 million. So we are going to pay more if these ships are used. Then it goes on to specific requirements.

> Compensation under this section shall not be less than the contractor's commercial market charges for like transportation resources; shall include all the contractor's costs associated with provision and use of the contractor's commercial resources to meet emergency requirements; in the case of a charter of an entire vessel; shall be in addition to and shall not in any way reflect amounts payable under section 652.

So where the Senator from Alaska is wrong is that there are charges above and beyond the $2.1 million when our ships are called to be used.

Let me repeat what my amendment deals with—fair and reasonable costs. More importantly, "all the contractor's costs associated with provision" obviously includes the war bonuses, and these extraordinarily high war bonuses were $15,700 for one seaman in the Persian Gulf war compared to $300 for the regular military.

Now, let us suppose the Senator from Alaska were right about those 47 ships, that this corporate welfare is going to subsidize these companies that are making extreme amounts of profits. Then we have all the other vessels that the Department of Defense can call on and will call on to meet our national security needs, and this bill does not apply to those. In those instances, obviously this bill does not apply, but they will get war bonuses. Moreover, there is no place in this bill that says war bonuses are not going to be paid to the employees on those 47 ships. So my amendment goes to the heart of this issue, to establish equity between our regular military people and our seafarers.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks time?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. The answer is simple, in my opinion. What we have is a situation where today the only thing we have available to us in the event of war or emergency is to contract once again with foreign shipping. We did that in the Persian Gulf war. As I said, we paid 50 percent to 100 percent more on the total charter price.

This bill is an attempt to change that concept and make available to us the U.S.-flag ships already crewed, ready to serve, and ready to go in harm's way because of their contractual commitments. We had foreign ships that would not enter the war zone. We had foreign crews that deserted their ships as they were going into the Persian Gulf.

We need a program to give us the capacity to continue to serve our fighting men and women when they are abroad. The impact of this bill is to provide a system to in effect have a standby charter. It is very similar to the reserve fleet we have for the airlines. The civil air reserve program provides us the aircraft. And just as in this case those people who fly civilian planes into harm's way get war bonuses, they get special bonuses, because, as the Senator from Hawaii points out, they have no rights to any of the benefits that are available to those people who serve in the military should they be harmed when they are in harm's way.

What we are doing here now would authorize $100 million annually for sustainment sealift. That is $250 million less than the funded levels before and $150 million less than it is today —$250 million less than it was during the Persian Gulf period, $150 million less than the existing program today.

The Senator's amendment is an attempt to destroy a program that is designed to save $150 million from the program as it stands today.

Now, we are going to pay these companies to reserve these vessels for our use in the event of war. The contracts that the Senator has mentioned are subject to approval by the Secretary of Defense. The payments that would be made will be made on an equitable basis, and they will be subject to annual review by the Appropriations Committee which I hope to chair.

I reserve the remainder of my time.

Mr. GRASSLEY. I would seek knowledge about how much time is remaining on each side.

The PRESIDING OFFICER (Mrs. FRAHM). The Senator from Iowa has 1 minute 45 seconds, the Senator from Hawaii has 49 seconds.

Mr. GRASSLEY. I will use the remainder of my time right now and leave the last word to the opponents of the amendment.

First of all, I think everybody heard my response to the original statement of the Senator from Alaska in opposition to my amendment. I came back and said that the bill provides for compensation, return of the cost, plus profit, under what we are told is a fair and reasonable rate. It covers all costs, and so that includes war bonuses.

He went on in his last remarks to speak about how great the bill is. So I think the absence of comment on my rebuttal speaks for itself; my point is that under this bill these war bonuses are 50 times as high as the men in the regular military get. Maybe the issue here is that we are not paying enough to regular Navy and Army, Air Force, and Marine personnel who are in harm's way on the battlefield and we ought to be paying them more than what we are, so that they are not getting 50 times less than what the seafarers are getting. But, at least we should not have this extraordinary difference between the two.

So, consequently, in my closing seconds I remind people the conservative fiscal group Citizens Against Government Waste, the National Taxpayers Union, and the Citizens for a Sound Economy feel that this amendment is a justified amendment to bring commonsense budgeting, expenditure of money, commonsense use of the taxpayers' money to public policy on maritime issues.

I yield the floor.

Mr. STEVENS. Madam President, we only use these vessels for the time they are actually in the war zone under this contract. As the Senator from Hawaii says, we pay people by the day rather than by the lifetime. I agree with the Senator from Iowa, we ought to compensate our people in the military who go in harm's way more than we do, but we set up a very complex system here to take care of the people who are actually harmed in the military. We set up a different system for people who enter harm's way for a very short period of time and we have no further responsibility to them for any injuries they might sustain, as far as that is concerned.

All of the costs of this bill are subject to rejection by the Secretary of Defense at the time the ships will be called up. He could decline to use these ships and once again go back to trying to use foreign ships if they were available to us at a reasonable cost. There are no foreign ships available to us anywhere near the cost of this bill.

So I have moved to table this. I hope Senators will not be misled by this concept that, somehow or another, conservatives oppose this bill. This is a very fair bill to us and to the people who might be put in harm's way in order to serve the defense of our country.

I move to table, Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 5391, offered by the Senator from Iowa, Senator GRASSLEY. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina [Mr. HELMS], the Senator from Florida [Mr. MACK], the Senator from Delaware [Mr. ROTH], and the Senator from Wyoming [Mr. THOMAS] are necessarily absent.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR], the Senator from Georgia [Mr. NUNN], and the Senator from Massachusetts [Mr. KERRY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 77, nays 16, as follows:

[Rollcall Vote No. 296 Leg.]

YEAS—77

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Burns
Byrd
Campbell
Chafee
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Harkin
Hatfield
Heflin
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kempthorne
Kennedy
Kerrey
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Pell
Reid
Robb
Rockefeller
Santorum
Sarbanes
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thompson
Thurmond
Warner
Wellstone
Wyden

NAYS—16

Ashcroft
Brown
Bumpers
Coats
Faircloth
Frahm
Grams
Grassley
Gregg
Hatch
Kassebaum
Kohl
Kyl
Nickles
Pressler
Smith

NOT VOTING—7

Helms
Kerry
Mack
Nunn
Pryor
Roth
Thomas

The motion to lay on the table the amendment (No. 5391) was agreed to.

Mr. STEVENS. Madam President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. If there are amendments to be disposed of, we might be able to dispose or review them at this time. We have seen no other amendment today. We know the Senator from Iowa may have other amendments.

May I inquire if any other Senator has an amendment to this bill? We would like to know if any other Senator has an amendment at this time.

Mr. INOUYE. Not at this time.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Madam President, I rise as a proud cosponsor of the Maritime Security Act. I urge my colleagues to give their support to this important bill.

This bill is critical for America's future. This bill is about our national security. A strong, vibrant merchant marine is absolutely critical to our national defense and our economic security. We need to ask ourselves one simple question, do we want to have a American shipping industry in the 21st century? The answer is an unequivocal yes.

Time and time again, we have seen the critical role our merchant marine has played. In World War II, it was our merchant marine—our "heroes in dungarees" who braved Nazi U-boats in the Atlantic and Japanese submarines in the Pacific in order to save Western civilization at a cost of over 6,000 merchant mariners who lost their life. The casualty rate for merchant mariners in World War II was second only to the Marine Corps.

In Korea, and Vietnam, our merchant marine kept the supply lines open for our fighting forces and never let them down. In Desert Storm, almost 80 percent of the cargo was transported on American ships with American crews. Our merchant marine became the "steel bridge" to our men and women in Saudi Arabia. General Schwarzkopf talked about how important the merchant marine was in sustaining our troops with needed supplies. And had we gone into an escalated ground war our merchant marine would have been even more important.

In Bosnia, United States mariners were used to activate the Ready Reserve ships to aid peacekeeping efforts. Mr. President, history has taught us one thing, we cannot rely on foreign countries with foreign crews to transport our military cargo in time of war. This is why the Defense Department strongly supports this bill.

But this legislation is more than keeping merchant marine viable in times of crisis it is about keeping our shipyards open, and ensuring that there will always be American ships moving American cargo across our oceans.

We cannot allow America's economy to be held hostage to the whims of foreign shipping companies or in some cases, foreign governments. In addition, our merchant marine fleet must compete with ships that fly "flags of convenience." Two-thirds of all merchant ships fly under flags of convenience.

Without the Maritime Security Program, American ships will be unable to compete against foreign ships that are heavily subsidized or state-owned. In addition, "flag of convenience" ships do not have to comply with American environmental or safety standards giving foreign ships another advantage.

Our merchant marine provides good jobs at good wages and we have a responsibility to keep the American flag flying over the oceans of the world. That's why we need the Maritime Security Act—to give our merchant marine a fighting chance in today's shipping climate.

Finally, Madam President, this bill makes sense for the American taxpayer. Compared to the present maritime program, the Maritime Security Act will cut costs by more than 50 percent. If this bill is not adopted, taxpayers could pay even more if the Defense Department was forced to build its own military sealift fleet.

Madam President, when the world makes a 911 call to America, we must be ready. We must have a merchant marine ready to defend our national security and our economic security. I urge my colleagues to give their strong support to this legislation.

Mr. STEVENS. It is my understanding the distinguished Senator from Illinois would like to have time to make a statement. I ask unanimous consent the Senator have 5 minutes as in morning business while we try to work out this agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. I thank the Senator from Alaska.

AFFORDABILITY OF HIGHER EDUCATION

Ms. MOSELEY-BRAUN. Madam President, yesterday some of my colleagues were debating the issue of student loans and performance of this Congress with regard to education. No issue is more central to our Nation's future and the 21st century than the availability and the accessibility of quality public education from kindergarten through college. The accessibility of higher education is threatened, Madam President, by the exploding cost of higher education, documented in a report released yesterday by the General Accounting Office.

The General Accounting Office, having studied the cost of tuition in 4-year public institutions of higher learning nationwide, documented that tuition has increased some 234 percent over the last 15 years. As a percentage of median household income, tuition has nearly doubled over the same period. In 14 States today, college tuition is more than 10 percent of median household income. In 30 States, it is more than 8 percent of household income. In all but one State, tuition as a percentage of household income is more than it was 15 years ago.

What this means is that access to higher education is getting more and more out of reach for working and middle-class Americans. What this means is that our country is suffering a kind of brain drain, driven by the escalating costs of higher education.

Madam President, that is exactly the wrong direction. By the year 2000, the Department of Labor estimates that more than half of all new jobs will require an education beyond high school. The cost of college has a direct impact on access to college. The more tuition goes up, the more students will be priced out of their opportunity for the American dream. Our country as a whole will suffer the loss of talent and of training. We cannot as a Nation prepare for the 21st century by making it more difficult now for our children to access higher education.

In the global economy, America must carve out the upper niche. We cannot and should not expect our workers to compete with 50-cents-a-day Third World labor. Our strength in the information-intensive 21st century will continue to be our people. Education is the key to that strength. Our community, our country as a whole, will benefit from a well-educated work force.

A quality public education has always given poor and middle-class Americans economic opportunities. The link between educational attainment and earnings is unquestionable. The average earnings of the most educated Americans is, today, 600 percent greater than that of the least educated Americans. As we move nearer to the 21st century and into an information-driven economy, the gap between high school and college graduates will grow. A college graduate in 1980 earned 43 percent more per hour than a high school graduate. By 1994, that had increased to 73 percent. When we reduce access to higher education, we reduce access to the American dream and we create strains on our community and on our social compact from which we may have a very difficult time recovering, even into the next generation.

Madam President, we must improve the quality and the accessibility of education so that no American child gets a high school diploma without being able to read, subtract, add, or use a computer, and so that all Americans may have access to higher education, not just the wealthy elite. The rungs on the ladder of opportunity in America are crafted in the classroom. We cannot let higher education become so expensive that only a fraction of our society can afford it.

Unfortunately, the GAO has documented that is exactly the direction in which we are now heading. For a typical family with more than one child in school, in the States at the bottom of the affordability scale—and there is an affordability scale included in the report—the cost of college can easily consume 30 percent to 40 percent of that family's annual income. For families with several children who attend college, tuition can become the most significant expenditure and financial burden of a lifetime.

The 234-percent increase in tuition over the last 15 years compares, Madam President, to an 82-percent increase in median household income and a 74-percent increase in the Consumer Price Index. What that means is the cost of tuition is rising far in excess of the rises in the costs of other indicia of our economic well-being in this country.

Madam President, I know for a fact that I would not be able to be in the U.S. Senate today were it not for quality public education and the accessibility and the affordability of higher education. The Chicago public schools gave me a solid foundation, and I was then able to attend the University of Illinois and later the University of Chicago, in spite of the fact that my parents were working-class people. One can only imagine, Madam President, how many CAROL MOSELEY-BRAUNS, or the equivalent, of this generation did not have that opportunity. The exploding cost of college is closing the door of opportunity for them. I believe that our generation has an absolute duty to keep that door open and to preserve the American dream for the 21st century and for our children and for our community as a whole.

Finally, Madam President, I ask unanimous consent to have printed in the RECORD the GAO report so that Senators and private citizens who are interested in reading the report itself and exploring the methodology used by the General Accounting Office may do so.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL ACCOUNTING OFFICE,
HEALTH, EDUCATION AND HUMAN
SERVICES DIVISION,
Washington, DC, September 19, 1996.

Hon. CAROL MOSELEY-BRAUN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: In August 1996, we reported that there is widespread concern about the increase in college tuition levels and that average tuition levels vary widely among the states.[1] In our earlier report, we showed that tuition were rising faster than college expenditures and that state funding and grant aid were not keeping pace with these costs.

Based on our report, you requested information on (1) the states' public 4-year colleges' and universities' average tuition as a percentage for median household income and (2) comparative increases in tuition at these schools from school year 1980–81 through 1995–95, with increases in other selected consumer prices and median household income during the same period.

To determine schools' average tuition as a percentage of median household income, we divided the average annual tuition for in-state undergraduate students of 4-year public colleges and universities for school year 1995–96 in each state by the state's median household income for calendar year 1994, the latest year for which such data were available. For our comparison of tuition price increase with changes in selected consumer prices and median household income, we used the consumer price index (CPI) and other information from the 1995 Statistical Abstract of the United States.

We conducted our review in August and September 1996 in accordance with generally accepted government auditing standards.

Results in brief

On a nationwide basis, our analysis shows that the average tuition (including related fees) for in-state undergraduate students of 4-year public colleges and universities for academic year 1995–96 was about 8.9 percent of median household income; however, there is a significant difference among the states. On one end of the spectrum, Hawaii's average tuition for the 1995–96 school year was less than 4 percent of median household income. In contrast, Vermont's average tuition for 4-year public colleges and universities was over 15 percent of median household income. In general we found that state differences are more closely associated with tuition prices than with income levels. That is, states in which the average tuition was a low percentage of median household income tended to be ones with low tuitions but not high incomes.

From school year 1980–81 through 1994–95, tuition charges at 4-year public colleges and universities for in-state undergraduate students increased nationally by 234 percent. In contrast, other consumer prices and household incomes increased at a much slower pace. Medical costs, for example, increased 182 percent, and consumer expenditures for new cars increased 160 percent. Household incomes rose 82 percent during the same period.

College tuition as a percentage of income varies widely among States

Our analysis showed that schools' average tuition as a percentage of median household income at 4-year public colleges and universities varies widely among the states. Schools in Hawaii, for example, were found to have tuition taking 3.61 percent of median household income.[2] In contrast, 4-year public colleges and universities in Vermont had a higher ratio—tuition was 15.42 percent of income. The national average was 8.88 percent. Enclosure 1 shows the average tuition as a percentage of median household income for 4-year public colleges and universities in each state. This percentage tends to be higher in the Northeastern states.

In general, state differences in this percentage are more closely associated with tuition prices than with income levels. That is, states in which the average tuition was a low percentage of median household income tendered to be ones with low tuitions but not high incomes. For example, of the 15 states with the lowest percentages, 13 were among the states with the lowest tuitions while only 5 of them were among the states with the highest incomes. At the other end of the spectrum, of the 15 states with the highest percentages, 11 were among the states with the highest tuitions but only 1 of them was among the states with the lowest incomes.

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[1] Higher Education: Tuition Increasing Faster Than Household Income and Public Colleges' Costs (GAO/HEHS-96-154, Aug. 15, 1996).

[2] As we pointed out in our August report, however, Hawaii's schools may not have the lowest tuition level in school year 1996–97. The state approved an 84.6-percent increase for in-state undergraduate tuition at the University of Hawaii's Manoa campus.

College tuition compared to selected consumer prices and household incomes

From school year 1980–81 through school year 1994–95, the average annual tuition at 4-year public colleges and universities for in-state undergraduate students increased from $804 per year to 42,689, or 234 percent. Over approximately the same period, median household income increased by 82 percent, from $17,710 in 1980 to $32,264 in 1994. During this 15-year period, the prices and costs of other consumer goods also increased, but not as fast as the increases in tuition. For example, the average consumer expenditure for a new car went from $7,754 in 1980 to $19,676 in 1994, an increase of 160 percent.

Agency comments

Information contained in this correspondence is consistent with that in our August 1996 report in which the Department was given an opportunity to provide comments.

We are sending copies of this letter to the Secretary of Education, appropriate congressional committees and Members, and other interested parties.

Please call me at (202) 512–7014 if you our your staff have any questions regarding this correspondence. Major contributors include Joseph J. Eglin, Jr., Assistant Director; Charles M. Novak; Benjamin P. Pfeiffer; and Charles H. Shervey.

Sincerely yours,

CARLOTTA C. JOYNER,
Director, Education and Employment Issues.

Enclosures.

TUITION AT 4-YEAR PUBLIC COLLEGES COMPARED TO MEDIAN HOUSEHOLD INCOMES

State	Average tuition in 1995–96[1]	Median household income in 1994[2]	Tuition as a percent of income[3]	State rankings		
				Tuition	Income	Tuition as a percent of income[3]
Alabama	$2,234	$27,196	8.21	20	43	24
Alaska	2,502	45,367	5.52	25	1	5
Arizona	1,943	31,293	6.21	9	30	10
Arkansas	2,062	25,565	8.07	14	48	21
California	2,918	35,331	8.26	30	14	25
Colorado	2,458	37,833	6.50	24	7	12
Connecticut	3,828	41,097	9.31	43	4	33
Delaware	3,962	35,873	11.04	45	9	43
Florida	1,790	29,294	6.11	5	37	9
Georgia	2,076	31,467	6.60	15	28	13
Hawaii	1,524	42,255	3.61	1	3	1
Idaho	1,714	31,536	5.44	3	27	4
Illinois	3,388	35,081	9.66	36	17	35
Indiana	3,040	27,858	10.91	32	41	42
Iowa	2,565	33,079	7.75	28	21	19
Kansas	2,110	28,322	7.45	16	39	18
Kentucky	2,160	26,595	8.12	18	46	22
Louisiana	2,139	25,676	8.33	17	47	26
Maine	3,562	30,316	11.75	37	32	47
Maryland	3,572	39,198	9.11	38	6	31
Massachusetts	4,178	40,500	10.31	47	5	38
Michigan	3,789	35,284	10.74	42	15	41
Minnesota	3,108	33,644	9.24	34	18	32
Mississippi	2,443	25,400	9.62	23	49	34
Missouri	3,007	30,190	9.96	31	33	36
Montana	2,346	27,631	8.49	22	42	28
Nebraska	2,294	31,794	7.22	21	26	16
Nevada	1,830	35,871	5.10	6	10	2
New Hampshire	4,537	35,245	12.87	48	16	48
New Jersey	3,848	42,280	9.10	44	2	30
New Mexico	1,938	26,905	7.20	8	45	15
New York	3,697	31,899	11.59	41	24	46
North Carolina	1,622	30,114	5.39	2	34	3
North Dakota	2,211	28,278	7.82	19	40	20
Ohio	3,664	31,855	11.50	40	25	45
Oklahoma	1,741	26,991	6.45	4	44	11
Oregon	3,241	31,453	10.30	35	29	37
Pennsylvania	4,693	32,066	14.64	49	22	49
Rhode Island	3,619	31,928	11.33	39	23	44
South Carolina	3,103	29,846	10.40	33	35	39
South Dakota	2,549	29,733	8.57	26	36	29
Tennessee	2,001	28,639	6.99	11	38	14
Texas	1,832	30,755	5.96	7	31	7
Utah	2,007	35,716	5.62	13	12	6
Vermont	5,521	35,802	15.42	50	11	50
Virginia	3,965	37,647	10.53	46	8	40
Washington	2,726	33,533	8.13	29	19	23
West Virginia	1,992	23,564	8.45	10	50	27
Wisconsin	2,555	35,388	7.22	27	13	17
Wyoming	2,005	33,140	6.05	12	20	8
Nationwide	2,865	32,264	8.88	....	....	....

[1] Average full-time, in-state undergraduate tuition and related fees at 4-year state colleges and universities weighted by the estimated number of full-time, in-state undergraduates at each institution. We obtained these data from the Department of Education's Integrated Postsecondary Education Data System surveys.

[2] This is the latest year for which median household income data were available. We obtained median household income data from the U.S. Bureau of the Census.

[3] the average tuition for in-state undergraduate students of 4-year public colleges and universities for school year 1995–96 in each state, divided by the state's median household income for calendar year 1994, the latest year for which such income data were available.

Ms. MOSELEY-BRAUN. It is a very important study. It suggests that we need to begin to take up this issue and examine the cause of the exploding cost of college tuition so we can make cogent policy in this area. I feel confident that we have the ability, and certainly we have the will, to begin to address this question so that college is as accessible for this generation of Americans as it was for every Member of this body. I encourage my colleagues to examine the work done by the General Accounting Office. I thank the General Accounting Office for its investigation in this area and for its work in this area. I believe that it will provide the foundation for a very important debate in our country.

Mr. KENNEDY. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. Yes.

Mr. KENNEDY. I commend the Senator from Illinois for her excellent statement. I think all of us understand that she has been a leader here in the Senate in pointing out not only the issues of quality that are so important in schools, but also the issue of physical facilities. She understands that if you have a dilapidated building with poor support facilities inside the building, it creates a climate that makes it much more difficult for children to learn.

In my own State of Massachusetts, this is the case. We are one of the oldest States, and many of our schools are also quite old. Too often, our schools, both in the inner cities and in other areas, have deteriorated over the years. She has been a strong leader in challenging the Senate to make progress in this area and has challenged the President to take the initiative in this area. This is going to make a great deal of difference for students.

And now, this report on rising costs of higher education is an important contribution. Like the Senator from Illinois, I am strongly committed to creating a package for young people of talent and ability, so that they have access to whatever they need—schools, 4-year colleges, community colleges, State colleges, or whatever it might be. They must be able to patch together different kinds of programs so they can go on to college.

Tuition costs are a problem not just in private colleges and universities, but at public colleges as well. In my own State of Massachusetts this is certainly the case. In tuition as a percentage of family income, Massachusetts ranks 38th in the Nation, making it one of the more expensive States for families who want to help their children obtain a quality college education.

So the cost of higher education is a key issue. As the Senator understands very well, today those decisions are often made based on the size of the pocketbook or wallet rather than the young person's abilities. It is important for us to ensure student access to higher education, and to look at the core reasons why these costs have gone up so much. Too often in the past, we have not watched that as closely as we should have.

I think the Senator strengthens all of us who believe that education should be a major priority for this Nation. It leads to good employment, it is essential in training our doctors, scientists, and engineers, and it is key in so many areas of public policy. She reminded us of this by requesting this GAO study about the costs of higher education. It is helpful to all of us, not only in the Congress, but also in States and local communities, to understand this issue. I think it is a very important study, and we should build on it in the next Congress. It is timely and I think it can have an important impact as we begin to address needs in higher education.

I commend the Senator for her continued interest in education. As someone who serves on the Education Committee, I have observed firsthand her very strong commitment in elementary, secondary, and higher education. I commend her for her initiatives and for her excellent statement.

Ms. MOSELEY-BRAUN. Thank you. Madam President, I thank the Senator from Massachusetts. The Senator from Massachusetts is being modest. He not only serves on the Education Committee, but is the leader on that committee on the issues pertaining to educational opportunity for our young people. I thank him for his kind, complimentary remarks.

I also thank him for pointing out how these issues link together. We just finished doing a television program about rebuilding our Nation's crumbling schools. The Senator is right. Fully a third of the schools across this country are in dilapidated condition and need extensive repair or replacement. The previous GAO study found this was a condition that expresses itself in all regions of the country and in all communities. In inner-city communities, 38 percent of the schools are crumbling; in suburban communities, 29 percent are crumbling; in rural communities, it is 30 percent. This is something that happens in cities, suburbs, and rural communities. That is a real challenge for us, because our children cannot learn if their schools are falling down. The report makes it clear that we are failing to live up to our responsibility as a generation to provide the generation of Americans coming into the school systems now with an environment in which learning can take place, and with the support that they will need to be competitive in the global economy.

So looking at these issues, the General Accounting Office has been just wonderfully helpful because their studies give us the kind of intellectual and demographic base, if you will, because they have gone and actually counted and done the research and the surveys to find out what the true facts are in this area. So it is not just a matter of looking at what do we see when we drive past a school, but rather having actual documentation of what is going on with regard to crumbling schools all over the Nation.

This last report on college tuition is really fascinating. I, again, encourage my colleagues to look at it, or anyone else who would like to. It is available from the General Accounting Office. A 234-percent increase in college tuition is stunning. Even medical care costs, which we have been talking about, rose about 182 percent. So this is outpacing even the increase in medical care costs. So it is very clear that families are having a difficult time coping with this. State support for higher education is declining at the same time costs to colleges are going up. The result is that young people are having a harder and harder time accessing higher educational opportunities.

We have asked the Department of Education, as of yesterday, to make available information on scholarships and information on tuition on the World Wide Web, so that people can access that information through the Internet. It can be more accessible, and they can do the kind of shopping that may be particularly necessary given the escalating cost of higher education. Certainly, we have to get to the bottom of this and to the heart of this problem to find out what the reasons are. Why is the tuition going up so high and so quickly? What can we do to ameliorate the impact on working and middle-class families?

I commend all of my colleagues who share a concern for education and these issues. I think nothing short of our Nation's national defense is at stake here. We will not be able to be competitive in this 21st century global economy, in an information age, unless we provide our young people with an opportunity to have the highest level of skills in the world. It is that challenge that compels us today.

Again, I thank my colleague.

Mr. KENNEDY. If the Senator will yield for one other point. Would she not agree that unless we are able to get a handle on escalating education costs, it is going to be very difficult to convince taxpayers to provide more support for education, if providing more will not lead to greater opportunity for the young people? For those of us that are strongly committed to expanding opportunities, if we see that what we do here does not work, it makes the task much harder.

There are those who might say, "If we provide more resources, they will just get swallowed up in tuition increases." That charge must be answered, and answered effectively. I think the work done on this committee and the report by the GAO should be helpful.

Finally, I think the report that the Senator commissioned on the dilapidation of elementary and secondary schools creatively points out ways of obtaining scarce resources at the State and local level.

Rehabilitating schools is a complex and difficult challenge. We at the Federal level are not going to be able to resolve all of these problems, but commitment at all levels is required, and I hope we will be able to deal with these issues in much greater detail in the next Congress.

As I say, I am grateful to the Senator for her continued interest and very constructive work in this area.

Ms. MOSELEY-BRAUN. Madam President, I thank the Senator, my friend and colleague, from Massachusetts.

Again, the first report, "Profiles of School Condition by State" is available. Similarly, the new one on college affordability "Tuition Increasing Faster Than Household Income and Public Colleges' Costs" is available.

Again, I couldn't agree more with my colleague when he talks about the qualities because certainly it is going to require the cooperation of educators, of parents, of the kids themselves, and all of us in the National Government—and State and local governments—all are going to have to cooperate and carve out our respective responsibilities, our respective niche, if you will, in addressing these issues. The educators are going to have to address the equality issues and whether or not youngsters are getting the kind of quality education and skills they will need for this 21st century.

We at the national level have to address the Federal support for education all the way through. The State and local governments may want to take a look at better ways to fund our schools so that they are not scaling down so that the opportunity is available.

I look very much forward to working with my colleague from Massachusetts and the committee with as much compassion as it takes. Hopefully we can come up with, again, some cogent policy responses guided by the facts as produced by the General Accounting Office.

I thank the Chair. I thank the Senator from Alaska.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I ask unanimous consent that I be permitted to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2098 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE LEGACY OF BITA LEE

Mr. DOMENICI. Madam President, I rise today to congratulate a woman from my home State of New Mexico who will be honored on November 1, 1996, by being inducted into the National Cowgirl Hall of Fame.

Harriet Frances Lee, better known as Bita, hails from the small town of San Mateo, NM. Raised on a sheep and cattle ranch, Bita embodied the spirit of the West. Sheep, cattle, and hard work were all a part of Bita's daily life. She, her twin brother Harry, and her mother and father, Floyd and Frances, all worked side-by-side creating and maintaining the American dream.

Most people only know the old West through Hollywood movies, Louis L'Amour books, and history lessons. Many times, however, Hollywood, books, and history lessons forget to mention the cowgirls. Women like Bita have always been a part of the rich fabric of my State and other States in the West. The National Cowgirl Hall of Fame and Western Heritage Center's mission is to ensure that the West, its women, and their heritage are remembered.

The women of the West did not just take care of home and hearth. These women rode horses, sheared sheep, roped steers, managed books, and worked day-to-day with the earth. The National Cowgirl Hall of Fame and Heritage Center holds the memories of these women, and honors those who don't live in the past but remain a part of our living heritage.

Bita died in early 1991, but her legacy lives on. Although her life has ended, Bita left behind her two nephews, Floyd and Harry, and sister-in-law Iona, to run the ranch she loved. She was the last of the Lees that ran the ranch during the Depression and the drastic fall of sheep prices, and kept the ranch operating in the days before paved roads, cellular phones, and four-wheel drives.

Bita was an avid horse woman; she could ride the most surly of beasts and rope the most wily of steers. Often known for her breed of Palominos and her ability to rope, Bita was an avid worker with the 4-H of New Mexico and the New Mexico State Fair. She maintained a love for agriculture by living it and passing it on to others.

Although Bita was not world-famous like some of her counterparts in the National Cowgirl Hall of Fame, she was famous in her corner of the world. Her neighbors knew her well and delighted in her wood-working ability, her keen and subtle sense of humor, and her composure. She was a tiny woman in stature, but she earned the respect of all her ranch employees, whom she managed with a firm hand and kind heart.

Last year, my colleague JOE SKEEN and I each sent letters of support to the Cowgirl Hall of Fame regarding Bita's nomination. Over 600 women are nominated each year to fill four open spots. I am pleased that the National Cowgirl Hall of Fame has recognized Bita's significant contribution to the heritage of the West by accepting her nomination. My sincere congratulations and best wishes to Bita's family and many friends.

I yield the floor.

I suggest the absence of a quorum, Madam President.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business.

Mr. STEVENS. For how long?

Mr. GRASSLEY. For 11 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Iowa.

MILITARY HISTORY AT THE NATIONAL MUSEUM OF AMERICAN HISTORY

Mr. GRASSLEY. Mr. President, particularly since there are on the floor people who are very interested in the military of the United States, I want to speak to an issue that should have been discussed 2 days ago during the Interior Department appropriations bill. But the Interior Department will still be up next week when it is put back up on the calendar, or in parts of the continuing resolution, and so I alert my friends to a trend in military history that is very disturbing to me as it relates to the Smithsonian Institution.

Upon debating the Interior Department's funding, this is as good time as any to voice concern over the interpretations of American history at the Smithsonian Institution's National Museum of American History. Apparently, military history has assumed a minor role in the museum's depiction of this Nation's history. The exhibit space allocated to the display of military items has slowly decreased. A large percentage of that which is currently on display remains in the cases in which they were installed for the opening of the museum over 30 years ago. Further inquiry has led me to believe that what remains of the Armed Forces' history hall is in jeopardy.

The administrators of this museum appear to be swayed by the ideology of revisionist/liberal historians. They desire to decrease even further the exhibit space devoted to U.S. military history. This is reflective of their adherence to the concept of new history as opposed to the traditional approach, which emphasizes important people, events, and movements.

History has typically been organized into areas of concentration, such as military, diplomatic, political, and economic history. But a museum devoted to a new history would, instead, reflect cultural, social, gender, ethnic, and community concentrations. Obviously, a conventional exhibit depicting our Nation's military history would not fit into this theme. This approach, in itself, is not inherently bad. But dominance of this new history to the detriment of a conventional representative display of military history is disturbing.

This overemphasis on common people and the infrastructure of their community tends to then decrease the importance of meaningful events and significant people, which have played pivotal roles throughout the history of our Nation.

Military history is, therefore, overlooked because it is a conglomeration of momentous events and distinguished soldiers. What is neglected by these historians is the detail that, throughout the history of the Armed Forces, we witnessed common people leaving the security of their communities and performing extraordinary, consequential feats in the scheme of military affairs.

This ideology is reflective of that which is popular in many liberal and academic circles. Military history is deemed evil in that it involves death and weaponry. As a result, the great impact the military has had on every American is disregarded.

Since the habitation of this country by Europeans in the 16th century, the militia and its leaders have played a prominent role. This is true not only in the defense of their people but in society as well. Weapons were an important tool of the early settlers in the defending of their families from hostile native Americans. They were important also in the task of putting food on the table. Not only has the military continually defended the Nation, but it has assisted in the exploration and opening of the frontiers to settlers.

Military contractors and arsenals played an important role in developing interchangeable parts, standardization, and mass production. In more recent years, it has played important roles in developing new technologies that we use every day, such as computers, new communication techniques, et cetera. The military has touched many facets of our lives, and this history is not exhibited in any museum.

There are various Naval, Army, Marine Corps and Air Force museums scattered across the country. But they only concentrate on the history of their particular service, not on the entirety of the U.S. Armed Forces. The National Museum of American History holds the best collection of American military artifacts, and it has the capability to recount the whole story of the armed services. What better place to develop a comprehensive exhibit of our Nation's military service and its history than on The Mall at Washington, DC.

Our Nation's military history is special. It is unique from other modes of history, such as social, cultural, political, or economic. It involves the ultimate sacrifice of one's life for his or her country. These sacrifices were incurred in the hope of a better future for generations of Americans to come.

In this sense, an exhibit devoted to our Armed Forces is not only an educational tool. More important, it is a memorial to those who risked their lives, and those who ultimately gave their lives for our freedom. The military has also touched many American families throughout our history. Millions of men and women have answered the Nation's call to duty, both as soldiers and citizens in support of war efforts. Having such a great impact on our society, a museum of American history should not slight exhibit space devoted to the Armed Forces.

In decreasing the importance of military history at the museum, we are losing a significant segment of our proud history. Storage rooms are stocked with artifacts belonging to American military heroes, many of them used during important military engagements. These artifacts bring to our Nation's Capital a little excitement and drama from the battlefields of Saratoga, the naval battles on Lake Champlain, the many fields of our Nation's Civil War, distant fields of Verdun, Normandy, Korea, Vietnam, and the gulf war. Many artifacts link us to significant individuals throughout the span of our history: Gen. George Washington, Gen. Andrew Jackson, Gen. Ulysses S. Grant, Gen. John J. Pershing, and Gen. Dwight Eisenhower, to name only a few.

To ignore these military events and these personalities makes meaningless their struggles and the struggles of the people of this Nation who enlisted their assistance to the military. That is true whether it was service in the Armed Forces or in the support of them.

Now, if things go as planned, I fear that many of these items will be hidden from the American public despite the results of a recent visitors survey. In this survey taken at the National Museum of History, it became evident that the Armed Forces' history hall was the second most popular exhibit area in the museum. Therefore, speaking on behalf of most Americans, I urge the museum to reconsider its plan for the military history hall.

We should look at this museum, responding to the needs of the American people. If this survey shows that this is the second most popular exhibit in the museum, we should not have some revisionist at the Smithsonian Institution taking away what the American people like and enjoy and depriving American people of understanding and visualizing the sacrifice of American service men and women who do sacrifice with lives, with injuries, with time away from family for the defense of freedom, so that not only can the American people enjoy freedom, but the revisionist historians still have the intellectual environment in which they can do their work. But they ought to show more appreciation of that sacrifice, and I think the plans for this military history museum detract from that.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

GUATEMALA ACCORD

Mr. BINGAMAN. Mr. President, I want to call attention to a very encouraging development that was announced in Mexico City, yesterday.

For 35 years, the conflict in Guatemala between the insurgents there and the government has produced more than 100,000 deaths, many millions have been maimed and seriously injured, and there has been scant hope that the guerrilla warfare in that country might end.

Yesterday, in the offices of the Mexican Foreign Ministry, Gustavo Porras Catejon, who is the head of the Guatemalan Government delegation, broke into a bear hug with the senior commander of the Guatemalan rebels, Rolando Moran. Although no cease-fire was signed yesterday, the warring parties—which have produced the longest conflict in this hemisphere—reached a historic agreement that finally holds out hope for a more hopeful future and a return of civil society to Guatemala.

According to the New York Times this morning, Guatemalan military leaders agreed to reduce their 46,000 troops by one-third next year. They agreed to cut the military's budget by one-third by the year 1999. Military leaders also consented to an alteration of their mission from one that did include domestic security control enforcement—that is, security threats within Guatemala—to a mission limited to dealing with external threats, from outside Guatemala.

In 35 years of fighting, this is the most significant action we have seen that could lead to long-term peace. There are still many risks ahead, particularly how to reincorporate insurgents into the Guatemalan society. The progress made yesterday, however, lays important groundwork so that progress can be made in future weeks.

I commend the U.N. negotiators who helped to mediate between the Guatemalan Government and the rebel leaders. Yesterday's accord is the fifth that has emerged from these United Nations-mediated talks. The other agreements dealt with human rights, Indian rights, poverty and land tenure, and also to set up a commission to review some of the crimes committed during the war.

The military's agreement to downsize its forces and its budget and its mission was coupled with a commitment by the government to create a new police force with new recruits and retrain former officers to take over the army's domestic security functions.

Mr. President, there certainly will be skeptics who will not believe the military will carry through with these commitments. I, too, have concerns about how this transition may occur, but this is, nevertheless, an important turning point in Guatemalan history, given the long history and troubling encounters that our own Government has had with the Guatemalan Government.

American interests need to be encouraged with this move away from the extreme undue influence the military has previously exerted in affairs of state in that country.

I do welcome this news. I want my colleagues to know about it. I wish both sides of this negotiation well in carrying out the agreement that they announced in Mexico City yesterday.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

MARITIME SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, after a lot of good work by many Senators, I believe we have a unanimous consent agreement to allow us to go forward on the maritime bill and to schedule votes.

Mr. President, I ask unanimous consent that the only amendments in order to H.R. 1350, the maritime security bill, be the six Grassley amendments that are now filed at the desk; further, that the amendment relative to rates be subject to a relevant second-degree amendment to be offered by Senator HARKIN; further, those amendments must be called up and debated during today's session; further, following the disposition of all amendments, the bill be deemed read a third time.

I further ask unanimous consent that any votes ordered with respect to these amendments be postponed to occur in stacked sequence beginning at 5 p.m. on Tuesday, September 24, with 2 minutes for debate equally divided before each vote, and at 4:30 p.m., there be 30 minutes equally divided on the rates issue.

Mr. STEVENS. Mr. President, reserving the right to object, it is my understanding that there will be 15 minutes for Senator HARKIN before the motion to table his second-degree amendment and 15 minutes for Senator GRASSLEY before we move to table his first-degree amendment.

Mr. LOTT. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, now that we have that agreement entered into, I will note also there is a clearly understood gentlemen's agreement about how the votes will occur in terms of what will be tabled and what will not be tabled. We have had very clear understanding and discussion on that. We will work very carefully with Senators to make sure that understanding is adhered to.

With this unanimous-consent agreement, also I announce there will be no further recorded votes today. The next votes will occur on this issue at 5 o'clock on Tuesday. It is possible that other votes will occur during the day, Tuesday. We will come in session on Tuesday at 9:30 a.m. We hope to be prepared to enter an agreement as to how we will proceed on Tuesday, with the likelihood, the possibility of votes during the day, but these stacked votes will not occur until 5 o'clock.

I yield the floor, Mr. President.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am going to offer my first amendment. I am going to explain the amendment before I send it to the desk, Mr. President.

Some people think that once we pay for the U.S.-flag companies, the $2 million of corporate welfare that we pay per year, per vessel, with this bill that we will not have to pay them again to carry actual war sustainment cargoes. I think the managers of the bill have, in speaking in opposition to some of my amendments, have suggested that we got this $2.1 billion corporate welfare subsidy per ship, per vessel; that that is all we ever have to pay.

But what we are paying for, if I can tell my colleagues, is the right and the obligation of those companies to have those ships available, or similar ships available, to do what the Department of Defense requires to meet our national security obligations.

But once those ships are brought in to meet our national security obligations—that is presumably when we have to deliver things during war—then we have additional costs, because we will have to pay again to carry the actual war sustainment cargoes. So the fact that we just paid $2.1 million of corporate welfare subsidy per year, per vessel, that that is the end of it, is simply not the case.

There are more charges. H.R. 1350 allows these carriers, even though they have already received this heavy corporate welfare subsidy, they will be able to charge to carry war sustainment materials at what is called "fair and reasonable" rates.

My amendment deals with the subject of fair and reasonable rates. Unfortunately, these rates are anything but fair and reasonable to the taxpayers. That is what this Government is all about, getting the taxpayers the most for their money, at least that is what it is supposed to do.

OK. Why is this way not fair and reasonable to the taxpayers? It is because Congress failed in its responsibilities to the taxpayers to define "fair and reasonable" and has left to the Maritime Administration the right to come up with its own definition of "fair and reasonable." The problem with this is that the Maritime Administration views its primary responsibility, not to the American taxpayer, but instead to the welfare of U.S. maritime companies and seafarers.

Therefore, under the guise of "fair and reasonable," taxpayers are forced to pay an extra $450 million a year above world market rates to ship defense cargoes. When you include other agencies that can be involved in paying part of this bill, the taxpayers' bill runs up to $600 million a year.

Price gouging is even worse when we need these U.S. flags for war. During the Persian Gulf effort, they charged taxpayers an extra $625 million. Again, I want to quote other authorities. You might recall on September 10, 1990, in U.S. News & World Report, an article entitled "Unpatriotic Profits."

> The Pentagon is miffed at what it feels is profiteering by the operators of two U.S. cargo ships. Because the Navy is required to use American bottoms before contracting with foreign-owned ships, it paid the two U.S. carriers $70,000 to send war materiel to the gulf. The comparable foreign bid was $6,000.

We paid $70,000, when a comparable bid could cost only $6,000. In other words, if our people had been on their toes, or if the Maritime Administration had been looking out for the taxpayers, we could have shipped that materiel for $64,000 less.

Before somebody tells me that the GAO concluded that neither U.S. flags nor foreign flags gouged taxpayers during the Persian Gulf war, I want to remind anybody who might refer to that of two things: First, the GAO auditing uses the liberal measure, such as "fair and reasonable," not anything close to what the rate would be in a competitive market.

Second, the fact is, a U.S.-flag company did overcharge the Defense Department by $18 million for Persian Gulf war transport services. This matter is still pending before the Armed Services Board of Contract Appeal. So the Defense Department is concerned about being overcharged $18 million.

The Defense Department has made no claims of overcharging by foreign-flag vessels. In fact, foreign flags typically cost one-half to one-third the cost of comparable U.S.-flag vessels during the gulf war. One-half to one-third less.

My amendment embraces taxpayers' protection similar to Buy-America laws. For instance, under buy America, agencies are required to buy products from U.S. companies, but if the same product can be purchased from a foreign company at 6 percent less than what the U.S. company charges, the Government can buy from foreign sources.

So you see, I am using definitions in law today. I am applying that definition in other sections of the code applying to other purchases of service to the maritime industry as it is used in our war efforts.

My amendment uses the very same Buy-America market test of 6 percent. So if my amendment were in place, then U.S.-flag companies, if they would charge more than 6 percent above what can be secured from a foreign-flag vessel, the Government has a right to hire the foreign-flag vessel. This amendment will also prohibit a new scheme that allows U.S.-flag carriers to charge the Defense Department what they would charge infrequent or spot customers.

Mr. President, let me confer here just a minute.

Mr. President, I am sorry. I was explaining my Buy-America amendment and saying we use the same 6 percent test. That would apply then to our maritime industry, like that 6 percent test applies to others. So we would prohibit, then, paying more than 6 percent above what competition would charge.

My amendment also has a second portion by prohibiting a new scheme that allows U.S.-flag carriers to charge the Defense Department what they would charge infrequent or spot customers. My amendment makes certain that this bill will require that U.S.-flag vessels give taxpayers the same rate that they gave their volume customers like the JC Penneys of the world.

This idea also comes from a lot of activity of other Members in this body to apply the same principle. For instance, in pharmaceuticals, you may remember a lot of debate we had in this body on the purchase of Medicare pharmaceuticals, that Medicare would not be charged any more than the largest volume price that the company would give to one of its other customers. We apply that principle here to this bill.

This amendment is not only essential for protecting the taxpayers, as these other amendments have been—some of this is even law in other provisions of the code—but, also, I offer this amendment because I think it is necessary that we slowly and gradually nudge our U.S. merchant marine into the competitive world.

We have done it with our railroads. We have done it with our airlines. We have done it with our truckers, my gosh, almost 20 years ago. It is about time we start doing it with the maritime.

Our deficit-riddled Government can no longer afford to allow the maritime lobby to block efforts to negotiate worldwide maritime reforms. There is another bill in this Congress sitting around here right now that has something to do with that. It may not pass because of the opposition of some, not all, of the maritime industry to competing in the real world out there. Then they will argue, won't they, that they need subsidies because foreign competition is unfair. So I say they cannot have it both ways.

Some time ago in a Journal of Commerce article entitled "On the Evils of Maritime Subsidies," former Maritime Administrator, Adm. Harold E. Shear, stated—and I quote:

> Nearly 50 years of subsidies have not prevented the demise of the U.S. merchant marine . . . Subsidies do nothing more than cause inefficiency, mediocrity, lack of incentive, and dependence upon Uncle Sam.

That is the statement of a former maritime administrator. He has been there. He has seen the entire industry. He has watched it over a period of time. That is what he had to say.

I feel that time is running out on the U.S.-flag merchant marine. They must become competitive and give up government welfare. This legislation deals with that.

Once again, I want to speak about several grassroots organizations located here in town that speak for the American people on wasteful Government spending, who support my efforts on this amendment and on this bill. The Americans for Tax Reform "strongly opposes the continuation of maritime subsidies in any form and strongly urges you to remove any such subsidies from the bill."

We also have a letter from the Council of Citizens Against Government Waste, cosigned as well by the National Taxpayers Union. We also have a letter from Citizens for a Sound Economy.

I ask unanimous consent to have those printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICANS FOR TAX REFORM,
Washington, DC, September 18, 1996.

DEAR SENATOR: The "Maritime Reform and Security Act of 1995" is now pending in this Senate. Americans for Tax Reform strongly opposes the continuation of commercial maritime subsidies in any form and strongly urges you to remove any such subsidies from the bill.

Numerous independent studies have illustrated the needless and excessive cost of commercial maritime subsidies to the U.S. taxpayer. For example, a 1989 Department of Transportation report done by MIT entitled "Competitive Manning of U.S.-flag Vessels" exposed serious waste in this program and determined that maritime subsidies could be reduced by half if there was, in fact a military need for these ships. Even Al Gore has concluded that these subsidies should be abolished.

Like many proponents of increased government intervention, supporters of this legislation assert that it is necessary for national security reasons. However, this legislation is not likely to be at all effective in accomplishing that task. In fact, the Department of Defense's Mobility Requirements Study, Bottom Up Review Update concluded that even without subsidies, the U.S. fleet would be adequate in the event it was needed in time of conflict. If the United States military can meets its requirements without these subsidies, why are we asking the American taxpayer to foot the bill?

The subsidies contained in the Maritime Reform and Security Act of 1995 are particularly egregious examples of a bloated federal government spending taxpayers' money on a project that is wholly unnecessary. This Congress has shown its willingness to eliminate ridiculous pork-barrel spending. Why is the Senate even considering extending a program that costs American taxpayers more than $100,000 per job subsidized annually?

Let's get rid of this wasteful and inefficient program once and for all.

Sincerely,

GROVER G. NORQUIST.

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE, NATIONAL TAXPAYERS UNION,
September 17, 1996.

DEAR SENATOR: Most members of the 104th Congress have prided themselves on ending welfare as we know it. Unfortunately, the Senate may soon consider H.R. 1350, the "Maritime Security Act," which is nothing more than corporate and labor union welfare. The Council for Citizens Against Government Waste will key vote these votes for our 1996 Congressional Ratings. And because they do not key vote per se, the National Taxpayers Union will weigh heavily these votes for their analysis of the 104th Congress.

Taxpayer watchdog and public interest groups asked to testify at public hearings to expose this welfare for shipping companies, but were denied that opportunity. Therefore, the undersigned organizations oppose this bill and will key vote (or weigh heavily) final passage unless several pro-taxpayer amendments to be offered by Sen. Grassley (R–Iowa) and others are adopted.

According to an internal 1993 White House memo to President Clinton from then-Assistant to the President for Economic Policy Robert Rubin, the primary reason for this $1 billion subsidy is to pay for the exorbitant salaries and benefits of union seafarers.

In addition, this internal White House memo cited the Defense Department's (DoD) argument that it needed as few as 20 U.S.-flag vessels. DoD also proposed a deficit-neutral plan to pay for new subsidies. The DoD plan was supported by the heads of 15 executive branch agencies. Only one-Transportation Secretary Pena—opposed this deficit-neutral plan because it "provides less support than is sought by the industry and its supporters."

This is one of my reasons why we join opposition to this bill, and will key vote final passage if the Senate fails to pass Sen. Grassley's pro-taxpayer amendments, especially those that provide protections to taxpayers from maritime rate price gouging and prohibit subsidies from being used for campaign and lobbying purposes.

Sincerely,

COUNCIL FOR CITIZENS
AGAINST GOVERNMENT
WASTE.
NATIONAL TAXPAYERS
UNION.

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, September 16, 1996.

DEAR SENATOR: On behalf of our 250,000 members across America, I want to express our strong opposition to H.R. 1350, the so-called Maritime Security Act, and our strong support for the amendments to this bill offered by Senator Charles Grassley (R–Iowa). The amendments would limit the cost to taxpayers from this proposal without weakening our national defense.

The Act has less to do with maritime policy reform and national security than with corporate welfare. Indeed, this initiative would hand out a staggering $1 billion in subsidies over the next decade to the private merchant marine fleet, without any compelling national security interest or other rationale. It would reward maritime special interests that have been highly vocal on this issue—contributing some $17 million to candidates for political office over the last decade. For taxpayers and consumers, it is quite another story. Assuming, conservatively, that the overall annual cost of present maritime policies is $5 billion, the average cost per seagoing job is no less than $375,000.

Yet, as Harold E. Shear, a retired navy admiral, concluded: "Nearly 50 years of subsidies have not prevented the demise of the U.S. merchant marine. . . . Subsidies to nothing more than cause inefficiency, mediocrity, lack of incentive and dependence on Uncle Sam." We believe that Mr. Shear, who has overseen the administration of these subsidies as maritime administrator, knows what he is talking about.

Supporter of maritime subsidies—and H.R. 1350 in particular—maintain that only a U.S.-owned, U.S.-flagged, U.S.-manned commercial fleet can support the military in emergencies. This argument is a red herring. First, as Admiral Shear points out, the impact of subsidies on the U.S. commercial fleet has been questionable at best. Moreover, there is an enormous amount of capacity available on the open market that can deliver more services more reliably at lower cost. The Military Sealift Command made heavy use of foreign ships staffed by non-U.S. citizens in the Gulf War. Only 17 ships out of the 500 that went into the war zone during the Gulf War were from the active U.S. flag commercial fleet—only six of these had ever received the subsidies.

In 1993, 15 out of 16 government agencies supported an option presented to President Clinton to limit these subsidies. This is how now-Secretary of the Treasury Robert Rubin described this option in his June 30, 1993 "Decision Memorandum on Maritime Issues.":

"Subsidies for the U.S. flag feet have always been justified by their role in providing a sealift capacity for use in military emergencies. With the end of the Cold War DOD's sealift requirements have declined. Although DOD's bottom-up review is not complete, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Commander of the Transportation Command have already concluded that future requirements will not exceed 20–30 liner vessels . . . This opinion would meet DOD'S maximum military requirements." [H.R. 1350 subsidizes 47 vessels.]

We strongly support Senator Grassley's attempt to address many of the more egregious problems with this bill. Senator Grassley's seven amendments would:

Eliminate the provisions in H.R. 1350 that for the first time would exempt U.S.-flag vessels from requisitioning, to ensure that vessel operators who receive taxpayer funding cannot escape their obligations in time of war;

Require that all subsidized U.S. vessels are utilized before foreign-flag vessels may be hired;

Require subsidized seafarers to serve when needed or lose their license to work on U.S.-flag vessels for five years;

Prohibit recipients of the handouts provided in the bill from using the money to make contributions to political campaigns. This would make it harder for the maritime lobby to use taxpayer dollars to press Washington for more taxpayer dollars;

Preclude subsidies from being used in so-called "public education" efforts;

Require that war bonuses paid to seafarers be harmonized with the war bonuses the Pentagon pays regular military personnel. According to Persian Gulf War data, taxpayers can be forced to pay seafarers war bonuses that are 50 times greater than the war bonuses paid to active military personnel;

Limit maximum vessel rates to no more than 6 percent above world market rates. Currently, the Maritime Administration appears to interpret "fair and reasonable" rates to mean whatever rates cover the cost of operation plus a profit margin of about 13 percent and keep as many seafarers in business as possible.

The American taxpayer—who on average makes less than $29,000 per year—is unlikely in the long term to reward those politicians who grant a government subsidy of over $50,000 a year to a commercial sailor who works no more than six months per year.

We want to emphasize, that our endorsement of the Grassley amendments should not, in any way, be construed as an endorsement of the bill. We believe that, first, this bill should be defeated. Should that prove impossible, we believe the Grassley amendments must be passed in order to reduce special interest subsidies and soften the blow to taxpayers.

Sincerely,

PAUL BECKNER,
President.

Mr. GRASSLEY. These letters speak to the issue of these votes and they are scoring these votes in their index of whether or not you are a fiscally responsible Member of Congress.

Mr. STEVENS. Will the Senator yield?

Mr. GRASSLEY. I am happy to yield.

Mr. STEVENS. Has the Senator proposed the amendment?

Mr. GRASSLEY. As a matter of efficiency, I would like to speak to the three amendments that I was going to put forth—I will not put six amendments forth—and then we would avoid the necessity of setting amendments aside. As a matter of efficiency, I wanted to do that.

Mr. STEVENS. Mr. President, I wonder when we would be able to see the amendments that the Senator is offering?

Mr. GRASSLEY. We will give you copies of the amendments now, before I send them to the desk.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa to proceed.

Mr. GRASSLEY. Mr. President, I am going to offer amendments as a combined amendment, amendments that would prohibit the use of money in these subsidies to the maritime companies from being used for lobbying or for campaign contributions. That will be one amendment.

I was going to offer it as two separate amendments, but they are so closely related, I think they should be joined together. On behalf of the amendment I am speaking about now, it would say that these funds cannot be used for lobbying or public education.

For years now, maritime subsidies, such as operating differential subsidies, have funneled money into promaritime lobbying organizations. The Maritime Administration has historically calculated a certain amount of the taxpayer subsidies to U.S.-flag carriers to cover funding for organizations such as the Transportation Institute and the Joint Maritime Congress.

I want to make clear to my colleagues that I do not have anything against the Transportation Institute or the Joint Maritime Congress, but it should not be a cost of operation that the taxpayer subsidy is going to be used for. This should be funded by private money. It should not be a cost of doing business figured into the subsidy.

My amendment makes certain that these funds cannot be misused for such lobbying or so-called public education purposes. There is not much that I need to add. The Senate has debated this issue and voted on it on other bills at other times, with the principle of my amendment applicable to the subject matter of that legislation, as my amendment is subject to the maritime legislation.

On November 9, 1995, the Senate voted on a measure to restrict the use of public funds being used for lobbying. So every Senator is on record on this issue. Simply put, taxpayers should not be forced to pay for lobbying by special interest groups.

Then the second part of this amendment would say that funds cannot be used for campaign contributions. Realizing how much maritime subsidies are really maritime union welfare, you can understand why I might argue if you are against taxpayer campaign finance, you should vote in favor of my amendment.

Former Congressman McCloskey, a Republican in the House of Representatives when he served in the Congress, was involved in this issue very deeply because he was high ranking on the subcommittee dealing with maritime. He said that seafarers' per capita campaign contribution ran 500 times the average of the AFL–CIO member. You probably know why. First of all, there are much higher salaries there for it to be paid from. Also, the overburdened taxpayers have helped to some extent, because to the extent there are subsidies involved in the support of the industry, seafarers can afford to be generous with campaign contributions.

My amendment would prohibit this bill, H.R. 1350, the subsidies therein, from being used for campaign contributions. Again, this is a simple proposition. Taxpayers should not be forced to fund the campaign contributions of special interest groups. Congress has already adopted similar campaign contribution restrictions on other funding bills. I hope my colleagues would support this measure, as well.

AMENDMENTS NOS. 5393 AND 5394

Mr. GRASSLEY. Mr. President, I send these two amendments to the desk and ask that they be read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes amendments numbered 5393 and 5394.

The text of the amendments (Nos. 5393 and 5394) are as follows:

AMENDMENT NO. 5393

On page 23, after line 25, insert the following:

"(7) FAIR AND REASONABLE COMPENSATION.—The term 'fair and reasonable compensation' means that charges for transportation provided by a vessel under section 653 do not exceed by more than 6 percent the lowest charges for the transportation of similar volumes of containerized or break bulk cargoes for private persons.

At the end of the bill, insert the following:

SEC. 18. MERCHANT MARINE ACT, 1936.

Section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)) is amended by adding at the end the following new paragraph:

"(3) For the purposes of this subsection, the Secretary of Transportation shall consider the rates of privately owned United States-flag commercial vessels that are available to an agency to transport cargo pursuant to paragraph (1) not to be fair and reasonable if, at the time the agency arranges for the transportation of the cargo, the lowest acceptable rate offered for the transportation by a privately owned United States-flag commercial vessel exceeds the lowest acceptable rate offered for the transportation by a foreign-flag commercial vessel by more than 6 percent.".

SEC. 19. MILITARY SUPPLIES.

(a) IN GENERAL.—Section 2631 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence, by striking "is excessive or otherwise unreasonable" and inserting "is not fair and reasonable"; and

(B) in the third sentence, by striking "by those vessels may not be higher than the charges made for transporting like goods for private persons" and inserting "by those vessels as containerized or break bulk cargoes may not be higher than the charges made for transporting similar volumes of containerized or break bulk cargoes for private persons".

(2) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) For purposes of this section, the President shall consider the rates charged by a vessel referred to in this section not to be fair and reasonable if, at the time the arrangement is made for the transportation by sea of supplies referred to in subsection (a), the lowest acceptable freight offered for the transportation by any such vessel exceeds by more than 6 percent the lowest acceptable freight charged by a foreign-flag commercial vessel for transporting similar volumes of containerized or break bulk cargoes between the same geographic trade areas of origin and destination.".

(b) MOTOR VEHICLES FOR MEMBER ON CHARGE OF PERMANENT STATION.—Section 2634 of title 10, United States Code, is amended—

(1) in subsection (a)(3), by inserting "or if the freight charged by a vessel referred to in clause (1) or (2) is not fair and reasonable" after "available"; and

(2) by adding at the end of subsection (b) the following new clause:

"(3) The term 'fair and reasonable' means with respect to the transportation of a motor vehicle by a vessel referred to in clause (1) or (2) of subsection (a) that the freight charged for such transportation does not exceed, by more than 6 percent, the lowest freight charged for such transportation by a vessel referred to in clause (3).".

AMENDMENT NO. 5394

(Purpose: To prohibit the use of funds received as a payment or subsidy for lobbying or public education)

On page 16, between lines 23 and 24, insert the following:

"(q) PROHIBITION ON THE USE OF FUNDS FOR LOBBYING OR PUBLIC EDUCATION.—

"(1) IN GENERAL.—An operating agreement under this subtitle shall provide that no payment received by an owner or operator under the operating agreement may be used for the purpose of lobbying or public education.

"(c) DEFINITIONS.—For purposes of this subsection, the terms 'lobbying' and 'public education' shall have the meanings provided those terms by the Secretary of Transportation.

On page 18, between lines 21 and 22, insert the following:

"(4) PROHIBITION ON THE USE OF FUNDS FOR LOBBYING OR PUBLIC EDUCATION.—

"(A) IN GENERAL.—An Emergency Preparedness Agreement under this section shall provide that no payment received by a contractor under this section may be used for the purpose of lobbying or public education.

"(B) DEFINITIONS.—For purposes of this paragraph, the terms 'lobbying' and 'public education' shall have the meaning provided those terms by the Secretary of Transportation.

On page 26, between lines 17 and 18, insert the following new subsection:

(c) PROHIBITION ON THE USE OF FUNDS FOR LOBBYING OR PUBLIC EDUCATION.—Section 603 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1173) is amended by adding at the end the following new subsection:

"(g) PROHIBITION OF THE USE OF FUNDS FOR LOBBYING EDUCATION.—

"(1) IN GENERAL.—No subsidy received by a contractor under a contract under this section may be used for the purpose of lobbying or public education.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'lobbying' and 'public education' shall have the meanings provided those terms by the Secretary of Transportation.".

On page 16, between lines 23 and 24, insert the following:

"(q) PROHIBITION OF THE USE OF FUNDS TO INFLUENCE AN ELECTION.—An operating agreement under this subtitle shall provide that no payment received by an owner or operator under the operating agreement may be used for the purpose of influencing an election.

On page 18, between lines 21 and 22, insert the following:

"(4) PROHIBITION ON THE USE OF FUNDS TO INFLUENCE AN ELECTION.—An Emergency Preparedness Agreement under this section shall provide that no payment received by a contractor under this section may be used for the purpose of influencing an election.

On page 26, between lines 17 and 18, insert the following:

(c) PROHIBITION ON THE USE OF FUNDS TO INFLUENCE AN ELECTION.—Sectiion 603 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1173) is amended by adding at the end the following:

"(g) PROHIBITION ON THE USE OF FUNDS TO INFLUENCE AN ELECTION.—No subsidy received by a contractor under a contract under this section may be used for the purpose of influencing an election."

Mr. GRASSLEY. Mr. President, the last amendment I am going to propose on this bill states that subsidized carriers must provide U.S. flag and U.S. crews for the entire defense sealift voyage. This amendment is responding to the desire, presumably, behind the bill, presumably behind cargo preference legislation for 50 years, a necessity of having American ships and U.S. crews delivering our products, our materiel, to the war zone. So it requires that we have U.S. flag and U.S. crews for the entire defense sealift voyage.

Most believe that if we pay these U.S.-flag carriers this billion dollar corporate welfare subsidy over the next 10 years, they will carry out their obligation to deliver military sustainment cargo all the way into the war zone with their U.S.-flag commercial vessels with U.S. crews. Unfortunately, neither the VISA program, which is already in place, nor this bill, H.R. 1350, guarantees this. So the legislation purports that it is necessary, for our own national security, to have our own U.S. ships and our own U.S. crews to deliver to the war zone our war materiel. Yet, there is no guarantee from this legislation and no guarantee from VISA that this will be the situation.

What typically is the practice is that U.S.-flag vessels will deliver war sustainment materiel to its commercial hub—that hub could be Rotterdam, as an example—and then unload it onto foreign-flag, foreign-crewed vessels, which will then carry the materiel into the war zone.

But this bill does not correct this situation, the practice of using foreign vessels and foreign crews feeders. Now, as you have heard me say, that doesn't bother me so much because, as a practical matter, that is the way we get our goods there. But it seems to me that if we are going to have this subsidy of $2.1 million of corporate welfare for each ship and they get paid that just for the obligation they have to the United States to be available in case of war, or to provide equal service in the case of war, then they ought to be delivering the product to the war zone.

So this practice of transferring to foreign ships and foreign-crewed vessels caused us a lot of confusion about the extent of U.S.-flag support during the Persian Gulf war. Some believe that these U.S.-flag commercial container vessels, which will be subsidized under H.R. 1350, delivered 79 percent of our military cargo into the war zone. This is just not accurate.

We must not confuse the difference among the cargoes and the ownership of vessels. Although much of the Persian Gulf cargoes were carried by U.S. flags, many were Government-owned vessels, not the commercial-owned container vessels that seek these taxpayer subsidies. In reality, Government-owned and Government-chartered vessels deliver 50 percent of these cargoes—primarily ammunition and military equipment. The remaining 29 percent of cargoes, which was primarily sustainment—that included food, clothing, and things like that—was transported by U.S.-flag container vessels to some hub port around the world. From there, most of the military sustainment cargoes were unloaded onto foreign-flag, foreign-crewed vessels, which made the deliveries into the war zonc. In short, virtually all of the military sustainment cargoes carried by U.S.-flag container vessels were transferred to foreign flag/foreign crews to be delivered into the war zone. Foreign flag/foreign crews made about 500 voyages into the gulf war zone. About 300 were feeder vessels that picked up cargo from U.S.-flag containers at a hub port. This practice will not change under this bill and VISA, as it is currently written.

In fact, this legislation will allow U.S.-flag carriers to meet its stage three obligation by substituting its U.S. flag/U.S. crews with foreign flag/foreign crews for the entire voyage, not just to the hub.

Now, what is even more incredible is the fact that these subsidized U.S.-flag carriers will be able to charge U.S.-flag premium rates, while providing the Department of Defense with foreign-flag/foreign-crewed vessels.

Although the inference in this legislation may be that we will have American crews with American-owned ships do the necessary job of transporting our war materiel, and that may be an intent of the bill, it is not a certainty with the bill. It seems to me that we ought to nail that down for that $2.1 million corporate welfare subsidy.

Now, our distinguished majority leader, Senator LOTT, on July 30, 1996, stated this:

> Our military needs a U.S.-flag merchant marine to carry supplies to our troops overseas. We cannot—in fact, we must not—rely upon foreign ships and foreign crews to deliver supplies into hostile areas.

That was our own distinguished majority leader a little over a month ago, speaking of the importance of this. My amendment, then, to H.R. 1350 is necessary if we hope to achieve the objective stated on July 30, 1996, by Senator LOTT.

My amendment requires subsidized carriers to provide Uncle Sam with U.S.-flag vessels and U.S. crew members to carry the war materiel, and to carry it clearly into the war zone, not just to a commercially convenient drop-off point, such as Rotterdam. In other words, if we are paying a $2.1 million subsidy to have these ships available, with the responsibility to get the stuff to the war zone. If the philosophy behind this legislation is that we should have this stuff carried to the war zone on American ships with American crews, then obviously the bill ought to do that. Otherwise, it ought to be made very clear that what this bill is supposed to do, it really does not do that.

So you want to remember that maritime unions and carriers are constantly arguing that we cannot trust foreign flag and foreign crews, and they say that is why we must subsidize American companies' ships with this corporate welfare program that is before us.

So then it seems to me that, under this philosophy, taxpayers should be able to insist that U.S.-flag carriers that receive this billion-dollar corporate subsidy over 10 years put their national defense responsibilities ahead of their commercial interests in times of war.

AMENDMENT NO. 5395

(Purpose: To provide that United States-flag vessels be called up before foreign flag vessels during any national emergency and to prohibit the delivery of military supplies to a combat zone by vessels that are not United States flag vessels)

Mr. GRASSLEY. I send this amendment to the desk and ask that it be read as I did the other two.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 5395.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . IMPLEMENTATION OF VOLUNTARY INTERMODAL SEALIFT AGREEMENT.

(a) IN GENERAL.—In any national emergency covered under the Voluntary Intermodal Sealift Agreement described in the notice issued by the Maritime Administration on October 19, 1995, at 60 Fed. Reg. 54144, the Secretary of Transportation shall ensure that, to the maximum extent practicable, United State-flag vessels are called into service to satisfy Department of Defense contingency sealift requirements under a State III activation of the Agreement (as described in the notice) before foreign flag vessels are used to satisfy any such requirements.

(b) LEVEL OF PARTICIPATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, United States-flag vessels that are the subject to a payment or subsidy under title VI the Merchant Marine Act, 1936, as amended by section 2 of this Act, shall be required to participate under the Voluntary Intermodal Sealift Agreement in accordance with this section.

(2) STAGE III LEVEL OF PARTICIPANTS.—In a Stage III activation of the Voluntary Intermodal Sealift Agreement, a carrier shall make available for satisfying Department of Defense contingency sealift requirements 100 percent of the carrier's United States-flag vessels that are subject to a payment or subsidy referred to in paragraph (1).

(3) STAGE I OR II LEVEL OF PARTICIPATION.—In a Stage I or II activation of the Voluntary Intermodal Sealift Agreement, a carrier shall make available for satisfying Department of Defense contingency sealift requirements the maximum percentage practicable of the carrier's United States-flag vessels that are subject to a payment or subsidy referred to in paragraph (1).

(c) REQUIREMENT FOR CERTAIN STAGE III PARTICIPANTS.—

(1) REQUIREMENT.—Notwithstanding any other provision of law, in the provision of sealift services in accordance with a Stage III activation of the Voluntary Intermodal Sealift Agreement, a United States-flag vessel referred to in subsection (b) shall be operated by a crew composed entirely of United States citizens—

(A) whenever the vessel is in a combat zone; and

(B) during any other activity under Stage III of such agreement.

(2) PROHIBITION.—A carrier may not use any vessel other than a United States-flag vessel operated by a crew composed entirely of citizens of the United States to provide any part of sealift services that the carrier is obligated to provide under a Stage III activation of the Voluntary Intermodal Sealift Agreement.

(d) CONSULTATION.—The Administrator of the Maritime Administration, in consultation with the Secretary of Defense, shall establish procedures to ensure that the requirements of this section are met.

(e) DEFINITION.—For purposes of this subsection, the following definitions shall apply:

(1) COMBAT ZONE.—The term "combat zone" shall have the meaning provided that term in section 112(c)(2) of the Internal Revenue Code of 1986.

(2) NATIONAL EMERGENCY.—The term "national emergency" means a general declaration of emergency with respect to the national defense made by the President or by the Congress.

Mr. GRASSLEY. Mr. President, parliamentary inquiry. The other two amendments are officially before the body as well.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRASSLEY. I inform the Senator from Alaska and the Senator from Hawaii that these are the amendments that I proposed. I can offer more. Obviously, if I am going to offer more, I have to do it before 2 o'clock. Am I right, Mr. President? These amendments must be offered by 2 o'clock?

The PRESIDING OFFICER. Any amendments to this bill would have to be offered by 5 p.m. today.

Mr. STEVENS. If the Senator will yield, that includes time for Senator HARKIN to offer his amendment.

Mr. GRASSLEY. I am going to give up the floor. I just wanted to speak to the fact that there might be some reason that I cannot think of right now to offer another amendment. I do not really anticipate doing it. So I yield the floor. I would be happy to respond to questions or engage in debate. I should give my opponents the courtesy of listening to their objections to my amendments. Whatever the floor managers at this point want to do, I yield the floor.

Mr. STEVENS. Mr. President, we have not had a chance to study the amendments. I only have the first one in my hand now. We have two more. I can't debate these amendments until I have a chance to analyze them. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 5396 TO AMENDMENT NO. 5393

(Purpose: To provide for payment by the Secretary of Transportation of certain ocean freight charges for Federal food or export assistance)

Mr. INOUYE. Mr. President, on behalf of the Senator from Iowa [Mr. HARKIN], I send to the desk an amendment to the Grassley amendment No. 5393, and this is offered in the second degree.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE), for Mr. HARKIN, proposes an amendment numbered 5396 to amendment numbered 5393.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . OCEAN FREIGHT CHARGES.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation shall finance any ocean freight charges for food or export assistance provided by the Federal Government for any fiscal year, to the extent that such charges are greater than would otherwise be the case because of the application of a requirement that agricultural commodities be transported in United States-flag vessels.

(b) APPLICATION OF OTHER ACTS.—Subsections (c), (d), and (e) of section 901d of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241h) shall apply to reimbursements required under subsection (a).

(c) DEFINITIONS.—As used in this section:

(1) AGRICULTURAL COMMODITY.—The term "agricultural commodity" has the same meaning given to such term by section 402 of the Agricultural Trade Development and Assistance Act of 1954.

(2) FOOD ASSISTANCE.—The term "food assistance" means any export activity described in section 901b(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(b)).

Mr. INOUYE. Mr. President, pursuant to the agreement, this amendment will be discussed on Tuesday at 4:30.

Mr. President, if I may, during the time available, respond to the amendments as submitted by Senator GRASSLEY, many critics of the U.S.-flag merchant marine have suggested that the U.S. military rely on foreign-controlled and foreign-flag vessels for sealift because they maintain that to ship goods on foreign vessels would be less expensive. However, I would like to suggest that to do this would subject our Armed Forces to a highly unreliable source of sealift and supply. This would leave the United States at the mercy of price gouging by foreign-flag vessels who would have a captive client.

For example, in the recent war in the Persian Gulf, 80 percent of the cargo was carried on American flags. We had to pull out ships from all over the seven seas. But we cannot provide 100 percent coverage of all cargo. It was not possible. Our fleet was not large enough. Therefore, to carry the remaining 20 percent, we had to rely on foreign vessels.

These statistics that I am about to present, Mr. President, have been confirmed by the GAO and confirmed by the Department of Defense. The average cost of Desert Shield-Desert Storm shipping by foreign flag was $174 per ton. The average cost for Desert Shield-Desert Storm shipping by U.S. flagships was $122 per ton. It was $52 per ton cheaper on American ships. When shipping was particularly essential, when the demand for shipping space became an urgent matter, foreign-flag vessels began to gouge the U.S. military. And I am going to read examples of this.

During this period, the vessel *Green Lake*, which is an American vessel, was paid $31,500 per day to charter. The vessel capacity was 400,416 square feet. For each dollar that we paid, we carried 12.71 square feet. We were able to purchase 12.71 square feet for $1.

In the case of the Italian vessel *Jolly Smeraldi*, we paid a $29,000 per day charter cost. The vessel capacity is 97,427 square feet. And for each dollar that we provided this Italian ship, it provided us 3.35 square feet as compared to the American at 12.71.

The *Saudi Riyada*, we paid that company $25,000 per day. The Saudi Riyada evidently is owned by the Government of Saudi Arabia. The vessel capacity is 141,000. And for each dollar that we paid the *Saudi Riyada*, we were able to use 5.64 square feet.

I could go on and read dozens of cases of this sort. But in each case we got a bargain from American steamship companies, whereas, on the other hand, these companies, these foreign vessels, were gouging us.

For example, it might interest Americans to know that the Norwegian vessel *Arcade Eagle* was given $16,000 per day by charter, and they carried 55,000 square feet of cargo which comes down to 3.43 square feet per dollar. The usual charge of the *Arcade Eagle* would be $8,000 per day for charter. But in this case, because they knew that the United States had no choice but to rely upon foreign vessels, they doubled their cost. And in each case, whenever we called upon foreign vessels to help us carry cargo to this war zone, they jacked up the price because they knew we had no choice.

What I am trying to say is that notwithstanding the criticism we might hear, we get a better deal from American vessels than from any foreign-flag vessel. In the case of the U.S. ship *Green Lake*, for example, for $1 we had more than 12 square feet of cargo space. For the Panamanian ship *Takoradi*, for each dollar we paid that company, we got 2.85 square feet of cargo space.

Second, one of the amendments would require that any cargo carried by American vessels must continue on into the war zone. This would take away the military flexibility that is so necessary to the military leaders for one reason. Not all harbors are deep enough. Most of the American ships are the larger ones, the tankers, the huge tankers that can carry a large amount of cargo, and they require deep harbors. These are deep draft ships. These are not small ships.

For example, it would be impossible for the *Green Lake* to go to Somalia. That was one of the war zones. It would be impossible for the *Green Lake* to go into the harbor in Bosnia. Therefore, the *Green Lake* would carry the cargo to the nearest major port, in the case of the Bosnian war, in Italy and there place the cargo on smaller American or foreign vessels to finish up the journey. And so this amendment which would require military leaders to charter ships that will carry a cargo from point of departure to point of arrival without any stoppage would take away the flexibility that military leaders require.

These amendments just make no sense, Mr. President. And finally, the amendment proposed relating to campaign contributions and educational programs. The amendment says that if any company receives subsidies, that company may not involve itself in providing campaign contributions or involving themselves in political campaigns.

There are many subsidy programs in the United States. Farmers receive large amounts of subsidy. They join the Farm Bureau. Does this mean that the Farm Bureau can no longer participate in political campaigns? Does it mean that it cannot make political contributions? If this amendment were to be applied to all subsidy recipients, and many subsidies are for research grants—just about every university in the United States receives some sort of grant. Some are large; some are small. Does this mean that the professor who is conducting the research program is denied his constitutional right to make a campaign contribution?

These amendments at first glance may appear to be reasonable, rational, and very American, but when one analyzes the amendments, they begin to bring up problems that I do not think the author intended.

So I hope that when the time comes on Tuesday to determine whether to accept or to deny these amendments my colleagues will vote against them.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, on July 30, 1996, Senator LOTT said, and I quote, "We cannot, in fact, we must not, rely on foreign ships and foreign crews to deliver supplies into hostile areas."

This is the impetus for one of the three amendments that I have that require American crews and American bottoms subsidized by this bill, to carry war materiel, carry it the entire way to a war zone. And this legislation does not require this.

I know it is the intent of the legislation that American bottoms and American crews be used most of the time, or maybe all the time. That may be the intent. But it is not required. And Senator LOTT being one of the biggest proponents of this legislation stated this. Since this is his measure of the importance of our maritime industry, I felt we should bring that issue here in the way of my amendment.

Now, I want to speak maybe just for 3 or 4 minutes in response to the amendment that has not been debated but has been offered by the Senator from Hawaii for my colleague from Iowa, Senator HARKIN.

I know there is going to be an opportunity for us to speak on this Tuesday under the unanimous consent, but I would like to express this thought about this idea of my colleague from my State.

This happens to be the second time that my colleague from Iowa has tried to undercut my efforts to obtain sanity and control over the way we shovel union welfare and corporate welfare funds to the U.S. maritime industry and the merchant marines. The last time was 6 years ago exactly.

The purpose of this amendment is to have the U.S. Department of Transportation pay the cargo preference costs rather than the Agriculture Department for the food programs of the Agriculture Department. I do not think we can find any fault with the Transportation Department paying it instead of the Agriculture Department, because it is a transportation cost and it is not the cost of food. But it does not accomplish anything and is just a bookkeeping issue.

So I said then, 6 years ago, and I say again today, it does not make any difference which agency pays for cargo preference—either way taxpayers get ripped off. So this amendment by my colleague from Iowa would continue to allow the maritime labor unions to rip off taxpayers.

I read in debate yesterday from this Rubin-Clinton memo. The Rubin-Clinton memo had been sent to every Senator last year by Citizens Against Government Waste. I had it delivered again to each office yesterday.

In short, Secretary Rubin, in his memo to President Clinton on this issue of subsidies for the maritime industry, President Clinton's own Cabinet people argue that maritime subsidies are simply aimed at paying high-priced seafarers. They argued that the maritime subsidies are little more than a jobs bill, and it would be unfair to give special treatment to seafarers unless President Clinton would be willing to give other workers facing job losses the same type of subsidies.

The amendment I have on this bill is supported by taxpayers' organizations because it goes to the heart of wasteful maritime subsidies. My amendment requires Congress to define the legal term "fair and reasonable rates."

So, if Senator HARKIN's amendment would be adopted, then that would undercut the pressure for Congress to define what is fair and reasonable, because we have left that definition to the maritime industry. The Maritime Administration has been more concerned about the maritime industry and the maritime unions, protecting them, than protecting the taxpayers. So they have a very liberal "fair and reasonable rate" definition.

So, in my amendment, which Senator HARKIN has offered to amend, we use the same type of definition for taxpayers' protection that are under Buy-America laws, which are already on the books. In short, such as with Buy America, agencies can buy products, or in maritime cases it would be services, if U.S. companies are charging taxpayers 6 percent more than foreign companies. My amendment might save the taxpayers $500 million a year.

Now, for $500 million a year I use as a source—I honestly can document $500 million. There is, in every budget since Darman was Director of the Office of Management and Budget, a figure on what cargo preference costs are. We never had it in previous budgets. At least we have a dollar figure on it now.

So, Senator HARKIN's amendment in the final analysis does not save the taxpayers one thin dime. It merely says this is going to be paid for out of transportation rather than out of the Agriculture Department. So I urge my colleagues to oppose this amendment.

I do not think we should fool ourselves. This amendment will not help farmers who happen to be taxpayers as well. My amendment gets at saving taxpayers the money, not just saying who is going to pay for the cost of cargo preference.

Our appropriating committees will simply take money out of funds allocated under agriculture to buy food for those starving overseas, which is the agriculture program involved, and they will take whatever the cargo preference cost is and give it to the Transportation Department. Farmers will not sell more food under this amendment. It will not save the taxpayers any money. And this is the reason this amendment should be opposed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I wish I had the luxury of the Senator from Iowa to make statements that he just made. The Senator from Hawaii and I have the duty to also manage the defense budget. We know what it costs to maintain ships and crew them 12 months a year, to pay for the construction of the ships in order to have them available to send food and supplies to our service men and women when they are at war. We can no longer afford that. We have had to abandon the program started by President Eisenhower. As I said on the floor right here last night, the build and lease programs where we built the ships and we leased them to other people during peacetime and we used them during war, it cost us a great deal more than the system does now.

I am sad that these great organizations that support the concept of protecting the taxpayers have been misled again. But they have been misled. If we followed the advice of the Senator from Iowa, we would be spending billions more—billions. We did spend billions. We have cut it down now to where it is going to be less—I have said $150 million less than the program costs us today—if we pass this bill.

This amendment of the Senator would require that U.S. ships carry Government cargo at rates no more than 6 percent higher than the lowest rate charged by any foreign-flagged vessel, regardless of the quality of the vessel or whether or not that vessel could even handle the cargo. These foreign-flagged vessels operate under flags of convenience. They do not meet our safety requirements, environmental standards, and they do not pay decent wages. Their seamen left the ships when we had them under contract to go to the Persian Gulf. They abandoned their ships. They would not go into harm's way.

Cargo preference accounts for only 1¼ percent of all commercial and Government agricultural exports. The Senator from Iowa is representing farmers very well. I understand that. We represent the taxpayers. I think the fact that these taxpayers' organizations have been misled by things like my friend from Iowa has said is what gets us into so much trouble with these organizations.

The 1997 budget estimate for cargo preference is $70 million—$70 million. The nationally recognized accounting firm of Nathan Associates estimated the U.S. Treasury receives back $1.26 for every $1 spent on cargo preference. The extra 26 cents comes from the fact that the U.S. taxes would not be paid if we do not have a U.S. fleet and U.S. crew. In other words, we are actually saving the taxpayers' money by using cargo vessels that pay to support our system. And we hire people who pay taxes.

If you want to hire foreign ships and foreign crews, you do not get any taxes, you do not get compliance with Federal standards. We have all sorts of problems, including the fact that the crews abandon ship when they have to go into war zones. That has to be figured in, but the cost to the taxpayers, if we follow the approach that is outlined by the Senator from Iowa, would be to go back to building the ships, keep them standing in some port, paying people to sit on them, waiting until the time we have to go to war.

We have worked out a better system. This system is being designed in the interest of the taxpayers. The GAO estimates without the cargo preference, the U.S. fleet would shrink dramatically. In other words, we would have no vessels available for sealift. None. We can predict how long it would be. We can actually tell you exactly when there would no longer be any ships, and we would be completely dependent upon foreign ships to maintain our military posture. Imagine that, the last superpower of the world would have to go begging around the world in time of crisis to find some way to send supplies to our people.

The GAO found that we would lose 90 percent of the bulk cargo fleet, 80 percent of the cargo vessels, 75 percent of the intermodal vessels and 35 percent of the tankers. That is a vast majority of our fleet if we followed the advice of the Senator from Iowa.

I tell the Senate again, I don't know why we have to, as Members of the Senate, be threatened—threatened—by the taxpayers unions. That is what the Senator is doing. It is already on a sheet. Every one of us is going to be rated now by a group that is being misled. If they want to come to me, I will show them what it will cost to build a fleet, I will show them what it costs to maintain the fleet, because we know what it used to cost us. We did that in the period after World War II. Then we went into the Eisenhower build and lease program, and we know what that cost. But it was the best system available then.

We have a system now, we have an agreement from our people that they will provide us, just like we provide airplanes now. Mr. President, we do not maintain a full air cargo fleet in our military any longer. We have a CRAFT program, the civil reserve air fleet. We use our planes that are cargo planes—the best in the world—manned by Americans, built by Americans, owned by Americans, and they are available to us.

That is exactly what we are going to do now with the maritime cargo fleet. We are going to deal with U.S. vessels. We have this system, and it is going to cost the least amount in the history of the United States to provide it. The

Senator from Iowa has the audacity to tell me that I am going against the taxpayers of the United States to put forward this bill to provide that system. I say this is the kind of thing that destroys the confidence in the Congress, to have people of this country told that we are wasting money when we devise a system that brings back $1.26 for every dollar we spend in order to keep this reserve military sealift capacity available.

I am sorry to say, unfortunately, under the agreement, we don't have any time to answer the Senator on Tuesday. Both Senators from Iowa will have 15 minutes to explain their amendments, and we have the right to table them. So I hope we have the confidence of this Senate that the Senator from Hawaii and I normally enjoy, and that is, that we will not mislead the Congress, we will not mislead the people of the United States, and we are not going to mislead the taxpayers.

The people misleading the taxpayers are these people who are coming forward with these fallacious arguments and presenting figures that cannot hold up. These have been studied by independent people, by the nationally recognized accounting firms, by the Government Accounting Office that we rely on as a branch of the Government, and they have told us this system is sound.

What the Senator from Iowa is trying to do is kill this bill. Any one of the amendments, if they are adopted this late in the Congress, sends this bill back to the House, and it is dead. So I intend to oppose all of his amendments and oppose them for what they are: Killer amendments. That is what they are, killer amendments, and that is his design—to kill. He has tried several times to kill the cargo preference concept. We back it because it is the most efficient way to handle export of products produced by farmers from the farm belt of this country, great people. We buy their grain and we ship it abroad on a humanitarian concept.

The Senator objects to the fact we are using American ships, American crews, American management to do that. The reason we use the American fleet is that we must have it in the event of war. Without our program, we would not have it. We would not have any, and I, in my capacity as a member of the Commerce Committee, support the cargo preference concept because I know, in my capacity as chairman of the Defense Appropriations Committee, if we do not, we have to put much more of our money that could be used to maintain our Army, our Air Force, our Navy, our Marine Corps, into maintaining a ready fleet to carry our goods to support our people if we ever have to deploy them.

My staff points out if this bill is killed, it will leave intact the more expensive system we are trying to replace. That is the point I am trying to make, too. The bill before us has been the one we have been working on, the Senator and I, now for two decades trying to put forward a concept like this. We finally got a bill out of the House. I want to see it go to the President and signed before this Congress is over.

I will come back at a later time and address the other amendments of the Senator from Iowa. Unfortunately, Mr. President, I must leave the floor, as the Senator from Iowa did last night several times. I must leave for an hour. I will be back at 1:30.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, if I may comment upon the very eloquent statement made by my colleague from Alaska on cargo preference. Cargo preference is not new. In fact, every nation on this globe that has a maritime fleet has cargo preference. The United States was the last nation to adopt cargo preference as part of its economic policy.

How does cargo preference operate? Whenever we buy oil from Saudi Arabia, the requirement is if you are going to buy Saudi oil, it will be shipped on Saudi ships, and the only time an American ship may carry that Saudi oil is when there are no Saudi ships available. We have no say as to how much they are going to charge for the shipment of that crude oil.

Whenever we buy automobiles from Toyota, Mitsubishi, and God knows what else, they come in on Japanese ships, not on American vessels, because that is part of the cargo preference agreement.

Our cargo preference laws are very limited. It applies only to humanitarian goods, agricultural products. For example, when starvation was rampant in Ethiopia, the United States, like most other nations, responded by sending food. Under our laws, it says that 50 percent of those products must be shipped on American vessels; the other 50 percent on foreign vessels. We are not like other countries that would say every pound of grain must be shipped on American vessels. We say 50 percent. There are those who are suggesting either to wipe this out or bring it down to 25 percent.

What are the consequences? Imagine American grain on a Russian vessel shipped to Ethiopia—and this is not a hypothetical, Mr. President, it is done—with the red flag. And you can just hear the stevedores unloading American grain, an American gift and saying, "Thank you, Soviet Union." "Thank you, Russia." That is how it appears. By cargo preference, we are keeping our fleet alive.

Mr. President, I think we should remind ourselves that at the end of World War II we were the superpower when it came to shipping. No other nation came close to us. The British fleet was at the bottom of the Atlantic and the Pacific Oceans. The Russian fleet was nonexistent. The German fleet was nonexistent. The Japanese fleet was nonexistent. We were the shipping nation of the world.

Today, Mr. President, we have less than 350 ships. We are No. 15. The Chinese have more ships, the Greeks have more ships, the Italians have more ships, the British have more ships. In order to bring down the cost of running this Government and taking off the burden from our taxpayers, we have strange laws.

This might interest you, Mr. President. The mail that is now being carried from our shores to our NATO allies, that is, in Europe, one would assume would be carried on American vessels. Russian mail from Russia comes in on Russian ships. British mail from England would come in on British ships. Japanese mail would come in on Japanese ships.

So you would think that American letters from here to Europe and from Europe to America would be on American ships. No, it is not so. We open it up to bid. The lowest bidder will carry the cargo and the ships and the mail. The shipping company that carries our mail is the Polish Steamship Company. It is owned by Poland. It is not a private steamship company. It is owned by the Government of Poland, fully subsidized. How can you expect any American vessel to bid against the Polish Steamship Company? At one time it was the Russian Steamship Company.

These steamship companies are either fully subsidized or partially subsidized by their nation. The United States has to compete in that playing field. So the small amount that we set aside for cargo preference is not only wise, it is not only prudent, it is absolutely necessary because without that you will find that many of our ships would decide to go out of business.

I think we should also keep in mind that our ships, unlike those ships of other countries, pay good wages. I do not suppose Americans would expect our merchant seamen to work for minimum wage. I do not suppose that we American taxpayers want our merchant seamen to have no health benefits, no pension programs. I think they are entitled to pension programs like other workers. They are entitled to at least a minimum wage like other workers.

Most of the sailors on foreign vessels do not match our minimum wage. And we expect, under this amendment, to have our ships pay a rate that would require the companies to pay our merchant fleet seamen less than minimum wage? It is outrageous. It is demeaning.

Mr. President, I hope that we will join our chairman from Alaska to oppose all of these amendments. Cargo preference is not bad. It makes good sense. I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I know that my colleague from Alaska had to leave the floor for an hour, and legitimately so, because he has important duties elsewhere. But I want to take time to respond to the sadness he expressed that organizations like the National Taxpayers Union would be concerned about the waste in this bill, as they see it and as I see it, the fact that we should not have corporate welfare subsidies, and that they are reflecting their membership at the grassroots level, that he is sad for that, or at least for what he considers to be a negative impact that that process has on the legislative process.

He should not be saddened in any way because basically what we are talking about here is a constitutional right that is in the first amendment. It is in the first amendment and about which you do not hear much. You always hear about freedom of speech, freedom of religion, freedom of press, but you do not read much about the right to petition your Government for redress of grievances.

All these organizations are doing, in opposing this legislation, is speaking for their grassroots membership who feel that Washington is wasting money on a corporate welfare subsidy. We ought to encourage that process. We should not be saddened by that process. It is what has made America great for the 209-year history of our constitutional Government. I want to encourage it.

If I had letters from the National Taxpayers Union in opposition to this legislation, that is not any more illegitimate than the Senator from Alaska or the Senator from Hawaii having letters from the maritime industry, the individual corporations, or from the maritime unions in support of the legislation.

Everybody has a right to voice their opinion on legislation. We ought to spend our time listening and encouraging that process. We should not be discouraging that process. The more open Government can be, the stronger our Government will be. And there is so much cynicism at the grassroots that we do not listen to our people that it is weakening the very foundation of our system of representative government. Each one of us has a responsibility to encourage that process of representative government and to listen.

It is better to listen to a Taxpayers Union member in my State of Iowa than their national organization. It is better to listen to the individual who does not belong to any organization than it is to listen to organizations in town. But the right of association guarantees those same people at the grassroots who feel that they do not have time to work the governmental process to work through organizations. That is just as true of the members of the National Taxpayers Union as it is the employees of John Deere in Waterloo, IA, working through their UAW people in Washington, DC; albeit, it is better if each of us listened to the individual and not have it filtered through the organization.

The issue was brought up by the Senator from Alaska of how this saves money. If you compared the cost of existing programs, this bill will cost less. I do not dispute that. I have never disputed that. But can we spend even less and get the job done? I feel we can. And if we can, we should.

It was disputed that I had the authority to use numbers for savings. We know what cargo preference costs. We know that because after my railing about it for several years, the Office of Management and Budget started ferreting out the information where it is hidden in the appropriations of different departments, and bringing it together in one figure. It is in the President's budget document. So that $600 million figure I did not make up. It is a study figure from the President's budget.

Now, whether or not these good-Government groups like the National Taxpayers Union should be sending these letters, I suggest to the leadership of this bill that it would not have been necessary for that point of view to be considered this late in the legislative process. They and other organizations in opposition to this legislation, a year ago, asked to be part of a public hearing where only the proponents of this legislation were allowed to appear—only the proponents of the legislation. The opposition was not heard.

If the committee process had worked the way it should have worked—without having both pro and con in a hearing, to have a fair hearing. They tried to get a second hearing since then, and for a long period of time was promised such a hearing, but it did not come off. So these problems would not have existed in getting their point of view out if they had been heard in the first place.

So that it is plain, very plain that these organizations did ask to appear. From the director of government relations of Citizens for a Sound Economy, I will read part of this letter:

> To date, the subcommittee on Surface Transportation of the Merchant Marine has held one hearing on the act, failing to invite any of the many individuals and organization opposed to the bill. We believe that consideration of the act without the benefit of open debate will prevent the Senate from making an informed decision in this matter.

Americans for Tax Reform say:

> I strongly urge you to hold hearings on this entire bill before the full committee in which those opposed to continued maritime subsidies are allowed to state their views.

We also have Citizens Against Government Waste. To the chairman of the committee:

> Therefore, we urge that no Senate consideration of either H.R. 1350 or S. 1139 be allowed until the first Senate commerce committee holds open hearings allowing independent experts and critics to testify.

Then a letter from my colleagues:

> We therefore request that before either H.R. 1350 or S. 1139 be considered by the Senate that you hold a series of full committee hearings to explore the work devoted to the Rubin memo and the MIT study, and to hear the concerns and successes.

Suggestions from a growing number of critics of maritime subsidies—a letter on March 12 of this year was sent to the chairman of the committee and signed by Bob Dole, JOHN ASHCROFT, DON NICKLES, NANCY KASSEBAUM, HANK BROWN, myself, JON KYL, JESSE HELMS, and ROD GRAMS, the distinguished Presiding Officer right now. We did not get into the hearing room, obviously.

I ask unanimous consent these letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICANS FOR TAX REFORM,
Washington, DC, May 10, 1996.

Hon. LARY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: The so-called "Maritime Reform and Security Act of 1995" (H.R. 1350 and S. 1139) is now pending in the Senate—without a single opportunity for those who oppose the continued corporate maritime subsidies in the bill to testify before the Subcommittee on Surface Transportation and Merchant Marine. Americans for Tax Reform strongly opposes the continuation of commercial maritime subsidies in any form and strongly urges you to hold hearings before the full Commerce Committee on all of the provisions of this bill.

Numerous independent studies have illustrated the needless and excessive cost of commercial maritime subsidies to the U.S. taxpayer. For example, a 1989 Department of Transportation report done by MIT entitled "Competitive Manning on U.S.-flag Vessels" exposed serious waste in this program and determined that maritime subsidies could be reduced by half if there was, in fact a military need for these ships. Even Al Gore has concluded that these subsidies should be abolished.

Like many proponents of increased government intervention, supporters of this legislation assert that it is necessary for national security reasons. However, S. 1139 is not likely to be at all effective in accomplishing that task. In fact, the Department of Defense's Mobility Requirements Study, Bottom UP Review Update concluded that even without subsidies, the US shipping fleet would be adequate in the event it was needed in time of conflict. If the United States military can meet its requirements without these subsidies, why are we asking the American taxpayer to foot the bill?

The subsidies contained in the Maritime Reform and Security Act of 1995 are particularly egregious examples of bloated federal government spending taxpayers' money on a project that is wholly unnecessary. This Congress has shown its willingness to eliminate ridiculous pork-barrel spending. Why are you even considering extending a program that costs American taxpayers more than $100,000 per job subsidized annually?

I strongly urge you to hold hearings on this entire bill before the full committee, in which those opposed to continued maritime subsidies are allowed to state their case.

Sincerely,

SCOTT P. HOFFMAN,
Director of Operations.

U.S. SENATE,
Washington, DC, March 12, 1996.

Hon. LARRY PRESSLER,
Chairman, Senate Commerce Committee.

DEAR CHAIRMAN PRESSLER: Last year, you joined us in a letter to Budget Chairman Domenici calling for the "elimination of wasteful maritime programs." As you can see from the enclosed materials, public interest groups also oppose maritime subsidies, including:

(1) Citizens Against Government Waste
(2) National Taxpayers Union
(3) Citizens for a Sound Economy
(4) Heritage Foundation
(5) Competitive Enterprise Institute
(6) Cato Institute
(7) Progressive Policy Institute of the Democratic Leadership Conference, and
(8) Ralph Nader's Essential Information Group

Unfortunately, these and other critics of maritime subsidies were not called to testify at the single hearing by the Subcommittee on Surface Transportation and Merchant Marine. Now H.R. 1350 and S. 1139, the Maritime Reform and Security Act of 1995, are pending on the Senate Calendar.

The committee was denied the benefit of important independent analyses of maritime subsidies, including the MIT report entitled "Competitive Manning on U.S.-flag Vessels" which exposed serious waste and determined maritime subsidies could be cut in half.

The committee also was denied the benefit of extensive work by 16 executive branch agencies summarized in the 1993 "Decision Memorandum on Maritime Issues" from Robert Rubin to President Clinton. Fifteen of 16 executive branch agencies concluded that as few as 20 vessels—not 50—should be subsidized. The memo states that the "Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Commander of the Transportation Command have already concluded that future requirements will not exceed 20-30 liner vessels. DOD will have no need for bulk vessels."

It was also concluded that "subsidies are needed primarily to offset the higher wages of U.S. mariners" and that "subsidizing carriers simply to preserve jobs would leave the Administration hard pressed to explain why it should not also subsidize every other industry that suffers job losses."

We therefore request that before either H.R. 1350 or S. 1139 be considered by the Senate, that you hold a series of full committee hearings to explore the work devoted to the Rubin memo and the MIT study, and to hear the concerns and suggestions from the growing number of critics of maritime subsidies.

Sincerely,

Bob Dole, John Ashcroft, Don Nickles, Nancy Landon Kassebaum, Hank Brown, Chuck Grassley, Jon Kyl, Rod Grams, Jesse Helms.

COUNCIL FOR CITIZENS
AGAINST GOVERNMENT WASTE,
March 7, 1996.

Hon. LARRY PRESSLER,
Chairman, Senate Commerce Committee, Washington, DC.

DEAR MR. CHAIRMAN: The 600,000 members of the Council for Citizens Against Government Waste (CCAGW) strongly oppose H.R. 1350 and S. 1139, the Maritime Reform and Security Act of 1995. These bills neither reform nor sustains security for America's hard working taxpayers. This legislation is another example of entrenched corporate political pork.

Because only maritime supporters were invited to attend the single hearing held by the Subcommittee on Surface Transportation and Merchant Marine, and critics of the programs were barred from testifying, your full committee was denied the benefit of independent analyses which would expose the enormous waste involved in federal maritime programs. There are far less costly and more effective means of protecting America's national security interests.

Therefore, we urge that no Senate consideration of either H.R. 1350 and S. 1139 be allowed until the full Senate Commerce Committee holds open hearings that allow independent experts and critics to testify.

This legislation actually undermines our national defense because it:

1. allows vessel operators to be exempt from requisitioning;

2. permits operators to withhold their U.S.-flag vessels from war duty by subcontracting far less costly foreign-flag vessels, an still receive U.S.-flag vessels, and still receive U.S.-flag premium rates;

3. provides the least militarily useful ships (i.e., large non-self-sustaining container);

4. allows the transfer of U.S.-flag vessels to foreign flags without approval, and,

5. reduces the capacity of the U.S. merchant marine fleet by allowing operators to double-dip taxpayers through multiple subsidies (direct—lump sum; indirect-cargo preference premium rates and subsidized service in the domestic trade and leasing subsidized ships without restrictions to foreign citizens).

This legislation will discourage new investment and innovation by erecting artificial, anti-competitive barriers that give the upper hand to operators servicing domestic trades in 1995, and barring subsidies to any newcomers even if they are more efficient and can provide more militarily useful vessels.

Your full committee should review the MARAD-sponsored MIT report, "Competitive Manning on U.S.-flag Vessels." This report exposed wasteful maritime practices and found that subsidies could be cut down to as little as $1.1 million per vessel.

We also request that your committee study the work of 16 executive branch agencies summarized in the "Decision Memorandum on Maritime Issues" from Robert Rubin to President Clinton. Fifteen agencies sided with the Defense Department's conclusion that as few as 20 vessels—not the 50 required by S. 1139—are needed for national security and should be subsidized. And they concluded "DOD will have no need for bulk vessels," which means cargo preference subsidies should be eliminated.

Just as telling is the fact that these agencies concluded that "subsidies are needed primarily to offset the higher wages of U.S. mariners" and that "subsidizing carriers simply to preserve jobs would leave the Administration hard pressed to explain why it should not subsidize every other industry that suffers job losses."

Your committee should also hear from the Department of Transportation's Inspector General, who concluded that the entire Maritime Administration and all of its U.S.-flag subsidies should be terminated, a conclusion similar to that reached by Vice President Al Gore's National Performance Review Transportation Task Force.

Strengthening our national defense is a goal CCAGW strongly supports, but forcing taxpayers to subsidize high-priced seafarers and militarily useless vessels during a time we are eliminating the jobs of our men and women serving in the Navy makes no sense at all. There is not one of these sealift billets that our Navy personnel, with little or no training, could handle.

S. 1139 and H.R. 1350 is corporate welfare that must be stopped. We stand ready to assist you in these hearings and in making the necessary changes to these bills.

Sincerely,

THOMAS A. SCHATZ,
President.

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, March 15, 1996.

Hon. LARRY PRESSLER,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of Citizens for a Sound Economy's 250,000 members across America, I urge you to give the opponents of H.R. 1350 and S. 1139, the Maritime Reform and Security Act of 1995, a fair chance to voice their concerns. To date, the Subcommittee on Surface Transportation and Merchant Marine has only held one hearing on the Act, failing to invite any of the many individuals and organizations opposed to the bill. We believe that consideration of the Act without the benefit of an open debate will prevent the Senate from making an informed decision in this important matter. Especially at a time when Congress is attempting to come to grips with excessive spending, pro-spending legislation should not be immune from criticism.

Citizens for a Sound Economy strongly opposes the Maritime Reform and Security Act of 1995. We believe that Congress should put the era of costly Cold-War level maritime subsidies behind it. The primary beneficiary would be current and future generations of American taxpayers, who would not have to pay the price of billions of dollars in new, unneeded subsidies. We believe that America needs to rely on more competitive, least-cost solutions to national security issues and concerns. Among other needed reforms, this entails ending spending on excessive salaries and benefits for U.S.-flag seafarers and other unwarranted expenses associated with often unwarranted vessels.

We would like to emphasize that a wide spectrum of policy analysts and public officials seriously question and oppose the continuation of the maritime subsidies and intervention of all sorts. For one, Vice President Gore's National Performance Review recommended that all maritime subsidies be ended, saving Americans $23 billion over ten years. A study by the Massachusetts Institute of Technology, "Competitive Manning on U.S.-flag Vessels," pointed to the extensive waste and abuse in the maritime programs and suggested ways to get more value for less taxpayer dollars. This study was commissioned by none other than the Maritime Administration. The Defense Department notes that only 8 percent of the supplies delivered to the Persian Gulf during the

Gulf War came on U.S. commercial vessels. The U.S. Transportation Inspector General recently recommended that the Maritime Administration and all maritime subsidy programs be eliminated.

Harold E. Shear, former U.S. Navy Admiral and Maritime Administrator, has concluded that "Nearly 50 years of subsidies have not prevented the demise of the U.S. merchant marine . . . Subsidies do nothing more than cause inefficiency, mediocrity, lack of incentive and dependence on Uncle Sam." In 1993, 15 out of 16 government agencies sided with now-Secretary of the Treasury Robert Rubin's option to President Clinton to drastically revamp the Maritime subsidies. The rationale for Mr. Rubin's option, as reported to the President, was as follows:

"Subsidies for the U.S. flag fleet have always been justified by their role in providing a sealift capacity for use in military emergencies. With the end of the Cold War, DOD's sealift requirements have declined. Although DOD's bottom-up review is not complete, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Commander of the Transportation Command have already concluded that future requirements will not exceed 20–30 liner vessels. DOD will have no need for bulk vessels. All agencies therefore oppose renewal of direct subsidies for bulkers. This option would meet DOD's maximum military requirements. [S. 1139 requires 50 vessels]."

The *Wall Street Journal*'s Review and Outlook section noted on June 6, 1995:

"Rob Quartel, a former FMC [Federal Maritime Commission] member, figures that all maritime subsidies together cost at least $375,000 per seagoing worker. It would be a lot cheaper to pay the sailors *not* to work. Eliminating these subsidies would not only force the maritime industry to become competitive, but also would contribute to the balanced budget effort. Mr. Quartel figures, based on dynamic scoring, that eliminating subsidies would save $7 billion between 1996 and 2002, and generate new economic activity that would raise an extra $28 billion in tax revenue. Even in Washington terms, $35 billion is real money."

Mr. Chairman, the list of dissenting voices to this legacy of subsidies from World War II and the Cold War goes on and on. We ask that you carefully weigh the costs and the benefits associated with the Maritime Reform and Security Act of 1995, and all other maritime subsidies. The American people deserve fair hearings on this issue where both points of view are represented.

Sincerely,

SHANE SCHRIEFER,
Director of Government Relations.

BALTIMORE, MD,
June 8, 1996.

Senator CHARLES E. GRASSLEY,
Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY, Thank you for your letter of May 30th asking me to check off certain items that I support on an enclosed form.

You note that my signature is on a form submitted by the American Security Council. I only signed that form to gain time for mature study of a then pending bill which could have resulted in subsidies for VLCCs! And now that I see how my name is being used I much regret it.

I was invited to help that council formulate positions, and I met with their representative. I enclose a copy of a letter [please forgive bottom margins] that I sent to him that indicates where I stand. My qualification to comment is shown in my biology in Who's Who in America. I have not heard from them since. But I am not surprised that my opinions do not suit them.

So I prefer NOT to use your form. My views require a more complex presentation—more than in the "tip of the iceberg" letter enclosed.

I do believe that this country needs and should pay for only that part of a U.S. merchant marine that is configured in type and numbers to support our authenticated defense requirements. I am opposed to the continuation of federal programs. mostly designed to line the pockets of unions, owners, and shipbuilders unwilling to give up grossly inefficient practices. We desperately need a fresh start; not a continuing jobs program.

Sincerely,

GEORGE P. STEELE.
Vice Admiral (Retired).

Mr. GRASSLEY. Also, in rebuttal to the Senator from Alaska on another point he was making about foreign flags not doing the jobs, foreign crews not doing the job, as a studied response to that, I want to have printed in the RECORD a chart that tells a number of trips to the Persian Gulf. This shows that, in fact, only 17 U.S.-flag commercial vessels actually delivered goods in the war zone. This chart was provided by the military sealift command. I did not put these figures together; I got them from the military sealift command.

Only five APL vessels—these are U.S. flags—went into the war zone; only three sea-land U.S.-flag vessels went into the war zone; only four watermen, and their U.S.-flag vessels went into the war zone; only five Lykes U.S.-flag vessels went into the war zone; total—total, only 17 U.S.-flag vessels delivered goods into the war zone. That is 17 compared to 500 trips into the war zone, so that means overwhelmingly—I hope you understand, overwhelmingly—17 trips versus 500 trips, U.S. The remaining were foreign flag, foreign crew.

I am sure the Senator from Alaska did not mean his remarks to be in support of my amendment to make sure American-flag ships deliver all the way. But his statement that he was making is a statement in support of that amendment. I am sure it was not intended to be that way, but he gives a rational argument for that amendment, a strong statement for that amendment.

I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CARRIER OWNED/CONTROLLED VESSELS USED FOR SMESA

	Total vessels used	U.S.-flag component	Number of vessels actually going into the gulf	U.S.-flag component
APL	30	23	12	5
Farrell	4	4	0	0
Lykes	12	12	5	5
Sea-Land	36	19	13	3
Waterman	4	4	4	4
Total	86	62	34	17

Mr. GRASSLEY. This chart makes it crystal clear the overwhelming number of these ships were foreign flag and foreign crew. Out of the defense control we only had one instance where the material did not get there—only one instance.

I think the statement by the Senator from Alaska was questioning the reliability of foreign-owned flag ships and foreign crews, but they delivered. Only one did not deliver. U.S.-flag components, total, 17. The rest out of the 500 that made it into the zone were foreign.

I have heard my colleague state U.S. flags charged less than foreign flags during the Persian Gulf war.

I want to provide my colleagues with what the Department of the Navy reported to me on the cost of charter vessels:

The cost of foreign voyage chartered ships is approximately 60 percent of U.S.-flag voyage charters.

The Navy said:

Only 41 of 283 vessels were U.S. flag.

My amendment does not prohibit transfers of smaller feeder vessels to deliver war materiel in the war zone. My amendment simply says that these smaller feeders must be U.S. flag and U.S. crewed, not foreign flag. This is what we are led to believe this bill is all about. We are led to believe that if this bill passes, only U.S. flags and crews will deliver our goods into the war zone. Without my amendment, this will not be guaranteed. My amendment says U.S. flag and U.S. crews will deliver our goods into the war zone. This is what Senator LOTT—and I quoted him twice—said 2 months ago that we need to assure.

I think it is appropriate at this point to repeat a section of a letter that I got from Vice Adm. George P. Steele, U.S. Navy, retired. He was one of those who had his name on the original National Security Council memo in support of this legislation. Then when I sent him a lot of material to study, he sent me back a very nice letter.

The last paragraph reads:

I do believe that this country needs and should pay for only that part of a U.S. merchant marine that is configured in type and numbers to support our authenticated defense requirements. I am opposed to the continuation of Federal programs mostly designed to line the pockets of unions, owners, and shipbuilders unwilling to give up grossly inefficient practices. We desperately need a fresh start; not a continuing jobs program.

Mr. President, I ask unanimous consent to submit for the RECORD two pages detailing the cost of cargo preference as determined by the Office of Management and Budget.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CARGO PREFERENCE PROGRAM COSTS

[Millions of dollars]

	1994		1995		1996	
	Obligations	Outlays	Obligations	Outlays	Obligations	Outlays
Agency:						
Department of Agriculture	113	132	74	74	79	79
Department of Transportation—Maritime Administration	50	50	61	61	43	43
Department of Defense	450	450	436	436	462	462
Agency for International Development	11	11	4	4	4	4
Export—Import Bank of the U.S.	4	3	5	3	8	4
Department of State[1]						
Total	628	646	580	578	596	592

[1] Estimate for costs related to transportation of preference cargo is less than $2 million.

CARGO PREFERENCE PROGRAM COSTS

[Millions of dollars]

	1995		1996		1997	
	Obligations	Outlays	Obligations	Outlays	Obligations	Outlays
Agency:						
Department of Agriculture	62	49	50	78	41	45
Department of Transportation—Maritime Administration	63	63	43	43	25	25
Department of Defense[1]	438	438	414	414	424	424
Agency for International Development	4	4	5	5	5	5
Export—Import Bank of the U.S.	40	40	61	61	71	71
Department of State	1	1	1	1	1	1
Total	608	595	574	602	567	571

[1] DOD estimate are preliminary.

Mr. GRASSLEY. Mr. President, this information is included in the President's budget each year, thanks to my request a few years ago. Cargo preferences does cost taxpayers $600 million per year. One is from the fiscal year 1997 budget and the other is from the fiscal year 1996 budget.

Mr. President, the Federal Government relies only upon numbers from OMB or CBO. We cannot use numbers from our budgeting process that come from any other source.

The Senator from Alaska quoted cargo preference cost estimates that differ from the OMB numbers I quoted.

He knows, and we all know, that these non-OMB or CBO numbers cannot be used here.

I yield the floor.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARTIAL-BIRTH ABORTIONS—VETO OVERRIDE

Mr. SANTORUM. Mr. President, I want to take this opportunity to, No. 1, congratulate the House of Representatives for their strong, bipartisan support for the override of the President's veto on the issue of partial-birth abortions.

The House did speak strongly yesterday and did speak in a bipartisan fashion. I had the opportunity to look at some of the debate and hear some of the debate. I was impressed with the strong bipartisanship. I was impressed with how articulate Members were on debating an issue which is a very emotional issue, a very difficult issue to talk about. This is not a procedure that many people feel very comfortable discussing. I think the Members who got up and spoke on behalf of the override spoke factually, compassionately, restrained, and, as a result, I think that kind of debate is what I hope to emulate here. I hope we see it emulated here on the floor of the U.S. Senate next week. We will have a vote here next week in the U.S. Senate on whether to override the President's veto. We are only halfway home to accomplish that.

Much has been written today about the likelihood of whether the Senate will do so and reporting that it appears that the possibility of overriding the President's veto of this is dim here in the Senate. I remind everyone that in the House, when the original vote was taken, there were not sufficient votes to override the President's veto. But as a result of educational efforts that had taken place by physicians and people who are concerned about this issue with Members of the House, a number of Members were persuaded to go along with the override.

I hope that occurs here. I hope Members who voted against the bill to outlaw this procedure, who voted to allow this procedure to continue, do take the opportunity to gather more information, because since the original passage of this bill, additional information has come out, even as late as this week.

We have a story in the Bergen County Record. A health reporter for the Bergen County Record did a report on partial-birth abortions in New Jersey, where, according to all of the abortion rights advocates, there aren't partial-birth abortions being done in New Jersey.

In fact, they were only done, according to them, by a couple of doctors which totaled about 500 a year. We find out from the health reporter of the Bergen County Record in her interviews with abortionists in New Jersey that they perform roughly 3,000 second- and third-trimester abortions, and approximately half of those 3,000 abortions are done in what is called "intact D&E"—which is a partial-birth abortion.

So we know that just in the State of New Jersey there are 1,500 such abortions—just done in the State of New Jersey. And we are talking about abortions that are performed at at least 20 weeks.

My wife is a neonatal intensive care nurse. She worked as one for 9 years. We have three children. We are very blessed to have one more on the way. She knows a lot about premature babies. She has cared for a lot. She has cared for 22-week-old babies. She has cared for 22-week-old babies that are alive and well today—many of them. She has cared for a lot of 24-weekers that are alive and well today. And she certainly has cared for a lot of babies that are 24 weeks, 29 weeks, and 34 weeks who are alive and well, and very normal and very healthy.

The question is not whether we should have late- and second-term, or third-term abortions. I believe that is a legitimate question to ask in this country. But that is not the question that is before us with this override. This override deals with a medical procedure which I think is one of the most gruesome medical procedures that if it was being done in China today human rights activists would be calling on us to sanction China. If it was done on a dog, animal rights activists would be storming the Capitol saying it is inhumane. But if it is done on a 30-week-old baby that is fully viable outside the womb it is a choice; it is not a baby; it is a choice. It is up to the doctor and the mother to determine what happens to that baby. It is a choice; it is not a baby.

I do not think that is what most of America is. When we talk about this procedure being done on late second- and third-trimester babies, a procedure that delivers the entire baby feet first—delivers the baby from the shoulders down completely outside the mother; the arms and legs of the baby are moving outside of the mother; the head is held inside the birth canal—a pair of scissors is taken and jammed into the base of the skull, a suction catheter is placed in the skull and the brains are sucked out. As a result of that the head collapses, and then they deliver the rest of the baby.

I was on the Fox Morning News yesterday morning with a woman who works for an abortion rights advocacy group. And I asked her a question, which I will ask every Member of the Senate who speaks on this issue. I hope they have an answer for me, because she didn't. My question was very simple. It was a very logical question. "What would your position be if the head of that baby had somehow slipped out; had somehow when the shoulders were delivered had been delivered also? Would it be the woman's choice and the doctor's choice when the baby is completely removed to kill that baby? Is that then murder? Or, if you hold the baby's head inside the birth canal, it is not murder? Explain for me the difference. Answer the question."

I know that question has been asked a lot in the last few months. And, to my knowledge, no one has answered the question. But I think you have to answer that question, don't you? Don't you have to answer a question that, if just an inch more, maybe 2 inches more, it is murder? Most Americans would consider it as murder without question. But as long as that doctor is holding the baby in, it is not murder. We are blurring the line in this country a lot. It is more than blurring. It is more of a sign of a culture that has lost its way, that does not understand what its underpinnings are any more; what its vision is; what its purpose is; what it stands for; who it cares about.

This issue is not about abortion. This is about a procedure that is so horrendous and that is so disgusting that everyone in America should say, "No. That is not who we are." For we in this country are not what we say we are. It is not what we would like to tell the American public we are. We are in this country what we do. And when we do something like this to children who doctors who perform this procedure say are healthy, elective abortions—these are elective abortions; there is no medical necessity; there is no fetal abnormality but simply healthy children—when the vast majority of these abortions are done at that time and in this way we have to say no.

I am hopeful, I am prayerful that the Members of the U.S. Senate, the greatest deliberative body in the history of the world, will live up to that, live up to that title, and will truly deliberate—not react to the special interests, or to the emotion of the moment, or to some political posture that you feel locked into because, you know, "I am for choice"—but deliberately, thoughtfully, prayerfully about who we are, about what we stand for as a country. I think if we do that—and if all of you who care about who we are, about what is to become of us, will write and call and pray for Members of the Senate over this next week—then truly remarkable things can still happen in this country and in this body, and we will surprise a lot of people next week.

I yield the floor.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GREGG). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I want to make a few remarks concerning the Senator from Iowa's comments and his three amendment. First, I oppose his VISA program amendment. The amendment would require Maritime Security Fleet Program [MSFP] contractors to participate in Voluntary Intermodal Sealift Agreements [VISA]. This change is unnecessary. The bill already requires MSFP participants to enter into Emergency Preparedness Agreements [EPA]. EPA is the same as the VISA program, with several improvements suggested and supported by the Defense Department. The Senator's amendment would limit the Department of Defense's ability to access all of a contractor's assets. This would handcuff DOD's ability to tailor commercial sealift assets to meet DOD's sealift needs. The DOD helped write this bill. The bill provides the flexibility DOD wants. Further, it would impose additional restrictions that are not found in the bill or even in the existing VISA program that is voluntary today. This amendment simply does not make sense—it would impose additional costs on moving government goods. It would cost taxpayers more, not less. I hope my colleagues will join me in opposing this amendment.

Second, I oppose his lobbying and campaign contribution amendment. The amendment would prohibit the use of funds provided to Maritime Security Fleet Program [MSFP] contractors from being used to fund lobbying or public education efforts or campaign contributions. This amendment is unnecessary and unfairly singles out one industry with which the Government enters contracts.

Current Government contracting and Federal election campaign laws prohibit the use of Government funds for these purposes. The Byrd amendment, 31 U.S.C. 1352, generally prohibits recipients of Federal contracts, grants, loans, and cooperative agreements from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, loan, or cooperative agreement. There is absolutely no legal basis for restricting the lawful activities of the employees of the recipients, as suggested by the Senator from Iowa. A logical extension of this suggestion would be to restrict the lawful activities of the contractor's fuel supplier or ice cream vendor. Any attempt to change current lobbying and campaign contribution restrictions should be broader in scope so as to treat all such recipients of Federal funds in a similar and fair manner. I intend to move to table this amendment.

Finally, Mr. President, as I said earlier, I am opposed to the Senator from Iowa's amendment on rates. All of these amendments are designed to kill the bill. They are killer amendments. I intend to move to table the Senator's amendment on rates. The managers of the bill will also move to table the second degree amendment to that amendment that has been proposed by the other Senator from Iowa. The second degree amendment is just as objectionable as the underlying one.

Mr. INOUYE. There is no further business?

Mr. STEVENS. Have we had an adjournment order yet?

The PRESIDING OFFICER. The Chair has not been informed of that.

Mr. STEVENS. I suggest the absence of a quorum. I will take care of that.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

MORNING BUSINESS

Mr. COVERDELL. Mr. President, I now ask on behalf of the leader there be a period for the transaction of morning business with statements limited to 5 minutes each with the exception of the following: Senator DASCHLE or his designee, 45 minutes; Senator COVERDELL or his designee, 45 minutes; and Senator MURKOWSKI, 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

A SAFETY NET

Mr. COVERDELL. Mr. President, we understand on our side that we are drawing near the most intense period of the 1996 elections, but we feel very strongly that we should set the politics aside for the election process, and here on the floor of the Senate and in the Halls of Congress create a safety net from politics for our soldiers in Iraq and in Bosnia or wherever they may be, for our disaster victims that have just suffered the ravages of the hurricane coming out of the Caribbean in the Atlantic and tearing its way through North Carolina and other regions of our country, and, obviously, for our children and our seniors.

In other words, Mr. President, this is a time to put the people first, the people's business first, to not raise anxiety among the Nation but go ahead and get our business done, get the politics out of these Halls, out of the city, and let those questions be settled by the American people in the actual election process. Once again, we should create a safety net from the political era for our soldiers in Iraq, our disaster victims in the United States, our children, and our seniors.

Mr. President, in that regard, I commend the leaders on our side, the Speaker of the House, Speaker GINGRICH, and the Senate majority leader, TRENT LOTT of Mississippi. Yesterday, they came before the American people, having met with the Republican leadership of the Appropriations Committee, and released the following statement:

> We have already made substantial progress on appropriations bills for the 1997 fiscal year, with action completed or virtually completed on nine separate bills. We are committed to reaching an agreement with the administration on the remaining bills and completing congressional action by September 27th.
>
> It is clear that Senate Democrats are using delaying tactics and political stunts designed more for the upcoming election than for the completion of the people's business. We have approached the consideration of these bills in good faith, but we have been met at every turn by gridlock, apparently coordinated by the White House. We refuse to be a part of this game. We believe Congress should complete its business and adjourn.
>
> Given the Democrats' strategy to tie up the Senate floor, House and Senate leaders have decided that the Defense appropriations conference report will be the vehicle for final consideration of all uncompleted appropriation issues. The remaining issues will be resolved through bipartisan negotiations between congressional leaders and the White House.
>
> In addition to reaching agreement with the administration on shared priorities like education and antiterrorism, we are determined to ensure that we quickly provide critical funding for our troops, for coping with recent disasters, and for those who are fighting the critical war on drugs.
>
> While we are committed to reaching an agreement with the administration, we are concerned that we have not yet received complete information on their requests for additional spending. We look forward to active negotiations over the next days leading to final legislation that will complete the work of the Congress and stay within the limits of this year's budget.

Again, it is our goal to put a safety net under our troops, our disaster victims, our children, our seniors, and all the families that represents across our land.

Mr. President, on the other side, White House Chief of Staff Leon Panetta has admitted that some Democrats would like to force Republicans to stay in Washington longer. That sounds like it is designed strictly for political purposes. Now the other side uses a slogan, "Putting Families First," but if the White House allows these Democrats to force extended legislative days here and confusion and chaos, moving you to a point you would have Government gridlock, they are engaged in politics at the ultimate.

Mr. President, I am reminded that last year was a very difficult period here between the Congress and the President. The President likes to blame the fact that Government came to a close on the Republican Congress. He tends to forget, Mr. President, that he vetoed appropriations bill after appropriations bill. At least, Mr. President, at that time, we were fighting over an absolute core issue in America, whether or not to balance the budget, something that virtually 80 percent of the American people are wanting and demanding—very substantive.

Of late, Mr. President, we have heard—and I will read from an editorial in the Washington Times—that shutdown may have had more to do with politics than substance, too. Everybody is aware of the trials and tribulations of Dick Morris, former confidant of the President of the United States, but this woman that apparently shared a relationship with him, Sherry Rowlands, said, "He asked if I would like some cognac, and we talked about how it tasted and then we talked about the Government shutdown, and that he said he planned this for 5 months ahead of time to show the President as a leader with no weakness."

So now we have suggestions that that tumultuous period in the Congress may have, indeed, been nothing more than a political plan to increase one's fortunes in the political polls. Well, that may or may not be the case. We will be, sometime, adjudicating that. But we certainly know, Mr. President, that at this point the interests of the American people are that we conclude this fundamental decision, that we don't create new anxiety in the country, that we come to terms and settle our differences, that we protect our troops, that we protect our disaster victims, our children, our seniors, and all the families associated with that. Let the political stuff get settled out across the land in the elections. Don't put the people last. Put them first. Let's get this business done and do it in such a way that the American people can be comforted, and that all these systems upon which they depend will continue without interruption.

Mr. President, we have been joined by my good colleague, the distinguished Senator from Tennessee. I yield up to 5 or 10 minutes, as he may need, to comment on this issue.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

LEGISLATIVE PRIORITIES

Mr. THOMPSON. I thank my good friend from Georgia, who expresses some very valid concerns, and I share those concerns.

Mr. President, as we approach the end of this session of Congress, I think it is imperative that we get our priorities in order.

The elections are only 6 weeks away. As we all know, this is a highly charged time. There is much at stake. And right now, there are some vague rumblings out there that my colleagues on the other side of the aisle may wish to use this tension to partisan advantage.

Mr. President, I submit that the leadership has gone the extra mile toward accommodating the concerns of the party in the minority. This consideration of interests is as it should be.

But I also want to make it clear that if this session stretches out, it will largely be for political reasons—and caused by the minority in the Senate.

It appears entirely possible that some of my colleagues are prepared to stall the final legislation we are now considering in order to play raw politics.

First off, I believe that the Members of this body should be above that sort of thing. The American people are cynical enough about the character of the Congress without its Members handing them more ammunition. We need to raise the level of discourse here.

Second, we should keep in mind that we are not talking about trivial matters. We are here to conduct the people's business. To hold up the work of the Senate for partisan advantage is outrageous. And I will tell you something else, the folks back home will see through it. The people who elected us know pious posturing when they see it.

If there is a stall to keep us in session, the people are going to figure out who's doing it, and pretty fast.

It is one thing to work through honest differences of opinion. It is quite another to offer trifling, divisive amendments and stalling tactics at the end of an election-year session to wring out every last political advantage.

I call on my colleagues on the other side of the aisle to put this sort of maneuvering aside, so that we can finish the business that the people elected us to conduct.

To prevent playing politics with the lives of Americans, and to prevent even the charge that anyone might be playing politics, we must make certain that the President has legislation on his desk that finishes out the business we need to close in this term.

There are several basic issues we must address before we adjourn. I am certain that when we keep in mind how important it is to conduct the people's business with the dignity it commands, that we will find it in ourselves to work our way through these pending matters to a swift and proper outcome.

Right now, we have troops in Bosnia and the Middle East. These men and women are out there on our behalf, and they deserve our unyielding support. Let us make sure they have whatever they need, and let's do that immediately.

At home, even as we vigorously debate the Federal role in domestic affairs, we need to uphold the commitment we now have to maintain those services we have promised—and to do so at the levels to which we are committed. This is of vital importance, most especially to our veterans, students, senior citizens, and their families.

As Senators, we are obliged to set the highest moral example, and in that, we must keep our word to the people who elected us.

While we may disagree on the very best way to implement solutions to the problems we face, I trust that we do not disagree that some action is vital to keeping our country strong, and to enabling the Nation to conduct business. We have a basic obligation to the people who elected us, to maintain the services of the Federal Government at a high level of efficiency and responsiveness.

We can do this if we put our minds to it. All that is required is that we decide to finish the people's business, and work toward agreement on the outstanding issues we face.

This Congress has achieved a great deal. We should be proud. We've passed many reforms which will not only save money for the taxpayers, but that also will make Government more efficient and more positive in the lives of Americans.

We have passed the line-item veto. We have passed the Congressional Accountability Act. We have ended unfunded mandates. And these are just a few of the achievements we have to show for our efforts when we agree to get the job done.

Let us end this session of Congress on a high note by doing what we were elected to do. Let us work out our differences and pass legislation along to the President that will keep this country open for business.

I hope that as we move through these legislative decisions, that we keep in mind that we cannot jeopardize the important elements of our Government that enable this Nation to be strong, safe, and free.

We want to preserve the safety of our troops. We want to preserve the ability of the Nation to conduct its business, and to maintain the services that our children, our families, and our seniors have come to depend on. Let us not play politics with these matters.

Traditionally, the Members of this body have come together for the best interests of the Nation. This Congress has been up to that task, and I am certain that it still is. My colleagues on both sides of the aisle are strong enough in their resolve, and they care enough about the way we conduct our lives in America, that we can all come together to find agreement on the Nation's business.

Let us concentrate on where we agree, not where we differ.

Let us focus on the issues that bring us together, not those that take us apart.

Let us find a way to work together, and get this job done.

I trust that we can find a common path as we have in the past, and in cooperation with the White House, to reach a consensus without delay.

But make no mistake, the majority has done its part. If we are detained in Washington to keep Congress in session, it will not be over differences in ideas or for honest disagreements. We have met our colleagues more than halfway. It's time to wrap things up, and we ought to be doing that right now.

The people's business should be above partisan posturing, and I sincerely hope that we can maintain a level of effort and dignity—commensurate with the history of the Senate—so that we can complete our work on a high note as we finish out the 104th Congress.

I yield the floor.

Mr. COVERDELL. Mr. President, I appreciate very much the Senator from Tennessee making himself available for a very cogent statement on this subject. I know he is trying to get home. I appreciate his taking time to visit with us about this very important matter of getting the people's business done, getting a safety net here so we can lower the anxiousness of what gridlock will produce in our country at this time.

As I said a little earlier, we are now speculating about whether the last gridlock that occurred in the country was an actual political plan. I am made uncomfortable when the White House Chief of Staff admits that some Democrats would like to force Republicans to stay in Washington longer. This article, which appears in the National Journal Congressional Daily, says:

> Some Democrats, Thursday, warned that finishing the funding bills may not be as easy as Republican members are saying. Senate minority leader Daschle warned there may be pitfalls in trying to pass the bill.

Well, what we are hearing is that you are laying a political strategy because it is thought to be politically useful to have the Congress appear to be tied up in knots. But I would like to step back from that and just remind my colleagues on the other side of the aisle that, currently, because of decisions that the President of the United States has made, there are 15,000 American soldiers, men and women, in Bosnia. There are 1,500 of them in Croatia.

There are 29,500 American armed services men and women in the gulf. There are 200,000 U.S. troops on duty abroad. There are 54,000 involved in 13 operations around the globe while 146,000 are stationed at permanent bases abroad. We have literally—quick math—over 50,000 in harm's way today. And the prospect of this kind of posturing is completely out of place. It leaves everyone of the families here at home in support of these troops wondering, and it increases their worry.

I remember in 1990 my good friend and colleague, former President Bush, confronted with a Congress that was exacting and demanding tax increases, and priorities that were not his but he had 1.5 million of America's men and women in the gulf, and simply would not accept allowing our Government to come to a gridlock. He would not accept it. It may have been the decision that ultimately lead to his failed election. But he was not going to leave those American men and women overseas at risk. He was not going to do it. So he accepted the Congress—that was controlled by the other side of the aisle—he accepted it, and he paid an enormous price for it because people thought that he had reneged on a pledge. But he first and foremost stood behind those men and women in uniform in harm's way. We do not have as many, fortunately, in harm's way today. But we have 50,000. I think it is just as incumbent upon this Congress and this President to get that safety net under these men and women, and remove the anxiety and get the politics out of here. Get it done. Let them feel secure and move on.

I could read a long litany as we move from troops. We often hear the Families First agenda about children as if they were the only legislators that were concerned about children. I would like to remind them that in the legislation that we are calling upon to get settled we have 20,000 families in crisis who would not know where to turn for help for temporary child care, for crisis nurses that serve thousands of families with children who have disabilities, or serious illnesses. And the families that are under stress—including families affected by HIV, homelessness, violence, and family crisis in drugs and alcohol—over 20,000 families were served in the last 2 years alone. For these families are we going to put them first, as they are asking, or last, to fulfill a political objective?

Will you shut down 2,000 school districts who benefit from impact aid, or put in question the financing of all of those systems? Impact aid provides financial assistance to school districts for the cost of educating children when enrollments and the availability of revenues from local sources have been adversely affected by the presence of Federal activity. That means military impact by and large across our country.

Mr. President, the list goes on. You could cite the issues and problems that will be compounded ad infinitum as you go through this huge appropriations process that we are saying we should just announce to the entire country is going to be settled; lower the stress; our troops don't have to worry; the systems are going to stay intact and we are going to take politics out of the Halls of Congress, and we are going to put them in the election where they properly belong.

Mr. President, I have been quoting this National Journal rather extensively. It is interesting reading. I notice that my good friend, the Senator from Connecticut, Senator DODD, who is chairman of the Democratic National Committee, suggested that our party wants to go home because they realize—we realize—that this Congress, the 104th Congress, is a "disaster." I just could not leave that unchallenged. I remind my good friend from Connecticut that in the last Congress, the 103d Congress, it was dominated by two massive events:

First, the passage by one vote in the House and the Senate, at their encouragement and by the President's demand, of the largest tax increase in American history;

Second, by the suggestion that we should grow Government to the largest level it had ever been, and that we should put in place for America a Government-run health system, which would have meant for the first time that over 50 percent of the U.S. economy would be run by the Government and not by our private sector and citizens.

Those are the two most singular marking events of the last Congress.

Now we come to this Congress that the Senator from Connecticut characterizes as a "disaster." We have had no tax increase. We have had not expanded the Government. As a matter of fact, we have saved the American taxpayers in this Congress $53 billion in the last 2 years, marking the first time in 25 years that Congress has reversed the trend to increase discretionary spending; in other words, the first time we have responded to the American people's request that we get spending under control.

We adopted a tax—an adoption tax credit. We secured tax relief for small business. We passed the line-item veto after a 200-year debate. We made Congress—you and I—live under the same laws as the rest of America. We passed legislation that would stop unfunded Federal mandates. We passed, after years of debate, welfare reform. We passed tax deductions for long-term care expenses. We passed targeted health care reform, lobbying reform, food safety, safe drinking water and Everglades restoration.

And the list really is much longer.

More importantly, we secured at least an interim transition in our President, Mr. President, because in his State of the Union he said that the era of big Government is over. I would call that a rather substantive success.

The agenda in this city has been changed. The era of big Government is over. Welfare reform is in place. Health care reform is in place. We are not raising taxes. We are saving taxpayers billions upon billions of dollars.

Mr. President, I think this is exactly the kind of change that America has been asking for.

I am going to conclude, Mr. President, by simply saying that I think it is incumbent upon all of us—both sides of the aisle, given the nature of this political season, and the intensity of it, to come to terms—to get a safety net under our troops, our families that are victims of disaster, our children, and our seniors. Take the elections and our differences out of these halls and into the elections themselves.

With that, I yield back any time remaining under my designation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CLINTON RECORD

Mr. MURKOWSKI. Mr. President, I would like to share a few moments with my colleagues on actions taken by the Clinton administration this week. We have had discussions concerning the appropriateness of the President withdrawing about 1.8 million acres in Utah under the authority of the Antiquities Act of 1906.

I ask the Chair and my colleagues, is this really the creation of a national monument, or is it simply a reelection ploy? The administration justifies the action based on some historical withdrawals of Federal land, referring back to Teddy Roosevelt's time. I would ask for a quick reflection on the oversight of the various land management agencies and laws as they have been developed over the years—the Bureau of Land Management, the National Park Service, the management of our refuge systems—and suggest that there is, indeed, enough oversight in the process to ensure extremes are not taken on the utilization of public land.

I think a number of people are asking, in the wake of President Clinton's surprise announcement Wednesday of the 1.8-million-acre national monument withdrawal in southern Utah, just what the President and the administration have in mind. One looked at some of the media and saw the expanse of the Grand Canyon with the President standing—I should say sitting—at a desk overlooking the brink of the Grand Canyon with the Vice President standing behind him.

This withdrawal was a last-minute withdrawal, it was a secretive withdrawal, it was an unconventional withdrawal. The way they attempted to create the Grand Staircase-Escalante National Monument, could cause one to quickly conclude the administration was primarily concerned about the photo opportunities and climbing the staircase to reelection. The details of this withdrawal were left undecided. The potential harms of this hasty decision, in my opinion, suggest the President is in an irresponsible rush to get on the evening news.

I have a question for the White House and the President. It is specific. It is: Why was the public not involved in this decision? We have NEPA, FLPMA, and Federal land use planning laws, all of which stress public involvement in species protection. The administration insists on strict adherence to these laws. Adherence to these laws occurs, of course, before the action, not after it.

These laws were followed in the California desert wilderness debate. It was extensive. We all participated in it. It did not turn out the way we all wanted it, but a democratic process occurred, hearings were held, there was give and take, the State of California was consulted, individuals in this body took a stand, they voted on it and they were held accountable for their vote. Why was that procedure not followed in the State of Utah?

My constituency, of course, is the State of Alaska. We have already experienced a little activity in the 1970's, under President Carter, with the Antiquities Act, whereby some 56 million acres or thereabouts were withdrawn.

Wilderness in Alaska is very sacred to us. The mistake that was made in our State, when we were establishing land patterns, is we did not do a resource inventory. We almost did. We could have met the wilderness demands and we could have identified those areas of high resource potential, but, unfortunately, the technology and the commitment were not quite there at that time. So we are in constant conflict with Federal refuge areas and the potential development and access through these areas. So we do have a long memory with regard to the application of the Antiquities Act and other laws.

But, in this case, the President, in this day—not in 1970 or 1975 or 1978, but in 1996—did not run the idea by the State of Utah, its elected officials, its legislature, its Governor. He did it over the objection of the Utah delegation. They could have helped prevent some pitfalls that are going to occur.

Instead, they read about it in the newspapers. You can also assume the administration simply has written off Utah, their electoral votes—six, I think—written them off. They have probably written off Alaska.

I know my colleague from Idaho is introducing legislation to ensure, as far as Idaho is concerned, the application of the Antiquities Act. Wyoming, after the experience with the Antiquities Act, had a provision in the final settlement that suggested that the Antiquities Act would be no longer applicable in that State. In our State of Alaska, we have a no more clause. The Federal Government simply cannot take land under a land grab and designate it without a congressional process occurring.

The President included 200,000 acres of school trust lands in Utah which potentially could produce $1.5 billion to fund Utah's public schools. Why did the President not choose to work with Governor Leavitt about that and the other $6.6 billion the State potentially would lose? Does the President realize that locking up 62 billion tons of recoverable low-sulfur coal will lead to greater air pollution when utilities are forced to burn dirtier coal?

Like it or not, coal provides about half the Nation's electricity.

It is my understanding this particular coal deposit would be about 40 acres out of the 1.8 million acres—a pretty small footprint.

Does the President know that 350,000 acres of what he is declaring a monument will be opened up to buses, tourists, and other development, and that it would have been protected as wilderness under the plan written by the State of Utah and Utahns? In fact, Utah had indicated a willingness for further review of its roadless areas for wilderness status.

What about the huge liability the Federal Government assumes in wiping out private property claims in this area? Where are we going to find the money to reimburse Americans whose property is, obviously, taken at the cost of billions of dollars? What about the people who are going to lose their jobs? The President says the monument will add jobs.

Let's look at Utah. The people of Kanab, UT, an area surrounded by five national parks, had their families' incomes drop from $23,000 in 1990 to $18,000 in 1995. That does not sound like a lot of new jobs to me.

These questions bring a bigger question to mind: Why was our President in such a hurry? We went through this process. We were going to take it up again in the 105th Congress. He was pressed by the Utah delegation not to make the designation until such questions were answered. The administration and the President offered vague promises saying details would be worked out later. Even Utah's Democratic Congressmen begged him not to ignore the details. I have even heard that Dick Morris made the recommendation. Maybe he is still calling the shots for the President and the administration.

So let me be blunt. Our President appears to be a young man in a hurry. It is becoming more and more clear he doesn't seem to be very concerned about where he is going, as long as it leads to his reelection. As a result, we have great TV news stories, a lot of action and some major policy blunders, in my opinion. We seem to be seeing the influence from the extreme national environmental groups who have the ear of the administration and the President, and these groups have put fear into the American people; fear that we cannot develop resources on public lands. This issue is true not just about coal mining. It is true about grazing, it is true about timbering, it is true about oil and gas exploration—virtually all development on public land.

The environmental community is instilling this degree of fear in the American electorate. It bears no responsibility, no accountability. They simply sell American technology short and, by this fear tactic and the ability of the media to expound on it and add to it, they are generating membership, they are generating dollars, and we are becoming more and more dependent on imports, something I am going to talk a little bit about later.

As we reduce our own self-sustaining resource base, we become more dependent on imports. Those imports are coming in from nations that do not have the same environmental sensitivity that we do. We have the ingenuity, we have the technology, we have the American know-how to preserve these jobs at home, develop our resources, and do it safely.

The President's designation of the 1.7-million-acre monument was an arrogant act. It was in violation of the intent of the Federal environmental laws and procedures the President's own administration has so ardently enforce on everyone else.

Mr. President, I intend, before this session is over, to introduce legislation to close this dangerous loophole in our environmental laws. It is going to be applicable, obviously, to those States with public lands, which are the Western States, to eliminate the necessity and the authority of the President to continue these land grabs without any congressional evaluation.

The Antiquities Act of 1906 has a narrow, specific purpose. It was never intended to be used in this manner. As I indicated, Alaska and Wyoming have been exempt from the act, but other public land States should know it could only be a matter of time before they are attacked for withdrawals similar to what occurred in Utah.

The question is not should we have a national monument in Utah. The Utah delegation said it would work with the administration on that. The question is, should a President ram through such a big Federal land change at the last minute without public participation and congressional involvement?

Clearly, we know the answer. The democratic process is being circumvented. It is no wonder some people are referring to this action as President Clinton's Federal land grab and calling it reelection national monument. He says he is merely doing what Teddy Roosevelt did by using the Antiquities Act of 1906. But, again, there are many important differences. President Roosevelt thought first and acted later. Roosevelt acted nearly 100 years ago, before this Nation developed environmental laws and procedures for proper and detailed land use decisionmaking. I am sorry, President Clinton, you are no Teddy Roosevelt.

(Mr. HATFIELD assumed the Chair.)

Mr. MURKOWSKI. Mr. President, in conjunction with that, I think it is noteworthy to recognize President Clinton's themes this week. He continues to push the themes that, one, he is the environmental President, and, two, he is the export President. Let's examine that for a minute. I just shared with you my views on why his decision to lock up Utah's vast energy resources was a mistake, but I also want to discuss why his rhetoric about exports covers up what is really going on with the trade deficit.

The most recent statistics on the trade deficit were absolutely horrible. In July, imports increased to $78.9 billion from $77.9 billion in June. The largest increases were in industrial supplies and materials, primarily the cost of crude petroleum.

Our exports decreased to $67.2 billion from $69.7 billion in June. The trade deficit in goods for the first 6 months of this year amounted to $89.6 billion, and this is expected to grow to $170 billion by year's end, second only to last year's record $175 billion.

China and Japan continue as the countries with the largest trade imbalance, but focusing only on China and Japan ignores one of the major contributors to our trade deficit, and that is our dependence on foreign oil. Right now, America is importing 51 percent of its daily oil needs. That percentage is expected to rise to two-thirds by the year 2000.

Here is a chart, Mr. President, of the current account balances of our top three creditors from 1994 to 1995. Petroleum payments in 1994, 27 percent, or $44.2 billion; petroleum payments in 1995, 33.2 percent, or $57.9 billion. Then there is China, Japan, and others.

That is what we are looking at when we look at the trade deficit. As this chart illustrates, foreign oil dependency translates into one-third of the total trade deficit. The Department of Energy predicts that by the years 2000 and 2002, we will be two-thirds dependent on imported oil. Instead of 51 percent, it will be 66 percent.

What is America doing about its continuing dependency? I think we are following counterproductive policies. We are not reducing our oil dependency. As I said earlier, the President just locked up huge reserves of coal in Utah. This is clean coal. Earlier, he vetoed legislation which would have opened up the Arctic oil reserve. That passed both the House and the Senate for the first time. That is the best chance to find significant stable American sources of oil domestically, in the United States.

I remind my colleagues that Prudhoe Bay has been supplying this Nation with nearly 25 percent of its total crude oil utilization for the last 18 years. It is in decline. Yet this administration will not let us use American technology to go into the areas that are most likely to have a major discovery. And with that technology, the footprint would be very small, no larger than the Dulles International Airport complex, which is about 12,500 acres out of the 19 million acres in the area associated with the Arctic National Wildlife Reserve.

So the President's actions are certainly disturbing. But I guess they are hardly surprising, because if you really look at our energy area—and as chairman of the Energy and Natural Resources Committee, that is my area of responsibility—he is equally unwilling to address and promote nuclear power, coal power, hydroelectric power. He strongly supports the consumption of natural gas, but is not equally supportive of domestic production. He does not want to see additional offshore and onshore Federal lands opened up. In short, he is doing virtually nothing to reduce our dependence on imported oil and, thereby, address our trade deficit.

During President Clinton's 4 years in office, the United States will have accumulated the largest trade deficit in the history of our Nation. That is astonishing, when you consider the exchange rate records set during the same period. I think this is a part of the Clinton record that Americans should understand and consider and reflect on a little closer.

There is another inconsistency relative to energy. As we recognize our dependence on nuclear power for about 30 percent of our power-generating capability, we have accumulated high-level nuclear waste. The President refuses to support the plan in Congress to establish in Nevada a temporary repository until a permanent repository can be determined at Yucca Mountain.

As far as low-level waste, the President refuses to support a congressional proposal giving the ability to the State of California at Ward Valley to put in a facility to store the waste even though we have given the States the authority. The disturbing thing is, while the President, in this election mode, opposes these proposals—responsible proposals, proposals that have been supported by State Governors, State legislatures, and proposals that have been supported by a majority of the U.S. Senate—he and his administration refuse to come up with responsible alternatives.

I have sent letters saying, if you do not like this, what will you support? He absolutely ignores the responsibility associated with addressing and correcting these exposures.

Lastly, Mr. President, another part of the Clinton record that should not go without remark is the inept and naive approach the administration has taken in dealing with some of our foreign adversaries. Let me just touch on two recent examples.

The Clinton administration, some time ago, embarked on a policy towards North Korea that can only be called, in my opinion, "appeasement," and put the United States in a position of being a party, almost, to a bribe. Under the so-called negotiated framework deal, the Clinton administration was going to provide North Korea with $500 million worth of oil—500,000 tons a year—and, along with South Korea and Japan, two light-water nuclear reactors worth $4 to $5 billion.

What have we received in return for this so-called deal? Have the North Koreans acted in good faith? No. The North Koreans held us hostage. They said they would stop their own graphite reactor construction if they could have this new technology, and only then could we go in and examine their storage sites, once the new light-water reactors were on line.

Under the deal we negotiated, the Clinton administration was going to provide these light-water reactors worth $4 to $5 billion. We saw what North Korea did with regard to acting in good faith just yesterday and the day before in their relationships with South Korea and the rest of the world.

A North Korean submarine, filled with 26 commandos—I met with the Korean Ambassador last evening—tried to infiltrate the south. Some of the commandos carried South Korean uniforms with them. They were armed. And they had a mission, Mr. President, a mission to infiltrate South Korea. But we will hear more about that later.

Nineteen of the commandos have already been killed. A manhunt continues for the remaining infiltrators. But these commandos came from a North Korean submarine that beached in the south. The United Nations command attempted to deliver a formal protest to the North Korean military official in the face of clear evidence of the North Korean infiltration. The North Korean Government refused to even accept the protest of South Korea.

So there we have, I think, an extraordinary example of our foreign policy, perhaps well-meaning, but indeed to a high degree naive in relation to shoring up a deteriorating regime of totalitarianism in North Korea, one that, if left to its own weight, in the opinion of the Senator from Alaska, would very soon flounder. There is no other area in the world as isolated as North Korea. Having visited there a few years ago, I can tell you that they cannot feed themselves as a nation. They have no energy. They have no capital reserves. They have an extraordinary government whose longevity is extremely short, in this Senator's opinion.

So, Mr. President, what has the Clinton administration done? Well, have they decided to reconsider the energy bribery deal they have negotiated with the north? No. No. They are not reconsidering it. Are they so naive they believe the North Korean Government bargains in good faith? I wonder. The American people have to wonder when it comes down to this administration and President Clinton negotiating with foreign adversaries.

What of the Clinton administration's spin-doctoring claim of "success" after last week's cruise missile attack in Iraq? The coalition that President George Bush put together in 1990 is crumbling. Saddam Hussein has no fear of crushing the Kurds because he knows that U.S. leadership is lacking under this President and this administration.

Just this week we learned that nearly 200 people disappeared. They have been murdered, Mr. President. These are people who were providing our Government with intelligence. Why didn't we get those people out of the country before Saddam and his murderous troops crushed the Kurds?

Yesterday, CIA chief John Deutch told Congress that Saddam is politically stronger today than he was before he sent his troops into northern Iraq. Somebody asked the question, well, is Saddam better off today than he was 2 weeks ago? The answer is clearly, yes. We have lost a good deal of credibility.

So, Mr. President, it is a very dangerous world we live in. It is easy to criticize. But it is important to point out the gross inconsistencies associated with these items that I have touched on today.

I think the administration is naive. I think they are gullible. I do not think they are equipped, based on their record, to deal with the dangers that confront us today and in the immediate future. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MURKOWSKI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ON PUBLIC SERVICE

Mr. HATFIELD. Mr. President, in the last days of this session, as I reflect on the past 30 years in which I have been priviliged to serve here in the U.S. Senate, my thoughts turn time and again to the many, many individuals who not only have enriched my experience here but have been exemplars of public service. I cannot possibly name them all or thank them all. There are two gentlemen, however, who have been integral to the work of the Appropriations Committee in my time as chairman and ranking minority member these past 15 years, and I want to take a few minutes today to thank them, particularly, today.

Bill Hoagland has served as the staff director of the Senate Budget Committee for 11 years. In that time, he has grappled with Gramm-Rudman-Hollings, played a significant role in the 1987, 1990, and 1995 "budget summit" negotiations, and fought daily battles with virtually every committee in the Senate and the House of Representatives to nurture an effective congressional budget process and keep the fiscal policy of our Government on a sound foundation. The legislative process during his tenure in the Senate has been nearly consumed with budget legislation of one sort or another, and he has been in the midst of it all.

Bill Hoagland has epitomized the qualities and character of an outstanding public servant and Senate staffer. He has been unfailingly honest. He has considered opposing views of issues dispassionately. He has been a staunch defender of the budget process, and a loyal advisor to his chairman, Senator PETE DOMENICI. Like his chairman, he has been courageous in holding his convictions despite harsh criticism from certain quarters. The Senate is fortunate to have his able assistance, and I salute him.

A sound relationship with the Office of Management and Budget is very important to the work of the Appropriations Committee, and in the past 10 years that relationship has been enhanced by the work of Chuck Kieffer, a career employee of OMB. Chuck started at OMB when Mr. David Stockman was named Director, and he has served under every Director since, through Republican and Democratic administrations alike. He has been the principal OMB liaison with the House and Senate Appropriations Committees under Republican and Democratic majorities.

By virtue of that experience, Chuck Kieffer has become the single person in OMB most knowledgeable about the appropriations process. He is the institutional memory of the Executive Office of the President on what we have done, and what we have left undone, in appropriations acts. More important, he is the honest broker between the Congress and the administration, faithfully characterizing the differences between us, and providing accurate information to bridge those differences. He works impossibly long hours keeping track of myriad issues, and does so with a degree of professionalism that meets the highest standard. For that, he has earned the respect and appreciation of the committee members and staff in both Houses on both sides of the aisle, and I want thank him for his service.

Mr. President, there are many other people throughout our Government, at all levels, who perform demanding jobs under difficult circumstances. They do so with integrity and diligence to duty. Those of us who serve here, in the House of Representatives, and in the highest levels of the executive departments, could not do without them. All of the citizens of this Nation owe them more than we ever effectively express. By expressing my appreciation to Bill Hoagland and Chuck Kieffer, I mean to convey that appreciation to all those other public servants as well, who perform day after day these many duties staffing our committees and our personal offices.

(The remarks of Mr. HATFIELD pertaining to the introduction of S. 2100 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, September 19, the Federal debt stood at $5,190,460,235,894.57.

One year ago, September 19, 1995, the Federal debt stood at $4,965,955,000,000.

Five years ago, September 19, 1991, the Federal debt stood at $3,625,828,000,000.

Ten years ago, September 19, 1986, the Federal debt stood at $2,108,205,000,000. This reflects an increase of more than $3 trillion, $3,010,255,235,894.57, during the 10 years from 1986 to 1996.

HONORING LOWELL MOHLER, CHIEF ADMINISTRATIVE OFFICER OF THE MISSOURI FARM BUREAU

Mr. ASHCROFT. Mr. President, in 1794 George Washington said, "I know of no other pursuit in which more real and important services can be rendered to any country than improving its agriculture." These words mean as much today, over 200 years later, as they did then. Agricultural industries employ nearly 20 percent of all Americans.

Today, I rise to honor a dear friend for 26 years of dedicated service to Missouri agriculture. On September 24, 1996, Lowell Mohler will gather with friends, family, and colleagues to celebrate the achievements of his distinguished career with the Missouri Farm Bureau. Lowell is a native Missourian born in Oregon, MO. Agriculture was always in his blood. Upon receiving his agriculture degree from the University of Missouri, he pursued an active career in agriculture, including assistant director of marketing for the Kansas State Board of Agriculture, marketing director of the Missouri Department of Agriculture and a vital member of the Missouri Farm Bureau.

Lowell began his career with the Missouri Farm Bureau in 1970 and currently serves as the chief administrative officer and corporate secretary. For many years, Lowell has been a driving force meeting Missouri farmers' needs. Over these years, Lowell has been honored by his peers many times over. In April 1988, Gamma Sigma Delta, a national honor society recognizing individuals for scholarship and service in agriculture, honored him with the Distinguished Service to Agriculture Award for his outstanding support of the University of Missouri's College of Agriculture. In September 1990, Lowell was again honored with the Missouri University Alumni Association Distinguished Service Award for his continuing support and efforts in adding to the excellence of the university. In January 1991, he received the Missouri University Citation of Merit Award and the Presidential Citation Award for Extension. In October 1991, he received the State Friend of Extension Award in recognition of outstanding public service and support of the Missouri Cooperative Extension Service and its educational programs. In 1995, he was honored with the Ag Leader of the Year Award presented by the Missouri Ag Industries Council. Lowell's attributes are many as his honors describe.

Lowell was there during the devastating Missouri flood of 1993, helping farmer after farmer cope with their great losses due to rising floodwaters. His own farm, which borders the great Missouri River, also fell victim with huge crop losses due to the floodwaters. But Missouri farmers persevered and overcame with the help of Lowell and the Missouri Farm Bureau.

Lowell's generosity, integrity and foresight have continued over the years to keep Missouri agricultural interests strong for Missouri families and farmers. American farmers set the world agricultural standards by producing the highest quality products at the lowest prices. Missouri's 28 million acres of farmland and production of beef rank second in the Nation. Missouri is also among the top 15 States producing rice, soybeans, milo, hay, corn, and cotton. Agriculture is a critical force in Missouri's economy as well as the Nation's.

On a personal note, my friendship with Lowell has afforded me the opportunity of his wisdom. Lowell was always happy to advise me regarding my farm in Missouri. He unselfishly assisted me in planning and complying with conservation regulations, particularly in the area of soil and water conservation, tree preservation and replanting, pasture rotation, and general farm management. During my tenure as Governor, Lowell served on the transition team in 1985 to 1986; he was also appointed to the business and education partnership commission, which was a task force to study the higher education system in Missouri. Lowell provided me countless hours of advice on agricultural policy important to Missouri farmers and ranchers, which was a result of policy established by the grassroots development process of the Missouri Farm Bureau. His whole family was involved, too. Lowell's wife, JoAnn, served as my executive secretary from 1985 to 1993 during my tenure as Governor of Missouri. Lowell and JoAnn continue to be close friends, whom I respect for advice and guidance.

For these important reasons, I rise today to recognize and salute my friend for not only the 26 years of exemplary service to the Missouri Farm Bureau, but for his lifelong dedication to the Missouri agricultural industry. Lowell Mohler's service and friendship has been an inspiring testimony to me as well as all Missourians.

TRIBUTE TO DONNELL HORN

Mr. REID. Mr. President, I rise today to honor one of Nevada's most dedicated activists, Pastor Donnell Horn. For 25 years, Pastor Horn has tirelessly ministered to others, working to better the lives of everyone he touches.

Serving as Pastor of New Revelation Baptist Church in Las Vegas for the past 16 years, Pastor Horn has not only earned the love and respect of his parishioners, but of the entire community to which he has devoted himself. Striving to uplift and empower the people he assists, Pastor Horn brings new hope to those struggling in hard times. He is a counselor and a minister who reaches out to heal his community. As he works to help those whose need is immediate, Pastor Horn also has a vision for the future and is always thinking of the next generation. His leadership and humanity have indeed made Las Vegas a better place, and, because of his work, our children's future looks brighter.

It is my pleasure to speak today in tribute to Donnell Horn, and congratulate him on his 25 years of service in the ministry. For the excellence and compassion with which he has performed his job, Nevada owes Donnell Horn a debt of gratitude.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one nomination which was referred to the Committee on Finance.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT CONCERNING THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT OF 1966—MESSAGE FROM THE PRESIDENT—PM 171

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

This report is submitted pursuant to 1705(e)(6) of the Cuban Democracy Act of 1992, 22 U.S.C. 6004(e)(6) (the "CDA"), as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, Public Law 104–114; 110 Stat. 793 (the "LIBERTAD Act"), which requires that I report to the Congress on a semiannual basis detailing payments made to Cuba by any United States person as a result of the provision of telecommunications services authorized by this subsection.

The CDA, which provides that telecommunications services are permitted between the United States and Cuba, specifically authorizes me to provide for payments to Cuba by license. The CDA states that licenses may provide for full or partial settlement of telecommunications services with Cuba, but does not require any withdrawal from a blocked account. Following enactment of the CDA on October 23, 1992, a number of U.S. telecommunications companies successfully negotiated agreements to provide telecommunications services between the United States and Cuba consistent with policy guidelines developed by the Department of State and the Federal Communications Commission.

Subsequent to enactment of the CDA, the Department of the Treasury's Office of Foreign Assets Control (OFAC) amended the Cuban Assets Control Regulations, 31 C.F.R. Part 515 (the "CACR"), to provide for specific licensing on a case-by-case basis for certain transactions incident to the receipt or transmission of telecommunications between the United States and Cuba, 31 C.F.R. 515.542(c), including settlement of charges under traffic agreements.

The OFAC has issued eight licenses authorizing transactions incident to the receipt or transmission of telecommunications between the United States and Cuba since the enactment of the CDA. None of these licenses permits payments to the Government of Cuba from a blocked account. In the period October 23, 1992, to June 30, 1996, OFAC-licensed U.S. carriers reported payments to the Government of Cuba in settlement of charges under telecommunications traffic agreements as follows:

AT&T Corporation (formerly, American Telephone and Telegraph Company)	$39,647,734.42
AT&T de Puerto Rico	524.646.58
Global One (formerly, Sprint Incorporated)	4,870,053.05
IDB WorldCom Services, Inc. (formerly, IDB Communications, Inc.)	3,038,857.00
MCI International, Inc. (formerly, MCI Communications Corporation)	17,453,912.00

Telefonica Larga Distancia de Puerto Rico, Inc.	150,282.40
WilTel, Inc. (formerly, WilTel Underseas Cable, Inc.)	7,792,142.00
WorldCom, Inc. (formerly, LDDS Communications, Inc.)	3,349,967.88
Total	$76,827,595.33

I shall continue to report semiannually on telecommunications payments to the Government of Cuba from United States persons.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 20, 1996.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

AT 10:30 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1995. An act to authorize construction of the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport, and for other purposes.

S. 1636. An act to designate the United States Courthouse under construction at 1030 Southwest 3rd Avenue, Portland, Oregon, as the "Mark O. Hatfield United States Courthouse," and for other purposes.

H.R. 1772. An act to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for Inclusion in the Oahu National Wildlife Refuge Complex.

H.R. 2909. An act to amend the Silvio O. Conte National Fish and Wildlife Refuge Act to provide that the Secretary of the Interior may acquire lands for purposes of that Act only by donation or exchange, or otherwise with the consent of the owner of the lands.

H.R. 3675. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

H.R. 3676. An act to amend title 18, United States Code, to clarify the intent of Congress with respect to the Federal carjacking prohibition.

H.R. 3802. An act to amend section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, to provide for public access to information in an electronic format, and for other purposes.

H.J. Res. 191. Joint resolution to confer honorary citizenship of the United States on Agnes Gonxha Bojaxhiu, also known as Mother Teresa.

A message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following bills:

H.R. 2464. An act to amend Public Law 103-93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes.

H.R. 2512. An act to provide for certain benefits of the Pick-Sloan Missouri River basin program to the Crow Creek Sioux Tribe, and for other purposes.

H.R. 2982. An act to direct the Secretary of the Interior to convey the Carbon Hill National Fish Hatchery to the State of Alabama.

H.R. 3120. An act to amend title 18, United States Code, with respect to witness retaliation, witness tampering and jury tampering.

H.R. 3287. An act to direct the Secretary of the Interior to convey the Crawford National Fish Hatchery to the city of Crawford, Nebraska.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House of Representatives, were signed on today, September 20, 1996, by the President pro tempore (Mr. THURMOND):

H.R. 2679. An act to revise the boundary of the North Platte National Wildlife Refuge, to expand the Pettaquamscutt Cove National Wildlife Refuge, and for other purposes.

H.R. 3060. An act to implement the Protocol on Environmental Protection to the Antarctic Treaty.

H.R. 3553. An act to amend the Federal Trade Commission Act to authorize appropriations for the Federal Trade Commission.

H.R. 3816. An act to making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes.

S. 533. An act to clarify the rules governing removal of cases to Federal court, and for other purposes.

S. 677. An act to repeal a redundant venue provision, and for other purposes.

H.R. 3396. An act to define and protect the institution of marriage.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on September 20, 1996 he had presented to the President of the United States, the following enrolled bills:

S. 533. To clarify the rules governing removal of cases to Federal court, and for other purposes.

S. 677. To repeal a redundant venue provision, and for other purposes.

S. 1636. An act to designate the United States Courthouse under construction at 1030 Southwest 3rd Avenue, Portland, Oregon, as the "Mark O. Hatfield United States Courthouse," and for other purposes.

S. 1995. An act to authorize construction of the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC 4147. A communication from the Executive Director of the Martin Luther King, Jr. Federal Holiday Commission, transmitting, the annual report for the calendar year 1996; to the Committee on the Judiciary.

EC 4148. A communication from the Assistant Secretary of Labor for OSHA, transmitting, pursuant to law, a rule regarding occupational exposure to asbestos (RIN 1218-AB25) received on September 18, 1996; to the Committee on Labor and Human Resources.

EC 4149. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the National Institute for Occupational Safety and Health (NIOSH) and Center for Disease Control and Prevention (CDC) annual reports for fiscal years 1993 and 1994; to the Committee on Labor and Human Resources.

EC 4150. A communication from the Assistant Attorney General in the Civil Rights Division, Department of Justice, transmitting, pursuant to law, a report with respect to a rule entitled "Americans with Disabilities Act Accessibility Guidelines; Detectable Warnings," (RIN 3014-AA18) received on September 16, 1996; to the Committee on Labor and Human Resources.

EC 4151. A communication from the Secretary of Defense, transmitting, a notice of retirement; to the Committee on Armed Services.

EC 4152. A communication from the Director of Defense Procurement in the Office of the Under Secretary of Defense, transmitting, pursuant to law, thirty rules amending the Defense Federal Acquisition Regulation Supplement (received on September 19, 1996); to the Committee on Armed Services.

EC 4153. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report relative to a government securities broker; to the Committee on Banking, Housing, and Urban Affairs.

EC 4154. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, a rule concerning eliminating fees (RIN 3235-AG79) received on September 19, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC 4155. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, fifteen rules including one entitled "Airworthiness Directives; Boeing Model 757 Series Airplanes; Docket 96-NM-223-AD," (RIN 2120-AA64, 2120-AA66) received on September 19, 1996; to the Committee on Commerce, Science, and Transportation.

EC 4156. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, a rule entitled "Stability and Control of Heavy Vehicles," (RIN 2127-AG06) received on September 19, 1996; to the Committee on Commerce, Science, and Transportation.

EC 4157. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2097. A bill to modify the boundary of Bandelier National Monument in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 2098. A bill to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes; to the Committee on Small Business.

By Mr. GRASSLEY (for himself and Mr. GRAHAM):

S. 2099. A bill to amend title XIX of the Social Security Act to provide post-eligibility treatment of certain payments received under a Department of Veterans Affairs pension or compensation program, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 2100. A bill to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police; read the first time.

By Mr. SPECTER (for himself, Mr. HATCH, Mr. KOHL, Mr. GRASSLEY, Mr. KENNEDY, Mr. BIDEN, Mrs. FEINSTEIN, Mr. THURMOND, Mr. LEAHY, Mr. SIMPSON, and Mr. LEVIN):

S. 2101. A bill to provide educational assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties; considered and passed.

By Mr. HATFIELD:

S. 2102. A bill to nullify the Supplemental Treaty Between the United States of America and the Confederated Tribes and Bands of Indians of Middle Oregon, concluded on November 15, 1865; read twice.

By Mr. BREAUX (for himself, Mr. FAIRCLOTH, Mr. HEFLIN, Mr. INHOFE, Mr. HELMS, and Mr. MACK):

S. 2103. A bill to amend title 17, United States Code, to protect vessel hull designs against unauthorized duplication, and for other purposes; to the Committee on the Judiciary.

By Mr. WARNER (for himself, Mr. ROBB, Mr. SARBANES, and Ms. MIKULSKI):

S.J. Res. 62. A joint resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. DOMENICI:

S. 2098. A bill to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes; to the Committee on Small Business.

THE WOMEN'S BUSINESS TRAINING CENTERS ACT OF 1996

Mr. DOMENICI. Mr. President, I am pleased to introduce the Women's Business Training Centers Act of 1996, a companion to H.R. 4071 introduced by Congresswoman Nancy Johnson on September 12.

As many of us recognize, women-owned businesses are one of the fastest growing, highly stable, and job-producing segments of our U.S. economy. At the same time, I am afraid they are also one of the most perceptually under-valued segments of our business sector; there are far too many who have overlooked this extraordinary group of business owners.

Let me cite some phenomenal statistics about women-owned businesses.

Between 1982 and 1987, women-owned firms increased by 57.5 percent, more than twice the rate of all U.S. businesses during that period. In 1987 they numbered approximately 4.1 million. By 1996, women-owned businesses had grown to approximately 8 million businesses and employed 18.5 million people, which is one out of every four U.S. company workers and more than the Fortune 500 companies employed worldwide. They generated an estimated $2.3 trillion in sales and are in every industrial sector.

The National Association of Women Business Owners [NAWBO] reports that the growth of women-owned firms continues to outpace overall business growth by nearly two to one, and that their top growth industries are construction, wholesale trade, transportation/communications, agribusiness, and manufacturing. Women entrepreneurs are taking their firms into the global marketplace at the same rate as all U.S. business owners. Women-owned businesses have sustaining power with 40 percent remaining in business for 12 years or more. As spectacular, women own 30 percent of all businesses and are projected to own 50 percent of all businesses by the year 2000.

These statistics are truly impressive. They also emphasize that women-owned businesses have achieved these monumental feats because of business acumen, as well as self-reliance, ingenuity, common sense, and dogged determination. I say this because there still remain enormous obstacles for women who want to establish businesses; in particular, access to capitol and technical assistance.

One of the most beneficial programs designed to assist women business owners is the Women's Business Training Centers in the Small Business Administration [SBA] to provide training, counseling, and technical assistance. I know personally how very beneficial this demonstration program has been in my State of New Mexico. I have talked with the women clients and toured their businesses, and thanks to the able leadership of the centers' personnel, these businesses are growing financially, employing new personnel, and creating new markets for their goods and services.

The Women's Business Training Centers Program is one of the most needed, best utilized, and tangibly successful activities I have seen. It is also one of the smallest programs in the SBA; the Administration requested only $2 million this year, although I am hopeful Congress will see fit to fully fund it at twice this amount. In my estimation, this program should be expanded so that the SBA can establish the business centers in all of the States, particularly those 22 States that currently have no sites.

The program is slated to end in 1997. I believe this would be a real disservice to America's women business owners. Therefore, this bill will permanently authorize the program, increase the centers' funding cycle from 3 to 5 years, and increase its presently authorized funding level from $4 to $8 million.

I believe the time has come for Congress to recognize how absolutely essential women entrepreneurs are to the American economy. As I stated previously, women business owners have achieved enormous successes because of their independent spirit and skills. We can, however, offer some valuable assistance for a very minimal amount of funding. I believe it fair to say that the return on that investment will far exceed just about any other we may make.

As the National Association of Women Business Owner's fact sheet points out, "the greatest challenge of business ownership for women is being taken seriously." The statistics and proven record of women business owners speaks for itself, and I invite my colleagues to support this effort in their behalf.

This bill, which is going to continue to expand upon the concept of having women business training centers, should become law. I am not sure that will happen this year. But based upon the kind of things happening and the needs out there and the fairness of this approach, I believe it will become law. I am pleased to introduce it at this point.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Business Training Centers Act of 1996".

SEC. 2. WOMEN'S BUSINESS TRAINING CENTERS.

Section 29 of the Small Business Act (15 U.S.C. 656) is amended to read as follows:

"SEC. 29. (a) The Administration may provide financial assistance to private organizations to conduct five-year projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

"(1) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cashflow and other financial operations of a business concern;

"(2) management assistance, including training and counseling in how to plan, organize, staff, direct and control each major activity and function of a small business concern; and

"(3) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

"(b)(1)) As a condition of receiving financial assistance authorized by this section, the recipient organization shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

"(A) in the first and second years, 1 non-Federal dollar for each 2 Federal dollars;

"(B) in the third year, 1 non-Federal dollar for each Federal dollar; and

"(C) in the fourth and fifth years, 2 non-Federal dollars for each Federal dollar.

"(2) Up to one-half of the non-Federal sector matching assistance may be in the form of in-kind contributions which are budget line items only, including but not limited to office equipment and office space.

"(3) The financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a recipient organization after notice of the award has been issued and before the non-Federal sector matching funds are obtained.

"(4) If any recipient of assistance fails to obtain the required non-Federal contribution during any project, it shall not be eligible thereafter for advance disbursements pursuant to paragraph (3) during the remainder of that project, or for any other project for which it is or may be funded. In addition, prior to approving assistance to such organization for any other projects, the Administration shall specifically determine whether the Administration believes that the recipient will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

"(c) Each applicant organization initially shall submit a five-year plan on proposed fundraising and training activities, and a recipient organization may receive financial assistance under this program for a maximum of five years per site. The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. The criteria shall include—

"(1) the experience of the applicant in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(2) the present ability of the applicant to commence a project within a minimum amount of time; and

"(3) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged.

"(d) For the purposes of this section, the term small business concern, either 'start-up' or existing, owned and controlled by women includes any small business concern—

"(1) which is at least 51 percent owned by one or more women; and

"(2) the management and daily business operations are controlled by one or more women.

"(e) There are authorized to be appropriated $8,000,000 per year to carry out the projects authorized by this section. Notwithstanding any other provision of law, the Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this section, except that it shall ensure that all eligible sources are provided a reasonable opportunity to submit proposals.

"(f) The Administration shall prepare and transmit a biennial report to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all projects conducted under the authority of this section. Such report shall provide information concerning—

"(1) the number of individuals receiving assistance;

"(2) the number of start-up business concerns formed;

"(3) the gross receipts of assisted concerns;

"(4) increases or decreases in profits of assisted concerns; and

"(5) the employment increases or decreases of assisted concerns.

"(g) OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—There is hereby established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises, as such term is defined in section 408 of the Women's Business Ownership Act of 1988. The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.".

By Mr. GRASSLEY (for himself and Mr. GRAHAM):

S. 2099. A bill to amend title XIX of the Social Security Act to provide post-eligibility treatment of certain payments received under a Department of Veterans Affairs pension or compensation program, and for other purposes; to the Committee on Finance.

VETERANS BENEFITS LEGISLATION

Mr. GRASSLEY. Mr. President, on behalf of myself and Senator GRAHAM, I am introducing today legislation which, when enacted, will modify the treatment of certain veterans benefits received by veterans who reside in State veterans homes and whose care and treatment is paid for by the Medicaid Program.

Veterans residing in State veterans homes, who are eligible for aid and attendance [AA] and unusual medical expense [UME] benefits, veterans benefits provided under Title 38 of the United States Code, who are also eligible for Medicaid, are the only veterans in nursing homes who receive, and who are able to keep, the entire AA and UME benefit amounts. This can be as much as $1,000 per month.

Other veterans, who reside in other types of nursing homes are receiving Medicaid, and who are also eligible for AA/UME can receive only $90 per month from the VA.

Yet other veterans, who reside in State veterans homes but who are not eligible for the AA/UME benefits must contribute all but $90 of their income to the cost of their care.

So, even though veterans residing in State veterans homes who are eligible for AA and UME benefits and who qualify for Medicaid have all of their treatment and living expenses paid by the State Medicaid Program, they nevertheless may keep as much as $1,000 per month of the AA and UME benefits.

It might be useful for me to review how this state of affairs came to be.

In 1990, legislation was enacted (PL 101-508, November 5, 1990) which modified title 38, the veterans benefits title of the United States Code, to stipulate that veterans with no dependents, on title XIX, residing in nursing homes, and eligible for aid and attendance and unusual medical expenses, could receive only a $90 per month personal expense allowance from the VA, rather than the full UME and AA amounts.

State veterans homes were subsequently exempted from the definition of nursing homes which had been contained in those earlier provisions of PL 101-508 by legislation enacted in 1991—PL 102-40, May 7, 1991.

The result was that veterans on title XIX and residing in State veterans homes continued to receive UME and AA. Until recently, the State veterans homes followed a policy of requiring that all but $90 per month of these allowances be used to defray the cost of care in the home.

Then, a series of Federal Court decisions held that neither UME nor AA could be considered income. The court decisions appeared to focus on the definition of income used in pre- and post-eligibility income determinations for Medicaid. The court decisions essentially held that UME and AA payments to veterans did not constitute income for the purposes of post-eligibility income determinations. The reasoning was that, since these monies typically were used by veterans to defray the cost of certain services they were receiving, the payments constituted a "wash" for purposes of income gain by the veterans.

However, the frame of reference for the courts' decisions was not a nursing home environment in which a veteran receiving Medicaid benefits might find himself or herself. In other words, the UME and AA payment received by a veteran on Medicaid are provided to a veteran for services for which the State is already paying through the Medicaid program. The veteran is not paying for these services with their own income. So, as a consequence of the court decisions, these payments to the veteran in State Veterans Homes represent a net gain in income to the veteran; they are not paid out by the veteran to defray the cost of services the veteran is receiving.

As I mentioned earlier, VA does not pay AA or UME to veterans who are also on title XIX and residing in non-State Veterans Home nursing homes. Those veterans get only a $90 per month personal allowance.

And non-Medicaid eligible veterans who reside in State Veterans Homes must pay for services with their own funds. If they get UME and AA payments, the State Veterans Home will take all but $90 of those sums to help defray the cost of the nursing home care.

Although the written record does not document this, I believe that the purpose for exempting State Veterans Homes was to allow the Homes to continue to collect all but $90 of the UME and AA paid to the eligible veteran so as to enable State Veterans Homes to provide service to more veterans than they otherwise would be able to provide.

In any case, it seems highly unlikely that the purpose of exempting State Veterans Homes would have been to allow these veterans, and only these among similarly situated veterans, to retain the entire UME and A&A amounts.

The legislation I am introducing today modifies Section 1902 (r)(1) of the Social Security Act to stipulate that, for purposes of the post-eligibility treatment of income of individuals who are institutionalized—and on Title 19—the payments received under a Department of Veterans Affairs pension or compensation program, including Aid and Attendance and Unusual Medical Expense payments, may be taken into account.

By Mr. HATCH:

S. 2100. A bill to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police; read the first time.

MARSHALL OF THE SUPREME COURT LEGISLATION

Mr. HATCH. Mr. President, I am pleased to introduce legislation that is needed before the end of this legislative session. This simple bill would extend the authority of the Marshal of the Supreme Court and the Supreme Court Police to provide security to Justices, Court employees, and official visitors beyond the Court's buildings and grounds. The bill is straightforward and should not be controversial.

The authority for the Marshal of the Supreme Court and the Supreme Court Police to provide security beyond Court grounds appears at 40 U.S.C. 13n(a)(2), and was first established by Congress in 1982. Congress has periodically extended that authority, which is now slated to expire on December 29, 1996. See 40 U.S.C. 13n(c).

In the past 14 years, there has not been an interruption of the Supreme Court Police's authority to provide such protection. Congress originally provided that the authority would terminate in December 1985, and extensions have been provided ever since. In 1985, authority was extended through December 26, 1986; in 1986, it was extended through December 29, 1990; in 1990, it was extended through December 29, 1993; and in 1993, it was extended through December 29, 1996.

Chief Justice Rehnquist has written to me requesting that Congress extend this authority permanently. The Chief Justice correctly pointed out to me in his letter, "As security concerns have not diminished, it is essential that the off-grounds authority of the Supreme Court Police be continued without interruption." The Supreme Court informs me that threats of violence against the Justices and the Court have increased since 1982, as has violence in the Washington metropolitan area. Accordingly, I support a permanent extension of this authority to provide for the safety of the Justices, court employees, and official visitors.

Given the late date in the Congress, however, and the fact that we must pass an extension before December 29, 1996, I am introducing legislation that would provide for a 4-year extension, until December 29, 2000. I encourage Congress at some point to extend the authority on a permanent basis, but I am suggesting a 4-year extension so that we can get this done on short order.

I note for my colleagues that this provision is without significant cost, but provides great benefits to those on the highest court in the land and those working with them. According to the Supreme Court, from 1993 through 1995, there were only 25 requests for Supreme Court Police protection beyond the Washington, DC metropolitan area, at a total cost of $2,997. I am also informed that off-grounds protection of the Justices within the DC area is provided without substantial additional cost, since it is part of the officers' regularly scheduled duties along with tasks on Court grounds.

I encourage my colleagues to support this much-needed extension so that we can pass this bill before we adjourn.

By Mr. HATFIELD:

S. 2102. A bill to nullify the Supplemental Treaty Between the United States of America and the Confederated Tribes and Bands of Indians of Middle Oregon, concluded on November 15, 1865; read twice and ordered placed on the calendar.

TREATY NULLIFICATION LEGISLATION

Mr. HATFIELD. Now, Mr. President, this is probably the last act of legislation that I will perform in my long tenure in the Senate. I want to offer today, and I am very hopeful that even though this is in the closing hours that this will rise above any other kind of considerations because it offers an opportunity for all of us to correct a historic wrong. One hundred and forty-one years ago, at the request of the U.S. Government, the Tribes of Middle Oregon gathered near The Dalles on the Columbia River to negotiate and sign a treaty that would forever change the lives of their people. On June 25, 1855, after many days of extended discussions and negotiations with Joel Palmer, Superintendent of Indian Affairs for the Oregon Territory, the treaty between the Tribes of Middle Oregon and the United States was signed. It was ratified by the U.S. Senate March 8, 1859 and has served since that time as the primary agreement between the Warm Springs Tribes and the U.S. Government.

The 1855 treaty established a reservation—referred to as the Warm Springs Reservation—some 50 miles to the south of the Columbia River, on the Deschutes River. The 1855 treaty also provided that the members of the signatory tribes settle on the newly created reservation and cede the balance of their territory to the United States. In signing the 1855 treaty, the tribes insisted upon retaining their right to hunt, fish, graze, and gather roots and berries at their usual and accustomed stations and on unclaimed lands outside the reservation. These reserved treaty rights were essential for the Tribes' life and culture.

While the tribes settled on the reservation soon after the treaty signing, they maintained their accustomed practice of traveling regularly to the Columbia River to harvest its magnificent runs of salmon. The continued presence of Indian people fishing along the Columbia, however, irritated the non-Indian settlers and prompted the then-Superintendent of Indian Affairs for Oregon, J.W. Perit Huntington, to pursue efforts to keep the Tribes away from the settlers.

To that end, Superintendent Huntington drew up a supplemental treaty and, on November 15, 1865, convinced the tribes of the Warm Springs Reservation to sign it. This treaty, called the Treaty with the Middle Oregon Tribes of November 15, 1865, was ratified by the U.S. Senate on March 2, 1867. According to its terms, the treaty prohibits the Indians from leaving the Warm Springs Reservation without the written permission of the Government and relinquishes all of the off-reservation rights so carefully negotiated by the tribes as part of the 1855 treaty.

The Indians of the Warm Springs Reservation have never complied with the 1865 treaty and the United States has never tried to enforce it. The historical record explains why this is so. The 1865 treaty was obtained by fraud—plain and simple. The Indians, who did not speak, read, or write English, were told by the Government agent that the treaty only required them to notify the Government agent when they left the reservation to fish on the Columbia. They were never told that the treaty abrogated their cherished right to fish at Celilo Falls and other traditional places outside the reservation. How do we know this? Historical documents. Historical documents, including subsequent U.S. Justice Department affidavits taken from Warm Springs Indians present at both the 1855 and 1865 treaty signings, show that the Indian signatories understood the agreement as providing a pass system identifying Indians leaving the reservation to exercise off-reservation rights. They understood this pass system as a means of distinguishing the friendly treaty tribes from the hostile Indians who were raiding in the area. It was never understood or explained that the treaty relinquished all off-reservation rights, or that Indians could not leave the reservation without the Superintendent's written consent.

According to the affidavits, Huntington secured the signatures of members of the tribes during a stay on the reservation that lasted less than 24 hours. It is difficult to conceive that the tribes, in less than 1 day, would agree to imprison themselves on their reservation and relinquish the off-reservation rights that they exhaustively negotiated in 1855, cutting themselves off from their principle source of food. As the affidavit of Albert Kuck-up states:

> I am sure that the Indians would have positively refused to sign any paper, for Huntington or anyone else, that would have taken from them their fishing rights or fishery. Fish is to us what bread is to the white man.

Affidavits and other historic documents show that Huntington then departed for Klamath, OR, never to return. He even took with him the two wagons and teams he had promised to leave with the Indians of the Warm Springs Reservation.

Almost immediately following the signing of the 1865 treaty, the Indians from the Warm Springs Reservation continued to travel to the Columbia River to fish from their historic fishing sites. Warm Springs Agency agent John Smith wrote in his June 26, 1867, report to Superintendent Huntington that "as early as the 16th of May, 1866, the Indians began to visit the salmon fisheries in large numbers." Reports by Agent Smith in subsequent years further document continued fishing on a substantial scale, and in a July 1, 1869, letter from Agent Smith to Superintendent A.B. Meacham—who replaced Huntington on May 15, 1869—Smith noted "the Indians said they did not understand the terms of the [1865] treaty", that "they claim that it was not properly interpreted to them", and that "they were led to believe the right of taking fish, hunting game, etc., would still be given them because salmon was such an essential part of their subsistence." That same year, in a September 18, 1869 report regarding the Warm Springs Reservation to Superintendent Meacham, U.S. Army Captain W.M. Mitchell wrote,

> I also have to report, for the consideration of the proper authorities, that the Indians unanimously disclaim any knowledge whatever of having sold their right to the fishery at The Dalles of the Columbia, as stated in the amended treaty of 1865, and express a desire to have a small delegation of their head men visit their Great White Father in Washington, and to him present their cause of complaint.

Official U.S. Government reports in subsequent years continue to note the Warm Springs Reservation Indian's strong objection to the 1865 treaty, their continued and uninterrupted reliance on their fisheries on the Columbia River, and the fraudulent nature of the 1865 treaty signing. In the annual report, dated August 15, 1884, Warm Springs Agent Alonzo Gesner finds:

> on record what purports to be a supplementary treaty . . . which is beyond a doubt a forgery on the part of the Government in so far as it relates to the Indians ever relinquishing their right to the fisheries on the Columbia River; and as a matter of justice to the Indians, as well as to the Government, the matter should be made right and satisfactory to the Indians as soon as possible. . . . All the Indians say emphatically that when the treaty was read to them no mention was made of their giving up the right to fish. All that was said was that they were to agree not to leave the reservation without getting passes, . . . The fact is they were wilfully and wickedly deceived.

In 1886, Warm Springs Agent Jason Wheeler reported to the Commissioner of the Indian Affairs in Washington, DC, regarding the 1865 treaty that "if ever a fraud was villainously perpetrated on any set of people, red or white, this was, in my opinion, certainly one of the most glaring." In 1887, Commissioner of Indian Affairs J.D.C. Atkins, in his annual report to the Secretary of the Interior, cited a recent War Department report by Gen. John Gibbons that:

> called attention to the oft-repeated, and I may say very generally credited, story of fraud in the treaty of 1865, whereby the Warm Springs Indians were, it is claimed, cheated out of their fishery by the Huntington treaty. Salmon,

he wrote:

> is material and of grave importance to them. It is their principal source of subsistence, and they never intended to part with it, but were cheated and swindled out of it by a cunning and unprincipled U.S. official. I would recommend your early attention to the matter upon the convening of Congress.

Mr. President, those are the words of representatives of the American Government assessing this kind of a fraud perpetrated upon the Warm Spring Indians in the 1870's and 1880's.

Mr. President, that report, along with the many others, along with appeals made by the tribes, apparently fell on deaf ears. But while the 1865 treaty remains on the books, the United States has never enforced it and the Tribes of the Warm Springs Reservation have continued the uninterrupted exercise of their 1855 off-reservation fishing, hunting, gathering, and grazing rights. The 1865 treaty has been effectually rendered null, disregarded by the tribes and the United States as a fraud from virtually the time it was signed. It is doubtful that the 1865 treaty has any legal validity. Moreover, in the intervening years, the Federal courts and the U.S. Congress have repeatedly recognized the Warm Springs Tribes' rights secured under the 1855 Treaty.

Mr. President, the legislation I introduce today declares the fraudulent 1865 treaty to be null and void. At the request of the Warm Springs Tribes, my bill will at long last correct this historical travesty. I wish to note that, other than formally nullifying what for many years has been a nullity in practice, this legislation will not alter the recognized 1855 rights of the Confederated Tribes of the Warm Springs Reservation. This legislation is more of a housekeeping measure—albeit housekeeping that will help the honor of the United States and dignity of a long-wronged people.

It is my understanding that both the chairman and ranking member of the Indian Affairs Committee are supportive of this proposal. The same is true for the administration. On that basis, I hope this matter can be addressed in an expeditious manner.

By Mr. BREAUX (for himself, Mr. FAIRCLOTH, Mr. HEFLIN, Mr. INHOFE, Mr. HELMS, and Mr. MACK):

S. 2103. A bill to amend title 17, United States Code, to protect vessel hull designs against unauthorized duplication, and for other purposes; to the Committee on the Judiciary.

THE BOAT PROTECTION ACT OF 1996

• Mr. BREAUX. Mr. President, today I am introducing a bill, entitled the Boat Protection Act of 1996. The bill will attempt to stop an increasingly common problem facing America's marine manufacturers—the unauthorized copying of boat hull designs. Such piracy threatens the integrity of the U.S. marine manufacturing industry and the safety of American boaters.

A boat manufacturer invests significant resources in creating a safe, structurally sound, high performance boat hull design from which a line of vessels can be manufactured. Standard practice calls for manufacturing engineers to create a hull model, or plug, from which they cast a mold. This mold is then used for mass production of boat hulls. Unfortunately, those intent on pirating such a design can simply use a finished boat hull to develop their own mold. This copied mold can then be used to manufacture boat hulls identical in appearance to the original line, and at a cost well below that incurred by the original designer.

This so-called hull splashing is a significant problem for consumers, manufacturers, and boat design firms. American consumers are defrauded in the sense that they do not benefit from the many aspects of the original hull design that contribute to its structural integrity and safety, and they are not aware that the boat they have purchased has been copied from an existing design. Moreover, if original manufacturers are undersold by these copies, they may no longer be willing to invest in new, innovative boat designs—boat designs that could provide safer, less expensive, quality watercraft for consumers.

A number of States have enacted anti-boat-hull-copying, or plug mold, statutes to address this problem of hull splashing. These States include my State of Louisiana, as well as Alabama, California, Florida, Indiana, Kansas, Maryland, Mississippi, Missouri, Tennessee, and Wisconsin. However, a decision by the U.S. Supreme Court in Bonito Boats versus Thundercraft Boats, Inc., invalidated these State statutes on the basis of Federal patent laws preemption. The legislation I am introducing today would address the concerns of hull splashing without attempting to amend the patent are copyright laws.

Such nonintrusive initiatives are not new to Congress. In 1984, Congress acted to protect the unique nature of design work when it passed the Semiconductor Chip Protection Act. This act was designed to protect the mask works of semiconductor chips, which are essentially the molds form which the chips are made, against unauthorized duplication. I believe that the approach Congress took in that legislation would also be sufficient to protect boat hull designs.

The Boat Protection Act of 1996 would work in concert with current Federal law to protect American marine manufacturers from harmful and unfair competition. I am introducing this bill today as a demonstration of my commitment to the immediate resolution of this problem, and since enactment of this legislation during the remaining days of the 104th Congress is unlikely, I intend to pursue this issue as priority in the 105th Congress.

I urge my colleagues to support the Boat Protection Act of 1996 and to join in this effort to protect the American public and the marine manufacturing community from the assault on American ingenuity caused by hull splashing.•

By Mr. WARNER (for himself, Mr. ROBB, Mr. SARBANES and Ms. MIKULSKI):

S.J. Res. 62. A joint resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact; to the Committee on the Judiciary.

THE WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT AMENDMENTS ACT OF 1996

• Mr. WARNER. Mr. President, I am introducing legislation today which would grant the consent of Congress to amendments made by the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact. The compact amendments that are being proposed today govern how the Washington Metropolitan Area Transit Authority (WMATA), better known as "Metro", conducts its daily operations as a transit provider.

The Washington Metropolitan Area Transit Authority was established in 1967 by Congress when it consented to an Interstate Compact created by Virginia, Maryland, and the District of Columbia. The authority was established to plan, finance, construct and operate a comprehensive public transit system for the Metropolitan Washington area. Today, Metro operates 1,439 buses and 764 rail cars serving the entire national capital region. The Metrorail System, sometimes called "America's Subway" has 89 miles and 74 stations currently in service. Over the next several years, Metro will construct another 13.5 miles of the rail system, with the planned 103-mile rail system being completed in 2001.

The Washington Metropolitan Area Transit Authority Compact has been amended five times since its inception. The amendments that are before the Committee are a sixth set of amendments that will enable the transit agency to perform its functions more efficiently and cost effectively.

The proposed amendments primarily, and most importantly, modify the Authority's procurement practices to conform with recently enacted federal procurement reforms. Currently, the Authority must use a sealed bid process in purchasing capital items. As you can imagine, the Authority conducts extensive procurement in constructing the rail system. The proposed amendments will enable Metro to engage in competitive negotiations on capital contracts, as an alternative to the sealed bid process. This amendment is particularly important as a means for the Authority to reduce its costs.

The transit agency will be better able to define selection criteria and eliminate costly items from bid proposals. If a prospective contractor recommends a change in a bid specification, under the proposed amendment that Authority will be able to take advantage of this cost savings.

The proposed amendments will also allow the Authority to raise its simplified purchasing ceiling from $10,000 to the federal level. The Federal Transit Administration, part of the U.S. Department of Transportation, has encouraged states and localities to raise the dollar threshold for small purchases to $100,000 to come into conformity with Federal procedures. The Authority and the jurisdictions it serves strongly endorse this proposed amendment, allowing the Authority to conduct its business in an efficient, business-like manner, rather than being required to publish voluminous bid specifications, even on small purchases. Under this revision, WMATA will be able to publish a simplified bid specification and accept price quotations, thus streamlining its procurement procedures. Given inflation rates over the past several years, this amendment provides a much better definition of "small purchase" for a government agency.

Finally, there are several administrative matters addressed in the proposed compact amendments that are certainly of a housekeeping nature. These amendments are largely codifications and clarifications of current practices. They relate to, for example, the primacy of D.C. Superior Court in cases involving WMATA, and the definition of a quorum at WMATA Board meetings.

This joint resolution is of the utmost importance to the Washington Metropolitan Area Transit Authority. It goes straight to the heart of how the Transit Authority does business.•

ADDITIONAL COSPONSORS

S. 968

At the request of Mr. McCONNELL, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 1832

At the request of Ms. MIKULSKI, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1832, a bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes.

S. 2000

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 2000, a bill to make certain laws applicable to the Executive Office of the President, and for other purposes.

At the request of Mr. COATS, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 2000, supra.

S. 2030

At the request of Mr. LOTT, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 2030, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, and for other purposes.

S. 2075

At the request of Mr. CHAFEE, the name of the Senator from Tennessee

[Mr. FRIST] was added as a cosponsor of S. 2075, a bill to amend title XVIII of the Social Security Act to provide additional consumer protections for Medicare supplemental insurance.

SENATE CONCURRENT RESOLUTION 71

At the request of Mr. NICKLES, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Concurrent Resolution 71, a concurrent resolution expressing the sense of the Senate with respect to the persecution of Christians worldwide.

AMENDMENTS SUBMITTED

THE MARITIME SECURITY ACT OF 1996

GRASSLEY AMENDMENTS NOS. 5393–5395

Mr. GRASSLEY proposed three amendments to the bill (H.R. 1350) to amend the Merchant Marine Act, 1936 to revitalize the U.S.-flag merchant marine, and for other purposes; as follows:

AMENDMENT NO. 5393

On page 23, after line 25, insert the following:

"(7) FAIR AND REASONABLE COMPENSATION.—The term 'fair and reasonable compensation' means that charges for transportation provided by a vessel under section 653 do not exceed by more than 6 percent the lowest charges for the transportation of similar volumes of containerized or break bulk cargoes for private persons.

At the end of the bill, insert the following:

SEC. 18. MERCHANT MARINE ACT, 1936.

Section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)) is amended by adding at the end the following new paragraph:

"(3) For the purposes of this subsection, the Secretary of Transportation shall consider the rates of privately owned United States-flag commercial vessels that are available to an agency to transport cargo pursuant to paragraph (1) not to be fair and reasonable if, at the time the agency arranges for the transportation of the cargo, the lowest acceptable rate offered for the transportation by a privately owned United States-flag commercial vessel exceeds the lowest acceptable rate offered for the transportation by a foreign-flag commercial vessel by more than 6 percent.".

SEC. 19. MILITARY SUPPLIES.

(a) IN GENERAL.—Section 2631 of title 10, United States Code, is amended—

(1) is subsection (a)—

(A) in the second sentence, by striking "is excessive or otherwise unreasonable" and inserting "is not fair and reasonable"; and

(B) in the third sentence, by striking "by those vessels may not be higher than the charges made for transporting like goods for private persons" and inserting "by those vessels as containerized or break bulk cargoes may not be higher than the charges made for transporting similar volumes of containerized or break bulk cargoes for private persons". (2) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) For purposes of this section, the President shall consider the rates charged by a vessel referred to in this section not to be fair and reasonable if, at the time the arrangement is made for the transportation by sea of supplies referred to in subsection (a), the lowest acceptable freight offered for the transportation by any such vessel exceeds by more than 6 percent the lowest acceptable freight charged by a foreign-flag commercial vessel for transporting similar volumes of containerized or break bulk cargoes between the same geographic trade areas of origin and destination.".

(b) MOTOR VEHICLES FOR MEMBER ON CHARGE OF PERMANENT STATION.—Section 2634 of title 10, United States Code, is amended—

(1) in subsection (a)(3), by inserting "or if the freight charged by a vessel, referred to in clause (1) or (2) is not fair and reasonable" after "available"; and

(2) by adding at the end of subsection (b) the following new clause:

"(3) The term 'fair and reasonable' means with respect to the transportation of a motor vehicle by a vessel referred to in clause (1) or (2) of subsection (a) that the freight charged for such transportation does not exceed, by more than 6 percent, the lowest freight charged for such transportation by a vessel referred to in clause (3).".

AMENDMENT NO. 5394

On page 16, between lines 23 and 24, insert the following:

"(q) PROHIBITION ON THE USE OF FUNDS FOR LOBBYING OR PUBLIC EDUCATION.—

"(1) IN GENERAL.—An operating agreement under this subtitle shall provide that no payment received by an owner or operator under the operating agreement may be used for the purpose of lobbying or public education.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'lobbying' and 'public education' shall have the meanings provided those terms by the Secretary of Transportation."

On page 18, between lines 21 and 22, insert the following:

"(4) PROHIBITION ON THE USE OF FUNDS FOR LOBBYING OR PUBLIC EDUCATION.—

"(A) IN GENERAL.—An Emergency Preparedness Agreement under this section shall provide that no payment received by a contractor under this section may be used for the purpose of lobbying or public education.

"(B) DEFINITIONS.—For purposes of this paragraph, the terms 'lobbying' and 'public education' shall have the meanings provided those terms by the Secretary of Transportation."

On page 26, between lines 17 and 18, insert the following new subsection:

"(c) PROHIBITION OF THE USE OF FUNDS FOR LOBBYING OR PUBLIC EDUCATION.—Section 603 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1173) is amended by adding at the end the following new subsection:

"'(g) PROHIBITION ON THE USE OF FUNDS FOR LOBBYING OR PUBLIC EDUCATION.—

"'(1) IN GENERAL.—No subsidy received by a contractor under a contract under this section may be used for the purpose of lobbying or public education.

"'(2) DEFINITIONS.—For purposes of this subsection, the terms, "lobbying" and "public education" shall have the meanings provided those terms by the Secretary of Transportation'."

On page 16, between lines 23 and 24, insert the following:

"(q) PROHIBITION ON THE USE OF FUNDS TO INFLUENCE AN ELECTION.—An operating agreement under this subtitle shall provide that no payment received by an owner or operator under the operating agreement may be used for the purpose of influencing an election.".

On page 18, between lines 21 and 22, insert the following:

"(4) PROHIBITION ON THE USE OF FUNDS TO INFLUENCE AN ELECTION.—An Emergency Preparedness Agreement under this section shall provide that no payment received by a contractor under this section may be used for the purpose of influencing an election.".

On page 26, between lines 17 and 18, insert the following:

"(c) PROHIBITION ON THE USE OF FUNDS TO INFLUENCE AN ELECTION.—Section 603 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1173) is amended by adding at the end the following:

"'(g) PROHIBITION ON THE USE OF FUNDS TO INFLUENCE AN ELECTION.—No subsidy received by a contractor under a contract under this section may be used for the purpose of influencing an election.".

AMENDMENT NO. 5395

At the appropriate place, insert the following new section:

SEC . IMPLEMENTATION OF VOLUNTARY INTERMODAL SEALIFT AGREEMENT.

(a) IN GENERAL.—In any national emergency covered under the Voluntary Intermodal Sealift Agreement described in the notice issued by the Maritime Administration on October 19, 1995, at 60 Fed. Reg. 54144, the Secretary of Transportation shall ensure that, to the maximum extend practicable, United States-flag vessels are called into service to satisfy Department of Defense contingency sealift requirements under a Stage III activation of the Agreement (as described in the notice) before foreign flag vessels are used to satisfy any such requirements.

(b) LEVEL OF PARTICIPATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, United States-flag vessels that are the subject to a payment or subsidy under title VI of the Merchant Marine Act, 1936, as amended by section 2 of this Act, shall be required to participate under the Voluntary Intermodal Sealift Agreement in accordance with this section.

(2) STAGE III LEVEL OF PARTICIPANTS.—In a Stage III activation of the Voluntary Intermodal Sealift Agreement, a carrier shall make available for satisfying Department of Defense contingency sealift requirements 100 percent of the carrier's United States-flag vessels that are subject to a payment or subsidy referred to in paragraph (1).

(3) STAGE I OR II LEVEL OF PARTICIPATION.—In a Stage I or II activation of the Voluntary Intermodal Sealift Agreement, a carrier shall make available for satisfying Department of Defense contingency sealift requirements the maximum percentage practicable for the carrier's United States-flag vessels that are subject to a payment or subsidy referred to in paragraph (1).

(c) REQUIREMENT FOR CERTAIN STAGE III PARTICIPANTS.—

(1) REQUIREMENT.—Notwithstanding any other provision of law, in the provision of sealift services in accordance with a Stage III activation of the Voluntary Intermodal Sealift Agreement, a United States-flag vessel referred to in subsection (b) shall be operated by a crew composed entirely of United States citizens—

(A) whenever the vessel is in a combat zone; and

(B) during any other activity under Stage III of such agreement.

(2) PROHIBITION.—A carrier may not use any vessel other than a United States-flag vessel operated by a crew composed entirely of citizens of the United States to provide any part of sealift services that the carrier is obligated to provide under a Stage III activation of the Voluntary Intermodal Sealift Agreement.

(d) CONSULTATION.—The Administrator of the Maritime Administration, in consultation with the Secretary of Defense, shall establish procedures to ensure that the requirements of this section are met.

(e) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(1) COMBAT ZONE.—The term "combat zone" shall have the meaning provided that term in section 112(c)(2) of the Internal Revenue Code of 1986.

(2) NATIONAL EMERGENCY.—The term "national emergency" means a general declaration of emergency with respect to the national defense made by the President or by the Congress.

HARKIN AMENDMENT NO. 5396

Mr. INOUYE (for Mr. HARKIN) proposed an amendment to amendment No. 5393 proposed by Mr. GRASSLEY to the bill, H.R. 1350, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . OCEAN FREIGHT CHARGES.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation shall finance any ocean freight charges for food or export assistance provided by the Federal Government for any fiscal year, to the extent that such charges are greater than would otherwise be the case because of the application of a requirement that agricultural commodities be transported in United States-flag vessels.

(b) APPLICATION OF OTHER ACTS.—Subsections (c), (d), and (e) of section 901d of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241h) shall apply to reimbursements required under subsection (a).

(c) DEFINITIONS.—As used in this section:

(1) AGRICULTURAL COMMODITY.—Ther term "agricultural commodity" has the same meaning given to such term by section 402 of the Agricultural Trade Development and Assistance Act of 1954.

(2) FOOD ASSISTANCE.—The term "food assistance" means any export activity described in section 901b(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(b)).

THE HEALTH CENTERS CONSOLIDATION ACT OF 1996

KASSABAUM AMENDMENT NO. 5397

Mr. LOTT (for Mrs. KASSEBAUM) proposed an amendment to the bill (S. 1044) to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Centers Consolidation Act of 1996".

SEC. 2. CONSOLIDATION AND REAUTHORIZATION OF PROVISIONS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended to read as follows:

"Subpart I—Health Centers

"SEC. 330. HEALTH CENTERS.

"(a) DEFINITION OF HEALTH CENTER.—

"(1) IN GENERAL.—For purposes of this section, the term 'health center' means an entity that serves a population that is medically underserved, or a special medically underserved population comprised of migratory and seasonal agricultural workers, the homeless, and residents of public housing, by providing, either through the staff and supporting resources of the center or through contracts or cooperative arrangements—

"(A) required primary health services (as defined in subsection (b)(1)); and

"(B) as may be appropriate for particular centers, additional health services (as defined in subsection (b)(2)) necessary for the adequate support of the primary health services required under subparagraph (A);

for all residents of the area served by the center (hereafter referred to in this section as the 'catchment area').

"(2) LIMITATION.—The requirement in paragraph (1) to provide services for all residents within a catchment area shall not apply in the case of a health center receiving a grant only under subsection (g), (h), or (i).

"(b) DEFINITIONS.—For purposes of this section:

"(1) REQUIRED PRIMARY HEALTH SERVICES.—

"(A) IN GENERAL.—The term 'required primary health services' means—

"(i) basic health services which, for purposes of this section, shall consist of—

"(I) health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and where appropriate, physician assistants, nurse practitioners, and nurse midwives;

"(II) diagnostic laboratory and radiologic services;

"(III) preventive health services, including—

"(aa) prenatal and perinatal services;

"(bb) screening for breast and cervical cancer;

"(cc) well-child services;

"(dd) immunizations against vaccine-preventable diseases;

"(ee) screenings for elevated blood lead levels, communicable diseases, and cholesterol;

"(ff) pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care;

"(gg) voluntary family planning services; and

"(hh) preventive dental services;

"(IV) emergency medical services; and

"(V) pharmaceutical services as may be appropriate for particular centers;

"(ii) referrals to providers of medical services and other health-related services (including substance abuse and mental health services);

"(iii) patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide or financially support the provision of medical, social, educational, or other related services;

"(iv) services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals); and

"(v) education of patients and the general population served by the health center regarding the availability and proper use of health services.

"(B) EXCEPTION.—With respect to a health center that receives a grant only under subsection (g), the Secretary, upon a showing of good cause, shall—

"(i) waive the requirement that the center provide all required primary health services under this paragraph; and

"(ii) approve, as appropriate, the provision of certain required primary health services only during certain periods of the year.

"(2) ADDITIONAL HEALTH SERVICES.—The term 'additional health services' means services that are not included as required primary health services and that are appropriate to meet the health needs of the population served by the health center involved. Such term may include—

"(A) environmental health services, including—

"(i) the detection and alleviation of unhealthful conditions associated with water supply;

"(ii) sewage treatment;

"(iii) solid waste disposal;

"(iv) rodent and parasitic infestation;

"(v) field sanitation;

"(vi) housing; and

"(vii) other environmental factors related to health; and

"(B) in the case of health centers receiving grants under subsection (g), special occupation-related health services for migratory and seasonal agricultural workers, including—

"(i) screening for and control of infectious diseases, including parasitic diseases; and

"(ii) injury prevention programs, including prevention of exposure to unsafe levels of agricultural chemicals including pesticides.

"(3) MEDICALLY UNDERSERVED POPULATIONS.—

"(A) IN GENERAL.—The term 'medically underserved population' means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services.

"(B) CRITERIA.—In carrying out subparagraph (A), the Secretary shall prescribe criteria for determining the specific shortages of personal health services of an area or population group. Such criteria shall—

"(i) take into account comments received by the Secretary from the chief executive officer of a State and local officials in a State; and

"(ii) include factors indicative of the health status of a population group or residents of an area, the ability of the residents of an area or of a population group to pay for health services and their accessibility to them, and the availability of health professionals to residents of an area or to a population group.

"(C) LIMITATION.—The Secretary may not designate a medically underserved population in a State or terminate the designation of such a population unless, prior to such designation or termination, the Secretary provides reasonable notice and opportunity for comment and consults with—

"(i) the chief executive officer of such State;

"(ii) local officials in such State; and "(iii) the organization, if any, which represents a majority of health centers in such State.

"(D) PERMISSIBLE DESIGNATION.—The Secretary may designate a medically underserved population that does not meet the criteria established under subparagraph (B) if the chief executive officer of the State in which such population is located and local officials of such State recommend the designation of such population based on unusual local conditions which are a barrier to access to or the availability of personal health services.

"(c) PLANNING GRANTS.—

"(1) IN GENERAL.—

"(A) CENTERS.—The Secretary may make grants to public and nonprofit private entities for projects to plan and develop health centers which will serve medically underserved populations. A project for which a grant may be made under this subsection may include the cost of the acquisition and lease of buildings and equipment (including the costs of amortizing the principal of, and paying the interest on, loans) and shall include—

"(i) an assessment of the need that the population proposed to be served by the health center for which the project is undertaken has for required primary health services and additional health services;

"(ii) the design of a health center program for such population based on such assessment;

"(iii) efforts to secure, within the proposed catchment area of such center, financial and professional assistance and support for the project;

"(iv) initiation and encouragement of continuing community involvement in the development and operation of the project; and

"(v) proposed linkages between the center and other appropriate provider entities, such as health departments, local hospitals, and rural health clinics, to provide better coordinated, higher quality, and more cost-effective health care services.

"(B) COMPREHENSIVE SERVICE DELIVERY NETWORKS AND PLANS.—The Secretary may make grants to health centers that receive assistance under this section to enable the centers to plan and develop a network or plan for the provision of health services, which may include the provision of health services on a prepaid basis or through another managed care arrangement, to some or to all of the individuals which the centers serve. Such a grant may only be made for such a center if—

"(i) the center has received grants under subsection (e)(1)(A) for at least 2 consecutive years preceding the year of the grant under this subparagraph or has otherwise demonstrated, as required by the Secretary, that such center has been providing primary care services for at least the 2 consecutive years immediately preceding such year; and

"(ii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis, or under another managed care arrangement, will not result in the diminution of the level or quality of health services provided to the medically underserved population served prior to the grant under this subparagraph.

Any such grant may include the acquisition and lease of buildings and equipment which may include data and information systems (including the costs of amortizing the principal of, and paying the interest on, loans), and providing training and technical assistance related to the provision of health services on a prepaid basis or under another managed care arrangement, and for other purposes that promote the development of managed care networks and plans.

"(2) LIMITATION.—Not more than two grants may be made under this subsection for the same project, except that upon a showing of good cause, the Secretary may make additional grant awards.

"(d) MANAGED CARE LOAN GUARANTEE PROGRAM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish a program under which the Secretary may, in accordance with this subsection and to the extent that appropriations are provided in advance for such program, guarantee the principal and interest on loans made by non-Federal lenders to health centers funded under this section for the costs of developing and operating managed care networks or plans.

"(B) USE OF FUNDS.—Loan funds guaranteed under this subsection may be used—

"(i) to establish reserves for the furnishing of services on a pre-paid basis; or

"(ii) for costs incurred by the center or centers, otherwise permitted under this section, as the Secretary determines are necessary to enable a center or centers to develop, operate, and own the network or plan.

"(C) PUBLICATION OF GUIDANCE.—Prior to considering an application submitted under this subsection, the Secretary shall publish guidelines to provide guidance on the implementation of this section. The Secretary shall make such guidelines available to the universe of parties affected under this subsection, distribute such guidelines to such parties upon the request of such parties, and provide a copy of such guidelines to the appropriate committees of Congress.

"(2) PROTECTION OF FINANCIAL INTERESTS.—

"(A) IN GENERAL.—The Secretary may not approve a loan guarantee for a project under this subsection unless the Secretary determines that—

"(i) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such percent per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, except that the Secretary may not require as security any center asset that is, or may be, needed by the center or centers involved to provide health services;

"(ii) the loan would not be available on reasonable terms and conditions without the guarantee under this subsection; and

"(iii) amounts appropriated for the program under this subsection are sufficient to provide loan guarantees under this subsection.

"(B) RECOVERY OF PAYMENTS.—

"(i) IN GENERAL.—The United States shall be entitled to recover from the applicant for a loan guarantee under this subsection the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery (subject to appropriations remaining available to permit such a waiver) and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made. Amounts recovered under this clause shall be credited as reimbursements to the financing account of the program.

"(ii) MODIFICATION OF TERMS AND CONDITIONS.—To the extent permitted by clause (iii) and subject to the requirements of section 504(e) of the Credit Reform Act of 1990 (2 U.S.C. 661c(e)), any terms and conditions applicable to a loan guarantee under this subsection (including terms and conditions imposed under clause (iv)) may be modified or waived by the Secretary to the extent the Secretary determines it to be consistent with the financial interest of the United States.

"(iii) INCONTESTABILITY.—Any loan guarantee made by the Secretary under this subsection shall be incontestable—

"(I) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee; and

"(II) as to any person (or successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(iv) FURTHER TERMS AND CONDITIONS.—Guarantees of loans under this subsection shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved.

"(3) LOAN ORIGINATION FEES.—

"(A) IN GENERAL.—The Secretary shall collect a loan origination fee with respect to loans to be guaranteed under this subsection, except as provided in subparagraph (C).

"(B) AMOUNT.—The amount of a loan origination fee collected by the Secretary under subparagraph (A) shall be equal to the estimated long term cost of the loan guarantees involved to the Federal Government (excluding administrative costs), calculated on a net present value basis, after taking into account any appropriations that may be made for the purpose of offsetting such costs, and in accordance with the criteria used to award loan guarantees under this subsection.

"(C) WAIVER.—The Secretary may waive the loan origination fee for a health center applicant who demonstrates to the Secretary that the applicant will be unable to meet the conditions of the loan if the applicant incurs the additional cost of the fee.

"(4) DEFAULTS.—

"(A) IN GENERAL.—Subject to the requirements of the Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), the Secretary may take such action as may be necessary to prevent a default on a loan guaranteed under this subsection, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes. Any such expenditure made under the preceding sentence on behalf of a health center or centers shall be made under such terms and conditions as the Secretary shall prescribe, including the implementation of such organizational, operational, and financial reforms as the Secretary determines are appropriate and the disclosure of such financial or other information as the Secretary may require to determine the extent of the implementation of such reforms.

"(B) FORECLOSURE.—The Secretary may take such action, consistent with State law respecting foreclosure procedures and, with respect to reserves required for furnishing services on a prepaid basis, subject to the consent of the affected States, as the Secretary determines appropriate to protect the interest of the United States in the event of a default on a loan guaranteed under this subsection, except that the Secretary may only foreclose on assets offered as security (if any) in accordance with paragraph (2)(A)(i).

"(5) LIMITATION.—Not more than one loan guarantee may be made under this subsection for the same network or plan, except that upon a showing of good cause the Secretary may make additional loan guarantees.

"(6) ANNUAL REPORT.—Not later than April 1, 1998, and each April 1 thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning loan guarantees provided under this subsection. Such report shall include—

"(A) a description of the number, amount, and use of funds received under each loan guarantee provided under this subsection;

"(B) a description of any defaults with respect to such loans and an analysis of the reasons for such defaults, if any; and

"(C) a description of the steps that may have been taken by the Secretary to assist an entity in avoiding such a default.

"(7) PROGRAM EVALUATION.—Not later than June 30, 1999, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing an evaluation of the program authorized under this subsection. Such evaluation shall include a recommendation with respect to whether or not the loan guarantee program under this subsection should be continued and, if so, any modifications that should be made to such program.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary.

"(e) OPERATING GRANTS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Secretary may make grants for the costs of the operation of public and nonprofit private health centers that provide health services to medically underserved populations.

"(B) ENTITIES THAT FAIL TO MEET CERTAIN REQUIREMENTS.—The Secretary may make grants, for a period of not to exceed 2-years, for the costs of the operation of public and nonprofit private entities which provide health services to medically underserved populations but with respect to which the Secretary is unable to make each of the determinations required by subsection (j)(3).

"(2) USE OF FUNDS.—The costs for which a grant may be made under subparagraph (A) or (B) of paragraph (1) may include the costs of acquiring and leasing buildings and equipment (including the costs of amortizing the principal of, and paying interest on, loans), and the costs of providing training related to the provision of required primary health services and additional health services and to the management of health center programs.

"(3) CONSTRUCTION.—The Secretary may award grants which may be used to pay the costs associated with expanding and modernizing existing buildings or constructing new buildings (including the costs of amortizing the principal of, and paying the interest on, loans) for projects approved prior to October 1, 1996.

"(4) LIMITATION.—Not more than two grants may be made under subparagraph (B) of paragraph (1) for the same entity.

"(5) AMOUNT.—

"(A) IN GENERAL.—The amount of any grant made in any fiscal year under paragraph (1) to a health center shall be determined by the Secretary, but may not exceed the amount by which the costs of operation of the center in such fiscal year exceed the total of—

"(i) State, local, and other operational funding provided to the center; and

"(ii) the fees, premiums, and third-party reimbursements, which the center may reasonably be expected to receive for its operations in such fiscal year.

"(B) PAYMENTS.—Payments under grants under subparagraph (A) or (B) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments.

"(C) USE OF NONGRANT FUNDS.—Nongrant funds described in clauses (i) and (ii) of subparagraph (A), including any such funds in excess of those originally expected, shall be used as permitted under this section, and may be used for such other purposes as are not specifically prohibited under this section if such use furthers the objectives of the project.

"(f) INFANT MORTALITY GRANTS.—

"(1) IN GENERAL.—The Secretary may make grants to health centers for the purpose of assisting such centers in—

"(A) providing comprehensive health care and support services for the reduction of—

"(i) the incidence of infant mortality; and

"(ii) morbidity among children who are less than 3 years of age; and

"(B) developing and coordinating service and referral arrangements between health centers and other entities for the health management of pregnant women and children described in subparagraph (A).

"(2) PRIORITY.—In making grants under this subsection the Secretary shall give priority to health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.

"(3) REQUIREMENTS.—The Secretary may make a grant under this subsection only if the health center involved agrees that—

"(A) the center will coordinate the provision of services under the grant to each of the recipients of the services;

"(B) such services will be continuous for each such recipient;

"(C) the center will provide follow-up services for individuals who are referred by the center for services described in paragraph (1);

"(D) the grant will be expended to supplement, and not supplant, the expenditures of the center for primary health services (including prenatal care) with respect to the purpose described in this subsection; and

"(E) the center will coordinate the provision of services with other maternal and child health providers operating in the catchment area.

"(g) MIGRATORY AND SEASONAL AGRICULTURAL WORKERS.—

"(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (e), and (f) for the planning and delivery of services to a special medically underserved population comprised of—

"(A) migratory agricultural workers, seasonal agricultural workers, and members of the families of such migratory and seasonal agricultural workers who are within a designated catchment area; and

"(B) individuals who have previously been migratory agricultural workers but who no longer meet the requirements of subparagraph (A) of paragraph (3) because of age or disability and members of the families of such individuals who are within such catchment area.

"(2) ENVIRONMENTAL CONCERNS.—The Secretary may enter into grants or contracts under this subsection with public and private entities to—

"(A) assist the States in the implementation and enforcement of acceptable environmental health standards, including enforcement of standards for sanitation in migratory agricultural worker labor camps, and applicable Federal and State pesticide control standards; and

"(B) conduct projects and studies to assist the several States and entities which have received grants or contracts under this section in the assessment of problems related to camp and field sanitation, exposure to unsafe levels of agricultural chemicals including pesticides, and other environmental health hazards to which migratory agricultural workers and members of their families are exposed.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) MIGRATORY AGRICULTURAL WORKER.—The term 'migratory agricultural worker' means an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last 24 months, and who establishes for the purposes of such employment a temporary abode.

"(B) SEASONAL AGRICULTURAL WORKER.—The term 'seasonal agricultural worker' means an individual whose principal employment is in agriculture on a seasonal basis and who is not a migratory agricultural worker.

"(C) AGRICULTURE.—The term 'agriculture' means farming in all its branches, including—

"(i) cultivation and tillage of the soil;

"(ii) the production, cultivation, growing, and harvesting of any commodity grown on, in, or as an adjunct to or part of a commodity grown in or on, the land; and

"(iii) any practice (including preparation and processing for market and delivery to storage or to market or to carriers for transportation to market) performed by a farmer or on a farm incident to or in conjunction with an activity described in clause (ii).

"(h) HOMELESS POPULATION.—

"(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (e), and (f) for the planning and delivery of services to a special medically underserved population comprised of homeless individuals, including grants for innovative programs that provide outreach and comprehensive primary health services to homeless children and children at risk of homelessness.

"(2) REQUIRED SERVICES.—In addition to required primary health services (as defined in subsection (b)(1)), an entity that receives a grant under this subsection shall be required to provide substance abuse services as a condition of such grant.

"(3) SUPPLEMENT NOT SUPPLANT REQUIREMENT.—A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

"(4) DEFINITIONS.—For purposes of this section:

"(A) HOMELESS INDIVIDUAL.—The term 'homeless individual' means an individual who lacks housing (without regard to whether the individual is a member of a family), including an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations and an individual who is a resident in transitional housing.

"(B) SUBSTANCE ABUSE.—The term 'substance abuse' has the same meaning given such term in section 534(4).

"(C) SUBSTANCE ABUSE SERVICES.—The term 'substance abuse services' includes detoxification and residential treatment for substance abuse provided in settings other than hospitals.

"(i) RESIDENTS OF PUBLIC HOUSING.—

"(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (e), and (f) for the planning and delivery of services to a special medically underserved population comprised of residents of public housing (such term, for purposes of this subsection, shall have the same meaning given such term in section 3(b)(1) of the United States Housing Act of 1937) and individuals living in areas immediately accessible to such public housing.

"(2) SUPPLEMENT NOT SUPPLANT.—A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

"(3) CONSULTATION WITH RESIDENTS.—The Secretary may not make a grant under paragraph (1) unless, with respect to the residents of the public housing involved, the applicant for the grant—

"(A) has consulted with the residents in the preparation of the application for the grant; and

"(B) agrees to provide for ongoing consultation with the residents regarding the planning and administration of the program carried out with the grant.

"(j) APPLICATIONS.—

"(1) SUBMISSION.—No grant may be made under this section unless an application therefore is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(2) DESCRIPTION OF NEED.—An application for a grant under subparagraph (A) or (B) of subsection (e)(1) for a health center shall include—

"(A) a description of the need for health services in the catchment area of the center;

"(B) a demonstration by the applicant that the area or the population group to be served by the applicant has a shortage of personal health services; and

"(C) a demonstration that the center will be located so that it will provide services to the greatest number of individuals residing in the catchment area or included in such population group.

Such a demonstration shall be made on the basis of the criteria prescribed by the Secretary under subsection (b)(3) or on any other criteria which the Secretary may prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services. In considering an application for a grant under subparagraph (A) or (B) of subsection (e)(1), the Secretary may require as a condition to the approval of such application an assurance that the applicant will provide any health service defined under paragraphs (1) and (2) of subsection (b) that the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided to the applicant.

"(3) REQUIREMENTS.—Except as provided in subsection (e)(1)(B), the Secretary may not approve an application for a grant under subparagraph (A) or (B) of subsection (e)(1) unless the Secretary determines that the entity for which the application is submitted is a health center (within the meaning of subsection (a)) and that—

"(A) the required primary health services of the center will be available and accessible in the catchment area of the center promptly, as appropriate, and in a manner which assures continuity;

"(B) the center has made and will continue to make every reasonable effort to establish and maintain collaborative relationships with other health care providers in the catchment area of the center;

"(C) the center will have an ongoing quality improvement system that includes clinical services and management, and that maintains the confidentiality of patient records;

"(D) the center will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

"(E) the center—

"(i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan; or

"(ii) has made or will make every reasonable effort to enter into such an arrangement;

"(F) the center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

"(G) the center—

"(i) has prepared a schedule of fees or payments for the provision of its services consistent with locally prevailing rates or charges and designed to cover its reasonable costs of operation and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay;

"(ii) has made and will continue to make every reasonable effort—

"(I) to secure from patients payment for services in accordance with such schedules; and

"(II) to collect reimbursement for health services to persons described in subparagraph (F) on the basis of the full amount of fees and payments for such services without application of any discount; and

"(iii) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph;

"(H) the center has established a governing board which except in the case of an entity operated by an Indian tribe or tribal or Indian organization under the Indian Self-Determination Act or an urban Indian organization under the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.)—

"(i) is composed of individuals, a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center;

"(ii) meets at least once a month, selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center (as defined in the second sentence of this paragraph), establishes general policies for the center; and

"(iii) in the case of an application for a second or subsequent grant for a public center, has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;

except that, upon a showing of good cause the Secretary shall waive, for the length of the project period, all or part of the requirements of this subparagraph in the case of a health center that receives a grant pursuant to subsection (g), (h), (i), or (p);

"(I) the center has developed—

"(i) an overall plan and budget that meets the requirements of the Secretary; and

"(ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to—

"(I) the costs of its operations;

"(II) the patterns of use of its services;

"(III) the availability, accessibility, and acceptability of its services; and

"(IV) such other matters relating to operations of the applicant as the Secretary may require;

"(J) the center will review periodically its catchment area to—

"(i) ensure that the size of such area is such that the services to be provided through the center (including any satellite) are available and accessible to the residents of the area promptly and as appropriate;

"(ii) ensure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs; and

"(iii) ensure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the center, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social grouping, and available transportation;

"(K) in the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, the center has—

"(i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals; and

"(ii) identified an individual on its staff who is fluent in both that language and in English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences; and

"(L) the center, has developed an ongoing referral relationship with one or more hospitals.

For purposes of subparagraph (H), the term 'public center' means a health center funded (or to be funded) through a grant under this section to a public agency.

"(4) APPROVAL OF NEW OR EXPANDED SERVICE APPLICATIONS.—The Secretary shall approve applications for grants under subparagraph (A) or (B) of subsection (e)(1) for health centers which—

"(A) have not received a previous grant under such subsection; or

"(B) have applied for such a grant to expand their services;

in such a manner that the ratio of the medically underserved populations in rural areas which may be expected to use the services provided by such centers to the medically underserved populations in urban areas which may be expected to use the services provided by such centers is not less than two to three or greater than three to two.

"(k) TECHNICAL AND OTHER ASSISTANCE.—The Secretary may provide (either through the Department of Health and Human Services or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to any public or private nonprofit entity to assist entities in developing plans for, or operating as, health centers, and in meeting the requirements of subsection (j)(2).

"(l) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section, in addition to the amounts authorized to be appropriated under subsection (d), there are authorized to be appropriated $802,124,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.

"(2) SPECIAL PROVISIONS.—

"(A) PUBLIC CENTERS.—The Secretary may not expend in any fiscal year, for grants under this section to public centers (as defined in the second sentence of subsection (j)(3)) the governing boards of which (as described in subsection (j)(3)(G)(ii)) do not establish general policies for such centers, an amount which exceeds 5 percent of the amounts appropriated under this section for that fiscal year. For purposes of applying the preceding sentence, the term 'public centers' shall not include health centers that receive grants pursuant to subsection (h) or (i).

"(B) DISTRIBUTION OF GRANTS.—

"(i) FISCAL YEAR 1997.—For fiscal year 1997, the Secretary, in awarding grants under this section shall ensure that the amounts made available under each of subsections (g), (h), and (i) in such fiscal year bears the same relationship to the total amount appropriated for such fiscal year under paragraph (1) as the amounts appropriated for fiscal year 1996 under each of sections 329, 340, and 340A (as such sections existed one day prior to the date of enactment of this section) bears to the total amount appropriated under sections 329, 330, 340, and 340A (as such sections existed one day prior to the date of enactment of this section) for such fiscal year.

"(ii) FISCAL YEARS 1998 AND 1999.—For each of the fiscal years 1998 and 1999, the Secretary, in awarding grants under this section shall ensure that the proportion of the amounts made available under each of subsections (g), (h), and (i) is equal to the proportion of amounts made available under each such subsection for the previous fiscal year, as such amounts relate to the total amounts appropriated for the previous fiscal year involved, increased or decreased by not more than 10 percent.

"(3) FUNDING REPORT.—The Secretary shall annually prepare and submit to the appropriate committees of Congress a report concerning the distribution of funds under this section that are provided to meet the health care needs of medically underserved populations, including the homeless, residents of public housing, and migratory and seasonal agricultural workers, and the appropriateness of the delivery systems involved in responding to the needs of the particular populations. Such report shall include an assessment of the relative health care access needs of the targeted populations and the rationale for any substantial changes in the distribution of funds.

"(m) MEMORANDUM OF AGREEMENT.—In carrying out this section, the Secretary may enter into a memorandum of agreement with a State. Such memorandum may include, where appropriate, provisions permitting such State to—

"(1) analyze the need for primary health services for medically underserved populations within such State;

"(2) assist in the planning and development of new health centers;

"(3) review and comment upon annual program plans and budgets of health centers, including comments upon allocations of health care resources in the State;

"(4) assist health centers in the development of clinical practices and fiscal and administrative systems through a technical assistance plan which is responsive to the requests of health centers; and

"(5) share information and data relevant to the operation of new and existing health centers.

"(n) RECORDS.—

"(1) IN GENERAL.—Each entity which receives a grant under subsection (e) shall establish and maintain such records as the Secretary shall require.

"(2) AVAILABILITY.—Each entity which is required to establish and maintain records under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

"(o) DELEGATION OF AUTHORITY.—The Secretary may delegate the authority to administer the programs authorized by this section to any office, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.

"(p) SPECIAL CONSIDERATION.—In making grants under this section, the Secretary shall give special consideration to the unique needs of sparsely populated rural areas, including giving priority in the awarding of grants for new health centers under subsections (c) and (e), and the granting of waivers as appropriate and permitted under subsections (b)(1)(B)(i) and (j)(3)(G).

"(q) AUDITS.—

"(1) IN GENERAL.—Each entity which receives a grant under this section shall provide for an independent annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant and such other funds received by or allocated to the project for which such grant was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with generally accepted accounting principles. Each audit shall evaluate—

"(A) the entity's implementation of the guidelines established by the Secretary respecting cost accounting,

"(B) the processes used by the entity to meet the financial and program reporting requirements of the Secretary, and

"(C) the billing and collection procedures of the entity and the relation of the procedures to its fee schedule and schedule of discounts and to the availability of health insurance and public programs to pay for the health services it provides.

A report of each such audit shall be filed with the Secretary at such time and in such manner as the Secretary may require.

"(2) RECORDS.—Each entity which receives a grant under this section shall establish and maintain such records as the Secretary shall by regulation require to facilitate the audit required by paragraph (1). The Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

"(3) AVAILABILITY OF RECORDS.—Each entity which is required to establish and maintain records or to provide for and audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

"(4) WAIVER.—The Secretary may, under appropriate circumstances, waive the application of all or part of the requirements of this subsection with respect to an entity.".

SEC. 3. RURAL HEALTH OUTREACH, NETWORK DEVELOPMENT, AND TELEMEDICINE GRANT PROGRAM.

(a) IN GENERAL.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as amended by section 2) is further amended by adding at the end thereof the following new section:

"SEC. 330A. RURAL HEALTH OUTREACH, NETWORK DEVELOPMENT, AND TELEMEDICINE GRANT PROGRAM.

"(a) ADMINISTRATION.—The rural health services outreach demonstration grant program established under section 301 shall be administered by the Office of Rural Health Policy (of the Health Resources and Services Administration), in consultation with State rural health offices or other appropriate State governmental entities.

"(b) GRANTS.—Under the program referred to in subsection (a), the Secretary, acting through the Director of the Office of Rural Health Policy, may award grants to expand access to, coordinate, restrain the cost of, and improve the quality of essential health care services, including preventive and emergency services, through the development of integrated health care delivery systems or networks in rural areas and regions.

"(c) ELIGIBLE NETWORKS.—

"(1) OUTREACH NETWORKS.—To be eligible to receive a grant under this section, an entity shall—

"(A) be a rural public or nonprofit private entity that is or represents a network or potential network that includes three or more health care providers or other entities that provide or support the delivery of health care services; and

"(B) in consultation with the State office of rural health or other appropriate State entity, prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

"(i) a description of the activities which the applicant intends to carry out using amounts provided under the grant;

"(ii) a plan for continuing the project after Federal support is ended;

"(iii) a description of the manner in which the activities funded under the grant will meet health care needs of underserved rural populations within the State; and

"(iv) a description of how the local community or region to be served by the network or proposed network will be involved in the development and ongoing operations of the network.

"(2) FOR-PROFIT ENTITIES.—An eligible network may include for-profit entities so long as the network grantee is a nonprofit entity.

"(3) TELEMEDICINE NETWORKS.—

"(A) IN GENERAL.—An entity that is a health care provider and a member of an existing or proposed telemedicine network, or an entity that is a consortium of health care providers that are members of an existing or proposed telemedicine network shall be eligible for a grant under this section.

"(B) REQUIREMENT.—A telemedicine network referred to in subparagraph (A) shall, at a minimum, be composed of—

"(i) a multispecialty entity that is located in an urban or rural area, which can provide 24-hour a day access to a range of specialty care; and

"(ii) at least two rural health care facilities, which may include rural hospitals, rural physician offices, rural health clinics, rural community health clinics, and rural nursing homes.

"(d) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to applicant networks that include—

"(1) a majority of the health care providers serving in the area or region to be served by the network;

"(2) any federally qualified health centers, rural health clinics, and local public health departments serving in the area or region;

"(3) outpatient mental health providers serving in the area or region; or

"(4) appropriate social service providers, such as agencies on aging, school systems, and providers under the women, infants, and children program, to improve access to and coordination of health care services.

"(e) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts provided under grants awarded under this section shall be used—

"(A) for the planning and development of integrated self-sustaining health care networks; and

"(B) for the initial provision of services.

"(2) EXPENDITURES IN RURAL AREAS.—

"(A) IN GENERAL.—In awarding a grant under this section, the Secretary shall ensure that not less than 50 percent of the grant award is expended in a rural area or to provide services to residents of rural areas.

"(B) TELEMEDICINE NETWORKS.—An entity described in subsection (c)(3) may not use in excess of—

"(i) 40 percent of the amounts provided under a grant under this section to carry out activities under paragraph (3)(A)(iii); and

"(ii) 20 percent of the amounts provided under a grant under this section to pay for the indirect costs associated with carrying out the purposes of such grant.

"(3) TELEMEDICINE NETWORKS.—

"(A) IN GENERAL.—An entity described in subsection (c)(3), may use amounts provided under a grant under this section to—

"(i) demonstrate the use of telemedicine in facilitating the development of rural health care networks and for improving access to health care services for rural citizens;

"(ii) provide a baseline of information for a systematic evaluation of telemedicine systems serving rural areas;

"(iii) purchase or lease and install equipment; and

"(iv) operate the telemedicine system and evaluate the telemedicine system.

"(B) LIMITATIONS.—An entity described in subsection (c)(3), may not use amounts provided under a grant under this section—

"(i) to build or acquire real property;

"(ii) purchase or install transmission equipment (such as laying cable or telephone lines, microwave towers, satellite dishes, amplifiers, and digital switching equipment); or

"(iii) for construction, except that such funds may be expended for minor renovations relating to the installation of equipment;

"(f) TERM OF GRANTS.—Funding may not be provided to a network under this section for in excess of a 3-year period.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $36,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.".

(b) TRANSITION.—The Secretary of Health and Human Services shall ensure the continued funding of grants made, or contracts or cooperative agreements entered into, under subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as such subpart existed on the day prior to the date of enactment of this Act), until the expiration of the grant period or the term of the contract or cooperative agreement. Such funding shall be continued under the same terms and conditions as were in effect on the date on which the grant, contract or cooperative agreement was awarded, subject to the availability of appropriations.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—The Public Health Service Act is amended—

(1) in section 224(g)(4) (42 U.S.C. 233(g)(4)), by striking "under" and all that follows through the end thereof and inserting "under section 330.";

(2) in section 340C(a)(2) (42 U.S.C. 256c) by striking "under" and all that follows through the end thereof and inserting "with assistance provided under section 330."; and

(3) by repealing subparts V and VI of part D of title III (42 U.S.C. 256 et seq.).

(b) SOCIAL SECURITY ACT.—The Social Security Act is amended—

(1) in clauses (i) and (ii)(I) of section 1861(aa)(4)(A) (42 U.S.C. 1395x(aa)(4)(A)(i) and (ii)(I)) by striking "section 329, 330, or 340" and inserting "section 330 (other than subsection (h))"; and

(2) in clauses (i) and (ii)(II) of section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)(i) and (ii)(II)) by striking "section 329, 330, 340, or 340A" and inserting "section 330".

(c) REFERENCES.—Whenever any reference is made in any provision of law, regulation, rule, record, or document to a community health center, migrant health center, public housing health center, or homeless health center, such reference shall be considered a reference to a health center.

(d) FTCA CLARIFICATION.—For purposes of section 224(k)(3) of the Public Health Service Act (42 U.S.C. 233(k)(3)), transfers from the fund described in such section for fiscal year 1996 shall be deemed to have occurred prior to December 31, 1995.

(e) ADDITIONAL AMENDMENTS.—After consultation with the appropriate committees of the Congress, the Secretary of Health and Human Services shall prepare and submit to the Congress a legislative proposal in the form of an implementing bill containing technical and conforming amendments to reflect the changes made by this Act.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on October 1, 1997.

ADDITIONAL STATEMENTS

NICHOLS RESEARCH CORP.

• Mr. SHELBY. Mr. President, I rise today to recognize Nichols Research Corp. of Huntsville, AL, which is celebrating its 20th year of technological leadership. For the past two decades, Nichols Research Corp. has made significant technological contributions to our Nation, and in so doing has shown itself to be a model example of the energy and dynamism of America's small businesses.

In 1976, Roy Nichols and Chris Horgen's small company consisted of a single office in Huntsville, AL, and a handful of employees. Since that time, Nichols Research Corp. has achieved remarkable growth, now employing 1,900 hard-working men and women in 27 offices nationwide. The astonishing rise to prominence of this once tiny firm is vivid proof that in America, great ideas, professional excellence, and perseverance can lead to unlimited success.

Since its humble beginnings, Nichols Research Corp.'s prosperity has been driven by its leadership in technological innovation and its ability to put its breakthrough ideas and professional know-how to work for all of us. For much of its history, Nichols Research Corp. has concentrated on developing technologies for America's defense. In recent years, Nichols Research Corp. has begun using its vast expertise to expand into the field of information technology, a rapidly progressing area which represents the vibrant future of the American economy. The skills and techniques which Nichols Research Corp. has gained are now being used to develop solutions for Government agencies as well as health care, transportation, and insurance businesses in the private sector.

Not surprisingly, Nichols Research Corp.'s innovativeness and leadership have drawn well-deserved praise and recognition. In 1993, Forbes magazine selected Nichols Research Corp. as 1 of only 13 firms for its "Best of the Best" list of small companies in America. In 1995, Nichols Research Corp. was named by the Department of Defense to its "Top 100" company list for research development testing and evaluation as well as other services and supplies. Today, I would like to recognize this small business success story for 20 years of growth and innovation, and congratulate Roy Nichols, Chris Horgen, and all of Nichols Research Corp.'s employees for their outstanding accomplishments. I am certain that Nichols Research Corp. will continue to make valuable contributions to America's defense and economic prosperity for many years to come.•

WEST VIRGINIA'S TRIBUTE TO JOHN HENRY

• Mr. ROCKEFELLER. Mr. President, on July 12–14, 1996, a 6-foot replica of a stamp honoring legendary railroad worker John Henry was the centerpiece of a weekend of festivities in the small town of Talcott in Summers County, WV. This stamp was part of a set of four folk hero stamps recently issued by the U.S. Postal Service also honoring Paul Bunyan, Pecos Bill, and the Mighty Casey. The Postal Service had initially only planned to announce the stamp in Pittsburgh and issue it in Anaheim, CA, at an annual show. However, I am proud to have been part of an effort launched by my colleague, Congressman NICK RAHALL, and the residents of Talcott to ensure that this folk legend and this great town which gave him birth were honored with a personalized unveiling and stamp cancellation ceremony.

In the latter part of 1995, the townspeople of Talcott were disappointed to learn that the U.S. Postal Service announced in Pittsburgh, PA, instead of West Virginia, the design of a 1996 stamp honoring John Henry. I asked for the rationale behind this decision and was advised by the Postal Service that this site was selected because of the city's linkage to railroad yards. While I could easily understand such a "thematic" or "geographical" approach—a Steel-Driving Man being recognized in the "Steel City"—virtually all of the residents of my State strongly believed that John Henry's legend is based on the classic tale of his competition against the mechanical steam drill at Big Bend Mountain in Talcott. So it only would make sense for West Virginians to be able to celebrate the legend of John Henry and the issuance of his stamp with an appropriate ceremony of their own.

I asked the Postmaster General to plan a special ceremony in West Virginia for the John Henry stamp. I also urged him to organize a specific event in Talcott related to the 1996 John Henry stamp as the home of this folk legend.

The fact that West Virginia is the true home of the John Henry legend made it a natural choice for a special recognition ceremony to celebrate the emergence of this new stamp. John Henry's fame has fascinated millions of people throughout the world and continues to interest new generations to this day. He is a symbol of the importance of human determination and skill, which is increasingly meaningful given the rise of technology in today's culture. His significance in representing human labor and a tireless work ethic also play a compelling role in West Virginia's history.

But overall, to emphasize why this issue is so important, it is necessary to understand the legend and his link to West Virginia. Let me share with you a little of the history.

The details of the John Henry folklore sprang from the construction of the Big Bend Tunnel on the Chesapeake and Ohio railroad in Talcott in 1873. Various stories led to the legend of John Henry; but, unfortunately, no documentation exists because earlier C&O Railroad records were destroyed in a fire in 1880. Local historians do know that from 1870 to 1872, a gang of hand-drillers working from the railroad actually carved out rock from the Big Bend Mountain for the railroad. This tunnel stands as proof today that the legend of John Henry has roots in reality, and a statue of this folk hero tops this tunnel.

John Henry was assumed to be an African-American slave who worked on the team of Big Bend Tunnel drillers. Famed Appalachia folklore historian Dr. James Gay Jones of Glenville, WV, noted in his 1979 book, "Haunted Valley, and More Folk Tales of Appalachia," that of all the railroad workers in the area of the time, a man known as John Henry was held in the highest esteem because of his prowess, immense size, brute strength, and great labor ethic. John Henry "became known as a driver of steel," that is, he used these great sledgehammers to drive steel rods deep into red shale rock walls. The rods were then removed, explosives were placed in them, and portions of the wall were removed blast by blast.

When a new steam power drill, the Burleigh, was brought to the Big Bend Tunnel for testing purposes, legend has it that John Henry agreed to a wager to see if he could drive more steel and clear more tunnel than the machine. A contest was held, and the legend is that John Henry drove a deeper hole than the machine. It is the contest in the mountains of West Virginia that created the legend and made the point that man can triumph in the competition against machine.

There is some controversy over how and when John Henry died. Some claim that he died because of the contest when a blood vessel burst in his head. Others say he was killed in a rock fall in the Big Bend Tunnel. Regardless of the circumstance, his legend was born and nurtured by West Virginia to share with the world, and it lives on today. It is a bit of West Virginia's contribution to basic folklore which has enriched our Nation's culture and heritage, and West Virginians like me are very proud to take an active part in recognizing and preserving this heritage.•

NATIONAL POW/MIA RECOGNITION DAY

• Mr. SMITH. Mr. President, today in our Nation's Capital, the officially recognized black and white POW/MIA flag is flying over the U.S. Capitol Building, the White House, the State Department, the Department of Veterans Affairs, the Vietnam Veterans Memorial, the Korean War Veterans Memorial, and at national cemeteries across the country. Throughout the State of New Hampshire, concerned citizens have been gathering in Manchester, Derry, Meredith, and several other communities to renew our commitment to the fullest possible accounting of prisoners of war and missing in action personnel. Likewise, there are services being held across the country.

For 12 years in Congress, I have been proud to be a leader on the POW/MIA issue on behalf of their families, our Nation's veterans, and concerned Americans. This is an honorable cause that we have embarked on, and we must not stop until we know the truth, and until we can ensure that this national tragedy can never be allowed to happen again; 2,146 American servicemen are still unaccounted for from the Vietnam War, and over 8,100 are unaccounted for from the Korean War. There are over 100 American servicemen who were lost during cold war incidents, and we also cannot forget the 78,000 Americans who died during World War II, even though we were not able to recover their remains.

As many of my colleagues and my constituents know, I have worked hard to find answers for the POW/MIA families. I have traveled to Russia, North Korea, Vietnam, Laos, and Cambodia trying to convince these nations to be more forthcoming with information. I authored the legislation which created the Senate Select Committee on POW/MIA Affairs in 1991, and I did my very best as vice chairman to open the books on POW/MIA information which had previously been kept secret. I have also worked to pass legislation to declassify Government records on POW's and MIA's. Simply put, I have never let up on my commitment to the POW/MIA issue, and as long as I serve in Congress, I never will.

Mr. President, I feel strongly that all of us have a solemn, moral obligation to continue thoroughly investigating this national tragedy on behalf of the families who still wait for answers on the fate of their loved ones. Today, on National POW/MIA Recognition Day, I urge our Government leaders to renew our Nation's commitment to the fullest possible accounting of POW's and MIA's.•

BUMPERS AMENDMENT TO H.R. 3662

• Mr. WYDEN. Mr. President, I would like to enter some remarks for the record regarding the Bumpers grazing fee amendment to H.R. 3662, the Interior appropriations bill.

In my view, if Federal policies are enacted that drive the small, independent family rancher off the land, there will be many adverse consequences for our country. I appreciate Senator BUMPER's responsiveness to my concerns about small, family ranches that led to a 5,000 AUM cap instead of the original cap of 2,000 AUM.

This change, a 150-percent increase in AUM's over his initial proposed cap, resulted in an exemption from the fee increase for approximately 300 Oregon ranchers. Further, the amendment would not impact most of the 2,100 permittees in Oregon.

There are, however, some small family ranchers who I remain concerned about. A significant number of Oregon ranchers are small and independent but they operate through one permittee, an incorporated family ranch. They are the folks I am concerned about. They include families with multiple households who live on, work on, and derive their livelihood from the ranch. They are working together to provide for their families, they provide generations worth of knowledge, and they are active in associations and restoration work. It is those family ranches who hold permits to graze more than 5,000 AUM that will have to pay the increased fee.

To address this problem, each legitimate, separate household on a family ranch should be recognized as an independent permittee or lessee for the purposes of determining the grazing fee increase.

This should be done for a simple, yet very important reason. Multi-generational ranchers are the backbone of our land stewardship program. They provide a unique knowledge of the land, are critical to maintaining our national food supply, and are helping to ensure the long-term protection of our rangeland resources. We need to assure that we consider their needs as we look to the future of grazing on public lands.•

WHY AFRICA MATTERS: INTERNATIONAL CRIME, TERRORISM, AND NARCOTICS

• Mrs. KASSEBAUM. Mr. President, I rise to continue a series of speeches about why Africa matters to the United States. I have already spoken about our vulnerability to infectious diseases coming out of Africa, and have addressed the many ways in which environmental crisis in Africa can touch Americans right here at home.

Today, I want to speak about a topic that many people believe will be the primary security threat in the years ahead—international crime and terrorism. American corporations are spending increasing amounts of money to protect themselves from international criminal networks. Our children are still threatened by a thriving drug trade that links this country to narcotics centers around the globe. And after the World Trade Center bombings and the tragic loss of the passengers and crew of TWA flight 800, the threat of international terrorism has created a sense of insecurity in the American public such as we have never felt before.

WEAK STATE INSTITUTIONS

As the rise of criminal networks in the former Soviet Union has shown, weak state institutions and judiciaries create a climate for crime to flourish—and Africa is no exception. West Africa is noted as a hub for passport forgery; counterfeit money is produced in various African urban centers, and criminal networks smuggle diamonds and ivory across the continent's porous borders and overseas.

In some parts of the continent, soldiers and political officials use their formal occupations as an entry point to high-stakes criminal activity, taking control of resources to finance crime and appropriating entire localities to serve as a base of operations. Diamonds, drugs, and arms are flowing to and from these individual fiefdoms, because no strong, capable financial or legal institutions exist to differentiate the legitimate from the illegitimate. Let me give a few examples:

Warlords in Liberia use diamonds stolen from Sierra Leone to finance their contribution to Liberia's bloody conflict.

Not long ago, Angolan rebels were selling poached elephant ivory and smuggled diamonds on international markets to raise funds for their cause.

The rise of mercenary movements on the continent is a testament to this trend—mercenaries are often paid by allowing them access to resource-rich territories, further turning Africa into a free-for-all for criminals seeking profit, while legitimate governments and businesses are increasingly marginalized.

Criminal networks in Nigeria defraud American citizens of millions of dollars each year. Yet, the Nigerian military government—itself infected with corruption—does little to stop these acts.

And even in Africa's most developed economy—South Africa—the lack of effective and legitimate law enforcement has led to the growth of crime and narcotics trafficking. Nearly 500 criminal networks are thought to operate in Johannesburg, dealing in cocaine, heroin, Mandrax, diamonds, and ivory.

NARCOTICS FLOWS

Not only does such activity threaten to destabilize one of the most inspiring success stories of this century, but it also threatens Americans right here at home. Only one-tenth of the contraband in South Africa is for local consumption—the rest finds its way to Europe and the United States. In fact, approximately 30 to 40 percent of all hard narcotics that enter the United States come via African drug cartels. The drug world is becoming increasingly cosmopolitan: South American drug lords are buying African banks to launder their illegal profits.

For years, the United States has thrown money at supply-side solutions in South America that simply do not work. In Africa, we should apply the lessons learned from that experience and address the institutional weaknesses that permit the drug trade to flourish. Stronger and more transparent political and judicial systems must be developed to stop the flow of narcotics from Africa.

TERRORISM ALSO A THREAT

Mr. President, international terrorists are no strangers to Africa. Sudanese nationals were at the heart of the New York City bomb plots. The Libyan Government still refuses to extradite the men believed to be responsible for the bombing of PanAm flight 103. In 1995, a fraud scheme uncovered in South Africa revealed an international crime network with close links to the Irish Republican Army.

In this era of instantaneous communications and world travel, all nations must join in the battle against international terrorism. Even one rogue state presents a threat to American interests both here and abroad.

CONCLUSION

Mr. President, these images are bleak, but writing off Africa in frustration is an unacceptable solution. International crime rings, drug lords, and terrorist groups have not forgotten about Africa, and neither can we. In the interest of global stability and our national security, the United States must keep Africa on the foreign policy agenda, and work with the African people to strengthen the institutions that bring shadowy international crimes to light.•

S. 1880, THE STOP TAX-EXEMPT ARENA DEBT ISSUANCE ACT

• Mr. MOYNIHAN. Mr. President, a decade ago, I was much involved in the drafting of the Tax Reform Act of 1986. A major objective of that legislation was to simplify the Tax Code by eliminating a large number of loopholes that had come to be viewed as unfair because they primarily benefitted small groups of taxpayers. One of the loopholes we sought to close in 1986 was one that permitted builders of professional sports facilities to use tax-exempt bonds. We had nothing against new stadium construction, but we made the judgment that scarce Federal resources could surely be used in ways that would better serve the general public good.

The 1986 Act accordingly prohibited the use of private activity bonds—that is, bonds for non-governmental purposes—for professional sports facilities. Yet, despite Congress' action, sports team owners, with help from clever tax counsel, soon found a way around the new law: they persuaded local governments to issue tax-exempt public bonds to finance new stadiums. As the columnist Neal R. Pierce wrote recently, team owners "were soon exhibiting the gall to ask mayors to finance their stadiums with general purpose bonds." We did not anticipate this. It was—and still is—perfectly legal.

The result has been a boom unlike anything we have ever seen in construction of new tax-subsidized professional sports stadiums. In the last 6 years alone, over $4 billion has been spent to build 30 new professional sports stadiums. According to Prof. Robert Baade, an economist at Lake Forest College in Illinois and an expert in stadium financing, that amount could "completely refurbish the physical plants of the Nation's public elementary and secondary schools." An additional $7 billion of stadiums are in the planning stages, and there is no end in sight. This is why I recently introduced S. 1880—the Stop Tax-exempt Arena Debt Issuance Act—or STADIA for short—to end the Federal tax subsidy for these stadium deals. Only the team owners and players profit, while taxpayers and fans pick up the tab.

I introduced S. 1880 with an immediate effective date of June 14, 1996 for a number of reasons, which I have previously explained for the RECORD. However, I also recognized, and requested comment on, "the need for equitable relief for stadiums already in the planning stages." On June 27, 1996, based upon initial comments I had received, I made a statement on the floor that projects that had binding contracts or final bond resolutions in place on the date the bill was introduced would not be affected by the bill. Since that time, several other localities with stadiums already in the planning stages have requested equitable relief.

Given the Senate's imminent adjournment, it is now certain —as I predicted earlier—that S. 1880 will not be enacted into law this year. Accordingly, in order to provide needed certainty to those remaining localities that have expended significant time and funds in planning and financing professional sports facilities, I wish to indicate that when I reintroduce this legislation in the 105th Congress, its effective date will be the date of the first committee action. As practitioners in this field know, the date of first committee action is a common effective date for this type of legislation. In addition, I will include the transition relief provision contained in my June 27 floor statement.

This, I believe, strikes the proper balance between closing the loophole in present law—a loophole that benefits only team owners and their players—and addressing the concerns of those localities that have been planning new stadiums.

Mr. President, I ask that four recent articles regarding this legislation be printed in the RECORD.

The articles follow:

[From the National Journal, July 20, 1996]

CALLING TIME ON SPORTS TAX BREAKS

(By Neal R. Peirce)

WASHINGTON.—Sen. Daniel Patrick Moynihan, D-N.Y., stirred up a virtual hornet's nest last month with a bill to forbid use of federal tax-exempt bonds to finance sports stadiums for private teams.

It turns out that from Nashville to Cleveland, Seattle to Denver, New Orleans to New York and multiple points in between, mayors and councils are readying bond issues to finance close to $7 billion worth of baseball, basketball, football and hockey facilities.

The first deal imperiled was a $60 million bond sale by the city of Nashville, just one part of the tax-free bonding package that the city is assembling to pay for a $292 million state-of-the-art stadium to lure the Oilers football team from Houston.

So when Moynihan suggested barring tax-free financing for such deals, retroactive to June 14, the day he introduced his legislation, the buzz of angry protest was almost instant.

Moynihan's proposal was "abrupt," it "jeopardized' local planning, city leaders said. It was a "dangerous precedent," the Public Securities Association asserted.

The political signals, for the Republican-controlled Congress, seemed all wrong. "No bill will go through the House in terms of NFL [National Football League] that doesn't include the Oilers being in Nashville," said House Speaker Newt Gingrich, R-Ga. A spokesman for Senate Majority Whip Don Nickles of Oklahoma said the Moynihan bill was not even "on the radar screen" of the Republican leadership.

Within a few days Moynihan beat a tactical retreat, saying that he would consider "the need for equitable relief for stadiums already in the planning stages."

But Moynihan, the ranking Democrat on the Finance Committee, is not backing away from his bill. And rather than being pilloried, he should be hailed as a hero of the times—an invaluable whistle-blower and friend to all U.S. taxpayers.

Let's get it straight. Unless current federal law is changed, interest payments from the billions of dollars of forthcoming stadium bonds will be totally tax-free to the affluent investors who buy them. These are general-purpose bonds—which Congress intended for financing such truly public purposes as roads, sewers, schools, libraries and other public buildings.

And who will benefit from this largesse? Joe Six-Pack, who often can't afford the seats in these opulent new stadiums and who'll surely never darken the door of one of their ritzy skyboxes? Of course not.

The real winners are the owners and professional sports teams, who are utterly proficient in blackmailing local officials: "Buy me my stadium, rent it to me for a pittance or nothing, channel the ticket and concession revenue to me, and if you don't like my deal, I'll skip town and leave you, Mr. Mayor, with egg all over your face for having lost a team."

Moynihan, to his credit, has been at this struggle for years. In the mid-1980s, many stadiums were financed by low-interest, tax-exempt private revenue bonds. Owners paid off the cost over 30 or 40 years. But the federal taxpayer was clipped, because no taxes were collected. Moynihan's answer was to write conditions into the 1986 tax reform law that virtually choked off such revenue bonds.

The owners were checkmated—but not for long. They were soon exhibiting the gall to ask mayors to finance their stadiums with general-purpose bonds.

And what a deal this was for them! At concessionary prices, they rent (but are not ultimately responsible for) their stadiums. And they are relieved of repaying the bonds: The local taxpayers get to take care of that for them.

As for the tax-free interest payments—well, Uncle Sam can take it on the chin as lost revenue. Moynihan notes that one result is "forcing the taxpayers in the team's current hometown to pay for the team's new stadium in a new city."

But mayors found it tough to say no. Federal and state aid was shrinking. If not another city, nearby rapacious suburbs would bid for their sports teams. So many said yes. They'd keep (or sometimes gain) a team. But at a price—adding municipal indebtedness, a possible threat to the city's credit standing and thus higher borrowing costs for schools, colleges, and other public investments, even while stadium investors escaped taxes.

This is the cavernous tax loophole Moynihan wants to close. In time, he's likely to win. As the federal budget vise tightens—forcing program after program to constrict—mega-subsidies to fat-cat sports owners will become even more reprehensible.

The sooner Congress acts, the better for us all. And the quicker cities wise up and resist the team owners' threats and demands, the better.

Without question, the cost of sports subsidies have begun to reach stratospheric levels. The Congressional Research Service (CRS), in a May report, calculated that Baltimore's football stadium subsidies to attract the former Cleveland Browns will be $127,000 for each job created—almost 21 times more than the $6,250 it cost to create jobs through Maryland's economic development fund.

Does the national economy benefit? No. CRS reported: "Almost all stadium spending is spending that would have been made on other activities within the United States." Net benefits, therefore, are "near zero."

A hero on this score, maybe a pioneer, is Houston Mayor Bob Lanier, who has focused city funds on bolstering police, rebuilding neighborhoods, cleaning out sewers and sprucing up parks.

When Oilers owner Bud Adams applied pressure for incentives to stay in Houston, Lanier just said no. All that Nashville will get for a total incentive pool of $650 million, Lanier noted, is 10 home games a year. The same cash, he told a reporter, would almost finish the job of cleaning up Houston's depressed neighborhoods.

If a few more mayors got their priorities as straight as Lanier's, the team owners would have fewer cities to prey on.

[From the U.S.A. Today, June 28, 1996]

SOCKED FOR STADIUMS

Hey, sports fans, here's some good news, at least if you're a federal taxpayer, too:

Nashville, Tenn., has put a $60 million stadium bond sale on hold for a couple of weeks. The reason: Sen. Daniel Patrick Moynihan, D.-N.Y., introduced legislation this month that would take away federal tax exemptions on bonds used to build sports facilities.

The tax break has helped fund a bidding war for sports teams, leading teams such as the Oilers to leave Houston for Nashville and the Browns to move from Cleveland to Baltimore and become the Ravens.

And for no legitimate national purpose.

Wealthy owners get almost all the stadium revenues while local, state and federal taxpayers pick up the bill.

Local jobs? The nonpartisan Congressional Research Service (CRS) last month reported that Baltimore's football stadium subsidies will cost $127,000 for each job created. That's 21 times more than the $6,250 it costs to create jobs through Maryland's economic development fund.

And the nation's economy? The CRS report notes: "Almost all stadium spending is spending that would have been made on other activities within the United States." Thus, benefits are "near zero."

If that. Communities that spend their own money on stadiums often need federal aid for other programs. So federal taxpayers get hit twice: first with tax exemptions that reduce federal revenues, then with aid that increases spending. Bad all around.

Moynihan's right. Get rid of the exemption. And then, cut other federal aid, too. If local communities want to waste their own money, that's up to them. But federal taxpayers should be taken out of the arena.

[From the New York Post, Aug. 29, 1996]

LET THE OWNERS PAY

(By Irwin M. Stelzer)

Whether Pat Moynihan was right in opposing the welfare-reform bill that his party's President finally signed, only time will tell. But that he is right in introducing a bill that would stop cities from using tax-exempt bonds to finance new arenas and stadiums for millionaire sports moguls, there is no question.

If George Steinbrenner or some other team owner wants a new stadium, and decides to finance it by selling bonds to private investors, the interest he pays those lenders is subject to federal income tax. But if a city sells bonds and uses the proceeds to build a stadium for the Yankees, the bond buyers—generally the most affluent members of society—receive interest that is exempt from federal taxes.

Naturally, the city has to pay borrowers a lower interest rate than would Steinbrenner or any other team owner. Experts estimate that the cost of new facilities would rise by 15–20 percent if teams were denied tax-exempt financing. This would add $30–40 million to the cost of a typical football stadium—enough to make several now on the drawing boards unfeasible.

When a city does finance a stadium, it raises, the money and then leases the facility to a team at some nominal rent—leaving the owner free to rake in revenues from ticket sales, television rights, parking, hot dogs and beer and, most important, luxury boxes.

With Nashville, Cleveland, Denver, Seattle, New Orleans and New York among the cities now in various stages of considering such deals, Wall Street's bond machine is preparing to issue about $7 billion in these bonds in the next five to seven years, according to Fitch Investor Services.

Of course, the federal treasury will have to make up the lost revenue—something it can do only by collecting more in taxes from ordinary citizens. Unfortunately, ordinary citizens are no match for the huge lobbying effort that has been launched against Moynihan's bill, and so Washington insiders are giving it little chance of passing, either this year or next.

But Moynihan, the ranking Democrat on the Senate Finance Committee, is a persistent cuss—as his success in wringing money out of the feds for the refurbishment of Penn Station shows—and he is right. So right that the usually bland National Journal says "he should be hailed as a hero of the times—an invaluable whistleblower and friend of all U.S. taxpayers."

The nation's mayors don't think so. They say it's none of the feds' business which local projects they choose to finance with their tax-exempt bonds. And they argue that the construction of stadiums created jobs.

Finally, they speak of civic pride, of that certain *je ne sais quoi* that goes out of a city when it loses a team to a rival, and the boost it gets when it lures a new team or retains an old one by offering its owner a cornucopia of goodies.

They're wrong—on all three counts. Since tax-exempt city bonds deprive the federal government of revenue, a U.S. senator has every right to try to stop this practice.

As for jobs, a study by the Congressional Research Service shows that the cost per job created by Baltimore's new subsidized football stadium came to $127,000—compared with $6,250 for jobs created by the state's economic development fund.

Which brings us to civic pride, the toughest of all the arguments to appraise. There can be no doubt that sports fans like having a home team to root for. And that merchants in the area of the stadium benefit from its presence.

But there is no free lunch—at least not for people unlucky enough not to own a franchise in the NBA, NFL or Major League Baseball. Tax money that the federal government does not collect is not available for other things—education, health care or tax cuts.

When a city gives a team the gift of rent below market rates, or a special property tax deal, it deprives itself of revenues it would otherwise have to repair its streets, hire more cops, or spruce up its parks.

Which would boost New Yorkers' morale more: a stadium athwart the West Side railroad tracks or streets that don't break car axles and school buildings that don't leak?

Not an easy question, but one to which Houston mayor Bob Lanier thinks he has the answer. When the Oilers tried to roll his city for a new stadium he turned them down, telling the press that with the money it would cost him to keep the Oilers he could just about get the job of cleaning up Houston's slum neighborhoods done.

Steinbrenner does have a real problem. Until lately, the Yankees had been having a spectacular season, thanks in part to The Boss' willingness to engage in the Daryl Strawberry and Dwight Gooden rehabilitation projects.

But attendance has not responded proportionately: The number of fans going to the Stadium is not as high as the Yankees' won-lost record would warrant, according to a quick comparison I have made with the league-wide relationship between success on the field and success at the box office.

So Steinbrenner, who should not be expected to keep his team in a place in which he cannot maximize his profits, has every reason to shop around for a new site to which to take his athletes when his lease is up in The Bronx. Just as the Mets have every right to want a new field on which to display their somewhat more problematic wares.

Moynihan has no objection to new sports emporia. "Building new professional sports facilities is fine with me," he says. "But, please, do not ask the American taxpayers to pay for them."

Whether or not the Senator gets his bill passed over the kicking and screaming objections of the nation's politically potent mayors, its bond-issuing investment bankers and its itinerant team-owners, Mayor Giuliani would do well to take Moynihan's advice.

Perhaps Donald Trump and Steinbrenner can strike a deal for a privately financed stadium. Or perhaps New York has enough reasons to be proud of its national and international position to follow Houston's lead, and wave goodbye to its sports mogul and his millionaire athletes.

[From the Buffalo News, Aug. 11, 1996]

CLOSE LOOPHOLE THAT HAS THE PUBLIC SUBSIDIZING EVER GLITZIER STADIUMS

If the public really is fed up with subsidizing wealthy team owners and athletes, it will cheer a proposal to eliminate the tax exemptions routinely granted bonds sold for stadium projects.

The proposal comes from Sen. Daniel Patrick Moynihan, D–N.Y. It should be especially cheered in places like Western New York, whose sports teams will be constant targets for raids by other cities as long as those cities lure them with facilities built with the help of tax exempts.

Take away these indirect subsidies, and those cities will not be able to dangle such enticing packages before team owners.

In fact, take away the public subsidy and force teams to build their own facilities, and maybe they won't be able to spend a zillion dollars on second-string players. Instead, the money now going into exorbitant salaries would have to be used to build or fix up stadiums.

That could start a downward spiral—or at least a leveling off—in player salaries that might even have a spillover effect on ticket prices before they become totally out of reach of the average family.

Moynihan's bill is not without its critics. County Executive Gorski worries that eliminating the tax-exemption on stadium bonds will make it harder for Erie County to finance the $2.1 million needed to upgrade Rich Stadium. The improvements are aimed at enticing the Buffalo Bills to sign a new lease and stay in Western New York.

Gorski's view is understandable for a public official interested only in the current negotiations.

But leases can be broken, as the former Cleveland Browns illustrated. That team moved to Baltimore after being offered a $200 million new stadium and financial enticements ranging from free rent to all luxury-box, parking and stadium-ad revenue.

Could Erie County really compete with that kind of civic insanity—and does it really want it—if another community eyes the Bills in a few years?

Eliminating the tax exemption for stadium bonds will make it that much harder for another city to make that kind of offer.

Granted, it might mean Erie County would pay a little more for its bonds now. But it also would help assure the long-term presence of sports teams in small markets like Buffalo.

And from a broader perspective, the measure would mean taxpayers would no longer subsidize private sports enterprises by funding what one congressional critic calls "a public-housing program for millionaires.

A Congressional Research Service study estimates the public is losing nearly $100 million a year on sports facilities now under construction. During one five-year period in the '80s, those tax breaks cost taxpayers $18.2 billion.

Moynihan says that was never meant to be. The 1986 Tax Reform Bill eliminated industrial development bonds, the original vehicle for tax-exempt bond financing for stadiums. But he says Congress didn't prohibit using governmental bonds for stadiums because the "possibility was too remote to have occurred to us."

But that loophole wasn't too remote for wide-eyed local officials and profiteering team owners to uncover. Moynihan's bill would close the loophole, saving taxpayers millions.

Those savings could be put to far better uses than helping wealthy team owners play one city against another in the stadium sweepstakes.●

NATIONAL POW/MIA RECOGNITION DAY

● Mr. CRAIG. Mr. President, today is National POW/MIA Recognition Day and I rise to honor those brave Americans whose fate remains uncertain. As we reflect not only on those courageous servicemembers who so valiantly went off in defense of their country, we should also pause and remember the families and loved ones of those who never returned. The family who received definite notice that a loved one was positively killed in action could mourn and grieve and learn to cope with life alone; but those American families whose loved ones were missing, prisoners, or unaccounted for, bear an additional burden—the burden of uncertainty. They cannot bury their loved ones and work through the grief that comes with loss. They live with doubt, denial, and hope that somehow their son, husband, brother, or father will some day come home.

There are 90,769 American servicemembers unaccounted for from wars in the 20th century; 1,648 from World War I, 78,794 from World War II, 8,177 from Korea, and 2,150 from Southeast Asia. We have made extensive efforts to gain full accounting for all these servicemembers. We aggressively continue our talks with the Governments of Vietnam, Cambodia, and Laos to gain information about the servicemen who went there but did not return. Those efforts continue and have resulted in information about a few of our unaccounted-for servicemen and the recovery of 20 sets of remains between October 1995 and March 1996. Recent efforts with North Korea have also provided long overdue information about missing Americans. Additionally, we recovered the remains of a World War II hero this year, allowing his family finally to say their last farewells. However, we must not allow these small successes to make us complacent. We must continue our efforts and view the successes of today not as an end, but as a beginning in our efforts to gain more information in the upcoming years.

Today, as we stop to look at the POW/MIA flag which flies not only in the rotunda of our Nation's Capitol but all around this great country, I hope all Americans will pause and remember with pride, sadness, and hope for the future, the valiant efforts of these brave soldiers, sailors, airmen, and marines who answered the call.●

CONCERNING A HOLD ON S. 555, A BILL TO AMEND THE PUBLIC HEALTH SERVICE ACT

● Mr. WYDEN. Mr. President, I want to inform the Senate that I have put a hold on S. 555 so that I may have time to negotiate my request that the Senate take up S. 697, the Domestic Violence Identification and Referral Act, in conjunction with S. 555. I believe that if we take up a bill dealing with the education of health professionals, we should insure that doctors, nurses and other health professionals are trained to identify, refer, and treat victims of domestic violence. Domestic violence is the leading cause of injury to women between 15 and 44. It seems to me that if the Federal Government is going to invest money in educating medical students, they should at least be trained in how to identify and refer cases of domestic violence. This is why I have requested that the Senate and the Committee on Labor and Human Resources consider my and Senator BOXER's legislation in conjunction with S. 555.●

HEALTH INSURANCE REGULATION: VARYING STATE REQUIREMENTS AFFECT COST OF INSURANCE

● Mr. JEFFORDS. Mr. President, with the recent passage of the Health Insurance Portability and Accountability Act of 1996, and the possible enactment of several health benefit provisions, I'd like to draw my colleagues' attention to a recently completed GAO report that surveys similar State health insurance regulations and their impact on the cost of health insurance.

I asked the GAO to examine the added costs associated with: First, premium taxes and other assessments; second, mandated health benefits; third, finanancial solvency standards; and fourth, State health insurance reforms affecting small employers. The report examines the impact of these requirements on the cost of insured health plans compared with the cost of self-funded health plans subject to the Employee Retirement Income Security Act of 1974 [ERISA].

Although States regulate health insurance, the study indicates that State regulation does not directly affect 4 out of 10 people. ERISA preempts States from directly regulating employer provision of health plans, but it permits States to regulate health insurers. Of the 114 million Americans with health coverage offered through a private employer in 1993, about 60 percent participated in insured health plans that are subject to State insurance regulation. However, for plans covering the remaining 40 percent, about 44 million people in 1993, the employer chose to self-fund and retain some financial risk for its health plan.

Because self-funded health plans may not be deemed to be insurance, ERISA preempts them from State insurance regulation and premium taxation. Although ERISA includes fiduciary standards to protect employee benefit plan participants and beneficiaries from plan mismanagement, in other areas, such as solvency standards, no Federal requirements comparable to State requirements for health insurers exist for self-funded health plans.

Most States mandate that insurance policies include certain benefits, such as mammography screening and mental health services, which raises claims costs to the extent that the benefits would not otherwise have been provided. In general, the report indicates that the costs are higher in States with more mandated benefits and in States that mandate more costly benefits.

State financial solvency standards have limited potential effect on costs because many insurers already exceed the State minimum requirements. In addition, due to their recent enactment, the cost implications of small employer health insurance reforms, such as guaranteed issue, portability and rate restrictions, remain unclear.

Mr. President, I feel this report provides useful information regarding the benefits associated with State health insurance regulation and their impact on the cost of health insurance. Further, it points out the lack of similar requirements for self-insured plans and that more and more small employers are self-funding their health plans. As we continue our efforts to ensure that all Americans have access to health care services, this report will help us better understand the experiences of the States and build upon them.

I ask that the executive summary of the report be printed in the RECORD.

The summary follows:

HEALTH INSURANCE REGULATION: VARYING STATE REQUIREMENTS AFFECT COST OF INSURANCE

RESULTS IN BRIEF

State health insurance regulation imposes requirements on health plans offered by insurers that employers' self-funded health plans do not have. These requirements benefit consumers; they also add costs to insured health plans. The extent to which these requirements increase insured health plans' costs compared with self-funded health plans' costs varies by state. The cost impact depends on the nature and scope of each state's regulations and on health plans' typical operating practices.

State premium taxes and other assessments are the most direct and easily quantifiable cost that insured health plans face. Premium taxes increase costs to commercial health insurers by about 2 percent in most states. Other assessments not only tend to be smaller than the premium tax but can often be deducted from premium taxes. These include assessments for guaranty funds that pay the claims of insolvent plans and high-risk pools that provide coverage for individuals unable to get private coverage because of preexisting conditions.

Most states mandate that insurance policies cover certain benefits and types of providers, such as mammography screening, mental health services, and chiropractors, which raises claims costs to the extent that such benefits would not otherwise have been covered. The cost effect varies due to differences in state laws and employer practices. For example, Virginia's mandated benefits accounted for about 12 percent of claims costs, according to a recent study. Earlier studies estimated that mandated benefits represented 22 percent of claims in Maryland and 5 percent in Iowa. In general, such cost estimates are higher in states with more mandated benefits and in states that mandate more costly benefits, such as mental health services and substance abuse treatment. These cost estimates represent the potential costs of mandated benefits to a health plan that does not voluntarily offer these benefits. Because most self-funded plans offer many of the mandated benefits, their additional claims cost—were they required to comply—would not be as high as the studies' estimates. If required to comply with state mandates, however, self-funded plans would lose flexibility in choosing what benefits to offer and in offering a single, uniform health plan across states.

State financial solvency standards have limited potential effect on costs because many insurers exceed the state minimum requirements and typically perform tasks like those associated with the state financial reporting requirements. Most insurers maintain higher levels of capital and surplus than the minimum state requirements, indicating that the effect of the capital and surplus requirements on health insurance costs is generally minimal. Although states require financial information and actuarial reports that in some cases differ from the insurers' general business practices, insurance executives indicated that the added administrative cost of preparing these documents was marginal and that the additional information was also valuable to the insurer.

The cost implications of small employer health insurance reforms, such as limits on preexisting condition exclusions recently adopted in many states, remain unclear. The cost information to date is mostly anecdotal and provides an incomplete view of these reforms' effects. Moreover, the rapid changes in health care markets, such as the continued growth and evolution of managed care, make it difficult to isolate the independent effect of the reforms.•

SONS OF ITALY FOUNDATION EIGHTH ANNUAL NATIONAL EDUCATION AND LEADERSHIP AWARDS GALA

• Mr. LAUTENBERG. Mr. President, I want to congratulate the Sons of Italy Foundation [SIF] for its eighth annual National Education and Leadership Awards [NELA] gala, which was held May 2, 1996, at the Andrew W. Mellon Auditorium, in Washington, DC. I had the opportunity of attending this worthy and inspirational event, and I have had the honor of serving as chairman of the NELA gala in the past. This worthy and inspirational annual event has gained wide recognition during the past few years in Congress, the corporate community, educational institutions, and others in the philanthropic community throughout the Nation for its promotion of educational excellence and professional achievement. I commend the SIF for the encouragement it provides to some of our Nation's most outstanding young scholars and future leaders.

At this year's event, the SIF presented scholarships to the winners of the 1996 National Leadership Grant Competition, an annual merit-based national scholarship competition. In addition, the SIF presented the 1996 NELA's to Northwest Airlines Corp. Cochairman Alfred Checchi and Pennsylvania State University football coach Joseph V. Paterno. In selecting Messrs. Checchi and Paterno for this honor and in awarding a merit-based academic scholarship in each of their names, the SIF has recognized two of the most outstanding role models in the Italian-American community.

The lives of these two men of enormous achievement and strong character serve as reminders of why our forebears traveled to this country and why today's immigrants are so eager to make their homes in our great country, where opportunity abounds for those willing to learn and work hard. The achievements of these two men speak highly of the importance of strong family support, educational achievement, and professional integrity. These are values on which all of us agree, regardless of our racial, ethnic, or religious backgrounds. These common values, aptly expressed through the NELA gala, are what bind us as Americans. Most appropriately, the scholarships that the SIF awarded in the names of Mr. Checchi and Mr. Paterno will support the dreams and aspirations of outstanding young students. There is no more important work for us to perform, no greater gift we can give than to support our youth.

The long and distinguished record of generous support for education earned by the SIF and its parent organization, the Order Sons of Italy in America, should be recognized and praised. These generous contributions in support of the future of our Nation are made largely by the modest and heartfelt donations of the hundreds of thousands of OSIA members throughout our United States. During the past three decades, OSIA and the SIF have distributed more than $21 million in academic scholarships. The leaders and members of OSIA and the SIF have set an excellent example for other nonprofit and fraternal organizations in their unselfish support of the young people of our Nation.

I commend Mr. Paul S. Polo, national president of OSIA and chairman of the SIF; Mr. Valentino Ciullo, president of the SIF; Ms. Jo-Anne Gauger, chairwoman of OSIA's National Education Committee; Mr. Joseph E. Antonini, 1996 NELA gala chairman; and Dr. Philip R. Piccigallo, national executive director of the OSIA and the SIF, for their leadership roles in the 1996 NELA gala and the National Leadership Grant Competition.

Listed below are the names of the 12 winners of the 1996 National Leadership Grant Competition. These young men and women represent our Nation's highest level of academic achievement and leadership potential. I offer congratulations and heartfelt wishes for future success to: Mr. Michael Sollazzo, Henry Salvatori Scholarship; Mr. Andrea Mazzariello, Alfred Checchi Scholarship; Mr. Brian Iammartino, Joseph V. Paterno Scholarship; Ms. Jillian Catalanotti, Dr. Vincenzo Sellaro Scholarship; Mr. Todd Builione, Carlone Family/Peter B. Gay Scholarship; Mr. Ben Jamieson, Hon. Frank J. Montemuro Jr. Scholarship; Mr. Anthony Draye, Joseph E. Antonini Scholarship; Ms. Stephanie Di Vito, Hon. Silvio O. Conte Scholarship; Ms. Anastasia Ferrante, Lou Carnesecca Scholarship; Mr. Federico Rossi, Dr. Anthony S. Fauci Scholarship; Mr. Corey Ciocchetti, Pearl Tubiolo Scholarship; and Mr. William Karazsia, OSIA-John Cabot University Scholarship and the Pietro Secchia Scholarship.•

SALUTE TO TENNESSEE OLYMPIAN JENNIFER AZZI

• Mr. FRIST. Mr. President, I rise today to commend a young Tennessean, Miss Jennifer Azzi, of Oak Ridge, on her performance with the gold-medal winning U.S. Olympic women's basketball team, also known as the Real Dream Team.

Jennifer has been active in the sport of basketball for the past decade, first, at Oak Ridge High School, then at Stanford University, and now the Olympics. Jennifer's commitment not only to the sport, but to continuing to improve her skills and play is the type of determination that makes our atheletes excel and bring home the gold, time and time again.

She reminds us all that with determination, commitment and a little help, we can all be winners. At a recent party in her honor, Jennifer Azzi said that "With success, comes responsibility." Modestly, she tells us that many people have helped her get to where she is and now she wants to help others do the same. Following the Olympics, she began teaching at a basketball camp where she is helping today's youth build their skills and sportsmanship.

Jennifer's triumph on the court is remarkable, but more important is the virtue of her skills and determination off the court. She is a true Olympian, competing for honor for herself and her country. The Olympics in Atlanta this year were a success for all Americans. But Jennifer's victory was a bright, shining moment in a bright, shining basketball career for this young woman from east Tennessee. Looking at her record, I believe she has an even brighter future ahead.

Mr. President, Jennifer's victory reminds us of what the Olympics can be for each of us—a competition between countries without casualties, only peace; a contest of perseverance and love and the heart to win it all. Jennifer Azzi has all these qualities, and she has our repsect and admiration too.●

TRIBUTE TO GUY YOUNG, A NEW HAMPSHIRE HERO

● Mr. SMITH. Mr. President, I rise today to pay tribute to Guy A. Young, a New Hampshire letter carrier, for his selfless and heroic acts performed while attempting to rescue a nine-month-old baby from a life threatening traffic accident. On September 25, 1996, Guy Young of Allenstown, NH, will be presented with the National Association of Letter Carriers' Regional Hero of the Year Award for his courageous act.

Unfortunately, when faced with danger, many people turn the other way or, even worse, watch the accident, merely becoming bystanders. Guy Young is not one of those people. Guy is a letter carrier for the U.S. Postal Service and serves the residents of Allenstown, NH. He was on his usual route one morning recently when he noticed a major traffic accident had occurred at the intersection in front of him. Without thinking twice, Guy rushed to the scene, where he encountered the driver, a frantic mother, screaming because her baby was still in the overturned van. Guy immediately climbed over shards of glass, through a broken window, and searched for the infant. Not until he heard the baby's horrific scream did he look up and see the baby dangling upside down, still strapped into his car seat. Realizing that the van could burst into flames at any second, Guy desperately struggled with the baby's seat belt until he finally forced it free. He then passed the 9-month-old infant out the window to the safety of his mother's arms. Once the emergency vehicles arrived and assumed control of the situation, Guy returned to his postal truck and continued delivering mail to the residents of Allenstown.

Guy is an example of a truly honorable New Hampshire citizen. Not only did he risk personal injury to help a baby boy in danger, but he acted promptly and courageously. He is indeed a hero.

The National Association of Letter Carriers [NALC] honors a national hero, three regional heroes, a national humanitarian, and a branch service awardee each year. Those awards are presented to individuals who risk their lives for others, or who make personal contributions for a worthy cause. The awards also give the NALC an opportunity to express its gratitude and appreciation to those letter carriers whose meritorious service has earned theirselves honor. Guy undoubtedly deserves this special recognition for his heroic act.

Mr. President, people who respond, as Guy did, in dangerous and life threatening situations are indeed brave and unselfish. Without Guy's immediate reaction, a 9-month-old infant may not have survived. I am proud to call Guy Young one of New Hampshire's special citizens. He has truly made us all very proud of him. Congratulations Guy, on a job well done.●

ORDER OF PROCEDURE

Mr. DORGAN. Mr. President, I understand the majority leader will be here to make unanimous-consent requests. While waiting for the majority leader to come to the floor, I would like to make a couple of comments.

THE 104TH CONGRESS

Mr. DORGAN. Mr. President, today, as is the case on most days when the Senate is in session, we have seen in morning business a block of time offered to those who come to the floor to describe what is wrong with the Senate, what is wrong with the President, and why the revolution that was offered at the start of the 104th Congress has failed to achieve its goals. In fact, today one of the speakers said, well, the reason the Senate is still in session is because the people on this side of the aisle —the Democrats—are keeping the Senate in session for political purposes, apparently, not letting those who want to go home to go home.

I listened to that. I thought to myself, this is a very curious statement from someone who is a Member of the Senate. Anyone who is a Member of the Senate would probably know that we have not done our work. We are supposed to pass appropriations bills. That is what funds the functions of Government. The fact is, the largest appropriations bill that we passed in the year has not been completed. Four appropriations bills will likely now be rolled into a continuing resolution—I guess five appropriations bills rolled into a continuing resolution—and not adopted by this Congress at all. The requirement is that is supposed to be done by September 30. It will not be done. The Congress will not have done its work. The Congress will not have followed the requirements in law.

So we will pass what is called a continuing resolution, which is defined as a legislative failure because the Congress didn't do the job it was supposed to do. We are still here because the Congress has not completed its work. That is not rocket science. If the Congress does not get its job done, it ought not go home.

Well, this has been a remarkable Congress by any measurement. I understand why some want to go home. In fact, the very people who want to go home quickly now are the people who couldn't wait to get here at the start of the Congress to begin the revolution—a rather curious, unusual revolution that said we want to serve in Government because we do not like Government; what we would like to do is provide a very large tax cut. Much of that will go to upper-income Americans and pay for it by cutting the Medicare Program, most of which helps lower-income Americans.

And they said we have a new economic plan for America as well. Let me describe it to you—not in my words, but in the words of a former Republican, a columnist who described it this way. He said:

> Their economic plan proposed that you take the 20 percent of the people with the lowest incomes, and say to those people, "You are now going to bear the burden of 80 percent of the spending cuts that we propose in Government."

The same economic plan would say to those who have 20 percent of the highest incomes in America, you should smile because you are going to receive 80 percent of the benefit of our tax cuts.

A curious economic program, one that when the American people got onto it they did not like very much. And so the 104th Congress which started with almost a coronation is now kind of limping to a conclusion with the folks who were so anxious to get here now wanting to leave.

I was reading last evening again a book that was written by a colleague of ours, Senator BYRD from West Virginia, a book that is compilations of some presentations he has made in this Chamber. And in part of the book he is discussing the old Roman Senate and a lot of historical references in the book that are quite interesting, one of them about Hannibal which I mentioned to our caucus the other day, Hannibal crossing the Alps. All of us studied in school about Hannibal. What a remarkable achievement. This man took, I believe, 36 elephants and crossed the Alps with these elephants, and, of course, that is what we read about in our history books—Hannibal crossed the Alps with his elephants. Quite remarkable.

Hannibal, in fact, was quite a masterful tactician and strategist and had quite an interesting record as a commander, military strategist. But what you do not remember and what Senator BYRD described in his book is the end stage of Hannibal. Hannibal lost an eye. All but one of his elephants died, of course. There was one remaining emaciated elephant, and the last vision as I read last evening in the book is of this one-eyed Carthaginian soldier named Hannibal riding the last of his emaciated elephants across the plains of Italy. I thought to myself, you know, that reminds me a little bit of the way the 104th Congress is ending up—the last emaciated elephant being ridden across the plains of Italy.

We have a responsibility in Congress to do what the people expect us to do on behalf of this country, and I think this Congress has done some things that are commendable but we have not nearly scratched the surface on the menu of things that most people would want us to deal with.

Education. How do we move our country in a direction that assures us we are going to have the best education system in the world? That ought to be our country's goal. In every corner of America it ought to be our goal to build our education system that is the finest in the world.

Jobs. Our goal ought to be to find a way to provide more economic growth, an expanded economy, a trade balance that is not in deep deficit but one that is in reasonable balance with jobs staying here, not moving overseas.

Crime. Dealing with the epidemic of crime in America in a thoughtful way, a manner in which maybe both parties would agree dealing with the epidemic of violent crime is in the interest of all Americans.

And the environment. In 20 years we have doubled the use of energy in America, and at the end of 20 years doubling the use of energy we have cleaner air and cleaner water. No one 20 years ago would have predicted that possible. Improving on that record as well.

Mr. President, I see my colleague from Mississippi, the majority leader, Senator LOTT, is here to make unanimous-consent requests. Let me not delay him and the Senate further. I would be happy to yield the floor for the unanimous-consent request.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT REQUEST

Mr. LOTT. I thank the Senator from North Dakota.

I know he is going to be staying so we can go through these consent requests that we have. I would like to begin, Mr. President, by asking unanimous consent that when the Senate receives from the House a joint resolution making continuing appropriations for fiscal year 1997, the joint resolution be placed on the calendar and the Senate proceed to consider the joint resolution on Tuesday, September 24, or any day thereafter after consultation with the Democratic leader and it be considered under the following agreement: 1 hour equally divided on the joint resolution, third reading and adoption of the joint resolution occurring no later than 9 p.m. Wednesday, September 25.

The PRESIDING OFFICER. Without objection——

Mr. DORGAN. Reserving the right to object—Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object——

Mr. LOTT. I thought the Chair did a very good job.

Mr. DORGAN. And I shall object, I would observe this is one of the fastest Presiding Officers I have seen in some while in the Senate.

Mr. LOTT. I was just commending him.

Mr. DORGAN. As I understand the Senator from Mississippi, he suggests we agree to a piece of legislation not yet written, agree to offer no amendments to a bill, the provisions of which we are not yet sure might or might not need amending, and agree to it at a time not yet certain. Is that the sum and substance of the proposal?

Mr. LOTT. Mr. President, if I could comment on that, I would like to begin by reminding my colleagues that one week from Monday, this coming Monday, is the end of the fiscal year. We have a job to do. We are working with the administration and with the appropriators on both sides of the aisle to get agreement on numbers and on language that would go in a bill that would be necessary to keep all of the various departments working, assuming we cannot get all the appropriations bills completed in advance of that date. And it appears we will not, although work is still being done on some of them.

I believe the VA-HUD appropriations bill, for instance, will be ready. Everybody understands and expects that Labor-HHS and Education, Commerce-Justice-State Department, and Interior and probably Treasury-Postal, at least those four would be in a continuing resolution.

Having said that, with that deadline, the end of the fiscal year is one week from Monday. This coming Monday is a Jewish holiday. That leaves Tuesday, Wednesday, Thursday, Friday, Saturday, Sunday, Monday, and the fiscal year is over.

We can stand around and wait for chaos and we will create it. We need a safety net under our military men and women and for our people that have had fires and disasters and for our children and our schools. We need to make sure that safety net is there and in place through a continuing resolution. In order to get that done, we have to get started.

I have offered to the leadership in the Senate, Senator DASCHLE in particular, the Democratic leader, and have communicated these various ideas to a number of Senators, the appropriations chairmen, ranking Members in the House, a number of options how we could do this. Senator DASCHLE and I have spent a lot of time talking it through. I think he wants us to find a way to do it, but the problem is we have to do it. We have to find a way to do it. So I suggested that we would call the CR up and we will have available on Tuesday the basis of the CR that we could go forward with. The committees are coming to closure now. CJS—Commerce, Justice, State—I think they are about ready. Interior is making good progress. We are going to have it by Tuesday.

So I said to Senator DASCHLE, why don't we call this up on Tuesday and let us get an agreement that we will have 6 amendments in order on each side, a total of 12 amendments, but that we would complete the debate on amendments and pass it by Wednesday night.

He had some concerns about that. He said, I don't know about trying to limit it to six. Of course, we would all have to try to find some way of agreeing on our side and your side what the six would be, and that would probably befall your lot to try to help your side.

He was not comfortable with that. I said how about plan B. Let's begin Tuesday. Let's not have any limit on amendments, any limit on time. Let's get started. We offer an amendment; you offer an amendment, second degrees, sort of a jungle route, no limitations. Let's get started. Let's finish our work. But we would finish it Wednesday night at 9 o'clock.

I think Senator DASCHLE would like to do that but apparently there was an objection on that side. I do not quite understand why.

Another option is that we bring this over attached to the Department of Defense appropriations bill. To be perfectly honest, there are some potential problems with that.

But, I mean, remember now, we are proceeding on the assumption that we are going to be basically in agreement. Basically, on numbers and language, we are coming together, and we think we are going to get an agreement. The problem is, how do we, mechanically, get it done?

What is magic about 9 o'clock Wednesday night? Once we do our work here in the Senate on that, on the CR, and get it done Wednesday night, then it has to go to conference. It will take, I am sure—no matter what happens, there is going to be a little difference between the House and the Senate.

That has to go to conference. Should we not give them at least a day, Thursday, maybe until Friday morning, to get the conference agreement?

Then we would have to take the conference agreement up Friday afternoon or Saturday or Sunday. In order to get our work done, we would have to complete it, I presume, sometime Friday night or Saturday so it could go to the President and he could sign it, and, you know, everything would be under control.

If we do not get started Tuesday, if we do not complete it Wednesday, when does it go to conference? Does it go to conference Thursday? Are they going to take all day Friday? Are they going to be in conference over the weekend? Are we going to, then, go home 3 days before the end of the fiscal year and see our constituents while we are on the verge of running out of time on the fiscal year? I am not sure that is smart.

So here is what I am trying to say. I am flexible. I will work with you. Give me an idea. But I want to make it abundantly clear that, as majority leader, I am committed to getting this work done and that I am offering multiple avenues to get there to the Democratic leadership. But at some point we are going to have to get an agreement.

So, I just wanted to go through that. If this is not an acceptable arrangement, we need some kind of an agreement. I thought this was a good one to get started, that there be some time, equally divided time; we have amendments that could be offered. But there is going to be objection. We are going to get started on Tuesday morning—Tuesday—on this issue. We will just go forward. If we cannot get it done Wednesday, maybe we will get it done Thursday. But I want to make it clear to the American people that I am worried about making sure we have a safety net under our people so that we do not get into this game at the end of trying to squeeze one last drop of additional spending out of the Federal Government and have a potential problem next Monday at the end of the fiscal year.

So, I am agreeable to work with the Democratic leadership, but this is a way to get it started, and that is why I made the request.

Mr. DORGAN. Mr. President, continuing the reservation to object, and I shall object here, the Senator from Mississippi, of course, knew that there is not an agreement here and that we are constrained to object at this moment. I might say that the House of Representatives indicates to our appropriations staff that they intend to be going to the Rules Committee on Thursday and taking up the bill on Friday. And you are proposing a unanimous-consent request that we bring up a House product that apparently is not going to be done until Friday on the floor of the Senate on Tuesday.

Mr. LOTT. Will the Senator yield on that point?

Mr. DORGAN. I will be happy to yield.

Mr. LOTT. I just double checked on that. They will have a document ready on Tuesday, and my information is they will be done with this by Wednesday. Maybe just physically it may be later, but there is nothing rare about the Senate going ahead and getting started, provided we do not complete it before they do their work. But we can do a lot of work while they are working and complete it after they finish.

Mr. DORGAN. I understand. But my point is, we do not have any intention of delaying. By the same token, a unanimous-consent request that says, "By the way, let us take something that is not yet created and agree to bring it up on Tuesday at a point when it won't be done," suggests that none of us will be able to offer any amendments to what likely will be an enormously bloated product, not necessarily with things that will get vetoed, but with things that those in a position to stick them in do stick into this particular piece of legislation.

So we want to work with the majority leader. I think Senator DASCHLE and you have talked a great deal on this. We have no interest in delaying the business of the Senate. By the same token, we have no interest in agreeing to a process that will not allow an opportunity to amend circumstances in this piece of legislation that may well cry out for amendment.

So I am constrained to object to the unanimous-consent request the Senator is now offering.

The PRESIDING OFFICER. Objection is heard.

MEASURE READ THE FIRST TIME—S. 2100

Mr. LOTT. Mr. President, I understand that S. 2100, introduced today by Senator HATCH, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2100) to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court police.

Mr. LOTT. I now ask for a second reading and would object to my own request on behalf of Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. Objection is heard.

HEALTH CENTERS CONSOLIDATION ACT OF 1995

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 279, S. 1044.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1044) to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Centers Consolidation Act of 1995".

SEC. 2. CONSOLIDATION AND REAUTHORIZATION OF PROVISIONS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended to read as follows:

"Subpart I—Health Centers

"SEC. 330. HEALTH CENTERS.

"(a) DEFINITION OF HEALTH CENTER.—

"(1) IN GENERAL.—For purposes of this section, the term 'health center' means an entity that serves a population that is medically underserved, or a special medically underserved population comprised of migratory and seasonal agricultural workers, the homeless, and residents of public housing, by providing, either through the staff and supporting resources of the center or through contracts or cooperative arrangements—

"(A) required primary health services (as defined in subsection (b)(1)); and

"(B) as may be appropriate for particular centers, additional health services (as defined in subsection (b)(2)) necessary for the adequate support of the primary health services required under subparagraph (A);

for all residents of the area served by the center (hereafter referred to in this section as the 'catchment area').

"(2) LIMITATION.—The requirement in paragraph (1) to provide services for all residents within a catchment area shall not apply in the case of a health center receiving a grant only under subsection (f), (g), or (h).

"(b) DEFINITIONS.—For purposes of this section:

"(1) REQUIRED PRIMARY HEALTH SERVICES.—

"(A) IN GENERAL.—The term 'required primary health services' means—

"(i) basic health services which, for purposes of this section, shall consist of—

"(I) health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and where appropriate, physician assistants, nurse practitioners, and nurse midwives;

"(II) diagnostic laboratory and radiologic services;

"(III) preventive health services, including—

"(aa) prenatal and perinatal services;

"(bb) screening for breast and cervical cancer;

"(cc) well-child services;

"(dd) immunizations against vaccine-preventable diseases;

"(ee) screenings for elevated blood lead levels, communicable diseases, and cholesterol;

"(ff) pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care;

"(gg) voluntary family planning services; and

"(hh) preventive dental services;

"(IV) emergency medical services; and

"(V) pharmaceutical services as may be appropriate for particular centers;

"(ii) referrals to providers of medical services and other health-related services (including substance abuse and mental health services);

"(iii) patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide or financially support the provision of medical, social, educational, or other related services;

"(iv) services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals); and

"(v) education of patients and the general population served by the health center regarding the availability and proper use of health services.

"(B) EXCEPTION.—With respect to a health center that receives a grant only under subsection (f), the Secretary, upon a showing of good cause, shall—

"(i) waive the requirement that the center provide all required primary health services under this paragraph; and

"(ii) approve, as appropriate, the provision of certain required primary health services only during certain periods of the year.

"(2) ADDITIONAL HEALTH SERVICES.—The term 'additional health services' means services that are not included as required primary health services and that are appropriate to meet the health needs of the population served by the health center involved. Such term may include—

"(A) environmental health services, including—

"(i) the detection and alleviation of unhealthful conditions associated with water supply;

"(ii) sewage treatment;

"(iii) solid waste disposal;

"(iv) rodent and parasitic infestation;

"(v) field sanitation;

"(vi) housing; and

"(vii) other environmental factors related to health; and

"(B) in the case of health centers receiving grants under subsection (f), special occupation-related health services for migratory and seasonal agricultural workers, including—

"(i) screening for and control of infectious diseases, including parasitic diseases; and

"(ii) injury prevention programs, including prevention of exposure to unsafe levels of agricultural chemicals including pesticides.

"(3) MEDICALLY UNDERSERVED POPULATIONS.—

"(A) IN GENERAL.—The term 'medically underserved population' means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services.

"(B) CRITERIA.—In carrying out subparagraph (A), the Secretary shall prescribe criteria for determining the specific shortages of personal health services of an area or population group. Such criteria shall—

"(i) take into account comments received by the Secretary from the chief executive officer of a State and local officials in a State; and

"(ii) include factors indicative of the health status of a population group or residents of an area, the ability of the residents of an area or of a population group to pay for health services and their accessibility to them, and the availability of health professionals to residents of an area or to a population group.

"(C) LIMITATION.—The Secretary may not designate a medically underserved population in a State or terminate the designation of such a population unless, prior to such designation or termination, the Secretary provides reasonable notice and opportunity for comment and consults with—

"(i) the chief executive officer of such State;

"(ii) local officials in such State; and

"(iii) the organization, if any, which represents a majority of health centers in such State.

"(D) PERMISSIBLE DESIGNATION.—The Secretary may designate a medically underserved population that does not meet the criteria established under subparagraph (B) if the chief executive officer of the State in which such population is located and local officials of such State recommend the designation of such population based on unusual local conditions which are a barrier to access to or the availability of personal health services.

"(c) PLANNING GRANTS.—

"(1) IN GENERAL.—

"(A) CENTERS.—The Secretary may make grants to public and nonprofit private entities for projects to plan and develop health centers which will serve medically underserved populations. A project for which a grant may be made under this subsection may include the cost of the acquisition, expansion, and modernization of existing buildings and construction of new buildings (including the costs of amortizing the principal of, and paying the interest on, loans) and shall include—

"(i) an assessment of the need that the population proposed to be served by the health center for which the project is undertaken has for required primary health services and additional health services;

"(ii) the design of a health center program for such population based on such assessment;

"(iii) efforts to secure, within the proposed catchment area of such center, financial and professional assistance and support for the project;

"(iv) initiation and encouragement of continuing community involvement in the development and operation of the project; and

"(v) proposed linkages between the center and other appropriate provider entities, such as health departments, local hospitals, and rural health clinics, to provide better coordinated, higher quality, and more cost-effective health care services.

"(B) COMPREHENSIVE SERVICE DELIVERY NETWORKS AND PLANS.—The Secretary may make grants to health centers that receive assistance under this section to enable the centers to plan and develop a network or plan for the provision of health services, which may include the provision of health services on a prepaid basis or through another managed care arrangement, to some or to all of the individuals which the centers serve. Such a grant may only be made for such a center if—

"(i) the center has received grants under subsection (d)(1)(A) for at least 2 consecutive years preceding the year of the grant under this subparagraph or has otherwise demonstrated, as required by the Secretary, that such center has been providing primary care services for at least the 2 consecutive years immediately preceding such year; and

"(ii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis, or under another managed care arrangement, will not result in the diminution of the level or quality of health services provided to the medically underserved population served prior to the grant under this subparagraph.

Any such grant may include the acquisition and lease, expansion, and modernization of existing buildings, construction of new buildings, acquisition or lease of equipment which may include data and information systems, and providing training and technical assistance related to the provision of health services on a prepaid basis or under another managed care arrangement, and for other purposes that promote the development of managed care networks and plans.

"(2) LIMITATION.—Not more than two grants may be made under this subsection for the same project, except that upon a showing of good cause, the Secretary may make additional grant awards.

"(d) OPERATING GRANTS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Secretary may make grants for the costs of the operation of public and nonprofit private health centers that provide health services to medically underserved populations.

"(B) ENTITIES THAT FAIL TO MEET CERTAIN REQUIREMENTS.—The Secretary may make grants, for a period of not to exceed 2-years, for the costs of the operation of public and nonprofit private entities which provide health services to medically underserved populations but with respect to which the Secretary is unable to make each of the determinations required by subsection [(j)]*(i)*(3).

"(2) USE OF FUNDS.—The costs for which a grant may be made under subparagraph (A) or (B) of paragraph (1) may include the costs of acquiring, expanding, and modernizing existing buildings and constructing new buildings (including the costs of amortizing the principal of, and paying interest on, loans), the costs of repaying loans for buildings, and the costs of providing training related to the provision of required primary health services and additional health services and to the management of health center programs.

"(3) LIMITATION.—Not more than two grants may be made under subparagraph (B) of paragraph (1) for the same entity.

"(4) AMOUNT.—

"(A) IN GENERAL.—The amount of any grant made in any fiscal year under paragraph (1) to a health center shall be determined by the Secretary, but may not exceed the amount by which the costs of operation of the center in such fiscal year exceed the total of—

"(i) State, local, and other operational funding provided to the center; and "(ii) the fees, premiums, and third-party reimbursements, which the center may reasonably be expected to receive for its operations in such fiscal year.

"(B) PAYMENTS.—Payments under grants under subparagraph (A) or (B) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments.

"(C) USE OF NONGRANT FUNDS.—Nongrant funds described in clauses (i) and (ii) of subparagraph (A), including any such funds in excess of those originally expected, shall be used as permitted under this section, and may be used for such other purposes as are not specifically prohibited under this section if such use furthers the objectives of the project.

"(e) INFANT MORTALITY GRANTS.—

"(1) IN GENERAL.—The Secretary may make grants to health centers for the purpose of assisting such centers in—

"(A) providing comprehensive health care and support services for the reduction of—

"(i) the incidence of infant mortality; and

"(ii) morbidity among children who are less than 3 years of age; and

"(B) developing and coordinating service and referral arrangements between health centers and other entities for the health management of pregnant women and children described in subparagraph (A).

"(2) PRIORITY.—In making grants under this subsection the Secretary shall give priority to health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.

"(3) REQUIREMENTS.—The Secretary may make a grant under this subsection only if the health center involved agrees that—

"(A) the center will coordinate the provision of services under the grant to each of the recipients of the services;

"(B) such services will be continuous for each such recipient;

"(C) the center will provide follow-up services for individuals who are referred by the center for services described in paragraph (1);

"(D) the grant will be expended to supplement, and not supplant, the expenditures of the center for primary health services (including prenatal care) with respect to the purpose described in this subsection; and

"(E) the center will coordinate the provision of services with other maternal and child health providers operating in the catchment area.

"(f) MIGRATORY AND SEASONAL AGRICULTURAL WORKERS.—

"(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (d), and (e) for the planning and delivery of services to a special medically underserved population comprised of—

"(A) migratory agricultural workers, seasonal agricultural workers, and members of the families of such migratory and seasonal agricultural workers who are within a designated catchment area; and

"(B) individuals who have previously been migratory agricultural workers but who no longer meet the requirements of subparagraph (A) of paragraph (4) because of age or disability and members of the families of such individuals who are within such catchment area.

"(2) ENVIRONMENTAL CONCERNS.—The Secretary may enter into grants or contracts under this subsection with public and private entities to—

"(A) assist the States in the implementation and enforcement of acceptable environmental health standards, including enforcement of standards for sanitation in migratory agricultural worker labor camps, and applicable Federal and State pesticide control standards; and

"(B) conduct projects and studies to assist the several States and entities which have received grants or contracts under this section in the assessment of problems related to camp and field sanitation, exposure to unsafe levels of agricultural chemicals including pesticides, and other environmental health hazards to which migratory agricultural workers and members of their families are exposed.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) MIGRATORY AGRICULTURAL WORKER.—The term 'migratory agricultural worker' means an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last 24 months, and who establishes for the purposes of such employment a temporary abode.

"(B) SEASONAL AGRICULTURAL WORKER.—The term 'seasonal agricultural worker' means an individual whose principal employment is in agriculture on a seasonal basis and who is not a migratory agricultural worker.

"(C) AGRICULTURE.—The term 'agriculture' means farming in all its branches, including—

"(i) cultivation and tillage of the soil;

"(ii) the production, cultivation, growing, and harvesting of any commodity grown on, in, or as an adjunct to or part of a commodity grown in or on, the land; and

"(iii) any practice (including preparation and processing for market and delivery to storage or to market or to carriers for transportation to market) performed by a farmer or on a farm incident to or in conjunction with an activity described in clause (ii).

"(g) HOMELESS POPULATION.—

"(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (d), and (e) for the planning and delivery of services to a special medically underserved population comprised of homeless individuals, including grants for innovative programs that provide outreach and comprehensive primary health services to homeless children and children at risk of homelessness.

"(2) REQUIRED SERVICES.—In addition to required primary health services (as defined in subsection (b)(1)), an entity that receives a grant under this subsection shall be required to provide substance abuse services as a condition of such grant.

"(3) SUPPLEMENT NOT SUPPLANT REQUIREMENT.—A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

"(4) DEFINITIONS.—For purposes of this section:

"(A) HOMELESS INDIVIDUAL.—The term 'homeless individual' means an individual who lacks housing (without regard to whether the individual is a member of a family), including an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations and an individual who is a resident in transitional housing.

"(B) SUBSTANCE ABUSE.—The term 'substance abuse' has the same meaning given such term in section 534(4).

"(C) SUBSTANCE ABUSE SERVICES.—The term 'substance abuse services' includes detoxification and residential treatment for substance abuse provided in settings other than hospitals.

"(h) RESIDENTS OF PUBLIC HOUSING.—

"(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (d), and (e) for the planning and delivery of services to a special medically underserved population comprised of residents of public housing (such term, for purposes of this subsection, shall have the same meaning given such term in section 3(b)(1) of the United States Housing Act of 1937) and individuals living in areas immediately accessible to such public housing.

"(2) SUPPLEMENT NOT SUPPLANT.—A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

"(3) CONSULTATION WITH RESIDENTS.—The Secretary may not make a grant under paragraph (1) unless, with respect to the residents of the public housing involved, the applicant for the grant—

"(A) has consulted with the residents in the preparation of the application for the grant; and

"(B) agrees to provide for ongoing consultation with the residents regarding the planning and administration of the program carried out with the grant.

"(i) APPLICATIONS.—

"(1) SUBMISSION.—No grant may be made under this section unless an application therefore is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(2) DESCRIPTION OF NEED.—An application for a grant under subparagraph (A) or (B) of subsection (d)(1) for a health center shall include—

"(A) a description of the need for health services in the catchment area of the center;

"(B) a demonstration by the applicant that the area or the population group to be served by the applicant has a shortage of personal health services; and

"(C) a demonstration that the center will be located so that it will provide services to the greatest number of individuals residing in the catchment area or included in such population group.

Such a demonstration shall be made on the basis of the criteria prescribed by the Secretary under subsection (b)(3) or on any other criteria which the Secretary may prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services. In considering an application for a grant under subparagraph (A) or (B) of subsection (d)(1), the Secretary may require as a condition to the approval of such application an assurance that the applicant will provide any health service defined under paragraphs (1) and (2) of subsection (b) that the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided to the applicant.

"(3) REQUIREMENTS.—Except as provided in subsection (d)(1)(B), the Secretary may not approve an application for a grant under subparagraph (A) or (B) of subsection (d)(1) unless the Secretary determines that the entity for which the application is submitted is a health center (within the meaning of subsection (a)) and that—

"(A) the required primary health services of the center will be available and accessible in the catchment area of the center promptly, as appropriate, and in a manner which assures continuity;

"(B) the center will have an ongoing quality improvement system that includes clinical services and management, and that maintains the confidentiality of patient records;

"(C) the center will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

"(D) the center—

"(i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan; or

"(ii) has made or will make every reasonable effort to enter into such an arrangement;

"(E) the center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

"(F) the center—

"(i) has prepared a schedule of fees or payments for the provision of its services consistent with locally prevailing rates or charges and designed to cover its reasonable costs of operation and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay;

"(ii) has made and will continue to make every reasonable effort—

"(I) to secure from patients payment for services in accordance with such schedules; and

"(II) to collect reimbursement for health services to persons described in subparagraph (E) on the basis of the full amount of fees and payments for such services without application of any discount; and

"(iii) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph;

"(G) the center has established a governing board which except in the case of an entity operated by an Indian tribe or tribal or Indian organization under the Indian Self-Determination Act—

"(i) is composed of individuals, a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center;

"(ii) meets at least once a month, selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center (as defined in the second sentence of this paragraph), establishes general policies for the center; and

"(iii) in the case of an application for a second or subsequent grant for a public center, has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;

except that, upon a showing of good cause the Secretary shall waive all or part of the requirements of this subparagraph in the case of a health center that receives a grant pursuant to subsection (f), (g), (h), or (o);

"(H) the center has developed—

"(i) an overall plan and budget that meets the requirements of the Secretary; and

"(ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to—

"(I) the costs of its operations;

"(II) the patterns of use of its services;

"(III) the availability, accessibility, and acceptability of its services; and

"(IV) such other matters relating to operations of the applicant as the Secretary may require;

"(I) the center will review periodically its catchment area to—

"(i) ensure that the size of such area is such that the services to be provided through the center (including any satellite) are available and accessible to the residents of the area promptly and as appropriate;

"(ii) ensure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs; and

"(iii) ensure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the center, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social grouping, and available transportation;

"(J) in the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, the center has—

"(i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals; and

"(ii) identified an individual on its staff who is fluent in both that language and in English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences; and

"(K) the center, has developed an ongoing referral relationship with one or more hospitals.

For purposes of subparagraph (G), the term 'public center' means a health center funded (or to be funded) through a grant under this section to a public agency.

"(4) APPROVAL OF NEW OR EXPANDED SERVICE APPLICATIONS.—The Secretary shall approve applications for grants under subparagraph (A) or (B) of subsection (d)(1) for health centers which—

"(A) have not received a previous grant under such subsection; or

"(B) have applied for such a grant to expand their services;

in such a manner that the ratio of the medically underserved populations in rural areas which may be expected to use the services provided by such centers to the medically underserved populations in urban areas which may be expected to use the services provided by such centers is not less than two to three or greater than three to two.

"(5) NEW CONSTRUCTION.—The Secretary may make a grant under subsection (c) or (d) for the construction of new buildings for a health center only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, or expanding existing buildings and that the entity to which the grant will be made has made reasonable efforts to secure from other sources funds, in lieu of the grant, to construct such facilities.

"(j) TECHNICAL AND OTHER ASSISTANCE.—The Secretary may provide (either through the Department of Health and Human Services or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to any public or private nonprofit entity to assist entities in developing plans for, or operating as, health centers, and in meeting the requirements of subsection (i)(2).

"(k) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section there are authorized to be appropriated **[**$756,000,000**]** *$756,518,000* for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2000.

["(2) SPECIAL PROVISIONS.—The**]**

"(2) SPECIAL PROVISIONS.—

"(A) PUBLIC CENTERS.—The Secretary may not expend in any fiscal year, for grants under this section to public centers (as defined in the second sentence of subsection (i)(3)) the governing boards of which (as described in subsection (i)(3)(G)(ii)) do not establish general policies for such centers, an amount which exceeds 5 percent of the amounts appropriated under this section for that fiscal year. For purposes of applying the preceding sentence, the term 'public centers' shall not include health centers that receive grants pursuant to subsection (g) or (h).

"(B) DISTRIBUTION OF GRANTS.—

"(i) FISCAL YEAR 1996.—For fiscal year 1996, the Secretary, in awarding grants under this section shall ensure that the amounts made available under each of subsections (f), (g), and (h) in such fiscal year bears the same relationship to the total amount appropriated for such fiscal year under paragraph (1) as the amounts appropriated for fiscal year 1995 under each of sections 329, 340, and 340A (as such sections existed one day prior to the date of enactment of this section) bears to the total amount appropriated under sections 329, 330, 340, and 340A (as such sections existed one day prior to the date of enactment of this section) for such fiscal year.

"(ii) FISCAL YEARS 1997 AND 1998.—For each of the fiscal years 1997 and 1998, the Secretary, in awarding grants under this section shall ensure that the proportion of the amounts made available under each of subsections (f), (g), and (h) is equal to the proportion of amounts made available under each such subsection for the previous fiscal year, as such amounts relate to the total amounts appropriated for the previous fiscal year involved, increased or decreased by not more than 10 percent.

"(3) FUNDING REPORT.—The Secretary shall annually prepare and submit to the appropriate committees of Congress a report concerning the distribution of funds under this section that are provided to meet the health care needs of medically underserved populations, including the homeless, residents of public housing, and migratory and seasonal agricultural workers, and the appropriateness of the delivery systems involved in responding to the needs of the particular populations. Such report shall include an assessment of the relative health care access needs of the targeted populations and the rationale for any substantial changes in the distribution of funds.

"(l) MEMORANDUM OF AGREEMENT.—In carrying out this section, the Secretary may enter into a memorandum of agreement with a State. Such memorandum may include, where appropriate, provisions permitting such State to—

"(1) analyze the need for primary health services for medically underserved populations within such State;

"(2) assist in the planning and development of new health centers;

"(3) review and comment upon annual program plans and budgets of health centers, including comments upon allocations of health care resources in the State;

"(4) assist health centers in the development of clinical practices and fiscal and administrative systems through a technical assistance plan which is responsive to the requests of health centers; and

"(5) share information and data relevant to the operation of new and existing health centers.

"(m) RECORDS.—

"(1) IN GENERAL.—Each entity which receives a grant under subsection (d) shall establish and maintain such records as the Secretary shall require.

"(2) AVAILABILITY.—Each entity which is required to establish and maintain records under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

"(n) DELEGATION OF AUTHORITY.—The Secretary may delegate the authority to administer the programs authorized by this section to any office within the Service, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the Health Resources and Services Administration.

"(o) SPECIAL CONSIDERATION.—In making grants under this section, the Secretary shall give special consideration to the unique needs of sparsely populated rural areas, including priority in the awarding of grants for new health centers under subsections (c) and (d), and the granting of waivers as appropriate and permitted under subsections (b)(1)(B)(i) and (l)(3)(G).".

SEC. 3. RURAL HEALTH OUTREACH, NETWORK DEVELOPMENT, AND TELEMEDICINE GRANT PROGRAM.

(a) IN GENERAL.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as amended by section 2) is further amended by adding at the end thereof the following new section:

"SEC. 330A. RURAL HEALTH OUTREACH, NETWORK DEVELOPMENT, AND TELEMEDICINE GRANT PROGRAM.

"(a) ADMINISTRATION.—The rural health services outreach demonstration grant program established under section 301 shall be administered by the Office of Rural Health Policy (of the Health Resources and Services Administration), in consultation with State rural health offices or other appropriate State governmental entities.

"(b) GRANTS.—Under the program referred to in subsection (a), the Secretary, acting through the Director of the Office of Rural Health Policy, may award grants to expand access to, coordinate, restrain the cost of, and improve the quality of essential health care services, including preventive and emergency services, through the development of integrated health care delivery systems or networks in rural areas and regions.

"(c) ELIGIBLE NETWORKS.—

"(1) OUTREACH NETWORKS.—To be eligible to receive a grant under this section, an entity shall—

"(A) be a rural public or nonprofit private entity that is or represents a network or potential network that includes three or more health care providers or other entities that provide or support the delivery of health care services; and

"(B) in consultation with the State office of rural health or other appropriate State entity, prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

"(i) a description of the activities which the applicant intends to carry out using amounts provided under the grant;

"(ii) a plan for continuing the project after Federal support is ended;

"(iii) a description of the manner in which the activities funded under the grant will meet health care needs of underserved rural populations within the State; and

"(iv) a description of how the local community or region to be served by the network or proposed network will be involved in the development and ongoing operations of the network.

"(2) FOR-PROFIT ENTITIES.—An eligible network may include for-profit entities so long as the network grantee is a nonprofit entity.

"(3) TELEMEDICINE NETWORKS.—

"(A) IN GENERAL.—An entity that is a health care provider and a member of an existing or proposed telemedicine network, or an entity that is a consortium of health care providers that are members of an existing or proposed telemedicine network shall be eligible for a grant under this section.

"(B) REQUIREMENT.—A telemedicine network referred to in subparagraph (A) shall, at a minimum, be composed of—

"(i) a multispecialty entity that is located in an urban or rural area, which can provide 24-hour a day access to a range of specialty care; and

"(ii) at least two rural health care facilities, which may include rural hospitals, rural physician offices, rural health clinics, rural community health clinics, and rural nursing homes.

"(d) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to applicant networks that include—

"(1) a majority of the health care providers serving in the area or region to be served by the network;

"(2) any federally qualified health centers, rural health clinics, and local public health departments serving in the area or region;

"(3) outpatient mental health providers serving in the area or region; or

"(4) appropriate social service providers, such as agencies on aging, school systems, and providers under the women, infants, and children program, to improve access to and coordination of health care services.

"(e) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts provided under grants awarded under this section shall be used—

"(A) for the planning and development of integrated self-sustaining health care networks; and

"(B) for the initial provision of services.

"(2) EXPENDITURES IN RURAL AREAS.—

"(A) IN GENERAL.—In awarding a grant under this section, the Secretary shall ensure that not less than 50 percent of the grant award is expended in a rural area or to provide services to residents of rural areas.

"(B) TELEMEDICINE NETWORKS.—An entity described in subsection (c)(3) may not use in excess of—

"(i) 40 percent of the amounts provided under a grant under this section to carry out activities under paragraph (3)(A)(iii); and

"(ii) 20 percent of the amounts provided under a grant under this section to pay for the indirect costs associated with carrying out the purposes of such grant.

"(3) TELEMEDICINE NETWORKS.—

"(A) IN GENERAL.—An entity described in subsection (c)(3), may use amounts provided under a grant under this section to—

"(i) demonstrate the use of telemedicine in facilitating the development of rural health care networks and for improving access to health care services for rural citizens;

"(ii) provide a baseline of information for a systematic evaluation of telemedicine systems serving rural areas;

"(iii) purchase or lease and install equipment; and

"(iv) operate the telemedicine system and evaluate the telemedicine system.

"(B) LIMITATIONS.—An entity described in subsection (c)(3), may not use amounts provided under a grant under this section—

"(i) to build or acquire real property;

"(ii) purchase or install transmission equipment (such as laying cable or telephone lines, microwave towers, satellite dishes, amplifiers, and digital switching equipment); or

"(iii) for construction, except that such funds may be expended for minor renovations relating to the installation of equipment;

"(f) TERM OF GRANTS.—Funding may not be provided to a network under this section for in excess of a 3-year period.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $36,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2000.".

(b) TRANSITION.—The Secretary of Health and Human Services shall ensure the continued funding of grants made, or contracts or cooperative agreements entered into, under subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as such subpart existed on the day prior to the date of enactment of this Act), until the expiration of the grant period or the term of the contract or cooperative agreement. Such funding shall be continued under the same terms and conditions as were in effect on the date on which the grant, contract or cooperative agreement was awarded, subject to the availability of appropriations.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—The Public Health Service Act is amended—

(1) in section 224(g)(4) (42 U.S.C. 233(g)(4)) by striking "under" and all that follows through the end thereof and inserting "under section 330.";

(2) in section 340C(a)(2) (42 U.S.C. 256c) by striking [''diseases''] "*Under*" and all that

follows through the end thereof and inserting "with assistance provided under section 330."; and

(3) by repealing subparts V and VI of part D of title III (42 U.S.C. 256 et seq.).

(b) SOCIAL SECURITY ACT.—The Social Security Act is amended—

(1) in clauses (i) and (ii)(I) of section 1861(aa)(4)(A) (42 U.S.C. 1395x(aa)(4)(A)(i) and (ii)(I)) by striking "section 329, 330, or 340" and inserting "section 330 (other than subsection (h))"; and

(2) in clauses (i) and (ii)(II) of section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)(i) and (ii)(II)) by striking "section 329, 330, 340, or 340A" and inserting "section 330".

(c) REFERENCES.—Whenever any reference is made in any provision of law, regulation, rule, record, or document to a community health center, migrant health center, public housing health center, or homeless health center, such reference shall be considered a reference to a health center.

(d) ADDITIONAL AMENDMENTS.—After consultation with the appropriate committees of the Congress, the Secretary of Health and Human Services shall prepare and submit to the Congress a legislative proposal in the form of an implementing bill containing technical and conforming amendments to reflect the changes made by this Act.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on October 1, 1995.

AMENDMENT NO. 5397

(Purpose: To provide for a substitute amendment)

Mr. LOTT. Senator KASSEBAUM has a substitute amendment at desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mrs. KASSEBAUM proposes an amendment numbered 5397.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, community and migrant health centers play a vital role in bringing affordable and accessible community-based primary care to millions of Americans in underserved areas. Since its beginning in 1966, the Community Health Center Program has been the backbone of Federal efforts to bring quality health care to needy persons and areas throughout the country. In inner cities and isolated rural areas, these health centers have served millions of uninsured and underinsured people, including the elderly, women and children at risk, and those with other special needs. Nationwide, over 2,400 health centers provide basic services to over 9 million persons a year.

In addition to basic care, these centers provide many other services, including health education, public health screening, laboratory services, preventive dental care, emergency care, pharmacy services, substance abuse counseling, and social services. Many centers maintain extended hours for working families. They offer care at multiple sites, and use mobile clinics to reach rural patients. They employ multilingual staff to reduce barriers to care. They stay in touch with community needs by working closely with local groups.

A key feature of the health centers is their strong emphasis on preventive care. For the high risk populations they serve, the centers reduce the demand for costly emergency and in-patient hospital care by emphasizing prevention, early intervention, and case management with good followup. One of the many vital missions of the centers is to reduce infant mortality and low birthweight, by reaching out and helping pregnant women and their infants receive timely care.

In Massachusetts, these health centers provide vital services to communities across the State. Over 800,000 persons receive primary and preventive health care through the centers. This care would otherwise be delayed or unavailable for those without access to other assistance. In western Massachusetts, health centers have mobilized to address complex problems such as high teenage birth rates, increasing rates of HIV infection, and the high incidence of drug abuse and alcohol-related problems. In areas hard hit by the recent recession, the centers provide a real opportunity for uninsured and struggling families to receive comprehensive care.

Community health centers are becoming even more important as the number of people who lack insurance continues to rise. Every year, approximately 1 million more individuals, most of them children, lose their insurance coverage. Today, over 41 million Americans are uninsured. Current projections estimate that the number will reach 50 million by the year 2000.

Medicare and Medicaid, together with grants under this program, make up almost 75 percent of the revenues that support these centers. Reductions in this support would mean serious financial difficulty for all community health centers.

The centers already face a changing health landscape that brings with it both opportunities and threats to the future viability of the centers. Some centers are responding creatively, but others are having great difficulty. In particular, the trend toward managed care raises serious concerns about the ability of these health centers to continue to provide their communities with high quality, cost-effective preventive care and primary care services. Several provisions in this bill are designed to strengthen the centers and help them compete in the changing marketplace.

The Health Centers Consolidation Act consolidates and reauthorizes the four health center programs—the Community Health Center Program, the Migrant Health Center Program, the Health Services for the Homeless Program, and the Health Services for Residents of Public Housing Program. Consolidating these programs will eliminate duplication while maintaining their unique features that have made them so effective.

In addition, the bill helps health centers to address one of the biggest problems they face—obtaining funds to develop and operate their own managed care networks or plans. Testimony before the Senate Labor and Human Resources Committee concluded that participation in such networks was vital to the future of the program, as States move more rapidly to place their Medicaid population into managed care.

Health centers need to be able to form networks and managed care plans to serve their patients effectively. But since centers are public or nonprofit corporations, they have limited revenues and relatively few assets. As a result, they are often unable to secure loans, especially for the purpose of establishing risk reserves.

The bill addresses this problem in two ways, by network planning grants and a Federal loan guarantee program. The grants will help centers begin the initial phase of setting up links with other health facilities and health providers. The loan guarantee program will enable centers to take the next steps in owning and operating a network by leveraging private dollars to help cover the developmental and initial operating costs, which can range up to several million dollars.

The loan guarantee for network development establishes a program to guarantee the principal and interest on loans made by non-Federal lenders to health centers for the costs of developing and operating managed care networks. The guarantees are subject to all of the requirements of the 1990 Federal Credit Reform Act. The Congressional Budget Office has estimated a 10-percent subsidy rate for the loan program, which means that every dollar guaranteed by the Federal Government would support $10 in loans to health centers.

Loans secured through the loan guarantee fund will be used for activities needed to develop networks, such as establishing risk reserves, acquiring or leasing buildings and equipment, and purchasing management information systems. The cost of the program to the Federal Government will be offset by loan origination fees.

This legislation recognizes the need to concentrate grant funds on health services. The bill authorizes the Secretary of HHS to award grants to pay for the costs associated with construction of new buildings or the renovation of existing buildings—but only if the projects are approved prior to October 1, 1996. Such approved projects must be undertaken pursuant to the statutory and contractual terms, conditions, and assurances in effect at the time Federal assistance for the project was approved by the Secretary, even though the actual grant will not be award until after October 1, 1996.

Because of the need to concentrate limited grant funds on providing services, health centers need more flexibility in the use of their nongrant funds. This bill enhances local health center decisionmaking in the use of non-Federal grant revenues, thereby strengthening the ability of health centers to respond to the changing environment and compete more effectively as businesses in the health marketplace.

Through the leadership of Senator KASSEBAUM, this bill helps rural health centers remove many of the barriers to health care in rural America by authorizing grants for Rural Health Outreach, Network Development, and Telemedicine. These grant funds will enable rural health centers to improve the quality of essential health care services.

In sum, this legislation is a significant step toward enabling local health centers to compete and thrive in the changing health marketplace. The centers are providing quality health care to needy persons and areas throughout the country, and their ability to do so will be preserved and strengthened by this important bipartisan legislation. I urge the Senate to approve it.

RURAL PRIMARY CARE

Mr. THOMAS. Mr. President, as Senator KASSEBAUM knows, many areas of Wyoming, Kansas, and other rural States in the Midwest and West suffer from severe shortages of primary care providers and services. I appreciate the opportunity to work with you on S. 1044, legislation reauthorizing the community health center program, to ensure that this program is a viable option for rural communities in the Midwest and West.

One solution that will help preserve and strengthen access to primary care services in rural areas is a change in the governing board criteria for the health centers. For a number of reasons related to such factors as geography and population density, rural hospitals and other rural providers have had difficulty qualifying for the community health center program because they cannot meet all of the program's strict governing board requirements. It is my understanding that the legislation we are considering today requires the Secretary of Health and Human Services to waive some or all of these requirements if rural providers can show that it is not feasible or practicable for them to meet the requirements. This will certainly make it easier for rural hospitals and other rural providers who would otherwise qualify to participate in the program.

Mrs. KASSEBAUM. The Senator is correct. Following up on your suggestion, S. 1044 provides the Secretary with this waiver authority. The bill has been modified to ensure that this waiver will be in effect for the length of the community health center grant. Rural providers will not be required to repeatedly make their case to the Secretary over the period of the grant. It is also the committee's intention that the process for obtaining this waiver be simple, straightforward, and short. Our rural providers, who are already stretched so thinly, should not be forced to go through a time-consuming, resource-consuming paperwork exercise to obtain a waiver.

Mr. THOMAS. I am also pleased that S. 1044 includes a provision requiring the Secretary to give special consideration to the unique needs of sparsely populated rural areas and to give priority to such areas in the awarding of health center planning and operating grants. These provisions will give greater weight in the awarding of grants to such factors as the severe shortages of primary care providers and geographic barriers inhibiting access to care that are characteristic of many areas in the Midwest and West.

Mrs. KASSEBAUM. I would also note that S. 1044 continues an authority in current law that permits the Secretary to designate a population as "medically underserved" if the chief executive officer of a State and local officials recommend that designation based on unusual local conditions which are a barrier to access to care. I would hope that this authority will also be used to address the unique needs of sparsely populated rural areas.

I also wanted to assure the Senator from Wyoming that this bill incorporates your suggestion for improving the coordination of services in rural communities through collaborative relationships between community health centers and other rural providers in the center's service area. As a condition of eligibility for a health center planning or operating grant, the center must demonstrate its efforts to develop and maintain such relationships.

SECTIONS 329, 330, 340, 340A

Mr. KENNEDY. The Health Centers Consolidation Act goes a long way in making many improvements to the health center program. One of these important improvements is to consolidate and streamline sections 329, 330, 340 and 340A of the Public Health Service Act. What remains clear is that all centers under the new, consolidated section 330(a) will have to continue to provide required primary health services to all residents in the health center's service area. Consistent with the history of these centers, that means the centers provide the health services regardless of an individual's ability to pay.

Mrs. KASSEBAUM. Mr. President, I agree, that requirement goes to the fundamental nature and purpose of these important safety net providers. All of the health centers must serve all residents of the area served by the center, regardless of an individual's ability to pay for the services they receive.

PUBLICATION OF GUIDELINES

Mr. KENNEDY. As part of the loan guarantee program authorized under S. 1044, we are requiring the Secretary of Health and Human Services to publish guidance explaining how the requirements and other provisions of the loan guarantee program will be administered. It is normal for agencies to put out guidance to the universe of affected entities, including health centers, primary care associations, and other entities with which the agency has cooperative agreements when funding is available to them. The guidance includes things such as what is required in the application, the criteria that will be used to evaluate the application, and documentation that will be required if the funding is to be granted, or, in this case, a loan guaranteed for health center networks or plans.

The requirement to publish guidance is not intended to delay the implementaton of the loan guarantee program, and the distribution of the guidance to the appropriate committees of Congress is meant for informational purposes. It is my understanding that the Committee does not intend that the publication of guidance required under S. 1044 to be subject to the provisions of the Administrative Procedures Act.

Mrs. KASSEBAUM. That is correct. I understand how important the loan guarantee provisions of S. 1044 are to the health centers. The States are rapidly moving to managed care systems for Medicaid recipients. In order to continue serving these individuals and other low-income, uninsured individuals, centers must have the ability to form viable, competitive networks and plans. The loan guarantee program will benefit centers across the country, including rural centers who are now trying to position themselves for the movement of managed care into rural areas.

Mr. LOTT. Mr. President, I ask unanimous consent to have printed in the RECORD a summary of S. 1044 and the manager's amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 1044, the Health Centers Consolidation Act and the Floor Manager's Amendment in the Nature of a Substitute

I. SUMMARY OF S. 1044

S. 1044, reported unanimously by the Senate Committee on Labor and Human Resources on July 20, 1995, consolidates and streamlines four separate Public Health Service Act (PHSA) programs under one authority, a rewritten section 330 of the PHSA.

The consolidated programs are the Migrant Health Center program (section 329 of the PHSA), the Community Health Center program (section 330 of the PHSA), the Health Care for the Homeless program (section 340 of the PHSA), and the Health Services for Residents of Public Housing program (section 340A of the PHSA). For these consolidated programs, S. 1044 authorizes $756.518 million in fiscal year 1996 and "such sums" for fiscal years 1997 through 2000.

In addition, the bill formally authorizes as new section 330A of the Public Health Service Act the "Rural Health Outreach, Network Development, and Telemedicine Grant" program. This program consolidates and reforms several currently funded, discretionary rural health programs. This program is authorized at $36 million in fiscal year 1996 (current spending) and at "such sums" for fiscal years 1997 through 2000.

II. SUMMARY OF THE MANAGER'S AMENDMENT

The manager's amendment makes a number of technical corrections to S. 1044 as reported. In addition, it makes several policy changes:

A. Loan guarantee program

It replaces the Secretary's authority under S. 1044 to provide grants for facility construction and modernization with a loan guarantee fund to provide health centers with the ability to leverage private-sector resources for the development and initial operation of health networks and plans. This permits federal dollars to be focused on the provision of services, rather than on "bricks and mortar."

B. Changes in authorization period and authorization level

Reflecting the fact that fiscal year 1996 is nearly at an end, the manager's amendment updates the authorization period from fiscal years 1996 through 2000 to fiscal years 1997 through 2001. Reflecting the appropriation provided for the health center programs in the House-passed appropriations bill, the manager's amendment updates the funding level to $802.124 million in fiscal year 1997 and "such sums" in the out years.

Mr. LOTT. Mr. President, I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD. I have some statements for the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5397) was agreed to.

The bill (S. 1044), as amended, was deemed read a third time and passed, as follows:

S. 1044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Centers Consolidation Act of 1996".

SEC. 2. CONSOLIDATION AND REAUTHORIZATION OF PROVISIONS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended to read as follows:

"Subpart I—Health Centers

"SEC. 330. HEALTH CENTERS.

"(a) DEFINITION OF HEALTH CENTER.—

"(1) IN GENERAL.—For purposes of this section, the term 'health center' means an entity that serves a population that is medically underserved, or a special medically underserved population comprised of migratory and seasonal agricultural workers, the homeless, and residents of public housing, by providing, either through the staff and supporting resources of the center or through contracts or cooperative arrangements—

"(A) required primary health services (as defined in subsection (b)(1)); and

"(B) as may be appropriate for particular centers, additional health services (as defined in subsection (b)(2)) necessary for the adequate support of the primary health services required under subparagraph (A);

for all residents of the area served by the center (hereafter referred to in this section as the 'catchment area').

"(2) LIMITATION.—The requirement in paragraph (1) to provide services for all residents within a catchment area shall not apply in the case of a health center receiving a grant only under subsection (g), (h), or (i).

"(b) DEFINITIONS.—For purposes of this section:

"(1) REQUIRED PRIMARY HEALTH SERVICES.—

"(A) IN GENERAL.—The term 'required primary health services' means—

"(i) basic health services which, for purposes of this section, shall consist of—

"(I) health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and where appropriate, physician assistants, nurse practitioners, and nurse midwives;

"(II) diagnostic laboratory and radiologic services;

"(III) preventive health services, including—

"(aa) prenatal and perinatal services;

"(bb) screening for breast and cervical cancer;

"(cc) well-child services;

"(dd) immunizations against vaccine-preventable diseases;

"(ee) screenings for elevated blood lead levels, communicable diseases, and cholesterol;

"(ff) pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care;

"(gg) voluntary family planning services; and

"(hh) preventive dental services;

"(IV) emergency medical services; and

"(V) pharmaceutical services as may be appropriate for particular centers;

"(ii) referrals to providers of medical services and other health-related services (including substance abuse and mental health services);

"(iii) patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide or financially support the provision of medical, social, educational, or other related services;

"(iv) services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals); and

"(v) education of patients and the general population served by the health center regarding the availability and proper use of health services.

"(B) EXCEPTION.—With respect to a health center that receives a grant only under subsection (g), the Secretary, upon a showing of good cause, shall—

"(i) waive the requirement that the center provide all required primary health services under this paragraph; and

"(ii) approve, as appropriate, the provision of certain required primary health services only during certain periods of the year.

"(2) ADDITIONAL HEALTH SERVICES.—The term 'additional health services' means services that are not included as required primary health services and that are appropriate to meet the health needs of the population served by the health center involved. Such term may include—

"(A) environmental health services, including—

"(i) the detection and alleviation of unhealthful conditions associated with water supply;

"(ii) sewage treatment;

"(iii) solid waste disposal;

"(iv) rodent and parasitic infestation;

"(v) field sanitation;

"(vi) housing; and

"(vii) other environmental factors related to health; and

"(B) in the case of health centers receiving grants under subsection (g), special occupation-related health services for migratory and seasonal agricultural workers, including—

"(i) screening for and control of infectious diseases, including parasitic diseases; and

"(ii) injury prevention programs, including prevention of exposure to unsafe levels of agricultural chemicals including pesticides.

"(3) MEDICALLY UNDERSERVED POPULATIONS.—

"(A) IN GENERAL.—The term 'medically underserved population' means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services.

"(B) CRITERIA.—In carrying out subparagraph (A), the Secretary shall prescribe criteria for determining the specific shortages of personal health services of an area or population group. Such criteria shall—

"(i) take into account comments received by the Secretary from the chief executive officer of a State and local officials in a State; and

"(ii) include factors indicative of the health status of a population group or residents of an area, the ability of the residents of an area or of a population group to pay for health services and their accessibility to them, and the availability of health professionals to residents of an area or to a population group.

"(C) LIMITATION.—The Secretary may not designate a medically underserved population in a State or terminate the designation of such a population unless, prior to such designation or termination, the Secretary provides reasonable notice and opportunity for comment and consults with—

"(i) the chief executive officer of such State;

"(ii) local officials in such State; and

"(iii) the organization, if any, which represents a majority of health centers in such State.

"(D) PERMISSIBLE DESIGNATION.—The Secretary may designate a medically underserved population that does not meet the criteria established under subparagraph (B) if the chief executive officer of the State in which such population is located and local officials of such State recommend the designation of such population based on unusual local conditions which are a barrier to access to or the availability of personal health services.

"(c) PLANNING GRANTS.—

"(1) IN GENERAL.—

"(A) CENTERS.—The Secretary may make grants to public and nonprofit private entities for projects to plan and develop health centers which will serve medically underserved populations. A project for which a grant may be made under this subsection may include the cost of the acquisition and lease of buildings and equipment (including the costs of amortizing the principal of, and paying the interest on, loans) and shall include—

"(i) an assessment of the need that the population proposed to be served by the health center for which the project is undertaken has for required primary health services and additional health services;

"(ii) the design of a health center program for such population based on such assessment;

"(iii) efforts to secure, within the proposed catchment area of such center, financial and professional assistance and support for the project;

"(iv) initiation and encouragement of continuing community involvement in the development and operation of the project; and

"(v) proposed linkages between the center and other appropriate provider entities, such as health departments, local hospitals, and rural health clinics, to provide better coordinated, higher quality, and more cost-effective health care services.

"(B) COMPREHENSIVE SERVICE DELIVERY NETWORKS AND PLANS.—The Secretary may make grants to health centers that receive assistance under this section to enable the centers to plan and develop a network or plan for the provision of health services, which may include the provision of health services on a prepaid basis or through another managed care arrangement, to some or to all of the individuals which the centers serve. Such a grant may only be made for such a center if—

"(i) the center has received grants under subsection (e)(1)(A) for at least 2 consecutive years preceding the year of the grant under this subparagraph or has otherwise demonstrated, as required by the Secretary, that such center has been providing primary care services for at least the 2 consecutive years immediately preceding such year; and

"(ii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis, or under another managed care arrangement, will not result in the diminution of the level or quality of health services provided to the medically underserved population served prior to the grant under this subparagraph.

Any such grant may include the acquisition and lease of buildings and equipment which may include data and information systems (including the costs of amortizing the principal of, and paying the interest on, loans), and providing training and technical assistance related to the provision of health services on a prepaid basis or under another managed care arrangement, and for other purposes that promote the development of managed care networks and plans.

"(2) LIMITATION.—Not more than two grants may be made under this subsection for the same project, except that upon a showing of good cause, the Secretary may make additional grant awards.

"(d) MANAGED CARE LOAN GUARANTEE PROGRAM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish a program under which the Secretary may, in accordance with this subsection and to the extent that appropriations are provided in advance for such program, guarantee the principal and interest on loans made by non-Federal lenders to health centers funded under this section for the costs of developing and operating managed care networks or plans.

"(B) USE OF FUNDS.—Loan funds guaranteed under this subsection may be used—

"(i) to establish reserves for the furnishing of services on a pre-paid basis; or

"(ii) for costs incurred by the center or centers, otherwise permitted under this section, as the Secretary determines are necessary to enable a center or centers to develop, operate, and own the network or plan.

"(C) PUBLICATION OF GUIDANCE.—Prior to considering an application submitted under this subsection, the Secretary shall publish guidelines to provide guidance on the implementation of this section. The Secretary shall make such guidelines available to the universe of parties affected under this subsection, distribute such guidelines to such parties upon the request of such parties, and provide a copy of such guidelines to the appropriate committees of Congress.

"(2) PROTECTION OF FINANCIAL INTERESTS.—

"(A) IN GENERAL.—The Secretary may not approve a loan guarantee for a project under this subsection unless the Secretary determines that—

"(i) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such percent per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, except that the Secretary may not require as security any center asset that is, or may be, needed by the center or centers involved to provide health services;

"(ii) the loan would not be available on reasonable terms and conditions without the guarantee under this subsection; and

"(iii) amounts appropriated for the program under this subsection are sufficient to provide loan guarantees under this subsection.

"(B) RECOVERY OF PAYMENTS.—

"(i) IN GENERAL.—The United States shall be entitled to recover from the applicant for a loan guarantee under this subsection the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery (subject to appropriations remaining available to permit such a waiver) and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made. Amounts recovered under this clause shall be credited as reimbursements to the financing account of the program.

"(ii) MODIFICATION OF TERMS AND CONDITIONS.—To the extent permitted by clause (iii) and subject to the requirements of section 504(e) of the Credit Reform Act of 1990 (2 U.S.C. 661c(e)), any terms and conditions applicable to a loan guarantee under this subsection (including terms and conditions imposed under clause (iv)) may be modified or waived by the Secretary to the extent the Secretary determines it to be consistent with the financial interest of the United States.

"(iii) INCONTESTABILITY.—Any loan guarantee made by the Secretary under this subsection shall be incontestable—

"(I) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee; and

"(II) as to any person (or successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(iv) FURTHER TERMS AND CONDITIONS.—Guarantees of loans under this subsection shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved.

"(3) LOAN ORIGINATION FEES.—

"(A) IN GENERAL.—The Secretary shall collect a loan origination fee with respect to loans to be guaranteed under this subsection, except as provided in subparagraph (C).

"(B) AMOUNT.—The amount of a loan origination fee collected by the Secretary under subparagraph (A) shall be equal to the estimated long term cost of the loan guarantees involved to the Federal Government (excluding administrative costs), calculated on a net present value basis, after taking into account any appropriations that may be made for the purpose of offsetting such costs, and in accordance with the criteria used to award loan guarantees under this subsection.

"(C) WAIVER.—The Secretary may waive the loan origination fee for a health center applicant who demonstrates to the Secretary that the applicant will be unable to meet the conditions of the loan if the applicant incurs the additional cost of the fee.

"(4) DEFAULTS.—

"(A) IN GENERAL.—Subject to the requirements of the Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), the Secretary may take such action as may be necessary to prevent a default on a loan guaranteed under this subsection, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes. Any such expenditure made under the preceding sentence on behalf of a health center or centers shall be made under such terms and conditions as the Secretary shall prescribe, including the implementation of such organizational, operational, and financial reforms as the Secretary determines are appropriate and the disclosure of such financial or other information as the Secretary may require to determine the extent of the implementation of such reforms.

"(B) FORECLOSURE.—The Secretary may take such action, consistent with State law respecting foreclosure procedures and, with respect to reserves required for furnishing services on a prepaid basis, subject to the consent of the affected States, as the Secretary determines appropriate to protect the interest of the United States in the event of a default on a loan guaranteed under this subsection, except that the Secretary may only foreclose on assets offered as security (if any) in accordance with paragraph (2)(A)(i).

"(5) LIMITATION.—Not more than one loan guarantee may be made under this subsection for the same network or plan, except that upon a showing of good cause the Secretary may make additional loan guarantees.

"(6) ANNUAL REPORT.—Not later than April 1, 1998, and each April 1 thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning loan guarantees provided under this subsection. Such report shall include—

"(A) a description of the number, amount, and use of funds received under each loan guarantee provided under this subsection;

"(B) a description of any defaults with respect to such loans and an analysis of the reasons for such defaults, if any; and

"(C) a description of the steps that may have been taken by the Secretary to assist an entity in avoiding such a default.

"(7) PROGRAM EVALUATION.—Not later than June 30, 1999, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing an evaluation of the program authorized under this subsection. Such evaluation shall include a recommendation with respect to whether or not the loan guarantee program under this subsection should be continued and, if so, any modifications that should be made to such program.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary.

"(e) OPERATING GRANTS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Secretary may make grants for the costs of the operation of public and nonprofit private health centers that provide health services to medically underserved populations.

"(B) ENTITIES THAT FAIL TO MEET CERTAIN REQUIREMENTS.—The Secretary may make grants, for a period of not to exceed 2-years, for the costs of the operation of public and nonprofit private entities which provide health services to medically underserved populations but with respect to which the Secretary is unable to make each of the determinations required by subsection (j)(3).

"(2) USE OF FUNDS.—The costs for which a grant may be made under subparagraph (A) or (B) of paragraph (1) may include the costs of acquiring and leasing buildings and equipment (including the costs of amortizing the principal of, and paying interest on, loans), and the costs of providing training related to the provision of required primary health services and additional health services and to the management of health center programs.

"(3) CONSTRUCTION.—The Secretary may award grants which may be used to pay the costs associated with expanding and modernizing existing buildings or constructing new buildings (including the costs of amortizing the principal of, and paying the interest on, loans) for projects approved prior to October 1, 1996.

"(4) LIMITATION.—Not more than two grants may be made under subparagraph (B) of paragraph (1) for the same entity.

"(5) AMOUNT.—

"(A) IN GENERAL.—The amount of any grant made in any fiscal year under paragraph (1) to a health center shall be determined by the Secretary, but may not exceed the amount by which the costs of operation of the center in such fiscal year exceed the total of—

"(i) State, local, and other operational funding provided to the center; and

"(ii) the fees, premiums, and third-party reimbursements, which the center may reasonably be expected to receive for its operations in such fiscal year.

"(B) PAYMENTS.—Payments under grants under subparagraph (A) or (B) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments.

"(C) USE OF NONGRANT FUNDS.—Nongrant funds described in clauses (i) and (ii) of subparagraph (A), including any such funds in excess of those originally expected, shall be used as permitted under this section, and may be used for such other purposes as are not specifically prohibited under this section if such use furthers the objectives of the project.

"(f) INFANT MORTALITY GRANTS.—

"(1) IN GENERAL.—The Secretary may make grants to health centers for the purpose of assisting such centers in—

"(A) providing comprehensive health care and support services for the reduction of—

"(i) the incidence of infant mortality; and

"(ii) morbidity among children who are less than 3 years of age; and

"(B) developing and coordinating service and referral arrangements between health centers and other entities for the health management of pregnant women and children described in subparagraph (A).

"(2) PRIORITY.—In making grants under this subsection the Secretary shall give priority to health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.

"(3) REQUIREMENTS.—The Secretary may make a grant under this subsection only if the health center involved agrees that—

"(A) the center will coordinate the provision of services under the grant to each of the recipients of the services;

"(B) such services will be continuous for each such recipient;

"(C) the center will provide follow-up services for individuals who are referred by the center for services described in paragraph (1);

"(D) the grant will be expended to supplement, and not supplant, the expenditures of the center for primary health services (including prenatal care) with respect to the purpose described in this subsection; and

"(E) the center will coordinate the provision of services with other maternal and child health providers operating in the catchment area.

"(g) MIGRATORY AND SEASONAL AGRICULTURAL WORKERS.—

"(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (e), and (f) for the planning and delivery of services to a special medically underserved population comprised of—

"(A) migratory agricultural workers, seasonal agricultural workers, and members of the families of such migratory and seasonal agricultural workers who are within a designated catchment area; and

"(B) individuals who have previously been migratory agricultural workers but who no longer meet the requirements of subparagraph (A) of paragraph (3) because of age or disability and members of the families of such individuals who are within such catchment area.

"(2) ENVIRONMENTAL CONCERNS.—The Secretary may enter into grants or contracts under this subsection with public and private entities to—

"(A) assist the States in the implementation and enforcement of acceptable environmental health standards, including enforcement of standards for sanitation in migratory agricultural worker labor camps, and applicable Federal and State pesticide control standards; and

"(B) conduct projects and studies to assist the several States and entities which have received grants or contracts under this section in the assessment of problems related to camp and field sanitation, exposure to unsafe levels of agricultural chemicals including pesticides, and other environmental health hazards to which migratory agricultural workers and members of their families are exposed.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) MIGRATORY AGRICULTURAL WORKER.—The term 'migratory agricultural worker' means an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last 24 months, and who establishes for the purposes of such employment a temporary abode.

"(B) SEASONAL AGRICULTURAL WORKER.—The term 'seasonal agricultural worker' means an individual whose principal employment is in agriculture on a seasonal basis and who is not a migratory agricultural worker.

"(C) AGRICULTURE.—The term 'agriculture' means farming in all its branches, including—

"(i) cultivation and tillage of the soil;

"(ii) the production, cultivation, growing, and harvesting of any commodity grown on, in, or as an adjunct to or part of a commodity grown in or on, the land; and

"(iii) any practice (including preparation and processing for market and delivery to storage or to market or to carriers for transportation to market) performed by a farmer or on a farm incident to or in conjunction with an activity described in clause (ii).

"(h) HOMELESS POPULATION.—

"(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (e), and (f) for the planning and delivery of services to a special medically underserved population comprised of homeless individuals, including grants for innovative programs that provide outreach and comprehensive primary health services to homeless children and children at risk of homelessness.

"(2) REQUIRED SERVICES.—In addition to required primary health services (as defined in subsection (b)(1)), an entity that receives a grant under this subsection shall be required to provide substance abuse services as a condition of such grant.

"(3) SUPPLEMENT NOT SUPPLANT REQUIREMENT.—A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

"(4) DEFINITIONS.—For purposes of this section:

"(A) HOMELESS INDIVIDUAL.—The term 'homeless individual' means an individual who lacks housing (without regard to whether the individual is a member of a family), including an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations and an individual who is a resident in transitional housing.

"(B) SUBSTANCE ABUSE.—The term 'substance abuse' has the same meaning given such term in section 534(4).

"(C) SUBSTANCE ABUSE SERVICES.—The term 'substance abuse services' includes detoxification and residential treatment for substance abuse provided in settings other than hospitals.

"(i) RESIDENTS OF PUBLIC HOUSING.—

"(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (e), and (f) for the planning and delivery of services to a special medically underserved population comprised of residents of public housing (such term, for purposes of this subsection, shall have the same meaning given such term in section 3(b)(1) of the United States Housing Act of 1937) and individuals living in areas immediately accessible to such public housing.

"(2) SUPPLEMENT NOT SUPPLANT.—A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

"(3) CONSULTATION WITH RESIDENTS.—The Secretary may not make a grant under paragraph (1) unless, with respect to the residents of the public housing involved, the applicant for the grant—

"(A) has consulted with the residents in the preparation of the application for the grant; and

"(B) agrees to provide for ongoing consultation with the residents regarding the planning and administration of the program carried out with the grant.

"(j) APPLICATIONS.—

"(1) SUBMISSION.—No grant may be made under this section unless an application therefore is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(2) DESCRIPTION OF NEED.—An application for a grant under subparagraph (A) or (B) of subsection (e)(1) for a health center shall include—

"(A) a description of the need for health services in the catchment area of the center;

"(B) a demonstration by the applicant that the area or the population group to be served by the applicant has a shortage of personal health services; and

"(C) a demonstration that the center will be located so that it will provide services to the greatest number of individuals residing in the catchment area or included in such population group.

Such a demonstration shall be made on the basis of the criteria prescribed by the Secretary under subsection (b)(3) or on any other criteria which the Secretary may prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services. In considering an application for a grant under subparagraph (A) or (B) of subsection (e)(1), the Secretary may require as a condition to the approval of such application an assurance that the applicant will provide any health service defined under paragraphs (1) and (2) of subsection (b) that the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided to the applicant.

"(3) REQUIREMENTS.—Except as provided in subsection (e)(1)(B), the Secretary may not approve an application for a grant under subparagraph (A) or (B) of subsection (e)(1) unless the Secretary determines that the entity for which the application is submitted is a health center (within the meaning of subsection (a)) and that—

"(A) the required primary health services of the center will be available and accessible in the catchment area of the center promptly, as appropriate, and in a manner which assures continuity;

"(B) the center has made and will continue to make every reasonable effort to establish and maintain collaborative relationships with other health care providers in the catchment area of the center;

"(C) the center will have an ongoing quality improvement system that includes clinical services and management, and that maintains the confidentiality of patient records;

"(D) the center will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

"(E) the center—

"(i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan; or

"(ii) has made or will make every reasonable effort to enter into such an arrangement;

"(F) the center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

"(G) the center—

"(i) has prepared a schedule of fees or payments for the provision of its services consistent with locally prevailing rates or charges and designed to cover its reasonable costs of operation and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay;

"(ii) has made and will continue to make every reasonable effort—

"(I) to secure from patients payment for services in accordance with such schedules; and

"(II) to collect reimbursement for health services to persons described in subparagraph (F) on the basis of the full amount of fees and payments for such services without application of any discount; and

"(iii) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph;

"(H) the center has established a governing board which except in the case of an entity operated by an Indian tribe or tribal or Indian organization under the Indian Self-Determination Act or an urban Indian organization under the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.)—

"(i) is composed of individuals, a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center;

"(ii) meets at least once a month, selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center (as defined in the second sentence of this paragraph), establishes general policies for the center; and

"(iii) in the case of an application for a second or subsequent grant for a public center, has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;

except that, upon a showing of good cause the Secretary shall waive, for the length of the project period, all or part of the requirements of this subparagraph in the case of a health center that receives a grant pursuant to subsection (g), (h), (i), or (p);

"(I) the center has developed—

"(i) an overall plan and budget that meets the requirements of the Secretary; and

"(ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to—

"(I) the costs of its operations;

"(II) the patterns of use of its services;

"(III) the availability, accessibility, and acceptability of its services; and

"(IV) such other matters relating to operations of the applicant as the Secretary may require;

"(J) the center will review periodically its catchment area to—

"(i) ensure that the size of such area is such that the services to be provided through the center (including any satellite) are available and accessible to the residents of the area promptly and as appropriate;

"(ii) ensure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs; and

"(iii) ensure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the center, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social grouping, and available transportation;

"(K) in the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, the center has—

"(i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals; and

"(ii) identified an individual on its staff who is fluent in both that language and in English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences; and

"(L) the center, has developed an ongoing referral relationship with one or more hospitals.

For purposes of subparagraph (H), the term 'public center' means a health center funded (or to be funded) through a grant under this section to a public agency.

"(4) APPROVAL OF NEW OR EXPANDED SERVICE APPLICATIONS.—The Secretary shall approve applications for grants under subparagraph (A) or (B) of subsection (e)(1) for health centers which—

"(A) have not received a previous grant under such subsection; or

"(B) have applied for such a grant to expand their services;

in such a manner that the ratio of the medically underserved populations in rural areas which may be expected to use the services provided by such centers to the medically underserved populations in urban areas which may be expected to use the services provided by such centers is not less than two to three or greater than three to two.

"(k) TECHNICAL AND OTHER ASSISTANCE.—The Secretary may provide (either through the Department of Health and Human Services or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to any public or private nonprofit entity to assist entities in developing plans for, or operating as, health centers, and in meeting the requirements of subsection (j)(2).

"(l) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section, in addition to the amounts authorized to be appropriated under subsection (d), there are authorized to be appropriated $802,124,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.

"(2) SPECIAL PROVISIONS.—

"(A) PUBLIC CENTERS.—The Secretary may not expend in any fiscal year, for grants under this section to public centers (as defined in the second sentence of subsection (j)(3)) the governing boards of which (as described in subsection (j)(3)(G)(ii)) do not establish general policies for such centers, an amount which exceeds 5 percent of the amounts appropriated under this section for that fiscal year. For purposes of applying the preceding sentence, the term 'public centers' shall not include health centers that receive grants pursuant to subsection (h) or (i).

"(B) DISTRIBUTION OF GRANTS.—

"(i) FISCAL YEAR 1997.—For fiscal year 1997, the Secretary, in awarding grants under this section shall ensure that the amounts made available under each of subsections (g), (h), and (i) in such fiscal year bears the same relationship to the total amount appropriated for such fiscal year under paragraph (1) as the amounts appropriated for fiscal year 1996 under each of sections 329, 340, and 340A (as such sections existed one day prior to the date of enactment of this section) bears to the total amount appropriated under sections 329, 330, 340, and 340A (as such sections existed one day prior to the date of enactment of this section) for such fiscal year.

"(ii) FISCAL YEARS 1998 AND 1999.—For each of the fiscal years 1998 and 1999, the Secretary, in awarding grants under this section shall ensure that the proportion of the amounts made available under each of subsections (g), (h), and (i) is equal to the proportion of amounts made available under each such subsection for the previous fiscal year, as such amounts relate to the total amounts appropriated for the previous fiscal year involved, increased or decreased by not more than 10 percent.

"(3) FUNDING REPORT.—The Secretary shall annually prepare and submit to the appropriate committees of Congress a report concerning the distribution of funds under this section that are provided to meet the health care needs of medically underserved populations, including the homeless, residents of public housing, and migratory and seasonal agricultural workers, and the appropriateness of the delivery systems involved in responding to the needs of the particular populations. Such report shall include an assessment of the relative health care access needs of the targeted populations and the rationale for any substantial changes in the distribution of funds.

"(m) MEMORANDUM OF AGREEMENT.—In carrying out this section, the Secretary may enter into a memorandum of agreement with a State. Such memorandum may include, where appropriate, provisions permitting such State to—

"(1) analyze the need for primary health services for medically underserved populations within such State;

"(2) assist in the planning and development of new health centers;

"(3) review and comment upon annual program plans and budgets of health centers, including comments upon allocations of health care resources in the State;

"(4) assist health centers in the development of clinical practices and fiscal and administrative systems through a technical assistance plan which is responsive to the requests of health centers; and

"(5) share information and data relevant to the operation of new and existing health centers.

"(n) RECORDS.—

"(1) IN GENERAL.—Each entity which receives a grant under subsection (e) shall establish and maintain such records as the Secretary shall require.

"(2) AVAILABILITY.—Each entity which is required to establish and maintain records under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

"(o) DELEGATION OF AUTHORITY.—The Secretary may delegate the authority to administer the programs authorized by this section to any office, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.

"(p) SPECIAL CONSIDERATION.—In making grants under this section, the Secretary shall give special consideration to the unique needs of sparsely populated rural areas, including giving priority in the awarding of grants for new health centers under subsections (c) and (e), and the granting of waivers as appropriate and permitted under subsections (b)(1)(B)(i) and (j)(3)(G).

"(q) AUDITS.—

"(1) IN GENERAL.—Each entity which receives a grant under this section shall provide for an independent annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant and such other funds received by or allocated to the project for which such grant was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with generally accepted accounting principles. Each audit shall evaluate—

"(A) the entity's implementation of the guidelines established by the Secretary respecting cost accounting,

"(B) the processes used by the entity to meet the financial and program reporting requirements of the Secretary, and

"(C) the billing and collection procedures of the entity and the relation of the procedures to its fee schedule and schedule of discounts and to the availability of health insurance and public programs to pay for the health services it provides.

A report of each such audit shall be filed with the Secretary at such time and in such manner as the Secretary may require.

"(2) RECORDS.—Each entity which receives a grant under this section shall establish and maintain such records as the Secretary shall by regulation require to facilitate the audit required by paragraph (1). The Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

"(3) AVAILABILITY OF RECORDS.—Each entity which is required to establish and maintain records or to provide for and audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

"(4) WAIVER.—The Secretary may, under appropriate circumstances, waive the application of all or part of the requirements of this subsection with respect to an entity.".

SEC. 3. RURAL HEALTH OUTREACH, NETWORK DEVELOPMENT, AND TELEMEDICINE GRANT PROGRAM.

(a) IN GENERAL.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as amended by section 2) is further amended by adding at the end thereof the following new section:

"SEC. 330A. RURAL HEALTH OUTREACH, NETWORK DEVELOPMENT, AND TELEMEDICINE GRANT PROGRAM.

"(a) ADMINISTRATION.—The rural health services outreach demonstration grant program established under section 301 shall be administered by the Office of Rural Health Policy (of the Health Resources and Services Administration), in consultation with State rural health offices or other appropriate State governmental entities.

"(b) GRANTS.—Under the program referred to in subsection (a), the Secretary, acting through the Director of the Office of Rural Health Policy, may award grants to expand access to, coordinate, restrain the cost of, and improve the quality of essential health care services, including preventive and emergency services, through the development of integrated health care delivery systems or networks in rural areas and regions.

"(c) ELIGIBLE NETWORKS.—

"(1) OUTREACH NETWORKS.—To be eligible to receive a grant under this section, an entity shall—

"(A) be a rural public or nonprofit private entity that is or represents a network or potential network that includes three or more health care providers or other entities that provide or support the delivery of health care services; and

"(B) in consultation with the State office of rural health or other appropriate State entity, prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

"(i) a description of the activities which the applicant intends to carry out using amounts provided under the grant;

"(ii) a plan for continuing the project after Federal support is ended;

"(iii) a description of the manner in which the activities funded under the grant will meet health care needs of underserved rural populations within the State; and

"(iv) a description of how the local community or region to be served by the network or proposed network will be involved in the development and ongoing operations of the network.

"(2) FOR-PROFIT ENTITIES.—An eligible network may include for-profit entities so long as the network grantee is a nonprofit entity.

"(3) TELEMEDICINE NETWORKS.—

"(A) IN GENERAL.—An entity that is a health care provider and a member of an existing or proposed telemedicine network, or an entity that is a consortium of health care providers that are members of an existing or proposed telemedicine network shall be eligible for a grant under this section.

"(B) REQUIREMENT.—A telemedicine network referred to in subparagraph (A) shall, at a minimum, be composed of—

"(i) a multispecialty entity that is located in an urban or rural area, which can provide 24-hour a day access to a range of specialty care; and

"(ii) at least two rural health care facilities, which may include rural hospitals, rural physician offices, rural health clinics, rural community health clinics, and rural nursing homes.

"(d) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to applicant networks that include—

"(1) a majority of the health care providers serving in the area or region to be served by the network;

"(2) any federally qualified health centers, rural health clinics, and local public health departments serving in the area or region;

"(3) outpatient mental health providers serving in the area or region; or

"(4) appropriate social service providers, such as agencies on aging, school systems, and providers under the women, infants, and children program, to improve access to and coordination of health care services.

"(e) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts provided under grants awarded under this section shall be used—

"(A) for the planning and development of integrated self-sustaining health care networks; and

"(B) for the initial provision of services.

"(2) EXPENDITURES IN RURAL AREAS.—

"(A) IN GENERAL.—In awarding a grant under this section, the Secretary shall ensure that not less than 50 percent of the grant award is expended in a rural area or to provide services to residents of rural areas.

"(B) TELEMEDICINE NETWORKS.—An entity described in subsection (c)(3) may not use in excess of—

"(i) 40 percent of the amounts provided under a grant under this section to carry out activities under paragraph (3)(A)(iii); and

"(ii) 20 percent of the amounts provided under a grant under this section to pay for the indirect costs associated with carrying out the purposes of such grant.

"(3) TELEMEDICINE NETWORKS.—

"(A) IN GENERAL.—An entity described in subsection (c)(3), may use amounts provided under a grant under this section to—

"(i) demonstrate the use of telemedicine in facilitating the development of rural health care networks and for improving access to health care services for rural citizens;

"(ii) provide a baseline of information for a systematic evaluation of telemedicine systems serving rural areas;

"(iii) purchase or lease and install equipment; and

"(iv) operate the telemedicine system and evaluate the telemedicine system.

"(B) LIMITATIONS.—An entity described in subsection (c)(3), may not use amounts provided under a grant under this section—

"(i) to build or acquire real property;

"(ii) purchase or install transmission equipment (such as laying cable or telephone lines, microwave towers, satellite dishes, amplifiers, and digital switching equipment); or

"(iii) for construction, except that such funds may be expended for minor renovations relating to the installation of equipment;

"(f) TERM OF GRANTS.—Funding may not be provided to a network under this section for in excess of a 3-year period.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $36,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.".

(b) TRANSITION.—The Secretary of Health and Human Services shall ensure the continued funding of grants made, or contracts or cooperative agreements entered into, under subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as such subpart existed on the day prior to the date of enactment of this Act), until the expiration of the grant period or the term of the contract or cooperative agreement. Such funding shall be continued under the same terms and conditions as were in effect on the date on which the grant, contract or cooperative agreement was awarded, subject to the availability of appropriations.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—The Public Health Service Act is amended—

(1) in section 224(g)(4) (42 U.S.C. 233(g)(4)), by striking "under" and all that follows through the end thereof and inserting "under section 330.";

(2) in section 340C(a)(2) (42 U.S.C. 256c) by striking "under" and all that follows through the end thereof and inserting "with assistance provided under section 330."; and

(3) by repealing subparts V and VI of part D of title III (42 U.S.C. 256 et seq.).

(b) SOCIAL SECURITY ACT.—The Social Security Act is amended—

(1) in clauses (i) and (ii)(I) of section 1861(aa)(4)(A) (42 U.S.C. 1395x(aa)(4)(A)(i) and (ii)(I)) by striking "section 329, 330, or 340" and inserting "section 330 (other than subsection (h))"; and

(2) in clauses (i) and (ii)(II) of section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)(i) and (ii)(II)) by striking "section 329, 330, 340, or 340A" and inserting "section 330".

(c) REFERENCES.—Whenever any reference is made in any provision of law, regulation, rule, record, or document to a community health center, migrant health center, public housing health center, or homeless health center, such reference shall be considered a reference to a health center.

(d) FTCA CLARIFICATION.—For purposes of section 224(k)(3) of the Public Health Service Act (42 U.S.C. 233(k)(3)), transfers from the fund described in such section for fiscal year 1996 shall be deemed to have occurred prior to December 31, 1995.

(e) ADDITIONAL AMENDMENTS.—After consultation with the appropriate committees of the Congress, the Secretary of Health and Human Services shall prepare and submit to the Congress a legislative proposal in the form of an implementing bill containing technical and conforming amendments to reflect the changes made by this Act.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on October 1, 1997.

Mr. DORGAN. Mr. President, I wonder if the Senator from Mississippi will yield?

Mr. LOTT. I will be glad to yield.

FEDERAL JUDGES

Mr. DORGAN. I ask the Senator whether any of the unanimous consent requests he is intending to propound would include the clearing of any judgeships. If so, we would certainly be favorably disposed to not object to that. If not, I am wondering if just in this moment I might learn whether we would have an opportunity to clear any additional judges that are now waiting clearance?

Mr. LOTT. Mr. President, I do not believe there are any judges on this list that have been cleared tonight. There is—hope springs eternal. I know the Judiciary Committee had a meeting this week. There was some discussion about some of the judges that are pending. I believe there are only six judges that are on the calendar before the Senate at this time, four circuit judges and two district judges.

None of those have been cleared through the process at this point.

Mr. DORGAN. If the Senator will further yield, I want to make the point there are 22 additional judges awaiting action by the Judiciary Committee. I heard from some that there is no intention of clearing additional judges. My hope is that would not be the case.

I wonder if the Senator expects we might be clearing additional judges?

Mr. LOTT. I am not on the Judiciary Committee. I have discussed it with the chairman and other members of the committee. I don't think any decision has been made yet on whether or not they might report some more. I know they are looking at some of them. I will note 4 years ago at this time, I believe there were 50 Federal judges that had been nominated that were left either in the committee or on the Calendar.

Numberwise, I think we are probably in much better shape than the situation was 4 years ago. And I must say, I am pleased that I was able to work with Members on both sides of the aisle in July, for the most part, and early August. We cleared 17 judges, some of whom had been pending on the Calendar for 6 or 7 months—17 out of 23.

So we did pretty good work. Some of them were controversial, and it took more than one try. In fact, I think I tried 3 times on a block of 9 judges, but we did get 17 of them done. I thought that was good progress.

Mr. DORGAN. If I might, Mr. President, with the consent of the Senator from Mississippi, observe, he deserves commendation for getting some of these judgeships moving. He did work on them very hard. I will just say, I don't think we have done as well as we did 2 years ago. It is true, 50 were left, but we cleared far more 2 years ago, 4 years ago, 6 years ago. The reason so many were left is they were submitted late.

The fact is, I don't think we have done as good a job as I think we should for the Judiciary. We tried hard not only to get a CR passed but also clear some of these judges on the Calendar, as well as those awaiting action by the Judiciary Committee. I appreciate the Senator yielding.

FEDERAL LAW ENFORCEMENT DEPENDENTS ASSISTANCE ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2101, introduced earlier today by Senator SPECTER, for himself and others.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2101) to provide educational assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SPECTER. Mr. President, I have sought recognition to comment on legislation which the Senate is considering today, the Federal Law Enforcement Dependents Assistance Act of 1996. This bipartisan legislation is a revised version of S. 1243, which I introduced with four cosponsors on September 14, 1995.

This legislation will provide educational assistance to spouses and children of Federal law enforcement officers who are killed or totally and permanently disabled in the line of duty. Similar educational benefits are provided to the spouses and children of Armed Forces personnel killed in the line of duty, but not to dependents of the brave men and women in Federal law enforcement. I am advised that many State and local governments provide educational and job training assistance to dependents of law enforcement personnel. It is time to level the playing field for Federal law enforcement.

I first became aware of this discrepancy when I met with Mrs. Karen Degan, the widow of U.S. Marshal Bill Degan of Quincy, MA, who died during the tragic shooting incident at Ruby Ridge in August, 1992. Bill Degan left behind a loving wife and two sons, William and Brian, whom I have also had the pleasure of meeting. Bill Degan had been in the Marshals Service for 17 years at the time of his death. Karen Degan began in 1993 to work with Congress to develop a program for higher education assistance for dependents of slain Justice Department officers. At her suggestion, I introduced S. 1243 on September 14, 1995, during the Ruby Ridge hearings, with bipartisan cosponsors from the Judiciary Committee.

I would prefer that we did not have to worry about death and disabling injuries for Federal law enforcement officers, but it is a fact of life that we have lost a number of Federal law enforcement officers in the line of duty in recent years. In my own State of Pennsylvania, on March 22, 1996, FBI Special Agent Charles Reed was killed in Philadelphia in a shootout with a suspect drug dealer during an undercover drug investigation. Agent Reed lived in Lower Salford Township, PA and is survived by his wife, Susan and children, Joshua, age 21, Todd 18, and Kelley, 17. Similarly, two Washington, DC FBI agents, Martha Martinez and Michael Miller, were slain in November 1995, in the Washington, DC police headquarters, leaving behind loved ones of their own.

Since the introduction of S. 1243 last year, I have been working with my colleagues and the administration to fashion legislation acceptable to all parties. This revised bill makes the educational assistance available to all Federal law enforcement officers, not just those within the Justice Department. I would note that the program is subject to appropriations and does not constitute an entitlement. Financial assistance can last for up to 45 months of education or a proportional period of time for a part-time program. Financial assistance will be based on the amounts provided under the Veterans program, which is currently $404 a month for fulltime students. Significantly, the Attorney General may provide retroactive assistance to dependents eligible under this program where a law enforcement officer was killed in the line of duty on or after May 1, 1992.

This legislation is supported by the Federal Law Enforcement Officers Association, and I ask unanimous consent to have printed in the RECORD a letter to me from Victor Oboyski, dated September 18, 1996, which reflects their views.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL LAW ENFORCEMENT
OFFICERS ASSOCIATION,
September 18, 1996.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: On behalf of the over 12,000 members of the Federal Law Enforcement Officers Association (FLEOA), the largest association representing Federal criminal investigators in the nation, I am pleased to inform you that we fully support S. 1243, the "Federal Law Enforcement Dependents Assistance Act of 1996." I also want to thank you for proposing this fine piece of legislation.

As you may already know, many state and local municipalities currently have legislation which ensures that the dependents of local officers killed or disabled in the line of duty receive assistance towards education or job training. Also, many local police agencies provide for the continuing education of survivors under the same circumstances. None of this exists at the Federal level. S. 1234 will correct this oversight regarding Federal law enforcement officers.

If you or your staff wish to contact me please call 212-637-6543, fax 212-637-6548.

Very truly yours,

VICTOR OBOYSKI,
National President.

Mr. BIDEN. Mr. President, I rise as a cosponsor of the Federal Law Enforcement Dependents Assistance Act and to call on all of my Senate colleagues to support this bill.

Unfortunately, over the past 2 years, many in this Congress have taken the occasion—time and again—to second-guess and criticize law enforcement officers. We heard these criticisms throughout the debate on terrorism legislation—beginning last year, and it continues to this day. As I have pointed out on the floor of the Senate before, I call on us all to remember that it is the terrorists and the violent criminals who deserve our contempt and it is law enforcement officers who deserve our trust and respect.

This bill offers modest recognition of the tremendous service to our Nation by Federal law enforcement officers—DEA agents, FBI agents, U.S. marshals, border patrol officers, Customs officers, ATF agents, Secret Service agents among many others. This bill does so by authorizing the Federal Government to pay education benefits to the children and spouses of Federal law enforcement officers who are killed or suffer a total and permanent disability in the line of duty.

In doing so, this bill recognizes that by virtue of these officers supreme sacrifice to the Nation, the families of these fallen officers are no longer provided for. And, more importantly, this bill will offer a tangible sign of the Nation's respect for those who gave their lives in service to us all.

I urge my colleagues to support this bill, and I also want to put my colleagues on notice that in the years ahead we must follow up by actually appropriating the dollars necessary to deliver on today's commitment.

I yield the floor.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2101) was deemed read the third time and passed, as follows:

S. 2101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Law Enforcement Dependents Assistance Act of 1996".

SEC. 2. EDUCATIONAL ASSISTANCE TO DEPENDENTS OF SLAIN FEDERAL LAW ENFORCEMENT OFFICERS.

Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended by—

(1) inserting after the heading the following: **"Subpart 1—Death Benefits"**; and

(2) adding at the end the following:

"Subpart 2—Educational Assistance to Dependents of Civilian Federal Law Enforcement Officers Killed or Disabled in the Line of Duty

"SEC. 1211. PURPOSES.

"The purposes of this subpart are—

"(1) to enhance the appeal of service in civilian Federal law enforcement agencies;

"(2) to extend the benefits of higher education to qualified and deserving persons who, by virtue of the death of or a total disability of an eligible officer, may not be able to afford it otherwise; and

"(3) to allow the family members of eligible officers to attain the vocational and educational status which they would have attained had a parent or spouse not been killed or disabled in the line of duty.

"SEC. 1212. BASIC ELIGIBILITY.

"(a) Benefits.—(1) Subject to the availability of appropriations, the Attorney General shall provide financial assistance to a dependent who attends a program of education and is—

"(A) the child of any eligible Federal law enforcement officer under subpart 1; or

"(B) the spouse of an officer described in subparagraph (A) at the time of the officer's death or on the date of a totally and permanently disabling injury.

"(2) Financial assistance under this subpart shall consist of direct payments to an eligible dependent and shall be computed on the basis set forth in section 3532 of title 38, United States Code.

"(b) Duration of Benefits.—No dependent shall receive assistance under this subpart for a period in excess of forty-five months of full-time education or training or a proportional period of time for a part-time program.

"(c) Age Limitation for Dependent Children.—No dependent child shall be eligible for assistance under this subpart after the child's 27th birthday absent a finding by the Attorney General of extraordinary circumstances precluding the child from pursuing a program of education.

"SEC. 1213. APPLICATIONS; APPROVAL.

"(a) Application.—A person seeking assistance under this subpart shall submit an application to the Attorney General in such form and containing such information as the Attorney General reasonably may require.

"(b) Approval.—The Attorney General shall approve an application for assistance under this subpart unless the Attorney General finds that—

"(1) the dependent is not eligible for, is no longer eligible for, or is not entitled to the assistance for which application is made;

"(2) the dependent's selected educational institution fails to meet a requirement under this subpart for eligibility;

"(3) the dependent's enrollment in or pursuit of the educational program selected would fail to meet the criteria established in this subpart for programs; or

"(4) the dependent already is qualified by previous education or training for the educational, professional, or vocational objective for which the educational program is offered.

"(c) Notification.—The Attorney General shall notify a dependent applying for assistance under this subpart of approval or disapproval of the application in writing.

"SEC. 1214. REGULATIONS.

The Attorney General may promulgate reasonable and necessary regulations to implement this subpart.

"SEC. 1215. DISCONTINUATION FOR UNSATISFACTORY CONDUCT OR PROGRESS.

"The Attorney General may discontinue assistance under this subpart when the Attorney General finds that, according to the regularly prescribed standards and practices of the educational institution, the recipient fails to maintain satisfactory progress as described in section 484(c) of the Higher Education Act of 1965 (20 U.S.C. 1091(c)).

"SEC. 1216. SPECIAL RULE.

"(a) Retroactive Eligibility.—Notwithstanding any other provision of law, each dependent of a Federal law enforcement officer killed in the line of duty on or after May 1, 1992, shall be eligible for assistance under this subpart, subject to the other limitations of this subpart.

"(b) Retroactive Assistance.—The Attorney General may provide retroactive assistance to dependents eligible under this section for each month in which the dependent pursued a program of education at an eligible educational institution. The Attorney General shall apply the limitations contained in this subpart to retroactive assistance.

"(c) Prospective Assistance.—The Attorney General may provide prospective assistance to dependents eligible under this section on the same basis as assistance to dependents otherwise eligible. In applying the limitations on assistance under this subpart, the Attorney General shall include assistance provided retroactively. A dependent eligible under this section may waive retroactive assistance and apply only for prospective assistance on the same basis as dependents otherwise eligible.

"SEC. 1217. DEFINITIONS.

"For purposes of this subpart:

"(1) The term 'Attorney General' means the Attorney General of the United States.

"(2) The term 'Federal law enforcement officer' has the same meaning as under subpart 1.

"(3) The term 'program of education' means any curriculum or any combination of unit courses or subjects pursued at an eligible educational institution, which generally is accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. It includes course work for the attainment of more than one objective if in addition to the previous requirements, all the objectives generally are recognized as reasonably related to a single career field.

"(4) The term 'eligible educational institution' means an institution which—

"(A) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section; and

"(B) is eligible to participate in programs under title IV of such Act.

"SEC. 1218. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart such sums as may be necessary.".

PAROLE COMMISSION PHASEOUT ACT OF 1996

Mr. LOTT. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on (S. 1507) to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1507) entitled "An Act to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Parole Commission Phaseout Act of 1996".

SEC. 2. EXTENSION OF PAROLE COMMISSION.

(a) In General.—For purposes of section 235(b) of the Sentencing Reform Act of 1984 (98 Stat. 2032) as it related to chapter 311 of title 18, United States Code, and the Parole Commission, each reference in such section to "ten years" or "ten-year period" shall be deemed to be a reference to "fifteen years" or "fifteen-year period", respectively.

(b) Powers and Duties of Parole Commission.—Notwithstanding section 4203 of title 18, United States Code, the United States Parole Commission may perform its functions with any quorum of Commissioners, or Commissioner, as the Commission may prescribe by regulation.

(c) Reduction in Size.—

(1) Effective December 31, 1999, the total number of Commissioners of the United States Parole Commission shall not be greater than 2. To the extent necessary to achieve this reduction, the Commissioner or Commissioners least senior in service shall cease to hold office.

(2) Effective December 31, 2001, the United States Parole Commission shall consist only of that Commissioner who is the Chairman of the Commission.

(3) Effective when the Commission consists of only one Commissioner—

(A) that Commissioner (or in the Commissioner's absence, the Attorney General) may delegate to one or more hearing examiners the power set forth in paragraphs (1) through (4) of section 4203(b) of title 18, United States Code; and

(B) decisions made pursuant to such delegation shall take effect when made, but shall be subject to review and modification by the Commissioner.

SEC. 3. REPORTS BY THE ATTORNEY GENERAL.

(a) In General.—Beginning in the year 1998, the Attorney General shall report to the Congress not later than May 1 of each year through the year 2002 on the status of the United States Parole Commission. Unless the Attorney General, in such report, certifies that the continuation of the Commission is the most effective

and cost-efficient manner for carrying out the Commission's functions, the Attorney General shall include in such report an alternative plan for a transfer of the Commission's function to another entity.

(b) TRANSFER WITHIN THE DEPARTMENT OF JUSTICE.—

(1) EFFECT OF PLAN.—If the Attorney General includes such a plan in the report, and that plan provides for the transfer of the Commission's functions and powers to another entity within the Department of Justice, such plan shall take effect according to its terms on November 1 of that year in which the report is made, unless Congress by law provides otherwise. In the event such plan takes effect, all laws pertaining to the authority and jurisdiction of the Commission with respect to individual offenders shall remain in effect notwithstanding the expiration of the period specified in section 2 of this Act.

(2) CONDITIONAL REPEAL.—Effective on the date such plan takes effect, paragraphs (3) and (4) of section 235(b) of the Sentencing Reform Act of 1984 (98 Stat. 2032) are repealed.

SEC. 4. REPEAL.

Section 235(b)(2) of the Sentencing Reform Act of 1984 (98 Stat. 2032) is repealed.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 2102

Mr. LOTT. Mr. President, I ask unanimous consent that S. 2102, introduced earlier today by Senator HATFIELD, be placed on the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—INTERNATIONAL NATURAL RUBBER AGREEMENT

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to executive session to consider Executive Calendar No. 23, the international natural rubber agreement and that the treaty be considered to have proceeded through its parliamentary stages, up to and including the presentation of the resolution of ratification, and that the committee declaration be deemed agreed to; that there be 1 hour for debate, with 30 minutes under the control of Senator BROWN and 30 minutes equally divided between Senators HELMS and PELL; further, following the expiration or yielding back of time, the matter be temporarily set aside and a vote occur on the resolution of ratification, with no intervening action or debate, at a time to be determined by the majority leader, after consultation with the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, SEPTEMBER 24, 1996

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Tuesday, September 24; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved, and that there then be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak for not more than 5 minutes each, with the following exception for the time designated: Senator NUNN for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I further ask unanimous consent that the Senate stand in recess on Tuesday, September 24, between the hours of 12:30 p.m. and 2:15 p.m. in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of my colleagues, there will be no session of the Senate on Monday in recognition of the religious holiday. On Tuesday, following morning business, it is anticipated that the Senate will begin consideration of the continuing resolution, if available. Rollcall votes can, therefore, be expected throughout the day on Tuesday. As a reminder, there will be several votes at 5 p.m. on Tuesday afternoon on or in relation to amendments and passage of the maritime bill.

RECESS UNTIL 9:30 A.M., TUESDAY, SEPTEMBER 24, 1996

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate now stand in recess under the previous order.

There being no objection, the Senate, at 4:02 p.m., recessed until Tuesday, September 24, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 20, 1996:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

RICHARD J. TARPLIN, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE JERRY D. KLEPNER, RESIGNED.

EXTENSIONS OF REMARKS

MARKING THE 200TH BIRTHDAY OF EUCLID, OH: A SPECIAL SALUTE TO THE FOUNDING FATHERS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 20, 1996

Mr. STOKES. Mr. Speaker, the residents of Euclid, OH, will be celebrating their 200-year heritage on Sunday, September 29, 1996. The historic event being observed occurred on September 30, 1796. On that date in Cleveland—the newly selected headquarters for the Western Reserve—a contract was entered into between the Connecticut Land Co. Superintendent General Moses Cleaveland and 41 employees hired to survey the land. The formal document designated township 8, range 11 as Euclid Township. The agreement set the tract aside as available for purchase and settlement by the 41 men.

Today, neighboring Cuyahoga County communities share portions of the original 22,000 acres of the Euclid Township. East Cleveland, Cleveland Heights, South Euclid, Lyndhurst, Richmond Heights, and Cleveland all include portions of the Euclid Township of 1796.

Mr. Speaker, on August 11, 1959, Congresswoman Francis Bolton honored this historic event in the CONGRESSIONAL RECORD. Unfortunately, it did not accurately name the 41 individuals who were party to the contract.

As the city of Euclid celebrates its bicentennial, it is fitting that tribute is paid to the 41 men whose actions 200 years earlier helped to establish Euclid—then in the Northwest Territory, today in the great State of Ohio. Their names deserve recognition.

CORRECTIONS TO CONGRESSIONAL RECORD OF AUGUST 10, 1959

[Provided by the Euclid Historical Society]

Incorrect names	Corrected names
Machintire	Joseph McIntire.
Samuel Farber	Samuel Forbs.
Elysha Gunn	Elijah Gunn.
R. Stoddard	Richard M. Stoddard.
Amos Little	Dr. Theodore Shepherd.
Asa Mafan	Asa Mason.
Amazi Atwater	Amzi Atwater.
Ayers	Elisha Ayer.
Harris	Thomas Harris.
Norman Wallace	Norman Wilcox.
Timothy Dunbar	Timothy Dunham.
George	George Gooding.
Shadrasp Benham	Shadrach Benham.
W. Sheppard	Warham Shepherd.
John Durant	John Briant.
Joseph Lanon	Joseph Landon.
Ezekeal Marby	Ezekiel Morley.
Milton Hally	Milton Holley.
James Hachet	James Hacket.
Rise	Olney F. Rice.
Locke	John Lock.

H.R. 1111, VEHICLE FORFEITURE FOR REPEAT DRUNK DRIVERS

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 20, 1996

Mr. BLUMENAUER. Mr. Speaker, as sure as we are standing here tragedy will strike again on America's roadways. Within the next few weeks there will be another national example where repeat drunk drivers lay carnage on our streets.

Sadly, this is an all too frequent occurrence in our country. Over 17,000 people a year are killed because of drunk driving and hundreds of thousands are injured.

I have a longstanding commitment to doing everything possible to stop people from getting behind the wheel after drinking too much. As a member of the Portland City Council, I introduced the first ordinance in the country to take away the cars of repeat drunk drivers. This law has had a dramatic effect.

In Portland, we have confiscated almost a thousand cars and forfeited almost a third of those. Most importantly it has made a difference in terms of repeat drunk driving.

Last year when drunk driving deaths increased nationally, we saw a 42-percent decrease in Portland. Empirical studies show when you take away the car of the report drunk drivers it does get their attention, and the recidivism rate has dropped. This is a program that works.

Today I am announcing what will be my first piece of legislation as a Member of the U.S. Congress. Currently States must meet five of seven eligibility criteria to receive a share of the $25 million in Federal drunk driving countermeasure grants. My proposal will add another criterion to choose from, a program to confiscate the cars of repeat drunk drivers, like we've done in Portland.

I'm convinced that this simple step is going to move dramatically and spread the forfeiture concept around the country. Already, over 60 cities and counties have requested information on our program.

When so many issues pit one group against another, it is encouraging that taking away the cars of repeat drunk drivers has had such a broad coalition behind it. Law enforcement agencies, advocates like the Mothers Against Drunk Driving, beer and wine distributors, and others have all lent their support for Portland's program. I have begun to reach out to national coalitions and will continue to work with them on perfecting this bill.

FORD MOTOR CO.'S 250-MILLIONTH VEHICLE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 20, 1996

Mr. DINGELL. Mr. Speaker, on October 8 of this year, Ford Motor Co. will produce, somewhere in the world, its 250-millionth vehicle.

Since 1903, when Henry Ford's first car was built in Dearborn, MI, working men and women in Ford factories have pumped out an average of more than eight cars or trucks each minute.

All told, the Ford vehicles produced throughout history would stretch bumper-to-bumper around the world 30 times. They would reach 756,000 miles into space—to the Moon and another half-million miles beyond. And, they are estimated to have carried Ford customers in more than 200 countries some 25 trillion miles.

Henry Ford, indeed, put the world on wheels. His announcement in 1914 that he would pay workers $5 for an 8-hour day astounded the world. Today, the United Auto Workers and Ford share a heritage of innovative management-labor agreements that make Ford a leader in the field.

I know that my colleagues join me in saluting Ford Motor Co. for its innovation and its contribution to world prosperity. The coming milestone reminds us again of the advancement in mobility and progress we all enjoy.

IN HONOR OF THE PUERTO RICAN ASSOCIATION FOR HUMAN DEVELOPMENT: FOR YEARS OF DISTINGUISHED SERVICE TO THE HISPANIC COMMUNITY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 20, 1996

Mr. MENENDEZ. Mr. Speaker, I rise today to pay special tribute to the Puerto Rican Association for Human Development [PRAHD] for their endless contributions to Hispanic communities throughout New Jersey. For years, this agency has been committed to improving the standard of living of Hispanic families through the implementation of programs and services geared to address social, economic, health, and educational status. On September 21, 1996, PRAHD will be sponsoring the 10th Annual Roberto Clemente banquet, honoring four professionals and one business institution for their outstanding public service and community involvement.

Founded in 1974 as a charitable organization by the Hispanic leadership of the Perth

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Amboy area, the Puerto Rican Association for Human Development operates multiple service programs, such as day-care services, educational tutoring, emergency legal, housing, and medical assistance, drug prevention, youth and family counseling, and various senior services which serve more than 12,000 people annually. The agency is actively involved in creating alliances with other organizations to help revitalize communities by developing leadership and assisting people to link their needs with resources.

Since its inception, PRAHD has expanded to become a comprehensive service agency with a budget of over $1.6 million through funding from Federal, State, county, and city governments; the United Way of New Jersey; the United Way of TriCounty/IBM; the Turrell Fund; local corporations; and individual donors. The agency is governed by an 11-member board of directors selected from the community and is administered by Executive Director Lydia Trinidad, who is also PRAHD's chief executive officer. PRAHD also relies on the support and effort of community volunteers who work in all areas of agency operations.

This year's annual banquet sponsored by PRAHD will honor Eduardo Trujillo, president of ETC Enterprises, as outstanding business person; Dr. Jaime Santamaria, director of Santamaria/Kung Eye Center, as outstanding professional; Sgt. Benjamin Ruiz of the Perth Amboy Police Department, for outstanding law enforcement; Eladio Ruiz III, president of Amboy Florist, as outstanding volunteer; and the Corestates New Jersey National Bank will receive the Roberto Clemente Special Corporate Award.

I ask that my colleagues join me in recognizing the outstanding work of the Puerto Rican Association for Human Development and those honored at its annual banquet. I further commend their accomplishments and encourage them to continue to serve their communities for many more years to come.

HOUSE OF REPRESENTATIVES—*Monday, September 23, 1996*

The House met at 12 noon and was called to order by the Speaker pro tempore [Ms. GREENE of Utah].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 23, 1996.

I hereby designate the Honorable ENID GREENE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Rev. Mark D. Cooper, associate pastor, Lord of Life Lutheran Church, Fairfax, VA, offered the following prayer:

Almighty God, we pause for a moment before the day of work begins to open our hearts, to listen to the spirit within. Give us a sense of Your presence and of Your hope for Your creation. Bless these men and women who carry elected responsibility for leadership. Give them insight into the nature of the issues they face that they might bring wisdom where there is chaos, peace where there is discord, joy where there is sadness.

A day of atonement has passed, the shofar has blown calling us all to repentance, to a new year of living out life with integrity. Give us strength of conscience, the courage of our convictions, that we might find a time of peace for all people. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Alabama [Mr. BROWDER] come forward and lead the House in the Pledge of Allegiance.

Mr. BROWDER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills on Friday, September 20, 1996: H.R. 2464, to amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes;

H.R. 2512, to provide for certain benefits of the Pick-Sloan Missouri River Basin Program to the Crow Creek Sioux Tribe, and for other purposes;

H.R. 2982, to direct the Secretary of the Interior to convey the Carbon Hill National Fish Hatchery to the State of Alabama;

H.R. 3120, to amend title 18, United States Code, with respect to witness retaliation, witness tampering, and jury tampering; and

H.R. 3287, to direct the Secretary of the Interior to convey the Crawford National Fish Hatchery to the city of Crawford, NE.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 20, 1996.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Friday, September 20 at 12:10 p.m. and said to contain a message from the President wherein he transmits a semiannual report on telecommunications services with respect to Cuba.

With warm regards,
ROBIN H. CARLE,
Clerk.

SEMIANNUAL REPORT OF TELECOMMUNICATIONS SERVICES WITH RESPECT TO CUBA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–267)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

This report is submitted pursuant to 1705(e)(6) of the Cuban Democracy Act of 1992, 22 U.S.C. 6004(e)(6) (the "CDA"), as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, Public Law 104–114; 110 Stat. 793 (the "LIBERTAD Act"), which requires that I report to the Congress on a semiannual basis detailing payments made to Cuba by any United States person as a result of the provision of telecommunications services authorized by this subsection.

The CDA, which provides that telecommunications services are permitted between the United States and Cuba, specifically authorizes me to provide for payments to Cuba by license. The CDA states that licenses may provide for full or partial settlement of telecommunications services with Cuba, but does not require any withdrawal from a blocked account. Following enactment of the CDA on October 23, 1992, a number of U.S. telecommunications companies successfully negotiated agreements to provide telecommunications services between the United States and Cuba consistent with policy guidelines developed by the Department of State and the Federal Communications Commission.

Subsequent to enactment of the CDA, the Department of the Treasury's Office of Foreign Assets Control (OFAC) amended the Cuban Assets Control Regulations, 31 C.F.R. Part 515 (the "CACR"), to provide for specific licensing on a case-by-case basis for certain transactions incident to the receipt or transmission of telecommunications between the United States and Cuba, 31 C.F.R. 515.542(c), including settlement of charges under traffic agreements.

The OFAC has issued eight licenses authorizing transactions incident to the receipt or transmission of telecommunications between the United States and Cuba since the enactment of the CDA. None of these licenses permits payments to the Government of Cuba from a blocked account. In the period October 23, 1992, to June 30, 1996, OFAC-licensed U.S. carriers reported payments to the Government of Cuba in settlement of charges under telecommunications traffic agreements as follows:

AT&T Corporation (formerly, American Telephone and Telegraph Company	$39,647,734,42

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

AT&T de Puerto Rico	524,646.58
Global One (formerly, Sprint Incorporated)	4,870,053.05
IDB WorldCom Services, Inc. (formerly, IDB Communications, Inc.)	3,038,857.00
MCI International, Inc. (formerly, MCI Communications Corporation)	17,453,912.00
Telefonica Larga Distancia de Puerto Rico, Inc.	150,282.40
WilTel, Inc. (formerly, WilTel Underseas Cable, Inc.)	7,792,142.00
WorldCom, Inc. (formerly, LDDS Communications, Inc)	3,349,967.88
	$76,827,595.33

I shall continue to report semiannually on telecommunications payments to the Government of Cuba from United States persons.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 20, 1996.*

COMMISSION ON CHEMICAL AND BIOLOGICAL WARFARE AGENT EXPOSURE ACT

(Mr. BROWDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWDER. Madam Speaker, legislation I am introducing today calls for the creation of an independent commission to study the possible incidences of chemical and biological warfare agent exposure during the Persian Gulf conflict.

The legislation is based on a September 5 recommendation by the staff of the Presidential Advisory Committee on Gulf War Veterans' Illnesses. Creation of this commission before Congress adjourns sine die is essential if we are to uncover the causes of gulf war syndrome, assure veterans of the Government's good faith, and reduce the chance that soldiers in future conflicts may be exposed to unnecessary health risks.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SAFE MOTHERHOOD

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Madam Speaker, I take the floor today to talk about a bill I will be introducing this week dealing with safe motherhood. When women first got the right to vote in this country, one of the first things they focused on was how many American women were dying in childbirth. In 1913 alone, the statistics were horrifying, because more women died in this country in childbirth than any other cause except for tuberculosis which we all know was running almost as an epidemic. The women, after they got the right to vote, found that this Congress was spending more money on hog cholera than they were on safe motherhood. There was a flurry of activity, a lot was done, and unfortunately we really have not done much to focus on this since. I have asked for several reports to be done and when we look at those reports, it is really quite startling.

First, we really do not know much about the condition of safe motherhood. Even Health and Human Services estimates that what we do know is probably only about 50 percent correct. They would guess that our very high rate of maternal deaths is probably double what it really is. And that is because each State keeps statistics, and because of insurance and everything, they tend to want to keep the statistics very tightly, so they probably in many places count maternal deaths only when they happen directly during the pregnancy rather than within the year of the pregnancy that aggravated a preexisting condition or something else. In our country we are more apt to blame it on the condition than on the pregnancy. As a consequence, as high as our statistics are for the developed world, they are still probably much higher than that if we really knew the truth. So the first thing I am going to do in my bill is try and get uniformity in statistics, so we begin to know what we have really got here.

Second, the one thing we do know is intended pregnancies are the safest. If people are intending to get pregnant, they are watching their diet, they are probably trying, we hope, to stop smoking, drinking or whatever else they are doing and they are in much better shape and they are much healthier pregnancies. We all know how everyone in this country has been horrified by the percentage of unintended teen pregnancies. Eighty-two percent of the teen pregnancies between the ages of 15 and 19 are unintended. Very few people know that for women over 40, the statistics are almost the same. Unintended pregnancies of women over 40 are now at 77 percent. That is almost the same as teens. Further, we know from the meager statistics we do have, or the shaky ones we have, women over 40 who are pregnant are 9 times more likely to die in childbirth than women below that. So we have a tremendous education process to do, not only with teens but with women over 40, for heaven's sakes, who have not been getting this information.

Another piece that I will be talking about in my bill is folic acid. As we all know, you can take that and it is in breads, it is in a lot of things now, and it will prevent many, many birth defects that we have been so troubled by in this country. Educating pregnant moms about that is terribly important for the future.

Then another piece, which is awfully important, is having standards, standards that would certify facilities that provide fetal ultrasound. I know folks will scream about that. They screamed about that when we had legislation to put in standards for people who were doing mammograms, pap smears, and everything else. But let me say the only thing worse than not having those types of tests is to have one and to have a bad one. What we have found is there are no standards on fetal ultrasound, and certainly I think that should be required. People should know as consumers what is a good, good effort in this field.

The other very sad thing that our statistics show is there is a tremendous difference on the basis of race. African-American women have a much more difficult time and are much more apt to die from pregnancy than women of other races in this country. We think part of that is because of insurance coverage, and many other things. But those are all things that should be focused on.

So I would hope that as we bring this century to a close, we once again focus on safe motherhood and doing everything this great Nation can do to try and reduce the number of fatalities that are much too high.

ADOPTING ENGLISH AS OFFICIAL LANGUAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. ROTH] is recognized for 5 minutes.

Mr. ROTH. Madam Speaker, I want to say that I am happy that the House passed a very important bill on August 1, but I am somewhat concerned that this bill is languishing in the other body, and I hope that the other body will take up the legislation quickly.

Teddy White, one of the greatest sociologists, certainly one of the greatest sociologists of our time, wrote such memorable books as "Making of the President, 1960, 1964, 1968, and 1972." He wrote before his death that as America comes to the centennial now, the greatest concern he has for our country is that America is no longer one Nation, that we are losing our oneness, that we are now becoming a nation of groups.

In his book, "America in Search of Itself," he goes into some detail on that problem. He said that America at one time was a melting pot, that we Americans represent every individual group, every religion, every linguistic group from every corner of the globe here in America, but we are one nation, one people. Why? Because we have had a wonderful commonality, a common glue called the English language. And as Teddy White said, we are losing that, and we are losing it very quickly today. This Nation, if we become divided on language, can never be put back together again. So if we want to keep this country, the United States of America, one nation, then we have to keep this commonality.

That is why I am so delighted that the House on August 1 passed by such a huge majority, 259–169, a bill to make English our official language. I know that the election is near, that it is just days away, but we have to think of our country first, before any election. That is why I think it is so important for us now to ask our friends in the other body to do everything they can to bring up the bill to make English our official language.

The "Disuniting of America" is another book that Arthur Schlesinger wrote. In his book, he mentioned that we face a real crisis if we allow our country to break up into different groups, that we have to keep this concept that we have had from the beginning, of America being a United States of America, and for that we need the commonality, we need the common glue of the English language.

Madam Speaker, I hope that we in this House will continue that fight, because the American people have strongly supported our initiative to make English our official language. In every poll that has been taken the American people have voted overwhelmingly to approve, to make English our official language. The people know how important it is to keep the oneness, because again we represent every group, every culture, every language in the world. If we are to keep this United States of America one nation, one people, then we have to have this commonality, this common glue.

So, Madam Speaker, I ask the people in this House and the other body to unite together and to go forward with the certitude that the American people have strongly endorsed this legislation. The American people very much want this legislation, so we can always remain the United States of America, one nation, one people, one language.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mrs. SCHROEDER) to revise and extend their remarks and include extraneous material:

Mr. MCINTOSH, for 5 minutes on September 26.

Mr. GOSS, for 5 minutes each day, on September 24, 25, 26, and 27.

Mr. CHRISTENSEN, for 5 minutes on September 24.

Mrs. SCHROEDER, for 5 minutes, today.

Mr. LAHOOD, for 5 minutes on September 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. SCHROEDER) and to include extraneous matter:)

Mr. CAMP.

Mr. DAVIS.

Mr. GILMAN.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2464. An act to amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes;

H.R. 2512. An act to provide for certain benefits of the Pick-Sloan Missouri River basin program to the Crow Creek Sioux Tribe, and for other purposes;

H.R. 2982. An act to direct the Secretary of the Interior to convey the Carbon Hill National Fish Hatchery to the State of Alabama;

H.R. 3120. An act to amend title 18, United States Code, with respect to witness retaliation, witness tampering and jury tampering; and

H.R. 3287. An act to direct the Secretary of the Interior to convey the Crawford National Fish Hatchery to the city of Crawford, Nebraska.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

On September 20, 1996:

H.R. 3396. An act to define and protect the institution of marriage;

H.R. 2679. An act to revise the boundary of the North Platte National Wildlife Refuge, to expand the Pettaquamscutt Cove National Wildlife Refuge, and for other purposes;

H.R. 3060. An act to implement the Protocol on Environmental Protection to the Antarctic Treaty;

H.R. 3553. An act to amend the Federal Trade Commission Act to authorize appropriations for the Federal Trade Commission; and

H.R. 3816. An act making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes.

ADJOURNMENT

Mr. ROTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 16 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, September 24, 1996, at 10:30 a.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5231. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Nectarines and Fresh Peaches Grown in California; Assessment Rates [Docket No. FV96–916–1 FIR] received September 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5232. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Kiwifruit Grown in California; Assessment Rate [Docket No. FV96–920–1 FIR] received September 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5233. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Oranges and Grapefruit Grown in the Lower Grande Valley in Texas; Assessment Rate [Docket No. FV96–906–1 FIR] received September 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5234. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments [Defense Acquisition Circular 91–11] received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

5235. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Loans in Areas Having Special Flood Hazards (RIN: 3064–AB66) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5236. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Higher Education Programs in Modern Foreign Language Training and Area Studies—Foreign Language and Area Studies Fellowships Program (RIN: 1840–AC28) received September 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Economic and Educational Opportunities.

5237. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Higher Education Programs in Modern Foreign Language Training and Area Studies—National Resource Centers Program for Foreign Language and Area Studies or Foreign Language and International Studies (RIN: 1840–AC27) received September 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Economic and Educational Opportunities.

5238. A letter from the Secretary of Education, transmitting the summary of chapter 2 annual reports, 1993–94; to the Committee on Economic and Educational Opportunities.

5239. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Changes to Select Rules In Order to Eliminate Fees Previously Adopted by the Commission (RIN:

3235–AG79) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5240. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Israel (Transmittal No. DTC–62–96), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5241. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for production of major military equipment with Australia (Transmittal No. DTC–63–96), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5242. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for production of major military equipment with Japan (Transmittal No. DTC–57–96), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5243. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to the United Kingdom (Transmittal No. DTC–58–96), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5244. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Germany (Transmittal No. DTC–60–96), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5245. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Amendments to the International Traffic in Arms Regulations [Public Notice 2408] received September 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

5246. A letter from the Comptroller General of the United States, transmitting a list of all reports issued or released in August 1996, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

5247. A letter from the Chief Judge, Court of Veterans Appeals, transmitting the annual estimate of the expenditures and appropriations necessary for the maintenance and operation of the Court of Veterans Appeals retirement fund, pursuant to 38 U.S.C. 7298(d); to the Committee on Government Reform and Oversight.

5248. A letter from the Mayor of the District of Columbia, transmitting a copy of D.C. Act 11–281, "Revised Fiscal Year 1997 Budget Request Act"—received September 23, 1996, pursuant to Public Law 104–8, section 202(c)(5)(C)(ii); to the Committee on Government Reform and Oversight.

5249. A letter from the Assistant Secretary for Policy, Management and Budget, Department of the Interior, transmitting a report on the Government's Helium Program providing operating statistical and financial information for the fiscal year 1995, pursuant to 50 U.S.C. 167n; to the Committee on Resources.

5250. A letter from the General Counsel, Department of Energy, transmitting the Department's final rule—Final Power Allocation Procedures of the Post–2000 Resources Pool—Pick-Sloan Missouri Basin Program, Eastern Division (6450-01-P) received September 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5251. A letter from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Northeastern United States; Northeast Multispecies Fishery, Exception to Permit Requirements [Docket No. 960216032–6246–07; I.D. 082096H] (RIN: 0648–AH70) received September 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5252. A letter from the Acting Director, Office of Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 600 [Docket No. 960129018–6018–01; I.D. 091796B]) received September 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5253. A letter from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Changes in Catch Limits [Docket No. 950725189–6245–04; I.D. 060696A] (RIN: 0648–AI92) received September 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5254. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 757 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–223–AD] (RIN: 2120–AA64) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5255. A letter from the General Councsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Hartzell Propeller Inc. HC–A3V, HC–B3M, HC–B3T, HC–B4M, HC–B4T, and HC–B5M Series Propellers (Federal Aviation Administration) [Docket No. 95–ANE–30] (RIN: 2120–AA64) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5256. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Torrington, Wyoming (Federal Aviation Administration) [Docket No. 96–ANM–017] (RIN: 2120–AA66) (1966–0131) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5257. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Blanding, Utah (Federal Aviation Administration) [Docket No. 95–ANM–25] (RIN: 2120–AA66) (1996–0132) received September 19, 1996, pursuant to 6 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5258. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Cannon City, Colorado (Federal Aviation Administration) [Docket No. 96–ANM–018] (RIN: 2120–AA66) (1996–0133) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5259. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Bowling Green, KY (Federal Aviation Administration) [Docket No. 96–ASO–13] (RIN: 2120–AA66) (1996–0130) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5260. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Currituck, NC (Federal Aviation Administration) [Docket No. 95–ASO–16] (RIN: 2120–AA66) (1996–0128) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5261. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class D Airspace; Smyrna, TN (Federal Aviation Administration) [Docket No. 96–ASO–15] (RIN: 2120–AA66) (1996–0129) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5262. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—IFR Altitudes; Miscellaneous Amendments [Docket No. 28654; Amdt. No. 398] received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5263. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; SOCATA Groupe AEROSPATIALE TBM 700 Airplanes (Federal Aviation Administration) [Docket No. 95–CE–67–AD] (RIN: 2120–AA64) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5264. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Burkhart Grob Luft-und Raumfahrt Models G115C, G115C2, G115D, and G115D2 (Federal Aviation Administration) [Docket No. 96–CE–50–AD] (RIN: 2120–AA64) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5265. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–59–AD] (RIN: 2120–AA64) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5266. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes (Federal Aviation Administration) [Docket No. 94–NM–249–AD] (RIN: 2120–AA64) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5267. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes (Federal Aviation Administration) [Docket No. 94–NM–252–AD] (RIN: 2120–AA64) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5268. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Weatherly Aviation Company, Inc., Models 620A and 620B Series Airplanes (Federal Aviation Administration) [Docket No. 94–CE–42–AD] (RIN: 2120–AA64) received

September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5269. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL–600–2B16 (CL–601–3A and –3R) and CL–600–2B19 (Regional Jet Series 100) (Federal Aviation Administration) [Docket No. 95–NM–247–AD] (RIN: 2120–AA64) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5270. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Stability and Control of Medium and Heavy Vehicles During Braking (National Highway Traffic Safety Administration) [Docket No. 92–29; Notice 11] (RIN: 2127–AG06) received September 19, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5271. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Advanced Notice of Arrivals, Departures, and Certain Dangerous Cargoes (U.S. Coast Guard) [CGD 94–089] (RIN: 2115–AF19) received September 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5272. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 96–45] received September 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3497. A bill to expand the boundary of the Snoqualmie National Forest, and for other purposes; with an amendment (Rept. 104–816). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 3632. A bill to amend title XIX of the Social Security Act to repeal the requirement for annual resident review for nursing facilities under the Medicaid Program and to require resident reviews for mentally ill or mentally retarded residents when there is a significant change in physical or mental condition (Rept. 104–817). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 3633. A bill to amend title XVIII and XIX of the Social Security Act to permit a waiver of the prohibition of offering nurse aide training and competency evaluation programs in certain nursing facilities (Rept. 104–818 Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWDER:

H.R. 4131. A bill to establish a commission to investigate exposure to chemical and biological warfare agents as a result of the Persian Gulf conflict; to the Committee on National Security.

By Mr. METCALF:

H.R. 4132. A bill to require that a portion of the amounts made available for housing programs for the homeless be used for housing for homeless veterans; to the Committee on Banking and Financial Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3715: Mr. BOEHNER.

H.R. 3753: Mr. LATHAM and Mr. LIGHTFOOT.

H. Con. Res. 21: Mr. FROST.

H. Res. 30: Mr. SABO, Mr. BAKER of California, and Mr. SKELTON.

EXTENSIONS OF REMARKS

IN HONOR OF DAVID V. BROWN

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1996

Mr. DAVIS. Mr. Speaker, it gives me great pleasure to rise and pay tribute to Mr. David V. Brown, who has served the Northern Virginia Regional Park Authority for the past 29 years as the executive director of operations and finance. September 29, 1996, marks the retirement of this exceptional member of our local community, who has dedicated years of service to northern Virginia.

Dave began his long, distinguished career with the Regional Park Authority on June 5, 1967, to work at the Bull Run Marina, Northern Virginia Regional Park Authority's first developed facility. Over the next three decades, he rose from park manager to superintendent of parks, director of operations, and finally in 1994, was appointed to his current role, executive director of finance and operations. In 1992, Dave was recognized for his valuable contributions to the Park Authority by being awarded the Northern Virginia Regional Park Authority's Ira Gabrielson Award for 25 years of service.

Dave's numerous, notable accomplishments with the park authority have provided the citizens of northern Virginia recreational places and events for the enjoyment of the whole family. Dave was instrumental in developing and implementing the operations of the 19 regional parks owned and administered by the regional park authority, which include three public golf courses, five outdoor swim and play complexes, two campgrounds, gardens, historic structures, nature preserves, and the Washington & Old Dominion Railroad Regional Park, recognized as a National Recreation Trail. He was an architect of one of my favorite annual events that I look forward to attending all year, the exceedingly popular Bull Run Country Jamboree, attended by thousands. This event brings the Nation's top country artists to northern Virginia.

Dave was extremely valuable in the designing and operating of the Brambleton Golf Course, the park authority's newest course in Brambleton Regional Park in Loundon County. Dave exemplifies the very best in public service.

Through difficult fiscal times, he has proved innovative in delivering quality services to the public, always with a smile, and never complaining. Dave leaves a legacy for northern Virginia parks and recreation to be enjoyed by future generations.

Dave and his wife, Tonya, have two sons, Jeffery and Michael, of whom they are very proud. Jeffery is an attorney, and Michael is currently in London handling financial matters for Marriott Corp.

Mr. Speaker, I know that my colleagues will join me in applauding Mr. David Brown for his extraordinary efforts to provide the citizens of northern Virginia recreational parks and events at which to enjoy the great outdoors. Although his presence will be sorely missed, we wish him great success in his future endeavors.

TRIBUTE TO HELEN ANN AND BOB BATES

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1996

Mr. CAMP. Mr. Speaker, I rise today to honor two Michigan residents as they are recognized for their contribution to Polka and the State of Michigan. Helen Ann and Bob Bates will be inducted into the State of Michigan Polka Music Hall of Fame on Sunday, October 6, 1996.

America was built by the hard work and commitment of settlers who brought with them a rich and varied heritage. Polka flourished in Michigan largely due to the devotion of those who brought with them their family traditions and customs, as well as their love of polka. Helen Ann and Bob are just a few of those special individuals who were proud to keep an honored tradition alive.

Helen Ann Hedrich of Elsie, MI, was a musician well before she married her husband, Bob, in 1958. She has played with many different musicians during her career, including the Swinging Bees, and she has criss-crossed Mid-Michigan playing inns, clubs, lodges, and Veterans of Foreign Wars Posts. But it was with her husband that she found her most rewarding musical experience.

Bob Bates, also of Elsie, is a self-taught musician. He bought his first electric bass guitar in 1965, the same year as the birth of their third child. Helen Ann and Bob played their first gig together that year, and their 31 year performing career together began.

As the MBC Band, and later as the MBC Trio and the Helen Ann Dance Band, the Bates were regulars at places such as Lamplight Inn in Carson City, the Washington Society Club in Saginaw, and the Owosso Eagle Club. For the Bates, however, their most memorable appearances have always been playing to appreciative nursing home audiences.

Mr. Speaker, thanks to the efforts of Helen Ann and Bob, we are all still able to enjoy a rich musical tradition. They will be honored at a reception in Owosso, MI because of their dedication and commitment to spreading the polka tradition and helping others enjoy this special music. I am confident that the musical legacy of these outstanding individuals will be remembered for decades to come.

IN TRIBUTE TO THE BRAVE HEROES WHO GAVE SO MUCH OF THEMSELVES IN THE MICHAEL FAUCI TRAGEDY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1996

Mr. GILMAN. Mr. Speaker, I rise today to pay tribute to the memory of Michael Braccio Fauci, who was lost and perished while skiing in the Italian Alps in February of this year. I would also like to honor all of the dedicated volunteers, friends, and family who were so instrumental in the search efforts for this young man.

Eighteen-year-old Michael Fauci disappeared on February 19, 1996, while on a skiing trip to Cortina, Italy, a birthday gift from his family. Through the combined efforts of hundreds of Italian rescue workers, U.S. consulate personnel, NATO helicopters, and volunteers over a period of 3½ months, an immense search effort was initiated to find Michael and lasted for nearly 3½ months.

Both the Italian authorities and the United States consulate in Milan did everything in their power to find Michael. The rescue party searched endlessly day and night, stopping only to rest when absolutely necessary. Never have I seen such an outpouring of concern from so many parties. My office received numerous letters and phone calls from constituents eager to help in any way they could, many of whom offered to accompany Carmine and Margaret Fauci in their efforts to find their son.

On May 26, Michael's body was found hidden in a makeshift shelter in the woods. Tragically it was Michael's parents, and their search party, who found him in the shelter not 4,000 feet north of the ski resort Cortina D'Ampezzo.

On September 25, 1996, there will be an award and choral concert in remembrance of Michael. Program participants include Mr. Gianpiero Bosetti, the head coordinator of the search operation, and representatives from national, State, and local government and community agencies. Once again, friends and family from Italy and the United States will join together as the Fauci family thanks all those who were so instrumental in the search for their son.

In his memory, the Michael Braccio Fauci Foundation for the Advancement of Search and Rescue Technology was formed to advance and improve the technology used to locate and rescue missing persons lost in the outdoors or trapped by the forces of nature. A type of tracking device worn on Michael's clothes would have guided the search party to him within hours and saved his life. Through this foundation, the Fauci family hopes to raise funds to develop a high-technology model, so

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

that in the future it could be available to all people who appreciate and spend time in the great outdoors. It would also reduce the number of people lost to snowstorms each year.

I am deeply saddened that we had to lose such a shining star in our community. But with the establishment of the Michael Braccio Fauci Foundation, we can only hope to help prevent this tragedy from happening again. By working together, Michael's death will not have been in vain. Michael was a wonderful, talented, and spirited young man. He will be sorely missed, and someone we won't soon forget.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, September 24, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 25

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on issues relating to the study of Mars.
SR-236

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings to examine the release of the Fourth Trade Promotion Coordinating Committee annual report.
SD-538

Commerce, Science, and Transportation
To hold hearings on aviation safety issues, focusing on treatment of families after airline accidents.
SR-253

Finance
Business meeting, to mark up H.R. 3815, to make technical corrections and miscellaneous amendments to trade laws.
SD-215

Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

Governmental Affairs
Financial Management and Accountability Subcommittee
To hold oversight hearings on the regulatory review activities of the Office of Information and Regulatory Affairs.
SD-342

Judiciary
To resume hearings to examine White House access to FBI background summaries.
SD-226

10:30 a.m.
Veterans' Affairs
To hold joint hearings with the Select Committee on Intelligence on the Department of Defense and Intelligence reports of U.S. military personnel exposures to chemical agents during the Persian Gulf War.
SH-216

Select on Intelligence
To hold joint hearings with the Committee on Veterans Affairs on the Department of Defense and Intelligence reports of U.S. military personnel exposures to chemical agents during the Persian Gulf War.
SH-216

1:30 p.m.
Indian Affairs
To hold hearings to examine the phase-out of the Navajo/Hopi relocation program.
SR-485

2:00 p.m.
Armed Services
To hold hearings on the impact of the Bosnian elections and the deployment of U.S. military forces to Bosnia and the Middle East.
SR-222

Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings to examine prospects for peace, security, and economic development in Lebanon.
SD-419

Judiciary
To hold hearings on the role of the Department of Justice in implementing the Prison Litigation Reform Act.
SD-226

2:30 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 987, to provide for the full settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943.
SD-366

SEPTEMBER 26

9:00 a.m.
Appropriations
To hold joint hearings with the Special Committee on Aging on increasing funding for biomedical research.
SH-216

Special on Aging
To hold joint hearings with the Committee on Appropriations on increasing funding for biomedical research.
SH-216

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine the status of air service to small communities.
SR-253

10:00 a.m.
Foreign Relations
To hold hearings to review the interpretation of the ABM Treaty and U.S. ballistic missile defense.
SD-419

Governmental Affairs
To hold hearings to review the annual report of the Postmaster General.
SD-342

2:00 p.m.
Energy and Natural Resources
Oversight and Investigations Subcommittee
To hold hearings to examine the National Environmental Policy Act decisionmaking process with regard to Federal Land Management Agencies and the role of the Council on Environmental Quality.
SD-366

Judiciary
To hold hearings to review the annual refugee consultation process.
SD-226

OCTOBER 2

9:30 a.m.
Indian Affairs
To hold oversight hearings on the regulatory activities of the National Indian Gaming Commission.
SH-216

10:00 a.m.
Judiciary
Immigration Subcommittee
To hold oversight hearings on activities of the Immigration and Naturalization Service.
SD-226

SENATE—*Tuesday, September 24, 1996*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, Almighty Sovereign of our Nation, and strength of our lives, we thank You for the privilege of living in this land You have blessed so bountifully. With awe and wonder, we realize anew the stunning truth that You have called the United States to be Your providential demonstration of the freedom and equality, righteousness and justice, opportunity and hope, You desire for all nations. O God, help us to be faithful to our heritage.

We praise You for the way You have blessed us with great leaders in each period of our history. Through them You have continued to give Your vision for the unfolding of the American dream. And this is especially true today. Bless the Senators with a renewed sense of their calling to greatness through Your grace. You have appointed them; now anoint them afresh with Your spirit. As they confront the soul-sized, crucial issues of this week, give them a spirit of unity and cooperativeness. The workload is great, the pressure is heavy, and the challenge is formidable; but, nothing is impossible for You.

Fill this Chamber with Your presence. You are the judge of all that will be said and done here. Ultimately, we have no one to please or answer to but You. With renewed commitment to You, and reignited patriotism, we press on to living the page of American history to be written this week. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you very much, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, this morning there will be a period for morning business until the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each. Following morning business today, it would be my intention to begin consideration of a continuing resolution. We are fast approaching the end of this fiscal year. It certainly is my hope that we would be allowed to begin this important appropriations measure. At this time, we are unable to reach an agreement to begin that bill. I tried several different approaches last Friday in discussions with the Democratic leader. We were not able to come to any agreement at that time, but we will keep working today. Hopefully, we can reach some understanding as to how we would proceed.

In accordance with the agreement reached on Friday, the Senate will resume consideration of the maritime security legislation today at 4:30, with a series of rollcall votes beginning at 5 p.m. on or in relation to pending amendments as well as final passage on that. I presume there would be at least four votes at that time. So we will have the stacked votes at 5 o'clock.

We are also hoping that the one outstanding issue on S. 1505, the pipeline safety bill, could be resolved, and we could complete action on that measure also.

It is my understanding that the VA-HUD appropriations conference report may be available for consideration this afternoon. I know that the agreement has been worked out and that they are scheduled to vote sometime today. I do not know exactly what time we will get it. But as soon as we get it, we will try to get it into the mix at the earliest possible opportunity. It certainly is an important appropriations bill dealing with the Veterans' Administration and, of course, all of our housing policies in the country. We need to get that bill completed in order for the checks to go out on time at the end of this week or certainly the first of next week.

We will stand in recess today from 12:30 to 2:15 for the weekly policy conferences to meet. Once again, I ask for the cooperation of all Senators as we begin what I hope will be the final week of the Senate's business prior to adjournment. In order to accomplish that, it is going to take a lot of cooperation, a lot of give-and-take. I certainly will make every effort to work with all Senators. I hope Senators understand that this week is going to be very hard to schedule votes around other events, especially if we are really moving seriously toward completing our work, as we should, on Friday or Saturday.

In addition to that, we are working to see if we can clear problems with the NIH revitalization authorization bill. I understand there is the potential point of order that maybe can be worked out. There is a lot of support for this important legislation. I hope maybe we could do it like we did last week on the Magnuson fisheries bill, the FAA reauthorization, and the maritime bill. We can work through those problems and hopefully get about an hour to have some discussion to get a vote.

We are also working with Senator KASSEBAUM, who is very, very interested in the job partnership training legislation. There are problems there again, a point of order, which looks like it may not be resolvable, but we may call it up for some discussion this week and see what can be accomplished.

I want to remind Senators we expect a veto override vote to occur on Thursday on the partial-birth abortion ban. And there are requests from Senators to be able to speak on that matter today also. But we would schedule a vote for Thursday.

TRIBUTE TO JOHN DURICKA

Mr. LOTT. Mr. President, the Senate and all Americans lost a true professional yesterday. Veteran Associated Press photographer John Duricka died Monday at Arlington Hospital after long battle with cancer.

The measure of John's professionalism and dedication is that he was on the job almost right up to the time of his death—doing what he loved and doing it wonderfully well.

John's combination of mature demeanor and tough determination was a familiar face to all of us here in the Senate. He was a news photographer first—make no doubt about that.

But he also respected the institution which he illustrated to the world every day with his pictures. Unlike the White House or the Federal agencies where photographers often are cordoned off from those they cover, the Congress shares its space with the media.

John Duricka respected that unique relationship that we had with him and we returned that respect with our trust and appreciation for his talent.

I want to express the Senate's sympathy to his son Darren, his daughter Tammy, and his mother Emily Duricka.

All who treasure our freedoms of the press and free expression will miss his outstanding contributions to that end. We in the Senate will miss a respected friend. I yield the floor, Mr. President.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the provisions of the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Georgia [Mr. NUNN] is now recognized to speak for up to 10 minutes.

Mr. NUNN. I thank the Chair.

TRIBUTE TO GEARY T. BURTON

Mr. NUNN. Mr. President, on August 13, Geary Thomas Burton tragically and unexpectedly died while undergoing surgery to correct a knee injury he sustained during a recent church-related softball game. He was only 45 years old at the time of his death. Geary was known to all of us on the Armed Services Committee and to many here in the Senate because he was a very important member of the staff of the Armed Services Committee from 1989 to 1991.

Today, I want to take this opportunity to recall Geary's many professional accomplishments and describe for my colleagues the life of this remarkable individual who served the Senate Armed Services Committee with great distinction for more than 3½ years.

Geary Burton was born on June 30, 1951, in Pittsburgh, PA. We are privileged to have his mother, Lura Burton, sitting in the Senate Gallery today, along with Geary's sister Nancy and her daughers Claudia and Claudette. It was through Mrs. Burton's love, hard work, and devotion in raising Geary and his sister, Nancy, that he developed such strong character and learned the value and importance of a good education. In 1973, Geary earned a bachelor of arts degree at Thiel College in Greenville, PA, where he majored in political science. He continued his education and earned a law degree from Duquesne Law School in 1976.

With great energy and dedication, Geary used his education and skills as an attorney in the service of our country. In August 1973, he received a commission as a second lieutenant in the U.S. Marine Corps. He served as a criminal trial lawyer on active duty with the Judge Advocate General Corps from 1977 to 1981. Even after his release from active duty in March 1981, Geary continued to serve as an officer in the Marine Corps Reserve. In November 1982, he was promoted to the rank of major. We all know the Marines set very high standards—and Geary fully met these standards. Geary's accomplishments as one of "The Few and the Proud" are notable. I recall in many conversations with Geary he was extremely proud of his service with this elite military organization.

In March 1981, Geary accepted a position with the Office of General Counsel at the General Accounting Office, where he served as legal counsel to the evaluator staff charged with auditing the Department of Defense, a very major responsibility. Geary consistently demonstrated a high degree of proficiency in performing his duties and moved quickly up the civil service ranks. In less than 7 years, he earned three promotions and obtained a GS–15 ranking at the age of 36—which is a remarkable achievement.

Geary joined the staff of the Senate Armed Services Committee as a detailee from the General Accounting Office in April 1989 to work on the complex issues of defense acquisition reform. I remember requestiang from the GAO one of their best people. We did not know Geary at the time but we really needed help. They certainly lived up to that request because they sent us a very talented young man. He quickly earned the respect and admiration of his fellow staff members as well as Senators on both sides of the aisle with whom he was in regular contact. Geary's tenure with the Armed Services Committee lasted until December 1992. During that period, he served as counsel to the committee for defense procurement and small business issues. We tried to keep Geary but finally the GAO demanded he come home because they needed him very bad.

Geary successfully conducted research, drafted legislation, and developed congressional and public support for many key legislative initiatives. He performed a vital role in helping the Armed Services Committee make numerous changes to defense acquisition policy that were required in the face of the post-cold-war defense build-down. Geary worked hard to enhance the role of small and disadvantaged businesses, historically black colleges and universities, and other minority educational institutions in defense acquisition practices. Geary's key participation in the establishment of the Pilot Mentor-Protégé Program was a direct reflection of the innovation and creativity that he brought to the committee in drafting acquisition legislation. In addition, Geary provided outstanding staff work in the oversight of programs designed to foster greater government-industry cooperation and to increase the use of commercial products and processes in Government procurement which has saved and will continue to save on an increasing basis literally millions and billions of the tax dollars for the American people. This of course has been a top priority of Secretary of Defense Bill Perry.

While Geary's dedication and professional competence contributed to a highly successful career, Geary was totally devoted to his family and the community in which he lived. He was an active member of St. John the Evangelist Baptist Church in Columbia, MD. In his extended community of Howard County, MD, Geary served as a member of the board for the African-American Coalition and helped establish the Black Student Achievement Program. There is a saying that "Those who possess the torch of wisdom should allow others to come and light their candles by that torch." Geary Burton followed this principle in both his professional and personal life to the great benefit of both the Senate Armed Services Committee and his local community. His service to our committee, to the Senate, and to the Nation was superb.

Geary will be missed most of all by his devoted family but he will also be missed by all of us who worked with him. He was simply a superb individual in every sense of the word.

In closing, Mr. President, I want to say to Geary's family—his wife, LaVarne; his two daughters, Ruth Giovanni and Beth Angela; his stepson Kevin Taylor; his mother Lura Burton; his sister, Nancy Bellony, and her daughters Claudia and Claudette—that my thoughts and prayers, and those of all of the members and staff of the Armed Services Committee with whom Geary served, are with you in these difficult days. Geary was a respected colleague and trusted friend. We will always be grateful for his service to the Senate and to his Nation. We will always recall with great fondness and with wonderful, wonderful memories his warm personality and the energy and enthusiasm with which he approached his work and his life.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that Senator DODD be permitted to proceed in morning business for up to 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NUNN. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWN). Without objection, it is so ordered.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The distinguished President pro tempore of the Senate is recognized.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 2104 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, if I may inquire, I believe I have been allocated 15 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. I thank the President.

Mr. President, I have served as a Member of this body for nearly 16 years.

In that time, few accomplishments have given me as much pride as the day in February 1993 when President Clinton signed into law the Family and Medical Leave Act.

Enactment of family leave legislation threw millions of struggling Americans a lifeline.

It made it easier for the American people to balance the responsibilities of work with the needs of their families.

And most important, it said to the American people: If you or a loved one becomes ill, you won't be forced to choose between your family and your job.

I point out that we were the last of the industrialized nations—in fact, last of many nations in this World—to actually adopt a family and medical leave policy.

It took 7 years from the introduction of the legislation until it finally became law. PATRICIA SCHROEDER—also representing the State which the Presiding Officer represents—was the author of the legislation in the House. I introduced the legislation in the Senate. Seven years we spent trying to get this bill to become the law of the land. It was an experience fraught with highs and lows.

Today, September 24, marks the fourth anniversary of one of those moments on the road to passage. It was in 1992, on September 24, that the Senate voted to override President Bush's veto of the Family and Medical Leave Act. Today, to mark this important anniversary, Americans are gathering all across the country in nearly 40 States.

Families, community members, and businessmen who found life better under the Family and Medical Leave Act will meet and share their experiences with the American public. And today the First Lady will travel to Connecticut to hear from those in my State who have seen the benefits of the Family and Medical Leave Act in their own families' lives.

Now, I would like to go back to 4 years ago today. On that date in 1992, 67 of our colleagues—from both sides of the aisle—joined me in voting to override the President's veto of the Family and Medical Leave Act. It was in fact only the second veto override of President Bush. Unfortunately, 6 days later, the House voted to sustain the President's veto, thereby killing the Family and Medical Leave Act once again. It had been the second veto we had been through in 7 years.

Our former colleague, Bob Dole, the then minority leader of the Senate, was one of those 31 Senators to vote against giving America's working families a helping hand. And just this month on the campaign trail Bob Dole attacked the Family and Medical Leave Act as what he called, and I quote him, "the long arm of the Federal Government."

I think the 12 million Americans who have taken advantage of the Family and Medical Leave Act over the past 2 years would probably disagree with that view. I think that the 67 million Americans who are now covered and eligible to take family and medical leave would have a different opinion than that of the former minority and majority leader.

For those, such as former Senator Dole, who continue to doubt the success of the Family and Medical Leave Act, I urge them to examine a recent bipartisan report which highlights the success of this legislation.

You may recall, Mr. President, that as part of the legislation we formed a bipartisan commission on family and medical leave to examine what the ramifications would be. Members of the commission were made up of both Democrat and Republican appointees, as well as opponents and proponents of the legislation. We spent over a year examining the Family and Medical Leave Act with significant surveys of employers and employees, with hearings conducted across the country, as well as here in Washington, to examine what the implications of the bill had been.

The overall findings of this commission were clear. In fact, the commission was unanimous that the Family and Medical Leave Act has been an overwhelming success. What is more, according to the commission's final report, the law represents, and I am quoting the report, "a significant step in helping a larger cross-section of working Americans meet their medical and family care-giving needs while still maintaining their jobs and economic security."

The bottom line is that family and medical leave legislation is allowing millions of working Americans significant opportunities to keep their health benefits, maintain job security, and take leave for longer and greater reasons.

Let us be clear on one point. Contrary to Senator Dole's protestations, family leave has also been good for American business. The conclusions of the bipartisan report, I think, are very important in this regard. And they certainly are a far cry from the concerns that Bob Dole and others voiced when this legislation was being considered in Congress.

Mr. President, let me draw your attention, if I may, to this first chart which reflects a survey done of business leaders by the commission. The vast majority of businesses, nearly 94 percent reported little or no additional costs associated with the Family and Medical Leave Act. I was stunned by this conclusion since the commission was analyzing the initial phases of the legislation. The initial phases of a legislation are always the most difficult, with businesses having to accommodate, get used to it, and develop bureaucratic procedures within their own businesses to accommodate the new legislation.

In my view, it is almost an astounding result that 94 percent of the businesses surveyed reported no difficulty in this initial time period. I assumed that such positive results would have come later as business became more used to the law and not during the initial stages, which tend to be the most awkward time.

So that was a rather compelling result from the list of the employers we surveyed. By the way, let me add that there were hundreds of employers and employees questioned in the commission's survey of reactions to the Family and Medical Leave Act.

When it comes to the employee performance, which was another concern that was presented during the debate over family leave—as well as by our former colleague, Bob Dole—about what would be the effect on employee performances, what would happen to productivity, what would happen to growth when you had people moving in and moving out, as the critics claimed, nearly 96 percent of the employers reported no noticeable effect on growth. The concern was that this legislation would bring growth rates down. In fact, according to employers, 95.8 percent said there was no noticeable effect at all. Interestingly, 1 percent said they had a positive growth effect. If fact, we had only 3.1 percent who said it had a negative effect, again, in just the first 2 years of the bill being the law of the land.

More than 94 percent reported no effect on employee turnover. This was another accusation, that we are going to get huge turnover rates from family leave legislation, and yet on turnover rates, 94.7 percent of businesses reported no problems with turnover whatsoever.

Eighty-three percent of the employers reported no noticeable impact on employee productivity. We were told, once again, that productivity rates would fall—businesses would lose people and have to hire temporary employees to come in for a period of time. Supposedly this would cause productivity rates would fall. In fact, 83 percent said the law had no impact on productivity whatsoever. In fact, 12.6 percent actually said the law had a positive effect on productivity because, I presume, people no longer had to worry about losing their job because of a family crisis.

As we all know, Mr. President, family and medical leave is more than just statistics. There are real Americans behind these numbers. In compiling our bipartisan report on family and medical leave, we heard testimony from Americans who have been helped by this legislation. None of the commissioners—none of the commissioners, Mr. President—will ever forget the story of the Weaver family that we heard during our hearing in Chicago.

Melissa Weaver of Port Lavaca, TX, was 10 years old when she was diagnosed with a rare form of cancer, and after undergoing a year of surgery, chemotherapy and radiation treatments, her doctor regretfully informed her parents, Ken and Rosie Weaver, that she had only a few months to live. Because of the Family and Medical Leave Act, over the next 7 weeks, the Weavers were given the bittersweet opportunity to spend every moment together with Melissa during her final days.

In January 1994, Nedra Ward, an administrative assistant in Chicago, discovered she was pregnant. After her first trimester, she developed complications, putting her health and pregnancy at risk. Her employer allowed her to take time off on an intermittent basis. Today, she has both her job and a healthy, strong, baby boy.

Jonathan Zingman's second daughter was born in 1994. Two weeks after the cesarean section birth, the baby developed an infection and was hospitalized. Jonathan Zingman took 2 weeks off from work to aid his wife in recovering from surgery, to take care of his new daughter, and to give his older daughter an opportunity to adjust to her new sister.

What the Weavers, Nedra Ward, and Jonathan Zingman all have in common is that due to the Family and Medical Leave Act, they were not forced to make a choice between their jobs and their families.

As the author of this legislation, I would prefer that no one would ever have to use it because of a sickness, but as we all know, life is not so kind. The Family and Medical Leave Act has given these three American families, as it will millions of others, the opportunity to take medical leave when illness strikes and the necessary time to care for ailing family members and loved ones.

I hope that Mr. Dole and others, particularly Mr. Dole, would retract any suggestion that he might repeal the Family and Medical Leave Act if elected. I can think of few other pieces of legislation that have had such a positive and beneficial impact on the American public as this legislation, which is now the law of the land because President Clinton signed it in February 1993. But for 7 long years we had to fight day in and day out to enact family and medical leave legislation. We fought through two veto overrides, in which we succeeded in one but eventually lost the fight in the House of Representatives. To repeal this legislation now would be a major setback, in my view, for America's working families and I hope that on this one piece of legislation Bob Dole will admit he was wrong and agree today that family and medical leave will, and must, remain the law of the land.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DODD. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, is it in order to take some time as in morning business?

The PRESIDING OFFICER. The Senator may proceed.

TOBACCO

Mr. FORD. Mr. President, Kentucky writer and farmer Wendell Berry wrote that:

> Though I would just as soon get along without it, a humbling awareness of the complexity of moral issues is said to be a good thing. If such an awareness is, in fact good—and if I, in fact, have it—I have tobacco to thank for it.

Like Berry, any awareness I have of moral complexities is also thanks to tobacco. Now I know there are some people who don't think there is anything at all complex about the tobacco issue. For them it is simply money versus morality.

For them there is no family business, there is no tradition, there is no farmer. And perhaps most disturbing—there is no appetite for reason.

That is something that we seem to be in short supply of here, from those who are determined to regulate an industry out of business to those who would rather play politics than protect our farmers.

These opportunists are thinking only of themselves and today, rather than all of us and tomorrow. And in the process, teenagers keep smoking, farmers fret about their futures, and the litigation continues.

I will admit that when it comes to Kentucky, I can be as hard as a bull's head. But, on the issue of teen smoking, I have been as reasonable as they come. I am one of the biggest defenders of tobacco, yet 1 year ago I, Wendell FORD, introduced legislation putting severe restrictions on the tobacco industry in an effort to reach a reasonable solution to the problem of teen smoking. Today, a full year later, none of my friends on the other side of the aisle have joined as a cosponsor or offered other legislative options.

And this is not my first attempt at reason on the issue of youth smoking or on the issue of the health effects of smoking by any means.

Mr. President, when I was Governor back in 1973, I worked with the legislature to create the Tobacco Research Board and authorized the University of Kentucky to begin an intensive research program directed toward "proving or disproving questions about health hazards to tobacco users . . .."

In 1984, I sat down at the table and came up with reasonable warning labels for tobacco products.

In 1992, I sat down at the table and hammered out an agreement on a national minimum age for the purchase of cigarettes. We backed those SAMSHA purchasing requirements with teeth, to ensure States did everything they could to enforce the law.

In 1994, I was right at the table when my colleague, Senator LAUTENBERG, decided to offer his pro kids bill, prohibiting smoking in any building that receives Federal funds and to which children have access. I did not stand in the way.

I sat down at the table time and again because like everyone else, I am against youth smoking. But I also sat down at the table because I realized that inaction was not a solution to the problem of youth smoking, just as it is not a solution today.

Don't get me wrong. I am as angry as I can be that the FDA is being given jurisdiction over tobacco. Bringing in the FDA will only create a whole new bureaucracy when tobacco is already regulated by at least seven Federal agencies including USDA, HHS, BATF, IRS, SAMSHA, EPA, and the FTC. I have it right here, Mr. President, a stack of all the current Federal tobacco laws and regulations—oh, about 18 inches tall—and this does not even include the tens of thousands of pages of State tobacco law and regulations. And now with the new FDA regulations, I can add another 200 pages from the Federal Register to this stack here on my desk.

But despite my frustrations and complete opposition to FDA regulation, I know that simply ignoring the problem is not going to fly, just as putting tobacco out of business is not going to fly.

The only answer is a legislative solution. Unfortunately, instead of working with me over the past year to come up with a legislative solution for our farmers, many in Congress have chosen to use the FDA regulations as a campaign rallying cry. But while they are stonewalling to win the tobacco farmers' vote today, where will they be if the courts rule against our farmers tomorrow? They must be prepared to answer for their inaction.

Anyone who says this can be solved with one vote at the polls in November is not shooting straight. That is because everyone familiar with this issue knows that the FDA would have been sued if they took this action, and they would have been sued if they took no action.

I do not care who you have in the White House next January or holding the gavel here in Congress, you have a problem that is going to be solved one of two ways—in the courts or in Congress. It's a fact that farmers have a bigger voice in the Halls of Congress then they do in a court room. We are forcing farmers to play Russian roulette with the court system and giving them an uncertain and ambiguous future.

It has been clear to me—and should be clear to others—that we must have a legislative solution for our farmers. We need a legislative solution because FDA jurisdiction has been rejected by the courts in the past, because the question of FDA regulation may be tied up in litigation into the next century, and because many aspects of the FDA regulation go beyond what is needed to target youth smoking.

With good reason, tobacco supporters are most troubled by this last reason—that the FDA regulations go beyond what is necessary to target teen smoking. We do not believe Dr. Kessler's desire to reduce smoking is his only motivation for regulating tobacco, and the regulations themselves further undermine his credibility on the issue. Let me quote, Mr. President, from the Federal Register notice accompanying the regulation:

> . . . FDA intends to classify cigarettes and smokeless tobacco at a future time,—

Classify cigarettes and smokeless tobacco at a future time?

> and will impose any additional requirements that apply as a result of their classification. . . .

It does not sound like they are just after youth smoking.

Like me, my farmers want to know exactly what that means for tobacco. According to Dr. Kessler, a pretty grim future. Back in February 1994 in a letter concerning FDA authority over tobacco, he wrote:

> A strict application of these provisions could mean, ultimately, removal from the market of tobacco products containing nicotine at levels that cause or satisfy addiction. Only those tobacco products from which the nicotine had been removed or, possibly, tobacco products approved by FDA for nicotine-replacement therapy would then remain on the market.

Documentation like this makes Dr. Kessler's interest in the narrow issue of teen smoking suspect to say the least. In fact, his public statements and testimony in 1994 are full of references to FDA regulations, but never in the limited context of youth smoking. I don't think I am alone in fearing that the sympathetic issue of youth smoking has become a convenient vehicle for darker ulterior motives.

A legislative solution is clearly needed to prevent Dr. Kessler from promoting his agenda under the guise of youth smoking. But that legislative solution will come only if all the players are sitting at the table ready to negotiate. It has never worked any other way with tobacco.

Congressman BAESLER and I have had legislation out there for a full year. What it represents is a good starting point for protecting tobacco farmers' interests instead of leaving the decision to some court that we have no control over. But, while we've got Members willing to protect NASCAR and rodeos with legislation, we've found little support from other tobacco State Members to try and help our farmers. Congressman BLILEY has gone so far as to say this is a question for the courts, not Congress.

Think about it. This year two of the largest tobacco companies have come out with even tougher proposals than mine in an effort to have a legislative solution that keeps FDA out of the business of regulating tobacco. Some will dismiss the tobacco company's action as public relations. I call it being reasonable.

They too, have found little support. This should be a team effort but instead has turned into partisan conflict that has wasted an entire year and weakened our overall strength in the fight to save the youth from smoking and to protect our farmers.

Mr. President, I introduced my legislation because I am fiercely opposed to Government interference in the legal decision of adults in this country. I introduced this legislation because I believe someone needs to truly look out for the tobacco farmers' interests. I introduced this legislation because I believe the problem of teen smoking calls for reason, not rhetoric.

Over and over again, I have sat down at the table and tried to come up with solutions for my farmers. For this past year I sat at the table alone because others would rather play politics. I believe the decision to stay away will have long-term implications for the future of tobacco farming and for the well-being of the industry as a whole.

Mr. President, Dr. Kessler was able to introduce his regulations because he said cigarettes were a device. Now he has made the thumb and two fingers a device because he says smokeless is included in that. So if you dip and get some tobacco, then your thumb and two fingers become a device—a device. So, cigarettes are a device, your thumb and index fingers are a device.

Something about this is wrong, Mr. President. After the November election is over, I am sure it will get out of the political arena as some try to bilk the tobacco companies for all the campaign funds they can get and they try to bilk the poor tobacco farmer out of a vote. Once November 5 is past, maybe we will be able to find someone willing to sit down at the table.

I was chastised in a letter I received yesterday for being in the position I am in. They say that—taking their numbers—3,000 young folks start smoking every day; that is over 1 million a year. With the litigation of these regulations being in the courts 3 to 5 years, say 5 years, they themselves have allowed over 6 million young people to start smoking, instead of sitting down trying to work out something reasonable that can stop it.

Now, you say you are trying to protect the farmer. I am, but I voted for every piece of legislation that has come through here to help prevent youth smoking, from labeling to smoke-free schools. I voted for SAMSHA, which is imposed upon the States. Where are those who want to do something for youth? All they want to do is run ads in the newspapers against my colleagues. They want to write big stories and have a lot of money in their till so they can get out there and beat their chest about how wonderful a job they are doing, while they are letting youths go down the tubes and the tobacco farmer go down the tubes.

Mr. President, I ask my colleagues, those affected by this issue, come reason together. Reason together so we can return to our farm families not only a sense of security and stability but a sense of dignity about the work they do.

I yield the floor.

COMMUNITY SERVICE MAKES A DIFFERENCE

Mr. NUNN. Mr. President, I am pleased to speak today regarding a recent collaboration between AmeriCorps and Habitat for Humanity. Everyday on television and in newspapers we are reminded in some way of the problems of our Nation's distressed urban areas. I would like to draw the attention of my colleagues to one example of how community service is making a real difference in the area of affordable housing for hard-working families in cities across the country. On June 22, 1996, Habitat for Humanity sponsored the Home Stretch Build. Several hundred community volunteers and 75 Habitat AmeriCorps members from Americus and Savannah, GA; Miami, FL; Cleveland, OH and the District of Columbia built nine new homes in Southeast Washington, DC. That day Habitat for Humanity founder and president, Millard Fuller, said the following about the AmeriCorps Program:

There are a bunch of good folks out here today, doing something very, very worthwhile. I'm particularly pleased with the AmeriCorps people here, over 75 of them, and I want to salute you . . . for the outstanding work that you do. This army of peaceful people, who are making good news happen all over this Nation. Twenty-five thousand of them. And I want you to know that we at Habitat for Humanity feel privileged and honored to have the AmeriCorps people with us, and we want more of them as time goes on. We love to be partners with you in this work, and I salute all the AmeriCorps people.

Mr. President, this is another in the long list of examples of national service participants reaping the threefold benefit of national service—benefit to the community where the service is performed, benefit to the servers for serving their communities, and the benefit derived from the education of the servers in the future. I applaud the National Service Corporation for its ongoing efforts, and urge my colleagues to take note of the successes of these young people.

I yield the floor.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, September 23, the Federal debt stood at $5,192,406,060,962.74.

Five years ago, September 23, 1991, the Federal debt stood at $3,628,836,000,000.

Ten years ago, September 23, 1986, the Federal debt stood at $2,107,785,000,000.

Fifteen years ago, September 23, 1981, the Federal debt stood at $977,809,000,000.

Twenty-five years ago, September 23, 1971, the Federal debt stood at $415,377,000,000. This reflects an increase of more than $4 trillion, $4,777,029,060,962.74, during the 25 years from 1971 to 1996.

BRAIN INJURY ASSOCIATION PERFORMING GREAT WORK

Mr. HELMS. Mr. President, traumatic brain injury is a silent epidemic which afflicts one person in the United States every 15 seconds. Nearly 250,000 Americans suffer severe head injuries; and brain injury is the No. 1 killer of young Americans under the age of 40. More than 20 million Americans are affected one way or another by brain injury, with an estimated 60,000 deaths expected this year alone.

The Brain Injury Association, Inc., chaired by Martin B. Foil, Jr., of Concord, NC, was instrumental in the passage of the Traumatic Brain Injury Act which was signed into law on July 29, 1996. Mr. Foil, and his wife, "Puddin," have worked tirelessly over the past 5 years to help pass this important legislation. The Foils' son, Philip, was injured in a car accident and suffered serious brain injury. The Foils turned that personal tragedy into a triumph for others. The Traumatic Brain Injury Act has focused a national spotlight on brain injury as a major health problem, and provides research grants for the prevention, treatment, and rehabilitation of brain injury.

Mr. President, brain injury in the United States costs an estimated $48.6 billion annually. Most of this expense is paid for by taxpayers through Medicare and Medicaid. It is hoped—and that is what the Traumatic Brain Injury Act is all about, providing hope—it is hoped that funds from the Traumatic Brain Injury Act will lead to innovative treatments which will help victims and their families better deal with this devastating injury.

Mr. President, I ask unanimous consent that a Charlotte (NC) Observer article regarding the Foil family dated August 4, 1996, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Charlotte Observer, Aug. 4, 1996]

CONCORD TEEN'S BRAIN INJURY LED PARENTS TO FIGHT FOR MORE PREVENTION AND RESEARCH

(By John Monk)

Between the grim aftermath of the crash of TWA Flight 800 and the attention riveted on Atlanta's Olympics, it passed almost unnoticed. But Martin Foil, wife "Puddin" and son Philip of Concord pulled off their own Olympian feat last week.

President Clinton invited the family to the White House as he signed a bill aimed at preventing and researching traumatic brain injuries. For the Foils, the signing in the Oval Office culminated two long struggles: their 12-year-old battle with a brutal accident that left their son disabled, and their fight to find treatment for similar injuries.

"We've been working on this 5 years," said Foil, 63, CEO of Tuscarora Yarns, Inc. in Mount Pleasant, NC, and chairman of the Washington-based Brain Injury Association.

The bill authorizes $15 million in research grants for the prevention, treatment and rehabilitation of brain injuries. It allots an additional $9 million for the Centers for Disease Control to monitor brain injuries.

The Foils' struggle began more than a decade ago.

In December 1984, Philip Foil was driving home from Concord High School. At 16, he was a bright, well-liked student who tutored colleagues in algebra and wanted to be a doctor. A car crossed a center line and slammed into Philip's car. In an instant Philip suffered severe head injuries. For 114 days, he lay in a coma. He woke to a life where, because his brain can't signal his body, he would need rehabilitation and care the rest of his life.

The Foils discovered that many people with traumatic brain injuries fall through the cracks of the nation's medical system. Brain injuries are not always formally recognized. Families who must care for the victims undergo enormous stress.

"Many people have been denied benefits from government programs, from insurance companies, as a result," said Dr. George Zitnay, president of the Brain Injury Association.

In the first years following Philip's accident, the Foils concerned themselves with his rehabilitation. He has made enormous progress, now able to walk with assistance and talk with the help of a vocalizing machine.

These days, there are tens of thousands of people like Philip. Modern medical treatment means many more people than ever survive brain injuries. No one has exact statistics on the number of brain-injured people. But the association estimates that up to 56,000 Americans die and more than 300,000 are hospitalized each year. Of the hospitalized, nearly 100,000 will sustain lifelong disabling conditions from sports, gunshot, and traffic accidents.

Most people who survive brain injuries are likely to live out their normal life span in a handicapped condition, and the cost is prohibitive.

"The average cost for a debilitating brain injury is $6 million or more," said Foil.

For years, Foil said, his grief over his son's injury kept him from getting involved in efforts to help publicize brain injuries. Gradually, he reached outward and contacted the association.

In 1992, when Foil became chairman, he gave top priority to passing legislation to research and prevent brain injuries.

Thousands of groups and lobbyists try each year to get legislators to introduce bills, but only a small percentage wind up as law.

Luck intervened.

Representative Jim Greenwood, R-Pa., was elected to the U.S. House of Representatives in 1992. As a state senator, Greenwood had won reforms for brain-injured victims.

Once in Washington, Greenwood was assigned to the House Commerce Committee, where any brain-injury legislation would originate. He became an expert in health care and won GOP leadership backing for a bill involving about $8 million a year for three years, a tiny sliver of the $1 trillion-a-year Federal budget.

Meanwhile, Foil's group won allies in the Senate, including Sens. Edward Kennedy, D-Mass., and Nancy Kassebaum, R-Kan. In July, Congress passed the bill that Clinton signed last week.

The Foils' battle is not over.

Their son, Philip, lives at home and will always need care. His parents are thankful he's a vital part of the family.

Congress may take a second action. Clinton signed an authorization bill—a law that allows money to be spent for a specific purpose. Now, Congress must pass an appropriations bill, which will actually permit the money to be spent.

"We'll get the money," said Foil. "Congress would be ashamed not to give it to us."

TRIBUTE TO SENATOR NANCY KASSEBAUM

Mr. HEFLIN. Mr. President, it took many of us by surprise when the junior Senator from Kansas, NANCY LANDON KASSEBAUM, announced late last year that she would not run for reelection this time. She and I arrived in the Senate together after being elected in 1978, and it has been honor to serve here with her. Now, we will be leaving together when our terms expire at the end of this Congress.

Senator KASSEBAUM is someone who is thoughtful and deliberative, and her colleagues truly listen to her. She also has a willful determination which not only commands but earns the respect of others. She comes from a well-known political legacy as the daughter of the 1936 Republican nominee for President Alf Landon, who lived to be 100 years of age. She has consistently demonstrated shrewdness, intelligence, and prudence in her approach to the issues since she has been in office.

Senator Kassebaum is perhaps best known for her leadership as ranking member and chair of the Labor and Human Resources Committee, working there for bipartisan agreements on the many contentious issues which confront that committee. She is also known for her role in foreign affairs, having worked for many years on the Subcommittee on African Affairs of the Foreign Relations Committee. She was a major force behind the establishment of sanctions against South Africa and was key in deciding the conditions under which they should be eased before apartheid finally ended. Her background in education and the humanities has made her a strong leader on these issues as well.

The people of Kansas and the Nation have benefited greatly from the service of Nancy Kassebaum in the U.S. Senate. She has led by example, and this body will be a decidedly lesser place after she leaves. I commend her and wish her well as she moves on to a new phase of her life.

TRIBUTE TO UYLESS WARDELL WHITE

Mr. HEFLIN. Mr. President, I would like to bring to the attention of my colleagues a tribute written by Christopher Lee McCall to his uncle, the late Uyless Wardell White, of my hometown, Tuscumbia, AL. The Whites are known as a pioneer family in northwest Alabama. They are well-known in the Muscle Shoals area for Christian fellowship, civil responsibility, excellence in education, and total family devotion.

This fitting tribute written by Christopher McCall to his uncle invokes the memory of the love of Ruth for Naomi found in the Bible in the First Chapter of the Book of Ruth, verses 16 and 17:

> . . . entreat me not to leave thee, or to return from following after thee: whither thou goest, I will go; and where thou lodgest, I will lodge. Thy people shall be my people, and thy God my God: Where thou diest, will I die, and there will I be buried: The Lord do so to me, and more also, if I ought but death part thee and me.

Mr. President, U.W. "Cush" White was a model for his nephew, Christopher, to emulate. I ask unanimous consent that this tribute to U.W. White be entered into the Congressional Record immediately following my remarks.

There being no objection, the tribute was ordered to be printed in the Record, as follows:

(By Christopher Lee McCall—In loving memory of my uncle, Uyless Wardell White)

SOMEDAY

Someday we'll see you again,
Although we know not when:
We all loved you so very much.
But now we're out of touch.

Your face will be with us always;
We'll think of you everyday,
Never to forget what you gave us;
You brought us all such happiness.

Uncle Cush, we'll miss you,
With all our hearts and souls,
But to know you're somewhere safe
Away from this terrible place
Will help us to overcome
The sorrow we feel inside.

Though it will never cease,
This hollow feeling that we feel,
We know that someday soon,
We'll see you again!

TRIBUTE TO SENATOR DAVID PRYOR

Mr. HEFLIN. Mr. President, when I learned that Senator David Pryor was not planning on seeking reelection this year, I realized that few Members of this body have meant so much to the Nation while at the same time serving the people of their State.

Back in 1951, at the age of 16, young David Pryor served as a page here in the Senate. Looking back, he summed it up this way: "It was the first time I'd seen Washington, the first time I'd seen the Capitol, the first time I'd seen the Senate, and the first time I'd been in a taxicab."

Times have changed since 1951. Most of the faces that David Pryor saw during that initial visit are long gone. Some of the problems facing the Nation have been solved. New ones have arisen. But, since his election by the people of Arkansas in 1978, the same year I was first elected, Senator David Pryor has worked for this Nation's betterment. He is perhaps best known for his excellent work on behalf of the Nation's elderly citizens through the Senate Aging Committee, which he chaired for several years.

The State of Arkansas has benefitted immeasurably from his service. Alongside men like Senators J. William Fulbright and Dale Bumpers, Senator Pryor has been an outstanding standard bearer of the legacy and tradition of those who have served Arkansas in the Senate.

"Smart as heck" was how he described Senator Fulbright in 1951. It will be no surprise to read similar comments written by those pages who have encountered Senator Pryor during their service. He is also a true gentleman, and always treats others with respect and courtesy, traits that are all-too-often missing in today's harsh political climate.

He is a man with deep ties to his State. He started his own newspaper in his home town after graduating from the University of Arkansas. He spent years as a country lawyer, serving everyone who walked in the door. In fact, as a lawyer, he participated in the famous coon case—an ownership dispute over a dog in which the judge allowed the dog to choose its own owner.

The Senate itself has benefitted from the efforts of David Pryor. He has worked to maintain its dignity and unique style of debate and policymaking. He has served in the Senate for nearly 18 years. We came here together, and will leave together.

Senator Pryor has made many contributions to both his constituents and his colleagues. We will wish him well as he leaves to enter a new phase of his life.

TRIBUTE TO SENATOR JIM EXON

Mr. HEFLIN. Mr. President, along with many of our colleagues, the senior Senator from Nebraska has announced that he will retire at the end of this Congress. When Jim Exon leaves, the Senate will have lost one of its most loyal and dedicated Members. The business of governing often comes down to being a team player. While he has not been reluctant to stand his ground when his conscience required him to do so, Jim Exon has also stuck by his team on the toughest votes that help to define our two parties.

Senator Exon has gained our deep respect because of the wisdom of the measures he has advocated. He wrote the law that prevents the foreign takeover of American corporations which threatens our national security. Also, he increased the penalty for drug sales near truck stops to make America's highways even safer. These are just two of the numerous legislative initiatives Jim Exon accomplished during his successful tenure in the Senate.

He has been quick to recognize and adapt to the dramatic global changes which have occurred over the last 6 years. His foresight in advocating the establishment of barter arrangements with the former Soviet Republics will become even more apparent as those nations become more fully integrated into the world economy.

Senator Exon has not been afraid to stand by his beliefs. While we were not always on the same sides of a given issue, there has never been a doubt in my mind that he based his decisions and votes on what he believed to be in his State's and the country's best interest. He has been an outstanding leader on defense and national security issues.

Senator Jim Exon has demonstrated in his 18 years in the Senate that he is valuable both for his inclination to be a team player and his willingness to stick to his position in the face of stiff opposition. We were elected the same year, and will be leaving together when our terms expire early in 1997, and I wish him well. The people of Nebraska have had a true friend in Senator JIM EXON.

TRIBUTE TO SENATOR PAUL SIMON

Mr. HEFLIN. Mr. President, 2 years ago, we in the Senate—and the Nation—were saddened to hear that our colleague PAUL SIMON would not seek reelection this year. As a national figure who truly embodies integrity, respectability, and character, Senator SIMON will certainly be missed here.

PAUL SIMON was one of the first politicians to disclose his personal finances so that they would be open to scrutiny by the public. He has firmly supported a balanced budget amendment in order to prevent the Government from continuing to spend itself into greater debt. He has been the Democratic standard bearer on the balanced budget amendment legislation, and I am still hopeful that we see it become a reality before we both leave in early 1997. In the same vein, he has supported a line-item veto for the President to allow the Chief Executive to trim fat from the budget. Senator SIMON recognizes that the Founding Fathers did not intend for the Government to operate in the red.

I think that Senator SIMON's strong commitment to integrity in Government can be traced to his roots in the newspaper business. At the age of 19, he bought his own newspaper, the Troy Tribune. As its publisher, he crusaded against local gangsters who had subverted local law and order. His success in running his own newspaper no doubt influenced his belief in the ability of the Government to operate in a thrifty and effective manner while maintaining the same honesty that he had shown in running his paper.

The business flourished, expanding to 14 papers. Then he decided to sell his interest so that he could devote himself full time to serving his country through Government service. We will always remember the candor, wit, and knowledge he brought to the 1988 Presidential race.

It has been my personal privilege and pleasure to have served on the Senate Judiciary Committee with him. He is not a lawyer, but his keen insight into the legal issues that affect real people is enlightening and instructive. He is an outstanding member of that committee.

This body will be a decidedly lesser place without PAUL SIMON. We congratulate him and will wish him well after he leaves.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may speak up to 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION EDUCATION

Mr. SPECTER. Mr. President, in a few moments the House and Senate conference committee on the immigration bill will meet, and I believe we will approve far-reaching reform on immigration by striking out the so-called Gallegly amendment, which allows the States to deny public education to children who are not legally present in the United States.

The Gallegly amendment, Mr. President, is fundamentally unfair because it is directed at children. It is my view that the children ought to have an opportunity for education for many reasons. One reason is that if they are to be self-supporting adults, if they are to have an acceptable quality of life and become good citizens or residents of the United States of America, they need an education. Second, if they are not in school, they are going to be on the street, and there will be problems of delinquency, there will be problems of juvenile crime.

The answer is not to exclude illegal alien children from having an education, but instead to tighten up the restrictions on illegal immigration and to protect our borders. The immigration bill which is now pending in the House-Senate conference will be a significant step forward in reform, to reform the immigration laws, to protect U.S. borders, to provide for expeditious treatment of immigrants who are illegally in the United States, to deport those immigrants in accordance with our laws.

It is said that the education of illegal alien children is a magnet to draw illegal immigrants into the United States. The answer is not to exclude those children from education, but the answer is to protect American borders so that the illegal immigrants do not gain access to the United States, do not enter the United States, and that children are not here, posing a significant problem in terms of their conduct on delinquency and crime and in terms of their conduct when they grow to adults, assuming they stay in the United States.

There have been those who say that it ought to be the financial responsibility of the Federal Government to pay the cost of education, and I am in agreement with that principle, Mr. President. It has been a failure of the Federal Government to protect U.S. borders. I think it is fair to respond that it ought to be the obligation of the Federal Government to pay to educate the illegal alien children that it has allowed to enter. However, the answer is not to deny those children education while they are in the United States.

Mr. President, I believe it is very important to make sharp distinctions as to how we treat children of illegal immigrants from how we deal with the problem of illegal immigration generally. The way to deal with the problem of illegal immigration is to protect our borders. It is not to deny education to children once they are in the United States. Neither is it sound, sensible, or fair to deny citizenship to children who are born in the United States to immigrants who have illegal status. The hallmark of America, the hallmark of the Statue of Liberty, and the hallmark of the melting pot is to respect the status of American citizenship of any child born in the United States.

That is a matter, Mr. President, that I feel particularly strong about since both of my parents were immigrants. They both came to the United States legally; that is, to the best of my knowledge, information, and belief they came legally. My father came from Ukraine in 1911—literally walked across Europe, sailed at the bottom of the boat, in steerage, to come to America to find an opportunity for himself and his children. Harry Specter, my father, didn't know that he had a round-trip ticket when he came here—not back to Ukraine but to France, and not back to Paris and the Follies Bergere, but to the Argonne Forest, where he served in the American expedition forces to make the world safe for democracy, with shrapnel in his legs until the day he died.

My mother came with her family as a child of 5 from a small town on the Russian-Polish border, I believe with legal immigrant status, although I would be hard pressed to prove that my parents were legal immigrants if someone were to challenge the status of ARLEN SPECTER as a citizen of the United States.

But when we deal with the problem of illegal immigration, or legal immigration, we have to have a very, very sharp focus on what is appropriate public policy. The bill in its final form, in my judgment, is somewhat too harsh in taking away benefits from legal immigrants and denying some benefits to other immigrants. But I think reform is necessary, and the compromise that has been worked out is a reasonably good compromise, and if we find problems, we can correct them at a later date.

But I want to repeat that it is obnoxious, unfair, and un-American to deny U.S. citizenship to anyone born in this county, no matter what their status. I am glad that the bill before us does not incorporate this proposal.

The conference report has been held up for a very protracted period of time over the Gallegly amendment because there is so much sentiment in the Congress that we ought not to deny education to children regardless of their immigration status. There has been the threat of a veto from the White House. But I think it is highly unlikely that the conference report could pass the Senate with the Gallegly amendment in it.

There has been an effort by a variety of amendments to grandfather children so that once they are in school, they can complete the 6th grade and elementary school or complete high school. There was an amendment which I had suggested, which I was not really fond of and didn't really think was the ultimate solution but a stop-gap measure, to have a mandatory, expedited vote in 2½ years, 30 months after implementation of the Gallegly provision, to see the impact of the Gallegly provision on delinquency, on education, and on family life, and then a second vote at the end of 5 years, 60 months. I felt that the Gallegly amendment would, if presented in isolation, be rejected by the Congress, and that we would not deny education to children in this country regardless of the status of their parents. But I believe, after a lot of deliberation, the issue has been resolved.

I am looking forward to the conference which will start in just a few minutes in which we will delete the Gallegly amendment so that the States will not have the option to deny education to children regardless of their parents' status. We can bring this immigration reform bill to the floor, and we can pass it and, I think, have it signed into law.

I thank the Chair. In the absence of any other Senator, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MR. PEROT AND THE PRESIDENTIAL DEBATES

Mr. CONRAD. Mr. President, I would like to comment briefly on the decision to exclude Mr. Perot from the upcoming Presidential debates. I want to make it clear from the outset that I support my President and I support my party, but I do believe that Mr. Perot ought to be included in these debates. After all, Mr. Perot and his party have now qualified to be on the ballot in all 50 States in this Nation. He has become eligible for Federal funding. In fact, he will receive nearly $30 million in Federal funding, based on his previous performance. Last election he received nearly 20 percent of the vote nationwide, and some exit polls indicate he would have done even better if people had not already made the judgment that he could not win. In polling that has been done this year, 76 percent of the American people have indicated they would like to see him included.

I think, for all of those reasons, Mr. Perot deserves to be included. But I think there are other reasons as well. I think Mr. Perot has made a significant contribution to the national debate and discussion over deficit reduction. Frankly, if you go back to the 1992 debates and the 1992 campaign, Mr. Perot can rightfully claim that he served as a prod to both parties to discuss deficit reduction. I believe that remains one of the foremost challenges this country faces. Mr. Perot would help the debate, in terms of a focus on deficit reduction.

Mr. Perot has also made a contribution in two other areas that have received very little attention during this Presidential campaign. First, with respect to the question of trade, he has a different view than either the Republican challenger, Mr. Dole, or the incumbent President, President Clinton. This country deserves a debate and discussion on trade policy as part of this Presidential campaign.

Finally, I think Mr. Perot has also made a contribution with respect to the question of campaign finance reform. We have heard virtually nothing in this campaign about campaign finance reform.

I hope the Presidential commission will review their decision and decide to include Mr. Perot. Again, I emphasize, I am not a Perot supporter. I do not intend to vote for him for President of the United States. I intend to support the President. I intend to support my party. I think the President has an outstanding record in terms of actually delivering on deficit reduction.

I recall very well, when the President came in, in 1992, he inherited a budget deficit of $290 billion. That has now been reduced, by the best estimate for this year, to $116 billion, about a 60-percent reduction. In fact, the deficit has come down every year for 4 years in a row.

Partly because of the Clinton economic plan that was passed in 1993—that was a deficit reduction plan—I believe we have seen the resurgence of this economy. We have become the most competitive nation in the world, replacing Japan. Not only have we seen a dramatic reduction in the deficit, but we have seen a significant strengthening of economic growth. We have had the strongest private sector economic growth on this President's watch than on that of the last three Presidents. We have also seen the lowest misery index—the measure of inflation and unemployment—in 28 years. Business investment is increasing at a rate that is the highest in 30 years. We have seen the creation of more than 10 million new jobs during this President's term.

I think this President has an outstanding record to take before the American people. But I think most of us also know that the job is not finished. The job is not yet completed. More needs to be done. I do believe Mr. Perot would play a positive role in putting a focus on the additional deficit reduction that needs to be made in this country.

As I have stated, I also believe he would make a positive contribution to a debate on trade policy and with respect to the question of campaign finance reform. I am sure the occupant of the chair may share these views. Or perhaps not.

I do think the commission's decision is fatally flawed. When they make a determination that somebody not be included because they have no realistic chance of winning, what are they going to do when one of the two major candidates has no realistic prospect of winning? We have had several Presidential campaigns where that was the case. Let's go back to the 1984 Presidential race with Ronald Reagan as the incumbent President. There was no realistic chance anybody was going to beat him. Should we have canceled the Presidential debates altogether?

This year we see the challenger 17 points behind. Nobody has ever made up that kind of gap. Should the Presidential commission determine Mr. Dole has no realistic chance of winning the election, and therefore cancel the debates? The logic used by the commission—that because somebody does not have a realistic prospect of winning the election they should be excluded from the debates—is a slippery slope.

We ought to include those who have met the tests that Mr. Perot has met. I understand Mr. Perot is a controversial figure. His 1992 Presidential campaign—with his entrance into the race, his withdrawal, and his reentrance—raised many questions. But we are still left with some basic facts.

First, he has qualified to be on the ballot in all 50 States. He has done that. His party has qualified to be on the ballot in every State in the Nation.

Second, he has become eligible for Federal matching funds. The only people who have managed to do that this year are Bill Clinton, Bob Dole, and Ross Perot. Nobody else has qualified to get Federal matching funds.

Third, he received nearly 20 percent of the national vote in the last election. I think that merits inclusion in these debates. Finally, perhaps most important, the vast majority of the American people, according to the polls, want him included. They want to hear a debate that includes Mr. Perot. It does not mean they want to vote for him necessarily, but they want to see him included in the debate.

As I have said before, I think he has demonstrated he has made a positive contribution on the issues of deficit reduction, trade, and campaign finance reform.

So, I hope the Presidential commission will review their decision and decide to include Mr. Perot without having a court have to review this decision for them.

I thank the Chair, yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The distinguished Senator's thoughtful comments are well received, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished Senator from West Virginia is recognized.

Mr. BYRD. I thank the Chair.

SENATOR JIM EXON

Mr. BYRD. Mr. President, I pay tribute today to Senator JAMES EXON, who is completing his third term in the Senate and has unfortunately, decided to retire. His retirement caps a long and distinguished career of public service unique to his home State of Nebraska. JIM EXON and I have served together on the Armed Services Committee, and I have admired his strong support of our national defense. At the same time, as a conservative, and as ranking member on the Senate Budget Committee, Senator EXON has had a practical, direct, moderate temperament which has put him in tune with national sentiment on the need to control spending. He has been a leader of efforts to balance the budget, and that includes a need to reduce defense spending where possible, given the end of the cold war, and particularly in tempering the tendency to throw too much money on expensive new hardware systems.

JIM EXON is against waste and he has put his legislative shoulders behind that effort. He would agree with William Shakespeare, who wrote in King Henry V:

> I can get no remedy
> against this consumption of
> the purse: borrowing only
> lingers and lingers it out,
> but the disease is incurable.

JIM EXON will be missed here. I shall miss his candid style, his no-nonsense temperament, and his refreshing directness, all of which are mixed with a down-home sense of humor. As a Senator, JIM EXON has always retained a modest sense of himself, never succumbing to the inflation of ego, which is a constant temptation in a body so much in the national limelight.

Senator EXON's success as a three-term Senator follows a string of other successes. After graduating from the University of Omaha in 1942, he volunteered for the U.S. Army Signal Corps and served in the Pacific theater in New Guinea, in the Philippines, and, finally, in Japan, and was honorably discharged as a master sergeant in December of 1945. He returned from the war to start a business career and developed a very successful office equipment company.

At the same time, he followed in his family's political footsteps. His grandfather served as a county judge in South Dakota, and JIM's early grassroots experience came in campaigning for his grandfather there. JIM started in politics by becoming a prominent leader of the Nebraska Democratic Party, serving as State vice chairman and National Committeeman.

JIM came to the Senate in 1978 after having served as the Governor of Nebraska for two terms from 1970–1978, longer than any other person in that State's history. The experience served him well. He was rewarded by the people of Nebraska when he achieved the unique accomplishment of having been elected directly to the United States Senate.

JIM EXON comes from the heartland of America and is an admirable reflection of the values, the solid citizenship, and the loyalty that characterize our heartland. He reflects the basic American values that honor family, fiscal responsibility, and national security.

Last year in the context of landmark telecommunications reform legislation, he was the author of a provision intending to protect children from computer pornography by making it illegal to send indecent material to a child or display it on computer screens where children can access it.

He has been, as well, a leader in protecting American businesses from takeovers by foreign firms in the area of national security. Known as the Exon-Florio law, passed in 1988, this act gave the President authority to investigate and stop foreign takeovers of American companies in the case where the takeover would threaten U.S. national security.

JIM EXON is rock solid. This year he and his wife, Patricia, will have celebrated their 53rd wedding anniversary, which goes to show that you can still stay married to your first wife a long, long time. He returns to Nebraska to join his three children, Steve, Pam, and Candy, along with his eight grandchildren, a very wealthy man he is indeed—eight grandchildren.

In citing his reasons for retirement, JIM EXON laments recent trends in American politics, such as the "vicious polarization of the electorate," the erosion of the art of honest compromise as the essence of the Democratic process, and the negative attack ads dominating current political campaigns. As he departs, I hope that he will be a continuing force against these trends and that he, at least, will help inculcate in the new men and women who are entering politics in Nebraska the same values of fairness; good humor; practical, independent sense—common sense—and honest achievement that have so clearly emphasized and characterized his own career.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

TRIBUTE TO SENATOR DAVID PRYOR

Mr. BUMPERS. Mr. President, I have come to the floor this morning to pay tribute to my distinguished retiring colleague, DAVID PRYOR.

When I think about Congress suffering—and I use the term "suffering" advisedly—the largest number of retirees in 100 years, I have a tendency to wax eloquent about my own personal beliefs as to why that is happening. There are 13 Senators who have chosen to leave voluntarily this year. Among them are some of the very best.

I have confessed on occasion when I didn't think it would hurt me politically to the fact that I am not a terribly effective legislator because I have a very difficult time compromising. I have strong beliefs, and sometimes compromise is just out of the question for me. And, yet, we all know that 535 Members of the Congress cannot each have his or her own way on every issue.

But the people who are retiring are essentially people who are very good legislators because they understand the art of politics; the necessity for compromise. And I call them "bridge builders"—because they don't let stand between them differences in philosophies and personalities. As the U.S. Senate has become more ideological and more entrenched in hard core ideas, where name calling somehow or other has become the substitute for ideas, we need bridge builders.

DAVID PRYOR was born in Camden, Ouachita County, AR, in 1934 to very devoted parents. All of DAVID's life manifest in his personality and character is the unexcelled upbringing he enjoyed.

He graduated from the University of Arkansas Law School in 1964 with an LLB degree, went home to his native Camden and established a newspaper called the Ouachita Citizen that he operated for 4 years. During that period of time he was also elected to the Arkansas State legislature, to the House of Representatives, for three terms—1960, 1962, and 1964.

I remember—I guess it was 1966—when DAVID was elected to the U.S. House of Representatives. It was in 1968 that I met him for the first time, and that was just one of those typical political handshakes. The Democratic Party was having a forum in Little Rock. I had the itch to run for Governor in

1968. Luckily for me I chose not to do it that year. But DAVID PRYOR spoke at this meeting in Little Rock in 1968. And I was absolutely awe-stricken—he was good looking, articulate, and had some very good ideas. And I thought how wonderful it must be to serve in the House of Representatives and be able to come here and say these things for this giant crowd here this evening. And it only piqued my interest in running for office that much more.

So besides my father, who actually encouraged me to go into politics when I was a child, DAVID was my next inspiration because of that evening in Little Rock in 1968.

After losing a race for the Senate in 1972, he came back in 1974 and ran for Governor and won handily, and served our State for 4 years. That was two terms, then, 2-year terms. He served our State admirably.

He became then, and has remained ever since, the most popular politician in Arkansas by far. I said the other evening, and I have said it many times, it pains me to say that. The thing that makes it bearable is I know it is true. Everybody in our State, virtually everybody, loves DAVID PRYOR, as does virtually every Member of the U.S. Senate.

In all of the years that DAVID has been in politics, and certainly all the years he has been in Congress, I have never heard anybody accuse him of having Potomac fever, and the reason he is easily the most popular politician in Arkansas is because he has never lost that common touch of letting people know that he is concerned about them. He never looks past you to see who is next in line. You get his undivided attention, no matter how crazy the idea might be. DAVID PRYOR has always been a listener.

I read a book one time called, "Lee, The Last Years." It is the story of Robert E. Lee after the war, written by a man named Charles Bracelen Flood. And the most poignant part of the book was a description of Lee after he surrendered to Grant at Appomattox. He then got on his horse Traveler and, with a small entourage of Confederate officers and men, started on roughly a 5-day trek from Appomattox Courthouse to Richmond, where a home had been prepared for him.

As they went through various southern villages and communities, huge crowds lined the streets awaiting for hours the arrival of Lee and his entourage—rebel yells, unbelievable cheers, of people for this losing General.

About the third day of this trek toward Richmond, Lee stopped at a point where a battle had been fought and there were still rotting corpses on the battlefield. He got off his horse and he waved his arm toward the battlefield and he said, "This could have been avoided." And the rest of what he said I paraphrase, but it was essentially this: At the time when this Nation needed men of courage and vision and restraint, we had politicians who saw that it was to their advantage to foment the flames of war. And this is the result.

James Fallows has written a book called "Breaking the News: How the Media Undermines American Democracy." It is a very interesting and almost unassailable hypothesis, in this book. But I can tell you, democracy always hangs by a thread. And here we have a man like DAVID PRYOR, who has all the qualities that Robert E. Lee described, and more: tenacious, determined on what he believes, intellect, the character to stick with his ideas in a totally honest way, and vision about where the country ought to be heading. These are remarkable traits to be wrapped up in one man, and rare and unusual in the U.S. Congress. So, at a time when democracy perhaps hangs by a more slender thread than ever, losing a man like DAVID PRYOR, who possesses those qualities, is just short of disastrous for the country and certainly, to me, as a friend and colleague.

In the years I have served with DAVID, almost 18 years, now, I have never seen him duck a tough vote, though there have been plenty of opportunities. He has always been able and willing to take the heat in order to cast those votes.

When DAVID came to the Senate he had been Governor 4 years, but we really did not know each other. We knew each other politically, and we would see each other at political events, and we were friends. But it was only after he came to the Senate that we developed a friendship in the truest meaning of the word. So, I have been close to him in a lot of his travail. I can tell you, I do not know of very many people who have suffered in their personal life as much as DAVID—really, terribly traumatic things. Despite all of that, including the current trauma, I have never seen him down. I have never seen him look for sympathy or indicate that he was looking for sympathy.

I remember when my wife, Betty—and I do not mind saying this now, because it was about 15 years ago—was diagnosed with cancer. It was a dicey situation. She was going to be operated on at Georgetown at 8:30 in the morning. I got there at 8, and DAVID was already there. I guess that morning was the sealing of this, what will now be a lifelong friendship.

During his entire adult life since he graduated law school, he and Barbara have undergone these traumatic experiences together. She has been by his side. I have watched her. I have watched her strength. I have watched her values sustain her and DAVID both. And in all fairness, she has never been shy about expressing her thoughts and ideas with her beloved husband, DAVID.

Then, of course, it has been a love affair. I know that DAVID never loved anybody else from the day he set eyes on Barbara Lunsford and they have both been tremendous parents to three very fine sons—they are so proud of them, and justifiably.

While I am senior by 4 years to DAVID PRYOR in the U.S. Senate, he has been my mentor, my consultant, and my best friend. I will miss him and I wish him Godspeed and good luck.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAMILY AND MEDICAL LEAVE ACT

Mr. BROWN. Mr. President, I had the pleasure earlier today of listening to the distinguished Senator from Connecticut talk about the Family Leave Act. He talked in very laudatory terms of the many positive changes that it has brought about.

Mr. President, I also want to voice a positive response to the fact that employers do provide family leave, a time to be with their family and loved ones at a time that is important, during medical emergencies. But, Mr. President, I think it would be a shame to allow the subject to pass without observing what the real issue was.

The real issue in the Family and Medical Leave Act was not that people should have time with their families. Of course they should. Many employers provided that before the act was in place. Certainly I believe, within the possibilities of jobs—not all jobs have flexibility—but within the possibilities of the jobs involved, that certainly should be the case in terms of company policy.

But, Mr. President, with all due respect to the distinguished Senator from Connecticut, he just doesn't get it. One of the tragedies, I think, of our system as it developed is that our legislative bodies are populated by people who have not had the experience of real work in the private sector. They have not had an opportunity to be involved in business and understand what is involved when you have an essential function that has to be done and someone is not there.

Perhaps most of all, Mr. President, many, unfortunately, do not understand what they have done to our country in the last few years by flooding it, inundating it with regulations and rules and laws.

I think of it in terms of the company that I used to work for. When I was corporate counsel, it was myself and a part-time assistant secretary. Right now, that same function, with similar responsibilities, is composed of four full-time attorneys, three legal assistants, and a backup division of more than 120 people. Do they do a better job than I did? Yes; I suspect they do.

But, Mr. President, what has happened is an explosion of regulation. The problem is not whether or not people should have family medical leave. The problem is whether or not the Federal Government ought to dictate the minute details of how jobs are run in this country, how things operate in this country.

The question is not whether or not we have an economy that is flexible and variable or whether or not we divert the resources of this country to micromanage things from the top; the question, with all due respect to those who worked so hard on that piece of legislation, is not whether or not you have family or medical leave. Of course you ought to have it. The question is whether or not you have a Government, a Federal Government, that sees its responsibility as one of centralizing control of the Nation, one of mandating and dictating the details of how we live our daily lives.

It may come as a surprise to some, but most Americans are pretty good at knowing what is good for them. They might even know better than those of us in Washington who so often tell them what to do.

RECESS

Mr. BROWN. Mr. President, I ask unanimous consent that the Senate now stand in recess until the hour of 2:15 today.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will be in recess until 2:15.

There being no objection, at 12:23 p.m., the Senate recessed until 2:14; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

Mr. COHEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered,

MORNING BUSINESS

Mr. COHEN. Mr. President, I ask unanimous consent that the Senate now go into a period of morning business with Members allowed to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senate is in morning business, with Senators allowed to speak for up to 5 minutes.

Mr. DORGAN. Mr. President, I ask unanimous consent to be allowed to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota is recognize to speak for 10 minutes.

Mr. DORGAN. Mr. President, I would like to make two points today; one very brief and then I would like to make some remarks, along with my colleague, Senator ASHCROFT, and introduce a piece of legislation.

NO CHANGE IN THE FEDERAL FUNDS RATE

Mr. DORGAN. Mr. President, the first point is that the Federal Reserve Board apparently now has broken up its meeting today and announced that there will be no change in the Federal funds rate—the interest rate that the Federal Reserve sets that has a significant impact on our economy, obviously.

I have been a frequent critic of the Federal Reserve Board. I would say that, if they have decided not to increase interest rates today, I commend them for that decision. I think it is the right decision.

The Federal funds rate is already one-half of 1 percent above where it ought to be historically, given the rate of inflation. There is no justification for an interest rate increase by the Federal Reserve Board. Inflation is under control—well under control—coming down 5 years in a row. Last month there was a one-tenth of 1 percent increase in the Consumer Price Index, virtually no inflation. So there was no basis for the Federal Reserve Board to consider an interest rate increase.

Some have suggested the Fed would meet in secret today if they wanted to, go in the room, shut the door, and make the decision in secret, and it would in effect increase interest rates today in order to respond to what they consider to be the need in the marketplace. But the Fed apparently decided not to do so. Again, I want to say that I think that is the right decision for this country, and for our economy because they ought not fight a foe that does not exist with remedy that is inappropriate. That is what they would have done, if they had increased interest rates today.

I found it interesting the other day that the Washington Post had a story saying the FBI has been called out to find out who leaked information at the Fed about what the regional Fed bank presidents have recommended with respect to interest rates. I would much sooner see the FBI called out to find out who withheld information from the American people, and what they talk about is the incredible secrecy of this institution called the Federal Reserve Board. Would it not be nice if everyone could have all the information about how and when they make decisions about monetary policy instead of calling the FBI out to find out who leaked information so the American people have some knowledge about who was recommending what on interest rate policies?

Mr. President, thank you. That is therapy for me to get that off my chest this early after the Federal Reserve Board met and apparently made the right decision. There is an old saying. "Even the stopped clock is right twice a day." I will not compare the Fed to a stopped clock, but at least to say that the Fed is right on interest rates. They did not change the rate. There was no justification in making a change, and they should not have made a change.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. I thank the Chair.

(The remarks of Mr. DORGAN and Mr. ASHCROFT pertaining to the introduction of S. 2108 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

PARTIAL-BIRTH ABORTIONS

Mr. SANTORUM. Mr. President, I think it is appropriate, as a result of the comments of the Senator from North Dakota and the Senator from Missouri, to talk about another issue that deals with the issue of life, an issue that will be before us in a very short few days. That is the issue of partial-birth abortions.

I took to the floor on Friday afternoon when this place was pretty empty to talk about the issue of partial-birth abortions. I said at that time that while the term "partial-birth abortion" is used, this is not a pro-life or pro-choice issue. This is not whether you are for or against abortion. This debate should be limited, must be limited to the procedure that we are discussing, and that is the procedure called partial-birth abortions.

I said at that time that I thought we should have a good debate, that the Senate, being the greatest deliberative body in the history of the world, should live up to its moniker, that we should have a deliberate, thoughtful debate on facts. I felt if we did have such a debate here, if we had such a deliberate, thoughtful debate, that, in fact, people who may have voted one way the last time, when presented with all the facts, in reexamining all the information that has come to light since the original vote in the Senate, might feel compelled to vote for this bill and override the President's veto.

I read an article today in the Washington Post that gave me some hope that people who consider themselves to be pro-choice can take a good look at the facts and change their mind on this procedure, this gruesome procedure. What gave me heart was an article published today in the Washington Post by Richard Cohen. Richard Cohen is a columnist who proclaims himself to be, and has consistently been, pro-choice. He believes in the woman's right to choose—in fact, in this article so states again.

Mr. Cohen, back in June of last year, wrote an article that condemned the bill.

In fact, it says, "In Defense of Late-Term Abortions," Tuesday, June 20, 1995, the Washington Post.

He goes on to give his reasons why he believes that partial-birth abortions should continue to be legal in this country.

Fast forward to today an article by Richard Cohen: "A New Look at Late-Term Abortion":

> A rigid refusal even to consider society's interest in the matter endangers abortion rights.

He writes this article from the perspective of someone who is a defender of abortion rights, someone who still believes in a woman's right to choose, using his terms.

I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A New Look at Late-Term Abortion—A Rigid Refusal Even to Consider Society's Interest in the Matter Endangers Abortion Rights

(By Richard Cohen)

Back in June, I interviewed a woman—a rabbi, as it happens—who had one of those late-term abortions that Congress would have outlawed last spring had not President Clinton vetoed the bill. My reason for interviewing the rabbi was patently obvious: Here was a mature, ethical and religious woman who, because her fetus was deformed, concluded in her 17th week that she had no choice other than terminate her pregnancy. Who was the government to second-guess her?

Now, though, I must second-guess my own column—although not the rabbi and not her husband (also a rabbi). Her abortion back in 1984 seemed justifiable to me last June, and it does to me now. But back then I also was led to believe that these late-term abortions were extremely rare and performed only when the life of the mother was in danger or the fetus irreparably deformed. I was wrong.

I didn't know it at the time, of course, and maybe the people who supplied my data—the usual pro-choice groups—were giving me what they thought was precise information. And precise I was. I wrote the "just four one-hundredths of one percent of abortions are performed after 24 weeks" and that "most, if not all, are performed because the fetus is found to be severely damaged or because the life of the mother is clearly in danger."

It turns out, though, that no one really knows what percentage of abortions are late-term. No one keep figures. But my Washington Post colleague David Brown looked behind the purported figures and the purported rationale for these abortions and found something other than medical crises of one sort or another. After interviewing doctors who performed late-term abortions and surveying the literature, Brown—a physician himself—wrote: "These doctors say that while a significant number of their patients have late abortions for medical reasons, many others—perhaps the majority—do not."

Brown's findings brought me up short. If, in fact, most women seeking late-term abortions have just come to grips a bit late with their pregnancy, then the word "choice" has been stretched past a reasonable point. I realize that many of these women are dazed teenagers or rape victims and that their anguish is real and their decision probably not capricious. But I know, too, that the fetus being destroyed fits my personal definition of life. A 3-inch embryo (under 12 weeks) is one thing; but a nearly fully formed infant is something else.

It's true, of course, that many opponents of what are often called "partial-birth abortions" are opposed to any abortions whatever. And it also is true that many of them hope to use popular repugnance over late-term abortions as a foot in the door. First these, then others and then still others. This is the argument made by pro-choice groups: Give the antiabortion forces this one inch, and they'll take the next mile.

It is instructive to look at two other issues: gun control and welfare. The gun lobby also thinks that if it gives in just a little, its enemies will have it by the throat. That explains such public relations disasters as the fight to retain assault rifles. It also explains why the National Rifle Association has such an image problem. Sometimes it seems just plain nuts.

Welfare is another area where the indefensible was defended for so long that popular support for the program evaporated. In the 1960s, '70s and even later, it was almost impossible to get welfare advocates to concede that cheating was a problem and that welfare just might be financing generation after generation of households where no one works. This year, the program on the federal level was trashed. It had few defenders.

This must not happen with abortion. A woman really ought to have the right to choose. But society has certain rights, too, and one of them is to insist that late-term abortions—what seems pretty close to infanticide—are severely restricted, limited to women whose health is on the line or who are carrying severely deformed fetuses. In the latter stages of pregnancy, the word abortion does not quite suffice; we are talking about the killing of the fetus—and, too often, not for any urgent medical reason.

President Clinton, apparently as misinformed as I was about late-term abortions, now ought to look at the new data. So should the Senate, which has been expected to sustain the president's veto. Late-term abortions once seemed to be the choice of women who, really, had no other choice. The facts now are different. If that's the case, then so should be the law.

Mr. SANTORUM. Mr. President, I will not read the entire article, but it is in the RECORD, and I do not think what I do read, which is most of the article, takes away from the meaning.

He mentioned a case in his previous article in June of a woman who had an abortion and used that sort of to justify late-term abortions and particularly the partial-birth abortion procedure. He revisits that in the beginning of the article and says he still agreed this woman who did not have a partial-birth abortion but had a late-term abortion, was right to do so. But he said, "What seemed justifiable to me last June, does not now."

He said:

> I was led to believe that these late-term abortions were extremely rare and performed only when the life of the mother was in danger or the fetus irreparably deformed.

You heard in the House of Representatives last week when they were debating this issue and you will hear over and over again from the advocates of partial-birth abortions that this is only done in extreme medical emergencies when fetuses have no chance of survival outside of the womb and that they are done very rarely.

Mr. Cohen says:

> I was wrong. I didn't know at the time, of course, and maybe the people who supplied my data, the usual pro-choice groups * * *

The PRESIDING OFFICER. The Chair informs the Senator from Pennsylvania that the 5 minutes have expired.

Mr. SANTORUM. Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

Mrs. BOXER. Reserving the right to object, I ask my colleague, since I want to respond to some of what he said and I do not have that much time and we are under a 5-minute rule, if he can complete in 2, and then I can make my 5-minute remarks, because I cannot stay to hear the rest of my friend's remarks. So if he can complete in 2 minutes.

Mr. SANTORUM. I ask unanimous consent that the Senator from California speak for 5 minutes, and I will just continue from there.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mrs. BOXER. Mr. President, I came to the floor today because I listened to the Senator's presentation, and I think it is very interesting. We have had a number of high-profile men comment on this particular vote that is coming up, and my colleague from Pennsylvania goes at length into the remarks of a columnist.

I think it is very important to listen to the women who were told that if they didn't have this particular procedure that my colleague wants to outlaw they could die, they could be made permanently infertile, they could be paralyzed for life, these women who have come to our offices to beg us to stay out of the emergency room, to stay out of the surgical room, to support the President's veto of this extreme bill.

Why do I call it extreme? I call it extreme because this bill would ban the procedure, regardless of the circumstance. It has a narrow exception, and I have it here: "* * * to save the life of a mother whose life is endangered by a physical disorder, illness or injury, provided that no other medical procedure would suffice."

This is the first time in history that the people who oppose abortion have made such a narrow life exception. The Hyde amendment simply says we can outlaw the procedure except "to save the life of the mother" if the pregnancy is carried to term.

This life exception is so narrow in this bill that a physician could only use this life-saving procedure if the woman had a preexisting condition such as diabetes, but not if he believed carrying the pregnancy forward or a Caesarean section or other methods would, in fact, endanger her life.

If a physician does choose to use this procedure, even in the situation of a preexisting condition of the woman, this physician could be hauled into court and have to provide a defense for himself.

I say to my friends, if this debate was really about outlawing this procedure, we could pass this bill in 1 minute. Every one of us who voted for the amendment that I offered, which simply said make an exception for the health and life of the mother—and we did not even leave it open-ended; we said serious adverse health risk—we were willing to ban this procedure, every one of us who voted against this bill, if it had a true life exception and if, in fact, it had a health exception tightly drawn so that if a woman was told, "You may not bear another child again unless you have this procedure," or "You may be paralyzed for life unless you have this procedure," or, "You could even die if that procedure goes forward in those cases," we would all vote together.

If the people who stand up here and quote columnists would come together with us, we could craft a bill in a minute that would, in fact, outlaw this procedure, except if the woman's life was threatened if the pregnancy was carried to term or she had severe health consequences facing her family. We could pass that 100 to nothing. But we don't have that before us today, because those on the other side would rather have a political hot-potato issue again.

It is sad. We can outlaw this procedure today with an exception for life of the mother or serious health impacts, but, no, better to make the President have to explain it. And let me tell you, he is explaining it.

I ask unanimous consent to have printed in the RECORD a letter dated September 23 that he has sent to us.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, September 23, 1996.

Hon. THOMAS A. DASCHLE,
Democratic Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: I am writing to urge that you vote to uphold my veto of H.R. 1833, a bill banning so-called partial-birth abortions. My views on this legislation have been widely misrepresented, so I would like to take a moment to state my position clearly.

First, I am against late-term abortions and have long opposed them, except, as the Supreme Court requires, where necessary to protect the life or health of the mother. As Governor or Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health. I would sign a bill to do the same thing at the federal level if it were presented to me.

The procedure aimed at in H.R. 1833 poses a difficult and disturbing issue. Initially, I anticipated that I would support the bill. But after I studied the matter and learned more about it, I came to believe that it should be permitted as a last resort when doctors judge it necessary to save a woman's life or to avert serious consequences to her health.

In April, I was joined in the White House by five women who were devastated to learn that their babies had fatal conditions. These women wanted anything other than an abortion, but were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm, including, in some cases, an inability to bear children. These women gave moving testimony. For them, this was not about choice. Their babies were certain to perish before, during or shortly after birth. The only question was how much grave damage the women were going to suffer. One of them described the serious risks to her health that she faced, including the possibility of hemorrhaging, a ruptured cervix and loss of her ability to bear children in the future. She talked of her predicament:

"Our little boy had . . . hydrocephaly. All the doctors told us there was no hope. We asked about in utero surgery, about shunts to remove the fluid, but there was absolutely nothing we could do. I cannot express the pain we still feel. This was our precious little baby, and he was being taken from us before we even had him. This was not our choice, for not only was our son going to die, but the complications of the pregnancy put my health in danger, as well."

Some have raised the question whether this procedure is ever most appropriate as a matter of medical practice. The best answer comes from the medical community, which believes that, in those rare cases where a woman's serious health interests are at stake, the decision of whether to use the procedure should be left to the best exercise of their medical judgment.

The problem with H.R. 1833 is that it provides an exception to the ban on this procedure *only* when a doctor is convinced that a woman's life is at risk, but not when the doctor believes she faces real, grave risks to her health.

Let me be clear. I do not contend that this procedure, today, is always used in circumstances that meet my standard. The procedure may well be used in situations where a woman's serious health interests are not at risk. But I do not support such uses, I do not defend them, and I would sign appropriate legislation banning them.

At the same time, I cannot and will not accept a ban on this procedure in those cases where it represents the best hope for a woman to avoid serious risks to her health.

I also understand that many who support this bill believe that a health exception could be stretched to cover almost anything, such as emotional stress, financial hardship or inconvenience. That is *not* the kind of exception I support. I support an exception that takes effect *only* where a woman faces real, serious risks to her health. Some have cited cases where fraudulent health reasons are relied upon as an excuse—excuses I could never condone. But people of good faith must recognize that there are also cases where the health risks facing a woman are deadly serious and real. It is in those cases that I believe an exception to the general ban on the procedure should be allowed.

Further, I reject the view of those who say it is impossible to draft a bill imposing real, stringent limits on the use of this procedure—a bill making crystal clear that the procedure may be used only in cases where a woman risks death or serious damage to her health, and in no other case. Working in a bipartisan manner, Congress could fashion such a bill.

That is why I asked Congress, by letter dated February 28 and in my veto message, to add a limited exemption for the small number of compelling cases where use of the procedure is necessary to avoid serious health consequences. As I have said before, if Congress produced a bill with such an exemption, I would sign it.

In short, I do not support the use of this procedure on demand or on the strength of mild or fraudulent health complaints. But I do believe that it is wrong to abandon women, like the women I spoke with, whose doctors advise them that they need the procedure to avoid serious injury. That, in my judgment, would be the true inhumanity. Accordingly, I urge that you vote to uphold my veto of H.R. 1833.

I continue to hope that a solution can be reached on this painful issue. But enacting H.R. 1833 would not be that solution.

Sincerely,

BILL CLINTON.

Mrs. BOXER. Mr. President, in this letter, the President says that he would sign such a bill that outlawed this procedure with those humane exceptions.

So, Mr. President, as we approach this vote, I am going to be on this floor as often as I can, and I hope others will, to make the offer to my friends on the other side.

The PRESIDING OFFICER. The Chair informs the Senator from California that the 5 minutes under morning business have expired.

Mrs. BOXER. Mr. President, let's ban this procedure except for life of the mother or serious health impact.

Thank you very much, Mr. President.

(Disturbance in the galleries.)

The PRESIDING OFFICER. The Chair reminds the galleries that applause is not appropriate.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, as I was saying, quoting Mr. COHEN:

> I didn't know at the time—

Mr. COHEN, who, again, previously wrote that he was in favor of allowing this procedure to be legal, says:

> I didn't know at the time, of course, and maybe the people who supplied my data—the usual pro-choice groups—were giving me what they thought was precise information. And precise I was. I wrote that "just four one-hundredths of one percent of abortions are performed after 24 weeks" and that "most, if not all, are performed because the fetus is found to be severely damaged or because the life of the mother is clearly in danger."
>
> It turns out, though, that no one really knows what percentage of abortions are late-term. No one keeps figures. But my Washington Post colleague David Brown looked behind the purported figures and the purported rationale for these abortions and found something other than medical crises of one sort or another. After interviewing doctors who performed late-term abortions and surveying the literature, Brown—a physician himself—wrote: "These doctors say that while a significant number of their patients have late-term abortions for medical reasons, many others—perhaps the majority—do not.
>
> Brown's findings brought me up short. If, in fact, most women seeking late-term abortions have just come to grips a little bit late with their pregnancy, then the word "choice" has been stretched past a reasonable point. I realize that many of these women are dazed teenagers or rape victims and that their anguish is real and their decision probably not capricious. But I know, too, that the fetus being destroyed fits my personal definition of life. A 3-inch embryo (under 12 weeks) is one thing; but a nearly fully formed infant is something else.

He goes on to say:

> A woman really ought to have the right to choose. But society has certain rights, too, and one of them is to insist that late-term abortions—[which] seems pretty close to infanticide—are severely restricted, limited to women whose health is on the line or who are carrying severely deformed fetuses. In the latter stages of pregnancy, the word abortion does not quite suffice; we are talking about the killing of the fetus—and, too often, not for any urgent medical reason.
>
> President Clinton, apparently as misinformed as I was about late-term abortions, now ought to look at the new data. So should the Senate, which has been expected to sustain the president's veto. Late-term abortions once seemed to be the choice of women who, really, had no other choice. The facts now are different. If that's the case, then so should be the law.

Mr. President, what Mr. Cohen talks about is the fact that late-term abortions are not as rare as some would suggest, and that partial-birth abortions are not as rare.

The Senator from California said that we should not get involved in the emergency room. The Senator from California knows that the partial-birth abortion procedure is not an emergency procedure. It is a 3-day procedure. It takes 3 days from the time the woman presents herself to the abortionist to the time that the abortion is completed. So it can never be used in an emergency.

She also said, well, if we only had an exception for the health of the mother. The Senator from California, who debates this issue on the floor a lot, knows fully well, that health of the mother has been interpreted by courts over and over and over again to include virtually everything. When I say that, what do I mean? Yes, it includes physical health, but it includes mental health, financial health, social health, any kind of health impact. That is a limitation without limit.

There is no limitation when we put in there health of the mother. And that is exactly what she wants to accomplish. That is exactly what she wants to accomplish. She does not want to limit this procedure, or any other abortion procedure, at any time during the pregnancy for any reason. I respect her opinion. I just do not agree with it. I do not think the Members of the Senate agree with that. There is new evidence out. I hope that my colleagues—and the Senator from California made it sound like this was a pro-life/pro-choice issue. I can give her a laundry list. She knows them well, and that many people who are pro-choice here in the Senate and in the House voted for this bill to outlaw this procedure.

Why? Because this crosses the line. This goes too far. You have a person here who, in very strong terms in this article, talks about how adamantly pro-choice he is; and he in fact writes the reason we should draw the line here is because if you do not draw the line, you endanger a woman's right to choose generally because of the extremism of this position.

I do not think the Senate should go down in history as that body that allowed infanticide to continue, as so described, not only by Mr. Cohen, but by the former Surgeon General, C. Everett Koop and the Pope, and many others. Senator MOYNIHAN, others—Senator MOYNIHAN, I say to Senator BOXER, is not adamantly pro-life by any stretch of the imagination, and has said this looks perilously close to infanticide.

How often does this procedure take place? Again, let us look at all the information that we have gathered since the original vote in the Senate. This is The Sunday Record in Bergen County, NJ, September 15, 1996, just a few days ago, an article, "The facts on partial-birth abortion."

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE FACTS ON PARTIAL-BIRTH ABORTION—BOTH SIDES HAVE MISLED THE PUBLIC

(By Ruth Pabawer)

Even by the highly emotional standards of the abortion debate, the rhetoric on so-called "partial-birth" abortions has been exceptionally intense. But while indignation has been abundant, facts have not.

Pro-choice activists categorically insist that only 500 of the 1.5 million abortions performed each year, in this country involve the partial-birth method, in which a live fetus is pulled partway into the birth canal before it is aborted. They also contend that the procedure is reserved for pregnancies gone tragically awry, when the mother's life or health is endangered, or when the fetus is so defective that it won't survive after birth anyway.

The pro-choice claim has been passed on without question in several leading newspapers and by prominent commentators and politicians, including President Clinton.

But interviews with physicians who use the method reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year—three times the supposed national rate. Moreover, doctors say only a "minuscule amount" are for medical reasons.

Within two weeks, Congress is expected to decide whether to criminalize the procedure. The vote must override Clinton's recent veto. In anticipation of that showdown, lobbyists from both camps have orchestrated aggressive campaigns long on rhetoric and short on accuracy.

For their part, abortion foes have implied that the method is often used on healthy, full-term fetuses, an almost-born baby delivered whole. In the three years since they began their campaign against the procedure, they have distributed more than 9 million brochures graphically describing how doctors "deliver" the fetus except for its head, then puncture the back of the neck and aspirate brain tissue until the skull collapses and slips through the cervix—an image that prompted even pro-choice Sen. Daniel P. Moynihan, D-N.Y., to call it "just too close to infanticide."

But the vast majority of partial-birth abortions are not performed on almost-born babies. They occur in the middle of the second trimester, when the fetus is too young to survive outside the womb.

The reason for the fervor over partial birth is plain: The bill marks the first time the House has ever voted to criminalize the abortion procedure since the landmark Roe v. Wade ruling. Both sides know an override could open the door to more severe abortion restrictions, a thought that comforts one side and horrifies the other.

HOW OFTEN IT'S DONE

No one keeps statistics on how many partial-birth abortions are done, but pro-choice advocates have argued that intact "dilation and evacuation"—a common name for the method, for which no standard medical term exists—is very rare, "an obstetrical non-entity," as one put it. And indeed, less than 1.5 percent of abortions occur after 20 weeks gestation, the earliest point at which this method can be used, according to estimates by the Alan Guttmacher Institute of New York, a respected source of data on reproductive health.

The National Abortion Federation, the professional association of abortion providers and the source of data and case histories for this pro-choice fight, estimates that the number of intact cases in the second and third trimesters is about 500 nationwide. The National Abortion and Reproductive Rights Action League says "450 to 800" are done annually.

But those estimates are belied by reports from abortion providers who use the method.

Doctors at Metropolitan Medical in Englewood estimate that their clinic alone performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation. They are the only physicians in the state authorized to perform abortions that late, according to the state Board of Medical Examiners, which governs physicians' practice.

The physicians' estimate jibe with state figures from the federal Centers for Disease Control, which collects data on the number of abortions performed.

"I always try an intact D&E first," said a Metropolitan Medical gynecologist, who, like every other provider interviewed for this article, spoke on condition of anonymity for fear of retribution. If the fetus isn't breech, or if the cervix isn't dilated enough, providers switch to traditional, or "classic," D&E—in utero dismemberment.

Another metropolitan area doctor who works outside New Jersey said he does about 250 post-20-week abortions a year, of which half are by intact D&E. The doctor, who is also a professor at two prestigious teaching hospitals, said he has been teaching intact D&E since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure. "I do an intact D&E whenever I can, because it's far safer," he said.

The National Abortion Federation said 40 of its 300 member clinics perform abortions as late as 26 weeks, and although no one knows how many of them rely on intact D&E, the number performed nationwide is clearly more than the 500 estimated by pro-choice groups like the federation.

The federation's executive director, Vicki Saporta, said the group drew its 500-abortion estimate from the two doctors best known for using intact D&E, Dr. Martin Haskell in Ohio, who Saporta said does about 125 a year, and Dr. James McMahon in California, who did about 375 annually and has since died. Saporta said the federation has heard of more and more doctors using intact D&E, but never revised its estimate, figuring those doctors just picked up the slack following McMahon's death.

"We've made umpteen phone calls [to find intact D&E practioners]," said Saporta, who said she was surprised by The Record's findings. "We've been looking for spokespeople on this issue. . . . People do not want to come forward [to us] because they're concerned they'll become targets of violence and harassment."

WHEN IT'S DONE

The pro-choice camp is not the only one promulgating misleading information. A key component of The National Right to Life Committee's campaign against the procedure is a widely distributed illustration of a well-formed fetus being aborted by the partial-birth method. The committee's literature calls the aborted fetuses "babies" and asserts that the partial-birth method has "often been performed" in the third trimester.

The National Right to Life Committee and the National Conference of Catholic Bishops have highlighted cases in which the procedure has been performed well into the third trimester, and overlaid that on instances in which women have had less-than-compelling reasons for abortion. In a full-page ad in the Washington Post in March, the bishops' conference illustrated the procedure and said, women would use it for reasons as frivolous ad "hates being fat," "can't afford a baby and a new car," and "won't fit in to prom dress."

"We were very concerned that if partial-birth abortion were allowed to continue, you could kill not just an unborn, but a mostly born. And that's not far from legitimizing actual infanticide," said Helen Alvare, the bishops' spokeswoman.

Forty-one states restrict third-trimester abortions, and even states that don't—such as New Jersey—may have no physicians or hospitals willing to do them for any reason. Metropolitan Medical's staff won't do abortions after 24 weeks of gestation. "The nurses would stage a war," said a provider there. "The law is one thing. Real life is something else."

In reality, only about 600—or 0.04 percent—of abortions of any type are performed after 26 weeks, according to the latest figures from Guttmacher. Physicians who use the procedures say the vast majority are done in the second trimester, prior to fetal viability, generally thought to be 24 weeks. Full term is 40 weeks.

Right to Life legislative director Douglas Johnson denied that his group had focused on third-trimester abortions, adding, "Even if our drawings did show a more developed baby, that would be defensible because 30-week fetuses have been aborted frequently by this method, and many of those were not flawed, even by an expansive definition.

WHY IT'S DONE

Abortion rights advocates have consistently argued that intact D&Es are used under only the most compelling circumstances. In 1995, the Planned Parenthood Federation of America issued a press release asserting that the procedure "is extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality."

In February, the National Abortion Federation issued a release saying, "This procedure is most often performed when women discover late in wanted pregnancies that they are carrying fetuses with anomalies incompatible with life."

Clinton offered the same massage when he vetoed the Partial-Birth Abortion Ban Act in April, and surrounded himself with women who had wrenching testimony about why they needed abortions. One was an anti-abortion marcher whose health was compromised by her 7-month-old fetus neuromuscular disorder.

The woman, Coreen Costello, wanted desperately to give birth naturally, even knowing her child would not survive. But because the fetus was paralyzed, her doctors told her a live vaginal delivery was impossible. Costello had two options, they said: abortion or a type of Caesarean section that might ruin her chances of ever having another child. She chose an intact D&E.

But most intact D&E cases are not like Coreen Costello's. Although many third-trimester abortions are for heart-wrenching medical reasons, most intact D&E patients have their abortions in the middle of the second trimester. And unlike Coreen Costello, they have no medical reason for termination.

"We have an occasional amnio-abnormality, but it's a minuscule amount," said one of the doctors at Metropolitan Medical, an assessment confirmed by another doctor there: "Most are Medicaid patients black and white, and most are for elective, not medical, reasons: people who didn't realize, or didn't care, how far along they were. Most are teenagers."

The physician who teaches said: "In my private practice, 90 to 95 percent are medically indicated. Three of them today are Trisomy-21 [Down syndrome] with heart * * *, the mother has brain cancer and needs chemo. But in the population I see at the teaching hospitals, which is mostly a clinic population, many, many fewer are medically indicated."

Even the Abortion Federation's two prominent providers of intact D&E have showed documents that publicly contradict the federation's claims.

In a 1992 presentation at an Abortion Federation seminar, Haskell described intact D&E in detail and said he routinely used it on patients 20 to 24 weeks pregnant. Haskell went on to tell the American Medical News, the official paper of the American Medical Association, that 80 percent of those abortions were "purely elective."

The federation's other leading provider, Dr. McMahon, released a chart to the House Judiciary Committee listing "depression" as the most common maternal reason for his late-term non-elective abortions, and listing "cleft lip" several times as the fetal indication. Saporta said 85 percent of McMahon's abortions were for severe medical reasons.

Even using Saporta's figures, simple math shows 56 of McMahon's abortions and 100 of Haskell's each year were not associated with medical need. Thus, even if they were the only two doctors performing the procedure, more than 30 percent of their cases were not associated with health concerns.

Asked about the disparity, Saporta said the pro-choice movement focused on the compelling cases because those were the majority of McMahon's practice, which was mostly third-trimester abortions. Besides; Saporta said, "When the Catholic bishops and Right to Life debate us on TV and radio, they say a woman at 40 weeks can walk in and get an abortion even if she and the fetus are healthy." Saporta said that claim is not true. "That has been their focus, and been playing defenses ever since."

WHERE LOBBYING HAS LEFT US

Doctors who rely on the procedure say the way the debate has been framed obscures what they believe is the real issue. Banning the partial-birth method will not reduce the number of abortions performed. Instead, it will remove one of the safest options for mid-pregnancy termination.

"Look, abortion is abortion. Does it really matter if the fetus dies in utero or when half of it's already out?" said one of the * * * method at Metropolitan Medical in Englewood. * * * what's safest for the woman," and this procedure, he said, is safest for abortion patients 20 weeks pregnant or more. There is less risk of uterine perforation from sharp broken bones and destructive instruments, one reasons the American College of Obstetricians and Gynecologists has opposed the ban.

Pro-choice activists have emphasized that nine of 10 abortions in the United States occur in the first trimester, and that these have nothing to do with the procedure abortion foes have drawn so much attention to. That's true, physicians say, but it ducks the broader issue.

By highlighting the tragic Coreen Costellos, they say, pro-choice forces have obscured the fact that criminalizing intact D&E would jettison the safest abortion not only for women like Costello, but for the far more common patient: a woman 4½ to 6 months pregnant with a less compelling reason—but still a legal right—to abort.

That strategy is no surprise, given Americans queasiness about later-term abortions. Why reargue the morality of or the right to a second-trimester abortion when anguishing examples like Costello's can more compellingly make the case for intact D&E?

> To get around the bill, abortion providers say they could inject poison into the amniotic fluid or fetal heart to induce death in utero, but that adds another level of complication and risk to the pregnant woman. Or they could use induction—poisoning the fetus and then "delivering" it dead after 12 to 48 hours of painful labor. That method is clearly more dangerous, and if it doesn't work, the patient must have a Caesarean section, major surgery with far more risks.
>
> Ironically, the most likely response to the ban is that doctors will return to classic D&Es, arguably a far more gruesome method than the one currently under fire. And, prochoice advocates now wonder how safe from attack that is, now that abortion foes have American's attention.
>
> Congress is expected to call for the override vote this week or next, once again turning up the heat on Clinton barely seven weeks from the election.
>
> Legislative observers from both camps predict that the vote in the House will be close. If the override suceeds—a two-thirds majority is required—the measure will be sent to the Senate, where the override is less likely, given that the initial bill passed by 54 to 44.
>
> . . .

Mr. SANTORUM. Mr. President, let me, if I can, just quote from some of the article as to the facts that were uncovered.

You heard Mr. Cohen reference Dr. Brown in his work with the Washington Post finding out about more of these procedures being performed in more late-term abortion procedures being done in this country. Let me share with you this analysis done by a Ruth Padawer, who is the health reporter for the newspaper. She talks about how the prochoice people say that this is a very rare procedure. I quote:

> But interviews with physicians who use the method reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year—three times the supposed national rate. Moreover, doctors say only a "minuscule amount" are for medical reasons.

What are we talking about here? We are talking about abortions performed—I know this is an uncomfortable topic for many people to listen to, and I am sure some people are tuning out and turning off. But this is going on in this country. We have an obligation to face up to who we are and what we are doing here, and not turn our backs because it is just not proper dinner conversation.

We are performing abortions in this country on babies, fully formed babies in their third trimester, and viable babies who are in the late second. I am talking about 22, 23, 24 weeks, the second trimester.

As I said on Friday, my wife is a neonatal intensive care nurse. She took care of 22-week-olds and 21-week-olds and 24-week-olds in Pittsburgh at Magee Woman's Hospital. She has told me story after story of how many of them have survived and how the percentages are increasing.

We are talking about delivering these babies, for no medical reason, feet first through the birth canal, and then kill, by taking a pair of metzenbaum scissors and shoving them into the base of the skull, inserting the catheter into the brain and sucking the brains out to kill the baby, and then deliver the head. And 1,500 times, according to this article, it happens in New Jersey alone every year. The facts, as presented by those who argued against the bill, the facts they quoted from reputable sources, were only a few hundred in the country done every year.

The article goes on:

> But those estimates are belied by reports from abortion providers who use the method. Doctors at Metropolitan Medical Center in Englewood estimate that their clinic alone performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by partial-birth abortions.
>
> "I always try an intact D&E (which is the medical term for partial-birth abortion) first," said a Metropolitan Medical gynecologist, who, like every other provider interviewed for this article, spoke on condition of anonymity.
>
> Another metropolitan area doctor who works outside New Jersey said he does about 260 post 20-week abortions a year, of which half are partial-birth abortions.

The PRESIDING OFFICER. The Senator's 10 minutes has expired.

Mr. SANTORUM. Mr. President, I ask unanimous consent for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Thank you, Mr. President.

> The doctor, who is also a professor at two prestigious teaching hospitals, said he has been teaching intact D&E partial-birth abortions since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure.

In fact, he says, "I do an intact D&E whenever I can * * *"

This is not a rare procedure. This is a procedure that is done all too frequently in this country. Those were not presented to this Senate when it deliberated on this bill the first time. Those facts were somehow not researched well by the prochoice groups, like the Guttmacher Institute that provided us the statistics we were using in the first place, because there is no, as Mr. Cohen said, national record keeping of this. There is no agency in Government that keeps track of this. We only have to go by the people who provide the abortions to tell us what they do. And of course—I shouldn't say "of course"—but what has happened, in fact, is that they provided us a number that is not anywhere close to the numbers that really go on in this country.

I would suggest that if they were so cavalier with their numbers as to how many, how cavalier are they with other facts associated with this issue? The fact of the matter is, this is not a pro-life/prochoice issue. This is an issue about how far we will go as a country, how far we have gone in blurring the lines.

I asked the question to a person the other day on the Fox Morning News when I was on last week—I will ask it to the Senator from California, if she would answer—and that is, if we had a 24-week baby or 25-week or 26-week baby delivered, normal baby, healthy fetus, that someone just decided, as these articles indicate, they wanted to have a late-term abortion because they just did not get around to it sooner, or they had a change of heart, if that baby were pulled through the birth canal, feet first, and delivered, everything except for the head, and by some mistake of the doctor, the baby's head also was delivered, instead of the doctor, as has been testified before having to hold the baby's head in so he can puncture the skull and suction the brains, if the doctor let the baby's head slip out, I ask the Senator from California, if that baby's head slipped out and that baby was born, would the doctor and the mother have a right to choose whether that baby should live? Would the doctor be able to kill the baby at that point?

I am happy to yield time to the Senator from California if the Senator would like to answer that question. Would the doctor be permitted at that point to kill the baby?

Mrs. BOXER. Well, the Senator clearly does not understand the Supreme Court decision of Roe versus Wade, which I strongly support, and I daresay the majority of Senators and the majority of the American people support. That is, a woman has the right to choose in the first trimester, and after that the State comes in with strong and strict controls. A woman does not have an unfettered right to choose after the first trimester. The Senator should know that and should read that case. She does not, except if her life is threatened.

I would assume, frankly, since the Republican platform does not even have a like exception——

Mr. SANTORUM. I reclaim my time. I would like an answer. If I can, let me restate the question again, based on the information that has been read here and the facts that have been provided.

You have the former Surgeon General of the United States who says this procedure is never medically necessary. You have an article that I will be reading from later, from a series, a group of gynecologists and obstetricians that say partial-birth abortion is bad medicine.

You have some organizations who support—I think the American College of Gynecologists opposes the legislation, but not because they support partial-birth abortions. They do not recognize that as proper medical procedure. They do not like any criminalization of anything. They do not like to have doctors be subject to any kind of criminal complaints. That is why they are opposed to it. That is what they said in their letter to Congress.

We should focus on the question. The fact of the matter is, we have sufficient evidence here that these are not medically necessary abortions. They are not to save the life of the mother. In fact, we have a provision in our bill, as the Senator knows, to make an exception for the life of the mother. They are not medically necessary. It is for the health of the mother. You have physician after physician after physician saying so. So talk about the facts.

I ask this question—and I know the Senator would like to give a long answer and give a speech—but see if you can answer the question very succinctly.

The PRESIDING OFFICER (Mr. GRAMS). The time of the Senator has expired.

Mr. SANTORUM. I ask unanimous consent for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. If a partial-birth abortion was being performed on this baby, and for some reason the head slipped out and the baby was delivered, which, in my understanding, is not unprecedented, would the doctor, in consultation with the mother, be able to choose to kill the baby?

Mrs. BOXER. I say to my friend that I am going to take 5 minutes to answer his question because it is a very serious question and I intend to answer it in my time, so he can finish up in his time.

Mr. SANTORUM. Mr. President, after the Senator from California speaks, I will talk about the medical necessity for this procedure, and I will cite a group of physicians and other people, other physicians, who have written extensively on the fact that this procedure is never medically indicated. In fact, it is contraindicated. In fact, it is more dangerous to the mother to have one than to do other procedures that are not under the debate here in the Senate.

I will get to that as soon as the Senator answers my question.

Mr. DORGAN. Mr. President, I do not want to interrupt the debate, and I have a different subject I want to comment on.

I ask unanimous consent that if the Senator from California is going to speak for 5 minutes, that I be allowed by unanimous consent to follow the Senator from California for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I thank my friend from North Dakota because I know he has been patiently waiting to talk about another topic. I was not going to come back to the floor, but I understand that the Senator from Pennsylvania, in what I consider to be a very unfair way, described my position on a woman's right to choose. Now, I would never, never do that for another Senator because this is a crucial issue.

As a mother, as a grandmother, whose grandson is the most precious thing in my life, I do not want to hear that there is another Senator on the floor talking about how I regard pregnancy, motherhood, or childbearing. I would rather have the chance, if someone is going to attack me on an issue, that that person be courageous enough to do it when I am on the floor of the U.S. Senate. So I have come back to the floor to speak.

What I want to say is that the vast majority of Americans believe this entire subject should be left to the privacy of families, to the religious convictions of our people, and that U.S. Senators do not belong in the hospital room, they do not belong in the consulting room, and if the woman is told by a doctor, "You might die unless I use a certain procedure, you might die, and the children you have now will not have a mother," and if that doctor believes this procedure is the only one to save the life of that woman or to spare her a life of infertility or paralysis, I believe families should have the right to make that choice.

If the Senator from Pennsylvania was faced with that choice, if his daughter was in that situation, I really do believe in his heart of hearts if this was not a hot political issue, that he would want the ability, with his God, with his family, to make this decision.

Now, my colleague talks about doctors who say this procedure is not necessary. Some believe it is not. They do not have to use this procedure.

The American College of Obstetricians and Gynecologists, who do this work every day, opposes this legislation that does not have an exception for the life and health of the mother. The American Medical Women's Association opposes this legislation that does not have a true life exception or a health exception. The California Medical Association strongly opposes this extreme legislation.

Now, I just want to put on the record when we are talking about emergency procedures and abortions that take place in late term, this is not about a woman's right to choose. This is about an emergency health situation. My colleagues come here and quote columnists, and on and on. I wish they would look in the eyes of the women in this country who have had this procedure who know because of this procedure they were able to bear children.

I say to my colleagues, I know this is a hard vote, but when the American people understand that the legislation before the Senate has no life exemption, it only says if a woman has a preexisting condition her doctor may use that procedure, and then he will have to defend himself in a courtroom if he does, but it does not have the Hyde language—life-of-the-mother, straightforward—that we have seen in other pieces of legislation. That Hyde exception is not in this bill. That is why some of my colleagues are going to stand against this bill.

Now, the Boxer amendment we put forward said very simply that this procedure can only be used if it can spare a woman's life or if she could suffer long-term, serious, adverse health impacts. Now, does that not sound reasonable? Does that not sound fair?

I say to my colleagues, if they look in their heart and it happened to their wife, and the doctor said, "She will die if I do not use this procedure," not because she has diabetes or a preexisting condition but because the problem with the fetus is so great, if she does not have this procedure she could bleed to death, I say to my colleagues, if they look in their heart, and the doctor looked at them and said, "You could lose your wife unless I use this procedure," they look in their heart and they are honest; or, if the doctor said, "You will never have another baby unless I use this procedure," or she will be paralyzed from the waist down and in a wheelchair for the rest of her life.

I honestly believe—I do believe—my colleagues, that if you take away the 30-second commercials that Americans are going to see in this campaign, you would say to the doctors, "Save my life." And that is all we are asking. All we are asking is only use this procedure if the woman's life is at stake or she would suffer serious adverse health risks if the procedure was not used. I think that is a moderate position. Roe versus Wade does not allow abortions at the end term. The State has a right to regulate it. I hope Senators will not misstate other Senators' positions. It is too important of a debate.

Thank you very much, Mr. President. I yield my time.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

WATER ISSUES

Mr. DORGAN. Mr. President, I wish to address a different subject. It has to do with water issues, a subject that will cause some eyes to glaze over perhaps in some quarters, but an important subject to my State.

You know that I come from a small State. I come from the State of North Dakota, which is large in expanse, 10 times the size of Massachusetts, but with 640,000 people. So it is a sparsely populated State.

A lot of people do not know that we have a flood in North Dakota that came and stayed—a permanent flood the size of the State of Rhode Island. It was not an accidental flood. It was a flood that came and stayed in my State because 50 years ago there were some who felt that we should harness the

Missouri and Mississippi Rivers and, as part of the flood control provisions called the Pick-Sloan Act, to harness the Missouri River so that it didn't flood the cities downstream. So that they could have reliable navigation downstream, they decided, "Let us build some dams on the Missouri River." One of those dams was built in North Dakota. President Eisenhower came out to dedicate the dam. It is called the Garrison Dam.

What the Federal Government said then to the State of North Dakota is, in order for us to control flooding downstream and to protect the larger cities downstream, would you please play host to a large flood that comes and stays forever? The people of North Dakota said, why would we want to play host to a large flood that comes to stay, a one-half-million-acre flood forever? The Federal Government says, if you will do that, we will make certain promises to you. We will promise that that dam will be able to generate cheap hydroelectric power, and that will benefit the residents of the region. And, No. 2, more importantly, we will allow you to take the water from behind that dam and move it all around your State for economic and municipal and rural water systems. That will help you develop economically, and it will provide new jobs and new opportunities for your State.

So the people of North Dakota 50 years ago said, "Well, that sounds like a reasonable proposition." And the dam was built and dedicated, as I said, by President Eisenhower in the 1950's. The Garrison diversion project was authorized in 1965 by the Congress. Work began on it, and in the 1970's it became very controversial. In fact, some portions of this project, some features to move water around our State, became so controversial that some of the major environmental organizations in the country decided to try to kill the project altogether. Remember, this is part of a promise that was made to North Dakota that relates very much to its economic opportunity and its economic future.

Recognizing that it was very troublesome to have the opposition of some of these major organizations, I worked to reformulate this project. In 1986 the Congress passed a reformulation act called the Garrison Diversion Reformulation Act. This year, 10 years later, we appropriated $23 million for this project. That brings it to nearly $350 million during the past 10 years since it was reformulated. Now it appears that we will once again be required in the next Congress to make a final revision in this project in order to see its completion for our State.

A substantial amount has been done in North Dakota with this project; $200 million, in what is called an MR&I fund, has been available to North Dakota to move water around the State with a southwest pipeline in southwestern North Dakota. It has improved water quality in many communities in North Dakota.

So we have derived substantial benefit from it. But we have not been able to move Missouri water to the eastern part of North Dakota into the Red River to help the cities of Fargo and Grand Forks, among others. That has not been completed, and all of us are anxious to get that done.

I hope in the next Congress to propose, along with my colleagues, a final revision of the Garrison diversion project that will achieve two goals: First, with the realistic constraints that we have on financing here in the Congress and the environmental restraints that exist on new environmental standards, I think we can reduce the authorized cost of this project for the American taxpayers and we can substitute a substantial State water development fund for the irrigation projects that are currently authorized. That would give the State much more flexibility in meeting its water needs, which might include irrigation but would include many other things as well.

Second, in a project revision we can make appropriate changes to the features of the project in order to finally move the Missouri River water from the western part of our State to the eastern part of our State for municipal, rural, and industrial purposes.

I expect that the proposal to revise a water program in North Dakota would be referred to the Senate Energy Committee, on which I sit, and it is my hope that the Congress will agree to make some practical revisions in this project; first, to save money, but, second and more importantly, to finally complete this comprehensive project for North Dakota.

I expect that we will probably hold some hearings in North Dakota late in this year in order to take testimony from North Dakotans, myself, and my colleagues from North Dakota, to talk about the revisions that are necessary in order to develop a statewide consensus. That would include working with the Governor, the State legislature, Indian tribes, local communities, the Garrison Conservancy District, North Dakota Water Coalition, environmental groups, water users, and virtually all interested North Dakotans in order to reach some kind of consensus on this project.

This is not a project in which the State of North Dakota went to the Federal Government and said, "By the way, would you give us something? Could we implore you to provide for us a water project?" It didn't happen that way at all. The Federal Government came to our State and said, "We would like you to play host to a permanent flood, and, if you do, we will provide you this benefit." This benefit called the Garrison conservancy project—or the Garrison diversion project, rather—included, first, an authorized 1 million acres of irrigation. Then it was downsized to 250,000 acres; then downsized again to 130,000 acres. It had a series of canals and features by which water could be pumped and moved from the western part of North Dakota to the eastern part of North Dakota.

The feature that was included in the 1986 Reformulation Act that now appears not to be able to be built with respect engineering standards and other standards that would be practical is something called the Sykeston Canal. That is a key feature that involves the moving of water through the features in this project from the western part of the State to the eastern part of the State.

The Garrison Conservancy District is now proposing that it be replaced with a pipeline proposal. There are other ideas as well. The pipeline proposal I think has some merit, and I think it is an approach that might well be workable. But it seems to me in reinvestigating this project we will have to find a feature that replaces the Sykeston Canal.

The Sykeston Canal was put in in the first place in 1986 because the Lonetree Reservoir, the original feature which was so enormously controversial nationally, in 1996 when the Sykeston Canal was proposed, it was judged at that point that it may or may not be practical, and if it was not, we would have to revisit the issue. It seems to me that we will have to revisit that issue next year.

Some would say that North Dakota has not gotten what it should get from this project. Some are very impatient. I recognize that. But about $350 million has been made available in expenditures in pursuit of completing this water project, including the $200 million for the MR&I fund. We have made substantial progress in a wide range of areas. But now we want to finish this project and do it in a reasonable time. We think that this is an achievable goal. It is not easy to find consensus on all of these issues, but this project is much more important than some would realize.

North Dakota is a semiarid State with 15 to 17 inches of rainfall a year. The ability to use the water in this reservoir for agricultural and rural municipal purposes is critical to the future of our State. Our State struggles to keep people. We have 640,000. We used to have 680,000 not too many years ago. And to keep people in North Dakota—a wonderful State with a low crime rate, with a wonderful education system and a lot of other advantages—we must provide jobs and must provide opportunity. That is what this project is about.

Some needs remain unchanged. There is a continuing requirement to permanently solve the water problems of the

Devil's Lake basin in my State where there is substantial flooding at the moment. That lake, the Devil's Lake area, suffers from intermittent cycles of ruinous draught and chronic flooding, and that warrants the construction of inlets and outlets as a part of a comprehensive water plan. We hope that will be excluded in the Garrison Diversion Project.

Finally, a final revision would have to meet the needs of native Americans who suffered the most in the inundation of their lands in North Dakota for this project.

In the final analysis, this issue is about opportunity and jobs in our State. It is about good faith on the part of the Federal Government to fulfill its obligations to North Dakota. All of us are impatient that we get this completed. But the reality is projects of this size are never completed quickly or without problems. We have met the challenges in the past, will in the future, and hope to provide proposed revisions that will allow us to finally complete this project.

North Dakotans' elected leaders—Republicans and Democrats —every major elected leader in our State for three decades has spoken with one bipartisan voice on this issue. For a State the size of North Dakota, that is crucial. We must plan together, work together, and pull together if we are to finish this project for the future of North Dakota. I hope that will be the case. I hope we will make some final revisions and take meaningful strides to completion of a dream in our State in the next Congress.

I would like to reiterate that for some 50 years, North Dakota has sought to realize the benefits of federally assisted water development since Congress proposed the Garrison diversion project as the backbone of State water development. Federal law provided that this comprehensive water plan was to accompany the construction by the Corps of Engineers of the Garrison Dam, which provided substantial flood control and navigation benefits for downstream States.

Last week the Congress approved $23 million to continue work on the Garrison diversion project in North Dakota. Nearly $350 million has been appropriated for Garrison diversion since the Congress enacted my legislation in 1986 making revisions in the project.

The Garrison project is not completed but it has generated hundreds of jobs and has brought quality drinking water and irrigation systems to three Indian reservations and rural and municipal water systems to dozens of communities all across North Dakota.

It now appears that further revisions will have to be made in the authorization of this project in order to see it to completion.

During the next Congress, I hope to propose, along with my colleagues, a final revision of the Garrison project that will achieve two goals. In tune with current fiscal constraints and environmental standards, we can reduce the authorized cost of the project and we can substitute a State water development fund for the irrigation projects to give the State more flexibility in meeting its water needs. Second, in a project revision we can make appropriate changes to the features in order to finally move Missouri River water throughout the State for municipal, rural, and industrial purposes.

I would expect that legislation to revise the project would be referred to the Senate Energy Committee, on which I sit. It would be my hope that the Congress would agree to make some practical revisions in the project to save money and to finally complete a comprehensive project for North Dakota.

I expect the North Dakota congressional delegation will hold some hearings in North Dakota toward the end of this year to take testimony from North Dakotans about the revisions necessary in order to meet the State's current water needs and to finally finish work on the project. We will work with the governor, the State legislature, Indian tribes, local communities, the Garrison Conservancy District, the North Dakota Water Coalition, environmental groups, water users and all interested North Dakotans in order to reach a statewide consensus on this issue.

Mr. President, I'd like to offer my colleagues some history on how the Garrison diversion project got started and why a final revision is necessary in order to complete the project.

In the 1940's the Federal Government wanted to harness the Missouri River to prevent massive downstream flooding in States along the Lower Missouri and Mississippi Rivers. Annual flood damage to downstream cities on the Missouri River was very costly. Also, the lack of stable water levels prevented reliable commercial navigation on the Missouri River.

So the Federal Government proposed a series of six dams, one of which was to be located in North Dakota. The Garrison Dam would wall up water in a reservoir that would be one-half million acres in size. In short, the Federal Government asked North Dakota to play host to a permanent flood as big as the entire State of Rhode Island.

The Federal Government said if you North Dakotans will do that, we will provide you with some significant benefits. The dam itself will generate low cost hydro-electric power and you will have access to some of this inexpensive electricity for rural development. And more importantly, the Federal Government will provide a Garrison diversion project which will allow you to move reservoir water around your State for massive irrigation—over 1 million acres—and for municipal, rural, and industrial uses.

The Army Corps of Engineers completed work on the dam in the mid-1950's. The permanent flood arrived in North Dakota and the downstream States received the bulk of the immediate benefits. The Missouri River no longer raged with uncontrolled flooding in the spring. Downstream navigation and barge traffic was reliable once again.

For North Dakota, the Congress authorized in 1965 a Garrison diversion project with water systems and an irrigation plan—downsized to 250,000 acres—as a payment for our permanent flood. The features of that project included a series of canals and pumping stations that would move water from the Missouri River in the western part of North Dakota to the eastern part of our State, all the way to the Red River and would allow for substantial amounts of irrigation with the diverted water along the way.

Some features of the Garrison diversion project became very controversial in the 1970's and national environmental organizations attempted to kill the project. The result was that progress on the project was slowed.

In 1986 the Congress enacted my legislation reformulating the Garrison diversion project and resolving the controversies. The irrigation features were reduced in scope to 130,000 acres and a municipal and industrial water fund of $200 million was created and given priority in appropriations.

A new feature called the Sykeston Canal was created to be a replacement for the Lonetree Reservoir, which had become a lightening rod for opposition to the project. At the time, the engineering and cost evaluation of the Sykeston Canal was suspect and we agreed then that if the Sykeston Canal proved to be unworkable we would have to revisit that issue.

The Garrison Diversion Unit Reformulation Act also provided for a water treatment facility to treat Missouri River water that would reach the Hudson Bay drainage after it flowed through for use by cities such as Fargo and Grand Forks along the Red River. The act also established requirements for wildlife mitigation, and for recreation development in North Dakota.

In the intervening years since the 1986 Reformulation Act, Congress has provided nearly $350 million in expenditures, most of which was used for the $200 million MR&I Fund. North Dakota has made enormous progress in building a southwest water pipeline and many other expenditures that have improved water delivery for cities and towns with undrinkable or inadequate water in our State.

However, we are impatient in wanting to finally finish the features of the project and move Missouri water to eastern North Dakota so that our eastern cities have an assured supply of municipal and industrial water.

It is now clear that the Sykeston Canal is not a workable feature, from both an engineering and a cost standpoint so we must develop a new connecting link can be completed in a way that achieves our goal.

Therefore, it is necessary to make one last revision to this project. This final revision should include a substitute for the Sykeston Canal, as well as converting the bulk of the authorized irrigation acreage to a more flexible state water development fund that can be used for a wide range of North Dakota needs.

The Garrison Conservancy District has proposed a pipeline approach as a replacement for the Sykeston Canal. I believe that has substantial promise. Most of the work has been completed on the key features of this project and we are close to being able to realize the dream of a water diversion project that will help all of our State.

Naturally, some needs remain unchanged. There is a continuing requirement to permanently solve the water problems of the Devils Lake Basin. The lake suffers from an intermittent cycle of ruinous drought and chronic flooding, which warrants the construction of an inlet/outlet system as part of a comprehensive water management plan for the basin. Presently, Devils Lake is threatened by a 120-year flood, which may require the construction of an emergency outlet for which plans have already been developed.

Likewise, a final Garrison plan must meet the water development needs of native Americans and citizens of the Red River Valley. Native Americans suffered the most from the inundation of lands in North Dakota and their requirements for MR&I and irrigation must be addressed by the Congress. The cities of Fargo and Grand Forks and communities up and down the Red River Valley likewise look to Garrison diversion as the only realistic resource for problems of water quality and quantity.

The final form of Garrison diversion will also continue the State's commitment to protect and enhance wildlife and habitat. It has established a precedent-setting wildlife trust fund. Recreational development provided under Garrison diversion will also contribute to fish and wildlife management.

In the final analysis, this issue is about a future of jobs and opportunity in North Dakota's future. And it is about good faith—on the part of the Federal Government to fulfill its pledge to the people of North Dakota for water development.

All of us are impatient to get this project completed. But the reality is projects of this size are not completed quickly just because they are so massive in scope. Controversies must be resolved.

Since the project was authorized in the mid-1960's, North Dakota's elected leaders have spoken with one bipartisan voice in support of this project and I hope that will continue to be the case. It takes all of the collective energy that we can muster in a State of our size to get this project completed. We must plan together, work together and pull together to finish the work on this project.

Mr. COVERDELL. Mr. President, are we functioning as in morning business, each Senator allotted time?

The PRESIDING OFFICER. The Senator from Georgia is correct. We are operating in morning business. Each Senator is allotted up to 5 minutes.

VALUJET

Mr. COVERDELL. Mr. President, I rise today on a matter of vital concern to the economic well-being of thousands of Georgia families. I think we all remember the tragedy of the event in May, May 11, when ValuJet 592 plunged into the Florida Everglades. And, forever, as with any incident like this, we all are grieving over the families that were affected.

However, following this investigation, ValuJet airlines was grounded and went through the most thorough, grinding analysis of every aspect of their procedures possible. Because, obviously, safety is first and foremost, the center of any question as to whether the airlines could return to the air. I do not think it is generally known that on August 29, at 3:45 p.m., after having gone through this arduous procedure, the Federal Aviation Administration returned ValuJet airline's carrier operating certificate. In their own press release it says, "This action will permit ValuJet to resume operations at a future date if the airline is found to be managerially and financially fit by the Department of Transportation."

The point I want to make here is that 4,000 employees have been unable to draw a paycheck; 4,000 homes, not to mention the hundreds of business associated with the peripheral support of the airline, they have not been able to draw a paycheck. The FAA settled the preeminent question, is the airline safe? And they returned the certificate.

The Department of Transportation, which I had not realized, also must verify or issue a certificate to allow the airline to return to operations. It is now September 24, nearly a full month—and this is just the story of Washington over and over and over. The Department of Transportation said, on August 29, that the background and experience of ValuJet's management team fully qualifies them to oversee the carrier's operation. The Department of Transportation review of ValuJet, its forecast of current financial condition, finds that, "the company continues to have available to it funds sufficient to allow it to recommence operations at its planned, scaled-back level without undue economic risk to consumers. ValuJet has taken a number of steps to strengthen management procedures and has demonstrated a disposition to comply with all applicable laws and regulations."

August 29: FAA returns the certificate. It is safe. August 29: The Department of Transportation issues its findings that in the three major criteria it is to review it appears the airline is ready to fly. Today is September 24, and there is not one engine turning and there is not one paycheck being issued to one of those 4,000 families. In fact, we are being threatened with firing the remaining 400 employees. This is not right. This is not right. This is what everybody out there becomes so incensed about in the Washington apparatus. This airline is now ready to fly. Those workers need to be put back to work. The economic health that this airline represents needs to be returned to the air.

They have met the criteria that their Government demanded for safety and they have met the other basic criteria. We are now mired in bureaucracy. There was a period of time when this press release was issued, 7 days, during which anybody who had anything to say could say it. The airline had 4 days to comment on it. That has happened. It is long since passed. We still do not have the authorization to fly. I am just stunned by it. I do not know why. It happens every day in this town, the insensitivity, the 9 to 5 attitude. So what if 4,000 people are not getting a paycheck? So what if every day that goes by actually threatens one of the major criteria, economic solvency? Obviously, they do not become more solvent by sitting nailed to a tarmac. So what if we are about to fire 400 more people, even though FAA has said it is ready to go and DOT has said for all practical purposes it is ready to go?

Mr. President, these folks need to get their bureaucratic mishmash settled, and they need to get this airline back in the air, and they need to get these families economically solvent and able to pay their mortgages and pay for their kids' education, and get their families back together.

Mr. President, I can see the consternation on your face, which means my 5 minutes has expired. I appreciate the Chair's patience, and I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, while my colleague from California was on the floor I didn't get a chance to hear her, and much of what she said was in response to my question—and I use that term loosely because, in what I heard, she did not respond to the question. My question is a very simple question. The question, obviously, needs to be asked and, hopefully, at some point someone will answer me. That is, what will be the position of innocence if, in the performance of this procedure where the baby is delivered feet first, this birth canal, the entire baby's arms and legs, torso, are outside of the mother's womb completely, arms and legs moving outside the mother, all that is left in is the head, that is, when this procedure is performed and the baby is then killed, what if—which is not unknown from what I understand—if, for some reason, when the shoulders were delivered the head were accidentally delivered, will the mother and the physician then have a right to choose whether that baby lives or not? Or, would they be responsible—would the physician have to do something to keep the baby alive, since it is now completely outside the mother?

I understand the Senator from California went in, started talking about when the procedure should be used, and certain facilities, and all the things that could happen as a result of not using this procedure, talked about Roe versus Wade, but did not answer the question as to whether it was still the woman's right to choose at that point. Since she wanted to have the abortion, whether it would still be the woman's right to terminate that pregnancy? She defends the procedure, but she does not answer the question, and I will ask that question again, as I will be on the floor for some time. I will ask that question again of the Senator from California or anybody else who wants to defend this procedure being used on a 24-week-old or 30-week-old baby.

The Senator from California talked about this procedure as medically necessary to stop—to prohibit infertility or if it is more dangerous because it could cause paralysis, and all of these medical-health reasons why this procedure should be performed. Let me read to you some information from a group of physicians. They call themselves FACT, Physicians Ad Hoc Coalition for Truth.

The first quote is from a doctor, Nancy Romer, chairman of obstetrics and gynecology at Miami Valley Hospital, in Ohio. People deserve to know, "partial-birth abortion is never medically indicated to protect a woman's health or her fertility."

"Never medically indicated." The Senator from California talked about how the American College of Obstetricians and Gynecologists support this procedure. You hear this often, how ACOG, which is how they go, American College of Obstetricians and Gynecologists, have come out in opposition to the bill and support partial-birth abortions. That is only half true.

They have opposed this bill. I will read to you the letter. I have a copy of the letter sent to the Speaker of the House dated last week:

> DEAR MR. SPEAKER: The American College of Obstetricians and Gynecologists, an organization representing more than 37,000 physicians dedicated to improving women's health care, does not support H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. The College finds very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may not perform, H.R. 1833 employs terminology that is not even recognized in the medical community—demonstrating why Congressional opinion should never be substituted for professional medical judgment. For these reasons we urge to you oppose the veto override. . . .

They do not support this procedure. What is very clear in this letter, to me, and I think to everyone who reads it, is they do not like having procedures criminalized. They do not want any doctor procedure criminalized. They want the doctor, basically, to have the say what kind of procedures they perform, if any.

I would ask the American College of Obstetricians and Gynecologists—and they will give me an answer. I guarantee you, in fact we will write them a letter today and fax it over: If this procedure was done and the baby's head slipped out, would the obstetrician be allowed to kill the baby?

If they would be so kind as to respond to that I will send the letter, if necessary. But I would suspect the answer would be pretty clear: No. No.

I do not know if we will get that answer from anybody on the other side.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I thank the Chair.

Mr. President, let me return to the issue of partial-birth abortion. I would like to respond to a comment that was made about an hour ago, I guess, by my colleague from California, Senator BOXER. She is certainly very eloquent. She and I have debated this issue before, and I suspect we will be debating it again.

She made a statement to the effect that we have heard from the men, we have heard men come down to the floor, we have heard from the men, now let's hear from the women. Mr. President, there are many women in this country adamantly opposed to partial-birth abortions. I have received in my office over 90,000 postcards and letters from people in Ohio. That does not include the thousands of calls that we have received. By looking at some of these postcards, it is clear that a large number of these individuals are women who are writing about this issue.

But let's talk about three specific people, three women, three women who are professionals, who are experts, who have, I think, something really to say about this issue.

Let me first start with Brenda Shafer. Brenda Shafer described herself as pro-choice. She is working as a nurse in Dayton, OH. I am going to read very briefly from the testimony that she gave to the Judiciary Committee on November 17, 1995. She is describing at this point, Mr. President, in her testimony how she came to work in Dr. Haskell's office. This is what she said:

> So, because of strong pro-choice views that I held at that time, I thought this assignment would be no problem for me. But I was wrong. I stood at the doctor's side as he performed the partial-birth abortion procedure, and what I saw is branded on my mind forever.

Then she describes what she saw:

> The baby's little fingers were clasping and unclasping, and his little feet were kicking. Then the doctor stuck the scissors in the back of his head and the baby's arms jerked out, like a startled reaction, like a flinch, like a baby does when he thinks he is going to fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby went completely limp. I was really completely unprepared for what I was seeing. I almost threw up as I watched Dr. Haskell doing these things.

Then she goes on:

> I've been a nurse for a long time, and I've seen a lot of death, people maimed in auto accidents, gunshot wounds, you name it. I've seen surgical procedures of every sort. But in all my professional years, I never witnessed anything like this.

Finally, she concluded:

> I will never be able to forget it. What I saw done to that little boy and to those other babies should not be allowed in this country. I hope that you will pass the Partial-Birth Abortion Ban Act.

Brenda Shafer described herself as pro-choice. She knew she was walking into a clinic where abortions were done. That is what they did. That is what she saw. That is what she described. No dispute about it. Dr. Haskell himself in the printed literature, articles he has written, describes, basically, the same procedure. That is Brenda Shafer.

The next woman I would like to reference and call the Senate's attention to and the testimony she gave to our committee is Dr. Pamela Smith. Dr. Pamela Smith is the director of medical education, department of obstetrics and gynecology, Mt. Sinai Medical Center, Chicago, IL.

In her testimony, she systematically described how this procedure is really not indicated, that it is not a medical procedure that is required. It does not really have to take place.

Let me read a portion of the testimony that she gave.

I ask unanimous consent, Mr. President, for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, here is what she says about the necessity of this procedure:

> I went around and described the procedure of partial-birth abortion to a number of physicians and lay persons who I knew to be pro-choice. They were horrified to learn that such a procedure was even legal.

Later on in her testimony she says the following. Again, this is Dr. Pamela Smith:

> Now, the cruelty to the baby is there for everyone to see, if you will acknowledge it. But I think that it is more difficult for people to recognize the risk to the mother that is associated with these procedures. I might also add that these risks have been acknowledged not only in standard medical literature, but by people who perform abortions as well.

Continuing her testimony, she concludes as follows:

> Enactment of this legislation is needed both to protect human offspring from being subjected to a brutal procedure and to safeguard the health of pregnant women in America.

This is just one of the witnesses that we heard who said this procedure is simply not indicated, it is not something that is accepted in the medical field. It is not something that medical journals recognize. It is not something that doctors believe is necessary. That was Dr. Pamela Smith.

Let me conclude with a third individual, and that is Dr. Nancy Romer, a medical doctor. She is a clinical professor, ob-gyn, Wright State University, chairman of the department. This is her quote:

> This procedure is currently not an accepted medical procedure. A search of medical literature reveals no mention of this procedure, and there is no critically evaluated or peer review journal that describes this procedure. There is currently also no peer review or accountability of this procedure. It is currently being performed by a physician with no obstetric training in an outpatient facility behind closed doors and no peer review.

Again, only one of several witnesses who testified that this is really not an accepted medical procedure at all.

Mr. President, I will be commenting further about this issue later on in the debate.

Let me conclude by saying what we are really about today, tomorrow and Thursday when we vote on this matter when we determine whether or not there are enough votes in this Senate to do what the House did, and that is override the President's veto, a veto that I believe was very misguided. The issue really is about what kind of a people we are and what we will tolerate, what we will turn our back to, what we will turn our head on and what we will say is OK: "I wouldn't do it, I don't like it, but I'm not going to do anything about it."

I think we really define who we are as a people, what kind of a people we are in this debate, because, Mr. President, if this procedure can be accepted, can be allowed in this country, I think virtually anything can be allowed.

My colleague from Pennsylvania, who has been very eloquent in this matter, and other colleagues have referred to the fact that this child—there is nothing else to call it, a child—is within seconds of being born, is within inches of being born. It is almost all the way out when that child is killed in the manner described by Nurse Shafer, and that if this procedure—and I think that almost debases the English language by calling it a "procedure," it is such a sterile word—is allowed to continue in this country, there is literally no limit to what we will tolerate, what we will turn our back on, what we will say: "We don't like it, but we will put up with it."

So I think we really do in this debate define what we are as a people, what we care about, what is important to us and what is not important to us. I yield the floor, Mr. President.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President. I thank my colleague from Ohio for his statement and for the tremendous amount of work he has done on this issue from the committee level through passage in the Senate, and here he is back again.

I can tell you that those of us who have spoken on this issue do not relish the opportunity to do so. It is a very difficult issue. It is a very tough issue to talk about. And Senator DEWINE has eight children. I have three children. My wife and I are expecting our fourth in March. We know how very serious this issue is. And we very much believe that in this case, on this issue, this is an issue of the life and death of a little baby. And we think it is important for us to stand up and say something about it.

Mr. President, I ask unanimous consent that I be given 20 minutes to speak on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Thank you, Mr. President.

Mr. President, what I was talking about a few minutes ago, Senator DEWINE highlighted. I just want to reinforce some of the evidence that has come forward throughout the process of the hearings and the debates in the House and Senate, but also new information that has been made available to us. I want to say again to Members who are thinking about this issue, who have possibly opposed this issue in the past, that there certainly is enough information that has come out since the original passage of this bill that would give any Member who truly does deliberate on this issue the opportunity to take another look and to gather all the facts.

I am going to read an article written by four obstetricians, two who the Senator from Ohio just referred to, Nancy Romer and Pamela Smith, but also Curtis Cook and Joseph DeCook. These are all obstetricians. They are members of an organization called PAHCT, which is, Physicians Ad Hoc Coalition for Truth. My understanding is that that group is now comprised of over 300 such physicians who share the opinion of this text that was printed on Thursday, September 19, in the Wall Street Journal.

> The House of Representatives will vote in the next few days on whether to override President Clinton's veto of the Partial Birth Abortion Ban Act. The debate on the subject has been noisy and rancorous. You've heard from the activists. You've heard from the politicians. Now may we speak?

And speaking as obstetricians.

> We are the physicians who, on a daily basis, treat pregnant women and their babies. And we can no longer remain silent while abortion activists, the media and even the president of the United States continue to repeat false medical claims about partial-birth abortion. The appalling lack of medical credibility on the side of those defending this procedure has forced us—for the first time on our professional careers—to leave the sidelines in order to provide some sorely needed facts in a debate that has been dominated by anecdote, emotion and media stunts.
>
> Since the debate on this issue began, those whose real agenda is to keep all types of abortion legal—at any stage of pregnancy, for any reason—have waged what can only be called an orchestrated misinformation campaign.
>
> First the National Abortion Federation and other pro-abortion groups claimed the procedure didn't exist. When a paper written by the doctor who invented the procedure was produced, abortion proponents changed their story, claiming the procedure was only done when a women's life was in danger. Then the same doctor, the nation's main practitioner of the technique, was caught-on tape-admitting that 80% of his partial-bath abortions were "purely elective."
>
> Then there was the anesthesia myth. The American public was told that it wasn't the abortion that killed the baby, but the anesthesia administered to the mother before the procedure. This claim was immediately and thoroughly denounced by the American Society of Anesthesiologists, which called the claim "entirely inaccurate." Yet Planned Parenthood and its allies continued to spread the myth, causing needless concern among our pregnant patients who heard the claims and were terrified that epidurals during labor, or anesthesia during needed surgeries, would kill their babies.
>
> The lastest baseless statement was made by President Clinton himself when he said that if the mothers who opted for partial-birth abortions had delivered their children naturally, the women's bodies would have been "eviscerated" or "ripped to shreds" and they "could never have another baby."
>
> That claim is totally and completely false. Contrary to what abortion activities would have us believe, partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility. It seems to have escaped anyone's attention that one of the five women who appeared at Mr. Clinton's veto ceremony had five miscarriages after her partial-birth abortion.
>
> Consider the dangers inherent in partial-birth abortion, which usually occurs after the fifth month of pregnancy. A woman's

cervix is forcibly dilated over several days, which risks creating an "incompetent cervix," the leading cause of premature deliveries. it is also an invitation to infection, a major cause of infertility. The abortionist then reaches into the womb to pull a child feet first out of the mother (internal podalic version), but leaves the head inside. Under normal circumstances, physicians avoid breech births whenever possible; in this case, the doctor intentionally causes one—and risks tearing the uterus in the process. He then forces scissors through the base of the baby's skull—which remains lodged just within the birth canal. This is a partially "blind" procedure, done by feel, risking direct scissor injury to the uterus and laceration of the cervix or lower uterine segment, resulting in immediate and massive bleeding and the threat of shock or even death to the mother.

None of this risk is ever necessary for any reason. We and many other doctors across the U.S. regularly threat women whose unborn children suffer the same conditions as those cited by the women who appeared at Mr. Clinton's veto ceremony. Never is the partial-birth procedure necessary. Not for hydrocephaly (excessive cerebrospinal fluid in the head), not for polyhydramnios (an excess of amniotic fluid collecting in the women) and not for trisomy (genetic abnormalities characterized by an extra chromosome). Sometimes, as in the case of hydrocephaly, it is first necessary to drain some of the fluid from the baby's head. And in some cases, when vaginal delivery is not possible, a doctor performs a Caesarean section. But in no case is it necessary to partially deliver an infant through the vagina and then kill the infant.

How telling it is that although Mr. Clinton met with women who claimed to have needed partial-birth abortions on account of these conditions, he has flat-out refused to meet with women who delivered babies with these same conditions, with no damage whatsoever to their health or future fertility!

Former Surgeon General C. Everett Koop was recently asked whether he'd ever operated on children who had any of the disabilities described in this debate. Indeed he had. In fact, one of his patients—"with a huge omphalocele [a sac containing the baby's organs] much bigger than here head"—went on to become the head nurse in his intensive care unit many years later.

So he delivered this baby that had these organs outside the body. Not only was that repaired, but that woman went on to become the head nurse in his intensive care unit.

Mr. Koop's reaction to the president's veto? "I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction" on the matter, he said. Such a procedure, he added, cannot truthfully be called medically necessary for either the mother or—he scarcely need point out—for the baby.

Considering these medical realities, one can only conclude that the women who thought they underwent partial-birth abortions for "medical" reasons were tragically misled. And those who purport to speak for women don't seem to care.

So whom are you going to believe? The activist-extremists who refuse to allow a little truth to get in the way of their agenda? The politicians who benefit from the activists' political action committees? Or doctors who have the facts?

Mr. President, I would like to read from the American Medical News. This was an interview with C. Everett Koop. In fact, I read most of it. I ask unanimous consent that this be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From American Medical News, Aug. 19, 1996]

THE VIEW FROM MOUNT KOOP

(By Diane Gianelli and Christina Kent)

Q: Clinton just vetoed a bill to ban "partial birth" abortions, a late-term abortion technique that practitioners refer to as "intact dilation and evacuation" or "dilation and extraction." In so doing, he cited several cases in which women were told these procedures were necessary to preserve their health and their ability to have future pregnancies. How would you characterize the claims being made in favor of the medical need for this procedure?

A: I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction in reference to late-term abortions. Because in no way can I twist my mind to see that the late-term abortion as described—you know, partial birth, and then destruction of the unborn child before the head is born—is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to . . . partial birth abortions.

Q: In your practice as a pediatric surgeon, have you ever treated children with any of the disabilities cited in this debate? For example, have you operated on children born with organs outside of their bodies?

A: Oh, yes indeed. I've done that many times. The prognosis usually is good. There are two common ways that children are born with organs outside of their body. One is an omphalocele, where the organs are out but still contained in the sac composed of the tissues of the umbilical cord. I have been repairing those since 1946. The other is when the sac has ruptured. That makes it a little more difficult. I don't know what the national mortality would be, but certainly more than half of those babies survive after surgery.

Now every once a while, you have other peculiar things, such as the chest being wide open and the heart being outside the body. And I have even replaced hearts back in the body and had children grow to adulthood.

Q: And live normal lives?

A: Serving normal lives. In fact, the first child I ever did, with a huge omphalocele much bigger than her head, went on to develop well and become the head nurse in my intensive care unit many years later.

Mr. SANTORUM. Thank you, Mr. President.

I think it is important to realize again the new information that has come out. The information provided by these physicians, the information provided by Mr. Cohen. And I have an article here by David Brown, published in the Washington Post, on September 17, just last week. This was the article that Mr. Cohen referred to in his column where he changed his mind. He changed his mind. Someone who is admittedly very pro-choice changed his mind on whether this procedure should be legal or not.

One of the reasons he changed his mind—the principal reason was as a result of Dr. Brown's article talking about "Late Term Abortions, Who Gets Them and Why," which is the name of the article by David Brown. He talks about who gets them and why. He talks about Dr. Haskell from Ohio, who says, "I'll be quite frank: most of my abortions are elective in that 20–24 week range. In my particular case, probably 20 percent of the abortions are for genetic reasons. And the other 80 percent are purely elective."

Elective means, according to David Brown, that the fetuses were normal, or that the pregnant woman was not seriously ill.

I ask unanimous consent this article by David Brown be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 17, 1996]

LATE TERM ABORTIONS

(By David Brown)

In a White House ceremony in April, President Clinton vetoed a bill outlawing a technique of abortion done only in the second half of pregnancy. Termed "partial-birth abortion" by the people who decry it, and "intact dilation and evacuation" by the people who perform it, the technique has become the latest lightning rod in the nation's stormy debate about abortion.

Standing next to the president when he announced the veto were five women who had undergone late-term abortions with the controversial technique because their fetuses had severe developmental defects.

The women, Clinton said, "represent a small, but extremely vulnerable group . . . They all desperately wanted their children. They didn't want abortions. They made agonizing decisions only when it became clear their babies would not survive, their own lives, their health, and in some cases their capacity to have children in the future were in danger."

Others have sketched similar pictures. The Planned Parenthood Federation of America called this procedure "extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality." The National Abortion Federation, an abortion providers' organization, said that "in the majority of cases" where it is used, there is a "severe fetal anomaly [birth defect]."

But it is not possible to speak with certainty about who undergoes "intact D&E," as the "partial-birth abortion" is known in medicine. The federal government does not collect such information. Physicians do not have to report it to the state health departments. Researchers do not study the question or publish their findings in medical journals.

Interviews with doctors who use the procedure and public comments by others show that the situation is much more complex. These doctors say that while a significant number of their patients have late abortions for medical reasons, many others—perhaps the majority—do not. Often they are young or poor. Some are victims of rape or incest.

Physicians who perform abortions beyond the first third of pregnancy say that use of intact D&E is quite rare. Just over 1 percent (about 17,000) of all abortions in this country occur after the 20th week of fetal development; it is after that point when the intact D&E procedure is sometimes used. Only a fraction are believed to be intact D&Es, the controversial method in which the fetus is pulled by the feet out of the uterus and the head is punctured so it can also pass through the cervix. What's more, very few doctors perform this surgery; interviews with abortion experts suggest that there are less than 20.

What follows are sketches of the experience of several physicians who perform the intact D&E procedure, as well as the experience of doctors who perform abortions on patients with advanced pregnancies using an alternative technique. Taken as a group, the descriptions and observations by these practitioners paint a more complete picture of who decides to end their pregnancy at an advanced stage, and why.

A QUESTION OF SAFETY

One of the better-known practitioners of intact D&E is Martin Haskell, an Ohio physician who in 1992 presented a "how-to" paper on the technique at a medical conference in Texas. The dissemination of this document to antiabortion activists set the stage for the current campaign to ban the technique.

Although Haskell declined to be interviewed for this article, in his 1992 paper he said he had performed "over 700 of these procedures." Three years ago, American Medical News, a weekly publication of the American Medical Association, interviewed Haskell about his technique.

"I'll be quite frank most of my abortions are elective in that 20–24 week range," Haskell said, according to a transcript of the interview, which has circulated widely during the debate on the "partial-birth abortion" bill. "In my particular case, probably 20 percent [of the abortions] are for genetic reasons. And the other 80 percent are purely elective."

"Elective" is not a medical term generally used with abortion, but it is often used in medicine to denote procedures that are not medically required. In this context, it appears to mean that the fetuses were normal or that the pregnant woman was not seriously ill.

The American Medical News reporter also asked Haskell "whether or not the fetus was dead beforehand." The doctor answered: "No it's not. No it's really not. A percentage are for various numbers of reasons. . . . In my case, I would think probably about a third of those are definitely dead before I actually start to remove the fetus. And probably the other two-thirds are not."

Also performing intact D&E abortions in Ohio is a 45-year-old physician named Martin Ruddock. Interviewed recently, he declined to estimate how many abortions he did each year, but said that only 5 to 10 percent were done in the later stages of pregnancy. Beyond the 18th or 19th week, Ruddock prefers to use the intact D&E technique.

He believes it is safer than its most common alternative, which is called "dismemberment dilation and evacuation." In that procedure, the fetus is removed in pieces, generally limbs first. It requires that the surgeon exert a great deal of force on the fetus inside the uterus, and it often produces short, bony fragments that can damage a woman's reproductive organs. On rare occasions, "dismemberment D&E" also exposes a woman to fetal substance (primarily brain tissue) that can cause dangerous reactions.

"To minimize those problems is why the [intact] procedure was developed," Ruddock said.

In practice, however, he employs it only a third of the times he'd like to, he said. Often the position of the fetus, or some other variable, makes intact D&E impossible, and he uses dismemberment instead. However, whenever he uses the intact method, he first cuts the umbilical cord—a maneuver designed to make sure the fetus is dead before he punctures its skull.

"The fundamental argument [of the technique's opponents] is that the fetus is alive. And what I am saying is that in my practice that never happens," he said.

In 45 percent of the cases done beyond beyond 20 weeks of gestation, he said, the fetuses have obvious developmental abnormalities or the women carrying them have illnesses that are being made worse by the pregnancy. In the other 55 percent, however, the fetuses are normal.

Another practitioner, who did not want to be identified, is a physician in the New York area who is affiliated with several teaching institutions. He does about 750 in the second trimester of pregnancy. He uses intact D&E in "well under a quarter" of those, he said. About one-third are his private patients, and the rest are ones he sees at the teaching hospitals, where he instructs physicians in training.

This doctor said that the "great majority" of the private patients have medical reasons for their abortions: Either the fetus is abnormal or the pregnant woman's health is threatened by the pregnancy.

The nonprivate patients, however, are different. They tend to have lower incomes, and the fraction of them who have medical reasons for abortion "is not nearly as high, [but] I can't quantify it," he said. In the cases in which there is no medical indication, the fetuses are usually normal.

A CALIFORNIA DOCTOR'S EXPERIENCE

The notion that intact D&E is done only in the third trimester—very late in the pregnancy, generally after 24 weeks—and only when the fetus has catastrophic defects, appears to have arisen from widespread publicity about the practice of a doctor in Los Angeles named James T. McMahon, who died last year. His specialty was the very late abortion of fetuses with severe developmental defects.

Patients came to him from across the United States and sometimes even from outside the country. All of the women who appear with Clinton at the veto ceremony had their abortions done by him.

McMahon used intact D&E extensively because after about the 26th week of gestation dismemberment of fetuses is extremely difficult, if not impossible.

In a letter written in 1993 to doctors who referred patients to him, he said that in 1991 he'd done 65 third-trimester abortions. All of these cases, he said, were "nonelective." Of all the abortions done beyond 20 weeks, 80 percent were for that he termed "therapeutic indications"—that is, medical reasons.

In documents submitted to the House subcommittee on the Constitution, McMahon provided a list of some of these reasons. He categorized 1,358 abortions he'd performed over the years, all of them done (his testimony suggested) on women at least 24 weeks pregnant.

Most of them were for extremely rare genetic defects.

The list contained a few slightly more common conditions including anencephaly (lack of a brain) in 29 cases, spina bifida (open spinal column) in 28 cases and congenital heart disease in 31 cases. A few of the conditions on the list, however, are rarely fatal. Cleft lip, cited as the "indication" in 9 cases, is surgically correctable after birth, sometimes with permanent disability and sometimes without.

The maternal indications in McMahon's list were similarly varied. The severity of the illnesses can't be inferred, although many of the problems he gave are not commonly life-threatening. These included breathlessness on exertion, one case; electrolyte disturbance, one case; diabetes, five cases; and hyperemesis gravidarum (intractable vomiting during pregnancy), six cases. The two most common maternal indications were depression (39 cases) and sexual assault (19 cases).

Although the few other doctors who are known to use the intact D&E method refused to be interviewed, one overseas practitioner would. He is David Grundmann, a 49-year-old physician from Brisbane, Australia, who learned the technique from McMahon about five years ago during a visit to the United States.

Grundmann performs abortion up to 22 weeks of gestation and, like McMahon, treats patients who travel great distances for his services. He and his two partners do 60 to 100 intact D&E cases a year.

In an interview last week, he said that in about 15 percent of those cases, there is a severe defect of the fetus.

* * * * *

THE WOMEN AFFECTED

It's difficult to say how representative these five doctors are of the rest of the small fraternity of practitioners who perform intact D&E in the United States. Interviews with physicians who use other abortion techniques—generally dismemberment—may help indirectly illuminate why most late-term abortions, including intact D&E abortions, are done.

Warren Hern, a 57-year-old physician who practices in Boulder, Colo., has a master's degree in public health and a doctorate in anthropology. He is one of the few providers of late-stage abortions who publishes research on the topic in medical journals.

Hern performs between 1,500 and 2,000 abortions a year. About 500 are on women 20 to 25 weeks pregnant. Of those, about one-quarter involve abnormal fetuses. He does between 10 and 25 abortions each year on women more than 26 weeks pregnant, and all of them involve fetal abnormalities or serious maternal disease, he said.

"It is true that a significant proportion of the community is offended by any abortion after 26 weeks that is not medically indicated," he said. "We practice medicine in a social context. So that is why I will not perform an abortion after 26 weeks just because a woman has decided she does not want to carry the pregnancy to term."

Women seeking an abortion late in pregnancy "are often young, frequently not married, and many have a child already, or more," said Steve Lichtenberg, an obstetrician-gynecologist in Chicago who does abortions up to 22 weeks of development. Many are poor, have not completed school or established themselves in the work force, he said, and are in excellent health.

* * * * *

"The number who volunteer that information is substantially smaller than the number who've actually been subjected to social or sexual violence."

Herbert Wiskind is the administrator of the 19-bed Midtown Hospital in Atlanta, whose four doctors perform about 25 abortions a week on women at least 18 weeks pregnant. In his experience many of the late procedures occur simply because of denial.

"You have a young girl who becomes pregnant, someone 15 or 16 years old," he said.

"She doesn't know how to tell her parents or her boyfriend. So she puts herself on a diet and tries to deny she's pregnant."

However, Wiskind said, some fetal defects aren't diagnosed until late in pregnancy for unavoidable reasons. Amniocentesis, one technique of fetal genetic screening is done between weeks 15 and 17 of pregnancy. Several weeks can then pass before test results are known, and when they indicate a problem it often takes a woman several more weeks to decide about abortion, he said. In addition, many deformities can only be diagnosed through sonograms and were not apparent until the midpoint of pregnancy or later.

Thomas J. Mullin does abortions through the 24th week of gestation, as calculated by sonographic measurement of the fetus's head. He practices in the New York area.

Of the procedures Mullin does in weeks 20 through 24, about one-third are for fetal abnormalities, he said. In about 10 percent of cases, the woman has an illness, such as severe diabetes or painful uterine fibroids, that is not necessarily life-threatening but is clearly made worse by pregnancy.

"The remainder of them are just errors," he said. "Many are young patients—12 to 20 years old—who are not in touch with their reproductive system as well as they should be, so they get stuck later than they want in pregnancy. They get surprised, basically."

Jaroslav Hulka, a professor of obstetrics and gynecology at the University of North Carolina, supervises a teaching program whose physicians do 250 to 300 abortions a year on women carrying fetuses between 13 and 22 weeks old.

"Ninety-five percent of those are normal—that's fair to say," he said. Occasionally, fetuses up to 24 weeks old are aborted if they have a condition incompatible with life. The physicians use the dismemberment technique—an arduous and potentially risky procedure.

"The technique that the Congress is concerned about [intact D&E] is a level of skill above this," Hulka said. "They are doing what we're all supposed to do—namely, minimize the risk to the patient."

Practitioners of the intact procedure argue that their method is the least traumatic among the many variants of dilation and evacuation abortions used and is not—as their critics claim—the most barbarous. In testimony submitted last year to a congressional subcommittee, the late James McMahon wrote:

"In a desired pregnancy, when the baby is damaged or the mother is at risk, the decision to abort may be intellectually obvious, but emotionally it is always a personal anguish of enormous proportions . . . For the physician who is willing to help the patient in this dilemma, choices are few. Intact D&E can often be the best among a short list of difficult options. . . . Dealing with the tragic situations that I confront daily makes me constantly aware that I can only limit the hurt by doing gentle surgery and giving sympathetic counsel."

Mr. SANTORUM. Mr. Brown talks about the different reasons—and a lot of the reasons given by physicians are reasons that are not medical necessities. Dr. Markman from California, I believe, performed nine abortions on third-trimester abortions on babies. The fetal abnormality? Cleft palate.

Dr. Pamela Smith sums it up best in a letter written October 28, last year, to CHARLES CANADY, who carried this bill over in the House. The last paragraph:

> There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial birth abortion is a technique devised by abortionists for their own convenience, ignoring the health risks of the mother. The health status of women in this country will thereby only be enhanced by the banning of this procedure.

I think Mr. Cohen and the doctors I will refer to later have hit the nail on the head on what is going on with this whole debate.

I came to the floor last year and spoke on this issue. It is the first time in 6 years as a Senator and Congressman that I had ever taken to the floor of either body and utter the word "abortion." I am pro-life. I feel very strongly about that. But I have never felt moved before to stand up and do something about it until I saw this.

I thought eventually in this country if we go out, as I have tried to do and talk to people, and try to change hearts by talking to people, young people, and talk about abortion, talk about how it is a scourge on our country, and that 1.5 million of these are performed every year in this country. It is not a healthy thing for women who have them. It is certainly not a healthy thing for our society that so many are done. I thought if we just kept vigilant we would see what the President said he would like to see—that abortions are safe, legal, and rare.

To me, this bill and the President's veto of this bill showed me that the rhetoric—how appealing it is, that abortions be rare—is just rhetoric. You cannot, you cannot, in your heart want abortions to be rare and allow this to happen in this country. What are you saying? What are you saying to those young people who are home from school and maybe made the mistake of plopping on C-SPAN 2 for a few seconds and they hear someone stand up and say you can deliver a baby and you can kill it. What are you saying to people who actually have to deal with this issue, saying we can kill, not as Mr. Cohen says, a few weeks old inch-long embryo, but a fully formed viable baby, viable baby, inches away from that first breath. What kind of a message does that send? What kind of a country are we?

If we knew of a procedure that had dogs delivered and then we performed that procedure on puppies, do you know how many letters from animal rights activists we would be getting now—and some of the very same people who would argue to keep this legal would argue to ban the other. What does that say about us?

You have the President of the United States who works very hard in the language of his veto message to try to cast the debate in a different light, talking about issues that really are not substantive here. I will read again and again until the cows come home, "there is absolutely no obstetrical situation encountered in this situation which requires a partially delivered human fetus to be destroyed to preserve the health of the mother." Yet the President vetoed it. Why? To preserve the health of the mother. It does not happen that way.

We try to form the debate around things that people can feel comfortable with. This issue is an issue that a lot of people do not feel comfortable with. We do not like to talk about it. But we have to talk about this because we are defined not by what the President of the United States would like us to feel comfortable with, not by the language that we can hide behind and not think about, but by what goes on every day in this country.

A lot of folks in Washington would like us to be cast in what we say. What we say is what we really are. I think in our hearts we know what we do is what we really are.

I have a lot of faith in the U.S. Senate. I have a lot of faith in the people who sit here and serve here, that they will take that time and will gather that evidence and look at the United States of America and say in the greatest civilization known to man—will we allow this to happen here?

I believe, even though all the media reports says we will never override the President's veto here, we are way short—well, we may have been, but I truly believe that my colleagues will study this issue well, will take all the new information that is available and will look at where we are in America and what signal we are going to send to this generation and future generations of Americans about what we will become.

If this is not wrong, I do not know what wrong is. This is wrong, and I believe the U.S. Senate will stand up in the next few days and tell the American public, "We heard you." Tell those babies we understand now we are not going to let this happen any more under our watch.

I see the Senator from California is here and I asked her a question. I will ask it again because she did not answer it the two times previously when I asked, so I will ask one more time.

A partial birth abortion is performed when a baby is delivered feet first, as the Senator from Ohio described, the baby is delivered feet first through the birth canal. Everything is delivered—arms, shoulders, torso, legs, all delivered outside of the womb, outside of the mother completely except for the head. As nurse Brenda Shafer said, "A pair of curved scissors, surgical scissors, are then inserted into the base of the skull and the brains removed."

My question to the Senator from California is, what would her position be if, when the shoulders were delivered, that accidentally the head was also delivered; would the woman and her doctor—and I hear so often it is the woman and her doctor's right to choose—would the woman and the doctor in that situation where the head is delivered and the baby is completely outside of the womb, would the doctor be permitted, then, to kill the baby?

I will be happy, then, to yield the floor and await her answer.

Mrs. BOXER. Mr. President, I know the Senator from Florida is here to talk on another matter. Could I ask unanimous consent that I be allowed to speak for 10 minutes, immediately followed by the Senator from Florida for 15 minutes?

The PRESIDING OFFICER. Is there objection?

Mr. DEWINE. Reserving the right to object, I would like to inquire as to the amount of time we have remaining. My understanding is we will go to a vote at 5 o'clock.

Is that our cutoff time?

Mrs. BOXER. I say to the Senator, if you would like me to add the Senator, following Senator GRAHAM, I am delighted.

Mr. DEWINE. I do not think I will object. I want to see where we are.

The PRESIDING OFFICER (Mr. THOMPSON). We were scheduled to resume the pending business at 4:30, with half an hour of debate and then a series of votes at 5 o'clock.

Granting the Senator's request would delay those times.

Mr. SANTORUM. If the Senator will withhold we will see what the situation is. We will be happy to accommodate the Senator from Florida if we can.

Mrs. BOXER. I renew my request. The Senator spoke for 20 minutes. I would like to speak for 10 minutes. I would be happy to make as part of that request that the Senator from Ohio follow.

Is the Senator objecting to my getting 10 minutes?

Mr. SANTORUM. We are scheduled to go to debate on the bill and votes at 5 o'clock. This unanimous consent would push that back, and because Members are scheduled later this evening, they do not want to do that. That is the problem.

Mrs. BOXER. In trying to accommodate everybody, it seems to me—it is 20 after 4. We go to the bill at 4:30. Then I would ask for the normal 5 minutes to see where we go.

I am going to try this, Mr. President: That we delay going to the bill by 7 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. The reason I have been rather insistent is that for many hours today my name has been mentioned on the floor perhaps not directly but "the Senator from California." And every time I go back to do business with being "the Senator from California" I hear another misstatement on the floor and the repeated question about how I feel about perfectly healthy babies and a perfectly healthy birth being aborted.

Not one United States Senator who is pro-choice believes that there should be an abortion allowed on a perfectly healthy pregnancy in the late term. I repeat that again. It is my position certainly in the late term—this is in concert with Roe v. Wade—that these abortions not happen on a healthy baby. And I want to say to my friend when he keeps posing that, he has never given birth. I have had the honor and the privilege to do so twice. One of my babies was born in a breach fashion.

So when the Senator asks me how I feel about that, I get a little upset because the way I felt about that at the time was God help me have a healthy baby. And she was premature, and I prayed every minute of the way.

So I do not want anyone to come to this Senate floor—and I ask you, I plead with you, not to do this anymore—and talk about "the Senator from California's position."

I am a grandmother. It is the greatest thing that has ever happened to my husband and myself. I prayed for healthy babies, and, no, I do not support the abortion of a healthy pregnancy—not one Senator does—despite the fact that my colleague makes it sound as if we do.

We could walk hand in hand down this aisle of the U.S. Senate and pass a bill in 60 seconds that outlawed this procedure except for life of the mother and serious adverse health impact. We could be together. But instead we have to face a debate that no doubt will show up on 30-second commercials.

I know that my colleague referred to the President as Mr. Clinton. Mr. Clinton met with mothers who have this procedure. He said, "Why didn't he meet with other people on the other side?" He has talked about this issue. He has looked at this issue. He has come to the conclusion that he would definitely sign a bill that made that life and health exception.

I quote from his letter.

> I urge that you vote to uphold my veto of H.R. 1833. My views on this legislation have been widely misrepresented.

And I might say to the President, they are being misrepresented as we speak by Members on the other side of this issue.

He says:

> I am against late-term abortions, and have long opposed them except where necessary to protect the life or health of the mother. As Governor of Arkansas, I signed into law a bill that barred third-trimester abortions with an appropriate exception for life and health. And I would sign a bill to do the same thing at the Federal level, if it was presented to me.

So here you have a President who has indicated that he would sign a bill outlawing this procedure with an exception for life and health. But no. The other side does not want that. They would rather come down and demagog the issue.

If I might say, I hear about Mr. Cohen's article. Good for Mr. Cohen. He has taken a lot of different positions on a lot of subjects.

How about listening to the women who have gone through this like Maureen? Maureen is a 30-year-old Catholic mother of two, and lives in Massachusetts. On February 17, 1994 Maureen and her husband were joyously awaiting birth of their second child. On that date when she was 5 months pregnant a sonogram determined that her daughter had no brain and was nonviable. Her doctor recommended termination of the pregnancy.

On February 18, 1994, a third-degree sonogram at New England Medical Center in Boston confirmed the diagnosis that the baby had no brain and was nonviable.

Maureen and her family sought counsel from their parish priest, Father Greg, who supported the decision to terminate the pregnancy.

Mr. President, may I have order.

The PRESIDING OFFICER. The Senate will come to order.

Mrs. BOXER. Maureen found out that her baby had no brain. She is a practicing Catholic, and she went to her priest, Father Greg. On the record he supported her decision to terminate the pregnancy.

They named their daughter Dahlia. She had a Catholic funeral and is buried at Otis Air Force Base in Cape Cod, MA.

And Senators in this Chamber want to insert themselves into that family, insert themselves into the dialog between her priest, her God, and her family?

President Clinton will sign a bill that outlaws this procedure with an exemption for life and health. Throughout this debate I will bring up example after example.

And I urge my colleagues. This is not about 30-second commercials. This is about the life of women.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mrs. BOXER. We will continue this debate, Mr. President.

I yield the floor.

Is it time now to go to the bill at hand?

The PRESIDING OFFICER. Under the previous order, it would be time to go to the bill.

Mr. SANTORUM. Mr. President, I ask unanimous consent for 5 minutes, and I would be happy to share that time, half and half.

Mrs. BOXER. If there is no objection, I save my 2½ minutes until after the Senator is finished.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, the Senator from California makes a point—again, it is a good one—that the President will sign the bill with the exception for the life and health of the mother. That is what the President said.

I have two amendments. One, the health of the mother exception has been consistently held even though it has been narrowly drawn by many State legislatures, the health of the mother exception has been interpreted by courts unanimously as being anything—financial health is the health of mother; social interaction, health of the mother; her age, health of the mother; maturity; emotional health; mental health; physical health. Yes. It is a limitation without limit. It is no limitation at all. And the Senator from California knows that. More importantly, the President of the United States knows that very well.

It is all how to frame the issue. It makes a lot of people feel comfortable that the President really does want to limit these things. It is only these serious health consequences, and that is reasonable until you understand that health consequences is not a limit on the procedure. It is not a limit on the procedure.

So to make a limitation that does not have a limit is just what I described before which is someone who wants to be judged by what they say to you that sounds so nice instead of what the reality of what their words would be which means partial-birth abortions would continue to go on in this country without limitation if we passed a bill that had a health limitation. That is not RICK SANTORUM, the Senator from Pennsylvania speaking. That is court after court after court after court interpreting language that you would believe would be rock solid. But with the judges it is not. So I would just say go ahead and continue to use it, as I am sure you will—that we could agree on this rhetoric. But I can guarantee you we cannot agree on this rhetoric. We cannot agree on a limitation that is a phony limitation; to a procedure that is infanticide and nothing more.

The second thing I would say is you have doctor after doctor who has written to us and said that this procedure is never medically necessary to save the life or health of the mother.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from California.

Mrs. BOXER. Thank you very much.

Mr. President, once more I want to put on the table what the Members of the U.S. Senate could agree to at any moment. We would say this procedure cannot be used unless the woman's life is at stake because there is no true life exception in this extreme bill before us, or to spare her serious adverse health consequences.

And let me just say to my colleague in all due respect—and as collegial as I can be in the moment here—if you are suggesting that anyone in this U.S. Senate is talking about financial health of the woman, let me just say it is an absolute outrage if you would think that is what we are talking about. We are talking about infertility for life. We are talking about paralysis. We are talking about bleeding to death.

Vikki Stella, mother of two, was in the third trimester of her pregnancy when she discovered her son was diagnosed with nine major anomalies, including a fluid-filled cranium with no brain tissue at all, compacted flattened vertebrae, and skeletal dysplasia. The doctor told her the baby would never live outside the womb. She said, "The only option that would assure that my daughters would not grow up without a mother was a highly specialized, surgical abortion procedure developed for women with similar difficult conditions. Though we were distraught over losing our son, we knew the procedure was the right option . . . and as promised, the surgery preserved my fertility. Our darling son Nicholas was born in December 1995."

Senators in this Chamber would stand up to this woman and tell her, "Too bad, even though your doctor said it was necessary to have this procedure so you could have another child; too bad."

You know, I will tell you something. For people who say they want to get Government out of the lives of the people, this is extraordinary to me. Let us leave these tragic situations to the mother, to the father, to the doctor, to the priest, to the rabbi, to God. Let us think seriously. If it was your wife, if it was your daughter, and the doctor looked in your eye and said, "Your wife might die if I do not use this procedure," at that moment would you want him or her to use the procedure that would save that life?

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. BOXER. Thank you.

MARITIME SECURITY ACT

The PRESIDING OFFICER. Under the previous order, the hour of 4:30 p.m. having arrived, the Senate will now resume consideration of H.R. 1350, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1350) to amend the Merchant Marine Act, 1936, to revitalize the United States-flag merchant marine, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

Grassley amendment No. 5393, to clarify the term fair and reasonable compensation with respect to the transportation of a motor vehicle by a certain vessel.

Grassley amendment No. 5394, to prohibit the use of funds received as a payment or subsidy for lobbying or public education, and for making political contributions for the purpose of influencing an election.

Grassley amendment No. 5395, to provide that United States-flag vessels be called up before foreign flag vessels during any national emergency and to prohibit the delivery of military supplies to a combat zone by vessels that are not United States-flag vessels.

Inouye (for Harkin) amendment No. 5396 (to amendment No. 5393), to provide for payment by the Secretary of Transportation of certain ocean freight charges for Federal food or export assistance.

Mr. STEVENS. Mr. President, what is the parliamentary situation now with regard to time?

The PRESIDING OFFICER. There will now be 30 minutes debate, equally divided, on the rate issue, 15 minutes under the control of the Senator from Iowa [Mr. HARKIN] and 15 minutes under the control of the Senator from Iowa [Mr. GRASSLEY].

Mr. STEVENS. I think it was our intention that we would have 1 minute on each side; Senator INOUYE with regard to the Harkin amendment, and myself with regard to the Grassley amendment.

I ask unanimous consent that be the case. We have to have some time to move to table and make a comment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. The remainder of the amendments are likewise controlled?

The PRESIDING OFFICER. There is a series of amendments to be voted on in sequence.

Mr. STEVENS. It was my understanding the Senator from Iowa wishes to withdraw one of those amendments. I ask he be recognized for that purpose.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 5395 WITHDRAWN

Mr. GRASSLEY. Mr. President, I ask to withdraw amendment No. 5395. For my colleague from Iowa, this is not the amendment regarding which his amendment amends mine. I ask unanimous consent to withdraw No. 5395.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 5395 was withdrawn.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa.

Mr. HARKIN. I understand I am recognized for up to 15 minutes?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 5396 TO AMENDMENT NO. 5393

Mr. HARKIN. Mr. President, I have been generally supportive of the practice of shipping a certain percentage of our U.S. foreign food assistance on U.S.-flag ships. I have in the past supported amendments designed to reform that program to ensure the costs of using the U.S.-flag ships are reasonable. But I have not been supportive of proposals that would essentially kill the policy of using U.S.-flag vessels, because I believe that U.S. maritime fleet ships are important to our national defense.

I also believe that when we are providing largess to other countries, we should do all that we can to also support U.S. jobs and U.S. industries. After all, we make sure that U.S. farm commodities are used in these food shipments. We do not go to other countries to buy the food to give it away. We use our own farm commodities. As long as costs are fair and reasonable, I believe we ought to use U.S. ships to haul a share of this aid.

My colleague from Iowa, Senator GRASSLEY, says that I may be undercutting his efforts at reform. But my amendment is the only way to have real reform. What my amendment would do, is take any higher costs involved in using U.S.-flag ships out of USDA entirely and put it in the Department of Transportation.

Senator GRASSLEY's amendment would essentially kill our U.S. maritime industry by sending shipping business to foreign-flag vessels. If, for example, a foreign ship would haul cargo for $18 a ton, Senator GRASSLEY's amendment would give that business to a foreign-flag vessel if the U.S. ship was going to charge any more than $19.08 a ton. Is that the price at which we will sell out our U.S. maritime industry, which is so important to military sealift and military security, $1.08 a ton?

Or, if you are using container ships, if the lowest acceptable foreign rate, just to take a hypothetical example, is $1,000 a container, Senator GRASSLEY's amendment would cut out U.S. ships if their rate is any higher than $1,060 a container. So for $60 a container we would give all that business to a foreign country.

I do believe, however, that supporting our U.S. merchant marine is properly a transportation function, rather than an agricultural or food aid function. Any higher costs of using U.S.-flag ships should not come out of the food aid budget but should, instead, come out of the Department of Transportation budget.

I will also point out that the amendment of my colleague, Senator GRASSLEY, would still have any higher costs of U.S. ships coming from the agricultural food aid budget. I do not think that is right. I do not think that is real reform.

Let us be clear, there have been some gross exaggerations about the higher costs of U.S.-flag ships. But I admit freely there are some higher costs involved, because those U.S. ships must comply with more stringent environmental and safety regulations and because the people who work on them are U.S. citizens and they pay U.S. taxes. Those people who work on those ships pay Federal and State and local taxes. They have homes here in communities in our country. They pay property taxes. They support their local schools.

If you take the money paid for shipping food aid and give it to a foreign-flag vessel and to foreigners operating on those ships, they do not pay any taxes here, they do not support our local schools, they do not raise their kids in America.

All in all, the U.S. maritime industry runs a more responsible operation than flag-of-convenience operators that may sail under the flag of a foreign country with very lax standards. So our costs of operation are understandably higher.

In any event, then, there are some higher costs in using U.S.-flag ships. This is called the ocean freight differential. To the extent that USDA pays for this differential, there is some reduction in the amount of food aid that can be shipped. That is what I want to change. My amendment would simply shift all of any added costs of using U.S.-flag ships to the Department of Transportation. There is clear precedent for my amendment. In fact, it would build on a partial shift of cargo preference costs to the DOT that we began in 1985.

Prior to the 1985 farm bill, 50 percent of U.S.-sponsored food shipments were required to be transported on U.S.-flag ships. There was a court decision that held that this requirement applied to commercial sales as well as to food aid. So a compromise was reached in the 1985 farm bill under which 75 percent of food aid—that is the donations and concessional sales of food that we give to people overseas—would be transported on U.S.-flag ships, but that commercial agricultural exports would be totally exempt from any cargo preference requirement, even if those sales were supported by U.S. export subsidies or assistance. So, today, less than 2 percent of our total agricultural exports are required to be transported on U.S.-flag ships. No commercial sales are under the requirement at all.

Part of that compromise that we reached in 1985 was that the Department of Transportation would reimburse the Department of Agriculture, for any increase in food aid shipping costs caused by that change in the cargo preference requirement from 50 percent to 75 percent. So, already the Department of Transportation covers a portion of any higher charges for shipping food aid on U.S.-flag vessels.

What my amendment would do is shift all cargo preference cost over. The Department of Transportation would reimburse the Department of Agriculture for all food aid shipping charges to the extent they exceed prevailing world shipping rates. My amendment employs the same reimbursement mechanism now used by the Department of Transportation to reimburse the Department of Agriculture for a portion of those costs. So my amendment will put the costs of supporting our U.S.-flag merchant marine—which I believe is vitally important to this country—where it belongs, in the Department of Transportation, not the Department of Agriculture.

As I said, I have always believed, and still do, that it is important to support our U.S.-flag merchant marine as a matter of national security. Also, because shipping is an important basic U.S. industry, with U.S. jobs at stake, employing U.S. citizens, people who work and raise their families here and pay their taxes in this country, I believe it is important to have a U.S. merchant fleet.

We cannot afford to send any more U.S. jobs out of this country. The Grassley amendment would do that. It would turn over everything to foreign vessels flying a flag of convenience. But that support, I say, that we should provide for our U.S. merchant marine should not diminish the quantity of agricultural commodities that USDA can ship as food aid. If we are going to give food to hungry people and starving people around the world—which we ought to do—to the extent that it costs us more to ship it on U.S.-flag vessels, that money should not come out of the food aid budget, it ought to come out of our transportation budget.

I tried to offer this amendment several years ago, in 1990. It was tabled. Again, I recall my colleague from Iowa moved to table the underlying amendment and brought down that amendment, too. Unfortunately, the debate over cargo preference has pitted agricultural interests against maritime interests. That is too bad. In order to meet the stiff challenges from overseas competition in the trade arena, we need more cooperation, not antagonism among our basic American industries.

I am proud to represent an agricultural State. I am proud of how much we sell overseas. I am also proud of how much food the citizens of Iowa donate every year abroad. I am also proud of the men and women who go to sea in ships. Perhaps it is because of my military background. Maybe it is because I spent so much time in the Navy. But I know what a lonesome life it can be, and I know how hard they work, and I know how they sacrifice and give up a lot of time from their families. I also know when our country calls on that merchant fleet to ship military cargoes to a foreign country, in dangerous waters, they must respond.

Now, if it is a foreign-flag vessel, we cannot call on it to sail into dangerous areas for military purposes. They can simply say no, we are not going to ship your cargo because we believe it is too dangerous. So that is why I maintain my strong support for a strong U.S.-flag merchant fleet. And I believe as deeply as I believe anything that the funding to support our U.S.-flag merchant fleet should come out of the transportation budget, and I will continue to fight for that.

That is all my amendment does. Again, I hope that we don't have to have this antagonism between agriculture and the maritime industry. It shouldn't be there. We ought to be working together. We ought to be working together for the benefit of more jobs in the U.S., for the benefit of a stronger agriculture in the U.S. and, yes, working together to make sure that out of our generosity we give the maximum amount of food aid that we can give to starving people around the world.

I believe my amendment will resolve a nettlesome issue that has fostered conflict between agriculture and the maritime industry for a long time. My amendment will allow USDA to ship more food aid and to purchase more farm commodities for that purpose. And, yes, it will support a strong maritime industry. I urge my colleagues to support my amendment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes 50 seconds.

Mr. HARKIN. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The senior Senator from Iowa.

Mr. GRASSLEY. I yield myself 10 minutes.

Mr. President, everyday, millions of Americans get up, they have their breakfast, they pack their lunches, they send their kids off to school. In many households, over a majority, both spouses work. These are the forgotten Americans, the people who go to work every day. They are working harder and harder and taking home less and less money. Nobody is talking on this bill about that portion of America. That is the America we should be concerned about.

So I use that to remind all of my colleagues, Republicans and Democrats, that we are about to vote to create a new subsidy program, a corporate welfare subsidy program. I say to my Democratic colleagues—all of them—how many times do I hear you say that we should end corporate welfare? This is an opportunity to do that, by not voting for this bill and creating a new welfare program.

I say to my Republican colleagues who, in the tax bill last year, thought it was so necessary to respond to the people's will to eliminate corporate welfare, that we had in our tax bill probably $25 billion of reduction in corporate welfare that is done through the Tax Code of the United States.

So I say to my Republican colleagues, you have an opportunity to have one less corporate welfare program on the books by not voting for this bill.

In the meantime, we have some amendments. We are about to cast votes on two of them that I have sponsored and one that Senator HARKIN sponsors, a second-degree amendment, and I strongly oppose his amendment.

In a few short minutes, I am going to attempt to help my colleagues separate fact from fiction. What I share with my colleagues is not just my opinion. It is either backed by independent sources or is the learned conclusion of those who have spent a great deal of time studying the questions of maritime subsidies.

First, let me direct the attention of my colleagues to two lead editorials that were included in today's Wall Street Journal on the one hand and today's Journal of Commerce on the other, and I placed copies on your desks. Both the Wall Street Journal and the Journal of Commerce expressed strong opposition to the subsidy bill before the Senate. Remember, these are opinions of journals that are the voices of business and transportation. They oppose this corporate welfare proposal.

My colleagues should also know that the Citizens for a Sound Economy, a grassroots organization representing hundreds of thousands of Americans, are key voting my fair and reasonable rate amendment and my antilobbying amendment. Those key votes are used for their Jefferson award.

We also have Citizens Against Government Waste backing my amendments and key voting those as well.

We have the National Taxpayers Union using these amendments for their annual vote analysis.

These groups, as well as Americans for Tax Reform, all oppose this underlying legislation, which is a $1 billion corporate welfare subsidy bill.

Does our national defense, as is purported by the managers of this bill, depend upon the 47 U.S.-flag vessels that are asking for a $100 million subsidy per year? A former Bush administration official, Assistant Secretary of Defense Colin McMillan, said the answer to that question is "No." He said that the issue of U.S. carriers reflagging is not a national security issue and, therefore, should be viewed in terms of economics. That is an Assistant Secretary in the last Republican administration.

Then on the other side of the aisle, most recently Cabinet heads in the Clinton administration studied this issue and made recommendations to the President on whether or not to continue subsidies. Every Senator had in his office last week a copy of the Rubin memo to President Clinton. Again, these are conclusions based upon President Clinton's Cabinet officials, their conclusions by Democratic officials, and they are not my conclusions. They said it amounts to a jobs bill to pay for high-price seafarers. Those are the conclusions from that memo.

Mr. President, as I stated last week, a number of retired admirals who earlier lent their names to an American Security Council letter endorsing this legislation—now that they have the benefit of the Rubin-Clinton memo—support my amendments to this bill and, in fact, believe further hearings should have been held before we pass such legislation. Again, those are retired admirals, not this Senator from Iowa.

To my colleague from Iowa, for his amendment and my opinion on that amendment—I suppose I gave that opinion last week, but I owe it to my colleague to state here now for a short period of time, my position.

My colleague from Iowa said that he doesn't want to sell out our merchant marines. Nobody wants to do that, but I think there is a bigger issue here, and that bigger issue is whether or not, with this corporate welfare subsidy, we will be in the process of selling out the taxpayers.

Our No. 1 responsibility is to the taxpayers of America. If my colleague from Iowa succeeds in substituting his amendment for mine, all that will be accomplished is that taxpayers will continue to get ripped off so maritime union welfare and corporate welfare will continue to be shoveled out with no restraint. And farmers, who are taxpayers as well, will not be able to ship one extra bushel of food overseas.

Taxpayers get ripped off either way. They get ripped off if the Agriculture Department pays for cargo preference or if the Transportation Department pays for it. The end result is the same. So I strongly oppose his amendment.

Mr. President, why do we need to adopt, then, my amendment that calls for a fair and reasonable compensation? Fair and reasonable. Who can argue with that?

That supposedly is the rationale now for all of these rates, but the bottom line of it is that the maritime industry defines what is fair and reasonable. If we don't adopt this amendment, then these subsidized carriers will collect $100 million per year from this bill and then routinely gouge taxpayers to the tune of $600 million per year.

This figure of $600 million per year is established by the Federal agencies and by the Office of Management and Budget. It is reported every year in the President's budget, and I placed a copy of this information in last Friday's RECORD.

Again, $600 million in backdoor cargo preference subsidies is not CHUCK GRASSLEY's estimate, it is the actual figures provided by the Office of Management and Budget.

If we protect taxpayers from price gouging under Buy America laws, then why shouldn't we do likewise under cargo preference laws?

So my amendment then, does that. It takes the Buy America market test of 6 percent and, like Buy America, says that if a Government agency is charged by a U.S.-flag carrier more than 6 percent what the market bears or, in other words, what a foreign flag might offer, then that agency can hire the foreign flag.

For years, we have been assured that taxpayers are protected by existing law that states a bid has to be a fair and reasonable rate, but Congress never defined this term and, instead, left it to the Maritime Administration, which cares not for the taxpayers.

If you can have the U.S. flags charge 400 percent over a foreign flag bid, the Maritime Administration may state that this is a fair and reasonable bid and that agency has to accept that bid. It has happened.

The PRESIDING OFFICER (Mr. GORTON). The Senator has used the original 10 minutes.

Mr. GRASSLEY. How much time does the Senator from Colorado want?

Mr. BROWN. I would like at least 2 minutes.

Mr. GRASSLEY. I will yield myself 1 minute, and then when I sit down, I will yield the remainder of my time to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I remind everybody who says that this is necessary for our national defense, to remember that U.S. News & World Report article in 1990 entitled "Unpatriotic Profits." It reported how the Navy was being forced to pay U.S.-flag carriers $70,000 to ship what could have gone on foreign flags for just $6,000.

This was during the Persian Gulf war. It was because our cargo preference laws are out of control. My amendment will take care of this.

If my amendment does not pass, we will see the same abuses the next war that we face. Nothing in this bill defines fair and reasonable rates. My amendment does define what is fair and reasonable in the very same way we have defined it in the Buy America. I yield the rest of my time to the Senator from Colorado.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I hope Members, as they vote on this measure, will keep a couple of things in mind that I think are critical. One is this measure does not attempt to do away with the buy-America preferences that have existed in the law. It keeps those. What it does do, Mr. President, is define what fair and reasonable is.

In the past, literally, the Department of Transportation has looked at rates that have been 100 percent, 200 percent, 300 percent, 400 percent above what is available on the market and called those reasonable and fair. Mr. President, that is simply ludicrous. Charging double or triple what your competitor charges is not reasonable and fair. We do not kid anyone when we allow that sort of thing to go ahead. It is a scandal on the American taxpayers to have them stuck for two and three and four times as much what reasonable rates are.

The second point I hope Members will look at is this: One of the good arguments that have been made for those who defend the existing system is that, on occasion, what they are comparing is apples and oranges; that is, the higher rates that have been talked about at times—not always, but at times—sometimes have been in circumstances where you could not unload the cargo and it was not an apples-to-apples comparison.

The Grassley amendment, very importantly, is defined in such a way so that it allows the Secretary to take into consideration those other conditions that may exist. In other words, the Grassley amendment is an apples-to-apples comparison. It is a fair comparison. It is not an unreasonable comparison. It meets directly the arguments in opposition that the opponents of these measures in the past have made.

Mr. President, I simply close with this thought. How can we say to the taxpayers of this country that we are looking out for their interests when we allow them to get stuck for two and three times as much as what the real rate is on these kinds of cargoes? I yield the floor, Mr. President, and urge the adoption of the Grassley amendment.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. How much time do I have remaining?

The PRESIDING OFFICER. Four minutes forty-eight seconds.

Mr. HARKIN. Four minutes forty-eight seconds?

The PRESIDING OFFICER. Yes.

Mr. HARKIN. Mr. President, again, I would just point out under the amendment of my colleague from Iowa, money that would go to pay for the ocean freight differential would still come out of the Agriculture budget, out of food aid. That is what I am basically opposed to, having it come out of Agriculture. It is a 6-percent limitation that my colleague has in his amendment, but any higher costs of U.S.-flag ships would still come out of Agriculture. I do not think it ought to. I think the money for the ocean freight differential ought to come out of the Department of Transportation. That is what my amendment does.

Again, I hear all of these comparisons of shipping rates. My friend from Colorado, and of course my esteemed colleague from Iowa, have all these comparisons, but these are based on artificially low foreign rates subsidized by foreign governments, or rates for ships that operate without having to comply with the operating standards that apply to U.S.-flag vessels. So these kinds of comparisons may seem appealing, but they do not reflect a fair or accurate representation of the factors involved in the rates charged by U.S. ships.

For example, our people are paid higher wages, our ships have to follow stronger and stricter environmental standards and our ships have to meet stricter working conditions and occupational health and safety requirements. None of these considerations is taken into account by the amendment of my colleague from Iowa. I keep pointing out that workers on U.S.-flag ships, U.S. citizens, pay Federal, State and local taxes. In fact, I am informed that existing Federal and State income tax requirements alone nearly double the cost of U.S.-citizen crews to U.S.-flag operators. Well, where do they pay those taxes? They pay those taxes here in America.

Mr. President, let me also point out that there currently are limitations in place on the rates that U.S.-flag vessels may charge for hauling cargo preference shipments. For non-defense cargoes, for example, by law preference is given to U.S.-flag vessels only when such vessels are available at "fair and reasonable rates," which are determined by an OMB-approved method based on detailed cost information submitted by American flagship operators. If U.S.-flag vessels are not available at fair and reasonable rates, they are not awarded the cargo, and foreign vessels may be used.

In summary, I again point out that what my amendment seeks to do is to shift any higher costs of using U.S.-flag ships out of Agriculture to the Department of Transportation where it rightly belongs. I do, however, strongly support keeping U.S. jobs here in this country. I strongly support making sure that we support a maritime industry in this country and make sure it is there for us when we need it in periods of national emergency. I ask support for my amendment to shift those costs to DOT. I yield the floor and the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Iowa yield back his time?

Mr. GRASSLEY. How much do I have?

The PRESIDING OFFICER. One minute twenty-three seconds.

Mr. GRASSLEY. Yes. I yield back.

The PRESIDING OFFICER. Under the previous order, there is 1 minute now reserved for the Senator from Hawaii and 1 minute for the Senator from Alaska.

Mr. INOUYE. Mr. President, in June 1992 the Journal of Commerce had an editorial in support of this program, this bill. In March 1994, a much stronger editorial was found in the Journal of Commerce supporting this measure before us. In 1995, the Journal of Commerce was purchased by the Economist, a British publication, and now in 1996 we find that the Journal of Commerce is opposed to this measure before us.

Mr. President, I ask unanimous consent that a letter dated May 2, 1996, from Assistant Secretary of the Navy John W. Douglass supporting this measure be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE ASSISTANT SECRETARY OF THE NAVY, RESEARCH DEVELOPMENT AND ACQUISITION,
Washington DC, May 2, 1996.

Hon. TRENT LOTT,
Seapower Subcommittee, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: During the recent Senate Armed Services Committee Seapower Subcommittee hearing on Navy Surface Ship Programs, you requested a review from the Navy on the pending Maritime Reform and Security Act legislation. I have reviewed this bill, and strongly support the establishment of an active fleet of militarily useful, privately owned, U.S.-flagged vessels for our nation's defense, and provisions that strengthen our vital U.S. maritime industrial base and Merchant Marine.

This bill is important in helping the U.S. maintain a strong and responsive defense posture. Through the Emergency Preparedness Program, the Navy will have access to vessels during times of war or national emergency thereby enhancing the readiness of our seagoing forces.

I also view the Maritime Reform and Security Act as important legislation in supporting U.S. shipbuilders. First, the bill's preference for including U.S.-built ships and the requirement to notify U.S. shipbuilders of the intent to contract for new construction work should help to promote the stability of shipbuilders supporting the Navy. Second, the vessel eligibility provision setting limits on the age of vessels in the fleet will contribute to new construction orders and maintain a younger, safer fleet. Third, the bill's provisions that facilitate use of Title XI loan guarantees is also important to U.S. shipbuilders.

It is paramount that U.S. shipbuilders capture a share of the world shipbuilding market to help sustain the viability of this important industry for the Navy's future and to benefit the Navy by reducing new construction costs. The success of U.S. shipbuilders in commercial markets is inextricably linked to programs such as Title XI.

I appreciate the opportunity to provide you with comments on this imporant maritime legislation. A similar letter has been sent, as a courtesy, to Senator Pressler, Chairman of the Committee on Commerce, Science, and Transportation. As always, if I can be of any further assistance, please let me know.

Sincerely,

JOHN W. DOUGLASS.

Mr. INOUYE. Mr. President, I also ask unanimous consent that a letter dated April 9, 1996, from Deputy Secretary of Defense John White, supporting this measure be printed in the RECORD, along with a letter from the Secretary of Transportation, the Hon. Federico Peña, supporting this measure.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, April 9, 1996.

Hon. LARRY PRESSLER,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the Senate may consider H.R. 1350, the Maritime Security Act, in the very near future. I want to dispel any questions or concerns about the position of the Department of Defense with respect to this legislation. The Department of Defense supports fully H.R. 1350. the establishment of a Maritime Security Force, particularly, will greatly enhance the maintenance of an adequate sealift capability.

Thank you for the opportunity to comment.

Sincerely,

JOHN WHITE.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, September 23, 1996.

Hon. DANIEL K. INOUYE
U.S. Senate, Washington, DC.

DEAR SENATOR INOUYE: At your request, I am writing to present the Administration views on Senator Charles E. Grassley's amendments to H.R. 1350, the Maritime Security Act of 1995. The Administration strongly supports Senate passage of H.R. 1350 without amendment when the Senate votes on this bill on September 24, 1996. Early enactment of this legislation is important to national security. The Administration takes no position on the merits of these amendments at this time.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the submission of this report.

Sincerely,

FEDERICO PEÑA.

Mr. INOUYE. Mr. President, although the Harkin measure has much merit, I must advise my colleagues that we have not had a hearing on this measure. If that amendment is made part of the bill, I feel that at this lateness it might be the death knell of the measure. So I move to table.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator from Alaska yield his time?

Mr. STEVENS. No. I was asking for the yeas and nays on the motion of the Senator from Hawaii to table.

The PRESIDING OFFICER. A motion to table is not debatable. It is not in order at this point until the Senator from Alaska has used or yielded his time. The motion to table is not in order until the Senator from Alaska has used or yielded his time.

Mr. STEVENS. That was not the understanding at the time we were going to make it. We are going to have one vote on Senator HARKIN's amendment and then a separate vote on this one. We were going to make the motion to table and vote. However the Chair wishes to do it—go back and read the RECORD—that is not the understanding. In any event, I will take my minute on the Grassley amendment, not the Harkin amendment, so we understand.

The PRESIDING OFFICER. The Senator is recognized.

Mr. STEVENS. This amendment would affect the rates for carriers of all Government cargoes, not just the rates set for cargo preference on agricultural cargoes. I remind my friends from Iowa, both of them, that we put $10 billion into agricultural subsidies a year. We are talking about here in this bill reducing the cost of keeping this merchant marine available for our Department of Defense from $200 million a year to $100 million. For 10 years we will get it to $100 million.

Senator GRASSLEY's plan is unnecessary. Existing law already allows the military use of foreign-flag vessels if the U.S. carriers' rates are excessive or otherwise unreasonable or if they are higher than the charges for transporting like goods for private persons.

In terms of cargo preference, the law already provides the rates must be fair and reasonable for cargo preference. As I stated Friday, this amendment will result in the loss of the majority of the U.S.-flag fleet. We need that for national defense.

I point out that during the Persian Gulf war, the charge for the foreign ships averaged $174 per short ton and for the domestic fleet it averaged $122 per short ton. We are preserving a merchant marine fleet for our defense purposes.

I move to table the Senator's amendment.

Mr. INOUYE. Mr. President, I move to table the Harkin amendment.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Harkin amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 9, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—89

Abraham
Akaka
Ashcroft
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Exon
Faircloth
Feingold
Feinstein
Ford
Frahm
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hollings

Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—9

Baucus
Brown
Bumpers
Conrad
Dorgan
Harkin
Kerrey
Simon
Wellstone

NOT VOTING—2

Campbell
Heflin

The motion to lay on the table the amendment (No. 5396) was agreed to.

TRIBUTE TO SENATOR SIMON

Mr. DASCHLE. Mr. President, to say that the senior Senator from Illinois, Senator SIMON, has influenced us all is an understatement. Our dress today is a recognition of his influence on all of us and our great admiration for him personally.

I would like to announce that following the vote many of us will participate in a tribute to Senator SIMON. I invite all of our colleagues to join Senator MOSELEY-BRAUN, Senator MACK, and many of us in that tribute. We will not do it now. We will do it later. In the meantime, we will all enjoy wearing these great bow ties.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KYL. Mr. President, I rise to support the amendments being offered by Senator GRASSLEY and to express my concerns about this bill. Members of the 104th Congress have tried their best to eliminate pork-barrel spending and corporate welfare. I believe we have made some progress, but clearly, as this bill demonstrates, we have a long way to go.

I support the amendments offered by my colleague from Iowa because this bill is nothing more than a taxpayer subsidy. It authorizes $100 million per year for the maritime fleet to provide sealift capacity in times of national emergency. Each vessel in the program would receive $2.1 million per year for being enrolled in the program. This does not include the additional moneys that may be paid in times of war. The CBO estimates that the program will cost $782 million in the first 5 years, including expenditures for the phasing out of the old system.

The bill has several problems. First, it does not allow the United States to requisition subsidized U.S. ships in a national emergency. It would allow U.S. flag-carriers to protect specific vessels from shipping materials to a war zone. If commercial interests determine which vessels go and when, we should pay them on an as-needed basis. We shouldn't pay for a benefit we don't receive.

Second, the bill does not require those seafarers who are in the Maritime-Security fleet to serve when called. During the Persian Gulf war, our country had to draw from a pool of retired merchant mariners to care for our fleet. That is wrong and it should be changed.

Under this program, merchant mariners can earn more money than their military counterparts for war-time pay. The bill should be corrected to make merchant-mariners bonuses commensurate with those of the Army, Navy, Air Force, and Marines. I have been told of one merchant mariner who was paid thousands of dollars for a few months worth of service during the Persian Gulf war. Most enlisted military officers received far less than that.

Finally, the bill must require those carriers who receive a taxpayer subsidy to carry war materials into the war zone. The maritime fleet must not be allowed to drop off war materials to commercially convenient spots. If the taxpayers are paying for this service, then it is our duty to ensure that they receive what they are paying for.

Mr. President, the defects of the bill are not figments of the imagination conjured up by a few budget hawks. The Vice President's National Performance Review recommended that all maritime subsidies be ended for a savings of $23 billion over a 10-year period. The Department of Transportation's inspector general concluded that the entire Maritime Administration and all of its U.S.-flag subsidies should be terminated. The Office of Management and Budget estimates that international cargo preference laws will cost Federal Government agencies an additional $600 million in fiscal year 1996. A November 1994 GAO report said that cargo-preference policies support at most 6,000 of the 21,000 mariners in the U.S. merchant marine industry. That is an annual cost of $100,000 per seafarer—at taxpayer expense. Additionally, Citizens Against Government Waste, the National Taxpayers Union, and Americans for Tax Reform are opposed to the bill.

The Federal debt is more that $5 trillion. Five years ago, the debt was $3.6 trillion. Clearly, Government spending is out of control and Congress must place priorities in the way it spends taxpayer dollars. Most families live under a budget. Most have a limited amount of resources that they must spend on food, clothing, shelter, and the like. And many families have little left over for the extras in life. They don't spend for every whim because they know that they must stay within their means. Why can't Congress do the same? Why can't Congress spend the people's money on core tasks only. Why can't Congress forgo the extras?

It will take a colossal effort to control the Government's debt. But every long journey begins with the first step. I urge my colleagues to take that first step and vote against this bill. I thank the chairman and ranking member for the opportunity to express my concerns.

Mr. STEVENS. Mr. President, there are three votes remaining. One is the Grassley amendment. There is a second Grassley amendment, and then final passage, hopefully, on the bill.

I ask unanimous consent—this has been cleared—that each of these votes be a 10-minute vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The yeas and nays have not been ordered.

AMENDMENT NO. 5393

Mr. STEVENS. I move to table the Grassley amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska to lay on the table the amendment of the Senator from Iowa. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 33, as follows:

[Rollcall Vote No. 298 Leg.]

YEAS—65

Akaka
Bennett
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Byrd
Chafee
Cochran
Cohen
Conrad
Coverdell
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Harkin
Hatch
Hatfield
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Pell
Reid
Robb
Rockefeller
Santorum
Sarbanes
Shelby
Simon
Snowe
Specter
Stevens
Thurmond
Warner
Wyden

NAYS—33

Abraham
Ashcroft
Baucus
Bond
Brown
Bumpers
Burns
Coats
Craig
Faircloth
Frahm
Gramm
Grams
Grassley
Gregg
Helms
Inhofe
Kassebaum
Kempthorne
Kohl
Kyl
Lugar
McCain
McConnell
Nickles
Pressler
Pryor
Roth
Simpson
Smith
Thomas
Thompson
Wellstone

NOT VOTING—2

Campbell
Heflin

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, may we have order now? We have one more vote.

AMENDMENT NO. 5394

The PRESIDING OFFICER. Under the previous order, there will be 1 minute for the proponents of the amendment and 1 minute for opponents of the amendment, followed by a vote.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, my amendment says that H.R. 1350 subsidies, and that is $1 billion in total, cannot be used for campaign contributions, cannot be used for lobbying and cannot be used for so-called public education. Congress has supported similar restrictions on different bills and programs in the past, but we have no such restrictions for this $1 billion subsidy in this bill.

It was suggested last week that we provide for this. It could be done by a line item. If that is what is wanted, then I suggest to the proponents to put that in the bill, but it isn't in the bill.

So, consequently, I think we should make sure we don't allow these funds to be back-doored by the Maritime Administration for campaign contributions and for lobbying. Without this restriction, that is not certain.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, there is a Corrupt Practices Act. As a matter of fact, the $10 billion paid out of agricultural subsidies has no similar provision. This amendment is unnecessary. It is a killer amendment trying to convince Members to vote for amendments so the bill will go back to the House and die.

The purpose of this bill is to save $100 million a year and to continue the program of keeping the merchant marine available for the United States in time of emergency. It will cost $100 million a year for 10 years under this bill, not $1 billion, as that article on your desks says; $100 million a year for 10 years.

I move to table this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment No. 5394. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 299 Leg.]

YEAS—50

Akaka
Bennett
Biden
Bingaman
Breaux
Bryan
Chafee
Cochran
Cohen
Coverdell
D'Amato
Daschle
DeWine
Dodd
Dorgan
Exon
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Hatfield
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Leahy
Levin
Lieberman
Lott
Mack
McCain
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Specter
Stevens
Thurmond
Wellstone
Wyden

NAYS—48

Abraham
Ashcroft
Baucus
Bond
Boxer
Bradley
Brown
Bumpers
Burns
Byrd
Coats
Conrad
Craig
Domenici
Faircloth
Feingold
Frahm
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kerry
Kohl
Kyl
Lautenberg
Lugar
McConnell
Murkowski
Nickles
Nunn
Pressler
Roth
Santorum
Shelby
Simon
Simpson
Smith
Snowe
Thomas
Thompson
Warner

NOT VOTING—2

Campbell
Heflin

The motion to lay on the table the amendment (No. 5394) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, America has relied upon its merchant marine, ports and maritime industries for both trade and defense since colonial days.

Today, we will vote to ensure that America will continue its maritime community into the 21st century.

Today, we recognize that America as a nation must make an investment in its maritime infrastructure.

Today, we will vote for a program which is an efficient and flexible policy that will allocate scarce public resources in a responsible manner.

This program will also guarantee that our Nation will have trained Americans to crew these vessels as well as the Department of Defense's pre-positioned and Ready Reserve Fleet.

This program will significantly reduce the cost of the Federal maritime operating assistance programs. We are talking about cutting the funding in half.

This program will eliminate outdated and unnecessary rules and regulations which limits and restricts the ability of U.S. flag vessels to compete and modernize their fleets.

I want to take just a moment and recognize the hard work of Congressman HERB BATEMAN and Senators STEVENS, INOUYE, HOLLINGS and BREAUX.

This has been a real team effort. These Members of Congress were actively involved in crafting and advancing this legislation. The journey for maritime reform started over two decades ago.

This particular bill has been on a 9-year legislative trip with over 50 hearings. Its time has come.

I also want to recognize the work of staff who assisted the process: Rusty Johnston, Jim Schweiter, and Bob Brauer of the House's National Security Committee; Earl Comstock of Senator STEVEN's staff; Jim Sartucci and Carl Bentzel of the Senate's Commerce Committee; and Margaret Cummisky of Senator INOUYE's staff.

The full Senate has devoted nearly two full days for a spirited dialogue on this legislation. And, the Senate has considered a wide range of amendments. The bill is ready for vote on final passage.

I stand here today on the Senate Floor and proudly ask my colleagues to support the Maritime Security Program to guarantee that our Nation will have the nucleus of a modern, militarily useful active commercial vessels sailing under the American flag.

This vote will ensure that whenever the United States decides to project American forces overseas for either an emergency or national defense, there will be a maritime lifeline. I firmly believe that Congress has a duty and responsibility to guarantee that a real and viable maritime lifeline is maintained and provided.

We are the world's only remaining superpower and we have global interests and responsibilities. A healthy maritime community is essential for this role.

I stand here today representing a bill that enjoys wide and deep bipartisan support. It deserves your support and your vote.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill was read the third time.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. My information is, this is the last vote. After that last courageous vote, I hope that all Members will remember this is national defense—national defense—keeping ships available for emergencies, saving $100 million a year. I urge the Senate to vote positively on this bill. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 10, as follows:

[Rollcall Vote No. 300 Leg.]

YEAS—88

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Byrd
Chafee
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frahm
Frist
Glenn
Gorton
Graham
Gramm
Gregg
Harkin
Hatch
Hatfield
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thurmond
Warner
Wellstone
Wyden

NAYS—10

Burns
Coats
Grams
Grassley
Kyl
Lugar
Nickles
Roth
Thomas
Thompson

NOT VOTING—2

Campbell
Heflin

The bill (H.R. 1350) was passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, once again I want to commend two of the most outstanding bill managers we have in the U.S. Senate, the great Senator from Alaska, Senator STEVENS, and the great Senator from Hawaii, Senator INOUYE. They have done yeoman's work on this bill and bills last week. So we are looking for another hard job for them to do that we will call on them to do before this week it out. Thank you very much for getting this bill passed.

JAN PAULK

Mr. LOTT. Mr. President, in the weeks ahead, as the 104th Congress comes to a close, we will be paying tribute to several of our colleagues, from both sides of the aisle, who, for one reason or another, will be leaving the Senate at the end of this year. But it is not only our fellow Members who will be missed.

The Senate will soon lose one of its longest-serving staffers, someone who has become a veritable institution within this institution.

I am referring to Jan Paulk, our Director of Interparliamentary Services. She has held that position since it was first created in 1981, and her exemplary performance in that post has defined its role in the life and the activities of the Senate.

Jan came to the Senate from Russellville, AR, a graduate of the University of Arkansas, and joined the staff of the Foreign Relations Committee under its then chairman, William Fulbright.

Her background in international matters made her a natural to head up our office of Interparliamentary Services.

In that capacity, she has been responsible for the administrative, financial, and protocol aspects of all our interparliamentary conferences. She has overseen all of the Senate's delegations traveling abroad with leadership authorization.

In short, she has been the Senate's combination of travel office and Department of State, part tour guide, part Chief of Protocol, part guardian angel to congressional families overseas.

Most Members of the Senate will have their own memories of Jan's helpfulness and thoroughness.

When things have gone smoothly for us at an international conference, we knew it was because of her meticulous planning. And when an unforeseen problem arose, we knew we could count on her combination of tact and toughness to straighten it out.

Jan has helped to plan countless visits to the Capitol by heads of state and heads of government.

As every Senator knows, these are not merely ceremonial affairs. They usually involve extremely serious matters of international commerce and diplomacy.

They can advance, or retard, our country's interests abroad, and are an important part of the Senate's special constitutional role in our Nation's foreign policy.

To put this tactfully, such visits are not always easy to arrange, but we could always rely on Jan to smooth things out before they could get rocky.

We all wish Jan well as she retires from the Senate. I know I speak, not only for our colleagues, but for our spouses as well, in wishing she were not leaving us.

We will miss her greatly.

And some of us will be sure to get her forwarding number in the confident assurance that, when we run into a particularly difficult problem, she will still be ready to lend a hand.

I want to take this opportunity to thank her, both for Tricia and myself, not just for her years of service, but for her calm in the face of crisis, her cheerfulness in the face of gloom, and for the way she gave real meaning and spirit to what we call the Senate family.

Mr. DASCHLE. Mr. President, I rise to say thank you to a woman who has been a good friend of the Senate, a good friend to Linda and me, and most importantly a good ambassador for our country, Jan Paulk.

Fifteen years ago, when then majority leader Howard Baker created the Senate's Office of Interparliamentary Services, he asked Jan to head it. She has been doing that job and doing it well ever since. You might say Jan is the Senate's youngest institution.

I am sure I speak for all of my colleagues when I say we will miss Jan's professionalism when she leaves us soon to take on a new challenge as head of Tulane University's new Asia Foreign Leadership Program.

Jan grew up in Russellville, AR, population 8,000. She first came to Washington as a high school senior. She had won an essay contest at her high school. First prize was a trip to Washington and $100 in spending money. She knew the first time she saw Washington that she wanted to make a career here in Government. She did return after college to work for Senator William Fulbright, first as a file clerk and then an assistant scheduler. She left Washington briefly to earn a master's degree in theater from Columbia University. To anyone who mistakenly suggests that theater was a successful diversion, Jan is quick to point out that there is a lot of theater in politics.

Jan returned to the Senate in 1971 as editor for the Senate Foreign Relations Committee and spent 3 years editing the landmark war powers hearings.

In 1974, she was put in charge of travel and protocol for the committee, and in 1981, when Senator Baker created the Office of Interparliamentary Services to handle those same functions for the entire Senate, he asked Jan to head it. As director of Interparliamentary Services, Jan has overseen the Senate's official foreign travel—a tough job that requires the stamina of an advance person, the poise of an Ambassador.

She and her small IPS staff handle every detail, from arranging the transportation to coordinating with host governments to making sure Senators understand local customs.

Jan's work has taken her to more than 100 countries in every continent on Earth where she has represented not only this body but this Nation as well. She visited the former Soviet Union in 1975 with Senators Hubert Humphrey and Hugh Scott, the first time a congressional delegation had ever visited the Soviet Union at the invitation of the Supreme Soviet.

She visited China in 1979 with Senators Frank Church and Jacob Javits. She visited the gulf states just before the gulf war, and she returned just after the war while oilfields were still burning. And in June 1994, Jan coordinated the largest ever overseas delegation when 22 Senators traveled to Normandy to commemorate the 50th anniversary of D-day.

One trip I will always remember is the trip to Bosnia last April when Jan arranged for me and Senators HATCH and REID to attend functions and to visit the land that we had not yet visited following the war. We went to assess progress in implementing the Dayton peace accords. What promised from the start to be a difficult trip became immeasurably more difficult the morning we were to leave when the plane carrying Secretary Ron Brown and 34 others slammed into the ground in Dubrovnik.

Jan's professionalism helped us get through that trip. And in caring on, we were able to show the world that America's commitment to peace in the former Yugoslavia is unwavering.

Closer to home, she has helped welcome every head of State who has visited the Senate over the last 19 years.

In her 27 years in the Senate, Jan Paulk has worked for Democrats and she has worked for Republicans. She has served both with equal professionalism and skill. Most of all, she has served her Nation, and, for that, we are all grateful. Linda and I and all of our colleagues, I know, wish Jan the very best in her new challenge.

Mr. President, I yield the floor.

TRIBUTE TO SENATOR PAUL SIMON

Mr. LOTT. Mr. President, I know others will be commenting on this later on, but I was delighted to be one of those who wore a bow tie this afternoon in honor of our great friend and great Senator from the State of Illinois. The bow tie has sort of become his symbol, but he also is just one of the finest Senators, one of the finest men that we have serving in the U.S. Senate.

I have enjoyed working with him over many years. I have served with him here in the Senate. I have been on committees with him. I have found him to be a Senator who will stand for principle, and sometimes that means standing with Members of the Senate on the other side of the aisle. He truly will be missed as he goes back to his beloved State of Illinois. I am sure he will do many, many productive things in the future as he has in the past, as Lieutenant Governor of his State.

He is a very thoughtful Senator. This was just a little bit of levity today, as we all wore our bow ties in honor of PAUL SIMON. But it was a great symbol of affection that we have for a Senator we have enjoyed so much, and who we will miss as he goes back to Illinois.

MORNING BUSINESS

Mr. LOTT. Mr. President, I now ask unanimous consent that there be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—SENATE JOINT RESOLUTION 63

Mr. LOTT. Mr. President, I send a joint resolution to the desk, which is a continuing resolution containing appropriations for Defense, Foreign Operations, Treasury-Postal, Labor-HHS, Interior and Commerce, State, Justice. I ask its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 63) making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes.

Mr. LOTT. I now ask for the second reading of the joint resolution and, on behalf of my Democratic colleagues, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I believe the resolution will be set aside and read a second time on the next legislative day, is that correct?

The PRESIDING OFFICER. The Senator is correct.

ADJOURNMENT

Mr. LOTT. Mr. President, I now ask unanimous consent the Senate stand in adjournment for 1 minute and, upon reconvening, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day.

There being no objection, at 6:36 p.m., the Senate adjourned until 6:37 p.m. the same day.

The Senate met at 6:37 p.m., and was called to order by the Honorable MIKE DEWINE, a Senator from the State of Ohio.

MEASURE PLACED ON THE CALENDAR—SENATE BILL 2100

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 2100) to provide extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

Mr. LOTT. I object to further consideration of the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the Calendar of General Orders.

MEASURE PLACED ON THE CALENDAR—SENATE JOINT RESOLUTION 63

The PRESIDING OFFICER. The clerk will read the joint resolution for the second time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 63) making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes.

Mr. LOTT. I object to further consideration of the joint resolution at this time.

The PRESIDING OFFICER. The joint resolution will be placed on the Calendar of General Orders.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY VA-HUD APPROPRIATIONS BILL

Mr. LOTT. Mr. President, I ask unanimous consent that once the Senate receives from the House the conference report to accompany the VA-HUD appropriations bill that the conference report be considered and agreed to, the motion to reconsider be laid upon the table, and any statements in connection with the conference report be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, it is my pleasure to present to the Senate the conference agreement on the VA, HUD, and independent agencies appropriations bill for fiscal year 1997. I'm especially pleased that this final step in congressional consideration of this measure is occurring prior to start of the fiscal year. Furthermore, we anticipate this measure will be separately signed into law and not become part of another continuing resolution, which has become quite a distinction for a major appropriations bill in this Congress.

I would note that it is especially critical that we enact this bill immediately to avoid potential delays in processing of veterans disability compensation and pension checks. In addition, prompt enactment is necessary to prevent potential disruption in other critical governmental functions such as the sale and processing of Federal flood insurance policies and financing of VA and FHA mortgages.

Mr. President, much of the recent attention paid to this bill has been over disposition of the three major health issues riders added during Senate floor debate: the Domenici-Wellstone mental health parity provision; the Bradley-Frist maternity health care amendment; and the spina bifida VA entitlement. While our appropriations conferees can't take credit for it, we are nonetheless pleased that at our urging the House and Senate legislative committees of jurisdiction, on a bipartisan basis, worked out agreements on these very substantial policy issues which are incorporated in our conference agreement. Moreover, at our urging, each of these legislative proposals now have delayed effective dates which permit a final legislative review in the next session of Congress, prior to implementation.

Mr. President, beyond serving as a vehicle for these major health policy provisions, the underlying measure is itself the largest non-defense discretionary appropriations bill, with nearly a third of the Government-wide total. Its critical role in establishing program levels and direction for the environment, housing and community development, veterans health programs, and science and technology is the reason why Congress and the White House took so long to reconcile our differences during this past year.

These are major funding issues which reflect profound policy disagreements. None of us, however, want to repeat the long delays and frustrations we experienced during the past year of being unable to enact this critical funding measure. We have attempted to avoid reopening past disagreements and controversies which blocked this bill last year.

Our effort to facilitate this measure has meant that this bill, in a number of respects, reflects funding levels and policies which are compromises between very different viewpoints. One example is the inclusion of funds at the 1996 enacted level for the Corporation for National and Community Service. I, and many others, continue to have strong reservations about this program, but there is no doubt that failure to fund it would result in a Presidential veto. So despite our misgivings, this conference agreement maintains the current level of funding for this program, which continues to be more than I believe warranted, but less than what is requested by the White House. The House agreed with this position of the Senate, despite their previous opposition to providing any funding for continuing this program.

With respect to other agencies funded in this bill, the conference agreement attempts to balance a wide variety of competing interests within a very constrained budget allocation.

The conference agreement provides $17.013 billion for veterans medical care—an increase of $5 million above the President's request and $450 million above the 1996 level. This account received the highest priority in the legislation, and hence the largest increase. The amount provided will ensure that VA will continue to provide care to the 2.8 million veterans currently receiving VA medical services.

The conference agreement also includes $100 million in 1996 supplemental appropriations for veterans compensations and pensions. If the Senate passes this critical legislation no later than today, September 25, these additional funds will ensure that veterans will receive their September checks on time. Delays may result in veterans checks being late.

For EPA, a total of $6.7 billion is included—$184 million more than the fiscal year 1996 amount. This includes approximately $2.9 billion in funds for the States—of which $1.9 billion is for State revolving funds for drinking water and wastewater infrastructure—fully funded at the President's request level. It also provides the President's full request of $1.394 billion for Superfund, to ensure site cleanups are not slowed despite the need to reform the program.

Despite the very compelling arguments made by some members, the conference agreement does not include so-called riders in EPA in view of our desire to keep this legislation as free of controversy as possible.

For FEMA disaster relief, the conference agreement provides $1.32 billion—all of which would become available immediately—to meet the needs arising from hurricanes Fran and Hortense, and other disasters currently on the books. These funds, in addition to the $3.7 billion in previously appropriated disaster relief funds currently available for obligation, obviate the need for a supplemental appropriation for disaster relief at this time.

The conference agreement includes a 1-year extension for FEMA's flood insurance program—so that there is no lapse in FEMA's ability to write flood insurance policies and carry out the flood mapping program. After the recent hurricane disasters, many homeowners are only too familiar with how critical this program is.

For the Department of Housing and Urban Development, the conference recommendation continues the policies and programmatic reforms enacted last year. It was a major disappointment that Congress was unable to enact a comprehensive public and assisted housing reform authorization bill. This appropriations bill, however, contains temporary extensions of provisions needed to halt the ever-increasing cost of housing subsidy commitments and to continue progress in reforming wasteful and ineffective housing and community development programs. Equally important, this bill restructures funding of Department of Housing and Urban Development to eliminate bureaucratic overlap and promote local flexibility and decision making. I hope that the authorizing process will pickup where they left off this year and expeditiously enact these reforms as permanent legislative changes.

Similarly, this appropriations bill contains multifamily housing restructuring proposals which were under consideration by the authorizing committee. We cannot afford to continue the excessive subsidies currently being paid to sustain this inventory of nearly a million apartments for low-income families. Unless Congress acts to reduce the excessive debt of this housing inventory, along with implementing other management improvements, there could be massive defaults and widespread resident displacement.

The complexity and difficulty of developing a consensus on these issues are substantial. Project owners, including limited and general partners, project managers, residents, State housing finance agencies, local community development organizations, bond holders, and municipal governments are among those with significant interests in how we address this issue. These interests, however, frequently are divergent and competing. Of course, we must also be mindful of the billions of taxpayers dollars previously invested in this multifamily housing inventory, and the billions more which are at risk over the next several years depending on which policies and financing mechanisms we select to deal with these issues.

The conference agreement reflects our attempt at finding a reasonable balance between these sometimes conflicting concerns. We cannot afford continuing to pay excessive subsidies for these multifamily housing projects, even those which provide very good housing for low income families. And some portions of this inventory are little more than the slums they were intended to replace. The conference recommendation is not a comprehensive solution. It simply is an attempt to deal with these issues in that fraction of the multifamily inventory that have section 8 contracts which expire during fiscal year 1997. We are acting solely because affirmative action is required to prevent defaults and potential resident displacement during the fiscal year.

I want to thank the Senator from Oregon, chairman of our full Appropriations Committee, for his support and assistance during our consideration of this bill. Changes in our budget allocation, made on his recommendation, enabled us to provide funding to reduce the potential for displacement of low-income families from currently subsidized housing. With this allocation we were also able to restore funding for the Community Development Block Grants program [CDBG] at the full current fiscal year 1996 funding level of $4.6 billion, and not withhold $300 million from obligation as was proposed in the House-passed bill.

Mr. President, it is very unfortunate that the Senator from Oregon is retiring from the Senate since the funding requirements necessary to maintain subsidized housing are expected to grow even larger over the next several years, and his appreciation of the importance of this investment will be sorely missed. I would note, however, that with his help we have been able to begin weaning this inventory of housing from its continued dependence on heavy Federal subsidies.

The conference agreement for NASA totals $13.7 billion, an increase of $100 million over the House—and adopts the Senate-passed restoration of funds for the Mission to Planet Earth program to study global climate change. The conference agreement also incorporates buyout legislation necessary to facilitate reductions in staffing without resorting to very disruptive reductions-in-force [RIF's]. Also included is transfer authority, similar to that enacted last year, which provides NASA the flexibility to redirect funding within the $2.1 billion total provided for the space station in order to avoid costly delays or schedule slips.

Mr. President, after making adjustments for the necessary replenishment of the FEMA disaster relief account and for enactment of housing legislative savings, the net increase in actual appropriated program levels is only $84 million, or just one-tenth of one percent over the previous year. While an aggregate freeze, the total reflects some substantial increases offset by commensurate decreases for several of our agencies. The biggest increase, $569 million, was provided for discretionary programs of the Department of Veterans Affairs. The only other agencies to receive significant increases were the Environmental Protection Agency, with an $184 million increase, and the National Science Foundation which received $50 million more than last year. These increases were offset by cuts of $625 million in HUD, and $200 million in NASA.

Finally, I want to express my appreciation to the Senator from Maryland for her assistance and cooperation in putting together this bill. We confronted major challenges, not only due to the complexity of some of the programmatic and budgetary issues within our jurisdiction, but also in dealing with some very sensitive policy concerns of a legislative nature. And, as has become an annual concern, we have had to deal with daunting budgetary constraints. She has been invaluable in guiding this difficult bill through some contentious points in the Senate and in conference. Amid the wide ranging issues and concerns we have dealt with in consideration of this bill, she has been steadfast in her determination to get our task accomplished. I am very grateful for all her help.

Mr. President, I would also like to thank the many staff members who also have made a major contribution to consideration of this bill: Sally Chadbourne, Catherine Corson, David Bowers, and Liz Blevins on the minority side; and Stephen Kohashi, Carrie Apostolou, Julie Dammann, Jon Kamarck, and Lashawnda Leftwich on our side.

Ms. MIKULSKI. Mr. President, I am happy to join my distinguished colleague, the Senator from Missouri, to offer for Senate consideration the fiscal year 1997 conference report for the VA-HUD and independent agencies appropriations bill. With $84.7 billion in spending—$20.3 billion in mandatory spending and $64.3 in discretionary budget authority, this is one of the largest and most diverse appropriations measures we must consider.

I am particularly pleased by our ability to achieve compromise on many complicated issues as we worked out this agreement with our colleagues in the House. This bill funds a tremendous diversity of agencies and programs. It is a challenge every year to develop a passable, signable bill that addresses a variety of concerns from all Members of Congress and the American people. By accepting our differences on many of the issues that plagued the VA-HUD and independent agencies appropriations bill last year, and prohibiting environmental riders, we have avoided being included in an omnibus continuing resolution, and Mr. President, to the credit of all involved, we have a signable bill.

Mr. President, I would like to second the urging of Chairman BOND that we move forward with this bill immediately. We need to avoid potential delays in processing of veterans disability compensation and pension checks as well as Federal flood insurance policies. Both matters are addressed in supplemental legislation included in the fiscal year 1997 VA-HUD appropriations bill.

Mr. President, as you know, this bill contains funding for a diverse group of Federal agencies and programs. Yet it also contains three important health care provisions first proposed by the Senate and agreed to by the conference.

I am a proud cosponsor of a measure introduced by Senator DASCHLE to extend benefits to children of Vietnam veterans exposed to agent orange who have spina bifida. This will provide needed support for our veterans' children and their families. I would note to Senator's DASCHLE's credit, that this provision passed overwhelmingly in the Senate, as did the motion to accept it in the House.

Second, our bill includes Senator BRADLEY's newborns health provision, which prevents "drive-through" baby deliveries. Because of this bill, developed with Senator FRIST, insurance companies will no longer be able to force mothers out of the hospital in less than 48 hours after delivery. This is an important measure impacting every American family.

Third, Senators WELLSTONE and DOMENICI's mental health provision prevents discrimination against people with mental illness. When this bill passes, insurance companies that provide coverage for mental health will have to offer the same lifetime cap as they do for other illnesses. We have heard here on the Senate floor stories from Senators about families devastated by insurance discrimination.

Mr. President, the three provisions provide real answers to real problems faced by the American public. They are important components of the health care initiatives that this administration has worked so hard to carry out.

As you can see, this bill is about more than just agencies and programs and budget authority: it is about real people. The bill provides $39.2 billion for the Department of Veterans Affairs, including $17.3 billion for veterans health care, and $20.4 billion for veterans benefits. It ensures that promises made are promises kept to our Nation's veterans.

The bill provides HUD with $19.5 billion, including full funding, at $4.6 billion, for community development block grants. This money is used to provide real economic opportunities for people trying to help themselves—in places like Baltimore, Houston, and Charleston, SC. It funds the President's request for housing for people with AID's, providing desperately needed housing for people living with AID's.

The bill continues a significant FHA multifamily housing mark-to-market demonstration program. While taking on such an ambitious authorization effort for reforming the assisted housing program may be beyond the call of duty for the Appropriations Committee, this provision is the necessary first step toward reducing the excessive debt of the assisted housing inventory while avoiding putting families out on the street. This bill creates opportunities for the poor—but not hollow opportunities. Instead it reaffirms proper oversight of our Nation's housing programs, while avoiding new and expanded liabilities for the taxpayer.

In addition, the bill continues to streamline the management of the Environmental Protection Agency and encourages EPA to prioritize, focusing its resources on those problems that pose the highest risk to human health and the environment. The EPA is provided $6.7 billion, which is $185 million more than last year. The money will be used to ensure that people across this Nation breathe clean air and drink clean water. Unfortunately, due to limited resources, the bill does not provide the President's full request for environmental programs. In particular, I am concerned about reductions in programs like Boston Harbor, Montreal Protocol, Climate Change, and the Environmental Technologies Initiative. But we did the best we could with the resources we had available.

The bill restores the fiscal year 1996 $1 billion recision from the FEMA disaster relief fund and makes the funds available immediately. This will help families and communities devastated by hurricanes, floods, and other disasters. This is real help for real people, from North Carolina to Maryland to California.

I am particularly pleased that this bill maintains funding for the Corporation for Community and National Service at $402.5 million. National service creates an opportunity structure—community service in exchange for a college education. It encourages volunteerism and rekindles habits of the heart. It fosters the spirit of neighbor helping neighbor that made our country great. National service is about real people offering real help to real communities.

This bill also provides additional funding for the consumer agencies, including $42.5 million for the Consumer Product Safety Commission and $2.3 million for the Consumer Information Center. This is $200,000 more than the President's request.

Mr. President, I am concerned that funding for NASA is $100 million below the President's request. I am concerned that space programs are taking a beating. Reductions in our space budget and our uncertainty about NASA outyear numbers jeopardize ongoing commitments, as well as our ability to fund new and innovative space science programs.

Together with the administration, I plan to discuss the future of our space programs at a national space summit, to be held in December. I urge my colleagues to join the discussions that will take a critical look at how to maintain our preeminent space program, despite huge cutbacks in the overall budget.

Fortunately Mission to Planet Earth was spared the cut it took in the original House bill. Mission to Planet Earth data will be used to help prepare our communities to deal with natural disasters, such as the recent Hurricane Fran which negatively affected thousands of people's lives. Mission to Planet Earth will also give our fishermen better tools to sustain their livelihood and help our farmers decide what and when to plant their crops.

This bill also helps NASA employees and their families. It provides NASA employees buyout authority. We expect the buyout authority to reduce the impact of downsizing on people's lives. Furthermore, the bill protects the jobs for the eastern shore of Maryland at Wallops Island.

Mr. President, this bill is about more than just programs and budget authority. This bill streamlines the Federal Government, yet it protects jobs. This bill provides important health benefits for mothers and babies, new benefits for veterans, and housing for low-income families. It maintains our global scientific leadership, and prioritizes our environmental programs. It protects our drinking water and teaches our children the art of community service. From children born with spina bifida to the Nobel laureates who help prevent birth defects, this bill provides real help for real people.

Mr. President. The diversity or programs funded by this bill reflect the diversity of this country. I urge my colleagues in the Senate to support this conference report.

Finally, I would like to thank Senator BOND, Congressman LEWIS and Congressman STOKES for all the hard work they've done to get this bill to conference and to keep this bill from ending up in a continuing resolution. I would personally like to thank my appropriations staff, Sally Chadbourne, Catherine Corson, David Bowers, and Liz Blevins, as well as the majority staff, Stephen Kohashi, Carrie Apostolou, and Lashawnda Leftwich. I would also like to thank the members of my personal office staff and those on Senator BOND's staff who worked so hard to help us get through this conference.

DESIGNATING ROOM S. 131 IN THE CAPITOL AS THE MARK O. HATFIELD ROOM

Mr. LOTT. Mr. President, I ask unanimous consent the Senate turn to Senate Resolution 298, submitted by Senator BYRD and others, the resolution be deemed agreed to, the motion to reconsider be laid upon the table, all without further action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I ask unanimous consent that all Senators be added as cosponsors to this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 298) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 298

Whereas Senator Mark O. Hatfield, the son of Charles Hatfield (a railroad construction blacksmith) and Dovie Odom Hatfield (a school teacher), upon the completion of the 104th Congress, will have served in the United States Senate with great distinction for 30 years;

Whereas Senator Mark O. Hatfield is the longest serving United States Senator from Oregon;

Whereas Senator Mark O. Hatfield serves on the Committee on Energy and Natural Resources, the Committee on Rules and Administration, the Joint Committee on the Library, and the Joint Committee on Printing;

Whereas Senator Mark O. Hatfield serves as Chairman of the Committee on Appropriations and has provided for the development of major public works projects throughout the State or Oregon, the Pacific Northwest, and the rest of the Nation;

Whereas Senator Mark O. Hatfield has constantly worked for what he calls "the desperate human needs in our midst" by striving to improve health, education, and social service programs;

Whereas Senator Mark O. Hatfield has earned bipartisan respect from his Senate colleagues for his unique ability to work across party lines to build coalitions which secure the enactment of legislation; and

Whereas it is appropriate that a room in the United States Capitol Building be named in honor of Senator Mark O. Hatfield as a reminder to present and future generations of his outstanding service as a United States Senator; Now, therefore, be it

Resolved, That room S. 131 in the United States Capitol Building is hereby designated as, and shall hereafter be known as, the "Mark O. Hatfield Room" in recognition of the selfless and dedicated service provided by Senator Mark O. Hatfield to the Senate, our Nation, and its people.

REAUTHORIZING THE SENATE ARMS CONTROL OBSERVER GROUP

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now turn to the consideration of Senate Resolution 299 which is at the desk, reauthorizing the Senate Arms Control Observer Group, the resolution be agreed to, and the motion to reconsider be laid upon the table, all without further action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 299) was agreed to, as follows:

S. RES. 299

Resolved, That subsection (a) of the first section of Senate Resolution 149, agreed to October 5, 1993 (103d Congress, 1st Session), is amended by striking "until December 31, 1996" and inserting "until December 31, 1998".

ORDERS FOR WEDNESDAY, SEPTEMBER 25, 1996

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m., Wednesday, September 25; further, that immediately following the prayer the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved, and there then be a period for the transaction of morning business not to extend beyond the hour of 12 noon with Senators permitted to speak for not more than 5 minutes each with the following exceptions for times designated: Senator FAIRCLOTH, 10 minutes; Senator THOMAS, 30 minutes; Senator DASCHLE or his designee, 30 minutes; Senator MURRAY, 10 minutes; Senator KENNEDY, 30 minutes; and Senator REID, 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask unanimous consent that at the hour of 12 noon the Senate proceed to executive session to begin consideration of Calendar No. 23, the International Natural Rubber Agreement as under a previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Tomorrow, there will be a period for morning business to accommodate a number of requests from Senators. At noon, the Senate will consider the natural rubber agreement. However, it is my understanding that a rollcall vote will not be necessary on that matter.

Following disposition of that treaty, the Senate will consider either the pipeline safety bill, with only one issue outstanding on that matter, and I understand they are still working on it, or possibly the work force development conference report or additional debate with regard to the veto message to accompany the partial-birth abortion veto override.

So the Senate will begin consideration of the continuing resolution during tomorrow's session. Therefore, all Senators should expect rollcall votes throughout the day on Wednesday, possibly into the night. Of course, I will be talking with the Democratic leader, the Senator from South Dakota, about how we can design a process to proceed to the continuing resolution. And we will keep all Senators advised how we will proceed on the continuing resolution.

With that, Mr. President, I thank the Senator from South Dakota for his patience. I yield the floor.

PAUL SIMON'S CONGRESSIONAL CAREER

Mr. DASCHLE. Mr. President, there are a number of reasons we are grateful to see the end of the 104th Congress, but one reason I regret this ending is that it also marks the end of PAUL SIMON's distinguished career in Congress.

I have had the privilege of working with PAUL SIMON in both the House and in the Senate. I have found him always to be an honest and decent man who loves his country very deeply. Perhaps what stands out about PAUL SIMON the most after his bow tie—and I must say we have all improved our looks and image substantially this afternoon by adopting his practice of wearing a bow tie—is his strongly developed sense of moral leadership. His parents were both Lutheran missionaries, his father, I am told, an idealist and his mother a pragmatist who handled all the family's expenses. From their combined influence, he grew into what he described as a pay-as-you-go Democrat.

As a young man, PAUL SIMON did not want to be in government. He wanted to keep an eye on it and write about it. In 1948, he bought the struggling Troy, IL, Tribune, and at 19 became the Nation's youngest newspaper editor-publisher. He eventually built that paper into a chain of 14 newspapers.

He interrupted his journalism career in an Army counterintelligence unit monitoring Soviet activities in Eastern Europe from 1951 to 1953. When he returned to journalism in 1954, he tried unsuccessfully to recruit candidates to run for public office. After hearing "no" one too many times, he finally decided at the age of 25 to run for the Illinois State Legislature. That was the beginning of a long and very distinguished career.

PAUL SIMON served four 2-year terms in the Illinois House and two 4-year terms in the Senate. He provided constituents with detailed reports on spending long before the passage of the disclosure laws. He was elected to the U.S. House of Representatives in 1974 and reelected four times. He joined the Senate in 1984. Fortunately for students of politics and for history, the old newspaper reporter in him never stopped working. Senator SIMON is the author of 14 books and countless articles.

In 1987, when he announced his candidacy for President, PAUL SIMON said, "I seek the Presidency with a firm sense of who I am, what I stand for, and what I can and will do to advance the cause of this great Nation."

It is that same strong sense of who he is and what he stands for that has made PAUL SIMON such an invaluable asset to this body and to our Nation. It was in part the leadership of this pay-as-you-go Democrat that helped this Nation understand that we have a job to do in balancing the budget and that we have to do it the right way, without ripping apart America's safety net. I, and I know all of my colleagues, will miss Senator SIMON's good humor. Unfortunately, I suspect I will not miss his good counsel because I am confident that Senator SIMON will continue in his new career to write and to keep us on the right track, just as he has one way or the other for all of these years.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, Mr. President.

TRIBUTE TO SENATOR PAUL SIMON

Ms. MOSELEY-BRAUN. Mr. President, a few minutes ago—actually an hour ago now—the Senate demonstrated, I think, the kind of cooperation and collegiality that really is in the best tradition of this Senate, when Members on both sides of the aisle, male and female alike, came out wearing bow ties as a tribute to my senior Senator, PAUL SIMON.

At the outset, I would like to thank the people who made it possible: Senator CONNIE MACK of Florida, with whom I had conversations regarding the surprise to PAUL SIMON and who made it possible also for Members on the Republican side of the aisle to have bow ties; to Senator DAVID PRYOR of Arkansas who took the initiative to have the ties made. I had to question him why it was that the girls didn't exactly get ties. We had to tie our own bows. But it was all right because the bows are really quite lovely. I know many of us will probably keep these as part of our wardrobes permanently. I couldn't help but think, when I saw so many Members of this Senate come out on the floor in their bow ties or their bows, how very special this institution is in its tribute to a very special Member.

First, with regard to the institution. We very often call each other "distinguished," "my good friend," "the honorable." But there is something about serving in an institution like this that brings us together and binds us together, almost like a family, without regard to our political affiliation or even our philosophical orientation, maybe because we spend so many hours together or we work together and we work such long hours together, a point that is often missed by the general public. But the fact is, because of our coming together in so many different endeavors, the Members of this body all have a special regard and a special relationship one to the other.

I think that regard and that relationship was reflected in the tribute to Senator PAUL SIMON when Members, again on both sides of the aisle, so willingly took up the bow tie and took up the bow in honor of him and in tribute to what has become his signature—his bow tie.

Senator PRYOR is on the floor now, and I don't know where he had these made, but they certainly are gorgeous.

Senator PRYOR and Senator MACK and the other Members, and I must say we had cooperation from just about everybody—the people in the cloakroom who made the ties available, the staffer who helped play a little trick on PAUL SIMON this afternoon when we sent him a note that said he had a phone call so he would leave the caucus long enough for an announcement to be made about the surprise. Everyone has cooperated to make this possible.

It was really a great honor to him and a great honor to his service to this institution, as well as our State of Illinois and our Nation that this tribute was such a moving one. Even though we were in the middle of votes, everyone made the point to go up and to speak to Senator SIMON and to wish him well.

PAUL SIMON epitomizes public service. He has always sought to make government work for the people. He understands that democratic government is not separate and distinct from the people. But it is no more, no less than a mechanism for all of us to come together for our common good. In a democracy, government is all of us, and PAUL SIMON has spent a lifetime making government real, making government responsive, making government serve the public interest.

He is a genuine public servant, and a public servant who has functioned consistent with his beliefs and his principles and his own ethic over the years, whether popular or unpopular, in the good times and the bad ones.

One can always be certain that PAUL SIMON's values are never very far from his votes. He always has been known to care for the less fortunate, for those without a voice. His compassion for people has helped make him a conscience for this body and, indeed, for our Nation. He has been a fighter on issues without regard to whether or not they made it on the polls or the pop charts.

In fact, he started working for education, for example, before it was as high up in the polling as it is today. Education is a passion of PAUL SIMON because he believes that it is an integral part of opportunity in preserving the American dream. So he fought for educational opportunity, and he has fought to make certain that opportunity was extended to all Americans everywhere—handicapped Americans, minority Americans, Americans in the suburbs and the cities—wherever in this country. PAUL SIMON's concern as a small "d" democrat for the people of this country has been unwavering.

It is that same concern that drove him to be the chief architect and the chief sponsor of the balanced budget constitutional amendment. Many times when I am called on, when I speak to people about the balanced budget amendment, which is an issue that now is very popular—it wasn't when he first started working on it—I remind people that it was a Democrat, PAUL SIMON, who championed the balanced budget amendment before it was popular.

He did so because he knows and he believes that we have a duty in our generation to leave our children more than a legacy of debt. So it is essential, again, if we are going to hold on to that American dream, that we have to be responsive to the people, but we have an obligation also to be prudent and not to be profligate in our spending.

I heard a story the other day that I think really describes PAUL SIMON, that I think is so typical or so appropriate with regard to describing PAUL SIMON. A woman said to me she always liked people who liked children and people who liked trees, because those were people who cared about what came after they were gone. If you think about it, caring about children and caring about trees and caring about the future of America is exactly what has distinguished PAUL SIMON's service in this Senate and in his public life through the years in the State of Illinois.

He leaves some awfully big shoes to fill. He likes to point out that he could do for me what no one else can do, and that is make me the senior Senator from Illinois. While I look forward to being the senior Senator from this great State, at the same time I recognize that it is an awfully tall bill to fill, to live up to the standards and live up to the kind of ethic that PAUL SIMON has always represented.

He has been a public servant of the first order. He started having town meetings in our State and, quite frankly—he has had a couple thousand of them—it is going to take me a little while to catch up with the number of townhall meetings that PAUL SIMON had in the State. He also had townhall meetings here. In fact, when I came to the Senate and joined him with the every-Thursday townhall meetings in which we speak to the people who drop by on the issues, this was an innovation by PAUL SIMON that, frankly, was absolutely consistent with his reaching out, with his spreading the gospel of democracy to the people who came to visit their Capitol.

So, in closing, Mr. President, I would like to say that it is altogether appropriate that PAUL SIMON comes from and represents the State of Illinois. Our State has been long known as "the land of Lincoln," and we are very proud of that. Illinois' greatest citizen made a monumental contribution to our country in very difficult times, but I think it is absolutely consistent with his legacy that our State has been served by a giant in the nature and of the name of PAUL SIMON.

He follows in the best Illinois tradition: someone who is committed to keeping the United States of America the greatest country in the world, someone who has devoted the full measure of his talent and his energy to his State and to his country.

So it is with great love and affection that I wish him well in his retirement, as I am sure that my colleagues do as they demonstrated on this floor this afternoon.

I thank the Chair, and I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I want to thank my distinguished colleague from Illinois, Senator CAROL MOSELEY-BRAUN, for the eloquent statement she has made about our departing colleague, the honorable PAUL SIMON, the senior Senator from her State.

I also want to thank, Mr. President, our distinguished colleague, the junior Senator from Illinois, for the role that she has played in making this so-called bow tie day in honor of PAUL SIMON, not only a reality, but I think certainly, Mr. President, a success.

I must say, I have been asked several times during the course of the afternoon—because I think I have gotten a little bit too much attention or credit for this, and I should not get any—but I was sitting at an airport some months ago, visiting with my friend and colleague from the State of Florida, Senator CONNIE MACK, and I do not know exactly how we started talking about PAUL SIMON of Illinois, but something came up, and CONNIE MACK said to me, he said, "You know, we ought to do something to honor PAUL SIMON. What a grand person. What a distinguished American. What an opportunity we have had to serve with this man, PAUL SIMON."

We started thinking out loud, sitting in the airport, waiting for the plane. And the plane did not come, and it did not come, so we had idea after idea. Finally, CONNIE MACK said, "You know what we ought to do? We all ought to, before PAUL SIMON leaves the Senate, we ought to wear a bow tie in his honor because it is such a symbol of this great man." So I said, "CONNIE MACK, you have come upon a great idea." I raced to the telephone and called my friend in Little Rock, Mr. Bill Humble, and I said, "Bill, can your tie plant make us up 100 bow ties?" He said, "We'll be glad to."

And so with that, and then with the help, the wonderful help of Senator CAROL MOSELEY-BRAUN, who helped arrange the disbursing of the ties today, and keeping this a secret, even almost from all of the PAUL SIMON staff, and almost Mrs. Simon, Jeanne Simon—I did notice she was here today to see the thunderous applause, the thunderous ovation that her husband, PAUL SIMON, received by his colleagues, I would say about 95 percent of those colleagues wearing a bow tie to pay tribute to our colleague. So it has been a nice day. It was a nice way to express our affection and our respect for PAUL

SIMON of Illinois. I have always admired him.

I have admired him from afar when he was a Member of the House of Representatives, when he was doing so much with children's issues, when he was championing the cause of education in our society, when he was concerned about the breakdown of the family unit, which he was talking to us about, as Senator MOYNIHAN was talking to us about decades ago, about this breakdown, and the perseverance with which he approached each and every issue that he undertook. And I am so grateful that I have had the privilege of not only sitting alongside this man, but also literally sitting behind Senator PAUL SIMON's desk for these numbers of years.

Mr. President, it is time for those of us who are departing, like my colleague and wonderful friend from Wyoming, Senator SIMPSON, who I came to the Senate with in 1979, it is time now, speaking of desks, for us to clean out our desks and take those humble belongings that we have in these desks home with us or wherever we might go, and to inscribe our name as occupant of the desk.

Many in our country might not know the history of these beautiful Senate desks in the Senate Chamber, but I hope all Americans will know that each Senator who occupies a particular desk will have his or her name inscribed in that desk for posterity and for all future generations to know.

Finally, Mr. President, back to our friend, Senator SIMON, if I were speaking to a political science class—and I think come the next semester at the University of Arkansas I might be speaking to one or two of those classes—if I am ever asked the question by one of those political science students as to how to pattern their life into becoming a politician, and a public servant, ultimately a public official, I think I would say to that class that you have to look no further than the life, the personal life and the political life, of PAUL SIMON of Illinois, because I think with his life he has made a statement, just like we on the floor today made a statement by wearing a PAUL SIMON bow tie.

PAUL SIMON has made a statement for the last three decades that I think will be an inspiration to all who believe in this system of government and to all who believe that we can make this system of government better.

A lot of people have so-called "lost faith" with our system of government, with politicians and with Washington, and what have you. But I think I would say this—and I am proud that my colleague from Illinois is here, my colleague from Wyoming, and our new colleague from Tennessee, and the distinguished occupant of the Chair from Idaho—I would just say that I think that PAUL SIMON, perhaps as much as any Senator that I have ever had the privilege of serving with, has humanized government. He has humanized politics. And he has humanized politicians. I think he has done it with grace. He has done it with vision. And he has done it I think with joy, because that joy exudes from PAUL SIMON. The happiness of his profession, the happiness of his work, I think will live long after PAUL SIMON has left these Chambers of the U.S. Senate.

So, Mr. President, with that, we say thank you, PAUL SIMON, thank you for being our friend, thank you for being truly a great U.S. Senator and a great Member of this body and a great friend of us all. Mr. President, I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I, too, will join in the great remarks about my friend PAUL SIMON and thank the Senator, soon-to-be senior Senator from Illinois. My time as senior Senator has been so fleeting that I am hardly able to recall it because I served as the junior Senator to Malcolm Wallop, my friend from Wyoming. So enjoy the term indeed, I say to my colleague from Illinois. Do it well.

And to my friend, Senator PRYOR, who came here with me—and he and his wife Barbara have become very dear and special friends of ours—he is a most genial, generous, kind man, and a friend to his friends. If they rallied him in time of need, it would only be because in his life and her life they have done just exactly that to all around them.

With regard to PAUL SIMON, you have to understand that I met PAUL when we were State legislators together in 1971. There was a conference on outstanding State legislators, and here were PAUL SIMON and myself, he of the Illinois Legislature, me of the Wyoming Legislature, honored. They had two from each State. I was one; PAUL was one. The first day I met him, I had a bow tie on because PAUL and I had to at least know how to tie our own bow ties. There are people in here today that have no concept of how to tie a bow tie. In fact, some of them have difficulty with even a mechanical tie is my experience seeing it today. But we laughed about that over the years.

But we are not in any way doing anything but paying tribute to this man who, with all the accolades we have heard, they are all true—honest, direct, thoughtful, steady. I know. I served with him. He served on my subcommittee on immigration, refugee policy, always attentive, always asking, always, always having a query and inquiring and saying, "Well, why is this? What is the purpose of this?"

And so, indeed, he and Jeanne, we wish them Godspeed. We will see more of them as we go on to snatch more of our own lives for ourselves rather than in this place and leave those tasks to our brothers and sisters and knowing what is required of them and both of us ready to move on to other things.

I could not have had a finer colleague, whether it was working on the issues of fraudulent marriage—PAUL handled that while I was chairman—or the balanced budget. We all know the things he does. We all know who he is. That is why we did this tribute today. No one else will have a tribute like that in the U.S. Senate—how we would honor one of our colleagues in any way as we did today and see the look on his face and the delight and that smile that is so very special. He knew that and we knew that. I thought how appropriate to honor him in that way. None of us will ever receive such a wonderful accolade, with whimsy, humor, and good spirit. I commend all those who brought that to pass.

JAN PAULK

Mr. SIMPSON. A note about Jan Paulk. She is a wonderful woman and has been such a help to us in our Senate activities as we travel and do our official duties, visiting with Prime Ministers, Presidents, and State funerals and all the rest.

Jan Paulk, a very engaging woman, was hospitable, patient beyond words, and a fine companion on journeys, some with great sadness, some pomp and circumstance, and there was Jan, always assisting everyone, including spouses, and being genial, kind, and courteous in every way.

I have never seen her when she was out of sorts, and she certainly could have been on many occasions. My wife and I wish her well. Indeed, she is a very wonderful woman. There is much more for her to do, and she will do it. I am very pleased for her about her new task. She will enjoy all and she will do it exceedingly well. We wish her Godspeed.

I will now yield the floor and signify that the Senator from Tennessee, my friend, Senator Dr. BILL FRIST, will speak on a very emotional issue, partial-birth abortion. At the conclusion of his remarks we will go to the closing of the Senate session.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

PARTIAL-BIRTH ABORTION

Mr. FRIST. Mr. President, I rise today as a physician concerned about women, concerned about women's health, concerned about safe medical practices. I rise to strongly support the ban on partial-birth abortions. My colleagues in this Chamber already know my position that this procedure called a partial-birth abortion is both medically unnecessary and unnecessarily brutal and inhumane.

Mr. President, every baby deserves to be treated with respect, with dignity and with compassion. This procedure, which has been banned in a bipartisan, in a historic way by the U.S. Senate and by the House of Representatives, very deeply offends our sensibilities as human beings.

I need to make very clear that those of us who oppose this very specific, very explicitly defined procedure care very deeply about women and about the horrific situations they sometimes face, but how can we answer to our children, to our families, to our constituents back home and to ourselves if we continue to allow babies to be aborted through this partial-birth abortion procedure, especially—and I think in some of the remarks earlier today it was made clear—especially in light that this procedure, this specific, well-defined procedure is medically unnecessary.

As the Senate's only physician, the only physician in this body, as the only board-certified surgeon in this body, I feel compelled to address the issue surrounding the medical misinformation that is laid on our desks, that you hear on the floor of this body, that you read in the newspaper each day.

There are really three medical myths that each of us in preparing to vote 2 days from now must address. There are medical myths that surround potential harm to the mother, to affecting the welfare of the mother, and they are as follows:

Myth No. 1: We have heard it said in this body that this is an accepted and safe medical procedure, often necessary to save the reproductive health and/or life of the mother. I have talked to physicians who perform emergency and elective late-term abortions, both in Tennessee and around the country. Many of them had not heard of this specific procedure, but all of them, after hearing it—and I went back to the original papers, which I will share—all of them that I talked to, condemned it as medically unnecessary—meaning there are in those very rare situations alternative types of therapy—or even dangerous, dangerous, to the health of the mother. In every case of severe fetal abnormality or medical emergency, there are other alternative procedures that will preserve the life of the mother and the mother's reproductive health.

Dr. Hern, the author of a textbook entitled "Abortion Practice," which is a widely accepted text on abortion, disputed the claim that this is a safe procedure in an interview with the American Medical News. He cited, for example, concerns about turning the fetus into a breach position—which is part of this procedure—turning the baby around, which can cause placental abruption, or separation of the placenta, and amniotic fluid embolism.

In an effort to combat much of the medical and scientific misinformation surrounding this issue, a number of physicians and specialists and medical spokespeople have gotten together, formed a coalition to address some of the medical errors, the medical misinformation, that have been put forward. Dr. C. Everett Koop, a former Surgeon General is a member of this coalition. He has also stated that this procedure, in his clinical experience, "is not a medical necessity for the mother."

I hesitate to go into the procedure, but, again, as a physician, what I turn to is the procedure itself as defined in the medical literature. So I turn to a presentation called Dilation and Extraction for Late Second Trimester Abortion, written and presented by Dr. Martin Haskell, presented at the National Abortion Federation risk management seminar, September 13, 1992. This is the actual paper that was presented. As with any medical paper, there is an introduction, a background, a patient selection, a description of the patient operation. Without going into the entire description of the operation, let me quote from this medical presentation presented at a medical scientific meeting.

> While maintaining this tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand, the surgeon takes a pair of blunt carved Metzenbaum scissors in the right hand [the Metzenbaum scissors are scissors about that size, typically used in surgery.] He carefully advances the tip carved down along the spine and under his middle finger until he feels it contact the base of the skull with the tip of his middle finger.
>
> Reassessing proper placement of the closed scissors tip and safe elevation of the cervix, the surgeon then forces the scissors into the base of the skull or into the foramen magnum. Having safely entered the skull, he spreads the scissors to enlarge the opening.
>
> The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus, removing it completely from the patient.
>
> The surgeon finally removes the placenta with forceps and scrapes the uterine walls with a large Evans and a 14 mm suction curette. The procedure ends.

I share this because I have other descriptions, and I have seen the graphics. And I always wonder. "What filter does this go through before it gets to the floor of the U.S. Senate, or to the House, or to the newspaper?" And these are the exact words used in the oral presentation at a medical meeting of this procedure by one of its proponents.

Myth No. 2: This procedure is only performed in cases of severe fetal abnormality when the fetus is already dead, or will die immediately after birth.

Mr. President, this falsehood has been repeated again and again and again. It has been used as one of the principal defenses of the veto handed down by President Clinton. But the record clearly shows that this is false. Dr. Martin Haskell, one of the best known practitioners of this procedure, this partial birth method, told American Medical News that:

> Eighty percent of his partial-birth abortions were done for "purely elective reasons."

Another doctor testified before Congress that he has performed partial-birth abortions on late term babies simply because they had a "cleft lip."

Myth No. 3: The fetus is already dead or insensitive to pain during this procedure, which I just described, because of the anesthesia administered to the mother.

Of all the misconceptions of this debate this has some of the most troubling implications for women's health. Some of the documents distributed to this body have stated "The fetus dies of an overdose of anesthesia given to the mother intravenously."

Mr. President, this is not true. If it were true, then women who undergo elective operations during pregnancy—even life-saving procedures done under anesthesia—would probably avoid it because of fear of danger to that fetus. And it is wrong I think to scare women to endanger their health in order to defend an unnecessary procedure.

Let me go back to the paper again, the medical scientific paper, because I forgot to mention that in closing of the paper, in the summary, the last paragraph on page 33, which says:

> In conclusion, dilation and extraction—the partial birth procedure I just described—is an alternative method for achieving late second trimester abortions to 26 weeks. It can be used in the third trimester.

So even the author says it is an alternative method. This procedure is medically unnecessary.

I have heard from a number of my fellow colleagues who have been outraged at the blatant misinformation campaign that has come forward.

The American Society of Anesthesiologists has issued repeated statements contradicting the argument of fetal death or coma due to anesthesia given to the mother.

Mr. President, I know that this issue does stir up a lot of emotion. But I think we do need to be careful with the facts. The facts are this procedure is indefensible from a medical standpoint. There is never an instance where it is medically necessary in order to save the life of the mother or her reproductive health.

I know a number of my colleagues oppose this bill not because they support the procedure but on the grounds that they fear further and further Government intervention into the practice of medicine. And I too have a fear of excessive Federal Government intervention into that practice of medicine. But I do think there comes a time when individuals, a few individuals on the fringe, force us to draw a line to protect innocent human life from the sort of brutality which I just described to you out of the literature. And I truly feel, Mr. President, that this is one of those times.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, parliamentary inquiry: Are we in morning business?

The PRESIDING OFFICER. Not at this moment.

BEST REGARDS TO SENATOR COHEN

Mr. LEVIN. Mr. President, I rise briefly to extend my best regards to Senator BILL COHEN as he leaves this body after 18 years in the distinguished service.

I have had the good fortune of serving with Senator COHEN on the Governmental Affairs Committee for the entire 18 years, and have also served with him on the Subcommittee of Oversight of Government Management on that committee. Sometimes he was the chairman and other times I was the chairman during this 18-year period. But in either case we were always able to work together and I think make a real difference in the management of our Federal programs.

Several pieces of legislation stand out for me when I think back over our years of working together: First and foremost would be the Compensation in Contracting Act which Senator COHEN and I cosponsored and got enacted back in 1984. There is a current estimate that perhaps $40 to $50 billion in savings resulted from that law. That was a great piece of work that he had such an instrumental role in.

Then we worked on lobbying reform which has cleaned up our broken lobbying disclosure laws and has resulted in the registration of at least twice as many lobbyists and the disclosure of almost five times as much money being spent on lobbying activities than we knew of prior to this law being passed.

We have reauthorized the independent counsel law three times since it was first enacted in 1978.

We have struggled with many key issues, including maintaining the independence of the office but continuing to retain important checks. It is far from a perfect law but it has been worth the effort.

The list of joint efforts is long: Social Security Disability Reform Act of 1984; several reauthorizations of the Office of Government Ethics; oversight hearings on Wedtech; the FAA; Federal courthouse construction; Federal debarment practices; overloading; security; subcontractor kickbacks; hurry-up spending on medical labs; the United States Synfuels Corporation. We touched on almost every department of the Federal Government.

We have taken testimony from a broad cross-section of witnesses from hackers to slackers, from crooks to saints, auditors, parents, scientists, whistleblowers, meat inspectors, doctors, lawyers, and engineers. We have had witnesses behind screens, witnesses with distorted voices, and witnesses giving testimony by phone over a speaker. We have had hearings with all the press, and we have had hearings with no press. We have had hearings where everything worked, and we have had hearings where nothing seemed to work. We have had testimony that was funny, testimony that was tragic. We have addressed issues where the solutions were obvious and achievable, and where the answers were elusive.

But, Mr. President, Senator COHEN and I on this little subcommittee have lived through the thick and the thin of congressional life. Senator COHEN has done it with integrity, with intelligence, with humor, and with elan, and sometimes with some poetry.

He served the people of Maine and the people of this Nation with distinction. The Senate will be a lesser place when he leaves, and I will miss him as a friend and as a colleague. And we wish him nothing but the greatest happiness because he surely deserves it.

I thank the Chair. I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask that there now be a period for the transaction of morning business with statements limited to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO DEAN SCHOFIELD

Mr. PRESSLER. Mr. President, today I would like to pay tribute to Dean Schofield from Pierre, SD. Dean is retiring this month after serving 35 years with the South Dakota Department of Transportation. Dean's tireless dedication to our State has been exemplary.

Dean's career began at the Department in 1961. His career steadily advanced over the years, from an assistant engineer to deputy secretary of the Department, the position he held when he announced his retirement.

Mr. President, during my 22 years in Congress, I have often relied on Dean's insight and suggestions as I've worked to promote South Dakota's transportation system. Indeed, Dean has always kept me and my staff aware of South Dakota's transportation priorities.

For example, I recall last year when Dean testified before a Surface Transportation and Merchant Marine Subcommittee hearing on rail service. Dean has also lent his expertise on highway and air service issues. His knowledge and contributions have been invaluable.

I congratulate Dean upon his retirement and offer my good wishes to both he and his wife, Delcie. Dean leaves behind big shoes to fill.

Mr. President, I ask unanimous consent a copy of an executive proclamation by the Governor of the State of South Dakota honoring Dean be printed in the RECORD immediately following my remarks.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

EXECUTIVE PROCLAMATION, STATE OF SOUTH DAKOTA

Whereas, Jerald D. (Dean) Schofield, a graduate of Pierre High School, with a degree in Civil Engineering from South Dakota State University, started his career with the Department of Transportation on January 9, 1961 in Pierre as an Assistant Engineer, advancing to Project Engineer in 1968, Assistant Secondary Roads Engineer in 1973, Construction Program Engineer in 1974, Office Administrator of Planning and Programs in 1980, Director of the Division of Planning in 1986, and Deputy Secretary in 1989, the position he held until his retirement; and

Whereas, Dean has been recognized by his peers in national and regional organizations by being selected to serve on many committees as well as being selected as Secretary-Treasurer of the Western Association of State Highway & Transportation Officials (WASHTO); and

Whereas, Dean was deeply involved in development the Rural States' position and assisting in the passage of ISTEA, as well as many other Federal issues—his work (as often was the case) was accomplished in the background where he meticulously provided essential support information and was always willing and able to fill in on short notice; and

Whereas, Dean has been instrumental in developing the Department's Computerized Needs Data Book, the 5-Year Construction Program with its project prioritization system based on needs; the annual Strategic Plan and the legislative program; and

Whereas, Dean served on many Department, as well as several statewide and special Governor's Task Forces; and

Whereas, Dean brings a special, although quiet, skill to every area he encounters and has always encouraged other employees and has been a mentor and a model by his leadership and example of superior work ethic and commitment to family, profession, church and community; and

Whereas, Dean, through his knowledge, judgment, openness, integrity, thoroughness and organizational skills, has earned the respect of everyone he has dealt with, both within and outside the DOT, including legislators, county commissioners, governors, congressmen, landowners, fellow employees and ordinary highway users; and

Whereas, Dean has been voted, by unofficial poll, to be the Department's most considerate and genuinely caring employee and one who will be sorely missed by his many friends and co-workers; and

Whereas, after 35 years and 8 months of exemplary service to the state of South Dakota and the SDDOT, it is now time for Dean to retire to his home in Pierre with Delcie, his wife of 32 years, to devote his time to traveling, carpentry, gardening, attending athletic events, and enjoying his 3 children, Darrell, Darla, and Davis, and 5 grandchildren, Brittanie, Matthew, Nathan, Taylor, and

Kaitlyn, and it is fitting and proper as Governor to recognize the many accomplishments of this outstanding South Dakotan:

Now, therefore, I, William J. Janklow, Governor of the State of South Dakota, do hereby proclaim August 30, 1996, as Dean Schofield Day in South Dakota, and I join with Dean's family, friends and co-workers in wishing him a fulfilling and happy retirement.

CONGRATULATIONS TO NELLIE NORTON SCHNELL CELEBRATING HER 100TH BIRTHDAY

Mr. ASHCROFT. Mr. President, I rise today to encourage my colleagues to join me in congratulating Nellie Norton Schnell of Fayette, MO, who will celebrate her 100th birthday this Friday, September 27, 1996. She is a truly remarkable individual. Nellie has witnessed many of the events that have shaped our Nation into the greatest the world has ever known. The longevity of her life has meant much more, however, to the many relatives and friends whose lives she has touched over the last 100 years.

Nellie Norton Schnell's celebration of 100 years of life is a testament to me and all Missourians. Despite being visually and hearing impaired, Nellie organized and planned her own birthday celebration to take place this Friday at her grand-daughter's home in Boonville, MO. Her achievements are significant and deserve to be saluted and recognized. I would like to join her many friends and relatives in wishing her health and happiness in the future.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:56 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1281. An act to express the sense of the Congress that it is the policy of the Congress that United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public.

H.R. 1720. An act to reorganize the Student Loan Marketing Association, to privatize the College Construction Loan Insurance Association, to amend the Museum Services Act to include provisions improving and consolidating Federal library service programs, and for other purposes.

H.R. 2988. An act to amend the Clear Air Act to provide that traffic signal synchronization projects are exempt from certain requirements of Environmental Protection Agency Rules.

H.R. 3153. An act to direct the Secretary of Transportation to issue a final rule relating to materials of trade exceptions from hazardous materials transportation requirements.

H.R. 3877. An act to designate the United States Post Office building located at 351 West Washington Street in Camden, Arkansas, as the "David H. Pryor Post Office Building".

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 811. An act to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop facilities, and for other purposes.

At 5:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate.

H.R. 2508. An act to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

H.J. Res. 193. Joint resolution granting the consent of Congress to the Emergency Management Assistance Compact.

H.J. Res. 194. Joint resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

MEASURES PLACED ON THE CALENDAR

The following measures were read the second time and placed on the calendar:

S. 2100. A bill to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

S.J. Res. 63. Joint resolution making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4158. A communication from the Deputy Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a rule entitled "Prevailing Rate Systems" (RIN3206-AH58); to the Committee on Governmental Affairs.

EC-4159. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the list of General Accounting Office reports and testimony for August 1996; to the Committee on Governmental Affairs.

EC-4160. A communication from the Director of the U.S. Office of Government Ethics, transmitting, pursuant to law, the rule entitled "Standards of Ethical Conduct for Employees of the Executive Branch" (RIN3209-AA04); to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SIMPSON, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1711. A bill to establish a commission to evaluate the programs of the Federal Government that assist members of the Armed Forces and veterans in readjusting to civilian life, and for other purposes (Rept. No. 104-371).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following-named officer for appointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Joseph J. Redden, [redacted]

The following-named officers for appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of title 10, United States Code, sections 8374, 12201, and 12212:

To be brigadier general

Col. William J. Boardley, [redacted] Air National Guard of the United States.

Col. Walter R. Ernst II, [redacted] Air National Guard of the United States.

Col. Dennis A. Higdon, [redacted] Air National Guard of the United States.

Col. Enrique J. Lanz, [redacted] Air National Guard of the United States.

Col. James A. McDevitt, [redacted] Air National Guard of the United States.

Col. Joseph I. Mensching, [redacted] Air National Guard of the United States.

Col. Fisk Outwater, [redacted] Air National Guard of the United States.

Col. Lawrance L. Paulson, [redacted] Air National Guard of the United States.

Col. Maxey J. Phillips, [redacted] Air National Guard of the States.

Col Wallace F. Pickard, Jr., [redacted] Air National Guard of the United States.

Col. Richard A. Platt, [redacted] Air National Guard of the United States.

Col. John C. Schnell, [redacted] Air National Guard of the United States.

Col Allen J. Smith, [redacted] Air National Guard of the United States.

Col. Paul J. Sullivan, [redacted] Air National Guard of the United States.

Col. Michael H. Tice, [redacted] Air National Guard of the United States.

The following-named officers for promotion in the Regular Army of the United States to the grade indicated, under title 10, United States Code, sections 6112(a) and 624:

To be brigadier general

Col. John P. Abizaid [redacted] U.S.Army.
Col. Daniel L. Montgomery [redacted] U.S. Army.

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a);

To be brigadier general

Col. Lloyd E. Krase [redacted]

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

To be brigadier general

Col. Paul J. Glazar [redacted]

The following-named officer for appointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Douglas D. Buckholz, [redacted] U.S. Army.

The following-named Army Competitive Category officers for promotion in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, United States Code, sections 611(a) and 624(c):

To be brigadier general

Col. Anders B. Aadland [redacted]
Col. Lawrence R. Adair [redacted]
Col. Robert E. Armbruster, Jr. [redacted]
Col. Raymond D. Barrett, Jr. [redacted]
Col. Joseph L. Bergantz [redacted]
Col. William L. Bond [redacted]
Col. Colby M. Broadwater III [redacted]
Col. James D. Bryan [redacted]
Col. Kathryn G. Carlson [redacted]
Col. John P. Cavanaugh [redacted]
Col. Richard A. Cody [redacted]
Col. Billy R. Cooper [redacted]
Col. John M. Curran [redacted]
Col. Peter M. Cuviello [redacted]
Col. Dell L. Dailey [redacted]
Col. John J. Deyermond [redacted]
Col. James M. Dubik [redacted]
Col. John P. Geis [redacted]
Col. Larry D. Gottardi [redacted]
Col. James J. Grazioplene [redacted]
Col. Robert H. Griffin [redacted]
Col. Richard A. Hack [redacted]
Col. Wayne M. Hall [redacted]
Col. William P. Heilman [redacted]
Col. Russel L. Honore [redacted]
Col. James T. Jackson [redacted]
Col. Terry E. Juskowiak [redacted]
Col. Geoffrey C. Lambert [redacted]
Col. William J. Leszczynski [redacted]
Col. Wade H. McManus, Jr. [redacted]
Col. Richard J. Quirk III [redacted]
Col. William H. Russ [redacted]
Col. Donald J. Ryder [redacted]
Col. John K. Schmitt [redacted]
Col. Walter L. Sharp [redacted]
Col. Toney Stricklin [redacted]
Col. Frank J. Toney, Jr. [redacted]
Col. Alfred A. Valenzuela [redacted]
Col. John R. Vines [redacted]
Col. Craig B. Whelden [redacted]
Col. Roy S. Whitcomb [redacted]
Col. Robert Wilson [redacted]
Col. Walter Wojdakowski [redacted]
Col. Joseph L. Yakovac, Jr. [redacted]

The following-named officer for reappointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Jay M. Garner [redacted]

The following U.S. Army National Guard officer for promotion in the Reserve of the Army of the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

To be brigadier general

Col. Frank A. Avallone [redacted]

(The above nominations were reported with the recommendation that they all be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 12 nomination lists in the Air Force, Army, Marine Corps, and Navy which were printed in full in the CONGRESSIONAL RECORDS of November 7, 1995, December 11, 1995, July 17, September 9, 13, and 10, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

In the Navy there are five appointments to the grade of lieutenant (list begins with Brian G. Buck) (Reference No. 715–2).

In the Navy there are four promotions to the grade of lieutenant commander (list begins with Jeffry L. Bennett) (Reference No. 768–2).

In the Navy there are 630 promotions to the grade of commander (list begins with Rufus S. Abernethy III) (Reference No. 1204).

In the Navy there are 1,120 promotions to the grade of lieutenant commander (list begins with Glen F. Abad) (Reference No. 1295).

In the Marine Corps there is one promotion to the grade of major (Robert T. Bader) (Reference No. 1300).

In the Marine Corps there is one promotion to the grade of major (Wayne D. Szymczyk) (Reference No. 1301).

In the Air Force there is one promotion to the grade of colonel (Wendell R. Keller) (Reference No. 1310).

In the Air Force there are 18 appointments to the grade of second lieutenant (list begins with Sean P. Abell) (Reference No. 1311).

In the Air Force Reserve there are 17 promotions to the grade of lieutenant colonel (list begins with Randall R. Ball) (Reference No. 1312).

In the Air Force Reserve there are 35 promotions to the grade of lieutenant colonel (list begins with James E. Ball) (Reference No. 1313).

In the Army Reserve there are 25 promotions to the grade of colonel (list begins with Ernest R. Adkins) (Reference No. 1314).

In the Army Reserve there are 44 promotions to the grade of lieutenant colonel (list begins with William A. Ayers, Jr.) (Reference No. 1315).

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of November 7, 1995, December 11, 1995, July 17, September 9, 13, and 19, 1996, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself, Mr. FAIRCLOTH, Mr. LOTT, Mr. HELMS, and Mrs. KASSEBAUM):

S. 2104. A bill to amend chapter 71 of title V, United States Code, to prohibit the use of Federal funds for certain Federal employee labor organization activities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. FRIST:

S. 2105. A bill to amend chapter 29 of title 35, United States Code, to provide for a limitation on patent infringements relating to a medical practitioner's performance of a medical activitiy; to the Committee on the Judiciary.

By Mr. MCCONNELL:

S. 2106. A bill to amend the United Nations Participation Act of 1945 to prohibit the placement of members of the United States Armed Forces under the command, direction, or control of the United Nations, and for other purposes; to the Committee on Foreign Relations.

By Mr. THOMAS (for himself, Mr. ROBB, and Mr. MCCAIN):

S. 2107. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Mongolia; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. ASHCROFT, Mr. BIDEN, Mr. BREAUX, Mr. COATS, Mr. DEWINE, Mr. FAIRCLOTH, Mr. FORD, Mr. GRASSLEY, Mr. HATFIELD, Mr. INHOFE, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. PRESSLER, and Mr. THURMOND):

S. 2108. A bill to clarify Federal law with respect to assisted suicide, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE:

S. 2109. A bill to provide a 1-year delay in the imposition of penalties on small businesses failing to make electronic fund transfers of business taxes; to the Committee on Finance.

S. 2110. A bill to amend the Internal Revenue Code of 1986 to provide special rules for certain gratuitous transfers of employer securities for the benefit of employees; to the Committee on Finance.

By Mr. MCCAIN:

S. 2111. A bill to amend the Act commonly known as the "Navajo-Hopi Land Settlement Act of 1974", and for other purposes; to the Committee on Indian Affairs.

By Mr. FORD:

S. 2112. A bill to revise the boundary of the Abraham Lincoln Birthplace National Historic Site in Larue County, Kentucky, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KERRY:

S. 2113. A bill to increase funding for child care under the temporary assistance for needy families program; to the Committee on Finance.

By Mr. AKAKA:

S. 2114. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SHELBY:

S. 2115. A bill to protect and enhance sportsmen's opportunities and conservation of wildlife, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 2116. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Finance.

By Mr. LOTT (for Mr. Hatfield):

S.J. Res. 63. A joint resolution making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes; read the first time.

By Mr. DODD (for himself, Mr. D'Amato, Mr. Warner, Mr. Moynihan, Mr. Bradley, Mr. Byrd, Mrs. Feinstein, Mr. Ford, Mr. Heflin, Mr. Kennedy, Mr. Kerry, Mr. Lautenberg, Ms. Mikulski, Mr. Pell, Mr. Reid, Mr. Robb, Mr. Simon, Mr. Chafee, Mr. Cohen, Mr. DeWine, Mr. Domenici, Mrs. Kassebaum, Mr. Mack, Mr. Murkowski, and Mr. Thurmond):

S.J. Res. 64. A joint resolution to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD:

S. Res. 296. A resolution to permit disabled Senate employees with the privilege of the Senate floor to use supporting services on the floor; to the Committee on Rules and Administration.

By Mr. ABRAHAM (for himself and Mr. Levin):

S. Res. 297. A resolution referring S. 558, entitled "A bill for the relief of retired SFC James D. Benoit, Wan Sook Benoit, and the estate of David Benoit, and for other purposes," to the Chief Judge of the U.S. Court of Claims for a report on the bill; to the Committee on the Judiciary.

By Mr. BYRD (for himself, Mr. Lott, Mr. Daschle, Mr. Abraham, Mr. Akaka, Mr. Ashcroft, Mr. Baucus, Mr. Bennett, Mr. Biden, Mr. Bingaman, Mr. Bond, Mrs. Boxer, Mr. Bradley, Mr. Breaux, Mr. Brown, Mr. Bryan, Mr. Bumpers, Mr. Burns, Mr. Campbell, Mr. Chafee, Mr. Coats, Mr. Cochran, Mr. Cohen, Mr. Conrad, Mr. Coverdell, Mr. Craig, Mr. D'Amato, Mr. DeWine, Mr. Dodd, Mr. Domenici, Mr. Dorgan, Mr. Exon, Mr. Faircloth, Mr. Feingold, Mrs. Feinstein, Mr. Ford, Mrs. Frahm, Mr. Frist, Mr. Glenn, Mr. Gorton, Mr. Graham, Mr. Gramm, Mr. Grams, Mr. Grassley, Mr. Gregg, Mr. Harkin, Mr. Hatch, Mr. Heflin, Mr. Helms, Mr. Hollings, Mrs. Hutchison, Mr. Inhofe, Mr. Inouye, Mr. Jeffords, Mr. Johnston, Mrs. Kassebaum, Mr. Kempthorne, Mr. Kennedy, Mr. Kerrey, Mr. Kerry, Mr. Kohl, Mr. Kyl, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lieberman, Mr. Lugar, Mr. Mack, Mr. McCain, Mr. McConnell, Ms. Mikulski, Ms. Moseley-Braun, Mr. Moynihan, Mr. Murkowski, Mrs. Murray, Mr. Nickles, Mr. Nunn, Mr. Pell, Mr. Pressler, Mr. Pryor, Mr. Reid, Mr. Robb, Mr. Rockefeller, Mr. Roth, Mr. Santorum, Mr. Sarbanes, Mr. Shelby, Mr. Simon, Mr. Simpson, Mr. Smith, Ms. Snowe, Mr. Specter, Mr. Stevens, Mr. Thomas, Mr. Thompson, Mr. Thurmond, Mr. Warner, Mr. Wellstone, and Mr. Wyden):

S. Res. 298. A resolution designating room S. 131 in the Capitol as the "Mark O. Hatfield Room"; considered and agreed to.

By Mr. LOTT (for himself and Mr. Daschle):

S. Res. 299. A resolution extending the provisions of Senate Resolution 149 of the 103d Congress, 1st session, relating to the Senate Arms Control Observer Group; considered and agreed to.

By Mr. WELLSTONE (for himself, Mr. Inouye, Mrs. Murray, Mr. Dodd, Mrs. Frahm, Mr. Reid, Mr. Glenn, Mr. Exon, Mrs. Boxer, and Mr. Kennedy):

S. Res. 300. A resolution to designate the week of November 3, 1996, as "National Shaken Baby Syndrome Awareness Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. Faircloth, Mr. Lott, Mr. Helms, and Mrs. Kassebaum):

S. 2104. A bill to amend chapter 71 of title V, United States Code, to prohibit the use of Federal funds for certain Federal employee labor organization activities, and for other purposes; to the Committee on Governmental Affairs.

UNION ACTIVITIES LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce a very important piece of legislation that would affect every American taxpayer. This measure would prohibit Federal funds from being used to pay Federal employees while working on union business.

Mr. President, I was shocked by a recent Government Accounting Office [GAO] report to Congress concerning union activities at the Social Security Administration [SSA]. I understand that Federal employees have the right to be represented by a union. However, I completely disagree that the American taxpayer should foot the bill for this representation.

The results of the GAO report are astounding and very disturbing. The GAO reported that over 413,000 hours were spent by Federal employees last year on union activities at the SSA. This cost the American taxpayers approximately $12.6 million in salaries and expenses. This does not even count the amount of time management spent answering union concerns. The cost involved for management to respond may be double the nearly $13 million we spent on the union representatives. The GAO identified 1,800 SSA employees who are authorized by the union to spend time on SSA union activities; I repeat, Mr. President, 1,800 Federal employees, paid by the U.S. Government to do union work. Currently, 146 of those representatives are considered to be full-time. In other words, 146 Federal employees are spending 100 percent of their time at the Social Security Administration working on union activities, not serving Social Security beneficiaries and the taxpayer, but doing full-time union work. These figures are for just one agency. In 1993, President Clinton issued Executive Order 12871, which requires agencies to involve labor organizations as full "partners" with management in identifying problems and creating solutions. In the time that this Executive order has been in effect, the cost to the American taxpayer for union activity at SSA alone has more than doubled. Further, Federal employees who are performing union work full-time has jumped from 80 to 146. There are still some 1,654 additional SSA employees working part-time on union activities. Mr. President, this is outrageous.

As I stated, these figures are only for the SSA. I have, therefore, requested that the GAO prepare a similar report to the one conducted at SSA, which would address union activity within the entire Federal Government. It is my feeling that the aggregate numbers will be equally as staggering and shocking as those found at SSA.

I am pleased to be a cosponsor of legislation, authored by my good friend, Senator Faircloth, which would prohibit using money from the Social Security and Medicare trust funds for union activities at SSA and the Department of Health and Human Services. However, I think we should go even further. No Federal money should be used to subsidize union work within any Government agency. Our Government workers should be attending to the business for which they were hired while on the American taxpayer's time. The union representatives at Federal agencies were not hired to do the work of the unions. They were hired to perform specific duties pertaining to the official business of the Federal agency that employs them.

The legislation I am introducing would ensure that union activities at the Federal level are not financed by the already heavily burdened American taxpayer. Mr. President, let the unions pay the salaries and expenses of those who perform union work; and let our tax money be used to do the work of the American people.

The able Majority Leader, Senator Lott, Senators Faircloth, Helms, and Kassebaum are original cosponsors. I invite my other colleagues to join us in support of this important measure to correct an absolute misuse of Federal funds.

I further ask unanimous consent that the GAO report regarding union activities at the Social Security Administration be included in the Record.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNION ACTIVITY AT THE SOCIAL SECURITY ADMINISTRATION

Mr. Chairman and Members of the Subcommittee: I am pleased to be here today to discuss the time spent on union activities at the Social Security Administration (SSA). Union activities generally include representing employees in complaints against management, bargaining over changes in working conditions and the application of personnel policies, and negotiating union contracts with management. The federal government pays its employees' salaries and expenses for the portion of time they are allowed to spend on union activities; it also provides other support such as space, supplies, equipment, and some travel expenses.[1] Federal union members generally cannot bargain over wages and cannot strike, and federal employees are not required to join unions and pay union dues in order to be represented by the union.

Given the budget constraints facing federal agencies, the Subcommittee expressed concern about the amount of time and expenses devoted to union activities and paid for by the federal government. The Subcommittee expressed particular concern about SSA unions regarding the amount of money paid for union activities out of the Social Security trust funds.

As requested, I will focus my remarks on the history of union involvement in the federal government, the statutory basis for the federal government to pay employee salaries and expenses for union activities, and the amount of time spent on and costs associated with union activities at SSA and how the agency accounts for it. The Subcommittee also asked us to comment on how the amount of time and money spent at SSA on union activities compares with what is spent at other large federal agencies, such as the Department of Veterans Affairs (VA) and the Internal Revenue Service (IRS), and how it compares with the amount spent by the U.S. Postal Service, which operates more like a private-sector company. As requested, we have also provided information on union activities in the private sector.

In response to your request, we began our work at SSA in August 1995. To develop this information, we interviewed management and union officials in SSA headquarters and 4 of SSA's 10 regional offices. We also reviewed union contracts, payroll records, and time-reporting forms. To determine the amount of time spent on union activities, we reviewed yearly reports of time spent on union activities and verified the time reported by reviewing source documents at one region and selected headquarters components. We supplemented our field work with telephone calls to three additional SSA regions to verify that similar time reporting procedures were used.

We also met with union and management officials at VA, IRS, and the Postal Service to compare their union time and costs with SSA's. VA does not operate a national union time-reporting system and therefore could not provide data on union activities. Consequently, we are not providing any information concerning VA. At IRS and the Postal Service, we obtained available information on union activity from headquarters and selected field facilities but did not verify its accuracy. We also discussed the role and function of unions in the federal government with the Office of Personnel Management (OPM) and discussed the private-sector use of official time for union activities with labor-relations experts at various trade associations, colleges, and universities. We also reviewed a 1992 Bureau of National Affairs publication that summarized trends in labor/management contracts for private industry. Finally, to determine the types of contract provisions that exist in private industry with regard to the use of official time, we reviewed ten contracts on file at the Bureau of Labor Statistics.

In summary, federal labor/management relations were formalized by executive order in the early 1960s.[2] In 1962, an executive order permitted federal agencies to grant official time for certain meetings between management and union representatives, at the discretion of the agency. The management control prevalent when the first executive order was issued has evolved over time, and today unions operating at federal government agencies have significant involvement in operational and management decisions. The use of official time, which is authorized paid time off from assigned duties for union activities, has become a routine method of union operation in the federal government. OPM officials told us that currently no governmentwide requirement exists to capture or report the amount of official time charged to union activities. They further noted that managers and employees would spend time interacting on personnel and working condition matters even if there were no unions operating at agencies.

We determined that over the last 6 years, the time spent on union activities at SSA has grown from 254,000 to at least 413,000 hours, at a cost to SSA's trust funds of $12.6 million in 1995 alone. That is, SSA currently pays the equivalent of the salaries and expenses of about 200 SSA employees to represent the interests of the approximately 52,000 employees represented by unions at SSA. This cost represents a portion of the $5.5 billion SSA incurred in administrative expenses for fiscal year 1995.

In addition, SSA has reported to the Congress that the number of full-time union representatives, those devoting 75 percent or more of their time to union activities, grew from 80 to 145 between 1993 and 1995. We found, however, that the reporting system for collecting such data does not adequately track the number of union representatives charging time to union activities or the actual time spent. Consequently, we conducted a limited verification of the hours spent on union activities reported by SSA and found that time spent on union activities was underreported. While SSA is currently developing a new system to more accurately track the time spent on union activities, it plans to implement this system to replace only the automated reporting system for union representatives in the field offices and teleservice centers. SSA is not planning to improve the less accurate manual time-reporting system for its other components.

Under the terms of the current SSA union contract negotiated in 1993, the selection of union representatives and the amount of time they spend on union activities are determined by the union without the consent of local managers. We found that over 1,800 designated union representatives in SSA are authorized to spend time on union activities, although most of the time spent is by SSA's 146 full-time representatives. Some SSA field managers told us that their having no involvement in decisions about how much time is spent by individuals and who the individuals are causes problems in managing the day-to-day activities of their operations. Union representatives, on the other hand, told us that the time they use is necessary to fully represent the interests of their coworkers.

SSA reported that it paid for 404,000 hours for union activities in fiscal year 1995, as compared with 442,000 hours reported by IRS in fiscal year 1994, the most recent information available. The Postal Service reported that 1.7 million hours spent on union activities in fiscal year 1995 related to grievances. This Postal Service estimate does not include substantial additional time spent on other types of union activities and paid for by either the unions or the Postal Service.

With regard to union activity in private industry, some employers pay some or all of the salaries and expenses of union representatives, as the federal government does, while others do not.

BACKGROUND

Labor unions are groups of employees organized to bargain with employers over such issues as wages, hours, benefits, and working conditions. The current federal labor/management program differs from nonfederal programs in three important ways: (1) federal unions bargain on a limited number of issues—bargaining over pay and other economic benefits is generally prohibited,[1] (2) strikes and lockouts are prohibited, and (3) federal employees cannot be compelled to join, or pay dues to, the unions that represent them. At SSA, employees are represented by three unions: the American Federation of Government Employees (AFGE), which represents over 95 percent of SSA employees who are represented by a union; the National Treasury Employees Union (NTEU); and the National Federation of Federal Employees (NFFE). Of SSA's 65,000 employees, about 52,000 nonsupervisory employees are represented by the unions, and about 47 percent of those represented are dues-paying union members. Union operations at SSA are governed by a national AFGE contract and six other union contracts with individual NTEU and NFFE components.

At the other federal organizations we visited, five unions had national collective bargaining agreements—four at the Postal Service and one at IRS. There were 751,000 employees represented by unions at the Postal Service and 97,000 at the IRS. Although other unions without national collective bargaining agreements represented Postal Service employees, the number of employees represented by these unions is less than one percent of all represented employees.

There are two main categories of official time, or government paid time spent on union activities, at SSA. The category known as "bank time" in field offices, and equivalent categories of official time in other components, refers to time that is negotiated and limited by SSA contracts with its unions. Bank time includes time spent on union- or employee-initiated grievances (complaints regarding any matter related to employment) as well as on union-initiated activities, such as training or representational duties. The category known as "nonbank time" in field offices, and equivalent categories in other components, generally refers to time spent on management-initiated activities; bargaining over changes to work assignments and working conditions (such as disallowed leave, employee work space, and equipment); management-initiated grievances; and any other time not specifically designated as bank time.

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[1] Footnotes at end of article.

HISTORY OF UNION ACTIVITY IN THE FEDERAL GOVERNMENT

In 1912, the Lloyd-LaFollette Act established the right of postal employees to join a union and set a precedent for other federal employees to join unions. The government did little to provide agencies with guidance on labor relations until the early 1960s.

In 1962, President Kennedy issued Executive Order 10988, establishing in the executive branch a framework for federal agencies to bargain with unions over working conditions and personnel practices. The order established a decentralized labor/management program under which each agency had discretion in interpreting the order, deciding individual agency policy, and settling its own contract disputes and grievances.

In 1969, President Nixon issued Executive Order 11491, which established a process for resolving labor disputes in the executive branch by forming the Federal Labor Relations Council to prescribe regulations and arbitrate grievances. This order clarified language to expressly permit bargaining on operational issues for employees adversely affected by organizational realignments or technological changes.

In 1970, the Postal Reorganization Act brought postal labor relations under a structure similar to that applicable to companies in the private sector. Collective bargaining for wages, hours, and working conditions was authorized subject to regulation by the National Labor Relations Board. Like other federal employees, postal employees could not be compelled to join or pay dues to a union and could not strike.

The Civil Service Reform Act of 1978 provided a statutory basis for the current federal labor/management relations program and set up an independent body, the Federal Labor Relations Authority (FLRA), to administer the program. The act expanded the scope of collective bargaining—the process under which union representatives and management bargain over working conditions—to allow routine negotiation of some operational issues, such as the use of technology and the means for conducting agency operations.

In 1993, President Clinton issued Executive Order 12871, which articulated a new vision of labor/management relations, called "Partnership." Partnership required agencies to involve labor organizations as full partners with management in identifying problems and crafting solutions to better fulfill the agency mission. It also expanded the scope of bargainable issues. This new arrangement was intended to end the sometimes adversarial relationship between federal unions and management and to help facilitate implementation of National Performance Review initiatives, which were intended to improve public service and reduce cost of government.

BASIS FOR PAYING SALARIES OF UNION REPRESENTATIVES

In 1962, Executive Order 10988 permitted federal agencies to grant official time, which is authorized paid time off from assigned government duties, for meetings between management and union representatives for contract negotiation, at the discretion of the agency. In 1971, Executive Order 11491 was amended to prohibit the use of official time for contract negotiation unless the agency and union agreed to certain arrangements. Specifically, the agency could authorize either (1) up to 40 hours of official time for negotiation during regular working hours or (2) up to one-half the time actually spent in negotiations. Over the next 4 years, a series of Federal Labor Relations Council decisions and regulations continued to liberalize the use of official time by allowing negotiations for the use of official time for other purposes.

The Civil Service Reform Act of 1978 authorized official time for federal agency union representatives in negotiating a collective bargaining agreement.[4] The act also permitted agencies and unions to negotiate whether union representatives would be granted official time in connection with other labor/management activities, as long as the official time was deemed reasonable, necessary, and in the public interest. The act continued to permit agencies to provide unions with routine services and facilities at agency expense. The act prohibited the use of official time for internal union business, such as solicitation of members.

TIME SPENT ON AND COST OF UNION ACTIVITIES AT SSA

SSA has a national system for reporting time spent on union activities by union representatives. This system is separate from the agency's time and attendance and workload reporting systems. Under this system, union representatives generally fill out and submit forms to their supervisors to account for union time. The hours reported on these forms are then periodically aggregated and submitted to SSA headquarters for totaling. This time-reporting system consists of two component systems that cover roughly an equal number of employees. The first is an automated system that captures time reported by union representatives working in field offices, which are the primary point of public contact with SSA, and at teleservice centers, where calls to SSA's national 800 number are answered. The second component is a manual system used to capture time spent by union representatives at SSA headquarters, as well as at Program Service Centers, the Office of Hearings and Appeals, and other components. Neither system is designed to capture either time spent by management on union-related matters or the number or names of individuals charging union time.

We conducted a limited verification of time captured in SSA's national reporting system at one SSA region and several headquarters components. By tracing source documents for union representatives' time to reported totals in the system, we discovered additional time not captured by the two systems. These gaps occurred primarily in the manual system and resulted from inaccurate reporting from the source documents, overlooked reports for some union representatives, and uncounted reports for some organizational units during certain reporting periods. We also verified that similar procedures were being used at three other regions, which could result in similar underreporting at these locations.

The overall time spent on union activities has grown steadily from 254,000 hours in 1990 to over 413,000 in 1995. This is the equivalent of paying the salaries and other expenses of about 200 SSA employees to represent the 52,000 employees in the bargaining unit in 1995. SSA reported 254,000 hours of official time devoted to union activities in 1990, 269,000 in 1991, 272,000 in 1992, 314,000 in 1993, 297,000 in 1994, and 404,000 in 1995.

Because of limitations in SSA's reporting system, it is not possible to estimate actual time spent agencywide for any reporting period. Although it is likely that the actual time spent agencywide exceeds our estimates, our verification sample was not large enough to be statistically valid, so it cannot be extrapolated to all of SSA.

To determine what contributed to the increase in time spent on union activities, we developed information on the categories of time used.

SSA is currently developing a new system to better track and account for time spent on union activities in its field offices and teleservice centers. SSA says the purpose of this system is to provide management and the union with a more accurate and up-to-date accounting of time spent and the number of employees working on union activities and to ensure that time expended on certain activities does not exceed time allotted to the unions by the contracts. SSA, however, has no current plans to apply this new system to headquarters, the Program Service Centers, the Office of Hearings and Appeals, or other components using the manual system and did not explain why the agency made this decision.

SSA has no system for routinely calculating and reporting the cost of union activity, although it does provide annual estimates of the expenses for union activities to the Congress.

In order to determine the accuracy of these estimates, we tried to construct our own estimate of union-related costs. Because the salaries of union representatives make up most of the cost, we asked SSA for a list of current representatives and the time they spend on union activities. SSA estimated that there were about 1,600 union representatives, but the lists they maintained were outdated and incomplete. We identified about 1,800 union representatives who are currently authorized by the union to spend time on SSA union activities. SSA has also reported to the Congress that the number of full-time representatives—those spending 75 percent or more of their time on union activities—grew from 80 to 145 between fiscal years 1993 and 1995. We identified 145 current full-time representatives. The average annual salary in 1995 for the 146 full-time representatives was $41,970. In 1996, their salaries ranged from $23,092 to $81,217.

We estimate that the total cost to SSA for union activities of all representatives was about $12.6 million in 1995. We calculated the 1995 personnel cost to be $11.4 million by multiplying the average hourly salary of union representatives (about $27.64, including benefits) by the 413,000 hours we estimated the representatives spent on union activities.

The remaining $1.2 million in total SSA costs for union activities includes related travel expenses; SSA's share of arbitration costs; and support costs, such as supplies, office space, and telephone use. More specifically, in accordance with the union contracts, SSA pays for travel related to contract negotiations and grievance cases. In addition, it pays the travel and per-diem costs of all union representatives, whenever meetings are held at management's initiative. Union representation at major SSA initiatives, such as the reengineering of its disability programs, the National Partnership Council, and Partnership training, has added to travel and per-diem costs. In 1995, SSA estimated that it spent about $600,000 on travel-related expenses for union representatives. Union representatives told us that the union pays travel costs for union-sponsored training, internal union activities, and some local travel.

Under the national contract agreements, arbitration fees and related expenses are shared equally between the union and SSA. SSA reported that its share of arbitration costs was $54,000 for the 38 cases heard in 1995.

SSA also incurs other costs for telephones, computers, fax machines, furniture, space and supplies used by union representatives. In 1995, SSA estimated this cost at $500,000.

Regarding the amount of dues collected from union members, we determined that about $4.8 million was collected in 1995, mainly through payroll deduction. The unions use these funds for their internal expenses, which include the cost of lodging and transportation for union-provided training; the union's share of grievance costs; miscellaneous furniture, supplies, and equipment for some union offices; the salaries of the AFGE local president and his staff, who represent SSA headquarters employees; and a share of national union expenses.

The recent advent of Partnership activities in SSA will likely increase the time spent on union activities. The executive order on Partnership directs agencies to involve unions as the representatives of employees to work as full partners with management to design and implement changes necessary to reform government. Partnership activities at SSA are just starting, and we found that these limited activities are not routinely designated by SSA in its union time-reporting system. It is possible that time spent on Partnership activities is currently being reported in other activity categories. Consequently, as Partnership activities increase, we would expect the time devoted to them to also increase. However, this will be evident only if agency time-reporting systems adequately designate this time. It should be noted that many public and private organizations without unions are involving employees in quality management initiatives similar to Partnership activities.

SSA MANAGEMENT AND UNION VIEWS ON UNION TIME

SSA managers and union officials and representatives have offered their views about the use of official time for union activities. SSA managers, both individually and through their managers' associations, have expressed concern to us and to the Congress about limitations in their ability to effectively manage their operations and control the use of time spent by their employees under the current union/management arrangement. By contract, the assignment of union representatives and the amount of time they spend on union activities are determined by the union without the consent of local management.

Of the 31 field managers we interviewed, 21 said that it is more difficult to manage day-to-day office functions because they have little or no control over when and how union activities are conducted. They said that they have trouble maintaining adequate staffing levels in the office to serve walk-in traffic, answer the telephones, and handle routine office workloads. Additionally, 18 expressed concern about the amount of time they spend responding to union requests for information regarding bargaining and grievances. We did not verify the accuracy of any of the field managers' statements. We tried to quantify the time spent by managers on union related activities, but SSA had no time reporting system to track it. However, managers would be spending some of their time interacting with employees about similar issues even if there were no unions.

Nine out of the 15 union officials and representatives we talked to felt that it was counterproductive in the Partnership era to track time spent on union activities. They believe that union representation is an important function that is authorized by a negotiated agreement with SSA that authorizes them to represent the interests of their coworkers. They consider the amount of time currently allocated for their activities as appropriate and believe that more attention should be paid to the value of their efforts than to the time it takes to conduct them.

COMPARISON OF TIME SPENT AND COST OF UNION ACTIVITY AT IRS, THE POSTAL SERVICE AND SSA

The Postal Service and IRS provided data to us on time spent on union activities in their agencies. Postal Service records show that during fiscal year 1995, union representatives at the Postal Service reported spending 1.7 million hours of official time on grievance processing and handling in the early stages. This number does not include substantial amounts of official time spent on employee involvement programs similar to SSA's Partnership activities, which are paid for by the Postal Service. Neither does this number include official time spent on activities such as employee involvement training and ULP charges.

IRS records showed that their union representatives reported spending 442,000 hours on union activities in fiscal year 1994, the most recent year for which data are available. We did not attempt to verify these estimates. In fiscal year 1995, the Postal Service reported spending $29 million in basic pay on grievance processing and handling for the 1.7 million hours. IRS did not develop cost data for union operations.

WHO PAYS UNION COSTS IN PRIVATE INDUSTRY?

Union operations in private industry vary widely. In addition to bargaining over working conditions as SSA unions do, unions in private industry bargain over wages, hours, and benefits. In discussions with National Labor Relations Board officials, we were told that some private-sector firms do not pay their employees' salaries for the time they spend performing union activities, and other firms pay for some or all of the time. For example, during our review of 10 contracts, we found that 7 provided for company employees, acting as union representatives, to perform certain union functions in addition to their company duties, at the expense of the employer. In a 1992 publication that summarized basic patterns in private industry union contracts, the Bureau of National Affairs (BNA) reported that over 50 percent of the 400 labor contracts it analyzed guaranteed pay to employees engaged in union activity on company time. It also reported that 22 percent of the contracts specifically prohibit conducting union activities on company time.

Private-sector employers negotiate company time with pay for union representatives to handle grievances more frequently than they do for contract negotiations. Of the contracts reviewed by BNA, 53 percent guaranteed pay for union representatives to present, investigate, or handle grievances. This practice was reported occurring twice as often in manufacturing as in nonmanufacturing businesses. BNA reported that only 10 percent of the contracts guaranteed pay for employees to negotiate contracts.

Forty-one percent of the private-sector contracts guaranteeing employees pay when they conduct union activities on company time place restrictions on representatives. BNA reported that in 19 percent of the cases with such pay guarantees, management limited the amount of hours that it would pay for. Our review of 10 private-sector contracts submitted to the Bureau of Labor Statistics found one negotiated contract under which employees were limited to 6 hours a day of company time for union representation and another under which they were limited to 8 hours per week of company time for processing grievances.

CONCLUSIONS

SSA, like other federal agencies and some private firms, pays for approved time spent by their employees on union activities. SSA has a special fiduciary responsibility to effectively manage and maintain the integrity of the Social Security trust funds from which most of these expenses are paid. In a time of shrinking budgets and personnel resources, it is especially important for SSA, as well as other agencies, to evaluate how resources are being spent and to have reliable monitoring systems that facilitate this evaluation.

To ensure accurate tracking of time spent on union activities and the staff conducting these activities, SSA has developed and is testing a new time-reporting system for its field offices and teleservice centers. We agree that these are valuable goals for a time-reporting system and believe that it should be implemented agencywide, including at headquarters, Program Service Centers, the Office of Hearings and Appeals, and other components currently using the less reliable manual reporting system. With an improved agencywide system, SSA management should have better information on where its resources are being spent.

Mr. Chairman, this concludes my formal remarks. I would be happy to answer any question from you or other members of the Subcommittee. Thank you.

FOOTNOTES

[1] The U.S. Postal Service generally does not pay the salaries and expenses of full-time union representatives. Instead, salaries and expenses are covered by union dues. The Postal Services does, however, pay for the time spent on union activities by some parttime union representatives and for union-occupied space in postal facilities.

[2] Postal labor/management relations are governed by the Postal Reorganization Act of 1970, which incorporates many provisions of the National Labor Relations Act.

[3] Postal unions, however, can bargain over wages and other economic benefits.

[4] The Postal Service is not governed by this act. The basis for paying certain union representatives for specified union activities at the Postal Service is contained in union contracts. Contract negotiations are carried out at union expense.

By Mr. FRIST:

S. 2105. A bill to amend chapter 29 of title 35, United States Code, to provide for a limitation on patent infringements relating to a medical practitioner's performance of a medical activity; to the Committee on the Judiciary.

PATENT INFRINGEMENTS LIMITATION LEGISLATION

• Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON PATENT INFRINGEMENTS RELATING TO A MEDICAL PRACTITIONER'S PERFORMANCE OF A MEDICAL ACTIVITY.

Section 287 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) With respect to a medical practitioner's performance of a medical activity that constitutes an infringement under section 271 (a) or (b) of this title, the provisions of sections 281, 283, 284, and 285 of this title shall not apply against the medical practitioner or against a related health care entity with respect to such medical activity.

"(2) This subsection does not apply to the activities of any person, or employee or agent of such person (regardless of whether such person is a tax exempt organization under section 501(c) of the Internal Revenue Code of 1986), who is engaged in the commercial development, manufacture, sale, importation, or distribution of a machine, manufacture, or composition of matter or the provision of pharmacy or clinical laboratory services (other than laboratory services provided in a physician's office), if such activities are—

"(A) directly related to the commercial development, manufacture, sale, importation, or distribution of a machine, manufacture, or composition of matter or the provision of pharmacy or clinical laboratory services (other than clinical laboratory services provided in a physician's office); and

"(B) regulated under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, or the Clinical Laboratories Improvement Act.

"(3) For purposes of this subsection:

"(A) the term 'body' means—

"(i) a human body, organ, or cadaver; or

"(ii) a nonhuman animal used in medical research or instruction directly relating to the treatment of humans.

"(B) The term 'medical activity' means the performance of a medical or surgical procedure on a body, but shall not include—

"(i) the use of a patented machine, manufacture, or composition of matter in violation of such patent;

"(ii) the practice of a patented use of a composition of matter in violation of such patent; or

"(iii) the practice of a process in violation of a biotechnology patent.

"(C) The term 'medical practitioner' means any natural person who is—

"(i) licensed by a State to provide the medical activity described under paragraph (1); or

"(ii) acting under the direction of such natural person in the performance of the medical activity.

"(D) The term 'patented use of a composition of matter' does not include a claim for a method of performing a medical or surgical procedure on a body that recites the use of a composition of matter if the use of that composition of matter does not directly contribute to achievement of the objective of the claimed method.

"(E) The term 'professional affiliation' means staff privileges, medical staff membership, employment or contractual relationship, partnership or ownership interest, academic appointment, or their affiliation under which a medical practitioner provides a medical activity on behalf of, or in association with, a health care entity.

"(F) The term 'related health care entity'—

"(i) means an entity with which a medical practitioner has a professional affiliation under which the medical practitioner performs a medical activity; and

"(ii) includes without limitation such an affiliation with a nursing home, hospital, university, medical school, health maintenance organization, group medical practice, or a medical clinic.

"(G) The term 'State' means any State or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(4) This subsection shall not apply to any patent issued before the date of enactment of this subsection.".•

By Mr. McCONNELL:

S. 2106. A bill to amend the United Nations Participation Act of 1945 to prohibit the placement of members of the United States Armed Forces under the command, direction, or control of the United Nations, and for other purposes; to the Committee on Foreign Relations.

THE UNITED NATIONS PARTICIPATION ACT OF 1945 AMENDMENT ACT OF 1996

• Mr. McCONNELL. Mr. President, for several months, I have tried to get a straight answer from the administration on the legal justification for the deployment of U.S. troops under United Nations' command in Macedonia. While the soldiers have a mission, I do not believe they have a clear, legal mandate.

The question of our involvement in Macedonia was first brought to my attention by Ron Ray, a constituent of mine who was representing Michael New. Apparently, Michael New asked his commanding officer to provide some explanation as to why an American Army specialist was being asked to wear a U.N. uniform and deploy to Macedonia under the U.N. flag.

In a recent hearing with Ambassador Madeleine Albright, usually one of the more plain spoken members of the President's foreign policy team, we reviewed the procedures for deploying American troops under the United Nation's flag. She offered the view that while there were clear guidelines defining chapter VII deployments, using chapter VI to justify a mission had evolved as a matter of U.N. custom and tradition.

Since 1948, 27 peace operations have been authorized by the United Nations Security Council. In addition to being authorized by a specific chapter of the United Nations Charter, U.S. troop deployments must be authorized consistent with U.S. legal requirements spelled out in the United Nations Participation Act.

In July 1993, President Clinton wrote the Congress stating, "U.N. Security Council Resolution 795 established the UNPROFOR Macedonia mission under a chapter VI of the U.N. Charter and UNPROFOR Macedonia is a peacekeeping force under chapter VI of the Charter." But this assertion is not substantiated by the record of resolutions and reports passed by the United Nations.

Between 1991 and the end of 1995, the United Nations passed 97 Security Council resolutions related to the former Yugoslavia. In addition, 13 reports were issued by the U.N. Secretary General relative to the mandate of the UNPROFOR Macedonia operation. None of these resolutions or reports mention a chapter VI mandate for Macedonia. In fact, there are 27 resolutions which specifically refer to UNPROFOR, which includes Macedonia, as chapter VII. It is worth pointing to just one of these resolutions which states that the United Nations Security Council was "Determined to ensure the security of UNPROFOR and its freedom of movement for all its missions (i.e., Macedonia) and to these ends was acting under chapter VII of the Charter of the United Nations."

In spite of the record, the administration continues to insist that Macedonia is a chapter VI operation. When I asked them to document this determination, I was provided the following guidance by the Acting Assistant Secretary of State:

> The U.N. Charter authority underlying the mandate of a U.N. peace operation depends on an interpretation of the relevant resolutions of the U.N. Security Council. As a matter of tradition, the Security Council explicitly refers to a "Chapter VII" when it authorizes an enforcement operation under that Chapter. The absence of a reference to Chapter VII in a resolution authorizing or establishing a peacekeeping operation thus indicates that the operation is not considered by the Security Council to be an enforcement operation. Neither does the Security Council refer explicitly to "Chapter VI" in its resolutions pertaining to peacekeeping operations. This practice evolved over time as a means for the Security Council to develop practical responses to problems without unnecessarily invoking the full panoply of provisions regarding the use of force under Chapter VII, and without triggering other Charter provisions that might impede Member States on the Security Council if Chapter VI were referenced.

In essence what this explanation means is U.S. troops can be deployed in harm's way as a matter of U.N. tradition rather than U.S. law. It means U.S. soldiers are deployed in a combat zone with an absence of reference to the actual legal mandate because the U.N. Security Council does not want to refer explicitly to chapter VI due to a reluctance to inconvenience member states on the Security Council.

Mr. President, let me try to add a little clarity to just what the Acting Assistant Secretary means when stating the administration does not want to invoke a "panoply of provisions regarding the use of force." In simple English, when a chapter VII mission is authorized by the U.N., U.S. law requires the operation to be approved by the Congress. In simple terms, the State Department is using a chapter VI designation to avoid having to come to the Congress to justify the financial and military burden the United States has assumed in Macedonia.

When the State Department calls a panoply of provisions problem, I call surrendering U.S. interests to U.N. command. This is not the first time Congress has been circumvented. I had hoped the administration had learned from our experience in Somalia. I had hoped the tragic loss of life would help the President understand the value and importance of a full congressional debate and approval of the merits of deploying American soldiers overseas into hostile conditions. Apparently, the lesson is lost on this administration. When the U.N. calls, we send our young men and women to serve.

Mr. President, I have taken the time to review the circumstances of our military involvement in Macedonia, in order to explain why I am introducing legislation today which assures U.S. troops will not serve under U.N. commanders and will not be forced to wear a U.N. uniform. Our soldiers sign up to serve and pledge allegiance to their Nation—not the United Nations. This bill will protect them as they fulfill both their oath and responsibilities.•

By Mr. THOMAS (for himself, Mr. ROBB and Mr. MCCAIN):

S. 2107. A bill to authorize the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of Mongolia; to the Committee on Finance.

MONGOLIA MOST-FAVORED-NATION STATUS LEGISLATION

Mr. THOMAS. Mr. President, I rise as chairman of the Subcommittee on East Asian and Pacific Affairs to introduce S. 2107, a bill to authorize the extension of nondiscriminatory treatment—formerly known as most-favored-nation status—to the products of Mongolia. I am pleased to be joined by the subcommittee's ranking minority member, Senator ROBB, and Senator MCCAIN as original cosponsors.

Mongolia has undergone a series of remarkable and dramatic changes over the last few years. Sandwiched between the former Soviet Union and China, it was one of the first countries in the world to become Communist after the Russian revolution. After 70 years of Communist rule, though, the Mongolian people recently have made great progress in establishing a democratic political system and creating a free-market economy. Just this year, the country held its third election under its new constitution, resulting in a parliamentary majority for the coalition of democratic opposition parties. Rather than attempt to maintain its hold on power, the former government peaceably—and commendably—transferred power to the new government.

Mongolia has demonstrated a strong desire to build a friendly and cooperative relationship with the United States on trade and related matters since its turn toward democracy. We concluded a bilateral trade treaty with that country in 1991, and a bilateral investment treaty in 1994. Mongolia has received nondiscriminatory trading status since 1991, and has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974. In addition, it has acceded to the Agreement Establishing the World Trade Organization.

Mr. President, Mongolia has clearly demonstrated that it is fully deserving of joining the ranks of those countries to which we extend nondiscriminatory trade status. The extension of that status would not only serve to commend the Mongolians on their fine progress, but would also enable the United States to avail itself of all its rights under the WTO with respect to Mongolia.

I have another, more personal, reason for being interested in MFN status for Mongolia. Mongolia and my home State of Wyoming are sister states; a strong relationship between the two has developed over the past 3 years. Several Mongolian Provincial Governors have visited the State, and the two governments have established partnerships in education and agriculture. Like Wyoming, Mongolia is a high plateau with high mountains on the northwest border, where many of the inhabitants make their living by raising livestock. I am pleased to see the development of this mutually beneficial relationship, and am sure that the extension of nondiscriminatory trade status will serve to strengthen it further.

Mr. President, Congressman BEREUTER has introduced similar legislation in the House. While we both realize that it is probably too late in the legislative year to move this bill forward before we adjourn sine die, we hope that introducing the bill now will serve as a starting point to move forward with this important measure early in the next Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that Mongolia—

(1) has received most-favored-nation treatment since 1991 and has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974;

(2) has since ending its nearly 70 years of dependence on the former Soviet Union, made remarkable progress in establishing a democratic political system and creating a free-market economic system;

(3) has recently held its third election under its new constitution, resulting in a parliamentary majority for the coalition of democratic opposition parties and a peaceable transfer of power to the new government;

(4) has concluded a bilateral trade treaty with the United States in 1991, and a bilateral investment treaty in 1994;

(5) has acceded to the Agreement Establishing the World Trade Organization;

(6) has demonstrated a strong desire to build a friendly and cooperative relationship with the United States on trade matters; and

(7) the extension of unconditional most-favored-nation treatment to the products of Mongolia would enable the United States to avail itself of all rights under the World Trade Organization with respect to Mongolia.

SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO MONGOLIA.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSIONS OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to Mongolia; and

(2) after making a determination under paragraph (1) with respect to Mongolia, proclaim the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products on Mongolia, title IV of the Trade Act of 1974 shall cease to apply to that country.

By Mr. DORGAN (for himself, Mr. ASHCROFT, Mr. BIDEN, Mr. BREAUX, Mr. COATS, Mr. DEWINE, Mr. FAIRCLOTH, Mr. FORD, Mr. GRASSLEY, Mr. HATFIELD, Mr. INHOFE, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. PRESSLER, and Mr. THURMOND):

S. 2108. A bill to clarify Federal law with respect to assisted suicide, and for other purposes; to the Committee on Labor and Human Resources.

THE ASSISTED SUICIDE FUNDING RESTRICTION ACT

• Mr. DORGAN. Mr. President, I rise today, along with my colleague, Senator ASHCROFT, to introduce a piece of legislation. We understand that it is late in the session, but we have just completed work on the legislation, and we hope that introducing it now and reintroducing it in the next Congress will allow us to make some progress toward enacting this bill.

There are 15 original cosponsors besides myself and Senator ASHCROFT: Senators BIDEN, BREAUX, COATS, DEWINE, FAIRCLOTH, FORD, GRASSLEY, HATFIELD, INHOFE, LOTT, MACK, MCCONNELL, MURKOWSKI, PRESSLER, and THURMOND.

This is obviously a bipartisan group of Senators who are today introducing this legislation. I will describe it briefly, and then I will ask my colleague, Senator ASHCROFT from Missouri, with whom I am pleased to introduce this today, to add to that description.

Our legislation is called the Assisted Suicide Funding Restriction Act. That is a rather long name, but simply stated, what this bill ensures is that Federal tax dollars will not be used to pay for assisting in suicide.

We are in a circumstance in this country where only one State—the State of Oregon—has legalized physician-assisted suicides. The State has every right to do that. And Oregon is now engaged in the courts in a challenge of its law. When and if the court challenge is dismissed and it becomes law in Oregon—as is expected based on an earlier Ninth Circuit Court of Appeals decision—the folks who run the Medicaid Program in Oregon indicate that the State fully intends to use its Medicaid dollars to pay for physician-assisted suicides.

Some of us here in Congress believe that we ought not to in any way countenance the use of Federal dollars in the furtherance of physician-assisted suicides. We are not telling the States what their policies ought to be with respect to whether physician-assisted suicides should be allowed. Most States have already made that judgment and decided that assisted suicide is not appropriate. But to a State that has said it intends to use Federal dollars to further their State policy allowing assisted suicide, we say no. That is not what we would expect Federal dollars, especially Federal health care dollars, to be used for. We would expect Federal health care dollars to be used to advance the health of patients and the delivery of medicine to those in this country who need it—not to advance Federal payment for those who would elect physician-assisted suicide.

Some might say, "Well, why do you have to legislate on this?" I say to them, if we do not, when the courts resolve the legal questions with respect to the Oregon law, we likely will immediately be using Federal dollars to pay for physician-assisted suicide in that State, regardless of whether Congress and the public want them to or not. The officials in that State have indicated that will be the case. So with this legislation we say we think it is inappropriate from a public policy standpoint and we would not want scarce Federal dollars used for that purpose.

I would like to describe what this legislation is not because it is as important as describing what it is.

This legislation does not limit the withholding of, or the withdrawal of, medical treatment, or of nutrition, or hydration from terminally-ill patients who have decided they do not want their lives sustained by medical technology. Most people and States recognize that there are ethical, moral, and legal distinctions between actively taking steps to end a patient's life and withholding or withdrawing treatment in order to allow a patient to die naturally. Again, this legislation specifically states that we are not interfering with the ability of patients and their families to end or withdrawal treatment.

This legislation also does not prohibit Federal funding for any care or service that is intended to alleviate a patient's pain or discomfort, even if the use of this pain control ultimately hastens the patient's death. I think we would all agree that we should make the utmost effort to ensure that terminally ill patients do not spend their final days in pain and suffering, and this legislation does not hinder that.

Finally, this legislation does not prohibit a State from using its own dollars to assist in suicide. If a State decides that it wants to allow and pay for physician-assisted suicide as a matter of policy, it can use its own money to further that aim. This bill simply says we do not want Federal dollars used for that purpose.

Mr. President, I understand that the issue of assisted suicide is an enormously emotional one. All of us in this country have read the news accounts of a doctor who is actively involved in assisting in his patients' suicides and of those who have taken him to court saying he has violated their State law. People have very strongly held opinions about this subject because issues of life and death reach to the inner core of people's moral beliefs. But regardless of one's personal views about assisted suicide, there is little disagreement on the broader question of whether we ought to use Federal health care dollars to pay for physician-assisted suicide.

In fact, a national survey earlier this year found that 83 percent of the American people believe that tax dollars should not be used for assisted suicide. I believe this legislation should and will have wide support. The National Conference of Catholic Bishops and the National Right to Life Committee have both endorsed the bill. The American Medical Association and the American Nurses Association have position statements opposing assisted suicide. President Clinton has also indicated his opposition to assisted suicide, and Senator ASHCROFT and I hope that our colleagues will join us as cosponsors of this legislation. We hope to advance this legislation in the intervening days, and also, if necessary, to reintroduce it early in the next session to see if we can get the Congress to enact this legislation soon.

Let me again sum up what this bill would and would not do, along with why it is necessary. Mr. President, this legislation will prohibit Federal funds from being used for the costs associated with assisted suicide.

Let me say again that I am pleased to work with my colleague, Senator ASHCROFT of Missouri, who I know feels strongly about this issue as well.

Mr. President, this legislation will prohibit Federal funds from being used for the costs associated with assisted suicide.

I understand that the decisions that confront individuals and their families when a terminal illness strikes are among the most difficult a family will ever have to make. At times like this, each of us must rely on our own religious beliefs and conscience to guide us. But regardless of one's personal views about assisted suicide, I do not believe that taxpayers should be forced to pay for this controversial practice. The majority of taxpayers I have talked to do not want their tax money used to assist in suicides. In fact, when asked in a poll in May of this year whether tax dollars should be spent for assisting suicide, 83 percent of taxpayers feel tax money should not be spent for this purpose.

The Assisted Suicide Funding Restriction Act prevents any Federal funding from being used for any item or service which is intended to cause, or assist in causing, the suicide, euthanasia, or mercy killing of any individual. The programs covered under this bill include Medicare, Medicaid, the military health care system, Federal Employees Health Benefits [FEHB] plans, Public Health Service programs, programs for the disabled, and the Indian Health Service.

This bill does make some important exceptions. First, let me make clear that this bill does not limit the withholding or withdrawal of medical treatment or of nutrition or hydration from terminally ill patients who have decided that they do not want their lives sustained by medical technology. Most people and States recognize that there are ethical, moral, and legal distinctions between actively taking steps to end a patient's life and withholding or withdrawing treatment in order to allow a patient to die naturally. Every State now has a law in place governing a patient's right to lay out in advance, through an advanced directive, living will, or some other means, his or her wishes related to medical care at the end of life. Again, this bill would not interfere with the ability of patients and their families to make clear and carry out their wishes regarding the withholding or withdrawal of medical care that is prolonging the patient's life.

This bill also makes clear that it does not prevent Federal funding for any care or service that is intended to alleviate a patient's pain or discomfort, even if the use of this pain control ultimately hastens the patient's death. Large doses of medication are often needed to effectively reduce a terminally ill patient's pain, and this medication may increase the patient's risk of death. I think we all would agree that the utmost effort should be made to ensure that terminally ill patients do not spend their final days in pain and suffering.

Finally, while I think Federal dollars ought not be used to assist a suicide, this bill does not prohibit a State from using its own dollars for this purpose. However, I do not think taxpayers from other States, who have determined that physician-assisted suicide should be illegal, should be forced to pay for this practice through the use of Federal tax dollars.

I realize that the legality of assisted suicide has historically been a State issue. Thirty-five States, including my State of North Dakota, have laws prohibiting assisted suicide and at least eight other States consider this practice to be illegal under common law. Only one State, Oregon, has a law legalizing assisted suicide.

However, two circumstances have changed that now make this an issue of Federal concern. First, Federal courts are already handing down decisions that will have enormous consequences on our public policy regarding assisted suicide. Second, we are on the brink of a situation where Federal Medicaid dollars may soon be used to reimburse physicians who help their patients die. Should this occur, Congress will not have considered this issue. I believe it was never Congress' intention for Medicaid or other Federal dollars to be used to assist in suicide, and I hope we will take action soon to stop this practice before it starts. If Congress does not act, a few States, or a few judges, may very well make this decision for us.

In two separate cases this year, Compassion in Dying versus State of Washington and Quill versus Vacco, the Federal Ninth and Second Circuit Courts of Appeal, respectively, have struck down Washington and New York State statutes outlawing assisted suicide. In the Compassion in Dying case, the ninth circuit held that the "right to die" is constitutionally recognized and that Washington State's law prohibiting physicians from prescribing life-ending medication therefore violates the "due process" clause of the 14th amendment for terminally ill adults who wish to end their life. In Quill versus Vacco, the second circuit also found that a State law prohibiting physician-assisted suicide violates the Constitution, but it did not agree with the ninth circuit's reasoning that such a law violates the due process clause. Rather, the second circuit held that the New York State law was unconstitutional because it violates the "equal protection" clause of the Constitution. The Supreme Court could decide to take up one or both of these cases as early as next year.

Ironically, in a third case, Lee versus Oregon, a Federal district court judge also used the "equal protection" clause as the basis for his decision—but he ruled that Oregon's 1994 law allowing assisted suicide for the terminally ill violates the Constitution, and the judge enjoined the implementation of Oregon's law. However, this decision has been appealed to the Ninth Circuit Court of Appeals, which has already affirmed a constitutional "right to die." The ninth circuit's decision, which is expected to overturn the district court and lift the injunction against Oregon's law, could be handed down any day. The State's Medicaid director has already stated that, when the injunction against Oregon's law is lifted, Oregon will use Medicaid dollars to pay for the costs associated with a physician assisting in suicide.

I hope you agree with me and the vast majority of Americans who oppose using scarce Federal dollars to pay for assisted suicide. I invite you to join me, Senator ASHCROFT and 15 of our colleagues in this effort by cosponsoring the Assisted Suicide Funding Restriction Act.•

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, let me begin by commending my colleague form North Dakota for his excellent remarks, and his clear explanation of this important concept that I believe the American people would have us do. And, after all, we come to this body as servants of the people. The people are overwhelmingly aware of this issue, and the vast majority of American citizens do not believe that tax dollars should be used in the conduct of medicine in such a way as to take lives rather than to save them.

I thank my colleague from North Dakota and those who have joined us in cosponsoring this particular measure.

Mr. President, President Jefferson wrote in words that are now inscribed on the Jefferson Memorial that the "care and protection of human life, and not its destruction" are the only legitimate objectives of good government. Thomas Jefferson believed that our rights were God-given and that life was an inalienable right.

In this spirit and understanding, I join today with Senator DORGAN in sponsoring the Assisted Suicide Funding Restriction Act. It is a modest and timely response to a challenge to our legal system and a challenge to the moral character of this country. What this bill says simply is that Federal tax dollars shall not be used to pay for and promote assisted suicide, or euthanasia.

This bill is urgently needed to preserve the intent of the Founding Fathers and the integrity of Federal programs as they now exist and serve the elderly and seriously ill in America—programs which were intended to support life and to enhance human life, not to promote its destruction.

Government's role in this culture should be to call us to our highest and best. I do not believe Government has a role in hastening Americans to their graves.

Our court system is in the process now of litigating serious issues in this respect, and, as a result, we find ourselves with the need for this kind of clarifying legislation dramatized. This bill is intended to prevent the morally contemptible injustice of taking money from an American citizen and then using that money to kill another American citizen through assisted suicide.

This is a bill which is very narrowly focused. It is clearly targeted. It only affects Federal funding for actions whose direct purpose is to cause or assist in causing suicide—actions that are clearly condemned as unethical by the American Medical Association and also illegal in the vast majority of our States. Again, this bill simply prohibits any Federal funding for medical actions that assist suicide.

This bill is needed because, in March, the Ninth Circuit Court of Appeals contradicted the positions of 49 States, when it found a "Federal constitutional right" to physician-assisted suicide in a case involving Washington State law. Similarly, the State of Oregon passed Measure 16, the first law in America to authorize the dispensing of drugs to terminally ill patients to assist in their suicide.

Although a Federal court in Oregon struck down the law that Oregon had enacted, the case is being appealed to that same ninth circuit, which has already signaled that it believes in a right, a constitutional right, to assisted suicide.

Oregon's Medicaid director and the chairman of Oregon's Health Services Commission have both said that whenever the ninth circuit allows the Oregon law to go into effect, that the federally funded Medicaid Program in Oregon will begin paying for assisted suicide with Federal taxpayers' funds. According to Oregon's authorities, the procedure would be listed on Medicaid reimbursement forms under the grotesque euphemism of "comfort care."

That is a rather startling, almost Orwellian label to put on assisted suicide. I would think if I were going over an insurance policy and someone said, "Do you want to be covered for comfort care," I would say, "Oh, yes, throw in the comfort care." But comfort care turns out to be a phrase that is destined to be used for assisted suicide, and I do not believe it is intended by this Congress or previous Congresses, or in the law of the United States, that tax dollars from Federal resources be used to support that kind of "comfort care."

The problem is greatly magnified when we consider that Oregon will be drawing down Federal taxpayers' funds to help pay for such assisted suicides. Neither Medicaid nor Medicare nor any other Federal health program has explicit language to prohibit the use of Federal funds to dispense lethal drugs for suicide, primarily because nobody in the history of these programs felt that we would be appropriating money or creating a program to provide for suicide. We felt we were providing for individuals, developing therapeutic approaches to health problems, not providing for something that the American Medical Association would say was unethical and inappropriate, and which would shock the conscience of most Americans.

When Oregon's ninth circuit reinstates measure 16, Federal funds will be used for comfort care, a.k.a.—also known as—assisted suicide. As a result, I think it is important for us to step up and to define and to place into law the kinds of restrictions which I think we felt were implied in all of our activities prior to this time. We would be derelict in our duty if we were now to ignore this problem and allow a few officials, either in a Federal circuit or in a specific State, to decide that the taxpayers of all other States and jurisdictions would have to help subsidize a practice which they have never authorized and that millions find to be morally abhorrent.

It is crystal clear that the American people do not want their tax dollars spent on dispensing toxic drugs with the sole intent to assist suicide. Recently, a Wirthlin Poll showed 83 percent of the public opposed such use of Federal funds. Even the voters of Oregon, who narrowly approved Measure 16 by a vote of 51 to 49 percent, did not consider the question of public funding. Voters of two other west coast States, California and Washington, soundly defeated similar initiatives to legalize assisted suicide. Since November of 1994, when Oregon passed its law, 15 other States have considered and rejected bills to legalize assisted suicide. Of course, the Federal funding question has never been placed before the people in a ballot initiative.

I would like to say a few words about the way this legislation is crafted. It is very carefully limited, and it is very modest. It does not in any way forbid a State to legalize assisted suicide. If a State like Oregon chooses to do so, the Federal Government does not choose to intrude under this bill, or even forbid the State to provide its own funds.

If the State were to provide for assisted suicide and were to fund that with State dollars, in spite of the fact that is not my idea of good State government, it would be allowed under this bill. This bill simply would prevent Federal funds and Federal programs from being drawn into and providing support for and promoting assisted suicide. After the passage of this bill, States may choose to legalize or even fund assisted suicide. They simply could not choose to draw down Federal funds to promote or develop that program.

The bill also does not attempt to resolve the constitutional issue that is on its way to the Supreme Court, that issue being whether there is a right to assisted suicide or euthanasia. Nor would this legislation be affected by what the Supreme Court might do when it decides that issue. Congress would still have the right to prevent Federal funding of such a practice, even if the Supreme Court found that there was a constitutional right to assisted suicide.

It is also important to understand what this bill does not cover. As its rule of construction clearly provides, it does not affect abortion. It does not affect complex issues, such as the withholding or withdrawal of life-sustaining treatment, even of nutrition and hydration. Nor does this bill affect the disbursing of large doses of morphine or other pain killers to ease the pain of individuals with terminal illnesses, even though the administration of such drugs does, in some cases, carry the risk of hastening death as a side effect. The administration of pain killers is a long-acknowledged, legally accepted practice in all 50 States—and is ethically accepted by the medical profession and even pro-life and religious organizations as well.

What we are dealing with here is the Federal funding of actions whose direct purpose is to cause or assist in causing the suicide of a patient.

I am pleased that in spite of the fact the Democrats and Republicans may disagree on how to reform Federal programs like Medicaid and Medicare, there are things on which we do agree. One thing we should be able to agree on is the measure in this bill. Of course, our agreement is reflected in the cosponsorship of this measure by individuals on both sides of the aisle. These Federal programs should provide a means to care for and to protect our citizens, not become vehicles for the destruction of our citizens, especially as a result of Federal funding.

I would like to close by quoting the hallmark of Jeffersonian principles embodied in the Declaration of Independence:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.

I therefore urge all my colleagues to support this bill, an effort to uphold congressional responsibility, to defend the foremost of our unalienable rights, the right that citizens have to life.

By Mr. DASCHLE:

S. 2109. A bill to provide a 1-year delay in the imposition of penalties on small businesses failing to make electronic fund transfers of business taxes; to the Committee on Finance.

SMALL BUSINESS LEGISLATION

Mr. DASCHLE. Mr. President, today I am introducing legislation that would waive for 1-year penalties on small businesses that fail to pay their taxes to the Internal Revenue Service [IRS] electronically.

In July of this year, millions of small business owners received a letter from the IRS announcing that, beginning January 1, 1997, business tax payments would have to be made via electronic funds transfer. This letter sent shock waves through the small business community in South Dakota. The letter was vague and provided little information on how the new deposit requirement would work.

In meetings, letters, and phone calls, South Dakotans have posed many questions to me that the IRS letter did not answer: "How much will this cost my business?"; "Will I have to purchase new equipment to make these electronic transfers?"; and "Will the IRS be taking the money directly out of my account?"

As you may recall, this new requirement was adopted as part of a package of revenue offsets for the North American Free-Trade Agreement.

The Treasury Department was directed to draw up regulations phasing in the requirement, which will raise money by eliminating the float banks accrue on the delay between the time they receive tax deposits from businesses and the time they transfer this money to the Treasury.

All businesses with $47 million or more in annual payroll taxes are already required to pay by electronic funds transfer. The new, lower threshold is estimated to bring 1.3 million small- and medium-sized businesses into the program for the first time.

As a result of protests registered by many small businesses, the IRS decided to delay for 6 months the 10 percent penalty on firms failing to begin making deposits electronically by January 1, 1997. Not satisfied with this step, Congress recently passed an outright 6 month delay in the electronic filing requirement as part of the Small Business Job Protection Act of 1996.

I strongly supported this amendment. However, I believe that these 1.3 million businesses should be given further time to comply without the threat of financial penalties. Electronic funds transfer may well prove to be the most efficient system of payment for all concerned, including small businesses. Once they learn the advantages of the new system, these firms may well come to prefer it to the existing one, which requires a special kind of coupon and a lot of paperwork. But this is a new procedure, and many small employers are not sure what it will entail. That is why I believe we should enact a temporary waiver of penalties.

The bill I am introducing today would suspend penalties for noncompliance for 1 year, until July 1, 1998. I believe this step is necessary to provide time for small businesses to be properly educated about the easiest, least burdensome, and most cost-efficient way to comply. In my view, whenever possible the IRS should avoid taking an adversarial approach toward the small business community, and, for that matter, any taxpayers. At every opportunity, the IRS should seek to help taxpayers comply with their obligations. I believe that, by removing the threat of penalties for a short while longer, this legislation will help the IRS fulfill this important part of its mission.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF PENALTY ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES.

No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

(2) such failure occurs during the 1-year period beginning on July 1, 1997.

By Mr. DASCHLE:

S. 2110. A bill to amend the Internal Revenue Code of 1986 to provide special rules for certain gratuitous transfers of employer securities for the benefit of employees; to the Committee on Finance.

EMPLOYEE STOCK OWNERSHIP PLANS LEGISLATION

Mr. DASCHLE. Mr. President, I today am introducing legislation that would take a small but significant step toward improving the productivity of American businesses and workers. My bill would permit certain employee stock ownership plans [ESOP's] to be beneficiaries of charitable remainder trusts under estate tax law.

We have all heard stories about closely held companies being sold and broken up in order to raise cash to pay a large estate tax bill to the Internal Revenue Service. Not infrequently, a company that has been built over a period of decades is dismantled, cutting adrift employees with years of service.

My bill would provide a way for an owner of a nonpublicly traded company to benefit company employees without having the estate tax stand in the way. It would permit the owner under certain circumstances to donate his or her shares to the company's ESOP through the use of a charitable/ESOP remainder trust. If carried out in accordance with the restrictions set forth in the bill, the transfer would be eligible for an estate tax deduction. By being transferred to an ESOP, the stock would be allocated directly to company employees.

The legislation includes a number of safeguards against abuse. First, stock transferred to an ESOP in this fashion could not be used to benefit any ESOP participant who was related to the decedent or who owned more than 5 percent of the company. This safeguard is aimed at ensuring that no estate tax deduction would be available where the transfer benefited the decedent's family members or the company's major stockholders. Second, the bill would require that the transferred stock be allocated to ESOP participants over time. This would provide an incentive for employees to continue to build the business. It would also prevent the creation of instant windfalls for employees that could encourage them to terminate employment.

Any owner of a non-publicly traded company would be free to take advantage of this legislation to preserve a business beyond his or her death. I believe that quite a few family and closely held businesses will find the legislation of interest, as these firms tend to be run by people who take an interest in their employees and would like to see their companies make a continuing contribution to their communities. I salute these entrepreneurs and propose this modest legislation in an effort to help them realize that goal.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRATUITOUS TRANSFERS FOR THE BENEFIT OF EMPLOYEES.

(a) IN GENERAL.—Subparagraph (C) of section 664(d)(1) of the Internal Revenue Code of 1986 and subparagraph (C) of section 664(d)(2) of such Code are each amended by striking the period at the end and inserting "or, to the extent the remainder interest is in qualified employer securities (as defined in paragraph (3)(B)), is to be transferred to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by paragraph (3))."

(b) QUALIFIED GRATUITOUS TRANSFER DEFINED.—Subsection (d) of section 664 of such Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) QUALIFIED GRATUITOUS TRANSFER OF QUALIFIED EMPLOYER SECURITIES.—

"(A) IN GENERAL.—For purposes of this section, the term 'qualified gratuitous transfer' means a transfer of qualified employer securities to an employee stock ownership plan (as defined in section 4975(e)(7)) but only to the extent that—

"(i) the securities transferred previously passed from a decedent to a trust described in paragraph (1) or (2);

"(ii) no deduction under section 404 is allowable with respect to such transfer;

"(iii) such plan provides that the securities so transferred are allocated to plan participants in a manner consistent with section 401(a)(4);

"(iv) such plan treats such securities as being attributable to employer contributions but without regard to the limitations otherwise applicable to such contributions under section 404;

"(v) such plan provides that such securities are held in a suspense account under the plan to be allocated each year, up to the limitations under section 415(c), after first allocating all other annual additions for the limitation year, up to the limitations under sections 415 (c) and (e); and

"(vi) the employer whose employees are covered by the plan described in this subparagraph files with the Secretary a verified written statement consenting to the application of sections 4978 and 4979A with respect to such employer.

"(B) QUALIFIED EMPLOYER SECURITIES.—For purposes of this section, the term 'qualified employer securities' means employer securities (as defined in section 409(l)) which are issued by a domestic corporation which has no outstanding stock which is readily tradable on an established securities market.

"(C) TREATMENT OF SECURITIES ALLOCATED BY EMPLOYEE STOCK OWNERSHIP PLAN TO PERSONS RELATED TO DECEDENT OR 5-PERCENT SHAREHOLDERS.—

"(i) IN GENERAL.—If any portion of the assets of the plan attributable to securities acquired by the plan in a qualified gratuitous transfer are allocated to the account of—

"(I) any person who is related to the decedent (within the meaning of section 267(b)), or

"(II) any person who, at the time of such allocation or at any time during the 1-year period ending on the date of the acquisition of qualified employer securities by the plan, is a 5-percent shareholder of the employer maintaining the plan,

the plan shall be treated as having distributed (at the time of such allocation) to such person or shareholder the amount so allocated.

"(ii) 5-PERCENT SHAREHOLDER.—For purposes of clause (i), the term '5-percent shareholder' means any person who owns (directly or through the application of section 318(a)) more than 5 percent of—

"(I) any class of outstanding stock of the corporation which issued such qualified employer securities or of any corporation which is a member of the same controlled group of corporations (within the meaning of section 409(l)(4)) as such corporation, or

"(II) the total value of any class of outstanding stock of any such corporation; and

For purposes of the preceding sentence, section 318(a) shall be applied without regard to the exception in paragraph (2)(B)(i) thereof.

"(iii) CROSS REFERENCE.—

"For excise tax on allocations described in clause (i), see section 4979A."

(c) CONFORMING AMENDMENTS.—

(1) Section 401(a)(1) of such Code is amended by inserting "or by a charitable remainder trust pursuant to a qualified gratuitous transfer (as defined in section 664(d)(3)(A))," after "stock bonus plans),".

(2) Section 404(a)(9) of such Code is amended by inserting after subparagraph (B) the following new subparagraph:

"(C) A qualified gratuitous transfer (as defined in section 664(d)(3)(A)) shall have no effect on the amount or amounts otherwise deductible under paragraph (3) or (7) or under this paragraph."

(3) Section 415(c)(6) of such Code is amended by adding at the end the following new sentence:

"The amount of any qualified gratuitous transfer (as defined in section 664(d)(3)(A)) allocated to a participant for any limitation year shall not exceed the limitations imposed by this section, but such amount shall not be taken into account in determining whether any other amount exceeds the limitations imposed by this section."

(4) Section 415(e) of such Code is amended—

(A) by redesignating paragraph (6) as paragraph (7), and

(B) by inserting after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR QUALIFIED GRATUITOUS TRANSFERS.—Any qualified gratuitous transfer of qualified employer securities (as defined by section 664(d)(3)) shall not be taken into account in calculating, and shall not be subject to, the limitations provided in this subsection."

(5) Paragraph (3) of section 644(e) of such Code is amended to read as follows:

"(3) acquired by a charitable remainder annuity trust (as defined in section 664(d)(1)) or a charitable remainder unitrust (as defined in sections 664(d) (2) and (4)), or".

(6) Subparagraph (B) of section 664(d)(1) of such Code and subparagraph (B) of section 664(d)(2) of such Code are each amended by inserting "and other than qualified gratuitous transfers described in subparagraph (C)" after "subparagraph (A)".

(7) Paragraph (4) of section 674(b) of such Code is amended by inserting before the period "or to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined in section 664(d)(3))".

(8)(A) Section 2055(a) of such Code is amended—

(i) by striking "or" at the end of paragraph (3),

(ii) by striking the period at the end of paragraph (4) and inserting "; or", and

(iii) by inserting after paragraph (4) the following new paragraph:

"(5) to an employee stock ownership plan if such transfer qualifies as a qualified gratuitous transfer of qualified employer securities within the meaning of section 664(d)(3)."

(B) Clause (ii) of section 2055(e)(3)(C) of such Code is amended by striking "section 664(d)(3)" and inserting "section 664(d)(4)".

(9) Paragraph (8) of section 2056(b) of such Code is amended to read as follows:

"(8) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.—

"(A) IN GENERAL.—If the surviving spouse of the decedent is the only beneficiary of a qualified charitable remainder trust who is not a charitable beneficiary nor an ESOP beneficiary, paragraph (1) shall not apply to any interest in such trust which passes or has passed from the decedent to such surviving spouse.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) CHARITABLE BENEFICIARY.—The term 'charitable beneficiary' means any beneficiary which is an organization described in section 170(c).

"(ii) ESOP BENEFICIARY.—The term 'ESOP beneficiary' means any beneficiary which is an employee stock ownership plan (as defined in section 4975(e)(7)) that holds a remainder interest in qualified employer securities (as defined in section 664(d)(3)) to be transferred to such plan in a qualified gratuitous transfer (as defined in section 664(d)(3)).

"(iii) QUALIFIED CHARITABLE REMAINDER TRUST.—The term 'qualified charitable remainder trust' means a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664)."

(10) Section 4947(b) of such Code is amended by inserting after paragraph (3) the following new paragraph:

"(4) SECTION 507.—The provisions of section 507(a) shall not apply to a trust which is described in subsection (a)(2) by reason of a distribution of qualified employer securities (as defined in section 664(d)(3)) to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by section 664(d)(3))."

(11) The last sentence of section 4975(e)(7) of such Code is amended by inserting "and section 664(d)(3)" after "section 409(n)"

(12) Subsection (a) of section 4978 of such Code is amended by inserting "or acquired any qualified employer securities in a qualified gratuitous transfer to which section 664(d)(3) applied" after "section 1042 applied".

(13) Paragraph (2) of section 4978(b) of such Code is amended—

(A) by inserting "or acquired in the qualified gratuitous transfer to which section 664(d)(3) applied" after "section 1042 applied", and

(B) by inserting "or to which section 664(d)(3) applied" after "section 1042 applied" in subparagraph (C) thereof.

(14) Subsection (c) of section 4978 of such Code is amended by striking "written statement" and all that follows and inserting "written statement described in section 664(d)(3)(A)(vi) or in section 1042(b)(3) (as the case may be)."

(15) Paragraph (2) of section 4978(e) of such Code is amended by striking the period and inserting "; except that such section shall be applied without regard to subparagraph (B) thereof for purposes of applying this section and section 4979A with respect to securities acquired in a qualified gratuitous transfer (as defined in section 664(d)(3)(A))."

(16) Subsection (a) of section 4979A of such Code is amended to read as follows:

"(a) IMPOSITION OF TAX.—If—

"(1) there is a prohibited allocation of qualified securities by any employee stock ownership plan or eligible worker-owned cooperative, or

"(2) there is an allocation described in section 663(d)(3)(C)(i),

there is hereby imposed a tax on such allocation equal to 50 percent of the amount involved."

(17) Subsection (c) of section 4979A of such Code is amended to read as follows:

"(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by—

"(1) the employer sponsoring such plan, or

"(2) the eligible worker-owned cooperative,

which made the written statement described in section 664(d)(3)(A)(vi) or in section 1042(b)(3)(B) (as the case may be)."

(18) Section 4979A of such Code is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL STATUTE OF LIMITATIONS FOR TAX ATTRIBUTABLE TO CERTAIN ALLOCATIONS.—The statutory period for the assessment of any tax imposed by this section on an allocation described in subsection (a)(2) of qualified employer securities shall not expire before the date which is 3 years from the later of—

"(1) the 1st allocation of such securities in connection with a qualified gratuitous transfer (as defined in section 664(d)(3)(A)), or

"(2) the date on which the Secretary is notified of the allocation described in subsection (a)(2)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made by trusts to, or for the use of, an employee stock ownership plan after the date of the enactment of this Act.

By Mr. MCCAIN:

S. 2111. A bill to amend the act commonly known as the Navajo-Hopi Land Settlement Act of 1974, and for other purposes; to the Committee on Indian Affairs.

THE NAVAJO-HOPI LAND SETTLEMENT ACT AMENDMENTS OF 1996

Mr. MCCAIN. Mr. President, I introduce legislation to make certain amendments to the Navajo-Hopi Land Settlement Act of 1974 in order to bring the relocation process to an orderly conclusion within 5 years. This legislation will phase out the Navajo-Hopi relocation program by September 30, 2001, and at that time transfer any remaining responsibilities to the Secretary of the Interior. This legislation will provide a time certain for eligible Navajo and Hopi individuals to apply for and receive relocation benefits and after that time the Federal Government will no longer be obligated to provide replacement housing for such individual. Under this legislation, the funds that would have been used to provide replacement housing to such individual will be kept in trust by the Secretary for distribution to the individual or their heirs.

Mr. President, the Navajo-Hopi Land Settlement Act of 1974 was enacted to resolve longstanding disputes that have divided the Navajo and Hopi Indian Tribes for more than a century. The origins of this dispute can be traced directly to the creation of the 1882 reservation for the Hopi Tribe and the creation of the 1934 Navajo Reservation. At the times these reservations were established there were Navajo families residing within the lands set aside for the Hopi Tribe and Hopi families residing on lands set aside for the Navajo Nation. Tensions between the two tribes continued to heighten until in 1958 Congress, in an effort to resolve this dispute, passed legislation that authorized the tribes to file suit in Federal court to quiet title to the 1882 reservation and to their respective claims and rights. That legislation has given rise to more than 35 years of continuous litigation between the tribes in an effort to resolve their respective rights and claims to the land.

In 1974, Congress enacted the Navajo-Hopi Land Settlement Act which established Navajo and Hopi negotiating teams under the auspices of a Federal mediator to negotiate a settlement to the 1882 reservation land dispute. The act also authorized the tribes to file suit in Federal court to quiet title to the 1934 reservation and to file any claims for damages arising out of the dispute against each other or the United States. The act also established a three member Navajo-Hopi Indian Relocation Commission to oversee the relocation of members of the Navajo Nation who were residing on lands partitioned to the Hopi Tribe and members of the Hopi Tribe who were residing on lands partitioned to the Navajo

Nation. Since its establishment, the relocation program has proven to be an extremely difficult and contentious process.

When this program was first established, it was estimated that the cost of relocation would be roughly $40 million to provide relocation benefits to approximately 6,000 Navajos estimated to be eligible for relocation. These figures woefully underestimated the number of families impacted by relocation and the tremendous delays that have plagued this program. To date, the United States has expended over $350 million to relocate more than 11,000 Navajo and Hopi tribal members. There remain over 640 eligible families who have never received relocation benefits and an additional 50 to 100 families who have never applied for relocation benefits. In addition, there are over 130 eligibility appeals still pending. The funding for this settlement has exceeded the original cost estimates by more than 900 percent.

Mr. President, we cannot continue to fund this program with no end in sight. I am convinced that our current Federal budgetary pressures require us to ensure that the Navajo-Hopi relocation housing program is brought to an orderly and certain conclusion. It is for that reason that I am introducing the Navajo-Hopi Land Settlement Act Amendments of 1996. This legislation will phase out the Navajo-Hopi Indian relocation program by September 30, 2001, and transfer the remaining responsibilities under the act to the Secretary of the Interior. Under the bill, the relocation commissioner shall transfer to the Secretary such funds as are necessary to construct replacement homes for any eligible head of household who has left the Hopi partitioned land but has not received a replacement home by September 30, 2001. These funds will be held in trust by the Secretary of the Interior for distribution to such individual or their heirs. In addition, the bill includes provisions establishing an expedited procedure for handling appeals of final eligibility determinations.

Mr. President, I have developed this legislation as an initial starting point for ongoing discussions with the representatives of the Office of Navajo and Hopi Indian Relocation and the administration, the Hopi Tribe, the Navajo Nation, and the affected families of both tribes. It is my hope that this bill will stimulate discussions that will lead to the passage of legislation in the 105th Congress that will bring this long and difficult process to a certain and ordered conclusion.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Short Title.—This Act may be cited as the "Navajo-Hopi Land Settlement Act Amendments of 1996".

TITLE I—AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974

SEC. 101. REFERENCES.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to a section or other provision, the references shall be considered to be made to a section or other provision of the Act commonly known as the Navajo-Hopi Land Settlement Act of 1974 (Public law 93-531; 25 U.S.C. 640 et seq.).

SEC. 102. AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974.

(a) Repeals.—Sections 1 through 5 (25 U.S.C. 640d through 640d-4) and section 30 (25 U.S.C. 640d-28) are each repealed.

(b) Amendments and Redesignations.—

(1) Section 6 (25 U.S.C. 640d-5) is amended—

(A) by striking the matter preceding subsection (a) through subsection (c);

(B) by inserting the following before subsection (d):

"SECTION 1. PARTITIONED LANDS.

(C) by redesignating subsection (d) as subsection (a);

(D) by striking subsections (e) and (f); and

(E) by redesignating subsections (g) and (h) as subsections (b) and (c), respectively; and

(F) in subsection (a), as so designated, by striking, "In any partition of the surface rights to the joint use area," and inserting the following:

"With regard to the final order issued by the United States District Court for the District of Arizona (hereafter in this Act referred to as the 'District Court') on August 30, 1978, that provides for the partition of surface rights and interest of the Navajo and Hopi tribes (hereafter in this Act referred to as the 'Tribes') by lands laying within the reservation established by Executive order on December 16, 1982,".

(2) Section 7 (25 U.S.C. 640d-6) is amended by striking "Sec. 7. Partitioned" and inserting the following:

"SEC. 2. JOINT OWNERSHIP OF MINERALS.

"Partitioned".

(3) Section 8 (25 U.S.C. 640d-7) is amended—

(A) by striking "Sec. 8. (a) Either tribe" and inserting the following:

"SEC. 3. ACTIONS.

"(a) Authorizations to Commence and Defend Actions in District Court.—Either tribe";

(B) in subsection (b), by inserting "Allocation of Land to Respective Reservations Upon Determinations of Interests.—" after "(b)";

(C) in subsection (c)—

(i) by inserting "Actions for Accounting, Fair Value of Grazing, and Claims for Damages to Land.—" after "(c)"; and

(ii) by striking "section 18" each place it appears and inserting "section 12";

(D) in subsection (d), by inserting "Rule of Construction.—" after "(d)";

(E) in subsection (e), by inserting "Payment of Legal Fees, Court Costs, and Other Expenses.—" after "(e)"; and

(F) by striking subsection (f).

(4) Section 9 (25 U.S.C. 640d-8) is amended by striking "Sec. 9. Notwithstanding" and inserting the following:

"SEC. 4. PAUITE INDIAN ALLOTMENTS.

"Notwithstanding".

(5) Section 10 (25 U.S.C. 640d-9) is amended—

(A) by striking "Sec. 10. (a) Subject" and inserting the following:

"SEC. 5. PARTITIONED AND OTHER DESIGNATED LANDS.

"(a) Navajo Trust Lands.—";

(B) in subsection (a), by striking "sections 9 and 16(a)" and inserting "sections 4 and 10(a)";

(C) in subsection (b)—

(i) by inserting "Hopi Trust Lands.—" after "(b)";

(ii) by striking "sections 9 and 16(a)" and inserting "sections 4 and 10(a)";

(iii) by striking "sections 2 and 3" and inserting "section "1" and

(iv) by striking "section 8" and inserting "section 3";

(D) in subsection (c)—

(i) by inserting "Protection of Rights and Property.—" after "(c)"; and

(ii) by striking the comma after "pursuant thereto" and all that follows through the end of the subsection and inserting a period;

(E) in subsection (d), by inserting "Protection of Benefits and Services.—" after "(d)"; and

(F) in subsection (e)—

(i) by inserting "Tribal Jurisdiction Over Partitioned Lands.—" after "(e)"; and

(ii) in the last sentence, by striking "life tenants and".

(6) Section 11 (25 U.S.C. 640d-10) is amended—

(A) by striking "Sec. 11. (a) The Secretary" and inserting the following:

"SEC. 6. RESETTLEMENT LANDS FOR NAVAJO TRIBE.

"(a) Transfer of Lands.—The Secretary";

(B) in subsection (b), by inserting "Proximity of Lands To Be Transferred or Acquired.—" before "(b)";

(C) in subsection (c)—

(i) by inserting "Selection of Lands To Be Transferred or Acquired.—" after "(c)"; and

(ii) by striking the period at the end and inserting the following: ": *Provided further*, That the authority of the Commissioner to select lands under this subsection shall terminate on September 30, 2000.";

(D) in subsection (d), by inserting "Reports.—" after "(d)";

(E) in subsection (e), by inserting "Payments.—" after "(e)";

(F) in subsection (f), by inserting "Acquisition of Title To Surface and Subsurface Interests.—" after "(f)";

(G) in subsection (g), by inserting "Lands Not Available for Transfer.—" after "(g)"; and

(H) in subsection (h)—

(i) by inserting "Administration of Lands Transferred or Acquired.—" after "(h)";

(ii) by striking the period at the end and inserting the following: ": *Provided further*, That, in order to facilitate relocation, in the discretion of the Commissioner, the Commissioner may grant homesite leases on land acquired pursuant to this section to members of the extended family of a Navajo who is certified as eligible to receive benefits under this Act, except that the Commissioner may not expend, or otherwise make available funds made available by appropriations to the Commissioner to carry out this Act, to provide housing to those extended family members."; and

(I) in subsection (i)—

(i) by inserting "Negotiations Regarding Land Exchanges or Leases." after "(i); and

(ii) by striking "section 23" and inserting "section 18".

(7) Section 12 (25 U.S.C. 640d–11) is amended—

(A) by striking "SEC. 12. (a) There is hereby" and inserting the following:

"SEC. 7. OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION.

"(a) ESTABLISHMENT.—There is hereby";

(B) in subsection (b), by inserting "APPOINTMENT.—" after "(b)";

(C) in subsection (c), by inserting "CONTINUATION OF POWERS.—" after "(c)";

(D) in subsection (d), by inserting "POWERS OF COMMISSIONER.—" after "(d)";

(E) in subsection (e), by inserting "ADMINISTRATION.—" after "(e)";

(F) in subsection (f) and by inserting the following:

"(f) TERMINATION.—The Office of Navajo and Hopi Indian Relocation shall cease to exist on September 30, 2001. On that date, any functions of the Office that have not been fully discharged, as determined in accordance with this Act shall be transferred to the Secretary of the Interior in accordance with title III of the Navajo-Hopi Land Settlement Act Amendments of 1996."; and

(G) by adding at the end the following new subsections:

"(g) OFFICE OF RELOCATION.—Effective on October 1, 2001, there is established in the Department of the Interior an Office of Relocation. The Secretary of the Interior, acting through the Office of Relocation, shall carry out the functions of the Office of Navajo and Hopi Indian Relocation transferred to the Secretary of the Interior in accordance with title III of the Navajo-Hopi Land Settlement Act Amendments of 1996.

"(h) TERMINATION OF OFFICE OF RELOCATION.—The Office of Relocation shall cease to exist on the date on which the Secretary of the Interior determines that the functions of the Office have been fully discharged.".

(8) Section 13 (25 U.S.C. 640d–12) is amended—

(A) by striking "SEC. 13. (a) Within" and inserting the following:

"SEC. 13. REPORT CONCERNING RELOCATION OF HOUSEHOLD AND MEMBERS OF EACH TRIBE.

"(a) IN GENERAL.—Within'"

(B) in subsection (b), by inserting "CONTENT OF REPORT.—" after "(b)"; and

(C) in subsection (c), by inserting "DETAILED PLAN FOR RELOCATION.—" after "(c)";

(9) Section 14 (25 U.S.C. 640d–13) is amended—

(A) by striking "SEC. 14. (a) Consistent" and inserting the following:

"SEC. 8. RELOCATION OF HOUSEHOLDS AND MEMBERS.

"(a) AUTHORIZATION.—;

(B) in subsection (a)—

(i) in the first sentence—

(I) by striking "section 8" each place it appears and inserting "section 3"; and

(II) by striking "sections 2 and 3" and inserting "section 1"; and

(ii) by striking the second sentence;

(C) in subsection (b)—

(i) by inserting "ADDITIONAL PAYMENTS TO HEADS OF HOUSEHOLDS" after "(b)"; and

(ii) by striking "section 15" and inserting "section 9";

(D) in subsection (c), by inserting "PAYMENTS FOR PERSONS MOVING AFTER A CERTAIN DATE.—"; and

(E) by adding at the end the following new subsection:

"(d) PROHIBITION.—No payment for benefits under this Act may be made to any head of a household if, as of September 30, 2001, that head has not been certified as eligible to receive those payments.".

(10) In section 15 (25 U.S.C. 640d–14)—

(A) by striking "SEC. 15. (a) The Commission" and inserting the following:

"SEC. 9. RELOCATION HOUSING.

"(a) PURCHASE OF HABITATION AND IMPROVEMENTS.—The Commission";

(B) in the last sentence of subsection (a), by striking "as determined under section 13(b)(2) of this title";

(C) in subsection (b), by inserting "REIMBURSEMENT FOR MOVING EXPENSES AND PAYMENT FOR REPLACEMENT DWELLING.—" after "(b)";

(D) in subsection (c)—

(i) by inserting "STANDARDS; CERTAIN PAYMENTS.—" after "(c)";

(ii) by striking "section 8" and inserting "section 3"; and

(iii) by striking "section 3 or 4 of this title" and inserting "section 1";

(E) in subsection (d), by inserting "METHODS OF PAYMENT.—"after "(d)";

(F) by striking subsection (g);

(G) by redesignating subsections (e) and (f) as subsections (g) and (h), respectively;

(H) by inserting after subsection (d) the following new subsections:

"(e) BENEFITS HELD IN TRUST.—

"(1) IN GENERAL.—On September 30, 2001, the Commissioner shall notify the Secretary of the Interior (hereafter in this subsection referred to as the 'Secretary') of the identity of any head of household that is certified as eligible to receive benefits under this Act (hereafter in this subsection referred to as an 'eligible head of household') who, as of such date—

"(A) does not reside on lands that have been partitioned to the tribe of that eligible head of household; and

"(B) has not received a replacement home.

"(2) TRANSFER OF FUNDS.—On the date specified in paragraph (1), the Commissioner shall transfer to the Secretary any unexpended funds that were made available to the Commissioner for the purpose of making payments under this Act to the eligible heads of household referred to in paragraph (1).

"(3) DISPOSITION OF TRANSFERRED FUNDS.—

"(A) IN GENERAL.—The Secretary shall hold the funds transferred under paragraph (2) in trust for the eligible heads of household referred to in paragraph (1). The Secretary shall provide payments in amounts that would have otherwise have been made to an eligible head of household before the date specified in paragraph (1) from the amounts held in trust—

"(i) upon request of the eligible head of household, to be used for a replacement home; or

"(ii) if the eligible head of household does not make a request under clause (i), upon the death of the eligible head of household, in accordance with subparagraph (B).

"(B) DISTRIBUTION OF FUNDS UPON THE DEATH OF AN ELIGIBLE HEAD OF HOUSEHOLD.—If, upon the death of an eligible head of household, the Secretary holds funds in trust under this paragraph for that eligible head of household, the Secretary shall—

"(i) determine and notify the heirs of the head of household; and

"(ii) distribute the funds to—

"(I) the heirs who have attained the age of 18; and

"(II) each remaining heir, at the time that the heir attains the age of 18.

"(f) NOTIFICATION.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Navajo-Hopi Land Settlement Act Amendments of 1996, the Commissioner shall, in accordance with section 700.138 of title 25, Code of Federal Regulations, notify each eligible head of household who has not entered into a lease with the Hopi Tribe to reside on lands partitioned to the Hopi Tribe.

"(2) LIST.—Upon the expiration of the notice periods referred to in section 700.139 of title 25, Code of Federal Regulations, the Commissioner shall forward to the Secretary and the United States Attorney for the District of Arizona a list containing the name and address of each eligible head of household who—

"(A) continues to reside on lands that have not been partitioned to the tribe of that eligible head of household; and

"(B) has not entered into a lease to reside on those lands.

"(3) CONSTRUCTION OF REPLACEMENT HOMES.—Before July 1, 1999, the Commissioner may commence construction of a replacement home on the lands acquired under section 6 not later than 90 days after receiving a notice of the imminent removal of a relocatee from the lands partitioned under this Act to the Hopi Tribe from—

"(A) the Secretary; or

"(B) the United States Attorney for the District of Arizona.";

(I) in subsection (g), as redesignated by subparagraph (G)—

(i) by inserting "DISPOSAL OF ACQUIRED DWELLINGS AND IMPROVEMENTS.—" after "(g)"

(ii) by striking "section 8" and inserting "section 3"; and

(iii) by striking "section 3 or 4 of this title" and inserting "section 1";

(J) in subsection (h), as redesignated by subparagraph (G), by inserting "PREFERENTIAL TREATMENT FOR HEADS OF HOUSEHOLDS OF THE NAVAJO TRIBE EVICTED FROM THE HOPE RESERVATION BY JUDICIAL DECISION.—"; AND

(K) by adding after subsection (h) the following new subsections:

"(i) APPEALS.—

"(1) IN GENERAL.—The Commissioner shall establish an expedited hearing procedure that shall apply to an appeal relating to the denial of eligibility for benefits under this Act (including the regulations issued under this Act) that is—

"(A) pending on the date of enactment of Navajo-Hopi Land Settlement Act Amendments of 1996; or

"(B) filed after the date specified in subparagraph (A).

"(2) FINAL DETERMINATIONS.—The hearing procedure established under paragraph (1) shall—

"(A) as necessary, provide for a hearing before an impartial third party; and

"(B) ensure the achievement of a final determination by the Office of Navajo and Hopi Indian Relocation for each appeal described in that paragraph not later than January 1, 1999.

"(3) NOTICE.—

"(A) IN GENERAL.—Not later than 30 days after the date of enactment of the Navajo-Hopi Land Settlement Act Amendments of 1996, the Commissioner, shall provide written notice to any individual that the Commissioner determines may have the right to a determination of eligibility for benefits under this Act.

"(B) REQUIREMENTS FOR NOTICE.—The notice provided under this paragraph shall—

"(i) specify that a request for a determination of eligibility referred to in subparagraph (A) shall be presented to the Commission not later than 180 days after the date of issuance of the notice; and "(ii) be provided—

"(I) by mail (which may be carried out by a means other than certified mail) to the last known address (if available) of the recipient; and

"(II) in a newspaper of general circulation in the geographic area in which an address referred to in subclause (I) is located.

"(j) PROCUREMENT OF SERVICES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, to ensure the full and fair evaluation of the requests referred to in subsection (i)(3)(A) (including an appeal hearing before an impartial third party referred to in subsection (i)(2)(A)), the Commissioner may enter into such contracts or agreements to procure such services, and employ such personnel (including attorneys), as are necessary.

"(2) DETAIL OF ADMINISTRATIVE LAW JUDGES OR HEARING OFFICERS.—The Commissioner may request the Secretary to act through the Director of the Office of Hearings and Appeals of the Department of the Interior, to make available, by detail or other appropriate arrangement, to the Office of Navajo and Hopi Indian Relocation, an administrative law judge or other hearing officer with appropriate qualifications to review the requests referred to in subsection (i)(3)(A).

"(k) APPEAL TO UNITED STATES CIRCUIT COURT OF APPEALS.—

"(1) IN GENERAL.—Subject to paragraph (3), any individual who, under the procedures established by the Commissioner under this section, is determined not to be eligible to receive benefits under this Act may appeal that determination to the United States Circuit Court of Appeals for the Ninth Circuit (hereafter in this subsection referred to as the 'Circuit Court').

"(2) REVIEW.—

"(A) IN GENERAL.—The Circuit Court shall, with respect to each appeal referred to in paragraph (1)—

"(i) review the entire record (as certified to the Circuit Court under paragraph (3) on which a determination of the ineligibility of the appellant to receive benefits under this Act was based; and

"(ii) on the basis of that review, affirm or reverse that determination.

"(B) STANDARD OF REVIEW.—The Circuit Court shall affirm any determination that the Circuit Court determines to be supported by substantial evidence.

"(3) NOTICE OF APPEAL.—

"(A) IN GENERAL.—An individual who appeals a determination of ineligibility under paragraph (1) shall, not later than 30 days after the date of that determination, file a notice of appeal with—

"(i) the Circuit Court; and

"(ii) the Commissioner.

"(B) CERTIFICATION OF RECORD.—Upon receipt of a notice provided under subparagraph (A)(ii), the Commissioner shall certify to the Circuit Court the record on which the determination that is the subject of the appeal was made.

"(C) REVIEW PERIOD.—The Circuit Court shall conduct a review and render a decision under paragraph (2) not later than 60 days after receiving a certified record under subparagraph (B).

"(D) BINDING DECISION.—A decision made by the Circuit Court under this subsection shall be final and binding on all parties.

(11) Section 16 (25 U.S.C. 640d–15) is amended—

(A) by striking "SEC. 16. (a) The Navajo" and inserting the following:

"SEC. 10. PAYMENT OF FAIR RENTAL VALUE FOR USE OF LANDS.

"(a) IN GENERAL.—The Navajo";

(B) in subsection (a), by striking "sections 8 and 3 or 4" and inserting "sections 1 and 3"; and

(C) in subsection (b)—

(i) by inserting "PAYMENT.—" after "(b)"; and

(ii) by striking sections 8 and 3 or 4" and inserting "sections 1 and 3".

(12) Section 17 (25 U.S.C. 640d–16) is amended—

(A) by striking "SEC. 17. (a) Nothing" and inserting the following:

"SEC. 11. STATUTORY CONSTRUCTION.

(a) IN GENERAL.—Nothing"; and

(B) in subsection (b), by inserting "FEDERAL EMPLOYEES.— after "(b)".

(13) Section 18 (25 U.S.C. 640d–17) is amended—

(A) by striking "SEC. 18. (a) Either" and inserting the following:

"SEC. 12. ACTIONS FOR ACCOUNTING, FAIR VALUE OF GRAZING, AND CLAIMS FOR DAMAGES TO LAND.

"(a) Either";

(B) in the matter preceding paragraph (1) in subsection (a), by striking "section 3 or 4" and inserting "section 1";

(C) in subsection (b)—

(i) by inserting "DEFENSES.—" after "(b)";

(ii) by striking "section 3 or 4" and inserting "section 1";

(D) in subsection (c), by inserting "FURTHER ORIGINAL, ANCILLARY, OR SUPPLEMENTARY ACTS TO INSURE QUIET ENJOYMENT.—" after "(c)";

(E) in subsection (d), by inserting "UNITED STATES AS PARTY; JUDGMENTS AGAINST THE UNITED STATES" after "(d)"; and

(F) in subsection (e), by inserting "REMEDIES" after "(e)".

(14) Section 19 (25 U.S.C. 640d–18) is amended—

(A) by striking "SEC. 19. (a) Notwithstanding" and inserting the following:

"SEC. 14. REDUCTION IN LIVESTOCK WITH JOINT USE.

"(a) IN GENERAL.—Notwithstanding";

(B) in subsection (a), by striking "section 3 or 4" and inserting "section 1";

(C) in subsection (b)—

(i) by inserting "SURVEY LOCATION OF MONUMENTS AND FENCING OF BOUNDARIES.—" after "(b)";

(ii) by striking "sections 8 and 3 or 4" and inserting "sections 1 and 3";

(D) in subsection (c)—

(i) by inserting "COMPLETION OF SURVEYING, MONUMENTING, AND FENCING OPERATIONS; LIVESTOCK REDUCTION PROGRAM.—" after "(c)";

(ii) by striking "section 4 of this title" and inserting "section 1"; and

(iii) by striking "section 8" and inserting "section 3".

(15) Section 20 (25 U.S.C. 640d–19) is amended by striking "SEC. 20. The members" and inserting the following:

"SEC. 15. PERPETUAL USE OF CLIFF SPRINGS FOR RELIGIOUS CEREMONIAL USES; PIPING OF WATER FOR USE BY RESIDENTS.

The members".

(16) Section 21 (25 U.S.C. 640d–20) is amended by striking "SEC. 21. Notwithstanding" and inserting the following;

"SEC. 16. USE AND RIGHT OF ACCESS TO RELIGIOUS SHRINES ON RESERVATION OF OTHER TRIBE.

Notwithstanding".

(17) Section 22 (25 U.S.C. 640d–21) is amended by striking "SEC. 22. The availability " and inserting the following:

"SEC. 17. EXCLUSION OF PAYMENTS FROM CERTAIN FEDERAL DETERMINATIONS OF INCOME.

The availability".

(18) Section 23 (25 U.S.C. 649d–22) is amended—

(A) by striking "SEC. 23. The Navajo" and inserting the following:

"SEC. 18. AUTHORIZATION FOR EXCHANGE OF RESERVATION LANDS.

The Navajo"; and

(B) by striking "sections 14 and 15" and inserting "sections 8 and 9".

(19) Section 24 (25 640d–23) is amended by striking "SEC. 24. If" and inserting the following:

"SEC. 19. SEVERABILITY OF PROVISIONS.

If".

(20) Section 25 (25 U.S.C. 640d–24) is amended to read as follows:

"SEC. 20 AUTHORIZATIONS OF APPROPRIATIONS.

"(a) IN GENERAL.—

"(1) RELOCATION OF HOUSEHOLDS AND MEMBERS.—For the purposes of carrying out the provisions of section 9, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1998 through 2002.

"(2) RETURN TO CARRYING CAPACITY AND INSTITUTION OF CONSERVATION PRACTICES.—For the purposes of carrying out section 14(a), there are authorized to be appropriated $10,000,000.

"(3) SURVEY LOCATION OF MONUMENTS AND FENCING OF BOUNDARIES.—For the purpose of carrying out section 14(b), there are authorized to be appropriated $500,000.

"(4) RELOCATION OF HOUSEHOLDS AND MEMBERS.—For the purposes of carrying out section 8(b) there are authorized to be appropriated $13,000,000.".

(21) Section 26 (88 Stat. 1723) is repealed.

(22) Section 27 (25 U.S.C. 640d–25) is amended—

(A) by striking "SEC. 27." and all that follows through subsection (b)" and inserting the following:

"SEC. 21. FUNDING AND CONSTRUCTION OF HOPI HIGH SCHOOL AND MEDICAL CENTER."; and

(B) in subsection (c), by striking "(c)".

(23) Section 28 (25 U.S.c. 640d–26) is amended-

(A) by striking "SEC. 28. (a) No action" and inserting the following:

"SEC. 22. ENVIRONMENTAL IMPACT; APPLICABILITY OF WILDERNESS STUDY; CANCELLATION OF GRAZING LEASES AND PERMITS.

"(a) IN GENERAL.—No action";

(B) in subsection (b), by inserting "EFFECT OF WILDERNESS STUDY.—" after "(b)"; and

(C) by adding at the end the following new subsection:

"(c) CONSTRUCTION REQUIREMENTS.—

"(1) IN GENERAL.—Any construction activities that are undertaken under this Act shall be conducted in compliance with sections 3 through 7 of Public Law 86–523 (16 U.S.C. 469a–1 through 469c).

"(2) COMPLIANCE WITH OTHER REQUIREMENTS.—With respect to any construction activity referred to in paragraph (1), compliance with the provisions referred to in that paragraph shall be considered to satisfy the applicable requirements of—

"(A) the Act entitled "an Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (Public Law, 89–665); and

"(B) the Act entitled "An Act for the preservation of American antiquities", approved June 8, 1906 (34 Stat. 225, chapter 3060).".

(24) Section 29 (25 U.S.C. 640d–27) is amended—

(A) by striking "SEC. 29. (a) In any" and inserting the following:

“SEC. 23. ATTORNEY FEES, COSTS AND EXPENSES FOR LITIGATION OR COURT ACTION.

“(a) PAYMENT BY SECRETARY; AUTHORIZATION OF APPROPRIATIONS.—In any;

(B) in subsection (b) by inserting “AWARD BY COURT.—” after “(b)”;

(C) in subsection (c) by inserting “EXCESS DIFFERENCE.—” after “(c)”; and

(D) in subsection (d)—

(i) by inserting “LITIGATION OF COURT ACTIONS APPLICABLE.—” after “(d)”; and

(ii) by striking “section 8” and inserting “section 3”.

(25) Section 31 (25 U.S.C. 640d–29) is amended—

(A) by striking “SEC. 31. (a) Except” and inserting the following:

“SEC. 24. LOBBYING.

“(a) IN GENERAL.—Except”; and

(B) in subsection (b), by inserting “APPLICABILITY.—” before “(b)”.

(26) The first section designated as section 32 (25 U.S.C. 640d–30), as added by section 7 of the Navajo-Hopi Relocation Act Amendments of 1988, is amended—

(A) by striking “SEC. 32. (a) There” and inserting the following:

“SEC. 25. NAVAJO REHABILITATION TRUST FUND.

(a) IN GENERAL.—There”;

(B) in subsection (b), by inserting “DEPOSIT OF INCOME INTO FUND.—” after “(b)”;

(C) in subsection (c), by inserting “INVESTMENT OF FUNDS.—” after “(c)”;

(D) in subsection (d), by inserting “AVAILABILITY OF FUNDS.—” after “(d);

(E) in subsection (e), by inserting “EXPENDITURE OF FUNDS.—” after “(e)”;

(F) in subsection (f), by inserting “TERMINATION OF TRUST FUND.—” after “(f)”; and

(G) in subsection (g), by inserting “AUTHORIZATION OF APPROPRIATIONS.—” after “(g)”.

(27) Section 32 (25 U.S.C. 640d–31), as added by section 407 of the Arizona-Idaho Conservation Act of 1988m, is amended by striking “SEC. 32. Nothing” and inserting the following:

“SEC. 26. AVAILABILITY OF FUNDS FOR RELOCATION ASSISTANCE REGARDLESS OF PLACE OF RESIDENCE.

Nothing”.

TITLE II—PERSONNEL OF THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SEC. 201. RETENTION PREFERENCE.

The second sentence of section 3501(b) of title 5, United States Code, is amended—

(1) by striking by striking “or” after “Senate” and inserting a comma;

(2) by striking “or” after “Service” and inserting a comma; and

(3) by inserting ”, or to an employee of the Office of Navajo and Hopi Indian Relocation before the period.

SEC. 202. SEPARATION PAY.

(a) IN GENERAL.—Chapter 55 title 5, United States Code, is amended by adding at the end the following new section:

“§ 5598 Separation pay for certain employees of the Office of Navajo and Hopi Indian Relocation

“(a) IN GENERAL.—Except as provided in subsections (b) and (c), the Commissioner of the Office of Navajo and Hopi Indian Relocation shall establish a program to offer separation pay to employees of the Office of Navajo and Hopi Indian Relocation (hereafter in this section referred to as the ‘Office’) in the same manner as the Secretary of Defense offers separation pay to employees of a defense agency under section 5597.

“(b) SEPARATION PAY.—

“(1) IN GENERAL.—Under the program establish under subsection (a), the Commissioner of the Office may offer separation pay only to employees within the occupational groups or at pay levels that will minimize disruption of ongoing Office programs at the time that the separation pay is offered.

“(2) REQUIREMENT.—Any separation pay offered under this subsection shall—

“(A) be paid in a lump sum;

“(B) be in an amount equal to $25,000, if paid on or before December 31, 1998;

“(C) be in an amount equal to $20,000, if paid after December 31, 1998, and before January 1, 2000;

“(D) be in an amount equal to $15,000, if paid after December 31, 1999, and before January 1, 2001;

“(E) not—

“(i) be a basis for payment;

“(ii) be considered as income for the purposes of computing any other type of benefit provided by the Federal Government; and

“(F) if an individual is otherwise entitled to receive any severance pay under section 5595 on the basis of any other separation, not be payable in addition to the amount of the severance pay to which that individual is entitled under section 5595.

“(c) PROHIBITION.—No amount shall be payable under this section to any employee of the Office for any separation occurring after December 30, 2000.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 5 is amended by adding at the end the following new item:

“5598. Separation pay for certain employees of the Office of Navajo and Hopi Indian Relocation.”.

SEC. 203. IMMEDIATE RETIREMENT.

Section 8336(j)(1)(B) of title 5, United States Code, is amended by inserting “or was employed by the Office of Navajo and Hopi Indian Relocation during the period beginning on January 1, 1990, and ending on the date of separation of that employee” before the final comma.

SEC. 204. COMPUTATION OF ANNUITY.

Section 8339(d) of title 5, United States Code is amended by adding at the end the following new paragraph:

“(8) The annuity of an employee of the Office of Navajo and Hopi Indian Relocation described in section 8336(j)(1)(B) shall be determined under subsection 9a), except that with respect to service of that employee on or after January 1, 1990, the annuity of that employee shall be—

“(A)(i) 2½ percent of the employee’s average pay; multiplied by

“(ii) so much of the employee’s service on or after January 1, 1990, as does not exceed 10 years; plus

“(B)(i) a percent of the average pay of the employee; multiplied by

“(ii) so much of the service of the employee on or after January 1, 1990, as exceeds 10 years.”.

SEC. 205. IMMEDIATE RETIREMENT.

Section 8412 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(i) An employee of the Office of Navajo and Hopi Indian Relocation is entitled to an annuity if that employee—

“(1) has been continuously employed in the Office of Navajo and Hopi Indian Relocation during the period beginning on January 1, 1990, and ending on the date of separation of that individual; and

“(2)(A) has completed 25 years of service at any age; or

“(B) has attained the age of 50 years and has completed 20 years of service.”.

SEC. 206. COMPUTATION OF BASIC ANNUITY.

Section 8415 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(h) The annuity of an employee retiring under section 8412(i) shall be determined under subsection (d), except that with respect to service during the period beginning on January 1, 1990, the annuity of the employee shall be—

“(1)(A) 2 percent of the average pay of that individual; multiplied by

“(B) so much of the total service of that individual as does not exceed 10 years; plus

“(2)(A) 1½ percent of the average pay of the individual; multiplied by

“(B) so much of the total service of that individual as exceeds 10 years.”.

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

SEC. 301. DEFINITIONS.

For purposes of this title, unless otherwise provided or indicated by the context—

(1) the term “Federal agency” has the meaning given to the term “agency” by section 551(1) of title 5, United States Code;

(2) the term “function” means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term “office” includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

SEC. 302. TRANSFER OF FUNCTIONS.

Effective on the date specified in section 307, there are transferred to the Department of the Interior all functions which Office of Navajo and Hopi Relocation exercised before the date of the enactment of this title (including all related functions of any officer or employee of the Office of Navajo and Hopi Relocation) relating to functions of the Office that have not been fully discharged, as determined in accordance with the Act commonly known as the “Navajo-Hopi Land Settlement Act of 1974” (Public law 93–531; 25 U.S.C. 640 et seq.).

SEC. 303. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.

Except as otherwise provided in this Act and the amendments made by this Act, the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred to the Department of the Interior. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 304. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or be a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Interior or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDING NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Office of Navajo and Hopi Relocation at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeal taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against Office of Navajo and Hopi Relocation, or by or against any individual in the official capacity of such individual as an Office of Navajo and Hopi Relocation, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by Office of Navajo and Hopi Relocation relating to a function transferred under this title may be continued by the Department of the Interior with the same effect as if this title had not been enacted.

SECTION-BY-SECTION SUMMARY OF THE NAVAJO-HOPI LAND SETTLEMENT ACT AMENDMENTS OF 1996

Section 1. Short Title. This section provides that the bill may be cited as the "Navajo-Hopi Land Settlement Act Amendments of 1996".

TITLE I—AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974

Section 101. References. This section provides that whenever an amendment or repeal is expressed in this Act it shall be considered to be made to a section of the Navajo-Hopi Land Settlement Act of 1974 (25 U.S.C. §§640 et seq.).

Section 102. Amendments to the Navajo and Hopi Settlement Act. This section sets forth amendments to the Navajo-Hopi Land Settlement Act of 1974.

Subsection (a) repeals six sections of the Act in their entirety: Section 1 (25 U.S.C. §640d) relating to the appointment and duties of the mediator; Section 2 (25 U.S.C. §640d-1) relating to the appointment and duties of the Navajo and Hopi negotiating teams; Section 3 (25 U.S.C. §640-d-2) relating to the implementation of any agreements reached by the tribal negotiating teams; Section 4 (25 U.S.C. §640d-3) relating to the procedures to be used by the mediator and the Federal District Court in the event that the tribal negotiating teams did not reach agreement; Section 5 (25 U.S.C. §640d-4) relating to other recommendations by the mediator to the Federal District Court; Section 30 (25 U.S.C. §640d-28) relating to the provision of life estates to Navajos residing on lands partitioned to the Hopi Tribe.

Subsection (b) redesignates section 6 (25 U.S.C. §640d-5) as section 1 and amends the provisions of this section relating to the partition of the former Joint Use Area of the 1882 Executive Order reservation.

Paragraph (2) amends section 7 by renaming it "Joint Ownership of Minerals" and redesignates it as section 2.

Paragraph (3) redesignates section 8 (25 U.S.C. §640d-7) as section 3 and amends the section by repealing subparagraph (f) which contained special provisions related to the payment of legal fees for the San Juan Southern Paiute Tribe prior to the time of its Federal recognition.

Paragraph (4) redesignates section 9 (25 U.S.C. §640d-8) as section 4 and retitles it "Paiute Indian Allotments".

Paragraph (5) redesignates section 10 (25 U.S.C. §640d-9) as section 5 and by amending it to strike references to Navajo life estates.

Paragraph (6) redesignates section 11 (25 U.S.C. §640d-10) as section 6 and amending it to provide for the termination of the Commissioner's authority to select lands for the Navajo Nation on September 30, 2000. This section of the Act is further amended to authorize the Commissioner to make homesites available to extended family members of those Navajos who are certified eligible for relocation benefits in order to facilitate the relocation program.

Paragraph (7) redesignates section 12 (25 U.S.C. §640d-11) as section 7. This section of the Act is amended to provide for: the termination of the Office of Navajo and Hopi Indian Relocation on September 30, 2001; the transfer of any remaining duties or functions, resources, funds, property and staff of the Office to the Secretary of the Department of the Interior in accordance with Title III of this Act; the establishment of an Office of Relocation in the Office of the Secretary which shall remain in existence until the Secretary determines that its functions have been fully discharged.

Paragraph (8) retitles section 13 (25 U.S.C. §640d-12) as "Report Concerning Relocation of Households and Members of Each Tribe."

Paragraph (9) redesignates section 14 (25 U.S.C. §640d-13) as section 8. This section of the Act is amended to delete a reference in subsection (a) to the filing of the relocation plan and the completion of the relocation program. A new subsection (d) is added to prohibit the payment of any benefits to any head of household who has not been certified eligible by September 30, 2001.

Paragraph (10) redesignates section 15 (25 U.S.C. §640d-14) as section 9. This section of the Act is amended by adding a new subsection (e) which requires the Commissioner to notify the Secretary of any eligible relocatees who have left the lands partitioned to the tribe of which they are not members, but who have not received a replacement home by September 30, 2001 and to transfer to the Secretary the funds necessary to provide such homes. The Secretary is authorized to hold such funds in trust for each head of household until such time as the head of household requests the construction of a replacement home. If the Secretary still holds the funds in trust for a head of household at the time of the death of the head of household, then the funds shall be distributed to the heirs of the head of household upon attaining 18 years of age and shall no longer be held in trust.

Paragraph (10) further amends the Act by adding a new subsection (f) which directs the Commissioner to implement the provisions of 25 C.F.R. §700.138 within 180 days after the date of enactment of these amendments. Upon the expiration of all time periods in 25 C.F.R. §700.138, the Commissioner shall provide the notices to the Secretary and the United States Attorney for the District of Arizona which are required by 25 C.F.R. §700.139. At any time prior to July 1, 1999, the Commissioner is authorized to construct a replacement home within 90 days of the receipt of a notice from the Secretary or the United States Attorney for the District of Arizona that the removal of a relocatee from the lands partitioned to the Hopi Tribe is imminent.

Finally, paragraph (10) provides that the Act is also amended by striking the existing subsection (g) and inserting in lieu thereof a new subsection (i) which authorizes the Commissioner to establish an expedited procedure for reaching final determinations on any appeals from denials of eligibility. The Commissioner must provide a final notice, by mail and/or publication, to anyone who may have a right to an eligibility determination within 30 days from the enactment of the amendments and all requests for such determinations must be filed within 180 days from the date of such notice.

A new subsection (j) is added to this section of the Act to authorize the Commissioner to contract for services and employ personnel in order to provide for eligibility determinations and appeals. Upon request, the Director of the Office of Hearings and Appeals of the Department of the Interior shall provide a qualified hearing officer to the Commissioner to assist in hearings to review eligibility determinations.

A new subsection (k) is added to this section of the Act to provide for a final and expedited appeal of any final eligibility determinations by the Office to the Circuit Court of Appeals for the Ninth Circuit. All such appeals shall be filed within 30 days of the final action by the Office and the Court shall complete its review within 60 days after receipt of the certified record from the Office. All such appeals shall be reviewed on the basis of the certified record and any denial of eligibility which is supported by substantial evidence shall be affirmed.

Paragraph (11) redesignates section 16 (25 U.S.C. §640d-15) as section 10 and retitles it "Payment of Fair Rental Value for Use of Lands".

Paragraph (12) redesignates section 17 (25 U.S.C. §640d-16) as section 11 and retitles it "Statutory Construction".

Paragraph (13) redesignates section 18 (25 U.S.C. §640d-17) as section 12 and retitles it "Actions for Accounting, Fair Value of Grazing, and Claims for Damages to Land".

Paragraph (14) redesignates section 19 (25 U.S.C. §640d-18) as section 14 and retitles it "Reduction in Livestock with Joint Use".

Paragraph (15) redesignates section 20 (25 U.S.C. §640d-19) as section 15 and retitles it "Perpetual Use of Cliff Springs for Religious Ceremonial Uses; Piping of Water for Use by Residents".

Paragraph (16) redesignates section 21 (25 U.S.C. §640d-20) as section 16 and retitles it "Use and Right of Access to Religious Shrines on Reservation of Other Tribe".

Paragraph (17) redesignates section 22 (25 U.S.C. §640d-21) as section 17 and retitles it "Exclusion of Payments from Certain Federal Determination of Income".

Paragraph (18) redesignates section 23 (25 U.S.C. §640d-22) as section 18 and retitles it "Authorization for Exchange of Reservation Lands".

Paragraph (19) redesignates section 24 (25 U.S.C. §640d–23) as section 19 and retitles it "Severability of Provisions".

Paragraph (20) redesignates section 25 (25 U.S.C. §640d–24) as section 20 and amends this section in subsection (a) by providing authorizations for appropriations of such sums as may be necessary for fiscal years 1998 through 2002. The authority for appropriations for the mediator, life estates and special discretionary funds for the Commissioner is repealed.

Paragraph (21) repeals section 26 (88 Stat. 1723).

Paragraph (22) redesignates section 27 (25 U.S.C. §640d–25) as section 21 and amends it by repealing subsections (a) and (b) and retitling it "Funding and Construction of Hopi High School and Medical Center."

Paragraph (23) redesignates section 28 (25 U.S.C. §640d–26) as section 22 and adding a new subsection (c) to require all construction activities to be undertaken in compliance with 16 U.S.C. §§469a–1 through 469c and declaring that such compliance shall also be deemed to be compliance with P.L. 89–665, as amended, and P.L. 96–95, as amended.

Paragraph (24) redesignates section 29 (25 U.S.C. §640d–27) as section 23 and retitles it "Attorney Fees, Costs and Expenses for Litigation or Court Action".

Paragraph (25) redesignates section 31 (25 U.S.C. §640d–29) as section 24 and retitles it "Lobbying".

Paragraph (26) redesignates section 32 (25 U.S.C. §640d–30) as section 25 and retitles it "Navajo Rehabilitation Trust Fund".

Paragraph (27) redesignates section 32 (25 U.S.C. §640d–31) as section 26 and retitles it "Availability of Funds for Relocation Assistance Regardless of Place of Residence".

TITLE II. PERSONNEL OF THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

This Title contains six amendments to Title 5 of the United States Code, as follows:

Section 201. Retention Preference. This section amends paragraph (b) of section 3501 to exclude employees of the Office of Navajo and Hopi Indian Relocation from reduction-in-force regulations.

Section 202. Separation Pay. This section amends section 5597 to provide a new paragraph (a)(3) and new subsections (h) and (i) to include employees of the Office of Navajo and Hopi Indian Relocation in the provisions for voluntary separation incentive payments.

Section 203. Immediate Retirement. This section amends section 8336 to include employees of the Office of Navajo and Hopi Indian Relocation in paragraph (1) to make them eligible for early or optional retirement programs.

Section 204. Computation of Annuity. This section amends subsection (d) of section 8336 to modify the retirement computations for those employees of the Office of Navajo and Hopi Indian Relocation who can retire under early or optional retirement regulations.

Section 205. Immediate Retirement. This section amends section 8412 by adding a new subsection (g) to include employees of the Office of Navajo and Hopi Indian Relocation in the provisions for annuities.

Section 206. Computation of Basic Annuity. This section amends section 8415 by adding a new subsection (g) to modify the annuity computations for those employees of the Office of Navajo and Hopi Indian Relocation who are eligible for annuities.

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

Section 301. Definitions. This section sets out the definitions used in this title.

Section 302. Transfer of Functions. This section provides for the transfer of all of the functions of the Office of Navajo and Hopi Relocation that have not been fully discharged to the Department of the Interior.

Section 303. Transfer and Allocations of Appropriations. This section provides that the assets, liabilities, contracts, property, records and unexpended balances of appropriations, allocations and other funds related to the functions transferred under this title, shall be transferred to the Department of the Interior.

Section 304. Savings Provisions. This section provides that all orders, determinations, rulings, regulations, permits, agreements, grants, contracts, licenses, privileges and other administrative actions shall have continuing legal effect until modified, superseded, set aside or revoked in accordance with or by operation of law. It also provides that proceedings, including notices of proposed rulemaking, and lawsuits commenced before the effective date of this title shall not be affected by the transfer.

Section 305. Separability. This section provides that if a provision of this title is held invalid, the remainder of the title shall remain unaffected.

Section 306. References. This section provides that any reference to the Commissioner of the Office of Navajo and Hopi Relocation and the Office of Relocation shall be deemed to refer to the Secretary of the Interior and the Office of Relocation of the Department of Interior respectively.

Section 307. Effective Date. This section provides that this title shall take effect on September 30, 2001.

Mr. Mr. FORD:

S. 2112. A bill to revise the boundary of the Abraham Lincoln Birthplace National Historic Site in Larue County, KY, and for other purposes; to the Committee on Energy and Natural Resources.

THE ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORIC SITE BOUNDARY REVISION ACT OF 1996

Mr. FORD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF BOUNDARY OF ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORIC SITE.

(a) IN GENERAL.—On acquisition of the land known as Knob Creek Farm pursuant to subsection (b), the boundary of the Abraham Lincoln Birthplace National Historic Site, established by the Act of July 17, 1916 (39 Stat. 385, chapter 247; 16 U.S.C. 211 et seq.), is revised to include the land.

(b) ACQUISITION OF KNOB CREEK FARM.—The Secretary of the Interior may acquire, by donation only, the approximately 228 acres of land known as Knob Creek Farm in Larue County, Kentucky.

By Mr. KERRY:

S. 2113. A bill to increase funding for child care under the temporary assistance for needy families program; to the Committee on Finance.

THE WORKING FAMILIES' CHILD CARE ASSISTANCE ACT

• Mr. KERRY. Mr. President, today I am introducing the "Working Families' Child Care Assistance Act" to help the many working families who face great struggles to find affordable, good-quality child care.

Mr. President, we no longer live in an era when one parent generally stays at home full time to take care of the children. Today, 60 percent of women with children younger than six are in the labor force. The result is that approximately 7 million children of working parents are cared for each month by someone other than a parent. And most of these children spend 30 hours or more each week in child care, according to the National Research Council.

New research also confirms that our current social reality has placed enormous strains on working families' budgets because many families must pay for child care. According to a new study of 100 child care centers entitled "Cost, Quality, and Child Outcomes in Child Care Centers," families spend an average of $4,940 per year to provide services for each enrolled child. Annual child care costs of this size represent a whopping 28 percent of $17,481, which is the yearly income of an average family in the bottom two-fifths of the income scale.

But even for families who can afford the cost of child care, in some communities child care continues to be hard to obtain at any cost. Mr. President, in 1994, 36 States reported State child care assistance waiting lists, according to the children's defense fund. Eight States had at least 10,000 children waiting for assistance. Georgia's list was the longest with 41,000, while in Texas the list had 36,000 names and a wait of about 2 years. In Massachusetts, the statewide waiting list contains the names of 4,000 working families. Additionally, a 1995 U.S. General Accounting Office [GAO] study found that shortages of child care for infants, sick children, children with special needs, and school-age children before and after school pose difficulties for many families.

I believe the child care situation may worsen because of a provision which I did not support in the recently passed welfare reform bill which cuts the title XX social services block grant by 15 percent. Many States currently use this funding to pay for child care for working families; unfortunately, this cut will result in even more families needing child care assistance.

Mr. President, it is time to provide help to working families to afford quality child care. My bill would double the funding through the child care development block grant, increasing child care funding by $1 billion per year. This would result in more than 5,000 families in Massachusetts alone receiving child care help.

Working parents face an extraordinary uphill battle in trying to make ends meet and cover the high cost of child care. Well over half the women in the work force are parents of preschool children, and they need access to affordable, quality child care they can trust. This bill provides real help to working families and hopefully will send a strong signal that their work and their efforts to provide reliable child care for their children is valued and supported.•

By Mr. AKAKA:

S. 2114. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE PET SAFETY AND PROTECTION ACT OF 1996

• Mr. AKAKA. Mr. President, today I am introducing the Pet Safety and Protection Act of 1996, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

Medical research is an invaluable weapon in the battle against disease. New drugs and surgical techniques offer promise in the fight against AIDS, cancer, Alzheimer's, heart disease, and a host of other life-threatening illnesses. Orthopedic surgeons are making tremendous progress in designing new and improved joint-replacement materials for patients. Emergency medical techniques, such as CPR, have saved thousands of lives since they were developed.

What do these advancements in medicine have in common? Animal research helped make them possible. Animal research ensures that drugs and surgical techniques, which benefit millions of people every day, are safe and effective. Animal research is of great importance to our future, but there is growing evidence that, in some instances, research is being carried out using family pets that have been fraudulently obtained from the owners who love them.

The concern that has prompted me to introduce the Pet Safety and Protection Act of 1996 does not relate to whether animals should or should not be used in medical research. Rather, this bill provides a sensible solution to the growing problem of stray and stolen pets being sold to research facilities. It addresses problems caused by unethical Class B "random source" animal dealers. The Pet Safety and Protection Act of 1996 will safeguard family pets while allowing essential research to continue in an environment free from deception and abuse.

According to the USDA's Animal and Plant Health Inspection Service [APHIS], there are 4,325 licensed animal dealers in the United States. About 1,100 of these dealers are licensed by APHIS as Class B "random source" animal dealers. This means that these dealers do not breed the animals themselves, but obtain their dogs and cats from other sources.

Unfortunately, there is significant evidence to conclude that many Class B "random source" dealers are profiteering through theft or by deceptively acquiring animals. For example, in 1995, 50 class B dealers supplied 24,000 of the 89,000 dogs used for research. APHIS investigations of these dealers found that up to 50 percent engaged in fraudulent record-keeping practices. In other words, up to 11,000 of the dogs sold to medical facilities in 1995 may have been obtained through pet theft, falsified records, and other unscrupulous techniques.

The provisions of current law are impossible to enforce effectively. In response to evidence of repeated violations of Federal law by Class B "random source" dealers, I have introduced the Pet Safety and Protection Act of 1996. This legislation will ensure that dogs and cats used by research facilities are obtained from legitimate sources.

The problem of pet theft should not be left unchecked. Dr. Robert Whitney, former director of the Office of Animal Care and Use at the National Institutes of Health recently declared that, "The continued existence of these virtually unregulatable Class B dealers erodes the public confidence in our commitment to appropriate procurement, care, and use of animals in the important research to better the health of both humans and animals." it is in the interests of consumers, pet owners, and researchers alike, to see that animals used for research purposes are obtained legitimately and treated with respect.

I urge all of my colleagues to join in supporting this legislation.•

By Mr. MOYNIHAN:

S. 2116. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporatoin, and for other purposes; to the Committee on Finance.

THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT OF 1996

Mr. MOYNIHAN. Mr. President, I am pleased to introduce legislation today that I hope, at the very least, will draw attention to the interesting possibilities of how private capital might be joined with public funding of our Nation's infrastructure. The bill is designed to facilitate investment in, and the financing of, infrastructure projects—which generate good-paying jobs—through the creation of a self-sustaining entity, the National Infrastructure Development Corporation.

In 1991, I sponsored the Intermodal Surface Transportation Efficiency Act [ISTEA]. One provision called for the establishment of an Infrastructure Investment Commission. Public investments in infrastructure have been declining, and so the Commission was charged with looking at ways to encourage the investment of private capital. The Commission was chaired by Daniel V. Flanagan, Jr. Under his able direction, the Commission released a report early in 1993. I found it truly compelling, and I look forward to revisiting the Commission's recommendations as we prepare for ISTEA II. In short, we would do well to listen to Mr. Flanagan, again, as we reauthorize our vitally important transportation infrastructure policies in the 105th Congress. There will be hearings, of course, and we look forward to testimony from the Commission as to its recommendations. I would like to point out that our colleague, Senator HUTCHISON from Texas, served as a member of the Commission; and I certainly look forward to working with her as the Environment and Public Works Committee takes up this most important matter next year.

I would like to note that significant infrastructure investment activity by U.S. pension funds is occurring daily overseas, particularly in Asia and Latin America. A good part of this has been prompted by the evolution of the independent power generation spawned by the action of our Congress in creating such entities as part of the Energy Policy Act of 1992. As a result, we now have a project finance industry in existence in this country assisting those American funds in such infrastructure investment overseas. Also, current policies of the Overseas Private Investment Corporation, the Export Import Bank, and the World Bank, encourage this type of overseas investment through credit enhancements, political risk insurance, and so forth.

The problem in the United States is that we have never provided such credit enhancement disciplines in our own infrastructure network. Clearly, there is significant political risk for the entrepreneur, the architect, the engineer, and even the community group that seeks to develop improvements and novel and innovative ways of paying for such services. The Commission's report suggests a "growing of the pie" approach to leverage some of our public funds by encouraging such private investment, and suggests that leverage ratios of approximately 10 to 18 times the public funds involved are attainable.

Recommendations of the Commission and Mr. Flanagan, who has testified several times before Congress on this subject, are incorporated in this legislation. For example, it suggests various insurance initiatives, particularly in the area of development risk, as well as other innovative procedures, including the reinsurance of long term revenue streams that would allow new economic activity to ensure either in the construction of new or rehabilitation of existing facilities.

I commend my colleagues in the House of Representatives, particularly the Democratic leadership there, for introducing this measure in that body earlier this year. To me this is a bipartisan effort and we welcome the support of our Republican colleagues. This legislation, the National Infrastructure Development Act of 1996, is by no means the final word on this subject. But I do recommend it to all of my colleagues for their examination and hope it proves sufficient to stimulate their interest in this ingenious approach to such an exciting matter.

SENATE RESOLUTION 296—RELATIVE TO DISABLED SENATE EMPLOYEES

Mr. FORD submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 296

Resolved, That (a) a Senate employee with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has the privilege of the Senate floor under rule XXII of the Standing Rules of the Senate may bring such supporting services (including dog guides and interpreters) on the Senate floor as the employing office determines are necessary to assist the disabled employee in discharging the official duties of his or her employment position.

(b) The employing office of a disabled employee shall administer the provisions of this resolution.

SENATE RESOLUTION 297—REFERRING S. 558

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 297

Resolved, That the bill S. 558 entitled "A Bill for the relief of Retired Sergeant First Class James D. Benoit, Wan Sook Benoit, and the estate of David Benoit, and for other purposes," is referred, with all accompanying papers, to the chief judge of the United States Court of Federal Claims for a report in accordance with sections 1492 and 2509 of title 28, United States Code.

SENATE RESOLUTION 298—DESIGNATING ROOM S-131 IN THE CAPITOL AS THE MARK O. HATFIELD ROOM

Mr. BYRD (for himself, Mr. LOTT, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mrs. FRAHM, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 298

Whereas Senator Mark O. Hatfield, the son of Charles Hatfield (a railroad construction blacksmith) and Dovie Odom Hatfield (a school teacher), upon the completion of the 104th Congress, will have served in the United States Senate with great distinction for 30 years;

Whereas Senator Mark O. Hatfield is the longest serving United States Senator from Oregon;

Whereas Senator Mark O. Hatfield serves on the Committee on Energy and Natural Resources, the Committee on Rules and Administration, the Joint Committee on the Library, and the Joint Committee on Printing;

Whereas Senator Mark O. Hatfield serves as Chairman of the Committee on Appropriations and has provided for the development of major public works projects throughout the State of Oregon, the Pacific Northwest, and the rest of the Nation;

Whereas Senator Mark O. Hatfield has constantly worked for what he calls "the desperate human needs in our midst" by striving to improve health, education, and social service programs;

Whereas Senator Mark O. Hatfield has earned bipartisan respect from his Senate colleagues for his unique ability to work across party lines to build coalitions which secure the enactment of legislation; and

Whereas it is appropriate that a room in the United States Capitol Building be named in honor of Senator Mark O. Hatfield as a reminder to present and future generations of his outstanding service as a United States Senator: Now, therefore, be it

Resolved, That room S. 131 in the United States Capitol Building is hereby designated as, and shall hereafter be known as, the "Mark O. Hatfield Room" in recognition of the selfless and dedicated service provided by Senator Mark O. Hatfield to the Senate, our Nation, and its people.

SENATE RESOLUTION 299—RELATING TO THE SENATE ARMS CONTROL OBSERVER GROUP

Mr. LOTT (for himself, and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 299

Resolved, That subsection (a) of the first section of Senate Resolution 149, agreed to October 5, 1993 (103d Congress, 1st Session), is amended by striking "until December 31, 1996" and inserting "until December 31, 1998".

SENATE RESOLUTION 300—TO DESIGNATE NATIONAL SHAKEN BABY SYNDROME AWARENESS WEEK

Mr. WELLSTONE (for himself, Mr. INOUYE, Mrs. MURRAY, Mr. DODD, Mrs. FRAHM, Mr. REID, Mr. GLENN, Mr. EXON, Mrs. BOXER and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 300

Whereas Shaken Baby Syndrome describes the consequences that occur when a young child is violently shaken;

Whereas Shaken Baby Syndrome is so lethal that 20 to 25 percent of its victims die, and most survivors suffer brain damage;

Whereas Shaken Baby Syndrome accounts for 10 to 12 percent of all child abuse and neglect cases in the United States;

Whereas 25 to 50 percent of teenagers and adults do not know that shaking a baby is dangerous;

Whereas education is the key to preventing this tragedy; and

Whereas the United States has a continuing commitment to the health and safety of this Nation's children:

Now, therefore, be it

Resolved, That the Senate designates the week of November 3, 1996, as "National Shaken Baby Syndrome Awareness Week". The President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

• Mr. WELLSTONE. Mr. President, I submit a resolution designating the week of November 3, 1996 as National Shaken Baby Syndrome Awareness Week. America's children are its most priceless and irreplaceable resource, and I am proud to lend them my voice in the U.S. Senate. Today, I speak for America's children as I urge my colleagues to consider this important resolution.

Shaking a baby causes serious brain injury. A baby's head accounts for one-fourth of its weight and is supported by weak and underdeveloped neck muscles. When a baby is shaken, it causes the brain to rock back and forth, hitting the skull with great force. This can cause the brain to bleed, bruise, or swell, resulting in the possibility of blindness, deafness, paralysis, epilepsy, cerebral palsy, and developmental disability. In many cases, this can also lead to death.

Brandon and Teddy are two very special little boys from my home State of Minnesota. They are survivors of a common and deadly form of child abuse that is often committed out of simple ignorance. Brandon and Teddy were violently shaken by their birth mothers out of frustration. This type of abuse and its resulting injuries are known as shaken baby syndrome or SBS.

Brandon and Teddy are survivors, but they will bear the scars of their abuse for the rest of their lives. Both boys have been adopted and are receiving expert care from a committed and loving family. Brandon is 6 years old and is stricken with a permanent brain injury. He has a seizure disorder, shunts in his head, and a permanent blind spot as a result of being shaken. Brandon receives special education services and learns very slowly. Teddy is 4 years old and does not speak. His brain injury impacts his problem-solving capability and his education is a long and tedious process. Teddy will probably never be able to live independent of a care-giver.

Brandon and Teddy's injuries were entirely preventable. A study by the Ohio Research Institute on Child Abuse Prevention indicates that 25 to 50 percent of adults do not know that shaking a baby is dangerous. Education of adult and teenage child care providers is the key to preventing the tragic consequences of SBS. According to studies by the U.S. Advisory Board on Child Abuse and Neglect, SBS is so lethal that over 20 percent of its victims die from the resulting injuries. These injuries may account for over 10 percent of all physical child abuse deaths in the United States.

On November 10, 1996, the first National Conference on Shaken Baby Syndrome will convene in Salt Lake City, UT. At this conference a coalition of families, doctors, law enforcement people, and child protection officials will gather to discuss the issues surrounding SBS. These committed individuals will work to educate medical professionals about the symptoms of SBS, push for more severe penalties for perpetrators, and teach all segments of the public that it's never OK to shake a baby.

Mr. President this resolution emphasizes the importance of this historic conference. It is my hope that the Senate will continue its commitment to the health and safety of America's children by supporting this resolution.

I ask unanimous consent that the list of supporting agencies be listed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS BY STATE SUPPORTING SHAKEN BABY SYNDROME RESOLUTION

AL—Alabama Children's Trust Fund
AK—Rural Community Action Program
AR—Arkansas Child Abuse Prevention
AZ—National Council for the Prevention of Child Abuse: AZ Chpt.
CA—Office of Child Abuse Prevention
CO—Pueblo City-County Health Dept.
CT—Wheeler Clinic, Plainville, CT
DE—Delawareans United to Prevent Child Abuse
FL—Florida Council for the Prevention of Child Abuse
GA—Georgia Council on Child Abuse, Inc.
HI—Prevent Child Abuse Hawaii
ID—Idaho Children Services Bureau
IN—Indiana Chapter NCPCA
IA—Iowa Chapter NCPCA
KS—Child Abuse Prevention Coalition
KY—Kentucky Council on Child Abuse, Inc.
LA—Louisina Council on Child Abuse
ME—Maine Dept. of Maternal and Child Health
MD—Mt. Washington Pediatric Hospital
MA—Massachusetts Committee for Children and Youth
MI—Michigan Children's Trust Fund
MN—Midwest Children's Resource Center
MS—Mississippi Children's Trust Fund
MO—MO Dept. of Health—Bureau of Prenatal and Child Health
MT—Cascade Cty. Child Abuse Prevention Council, Great Falls, MT
NE—Nebraska Department of Social Services
NV—Nevada Chapter NCPCA
NH—NH Bureau of Maternal and Child Health
NJ—New Jersey Chapter NCPCA
NM—NM Dept. of Children, Youth and Families
NY—William B. Hoyt Memorial Children and Families Trust Fund
NC—Prevent Child Abuse North Carolina
ND—Children's Hospital MeritCare
OH—Council on Child Abuse of Southern Ohio
OK—Children's Hospital of Oklahoma
OR—Children's Trust Fund
RI—Rhode Island Committee to Prevent Child Abuse
SC—SC Office of Public Health—Social Work
SD—SD Office of Child Protection Services
TN—Tennessee Dept. of Human Services
TX—Children's Trust Fund of Texas
UT—Child Abuse Prevention of Ogden
VT—Vermont Chapter NCPCA
VA—SCAN of Northern Virginia, Inc.
WA—WA Council for Prevention of Child Abuse and Neglect
WV—WV Children's Reportable Disease Coordinator
WI—WI Child Protection Center/Outpatient Health Center
WY—Wyoming Dept. of Family Services
DC—Children's Nat'l Medical Center—Div. of Child Protection.•

AMENDMENTS SUBMITTED

THE WALHALLA NATIONAL FISH HATCHERY CONVEYANCE ACT

HOLLINGS AMENDMENT NO. 5398

Mr. FRIST (for Mr. HOLLINGS) proposed an amendment to the bill (H.R. 3546) to direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina; as follows:

Before section 1, insert the following:

TITLE I—WALHALLA NATIONAL FISH HATCHERY

At the end of the bill, add the following:

TITLE II—CORRECTION OF COASTAL BARRIER RESOURCES MAP

SEC. 201. CORRECTIONS OF MAP.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the set of maps described in subsection (b) as are necessary to move the southern-most boundary of Unit SC-01 of the Coastal Barrier Resources System (known as the "Long Pond Unit") to exclude from the Unit the structures known as "Lands End", "Beachwalk", and "Courtyard Villas", including the land lying between the structures. The corrected southern boundary shall extend in a straight line, at the break in development, between the coast and the north boundary of the unit.

(b) MAPS.—The set of maps described in this subsection is the set of maps entitled "Coastal Barrier Resources System" dated October 24, 1990, insofar as the maps relate to Unit SC-01 of the Coastal Barrier Resources System.

THE WYOMING FISH AND WILDLIFE FACILITY ACT OF 1996

THOMAS (AND OTHERS) AMENDMENT NO. 5399

Mr. FRIST (for Mr. THOMAS, for himself, Mr. SIMPSON, Mr. DASCHLE, and Mr. PRESSLER) proposed an amendment to the bill (S. 1802) to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes; as follows:

Beginning on page 2, strike line 3 and all that follows through page 3, line 11, and insert the following:

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey, in "as is" condition, to the State of Wyoming without reimbursement—

(A) all right, title, and interest of the United States in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, other than the portion described in paragraph (2), consisting of approximately 600 acres of land (including all real property, buildings, and all other improvements to real property) and all personal property (including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture directly related to the site, including personal property on loan to museums and other entities at the time of transfer);

(B) all right, title, and interest of the United States in and to all buildings and related improvements and all personal property associated with the buildings on the portion of the property described in paragraph (2); and

(C) a permanent right of way across the portion of the property described in paragraph (2) to use the buildings conveyed under subparagraph (B).

(2) RANCH A.—Subject to the exceptions described in subparagraphs (B) and (C) of paragraph (1), the United States shall retain all right, title, and interest in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, described as Township 52 North, Range 61 West, Section 24 N½ SE¼, consisting of approximately 80 acres of land.

(b) USE AND REVERSIONARY INTEREST.—

(1) USE.—The property conveyed to the State of Wyoming under this section shall be retained by the State and be used by the State for the purposes of—

(A) fish and wildlife management and educational activities; and

(B) using, maintaining, displaying, and restoring, through State or local agreements, or both, the museum-quality real and personal property and the historical interests and significance of the real and personal property, consistent with applicable Federal and State laws.

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institutions of higher education.

(3) REVERSION.—All right, title, and interest in and to the property described in subsection (a) shall revert to the United States if—

(A) the property is used by the State of Wyoming for any other purpose than the purposes set forth in paragraph (1):

(B) there is any development of the property (including commercial or recreational development, but not including the construction of small structures, to be used for the purposes set forth in subsection (b)(1), on land conveyed to the State of Wyoming under subsection (a)(1)(A)); or

(C) the State does not make every reasonable effort to protect and maintain the quality and quantity of fish and wildlife habitat on the property.

(c) ADDITION TO THE BLACK HILLS NATIONAL FOREST.—

(a) TRANSFER.—Administrative jurisdiction of the property described in subsection (a)(2) is transferred to the Secretary of Agriculture, to be included in and managed as part of the Black Hills National Forest.

(2) NO HUNTING OR MINERAL DEVELOPMENT.—No hunting or mineral development shall be permitted on any of the land transferred to the administrative jurisdiction of the Secretary of Agriculture by paragraph (1).

THE TENSAS RIVER NATIONAL WILDLIFE REFUGE ACT OF 1996

JOHNSTON AMENDMENT NO. 5400

Mr. FRIST (for Mr. JOHNSTON) proposed an amendment to the bill (H.R. 2660) to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge; as follows:

At the end of the bill, add the following:

SEC. 3. BAYOU SAUVAGE URBAN NATIONAL WILDLIFE REFUGE.

(a) RFUGE EXPANSION.—Section 502(b)(1) of the Emergency Wetlands Resources Act of 1986 (Public Law 99-645; 100 Stat. 3590), is amended by inserting after the first sentence the following: "In addition, the Secretary may acquire, within such period as may be necessary, an area of approximately 4,228 acres, consisting of approximately 3,928 acres located north of Interstate 10 between Little Woods and Pointe-aux-Herbes and approximately 300 acres south of Interstate 10 between the Maxent Canal and Michoud Boulevard that contains the Big Oak Island archaeological site, as depicted on the map entitled "Bayou Sauvage Urban National Wildlife Refuge Expansion", dated August, 1996, on file with the United States Fish and Wildlife Service."

THE ANIMAL DRUG AVAILABILITY ACT OF 1996

KASSEBAUM AMENDMENT NO. 5401

Mr. FRIST (for Mrs. KASSEBAUM) proposed an amendment to the bill (S. 773) to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Animal Drug Availability Act of 1996".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 2. EVIDENCE OF EFFECTIVENESS.

(A) ORIGINAL APPLICATIONS.—Paragraph (3) of section 512(d) (21 U.S.C. 360(d)) is amended to read as follows:

"(3) As used in this section, the term 'substantial evidence' means evidence consisting of one or more adequate and well controlled investigations, such as—

"(A) a study in a target species;

"(B) a study in laboratory animals;

"(C) any field investigation that may be required under this section and that meets the requirements of subsection (b)(3) if a presubmission conference is requested by the applicant:

"(D) a bioequivalence study; or

"(E) an in vitro study;

by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.".

(b) CONFORMING AMENDMENTS.—

(1) Clauses (ii) and (iii) of section 512(c)(2)(F) (21 U.S.C. 360b(c)(2)(F)) are each amended—

(A) by striking "reports of new clinical or field investigations (other than bioequivalence or residue studies) and," and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or,"; and

(B) by striking "essential to" and inserting "required for".

(2) Section 512(c)(2)(F)(v) (21 U.S.C. 360b (c)(2)(F)(v)) is amended—

(A) by striking "subparagraph (B)(iv)" each place it appears and inserting "clause (iv)";

(B) by striking "reports of clinical or field investigations" and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety,"; and

(C) by striking "essential to" and inserting "required for".

(c) COMBINATION DRUGS.—Section 512(d) (21 U.S.C. 360b(d)), as amended by subsection (a) is amended by adding at the end the following:

"(4) In a case in which an animal drug contains more than one active ingredient, or the labeling of the drug prescribes, recommends, or suggests use of the drug in combination with one or more other animal drugs, and the active ingredients or drugs intended for use in the combination have previously been separately approved for particular uses and conditions of use for which they are intended for use in the combination—

"(A) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on human food safety grounds unless the Secretary finds that the application fails to establish that—

"(i) none of the active ingredients or drugs intended for use in the combination, respectively, at the longest withdrawal time of any of the active ingredients or drugs in the combination, respectively, exceeds its established tolerance; or

"(ii) none of the active ingredients or drugs in the combination interferes with the methods of analysis for another of the active ingredients or drugs in the combination, respectively;

"(B) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on target animal safety grounds unless the Secretary finds that—

"(i)(I) there is a substantiated scientific issue, specific to one or more of the active ingredients or animal drugs in the combination, that cannot adequately be evaluated based on information contained in the application for the combination (including any investigations, studies, or tests for which the applicant has a right of reference or use from the person by or for whom the investigations, studies, or tests were conducted); or

"(II) there is a scientific issue raised by target animal observations contained in studies submitted to the Secretary as part of the application; and

"(ii) based on the Secretary's evaluation of the information contained in the application with respect to the issues identified in clauses (i)(I) and (II), paragraph (1)(A), (B), or (D) apply;

"(C) except in the case of a combination that contains a nontopical antibacterial ingredient or animal drug, the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use other than in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to labeled effectiveness;

"(ii) each active ingredient or animal drug intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population; or

"(iii) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs may be physically incompatible or have disparate dosing regimens, such active ingredients or animal drugs are physically compatible or do not have disparate dosing regimens; and

"(D) the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to the labeled effectiveness;

"(ii) each of the active ingredients or animal drugs intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population;

"(iii) where a combination contains more than one nontopical antibacterial ingredient or animal drug, there is substantial evidence that each of the nontopical antibacterial ingredients or animal drugs makes a contribution to the labeled effectiveness; or

"(iv) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs intended for use in drinking water may be physically incompatible, such active ingredients or animal drugs intended for use in drinking water are physically compatible.".

(d) PRESUBMISSION CONFERENCE.—Section 512(b) (21 U.S.C. 360b(b)) is amended by adding at the end the following:

"(3) Any person intending to file an application under paragraph (1) or a request for an investigational exemption under subsection (j) shall be entitled to one or more conferences prior to such submission to reach an agreement acceptable to the Secretary establishing a submission or an investigational requirement, which may include a requirement for a field investigation. A decision establishing a submission or an investigational requirement shall bind the Secretary and the applicant or requestor unless (A) the Secretary and the applicant or requestor mutually agree to modify the requirement, or (B) the Secretary by written order determines that a substantiated scientific requirement essential to the determination of safety or effectiveness of the animal drug involved has appeared after the conference. No later than 25 calendar days after each such conference, the Secretary shall provide a written order setting forth a scientific justification specific to the animal drug and intended uses under consideration if the agreement referred to in the first sentence requires more than one field investigation as being essential to provide substantial evidence of effectiveness for the intended uses of the drug. Nothing in this paragraph shall be construed as compelling the Secretary to require a field investigation.".

(e) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations implementing the amendments made by this Act as described in paragraph (2)(A) of this subsection, and not later than 18 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments. Not later than 12 months after the date of enactment of this Act, the Secretary shall issue proposed regulations implementing the other amendments made by this Act as described in paragraphs (2)(B) and (2)(C) of this subsection, and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments.

(2) CONTENTS.—In issuing regulations implementing the amendments made by this Act, and in taking an action to review an application for approval of a new animal drug under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), or request for an investigational exemption for a new animal drug under subsection (j) of such section, that is pending or has been submitted prior to the effective date of the regulations, the Secretary shall—

(A) further define the term "adequate and well controlled", as used in subsection (d)(3) of section 512 of such Act, to require that field investigations be designed and conducted in a scientifically sound manner, taking into account practical conditions in the field and differences between field conditions and laboratory conditions;

(B) further define the term "substantial evidence", as defined in subsection (d)(3) of such section, in a manner that encourages the submission of applications and supplemental applications; and

(C) take into account the proposals contained in the citizen petition (FDA Docket No. 91P-0434/CP) jointly submitted by the American Veterinary Medical Association and the Animal Health Institute, dated October 21, 1991.

Until the regulations required by subparagraph (A) are issued, nothing in the regulations published at 21 C.F.R. 514.111(a)(5) (April 1, 1996) shall be construed to compel the Secretary of Health and Human Services to require a field investigation under section 512(d)(1)(E) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1)(E)) or to apply any of its provisions in a manner inconsistent with the considerations for scientifically sound field investigations set forth in subparagraph (A).

(f) MINOR SPECIES AND USES.—The Secretary of Health and Human Services shall consider legislative and regulatory options for facilitating the approval under section 512 of the Federal Food, Drug, and Cosmetic Act of animal drugs intended for minor species and for minor uses and, within 18 months after the date of enactment of this Act, announce proposals for legislative or regulatory change to the approval process under such section for animal drugs intended for use in minor species or for minor uses.

SEC. 3. LIMITATION ON RESIDUES.

Section 512(d)(1)(F) (21 U.S.C. 360b(d)(1)(F)) is amended to read as follows:

"(F) Upon the basis of information submitted to the Secretary as part of the application or any other information before the Secretary with respect to such drug, any use prescribed, recommended, or suggested in labeling proposed for such drug will result in a residue of such drug in excess of a tolerance found by the Secretary to be safe for such drug.".

SEC. 4. IMPORT TOLERANCES.

Section 512(a) (21 U.S.C. 360b(a)) is amended by adding the following new paragraph at the end:

"(6) For purposes of section 402(a)(2)(D), a use or intended use of a new animal drug shall not be deemed unsafe under this section if the Secretary establishes a tolerance for such drug and any edible portion of any animal imported into the United States does not contain residues exceeding such tolerance. In establishing such tolerance, the Secretary shall rely on data sufficient to demonstrate that a proposed tolerance is safe based on similar food safety criteria used by the Secretary to establish tolerances for applications for new animals drugs filed under subsection (b)(1). The Secretary may consider and rely on data submitted by the drug manufacturer, including data submitted to appropriate regulatory authorities in any country where the new animal drug is lawfully used or data available from a relevant international organization, to the extent such data are not inconsistent with the criteria used by the Secretary to establish a tolerance for applicatiors for new animal drugs filed under subsection (b)(1). For purposes of this paragraph, 'relevant international organization' means the Codex Alimenterius Commission or other international organization deemed appropriate by the Secretary. The Secretary may, under procedures specified by regulation, revoke a tolerance established under this paragraph if information demonstrates that the use of the new animal drug under actual use conditions results in food being imported into the United States with residues exceeding the tolerance or if scientific evidence shows the tolerance to be unsafe.".

SEC. 5. VETERINARY FEED DIRECTIVES.

(a) SECTION 503.—Section 503(f)(1)(A) (21 U.S.C. 353(f)(1)(A)) is amended by inserting after "other than man" the following: ", other than a veterinary feed directive drug intended for use in animal feed or an animal feed bearing or containing a veterinary feed directive drug,".

(b) SECTION 504.—The Federal Food, Drug, and Cosmetic Act is amended by inserting after section 503 the following:

"VETERINARY FEED DIRECTIVE DRUGS

"SEC. 504. (a)(1) A drug intended for use in or on animal feed which is limited by an approved application filed pursuant to section 512(b) to use under the professional supervision of a licensed veterinarian is a veterinary feed directive drug. Any animal feed bearing or containing a veterinary feed directive drug shall be fed to animals only by or upon a lawful veterinary feed directive issued by a licensed veterinarian in the course of the veterinarian's professional practice. When labeled, distributed, held, and used in accordance with this section, a veterinary feed directive drug and any animal feed bearing or containing a veterinary feed directive drug shall be exempt from section 502(f).

"(2) A veterinary feed directive is lawful if it—

"(A) contains such information as the Secretary may by general regulation or by order require; and

"(B) is in compliance with the conditions and indications for use of the drug set forth in the notice published pursuant to section 512(i).

"(3)(A) Any persons involved in the distribution or use of animal feed bearing or containing a veterinary feed directive drug and the licensed veterinarian issuing the veterinary feed directive shall maintain a copy of the veterinary feed directive applicable to each such feed, except in the case of a person distributing such feed to another person for further distribution. Such person distributing the feed shall maintain a written acknowledgement from the person to whom the feed is shipped stating that that person shall not ship or move such feed to an animal production facility without a veterinary feed directive or ship such feed to another person for further distribution unless that person has provided the same written acknowledgement to its immediate supplier.

"(B) Every person required under subparagraph (A) to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(C) Any person who distributes animal feed bearing or containing a veterinary feed directive drug shall upon first engaging in such distribution notify the Secretary of that person's name and place of business. The failure to provide such notification shall be deemed to be an act which results in the drug being misbranded.

"(b) A veterinary feed directive drug and any feed bearing or containing a veterinary feed directive drug shall be deemed to be misbranded if their labeling fails to bear such cautionary statement and such other information as the Secretary may by general regulation or by order prescribe, or their advertising fails to conform to the conditions and indications for use published pursuant to section 512(i) or fails to contain the general cautionary statement prescribed by the Secretary.

"(c) Neither a drug subject to this section, nor animal feed bearing or containing such a drug, shall be deemed to be prescription article under any Federal or State law.".

(c) CONFORMING AMENDMENT.—Section 512 (21 U.S.C. 360b) is amended in subsection (i) by inserting after "(including special labeling requirements" the following: "and any requirement that an animal feed bearing or containing the new animal drug be limited to use under the professional supervision of a licensed veterinarian".

(d) SECTION 301(e).—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting after "by section 412" the following: ", 504,"; and by inserting after "under section 412," the following: "504,".

SEC. 6. FEED MILL LICENSES.

(a) SECTION 512(a).—Paragraphs (1) and (2) of section 512(a) (21 U.S.C. 360b(a)) are amended to read as follows:

"(a)(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for the purposes of section 501(a)(5) and section 402(a)(2)(D) unless—

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and

"(B) such drug, its labeling, and such use conform to such approved application.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

"(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for the purposes of section 501(a)(6) unless—

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed,

"(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed, and

"(C) such animal feed and its labeling, distribution, holding, and use conform to the conditions and indications of use published pursuant to subsection (i).".

(b) SECTION 512(m).—Section 512(m) (21 U.S.C. 360b(m)) is amended to read as follows:

"(m)(1) Any person may file with the Secretary an application for a license to manufacture animal feeds bearing or containing new animal drugs. Such person shall submit to the Secretary as part of the application (A) a full statement of the business name and address of the specific facility at which the manufacturing is to take place and the facility's registration number, (B) the name and signature of the responsible individual or individuals for that facility, (C) a certification that the animal feeds bearing or containing new animal drugs are manufactured and labeled in accordance with the applicable regulations published pursuant to subsection (i), and (D) a certification that the methods used in, and the facilities and controls used for, manufacturing, processing, packaging, and holding such animal feeds are in conformity with current good manufacturing practice as described in section 501(a)(2)(B).

"(2) Within 90 days after the filing of an application pursuant to paragraph (1), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall (A) issue an order approving the application if the Secretary then finds that none of the grounds for denying approval specified in paragraph (3) applies, or (B) give the applicant notice of an opportunity for a hearing before the Secretary under paragraph (3) on the question whether such application is approvable. The procedure governing such a hearing shall be the procedure set forth in the last two sentences of subsection (c)(1).

"(3) If the Secretary, after due notice to the applicant in accordance with paragraph (2) and giving the applicant an opportunity for a hearing in accordance with such paragraph, finds, on the basis of information submitted to the Secretary as part of the application, on the basis of a preapproval inspection, or on the basis of any other information before the Secretary—

"(A) that the application is incomplete, false, or misleading in any particular;

"(B) that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such animal feed are inadequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

"(C) that the facility manufactures animal feeds bearing or containing new animal drugs in a manner that does not accord with the specifications for manufacture or labels animal feeds bearing or containing new animal drugs in a manner that does not accord with the conditions or indications of use that are published pursuant to subsection (i),

the Secretary shall issue an order refusing to approve the application. If, after such notice and opportunity for hearing, the Secretary finds that subparagraphs (A) through (C) do not apply, the Secretary shall issue an order approving the application. An order under this subsection approving an application for a license to manufacture animal feeds bearing or containing new animal drugs shall permit a facility to manufacture only those animal feeds bearing or containing new animal drugs for which there are in effect regulations pursuant to subsection (i) relating to the use of such drugs in or on such animal feed.

"(4)(A) The Secretary shall, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feeds bearing or containing new animal drugs under this subsection if the Secretary finds—

"(i) that the application for such license contains any untrue statement of a material fact; or

"(ii) that the applicant has made changes that would cause the application to contain any untrue statements of material fact or that would affect the safety or effectiveness of the animal feeds manufactured at the facility unless the applicant has supplemented the application by filing with the Secretary adequate information respecting all such changes and unless there is in effect an approval of the supplemental application.

If the Secretary (or in the Secretary's absence the officer acting as the Secretary) finds that there is an imminent hazard to the health of humans or of the animals for which such animal feed is intended, the Secretary may suspend the license immediately, and give the applicant prompt notice of the action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this sentence shall not be delegated.

"(B) The Secretary may also, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feed under this subsection if the Secretary finds—

"(i) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under paragraph (5)(A) of this subsection or section 504(a)(3)(A), or the applicant has refused to permit access to, or copying or verification of, such records as required by subparagraph (B) of such paragraph or section 504(a)(3)(B);

"(ii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the methods used in, or the facilities and controls used for, the manufacture, processing, packing, and holding of such animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein, and were not made adequate within a reasonable time after receipt of written notice from the Secretary, specifying the matter complained of;

"(iii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the labeling of any animal feeds, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

"(iv) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the facility has manufactured, processed, packed, or held animal feed bearing or containing a new animal drug adulterated under section 501(a)(6) and the facility did not discontinue the manufacture, processing, packing, or holding of such animal feed within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

"(C) The Secretary may also revoke a license to manufacture animal feeds under this subsection if an applicant gives notice to the Secretary of intention to discontinue the manufacture of all animal feed covered under this subsection and waives an opportunity for a hearing on the matter.

"(D) Any order under this paragraph shall state the findings upon which it is based.

"(5) When a license to manufacture animal feeds bearing or containing new animal drugs has been issued—

"(A) the applicant shall establish and maintain such records, and make such reports to the Secretary, or (at the option of the Secretary) to the appropriate person or persons holding an approval application filed under subsection (b), as the Secretary may by general regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether this is or may be ground for invoking subsection (e) or paragraph (4); and

"(B) every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(6) To the extent consistent with the public health, the Secretary may promulgate regulations for exempting from the operation of this subsection facilities that manufacture, process, pack, or hold animal feeds bearing or containing new animal drugs.".

(c) TRANSITIONAL PROVISION.—A person engaged in the manufacture of animal feeds bearing or containing new animal drugs who holds at least one approved medicated feed application for an animal feed bearing or containing new animal drugs, the manufacture of which was not otherwise exempt from the requirement for an approved medicated feed application on the date of the enactment of this Act, shall be deemed to hold a license for the manufacturing site identified in the approved medicated feed application. The revocation of license provisions of section 512(m)(4) of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, shall apply to such licenses. Such license shall expire within 18 months from the date of enactment of this Act unless the person submits to the Secretary a completed license application for the manufacturing site accompanied by a copy of an approved medicated feed application for such site, which license application shall be deemed to be approved upon receipt by the Secretary.

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Wednesday, October 2, 1996, at 9 a.m. in SR–328A to discuss renewable fuels and the future security of U.S. energy supplies.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2 p.m. on Wednesday, September 25, 1996, in open session, to receive testimony on the impact of the Bosnian elections and the deployment of United States Military Forces to Bosnia and the Middle East.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, September 24, 1996, at 3:30 p.m. in executive session, to consider certain pending military nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, September 24, 1996 session of the Senate for the purpose of conducing a hearing on S. 1860, the Auto Choice Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 24, 1996, at 10 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BROWN. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, September 24, at 10 a.m. for a hearing on the S. 1724, Freedom from Government Competition Act of 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Tuesday, September 24, 1996, at 9:30 a.m. in room 106 of the Dirksen Senate Office Building to conduct a hearing on tribal sovereign immunity.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Tuesday, September 24, at 9 a.m. to hold a hearing to discuss Social Security reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE OF INTENTION TO SUSPEND THE STANDING RULES OF THE SENATE

Mr. LOTT. Mr. President, pursuant to rule 5, paragraph 1 of the Standing Rules of the Senate, I hereby give written notice to suspend rule 28 of the Standing Rules of the Senate, titles 3 and 6 of the Budget Act and all provisions of the budget resolutions for consideration of the conference report to accompany H.R. 3610, the DOD appropriations bill.

ADDITIONAL STATEMENTS

UNITED STATES' RELATIONSHIP WITH NORTH KOREA

• Mr. SIMON. Mr. President, one of the Members of Congress who has contributed significantly more than most of us is Congressman TONY HALL.

His emphasis on helping people in need has sharpened the conscience of many policymakers, though it has not sharpened it enough.

He has provided leadership in areas that most Members of Congress ignore, such as Eritrea.

Recently he went to North Korea, and he testified before the Subcommittee on East Asian and Pacific Affairs of the Senate Foreign Relations Committee.

It is a remarkable insight into the leadership that is needed in regard to the tense situation in Korea.

Nowhere do we have as many troops facing each other as we do between North Korea and South Korea and that problem is compounded by the fact that there is no communication between the two countries.

Mr President, I ask that Congressman HALL's remarks be printed in the RECORD.

The remarks follow:

TESTIMONY OF U.S. REPRESENTATIVE TONY P. HALL

Good morning. I want to thank you for inviting me to testify today, Mr. Chairman, and to thank both you and Senator Robb for the focus you are bringing to the United States' relationship with North Korea.

I am convinced that our increasing contacts with North Korea can only benefit America's interests—and make the job of the 37,000 American troops stationed along the border with South Korea easier. And I am hopeful that our contacts also will help the people of North Korea who have suffered in their decades-long isolation, and are hurting badly today.

Our humanitarian work, our progress in dismantling North Korea's nuclear reactor and on missile technology controls, and the unprecedented joint investigation by U.S. and North Korean soldiers into the fate of missing servicemen—all of these mark a dramatic turn-around in a relationship that is in its fifth decade of military tension.

I believe our nation owes special thanks for these changes to former President Jimmy Carter, whose personal diplomacy laid the groundwork for peace two years ago. Senator Paul Simon, who with Senator Frank Murkowski travelled to North Korea at a crucial moment, and who has championed ideas that hold great promise for the future of both countries, also deserves recognition for his work. We ought to build on their success in seizing this historic opportunity.

NORTH KOREA'S FOOD SHORTAGE

The hunger and malnutrition that I saw in North Korea is different than famines I've seen in my visits to other countries. This is the only country I can remember where grown children are shorter than their parents. The stunting is severe, especially when you compare North Koreans to their siblings and cousins in South Korea. And North Korea is the only place I've seen where parents and grandparents are giving their rations to their children in a desperate effort to protect them.

Today in North Korea, people are somehow surviving on rations of little more than 600 calories a day—just seven ounces of grain. That's not two bowls of rice, too much to die on, but not enough to live on and function. They are scrambling to supplement that starvation diet, but clearly having little success.

Nutritional standards say sedentary workers need about 2,000 calories a day to maintain their body weight—but people in North Korea cannot be sedentary. In two weeks, the harvest will be brought in with the aid of few animals and fewer machines. And if there is to be any hope for next year's harvest, the back-breaking work of rebuilding broken irrigation systems, roads, and other infrastructure must be completed.

Adults have lost an average of 30 pounds since January, according to Western aid workers I talked to there. According to our Ambassador to South Korea, James Laney, a North Korean soldier who defected to South Korea in mid-August weighed just 92 pounds. And there are many more measures of the extent of the suffering in North Korea in both the intelligence and in the unclassified reports of U.N. agencies, the International Red Cross, and charities that have visited North Korea.

For me, two things stand out in all of these measurements:

First, the bodies of most of the North Koreans that I saw are exhausted. Simply surviving this winter will be a tremendous physical challenge that many of them will not be able to meet.

Second, North Korea's land appears equally worn out. Food grows on any patch of land available—atop the rice paddy walls, along the shoulders of roads, in rivers' floodplains, on the slopes of steep hills. Land is not permitted to lie fallow, there is no investment in fertilizer and pesticides, deforestation leads to soil erosion that ruins once-productive land—and sorry yields are the result of it all.

North Korea's granaries were last full in 1992—but however self-inflicted the long-term problems may be, the country was overwhelmed by the worst natural disaster in its history last year. And this year, another severe flood struck the breadbasket provinces that produce 60 percent of North Korea's grain.

WHAT IS MISSING

What struck me most was not what I saw—but what was missing. There is an eerie silence in the capital, and in the villages that we visited in more than 20 hours on the road. You don't hear roosters crowing, and the air seems empty of birds—even of gulls in the seaside city of Haeju. You don't see cats, or rats, or cows or goats—or much sign of other animal life. Occasionally, in people's homes I saw dogs, but not a single puppy. According to some aid workers, the sight of a pregnant woman is increasingly rare, and a new maternity hospital never has more than 25 of its 250 beds filled. Certainly we saw no fat people—or anybody that bore much resemblance to their healthier siblings and cousins in South Korea.

Soldiers—and we saw a lot of individual soldiers throughout the capital and countryside—have the same hollow-cheeked look as civilians, and their uniforms hang very loosely on them. That may be the best evidence that most of North Korea's military isn't getting much more to eat than the rest of the people.

All of this added up to a nagging sense that we simply cannot know what is happening in North Korea. Aid workers speak in hushed tones when talk turns to what is happening in the mountains that make up 80 percent of North Korea. They can barely help the 1.5 million children and flood victims covered by the U.N.'s appeal for humanitarian aid; the remaining 20 million people are on their own.

Two American demographers, Nicholas Eberstadt of the American Enterprise Institute and Judith Banister, of the U.S. Census Bureau, have done statistical analysis of North Korea's population—and with your permission, Mr. Chairman, I would like to submit a letter for the record that Mr. Eberstadt is preparing. The gist of their finding is that half a million people are "missing." That is either (1) a statistical blip; or (2) a sign of severe changes in the birth and death rates. We cannot know which is true, but I believe the possibility of something that would affect 500,000 people deserves our concern.

NORTH KOREA'S OWN EFFORTS

I also want to comment briefly on the efforts that North Korea is making to ease suffering in its country. Its rations system now feeds the majority of the population, and by all accounts, it is meticulously fair. Ration cards measure out to three decimal points. A U.N. report issued Sept. 9 notes that sometimes there is not enough food to distribute the second of two monthly rations, but people do seem to share equally in the food available.

The system also appears to be exceptionally efficient. The first U.S. flag ship to visit North Korea since the war arrived on Wednesday, Aug. 21—and the rice and cornmeal it carried already was being distributed when I visited two rural provinces on Thursday, Aug. 22.

Other North Korean efforts are more troubling, however. According to Monday's report, some 30 to 90 percent of the nation's livestock have been turned over to individuals for tending or slaughtering; and local provinces have gotten a green-light to barter their timber and other resources for food (primarily with China)—increasing deforestation and reducing the fuel available this winter.

THE JULY 1996 FLOOD

So far, North Korea's suffering is largely caused by the 1995 disaster—a massive, 100-year flood that bore striking similarities to our own Midwest flood of just three years ago. People already bombarded with admonitions to "work harder, eat less" have high hopes that the 1996 harvest will be good.

It won't be.

United Nations experts who travelled to the region I saw just after I left reported this week that much of the country's breadbasket region—which produces 60 percent of its grain, and which I visited last month—was under water for five days in July. Rainfall was 3-5 times normal, overwhelming irrigation canals and bursting dams. To put the torrential rains into some perspective, it was twice what North Carolina and Virginia endured in Hurricane Fran's aftermath—and it lasted five times longer. And the rains came at a crucial time in crop development—stunting the growth of corn, and robbing rice stalks of their nutritional kernels.

Along just one 500-mile irrigation network, there were 369 breaks. A report issued by the International Red Cross, UNICEF, and several U.N. agencies puts the likely crop losses in the half-million acres irrigated by this system at $300 million. And broken sea dykes added to this misery, washing salt water over land and poisoning it for this year and probably several more.

INTERNATIONAL AID

The international community is lending a hand—but only barely. China, Japan and the U.S. each have donated some $6 million to the current appeal. South Korea has given $3 million, and promises far more if North Korea agrees to peace talks that President Clinton and President Kim proposed in April.

With the notable exception of Sweden, though, the response of most European nations has been nothing less than a "let 'em starve" pittance that shames the reputation of European people. I spoke with the director of U.S. AID, Brian Atwood, about this—and he plans to raise the matter with his European Community counterpart in October.

In all, just over half of the United Nations' current emergency appeal has been filled. It last until March 1997, but the food-for-work projects to rebuild irrigation systems and other infrastructure must begin immediately after the harvest in order to stave off another disaster in 1997.

NGOs are doing their best to respond, but they are hampered by restrictions on South Korean individuals—many who have family ties to the North—and by North Korea's petulant insistence that NGOs bring food, and not just people. Without eyewitness accounts, without reporting by independent journalists, NGOs simply cannot raise the money they need to fund their operations. U.S. organizations like World Vision and Mercy Corps are doing their best to help, and the U.S. government should lend its weight to their efforts.

In every disaster, NGOs are the first to respond—the people who work with the most vulnerable groups, and who stick around long enough to do the long-term work needed. Governments—including the U.S. Government—need to do more. But it will be the work of private citizens, and the organizations they support, that will make or break North Korea's recovery. This is my strong conviction, and I raised it with both North and South Korean leaders.

CONCLUSION

Despite the seemingly endless stream of bad news about North Korea, I remain hopeful. My talks with North Korea's leaders were productive, and I am convinced that good-faith efforts by the U.S. and other nations will produce more good-faith efforts by North Korea. It is not a quick process, but it is one whose pace is increasing, and it is our best hope for lending momentum to the progressive factions inside North Korea.

I am hopeful for one other reason: a UNICEF project that represents an historic joint effort by North and South Korea. Like all UNICEF projects, the Oral Rehydration Salts plant will be a Godsend to children. The packets of gluocse and salt that this plant will manufacture are used around the world as a circuit-breaker in the spiral of disease and death. If you care about suffering children, and had just three wishes, Oral Rehydration Salts would be one of those wishes.

North Korea was self-sufficient in producing this life-saving product—until the flood swept away its building and equipment in 1995. It has since donated a building for the plant to UNICEF and brought it up to World Health Organization standards—but UNICEF still lacked the money needed to equip the plant.

Until this week.

When I met South Korea's Foreign Minister, Gong Ro Myung en route home, I raised this urgent need with him. At the time, my hopes that South Korea would help were pretty low. But despite the loss of seats in Parliament that ensued after South Korea's donation of humanitarian aid ended in insults by North Korea; and despite public outrage recently reinvigorated by violent clashes between students and police, Minister Gong carried my request to President Kim Young Sam. And despite President Kim's difficult position as the country's first democratically elected leader—he pledged the money needed to finish this project.

His is an example that should inspire political leaders here, and in other capitals. I hope it will mark a determination by charities and private individuals to overcome the challenges of helping people in North Koreaa as well.

MISSING SERVICEMEN

Finally, I cannot close without expressing my serious concern about the persistent trickle of rumors that missing American servicemen have been sighted in North Korea. I personally raised questions about a pilot shot down during the Korean War, and conveyed the resolve of Americans to help the families of missing servicemen learn the answers to their question.

I know that this Committee's Chairman, along with Senators John Kerry, Nancy Kassebaum, Hank Brown, and Chuck Robb have devoted considerable attention to these questions, as has Senator John McCain. Several of my House colleagues also have worked hard on these issues—especially Congressmen Bill Richardson, Pete Peterson and Lane Evans. I am convinced that this persistent attention, and the ability of Americans in military service today to work on the ground in North Korea, offer the best hope possible.

Four decades of isolation have not produced answers about servicemen missing since the Korean War. I believe it is time to try a new strategy; and I hope that North Korea's new openness is the silver lining in the black cloud of the terrible suffering the North Korean people are enduring.

Again, thank you for holding this hearing, and for inviting me to testify.•

TRIBUTE TO AL SMITH

• Mr. McCONNELL. Mr. President, I rise today to recognize an icon of Kentucky journalism. For over 20 years, Al Smith has been part of what he calls "front-porch, cracker-barrel kind of discussion" on Kentucky radio. But part of that career, and part of a Kentucky tradition, has ended with his announcement of retirement.

Albert P. Smith, Jr., was born in Sarasota, FL, but has lived in Kentucky since 1958. When Al was 15, he entered the American Legion's high school oratorical contest. Living with his parents and grandparents in Hendersonville, TN, he received coaching for the contest from his grandmother and won the top national prize, a $4,000 college scholarship. He then traveled to New England, the Midwest and the South giving the speech in cities throughout the region. It was on this trip that Al sharpened his speaking skills.

In the mid 1960's, Al bought a 10 percent interest in the Russellville News-Democrat and Leader. That interest eventually grew to his ownership of six weekly newspapers. In 1974, while Al was editor of the News-Democrat, he became a household name as host of the radio program, "Comment on Kentucky." Once a week, he would drive 180 miles to host the show. The man who hired Al to do that job, O. Leonard Press, told the Lexington Herald-Leader, "I can't imagine the Kentucky landscape without Al."

Al is still host and producer of "Comment on Kentucky," Kentucky Educational Television's longest-running show. But last month, Al retired from his job as host of "PrimeLine with Al Smith" which is broadcast statewide via radio. He never planned to retire from the show; but recent health problems have necessitated a change in his busy lifestyle. His regular listeners will miss him greatly.

But perhaps Al's biggest fan is his wife of 29 years, Martha Helen. In an interview with the Lexington Herald-Leader, Martha Helen said of Al, "I still believe Al is the most interesting person I ever met."

Mr. President, I would like to pay tribute to Al Smith for his dedication to Kentucky journalism and I wish him great happiness in his retirement.•

RECENT EVENTS IN INDONESIA

• Mr. LEAHY. Mr. President, like many Senators I have been concerned about human rights in Indonesia and East Timor for many years. I was therefore pleased when the Clinton administration indicated on July 25 that it had added armored personnel carriers to the list of military equipment it will not sell to Indonesia until there is significant improvement in respect for human rights. The administration's policy already prohibited the sale of small arms and crowd control equipment.

Two days after the United States reaffirmed and expanded its policy, an Indonesian paramilitary group stormed and destroyed the headquarters of the Indonesian Democratic Party to eject supporters of the leading opposition leader, Megawati Sukarnoputri. Party members had occupied the building to protest the forced replacement of Ms. Megawati as party chair in June. The breakup of the protest sparked days of rioting in which at least 5 people were killed, 149 were injured, and dozens disappeared.

In the months after the riot, the Suharto government has cracked down on opposition groups, arresting more than 200 members of labor, human rights, and political organizations. Some individuals have reportedly been tortured in detention.

Under pressure from Congress, the administration agreed to delay the sale of F-16 fighter jets to Indonesia in response to the crackdown. In a letter I wrote urging the administration not to proceed with this sale, I noted that providing military equipment to a government that engages in a pattern of human rights violations is contrary to section 502(B) of the Foreign Assistance Act of 1961, and that the Indonesian Government clearly fits this description. I urged the administration not to proceed with the sale until the Indonesian Government "provides a full accounting of the individuals who have been detained and the charges against them, assurances that they are not being subjected to mistreatment and that they have access to lawyers and their families, and that people detained for their political views have been released."

I was therefore disturbed to learn weeks later that administration officials, having delayed the sale of F-16's on account of the human rights situation, were saying publicly that the sale would proceed "as early as January." This undercut an opportunity to send a strong signal to a regime that has quashed political dissent consistently and whose actions since July reveal a disregard for the principals of democracy that the United States seeks to promote around the world. The administration should make clear, both privately and publicly, that this sale will not proceed until the Indonesian Government complies with international human rights standards.

Indeed, I urge the administration to condemn all human rights violations in Indonesia. Abuses continue to occur throughout the country and in East Timor. On November 12, East Timorese will honor the victims of the 1991 massacre of more than 200 people by Indonesian troops at Santa Cruz cemetery in Dili, East Timor. A long-standing pattern of violations by the Indonesian military persists on that island, and the anniversary of the massacre at Santa Cruz presents an opportunity for the United States to urge the Indonesian Government to withdraw its troops from East Timor.

To that end, I urge the administration to actively support the efforts of Bishop Carlos Ximenes Belo to promote dialog and bring peace to East Timor, and to support the United Nations talks on East Timor's future.

Mr. President, the senior Senator from Rhode Island, Senator PELL, who has been a long-standing champion of human rights in East Timor, visited that island in May and issued a report of his trip. In that report, he describes a meeting with clergy in East Timor, who told him about some of the abuses they had witnessed. I ask that these excerpts from his report be printed in the RECORD.

The excerpts follow:

EXCERPTS OF TRIP REPORT OF SENATOR CLAIBORNE PELL ON HIS VISIT TO INDONESIA AND EAST TIMOR IN MAY–JUNE 1996

I had hoped to meet with the Bishop of East Timor, Msgr. Carlos Filipe Ximenes Belo. Bishop Belo is widely admired for his forthright objections to Indonesian human rights abuses and is a vital leader of his people. Regrettably, he was away from East Timor during my visit, though we were able to talk by phone.

I was able to meet with eleven priests from a variety of East Timorese parishes in what was by far the most fruitful and dramatic meeting of my trip . . . these priests gradually and fearlessly opened up to me and told me what they had seen and heard in their parishes over the last 20 years.

They spoke of military harassment of the Church that varies from obstructing their ability to meet with their parishioners to trying to create mistrust among the people of the Church . . .

None of the priests had been present at the 1991 massacre but one told us, with great emotion, of his experiences, that day and in the months afterwards. His home is near the Santa Cruz cemetery where the massacre occurred. He had heard the shots that morning, but thought at first they were the rumblings of a storm. When he went out later, he heard from people what had happened and he went to the cemetery and tried to give last rites to those who were dying or were dead. The military would not let him approach and tried to make him leave. He stayed anyway and soon saw three large military trucks approach and be loaded with corpses. Then he saw other trucks come that were filled with water and he watched them spray the blood off the ground where the killings had taken place.

The wounded were all taken to military hospitals, he said. He then proceeded, without prompting, to confirm the stories I had read and been told earlier, that no one was allowed to visit these wounded in the hospitals, not even the priests. Again he was unable to give last rites to the dying. He estimated that in the month following the massacre as many people died in the hospitals, either from poor treatment or from torture, as had been killed in the cemetery. He told of hearing eyewitness accounts of mass graves holding as many as 100 corpses in one pit. He said the month following the massacre came to be known as "The Second Massacre." . . . Emotions around the room continued to rise, both for those telling the stories and those of us listening to them. I was struck by the knowledge that 5 years previously this group would have risked the sudden intrusion of armed officials, as the priests systematically contradicted everything the Indonesian government officials in Jakarta and Dili had said . . .

Mr. President, we owe Senator PELL our gratitude for his defense of human rights in East Timor. I want to again urge the administration to use its influence with the Suharto government to permit the supporters of democracy to associate and speak freely, and to stop the violations of human rights.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through September 20, 1996. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1997 concurrent resolution on the budget, House Concurrent Resolution 178, show that current level spending is below the budget resolution by $425.7 billion in budget authority and by $248.9 billion in outlays. Current level is $17.8 billion above the revenue floor in 1997 and $99.4 billion above the revenue floor over the 5 years 1997–2001. The current estimate of the deficit for purposes of calculating the maximum deficit amount is −$39.2 billion, $266.5 billion below the maximum deficit amount for 1997 of $227.3 billion.

Since my last report, dated September 4, 1996, Congress has cleared and the President has signed the following appropriation bills: Military construction (Public Law 104-196), District of Columbia (Public Law 104–194), and legislative branch (Public Law 104–197). In addition, the Congress has cleared and the President has signed the National Defense Authorization Act for fiscal year 1997 (Public Law 104-201). The Congress has cleared for the President's signature the following appropriation bills: Energy and water (H.R. 3816) and transportation (H.R. 3675). These action changed the current level of budget authority and outlays.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 24, 1996.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1997 shows the effects of Congressional action on the 1997 budget and is current through September 20, 1996. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1997 Concurrent Resolution on the Budget (H.Con.Res. 178). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated September 3, 1996, the Congress has cleared and the President has signed the following appropriation bills: Military Construction (P.L. 104-196), District of Columbia (P.L. 104-194), and Legislative Branch (P.L. 104-197). In addition, the Congress has cleared for the President's signature the National Defense Authorization Act for FY 1997 (H.R. 3230) and the following appropriation bills: Energy and Water (H.R. 3816) and Transportation (H.R. 3675). These actions changed the current level of budget authority and outlays.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1997, 104TH CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS SEPT. 20, 1996

[In billions of dollars]

	Budget resolution H. Con. Res. 178	Current level	Current level over/ under resolution
ON-BUDGET			
Budget Authority	1,314.9	889.3	−425.7
Outlays	1,311.3	1,062.4	−248.9
Revenues:			
1997	1,083.7	1,101.6	17.8
1997–2001	5,913.3	6,012.7	99.4
Deficit	227.3	−39.2	−266.5
Debt Subject to Limit	5,432.7	5,041.5	−391.2
OFF-BUDGET			
Social Security Outlays:			
1997	310.4	310.4	0.0
1997–2001	2,061.3	2,061.3	0.0
Social Security Revenues:			
1997	385.0	384.7	−0.3
1997–2001	2,121.0	2,120.6	−0.4

Note: Current level numbers are the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2D SESSION; SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS SEPT. 20, 1996

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues	....	....	1,100,355
Permanents and other spending legislation	843,212	804,226	....
Appropriation legislation	....	238,523	....
Offsetting receipts	−199,772	−199,772	....
Total previously enacted	643,440	842,997	1,100,355
ENACTED THIS SESSION			
Appropriations bills:			
Agriculture (P.L. 104–180)	52,345	44,922	....
District of Columbia (P.L. 104–194)	719	719	....
Legislative Branch (P.L. 104–197)	2,166	1,917	....
Military Construction (P.L. 104–196)	9,982	3,140	....
Authorization bills:			
Taxpayer Bill of Rights 2 (P.L. 104–168)	....	....	−15
Federal Oil & Gas Royalty Simplification and Fairness Act of 1996 (P.L. 104–185)	−2	−2	....
Small Business Job Protection Act of 1996 (P.L. 104–188)	−76	−76	579
An Act To Authorize Voluntary Separation Incentives at A.I.D. (P.L. 104–191)	−1	−1	....
Health Insurance Portability and Accountability Act of 1996 (P.L. 104–191)	305	315	590
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193)	−2,341	−2,934	60
Total enacted this session	63,097	48,000	1,214
PASSED PENDING SIGNATURE			
National Defense Authorization Act for FY 1997 (H.R. 3230)	−103	−103	....
Transportation Appropriations (H.R. 3675)	12,599	12,270	....
Energy and Water Development Appropriations (H.R. 3816)	19,973	13,090	....
Total passed pending signature	32,469	25,257	....
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	150,245	146,161	....
Total current level [1]	889,251	1,062,395	1,101,569
Total budget resolution	1,314,935	1,311,321	1,083,728
Amount remaining:			
Under budget resolution	425,684	248,926	....

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2D SESSION; SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS SEPT. 20, 1996—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Over budget resolution	....	....	17,841

[1] In accordance with the Budget Enforcement Act, the total does not include $68 million in outlays for funding of emergencies that have been designated as such by the President and Congress.•

NORTH AND SOUTH KOREA

• Mr. SIMON. Mr. President, I hope that in the process of being absorbed in the crises around the world, we do not forget the North Korean situation.

It is the one place on the face of the Earth where more troops are facing each other than any other, and it is a place where there is virtually no communication between the two Governments, North Korea and South Korea.

Let me add that I appreciate the responsible role that my colleague, Senator FRANK MURKOWSKI, took on the recent amendment offered by Senator LIEBERMAN.

It is easy to do things that are popular, and FRANK MURKOWSKI won no votes in Alaska with his stand. But he did the responsible and right thing for the people of Alaska and this Nation and of the world, and I applaud him for it. It is no accident that he has been to North Korea and has greater understanding of that situation than many Members of the Senate.

Not too long ago, Ambassador James Laney, the U.S. Ambassador to South Korea, made a speech in which he said that the leaders of North Korea "are driven not by arrogance, but by insecurity." I tend to believe that is accurate. And we have to fashion a face-saving way of maneuvering them to become more responsible members of the world community.

Ambassador Laney also said in commenting on the situation: "For our part we do not need to act strong because we are strong."

I believe in the soundness in what he has said.

I urge members of the State Department and of the administration not to put the North Korea matter on the back burner, but to continue to focus on it, and try to bring about greater communication. If the four-power talks that have been suggested do not become reality, then at the very least, we ought to be inviting parliamentarians from both North Korea and South Korea to meet informally in the United States with each other and with others in our country.•

THE TERUYAS

• Mr. INOUYE. Mr. President, I wish to share with my colleagues in the Senate, a very special story about an immigrant family. This article was written by Mr. Don Chapman, and appeared in the Wednesday, September 4, 1996, issue of the Midweek.

This story is of three young men, whose parents traveled 4,800 miles to begin a new life in the Hawaiian Islands. The name of the sons were, Albert, Herman and Wallace. The Teruya brothers were extraordinary young men. Like most immigrants, they worked long hours with low wages, but they had great faith in our country. With their meager earnings, they first opened a small restaurant, Times Grill at 635 Kapiolani Boulevard, offering 24-hour service. I have had the privilege of knowing these brothers for over 50 years.

After the attack on Pearl Harbor, Herman and Wallace volunteered to serve in the U.S. Army. They served with the most decorated infantry regiment of World War II—the 442d Regimental Combat Team. Sgt. Herman Teruya, while charging up an Italian hill occupied by crack German soldiers made the supreme sacrifice. His valor is legendary in our regiment. After the war, Wallace returned to Honolulu to resume his activities that began before the war.

Together, the remaining brothers decided to take the big step and established a supermarket; it was called Times Supermarket. Today, 47 years later, Times Supermarket is the largest supermarket chain in the State of Hawaii. It is a household name.

We must keep in mind that we are all descendants of immigrants. This is the success story of the Teruya family, where the values of hard work and sacrifice have enabled them to live the American dream.

Mr. President, I ask that this special story of the Teruya brothers be printed in the RECORD.

The article follows:

THE TERUYAS

(By Don Chapman)

This is why people have always come to America, and why a teeming mass still strains to reach our shores. This is the American Dream, equal parts sweat and sacrifice, and if you're lucky a place in the sun and chickenskin on the Fourth of July.

It's about immigrant kids starting out dirt-poor on a plantation, taking a chance in the big city, working long and hard, living frugally and saving, serving their country in war even as their peers are rounded up into concentration camps, losing a brother in that war and then making his dream come alive.

It is timeless Americana. And it is the true story of the Teruyas of Times Supermarkets, which today operates 13 stores on Oahu and employs nearly 1,000 people.

"It's hard to imagine taking that risk, leaving your home to go to a foreign country to look for opportunities," says Wayne Teruya, who 2 years ago took over the company that his father and uncle founded in 1949. "But that's what my grandparents did. They came from Okinawa to work on the plantations."

The Teruyas have been trying bold, new things ever since. The first Times, for instance, was the first retail store in Hawaii to offer air-conditioning (1949). The Liliha store was the first to be integrated into a condominium complex (1975). The Waialae store was the first to use a bar-code scanner at the checkout counter (1979). Today, Times is the leader in supermarket pharmacies.

The Times story really begins with Albert Teruya, Wayne's uncle. Seeing no opportunity to improve his bleak life on the Wailea plantation, he left Maui in 1929 at the age of 15 and caught a steamer to Honolulu. Two years later, his brother Wallace joined him.

"They started out working in restaurants," Wayne says.

The Great Depression was on, and one benefit of restaurant work was that it provided room and board plus wages. The brothers worked 14 hours a day, but the enthusiasm of youth fueled by a dream of something better kept them going. In 1936, they pooled their savings and bought the lunch counter at a downtown drug store for $600 and named it the T&W Lunchroom.

Three years later, in partnership with their cousin, Kame Uehara, with whom Albert had first lived in Honolulu, they opened Times Grill at 635 Kapiolani Boulevard, offering 24-hour service.

Albert says the name Times, which they took with them to the grocery business, expresses the company's progressive attitude: "Keeping up with the times."

Two other reasons they chose that name 57 years ago: Times was easily pronounced by non-English speaking immigrants and it fit easily on a small sign.

Two years later, Pearl Harbor was attacked. Wallace and another brother, Herman, put their dreams on hold and enlisted in the 442nd. In Italy, Sgt. Herman Teruya gave the ultimate sacrifice. While charging an enemy position, the young infantryman was killed.

Wallace returned from the war with Herman's dream still alive.

"My uncle Herman had been interested in opening up a grocery store," says Wayne Teruya, son of Wallace. "My father and uncle decided to pursue that route. They thought there was more opportunity in the grocery business. The restaurant business is long hours, even after-hours, and there's bars and drinking involved. So they decided to try the supermarket business. They got involved in different aspects of the business, working for suppliers, working for another supermarket, learning all the aspects of the grocery business so when they opened their own business, they had a broad perspective of all the different departments."

Selling groceries is far different today than it was when Albert and Wallace first opened the doors in 1949.

"In those days you didn't have too many choices, but in today's marketplace you have too many choices," Teruya says with a laugh, then turns serious. "It's not only the other supermarkets, but Longs, Walmart, K-Mart, as well as the Costcos and convenience stores. We know you have your choice of going anyplace. We know you don't have to come to Times Supermarket to do your shopping. It's not just that you have to eat so you come to our store. We have to deserve your business.

"We're still struggling with the Costcos and Sam's Clubs. The impact of them is that many of our customers go [to discount markets] for their big bulk buys. If they're having a big party, they may decide to go there. So our effort is still to give good customer service and give them good reasons to come into our store."

One innovation that sets Times apart is its pharmacies. "We have the opportunity in the supermarket industry in the state of Hawaii to be the front-runners," Teruya says. "All but two of our 13 stores have pharmacies. Safeway only has three. Star has two.

"Pharmacy is one of the departments that makes us different among the supermarkets, and one where we're not really challenged. Longs, a regular drug store, is our major competition. With Payless out of the market now, as far as chain pharmacies in Hawaii, it's Longs and Times Supermarkets."

Teruya adds that with the Baby Boomer generation turning 50—as he will next year—and becoming senior citizens, a period in human lives that often requires more medical attention and more medicines, Times' pharmacies are in a position to both take advantage of that demographic situation and to help customers: "If they have diabetes, for example, you can suggest to them food products that will help them in their diet to control the diabetes. We're working on programs where we can give advice on diet needs which crosses over to our foods. Drug cost is a small component of a person's overall health care cost, so if we can do a better job in the pharmacy, the overall medical cost can come down."

Teruya says Times is working on the other innovations in the tradition of Albert and Wallace, but doesn't want to tip his hand just yet.

As he looks forward, Teruya glances in the rearview mirror of life. He considers the risks taken by his immigrant grandparents and the hard work of his industrious father and uncle: "Yes, it does make you feel good to come from people like that. And I feel a responsibility to continue it."

Sometimes when you look in that rearview mirror, some objects appear larger than life. It must be that way for the Teruyas.

In 1947, Wallace, Albert and Kame sold Times Grill—to a former employer at the Kewalo Inn who had just returned from a California internment camp—and began methodically learning the grocery business. Wallace worked in Amfac's grocery warehouse and at Tom, Dick and Harry's market on Kapahulu. Albert worked at Sears, where he learned how a big company operates and about customer service.

On April 29, 1949, with the help of friends and family who helped stock shelves, they opened the first Times Supermarket, the McCully store at 1772 South King Street.

That first store was small by today's standards, but it was modern, well-stocked and air-conditioned. And, says Teruya, it featured Albert and Wallace's basic philosophies that continue to guide the company: "High-quality merchandise, competitive prices, excellent service. And the customer is always right."

"My father was more customer relations, my uncle was more administration, looking at the overall operation," says Wayne Teruya. "They were a good balance."

They still are, even in their 80's.

"They've never really retired," Teruya says. They still come into the office every day, still visit the stores. You'll never get the business out of their blood."

Their tradition of innovation remains a part of the company.

"We always try to do that, we're always looking for new ways of doing things," says Teruya. "But we're not afraid to copy a good idea, either. If we see something that our competitors are doing and it's working, then yeah, we'll follow."

He recalls that when his father took his wife, Ethel, and their four children on vacation to the Mainland, part of the itinerary was always checking out supermarkets.

"My father would drive and no matter where we were going, if we passed a market, he'd pull into the parking lot. Sometimes we all went in, sometimes we stayed in the car, and he'd go in to see if he could get any new ideas. He's still curious to see what things are working."

Wayne, 49, was 2 when the first Times opened. He has no recollection of that big day in family history, but has plenty of other memories of growing up around groceries:

"I remember running around in our McCully store as a little kid, going upstairs, visiting the offices. The store was closed on Sundays, but a lot of times my father would go to the store on Sunday and take us along and we'd work, either stocking shelves or pulling out merchandise."

He is the second of four children—older brother Raymond is chairman of the Times board. Wayne's first real job was a bag boy at Times:

"I must have been 14-15. I had fun bagging groceries. Then after a few summers, I trained to be a cashier, which I really enjoyed—that's where you get the direct contact with the customers. We always tried to see who could pull in the biggest loads (ring up the most sales). And those were not the automatic scanning days like now. We punched those big NCR (National Cash Register) machines with rows and rows of keys."

Was it tougher being the son and nephew of the bosses?

"I don't think so," Teruya says. "The problem is I was never sure of how good of a job I was doing because maybe people didn't want to tell me I was doing something wrong because of who I was. But hopefully I never did anything wrong."

He graduated from Mid-Pacific Institute and the University of Hawaii, where he majored in accounting.

"I worked for a CPA firm just for a little while at the end of my college years and right after I graduated," he says. "But then I had the opportunity to get into the Times accounting department."

He rose to vice president of sales and executive vice president before being named president and CEO two years ago.

It was during his UH years that he met his wife, Sharon. They are the parents of three sons: Weston, 19, a sophomore at Pomona University in California; Wade, a high school senior and Wyatt, a high school sophomore.

So far, Wade is the only third-generation son who has expressed any interest in the grocery biz.

"If they ever get interested, fine," Teruya says. "I don't want to push them into the business. My father didn't push us into the business. I worked part-time and after a while I decided it was fun."

He met Sharon, he says, "at a beach party at Ala Moana. Nowadays, it's kind of spooky down there at night; I'd never want my kids doing that. But it was love at first sight—for me, not for her. I had to chase her for a while. But we just had our 25th anniversary."

His advice for staying together long enough to celebrate a silver anniversary: "Don't get upset when you have fights. You have to expect to have disagreements. And you have to discuss each other's point of views, so you understand where you're both coming from. And just stick in there because you'll have your ups and downs."

That sounds a lot like his business philosophy, too.●

TRIBUTE TO DIANA LEWIS

● Mr. WARNER. Mr. President, I rise today to extend my warmest congratulations to Diana Lewis of Charlottesville, VA, on her selection as the 1996 Private Sector Employee of the Year by the General Council of Industries for the Blind and the National Industries for the Blind. She will be honored at their Annual Training Conference on October 8, 1996.

Ms. Lewis was born with congenital cataracts. She underwent several eye operations as a young child, which delayed her entry into school. However, her desire to succeed did not waiver. She attended Romney School for the Blind in West Virginia but left school early to marry, become a homemaker, and eventually became the mother of two sons.

Ten years ago, Ms. Lewis moved to the Commonwealth and soon faced the challenge of finding her first job. As a single parent with two young sons, Ms. Lewis turned to the Virginia Industries for the Blind [VIB], a division of the Virginia Department for the Visually Handicapped [VDVH], for employment and training opportunities. She quickly demonstrated her desire to succeed by mastering many sewing operations, becoming an accomplished seamstress.

During her employment at the Virginia Industries for the Blind, Ms. Lewis earned her general education diploma [GED] and continued her education to become a certified nursing assistant. She joined Westminster Canterbury of the Blue Ridge in Charlottesville a year ago, and is currently employed as a certified nursing assistant in the skilled care unit. As a nursing assistant, Ms. Lewis tends to elderly residents who require constant care. Ms. Lewis hopes to one day become a physical therapist.

Ms. Lewis' drive and dedication to overcome adversity makes her an example for all of us. I am pleased to join Ms. Lewis and her family and friends in wishing her much success in all of her future endeavors. Ms. Lewis is an outstanding representative of the blind community in Virginia, and I ask you to please join me in congratulating her as the 1996 Private Sector Employee of the Year.●

SHUT DOWN THE U.S. ARMS BAZAAR

● Mr. SIMON. Mr. President, one of the finest editorials I have read in recent months appeared in the Chicago Tribune, titled "Shut Down the U.S. Arms Bazaar."

It is contrary to the security of the interest of the United States that we are the No. 1 arms merchant in the world. Not only are we the No. 1 arms merchant, but we subsidize what ultimately can prove harmful to our security.

And it is not only a threat to our security.

When I visit a place like Angola and see so many children going about with one leg missing or two legs missing and know that this has been caused, in part, by land mines built in the United States, or financed by the United States, I am troubled.

Again and again, we are in a situation where we find American weapons used against our troops. That should teach us something, but it doesn't seem to.

This is one editorial that every Member of the Senate and every staff member should read.

I ask that the editorial be printed in the CONGRESSIONAL RECORD.

The editorial follows:

[From the Chicago Tribune]

SHUT DOWN THE U.S. ARMS BAZAAR

President Clinton spoke eloquently and probably expressed the view of most citizens when, accepting the Democratic Party's nomination in Chicago last month, he pledged that U.S. foreign policy would be one that "advances the values of our American community in the community of nations."

Here's a place to start, Mr. President: End the outdated and outrageously dangerous policy of encouraging sales of American weapons abroad, particularly to countries in the developing world, unless there is a compelling U.S. security interest to be defended.

What American value is represented by the fact that the U.S. remains the largest exporter of weapons in a post-Cold War world in which there is no monolithic enemy to be contained?

Although Russia made the news in recent days by outstripping the U.S. in sales of arms to Third World governments in 1995, a careful reading of the report showed that this was an artifact of one transaction: a $6 billion sale of fighter jets to China.

Otherwise, however, Uncle Sam is boss of the arms bazaar, with contracts for about half of all arms sales worldwide. Year in and year out, America sells more weapons to the Third World than any other country.

Certainly these developing lands could put their scarce financial resources to better use, namely to build or improve schools, hospitals, sanitation and transportation systems.

Aha, you say! If the U.S. stops selling these arms abroad, someone else—Russia, France, Italy, Germany, Britain, the Czech Republic, even—will rush in and snatch up the lucrative contracts.

So what? Of the 50 armed conflicts in this decade—mostly vile ethnic, religious or tribal rivalries, guerrilla uprisings and petty territorial disputes—45 were fought with weapons stamped "Made in the USA."

Should weapons sales be our ambassador of democracy? Is increasing the efficiency of armed combatants, without regard to vital U.S. interests, a value we choose to represent America abroad?

Even espousing a traditional sense of national security, the U.S. can dominate the international arms market, according to Sarah Walkling, a senior analyst with the Arms Control Association. That's because NATO, the western military alliance that is the backbone of American national security and includes this nation's dearest allies, is the largest market for U.S. arms, consuming 43 percent of American weapons sales abroad at a cost of $3.9 billion. NATO will continue to be the biggest client for American weapons, which is a fine thing for all concerned.

But now Chile wants U.S. F–16 jet-fighters. With no international threat to the region, to what purpose would those top-of-the-line attack craft be put? Only to act upon territorial ambitions and border disputes and to spark a wasteful hemispheric arms race.

And then there's Indonesia. Indonesia is in the midst of a crude crackdown on political dissent that is the antithesis of values America wants to promote. Should Indonesia get the F–16s it wants? Certainly not.

Although Clinton pledged a values-driven foreign policy, a Presidential Decision Directive he signed last year pushes arms sales abroad to "enhance the ability of the U.S. defense industrial base, to meet U.S. defense requirements and to maintain long-term military technological superiority at lower costs."

That, in the words of William Hartung, a senior fellow of the World Policy Institute at the New School for Social Research, is nothing but welfare for big arms manufacturers and weapons dealers.

In order to help American firms get to a bigger share of the world arms market, the U.S. government spent $7.6 billion—in 1995 alone—in subsidies, grants, guaranteed loans and cash payments, and in the use of government personnel to promote products and overseas air shows, Hartung says.

The argument that these arms sales abroad protect jobs at home is no longer necessarily true, since many new purchasers now demand, as part of the contract, the right to produce these expensive weapons on their turf. Thus, Hartung says, the biggest production line for the F–16 is no longer in the U.S. but in Turkey.

Even more sinister is the concept of "blowback."

During the Cold War, a powerful argument for arms sales abroad was to allow the United States leverage over foreign powers and to give us inside knowledge about another power's arsenal—to "know what we're up against." Today, all bets are off, and what American troops have come up against is the finest American weapons wielded by opposition troops—in Panama, in Iran, in Iraq, in Haiti, in Somalia and, to a smaller extent, in Bosnia.

America cannot control its weapons once sold. Allies whose national security interests coincide with ours deserve our trust and have earned the right to purchase American-made weapons.

But weapons sales motivated solely by a market opportunity merely fuel conflict—conflict that may require America to step in later with its diplomatic and military muscle.

There is no profit in that.●

AD-HOC HEARING ON TOBACCO

● Mr. LAUTENBERG. Mr. President, on September 11th, I co-chaired with Senator KENNEDY an ad-hoc hearing on the problem of teen smoking. We were joined by Senators HARKIN, WELLSTONE, BINGAMAN and SIMON. Regrettably, we were forced to hold an ad-hoc hearing on this pressing public health issue because the Republican leadership refused to hold a regular hearing, despite our many pleas.

We held this hearing to listen to real people tell us about the addictiveness of nicotine and their support for the President Clinton's FDA proposal to cut teen smoking in half. Unlike one of the other Presidential candidates, we know that nicotine is addictive. And we know that the FDA should regulate it and protect our children.

We also made it clear that we will reject half hearted compromise legislative proposals which do not protect our children from the tobacco companies.

Essentially, we will oppose any compromise legislation that does protect FDA's ability to safeguard our kids or the public health. Our first priority in any legislative settlement should be to save our children from future nicotine addiction.

Mr. President, President Clinton deserves credit for being the first President in recent history to take on the tobacco companies. He has an excellent record of protecting our children.

However, this Congress' record on tobacco and children is shameful.

On January 3, 1995, a new Republican majority took over Congress. They publicly pushed their Contract with America. But privately, they pursued another contract—a contract of silence with the tobacco companies.

Since the Republicans took over Congress, more than 660,000 people have died from smoking and over 1.7 million of our children have begun smoking.

What has been this Congress' response to this public health epidemic? Pure silence.

In one fell swoop—gone were the House hearings where the CEO's swore under oath that nicotine was not addictive. And gone were the Senate hearings on the dangers of secondhand smoke and the health care benefits of increasing the tobacco tax.

It took President Clinton's bold FDA policy to break the silence. And we need to make more noise—to stop our children from ever becoming hooked. We need to fight the biggest cause of preventable death in America—tobacco use. Because like AIDS, silence equals death when it comes to tobacco.

At the hearing, we heard from several witnesses who have first-hand knowledge of the dangers of tobacco addiction. We heard from Justin Hoover, a 12-year-old boy from West Des Moines, IA who told us how he smoked his first cigarette at the age of 6, and was addicted to tobacco when he was 9. He told us how easy it was for him to obtain cigarettes, often by stealing them. He told us how difficult it has been for him to try and break his addiction, despite the best efforts of his mother, teachers, and his DARE officer, Jody Hayes, who accompanied Justin at the hearing.

Officer Hayes said that the level of smoking among teens is the worst that he has seen. He also told us that tobacco is clearly a gateway drug that can lead to marijuana and cocaine use. He strongly admonished us that "we have to stop drug use where it starts, and that is with tobacco."

We also heard from Minnesota Attorney General "Skip" Humphrey who told us of his concerns of proposed Federal legislation to resolve all litigation and regulation affecting the tobacco industry. He noted that it is essential that tobacco "like every other product Americans eat, drink or ingest, be placed under the on-going jurisdiction of an appropriate Federal agency, such as the FDA."

We listened to the testimony of Dr. Ian Uydess, who worked as a research scientist for Philip Morris for over 10 years. He told us how well informed the tobacco industry has been regarding the health effects and addictive quality of tobacco. He said that the major tobacco companies could have used this information to develop a safer product, but they chose not to do so.

We also heard from Morton Downey, Jr., the former talk-show host whose symbol was the smoking cigarette butt. As he has contracted lung cancer, he now asks forgiveness from the young people he may have influenced to smoke.

Alan Landers, a former Winston model, told us of the pain caused by two lung operations. He gave riveting testimony on the addictiveness of tobacco. He told us that he was smoking the night before he was to have lung surgery because he could not quit. He now tours high schools warning children of the dangers of smoking.

Janet Sackman, another former cigarette model, bravely testified how when she was 17, she was told by an agent that if she wanted the look to get ahead in the business, she should start smoking. She developed cancer of the larynx and now struggles to speak.

Mr. President, these people are a testament to the tragedy of tobacco addiction in this country. And they all have two things in common. They started smoking before they were 18 and they all have cancer. These examples demonstrate why the President's proposal to protect our children is so crucial.

Mr. President, after I complete my statement, I am going to ask that the statements of the participating in adhoc hearing be placed in the record. Over the next 3 days I will insert the testimony of the witnesses from each of the three panels. I hope that all of my colleagues, from both chambers and both sides of the aisle will read these compelling statements. Regrettably, this will be the only hearing record on tobacco issues this Congress, despite the constant revelations in the press about industry documents outlining the dangers of smoking.

I only hope that the next Congress' record on protecting our children is not as shameful.

Mr. President, I ask that the statements of the Senators attending this ad-hoc hearing be printed in the RECORD.

The statements follow:

STATEMENT BY SENATOR FRANK R. LAUTENBERG

First, I would like to thank Senator Kennedy for co-chairing this hearing with me and all of the other Senators who are participating. I would also like to welcome and thank all of the witnesses for being here at today's ad-hoc hearing on teen smoking.

We are here to show our support for the FDA proposal to cut teen smoking in half. Unlike one of the Presidential candidates, we know that nicotine is addictive. And we know that the FDA should regulate it and protect our children.

Today, we are also here to say that we will reject half hearted compromise legislative proposals that do not protect our children.

We will oppose any compromise legislation that does protect FDA's ability to safeguard our kids or the public health. Our first priority in any settlement should be to save our children from future nicotine addiction.

President Clinton deserves credit for being the first President in recent history to take on the tobacco companies. He has an excellent record of protecting our children.

On the other side of Pennsylvania avenue, however, this Congress' record on tobacco and children is shameful.

On January 3, 1995, a new Republican majority took over Congress. They publicly pushed their Contract with America. But privately, they pursued another contract—a contract of silence with the tobacco companies.

Since the Republicans took over Congress, 660,488 people have died from smoking and 1,764,000 children began smoking.

What has been this Congress' response to this public health epidemic? Pure silence!

In one fell swoop—gone were the House hearings where the CEOs swore under oath that nicotine was not addictive. And gone were the Senate hearings on the dangers of secondhand smoke and the health care benefits of increasing the tobacco tax.

It took President Clinton's bold FDA policy to break the silence. And we are here to make more noise—to stop our children from ever becoming hooked. We are here to fight the biggest cause of preventable death in America—tobacco use. Because like AIDS, silence equals death when it comes to tobacco.

Today, we will hear from people who know firsthand about the dangers of smoking. We will hear from a 12 year old child who is addicted to cigarettes and his DARE officer. We will hear from a former Philip Morris research scientist who will tell us that the tobacco industry knew full well that nicotine was addictive and manipulated it to hook smokers. We will hear form Minnesota Attorney General "Skip" Humphrey who is taking on the tobacco industry in court on behalf of our children.

Before we proceed, I wanted to let the participants know that there will not be an official hearing transcript for this proceeding but I will insert all written statements into the Congressional record so your stories will become part of the official record of the Senate. I hope my colleagues from both sides of the aisle and both chambers, will read your testimony and work with us to save our children.

STATEMENT OF SENATOR EDWARD M. KENNEDY

Twenty-nine years ago today, on September 11, 1967, my brother, Senator Robert Kennedy addressed the World Conference on Smoking and Health. Representatives of thirty-four nations had gathered in New York to talk about ways to stop mounting death rates from cigarette smoking.

He spoke to his audience about the difficulty of convincing people—young persons, in particular—that smoking can kill them. He emphasized grim statistics of premature death and illness caused by smoking. He said that cigarettes would have been banned years ago—were it not for the economic power of the tobacco industry.

Limiting cigarette advertising was at the top of his list of strategies to discourage young men and women from beginning to smoke. At that time, the industry was spending $300 million a year to attract new smokers.

Since then, the amount the industry spends on advertising has soared to $6 billion a year. Much of this advertising is targeted at youth, with images that promise popularity and success for those who smoke. Children are particularly vulnerable to this sort of advertising. The Joe Camel campaign was cynically targeted directly at youth. Profits rolled in, and Camel's market share among youth soared from 0.5% to 32.8%.

The industry targets youth because it knows that almost all smokers begin before they reach the age of 18. If you make it to 18 without smoking, it's very unlikely you'll ever smoke. The average smoker begins at 13—and becomes a daily smoker by 14 and a half.

For over 30 years, using its relentless political power, the tobacco industry has managed to avoid needed federal regulation of their product. it has been said that tobacco is the least regulated of any legal product.

Now, at last, President Clinton has had the courage to insist on real steps to reduce youth access to tobacco and tobacco advertising aimed at youth. His goal is to cut teen smoking in half over the next seven years.

President Clinton's proposal comes at a crucial time for America's youth. Not only has smoking been rising steadily among adolescents since 1992, but drug use, especially use of marijuana, is also rising among this same group.

Clearly, tobacco is a gateway drug. If we reduce tobacco use, we will reduce other drug use too. According to a 1994 report by the National Center on Addiction and Substance Abuse at Columbia University, children who smoke cigarettes are 12 times more likely to use marijuana and 19 times more likely to use cocaine.

Our hearing today is intended to deal with these important issues. It speaks volumes that the Republican Congress is unwilling to hold a hearing like this. But we hope they will pay attention to the facts we will hear.

STATEMENT OF SENATOR TOM HARKIN

I want to join my colleagues in thanking all of the witnesses who have given their time to be with us today, and I want to add a special welcome to our witnesses here from West Des Moines, Iowa—Justin Hoover and Officer Jody Hayes—who I will be introducing in just a moment.

All of us are here because we all agree—we need to protect our children from tobacco—and we need to do it now.

For too long, young people have been getting an unfiltered message from the tobacco industry. Smoking is cool. Smoking is harmless. Smoking will make you look older and more attractive.

Today, the tobacco industry pours over $6 billion a year into advertising their products and promoting that message. And often they are zeroing in on our kids—through magazine ads, billboards, sporting events, and, of course, the ubiquitous Joe Camel.

We know what these tobacco advertising campaigns are all about. They are deliberately designed to keep people smoking, but more importantly, to attract a new generation to the smoking habit. In fact, according to a study published in the Journal of the American Medical Association, Joe Camel is just as recognizable to six-year old as Mickey Mouse.

But the industry hasn't stopped with Joe Camel. Joe and his competitors have started merchandising "clubs" in which you can smoke your way to all sorts of gifts. A 1992 Gallup survey found that about half of adolescents smokers and one quarter of nonsmokers owned at least one tobacco industry promotional item.

The motivations of these tobacco companies is clear. They'll do anything to make a buck. But I can't understand irresponsible statements made by some of our elected officials regarding tobacco.

Some in Congress have compared tobacco to milk or to chicken soup. What kind of message does that send to our kids?

There is a difference. Milk builds. Tobacco destroys. Chicken soup heals. Tobacco kills.

The only message that our children should hear about tobacco is the truth. Smoking is a killer. Smoking is addictive. Smoking stinks. It's a deadly habit that will make kids less attractive and less fit. That message needs to come through loud and clear so children like Justin are never tempted in the first place.

That message needs to start at home. Parents need to let their children know about the dangers of tobacco. But the message shouldn't end in the home. All of us can be partners with families in the fight against tobacco.

We need to make much more difficult for children to get their hands on tobacco in the first place.

Kids shouldn't be able to walk into a convenience store and purchase cigarettes . . . or buy them out of a vending machine . . . or even be tempted to steal cigarettes left in the open in self-service displays.

President Clinton has put forth a responsible plan. The President's plan is the right thing to do. It will help families keep tobacco out of the hands of their children. And I strongly support it.

But I believe we can do more to protect kids from tobacco and strengthen families. That's why I have introduced common sense legislation to eliminate the tax deductibility of tobacco advertising. Today, American taxpayers are forced to cough up nearly $2 billion a year to subsidize the tobacco industry. That's not right and we ought to stop it.

Again, I want to welcome Justin Hoover and Jody Hayes. Justin is 12 years old and is from West Des Moines Iowa. He smoked his first cigarette when he was 6-years old.

He is going to tell us how and why he started smoking, how he has tried to quit, and how easy it is for him to obtain cigarettes.

I also want to welcome Officer Jody Hayes who is a Community Relations Officer for the West Des Moines Police Department. He is a D.A.R.E. (Drug Abuse Resistance Education) officer and works with students from pre-school to high school. He is on the front lines in the fight against drug abuse.

And he has seen first hand how easy it is for young children to gain access to tobacco and how vulnerable they are to the industry's message that smoking is cool.

Officer Hayes, I want to thank you for not only being here today, but for the work you do day in and day out to protect our kids and help them stick to the right path. I just can't understand why some in Congress want to cut funds for the D.A.R.E. program and stop people like you from doing the great work you do.

STATEMENT OF SENATOR JEFF BINGAMAN

I am pleased to be a part of this Ad-Hoc hearing on tobacco issues and in particular the health effects of tobacco use. As many of you know, I have been a strong advocate of taking a tough stand on the issue of federal regulation of tobacco products. Since 1989, I have been working to require the Food and Drug Administration (FDA) to regulate the manufacture and sale of tobacco products. I was very proud last year when Congress approved my legislation banning cigarette vending machines in federal buildings on most federal property, and very pleased earlier this year when the General Services Administration (GSA) ordered the removal of the machines.

For many years, I also have been working to ban tobacco vending machines on Federal property that are accessible to children. Clearly, something is not working when, every day, more than 3,000 children and teenagers start smoking and 1,000 of them will die from tobacco related illness. In New Mexico, nearly one-third of the state's teenagers smoke. According to the Centers for Disease Control and Prevention, New Mexico has a teenage smoking rate of 32.6 percent—only eight other states have higher rates. It is difficult to prevent children from buying cigarettes when they are readily accessible from vending machines. If we expect states, localities, schools, parents, and even the tobacco industry itself to help protect our children from tobacco, then we in the federal government should lead the effort.

It is time for a new course of action. I am very pleased that President Clinton is expanding the Federal role in fighting teen smoking. This initiative to reduce tobacco use by children recognizes the responsibility that the federal government should take to protect our children from tobacco use.

Finally, 10 years ago as a senior member of the Armed Services Committee, I first introduced legislation aimed at discouraging tobacco use in the military by raising the prices of tobacco products in military commissaries to local prevailing prices. Cigarettes are much cheaper in commissaries and exchanges than they are in the civilian market. In August this year, the Department of Defense (DoD) ordered the sale of tobacco products found in commissaries and exchanges to be sold at local prevailing prices. I am pleased to see that the DoD now agrees that we need to stop sending mixed signals to military personnel about the importance of healthy lifestyles while at the same time deeply discounting tobacco products in military stores.

I commend my colleagues here today for keeping this very important issue alive during this Congress and for leading the effort to continue to address the types of laws and policies that will protect our children from tobacco.

STATEMENT OF U.S. REPRESENTATIVE MARTY MEEHAN

I want to thank Senators Ted Kennedy and Frank Lautenberg for allowing me to submit my testimony before this ad hoc committee hearing on tobacco. I appreciate the opportunity to participate in this important, if unofficial, event.

The new majority, in both the House and Senate chambers, does not believe that the epidemic of youth smoking is an important enough issue to merit an official hearing. Only through the leadership of Senators Kennedy and Lautenberg is today's ad hoc hearing possible. I commend them both for organizing this event.

Nicotine addiction and subsequent tobacco related illnesses are the leading cause of preventable death in the United States. Each year, more than 400,000 smokers prematurely die due to tobacco related illnesses. The ranks of smokers, however, are replenished by our nation's children.

Tobacco companies have long targeted and marketed their wares towards America's kids. RJ Reynolds' Joe Camel campaign is only the latest in a string of strategies the tobacco industry has employed to entice young people. The industry is forced to target children because adults, in the face of overwhelming medical and scientific evidence, are not impressionable enough to start using a product that, if used as directed, will kill them.

The tobacco industry is committed to pushing cigarettes and smokeless tobacco product. In fact, each year the industry spends more than $6 billion on advertising and marketing in the United States. This massive advertising is successful for the industry. Eighty-six percent of underage smokers buy the three most heavily advertised brands—Marlboros, Camels and Newports. Moreover, ninety-one percent of six year-olds identify Joe Camel as a symbol of smoking.

As a result, 3,000 children a day, convinced through a combination of peer pressure, advertising and popular culture, start smoking. 1,000 of these youngsters will ultimately die from tobacco related illnesses.

President Clinton has taken a historic move in directing the Food and Drug Administration to enact the first-ever program to protect children from tobacco. The FDA has concluded that cigarettes and smokeless tobacco are delivery devices for nicotine, a drug that causes addition and other significant pharmacological effects.

The FDA's regulations, which are intended to reduce underage tobacco use by fifty percent over the next seven years, include long overdue restrictions on advertising and marketing, along with an industry sponsored tobacco control campaign.

I strongly support President Clinton's heroic leadership on this most important issue. Unfortunately, the tobacco industry has many allies here on Capitol Hill who will most likely launch an effort to derail the FDA's regulations.

According to recent reports, the tobacco industry, in just the first six months on 1996, has spent more than $15 million lobbying Congress, the White House and federal agencies. Moreover, campaign donations, both soft and hard, are up dramatically, as the industry prepares to launch a most expensive offense against federal efforts to control youth tobacco use.

While the industry may have the financial wherewithal to spend millions of dollars to influence legislators and advertise their misleading messages, public opinion seems to have permanently shifted against Big Tobacco. Through internal documents and the brave testimony of former employees, two of who are here today, decades of duplicity on behalf of the Big Tobacco have been exposed and etched into the collective consciousness of the American people.

Those of us in Congress who support President Clinton's actions on tobacco have a responsibility to not only herald these regulations but also hold the line against industry efforts to water them down. Today's hearing should reinforce the idea that the FDA's regulations, and jurisdiction, is necessary to protect future generations of American children. Once again, I applaud the leadership of Senators Kennedy and Lautenberg on this issue and I look forward to working with both of them in the future.•

SALUTE TO "ODYSSEY OF THE MIND" PARTICIPANTS FROM BETHANY, CONNECTICUT

• Mr. DODD. Mr. President, I rise today to pay tribute to a group of remarkable young people from my home State of Connecticut. For the past 4 years, students from Bethany, a small, rural community in Connecticut, have participated in an international problem-solving competition called Odyssey of the Mind. This competition gives children in grades kindergarten through 12 the opportunity to develop their problem-solving and team-building skills by challenging students to develop unique ways to solve one of five long-term problems. A team spends countless hours together to develop and perfect a unique solution to the problem set before them. Their efforts are judged in a state competition and the winning team is asked to represent their state or country at the Odyssey of the Mind World Finals.

Earlier this year, two groups of students from Bethany, CT, won first place in their respective categories at Connecticut's Odyssey of the Mind State Finals and traveled to Iowa to represent the State of Connecticut at the Odyssey of the Mind World Finals.

Connecticut is very proud of Rosa Allison, David Berv, Ian Stebinger, Amanda Kaletsky, Amanda Sherman and Grace Menzies, who made up a team that won a gold medal in the Connecticut Odyssey of the Mind Competition 3 years in a row. I would also like to salute the hard work and dedication of Joshua Gewirtz, Elizabeth Cowan, Matt Voloshin, Jane Ballerini, Peter Geloso, Kerrilee Hunter and Paula Rashkow who also represented Connecticut at the Odyssey of the Mind Finals this year. In addition, I congratulate the students' coaches for a job well done.

Clearly, these young students are fine examples of what can be accomplished when people put aside their differences and work together toward a common goal. Their creativity, hard work, perseverance and willingness to take risks remind us that Yankee ingenuity is still alive in Connecticut. I salute these young people and am confident that we will all be hearing more about these exceptional students in the future.•

COMMEMORATION OF LAWSUIT ABUSE AWARENESS WEEK

• Mr. ROCKEFELLER. Mr. President, today I want to acknowledge a group of citizens in West Virginia who are speaking out on the issue of lawsuit abuse in an effort to serve the public.

In many areas of West Virginia, local citizens have volunteered their time to start Citizens Against Lawsuit Abuse groups and to initiate public awareness campaigns in their areas about what they see as the problems of lawsuit abuse.

The CALA groups focus on education. These citizens are speaking out about an issue that has statewide and national implications. The costs of lawsuits can include higher costs for consumer products, higher medical expenses, higher taxes, and fewer jobs due to lost business expansion and forgone product development.

Citizens Against Lawsuit Abuse has a straightforward goal. They want to help the public prevent unnecessary lawsuits that do more harm than good.

West Virginians are not the type of people to walk away from a problem. When we see something that's clearly wrong, we work to make people aware of it, and we try to make it right. CALA members believe that they have the opportunity to reform our laws so that the legal system is more fair, more effective, and more sensible to serve everyone's interests.

These nonprofit groups have raised local funds to run educational media announcements and are speaking to local organizations and citizen groups across the State to raise public awareness on the lawsuit abuse issue.

While the local groups have thousands of supporters, there are also a few individuals who should be recognized for their leadership and for dedicating countless volunteer hours. These individuals are: Tom Harriman of Kingwood, founding chairman of CALA of northern West Virginia; Jim Thomas of Charleston and Jack Klim of Huntington, cofounders and spokespersons of CALA of southern West Virginia; and Ken Lowe of Shepherdstown, founding chairman of CALA of eastern West Virginia.

Citizens Against Lawsuit Abuse groups have declared September 22 through September 28, 1996, to be Lawsuit Abuse Awareness Week in West Virginia. I want to commend all of the individuals who are involved in Citizens Against Lawsuit Abuse for their dedication and commitment to this important citizen education project.

As someone who has been a leader in the battle of product liability reform, I continue to hope for the kind of education, dialog, and consensus-building clearly needed to address problems in our legal process that hurt consumers, victims, and the private sector. I encourage CALA to continue raising these issues and promoting solutions that ensure justice and improve the legal system. West Virginia and the country as a whole need informed, educated, and dedicated citizens to help elected officials address serious issues and achieve reforms when necessary.•

POSTAL SERVICE IN GEORGIA

• Mr. COVERDELL. Mr. President, as we complete the appropriations process for fiscal year 1997, I would like to take this opportunity to make my colleagues aware of the unacceptable manner in which the Postal Service has operated in a matter involving an address change request in my home State of Georgia.

Mr. President, for 25 years, residents of an area informally known as Centerville, GA, located in Gwinnett County, have been trying to work with the Postal Service for a facility that is closer to their homes, and an address that reflects the location in which they live. Although these Georgians reside in Gwinnett County, their address is dictated by the Postal Service is Lithonia, GA—a town that is approximately 15 miles away, and is located in a different county.

Not only are those citizens having problems with their mail delivery, such as stolen and misdelivered mail, their address designations has created great confusion in dealing with everyday household issues such as emergency service, insurance, property taxes, sales taxes and parcel delivery. Even small matters, such as ordering a take-out pizza, often result in unnecessary confusion and inconvenience when giving addresses. In addition, a round trip to the post office to pick up certified mail or parcels is more than a 30 minute round trip for these people—metro-Atlanta traffic notwithstanding.

Instead of recognizing the problems that the Postal Service's address designation was causing for these residents and trying to work out a mutually agreeable solution, the Postal Service has treated the requests of these residents in a manner unbecoming of an agency of the United States, and has acted in complete disregard for principle. In the name of efficient delivery of mail, the Postal Service has steadfastly refused the repeated requests of these residents to move their routes to a facility in Snellvile, GA, which is located less than 3 miles from their homes. Postal Service representatives have even gone as far as to attack the motives of the residents requesting this change.

Mr. President, to give you an idea of the overwhelming community commitment to a change of address, approximately 5,000 Gwinnett County residents have been assigned a Lithonia address by the Postal Service, and my office received a petition from 4,024 of these residents requesting an address change.

When this matter first came to my attention, our office in conjunction with Congressman JOHN LINDER made several inquiries to the Postal Service, and at each point received conflicting responses. As we delved further into the matter, we learned that the Postal Service had not been completely open and honest in its responses.

Postal representatives have also refused to honor an offer to set up temporary postal facilities if a location could be found rent-free for 2 years. There appears to be some confusion among postal representatives on the exact details of the offer.

We understand and appreciate the Postal Service's mission of timely and efficient delivery of our mail, but this does not override the fact that the Postal Service is an agency of the U.S. Government and is subject to abide by the principles of government by the people and for the people as is outlined in our Constitution.

After almost a year of negotiations, the Postal Service has now made an offer to the residents to change the last line of their address to Annistown, GA, and to provide them with a new Zip Code. However, the Zip Code change has yet to be approved. Although this does not solve the problem of the proximity of a postal facility, it will help them in dealing with the difficulties that their address was creating. I therefore urge the swift approval of this Zip Code change by the Postal Service.

At a town meeting held to discuss the proposal, the Postal Service refused to officially attend to answer questions that the community had about the proposed change. However, after the meeting, we learned that Postal Service employees secretly attended the meeting and took notes.

Mr. President, it is my opinion that this type of behavior is completely inappropriate for the employees of an agency of the U.S. Government. The Postal Service had every opportunity to make its argument in a public forum, and chose not to do so.

This is the second entanglement I have had with the Postal Service where I have found their behavior to be an abomination to the citizens of our country. If the Postal Service continues to operate in such a manner, we must consider the need for further congressional oversight.•

COMMENDING OPERATION SAIL

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Joint Resolution 64, a joint resolution to commend Operation Sail, introduced earlier today by Senators DODD, D'AMATO, and others.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 64) to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the joint resolution be deemed read three times; passed; the motion to reconsider be laid on the table; further, that any statements relating thereto appear at this point in the RECORD, as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The preamble is agreed to.

The joint resolution (S.J. Res. 64) was agreed to.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 64

Whereas Operation Sail is a nonprofit corporation dedicated to building good will among nations and encouraging international camaraderie;

Whereas Operation Sail has represented and promoted the United States of America in the international tall ship community since 1964, organizing and participating in numerous tall ship events across the United States and around the world;

Whereas Operation Sail has worked in partnership with every American President since President John F. Kennedy;

Whereas Operation Sail has established a great tradition of celebrating major events and milestones in United States history with a gathering of the world's tall ships, and will continue this great tradition with a gathering of ships in New York Harbor, called OpSail 2000, to celebrate the 224th birthday of the United States of America and to welcome the new millennium;

Whereas President Clinton has endorsed OpSail 2000, as Presidents Kennedy, Carter, Reagan, and Bush have endorsed Operation Sail in previous endeavors;

Whereas OpSail 2000 promises to be the largest gathering in history of tall ships and other majestic vessels like those that have sailed the ocean for centuries;

Whereas in conjunction with OpSail 2000, the United States Navy will conduct an International Naval Review; and

Whereas the International Naval Review will include a naval aircraft carrier as a symbol of the international good will of the United States of America; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Operation Sail is commended for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship;

(2) all Americans and citizens of nations around the world are encouraged to join in the celebration of the 224th birthday of the United States of America and the international camaraderie that Operation Sail and the International Naval Review will foster; and

(3) Operation Sail is encouraged to continue into the next millennium to represent and promote the United States of America in the international tall ship community, and to continue organizing and participating in tall ship events across the United States and around the world.

EXPRESSING THE SENSE OF THE SENATE CONCERNING AFGHANISTAN

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar item 515, Senate Resolution 275.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 275) to express the sense of the Senate concerning Afghanistan.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution which had been reported from the Committee on Foreign Relations with an amendment, as follows:

(The part of the bill intended to be stricken is shown in bold face brackets and the part of the bill intended to be inserted is shown in italic.)

S. RES. 275

Whereas, prior to 1979, Afghanistan was a peaceful, united country;

Whereas, the successful fight of brave men and women of Afghanistan resisting the Soviet invasion and occupation of 1979–1989 was a significant element in the dissolution of the Soviet empire;

Whereas the dissolution of the Soviet empire brought freedom to the nations of central and eastern Europe as well as to the nations of central Asia;

Whereas although many years after the Soviet Union withdrawal, Afghanistan does not enjoy the peace it has earned;

Whereas the United Nations can play a unique and important role in bringing an end to the conflict in Afghanistan; and

Whereas recent meetings between Members of Congress and the representatives of the major Afghan factions indicate a significant desire on the part of all parties to achieve a peaceful resolution to the conflict in Afghanistan and the establishment of an effective government that represents the interests of the Afghan people: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the courageous people of Afghanistan have earned the world's respect and support for their epic struggle against the forces of communism;

(2) resolving the continuing conflict in Afghanistan and alleviating the accompanying humanitarian distress of the Afghan people should be a top priority of the United States;

(3) outside interference and the provision of arms and military supplies to the warring parties should be halted;

(4) a unique moment in Afghan civil war exists where all major factions are searching for a peaceful solution to the conflict;

[(5) the United States should urge the United Nations to move quickly to appoint a special envoy to Afghanistan who will act aggressively to assist the Afghans to achieve a solution to the conflict acceptable to the Afghan people; and

[(6) the United Nations should work to create the conditions for a continuing dialogue among the Afghan factions.**]**

(5) urges the United Nations Security Council to impose an international arms embargo on Afghanistan to halt the resupply of arms and ammunition to the warring factions;

(6) the United States welcomes the appointment by the United Nations of a new special envoy to Afghanistan and urges him to aggressively assist the Afghans to achieve a solution to the conflict acceptable to the Afghan people; and

(7) the United Nations should work to create the conditions for a continuing dialogue among the Afghan factions.

Mr. FRIST. I ask unanimous consent that the amendment be agreed to, the resolution, as amended, be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment was agreed to.

The resolution (S. Res. 275) as amended was agreed to.

The preamble was agreed to.

The resolution, as amended, and the preamble are as follows:

[The resolution was not available for printing. It will appear in a future issue of the RECORD.]

JAMES A. REDDEN FEDERAL COURTHOUSE

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 615, S. 1875.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1875) to designate the U.S. courthouse in Medford, OR, as the "James A. Redden Federal Courthouse."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1875) was deemed to be read a third time and passed, as follows:

S. 1875

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse at 310 West Sixth Street in Medford, Oregon, shall be known and designated as the "James A. Redden Federal Courthouse".

SEC. 2 REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "James A. Redden Federal Courthouse".

VEACH-BALEY FEDERAL COMPLEX

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 617, H.R. 2504.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2504) to designate the Federal building located at the corner of Patton Avenue and Otis Street, and the U.S. courthouse located on Otis Street, in Asheville, NC, as the "Veach-Baley Federal Complex."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2504) was deemed read for a third time and passed.

SAMMY L. DAVIS FEDERAL BUILDING

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 618, H.R. 3186.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3186) to designate the Federal building located at 1655 Woodson Road, in Overland, MO, as the "Sammy L. Davis Federal Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid on the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3186) was deemed read for a third time and passed.

ROMAN L. HRUSKA UNITED STATES COURTHOUSE

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, H.R. 3400.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3400) to designate the Federal building and United States courthouse to be constructed at a site on 18th Street between Dodge and Douglas Streets in Omaha, Nebraska, as the "Roman L. Hruska Federal Building and United States Courthouse."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3400) was deemed read for a third time and passed.

SAM M. GIBBONS UNITED STATES COURTHOUSE

Mr. FRIST. I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 3710 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3710) to designate the United States courthouse under construction at 6111 North Florida Avenue in Tampa, Florida, as the "Sam Gibbons United States Courthouse."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3710) was deemed read for a third time and passed.

WALHALLA NATIONAL FISH HATCHERY CONVEYANCE ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 3546, and the Senate proceed to its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R 3546) to direct the Secretary of the Interior to convey Walhalla National Fish HATCHery to the State of South Carolina.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5398

(Purpose: To add a provision to correct a coastal barrier resources map)

Mr. FRIST. Mr. President, Senator HOLLINGS has an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. HOLLINGS, proposes an amendment numbered 5398.

The text of the amendment is as follows:

Before section 1, insert the following:

TITLE I—WALHALLA NATIONAL FISH HATCHERY

At the end of the bill, add the following:

TITLE II—CORRECTION OF COASTAL BARRIER RESOURCES MAP

SEC. 201. CORRECTIONS OF MAP.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the set of maps described in subsection (b) as are necessary to move the southern-most boundary of Unit SC–01 of the Coastal Barrier Resources System (known as the "Long Pond Unit") to exclude from the Unit the structures known as "Lands End", "Beachwalk", and "Courtyard Villas", including the land lying between the structures. The corrected southern boundary shall extend in a straight line, at the break in development between the coast and the north boundary of the unit.

(b) MAPS.—The set of maps described in this subsection is the set of maps entitled "Coastal Barrier Resources System" dated October 24, 1990, insofar as the maps relate to Unit SC–01 of the Coastal Barrier Resources System.

Mr. FRIST. I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, an amendment to the title be agreed to, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5398) was agreed to.

The bill (H.R. 3546), as amended, was deemed read for a third time and passed.

The title was amended so as to read:

A bill to direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina, and for other purposes.

CONVEYING A FISH AND WILDLIFE FACILITY TO THE STATE OF WYOMING

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 457, S. 1802.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1802) to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5399

Mr. FRIST. Senator THOMAS has an amendment at the desk for himself and Senator SIMPSON, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. THOMAS, for himself, Mr. SIMPSON, Mr. DASCHLE, and Mr. PRESSLER, proposes an amendment numbered 5399.

The text of the amendment is as follows:

Beginning on page 2, strike line 3 and all that follows through page 3, line 11, and insert the following:

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey, in "as is" condition, to the State of Wyoming without reimbursement—

(A) all right, title, and interest of the United States in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, other than the portion described in paragraph (2), consisting of approximately 600 acres of land (including all real property, buildings, and all other improvements to real property) and all personal property (including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture directly related to the site, including personal property on loan to museums and other entities at the time of transfer);

(B) all right, title, and interest of the United States in and to all buildings and related improvements and all personal property associated with the buildings on the portion of the property described in paragraph (2); and

(C) a permanent right of way across the portion of the property described in paragraph (2) to use the buildings conveyed under subparagraph (B).

(2) RANCH A.—Subject to the exceptions described in subparagraphs (B) and (C) of paragraph (1), the United States shall retain all right, title, and interest in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, described as Township 52 North, Range 61 West, Section 24 N½ SE¼, consisting of approximately 80 acres of land.

(b) USE AND REVERSIONARY INTEREST.—

(1) USE.—The property conveyed to the State of Wyoming under this section shall be retained by the State and be used by the State for the purposes of—

(A) fish and wildlife management and educational activities; and

(B) using, maintaining, displaying, and restoring, through State or local agreements, or both, the museum-quality real and personal property and the historical interests and significance of the real and personal property, consistent with applicable Federal and State laws.

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institutions of higher education.

(3) REVERSION.—All right, title, and interest in and to the property described in subsection (a) shall revert to the United States if—

(A) the property is used by the State of Wyoming for any other purpose than the purposes set forth in paragraph (1);

(B) there is any development of the property (including commercial or recreational development, but not including the construction of small structures, to be used for the purposes set forth in subsection (b)(1), on land conveyed to the State of Wyoming under subsection (a)(1)(A)); or

(C) the State does not make every reasonable effort to protect and maintain the quality and quantity of fish and wildlife habitat on the property.

(c) ADDITION TO THE BLACK HILLS NATIONAL FOREST.—

(1) TRANSFER.—Administrative jurisdiction of the property described in subsection (a)(2) is transferred to the Secretary of Agriculture, to be included in and managed as part of the Black Hills National Forest.

(2) NO HUNTING OR MINERAL DEVELOPMENT.—No hunting or mineral development shall be permitted on any of the land transferred to the administrative jurisdiction of the Secretary of Agriculture by paragraph (1).

Mr. FRIST. Mr. President, I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5399) was agreed to.

The bill (S. 1802), as amended, was deemed read for a third time and passed, as follows:

S. 1802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF CERTAIN PROPERTY TO WYOMING.

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey in "as is" condition, to the State of Wyoming without reimbursement—

(A) all right, title, and interest of the United States in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, other than the portion described in paragraph (2), consisting of approximately 600 acres of land (including all real property, buildings, and all other improvements to real property) and all personal property (including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture directly related to the site, including personal property on loan to museums and other entities at the time of transfer);

(B) all right, title, and interest of the United States in and to all buildings and related improvements and all personal property associated with the buildings on the portion of the property described in paragraph (2); and

(C) a permanent right of way across the portion of the property described in paragraph (2) to use the buildings conveyed under subparagraph (B).

(2) RANCH A.—Subject to the exceptions described in subparagraph (B) and (C) of paragraph (1), the United States shall retain all right, title, and interest in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, described as Township 52 North, Range 61 West, Section 24 N½ SE¼, consisting of approximately 80 acres of land.

(b) USE AND REVERSIONARY INTEREST.—

(1) USE.—The property conveyed to the State of Wyoming under this section shall be retained by the State and be used by the State for the purposes of—

(A) fish and wildlife management and educational activities; and

(B) using, maintaining, displaying, and restoring, through State or local agreements, or both, the museum-quality real and personal property and the historical interests and significance of the real and personal property, consistent with applicable Federal and State laws.

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institutions of higher education.

(3) REVERSION.—All right, title, and interest in and to the property described in subsection (a) shall revert to the United States if—

(A) the property is used by the State of Wyoming for any other purpose than the purposes set forth in paragraph (1);

(B) there is any development of the property (including commercial or recreational development, but not including the construction of small structures, to be used for the purposes set forth in subsection (b)(1), on lang conveyed to the State of Wyoming under subsection (a)(1)(A)); or

(C) the State does not make every reasonable effort to protect and maintain the quality and quantity of fish and wildlife habitat on the property.

(c) ADDITION TO THE BLACK HILLS NATIONAL FOREST.—

(1) TRANSFER.—Administrative jurisdiction of the property described in subsection (a)(2) is transferred to the Secretary of Agriculture, to be included in and managed as part of the Black Hills National Forest.

(2) NO HUNTING OR MINERAL DEVELOPMENT.—No hunting or mineral development shall be permitted on any of the land transferred to the administrative jurisdiction of the Secretary of Agriculture by paragraph (1).

TENSAS RIVER WILDLIFE REFUGE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 460, H.R. 2660.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2660) to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5400

(Purpose: To authorize an expansion of the Bayou Sauvage Urban National Wildlife Refuge)

Mr. FRIST. Senator JOHNSTON has an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. JOHNSTON, proposes an amendment numbered 5400.

The text of the amendment is as follows:

At the end of the bill, add the following:

SEC. 3. BAYOU SAUVAGE URBAN NATIONAL WILDLIFE REFUGE.

(a) REFUGE EXPANSION.—Section 502(b)(1) of the Emergency Wetlands Resources Act of 1986 (Public Law 99-645; 100 Stat. 3590), is amended by inserting after the first sentence the following: "In addition, the Secretary may acquire, within such period as may be necessary, an area of approximately 4,228 acres, consisting of approximately 3,928 acres located north of Interstate 10 between Little Woods and Pointe-aux-Herbes and approximately 300 acres south of Interstate 10 between the Maxent Canal and Michoud Boulevard that contains the Big Oak Island archaeological site, as depicted on the map entitled "Bayou Sauvage Urban National Wildlife Refuge Expansion", dated August, 1996, on file with the United States Fish and Wildlife Service."

Mr. FRIST. I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5400) was agreed to.

The bill (H.R. 2660), as amended, was deemed read for a third time and passed.

The title was amended so as to read:

To increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge and for other purposes.

ANIMAL DRUG AVAILABILITY ACT

Mr. FRIST. Mr. President, I ask unanimous consent the Labor Committee be discharged from further consideration of S. 773, and the Senate immediately proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 773) to amend the Federal Food, Drug and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Amendment No. 5401

(Purpose: To provide for a substitute amendment)

Mr. FRIST. Mr. President, Senator KASSEBAUM has a substitute at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mrs. KASSEBAUM, proposes an amendment numbered 5401.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mrs. KASSEBAUM. Mr. President, I wish to thank my colleagues for agreeing to the passage of S. 773, the Animal Drug Availability Act. This legislation is designed to address the severe shortage of new drugs for the treatment of animals. The bill will modernize clinical testing requirements and make them more predictable and will improve the efficiency and timeliness of the Food and Drug Administration's [FDA] review of new animal drug applications, while at the same time ensuring that new animal drugs are safe for animals and humans and are effective.

The Senate's passage of this legislation is a testament to what can be accomplished when the FDA, the regulated industry, and Congress recognize a problem—in this case, the lack of new drugs for treating animals—and work together in good faith to craft and enact creative, reasonable solutions to that problem. Dr. Steve Sundlof, the director of the FDA's Center for Veterinary Medicine, and his staff deserve great credit for their dedication to meaningful animal drug law and regulation reform in this Congress.

I wish especially to thank each of the Members who has cosponsored and worked with me for the passage of this legislation. Without their effort and dedication to seeing this bill through the legislative process, we would not have succeeded in passing this bill today. Our former majority leader, Senator Dole, and Senators LUGAR, PRYOR, PRESSLER, GREGG, GORTON, COATS, JEFFORDS, FRIST, HARKIN, CRAIG, INHOFE, GRASSLEY, MCCONNELL, KYL, SANTORUM, HEFLIN, BOND, KERREY, BENNETT, HELMS, HUTCHISON, LOTT, BUMPERS, MACK, ASHCROFT, COCHRAN, ROTH, WARNER, FORD, KEMPTHORNE, ROBB, NICKLES, STEVENS, ABRAHAM, DASCHLE, GRAMS, CONRAD, BURNS, MOSELEY-BRAUN, DORGAN, BAUCUS, and HATCH each deserve great credit for their active support for this legislation.

I ask unanimous consent a summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 773, THE ANIMAL DRUG AVAILABILITY ACT—SUMMARY

The Animal Drug Availability Act, S. 773, was introduced on May 5, 1995, by Senator Kassebaum. It was approved by the Senate Committee on Labor and Human Resources on March 28, 1996, as part of S. 1744, the FDA Performance and Accountability Act, and now has a total of 43 bipartisan Senate cosponsors. Subsequently, S. 773 was refined in close collaboration with the Food and Drug Administration (FDA), and the amendment in the nature to S. 773 reflects these refinements.

S. 773 is designed to address the serious lack of drugs for treating animals by modernizing and making more predictable the FDA's requirements for new animal drug testing and improving the efficiency and timeliness of FDA's review of new animal drug applications, without compromising either human or animal safety or product effectiveness.

These reforms include:

1. *Determination of effectiveness:* The legislation would clarify the discretionary authority of the FDA to rely on one adequate and well-controlled investigation for the determination of the effectiveness of an animal drug. The study or studies could, but would no longer automatically be presumed to, require field investigation(s).

2. *Combination drugs:* The legislation clarifies that when an already approved animal drugs are used in combination with one another, the FDA may approve the combination drug as long as none of the drugs in combination exceeds its established tolerance or none of the drugs interferes with the working of another of the drugs.

3. *Collaborative protocol design:* The legislation provides for a collaborative protocol design process. The FDA is required to meet with individuals intending to investigate or investigating new animal drugs to mutually decide on the appropriate protocol for the clinical investigation. If the FDA decides that more than one field investigation will be necessary, the FDA must set forth its scientific justification for that decision.

4. *Drugs for minor uses and species:* The legislation directs the Secretary to propose legislative or regulatory options for facilitating the approval of animal drugs for minor species and minor uses.

5. *Drug tolerance setting:* The legislation clarifies that the FDA may approve animal drugs which will not exceed the tolerance set for that drug, as opposed to requiring the manufacturer to determine an optimal dose for the drug.

6. *Tolerance for unapproved drugs:* The legislation provides the Secretary new authority to set tolerances for new animal drugs that are not approved in the U.S. but are used in animals imported for consumption in this country.

7. *Veterainary feed directive drugs:* The legislation establishes a new category of animal drugs—"veterinary feed directive drugs." This is a category of drugs between prescription drugs and over-the-counter drugs. The bill establishes a number of requirements to ensure that these drugs can be tracked and that they are used appropriately.

8. *Feed mill licensing:* The legislation establishes a new requirement for the licensing of feed mills that are manufacturing feeds containing animal drugs to ensure conformity with good manufacturing practices and for other reasons.

Mr. LUGAR. Mr. President, I am pleased that the Animal Drug Availability Act (S. 773) is before the full Senate for consideration today.

As an original cosponsor of this legislation, I recognize the need for reform of the Food and Drug Administration [FDA] animal drug approval process. Producers and manufactures of animal drugs have been concerned with the lengthy time required to gain FDA approval of animal drugs as well as the lack of new drug options available to treat livestock and poultry.

The legislation before us today is a consensus bill that is acceptable to FDA, agricultural procedures, pharmaceutical and animal health organizations and has garnered bipartisan support in the Senate. I had written to Senator KASSEBAUM recently urging prompt action on this legislation and thank her for her efforts to move this bill forward.

The bill before us today will provide FDA with greater flexibility to determine when animal drugs are effective for intended uses; streamline approval of combination animal drugs when the drugs have been previously approved separately for the same species and conditions of use; provide FDA with greater flexibility in whether field investigations are necessary to prove efficacy; and require presubmission conferences to help FDA and drug manufacturers to reach agreement on testing requirements before a drug application is submitted to FDA. In addition, the bill streamlines the drug application licenses for feed mills, permits FDA to set import tolerances for drugs used in other countries, and includes a veterinary feed directive provision which will make new therapeutic animal drugs accessible in feed form.

I urge my colleagues to support this important bill.

Mr. GREGG. Mr. President, I rise today to talk about the demise of one very important piece of legislation—the 1996 FDA reform bill—and what I hope will be the success of another—the animal drug availability reform bill. These bills represent important Republican priorities: American patients and consumers, innovation in medicine and consumer products, and a smaller role for the Federal Government.

Republicans put forth an FDA reform bill, supported in the Labor Committee by three of our Democratic colleagues, that puts the needs of our citizens first. Our goal in developing this legislation was clearly to expedite the bureaucratic review process at the Food and Drug Administration, while still recognizing their role in ensuring the safety of products such as pharmaceuticals, medical devices, and food additives being introduced into domestic and international commerce.

In the Labor Committee, our discussions focused on the reprioritization of Agency resources and attitudes in order to achieve this goal. And while some have characterized these provisions as extreme, I believe that it is important to recognize that a number of provisions in the bill that our chairman, the senior Senator from Kansas [Mrs. KASSEBAUM] assembled simply recodify current law—albeit not current practice—by the FDA.

In addition, this legislation contained a number of incremental improvements to the Food, Drug and Cosmetic Act. While I will freely admit that many of these provisions do not go as far as the changes that I advocate, I recognize the balance that Senator KASSEBAUM was attempting to strike; that is why I voted in favor of this legislation in Committee. I also would like to mention the spirit of the negotiations that I observed Senator KASSEBAUM engaged in with our Democratic colleagues and the administration. I thought her approach to this important issue was eminently fair, balanced, and accommodating.

Mr. President, FDA reform is not a new idea. Like so many of the issues we take on, discussion and debate about FDA reform has been going on for many years. For example, the Edwards Commission was established by charter in 1989 and authorized by then Secretary of Health and Human Service Dr. Louis Sullivan. This task force was formed in response to a growing perception that FDA was in crisis. Serious questions had been raised about the agency's ability to do its job.

After a year of public testimony and study, they published a report in May, 1991—a detailed analysis of the FDA's inner workings. The report concluded that the FDA was an agency in crisis. A large part of the report focused on internal structure, organization and management; the report recommended individual center adopt mission statements and that paper work flow studies be conducted agencywide. As a result of the report, Congress gave FDA substantially more money and staff—but I think that we all now understand that simply providing the FDA more resources does not solve the problems they have at the Agency.

Mr. President, I originally had high hopes for FDA reform this Congress. On March 16, 1995, in a speech at an environmental facility in Virginia announcing phase II of the Reinventing Government initiative, the President even acknowledged that FDA reform was a vital issue. In RE-GO II, the administration issued specific recommendations for the reform of the FDA to be achieved through legislative and regulatory changes. However, I was concerned by the quotation used from the President's rhetoric on the first page of the follow up white paper: "The Food and Drug Administration has made American drugs and medical devices the envy of the world and in demaind all over the world."

I believe that it is this sort of perception that has gotten us to the point where we are today: a regulatory system that no longer has clear boundaries or delineated goals, is anti-competitive, and has an attitude that we must function as "the FDA to the world." Former Commissioner Dr. Charles Edwards put it more appropriately when he said that, "The mission of the FDA is consumer protection. Unfortunately, the FDA has tended to confuse its mission with the power to promote what it deems to be appropriate personal and professional behavior." No matter—the administration's white paper of reforms proved to be more of a red herring than anything else.

The FDA has demonstrated a lack of investment on their part in the private sectors' efforts to bring cutting edge medicine to American patients. Businesses do not engage in activities lightly, especially small business making substantial investments in their own future. The FDA has also indicated an unwillingness to let scientists determine the standard of science, to let doctors freely practice medicine, and to allow patients to be informed about their range of options.

To the FDA, it all seems to be about money. The authorized user fees—or taxes placed on the backs of companies working to provide innovative health care solutions—in the Administration's budget request continue to grow. The Administration also continues to annually request two unauthorized user fees: one would levy a new tax on medical device manufacturers and another would be an important inspection fee. Increasing taxes will not solve the problems that persist at the Food and Drug Administration.

Peter Barton Hutt, former FDA General Counsel, summed this up well in a speech before the Utah International Medical Device Congress in 1993. He stated, "User fees is a false issue. If we do not change the philosophy of the FDA reviewers about the criteria for approving either Section 510(k) notifications or PMA applications, we can triple the number of people in the FDA and not get one additional application approved." It is these sort of changes in philosophy, as well as corrections to the fiscal priorities, that we are seeking at the FDA through our reform efforts. But, unfortunately, Congress cannot legislate attitude.

I also remain unconvinced that new user fees would ever be sunset, even if the application backlog is cleared. I think the discussion we will soon begin in regard to the renegotiation of PDUFA will be revealing on this count. I also have yet to see any proposal that would refund user fees to any company if the product review was not completed within the statutory timeline—this is an agency that wants to function like a business without regard to the rules of business—"Get what you pay for." I don't see why businesses should be expected to tolerate this.

In recent years, there also seems to have been a marked shift from product approval to enforcement at FDA. While there is no clear cut cause for this sea change, the intimidation that has resulted from these actions is great. There is, of course, no way to accurately measure the chilling effect this may be having on relevant industries. But this police state mentality has spilled over into the appropriate regulation of product safety.

Companies are terrified that they will be made the victim of a public campaign in the media. The FDA is reputed for its role in propagating widespread fear of retaliation against any company that would cooperate with Congress in its examination of the FDA's mission and regulatory practices. We have found that a number of individuals and companies fear retribution in the form of delayed FDA product reviews and regulatory discrimination if they should criticize the agency. This fear has led to hesitancy on the part of potential witnesses to provide committees with the testimony that they need in order to make an informed judgment on the policies and practices of the agency.

Commissioner Kessler has argued that the industry perceives issues to be something other than what they actually are, such as the Reference List being viewed as a "black list." While we appreciated the assurances made to the Labor Committee by the Commissioner that such fears are unfounded, I have yet to learn what affirmative steps the FDA has taken to reassure those regulated by the agency that they may feel completely comfortable exercising their right to speak freely to the Congress, without threat of retribution or retaliation from the agency. I have to wonder how many stories continue to go untold, how many problems go unexplored, how many questions remain unanswered.

However, Mr. President, I am pleased to note that a couple of FDA-related problems have been resolved this Congress. One dealt with the untenable restrictions placed on U.S. manufacturers regarding their ability to export products approved for use in other countries, but not yet approved for domestic commerce. Working closely with my colleague from Utah, Senator HATCH, we engaged in a lengthy dialog with ranking minority member of the Labor Committee, Mr. KENNEDY. The result was passage of reform of sections 801 and 802 of the Federal Food, Drug and Cosmetic Act, provisions which govern the import and export of FDA-regulated products. Subsequently, these provisions were signed into law, a major victory for U.S. manufacturers who are no longer obligated to build factories and send jobs and investment capital overseas.

A second major issue that was partially resolved dealt with the ridiculously unscientific Delaney Clause. Countless experts and virtually every former Commissioner have stated the fact that a "zero risk" standard is not only unscientific, but virtually immeasurable. As analytical examinations have improved, science has been able to detect ever-shrinking amounts of trace chemicals in our food supply—excellent science means that minute, formerly undetectable amounts of pesticides and chemicals can be detected, and even though they pose no threat over a human lifetime, would be banned under the unrealistic Delaney scheme. Fortunately, this Congress had the bipartisan wisdom to institute a realistic, scientifically based standard in place of the Delaney Clause as it related to the regulation of pesticides. Congress recognized that in this day and age "zero risk" would come close to meaning "zero food." The Delaney reform signed into law takes us out of the realm of the theory of a health treat, and into a food safety realm that balances health considerations with an abundant, affordable food supply.

And, Mr. President, I am hopeful that we will add this animal drug reform compromise to the list of items we have accomplished this Congress. I understand from my colleague from Kansas that this legislation is the result of a real effort on the part of the FDA, the relevant industry, and her staff. I also understand that the House has taken action on this matter, so there is a realistic chance for these provisions to become law—the type of all that we can all feel good about, a law that balances consumer safety with an appropriate level of Federal regulation.

I also hope that we will have an opportunity to clear the way for one other related measure before Congress adjourns—the biomaterials bill that Senators GORTON, LIEBERMAN, and MCCAIN have been championing for many months. This legislation, which provides reasonable relief to the suppliers of critical raw materials. This relief is necessary to ensure that life-sustaining and life-enhancing devices will remain readily available to American patients.

Mr. President, let me just conclude by saying that the discussion of FDA reform will continue into the next Congress. This is a high priority for many of us, as it is such a high priority for American patients and consumers on a daily basis. We will continue to work hard to define an appropriate role for the Federal Government—for the FDA—in the lives of our citizens.

Mr. HARKIN. Mr. President, I am pleased to that we are today seeing Senate passage of this important legislation. I especially want to thank Senator KASSEBAUM for her efforts in working out the details of this consensus bill and in arranging for its passage as a freestanding measure. I also want to thank Senator KENNEDY for his cooperation and efforts in clearing the bill for passage.

I am proud to be an original cosponsor of the legislation. It has been very gratifying to have been a part of the process of reaching agreement on the provisions of this bill among representatives of the animal drug industry, livestock and poultry producer organizations, consumers and the Food and Drug Administration. In particular, I would like to commend Dr. Stephen Sundlof, Director of the Center for Veterinary Medicine at FDA for his hard work and cooperation in reaching consensus on this bill. This has been an exemplary effort in reaching a commonsense balance between the need for adequate regulation and the practical realities of livestock and poultry production.

The bill does not in any way weaken the protections for human health contained in current law pertaining to animal drugs. The bill does, however, streamline the animal drug approval process, primarily by removing unnecessary and duplicative testing and investigation requirements found in current law. By reducing unnecessary requirements in the approval process, the approval of new animal drugs will become less costly and time consuming. That is very important, since the livestock and poultry industries are facing a near crisis caused by the lack of approved new drugs. For example, there has been only one new drug approved for use in swine since 1990, and that drug cannot be marketed as a practical matter until this legislation passes.

The bill also contains a much needed resolution of the problems associated with veterinary oversight in dispensing of drugs for use in livestock and poultry feeds.

This legislation is a huge step forward in improving FDA's animal drug approval process and a real victory for livestock and poultry producers, consumers and producers of animal drugs.

Mr. FRIST. Mr. President, I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statement relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5401) was agreed to.

The bill (S. 773), as amended, was deemed read for a third time and passed, as follows:

S. 773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Animal Drug Availability Act of 1996".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 2. EVIDENCE OF EFFECTIVENESS.

(a) ORIGINAL APPLICATIONS.—Paragraph (3) of section 512(d) (21 U.S.C. 360b(d)) is amended to read as follows:

"(3) As used in this section, the term 'substantial evidence' means evidence consisting of one or more adequate and well controlled investigations, such as—

"(A) a study in a target species;

"(B) a study in laboratory animals;

"(C) any field investigation that may be required under this section and that meets the requirements of subsection (b)(3) if a presubmission conference is requested by the applicant;

"(D) a bioequivalence study; or

"(E) an in vitro study;

by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.".

(b) CONFORMING AMENDMENTS.—

(1) Clauses (ii) and (iii) of section 512(c)(2)(F) (21 U.S.C. 360b(c)(2)(F)) are each amended—

(A) by striking "reports of new clinical or field investigations (other than bioequivalence or residue studies) and," and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or,"; and

(B) by striking "essential to" and inserting "required for".

(2) Section 512(c)(2)(F)(v) (21 U.S.C. 360b(c)(2)(F)(v)) is amended—

(A) by striking "subparagraph (B)(iv)" each place it appears and inserting "clause (iv)";

(B) by striking "reports of clinical or field investigations" and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety,"; and

(C) by striking "essential to" and inserting "required for".

(c) COMBINATION DRUGS.—Section 512(d) (21 U.S.C. 360b(d)) , as amended by subsection (a) is amended by adding at the end the following:

"(4) In a case in which an animal drug contains more than one active ingredient, or the labeling of the drug prescribes, recommends, or suggests use of the drug in combination with one or more other animal drugs, and the active ingredients or drugs intended for use in the combination have previously been separately approved for particular uses and conditions of use for which they are intended for use in the combination—

"(A) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on human food safety grounds unless the Secretary finds that the application fails to establish that—

"(i) none of the active ingredients or drugs intended for use in the combination, respectively, at the longest withdrawal time of any of the active ingredients or drugs in the combination, respectively, exceeds its established tolerance; or

"(ii) none of the active ingredients or drugs in the combination interferes with the methods of analysis for another of the active ingredients or drugs in the combination, respectively;

"(B) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on target animal safety grounds unless the Secretary finds that—

"(i)(I) there is a substantiated scientific issue, specific to one or more of the active ingredients or animal drugs in the combination, that cannot adequately be evaluated based on information contained in the application for the combination (including any investigations, studies, or tests for which the applicant has a right of reference or use from the person by or for whom the investigations, studies, or tests were conducted); or

"(II) there is a scientific issue raised by target animal observations contained in studies submitted to the Secretary as part of the application; and

"(ii) based on the Secretary's evaluation of the information contained in the application with respect to the issues identified in clauses (i)(I) and (II), paragraph (1)(A), (B), or (D) apply;

"(C) except in the case of a combination that contains a nontopical antibacterial ingredient or animal drug, the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use other than in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to labeled effectiveness;

"(ii) each active ingredient or animal drug intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population; or

"(iii) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs may be physically incompatible or have disparate dosing regimens, such active ingredients or animal drugs are physically compatible or do not have disparate dosing regimens; and

"(D) the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to the labeled effectiveness;

"(ii) each of the active ingredients or animal drugs intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population;

"(iii) where a combination contains more than one nontopical antibacterial ingredient or animal drug, there is substantial evidence that each of the nontopical antibacterial ingredients or animal drugs makes a contribution to the labeled effectiveness; or

"(iv) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs intended for use in drinking water may be physically incompatible, such active ingredients or animal drugs intended for use in drinking water are physically compatible.".

(d) PRESUBMISSION CONFERENCE.—Section 512(b) (21 U.S.C. 360b(b)) is amended by adding at the end the following:

"(3) Any person intending to file an application under paragraph (1) or a request for an investigational exemption under subsection (j) shall be entitled to one or more conferences prior to such submission to reach an agreement acceptable to the Secretary establishing a submission or an investigational requirement, which may include a requirement for a field investigation. A decision establishing a submission or an investigational requirement shall bind the Secretary and the applicant or requestor unless (A) the Secretary and the applicant or requestor mutually agree to modify the requirement, or (B) the Secretary by written order determines that a substantiated scientific requirement essential to the determination of safety or effectiveness of the animal drug involved has appeared after the conference. No later than 25 calendar days after each such conference, the Secretary shall provide a written order setting forth a scientific justification specific to the animal drug and intended uses under consideration if the agreement referred to in the first sentence requires more than one field investigation as being essential to provide substantial evidence of effectiveness for the intended uses of the drug. Nothing in this paragraph shall be construed as compelling the Secretary to require a field investigation.".

(e) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations implementing the amendments made by this Act as described in paragraph (2)(A) of this subsection, and not later than 18 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments. Not later than 12 months after the date of enactment of this Act, the Secretary shall issue proposed regulations implementing the other amendments made by this Act as described in paragraphs (2)(B) and (2)(C) of this subsection, and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments.

(2) CONTENTS.—In issuing regulations implementing the amendments made by this Act, and in taking an action to review an application for approval of a new animal drug under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), or a request for an investigational exemption for a new animal drug under subsection (j) of such section, that is pending or has been submitted prior to the effective date of the regulations, the Secretary shall—

(A) further define the term "adequate and well controlled", as used in subsection (d)(3) of section 512 of such Act, to require that field investigations be designed and conducted in a scientifically sound manner, taking into account practical conditions in the field and differences between field conditions and laboratory conditions;

(B) further define the term "substantial evidence", as defined in subsection (d)(3) of such section, in a manner that encourages the submission of applications and supplemental applications; and

(C) take into account the proposals contained in the citizen petition (FDA Docket No. 91P-0434/CP) jointly submitted by the American Veterinary Medical Association and the Animal Health Institute, dated October 21, 1991.

Until the regulations required by subparagraph (A) are issued, nothing in the regulations published at 21 C.F.R. 514.111(a)(5) (April 1, 1996) shall be construed to compel the Secretary of Health and Human Services to require a field investigation under section 512(d)(1)(E) of the Federal Food, Drug, and Cosmetic Act (21 US.C. 360b(d)(1)(E)) or to apply any of its provisions in a manner inconsistent with the considerations for scientifically sound field investigations set forth in subparagraph (A).

(f) MINOR SPECIES AND USES.—The Secretary of Health and Human Services shall consider legislative and regulatory options for facilitating the approval under section 512 of the Federal Food, Drug, and Cosmetic Act of animal drugs intended for minor species and for minor uses and, within 18 months after the date of enactment of this Act, announce proposals for legislative or regulatory change to the approval process under such section for animal drugs intended for use in minor species or for minor uses.

SEC. 3. LIMITATION ON RESIDUES.

Section 512(d)(1)(F) (21 U.S.C. 360b(d)(1)(F)) is amended to read as follows:

"(F) Upon the basis of information submitted to the Secretary as part of the application or any other information before the Secretary with respect to such drug, any use prescribed, recommended, or suggested in labeling proposed for such drug will result in a residue of such drug in excess of a tolerance found by the Secretary to be safe for such drug.".

SEC. 4. IMPORT TOLERANCES.

Section 512(a) (21 U.S.C. 360b(a)) is amended by adding the following new paragraph at the end:

"(6) For purposes of section 402(a)(2)(D), a use or intended use of a new animal drug shall not be deemed unsafe under this section if the Secretary establishes a tolerance for such drug and any edible portion of any animal imported into the United States does not contain residues exceeding such tolerance. In establishing such tolerance, the Secretary shall rely on data sufficient to demonstrate that a proposed tolerance is safe based on similar food safety criteria used by the Secretary to establish tolerances for applications for new animal drugs filed under subsection (b)(1). The Secretary may consider and rely on data submitted by the drug manufacturer, including data submitted to appropriate regulatory authorities in any country where the new animal drug is lawfully used or data available from a relevant international organization, to the extent such data are not inconsistent with the criteria used by the Secretary to establish a tolerance for applications for new animal drugs filed under subsection (b)(1). For purposes of this paragraph, 'relevant international organization' means the Codex Alimenterius Commission or other international organization deemed appropriate by the Secretary. The Secretary may, under procedures specified by regulation, revoke a tolerance established under this paragraph if information demonstrates that the use of the new animal drug under actual use conditions results in food being imported into the United States with residues exceeding the tolerance or if scientific evidence shows the tolerance to be unsafe.".

SEC. 5. VETERINARY FEED DIRECTIVES.

(a) SECTION 503.—Section 503(f)(1)(A) (21 U.S.C. 353(f)(1)(A)) is amended by inserting after "other than man" the following: ", other than a veterinary feed directive drug intended for use in animal feed or an animal feed bearing or containing a veterinary feed directive drug,".

(b) SECTION 504.—The Federal Food, Drug, and Cosmetic Act is amended by inserting after section 503 the following:

"VETERINARY FEED DIRECTIVE DRUGS

"SEC. 504. (a)(1) A drug intended for use in or on animal feed which is limited by an approved application filed pursuant to section 512(b) to use under the professional supervision of a licensed veterinarian is a veterinary feed directive drug. Any animal feed bearing or containing a veterinary feed directive drug shall be fed to animals only by or upon a lawful veterinary feed directive issued by a licensed veterinarian in the course of the veterinarian's professional practice. When labeled, distributed, held, and used in accordance with this section, a veterinary feed directive drug and any animal feed bearing or containing a veterinary feed directive drug shall be exempt from section 502(f).

"(2) A veterinary feed directive is lawful if it—

"(A) contains such information as the Secretary may by general regulation or by order require; and

"(B) is in compliance with the conditions and indications for use of the drug set forth in the notice published pursuant to section 512(i).

"(3)(A) Any persons involved in the distribution or use of animal feed bearing or containing a veterinary feed directive drug and the licensed veterinarian issuing the veterinary feed directive shall maintain a copy of the veterinary feed directive applicable to each such feed, except in the case of a person distributing such feed to another person for further distribution. Such person distributing the feed shall maintain a written acknowledgment from the person to whom the feed is shipped stating that that person shall not ship or move such feed to an animal production facility without a veterinary feed directive or ship such feed to another person for further distribution unless that person has provided the same written acknowledgment to its immediate supplier.

"(B) Every person required under subparagraph (A) to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(C) Any person who distributes animal feed bearing or containing a veterinary feed directive drug shall upon first engaging in such distribution notify the Secretary of that person's name and place of business. The failure to provide such notification shall be deemed to be an act which results in the drug being misbranded.

"(b) A veterinary feed directive drug and any feed bearing or containing a veterinary feed directive drug shall be deemed to be misbranded if their labeling fails to bear such cautionary statement and such other information as the Secretary may by general regulation or by order prescribe, or their advertising fails to conform to the conditions and indications for use published pursuant to section 512(i) or fails to contain the general cautionary statement prescribed by the Secretary.

"(c) Neither a drug subject to this section, nor animal feed bearing or containing such a drug, shall be deemed to be a prescription article under any Federal or State law.".

(c) CONFORMING AMENDMENT.—Section 512 (21 U.S.C. 360b) is amended in subsection (i) by inserting after "(including special labeling requirements" the following: "and any requirement that an animal feed bearing or containing the new animal drug be limited to use under the professional supervision of a licensed veterinarian".

(d) SECTION 301(e).—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting after "by section 412" the following: ", 504,"; and by inserting after "under section 412," the following: "504,".

SEC. 6. FEED MILL LICENSES.

(a) SECTION 512(a).—Paragraphs (1) and (2) of section 512(a) (21 U.S.C. 360b(a)) are amended to read as follows:

"(a)(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for the purposes of section 501(a)(5) and section 402(a)(2)(D) unless —

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and

"(B) such drug, its labeling, and such use conform to such approved application.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

"(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for the purposes of section 501(a)(6) unless—

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed,

"(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed, and

"(C) such animal feed and its labeling, distribution, holding, and use conform to the conditions and indications of use published pursuant to subsection (i).".

(b) SECTION 512(m).—Section 512(m) (21 U.S.C. 360b(m)) is amended to read as follows:

"(m)(1) Any person may file with the Secretary an application for a license to manufacture animal feeds bearing or containing new animal drugs. Such person shall submit to the Secretary as part of the application (A) a full statement of the business name and address of the specific facility at which the manufacturing is to take place and the facility's registration number, (B) the name and signature of the responsible individual or individuals for that facility, (C) a certification that the animal feeds bearing or containing new animal drugs are manufactured and labeled in accordance with the applicable regulations published pursuant to subsection (i), and (D) a certification that the methods used in, and the facilities and controls used for, manufacturing, processing, packaging, and holding such animal feeds are in conformity with current good manufacturing practice as described in section 501(a)(2)(B).

"(2) Within 90 days after the filing of an application pursuant to paragraph (1), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall (A) issue an order approving the application if the Secretary then finds that none of the grounds for denying approval specified in paragraph (3) applies, or (B) give the applicant notice of an opportunity for a hearing before the Secretary under paragraph (3) on the question whether such application is approvable. The procedure governing such a hearing shall be the procedure set forth in the last two sentences of subsection (c)(1).

"(3) If the Secretary, after due notice to the applicant in accordance with paragraph (2) and giving the applicant an opportunity for a hearing in accordance with such paragraph, finds, on the basis of information submitted to the Secretary as part of the application, on the basis of a preapproval inspection, or on the basis of any other information before the Secretary—

"(A) that the application is incomplete, false, or misleading in any particular;

"(B) that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such animal feed are inadequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

"(C) that the facility manufactures animal feeds bearing or containing new animal drugs in a manner that does not accord with the specifications for manufacture or labels animal feeds bearing or containing new animal drugs in a manner that does not accord with the conditions or indications of use that are published pursuant to subsection (i), the Secretary shall issue an order refusing to approve the application. If, after such notice and opportunity for hearing, the Secretary finds that subparagraphs (A) through (C) do not apply, the Secretary shall issue an order approving the application. An order under this subsection approving an application for a license to manufacture animal feeds bearing or containing new animal drugs shall permit a facility to manufacture only those animal feeds bearing or containing new animal drugs for which there are in effect regulations pursuant to subsection (i) relating to the use of such drugs in or on such animal feed.

"(4)(A) The Secretary shall, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feeds bearing or containing new animal drugs under this subsection if the Secretary finds—

"(i) that the application for such license contains any untrue statement of a material fact; or

"(ii) that the applicant has made changes that would cause the application to contain any untrue statements of material fact or that would affect the safety or effectiveness of the animal feeds manufactured at the facility unless the applicant has supplemented the application by filing with the Secretary adequate information respecting all such changes and unless there is in effect an approval of the supplemental application.

If the Secretary (or in the Secretary's absence the officer acting as the Secretary) finds that there is an imminent hazard to the health of humans or of the animals for which such animal feed is intended, the Secretary may suspend the license immediately, and give the applicant prompt notice of the action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this sentence shall not be delegated.

"(B) The Secretary may also, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feed under this subsection if the Secretary finds—

"(i) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under paragraph (5)(A) of this subsection or section 504(a)(3)(A), or the applicant has refused to permit access to, or copying or verification of, such records as required by subparagraph (B) of such paragraph or section 504(a)(3)(B);

"(ii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the methods used in, or the facilities and controls used for, the manufacture, processing, packing, and holding of such animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein, and were not made adequate within a reasonable time after receipt of written notice from the Secretary, specifying the matter complained of;

"(iii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the labeling of any animal feeds, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

"(iv) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the facility has manufactured, processed, packed, or held animal feed bearing or containing a new animal drug adulterated under section 501(a)(6) and the facility did not discontinue the manufacture, processing, packing, or holding of such animal feed within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

"(C) The Secretary may also revoke a license to manufacture animal feeds under this subsection if an applicant gives notice to the Secretary of intention to discontinue the manufacture of all animal feed covered under this subsection and waives an opportunity for a hearing on the matter.

"(D) Any order under this paragraph shall state the findings upon which it is based.

"(5) When a license to manufacture animal feeds bearing or containing new animal drugs has been issued—

"(A) the applicant shall establish and maintain such records, and make such reports to the Secretary, or (at the option of the Secretary) to the appropriate person or persons holding an approved application filed under subsection (b), as the Secretary may by general regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (e) or paragraph (4); and

"(B) every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(6) To the extent consistent with the public health, the Secretary may promulgate regulations for exempting from the operation of this subsection facilities that manufacture, process, pack, or hold animal feeds bearing or containing new animal drugs.''.

(c) TRANSITIONAL PROVISION.—A person engaged in the manufacture of animal feeds bearing or containing new animal drugs who holds at least one approved medicated feed application for an animal feed bearing or containing new animal drugs, the manufacture of which was not otherwise exempt from the requirement for an approved medicated feed application on the date of the enactment of this Act, shall be deemed to hold a license for the manufacturing site identified in the approved medicated feed application. The revocation of license provisions of section 512(m)(4) of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, shall apply to such licenses. Such license shall expire within 18 months from the date of enactment of this Act unless the person submits to the Secretary a completed license application for the manufacturing site accompanied by a copy of an approved medicated feed application for such site, which license application shall be deemed to be approved upon receipt by the Secretary.

UNANIMOUS-CONSENT AGREEMENT

Mr. FRIST. Mr. President, I ask unanimous consent that the previous order be amended so that the Senate stands in adjournment until 9:30 tomorrow morning and the routine morning requests be deemed agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL TOMORROW AT 9:30 A.M.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate stand in adjournment as under the previous order.

There being no objection, the Senate, at 7:36 p.m., adjourned until Wednesday, September 25, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 24, 1996:

IN THE NAVY

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. NAVY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

UNRESTRICTED LINE OFFICER

To be captain

CHRISTOPHER J. REMSHAK, [redacted]

HOUSE OF REPRESENTATIVES—*Tuesday, September 24, 1996*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mrs. VUCANOVICH].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 24, 1996.

I hereby designate the Honorable BARBARA F. VUCANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. McDevitt, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1044. An act to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes.

S. 2101. An act to provide educational assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1507) "An Act to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes."

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentlewoman from Colorado [Mrs. SCHROEDER] for 5 minutes.

COMSTOCK ACT STILL ON THE BOOKS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Madam Speaker, I take this 5 minutes to talk about something I hoped we would have been able to correct on corrections day, but we have not quite gotten to it yet. Maybe there is still time.

There was in the past century a man named Mr. Comstock, and Mr. Comstock was one of these people who decided only he knew what was virtuous and right, and somehow he managed to convince all sorts of people that this was correct. He even in 1873 was able to get on the floor of this House, if you can imagine such a thing, and he stayed here all day long while the Congress was in session. He ran around with a satchel full of books and pictures, and he buttonholed every Member he could find saying, "Look at this, look at this." He wanted a bill passed, which the Congress then passed unanimously, and they named it the Comstock Act after him because he had pushed so very hard for it.

Madam Speaker, what this bill did was allow almost him, himself, to define what would be lewd, what would be filthy, or what would be things that should be banned. He was particularly upset about anything dealing with family planning and also any kind of abortion or contraceptive information.

So, with virtually the entire Congress intimidated, they let this act go through, and, as a consequence, this man went on to really terrorize America, because shortly thereafter, it was not bad enough that the Congress passed this bill, but they then commissioned him as a special agent of the Post Office and vested him with the powers of arrest and the privilege of free transportation so that he could go around and enforce this law unilaterally. He want on to brag later on that he had been responsible for enough criminal convictions of people to fill a 61-coach passenger train. That is really fairly amazing.

And some of the people that he went after were particularly women. He went after Victoria Woodhull, who had tried to run for President even though women could not vote in the 19th century. He went after her on counts of obscenity and every other such thing. He was absolutely obsessed with Margaret Sanger and her husband. He arraigned Margaret Sanger on eight counts of obscenity, and then he went after Margaret Sanger's husband for the same thing.

This is really all very serious because Americans were living with censorship of their mail, druggists lived in constant fear of being prosecuted by this man or people enforcing this law, having anything that looked like a contraceptive, publishers were terrified and had to change an awful lot of the text book and scientific information because, again, this could happen, and George Bernard Shaw said from across the ocean, as he looked at this: "Comstockery is the world's standing joke at the expense of the United States. It confirms the deep-seated conviction of the Old World that America really is a provincial place, and second-rate civilization after all." So, even George Bernard Shaw was watching all of this.

These were serious fines, too. They are now up to $5,000 to $250,000 for a first offense.

Now all of this is historic, and you say, "Why am I taking the time?" The problem is, this body just allowed the Comstock Act to be enforced on the Internet vis-a-vis anything doing with abortion. Previously, the Congress did away the Comstock Act dealing with family planning, thank goodness. But the Comstock Act has never been repealed; it is still on the books. And so, as a consequence, this has been thrown up on the Internet and could be used to bring people into a criminal conviction or arraignment if they decided to discuss anything about the big A word on the Internet.

Now I think when you look at this thing that I am sure more people started out thinking was a real anachronism from the 19th century, the fact that it is still on the books in the 20th century, and then to think that this Congress put it up on the Internet for the 21st century is really, really sad, and I would hope some time before this year is over we could go back and amend the Telecommunications Act, because at the time we are deregulating everything else, to think we are regulating speech about women and making it criminal I think is going the wrong way.

Madam Speaker, I want to take a moment today to recall a shameful chapter in the history of our country and this Congress. I want to talk about Anthony Comstock and the events historians now refer to as "Comstockery," because I think we have to acknowledge that elements of Comstockery are all too present today.

Anthony Comstock was a religious fanatic who spent his life in a personal crusade for moral purity—as defined, of course, by himself. This crusade resulted in the arrest and imprisonment of a multitude of Americans

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

whose only crime was to exercise their constitutional right of free speech in ways that offended Anthony Comstock. Women seemed to particularly offend Anthony Comstock, most particularly women who believed in the right to plan their families through the use of contraceptives, or in the right of women to engage in discussions and debate about matters involving sexuality, including contraception and abortion.

For example, on November 3, 1872, Mr. Comstock brought about the arrest, on charges of obscenity, of two feminists, Victoria Woodhull and Tennessee Claflin, because they published a story in their newspaper about the alleged infidelity of Henry Ward Beecher, a clergyman. Comstock went after Margaret Sanger in 1914, causing her arraignment on eight counts of obscenity for publishing newspaper articles on birth control. He obtained a conviction against Margaret Sanger's husband, William Sanger, in 1915 for selling a single copy of a pamphlet on birth control entitled "Family Limitation."

Anthony Comstock, of course, could not conduct his fanatic crusade singlehandedly. His crusade was empowered by the Congress of the United States, which allowed him onto the floor of the House in January 1873, where he remained nearly all day. Carrying a satchel full of books and pictures he claimed were pornographic, he showed them to every Member of Congress he could buttonhole, and lobbied for a bill that would give him the legal authority to carry on his campaign of persecution and censorship in the name of fighting obscenity. One biographer notes that tears flowed from his eyes as he addressed Congress, begging for a law to stop the "hydra-headed monster" of vice.

The Congress, unfortunately, soon obliged Mr. Comstock, passing what is known as the Comstock Act. This act makes it a crime to advertise or mail not only "every lewd, lascivious, or filthy book, pamphlet, picture, paper, letter, writing, print, or other publication of an indecent character," but also any information "for preventing contraception or producing abortion." Congress passed this law with virtually no discussion, acting by unanimous consent in the Senate and under suspension of the rules in the House.

The Committee on Appropriations then set aside several thousand dollars for a special agent to carry out the Comstock Act, and on March 6, 1873, 1 day before his 29th birthday, Anthony Comstock was commissioned as a special agent of the post office, vested with powers of arrest and the privilege of free transportation on all mail lines so that he could roam the country arresting and prosecuting those who dared to send through the mails any information about contraception or abortion, or anything that Comstock deemed to be lewd or indecent.

As a result of Comstock's crusade, publishers were forced to censor their scientific and physiological works, druggists were punished for giving out information about contraception, and average Americans had to live with censorship of their mail, and without access to reliable information about contraception. Two years before this death in 1915, Comstock bragged that he had been responsible for the criminal conviction of enough people to fill a 61-coach passenger train.

George Bernard Shaw assessed this terrible series of events in 1905, saying, Comstockery is the world's standing joke at the expense of the United States. It confirms the deep-seated conviction of the Old World that America is a provincial place, a second-rate civilization after all.

Although its reach has been somewhat curtailed by the courts based upon first amendment principles, the Comstock Act remains on our books today. In 1971, Congress deleted the prohibition on birth control; but the prohibition on information about abortion remains, and the maximum fine was increased in 1994 from $5,000 to $250,000 for a first offense.

Comstockery, unfortunately, is not just a shameful part of our past. Comstockery has been given a new lease on life by this Congress.

The Telecommunications Act passed this year extended the Comstock Act's prohibitions to anyone who uses an interactive computer service. This Congress, therefore, revived Comstockery by making it a crime to use the Internet to provide or receive information which directly or indirectly tells where, how, of whom, or by what means an abortion may be obtained. A broader gag rule is hard to imagine. It could criminalize:

An Internet posting of the referral directory of your local medical society, or the yellow pages of the telephone directory;

A telemedicine consultation between two doctors who are conferring about a patient who may need an abortion to save her life; or

Uploading or downloading medical journal articles about RU–486, or about safe abortion techniques.

I have introduced legislation to repeal the abortion-related speech provisions of the Comstock Act, but unfortunately, the leadership of the Judiciary Committee and of the Congress has refused to move this bill. So Comstockery remains alive and well, and until the Congress is motivated to renounce Comstockery once and for all, I fear that women will pay a disproportionate share of the price, with the dark shadow of Anthony Comstock hanging over our health-related speech on critical topics such as abortion.

And Comstockery seems to be enjoying a revival in other ways, as well. Efforts to impose gag rules on doctors, punitive measures designed to make it harder for women to get access to information and services relating to contraception and abortion, laws that would allow the Anthony Comstocks of today to arrest and jail doctors who perform an abortion procedure that in their medical judgment is the safest to preserve the health and future fertility of their patients—all this is the Comstockery of today.

It is only President Clinton's veto of H.R. 1833 that stops us from seeing, on the evening news, the chilling image of medical doctors going in handcuffs to criminal trial for exercising their best medical judgment for women who wanted pregnancies have gone terribly wrong.

Republican control of the Congress has brought us more than 50 votes on abortion. Every imaginable form of Comstockery is represented in this array of antichoice measures.

Anthony Comstock's crusade against free speech and reproductive choice represents one of the worst chapters of our history. The last thing this country needs or wants is a bridge to the past represented by Comstockery. Suppression of free speech, suppression of reproductive choice, is an aberration from genuine American values.

As the Anthony Comstocks of today patrol the Halls of this Congress seeking to suppress free speech and reproductive choice in the name of morality, or family values, or whatever high-sounding purpose they may invoke, it is incumbent upon the Congress to ensure that no form of the Comstock Act is ever again enacted, and that no special agent is ever again commissioned to roam the land, persecuting Americans in the name of morality or family values.

FAMILY QUALITY OF LIFE ADVISORY COMMITTEE—ASSESSMENT OF EFFORTS IN THE 104TH CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Virginia [Mr. WOLF] is recognized during morning business for 5 minutes.

Mr. WOLF. Mr. Speaker, I come to the House floor this morning in my capacity as the chairman of the Family Quality of Life Advisory Committee to submit for the RECORD my assessment of the efforts during the 104th Congress to make the House more family friendly which I request be inserted in the RECORD.

While some progress toward the goal of making the Congress more family friendly for Members, for their families, and for the staff has been made, it is probably fair to say that this body may never truly become a family friendly place to work.

Still, I believe that it is important to continue the efforts. Rolled votes, firmer and more reliable legislative schedules, earlier end times on getaway days and efforts to conduct most legislative business in the Tuesday-Wednesday-Thursday window have helped some. Much more needs to be done.

As I step down as chairman, I urge the leadership to continue this effort and appoint as the next chairman someone who comes from a different perspective, someone, perhaps, whose district is more remote from the Capitol who commutes home on weekends to be in the district and with his or her family, someone with younger children living at home, someone who will continue to strive for progress in this area but who sees things through different eyes.

Madam Speaker, I want to take this opportunity to share my thoughts on family friendly efforts in the House and my hopes for such efforts in the days ahead.

At the conclusion of the 104th Congress, I will end my service as chairman of the Family Quality of Life Advisory Committee. It has been an honor and privilege to serve on this Committee, but it is appropriate that a new chairman be named to continue efforts in the 105th Congress. To provide long-range balance, it is my hope that the next Family Quality of Life Advisory Committee chairman brings a perspective different from my own—preferably someone with young children who lives with his or her family in the congressional district, located beyond the Washington metropolitan area. The new chairman should serve as an ombudsman for the House, push for further family friendly initiatives, and be willing to challenge the House leadership on both sides of the aisle on family friendly matters.

In assessing family friendly efforts in the 104th Congress, simply put, this Congress has been extremely difficult for many Members, staff and families. Both sessions have been marked by long days and nights, contentious debate, and ambitious legislative agendas. Our efforts to enact broad reforms and sweeping initiatives have exacted a significant toll on far too many of our colleagues, staff, and on the families. I know many who have struggled greatly under the enormous burdens imposed by the House schedule.

The House leadership did try to respond to the needs of Members, staff and families by adopting some reforms and improvements in the House schedule gleaned from a survey the committee conducted of Members and staff. But the House is not family friendly. The House began adhering where possible to a published schedule, starting sessions earlier in the morning, rolling votes, ending sessions earlier on get-away Fridays, and instituting a Tuesday–Thursday schedule for floor business when possible. There were good intentions at the outset and they helped. However, much more is needed.

At times it seems to be an impossible task in trying to balance the needs of Members anxious to conclude legislative business at a reasonable time most days except Wednesday to allow them to be with family members in the metropolitan Washington area with the needs of Members eager to return to their more distant districts at the end of the legislative work week. But it is a challenge we must address. Some Members prefer the House to conclude legislative business earlier in the evening during the week to allow them the opportunity to have dinner with their family, attend PTA meetings, spend time with their sons or daughters, or simply relax. For these Members, the late sessions make it nearly impossible for them to go home to spend time with their families here and still attend to needs in their own districts when the House is not in session.

Other Members whose families live in their districts want the House to compress its legislative sessions, maintaining a Tuesday-Thursday work schedule and working late into the evening if necessary. These Members prefer longer legislative sessions so they may spend additional time when they go back to their districts with their families and constituents. I recognize the difficulties in attempting to meet these conflicting needs, but we must make every effort to be fair and balanced and accommodate the needs of all Members as much as possible.

My own personal view is that perhaps a truly family friendly Congress may not be possible. Maybe we can never balance the legislative business of the Nation against the individual, personal needs of Members, staff, and families. Still, I do know that we must continue working toward that goal. We will either get better or get worse. Things never stay the same.

We must remain committed to making Congress a more family friendly place, one which enables Members to be successful Representatives as well as successful spouses, fathers and mothers. We owe this effort to ourselves, our staffs, our families, and those who would aspire to follow us to Capitol Hill. If we give up on efforts to establish a more family friendly Congress, we essentially concede that on Capitol Hill, one can only be successful in either his or her professional or personal life but not both. What kind of legislators, spouses, fathers or mothers would we then become? Truly, when our course has been run, the only place each of us will really be missed is in our family. Let's not throw in the towel on efforts to successfully meet both professional and personal needs.

Success in establishing a more family friendly working environment requires a strong commitment from House leadership on both sides of the aisle. Members—especially newer Members—need to see their leaders are committed to having the House family friendly.

While leadership on both sides of the aisle must lead the way in our family friendly efforts, all Members have a responsibility to further these efforts. Where possible, all Members should work to focus floor debate and not waste time, and drag out matters beyond a reasonable point to no useful end. The House, Members, and staff should not be held hostage to the whims of Members who would force everyone to stay in session late to debate issues whose outcome is a foregone conclusion. Family friendly is a responsibility not just of the leadership but of all Members.

Of course, Members understand that as legislators, we are in an unpredictable business. There will be times when Congress must remain in session to debate critical issues. Crisis government should not, however, be the standard for doing business on Capitol Hill.

At both political conventions this summer, both parties offered strong profamily platforms and policies. I believe it is vital that the espoused profamily views represent the true positions of the parties. It is important that the parties not only talk the profamily talk but that they also walk the profamily walk by living a relatively normal life. If we are so busy meeting the needs of the job that we neglect the needs of our families, our views become skewed. Let's not lose our focus and true commitment to family.

Further reforms in House procedures and practices can help. For example, I am not convinced that the House is particularly productive or effective when it works day after day, night after night. Are we as effective as we can be when we debate critical issues late into the night, night after night. These hours are draining for all of us and tiredness increases the level of frustration, hostility and perhaps stubborness.

Let me make a comment here about the staff. Just like the Members around here, the staff have families, too. They have husbands and wives and sons and daughters and moms and dads. Members need to be sensitive to the fact that the staff arrives before the House goes into session in the morning, and they continue to work after we adjourn for the day, no matter how late. If legislative business and the last vote concludes in the early evening, most Members leave. But if there are special orders into the night, the staff stays. That can make for 14-plus hour days and 2 or 3 of these days in a row takes a tremendous toll on the staff. The floor staff probably does not use the term family friendly to describe their work environment.

Many Members have suggested additional changes in House practices that merit further consideration and/or adoption. Some of these changes include: Start legislative sessions earlier in the day; end legislative sessions at a reasonable hour every day while setting one day each week for a late session; conclude voting on the designated late night by 8 or 9 p.m. and only allow debate on amendments to take place past this hour.

Also, roll or cluster roll call votes; approve modified closed rules to expedite debate; set time limits on debate on amendments; establish and adhere to a set schedule; adjourn before 7 p.m. at least one night a week or more frequently if the House starts work earlier.

Finally, provide more time for district work; eliminate 1 minute speeches at the start of the day in which the House is expected to be in session beyond 9 p.m.; and eliminate special orders when the House session extends beyond 9 p.m.

And, of course, some of these reforms may need to be set aside at the end of a session or when legislative demands dictate. But these reforms should be the rule—not the exception. And when we violate them, we should do so only for very good reasons.

I hope we continue to make family friendly reforms. It will help us be better legislators, help us be better husbands or wives and better parents. While change is difficult, let's not abandon this critical effort.

IN HONOR OF THE FIFTH ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF ARMENIA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 5 minutes.

Mr. PALLONE. Madam Speaker, I rise today to pay tribute to the fifth anniversary of the independence of the Armenian Republic, which was celebrated this past Saturday, September 21.

Madam Speaker, the story of the Armenian people, one of the world's most ancient and enduring cultures, is an inspiring saga of courage, devotion to family and nation, and, most dramatically, the triumph over adversity and tragedy. Earlier in this century, in one of history's most horrible crimes against humanity, 1.5 million Armenian men, women, and children were slaughtered by the Ottoman Turkish Empire. Every April, Members of this

House join in commemoration of the Armenian genocide. We can never relent, and we will not relent, in out efforts to remind the world that this tragedy is a historic fact—despite the efforts of so-called revisionists to deny the truth—and to make sure that our Nation, the world community, and especially the Turkish nation, come to terms with and appropriately commemorate this historic fact.

But today, Madam Speaker, I want to talk about a much more joyous occasion in the great history of the Armenian people. The collapse of the Soviet Union in 1991 allowed the Armenian people to finally achieve a true sense of nationhood, to create a society where their language, culture, religion, and other institutions would be able to prosper. The progress made in 5 short years by the Republic of Armenia has been an inspiration—not only for the sons and daughters of the Diaspora, but for all Americans who support the cause of freedom. Having survived the genocide, and living for decades under the yoke of the Soviet Union, the brave people of Armenia have endeavored to build a free and proud nation, based on the principles of democracy and a market economy.

Madam Speaker, as they have for so much of their history, the Armenian people have accomplished all this against daunting odds. The tiny, landlocked Republic of Armenia is surrounded by hostile neighbors who have imposed blockades that have halted the delivery of basic necessities. Yet, independent Armenia continues to persevere and even prosper. While democracy has proven to be elusive in much of the former Soviet bloc, democratic Armenia held parliamentary elections last year and will hold nationwide presidential elections later this year.

As the founder and cochairman, with the gentleman from Illinois [Mr. PORTER], of the Congressional Caucus on Armenia Issues, I consider United States-Armenia relations to be one of our key foreign policy objectives. Support for Armenia is in our practical interests, helping to support a stable nation in a strategically important and often unstable part of the world. Standing by Armenia is also consistent with America's calling to support democracy and human rights, and to defend free peoples throughout the world. In the ongoing debate over the foreign operations bill for fiscal year 1997, congressional friends of Armenia are working, on a bipartisan basis, to provide humanitarian and development aid for Armenia while trying to limit assistance to Turkey and block any funds from going to Azerbaijan until those countries lift their blockades of Armenia.

Madam Speaker, I want to emphasize that the people of Armenia want good relations with their neighbors and the entire would community, and I believe the moral, political and economic power of the United States can go a long way toward helping Armenia achieve that goal.

Madam Speaker, the Republic of Armenia—and friends of Armenia here in the United States—have had much to celebrate recently. Earlier this year, a beautiful new embassy building was opened. It was a great honor and privilege for me to be there for the dedication ceremony, joined by colleagues from this House and the Senate, Armenian political and religious leaders, and members of the community to help inaugurate a real, functioning Embassy, located in the very heart of the Embassy Row area, side by side with many of the world's other great nations. The existence of this Embassy is a tribute to the efforts and dedication of the Armenian-American community—just as the very existence to the Republic of Armenia as an independent nation and state is a triumph of the indomitable will of the people of Armenia to overcome every imaginable obstacle and disadvantage to create a new democracy from one of the world's most ancient nations.

Madam Speaker, I hope that by the time we mark the 10th anniversary of the Republic of Armenia, we can look back with pride on building peace in prosperity in the entire Transcaucasus region, so that the people of Armenia and their neighbors can enjoy a stable, hopeful future. I hope that the Republics of Turkey and Azerbaijan will have responded positively to Armenia's offer to normalize relations, exchanging diplomats, and allowing the free flow of goods and people across their borders. I hope that, with the active participation of the United States, we will have resolved the question of Nagorno-Karabagh, the Armenian enclave located within Azeri borders, to guarantee the security and self-determination of the people of Karabagh. I hope that the effort to tap the vast Caspian Sea oil reserves will finally culminate in the construction of a pipeline carrying the oil west to Mediterranean ports through Azerbaijan, Armenia, and Turkey—thereby further linking those neighbors in mutually beneficial security and economic ties.

While I prefer to stress the positive, in the real world of 1996 I will work with my fellow supporters of Armenia to make sure that turkey and Azerbaijan are not rewarded for their intransigence towards their neighbor Armenia. We must continue to enforce section 907, banning direct United States Government aid to Azerbaijan, until that country lifts its blockade of Armenia. We must continue to enforce the Humanitarian Aid Corridor Act, which would cut off aid to Turkey for its blockade of Armenia. We must guard against any tilt by this administration, or any future administration, toward the Turkish and Azeri sides.

Madam Speaker, this anniversary is being marked by a series of events. Last weekend, the Armenian National Committee of America's New Jersey and New York chapters held a series of events the greater New York area, including a concert and a picnic. On Saturday, September 21, the Diocese of the Armenian Church of America held a formal banquet and a cultural program in New York. Tonight, Tuesday, September 24, the Armenian Assembly of America, in conjunction with the Congressional Causus on Armenian Issues, will hold a reception over in the Senate. And on Friday, the Ambassador of Armenia to the United States, His Excellency Mr. Rouben Shaugarian, will host a reception at the Embassy.

Madam Speaker, I hope to see some of my colleagues at these upcoming events, whether they have been a longstanding friend of Armenia or are merely interested in learning about his new—and yet most ancient—country. It is an honor for me to pay tribute to the fifth anniversary of Armenia's Independence, and I look forward to commemorating many more anniversaries in the future.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess until 12 noon.

Accordingly (at 10 o'clock and 44 minutes p.m.), the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. GREENE of Utah) at 12 noon.

PRAYER

Bishop Felton May, Washington Episcopal Area United Methodist Church, offered the following prayer:

Almighty God, You created us in Your image. Grant us grace fearlessly to contend against evil, and to make no peace with oppression. And, that we may reverently use our freedom, help us to employ it in the fostering of reconciliation, liberation, and justice.

Grant us sincerity, with golden morals and values, that we may persistently seek the things that endure, refusing those which perish, and grow ever richer in that love which is the life of all people. Bless this House of Representatives and all the leaders of this Nation; as we continue to be good and faithful stewards of the resources of this world which You created and called good. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BALLENGER. Madam Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BALLENGER. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes on each side of the aisle.

RELEASE FREEH'S MEMO REGARDING THE WAR ON DRUGS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Madam Speaker, last month, Newsweek magazine ran a story on the politics of the war on drugs. Here is a quote from the article: "Although cocaine is still a major problem and heroin is getting worse, it is simply beyond argument that Bill Clinton has failed to use the powers of his office to lead the war on drugs."

The articles goes on to report that 18 months ago, FBI Director Louis Freeh wrote a "scathing" memo detailing how illegal drugs were flowing into America like an all-conquering army. Freeh reportedly said there was no true leadership in the war on drugs.

Madam Speaker, what else was in that memo? What could have motivated Bill Clinton's hand-picked FBI director to make these revelations? And why hasn't this memo been released?

The Clinton administration should release the Freeh memo, and while they are at it, they can explain to the American people why they have done so very little to stop the flow of these drugs when they knew about it over 18 months ago.

CALLING FOR REPORT ON SPEAKER GINGRICH TO BE MADE PUBLIC

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Madam Speaker, here we continue on; it has been over a month. Mr. Cole has filed his report with the Committee on Standards of Official Conduct on Speaker GINGRICH. This is a huge dark cloud that hangs over the House.

POINT OF ORDER

Mr. LINDER. Madam Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman from Georgia will state his point of order.

Mr. LINDER. The gentleman in the well is referring to matters before the Committee on Standards of Official Conduct, which is explicitly against the rules of the House.

The SPEAKER pro tempore. The Chair sustains the point of order and directs the gentleman from Missouri [Mr. VOLKMER] to proceed in order.

Mr. VOLKMER. The public media has now taken up the call, along with myself and other Members of this House who are asking that that report be made public. It cost the taxpayers——

POINT OF ORDER

Mr. LINDER. Point of order, Madam Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. LINDER. Madam Speaker, it may be that the gentleman does not understand the English language, but I thought the Chair just sustained a point of order and instructed him not to refer to matters before the Committee on Standards of Official Conduct but to continue in order, and for him to continue referring to these matters is out of order.

The SPEAKER pro tempore. The Chair once again sustains the point of order of the gentleman from Georgia [Mr. LINDER]. The gentleman from Missouri [Mr. VOLKMER] is not speaking in order, and the Chair again directs the gentleman from Missouri to proceed in order in accordance with the rules of the House.

Mr. VOLKMER. Madam Speaker, it is time and the time is now that the chairperson of the Committee on Standards of Official Conduct, NANCY "Stonewall" JOHNSON, release that report on Speaker GINGRICH so that we can all know what is in it. I do not know what is in it, whether it is good or bad, but we are entitled to know. Every Member of this House, the public, the press is entitled to know what is in that report.

POINT OF ORDER

Mr. LINDER. Point of order, Madam Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. LINDER. Madam Speaker, it does not seem like anyone should have to remind someone three times in a 1-minute speech that he is abusing the rules of the House, but that is the point I am raising.

The SPEAKER pro tempore. The Chair will inform the gentleman from Missouri [Mr. VOLKMER] that the Chair sustains the point of order of the gentleman from Georgia. The gentleman from Missouri is not, under the rules of the House, to make references to matters currently under review before the Committee on Standards of Official Conduct or to members of that committee, as the gentleman from Missouri well knows.

The gentleman from Missouri [Mr. VOLKMER] has 20 seconds remaining.

Mr. VOLKMER. Madam Speaker, it is very apparent, I think, to everybody out there that is seeing what is happening here, that Members of the House who are calling for this report to be made public are attempted to be gagged.

The SPEAKER pro tempore. The time of the gentleman from Missouri has expired.

SUPPORT NATIONAL POLLUTION PREVENTION WEEK

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Madam Speaker, my topic is quite different. I am pleased to lend my support to National Pollution Prevention Week, recognized across the country to promote the most environmentally responsible management approach of pollution prevention, reducing pollution at the source before it starts. Pollution prevention can increase industrial efficiency and commercial competitiveness, improve the health and safety of workers in the workplace, while simultaneously preserving valuable resources and protecting the environment.

In my State of Maryland we have a very active State pollution prevention program that is helping to protect the Chesapeake Bay, the Anacostia and Potomac Rivers, and many other natural resource treasures. This is the key to the environmental health of my district. Maryland's Department of the Environment, numerous private sector programs, along with other Federal and local programs in the State, are working actively with the National Pollution Prevention Round Table, the largest association of State and local pollution prevention programs in the United States, to produce and promote a source reduction approach to environmental protection.

I ask all of us to recognize the importance of meeting those challenges for a healthy community.

THE LEGACY OF TOM BEVILL

(Mr. POSHARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POSHARD. Madam Speaker, regrettably I missed the special order on the gentleman from Alabama, TOM BEVILL, one of our dear colleagues in this House, last week, and I wanted to make sure that I took this 1 minute to congratulate Mr. BEVILL on his years of work in this House.

When I came here as a freshman nearly 8 years ago, I had a terrific problem in the rural district which I represented. We had a levee along the Mississippi River that had been greatly compromised. It was well over 60 years old. The local folks in the poor part of the district had no funds to really repair that levee. As a young freshman legislator I went to Mr. BEVILL and I said: "TOM, here is the problem."

He helped me, as chairman of his committee. We went in, repaired that levee with the Corps of Engineers, and less than 2 years later a gigantic flood along the river broke through levees all up and down the Mississippi, threatened lives, threatened property, but that levee stayed, and it protected thousands of acres of farmland and thousands of homes for people who would have had no protection otherwise.

That is the legacy of TOM BEVILL to this institution. He has helped us all. Regrettably he is going to be leaving here. I wish him well in his retirement because he has made a great, great difference in the quality of life of many people across this country that have needed his help.

SHAME ON THE WASHINGTON REDSKINS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, the Washington Redskins, one of the most storied teams in American history: Sammy Baugh, Jurgensen, Huff, Taylor, Theismann, Riggins, Monk, Jacoby, on and on. The NFL franchise that represents the Nation's Capital, the NFL franchise that represents the great courage, tenacity of our great Native Americans, now is known as the team that has made Nissan their official vehicle. Beam me up. The Washington Redskins now ride a war horse made in Japan.

Unbelievable.

Now tell me what is wrong with Ford; how about Chevy, Jeep, Chrysler? Do they not matter to America anymore?

I think the Washington Redskins will realize one thing: No wonder the American people consider the Dallas Cowboys America's team.

Shame, Washington Redskins, shame. My colleagues, this is not meant to be a joke. I yield back the balance of all the profits going to Japan from products being bought by American people and advertised by American celebrities.

MOURNING THE TRAGIC PASSING OF JOHN DURICKA

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Madam Speaker, it saddens me to inform the House of the passing of a great American and someone who worked long and hard in this Capitol. His name will not be known to everyone, but when my colleagues see John Duricka they automatically recognize him, and yesterday morning he tragically passed away.

He had a 30-year career with the Associated Press. He had lived in southern California for a number of years and worked for the San Gabriel Valley Tribune, and that was up until 1966 when he joined the Associated Press.

Madam Speaker, today's Washington Post in the obituary section describes him as a keen-eyed photographer who played a great role in getting still photographers into all kinds of meetings, in fact into this Chamber the day that Jim Wright announced his resignation from right here in this well.

He was a great friend to me. His brother was a photographer at the San Gabriel Valley Tribune in California, and tragically I had the opportunity to deliver the eulogy at his funeral when he was killed in a tragic plane crash a few years back.

But John Duricka was a great man, and he took wonderful photographs, and he is one of those institutions in this Capitol who will be sorely missed.

CALLING FOR ISTEA'S REAUTHORIZATION

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Madam Speaker, as we in Congress prepare to adjourn the 104th session, and we turn our attention to the next session and its business, we need to focus on the reauthorization of ISTEA. Citizens and local governments around the country are calling for the ISTEA reauthorization with enhancements programs and flexibility intact. Representatives from 118 cities asked me earlier this month to deliver to my colleagues a message that is signed, an open letter to this Congress.

□ 1215

We need ISTEA and the money that it brings. But more important, to deal with the problems of our increasingly mobile populations, is the flexibility that that legislation entails. More important than money is the local planning framework that is involved. And most important of all is the public involvement that is entailed.

Our citizens, our constituents, know what they need. If we engage them in the process of planning for our future, they will respond with innovation and nontraditional solutions. We in Congress talk a lot about empowerment and doing more with less. ISTEA is a chance to deliver on that promise.

RELEASE OF WHATEVER IT IS PRODUCED BY OUTSIDE COUNSEL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Madam Speaker, editorials all over America are joining those of us who keep calling for the release of whatever it is that was produced by the outside counsel for over a half a million dollars of tax money on Speaker GINGRICH's violations of the ethics rules.

Let me read to the Members what the Albuquerque Journal said, because this is one of the papers in my Rocky Mountain region. They said, what is good for the goose is good for the Gingrich. The Republicans cannot have it both ways. They have to play this game by the rules they established in the Wright case, and they should release the report.

POINT OF ORDER

Mr. LINDER. Point of order, Madam Speaker.

The SPEAKER pro tempore (Ms. GREENE of Utah). the gentleman from Georgia will state his point of order.

Mr. LINDER. Madam Speaker, it is my understanding last week that the Chair ruled that even if newspapers make references to matters before the Committee on Standards, it is inappropriate under House rules to bring those matters to the floor of the House. It is entirely acceptable for the gentlewoman from Colorado to speak on this issue as much as she wants outside the House of this Congress. But on this floor, it is against the rules.

The SPEAKER pro tempore. The Chair sustains the point of order of the gentleman from Georgia, and directs the gentlewoman from Colorado [Mrs. SCHROEDER] to proceed in order in accordance with the rules of the House.

Mrs. SCHROEDER. Madam Speaker, I find it amazing that we cannot come to this House floor and discuss the chief officer of this House and different violations that have been alleged of this chief officer that has put a cloud over this House. I find that astounding. I have never, never in my 24 years seen these kinds of rules enforced on the House floor, and I am stunned that the leadership seems so insistent on gagging us in this body. No wonder this body has created such cynicism.

CONCERNING RELEASE OF REPORT PAID FOR BY TAXPAYERS' MONEY

(Mr. WAXMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAXMAN. Madam Speaker, I yield to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Madam Speaker, I thank the gentleman from California for yielding to me.

Basically what I was trying to do is, I had a whole list of editorials that have been written across the country dealing with this report that we have been trying to get released for over a month.

My understanding of the ruling of the Chair is that we cannot even talk about what the editorial said. I find that fairly astonishing, that they tell us we can go outside and talk about it, but we cannot talk about it on the floor.

Mr. WAXMAN. Madam Speaker, if I can reclaim my time, I would mention to the gentlewoman and others that the so-called Committee on Government Reform and Oversight has been issuing reports scathingly attacking the administration without any evidence. They keep on saying, "The report says that," and that is their justification for their accusations, both on the Travel Office, and they are going to try to do something on the FBI files, a very, very partisan hatchet job.

Those reports are being issued without evidence, but a report that we have paid for with taxpayers' money we are not allowed to see, and the public is being kept from having those reports available to us.

Mrs. SCHROEDER. I thank the gentleman from California.

The SPEAKER pro tempore. The gentleman's time has expired.

POINT OF ORDER

Mr. LINDER. Point of order, Madam Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LINDER. The gentleman's time has expired, but the point of order is the same one, that he is referring to matters against the rules of the House.

The SPEAKER pro tempore. The Chair will sustain the point of order, and requests that all Members show respect for and abide by the rules of the House.

Mr. WAXMAN. Madam Speaker, I would like to be heard on the point of order before the Speaker rules on the point of order.

The SPEAKER pro tempore. The Chair has already ruled on the point of order.

Mr. WAXMAN. I guess that is it: The sentence first, and then we will have the trial later.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. Does the gentleman from California [Mr. WAXMAN] have a parliamentary inquiry he wishes to make?

Mr. WAXMAN. I do, Madam Speaker.

The SPEAKER pro tempore. The gentleman will state it,

Mr. WAXMAN. As I understand it, Madam Speaker, the House of Representatives has spent around half a million, maybe more, to ask for a report to be submitted to our committees. Why can that not be made public, and why is that inappropriate to say on the House floor?

The SPEAKER pro tempore. Prior rulings of the Speaker have sustained the point of order in this and prior Congresses that press accounts relating to matters currently before the Standards of Official Conduct Committee are not a proper subject for debate on the floor. That is why the gentleman from Georgia's point of order was sustained.

Mr. WAXMAN. Further parliamentary inquiry, Madam Speaker.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. WAXMAN. There is a ruling that we as Members of the House of Representatives may not speak in protest over the committee's refusal to make this report public?

The SPEAKER pro tempore. The duty of the Chair is to enforce the rules of the House as they are written and have been interpreted. The rules of the House, as the Chair has ruled in this and prior Congresses, make it out of order for any Member to refer to any subject currently before the Standards Committee, whether through the Members' own words, or through the recitation of words printed in any other medium outside the floor of this House, except when a question of privilege is pending.

The Chair will continue to abide by and enforce the rules of the House.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. LINDER. Madam Speaker, pursuant to clause 2, rule IX, I hereby give notice of my intention to offer a question of privileges of the House.

The SPEAKER pro tempore. The gentleman will state the form of the resolution.

Mr. LINDER. Madam Speaker:

Whereas, a complaint filed against Representative Gephardt alleges House Rules have been violated by Representative Gephardt's concealment of profits gained through a complex series of real estate tax exchanges and;

Whereas, the complaint also alleges possible violations of banking disclosure and campaign finance laws or regulations and;

Whereas, the Committee on Standards of Official Conduct has in other complex matters involving complaints hired outside counsel with expertise in tax laws and regulations and;

Whereas, the Committee on Standards of Official Conduct is responsible for determining whether Representative Gephardt's financial transactions violated standards of conduct or specific rules of the House of Representatives; and

Whereas, the complaint against Representative Gephardt has been pending before the committee for more than seven months and the integrity of the ethics process and the manner in which Members are disciplined is called into question; and

Whereas, on Friday, September 20, 1996 the ranking Democrat of the Ethics Committee, Representative James McDermott in a public statement suggested that cases pending before the committee in excess of 60 days be referred to an outside counsel; now be it

Resolved that the committee on Standards of Official Conduct is authorized and directed to hire a special counsel to assist in the investigation of the charges filed against the Democrat Leader Representative Richard Gephardt.

Resolved that all relevant material presented to, or developed by, the committee to date on the complaint be submitted to a special counsel, for review and recommendation to determine whether the committee should proceed to a preliminary inquiry.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative schedule within 2 legislative days. The Chair will announce that designation at a later time.

A determination as to whether the resolution constitutes a question of privileges will be made at that later time.

CORRECTIONS CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Corrections Calendar. The Clerk will call the first bill on the Corrections Calendar.

SMALL BUSINESS REGULATORY RELIEF ACT OF 1996

The Clerk called the bill (H.R. 3153) to amend title 49, United States Code, to exempt from regulation the transportation of certain hazardous materials by vehicles with a gross vehicle weight rating of 10,000 pounds or less.

The Clerk read the bill, as follows:

H.R. 3153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION OF CERTAIN HAZARDOUS MATERIAL TRANSPORTATION FROM REGULATION.

Section 5117 of title 49, United States Code, is amended by redesignating subsections (c) and (d) as subsections (d) and (c), respectively, and by inserting after subsection (b) the following:

"(c) STATUTORY EXEMPTION. This chapter and regulations prescribed under this chapter shall not apply to—

"(1) any vehicle with a gross vehicle weight rating of 10,000 pounds or less transporting a substance or material—

"(A) designated as a hazardous material under this chapter (or the Hazardous Materials Transportation Act) on or before January 1, 1996; and

"(B) for which placarding of a motor vehicle was not required as of January 1, 1996, under regulations prescribed under this chapter (or the Hazardous Materials Transportation Act); and

"(2) any vehicle with a gross vehicle weight rating of 10,000 pounds or less transporting a substance or material designated as a hazardous material under this chapter after January 1, 1996, unless the Secretary determines that the hazardous material poses a significant risk to health and safety or property.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PETRI

Mr. PETRI. Madam Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Petri: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Transport Correction Advancement Act of 1996".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Secretary of Transportation is considering, as part of a proposed rulemaking, expanding the exceptions provided for transportation of small quantities of hazardous materials from unnecessary and burdensome regulations;

(2) the Secretary has found that certain businesses, and especially small businesses, carry small quantities of hazardous materials;

(3) small businesses are critical in creating jobs in the United States economy and can be significantly affected by Federal regulations; and

(4) regulatory relief for small businesses transporting relatively small quantities of hazardous materials should be promptly acted on and the Secretary has stated an intention to issue a final rule to provide this regulatory relief by December 31, 1996.

SEC. 3. MATERIALS OF TRADE EXCEPTIONS FROM HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.

(a) DEADLINE FOR ISSUANCE OF FINAL RULE.—Not later than December 31, 1996, the Secretary of Transportation shall issue, under the rulemaking proceeding under docket number HM-200, entitled "Hazardous Materials in Intrastate Transportation", a final rule relating to materials of trade exceptions from chapter 51 of title 49, United States Code, and regulations issued pursuant thereto. The final rule shall substantially address the materials of trade exceptions contained in the proposed rule relating to hazardous materials in intrastate transportation published in the Federal Register on March 20, 1996 (61 Fed. Reg. 11489-11490).

(b) EFFECTIVE DATE.—The final rule issued under subsection (a) shall become effective not later than 90 days after date of publication of the final rule.

(c) TRAINING OF INSPECTORS.—Before the effective date of the final rule issued under subsection (a), the Secretary shall provide sufficient training of inspectors to provide for implementation of the final rule.

SEC. 4. FARM-RELATED EXCEPTIONS FROM HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.

Any provision of a final rule relating to intrastate transportation of hazardous materials issued under the rulemaking proceeding under docket number HM-200 that prohibits States from granting exceptions for not-for-hire intrastate transportation by farmers and farm-related service industries shall not take effect with respect to not-for-hire intrastate transportation by farmers and farm-related service industries before the earlier of—

(1) the date of the enactment of a law which authorizes appropriations to carry out chapter 51 of title 49, United States Code, for fiscal year 1998; or

(2) the 180th day following the effective date of the final rule.

Mr. PETRI (during the reading). Madam Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin [Mr. PETRI] and the gentleman from Minnesota [Mr. OBERSTAR] will each control 30 minutes.

The chair recognizes the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the amendment in the nature of a substitute directs the Secretary of Transportation to issue, under an ongoing rulemaking proceeding, a rule relating to materials of trade exceptions to hazardous materials regulations. This provision was adopted by the Committee on Transportation and Infrastructure on September 12, 1996.

The amendment also provides that any rule extending Federal hazardous materials regulation to intrastate transportation relating to farm vehicles which does not allow for State exceptions, cannot take effect prior to the reauthorization of the Hazardous Materials Program or 180 days after the effective date of the final rule, whichever is earlier.

On March 20, 1996, the Department of Transportation proposed that businesses which carry small amounts of hazardous materials in the course of their business meet reduced regulatory requirements. This proposal is part of a larger rulemaking, known as HM-200, concerning Federal regulation of intrastate transportation—but the materials of trade exception would apply to both intrastate and interstate transportation. DOT has stated its intention to issue a final rule on HM-200 by the end of this year.

However, should that be delayed because other aspects of HM-200 may be controversial, then DOT must at least complete this portion of the rulemaking which can provide sensible relief to small businesses now regulated.

This bill does not interfere in the rulemaking process and it does not prescribe the contents of the final rule. It only directs when that process must be concluded.

I applaud the efforts of the Transportation Department in seeking to provide relief to small businesses through the proposed rule.

Section 4 of the amendment is of great importance to many farming communities and States. Several States which have adopted the Federal hazardous materials rules for transportation within their State have provided for various exceptions for farm vehicles.

If States are preempted from continuing to grant such exceptions in a final rule issued under the pending HM-200 rulemaking, this provision in section 4 of the amendment ensures that the Congress has an adequate opportunity to carefully consider the effects of such a rule and whether legislative action is necessary. I want to note that in this amendment a regulation that prohibits States from granting exceptions means a regulation that prohibits, limits or changes the status quo in current practices or authorities of the States.

I appreciate the cooperation demonstrated by Congressman OBERSTAR, Congressman RAHALL, and, of course, Chairman SHUSTER in fashioning this amendment. Several members of the committee, including Congressman EWING, Congressman POSHARD, and Congressman BARCIA—and well as Congressman BUYER and other members representing rural, farming districts—have been instrumental in bringing to our attention the farm vehicle issue.

I urge the House to approve the amendment and H.R. 3153.

Madam Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of the amendment in the nature of a substitute to H.R. 3153 offered by the gentleman from Wisconsin, the chairman of the subcommittee.

Again, I want to commend our chairman, the gentleman from Pennsylvania [Mr. SHUSTER], and the chairman of the subcommittee, the gentleman from

Wisconsin [Mr. PETRI], for the splendid working relationship we have had throughout this rather complex and at times contentious issue, not contentious among Members, but contentious among those affected by the issue, and to come to a meeting of the minds and an agreement on how to proceed. We have, I think, a very fair and workable and, most importantly, a good piece of policy here.

Madam Speaker, as we proceed with this issue, we have to keep the objective in mind. That is, management of hazardous materials in transportation. Hazardous materials are regulated as they move among the States simply because they are potentially dangerous. Federal involvement is an important element to assure that citizens across the country receive equal treatment and the same level of protection.

The Department of Transportation should not grant exemptions from its standards unless the Department is convinced that the exemption will not reduce the margin of safety.

The substitute amendment before us deals with two exemptions now under consideration by the Department of Transportation. First, the substitute directs DOT to complete expeditiously that part of its HM-200 rulemaking related to hazardous materials of trade. DOT proposes exceptions in response to comments it received on the broader, more controversial intrastate rulemaking.

Many businesses use small quantities of hazardous materials in conducting their principal business. Among those are lawn care companies, pest control companies, swimming pool service companies, and many of those are very small businesses.

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They are family owned, they have very few employees, and they present unique cases. It was appropriate for the Department to understand their unique circumstances and undertake to alleviate heavy burdens, while at the same time assuring that public safety will be protected.

The proposed rules would exempt those companies from complying with a limited number of transportation regulations, including training and incident reporting requirements, under controlled conditions. To qualify, a company would have to meet 3 basic criteria. First, the affected materials would include only those normally carried on a motor vehicle in relatively small quantities. The exemption should be limited with respect to both the quantity per package and the total quantity per motor vehicle. Second, to qualify for the exemption, a company would have to use either the manufacturer's original packaging or packaging of equal or greater strength. Third, to qualify, the motor vehicle operator would have to be aware of the materials that are on board and be familiar with the materials of trade regulations. I think that is a fair requirement to impose upon small companies. These regulations are not burdensome. These requirements and exceptions are not serious exceptions from public safety, either.

The chairman's substitute directs DOT to complete action on the proposal in an expeditious fashion. The substitute, though, does not dictate the outcome of DOT's rulemaking. That was very important for me and I think for our side and for the Department, that under the substitute the DOT should have complete discretion in making its final decision as to whether an exemption can be granted without sacrificing safety.

The substitute also addresses the concerns of farmers and farm-related service industries who operate pursuant to State exceptions. The substitute provides that if the final rule for HM-200 relating to intrastate transportation prohibits States from granting exceptions for not-for-hire intrastate transportation by farmers and farm-related service industries, in that circumstance, the rule would not take effect for those entities until either the reauthorization of the HazMat program or until 180 days after the effective date of the final rule, whichever is sooner. That is an important distinction. I had initially proposed that the rule not take effect for 270 days after the initiation of the rulemaking. We now have a compromise that is fair, 180 days after the effective date of the final rule. The practical effect of this language is that it takes the application of the HazMat rulemaking well past planting season next year for farmers and well past the summer season for farmers so that they can continue to operate under existing rules and laws without any changes while the full effect of any change adopted by the Department of Transportation is evaluated by the farming community and while Congress then will have time to more fully consider both the safety implications, the regulatory burden, and, if necessary, take additional legislative action.

So the provision that we are including in this legislation preserves the integrity of the rulemaking process, not prejudging its outcome, allowing it to proceed to completion, but providing a safety valve for those who are either adversely affected by it because they are the operators or those who may be adversely affected by a spill that will cause harm to the environment or to health and safety.

Neither the materials of trade nor the farmers and farm-related services provision predetermines the outcome of DOT's rulemaking. The rulemaking process goes forward including thorough consideration of all relevant comments in support of and in opposition to the proposed exceptions. I think this is a fair outcome.

We have had extensive discussion with Chairman SHUSTER and Chairman PETRI, with the gentleman from West Virginia, Mr. RAHALL, our ranking member on the Subcommittee on Surface Transportation, the gentleman from Illinois, Mr. POSHARD, of our committee, the gentleman from Michigan, Mr. BARCIA, of our committee, and the gentleman from Illinois Mr. EWING, on the Republican side also of our committee. And we have had very good discussion with farmers and farm-related entities who also have a stake in the outcome of this legislation and in the outcome of this rulemaking.

Madam Speaker, I reserve the balance of my time.

Mr. PETRI. Madam Speaker, I yield 5 minutes to the gentleman from Texas [Mr. DELAY], the sponsor of the legislation.

Mr. DELAY. Madam Speaker, I want to commend the gentleman from Minnesota [Mr. OBERSTAR] and the gentleman from Wisconsin [Mr. PETRI] for working on this bill and understanding how important this bill is to so many people. I also want to thank the gentleman from California [Mr. WAXMAN] along with the gentlewoman from Nevada [Mrs. VUCANOVICH] who are both on the Corrections Day Advisory Group, for helping us work through this legislation.

Madam Speaker, I am very pleased to speak in favor of H.R. 3153, the Small Business Transport Correction Advancement Act. This bill, the product of months of meetings and negotiations and hard work, will provide countless small businesses with much needed commonsense relief from excessive Federal regulations.

The gentleman from California [Mr. CONDIT] and I introduced H.R. 3153 to try to fix what I think is a ridiculous situation where the drivers of small vehicles carrying small quantities of relatively benign substances such as nail polish remover and spray paint are being required to retain complex shipping papers for at least a year, mark containers on a daily basis and undergo training on how to handle these substances.

While DOT's hazardous materials regulations do serve a worthwhile purpose, everyone agrees that they were not intended to cover the transport of a spare can of gasoline in a gardener's pickup truck.

Earlier this year, DOT proposed a materials of trade exception from HazMat regulations for small businesses that transport small quantities of hazardous materials as part of their business. While we are pleased to see that the Department shares our concern that small businesses are being unnecessarily heavily regulated, we were disturbed that this proposal was attached to a much larger and more controversial proposed rule dealing with intrastate regulation which has been on the docket since 1987.

Based on DOT's assertion that it expects to issue its final rule on December 31 of this year, H.R. 3153 simply acts as an insurance policy, setting December 31 as the deadline by which the Department must issue a final rule establishing a materials of trade exception.

If DOT succeeds in issuing a final rule by this date, then this bill will not be necessary. But if the bigger issue of intrastate regulation requires additional discussion, then at least small businesses will not be held hostage to that separate debate.

Currently this bill has 58 cosponsors and is a bipartisan bill. Further, a diverse coalition of over 20 organizations, ranging from the National Federation of Independent Business and the National Restaurant Association to the Society of American Florists and Walt Disney, have come together in support of this bill.

H.R. 3153 will help roofers, painters, plumbers, housekeepers and cosmetic supply salespeople, among many others. I urge my colleagues to support this bill as a prime example of how this Congress is trying to provide commonsense relief to the small businesses of this country, which are also the biggest job creators in this country.

Mr. OBERSTAR. Madam Speaker, I yield myself 2 minutes, and I yield to the gentleman from Illinois [Mr. POSHARD] for purposes of a colloquy.

Mr. POSHARD. Madam Speaker, H.R. 3153 has been amended to delay implementation of the Department of Transportation final rule under docket No. HM-200 for not-for-hire intrastate transportation by farmers and farm-related service industries, if the final rule does not allow States to grant exceptions.

Is it the understanding of the gentleman that this rulemaking, as explained in notice of proposed rulemaking in the March 20, 1996 Federal Register, will allow for a 1-year transition period from the date of publication of the rule?

Mr. OBERSTAR. That is my understanding and the gentleman has stated the issue correctly.

Mr. POSHARD. Further, it is the understanding of the gentleman that the amendment to H.R. 3153 is accepted for the purpose for providing sufficient time for Congress to study and address this issue as it relates to farmers and farm-related service industries?

Mr. OBERSTAR. Again the gentleman has stated the issue correctly. That is the understanding and that is the purpose of this amendment to H.R. 3153.

Mr. POSHARD. I thank the gentleman from Minnesota for yielding.

Mr. OBERSTAR. Madam Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Madam Speaker, I would like to thank personally the gentleman from Minnesota [Mr. OBERSTAR], the ranking minority member of the Committee on Transportation and Infrastructure, in no uncertain terms for his efforts and cooperation in regard to this legislation.

As we have mentioned, H.R. 3153 pertains to proposed regulations for the transportation of hazardous materials. The Department of Transportation has for some time been working on uniform nationwide regulations for the interstate transportation of hazardous materials.

H.R. 3153 is a bipartisan measure that will not only help bring this process to its conclusion but will ensure that effective State exceptions for intrastate transportation of such materials will not be immediately prohibited upon the effective date of the final rule.

This will allow for congressional scrutiny next year while not burdening the Nation's farmers with costly mandates that have been determined to be superfluous at the State and local level.

Madam Speaker, I would also like to acknowledge the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the Committee on Transportation and Infrastructure, and the gentleman from Wisconsin [Mr. PETRI], the chairman of the subcommittee, for their support as well as the hard work of the gentleman from Illinois [Mr. EWING], the gentleman from Michigan [Mr. BARCIA], the gentleman from Illinois [Mr. LAHOOD], and the gentleman from Indiana [Mr. BUYER] on this issue, and, of course, the gentleman from Texas [Mr. DELAY], the sponsor of the bill itself.

Mr. EWING. The gentleman from Illinois [Mr. LAHOOD] and I are neighbors in the congressional districts of central Illinois, so we know how important this legislation is to the Committee on Agriculture. It has been my pleasure to work with these gentleman as well as the gentleman from Michigan [Mr. BARCIA] who is a fellow colleague on the Committee on Transportation and Infrastructure, and they, along with the gentleman from Indiana [Mr. BUYER], have been an integral part of this process and their support is much appreciated.

Mr. PETRI. Madam Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. LAHOOD].

Mr. LAHOOD. Madam Speaker, I rise in support of H.R. 3153 which, through the hard work of Congressmen TOM EWING and STEVE BUYER, has been amended to provide relief for farmers and agricultural drivers from the Department of Transportation's rulemaking of the transportation of hazardous materials.

I want to thank the gentleman from Illinois [Mr. EWING], the gentleman from Indiana [Mr. BUYER], the gentleman from Illinois [Mr. POSHARD], the gentleman from Wisconsin [Mr. PETRI], and the gentleman from Pennsylvania [Mr. SHUSTER] for spearheading this important effort that will help protect farmers from unnecessary regulation.

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Unfortunately, neither could be present today due to long-standing prior commitments, but I believe they deserve our sincere thanks for moving this forward.

I also want to thank Congressman OBERSTAR for being so helpful to the agricultural community.

Their leadership on this issue has been extremely valuable. Absent substantial modifications, the HM-200 rulemaking presently being proposed by the U.S. DOT/Research and Special Programs Administration would supersede every State exception granted to the agriculture industry for transfer of agricultural production materials, such as fertilizers, and fuel from retail-to-farm and from farm-to-farm.

The agreement contained in section 4 of H.R. 3143 would provide relief for farmers and retailers, and allow States to do exactly what they are now doing, until after Congress has had a chance to review, and correct if necessary, DOT's final rule.

The agreement in the bill today would continue the current practice regarding the transportation of agricultural products until after Congress passes a reauthorization of the Hazardous Materials Transportation Safety Act, or through the 1998 planting season.

All of the congressional supporters of H.R. 3799 and H.R. 4102, the Farm Transportation Regulatory Relief Act, realize that agriculture has unique needs and operates under critical seasonal time pressures.

Burdening farmers with unnecessary bureaucratic requirements such as having to placard their trucks, carry shipping documents, and provide a 24-hour emergency response phone number will only impede farmers' ability to efficiently plant and care for their crops. These regulations, Madam Speaker, will not improve rural highway safety—they will only hurt our Nation's farmers.

Mr. BUYER. Madam Speaker, the matter before us today is a perfect example of how this institution can work effectively and in a bipartisan manner to combat bad policy. I am grateful to Mr. EWING, Mr. POSHARD, and Mr. BARCIA for their strong support and diligent efforts in this matter. In addition, I appreciate the assistance and cooperation of Chairman SHUSTER, Ranking Minority Member OBERSTAR, Subcommittee Chairman PETRI, Subcommittee Ranking Member RAHALL, and Majority Whip DELAY.

For the past few months a bipartisan effort has undertaken a cause to address a little known proposed regulation, HM–200, regarding the Federal Hazardous Materials Transportation Act that would most likely cost the average farmer between $2,000 to $3,000. The overall impact of the regulation could exceed $7 billion for the agriculture industry.

The Department of Transportation's [DOT] proposed regulation would supercede every State exception granted to the agriculture industry in the transferring of agricultural production material from either retail-to-farm or from farm-to-farm. Besides the regulatory burdens of such a mandate, the enforcement is even less practical.

On June 27, 1996, I spoke during consideration of the fiscal year 1997 Transportation appropriations bill regarding HM–200. The next day many farmers, members of the agriculture industry, and colleagues contacted my office expressing opposition to HM–200. As a result, I introduced H.R. 3799, a bill that seeks to provide the States with the authority to grant exceptions to the agriculture industry. Soon afterwards, 48 of our colleagues joined my in sending a bipartisan letter to Dr. D.K. Sharma, administrator of the Research and Special Programs Administration of the Department of Transportation, in opposition to the proposed rule.

Madam Speaker, many States have had in place for years exceptions that allow retailers and farmers to transport regulated agrichemicals to the farms without having to placard their trucks, carry shipping documents, and provide a 24-hour emergency response phone number. The rural, local transportation of agrichemicals under these exceptions has allowed agribusinesses and farmers to move product efficiently and safely during the farming season. In fact, most of these chemicals are transferred during a short 2 to 4 week period.

Without the same exceptions that have been granted for the industry in the transfer of such chemicals in the past, farmers will have to abide by time consuming, burdensome, and costly regulations. Such regulations will not make our rural roads safer, but only increase the cost of doing business, cause confusion, and require farmers to complete useless paperwork. The penalty for not abiding by the regulations can run $2,500 to $10,000 per violation.

Our bipartisan effort believes the one-size-fits-all approach fails to recognize the unique seasonal and rural nature of this business. Second, by States already allowing such exceptions, they have weighed the concerns and found the risks to be minimal. Finally, the goal of these efforts has been to allow States the right to continue to provide exceptions for the transfer of such chemicals from retail-to-farm and from farm-to-farm if they so decide.

To farmers, this proposed regulation represents another heavyhanded Federal regulation that is not needed, but inhibits farmers' ability to produce food for our Nation and the world. To me this is bigger—more intrusive—government. This is a perfect example of Washington bureaucrats not following the intent of Congress. When bureaucrats who have most likely never worked on a farm make rules that affect the industry the result is often bad policy.

Madam Speaker, at every step, this effort has gotten stronger and stronger. Last week, Congressmen EWING, POSHARD, BARCIA, and I introduced H.R. 4102 which is legislation that is more narrow than the original bill, H.R. 3799. Today, the language included in H.R. 3153 is a giant step in the right direction. Specifically, this bill would prohibit the final rule by the Department of Transportation under the rulemaking proceedings from prohibiting States from granting exceptions for farmers and farm-related service industries before the enactment of HAZMAT reauthorization or until the 180th day following the effective date of the final rule.

This bill provides Congress the opportunity to address this matter when Congress reauthorizes the HAZMAT during the 105th Congress, thus, allowing Congress to write responsible legislation while prohibiting the DOT from prohibiting farmers and those in the agricultural industry from transporting such chemicals if their respective States allow.

Again, I thank all those who participated in this bipartisan effort.

Mr. EWING. Madam Speaker, today the U.S. House of Representatives acted to protect farmers, farm retailers, many small businesses, and State's rights from potentially onerous regulations currently being proposed by the U.S. Department of Transportation. It is unfortunate that some proponents of "big government" and Washington, DC bureaucracies feel the need to preempt State laws and impose one-size-fits-all regulations on businesses and activities that have operated safely and efficiently for years without Federal regulation. Passage of H.R. 3153 was a victory for the "common sense" 104th Congress.

In its present form, the U.S. Department of Transportation, Research and Special Programs Administration's HM–200 rule-making would supersede every State exception granted to the agriculture industry for transfer of agricultural production materials, such as pesticides, fertilizers, and fuel from retail-to-farm and from farm-to-farm. In fact, this issue is so important to agriculture that 49 Members of Congress and 44 farm and agribusiness organizations endorsed corrective legislation that I introduced along with Representatives Buyer, Poshard, and Barcia, H.R. 4102, the Farm Transportation Regulatory Relief Act.

Although the agricultural production materials provisions contained in Section 4 of H.R. 3153 are not as comprehensive as the recommendations contained in H.R. 4102, the bipartisan agreement contained in H.R. 3153 would provide relief for farmers and retailers, and allow States to continue to do exactly what they are doing now, until after Congress has a chance to review DOT's final rule. This section would exempt agricultural production materials from DOT's final intrastate regulations until after Congress passes a reauthorization of the Hazardous Materials Transportation Safety Act, or through the 1998 planting season.

State governments realize that agriculture has unique needs and operates under critical seasonal time pressures. There is no need to impose uniform hazardous materials transportation standards on not-for-hire intrastate transportation of agricultural chemicals and materials. Burdening farmers with costly and unnecessary bureaucratic requirements like having to placard their trucks, carry shipping documents, and provide a 24-hour emergency response phone number will only impede farmers' ability to efficiently plant and care for their crops. It will not improve safety on rural roads!

I would particularly like to thank Mr. BUYER, Mr. POSHARD, Mr. BARCIA, and Majority Whip DELAY for their support and hard work to ensure farmers and retailers are protected from DOT's unnecessary and burdensome regulations. Farmers are primarily small business people, who work extremely hard to make ends meet. They care about their safety, the safety of others, and the environment. I hope DOT will reevaluate its opinion of agriculture, and its unique transportation needs; however, if they do not, I am prepared to continue to work with my colleagues to ensure Congress takes the necessary action to permanently protect production agriculture from these unnecessary and bureaucratic regulations.

Mr. OBERSTAR. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PETRI. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered on the amendment in the nature of a substitute and on the bill.

The question is on the amendment in the nature of a substitute offered by the gentleman from Wisconsin [Mr. PETRI].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

The title of the bill was amended so as to read: "A bill to direct the Secretary of Transportation to issue a final rule relating to materials of trade exceptions from hazardous materials transportation requirements."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PETRI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material in the RECORD on H.R. 3153.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

TRAFFIC SIGNAL SYNCHRONIZATION PROJECTS

The Clerk called the bill (H.R. 2988), to amend the Clean Air Act to provide that traffic signal synchronization projects are exempt from certain requirements of Environmental Protection Agency rules.

The Clerk read the bill, as follows:

H.R. 2988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. TRAFFIC SIGNAL SYNCHRONIZATION PROJECTS.

Section 176(c)(4) of the Clean Air Act is amended by adding the following at the end thereof:

"(D) Traffic signal synchronization projects shall be exempt from regional emissions analysis requirements and from requirements under rules of the Administrator for determining the conformity to State or Federal implementation plans of transportation plans, programs, and projects funded or approved under title 23 of the United States Code or the Federal Transit Act.".

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE.

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: strike out all after the enacting clause and insert:

SECTION. 1. TRAFFIC SIGNAL SYNCHRONIZATION PROJECTS.

Section 176(c)(4) (42 U.S.C. 7506(c)(4)) of the Clean Air Act is amended by adding the following at the end thereof:

"(D) Compliance with the rules of the Administrator for determining the conformity of transportation plans, programs, and projects funded or approved under title 23 of the United States Code or the Federal Transit Act to State or Federal implementation plans shall not be required for traffic signal synchronization projects prior to the funding, approval or implementation of such projects. The supporting regional emissions analysis for any conformity determination made with respect to a transportation plan, program, or project shall consider the effect on emissions of any such project funded, approved, or implemented prior to the conformity determination.".

Mr. SCHAEFER (during the reading). Madam Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from California [Mr. WAXMAN] will each control 30 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2988 was introduced by the gentleman from California, Congressman McKEON, and has been endorsed by the Bipartisan Speaker's Advisory Group on Corrections. It has the support of both the majority and minority of the House Commerce Committee, and was passed out of the committee on a voice vote.

I would like to thank Mr. McKEON for bringing this issue to the committee's attention, as well as the Speaker's Advisory Group and the minority for its work on this issue.

The issue that H.R. 2988 seeks to address is narrow, but nonetheless important. Currently, EPA requires that nearly all transportation projects be reviewed to determine if they "conform" to the State's implementation plan for compliance with the Clean Air Act. This includes traffic synchronization projects, even though most, if not all, synchronization projects lower vehicle emissions. By requiring that these projects be reviewed before they can be implemented, some projects may be delayed by a year or more, resulting in an increase in vehicle emissions.

H.R. 2988 would allow synchronization projects to proceed as soon as they are approved and funded, before conformity determinations are made. Nothing in this bill, however, would relieve a jurisdiction from its responsibility to conduct a regional emissions analysis at a later date, if one is deemed necessary by EPA.

H.R. 2988 will streamline the approval process for traffic synchronization projects and act to speed up these projects. I urge the passage of this bill, which will decrease motorist frustration, as well as vehicle emissions.

Madam Speaker, I reserve the balance of my time.

Mr. WAXMAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of this bill and I want to commend my colleague, the gentleman from California [Mr. McKEON] for bringing this issue to us.

It came first to the Corrections Day Advisory Committee because this really is a genuine proposal to correct an anomaly in the law. That anomaly is if the local governments want to synchronize the signals so that passengers do not have to stop every block or so, there seems to be a question of whether they might be in violation of the clean air law.

We discussed this in the context of how to make the proposal work and not have unintended consequences, as far as we knew anyway, and I think we have a good proposal. It reflects a compromise that we developed with the gentleman from California [Mr. McKEON], and I thank him for bringing this matter to our attention.

This bill will allow communities to synchronize their traffic lights without needless delay.

Under the Clean Air Act, before a transportation project can go forward the project must be determined to be in conformity with State or Federal implementation plans.

Because many jurisdictions make conformity determinations only once a year, projects can be delayed while awaiting a conformity determination.

This bill will allow traffic light synchronization projects to go forward without first undergoing a conformity determination.

Then the project's effects on air pollution can be fully considered when the next conformity determinations are made.

This is a narrow but important issue, and it is notable as well for the process with which it was crafted.

Representative McKEON first brought this bill before the Corrections Day Advisory Group this spring. We engaged in collegial discussions and have been able to craft a bill that works toward the goals of the Clean Air Act, but gives local governments the flexibility they feel they need.

In my view, this is a model way to protect and improve our environmental laws. Earlier in this Congress, some proposed wholesale repeals of even our most successful environmental laws—all in the name of increasing flexibility.

This bill is an example of how we can address desires for flexibility while maintaining the integrity of our environmental laws.

This marks the second time we have amended the Clean Air Act through the corrections process. Earlier this year, we passed a bill which gave States greater flexibility in implementing the Clean Air Act's employee trip reduction requirements. That bill has now become law. This bill should become law as well.

I urge your support for H.R. 2988 and again want to recognize Representative McKEON for his outstanding efforts on this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. SCHAEFER. Madam Speaker, I yield 3 minutes to the gentleman from California [Mr. McKEON].

Mr. McKEON. Madam Speaker, I want to thank the chairman for yielding me this time.

Madam Speaker, I rise to urge a "yes" vote on H.R. 2988, which corrects a regulation in the Clean Air Act that unnecessarily delays the implementation of traffic signal synchronization projects.

This issue was brought to my attention last year by the city of Lancaster, CA, which is in my congressional district. The city had proposed a straightforward traffic signal synchronization project that would improve traffic flow and reduce congestion in the community. The city had hoped to implement this project in a timely manner. However, because of an EPA rule governing the implementation of these projects in air quality nonattainment areas, a regional emissions analysis of the project was required. The city became frustrated when it learned that it could take more than a year for the responsible local agency to perform the required analysis, and contacted my office for assistance.

As written, H.R. 2988 would allow synchronization projects to be implemented before undergoing a regional emissions analysis to determine whether the project conforms to a State or Federal air quality implementation plan. The signal synchronization project would still be subject to the traditional review process that exists for determining the air quality implications of the project. This is a fair, nonpartisan bill that deserves our support, and I would like to thank my friends from Virginia, Chairman BLILEY, the gentleman from Colorado, Chairman SCHAEFER, and my friend from California, Mr. WAXMAN, for their support in moving this legislation forward. I especially want to note that when I discussed this legislation with the correction's day task force earlier this year, Mr. WAXMAN volunteered his help in addressing this issue, and I have valued his involvement in bringing this bill before us today.

I urge a "yes" vote.

Mr. WAXMAN. Madam Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, I have never liked this corrections day procedure. I think it is very much contrary to the spirit of legislating, creating a whole new category of majority, and because my concern at the very outset was that these issues would not likely be given substantial consideration in committees.

Today we have an example of an issue that was not given the benefit of public hearings, either in the Committee on Commerce or in the Committee on Transportation and Infrastructure.

I do not disagree with the intent of the proponents of this legislation, but it does raise very significant policy issues that at least ought to have been aired in the committee process.

The legislation would create an entirely new type of exemption to the Clean Air Act's conformity requirements. That is cause in itself to have hearings and to air this issue so the public can have input and so Members of Congress who have concerns about the policy could have at least the opportunity to debate the issue in the committee structure.

Meanwhile, the Environmental Protection Agency is proceeding on streamlining its transportation conformity rule, and specifically is reviewing this issue of signalization in the course of rulemaking. That public process of rulemaking should be allowed to proceed prior to any legislative action being taken by the Congress, especially on a bill on which hearings have not been held.

There is a jurisdictional concern for me, and that is the issues raised within the bill are clearly within the ambit of the congestion, mitigation and air quality provisions of ISTEA, Intermodal Surface Transportation Efficiency Act of 1991. Therefore, they are within the jurisdiction of the Committee on Transportation and Infrastructure, to whom the bill was not even referred.

The bill affects the ability of States and localities to use Federal transportation funds in nonattainment areas. A change of that significance ought to be reviewed by the committee with generic jurisdiction over transportation.

In addition, the bill specifically amends section 176 of the Clean Air Act. In 1990, when the Committee on Public Works and Transportation, as it was then known, undertook consideration of ISTEA, we very clearly and extensively looked at the impact on clean air requirements of congestion in urbanized areas. We specifically amended section 176, and the Speaker of the House appointed Committee on Transportation and Infrastructure members as conferees on this section during consideration of ISTEA.

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The bill is properly within the jurisdiction of our committee.

Under EPA's rules, transportation projects that have a neutral or a very small impact on air quality are exempt from conformity determinations, those determination which cover a project's impact on a region's air quality. So when a community constructs bike and pedestrian paths or purchases new buses, it may use Federal transportation dollars to fund the project without showing the air quality effects, in this case benefits, or alternative transportation projects.

Under current rules, traffic signalization projects which are not regionally significant may be funded without a new regional emissions analysis but region-wide traffic signalization and synchronization projects that affect hundreds of intersections are not exempt from the Clean Air Act's conformity determination. Those projects are likely to affect traffic on a regional level, and the impacts may be positive; they may be negative, depending on the pollutant involved and the speeds on the roads and the impact of traffic flow at the regional level.

Improved traffic flow and increases in traffic speed may reduce carbon monoxide emissions. They may also increase nitrogen oxide emissions in certain speed ranges; particulate matter, PM-10. Those emissions may also increase under certain conditions. These pollutant effects, together with the affected projects, are best considered as part of a community's conformity plan.

Under this legislation, region-wide traffic signal synchronization projects are prospectively exempted from the Clean Air Act's required conformity determination. So States and localities can use Federal funds to adopt region-wide synchronization projects without considering the Clean Air Act effects of the projects before they undertake them. Subsequently States and localities will look back at the effects of these projects in their next conformity determination.

So the bill creates an entirely new category of exemption: projects not required to show conformity with air quality controls prior to funding, but projects that have to look back to see what good or harm they did after they have been done. Now, that is an inherent conflict, and it should have been aired, should have been extensively discussed, and it was not, unfortunately.

So I just do not think in the waning hours of the Congress we should pass something so hastily, albeit in response to a wide range of concern. I do not question at all the concerns based on real circumstances, but their is another forum, the rulemaking process in which this should be considered. There is another forum, the committee hearing process, in which this should be considered.

We should have taken this matter up in our committee against the backdrop of 2 years of hearings prior to enactment of ISTEA, against the backdrop of regional transportation institutes that are studying and developing synchronization projects under scientific conditions, and given this a full, thorough in-depth consideration. That is what troubles me about this process. That is why I oppose the legislation and urge Members to oppose the bill.

Mr. SCHAEFER. Madam Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Madam Speaker, I thank my colleague from Colorado for yielding me this time.

Madam Speaker, this bill, which amends the Clean Air Act Amendments of 1990, would allow States to avoid delay and implement traffic signal synchronization projects prior to demonstrating that such projects are in conformity with State and Federal implementation plans. Instead, States would be required to consider the effect on emissions of such projects in subsequent conformity determinations. As a result, this bill does not waive any Clean Air Act conformity requirements.

Although I do not object to the bill today, I note for the record that the subject matter of H.R. 2988 does fall within the jurisdiction of the Committee on Transportation and Infrastructure as well as the Committee on Commerce. When Congress was considering the Clean Air Act Amendments of 1990, members of the Committee on Public

Works and Transportation were named as conferees on various provisions of the bill that impacted transportation, including the very provision being amended.

While not ceding our committee's shared jurisdiction on conformity provisions within the Clean Air Act, I do applaud this bill which seeks to speed project delivery and enhance air quality and traffic congestion.

Mr. WAXMAN. Madam Speaker, I yield myself 2 minutes.

I think we have a good example of why the Corrections Day Calendar was needed. Here we have a commonsense proposal by the Representative from California, Mr. McKEON, to say that, if a local government wants to synchronize their traffic signals, they should be able to do it.

The question that we had before us is whether that is going to interfere with environmental standards under the Clean Air Act. Our committee, which is the primary committee on the Clean Air Act, I looked at that issue and made sure we are not going to add to pollution. That was really not a factor. If it added to air pollution, it would be considered later.

That is why this thing has been worked out, and now this bill is being presented to the full House for consideration on the Corrections Day Calendar.

The argument by my good friends and colleagues, the gentleman from Wisconsin [Mr. PETRI] and the gentleman from Minnesota [Mr. OBERSTAR] was they should have had jurisdiction. They should have been able to look at this bill. They should have considered it within a couple of years of hearings.

Well, how many years of hearings do we need on the idea that cities and communities ought to be able to synchronize their traffic signals? Why should this be held up for a long period of time? I think the idea of the Corrections Day Calendar was not to let committee jurisdictions become an impediment for doing something that is sensible.

Now, if the Committee on Transportation and Infrastructure should have had jurisdiction, they should have gone to the Speaker and said: Refer this bill to us. You referred it to Commerce. We think we have jurisdiction, refer it to us as well.

Presumably they did. If they did not, they should have. But if they did and the Speaker looked at it and said this is something that has been reviewed sufficiently, and it is his decision to end it to the House floor, it is now before us.

Madam Speaker, I do not think we ought to let jurisdictional concerns hold up a commonsense proposal that has been reviewed by the committee that has primary, maybe exclusive jurisdiction over the Clean Air Act.

I respect the fact that the Committee on Transportation and Infrastructure has areas of the law that might also impact on this. That issue should have been taken up with the Speaker. But I would hope we would not hold up something interminably that is so small and makes so much sense.

Mr. OBERSTAR. Madam Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Madam Speaker, I thank the gentleman for yielding. I want to offer a correction of my own.

In my statement I said we held 2 years of hearings on ISTEA before bringing the legislation to the House floor. I felt this provision should at least have had hearing, not 2 years of hearings.

The gentleman may have confused something I said earlier with my suggestion that we have hearings. At least a half day of hearing, at least an hour of hearing the issue would have been sufficient.

Mr. WAXMAN. Madam Speaker, I yield myself 1 minute.

I appreciate what the gentleman is saying, and that is a correction, but the point I would still make is we looked at it with our majority and minority staff on the Committee on Commerce. We talked about ways to make this legislation work. We did not feel a hearing would be particularly productive because I do not know what anybody would have to say about the idea that a community should be able to synchronize their traffic signals.

But I respect the fact the gentleman feels there should have been a jurisdictional claim, and in exercising his jurisdiction he might have held a hearing and might not have. But I would hope now we will pass this bill forward to the other body. I hope it becomes law.

Madam Speaker, I reserve the balance of my time.

Mr. SCHAEFER. Madam Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER. Madam Speaker, I thank my very good friend, the subcommittee chairman, for yielding me this time. I rise in strong support of this effort that the gentleman from California [Mr. McKEON] is moving ahead with under this corrections day procedure.

I am here to not only support Mr. McKEON's efforts but to support what we are doing with this corrections day procedure. I want to begin as we sit here just 42 days before the election to congratulate wholeheartedly my fellow Angelino, Mr. WAXMAN, for his excellent statement and his assessment that the has provided of not only this effort of Mr. McKEON's but also the corrections day procedure.

I also want to congratulate Mr. WAXMAN for the terrific testimony that he gave to our Committee on Rules about 10 days ago, I guess it was on September 12, when he looked at the issue of corrections day and said, and I am going to quote his testimony here, he said: When corrections day was first proposed over a year ago, I had serious reservations about instituting such a process. I was concerned that the corrections procedure would become a fast track for special interest legislation.

I think that was a justifiable concern he raised at that point, but we have worked in a bipartisan way to do everything possible to ensure that the Corrections Day Calendar would be used as it was intended, to deal with preposterous situations like Mr. McKEON's attempt to synchronize traffic lights when we have a bureaucracy in Washington that is blocking that.

The assessment that Mr. WAXMAN went on to make was that he believes the process has worked basically as intended, and I quote, the bills that were placed on the Corrections Day Calendar were for the most part noncontroversial and appropriate for the abbreviated legislative process of corrections day. The corrections day process has proved an opportunity to expeditiously legislate. We have been able to repeal duplicative laws, act to increase flexibility and even make bipartisan policy changes.

The speech that my friend, the gentleman from California [Mr. WAXMAN], just gave is one that I think more often than not emanates from this side of the aisle. I would like to congratulate HENRY WAXMAN for his vision in being so strongly committed in dealing with a preposterous situation like this.

Madam Speaker, I thank my friend for yielding and appreciate his efforts for moving this forward. I strongly want to support the gentleman from California [Mr. McKEON] in his efforts.

Mr. WAXMAN. Madam Speaker, I yield myself 1 minute to thank the gentleman from California for his kind statements. I think the Corrections Day Calendar has worked well for the most part. It can work well. We always have to be vigilant it is not used for improper purposes. Under the leadership of our chairman, the gentlewoman from Nevada, BARBARA VUCANOVICH, who has been exceedingly fair, I think the committee has lived up to the representations of those who called for it claimed and those of us who were wary and skeptical have been proved wrong.

I thank the gentleman for his statements in support of this legislation as well.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHAEFER. Madam Speaker, I yield myself such time as I may consume to again say to the gentlemen from California, Mr. WAXMAN and Mr. McKEON, that this is excellent legislation, and I think it is going to certainly speed up the process and be good for the American people.

Mr. SHUSTER. Madam Speaker, I rise in support of H.R. 2988.

This bill, which amends the Clean Air Act Amendments of 1990, would allow States to implement traffic signal synchronization projects without first having to make a determination that such projects are in conformity with State and Federal implementation plans.

It is important to note that this bill does not waive Clean Air Act conformity requirements, but requires States to consider the emissions effect of these projects in subsequent conformity determinations.

The Transportation Committee shares jurisdiction with the Commerce Committee over the transportation conformity provisions of the Clean Air Act. During consideration of the Clean Air Act Amendments of 1990, members of the Committee on Public Works and Transportation were conferees on the transportation conformity provisions and worked closely with the Commerce Committee to resolve these issues.

We on the Transportation Committee have closely followed the implementation of the transportation conformity rules because of their direct impact on transportation programs. The conformity rules are often determinative of whether transportation projects can be built in urban areas.

The bill before us today is a constructive proposal that will facilitate completion of projects that will decrease traffic congestion and improve air quality and I therefore urge support of the bill.

Mr. BILIRAKIS. Madam Chairman, I rise in support of H.R. 2988, the Traffic Signal Synchronization Act.

Under section 176 of the Clean Air Act, transportation plans, programs and projects must conform to a State's air quality implementation plan [SIP]. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

EPA requires that nearly all transportation projects be reviewed to "conform" to the State's implementation plan for attaining or maintaining the national ambient air quality standards. This includes traffic synchronization projects, even though most, if not all, synchronization projects lower vehicle emissions. By requiring that these projects be reviewed before they can be implemented, some projects may be delayed by a year or more, resulting in an increase in vehicle emissions.

Clearly, this situation is contrary to the original intent of the Clean Air Act. As chairman of the Commerce Health and Environment Subcommittee, which has jurisdiction over the Clean Air Act, I would like to thank Representative MCKEON, who introduced H.R. 2988, for bringing this matter to the attention of the Commerce Committee. I would also like to thank Representative WAXMAN, the ranking minority member of the Health and Environment Subcommittee, for his willingness to seek a bipartisan solution to this problem.

During our markup, the Commerce Committee unanimously approved an amendment in the nature of a substitute which allows synchronization projects to proceed at the earliest opportunity while a regional emissions analysis or other conformity determinations are made. However, nothing in the bill, as amended, would relieve a jurisdiction from its responsibility to conduct a regional emissions analysis at a later date, if one is deemed necessary by EPA. It is the purpose of the legislation that traffic light synchronization projects be approved and that any emissions increase or decrease caused by such synchronization be credited or made up in the overall SIP.

Altogether, H.R. 2988, as amended, will streamline the approval process for traffic synchronization projects and act to speed up these projects—resulting in lower emissions.

I believe H.R. 2988 is consistent with correction's day and would urge my colleagues to support passage of this important legislation.

Mrs. VUCANOVICH. Madam Speaker, I rise today in strong support of H.R. 3153 and H.R. 2988, the two bills we are considering on the Corrections Day Calendar. This will be the last time this session that we call upon the Corrections Day Calendar as the 104th Congress comes to a close. I believe that we have had significant success and the corrections day process will be looked upon as a useful and productive means to make commonsense changes in current law.

I want to commend the Speaker for his creativity in working to make our lives less cumbersome and less intrusive, and I especially want to thank him for giving me the opportunity to chair this innovative and effective corrections day advisory group. It has also been an honor and a privilege to serve with my cochairs, Mr. ZELIFF and Mr. MCINTOSH, Mr. WAXMAN, and the other eight members of the advisory group in making this process a success. As we all know, change is never easy to implement, especially in the legislative process. However, I believe corrections day has worked and I am very pleased with what we have accomplished this Congress.

Since the commencement of corrections day, 10 bills have been signed into law by the President, and 8 bills have passed the House and are waiting further action in the Senate. The American people are demanding a more responsive Government, and corrections day is a key part in meeting their demands.

H.R. 3153, the Small Business Transport Correction Advancement Act, directs the Secretary of Transportation to issue a final rule concerning the "materials of trade" exception by December 31, 1996. This bill would provide an exception for small businesses such as farming, plumbing, and painting to transport relatively small quantities of certain hazardous materials. Also, H.R. 2988, the Traffic Signal Synchronization Act, allows States to quickly implement traffic light synchronization projects, which would likely lower vehicle emissions. The bill also requires the EPA to examine the effects of traffic synchronization projects in all subsequent conformity reviews.

I believe that the two bills we are considering today are good examples of how the corrections day process works well in a bipartisan manner with the agency and committees of jurisdiction. I want to recognize the Committees on Transportation and Commerce, Chairman SHUSTER and Chairman BLILEY, and their staffs for the expedient and hard work they did to get these bills to the floor. I am hopeful that the Senate will recognize the need for quick action and send these bills to the President without delay.

Mr. DINGELL. Madam Speaker, I also rise in support of this measure as amended by the Commerce Committee. It will clarify our intent that traffic signal synchronization projects should go forward without delay while still preserving the overall duty of regional authorities to monitor the air quality impacts of transportation projects. In this way, the bill promotes local flexibility while ensuring that air quality will not be harmed.

I do regret that we must even take up this amendment to the Clean Air Act. It is my strong view that there should never have been an issue as to whether traffic light projects that ease congestion are subject to the Clean Air Act's conformity requirements. However, EPA failed to reach this common sense conclusion so we are forced to act.

I thank Chairman BLILEY, Mr. MCKEON—the author of the measure—and Mr. WAXMAN for their work on this bill.

I urge my colleagues to vote "yes" on the measure.

Mr. SCHAEFER. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Ms. GREENE of Utah). Pursuant to the rule, the previous question is ordered on the committee amendment in the nature of a substitute and the bill.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SCHAEFER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and that I may be permitted to insert extraneous material in the RECORD on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas are nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules but not before 5 p.m. today.

GOVERNMENT-SPONSORED ENTERPRISE PRIVATIZATION ACT OF 1996

Mr. McKEON. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1720) to amend the Higher Education Act of 1965 to provide for the cessation of Federal sponsorship of two Government-sponsored enterprises, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government-Sponsored Enterprise Privatization Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REORGANIZATION AND PRIVATIZATION

Sec. 101. Reorganization of the Student Loan Marketing Association through the formation of a holding company.
Sec. 102. Connie Lee privatization.
Sec. 103. Eligible institution.

TITLE II—MUSEUMS AND LIBRARIES

Sec. 201. Museum and library services.
Sec. 202. National Commission on Libraries and Information Science.
Sec. 203. Transfer of functions from Institute of Museum Services.
Sec. 204. Service of individuals serving on date of enactment.
Sec. 205. Consideration.
Sec. 206. Transition and transfer of funds.

TITLE III—EXTENSION OF PROGRAMS

Sec. 301. Extension of National Literacy Act of 1991.
Sec. 302. Adult Education Act Amendments.
Sec. 303. Extension of Carl D. Perkins Vocational and Applied Technology Education Act.

TITLE IV—REPEALS AND CONFORMING AMENDMENTS

Sec. 401. Repeals.
Sec. 402. Conforming amendments.

TITLE I—REORGANIZATION AND PRIVATIZATION

SEC. 101. REORGANIZATION OF THE STUDENT LOAN MARKETING ASSOCIATION THROUGH THE FORMATION OF A HOLDING COMPANY.

(a) AMENDMENT.—Part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) is amended by inserting after section 439 (20 U.S.C. 1087-2) the following new section:

"SEC. 440. REORGANIZATION OF THE STUDENT LOAN MARKETING ASSOCIATION THROUGH THE FORMATION OF A HOLDING COMPANY.

"(a) ACTIONS BY THE ASSOCIATION'S BOARD OF DIRECTORS.—The Board of Directors of the Association shall take or cause to be taken all such action as the Board of Directors deems necessary or appropriate to effect, upon the shareholder approval described in subsection (b), a restructuring of the common stock ownership of the Association, as set forth in a plan of reorganization adopted by the Board of Directors (the terms of which shall be consistent with this section) so that all of the outstanding common shares of the Association shall be directly owned by a Holding Company. Such actions may include, in the Board of Director's discretion, a merger of a wholly owned subsidiary of the Holding Company with and into the Association, which would have the effect provided in the plan of reorganization and the law of the jurisdiction in which such subsidiary is incorporated. As part of the restructuring, the Board of Directors may cause—

"(1) the common shares of the Association to be converted, on the reorganization effective date, to common shares of the Holding Company on a one for one basis, consistent with applicable State or District of Columbia law; and

"(2) Holding Company common shares to be registered with the Securities and Exchange Commission.

"(b) SHAREHOLDER APPROVAL.—The plan of reorganization adopted by the Board of Directors pursuant to subsection (a) shall be submitted to common shareholders of the Association for their approval. The reorganization shall occur on the reorganization effective date, provided that the plan of reorganization has been approved by the affirmative votes, cast in person or by proxy, of the holders of a majority of the issued and outstanding shares of the Association common stock.

"(c) TRANSITION.—In the event the shareholders of the Association approve the plan of reorganization under subsection (b), the following provisions shall apply beginning on the reorganization effective date:

"(1) IN GENERAL.—Except as specifically provided in this section, until the dissolution date the Association shall continue to have all of the rights, privileges and obligations set forth in, and shall be subject to all of the limitations and restrictions of, section 439, and the Association shall continue to carry out the purposes of such section. The Holding Company and any subsidiary of the Holding Company (other than the Association) shall not be entitled to any of the rights, privileges, and obligations, and shall not be subject to the limitations and restrictions, applicable to the Association under section 439, except as specifically provided in this section. The Holding Company and any subsidiary of the Holding Company (other than the Association or a subsidiary of the Association) shall not purchase loans insured under this Act until such time as the Association ceases acquiring such loans, except that the Holding Company may purchase such loans if the Association is merely continuing to acquire loans as a lender of last resort pursuant to section 439(q) or under an agreement with the Secretary described in paragraph (6).

"(2) TRANSFER OF CERTAIN PROPERTY.—

"(A) IN GENERAL.—Except as provided in this section, on the reorganization effective date or as soon as practicable thereafter, the Association shall use the Association's best efforts to transfer to the Holding Company or any subsidiary of the Holding Company (or both), as directed by the Holding Company, all real and personal property of the Association (both tangible and intangible) other than the remaining property. Subject to the preceding sentence, such transferred property shall include all right, title, and interest in—

"(i) direct or indirect subsidiaries of the Association (excluding special purpose funding companies in existence on the date of enactment of this section and any interest in any government-sponsored enterprise);

"(ii) contracts, leases, and other agreements of the Association;

"(iii) licenses and other intellectual property of the Association; and

"(iv) any other property of the Association.

"(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit the Association from transferring remaining property from time to time to the Holding Company or any subsidiary of the Holding Company, subject to the provisions of paragraph (4).

"(3) TRANSFER OF PERSONNEL.—On the reorganization effective date, employees of the Association shall become employees of the Holding Company (or any subsidiary of the Holding Company), and the Holding Company (or any subsidiary of the Holding Company) shall provide all necessary and appropriate management and operational support (including loan servicing) to the Association, as requested by the Association. The Association, however, may obtain such management and operational support from persons or entities not associated with the Holding Company.

"(4) DIVIDENDS.—The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards and requirements set forth in section 439(r). If, at any time after the reorganization effective date, the Association fails to comply with such capital standards, the Holding Company shall transfer with due diligence to the Association additional capital in such amounts as are necessary to ensure that the Association again complies with the capital standards.

"(5) CERTIFICATION PRIOR TO DIVIDEND.—Prior to the payment of any dividend under paragraph (4), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (4) and shall provide copies of all calculations needed to make such certification.

"(6) RESTRICTIONS ON NEW BUSINESS ACTIVITY OR ACQUISITION OF ASSETS BY ASSOCIATION.—

"(A) IN GENERAL.—After the reorganization effective date, the Association shall not engage in any new business activities or acquire any additional program assets described in section 439(d) other than in connection with—

"(i) student loan purchases through September 30, 2007;

"(ii) contractual commitments for future warehousing advances, or pursuant to letters of credit or standby bond purchase agreements, which are outstanding as of the reorganization effective date;

"(iii) the Association serving as a lender-of-last-resort pursuant to section 439(q); and

"(iv) the Association's purchase of loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

"(B) AGREEMENT.—The Secretary is authorized to enter into an agreement described in clause (iv) of subparagraph (A) with the Association covering such secondary market activities. Any agreement entered into under such clause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under section 439(h)(7) shall not apply to loans acquired under any such agreement with the Secretary.

"(7) ISSUANCE OF DEBT OBLIGATIONS DURING THE TRANSITION PERIOD; ATTRIBUTES OF DEBT OBLIGATIONS.—After the reorganization effective date, the Association shall not issue debt obligations which mature later than September 30, 2008, except in connection with serving as a lender-of-last-resort pursuant to section 439(q) or with purchasing loans under an agreement with the Secretary as described in paragraph (6). Nothing in this section shall modify the attributes accorded the debt obligations of the Association by section 439, regardless of whether such debt obligations are incurred prior to, or at any time following, the reorganization effective date or are transferred to a trust in accordance with subsection (d).

"(8) MONITORING OF SAFETY AND SOUNDNESS.—

"(A) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

"(i) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

"(ii) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

"(B) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of the information described in subparagraph (A) to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and subparagraph (A), require the Association to make reports concerning the activities of any associated person whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

"(C) SEPARATE OPERATION OF CORPORATIONS.—

"(i) IN GENERAL.—The funds and assets of the Association shall at all times be maintained separately from the funds and assets of the Holding Company or any subsidiary of the Holding Company and may be used by the Association solely to carry out the Association's purposes and to fulfill the Association's obligations.

"(ii) BOOKS AND RECORDS.—The Association shall maintain books and records that clearly reflect the assets and liabilities of the Association, separate from the assets and liabilities of the Holding Company or any subsidiary of the Holding Company.

"(iii) CORPORATE OFFICE.—The Association shall maintain a corporate office that is physically separate from any office of the Holding Company or any subsidiary of the Holding Company.

"(iv) DIRECTOR.—No director of the Association who is appointed by the President pursuant to section 439(c)(1)(A) may serve as a director of the Holding Company.

"(v) ONE OFFICER REQUIREMENT.—At least one officer of the Association shall be an officer solely of the Association.

"(vi) TRANSACTIONS.—Transactions between the Association and the Holding Company or any subsidiary of the Holding Company, including any loan servicing arrangements, shall be on terms no less favorable to the Association than the Association could obtain from an unrelated third party offering comparable services.

"(vii) CREDIT PROHIBITION.—The Association shall not extend credit to the Holding Company or any subsidiary of the Holding Company nor guarantee or provide any credit enhancement to any debt obligations of the Holding Company or any subsidiary of the Holding Company.

"(viii) AMOUNTS COLLECTED.—Any amounts collected on behalf of the Association by the Holding Company or any subsidiary of the Holding Company with respect to the assets of the Association, pursuant to a servicing contract or other arrangement between the Association and the Holding Company or any subsidiary of the Holding Company, shall be collected solely for the benefit of the Association and shall be immediately deposited by the Holding Company or such subsidiary to an account under the sole control of the Association.

"(D) ENCUMBRANCE OF ASSETS.—Notwithstanding any Federal or State law, rule, or regulation, or legal or equitable principle, doctrine, or theory to the contrary, under no circumstances shall the assets of the Association be available or used to pay claims or debts of or incurred by the Holding Company. Nothing in this subparagraph shall be construed to limit the right of the Association to pay dividends not otherwise prohibited under this subparagraph or to limit any liability of the Holding Company explicitly provided for in this section.

"(E) HOLDING COMPANY ACTIVITIES.—After the reorganization effective date and prior to the dissolution date, all business activities of the Holding Company shall be conducted through subsidiaries of the Holding Company.

"(F) CONFIDENTIALITY.—Any information provided by the Association pursuant to this section shall be subject to the same confidentiality obligations contained in section 439(r)(12).

"(G) DEFINITION.—For purposes of this paragraph, the term 'associated person' means any person, other than a natural person, who is directly or indirectly controlling, controlled by, or under common control with, the Association.

"(9) ISSUANCE OF STOCK WARRANTS.—On the reorganization effective date, the Holding Company shall issue to the Secretary of the Treasury a number of stock warrants that is equal to one percent of the outstanding shares of the Association, determined as of the last day of the fiscal quarter preceding the date of enactment of this section, with each stock warrant entitling the holder of the stock warrant to purchase from the Holding Company one share of the registered common stock of the Holding Company or the Holding Company's successors or assigns, at any time on or before September 30, 2008. The exercise price for such warrants shall be an amount equal to the average closing price of the common stock of the Association for the 20 business days prior to the date of enactment of this section on the exchange or market which is then the primary exchange or market for the common stock of the Association. The number of shares of Holding Company common stock subject to each warrant and the exercise price of each warrant shall be adjusted as necessary to reflect—

"(A) the conversion of Association common stock into Holding Company common stock as part of the plan of reorganization approved by the Association's shareholders; and

"(B) any issuance or sale of stock (including issuance or sale of treasury stock), stock split, recapitalization, reorganization, or other corporate event, if agreed to by the Secretary of the Treasury and the Association.

"(10) RESTRICTIONS ON TRANSFER OF ASSOCIATION SHARES AND BANKRUPTCY OF ASSOCIATION.—After the reorganization effective date, the Holding Company shall not sell, pledge, or otherwise transfer the outstanding shares of the Association, or agree to or cause the liquidation of the Association or cause the Association to file a petition for bankruptcy under title 11, United States Code, without prior approval of the Secretary of the Treasury and the Secretary of Education.

"(d) TERMINATION OF THE ASSOCIATION.—In the event the shareholders of the Association approve a plan of reorganization under subsection (b), the Association shall dissolve, and the Association's separate existence shall terminate on September 30, 2008, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days after receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to section 439(q) or continues to be needed to purchase loans under an agreement with the Secretary described in paragraph (6). On the dissolution date, the Association shall take the following actions:

"(1) ESTABLISHMENT OF A TRUST.—The Association shall, under the terms of an irrevocable trust agreement that is in form and substance satisfactory to the Secretary of the Treasury, the Association and the appointed trustee, irrevocably transfer all remaining obligations of the Association to the trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms. To the extent the Association cannot provide money or qualifying obligations in the amount required, the Holding Company shall be required to transfer money or qualifying obligations to the trust in the amount necessary to prevent any deficiency.

"(2) USE OF TRUST ASSETS.—All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust.

"(3) OBLIGATIONS NOT TRANSFERRED TO THE TRUST.—The Association shall make proper provision for all other obligations of the Association not transferred to the trust, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding. Any obligations of the Association which cannot be fully satisfied shall become liabilities of the Holding Company as of the date of dissolution.

"(4) TRANSFER OF REMAINING ASSETS.—After compliance with paragraphs (1) and (3), any remaining assets of the trust shall be transferred to the Holding Company or any subsidiary of the Holding Company, as directed by the Holding Company.

"(e) OPERATION OF THE HOLDING COMPANY.—In the event the shareholders of the Association approve the plan of reorganization under subsection (b), the following provisions shall apply beginning on the reorganization effective date:

"(1) HOLDING COMPANY BOARD OF DIRECTORS.—The number of members and composition of the Board of Directors of the Holding Company shall be determined as set forth in the Holding Company's charter or like instrument (as amended from time to time) or bylaws (as amended from time to time) and as permitted under the laws of the jurisdiction of the Holding Company's incorporation.

"(2) HOLDING COMPANY NAME.—The names of the Holding Company and any subsidiary of the Holding Company (other than the Association)—

"(A) may not contain the name 'Student Loan Marketing Association'; and

"(B) may contain, to the extent permitted by applicable State or District of Columbia law, 'Sallie Mae' or variations thereof, or such other names as the Board of Directors of the Association or the Holding Company deems appropriate.

"(3) USE OF SALLIE MAE NAME.—Subject to paragraph (2), the Association may assign to the Holding Company, or any subsidiary of the Holding Company, the 'Sallie Mae' name as a trademark and service mark, except that neither the Holding Company nor any subsidiary of the Holding Company (other than the Association or any subsidiary of the Association) may use the 'Sallie Mae' name on, or to identify the issuer of, any debt obligation or other security offered or sold by the Holding Company or any subsidiary of the Holding Company (other than a debt obligation or other security issued to and held by the Holding Company or any subsidiary of the Holding Company). The Association shall remit to the Secretary of the Treasury $5,000,000 within 60 days of the reorganization effective date as compensation for the right to assign such trademark or service mark.

"(4) DISCLOSURE REQUIRED.—Until 3 years after the dissolution date, the Holding Company, and any subsidiary of the Holding Company (other than the Association), shall prominently display—

"(A) in any document offering the Holding Company's securities, a statement that the obligations of the Holding Company and any subsidiary of the Holding Company are not guaranteed by the full faith and credit of the United States; and

"(B) in any advertisement or promotional materials which use the 'Sallie Mae' name or mark, a statement that neither the Holding Company nor any subsidiary of the Holding Company is a government-sponsored enterprise or instrumentality of the United States.

"(f) STRICT CONSTRUCTION.—Except as specifically set forth in this section, nothing in this section shall be construed to limit the authority of the Association as a federally chartered corporation, or of the Holding Company as a State or District of Columbia chartered corporation.

"(g) RIGHT TO ENFORCE.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

"(h) DEADLINE FOR REORGANIZATION EFFECTIVE DATE.—This section shall be of no further force and effect in the event that the reorganization effective date does not occur on or before 18 months after the date of enactment of this section.

"(i) DEFINITIONS.—For purposes of this section:

"(1) ASSOCIATION.—The term 'Association' means the Student Loan Marketing Association.

"(2) DISSOLUTION DATE.—The term 'dissolution date' means September 30, 2008, or such earlier date as the Secretary of Education permits the transfer of remaining obligations in accordance with subsection (d).

"(3) HOLDING COMPANY.—The term 'Holding Company' means the new business corporation established pursuant to this section by the Association under the laws of any State of the United States or the District of Columbia for the purposes of the reorganization and restructuring described in subsection (a).

"(4) REMAINING OBLIGATIONS.—The term 'remaining obligations' means the debt obligations of the Association outstanding as of the dissolution date.

"(5) REMAINING PROPERTY.—The term 'remaining property' means the following assets and liabilities of the Association which are outstanding as of the reorganization effective date:

"(A) Debt obligations issued by the Association.

"(B) Contracts relating to interest rate, currency, or commodity positions or protections.

"(C) Investment securities owned by the Association.

"(D) Any instruments, assets, or agreements described in section 439(d) (including, without limitation, all student loans and agreements relating to the purchase and sale of student loans, forward purchase and lending commitments, warehousing advances, academic facilities obligations, letters of credit, standby bond purchase agreements, liquidity agreements, and student loan revenue bonds or other loans).

"(E) Except as specifically prohibited by this section or section 439, any other nonmaterial assets or liabilities of the Association which the Association's Board of Directors determines to be necessary or appropriate to the Association's operations.

"(6) REORGANIZATION.—The term 'reorganization' means the restructuring event or events (including any merger event) giving effect to the Holding Company structure described in subsection (a).

"(7) REORGANIZATION EFFECTIVE DATE.—The term 'reorganization effective date' means the effective date of the reorganization as determined by the Board of Directors of the Association, which shall not be earlier than the date that shareholder approval is obtained pursuant to subsection (b) and shall not be later than the date that is 18 months after the date of enactment of this section.

"(8) SUBSIDIARY.—The term 'subsidiary' means one or more direct or indirect subsidiaries.".

(b) TECHNICAL AMENDMENTS.—

(1) ELIGIBLE LENDER.—

(A) AMENDMENTS TO THE HIGHER EDUCATION ACT.—

(i) DEFINITION OF ELIGIBLE LENDER.—Section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F)) is amended by inserting after "Student Loan Marketing Association" the following: "or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 440,".

(ii) DEFINITION OF ELIGIBLE LENDER AND FEDERAL CONSOLIDATION LOANS.—Sections 435(d)(1)(G) and 428C(a)(1)(A) of such Act (20 U.S.C. 1085(d)(1)(G) and 1078–3(a)(1)(A)) are each amended by inserting after "Student Loan Marketing Association" the following: "or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 440".

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on the reorganization effective date as defined in section 440(h) of the Higher Education Act of 1965 (as added by subsection (a)).

(2) ENFORCEMENT OF SAFETY AND SOUNDNESS REQUIREMENTS.—Section 439(r) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)) is amended—

(A) in the first sentence of paragraph (12), by inserting "or the Association's associated persons" after "by the Association";

(B) by redesignating paragraph (13) as paragraph (15); and

(C) by inserting after paragraph (12) the following new paragraph:

"(13) ENFORCEMENT OF SAFETY AND SOUNDNESS REQUIREMENTS.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.".

(3) FINANCIAL SAFETY AND SOUNDNESS.—Section 439(r) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)) is further amended—

(A) in paragraph (1)—

(i) by striking "and" at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(iii) by adding at the end the following new subparagraph:

"(C)(i) financial statements of the Association within 45 days of the end of each fiscal quarter; and

"(ii) reports setting forth the calculation of the capital ratio of the Association within 45 days of the end of each fiscal quarter.";

(B) in paragraph (2)—

(i) by striking clauses (i) and (ii) of subparagraph (A) and inserting the following:

"(i) appoint auditors or examiners to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing the Association's financial safety and soundness and to determine whether the requirements of this section and section 440 are being met; and "(ii) obtain the services of such experts as the Secretary of the Treasury determines necessary and appropriate, as authorized by section 3109 of title 5, United States Code, to assist in determining the condition of the Association for the purpose of assessing the Association's financial safety and soundness, and to determine whether the requirements of this section and section 440 are being met."; and

(ii) by adding at the end the following new subparagraph:

"(D) ANNUAL ASSESSMENT.—

"(i) IN GENERAL.—For each fiscal year beginning on or after October 1, 1996, the Secretary of the Treasury may establish and collect from the Association an assessment (or assessments) in amounts sufficient to provide for reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 440 during such fiscal year. In no event may the total amount so assessed exceed, for any fiscal year, $800,000, adjusted for each fiscal year ending after September 30, 1997, by the ratio of the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) for the final month of the fiscal year preceding the fiscal year for which the assessment is made to the Consumer Price Index for All Urban Consumers for September 1997.

"(ii) DEPOSIT.—Amounts collected from assessments under this subparagraph shall be deposited in an account within the Treasury of the United States as designated by the Secretary of the Treasury for that purpose. The Secretary of the Treasury is authorized and directed to pay out of any funds available in such account the reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 440. None of the funds deposited into such account shall be available for any purpose other than making payments for such costs and expenses."; and

(C) by inserting after paragraph (13) (as added by paragraph (2)(C)) the following new paragraph:

"(14) ACTIONS BY SECRETARY.—

"(A) IN GENERAL.—For any fiscal quarter ending after January 1, 2000, the Association shall have a capital ratio of at least 2.25 percent. The Secretary of the Treasury may, whenever such capital ratio is not met, take any one or more of the actions described in paragraph (7), except that—

"(i) the capital ratio to be restored pursuant to paragraph (7)(D) shall be 2.25 percent; and

"(ii) if the relevant capital ratio is in excess of or equal to 2 percent for such quarter, the Secretary of the Treasury shall defer taking any of the actions set forth in paragraph (7) until the next succeeding quarter and may then proceed with any such action only if the capital ratio of the Association remains below 2.25 percent.

"(B) APPLICABILITY.—The provisions of paragraphs (4), (5), (6), (8), (9), (10), and (11) shall be of no further application to the Association for any period after January 1, 2000.".

(4) INFORMATION REQUIRED; DIVIDENDS.—Section 439(r) of the Higher Education Act of 1965 (20 U.S.C. 1087-2(r)) is further amended—

(A) by adding at the end of paragraph (2) (as amended in paragraph (3)(B)(ii)) the following new subparagraph:

"(E) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—

"(i) IN GENERAL.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

"(I) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

"(II) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

"(ii) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of such information to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and clause (i), require the Association to make reports concerning the activities of any associated person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

"(iii) DEFINITION.—For purposes of this subparagraph, the term 'associated person' means any person, other than a natural person, directly or indirectly controlling, controlled by, or under common control with the Association."; and

(B) by adding at the end the following new paragraphs:

"(16) DIVIDENDS.—The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards set forth in this section.

"(17) CERTIFICATION PRIOR TO PAYMENT OF DIVIDEND.—Prior to the payment of any dividend under paragraph (16), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (16) and shall provide copies of all calculations needed to make such certification.".

(c) SUNSET OF THE ASSOCIATION'S CHARTER IF NO REORGANIZATION PLAN OCCURS.—Section 439 of the Higher Education Act of 1965 (20 U.S.C. 1087-2) is amended by adding at the end the following new subsection:

"(s) CHARTER SUNSET.—

"(1) APPLICATION OF PROVISIONS.—This subsection applies beginning 18 months and one day after the date of enactment of this subsection if no reorganization of the Association occurs in accordance with the provisions of section 440.

"(2) SUNSET PLAN.—

"(A) PLAN SUBMISSION BY THE ASSOCIATION.—Not later than July 1, 2007, the Association shall submit to the Secretary of the Treasury and to the Chairman and Ranking Member of the Committee on Labor and Human Resources of the Senate and the Chairman and Ranking Member of the Committee on Economic and Educational Opportunities of the House of Representatives, a detailed plan for the orderly winding up, by July 1, 2013, of business activities conducted pursuant to the charter set forth in this section. Such plan shall—

"(i) ensure that the Association will have adequate assets to transfer to a trust, as provided in this subsection, to ensure full payment of remaining obligations of the Association in accordance with the terms of such obligations;

"(ii) provide that all assets not used to pay liabilities shall be distributed to shareholders as provided in this subsection; and

"(iii) provide that the operations of the Association shall remain separate and distinct from that of any entity to which the assets of the Association are transferred.

"(B) AMENDMENT OF THE PLAN BY THE ASSOCIATION.—The Association shall from time to time amend such plan to reflect changed circumstances, and submit such amendments to the Secretary of the Treasury and to the Chairman and Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and Chairman and Ranking Minority Member of the Committee on Economic and Educational Opportunities of the House of Representatives. In no case may any amendment extend the date for full implementation of the plan beyond the dissolution date provided in paragraph (3).

"(C) PLAN MONITORING.—The Secretary of the Treasury shall monitor the Association's compliance with the plan and shall continue to review the plan (including any amendments thereto).

"(D) AMENDMENT OF THE PLAN BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury may require the Association to amend the plan (including any amendments to the plan), if the Secretary of the Treasury deems such amendments necessary to ensure full payment of all obligations of the Association.

"(E) IMPLEMENTATION BY THE ASSOCIATION.—The Association shall promptly implement the plan (including any amendments to the plan, whether such amendments are made by the Association or are required to be made by the Secretary of the Treasury).

"(3) DISSOLUTION OF THE ASSOCIATION.—The Association shall dissolve and the Association's separate existence shall terminate on July 1, 2013, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days of receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to subsection (q) or continues to be needed to purchase loans under an agreement with the Secretary described in paragraph (4)(A). On the dissolution date, the Association shall take the following actions:

"(A) ESTABLISHMENT OF A TRUST.—The Association shall, under the terms of an irrevocable trust agreement in form and substance satisfactory to the Secretary of the Treasury, the Association, and the appointed trustee, irrevocably transfer all remaining obligations of the Association to a trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms.

"(B) USE OF TRUST ASSETS.—All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust. Upon the fulfillment of the trustee's duties under the trust, any remaining assets of the trust shall be transferred to the persons who, at the time of the dissolution, were the shareholders of the Association, or to the legal successors or assigns of such persons.

"(C) OBLIGATIONS NOT TRANSFERRED TO THE TRUST.—The Association shall make proper provision for all other obligations of the Association, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding.

"(D) TRANSFER OF REMAINING ASSETS.—After compliance with subparagraphs (A) and (C), the Association shall transfer to the shareholders of the Association any remaining assets of the Association.

"(4) RESTRICTIONS RELATING TO WINDING UP.—

"(A) RESTRICTIONS ON NEW BUSINESS ACTIVITY OR ACQUISITION OF ASSETS BY THE ASSOCIATION.—

"(i) IN GENERAL.—Beginning on July 1, 2009, the Association shall not engage in any new business activities or acquire any additional program assets (including acquiring assets pursuant to contractual commitments) described in subsection (d) other than in connection with the Association—

"(I) serving as a lender of last resort pursuant to subsection (q); and

"(II) purchasing loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

"(ii) AGREEMENT.—The Secretary is authorized to enter into an agreement described in subclause (II) of clause (i) with the Association covering such secondary market activities. Any agreement entered into under such subclause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under subsection (h)(7) shall not apply to loans acquired under any such agreement with the Secretary.

"(B) ISSUANCE OF DEBT OBLIGATIONS DURING THE WIND UP PERIOD; ATTRIBUTES OF DEBT OBLIGATIONS.—The Association shall not issue debt obligations which mature later than July 1, 2013, except in connection with serving as a lender of last resort pursuant to subsection (q) or with purchasing loans under an agreement with the Secretary as described in subparagraph (A). Nothing in this subsection shall modify the attributes accorded the debt obligations of the Association by this section, regardless of whether such debt obligations are transferred to a trust in accordance with paragraph (3).

"(C) USE OF ASSOCIATION NAME.—The Association may not transfer or permit the use of the name 'Student Loan Marketing Association', 'Sallie Mae', or any variation thereof, to or by any entity other than a subsidiary of the Association.".

(d) DISCRIMINATION IN SECONDARY MARKETS PROHIBITED.—Part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) is amended by adding after section 440 (as added by subsection (a)) the following new section:

"SEC. 440A. DISCRIMINATION IN SECONDARY MARKETS PROHIBITED.

"The Student Loan Marketing Association (and, if the Association is privatized under section 440, any successor entity functioning as a secondary market for loans under this part, including the Holding Company described in such section) shall not engage directly or indirectly in any pattern or practice that results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, disability status, income, attendance at a particular eligible institution, length of the borrower's educational program, or the borrower's academic year at an eligible institution.".

(e) REPEALS.—

(1) IN GENERAL.—Sections 439 of the Higher Education Act of 1965 (20 U.S.C. 1087–2) and 440 of such Act (as added by subsection (a) of this section) are repealed.

(2) EFFECTIVE DATE.—The repeals made by paragraph (1) shall be effective one year after—

(A) the date on which all of the obligations of the trust established under section 440(d)(1) of the Higher Education Act of 1965 (as added by subsection (a)) have been extinguished, if a reorganization occurs in accordance with section 440 of such Act; or

(B) the date on which all of the obligations of the trust established under subsection 439(s)(3)(A) of such Act (as added by subsection (c)) have been extinguished, if a reorganization does not occur in accordance with section 440 of such Act.

(f) ASSOCIATION NAMES.—Upon dissolution in accordance with section 439(s) of the Higher Education Act of 1965 (20 U.S.C. 1087–2), the names "Student Loan Marketing Association", "Sallie Mae", and any variations thereof may not be used by any entity engaged in any business similar to the business conducted pursuant to section 439 of such Act (as such section was in effect on the date of enactment of this Act) without the approval of the Secretary of the Treasury.

(g) RIGHT TO ENFORCE.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of subsection (f), or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with subsection (f).

SEC. 102. CONNIE LEE PRIVATIZATION.

(a) STATUS OF THE CORPORATION AND CORPORATE POWERS; OBLIGATIONS NOT FEDERALLY GUARANTEED.—

(1) STATUS OF THE CORPORATION.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation, nor a Government controlled corporation, as such terms are defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(2) CORPORATE POWERS.—The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law) as from time to time in effect in order to conduct the Corporation's affairs as a private, for-profit corporation and to carry out the Corporation's purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of the Corporation's affairs and the efficient operation of a private, for-profit business.

(3) LIMITATION ON OWNERSHIP OF STOCK.—

(A) SECRETARY OF THE TREASURY.—The Secretary of the Treasury, in completing the sale of stock pursuant to subsection (c), may not sell or issue the stock held by the Secretary of Education to an agency, instrumentality, or establishment of the United States Government, or to a Government corporation or a Government controlled corporation, as such terms are defined in section 103 of title 5, United States Code, or to a government-sponsored enterprise as such term is defined in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622).

(B) STUDENT LOAN MARKETING ASSOCIATION.—The Student Loan Marketing Association shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on the date of enactment of this Act. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise the Student Loan Marketing Association's right to appoint directors under section 754 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3) as long as that section is in effect.

(C) PROHIBITION.—Until such time as the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c), the Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation.

(D) FINANCIAL SUPPORT OR GUARANTEES.—After the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c), the Student Loan Marketing Association may provide financial support or guarantees to the Corporation, if such support or guarantees are subject to terms and conditions that are no more advantageous to the Corporation than the terms and conditions the Student Loan Marketing Association provides to other entities, including, where applicable, other monoline financial guaranty corporations in which the Student Loan Marketing Association has no ownership interest.

(4) NO FEDERAL GUARANTEE.—

(A) OBLIGATIONS INSURED BY THE CORPORATION.—

(i) FULL FAITH AND CREDIT OF THE UNITED STATES.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(ii) STUDENT LOAN MARKETING ASSOCIATION.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(iii) SPECIAL RULE.—This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(B) SECURITIES OFFERED BY THE CORPORATION.—No debt or equity securities of the

Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(5) DEFINITION.—The term "Corporation" as used in this section means the College Construction Loan Insurance Association as in existence on the day before the date of enactment of this Act, and any successor corporation.

(b) RELATED PRIVATIZATION REQUIREMENTS.—

(1) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—During the six-year period following the date of enactment of this Act, the Corporation shall include, in each of the Corporation's contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation, a prominent statement providing notice that—

(i) such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations or such securities, as the case may be, guaranteed in any way by the full faith and credit of the United States; and

(ii) the Corporation is not an instrumentality of the United States.

(B) ADDITIONAL NOTICE.—During the five-year period following the sale of stock pursuant to subsection (c)(1), in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such subparagraph, a prominent statement providing notice that the United States is not an investor in the Corporation.

(2) CORPORATE CHARTER.—The Corporation's charter shall be amended as necessary and without delay to conform to the requirements of this section.

(3) CORPORATE NAME.—The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term "College Construction Loan Insurance Association", or any substantially similar variation thereof.

(4) ARTICLES OF INCORPORATION.—The Corporation shall amend the Corporation's articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure, and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

(5) REQUIREMENTS UNTIL STOCK SALE.—Notwithstanding subsection (d), the requirements of sections 754 and 760 of the Higher Education Act of 1965 (20 U.S.C. 1132f-3 and 1132f-9), as such sections were in effect on the day before the date of enactment of this Act, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.

(c) SALE OF FEDERALLY OWNED STOCK.—

(1) SALE OF STOCK REQUIRED.—The Secretary of the Treasury shall sell, pursuant to section 324 of title 31, United States Code, the stock of the Corporation owned by the Secretary of Education as soon as possible after the date of enactment of this Act, but not later than six months after such date.

(2) PURCHASE BY THE CORPORATION.—In the event that the Secretary of the Treasury is unable to sell the stock, or any portion thereof, at a price acceptable to the Secretary of Education and the Secretary of the Treasury, the Corporation shall purchase, within six months after the date of enactment of this Act, such stock at a price determined by the Secretary of the Treasury and acceptable to the Corporation based on the independent appraisal of one or more nationally recognized financial firms, except that such price shall not exceed the value of the Secretary of Education's stock as determined by the Congressional Budget Office in House Report 104-153, dated June 22, 1995.

(3) REIMBURSEMENT OF COSTS OF SALE.—The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs related to such sale, including all reasonable expenses relating to one or more independent appraisals under this subsection.

(4) ASSISTANCE BY THE CORPORATION.—The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.

(d) REPEAL OF STATUTORY RESTRICTIONS AND RELATED PROVISIONS.—Part D of title VII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is repealed.

SEC. 103. ELIGIBLE INSTITUTION.

(a) AMENDMENT.—Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended by inserting after the end of the first sentence the following new sentence: "For the purposes of determining whether an institution meets the requirements of clause (6), the Secretary shall not consider the financial information of any institution for a fiscal year that began on or before April 30, 1994.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any determination made on or after July 1, 1994, by the Secretary of Education pursuant to section 481(b)(6) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)(6)).

TITLE II—MUSEUMS AND LIBRARIES

SEC. 201. MUSEUM AND LIBRARY SERVICES.

The Museum Services Act (20 U.S.C. 961 et seq.) is amended to read as follows:

"TITLE II—MUSEUM AND LIBRARY SERVICES

"Subtitle A—General Provisions

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Museum and Library Services Act'.

"SEC. 202. GENERAL DEFINITIONS.

"As used in this title:

"(1) COMMISSION.—The term 'Commission' means the National Commission on Libraries and Information Science established under section 3 of the National Commission on Libraries and Information Sciences Act (20 U.S.C. 1502).

"(2) DIRECTOR.—The term 'Director' means the Director of the Institute appointed under section 204.

"(3) INSTITUTE.—The term 'Institute' means the Institute of Museum and Library Services established under section 203.

"(4) MUSEUM BOARD.—The term 'Museum Board' means the National Museum Services Board established under section 275.

"SEC. 203. INSTITUTE OF MUSEUM AND LIBRARY SERVICES.

"(a) ESTABLISHMENT.—There is established, within the National Foundation on the Arts and the Humanities, an Institute of Museum and Library Services.

"(b) OFFICES.—The Institute shall consist of an Office of Museum Services and an Office of Library Services. There shall be a National Museum Services Board in the Office of Museum Services.

"SEC. 204. DIRECTOR OF THE INSTITUTE.

"(a) APPOINTMENT.—

"(1) IN GENERAL.—The Institute shall be headed by a Director, appointed by the President, by and with the advice and consent of the Senate.

"(2) TERM.—The Director shall serve for a term of 4 years.

"(3) QUALIFICATIONS.—Beginning with the first individual appointed to the position of Director after the date of the enactment of the Government-Sponsored Enterprise Privatization Act of 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to library and information services. Beginning with the second individual appointed to the position of Director after the date of enactment of the Government-Sponsored Enterprise Privatization Act of 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to museum services.

"(b) COMPENSATION.—The Director may be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(c) DUTIES AND POWERS.—The Director shall perform such duties and exercise such powers as may be prescribed by law, including awarding financial assistance for activities described in this title.

"(d) NONDELEGATION.—The Director shall not delegate any of the functions of the Director to any person who is not an officer or employee of the Institute.

"(e) COORDINATION.—The Director shall ensure coordination of the policies and activities of the Institute with the policies and activities of other agencies and offices of the Federal Government having interest in and responsibilities for the improvement of museums and libraries and information services.

"SEC. 205. DEPUTY DIRECTORS.

"The Office of Library Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have a graduate degree in library science and expertise in library and information services. The Office of Museum Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have expertise in museum services.

"SEC. 206. PERSONNEL.

"(a) IN GENERAL.—The Director may, in accordance with applicable provisions of title 5, United States Code, appoint and determine the compensation of such employees as the Director determines to be necessary to carry out the duties of the Institute.

"(b) VOLUNTARY SERVICES.—The Director may accept and utilize the voluntary services of individuals and reimburse the individuals for travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

"SEC. 207. CONTRIBUTIONS.

"The Institute is authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such property or services in furtherance of the functions of the Institute. Any proceeds from such gifts, bequests, or devises, after acceptance by the Institute, shall be paid by the donor or the representative of the donor to the Director. The Director shall enter the proceeds in a special interest-bearing account to the credit of the Institute for the purposes specified in each case.

"Subtitle B—Library Services and Technology

"SEC. 211. SHORT TITLE.

"This subtitle may be cited as the 'Library Services and Technology Act'.

"SEC. 212. PURPOSE.

"It is the purpose of this subtitle—

"(1) to consolidate Federal library service programs;

"(2) to stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages;

"(3) to promote library services that provide all users access to information through State, regional, national and international electronic networks;

"(4) to provide linkages among and between libraries; and

"(5) to promote targeted library services to people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills.

"SEC. 213. DEFINITIONS.

"As used in this subtitle:

"(1) INDIAN TRIBE.—The term 'Indian tribe' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) LIBRARY.—The term 'library' includes—

"(A) a public library;

"(B) a public elementary school or secondary school library;

"(C) an academic library;

"(D) a research library, which for the purposes of this subtitle means a library that—

"(i) makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

"(ii) is not an integral part of an institution of higher education; and

"(E) a private library, but only if the State in which such private library is located determines that the library should be considered a library for purposes of this subtitle.

"(3) LIBRARY CONSORTIUM.—The term 'library consortium' means any local, statewide, regional, interstate, or international cooperative association of library entities which provides for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers, for improved services for the clientele of such library entities.

"(4) STATE.—The term 'State', unless otherwise specified, includes each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(5) STATE LIBRARY ADMINISTRATIVE AGENCY.—The term 'State library administrative agency' means the official agency of a State charged by the law of the State with the extension and development of public library services throughout the State.

"(6) STATE PLAN.—The term 'State plan' means the document which gives assurances that the officially designated State library administrative agency has the fiscal and legal authority and capability to administer all aspects of this subtitle, provides assurances for establishing the State's policies, priorities, criteria, and procedures necessary to the implementation of all programs under this subtitle, submits copies for approval as required by regulations promulgated by the Director, identifies a State's library needs, and sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under this subtitle.

"SEC. 214. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $150,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this subtitle.

"(2) TRANSFER.—The Secretary of Education shall—

"(A) transfer any funds appropriated under the authority of paragraph (1) to the Director to enable the Director to carry out this subtitle; and

"(B) not exercise any authority concerning the administration of this title other than the transfer described in subparagraph (A).

"(b) FORWARD FUNDING.—

"(1) IN GENERAL.—To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing library activities and projects, appropriations for grants, contracts, or other payments under any program under this subtitle are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

"(2) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—In order to effect a transition to the timing of appropriation action authorized by subsection (a), the application of this section may result in the enactment, in a fiscal year, of separate appropriations for a program under this subtitle (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

"(c) ADMINISTRATION.—Not more than 3 percent of the funds appropriated under this section for a fiscal year may be used to pay for the Federal administrative costs of carrying out this subtitle.

"CHAPTER 1—BASIC PROGRAM REQUIREMENTS

"SEC. 221. RESERVATIONS AND ALLOTMENTS.

"(a) RESERVATIONS.—

"(1) IN GENERAL.—From the amount appropriated under the authority of section 214 for any fiscal year, the Director—

"(A) shall reserve 1½ percent to award grants in accordance with section 261; and

"(B) shall reserve 4 percent to award national leadership grants or contracts in accordance with section 262.

"(2) SPECIAL RULE.—If the funds reserved pursuant to paragraph (1)(B) for a fiscal year have not been obligated by the end of such fiscal year, then such funds shall be allotted in accordance with subsection (b) for the fiscal year succeeding the fiscal year for which the funds were so reserved.

"(b) ALLOTMENTS.—

"(1) IN GENERAL.—From the sums appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year, the Director shall award grants from minimum allotments, as determined under paragraph (3), to each State. Any sums remaining after minimum allotments are made for such year shall be allotted in the manner set forth in paragraph (2).

"(2) REMAINDER.—From the remainder of any sums appropriated under the authority of section 214 that are not reserved under subsection (a) and not allotted under paragraph (1) for any fiscal year, the Director shall award grants to each State in an amount that bears the same relation to such remainder as the population of the State bears to the population of all States.

"(3) MINIMUM ALLOTMENT.—

"(A) IN GENERAL.—For the purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(B) RATABLE REDUCTIONS.—If the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year is insufficient to fully satisfy the aggregate of the minimum allotments for all States for that purpose for such year, each of such minimum allotments shall be reduced ratably.

"(C) SPECIAL RULE.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Director determines are not inconsistent with this subparagraph.

"(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

"(iii) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subtitle for any fiscal year that begins after September 30, 2001.

"(iv) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.

"(4) DATA.—The population of each State and of all the States shall be determined by the Director on the basis of the most recent data available from the Bureau of the Census.

"SEC. 222. ADMINISTRATION.

"(a) IN GENERAL.—Not more than 4 percent of the total amount of funds received under this subtitle for any fiscal year by a State may be used for administrative costs.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to limit spending for evaluation costs under section 224(c) from sources other than this subtitle.

"SEC. 223. PAYMENTS; FEDERAL SHARE; AND MAINTENANCE OF EFFORT REQUIREMENTS.

"(a) PAYMENTS.—Subject to appropriations provided pursuant to section 214, the Director shall pay to each State library administrative agency having a State plan approved under section 224 the Federal share of the cost of the activities described in the State plan.

"(b) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share shall be 66 percent.

"(2) NON-FEDERAL SHARE.—The non-Federal share of payments shall be provided from non-Federal, State, or local sources.

"(c) MAINTENANCE OF EFFORT.—

"(1) STATE EXPENDITURES.—

"(A) REQUIREMENT.—

"(i) IN GENERAL.—The amount otherwise payable to a State for a fiscal year pursuant to an allotment under this chapter shall be reduced if the level of State expenditures, as described in paragraph (2), for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years preceding that previous fiscal year. The amount of the reduction in allotment for any fiscal year shall be equal to the amount by which the level of such State expenditures for the fiscal year for which the determination is made is less than the average of the total of such expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.

"(ii) CALCULATION.—Any decrease in State expenditures resulting from the application of subparagraph (B) shall be excluded from the calculation of the average level of State expenditures for any 3-year period described in clause (i).

"(B) DECREASE IN FEDERAL SUPPORT.—If the amount made available under this subtitle for a fiscal year is less than the amount made available under this subtitle for the preceding fiscal year, then the expenditures required by subparagraph (A) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

"(2) LEVEL OF STATE EXPENDITURES.—The level of State expenditures for the purposes of paragraph (1) shall include all State dollars expended by the State library administrative agency for library programs that are consistent with the purposes of this subtitle. All funds included in the maintenance of effort calculation under this subsection shall be expended during the fiscal year for which the determination is made, and shall not include capital expenditures, special one-time project costs, or similar windfalls.

"(3) WAIVER.—The Director may waive the requirements of paragraph (1) if the Director determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"SEC. 224. STATE PLANS.

"(a) STATE PLAN REQUIRED.—

"(1) IN GENERAL.—In order to be eligible to receive a grant under this subtitle, a State library administrative agency shall submit a State plan to the Director not later than April 1, 1997.

"(2) DURATION.—The State plan shall cover a period of 5 fiscal years.

"(3) REVISIONS.—If a State library administrative agency makes a substantive revision to its State plan, then the State library administrative agency shall submit to the Director an amendment to the State plan containing such revision not later than April 1 of the fiscal year preceding the fiscal year for which the amendment will be effective.

"(b) CONTENTS.—The State plan shall—

"(1) establish goals, and specify priorities, for the State consistent with the purposes of this subtitle;

"(2) describe activities that are consistent with the goals and priorities established under paragraph (1), the purposes of this subtitle, and section 231, that the State library administrative agency will carry out during such year using such grant;

"(3) describe the procedures that such agency will use to carry out the activities described in paragraph (2);

"(4) describe the methodology that such agency will use to evaluate the success of the activities established under paragraph (2) in achieving the goals and meeting the priorities described in paragraph (1);

"(5) describe the procedures that such agency will use to involve libraries and library users throughout the State in policy decisions regarding implementation of this subtitle; and

"(6) provide assurances satisfactory to the Director that such agency will make such reports, in such form and containing such information, as the Director may reasonably require to carry out this subtitle and to determine the extent to which funds provided under this subtitle have been effective in carrying out the purposes of this subtitle.

"(c) EVALUATION AND REPORT.—Each State library administrative agency receiving a grant under this subtitle shall independently evaluate, and report to the Director regarding, the activities assisted under this subtitle, prior to the end of the 5-year plan.

"(d) INFORMATION.—Each library receiving assistance under this subtitle shall submit to the State library administrative agency such information as such agency may require to meet the requirements of subsection (c).

"(e) APPROVAL.—

"(1) IN GENERAL.—The Director shall approve any State plan under this subtitle that meets the requirements of this subtitle and provides satisfactory assurances that the provisions of such plan will be carried out.

"(2) PUBLIC AVAILABILITY.—Each State library administrative agency receiving a grant under this subtitle shall make the State plan available to the public.

"(3) ADMINISTRATION.—If the Director determines that the State plan does not meet the requirements of this section, the Director shall—

"(A) immediately notify the State library administrative agency of such determination and the reasons for such determination;

"(B) offer the State library administrative agency the opportunity to revise its State plan;

"(C) provide technical assistance in order to assist the State library administrative agency in meeting the requirements of this section; and

"(D) provide the State library administrative agency the opportunity for a hearing.

"CHAPTER 2—LIBRARY PROGRAMS

"SEC. 231. GRANTS TO STATES.

"(a) IN GENERAL.—Of the funds provided to a State library administrative agency under section 214, such agency shall expend, either directly or through subgrants or cooperative agreements, at least 96 percent of such funds for—

"(1) establishing or enhancing electronic linkages among or between libraries and library consortia; and

"(2) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

"(b) SPECIAL RULE.—Each State library administrative agency receiving funds under this chapter may apportion the funds available for the purposes described in subsection (a) between the two purposes described in paragraphs (1) and (2) of such subsection, as appropriate, to meet the needs of the individual State.

"CHAPTER 3—ADMINISTRATIVE PROVISIONS

"Subchapter A—State Requirements

"SEC. 251. STATE ADVISORY COUNCILS.

"Each State desiring assistance under this subtitle may establish a State advisory council which is broadly representative of the library entities in the State, including public, school, academic, special, and institutional libraries, and libraries serving individuals with disabilities.

"Subchapter B—Federal Requirements

"SEC. 261. SERVICES FOR INDIAN TRIBES.

"From amounts reserved under section 221(a)(1)(A) for any fiscal year the Director shall award grants to organizations primarily serving and representing Indian tribes to enable such organizations to carry out the activities described in section 231.

"SEC. 262. NATIONAL LEADERSHIP GRANTS OR CONTRACTS.

"(a) IN GENERAL.—From the amounts reserved under section 221(a)(1)(B) for any fiscal year the Director shall establish and carry out a program awarding national leadership grants or contracts to enhance the quality of library services nationwide and to provide coordination between libraries and museums. Such grants or contracts shall be used for activities that may include—

"(1) education and training of persons in library and information science, particularly in areas of new technology and other critical needs, including graduate fellowships, traineeships, institutes, or other programs;

"(2) research and demonstration projects related to the improvement of libraries, education in library and information science, enhancement of library services through effective and efficient use of new technologies, and dissemination of information derived from such projects;

"(3) preservation or digitization of library materials and resources, giving priority to projects emphasizing coordination, avoidance of duplication, and access by researchers beyond the institution or library entity undertaking the project; and

"(4) model programs demonstrating cooperative efforts between libraries and museums.

"(b) GRANTS OR CONTRACTS.—

"(1) IN GENERAL.—The Director may carry out the activities described in subsection (a) by awarding grants to, or entering into contracts with, libraries, agencies, institutions of higher education, or museums, where appropriate.

"(2) COMPETITIVE BASIS.—Grants and contracts under this section shall be awarded on a competitive basis.

"(c) SPECIAL RULE.—The Director shall make every effort to ensure that activities assisted under this section are administered by appropriate library and museum professionals or experts.

"SEC. 263. STATE AND LOCAL INITIATIVES.

"Nothing in this subtitle shall be construed to interfere with State and local initiatives and responsibility in the conduct of library services. The administration of libraries, the selection of personnel and library books and materials, and insofar as consistent with the purposes of this subtitle, the determination of the best uses of the funds provided under this subtitle, shall be reserved for the States and their local subdivisions.

"Subtitle C—Museum Services

"SEC. 271. PURPOSE.

"It is the purpose of this subtitle—

"(1) to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education, and with programs of nonformal education for all age groups;

"(2) to assist museums in modernizing their methods and facilities so that the museums are better able to conserve the cultural, historic, and scientific heritage of the United States; and

"(3) to ease the financial burden borne by museums as a result of their increasing use by the public.

"SEC. 272. DEFINITIONS.

"As used in this subtitle:

"(1) MUSEUM.—The term 'museum' means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or aesthetic purposes, that utilizes a professional staff, owns or utilizes tangible objects, cares for the tangible objects, and exhibits the tangible objects to the public on a regular basis.

"(2) STATE.—The term 'State' means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"SEC. 273. MUSEUM SERVICES ACTIVITIES.

"(a) GRANTS.—The Director, subject to the policy direction of the Museum Board, may make grants to museums to pay for the Federal share of the cost of increasing and improving museum services, through such activities as—

"(1) programs that enable museums to construct or install displays, interpretations, and exhibitions in order to improve museum services provided to the public;

"(2) assisting museums in developing and maintaining professionally trained or otherwise experienced staff to meet the needs of the museums;

"(3) assisting museums in meeting the administrative costs of preserving and maintaining the collections of the museums, exhibiting the collections to the public, and providing educational programs to the public through the use of the collections;

"(4) assisting museums in cooperating with each other in developing traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

"(5) assisting museums in the conservation of their collections;

"(6) developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions; and

"(7) model programs demonstrating cooperative efforts between libraries and museums.

"(b) CONTRACTS AND COOPERATIVE AGREEMENTS.—

"(1) PROJECTS TO STRENGTHEN MUSEUM SERVICES.—The Director, subject to the policy direction of the Museum Board, is authorized to enter into contracts and cooperative agreements with appropriate entities, as determined by the Director, to pay for the Federal share of enabling the entities to undertake projects designed to strengthen museum services, except that any contracts or cooperative agreements entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in appropriations acts.

"(2) LIMITATION ON AMOUNT.—The aggregate amount of financial assistance made available under this subsection for a fiscal year shall not exceed 15 percent of the amount appropriated under this subtitle for such fiscal year.

"(3) OPERATIONAL EXPENSES.—No financial assistance may be provided under this subsection to pay for operational expenses.

"(c) FEDERAL SHARE.—

"(1) 50 PERCENT.—Except as provided in paragraph (2), the Federal share described in subsections (a) and (b) shall be not more than 50 percent.

"(2) GREATER THAN 50 PERCENT.—The Director may use not more than 20 percent of the funds made available under this subtitle for a fiscal year to make grants under subsection (a), or enter into contracts or agreements under subsection (b), for which the Federal share may be greater than 50 percent.

"(d) REVIEW AND EVALUATION.—The Director shall establish procedures for reviewing and evaluating grants, contracts, and cooperative agreements made or entered into under this subtitle. Procedures for reviewing grant applications or contracts and cooperative agreements for financial assistance under this subtitle shall not be subject to any review outside of the Institute.

"SEC. 274. AWARD.

"The Director, with the advice of the Museum Board, may annually award a National Award for Museum Service to outstanding museums that have made significant contributions in service to their communities.

"SEC. 275. NATIONAL MUSEUM SERVICES BOARD.

"(a) ESTABLISHMENT.—There is established in the Institute a National Museum Services Board.

"(b) COMPOSITION AND QUALIFICATIONS.—

"(1) COMPOSITION.—The Museum Board shall consist of the Director and 14 members appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—The appointive members of the Museum Board shall be selected from among citizens of the United States—

"(A) who are members of the general public;

"(B) who are or have been affiliated with—

"(i) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

"(ii) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, and botanical gardens; and

"(C) who are recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

"(3) GEOGRAPHIC AND OTHER REPRESENTATION.—Members of the Museum Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum Board may not include, at any time, more than 3 members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums.

"(c) TERMS.—

"(1) IN GENERAL.—Each appointive member of the Museum Board shall serve for a term of 5 years, except that—

"(A) of the members first appointed, 3 shall serve for terms of 5 years, 3 shall serve for terms of 4 years, 3 shall serve for terms of 3 years, 3 shall serve for terms of 2 years, and 2 shall serve for terms of 1 year, as designated by the President at the time of nomination for appointment; and

"(B) any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

"(2) REAPPOINTMENT.—No member of the Museum Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

"(3) SERVICE UNTIL SUCCESSOR TAKES OFFICE.—Notwithstanding any other provision of this subsection, a member of the Museum Board shall serve after the expiration of the term of the member until the successor to the member takes office.

"(d) DUTIES AND POWERS.—The Museum Board shall have the responsibility to advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum services, including general policies with respect to—

"(1) financial assistance awarded under this subtitle for museum services; and

"(2) projects described in section 262(a)(4).

"(e) CHAIRPERSON.—The President shall designate 1 of the appointive members of the Museum Board as Chairperson of the Museum Board.

"(f) MEETINGS.—

"(1) IN GENERAL.—The Museum Board shall meet—

"(A) not less than 3 times each year, including—

"(i) not less than 2 times each year separately; and

"(ii) not less than 1 time each year in a joint meeting with the Commission, convened for purposes of making general policies with respect to financial assistance for projects described in section 262(a)(4); and

"(B) at the call of the Director.

"(2) VOTE.—All decisions by the Museum Board with respect to the exercise of the duties and powers of the Museum Board shall be made by a majority vote of the members of the Museum Board who are present. All decisions by the Commission and the Museum Board with respect to the policies described in paragraph (1)(A)(ii) shall be made by a ⅔ majority vote of the total number of the members of the Commission and the Museum Board who are present.

"(g) QUORUM.—A majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official meetings of the Museum Board, but a lesser number of members may hold hearings. A majority of the members of the Commission and a majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the Museum Board.

"(h) COMPENSATION AND TRAVEL EXPENSES.—

"(1) COMPENSATION.—Each member of the Museum Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum Board. All members of the Museum Board who are officers or employees of the Federal Government shall serve without compensation in addition to compensation received for their services as officers or employees of the Federal Government.

"(2) TRAVEL EXPENSES.—The members of the Museum Board may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

"(i) COORDINATION.—The Museum Board, with the advice of the Director, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.

"SEC. 276. AUTHORIZATION OF APPROPRIATIONS.

"(a) GRANTS.—For the purpose of carrying out this subtitle, there are authorized to be appropriated to the Director $28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.

"(b) ADMINISTRATION.—Not more than 10 percent of the funds appropriated under this section for a fiscal year may be used to pay for the administrative costs of carrying out this subtitle.

"(c) SUMS REMAINING AVAILABLE.—Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation until expended.".

SEC. 202. NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

(a) FUNCTIONS.—Section 5 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1504) is amended—

(1) by redesignating subsections (b) through (d) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (a) the following:

"(b) The Commission shall have the responsibility to advise the Director of the Institute of Museum and Library Services on general policies with respect to the duties, powers, and authority of the Institute of Museum and Library Services relating to library services, including—

"(1) general policies with respect to—

"(A) financial assistance awarded under the Museum and Library Services Act for library services; and

"(B) projects described in section 262(a)(4) of such Act; and

"(2) measures to ensure that the policies and activities of the Institute of Museum and Library Services are coordinated with other activities of the Federal Government.

"(c)(1) The Commission shall meet not less than 1 time each year in a joint meeting with the National Museum Services Board, convened for purposes of providing advice on general policy with respect to financial assistance for projects described in section 262(a)(4) of such Act.

"(2) All decisions by the Commission and the National Museum Services Board with respect to the advice on general policy described in paragraph (1) shall be made by a ⅔ majority vote of the total number of the members of the Commission and the National Museum Services Board who are present.

"(3) A majority of the members of the Commission and a majority of the members of the National Museum Services Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the National Museum Services Board.".

(b) MEMBERSHIP.—Section 6 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1505) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "Librarian of Congress" and inserting "Librarian of Congress, the Director of the Institute of Museum and Library Services (who shall serve as an ex officio, nonvoting member),";

(B) in the second sentence—

(i) by striking "special competence or interest in" and inserting "special competence in or knowledge of"; and

(ii) by inserting before the period the following: "and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly";

(C) in the third sentence, by inserting "appointive" before "members"; and

(D) in the last sentence, by striking "term and at least" and all that follows and inserting "term."; and

(2) in subsection (b), by striking "the rate specified" and all that follows through "and while" and inserting "the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including traveltime) during which the members are engaged in the business of the Commission. While".

SEC. 203. TRANSFER OF FUNCTIONS FROM INSTITUTE OF MUSEUM SERVICES.

(a) DEFINITIONS.—For purposes of this section, unless otherwise provided or indicated by the context—

(1) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(2) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(b) TRANSFER OF FUNCTIONS FROM THE INSTITUTE OF MUSEUM SERVICES AND THE LIBRARY PROGRAM OFFICE.—There are transferred to the Director of the Institute of Museum and Library Services established under section 203 of the Museum and Library Services Act—

(1) all functions that the Director of the Institute of Museum Services exercised before the date of enactment of this section (including all related functions of any officer or employee of the Institute of Museum Services); and

(2) all functions that the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education exercised before the date of enactment of this section and any related function of any officer or employee of the Department of Education.

(c) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under subsection (b).

(d) DELEGATION AND ASSIGNMENT.—Except where otherwise expressly prohibited by law or otherwise provided by this section, the Director of the Institute of Museum and Library Services may delegate any of the functions transferred to the Director of the Institute of Museum and Library Services by this section and any function transferred or granted to such Director of the Institute of Museum and Library Services after the effective date of this section to such officers and employees of the Institute of Museum and Library Services as the Director of the Institute of Museum and Library Services may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate, except that any delegation of any such functions with respect to libraries shall be made to the Deputy Director of the Office of Library Services and with respect to museums shall be made to the Deputy Director of the Office of Museum Services. No delegation of functions by the Director of the Institute of Museum and Library Services under this section or under any other provision of this section shall relieve such Director of the Institute of Museum and Library Services of responsibility for the administration of such functions.

(e) REORGANIZATION.—The Director of the Institute of Museum and Library Services may allocate or reallocate any function transferred under subsection (b) among the officers of the Institute of Museum and Library Services, and may establish, consolidate, alter, or discontinue such organizational entities in the Institute of Museum and Library Services as may be necessary or appropriate.

(f) RULES.—The Director of the Institute of Museum and Library Services may prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Director of the Institute of Museum and Library Services determines to be necessary or appropriate to administer and manage the functions of the Institute of Museum and Library Services.

(g) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Institute of Museum and Library Services. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(h) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(i) EFFECT ON PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except

special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee under this section.

(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who, on the day preceding the effective date of this section, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Institute of Museum and Library Services to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(j) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official of a Federal agency, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

(B) that were in effect before the effective date of this section, or were final before the effective date of this section and are to become effective on or after the effective date of this section;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the Institute of Museum and Library Services or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS NOT AFFECTED.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Institute of Museum Services on the effective date of this section, with respect to functions transferred by this section. Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken from the orders, and payments shall be made pursuant to the orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Institute of Museum Services, or by or against any individual in the official capacity of such individual as an officer of the Institute of Museum Services, shall abate by reason of the enactment of this section.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Institute of Museum Services relating to a function transferred under this section may be continued by the Institute of Museum and Library Services with the same effect as if this section had not been enacted.

(k) TRANSITION.—The Director of the Institute of Museum and Library Services may utilize—

(1) the services of such officers, employees, and other personnel of the Institute of Museum Services with respect to functions transferred to the Institute of Museum and Library Services by this section; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(l) REFERENCES.—A reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Director of the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Director of the Institute of Museum and Library Services; and

(2) the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Institute of Museum and Library Services.

(m) ADDITIONAL CONFORMING AMENDMENTS.—

(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Director of the Institute of Museum and Library Services shall prepare and submit to the appropriate committees of Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this section.

(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this section, the Director of the Institute of Museum and Library Services shall submit to the appropriate committees of Congress the recommended legislation referred to under paragraph (1).

SEC. 204. SERVICE OF INDIVIDUALS SERVING ON DATE OF ENACTMENT.

Notwithstanding section 204 of the Museum and Library Services Act, the individual who was appointed to the position of Director of the Institute of Museum Services under section 205 of the Museum Services Act (as such section was in effect on the day before the date of enactment of this Act) and who is serving in such position on the day before the date of enactment of this Act shall serve as the first Director of the Institute of Museum and Library Services under section 204 of the Museum and Library Services Act (as added by section 201 of this title), and shall serve at the pleasure of the President.

SEC. 205. CONSIDERATION.

Consistent with title 5, United States Code, in appointing employees of the Office of Library Services, the Director of the Institute of Museum and Library Services shall give strong consideration to individuals with experience in administering State-based and national library and information services programs.

SEC. 206. TRANSITION AND TRANSFER OF FUNDS.

(a) TRANSITION.—The Director of the Office of Management and Budget shall take appropriate measures to ensure an orderly transition from the activities previously administered by the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services under this title. Such measures may include the transfer of appropriated funds.

(b) TRANSFER.—The Secretary of Education shall transfer to the Director the amount of funds necessary to ensure the orderly transition from activities previously administered by the Director of the Office of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services. In no event shall the amount of funds transferred pursuant to the preceding sentence be less than $200,000.

TITLE III—EXTENSION OF PROGRAMS

SEC. 301. EXTENSION OF NATIONAL LITERACY ACT OF 1991.

(a) NATIONAL WORKFORCE LITERACY ASSISTANCE COLLABORATIVE.—Subsection (c) of section 201 of the National Literacy Act of 1991 (20 U.S.C. 1211-1(c)) is amended by striking "$5,000,000" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 1997.".

(b) FUNCTIONAL LITERACY AND LIFE SKILLS PROGRAM FOR STATE AND LOCAL PRISONERS.—Paragraph (3) of section 601(i) of the National Literacy Act of 1991 (20 U.S.C. 1211-2(i)) is amended by striking "$10,000,000" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 1997.".

SEC. 302. ADULT EDUCATION ACT AMENDMENTS.

The Adult Education Act (20 U.S.C. 1201 et seq.) is amended—

(1) in section 312—

(A) in each of subparagraphs (A) and (B) of paragraph (11), by moving the margins two ems to the right;

(B) in each of paragraphs (11) through (15), by moving the margins two ems to the right; and

(C) by adding at the end the following:

"(16) The term 'family literacy services' means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family and that integrate all of the following activities:

"(A) Interactive literacy activities between parents and their children.

"(B) Training for parents on how to be the primary teacher for their children and full partners in the education of their children.

"(C) Parent literacy training.

"(D) An age-appropriate education program for children.";

(2) in section 313(a), by striking "the fiscal year 1991," and all that follows through "1995" and inserting "fiscal year 1997";

(3) in section 321, by inserting "and family literacy services" after "and activities";

(4) in the first sentence of section 322(a)(1), by inserting "and family literacy services" after "adult education programs";

(5) in section 341(a), by inserting "and for family literacy services" after "adult education";

(6) in section 356(k), by striking "$25,000,000" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 1997.";

(7) in section 371(e)(1), by striking "the fiscal year 1991," and all that follows through the period and inserting "fiscal year 1997.";

(8) in section 384, by striking subsections (c) through (n); and

(9) by adding at the end the following:

"SEC. 386. NATIONAL INSTITUTE FOR LITERACY.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established the National Institute for Literacy (in this section referred to as the 'Institute'). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary of Education with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the 'Interagency Group'). The Interagency Group may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education, the Department of Labor, or the Department of Health and Human Services whose purpose is determined by the Interagency Group to be related to the purpose of the Institute.

"(2) OFFICES.—The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services.

"(3) BOARD RECOMMENDATIONS.—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the 'Board') established under subsection (d) in planning the goals of the Institute and in the implementation of any programs to achieve such goals.

"(4) DAILY OPERATIONS.—The daily operations of the Institute shall be carried out by the Director of the Institute appointed under subsection (g).

"(b) DUTIES.—

"(1) IN GENERAL.—The Institute shall improve the quality and accountability of the adult basic skills and literacy delivery system by—

"(A) providing national leadership for the improvement and expansion of the system for delivery of literacy services;

"(B) coordinating the delivery of such services across Federal agencies;

"(C) identifying effective models of basic skills and literacy education for adults and families that are essential to success in job training, work, the family, and the community;

"(D) supporting the creation of new methods of offering improved literacy services;

"(E) funding a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

"(i) encouraging the coordination of literacy services;

"(ii) carrying out evaluations of the effectiveness of adult education and literacy activities;

"(iii) enhancing the capacity of State and local organizations to provide literacy services; and

"(iv) serving as a reciprocal link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources;

"(F) supporting the development of models at the State and local level of accountability systems that consist of goals, performance measures, benchmarks, and assessments that can be used to improve the quality of adult education and literacy activities;

"(G) providing information, and other program improvement activities to national, State, and local organizations, such as—

"(i) improving the capacity of national, State, and local public and private organizations that provide literacy and basic skills services, professional development, and technical assistance, such as the State or regional adult literacy resource centers referred to in subparagraph (E); and

"(ii) establishing a national literacy electronic database and communications network;

"(H) working with the Interagency Group, Federal agencies, and the Congress to ensure that such Group, agencies, and the Congress have the best information available on literacy and basic skills programs in formulating Federal policy with respect to the issues of literacy, basic skills, and workforce and career development; and

"(I) assisting with the development of policy with respect to literacy and basic skills.

"(2) GRANTS, CONTRACTS, AND AGREEMENTS.—The Institute may make grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

"(c) LITERACY LEADERSHIP.—

"(1) FELLOWSHIPS.—The Institute, in consultation with the Board, may award fellowships, with such stipends and allowances as the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

"(2) USE OF FELLOWSHIPS.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

"(3) INTERNS AND VOLUNTEERS.—The Institute, in consultation with the Board, may award paid and unpaid internships to individuals seeking to assist the Institute in carrying out its mission. Notwithstanding section 1342 of title 31, United States Code, the Institute may accept and use voluntary and uncompensated services as the Institute determines necessary.

"(d) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is established a National Institute for Literacy Advisory Board. The Board shall consist of 10 individuals appointed by the President, with the advice and consent of the Senate, from individuals who—

"(i) are not otherwise officers or employees of the Federal Government; and

"(ii) are representative of entities or groups described in subparagraph (B).

"(B) ENTITIES OR GROUPS DESCRIBED.—The entities or groups referred to in subparagraph (A) are—

"(i) literacy organizations and providers of literacy services, including—

"(I) nonprofit providers of literacy services;

"(II) providers of programs and services involving English language instruction; and

"(III) providers of services receiving assistance under this title;

"(ii) businesses that have demonstrated interest in literacy programs;

"(iii) literacy students;

"(iv) experts in the area of literacy research;

"(v) State and local governments; and

"(vi) representatives of employees.

"(2) DUTIES.—The Board—

"(A) shall make recommendations concerning the appointment of the Director and staff of the Institute;

"(B) shall provide independent advice on the operation of the Institute; and

"(C) shall receive reports from the Interagency Group and the Director.

"(3) FEDERAL ADVISORY COMMITTEE ACT.—Except as otherwise provided, the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"(4) TERMS.—

"(A) IN GENERAL.—Each member of the Board shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which ⅓ of the members are selected each year. Any such member may be appointed for not more than 2 consecutive terms.

"(B) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made. A vacancy in the Board shall not affect the powers of the Board.

"(5) QUORUM.—A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation of the Board may be passed only by a majority of the Board's members present.

"(6) ELECTION OF OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members of the Board. The term of office of the Chairperson and Vice Chairperson shall be 2 years.

"(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the members of the Board.

"(e) GIFTS, BEQUESTS, AND DEVISES.—The Institute may accept, administer, and use gifts or donations of services, money, or property, both real and personal.

"(f) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(g) DIRECTOR.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

"(h) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum rate payable under section 5376 of title 5, United States Code.

"(i) EXPERTS AND CONSULTANTS.—The Board and the Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(j) REPORT.—The Institute shall submit a report biennially to the Committee on Economic and Educational Opportunities of the

House of Representatives and the Committee on Labor and Human Resources of the Senate. Each report submitted under this subsection shall include—

"(1) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for the period covered by the report;

"(2) a description of how plans for the operation of the Institute for the succeeding two fiscal years will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

"(3) any additional minority, or dissenting views submitted by members of the Board.

"(k) FUNDING.—Any amounts appropriated to the Secretary of Education, the Secretary of Labor, or the Secretary of Health and Human Services for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

"(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this section.".

SEC. 303. EXTENSION OF CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

Subsection (a) of section 3 of the Carl D. Perkins Vocational and Applied Technology Act is amended by striking "appropriated" and all that follows through "1995" and inserting "appropriated for fiscal year 1997 such sums as may be necessary".

TITLE IV—REPEALS AND CONFORMING AMENDMENTS

SEC. 401. REPEALS.

(a) GENERAL IMMEDIATE REPEALS.—The following provisions are repealed:

(1) Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note).

(2) Title II of Public Law 95–250 (92 Stat. 172).

(3) The Library Services and Construction Act (20 U.S.C. 351 et seq.).

(4) Part F of the Technology for Education Act of 1994 (contained in title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7001 et seq.)).

(5) Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211).

(6) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.), except subtitle B and section 738 of such title (42 U.S.C. 11431 et seq. and 11448).

(b) IMMEDIATE REPEAL OF HIGHER EDUCATION ACT OF 1965 PROVISIONS.—The following provisions of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) are repealed:

(1) Part B of title I (20 U.S.C. 1011 et seq.), relating to articulation agreements.

(2) Part C of title I (20 U.S.C. 1015 et seq.), relating to access and equity to education for all Americans through telecommunications.

(3) Title II (20 U.S.C. 1021 et seq.), relating to academic libraries and information services.

(4) Chapter 3 of subpart 2 of part A of title IV (20 U.S.C. 1070a–31 et seq.), relating to presidential access scholarships.

(5) Chapter 4 of subpart 2 of part A of title IV (20 U.S.C. 1070a–41 et seq.), relating to model program community partnerships and counseling grants.

(6) Section 409B (20 U.S.C. 1070a–52), relating to an early awareness information program.

(7) Chapter 8 of subpart 2 of part A of title IV (20 U.S.C. 1070a–81), relating to technical assistance for teachers and counselors.

(8) Subpart 8 of part A of title IV (20 U.S.C. 1070f), relating to special child care services for disadvantaged college students.

(9) Section 428J (20 U.S.C. 1078–10), relating to loan forgiveness for teachers, individuals performing national community service and nurses.

(10) Section 486 (20 U.S.C. 1093), relating to training in financial aid services.

(11) Subpart 1 of part H of title IV (20 U.S.C. 1099a et seq.) relating to State postsecondary review programs.

(12) Part A of title V (20 U.S.C. 1102 et seq.), relating to State and local programs for teacher excellence.

(13) Part B of title V (20 U.S.C. 1103 et seq.), relating to national teacher academies.

(14) Subpart 1 of part C of title V (20 U.S.C. 1104 et seq.), relating to Paul Douglas teacher scholarships.

(15) Subpart 3 of part C of title V (20 U.S.C. 1106 et seq.), relating to the teacher corps.

(16) Subpart 3 of part D of title V (20 U.S.C. 1109 et seq.), relating to class size demonstration grants.

(17) Subpart 4 of part D of title V (20 U.S.C. 1110 et seq.), relating to middle school teaching demonstration programs.

(18) Subpart 1 of part E of title V (20 U.S.C. 1111 et seq.), relating to new teaching careers.

(19) Subpart 1 of part F of title V (20 U.S.C. 1113), relating to the national mini corps programs.

(20) Section 586 (20 U.S.C. 1114), relating to demonstration grants for critical language and area studies.

(21) Section 587 (20 U.S.C. 1114a), relating to development of foreign languages and cultures instructional materials.

(22) Subpart 4 of part F of title V (20 U.S.C. 1116), relating to faculty development grants.

(23) Section 597 and subsection (b) of section 599 (20 U.S.C. 1117a and 1117c), relating to early childhood staff training and professional enhancement.

(24) Section 605 (20 U.S.C. 1124a), relating to intensive summer language institutes.

(25) Section 607 (20 U.S.C. 1125a), relating to periodicals and other research material published outside the United States.

(26) Part A of title VII (20 U.S.C. 1132b et seq.), relating to improvement of academic and library facilities.

(27) Title VIII (20 U.S.C. 1133 et seq.), relating to cooperative education programs.

(28) Part D of title X (20 U.S.C. 1135f), relating to the Dwight D. Eisenhower leadership program.

(c) IMMEDIATE REPEAL OF EDUCATION AMENDMENTS OF 1986 PROVISIONS.—The following provisions of the Higher Education Amendments of 1986 are repealed:

(1) Part D of title XIII (20 U.S.C. 1029 note), relating to library resources.

(2) Part E of title XIII (20 U.S.C. 1221–1 note), relating to a National Academy of Science study.

(3) Part B of title XV (20 U.S.C. 4441 et seq.), relating to Native Hawaiian and Alaska Native culture and art development.

(d) IMMEDIATE REPEAL OF EDUCATION AMENDMENTS OF 1974 PROVISION.—Section 519 of the Education Amendments of 1974 (20 U.S.C. 1221i) is repealed.

(e) IMMEDIATE REPEAL OF EDUCATION AMENDMENTS OF 1992 PROVISIONS.—The following provisions of the Higher Education Amendments of 1992 are repealed:

(1) Part F of title XIII (25 U.S.C. 3351 et seq.), relating to American Indian postsecondary economic development scholarships.

(2) Part G of title XIII (25 U.S.C. 3371), relating to American Indian teacher training.

(3) Section 1406 (20 U.S.C. 1221e–1 note), relating to a national survey of factors associated with participation.

(4) Section 1409 (20 U.S.C. 1132a note), relating to a study of environmental hazards in institutions of higher education.

(5) Section 1412 (20 U.S.C. 1101 note), relating to a national job bank for teacher recruitment.

(6) Part B of title XV (20 U.S.C. 1452 note), relating to a national clearinghouse for postsecondary education materials.

(7) Part C of title XV (20 U.S.C. 1101 note), relating to a school-based decisionmakers demonstration program.

(8) Part D of title XV (20 U.S.C. 1145h note), relating to grants for sexual offenses education.

(9) Part E of title XV (20 U.S.C. 1070 note), relating to Olympic scholarships.

(10) Part G of title XV (20 U.S.C. 1070a–11 note), relating to advanced placement fee payment programs.

SEC. 402. CONFORMING AMENDMENTS.

(a) REFERENCES TO SECTION 204 OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.—The table of contents for the Immigration Reform and Control Act of 1986 is amended by striking the item relating to section 204 of such Act.

(b) REFERENCES TO TITLE II OF PUBLIC LAW 95–250.—Section 103 of Public Law 95–250 (16 U.S.C. 791) is amended—

(1) by striking the second sentence of subsection (a); and

(2) by striking the second sentence of subsection (b).

(c) REFERENCES TO LIBRARY SERVICES AND CONSTRUCTION ACT.—

(1) TECHNOLOGY FOR EDUCATION ACT OF 1994.—The Technology for Education Act of 1994 (20 U.S.C. 6801 et seq.) is amended in section 3113(10) by striking "section 3 of the Library Services and Construction Act;" and inserting "section 213 of the Library Services and Technology Act;".

(2) OMNIBUS EDUCATION RECONCILIATION ACT OF 1981.—Section 528 of the Omnibus Education Reconciliation Act of 1981 (20 U.S.C. 3489) is amended—

(A) by striking paragraph (12); and

(B) by redesignating paragraphs (13) through (15) as paragraphs (12) through (14), respectively.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 3113(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6813(10)) is amended by striking "section 3 of the Library Services and Construction Act" and inserting "section 213 of the Library Services and Technology Act".

(4) COMMUNITY IMPROVEMENT VOLUNTEER ACT OF 1994.—Section 7305 of the Community Improvement Volunteer Act of 1994 (40 U.S.C. 276d–3) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

(5) APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) is amended by striking "Library Services and Construction Act;".

(6) DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966.—Section 208(2) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3338(2)) is amended by striking "title II of the Library Services and Construction Act;".

(7) PUBLIC LAW 87-688.—Subsection (c) of the first section of the Act entitled "An Act to extend the application of certain laws to American Samoa", approved September 25, 1962 (48 U.S.C. 1666(c)) is amended by striking "the Library Services Act (70 Stat. 293; 20 U.S.C. 351 et seq.),".

(8) COMMUNICATIONS ACT OF 1934.—Paragraph (4) of section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)(4)) is amended by striking "library not eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 335c et seq.)" and inserting "library or library consortium not eligible for assistance from a State library administrative agency under the Library Services and Technology Act".

(d) REFERENCE TO SCHOOL DROPOUT ASSISTANCE ACT.—Section 441 of the General Education Provisions Act (42 U.S.C. 1232d), as amended by section 261(f) of the Improving America's Schools Act of 1994, is further amended by striking "(subject to the provisions of part C of title V of the Elementary and Secondary Education Act of 1965)".

(e) REFERENCES TO TITLE VII OF THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—

(1) TABLE OF CONTENTS.—The table of contents of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1142 et seq.) is amended by striking the items relating to title VII of such Act, except subtitle B and section 738 of such title.

(2) TITLE 31, UNITED STATES CODE.—Section 6703(a) of title 31, United States Code, is amended—

(A) by striking paragraph (15); and

(B) by redesignating paragraphs (16) through (19) as paragraphs (15) through (18), respectively.

(f) REFERENCES TO INSTITUTE OF MUSEUM SERVICES.—

(1) TITLE 5, UNITED STATES CODE.—Section 5315 of title 5, United States Code, is amended by striking the following:

"Director of the Institute of Museum Services." and inserting the following:

"Director of the Institute of Museum and Library Services.".

(2) DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Section 301 of the Department of Education Organization Act (20 U.S.C. 3441) is amended—

(A) in subsection (a)—

(i) by striking paragraph (5); and

(ii) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively; and

(B) in subsection (b)—

(i) by striking paragraph (4); and

(ii) by redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) Sections 2101(b), 2205(c)(1)(D), 2208(d)(1)(H)(v), and 2209(b)(1)(C)(vi), and subsections (d)(6) and (e)(2) of section 10401 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6621(b), 6645(c)(1)(D), 6648(d)(1)(H)(v), 6649(b)(1)(C)(vi), and 8091 (d)(6) and (e)(2)) are amended by striking "the Institute of Museum Services" and inserting "the Institute of Museum and Library Services".

(B) Section 10412(b) of such Act (20 U.S.C. 8102(b)) is amended—

(i) in paragraph (2), by striking "the Director of the Institute of Museum Services," and inserting "the Director of the Institute of Museum and Library Services,"; and

(ii) in paragraph (7), by striking "the Director of the Institute of Museum Services," and inserting "the Director of the Institute of Museum and Library Services,".

(C) Section 10414(a)(2)(B) of such Act (20 U.S.C. 8104(a)(2)(B)) is amended by striking clause (iii) and inserting the following new clause:

"(iii) the Institute of Museum and Library Services.".

(g) REFERENCES TO OFFICE OF LIBRARIES AND LEARNING RESOURCES.—Section 413(b)(1) of the Department of Education Organization Act (20 U.S.C. 3473(b)(1)) is amended—

(1) by striking subparagraph (H); and

(2) by redesignating subparagraphs (I) through (M) as subparagraphs (H) through (L), respectively.

(h) REFERENCES TO STATE POSTSECONDARY REVIEW ENTITY PROGRAMS.—The Higher Education Act of 1965 is amended—

(1) in section 356(b)(2) (20 U.S.C. 10696(b)), by striking "II,";

(2) in section 453(c)(2) (20 U.S.C. 1087c(c)(2))—

(A) by striking subparagraph (E); and

(B) by redesignating subparagraphs (F) through (H) as subparagraphs (E) through (G), respectively;

(3) in section 487(a)(3) (20 U.S.C. 1094(a)(3)), by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(4) in section 487(a)(15) (20 U.S.C. 1094(a)(15)), by striking "the Secretary of Veterans Affairs, and State review entities under subpart 1 of part H" and inserting "and the Secretary of Veterans Affairs";

(5) in section 487(a)(21) (20 U.S.C. 1094(a)(21)), by striking ", State postsecondary review entities,";

(6) in section 487(c)(1)(A)(i) (20 U.S.C. 1094(c)(1)(A)(i)), by striking "State agencies, and the State review entities referred to in subpart 1 of part H" and inserting "and State agencies";

(7) in section 487(c)(4) (20 U.S.C. 1094(c)(4)), by striking ", after consultation with each State review entity designated under subpart 1 of part H,";

(8) in section 487(c)(5) (20 U.S.C. 1094(c)(5)), by striking "State review entities designated under subpart 1 of part H,";

(9) in section 496(a)(7) (20 U.S.C. 1099b(a)(7)), by striking "and the appropriate State postsecondary review entity";

(10) in section 496(a)(8) (20 U.S.C. 1099b(a)(8)), by striking "and the State postsecondary review entity of the State in which the institution of higher education is located";

(11) in section 498(g)(2) (20 U.S.C. 1099c(g)(2)), by striking everything after the first sentence;

(12) in section 498A(a)(2)(D) (20 U.S.C. 1099c–1(a)(2)(D)), by striking "by the appropriate State postsecondary review entity designated under subpart 1 of this part or";

(13) in section 498A(a)(2) (20 U.S.C. 1099c–1(a)(2))—

(A) by inserting "and" after the semicolon at the end of subparagraph (E);

(B) by striking subparagraph (F); and

(C) by redesignating subparagraph (G) as subparagraph (F); and

(14) in section 498A(a)(3) (20 U.S.C. 1099c–1(a)(3))—

(A) by inserting "and" after the semicolon at the end of subparagraph (C);

(B) by striking "; and" at the end of subparagraph (D) and inserting a period; and

(C) by striking subparagraph (E).

The SPEAKER pro tempore (Ms. GREENE of Utah). Pursuant to the rule, the gentleman from California [Mr. MCKEON] and the gentleman from Missouri [Mr. CLAY] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H.R. 1720, the Government Sponsored Enterprise Privatization Act of 1996.

This important legislation will: privatize two government sponsored enterprises, Sallie Mae and Connie Lee; eliminate over 40 unfunded higher education programs including the State Postsecondary Review Entities or SPREE's; consolidate and improve Federal library and museum programs; and extend for 1 year the National Literacy Act, the Adult Education and Literacy Act, and the Carl D. Perkins Vocational and Applied Technology Education Act, which otherwise will expire on September 30 of this year.

I would like to focus my remarks on the higher education provisions in this legislation, and in particular the privatization of Sallie Mae and Connie Lee.

The Student Loan Marketing Association, or Sallie Mae, was established in 1972 under a Federal charter authorized by part B of title IV of the Higher Education Act. At that time, there was a tremendous need for a secondary market that would purchase student loans from lenders, freeing up capital so that those lenders could continue to make student loans. Under it Federal charter, Sallie Mae gained certain advantages, including the ability to raise large amounts of capital in a cost effective way. People across the nation invested in this public-private partnership, knowing that their investment was also fostering access to higher education.

However, times have changed. Today, there is an extremely competitive secondary market for student loans, and the practice of securitization has made it far easier for financial institutions to raise capital for student loans. Now there is ample private capital available for student loans, and virtually every eligible student has access to student loans. The Federal charter which initially helped Sallie Mae assist students is now hampering Sallie Mae's ability to put its expertise to work in the private market to provide services outside of the student loan arena. Clearly the time has come when it is advantageous to both the taxpayer and Sallie Mae to allow Sallie Mae to become a fully private company with no Federal ties and no government sponsored advantages.

The legislation before us today gives Sallie Mae's stockholders the right to vote to reorganize and become a private company. Upon voting to reorganize, the existing Government Sponsored Enterprise [GSE] will continue to purchase student loans until September 30, 2007. On September 30, 2008, the

GSE will dissolve, and 1 year later the charter legislation found in the Higher Education Act will be repealed. In the event Sallie Mae's stockholders vote against reorganization, Sallie Mae will have until July 1, 2013 to wind down its business and dissolve the GSE.

In privatizing Sallie Mae, both the taxpayer and Sallie Mae are clearly winners. Sallie Mae is freed from a burdensome Federal charter and allowed to apply its expertise to compete in new markets. And, as Sallie Mae profits, so will the taxpayer. Upon privatization, Sallie Mae will be required to pay for the use of the Sallie Mae name. In addition, the Government will receive stock warrants from Sallie Mae. If a new and private Sallie Mae is successful and the price of its stock rises, the Treasury will be able to cash in these warrants, and the taxpayer will profit along with the new company.

As with Sallie Mae, the College Construction Loan Insurance Association, or Connie Lee, is another example of a successful public-private partnership which has served its purpose. Connie Lee was created by Congress under title VII of the Higher Education Amendments of 1986. At that time, the deterioration of physical infrastructure such as buildings and physical plants was a pressing problem for institutions of higher education, and financing facilities improvements was an option only for schools of the highest credit caliber. Connie Lee was created to underwrite the financing of these needed improvements; leveraging large amounts of capital with little risk to the government.

However, Connie Lee has never enjoyed the advantages of most government sponsored enterprises. In fact, the only Government help Connie Lee has received was start-up capital, in return for which Government received stock in Connie Lee. And, the law which created Connie Lee also narrowly limited the business activities which Connie Lee could pursue. Clearly, Connie Lee was always meant to be a private company.

For Connie Lee, privatization means the ability to determine its own destiny. Privatization will allow Connie Lee to use its expertise in facilities underwriting to help secure funding for elementary and secondary schools, higher education facilities, and local municipal projects. In return, the taxpayer is relieved of any implicit risk, should Connie Lee have future financial difficulties.

This legislation simply repeals the authorizing legislation which created Connie Lee, thereby freeing Connie Lee of from the restrictions of the Higher Education Act which limit the types of business in which Connie Lee can engage. The Treasury is directed to sell the stock currently owned by the U.S. Government within a set period of time in order to fully sever all Federal ties. In the event that the Treasury Department is unable to sell this stock, this legislation requires Connie Lee to buy it back at a price that is fair to both Connie Lee and the taxpayer. Connie Lee will no longer have any Federal charter or any ties to the Federal Government.

Privatizing Sallie Mae and Connie Lee is simply good government for the 1990's. This legislation frees the American taxpayer from subsidizing activities which will flourish long after government sponsorship has ceased. It also shows a willingness on the part of this Congress to take a public-private partnership and turn it into a fully private venture when Government support is no longer necessary. This legislation represents a carefully crafted compromise between Connie Lee and Sallie Mae, the administration, and the potential competitors of these newly privatized firms. In the process, it paves the way to a future of smaller, less intrusive government. Both of these companies want to be fully private firms. It is time for us as a Congress to sever our ties to them.

In addition to privatizing two Government sponsored enterprises, the legislation before us today begins to streamline the Higher Education Act by eliminating over 40 programs which are completely unfunded. I am pleased to note that among these programs is the State Postsecondary Review Entities, or SPREEs, which creates excessive and burdensome paperwork requirements for schools, represents an unwarranted State intrusion into their campuses, and in some cases poses a threat to their educational missions. As with the SPREEs, all of these programs were enacted with the best of intentions. However, eliminating these unfunded provisions will simplify our higher education law and help reduce the size of government.

Unfortunately, the legislation before us today represents only a fraction of the reform in the area of job training and education that I, along with other members on the Opportunities Committee, worked so hard in moving forward during the last 2 years. Under H.R. 1617, otherwise referred to as the Careers Act, over 120 programs would have been consolidated into block grants to States and localities; communities would have had more flexibility to target resources where they were most needed; and thousands of Americans would have been able to secure training vouchers in order to upgrade their skills at educational institutions of their choosing. Unfortunately, change is always difficult, and there was a ground swell of support for the status quo—which is why today we are able to move only a small portion of the original Careers legislation. But let me make this very clear. I fully intend to continue this endeavor. I will push forward with a job training system which provides flexibility to States; maintains accountability and empowers individuals to learn.

Madam Speaker, the Government Sponsored Enterprise Privatization Act is straight-forward, commonsense legislation. It represents a modest but earnest effort to reduce the size and scope of government, and it does so in a way that benefits both the taxpayer and private enterprise. This legislation does not cost the government or the taxpayer a dime, and in fact it will save money, but it will also pave the way to a future of smaller, less intrusive government. I urge my colleagues to support this legislation and vote "yes" on H.R. 1720.

Madam Speaker, I reserve the balance of my time.

Mr. CLAY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I reluctantly rise in support of H.R. 1720 which provides straight reauthorizations for three education programs scheduled to expire at the end of this year. Those programs are the National Literacy Act, the Adult Education Act, and the Carl D. Perkins Vocational and Applied Technology Education Act. The 1-year extensions included in this bill will help add some certainty to these programs as they continue to compete for funding through the appropriations process.

In addition, the legislation includes changes to other programs that were worked out through bipartisan negotiations involving both the House and the Senate earlier this year.

This bill provides for the privatization of two Government-sponsored enterprises, Sallie Mae and Connie Lee. I have already voted in support of privatization and will do so again today, but, as I said, with reluctance. Let me explain my apprehension.

Last Thursday, in response to a request by a member of my staff for harmless information from Sallie Mae regarding privatization revenue, Sallie Mae mistakenly faxed him a document which strongly suggests possible partisan work by Sallie Mae officials on behalf of the Republicans.

There are at least two very disturbing things about the document. First, the document is referred to as a "candidate's package," and it is a highly charged, partisan document that will help Republicans attack the direct loan program and gives them ammunition to defend themselves against the accurate charges that they have tried to cut student loans.

The second alarming thing about the fax is that it includes a cover page showing that the document was sent to a Republican representative, the gentleman from Virginia, Mr. TOM DAVIS, by one of Sallie Mae's House lobbyists. That fax page has a note on it to Mr. DAVIS that says, and I quote, "Here's the full candidate's package." Other details about this bizarre and potentially illegal activity are described in this morning's Washington Post.

However, I might say in defense of Sallie Mae that the president and chief executive officer wrote a letter to me dated September 18, where he says that, and I quote, "The document which I have subsequently read is completely inappropriate in its language and tone, and I am at a loss to express my disappointment that this should have happened. This material was not sanctioned nor reviewed by either myself or senior management."

Also, the chairman of the board wrote to President Clinton and he noted that he had directed that an internal investigation be conducted and that appropriate disciplinary action be taken against those individuals responsible for this document.

Madam Speaker, I think that the appropriate agencies and congressional committees have an obligation to fully investigate this matter, and until that happens, a dark cloud will hang over the issue of Sallie Mae's privatization.

Madam Speaker, I reserve the balance of my time.

Mr. McKEON. Madam Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], a strong supportive member of the committee.

Mr. GUNDERSON. Madam Speaker, I regret we are not here passing a comprehensive careers bill. I regret, like Mr. CLAY, that there was any political activity that was in any way involved in this, and I think we all ought to make sure that does not happen again.

But having said all that, I rise in strong support of this bill because if this is the best that we can do this session, then this is exactly what we should do.

Many of us are aware that we tried to define priorities in this Congress, balancing the budget, figuring out what programs ought to still be a primary Federal role and which ones ought not.

I think there is little doubt in this body on a bipartisan basis that we have come to that point in time when Sallie Mae and Connie Lee no longer justify being Government-sponsored enterprises. More than that, they do not want to continue to be Government-sponsored enterprises constrained by those restrictions. And, more than that, by privatizing them, we actually can make some money that we can direct toward other human resource programs that are so important.

□ 1330

So we have done that in this bill, we have done it with Sallie Mae over a period of time, making sure that before the year 2005 they would continue to use Sallie Mae for its primary purposes. Any other business activities would have to occur by a separately created business enterprise.

Likewise with Connie Lee. We have made it clear that, as we look at the changing dynamics in school construction certainly on the higher education level, that they ought to be freed up once they disavow themselves of any Federal Government bonds to go into that private sector and provide that kind of insurance.

But this bill also does some other things that everyone ought to be for. For example, we not only reauthorize the library and museum programs, but we move them into important incentives for distance learning and the Internet use. We target funds for the disabled and the illiterate, and we limit administrative expenses so that more dollars can actually be spent on services and delivery of services to people.

Finally, as was mentioned by our leader, the gentleman from California [Mr. McKEON], we do important things in adult education and literacy. I encourage all of my colleagues to vote for this bill.

Mr. CLAY. Madam Speaker, I yield 2 minutes to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Madam Speaker, I rise in support of this legislation. As all of us are aware, the existence of the direct student loan program is limiting the market for guaranteed student loans. Sallie Mae's restrictive Federal charter provides it with no viable option for replacing business loss to direct lending and to other student loan financing vehicles and to the other 40 or more secondary markets. These factors dim Sallie Mae's future financial prospects. Sallie Mae's privatization will relieve taxpayers of over $50 billion in implicit liabilities.

On September 20, in a speech in Portland, OR, President Clinton said, and I quote:

> We're going to privatize organizations that can now work better in the private sector, like Sallie Mae. We've got the direct student loan program. They need to be able to do some other things as well.

In return for its privatization, Sallie Mae will pay to the Government $5 million for the use of the Sallie Mae name and issue 500,000 stock warrants to the Government, allowing taxpayers to benefit from the future success of the fully private Sallie Mae; subsidizing an effort that will no longer need subsidizing; and making the Government more efficient.

Madam Speaker, I urge the support of the bill.

Mr. McKEON. Madam Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Madam Speaker, I thank my colleague from California for yielding me this time and congratulate him and also the chairman of the full committee, the gentleman from Pennsylvania [Mr. GOODLING] for this important piece of legislation on privatizing Sallie Mae.

When the Speaker asked me at the beginning of the last session of Congress to lay out a number of targets of opportunity for privatization, this was high on everyone's list, and we have actually had a fair amount of success this Congress with the naval petroleum reserves and selling off the United States Enrichment Corporation, getting the National Weather Service out in some specialty crop forecasting, asking the IRS to use private debt collection firms to augment its collection of outstanding taxpayer bills. But this piece of legislation today I think is extraordinarily important for one major reason, and that is for the first time in history we have a Government-sponsored enterprise stepping forward and saying we no longer want any ties with the Government; we want the ability to stand on our own.

And it makes sense because when Sallie Mae was first established in 1972 to create a secondary market for federally guaranteed student loans, there was a huge shortage in the marketplace. But since that time there are now 47 different participants and thousands of lenders nationwide who are now originating loans and financing them in a variety of ways.

Madam Speaker, Sallie Mae at this point is essentially handicapped from being able to enter new lines of business. It is a Government-sponsored enterprise which is withering on the vine. Today we will get the Government regulations out of the way and allow Sallie Mae and also Connie Lee to compete in the private sector, and perhaps fundamentally more important, we will remove nearly $50 billion, that is $50 billion, in implicit liabilities now insured by U.S. taxpayers.

I know that my colleagues on the Committee on Economic and Educational Opportunities were disappointed that they could not move forward a comprehensive career bill, but I think at the end of the day, privatizing Sallie Mae is a tremendous accomplishment for both the committee itself and also this Congress as a whole.

Mr. CLAY. Madam Speaker, I yield 4 minutes to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Madam Speaker, I rise to sort of prick the Congress' conscience about some of the things that happen in H.R. 1720.

I was one of the 79 people on this floor who voted against this bill when it came before us before, and today, as I read the conference report on the Privatization Act, I do not see too many changes in the concerns which I had the very first time.

I voted against the bill at that time not because of the Sallie Mae situation, in that I thought that was a progressive move to try to consolidate and to try to make the entire program move more smoothly, but I cannot sit here and not tell my colleagues that some of the things that they left out of this bill which were so appealing and so begged for in their committee, they still did not make any changes this time.

First of all, I disagree vehemently about the way they decided to close out some of the programs which are currently funded as if they were just by Topsy, be able to adjust themselves to the changes which they have made or did not make in 1790 that were so many.

First of all, I want to give my colleagues just a little bit of information. I worked in higher education for 40 odd years straight through, and I saw how these Federal programs worked as far as the scholarship programs, financial aid, all of them worked. Many of them worked very haphazardly, and many students were left out, but at least we did much better than we are doing in 1720 because in 1720 we are stopping most of these programs; I think about 40 of them have been eliminated. I may have that figure wrong, but about 53 of them have been eliminated according to their report here.

Now I call Members' attention to the fellowships which allow many students to not be able to continue. I also call their attention to the fact that they have completely ignored the needs of disabled students who desire and who really must have some access to higher education. Disabled students have their rights. They passed the American Disabilities Act some time ago, so these disabled students really need the rights which they had in the first in the beginning, and they decided to eliminate those at this time. They repeal the development grants which would allow faculty people to be trained so that they could work with disabled students. There are many, many disabled students throughout the colleges and institutions in this country could benefit if they had faculty members who were trained to the point that they could help these students. Disabled students, I want my colleagues to understand, desire and need the ability to have good teaching and good instruction as well as any other students. So they do need teachers who are trained to teach them how to read, just as one would any other students.

I thought some of the dissenting views at the back of this bill really incorporated the kinds of things that I am calling to my colleagues' attention this morning, and there will be others this morning who will disagree and not support this bill, not because of the privatization of Sallie Mae. That is not why. But they will because they failed to pay any attention to the needs of students throughout this country.

Now if it were not for some of the minority education programs that they have funded in the past, many minorities and women would not have received postgraduate education. It is because they really received some Federal aid in terms of education. So there is a reciprocal reward for people having received graduate education and how to be able to train women to teach women and to do minorities and to allow them to get the professional training and graduate training which they need to carry this on.

I could go on and on because of the 53 programs that they cut out, but I cannot sit down without appealing a little bit for the libraries of this country. My colleagues have heard, and I know my time is out so I will say, by their repealing 53 programs, they made no attempt to put them back is not a good thing.

Mr. MCKEON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, just in response to my dear friend from Florida, let me just say that this maybe is a different version of the bill than she has seen. Of the 41 programs on the list that we have in this bill, four of them did receive a total of $8.8 million in fiscal year 1995. However, in 1996 the administration did not request any funds for these four programs nor were funds requested for fiscal year 1997, and none were provided. So there is no funding for any of the programs that we have cut.

Madam Speaker, I yield 1½ minutes to the gentleman from Illinois [Mr. HASTERT] who has been very supportive in getting this bill to the floor.

Mr. HASTERT. Madam Speaker, I wish to thank the majority leader, the gentleman from Texas [Mr. ARMEY], the Committee on Economic and Educational Opportunity chairman, the gentleman from Pennsylvania [Mr. GOODLING], and certainly the opportunity to work with the chairman of the opportunity subcommittee in answering my request in bring legislation to authorize library services to the House floor. H.R. 1720, the Government sponsored Enterprise Privatization Act improves the provisions of the Library Services and Technology Act. This bill authorizes $150 million for library services for fiscal year 1977 and insures the authorization necessary for fiscal years 1998 through the year 2002.

Madam Speaker, the program has wide bipartisan support in both houses of congress, and it is important that we continue it. I am very pleased it will be continued. Many local libraries have used these funds to assist them with expansion projects and to purchase new equipment. This legislation will make these programs even more effective by making these programs more flexible and easier to use. At the same time it will give libraries the ability to keep up with the information age with access to new technologies and allowing them to share resources.

Communities in my district have greatly benefitted from this program. In the past year along Elgin, Aurora, and Mendota have greatly improved their community services in libraries in addition to towns like Geneva and St. Charles and Warrenville in order to better serve the needs of its residents. Because of these grants, Mendota Graves Hume Public Library is proceeding with its Multi-county Rural Cooperative Collection Management program. This program allows libraries to fill specific needs for one another; Aurora public library's implementing its changing resources and changing world, and in Elgin, the public library's district resources through shared technology.

Madam Speaker, I ask for a positive vote on this bill.

Mr. CLAY. Madam Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Madam Speaker, first of all may I congratulate both the gentlemen on the majority side and minority side for taking up in the closing moments of the 104th Congress a very important piece of legislation that will allow for the privatizing of Sallie Mae. There are members of the minority such as the gentleman from Florida [Mr. PETERSON] and the gentleman from Texas [Mr. EDWARDS] and myself who have worked diligently during this session of the Congress to promote privatization of Sallie Mae. It is an institution that has matured, and under this legislation it will meet new needs of college students and colleges and universities after the privatization of both Sallie Mae and Connie Lee. It is an effort that we can all move forward with pride.

It is, I think, a very good example of the privatization from the standpoint that I think what the American people really want us to do is to recognize when organizations become mature and can be self-sufficient and can enter into the private market to assume risks that government no longer has to underwrite. This is a perfect example of this accomplishment. It also allows for direct lending to continue, but it provides that Sallie Mae, by being able to enter into other activities, can make itself much more self-sufficient and supportive of the obligations that presently exist in the marketplace and otherwise would have to be guaranteed by the United States Government.

To my friend from Florida, I should say, "Dr. MEEK," we are remiss if we did not call to her attention that some of the programs that have been left out of this bill pending on the floor are only programs that have been unfunded and they are being now deauthorized, but this legislation will not have an adverse impact and is nothing nearly as severe as what previously came out of the committee.

What is now being offered is a very streamlined bill. It provides primarily for privatization, of Sallie Mae and

Connie Lee, and then it does reauthorize some programs and, of course, provides for the development of a program for library services.

I would urge my colleagues both on the minority side and the majority side, in the spirit of the statements of the gentleman from Wisconsin [Mr. GUNDERSON] to the full House just a few minutes ago to the effect that here is an opportunity for all of us in a very mature manner who have studied this for a long period of time to see something done right. Passage of this bill does mean reform or change, and it means privatization, but in none of those instances is it radical or extreme. It is using the marketplace and the free market system to perform what government had to perform before, and it does so in a very positive, straightforward and open method.

So I simply compliment the leadership on the majority side and the minority side for having attained this compromise, and I urge my colleagues to support the bill, in spite of the fact that there were some political problems that did arise. None of us are innocent of those kinds of problems. Sometimes our staff and some of our friends have excesses, we have to allow for that, but I think everybody on both sides of the aisle and the White House are comfortable with this bill. I urge all my colleagues to support its passage.

□ 1345

Mr. CLAY. Madam Speaker, I yield back the balance of my time.

Mr. McKEON. Madam Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM], a good friend who is chairman of the Subcommittee on Early Childhood, Youth, and Families, and has responsibility for the library portion of the bill.

(Mr. CUNNINGHAM asked and was given permission to add extraneous materials.)

Mr. CUNNINGHAM. Madam Speaker, I rise in support of H.R. 1720. Let me tell the Members why. I think especially there are three main parts: The creation of the Institute for Museum and Library Services; adult education and literacy programs; privatization of Sallie Mae.

We had a monumental debate here on the House floor with the issue of 85-15, which I believe will be resolved in this particular case. Rather than speak from my notes, Madam Speaker, let me tell the Members why I think it is even more important.

In education we have less than 12 percent of our schools that have even a single phone jack. If we are going to prepare our children for the 21st century, there must be the fiber optics and the modernization. Even there the schools do not have library services enough to meet those needs.

If we can link up those libraries in our colleges, our public libraries, and yes, even here in Washington, DC, think about how that will help this country. When we talk about the delta, the difference between the successful and the poor, the answer is education. We will find chronologically gifted folks at libraries; we will find the very young at libraries, as well. Whether it is through job training or whether it is through education services, this bill goes a long way to help that.

I think the telecommunications bill that we passed encourages that, and I think there are ways we can work with Members on the other side of the aisle as far as reform in our tax system, to where we can encourage those private enterprises that will invest in our children, which is a way of investing in the future. Part of that is our library services and our job training.

Perhaps we have not gone far enough in this particular Congress in job training. I will give that to my colleagues on the other side of the aisle. But I think there is an area which we can work on in the next Congress that will be beneficial as far as the libraries.

The library portion was being threatened because it was in a portion of the bill that we placed it in that may not make it through by the end of this Congress. This legislation, I think, helps remedy that. It has bipartisan support. I would like to thank the gentlemen on both sides of the aisle.

Madam Speaker, I rise in support of H.R. 1720. I would like to bring attention to four important parts of this legislation: The creation of the Institute for Museum and Library Services, the renewal of certain adult education and literacy programs, the privatization of Sallie Mae, and the resolution of the so-called 85–15 issue.

The Institute of Museum and Library Services:

With the close help of America's museum and library communities, this legislation creates an Institute of Museum and Library Services. It merges the Institute of Museum Services and our Federal Library Services and Construction Act programs into one organization. We do this for three reasons.

First, museums and libraries are first and foremost deliverers of information. Through books and exhibits, microfiche, video, and the Internet, they can and do work together for the benefit of citizens and communities.

Second, the advance of the information age is transforming how people obtain information. So we have placed a new focus on the Federal role in these programs toward electronically linking libraries and museums to one another, to other agencies and services, and to communities, schools, and citizens. We all know that the printing press revolutionized Europe in the Middle Ages by making books available to everyone. Today's Internet has that same potential: to bring people and information together from a whole world apart, with the simple point and click of a mouse.

And third, the IMLS simplifies the administration of Federal museum and library programs, while maintaining their unique and useful character. Its leadership will alternate from leaders in libraries or museums. The IMLS library division will make simplified grants to State library agencies. And the IMLS museum portion will continue awarding grants to local museum organizations.

At this point, I would like to include for the RECORD letters of support from California.

Madam Speaker, our libraries and museums are a national treasure. They are a free and open institution of learning for every American, regardless of wealth or background. They provide information, help people find jobs, offer entertainment, and unite our communities. They represent the best in America. In short, they work. And while most of their funding is from local, State, and private resources, the Federal Government has a role. By adopting this legislation, we provide the catalyst to help bring our museums and libraries into the 21st century.

Renewal of adult education and literacy programs:

H.R. 1720 also continues the authorization for our Federal adult education and literacy programs. Adult education provides individuals who lack the most basic skills—such as literacy, English proficiency, or a high school equivalency diploma—the tools they need to have a fighting chance at the American dream. An individual who cannot read or perform basic math cannot hope to find a good job, or to benefit from job training.

Simply put, our investment in effective adult education transforms those who are dependent upon society into contributors to society. Like the library and museum portion of H.R. 1720, these provisions were included in the CAREERS legislation which is stalled in the Senate. It deserves our support.

Privatizing Sallie Mae:

Sallie Mae, the Student Loan Marketing Association, is a Government-sponsored enterprise, owned by private stockholders, that provides a secondary market for student loan financing. When President Clinton advanced his direct lending initiative, it limited Sallie Mae's traditional market, and impacted Sallie Mae stockholders.

I oppose President Clinton's direct lending plan because, over 7 years, it costs taxpayers $1 billion more to provide the same number of student loans as private markets. And while the President has sought to have direct lending replace private markets, Congress has limited the growth of direct lending. Nevertheless, direct lending is a fact of life today. Its existence unfairly impacts the thousands of senior citizens, private pensions, and other Americans who own stock in Sallie Mae.

Allowing Sallie Mae stockholders the opportunity to vote to privatize is simply a matter of fairness. The legislation structures any privatization carefully, so taxpayers and citizens alike get their money's worth.

Partial resolution of 85–15:

This legislation also contains a partial resolution of the so-called 85–15 issue. The 85–15 policy enacted by Congress has been implemented retroactively on for-profit institutions of higher learning. Such schools are made responsible for their compliance with regulations before they were published on May 1, 1994. This kind of retroactive enforcement is simply un-American.

Our bill ends retroactive, preregulatory enforcement of the 85–15 rule.

Unfortunately, H.R. 1720 does not make a further necessary reform which I support. The measure does not exclude Federal training money from the 15 percent of a for-profit school's income coming from sources other than the Higher Education Act. As we all know, Federal training programs are not authorized by the Higher Education Act. They are authorized under other legislation. But the Department of Education has been enforcing 85–15 contrary to the will and intent of Congress. I am confident we will revisit this issue.

Support H.R. 1720:

I urge all of my colleagues to support H.R. 1720. It's good for libraries and museums, for our children and our seniors, for students, and for many of our excellent for-profit educational institutions.

Madam Speaker, I include for the RECORD the following letters:

CALIFORNIA STATE LIBRARY,
Sacramento, CA, September 23, 1996.

Hon. RANDY "DUKE" CUNNINGHAM,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN CUNNINGHAM: The California State Library applauds your initiatives to pass the successor to the Library Services and Construction Act (LSCA) with the forward thinking Library Services and Technology Act (LSTA), and we support the passage of H.R. 1720 to achieve this goal.

Thank you for your continued efforts on behalf of California library users.

Yours sincerely,

Dr. KEVIN STARR,
State Librarian of California.

P.S.—You have become the champion of public libraries! All of us are grateful to you for you vision and leadership!

KS.

CALIFORNIA LIBRARY OF
SERVICES BOARD,
Sacramento, CA, September 23, 1996.

Hon. RANDY "DUKE" CUNNINGHAM,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN CUNNINGHAM: On behalf of the public libraries of California, I support the Library Services and Technology Act that is in H.R. 1720. This Act will provide much needed assistance to our libraries using state based priorities. Our libraries support your efforts to help our children be lifelong readers, and to incorporate the new technologies in their development as productive adults in our society.

Sincerely,

JOAN K. KALLENBERG,
President.

ESCONDIDO PUBLIC LIBRARY,
Escondido, CA, September 23, 1996.

DEAR CONGRESSMAN CUNNINGHAM: The Escondido Public Library applauds your initiatives to pass the successor to the Library Services and Construction Act (LSCA) with the forward-thinking Library Services and Technology Act (LSTA). We would appreciate a "yes" vote for the passage of H.R. 1720 to achieve this goal.

Thank you for continued efforts on behalf of California Library users.

Sincerely.

BARBARA L. LOOMIS,
Assistant City Librarian.

Mr. MCKEON. Madam Speaker, I yield 3 minutes to my friend, the gentleman from Virginia, Mr. TOM DAVIS.

Mr. DAVIS. Madam Speaker, let me first say that I think the incident the gentleman from Missouri [Mr. CLAY] has referred to was regrettable. We know it was not sanctioned from Sallie Mae. It was not requested from our office, I can tell the gentleman, in terms of a candidate package. We obviously are always happy to hear from our corporate constituents over any issue of concern, but somebody I think acted a little overzealously.

I want to thank the gentleman from Missouri for the way he has handled this and note how, on our side, when there were efforts to take away the tax exemption from the NEA, I was one of the Republicans who do not believe in getting even with your enemies, and am in support of their continued tax exemption, and the same with the PIRGS. In that spirit, we are moving ahead and staying with the issue.

Sallie Mae has permanent roots within the 11th Congressional District. When I was chairman of the county board we helped move their permanent headquarters out there, and they have been a great corporate citizen. I have seen the kind of partner they have been to our northern Virginia community, bringing hundreds of high technology jobs to our community and the promise of stable employment for years to come.

But they bring a lot with it. Already, their work in the Reston community with the Reston Interfaith Center and the Embry Rucker Shelter are legendary. I know their employees will touch many more northern Virginia charities as time goes on.

Sallie Mae is about to embark upon a great new adventure as a corporation, which will benefit northern Virginia and the American people. For northern Virginia, privatization will mean more jobs as Sallie Mae expands its business beyond student loans. It means that the state-of-the-art Reston technology center is a resource for more than just students and parents, but for more of Virginia's and America's families and businesses.

Congress should not miss this historic opportunity to recharter a Government-sponsored enterprise as a fully private company, but it must act while the company is still healthy and before it encounters further economic uncertainties. Sallie Mae is a company on the cutting edge of technology with a rare knowledge of the higher education community. I am confident that by allowing the company to build upon its student loan business, it will serve a number of public needs that could not be anticipated by this Congress or the next.

We should not pass up the chance to relieve the American taxpayer of nearly $50 billion or more in implicit liability for Sallie Mae's obligations. I therefore urge passage of this bill.

Madam Speaker, I would express my thanks to the chairman, the gentleman from California [Mr. MCKEON], the gentleman from California [Mr. CUNNINGHAM], the gentleman from Missouri [Mr. CLAY], and all those concerned.

Mr. MCKEON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to take this time to thank the gentleman from Missouri [Mr. CLAY], ranking Member of the full committee, for his leadership and support in helping bring this bill to the floor, even though there were problems that have been discussed. I think he is to be commended for that. I appreciate it on a personal note.

Madam Speaker, I would like to urge a strong "yes" vote for this bill.

Mr. GOODLING. Mr. Speaker, today I rise in support of H.R. 1720, the Government-sponsored Enterprise Privatization Act of 1996. This legislation will privatize two Government-sponsored enterprises, the Student Loan Marketing Association "Sallie Mae" and the College Construction Loan Insurance Association "Connie Lee". In addition, it provides for the elimination of more than 40 unfunded programs found in the Higher Education Act, consolidates and improves Federal library and museum programs, and provides extensions for the National Literacy Act, the Adult Education and Literacy Act, and the Carl D. Perkins Vocational and Applied Technology Act.

Sallie Mae and Connie Lee are both Government-sponsored enterprises chartered under the Higher Education Act. Both are for-profit, stockholder owned companies which have successfully fulfilled their intended purposes. After more than a year of discussions with the Treasury Department with respect to privatization, I am happy to support this bill that paves the way for a smooth transition to private sector status which works for Sallie Mae, Connie Lee, and the Federal Government.

The bill before us also extends the Adult Education Act for 1 year and although it does not make major improvements to the act, we have included one important change. H.R. 1720 clarifies that funds under the Adult Education Act may be used for family literacy programs.

If we are going to effectively reduce the number of adults who are illiterate, we must work with families. Children with parents who can help them with their school work have a greater likelihood of succeeding in school. Family literacy programs provide adults with the education and parenting skills necessary to help their children succeed in school. At the same time, they work with children to improve their academic skills. While some States do use their adult education funds for family literacy programs, it is important that we amend current law to clarify that this is an allowable use of funds.

Finally, this legislation extends the authorization for the National Institute for Literacy and revises current law to allow the Institute to more effectively assist with national efforts to improve the literacy level of our country's citizens.

My one regret about H.R. 1720, is that it represents only a small fraction of the reform in the area of job training and education that I have pushed for during this Congress. My committee devoted a huge amount of time to consolidating job training programs into block grants to States and localities that would have resulted in greater flexibility in this Country's efforts to enhance our job training system. Unfortunately, the Senate has been unable to bring H.R. 1617, the full CAREERS legislation, to the Senate floor, so today we are considering a small portion of that legislation.

With that one regret, I strongly support passage of H.R. 1720.

Mr. CUNNINGHAM. Madam Speaker, I rise in support of H.R. 1720. I would like to bring attention to four important parts of this legislation: the creation of the Institute for Museum and Library Services, the renewal of certain adult education and literacy programs, the privatization of Sallie Mae, and the resolution of the so-called 85–15 issue.

THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES

With the close help of America's museum and library communities, this legislation creates an Institute of Museum and Library Services. It merges the Institute of Museum Services and our Federal Library Services and Construction Act programs into one organization. We do this for three reasons.

First, museums and libraries are first and foremost delivers of information. Through books and exhibits, microfiche, video, and the Internet, they can and do work together for the benefit of citizens and communities.

Second, the advance of the Information Age is transforming how people obtain information. So we have placed a new focus on the Federal role in these programs—toward electronically linking libraries and museums to one another, to other agencies and services, and to communities, schools, and citizens. We all know that the printing press revolutionized Europe in the Middle Ages by making books available to everyone. Today's Internet has that same potential—to bring people and information together from a whole world apart, with the simple point and click of a mouse.

And third, the IMLS simplifies the administration of Federal museum and library programs, while maintaining their unique and useful character. Its leadership will alternate from leaders in libraries or museums. The IMLS library division will make simplified grants to State library agencies. And the IMLS museums portion will continue awarding grants to local museum organizations.

I have already included for the RECORD letters of support from the California State Libraries, and others.

Mr. Speaker, our libraries and museums are a national treasure. They are a free and open institution of learning for every American, regardless of wealth or background. They provide information, help people find jobs, offer entertainment, and unite our communities. They represent the best in America. In short, they work. And while most of their funding is from local, State and private resources, the Federal Government has a role. By adopting this legislation, we provide the catalyst to help bring our museums and libraries into the 21st Century.

RENEWAL OF ADULT EDUCATION AND LITERACY PROGRAMS

H.R. 1720 also continues the authorization for our Federal adult education and literacy programs. Adult education provides individuals who lack the most basic skills—such as literacy, English proficiency, or a high school equivalency diploma—the tools they need to have a fighting chance at the American dream. An individual who cannot read or perform basic math cannot hope to find a good job, or to benefit from job training.

Simply put, our investment in effective adult eduation transforms those who are dependent upon society into contributors to society. Like the library and museum portion of H.R. 1720, these provisions were included in the CAREERS legislation which is stalled in the Senate. It deserves our support.

PRIVATIZING SALLIE MAE

Sallie Mae, the Student Loan Marketing Association, is a Government-sponsored enterprise, owned by private stockholders, that provides a secondary market for student loan financing. When President Clinton advanced his Direct Lending initiative, it limited Sallie Mae's traditional market, and impacted Sallie Mae stockholders.

I oppose President Clinton's direct lending plan because, over 7 years, it costs taxpayers $1 billion more to provide the same number of student loans as private markets. And while the President has sought to have direct lending replace private markets, Congress has limited the growth of direct lending. Nevertheless, direct lending is a fact of life today. Its existence unfairly impacts the thousands of senior citizens, private pensions, and other Americans who own stock in Sallie Mae.

Allowing Sallie Mae stockholders the opportunity to vote to privatize is simply a matter of fairness. The legislation structures any privatization carefully, so taxpayers and citizens alike get their money's worth.

PARTIAL RESOLUTION OF 85–15

This legislation also contains a partial resolution of the so-called 85–15 issue. The 85–15 policy enacted by Congress has been implemented retroactively on for-profit institutions of higher learning. Such schools are made responsible for their compliance with regulations before they were published on May 1, 1994. This kind of retroactive enforcement is simply un-American.

Our bill ends retroactive, preregulatory enforcement of the 85–15 rule.

Unfortunately, H.R. 1720 does not make a further necessary reform which I support. The measure does not exclude Federal training money from the 15 percent of a forprofit school's income coming from sources other than the Higher Education Act. As we all know, Federal training programs are not authorized by the Higher Education Act. They are authorized under other legislation. But the Department of Education has been enforcing 85–15 contrary to the will and intent of Congress. I am confident we will revisit this issue.

SUPPORT OF 1720

I urge all my colleagues to support H.R. 1720. It is good for libraries and museums, for our children and our seniors, for students, and for many of our excellent forprofit educational institutions. Thank you, and I yield back the balance of my time.

Mr. ROBERTS. Madam Speaker, I rise in support of H.R. 1720, the Government-Sponsored Enterprise Privatization Act of 1996. In particular, I am pleased that H.R. 1720 includes the privatization of the Student Loan Marketing Association, or Sallie Mae.

Sallie Mae has fulfilled the mission of its Federal charter. However, as a for-profit, stockholder owned company, Sallie Mae wishes to continue to operate without the support of U.S. taxpayers and without restrictions from the U.S. Government. Sallie Mae's interest in privatization clearly shows that it remains committed to continuing its strong record in providing student loan servicing for hundreds of thousands of Americans.

H.R. 1720 is an excellent example of how a properly managed Government program can use Federal resources to serve the American public and successfully make the transition to private business without Government assistance.

Mr. WILLIAMS. Mr. Speaker, I rise in support of H.R. 1720 to privatize the Student Loan Marketing Association—Sallie Mae—and the College Construction Loan Insurance Association—Connie Lee—and am pleased to see this bill finally coming up for floor consideration. I understand that privatization language may also be included in the CR, and I hope we can do all we can to ensure the enactment of this legislation this year.

As my colleagues know, the bill in front of us today was part of the Careers Act that passed this House more than a year ago. Unfortunately, that legislation was weighed down in conference by repeated objections from the far right, and I'm somewhat disappointed that after more than 2 years, this is all that can be salvaged.

The time to privatize Sallie Mae and Connie Lee has come. There is little doubt that both of these Government-sponsored enterprises have fulfilled their intended purpose, and no longer need Federal subsidies to support the secondary loan market. Back in 1972, when Sallie Mae was established, there was a need to generate capital in the student loan market. However, there are now more than 45 different participants in the secondary market, and it makes sense for the Government to reduce the burden on taxpayers by releasing these entities from governmental control. Both Sallie Mae and Connie Lee want to be privatized and have spent many hours negotiating with us to make this separation a reality.

I urge my colleagues to support privatization on this bill or any other legislation that may contain it.

H.R. 1720 also contains provisions establishing the Library Services and Technology Act. This authority creates a new Institute for Museum and Library Services that will integrate our Federal library and museum programs to consolidate funds and promote increased cooperation between libraries and museums across the Nation. This new partnership will focus funds on assisting libraries in acquiring new technologies and increasing access to library services for individuals with special needs, including children. This new merger was developed in cooperation with, and strongly supported by, the American Library Association, the U.S. Commission on Libraries and Information Science, and the Institute of Museum Services.

Mr. McKEON. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Ms. GREENE of Utah). The question is on the motion offered by the gentleman from California [Mr. MCKEON], that the House suspend the rules and pass the bill, H.R. 1720, as amended.

The question was taken; and (two-thirds of those having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The title was amended so as to read: "A bill to reorganize the Student Loan Marketing Association, to privatize the College Construction Loan Insurance Association, to amend the Museum Services Act to include provisions improving and consolidating Federal library service programs, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McKEON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1720.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

WATER DESALINATION ACT OF 1996

Mr. DOOLITTLE. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 811) to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, and for other purposes, as amended.

The Clerk read as follows:

S. 811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Desalination Act of 1996".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) DESALINATION OR DESALTING.—The terms "desalination" or "desalting" mean the use of any process or technique for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from saline or biologically impaired waters, by itself or in conjunction with other processes.

(2) SALINE WATER.—The term "saline water" means sea water, brackish water, and other mineralized or chemically impaired water.

(3) UNITED STATES.—The term "United States" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(4) USUABLE WATER.—The term "usable water" means water of a high quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. AUTHORIZATION OF RESEARCH AND STUDIES.

(a) IN GENERAL.—In order to determine the most cost-effective and technologically efficient means by which usable water can be produced from saline water or water otherwise impaired or contaminated, the Secretary is authorized to award grants and to enter into contracts, to the extent provided in advance in appropriation Acts, to conduct, encourage, and assist in the financing of research to develop processes for converting saline water into water suitable for beneficial uses. Awards of research grants and contracts under this section shall be made on the basis of a competitive, merit-reviewed process. Research and study topics authorized by this section include—

(1) investigating desalination processes;

(2) ascertaining the optimum mix of investment and operating costs;

(3) determining the best designs for different conditions of operation;

(4) investigating methods of increasing the economic efficiency of desalination processes through dual-purpose co-facilities with other processes involving the use of water;

(5) conducting or contracting for technical work, including the design, construction, and testing of pilot systems and test beds, to develop desalting processes and concepts;

(6) studying methods for the recovery of byproducts resulting from desalination to offset the costs of treatment and to reduce environmental impacts from those byproducts; and

(7) salinity modeling and toxicity analysis of brine discharges, cost reduction strategies for constructing and operating desalination facilities, and the horticultural effects of desalinated water used for irrigation.

(b) PROJECT RECOMMENDATIONS AND REPORTS TO THE CONGRESS.—As soon as practicable and within three years after the date of enactment of this Act, the Secretary shall recommend to Congress desalination demonstration projects or full-scale desalination projects to carry out the purposes of this Act and to further evaluate and implement the results of research and studies conducted under the authority of this section. Recommendations for projects shall be accompanied by reports on the engineering and economic feasibility of proposed projects and their environmental impacts.

(c) AUTHORITY TO ENGAGE OTHERS.—In carrying out research and studies authorized in this section, the Secretary may engage the necessary personnel, industrial or engineering firms, Federal laboratories, water resources research and technology institutes, other facilities, and educational institutions suitable to conduct investigations and studies authorized under this section.

(d) ALTERNATIVE TECHNOLOGIES.—In carrying out the purposes of this Act, the Secretary shall ensure that at least three separate technologies are evaluated and demonstrated for the purposes of accomplishing desalination.

SEC. 4. DESALINATION DEMONSTRATION AND DEVELOPMENT.

(a) IN GENERAL.—In order to further demonstrate the feasibility of desalination processes investigated either independently or in research conducted pursuant to section 3, the Secretary shall administer and conduct a demonstration and development program for water desalination and related activities, including the following:

(1) DESALINATION PLANTS AND MODULES.—Conduct or contract for technical work, including the design, construction, and testing of plants and modules to develop desalination processes and concepts.

(2) BYPRODUCTS.—Study methods for the marketing of byproducts resulting from the desalting of water to offset the costs of treatment and to reduce environmental impacts of those byproducts.

(3) ECONOMIC SURVEYS.—Conduct economic studies and surveys to determine present and prospective costs of producing water for beneficial purposes in various locations by desalination processes compared to other methods.

(b) COOPERATIVE AGREEMENTS.—Federal participation in desalination activities may be conducted through cooperative agreements, including cost-sharing agreements, with non-Federal public utilities and State and local governmental agencies and other entities, in order to develop recommendations for Federal participation in processes and plants utilizing desalting technologies for the production of water.

SEC. 5. AVAILABILITY OF INFORMATION.

All information from studies sponsored or funded under authority of this Act shall be considered public information.

SEC. 6. TECHNICAL AND ADMINISTRATIVE ASSISTANCE.

The Secretary may—

(1) accept technical and administrative assistance from States and public or private agencies in connection with studies, surveys, location, construction, operation, and other work relating to the desalting of water, and

(2) enter into contracts or agreements stating the purposes for which the assistance is contributed and providing for the sharing of costs between the Secretary and any such agency.

SEC. 7. COST SHARING.

The Federal share of the cost of a research, study, or demonstration project or a desalination development project or activity carried out under this Act shall not exceed 50 percent of the total cost of the project or research or study activity. A Federal contribution in excess of 25 percent for a project carried out under this Act may not be made unless the Secretary determines that the project is not feasible without such increased Federal contribution. The Secretary shall prescribe appropriate procedures to implement the provisions of this section. Costs of operation, maintenance, repair, and rehabilitation of facilities funded under the authority of this Act shall be non-Federal responsibilities.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) SECTION 3.—There are authorized to be appropriated to carry out section 3 of this Act $5,000,000 per year for fiscal years 1997 through 2002. Of these amounts, up to $1,000,000 in each fiscal year may be awarded to institutions of higher education, including united States-Mexico binational research foundations and interuniversity research programs established by the two countries, for research grants without any cost-sharing requirement.

(b) SECTION 4.—There are authorized to be appropriated to carry out section 4 of this Act $25,000,000 for fiscal years 1997 through 2002.

SEC. 9. CONSULTATION.

In carrying out the provisions of this Act, the Secretary shall consult with the heads of the Federal agencies, including the Secretary of the Army, which have experience in conducting desalination research or operating desalination facilities. The authorization provided for in this Act shall not prohibit other agencies from carrying out separately authorized programs for deslination research or operations.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DOOLITTLE] and the gentleman from California [Mr. FARR] will each control 20 minutes.

The Chair recognizes the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the Water Desalination Research and Development Act of 1996 passed at that point on May 3, 1996. It was referred to the Committee on Resources and, in addition, to the Committee on Science and the Committee on Transportation and Infrastructure.

The bill was reported out of the Committee on Transportation and Infrastructure, as well as the Senate Committee on Environment and Public Works, to bring the bill to the floor in its current form. We have also worked to coordinate with the minority in both Houses to ensure final passage. It is our expectation that the bill in its present form will be taken up by the Senate immediately.

The bill directs the Secretary of the Interior to consult with the heads of relevant Federal agencies, to conduct a basic research and development program for desalination, and to participate in demonstration projects.

As amended, the bill contains the following provisions: First, research on key subjects that will advance our ability to provide supplemental high-quality water in various water-short areas throughout the country;

Second, an evaluation of at least three alternative technologies to achieve desalination;

Third, an authorization for $55 million between now and the year 2002. This compares to an authorization of $75 million in the Senate-passed version.

Last, a funding formula which limits the Federal cost share to 50 percent, with a specific justification required for anything exceeding 25 percent.

I want to express my appreciation to the other committees that have worked with us to craft this legislation, and urge support for the bill.

Madam Speaker, I reserve the balance of my time.

Mr. FARR of California. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the distinguished chair of our Committee on Resources, the gentleman from California [Mr. DOOLITTLE], I want to also commend him on bringing this bill to the floor. The purpose of this bill, as amended, is to authorize the Federal program to finance strategies to encourage new research and development for methods and technologies for water desalinization.

The bill would authorize the Secretary of the Interior, in cooperation with other agencies, to award, as it was spelled out, contracts for studies regarding the desalinization of water and water reuse and demonstration projects, as so outlined.

I see all these students in the gallery, and I am thinking that when I was a student one of the poems we were all required to learn is the Coleridge "Ancient Mariner," where the great line is, "Water, water, everywhere, but not a drop to drink."

This bill allows us to drink that water, because what it does is it allows us to find the technology to solve the problems of water shortages and water contamination. Many people do not realize, but desalination of chemically and biologically impaired water can often be useful in solving problems of drought, of contamination, and an overappropriation of supplies.

Both the speakers are from the State of California. Our coastline is surrounded by salt water. The coastal communities of our great State do not have any benefit from the great water project that we have in California. We rely on the water that comes from the heavens.

Unfortunately, more and more people are living on the coast, and we are having a tremendous amount of water shortages. Everybody realizes it is only a matter of time before the technology of desalinization and the price for that technology will become available, so we can indeed tap into that great resource.

The United States, interestingly, was once the leader of this technology. No other country knew it better. The world beat a path to our door. But severe budget cuts since 1981 have all but eliminated the funds for desalinization research.

I want to really credit this bill to its author, to Senator PAUL SIMON, who pursued the desalination legislation with great determination for several years. Senator SIMON, as we know, is retiring, and has made a significant contribution to the field of water desalination, and his efforts will be appreciated for many years.

Therefore, the enactment of this bill will once again allow the United States to pursue water desalination as a means of reducing stress on our limited water supplies. I urge my colleagues to join me in support of this important piece of legislation.

Mr. SHUSTER. Madam Speaker, I rise to speak in support of S. 811, the Water Desalination Act of 1996 and to clarify its effect on programs and authorities of the Army Corps of Engineers.

First let me congratulate the proponents of this legislation, particularly the gentleman from Illinois, Senator PAUL SIMON. He has worked tirelessly with others to promote desalination research, technologies, and demonstrations. This legislation will help to do that, and as a result advance environmentally protective water conservation, reuse, and efficiency policies.

Second, I should clarify the role of the Transportation and Infrastructure Committee regarding S. 811 and our committee's intent regarding the Army Corps of Engineers. In order to expedite consideration of S. 811, our committee agreed to be discharged. We also agreed to the revisions made by the Resources Committee to limit the scope of the bill to the programs and authorities of the Secretary of the Interior. In no way should this be construed as a statement of congressional policy that the Department of the Interior is the only appropriate or most appropriate Federal entity to carry out desalination research, development, and demonstrations.

In fact, at the request of the leadership of the Transportation and Infrastructure Committee, the leadership of the Resources Committee included in the manager's amendment a specific requirement to consult with the Corps of Engineers on activities carried out under the act and included a statement that authorizations in this act are not intended to affect other agency programs or authorizations. I appreciate the cooperation of the Resources Committee and their acknowledgment that the Corps of Engineers has experience and expertise in desalination research, development, and demonstration.

I also congratulate the gentlelady from California, Representative ANDREA SEASTRAND, for her involvement in shaping and improving this bill. At her suggestion and based on the experience of the city of Santa Barbara, the manager's amendment includes specific references to key areas for desalination research.

Again, I thank my colleagues on the Resources Committee, as well as the Science Committee, for their efforts and cooperation and urge my colleagues to support the bill.

Mr. FARR of California. Madam Speaker, I yield back the balance of my time.

Mr. DOOLITTLE. Madam Speaker, I have no further requests for time. I urge an "aye" vote.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DOOLITTLE] that the House suspend the rules and pass the Senate bill, S. 811, as amended.

The question was taken; and (two-thirds having voted in favor therefore) the rules were suspended and the Senate bill as amended, was passed.

The title was amended so as to read: "An act to authorize the Secretary of the Interior to conduct studies regarding the desalination of water and water reuse, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOOLITTLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DAVID H. PRYOR POST OFFICE BUILDING

Mr. McHUGH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3877) to designate the U.S. Post Office building in Camden, AR, as the "Honorable David H. Pryor Post Office Building," as amended.

The Clerk read as follows:

H.R. 3877

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DAVID H. PRYOR POST OFFICE BUILDING.

(a) DESIGNATION.—The United States Post Office building located at 351 West Washington Street in Camden, Arkansas, shall be known and designated as the "David H. Pryor Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "David H. Pryor Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. McHUGH] and the gentleman from New York [Mr. OWENS] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the legislation before us, H.R. 3877 was unanimously approved as amended by the Committee on Government Reform and Oversight. H.R. 3877 designates the United States Post Office building located at 351 Washington Street in Camden, AR, as the "Honorable David H. Pryor Post Office Building". The amendment simply corrects the address and makes stylistic changes to make this bill conform with other Post Office naming bills passed by the House. H.R. 3877 as amended designates the United States Post Office building located at 351 West Washington Street in Camden, AR, as the "David H. Pryor Post Office Building" and makes necessary changes to the title of the bill.

This is purely a post office naming bill and, as the United States Postal Service is off budget, there would be no budgetary implication. The Congressional Budget Office has informed the committee that the bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. Additionally, the legislation contains no intergovernmental or private-sector mandates and would not affect the budgets of state, local, or tribal governments.

The original bill was introduced by the gentleman from Arkansas [Mr. DICKEY] and was cosponsored by the entire House Delegation from the State of Arkansas, pursuant to committee policy.

Madam Speaker, H.R. 3877 honors Senator DAVID H. PRYOR who served as former Chair of the Senate Subcommittee on Post Office and Civil Service, and currently serves as that panel's ranking minority member. His other committee assignments include: Agriculture, Finance, and Aging.

The Senator is a favorite son of the city of Camden, the county seat of Ouachita, AR—having been born and raised there. He was founder, publisher and editor of the Ouachita Citizen from 1957–61. He earned his law degree at the University of Arkansas and was a practicing attorney from 1964–66. Ouachita County elected him to the State legislature in 1960 at age 26. He was elected to the U.S. House of Representatives in 1966. In 1972 he ran for the Senate but was defeated in a runoff by John McClellan. However, he was elected Governor of Arkansas in 1974 and in 1976. DAVID PRYOR won the U.S. Senate seat in 1978 and has retained it for three terms. He has announced his retirement from elective office at the end of this term.

As a matter of record, Madam Speaker, the aldermen of the city of Camden passed a resolution "on behalf of each and every resident of the community expressing appreciation to the Honorable DAVID H. PRYOR for his devotion and dedication to the citizens of this community in the performance of this public service during the terms of his various elected capacities."

Madam Speaker, I urge our colleagues to support H.R. 3877 as amended, a bill to honor a former Member of this body, Senator DAVID H. PRYOR, who has spent the major part of this life in service to our country and to his community of Camden, AR.

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Madam Speaker, I reserve the balance of my time.

Mr. OWENS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would like to express my support for H.R. 3877, as amended, which designates the U.S. Post Office in Camden, Arkansas, as the David H. Pryor Post Office Building. It is cosponsored by the Arkansas delegation and is a fitting honor and duly notes the political contributions of this dedicated public servant, DAVID PRYOR.

DAVID PRYOR is considered one of the most influential advocates in Washington for older Americans. Starting in 1989, he served for 6 years as chairman of the Senate Special Committee on Aging and now serves as the top ranking Democrat on that committee. He also is a nationally recognized leader in the fight to save the Social Security system, to reform our nursing home industry, to bring down prescription drug prices and to make government institutions preserve the essential dignity of the senior citizens in this country.

Beyond Camden and the State of Arkansas, he is a hero. Certainly he is a hero to many senior citizens in New York and in my district. His name has been mentioned in numerous town meetings by senior citizens over the years because of this great fight against high prescription prices. DAVID PRYOR issued an information paper to assist indigent patients with access assistance programs sponsored by pharmaceutical companies. He issued a report card in 1992 on drug manufacturing price inflation, in 1993 a hearing on marketplace reform, in 1994 a briefing on equal access to discounts, in 1993 a briefing on cost containment in other industrialized nations with respect to prescription drugs, in 1993 a briefing on pharmaceutical pricing, also in 1993 a briefing on medication costs for older Americans.

Before that, he had a landmark hearing on drug prices in 1989. He is the author of the 1992 Veterans Health Care Act, which lowered the cost of drugs purchased by the VA, the Department of Defense, public health clinics, disproportionate share hospitals, et cetera. That was enacted, that act.

He was also the author of many other acts. I rise to salute him not only in terms of his being a favorite son of Arkansas, but throughout the Nation senior citizens are quite appreciative of the contributions of DAVID PRYOR. He is a hero for all the Nation.

Madam Speaker, I reserve the balance of my time.

Mr. McHUGH. Madam Speaker, let me thank the gentleman from New York for his very kind comments and for his efforts, not just on behalf of this bill but all of the issues we are dealing with on the subcommittee. I appreciate that.

Madam Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. DICKEY], the prime sponsor of this legislation.

Mr. DICKEY. Madam Speaker, I thank the gentleman from New York for yielding me this time.

Madam Speaker, H.R. 3877 would designate the Post Office building in Camden, AR, as the David H. Pryor Post Office Building. The bill is intended to recognize Senator PRYOR's distinguished career in public service, as an Arkansas State representative for 6 years, Representative of the United States House of Representatives representing the Fourth District of Arkansas for 6 years, the governor of Arkansas for 4 years, and United States Senator for 18 years.

This bill is a fitting tribute to Senator PRYOR upon his retirement because he was born and raised in Camden, AR, where the post office will be, because the city of Camden requested this honor to be granted to Senator PRYOR in recognition of his long service to the County of Ouachita, the State of Arkansas, and the United States, because he is the ranking minority member and the past chairman of the Senate Post Office and Civil Service Subcommittee is another reason; because he has worked tirelessly against overzealous IRS agents and enforcement methods and for the passage of a taxpayer Bill of Rights which he achieved in 1988; and because Senator PRYOR has honorably served his community, his State and his country as an elected public official for more than three decades. The House should pass this bill to honor Senator PRYOR and, in doing so, wish Senator PRYOR a long and happy retirement.

I might add, in addition to all those things, that he probably or arguably is one of the most popular public officials ever to serve in the State of Arkansas. People know him not as Senator PRYOR, not as DAVID PRYOR but just as DAVID, and he is beloved. He is a gentleman at all times. He is always polite. He never to my knowledge, and I have supported him when he ran for office in the U.S. House of Representatives, he has never offended anybody personally. He has made stands and he has offended people that way, but he is always careful to call.

I look back over my years knowing that when I was supporting him for this position, the position I now hold, representing the Fourth District, he asked me to come to Washington with him, and I declined. I was not ever sure if he meant just to come up here and help him unpack and go back or whether or not it would be to help him in his office. But I know this, it would have changed my career a whole lot, and I probably should have done it so some of his statesmanlike qualities would have rubbed off.

I wish you the best, DAVID, but I welcome you home to Arkansas after your retirement.

Mr. MCHUGH. Madam Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. HUTCHINSON], who also worked on and supported this legislation.

Mr. HUTCHINSON. I thank the gentleman for yielding me this time.

Madam Speaker, I rise today in strong support of H.R. 3877, which would name the post office in Camden, AR, after my friend and colleague, DAVID PRYOR.

DAVID began his career in 1960 with his election to the Arkansas general assembly. He then came to Washington in 1966 as the Representative of the Fourth District of Arkansas. After serving for 6 years he returned to Arkansas and in 1974 the people of Arkansas chose him as their Governor. Following his two terms as Governor, Arkansans again sent him to Washington—this time as their U.S. Senator.

DAVID is considered the most popular politician in Arkansas. For those of us who know him it is easy to understand why. For the last 18 years DAVID has diligently served the people of Arkansas. He is the consummate example of a statesman. He is tireless in his service to his constituents, courteous to those he disagrees with, listens to all sides of an argument, makes his decisions with thoughtful consideration, and is unyielding on matters of principle. He is an example not only to those of us in public service but to all Arkansans. He truly represents the very best of our State.

Senator PRYOR has been particularly active on issues affecting the elderly. Arkansas has one of the highest per capita populations of senior citizens in the Nation, and DAVID has been one of their primary champions. Through his service on the aging committee, including 6 years as chairman, the Senator has sought to bring attention to the problems which they face. His advocacy on their behalf, particularly in the areas of prescription drug prices and reforms to the nursing home industry, has been recognized nationwide.

DAVID PRYOR has also been a leader in efforts to protect the American taxpayer. As a member of the Senate Finance Committee, the Senator wrote the Taxpayer Bill of Rights, which was the first piece of legislation in 40 years to guarantee the basic rights of individual taxpayers when they deal with the Internal Revenue Service.

Finally, Madam Speaker, I would point out that during my tenure in the Arkansas legislature I was privileged to serve with another Pryor—Mark Pryor, DAVID's son. They say you can tell a lot about a man by the children he raises. I agree. I learned a lot about DAVID through his son. I had the opportunity to observe first hand the character traits that DAVID passed on to his child. Duty, honor, integrity, and devotion to constituents are always foremost in the Pryor family.

Madam Speaker, I consider it a high honor to be able to call two generations of Pryors, my friends, and I think it fitting that we honor the service of Senator DAVID PRYOR here today.

Mrs. LINCOLN. Madam Chairman, I rise today in strong support of renaming the U.S. Post Office in Camden, AR, the Honorable David H. Pryor Post Office Building, after the distinguished Senator and my dear friend, DAVID PRYOR. With this designation it is my hope that we can show, in some small measure, our appreciation for Senator PRYOR's lifelong commitment to public service in the State of Arkansas and at the national level. Most notably as a U.S. Senator for 18 years.

DAVID PRYOR began his political career by being elected to the Arkansas General Assembly in 1960. He was then elected in 1966 for 3 consecutive terms to the U.S. House of Representatives, serving the Fourth Congressional District of Arkansas, and in 1974 became Governor of the State of Arkansas. The two-term Governor is still remembered as a skilled and caring administrator who, through a time of recession, managed to cut spending without hurting programs. In 1978, the people of Arkansas made the decision to return DAVID PRYOR to Washington, but this time as a member of the U.S. Senate. A position which he has served with honor and dignity, becoming one of the most respected Senators of his generation.

As a member of the Agriculture Committee, DAVID PRYOR's leadership has led to the development of innovative programs and legislation to help our farmers and defend Arkansas' resources. In addition, DAVID PRYOR is considered one of the most influential advocates in Washington on behalf of older Americans. He also is a nationally recognized leader in the fight to save the Social Security system, to reform our nursing home industry, to bring down prescription drug prices, and to make government institutions preserve the essential dignity of the senior citizens in this country.

As a member of the Senate Finance Committee, DAVID PRYOR wrote the "Taxpayer Bill of Rights," which was the first piece of legislation in 40 years to guarantee the basic rights of individual taxpayer when they deal with the Internal Revenue Service.

DAVID PRYOR is held in high esteem by his colleagues in Congress, and in 1989, he became the first Arkansas Senator since Joe T. Robinson to occupy a position in the Senate leadership, which he held for 6 years until 1995. Few have created such a positive influence for Arkansas and our great Nation while remaining so dedicated to service. But most importantly, DAVID PRYOR considers it an honor to represent the people of Arkansas, and we consider it an honor to have had such a talented and compassionate individual to represent us and our State for these many years. The motto of his service, "Arkansas Comes First," is more than a slogan; it has and continues to be his way of life.

With the constant negativity and partisanship in the political climate of the 1990's, many politicians have fallen from grace in the eyes of their constituents and the Nation. However, I can honestly say that there is no one who is more respected for his leadership abilities and his kind, thoughtful nature in the State of Arkansas than Senator DAVID PRYOR. Senator PRYOR continues to transcend partisan political bickering to remain at all times a gentleman and a statesman, and one of the most admired persons to ever grace the halls of Congress. Further, I could not have asked for a more supportive, caring, and thoughtful mentor.

Again, may I add my full support for H.R. 3877, designating the David H. Pryor U.S. Post Office.

Mr. OWENS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCHUGH. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Ms. GREENE of Utah). The question is on the motion offered by the gentleman from New York [Mr. MCHUGH] that the House suspend the rules and pass the bill, H.R. 3877, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the United States Post Office building located at 351 West Washington Street in Camden, Arkansas, as the 'David H. Pryor Post Office Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McHUGH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3877, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PRESIDENTIAL AND EXECUTIVE OFFICE ACCOUNTABILITY ACT

Mr. HORN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3452) to make certain laws applicable to the Executive Office of the President, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Presidential and Executive Office Accountability Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Extension of certain rights and protections to presidential offices.
Sec. 3. Amendments to title 28, United States Code.
Sec. 4. Financial officers within the Executive Office of the President.
Sec. 5. Amendment to definition of "special government employee".
Sec. 6. Applicability of future employment laws.
Sec. 7. Repeal of section 320 of the Government Employee Rights Act of 1991.
Sec. 8. Political affiliation.
Sec. 9. Estabishment of Inspector General for Executive Office of the President.

SEC. 2. EXTENSION OF CERTAIN RIGHTS AND PROTECTIONS TO PRESIDENTIAL OFFICES.

(a) IN GENERAL.—Title 3, United States Code, is amended by adding at the end the following:

"CHAPTER 5—EXTENSION OF CERTAIN RIGHTS AND PROTECTIONS TO PRESIDENTIAL OFFICES

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"401. Definitions.
"402. Application of laws.

"SUBCHAPTER II—EXTENSION OF RIGHTS AND PROTECTIONS

"PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

"411. Rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and title I of the Americans with Disabilities Act of 1990.
"412. Rights and protections under the Family and Medical Leave Act of 1993.
"413. Rights and protections under the Fair Labor Standards Act of 1938.
"414. Rights and protections under the Employee Polygraph Protection Act of 1988.
"415. Rights and protections under the Worker Adjustment and Retraining Notification Act.
"416. Rights and protections relating to veterans' employment and reemployment.
"417. Prohibition of intimidation or reprisal.

"PART B—PUBLIC ACCESS PROVISIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

"420. Rights and protections under the Americans with Disabilities Act of 1990.

"PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

"425. Rights and protections under the Occupational Safety and Health Act of 1970; procedures for remedy of violations.

"PART D—LABOR-MANAGEMENT RELATIONS

"430. Application of chapter 71 of title 5, relating to Federal service labor-management relations; procedures for remedy of violations.

"PART E—GENERAL

"435. Generally applicable remedies and limitations.

"SUBCHAPTER III—ADMINISTRATIVE AND JUDICIAL DISPUTE-RESOLUTION PROCEDURES

"451. Procedure for consideration of alleged violations.
"452. Counseling and mediation.
"453. Election of proceeding.
"454. Appropriate agencies.
"455. Effect of failure to issue regulations.
"456. Confidentiality.
"457. Definitions.

"SUBCHAPTER IV—WHITE HOUSE COMPLIANCE BOARD

"471. Establishment of White House Compliance Board.
"472. Personnel.
"473. Facilities.

"SUBCHAPTER V—EFFECTIVE DATE

"481. Effective date.

"Subchapter I—General Provisions

"SEC. 401. DEFINITIONS.

"Except as otherwise specifically provided in this chapter, as used in this chapter:

"(1) BOARD.—The term 'Board' means the Merit Systems Protection Board under chapter 12 of title 5.

"(2) COVERED EMPLOYEE.—The term 'covered employee' means any employee of an employing office.

"(3) EMPLOYEE.—The term 'employee' includes an applicant for employment and a former employee.

"(4) EMPLOYING OFFICE.—The term 'employing office' means—

"(A) each office, agency, or other component of the Executive Office of the President;

"(B) the Executive Residence at the White House; and

"(C) the official residence (temporary or otherwise) of the Vice President.

"SEC. 402. APPLICATION OF LAWS.

"The following laws shall apply, as prescribed by this chapter, to all employing offices (including employing offices within the meaning of section 411, to the extent prescribed therein):

"(1) The Fair Labor Standards Act of 1938.

"(2) Title VII of the Civil Rights Act of 1964.

"(3) The Americans with Disabilities Act of 1990.

"(4) The Age Discrimination in Employment Act of 1967.

"(5) The Family and Medical Leave Act of 1993.

"(6) The Occupational Safety and Health Act of 1970.

"(7) Chapter 71 (relating to Federal service labor-management relations) of title 5.

"(8) The Employee Polygraph Protection Act of 1988.

"(9) The Worker Adjustment and Retraining Notification Act.

"(10) The Rehabilitation Act of 1973.

"(11) Chapter 43 (relating to veterans' employment and reemployment) of title 38.

"Subchapter II—Extension of Rights and Protections

"PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

"SEC. 411. RIGHTS AND PROTECTIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, THE REHABILITATION ACT OF 1973, AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT OF 1990.

"(a) DISCRIMINATORY PRACTICES PROHIBITED.—All personnel actions affecting covered employees shall be made free from any discrimination based on—

"(1) race, color, religion, sex, or national origin, within the meaning of section 703 of the Civil Rights Act of 1964;

"(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967; or

"(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 and sections 102 through 104 of the Americans with Disabilities Act of 1990.

"(b) REMEDY.—

"(1) CIVIL RIGHTS.—The remedy for a violation of subsection (a)(1) shall be—

"(A) such damages as would be appropriate if awarded under section 706(g) of the Civil Rights Act of 1964; and

"(B) such compensatory damages as would be appropriate if awarded under section 1977 of the Revised Statutes, or as would be appropriate if awarded under sections 1977A(a)(1), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes.

"(2) AGE DISCRIMINATION.—The remedy for a violation of subsection (a)(2) shall be—

"(A) such damages as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967; and

"(B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act.

In addition, the waiver provisions of section 7(f) of such Act shall apply to covered employees.

"(3) DISABILITIES DISCRIMINATION.—The remedy for a violation of subsection (a)(3) shall be—

"(A) such damages as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973 or section 107(a) of the Americans with Disabilities Act of 1990; and

"(B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes.

"(c) DEFINITIONS.—Except as otherwise specifically provided in this section, as used in this section:

"(1) COVERED EMPLOYEE.—The term 'covered employee' means any employee of a unit of the executive branch, including the Executive Office of the President, whether appointed by the President or by any other appointing authority in the executive branch, who is not otherwise entitled to bring an action under any of the statutes referred to in subsection (a), but does not include any individual—

"(A) whose appointment is made by and with the advice and consent of the Senate;

"(B) who is appointed to an advisory committee, as defined in section 3(2) of the Federal Advisory Committee Act; or

"(C) who is a member of the uniformed services.

"(2) EMPLOYING OFFICE.—The term 'employing office', with respect to a covered employee, means the office, agency, or other entity in which the covered employee is employed (or sought employment or was employed in the case of an applicant or former employee, respectively).

"(d) APPLICABILITY.—Subsections (a) through (c), and section 417 (to the extent that it relates to any matter under this section), shall apply with respect to violations occurring on or after the effective date of this chapter.

"SEC. 412. RIGHTS AND PROTECTIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

"(a) FAMILY AND MEDICAL LEAVE RIGHTS AND PROTECTIONS PROVIDED.—

"(1) IN GENERAL.—The rights and protections established by sections 101 through 105 of the Family and Medical Leave Act of 1993 shall apply to covered employees.

"(2) DEFINITIONS.—For purposes of the application described in paragraph (1)—

"(A) the term 'employer' as used in the Family and Medical Leave Act of 1993 means any employing office; and

"(B) the term 'eligible employee' as used in the Family and Medical Leave Act of 1993 means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages, including liquidated damages, as would be appropriate if awarded under paragraph (1) of section 107(a) of the Family and Medical Leave Act of 1993.

"SEC. 413. RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

"(a) FAIR LABOR STANDARDS.—

"(1) IN GENERAL.—The rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 shall apply to covered employees.

"(2) INTERNS AND VOLUNTEERS.—For the purposes of this section, the term 'covered employee' does not include an intern or a volunteer as defined in regulations under subsection (c).

"(3) COMPENSATORY TIME.—Except as provided in regulations under subsection (c)(3), covered employees may not receive compensatory time in lieu of overtime compensation.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages, including liquidated damages, as would be appropriate if awarded under section 16(b) of the Fair Labor Standards Act of 1938.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—Except as provided in paragraph (3), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"(3) IRREGULAR WORK SCHEDULES.—The President shall issue regulations for covered employees whose work schedules directly depend on the schedule of the President or the Vice President that shall be comparable to the provisions in the Fair Labor Standards Act of 1938 that apply to employees who have irregular work schedules.

"SEC. 414. RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988.

"(a) POLYGRAPH PRACTICES PROHIBITED.—No employing office may require a covered employee to take a lie detector test where such a test would be prohibited if required by an employer under paragraph (1), (2), or (3) of section 3 of the Employee Polygraph Protection Act of 1988. In addition, the waiver provisions of section 6(d) of such Act shall apply to covered employees.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages as would be appropriate if awarded under section 6(c)(1) of the Employee Polygraph Protection Act of 1988.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"SEC. 415. RIGHTS AND PROTECTIONS UNDER THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.

"(a) WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no employing office shall be closed or mass layoff ordered within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees.

"(2) EXCEPTION.—

"(A) IN GENERAL.—In the event that a President (hereinafter in this paragraph referred to as the 'previous President') does not succeed himself in office as a result of the election of a new President—

"(i) no notice or waiting period shall be required under paragraph (1) with respect to the separation of any individual described in subparagraph (B), if such separation occurs pursuant to a closure or mass layoff ordered after the term of the new President commences; and

"(ii) if any individual is separated from service, or begins a period of leave under the Family and Medical Leave Act of 1993, before such term commences, nothing in this chapter shall require reinstatement or restoration to employment of the individual after such term commences.

"(B) DESCRIPTION OF INDIVIDUALS.—An individual described in this subparagraph is any covered employee serving pursuant to an appointment made during—

"(i) the term of office of the previous President; or

"(ii) any term, earlier than the term referred to in clause (i), during which such previous President served as President or Vice President.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages as would be appropriate if awarded under paragraphs (1), (2), and (4) of section 5(a) of the Worker Adjustment and Retraining Notification Act.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"SEC. 416. RIGHTS AND PROTECTIONS RELATING TO VETERANS' EMPLOYMENT AND REEMPLOYMENT.

"(a) EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.—

"(1) IN GENERAL.—It shall be unlawful for an employing office to—

"(A) discriminate, within the meaning of subsections (a) and (b) of section 4311 of title 38, against an eligible employee;

"(B) deny to an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38; or

"(C) deny to an eligible employee benefits within the meaning of sections 4316, 4317, and 4318 of title 38.

"(2) DEFINITION.—For purposes of this section, the term 'eligible employee' means a covered employee performing service in the uniformed services, within the meaning of section 4303(13) of title 38, whose service has not been terminated upon the occurrence of any of the events enumerated in section 4304 of such title.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages as would be appropriate if awarded under paragraphs (1) and (2)(A) of section 4323(c) of title 38.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"SEC. 417. PROHIBITION OF INTIMIDATION OR REPRISAL.

"(a) IN GENERAL.—It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this chapter, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated in any manner in a hearing or other proceeding under this chapter.

"(b) REMEDY.—A violation of subsection (a) may be remedied by any legal remedy available to redress the practice opposed by the covered employee or other violation of law as to which the covered employee initiated proceedings, made a charge, or engaged in other conduct protected under subsection (a).

"(c) DEFINITIONS.—For purposes of applying this section with respect to any practice or other matter to which section 411 relates, the terms 'employing office' and 'covered employee' shall each be considered to have the meaning given to it by such section.

"PART B—PUBLIC ACCESS PROVISIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

"SEC. 420. RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990.

"(a) RIGHTS AND PROTECTIONS.—The rights and protections against discrimination in the provision of public services and accommodations established by sections 201, 202, and 204, and sections 302, 303, and 309, of the Americans with Disabilities Act of 1990 shall apply, to the extent that public services, programs, or activities are provided, with respect to the White House and its appurtenant grounds and gardens, the Old Executive Office Building, the New Executive Office Buildings, and any other facility to the extent that offices are provided for employees of the Executive Office of the President.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under section 203 or 308 of the Americans with Disabilities Act of 1990, as the case may be, except that, with respect to any claim of employment discrimination, the exclusive remedy shall be under section 411 of this title. A remedy under the preceding sentence shall be enforced in accordance with applicable provisions of such section 203 or 308, as the case may be.

"(c) DEFINITION.—For purposes of the application under this section of the Americans with Disabilities Act of 1990, the term 'public entity' as used in such Act, means, to the extent that public services, programs, or activities are provided, the White House and its appurtenant grounds and gardens, the Old Executive Office Building, the New Executive Office Buildings, and any other facility to the extent that offices are provided for employees of the Executive Office of the President.

"PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

"SEC. 425. RIGHTS AND PROTECTIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970; PROCEDURES FOR REMEDY OF VIOLATIONS.

"(a) OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS.—

"(1) IN GENERAL.—Each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970.

"(2) DEFINITIONS.—For purposes of the application under this section of the Occupational Safety and Health Act of 1970—

"(A) the term 'employer' as used in such Act means an employing office; and

"(B) the term 'employee' as used in such Act means a covered employee.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970.

"(c) PROCEDURES.—

"(1) REQUESTS FOR INSPECTIONS.—Upon written request of any employing office or covered employee, the Secretary of Labor shall have the authority to inspect and investigate places of employment under the jurisdiction of employing offices in accordance with subsections (a), (d), (e), and (f) of section 8 of the Occupational Safety and Health Act of 1970.

"(2) CITATIONS, NOTICES, AND NOTIFICATIONS.—The Secretary of Labor shall have the authority, in accordance with sections 9 and 10 of the Occupational Safety and Health Act of 1970, to issue—

"(A) a citation or notice to any employing office responsible for correcting a violation of subsection (a); or

"(B) a notification to any employing office that the Secretary of Labor believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction.

"(3) HEARINGS AND REVIEW.—If after issuing a citation or notification, the Secretary of Labor determines that a violation has not been corrected—

"(A) the citation and notification shall be deemed a final order (within the meaning of section 10(b) of the Occupational Safety and Health Act of 1970) if the employer fails to notify the Secretary of Labor within 15 days (excluding Saturdays, Sundays, and Federal holidays) after receipt of the notice that he intends to contest the citation or notification; or

"(B) opportunity for a hearing before the Occupational Safety and Health Review Commission shall be afforded in accordance with section 10(c) of the Occupational Safety and Health Act of 1970, if the employer gives timely notice to the Secretary that he intends to contest the citation or notification.

"(4) VARIANCE PROCEDURES.—An employing office may request from the Secretary of Labor an order granting a variance from a standard made applicable by this section, in accordance with sections 6(b)(6) and 6(d) of the Occupational Safety and Health Act of 1970.

"(5) JUDICIAL REVIEW.—Any person or employing office aggrieved by a final decision of the Occupational Safety and Health Review Commission under paragraph (3) or the Secretary of Labor under paragraph (4) may file a petition for review with the appropriate United States circuit court of appeals under section 1296 of title 28.

"(6) COMPLIANCE DATE.—If new appropriated funds are necessary to correct a violation of subsection (a) for which a citation is issued, or to comply with an order requiring correction of such a violation, correction or compliance shall take place as soon as possible, but not later than the end of the fiscal year following the fiscal year in which the citation is issued or the order requiring correction becomes final and not subject to further review.

"(d) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"(3) EMPLOYING OFFICE RESPONSIBLE FOR CORRECTION.—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation.

"PART D—LABOR-MANAGEMENT RELATIONS

"SEC. 430. APPLICATION OF CHAPTER 71 OF TITLE 5, RELATING TO FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS; PROCEDURES FOR REMEDY OF VIOLATIONS.

"(a) LABOR-MANAGEMENT RIGHTS.—Subject to subsection (d), chapter 71 of title 5 shall apply to employing offices and to covered employees and representatives of those employees, except that covered employees shall not have a right to reinstatement pursuant to section 7118(a)(7)(C) or 7123 of title 5.

"(b) DEFINITION.—For purposes of the application under this section of chapter 71 of title 5, the term 'agency' as used in such chapter means an employing office.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The Federal Labor Relations Authority shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—Except as provided in subsection (d), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Authority to implement the statutory provisions referred to in subsection (a), except—

"(A) to the extent the Authority may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; or

"(B) as the Authority deems necessary to avoid a conflict of interest or appearance of a conflict of interest.

"(d) SPECIFIC REGULATIONS REGARDING APPLICATIONS TO CERTAIN EMPLOYING OFFICES.—

"(1) REGULATIONS REQUIRED.—The Authority shall issue regulations on the manner and the extent to which the requirements and exemptions of chapter 71 of title 5 should apply to covered employees who are employed in the offices listed in paragraph (2). The regulations shall, to the greatest extent practicable, be consistent with the provisions and purposes of chapter 71 of title 5 and of this chapter, and shall be the same as the substantive regulations issued by the Federal Labor Relations Authority under such chapter, except—

"(A) to the extent the Authority may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

"(B) that the Authority shall exclude from coverage under this section any covered employees who are employed in offices listed in paragraph (2) if the Authority determines that such exclusion is required because of—

"(i) a conflict of interest or appearance of a conflict of interest; or

"(ii) the President's or Vice President's constitutional responsibilities.

"(2) OFFICES REFERRED TO.—The offices referred to in paragraph (1) include—

"(A) the White House Office;

"(B) the Executive Residence at the White House;

"(C) the Office of the Vice President;

"(D) the Office of Policy Development;

"(E) the Council of Economic Advisors;

"(F) the National Security Council;

"(G) the Office of Management and Budget;

"(H) the Office of National Drug Control Policy; and

"(I) the Office of the Inspector General of the Executive Office of the President.

"PART E—GENERAL

"SEC. 435. GENERALLY APPLICABLE REMEDIES AND LIMITATIONS.

"(a) ATTORNEY'S FEES.—If a covered employee, with respect to any claim under this chapter, or a qualified person with a disability, with respect to any claim under section 420, is a prevailing party in any proceeding under section 453(1), the administrative agency may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964.

"(b) INTEREST.—In any proceeding under section 453(1), the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964.

"(c) CIVIL PENALTIES AND PUNITIVE DAMAGES.—Except as otherwise provided in this chapter, no civil penalty or punitive damages may be awarded with respect to any claim under this chapter.

"(d) EXCLUSIVE PROCEDURE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no person may commence an administrative or judicial proceeding to seek a remedy for the rights and protections afforded by this chapter except as provided in this chapter and in sections 1296 and 1346(g) and chapter 179 of title 28.

"(2) VETERANS.—A covered employee under section 416 may also utilize any provisions of chapter 43 of title 38 that are applicable to that employee.

"(e) SCOPE OF REMEDY.—Only a covered employee who has undertaken and completed the procedures described in section 452 may be granted a remedy under part A of this subchapter.

"(f) CONSTRUCTION.—

"(1) DEFINITIONS AND EXEMPTIONS.—Except where inconsistent with definitions and exemptions provided in this chapter, the definitions and exemptions in the laws made applicable by this chapter shall apply under this chapter.

"(2) SIZE LIMITATIONS.—Notwithstanding paragraph (1), provisions in the laws made applicable under this chapter (other than paragraphs (2) and (3) of section 2(a) of the Worker Adjustment and Retraining Notification Act) determining coverage based on size, whether expressed in terms of numbers of employees, amount of business transacted, or other measure, shall not apply in determining coverage under this chapter.

"(g) DEFINITIONS RELATING TO SECTION 411.—For purposes of applying this section with respect to any practice or other matter to which section 411 relates, the terms 'employing office' and 'covered employee' shall each be considered to have the meaning given to it by such section.

"Subchapter III—Administrative and Judicial Dispute-Resolution Procedures

"SEC. 451. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

"The procedure for consideration of alleged violations of part A of subchapter II consists of—

"(1) counseling and mediation as provided in section 452; and

"(2) election, as provided in section 453, of either—

"(A) an administrative proceeding as provided in section 453(1) and judicial review as provided in section 1296 of title 28; or

"(B) a civil action in a district court of the United States as provided in section 1346(g) of title 28.

"SEC. 452. COUNSELING AND MEDIATION.

"(a) IN GENERAL.—The President shall by regulation establish procedures substantially similar to those under sections 402 and 403 of the Congressional Accountability Act of 1995 for the counseling and mediation of alleged violations of a law made applicable under part A of subchapter II.

"(b) EXHAUSTION REQUIREMENT.—A covered employee who has not exhausted counseling and mediation under subsection (a) shall be ineligible to make any election under section 453 or otherwise pursue any further form of relief under this subchapter.

"SEC. 453. ELECTION OF PROCEEDING.

"Not later than 90 days after a covered employee receives notice of the end of the period of mediation, but no sooner than 30 days after receipt of such notification, such covered employee may either—

"(1) file a complaint with the appropriate administrative agency, as determined under section 454; or

"(2) file a civil action under section 1346(g) of title 28.".

"SEC. 454. APPROPRIATE AGENCIES.

"(a) IN GENERAL.—Except as provided in subsection (b), the appropriate agency under this section with respect to an alleged violation of part A of subchapter II shall be the Board.

"(b) EXCEPTIONS.—

"(1) DISCRIMINATION.—For purposes of any action arising under section 411 (or any action alleging intimidation, reprisal, or discrimination under section 417 relating to any practice made unlawful under section 411), the appropriate agency shall be the Equal Employment Opportunity Commission, and the complaint in any such action shall be processed under the same administrative procedures as any such complaint filed by any other Federal employee.

"(2) MIXED CASES.—However, in the case of any covered employee (within the meaning of section 411(c)(1)) who has been affected by an action which an employee of an executive agency may appeal to the Board and who alleges that a basis for the action was discrimination prohibited by section 411 (or any action alleging intimidation, reprisal, or discrimination under section 417 relating to any practice made unlawful under section 411), the initial appropriate agency shall be the Board, and such matter shall thereafter be processed in accordance with section 7702 (a)–(d) (disregarding paragraph (2) of such subsection (a)) and (f) of title 5.

"(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law (including any provision of law referenced in paragraph (1) or (2)), judicial review of any administrative decision under this subsection shall be by appeal to the appropriate circuit court of appeals under section 1296 of title 28.

"SEC. 455. EFFECT OF FAILURE TO ISSUE REGULATIONS.

"In any proceeding under section 453(1), if the President has not issued a regulation on a matter for which this chapter requires a regulation to be issued, the administrative agency shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

"SEC. 456. CONFIDENTIALITY.

"(a) COUNSELING.—All counseling under section 452 shall be strictly confidential, except that, with the consent of the covered employee, the employing office may be notified.

"(b) MEDIATION.—All mediation under section 452 shall be strictly confidential.

"SEC. 457. DEFINITIONS.

"For purposes of applying this subchapter, the terms 'employing office' and 'covered employee' shall each, to the extent that section 411 is involved, be considered to have the meaning given to it by such section.

"SUBCHAPTER IV—WHITE HOUSE COMPLIANCE BOARD

"§ 471. Establishment of White House Compliance Board

"(a) ESTABLISHMENT.—There is established, as an independent establishment within the executive branch of the Federal Government, the White House Compliance Board.

"(b) APPOINTMENT.—The Board shall consist of 5 individuals appointed by the President. Appointments of the first 5 members of the Board shall be completed not later than 90 days after the effective date of this section.

"(c) BOARD QUALIFICATIONS.—

"(1) SPECIFIC QUALIFICATIONS.—Selection and appointment of members of the Board shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Board. Members of the Board shall have training or experience in the application of the rights, protections, and remedies under 1 or more of the laws made applicable under this chapter.

"(2) DISQUALIFICATION FOR APPOINTMENTS.—No member of the Board appointed under subsection (b) may hold or may have held a position in the executive branch of the Federal Government within 4 years of the date of appointment.

"(3) VACANCIES.—A vacancy on the Board shall be filled in the manner in which the original appointment was made.

"(d) TERM OF OFFICE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), membership on the Board shall be for 5 years. A member of the Board who is appointed to a term of office of more than 3 years shall only be eligible for appointment for a single term of office.

"(2) FIRST APPOINTMENTS.—Of the members first appointed to the Board—

"(A) 1 shall have a term of office of 3 years;

"(B) 2 shall have a term of office of 4 years; and

"(C) 2 shall have a term of office of 5 years; as designated at the time of appointment by the President.

"(e) REMOVAL.—

"(1) AUTHORITY.—Any member of the Board may be removed from office by the President, but only for—

"(A) disability that substantially prevents the member from carrying out the duties of the member;

"(B) incompetence;

"(C) neglect of duty;

"(D) malfeasance, including a felony or conduct involving moral turpitude; or

"(E) holding an office or employment that disqualifies the individual from service as a member of the Board under subsection (c)(2).

"(2) STATEMENT OF REASONS FOR REMOVAL.—In removing a member of the Board, the President shall state in writing to the member of the Board being removed the specific reasons for the removal.

"(f) COMPENSATION.—

"(1) PER DIEM.—Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5 for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties.

"(2) TRAVEL EXPENSES.—Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) FINANCIAL DISCLOSURE REPORTS.—Members of the Board shall file the financial disclosure reports required under title I of the Ethics in Government Act of 1978.

"§ 472. Personnel

"(a) EXECUTIVE DIRECTOR.—

"(1) APPOINTMENT AND REMOVAL.—

"(A) IN GENERAL.—There shall be an Executive Director of the Board.

"(B) APPOINTMENT.—The initial Executive Director shall be appointed by the President, and shall serve for a 6-month term. After the end of the term of the initial Executive Director, the Board shall appoint and may remove the Executive Director.

"(C) QUALIFICATIONS.—The Executive Director shall be an individual with training or expertise in the application of laws referred to in section 402. Selection and appointment of the Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Executive Director.

"(D) DISQUALIFICATION.—The disqualification specified in section 471(c)(2) shall apply to the appointment of the Executive Director.

"(2) COMPENSATION.—The Board (or the President in the case of the initial Executive Director) may fix the compensation of the Executive Director. The rate of pay for the Executive Director may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5.

"(3) DUTIES.—The Executive Director shall serve as the chief operating officer of the Board.

"(b) OTHER STAFF.—The Executive Director shall appoint, and fix the compensation of, and may remove, such other additional staff, including hearing officers, as may be essential to enable the Board to perform its duties.

"(c) DETAILED PERSONNEL.—Upon request of the Executive Director, the head of any Federal agency shall detail any of the personnel of that agency, including members or personnel of the General Accounting Office Personnel Appeals Board, to the Board to assist the Board in carrying out its duties. Such detail may be on a reimbursable or nonreimbursable basis. Such detail shall be without interruption or loss of civil service status or privilege.

"(d) CONSULTANTS.—In carrying out the functions of the Board, the Executive Director may procure the temporary (not to exceed 1 year) or intermittent services of consultants.

"§ 473. Facilities

"The Equal Employment Opportunity Commission shall supply such office facilities, office supplies, support services, and related expenses as may be necessary to enable the Board to carry out the functions of the Board.

"Subchapter V—Effective Date

"SEC. 481. EFFECTIVE DATE.

"This chapter shall take effect 1 year after the date of the enactment of the Presidential and Executive Office Accountability Act.".

(b) REGULATIONS.—Appropriate measures shall be taken to ensure that any regulations needed to implement chapter 5 of title 3, United States Code, as amended by this section, shall be in effect by the effective date of such chapter.

(c) TECHNICAL AMENDMENT.—The table of chapters for title 3, United States Code, is amended by adding at the end the following:

"5. Extension of Certain Rights and Protections to Presidential Offices .... 401".

SEC. 3. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) CIRCUIT COURT JURISDICTION.—(1) Chapter 83 of title 28, United States Code, is amended by adding at the end the following:

"§ 1296. Review of certain agency actions

"(a) JURISDICTION.—Subject to the provisions of chapter 179, the courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction over a petition for review of a final decision under chapter 5 of title 3 of—

"(1) an appropriate agency (as determined under section 454 of title 3);

"(2) the Federal Labor Relations Authority under chapter 71 of title 5, notwithstanding section 7123 of such title; or

"(3) the Secretary of Labor or the Occupational Safety and Health Review Commission, made under part C of subchapter II of chapter 5 of title 3.

"(b) FILING OF PETITION.—Any petition for review under this section must be filed within 30 days after the date the petitioner receives notice of the final decision.

"(c) VENUE.—The venue of a proceeding under thi section is in the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.".

(2) The table of sections for chapter 158 of title 28, United States Code, is amended by adding at the end the following:

"1296. Review of certain agency actions.".

(b) DISTRICT COURT ACTIONS.—

(1) JURISDICTION.—Section 1346 of title 28, United States Code, is amended by adding at the end the following:

"(g) Subject to the provisions of chapter 179, the district courts of the United States shall have exclusive jurisdiction over any civil action commenced under section 453(2) of title 3, by a covered employee under chapter 5 of such title.".

(2) VENUE.—(A) Chapter 37 of title 28, United States Code, relating to venue, is amended by adding at the end the following:

"§ 1413. Venue of cases under chapter 5 of title 3

"Notwithstanding the preceding provisions of this chapter, a civil action under section 1346(g) may be brought in the United States district court for the district in which the employee is employed or in the United States district court for the District of Columbia.".

(B) The table of sections for chapter 37 of title 28, United States Code, relating to venue, is amended by adding at the end the following:

"1413. Venue of cases under chapter 5 of title 3.".

(3) JURY TRIALS.—(A) Section 2402 of title 28, United States Code, (relating to jury trials) is amended by striking Any action" and inserting "Subject to chapter 179 of this title, any action".

(c) PROCEDURE.—

(1) IN GENERAL.—Part VI of title 28, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 179—JUDICIAL REVIEW OF CERTAIN ACTIONS BY PRESIDENTIAL OFFICES

"Sec.

"3901. Civil actions.

"3902. Judicial review of regulations.

"3904. Effect of failure to issue regulations.

"3905. Expedited review of certain appeals.

"3905. Attorney's fees and interest.

"3906. Payments.

"3907. Other judicial review prohibited.

"3908. Definitions.

"§ 3901. Civil actions

(a) PARTIES.—In an action under section 1346(g) of this title, the defendant shall be the employing office alleged to have committed the violation involved.

"(b) JURY TRIAL.—In an action described in subsection (a), any party may demand a jury trial where a jury trial would be available in an action against a private defendant under the relevant law made applicable by chapter 5 of title 3. In any case in which a violation of section 411 of title 3 is alleged, the court shall not inform the jury of the maximum amount of compensatory damages available under section 411(b)(1) or 411(b)(3) of title 3.

"§ 3902. Judicial review of regulations

"In any proceeding under section 1296 or 1346(g) of this title in which the application of a regulation issued under chapter 5 of title 3 is at issue, the court may review the validity of the regulation in accordance with the provisions of subparagraphs (A) through (D) of section 706(2) of title 5. If the court determines that the regulation is invalid, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued. Except as provided in this section, the validity of regulations issued under this chapter is not subject to judicial review.

"§ 3903. Effect of failure to issue regulations

"In any proceeding under section 1296 or 1346(g) of this title, if the President has not issued a regulation on a matter for which chapter 5 of title 3 requires a regulation to be issued, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

"§ 3904. Expedited review of certain appeals

"(a) IN GENERAL.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of chapter 5 of title 3.

"(b) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in subsection (a), advance the appeal on the docket, and expedite the appeal to the greatest extent possible.

"§ 3905. Attorney's fees and interest

"(a) ATTORNEY'S FEES.—If a covered employee, with respect to any claim under chapter 5 of title 3, or a qualified person with a disability, with respect to any claim under section 420 of title 3, is a prevailing party in any proceeding under section 1296 or section 1346(g), the court may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964.

"(b) INTEREST.—In any proceeding under section 1296 or section 1346(g), the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964.

"§ 3906. Payments

"A judgment, award, or compromise settlement against the United States under this chapter (including any interest and costs) shall be paid—

"(1) under section 1304 of title 31, if it arises out of an action commenced in a district court of the United States (or any appeal therefrom); or

"(2) out of amounts otherwise appropriated or available to such office, if it arises out of an appeal from an administrative proceeding under chapter 5 of title 3.

"§ 3907. Other judicial review prohibited

"Except as expressly authorized by this chapter and chapter 5 of title 3, the compliance or noncompliance with the provisions of chapter 5 of title 3, and any action taken pursuant to chapter 5 of title 3, shall not be subject to judicial review.

"§ 3908. Definitions.

"For purposes of applying this chapter, the terms 'employing office' and 'covered employee' have the meanings given those terms in section 401 of title 3, except that the terms 'employing office' and 'covered employee' shall each, to the extent that section 411 of title 3 is involved, be considered to have the meaning given to it by such section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of the Presidential and Executive Office Accountability Act.

(e) CONFORMING AMENDMENTS.—(1) The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

"179. Judicial Review of Certain Actions by Presidential Offices .... 3901".

SEC. 4. FINANCIAL OFFICERS WITHIN THE EXECUTIVE OFFICE OF THE PRESIDENT.

(a) CHIEF FINANCIAL OFFICER.—Section 901 of title 31, United States Code, is amended by adding at the end the following:

"(c)(1) There shall be within the Executive Office of the President a Chief Financial Officer, who shall be appointed by the President from among individuals meeting the standards described in subsection (a)(3).

"(2) The Chief Financial Officer under this subsection shall have the same authority and shall perform the same functions as apply in the case of a Chief Financial Officer under section 902.

"(3) The Director of the Office of Management and Budget shall prescribe any regulations which may be necessary to ensure that, for purposes of implementing paragraph (2), the Executive Office of the President shall, to the extent practicable and appropriate, be treated (including for purposes of financial statements under section 3515) in the same way as an agency described in subsection (b).".

(b) DEPUTY CHIEF FINANCIAL OFFICER.—Section 903 of title 31, United States Code, is amended by adding at the end the following:

"(c)(1) There shall be within the Executive Office of the President a Deputy Chief Financial Officer, who, notwithstanding any provision of subsection (b), shall be appointed by the President from among individuals meeting the standards described in section 901(a)(3).

"(2) The Deputy Chief Financial Officer under this subsection shall have the same authority and shall perform the same functions as apply in the case of the Deputy Chief Financial Officer of an agency described in subsection (b).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE 31, UNITED STATES CODE.—Section 503(a) of title 31, United States Code, is amended—

(A) in paragraph (7) by striking "respectively." and inserting "respectively (excluding any officer appointed under section 901(c) or 903(c))."; and

(B) in paragraph (8) by striking "Officers." and inserting "Officers (excluding any officer appointed under section 901(c) or 903(c)).".

(2) DESIGNATION OF AGENCY HEAD.—The President shall designate an employee of the Executive Office of the President (other than the Chief Financial Officer or Deputy Chief Financial Officer appointed under the amendments made by subsections (a) and (b), respectively), who shall be deemed "the head of the agency" for purposes of carrying out section 902 of title 31, United States Code, with respect to the Executive Office of the President.

SEC. 5. AMENDMENT TO DEFINITION OF "SPECIAL GOVERNMENT EMPLOYEE".

(a) AMENDMENT TO SECTION 202(a).—Subsection (a) of section 202 of title 18, United States Code, is amended to read as follows:

"(a) For the purpose of sections 203, 205, 207, 208, and 209 of this title the term 'special Government employee' shall mean—

"(1) an officer or employee as defined in subsection (c) who is retained, designated, appointed, or employed in the legislative or executive branch of the United States Government, in any independent agency of the United States, or in the government of the District of Columbia, and who, at the time of retention, designation, appointment or employment, is expected to perform temporary duties on a full-time or intermittent basis for not to exceed one hundred and thirty days during any period of three hundred and sixty five consecutive days;

"(2) a part-time United States commissioner;

"(3) a part-time United States magistrate;

"(4) an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28;

"(5) a person serving as a part-time local representative of a Member of Congress in the Member's home district or State; and

"(6) a Reserve officer of the Armed Forces, or an officer of the National Guard of the United States, who is not otherwise an officer or employee as defined in subsection (c) who is—

"(A) on active duty solely for training (notwithstanding section 2105(d) of title 5);

"(B) serving voluntarily for not to exceed one hundred and thirty days during any period of three hundred and sixty five consecutive days; or

"(C) serving involuntarily.".

(b) AMENDMENT TO SECTION 202(c).—Subsection (c) of 202 of title 18, United States Code, is amended to read as follows:

"(c) The terms 'officer' and 'employee' in sections 203, 205, 207 through 209, and 218 of this title shall include—

"(1) an individual who is retained, designated, appointed or employed in the United States Government or in the government of the District of Columbia, to perform, with or without compensation and subject to the supervision of the President, the Vice President, a Member of Congress, a Federal judge or an officer or employee of the United States or of the government of the District of Columbia, a Federal or District of Columbia function under authority of law or an Executive act. As used in this section, a Federal or District of Columbia function shall include, but not be limited to—

"(A) supervising, managing, directing or overseeing a Federal or District of Columbia officer or employee in the performance of such officer's or employee's official duties;

"(B) providing regular advice, counsel, or recommendations to the President, the Vice President, a Member of Congress, or any Federal or District of Columbia officer or employee, or conducting meetings involving any of those individuals, as part of the Federal or District of Columbia government's internal deliberative process; or

"(C) obligating funds of the United States or the District of Columbia;

"(2) a Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving voluntarily in excess of one hundred and thirty days during any period of three hundred and sixty-five consecutive days; and

"(3) the President, the Vice President, a Member of Congress or a Federal judge only if specified in the section.".

(c) NEW SECTION 202(f).—Section 202 of title 18, United States Code, is amended by adding at the end the following:

"(f) The terms 'officer or employee' and 'special Government employee' as used in sections 203, 205, 207 through 209, and 218, shall not include enlisted members of the Armed Forces, nor shall they include an individual who is retained, designated or appointed without compensation specifically to act as a representative of a non-Federal (or non-District of Columbia) interest on an advisory committee established pursuant to the Federal Advisory Committee Act or any similarly established committee whose meetings are generally open to the public. The non-Federal interest to be represented must be specifically set forth in the statute, charter, or Executive act establishing the committee.".

SEC. 6. APPLICABILITY OF FUTURE EMPLOYMENT LAWS.

Each Federal law governing employment in the private sector, enacted later than 12 months after the date of the enactment of this Act, shall be deemed to apply with respect to "employing offices" and "covered employees" (within the meaning of section 401 of title 3, United States Code, as amended by this Act), unless such law specifically provides otherwise and expressly cites this section.

SEC. 7. REPEAL OF SECTION 320 OF THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.

(a) IN GENERAL.—Section 320 of the Government Employee Rights Act of 1991 is repealed.

(b) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

(c) SAVINGS PROVISION.—The repeal under this section shall not affect proceedings in which the complaint was filed before the effective date of this section, and orders shall be issued in such proceedings and appeals shall be taken therefrom as if this section had not been enacted.

SEC. 8. POLITICAL AFFILIATION.

It shall not be a violation of any provision of section 411 of title 3, United States Code, as amended by this Act, to consider the party affiliation, or political compatibility with the employing office, of an employee who is a "covered employee" for purposes of such section 411 with respect to employment decisions.

SEC. 9. ESTABLISHMENT OF INSPECTOR GENERAL FOR EXECUTIVE OFFICE OF THE PRESIDENT.

(a) ESTABLISHMENT OF OFFICE.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by inserting "the President (with respect only to the Executive Office of the President)," after "means"; and

(2) in paragraph (2) by inserting "the Executive Office of the President," after "means".

(b) APPOINTMENT OF INSPECTOR GENERAL.—Not later than 120 days after the effective date of this section, the President shall nominate an individual as the Inspector General of the Executive Office of the President pursuant to the amendments made by subsection (a).

(c) SPECIAL PROVISIONS CONCERNING INSPECTOR GENERAL OF THE EXECUTIVE OFFICE OF THE PRESIDENT.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating the second section 8G (regarding a rule of construction) as section 8I; and

(2) by inserting after the first section 8G (regarding requirements for Federal entities and designated Federal entities) the following:

"SEC. 8H. SPECIAL PROVISIONS CONCERNING INSPECTOR GENERAL OF THE EXECUTIVE OFFICE OF THE PRESIDENT.

"(a) AUTHORITY, DIRECTION, AND CONTROL OF PRESIDENT.—Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Executive Office of the President shall be under the authority, direction, and control of the President with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning—

"(1) ongoing criminal investigations or proceedings;

"(2) undercover operations;

"(3) the identity of confidential sources, including protected witnesses;

"(4) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions;

"(5) intelligence or counterintelligence matters; or

"(6) other matters the disclosure of which would constitute a serious threat to the national security, or would cause significant impairment to the national interests (including interests in foreign trade negotiations), of the United States.

"(b) PROHIBITING ACTIVITIES OF INSPECTOR GENERAL.—With respect to information described in subsection (a), the President may prohibit the Inspector General of the Executive Office of the President from carrying out or completing any audit or investigation, or issuing any subpoena, after the Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the President determines that—

"(1) the disclosure of that information would interfere with the core functions of the constitutional responsibilities of the President; and

"(2) the prohibition is necessary to prevent the disclosure of that information.

"(c) NOTICE.—

"(1) NOTICE TO INSPECTOR GENERAL.—If the President makes a determination referred to in subsection (b)(1) or (2), the President shall within 30 days notify the Inspector General in writing stating the reasons for that determination.

"(2) NOTICE TO CONGRESS.—Within 30 days after receiving a notice under paragraph (1), the Inspector General shall transmit a copy of the notice to each of the Chairman and the ranking minority party member of the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and other appropriate committees or subcommittees of the Congress.

"(d) SEMIANNUAL REPORTS.—

"(1) INFORMATION TO BE INCLUDED.—The Inspector General of the Executive Office of the President shall include in each semiannual report to the President under section 5, at a minimum—

"(A) a list of the title or subject of each inspection, investigation, or audit conducted during the reporting period;

"(B) a statement of whether corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action;

"(C) a certification that the Inspector General has had full and direct access to all information relevant to the performance of functions of the Inspector General;

"(D) a description of all cases occurring during the reporting period in which the Inspector General could not obtain documentary evidence relevant to any inspection, audit, or investigation due to a determination of the President under subsection (b); and

"(E) such recommendations as the Inspector General considers appropriate concerning legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Executive Office of the President, and to detect and eliminate fraud, waste, and abuse in such programs and operations.

"(2) TRANSMISSION TO CONGRESS.—Within 30 days after receiving a semiannual report under section 5 from the Inspector General of the Executive Office of the President, the President shall transmit the report to each of the Chairman and the ranking minority party member of the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate with any comments the President considers appropriate.".

(d) EFFECTIVE DATE.—This section shall take effect on January 21, 1997.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. HORN] and the gentlewoman from New York [Mrs. MALONEY] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. HORN].

Mr. HORN. Madam Speaker, I yield myself such time as I may consume.

In the Federalist Papers, No. 57, James Madison wrote that an effective control against oppressive measures from the Federal Government on the people is the Government leaders, "Can make no law which will not have its full operation on themselves and their friends, as well as the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together." So said Madison.

H.R. 3452 embodies this thinking of James Madison. The civil rights, labor and employment laws that H.R. 3452 will apply to the Executive Office of the President are the same laws that the 104th Congress applied to itself during its very first day in session in January 1995. That legislation was the Congressional Accountability Act. These are the same laws that Congress and the President have in the past applied to the American people.

H.R. 3452 improves accountability. It includes provisions to ensure that the White House is financially and otherwise accountable to the American people by establishing an inspector general and a chief financial officer for the Executive Office of the President. The bill also amends the definition of a, "special Government employee."

□ 1415

This is a good-government measure which ensures that unofficial advisers are accountable to the American people and that the Government decisionmaking is free from the taint of conflicts of interest.

The focus of the definition of a special Government employee in the bill is on regular, unpaid, informal advisors to the President. However, the definition would also cover close regular advisors who were performing functions similar to those of a special Government employee. Senator COATS of Indiana has introduced a similar bill in the other body, S. 2000, the White House Accountability Act, which I understand the Senate is to consider this week.

It is the hallmark of good government that those who govern should be subject to the same laws they impose on those who are governed. Otherwise, those who govern may be tempted to impose onerous measures on the population. The executive branch of the Federal Government should not be exempt from the laws it administers any more than Congress should be exempt from the laws it passes. That gap is what we remedied almost 2 years ago.

Again, the first piece of legislation we passed in the 104th Congress was the Congressional Accountability Act, through which Congress subjected itself to the same laws which apply to the American people. The bill before the House completes the process of holding the executive and legislative branches of the Federal Government to the same standards that they combined impose on others.

Madam Speaker, I yield 7 minutes to the distinguished gentleman from Florida [Mr. MICA]. As the principal author, he has provided active leadership in ensuring that the Federal Government lives by the same laws it applies to the private sector.

Mr. MICA. Madam Speaker, I thank the gentleman from California for yielding me time. I want to also recognize the gentleman's outstanding leadership and hard work on this piece of legislation. He, as chairman of the House Subcommittee on Government Management, Information, and Technology, and his able staff have worked diligently to craft, working with the minority, a bill which I think the House can be very proud of.

I would also like to take this opportunity to thank the gentleman from Pennsylvania, Chairman CLINGER, of the Committee on Government Reform and Oversight, the gentleman from Pennsylvania, Chairman GOODLING, of the Committee on Economic and Educational Opportunities, the gentleman from Illinois, Chairman HYDE, of the Committee on Judiciary, and the distinguished gentleman from Connecticut, Mr. SHAYS, and the gentleman from New Hampshire, Mr. BASS, for their leadership on this measure. Each of them has in fact made invaluable contributions to this legislation.

I also want to take just a moment and pay particular thanks and commendation to the gentlewoman from New York [Mrs. MALONEY] for her hard work and her leadership as the ranking member. I know the gentlewoman has a few problems with the bill, but I think they can be worked out. Without her leadership, the bill would not be on the floor today.

Mr. Speaker, I introduced this bill because, like many Americans, I have really become concerned about the White House, which in fact even the casual observer today would find the White House lacks accountability and operates without responsibilities to laws that apply to the rest of us.

One of the things we did and I did as a member of the new majority was to make this Congress live under the same laws as everyone else. This legislation in fact extends that same requirement to our highest office in the land, and should do so.

This bill addresses three major areas of concern. The first concern is that the Executive Office of the President is not subject to the same employment laws that cover business, private business and the Congress.

Second, it would create a chief financial officer and also an inspector general to improve financial management and responsibility at the White House.

Third, it would clarify the definition, as you have heard from the gentleman from California, of special government employees with respect to presidential advisors.

This Congress again took historic steps in its first 100 days when it made itself live under the same laws that have been imposed under the private sector. Now it is time to really just close that loop and put the White House under these same laws. It is time to end what I have called "the last plantation," where wages and working conditions of many of the employees remain unaffected by Federal employment laws.

When this is done, I think the political components of Government and the White House will be required to wrestle with the same knotty problems that private citizens and private business face every day. The President and the White House will face compliance with the same laws and edicts imposed on all Americans.

Let me turn now, Mr. Speaker, to the second objective of this bill, the improvement of the management of the financial operations at the White House. Through the hearing process during the past year we have observed that the White House financial operations in fact lack both accountability and structure. The Travelgate hearings highlighted some of the shortcomings in White House financial responsibility.

Mr. Speaker, had there been a chief financial officer at the White House back then, he or she who was in charge would have reviewed the White House travel financial management practices and said "Wow." They would have said, "Wait, let's look at this." The chief financial officer would have in fact detected any discrepancies and could have helped the Travel Office managers correct them.

The Congress failed the American people by not having adequate financial structures or safeguards in place. In fact, we must take part of that responsibility as overseers. White House employees were used, unfortunately, as scapegoats, because we failed to have reliable management or financial accountability in our Chief Executive Office of the land.

Likewise, Madam Speaker, hearings conducted by our Subcommittee on National Security, International Affairs, and Criminal Justice also reveal very serious deficiencies in oversight and accountability at the White House Communications Agency. I sit on that subcommittee. I was stunned when we heard the egregious examples of waste and abuse, all a result of almost a total lack of controls in this agency, which is under the operational control, in fact, of the Executive Office of the President.

The accounting controls were so poor that the agency recently had $14.5 million in unobligated obligations. It has been paying for equipment and services.

Madam Speaker, now, let me restate this. The accounting controls were so poor that the agency recently had $14.5 million in unvalidated obligations. It has been paying for equipment and services that are, in fact, no longer necessary. It has been paying for items that were never delivered to the agency, and it has occasionally paid for the same items twice.

An audit by the Department of Defense's IG also found that the agency paid only 17 percent of its bills on time, causing the taxpayers to pay for interest and penalties on the remaining 83 percent.

We are fortunate, in fact, Madam Speaker, that the White House does not have a mortgage, because of the way it operates. It would have, in fact, been repossessed by now.

Again, Madam Speaker, these are problems that we believe a chief financial officer would have identified and corrected.

The addition of an inspector general at the White House will also help eliminate waste, fraud, and abuse in the Executive Office of the President. I think, in fact, we can all agree that strong financial management at the White House is imperative. This bill will achieve that goal.

The third and final objective is to require more public accountability in so-called volunteers who advise the President in the Executive Office of the President. Once again, Madam Speaker, the Travelgate hearings have revealed why Congress must take these actions.

The activities only, if we use Harry Thompson as exhibit A, will reveal that this Clinton operative, an unpaid volunteer, had office accommodations, roamed the halls of the White House, participated in meetings with employees of the Executive Office and, in fact, with the President, and, in fact, attempted to influence policy in some places with a potential personal conflict of interest. In short, he acted as if he was a White House employee. Under this bill, he would have been subject to conflict-of-interest laws.

Madam Speaker, the Presidential and Executive Office Accountability Act is a good bill. It will bring the Executive Office of the President under the same employment laws and civil rights laws that Congress and the private sector must live under.

Mrs. MALONEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the basic principle behind the Presidential and Executive

Office Accountability Act is that the Federal Government should be subject to the same laws and regulations as the private sector.

Congress has already passed the Congressional Accountability Act. There is no reason why the executive branch should be exempt from laws which already apply to Congress and which were applied to the private sector long ago. It brings more accountability in two major areas, employment laws and financial management, to the White House.

H.R. 3452 would apply to the Executive Office of the President 11 civil rights, labor, and workplace laws which already apply to Congress and the private sector. OSHA, the Americans with Disabilities Act, the Family and Medical Leave Act, the Civil Rights Act of 1964, these are only some of the landmark laws that would be covered under this bill.

This bill would also establish remedies and procedures similar to those in the private sector for aggrieved employees. While the bill is far from perfect, the majority has worked with us to improve it, incorporating a number of amendments from the minority.

This bill also requires the appointment of a chief financial officer for the Executive Office of the President and makes certain changes to the definition of a "Special Government Employee."

At our subcommittee markup of this legislation, the minority proposed a number of amendments to this bill which were adopted, and I thank the gentleman from California [Mr. HORN] and the majority for accepting them. These amendments protect the White House volunteer program, allow the President to consider political compatibility when hiring, and change the definition of "Special Government Employee" to include a functional test.

To meet that definition, one must work less than 130 days and be retained, designated, appointed, or employed in the Federal Government to perform a Federal function. This definition is supported by ethics experts from both sides of the aisle.

I hope that my serious concerns, which, incidentally, are shared by the Office of Legal Counsel of the Justice Department, about the amendment which mandates creating an inspector general for the White House, will be addressed in the other body.

This amendment would grant an inspector general within the White House broad and unprecedented powers to audit and review any function, with limited oversight by the President and with regular reporting to the Congress.

It is hard to avoid the conclusion that this is a partisan effort to politicize a bill that has otherwise won large support from Democrats and Republicans as well as the administration.

This amendment may be unconstitutional. The Office of Legal Counsel at the Justice Department has concluded that it violates the separation of powers doctrine. For the first time in American history, it would establish an office within the White House that is statutorily required to report to Congress on a regular basis.

Madam Speaker, I will include for the RECORD a copy of the Office of Legal Counsel's letter.

Admittedly, the Congressional Research Service has concluded that the IG proposed by the amendment is constitutional, but, where there is a fundamental difference of views on such critical point, we should debate these views before we pass something in haste.

Second, an inspector general in the White House is unnecessary. For 220 years Congress has exercised its oversight over the President through hearings, investigations, and, more recently, the General Accounting Office's audits.

Furthermore, this bill already creates a chief financial officer for the Executive Office of the President that provides additional accountability.

Third, this provision violates the guiding principle that the President should be subject to the same laws as the Congress. We do not set up Government oversight outposts inside of corporations, and the idea behind this law is to impose these same labor laws as exist in the private sector and in Congress, not stronger and more intrusive ones.

The Senate has no inspector general at all. The House has one, but it is limited to financial audits of nonlegislative offices and reports only to the leadership.

□ 1430

Fourth, the new majority has been very vocal in this session on the need to streamline Government. There have been proposals to eliminate the Commerce, Education, and Energy Departments, but here the new majority wants to create a new level of bureaucracy in the Executive Office of the President, which has traditionally been a relatively small and flexible organization.

Finally, there has not been 1 day of hearings on this issue in the 104th Congress. Putting an IG in the White House would produce a fundamental shift in relations between two separate branches of Government. Such a historic change certainly merits the scrutiny of hearings. Instead, it was offered on the last day of committee consideration of this bill.

Finally, Madam Speaker, the manager's amendment to this bill contains a provision adding a compliance board for the White House. This provision was not considered by our committee, and I have reservations concerning the additional bureaucracy that it might create.

Despite my reservations on these particular issues, I am convinced that this bill on the whole is a good one. Labor laws and civil rights laws have been devised in the White House. They should also be observed in the White House.

Madam Speaker, I urge my colleagues to support this bill, and I include for the RECORD the letter I referred to earlier.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, July 24, 1996.

Hon. WILLIAM F. CLINGER, *Chairman,*
Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express further views on H.R. 3452, the "Presidential and Executive Office Accountability Act." Previously we expressed our support for the Subcommittee's changes in the bill, which would limit the remedies to damages only.

We understand that an amendment, embodying the White House Inspector General Act of 1996, may be offered as an amendment to H.R. 3452 during the Government Reform Committee's markup of this legislation tomorrow. This amendment would interfere significantly with the discharge of the President's constitutional authority. Accordingly, the Department of Justice believes that the amendment would raise serious constitutional concerns and we strongly oppose the amendment on separation of powers grounds.

The Executive Office of the President is the designation of the President's closest advisors and aides. The amendment would add the Executive Office of the President to the list of Executive establishments subject to the Inspector General Act. An Inspector General is appointed for each covered establishment. Inspectors General, along with their staffs, are to be "independent and objective units" within their respective establishments and are "to conduct and supervise audits and investigations relating to the programs and operations of the establishment," "to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations," and "to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action." 5 U.S.C. app. 3, section 2.

This general charter is supplemented with a variety of specific duties. Inspectors General are to "provide policy direction for and * * * conduct, supervise, and coordinate audits and investigations;" review legislative proposals and make recommendations for legislation relating to their respective establishments; recommend policies for and actually conduct and supervise activities to promote "economy and efficiency" in the establishment's administration; detect and prevent "fraud and abuse;" supervise and coordinate relationships between the establishment and other Federal agencies, State and local governmental agencies and non-government entities to promote efficiency and prevent fraud and abuse; and keep the heads of their respective establishments and the Congress fully and currently informed about battery within their jurisdiction and recommend corrective action. *Id.* at section

4(a). In addition to these duties, each Inspector General is required to submit to Congress semiannual reports extensively detailing the Inspector General's activities and findings from the preceding period. *Id.* at section 5.

To carry out these duties, Inspectors General are vested with wide-ranging authority. Among other things, they are allowed access to all records, documents, and other materials relating to their respective establishments that pertain to their duties, and are authorized to make such investigations and reports as they deem "necessary or desirable." *Id.* at section 6(a).

In discharging their authority, Inspectors General are to report to and be under the general supervision of the heads of the establishments to which they are assigned. However, the head of an establishment may not prohibit or prevent the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation. *Id.* at section 3(a).

The amendment would depart somewhat from the existing framework under the Inspector General Act. The Inspector General in the Executive Office of the President would be subject to the authority, direction, and control of the President with respect to audits or investigations or the issuance of subpoenas that require access to information in any of six categories.[1] The President would be permitted to prohibit such an audit, investigation, or subpoena, but only after the Inspector General had decided to initiate such action and only if the President determined that "the disclosure of that information would interfere with the core functions of the constitutional responsibilities of the President" and that "the prohibition is necessary to prevent the disclosure of that information,"*Id.* at section 3. If the President exercised this preventive power, he would be required, within 30 days, to submit in writing the reasons for the determinations regarding interference with constitutional responsibilities and the possibility of disclosure to the Inspector General. The Inspector General, in turn, would be required to transmit a copy of the President's submission to specified congressional committees. In addition, the Inspector General would be required to include a description of the episode in the public semiannual report.

These provisions would raise serious concerns about intrusion on the President's constitutional responsibilities. The Constitution assigns a variety of powers exclusively to the President. Examples include the powers to nominate Federal officers, grant reprieves and pardons, act as commander in chief, and receive ambassadors and other public ministers. *See* U.S. Const. art. II. Congress may not intrude upon the President's exercise of these exclusive powers. *See, e.g., Public Citizen* v. *United States Department of Justice*, 491 U.S. 440 (1988) (Kennedy, J., concurring); *Buckley* v. *Valeo*, 424 U.S. 1 (1976) (per curiam); *United States* v. *Klein*, 80 U.S. (13 Wall.) 128 (1872); *Ex Parte Garland*, 71 U.S. (4 Wall.) 333 (1866). Yet the amendment threatens just such an intrusion.

Even as to those exclusive powers encompassed within one of the six categories where the President may stop an audit, investigation, or subpoena, the bill would intrude upon the executive function. The Inspector General would have authority to investigate, audit, and issue subpoenas in these areas unless the President prevented the Inspector General from exercising the authority. The President could act only after the Inspector General decided to investigate, audit, or issue a subpoena, and even then, the President would have to make written findings and submit those findings to the Inspector General who would transmit them to Congress. In these findings, the President would have to determine that "disclosure" of the information would "interfere with the core functions of the constitutional responsibilities of the President." But where the President is exercising, or has exercised, exclusive constitutional authority, Congress is wholly without authority to imposed such requirements on the President or the President's advisors.

Furthermore, it is far from clear that all investigations, audits, or subpoenas concerning the exercise of exclusive constitutional powers would even fall within any of the six categories as to which the President would have preventive authority. For example, unless the deliberations of the President and his advisors regarding whom to nominate for a Federal office are "policy matters," the President would be without statutory authority to prohibit the Inspector General from performing investigations and audits of the exercise of that power or from reporting to Congress on these matters. Another example is the pardon power. Even if the grant of a reprieve or pardon is a "criminal . . . proceeding[]," this category applies only to "ongoing" proceedings. Thus, the bill would subject the President's deliberations on pardons that already have been granted to investigation and audit, and ultimately disclosure. The Constitution prohibits Congress from doing this.

With regard to those presidential powers that are not exclusive—powers in those spheres where Congress possesses authority to legislate—the doctrine of separation of powers still limits Congress's ability to adopt legislation that infringes on the President's constitutional role. In this area, a bill's validity depends on "the extent to which the bill prevents the Executive Branch from performing its constitutionally assigned functions." *Nixon* v. *Administrator of Gen. Servs.*, 433 U.S. 425, 443 (1977); see *Morrison* v. *Olson*, 487 U.S. 654 (1988); *CFTC* v. *Schor*, 478 U.S. 833 (1986). "Only where the potential for disruption is present must we then determine whether that impact is justified by an overriding need to promote objectives within the constitutional authority of Congress." Administrator of Gen. Servs., 425 U.S. at 443.

Here, where the bill would invade powers exclusively committed to the President, it is unnecessary also to identify all of the ways in which the bill could invalidly intrude on the President's powers that are not exclusive. Rather, we note only that the amendment would create a strong potential for extensive interference with the ability of the President to perform all of his constitutional functions. At the least, the necessity for the President's constant vigilance about possible intrusions on his exclusive powers would impede the President's discharge of his non-exclusive constitutional powers. As we have recently observed, "the Constitution's very structure suggests the importance of maintaining the 'hallmarks of executive administration essential to effective action.'" The Constitutional Separation of Powers between the President and Congress at 12 (May 7, 1996) (quoting *Myers* v. *United States*, 272 U.S. 52, 134 (1926)). Application of the Inspector General Act to the Executive Office of the President would seriously undermine this constitutional structure and this should be strongly resisted.

Thank you for the opportunity to present our views on H.R. 3452. The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

(For ANDREW FOIS,
Assistant Attorney General).
ANN M. HARKINS.

Madam Speaker, I reserve the balance of my time.

Mr. HORN. Madam Speaker, I yield myself 30 seconds.

I just want to say to my dear colleague, who has been immensely helpful this year in getting much legislation out of our subcommittee, the role of the inspector general in the House might be somewhat limited, but I can recall that the inspector general reviewed all the travel accounts. I found the work he did immensely helpful in untangling financial filings between member offices, central services, so forth, what was done.

Having been an executive most of my life, I would certainly welcome that kind of staff support.

Madam Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. CLINGER], our distinguished chairman of the full Committee on Government Reform and Oversight.

Mr. CLINGER. Madam Speaker, I thank the gentleman for yielding me the time and commend him for bringing this legislation to the floor. I also want to commend the gentleman from Florida [Mr. MICA], the subcommittee chairman, who is the principal author of the legislation, and the gentlewoman from New York [Mrs. MALONEY]. They have all done yeoman work, I think, in getting this legislation out.

Frankly, I did not think we would be able to achieve this goal as rapidly and as expeditiously as we have. So I am pleased to rise in support of this measure, the Presidential and Executive Office Accountability Act.

Madam Speaker, this bill extends to the White House 11 civil rights, labor, and employment laws which are currently applicable to Congress and the private sector in an effort to improve accountability and oversight in the White House. The bill extends the rights and protections under these laws to all covered employees, and permits administrative and judicial dispute-resolution procedures.

After many years on the Government Oversight Committee, the last 2 years as chairman, the one oversight tenet of which I am most supportive is that all public institutions should follow sound financial management practices, which includes the establishment of a chief financial officer organization, the preparation of annual financial statements, and the audit of those statements by an independent inspector general. Nearly every agency of the U.S. Government has implemented those practices, including the House of Representatives. The one Government organization which does not have sound management practices, but obviously needs it the most, is the Executive Office of the President.

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[1] The categories are ongoing criminal investigations or proceedings, undercover operations, the identity of confidential sources, deliberations and the decisions on policy matters, intelligence or counterintelligence matters, or other matters the disclosure of which constitute a serious threat to national security or cause significant impairment to the national interest. *See* section 3 (adding section 8F(a) to 5 U.S.C. app. 3).

I cannot think of a single White House scandal which could not have been avoided, or at least minimized, if the President could have called upon the help of a trusted inspector general. The secrecy of the health care task force, the waste and fraud at the White House Communications Agency, the political firings of the Travel Office workers, the abuse of private FBI files, the proliferation of the White House access passes to political friends and lobbyists, and the random and selective use of drug tests, could have all been avoided if a proper management structure was in place. We have accepted the concept of protecting workers' rights, of mandating financial statements, and establishing an inspector general at every other agency in the Government. It is time that the lead agency, the Office of the President, accept these reforms as well.

Now, to some who argue that this bill might interfere with the constitutional responsibilities of the President, let me assure you that every safeguard has been included to protect the ability of the President to perform his responsibilities. Using the statute creating an inspector general at the Central Intelligence Agency as a model, this legislation would allow the President to select his own inspector general and limit the scope of any investigation. In any regard, both the financial management and inspector general reforms included in this bill go only to the administrative functions of the Executive Office. Policymaking functions are not covered and, specifically, the inspector general has no authority to conduct any oversight into the policymaking responsibilities of the President or his staff.

Madam Speaker, I understand how in an election season, this bill could be easily misconstrued. I encourage my colleagues, however, to understand the sound reforms included in this legislation. Its provisions do not become effective until after the next Presidential election and its requirements are applicable to both Democrat and Republican office holders. I can think of no reason why, on policy grounds, this legislation should not receive the full endorsement of the House of Representatives.

Mr. HORN. Madam Speaker, I yield 5 minutes to the gentleman from New Hampshire [Mr. BASS] who is the author of the inspector general provision.

Mr. BASS. Madam Speaker, I rise today in strong support of H.R. 3452. This bill applies 11 civil rights employment and labor statutes to the White House. H.R. 3452 is a commonsense bill that mirrors the Congressional Accountability Act, which has been discussed before by previous speakers.

I also support H.R. 3452 because it includes my bill, the White House Inspector General Act, which I know my friend from New York has talked about in some detail in her discussion, which I introduced with the gentleman from Pennsylvania, Chairman CLINGER, and the gentleman from California, Mr. HORN.

My bill establishes an office of inspector general in the Executive Office of the President to serve as the principal watchdog of White House financial management procedures and fiscal resources. This provision not only provides the President with an essential tool for rooting out waste, fraud and abuse, but it also complements H.R. 3452's provision applying the Chief Financial Officer Act to the White House.

I would also like at this moment to thank the chairman of the committee, Congressman CLINGER, who has been a staunch supporter of this concept now for many years. As many of my colleagues know, the Inspector General Act of 1978 established inspectors general to protect the integrity of Federal programs and resources. IG's are appointed without regard to political affiliation and solely on the basis of a strong background in accounting, auditing, financial management or investigations.

They are provided with the authority and independence to perform audits and investigations in order to combat waste, fraud and abuse, and indeed the act has worked: 61 Federal entities today have IG's, including all 14 Cabinet departments. In 1994 IG investigations and audits led to over 14,000 successful criminal and civil prosecutions and returned $1.9 billion in investigative recoveries to the U.S. Treasury resulting in efficiency recommendations that would save a total of $24 billion.

My bill provides the White House IG the basic powers that all IG's are granted under the Inspector General Act of 1978, but it also includes special provisions that protect the constitutional prerogatives and operational effectiveness of the Presidency.

The first exemption ensures that the inspector general will not interfere in areas relating to policy, intelligence, national security interests or other sensitive matters. It will focus solely on fiscal financial management and abuses of power.

The second broad exemption ensures that the IG does not hinder the President in carrying out his constitutional responsibilities. The President would have broad and sweeping authority to prohibit the IG from, and I quote, interfering with the core functions of the constitutional responsibilities of the President.

Some have raised legitimate questions about this provision violating the separation of powers doctrine. The Justice Department, as was mentioned by my colleague from New York, raised concerns about the intrusion on the President's constitutional responsibilities. As she also mentioned, the CRS, Congressional Research Service, American Law Division, concluded, however, that the legislation should withstand a constitutional challenge due to the broad exemptions that I just explained.

Some have also objected to the provisions because they feel that it is a partisan attack on the White House. However, since the bill, as Chairman CLINGER mentioned, will not take effect until next year, it would impact either a Clinton administration or a Dole administration in an identical fashion. Despite what some might think, this is surely not a partisan issue.

This legislation is intended to institute a strong, effective and independent inspector general in the White House that balances the interests of both the President in carrying out his constitutional responsibilities and the Congress in conducting effective oversights of the executive branch and ensuring accountability.

In conclusion, Madam Speaker, inspectors general have a solid track record in rooting out waste, fraud and abuse. Establishing a White House IG will provide further Presidents, both Republican and Democrat, a useful tool in identifying and eliminating financial mismanagement and abuse in the White House.

I urge my colleagues to support passage of this bill.

Mrs. MALONEY. Madam Speaker, I yield myself such time as I may consume.

I would like to add to the RECORD an amendment that I offered at the subcommittee as a substitute to the Bass amendment, which would put forward in the White House the exact same IG that we have in the House of Representatives, in this Congress.

That amendment was defeated. It is true that my colleague on the committee pointed out that the House has an IG, but it is limited to financial audits of nonlegislative offices and reports only to the leadership. The Bass IG would go well beyond that, providing for program audits of all presidential activities and with reporting to Congress.

So I merely was trying to have the same oversight in both offices in the amendment that I put forward. I would like to put my amendment in the RECORD as a clarifying point, and also a comparison that I did on the Bass amendment and House rule VI for the Office of the Inspector General.

The amendment referred to previously is as follows:

Substitute amendment offered by Mrs. MALONEY for the amendment offered by Mr. BASS: At the end of the bill add the following new section:

SEC. . ESTABLISHMENT OF INSPECTOR GENERAL FOR EXECUTIVE OFFICE OF THE PRESIDENT.

(a) ESTABLISHMENT OF OFFICE.—There is established an Office of Inspector General in the Executive Office of the President

(b) INSPECTOR GENERAL.—The head of the Office shall be the Inspector General of the Executive Office of the President, who shall be appointed by the President.

(c) RESPONSIBILITIES.—Subject to the direction and control of the President, the Inspector General shall be responsible only for—

(1) conducting periodic audits of the financial and administration functions of the Executive Office of the President;

(2) informing officials who are the subject of an audit of the results of that audit and suggesting appropriate curative actions;

(3) notifying the President in the case of any financial irregularity discovered in the course of carrying out responsibilities under this section;

(4) submitting to the President a report of each audit conducted under this section; and

(5) reporting to the President information involving possible violations by any official or other employee of any law applicable to the performance of official duties or the discharge of official responsibilities that may require referral to appropriate Federal or State authorities.

(d) ANNUAL REPORT.—The Inspector General of the Executive Office of the President shall annually submit a report to the President and the Congress regarding the activities of the Inspector General under this section.

Mrs. MALONEY. Madam Speaker, I reserve the balance of my time.

Mr. HORN. Madam Speaker, how much time do we have left on this side?

The SPEAKER pro tempore (Ms. GREENE of Utah). The gentleman from California [Mr. HORN] has 1½ minutes remaining, and the gentlewoman from New York [Mrs. MALONEY] has 12 minutes remaining.

Mr. HORN. Madam Speaker, I yield myself such time as I may consume.

Let me note in response to my colleague from New York the point that the chairman of the full committee made, that the inspector generalship in the White House has been tailored so it does not get into policy areas. It is exactly the relationship the inspector general of the House of Representatives has in terms of not getting into the Members' and policymaking functions here.

I would say that any Chief Executive of the United States, I would think, regardless of party, be they Republicans or Democrats, would want as two basic tools to help in his administration, or her administration, as it might be someday, the chief financial officer and the inspector general.

This legislation is long overdue. It would have saved several Presidents from scandals and, hopefully, it will save future Presidents from scandals. I urge my colleagues to support this measure, which has strong support, I know, by many in both parties. I hope we would have the votes because this is good public policy, and future Presidents will thank us, not condemn us, for passing it.

Mr. GOODLING. Madam Speaker, I rise in support of the Presidential and Executive Office Accountability Act. This act is a logical step following passage of the Congressional Accountability Act [CAA] in the earliest days of this Congress, in that it extends to the Executive Offices of the President the same employment protections which were made applicable to the Congress under the CAA. Passage of the CAA was an important step in showing that the Republican Congress would not proceed with "business as usual" and ended the status of Congress as the "last plantation."

As it turns out, the White House and its related offices are now, in fact, the "last plantation" and the Presidential and Executive Office Accountability Act will end this unacceptable, albeit little known, special status under the law. When we passed the CAA, the hope was that the Congress would learn the practical impact of these laws, therefore have a better understanding of how they really work, and thus be able to give better, more informed consideration to legislation in the employment area. Hopefully, the Presidential and Executive Office Accountability Act will have the same impact on those who develop policy at the highest level in the executive branch.

With regard to those provisions relating to the Federal Service Labor-Management Relations Act, I simply want to note that these provisions are modeled after those in the CAA and should be interpreted in the same manner. Thus, the Federal Labor Relations Authority should engage in extensive rulemaking to determine whether any employees in the offices cited should be exempted because of any of the three reasons listed—a conflict of interest; and appearance of a conflict of interest; or constitutional responsibilities.

Mr. HORN. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MALONEY. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. HORN] that the House suspend the rules and pass the bill, H.R. 3452, as amended.

The question was taken.

Mr. HORN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1445

GENERAL LEAVE

Mr. HORN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3452, the bill just considered.

The SPEAKER pro tempore (Ms. GREENE of Utah). Is there objection to the request of the gentleman from California?

There was no objection.

WAR CRIMES DISCLOSURE ACT

Mr. HORN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1281) to amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals who participated in Nazi war crimes during the period in which the United States was involved in World War II, as amended.

The Clerk read as follows:

H.R. 1281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) during the 104th Congress, Americans commemorated the 50th anniversary of the conclusion of the Second World War and the end of the Holocaust, one of the worst tragedies in history;

(2) it is important to learn all that we can about this terrible era so that we can prevent such a catastrophe from ever happening again;

(3) the Cold War is over;

(4) numerous nations, including those of the former Soviet Union, are making public their files on Nazi war criminals as well as crimes committed by agencies of their own governments;

(5) on April 17, 1995, President Clinton signed Executive Order 12958, which will make available certain previously classified national security documents that are at least 25 years old;

(6) that Executive Order stated: "Our democratic principles require that the American people be informed of the activities of their Government.";

(7) this year marks the 30th anniversary of the passage of the Freedom of Information Act;

(8) agencies of the United States Government possess information on individuals who ordered, incited, assisted, or otherwise participated in Nazi war crimes;

(9) some agencies have routinely denied Freedom of Information Act requests for information about individuals who committed Nazi war crimes;

(10) United States Government agencies may have been in possession of material about the war crimes facilitated by Kurt Waldheim but did not make this information public;

(11) it is legitimate not to disclose certain material in Government files if the disclosure would seriously and demonstrably harm current or future national defense, intelligence, or foreign relations activities of the United States and if protection of these matters from disclosure outweighs the public interest of disclosure;

(12) the disclosure of most Nazi war crimes information should not harm United States national interests; and

(13) the Office of Special Investigations of the Department of Justice is engaged in vital

work investigating and expelling Nazi war criminals from the United States, accordingly, the records created by these investigations and other actions should not be disclosed, and the investigations and other actions should not be interfered with.

SEC. 2. SENSE OF THE CONGRESS.

It is the sense of the Congress that United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. HORN] and the gentlewoman from New York [Mrs. MALONEY] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. HORN].

Mr. HORN. Madam Speaker, I yield myself such time as I may consume.

Over a half century has passed since the ending of the Second World War and the revelation of the horrors of the Holocaust. The War Crimes Disclosure Act authored by my colleague, the gentlewoman from New York [Mrs. MALONEY], is intended to make available under the Freedom of Information Act records in the possession of Federal departments and agencies about individuals believed to have participated in Nazi war crimes. I join the bill's author, Representative MALONEY, in advancing this important legislation.

We are acting just a day after the Jewish high holiday of Yom Kippur, the Day of Atonement. All people of conscience can benefit from the careful contemplation of the past. Such reflection is a vital step toward a resolve to redress past wrongs and to do good in the future. For governments and their citizens to accomplish this, the facts, even painful facts, must be made public.

If we are not to forget the horrors of the Holocaust, and we must never do so, then we must make the records available, all the records of this dark, dark period in human history.

I am appreciative of the role of historians as stewards of our past. Their work on this terrible period is far from complete. We must assist them by making these records available. Information about contacts once maintained with Nazi war criminals must finally be disclosed.

Some words of clarification are necessary about the amendment before the House. The Committee on Government Reform and Oversight passed a version of H.R. 1281 which provided for the mandatory disclosure of this information pursuant to the provisions of the Freedom of Information Act, or FOIA, as it is called.

Normally under the Freedom of Information Act, national security records are exempt from disclosure. H.R. 1281 as reported by the Committee on Government Reform and Oversight would have required a careful balancing of the public interest when the national security exemption was applied to the records of alleged Nazi war criminals.

Since the committee's action, Mrs. MALONEY, the Representative from New York, and I have worked with the Permanent Section Committee on Intelligence and the Central Intelligence Agency to refine the language of H.R. 1281 to address the national security considerations. Unfortunately, we have not been able to resolve the sensitive questions about the extent and nature of judicial review of agency or Freedom of Information Act determinations and the appropriate treatment of the more recently created records.

Consequently, I join the gentlewoman from New York [Mrs. MALONEY] in proposing an amendment with substitute language which expresses, and I quote:

> It is the policy of the Congress that the United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public.

I expect in the next Congress to continue to work together with Representative MALONEY and others to advance the release of records held by the Federal Government departments and agencies concerning Nazi war criminals. I am confident that an appropriate balancing of interests can be found.

As the author of H.R. 1281, the gentlewoman from New York [Mrs. MALONEY] has provided active leadership in using the Freedom of Information Act to learn more about the information in Federal Government files about Nazi war criminals.

Madam Speaker, I reserve the balance of my time.

Mrs. MALONEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I first want to thank my friend, the gentleman from California, Chairman HORN, and his fine staff and my fine staff for all of their hard work on bringing this measure to the floor. I want to thank the gentleman from Texas, Chairman COMBEST, and the gentleman from Washington, Mr. DICKS, ranking member of the Permanent Select Committee on Intelligence for their assistance. I also want to thank our former colleague, Elizabeth Holtzman, not only for her efforts on this bill but for a career spent in pursuit of justice and human rights, dating back to her pioneering legislation on Nazi war criminals.

Madam Speaker, this is a somewhat bittersweet moment. Chairman HORN and I had wanted to bring forward H.R. 1281 as reported, which unanimously passed the Committee on Government Reform and Oversight. This bill which I have been working on for nearly 3 years would end a tremendous loophole in the Freedom of Information Act which currently allows Government agencies to block the release of information on Nazi war crimes. Although we have a carefully crafted bill, which protects legitimate national security, the CIA strenuously objected to the legislation and has effectively killed it in this Congress.

Given that half a century has passed since the end of World War II and given that the cold war is over, I find it outrageous that the CIA would block a bill which would help us shed light on the Holocaust, the darkest moment in the history of man's inhumanity to man.

But bringing this substitute sense of Congress resolution to the floor today, we will put the House on record in support of the principles of our bill and we will set the stage for the passage of binding legislation in the next Congress.

Madam Speaker, I am indebted to A.M. Rosenthal of the New York Times for his series of articles he wrote about secret U.S. Nazi war crimes files. I am also thankful for the advice and assistance of professor Robert Herzstein of the University of South Carolina who has cataloged the celebrated case of Kurt Waldheim. For years the CIA was keeping its information on Waldheim a secret, even as the Department of Justice was placing him on the watch list of individuals forbidden to enter the United States. It is not difficult to imagine how history might have been changed if Waldheim's secret past had become public. Most notably, he probably would not have been elected to the post of Secretary General of the United Nations, one of the most shameful events in the history of that world body.

And Waldheim's outrageous story continues. In his recent autobiography, he continues to whitewash his Nazi past and blames the American Jewish community for his banishment from the United States. I drafted H.R. 1281 to ensure that the entire Waldheim file is finally disclosed. It is also my hope that the enactment of this bill will help those who research the horrors of the Holocaust to ensure that cases like Waldheim do not occur again.

Madam Speaker, some of what we might learn in U.S. Government files may not be pleasant. Evidence exists, for example, that our Nation actively recruited Nazis and facilitated their entry into the country to pursue early cold war objectives. But as we quote in this resolution, President Clinton's Executive Order 1212958, which represents a strong step forward in the declassification of national security documents states, and I quote, "Our democratic principles require that the American people be informed of the activities of their government."

Madam Speaker, this is the spirit of the Freedom of Information Act which this year turns 30 years old. FOIA has been a great tool to historians, studying World War II and the Holocaust.

But all too often U.S. intelligence, defense, and foreign relations agencies deny FOIA requests, citing outdated exemptions that are simply no longer valid in the post-cold war era.

Our bill as reported would have required the release of this material but would have exempted disclosure of files that would have seriously harmed current or future national security concerns.

Our bill would have ended the longstanding practice of routine denial by the CIA of freedom of information requests about Nazi war crimes, by placing the CIA under the judicial review requirements of other government agencies. What this means is that researchers who present the CIA with reasonable FOIA requests, only to have them denied, would be able to turn to the Federal courts for final ruling. Our bill would not have interfered with the outstanding work of the Office of Special Investigations, which has a long track record of exposing and expelling Nazi war criminals from our country.

Madam Speaker, during the past several days, as I have been attempting to get H.R. 1281 to the floor, the Nation has learned some very interesting facts from previously classified historical documents. For example, we learned last week from a 40-year-old document that our government knew about U.S. prisoners of war held by North Korea during the Korean war.

We also learned from World War II documents that millions of dollars in gold looted by the Nazis is currently sitting in the Federal Reserve Bank of New York.

These two revelations may be disturbing but learning about our Nation's past, disturbing as it might be, to teach us how to govern in the future is the essence of democracy. And this is the essence of the resolution we are debating today. We can never heed Santayana's warning that, and I quote, "Those who do not remember the past are condemned to repeat it," if we do not have the proper historical tools.

Madam Speaker, yesterday Jews all over the world celebrated Yom Kippur, the Day of Atonement. This is a day of somber reflection about the past. In my district and in countless others, thousands of these individuals are survivors of the Holocaust and their families. These people can never escape the searing memories of what befell them half a century ago.

In passing this resolution, we honor the memory of those who died and the suffering of those who survived. In passing this resolution, we are taking a stand against those who insult humanity by denying the very fact that the Holocaust occurred. And in passing this resolution, we must pledge that before another year goes by, we will ensure that our government's full accounting of this terrible era and its aftermath is made public.

I ask my colleagues to support our resolution calling for the release of Nazi war crime files.

Madam Speaker, I reserve the balance of my time.

Mr. HORN. Madam Speaker, I yield myself such time as I may consume.

I received a letter from the chairman of the Permanent Select Committee on Intelligence, our distinguished colleague, the gentleman from Texas [Mr. COMBEST]. I want to include that letter for the RECORD:

HOUSE OF REPRESENTATIVES, PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, September 23, 1996.

Hon. STEPHEN HORN,
Chairman, Subcommittee on Government Management, Information, and Technology, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you regarding the War Crimes Disclosure Act, H.R. 1281. As reported, H.R. 1281, contained a number of provisions that would amend the Freedom of Information Act (FOIA) and would effect long standing federal case law and rule of judicial deference to intelligence and law enforcement executive agency expertise in national security matters.

The Committee is committed to declassifying older intelligence documents, in particular those pertaining to Nazi war criminals. I specifically requested that the Central Intelligence Agency review this legislation to reach an agreement satisfying the concerns of the intelligence agencies as well as meeting the public's right to receive information about Nazi criminals that may be contained within U.S. intelligence files.

I am in receipt of the Sense of Congress substitute for H.R. 1281 that reiterates the commitment we all feet concerning the disclosure of information related to Nazi war crimes. Recognizing that you and Representative Maloney desire to bring this legislation to the House floor expeditiously, the House Permanent Select Committee on Intelligence will forego its right to sequential referral in this instance. Further, I am committed to working with you to craft new legislation that meets the desire of the American people to know about Nazi criminal acts while protecting legitimate national security interests.

Thank you for your attention to this matter.

Sincerely,

LARRY COMBEST,
Chairman.

Mr. HORN. Madam Speaker, I want to quote two paragraphs there that are relevant to the measure before us. Chairman COMBEST assures me:

> The committee is committed to declassifying older intelligence documents, in particular those pertaining to Nazi war criminals. I specifically requested that the Central Intelligence Agency review this legislation to reach an agreement satisfying the concerns of the intelligence agencies as well as meeting the public's right to receive information about Nazi criminals that may be contained within U.S. intelligence files.

He goes on to say:

> I am in receipt of the Sense of Congress substitute for H.R. 1281 that reiterates the commitment we all feel concerning the disclosure of information related to Nazi war crimes. Recognizing that you and Representative Maloney desires to bring this legislation to the floor expeditiously, the House Permanent Select Committee on Intelligence will forego its rights to sequential referral in this instance. Further, I am committed to working with you to craft new legislation that meets the desire of the American people to know about Nazi criminal acts while protecting legitimate national security interests.

Madam Speaker, I deeply appreciate the word of the chairman of the Permanent Select Committee on Intelligence. As a citizen and as a Member of this Congress, I cannot imagine any executive branch under any administration wanting, after almost a half century has passed, to keep the files that relate to specific war crimes committed during the Second World War.

☐ 1500

Madam Speaker, this is a fine piece of legislation that the gentlewoman from New York [Mrs. Maloney] has offered. We are delighted to support it on this side.

Madam Speaker, I yield back the balance of my time.

Mrs. MALONEY. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Ms. GREENE of Utah). The question is on the motion offered by the gentleman from California [Mr. HORN] that the House suspend the rules and pass the bill, H.R. 1281, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to express the sense of the Congress that United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HORN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 1281, the important legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GRANTING CONSENT OF CONGRESS TO THE EMERGENCY MANAGEMENT ASSISTANCE COMPACT

Mr. GEKAS. Madam Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 193) granting the consent of Congress to the Emergency Management Assistance Compact.

The Clerk read as follows:

H.J. RES. 193

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

The Congress consents to the Emergency Management Assistance Compact entered into by Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, Missouri, Oklahoma, South Carolina, South Dakota, Tennessee, Virginia, and West Virginia. The compact reads substantially as follows:

"Emergency Management Assistance Compact

"ARTICLE I.

"PURPOSE AND AUTHORITIES.

"This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term 'states' is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

"The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency disaster that is duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

"This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

"ARTICLE II.

"GENERAL IMPLEMENTATION.

"Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

"The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

"On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

"ARTICLE III.

"PARTY STATE RESPONSIBILITIES.

"A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

"1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;

"2. Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

"3. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

"4. Assist in warning communities adjacent to or crossing the state boundaries;

"5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;

"6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

"7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

"B. The authorized representative of a party state may request assistance to another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide the following information:

"1. A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building, inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

"2. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed; and

"3. The specific place and time for staging of the assisting party's response and a point of contact at that location.

"C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

"ARTICLE IV.

"LIMITATIONS.

"Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

"Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

"ARTICLE V.

"LICENSES AND PERMITS.

"Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

"ARTICLE VI.

"LIABILITY.

"Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

"ARTICLE VII.

"SUPPLEMENTARY AGREEMENTS.

"Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

"ARTICLE VIII.

"COMPENSATION.

"Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

"ARTICLE IX.

"REIMBURSEMENT.

"Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

"ARTICLE X.

"EVACUATION.

"Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines, and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

"ARTICLE XI.

"IMPLEMENTATION.

"A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon enactment by such state.

"B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

"C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

"ARTICLE XII.

"VALIDITY.

"This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected.

"ARTICLE XIII.

"ADDITIONAL PROVISIONS.

"Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under §1385 of Title 18 of the United States Code.".

SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall—

(1) not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the subject of the compact;

(2) not be construed as consent to the National Guard Mutual Assistance Compact;

(3) be construed as understanding that the first paragraph of Article II of the compact provides that emergencies will require procedures to provide immediate access to existing resources to make a prompt and effective response;

(4) not be construed as providing authority in Article III A.7. that does not otherwise exist for the suspension of statutes or ordinances;

(5) be construed as understanding that Article III C. does not impose any affirmative obligation to exchange information, plans, and resource records on the United States or any party which has not entered into the compact; and

(6) be construed as understanding that Article XIII does not affect the authority of the President over the National Guard provided by article I of the Constitution and title 10 of the United States Code.

SEC. 3. CONSTRUCTION AND SEVERABILITY.

It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. If any part or application of this compact, or legislation enabling the compact, is held invalid, the remainder of the compact or its application to other situations or persons shall not be affected.

SEC. 4. INCONSISTENCY OF LANGUAGE.

The validity of this compact shall not be affected by any insubstantial difference in its form or language as adopted by the States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from Virginia [Mr. SCOTT] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this is a unique type of legislation that comes before us here today, one that symbolizes the willingness of Americans to help other Americans in trouble. We have seen hurricane after hurricane pounding the east coast and other areas of the country, and we see the phenomenon of people rushing from other areas not hit by the hurricanes to render assistance to those who are without homes, whose residences are flooded, whose businesses are afloat, whose shorelines have been severely damaged. They come from all over the United States and volunteer or in other ways render assistance to the Americans, our fellow Americans who have been grievously injured or hurt and even sometimes at the cost of lives undergo these natural disasters.

Well, a long time ago the Southern Governors Conference adopted an enterprise in which the southern Governors with their respective States entered into a compact to render assistance, one to another, when such a natural disaster would occur, and this has led us to this day where they want to formalize a compact among the several States who are part of the Southern Governors Conference and others who were not previously members of that organization, to enter into this businesslike enterprise in which aid can be called for by one member State and the other States can respond when a natural calamity occurs.

It is one which raises the hopes of everyone that this would lead to even greater units of States getting together in such a compact, and because the Constitution requires that such a compact between two States or more must be approved by the Congress, we are here on the floor today.

The cosponsors of this legislation, the gentleman from South Carolina [Mr. INGLIS] and the gentleman from Virginia [Mr. SCOTT], members of the subcommittee, played an important role in fashioning the compact that is before us.

Madam Speaker, I reserve the balance of my time.

Mr. SCOTT. Madam Speaker, I yield myself such time as I may consume, and I rise in support of the bill.

The Emergency Management Assistance Compact sponsored by the Southern Governors Association is a commonsense approach to strengthening a State's ability to respond and protect its citizens when disaster strikes.

Recently my district suffered severe damage from the winds and floods crated by Hurricane Fran. This was not the first and unfortunately will not be the last hurricane to hit the Commonwealth of Virginia. The out-of-State support we received, both public and private, in the recovery effort was essential. The people and organizations who immediately provided assistance made the personal shot easier to bear and has allowed economic recovery to start quicker.

As Virginians, we, too, recognize the need to support other States that suffer natural disasters. Hurricanes Andrew and Hugo, Bob and Eloise, all brought Virginia humanitarian aid and volunteers to those disaster sites. Good Samaritans from Virginia and many other States, either under an organized charity or individually, give assistance to those who suffer great loss. State governments also provide assistance in the form of public utility and law enforcement personnel, and give emergency supplies and equipment.

This compact, created by the Southern Governors Association and modeled on the existing arrangement for the Island of Puerto Rico, assures that financial mechanisms are in place to cover State costs. That way the public funds collected and dedicated for the expenses within one State may in an emergency be used to support residents of another State. When that occurs, the Emergency Management Assistance Compact specifies how reimbursement will be accomplished.

This agreement has been 3 years in the making, and it is appropriate at this time to thank some of those responsible for bringing this issue to Congress. I want to recognize: Mr. Addison E. Slayton, Jr., and George Urquhart of the Department of Emergency Services, and the Commonwealth of Virginia particularly because Virginia was the first State to agree to the compact; David McMillion, director of Maryland Emergency Management; Tom Feuerborn, the director of the Oklahoma Emergency Management Agency; Eric Tolbert, the bureau chief for Preparedness and Response and the Florida Division of Emergency Management; and John Carey from FEMA's general counsel who was also very much involved.

I also want to express my thanks to the gentleman from Pennsylvania [Mr. GEKAS] and to my colleague, the gentleman from Rhode Island [Mr. REED], the ranking member of the subcommittee, who helped us to quickly bring this bill to the floor and to the congressional staffs that manage this issue. I also wish to thank Mr. Douglas Monroe, the senior policy analyst from the Southern Governors Association, for the past 3 years of constant effort to bring the compact and the congressional action to completion.

As a compact between States, the Constitution requires congressional approval of this arrangement, and I am happy to join my friend from South Carolina, Mr. INGLIS, the sponsor of the bill, in urging this body to approve the joint resolution.

Madam Speaker, I yield back the balance of my time.

Mr. GEKAS. Madam Speaker, I yield myself 1 minute just for one purpose, to demonstrate the scope of this compact. I simply want to repeat the States that are part of the compact:

Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, Missouri, Oklahoma, South Carolina, South Dakota, Tennessee, Virginia, and West Virginia.

Madam Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. INGLIS], the chief architect of the compact.

Mr. INGLIS of South Carolina. Madam Speaker, I thank the gentleman for yielding me this time, and also I want to thank the gentleman for moving this bill so very quickly through the committee. I certainly appreciate his help in seeing that that is done in a very expeditious way. I also want to thank the gentleman from Virginia [Mr. SCOTT] for his coauthoring this bill. It is something that really we are simply giving effect to the very good work of the Governors Association, Southern Governors Association particularly, and they have worked very hard, folks in South Carolina particularly. Stan McKinney, who is the emergency preparedness director in South Carolina, has worked very hard on this, and I am very happy that we now in the Congress are giving effect to that compact, and to see the cooperation that is happening here today is really refreshing and very rewarding.

So basically, Madam Speaker, this bill accomplishes the approval of the compact entered into among the States that the chairman just read. The compact essentially handles two very important areas that heretofore have been a little bit murky.

First, it deals with the compensation questions about, for example, if South Carolina sends aid to North Carolina after the occurrence of Hurricane Fran, the question is about compensation of the South Carolina National Guard in North Carolina. That is handled by this compact. There is a procedure set up such that South Carolina and North Carolina work that out in advance, and they know how the work is going to be accomplished, how it is going to be paid for.

The second thing that the compact does is it deals with the question of liability for, following that same example, the National Guard troops from South Carolina operating in North Carolina. The question heretofore has been, what kind of liability do those troops have in North Carolina?

This compact, well worked out by the Southern Governors Association, answers that question by saying that when this South Carolina National Guard is in North Carolina at the request of the State of North Carolina, they are agents of the State of North Carolina and, therefore, enjoy sovereign immunity of the State of North Carolina, and it is governed, any actions there will be governed, by the laws of the State of North Carolina.

All of that accomplishes a great deal because it means that States will now be much more able to send assistance and to know in advance what kind of situation they will find there.

So I think that the Congress is doing a good thing, the House is doing a good thing this day, I hope, in passing this bill in a very expeditious manner, and then hopefully the other body will follow suit very quickly.

The reason that it is important to do this relatively quickly is as, we all know, those of us from coastal States particularly, we are in the midst of hurricane season. We have seen several hurricanes come up the east coast already this year. We hope that no others make their way that way for the rest of the season, but if they do, we will be in a position to help one another and to respond to those emergencies that exist.

Mr. GEKAS. Madam Speaker, will the gentleman yield?

Mr. INGLIS of South Carolina. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Madam Speaker, the gentleman may recall that we delved into, during the course of the hearing that we held on this matter, the question of liability insofar as it touched upon volunteers that go from State to State, and I recounted then, and I do now, several instances where my fellow Pennsylvanians went to the aid of the coastal States on many different occasions and were recipients of similar aid. We know that liability here, as he has described it, as the gentleman from South Carolina has described it, has to do with the league of entities, but what about the volunteers? What does the gentleman see? I would like the RECORD to reflect for future proposals or agreements that might be reached on volunteers.

Mr. INGLIS of South Carolina. Madam Speaker, I thank the gentleman for that question. As he knows, during our hearing we discussed the possibility that the States might want to entertain further action under good samaritan laws, such that they could entertain that question or answer that question. It would make a whole lot of sense because, for example, after the aftermath of Hurricane Hugo our State received tremendous assistance from a number of other States, I am sure, including the great State of Pennsylvania, and that is a very significant part of our American experience, is helping people in our places.

So I would say to the gentleman that the work that should go forth there, to answer his question there, has to do with the State legislatures dealing with their good samaritan laws to handle the situation where a volunteer comes into the State of Pennsylvania, for example, from South Carolina to offer assistance, be governed by the good samaritan laws of the State of

Pennsylvania. This, of course, is different, in that here in the situation we are describing here, the State of North Carolina may be requesting the State of South Carolina to send its organized National Guard troops to North Carolina, and that is what this compact is.

But I agree with the gentleman that it would be very helpful to have very clear good samaritan laws that deal with a volunteer not under direction of the Governor of the State going to another State to offer assistance.

Mr. GEKAS. Madam Speaker, it strikes me that perhaps the gentleman from South Carolina, the gentleman from Virginia, and I, in the next session, if the electorate so chooses to return us to this Chamber, might want to seek out the same southern Governors' experience to determine perhaps where uniform set of laws among the several States on the good samaritan laws.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 193.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GRANTING CONSENT OF CONGRESS TO AMENDMENTS TO WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the resolution (H.J. Res. 194) granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact, as amended.

The Clerk read as follows:

H.J. RES. 194

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS TO AMENDMENTS TO COMPACT.

The Congress consents to the amendments of the State of Maryland (chapter 252, 1995 Acts of the Maryland General Assembly and chapter 489, 1996 Laws of Maryland), the amendments of the Commonwealth of Virginia (chapter 150, 1995 Acts of Assembly of Virginia), and the amendments of the District of Columbia (D.C. Law 11-138) of title III of the Washington Metropolitan Area Transit Regulation Compact. Such amendments are substantially as follows:

(1) Section 3 is amended to read as follows:

"Washington Metropolitan Area Transit Zone

"3. There is hereby created the Washington Metropolitan Area Transit Zone which shall embrace the District of Columbia, the cities of Alexandria, Falls Church and Fairfax and the counties of Arlington, Fairfax, and Loudoun and political subdivisions of the Commonwealth of Virginia located within those counties, and the counties of Montgomery and Prince George's in the State of Maryland and political subdivisions of the State of Maryland located in said counties.".

(2) Subsection (a) of section 5 is amended to read as follows:

"(a) The Authority shall be governed by a Board of six Directors consisting of two Directors for each signatory. For Virginia, the Directors shall be appointed by the Northern Virginia Transportation Commission; for the District of Columbia, by the Council of the District of Columbia; and for Maryland, by the Washington Suburban Transit Commission. For Virginia and Maryland, the Directors shall be appointed from among the members of the appointing body, except as otherwise provided herein, and shall serve for a term coincident with their term on the appointing body. A Director may be removed or suspended from office only as provided by the law of the signatory from which he was appointed. The appointing authorities shall also appoint an alternate for each Director, who may act only in the absence of the Director for whom he has been appointed an alternate, except that, in the case of the District of Columbia where only one Director and his alternate are present, such alternate may act on behalf of the absent Director. Each alternate shall serve at the pleasure of the appointing authority. In the event of a vacancy in the Office of Director or alternate, it shall be filled in the same manner as an original appointment.".

(3) Subsection (a) of section 8 is amended to read as follows:

"(a) Four Directors or alternates consisting of at least one Director or alternate appointed from each Signatory, shall constitute a quorum and no action by the Board shall be effective unless a majority of the Board present and voting, which majority shall include at least one Director or alternate from each Signatory, concur therein; provided, however, that a plan of financing may be adopted or a mass transit plan adopted, altered, revised or amended by the unanimous vote of the Directors representing any two Signatories.".

(4) Subsection (b) of section 14 is amended to read as follows:

"(b) It shall be the duty and responsibility of each member of the Board to serve as liaison between the Board and the body which appointed him to the Board. To provide a framework for regional participation in the planning process, the Board shall create technical committees concerned with planning and collection and analyses of data relative to decision-making in the transportation planning process and the Mayor and Council of the District of Columbia, the component governments of the Northern Virginia Transportation District and the Washington Suburban Transit District shall appoint representatives to such technical committees and otherwise cooperate with the Board in the formulation of a mass transit plan, or in revisions, alterations or amendments thereof.".

(5)(A) Paragraph (1) of subsection (a) of section 15 is amended to read as follows:

"(1) The Mayor and Council of the District of Columbia, the Northern Virginia Transportation Commission and the Washington Suburban Transit Commission;".

(B) Paragraph (3) of subsection (a) of section 15 is amended to read as follows:

"(3) the transportation agencies of the signatories;".

(C) The last paragraph of section 15 is amended to read as follows:

"(b) A copy of the proposed mass transit plan, amendment or revision, shall be kept at the office of the Board and shall be available for public inspection. Information with respect thereto shall be released to the public. After thirty days' notice published once a week for two successive weeks in one or more newspapers of general circulation within the zone, a public hearing shall be held with respect to the proposed plan, alteration, revision or amendment. The thirty days' notice shall begin to run on the first day the notice appears in any such newspaper. The Board shall consider the evidence submitted and statements and comments made at such meeting and may make any changes in the proposed plan, amendment or revision which it deems appropriate and such changes may be made without further hearing.".

(6) Subsection (a) of section 70 is amended to read as follows:

"(a) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial accounts of the Authority. The audit shall be made by qualified certified public accountants selected by the Board, who shall have no personal interest direct or indirect in the financial affairs of the Authority or any of its officers or employees. The report of audit shall be prepared in accordance with generally accepted auditing principles and shall be filed with the Chairman and other officers as the Board shall direct. Copies of the report shall be distributed to each Director, to the Congress, to the Mayor and Council of the District of Columbia, to the Governors of Virginia and Maryland, to the Washington Suburban Transit Commission, to the Northern Virginia Transportation Commission and to the governing bodies of the political subdivisions located within the Zone which are parties to commitments for participation in the financing of the Authority and shall be made available for public distribution.".

(7) Section 73 is amended to read as follows:

"Contracting and Purchasing

"73. (a)(1) Except as provided in subsections (b), (c), and (f) of this section, and except in the case of procurement procedures otherwise expressly authorized by statute, the Authority in conducting a procurement of property, services, or construction shall:

"(A) obtain full and open competition through the use of competitive procedures in accordance with the requirements of this Section; and

"(B) use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

"(2) In determining the competitive procedure appropriate under the circumstances, the Authority shall:

"(A) solicit sealed bids if:

"(i) time permits the solicitation, submission, and evaluation of sealed bids;

"(ii) the award will be made on the basis of price and other price-related factors;

"(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

"(iv) there is a reasonable expectation of receiving more than one sealed bid; or

"(B) request competitive proposals if sealed bids are not appropriate under clause (A) of this paragraph.

"(b) The Authority may provide for the procurement of property, services, or construction covered by this Section using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property, service, or construction if the Authority determines that excluding the source would increase or maintain competition and would likely result in reduced overall costs for procurement of property, services, or construction.

"(c) The Authority may use procedures other than competitive procedures if:

"(1) the property, services, or construction needed by the Authority is available from only one responsible source and no other type of property, services, or construction will satisfy the needs of the Authority; or

"(2) the Authority's need for the property, services, or construction is of such an unusual and compelling urgency that the Authority would be seriously injured unless the Authority limits the number of sources from which it solicits bids or proposals; or

"(3) the Authority determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement; or

"(4) the property or services can be obtained through federal or other governmental sources at reasonable prices.

"(d) For the purpose of applying subsection (c)(1) of this section:

"(1) in the case of a contract for property, services, or construction to be awarded on the basis of acceptance of an unsolicited proposal, the property, services, or construction shall be deemed to be available from only one responsible source if the source has submitted an unsolicited proposal that demonstrates a concept:

"(A) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability to provide the service; and

"(B) the substance of which is not otherwise available to the Authority and does not resemble the substance of a pending competitive procurement.

"(2) in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment or the continued provision of highly specialized services, the property, services, or construction may be deemed to be available from only the original source and may be procured through procedures other than competitive procedures if it is likely that award to a source other than the original source would result in:

"(A) substantial duplication of cost to the Authority that is not expected to be recovered through competition; or

"(B) unacceptable delays in fulfilling the Authority's needs.

"(e) If the Authority uses procedures other than competitive procedures to procure property, services, or construction under subsection (c)(2) of this section, the Authority shall request offers from as many potential sources as is practicable under the circumstances.

"(f)(1) To promote efficiency and economy in contracting, the Authority may use simplified acquisition procedures for purchases of property, services and construction.

"(2) For the purposes of this subsection, simplified acquisition procedures may be used for purchases for an amount that does not exceed the simplified acquisition threshold adopted by the Federal Government.

"(3) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the procedures under paragraph (1) of this subsection.

"(4) In using simplified acquisition procedures, the Authority shall promote competition to the maximum extent practicable.

"(g) The Board shall adopt policies and procedures to implement this Section. The policies and procedures shall provide for publication of notice of procurements and other actions designed to secure competition where competitive procedures are used.

"(h) The Authority in its discretion may reject any and all bids or proposals received in response to a solicitation.".

(8) Section 81 is amended to read as follows:

"Jurisdiction of Courts

"81. The United States District Courts shall have original jurisdiction, concurrent with the Courts of Maryland, Virginia and the District of Columbia, of all actions brought by or against the Authority and to enforce subpoenas issued under this Title. Any such action initiated in a State or District of Columbia Court shall be removable to the appropriate United States District Court in the manner provided by Act of June 25, 1948, as amended (28 U.S.C. 1446).".

(9) Section 84 is amended to read as follows:

"Amendments and Supplements

"84. Amendments and supplements to this Title to implement the purposes thereof may be adopted by legislative action of any of the signatory parties concurred in by all of the others. When one signatory adopts an amendment or supplement to an existing section of the Compact, that amendment shall not be immediately effective, and the previously enacted provision(s) shall remain in effect in each jurisdiction until the amendment or supplement is approved by the other signatories and is consented to by Congress.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from Virginia [Mr. SCOTT] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

□ 1515

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore (Mr. GUNDERSON). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 194, as amended, and urge its adoption. The gentleman from Virginia [Mr. DAVIS] has very expertly presented to the committee a full review of the existing structure about which we speak here today on the Transit Authority, and also about the problems that it has met over the last several years. His testimony went a long way in projecting us to this moment on the floor with respect to this compact.

I repeat that the Constitution requires that when two or more States enter into any kind of an agreement which flowers into a compact, as it were, then that compact, that contract, must be approved by the Congress. Thus, we have the States of Virginia and of Maryland cooperating with the District of Columbia in ferreting out a series of problems and advantages that can be gained or met by the existence of this authority. The gentleman from Virginia [Mr. DAVIS] will elucidate the RECORD on the need for this particular compact.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of the joint resolution, Mr. Speaker.

Mr. Speaker, House Joint Resolution 194 would grant the consent of Congress to the amendments to the Washington Metropolitan Area Transit Regulation Compact. Mr. Speaker, as has already been indicated, this consent is needed because the Constitution requires congressional consent for compacts between States, and obviously this involves Maryland, Virginia, as well as the District of Columbia.

The compact has been amended five times since its creation in 1967. The amendments before us today primarily conform the procurement practices to recently enacted Federal procurement reforms. The amendments have been approved by the State of Maryland, the Commonwealth of Virginia, and the District of Columbia. House Joint Resolution 194 was introduced by my colleague, the gentleman from Virginia [Mr. DAVIS], and was cosponsored by all of the Members representing the Washington Metropolitan Area.

Mr. Speaker, House Joint Resolution 194 was reported by the Subcommittee on Commercial and Administrative Law by a voice vote, and I know of no opposition to this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I thank my friend for yielding time to me.

Mr. Speaker, the resolution before us today, House Joint Resolution 194, would grant the consent of Congress to amendments made by the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact. The Compact Amendments that are being proposed today govern how the Washington Metropolitan Area Transit Authority [WMATA], better known as Metro, conducts its daily operations as a transit provider.

The Washington Metropolitan Area Transit Authority was established in

1967 by Congress when it consented to an Interstate Compact created by Virginia, Maryland, and the District of Columbia. The authority was established to plan, finance, construct, and operate a comprehensive public transit system for the Metropolitan Washington area. Today, Metro operates 1,439 buses and 764 rail cars serving the entire National Capital region. The Metrorail system, sometimes called America's Subway has 89 miles and 74 stations currently in service. Over the next several years, Metro will construct another 13.5 miles of the rail system, with the planned 103-mile rail system being completed in 2001.

The WMATA Compact has been amended five times since its inception. The amendments that are before the House today are a sixth set of amendments that will enable the transit agency to perform its functions more efficiently and cost effectively.

DESCRIPTION OF AMENDMENTS

The proposed amendments primarily, and most importantly, modify the Authority's procurement practices to conform with recently enacted Federal procurement reforms. Currently, the Authority must use a sealed bid process in purchasing capital items. As you can imagine, the Authority conducts extensive procurements in constructing the rail system. The proposed amendments will enable Metro to engage in competitive negotiations on capital contracts, as an alternative to the sealed bid process. This amendment is particularly important as a means for the Authority to reduce its costs.

The transit agency will be better able to define selection criteria and eliminate costly items from bid proposals. If a prospective contractor recommends a change in a bid specification, under the proposed amendment the Authority will be able to take advantage of this cost savings.

The proposed amendment will also allow the Authority to raise its simplified purchasing ceiling from $10,000 to the Federal level. The Federal Transit Administration, part of the U.S. Department of Transportation, has encouraged States and localities to raise the dollar threshold for small purchases to $100,000 to come into conformity with Federal procedures. The Authority and the jurisdictions it serves strongly endorse this proposed amendment, allowing the Authority to conduct its business in an efficient, businesslike manner, rather than being required to publish voluminous bid specifications, even on small purchases. Under this revision, WMATA will be able to publish a simplified bid specification and accept price quotations, thus streamlining its procurement procedures. Given inflation rates over the past several years, this amendment provides a much better definition of "small purchase" for a Government agency.

Finally, there are several administrative matters addressed in the proposed Compact Amendments that are certainly of a housekeeping nature. These amendments are largely codifications and clarifications of current practices. They relate to, for example, the primacy of D.C. Superior Court in cases involving WMATA, and the definition of a quorum at WMATA Board meetings.

In closing, I would like to thank the Judiciary Committee and its Subcommittee on Commercial and Administrative Law for their expeditious handling of this resolution. These amendments are of the utmost importance to the Washington Metropolitan Area Transit Authority.

I appreciate the Judiciary Committee's willingness to move this matter along so that we can assist the Authority in its constant effort to reduce costs. As Metro reduces its cost, it can use its limited public resources to provide more and better service to the citizens of the national capital region and to the millions of visitors to the Washington area each year. I hope my colleagues will join me in supporting House Joint Resolution 194.

Mr. Speaker, in closing, I would like to thank the Committee on the Judiciary and its Subcommittee on Commercial and Administrative Law for their expeditious handling of this resolution. These amendments are of the utmost importance to the Washington Metropolitan Area Transit Authority.

To the gentleman from Pennsylvania [Mr. GEKAS] and to the gentleman from Virginia [Mr. SCOTT], who has been a long-time supporter of this system in the State legislature, I appreciate their willingness to move this matter along so we can assist the authority in its constant efforts to reduce costs. As Metro reduces its costs, it can use its limited public resources to provide more and better services to the citizens of the Nation's capital and to the region and to the millions of visitors to the Washington area each year. I ask for its support.

Mrs. MORELLA. Mr. Speaker, I rise in support of House Joint Resolution 194 which will help the Washington Metropolitan Area Transit Authority [WMATA] conduct its daily business in a more efficient and cost-effective manner. The proposed amendments already have been approved by the State of Maryland, the Commonwealth of Virginia, and the District of Columbia. The consent of Congress is required in order for the amendments to become effective.

WMATA, more commonly known as Metro, was created in 1967 when Maryland, Virginia, and the District entered into an interstate compact which was approved by Congress. This is the fifth action to amend the WMATA compact since its inception.

The amendments contain several housekeeping measures which are largely clarifications of current practices mainly of interest to the Authority. The most important amendment would modify the Authority's procurement practices to comply with recently enacted Federal procurement reforms. The Authority has been using a sealed bid process to purchase capital items. Metro's procurement process has been called an anachronism by the Federal Transit Administration [FTA] and it's time for a change. House Joint Resolution 194 will allow Metro to engage in competitive negotiations on capital contracts, as an alternative to the sealed bid process. Most importantly, this alternative will allow WMATA to reduce its costs.

In addition, the proposed amendment will allow WMATA to raise the ceiling on simplified purchasing from $10,000 to $100,000 which conforms with Federal procedures. This will allow Metro to cut out several costly steps in the procurement process for small purchases.

I want to praise and thank Congressman TOM DAVIS for his efforts to bring these important amendments to the House floor in a timely manner. It is important to help Metro reduce its costs in order to provide more and even better service to commuters in the Washington metropolitan region and to the thousands of visitors to the Nation's Capitol each year. Americans visiting Washington surely will be impressed by the safe, clean, reliable system they will use to reach the Smithsonian Museums, the White House, and Capitol Hill.

AMENDMENTS TO THE WMATA INTERSTATE COMPACT FACT SHEET

BACKGROUND

The Washington Metropolitan Area Transit Authority was created in 1967 by the State of Maryland, the Commonwealth of Virginia, the District of Columbia entering into an Interstate Compact consented to by the U.S. Congress. The Authority was created to plan, finance, construct and operate a comprehensive public transit system for the metropolitan Washington area. The Compact has been amended four times since its inception. The Authority is proposing a fifth set of amendments to the Compact in order to allow the transit agency to perform its functions more efficiently and cost effectively.

The proposed amendments have been enacted by the three signatories (Maryland, Virginia and the District of Columbia) and require the consent of the Congress in order for the amendments to become effective.

PROCUREMENT REFORM

The most important proposed amendment modifies the Authority's procurement practices to conform with recently enacted Federal procurement reforms. Currently, the Authority must use a sealed bid process on capital items. The proposed amendment will enable the Authority to engage in competitive negotiations on capital contracts, as an alternative to the sealed bid process, resulting in a far more flexible and productive contracting system. This amendment will allow the Authority to essentially do more with less, by reducing paperwork and the time involved in the procurement process.

During the Federal Transit Administration's (FTA) review of the WMATA procurement process, the Authority's procurement approach was cited as an "anachronism". The FTA's regulations have allowed competitive procurement since enactment of the Federal Competition in Contracting Act in 1984.

The proposed changes will result in the Authority having fewer bid rejections and cancellations of solicitations. WMATA will be better able to define selection criteria and eliminate costly items from bids. If a prospective contractor recommends a way to change the specification to reduce the costs of that procurement, the Authority will be able to take advantage of this cost savings.

The proposed amendment will also allow the Authority to raise the ceiling on simplified purchasing from $10,000 to the federal level. The FTA has published a circular encouraging States and localities to raise the dollar threshold for small purchases to $100,000 to come into conformity with federal procedures. This amendment will enable the Authority to eliminate several costly steps in the procurement process for small purchases, such as printing a voluminous invitation for bid and waiting 30 days for bids. Instead, WMATA will be able to publish a simplified bid specification and accept written or oral price quotations. Given inflation over the past two decades, the proposed simplified purchasing procedures provide a more accurate definition of small purchase.

ADMINISTRATIVE PROCEDURES

The Amendments contain several "housekeeping" matters of interest to the Authority. These amendments are largely codifications and clarifications of current practices including:

Designation of Loudoun County as being within the Transit Zone. This codifies an existing agreement between WMATA and Loudoun County to include the county in the WMATA transit service area.

Deletes references to the Commissioners of the District of Columbia.

Clarifies that where a quorum of the WMATA Board is present, a majority of the quorum may take action, if each signatory is represented among the prevailing vote.

Codifying the current understanding that the Superior Court of the District of Columbia has original jurisdiction concerning WMATA cases.

Mr. SCOTT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEKAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 194, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS REGARDING BOMBING IN DHAHRAN, SAUDI ARABIA

Mr. SPENCE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 200) expressing the sense of the Congress regarding the bombing in Dhahran, Saudi Arabia, as amended.

The Clerk read as follows:

H. CON. RES. 200

Whereas on June 25, 1996, a terrorist truck bomb outside a military housing compound in Dhahran, Saudi Arabia, killed 19 members of the Armed Forces and wounded hundreds of others;

Whereas the members of the Armed Forces killed and wounded in the bombing were defending the national security interests of the United States;

Whereas the defense of United States national interests continues to require the forward deployment of members of the Armed Forces to other countries;

Whereas the members of the Armed Forces are called upon to perform duties that place their lives at risk from terrorist elements hostile to the United States;

Whereas global terrorism has demonstrated no respect for the historic rules of war, no reluctance to strike against innocent and defenseless individuals, and a willingness to engage in tactics against which conventional defenses are difficult;

Whereas it is the duty of the President and the military chain of command to take all necessary steps to keep members of the Armed Forces protected and as safe as the nature of their mission permits;

Whereas the people of the United States stand with those who have volunteered to serve their country and grieve at the loss of those who, to quote Lincoln, "have given their last full measure of devotion" to the security and well-being of the United States;

Whereas those members of the Armed Forces serving in Saudi Arabia and around the world demonstrate valor and a faith in the American way of life that reflects honorably not only on themselves but upon the country that they represent; and

Whereas the military personnel who lost their lives on June 25, 1996, in the bombing in Dhahran died in the honorable service of their Nation and exemplified all that is best and most virtuous in the American people: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

That Congress hereby—

(1) recognizes the 19 members of the Armed Forces who died in the terrorist truck bombing in Dhahran, Saudi Arabia, on June 25, 1996, and honors them for their service and sacrifice;

(2) calls upon the Nation to hold fast the memory of those who died;

(3) extends its sympathies to the families of those who died; and

(4) assures the members of the Armed Forces serving anywhere in the world that their well-being and interests will at all times be given the highest priority.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from South Carolina [Mr. SPENCE] and the gentleman from California [Mr. DELLUMS] each will control 20 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. SPENCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. SPENCE. Mr. Speaker, on June 25, 1996, a terrorist bomb attack against a government housing compound in Dhahran, Saudi Arabia, resulted in the death of 19 American service members and the wounding of 200 others. This attack demonstrated that terrorism directed against Americans is a continuing threat, and that our men and women in uniform are often at great risk because of the nature of their mission.

Today the House has before it House Concurrent Resolution 200, a bill authored by my colleague and valued member of the House Committee on National Security, the gentleman from Florida [Mr. SCARBOROUGH], that recognizes and honors the ultimate sacrifice paid by the 19 American service members who died in this cowardly attack. I believe this bill is a fitting tribute for the House to make, and I urge my colleagues to support it.

Mr. Speaker, last week the Committee on National Security held a hearing to review the Saudi terrorist bombing, the conclusions reached by the Department of Defense's own investigation, and the appropriate measures necessary to ensure that United States forces deployed abroad would be better prepared to deal with similar attacks in the future.

The committee heard from Secretary of Defense Perry, Joint Chiefs of Staff Chairman General Shalikashvili, and retired Gen. Wayne Downing, who headed the independent task force charged with investigating the bombing. The conclusions of General Downing's study were consistent with the findings of our committee report released last month.

Mr. Speaker, both reports noted the need for greater tactical intelligence to be used on the terrorist threat to United States forces, and the conduct of Operation Southern Watch as a temporary contingency mission, when it is in reality a long-term operation, and both cited numerous institutional and organizational shortcomings that contributed to the tragedy that resulted in the death of 19 brave Americans.

General Downing's report also found fault at all levels of the chain of command, a conclusion accepted by Secretary of Defense Perry during his testimony before our committee.

Mr. Speaker, House Concurrent Resolution 200 properly notes that we have important and legitimate national security interests in Saudi Arabia and the Middle East that justify our continued presence. The bill also notes the danger posed to American national interests and personnel by the threat of global terrorism. I believe it deserves the unanimous support of all House Members.

I once again want to commend the legislation's author, the gentleman from Florida [Mr. SCARBOROUGH], for his diligent efforts to bring this legislation to the House floor. Thanks to his commitment, we are here today ensuring that the brave Americans whose lives were lost in the Khobar Towers bombing are never forgotten by this House.

Mr. Speaker, I include for the RECORD a copy of the report from the Committee on National Security.

The report referred to is as follows:

THE KHOBAR TOWERS BOMBING INCIDENT—EXECUTIVE SUMMARY

The terrorist bombing that killed 19 American military personnel, wounded more than 200 others, and harmed hundreds more Saudi soldiers and civilians in and around the Khobar Towers complex in Dhahran, Saudi Arabia on June 25, 1996 exposed more than the physical vulnerability of Americans serving abroad. It exposed the shortcomings of a U.S. intelligence apparatus that left Americans unprepared for the threat that confronted them. It exposed significant problems of continuity and cohesion in the units deployed for Operation Southern Watch. And it exposed the risks to U.S. military personnel deployed on contingency operations where political and cultural sensitivities of the host country are significant factors.

The ability to acquire and process accurate and timely intelligence is critical to the successful execution of any military mission. It is equally essential for force protection—especially in a world of increasing terrorist threats. The dearth of reliable intelligence on the terrorist threat, coupled with the inability to extrapolate from the intelligence that was available, even after the Riyadh bombing in November 1995, was one of the primary factors contributing to the Khobar Towers tragedy. Because intelligence regarding terrorist threats is more often than not incomplete and uncertain, both intelligence analysts and military operators must recognize it for both what it is and is not and hedge in developing force protection and operation plans.

In the case of the Khobar Towers bombing, problems resulting from incomplete intelligence on the terrorist threat were exacerbated by numerous operational and organizational shortcomings that limited the ability of Joint Task Force-Southwest Asia to effectively protect against the increased terrorist threat. In particular, short tours of duty, even for senior commanders, compromised the ability of deployed units to properly address the urgent need to make long-term security improvements.

Commanders, their staffs and security personnel also need greater continuity if they are to bring stability to organizations that currently face constant personnel turbulence and to develop effective personal and professional relations with Saudi officials with whom they must work. Because the various sensibilities of the host nation often conflict with or complicate the operations of U.S. forces deployed overseas, American military and political leaders must remain vigilant for potential problems.

Intelligence and organizational shortcomings are a growing hallmark of "temporary" or "contingency" missions that in reality become long-term commitments. Despite the fact that Operation Southern Watch has been ongoing since 1992 and the probability of Iraqi compliance with UN resolution is low, Saudi and American leaders and the U.S. Air Force observed and perpetuated the illusion of a "temporary" operation. The Department of Defense needs to review other ongoing contingency operations to ensure that similar perceptions are not compromising force protection needs or jeopardizing U.S. security interests. The proposed movement of significant numbers of U.S. military personnel to more secure quarters now agreed to by the United States is clearly warranted, if not overdue.

STAFF REPORT—AUGUST 14, 1996

On June 25, 1996, a terrorist's bomb exploded at the Khobar Towers housing compound in Dhahran, Saudi Arabia, killing 19 American service personnel, wounding more than 200 others, killing at least one Saudi civilian and injuring hundreds of other civilians. The force of the explosion was so great it heavily damaged or destroyed six high rise apartment buildings and shattered windows in virtually every other structure in the compound, leaving a crater in the ground 85 feet wide and 35 feet deep. The blast was felt 20 miles away in the Persian Gulf state of Bahrain. It was the worst terrorist attack against Americans in more than a decade.

The Khobar Towers complex is home for the airmen of the 4404th Fighter Wing (Provisional) of the U.S. Air Force, part of the U.S. Central Command (USCENTCOM), and coalition forces from the United Kingdom, France, and Saudi Arabia participating in Operation Southern Watch, the United Nations effort to enforce the "no-fly" and "no-drive" zones in Iraq south of the 32nd parallel. Because the bombing was directed specifically at Americans with such devastating effect, it has led to questions concerning the security of U.S. military personnel in Saudi Arabia and in other regions of the world.

At the request of Chairman Floyd Spence, a staff delegation of the House National Security Committee traveled to Dhahran and visited the site of the bombing from July 10–13, 1996 as part of the committee's investigation of the incident. The delegation spent several days interviewing field commanders, being briefed by those responsible for security measures, and speaking with the military personnel who played a critical role just prior to and immediately after the blast. The staff also sought interviews with Saudi officials and FBI agents in theater, but as the staff's visit coincided with the Saudi weekend and Sabbath, the Saudis did not provide anyone to be interviewed. Likewise, the staff delegation was unable to interview Department of Justice officials, who responded that any disclosure of information could compromise the integrity of their ongoing investigation. (A copy of a letter from Attorney General Janet Reno is included as Appendix A. A complete list of individuals who were interviewed is included as Appendix B).

The Khobar Towers bombing tragedy calls into question more than just the safety of American military forces in Saudi Arabia. It also raises issues related to the conduct of the Operation Southern Watch mission, the importance of accurate intelligence on terrorist activities and capabilities, the sufficiency of the operational command structure, and the appropriate balance between the need to protect American personnel stationed abroad and the desire not to challenge the sovereignty or offend the sensibilities of host countries who have granted American forces conditional rights to deploy on their territory. What follows is an unclassified summary of the staff's observations and findings regarding the Dhahran incident.

THE BOMBING INCIDENT

On June 25, 1996, at approximately 2200 hours Dhahran local time, a fuel truck laden with an estimated 3,000–5,000 pounds of explosives approached the northwest end of the Khobar Towers compound from the north and turned east onto 31st Street just outside the perimeter fence separating the compound from a public parking lot. The truck, and a car that it was following, continued to travel along the perimeter fence toward the northeast corner of the compound. Staff Sergeant Alfredo Guerrero, present at an observation site on the roof of Building 131, at the northeast corner, spotted the suspicious car and fuel truck as they continued to travel along the perimeter fence toward their location. When the vehicles reached Building 131, they turned left, pointing away from the building, and stopped. The fuel truck, positioned behind the car, began to back up into the hedges along the perimeter fence directly in front of Building 131. Staff Sergeant Guerrero's suspicion was confirmed when two men emerged from the truck and quickly got into the car, which then sped away. At this point, he radioed the situation to the security desk and began, along with the other two guards on the roof, to evacuate the building.

Emergency evacuation procedures then began for Building 131 as the three security personnel ran door to door, starting from the top floor and working their way down, knocking loudly on each door and yelling for the resident to evacuate. Three to four minutes after the truck had backed up against the perimeter fence, the bomb exploded, ripping off the entire front facade of the eight-story building. Khobar Towers residents and officials of the 4404th Fighter Wing, the provisional U.S. Air Force unit conducting Operation Southern Watch, were unanimous in their belief that quick action on the part of the guards, who had only been able to work their way down several floors of the building, helped saved the lives of a number of residents of Building 131. Many residents of Building 131 were caught in the building's stairwells at the moment of the explosion, which may have been the safest place to be, in the estimation of engineers and security experts on the scene. However, the force of the blast demolished the building and severely damaged five adjacent buildings. Nineteen American service personnel were killed and more than 200 injured. Hundreds of Saudi and third country nationals living in the complex and immediate vicinity were also wounded.

The bomb blast blew out windows throughout the compound and created a crater 85 feet wide and 35 feet deep. The blast was felt as far away as Bahrain, 20 miles to the southeast. Most of the buildings in the "American sector" of the Khobar Towers complex suffered some degree of damage. While residents of Khobar Towers, 4404th Fighter Wing leaders, and U.S. intelligence experts conclude that Americans were the target of the terrorists, and the damage was extensive, an even greater number of casualties might have occurred had the driver positioned the truck differently against the fence and had not at least one row of "Jersey" barriers of the kind used in construction and on U.S. highways been present to absorb or deflect part of the blast away from the lower level of Building 131. Senior leaders of the wing, after consultation with their engineers and with investigators at the scene, have concluded that this arrangement helped to prevent the collapse of the lower floors of the building. Had the lower floors and thus, the entire building, collapsed, the number of fatalities likely would have been much greater.

THE KHOBAR TOWERS COMPOUND

Khobar Towers is a series of high-rise apartment buildings comprising approximately 14 city blocks. U.S. forces occupy a portion of these buildings on the north end of the complex stretching roughly two and one half blocks. Other buildings house troops from the multinational forces participating in Operation Southern Watch, in particular the British, French, and Saudi militaries, while some buildings are also used for Saudi civilian housing. There is only one main access route into and out of the compound.

The buildings were originally built in the 1970s as shelters for Bedouins, but remained vacant until the time of the Persian Gulf War. During the war and in its aftermath, American military forces operated out of a military airbase located near Dhahran's commercial airport, where the facilities were rudimentary and quarters cramped. During the war, the Saudis offered to house U.S. troops at Khobar Towers. Accommodating the 500,000 U.S. troops who participated in the Gulf War, even on a temporary basis, called for the use of every possible facility. After the war, the Saudis offered continued use of space in the Khobar Towers to coalition forces conducting Operation Southern Watch, and U.S. forces have been housed in Khobar Towers for the past six years.

The complex is located in the midst of an urban environment, laced with residential and commercial areas and mosques. On the north end is the public park and parking lot where the June 25 bombing took place. The urban setting of the complex creates unique security difficulties, and establishing perimeters is particularly challenging. The nearest perimeter fence was along the north end, only about 85 feet from several residential structures in the complex; a long perimeter fence on the east side was slightly further out, but still relatively close to the Khobar Towers buildings. And the perimeter marking the U.S. part of Khobar Towers from the other military and civilian housing runs down the middle of a four-lane street. Prior to the bomb blast, Air Force security officials at the complex had identified the perimeter fence as one of the more serious physical security concerns in conducting antiterrorism vulnerability assessments.

Use of a general alarm system

The Khobar Towers buildings themselves are of sturdy construction, built with a minimum of combustible material and consequently without a fire alarm system. There has been speculation as to whether a central alarm system should have been installed and operational at the time of the blast to reduce reaction and evacuation times. The opinion of Air Force security officials is that a fire alarm would not have made a substantial difference, and might even have added to the confusion and worked against any attempts to inspire sleeping troops with a sense of urgency about the suspected bomb threat. For general alarm purposes, the Air Force uses a loudspeaker system in Khobar Towers called "Giant Voice." However, on the night of June 25, there was insufficient time to activate it. In fact, commanders and security officers at Khobar Towers have concluded that a central alarm system is unlikely to have reduced the number of fatalities or injuries the night of the blast, given that it was only a matter of a few minutes between the time evacuation procedures began and the detonation. A number of people survived the blast by being in the stairwell when it occurred. Had a general alarm been sounded, it is possible that more people would have exited the building and would have been at greater risk from the blast's effects. Although the windows in many of the buildings were blown out, not a single building collapsed from structured damages as a result of the bomb. Even Building 131, outside of which the bomb detonated, remained standing, although the face of the building was completed sheared off.

Vulnerability of the compound

In sum, the Khobar Towers apartment complex, and the American portion within, is an inherently vulnerable location to terrorists threats. The decision recently reached by the United States and Saudi Arabia to move Operation Southern Watch and other American military personnel to a more remote location is a sound decision. Factors cited in press reports as contributing to vulnerabilities of the complex and contributing to casualties—the lack of a fire alarm, delays in activating the Giant Voice, for example—are of marginal importance, at least in the judgment of Khobar Towers residents and security officers in the 4404th Fighter Wing. These security officers and senior wing leaders also said that a more raid evacuation may have done more harm than good, exposing more troops to the effects of the blast. Troops housed in an urban environment, with limited perimeters, are inviting targets for terrorist attack. While no location is entirely immune to terrorism, the vulnerabilities of Khobar Towers made the risks especially high.

THE SECURITY SITUATION PRIOR TO JUNE 25, 1996

Prior to the November 13, 1995 bombing of the Office of the Program Manager of the Saudi Arabian National Guard (OPM-SANG) in Riyadh, the Saudi capital, American intelligence and U.S. military leaders considered the risks to U.S. forces in Saudi Arabia as low. While terrorist threats against the United States are not unusual in the region, until recently terrorist activity in Saudi Arabia has been considered sporadic and rare. In particular, the threat from internal Saudi factions and dissidents was rated low by the U.S. intelligence community. The Saudi ruling family enjoys generally widespread support, based upon its extensive system of state-run social services, its largesse with its oil wealth, and its very conservative interpretation and strong support of Islam. Moreover, the ruling Al-Saud royal family brooks no dissent. The Saudi system of justice is swift and sure: public executions are the norm for serious crimes and beheadings are not uncommon. The Saudi approach to justice has long been seen as a deterrent to crime and to those who would violate the tenets of Islam.

Second, despite the cultural sensitivities aroused by U.S. leadership of and participation in the Gulf War, Americans have long operated in Saudi Arabia on a routine, albeit restricted, basis. The ARAMCO oil concern employs tens of thousands of U.S. citizens, and other Westerners also work in the Kingdom generally without incident. Internal dissent aimed at the Saudi regime did not, until very recently, begin to make a link between the ruling regime and the U.S. military presence.

The OPM-SANG bombing and its aftermath

Both the Saudi and American belief that Saudi Arabia was an unlikely venue for anti-American terrorist activity was shattered on November 13, 1995, when a car bomb exploded outside the headquarters of the OPM-SANG mission. The building was used by American military forces as a training facility for Saudi military personnel. The car bomb contained approximately 250 pounds of explosives. Five Americans were killed in the OPM-SANG bomb blast and 34 were wounded. Until then, terrorist actions against Americans in the Kingdom had been considered unlikely by the U.S. intelligence community.

As a result of the OPM-SANG bombing, security measures were stepped up at installations where American troops maintained a presence throughout Saudi Arabia. The U.S. intelligence community reviewed its analysis of threats to American military forces and the results of that analysis were factored into the subsequent vulnerability assessment that was conducted for the wing commander by the Air Force's Office of Special Investigations (OSI). As with all Air Force installations, routine vulnerability assessments of Khobar Towers and other facilities in Saudi Arabia were conducted by OSI every six months. The most recent vulnerability assessment prior to the June 25 bombing at Khobar Towers was completed in January 1996 and identified numerous security shortcomings. As a result of the OPM-SANG bombing, the threat condition for American forces in Saudi Arabia was raised from THREATCON ALPHA—the second lowest threat condition—to THREATCON BRAVO, the next highest threat condition. Consistent with this increased threat situation, additional security measures were implemented at the Khobar Towers facility in Khahran. (An explanation of the various Threat Conditions is attached as Appendix C.) Security officials held weekly meetings to discuss and review security procedures, and also conveyed bi-monthly security forums with participation of British and French coalition forces.

Incidents at Khobar Towers

Since November 1995, security forces at Khobar Towers recorded numerous suspicious incidents that could have reflected preparations for a terrorist attack against the complex. Much of the suspicious activity was recorded along the north perimeter of Khobar Towers, which bordered on that portion of the complex used to house Americans. Several incidents involving individuals looking through binoculars at the complex were reported. On one occasion, an individual drove his car into one of the concrete Jersey barriers along the perimeter, moving it slightly, and then drove away. This may have been an effort to determine whether the perimeter could be breached. Other incidents reflected the heightened state of security awareness. For example, a suspicious package, which turned out to be non-threatening, was noticed on May 9, 1996, in the elevator of Building 129 and led to the building's evacuation. (As Colonel Boyle, the 4044th's Support Group commander noted, buildings were evacuated no less than ten times since the November OPM-SANG bombing.)

While a number of incidents could have reflected preparations for an attack on Khobar Towers, there was no specific intelligence to link any of them to a direct threat to the complex. Again, this peculiar position of U.S. forces in Saudi Arabia complicated the ability of security officials and intelligence analysts to reach definitive conclusions. Security officials at Khobar Towers remain unsure whether surveillance by outsiders was anything more than an attempt by local Saudis to observe the culturally different Americans in Western attire. In one incident involving shots fired outside the compound, it was determined that teenage boys were firing a new rifle and no threat to the compound was intended. Nevertheless, the number of reported incidents and the heightened state of alert after the OPM-SANG bombing led security officials and wing leaders to reassess the security situation within the complex.

Security enhancements implemented in spring 1996

In response to these local incidents and following the November 1995 OPM-SANG bombing, Brigadier General Terryl Schwalier, commander of the 4404th Fighter Wing (Provisional) initiated a number of security enhancements that included the placement of additional concrete Jersey barriers around the Khobar Towers perimeter, staggered barriers, or "serpentines," along the main entrance to the complex; and the posting of guards on rooftops. Additionally, bomb dogs were employed, Air Force and Saudi security patrols were enhanced, the entry gage to the compound was fortified, and access was restricted. In March 1996, General Schwalier met with Lieutenant Colonel James Traister, the wing's new Security Police Squadron commander, to discuss measures to prevent penetration of the compound. Although the two officers discussed a range of security threats, security efforts focused on preventing a penetration of the complex itself, and in particular, the threat of a car bomb.

In March, Lieutenant Colonel Traister conducted an additional, personal assessment of the compound's vulnerabilities to terrorist action. He subsequently presented his recommendations to General Schwalier, who accepted all of them. In April, Colonel Boyle and Lieutenant Colonel Traister initiated a series of additional counterterrorism measures. These included posting additional guards on the roofs, laying seven miles of concertina wire along the compound perimeter, and trimming vegetation on the compound side of the perimeter fence. Security forces increased their patrols, working 12–14 hour shifts 6 days a week. Staff Sergeant Guerrero noted that security patrols were losing every third break because they were helping to fortify the perimeter. Overall, numerous additional security enhancements were implemented beginning in April. Among the most visible were substantial guard pillboxes built from sandbags mounting machine guns to protect the main entrance. Lieutenant Colonel Traister also initiated monthly security group meetings with representatives of the other coalition forces in Khobar Towers. Several security police said they originally believed Lieutenant Colonel Traister was "crazy" because of his obsession with security enhancements at the compound.

Expansion of the security perimeter

Colonel Boyle dealt directly with his Saudi security counterparts regarding the issue of the compound perimeter, which was located less than 100 feet from several housing units along the north end of the compound. On two occasions—in November 1995 and March 1996—Colonel Boyle said he asked Saudi security forces for permission to extend the perimeter. The Saudi security forces responded that doing so would interfere with access to a public parking lot that was adjacent to public park and mosque, stating that the property was owned by Saudi government ministries and that they did not have the authority to approve such a move on their own. While never flatly refusing to extend the perimeter, the Saudis continued to assert that the existing perimeter was sufficient against the baseline threat of a car bomb similar to the Riyadh OPM-SANG bombing, and they did not act to accommodate the U.S. request. Instead, they offered to increase Saudi security patrols both inside and outside the compound, and to run checks of license plates in response to American concern over suspicious vehicles.

Neither Colonel Boyle nor General Schwalier said they considered the issue of perimeter extension to be of sufficient urgency to necessitate the intervention of higher authorities. This belief was based upon at least two factors, they said. First, they did not consider the Saudi reluctance to act on the U.S. request as unusual, given the generally slow pace of Saudi society and previous experiences in achieving expeditious Saudi action. As a result of the perceived need not to offend their Saudi hosts by demanding quick resolution of problems to American satisfaction, the perimeter extension issue remained open. Second, both were consumed by the need to quickly implement the required security improvements within the compound, as well as by their numerous other duties. Both General Schwalier and Colonel Boyle said that their priorities were to accomplish what was needed within Khobar Towers first before turning to additional enhancements that would require long-term negotiation and did not necessarily promise the desired outcome.

Thus, General Schwalier, Colonel Boyle, and Lieutenant Colonel Traister continued to work through the checklist of other measures that could be implemented without the prior approval of the Saudis and that would mitigate some of the vulnerabilities presented by the perimeter fence problem. The aforementioned OSI vulnerability assessment conducted in January 1996 recommended 39 specific security enhancements to the compound. However, extension of the perimeter was not identified as a recommended security fix by either the July 1995 or the January 1996 vulnerability assessment and was, therefore, not pursued with great urgency or elevated up the chain of command for higher-level intervention.

Assessment of actions taken and not taken

After the November 1995 Riyadh bombing, security became a major focus of activity within the 440th Fighter Wing, with more than 130 specific actions taken in response to the vulnerability assessments that were conducted in July 1995 and January 1996. Given command priorities, actions that could be accomplished unilaterally were taken relatively quickly—actions such as trimming the hedges on the U.S. side of the perimeter fence to increase visibility along the compound perimeter. Other actions requiring greater funding were considered as part of a five-year plan for security improvements. This included placing Mylar coating on all windows to reduce the impact of a bomb blast by limiting the shattering and fragmentation of glass windows and doors. In retrospect, had Mylar been available at the time of the blast, it is possible that some casualties might have been avoided. Even had the bomb been within the parameters of the device used in the November 1995 OPM-SANG attack, untreated windows and sliding glass doors in the Khobar Towers apartments still would have been vulnerable to the blast effects. Likewise, the heavier "blackout" curtains that had already been approved for acquisition but not yet installed would likely have lessened casualties resulting from shattered glass.

General Schwalier said he did not consider a relocation of troops from the more exposed locations within the vulnerable buildings to interior quarters further away from the perimeter. While in retrospect such a relocation might have saved lives, prior to the blast relocation was not considered a priority due to the threat perception that discounted the prospect of a bomb the size of the one that ultimately exploded outside Building 131. Relocation also would have resulted in disruptions to the operations—residents were housed by military unit in order to maintain some cohesion and some apartments were used as offices—and a decrease in the quality of life for personnel having to "double-up" in living quarters. Given the small size of the American sector of the Khobar Towers complex, consolidating personnel to a degree that would have produced substantial security improvements—such as vacating the entire outer ring of apartment buildings exposed to the perimeter—would have involved measures not perceived as warranted by the threat situation.

Overall, theater military commanders exercised an aggressive and proactive approach to security in the wake of the OPM-SANG bombing in November 1995. Indeed, some residents of Khobar Towers believe it is possible that the bombers struck when they did because they saw a window of opportunity closing. Lieutenant Colonel Traister's security enhancements following the OPM-SANG bombing were visible and extensive—they would not have gone unnoticed by anyone planning to attack the compound.

General Schwalier and other leaders in the 4404th Fighter Wing clearly did not press the Saudis for timely action to resolve specific U.S. security concerns. While the issue of Saudi cultural and political sensibilities is treated more fully below, the decision not to elevate these concerns to a higher level of decision-making must be seen in the context of the overall environment in which U.S. forces found themselves. Wing leaders were impressed by their superiors and in turn impressed upon their troops the need for a cooperative relationship with Saudi officials and Saudi society in general. The command is imbused with a desire not to unnecessarily offend Saudi cultural or political norms.

HOST COUNTRY SENSIBILITIES

As with any U.S. military deployment abroad, there is a need to strike an appropriate balance between the military requirement for force protection and the political and diplomatic requirements to understand and work within the cultural norms of the host country. Under the best of circumstances in Saudi Arabia, this is not an easy balancing act, although in some cases, security needs of U.S. forces are consistent with Saudi preferences. For example, the recent agreement to relocate U.S. forces to a more remote location at Al Khari initially stemmed from a suggestion made by the Saudis.

At Khobar Towers, residents commented about their Saudi hosts and the challenges of working through issues with them. The Saudi approach to resolving issues is informal, indirect and seeks measured consensus rather than quick, clear decisions. As a result, to Americans the Saudi decision-making process seems to lack a sense of urgency. Moreover, many of those interviewed expressed frustration at the seeming lack of Saudi attention to important security details prior to June 25. A common element in the comments was that the Saudis did not take security as seriously as the Americans.

The very presence of American forces in the Kingdom is considered by some Saudis to be sacrilegious and an affront to Islam. Additionally, the strong U.S.-Saudi military relationship has increasingly been exploited by political dissidents in Saudi Arabia, under the ostensible guise of religious observance but often for different reasons. Consequently, the ruling family has sought to keep the American presence as segregated as possible from Saudi society. A visible display of U.S. "decadence"—particularly women with exposed skin or driving vehicles—is an affront to traditional Saudis, and therefore a political problem for the ruling family. In such an environment, it is difficult to ensure that U.S. military personnel are treated fairly and can do their jobs effectively, without insulting the sensibilities or culture of their hosts, and possibly risking the internal political consensus that sanctions U.S. troop deployments.

These cultural differences can have serious security implications. For example, in the late spring of 1996 U.S. forces requested that the Saudis trim back the vegetation that was growing up along the fence around the perimeter of the Khobar Towers complex. The Saudis refused to do so for cultural reasons. The overriding U.S. concern was security—Americans guards needed an unobstructed view of activity along the outside perimeter of the complex. However, the Saudis desired to keep American activity out of view of the average Saudi citizen. In this case, the Americans trimmed the vegetation on the compound side of the perimeter fence and employed security forces on top of selected building to enhance observation. The Saudis did not trim the vegetation on their side.

Many of the vulnerabilities that were identified by the OSI January 1996 vulnerability assessment required corrective action that could only be taken with the support of the Saudis. For example, stepping up identification checks outside the compound, trimming vegetation outside the perimeter, and running license plate checks on suspicious vehicles required the active cooperation and participation of Saudi security authorities. Some of these measures were accomplished, some were not, and some, such as license plate checks, were only accomplished intermittently.

From the standpoint of domestic politics the Saudis wish to ensure that the American military presence is perceived as temporary rather than permanent. For example, there is no formal "status of forces" agreement between the Americans and the Saudis, as is the case in many other nations where American troops are forward deployed, that comprehensively defines the rights and responsibilities of U.S. forces and the host nation. Rather, the U.S. presense in Saudi Arabia is delineated by a series of "stationing" agreements covering individual deployments and extending back to 1953. This complex series of arrangements requires certain adjustments in the operational activities of the deployed forces. For example, extraordinary care is taken to ensure that the flight operations of Southern Watch and crafted to minimize the effects on Saudi society, to the point of changing course to avoid flying over Saudi princes' palaces. These arrangements also complicate the force protection mission. For example, the relationship between U.S. security police and their Saudi counterparts has remained intentionally informal and ad hoc.

The political and cultural sensitivities of the Saudis are impressed upon U.S. forces from the day they arrive for duty. For instance, in his "Commander's Inbriefing," presented to all newly arriving troops, General Schwalier outlined the standards of the 4404th Wing. "General Order Number One" was presented as "respecting our hosts.

THE ROLE OF INTELLIGENCE

One of the primary factors contributing to the loss of American life from the bombing at Khobar Towers was the lack of specific intelligence regarding the capabilities of the terrorists who carried out the June 25 attack. Therefore, significant questions have been raised concerning the adequacy of intelligence collection, analysis and the ability to recognize the limits of the intelligence upon which the 4404th Fighter Wing planned its security measures.

The threat baseline

Prior to the Riyadh bombing of October 1995, U.S. threat analyses considered the likelihood of a terrorist incident against Americans in Saudi Arabia very low. In the words of Major General Kurt Anderson, commander of Joint Task Force-Southwest Asia (JTF–SWA), the threat was portrayed as coming from an isolated terrorist incident, "not by large, organized groups." It was also based on what intelligence analysts considered to be a "demonstrated capability." This analysis formed the threat "baseline" that was used in the July 1995 OSI vulnerability assessment.

According to General Anderson, the Riyadh bombing "changed the rules of the game." The threat analysis conducted after OPM–SANG incident concluded that there was a much higher likelihood of terrorism targeted at U.S. forces. The size of the Riyadh device—approximately 250 pounds of explosives—also was a surprise. However, the analysis conducted after the OPM–SANG bombing did not allow that terrorist groups were capable of building a device larger than the Riyadh car bomb.

The Riyadh attack put everyone within the theater on high alert, and the frequency of terrorist incidents within the region seemed to increase. A number of these involved small bombs set off in Bahrain that apparently were related to internal problems there and not to the situation in Saudi Arabia. Increased security awareness at Khobar Towers also revealed what looked like a pattern of surveillance of the facility. In November 1995, and in January, March and April 1996, Air Force security police reported a number of incidents, including Saudis taking photographs and circling the parking lot adjacent to the north perimeter, but they were uncertain about their linkage. Also in the spring, a car bumped and moved the Jersey barriers at the Khobar Towers perimeter, which security police interpreted as a possible test of the perimeter's strength.

In retrospect, other incidents also were suggestive. In January, the U.S. Embassy in Riyadh issued a public advisory noting that it had received "disturbing reports that additional attacks may be planned against institutions identified with the United States and its interests in Saudi Arabia." In March there was an unconfirmed intelligence report that a large quantity of explosives was to be smuggled into Saudi Arabia during the Hajj, the pilgrimage to Mecca which draws huge numbers of Muslims to the Kingdom every year. Also, on March 29, a car was seized at the Saudi-Jordanian border with 85 pounds of explosives. Perhaps more significant than the amount of explosives was the fact that they were very expertly concealed within the car's engine compartment. Throughout the spring a number of other reports involving bomb materials were received by U.S. intelligence. Finally, in May, when the Saudis convicted the four men for the Riyadh bombing and sentenced them to death, the U.S. Embassy released another advisory reporting threats of "retaliation against Americans in Saudi Arabia" if the men were executed.

To General Anderson, these incidents did not represent a "road map" leading from the OPM–SANG bombing in Riyadh to the Khobar Towers bombing. However, taken together with other information available to U.S. intelligence and suggesting the possibility of more sophisticated terrorist capabilities, the pattern of incidents suggests there may have been substantial shortcomings in the U.S. ability to process accurately intelligence regarding the terrorist threat to U.S. forces inside Saudi Arabia.

Intelligence collection

While the precise extent of U.S. intelligence gathering operations inside Saudi Arabia cannot be discussed within the context of an unclassified report, commanders in the theater said they lacked adequate insight into internal Saudi society or the terrorist threat and prized highly the few independent intelligence sources they possessed. Further, given the increasing sophistication of the devices and the operations employed by terrorist groups operating in Saudi Arabia, which suggested to intelligence experts that those responsible for the bombings were most likely part of larger, well-connected organizations, the difficulties facing intelligence collection against terrorist organizations in the region generally and in Saudi Arabia specifically are likely to be enduring.

A substantial degree of the intelligence available to the United States on Saudi Arabia comes from the Saudis themselves. However, on politically sensitive topics—such as the level of activity of Saudi dissidents—there is reason to doubt the comprehensiveness of intelligence that is passed to Americans by the Saudis. To American experts, there appears to be no tradition of "pure intelligence"—intelligence free from political influence—in Saudi Arabia. Moreover, the Saudi style of decentralized and diffused bureaucratic power is a complicating factor. It is a common belief among U.S. intelligence and military officials and that information shared by the Saudis is often shaped to serve the ends of competing Saudi bureaucracies—interior and defense ministries, for example—from which it originates.

American intelligence collection efforts regarding terrorist or dissident activities in Saudi Arabia must also obviously compete with other intelligence needs. Given the operational mission of the Air Force in Saudi Arabia, the principal focus of intelligence activity remains the Iraqi threat to U.S. and allied aircraft contributing to Operation Southern Watch. In addition, there have been ample reasons to operate discreetly in the Kingdom and to avoid the risks that would be associated with intelligence activities, particularly human intelligence activities. The Saudis are among our closest allies in the Middle East and the monarchy has been seen as generally stable in a tumultuous region. Developing the kind of human intelligence sources most useful to protecting U.S. forces against terrorist threats would require a long-term and possibly high-risk commitment.

Intelligence analysis

The problems of intelligence collection relative to the terrorist threat against Americans in Saudi Arabia have been accompanied by problems of analysis. While the issue of intelligence analysis requires further investigation, several observations are in order.

Based upon a review of available intelligence information, it is questionable whether the U.S. intelligence community provided theater commanders with sufficient intelligence. At the very least, formal intelligence analyses of the terrorist threat to U.S. forces in Saudi Arabia failed to project an increasing bomb-making capability on the part of terrorist groups. Prior to the Riyadh bombing, there were no incidents involving a bomb of that size (250 pounds) in

Saudi Arabia, therefore the intelligence threat analysis concluded that there was not likely to be such a device. Likewise, while the threat level was raised to a 250-pound car bomb after the Riyadh bombing, it was not raised beyond. It appears that threat assessments were more reactive than predictive. While neither military nor civilian intelligence agencies had voluminous detailed intelligence on which to base their projections, officials interviewed said the expertise required to build a larger truck bomb is not substantially beyond that required to build a smaller car bomb such as was used in the November 1995 Riyadh bombing. While intelligence reports received subsequent to the Riyadh bombing were not conclusive, they should have forced analysts to at least reconsider their analyses, although the extent of the appropriate "hedge" factor is difficult to quantify.

For the U.S. intelligence community and the military, focusing on the Iraqi threat—a tactical necessity and familiar focus—apparently has been coupled with a certain complacency about developments within Saudi Arabia, and perhaps in other Gulf states as well. The result has been to leave commanders in the theater lacking a good understanding of particular terrorist capabilities and threats against U.S. forces. General Anderson said the Kingdom was "considered very benign" with respect to the terrorist threat to U.S. forces in the region, a belief that was open to question even prior to the June 25 bombing. Certainly, events proved General Anderson to be operating under a misapprehension. Saudi Arabia is located in a violent quarter of the world, where anti-American sentiments are strong and where Americans have been frequent targets of terrorism. The Saudi monarchy has made many enemies in the region. Within Saudi Arabia itself, more than 630 people were killed in a series of violent episodes in the city of Mecca between 1979 and 1989. Press reports and scholarly articles about dissidents within the Kingdom have been frequent in recent years.

General Anderson said that he has requested that USCENTCOM assign a counterterrorist intelligence analyst to his staff to fill what he perceived as an unfilled requirement. He said the analyst would have two duties: to give him a better understanding of developments inside Saudi Arabia and to give him a "sanity check" on U.S. intelligence products. The lack of in-house intelligence analysis capability likely contributed to an unquestioning acceptance by the command of formal threat assessments provided by the intelligence community.

Recognizing the limits of intelligence

Intelligence support to U.S. forces conducting Operation Southern Watch did not do an adequate job of understanding and accommodating its own shortcomings. Despite collection and analysis problems, few if any in the intelligence or operational chain of command seem to have adopted a skeptical attitude concerning the limits of intelligence assessments of the potential threat to U.S. military forces in Saudi Arabia. The command could not know what it did not know, there was no recognition of limits.

One area requiring further investigation is how the limitations inherent with available threat intelligence were explicitly recognized and presented to the operational consumers as intelligence products worked their way into the theater. For example, one senior U.S. intelligence official interviewed said he would never have been so specific in quantifying terrorist bomb-building capabilities. Yet security officials at Khobar Towers considered a 250-pound bomb, one roughly the size of the OPM–SANG bombing, to be a fixed threat baseline. Based upon staff interviews, it is evident that intelligence assessments that began as broad ranges of possible terrorist threats evolved and were viewed by those responsible for security at Khobar Towers as firm conclusions.

As a result, officers such as General Schwalier or his security subordinates did not have the appropriate understanding and incentive to hedge against a degree of uncertainty in the projected threat. While neither General Schwalier nor his subordinates asserted that this hedging would have made a decisive difference in the measures taken within the time available prior to the bombing, they did say it might have made a difference in the urgency associated with U.S. discussions with the Saudis regarding security. Acknowledgment of the limited nature of intelligence analysis of the terrorist threat against U.S. forces in Saudi Arabia might well have increased the urgency with which recommendations to push out the Khobar Towers perimeter fence into adjacent civilian areas were pursued with the Saudis, or even the decision to move out U.S. forces of Khobar Towers altogether.

CONTINUITY OF COMMAND IN THE 4404TH FIGHTER WING

Intelligence problems were exacerbated by a number of organizational and operational factors which limited the ability of JTF–SWA and its subordinate commands to respond to new security challenges. While none were sufficient to singularly account for the June 25 bombing, there were pervasive deficiencies that in the aggregate resulted in a serious problem. In the race to respond to the increased threat following the Riyadh bombing, the 4404th Fighter Wing was handicapped by these shortcomings.

Organizational handicaps

The 4404th Fighter Wing (Provisional) is a unit facing constant organizational turbulence. Average tour length is 90 days. According to General Schwalier, the command averages between 200 and 300 new personnel every week, or about 10 percent of its total manpower. To keep up with the turnover, General Schwalier conducts an orientation briefing for incoming personnel each week.

This level of personnel turbulence affects the wing leadership as well as the flight line. Prior to General Schwalier's appointment one year ago, the wing commanders also had short tours. As the thirteenth commander of the 4404th Fighter wing in four years, General Schwalier is the first to serve a one-year tour. This concern was raised by General Schwalier's predecessor in his end-of-tour report. That report was provided to General Schwalier, who requested approval of the extension of tour lengths for nine senior members of the wing staff. Since the June 25 bombing, General Schwalier had recommended that another nine positions be approved for extended tours.

In addition, according to General Schwalier, the structure of command is "a bare bones operation." When the wing was designed at the start of Operation Southern Watch, it was intended only to carry out a temporary mission until Iraq complied with UN resolutions and sanctions were lifted. Four years later, and despite the continuing augmentation of the unit following Operation Vigilant Warrior in 1994, the mission is still formally a temporary one. The result is that the command lacks many of the support staff and other resources typical in a permanent wing structure. The wing's skeletal structure oversees the operation of a wide variety of aircraft, including F–15s, several types of F–16s, A–10s, EF–111s, several types of C–130s, a C21, AWACS planes, KC–10s and KC–135s, U–2 spy aircraft, search and rescue helicopters, and has forward air controllers riding in Army helicopters.

The wing is also widely dispersed geographically. Although the contingent in Dhahran and housed at Khobar Towers is the largest, at a total authorized strength of 2,525, other substantial contingents operate out of Riyadh (1,221), Kuwait (799, in four locations), and other facilities within Saudi Arabia (441, in four locations). General Schwalier admitted that he spent "much time on the road" visiting these "remote sites," attempting to build teamwork among elements of the command and provide the requisite command supervision.

The necessity for unit cohesion is important for a variety of reasons. Beyond the constant rotations and dispersed basing, the conduct of no-fly zone missions is an ongoing problem for the Air Force as well as the other services. The missions, despite the fact that they are conducted in "harm's way," are widely considered by those who fly them to be deleterious to pilot training and skills, and a monotonous routine. No-fly zone duty also is a personal hardship requiring frequent family separations, not merely for pilots but for maintenance and other personnel. Yet many in the wing had served a number of rotations on no-fly-zone duty and the resulting need to retrain for basic combat missions imposed a six- to nine-month burden on pilots and units.

The impact of short tours

The overall result of short tours, a widely dispersed command, and personnel turbulence is a command that lacks much if any continuity or cohesion. While the professionalism of individual members of the commend was apparent, the lack of continuity among senior leaders was widely recognized by those interviewed as a shortcoming. General Schwalier remarked that it was a "consuming" leadership challenge—a viewpoint that was echoed at every echelon of the command.

General Schwalier identified three primary problems that stemmed from the lack of continuity. The first was an inability to build a better relationship with the Saudis. According to General Schwalier, "You can't build that in two weeks." For example, a common assessment within the wing leadership is that, although security assistance on the part of the Saudis had been improving prior to the June 25 bombing, accomplishing more difficult tasks such as expanding the Khobar Towers security perimeter would take months. The estimate of Colonel James Ward, commander of the Army-run logistics operation designed to accommodate any surge of forces into the theater, was that such a project would require four to six months. Thus, when the initial negotiations about such measures ran into Saudi resistance, General Schwalier's assessment was that these were "still a possibility" that he might be able to "get to," but improving security within the compound was a more immediate concern.

A second problem was the difficulty of building organizational and command stability within the wing. In particular, implementing the recommendations of the periodic, six-month vulnerability assessments conducted for the wing appear to have fallen victim to this sort of organizational and command instability. For example, the vulnerability assessment returned from OSI to the wing in September 1995 had been completed the preceding July. Thus, "by the time the assessment appeared, the people (who had requested it) were gone," said General Schwalier. When he discovered the three-month lag, General Schwalier demanded that future vulnerability assessments be completed and returned to the command in a more timely fashion.

Colonel Boyle, the departing wing Support Group commander who had overall responsibility for security measures, said one of his biggest challenges was training his organization to the specific requirements of the mission before personnel rotated to other assignments. "You never got beyond the elementary" level, he said. For example, guards manning observation posts or other positions often worked only in single locations or a small number of locations. Short tours and the demands of the mission prevented them from acquiring a broader understanding of the security operation or even manning a substantial variety of posts.

The third problem stemmed from the other effects of working within a 90-day rotation cycle. While the basic building blocks of the wing—the fighter and other squadrons that conducted the flying missions—might be kept relatively intact, arriving and departing as a whole, higher echelon, wing-level support activities were primarily conducted by ad hoc organizations, with personnel arriving and departing individually. Even senior leaders often would have no more than 24 to 36 hours of overlap with their predecessors.

Difficulties of developing institutional knowledge on security matters

The lack of unit and leadership continuity made building and retaining institutional knowledge difficult. After-action reports or other similar documents were not immediately available to all incoming commanders; apparently were not centrally collected, controlled, or disseminated by the wing, the Air Force, or USCENTCOM; and may not even have been required. Available reports did not routinely include "status-action" assessments high-lighting problems to be addressed. Nor typically were there pre-rotation familiarization tours for incoming commanders, staff or senior enlisted personnel within the wing. These particular concerns were focused on the support functions of the wing.

The experience of Lieutenant Colonel Traister, the commander of the wing's security squadron at the time of the bombing, is indicative of the challenges senior leaders faced as a result of the lack of continuity. By all accounts, including those of his subordinates, Lieutenant Colonel Traister has been a superb commander, but he was confronted with many problems resulting from organizational instability.

Lieutenant Colonel Traister benefited from the fact that his previous position was as part of the CENTAF staff. By virtue of this position, he was able to determine who had been his predecessors as commanders of the 4404th security squadron, read their after-action reports (although he said the records were incomplete and did not contain "status-action" recommendations), and contact a number of them for personal interviews and recommendations. He also was able to determine who would be filling important positions that could affect his own work, such as who his OSI counterpart would be. By contacting his counterpart, Lieutenant Colonel Traister was able to establish the beginning of what he saw as an essential relationship between the two and the building of teamwork with the special investigator with whom he would work closely. However, prior to his arrival at Khobar Towers, he could get access to only the July 1995 vulnerability assessment, not the 1996 assessment done after the Riyadh bombing. Yet even that, he said, was a step that his predecessors typically had been unable to accomplish and was made possible because of his previous assignment responsibilities which permitted his access to the reports and appropriate personnel.

Accordingly, when he arrived at Khobar Towers and received from General Schwalier his security mission, Lieutenant Colonel Traister enjoyed advantages his predecessors has not and was more rapidly able to take measures to improve security. He said that he spent between two and three weeks evaluating the compound and the resources he had at his disposal, a process that he said "takes three to six months" under normal circumstances. At the same time, he recognized a human intelligence shortfall, and that he required "an analyzed (intelligence) product" that the skeletal wing staff, the JTF-SWA staff, or even USCENTCOM would not be able to give him. He also came to understand that the shortage of Arab linguists in the wing—the entire 4404th has just one—would be a continuing problem for the security squadron. Lieutenant Colonel Traister said that when he was stationed in Japan, where the threat level was lower, the security squadron had retained a linguist of its own and made arrangements to acquire others in times of crisis.

Institutional shortcomings

General Schwalier also faced a number of institutional shortcomings that affected the ability of the command to accomplish longer-term tasks. Although many of these have no direct bearing on security issues, several do. For example, the 4404th operated without an established mid- or long-term budgeting mechanism as is found in other wings. After three or four months in command, General Schwalier began to focus on the need to prepare a five-year budget plan. Despite the fact that the wing had been operating on a temporary mission basis since 1992, this was the first long-term budget plan for the wing. Its expenses had previously been paid out of contingency funds, which were accounted for in yearly, ad hoc procedures with funds reprogrammed from other Department of Defense programs. Under General Schwalier's plan, the first year's budget, covering all aspects of the wing's operations, totaled $27 million, with $3 million for construction. Though these construction funds allowed for some repair of the Khobar Towers facility, which had generally been neglected and was in need of repair, about one-third was intended for security improvements. The largest item was $700,000 for "black-out" curtains for every apartment and office. Lower in priority were funds for Mylar covering for the Khobar Towers windows to reduce the possibilities for fragmented glass in the event the windows were shattered. As General Schwalier's plan has not yet made its way through the annual Air Force budgeting program, it is unclear what the likelihood was that these recommended improvements—long-term investments for what then was considered a "temporary" mission—would have been realized.

A number of institutional problems at higher echelons of command also bear upon questions of security. The focus of operations and intelligence at JTF-SWA was primarily on conducting the Southern Watch no-fly-zone mission. According to Major General Anderson, the Joint Task Force commander, his intelligence staff was a relatively small, 65-person operation whose focus was on the Iraqi order of battle relevant to each day's air tasking order. General Anderson currently has one officer assigned to force protection issues, but estimates that he needs at least seven or eight personnel to deal with force protection issues, given the current threat level. He also said he lacks adequate intelligence analysis capability for the purposes of providing a "sanity check" on intelligence assessments provided by theater and national intelligence organizations, and an analyst is among the personnel he has requested. The need for this analytical capability, or at least access to it, was also expressed by others in the theater.

Also, General Anderson has been given the mission of "force protection czar" for the JTF-SWA area of operations, though his authority is only for the purposes of coordination rather than command, which is retained at USCENTCOM. General Anderson did not receive this force protection coordination authority until April 12, nearly six months after the Riyadh bombing. According to Army Colonel Ward, for some time "no one (in Saudi Arabia) was in charge of force protection after (the) OPM-SANG (bombing)." And several elements of General Anderson's authority as force protection czar took lower echelons by surprise in that USCENTCOM changed or contradicted recommendations worked out previously.

Contrasting service approaches to command continuity

It is unclear precisely what the proper tour lengths or level of organizational or financial commitment to the mission of the 4404th Fighter Wing should be, but it is clear that the nature of the mission resulted in some organizational requirements going unmet. While matching military forces to missions is more an art than a science, comparing the Air Force's execution of its mission in Saudi Arabia with that of other services provides a useful benchmark. For example, the Army units under Colonel Ward's command have a much higher percentage of long-service positions; roughly 10 percent of the 900 soldiers under his command serve at least a one year tour. When senior commanders and their staff rotate to the theater, they typically undertake two extended familiarization tours, with the first of these tours coming several months prior to deployment. While many of these positions are associated with the longer-term logistics effort for which there is no exact Air Force parallel, others, particularly the Patriot missile units, are more analogous to the no-fly zone mission. The Patriot units—which are deployed with a higher-than-normal manpower level—serve a 120-day tour, and the senior leaders and staff all have at least one substantial familiarization tour prior to deployment. Also, each unit has ready access to the after-action reports of predecessor units. In part because of its logistics mission, the Army has had a traditional long-term budget process in place for its units serving in Saudi Arabia for some time; Colonel Ward's next budget includes $7 million for military construction including a "couple of million" for security. Finally, his staff includes two interpreters and his organization includes a counter-intelligence team with an Arab linguist.

While the reasons for shorter tours have a degree of validity in terms of lessening the strains of repeated no-fly-zone tours, family separations, and loss of warfighting skills, at a minimum senior positions within the wing demand a greater degree of continuity than has been the case in past. The fact that General Schwalier was the lone long-term member of the wing—and that, in four years of operation, he was the first commander to serve more than a very short tour—is indicative of the reluctance and unwillingness of political and military leaders to admit that the mission was more than temporary and to bestow upon it the full complement of resources, manpower, and capabilities.

The "contingency" nature of Operation Southern Watch

Confronting the fact that Operation Southern Watch is in fact a long-term commitment and not a temporary contingency missions poses a domestic political problem for the Saudis and Americans, and an institutional problem for the Air Force. The Saudis must face the fact that a continued U.S. military presence will be necessary to maintain stability in the region—an admission that raises sensitive domestic political concerns for the Saudi ruling family. The United States must similarly understand the nature of its commitment and aggressively confront the risks such a mission entails, including the continuing threat of terrorism. For the U.S. Air Force, such an admission would call into question the policy of constant personnel rotation, at least at the wing leadership level.

Any belief that Iraq would quickly comply with the UN provisions that resulted in the Southern Watch mission has been misplaced, certainly since late 1994 when Iraqi forces moved south to threaten Kuwait and the United States responded with Operation Vigilant Warrior. And given the statements by U.S. policymakers in the wake of the Riyadh and Khobar Towers bombings about American determination to maintain forces in Saudi Arabia, the U.S. military presence in the Kingdom stands revealed for what it has always been: a long-term commitment to security and stability in the Gulf. The Saudis have also, in effect, made such an admission by agreeing to bear many of the costs of relocating the 4404th to Al Kharj, an airbase in a more remote location.

While the lack of leadership and organizational continuity within the 4404th has had wide-ranging effects, it also played a substantial role in problems confronting the wing's security personnel in its efforts to react to terrorist threats. Neither the wing or JTF-SWA level possessed the intelligence analysis capability to evaluate what proved to be seriously limited intelligence. There were no budgetary procedures or processes for making long-term investments in the Khobar Towers complex, even for security reasons. Only through the efforts of General Schwalier and his senior staff were improved security measures within the compound achieved following the November 1995 Riyadh bombing. Achieving greater security would have required expanding the perimeters of the Khobar Tower complex or, as is now planned, a move out of the facility altogether. These are measures whose quick consideration and implementation transcend the day-to-day influence of the 4404th or JTF-SWA, as the direct involvement of the office of the Secretary of Defense in the recent negotiations indicates.

IMMEDIATE POST-BOMBING REACTION

In the immediate aftermath of the June 25 bombing, the medical and other support systems and personnel of the 440th Fighter Wing appear to have reacted with a high degree of professionalism. Commanders and troops alike recounted stories of individual heroism. Major Steven Goff, a flight surgeon who was badly wounded in the attack, worked methodically in the compound's clinic to treat more than 200 of his compatriots who were seriously injured. Prior to receiving formal medical treatment, many of the wounded were initially treated by the "buddy care" system, which also appears to have worked as planned and insured that no one was left alone. After the bombing, according to those interviewed, guards rapidly but methodically went into every building and checked out every room to ensure that no one was trapped or unaccounted for.

The medical system also appears to have performed well, and was blessed with abundant resources. At the clinic, three Air Force physicians were assisted by an Army doctor and additional personnel from coalition forces, including the Saudis. Emergency supplies of blood and other necessary materials were sufficient to treat more than 250 people. Everyone who was brought to the clinic for medical treatment, regardless of the severity of their injuries, lived; the only fatalities on the evening of June 25 were 16 airmen in Building 131 who likely died instantly from the initial explosion, a communications specialist in Building 133 who was killed when the glass door to his balcony shattered from the force of the blast, and two other fatalities in Building 131 who might have survived had they been nearer to the medical facility.

Since the bombing security at the Khobar Towers complex has been increased significantly. An additional 44 security personnel have deployed to Khobar Towers, and 44 more were requested by Lieutenant Colonel Traister and are expected to be deployed in the near future. The perimeter has been extended beyond the public parking lot on the north end of the compound, an additional 1,000 barriers have been erected, and the number of observation posts has been increased. Saudi security patrols have been increased outside the perimeter and agreement with the Saudis to move to a more secure and remote site has been reached. According to statements by Defense Secretary Perry, the relocation will be conducted as quickly as possible.

OBSERVATIONS

The unpreparedness of U.S. forces stationed in Saudi Arabia for the magnitude of the terrorist bomb in Dhahran raises significant questions about the adequacy of intelligence support. While intelligence information was provided, it was not of either the quality nor the quantity necessary to alert commanders to the magnitude of the terrorist threat they faced. The lack of on-the-ground intelligence collection and analysis capabilities deserves priority attention and argues for a greater commitment of resources.

Greater counter-terrorism intelligence analysis effort is needed by U.S. forces stationed in Saudi Arabia. The intelligence staff working for the JTF-SWA commander is small, focused on the Operation Southern Watch mission and lacks adequate resources to function as an independent "sanity check" on the quality of intelligence received from USCENTCOM or national intelligence agencies. The JTF commander requires this analysis capability to function in his capacity as the local "force protection czar." Likewise, tactical fighter wings and other significant elements of the JTF should have the capability for timely access to this independent, in-theater analysis.

The uncertainties inherent in intelligence efforts against terrorist groups and in friendly but closed societies such as in Saudi Arabia needs to be adequately conveyed to military commanders so they can assess intelligence information in the proper context and retain an ability for independent judgments about the threat they face. Commanders need to better understand the limits of intelligence they receive and be cognizant of a range of threats rather than fixate on a "baseline" or overly specific threat assessment.

Three-month troop rotations place unnecessary and counterproductive strains on unit leaders and staffs. It is difficult to establish leadership and unit continuity in contingency operations, let alone to address issues where it is essential to build relationships of trust with host nations. Newly-deployed commanders, security chiefs, and other force protection specialists should not have to relearn the same lessons learned by their predecessors and work to establish the same kinds of productive relationships with their Saudi counterparts. While short tours may make sense for those on the flight line, senior leaders, staff and key personnel should be deployed for sufficient period to develop the expertise and experience necessary to ensure the safety of their commands.

Short rotations reflected the pretense of a "temporary" mission. Despite the fact that Operation Southern Watch had been ongoing since 1992 and the probability of Iraqi compliance with UN resolutions was low, Saudi and American leaders and the U.S. Air Force planned and operated based on the presumption that Operation Southern Watch was only a temporary mission. An appropriate and earlier recognition by the civilian and military leadership (a recognition certainly warranted by Operation Vigilant Warrier in 1994) that the mission, for all practical purposes, was a "permanent" one might have resulted in a higher degree of leadership and unit continuity and minimized a number of organizational and operational shortcomings. The Department of Defense needs to review other ongoing operations to ensure that U.S. force protection needs and U.S. security interests are not being compromised by the limitations inherent in running quasi-permanent operations under the politically-acceptable rubric of "temporary" contingencies.

APPENDIX A

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, July 5, 1996.

Hon. WILLIAM J. PERRY,
Secretary of Defense,
Washington, DC.

DEAR MR. SECRETARY: Media reports concerning the bombing of the al-Khobar Towers in Dhahran, Saudi Arabia, purport to disclose very detailed information pertinent to the ongoing criminal investigation. Some of the reports appear to be based on either public statements or leaks by U.S. Government employees.

The investigation of a terrorist act directed at the United States overseas is, by its nature, very difficult to conduct. Public disclosures of details pertinent to the investigation compound the difficulty and may compromise the prospects for the eventual success of the investigative effort. In the event of a U.S. prosecution, such disclosures present significant litigation problems.

While the public interest in this investigation is understandable, it is imperative that all federal employees refrain from unauthorized public disclosures of information pertinent to the investigation. Disclosures concerning the events leading up to the bombing—including any prior warnings or surveillance of the U.S. facility—as well as the details of the bombing and the results of the investigation should be limited to those made through authorized agency channels. Authorized disclosures should be coordinated with this Department prior to their release by contacting the Department's Terrorism and Violent Crime Section at 202-514-0849.

The al-Khobar bombing investigation involves the dedicated and professional efforts of a large number of federal personnel. It is imperative that the professionalism of this effort not be compromised by unauthorized disclosures.

Sincerely,

JANET RENO.

APPENDIX B

LIST OF INDIVIDUALS INTERVIEWED BY THE DELEGATION

Major General Kurt B. Anderson, JTF/SWA/CC; Brigidier General Terryl J. Schwalier, 4404WG(P)/CC; Brigidier General Daniel M. Dick, BG Schwalier's Replacement; Colonel James R. Ward, ARCENT; Colonel Gary S. Boyle, 4404 Spt Gp/CC; Lieutenant Colonel James J. Traister, 4404 SPS/CC; Chief Master Sargeant Jimmy D. Allen, 4404 SPS/CCE; Richard M. Reddecliff, Office of Special Investigations; Staff Sargeant Alfredo R. Guerrero, Security Patrol; Senior Airman Corey P. Grice, Security Patrol; Airman First Class Christopher T. Wagar, Security Patrol; Staff Sargeant Douglas W. Tucker, Security Patrol; Lieutenant Colonel John E. Watkins, F-16 pilot; Major James D. Hedges, F-16 pilot; Captain Steven E. Clapp, F-16 pilot; Captain John P. Montgomery, F-16 pilot; Major Steven P. Goff, Flight Surgeon.

APPENDIX C

EXPLANATION OF TERRORIST THREAT CONDITIONS

THREATCON NORMAL—Applies when a general threat of possible terrorist activity exists, but warrants only a routine security posture.

THREATCON ALPHA—Applies when there is a general threat of possible terrorist activity against personnel and facilities, the nature and extent of which are unpredictable, and circumstances do not justify full implementation of THREATCON BRAVO measures. However, it may be necessary to implement certain measures from higher THREATCONs resulting from intelligence received or as a deterrent. The measures in this THREATCON must be capable of being maintained indefinitely.

THREATCON BRAVO—Applies when an increased and more predictable threat of terrorist activity exists. The measure in this THREATCON must be capable of being maintained for weeks without causing undue hardship, affecting operational capability, or aggravating relations with local authorities.

THREATCON CHARLIE—Applies when an incident occurs or intelligence is received indicating some form of terrorist action against personnel and facilities is imminent. Implementation of this measure for more than a short period probably creates hardship and affects the peacetime activities of the unit and its personnel.

THREATCON DELTA—Implementation applies in the immediate area where a terrorist attack has occurred or when intelligence has been received that terrorist action against a specific location or person is likely.

Source: Air Force Instruction 31-210, 1 July 1995.

Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. SCARBOROUGH] be permitted to control the remaining time on our side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. SCARBOROUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the chairman for his leadership on the committee, the ranking member for his leadership on the committee, and obviously the families of these brave young men that died over in Saudi Arabia, as well as those in the Eglin community in northwest Florida who saw 11 of the 19 of their bravest men not come back.

Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman for yielding time to me. I would commend the gentleman for the leadership role he has brought to bear in bringing this measure to the floor today, because I think it is of very notable importance.

Mr. Speaker, let me say it is entirely appropriate that we should make note of the event that occurred in Dhahran in June of this year. It is, obviously, our intent to speak today to the families of the people who were involved in that very disastrous event, so it is appropriate and fitting that we make these remarks on behalf of the people who were involved and who died on that date.

I think it is also appropriate, Mr. Speaker, that we note that while we remember an event that occurred, and remember the families that were affected by it, it is also important for us to look ahead. It is important for us to understand this event in the context of the future, and what it could mean to servicemen and servicewomen, their families, and other civilians who travel outside the United States, and in some events that could even occur here at home.

Mr. Speaker, those who have the objective of disrupting the American presence around the world have found what many of us believe is a new way to accomplish that. In the past, when people wanted to use force to bring about change of one kind in one part of the world or another, they would use what we refer to today as conventional force.

Since World War II, or the middle of World War II, the United States has been the predominant nation or the predominant force in terms of conventional power and our success at conventional warfare. I think the many nations around the world have understood that today. They have understood that they need to find another way to bring about the changes that they seek. That was learned, I think, in the Middle East by a number of Middle Eastern nations during the history of the State of Israel, during the last 50 years or so, when war after war was won by the Israelis.

☐ 1530

Other people who wanted to disrupt Israeli society and perhaps drive Israel out of existence used a form of warfare today known as international terrorism. That international terrorism, of course, still goes on in the Middle East, and this event which occurred in June is evidence of that.

In 1991, we decided that we did not like an event that was occurring or about to occur in the Middle East. It happened to be the invasion by Saddam Hussein of our friendly associate, Kuwait. And so once again we demonstrated our capability to carry out a conventional act which educated in some respects some countries in the Middle East as to our ability to carry out a conventional defense of that country.

It is notable that since 1991, the acts of terror against American personnel, both military and civilian, overseas has increased. In 1995, there was a bombing in Riyadh where five American servicepeople lost their lives, and, of course, this bombing in Dharan is further evidence of the increase of terror against the United States, against Westerners, and against people who are considered to be, by them, unfriendly to certain countries in the Middle East. And so it is important for us to note several things about these events.

First, we have to note what they are not, or what we believe they are not. They are not just random acts acting out against the West. They are well planned, the perpetrators are well trained, they are well financed, and in some cases, in many cases perhaps—perhaps in most cases—we believe today they are sponsored by certain states in the Middle East.

Countries on the suspect list, of course, are Iran, Sudan, Syria, perhaps in some cases Iraq, some forces out of Turkey, not the Turkish Government necessarily but some forces in Turkey, some forces in Saudi Arabia, some forces in Egypt, and perhaps other countries, Libya in North Africa.

These are well-planned, well-carried-out events which are intended to accomplish a purpose. Usually that purpose is to drive out or disrupt the American presence in certain quarters of the world. I think it is important to understand these things in the context of the Dhahran bombing and for us to take note as an institution as to what it is the Americans face overseas.

Mr. SCARBOROUGH. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from New Jersey for his statement on terrorism and helping explain to us a little bit more of why what happened, happened.

My resolution today that I have placed before the House is meant to honor heroes that were obviously victims of this terror. If is a modest gesture to salute the 19 men who in life and who in death made their country proud and, in doing so, gave their country an example of service, dedication, and nobility for which all Americans should strive and which we should not forget.

It was only a matter of months ago, on June 25, that an act of terrorism was perpetrated against the men and women of our armed services in Saudi Arabia. Those men and women had been called by their country to a duty in a faraway place to help defend freedom in a land that has known very little of it.

It was not an easy task to take on. The place our men and women in uniform were defending is in many respects a forbidding place, a place of strange customs, of harsh climate, and sometimes unfriendly and unwelcoming people. Obviously, it was far removed from family, friends, and home that all of them knew.

Yet like the professionals that they are, they did their jobs, and in doing so, they were making sure that we all could enjoy the blessings of liberty. Then in one split second, the 19 brave young men were killed.

Among them were A1c Joshua Woody, who was known to his buddies simply as Woody and was the guy that everybody came to with their problems.

Then there was Capt. Christopher Adams. Captain Adams had barely escaped another fatal terrorist attack 3 years earlier and had told a relative of his that he was very fearful of being deployed in Saudi Arabia. Yet he never hesitated to go when duty called.

Mr. Speaker, Captain Adams was due to be married on October 19. His last words to his uncle, who is a minister, were, "When I come back from Saudi, I'll be sure to give you a call." Sadly, instead of officiating at Mr. Adams' wedding, his uncle presided over his funeral.

Then there was Joseph Rimkus, a brave young man whose aunt is with us today who has been fighting for the memory not only of her nephew but for the other 18 young men who were killed over in Saudi Arabia.

These 3 young men and the 16 others who died with them were in many respects ordinary men. However, these men were doing extraordinary things. They even in death give us a great example of courage, duty, honor, and nobility.

Mr. Speaker, I still remember vividly the television scenes of the military compound, of wounded men and women being removed from the wreckage, and later still I attended memorial services held at Eglin Air Force Base in my district, a base where 11 of these 19 young men came from. I remember the grieving widows and children.

I remember the terrible feeling I felt in the pit of my stomach when the wife of one of these men who died came up to me and said, "Please don't let my husband be forgotten." As she handed me a small picture, she said, "Please don't let my husband be forgotten."

As I have stated earlier, I know this is a modest gesture, I know this does not bring those 19 young men back, but it is all we can do today.

I also remember the young 10-year-old boy that had gone down to Panama City to live with his father. And when his father was deployed and did not come back, I remember going up to him that morning in the memorial service and talking to him. And he was talking about things that my 8-year-old boy talks about, the Atlanta Braves, about baseball, about what school was going to be like in the fall, and it had not really hit him at that time that his father was gone and that his father was not coming back and would not be able to go with him to a ball game, would not be able to share with him in a school play this year, would not be able to see him grow up, go to college, and do all the things that I pray to God that I will be able to do.

It was at that moment when I saw him break down at the memorial service that it hit me, I guess more than it has ever hit me before, exactly what type of sacrifice these men gave in Saudi Arabia when they gave their life. It is a terrible price that they had to pay, but it is a price that they were willing to pay.

It has been said that America is the last best hope of man on earth. Ronald Reagan talked about that shining city on a hill. But we see in the bombing both a blessing and the responsibility that such a role entails.

American men and women are serving in the uniform of their country, risking their lives in dangerous places all around the world to see to it that this hope, that this shining city on the hill, never dies. It is, quite literally, a sacred duty and a duty that, at the very least, is worthy of our recognition and our honor.

Mr. Speaker, that is what I wanted to do today in a small way with this resolution. To paraphrase Abraham Lincoln, the brave men who died in Saudi Arabia have consecrated that place far above our poor power to add or to detract. However, if we remember and honor their memories, I believe that we will be able to carry on in some small way the work for which they sacrificed their lives.

And may those who carry on take comfort in the thought that their 19 comrades are now safe in the arms of a loving God and that we have done what I promised that wife we would do, that we have remembered her husband and the other 18 who died tragically on June 25.

Mr. Speaker, in memory of those who have died and also those that go on serving in carrying out the duties of freedom, I ask that my colleagues support this resolution.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, I rise with my full heart in this resolution.

I had been over there to visit with these young men from this great 33d Fighter Wing down in northern Florida. One of their squadrons, the 58th, had accounted for more aerial victories in Desert Storm than any other. They had gotten all the early victories. Because the 1st Fighter Wing out of Virginia was to guard the oil fields, they went deep into Iraq and never lost an aircraft.

The corporate memory problem is what I wanted to address today. I can remember exactly where I was in Phoenix, AZ, when the bomb destroyed our barracks in Beirut; 220 marines, 17 Army, and 4 Navy died in a flash, and we always forget about those that are blinded or lose fingers or an arm or a leg. The wounded toll was terrible.

But before that, in April 1983, a car bomb had gone off in front of the American Embassy in Beirut, almost the exact number killed as this 19-death tragedy at the Khobar Barracks. Eighteen killed. And then months later it happened again. I was in Jean Kirkpatrick's office at the United Nations when that bomb went off and tore the whole facade off our Embassy in Beirut and killed two marines who were up front, in their position, guarding the security of the Embassy and who comes in the front door, who is barred entrance.

The bombings in London. I have a photograph back in the Cloakroom. I would have brought it out, but it would just look brown to the gallery or to the C-SPAN audience. It is of a car bomb set off in the financial district of London. And that only one human being died is a miracle when you look at this photograph: Skyscrapers and buildings going back 100, 200 years; roofs torn off; every single window for a quarter of a mile on both sides of the street wiped out.

We know about these car bombs. Is it the bureaucracy in the House that has no corporate memory? In the Senate? About 30 percent of us were here when the 1983 bombings took place in Beirut killing so many Americans and so many servicemen.

In the military, though, general officers were around during these bombings. They do not have this rollover problem and this loss of institutional memory.

I do not want to see people pay the price of having their careers destroyed, some of them with combat missions in Southeast Asia or in the gulf region of the Middle East, but we simply cannot forget the past. The past is prolog to the future. Study the past, and implement the security needed.

Mr. SCARBOROUGH. Mr. Speaker, I reserve the balance of my time.

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have tried to listen diligently to all of the remarks of my distinguished colleagues as they have marched into the well to address themselves to House Concurrent Resolution 200.

First with respect to the general issue of terrorism, yes, Mr. Speaker, it is here, it is real, it is alive, it is expanding, it is evolving, and it will be a threat that America and the world will have to deal with on an increasing basis as we move into the 21st century. That is a matter that we must come to grips with and address in significant terms. It will require the highest and the best in us. It will require our best thinking, our best judgment and our best thoughts.

□ 1545

That is not the moment that we are in at this point. There will also be recriminations about who did what and who was responsible. That also is an integral part of the process. But that is not why we are here today.

We are here today for a very simple, thoughtful, and compassionate reason; not to politicize, not to demagogue, not to point fingers, but simply to pause as human beings and to attempt to put our emotional arms around people who have experienced great tragedy. First, 19 human beings who paid the ultimate and supreme price of dying in a terrorist tragedy, Khobar Towers in Saudi Arabia.

Something we have not focused upon is the 200 people, many of whom severely and significantly were injured, who also paid a very heavy price. The families that my distinguished colleague from Florida spoke about, the young child speaking in those kinds of real and powerful human terms, bring the reality of the risk of serving abroad in dangerous places as we carry out the foreign policy and national security policy of this country. It comes to us all too real.

But I just want to rise, along with the distinguished gentleman from Florida, the author of this concurrent resolution, and join with all of my colleagues on the Committee on National Security, for we passed this resolution unanimously, in acknowledging the personal sacrifices the 19 American military personnel to which I alluded earlier gave, killed, and the more than 200 wounded, on June 25 of this year.

I know that I join with the rest of the country when I say to their families and fellow service members that they can be assured that this Nation will long remember their bravery and sacrifices that they have made for their country.

So I am simply saying, Mr. Speaker, all of the other comments notwithstanding what this resolution is about, is to ask this body to pause for a moment, to embrace human life in a compassionate way, to embrace the families of this country that have grieved and paid an incredible price; people dying, and mothers and fathers crying, and children not quite understanding what is going on.

So I urge all of my colleagues to come to the floor at the appropriate point in these proceedings, to join with the gentleman from the State of Florida, this gentleman, and all of my colleagues on the House Committee on National Security, and unanimously pass this resolution as some modest way of saying to people we feel, we understand, we care, and we pay tribute.

Mr. DELLUMS. Mr. Speaker, I yield back the balance of my time.

Mr. SCARBOROUGH. Mr. Speaker, I thank the distinguished gentleman from California for his kind words.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the motion offered by the gentleman from South Carolina [Mr. SPENCE] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 200, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution honoring the victims of the June 25, 1996, terrorist bombing in Dhahran, Saudi Arabia."

A motion to reconsider was laid on the table.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 3666, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider a conference report to accompany the bill, H.R. 3666, that all points of order against the conference report and against its consideration be waived, and that the conference report be considered as read when called up. This request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ANIMAL DRUG AVAILABILITY ACT OF 1996

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2508) to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Animal Drug Availability Act of 1996".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 2. EVIDENCE OF EFFECTIVENESS.

(a) ORIGINAL APPLICATIONS.—Paragraph (3) of section 512(d) (21 U.S.C. 360b(d)) is amended to read as follows:

"(3) As used in this section, the term 'substantial evidence' means evidence consisting of one or more adequate and well controlled investigations, such as—

"(A) a study in a target species;

"(B) a study in laboratory animals;

"(C) any field investigation that may be required under this section and that meets the requirements of subsection (b)(3) if a presubmission conference is requested by the applicant;

"(D) a bioequivalence study; or

"(E) an in vitro study;

by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.".

(b) CONFORMING AMENDMENTS.—

(1) Clauses (ii) and (iii) of section 512(c)(2)(F) (21 U.S.C. 360b(c)(2)(F)) are each amended—

(A) by striking "reports of new clinical or field investigations (other than bioequivalence or residue studies) and," and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or,"; and

(B) by striking "essential to" and inserting "required for".

(2) Section 512(c)(2)(F)(v) (21 U.S.C. 360b(c)(2)(F)(v)) is amended—

(A) by striking "subparagraph (B)(iv)" each place it appears and inserting "clause (iv)";

(B) by striking "reports of clinical or field investigations" and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety,"; and

(C) by striking "essential to" and inserting "required for".

(c) COMBINATION DRUGS.—Section 512(d) (21 U.S.C. 360b(d)), as amended by subsection (a) is amended by adding at the end the following:

"(4) In a case in which an animal drug contains more than one active ingredient, or the labeling of the drug prescribes, recommends, or suggests use of the drug in combination with one or more other animal drugs, and the active ingredients or drugs intended for use in the combination have previously been separately approved for particular uses and conditions of use for which they are intended for use in the combination—

"(A) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on human food safety grounds unless the Secretary finds that the application fails to establish that—

"(i) none of the active ingredients or drugs intended for use in the combination, respectively, at the longest withdrawal time of any of the active ingredients or drugs in the combination, respectively, exceeds its established tolerance; or

"(ii) none of the active ingredients or drugs in the combination interferes with the methods of analysis for another of the active ingredients or drugs in the combination, respectively;

"(B) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on target animal safety grounds unless the Secretary finds that—

"(i)(I) there is a substantiated scientific issue, specific to one or more of the active ingredients or animal drugs in the combination, that cannot adequately be evaluated based on information contained in the application for the combination (including any investigations, studies, or tests for which the applicant has a right of reference or use from the person by or for whom the investigations, studies, or tests were conducted); or

"(II) there is a scientific issue raised by target animal observations contained in studies submitted to the Secretary as part of the application; and

"(ii) based on the Secretary's evaluation of the information contained in the application with respect to the issues identified in clauses (i)(I) and (II), paragraph (1)(A), (B), or (D) apply;

"(C) except in the case of a combination that contains a nontopical antibacterial ingredient or animal drug, the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use other than in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to labeled effectiveness;

"(ii) each active ingredient or animal drug intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population; or

"(iii) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs may be physically incompatible or have disparate dosing regimens, such active ingredients or animal drugs are physically compatible or do not have disparate dosing regimens; and

"(D) the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to the labeled effectiveness;

"(ii) each of the active ingredients or animal drugs intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population;

"(iii) where a combination contains more than one nontopical antibacterial ingredient or animal drug, there is substantial evidence that each of the nontopical antibacterial ingredients or animal drugs makes a contribution to the labeled effectiveness; or

"(iv) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs intended for use in drinking water may be physically incompatible, such active ingredients or animal drugs intended for use in drinking water are physically compatible.".

(d) PRESUBMISSION CONFERENCE.—Section 512(b) (21 U.S.C. 360b(b)) is amended by adding at the end the following:

"(3) Any person intending to file an application under paragraph (1) or a request for an investigational exemption under subsection (j) shall be entitled to one or more conferences prior to such submission to reach an agreement acceptable to the Secretary establishing a submission or an investigational requirement, which may include a requirement for a field investigation. A decision establishing a submission or an investigational requirement shall bind the Secretary and the applicant or requestor unless (A) the Secretary and the applicant or requestor mutually agree to modify the requirement, or (B) the Secretary by written order determines that a substantiated scientific requirement essential to the determination of safety or effectiveness of the animal drug involved has appeared after the conference. No later than 25 calendar days after each such conference, the Secretary shall provide a written order setting forth a scientific justification specific to the animal drug and intended uses under consideration if the agreement referred to in the first sentence requires more than one field investigation as being essential to provide substantial evidence of effectiveness for the intended uses of the drug. Nothing in this paragraph shall be construed as compelling the Secretary to require a field investigation.".

(e) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations implementing the amendments made by this Act as described in paragraph (2)(A) of this subsection, and not later than 18 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments. Not later than 12 months after the date of enactment of this Act, the Secretary shall issue proposed regulations implementing the other amendments made by this Act as described in paragraphs (2)(B) and (2)(C) of this subsection, and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments.

(2) CONTENTS.—In issuing regulations implementing the amendments made by this Act, and in taking an action to review an application for approval of a new animal drug under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), or a request for an investigational exemption for a new animal drug under subsection (j) of such section, that is pending or has been submitted prior to the effective date of the regulations, the Secretary shall—

(A) further define the term "adequate and well controlled", as used in subsection (d)(3) of section 512 of such Act, to require that field investigations be designed and conducted in a scientifically sound manner, taking into account practical conditions in the field and differences between field conditions and laboratory conditions;

(B) further define the term "substantial evidence", as defined in subsection (d)(3) of such section, in a manner that encourages the submission of applications and supplemental applications; and

(C) take into account the proposals contained in the citizen petition (FDA Docket No. 91P-0434/CP) jointly submitted by the American Veterinary Medical Association and the Animal Health Institute, dated October 21, 1991.

Until the regulations required by subparagraph (A) are issued, nothing in the regulations published at 21 C.F.R. 514.111(a)(5) (April 1, 1996) shall be construed to compel the Secretary of Health and Human Services to require a field investigation under section 512(d)(1)(E) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1)(E)) or to apply any of its provisions in a manner inconsistent with the considerations for scientifically sound field investigations set forth in subparagraph (A).

(f) MINOR SPECIES AND USES.—The Secretary of Health and Human Services shall consider legislative and regulatory options for facilitating the approval under section 512 of the Federal Food, Drug, and Cosmetic Act of animal drugs intended for minor species and for minor uses and, within 18 months after the date of enactment of this Act, announce proposals for legislative or regulatory change to the approval process under such section for animal drugs intended for use in minor species or for minor uses.

SEC. 3. LIMITATION ON RESIDUES.

Section 512(d)(1)(F) (21 U.S.C. 360b(d)(1)(F)) is amended to read as follows:

"(F) upon the basis of information submitted to the Secretary as part of the application or any other information before the Secretary with respect to such drug, any use prescribed, recommended, or suggested in labeling proposed for such drug will result in a residue of such drug in excess of a tolerance found by the Secretary to be safe for such drug;".

SEC. 4. IMPORT TOLERANCES.

Section 512(a) (21 U.S.C. 360b(a)) is amended by adding the following new paragraph at the end:

"(6) For purposes of section 402(a)(2)(D), a use or intended use of a new animal drug shall not be deemed unsafe under this section if the Secretary establishes a tolerance for such drug and any edible portion of any animal imported into the United States does not contain residues exceeding such tolerance. In establishing such tolerance, the Secretary shall rely on data sufficient to demonstrate that a proposed tolerance is safe based on similar food safety criteria used by the Secretary to establish tolerances for applications for new animal drugs filed under subsection (b)(1). The Secretary may consider and rely on data submitted by the drug manufacturer, including data submitted to appropriate regulatory authorities in any country where the new animal drug is lawfully used or data available from a relevant international organization, to the extent such data are not inconsistent with the criteria used by the Secretary to establish a tolerance for applications for new animal drugs filed under subsection (b)(1). For purposes of this paragraph, 'relevant international organization' means the Codex Alimenterius Commission or other international organization deemed appropriate by the Secretary. The Secretary may, under procedures specified by regulation, revoke a tolerance established under this paragraph if information demonstrates that the use of the new animal drug under actual use conditions results in food being imported into the United States with residues exceeding the tolerance or if scientific evidence shows the tolerance to be unsafe.".

SEC. 5. VETERINARY FEED DIRECTIVES.

(a) SECTION 503.—Section 503(f)(1)(A) (21 U.S.C. 353(f)(1)(A)) is amended by inserting after "other than man" the following: ", other than a veterinary feed directive drug intended for use in animal feed or an animal feed bearing or containing a veterinary feed directive drug,".

(b) SECTION 504.—The Federal Food, Drug, and Cosmetic Act is amended by inserting after section 503 the following:

"VETERINARY FEED DIRECTIVE DRUGS

"SEC. 504. (a)(1) A drug intended for use in or on animal feed which is limited by an approved application filed pursuant to section 512(b) to use under the professional supervision of a licensed veterinarian is a veterinary feed directive drug. Any animal feed bearing or containing a veterinary feed directive drug shall be fed to animals only by or upon a lawful veterinary feed directive issued by a licensed veterinarian in the course of the veterinarian's professional practice. When labeled, distributed, held, and used in accordance with this section, a veterinary feed directive drug and any animal feed bearing or containing a veterinary feed directive drug shall be exempt from section 502(f).

"(2) A veterinary feed directive is lawful if it—

"(A) contains such information as the Secretary may by general regulation or by order require; and

"(B) is in compliance with the conditions and indications for use of the drug set forth in the notice published pursuant to section 512(i).

"(3)(A) Any persons involved in the distribution or use of animal feed bearing or containing a veterinary feed directive drug and the licensed veterinarian issuing the veterinary feed directive shall maintain a copy of the veterinary feed directive applicable to each such feed, except in the case of a person distributing such feed to another person for further distribution. Such person distributing the feed shall maintain a written acknowledgment from the person to whom the feed is shipped stating that that person shall not ship or move such feed to an animal production facility without a veterinary feed directive or ship such feed to another person for further distribution unless that person has provided the same written acknowledgment to its immediate supplier.

"(B) Every person required under subparagraph (A) to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(C) Any person who distributes animal feed bearing or containing a veterinary feed directive drug shall upon first engaging in such distribution notify the Secretary of that person's name and place of business. The failure to provide such notification shall be deemed to be an act which results in the drug being misbranded.

"(b) A veterinary feed directive drug and any feed bearing or containing a veterinary feed directive drug shall be deemed to be misbranded if their labeling fails to bear such cautionary statement and such other information as the Secretary may by general regulation or by order prescribe, or their advertising fails to conform to the conditions and indications for use published pursuant to section 512(i) or fails to contain the general cautionary statement prescribed by the Secretary.

"(c) Neither a drug subject to this section, nor animal feed bearing or containing such a drug, shall be deemed to be a prescription article under any Federal or State law.".

(c) CONFORMING AMENDMENT.—Section 512 (21 U.S.C. 360b) is amended in subsection (i) by inserting after "(including special labeling requirements" the following: "and any requirement that an animal feed bearing or containing the new animal drug be limited to use under the professional supervision of a licensed veterinarian".

(d) SECTION 301(e).—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting after "by section 412" the following: ", 504,"; and by inserting after "under section 412," the following: "504,".

SEC. 6. FEED MILL LICENSES.

(a) SECTION 512(a).—Paragraphs (1) and (2) of section 512(a) (21 U.S.C. 360b(a)) are amended to read as follows:

"(a)(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for the purposes of section 501(a)(5) and section 402(a)(2)(D) unless —

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and

"(B) such drug, its labeling, and such use conform to such approved application.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

"(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for the purposes of section 501(a)(6) unless—

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed,

"(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed, and

"(C) such animal feed and its labeling, distribution, holding, and use conform to the conditions and indications of use published pursuant to subsection (i) .".

(b) SECTION 512(m).—Section 512(m) (21 U.S.C. 360b(m)) is amended to read as follows:

"(m)(1) Any person may file with the Secretary an application for a license to manufacture animal feeds bearing or containing new animal drugs. Such person shall submit to the Secretary as part of the application (A) a full statement of the business name and address of the specific facility at which the manufacturing is to take place and the facility's registration number, (B) the name and signature of the responsible individual or individuals for that facility, (C) a certification that the animal feeds bearing or containing new animal drugs are manufactured and labeled in accordance with the applicable regulations published pursuant to subsection (i), and (D) a certification that the methods used in, and the facilities and controls used for, manufacturing, processing, packaging, and holding such animal feeds are in conformity with current good manufacturing practice as described in section 501(a)(2)(B).

"(2) Within 90 days after the filing of an application pursuant to paragraph (1), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall (A) issue an order approving the application if the Secretary then finds that none of the grounds for denying approval specified in paragraph (3) applies, or (B) give the applicant notice of an opportunity for a hearing before the Secretary under paragraph (3) on the question whether such application is approvable. The procedure governing such a hearing shall be the procedure set forth in the last two sentences of subsection (c)(1).

"(3) If the Secretary, after due notice to the applicant in accordance with paragraph (2) and giving the applicant an opportunity for a hearing in accordance with such paragraph, finds, on the basis of information submitted to the Secretary as part of the application, on the basis of a preapproval inspection, or on the basis of any other information before the Secretary—

"(A) that the application is incomplete, false, or misleading in any particular;

"(B) that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such animal feed are inadequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

"(C) that the facility manufactures animal feeds bearing or containing new animal drugs in a manner that does not accord with the specifications for manufacture or labels animal feeds bearing or containing new animal drugs in a manner that does not accord with the conditions or indications of use that are published pursuant to subsection (i),

the Secretary shall issue an order refusing to approve the application. If, after such notice and opportunity for hearing, the Secretary finds that subparagraphs (A) through (C) do not apply, the Secretary shall issue an order approving the application. An order under this subsection approving an application for a license to manufacture animal feeds bearing or containing new animal drugs shall permit a facility to manufacture only those animal feeds bearing or containing new animal drugs for which there are in effect regulations pursuant to subsection (i) relating to the use of such drugs in or on such animal feed.

"(4)(A) The Secretary shall, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feeds bearing or containing new animal drugs under this subsection if the Secretary finds—

"(i) that the application for such license contains any untrue statement of a material fact; or

"(ii) that the applicant has made changes that would cause the application to contain any untrue statements of material fact or that would affect the safety or effectiveness of the animal feeds manufactured at the facility unless the applicant has supplemented the application by filing with the Secretary adequate information respecting all such changes and unless there is in effect an approval of the supplemental application.

If the Secretary (or in the Secretary's absence the officer acting as the Secretary) finds that there is an imminent hazard to the health of humans or of the animals for which such animal feed is intended, the Secretary may suspend the license immediately, and give the applicant prompt notice of the action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this sentence shall not be delegated.

"(B) The Secretary may also, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feed under this subsection if the Secretary finds—

"(i) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under paragraph (5)(A) of this subsection or section 504(a)(3)(A), or the applicant has refused to permit access to, or copying or verification of, such records as required by subparagraph (B) of such paragraph or section 504(a)(3)(B);

"(ii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the methods used in, or the facilities and controls used for, the manufacture, processing, packing, and holding of such animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein, and were not made adequate within a reasonable time after receipt of written notice from the Secretary, specifying the matter complained of;

"(iii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the labeling of any animal feeds, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

"(iv) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the facility has manufactured, processed, packed, or held animal feed bearing or containing a new animal drug adulterated under section 501(a)(6) and the facility did not discontinue the manufacture, processing, packing, or holding of such animal feed within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

"(C) The Secretary may also revoke a license to manufacture animal feeds under this subsection if an applicant gives notice to the Secretary of intention to discontinue the manufacture of all animal feed covered under this subsection and waives an opportunity for a hearing on the matter.

"(D) Any order under this paragraph shall state the findings upon which it is based.

"(5) When a license to manufacture animal feeds bearing or containing new animal drugs has been issued—

"(A) the applicant shall establish and maintain such records, and make such reports to the Secretary, or (at the option of the Secretary) to the appropriate person or persons holding an approved application filed under subsection (b), as the Secretary may by general regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (e) or paragraph (4); and

"(B) every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(6) To the extent consistent with the public health, the Secretary may promulgate regulations for exempting from the operation of this subsection facilities that manufacture, process, pack, or hold animal feeds bearing or containing new animal drugs.".

(c) TRANSITIONAL PROVISION.—A person engaged in the manufacture of animal feeds bearing or containing new animal drugs who holds at least one approved medicated feed application for an animal feed bearing or containing new animal drugs, the manufacture of which was not otherwise exempt from the requirement for an approved medicated feed application on the date of the enactment of this Act, shall be deemed to hold a license for the manufacturing site identified in the approved medicated feed application. The revocation of license provisions of section 512(m)(4) of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, shall apply to such licenses. Such license shall expire within 18 months from the date of enactment of this Act unless the person submits to the Secretary a completed license application for the manufacturing site accompanied by a copy of an approved medicated feed application for such site, which license application shall be deemed to be approved upon receipt by the Secretary.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. BILIRAKIS] and the gentleman from New York [Mr. MANTON] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2508, The Animal Drug Availability Act of 1996. The bill will better protect our animals by streamlining the approval and marketing of new animal drugs and medicated feeds.

A broad bipartisan consensus has enabled us to develop this important legislation which will bring needed flexibility to the FDA animal drug review processes.

Among its improvements, the legislation redefines "substantial evidence" to provide FDA with greater flexibility to determine what types of studies, including field investigations, are necessary and appropriate for demonstrating the effectiveness of any specific animal drug product. The bill requires FDA to issue regulations defining substantial evidence and adequate and well-controlled field investigations taking into account the practical conditions that exist in the field.

To improve cooperation between FDA and industry, the bill requires FDA to hold a presubmission conference at the request of a sponsor submitting a new animal drug application or a request for an investigational exemption.

The legislation also streamlines the process for the approval of combination animal drug products when the individual active ingredients or animal drugs used in combination have been approved previously. In addition it authorizes FDA to establish a scientifically based safe tolerance for new animal drugs.

The bill creates a new class of animal drugs, veterinary feed directive drugs, intended for use in feed under the professional supervision of a licensed veterinarian. The bill streamlines the requirements for feed mills that make medicated feeds. Finally, the bill authorizes FDA to establish import tolerances for new animal drugs not approved in the United States.

In conclusion, I want to thank Members on both sides of the aisle who support the Animal Drug Availability Act of 1996.

Mr. Speaker, I reserve the balance of my time.

Mr. MANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Animal Drug Availability Act makes important changes to the process by which the Food and Drug Administration reviews applications for new animal drugs.

We have heard a great deal in this Congress about reforming Government and streamlining regulation. This legislation demonstrates that these goals can be accomplished if all of the interested parties are willing to negotiate. This amendment to H.R. 2508 is the result of compromise between the FDA and the animal drug coalition. It is bipartisan, and it achieves reforms responsibly and carefully.

We are pleased that this legislation incorporates FDA proposals included in the Vice President's reinventing Government initiatives, one that will reduce unnecessary requirements and paperwork associated with feed mill licensing and another that will authorize FDA to establish import tolerances for animal drugs not approved for use in the United States.

The provisions of this bill complete a task begun with enactment in 1994 of the Animal Medicinal Drug Use Clarification Act. When the House passed that important legislation, we knew that expanding drug availability would require addressing the underlying issue that there are not enough new animal drugs available for veterinarians to treat all the diseases and conditions that affect animals. That is the issue dealt with by H.R. 2508.

The legislation does this through simplifying the process if determining an animal drug's effectiveness; establishing a process by which FDA and the animal drug sponsor can agree in advance about what the sponsor must provide FDA to facilitate the approval of the new product; providing a streamlined process for FDA to review combination drugs; and establishing a new category of animal drugs, called Veterinary Feed Directive drugs.

Mr. Speaker, this is good legislation. It will help FDA work more efficiently, and it will help get safe and effective new animal drugs on the market more quickly. It illustrates that a cooperative effort between a regulatory agency, its regulated community, and Congress can produce results that all parties find acceptable. This is how regulatory reform can and should work.

I support this legislation, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLUG] who will speak on behalf of himself and a few hundred thousand cattle in Wisconsin.

The SPEAKER pro tempore. Including the dairy farmers of the Chair.

Mr. KLUG. Mr. Speaker, 319,000 dairy cows, to be more specific.

Mr. Speaker, I would like to thank my colleague, the gentleman from Florida [Mr. BILIRAKIS], for his terrific work on behalf of this legislation, and also the full chairman of committee, the gentleman from Virginia [Mr. BLILEY], and my colleague, the gentleman from Colorado [Mr. ALLARD], one of the few veterinarians in Congress, who has been such a strong advocate for this piece of legislation.

Mr. Speaker, as you know, for the last year the Committee on Commerce has been struggling with the ways to modernize the Food and Drug Administration, which now regulates a quarter of this Nation's economy. We have high hopes in the next session of Congress we will be able to streamline the process to approve prescription drugs and also medical devices.

Part of what we have been able to accomplish this session of Congress are two major changes in terms of the FDA's responsibility in food content. One of them is the modernization of the Delaney clause, and then this piece of legislation we have in front of us today.

As we know, the current law requires animal drugs to be approved in 6 months, but it actually takes an average of 58 months. Only 1 in 7,500 chemicals ever makes it through the current approval process. In the past 5 years the FDA has approved only four new drugs for food-producing animals.

Realistically, without this bill minor use products would never be brought to market, and the time and expense of bringing a new animal drug to market is already discouraging drug companies from pursuing approval for important medications.

This legislation today will establish a procedure by which the agency and company can sit down ahead of time to discuss the approval requirements for a new drug. It would create a new category of drugs that can be prescribed by a veterinarian and administered by a farmer in the animal's feed and it would refocus the regulation of the use of two or more drugs simultaneously on the need to prove the safety to humans.

This piece of legislation has the support of 160 cosponsors in the House, the Clinton administration supports it, FDA Commissioner Kessler supports it, industry supports the bill, and I strongly support this bill and encourage my fellow committee members, as well as my colleagues in the House, to approve it as well.

Mr. BILIRAKIS. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. ALLARD], a sponsor of this very much needed legislation.

Mr. ALLARD. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, first of all, I would like to extend my thanks to other members of the committee, the gentleman from Florida [Mr. BILIRAKIS], the gentleman from Virginia [Mr. BLILEY], the gentleman from Iowa [Mr. GANSKE], the gentleman from Wisconsin [Mr. KLUG], who we just heard on the floor, and then the gentleman from Michigan [Mr. DINGELL]. I appreciate all of their efforts in making sure that this legislation came out of committee in good shape. I know they worked very hard to make sure that we ended up with a good piece of legislation.

Mr. Speaker, this has been a bipartisan effort, both Democrats and Republicans working together with the administration to reform the Food and Drug Administration as they apply the laws as they apply to animal drugs.

This is the second major reform of the Food and Drug Administration. The first was the Delaney reform, and then this is the second step, which is the animal Food and Drug Administration reform. Both of these provisions are going to be a great help to the agricultural community.

We are looking at a crisis as far as approval of animal drugs is concerned. The drugs are being approved at a very slow rate, and it is having an impact on the type of quality and care, not only to the livestock, but also to pets.

To further compound this problem, over the past several years, the Food and Drug Administration has taken a number of drugs off of the market, and the research has not been moving along at an adequate enough rate to replace the loss of these particular products. As a consequence of that, we have lost animals to disease and also had an increased mortality rate on animals, which also cuts down on production.

When a drug has finally been approved after some time, and I would say, again, an internal audit by the FDA shows it takes an average of 58 months to approve a new drug, this law will take it down to where it actually will take only 6 months.

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Because of this, the number of drugs that have been approved over the last 23 years have dwindled. We used to have about 60 drugs approved in 1 year, about two decades ago, in 1973; and now, this last year, we have only had 10 approved. This certainly is not keeping up with science.

This is a tremendous disincentive for drug companies to create new products when it takes this long extended length of period for approval. And now, in order to develop a new product, we are looking at a cost of anywhere from $15 to $200 million, and yet most of these animal drugs have a very limited market and will generate sales of only a million dollars or less.

I think this legislation is going to help solve this problem. It will help make these drugs available for animals, both pets and in the livestock industry, and it is going to move forward many of the advances that should be moved forward and made available to the public.

In conclusion, I want to thank again the members of the committee for all their hard work on this issue and I hope that we will continue to move forward in our efforts to reform the Food and Drug Administration.

Mr. MANTON. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, I too rise today in support of the Animal Drug Availability Act. This is Congress at its best, a bipartisan effort which is going to really streamline the efforts at the FDA, that is going to help really major livestock, poultry producers, commercial feed industry, veterinarians, some animal owners, and pharmaceutical companies as well.

Currently it takes the FDA an average of 58 months to a new animal drug, and the cost of bringing a drug to the approval stage in some instances can approach $200 million.

If the consensus bill becomes law, it will give the FDA greater flexibility in determining the type and number of studies it can accept as proof of an animal drug's efficacy.

It will reduce efficacy testing when a drug company seeks approval to use in combination two drugs that are already approved individually.

It will eliminate the requirement that a time-consuming field investigation be used in all instances to prove efficacy.

It will create a presubmission conference at which the FDA drug companies will agree before an application is submitted on the types of tests needed to approve a drug's effectiveness.

And it will increase veterinary oversight in dispensing of certain feed drugs.

In addition, the bill implements two items from the National Performance Review. It would allow FDA to set tolerance for drugs used on farm animals whose meat ultimately is imported into the United States. It also would reduce significantly the paperwork involved in licensing of a feed mill to mix animal drugs with feed.

The consensus bill maintains all human and animal health protections in current law.

Having spoken to individual veterinarians and pet owners, who have unfortunately been denied access to some of the drugs that hopefully will be readily accessible as soon as this bill is adopted, I can again speak from their personal experiences of how valuable I believe this bill will be once it is adopted into law.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], who, if he does not have the largest animal drug manufacturer in his district, I understand he certainly has one of the largest.

Mr. BEREUTER. Mr. Speaker, I thank the distinguished gentleman from Florida for yielding me this time.

I rise in support of H.R. 2508, the Animal Drug Availability Act. As original cosponsor of this important legislation, I would like to commend the distinguished gentlemen from Florida and New York, and the gentleman from Virginia, Mr. BLILEY, and the gentleman from Michigan, Mr. DINGELL, the ranking member, for bringing this work to the floor today. Certainly I also commend my distinguished colleague from Colorado, Mr. ALLARD, for his initiative in introducing the bill.

Mr. Speaker, this legislation is clearly needed to streamline the bureaucracy and improve the current, outdated process of approving new animal health products. Our Nation's livestock producers deserve to have the best new products available in a timely and efficient manner. This is commonsense legislation which has strong, bipartisan support in Congress and broad support in the agricultural and veterinary science communities.

The need for change is obvious. Although research and development costs have increased dramatically in recent decades, the number of new animal health products being approved by the Food and Drug Administration's Center for Veterinary Medicine has declined. The Animal Drug Availability Act modifies requirements for proving efficacy, streamlines the bureaucracy involved in approving new claims for products used in the treatment of minor species, simplifies requirements for combination drugs, and makes other improvements in the current process. Mr. Speaker, quite simply, this legislation will improve the ability of manufacturers to provide the animal health products needed by our Nation's farmers and pet owners, among others. Therefore, this Member strongly urges his colleagues to support H.R. 2508, the Animal Drug Availability Act.

Mr. BILIRAKIS. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. GANSKE], who, as we know, performed a humanitarian act in South America during the break and has come back with a fairly serious sickness.

As I understand it, he came back specifically today to speak on this particular piece of legislation because he feels very strongly about it.

The SPEAKER pro tempore (Mr. GUNDERSON). If the gentleman from Iowa would suspend for just a moment, I know the Chair speaks for all Members in welcoming him back.

The gentleman from Iowa is now recognized.

Mr. GANSKE. Mr. Speaker, first let me thank Members of both sides of the aisle for their get-well wishes. I appreciate it very much.

Earlier this month I was seriously ill and so I want to speak about this bill in a little different vein, so to speak.

There will be a lot of talk about how this bill will economically be beneficial to farmers, and that is true, and this will help our country, I think, compete internationally in terms of livestock production.

But I want to speak about something else. We have not had new drugs to treat animals, have many of them, for a long time, and this bill will streamline the process and help us get new ones. There is a term called animal husbandry. It is an old term. It has been applied to farmers, but I think it is appropriate.

When a farmer has a herd or has a flock, and they come down with a respiratory infection and they are suffering and they are sick, that farmer is not thinking just about the economic impact. He is looking at his flock and he is looking at his herds and he knows they are sick and he knows they are suffering. And if you talk to a family that has had a pet and their pet dog or cat becomes sick, they see the suffering in that animal.

I have been the beneficiary recently of modern medicine and some good antibiotics and good medicines and I think it is time that we make the modern technology that we have had on the human side more available on the animal side as well.

I really think it is the only humanitarian thing to do. It will be beneficial economically, but even more importantly, I think it will help prevent animals from suffering when they are sick. I urge all of my colleagues to vote for this bipartisan bill.

Mr. MILLER of California. Mr. Speaker, I am pleased to be an original cosponsor of H.R. 3217, the National Invasive Species Act, which we consider today. This legislation embodies a reasonable approach to addressing economic and environmental concerns while maintaining sensitivity to the maritime industry. It will establish a national voluntary ballast management program for vessels visiting U.S. ports. In addition to ballast management, this legislation will provide for research, education, and new technology to investigate and prevent species introduction in coastal and inland waters. In short, it is a major step toward protecting our natural resources.

Prevention of further species introductions can occur to a great extent by ballast exchange as provided in this legislation. I only caution that the ballast exchange provisions in this bill are based on a large part on a good faith agreement with industry to take appropriate responsibility for the consequences of ballast transport. Based on industry's support of this bill, I believe that agreement is sound. However, I would encourage the Coast Guard to be diligent in monitoring compliance and assessing the effectiveness of those voluntary guidelines, and, where necessary, make mandatory regulations to ensure protection for regions that are critically impacted by nonindigenous species.

Some regions of our country such as the San Francisco Bay-Delta Estuary are especially susceptible to species introduction from ballast water. There are greater than 200 nonindegenous species identified so far in the bay-delta with one new species established every 12 weeks. In fact, the bay-delta is recognized as the most invaded aquatic ecosystem in North America. These nonindigenous species are having serious consequences on California's aquatic ecosystem, water supplies, fisheries, and agricultural industry. This legislation will address those consequences through prevention as well as research efforts in the bay-delta. Understanding the patterns of species introductions and reducing the occurrence of those introductions is imperative in promoting the economic and ecological health of the bay-delta as well as the rest of our coastal regions.

I thank Mr. LATOURETTE for his leadership on this bill. I would also thank my colleague from California, Mr. FILNER, as well as Chairman SHUSTER and Mr. OBERSTAR, for working with me to include provisions which address critical concerns in California.

Mr. HASTERT. Mr. Speaker, I rise in strong support of H.R. 2508, the Animal Drug Availability Act of 1995. I'd like to commend the gentleman from Colorado [Mr. ALLARD] for crafting a bill that enjoys such broad, bipartisan support. I know of no opposition to this bill.

This bill is critical to animal agriculture and is sorely needed to improve the animal drug approval process. Currently, it takes the FDA an average of 58 months to approve a new animal drug, and the cost of bringing a drug to approval in some instances can be as high as $200 million. This bill will streamline the approval process for animal drugs, making safe drugs available more quickly and less expensively.

Clearly, the pork, cattle, poultry, and wool producers in my district in Illinois will benefit tremendously from this legislation, as will every pet owner in the country. But the benefits of this bill go far beyond making life a little easier for our farmers and for our animals. Ultimately, the real benefactors of this legislation will be every consumer across America, as safe, cheaper animal products are made more available.

The bill before us today represents a consensus that has been negotiated with the FDA. It enjoys broad bipartisan congressional support, and the full support of the administration. I urge quick passage today of the Animal Drug Availability Act. Thank you; I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, we now take up a bill that is important to protect animal health at home and on the farm. The animal health industry keeps our pets healthy—including some 130 million dogs and cats—and agricultural animals that are vital to our food supply. The animal health industry protects human health by safeguarding the health of food and domestic animals.

I have heard repeated concern from Members on both sides of the aisle that our FDA system for reviewing animal drug products needs significant improvement. Their concern reflects the frustration of diverse groups including agricultural interests, the animal drug industry, veterinarians, and animal producer groups.

Our arsenal of drugs to fight animal disease is not growing.

The FDA review process for animal drugs is much too slow—instead of 6 months, the process has averaged up to 5 years.

Some industry has become discouraged and divested animal drug development capability.

Mr. ALLARD, Mr. GANSKE, Mr. KLUG, have been among those who said that it's time to take action and make changes. I particularly want to thank Mr. GANSKE who has come from his hospital bed to be here today to demonstrate his support. Even the administration recognized the need to reform to streamline animal drug regulation and made its own proposals that were consistent with our views.

The committee considered animal drug regulations as part of a broader initiative to streamline FDA regulation. We have made significant progress and I am very pleased that today we take up the completed animal drug reforms in H.R. 2508.

The committee efforts have been helped by collaboration from the administration, the animal health coalition, veterinarians, and others interested in safeguarding our animals. I would like to thank each of them and their dedicated staff for their hard work.

H.R. 2508 will facilitate the approval and marketing of new animal drugs and medicated feeds. It builds needed flexibility into the FDA animal drug review processes to enable more efficient approval and more expeditious marketing of safe and effective animal drugs.

H.R. 2508 accomplishes streamlines without decreasing FDA's existing authority to ensure that animal drug products are safe for the animals that use them and for the humans who consume animal food products.

Our reforms are sensible, pragmatic, and above all else, protective of public health. Of this accomplishment, I believe we can rightly be proud.

Mr. STENHOLM. Mr. Speaker, H.R. 2508 is an example of how serious reform can and should occur. The Animal Drug Availability Act of 1995 enjoys broad support from camps that do not always see things from the same viewpoint, however, both the FDA and the regulated community agree on the reform embodied in H.R. 2508. Additionally, the users of animal drugs, the veterinarians, and the various animal agriculture groups representing farmers and ranchers that raise beef, pork, and poultry all support this bill. The Animal Drug Availability Act represents what can be accomplished when all involved, regulators, those regulated, and the end users sit down and sincerely listen to each other. Unfortunately, the larger issue of FDA reform has been slowed for a variety of reasons. Hopefully, this bill should serve as an example of how future Congresses can approach larger FDA reform and of the progress that can result from bipartisan discussion open to all stakeholders.

H.R. 2508, the Animal Drug Availability Act of 1995, represents common sense reform that reduces regulatory hurdles for efficacy testing and preserves safety testing. Let me say that again. The Animal Drug Availability Act does not reduce evaluation of products on the basis of human safety, nor does it reduce the FDA's ability to require target animal safety information. Essential safety standards for humans and animals would not be weakened in any way. The effect of the reform should be a speedier approval process without jeopardizing safety confidence.

Animal health products many times do not command lucrative markets and it is difficult to justify investment into research and development for a new product or an additional approved use on a label if markets are limited or absent. Currently a large commitment in time and money is required to prove a product's efficacy claims. This bill would give the FDA greater flexibility in determining the type and number of studies it can accept as proof of an animal drug's efficacy. Streamlining the process and eliminating unnecessary field trials should speed the time to an approval decision and hopefully reduce some negative economic pressures being applied by the regulatory system.

Small markets or limited economic incentives, do not mean that drugs for animals are not important. Take for instance the cattleman who has experienced difficult times with low cattle prices who may be trying to diversify and is starting to raise ostriches or pheasants, or a farmer who is involved in aquaculture, or even the wildlife or zoo veterinarian who deals with very unique patients. These are examples of animals that as a species represent few in number and generate very little economic incentive for a drug manufacturer to pursue R&D in that area . . .the so-called minor use/minor species problem of animal drugs. The legislation that legalized extra label drug use in animals by veterinarians was sponsored by this Member and others in the last Congress—the Animal Medicinal Drug Clarification Act of 1994. Extra label drug use will always be necessary, however, this bill will potentially help reduce the reliance on using drugs extra label. It can offer an opportunity for FDA to evaluate how the Animal Medicinal Drug Use Clarification Act and the Animal Drug Availability Act could efficiently work together.

It is with some pride, as sponsor of the legislation that dealt with extra label use of animal drugs and now as one of the original cosponsors of the Animal Drug Availability Act, that this House is here addressing this issue on the Suspension Calendar. I am proud that animal drug regulatory reform may very well become an example of how larger FDA regulatory reform can be accomplished. I ask my colleagues to support H.R. 2508 and encourage the Senate to act quickly so that the President can sign this appropriate reform into law.

Mr. ROBERTS. Mr. Speaker, I rise in strong support of this legislation which is vital to the future health of the Nation's livestock and poultry industry in rural districts throughout this country. H.R. 2508, the Animal Drug Availability Act, is a noncontroversial, bipartisan bill that streamlines and significantly improves the process by which animal drugs are approved. The bill expands the types of studies FDA can accept as proof of a drug's efficacy; requires FDA and drug companies to agree to test protocols before a company submits a drug application for approval; eliminates time-consuming field investigations, unless they are the only way to prove a drug's efficacy; eliminates some efficacy testing when a company seeks to use two individually approved drugs in combination; creates veterinary feed directive drugs which increase veterinarian involvement in dispensing animal drugs; and eliminates much of the licensing paperwork for feed mills that dispense animal drugs.

The bottom line: this bill is perhaps the most significant thing this Congress can do to help the livestock and poultry industry reduce their cost of production and become more competitive.

The cumbersome and lengthy process of getting animal drug approvals from FDA has led to several U.S. animal drug companies setting up plants overseas. Passage of this bill will also help stem the flow of jobs—well paying jobs—from this country.

I am pleased to finally get a chance to discuss and vote on this important piece of legislation and I would strongly urge my colleagues to vote in favor of its passage.

Mr. MANTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. BILIRAKIS] that the House suspend the rules and pass the bill, H.R. 2508, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2508.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON H.R. 2202, ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Mr. SMITH of Texas submitted the following conference report and statement on the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing Border Patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–828)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202), to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for the eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; APPLICATION OF DEFINITIONS OF SUCH ACT; TABLE OF CONTENTS; SEVERABILITY.

(a) SHORT TITLE.—This Act may be cited as the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided—

(1) whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act; and

(2) amendments to a section or other provision are to such section or other provision before any amendment made to such section or other provision elsewhere in this Act.

(c) APPLICATION OF CERTAIN DEFINITIONS.—Except as otherwise specifically provided in this Act, for purposes of titles I and VI of this Act, the terms "alien", "Attorney General", "border crossing identification card", "entry", "immigrant", "immigrant visa", "lawfully admitted for permanent residence", "national", "naturalization", "refugee", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(d) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendments to Immigration and Nationality Act; application of definitions of such Act; table of contents.

TITLE I—IMPROVEMENTS TO BORDER CONTROL, FACILITATION OF LEGAL ENTRY, AND INTERIOR ENFORCEMENT

Subtitle A—Improved Enforcement at the Border

Sec. 101. Border patrol agents and support personnel.
Sec. 102. Improvement of barriers at border.
Sec. 103. Improved border equipment and technology.
Sec. 104. Improvement in border crossing identification card.
Sec. 105. Civil penalties for illegal entry.
Sec. 106. Hiring and training standards.
Sec. 107. Report on border strategy.
Sec. 108. Criminal penalties for high speed flights from immigration checkpoints.
Sec. 109. Joint study of automated data collection.
Sec. 110. Automated entry-exit control system.
Sec. 111. Submission of final plan on realignment of border patrol positions from interior stations.
Sec. 112. Nationwide fingerprinting of apprehended aliens.

Subtitle B—Facilitation of Legal Entry

Sec. 121. Land border inspectors.
Sec. 122. Land border inspection and automated permit pilot projects.
Sec. 123. Preinspection at foreign airports.
Sec. 124. Training of airline personnel in detection of fraudulent documents.
Sec. 125. Preclearance authority.

Subtitle C—Interior Enforcement

Sec. 131. Authorization of appropriations for increase in number of certain investigators.
Sec. 132. Authorization of appropriations for increase in number of investigators of visa overstayers.
Sec. 133. Acceptance of State services to carry out immigration enforcement.
Sec. 134. Minimum State INS presence.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

Sec. 201. Wiretap authority for investigations of alien smuggling or document fraud.
Sec. 202. Racketeering offenses relating to alien smuggling.
Sec. 203. Increased criminal penalties for alien smuggling.
Sec. 204. Increased number of assistant United States Attorneys.
Sec. 205. Undercover investigation authority.

Subtitle B—Deterrence of Document Fraud

Sec. 211. Increased criminal penalties for fraudulent use of government-issued documents.
Sec. 212. New document fraud offenses; new civil penalties for document fraud.
Sec. 213. New criminal penalty for failure to disclose role as preparer of false application for immigration benefits.
Sec. 214. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.
Sec. 215. Criminal penalty for false claim to citizenship.
Sec. 216. Criminal penalty for voting by aliens in Federal election.
Sec. 217. Criminal forfeiture for passport and visa related offenses.
Sec. 218. Penalties for involuntary servitude.
Sec. 219. Admissibility of videotaped witness testimony.
Sec. 220. Subpoena authority in document fraud enforcement.

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Procedures for Removal of Aliens

Sec. 301. Treating persons present in the United States without authorization as not admitted.
Sec. 302. Inspection of aliens; expedited removal of inadmissible arriving aliens; referral for hearing (revised section 235).
Sec. 303. Apprehension and detention of aliens not lawfully in the United States (revised section 236).
Sec. 304. Removal proceedings; cancellation of removal and adjustment of status; voluntary departure (revised and new sections 239 to 240C).
Sec. 305. Detention and removal of aliens ordered removed (new section 241).
Sec. 306. Appeals from orders of removal (new section 242).
Sec. 307. Penalties relating to removal (revised section 243).
Sec. 308. Redesignation and reorganization of other provisions; additional conforming amendments.
Sec. 309. Effective dates; transition.

Subtitle B—Criminal Alien Provisions

Sec. 321. Amended definition of aggravated felony.
Sec. 322. Definition of conviction and term of imprisonment.
Sec. 323. Authorizing registration of aliens on criminal probation or criminal parole.
Sec. 324. Penalty for reentry of deported aliens.
Sec. 325. Change in filing requirement.
Sec. 326. Criminal alien identification system.
Sec. 327. Appropriations for criminal alien tracking center.
Sec. 328. Provisions relating to State criminal alien assistance program.
Sec. 329. Demonstration project for identification of illegal aliens in incarceration facility of Anaheim, California.
Sec. 330. Prisoner transfer treaties.
Sec. 331. Prisoner transfer treaties study.
Sec. 332. Annual report on criminal aliens.
Sec. 333. Penalties for conspiring with or assisting an alien to commit an offense under the Controlled Substances Import and Export Act.
Sec. 334. Enhanced penalties for failure to depart, illegal reentry, and passport and visa fraud.

Subtitle C—Revision of Grounds for Exclusion and Deportation

Sec. 341. Proof of vaccination requirement for immigrants.
Sec. 342. Incitement of terrorist activity and provision of false documentation to terrorists as a basis for exclusion from the United States.
Sec. 343. Certification requirements for foreign health-care workers.

Sec. 344. Removal of aliens falsely claiming United States citizenship.
Sec. 345. Waiver of exclusion and deportation ground for certain section 274C violators.
Sec. 346. Inadmissibility of certain student visa abusers.
Sec. 347. Removal of aliens who have unlawfully voted.
Sec. 348. Waivers for immigrants convicted of crimes.
Sec. 349. Waiver of misrepresentation ground of inadmissibility for certain alien.
Sec. 350. Offenses of domestic violence and stalking as ground for deportation.
Sec. 351. Clarification of date as of which relationship required for waiver from exclusion or deportation for smuggling.
Sec. 352. Exclusion of former citizens who renounced citizenship to avoid United States taxation.
Sec. 353. References to changes elsewhere in Act.

Subtitle D—Changes in Removal of Alien Terrorist Provisions

Sec. 354. Treatment of classified information.
Sec. 355. Exclusion of representatives of terrorists organizations.
Sec. 356. Standard for judicial review of terrorist organization designations.
Sec. 357. Removal of ancillary relief for voluntary departure.
Sec. 358. Effective date.

Subtitle E—Transportation of Aliens

Sec. 361. Definition of stowaway.
Sec. 362. Transportation contracts.

Subtitle F—Additional Provisions

Sec. 371. Immigration judges and compensation.
Sec. 372. Delegation of immigration enforcement authority.
Sec. 373. Powers and duties of the Attorney General and the Commissioner.
Sec. 374. Judicial deportation.
Sec. 375. Limitation on adjustment of status.
Sec. 376. Treatment of certain fees.
Sec. 377. Limitation on legalization litigation.
Sec. 378. Rescission of lawful permanent resident status.
Sec. 379. Administrative review of orders.
Sec. 380. Civil penalties for failure to depart.
Sec. 381. Clarification of district court jurisdiction.
Sec. 382. Application of additional civil penalties to enforcement.
Sec. 383. Exclusion of certain aliens from family unity program.
Sec. 384. Penalties for disclosure of information.
Sec. 385. Authorization of additional funds for removal of aliens.
Sec. 386. Increase in INS detention facilities; report on detention space.
Sec. 387. Pilot program on use of closed military bases for the detention of inadmissible or deportable aliens.
Sec. 388. Report on interior repatriation program.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

Sec. 401. Establishment of programs.
Sec. 402. Voluntary election to participate in a pilot program.
Sec. 403. Procedures for participants in pilot programs.
Sec. 404. Employment eligibility confirmation system.
Sec. 405. Reports.

Subtitle B—Other Provisions Relating to Employer Sanctions

Sec. 411. Limiting liability for certain technical violations of paperwork requirements.
Sec. 412. Paperwork and other changes in the employer sanctions program.
Sec. 413. Report on additional authority or resources needed for enforcement of employer sanctions provisions.
Sec. 414. Reports on earnings of aliens not authorized to work.
Sec. 415. Authorizing maintenance of certain information on aliens.
Sec. 416. Subpoena authority.

Subtitle C—Unfair Immigration-Related Employment Practices

Sec. 421. Treatment of certain documentary practices as unfair immigration-related employment practices.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

Sec. 500. Statements of national policy concerning public benefits and immigration.

Subtitle A—Ineligibility of Excludable, Deportable, and Nonimmigrant Aliens From Public Assistance and Benefits

Sec. 501. Means-tested public benefits.
Sec. 502. Grants, contracts, and licenses.
Sec. 503. Unemployment benefits.
Sec. 504. Social security benefits.
Sec. 505. Requiring proof of identity for certain public assistance.
Sec. 506. Authorization for States to require proof of eligibility for State programs.
Sec. 507. Limitation on eligibility for preferential treatment of aliens not lawfully present on basis of residence for higher education benefits.
Sec. 508. Verification of student eligibility for postsecondary Federal student financial assistance.
Sec. 509. Verification of immigration status for purposes of social security and higher educational assistance.
Sec. 510. No verification requirement for nonprofit charitable organizations.
Sec. 511. GAO study of provision of means-tested public benefits to ineligible aliens on behalf of eligible individuals.

Subtitle B—Expansion of Disqualification From Immigration Benefits on the Basis of Public Charge

Sec. 531. Ground for exclusion.
Sec. 532. Ground for deportation.

Subtitle C—Affidavits of Support and Attribution of Income

Sec. 551. Requirements for sponsor's affidavit of support.
Sec. 552. Attribution of sponsor's income and resources to sponsored immigrants.
Sec. 553. Attribution of sponsor's income and resources authority for State and local governments.
Sec. 554. Authority of States and political subdivisions of States to limit assistance to aliens and to distinguish among classes of aliens in providing general cash public assistance.

Subtitle D—Miscellaneous Provisions

Sec. 561. Increased maximum criminal penalties for forging or counterfeiting seal of a Federal department or agency to facilitate benefit fraud by an unlawful alien.
Sec. 562. Computation of targeted assistance.
Sec. 563. Treatment of expenses subject to emergency medical services exception.
Sec. 564. Reimbursement of States and localities for emergency ambulance services.
Sec. 565. Pilot programs to require bonding.
Sec. 566. Reports.

Subtitle E—Housing Assistance

Sec. 571. Short title.
Sec. 572. Prorating of financial assistance.
Sec. 573. Actions in cases of termination of financial assistance.
Sec. 574. Verification of immigration status and eligibility for financial assistance.
Sec. 575. Prohibition of sanctions against entities making financial assistance eligibility determinations.
Sec. 576. Regulations.
Sec. 577. Report on housing assistance programs.

Subtitle F—General Provisions

Sec. 591. Effective dates.
Sec. 592. Statutory construction.
Sec. 593. Not applicable to foreign assistance.
Sec. 594. Notification.
Sec. 595. Definitions.

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Refugees, Parole, and Asylum

Sec. 601. Persecution for resistance to coercive population control methods.
Sec. 602. Limitation on use of parole.
Sec. 603. Treatment of long-term parolees in applying worldwide numerical limitations.
Sec. 604. Asylum reform.
Sec. 605. Increase in asylum officers.
Sec. 606. Conditional repeal of Cuban Adjustment Act.

Subtitle B—Miscellaneous Amendments to the Immigration and Nationality Act

Sec. 621. Alien witness cooperation.
Sec. 622. Waiver of foreign country residence requirement with respect to international medical graduates.
Sec. 623. Use of legalization and special agricultural worker information.
Sec. 624. Continued validity of labor certifications and classification petitions for professional athletes.
Sec. 625. Foreign students.
Sec. 626. Services to family members of certain officers and agents killed in the line of duty.

Subtitle C—Provisions Relating to Visa Processing and Consular Efficiency

Sec. 631. Validity of period of visas.
Sec. 632. Elimination of consulate shopping for visa overstays.
Sec. 633. Authority to determine visa processing procedures.
Sec. 634. Changes regarding visa application process.
Sec. 635. Visa waiver program.
Sec. 636. Fee for diversity immigrant lottery.
Sec. 637. Eligibility for visas for certain Polish applicants for the 1995 diversity immigrant program.

Subtitle D—Other Provisions

Sec. 641. Program to collect information relating to nonimmigrant foreign students.
Sec. 642. Communication between government agencies and the Immigration and Naturalization Service.
Sec. 643. Regulations regarding habitual residence.
Sec. 644. Information regarding female genital mutilation.
Sec. 645. Criminalization of female genital mutilation.
Sec. 646. Adjustment of status for certain Polish and Hungarian parolees.
Sec. 647. Support of demonstration projects.
Sec. 648. Sense of Congress regarding American-made products; requirements regarding notice.

Sec. 649. Vessel movement controls during immigration emergency.
Sec. 650. Review of practices of testing entities.
Sec. 651. Designation of a United States customs administrative building.
Sec. 652. Mail-order bride business.
Sec. 653. Review and report on H–2A nonimmigrant workers program.
Sec. 654. Report on allegations of harassment by Canadian customs agents.
Sec. 655. Sense of Congress on discriminatory application of New Brunswick provincial sales tax.
Sec. 656. Improvements in identification-related documents.
Sec. 657. Development of prototype of counterfeit-resistant Social Security card.
Sec. 658. Border Patrol Museum.
Sec. 659. Sense of the Congress regarding the mission of the Immigration and Naturalization Service.
Sec. 660. Authority for National Guard to assist in transportation of certain aliens.

Subtitle E—Technical Corrections

Sec. 671. Miscellaneous technical corrections.

(e) Severability.—If any provision of this Act or the application of such provision to any person or circumstances is held to be unconstitutional, the remainder of this Act and the application of the provisions of this Act to any person or circumstance shall not be affected thereby.

TITLE I—IMPROVEMENTS TO BORDER CONTROL, FACILITATION OF LEGAL ENTRY, AND INTERIOR ENFORCEMENT

Subtitle A—Improved Enforcement at the Border

SEC. 101. BORDER PATROL AGENTS AND SUPPORT PERSONNEL.

(a) Increased Number of Border Patrol Agents.—The Attorney General in each of fiscal years 1997, 1998, 1999, 2000, and 2001 shall increase by not less than 1,000 the number of positions for full-time, active-duty border patrol agents within the Immigration and Naturalization Service above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) Increase in Border Patrol Support Personnel.—The Attorney General, in each of fiscal years 1997, 1998, 1999, 2000, and 2001, may increase by 300 the number of positions for personnel in support of border patrol agents above the number of such positions for which funds were allotted for the preceding fiscal year.

(c) Deployment of Border Patrol Agents.—The Attorney General shall, to the maximum extent practicable, ensure that additional border patrol agents shall be deployed among Immigration and Naturalization Service sectors along the border in proportion to the level of illegal crossing of the borders of the United States measured in each sector during the preceding fiscal year and reasonably anticipated in the next fiscal year.

(d) Forward Deployment.—

(1) In general.—The Attorney General shall forward deploy existing border patrol agents in those areas of the border identified as areas of high illegal entry into the United States in order to provide a uniform and visible deterrent to illegal entry on a continuing basis. The previous sentence shall not apply to border patrol agents located at checkpoints.

(2) Preservation of law enforcement functions and capabilities in interior states.—The Attorney General shall, when deploying border patrol personnel from interior stations to border stations, coordinate with, and act in conjunction with, State and local law enforcement agencies to ensure that such deployment does not degrade or compromise the law enforcement capabilities and functions currently performed at interior border patrol stations.

(3) Report.—Not later than 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on—

(A) the progress and effectiveness of the forward deployment under paragraph (1); and

(B) the measures taken to comply with paragraph (2).

SEC. 102. IMPROVEMENT OF BARRIERS AT BORDER.

(a) In General.—The Attorney General, in consultation with the Commissioner of Immigration and Naturalization, shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States.

(b) Construction of Fencing and Road Improvements in the Border Area Near San Diego, California.—

(1) In general.—In carrying out subsection (a), the Attorney General shall provide for the construction along the 14 miles of the international land border of the United States, starting at the Pacific Ocean and extending eastward, of second and third fences, in addition to the existing reinforced fence, and for roads between the fences.

(2) Prompt acquisition of necessary easements.—The Attorney General, acting under the authority conferred in section 103(b) of the Immigration and Nationality Act (as inserted by subsection (d)), shall promptly acquire such easements as may be necessary to carry out this subsection and shall commence construction of fences immediately following such acquisition (or conclusion of portions thereof).

(3) Safety features.—The Attorney General, while constructing the additional fencing under this subsection, shall incorporate such safety features into the design of the fence system as are necessary to ensure the well-being of border patrol agents deployed within or in near proximity to the system.

(4) Authorization of appropriations.—There are authorized to be appropriated to carry out this subsection not to exceed $12,000,000. Amounts appropriated under this paragraph are authorized to remain available until expended.

(c) Waiver.—The provisions of the Endangered Species Act of 1973 and the National Environmental Policy Act of 1969 are waived to the extent the Attorney General determines necessary to ensure expeditious construction of the barriers and roads under this section.

(d) Land Acquisition Authority.—

(1) In general.—Section 103 (8 U.S.C. 1103) is amended—

(A) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(B) by inserting after subsection (a) the following:

"(b)(1) The Attorney General may contract for or buy any interest in land, including temporary use rights, adjacent to or in the vicinity of an international land border when the Attorney General deems the land essential to control and guard the boundaries and borders of the United States against any violation of this Act.

"(2) The Attorney General may contract for or buy any interest in land identified pursuant to paragraph (1) as soon as the lawful owner of that interest fixes a price for it and the Attorney General considers that price to be reasonable.

"(3) When the Attorney General and the lawful owner of an interest identified pursuant to paragraph (1) are unable to agree upon a reasonable price, the Attorney General may commence condemnation proceedings pursuant to the Act of August 1, 1888 (Chapter 728; 25 Stat. 357).

"(4) The Attorney General may accept for the United States a gift of any interest in land identified pursuant to paragraph (1).".

(2) Conforming amendment.—Section 103(e) (as so redesignated by paragraph (1)(A)) is amended by striking "subsection (c)" and inserting "subsection (d)".

SEC. 103. IMPROVED BORDER EQUIPMENT AND TECHNOLOGY.

The Attorney General is authorized to acquire and use, for the purpose of detection, interdiction, and reduction of illegal immigration into the United States, any Federal equipment (including fixed wing aircraft, helicopters, four-wheel drive vehicles, sedans, night vision goggles, night vision scopes, and sensor units) determined available for transfer by any other agency of the Federal Government upon request of the Attorney General.

SEC. 104. IMPROVEMENT IN BORDER CROSSING IDENTIFICATION CARD.

(a) In General.—Section 101(a)(6) (8 U.S.C. 1101(a)(6)) is amended by adding at the end the following: "Such regulations shall provide that (A) each such document include a biometric identifier (such as the fingerprint or handprint of the alien) that is machine readable and (B) an alien presenting a border crossing identification card is not permitted to cross over the border into the United States unless the biometric identifier contained on the card matches the appropriate biometric characteristic of the alien.".

(b) Effective Dates.—

(1) Clause a.—Clause (A) of the sentence added by the amendment made by subsection (a) shall apply to documents issued on or after 18 months after the date of the enactment of this Act.

(2) Clause b.—Clause (B) of such sentence shall apply to cards presented on or after 3 years after the date of the enactment of this Act.

SEC. 105. CIVIL PENALTIES FOR ILLEGAL ENTRY.

(a) In General.—Section 275 (8 U.S.C. 1325) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) Any alien who is apprehended while entering (or attempting to enter) the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty of—

"(1) at least $50 and not more than $250 for each such entry (or attempted entry); or

"(2) twice the amount specified in paragraph (1) in the case of an alien who has been previously subject to a civil penalty under this subsection.

Civil penalties under this subsection are in addition to, and not in lieu of, any criminal or other civil penalties that may be imposed.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to illegal entries or attempts to enter occurring on or after the first day of the sixth month beginning after the date of the enactment of this Act.

SEC. 106. HIRING AND TRAINING STANDARDS.

(a) Review of Hiring Standards.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall complete a review of all prescreening and hiring standards used by the Commissioner of Immigration and Naturalization, and, where necessary, revise such standards to ensure that they are consistent with relevant standards of professionalism.

(b) Certification.—At the conclusion of each of fiscal years 1997, 1998, 1999, 2000, and 2001, the Attorney General shall certify in writing to

the Committees on the Judiciary of the House of Representatives and of the Senate that all personnel hired by the Commissioner of Immigration and Naturalization for such fiscal year were hired pursuant to the appropriate standards, as revised under subsection (a).

(c) REVIEW OF TRAINING STANDARDS.—

(1) REVIEW.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall complete a review of the sufficiency of all training standards used by the Commissioner of Immigration and Naturalization.

(2) REPORT.—

(A) IN GENERAL.—Not later than 90 days after the completion of the review under paragraph (1), the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the results of the review, including—

(i) a description of the status of efforts to update and improve training throughout the Immigration and Naturalization Service; and

(ii) an estimate of when such efforts are expected to be completed.

(B) AREAS REQUIRING FUTURE REVIEW.—The report shall disclose those areas of training that the Attorney General determines require further review in the future.

SEC. 107. REPORT ON BORDER STRATEGY.

(a) EVALUATION OF STRATEGY.—The Comptroller General of the United States shall track, monitor, and evaluate the Attorney General's strategy to deter illegal entry in the United States to determine the efficacy of such strategy.

(b) COOPERATION.—The Attorney General, the Secretary of State, and the Secretary of Defense shall cooperate with the Comptroller General of the United States in carrying out subsection (a).

(c) REPORT.—Not later than one year after the date of the enactment of this Act, and every year thereafter for the succeeding 5 years, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the results of the activities undertaken under subsection (a) during the previous year. Each such report shall include an analysis of the degree to which the Attorney General's strategy has been effective in reducing illegal entry. Each such report shall include a collection and systematic analysis of data, including workload indicators, related to activities to deter illegal entry and recommendations to improve and increase border security at the border and ports of entry.

SEC. 108. CRIMINAL PENALTIES FOR HIGH SPEED FLIGHTS FROM IMMIGRATION CHECKPOINTS.

(a) FINDINGS.—The Congress finds as follows:

(1) Immigration checkpoints are an important component of the national strategy to prevent illegal immigration.

(2) Individuals fleeing immigration checkpoints and leading law enforcement officials on high speed vehicle chases endanger law enforcement officers, innocent bystanders, and the fleeing individuals themselves.

(3) The pursuit of suspects fleeing immigration checkpoints is complicated by overlapping jurisdiction among Federal, State, and local law enforcement officers.

(b) HIGH SPEED FLIGHT FROM IMMIGRATION CHECKPOINTS.—

(1) IN GENERAL.—Chapter 35 of title 18, United States Code, is amended by adding at the end the following:

"§758. High speed flight from immigration checkpoint

"Whoever flees or evades a checkpoint operated by the Immigration and Naturalization Service, or any other Federal law enforcement agency, in a motor vehicle and flees Federal, State, or local law enforcement agents in excess of the legal speed limit shall be fined under this title, imprisoned not more than five years, or both.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 757 the following:

"758. High speed flight from immigration checkpoint.".

(c) GROUNDS FOR DEPORTATION.—Section 241(a)(2)(A) (8 U.S.C. 1251(a)(2)(A)) is amended—

(1) by redesignating clause (iv) as clause (v);

(2) by inserting after clause (iii) the following:

"(iv) HIGH SPEED FLIGHT.—Any alien who is convicted of a violation of section 758 of title 18, United States Code, (relating to high speed flight from an immigration checkpoint) is deportable."; and

(3) in clause (v) (as so redesignated by paragraph (1)), by striking "and (iii)" and inserting "(iii), and (iv)".

SEC. 109. JOINT STUDY OF AUTOMATED DATA COLLECTION.

(a) STUDY.—The Attorney General, together with the Secretary of State, the Secretary of Agriculture, the Secretary of the Treasury, and appropriate representatives of the air transport industry, shall jointly undertake a study to develop a plan for making the transition to automated data collection at ports of entry.

(b) REPORT.—Nine months after the date of the enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the outcome of the joint initiative under subsection (a), noting specific areas of agreement and disagreement, and recommending further steps to be taken, including any suggestions for legislation.

SEC. 110. AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) SYSTEM.—Not later than 2 years after the date of the enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will—

(1) collect a record of departure for every alien departing the United States and match the records of departure with the record of the alien's arrival in the United States; and

(2) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

(b) REPORT.—

(1) DEADLINE.—Not later than December 31 of each year following the development of the system under subsection (a), the Attorney General shall submit an annual report to the Committees on the Judiciary of the House of Representatives and of the Senate on such system.

(2) INFORMATION.—The report shall include the following information:

(A) The number of departure records collected, with an accounting by country of nationality of the departing alien.

(B) The number of departure records that were successfully matched to records of the alien's prior arrival in the United States, with an accounting by the alien's country of nationality and by the alien's classification as an immigrant or nonimmigrant.

(C) The number of aliens who arrived as nonimmigrants, or as a visitor under the visa waiver program under section 217 of the Immigration and Nationality Act, for whom no matching departure record has been obtained through the system or through other means as of the end of the alien's authorized period of stay, with an accounting by the alien's country of nationality and date of arrival in the United States.

(c) USE OF INFORMATION ON OVERSTAYS.—Information regarding aliens who have remained in the United States beyond their authorized period of stay identified through the system shall be integrated into appropriate data bases of the Immigration and Naturalization Service and the Department of State, including those used at ports of entry and at consular offices.

SEC. 111. SUBMISSION OF FINAL PLAN ON REALIGNMENT OF BORDER PATROL POSITIONS FROM INTERIOR STATIONS.

Not later than November 30, 1996, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a final plan regarding the redeployment of border patrol personnel from interior locations to the front lines of the border. The final plan shall be consistent with the following:

(1) The preliminary plan regarding such redeployment submitted by the Attorney General on May 17, 1996, to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

(2) The direction regarding such redeployment provided in the joint explanatory statement of the committee of conference in the conference report to accompany the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134).

SEC. 112. NATIONWIDE FINGERPRINTING OF APPREHENDED ALIENS.

There are authorized to be appropriated such additional sums as may be necessary to ensure that the "IDENT" program (operated by the Immigration and Naturalization Service) is expanded to apply to illegal or criminal aliens apprehended nationwide.

Subtitle B—Facilitation of Legal Entry

SEC. 121. LAND BORDER INSPECTORS.

In order to eliminate undue delay in the thorough inspection of persons and vehicles lawfully attempting to enter the United States, the Attorney General and the Secretary of the Treasury each shall increase, by approximately equal numbers in each of fiscal years 1997 and 1998, the number of full-time land border inspectors assigned to active duty by the Immigration and Naturalization Service and the United States Customs Service to a level adequate to assure full staffing during peak crossing hours of all border crossing lanes currently in use, under construction, or whose construction has been authorized by the Congress, except such low-use lanes as the Attorney General may designate.

SEC. 122. LAND BORDER INSPECTION AND AUTOMATED PERMIT PILOT PROJECTS.

(a) EXTENSION OF LAND BORDER INSPECTION PROJECT AUTHORITY; ESTABLISHMENT OF AUTOMATED PERMIT PILOT PROJECTS.—Section 286(q) is amended—

(1) by striking the matter preceding paragraph (2) and inserting the following:

"(q) LAND BORDER INSPECTION FEE ACCOUNT.—(1)(A)(i) Notwithstanding any other provision of law, the Attorney General is authorized to establish, by regulation, not more than 6 projects under which a fee may be charged and collected for inspection services provided at one or more land border points of entry. Such projects may include the establishment of commuter lanes to be made available to qualified United States citizens and aliens, as determined by the Attorney General.

"(ii) The program authorized in this subparagraph shall terminate on September 30, 2000, unless further authorized by an Act of Congress.

"(iii) This subparagraph shall take effect, with respect to any project described in clause (1) that was not authorized to be commenced before the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 30 days after submission of a written plan by the Attorney General detailing the proposed implementation of such project.

"(iv) The Attorney General shall prepare and submit on a quarterly basis, until September 30,

2000, a status report on each land border inspection project implemented under this subparagraph.

"(B) The Attorney General, in consultation with the Secretary of the Treasury, may conduct pilot projects to demonstrate the use of designated ports of entry after working hours through the use of card reading machines or other appropriate technology."; and

(2) by striking paragraph (5).

(b) CONFORMING AMENDMENT.—The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1994 (Public Law 103–121, 107 Stat. 1161) is amended by striking the fourth proviso under the heading "Immigration and Naturalization Service, Salaries and Expenses".

SEC. 123. PREINSPECTION AT FOREIGN AIRPORTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 235 the following:

"PREINSPECTION AT FOREIGN AIRPORTS

"SEC. 235A. (a) ESTABLISHMENT OF PREINSPECTION STATIONS.—

"(1) NEW STATIONS.—Subject to paragraph (5), not later than October 31, 1998, the Attorney General, in consultation with the Secretary of State, shall establish and maintain preinspection stations in at least 5 of the foreign airports that are among the 10 foreign airports which the Attorney General identifies as serving as last points of departure for the greatest numbers of inadmissible alien passengers who arrive from abroad by air at ports of entry within the United States. Such preinspection stations shall be in addition to any preinspection stations established prior to the date of the enactment of such Act.

"(2) REPORT.—Not later than October 31, 1998, the Attorney General shall report to the Committees on the Judiciary of the House of Representatives and of the Senate on the implementation of paragraph (1).

"(3) DATA COLLECTION.—Not later than November 1, 1997, and each subsequent November 1, the Attorney General shall compile data identifying—

"(A) the foreign airports which served as last points of departure for aliens who arrived by air at United States ports of entry without valid documentation during the preceding fiscal years;

"(B) the number and nationality of such aliens arriving from each such foreign airport; and

"(C) the primary routes such aliens followed from their country of origin to the United States.

"(4) ADDITIONAL STATIONS.—Subject to paragraph (5), not later than October 31, 2000, the Attorney General, in consultation with the Secretary of State, shall establish preinspection stations in at least 5 additional foreign airports which the Attorney General, in consultation with the Secretary of State, determines, based on the data compiled under paragraph (3) and such other information as may be available, would most effectively reduce the number of aliens who arrive from abroad by air at points of entry within the United States who are inadmissible to the United States. Such preinspection stations shall be in addition to those established prior to the date of the enactment of such Act or pursuant to paragraph (1).

"(5) CONDITIONS.—Prior to the establishment of a preinspection station, the Attorney General, in consultation with the Secretary of State, shall ensure that—

"(A) employees of the United States stationed at the preinspection station and their accompanying family members will receive appropriate protection;

"(B) such employees and their families will not be subject to unreasonable risks to their welfare and safety; and

"(C) the country in which the preinspection station is to be established maintains practices and procedures with respect to asylum seekers and refugees in accordance with the Convention Relating to the Status of Refugees (done at Geneva, July 28, 1951), or the Protocol Relating to the Status of Refugees (done at New York, January 31, 1967), or that an alien in the country otherwise has recourse to avenues of protection from return to persecution.

"(b) ESTABLISHMENT OF CARRIER CONSULTANT PROGRAM.—The Attorney General shall assign additional immigration officers to assist air carriers in the detection of fraudulent documents at foreign airports which, based on the records maintained pursuant to subsection (a)(3), served as a point of departure for a significant number of arrivals at United States ports of entry without valid documentation, but where no preinspection station exists.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 235 the following:

"Sec. 235A. Preinspection at foreign airports.".

SEC. 124. TRAINING OF AIRLINE PERSONNEL IN DETECTION OF FRAUDULENT DOCUMENTS.

(a) USE OF FUNDS.—

(1) IN GENERAL.—Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(A) in clause (iv), by inserting ", including training of, and technical assistance to, commercial airline personnel regarding such detection" after "United States"; and

(B) by adding at the end the following:

"The Attorney General shall provide for expenditures for training and assistance described in clause (iv) in an amount, for any fiscal year, not less than 5 percent of the total of the expenses incurred that are described in the previous sentence.".

(2) APPLICABILITY.—The amendments made by paragraph (1) shall apply to expenses incurred during or after fiscal year 1997.

(b) COMPLIANCE WITH DETECTION REGULATIONS.—

(1) IN GENERAL.—Section 212(f) (8 U.S.C. 1182(f)) is amended by adding at the end the following: "Whenever the Attorney General finds that a commercial airline has failed to comply with regulations of the Attorney General relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.".

(2) DEADLINE.—The Attorney General shall first issue, in proposed form, regulations referred to in the second sentence of section 212(f) of the Immigration and Nationality Act, as added by the amendment made by paragraph (1), not later than 90 days after the date of the enactment of this Act.

SEC. 125. PRECLEARANCE AUTHORITY.

Section 103(a) of the Immigration and Nationality Act (8 U.S.C. 1103(a)) is amended by adding at the end the following:

"After consultation with the Secretary of State, the Attorney General may authorize officers of a foreign country to be stationed at preclearance facilities in the United States for the purpose of ensuring that persons traveling from or through the United States to that foreign country comply with that country's immigration and related laws. Those officers may exercise such authority and perform such duties as United States immigration officers are authorized to exercise and perform in that foreign country under reciprocal agreement, and they shall enjoy such reasonable privileges and immunities necessary for the performance of their duties as the government of their country extends to United States immigration officers.".

Subtitle C—Interior Enforcement

SEC. 131. AUTHORIZATION OF APPROPRIATIONS FOR INCREASE IN NUMBER OF CERTAIN INVESTIGATORS.

(a) AUTHORIZATION.—There are authorized to be appropriated such funds as may be necessary to enable the Commissioner of Immigration and Naturalization to increase the number of investigators and support personnel to investigate potential violations of sections 274 and 274A of the Immigration and Nationality Act by a number equivalent to 300 full-time active-duty investigators in each of fiscal years 1997, 1998, and 1999.

(b) ALLOCATION OF INVESTIGATORS.—At least one-half of the investigators hired with funds made available under subsection (a) shall be assigned to investigate potential violations of section 274A of the Immigration and Nationality Act.

(c) LIMITATION ON OVERTIME.—None of the funds made available under subsection (a) shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 for any fiscal year.

SEC. 132. AUTHORIZATION OF APPROPRIATIONS FOR INCREASE IN NUMBER OF INVESTIGATORS OF VISA OVERSTAYERS.

There are authorized to be appropriated such funds as may be necessary to enable the Commissioner of Immigration and Naturalization to increase the number of investigators and support personnel to investigate visa overstayers by a number equivalent to 300 full-time active-duty investigators in fiscal year 1997.

SEC. 133. ACCEPTANCE OF STATE SERVICES TO CARRY OUT IMMIGRATION ENFORCEMENT.

Section 287 (8 U.S.C. 1357) is amended by adding at the end the following:

"(g)(1) Notwithstanding section 1342 of title 31, United States Code, the Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law.

"(2) An agreement under this subsection shall require that an officer or employee of a State or political subdivision of a State performing a function under the agreement shall have knowledge of, and adhere to, Federal law relating to the function, and shall contain a written certification that the officers or employees performing the function under the agreement have received adequate training regarding the enforcement of relevant Federal immigration laws.

"(3) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State shall be subject to the direction and supervision of the Attorney General.

"(4) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State may use Federal property or facilities, as provided in a written agreement between the Attorney General and the State or subdivision.

"(5) With respect to each officer or employee of a State or political subdivision who is authorized to perform a function under this subsection, the specific powers and duties that may be, or are required to be, exercised or performed by the individual, the duration of the authority of the *individual, and the position of the agency of the Attorney General who is required to supervise and direct the individual, shall be set forth in a written agreement between the Attorney General and the State or political subdivision.*

"(6) The Attorney General may not accept a service under this subsection if the service will be used to displace any Federal employee.

"(7) Except as provided in paragraph (8), an officer or employee of a State or political subdivision of a State performing functions under this subsection shall not be treated as a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, (relating to compensation for injury) and sections 2671 through 2680 of title 28, United States Code (relating to tort claims).

"(8) An officer or employee of a State or political subdivision of a State acting under color of authority under this subsection, or any agreement entered into under this subsection, shall be considered to be acting under color of Federal authority for purposes of determining the liability, and immunity from suit, of the officer or employee in a civil action brought under Federal or State law.

"(9) Nothing in this subsection shall be construed to require any State or political subdivision of a State to enter into an agreement with the Attorney General under this subsection.

"(10) Nothing in this subsection shall be construed to require an agreement under this subsection in order for any officer or employee of a State or political subdivision of a State—

"(A) to communicate with the Attorney General regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States; or

"(B) otherwise to cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.".

SEC. 134. MINIMUM STATE INS PRESENCE.

(a) IN GENERAL.—Section 103 (8 U.S.C. 1103), as amended by section 102(e), is further amended by adding at the end the following:

"(f) The Attorney General shall allocate to each State not fewer than 10 full-time active duty agents of the Immigration and Naturalization Service to carry out the functions of the Service, in order to ensure the effective enforcement of this Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

SEC. 201. WIRETAP AUTHORITY FOR INVESTIGATIONS OF ALIEN SMUGGLING OR DOCUMENT FRAUD.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c), by striking "or section 1992 (relating to wrecking trains)" and inserting "section 1992 (relating to wrecking trains), a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents)";

(2) by striking "or" at the end of paragraph (l);

(3) by redesignating paragraphs (m), (n), and (o) as paragraphs (n), (o), and (p), respectively; and

(4) by inserting after paragraph (l) the following new paragraph:

"(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324, 1327, or 1328) (relating to the smuggling of aliens);".

SEC. 202. RACKETEERING OFFENSES RELATING TO ALIEN SMUGGLING.

Section 1961(1) of title 18, United States Code, as amended by section 433 of Public Law 104–132, is amended—

(1) by striking "if the act indictable under section 1028 was committed for the purpose of financial gain";

(2) by inserting "section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers)," after "section 1344 (relating to financial institution fraud),";

(3) by striking "if the act indictable under section 1542 was committed for the purpose of financial gain";

(4) by striking "if the act indictable under section 1543 was committed for the purpose of financial gain";

(5) by striking "if the act indictable under section 1544 was committed for the purpose of financial gain"; and

(6) by striking "if the act indictable under section 1546 was committed for the purpose of financial gain".

SEC. 203. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

(a) COMMERCIAL ADVANTAGE.—Section 274(a)(1)(B)(i) (8 U.S.C. 1324(a)(1)(B)(i)) is amended by inserting "or in the case of a violation of subparagraph (A)(ii), (iii), or (iv) in which the offense was done for the purpose of commercial advantage or private financial gain" after "subparagraph (A)(i)".

(b) ADDITIONAL OFFENSES.—Section 274(a) (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "or" at the end of clause (iii);

(B) by striking the comma at the end of clause (iv) and inserting "; or"; and

(C) by adding at the end the following new clause:

"(v)(I) engages in any conspiracy to commit any of the preceding acts, or

"(II) aids or abets the commission of any of the preceding acts,";

(2) in paragraph (1)(B)—

(A) in clause (i), by inserting "or (v)(I)" after "(A)(i)";

(B) in clause (ii), by striking "or (iv)" and inserting "(iv), or (v)(II)";

(C) in clause (iii), by striking "or (iv)" and inserting "(iv), or (v)"; and

(D) in clause (iv), by striking "or (iv)" and inserting "(iv), or (v)";

(3) in paragraph (2)(B), by striking "be fined" and all that follows and inserting the following: "be fined under title 18, United States Code, and shall be imprisoned, in the case of a first or second violation of subparagraph (B)(iii), not more than 10 years, in the case of a first or second violation of subparagraph (B)(i) or (B)(ii), not less than 3 nor more than 10 years, and for any other violation, not less than 5 nor more than 15 years."; and

(4) by adding at the end the following new paragraph:

"(3)(A) Any person who, during any 12-month period, knowingly hires for employment at least 10 individuals with actual knowledge that the individuals are aliens described in subparagraph (B) shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

"(B) An alien described in this subparagraph is an alien who—

"(i) is an unauthorized alien (as defined in section 274A(h)(3)), and

"(ii) has been brought into the United States in violation of this subsection.".

(c) SMUGGLING OF ALIENS WHO WILL COMMIT CRIMES.—Clause (i) of section 274(a)(2)(B) (8 U.S.C. 1324(a)(2)(B)) is amended to read as follows:

"(i) an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year,".

(d) APPLYING CERTAIN PENALTIES ON A PER ALIEN BASIS.—Section 274(a)(2) (8 U.S.C. 1324(a)(2)) is amended by striking "for each transaction constituting a violation of this paragraph, regardless of the number of aliens involved" and inserting "for each alien in respect to whom a violation of this paragraph occurs".

(e) SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of offenses related to smuggling, transporting, harboring, or inducing aliens in violation of section 274(a) (1)(A) or (2) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), (2)(B)) in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses described in paragraph (1)—

(A) increase the base offense level for such offenses at least 3 offense levels above the applicable level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for the number of aliens involved (U.S.S.G. 2L1.1(b)(2)), and increase the sentencing enhancement by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underling conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(E) impose an appropriate sentencing enhancement on a defendant who, in the course of committing an offense described in this subsection—

(i) murders or otherwise causes death, bodily injury, or serious bodily injury to an individual;

(ii) uses or brandishes a firearm or other dangerous weapon; or

(iii) engages in conduct that consciously or recklessly places another in serious danger of death or serious bodily injury;

(F) consider whether a downward adjustment is appropriate if the offense is a first offense and involves the smuggling only of the alien's spouse or child; and

(G) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 204. INCREASED NUMBER OF ASSISTANT UNITED STATES ATTORNEYS.

(a) IN GENERAL.—The number of Assistant United States Attorneys employed by the Department of Justice for the fiscal year 1997 shall be increased by at least 25 above the number of Assistant United States Attorneys that were authorized to be employed as of September 30, 1996.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall prosecute persons who bring into the United States or harbor illegal aliens or violate other criminal statutes involving illegal aliens.

SEC. 205. UNDERCOVER INVESTIGATION AUTHORITY.

(a) IN GENERAL.—Title II is amended by adding at the end the following new section:

"UNDERCOVER INVESTIGATION AUTHORITY

"SEC. 294. (a) IN GENERAL.—With respect to any undercover investigative operation of the Service which is necessary for the detection and prosecution of crimes against the United States—

"(1) sums appropriated for the Service may be used for leasing space within the United States and the territories and possessions of the United States without regard to the following provisions of law:

"(A) section 3679(a) of the Revised Statutes (31 U.S.C. 1341),

"(B) section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)),

"(C) section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255),

"(D) the third undesignated paragraph under the heading 'Miscellaneous' of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34),

"(E) section 3648 of the Revised Statutes (31 U.S.C. 3324),

"(F) section 3741 of the Revised Statutes (41 U.S.C. 22), and

"(G) subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

"(2) sums appropriated for the Service may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 304 of the Government Corporation Control Act (31 U.S.C. 9102);

"(3) sums appropriated for the Service, and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and of section 3639 of the Revised Statutes (31 U.S.C. 3302); and

"(4) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 3302).

The authority set forth in this subsection may be exercised only upon written certification of the Commissioner, in consultation with the Deputy Attorney General, that any action authorized by paragraph (1), (2), (3), or (4) is necessary for the conduct of the undercover operation.

"(b) DISPOSITION OF PROCEEDS NO LONGER REQUIRED.—As soon as practicable after the proceeds from an undercover investigative operation, carried out under paragraphs (3) and (4) of subsection (a), are no longer necessary for the conduct of the operation, the proceeds or the balance of the proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(c) DISPOSITION OF CERTAIN CORPORATIONS AND BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or Commissioner's designee determines practicable, shall report the circumstances to the Attorney General, the Director of the Office of Management and Budget, and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(d) FINANCIAL AUDITS.—The Service shall conduct detailed financial audits of closed undercover operations on a quarterly basis and shall report the results of the audits in writing to the Deputy Attorney General.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 293 the following:

"Sec. 294. Undercover investigation authority.".

Subtitle B—Deterrence of Document Fraud

SEC. 211. INCREASED CRIMINAL PENALTIES FOR FRAUDULENT USE OF GOVERNMENT-ISSUED DOCUMENTS.

(a) FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—(1) Section 1028(b) of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting "except as provided in paragraphs (3) and (4)," after "(1)" and by striking "five years" and inserting "15 years";

(B) in paragraph (2), by inserting "except as provided in paragraphs (3) and (4)," after "(2)" and by striking "and" at the end;

(C) by redesignating paragraph (3) as paragraph (5); and

(D) by inserting after paragraph (2) the following new paragraphs:

"(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed to facilitate a drug trafficking crime (as defined in section 929(a)(2) of this title);

"(4) a fine under this title or imprisonment for not more than 25 years, or both, if the offense is committed to facilitate an act of international terrorism (as defined in section 2331(1) of this title); and".

(2) Sections 1425 through 1427, sections 1541 through 1544, and section 1546(a) of title 18, United States Code, are each amended by striking "imprisoned not more" and all that follows through "years" each place it appears and inserting the following: "imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)".

(b) CHANGES TO THE SENTENCING LEVELS.—

(1) IN GENERAL.—Pursuant to the Commission's authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of violating, or conspiring to violate, sections 1028(b)(1), 1425 through 1427, 1541 through 1544, and 1546(a) of title 18, United States Code, in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses referred to in paragraph (1)—

(A) increase the base offense level for such offenses at least 2 offense levels above the level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for number of documents or passports involved (U.S.S.G. 2L2.1(b)(2)), and increase the upward adjustment by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category; and

(E) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 212. NEW DOCUMENT FRAUD OFFENSES; NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.

(a) ACTIVITIES PROHIBITED.—Section 274C(a) (8 U.S.C. 1324c(a)) is amended—

(1) in paragraph (1), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(2) in paragraph (2), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(3) in paragraph (3)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the comma at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking "or" at the end;

(4) in paragraph (4)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the period at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking the period at the end and inserting ", or"; and

(5) by adding at the end the following new paragraphs:

"(5) to prepare, file, or assist another in preparing or filing, any application for benefits under this Act, or any document required under this Act, or any document submitted in connection with such application or document, with knowledge or in reckless disregard of the fact that such application or document was falsely made or, in whole or in part, does not relate to the person on whose behalf it was or is being submitted, or

"(6)(A) to present before boarding a common carrier for the purpose of coming to the United States a document which relates to the alien's eligibility to enter the United States, and (B) to fail to present such document to an immigration officer upon arrival at a United States port of entry.".

(b) DEFINITION OF FALSELY MAKE.—Section 274C (8 U.S.C. 1324c), as amended by section 213, is further amended by adding at the end the following new subsection:

"(f) FALSELY MAKE.—For purposes of this section, the term 'falsely make' means to prepare or provide an application or document, with knowledge or in reckless disregard of the fact that the application or document contains a false, fictitious, or fraudulent statement or material representation, or has no basis in law or fact, or otherwise fails to state a fact which is material to the purpose for which it was submitted.".

(c) CONFORMING AMENDMENT.—Section 274C(d)(3) (8 U.S.C. 1324c(d)(3)) is amended by striking "each document used, accepted, or created and each instance of use, acceptance, or creation" each place it appears and inserting "each document that is the subject of a violation under subsection (a)".

(d) WAIVER BY ATTORNEY GENERAL.—Section 274C(d) (8 U.S.C. 1324c(d)) is amended by adding at the end the following new paragraph:

"(7) WAIVER BY ATTORNEY GENERAL.—The Attorney General may waive the penalties imposed by this section with respect to an alien who knowingly violates subsection (a)(6) if the alien is granted asylum under section 208 or withholding of deportation under section 243(h).".

(e) EFFECTIVE DATE.—Section 274C(f) of the Immigration and Nationality Act, as added by subsection (b), applies to the preparation of applications before, on, or after the date of the enactment of this Act.

SEC. 213. NEW CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS PREPARER OF FALSE APPLICATION FOR IMMIGRATION BENEFITS.

Section 274C (8 U.S.C. 1324c) is amended by adding at the end the following new subsection:

"(e) CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS DOCUMENT PREPARER.—(1) Whoever, in any matter within the jurisdiction of the Service, knowingly and willfully fails to disclose, conceals, or covers up the fact that they have, on behalf of any person and for a fee or other remuneration, prepared or assisted in preparing an application which was falsely made (as defined in subsection (f)) for immigration benefits, shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both, and prohibited from preparing or assisting in preparing, whether or not for a fee or other remuneration, any other such application.

"(2) Whoever, having been convicted of a violation of paragraph (1), knowingly and willfully prepares or assists in preparing an application for immigration benefits pursuant to this Act, or the regulations promulgated thereunder, whether or not for a fee or other remuneration and regardless of whether in any matter within the jurisdiction of the Service, shall be fined in accordance with title 18, United States Code, imprisoned for not more than 15 years, or both, and prohibited from preparing or assisting in preparing any other such application.".

SEC. 214. CRIMINAL PENALTY FOR KNOWINGLY PRESENTING DOCUMENT WHICH FAILS TO CONTAIN REASONABLE BASIS IN LAW OR FACT.

The fourth paragraph of section 1546(a) of title 18, United States Code, is amended by striking "containing any such false statement" and inserting "which contains any such false statement or which fails to contain any reasonable basis in law or fact".

SEC. 215. CRIMINAL PENALTY FOR FALSE CLAIM TO CITIZENSHIP.

Section 1015 of title 18, United States Code, is amended—

(1) by striking the dash at the end of paragraph (d) and inserting "; or", and

(2) by inserting after paragraph (d) the following:

"(e) Whoever knowingly makes any false statement or claim that he is, or at any time has been, a citizen or national of the United States, with the intent to obtain on behalf of himself, or any other person, any Federal or State benefit or service, or to engage unlawfully in employment in the United States; or

"(f) Whoever knowingly makes any false statement or claim that he is a citizen of the United States in order to register to vote or to vote in any Federal, State, or local election (including an initiative, recall, or referendum)—".

SEC. 216. CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 610 the following:

"§611. Voting by aliens

"(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

"(1) the election is held partly for some other purpose;

"(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

"(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.

"(b) Any person who violates this section shall be fined under this title, imprisoned not more than one year, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 29 of title 18, United States Code, is amended by inserting after the item relating to section 610 the following new item:

"611. Voting by aliens.".

SEC. 217. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.

Section 982(a) of title 18, United States Code, is amended by inserting after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1425, 1426, 1427, 1541, 1542, 1543. 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States, regardless of any provision of State law—

"(i) any conveyance, including any vessel, vehicle, or aircraft used in the commission of a violation of, or a conspiracy to violate, subsection (a); and

"(ii) any property real or personal—

"(I) that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a)(1) or 274A(a)(2) of the Immigration and Nationality Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of this title; or

"(II) that is used to facilitate, or is intended to be used to facilitate, the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a)(1) or 274A(a)(2) of the Immigration and Nationality Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of this title.

The court, in imposing sentence on such person, shall order that the person forfeit to the United States all property described in this subparagraph.

"(B) The criminal forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related administrative or judicial proceeding, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsections (a) and (d) of such section 413.".

SEC. 218. CRIMINAL PENALTIES FOR INVOLUNTARY SERVITUDE.

(a) AMENDMENTS TO TITLE 18.—Sections 1581, 1583, 1584, and 1588 of title 18, United States Code, are amended by striking "five" each place it appears and inserting "10".

(b) REVIEW OF SENTENCING GUIDELINES.—The United States Sentencing Commission shall ascertain whether there exists an unwarranted disparity—

(1) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses in effect on the date of the enactment of this Act; and

(2) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for alien smuggling offenses in effect on the date of the enactment of this Act and after the amendment made by subsection (a).

(c) AMENDMENT OF SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review its guidelines on sentencing for peonage, involuntary servitude, and slave trade offenses under sections 1581 through 1588 of title 18, United States Code, and shall amend such guidelines as necessary to—

(A) reduce or eliminate any unwarranted disparity found under subsection (b) that exists between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses and alien smuggling offenses;

(B) ensure that the applicable guidelines for defendants convicted of peonage, involuntary servitude, and slave trade offenses are sufficiently stringent to deter such offenses and adequately reflect the heinous nature of such offenses; and

(C) ensure that the guidelines reflect the general appropriateness of enhanced sentences for defendants whose peonage, involuntary servitude, or slave trade offenses involve—

(i) a large number of victims;

(ii) the use or threatened use of a dangerous weapon; or

(iii) a prolonged period of peonage or involuntary servitude.

(2) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 219. ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.

Section 274 (8 U.S.C. 1324) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually preserved) deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unable to testify, may be admitted into evidence in an action brought for that violation if the witness was available for cross examination and the deposition otherwise complies with the Federal Rules of Evidence.".

SEC. 220. SUBPOENA AUTHORITY IN DOCUMENT FRAUD ENFORCEMENT.

Section 274C(d)(1) (8 U.S.C. 1324c(d)(1)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by inserting after subparagraph (B) the following:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Procedures for Removal of Aliens

SEC. 301. TREATING PERSONS PRESENT IN THE UNITED STATES WITHOUT AUTHORIZATION AS NOT ADMITTED.

(a) "ADMISSION" DEFINED.—Paragraph (13) of section 101(a) (8 U.S.C. 1101(a)) is amended to read as follows:

"(13)(A) The terms 'admission' and 'admitted' mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.

"(B) An alien who is paroled under section 212(d)(5) or permitted to land temporarily as an alien crewman shall not be considered to have been admitted.

"(C) An alien lawfully admitted for permanent residence in the United States shall not be regarded as seeking an admission into the United States for purposes of the immigration laws unless the alien—

"(i) has abandoned or relinquished that status,

"(ii) has been absent from the United States for a continuous period in excess of 180 days,

"(iii) has engaged in illegal activity after having departed the United States,

"(iv) has departed from the United States while under legal process seeking removal of the alien from the United States, including removal proceedings under this Act and extradition proceedings,

"(v) has committed an offense identified in section 212(a)(2), unless since such offense the alien has been granted relief under section 212(h) or 240A(a), or

"(vi) is attempting to enter at a time or place other than as designated by immigration officers or has not been admitted to the United States after inspection and authorization by an immigration officer.".

(b) INADMISSIBILITY OF ALIENS PREVIOUSLY REMOVED AND UNLAWFULLY PRESENT.—

(1) IN GENERAL.—Section 212(a) (8 U.S.C. 1182(a)) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) ALIENS PREVIOUSLY REMOVED.—

"(A) CERTAIN ALIENS PREVIOUSLY REMOVED.—

"(i) ARRIVING ALIENS.—Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission within 5 years of the date of such removal (or within 20 years in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

"(ii) OTHER ALIENS.—Any alien not described in clause (i) who—

"(I) has been ordered removed under section 240 or any other provision of law, or

"(II) departed the United States while an order of removal was outstanding,

and who seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of such date in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

"(iii) EXCEPTION.—Clauses (i) and (ii) shall not apply to an alien seeking admission within a period if, prior to the date of the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission.

"(B) ALIENS UNLAWFULLY PRESENT.—

"(i) IN GENERAL.—Any alien (other than an alien lawfully admitted for permanent residence) who—

"(I) was unlawfully present in the United States for a period of more than 180 days but less than 1 year, voluntarily departed the United States (whether or not pursuant to section 244(e)) prior to the commencement of proceedings under section 235(b)(1) or section 240, and again seeks admission within 3 years of the date of such alien's departure or removal, or

"(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States,

is inadmissible.

"(ii) CONSTRUCTION OF UNLAWFUL PRESENCE.—For purposes of this paragraph, an alien is deemed to be unlawfully present in the United States if the alien is present in the United States after the expiration of the period of stay authorized by the Attorney General or is present in the United States without being admitted or paroled.

"(iii) EXCEPTIONS.—

"(I) MINORS.—No period of time in which an alien is under 18 years of age shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

"(II) ASYLEES.—No period of time in which an alien has a bona fide application for asylum pending under section 208 shall be taken into account in determining the period of unlawful presence in the United States under clause (i) unless the alien during such period was employed without authorization in the United States.

"(III) FAMILY UNITY.—No period of time in which the alien is a beneficiary of family unity protection pursuant to section 301 of the Immigration Act of 1990 shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

"(IV) BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien who would be described in paragraph (6)(A)(ii) if 'violation of the terms of the alien's nonimmigrant visa' were substituted for 'unlawful entry into the United States' in subclause (III) of that paragraph.

"(iv) TOLLING FOR GOOD CAUSE.—In the case of an alien who—

"(I) has been lawfully admitted or paroled into the United States,

"(II) has filed a nonfrivolous application for a change or extension of status before the date of expiration of the period of stay authorized by the Attorney General, and

"(III) has not been employed without authorization in the United States before or during the pendency of such application,

the calculation of the period of time specified in clause (i)(I) shall be tolled during the pendency of such application, but not to exceed 120 days.

"(v) WAIVER.—The Attorney General has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General that the refusal of admission to such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien. No court shall have jurisdiction to review a decision or action by the Attorney General regarding a waiver under this clause.

"(C) ALIENS UNLAWFULLY PRESENT AFTER PREVIOUS IMMIGRATION VIOLATIONS.—

"(i) IN GENERAL.—Any alien who—

"(I) has been unlawfully present in the United States for an aggregate period of more than 1 year, or

"(II) has been ordered removed under section 235(b)(1), section 240, or any other provision of law,

and who enters or attempts to reenter the United States without being admitted is inadmissible.

"(ii) EXCEPTION.—Clause (i) shall not apply to an alien seeking admission more than 10 years after the date of the alien's last departure from the United States if, prior to the alien's reembarkation at a place outside the United States or attempt to be readmitted from a foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission.".

(2) LIMITATION ON CHANGE OF STATUS.—Section 248 (8 U.S.C. 1258) is amended by inserting "and who is not inadmissible under section 212(a)(9)(B)(i) (or whose inadmissibility under such section is waived under section 212(a)(9)(B)(v))" after "maintain that status".

(3) TREATMENT OF UNLAWFUL PRESENCE BEFORE EFFECTIVE DATE.—In applying section 212(a)(9)(B) of the Immigration and Nationality Act, as inserted by paragraph (1), no period before the title III–A effective date shall be included in a period of unlawful presence in the United States.

(c) REVISION TO GROUND OF INADMISSIBILITY FOR ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS.—

(1) IN GENERAL.—Subparagraphs (A) and (B) of section 212(a)(6) (8 U.S.C. 1182(a)(6)) are amended to read as follows:

"(A) ALIENS PRESENT WITHOUT ADMISSION OR PAROLE.—

"(i) IN GENERAL.—An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.

"(ii) EXCEPTION FOR CERTAIN BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien who demonstrates that—

"(I) the alien qualifies for immigrant status under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1),

"(II)(a) the alien has been battered or subjected to extreme cruelty by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (b) the alien's child has been battered or subjected to extreme cruelty by a spouse or parent of the alien (without the active participation of the alien in the battery or cruelty) or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty, and

"(III) there was a substantial connection between the battery or cruelty described in subclause (I) or (II) and the alien's unlawful entry into the United States.

"(B) FAILURE TO ATTEND REMOVAL PROCEEDINGS.—Any alien who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the alien's inadmissibility or deportability and who seeks admission to the United States within 5 years of such alien's subsequent departure or removal is inadmissible.".

(2) TRANSITION FOR BATTERED SPOUSE OR CHILD PROVISION.—The requirements of subclauses (II) and (III) of section 212(a)(6)(A)(ii) of the Immigration and Nationality Act, as inserted by paragraph (1), shall not apply to an alien who demonstrates that the alien first arrived in the United States before the title III–A effective date (described in section 309(a)).

(d) ADJUSTMENT IN GROUNDS FOR DEPORTATION.—Section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking "in the United States" and inserting "in and admitted to the United States";

(2) in subsection (a)(1), by striking "EXCLUDABLE" each place it appears and inserting "INADMISSIBLE";

(3) in subsection (a)(1)(A), by striking "excludable" and inserting "inadmissible"; and

(4) by amending subparagraph (B) of subsection (a)(1) to read as follows:

"(B) PRESENT IN VIOLATION OF LAW.—Any alien who is present in the United States in violation of this Act or any other law of the United States is deportable.

SEC. 302. INSPECTION OF ALIENS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING (REVISED SECTION 235).

(a) IN GENERAL.—Section 235 (8 U.S.C. 1225) is amended to read as follows:

"INSPECTION BY IMMIGRATION OFFICERS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING

"SEC. 235. (a) INSPECTION.—

"(1) ALIENS TREATED AS APPLICANTS FOR ADMISSION.—An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this Act an applicant for admission.

"(2) STOWAWAYS.—An arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection by an immigration officer. Upon such inspection if the alien indicates an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview under subsection (b)(1)(B). A stowaway may apply for asylum only if the stowaway is found to have a credible fear of persecution under subsection (b)(1)(B). In no case may a stowaway be considered an applicant for admission or eligible for a hearing under section 240.

"(3) INSPECTION.—All aliens (including alien crewmen) who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected by immigration officers.

"(4) WITHDRAWAL OF APPLICATION FOR ADMISSION.—An alien applying for admission may, in the discretion of the Attorney General and at any time, be permitted to withdraw the application for admission and depart immediately from the United States.

"(5) STATEMENTS.—An applicant for admission may be required to state under oath any information sought by an immigration officer regarding the purposes and intentions of the applicant in seeking admission to the United States, including the applicant's intended length of stay and whether the applicant intends to remain permanently or become a United States citizen, and whether the applicant is inadmissible.

"(b) INSPECTION OF APPLICANTS FOR ADMISSION.—

"(1) INSPECTION OF ALIENS ARRIVING IN THE UNITED STATES AND CERTAIN OTHER ALIENS WHO HAVE NOT BEEN ADMITTED OR PAROLED.—

"(A) SCREENING.—

"(i) IN GENERAL.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 212(a)(6)(C) or 212(a)(7), the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution.

"(ii) CLAIMS FOR ASYLUM.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 212(a)(6)(C) or 212(a)(7) and the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B).

"(iii) APPLICATION TO CERTAIN OTHER ALIENS.—

"(I) IN GENERAL.—The Attorney General may apply clauses (i) and (ii) of this subparagraph to any or all aliens described in subclause (II) as designated by the Attorney General. Such designation shall be in the sole and unreviewable discretion of the Attorney General and may be modified at any time.

"(II) ALIENS DESCRIBED.—An alien described in this clause is an alien who is not described in subparagraph (F), who has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph.

"(B) ASYLUM INTERVIEWS.—

"(i) CONDUCT BY ASYLUM OFFICERS.—An asylum officer shall conduct interviews of aliens referred under subparagraph (A)(ii), either at a port of entry or at such other place designated by the Attorney General.

"(ii) REFERRAL OF CERTAIN ALIENS.—If the officer determines at the time of the interview that an alien has a credible fear of persecution (within the meaning of clause (v)), the alien shall be detained for further consideration of the application for asylum.

"(iii) REMOVAL WITHOUT FURTHER REVIEW IF NO CREDIBLE FEAR OF PERSECUTION.—

"(I) IN GENERAL.—Subject to subclause (III), if the officer determines that an alien does not have a credible fear of persecution, the officer shall order the alien removed from the United States without further hearing or review.

"(II) RECORD OF DETERMINATION.—The officer shall prepare a written record of a determination under subclause (I). Such record shall include a summary of the material facts as stated by the applicant, such additional facts (if any) relied upon by the officer, and the officer's analysis of why, in the light of such facts, the alien has not established a credible fear of persecution. A copy of the officer's interview notes shall be attached to the written summary.

"(III) REVIEW OF DETERMINATION.—The Attorney General shall provide by regulation and upon the alien's request for prompt review by an immigration judge of a determination under subclause (I) that the alien does not have a credible fear of persecution. Such review shall include an opportunity for the alien to be heard and questioned by the immigration judge, either in person or by telephonic or video connection. Review shall be concluded as expeditiously as possible, to the maximum extent practicable within 24 hours, but in no case later than 7 days after the date of the determination under subclause (I).

"(IV) MANDATORY DETENTION.—Any alien subject to the procedures under this clause shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed.

"(iv) INFORMATION ABOUT INTERVIEWS.—The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not unreasonably delay the process.

"(v) CREDIBLE FEAR OF PERSECUTION DEFINED.—For purposes of this subparagraph, the term 'credible fear of persecution' means that there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

"(C) LIMITATION ON ADMINISTRATIVE REVIEW.—Except as provided in subparagraph (B)(iii)(III), a removal order entered in accordance with subparagraph (A)(i) or (B)(iii)(I) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order under subparagraph (A)(i) against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence, to have been admitted as a refugee under section 207, or to have been granted asylum under section 208.

"(D) LIMIT ON COLLATERAL ATTACKS.—In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of removal entered under subparagraph (A)(i) or (B)(iii).

"(E) ASYLUM OFFICER DEFINED.—As used in this paragraph, the term 'asylum officer' means an immigration officer who—

"(i) has had professional training in country conditions, asylum law, and interview techniques comparable to that provided to full-time adjudicators of applications under section 208, and

"(ii) is supervised by an officer who meets the condition described in clause (i) and has had substantial experience adjudicating asylum applications.

"(F) EXCEPTION.—Subparagraph (A) shall not apply to an alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations and who arrives by aircraft at a port of entry.

"(2) INSPECTION OF OTHER ALIENS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 240.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien—

"(i) who is a crewman,

"(ii) to whom paragraph (1) applies, or

"(iii) who is a stowaway.

"(C) TREATMENT OF ALIENS ARRIVING FROM CONTIGUOUS TERRITORY.—In the case of an alien described in subparagraph (A) who is arriving on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the United States, the Attorney General may return the alien to that territory pending a proceeding under section 240.

"(3) CHALLENGE OF DECISION.—The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to be admitted is so challenged, before an immigration judge for a proceeding under section 240.

"(c) REMOVAL OF ALIENS INADMISSIBLE ON SECURITY AND RELATED GROUNDS.—

"(1) REMOVAL WITHOUT FURTHER HEARING.—If an immigration officer or an immigration judge suspects that an arriving alien may be inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3), the officer or judge shall—

"(A) order the alien removed, subject to review under paragraph (2);

"(B) report the order of removal to the Attorney General; and

"(C) not conduct any further inquiry or hearing until ordered by the Attorney General.

"(2) REVIEW OF ORDER.—(A) The Attorney General shall review orders issued under paragraph (1).

"(B) If the Attorney General—

"(i) is satisfied on the basis of confidential information that the alien is inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3), and

"(ii) after consulting with appropriate security agencies of the United States Government, concludes that disclosure of the information would be prejudicial to the public interest, safety, or security,

the Attorney General may order the alien removed without further inquiry or hearing by an immigration judge.

"(C) If the Attorney General does not order the removal of the alien under subparagraph (B), the Attorney General shall specify the further inquiry or hearing that shall be conducted in the case.

"(3) SUBMISSION OF STATEMENT AND INFORMATION.—The alien or the alien's representative may submit a written statement and additional information for consideration by the Attorney General.

"(d) AUTHORITY RELATING TO INSPECTIONS.—

"(1) AUTHORITY TO SEARCH CONVEYANCES.—Immigration officers are authorized to board and search any vessel, aircraft, railway car, or other conveyance or vehicle in which they believe aliens are being brought into the United States.

"(2) AUTHORITY TO ORDER DETENTION AND DELIVERY OF ARRIVING ALIENS.—Immigration officers are authorized to order an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft bringing an alien (except an alien crewmember) to the United States—

"(A) to detain the alien on the vessel or at the airport of arrival, and

"(B) to deliver the alien to an immigration officer for inspection or to a medical officer for examination.

"(3) ADMINISTRATION OF OATH AND CONSIDERATION OF EVIDENCE.—The Attorney General and any immigration officer shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, transit through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service.

"(4) SUBPOENA AUTHORITY.—(A) The Attorney General and any immigration officer shall have power to require by subpoena the attendance and testimony of witnesses before immigration officers and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and to that end may invoke the aid of any court of the United States.

"(B) Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer may, in the event of neglect or refusal to respond to a subpoena issued under this paragraph or refusal to testify before an immigration officer, issue an order requiring such persons to appear before an immigration officer, produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.".

(b) GAO STUDY ON OPERATION OF EXPEDITED REMOVAL PROCEDURES.—

(1) STUDY.—The Comptroller General shall conduct a study on the implementation of the expedited removal procedures under section 235(b)(1) of the Immigration and Nationality Act, as amended by subsection (a). The study shall examine—

(A) the effectiveness of such procedures in deterring illegal entry,

(B) the detention and adjudication resources saved as a result of the procedures,

(C) the administrative and other costs expended to comply with the provision,

(D) the effectiveness of such procedures in processing asylum claims by undocumented aliens who assert a fear of persecution, including the accuracy of credible fear determinations, and

(E) the cooperation of other countries and air carriers in accepting and returning aliens removed under such procedures.

(2) REPORT.—By not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the study conducted under paragraph (1).

SEC. 303. APPREHENSION AND DETENTION OF ALIENS (REVISED SECTION 236).

(a) IN GENERAL.—Section 236 (8 U.S.C. 1226) is amended to read as follows:

"APPREHENSION AND DETENTION OF ALIENS

"SEC. 236. (a) ARREST, DETENTION, AND RELEASE.—On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General—

"(1) may continue to detain the arrested alien; and

"(2) may release the alien on—

"(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or

"(B) conditional parole; but

"(3) may not provide the alien with work authorization (including an 'employment authorized' endorsement or other appropriate work permit), unless the alien is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.

"(b) REVOCATION OF BOND OR PAROLE.—The Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.

"(c) DETENTION OF CRIMINAL ALIENS.—

"(1) CUSTODY.—The Attorney General shall take into custody any alien who—

"(A) is inadmissible by reason of having committed any offense covered in section 212(a)(2),

"(B) is deportable by reason of having committed any offense covered in section 237(a)(2)(A)(ii), (A)(iii), (B), (C), or (D),

"(C) is deportable under section 237(a)(2)(A)(i) on the basis of an offense for which the alien has been sentence to a term of imprisonment of at least 1 year, or

"(D) is inadmissible under section 212(a)(3)(B) or deportable under section 237(a)(4)(B),

when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.

"(2) RELEASE.—The Attorney General may release an alien described in paragraph (1) only if the Attorney General decides pursuant to section 3521 of title 18, United States Code, that release of the alien from custody is necessary to provide protection to a witness, a potential witness, a person cooperating with an investigation into major criminal activity, or an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation, and the alien satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding. A decision relating to such release shall take place in accordance with a procedure that considers the severity of the offense committed by the alien.

"(d) IDENTIFICATION OF CRIMINAL ALIENS.—(1) The Attorney General shall devise and implement a system—

"(A) to make available, daily (on a 24-hour basis), to Federal, State, and local authorities the investigative resources of the Service to determine whether individuals arrested by such authorities for aggravated felonies are aliens;

"(B) to designate and train officers and employees of the Service to serve as a liaison to Federal, State, and local law enforcement and correctional agencies and courts with respect to the arrest, conviction, and release of any alien charged with an aggravated felony; and

"(C) which uses computer resources to maintain a current record of aliens who have been convicted of an aggravated felony, and indicates those who have been removed.

"(2) The record under paragraph (1)(C) shall be made available—

"(A) to inspectors at ports of entry and to border patrol agents at sector headquarters for purposes of immediate identification of any alien who was previously ordered removed and is seeking to reenter the United States, and

"(B) to officials of the Department of State for use in its automated visa lookout system.

"(3) Upon the request of the governor or chief executive officer of any State, the Service shall provide assistance to State courts in the identification of aliens unlawfully present in the United States pending criminal prosecution.

"(e) JUDICIAL REVIEW.—The Attorney General's discretionary judgment regarding the application of this section shall not be subject to review. No court may set aside any action or decision by the Attorney General under this section regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall become effective on the title III–A effective date.

(2) NOTIFICATION REGARDING CUSTODY.—If the Attorney General, not later than 10 days after the date of the enactment of this Act, notifies in writing the Committees on the Judiciary of the House of Representatives and the Senate that there is insufficient detention space and Immigration and Naturalization Service personnel available to carry out section 236(c) of the Immigration and Nationality Act, as amended by subsection (a), or the amendments made by section 440(c) of Public Law 104–132, the provisions in paragraph (3) shall be in effect for a 1-year period beginning on the date of such notification, instead of such section or such amendments. The Attorney General may extend such 1-year period for an additional year if the Attorney General provides the same notice not later than 10 days before the end of the first 1-year period. After the end of such 1-year or 2-year periods, the provisions of such section 236(c) shall apply to individuals released after such periods.

(3) TRANSITION PERIOD CUSTODY RULES.—

(A) IN GENERAL.—During the period in which this paragraph is in effect pursuant to paragraph (2), the Attorney General shall take into custody any alien who—

(i) has been convicted of an aggravated felony (as defined under section 101(a)(43) of the Immigration and Nationality Act, as amended by section 321 of this Act),

(ii) is inadmissible by reason of having committed any offense covered in section 212(a)(2) of such Act,

(iii) is deportable by reason of having committed any offense covered in section 241(a)(2)(A)(ii), (A)(iii), (B), (C), or (D) of such Act (before redesignation under this subtitle), or

(iv) is inadmissible under section 212(a)(3)(B) of such Act or deportable under section 241(a)(4)(B) of such Act (before redesignation under this subtitle),

when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.

(B) RELEASE.—The Attorney General may release the alien only if the alien is an alien described in subparagraph (A)(ii) or (A)(iii) and—

(i) the alien was lawfully admitted to the United States and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding, or

(ii) the alien was not lawfully admitted to the United States, cannot be removed because the designated country of removal will not accept the alien, and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding.

SEC. 304. REMOVAL PROCEEDINGS; CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS; VOLUNTARY DEPARTURE (REVISED AND NEW SECTIONS 239 TO 240C).

(a) IN GENERAL.—Chapter 4 of title II is amended—

(1) by redesignating section 239 (8 U.S.C. 1229) as section 234 and by moving such section to immediately follow section 233;

(2) by redesignating section 240 (8 U.S.C. 1230) as section 240C; and

(3) by inserting after section 238 the following new sections:

"INITIATION OF REMOVAL PROCEEDINGS

"SEC. 239. (a) NOTICE TO APPEAR.—

"(1) IN GENERAL.—In removal proceedings under section 240, written notice (in this section referred to as a 'notice to appear') shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any) specifying the following:

"(A) The nature of the proceedings against the alien.

"(B) The legal authority under which the proceedings are conducted.

"(C) The acts or conduct alleged to be in violation of law.

"(D) The charges against the alien and the statutory provisions alleged to have been violated.

"(E) The alien may be represented by counsel and the alien will be provided (i) a period of time to secure counsel under subsection (b)(1) and (ii) a current list of counsel prepared under subsection (b)(2).

"(F)(i) The requirement that the alien must immediately provide (or have provided) the Attorney General with a written record of an address and telephone number (if any) at which the alien may be contacted respecting proceedings under section 240.

"(ii) The requirement that the alien must provide the Attorney General immediately with a written record of any change of the alien's address or telephone number.

"(iii) The consequences under section 240(b)(5) of failure to provide address and telephone information pursuant to this subparagraph.

"(G)(i) The time and place at which the proceedings will be held.

"(ii) The consequences under section 240(b)(5) of the failure, except under exceptional circumstances, to appear at such proceedings.

"(2) NOTICE OF CHANGE IN TIME OR PLACE OF PROCEEDINGS.—

"(A) IN GENERAL.—In removal proceedings under section 240, in the case of any change or postponement in the time and place of such proceedings, subject to subparagraph (B) a written notice shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any) specifying—

"(i) the new time or place of the proceedings, and

"(ii) the consequences under section 240(b)(5) of failing, except under exceptional circumstances, to attend such proceedings.

"(B) EXCEPTION.—In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under paragraph (1)(F).

"(3) CENTRAL ADDRESS FILES.—The Attorney General shall create a system to record and preserve on a timely basis notices of addresses and telephone numbers (and changes) provided under paragraph (1)(F).

"(b) SECURING OF COUNSEL.—

"(1) IN GENERAL.—In order that an alien be permitted the opportunity to secure counsel before the first hearing date in proceedings under section 240, the hearing date shall not be scheduled earlier than 10 days after the service of the notice to appear, unless the alien requests in writing an earlier hearing date.

"(2) CURRENT LISTS OF COUNSEL.—The Attorney General shall provide for lists (updated not less often than quarterly) of persons who have indicated their availability to represent pro bono aliens in proceedings under section 240. Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prevent the Attorney General from proceeding against an alien pursuant to section 240 if the time period described in paragraph (1) has elapsed and the alien has failed to secure counsel.

"(c) SERVICE BY MAIL.—Service by mail under this section shall be sufficient if there is proof of attempted delivery to the last address provided by the alien in accordance with subsection (a)(1)(F).

"(d) PROMPT INITIATION OF REMOVAL.—(1) In the case of an alien who is convicted of an offense which makes the alien deportable, the Attorney General shall begin any removal proceeding as expeditiously as possible after the date of the conviction.

"(2) Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

"REMOVAL PROCEEDINGS

"SEC. 240. (a) PROCEEDING.—

"(1) IN GENERAL.—An immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of an alien.

"(2) CHARGES.—An alien placed in proceedings under this section may be charged with any applicable ground of inadmissibility under section 212(a) or any applicable ground of deportability under section 237(a).

"(3) EXCLUSIVE PROCEDURES.—Unless otherwise specified in this Act, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States or, if the alien has been so admitted, removed from the United States. Nothing in this section shall affect proceedings conducted pursuant to section 238.

"(b) CONDUCT OF PROCEEDING.—

"(1) AUTHORITY OF IMMIGRATION JUDGE.—The immigration judge shall administer oaths, receive evidence, and interrogate, examine, and cross-examine the alien and any witnesses. The immigration judge may issue subpoenas for the attendance of witnesses and presentation of evidence. The immigration judge shall have authority (under regulations prescribed by the Attorney General) to sanction by civil money penalty any action (or inaction) in contempt of the judge's proper exercise of authority under this Act.

"(2) FORM OF PROCEEDING.—

"(A) IN GENERAL.—The proceeding may take place—

"(i) in person,

"(ii) where agreed to by the parties, in the absence of the alien,

"(iii) through video conference, or

"(iv) subject to subparagraph (B), through telephone conference.

"(B) CONSENT REQUIRED IN CERTAIN CASES.—An evidentiary hearing on the merits may only be conducted through a telephone conference with the consent of the alien involved after the alien has been advised of the right to proceed in person or through video conference.

"(3) PRESENCE OF ALIEN.—If it is impracticable by reason of an alien's mental incompetency for the alien to be present at the proceeding, the Attorney General shall prescribe safeguards to protect the rights and privileges of the alien.

"(4) ALIENS RIGHTS IN PROCEEDING.—In proceedings under this section, under regulations of the Attorney General—

"(A) the alien shall have the privilege of being represented, at no expense to the Government, by counsel of the alien's choosing who is authorized to practice in such proceedings,

"(B) the alien shall have a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien's own behalf, and to cross-examine witnesses presented by the Government but these rights shall not entitle the alien to examine such national security information as the Government may proffer in opposition to the alien's admission to the United States or to an application by the alien for discretionary relief under this Act, and

"(C) a complete record shall be kept of all testimony and evidence produced at the proceeding.

"(5) CONSEQUENCES OF FAILURE TO APPEAR.—

"(A) IN GENERAL.—Any alien who, after written notice required under paragraph (1) or (2) of section 239(a) has been provided to the alien or

the alien's counsel of record, does not attend a proceeding under this section, shall be ordered removed in absentia if the Service establishes by clear, unequivocal, and convincing evidence that the written notice was so provided and that the alien is removable (as defined in subsection (e)(2)). The written notice by the Attorney General shall be considered sufficient for purposes of this subparagraph if provided at the most recent address provided under section 239(a)(1)(F).

"(B) NO NOTICE IF FAILURE TO PROVIDE ADDRESS INFORMATION.—No written notice shall be required under subparagraph (A) if the alien has failed to provide the address required under section 239(a)(1)(F).

"(C) RESCISSION OF ORDER.—Such an order may be rescinded only—

"(i) upon a motion to reopen filed within 180 days after the date of the order of removal if the alien demonstrates that the failure to appear was because of exceptional circumstances (as defined in subsection (e)(1)), or

"(ii) upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice in accordance with paragraph (1) or (2) of section 239(a) or the alien demonstrates that the alien was in Federal or State custody and the failure to appear was through no fault of the alien.

The filing of the motion to reopen described in clause (i) or (ii) shall stay the removal of the alien pending disposition of the motion by the immigration judge.

"(D) EFFECT ON JUDICIAL REVIEW.—Any petition for review under section 242 of an order entered in absentia under this paragraph shall (except in cases described in section 242(b)(5)) be confined to (i) the validity of the notice provided to the alien, (ii) the reasons for the alien's not attending the proceeding, and (iii) whether or not the alien is removable.

"(E) ADDITIONAL APPLICATION TO CERTAIN ALIENS IN CONTIGUOUS TERRITORY.—The preceding provisions of this paragraph shall apply to all aliens placed in proceedings under this section, including any alien who remains in a contiguous foreign territory pursuant to section 235(b)(2)(C).

"(6) TREATMENT OF FRIVOLOUS BEHAVIOR.—The Attorney General shall, by regulation—

"(A) define in a proceeding before an immigration judge or before an appellate administrative body under this title, frivolous behavior for which attorneys may be sanctioned,

"(B) specify the circumstances under which an administrative appeal of a decision or ruling will be considered frivolous and will be summarily dismissed, and

"(C) impose appropriate sanctions (which may include suspension and disbarment) in the case of frivolous behavior.

Nothing in this paragraph shall be construed as limiting the authority of the Attorney General to take actions with respect to inappropriate behavior.

"(7) LIMITATION ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR.—Any alien against whom a final order of removal is entered in absentia under this subsection and who, at the time of the notice described in paragraph (1) or (2) of section 239(a), was provided oral notice, either in the alien's native language or in another language the alien understands, of the time and place of the proceedings and of the consequences under this paragraph of failing, other than because of exceptional circumstances (as defined in subsection (e)(1)) to attend a proceeding under this section, shall not be eligible for relief under section 240A, 240B, 245, 248, or 249 for a period of 10 years after the date of the entry of the final order of removal.

"(c) DECISION AND BURDEN OF PROOF.—

"(1) DECISION.—

"(A) IN GENERAL.—At the conclusion of the proceeding the immigration judge shall decide whether an alien is removable from the United States. The determination of the immigration judge shall be based only on the evidence produced at the hearing.

"(B) CERTAIN MEDICAL DECISIONS.—If a medical officer or civil surgeon or board of medical officers has certified under section 232(b) that an alien has a disease, illness, or addiction which would make the alien inadmissible under paragraph (1) of section 212(a), the decision of the immigration judge shall be based solely upon such certification.

"(2) BURDEN ON ALIEN.—In the proceeding the alien has the burden of establishing—

"(A) if the alien is an applicant for admission, that the alien is clearly and beyond doubt entitled to be admitted and is not inadmissible under section 212; or

"(B) by clear and convincing evidence, that the alien is lawfully present in the United States pursuant to a prior admission.

In meeting the burden of proof under subparagraph (B), the alien shall have access to the alien's visa or other entry document, if any, and any other records and documents, not considered by the Attorney General to be confidential, pertaining to the alien's admission or presence in the United States.

"(3) BURDEN ON SERVICE IN CASES OF DEPORTABLE ALIENS.—

"(A) IN GENERAL.—In the proceeding the Service has the burden of establishing by clear and convincing evidence that, in the case of an alien who has been admitted to the United States, the alien is deportable. No decision on deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.

"(B) PROOF OF CONVICTIONS.—In any proceeding under this Act, any of the following documents or records (or a certified copy of such an official document or record) shall constitute proof of a criminal conviction:

"(i) An official record of judgment and conviction.

"(ii) An official record of plea, verdict, and sentence.

"(iii) A docket entry from court records that indicates the existence of the conviction.

"(iv) Official minutes of a court proceeding or a transcript of a court hearing in which the court takes notice of the existence of the conviction.

"(v) An abstract of a record of conviction prepared by the court in which the conviction was entered, or by a State official associated with the State's repository of criminal justice records, that indicates the charge or section of law violated, the disposition of the case, the existence and date of conviction, and the sentence.

"(vi) Any document or record prepared by, or under the direction of, the court in which the conviction was entered that indicates the existence of a conviction.

"(vii) Any document or record attesting to the conviction that is maintained by an official of a State or Federal penal institution, which is the basis for that institution's authority to assume custody of the individual named in the record.

"(C) ELECTRONIC RECORDS.—In any proceeding under this Act, any record of conviction or abstract that has been submitted by electronic means to the Service from a State or court shall be admissible as evidence to prove a criminal conviction if it is—

"(i) certified by a State official associated with the State's repository of criminal justice records as an official record from its repository or by a court official from the court in which the conviction was entered as an official record from its repository, and

"(ii) certified in writing by a Service official as having been received electronically from the State's record repository or the court's record repository.

A certification under clause (i) may be by means of a computer-generated signature and statement of authenticity.

"(4) NOTICE.—If the immigration judge decides that the alien is removable and orders the alien to be removed, the judge shall inform the alien of the right to appeal that decision and of the consequences for failure to depart under the order of removal, including civil and criminal penalties.

"(5) MOTIONS TO RECONSIDER.—

"(A) IN GENERAL.—The alien may file one motion to reconsider a decision that the alien is removable from the United States.

"(B) DEADLINE.—The motion must be filed within 30 days of the date of entry of a final administrative order of removal.

"(C) CONTENTS.—The motion shall specify the errors of law or fact in the previous order and shall be supported by pertinent authority.

"(6) MOTIONS TO REOPEN.—

"(A) IN GENERAL.—An alien may file one motion to reopen proceedings under this section.

"(B) CONTENTS.—The motion to reopen shall state the new facts that will be proven at a hearing to be held if the motion is granted, and shall be supported by affidavits or other evidentiary material.

"(C) DEADLINE.—

"(i) IN GENERAL.—Except as provided in this subparagraph, the motion to reopen shall be filed within 90 days of the date of entry of a final administrative order of removal.

"(ii) ASYLUM.—There is no time limit on the filing of a motion to reopen if the basis of the motion is to apply for relief under sections 208 or 241(b)(3) and is based on changed country conditions arising in the country of nationality or the country to which removal has been ordered, if such evidence is material and was not available and would not have been discovered or presented at the previous proceeding.

"(iii) FAILURE TO APPEAR.—The filing of a motion to reopen an order entered pursuant to subsection (b)(5) is subject to the deadline specified in subparagraph (C) of such subsection.

"(d) STIPULATED REMOVAL.—The Attorney General shall provide by regulation for the entry by an immigration judge of an order of removal stipulated to by the alien (or the alien's representative) and the Service. A stipulated order shall constitute a conclusive determination of the alien's removability from the United States.

"(e) DEFINITIONS.—In this section and section 240A:

"(1) EXCEPTIONAL CIRCUMSTANCES.—The term 'exceptional circumstances' refers to exceptional circumstances (such as serious illness of the alien or serious illness or death of the spouse, child, or parent of the alien, but not including less compelling circumstances) beyond the control of the alien.

"(2) REMOVABLE.—The term 'removable' means—

"(A) in the case of an alien not admitted to the United States, that the alien is inadmissible under section 212, or

"(B) in the case of an alien admitted to the United States, that the alien is deportable under section 237.

"CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS

"SEC. 240A. (a) CANCELLATION OF REMOVAL FOR CERTAIN PERMANENT RESIDENTS.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien—

"(1) has been an alien lawfully admitted for permanent residence for not less than 5 years,

"(2) has resided in the United States continuously for 7 years after having been admitted in any status, and

"(3) has not been convicted of any aggravated felony.

"(b) CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN NONPERMANENT RESIDENTS.—

"(1) IN GENERAL.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien—

"(A) has been physically present in the United States for a continuous period of not less than 10 years immediately preceding the date of such application;

"(B) has been a person of good moral character during such period;

"(C) has not been convicted of an offense under section 212(a)(2), 237(a)(2), or 237(a)(3); and

"(D) establishes that removal would result in exceptional and extremely unusual hardship to the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

"(2) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien demonstrates that—

"(A) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident (or is the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent);

"(B) the alien has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application;

"(C) the alien has been a person of good moral character during such period;

"(D) the alien is not inadmissible under paragraph (2) or (3) of section 212(a), is not deportable under paragraph (1)(G) or (2) through (4) of section 237(a), and has not been convicted of an aggravated felony; and

"(E) the removal would result in extreme hardship to the alien, the alien's child, or (in the case of an alien who is a child) to the alien's parent.

In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.

"(3) ADJUSTMENT OF STATUS.—The Attorney General may adjust to the status of an alien lawfully admitted for permanent residence any alien who the Attorney General determines meets the requirements of paragraph (1) or (2). The number of adjustments under this paragraph shall not exceed 4,000 for any fiscal year. The Attorney General shall record the alien's lawful admission for permanent residence as of the date the Attorney General's cancellation of removal under paragraph (1) or (2) or determination under this paragraph.

"(c) ALIENS INELIGIBLE FOR RELIEF.—The provisions of subsections (a) and (b)(1) shall not apply to any of the following aliens:

"(1) An alien who entered the United States as a crewman subsequent to June 30, 1964.

"(2) An alien who was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant exchange alien after admission, in order to receive graduate medical education or training, regardless of whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e).

"(3) An alien who—

"(A) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J) or has acquired the status of such a nonimmigrant exchange alien after admission other than to receive graduate medical education or training,

"(B) is subject to the two-year foreign residence requirement of section 212(e), and

"(C) has not fulfilled that requirement or received a waiver thereof.

"(4) An alien who is inadmissible under section 212(a)(3) or deportable under section 237(a)(4).

"(5) An alien who is described in section 241(b)(3)(B)(i).

"(6) An alien whose removal has previously been cancelled under this section or whose deportation was suspended under section 244(a) or who has been granted relief under section 212(c), as such sections were in effect before the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

"(d) SPECIAL RULES RELATING TO CONTINUOUS RESIDENCE OR PHYSICAL PRESENCE.—

"(1) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a) or when the alien has committed an offense referred to in section 212(a)(2) that renders the alien inadmissible to the United States under section 212(a)(2) or removable from the United States under section 237(a)(2) or 237(a)(4), whichever is earliest.

"(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsections (b)(1) and (b)(2) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

"(3) CONTINUITY NOT REQUIRED BECAUSE OF HONORABLE SERVICE IN ARMED FORCES AND PRESENCE UPON ENTRY INTO SERVICE.—The requirements of continuous residence or continuous physical presence in the United States under subsections (a) and (b) shall not apply to an alien who—

"(A) has served for a minimum period of 24 months in an active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions, and

"(B) at the time of the alien's enlistment or induction was in the United States.

"(e) ANNUAL LIMITATION.—The Attorney General may not cancel the removal and adjust the status under this section, nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), of a total of more than 4,000 aliens in any fiscal year. The previous sentence shall apply regardless of when an alien applied for such cancellation and adjustment and whether such an alien had previously applied for suspension of deportation under such section 244(a).

"VOLUNTARY DEPARTURE

"SEC. 240B. (a) CERTAIN CONDITIONS.—

"(1) IN GENERAL.—The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense under this subsection, in lieu of being subject to proceedings under section 240 or prior to the completion of such proceedings, if the alien is not deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)(B).

"(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 120 days.

"(3) BOND.—The Attorney General may require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(4) TREATMENT OF ALIENS ARRIVING IN THE UNITED STATES.—In the case of an alien who is arriving in the United States and with respect to whom proceedings under section 240 are (or would otherwise be) initiated at the time of such alien's arrival, paragraph (1) shall not apply. Nothing in this paragraph shall be construed as preventing such an alien from withdrawing the application for admission in accordance with section 235(a)(4).

"(b) AT CONCLUSION OF PROCEEDINGS.—

"(1) IN GENERAL.—The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense if, at the conclusion of a proceeding under section 240, the immigration judge enters an order granting voluntary departure in lieu of removal and finds that—

"(A) the alien has been physically present in the United States for a period of at least one year immediately preceding the date the notice to appear was served under section 239(a);

"(B) the alien is, and has been, a person of good moral character for at least 5 years immediately preceding the alien's application for voluntary departure;

"(C) the alien is not deportable under section 237(a)(2)(A)(iii) or section 237(a)(4); and

"(D) the alien has established by clear and convincing evidence that the alien has the means to depart the United States and intends to do so.

"(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 60 days.

"(3) BOND.—An alien permitted to depart voluntarily under this subsection shall be required to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(c) ALIENS NOT ELIGIBLE.—The Attorney General shall not permit an alien to depart voluntarily under this section if the alien was previously permitted to so depart after having been found inadmissible under section 212(a)(6)(A).

"(d) CIVIL PENALTY FOR FAILURE TO DEPART.—If an alien is permitted to depart voluntarily under this section and fails voluntarily to depart the United States within the time period specified, the alien shall be subject to a civil penalty of not less than $1,000 and not more than $5,000, and be ineligible for a period of 10 years for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

"(e) ADDITIONAL CONDITIONS.—The Attorney General may by regulation limit eligibility for voluntary departure under this section for any class or classes of aliens. No court may review any regulation issued under this subsection.

"(f) JUDICIAL REVIEW.—No court shall have jurisdiction over an appeal from denial of a request for an order of voluntary departure under subsection (b), nor shall any court order a stay of an alien's removal pending consideration of any claim with respect to voluntary departure.".

(b) REPEAL OF SECTION 212(c).—Section 212(c) (8 U.S.C. 1182(c)) is repealed.

(c) STREAMLINING REMOVAL OF CRIMINAL ALIENS.—

(1) IN GENERAL.—Section 242A(b)(4) (8 U.S.C. 1252a(b)(4)), as amended by section 442(a) of Public Law 104–132 and before redesignation by section 308(b)(5), is amended—

(A) by striking subparagraph (D);

(B) by amending subparagraph (E) to read as follows:

"(D) a determination is made for the record that the individual upon whom the notice for the proceeding under this section is served (either in person or by mail) is, in fact, the alien named in such notice;"; and

(C) by redesignating subparagraphs (F) and (G) as subparagraph (E) and (F), respectively.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective as if included in the enactment of section 442(a) of Public Law 104–132.

SEC. 305. *DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED (NEW SECTION 241).*

(a) IN GENERAL.—Title II is further amended—

(1) by striking section 237 (8 U.S.C. 1227),

(2) by redesignating section 241 (8 U.S.C. 1251) as section 237 and by moving such section to immediately follow section 236, and

(3) by inserting after section 240C (as redesignated by section 304(a)(2)) the following new section:

"DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED

"SEC. 241. (a) DETENTION, RELEASE, AND REMOVAL OF ALIENS ORDERED REMOVED.—

"(1) REMOVAL PERIOD.—

"(A) IN GENERAL.—Except as otherwise provided in this section, when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the 'removal period').

"(B) BEGINNING OF PERIOD.—The removal period begins on the latest of the following:

"(i) The date the order of removal becomes administratively final.

"(ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order.

"(iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

"(C) SUSPENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal.

"(2) DETENTION.—During the removal period, the Attorney General shall detain the alien. Under no circumstance during the removal period shall the Attorney General release an alien who has been found inadmissible under section 212(a)(2) or 212(a)(3)(B) or deportable under section 237(a)(2) or 237(a)(4)(B).

"(3) SUPERVISION AFTER 90-DAY PERIOD.—If the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under regulations prescribed by the Attorney General. The regulations shall include provisions requiring the alien—

"(A) to appear before an immigration officer periodically for identification;

"(B) to submit, if necessary, to a medical and psychiatric examination at the expense of the United States Government;

"(C) to give information under oath about the alien's nationality, circumstances, habits, associations, and activities, and other information the Attorney General considers appropriate; and

"(D) to obey reasonable written restrictions on the alien's conduct or activities that the Attorney General prescribes for the alien.

"(4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE, SUPERVISED RELEASE, OR PROBATION.—

"(A) IN GENERAL.—Except as provided in section 343(a) of the Public Health Service Act (42 U.S.C. 259(a)) and paragraph (2), the Attorney General may not remove an alien who is sentenced to imprisonment until the alien is released from imprisonment. Parole, supervised release, probation, or possibility of arrest or further imprisonment is not a reason to defer removal.

"(B) EXCEPTION FOR REMOVAL OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.—The Attorney General is authorized to remove an alien in accordance with applicable procedures under this Act before the alien has completed a sentence of imprisonment—

"(i) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense (other than an offense related to smuggling or harboring of aliens or an offense described in section 101(a)(43)(B), (C), (E), (I), or (L) and (II) the removal of the alien is appropriate and in the best interest of the United States; or

"(ii) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense (other than an offense described in section 101(a)(43)(C) or (E)), (II) the removal is appropriate and in the best interest of the State, and (III) submits a written request to the Attorney General that such alien be so removed.

"(C) NOTICE.—Any alien removed pursuant to this paragraph shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens removed under subparagraph (B).

"(D) NO PRIVATE RIGHT.—No cause or claim may be asserted under this paragraph against any official of the United States or of any State to compel the release, removal, or consideration for release or removal of any alien.

"(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—If the Attorney General finds that an alien has reentered the United States illegally after having been removed or having departed voluntarily, under an order of removal, the prior order of removal is reinstated from its original date and is not subject to being reopened or reviewed, the alien is not eligible and may not apply for any relief under this Act, and the alien shall be removed under the prior order at any time after the reentry.

"(6) INADMISSIBLE OR CRIMINAL ALIENS.—An alien ordered removed who is inadmissible under section 212, removable under section 237(a)(1)(C), 237(a)(2), or 237(a)(4) or who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3).

"(7) EMPLOYMENT AUTHORIZATION.—No alien ordered removed shall be eligible to receive authorization to be employed in the United States unless the Attorney General makes a specific finding that—

"(A) the alien cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien, or

"(B) the removal of the alien is otherwise impracticable or contrary to the public interest.

"(b) COUNTRIES TO WHICH ALIENS MAY BE REMOVED.—

"(1) ALIENS ARRIVING AT THE UNITED STATES.—Subject to paragraph (3)—

"(A) IN GENERAL.—Except as provided by subparagraphs (B) and (C), an alien who arrives at the United States and with respect to whom proceedings under section 240 were initiated at the time of such alien's arrival shall be removed to the country in which the alien boarded the vessel or aircraft on which the alien arrived in the United States.

"(B) TRAVEL FROM CONTIGUOUS TERRITORY.—If the alien boarded the vessel or aircraft on which the alien arrived in the United States in a foreign territory contiguous to the United States, an island adjacent to the United States, or an island adjacent to a foreign territory contiguous to the United States, and the alien is not a native, citizen, subject, or national of, or does not reside in, the territory or island, removal shall be to the country in which the alien boarded the vessel that transported the alien to the territory or island.

"(C) ALTERNATIVE COUNTRIES.—If the government of the country designated in subparagraph (A) or (B) is unwilling to accept the alien into that country's territory, removal shall be to any of the following countries, as directed by the Attorney General:

"(i) The country of which the alien is a citizen, subject, or national.

"(ii) The country in which the alien was born.

"(iii) The country in which the alien has a residence.

"(iv) A country with a government that will accept the alien into the country's territory if removal to each country described in a previous clause of this subparagraph is impracticable, inadvisable, or impossible.

"(2) OTHER ALIENS.—Subject to paragraph (3)—

"(A) SELECTION OF COUNTRY BY ALIEN.—Except as otherwise provided in this paragraph—

"(i) any alien not described in paragraph (1) who has been ordered removed may designate one country to which the alien wants to be removed, and

"(ii) the Attorney General shall remove the alien to the country the alien so designates.

"(B) LIMITATION ON DESIGNATION.—An alien may designate under subparagraph (A)(i) a foreign territory contiguous to the United States, an adjacent island, or an island adjacent to a foreign territory contiguous to the United States as the place to which the alien is to be removed only if the alien is a native, citizen, subject, or national of, or has resided in, that designated territory or island.

"(C) DISREGARDING DESIGNATION.—The Attorney General may disregard a designation under subparagraph (A)(i) if—

"(i) the alien fails to designate a country promptly;

"(ii) the government of the country does not inform the Attorney General finally, within 30 days after the date the Attorney General first inquires, whether the government will accept the alien into the country;

"(iii) the government of the country is not willing to accept the alien into the country; or

"(iv) the Attorney General decides that removing the alien to the country is prejudicial to the United States.

"(D) ALTERNATIVE COUNTRY.—If an alien is not removed to a country designated under subparagraph (A)(i), the Attorney General shall remove the alien to a country of which the alien is a subject, national, or citizen unless the government of the country—

"(i) does not inform the Attorney General or the alien finally, within 30 days after the date the Attorney General first inquires or within another period of time the Attorney General decides is reasonable, whether the government will accept the alien into the country; or

"(ii) is not willing to accept the alien into the country.

"(E) ADDITIONAL REMOVAL COUNTRIES.—If an alien is not removed to a country under the previous subparagraphs of this paragraph, the Attorney General shall remove the alien to any of the following countries:

"(i) The country from which the alien was admitted to the United States.

"(ii) The country in which is located the foreign port from which the alien left for the United States or for a foreign territory contiguous to the United States.

"(iii) A country in which the alien resided before the alien entered the country from which the alien entered the United States.

"(iv) The country in which the alien was born.

"(v) The country that had sovereignty over the alien's birthplace when the alien was born.

"(vi) The country in which the alien's birthplace is located when the alien is ordered removed.

"(vii) If impracticable, inadvisable, or impossible to remove the alien to each country described in a previous clause of this subparagraph, another country whose government will accept the alien into that country.

"(F) REMOVAL COUNTRY WHEN UNITED STATES IS AT WAR.—When the United States is at war and the Attorney General decides that it is impracticable, inadvisable, inconvenient, or impossible to remove an alien under this subsection because of the war, the Attorney General may remove the alien—

"(i) to the country that is host to a government in exile of the country of which the alien is a citizen or subject if the government of the host country will permit the alien's entry; or

"(ii) if the recognized government of the country of which the alien is a citizen or subject is not in exile, to a country, or a political or territorial subdivision of a country, that is very near the country of which the alien is a citizen or subject, or, with the consent of the government of the country of which the alien is a citizen or subject, to another country.

"(3) RESTRICTION ON REMOVAL TO A COUNTRY WHERE ALIEN'S LIFE OR FREEDOM WOULD BE THREATENED.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), the Attorney General may not remove an alien to a country if the Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion.

"(B) EXCEPTION.—Subparagraph (A) does not apply to an alien deportable under section 237(a)(4)(D) or if the Attorney General decides that—

"(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of an individual because of the individual's race, religion, nationality, membership in a particular social group, or political opinion;

"(ii) the alien, having been convicted by a final judgment of a particularly serious crime is a danger to the community of the United States;

"(iii) there are serious reasons to believe that the alien committed a serious nonpolitical crime outside the United States before the alien arrived in the United States; or

"(iv) there are reasonable grounds to believe that the alien is a danger to the security of the United States.

For purposes of clause (ii), an alien who has been convicted of an aggravated felony (or felonies) for which the alien has been sentenced to an aggregate term of imprisonment of at least 5 years shall be considered to have committed a particularly serious crime. The previous sentence shall not preclude the Attorney General from determining that, notwithstanding the length of sentence imposed, an alien has been convicted of a particularly serious crime. For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.

"(c) REMOVAL OF ALIENS ARRIVING AT PORT OF ENTRY.—

"(1) VESSELS AND AIRCRAFT.—An alien arriving at a port of entry of the United States who is ordered removed either without a hearing under section 235(b)(1) or 235(c) or pursuant to proceedings under section 240 initiated at the time of such alien's arrival shall be removed immediately on a vessel or aircraft owned by the owner of the vessel or aircraft on which the alien arrived in the United States, unless—

"(A) it is impracticable to remove the alien on one of those vessels or aircraft within a reasonable time, or

"(B) the alien is a stowaway—

"(i) who has been ordered removed in accordance with section 235(a)(1),

"(ii) who has requested asylum, and

"(iii) whose application has not been adjudicated or whose asylum application has been denied but who has not exhausted all appeal rights.

"(2) STAY OF REMOVAL.—

"(A) IN GENERAL.—The Attorney General may stay the removal of an alien under this subsection if the Attorney General decides that—

"(i) immediate removal is not practicable or proper; or

"(ii) the alien is needed to testify in the prosecution of a person for a violation of a law of the United States or of any State.

"(B) PAYMENT OF DETENTION COSTS.—During the period an alien is detained because of a stay of removal under subparagraph (A)(ii), the Attorney General may pay from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses'—

"(i) the cost of maintenance of the alien; and

"(ii) a witness fee of $1 a day.

"(C) RELEASE DURING STAY.—The Attorney General may release an alien whose removal is stayed under subparagraph (A)(ii) on—

"(i) the alien's filing a bond of at least $500 with security approved by the Attorney General;

"(ii) condition that the alien appear when required as a witness and for removal; and

"(iii) other conditions the Attorney General may prescribe.

"(3) COSTS OF DETENTION AND MAINTENANCE PENDING REMOVAL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (d), an owner of a vessel or aircraft bringing an alien to the United States shall pay the costs of detaining and maintaining the alien—

"(i) while the alien is detained under subsection (d)(1), and

"(ii) in the case of an alien who is a stowaway, while the alien is being detained pursuant to—

"(I) subsection (d)(2)(A) or (d)(2)(B)(i),

"(II) subsection (d)(2)(B) (ii) or (iii) for the period of time reasonably necessary for the owner to arrange for repatriation or removal of the stowaway, including obtaining necessary travel documents, but not to extend beyond the date on which it is ascertained that such travel documents cannot be obtained from the country to which the stowaway is to be returned, or

"(III) section 235(b)(1)(B)(ii), for a period not to exceed 15 days (excluding Saturdays, Sundays, and holidays) commencing on the first such day which begins on the earlier of 72 hours after the time of the initial presentation of the stowaway for inspection or at the time the stowaway is determined to have a credible fear of persecution.

"(B) NONAPPLICATION.—Subparagraph (A) shall not apply if—

"(i) the alien is a crewmember;

"(ii) the alien has an immigrant visa;

"(iii) the alien has a nonimmigrant visa or other documentation authorizing the alien to apply for temporary admission to the United States and applies for admission not later than 120 days after the date the visa or documentation was issued;

"(iv) the alien has a reentry permit and applies for admission not later than 120 days after the date of the alien's last inspection and admission;

"(v)(I) the alien has a nonimmigrant visa or other documentation authorizing the alien to apply for temporary admission to the United States or a reentry permit;

"(II) the alien applies for admission more than 120 days after the date the visa or documentation was issued or after the date of the last inspection and admission under the reentry permit; and

"(III) the owner of the vessel or aircraft satisfies the Attorney General that the existence of the condition relating to inadmissibility could not have been discovered by exercising reasonable care before the alien boarded the vessel or aircraft; or

"(vi) the individual claims to be a national of the United States and has a United States passport.

"(d) REQUIREMENTS OF PERSONS PROVIDING TRANSPORTATION.—

"(1) REMOVAL AT TIME OF ARRIVAL.—An owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft bringing an alien (except an alien crewmember) to the United States shall—

"(A) receive an alien back on the vessel or aircraft or another vessel or aircraft owned or operated by the same interests if the alien is ordered removed under this part; and

"(B) take the alien to the foreign country to which the alien is ordered removed.

"(2) ALIEN STOWAWAYS.—An owner, agent, master, commanding officer, charterer, or consignee of a vessel or aircraft arriving in the United States with an alien stowaway—

"(A) shall detain the alien on board the vessel or aircraft, or at such place as the Attorney General shall designate, until completion of the inspection of the alien by an immigration officer;

"(B) may not permit the stowaway to land in the United States, except pursuant to regulations of the Attorney General temporarily—

"(i) for medical treatment,

"(ii) for detention of the stowaway by the Attorney General, or

"(iii) for departure or removal of the stowaway; and

"(C) if ordered by an immigration officer, shall remove the stowaway on the vessel or aircraft or on another vessel or aircraft.

The Attorney General shall grant a timely request to remove the stowaway under subparagraph (C) on a vessel or aircraft other than that on which the stowaway arrived if the requester has obtained any travel documents necessary for departure or repatriation of the stowaway and removal of the stowaway will not be unreasonably delayed.

"(3) REMOVAL UPON ORDER.—An owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel, aircraft, or other transportation line shall comply with an order of the Attorney General to take on board, guard safely, and transport to the destination specified any alien ordered to be removed under this Act.

"(e) PAYMENT OF EXPENSES OF REMOVAL.—

"(1) COSTS OF REMOVAL AT TIME OF ARRIVAL.—In the case of an alien who is a stowaway or who is ordered removed either without a hearing under section 235(a)(1) or 235(c) or pursuant to proceedings under section 240 initiated

at the time of such alien's arrival, the owner of the vessel or aircraft (if any) on which the alien arrived in the United States shall pay the transportation cost of removing the alien. If removal is on a vessel or aircraft not owned by the owner of the vessel or aircraft on which the alien arrived in the United States, the Attorney General may—

"(A) pay the cost from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses'; and

"(B) recover the amount of the cost in a civil action from the owner, agent, or consignee of the vessel or aircraft (if any) on which the alien arrived in the United States.

"(2) COSTS OF REMOVAL TO PORT OF REMOVAL FOR ALIENS ADMITTED OR PERMITTED TO LAND.—In the case of an alien who has been admitted or permitted to land and is ordered removed, the cost (if any) of removal of the alien to the port of removal shall be at the expense of the appropriation for the enforcement of this Act.

"(3) COSTS OF REMOVAL FROM PORT OF REMOVAL FOR ALIENS ADMITTED OR PERMITTED TO LAND.—

"(A) THROUGH APPROPRIATION.—Except as provided in subparagraph (B), in the case of an alien who has been admitted or permitted to land and is ordered removed, the cost (if any) of removal of the alien from the port of removal shall be at the expense of the appropriation for the enforcement of this Act.

"(B) THROUGH OWNER.—

"(i) IN GENERAL.—In the case of an alien described in clause (ii), the cost of removal of the alien from the port of removal may be charged to any owner of the vessel, aircraft, or other transportation line by which the alien came to the United States.

"(ii) ALIENS DESCRIBED.—An alien described in this clause is an alien who—

"(I) is admitted to the United States (other than lawfully admitted for permanent residence) and is ordered removed within 5 years of the date of admission based on a ground that existed before or at the time of admission, or

"(II) is an alien crewman permitted to land temporarily under section 252 and is ordered removed within 5 years of the date of landing.

"(C) COSTS OF REMOVAL OF CERTAIN ALIENS GRANTED VOLUNTARY DEPARTURE.—In the case of an alien who has been granted voluntary departure under section 240B and who is financially unable to depart at the alien's own expense and whose removal the Attorney General deems to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this Act.

"(f) ALIENS REQUIRING PERSONAL CARE DURING REMOVAL.—

"(1) IN GENERAL.—If the Attorney General believes that an alien being removed requires personal care because of the alien's mental or physical condition, the Attorney General may employ a suitable person for that purpose who shall accompany and care for the alien until the alien arrives at the final destination.

"(2) COSTS.—The costs of providing the service described in paragraph (1) shall be defrayed in the same manner as the expense of removing the accompanied alien is defrayed under this section.

"(g) PLACES OF DETENTION.—

"(1) IN GENERAL.—The Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal. When United States Government facilities are unavailable or facilities adapted or suitably located for detention are unavailable for rental, the Attorney General may expend from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses', without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), amounts necessary to acquire land and to acquire, build, remodel, repair, and operate facilities (including living quarters for immigration officers if not otherwise available) necessary for detention.

"(2) DETENTION FACILITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.—Prior to initiating any project for the construction of any new detention facility for the Service, the Commissioner shall consider the availability for purchase or lease of any existing prison, jail, detention center, or other comparable facility suitable for such use.

"(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(b) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276(b) (8 U.S.C. 1326(b)), as amended by section 321(b), is amended—

(1) by striking "or" at the end of paragraph (2),

(2) by adding "or" at the end of paragraph (3), and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) who was removed from the United States pursuant to section 241(a)(4)(B) who thereafter, without the permission of the Attorney General, enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

(c) MISCELLANEOUS CONFORMING AMENDMENT.—Section 212(a)(4) (8 U.S.C. 1182(a)(4)), as amended by section 621(a), is amended by striking "241(a)(5)(B)" each place it appears and inserting "237(a)(5)(B)".

SEC. 306. APPEALS FROM ORDERS OF REMOVAL (NEW SECTION 242).

(a) IN GENERAL.—Section 242 (8 U.S.C. 1252) is amended—

(1) by redesignating subsection (j) as subsection (i) and by moving such subsection and adding it at the end of section 241, as inserted by section 305(a)(3); and

(2) by amending the remainder of section 242 to read as follows:

"JUDICIAL REVIEW OF ORDERS OF REMOVAL

"SEC. 242. (a) APPLICABLE PROVISIONS.—

"(1) GENERAL ORDERS OF REMOVAL.—Judicial review of a final order of removal (other than an order of removal without a hearing pursuant to section 235(b)(1)) is governed only by chapter 158 of title 28 of the United States Code, except as provided in subsection (b) and except that the court may not order the taking of additional evidence under section 2347(c) of such title.

"(2) MATTERS NOT SUBJECT TO JUDICIAL REVIEW.—

"(A) REVIEW RELATING TO SECTION 235(b)(1).—Notwithstanding any other provision of law, no court shall have jurisdiction to review—

"(i) except as provided in subsection (e), any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of an order of removal pursuant to section 235(b)(1),

"(ii) except as provided in subsection (e), a decision by the Attorney General to invoke the provisions of such section,

"(iii) the application of such section to individual aliens, including the determination made under section 235(b)(1)(B), or

"(iv) except as provided in subsection (e), procedures and policies adopted by the Attorney General to implement the provisions of section 235(b)(1).

"(B) DENIALS OF DISCRETIONARY RELIEF.—Notwithstanding any other provision of law, no court shall have jurisdiction to review—

"(i) any judgment regarding the granting of relief under section 212(h), 212(i), 240A, 240B, or 245, or

"(ii) any other decision or action of the Attorney General the authority for which is specified under this title to be in the discretion of the Attorney General, other than the granting of relief under section 208(a).

"(C) ORDERS AGAINST CRIMINAL ALIENS.—Notwithstanding any other provision of law, no court shall have jurisdiction to review any final order of removal against an alien who is removable by reason of having committed a criminal offense covered in section 212(a)(2) or 237(a)(2)(A)(iii), (B), (C), or (D), or any offense covered by section 237(a)(2)(A)(ii) for which both predicate offenses are, without regard to their date of commission, otherwise covered by section 237(a)(2)(A)(i).

"(3) TREATMENT OF CERTAIN DECISIONS.—No alien shall have a right to appeal from a decision of an immigration judge which is based solely on a certification described in section 240(c)(1)(B).

"(b) REQUIREMENTS FOR REVIEW OF ORDERS OF REMOVAL.—With respect to review of an order of removal under subsection (a)(1), the following requirements apply:

"(1) DEADLINE.—The petition for review must be filed not later than 30 days after the date of the final order of removal.

"(2) VENUE AND FORMS.—The petition for review shall be filed with the court of appeals for the judicial circuit in which the immigration judge completed the proceedings. The record and briefs do not have to be printed. The court of appeals shall review the proceeding on a typewritten record and on typewritten briefs.

"(3) SERVICE.—

"(A) IN GENERAL.—The respondent is the Attorney General. The petition shall be served on the Attorney General and on the officer or employee of the Service in charge of the Service district in which the final order of removal under section 240 was entered.

"(B) STAY OF ORDER.—Service of the petition on the officer or employee does not stay the removal of an alien pending the court's decision on the petition, unless the court orders otherwise.

"(C) ALIEN'S BRIEF.—The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the Attorney General, and the court may not extend these deadlines except upon motion for good cause shown. If an alien fails to file a brief within the time provided in this paragraph, the court shall dismiss the appeal unless a manifest injustice would result.

"(4) SCOPE AND STANDARD FOR REVIEW.—Except as provided in paragraph (5)(B)—

"(A) the court of appeals shall decide the petition only on the administrative record on which the order of removal is based,

"(B) the administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary,

"(C) a decision that an alien is not eligible for admission to the United States is conclusive unless manifestly contrary to law, and

"(D) the Attorney General's discretionary judgment whether to grant relief under section 208(a) shall be conclusive unless manifestly contrary to the law and an abuse of discretion.

"(5) TREATMENT OF NATIONALITY CLAIMS.—

"(A) COURT DETERMINATION IF NO ISSUE OF FACT.—If the petitioner claims to be a national of the United States and the court of appeals finds from the pleadings and affidavits that no genuine issue of material fact about the petitioner's nationality is presented, the court shall decide the nationality claim.

"(B) TRANSFER IF ISSUE OF FACT.—If the petitioner claims to be a national of the United States and the court of appeals finds that a genuine issue of material fact about the petitioner's nationality is presented, the court shall transfer the proceeding to the district court of the United States for the judicial district in which the petitioner resides for a new hearing on the nationality claim and a decision on that claim as if an action had been brought in the district court under section 2201 of title 28, United States Code.

"(C) LIMITATION ON DETERMINATION.—The petitioner may have such nationality claim decided only as provided in this paragraph.

"(6) CONSOLIDATION WITH REVIEW OF MOTIONS TO REOPEN OR RECONSIDER.—When a petitioner seeks review of an order under this section, any review sought of a motion to reopen or reconsider the order shall be consolidated with the review of the order.

"(7) CHALLENGE TO VALIDITY OF ORDERS IN CERTAIN CRIMINAL PROCEEDINGS.—

"(A) IN GENERAL.—If the validity of an order of removal has not been judicially decided, a defendant in a criminal proceeding charged with violating section 243(a) may challenge the validity of the order in the criminal proceeding only by filing a separate motion before trial. The district court, without a jury, shall decide the motion before trial.

"(B) CLAIMS OF UNITED STATES NATIONALITY.—If the defendant claims in the motion to be a national of the United States and the district court finds that—

"(i) no genuine issue of material fact about the defendant's nationality is presented, the court shall decide the motion only on the administrative record on which the removal order is based and the administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole; or

"(ii) a genuine issue of material fact about the defendant's nationality is presented, the court shall hold a new hearing on the nationality claim and decide that claim as if an action had been brought under section 2201 of title 28, United States Code.

The defendant may have such nationality claim decided only as provided in this subparagraph.

"(C) CONSEQUENCE OF INVALIDATION.—If the district court rules that the removal order is invalid, the court shall dismiss the indictment for violation of section 243(a). The United States Government may appeal the dismissal to the court of appeals for the appropriate circuit within 30 days after the date of the dismissal.

"(D) LIMITATION ON FILING PETITIONS FOR REVIEW.—The defendant in a criminal proceeding under section 243(a) may not file a petition for review under subsection (a) during the criminal proceeding.

"(8) CONSTRUCTION.—This subsection—

"(A) does not prevent the Attorney General, after a final order of removal has been issued, from detaining the alien under section 241(a);

"(B) does not relieve the alien from complying with section 241(a)(4) and section 243(g); and

"(C) does not require the Attorney General to defer removal of the alien.

"(9) CONSOLIDATION OF QUESTIONS FOR JUDICIAL REVIEW.—Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this title shall be available only in judicial review of a final order under this section.

"(c) REQUIREMENTS FOR PETITION.—A petition for review or for habeas corpus of an order of removal—

"(1) shall attach a copy of such order, and

"(2) shall state whether a court has upheld the validity of the order, and, if so, shall state the name of the court, the date of the court's ruling, and the kind of proceeding.

"(d) REVIEW OF FINAL ORDERS.—A court may review a final order of removal only if—

"(1) the alien has exhausted all administrative remedies available to the alien as of right, and

"(2) another court has not decided the validity of the order, unless the reviewing court finds that the petition presents grounds that could not have been presented in the prior judicial proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order.

"(e) JUDICIAL REVIEW OF ORDERS UNDER SECTION 235(b)(1).—

"(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

"(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to an order to exclude an alien in accordance with section 235(b)(1) except as specifically authorized in a subsequent paragraph of this subsection, or

"(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

"(2) HABEAS CORPUS PROCEEDINGS.—Judicial review of any determination made under section 235(b)(1) is available in habeas corpus proceedings, but shall be limited to determinations of—

"(A) whether the petitioner is an alien,

"(B) whether the petitioner was ordered removed under such section, and

"(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence, has been admitted as a refugee under section 207, or has been granted asylum under section 208, such status not having been terminated, and is entitled to such further inquiry as prescribed by the Attorney General pursuant to section 235(b)(1)(C).

"(3) CHALLENGES ON VALIDITY OF THE SYSTEM.—

"(A) IN GENERAL.—Judicial review of determinations under section 235(b) and its implementation is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

"(i) whether such section, or any regulation issued to implement such section, is constitutional; or

"(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority of the Attorney General to implement such section, is not consistent with applicable provisions of this title or is otherwise in violation of law.

"(B) DEADLINES FOR BRINGING ACTIONS.—Any action instituted under this paragraph must be filed no later than 60 days after the date the challenged section, regulation, directive, guideline, or procedure described in clause (i) or (ii) of subparagraph (A) is first implemented.

"(C) NOTICE OF APPEAL.—A notice of appeal of an order issued by the District Court under this paragraph may be filed not later than 30 days after the date of issuance of such order.

"(D) EXPEDITIOUS CONSIDERATION OF CASES.—It shall be the duty of the District Court, the Court of Appeals, and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any case considered under this paragraph.

"(4) DECISION.—In any case where the court determines that the petitioner—

"(A) is an alien who was not ordered removed under section 235(b)(1), or

"(B) has demonstrated by a preponderance of the evidence that the alien is an alien lawfully admitted for permanent residence, has been admitted as a refugee under section 207, or has been granted asylum under section 208,

the court may order no remedy or relief other than to require that the petitioner be provided a hearing in accordance with section 240. Any alien who is provided a hearing under section 240 pursuant to this paragraph may thereafter obtain judicial review of any resulting final order of removal pursuant to subsection (a)(1).

"(5) SCOPE OF INQUIRY.—In determining whether an alien has been ordered removed under section 235(b)(1), the court's inquiry shall be limited to whether such an order in fact was issued and whether it relates to the petitioner. There shall be no review of whether the alien is actually inadmissible or entitled to any relief from removal.

"(f) LIMIT ON INJUNCTIVE RELIEF.—

(1) IN GENERAL.—Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of the provisions of chapter 4 of title II, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, other than with respect to the application of such provisions to an individual alien against whom proceedings under such chapter have been initiated.

(2) PARTICULAR CASES.—Notwithstanding any other provision of law, no court shall enjoin the removal of any alien pursuant to a final order under this section unless the alien shows by clear and convincing evidence that the entry or execution of such order is prohibited as a matter of law.

"(g) EXCLUSIVE JURISDICTION.—Except as provided in this section and notwithstanding any other provision of law, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this Act.".

(b) REPEAL OF SECTION 106.—Section 106 (8 U.S.C. 1105a) is repealed.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a) and (b) shall apply to all final orders of deportation or removal and motions to reopen filed on or after the date of the enactment of this Act and subsection (g) of section 242 of the Immigration and Nationality Act (as added by subsection (a)), shall apply without limitation to claims arising from all past, pending, or future exclusion, deportation, or removal proceedings under such Act.

(2) LIMITATION.—Paragraph (1) shall not be considered to invalidate or to require the reconsideration of any judgment or order entered under section 106 of the Immigration and Nationality Act, as amended by section 440 of Public Law 104–132.

(d) TECHNICAL AMENDMENT.—Effective as if included in the enactment of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), subsections (a), (c), (d), (g), and (h) of section 440 of such Act are amended by striking "any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i)" and inserting "any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are, without regard to the date of their commission, otherwise covered by section 241(a)(2)(A)(i)".

SEC. 307. PENALTIES RELATING TO REMOVAL (REVISED SECTION 243).

(a) IN GENERAL.—Section 243 (8 U.S.C. 1253) is amended to read as follows:

"PENALTIES RELATED TO REMOVAL

"SEC. 243. (a) PENALTY FOR FAILURE TO DEPART.—

"(1) IN GENERAL.—Any alien against whom a final order of removal is outstanding by reason of being a member of any of the classes described in section 237(a), who—

"(A) willfully fails or refuses to depart from the United States within a period of 90 days from the date of the final order of removal under administrative processes, or if judicial review is had, then from the date of the final order of the court,

"(B) willfully fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure,

"(C) connives or conspires, or takes any other action, designed to prevent or hamper or with the purpose of preventing or hampering the alien's departure pursuant to such, or

"(D) willfully fails or refuses to present himself or herself for removal at the time and place required by the Attorney General pursuant to such order,

shall be fined under title 18, United States Code, or imprisoned not more than four years (or 10 years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 237(a)), or both.

"(2) EXCEPTION.—It is not a violation of paragraph (1) to take any proper steps for the purpose of securing cancellation of or exemption from such order of removal or for the purpose of securing the alien's release from incarceration or custody.

"(3) SUSPENSION.—The court may for good cause suspend the sentence of an alien under this subsection and order the alien's release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as—

"(A) the age, health, and period of detention of the alien;

"(B) the effect of the alien's release upon the national security and public peace or safety;

"(C) the likelihood of the alien's resuming or following a course of conduct which made or would make the alien deportable;

"(D) the character of the efforts made by such alien himself and by representatives of the country or countries to which the alien's removal is directed to expedite the alien's departure from the United States;

"(E) the reason for the inability of the Government of the United States to secure passports, other travel documents, or removal facilities from the country or countries to which the alien has been ordered removed; and

"(F) the eligibility of the alien for discretionary relief under the immigration laws.

"(b) WILLFUL FAILURE TO COMPLY WITH TERMS OF RELEASE UNDER SUPERVISION.—An alien who shall willfully fail to comply with regulations or requirements issued pursuant to section 241(a)(3) or knowingly give false information in response to an inquiry under such section shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(c) PENALTIES RELATING TO VESSELS AND AIRCRAFT.—

"(1) CIVIL PENALTIES.—

"(A) FAILURE TO CARRY OUT CERTAIN ORDERS.—If the Attorney General is satisfied that a person has violated subsection (d) or (e) of section 241, the person shall pay to the Commissioner the sum of $2,000 for each violation.

"(B) FAILURE TO REMOVE ALIEN STOWAWAYS.—If the Attorney General is satisfied that a person has failed to remove an alien stowaway as required under section 241(d)(2), the person shall pay to the Commissioner the sum of $5,000 for each alien stowaway not removed.

"(C) NO COMPROMISE.—The Attorney General may not compromise the amount of such penalty under this paragraph.

"(2) CLEARING VESSELS AND AIRCRAFT.—

"(A) CLEARANCE BEFORE DECISION ON LIABILITY.—A vessel or aircraft may be granted clearance before a decision on liability is made under paragraph (1) only if a bond approved by the Attorney General or an amount sufficient to pay the civil penalty is deposited with the Commissioner.

"(B) PROHIBITION ON CLEARANCE WHILE PENALTY UNPAID.—A vessel or aircraft may not be granted clearance if a civil penalty imposed under paragraph (1) is not paid.

"(d) DISCONTINUING GRANTING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—On being notified by the Attorney General that the government of a foreign country denies or unreasonably delays accepting an alien who is a citizen, subject, national, or resident of that country after the Attorney General asks whether the government will accept the alien under this section, the Secretary of State shall order consular officers in that foreign country to discontinue granting immigrant visas or nonimmigrant visas, or both, to citizens, subjects, nationals, and residents of that country until the Attorney General notifies the Secretary that the country has accepted the alien.".

SEC. 308. REDESIGNATION AND REORGANIZATION OF OTHER PROVISIONS; ADDITIONAL CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENT TO TABLE OF CONTENTS; OVERVIEW OF REORGANIZED CHAPTERS.—The table of contents, as amended by sections 123(b) and 851(d)(1), is amended—

(1) by striking the item relating to section 106, and

(2) by striking the item relating to chapter 4 of title II and all that follows through the item relating to section 244A and inserting the following:

"CHAPTER 4—INSPECTION, APPREHENSION, EXAMINATION, EXCLUSION, AND REMOVAL

"Sec. 231. Lists of alien and citizen passengers arriving or departing; record of resident aliens and citizens leaving permanently for foreign country.
"Sec. 232. Detention of aliens for physical and mental examination.
"Sec. 233. Entry through or from foreign territory and adjacent islands; landing stations.
"Sec. 234. Designation of ports of entry for aliens arriving by civil aircraft.
"Sec. 235. Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.
"Sec. 235A. Preinspection at foreign airports.
"Sec. 236. Apprehension and detention of aliens not lawfully in the United States.
"Sec. 237. General classes of deportable aliens.
"Sec. 238. Expedited removal of aliens convicted of committing aggravated felonies.
"Sec. 239. Initiation of removal proceedings.
"Sec. 240. Removal proceedings.
"Sec. 240A. Cancellation of removal; adjustment of status.
"Sec. 240B. Voluntary departure.
"Sec. 240C. Records of admission.
"Sec. 241. Detention and removal of aliens ordered removed.
"Sec. 242. Judicial review of orders of removal.
"Sec. 243. Penalties relating to removal.
"Sec. 244. Temporary protected status.

"CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS".

(b) REORGANIZATION OF OTHER PROVISIONS.—Chapters 4 and 5 of title II are amended as follows:

(1) AMENDING CHAPTER HEADING.—Amend the heading for chapter 4 of title II to read as follows:

"CHAPTER 4—INSPECTION, APPREHENSION, EXAMINATION, EXCLUSION, AND REMOVAL".

(2) REDESIGNATING SECTION 232 AS SECTION 232(a).—Amend section 232 (8 U.S.C. 1222)—

(A) by inserting "(a) DETENTION OF ALIENS.—" after "SEC. 232.", and

(B) by amending the section heading to read as follows:

"DETENTION OF ALIENS FOR PHYSICAL AND MENTAL EXAMINATION".

(3) REDESIGNATING SECTION 234 AS SECTION 232(b).—Amend section 234 (8 U.S.C. 1224)—

(A) by striking the heading,

(B) by striking "SEC. 234." and inserting the following: "(b) PHYSICAL AND MENTAL EXAMINATION.—", and

(C) by moving such provision to the end of section 232.

(4) REDESIGNATING SECTION 238 AS SECTION 233.—Redesignate section 238 (8 U.S.C. 1228) as section 233 and move the section to immediately follow section 232.

(5) REDESIGNATING SECTION 242A AS SECTION 238.—Redesignate section 242A as section 238, strike "DEPORTATION" in its heading and insert "REMOVAL", and move the section to immediately follow section 237 (as redesignated by section 305(a)(2)).

(6) STRIKING SECTION 242B.—Strike section 242B (8 U.S.C. 1252b).

(7) STRIKING SECTION 244 AND REDESIGNATING SECTION 244A AS SECTION 244.—Strike section 244 (8 U.S.C. 1254) and redesignate section 244A as section 244.

(8) AMENDING CHAPTER HEADING.—Amend the heading for chapter 5 of title II to read as follows:

"CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) EXPEDITED PROCEDURES FOR AGGRAVATED FELONS (FORMER SECTION 242A).—Section 238 (which, previous to redesignation under section 308(b)(5), was section 242A) is amended—

(A) in subsection (a)(1), by striking "section 242" and inserting "section 240";

(B) in subsection (a)(2), by striking "section 242(a)(2)" and inserting "section 236(c)"; and

(C) in subsection (b)(1), by striking "section 241(a)(2)(A)(iii)" and inserting "section 237(a)(2)(A)(iii)".

(2) TREATMENT OF CERTAIN HELPLESS ALIENS.—

(A) CERTIFICATION OF HELPLESS ALIENS.—Section 232 (8 U.S.C. 1222), as amended by section 308(b)(2), is further amended by adding at the end the following new subsection:

"(c) CERTIFICATION OF CERTAIN HELPLESS ALIENS.—If an examining medical officer determines that an alien arriving in the United States is inadmissible, is helpless from sickness, mental or physical disability, or infancy, and is accompanied by another alien whose protection or guardianship may be required, the officer

may certify such fact for purposes of applying section 212(a)(10)(B) with respect to the other alien.".

(B) GROUND OF INADMISSIBILITY FOR PROTECTION AND GUARDIANSHIP OF ALIENS DENIED ADMISSION FOR HEALTH OR INFANCY.—Subparagraph (B) of section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by section 301(a)(1), is amended to read as follows:

"(B) GUARDIAN REQUIRED TO ACCOMPANY HELPLESS ALIEN.—Any alien—

"(i) who is accompanying another alien who is inadmissible and who is certified to be helpless from sickness, mental or physical disability, or infancy pursuant to section 232(c), and

"(ii) whose protection or guardianship is determined to be required by the alien described in clause (i),

is inadmissible.".

(3) CONTINGENT CONSIDERATION IN RELATION TO REMOVAL OF ALIENS.—Section 273(a) (8 U.S.C. 1323(a)) is amended—

(A) by inserting "(1)" after "(a)", and

(B) by adding at the end the following new paragraph:

"(2) It is unlawful for an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft who is bringing an alien (except an alien crewmember) to the United States to take any consideration to be kept or returned contingent on whether an alien is admitted to, or ordered removed from, the United States.".

(4) CLARIFICATION.—(A) Section 238(a)(1), which, previous to redesignation under section 308(b)(5), was section 242A(a)(1), is amended by adding at the end the following: "Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(B) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), as amended by section 851(b)(15), is amended by striking "and nothing in" and all that follows up to "shall".

(d) ADDITIONAL CONFORMING AMENDMENTS RELATING TO EXCLUSION AND INADMISSIBILITY.—

(1) SECTION 212.—Section 212 (8 U.S.C. 1182(a)) is amended—

(A) in the heading, by striking "EXCLUDED FROM" and inserting "INELIGIBLE FOR";

(B) in the matter in subsection (a) before paragraph (1), by striking all that follows "(a)" and inserting the following: "CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:";

(C) in subsection (a), by striking "is excludable" and inserting "is inadmissible" each place it appears;

(D) in subsections (a)(5)(C) (before redesignation by section 343(c)(1), (d)(1), (k), by striking "exclusion" and inserting "inadmissibility";

(E) in subsections (b), (d)(3), (h)(1)(A)(i), and (k), by striking "excludable" each place it appears and inserting "inadmissible";

(F) in subsection (b)(2), by striking "or ineligible for entry";

(G) in subsection (d)(7), by striking "excluded from" and inserting "denied"; and

(H) in subsection (h)(1)(B), by striking "exclusion" and inserting "denial of admission".

(2) SECTION 241.—Section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended—

(A) in subsection (a)(1)(H), by striking "excludable" and inserting "inadmissible";

(B) in subsection (a)(4)(C)(ii), by striking "excludability" and inserting "inadmissibility";

(C) in subsection (c), by striking "exclusion" and inserting "inadmissibility"; and

(D) effective upon enactment of this Act, by striking subsection (d), as added by section 414(a) of the Antiterrorism and Effective Death Penalty Act of 1996 (P.L. 104–132).

(3) OTHER GENERAL REFERENCES.—The following provisions are amended by striking "excludability" and "excludable" each place each appears and inserting "inadmissibility" and "inadmissible", respectively:

(A) Sections 101(f)(3), 213, 234 (before redesignation by section 308(b)), 241(a)(1) (before redesignation by section 305(a)(2)), 272(a), 277, 286(h)(2)(A)(v), and 286(h)(2)(A)(vi).

(B) Section 601(c) of the Immigration Act of 1990.

(C) Section 128 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

(D) Section 1073 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

(E) Section 221 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

(4) RELATED TERMS.—

(A) Section 101(a)(17) (8 U.S.C. 1101(a)(17)) is amended by striking "or expulsion" and inserting "expulsion, or removal".

(B) Section 102 (8 U.S.C. 1102) is amended by striking "exclusion or deportation" and inserting "removal".

(C) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is amended by striking "been excluded or deported" and inserting "not been admitted or have been removed".

(D) Section 206 (8 U.S.C. 1156) is amended by striking "excluded from admission to the United States and deported" and inserting "denied admission to the United States and removed".

(E) Section 216(f) (8 U.S.C. 1186a) is amended by striking "exclusion" and inserting "inadmissibility".

(F) Section 217 (8 U.S.C. 1187) is amended by striking "excluded from admission" and inserting "denied admission at the time of arrival" each place it appears.

(G) Section 221(f) (8 U.S.C. 1201) is amended by striking "exclude" and inserting "deny admission to".

(H) Section 232(a) (8 U.S.C. 1222(a)), as redesignated by subsection (b)(2), is amended by striking "excluded by" and "the excluded classes" and inserting "inadmissible under" and "inadmissible classes", respectively.

(I)(i) Section 272 (8 U.S.C. 1322) is amended—

(I) by striking "EXCLUSION" in the heading and inserting "DENIAL OF ADMISSION",

(II) in subsection (a), by striking "excluding condition" and inserting "condition causing inadmissibility", and

(III) in subsection (c), by striking "excluding".

(ii) The item in the table of contents relating to such section is amended by striking "exclusion" and inserting "denial of admission".

(J) Section 276(a) (8 U.S.C. 1326(a)) is amended—

(i) in paragraph (1), as amended by section 324(a)—

(I) by striking "arrested and deported, has been excluded and deported," and inserting "denied admission, excluded, deported, or removed", and

(II) by striking "exclusion or deportation" and inserting "exclusion, deportation, or removal"; and

(ii) in paragraph (2)(B), by striking "excluded and deported" and inserting "denied admission and removed".

(K) Section 286(h)(2)(A)(vi) (8 U.S.C. 1356(h)(2)(A)(vi)) is amended by striking "exclusion" each place it appears and inserting "removal".

(L) Section 287 (8 U.S.C. 1357) is amended—

(i) in subsection (a), by striking "or expulsion" each place it appears and inserting "expulsion, or removal", and

(ii) in subsection (c), by striking "exclusion from" and inserting "denial of admission to".

(M) Section 290(a) (8 U.S.C. 1360(a)) is amended by striking "admitted to the United States, or excluded therefrom" each place it appears and inserting "admitted or denied admission to the United States".

(N) Section 291 (8 U.S.C. 1361) is amended by striking "subject to exclusion" and inserting "inadmissible" each place it appears.

(O) Section 292 (8 U.S.C. 1362) is amended by striking "exclusion or deportation" each place it appears and inserting "removal".

(P) Section 360 (8 U.S.C. 1503) is amended—

(i) in subsection (a), by striking "exclusion" each place it appears and inserting "removal", and

(ii) in subsection (c), by striking "excluded from" and inserting "denied".

(Q) Section 507(b)(2)(D) (8 U.S.C. 1537(b)(2)(D)) is amended by striking "exclusion because such alien is excludable" and inserting "removal because such alien is inadmissible".

(R) Section 301(a)(1) of the Immigration Act of 1990 is amended by striking "exclusion" and inserting "inadmissibility".

(S) Section 401(c) of the Refugee Act of 1980 is amended by striking "deportation or exclusion" and inserting "removal".

(T) Section 501(e)(2) of the Refugee Education Assistance Act of 1980 (Public Law 96–422) is amended—

(i) by striking "exclusion or deportation" each place it appears and inserting "removal", and

(ii) by striking "deportation or exclusion" each place it appears and inserting "removal".

(U) Section 4113(c) of title 18, United States Code, is amended by striking "exclusion and deportation" and inserting "removal".

(5) REPEAL OF SUPERSEDED PROVISION.—Effective as of the date of the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, section 422 of such Act is repealed and the Immigration and Nationality Act shall be applied as if such section had not been enacted.

(e) REVISION OF TERMINOLOGY RELATING TO DEPORTATION.—

(1) Each of the following is amended by striking "deportation" each place it appears and inserting "removal":

(A) Subparagraphs (A)(iii)(II), (A)(iv)(II), and (B)(iii)(II) of section 204(a)(1) (8 U.S.C. 1154(a)(1)).

(B) Section 212(d)(1) (8 U.S.C. 1182(d)(1)).

(C) Section 212(d)(11) (8 U.S.C. 1182(d)(11)).

(D) Section 214(k)(4)(C) (8 U.S.C. 1184(k)(4)(C)), as redesignated by section 851(a)(3)(A).

(E) Section 241(a)(1)(H) (8 U.S.C. 1251(a)(1)(H)), before redesignation as section 237 by section 305(a)(2).

(F) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(5).

(G) Subsections (a)(3) and (b)(5)(B) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by subsection (b)(7).

(H) Section 246(a) (8 U.S.C. 1256(a)).

(I) Section 254 (8 U.S.C. 1284).

(J) Section 263(a)(4) (8 U.S.C. 1303(a)(4)).

(K) Section 276(b) (8 U.S.C. 1326(b)).

(L) Section 286(h)(2)(A)(v) (8 U.S.C. 1356(h)(2)(A)(v)).

(M) Section 287(g) (8 U.S.C. 1357(g)) (as added by section 122).

(N) Section 291 (8 U.S.C. 1361).

(O) Section 318 (8 U.S.C. 1429).

(P) Section 130005(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

(Q) Section 4113(b) of title 18, United States Code.

(2) Each of the following is amended by striking "deported" each place it appears and inserting "removed":

(A) Section 212(d)(7) (8 U.S.C. 1182(d)(7)).

(B) Section 214(d) (8 U.S.C. 1184(d)).

(C) Section 241(a) (8 U.S.C. 1251(a)), before redesignation as section 237 by section 305(a)(2).

(D) Section 242A(c)(2)(D)(iv) (8 U.S.C. 1252a(c)(2)(D)(iv)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5).

(E) Section 252(b) (8 U.S.C. 1282(b)).

(F) Section 254 (8 U.S.C. 1284).

(G) Subsections (b) and (c) of section 266 (8 U.S.C. 1306).

(H) Section 301(a)(1) of the Immigration Act of 1990.

(I) Section 4113 of title 18, United States Code.

(3) Section 101(g) (8 U.S.C. 1101(g)) is amended by inserting "or removed" after "deported" each place it appears.

(4) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is amended by striking "suspension of deportation" and inserting "cancellation of removal".

(5) Section 201(b)(1)(D) (8 U.S.C. 1151(b)(1)(D)) is amended by striking "deportation is suspended" and inserting "removal is canceled".

(6) Section 212(l)(2)(B) (8 U.S.C. 1182(l)(2)(B)) is amended by striking "deportation against" and inserting "removal of".

(7) Subsections (b)(2), (c)(2)(B), (c)(3)(D), (c)(4)(A), and (d)(2)(C) of section 216 (8 U.S.C. 1186a) are each amended by striking "DEPORTATION", "deportation", "deport", and "deported" each place each appears and inserting "REMOVAL", "removal", "remove", and "removed", respectively.

(8) Subsections (b)(2), (c)(2)(B), (c)(3)(D), and (d)(2)(C) of section 216A (8 U.S.C. 1186b) are each amended by striking "DEPORTATION", "deportation", "deport", and "deported" and inserting "REMOVAL", "removal", "remove", and "removed", respectively.

(9) Section 217(b)(2) (8 U.S.C. 1187(b)(2)) is amended by striking "deportation against" and inserting "removal of".

(10) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(6), is amended, in the headings to various subdivisions, by striking "DEPORTATION" and "DEPORTATION" and inserting "REMOVAL" and "REMOVAL", respectively.

(11) Section 244A(a)(1)(A) (8 U.S.C. 1254a(a)(1)(A)), before redesignation as section 244 by subsection (b)(8), is amended—

(A) in subsection (a)(1)(A), by striking "deport" and inserting "remove", and

(B) in subsection (e), by striking "SUSPENSION OF DEPORTATION" and inserting "CANCELLATION OF REMOVAL".

(12) Section 254 (8 U.S.C. 1284) is amended by striking "deport" each place it appears and inserting "remove".

(13) Section 273(d) (8 U.S.C. 1323(d)) is repealed.

(14)(A) Section 276 (8 U.S.C. 1326) is amended by striking "DEPORTED" and inserting "REMOVED".

(B) The item in the table of contents relating to such section is amended by striking "deported" and inserting "removed".

(15) Section 318 (8 U.S.C. 1429) is amended by striking "suspending" and inserting "canceling".

(16) Section 301(a) of the Immigration Act of 1990 is amended by striking "DEPORTATION" and inserting "REMOVAL".

*(17) The heading of section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended by striking "**DEPORTATION**" and inserting "**REMOVAL**".*

(18) Section 9 of the Peace Corps Act (22 U.S.C. 2508) is amended by striking "deported" and all that follows through "Deportation" and inserting "removed pursuant to chapter 4 of title II of the Immigration and Nationality Act".

(19) Section 8(c) of the Foreign Agents Registration Act (22 U.S.C. 618(c)) is amended by striking "deportation" and all that follows and inserting "removal pursuant to chapter 4 of title II of the Immigration and Nationality Act.".

(f) REVISION OF REFERENCES TO ENTRY.—

(1) The following provisions are amended by striking "entry" and inserting "admission" each place it appears:

(A) Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)).

(B) Section 101(a)(30) (8 U.S.C. 1101(a)(30)).

(C) Section 212(a)(2)(D) (8 U.S.C. 1182(a)(2)(D)).

(D) Section 212(a)(6)(C)(i) (8 U.S.C. 1182(a)(6)(C)(i)).

(E) Section 212(h)(1)(A)(i) (8 U.S.C. 1182(h)(1)(A)(i)).

(F) Section 212(j)(1)(D) (8 U.S.C. 1182(j)(1)(D)).

(G) Section 214(c)(2)(A) (8 U.S.C. 1184(c)(2)(A)).

(H) Section 214(d) (8 U.S.C. 1184(d)).

(I) Section 216(b)(1)(A)(i) (8 U.S.C. 1186a(b)(1)(A)(i)).

(J) Section 216(d)(1)(A)(i)(III) (8 U.S.C. 1186a(d)(1)(A)(i)(III)).

(K) Subsection (b) of section 240 (8 U.S.C. 1230), before redesignation as section 240C by section 304(a)(2).

(L) Subsection (a)(1)(G) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2).

(M) Subsection (a)(1)(H) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), other than the last time it appears.

(N) Paragraphs (2) and (4) of subsection (a) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2).

(O) Section 245(e)(3) (8 U.S.C. 1255(e)(3)).

(P) Section 247(a) (8 U.S.C. 1257(a)).

(Q) Section 601(c)(2) of the Immigration Act of 1990.

(2) The following provisions are amended by striking "enter" and inserting "be admitted":

(A) Section 204(e) (8 U.S.C. 1154(e)).

(B) Section 221(h) (8 U.S.C. 1201(h)).

(C) Section 245(e)(2) (8 U.S.C. 1255(e)(2)).

(3) The following provisions are amended by striking "enters" and inserting "is admitted to":

(A) Section 212(j)(1)(D)(ii) (8 U.S.C. 1154(e)).

(B) Section 214(c)(5)(B) (8 U.S.C. 1184(c)(5)(B)).

(4) Subsection (a) of section 238 (8 U.S.C. 1228), before redesignation as section 233 by section 308(b)(4), is amended by striking "entry and inspection" and inserting "inspection and admission".

(5) Subsection (a)(1)(H)(ii) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended by striking "at entry".

(6) Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) is amended by striking "that the entry", "given entry into", and "entering" and inserting "that the admission", "admitted to", and "admitted to".

(7) Section 4 of the Atomic Weapons and Special Nuclear Materials Rewards Act (50 U.S.C. 47c) is amended by striking "entry" and inserting "admission".

(g) CONFORMING REFERENCES TO REORGANIZED SECTIONS.—

(1) REFERENCES TO SECTIONS 232, 234, 238, 239, 240, 241, 242A, AND 244A.—Any reference in law in effect on the day before the date of the enactment of this Act to section 232, 234, 238, 239, 240, 241, 242A, or 244A of the Immigration and Nationality Act (or a subdivision of such section) is deemed, as of the title III–A effective date, to refer to section 232(a), 232(b), 233, 234, 234A, 237, 238, or 244 of such Act (or the corresponding subdivision of such section), as redesignated by this subtitle. Any reference in law to section 241 (or a subdivision of such section) of the Immigration and Nationality Act in an amendment made by a subsequent subtitle of this title is deemed a reference (as of the title III–A effective date) to section 237 (or the corresponding subdivision of such section), as redesignated by this subtitle.

(2) REFERENCES TO SECTION 106.—

(A) Sections 242A(b)(3) and 242A(c)(3)(A)(ii) (8 U.S.C. 1252a(b)(3), 1252a(c)(3)(A)(ii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), are each amended by striking "106" and inserting "242".

(B) Sections 210(e)(3)(A) and 245A(f)(4)(A) (8 U.S.C. 1160(e)(3)(A), 1255a(f)(4)(A)) are amended by inserting "(as in effect before October 1, 1996)" after "106".

(C) Section 242A(c)(3)(A)(iii) (8 U.S.C. 1252a(c)(3)(A)(iii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), is amended by striking "106(a)(1)" and inserting "242(b)(1)".

(3) REFERENCES TO SECTION 236.—

(A) Sections 205 and 209(a)(1) (8 U.S.C. 1155, 1159(a)(1)) are each amended by striking "236" and inserting "240".

(B) Section 4113(c) of title 18, United States Code, is amended by striking "1226 of title 8, United States Code" and inserting "240 of the Immigration and Nationality Act".

(4) REFERENCES TO SECTION 237.—

(A) Section 209(a)(1) (8 U.S.C. 1159(a)(1)) is amended by striking "237" and inserting "241".

(B) Section 212(d)(7) (8 U.S.C. 1182(d)(7)) is amended by striking "237(a)" and inserting "241(c)".

(C) Section 280(a) (8 U.S.C. 1330(a)) is amended by striking "237, 239, 243" and inserting "234, 243(c)(2)".

(5) REFERENCES TO SECTION 242.—

(A)(i) Sections 214(d), 252(b), and 287(f)(1) (8 U.S.C. 1184(d), 1282(b), 1357(f)(1)) are each amended by striking "242" and inserting "240".

(ii) Subsection (c)(4) of section 242A (8 U.S.C. 1252a), as amended by section 851(b)(13) but before redesignation as section 238 by subsection (b)(5), are each amended by striking "242" and inserting "240".

(iii) Section 245A(a)(1)(B) (8 U.S.C. 1255a(a)(1)(B)) is amended by inserting "(as in effect before October 1, 1996)" after "242".

(iv) Section 4113 of title 18, United States Code, is amended—

(I) in subsection (a), by striking "section 1252(b) or section 1254(e) of title 8, United States Code," and inserting "section 240B of the Immigration and Nationality Act"; and

(II) in subsection (b), by striking "section 1252 of title 8, United States Code," and inserting "section 240 of the Immigration and Nationality Act".

(B) Section 130002(a) of Public Law 103–322, as amended by section 345, is amended by striking "242(a)(3)(A)" and inserting "236(d)".

(C) Section 242A(b)(1) (8 U.S.C. 1252a(b)(1)), before redesignation as section 238 by section 308(b)(5), is amended by striking "242(b)" and inserting "240".

(D) Section 242A(c)(2)(D)(ii) (8 U.S.C. 1252a(c)(2)(D)(ii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), is amended by striking "242(b)" and inserting "240".

(E) Section 1821(e) of title 28, United States Code, is amended by striking "242(b)" and inserting "240".

(F) Section 130007(a) of Public Law 103–322 is amended by striking "242(i)" and inserting "239(d)".

(G) Section 20301(c) of Public Law 103–322 is amended by striking "242(j)(5)" and "242(j)" and inserting "241(h)(5)" and "241(h)", respectively.

(6) REFERENCES TO SECTION 242B.—

(A) Section 303(d)(2) of the Immigration Act of 1990 is amended by striking "242B" and inserting "240(b)(5)".

(B) Section 545(g)(1)(B) of the Immigration Act of 1990 is amended by striking "242B(a)(4)" and inserting "239(a)(4)".

(7) REFERENCES TO SECTION 243.—

(A) Section 214(d) (8 U.S.C. 1184(d)) is amended by striking "243" and inserting "241".

(B) Section 504(k)(2) (8 U.S.C. 1534(k)(2)) is amended by striking "withholding of deportation under section 243(h)" and inserting "by withholding of removal under section 241(b)(3)".

(C)(i) Section 315(c) of the Immigration Reform and Control Act of 1986 is amended by striking "243(g)" and "1253(g)" and inserting "243(d)" and "1253(d)" respectively.

(ii) Section 702(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 is amended by striking "243(g)" and inserting "243(d)".

(iii) Section 903(b) of Public Law 100–204 is amended by striking "243(g)" and inserting "243(d)".

(D)(i) Section 6(f)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)(2)(F)) is amended by striking "243(h)" and inserting "241(b)(3)".

(ii) Section 214(a)(5) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(a)(5)) is amended by striking "243(h)" and inserting "241(b)(3)".

(E)(i) Subsection (c)(2)(B)(ii) of section 244A (8 U.S.C. 1254a), before redesignated as section 244 by section 308(b)(7), is amended by striking "243(h)(2)" and inserting "208(b)(2)(A)".

(ii) Section 301(e)(2) of the Immigration Act of 1990 is amended by striking "243(h)(2)" and inserting "208(b)(2)(A)".

(F) Section 316(f) (8 U.S.C. 1427(f)) is amended by striking "subparagraphs (A) through (D) of paragraph 243(h)(2)" and inserting "clauses (i) through (v) of section 208(b)(2)(A)".

(8) REFERENCES TO SECTION 244.—

(A)(i) Section 201(b)(1)(D) (8 U.S.C. 1151(b)(1)(D)) and subsection (e) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by section 308(b)(7), are each amended by striking "244(a)" and inserting "240A(a)".

(ii) Section 304(c)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232) is amended by striking "244(a)" and inserting "240A(a)".

(B) Section 504(k)(3) (8 U.S.C. 1534(k)(3)) is amended by striking "suspension of deportation under subsection (a) or (e) of section 244" and inserting "cancellation of removal under section 240A".

(C) Section 304(c)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232) is amended by striking "244(b)(2)" and inserting "240A(b)(2)".

(D) Section 364(a)(2) of this Act is amended by striking "244(a)(3)" and inserting "240A(a)(3)".

(9) REFERENCES TO CHAPTER 5.—

(A) Sections 266(b), 266(c), and 291 (8 U.S.C. 1306(b), 1306(c), 1361) are each amended by striking "chapter 5" and inserting "chapter 4".

(B) Section 6(b) of the Act of August 1, 1956 (50 U.S.C. 855(b)) is amended by striking "chapter 5, title II, of the Immigration and Nationality Act (66 Stat. 163)" and inserting "chapter 4 of title II of the Immigration and Nationality Act".

(10) MISCELLANEOUS CROSS-REFERENCE CORRECTIONS FOR NEWLY ADDED PROVISIONS.—

(A) Section 212(h), as amended by section 301(h), is amended by striking "section 212(c)" and inserting "paragraphs (1) and (2) of section 240A(a)".

(B) Section 245(c)(6), as amended by section 332(d), is amended by striking "241(a)(4)(B)" and inserting "237(a)(4)(B)".

(C) Section 249(d), as amended by section 332(e), is amended by striking "241(a)(4)(B)" and inserting "237(a)(4)(B)".

(D) Section 274C(d)(7), as added by section 212(d), is amended by striking "withholding of deportation under section 243(h)" and inserting "withholding of removal under section 241(b)(3)".

(E) Section 3563(b)(21) of title 18, United States Code, as inserted by section 374(b), is amended by striking "242A(d)(5)" and inserting "238(d)(5)".

(F) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended by section 671(a)(6), is amended by striking "242A(a)(3)" and inserting "238(a)(3)".

(G) Section 386(b) of this Act is amended by striking "excludable" and "EXCLUDABLE" and inserting "inadmissible" and "INADMISSIBLE", respectively, each place each appears.

(H) Subsections (a), (c), (d), (g), and (h) of section 440 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), as amended by section 306(d), are amended by striking "241(a)(2)(A)(ii)" and "241(a)(2)(A)(i)" and inserting "237(a)(2)(A)(ii)" and "237(a)(2)(A)(i)", respectively .

SEC. 309. EFFECTIVE DATES; TRANSITION.

(a) IN GENERAL.—Except as provided in this section and sections 303(b)(2), 306(c), 308(d)(2)(D), or 308(d)(5), this subtitle and the amendments made by this subtitle shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act (in this title referred to as the "title III–A effective date").

(b) PROMULGATION OF REGULATIONS.—The Attorney General shall first promulgate regulations to carry out this subtitle by not later than 30 days before the title III–A effective date.

(c) TRANSITION FOR ALIENS IN PROCEEDINGS.—

(1) GENERAL RULE THAT NEW RULES DO NOT APPLY.—Subject to the succeeding provisions of this subsection, in the case of an alien who is in exclusion or deportation proceedings as of the title III–A effective date—

(A) the amendments made by this subtitle shall not apply, and

(B) the proceedings (including judicial review thereof) shall continue to be conducted without regard to such amendments.

(2) ATTORNEY GENERAL OPTION TO ELECT TO APPLY NEW PROCEDURES.—In a case described in paragraph (1) in which an evidentiary hearing under section 236 or 242 and 242B of the Immigration and Nationality Act has not commenced as of the title III–A effective date, the Attorney General may elect to proceed under chapter 4 of title II of such Act (as amended by this subtitle). The Attorney General shall provide notice of such election to the alien involved not later than 30 days before the date any evidentiary hearing is commenced. If the Attorney General makes such election, the notice of hearing provided to the alien under section 235 or 242(a) of such Act shall be valid as if provided under section 239 of such Act (as amended by this subtitle) to confer jurisdiction on the immigration judge.

(3) ATTORNEY GENERAL OPTION TO TERMINATE AND REINITIATE PROCEEDINGS.—In the case described in paragraph (1), the Attorney General may elect to terminate proceedings in which there has not been a final administrative decision and to reinitiate proceedings under chapter 4 of title II the Immigration and Nationality Act (as amended by this subtitle). Any determination in the terminated proceeding shall not be binding in the reinitiated proceeding.

(4) TRANSITIONAL CHANGES IN JUDICIAL REVIEW.—In the case described in paragraph (1) in which a final order of exclusion or deportation is entered more than 30 days after the date of the enactment of this Act, notwithstanding any provision of section 106 of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act) to the contrary—

(A) in the case of judicial review of a final order of exclusion, subsection (b) of such section shall not apply and the action for judicial review shall be governed by the provisions of subsections (a) and (c) of such in the same manner as they apply to judicial review of orders of deportation;

(B) a court may not order the taking of additional evidence under section 2347(c) of title 28, United States Code;

(C) the petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation;

(D) the petition for review shall be filed with the court of appeals for the judicial circuit in which the administrative proceedings before the special inquiry officer or immigration judge were completed;

(E) there shall be no appeal of any discretionary decision under section 212(c), 212(h), 212(i), 244, or 245 of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act);

(F) service of the petition for review shall not stay the deportation of an alien pending the court's decision on the petition, unless the court orders otherwise; and

(G) there shall be no appeal permitted in the case of an alien who is inadmissible or deportable by reason of having committed a criminal offense covered in section 212(a)(2) or section 241(a)(2)(A)(iii), (B), (C), or (D) of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act), or any offense covered by section 241(a)(2)(A)(ii) of such Act (as in effect on such date) for which both predicate offenses are, without regard to their date of commission, otherwise covered by section 241(a)(2)(A)(i) of such Act (as so in effect).

(5) TRANSITIONAL RULE WITH REGARD TO SUSPENSION OF DEPORTATION.—Paragraphs (1) and (2) of section 240A(d) of the Immigration and Nationality Act (relating to continuous residence or physical presence) shall apply to notices to appear issued before, on, or after the date of the enactment of this Act.

(6) TRANSITION FOR CERTAIN FAMILY UNITY ALIENS.—The Attorney General may waive the application of section 212(a)(9) of the Immigration and Nationality Act, as inserted by section 301(b)(1), in the case of an alien who is provided benefits under the provisions of section 301 of the Immigration Act of 1990 (relating to family unity).

(7) LIMITATION ON SUSPENSION OF DEPORTATION.—The Attorney General may not suspend the deportation and adjust the status under section 244 of the Immigration and Nationality Act of more than 4,000 aliens in any fiscal year (beginning after the date of the enactment of this Act). The previous sentence shall apply regardless of when an alien applied for such suspension and adjustment.

(d) TRANSITIONAL REFERENCES.—For purposes of carrying out the Immigration and Nationality Act, as amended by this subtitle—

(1) any reference in section 212(a)(1)(A) of such Act to the term "inadmissible" is deemed to include a reference to the term "excludable", and

(2) any reference in law to an order of removal shall be deemed to include a reference to an order of exclusion and deportation or an order of deportation.

(e) TRANSITION.—No period of time before the date of the enactment of this Act shall be included in the period of 1 year described in section 212(a)(6)(B)(i) of the Immigration and Nationality Act (as amended by section 301(c)).

Subtitle B—Criminal Alien Provisions

SEC. 321. AMENDED DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section 441(e) of the Antiterrorism and Effective Death Penalty Act of 1996 (P.L. 104–132), is amended—

(1) in subparagraph (A), by inserting ", rape, or sexual abuse of a minor" after "murder";

(2) in subparagraph (D), by striking "$100,000" and inserting "$10,000";

(3) in subparagraphs (F), (G), (N), and (P), by striking "is at least 5 years" each place it appears and inserting "at least one year";

(4) in subparagraph (J), by striking "sentence of 5 years' imprisonment" and inserting "sentence of one year imprisonment";

(5) in subparagraph (K)(ii), by inserting "if committed" before "for commercial advantage";

(6) in subparagraph (L)—

(A) by striking "or" at the end of clause (i),

(B) by inserting "or" at the end of clause (ii), and

(C) by adding at the end the following new clause:

"(iii) section 601 of the National Security Act of 1947 (relating to protecting the identity of undercover agents);";

(7) in subparagraph (M), by striking "$200,000" each place it appears and inserting "$10,000";

(8) in subparagraph (N), by striking "for which the term" and all that follows and inserting the following: ", except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act";

(9) in subparagraph (P), by striking "18 months" and inserting "12 months, except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act";

(10) in subparagraph (R), by striking "for which a sentence of 5 years' imprisonment or more may be imposed" and inserting "for which the term of imprisonment is at least one year"; and

(11) in subparagraph (S), by striking "for which a sentence of 5 years' imprisonment or more may be imposed" and inserting "for which the term of imprisonment is at least one year".

(b) EFFECTIVE DATE OF DEFINITION.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law (including any effective date), the term applies regardless of whether the conviction was entered before, on, or after the date of enactment of this paragraph.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions taken on or after the date of the enactment of this Act, regardless of when the conviction occurred, and shall apply under section 276(b) of the Immigration and Nationality Act only to violations of section 276(a) of such Act occurring on or after such date.

SEC. 322. DEFINITION OF CONVICTION AND TERM OF IMPRISONMENT.

(a) DEFINITION.—

(1) IN GENERAL.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(48)(A) The term 'conviction' means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where—

"(i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and

"(ii) the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

"(B) Any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include the period of incarceration or confinement ordered by a court of law regardless of any suspension of the imposition or execution of that imprisonment or sentence in whole or in part.".

(2) CONFORMING AMENDMENTS.—

(A) Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by striking "imposed (regardless of any suspension of imprisonment)" each place it appears in subparagraphs (F), (G), (N), and (P).

(B) Section 212(a)(2)(B) (8 U.S.C. 1182(a)(2)(B)) is amended by striking "actually imposed".

(b) REFERENCE TO PROOF PROVISIONS.—For provisions relating to proof of convictions, see subparagraphs (B) and (C) of section 240(c)(3) of the Immigration and Nationality Act, as inserted by section 304(a)(3).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to convictions and sentences entered before, on, or after the date of the enactment of this Act. Subparagraphs (B) and (C) of section 240(c)(3) of the Immigration and Nationality Act, as inserted by section 304(a)(3), shall apply to proving such convictions.

SEC. 323. AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.

Section 263(a) (8 U.S.C. 1303(a)) is amended by striking "and (5)" and inserting "(5) aliens who are or have been on criminal probation or criminal parole within the United States, and (6)".

SEC. 324. PENALTY FOR REENTRY OF DEPORTED ALIENS.

(a) IN GENERAL.—Section 276(a)(1) (8 U.S.C. 1326(a)(1)) is amended to read as follows:

"(1) has been arrested and deported, has been excluded and deported, or has departed the United States while an order of exclusion or deportation is outstanding, and thereafter".

(b) TREATMENT OF STIPULATIONS.—The last sentence of section 276(b) (8 U.S.C. 1326(b)) is amended by inserting "(or not during)" after "during".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to departures that occurred before, on, or after the date of the enactment of this Act, but only with respect to entries (and attempted entries) occurring on or after such date.

SEC. 325. CHANGE IN FILING REQUIREMENT.

Section 2424 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph of subsection (a)—

(A) by striking "alien" each place it appears;

(B) by inserting after "individual" the first place it appears the following: ", knowing or in reckless disregard of the fact that the individual is an alien"; and

(C) by striking "within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic";

(2) in the second undesignated paragraph of subsection (a)—

(A) by striking "thirty" and inserting "five business"; and

(B) by striking "within three years after that individual has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic,"; and

(3) in the text following the third undesignated paragraph of subsection (a), by striking "two" and inserting "10".

SEC. 326. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Subsection (a) of section 130002 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended by section 432 of Public Law 104–132, is amended to read as follows:

"(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to removal by reason of their conviction of aggravated felonies, subject to prosecution under section 275 of such Act, not lawfully present in the United States, or otherwise removable. Such system shall include providing for recording of fingerprint records of aliens who have been previously arrested and removed into appropriate automated fingerprint identification systems.".

SEC. 327. APPROPRIATIONS FOR CRIMINAL ALIEN TRACKING CENTER.

Section 130002(b) of the Violent Crime Control and Law Enforcement Act of 1994 (8 U.S.C. 1252 note) is amended—

(1) by inserting "and" after "1996;", and

(2) by striking paragraph (2) and all that follows through the period at the end and inserting the following:

"(2) $5,000,000 for each of fiscal years 1997 through 2001.".

SEC. 328. PROVISIONS RELATING TO STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) MODIFICATION OF AUTHORITY.—

(1) IN GENERAL.—Section 241(i), as redesignated by section 306(a)(1), is amended—

(A) in paragraph (3)(A), by striking "felony and sentenced to a term of imprisonment" and inserting "felony or two or more misdemeanors", and

(B) by adding at the end the following new paragraph:

"(6) To the extent of available appropriations, funds otherwise made available under this section with respect to a State (or political subdivision, including a municipality) for incarceration of an undocumented criminal alien may, at the discretion of the recipient of the funds, be used for the costs of imprisonment of such alien in a State, local, or municipal prison or jail.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply beginning with fiscal year 1997.

(b) SENSE OF THE CONGRESS WITH RESPECT TO PROGRAM.—

(1) FINDINGS.—The Congress finds as follows:

(A) Of the $130,000,000 appropriated in fiscal year 1995 for the State Criminal Alien Assistance Program, the Department of Justice disbursed the first $43,000,000 to States on October 6, 1994, 32 days before the 1994 general election, and then failed to disburse the remaining $87,000,000 until January 31, 1996, 123 days after the end of fiscal year 1995.

(B) While H.R. 2880, the continuing appropriation measure funding certain operations of the Federal Government from January 26, 1996 to March 15, 1996, included $66,000,000 to reimburse States for the cost of incarcerating documented illegal immigrant felons, the Department of Justice failed to disburse any of the funds to the States during the period of the continuing appropriation.

(2) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(A) the Department of Justice was disturbingly slow in disbursing fiscal year 1995 funds under the State Criminal Alien Assistance Program to States after the initial grants were released just prior to the 1994 election; and

(B) the Attorney General should make it a high priority to expedite the disbursement of Federal funds intended to reimburse States for the cost of incarcerating illegal immigrants, aiming for all State Criminal Alien Assistance Program funds to be disbursed during the fiscal year for which they are appropriated.

SEC. 329. DEMONSTRATION PROJECT FOR IDENTIFICATION OF ILLEGAL ALIENS IN INCARCERATION FACILITY OF ANAHEIM, CALIFORNIA.

(a) AUTHORITY.—The Attorney General shall conduct a project demonstrating the feasibility of identifying, from among the individuals who are incarcerated in local governmental prison facilities prior to arraignment on criminal charges, those individuals who are aliens unlawfully present in the United States.

(b) DESCRIPTION OF PROJECT.—The project authorized by subsection (a) shall include—

(1) the detail to incarceration facilities within the city of Anaheim, California and the county of Ventura, California, of an employee of the Immigration and Naturalization Service who has expertise in the identification of aliens unlawfully in the United States, and

(2) provision of funds sufficient to provide for—

(A) access for such employee to records of the Service necessary to identify such aliens, and

(B) in the case of an individual identified as such an alien, pre-arraignment reporting to the court regarding the Service's intention to remove the alien from the United States.

(c) TERMINATION.—The authority under this section shall cease to be effective 6 months after the date of the enactment of this Act.

SEC. 330. PRISONER TRANSFER TREATIES.

(a) NEGOTIATIONS WITH OTHER COUNTRIES.—(1) Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of enactment of this Act, bilateral prisoner transfer treaties, providing for the incarceration, in the country of the alien's nationality, of any alien who—

(A) is a national of a country that is party to such a treaty; and

(B) has been convicted of a criminal offense under Federal or State law and who—

(i) is not in lawful immigration status in the United States, or

(ii) on the basis of conviction for a criminal offense under Federal or State law, or on any other basis, is subject to deportation or removal under the Immigration and Nationality Act,

for the duration of the prison term to which the alien was sentenced for the offense referred to in subparagraph (B). Any such agreement may provide for the release of such alien pursuant to parole procedures of that country.

(2) In entering into negotiations under paragraph (1), the President may consider providing for appropriate compensation, subject to the availability of appropriations, in cases where the United States is able to independently verify the adequacy of the sites where aliens will be imprisoned and the length of time the alien is actually incarcerated in the foreign country under such a treaty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the focus of negotiations for such agreements should be—

(A) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons,

(B) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts,

(C) to eliminate any requirement of prisoner consent to such a transfer, and

(D) to allow the Federal Government or the States to keep their original prison sentences in force so that transferred prisoners who return to the United States prior to the completion of their original United States sentences can be returned to custody for the balance of their prisons sentences;

(2) the Secretary of State should give priority to concluding an agreement with any country for which the President determines that the number of aliens described in subsection (a) who are nationals of that country in the United States represents a significant percentage of all such aliens in the United States; and

(3) no new treaty providing for the transfer of aliens from Federal, State, or local incarceration facilities to a foreign incarceration facility should permit the alien to refuse the transfer.

(c) PRISONER CONSENT.—Notwithstanding any other provision of law, except as required by treaty, the transfer of an alien from a Federal, State, or local incarceration facility under an agreement of the type referred to in subsection (a) shall not require consent of the alien.

(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate stating whether each prisoner transfer treaty to which the United States is a party has been effective in the preceding 12 months in bringing about the return of deportable incarcerated aliens to the country of which they are nationals and in ensuring that they serve the balance of their sentences.

(e) TRAINING FOREIGN LAW ENFORCEMENT PERSONNEL.—(1) Subject to paragraph (2), the President shall direct the Border Patrol Academy and the Customs Service Academy to enroll for training an appropriate number of foreign law enforcement personnel, and shall make appointments of foreign law enforcement personnel to such academies, as necessary to further the following United States law enforcement goals:

(A) Preventing of drug smuggling and other cross-border criminal activity.

(B) Preventing illegal immigration.

(C) Preventing the illegal entry of goods into the United States (including goods the sale of which is illegal in the United States, the entry of which would cause a quota to be exceeded, or the appropriate duty or tariff for which has not been paid).

(2) The appointments described in paragraph (1) shall be made only to the extent there is capacity in such academies beyond what is required to train United States citizens needed in the Border Patrol and Customs Service, and only of personnel from a country with which the prisoner transfer treaty has been stated to be effective in the most recent report referred to in subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 331. PRISONER TRANSFER TREATIES STUDY.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report that describes the use and effectiveness of the prisoner transfer treaties with the three countries with the greatest number of their nationals incarcerated in the United States in removing from the United States such incarcerated nationals.

(b) USE OF TREATY.—The report under subsection (a) shall include—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the treaties;

(2) the number of aliens described in paragraph (1) who have been transferred pursuant to the treaties;

(3) the number of aliens described in paragraph (2) who have been incarcerated in full compliance with the treaties;

(4) the number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the treaties; and

(5) the number of aliens described in paragraph (4) who are incarcerated in Federal, State, and local penal institutions in the United States.

(c) RECOMMENDATIONS.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the treaties. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address—

(1) changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed criminal offenses in the United States;

(2) changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) changes in the treaties that may be necessary to increase the number of aliens convicted of criminal offenses who may be transferred pursuant to the treaties;

(4) methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the treaties;

(5) any recommendations by appropriate officials of the appropriate government agencies of such countries regarding programs to achieve the goals of, and ensure full compliance with, the treaties;

(6) whether the recommendations under this subsection require the renegotiation of the treaties; and

(7) the additional funds required to implement each recommendation under this subsection.

SEC. 332. ANNUAL REPORT ON CRIMINAL ALIENS.

Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report detailing—

(1) the number of illegal aliens incarcerated in Federal and State prisons for having committed felonies, stating the number incarcerated for each type of offense;

(2) the number of illegal aliens convicted of felonies in any Federal or State court, but not sentenced to incarceration, in the year before the report was submitted, stating the number convicted for each type of offense;

(3) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to removal; and

(4) methods for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States.

SEC. 333. PENALTIES FOR CONSPIRING WITH OR ASSISTING AN ALIEN TO COMMIT AN OFFENSE UNDER THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) REVIEW OF GUIDELINES.—Not later than 6 months after the date of the enactment of this Act, the United States Sentencing Commission shall conduct a review of the guidelines applicable to an offender who conspires with, or aids or abets, a person who is not a citizen or national of the United States in committing any offense under section 1010 of the Controlled Substance Import and Export Act (21 U.S.C. 960).

(b) REVISION OF GUIDELINES.—Following such review, pursuant to section 994(p) of title 28, United States Code, the Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines to ensure an appropriately stringent sentence for such offenders.

SEC. 334. ENHANCED PENALTIES FOR FAILURE TO DEPART, ILLEGAL REENTRY, AND PASSPORT AND VISA FRAUD.

(a) FAILING TO DEPART.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under section 242(e) and 276(b) of the Immigration and Nationality Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the amendments made by section 130001 of the Violent Crime Control and Law Enforcement Act of 1994.

(b) PASSPORT AND VISA OFFENSES.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under chapter 75 of title 18, United States Code to reflect the amendments made by section 130009 of the Violent Crime Control and Law Enforcement Act of 1994.

Subtitle C—Revision of Grounds for Exclusion and Deportation

SEC. 341. PROOF OF VACCINATION REQUIREMENT FOR IMMIGRANTS.

(a) IN GENERAL.—Section 212(a)(1)(A) (8 U.S.C. 1182(a)(1)(A)) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and

(2) by inserting after clause (i) the following new clause:

"(ii) who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccine-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations against vaccine-preventable diseases recommended by the Advisory Committee for Immunization Practices,".

(b) WAIVER.—Section 212(g) (8 U.S.C. 1182(g)) is amended by striking ", or" at the end of paragraph (1) and all that follows and inserting a semicolon and the following:

"in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe;

"(2) subsection (a)(1)(A)(ii) in the case of any alien—

"(A) who receives vaccination against the vaccine-preventable disease or diseases for which the alien has failed to present documentation of previous vaccination,

"(B) for whom a civil surgeon, medical officer, or panel physician (as those terms are defined by section 34.2 of title 42 of the Code of Federal Regulations) certifies, according to such regulations as the Secretary of Health and Human Services may prescribe, that such vaccination would not be medically appropriate, or

"(C) under such circumstances as the Attorney General provides by regulation, with respect to whom the requirement of such a vaccination would be contrary to the alien's religious beliefs or moral convictions; or

"(3) subsection (a)(1)(A)(iii) in the case of any alien, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for immigrant visas or for adjustment of status filed after September 30, 1996.

SEC. 342. INCITEMENT OF TERRORIST ACTIVITY AND PROVISION OF FALSE DOCUMENTATION TO TERRORISTS AS A BASIS FOR EXCLUSION FROM THE UNITED STATES.

(a) IN GENERAL.—Section 212(a)(3)(B) (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) by redesignating subclauses (III) and (IV) of clause (i) as subclauses (IV) and (V), respectively;

(2) by inserting after subclause (II) of clause (i) the following new subclause:

"(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity,"; and

(3) in clause (iii)(III), by inserting "documentation or" before "identification";

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to incitement regardless of when it occurs.

SEC. 343. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.

Section 212(a)(5) (8 U.S.C. 1182(a)(5)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) UNCERTIFIED FOREIGN HEALTH-CARE WORKERS.—Any alien who seeks to enter the United States for the purpose of performing labor as a health-care worker, other than a physician, is excludable unless the alien presents to the consular officer, or, in the case of an adjustment of status, the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services, verifying that—

"(i) the alien's education, training, license, and experience—

"(I) meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application;

"(II) are comparable with that required for an American health-care worker of the same type; and

"(III) are authentic and, in the case of a license, unencumbered;

"(ii) the alien has the level of competence in oral and written English considered by the Secretary of Health and Human Services, in consultation with the Secretary of Education, to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write; and

"(iii) if a majority of States licensing the profession in which the alien intends to work recognize a test predicting the success on the profession's licensing or certification examination, the alien has passed such a test or has passed such an examination.

For purposes of clause (ii), determination of the standardized tests required and of the minimum scores that are appropriate are within the sole discretion of the Secretary of Health and Human Services and are not subject to further administrative or judicial review.".

SEC. 344. REMOVAL OF ALIENS FALSELY CLAIMING UNITED STATES CITIZENSHIP.

(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED UNITED STATES CITIZENSHIP.—Section 212(a)(6)(C) (8 U.S.C. 1182(a)(6)(C)) is amended—

(1) by redesignating clause (ii) as clause (iii), and

(2) by inserting after clause (i) the following new clause:

"(ii) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any other Federal or State law is excludable.".

(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED UNITED STATES CITIZENSHIP.—Section 241(a)(3) (8 U.S.C. 1251(a)(3)) is amended by adding at the end the following new subparagraph:

"(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any Federal or State law is deportable.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to representations made on or after the date of the enactment of this Act.

SEC. 345. WAIVER OF EXCLUSION AND DEPORTATION GROUND FOR CERTAIN SECTION 274C VIOLATORS.

(a) EXCLUSION GROUNDS.—Section 212 (8 U.S.C. 1182) is amended—

(1) by amending subparagraph (F) of subsection (a)(6) to read as follows:

"(F) SUBJECT OF CIVIL PENALTY.—

"(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is inadmissible.

"(ii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (d)(12)."; and

(2) by adding at the end of subsection (d) the following new paragraph:

"(12) The Attorney General may, in the discretion of the Attorney General for humanitarian purposes or to assure family unity, waive application of clause (i) of subsection (a)(6)(F)—

"(A) in the case of an alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation or removal and who is otherwise admissible to the United States as a returning resident under section 211(b), and

"(B) in the case of an alien seeking admission or adjustment of status under section 201(b)(2)(A) or under section 203(a),

if no previous civil money penalty was imposed against the alien under section 274C and the offense was committed solely to assist, aid, or support the alien's spouse or child (and not another individual). No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this paragraph.".

(b) GROUND OF DEPORTATION.—Subparagraph (C) of section 241(a)(3) (8 U.S.C. 1251(a)(3)), before redesignation by section 305(a)(2), is amended to read as follows:

"(C) DOCUMENT FRAUD.—

"(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is deportable.

"(ii) WAIVER AUTHORIZED.—The Attorney General may waive clause (i) in the case of an alien lawfully admitted for permanent residence if no previous civil money penalty was imposed against the alien under section 274C and the offense was incurred solely to assist, aid, or support the alien's spouse or child (and no other individual). No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this clause.".

SEC. 346. INADMISSIBILITY OF CERTAIN STUDENT VISA ABUSERS.

(a) IN GENERAL.—Section 212(a)(6) (8 U.S.C. 1182(a)(6)) is amended by adding at the end the following new subparagraph:

"(G) STUDENT VISA ABUSERS.—An alien who obtains the status of a nonimmigrant under section 101(a)(15)(F)(i) and who violates a term or condition of such status under section 214(l) is excludable until the alien has been outside the United States for a continuous period of 5 years after the date of the violation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens who obtain the status of a nonimmigrant under section 101(a)(15)(F) of the Immigration and Nationality Act after the end of the 60-day period beginning on the date of the enactment of this Act, including aliens whose status as such a nonimmigrant is extended after the end of such period.

SEC. 347. REMOVAL OF ALIENS WHO HAVE UNLAWFULLY VOTED.

(a) EXCLUSION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by section 301(b), is amended by adding at the end the following new subparagraph:

"(D) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable.".

(b) DEPORTATION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 241(a) (8 U.S.C. 1251(a)), before redesignation by section 305(a)(2), is amended by adding at the end the following new paragraph:

"(6) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to voting occurring before, on, or after the date of the enactment of this Act.

SEC. 348. WAIVERS FOR IMMIGRANTS CONVICTED OF CRIMES.

(a) IN GENERAL.—Section 212(h) (8 U.S.C. 1182(h)) is amended by adding at the end the following: "No waiver shall be granted under this subsection in the case of an alien who has previously been admitted to the United States as an alien lawfully admitted for permanent residence if either since the date of such admission the alien has been convicted of an aggravated felony or the alien has not lawfully resided continuously in the United States for a period of not less than 7 years immediately preceding the date of initiation of proceedings to remove the alien from the United States. No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on the date of the enactment of this Act and shall apply in the case of any alien who is in exclusion or deportation proceedings as of such date unless a final administrative order in such proceedings has been entered as of such date.

SEC. 349. WAIVER OF MISREPRESENTATION GROUND OF INADMISSIBILITY FOR CERTAIN ALIEN.

Subsection (i) of section 212 (8 U.S.C. 1182) is amended to read as follows:

"(i)(1) The Attorney General may, in the discretion of the Attorney General, waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant who is the spouse, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

"(2) No court shall have jurisdiction to review a decision or action of the Attorney General regarding a waiver under paragraph (1).".

SEC. 350. OFFENSES OF DOMESTIC VIOLENCE AND STALKING AS GROUND FOR DEPORTATION.

(a) IN GENERAL.—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

"(E) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND .—

"(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—Any alien who at any time after entry is convicted of a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment is deportable. For purposes of this clause, the term 'crime of domestic violence' means any crime of violence (as defined in section 16 of title 18, United States Code) against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohabiting with or has cohabited with the person as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

"(ii) VIOLATORS OF PROTECTION ORDERS.—Any alien who at any time after entry is enjoined under a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable. For purposes of this clause, the term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to convictions, or violations of court orders, occurring after the date of the enactment of this Act.

SEC. 351. CLARIFICATION OF DATE AS OF WHICH RELATIONSHIP REQUIRED FOR WAIVER FROM EXCLUSION OR DEPORTATION FOR SMUGGLING.

(a) EXCLUSION.—Section 212(d)(11) (8 U.S.C. 1182(d)(11)) is amended by inserting "an individual who at the time of such action was" after "aided only".

(b) DEPORTATION.—Section 241(a)(1)(E)(iii) (8 U.S.C. 1251(a)(1)(E)(iii)) is amended by inserting "an individual who at the time of the offense was" after "aided only".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for waivers filed before, on, or after the date of the enactment of this Act, but shall not apply to such an application for which a final determination has been made as of the date of the enactment of this Act.

SEC. 352. EXCLUSION OF FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID UNITED STATES TAXATION.

(a) IN GENERAL.—Section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by section 301(b) and as amended by section 347(a), is amended by adding at the end the following:

"(E) FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID TAXATION.—Any alien who is a former citizen of the United States who officially renounces United States citizenship and who is determined by the Attorney General to have renounced United States citizenship for the purpose of avoiding taxation by the United States is excludable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who renounce United States citizenship on and after the date of the enactment of this Act.

SEC. 353. REFERENCES TO CHANGES ELSEWHERE IN ACT.

(a) DEPORTATION FOR HIGH SPEED FLIGHT.—For provision making high speed flight from an immigration checkpoint subject to deportation, see section 108(c).

(b) INADMISSIBILITY OF ALIENS PREVIOUSLY REMOVED AND UNLAWFULLY PRESENT.—For provision making aliens previously removed and unlawfully present in the United States inadmissible, see section 301(b).

(c) INADMISSIBILITY OF ILLEGAL ENTRANTS.—For provision revising the ground of inadmissibility for illegal entrants and immigration violators, see section 301(c).

(d) DEPORTATION FOR VISA VIOLATORS.—For provision revising the ground of deportation for illegal entrants, see section 301(d).

(e) LABOR CERTIFICATIONS FOR PROFESSIONAL ATHLETES.—For provision providing for continued validity of labor certifications and classification petitions for professional athletes, see section 624.

Subtitle D—Changes in Removal of Alien Terrorist Provisions

SEC. 354. TREATMENT OF CLASSIFIED INFORMATION.

(a) LIMITATION ON PROVISION OF SUMMARIES; USE OF SPECIAL ATTORNEYS IN CHALLENGES TO CLASSIFIED INFORMATION.—

(1) NO PROVISION OF SUMMARY IN CERTAIN CASES.—Section 504(e)(3)(D) (8 U.S.C. 1534(e)(3)(D)) is amended—

(A) in clause (ii), by inserting before the period at the end the following: "unless the judge makes the findings under clause (iii)", and

(B) by adding at the end the following new clause:

"(iii) FINDINGS.—The findings described in this clause are, with respect to an alien, that—

"(I) the continued presence of the alien in the United States would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person, and

"(II) the provision of the summary would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person.".

(2) SPECIAL CHALLENGE PROCEDURES.—Section 504(e)(3) (8 U.S.C. 1534(e)(3)) is amended by adding at the end the following new subparagraphs:

"(E) CONTINUATION OF HEARING WITHOUT SUMMARY.—If a judge makes the findings described in subparagraph (D)(iii)—

"(i) if the alien involved is an alien lawfully admitted for permanent residence, the procedures described in subparagraph (F) shall apply; and

"(ii) in all cases the special removal hearing shall continue, the Department of Justice shall cause to be delivered to the alien a statement that no summary is possible, and the classified information submitted in camera and ex parte may be used pursuant to this paragraph.

"(F) SPECIAL PROCEDURES FOR ACCESS AND CHALLENGES TO CLASSIFIED INFORMATION BY SPECIAL ATTORNEYS IN CASE OF LAWFUL PERMANENT ALIENS.—

"(i) IN GENERAL.—The procedures described in this subparagraph are that the judge (under rules of the removal court) shall designate a special attorney to assist the alien—

"(I) by reviewing in camera the classified information on behalf of the alien, and

"(II) by challenging through an in camera proceeding the veracity of the evidence contained in the classified information.

"(ii) RESTRICTIONS ON DISCLOSURE.—A special attorney receiving classified information under clause (i)—

"(I) shall not disclose the information to the alien or to any other attorney representing the alien, and

"(II) who discloses such information in violation of subclause (I) shall be subject to a fine under title 18, United States Code, imprisoned for not less than 10 years nor more than 25 years, or both.".

(3) APPEALS.—Section 505(c) (8 U.S.C. 1535(c)) is amended—

(A) in paragraph (1), by striking "The decision" and inserting "Subject to paragraph (2), the decision";

(B) in paragraph (3)(D), by inserting before the period at the end the following: ", except that in the case of a review under paragraph (2) in which an alien lawfully admitted for permanent residence was denied a written summary of classified information under section 504(c)(3), the Court of Appeals shall review questions of fact de novo";

(C) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(D) by inserting after paragraph (1) the following new paragraph:

"(2) AUTOMATIC APPEALS IN CASES OF PERMANENT RESIDENT ALIENS IN WHICH NO SUMMARY PROVIDED.—

"(A) IN GENERAL.—Unless the alien waives the right to a review under this paragraph, in any case involving an alien lawfully admitted for permanent residence who is denied a written summary of classified information under section 504(e)(3) and with respect to which the procedures described in section 504(e)(3)(F) apply, any order issued by the judge shall be reviewed by the Court of Appeals for the District of Columbia Circuit.

"(B) USE OF SPECIAL ATTORNEY.—With respect to any issue relating to classified information that arises in such review, the alien shall be represented only by the special attorney designated under section 504(e)(3)(F)(i) on behalf of the alien.".

(4) ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.—Section 502 (8 U.S.C. 1532) is amended by adding at the end the following new subsection:

"(e) ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.—The removal court shall provide for the designation of a panel of attorneys each of whom—

"(1) has a security clearance which affords the attorney access to classified information, and

"(2) has agreed to represent permanent resident aliens with respect to classified information under section 504(e)(3) in accordance with (and subject to the penalties under) this title.".

(5) DEFINITION OF SPECIAL ATTORNEY.—Section 501 (8 U.S.C. 1531) is amended—

(A) by striking "and" at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting "; and", and

(C) by adding at the end the following new paragraph:

"(7) the term 'special attorney' means an attorney who is on the panel established under section 502(e).".

(b) OTHER PROVISIONS RELATING TO CLASSIFIED INFORMATION.—

(1) INTRODUCTION OF CLASSIFIED INFORMATION.—Section 504(e) (8 U.S.C. 1534(e)) is amended—

(A) in paragraph (1)—

(i) by inserting after "(A)" the following: "the Government is authorized to use in a removal proceedings the fruits of electronic surveillance and unconsented physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) without regard to subsections (c), (e), (f), (g), and (h) of section 106 of that Act and", and

(ii) by striking "the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)" and inserting "such Act"; and

(B) by striking the period at the end of paragraph (3)(A) and inserting the following: "and neither the alien nor the public shall be informed of such evidence or its sources other than through reference to the summary provided pursuant to this paragraph. Notwithstanding the previous sentence, the Department of Justice may, in its discretion and, in the case of classified information, after coordination with the originating agency, elect to introduce such evidence in open session.".

(2) MAINTENANCE OF CONFIDENTIALITY OF CLASSIFIED INFORMATION IN ARGUMENTS.—Section 504(f) (8 U.S.C. 1534(f)) is amended by adding at the end the following: "The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.".

(3) MAINTENANCE OF CONFIDENTIALITY OF CLASSIFIED INFORMATION IN ORDERS.—Section 504(j) (8 U.S.C. 1534(j)) is amended by adding at the end the following: "Any portion of the order that would reveal the substance or source of information received in camera and ex parte pursuant to subsection (e) shall not be made available to the alien or the public.".

SEC. 355. EXCLUSION OF REPRESENTATIVES OF TERRORISTS ORGANIZATIONS.

Section 212(a)(3)(B)(i)(IV) (8 U.S.C. 1182(a)(3)(B)(i)(VI)), as inserted by section 411(1)(C) of Public Law 104–132, is amended by inserting "which the alien knows or should have known is a terrorist organization" after "219,".

SEC. 356. STANDARD FOR JUDICIAL REVIEW OF TERRORIST ORGANIZATION DESIGNATIONS.

Section 219(b)(3) (8 U.S.C. 1189(b)(3)), as added by section 302(a) of Public Law 104–132, is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting a semicolon, and

(3) by adding at the end the following:

"(D) lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under paragraph (2), or

"(E) not in accord with the procedures required by law.".

SEC. 357. REMOVAL OF ANCILLARY RELIEF FOR VOLUNTARY DEPARTURE.

Section 504(k) (8 U.S.C. 1534(k)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) voluntary departure under section 244(e);".

SEC. 358. EFFECTIVE DATE.

The amendments made by this subtitle shall be effective as if included in the enactment of subtitle A of title IV of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132).

Subtitle E—Transportation of Aliens

SEC. 361. DEFINITION OF STOWAWAY.

(a) STOWAWAY DEFINED.—Section 101(a) (8 U.S.C. 1101(a)), as amended by section 322(a)(1), is amended by adding at the end the following new paragraph:

"(49) The term 'stowaway' means any alien who obtains transportation without the consent of the owner, charterer, master or person in command of any vessel or aircraft through concealment aboard such vessel or aircraft. A passenger who boards with a valid ticket is not to be considered a stowaway.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 362. TRANSPORTATION CONTRACTS.

(a) COVERAGE OF NONCONTIGUOUS TERRITORY.—Section 238 (8 U.S.C. 1228), before redesignation as section 233 under section 308(b)(4), is amended—

(1) in the heading, by striking "CONTIGUOUS", and

(2) by striking "contiguous" each place it appears in subsections (a), (b), and (d).

(b) COVERAGE OF RAILROAD TRAIN.—Subsection (d) of such section is further amended by inserting "or railroad train" after "aircraft".

Subtitle F—Additional Provisions

SEC. 371. IMMIGRATION JUDGES AND COMPENSATION.

(a) DEFINITION OF TERM.—Paragraph (4) of section 101(b) (8 U.S.C. 1101(b)) is amended to read as follows:

"(4) The term 'immigration judge' means an attorney whom the Attorney General appoints as an administrative judge within the Executive Office for Immigration Review, qualified to conduct specified classes of proceedings, including a hearing under section 240. An immigration judge shall be subject to such supervision and shall perform such duties as the Attorney General shall prescribe, but shall not be employed by the Immigration and Naturalization Service.".

(b) SUBSTITUTION FOR TERM "SPECIAL INQUIRY OFFICER".—The Immigration and Nationality Act is amended by striking "a special inquiry officer", "A special inquiry officer", "special inquiry officer", and "special inquiry officers" and inserting "an immigration judge", "An immigration judge", "immigration judge", and "immigration judges", respectively, each place it appears in the following sections:

(1) Section 106(a)(2) (8 U.S.C. 1105a(a)(2)), before its repeal by section 306(c).

(2) Section 209(a)(2) (8 U.S.C. 1159(a)(2)).

(3) Section 234 (8 U.S.C. 1224), before redesignation by section 308(b).

(4) Section 235 (8 U.S.C. 1225), before amendment by section 302(a).

(5) Section 236 (8 U.S.C. 1226), before amendment by section 303.

(6) Section 242(b) (8 U.S.C. 1252(b)), before amendment by section 306(a)(2).

(7) Section 242B(d)(1) (8 U.S.C. 1252b(d)(1)), before repeal by section 306(b)(6).

(8) Section 273(d) (8 U.S.C. 1323(d)), before its repeal by section 308(e)(13).

(9) Section 292 (8 U.S.C. 1362).

(c) COMPENSATION FOR IMMIGRATION JUDGES.—

(1) IN GENERAL.—There shall be four levels of pay for immigration judges, under the Immigration Judge Schedule (designated as IJ–1, 2, 3, and 4, respectively), and each such judge shall be paid at one of those levels, in accordance with the provisions of this subsection.

(2) RATES OF PAY.—

(A) The rates of basic pay for the levels established under paragraph (1) shall be as follows:

IJ–1	*70% of the next to highest rate of basic pay for the Senior Executive Service*

IJ-2	*80% of the next to highest rate of basic pay for the Senior Executive Service*
IJ-3	*90% of the next to highest rate of basic pay for the Senior Executive Service*
IJ-4	*92% of the next to highest rate of basic pay for the Senior Executive Service.*

(B) Locality pay, where applicable, shall be calculated into the basic pay for immigration judges.

(3) APPOINTMENT.—

(A) Upon appointment, an immigration judge shall be paid at IJ-1, and shall be advanced to IJ-2 upon completion of 104 weeks of service, to IJ-3 upon completion of 104 weeks of service in the next lower rate, and to IJ-4 upon completion of 52 weeks of service in the next lower rate.

(B) Notwithstanding subparagraph (A), the Attorney General may provide for appointment of an immigration judge at an advanced rate under such circumstances as the Attorney General may determine appropriate.

(4) TRANSITION.—Immigration judges serving as of the effective date shall be paid at the rate that corresponds to the amount of time, as provided under paragraph (3)(A), that they have served as an immigration judge, and in no case shall be paid less after the effective date than the rate of pay prior to the effective date.

(d) EFFECTIVE DATES.—

(1) Subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(2) Subsection (c) shall take effect 90 days after the date of the enactment of this Act.

SEC. 372. DELEGATION OF IMMIGRATION ENFORCEMENT AUTHORITY.

Section 103(a) (8 U.S.C. 1103(a)) is amended—

(1) inserting "(1)" after "(a)",

(2) by designating each sentence (after the first sentence) as a separate paragraph with appropriate consecutive numbering and initial indentation,

(3) by adding at the end the following new paragraph:

"(8) In the event the Attorney General determines that an actual or imminent mass influx of aliens arriving off the coast of the United States, or near a land border, presents urgent circumstances requiring an immediate Federal response, the Attorney General may authorize any State or local law enforcement officer, with the consent of the head of the department, agency, or establishment under whose jurisdiction the individual is serving, to perform or exercise any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Service.".

SEC. 373. POWERS AND DUTIES OF THE ATTORNEY GENERAL AND THE COMMISSIONER.

Section 103 (8 U.S.C. 1103) is amended—

(1) by adding at the end of subsection (a) the following new paragraph:

"(9) The Attorney General, in support of persons in administrative detention in non-Federal institutions, is authorized—

"(A) to make payments from funds appropriated for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration for necessary clothing, medical care, necessary guard hire, and the housing, care, and security of persons detained by the Service pursuant to Federal law under an agreement with a State or political subdivision of a State; and

"(B) to enter into a cooperative agreement with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies or materials required to establish acceptable conditions of confinement and detention services in any State or unit of local government which agrees to provide guaranteed bed space for persons detained by the Service."; and

(2) by adding at the end of subsection (c), as redesignated by section 102(d)(1), the following: "The Commissioner may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws.".

SEC. 374. JUDICIAL DEPORTATION.

(a) IN GENERAL.—Section 242A(d) (8 U.S.C. 1252a(d)), as added by section 224(a) of Immigration and Nationality Technical Corrections Act of 1994 and before redesignation by section 308(b)(5), is amended—

(1) in paragraph (1), by striking "whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)" and inserting "who is deportable";

(2) in paragraph (4), by striking "without a decision on the merits"; and

(3) by adding at the end the following new paragraph:

"(5) STIPULATED JUDICIAL ORDER OF DEPORTATION.—The United States Attorney, with the concurrence of the Commissioner, may, pursuant to Federal Rule of Criminal Procedure 11, enter into a plea agreement which calls for the alien, who is deportable under this Act, to waive the right to notice and a hearing under this section, and stipulate to the entry of a judicial order of deportation from the United States as a condition of the plea agreement or as a condition of probation or supervised release, or both. The United States district court, in both felony and misdemeanor cases, and a United States magistrate judge in misdemeanor cases, may accept such a stipulation and shall have jurisdiction to enter a judicial order of deportation pursuant to the terms of such stipulation.".

(b) DEPORTATION AS A CONDITION OF PROBATION.—Section 3563(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (20);

(2) by redesignating paragraph (21) as paragraph (22); and

(3) by inserting after paragraph (20) the following new paragraph:

"(21) be ordered deported by a United States district court, or United States magistrate judge, pursuant to a stipulation entered into by the defendant and the United States under section 242A(d)(5) of the Immigration and Nationality Act, except that, in the absence of a stipulation, the United States district court or a United States magistrate judge, may order deportation as a condition of probation, if, after notice and hearing pursuant to such section, the Attorney General demonstrates by clear and convincing evidence that the alien is deportable; or".

(c) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall be effective as if included in the enactment of section 224(a) of the Immigration and Nationality Technical Corrections Act of 1994.

SEC. 375. LIMITATION ON ADJUSTMENT OF STATUS.

Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking "or (6)" and inserting "(6)"; and

(2) by inserting before the period at the end the following: "; (7) any alien who seeks adjustment of status to that of an immigrant under section 203(b) and is not in a lawful nonimmigrant status; or (8) any alien who was employed while the alien was an unauthorized alien, as defined in section 274A(h)(3), or who has otherwise violated the terms of a nonimmigrant visa".

SEC. 376. TREATMENT OF CERTAIN FEES.

(a) INCREASE IN FEE.—Section 245(i) (8 U.S.C. 1255(i)), as added by section 506(b) of Public Law 103-317, is amended—

(1) in paragraph (1), by striking "five times the fee required for the processing of applications under this section" and inserting "$1,000"; and

(2) by amending paragraph (3) to read as follows:

"(3)(A) The portion of each application fee (not to exceed $200) that the Attorney General determines is required to process an application under this section and is remitted to the Attorney General pursuant to paragraphs (1) and (2) of this subsection shall be disposed of by the Attorney General as provided in subsections (m), (n), and (o) of section 286.

"(B) Any remaining portion of such fees remitted under such paragraphs shall be deposited by the Attorney General into the Immigration Detention Account established under section 286(s).".

(b) IMMIGRATION DETENTION ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

"(s) IMMIGRATION DETENTION ACCOUNT.—(1) There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration Detention Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration Detention Account amounts described in section 245(i)(3)(B) to remain available until expended.

"(2)(A) The Secretary of the Treasury shall refund out of the Immigration Detention Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General for the detention of aliens under sections 236(c) and 241(a).

"(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

"(C) The amounts required to be refunded from the Immigration Detention Account for fiscal year 1997 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of Public Law 104-134.

"(D) The Attorney General shall prepare and submit annually to the Congress statements of financial condition of the Immigration Detention Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applications made on or after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 377. LIMITATION ON LEGALIZATION LITIGATION.

(a) LIMITATION ON COURT JURISDICTION.—Section 245A(f)(4) (8 U.S.C. 1255a(f)(4)) is amended by adding at the end the following new subparagraph:

"(C) JURISDICTION OF COURTS.—Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action or claim by or on behalf of any person asserting an interest under this section unless such person in fact filed an application under this section within the period specified by subsection (a)(1), or attempted to file a complete application and application fee with an authorized legalization officer of the Service but had the application and fee refused by that officer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Immigration Reform and Control Act of 1986.

SEC. 378. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—Section 246(a) (8 U.S.C. 1256(a)) is amended by adding at the end the following sentence: "Nothing in this subsection shall require the Attorney General to rescind the alien's status prior to commencement of procedures to remove the alien under section 240, and an order of removal issued by an immigration judge shall be sufficient to rescind the alien's status.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the title III–A effective date (as defined in section 309(a)).

SEC. 379. ADMINISTRATIVE REVIEW OF ORDERS.

(a) IN GENERAL.—Sections 274A(e)(7) and 274C(d)(4) (8 U.S.C. 1324a(e)(7), 1324c(d)(4)) are each amended—

(1) by striking "unless, within 30 days, the Attorney General modifies or vacates the decision and order" and inserting "unless either (A) within 30 days, an official delegated by regulation to exercise review authority over the decision and order modifies or vacates the decision and order, or (B) within 30 days of the date of such a modification or vacation (or within 60 days of the date of decision and order of an administrative law judge if not so modified or vacated) the decision and order is referred to the Attorney General pursuant to regulations"; and

(2) by striking "a final order" and inserting "the final agency decision and order".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to orders issued on or after the date of the enactment of this Act.

SEC. 380. CIVIL PENALTIES FOR FAILURE TO DEPART.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 274C the following new section:

"CIVIL PENALTIES FOR FAILURE TO DEPART

"SEC. 274D. (a) IN GENERAL.—Any alien subject to a final order of removal who—

"(1) willfully fails or refuses to—

"(A) depart from the United States pursuant to the order,

"(B) make timely application in good faith for travel or other documents necessary for departure, or

"(C) present for removal at the time and place required by the Attorney General; or

"(2) conspires to or takes any action designed to prevent or hamper the alien's departure pursuant to the order,

shall pay a civil penalty of not more than $500 to the Commissioner for each day the alien is in violation of this section.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to diminish or qualify any penalties to which an alien may be subject for activities proscribed by section 243(a) or any other section of this Act.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 274C the following new item:

"Sec. 274D. Civil penalties for failure to depart.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions occurring on or after the title III–A effective date (as defined in section 309(a)).

SEC. 381. CLARIFICATION OF DISTRICT COURT JURISDICTION.

(a) IN GENERAL.—Section 279 (8 U.S.C. 1329) is amended—

(1) by amending the first sentence to read as follows: "The district courts of the United States shall have jurisdiction of all causes, civil and criminal, brought by the United States that arise under the provisions of this title.", and

(2) by adding at the end the following new sentence: "Nothing in this section shall be construed as providing jurisdiction for suits against the United States or its agencies or officers.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to actions filed after the date of the enactment of this Act.

SEC. 382. APPLICATION OF ADDITIONAL CIVIL PENALTIES TO ENFORCEMENT.

(a) IN GENERAL.—Subsection (b) of section 280 (8 U.S.C. 1330) is amended to read as follows:

"(b)(1) There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration Enforcement Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration Enforcement Account amounts described in paragraph (2) to remain available until expended.

"(2) The amounts described in this paragraph are the following:

"(A) The increase in penalties collected resulting from the amendments made by sections 203(b) and 543(a) of the Immigration Act of 1990.

"(B) Civil penalties collected under sections 240B(d), 274C, 274D, and 275(b).

"(3)(A) The Secretary of the Treasury shall refund out of the Immigration Enforcement Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General for activities that enhance enforcement of provisions of this title. Such activities include—

"(i) the identification, investigation, apprehension, detention, and removal of criminal aliens;

"(ii) the maintenance and updating of a system to identify and track criminal aliens, deportable aliens, inadmissible aliens, and aliens illegally entering the United States; and

"(iii) for the repair, maintenance, or construction on the United States border, in areas experiencing high levels of apprehensions of illegal aliens, of structures to deter illegal entry into the United States.

"(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

"(C) The amounts required to be refunded from the Immigration Enforcement Account for fiscal year 1996 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of Public Law 104–134.

"(D) The Attorney General shall prepare and submit annually to the Congress statements of financial condition of the Immigration Enforcement Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.".

(b) IMMIGRATION USER FEE ACCOUNT.—Section 286(h)(1)(B) (8 U.S.C. 1356(h)(1)(B)) is amended by striking "271" and inserting "243(c), 271,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fines and penalties collected on or after the date of the enactment of this Act.

SEC. 383. EXCLUSION OF CERTAIN ALIENS FROM FAMILY UNITY PROGRAM.

(a) IN GENERAL.—Section 301(e) of the Immigration Act of 1990 (8 U.S.C. 1255a note) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting ", or", and

(3) by adding at the end the following new paragraph:

"(3) has committed an act of juvenile delinquency which if committed by an adult would be classified as—

"(A) a felony crime of violence that has an element the use or attempted use of physical force against another individual, or

"(B) a felony offense that by its nature involves a substantial risk that physical force against another individual may be used in the course of committing the offense.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits granted or extended after the date of the enactment of this Act.

SEC. 384. PENALTIES FOR DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Except as provided in subsection (b), in no case may the Attorney General, or any other official or employee of the Department of Justice (including any bureau or agency of such Department)—

(1) make an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act using information furnished solely by—

(A) a spouse or parent who has battered the alien or subjected the alien to extreme cruelty,

(B) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien or subjected the alien to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty,

(C) a spouse or parent who has battered the alien's child or subjected the alien's child to extreme cruelty (without the active participation of the alien in the battery or extreme cruelty), or

(D) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien's child or subjected the alien's child to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty,

unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and Nationality Act; or

(2) permit use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information which relates to an alien who is the beneficiary of an application for relief under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), section 216(c)(4)(C), or section 244(a)(3) of such Act as an alien (or the parent of a child) who has been battered or subjected to extreme cruelty.

The limitation under paragraph (2) ends when the application for relief is denied and all opportunities for appeal of the denial have been exhausted.

(b) EXCEPTIONS.—

(1) The Attorney General may provide, in the Attorney General's discretion, for the disclosure of information in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

(2) The Attorney General may provide in the discretion of the Attorney General for the disclosure of information to law enforcement officials

to be used solely for a legitimate law enforcement purpose.

(3) Subsection (a) shall not be construed as preventing disclosure of information in connection with judicial review of a determination in a manner that protects the confidentiality of such information.

(4) Subsection (a)(2) shall not apply if all the battered individuals in the case are adults and they have all waived the restrictions of such subsection.

(c) PENALTIES FOR VIOLATIONS.—Anyone who willfully uses, publishes, or permits information to be disclosed in violation of this section shall be subject to appropriate disciplinary action and subject to a civil money penalty of not more than $5,000 for each such violation.

(d) CONFORMING AMENDMENTS TO OTHER DISCLOSURE RESTRICTIONS.—

(1) IN GENERAL.—The last sentence of section 210(b)(6) and the second sentence of section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) are each amended to read as follows: "Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to appropriate disciplinary action and subject to a civil money penalty of not more than $5,000 for each violation.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to offenses occurring on or after the date of the enactment of this Act.

SEC. 385. AUTHORIZATION OF ADDITIONAL FUNDS FOR REMOVAL OF ALIENS.

In addition to the amounts otherwise authorized to be appropriated for each fiscal year beginning with fiscal year 1996, there are authorized to be appropriated to the Attorney General $150,000,000 for costs associated with the removal of inadmissible or deportable aliens, including costs of detention of such aliens pending their removal, the hiring of more investigators, and the hiring of more detention and deportation officers.

SEC. 386. INCREASE IN INS DETENTION FACILITIES; REPORT ON DETENTION SPACE.

(a) INCREASE IN DETENTION FACILITIES.—Subject to the availability of appropriations, the Attorney General shall provide for an increase in the detention facilities of the Immigration and Naturalization Service to at least 9,000 beds before the end of fiscal year 1997.

(b) REPORT ON DETENTION SPACE.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate estimating the amount of detention space that will be required, during the fiscal year in which the report is submitted and the succeeding fiscal year, to detain—

(A) all aliens subject to detention under section 236(c) of the Immigration and Nationality Act (as amended by section 303 of this title) and section 241(a) of the Immigration and Nationality Act (as inserted by section 305(a)(3) of this title);

(B) all excludable or deportable aliens subject to proceedings under section 238 of the Immigration and Nationality Act (as redesignated by section 308(b)(5) of this title) or section 235(b)(2)(A) or 240 of the Immigration and Nationality Act; and

(C) other excludable or deportable aliens in accordance with the priorities established by the Attorney General.

(2) ESTIMATE OF NUMBER OF ALIENS RELEASED INTO THE COMMUNITY.—

(A) CRIMINAL ALIENS.—

(i) IN GENERAL.—The first report submitted under paragraph (1) shall include an estimate of the number of criminal aliens who, in each of the 3 fiscal years concluded prior to the date of the report—

(I) were released from detention facilities of the Immigration and Naturalization Service (whether operated directly by the Service or through contract with other persons or agencies); or

(II) were not taken into custody or detention by the Service upon completion of their incarceration.

(ii) ALIENS CONVICTED OF AGGRAVATED FELONIES.—The estimate under clause (i) shall estimate separately, with respect to each year described in such clause, the number of criminal aliens described in such clause who were convicted of an aggravated felony.

(B) ALL EXCLUDABLE OR DEPORTABLE ALIENS.—The first report submitted under paragraph (1) shall also estimate the number of excludable or deportable aliens who were released into the community due to a lack of detention facilities in each of the 3 fiscal years concluded prior to the date of the report notwithstanding circumstances that the Attorney General believed justified detention (for example, a significant probability that the released alien would not appear, as agreed, at subsequent exclusion or deportation proceedings).

(C) SUBSEQUENT REPORTS.—Each report under paragraph (1) following the first such report shall include the estimates under subparagraphs (A) and (B), made with respect to the 6-month period immediately preceding the date of the submission of the report.

SEC. 387. PILOT PROGRAM ON USE OF CLOSED MILITARY BASES FOR THE DETENTION OF INADMISSIBLE OR DEPORTABLE ALIENS.

(a) ESTABLISHMENT.—The Attorney General and the Secretary of Defense shall establish one or more pilot programs for up to 2 years each to determine the feasibility of the use of military bases, available because of actions under a base closure law, as detention centers by the Immigration and Naturalization Service. In selecting real property at a military base for use as a detention center under the pilot program, the Attorney General and the Secretary shall consult with the redevelopment authority established for the military base and give substantial deference to the redevelopment plan prepared for the military base.

(b) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Attorney General, together with the Secretary of Defense, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate, and the Committees on Armed Services of the House of Representatives and of the Senate, on the feasibility of using military bases closed under a base closure law as detention centers by the Immigration and Naturalization Service.

(c) DEFINITION.—For purposes of this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

(4) Any other similar law enacted after the date of the enactment of this Act.

SEC. 388. REPORT ON INTERIOR REPATRIATION PROGRAM.

Not later than 30 months after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of State, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the operation of the program of interior repatriation developed under section 437 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132).

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

SEC. 401. ESTABLISHMENT OF PROGRAMS.

(a) IN GENERAL.—The Attorney General shall conduct 3 pilot programs of employment eligibility confirmation under this subtitle.

(b) IMPLEMENTATION DEADLINE; TERMINATION.—The Attorney General shall implement the pilot programs in a manner that permits persons and other entities to have elections under section 402 made and in effect no later than 1 year after the date of the enactment of this Act. Unless the Congress otherwise provides, the Attorney General shall terminate a pilot program at the end of the 4-year period beginning on the first day the pilot program is in effect.

(c) SCOPE OF OPERATION OF PILOT PROGRAMS.—The Attorney General shall provide for the operation—

(1) of the basic pilot program (described in section 403(a)) in, at a minimum, 5 of the 7 States with the highest estimated population of aliens who are not lawfully present in the United States;

(2) of the citizen attestation pilot program (described in section 403(b)) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(b)(2)(A); and

(3) of the machine-readable-document pilot program (described in section 403(c)) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(c)(2).

(d) REFERENCES IN SUBTITLE.—In this subtitle—

(1) PILOT PROGRAM REFERENCES.—The terms "program" or "pilot program" refer to any of the 3 pilot programs provided for under this subtitle.

(2) CONFIRMATION SYSTEM.—The term "confirmation system" means the confirmation system established under section 404.

(3) REFERENCES TO SECTION 274A.—Any reference in this subtitle to section 274A (or a subdivision of such section) is deemed a reference to such section (or subdivision thereof) of the Immigration and Nationality Act.

(4) I–9 OR SIMILAR FORM.—The term "I–9 or similar form" means the form used for purposes of section 274A(b)(1)(A) or such other form as the Attorney General determines to be appropriate.

(5) LIMITED APPLICATION TO RECRUITERS AND REFERRERS.—Any reference to recruitment or referral (or a recruiter or referrer) in relation to employment is deemed a reference only to such recruitment or referral (or recruiter or referrer) that is subject to section 274A(a)(1)(B)(ii).

(6) UNITED STATES CITIZENSHIP.—The term "United States citizenship" includes United States nationality.

(7) STATE.—The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

SEC. 402. VOLUNTARY ELECTION TO PARTICIPATE IN A PILOT PROGRAM.

(a) VOLUNTARY ELECTION.—Subject to subsection (c)(3)(B), any person or other entity that conducts any hiring (or recruitment or referral) in a State in which a pilot program is operating may elect to participate in that pilot program. Except as specifically provided in subsection (e), the Attorney General may not require any person or other entity to participate in a pilot program.

(b) BENEFIT OF REBUTTABLE PRESUMPTION.—

(1) IN GENERAL.—If a person or other entity is participating in a pilot program and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring

(or recruitment or referral) of an individual for employment in the United States, the person or entity has established a rebuttable presumption that the person or entity has not violated section 274A(a)(1)(A) with respect to such hiring (or such recruitment or referral).

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as preventing a person or other entity that has an election in effect under subsection (a) from establishing an affirmative defense under section 274A(a)(3) if the person or entity complies with the requirements of section 274A(a)(1)(B) but fails to obtain confirmation under paragraph (1).

(c) GENERAL TERMS OF ELECTIONS.—

(1) IN GENERAL.—An election under subsection (a) shall be in such form and manner, under such terms and conditions, and shall take effect, as the Attorney General shall specify. The Attorney General may not impose any fee as a condition of making an election or participating in a pilot program.

(2) SCOPE OF ELECTION.—

(A) IN GENERAL.—Subject to paragraph (3), any electing person or other entity may provide that the election under subsection (a) shall apply (during the period in which the election is in effect)—

(i) to all its hiring (and all recruitment or referral) in the State (or States) in which the pilot program is operating, or

(ii) to its hiring (or recruitment or referral) in one or more pilot program States or one or more places of hiring (or recruitment or referral, as the case may be) in the pilot program States.

(B) APPLICATION OF PROGRAMS IN NON-PILOT PROGRAM STATES.—In addition, the Attorney General may permit a person or entity electing—

(i) the basic pilot program (described in section 403(a)) to provide that the election applies to its hiring (or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating, or

(ii) the citizen attestation pilot program (described in 403(b)) or the machine-readable-document pilot program (described in section 403(c)) to provide that the election applies to its hiring (or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating but only if such States meet the requirements of 403(b)(2)(A) and 403(c)(2), respectively.

(3) ACCEPTANCE AND REJECTION OF ELECTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Attorney General shall accept all elections made under subsection (a).

(B) REJECTION OF ELECTIONS.—The Attorney General may reject an election by a person or other entity under this section or limit its applicability to certain States or places of hiring (or recruitment or referral) if the Attorney General has determined that there are insufficient resources to provide appropriate services under a pilot program for the person's or entity's hiring (or recruitment or referral) in any or all States or places of hiring.

(4) TERMINATION OF ELECTIONS.—The Attorney General may terminate an election by a person or other entity under this section because the person or entity has substantially failed to comply with its obligations under the pilot program. A person or other entity may terminate an election in such form and manner as the Attorney General shall specify.

(d) CONSULTATION, EDUCATION, AND PUBLICITY.—

(1) CONSULTATION.—The Attorney General shall closely consult with representatives of employers (and recruiters and referrers) in the development and implementation of the pilot programs, including the education of employers (and recruiters and referrers) about such programs.

(2) PUBLICITY.—The Attorney General shall widely publicize the election process and pilot programs, including the voluntary nature of the pilot programs and the advantages to employers (and recruiters and referrers) of making an election under this section.

(3) ASSISTANCE THROUGH DISTRICT OFFICES.—The Attorney General shall designate one or more individuals in each District office of the Immigration and Naturalization Service for a Service District in which a pilot program is being implemented—

(A) to inform persons and other entities that seek information about pilot programs of the voluntary nature of such programs, and

(B) to assist persons and other entities in electing and participating in any pilot programs in effect in the District, in complying with the requirements of section 274A, and in facilitating confirmation of the identity and employment eligibility of individuals consistent with such section.

(e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN A PILOT PROGRAM.—

(1) FEDERAL GOVERNMENT.—

(A) EXECUTIVE DEPARTMENTS.—

(i) IN GENERAL.—Each Department of the Federal Government shall elect to participate in a pilot program and shall comply with the terms and conditions of such an election.

(ii) ELECTION.—Subject to clause (iii), the Secretary of each such Department—

(I) shall elect the pilot program (or programs) in which the Department shall participate, and

(II) may limit the election to hiring occurring in certain States (or geographic areas) covered by the program (or programs) and in specified divisions within the Department, so long as all hiring by such divisions and in such locations is covered.

(iii) ROLE OF ATTORNEY GENERAL.—The Attorney General shall assist and coordinate elections under this subparagraph in such manner as assures that—

(I) a significant portion of the total hiring within each Department within States covered by a pilot program is covered under such a program, and

(II) there is significant participation by the Federal Executive branch in each of the pilot programs.

(B) LEGISLATIVE BRANCH.—Each Member of Congress, each officer of Congress, and the head of each agency of the legislative branch, that conducts hiring in a State in which a pilot program is operating shall elect to participate in a pilot program, may specify which pilot program or programs (if there is more than one) in which the Member, officer, or agency will participate, and shall comply with the terms and conditions of such an election.

(2) APPLICATION TO CERTAIN VIOLATORS.—An order under section 274A(e)(4) or section 274B(g) of the Immigration and Nationality Act may require the subject of the order to participate in, and comply with the terms of, a pilot program with respect to the subject's hiring (or recruitment or referral) of individuals in a State covered by such a program.

(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If a person or other entity is required under this subsection to participate in a pilot program and fails to comply with the requirements of such program with respect to an individual—

(A) such failure shall be treated as a violation of section 274A(a)(1)(B) with respect to that individual, and

(B) a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A).

Subparagraph (B) shall not apply in any prosecution under section 274A(f)(1).

(f) CONSTRUCTION.—This subtitle shall not affect the authority of the Attorney General under any other law (including section 274A(d)(4)) to conduct demonstration projects in relation to section 274A.

SEC. 403. PROCEDURES FOR PARTICIPANTS IN PILOT PROGRAMS.

(a) BASIC PILOT PROGRAM.—A person or other entity that elects to participate in the basic pilot program described in this subsection agrees to conform to the following procedures in the case of the hiring (or recruitment or referral) for employment in the United States of each individual covered by the election:

(1) PROVISION OF ADDITIONAL INFORMATION.—The person or entity shall obtain from the individual (and the individual shall provide) and shall record on the I-9 or similar form—

(A) the individual's social security account number, if the individual has been issued such a number, and

(B) if the individual does not attest to United States citizenship under section 274A(b)(2), such identification or authorization number established by the Immigration and Naturalization Service for the alien as the Attorney General shall specify,

and shall retain the original form and make it available for inspection for the period and in the manner required of I-9 forms under section 274A(b)(3).

(2) PRESENTATION OF DOCUMENTATION.—

(A) IN GENERAL.—The person or other entity, and the individual whose identity and employment eligibility are being confirmed, shall, subject to subparagraph (B), fulfill the requirements of section 274A(b) with the following modifications:

(i) A document referred to in section 274A(b)(1)(B)(ii) (as redesignated by section 412(a)) must be designated by the Attorney General as suitable for the purpose of identification in a pilot program.

(ii) A document referred to in section 274A(b)(1)(D) must contain a photograph of the individual.

(iii) The person or other entity has complied with the requirements of section 274A(b)(1) with respect to examination of a document if the document reasonably appears on its face to be genuine and it reasonably appears to pertain to the individual whose identity and work eligibility is being confirmed.

(B) LIMITATION OF REQUIREMENT TO EXAMINE DOCUMENTATION.—If the Attorney General finds that a pilot program would reliably determine with respect to an individual whether—

(i) the person with the identity claimed by the individual is authorized to work in the United States, and

(ii) the individual is claiming the identity of another person,

if a person or entity could fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B) or (D) of such section, the Attorney General may provide that, for purposes of such requirement, only such a document need be examined. In such case, any reference in section 274A(b)(1)(A) to a verification that an individual is not an unauthorized alien shall be deemed to be a verification of the individual's identity.

(3) SEEKING CONFIRMATION.—

(A) IN GENERAL.—The person or other entity shall make an inquiry, as provided in section 404(a)(1), using the confirmation system to seek confirmation of the identity and employment eligibility of an individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring (or recruitment or referral, as the case may be).

(B) EXTENSION OF TIME PERIOD.—If the person or other entity in good faith attempts to make an inquiry during such 3 working days and the

confirmation system has registered that not all inquiries were received during such time, the person or entity can make an inquiry in the first subsequent working day in which the confirmation system registers that it has received all inquiries. If the confirmation system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

(4) CONFIRMATION OR NONCONFIRMATION.—

(A) CONFIRMATION UPON INITIAL INQUIRY.—If the person or other entity receives an appropriate confirmation of an individual's identity and work eligibility under the confirmation system within the time period specified under section 404(b), the person or entity shall record on the I–9 or similar form an appropriate code that is provided under the system and that indicates a final confirmation of such identity and work eligibility of the individual.

(B) NONCONFIRMATION UPON INITIAL INQUIRY AND SECONDARY VERIFICATION.—

(i) NONCONFIRMATION.—If the person or other entity receives a tentative nonconfirmation of an individual's identity or work eligibility under the confirmation system within the time period specified under 404(b), the person or entity shall so inform the individual for whom the confirmation is sought.

(ii) NO CONTEST.—If the individual does not contest the nonconfirmation within the time period specified in section 404(c), the nonconfirmation shall be considered final. The person or entity shall then record on the I–9 or similar form an appropriate code which has been provided under the system to indicate a tentative nonconfirmation.

(iii) CONTEST.—If the individual does contest the nonconfirmation, the individual shall utilize the process for secondary verification provided under section 404(c). The nonconfirmation will remain tentative until a final confirmation or nonconfirmation is provided by the confirmation system within the time period specified in such section. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonconfirmation becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

(iv) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the confirmation system under section 404(c) regarding an individual, the person or entity shall record on the I–9 or similar form an appropriate code that is provided under the system and that indicates a confirmation or nonconfirmation of identity and work eligibility of the individual.

(C) CONSEQUENCES OF NONCONFIRMATION.—

(i) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If the person or other entity has received a final nonconfirmation regarding an individual under subparagraph (B), the person or entity may terminate employment (or recruitment or referral) of the individual. If the person or entity does not terminate employment (or recruitment or referral) of the individual, the person or entity shall notify the Attorney General of such fact through the confirmation system or in such other manner as the Attorney General may specify.

(ii) FAILURE TO NOTIFY.—If the person or entity fails to provide notice with respect to an individual as required under clause (i), the failure is deemed to constitute a violation of section 274A(a)(1)(B) with respect to that individual and the applicable civil monetary penalty under section 274A(e)(5) shall be (notwithstanding the amounts specified in such section) no less than $500 and no more than $1,000 for each individual with respect to whom such violation occurred.

(iii) CONTINUED EMPLOYMENT AFTER FINAL NONCONFIRMATION.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonconfirmation, a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A). The previous sentence shall not apply in any prosecution under section 274A(f)(1).

(b) CITIZEN ATTESTATION PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraphs (3) through (5), the procedures applicable under the citizen attestation pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) RESTRICTIONS.—

(A) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the citizen attestation pilot program in a State unless each driver's license or similar identification document described in section 274A(b)(1)(D)(i) issued by the State—

(i) contains a photograph of the individual involved, and

(ii) has been determined by the Attorney General to have security features, and to have been issued through application and issuance procedures, which make such document sufficiently resistant to counterfeiting, tampering, and fraudulent use that it is a reliable means of identification for purposes of this section.

(B) AUTHORIZATION TO LIMIT EMPLOYER PARTICIPATION.—The Attorney General may restrict the number of persons or other entities that may elect to participate in the citizen attestation pilot program under this subsection as the Attorney General determines to be necessary to produce a representative sample of employers and to reduce the potential impact of fraud.

(3) NO CONFIRMATION REQUIRED FOR CERTAIN INDIVIDUALS ATTESTING TO U.S. CITIZENSHIP.—In the case of a person or other entity hiring (or recruiting or referring) an individual under the citizen attestation pilot program, if the individual attests to United States citizenship (under penalty of perjury on an I–9 or similar form which form states on its face the criminal and other penalties provided under law for a false representation of United States citizenship)—

(A) the person or entity may fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B)(i) or (D) of such section; and

(B) the person or other entity is not required to comply with respect to such individual with the procedures described in paragraphs (3) and (4) of subsection (a), but only if the person or entity retains the form and makes it available for inspection in the same manner as in the case of an I–9 form under section 274A(b)(3).

(4) WAIVER OF DOCUMENT PRESENTATION REQUIREMENT IN CERTAIN CASES.—

(A) IN GENERAL.—In the case of a person or entity that elects, in a manner specified by the Attorney General consistent with subparagraph (B), to participate in the pilot program under this paragraph, if an individual being hired (or recruited or referred) attests (in the manner described in paragraph (3)) to United States citizenship and the person or entity retains the form on which the attestation is made and makes it available for inspection in the same manner as in the case of an I–9 form under section 274A(b)(3), the person or entity is not required to comply with the procedures described in section 274A(b).

(B) RESTRICTION.—The Attorney General shall restrict the election under this paragraph to no more than 1,000 employers and, to the extent practicable, shall select among employers seeking to make such election in a manner that provides for such an election by a representative sample of employers.

(5) NONREVIEWABLE DETERMINATIONS.—The determinations of the Attorney General under paragraphs (2) and (4) are within the discretion of the Attorney General and are not subject to judicial or administrative review.

(c) MACHINE-READABLE-DOCUMENT PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (3), the procedures applicable under the machine-readable-document pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the machine-readable-document pilot program in a State unless driver's licenses and similar identification documents described in section 274A(b)(1)(D)(i) issued by the State include a machine-readable social security account number.

(3) USE OF MACHINE-READABLE DOCUMENTS.—If the individual whose identity and employment eligibility must be confirmed presents to the person or entity hiring (or recruiting or referring) the individual a license or other document described in paragraph (2) that includes a machine-readable social security account number, the person or entity must make an inquiry through the confirmation system by using a machine-readable feature of such document. If the individual does not attest to United States citizenship under section 274A(b)(2), the individual's identification or authorization number described in subsection (a)(1)(B) shall be provided as part of the inquiry.

(d) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE CONFIRMATION SYSTEM.—No person or entity participating in a pilot program shall be civilly or criminally liable under any law for any action taken in good faith reliance on information provided through the confirmation system.

SEC. 404. EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.

(a) IN GENERAL.—The Attorney General shall establish a pilot program confirmation system through which the Attorney General (or a designee of the Attorney General, which may be a nongovernmental entity)—

(1) responds to inquiries made by electing persons and other entities (including those made by the transmittal of data from machine-readable documents under the machine-readable pilot program) at any time through a toll-free telephone line or other toll-free electronic media concerning an individual's identity and whether the individual is authorized to be employed, and

(2) maintains records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under the pilot programs.

To the extent practicable, the Attorney General shall seek to establish such a system using one or more nongovernmental entities.

(b) INITIAL RESPONSE.—The confirmation system shall provide confirmation or a tentative nonconfirmation of an individual's identity and employment eligibility within 3 working days of the initial inquiry. If providing confirmation or tentative nonconfirmation, the confirmation system shall provide an appropriate code indicating such confirmation or such nonconfirmation.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of

tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation within 10 working days after the date of the tentative nonconfirmation. When final confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

(d) DESIGN AND OPERATION OF SYSTEM.—The confirmation system shall be designed and operated—

(1) to maximize its reliability and ease of use by persons and other entities making elections under section 402(a) consistent with insulating and protecting the privacy and security of the underlying information;

(2) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

(3) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

(4) to have reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(A) the selective or unauthorized use of the system to verify eligibility;

(B) the use of the system prior to an offer of employment; or

(C) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants.

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the confirmation system, the Commissioner of Social Security, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the confirmation system, the Commissioner of the Immigration and Naturalization Service, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and alien identification or authorization number described in section 403(a)(1)(B) which are provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, and whether the alien is authorized to be employed in the United States.

(g) UPDATING INFORMATION.—The Commissioners of Social Security and the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c).

(h) LIMITATION ON USE OF THE CONFIRMATION SYSTEM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this subtitle shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this subtitle for any other purpose other than as provided for under a pilot program.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this subtitle shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

SEC. 405. REPORTS.

The Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate reports on the pilot programs within 3 months after the end of the third and fourth years in which the programs are in effect. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship,

(2) include recommendations on whether or not the pilot programs should be continued or modified, and

(3) assess the benefits of the pilot programs to employers and the degree to which they assist in the enforcement of section 274A.

Subtitle B—Other Provisions Relating to Employer Sanctions

SEC. 411. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.

(a) IN GENERAL.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended by adding at the end the following new paragraph:

"(6) GOOD FAITH COMPLIANCE.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a person or entity is considered to have complied with a requirement of this subsection notwithstanding a technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

"(B) EXCEPTION IF FAILURE TO CORRECT AFTER NOTICE.—Subparagraph (A) shall not apply if—

"(i) the Service (or another enforcement agency) has explained to the person or entity the basis for the failure,

"(ii) the person or entity has been provided a period of not less than 10 business days (beginning after the date of the explanation) within which to correct the failure, and

"(iii) the person or entity has not corrected the failure voluntarily within such period.

"(C) EXCEPTION FOR PATTERN OR PRACTICE VIOLATORS.—Subparagraph (A) shall not apply to a person or entity that has or is engaging in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 412. PAPERWORK AND OTHER CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) REDUCING THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking clauses (ii) through (iv),

(B) in clause (v), by striking "or other alien registration card, if the card" and inserting ", alien registration card, or other document designated by the Attorney General, if the document" and redesignating such clause as clause (ii), and

(C) in clause (ii), as so redesignated—

(i) in subclause (I), by striking "or" before "such other personal identifying information" and inserting "and",

(ii) by striking "and" at the end of subclause (I),

(iii) by striking the period at the end of subclause (II) and inserting ", and", and

(iv) by adding at the end the following new subclause:

"(III) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.";

(2) in subparagraph (C)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii); and

(3) by adding at the end the following new subparagraph:

"(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in subparagraph (B), (C), or (D) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of this subsection.".

(b) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

"(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is 3 years, or, if less, the period of time that the individual is authorized to be employed in the United States.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an alien not authorized to work in the United States, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an alien not authorized to work in the United States.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an alien not authorized to work in the United States.

"(iii) EXCEPTION.—Clause (i) shall not apply in any prosecution under subsection (f)(1).".

(c) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(d) CLARIFICATION OF APPLICATION TO FEDERAL GOVERNMENT.—Section 274A(a) (8 U.S.C. 1324a(a)), as amended by subsection (b), is amended by adding at the end the following new paragraph:

"(7) APPLICATION TO FEDERAL GOVERNMENT.—For purposes of this section, the term 'entity' includes an entity in any branch of the Federal Government.".

(e) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply with respect to hiring (or recruitment or referral) occurring on or after such date (not later than 12 months after the date of the enactment of this Act) as the Attorney General shall designate.

(2) The amendment made by subsection (b) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(3) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(4) The amendment made by subsection (d) applies to hiring occurring before, on, or after the date of the enactment of this Act, but no penalty shall be imposed under subsection (e) or (f) of section 274A of the Immigration and Nationality Act for such hiring occurring before such date.

SEC. 413. REPORT ON ADDITIONAL AUTHORITY OR RESOURCES NEEDED FOR ENFORCEMENT OF EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on any additional authority or resources needed—

(1) by the Immigration and Naturalization Service in order to enforce section 274A of the Immigration and Nationality Act, or

(2) by Federal agencies in order to carry out the Executive Order of February 13, 1996 (entitled "Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Naturalization Act Provisions") and to expand the restrictions in such order to cover agricultural subsidies, grants, job training programs, and other Federally subsidized assistance programs.

(b) REFERENCE TO INCREASED AUTHORIZATION OF APPROPRIATIONS.—For provision increasing the authorization of appropriations for investigators for violations of sections 274 and 274A of the Immigration and Nationality Act, see section 131.

SEC. 414. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

(a) IN GENERAL.—Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

"(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1996), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate quantity of social security account numbers issued to aliens not authorized to be employed, with respect to which, in such fiscal year, earnings were reported to the Social Security Administration.

"(2) If earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.".

(b) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—The Commissioner of Social Security shall transmit to the Attorney General, by not later than 1 year after the date of the enactment of this Act, a report on the extent to which social security account numbers and cards are used by aliens for fraudulent purposes.

SEC. 415. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.".

SEC. 416. SUBPOENA AUTHORITY.

Section 274A(e)(2) (8 U.S.C. 1324a(e)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by inserting after subparagraph (B) the following:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

Subtitle C—Unfair Immigration-Related Employment Practices

SEC. 421. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes of paragraph (1), a" and inserting "A"; and

(2) by striking "relating to the hiring of individuals" and inserting the following: "if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests made on or after the date of the enactment of this Act.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

SEC. 500. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.

(a) STATEMENTS OF CONGRESSIONAL POLICY.—The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite this principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved incapable of assuring that individual aliens do not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens are self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(b) SENSE OF CONGRESS.—

(1) IN GENERAL.—With respect to the authority of a State to make determinations concerning the eligibility of aliens for public benefits, it is the sense of the Congress that a court should apply the same standard of review to an applicable State law as that court uses in determining whether an Act of Congress regulating the eligibility of aliens for public benefits meets constitutional scrutiny.

(2) STRICT SCRUTINY.—In cases where a court holds that a State law determining the eligibility of aliens for public benefits must be the least restrictive means available for achieving a compelling government interest, a State that chooses to follow the Federal classification in determining the eligibility of aliens for public benefits, pursuant to the authorization contained in this title, shall be considered to have chosen the least restrictive means available for achieving the compelling government interest of assuring that aliens are self-reliant in accordance with national immigration policy.

Subtitle A—Ineligibility of Excludable Deportable, and Nonimmigrant Aliens From Public Assistance and Benefits

SEC. 501. MEANS-TESTED PUBLIC BENEFITS.

(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, an ineligible alien (as defined in subsection (d)) shall not be eligible to receive any means-tested public benefits (as defined in subsection (e)).

(b) EXCEPTIONS.—Subsection (a) shall not apply to any of the following benefits:

(1)(A) Medical assistance under title XIX of the Social Security Act (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition of the alien involved and are not related to an organ transplant procedure.

(B) For purposes of this paragraph, the term "emergency medical condition" means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

(i) placing the patient's health in serious jeopardy,

(ii) serious impairment to bodily functions, or

(iii) serious dysfunction of any bodily organ or part.

(2) Short-term noncash emergency disaster relief.

(3) Assistance or benefits under any of the following (including any successor program to any of the following as identified by the Attorney General in consultation with other appropriate officials):

(A) The National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(C) Section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note).

(D) The Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note).

(E) Section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note).

(F) The food distribution program on Indian reservations established under section 4(b) of Public Law 88–525 (7 U.S.C. 2013(b)).

(4) Public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for any such diseases (which may not include treatment for HIV infection or acquired immune deficiency syndrome).

(5) Such other in-kind service or noncash assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with appropriate government agencies, if—

(A) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(B) such service or assistance is necessary for the protection of life, safety, or public health; and

(C) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources.

(6) Benefits under laws administered by the Secretary of Veterans Affairs and any other benefit available by reason of service in the United States Armed Forces.

(c) ELIGIBLE ALIEN DEFINED.—For the purposes of this section—

(1) IN GENERAL.—The term "eligible alien" means an alien—

(A) who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) who is an alien granted asylum under section 208 of such Act,

(C) who is an alien admitted as a refugee under section 207 of such Act,

(D) whose deportation has been withheld under section 241(b)(3) of such Act (as amended by section 305(a)(3)), or

(E) who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year, but only for the first year of such parole.

(2) INCLUSION OF CERTAIN BATTERED ALIENS.—Such term includes—

(A) an alien who—

(i) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(ii) has been approved or has a petition pending which sets forth a prima facie case for—

(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act,

(III) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

(IV) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act; or

(B) an alien—

(i) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(ii) who meets the requirement of clause (ii) of subparagraph (A).

Such term shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.

(d) INELIGIBLE ALIEN DEFINED.—For purposes of this section, the term "ineligible alien" means an individual who is not—

(1) a citizen or national of the United States; or

(2) an eligible alien.

(e) MEANS-TESTED PUBLIC BENEFIT.—For purposes of this section, the term "means-tested public benefit" means any public benefit (including cash, medical, housing, food, and social services) provided or funded in whole or in part by the Federal Government, or by a State or political subdivision of a State, in which the eligibility of an individual, household, or family eligibility unit for the benefit or the amount of the benefit, or both, are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply to benefits provided on or after such date as the Attorney General specifies in regulations under paragraph (2). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) REGULATIONS.—The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out this section not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

(3) WAIVER AUTHORITY.—The Attorney General is authorized to waive any provision of this section in the case of applications pending on the effective date of such provision.

SEC. 502. GRANTS, CONTRACTS, AND LICENSES.

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, an ineligible alien (as defined in section 501(d)) shall not be eligible for any grant, contract, loan, professional license, driver's license, or commercial license provided or funded by any agency of the United States or any State or political subdivision of a State.

(b) EXCEPTIONS.—

(1) NONIMMIGRANT ALIEN AUTHORIZED TO WORK IN THE UNITED STATES.—Subsection (a) shall not apply to an alien in lawful nonimmigrant status who is authorized to work in the United States with respect to the following:

(A) Any professional or commercial license required to engage in such work.

(B) Any contract.

(C) A driver's license.

(2) NONIMMIGRANT ALIEN.—Subsection (a) shall not apply to an alien in lawful nonimmigrant status with respect to a driver's license.

(3) ALIEN OUTSIDE THE UNITED STATES.—Subsection (a) shall not apply to an alien who is outside of the United States with respect to any contract.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply to contracts or loan agreements entered into, and professional, commercial, and driver's licenses issued (or renewed), on or after such date as the Attorney General specifies in regulations under paragraph (2). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) REGULATIONS.—The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out this section not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

(3) WAIVER AUTHORITY.—The Attorney General is authorized to waive any provision of this section in the case of applications pending on the effective date of such provision.

SEC. 503. UNEMPLOYMENT BENEFITS.

(a) ELIMINATION OF CREDITING EMPLOYMENT MERELY ON BASIS OF PRUCOL STATUS.—Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking ", was lawfully" and inserting "or was lawfully", and

(2) by striking ", or was permanently" and all that follows up to the comma at the end.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to certifications of States for 1998 and subsequent years, or for 1999 and subsequent years in the case of States the legislatures of which do not meet in a regular session which closes in the calendar year 1997.

(c) REPORT.—The Secretary of Labor, in consultation with the Attorney General, shall provide for a study of the impact of limiting eligibility for unemployment compensation only to individuals who are citizens or nationals of the United States or eligible aliens (as defined in section 501(c)). Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on such study to the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate and the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives.

SEC. 504. SOCIAL SECURITY BENEFITS.

(a) INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT FOR SOCIAL SECURITY BENEFITS.—

(1) IN GENERAL.—Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

"Limitation on Payments to Aliens

"(y) Notwithstanding any other provision of law, no monthly benefit under this title shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to benefits for which applications are filed on or after the first day of the first month that begins at least 60 days after the date of the enactment of this Act.

(b) NO CREDITING FOR UNAUTHORIZED EMPLOYMENT.—

(1) IN GENERAL.—Section 210 of such Act (42 U.S.C. 410) is amended by adding at the end the following new subsection:

"Demonstration of Required Citizenship Status

"(s) For purposes of this title, service performed by an individual in the United States shall constitute 'employment' only if it is demonstrated to the satisfaction of the Commissioner of Social Security that such service was performed by such individual while such individual was a citizen, a national, a permanent resident, or otherwise authorized to be employed in the United States in such service.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services performed after December 31, 1996.

(c) TRADE OR BUSINESS.—

(1) IN GENERAL.—Section 211 of such Act (42 U.S.C. 411) is amended by adding at the end the following new subsection:

"Demonstration of Required Citizenship Status

"(j) For purposes of this title, a trade or business (as defined in subsection (c)) carried on in *the United States by any individual shall constitute a 'trade or business' only if it is demonstrated to the satisfaction of the Commissioner of Social Security that such trade or business (as so defined) was carried on by such individual while such individual was a citizen, a national, a permanent resident, or otherwise lawfully present in the United States carrying on such trade or business.".*

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to any trade or business carried on after December 31, 1996.

(d) CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to affect the application of chapter 2 or chapter 21 of the Internal Revenue Code of 1986.

SEC. 505. REQUIRING PROOF OF IDENTITY FOR CERTAIN PUBLIC ASSISTANCE.

(a) REVISION OF SAVE PROGRAM.—

(1) IN GENERAL.—Paragraph (2) of section 1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d)) is amended to read as follows:

"(2) There must be presented the item (or items) described in one of the following subparagraphs for that individual:

"(A) A United States passport (either current or expired if issued both within the previous 12 years and after the individual attained 18 years of age).

"(B) A resident alien card or an alien registration card, if the card (i) contains a photograph of the individual and (ii) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

"(C) A driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual.

"(D) If the individual attests to being a citizen or national of the United States and that the individual does not have other documentation under this paragraph (under penalty of perjury), such other documents or evidence that identify the individual as the Attorney General may designate as constituting reasonable evidence indicating United States citizenship or nationality.".

(2) TEMPORARY ELIGIBILITY FOR BENEFITS.—Section 1137(d) of such Act is further amended by adding after paragraph (5) the following new paragraph (6):

"(6) If at the time of application for benefits, the documentation under paragraph (2) is not presented or verified, such benefits may be provided to the applicant for not more than 2 months, if—

"(A) the applicant provides a written attestation (under penalty of perjury) that the applicant is a citizen or national of the United States, or

"(B) the applicant provides documentation certified by the Department of State or the Department of Justice, which the Attorney General determines constitutes reasonable evidence indicating satisfactory immigration status.".

(3) CONFORMING AMENDMENTS.—Section 1137(d) of such Act is further amended in paragraph (3), by striking "(2)(A) is presented" and inserting "(2)(B) is presented and contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number)".

(b) SSI.—Section 1631(e) of such Act (42 U.S.C. 1383(e)(7)) is amended by adding at the end the following new paragraph:

"(8) The Commissioner of Social Security shall provide for the application under this title of rules similar to the requirements of section 1137(d), insofar as they apply to the verification of immigration or citizenship status for eligibility for supplemental security income benefits under this title.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply to application for benefits filed on or after such date as the Attorney General specifies in regulations under paragraph (2). Such date shall be at least 60 days, and not more than 90 days, after the date the Attorney General first issues such regulations.

(2) REGULATIONS.—The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out this section (and the amendments made by this section) not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

SEC. 506. AUTHORIZATION FOR STATES TO REQUIRE PROOF OF ELIGIBILITY FOR STATE PROGRAMS.

(a) IN GENERAL.—In carrying out this title (and the amendments made by this title), subject to section 510, a State or political subdivision is authorized to require an applicant for benefits under a program of a State or political subdivision to provide proof of eligibility consistent with the provisions of this title.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 507. LIMITATION ON ELIGIBILITY FOR PREFERENTIAL TREATMENT OF ALIENS NOT LAWFULLY PRESENT ON BASIS OF RESIDENCE FOR HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

(b) EFFECTIVE DATE.—This section shall apply to benefits provided on or after July 1, 1998.

SEC. 508. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) IN GENERAL.—No student shall be eligible for postsecondary Federal student financial assistance unless—

(1) the student has certified that the student is a citizen or national of the United States or an alien lawfully admitted for permanent residence, and

(2) the Secretary of Education has verified such certification.

(b) REPORT REQUIREMENT.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the appropriate committees of the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(2) REPORT ELEMENTS.—The report under paragraph (1) shall include the following:

(A) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(B) The ratio of successful matches under the program to inaccurate matches.

(C) Such other information as the Secretary and the Commissioner jointly consider appropriate.

(3) APPROPRIATE COMMITTEES OF THE CONGRESS.—For purposes of this subsection the term "appropriate committees of the Congress" means the Committee on Economic and Educational Opportunities and the Committee on the Judiciary of the House of Representatives and the Committee on Labor and Human Resources and the Committee on the Judiciary of the Senate.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 509. VERIFICATION OF IMMIGRATION STATUS FOR PURPOSES OF SOCIAL SECURITY AND HIGHER EDUCATIONAL ASSISTANCE.

(a) SOCIAL SECURITY ACT STATE INCOME AND ELIGIBILITY VERIFICATION SYSTEMS.—Section 1137(d)(4)(B)(i)) of the Social Security Act (42 U.S.C. 1320b–7(d)(4)(B)(i)) is amended to read as follows:

"(i) the State shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

(b) ELIGIBILITY FOR ASSISTANCE UNDER HIGHER EDUCATION ACT OF 1965.—Section 484(g)(4)(B)(i) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)(4)(B)(i)) is amended to read as follows:

"(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. 510. NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.

(a) IN GENERAL.—Subject to subsection (b), and notwithstanding any other provision of this title, a nonprofit charitable organization, in providing any means-tested public benefit (as defined in section 501(e), but not including any hospital benefit, as defined by the Attorney General in consultation with Secretary of Health and Human Services) is not required to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits.

(b) REQUIREMENT OF STATE OR FEDERAL DETERMINATION OF ELIGIBILITY.—

(1) IN GENERAL.—Except as provided in paragraph (3), in order for a nonprofit charitable organization to provide to an applicant any means-tested public benefit, the organization shall obtain the following:

(A) In the case of a citizen or national of the United States, a written attestation (under penalty of perjury) that the applicant is a citizen or national of the United States.

(B) In the case of an alien and subject to paragraph (2), written verification, from an appropriate State or Federal agency, of the applicant's eligibility for assistance or benefits and the amount of assistance or benefits for which the applicant is eligible.

(2) NO NOTIFICATION WITHIN 10 DAYS.—If the organization is not notified within 10 business days after a request of an appropriate State or Federal agency for verification under paragraph (1)(B), the requirement under paragraph (1) shall not apply to any means-tested public benefit provided to such applicant by the organization until 30 calendar days after such notification is received.

(3) LIMITATIONS.—

(A) PRIVATE FUNDS.—The requirement under paragraph (1) shall not apply to assistance or benefits provided through private funds.

(B) SECTION 501 EXCEPTED BENEFITS.—The requirement under paragraph (1) shall not apply to assistance or benefits described in section 501(b) which are not subject to the limitations of section 501(a).

(4) ADMINISTRATION.—

(A) IN GENERAL.—The Attorney General shall through regulation provide for an appropriate procedure for the verification required under paragraph (1)(B).

(B) TIME PERIOD FOR RESPONSE.— The appropriate State or Federal agencies shall provide for a response to a request for verification under paragraph (1)(B) of an applicant's eligibility

under section 501(a) of this title and the amount of eligibility under section 552 (or comparable provisions of State law as authorized under section 553 or 554) not later than 10 business days after the date the request is made.

(C) RECORDKEEPING.—If the Attorney General determines that recordkeeping is required for the purposes of this section, the Attorney General may require that such a record be maintained for not more than 90 days.

SEC. 511. GAO STUDY OF PROVISION OF MEANS-TESTED PUBLIC BENEFITS TO INELIGIBLE ALIENS ON BEHALF OF ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and to the Inspector General of the Department of Justice a report on the extent to which means-tested public benefits are being paid or provided to ineligible aliens in order to provide such benefits to individuals who are United States citizens or eligible aliens. Such report shall address the locations in which such benefits are provided and the incidence of fraud or misrepresentation in connection with the provision of such benefits.

(b) DEFINITIONS.—The terms "eligible alien", "ineligible alien", and "means-tested public benefits" have the meanings given such terms in section 501.

Subtitle B—Expansion of Disqualification From Immigration Benefits on the Basis of Public Charge

SEC. 531. GROUND FOR EXCLUSION.

(a) IN GENERAL.—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(4) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

"(B) FACTORS TO BE TAKEN INTO ACCOUNT.—(i) In determining whether an alien is excludable under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's—

"(I) age;

"(II) health;

"(III) family status;

"(IV) assets, resources, and financial status; and

"(V) education and skills.

"(ii) In addition to the factors under clause (i), the consular officer or the Attorney General may also consider any affidavit of support under section 213A for purposes of exclusion under this paragraph.

"(C) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 201(b)(2) or 203(a) is excludable under this paragraph unless—

"(i) the alien has obtained—

"(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A), or

"(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B); or

"(ii) the person petitioning for the alien's admission (including any additional sponsor required under section 213A(g)) has executed an affidavit of support described in section 213A with respect to such alien.

"(D) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership interest) is excludable under this paragraph unless such relative has executed an affidavit of support described in section 213A with respect to such alien.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications submitted on or after such date, not earlier than 30 days and not later than 60 days after the date the Attorney General promulgates under section 551(e) a standard form for an affidavit of support, as the Attorney General shall specify, but subparagraphs (C) and (D) of section 212(a)(4) of the Immigration and Nationality Act, as so amended, shall not apply to applications with respect to which an official interview with an immigration officer was conducted before such effective date.

SEC. 532. GROUND FOR DEPORTATION.

(a) IMMIGRANTS.—Section 241(a)(5) (8 U.S.C. 1251(a)(5)) is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—

"(i) Except as provided in subparagraph (B), an immigrant who during the public charge period becomes a public charge, regardless of when the cause for becoming a public charge arises, is deportable.

"(ii) The immigrant shall be subject to deportation under this paragraph only if the deportation proceeding is initiated not later than the end of the 7-year period beginning on the last date the immigrant receives a benefit described in subparagraph (D) during the public charge period.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

"(i) to an alien granted asylum under section 208;

"(ii) to an alien admitted as a refugee under section 207; or

"(iii) if the cause of the alien's becoming a public charge—

"(I) arose after entry in the case of an alien who entered as an immigrant or after adjustment to lawful permanent resident status in the case of an alien who entered as a nonimmigrant, and

"(II) was a physical illness or physical injury so serious the alien could not work at any job, or was a mental disability that required continuous institutionalization.

"(C) DEFINITIONS.—

"(i) PUBLIC CHARGE PERIOD.—For purposes of subparagraph (A), the term 'public charge period' means the period ending 7 years after the date on which the alien attains the status of an alien lawfully admitted for permanent residence (or attains such status on a conditional basis).

"(ii) PUBLIC CHARGE.—For purposes of subparagraph (A), the term 'public charge' includes any alien who receives benefits described in subparagraph (D) for an aggregate period of at least 12 months or 36 months in the case of an alien described in subparagraph (E).

"(D) BENEFITS DESCRIBED.—

"(i) IN GENERAL.—Subject to clause (ii), the benefits described in this subparagraph are means-tested public benefits defined under section 213A(e)(1).

"(ii) EXCEPTIONS.—Benefits described in this subparagraph shall not include the following:

"(I) Any benefits to which the exceptions described in section 213A(e)(2) apply.

"(II) Emergency medical assistance (as defined in subparagraph (F)).

"(III) Payments for foster care and adoption assistance under parts B and E of title IV of the Social Security Act made on the child's behalf under such part.

"(IV) Benefits under laws administered by the Secretary of Veterans Affairs and any other benefit available by reason of service in the United States Armed Forces.

"(V) Benefits under the Head Start Act.

"(VI) Benefits under the Job Training Partnership Act.

"(VII) Benefits under any English as a second language program.

"(iii) SUCCESSOR PROGRAMS.—Benefits described in this subparagraph shall include any benefits provided under any successor program as identified by the Attorney General in consultation with other appropriate officials.

"(E) SPECIAL RULE FOR BATTERED SPOUSE AND CHILD.—Subject to the second sentence of this subparagraph, an alien is described under this subparagraph if the alien demonstrates that—

"(i)(I) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (II) the alien's child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty;

"(ii) the need for benefits described in subparagraph (D) beyond an aggregate period of 12 months has a substantial connection to the battery or cruelty described in clause (i); and

"(iii) any battery or cruelty under clause (i) has been recognized in an order of a judge or an administrative law judge or a prior determination of the Service.

An alien shall not be considered to be described under this subparagraph during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.

"(F) EMERGENCY MEDICAL ASSISTANCE.—

"(i) IN GENERAL.—For purposes of subparagraph (C)(ii)(II), the term 'emergency medical assistance' means medical assistance under title XIX of the Social Security Act (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition of the alien involved and are not related to an organ transplant procedure.

"(ii) EMERGENCY MEDICAL CONDITION DEFINED.—For purposes of this subparagraph, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(I) placing the patient's health in serious jeopardy,

"(II) serious impairment to bodily functions, or

"(III) serious dysfunction of any bodily organ or part.".

(b) EXCLUSION AND DEPORTATION OF NONIMMIGRANTS COMMITTING FRAUD OR MISREPRESENTATION IN OBTAINING BENEFITS.—

(1) EXCLUSION.—Section 212(a)(6)(C) (8 U.S.C. 1182(a)(6)(C)), as amended by section 344(a), is amended—

(A) by redesignating clause (iii) as clause (iv), and

(B) by inserting after clause (ii) the following clause (iii):

"(iii) NONIMMIGRANT PUBLIC BENEFIT RECIPIENTS.—Any alien who was admitted as a nonimmigrant and who has obtained benefits for which the alien was ineligible, through fraud or misrepresentation, under Federal law is excludable for a period of 5 years from the date of the alien's departure from the United States.".

(2) DEPORTATION.—Section 241(a)(1)(C) (8 U.S.C. 1251(a)(1)(C)) is amended by adding after clause (ii) the following:

"(iii) NONIMMIGRANT PUBLIC BENEFIT RECIPIENTS.—Any alien who was admitted as a nonimmigrant and who has obtained through fraud or misrepresentation benefits for which the alien was ineligible under Federal law is deportable.".

(c) INELIGIBILITY TO NATURALIZATION FOR ALIENS DEPORTABLE AS PUBLIC CHARGE.—

(1) IN GENERAL.—Chapter 2 of title III of the Act is amended by inserting after section 315 the following new section:"

INELIGIBILITY TO NATURALIZATION FOR PERSONS DEPORTABLE AS PUBLIC CHARGE

"SEC. 315A. (a) A person shall not be naturalized if the person is deportable as a public charge under section 241(a)(5).

"(b) An applicant for naturalization shall provide a written attestation, under penalty of perjury, as part of the application for naturalization that the applicant is not deportable as a public charge under section 241(a)(5) to the best of the applicant's knowledge.

"(c) The Attorney General shall make a determination that each applicant for naturalization is not deportable as a public charge under section 241(a)(5).".

(2) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 315 the following:

"Sec. 315A. Ineligibility to naturalization for persons deportable as public charge".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in this paragraph, the amendment made by subsection (a) shall apply only to aliens who obtain the status of an alien lawfully admitted for permanent residence more than 30 days after the date of the enactment of this Act.

(B) APPLICATION TO CURRENT ALIENS.—Such amendments shall apply also to aliens who obtained the status of an alien lawfully admitted for permanent residence less than 30 days after the date of the enactment of this Act, but only with respect to benefits received after the 1-year period beginning on the date of enactment and benefits received before such period shall not be taken into account.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act and shall apply to fraud or misrepresentation committed before, on, or after such date.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act and shall apply to applications submitted on or after 30 days after the date of the enactment of this Act.

Subtitle C—Affidavits of Support and Attribution of Income

SEC. 551. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Title II is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—

"(1) TERMS OF AFFIDAVIT.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

"(A) in which the sponsor agrees to provide support to maintain the sponsored alien at an annual income that is not less than the appropriate percentage (applicable to the sponsor under subsection (g)) of the Federal poverty line during the period in which the affidavit is enforceable;

"(B) that is legally enforceable against the sponsor by the sponsored alien, the Federal Government, any State (or any political subdivision of such State), or by any other entity that provides any means-tested public benefit (as defined in subsection (e)), consistent with the provisions of this section; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (b)(2).

"(2) PERIOD OF ENFORCEABILITY.—An affidavit of support shall be enforceable with respect to benefits provided for an alien before the date the alien is naturalized as a citizen of the United States, or, if earlier, the termination date provided under paragraph (3).

"(3) TERMINATION OF PERIOD OF ENFORCEABILITY UPON COMPLETION OF REQUIRED PERIOD OF EMPLOYMENT, ETC.—

"(A) IN GENERAL.—An affidavit of support is not enforceable on or after the first day of a year if it is demonstrated to the satisfaction of the Attorney General that the sponsored alien may be credited with an aggregate of 40 qualifying quarters under this paragraph for previous years.

"(B) QUALIFYING QUARTER DEFINED.—For purposes this paragraph, the term 'qualifying quarter' means a qualifying quarter of coverage under title II of the Social Security Act in which the sponsored alien—

"(i) has earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits; and

"(ii) has not received any means-tested public benefit.

"(C) CREDITING FOR DEPENDENTS AND SPOUSES.—For purposes of this paragraph, in determining the number of qualifying quarters for which a sponsored alien has worked for purposes of subparagraph (A), a sponsored alien not meeting the requirement of subparagraph (B)(i) for any quarter shall be treated as meeting such requirements if—

"(i) their spouse met such requirement for such quarter and they filed a joint income tax return covering such quarter; or

"(ii) the individual who claimed such sponsored alien as a dependent on an income tax return covering such quarter met such requirement for such quarter.

"(D) PROVISION OF INFORMATION TO SAVE SYSTEM.—The Attorney General shall ensure that appropriate information regarding the application of this paragraph is provided to the system for alien verification of eligibility (SAVE) described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b-7(d)(3)).

"(b) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

"(1) REQUEST FOR REIMBURSEMENT.—

"(A) REQUIREMENT.—Upon notification that a sponsored alien has received any means-tested public benefit, the appropriate nongovernmental entity which provided such benefit or the appropriate entity of the Federal Government, a State, or any political subdivision of a State shall request reimbursement by the sponsor in an amount which is equal to the unreimbursed costs of such benefit.

"(B) REGULATIONS.—The Attorney General, in consultation with the heads of other appropriate Federal agencies, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) ACTIONS TO COMPEL REIMBURSEMENT.—

"(A) IN CASE OF NONRESPONSE.—If within 45 days after a request for reimbursement under paragraph (1)(A), the appropriate entity has not received a response from the sponsor indicating a willingness to commencc payment an action may be brought against the sponsor pursuant to the affidavit of support.

"(B) IN CASE OF FAILURE TO PAY.—If the sponsor fails to abide by the repayment terms established by the appropriate entity, the entity may bring an action against the sponsor pursuant to the affidavit of support.

"(C) LIMITATION ON ACTIONS.—No cause of action may be brought under this paragraph later than 10 years after the date on which the sponsored alien last received any means-tested public benefit to which the affidavit of support applies.

"(3) USE OF COLLECTION AGENCIES.—If the appropriate entity under paragraph (1)(A) requests reimbursement from the sponsor or brings an action against the sponsor pursuant to the affidavit of support, the appropriate entity may appoint or hire an individual or other person to act on behalf of such entity acting under the authority of law for purposes of collecting any amounts owed.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently a resident within 30 days of any change of address of the sponsor during the period in which an affidavit of support is enforceable.

"(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the sponsored alien has received any benefit described in section 241(a)(5)(D) not less than $2,000 or more than $5,000.

The Attorney General shall enforce this paragraph under appropriate regulations.

"(e) MEANS-TESTED PUBLIC BENEFIT.—

"(1) IN GENERAL.—Subject to paragraph (2), the term 'means-tested public benefit' means any public benefit (including cash, medical, housing, food, and social services) provided or funded in whole or in part by the Federal Government, or of a State or political subdivision of a State, in which the eligibility of an individual, household, or family eligibility unit for such benefit or the amount of such benefit, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

"(2) EXCEPTIONS.—Such term does not include the following benefits:

"(A) Short-term noncash emergency disaster relief.

"(B) Assistance or benefits under—

"(i) the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(ii) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

"(iii) section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note);

"(iv) the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note);

"(v) section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note); and

"(vi) the food distribution program on Indian reservations established under section 4(b) of Public Law 88–525 (7 U.S.C. 2013(b)).

"(C) Public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such disease *(which may not include treatment for HIV infection or acquired immune deficiency syndrome).*

"(D) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

"(E) Benefits under any means-tested programs under the Elementary and Secondary Education Act of 1965.

"(F) Such other in-kind service or noncash assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence) and short-term, shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

"(i) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

"(ii) such service or assistance is necessary for the protection of life, safety, or public health; and

"(iii) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources.

"(f) JURISDICTION.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any appropriate court—

"(1) by a sponsored alien, with respect to financial support; or

"(2) by the appropriate entity of the Federal Government, a State or any political subdivision of a State, or by any other nongovernmental entity under subsection (b)(2), with respect to reimbursement.

"(g) SPONSOR DEFINED.—

"(1) IN GENERAL.—For purposes of this section the term 'sponsor' in relation to a sponsored alien means an individual who executes an affidavit of support with respect to the sponsored alien and who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is at least 18 years of age;

"(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States;

"(D) is petitioning for the admission of the alien under section 204; and

"(E) demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 200 percent of the Federal poverty line (or in the case of an affidavit for a spouse or minor child of the petitioner 140 percent of the Federal poverty line).

"(2) INCOME REQUIREMENT CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line and accepts joint and several liability together with an individual under paragraph (5).

"(3) ACTIVE DUTY ARMED SERVICES CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but is on active duty (other than active duty for training) in the Armed Forces of the United States, is petitioning for the admission of the alien under section 204 as the spouse or child of the individual, and demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 100 percent of the Federal poverty line.

"(4) CERTAIN EMPLOYMENT-BASED IMMIGRANTS CASE.—Such term also includes an individual—

"(A) who does not meet the requirement of paragraph (1)(D), but is the relative of the sponsored alien who filed a classification petition for the sponsored alien as an employment-based immigrant under section 203(b) or who has a significant ownership interest in the entity that filed such a petition; and

"(B)(i) who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 200 percent of the Federal poverty line (or in the case of an affidavit for a spouse or minor child of the petitioner 140 percent of the Federal poverty line), or

"(ii) does not meet the requirement of paragraph (1)(E) but demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line and accepts joint and several liability together with an individual under paragraph (5).

"(5) NON-PETITIONING CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who accepts joint and several liability with a petitioning sponsor under paragraph (2) or relative of an employment-based immigrant under paragraph (4) and who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 200 percent of the Federal poverty line (or in the case of an affidavit for a spouse or minor child of the petitioner 140 percent of the Federal poverty line).

"(6) DEMONSTRATION OF MEANS TO MAINTAIN INCOME.—

"(A) IN GENERAL.—

"(i) METHOD OF DEMONSTRATION.—For purposes of this section, a demonstration of the means to maintain income shall include provision of a certified copy of the individual's Federal income tax return for the individual's 3 most recent taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are certified copies of such returns.

"(ii) PERCENT OF POVERTY.—For purposes of this section, a reference to an annual income equal to at least a particular percentage of the Federal poverty line means an annual income equal to at least such percentage of the Federal poverty line for a family unit of a size equal to the number of members of the sponsor's household (including family and non-family dependents) plus the total number of other dependents and aliens sponsored by that sponsor.

"(B) LIMITATION.—The Secretary of State, or the Attorney General in the case of adjustment of status, may provide that the demonstration under subparagraph (A) ·applies only to the most recent taxable year.

"(h) FEDERAL POVERTY LINE DEFINED.—For purposes of this section, the term 'Federal poverty line' means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

"(i) SPONSOR'S SOCIAL SECURITY ACCOUNT NUMBER REQUIRED TO BE PROVIDED.—(1) An affidavit of support shall include the social security account number of each sponsor.

"(2) The Attorney General shall develop an automated system to maintain the social security account number data provided under paragraph (1).

"(3) The Attorney General shall submit an annual report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth—

"(A) for the most recent fiscal year for which data are available the number of sponsors under this section and the number of sponsors in compliance with the financial obligations of this section; and

"(B) a comparison of such numbers with the numbers of such sponsors for the preceding fiscal year.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.".

(c) SETTLEMENT OF CLAIMS PRIOR TO NATURALIZATION.—Section 316(a) (8 U.S.C. 1427(a)) is amended by striking "and" before "(3)", and by inserting before the period at the end the following: ", and (4) in the case of an applicant that has received assistance under a means-tested public benefits program (as defined in subsection (e) of section 213A) and with respect to which amounts are owing under an affidavit of support executed under such section, provides satisfactory evidence that there are no outstanding amounts that are owing pursuant to such affidavit by any sponsor who executed such affidavit".

(d) EFFECTIVE DATE; PROMULGATION OF FORM.—

(1) IN GENERAL.—The amendments made by this section shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under paragraph (2).

(2) PROMULGATION OF FORM.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the heads of other appropriate agencies, shall promulgate a standard form for an affidavit of support consistent with the provisions of section 213A of the Immigration and Nationality Act.

SEC. 552. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO SPONSORED IMMIGRANTS.

(a) DEEMING REQUIREMENT FOR FEDERAL MEANS-TESTED PUBLIC BENEFITS.—Subject to subsections (d) and (h), for purposes of determining the eligibility of an alien for any Federal means-tested public benefit, and the amount of such benefit, income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be income and resources of such alien.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection shall include the income and resources of—

(1) each sponsor under section 213A of the Immigration and Nationality Act;

(2) each person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement other than under section 213A with respect to such alien, and

(3) each sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—

(1) IN GENERAL.—Subject to paragraph (3), for an alien for whom an affidavit of support under section 213A of the Immigration and Nationality Act has been executed, the requirement of subsection (a) shall apply until the alien is naturalized as a citizen of the United States.

(2) SPECIAL RULE FOR OUTDATED AFFIDAVIT OF SUPPORT.—Subject to paragraph (3), for an alien for whom an affidavit of support has been executed other than as required under section 213A of the Immigration and Nationality Act, the requirement of subsection (a) shall apply for a period of 5 years beginning on the day such alien was provided lawful permanent resident status after the execution of such affidavit or agreement, but in no case after the date of naturalization of the alien.

(3) EXCEPTION TO GENERAL RULE.—Subsection (a) shall not apply and the period of attribution of a sponsor's income and resources under this subsection with respect to an alien shall terminate at such time as an affidavit of support of such sponsor with respect to the alien becomes no longer enforceable under section 213A(a)(3) of the Immigration and Nationality Act.

(4) PROVISION OF INFORMATION TO SAVE.—The Attorney General shall ensure that appropriate information regarding sponsorship and the operation of this section is provided to the system for alien verification of eligibility (SAVE) described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b-7(d)(3)).

(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—For an alien for whom an affidavit of support under section 213A of the Immigration and Nationality Act has been executed, if a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor. The agency shall notify the Attorney General of each such determination, including the names of the sponsor and the sponsored alien involved.

(2) EXCEPTED BENEFITS.—The requirements of subsection (a) shall not apply to the following:

(A)(i) Medical assistance under title XIX of the Social Security Act (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition of the alien involved and are not related to an organ transplant procedure.

(ii) For purposes of this subparagraph, the term "emergency medical condition" means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

(I) placing the patient's health in serious jeopardy,

(II) serious impairment to bodily functions, or

(III) serious dysfunction of any bodily organ or part.

(B) Short-term noncash emergency disaster relief.

(C) Assistance or benefits under—

(i) the National School Lunch Act (42 U.S.C. 1751 et seq.);

(ii) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(iii) section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note);

(iv) the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note);

(v) section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note); and

(vi) the food distribution program on Indian reservations established under section 4(b) of Public Law 88–525 (7 U.S.C. 2013(b)).

(D) Public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such disease (which may not include treatment for HIV infection or acquired immune deficiency syndrome).

(E) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

(F) Benefits under any means-tested programs under the Elementary and Secondary Education Act of 1965.

(G) Such other in-kind service or noncash assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence) and short-term, shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(i) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(ii) such service or assistance is necessary for the protection of life, safety, or public health; and

(iii) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources.

(e) FEDERAL MEANS-TESTED PUBLIC BENEFIT DEFINED.—The term "Federal means-tested public benefit" means any public benefit (including cash, medical, housing, and food assistance and social services) provided or funded in whole or in part by the Federal Government in which the eligibility of an individual, household, or family eligibility unit for the benefit, or the amount of the benefit, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(f) SPECIAL RULE FOR BATTERED SPOUSE AND CHILD.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of this section, subsection (a) shall not apply to benefits—

(A) during a 12 month period if the alien demonstrates that (i) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to or acquiesced to such battery or cruelty, or (ii) the alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and the battery or cruelty described in clause (i) or (ii) (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the public benefits applied for; and

(B) after a 12 month period (regarding the batterer's income and resources only) if the alien demonstrates that such battery or cruelty under subparagraph (A) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the benefits.

(2) LIMITATION.—The exception under paragraph (1) shall not apply to benefits for an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual who was subjected to such battery or cruelty.

(g) APPLICATION.—

(1) IN GENERAL.—The provisions of this section shall apply with respect to determinations of eligibility and amount of benefits for individuals for whom an application is filed on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

(2) REDETERMINATIONS.—This section shall apply with respect to any redetermination of eligibility and amount of benefits occurring on or after the date determined under paragraph (1).

(h) NO DEEMING REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.—A nonprofit charitable organization operating any Federal means-tested public benefit program is not required to deem that the income or assets of any applicant for any benefit or assistance under such program include the income or assets described in subsection (b).

SEC. 553. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES AUTHORITY FOR STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or political subdivision of a State is authorized, for purposes of determining the eligibility of an alien for benefits and the amount of benefits, under any means-based public benefit program of a State or a political subdivision of a State (other than a program of assistance provided or funded, in whole or in part, by the Federal Government), to require that the income and resources of any individual under section 552(b) be deemed to be the income and resources of such alien.

(b) LIMITATIONS.—

(1) EXCEPTIONS.—Any attribution of income and resources pursuant to the authority of subsection (a) shall be subject to exceptions comparable to the exceptions of section 552(d).

(2) PERIOD OF DEEMING.—Any period of attribution of income and resources pursuant to the authority of subsection (a) shall not exceed the period of attribution under section 552(c).

SEC. 554. AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS OF STATES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL CASH PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or political subdivision of a State is authorized to prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or political subdivision of a State are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 552(b)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

Subtitle D—Miscellaneous Provisions

SEC. 561. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

"§506. Seals of departments or agencies

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such *seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,*

shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an alien's application for, or receipt of, a Federal benefit to which the alien is not entitled, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States; and

"(2) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.".

SEC. 562. COMPUTATION OF TARGETED ASSISTANCE.

(a) IN GENERAL.—Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) All grants made available under this paragraph for a fiscal year (other than the Targeted Assistance Ten Percent Discretionary Program) shall be allocated by the Office of Resettlement in a manner that ensures that each qualifying county shall receive the same amount of assistance for each refugee and entrant residing in the county as of the beginning of the fiscal year who arrived in the United States not more than 60 months prior to such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective for fiscal years after fiscal year 1996.

SEC. 563. TREATMENT OF EXPENSES SUBJECT TO EMERGENCY MEDICAL SERVICES EXCEPTION.

(a) IN GENERAL.—Subject to such amounts as are provided in advance in appropriation Acts, each State or political subdivision of a State that provides medical assistance for care and treatment of an emergency medical condition (as defined for purposes of section 501(b)(1)) through a public hospital or other public facility (including a nonprofit hospital that is eligible for an additional payment adjustment under section 1886 of the Social Security Act) or through contract with another hospital or facility to an individual who is an alien not lawfully present in the United States is eligible for payment from the Federal Government of its costs of providing such services, but only to the extent that such costs are not otherwise reimbursed through any other Federal program and cannot be recovered from the alien or another person.

(b) CONFIRMATION OF IMMIGRATION STATUS REQUIRED.—No payment shall be made under this section with respect to services furnished to an individual unless the immigration status of the individual has been verified through appropriate procedures established by the Secretary of Health and Human Services and the Attorney General.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EFFECTIVE DATE.—Subsection (a) shall apply to medical assistance for care and treatment of an emergency medical condition furnished on or after October 1, 1996.

SEC. 564. REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY AMBULANCE SERVICES.

Subject to the availability of appropriations, the Attorney General shall fully reimburse States and political subdivisions of States for costs incurred by such a State or subdivision for emergency ambulance services provided to any alien who—

(1) is injured while crossing a land or sea border of the United States without inspection or at any time or place other than as designated by the Attorney General; and

(2) is under the custody of the State or subdivision pursuant to a transfer, request, or other action by a Federal authority.

SEC. 565. PILOT PROGRAMS TO REQUIRE BONDING.

(a) IN GENERAL.—

(1) The Attorney General of the United States shall establish a pilot program in 5 district offices of the Immigration and Naturalization Service to require aliens to post a bond in addition to the affidavit requirements under section 551 and the deeming requirements under section 552. Any pilot program established pursuant to this subsection shall require an alien to post a bond in an amount sufficient to cover the cost of benefits for the alien and the alien's dependents under the programs described in section 241(a)(5)(D) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(5)(D)) and shall remain in effect until the departure, naturalization, or death of the alien.

(2) Suit on any such bonds may be brought under the terms and conditions set forth in section 213A of the Immigration and Nationality Act.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations for establishing the pilot programs, including—

(1) criteria and procedures for—

(A) certifying bonding companies for participation in the program, and

(B) debarment of any such company that fails to pay a bond, and

(2) criteria for setting the amount of the bond to assure that the bond is in an amount that is not less than the cost of providing benefits under the programs described in section 241(a)(5)(D) for the alien and the alien's dependents for 6 months.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(d) ANNUAL REPORTING REQUIREMENT.—Beginning 9 months after the date of implementation of the pilot program, the Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and the Senate a report on the effectiveness of the program. The Attorney General shall submit a final evaluation of the program not later than 1 year after termination.

(e) SUNSET.—The pilot program under this section shall terminate after 3 years of operation.

(f) BONDS IN ADDITION TO SPONSORSHIP AND DEEMING REQUIREMENTS.—Section 213 of the Immigration and Nationality Act (8 U.S.C. 1183) is amended by inserting "(subject to the affidavit of support requirement and attribution of sponsor's income and resources under section 213A)" after "in the discretion of the Attorney General".

SEC. 566. REPORTS.

Not later than 180 days after the end of each fiscal year, the Attorney General shall submit a report to the Inspector General of the Department of Justice and the Committees on the Judiciary of the House of Representatives and of the Senate describing the following:

(1) PUBLIC CHARGE DEPORTATIONS.—The number of aliens deported on public charge grounds under section 241(a)(5) of the Immigration and Nationality Act during the previous fiscal year.

(2) INDIGENT SPONSORS.—The number of determinations made under section 552(d)(1) of this Act (relating to indigent sponsors) during the previous fiscal year.

(3) REIMBURSEMENT ACTIONS.—The number of actions brought, and the amount of each action, for reimbursement under section 213A of the Immigration and Nationality Act (including private collections) for the costs of providing public benefits.

(4) VERIFICATIONS OF ELIGIBILITY.—The number of situations in which a Federal or State agency fails to respond within 10 days to a request for verification of eligibility under section 510(b), including the reasons for, and the circumstances of, each such failure.

Subtitle E—Housing Assistance

SEC. 571. SHORT TITLE.

This subtitle may be cited as the "Use of Assisted Housing by Aliens Act of 1996".

SEC. 572. PRORATING OF FINANCIAL ASSISTANCE.

Section 214(b) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) If the eligibility for financial assistance of at least one member of a family has been affirmatively established under the program of financial assistance and under this section, and the eligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to such family by the Secretary of Housing and Urban Development shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family.".

SEC. 573. ACTIONS IN CASES OF TERMINATION OF FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Section 214(c)(1) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(c)(1)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "on the date of the enactment of the Housing and Community Development Act of 1987"; and

(B) by striking "may, in its discretion," and inserting "shall";

(2) in subparagraph (A), by adding at the end the following new sentence: "Financial assistance continued under this subparagraph for a family shall be provided only on a prorated basis under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for such assistance under the program for financial assistance and under this section."; and

(3) by striking subparagraph (B), and inserting the following new subparagraph:

"(B) Defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other housing, subject to the following requirements:

"(i) Except as provided in clause (ii), any deferral under this subparagraph shall be for a single 3-month period.

"(ii) The time period referred to in clause (i) shall not apply in the case of a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of such Act.".

(b) SCOPE OF APPLICATION.—

(1) IN GENERAL.—The amendment made by subsection (a)(3) shall apply to any deferral granted under section 214(c)(1)(B) of the Housing and Community Development Act of 1980 on or after the date of the enactment of this Act.

(2) TREATMENT OF DEFERRALS AND RENEWALS GRANTED BEFORE ENACTMENT.—In the case of any deferral which was granted or renewed under section 214(c)(1)(B) of the Housing and Community Development Act of 1980 before the date of the enactment of this Act—

(A) if the deferral or renewal expires before the expiration of the 3-month period beginning upon such date of enactment, the deferral or renewal may, upon expiration of the deferral period, be renewed for not more than a single additional 3-month period; and

(B) if the deferral or renewal expires on or after the expiration of such 3-month period, the deferral or renewal may not be renewed or extended.

SEC. 574. VERIFICATION OF IMMIGRATION STATUS AND ELIGIBILITY FOR FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Section 214(d) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(d)) is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

"(d) No individual applying for financial assistance shall receive such financial assistance before the affirmative establishment and verification of the eligibility of the individual under this subsection by the Secretary or other appropriate entity, and the following conditions shall apply with respect to financial assistance being or to be provided for the benefit of an individual:";

(2) in paragraph (1)—

(A) in subparagraph (A), by adding at the end the following: "If the declaration states that the individual is not a citizen or national of the United States and the individual is younger than 62 years of age, the declaration shall be verified by the Immigration and Naturalization Service.";

(B) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) In the case of any individual who is younger than 62 years of age and is receiving or applying for financial assistance, there must be presented the item (or items) described in one of the following subparagraphs for that individual:

"(i) A United States passport (either current or expired if issued both within the previous 20 years and after the individual attained 18 years of age).

"(ii) A resident alien card or an alien registration card, if the card (i) contains a photograph of the individual and (ii) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

"(iii) A driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual.

"(iv) If the individual attests to being a citizen or national of the United States and the individual does not have other documentation under this paragraph, such other documents or evidence that identify the individual, as the Attorney General may designate as constituting reasonable evidence indicating United States citizenship.".

(3) by striking paragraph (2) and inserting the following new paragraph:

"(2) In the case of an individual who is not a citizen or national of the United States, is not 62 years of age or older, and is applying for financial assistance, the Secretary may not provide such assistance for the benefit of the individual before such documentation is presented and verified under paragraph (3) or (4).";

(4) in paragraph (3), by striking "(2)(A) is presented" and inserting "(1)(B)(ii) is presented and contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number)"

(5) in paragraph (4)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "on the date of the enactment of the Housing and Community Development Act of 1987" and inserting "or applying for financial assistance";

(ii) by striking "paragraph (2)" and inserting "paragraph (1)(B)(ii)"; and

(iii) by striking "paragraph (2)(A)" and inserting "paragraph (1)(B)(ii)";

(B) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting ", not to exceed 30 days," after "reasonable opportunity"; and

(II) by striking "and" at the end; and

(ii) by striking clause (ii) and inserting the following new clauses:

"(ii) in the case of any individual who is receiving assistance, may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status until such 30-day period has expired, and

"(iii) in the case of any individual who is applying for financial assistance, may not deny the application for such assistance on the basis of the individual's immigration status until such 30-day period has expired; and"; and

(C) in subparagraph (B), by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) the Secretary shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,

"(ii) pending such verification or appeal, the Secretary may not—

"(I) in the case of any individual who is receiving assistance, delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status, and

"(II) in the case of any individual who is applying for financial assistance, deny the application for such assistance on the basis of the individual's immigration status, and";

(6) in paragraph (5), by striking all that follows "satisfactory immigration status" and inserting the following: ", the Secretary shall—

"(A) deny the individual's application for financial assistance or terminate the individual's eligibility for financial assistance, as the case may be,

"(B) provide the individual with written notice of the determination under this paragraph, which in the case of an individual who is receiving financial assistance shall also notify the individual of the opportunity for a hearing under subparagraph (C), and

"(C) in the case of an individual who is receiving financial assistance and requests a hearing under this subparagraph, provide a hearing within 5 days of receipt of the notice under subparagraph (B), at which hearing the individual may produce the documentation of immigration status required under this subsection or the reasons for the termination shall be explained and the individual shall be notified of his or her eligibility for deferral under subsection (c)(1)(B).";

(7) by striking paragraph (6) and inserting the following new paragraph:

"(6) The Secretary shall terminate the eligibility for financial assistance of an individual and the members of the household of the individual, for a period of not less than 24 months, upon determining that such individual has knowingly permitted another individual who is not eligible for such assistance to use the assistance (including residence in the unit receiving the assistance). This provision shall not apply to a family if the ineligibility of the ineligible individual at issue was considered in calculating any proration under this section of assistance provided for the family."; and

(8) by striking the matter following paragraph (6) and inserting the following new paragraphs:

"(7) An owner of housing receiving financial assistance—

"(A) may initiate procedures to affirmatively establish or verify the eligibility of an individual or family under this section at any time at which the owner determines that such eligibility is in question, regardless of whether or not the individual or family is at or near the top of the waiting list for the housing;

"(B) shall affirmatively establish or verify the eligibility of an individual or family under this section in accordance with the procedures set forth in section 274A(b)(1) of the Immigration and Nationality Act; and

"(C) shall have access to any relevant information contained in the SAVE system (or any successor thereto) that relates to any individual or family applying for financial assistance.

"For purposes of this paragraph, the term 'owner' includes any public housing agency (as such term is defined in section 3 of the United States Housing Act of 1937). For purposes of this paragraph, when used in reference to a family, the term 'eligibility' means the eligibility of each member of the family.

"(8) For purposes of this subsection, the following definitions shall apply:

"(A) The term 'satisfactory immigration status' means an immigration status which does not make the individual ineligible for financial assistance.

"(B) The term 'Secretary' means the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Notwithstanding section 576 of this Act, the amendment made by subsection (a)(2)(B) of this section shall apply to application for benefits filed on or after such date as the Attorney General specifies in regulations under paragraph (2) of this subsection. Such date shall be at least 60 days, and not more than 90 days, after the date the Attorney General first issues such regulations.

(2) REGULATIONS.—The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out the amendment made by subsection (a)(2)(B) of this section not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

SEC. 575. PROHIBITION OF SANCTIONS AGAINST ENTITIES MAKING FINANCIAL ASSISTANCE ELIGIBILITY DETERMINATIONS.

Section 214(e) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(e)) is amended—

(1) in paragraph (2), by inserting "or" after the comma at the end;

(2) in paragraph (3), by inserting after ", or" at the end the following: "the response from the Immigration and Naturalization Service to the appeal of such individual."; and

(3) by striking paragraph (4).

SEC. 576. REGULATIONS.

(a) ISSUANCE.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue any regulations necessary to implement the amendments made by this subtitle. Such regulations shall be issued in the form of an interim final rule, which shall take effect upon issuance and shall not be subject to the provisions of section 533 of title 5, United States Code, regarding notice or an opportunity for comment.

(b) FAILURE TO ISSUE.—If the Secretary fails to issue the regulations required under subsection (a) before the expiration of the period referred to in such subsection, the regulations relating to restrictions on assistance to noncitizens, contained in the final rule issued by the Secretary of Housing and Urban Development in RIN 2501–AA63 (Docket No. R-95–1409; FR–2383–F–050), published in the Federal Register of March 20, 1995 (Vol. 60., No. 53; pp. 14824–14861), shall not apply after the expiration of such period.

SEC. 577. REPORT ON HOUSING ASSISTANCE PROGRAMS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Committee on the Judiciary and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on the Judiciary and the Committee on Banking and Financial Services of the House of Representatives, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980 and containing statistics with respect to the number of individuals denied financial assistance under such section.

Subtitle F—General Provisions

SEC. 591. EFFECTIVE DATES.

Except as provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

SEC. 592. STATUTORY CONSTRUCTION.

Nothing in this title may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this title, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

SEC. 593. NOT APPLICABLE TO FOREIGN ASSISTANCE.

This title does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

SEC. 594. NOTIFICATION.

(a) IN GENERAL.—Each agency of the Federal Government or a State or political subdivision that administers a program affected by the provisions of this title, shall, directly or through the States, provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this title.

(b) FAILURE TO GIVE NOTICE.—Nothing in this section shall be construed to require or authorize continuation of eligibility if the notice under this section is not provided.

SEC. 595. DEFINITIONS.

Except as otherwise provided in this title, for purposes of this title—

(1) the terms "alien", "Attorney General", "national", "naturalization", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act; and

(2) the term "child" shall have the meaning given such term in section 101(c) of the Immigration and Nationality Act.

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Refugees, Parole, and Asylum

SEC. 601. PERSECUTION FOR RESISTANCE TO COERCIVE POPULATION CONTROL METHODS.

(a) DEFINITION OF REFUGEE.—

(1) Section 101(a)(42) (8 U.S.C. 1101(a)(42)) is amended by adding at the end the following: "For purposes of determinations under this Act, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.".

(2) Not later than 90 days after the end of each fiscal year, the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate describing the number and countries of origin of aliens granted refugee status or asylum under determinations pursuant to the amendment made by paragraph (1). Each such report shall also contain projections regarding the number and countries of origin of aliens that are likely to be granted refugee status or asylum for the subsequent 2 fiscal years.

(b) NUMERICAL LIMITATION.—Section 207(a) (8 U.S.C. 1157(a)) is amended by adding at the end the following new paragraph:

"(5) For any fiscal year, not more than a total of 1,000 refugees may be admitted under this subsection or granted asylum under section 208 pursuant to a determination under the third sentence of section 101(a)(42) (relating to persecution for resistance to coercive population control methods).".

SEC. 602. LIMITATION ON USE OF PAROLE

(a) PAROLE AUTHORITY.—Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)) is amended by striking "for emergent reasons or for reasons deemed strictly in the public interest" and inserting "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit".

(b) REPORT TO CONGRESS.—Not later than 90 days after the end of each fiscal year, the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate describing the number and categories of aliens paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act. Each such report shall provide the total number of aliens paroled into and residing in the United States and shall contain information and data for each country of origin concerning the number and categories of aliens paroled, the duration of parole, the current status of aliens paroled, and the number and categories of aliens returned to the custody from which they were paroled during the preceding fiscal year.

SEC. 603. TREATMENT OF LONG-TERM PAROLEES IN APPLYING WORLDWIDE NUMERICAL LIMITATIONS.

Section 201(c) (8 U.S.C. 1151(c)) is amended—

(1) by amending paragraph (1)(A)(ii) to read as follows:

"(ii) the sum of the number computed under paragraph (2) and the number computed under paragraph (4), plus"; and

(2) by adding at the end the following new paragraphs:

"(4) The number computed under this paragraph for a fiscal year (beginning with fiscal year 1999) is the number of aliens who were paroled into the United States under section 212(d)(5) in the second preceding fiscal year—

"(A) who did not depart from the United States (without advance parole) within 365 days; and

"(B) who (i) did not acquire the status of aliens lawfully admitted to the United States for permanent residence in the two preceding fiscal years, or (ii) acquired such status in such years under a provision of law (other than section 201(b)) which exempts such adjustment from the numerical limitation on the worldwide level of immigration under this section.

"(5) If any alien described in paragraph (4) (other than an alien described in paragraph (4)(B)(ii)) is subsequently admitted as an alien lawfully admitted for permanent residence, such alien shall not again be considered for purposes of paragraph (1).".

SEC. 604. ASYLUM REFORM.

(a) ASYLUM REFORM.—Section 208 (8 U.S.C. 1158) is amended to read as follows:

"ASYLUM

"SEC. 208. (a) AUTHORITY TO APPLY FOR ASYLUM.—

"(1) IN GENERAL.—Any alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters), irrespective of such alien's status, may apply for asylum in accordance with this section or, where applicable, section 235(b).

"(2) EXCEPTIONS.—

"(A) SAFE THIRD COUNTRY.—Paragraph (1) shall not apply to an alien if the Attorney General determines that the alien may be removed, pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien's nationality or, in the case of an alien having no nationality, the country of the alien's last habitual residence) in which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection, unless the Attorney General finds that it is in the public interest for the alien to receive asylum in the United States.

"(B) TIME LIMIT.—Subject to subparagraph (D), paragraph (1) shall not apply to an alien unless the alien demonstrates by clear and convincing evidence that the application has been filed within 1 year after the date of the alien's arrival in the United States.

"(C) PREVIOUS ASYLUM APPLICATIONS.—Subject to subparagraph (D), paragraph (1) shall not apply to an alien if the alien has previously applied for asylum and had such application denied.

"(D) CHANGED CIRCUMSTANCES.—An application for asylum of an alien may be considered, *notwithstanding subparagraphs (B) and (C), if the alien demonstrates to the satisfaction of the Attorney General either the existence of changed circumstances which materially affect the applicant's eligibility for asylum or extraordinary circumstances relating to the delay in filing an application within the period specified in subparagraph (B).*

"(3) LIMITATION ON JUDICIAL REVIEW.—No court shall have jurisdiction to review any determination of the Attorney General under paragraph (2).

"(b) CONDITIONS FOR GRANTING ASYLUM.—

"(1) IN GENERAL.—The Attorney General may grant asylum to an alien who has applied for asylum in accordance with the requirements and procedures established by the Attorney General under this section if the Attorney General determines that such alien is a refugee within the meaning of section 101(a)(42)(A).

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to an alien if the Attorney General determines that—

"(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

"(ii) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

"(iii) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States;

"(iv) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

"(v) the alien is inadmissible under subclause (I), (II), (III), or (IV) of section 212(a)(3)(B)(i) or removable under section 237(a)(4)(B) (relating to terrorist activity), unless, in the case only of an alien inadmissible under subclause (IV) of section 212(a)(3)(B)(i), the Attorney General determines, in the Attorney General's discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(vi) the alien was firmly resettled in another country prior to arriving in the United States.

"(B) SPECIAL RULES.—

"(i) CONVICTION OF AGGRAVATED FELONY.—For purposes of clause (ii) of subparagraph (A), an alien who has been convicted of an aggravated felony shall be considered to have been convicted of a particularly serious crime.

"(ii) OFFENSES.—The Attorney General may designate by regulation offenses that will be considered to be a crime described in clause (ii) or (iii) of subparagraph (A).

"(C) ADDITIONAL LIMITATIONS.—The Attorney General may by regulation establish additional limitations and conditions, consistent with this section, under which an alien shall be ineligible for asylum under paragraph (1).

"(D) NO JUDICIAL REVIEW.—There shall be no judicial review of a determination of the Attorney General under subparagraph (A)(v).

"(3) TREATMENT OF SPOUSE AND CHILDREN.—A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of an alien who is granted asylum under this subsection may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.

"(c) ASYLUM STATUS.—

"(1) IN GENERAL.—In the case of an alien granted asylum under subsection (b), the Attorney General—

"(A) shall not remove or return the alien to the alien's country of nationality or, in the case of a person having no nationality, the country of the alien's last habitual residence;

"(B) shall authorize the alien to engage in employment in the United States and provide the alien with appropriate endorsement of that authorization; and

"(C) may allow the alien to travel abroad with the prior consent of the Attorney General.

"(2) TERMINATION OF ASYLUM.—Asylum granted under subsection (b) does not convey a right to remain permanently in the United States, and may be terminated if the Attorney General determines that—

"(A) the alien no longer meets the conditions described in subsection (b)(1) owing to a fundamental change in circumstances;

"(B) the alien meets a condition described in subsection (b)(2);

"(C) the alien may be removed, pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien's nationality or, in the case of an alien having no nationality, the country of the alien's last habitual residence) in which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien is eligible to receive asylum or equivalent temporary protection;

"(D) the alien has voluntarily availed himself or herself of the protection of the alien's country of nationality or, in the case of an alien having no nationality, the alien's country of last habitual residence, by returning to such country with permanent resident status or the reasonable possibility of obtaining such status with the same rights and obligations pertaining to other permanent residents of that country; or

"(E) the alien has acquired a new nationality and enjoys the protection of the country of his or her new nationality.

"(3) REMOVAL WHEN ASYLUM IS TERMINATED.—An alien described in paragraph (2) is subject to any applicable grounds of inadmissibility or deportability under section 212(a) and 237(a), and the alien's removal or return shall be directed by the Attorney General in accordance with sections 240 and 241.

"(d) ASYLUM PROCEDURE.—

"(1) APPLICATIONS.—The Attorney General shall establish a procedure for the consideration of asylum applications filed under subsection (a). The Attorney General may require applicants to submit fingerprints and a photograph at such time and in such manner to be determined by regulation by the Attorney General.

"(2) EMPLOYMENT.—An applicant for asylum is not entitled to employment authorization, but such authorization may be provided under regulation by the Attorney General. An applicant who is not otherwise eligible for employment authorization shall not be granted such authorization prior to 180 days after the date of filing of the application for asylum.

"(3) FEES.—The Attorney General may impose fees for the consideration of an application for asylum, for employment authorization under this section, and for adjustment of status under section 209(b). Such fees shall not exceed the Attorney General's costs in adjudicating the applications. The Attorney General may provide for the assessment and payment of such fees over a period of time or by installments. Nothing in this paragraph shall be construed to require the Attorney General to charge fees for adjudication services provided to asylum applicants, or to limit the authority of the Attorney General to set adjudication and naturalization fees in accordance with section 286(m).

"(4) NOTICE OF PRIVILEGE OF COUNSEL AND CONSEQUENCES OF FRIVOLOUS APPLICATION.—At the time of filing an application for asylum, the Attorney General shall—

"(A) advise the alien of the privilege of being represented by counsel and of the consequences, under paragraph (6), of knowingly filing a frivolous application for asylum; and

"(B) provide the alien a list of persons (updated not less often than quarterly) who have indicated their availability to represent aliens in asylum proceedings on a pro bono basis.

"(5) CONSIDERATION OF ASYLUM APPLICATIONS.—

"(A) PROCEDURES.—The procedure established under paragraph (1) shall provide that—

"(i) asylum cannot be granted until the identity of the applicant has been checked against all appropriate records or databases maintained by the Attorney General and by the Secretary of State, including the Automated Visa Lookout System, to determine any grounds on which the alien may be inadmissible to or deportable from the United States, or ineligible to apply for or be granted asylum;

"(ii) in the absence of exceptional circumstances, the initial interview or hearing on the asylum application shall commence not later than 45 days after the date an application is filed;

"(iii) in the absence of exceptional circumstances, final administrative adjudication of the asylum application, not including administrative appeal, shall be completed within 180 days after the date an application is filed;

"(iv) any administrative appeal shall be filed within 30 days of a decision granting or denying asylum, or within 30 days of the completion of removal proceedings before an immigration judge under section 240, whichever is later; and

"(v) in the case of an applicant for asylum who fails without prior authorization or in the absence of exceptional circumstances to appear for an interview or hearing, including a hearing under section 240, the application may be dismissed or the applicant may be otherwise sanctioned for such failure.

"(B) ADDITIONAL REGULATORY CONDITIONS.—The Attorney General may provide by regulation for any other conditions or limitations on the consideration of an application for asylum not inconsistent with this Act.

"(6) FRIVOLOUS APPLICATIONS.—If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice under paragraph (4)(A), the alien shall be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such application.

"(7) NO PRIVATE RIGHT OF ACTION.—Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The item in the table of contents relating to section 208 is amended to read as follows:

"Sec. 208. Asylum.".

(2) Section 104(d)(1)(A) of the Immigration Act of 1990 (Public Law 101–649) is amended by striking "208(b)" and inserting "208".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for asylum filed on or after the first day of the first month beginning more than 180 days after the date of the enactment of this Act.

SEC. 605. INCREASE IN ASYLUM OFFICERS.

Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of asylum officers to at least 600 asylum officers by fiscal year 1997.

SEC. 606. CONDITIONAL REPEAL OF CUBAN ADJUSTMENT ACT.

(a) IN GENERAL.—Public Law 89–732 is repealed effective only upon a determination by the President under section 203(c)(3) of the Cuban Liberty and Democratic Solidarity

(LIBERTAD) Act of 1996 (Public Law 104–114) that a democratically elected government in Cuba is in power.

(b) LIMITATION.—Subsection (a) shall not apply to aliens for whom an application for adjustment of status is pending on such effective date.

Subtitle B—Miscellaneous Amendments to the Immigration and Nationality Act

SEC. 621. ALIEN WITNESS COOPERATION.

Section 214(j)(1) (8 U.S.C. 1184(j)(1)) (as added by section 130003(b)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2025)) (relating to numerical limitations on the number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)) is amended—

(1) by striking "100." and inserting "200."; and

(2) by striking "25." and inserting "50.".

SEC. 622. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "1996." and inserting "2002.".

(b) CONDITIONS ON FEDERALLY REQUESTED WAIVERS.—Section 212(e) (8 U.S.C. 1182(e)) is amended by inserting after "except that in the case of a waiver requested by a State Department of Public Health, or its equivalent" the following: ", or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii),".

(c) RESTRICTIONS ON FEDERALLY REQUESTED WAIVERS.—Section 214(k) (8 U.S.C. 1184(k)) (as added by section 220(b) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416; 108 Stat. 4319)) is amended to read as follows:

"(k)(1) In the case of a request by an interested State agency, or by an interested Federal agency, for a waiver of the 2-year foreign residence requirement under section 212(e) on behalf of an alien described in clause (iii) of such section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver;

"(B) in the case of a request by an interested State agency, the grant of such waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 20;

"(C) in the case of a request by an interested Federal agency or by an interested State agency—

"(i) the alien demonstrates a bona fide offer of full-time employment at a health facility or health care organization, which employment has been determined by the Attorney General to be in the public interest; and

"(ii) the alien agrees to begin employment with the health facility or health care organization within 90 days of receiving such waiver, and agrees to continue to work for a total of not less than 3 years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien, which would justify a lesser period of employment at such health facility or health care organization, in which case the alien must demonstrate another bona fide offer of employment at a health facility or health care organization for the remainder of such 3-year period); and

"(D) in the case of a request by an interested Federal agency (other than a request by an interested Federal agency to employ the alien full-time in medical research or training) or by an interested State agency, the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than 3 years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals.

"(2)(A) Notwithstanding section 248(2), the Attorney General may change the status of an alien who qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or health care organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status, until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least 2 years following departure from the United States.

"(3) Notwithstanding any other provision of this subsection, the 2-year foreign residence requirement under section 212(e) shall apply with respect to an alien described in clause (iii) of such section, who has not otherwise been accorded status under section 101(a)(27)(H), if—

"(A) at any time the alien ceases to comply with any agreement entered into under subparagraph (C) or (D) of paragraph (1); or

"(B) the alien's employment ceases to benefit the public interest at any time during the 3-year period described in paragraph (1)(C).".

SEC. 623. USE OF LEGALIZATION AND SPECIAL AGRICULTURAL WORKER INFORMATION.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended to read as follows:

"(5) CONFIDENTIALITY OF INFORMATION.—

"(A) IN GENERAL.—Except as provided in this paragraph, neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

"(i) use the information furnished by the applicant pursuant to an application filed under this section for any purpose other than to make a determination on the application, for enforcement of paragraph (6), or for the preparation of reports to Congress under section 404 of the Immigration Reform and Control Act of 1986;

"(ii) make any publication whereby the information furnished by any particular applicant can be identified; or

"(iii) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

"(B) REQUIRED DISCLOSURES.—The Attorney General shall provide the information furnished under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

"(C) AUTHORIZED DISCLOSURES.—The Attorney General may provide, in the Attorney General's discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

"(D) CONSTRUCTION.—

"(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Service pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

"(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

"(E) CRIME.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than $10,000.".

(b) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6) (8 U.S.C. 1160(b)(6)) is amended to read as follows:

"(6) CONFIDENTIALITY OF INFORMATION.—

"(A) IN GENERAL.—Except as provided in this paragraph, neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

"(i) use the information furnished by the applicant pursuant to an application filed under this section for any purpose other than to make a determination on the application, including a determination under subsection (a)(3)(B), or for enforcement of paragraph (7);

"(ii) make any publication whereby the information furnished by any particular individual can be identified; or

"(iii) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

"(B) REQUIRED DISCLOSURES.—The Attorney General shall provide information furnished under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

"(C) CONSTRUCTION.—

"(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Service pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

"(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

"(D) CRIME.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than $10,000.".

SEC. 624. CONTINUED VALIDITY OF LABOR CERTIFICATIONS AND CLASSIFICATION PETITIONS FOR PROFESSIONAL ATHLETES.

(a) LABOR CERTIFICATION.—Section 212(a)(5)(A) (8 U.S.C. 1182(a)(5)(A)) is amended by adding at the end the following:

"(iii) PROFESSIONAL ATHLETES.—

"(I) IN GENERAL.—A certification made under clause (i) with respect to a professional athlete shall remain valid with respect to the athlete

after the athlete changes employer, if the new employer is a team in the same sport as the team which employed the athlete when the athlete first applied for the certification.

"(II) DEFINITION.—For purposes of subclause (I), the term 'professional athlete' means an individual who is employed as an athlete by—

"(aa) a team that is a member of an association of 6 or more professional sports teams whose total combined revenues exceed $10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage; or

"(bb) any minor league team that is affiliated with such an association.".

(b) CLASSIFICATION PETITIONS.—Section 204 (8 U.S.C. 1154) is amended by adding at the end the following:

"(i) PROFESSIONAL ATHLETES.—

"(1) IN GENERAL.—A petition under subsection (a)(4)(D) for classification of a professional athlete shall remain valid for the athlete after the athlete changes employers, if the new employer is a team in the same sport as the team which was the employer who filed the petition.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'professional athlete' means an individual who is employed as an athlete by—

"(A) a team that is a member of an association of 6 or more professional sports teams whose total combined revenues exceed $10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage; or

"(B) any minor league team that is affiliated with such an association.".

SEC. 625. FOREIGN STUDENTS.

(a) LIMITATIONS.—

(1) IN GENERAL.—Section 214 (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(l)(1) An alien may not be accorded status as a nonimmigrant under section 101(a)(15)(F)(i) in order to pursue a course of study—

"(A) at a public elementary school or in a publicly funded adult education program; or

"(B) at a public secondary school unless—

"(i) the aggregate period of such status at such a school does not exceed 12 months with respect to any alien, and (ii) the alien demonstrates that the alien has reimbursed the local educational agency that administers the school for the full, unsubsidized per capita cost of providing education at such school for the period of the alien's attendance.

"(2) An alien who obtains the status of a nonimmigrant under section 101(a)(15)(F)(i) in order to pursue a course of study at a private elementary or secondary school or in a language training program that is not publicly funded shall be considered to have violated such status, and the alien's visa under section 101(a)(15)(F) shall be void, if the alien terminates or abandons such course of study at such a school and undertakes a course of study at a public elementary school, in a publicly funded adult education program, in a publicly funded adult education language training program, or at a public secondary school (unless the requirements of paragraph (1)(B) are met).".

(2) CONFORMING AMENDMENT.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended by inserting "consistent with section 214(l)" after "such a course of study".

(b) REFERENCE TO NEW GROUND OF EXCLUSION FOR STUDENT VISA ABUSERS.—For addition of ground of inadmissibility for certain nonimmigrant student abusers, see section 347.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to individuals who obtain the status of a nonimmigrant under section 101(a)(15)(F) of the Immigration and Nationality Act after the end of the 60-day period beginning on the date of the enactment of this Act, including aliens whose status as such a nonimmigrant is extended after the end of such period.

SEC. 626. SERVICES TO FAMILY MEMBERS OF CERTAIN OFFICERS AND AGENTS KILLED IN THE LINE OF DUTY.

(a) IN GENERAL.—Title II, as amended by section 205(a), is amended by adding at the end the following new section:

"TRANSPORTATION OF REMAINS OF IMMIGRATION OFFICERS AND BORDER PATROL AGENTS KILLED IN THE LINE OF DUTY

"SEC. 295. (a) IN GENERAL.—To the extent provided in appropriation Acts, when an immigration officer or border patrol agent is killed in the line of duty, the Attorney General may pay from appropriations available for the activity in which the officer or agent was engaged—

"(1) the actual and necessary expenses of transportation of the remains of the officer or agent to a place of burial located in any State, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau;

"(2) travel expenses, including per diem in lieu of subsistence, of the decedent's spouse and minor children to and from such site at rates not greater than those established for official government travel under subchapter I of chapter 57 of title 5, United States Code; and

"(3) any other memorial service authorized by the Attorney General.

"(b) PREPAYMENT.—The Attorney General may prepay any expense authorized to be paid under this section.".

(b) CLERICAL AMENDMENT.—The table of contents, as amended by section 205(b), is amended by inserting after the item relating to section 294 the following new item:

"Sec. 295. Transportation of remains of immigration officers and border patrol agents killed in the line of duty.".

Subtitle C—Provisions Relating to Visa Processing and Consular Efficiency

SEC. 631. VALIDITY OF PERIOD OF VISAS.

(a) EXTENSION OF VALIDITY OF IMMIGRANT VISAS TO 6 MONTHS.—Section 221(c) (8 U.S.C. 1201(c)) is amended by striking "four months" and inserting "six months".

(b) AUTHORIZING APPLICATION OF RECIPROCITY RULE FOR NONIMMIGRANT VISA IN CASE OF REFUGEES AND PERMANENT RESIDENTS.—Such section is further amended by inserting before the period at the end of the third sentence the following: "; except that in the case of aliens who are nationals of a foreign country and who either are granted refugee status and firmly resettled in another foreign country or are granted permanent residence and residing in another foreign country, the Secretary of State may prescribe the period of validity of such a visa based upon the treatment granted by that other foreign country to alien refugees and permanent residents, respectively, in the United States".

SEC. 632. ELIMINATION OF CONSULATE SHOPPING FOR VISA OVERSTAYS.

(a) IN GENERAL.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following:

"(g)(1) In the case of an alien who has been admitted on the basis of a nonimmigrant visa and remained in the United States beyond the period of stay authorized by the Attorney General, such visa shall be void beginning after the conclusion of such period of stay.

"(2) An alien described in paragraph (1) shall be ineligible to be readmitted to the United States as a nonimmigrant, except—

"(A) on the basis of a visa (other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality (or, if there is no office in such country, in such other consular office as the Secretary of State shall specify); or

"(B) where extraordinary circumstances are found by the Secretary of State to exist.".

(b) APPLICABILITY.—

(1) VISAS.—Section 222(g)(1) of the Immigration and Nationality Act, as added by subsection (a), shall apply to a visa issued before, on, or after the date of the enactment of this Act.

(2) ALIENS SEEKING READMISSION.—Section 222(g)(2) of the Immigration and Nationality Act, as added by subsection (a), shall apply to any alien applying for readmission to the United States after the date of the enactment of this Act, except an alien applying for readmission on the basis on a visa that—

(A) was issued before such date; and

(B) is not void through the application of section 222(g)(1) of the Immigration and Nationality Act, as added by subsection (a).

SEC. 633. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.

Section 202(a)(1) (8 U.S.C. 1152(a)(1)) is amended—

(1) by inserting "(A)" after "NONDISCRIMINATION.—"; and

(2) by adding at the end the following:

"(B) Nothing in this paragraph shall be construed to limit the authority of the Secretary of State to determine the procedures for the processing of immigrant visa applications or the locations where such applications will be processed.".

SEC. 634. CHANGES REGARDING VISA APPLICATION PROCESS.

(a) NONIMMIGRANT APPLICATIONS.—Section 222(c) (8 U.S.C. 1202(c)) is amended—

(1) by striking "personal description" through "marks of identification);";

(2) by striking "applicant" and inserting "applicant, the determination of his eligibility for a nonimmigrant visa,"; and

(3) by adding at the end the following: "At the discretion of the Secretary of State, application forms for the various classes of nonimmigrant admissions described in section 101(a)(15) may vary according to the class of visa being requested.".

(b) DISPOSITION OF APPLICATIONS.—Section 222(e) (8 U.S.C. 1202(e)) is amended—

(1) in the first sentence, by striking "required by this section" and inserting "for an immigrant visa"; and

(2) in the fourth sentence—

(A) by striking "stamp" and inserting "stamp, or other

(B) by striking "by the consular officer".

SEC. 635. VISA WAIVER PROGRAM.

(a) ELIMINATION OF JOINT ACTION REQUIREMENT.—Section 217 (8 U.S.C. 1187) is amended—

(1) in subsection (a), by striking "Attorney General and the Secretary of State, acting jointly" and inserting "Attorney General, in consultation with the Secretary of State";

(2) in subsection (c)(1), by striking "Attorney General and the Secretary of State acting jointly" and inserting "Attorney General, in consultation with the Secretary of State,"; and

(3) in subsection (d), by striking "Attorney General and the Secretary of State, acting jointly," and inserting "Attorney General, in consultation with the Secretary of State,".

(b) EXTENSION OF PROGRAM.—Section 217(f) (8 U.S.C. 1187(f)) is amended by striking "1996" and inserting "1997.".

(c) DURATION AND TERMINATION OF DESIGNATION OF PILOT PROGRAM COUNTRIES.—

(1) IN GENERAL.—Section 217(g) (8 U.S.C. 1187(g)) is amended to read as follows:

"(g) DURATION AND TERMINATION OF DESIGNATION.—

"(1) IN GENERAL.—

"(A) DETERMINATION AND NOTIFICATION OF DISQUALIFICATION RATE.—Upon determination by the Attorney General that a pilot program country's disqualification rate is 2 percent or more, the Attorney General shall notify the Secretary of State.

"(B) PROBATIONARY STATUS.—If the program country's disqualification rate is greater than 2 percent but less than 3.5 percent, the Attorney General shall place the program country in probationary status for a period not to exceed 2 full fiscal years following the year in which the determination under subparagraph (A) is made.

"(C) TERMINATION OF DESIGNATION.—Subject to paragraph (3), if the program country's disqualification rate is 3.5 percent or more, the Attorney General shall terminate the country's designation as a pilot program country effective at the beginning of the second fiscal year following the fiscal year in which the determination under subparagraph (A) is made.

"(2) TERMINATION OF PROBATIONARY STATUS.—

"(A) IN GENERAL.—If the Attorney General determines at the end of the probationary period described in paragraph (1)(B) that the program country placed in probationary status under such paragraph has failed to develop a machine-readable passport program as required by section (c)(2)(C), or has a disqualification rate of 2 percent or more, the Attorney General shall terminate the designation of the country as a pilot program country. If the Attorney General determines that the program country has developed a machine-readable passport program and has a disqualification rate of less than 2 percent, the Attorney General shall redesignate the country as a pilot program country.

"(B) EFFECTIVE DATE.—A termination of the designation of a country under subparagraph (A) shall take effect on the first day of the first fiscal year following the fiscal year in which the determination under such subparagraph is made. Until such date, nationals of the country shall remain eligible for a waiver under subsection (a).

"(3) NONAPPLICABILITY OF CERTAIN PROVISIONS.—Paragraph (1)(C) shall not apply unless the total number of nationals of a pilot program country described in paragraph (4)(A) exceeds 100.

"(4) DEFINITION.—For purposes of this subsection, the term 'disqualification rate' means the percentage which—

"(A) the total number of nationals of the pilot program country who were—

"(i) excluded from admission or withdrew their application for admission during the most recent fiscal year for which data are available; and

"(ii) admitted as nonimmigrant visitors during such fiscal year and who violated the terms of such admission; bears to

"(B) the total number of nationals of such country who applied for admission as nonimmigrant visitors during such fiscal year.".

(2) TRANSITION.—A country designated as a pilot program country with probationary status under section 217(g) of the Immigration and Nationality Act (as in effect on the day before the date of the enactment of this Act) shall be considered to be designated as a pilot program country on and after such date, subject to placement in probationary status or termination of such designation under such section (as amended by paragraph (1)).

(3) CONFORMING AMENDMENT.—Section 217(a)(2)(B) (8 U.S.C. 1187(a)(2)(B)) is amended by striking "or is" through "subsection (g)." and inserting a period.

SEC. 636. FEE FOR DIVERSITY IMMIGRANT LOTTERY.

The Secretary of State may establish a fee to be paid by each applicant for an immigrant visa described in section 203(c) of the Immigration and Nationality Act. Such fee may be set at a level that will ensure recovery of the cost to the Department of State of allocating visas under such section, including the cost of processing all applications thereunder. All fees collected under this section shall be used for providing consular services. All fees collected under this section shall be deposited as an offsetting collection to any Department of State appropriation and shall remain available for obligations until expended. The provisions of the Act of August 18, 1856 (11 Stat. 58; 22 U.S.C. 4212–4214), concerning accounting for consular fees, shall not apply to fees collected under this section.

SEC. 637. ELIGIBILITY FOR VISAS FOR CERTAIN POLISH APPLICANTS FOR THE 1995 DIVERSITY IMMIGRANT PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of State, shall include among the aliens selected for diversity immigrant visas for fiscal year 1997 pursuant to section 203(c) of the Immigration and Nationality Act any alien who, on or before September 30, 1995—

(1) was selected as a diversity immigrant under such section for fiscal year 1995;

(2) applied for adjustment of status to that of an alien lawfully admitted for permanent residence pursuant to section 245 of such Act during fiscal year 1995, and whose application, and any associated fees, were accepted by the Attorney General, in accordance with applicable regulations;

(3) was not determined by the Attorney General to be excludable under section 212 of such Act or ineligible under section 203(c)(2) of such Act; and

(4) did not become an alien lawfully admitted for permanent residence during fiscal year 1995.

(b) PRIORITY.—The aliens selected under subsection (a) shall be considered to have been selected for diversity immigrant visas for fiscal year 1997 prior to any alien selected under any other provision of law.

(c) REDUCTION OF IMMIGRANT VISA NUMBER.—For purposes of applying the numerical limitations in sections 201 and 203(c) of the Immigration and Nationality Act, aliens selected under subsection (a) who are granted an immigrant visa shall be treated as aliens granted a visa under section 203(c) of such Act.

Subtitle D—Other Provisions

SEC. 641. PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS AND OTHER EXCHANGE PROGRAM PARTICIPANTS.

(a) IN GENERAL.—

(1) PROGRAM.—The Attorney General, in consultation with the Secretary of State and the Secretary of Education, shall develop and conduct a program to collect from approved institutions of higher education and designated exchange visitor programs in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act; and

(B) are nationals of the countries designated under subsection (b).

(2) DEADLINE.—The program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General, in consultation with the Secretary of State, shall designate countries for purposes of subsection (a)(1)(B). The Attorney General shall initially designate not less than 5 countries and may designate additional countries at any time while the program is being conducted.

(c) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) with respect to an alien consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General;

(C) in the case of a student at an approved institution of higher education, the current academic status of the alien, including whether the alien is maintaining status as a full-time student or, in the case of a participant in a designated exchange visitor program, whether the alien is satisfying the terms and conditions of such program; and

(D) in the case of a student at an approved institution of higher education, any disciplinary action taken by the institution against the alien as a result of the alien's being convicted of a crime or, in the case of a participant in a designated exchange visitor program, any change in the alien's participation as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 shall not apply to aliens described in subsection (a) to the extent that the Attorney General determines necessary to carry out the program under subsection (a).

(3) ELECTRONIC COLLECTION.—The information described in paragraph (1) shall be collected electronically, where practicable.

(4) COMPUTER SOFTWARE.—

(A) COLLECTING INSTITUTIONS.—To the extent practicable, the Attorney General shall design the program in a manner that permits approved institutions of higher education and designated exchange visitor programs to use existing software for the collection, storage, and data processing of information described in paragraph (1).

(B) ATTORNEY GENERAL.—To the extent practicable, the Attorney General shall use or enhance existing software for the collection, storage, and data processing of information described in paragraph (1).

(d) PARTICIPATION BY INSTITUTIONS OF HIGHER EDUCATION AND EXCHANGE VISITOR PROGRAMS.—

(1) CONDITION.—The information described in subsection (c) shall be provided by as a condition of—

(A) in the case of an approved institution of higher education, the continued approval of the institution under subparagraph (F) or (M) of section 101(a)(15) of the Immigration and Nationality Act; and

(B) in the case of an approved institution of higher education or a designated exchange visitor program, the granting of authority to issue documents to an alien demonstrating the alien's eligibility for a visa under subparagraph (F), (J), or (M) of section 101(a)(15) of such Act.

(2) EFFECT OF FAILURE TO PROVIDE INFORMATION.—If an approved institution of higher education or a designated exchange visitor program fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—

(1) IN GENERAL.—Beginning on April 1, 1997, an approved institution of higher education and a designated exchange visitor program shall impose on, and collect from, each alien described in paragraph (3), with respect to whom the institution or program is required by subsection (a) to collect information, a fee established by the Attorney General under paragraph (4) at the time—

(A) when the alien first registers with the institution or program after entering the United States; or

(B) in a case where a registration under subparagraph (A) does not exist, when the alien first commences activities in the United States with the institution or program.

(2) REMITTANCE.—An approved institution of higher education and a designated exchange visitor program shall remit the fees collected under paragraph (1) to the Attorney General pursuant to a schedule established by the Attorney General.

(3) ALIENS DESCRIBED.—An alien referred to in paragraph (1) is an alien who has nonimmigrant status under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (other than a nonimmigrant under section 101(a)(15)(J) of such Act who has come to the United States as a participant in a program sponsored by the Federal Government).

(4) AMOUNT AND USE OF FEES.—

(A) ESTABLISHMENT OF AMOUNT.—The Attorney General shall establish the amount of the fee to be imposed on, and collected from, an alien under paragraph (1). Except as provided in subsection (g)(2), the fee imposed on any individual may not exceed $100. The amount of the fee shall be based on the Attorney General's estimate of the cost per alien of conducting the information collection program described in this section.

(B) USE.—Fees collected under paragraph (1) shall be deposited as offsetting receipts into the Immigration Examinations Fee Account (established under section 286(m) of the Immigration and Nationality Act) and shall remain available until expended for the Attorney General to reimburse any appropriation the amount paid out of which is for expenses in carrying out this section.

(f) JOINT REPORT.—Not later than 4 years after the commencement of the program established under subsection (a), the Attorney General, the Secretary of State, and the Secretary of Education shall jointly submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the operations of the program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—

(1) EXPANSION OF PROGRAM.—

(A) IN GENERAL.—Not later than 6 months after the submission of the report required by subsection (f), the Attorney General, in consultation with the Secretary of State and the Secretary of Education, shall commence expansion of the program to cover the nationals of all countries.

(B) DEADLINE.—Such expansion shall be completed not later than 1 year after the date of the submission of the report referred to in subsection (f).

(2) REVISION OF FEE.—After the program has been expanded, as provided in paragraph (1), the Attorney General may, on a periodic basis, revise the amount of the fee imposed and collected under subsection (e) in order to take into account changes in the cost of carrying out the program.

(h) DEFINITIONS.—As used in this section:

(1) APPROVED INSTITUTION OF HIGHER EDUCATION.—The term "approved institution of higher education" means a college or university approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act.

(2) DESIGNATED EXCHANGE VISITOR PROGRAM.—The term "designated exchange visitor program" means a program that has been—

(A) designated by the Director of the United States Information Agency for purposes of section 101(a)(15)(J) of the Immigration and Nationality Act; and

(B) selected by the Attorney General for purposes of the program under this section.

SEC. 642. COMMUNICATION BETWEEN GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) IN GENERAL.—Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) ADDITIONAL AUTHORITY OF GOVERNMENT ENTITIES.—Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

(1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.

(2) Maintaining such information.

(3) Exchanging such information with any other Federal, State, or local government entity.

(c) OBLIGATION TO RESPOND TO INQUIRIES.—The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

SEC. 643. REGULATIONS REGARDING HABITUAL RESIDENCE.

Not later than 6 months after the date of the enactment of this Act, the Commissioner of Immigration and Naturalization shall issue regulations governing rights of "habitual residence" in the United States under the terms of the following:

(1) The Compact of Free Association between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia (48 U.S.C. 1901 note).

(2) The Compact of Free Association between the Government of the United States and the Government of Palau (48 U.S.C. 1931 note).

SEC. 644. INFORMATION REGARDING FEMALE GENITAL MUTILATION.

(a) PROVISION OF INFORMATION REGARDING FEMALE GENITAL MUTILATION.—The Immigration and Naturalization Service (in cooperation with the Department of State) shall make available for all aliens who are issued immigrant or nonimmigrant visas, prior to or at the time of entry into the United States, the following information:

(1) Information on the severe harm to physical and psychological health caused by female genital mutilation which is compiled and presented in a manner which is limited to the practice itself and respectful to the cultural values of the societies in which such practice takes place.

(2) Information concerning potential legal consequences in the United States for (A) performing female genital mutilation, or (B) allowing a child under his or her care to be subjected to female genital mutilation, under criminal or child protection statutes or as a form of child abuse.

(b) LIMITATION.—In consultation with the Secretary of State, the Commissioner of Immigration and Naturalization shall identify those countries in which female genital mutilation is commonly practiced and, to the extent practicable, limit the provision of information under subsection (a) to aliens from such countries.

(c) DEFINITION.—For purposes of this section, the term "female genital mutilation" means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minora, or labia majora.

SEC. 645. CRIMINALIZATION OF FEMALE GENITAL MUTILATION.

(a) FINDINGS.—The Congress finds that—

(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;

(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;

(3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional;

(4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control;

(5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the first amendment to the Constitution or under any other law; and

(6) Congress has the affirmative power under section 8 of article I, the necessary and proper clause, section 5 of the fourteenth Amendment, as well as under the treaty clause, to the Constitution to enact such legislation.

(b) CRIME.—

(1) IN GENERAL.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

"§116. Female genital mutilation

"(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) A surgical operation is not a violation of this section if the operation is—

"(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

"(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

"(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that person, or any other person, that the operation is required as a matter of custom or ritual.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

"116. Female genital mutilation.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 646. ADJUSTMENT OF STATUS FOR CERTAIN POLISH AND HUNGARIAN PAROLEES.

(a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment;

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed;

(3) is admissible to the United States as an immigrant, except as provided in subsection (c); and

(4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

(1) was a national of Poland or Hungary; and

(2) was inspected and granted parole into the United States during the period beginning on November 1, 1989, and ending on December 31, 1991, after being denied refugee status.

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as an alien lawfully admitted for permanent residence as of the date of the alien's inspection and parole described in subsection (b)(2).

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

SEC. 647. SUPPORT OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Attorney General shall make available funds under this section, in each of fiscal years 1997 through 2001, to the Commissioner of Immigration and Naturalization or to other public or private nonprofit entities to support demonstration projects under this section at 10 sites throughout the United States. Each such project shall be designed to provide for the administration of the oath of allegiance under section 337(a) of the Immigration and Nationality Act on a business day around Independence Day to approximately 500 people whose application for naturalization has been approved. Each project shall provide for appropriate outreach and ceremonial and celebratory activities.

(b) SELECTION OF SITES.—The Attorney General shall, in the Attorney General's discretion, select diverse locations for sites on the basis of the number of naturalization applicants living in proximity to each site and the degree of local community participation and support in the project to be held at the site. Not more than 2 sites may be located in the same State. The Attorney General shall consider changing the sites selected from year to year.

(c) AMOUNTS AVAILABLE; USE OF FUNDS.—

(1) AMOUNT.—The amount made available under this section with respect to any single site for a year shall not exceed $5,000.

(2) USE.—Funds made available under this section may be used only to cover expenses incurred in carrying out oath administration ceremonies at the demonstration sites under subsection (a), including expenses for—

(A) cost of personnel of the Immigration and Naturalization Service (including travel and overtime expenses);

(B) rental of space; and

(C) costs of printing appropriate brochures and other information about the ceremonies.

(3) AVAILABILITY OF FUNDS.—Funds that are otherwise available to the Immigration and Naturalization Service to carry out naturalization activities shall be available, to the extent provided in appropriation Acts, to carry out this section.

(d) APPLICATION.—In the case of an entity other than the Immigration and Naturalization Service seeking to conduct a demonstration project under this section, no amounts may be made available to the entity under this section unless an appropriate application has been made to, and approved by, the Attorney General, in a form and manner specified by the Attorney General.

SEC. 648. SENSE OF CONGRESS REGARDING AMERICAN-MADE PRODUCTS; REQUIREMENTS REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF GRANTS.—In providing grants under this Act, the Attorney General, to the greatest extent practicable, shall provide to each recipient of a grant a notice describing the statement made in subsection (a) by the Congress.

SEC. 649. VESSEL MOVEMENT CONTROLS DURING IMMIGRATION EMERGENCY.

Section 1 of the Act of June 15, 1917 (50 U.S.C. 191) is amended in the first sentence by inserting "or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to, or arriving off the coast of, the United States presents urgent circumstances requiring an immediate Federal response," after "United States," the first place such term appears.

SEC. 650. REVIEW OF PRACTICES OF TESTING ENTITIES.

(a) IN GENERAL.—The Attorney General shall investigate, and submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate regarding, the practices of entities authorized to administer standardized citizenship tests pursuant to section 312.3(a) of title 8, Code of Federal Regulations. The report shall include any findings of fraudulent practices by such entities.

(b) PRELIMINARY AND FINAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a preliminary report on the investigation conducted under subsection (a). The Attorney General shall submit to such Committees a final report on such investigation not later than 275 days after the submission of the preliminary report.

SEC. 651. DESIGNATION OF A UNITED STATES CUSTOMS ADMINISTRATIVE BUILDING.

(a) DESIGNATION.—The United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, is designated as the "Timothy C. McCaghren Customs Administrative Building".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in subsection (a) is deemed to be a reference to the "Timothy C. McCaghren Customs Administrative Building".

SEC. 652. MAIL-ORDER BRIDE BUSINESS.

(a) FINDINGS.—The Congress finds as follows:

(1) There is a substantial "mail-order bride" business in the United States. With approximately 200 companies in the United States, an estimated 2,000 to 3,500 men in the United States find wives through mail-order bride catalogs each year. However, there are no official statistics available on the number of mail-order brides entering the United States each year.

(2) The companies engaged in the mail-order bride business earn substantial profits.

(3) Although many of these mail-order marriages work out, in many other cases, anecdotal evidence suggests that mail-order brides find themselves in abusive relationships. There is also evidence to suggest that a substantial number of mail-order marriages are fraudulent under United States law.

(4) Many mail-order brides come to the United States unaware or ignorant of United States immigration law. Mail-order brides who are battered often think that if they flee an abusive marriage, they will be deported. Often the citizen spouse threatens to have them deported if they report the abuse.

(5) The Immigration and Naturalization Service estimates that the rate of marriage fraud between foreign nationals and United States citizens or aliens lawfully admitted for permanent residence is 8 percent. It is unclear what percentage of these marriage fraud cases originate as mail-order marriages.

(b) INFORMATION DISSEMINATION.—

(1) REQUIREMENT.—Each international matchmaking organization doing business in the United States shall disseminate to recruits, upon recruitment, such immigration and naturalization information as the Immigration and Naturalization Service deems appropriate, in the recruit's native language, including information regarding conditional permanent residence status and the battered spouse waiver under such status, permanent resident status, marriage fraud penalties, the unregulated nature of the business engaged in by such organizations, and the study required under subsection (c).

(2) CIVIL PENALTY.—

(A) VIOLATION.—Any international matchmaking organization that the Attorney General determines has violated subsection (b) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $20,000 for each such violation.

(B) PROCEDURES FOR IMPOSITION OF PENALTY.—Any penalty under subparagraph (A) may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(c) STUDY.—The Attorney General, in consultation with the Commissioner of Immigration and Naturalization and the Director of the Violence Against Women Initiative of the Department of Justice, shall conduct a study of mail-order marriages to determine, among other things—

(1) the number of such marriages;

(2) the extent of marriage fraud in such marriages, including an estimate of the extent of marriage fraud arising from the services provided by international matchmaking organizations;

(3) the extent to which mail-order spouses utilize section 244(a)(3) of the Immigration and Nationality Act (providing for suspension of deportation in certain cases involving abuse), or section 204(a)(1)(A)(iii) of such Act (providing for certain aliens who have been abused to file a classification petition on their own behalf);

(4) the extent of domestic abuse in mail-order marriages; and

(5) the need for continued or expanded regulation and education to implement the objectives of the Violence Against Women Act of 1994 and the Immigration Marriage Fraud Amendments of 1986 with respect to mail-order marriages.

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate setting forth the results of the study conducted under subsection (c).

(e) DEFINITIONS.—As used in this section:

(1) INTERNATIONAL MATCHMAKING ORGANIZATION.—

(A) IN GENERAL.—The term "international matchmaking organization" means a corporation, partnership, business, or other legal entity,

whether or not organized under the laws of the United States or any State, that does business in the United States and for profit offers to United States citizens or aliens lawfully admitted for permanent residence, dating, matrimonial, or social referral services to nonresident noncitizens, by—

(i) an exchange of names, telephone numbers, addresses, or statistics;

(ii) selection of photographs; or

(iii) a social environment provided by the organization in a country other than the United States.

(B) EXCEPTION.—Such term does not include a traditional matchmaking organization of a religious nature that otherwise operates in compliance with the laws of the countries of the recruits of such organization and the laws of the United States.

(2) RECRUIT.—The term "recruit" means a noncitizen, nonresident person, recruited by the international matchmaking organization for the purpose of providing dating, matrimonial, or social referral services to United States citizens or aliens lawfully admitted for permanent residence.

SEC. 653. REVIEW AND REPORT ON H-2A NONIMMIGRANT WORKERS PROGRAM.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the H2-A nonimmigrant worker program should be reviewed and may need improvement in order to meet the need of producers of labor-intensive agricultural commodities and livestock in the United States for an adequate workforce.

(b) REVIEW.—The Comptroller General shall review the effectiveness of the H-2A nonimmigrant worker program to ensure that the program provides a sufficient supply of agricultural labor in the event of future shortages of domestic workers after the enactment of this Act. Among other things, the Comptroller General shall review the H-2A nonimmigrant worker program to determine—

(1) whether the program ensures that an adequate supply of qualified United States workers is available at the time and place needed for employers seeking such workers after the date of enactment of this Act;

(2) whether the program ensures that there is timely approval of applications for temporary foreign workers under the program in the event of shortages of United States workers after the date of the enactment of this Act;

(3) whether the program ensures that implementation of the program is not displacing United States agricultural workers or diminishing the terms and conditions of employment of United States agricultural workers;

(4) if, and to what extent, the program is contributing to the problem of illegal immigration; and

(5) that the program adequately meets the needs of agricultural employers for all types of temporary foreign agricultural workers, including higher-skilled workers in occupations which require a level of specific vocational preparation of 4 or higher (as described in the 4th edition of the Dictionary of Occupational Title, published by the Department of Labor).

(c) REPORT.—Not later than December 31, 1996, or 3 months after the date of the enactment of this Act, whichever occurs earlier, the Comptroller General shall submit a report to the appropriate committees of the Congress setting forth the conclusions of the Comptroller General from the review conducted under subsection (b).

(d) DEFINITIONS.—As used in this section:

(1) The term "Comptroller General" means the Comptroller General of the United States.

(2) The term "H-2A nonimmigrant worker program" means the program for the admission of nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

SEC. 654. REPORT ON ALLEGATIONS OF HARASSMENT BY CANADIAN CUSTOMS AGENTS.

(a) STUDY AND REVIEW.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Commissioner of the United States Customs Service shall initiate a study of harassment by Canadian customs agents allegedly undertaken for the purpose of deterring cross-border commercial activity along the United States-New Brunswick border. Such study shall include a review of the possible connection between any incidents of harassment and the discriminatory imposition of the New Brunswick provincial sales tax on goods purchased in the United States by New Brunswick residents, and with any other actions taken by the Canadian provincial governments to deter cross-border commercial activities.

(2) CONSULTATION.—In conducting the study under paragraph (1), the Commissioner of the United States Customs Service shall consult with representatives of the State of Maine, local governments, local businesses, and any other knowledgeable persons who the Commissioner considers to be important to the completion of the study.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Commissioner of the United States Customs Service shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on the study and review conducted under subsection (a). The report shall include recommendations for steps that the United States Government can take to help end any harassment by Canadian customs agents that is found to have occurred.

SEC. 655. SENSE OF CONGRESS ON DISCRIMINATORY APPLICATION OF NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) FINDINGS.—The Congress finds as follows:

(1) In July 1993, Canadian customs officers began collecting an 11 percent New Brunswick provincial sales tax on goods purchased in the United States by New Brunswick residents, an action that has caused severe economic harm to United States businesses located in proximity to the border with New Brunswick.

(2) This impediment to cross-border trade compounds the damage already done from the Canadian Government's imposition of a 7 percent tax on all goods bought by Canadians in the United States.

(3) Collection of the New Brunswick provincial sales tax on goods purchased outside of New Brunswick is effected only along the United States-Canadian border, not along New Brunswick's borders with other Canadian provinces; the tax is thus being administered by Canadian authorities in a manner uniquely discriminatory to Canadians shopping in the United States.

(4) In February 1994, the United States Trade Representative publicly stated an intention to seek redress from the discriminatory application of the New Brunswick provincial sales tax under the dispute resolution process in chapter 20 of the North American Free Trade Agreement (NAFTA), but the United States Government has still not made such a claim under NAFTA procedures.

(5) Initially, the United States Trade Representative argued that filing a New Brunswick provincial sales tax claim was delayed only because the dispute mechanism under NAFTA had not yet been finalized, but more than a year after such mechanism has been put in place, the claim has still not been put forward by the United States Trade Representative.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the provincial sales tax levied by the Canadian province of New Brunswick on Canadian citizens of that province who purchase goods in the United States—

(A) raises questions about a possible violation of the North American Free Trade Agreement in the discriminatory application of the tax to cross-border trade with the United States; and

(B) damages good relations between the United States and Canada; and

(2) the United States Trade Representative should move forward without further delay in seeking redress under the dispute resolution process in chapter 20 of the North American Free Trade Agreement for the violation.

SEC. 656. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) BIRTH CERTIFICATES.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—

(i) GENERAL RULE.—Subject to clause (ii), a Federal agency may not accept for any official purpose a certificate of birth, unless the certificate—

(I) is a birth certificate (as defined in paragraph (3)); and

(II) conforms to the standards set forth in the regulation promulgated under subparagraph (B).

(ii) APPLICABILITY.—Clause (i) shall apply only to a certificate of birth issued after the day that is 3 years after the date of the promulgation of a final regulation under subparagraph (B). Clause (i) shall not be construed to prevent a Federal agency from accepting for official purposes any certificate of birth issued on or before such day.

(B) REGULATION.—

(i) CONSULTATION WITH GOVERNMENT AGENCIES.—The President shall select 1 or more Federal agencies to consult with State vital statistics offices, and with other appropriate Federal agencies designated by the President, for the purpose of developing appropriate standards for birth certificates that may be accepted for official purposes by Federal agencies, as provided in subparagraph (A).

(ii) SELECTION OF LEAD AGENCY.—Of the Federal agencies selected under clause (i), the President shall select 1 agency to promulgate, upon the conclusion of the consultation conducted under such clause, a regulation establishing standards of the type described in such clause.

(iii) DEADLINE.—The agency selected under clause (ii) shall promulgate a final regulation under such clause not later than the date that is 1 year after the date of the enactment of this Act.

(iv) MINIMUM REQUIREMENTS.—The standards established under this subparagraph—

(I) at a minimum, shall require certification of the birth certificate by the State or local custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of record, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, the birth certificate for fraudulent purposes;

(II) may not require a single design to which birth certificates issued by all States must conform; and

(III) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(2) GRANTS TO STATES.—

(A) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(i) IN GENERAL.—Beginning on the date a final regulation is promulgated under paragraph (1)(B), the Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in issuing birth

certificates that conform to the standards set forth in the regulation.

(ii) ALLOCATION OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to issue birth certificates that conform to the standards described in clause (i).

(B) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(i) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in developing the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, a State that receives a grant under this subparagraph shall focus first on individuals born after 1950.

(ii) ALLOCATION AND AMOUNT OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to develop the capability described in clause (i).

(C) DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics, shall make grants to States for a project in each of 5 States to demonstrate the feasibility of a system under which persons otherwise required to report the death of individuals to a State would be required to provide to the State's office of vital statistics sufficient information to establish the fact of death of every individual dying in the State within 24 hours of acquiring the information.

(3) BIRTH CERTIFICATE.—As used in this subsection, the term "birth certificate" means a certificate of birth—

(A) of—

(i) an individual born in the United States; or

(ii) an individual born abroad—

(I) who is a citizen or national of the United States at birth; and

(II) whose birth is registered in the United States; and

(B) that—

(i) is a copy, issued by a State or local authorized custodian of record, of an original certificate of birth issued by such custodian of record; or

(ii) was issued by a State or local authorized custodian of record and was produced from birth records maintained by such custodian of record.

(b) STATE-ISSUED DRIVERS LICENSES AND COMPARABLE IDENTIFICATION DOCUMENTS.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements:

(i) APPLICATION PROCESS.—The application process for the license or document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators.

(ii) SOCIAL SECURITY NUMBER.—Except as provided in subparagraph (B), the license or document shall contain a social security account number that can be read visually or by electronic means.

(iii) FORM.—The license or document otherwise shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the license or document for fraudulent purposes and to limit use of the license or document by impostors.

(B) EXCEPTION.—The requirement in subparagraph (A)(ii) shall not apply with respect to a driver's license or other comparable identification document issued by a State, if the State—

(i) does not require the license or document to contain a social security account number; and

(ii) requires—

(I) every applicant for a driver's license, or other comparable identification document, to submit the applicant's social security account number; and

(II) an agency of the State to verify with the Social Security Administration that such account number is valid.

(C) DEADLINE.—The Secretary of Transportation shall promulgate the regulations referred to in clauses (i) and (iii) of subparagraph (A) not later than 1 year after the date of the enactment of this Act.

(2) GRANTS TO STATES.—Beginning on the date final regulations are promulgated under paragraph (1), the Secretary of Transportation shall make grants to States to assist them in issuing driver's licenses and other comparable identification documents that satisfy the requirements under such paragraph.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, this subsection shall take effect on the date of the enactment of this Act.

(B) PROHIBITION ON FEDERAL AGENCIES.—Subparagraphs (A) and (B) of paragraph (1) shall take effect beginning on October 1, 2000, but shall apply only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(d) FEDERAL AGENCY DEFINED.—For purposes of this section, the term "Federal agency" means any of the following:

(1) An Executive agency (as defined in section 105 of title 5, United States Code).

(2) A military department (as defined in section 102 of such title).

(3) An agency in the legislative branch of the Government of the United States.

(4) An agency in the judicial branch of the Government of the United States.

SEC. 657. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the "Commissioner") shall, in accordance with the provisions of this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card—

(A) shall be made of a durable, tamper-resistant material such as plastic or polyester;

(B) shall employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits; and

(C) shall be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDIES AND REPORTS.—

(1) IN GENERAL.—The Comptroller General and the Commissioner of Social Security shall each conduct a study, and issue a report to the Congress, that examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDIES.—The studies shall include evaluations of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The studies shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORTS.—Copies of the reports described in this subsection, along with facsimiles of the prototype cards as described in subsection (a), shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate not later than 1 year after the date of the enactment of this Act.

SEC. 658. BORDER PATROL MUSEUM.

(a) AUTHORITY.—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or any other provision of law, the Attorney General is authorized to transfer and convey to the Border Patrol Museum and Memorial Library Foundation, incorporated in the State of Texas, such equipment, artifacts, and memorabilia held by the Immigration and Naturalization Service as the Attorney General may determine is necessary to further the purposes of the Museum and Foundation.

(b) TECHNICAL ASSISTANCE.—The Attorney General is authorized to provide technical assistance, through the detail of personnel of the Immigration and Naturalization Service, to the Border Patrol Museum and Memorial Library Foundation for the purpose of demonstrating the use of the items transferred under subsection (a).

SEC. 659. SENSE OF THE CONGRESS REGARDING THE MISSION OF THE IMMIGRATION AND NATURALIZATION SERVICE.

It is the sense of the Congress that the mission statement of the Immigration and Naturalization Service should include a statement that it is the responsibility of the Service to detect, apprehend, and remove those aliens unlawfully present in the United States, particularly those aliens involved in drug trafficking or other criminal activity.

SEC. 660. AUTHORITY FOR NATIONAL GUARD TO ASSIST IN TRANSPORTATION OF CERTAIN ALIENS.

Section 112(d)(1) of title 32, United States Code, is amended by adding at the end the following new sentence: "The plan as approved by the Secretary may provide for the use of personnel and equipment of the National Guard of that State to assist the Immigration and Naturalization Service in the transportation of aliens who have violated a Federal or State law prohibiting or regulating the possession, use, or distribution of a controlled substance.".

Subtitle E—Technical Corrections

SEC. 671. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATING TO PUBLIC LAW 103-322 (VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994).—

(1) Section 60024(1)(F) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (in this subsection referred to as "VCCLEA") is amended by inserting "United States Code," after "title 18,".

(2) Section 130003(b)(3) of VCCLEA is amended by striking "Naturalization" and inserting "Nationality".

(3)(A) Section 214 (8 U.S.C. 1184) is amended by redesignating the subsection (j), added by section 130003(b)(2) of VCCLEA (108 Stat. 2025), and the subsection (k), as amended by section 622(c), as subsections (k) and (l), respectively.

(B) Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended by striking "214(j)" and inserting "214(k)".

(4)(A) Section 245 (8 U.S.C. 1255) is amended by redesignating the subsection (i) added by section 130003(c)(1) of VCCLEA as subsection (j).

(B) Section 241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)), as amended by section 130003(d) of VCCLEA and before redesignation by section 305(a)(2), is amended by striking "245(i)" and inserting "245(j)".

(5) Section 245(j)(3), as added by section 130003(c)(1) of VCCLEA and as redesignated by paragraph (4)(A), is amended by striking "paragraphs (1) or (2)" and inserting "paragraph (1) or (2)".

(6) Section 130007(a) of VCCLEA is amended by striking "242A(d)" and inserting "242A(a)(3)".

(7) The amendments made by this subsection shall be effective as if included in the enactment of the VCCLEA.

(b) AMENDMENTS RELATING TO IMMIGRATION AND NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994.—

(1) Section 101(d) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) (in this subsection referred to as "INTCA") is amended—

(A) by striking "APPLICATION" and all that follows through "This" and inserting "APPLICABILITY OF TRANSMISSION REQUIREMENTS.—This";

(B) by striking "any residency or other retention requirements for" and inserting "the application of any provision of law relating to residence or physical presence in the United States for purposes of transmitting United States"; and

(C) by striking "as in effect" and all that follows through the end and inserting "to any person whose claim is based on the amendment made by subsection (a) or through whom such a claim is derived.".

(2) Section 102 of INTCA is amended by adding at the end the following:

"(e) TRANSITION.—In applying the amendment made by subsection (a) to children born before November 14, 1986, any reference in the matter inserted by such amendment to 'five years, at least two of which' is deemed a reference to '10 years, at least 5 of which'.".

(3) Section 351(a) (8 U.S.C. 1483(a)), as amended by section 105(a)(2)(A) of INTCA, is amended by striking the comma after "nationality".

(4) Section 207(2) of INTCA is amended by inserting a comma after "specified".

(5) Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended in subparagraph (K)(ii), by striking the comma after "1588".

(6) Section 273(b) (8 U.S.C. 1323(b)), as amended by section 209(a) of INTCA, is amended by striking "remain" and inserting "remains".

(7) Section 209(a)(1) of INTCA is amended by striking "$3000" and inserting "$3,000".

(8) Section 209(b) of INTCA is amended by striking "subsection" and inserting "section".

(9) Section 219(cc) of INTCA is amended by striking " 'year 1993 the first place it appears' " and inserting " 'year 1993' the first place it appears".

(10) Section 219(ee) of INTCA is amended by adding at the end the following:

"(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.".

(11) Paragraphs (4) and (6) of section 286(r) (8 U.S.C. 1356(r)) are amended by inserting "the" before "Fund" each place it appears.

(12) Section 221 of INTCA is amended—

(A) by striking each semicolon and inserting a comma,

(B) by striking "disasters." and inserting "disasters,"; and

(C) by striking "The official" and inserting "the official".

(13) Section 242A (8 U.S.C. 1252a), as added by section 224(a) of INTCA and before redesignation as section 238 by section 308(b)(5), is amended by redesignating subsection (d) as subsection (c).

(14) Except as otherwise provided in this subsection, the amendments made by this subsection shall take effect as if included in the enactment of INTCA.

(c) AMENDMENTS RELATING TO PUBLIC LAW 104–132 (ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996).—

(1) Section 219 (8 U.S.C. 1189), as added by section 302(a) of Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) (in this subsection referred to as "AEDPA"), is amended by striking the heading and all that follows through "(a)" and inserting the following:

"DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS

"SEC. 219. (a)".

(2) Section 302(b) of AEDPA is amended by striking ", relating to terrorism,".

(3) Section 106(a) (8 U.S.C. 1105a(a)), as amended by sections 401(e) and 440(a) of AEDPA, is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; and"; and

(C) in paragraph (10), by striking "Any" and inserting "any".

(4) Section 440(a) of the AEDPA is amended by striking "Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a(a)(10)) is amended to read as follows:" and inserting "Section 106(a) of the Immigration and Nationality Act (8 U.S.C. 1105a(a)) is amended by adding at the end the following:".

(5) Section 440(g)(1)(A) of AEDPA is amended—

(A) by striking "of this title"; and

(B) by striking the period after "241(a)(2)(A)(i)".

(6) Section 440(g) of AEDPA is amended by striking paragraph (2).

(7) The amendments made by this subsection shall take effect as if included in the enactment of subtitle A of title IV of AEPDA.

(d) STRIKING REFERENCES TO SECTION 210A.—

(1)(A) Section 201(b)(1)(C) (8 U.S.C. 1151(b)(1)(C)) is amended by striking ", 210A,".

(B) Section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) is amended by striking ", 210A(a),".

(C) Section 241(a)(1) (8 U.S.C. 1251(a)(1)), before redesignation by section 305(a)(2), is amended by striking subparagraph (F).

(2) Sections 204(c)(1)(D)(i) and 204(j)(4) of Immigration Reform and Control Act of 1986 are each amended by striking ", 210A,".

(e) MISCELLANEOUS CHANGES IN THE IMMIGRATION AND NATIONALITY ACT.—

(1) Before being amended by section 308(a)(2), the item in the table of contents relating to section 242A is amended to read as follows:

"Sec. 242A. Expedited deportation of aliens convicted of committing aggravated felonies.".

(2) Section 101(c)(1) (8 U.S.C. 1101(c)(1)) is amended by striking ", 321, and 322" and inserting "and 321".

(3) Section 212(d)(11) (8 U.S.C. 1182(d)(11)) is amended by inserting a comma after "(4) thereof)".

(4) Pursuant to section 6(b) of Public Law 103–272 (108 Stat. 1378)—

(A) section 214(f)(1) (8 U.S.C. 1184(f)(1)) is amended by striking "section 101(3) of the Federal Aviation Act of 1958" and inserting "section 40102(a)(2) of title 49, United States Code"; and

(B) section 258(b)(2) (8 U.S.C. 1288(b)(2)) is amended by striking "section 105 or 106 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1804, 1805)" and inserting "section 5103(b), 5104, 5106, 5107, or 5110 of title 49, United States Code".

(5) Section 286(h)(1)(A) (8 U.S.C. 1356(h)(1)(A)) is amended by inserting a period after "expended".

(6) Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(A) by striking "and" at the end of clause (iv);

(B) by moving clauses (v) and (vi) 2 ems to the left;

(C) by striking "; and" in clauses (v) and (vi) and inserting "and for";

(D) by striking the colons in clauses (v) and (vi); and

(E) by striking the period at the end of clause (v) and inserting "; and".

(7) Section 412(b) (8 U.S.C. 1522(b)) is amended by striking the comma after "is authorized" in paragraph (3) and after "The Secretary" in paragraph (4).

(f) MISCELLANEOUS CHANGE IN THE IMMIGRATION ACT OF 1990.—Section 161(c)(3) of the Immigration Act of 1990 is amended by striking "an an" and inserting "of an".

(g) MISCELLANEOUS CHANGES IN OTHER ACTS.—

(1) Section 506(a) of the Intelligence Authorization Act, Fiscal Year 1990 (Public Law 101–193) is amended by striking "this section" and inserting "such section".

(2) Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, as amended by section 505(2) of Public Law 103–317, is amended—

(A) by moving the indentation of subsections (f) and (g) 2 ems to the left; and

(B) in subsection (g), by striking "(g)" and all that follows through "shall" and inserting "(g) Subsections (d) and (e) shall".

And the Senate agree to the same.

HENRY HYDE,
LAMAR SMITH,
ELTON GALLEGLY,
BILL MCCOLLUM,
BOB GOODLATTE,
ED BRYANT,
SONNY BONO,
BILL GOODLING,
RANDY "DUKE" CUNNINGHAM,
HOWARD P. "BUCK" MCKEON,
E. CLAY SHAW, Jr.,
Managers on the Part of the House.

ORRIN HATCH,
AL SIMPSON,
CHUCK GRASSLEY,
JON KYL,
ARLEN SPECTER,
STROM THURMOND,
DIANNE FEINSTEIN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—IMPROVEMENTS TO BORDER CONTROL, FACILITATION OF LEGAL ENTRY, AND INTERIOR ENFORCEMENT

SUBTITLE A—IMPROVED ENFORCEMENT AT THE BORDER

Section 101—House recedes to sections 101 (a) and (b) of the Senate amendment, with modifications, and the Senate recedes to House section 101(c) with modifications. This section increases the number of Border Patrol agents by 1000 per year from FY 1997 through 2001. It further provides that the Attorney General, in each fiscal year from 1997 through 2001, may increase by 300 the number of support personnel for the Border Patrol. The additional border patrol agents are to be deployed in sectors along the border in proportion to the level of illegal crossings of the border in such sectors. Border Patrol resources should be used primarily at the border to deter illegal crossings and to apprehend at the earliest possible juncture those who have made such crossings. This section also requires the forward deployment of Border Patrol agents to provide a visible deterrent to illegal immigration, and includes the requirement in Senate amendment section 109 regarding the preservation of immigration enforcement functions in interior areas. The managers intend that for purposes of this section, border sectors shall include coastal areas of the United States. The managers also intend, as a further deterrent to repeat illegal crossings, that available resources be made used to detain and prosecute aliens who repeatedly violate section 275(a) of the Immigration and Nationality Act.

Section 102—Senate amendment section 108 recedes to House section 102, with modifications, including the substantive provisions of sections 109 and 327 of the Senate amendment. This section requires the Attorney General to install additional fences and roads to deter illegal immigration. In the San Diego sector, it calls for extension of the new fencing to a point 14 miles east of the Pacific Ocean, and the construction of second and third fences, with roads between the fences, to provide an additional deterrent. This section includes a proviso (from Senate amendment section 108) that the design of such fencing incorporate features necessary to ensure the safety of Border Patrol agents. This section also includes provisions based on Senate amendment section 327 to enhance the Attorney General's ability to acquire property along the border for purposes of improving border controls. This section also provides for a limited waiver of the Endangered Species Act of 1973 and the National Environmental Policy Act of 1969 in order to facilitate a uniform construction of necessary fences and roads.

Section 103—Senate amendment section 179 recedes to House section 103. This section authorizes the acquisition by the Attorney General of improved equipment and technology to deter illegal immigration on the border.

Section 104—Senate recedes to House sections 104(a) and 104(b). This section requires improvement in the Border Crossing Identification Card, a document issued in lieu of a visa to aliens from Canada and Mexico for short-term visits within a designated distance from the border. Such cards are frequently counterfeited and used by impostors. The new cards issued under this section will be machine-readable and contain security features to prevent use by impostors.

Section 105—Senate recedes to House section 105. This section provides for civil money penalties for aliens apprehended while entering or attempting to enter the United States other than at a lawful port of entry.

Section 106—House section 107 recedes to Senate amendment section 107. This section requires the Attorney General to review within 60 days of enactment all hiring standards of the INS, and within 180 days of enactment all training standards of the INS. The Attorney General shall submit a certification in each of fiscal years 1997 through 2000 that all personnel hired in that year were hired in accordance with appropriate standards. The Attorney General also shall submit a report based on the review of training standards describing the status of efforts to improve such standards.

Section 107—Senate recedes to House section 108, with modification. This section requires the Comptroller General, with the cooperation of the Attorney General and in consultation with the Secretary of State and the Secretary of Defense, to track, monitor, and evaluate efforts to deter illegal entry into the United States. The Comptroller General shall report his findings to the Committees on the Judiciary of the Senate and the House of Representatives within 1 year from the date of enactment and every year thereafter through FY 2000. The report shall include recommendations to increase border security at the land border and at ports of entry.

Section 108—House recedes to Senate amendment section 304. This section amends chapter 35 of title 18 to add a new section 758, making high-speed flight from an INS checkpoint a felony punishable by up to 5 years in prison. This section also amends INA section 241(a)(2)(A) to make an alien convicted of this offense deportable.

Section 109—House recedes to Senate amendment section 173. This section requires the Attorney General, together with the Secretary of State, the Secretary of the Treasury, and representatives of the air transport industry, to develop a plan for automated data collection at ports of entry. The Attorney General shall report to the Committees on the Judiciary of the House of Representatives and the Senate within 9 months of the date of enactment regarding the outcome of this joint initiative, including recommendations for legislation.

Section 110—House recedes to Senate amendment section 174, with modifications to include most of the substantive requirements from House section 113. This section will require the Attorney General within 2 years of enactment to establish an automated entry and exit control system that will (1) collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States, and (2) enable the identification of lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General. The Commissioner of the INS must submit an annual report to the Committees on the Judiciary of the Senate and the House of Representatives on the operation of the system, including information on the number of departure records collected, the number of records successfully matched to records of arrival, and the number of nonimmigrants and other visitors for whom no matching departure record was obtained. All of this information shall include accounting by country of nationality of the arriving and departing aliens. Information on visa overstays identified through the entry and exit control system shall be integrated into appropriate data bases of the INS and the Department of State, including those used at ports of entry and consular offices.

Section 111—House recedes to Senate amendment section 322, with modifications. This section requires the Attorney General to submit a report by September 30, 1996, to the Committees on the Judiciary of the House of Representatives and of the Senate regarding the redeployment of border patrol agents.

Section 112—House recedes to Senate amendment section 120C. This section authorizes the appropriation of funds to ensure that the "IDENT" program operated by the Immigration and Naturalization Service (INS) is expanded to apply to all apprehended illegal and criminal aliens.

Section 113—Senate recedes to House section 106, with modification.

SUBTITLE B—FACILITATION OF LEGAL ENTRY

Section 121—House section 701 recedes to Senate amendment section 103, with modification. This section will require the Attorney General and Secretary of the Treasury to increase in FY 1997 and 1998 the number of full-time land border inspectors of the INS and the Customs Service to levels adequate to assure full staffing during peak crossing hours of all border crossing lanes currently in use, under construction, or authorized to be constructed.

Section 122—Senate amendment section 213 recedes to House section 702, with modifications. This section will extend the authority under INA section 286(q) for commuter lane pilot programs through FY 2000, and raise to 6 the maximum number of such pilots. It also includes the authorization in Senate amendment section 213(b)(2) for the Attorney General to conduct pilot projects for automated entry, using card reading or similar technology, at land border ports of entry after hours of normal operation have ended.

Section 123—Senate recedes to House section 703, with modifications. This section amends the INA to create a new section 235A, providing for the establishment within 2 years of enactment of preinspection stations at 5 of the 10 foreign airports serving as the last points of departure for the greatest number of inadmissible passengers arriving by air in the United States. Not later than 4 years after enactment, the Attorney General shall establish preinspection stations in at least 5 additional foreign airports, on the basis of most effectively reducing the number of inadmissible aliens who arrive in the United States. This section also requires the Attorney General to compile data arising from the operation of preinspection stations, and to establish a carrier consultant program to deter boarding by aliens inadmissible to the United States.

Section 124—Senate recedes to House section 704. This section amends INA section 286(h)(2)(A)(iv) to provide that funds may be expended from the Immigration User Fee Account for the training of commercial airline personnel in the detection of fraudulent documents, and that not less than 5 percent of the funds expended out of the Account in a given fiscal year shall be for this purpose. This section also amends INA section 212(f) to provide that if a commercial airline has failed to comply with regulations of the Attorney General relating to the detection of fraudulent documents, including the training of personnel, the Attorney General may suspend the entry of aliens transported to the U.S. by the airline.

Section 125—House recedes to Senate amendment section 330. This section amends INA section 103(a) to provide that the Attorney General may authorize officers of a foreign country to be stationed at preclearance stations in the United States to ensure that persons traveling from or through the United States to that foreign country comply with that country's immigration and related laws. Such officers shall be authorized to perform duties, and shall enjoy such privileges and immunities necessary for the performance of such duties, as are granted to United States immigration officers in that foreign country under reciprocal agreement.

SUBTITLE C—INTERIOR ENFORCEMENT

Section 131—House sections 121 and 404 recede to Senate amendment section 102, with modifications. This section will authorize an increase in the number of INS investigators and support personnel assigned to investigate violations of INA sections 274A (employer sanctions) and 274C (civil document fraud) by 300 in each of FY 1997, 1998, and 1999. Not less than half of these newly-hired investigators shall be assigned to investigate potential violations of section 274A.

Section 132—House recedes to Senate amendment section 104. This section authorizes the appropriation of funds necessary to increase the number of investigators and support personnel to investigate visa overstayers by 300 in FY 1997.

Section 133—House sections 122 and 365 recede to Senate amendment section 184, with modifications. This section amends INA section 287 to permit the Attorney General to enter into written agreements with State and local authorities to designate qualified officers or employees of the State or locality to perform immigration enforcement functions pertaining to the investigation, apprehension, or detention of aliens unlawfully in the United States, including the transportation of aliens across State lines to detention centers. Such functions shall be carried out at State or local expense and the designated officers and employees shall operate under the direction of the Attorney General.

Section 134—House recedes to Senate amendment section 316, with modification. This amendment directs that each State be allocated at least 10 active-duty INS agents.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING AND DOCUMENT FRAUD

SUBTITLE A—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING

Section 201—House section 201 recedes to Senate amendment section 121. This section amends 18 U.S.C. 2516(1) to give INS the authority under such section to use wiretaps in investigations of alien smuggling and document fraud offenses.

Section 202—Senate amendment section 122 recedes to House section 202, with modifications. This section amends 18 U.S.C. 1961(1) to include as racketeering offenses acts indictable as document fraud crimes under title 18 (including the naturalization and citizenship document offenses specified in the Senate bill) or as alien smuggling offenses under section 274, 277, and 278 of the Immigration and Nationality Act. The offenses under the INA may be considered as RICO predicates only if committed for the purpose of financial gain.

Section 203(a)—Senate recedes to House section 203(a)(1). This provision amends INA section 274(a)(1) to increase criminal penalties in cases where an offense relating to alien smuggling, harboring, inducement, or transportation is done for the purpose of financial gain.

Section 203(b)—House section 203(a)(2) recedes to Senate amendment sections 123(a) (1) and (2). This provision amends INA section 274 to specify criminal penalties for those who engage in a conspiracy to violate alien smuggling, inducement, harboring, and transportation prohibitions, and for those who aid and abet such crimes. Senate amendment sections 123(a)(3)(B) and 123(b) recede to House section 203(b), as modified. This provision will increase penalties under section 274(b) to up to 10 years imprisonment, and up to 15 years for a third or subsequent offense, for certain alien smuggling violations. House recedes to Senate amendment section 123(a)(4), with modifications. This provision creates a new offense for an employer to hire an alien who the employer knows is not authorized to be employed in the United States, and who the employer also knows was brought into the United States in violation of INA section 274(a). In order to be liable under this provision, the employer must have actual knowledge both of the alien's unauthorized status and of the fact that the alien was brought into the United States illegally.

Section 203(c)—Senate recedes to that portion of House section 203(b) that creates a new offense under INA section 274(a) for smuggling an alien with reason to believe that the alien will commit a crime in the United States.

Section 203(d)—Senate amendment section 123(a)(3) recedes to House section 203(c). This provision will change the standard for calculating penalties for alien smuggling crimes. Henceforth, an offense will be counted for each alien smuggled, not, as under current law, for each transaction regardless of the number of aliens involved.

Section 203(e)-(f)—House recedes to Senate amendment sections 123(c)-(e), with modifications. These provisions require the United States Sentencing Commission to promulgate or amend guidelines for offenders convicted of smuggling, harboring, inducement, or transportation of illegal aliens; provide emergency authority to the Sentencing Commission to complete this task; and make section 203 of this Act (and the amendments made thereby) applicable to offenses occurring on or after the date of enactment.

Section 204—Senate amendment section 120 recedes to House section 204, with modifications. This section provides that the number of Assistant United States Attorneys shall be increased in fiscal year 1997 by at least 25, and that such attorneys shall prosecute persons involved in smuggling or harboring of illegal aliens, or other crimes involving illegal aliens, which would include immigration document fraud offenses relating to false identification documents, visas, passports, and citizenship and naturalization documents.

Section 205—Senate amendment section 169 recedes to House section 205. This section provides authority for the INS to use appropriated funds for the establishment and operation of undercover proprietary corporations or business entities.

SUBTITLE B—ENHANCED ENFORCEMENT AND PENALTIES AGAINST DOCUMENT FRAUD

Section 211—Senate amendment section 127(a)(1) recedes to House section 211(a). This provision increases the maximum term of imprisonment for fraud and misuse of government-issued identification documents from 5 years to 15 years. The sentence is increased to 20 years if the offense is committed to facilitate a drug-trafficking crime, and to 25 years if committed to facilitate an act of international terrorism. House recedes to Senate amendment section 127(a)(2)-(4), as modified. These provisions will increase penalties for document fraud crimes under sections 1541-1544, 1546(a), and 1425-1427 of title 18 to 10 years for a first or second offense, 15 years for a third or subsequent offense, with the same enhancements for crimes committed to facilitate drug trafficking (20 years) or international terrorism (25 years). House section 211(b) recedes to Senate section 127(b)-(d). These provisions require the United States Sentencing Commission to promulgate or amend guidelines for offenders convicted of document fraud offenses, provide emergency authority to the Sentencing Commission to complete this task, and make section 211 (and the amendments made thereby) applicable to offenses occurring on or after the date of enactment.

Section 212—House sections 212 and 213 recede to Senate amendment section 130, as modified. This section amends INA section 274C, regarding civil penalties for document fraud, to expand liability to those who engage in document fraud for the purpose of obtaining a benefit under the INA. New liability is established for those who prepare, file, or assist another person in preparing or filing an application for benefits with knowledge or in reckless disregard of the fact that such application or document was falsely made. New liability also is established for aliens who destroy travel documents en route to the United States after having presented such documents to board a common carrier to the United States. A waiver from civil document fraud penalties may be granted to an alien who is granted asylum or withholding of deportation. The amendments made by this section shall apply to offenses occurring on or after the date of enactment.

Section 213—House section 214 recedes to Senate amendment section 129. This section amends INA section 274C by adding a new subsection (e), providing that a person who fails to disclose or conceals his role in preparing, for a fee or other remuneration, a false application for benefits under the INA is subject to imprisonment of not more than 5 years, and is prohibited from preparing, whether or not for a fee or other remuneration, any other such application. A person convicted under this section who later prepares or assists in preparing an application for immigration benefits, regardless of whether for a fee or other remuneration, is subject to imprisonment of not more than 15 years, and is prohibited from preparing any other such application.

Section 214—Senate amendment section 128 recedes to House section 215. This section amends section 1546(a) of title 18 to provide that the penalty for knowingly presenting a document which contains a false statement also extends to a document which fails to contain any reasonable basis in law or fact.

Section 215—Senate recedes to House section 216. This section amends section 1015 of title 18 by adding new subparagraphs (e) and (f). New subparagraph (e) makes it unlawful for any person to make a false claim to United States citizenship or nationality for the purpose of obtaining, for himself or any other person, any Federal benefit or service or employment in the United States. New subsection (f) makes it unlawful for any person to make a false claim to United States citizenship in order to vote or register to vote in any Federal, State, or local election, including an initiative, recall, or referendum.

Section 216—House recedes to Senate amendment section 217(a). This section amends title 18 to add a new section 611, making it unlawful for any alien to vote in any election for Federal office, and subjects violators to fines and a term of imprisonment of not more than 1 year.

Section 217—This section merges House section 221 and Senate amendment section 126. This section amends 18 U.S.C. 982(a) by adding a new paragraph (6), providing that a person who is convicted of a violation of or of a conspiracy to violate sections 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, or section 1028 of title 18, or section 274(a) of the INA, if committed in connection with passport or visa issuance or use, shall forfeit any conveyance used in the commission of the offense, as well as any property, real or personal, which was used or intended to be used in facilitating the violation, and any property constituting, derived from, or traceable to the proceeds of the violation. The criminal forfeiture shall be governed by the provisions of section 413 (other than subsections (a) and (d)) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).

Section 218—House recedes to Senate amendment section 131. This section increases penalties for violations of sections 1581, 1583, 1584, and 1588 of title 18 (regarding involuntary servitude, peonage, and slave trade offenses) from a maximum of 5 years to 10 years imprisonment. The section also requires the United States Sentencing Commission to ascertain if there exists an unwarranted disparity between sentences for such crimes and the sentences for kidnaping and alien smuggling offenses, and further requires the Commission to amend the Sentencing Guidelines to reduce or eliminate any such unwarranted disparity and to ensure that the Sentencing Guidelines reflect the heinous nature of such offenses as well as aggravating factors such as large numbers of victims and prolonged periods of peonage or involuntary servitude. The section also provides emergency authority to the Sentencing Commission to effect such changes.

Section 219—House recedes to Senate amendment section 124. This section permits the introduction of videotaped deposition testimony, in trials involving offenses under section 274 of the INA, of witnesses who have been deported from the United States or who are otherwise unavailable to testify, provided that there was an opportunity for cross-examination at such deposition. This provision will permit the introduction, in trials for alien smuggling and related offenses, of critical testimony from aliens who have been smuggled into the United States, eliminating the need to detain such aliens in the United States.

Section 220—House recedes to Senate amendment section 120A(a)(2). This provision amends section 274C (pertaining to civil penalties for document fraud) to provide that immigration officers designated by the Attorney General may use subpoena authority to compel the attendance of witnesses and the production of documents in connection with investigating a complaint of civil document fraud.

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

SUBTITLE A—REVISION OF PROCEDURES FOR REMOVAL OF ALIENS

Sec. 301(a)—Senate recedes to House section 301(a), with modifications. Subsection (a) of this section amends INA section 101(a)(13) by replacing the definition of "entry" with a definition for "admission" and "admitted": the lawful entry of an alien into the United States after inspection and authorization by an immigration officer. An alien who is paroled under INA section 212(d)(5) shall not be considered to have been admitted. With certain specified exceptions (including in the case of an individual who has been absent from the United States for a period of greater than 180 days or has committed an offense identified in section 212(a)(2)), a returning lawful permanent resident alien (LPR) shall not be considered to be seeking admission.

Sec. 301(b)—Senate amendment sections 143(b) and 317 recede to House section 301(c), with modifications. This subsection redesignates paragraph (9) of INA section 212(a) as paragraph (10), and inserts a new paragraph (9). Under this subsection, an alien ordered removed under revised INA section 235(b)(1) (see explanation of section 302 of this Act below), or at the end of proceedings under new section 240 (see explanation of section 304 of this Act below) that were initiated upon the alien's arrival in the United States, is inadmissible for a period of 5 years (or for 20 years in the case of a second or subsequent removal and permanently in the case of an alien convicted of an aggravated felony). An alien otherwise ordered removed from the United States, or who has departed the United States while an order of removal is outstanding, shall be barred from admission for 10 years (or for 20 years in the case of a second or subsequent removal, and permanently in the case of an alien convicted of an aggravated felony). These bars to readmission can be waived (as in current law) if the Attorney General has given prior consent to the alien's reapplying for admission.

This subsection also provides that an alien unlawfully present in the United States for a period of more than 180 days but less than 1 year who voluntarily departed the United States is barred from admission for 3 years. An alien unlawfully present for 1 year or more who voluntarily departs is barred from admission for 10 years. An alien is unlawfully present if the alien has been present in the United States without admission or parole, or remains in the United States beyond an authorized period of stay. No period of time in which the alien was present in the United States under the age of 18, as a bona fide applicant for asylum under section 208, or as a beneficiary of family unity protection, shall count towards the aggregate 1-year period. The calculation of time is suspended if the alien has filed a bona fide application for change or extension of status, and such application is approved. This bar shall not apply to an alien described in new INA section 212(a)(6)(A)(ii) (battered spouse or child). The bar also may be waived, in the sole and unreviewable discretion of the Attorney General, for an immigrant who is the spouse or son or daughter of a United States citizen or lawful permanent resident, and the refusal of admission to the alien would cause extreme hardship to that citizen or lawfully resident spouse or parent.

This subsection also provides that an alien who has been present unlawfully in the United States for more than 1 year or has been ordered removed from the United States, and who subsequently enters or attempts to enter the United States without being lawfully admitted, is permanently barred from admission. Such an alien may be admitted not earlier than 10 years after the alien's last departure from the United States, but only if the Attorney General gives prior consent to the alien's reapplying for admission.

Section 301(c)—Senate recedes to House section 301(b), with modifications. This subsection states that an alien who is present in the U.S. without being admitted or paroled, or who has arrived in the U.S. at any time or place other than as designated by the Attorney General, is inadmissible. This ground of inadmissibility shall not apply if: (I) the alien qualifies for immigrant status as the spouse or child of a United States citizen or lawful permanent resident; (II) the alien or the alien's child has been battered or subject to extreme cruelty; and (III) there was a substantial connection between the cruelty or battery and the alien's unlawful entry into the United States. As a matter of transition, the requirements under (II) and (III) shall not apply if the alien establishes that he or she first entered the United States prior to the effective date of Title III of this legislation, as set forth in section 309(a). This subsection also provides that an alien who without reasonable cause fails to attend or remain in attendance at any proceeding regarding the alien's removal from the United States is barred from admission for 5 years.

Section 301(d)—Senate recedes to House section 301(g), which makes a number of conforming references regarding the change in nomenclature in INA section 212(a) from "excludable" to "inadmissible." Subparagraph (B) of INA section 241(a)(1) (entry without inspection) will be amended to state that an alien present in the United States in violation of law is deportable. The current category of persons who are deportable because they have made an entry without inspection will, under the amendments made by section 301(c) of this bill, instead be considered inadmissible under revised paragraph (6)(A) of subsection 212(a).

Section 302—Senate recedes to House section 302, with modifications. This section will amend INA section 235, regarding the inspection of aliens arriving in the U.S. New section 235(a) provides that an alien present in the United States who has not been admitted to the U.S., or who arrives in the United States, (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters), shall be deemed an applicant for admission.

An arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection by an immigration officer. A stowaway shall not be eligible to apply for asylum in the United States unless the stowaway establishes a credible fear of persecution pursuant to the expedited review process in section 235(b)(1).

Aliens seeking admission, readmission, or transit through the United States shall be inspected by an immigration officer, who shall have the same authority to take statements and receive evidence as under current INA section 235. An alien applying for admission may, at the discretion of the Attorney General, be permitted to withdraw the application for admission and depart immediately from the United States.

New section 235(b) establishes new procedures for the inspection and in some cases removal of aliens arriving in the United States.

Expedited Removal of Arriving Aliens: New paragraph (b)(1) provides that if an examining immigration officer determines that an arriving alien is inadmissible under section 212(a)(6)(C) (fraud or misrepresentation) or 212(a)(7) (lack of valid documents), the officer shall order the alien removed without further hearing or review, unless the alien states a fear of persecution or an intention to apply for asylum. This provision shall not apply to an alien arriving by air who is a national of a Western Hemisphere nation with which the United States does not have diplomatic relations. The provisions also may be applied, in the sole and unreviewable discretion of the Attorney General, to an alien who has not been paroled or admitted into the United States and who cannot affirmatively show to an immigration officer that he or she has been continuously present in the United States for a period of 2 years immediately prior to the date of the officer's determination. The purpose of these provisions is to expedite the removal from the United States of aliens who indisputably have no authorization to be admitted to the United States, while providing an opportunity for such an alien who claims asylum to have the merits of his or her claim promptly assessed by officers with full professional training in adjudicating asylum claims.

An alien who states a fear of persecution or an intention to apply for asylum shall be referred for interview by an asylum officer, who is an immigration officer who has had professional training in asylum law, country conditions, and interview techniques comparable to that provided to full-time adjudicators of asylum applications. The officer shall be, for purposes of determinations made under this section, under the supervision of an immigration officer with similar training and substantial experience in adjudicating asylum applications. If the officer finds that the alien has a credible fear of persecution, the alien shall be detained for further consideration of the application for asylum under normal non-expedited removal proceedings. If the alien does not meet this standard and, if the alien requests administrative review, the officer's decision is upheld by an immigration judge, the alien will be ordered removed. To the maximum extent practicable, review by the immigration judge shall be completed within 24 hours, but in no case shall such review take longer than 7 days. Throughout this process of administrative review, the alien shall be detained by the INS. An alien may consult with a person of his or her choosing before the interview, at no expense to the Government and without unreasonably delaying the interview. A "credible fear of persecution" means that there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum.

There is no other administrative review of a removal order entered under this paragraph, but an alien claiming under penalty of perjury to be lawfully admitted for permanent residence, or to have been admitted as a refugee or granted asylum, shall be entitled to administrative review of such an order as the Attorney General shall provide by regulation. An alien ordered removed under this paragraph may not make a collateral attack against the order in a prosecution under section 275(a) (illegal entry) or 276 (illegal reentry).

The availability of judicial review is described below in the explanation of section 306 of this Act.

New paragraph (b)(2) provides that an alien determined to be inadmissible by an immigration officer (other than an alien subject to removal under paragraph (b)(1), or an alien crewman or stowaway) shall be referred for a hearing before an immigration judge under new section 240.

Subsection (c) restates the provisions of current INA section 235(c) regarding the removal of aliens arriving in the United States who are inadmissible on national security grounds. This subsection is not intended to apply in the case of aliens who are inadmissible under new section 212(a)(6)(A) because they are already present in the United States without having been admitted or paroled. Such aliens could, however, be subject to the special removal procedures provided in Subtitle B of this Title.

New subsection (d) restates provisions currently in INA section 235(a) authorizing immigration officers to search conveyances, administer oaths, and receive evidence, and to issue subpoenas enforceable in a United States district court.

Section 303—Senate recedes to House section 303, with modifications. This section amends INA section 236, as described in the next paragraphs below. (The provisions in current section 236 regarding hearings on the exclusion of aliens are reflected in new section 240, as amended by section 304 of this report.)

New section 236(a) restates the current provisions in section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States. (The current authority in section 242(a) for a court in habeas corpus proceedings to review the conditions of detention or release pending the determination of the alien's inadmissibility or deportability is not retained.) The minimum bond for an alien released pending removal proceedings is raised from $500 to $1500. New section 236(b) restates the current provisions in section 242(a)(1) that the Attorney General may at any time revoke an alien's bond or parole.

New section 236(c) provides that the Attorney General must detain an alien who is inadmissible under section 212(a)(2) or deportable under new section 237(a)(2). This requirement does not apply to an alien deportable under section 237(a)(2)(A)(i) on the basis of an offense for which the alien has not been sentenced to at least 1 year in prison. This detention mandate applies whenever such an alien is released from imprisonment, regardless of the circumstances of the release. This subsection also provides that such an alien may be released from the Attorney General's custody only if the Attorney General decides in accordance with 18 U.S.C. 3521 that release is necessary to provide protection to a witness, potential witness, a person cooperating with an investigation into major criminal activity, or a family member or close associate of such a witness or cooperator, and such release will not pose a danger to the safety of other persons or of property, and the alien is likely to appear for any scheduled proceeding.

New section 236(d) restates the current provisions in section 242(a)(3) regarding the identification of aliens arrested for aggravated felonies and amends those provisions to require that information on aliens convicted of aggravated felonies and deported be provided to the Department of State for inclusion in its automated visa lookout system.

New section 236(e) states that no discretionary judgment of the Attorney General made under the authority of section 236 shall be subject to judicial review, and that no court shall set aside a decision of the Attorney General regarding detention or release of an alien, or the granting or denial of bond or parole.

Section 304—Senate recedes to House section 304, with modifications. This section redesignates current INA section 239 (designation of ports of entry for aliens arriving by civil aircraft) as section 234, redesignates INA section 240 (records of admission) as section 240C, and inserts new INA sections 239, 240, 240A, and 240B.

New section 239 restates the provisions of current subsections (a) and (b) of section 242B regarding the provision of written notice to aliens placed in removal proceedings. These provisions are conformed to the establishment of a single removal hearing to replace the two current proceedings under current section 236 (exclusion) and 242 (deportation). The requirement that the written notice be provided in Spanish as well as English is not retained. The INS will determine when a language other than English should be used and when the services of a translator are necessary. The mandatory period between notice and date of hearing is reduced to 10 days. Service is sufficient if there is proof of mailing to the last address provided by the alien.

New section 240 restates provisions in current sections 236 (exclusion proceedings) and 242 and 242B (deportation proceedings). Section 240(a) provides that there shall be a single proceeding for deciding whether an alien is inadmissible under section 212(a) or deportable under section 237 (formerly section 241(a)). This subsection shall not affect proceedings under new section 235(c) (aliens inadmissible on national security grounds), new section 238 (currently section 242A) (aliens convicted of aggravated felonies), or new section 235(b)(1) (arriving aliens, or aliens present in the United States without having been admitted or paroled, who are inadmissible for fraud or lack of documents).

Section 240(b) provides that the removal proceeding under this section shall be conducted by an immigration judge in largely the same manner as currently provided in sections 242 and 242B. Under paragraph (b)(2), the proceeding may take place in person, or through video or telephone conference. (Hearings on the merits could be conducted by telephone conference only with the consent of the alien). In addition, with the consent of the parties, the proceeding may take place in the alien's absence. Under paragraph (b)(4), an alien shall have a reasonable opportunity to examine the evidence presented against the alien, and to cross-examine Government witnesses, but not to examine national security information provided in opposition to the alien's admission to the United States, or in opposition to an alien's application for discretionary relief. Under paragraph (b)(5), an alien who fails to appear for a hearing may be ordered removed if the Service establishes by clear, unequivocal, and convincing evidence that notice under section 239 was provided and that the alien is inadmissible or deportable. There is no requirement to provide written notice if the alien has failed to provide the address required under section 239(a)(1)(F). Under paragraph (b)(5)(C), an in absentia order can only be rescinded through a motion to reopen filed within 180 days if the alien demonstrates that the failure to appear was due to exceptional circumstances (as defined in section 240(e)), or a motion to reopen filed at any other time if the alien demonstrates that the alien either did not receive notice of the hearing or was in Federal or State custody and could not appear. An alien who fails to appear shall, in the absence of exceptional circumstances, be ineligible for 10 years for any relief under new sections 240A (voluntary departure) and 240B (cancellation of removal), and sections 245, 248, and 249.

Section 240(c) provides that the immigration judge shall make a decision on removability based only upon the evidence at the hearing. An alien applicant for admission shall have the burden to establish that he or she is beyond doubt entitled to be admitted. An alien who is not an applicant for admission shall have the burden to establish by clear and convincing evidence that he or she is lawfully present in the U.S. pursuant to a prior lawful admission. If the alien meets this burden, the Service has the burden to establish by clear and convincing evidence that the alien is deportable. This subsection also clarifies the types of evidence of criminal convictions that are admissible in immigration proceedings.

An alien is limited to one motion to reconsider the decision of the immigration judge. Such motion shall be filed within 30 days of the final administrative order of removal and shall specify the errors of law or fact in the order. An alien is limited to one motion to reopen proceedings. Such motion shall be filed within 90 days of the final administrative order of removal and shall state the new facts to be proven at a hearing if the motion is granted. The deadline for a motion to reopen may be extended in the case of an application for asylum or withholding of removal that is based on new evidence of changed country conditions, evidence that was not available at the time of the initial hearing. In the case of an in absentia order of removal under section 240(b)(5), the deadline for a motion to reopen shall be as set forth in section 240(b)(5)(C).

Section 240(d) provides that the Attorney General shall provide by regulation for the entry by an immigration judge of an order of removal stipulated to by the alien and the INS. Such an order shall be a conclusive determination of the alien's removability from the U.S.

Section 240(e) defines as "exceptional circumstances" the serious illness of the alien or the serious illness or death of the spouse, parent, or child of the alien, and other exceptional circumstances that are not less compelling. The subsection defines "removable" to mean in the case of an alien who has not been admitted, that the alien is inadmissible under section 212, and in the case of an alien who has been admitted, that the alien is deportable under redesignated section 237.

New section 240A establishes revised rules for the type of relief that is currently available to excludable and deportable aliens under section 212(c) and 244(a)—(d). Senate amendment section 150 recedes to these House provisions, with modifications.

Section 240A(a) provides that the Attorney General may cancel removal in the case of an alien lawfully admitted for permanent residence for not less than 5 years, if the alien has resided in the United States continuously for 7 years since being lawfully admitted in any status and has not been convicted of an aggravated felony. This provision is intended to replace and modify the form of relief now granted under section 212(c) of the INA.

Section 240A(b)(1) provides that the Attorney General may cancel removal in the case of an alien who (1) has been physically present in the United States for a continuous period of at least 10 years immediately preceding the date of applying for such relief, (2) has been a person of good moral character, (3) has at no time been convicted of an offense that would render the alien inadmissible under section 212(a)(2)(A) or deportable under redesignated sections 237(a)(2) or 237(a)(3), and (4) establishes that removal would result in exceptional and extremely unusual hardship to the alien's spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence.

Section 240A(b)(1) replaces the relief now available under INA section 244(a) ("suspension of deportation"), but limits the categories of illegal aliens eligible for such relief and the circumstances under which it may be granted. The managers have deliberately changed the required showing of hardship from "extreme hardship" to "exceptional and extremely unusual hardship" to emphasize that the alien must provide evidence of harm to his spouse, parent, or child substantially beyond that which ordinarily would be expected to result from the alien's deportation. The "extreme hardship" standard has been weakened by recent administrative decisions holding that forced removal of an alien who has become "acclimated" to the United States would constitute a hardship sufficient to support a grant of suspension of deportation. See Matter of O-J-O-, Int. Dec. 3280 (BIA 1996). Such a ruling would be inconsistent with the standard set forth in new section 240A(b)(1). Similarly, a showing that an alien's United States citizen child would fare less well in the alien's country of nationality than in the United States does not establish "exceptional" or "extremely unusual" hardship and thus would not support a grant of relief under this provision. Our immigration law and policy clearly provide that an alien parent may not derive immigration benefits through his or her child who is a United States citizen. The availability in truly exceptional cases of relief under section 240A(b)(1) must not undermine this or other fundamental immigration enforcement policies.

Section 240A(b)(2) restates the provisions in current section 244(a)(3), enacted in section 40703(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994. It provides that the Attorney General may cancel removal if the inadmissible or deportable alien has been subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident; has been physically present in the United States for a continuous period of at least 3 years; has been a person of good moral character during such period; is not deportable or inadmissible on grounds related to criminal activity, national security, or marriage fraud; and establishes that removal would result in extreme hardship.

Section 240A(b)(3) states that the Attorney General may adjust to the status of an alien lawfully admitted for permanent residence an alien who meets the requirements for cancellation of removal under section 240A(b)(1) or (2). The number of such adjustments shall not exceed 4,000 in any fiscal year.

Section 240A(c) provides that the following categories of aliens shall not be eligible for cancellation of removal under subsections (a) and (b)(1): an alien who entered as a crewman after June 30, 1964; an alien who was admitted as a nonimmigrant exchange alien under 101(a)(15)(J) in order to receive graduate medical education; an alien who otherwise was admitted as a nonimmigrant exchange alien under section 101(a)(15)(J), is subject to the two-year foreign residence requirement of section 212(e), and has not fulfilled that requirement or received a waiver; an alien who is inadmissible under section 212(a)(3) or deportable under redesignated section 237(a)(4) (national security and related grounds); an alien who is a persecutor as described in new section 241(b)(3)(B)(i); or an alien who has previously been granted relief under this section, or under INA sections 212(c) or 244(a) before the effective date of this Act.

Section 240A(d) provides that the period of continuous residence or physical presence ends when an alien is served a notice to appear under section 239(a) (for the commencement of removal proceedings under section 240), or when the alien is convicted of an offense that renders the alien deportable from the United States, whichever is earliest. A period of continuous physical presence under section 240A(b) is broken if the alien has departed from the United States for any period of 90 days, or for any periods in the aggregate exceeding 180 days. The continuous physical presence requirement does not apply to an alien who has served 24 months in active-duty status in the United States armed forces, was in the United States at the time of enlistment or induction, and was honorably discharged.

Section 240A(e) limits the granting of cancellation of removal and suspension of deportation under current section 244 to not more than an aggregate total of 4,000 aliens per fiscal year. This limitation shall apply regardless of when the alien applied for such relief.

New section 240B establishes new conditions for the granting of voluntary departure, currently governed by section 242(b) and 244(e) of the INA. Senate amendment section 150 recedes to these House provisions, with modifications.

Section 240B(a) provides that the Attorney General may permit an alien voluntarily to depart the United States at the alien's expense in lieu of being subject to removal proceedings under section 240 or prior to the completion of such proceedings, if the alien is not deportable because of conviction for an aggravated felony or on national security and related grounds. Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 120 days and an alien may be required to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the U.S. within the time specified. No alien arriving in the

United States for whom removal proceedings under section 240 are instituted at the time of arrival is eligible for voluntary departure under this section. Such an alien may withdraw his or her application for admission to the United States in accordance with section 235(a)(4).

Section 240B(b) provides that the Attorney General may permit an alien voluntarily to depart the United States at the conclusion of proceedings under section 240 if the alien has been physically present (before the notice to appear) for at least one year in the United States, the alien has been a person of good moral character for the 5 years preceding the application, the alien is not deportable because of conviction for an aggravated felony or on national security and related grounds, and the alien has established by clear and convincing evidence that the alien has the means to depart the United States and intends to do so. The period for voluntary departure cannot exceed 60 days and a voluntary departure bond is required.

Section 240B(c) provides that an alien is not eligible for voluntary departure if the alien was previously granted voluntary departure after having been found inadmissible under section 212(a)(6)(A) (present without admission or parole).

Section 240B(d) provides that if an alien is permitted to depart voluntarily and fails to do so, the alien shall be subject to a civil penalty of not less than $1,000 nor more than $5,000 and shall not be eligible for any further relief under this section or sections 240A, 245, 248, or 249 for a period of 10 years. The order granting voluntary departure shall inform the alien of these penalties.

Section 240B(e) provides that the Attorney General may by regulation limit eligibility for voluntary departure for any class or classes of aliens.

Section 304(c) of this Act amends INA section 242A (to be redesignated as section 238) to further streamline procedures for administrative deportation of certain criminal aliens.

Section 305—Senate recedes to House section 305, with modifications. Subsection (a) of this section strikes section 237, redesignates section 241 as section 237, and inserts a new section 241.

New section 241 restates and revises provisions in current sections 237, 242, and 243 regarding the detention and removal of aliens.

Section 241(a) provides that the Attorney General shall remove an alien within 90 days of the alien being ordered removed. This removal period shall begin when the alien's order is administratively final, when the alien is released from non-immigration related detention or confinement, or, if the alien has appealed his order to a court and removal has been stayed, the date of the court's final order. The removal period is extended beyond 90 days if the alien refuses to apply for travel documents or takes other steps (other than appeals) to prevent removal.

The alien shall be detained during the removal period. If the alien is not removed within 90 days, the alien shall be subject to supervision under conditions similar to those currently in section 242(d). An alien who has been ordered removed may be detained beyond the 90-day period if the alien is inadmissible under section 212, is removable under redesignated sections 237(a)(1)(c), 237(a)(2), or 237(a)(4), or, in the Attorney General's determination, is unlikely to comply with the order of removal or is a risk to the community.

The Attorney General may not remove an alien who is sentenced to imprisonment until the alien is released, but parole, supervised release, probation, or the possibility of arrest are not grounds to defer removal. However, under section 241(a)(4)(B), an alien may be removed prior to the completion of sentence if the alien has been convicted of a nonviolent offense (except for certain aggravated felonies) and removal of the alien is appropriate and in the best interests of the United States or of the State in whose custody the alien is held. There is no right of action against the United States or any State, or any officials thereof, to compel the release or removal of any alien under this provision.

If an alien reenters the United States illegally after having been removed or departed voluntarily under an order of removal, the prior order of removal is reinstated and the alien shall be removed under the prior order, which shall not be subject to review. The alien is not eligible to apply for any relief under the INA.

An alien who is subject to an order of removal may not be granted authorization to work in the United States unless there is no country willing to accept the alien, or the removal is otherwise impracticable or contrary to the public interest.

Section 241(b) establishes the countries to which an alien may be removed. Subsection (b)(1) restates the provisions in current section 237(a); subsection (b)(2) restates the provisions in current sections 243(a) and (b). Subsection (b)(3) restates, with some modifications, the provisions in current section 243(h) regarding withholding of deportation to a country where the alien's life or freedom would be threatened. Subsection (b)(3)(B) specifies that an alien is barred from this form of relief if, having been convicted of a particularly serious crime, the alien is a danger to the community. An aggravated felony or felonies for which the alien has been sentenced to an aggregate of 5 years imprisonment is deemed to be such a crime, but the Attorney General retains the authority to determine other circumstances in which an alien has been convicted of a particularly serious crime, regardless of the length of sentence.

Section 241(c) provides that an alien arriving in the United States who is ordered removed shall be removed immediately by the vessel or aircraft that brought the alien, unless it is impracticable to do so or the alien is a stowaway who has been ordered removed by operation of section 235(b)(1) but has a pending application for asylum. This subsection also restates and revises the provisions in section 237(d) regarding stay of removal, and the provisions in section 237(a) regarding cost of detention and maintenance pending removal. These provisions make it clear that actual physical detention of an alien who has been permitted to land in the United States shall be the sole responsibility of the Attorney General and shall take place in INS facilities or contract facilities, even in cases where the liability for cost of detention is assigned to a private entity such as a carrier. It is expected that the rate of reimbursement charged to the carrier or other entity made responsible for the cost of detention of an alien shall be at the same per diem rate charged to the government for the cost of detention.

In the case of an alien stowaway, the carrier shall be liable for the cost of detention incurred by the Attorney General. If the stowaway does not claim asylum, the only task is to arrange for the stowaway's departure from the United States. This could occur directly on the vessel of arrival, particularly in the case of aircraft. Due to commercial requirements, safety concerns, and other factors, it is often not practicable for the stowaway to be removed on the vessel of arrival, particularly in the case of commercial maritime vessels. For this reason, section 241(d)(2)(B) provides that an alien stowaway may be allowed to land in the United States for detention by the Attorney General or departure or removal of the stowaway. In such a case, the carrier shall be responsible, under section 241(c)(3)(A)(ii)(II), for the cost of detention by the Attorney General for the time reasonably necessary to arrange for repatriation or removal of the alien, including obtaining necessary travel documents. The carrier's liability shall not extend beyond the date on which it is ascertained that such travel documents cannot be obtained. It is expected that the carrier and the INS will work cooperatively in order to obtain such travel documents in an expeditious manner. In some circumstances, foreign governments do not cooperate in issuing such documents. Since circumstances in such cases vary, this legislation does not designate a time period beyond which the financial responsibility for continued detention shifts from the carrier to the INS. It is expected that the INS, through regulations or internal policy guidance, will set a reasonable time line and other criteria that will be applied uniformly in all INS districts. Such guidelines should include an obligation on the part of the carrier to continue efforts to obtain travel documents and make other arrangements for the departure of the stowaway from the U.S.

In the case of a stowaway who has claimed asylum and is being detained to pursue an application for asylum, the carrier shall be liable, under section 241(c)(3)(A)(ii)(III), for a period not to exceed 15 business days, excluding Saturdays, Sundays, and holidays. The 15-day period shall begin when the alien is determined, under section 235(b)(1), to have a credible fear of persecution and thus be eligible to apply for asylum, but not later than 72 hours after the actual arrival of the stowaway in the U.S. The 72-hour period is intended to provide adequate time for the Attorney General to determine if the stowaway has a credible fear of persecution and thus will be detained by the INS to pursue an asylum application. (As stated in new INA section 235(b)(1), this Act intends that the credible fear screening process, including administrative review, will ordinarily be completed within 24 hours or shortly thereafter. Additional time may be required in the case of a stowaway because of the unusual and sometimes dangerous circumstances in which a stowaway arrives in the United States.) Under no circumstances shall the carrier be required to reimburse the INS for a period of detention greater than 15 business days, plus the portion of the initial 72-hour period required to determine if the stowaway is eligible to apply for asylum. The obligation of the carrier to pay for detention costs does not include an obligation for the carrier to pay for the cost of translators, legal counsel, or other assistance in preparing and presenting the stowaway's claim for asylum. It is expected that the INS will adopt, through regulations consistent with the provisions of this legislation, clear policy guidance regarding the conduct of interviews to determine if a stowaway has a credible fear of persecution.

Section 241(d) restates the provisions in current section 237(b) requiring the owner of the vessel or aircraft bringing an alien to the United States to comply with orders of an immigration officer regarding the detention or removal of the alien. This subsection also restates the provisions in section 243(e) that any carrier (not limited to the carrier who has brought an alien) comply with an order of the Attorney General to remove to a specific destination an alien who has been ordered removed.

Section 241(d) also revises and restates the requirements in section 273(d) regarding permission for a stowaway to land in the U.S. A carrier who has brought a stowaway shall, pending completion of the inspection of the stowaway, detain the stowaway on board the vessel or at another place designated by the INS. The carrier may not permit the stowaway to land except temporarily for medical treatment, for detention of the stowaway by the Attorney General, or for departure and removal of the stowaway. However, a carrier shall not be required to detain a stowaway who has been permitted to remain in the U.S. to pursue an application for asylum, who shall be detained by the Attorney General subject to the reimbursement requirements set forth in section 241(c). Furthermore, the Attorney General shall grant a timely request by a carrier to remove the stowaway on a vessel other than that on which the alien has arrived in the U.S., provided that the carrier pays the cost of removal and obtains all necessary travel documents. In this way, the stowaway can be rapidly repatriated to the country of origin, instead of being forced to remain on the vessel while it makes other ports of call.

Section 241(e) restates the provisions in current sections 237(c) and 243(c) regarding the payment of expenses for removal of aliens who have been ordered removed.

Section 241(f) restates the provisions in section 243(f) regarding the employment of persons to provide personal care to aliens requiring such care during the removal process.

Section 241(g) amends and restates the authority in current section 242(c) for construction and operation of detention facilities. The amendment states that before the construction of new facilities, the Commissioner of the INS shall consider the availability of existing facilities for purchase or lease.

Section 241(h) provides that nothing in section 241 shall be construed to create any substantive or procedural right or benefit that is legally enforceable against the United States, its agencies or officers, or any other person. This provision is intended, among other things, to prohibit the litigation of claims by aliens who have been ordered removed from the U.S. that they be removed at a particular time or to a particular place.

Section 305(b) amends INA section 276(b) to establish a penalty of 10 years imprisonment for aliens who reenter the United States without authorization after having been removed prior to the completion of their term of imprisonment under new section 241(a)(4)(B).

Section 306—Senate amendment sections 141(b) and 142 recedes to House section 306, with modifications. This section amends INA section 242 to revise and restate the provisions in current section 106, which is repealed.

Section 242(a) provides that a final order of removal, other than an order or removal under section 235(b)(1), is governed by chapter 158 of title 28. This is consistent with current section 106(a). This subsection also provides that, subject to the conditions stated in new section 242(e), no court shall have jurisdiction to review any individual determination or cause or claim arising from the implementation or operation of an order of removal under INA section 235(b)(1), or to review, except as provided in subsection (e), a decision by the Attorney General to invoke section 235(b)(1), the application of such section to individual aliens (including the determination under section 235(b)(1)(B) regarding credible fear of persecution), or, except as provided in subsection (e), procedures and policies to implement section 235(b)(1). Individual determinations under section 235(b)(1) may only be reviewed under new subsection 242(e)(1)–(2).

This subsection also bars judicial review (1) of any judgment whether to grant relief under section 212(h) or (i), 240A, 240B, or 245, (2) of any decision or action of the Attorney General which is specified to be in the discretion of the Attorney General (except a discretionary judgment whether to grant asylum as described in section 242(b)), or (3) of any decision in the case of an alien who, by virtue of having committed a criminal offense, is inadmissible under section 212(a)(2) or deportable under redesignated section 237(a)(2) (with the exception of section 237(a)(2)(A)(i).

Section 242(b) provides that a petition for review must be filed within 30 days after the final order of removal in the Federal court of appeals for the circuit in which the final order of removal under section 240 was entered. As provided in Senate amendment section 142, the filing of a petition does not stay the removal of the alien unless the court orders otherwise. As further provided in the Senate amendment, the alien shall serve and file a brief not later than 40 days after the final administrative record becomes available, and may file a reply brief not later than 14 days after service of the brief of the Attorney General. These deadlines may be extended for good cause. The petition shall be decided solely upon the administrative record and the administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary. A discretionary judgment of the Attorney General whether to grant asylum under section 208 is conclusive unless manifestly contrary to law and an abuse of discretion. Judicial review of all questions of law and fact, including constitutional and statutory claims, arising out of an action to remove an alien from the United States, is available only as part of the judicial review of a final order of removal under this section.

Section 242(b) also revises and restates the provisions in current section 106 regarding form, service, decisions about eligibility for admission, treatment of a petitioner's claim that he or she is a national of the United States, consolidation of motions to reopen and reconsider with orders of removal, challenges to the validity of orders of removal in criminal proceedings, and detention and removal of alien petitioners.

Section 242(c) restates the provisions in the second sentence of subsection (c) of current section 106 that a petition for review must state whether a court has upheld the validity of an order of removal, and if so, identifying the court and date and type of proceeding.

Section 242(d) restates the provisions in the first and third sentences of subsection (c) of current section 106 requiring that a petitioner have exhausted administrative remedies and precluding a court from reviewing an order of removal that has been reviewed by another court absent a showing that the prior review was inadequate to address the issues presented in the petition, or that the petition presents new grounds that could not have been presented in the prior proceeding.

Section 242(e) provides rules for judicial review of orders of removal under section 235(b)(1). No court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief against the operation of section 235(b)(1) (other than that specifically authorized in this subsection), or to certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized in this section. Except as provided in section 242(e)(3) (see next paragraph), judicial review is available in habeas corpus, limited to whether the petitioner is an alien, whether the petitioner was ordered removed under revised INA section 235(b)(1), and whether the petitioner can prove by a preponderance of the evidence that he or she is an alien lawfully admitted for permanent residence, or has been admitted as a refugee or granted asylum. If the court determines that the petitioner was not ordered removed under section 235(b)(1) or is an alien lawfully admitted for permanent residence or a refugee or asylee, the court may order no relief other than to require that the alien be provided a hearing under section 240. The habeas corpus proceeding shall not address whether the alien actually is admissible or entitled to any relief from removal.

Section 242(e)(3) provides for limited judicial review of the validity of procedures under section 235(b)(1). This limited provision for judicial review does not extend to determinations of credible fear and removability in the case of individual aliens, which are not reviewable. Section 242(e)(3) provides that judicial review is available only in an action instituted in the United States District Court for the District of Columbia, and is limited to whether section 235(b)(1), or any regulations issued pursuant to that section, is constitutional, or whether the regulations, or a written policy directive, written policy guidance, or written procedures issued by the Attorney General are consistent with the INA or other law. Any action seeking such review must be filed within 60 days of the implementation of the regulations, directive, guidance, or procedures.

Section 242(f) provides that no court other than the Supreme Court shall have jurisdiction or authority to enjoin or restrain the operation of the provisions in chapter 4 of Title II of the INA, as amended by this legislation, other than with respect to the application of the provisions to an individual alien against whom removal proceedings have been initiated. Section 242(g) provides that no court shall have jurisdiction to hear any cause or claim on behalf of any alien arising from the decision of the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien.

Section 306(b) of this Act repeals INA section 106. Section 306(c) establishes that the amendments in subsections (a) and (b) shall apply to all final orders of exclusion, deportation, or removal, and all motions to reopen or reconsider, filed on or after the date of enactment of this Act. The jurisdictional bar in new section 242(g) shall apply without limitation to all past, pending, or future exclusion, deportation, or removal proceedings under the INA. Section 306(d) makes a technical amendment to sections 440(a), (c), (d), (g), and (h) of the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104-132, 110 Stat. 1214 (April. 24, 1996) (Public Law 104-132) ("AEDPA"), to clarify the circumstances in which aliens with multiple criminal convictions are barred from relief or subject to special procedures to effect their removal from the United States.

Section 307—Senate recedes to House section 307. Section 307(a) amends INA section 243(a) to restate the provisions in current INA section 242(e) regarding penalties for failure to depart within 90 days of the order of removal. New section 243(b) restates the provisions in the third (and final) sentence of current INA section 242(d) regarding penalties for failure to comply with the terms of release under supervision pursuant to section 241(a)(3) (currently the first two sentences of section 242(d)). New section 243(c) restates the provisions in the second and third sentences of current section 237(d) and the final clause of current section 243(e) regarding penalties for failure to comply with an order to remove an alien from the U.S., including civil money penalties and limitations on the clearance of vessels. New section 243(d) revises and restates the provisions in current section 243(g) regarding sanctions against a country that refuses to accept an alien ordered removed who is a citizen, subject, national, or resident of that country. Under the amendment, the Secretary of State shall order that the issuance of both immigrant and nonimmigrant visas to citizens, nationals, subjects, or nationals of that country be suspended until the country has accepted the alien.

Section 308—Senate recedes to House section 308. This section makes a series of redesignations and conforming amendments in addition to those made in other sections. (The following list includes amendments made in other sections).

Current section 232 is redesignated as section 232(a).

Current section 234 is redesignated as section 232(b).

Current section 238 is redesignated as section 233.

Current section 240 is redesignated as section 240C.

Current section 242A is redesignated as section 238, with conforming amendments.

Current section 242B is stricken.

Current section 244 is stricken.

Current section 244A is redesignated as section 244.

The provisions in current section 237(e) regarding the removal of an arriving alien who is helpless from sickness or mental or physical disorder are restated as a new section 232(c). Section 212(a)(10)(B), the redesignated ground of inadmissibility for an alien who is ordered to accompany such a helpless alien during removal, also is amended to conform to the amendments in new section 232(c).

Section 273(a) is amended by adding a new paragraph (2) to restate the provisions in current section 237(b)(5) prohibiting a carrier from taking any consideration contingent on whether an alien is admitted to or ordered removed from the U.S. Section 273(d) is repealed.

Section 309—Senate recedes to House section 309. This section establishes general effective dates and transition provisions for the amendments made by this subtitle. Subsection (a) provides that, except as otherwise provided, the changes made in this subtitle shall take effect on the first day of the first month beginning more than 180 days after the date of enactment. Subsection (b) provides that the Attorney General shall promulgate regulations to carry out this subtitle at least 1 month before the effective date in subsection (a). Subsection (c) provides for the transition to new procedures in the case of an alien already in exclusion or deportation proceedings on the effective date. In general, the amendments made by this subtitle shall not apply and the proceedings (including judicial review) shall continue to be conducted without regard to such amendments. The Attorney General may elect to apply the new procedures in a case in which an evidentiary hearing under current section 236 (exclusion) or sections 242 and 242B (deportation) has not been commenced as of the effective date. The Attorney General shall provide notice of such election to the alien, but the prior notice of hearing and order to show cause served upon the alien shall be effective to retain jurisdiction over the alien.

The Attorney General also may elect, in a case in which there has been no final administrative decision, to terminate proceedings without prejudice to the Attorney General's ability to initiate new proceedings under the amendments made by this subtitle. Determinations in the terminated proceeding shall not be binding in the new proceeding.

This subsection also provides that in the case where a final order of exclusion or deportation is entered more than 30 days after the date of enactment and before the Title III-A effective date (180 days after enactment), transitional rules similar to those established in section 305 of this Act (revised INA section 241) shall apply to petitions for judicial review filed prior to the Title III-A effective date. Under these transitional rules, all judicial review, both of exclusion and deportation decisions, shall be by petition for review to the court of appeals for the judicial circuit in which the final administrative order was entered. The petition for review also must be filed not later than 30 days after the final order of exclusion or deportation. The new limitations on appeals in the case of claims for discretionary relief or in the case of criminal aliens, and the new rule providing for no automatic stay of removal, are to take effect in all cases for which a final order of exclusion, deportation, or removal is entered after the date of enactment. Regardless of the date of entry of the final order of exclusion or deportation, if the petition for review is filed after the Title III-A effective date, then the permanent changes made by section 306 of this bill shall apply exclusively to such petition for review.

The rules under new section 240A(d)(1) and (2) regarding continuous physical presence in the United States as a criterion for eligibility for cancellation of removal shall apply to any notice to appear (including an Order to Show Cause under current section 242A) issued after the date of enactment of this Act.

SUBTITLE B—CRIMINAL ALIEN PROVISIONS

Section 321—House section 802 recedes to Senate amendment section 161. This section amends INA section 101(a)(43) (as amended by section 440(e)) of the AEDPA (Public Law 104-132)), the definition of "aggravated felony," by: adding crimes of rape and sexual abuse of a minor; lowering the fine threshold for crimes relating to money laundering and certain illegal monetary transactions from $100,000 to $10,000; lowering the imprisonment threshold for crimes of theft, violence, racketeering, and document fraud from 5 years to 1 year; and lowering the loss threshold for crimes of tax evasion and fraud and deceit from $200,000 to $10,000. This section also adds new offenses to the definition relating to gambling, bribery, perjury, revealing the identity of undercover agents, and transporting prostitutes. It deletes the requirement that a crime of alien smuggling be for commercial advantage in order to be considered an aggravated felony, but exempts a first offense involving solely the alien's spouse, child or parent. The amendment provides that the amended definition of "aggravated felony" applies to offenses that occurred before, on, or after the date of enactment.

This section also provides, in section 321(c), that there shall be no ex post facto application of this amended definition in the case of prosecutions under INA section 276(b) (for illegal re-entry into the United States after deportation when the deportation was subsequent to a conviction for an aggravated felony). Thus, an alien whose deportation followed conviction for a crime or crimes, none of which met the definition of aggravated felony under INA section 101(a)(43) prior to the enactment of this bill, but at least one of which did meet the definition after such enactment, may only be prosecuted under INA section 276(b) for an illegal entry that occurs on or after the date of enactment of this bill.

Section 322—Senate recedes to House section 351. This section amends section 101(a) of the INA to add a new paragraph (48), defining conviction to mean a formal judgment of guilt entered by a court. If adjudication of guilt has been withheld, a judgment is nevertheless considered a conviction if (1) the judge or jury has found the alien guilty or the alien has pleaded guilty or nolo contendere and (2) the judge has imposed some form of punishment or restraint on liberty. This section also provides that any reference in the INA to a term of imprisonment or sentence shall include any period of incarceration or confinement ordered by a court of law regardless of any suspension of the imposition or execution of that imprisonment or sentence.

This section deliberately broadens the scope of the definition of "conviction" beyond that adopted by the Board of Immigration Appeals in Matter of Ozkok, 19 I&N Dec. 546 (BIA 1988). As the Board noted in Ozkok, there exist in the various States a myriad of provisions for ameliorating the effects of a conviction. As a result, aliens who have clearly been guilty of criminal behavior and whom Congress intended to be considered "convicted" have escaped the immigration consequences normally attendant upon a conviction. Ozkok, while making it more difficult for alien criminals to escape such consequences, does not go far enough to address situations where a judgment of guilt or imposition of sentence is suspended, conditioned upon the alien's future good behavior. For example, the third prong of Ozkok requires that a judgment or adjudication of guilt may be entered if the alien violates a term or condition of probation, without the need for any further proceedings regarding guilt or innocence on the original charge. In some States, adjudication may be "deferred" upon a finding or confession of guilt, and a final judgment of guilt may not be imposed if the alien violates probation until there is an additional proceeding regarding the alien's guilt or innocence. In such cases, the third prong of the Ozkok definition prevents the original finding or confession of guilt to be considered a "conviction" for deportation purposes. This new provision, by removing the third prong of Ozkok, clarifies Congressional intent that even in cases where adjudication is "deferred," the original finding or confession of guilt is sufficient to establish a "conviction" for purposes of the immigration laws. In addition, this new definition clarifies that in cases where immigration consequences attach depending upon the length of a term of sentence, any court-ordered sentence is considered to be "actually imposed," including where the court has suspended the imposition of the sentence. The purpose of this provision is to overturn current administrative rulings holding that a sentence is not "actually imposed" in such cases. See Matter of Castro, 19 I&N Dec. 692 (BIA 1988); In re Esposito, Int. Dec. 3243 (BIA, March 30, 1995).

Section 323—Senate recedes to House section 363. This section amends section 263(a) to authorize the registration by the Attorney General of aliens who are or who have been on criminal probation or criminal parole within the U.S.

Section 324—House recedes to Senate amendment section 156(b). This section amends INA section 276(a)(1) to extend criminal liability for an alien who reenters the United States without authorization to an alien who has departed the United States while an order of exclusion or deportation is outstanding.

Section 325—House recedes to Senate amendment section 170B. This section amends section 2424 of title 18 to expand the registration requirements for those who control or harbor alien prostitutes to require earlier filing and to cover aliens of all nationalities.

Section 326—Senate recedes to House section 361. This section amends section 130002(a) of the Violent Crimes Control and Law Enforcement Act of 1994 (VCCLEA) to require that the criminal alien identification system be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be removable on account of criminal or other grounds. The system shall provide for recording of fingerprints of aliens previously arrested and removed into appropriate automated identification systems.

Section 327—House recedes to Senate amendment section 313. This section amends section 130002(b) of VCCLEA (criminal alien tracking center) to establish an authorization for appropriations of $5 million per year for each of fiscal years 1997 through 2001.

Section 328—Senate recedes to House section 305(b) and 843, with modifications. This section amends redesignated INA section 241(i) to provide that funds under the State Criminal Alien Assistance Program may be used for the costs of imprisonment of criminal aliens in a State or local prison or jail, including a jail operated by a municipality. This section also states the sense of Congress that SCAAP funds be distributed on a more expeditious basis. The managers anticipate that States will consult with counties and municipalities regarding their respective costs of detaining illegal aliens.

Section 329—Senate amendment section 170D recedes to House section 356. This section provides authorization for the Attorney General to conduct a 6-month pilot project to identify criminal aliens incarcerated in local governmental prison facilities in Anaheim, California.

Section 330—House section 360 recedes to Senate amendment section 170. This section advises the President to negotiate and renegotiate bilateral prisoner transfer treaties to expedite the transfer to their countries of nationality of aliens subject to incarceration who are unlawfully in the United States or are subject to deportation or removal. The negotiations are to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States, and to eliminate any requirement of prisoner consent to such transfer. The President shall submit an annual certification to the Committees on the Judiciary of the Senate and the House of Representatives, on whether each prisoner transfer treaty in force is effective in returning criminal aliens to their countries of nationality.

Section 331—House recedes to Senate amendment section 170A. This section requires the Secretary of State and Attorney General, within 180 days of the date of enactment, to submit to the Committees on the Judiciary of the Senate and the House of Representatives a report describing the use and effectiveness of the prisoner transfer treaties with the three countries with the greatest number of their nationals incarcerated in the United States. This section specifies information that shall be provided in such report, and requires the report to include recommendations to increase the effectiveness and use of, and compliance with, such treaties.

Section 332—House recedes to Senate amendment section 168. This section requires the Attorney General, not later than 12 months after the date of enactment, to issue a report detailing populations of alien felons incarcerated in Federal and State prisons, and programs and plans to remove such aliens who are inadmissible or deportable, and to prevent their illegal reentry into the United States.

Section 333—House recedes to Senate amendment section 320. This section requires the United States Sentencing Commission to review and amend current guidelines applicable to offenders convicted of conspiring with or aiding and abetting an alien in committing an offense under section 1010 of the Controlled Substance Import and Export Act (21 U.S.C. 960).

Section 334—Senate recedes to House section 357. House recedes to Senate amendment section 156(b). This section instructs the Sentencing Commission to promptly promulgate amendments to the sentencing guidelines to reflect the amendments made in section 130001 and 130009 of the Violent Crime Control and Law Enforcement Act of 1994.

SUBTITLE C—REVISION OF GROUNDS FOR EXCLUSION AND DEPORTATION

Section 341—Senate recedes to House section 301(f). This subsection amends INA section 212(a)(1)(A) by adding a new clause (ii), making inadmissible any alien who seeks admission as an immigrant who does not present evidence of vaccination against mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations recommended by the Advisory Committee for Immunization Practices. This subsection also provides that this new ground of inadmissibility may be waived if the alien receives the required vaccination, if a civil surgeon or similar official designated in 42 CFR 34.2 certifies that the vaccination would not be medically appropriate, or, if the vaccination would be contrary to the alien's religious or moral beliefs. It is anticipated that this waiver authority would be exercised in appropriate cases to permit admission of aliens where, for example, an alien has been unable to receive a safe dosage or vaccine in the alien's country of nationality, the alien is a child who is required to complete a series of vaccinations over a course of time and has not had a reasonable opportunity to complete that course, or the alien is an active member of a religious faith that notifies the Attorney General that such vaccinations would contradict the fundamental tenets of such religion.

Section 342—House recedes to Senate section 158. This section amends the terrorist exclusion ground, section 212(a)(3)(B), to make inadmissible an alien who, with the intent to cause death or serious bodily harm, has incited terrorist activity.

Section 343—House section 811 recedes to Senate amendment section 155. This section amends section 212(a)(5) to make inadmissible to the United States any alien seeking admission for employment as a health-care worker unless the alien presents a certificate from the Commission on Graduates of Foreign Nursing Schools or an equivalent independent credentialing organization (approved by the Attorney General in consultation with the Secretary of Health and Human Services) verifying the alien's training, licensing, and experience, as well as a level of competency in English appropriate to the position in which the alien will be employed.

Notwithstanding any international trade agreements or treaties, a "health care worker" subject to prescreening under this section should include any alien seeking an immigrant or nonimmigrant visa as a nurse, physical therapist, occupational therapist, speech-language pathologist, medical technologist and technician, physician assistant, or other occupations designated in regulations. The Attorney General should not approve a credentialing organization unless the organization is independent and free of material conflicts of interest regarding whether an alien receives a visa. The organization also should demonstrate an ability to evaluate both the foreign credentials appropriate for the profession and the results of examinations for proficiency in English appropriate for the health care of the kind in which the alien will be engaged, and maintain comprehensive and current information on foreign educational institutions, ministries of health and foreign health care licensing jurisdictions. In addition, because this provision contemplates that alien health-care workers be screened before they arrive in the United States, such organizations should demonstrate an ability to conduct examinations outside the United States.

Section 344—House recedes to Senate amendment section 216. This section amends INA section 212(a)(6)(C) and 241(a)(3) to create new grounds of inadmissibility and deportability in the case of an alien who falsely represents himself to be a citizen of the United States.

Section 345—Senate recedes to House section 362, with modifications. Subsection (a) of this section amends subparagraph 212(a)(6)(F) and adds a new paragraph 212(d)(12), to provide that an alien who is inadmissible for having been subject to a final order for a violation of section 274C (civil document fraud) may have the ground of inadmissibility waived if the alien is a lawful permanent resident or an alien seeking admission as a family-sponsored or employment-based immigrant, and, if no civil money penalty had been imposed, the final order resulted from an offense that was committed solely to assist an individual who at the time of the document fraud offense was the alien's spouse or child (and not another individual). This statutory language makes clear that the family relationship must exist at the time of the civil document fraud offense, not merely at the time the application for the waiver is filed.

Subsection (b) amends subparagraph 241(a)(3)(C) (prior to redesignation as section 237(a)(3)(C)) to provide a similar waiver for an alien who is deportable due to a section 274C violation. The same limitations on family relationship are to apply. No court shall have jurisdiction to review a decision whether or not to grant a waiver under either of these subsections.

Section 346—House recedes to Senate amendment section 214(b), with modifications. This section amends INA section 212(a)(6) to add a new subparagraph (G), making inadmissible for 5 years any alien who obtains a visa as a nonimmigrant student under section 101(a)(15)(F)(i) and who violates a term or condition of the nonimmigrant status.

Section 347—House recedes to Senate amendment sections 217(b) and 217(c). This section adds new sections 212(a)(10)(F) and 241(a)(7) creating, respectively, new grounds of inadmissibility and deportability in the case of an alien who has voted in an election in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation.

Section 348—Senate recedes to House section 301(h), with modifications. This section amends INA section 212(h) to limit waivers granted under that provision in the case of an immigrant previously admitted to the United States. An alien is ineligible for such a waiver if since admission as a lawful permanent residence, the alien has been convicted of an aggravated felony, or if the alien has not lawfully resided in the United States for a continuous period of 7 years prior to notification to the alien of proceedings to remove the alien from the United States. The managers intend that the provisions governing continuous residence set forth in INA section 240A as enacted by this legislation shall be applied as well for purposes of waivers under INA section 212(h).

Section 349—Senate recedes to House section 301(d), with modifications. This subsection revises INA section 212(i) to provide that the ground of inadmissibility under section 212(a)(6)(C) (fraud and misrepresentation) may be waived in the case of a spouse, son, or daughter of a United States citizen or of a lawful permanent resident, if the refusal of admission would result in extreme hardship to the citizen or lawfully resident spouse or parent. No court shall have jurisdiction to review a decision regarding such a waiver.

Section 350—House recedes to Senate amendment section 218 with modifications. This section amends INA section 241(a)(2) (prior to redesignation as section 237(a)(2)) to provide that an alien convicted of crimes of domestic violence, stalking, or child abuse is deportable. The crimes of rape and sexual abuse of a minor are elsewhere classified as aggravated felonies under INA section 101(a)(43), thus making aliens convicted of those crimes deportable and ineligible for most forms of immigration benefits or relief from deportation.

Section 351—This section amends INA sections 212(d)(11) and 241(a)(1)(E)(iii), regarding waivers, respectively, of excludability and deportability in the case of an alien who has engaged in alien smuggling if the act of smuggling was solely to aid certain close family members. The amendment clarifies that the family relationship must exist at the time of the act of smuggling. Thus, an alien does not qualify for the waiver if the spousal or parent-child relationship is established after the offense, but prior to the date of application for the waiver. The managers specifically disapprove of and intend to override the recent contrary holding of the Board of Immigration Appeals. See Matter of Farias, Int. Dec. 3269 (BIA 1996).

Section 352—Senate recedes to House section 301(e), with modification to make the ground of inadmissibility applicable to those who renounce citizenship after enactment.

Section 353—This section identifies other sections of this Act that make changes to grounds of inadmissibility or deportability.

SUBTITLE D—REMOVAL OF ALIEN TERRORISTS

Section 354—Senate recedes to House section 321, with modifications. This section amends INA section 504, as enacted by section 401 of AEDPA (Public Law 104-132), to provide, among other things, that the special deportation procedures employed in the case of an alien terrorist may proceed in the event that no summary of classified evidence being used against the alien can be provided to the alien without disclosing classified information. In such circumstances, a special attorney shall be appointed for the alien (in addition to the attorney who may have been appointed to represent the alien in the main proceedings). The special attorney shall be entitled to review the classified evidence that is not disclosed or summarized for the alien, but may not disclose that information to any other person, including to the alien.

Section 355—Senate recedes to House section 331, with modifications. This section amends INA section 212(a)(3)(B)(i)(IV) as inserted by section 411(1)(C) of AEDPA to clarify that when a member of an organization which engages in or actively supports or advocates terrorist activity is excludable from the U.S.

Section 356—Senate recedes to House section 331, with modifications. This section amends section 219(b), as added by section 302(a) of AEDPA, to clarify the standard for judicial review of a designation of an organization as a terrorist organization.

Section 357—Senate recedes to House section 332. This section clarifies that relief under INA section 244(e)(2) (voluntary departure) is not available to an alien in proceedings under Title V of the INA, as inserted by AEDPA.

Section 358—This section provides that the effective date for the provisions in this subtitle shall be effective as if included in the enactment of subtitle A of title IV of AEDPA, as enacted on April 24, 1996.

SUBTITLE E—TRANSPORTATION OF ALIENS

Section 361—Senate amendment section 151(a) recedes to House section 341. This section amends INA section 101 to add a new paragraph (47), defining "stowaway" to mean any alien who obtains transportation without consent including through concealment. A passenger who boards with a valid ticket is not to be considered a stowaway.

Section 362—Senate recedes to House amendment section 343. This section amends INA section 238, before redesignation as section 233, to clarify that the authority of the INS to enter into contracts with carriers who transport aliens to the United States applies regardless of the point of departure of such aliens, and is not limited to departures from contiguous territories. The authority also is extended to cover transportation by rail.

SUBTITLE F—ADDITIONAL PROVISIONS

Section 371—Senate amendment section 183 recedes to House section 352, with modifications. Subsection (a) amends paragraph (4) of section 101(b) to replace the definition of "special inquiry officer" with a definition of "immigration judge": an attorney designated by the Attorney General as an administrative judge within the Executive Office for Immigration Review to conduct proceedings, including proceedings under section 240. Subsection (b) substitutes the term "immigration judge" for "special inquiry officer" wherever it appears in the INA.

Subsection (c) establishes a four-level pay scale for immigration judges, beginning at 70 percent and reaching 92 percent of the next-to-highest rate of basic pay for the Senior Executive Service.

Section 372—House recedes to Senate amendment section 171(c). This section amends INA section 103(a) to provide that in the event of a mass influx of aliens off the coast of the United States or at a land border, the Attorney General may authorize a State or local law enforcement officer, with the consent of the officer's superiors, to perform duties of immigration officers under the INA.

Section 373—House recedes to Senate amendment section 329. This section amends INA section 103(a) to clarify the authority of the Attorney General to use appropriated funds for the care and security of individuals detained by the Service through agreements with State and local governments. This provision also grants authority for the Attorney General to contract with State and local authorities for construction, renovation, and acquisition of equipment in support of the detention of aliens held by the INS in State and local facilities.

Section 374—House recedes to Senate amendment section 165(a)(2)(A), with modifications, and Senate amendment section 167. This section extends the authority for judicial deportation under INA section 242A(c) (redesignated as section 238(c)) to any case in which an alien is deportable. This section also clarifies that no denial of a request for a judicial order of deportation (including a decision on the merits) shall preclude the Attorney General from initiating deportation proceedings before an immigration judge on the same or different ground of deportability. Finally, this section permits the entry of a stipulated order of deportation as part of a plea agreement.

Section 375—House recedes to Senate amendment section 181. This section amends INA section 245(c) to make ineligible for adjustment of status aliens who are not in lawful nonimmigrant status, who have violated the terms of their nonimmigrant visa, or who have engaged in unauthorized employment.

Section 376—Senate recedes to House section 808, with modifications. This section amends INA section 245(i) to provide that an alien applying for adjustment of status under this provision shall pay a fee of $1,000, not less than $800 of which shall be paid into an Immigration Detention Account. This section also amends INA section 286 to provide for creation and operation of the Immigration Detention Account.

Section 377—House recedes to Senate amendment section 180. This section amends INA section 245A to put an end to litigation seeking to extend the amnesty provisions of the Immigration Reform and Control Act of 1986, and to limit claims under that section to aliens who in fact filed an application for legalization under that section within the prescribed time limits, or attempted to do so but their application was refused by an immigration officer.

Section 378—Senate amendment section 176 recedes to House section 353. This section amends section 246(a) of the INA to clarify that the Attorney General is not required to rescind the lawful permanent resident status of a deportable alien separate and apart from the removal proceeding under section 240.

Section 379—House recedes to Senate amendment section 323, with modifications. This section amends sections 274A and 274C to clarify when the decision and order of an administrative law judge under these sections becomes final.

Section 380—Senate amendment section 143(a) recedes to House section 354. This section adds a new section 274D to the INA, providing that aliens under an order of removal who willfully fail to depart or to take actions necessary to permit departure (e.g., apply for travel documents) are subject to a civil penalty of up to $500 for each day in violation. This section would not diminish the criminal penalties at section 243(a) (for failure to depart) or at any other section of the INA.

Section 381—Senate recedes to House section 355. This section clarifies that the grant of jurisdiction under section 279 of the INA is to permit the Government to institute lawsuits for enforcement of provisions of the INA, not for private parties to sue the Government. This has no effect on other statutory or constitutional grounds for private suits against the Government.

Section 382—Senate recedes to House section 359. This section amends section 280(b) to provide for establishment of an Immigration Enforcement Account, into which shall be deposited the civil penalties collected under sections 240B(d), 274C, 274D, and 275(b), as amended by this bill. The collected funds shall be used for specified immigration enforcement purposes.

Section 383—House recedes to Senate amendment section 319, with modifications. This section amends section 301 of the Immigration Act of 1990 to exclude from "family unity" protection aliens who have committed certain serious offenses while juveniles.

Section 384—Senate amendment section 331 recedes to House section 364, with modifications. This section provides that the Attorney General shall not make an adverse determination of admissibility or deportability against an alien or an alien's child, using information furnished solely by certain individuals who have battered or subjected to extreme cruelty that alien or that alien's child, unless the alien has been convicted of a crime identified in redesignated section 237(a)(2). Neither shall the Attorney General permit use by, or disclosure to any person (other than an officer of the Department of Justice for official and certain other designated purposes) of any information that relates to an alien who is the beneficiary of an application for relief (which has not been denied) under section 204(a)(1)(A) and (B) (self-petition for immigrant visa by alien who has been battered or subject to extreme cruelty), section 216(c)(4)(C) (hardship waiver allowing removal of conditional permanent resident status based on qualifying marriage because alien spouse or child has been subject to battery or extreme cruelty), or section 244(a)(3) (suspension of deportation for alien spouse or child who has been subject to battery or extreme cruelty). Civil penalties are established for willful violations.

Section 385—Senate amendment section 148 recedes to House section 358. This section authorizes to be appropriated beginning in fiscal year 1996 the sum of $150,000,000 for costs associated with the removal of inadmissible or deportable aliens, including costs of detention of such aliens pending their removal. This section is intended to authorize sufficient funds in fiscal year 1996 for the hiring of 475 detention and deportation officers and support personnel and 475 investigators and support personnel.

Section 386—Subsection (a): House section 303(b) recedes to Senate amendment section 106. This section requires, subject to appropriations, an increase in INS detention facilities to 9,000 beds by the end of FY 1997. Subsection (b): House recedes to Senate amendment section 182, with modifications. This subsection requires that within 6 months of the date of enactment, and every 6 months thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives estimating the amount of detention space that will be required in the current fiscal year, and in each of the succeeding 5 fiscal years, to detain all aliens required to be detained under INA sections 236(c) (as amended by section 303(a) of this Act) and 241(a) (as amended by section 305(a) of this Act), to detain other illegal aliens in accordance with the detention priorities of the Attorney General, and to detain all inadmissible and deportable aliens subject to proceedings under INA sections 235(b)(1) or (2), 238, and 240. The report also shall include other specified information regarding the release of criminal aliens and other illegal aliens into the community.

Section 387—Senate amendment section 153 recedes to House section 112. This subsection requires a pilot program to determine the feasibility of using military bases available as a result of base closure laws as INS detention centers, and specifies that in selecting real property at a military base for such purpose, the Attorney General and Secretary of Defense consult with the redevelopment authority established for the base and give substantial deference to the redevelopment plan for the base. This section also requires a report not less than 30 months after enactment to the Committees on the Judiciary of the House of Representatives and the Senate on the feasibility of using closed military facilities as INS detention centers.

Section 388—Section 437 of AEDPA (Public Law 104-132), requires the Attorney General to implement within 180 days of enactment a program to repatriate aliens who have illegally entered the United States not less than 3 times, and who are being removed to a country contiguous to the United States, to a location not less than 500 kilometers from that country's border with the United States. In light of this enactment, the pilot programs in House section 111 and Senate amendment section 152 are unnecessary. The Senate recedes to House section 111(b), requiring a report to the Committees on the Judiciary of the House of Representatives and Senate regarding interior repatriation, with modification to refer to the mandate in section 437 of AEDPA.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

SUBTITLE A—PILOT PROGRAMS FOR EMPLOYMENT ELIGIBILITY CONFIRMATION

Sections 401 through 405—Senate amendment sections 111-115 recede to House section 401, with modifications. Subtitle A sets up three pilot programs of employment eligibility confirmation which will last four years each. These programs generally will be operated according to the pilot program procedures set out in House section 401. Participation in the pilot programs will be voluntary on the part of employers, except with regard to the executive and legislative branches of the Federal Government and certain employers who have been found to be in violation of certain sections of the Immigration and Nationality Act. Volunteer employers may have their elections apply to all hiring in all State(s) in which a pilot program is operating, or to their hiring in only one or more pilot program States or places of hiring within any such States. The Attorney General may reject elections or limit their applicability where the pilot program would have insufficient resources available to allow the company to participate in the pilot to the extent desired. The Attorney General may permit a participating employer to have its election apply to hiring in States in which the chosen pilot program is not otherwise operating (if the State meets the requirements of the pilot program). If an electing employer fails to comply with its obligations under a pilot program, such as by not complying with the program requirements for all new employees covered by its election, the Attorney General may terminate the employer's participation in the pilot program. An employer may also choose to terminate its participation (in such form and manner as the Attorney General may specify). If an employer required to participate in a pilot program fails to comply, such failure will be treated as a paperwork violation of the Immigration and Nationality Act's employment verification requirement, and a rebuttable presumption will arise that the employer has hired aliens knowing that they are unauthorized to work in the United States.

An employer participating in a pilot program who receives confirmation of an employee's identity and employment eligibility under the program will benefit from a rebuttable presumption that the employer has not hired an alien knowing the alien is unauthorized to work. Also, the Attorney General shall designate one or more individuals in each INS District Office for a Service District in which a pilot program is being implemented to assist employers in electing and participating in the program, and in more generally complying with INA section 274A.

The first pilot program, the basic pilot program, originates in House section 401. Employers in (at a minimum) five of the seven States with the highest number of illegal aliens may elect to participate. As under current law, the employer will have to complete the document review process described in INA section 274A(b) (as modified to increase the reliability of identification documents). However, if the Attorney General determines that an employer participating in this (or either of the other two) pilot program(s) can reliably determine a new employee's identity and authorization to work in the United States relying only on the pilot program procedures (discussed below) and a document review process including only documents confirming identity, the Attorney General can exempt participating employers from having to review documents confirming employment authorization.

Under the basic pilot program, employers would then make inquiries (within three days of hire) to the Attorney General (or a designee) by means of toll-free telephone line or other toll-free electronic media to seek confirmation of the identity and employment eligibility of new employees. Employers would be given additional time to make inquiries in situations where the confirmation system did not receive their initial inquiry, for instance because the system's phone lines were overloaded or out of operation. While the pilot program could not require that participating employers pay any fee to participate, employers would be responsible for providing the equipment needed to make inquiries. In most cases, this would simply be a telephone. However, if an employer wanted to use, for instance, a computer and modem to make large numbers of inquiries at once, the employer would have to provide such equipment. When making an inquiry, an employer would provide a new employee's name and social security number (and, if the employee had not attested to being a citizen, the employee's INS-issued number).

Through the confirmation system, this information provided in the inquiry will be checked against existing Federal Government records in order to provide (or not provide) confirmation of identity and work authorization. No new types of records will be added to government databases. The confirmation system will respond within three days of an inquiry—either by providing confirmation of the employee's identity and authorization to work or by providing a tentative nonconfirmation (in both cases, an appropriate code will be provided the employer by the system). After being notified of the tentative nonconfirmation, the employee can chose to contest or not contest the finding. If the employee does not contest the finding, the non-confirmation is considered final. If the employee does contest the finding, he or she—within a 10-day secondary verification period—will communicate with the Commissioner of Social Security and/or the Commissioner of the Immigration and Naturalization Service to resolve those issues preventing the confirmation system from confirming the employee's identity and work authorization. By the end of the secondary verification period, the confirmation system must provide either a final confirmation or a final nonconfirmation (and appropriate code) to the employer. An employer shall not terminate employment of an employee because of a failure to have identity and work authorization confirmed under the pilot program until a nonconfirmation becomes final. However, the employer can terminate the employee for other reasons (as consistent with applicable law), such as the failure of the employee to show up for work following a tentative nonconfirmation.

An employer, once provided with final nonconfirmation with regard to an employee, may either terminate the individual or continue his or her employment. If the employer continues to employ the individual, the employer must notify the Attorney General of this decision. Failure to notify will be deemed to be a paperwork violation and will be subject to enhanced paperwork violation penalties. Also, if the employer continues employment, a rebuttable presumption is created that the employer has hired the employee knowing the employee is unauthorized to work in the United States. The option of continued employment is only intended for the rare circumstance where an employer has knowledge independent of the confirmation process that the employee is eligible to work in the United States—such as knowing the employee since childhood.

The second pilot program, the citizenship-attestation pilot program, originated in Senate amendment section 112(a)(2)(G). It will operate in at least 5 States or, if fewer, all of the States that issue driver's licenses and identification cards with enhanced security features and procedures. However, employers can only participate in this pilot program in the sole discretion of the Attorney General. It will operate like the basic pilot program, with one important modification. If an employee attests to being a citizen, the employer is not required to (1) review documents confirming employment authorization when completing the 274A(b) document review process, or (2) make an inquiry through the confirmation system. This pilot program is designed to make the hiring process as easy and pitfall-free as possible for citizens and their employers. Its success depends in part on the effectiveness of this Act's heightened penalties for falsely attesting to U.S. citizenship.

A variation of the citizen-attestation pilot project will be open to election by a maximum of 1,000 employers chosen by the Attorney General. Under this program, employers do not have to comply with any part of the 274A(b) document review process with regard to new employees who attest to being citizens. Otherwise, the program is identical in nature to the citizen-attestation pilot program.

The third pilot program, the machine-readable document pilot program, originates in Senate section 112(a)(2)(F). It will operate as does the basic pilot program, except that if the new employee presents a State-issued identification document or driver's license that includes a machine-readable social security number, the employer will make an inquiry through the confirmation system by using a machine-readable feature of such document. The employer would have to procure the device needed to read the machine-readable document and to supply the information needed for the inquiry through the machine-readable feature of the document. Since the Social Security Administration does not keep up-to-date records of the employment eligibility of aliens, those employees who do not attest to citizenship will also have to provide their INS-issued numbers, which the employers will pass on when making inquiries through the confirmation system. Employees not possessing machine-readable documents will be confirmed as under the basic pilot program.

The machine-readable document pilot program is of course limited by the number of States which issue such enhanced documents and the fact that even in such States, not all individuals will have the machine-readable documents. Thus, it will only operate in at least 5 of the States (or, if fewer, all of the States) which issue driver's licenses and other identification documents with a machine-readable social security number (which need not be visible on the card). States are encouraged to issue such documents since use of machine-readable documents makes the confirmation process simpler and provides additional assurance that the documents are genuine.

Employers participating in any of the pilot programs are shielded from civil or criminal liability for actions taken in good faith reliance on information provided through the confirmation system—such as firing a new employee after receiving a final nonconfirmation of identity and/or work authorization through the confirmation system or continuing to employ an employee after receiving final confirmation.

Nothing in Subtitle A shall be construed to permit the Federal Government to utilize any information, data base, or other records assembled under the subtitle for any purpose other than as provided for under one of the three pilot programs. In addition, nothing in the subtitle shall be construed to authorize the issuance or use of national identification cards or the establishment of a national identification card. The confirmation system shall be designed and operated to, among other things, maximize its reliability and ease of use consistent with insulating and protecting the privacy and security of the underlying information, prevent the unauthorized disclosure of personal information, and ensure that the system not result in unlawful discriminatory practices based on national origin or citizenship status. Finally, the INS and Social Security Administration shall update their information in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

SUBTITLE B—OTHER PROVISIONS RELATING TO EMPLOYER SANCTIONS

Section 411—Senate recedes to House section 402, with modifications. This section provides those employers who in good faith make technical or procedural errors in complying with INA section 274A(b) an opportunity to correct those errors without penalty.

Section 412(a)—House section 403(a) recedes to Senate amendment section 116(b), with modifications. This provision reduces the number of documents that can be used to establish an individual's employment authorization and/or identity under section 274A(b) of the Immigration and Nationality Act. To establish both employment authorization and identity, an individual may present a 1) a U.S. passport, or 2) a resident alien card, alien registration card, or other document designated by the Attorney General, all of which must meet certain standards (including having certain security features). The other documents designated by the Attorney General may include an unexpired foreign passport which has an appropriate, unexpired endorsement of the Attorney General or an appropriate unexpired visa authorizing the individual's employment in the United States. To establish employment authorization, an individual may present a social security account number card or certain other documentation found acceptable by the Attorney General. No change has been made from current law as to the documents which may be presented to establish identity. Finally, the Attorney General may prohibit or place conditions on the use of any documents for purposes of section 274A(b) if they are found to not reliably establish employment authorization or identity or are being used fraudulently to an unacceptable degree.

Section 412(b)—Senate recedes to House section 403(b), with modifications. This provision provides a streamlined confirmation process under INA section 274A(b) for a new employee who is beginning work for a member of an employer association that has concluded a collective bargaining agreement with an organization representing the employee and the employee has within a specified period worked for another member of the association who has complied with the requirements of section 274A(b) with respect to the employee. If these conditions are met, the current employer is deemed to have complied with the requirements of section 274A(b) with respect to the employee.

Section 412(c)—Senate recedes to House section 403(c). This provision eliminates obsolete provisions of the Immigration and Nationality Act.

Section 412(d)—Senate recedes to House section 403(d). This provision clarifies that the Federal government must comply with section 274A of the Immigration and Nationality Act, which makes unlawful the knowing employment of aliens not authorized to work in the United States and requires employers to confirm the identity and employment authorization of new employees.

Section 413—Senate recedes to House section 404(c)(2). This provision requires the Attorney General to submit to Congress a report on additional authority or resources needed to enforce section 274A of the Immigration and Nationality Act and the Executive Order of February 13, 1996 (prohibiting Federal contractors from knowingly hiring aliens not authorized to work in the United States).

Section 414—Senate recedes to House section 405, with modifications. This provision requires the Commissioner of Social Security to prepare annual reports regarding social security account numbers issued to aliens not authorized to be employed, with respect to which, in a fiscal year, earnings were reported to the Social Security Administration, and a single report on the extent to which social security account numbers and cards are used by aliens for fraudulent purposes.

Section 415—Senate recedes to House section 406. This section authorizes the Attorney General to require aliens to provide their social security account numbers.

Section 416—House recedes to Senate amendment section 120A(a)(1). This section provides that certain immigration officers may compel by subpoena the attendance of witnesses and the production of documents while conducting investigations of potential violations by employers of section 274A(a) of the Immigration and Nationality Act.

SUBTITLE C—UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

Section 421—House section 407(b) recedes to Senate section 117. This provision provides that an employer's request of a new employee for more or different documents than are required to confirm an employee's identity and authorization to work in the United States under INA section 274A(b) or an employer's refusal to honor documents that reasonably appear to be genuine shall only be considered unfair immigration-related employment practices under INA section 274B(a)(1) if made for the purpose or with the intent of unlawfully discriminating against the employee on the basis of citizenship status or national origin.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

Section 500—Senate recedes to House section 600 with modifications to divide this section into two parts: subsection (a), setting forth a series of statements of congressional policy regarding aliens and public benefits; and subsection (b), stating the sense of Congress that: (1) courts should apply the same standard of review to States choosing to restrict their public benefits programs pursuant to the authorizations contained in this Act as the court uses in determining whether an Act of Congress regulating the eligibility of aliens for public benefits is constitutional; and (2) if a court applies the strict scrutiny standard of constitutional review, the court shall consider the State law to be the least restrictive means available for achieving the compelling government interest of assuring that aliens be self-reliant in accordance with national immigration policy. The purpose of the congressional grants of authority to States regarding eligibility for public benefits contained in this Act is to encourage States to implement the national immigration policy of assuring that aliens be self-reliant and not become public charges—a fundamental part of U.S. immigration policy since 1882.

SUBTITLE A—ELIGIBILITY OF EXCLUDABLE, DEPORTABLE, NONIMMIGRANT ALIENS FOR PUBLIC ASSISTANCE AND BENEFITS

Sections 501 and 502—House section 601 recedes to Senate amendment section 201(a)(1) with modifications. These sections bar ineligible aliens (as defined herein) from Federal, State, and local public benefits programs, contracts, grants, loans, and licenses, with specified exemptions (as defined herein).

In general, ineligible aliens should not take advantage of taxpayers by accessing public benefits. However, the managers believe that certain public health, nutrition, and in-kind community service programs should be exempted from the general prohibition on ineligible aliens accessing public benefits. The exemption for public health assistance for immunizations is not intended to be limited to immunizations under the Public Health Service Act, but refers to all immunizations. In the subparagraph treating certain battered aliens (or certain aliens subjected to extreme cruelty) as eligible aliens, the managers believe that the phrase "an alien whose child has been battered or subjected to extreme cruelty" includes children who have been sexually molested.

The managers intend that the inclusion of parolees who are paroled into the U.S. for a period of at least one year in the definition of eligible alien refers only to the period for which such aliens are authorized to remain in the U.S. after their parole. The statement contained in the Committee Report accompanying the Senate Amendment, that such reference referred to parolees who had been present in the U.S. for one year or more, does not reflect the intention of the managers as stated herein.

In defining "means-tested public benefit," (for purposes of sections 501, 551, 552), the managers do not intend to include programs which do not consider an applicant's income in the disbursement of assistance. For example, Title I grants under the Elementary and Secondary Education Act of 1965 are provided to school districts with significant numbers of needy students. Since all students in that district will receive assistance from these funds—regardless of each student's financial status—neither "deeming" (see section 552) nor the prohibition on receipt by illegal aliens are applicable. ESEA is exempted under sections 551 and 552 only because certain means-tested benefits (such as Elleander Fellowships) are authorized under that Act as well.

Many States use Federal block grant monies to provide services to the poor which are not within the scope of what the managers consider "means-tested." For example, soup kitchens and homeless shelters serve needy individuals, but the operators do not require each applicant to demonstrate financial need. Similarly, if a State chose to use money from the Social Service Block Grant to fund the administrative costs of a youth soccer league in a poor area of that State, such a benefit would not be considered "means-tested" under this Act.

The exception for treatment of communicable diseases is very narrow. The managers intend that it only apply where absolutely necessary to prevent the spread of such diseases. The managers do not intend that the exception for testing and treatment for communicable diseases should include treatment for the HIV virus or acquired immune deficiency syndrome. This exception is only intended to cover short-term measures that would be taken prior to the departure of the alien from the United States. It does not provide authority for long-term treatment of such diseases or a means for illegal aliens to delay their removal from the country.

The allowance for emergency medical services also is very narrow. The managers intend that it only apply to medical care that is strictly of an emergency nature, such as medical treatment for emergency treatment administered in an emergency room, critical care unit, or intensive care unit. Emergency medical services do not include pre-natal or delivery care, or post-partum assistance, that is not strictly of an emergency nature as specified herein—including State-funded or administered pre-natal and post-partum care. The managers intend that any provision of services under this exception for mental health disorders be limited to circumstances in which the alien's condition is such that he is a danger to himself or to others and has therefore been judged incompetent by a court of appropriate jurisdiction.

Section 503—House section 602 recedes to Senate amendment section 201(b) with modifications to eliminate the crediting of employment for purposes of unemployment benefits for individuals in PRUCOL status.

Section 504—House recedes to Senate amendment section 201(c) with modifications. This section amends section 202 of the Social Security Act to provide that no Social Security benefits may be paid to an alien not lawfully present in the United States. This section also amends section 210 of the Social Security Act to provide that periods of unauthorized employment shall not count towards an alien's eligibility for Social Security retirement benefits. The managers intend to allow sufficient time for the Social Security Administration to comply with this provision in order for SSA field offices to develop appropriate screening procedures.

Section 505—Senate recedes to House section 601(c) with modifications to amend the SAVE program. This section requires proof of identity for all applicants in addition to the verification requirements for non-citizens under section 1137(d) of the Social Security Act.

Section 506—Senate recedes to House section 601(d). This section authorizes State and local governments to require proof of eligibility (including identity) from applicants for State and local public benefits programs.

Section 507—House recedes to Senate amendment section 201(a)(2) with modifications. This section provides that illegal aliens are not eligible for in-state tuition rates at public institutions of higher education.

Section 508—Senate recedes to House section 606. House recedes to Senate amendment section 205. This section requires that applicants for post-secondary financial assistance be subject to verification of their eligibility prior to receiving such assistance. The managers believe that House section 606 reflects the current practice of the Department of Education regarding the verification of student eligibility for postsecondary financial assistance.

Section 509—House recedes to Senate amendment sections 324 and 326. These sections amend the Social Security Act, and the Higher Education Act of 1986 to require the submission of photostatic or similar copies of documents or information specified by the INS for verification of an alien's immigration status.

Section 510—House recedes to Senate amendment section 201(e) with modifications. This section requires Federal, State, and local public benefits agencies to verify an applicant's eligibility (including the amount of eligibility) prior to the administration of public benefits by a non-profit charitable organization. The managers believe that non-profit charitable organizations themselves should not have to verify immigration status or determine the eligibility of aliens for public benefits, e.g., by "deeming" the income of sponsors to immigrant applicants for assistance (see section 552). The managers also believe, however, that the appropriate Federal or State agency must verify and determine the amount of eligibility of aliens for public benefits before a non-profit charitable organization may distribute means-tested benefits to such aliens.

Section 511—Senate recedes to House section 607, with modifications. This section requires the Comptroller General to submit a report to the Committees on the Judiciary of the House of Representatives and the Senate regarding the receipt of means-tested public benefits by ineligible aliens on behalf of U.S. citizens and eligible aliens. The managers note that illegal aliens often access public benefits, such as AFDC and Food Stamps, for which they themselves are ineligible, by applying for such benefits on behalf of their U.S. citizen or legal immigrant children.

SUBTITLE B—EXPANSION OF DISQUALIFICATION FROM IMMIGRATION BENEFITS ON THE BASIS OF PUBLIC CHARGE

Section 531—Senate recedes to House section 621 with modifications. This section amends INA section 212(a)(4) to expand the public charge ground of inadmissibility. Aliens have been excludable if likely to become public charges since 1882. Self-reliance is one of the most fundamental principles of immigration law. The managers believe that all family-sponsored immigrants, and certain employment-based immigrants, should have affidavits of support executed on their behalf as a condition of admission.

Section 532—House recedes to Senate amendment section 202 with modifications. This section amends INA section 241(a)(5) to expand the public charge ground of deportation. Aliens who access welfare have been deportable as public charges since 1917. However, only a negligible number of aliens who become public charges have been deported in the last decade. The managers believe that aliens who become public charges within 7 years of their admission to the United States should promptly be removed from the country. Just as with the definition of "eligible alien" in section 501, the exception in section 532 for battered children includes children who are victims of sexual molestation.

SUBTITLE C—AFFIDAVITS OF SUPPORT AND ATTRIBUTION OF INCOME

Section 551—House recedes to Senate amendment section 203 with modifications. This section creates a new, legally-binding affidavit of support in order to seek reimbursement from sponsors for the costs of providing public benefits. The managers intend that the affidavit of support be a legally-binding contract between an alien's sponsor, the sponsored alien, and the government. The managers also intend that public hospitals, private hospitals, and community health centers be allowed to seek reimbursement from sponsors for the costs of providing emergency medical services to the extent such services would, in the absence of the deeming requirements of section 552, be reimbursed by means-tested public benefit programs. The managers further intend that the new, legally enforceable, affidavit of support be used in all cases where an affidavit of support is required (including for nonimmigrants and aliens granted parole under section 212(d)(5) of the INA), either by statute, regulation, or administrative practice. Exceptions to the definition of "means-tested public benefit" include public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment of such disease. However, the exception applies in the case of HIV infection to testing only.

The provision is designed to encourage immigrants to be self-reliant in accordance with national immigration policy. The managers intend to establish a process that will authorize visas only for those applicants whose sponsors (both the petitioning sponsor as defined in subsection (g)(1), (g)(2), (g)(3), or (g)(4)) and any non-petitioning sponsor as defined in subsection (g)(5)) demonstrate the means to meet the applicable income requirements (as set forth in subsection (g)). It is expected that an applicant whose sponsors fail to demonstrate the means to meet the applicable income requirements will be denied a visa, and that the next applicant in the queue will then be given an opportunity to qualify. The managers further intend that an applicant whose petitioning sponsor or non-petitioning sponsor (or both) is unable to meet the applicable income requirements in the initial interview may be afforded one additional opportunity to meet such requirements. If such applicant has already utilized a non-petitioning sponsor at the initial interview, and such non-petitioning sponsor was unable to meet the applicable income requirements, such applicant may be provided one additional opportunity to demonstrate that the non-petitioning sponsor meets the applicable income requirements, but may not be authorized in the second interview to substitute a new or different non-petitioning sponsor. The managers intend that applicants shall have no more than two opportunities to demonstrate that their sponsor (or sponsors) meets the applicable income requirements.

Section 552—House recedes to Senate amendment section 204 with modifications. This section deems that a sponsor's income is to be counted with a sponsored alien's in determining the alien's eligibility for public benefits. In subsection (c)(4), the managers intend for the Attorney General to enter information regarding the eligibility (including the amount of eligibility) of aliens for public benefits into the SAVE system as a means for all public benefits agencies to access such information for purposes of determining eligibility and seeking reimbursement. In subsection (d)(1), the managers believe that the scope of the exception to deeming in cases of indigence is very narrow, and only applies to situations where a sponsor and the sponsor's spouse cannot or will not provide needed support, and the sponsored alien could not obtain food or shelter without assistance from a public benefits agency. In determining whether a sponsored alien could obtain food or shelter in such a situation, the agency making the determination shall take into account whether the sponsored alien could obtain assistance for food or shelter from a privately-funded organization, and if so, shall refer the alien to such organization in lieu of providing benefits. The agency must notify the Attorney General when exercising this exception.

Under current law, all three programs which "deem" sponsor income exclude a portion of the sponsor's income in their calculations. This legislation rejects this approach. At entry, a sponsor and the sponsored alien are considered to be part of one family unit (living under the same roof), and all of the sponsor's income is considered to be available—just as would be available to the sponsor's spouse or child. The same approach should be used at adjudication for benefits. All of the income of the sponsor and the sponsor's spouse should be deemed to be available to the sponsored alien, as though the sponsored alien is a member of the same family unit (and lives under the same roof) as the sponsor.

Subsection (d) provides that the deeming rules shall not apply to Medicaid assistance used for emergency medical services. Under subsection 552(f), just as in the case of the definition of "eligible alien" in section 501, the exception to deeming rules for battered children includes children who are victims of sexual molestation.

Section 553—House recedes to Senate amendment section 204(e). This section authorizes State and local government to follow the Federal Government in deeming a sponsor's income to a sponsored alien who applies for public benefits. The managers intend to authorize States to enact sponsor-to-alien deeming laws as part of the national immigration policy that aliens be self-reliant. If a State deeming law, enacted pursuant to the authorization contained in this section, should be challenged in court, the managers intend that the court shall apply the standard of review described in section 500(b)(1) of this Act.

Section 554—House recedes to Senate amendment section 206. This section authorizes State and local governments to enact alienage restrictions in State and local cash public assistance programs. The managers intend to authorize States to prohibit or otherwise limit eligibility of aliens for general cash assistance as part of the national immigration policy that aliens be self-reliant, but only to the extent that such limit is not more restrictive than under comparable Federal programs. If a State restriction, enacted pursuant to the authorization contained in this section, should be challenged in court, the managers intend that the court shall apply the standard of review contained in section 500(b)(1) of this Act.

SUBTITLE D—MISCELLANEOUS PROVISIONS

Section 561—House recedes to Senate amendment section 207 with modifications. This provision increases the maximum criminal penalties for forging or counterfeiting a Federal seal or facilitating the fraudulent obtaining of public benefits by aliens.

Section 562—Senate recedes to House section 812, with modification. This section amends INA section 412(c)(2) to specify that in the computation of targeted refugee resettlement assistance, each county shall receive the same amount of assistance for each refugee and entrant residing in the county at the beginning of each fiscal year (counting those refugees and entrants who arrived within 60 months prior to that fiscal year).

Section 563—Senate recedes to House section 604 with modifications. This provision allows public hospitals to seek reimbursement for costs incurred from providing emergency medical services to illegal aliens if the immigration status of individuals for whom reimbursement is sought has been verified, but is not intended to create an entitlement for such reimbursement.

Section 564—House recedes to Senate amendment section 211 with modifications. This provision allows States to be reimbursed for emergency ambulance service costs provided to certain illegal aliens who are injured while attempting to enter the U.S., but is not intended to create an entitlement for such reimbursement.

Section 565—House recedes to Senate amendment section 315 with modifications. This section establishes a pilot program to require bonds in addition to sponsorship and deeming requirements for the purposes of overcoming excludability as a public charge under INA section 212(a)(4). The managers believe that where bonds are used to overcome the grounds for exclusion as a public charge, whether in this pilot program or in current INA section 213, the bonds should be required in addition to, not in lieu of, the new sponsorship and deeming requirements created in this Act.

Section 566—The managers agree to require a series of reports by the Attorney General regarding the affidavit of support, attribution of sponsor income, public charge deportation, and non-profit charitable organization exemption provisions of this Act.

SUBTITLE E—HOUSING ASSISTANCE

Section 571—House recedes to Senate amendment section 221. This section provides a short title for the provisions contained in this subtitle.

Section 572—House recedes to Senate amendment section 222 with modifications. This section prorates public housing assistance based upon the number of eligible recipients within a family unit.

Section 573—House section 611 recedes to Senate amendment section 223 with modifications. This provision limits any deferrals of termination decisions to a single 3-month period.

Section 574—House section 612 recedes to Senate amendment sections 224 and 325 with modifications. This provision ensures that aliens are not allowed to receive public housing assistance until their eligibility has been verified. Aliens may not begin receiving such assistance while their applications are pending.

Section 575—House section 613 recedes to section 225 of the Senate amendment. This section prohibits sanctions against entities that make erroneous determinations of eligibility for housing assistance.

Section 576—House section 614 recedes to Senate amendment section 227 with modifications. This provision establishes regulations for carrying out the sections of this subtitle.

Section 577—House section 605 recedes to Senate amendment section 201(d). This provision requires a report describing the manner in which the Secretary of Housing and Urban Development is enforcing section 214 of the Housing and Community Development Act of 1980, which prevents illegal aliens from receiving public housing assistance.

SUBTITLE F—GENERAL PROVISIONS

Section 591—House recedes to Senate amendment section 231(a). This section provides that unless otherwise specified, the provisions of this title take effect on the date of enactment.

Section 592—Senate recedes to House section 634. This section clarifies that the provisions of this title do not set forth all requirements of eligibility for public assistance, or determine when such requirements are satisfied, but only relate to the general issue of eligibility or ineligibility on the basis of alienage.

Section 593—The managers agree to include a provision clarifying that Title V does not apply to programs of foreign assistance.

Section 594—House recedes to Senate amendment section 201(a)(3) with modifications to allow either individual or public notice of changes in eligibility for benefits recipients caused by this Act.

Section 595—This section provides that, for purposes of this title, the definitions of "alien," "State," "United States," "national," "naturalization," and "child" are the same definitions as set forth in the INA.

The managers acknowledge that some of the provisions contained in this Title differ from similar provisions enacted this year as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193). To the extent possible, the managers intend to reconcile these differing provisions during the next Congress to avoid confusion in the implementation of these policies.

TITLE VI—MISCELLANEOUS PROVISIONS

SUBTITLE A—REFUGEES, PAROLE, AND ASYLUM

Section 601—Senate recedes to House section 501. Subsection (a) amends the definition of refugee at section 101(a)(42) to provide that a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear of being compelled to undergo such a procedure or being subject to such persecution shall be deemed to have a well founded fear of persecution on account of political opinion.

Subsection (b) amends section 207(a) to provide that not more than 1,000 refugees shall be admitted on the basis of persecution under coercive population control policies.

Section 602—House recedes to Senate amendment section 191 with modifications. This section amends INA section 212(d)(5) to provide that the Attorney General's parole authority may be exercised only on a case-by-case basis for urgent humanitarian reasons or significant public benefit. This section also requires that not later than 90 days after the end of the fiscal year, the Attorney General shall report to the Committees on the Judiciary of the House of Representatives and the Senate describing the number and categories of aliens paroled into the United States under section 212(d)(5), along with other specified information.

Section 603—House recedes to Senate amendment section 192 with modifications. This section amends INA section 201(c) to provide, beginning in 1999, that aliens paroled into the United States in the second previous fiscal year who do not depart within 365 days and who have not yet become permanent resident aliens (or who, if they did become LPRs, did so under a provision of law other than 201(b) that did not count toward the worldwide level), will be counted towards the worldwide level of family-sponsored immigrants. If an alien is counted towards the worldwide level under this provision and subsequently adjusts to LPR status, the alien shall not be so counted again at the time of adjustment.

Section 604—Senate recedes to House section 511, with modifications. This section amends section 208 of the Immigration and Nationality Act to provide that an alien who is physically present in, or who arrives in, the United States may apply for asylum in accordance with section 208 or, where applicable, section 235(b)(1). However, an alien may not apply for asylum if the Attorney General determines that the alien can be returned to a safe third country pursuant to a bilateral agreement, unless the Attorney General finds that it is in the public interest for the alien to receive asylum in the United States. An applicant for asylum must demonstrate by clear and convincing evidence that the application has been filed within 1 year of arriving in the United States (unless the alien can demonstrate to the satisfaction of the Attorney General that extraordinary circumstances caused the delay in filing an application prior to the deadline), and an alien is not eligible to apply for asylum if the alien has previously applied for and been denied asylum; these bars do not apply if the alien demonstrates the existence of changed circumstances which materially affect the applicant's eligibility for asylum. A determination by the Attorney General that an alien is ineligible to apply for asylum is not subject to judicial review.

Subsection (b) adopts the conditions for granting asylum outlined in House section 511(a). Subsection (c) clarifies the status of an alien granted asylum. It also provides that asylum may be terminated if the alien: is no longer a refugee under section 101(a)(42); is ineligible for asylum under subsection (b); may be returned to a safe third country; has voluntarily returned to his country of nationality or last habitual residence with lawful permanent resident or equivalent status; or has acquired a new nationality which confers protection on the alien. An alien whose asylum is terminated is subject to any applicable ground of inadmissibility or deportation.

Subsection (d) provides for the establishment of procedures for considering applications for asylum. The applicant may be required to submit fingerprints and a photograph. The House provisions regarding employment authorization, application fees, legal representation, and notice of the consequences of knowingly filing a frivolous application for asylum are included, as are the House provisions on consideration of asylum applications. If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received notice, the alien shall be permanently ineligible for any benefits under the INA. Nothing in subsection (d) shall be construed to create any substantive or procedural right or benefit that is enforceable by any party against the United States.

Subsection (b) makes conforming and clerical amendments. Subsection (c) provides that the amendments made by this section shall take effect on the first day of the first month beginning more than 180 days after the date of enactment.

Section 605—Senate recedes to House section 513. This section authorizes an increase in the number of asylum officers by at least 600 in FY 1997.

Section 606—House recedes to Senate amendment section 196. This section provides for the conditional repeal of the Cuban Adjustment Act upon the establishment of democracy in Cuba.

SUBTITLE B—MISCELLANEOUS AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT

Section 621—House recedes to Senate amendment section 185. This section amends INA section 214(j)(1) to double the number of "S" visas (pertaining to alien witness cooperators) that may be issued in a given fiscal year.

Section 622—House recedes to Senate amendment section 310. This section extends the period for waiver of the foreign country residence requirement for foreign medical graduates to June 1, 2002, and amends INA sections 212(e) and 214(k) to place additional conditions and restrictions on waivers requested by a United States Government or State agency. These additional restrictions are imposed, among other things, to ensure that aliens granted such waivers remain employed in positions deemed to be in the public interest.

Section 623—House section 809 recedes to Senate amendment section 175, with modifications. This section amends INA sections 245A(c)(5) and 210(b)(6)(C) to require the Attorney General to disclose information in an application for legalization to a law enforcement entity, upon written request, in connection with a criminal investigation or prosecution, or to a coroner in order to identify a deceased individual.

Section 624—House recedes to Senate amendment section 311. This section amends section 212(a)(5) to provide that in the case of certain professional athletes, a labor certification shall remain valid if the athlete is traded by his original sponsoring employer to another team in the same sport.

Section 625—House recedes to Senate amendment section 214(a), with modifications. This section amends INA section 214 to provide that an alien may not be given or validly remain in nonimmigrant status under INA section 101(a)(15)(F) if the alien is pursuing studies at a public elementary school or publicly-funded adult education program. The section also provides that an alien may not have such status at a public secondary school unless the period of such status does not exceed 12 months and the alien has paid reimbursement equal to the full unsubsidized per capita student cost. This amendment also provides that an alien who obtains an "F-1" visa to pursue studies at a private elementary or secondary school, or privately-funded language program, shall be considered to have violated the conditions of the visa if the alien terminates or abandons such studies and undertakes studies at a public school or publicly-funded adult education or language training program.

Section 626—House recedes to Senate amendment section 328. This section adds a new INA section 294 to permit the Attorney General to expend appropriated funds to pay for the transportation of the remains of any INS officer or Border Patrol agent killed in the line of duty to a place of burial in the United States, Puerto Rico, or U.S. territories or possessions, as well as other related and incidental costs.

SUBTITLE C—PROVISIONS RELATING TO VISA PROCESSING AND CONSULAR EFFICIENCY

Section 631—Senate recedes to House section 807. This section amends INA section 221(c) to provide that an immigrant visa shall be valid for a period of six months, and to provide that the period for validity of a nonimmigrant visa issued to an alien of one nationality who has been granted refugee status and been firmly resettled in another country shall be based on the treatment granted by the country of resettlement to alien refugees resettled in the U.S.

Section 632—House section 803(b) recedes to Senate amendment section 157. This section amends INA section 222 by adding a new subsection (g), providing that an alien who has remained in the U.S. beyond the authorized period of stay may not be readmitted to the United States on that nonimmigrant visa, and may only be readmitted as a nonimmigrant on the basis of a visa issued in a consular office located in the country of the alien's nationality (or, if there is no such office, at a consular office designated by the Secretary of State), or where extraordinary circumstances are found by the Secretary of State.

Section 633—House section 803(a) recedes to Senate amendment section 172. This section amends INA section 202(a)(1) to clarify that the Secretary of State has non-reviewable authority to establish procedures for the processing of immigrant visa applications and the locations where visas will be processed.

Section 634—House recedes to Senate amendment section 301, with modifications. This section amends INA sections 222(c) and (e) to make certain changes in the visa application process.

Section 635—House section 836 recedes to Senate amendment section 302. This section amends INA section 217(f) to extend the authorization for the Visa Waiver Pilot Program (VWPP) through September 30, 1997. This section also repeals current section 217(g) (regarding the probationary program), and adds a new section 217(g) to specify procedures for termination of a country's designation to participate in the VWPP. A country with a disqualification rate of between 2 and 3.5 percent shall be placed on probationary status for a period of not more than 3 years. (The disqualification rate is the percentage that the number of aliens from the country who were found inadmissible, withdrew their applications for admission, or were admitted as nonimmigrants and violated the terms of their admission in a given fiscal year, represents of the total number of nationals of that country who applied for admission as nonimmigrant visitors during the same fiscal year.) A country with a disqualification rate of greater than 3.5 percent shall be terminated from the VWPP at the beginning of the second fiscal year after this determination is made. If a country on probationary status by the end of the designated period fails to develop a machine-readable passport program or has a disqualification rate of greater than 2 percent, the country shall be terminated from the VWPP at the beginning of the first fiscal year after such determination is made. The Attorney General and Secretary of State retain the discretion to terminate any country's designation as a participant in the VWPP, or to deny a waiver to any individual from a country which is a participant.

Section 636—House recedes to Senate amendment section 306, with modifications. This section provides that the Secretary of State may establish a fee for diversity immigrant visas to be paid by each applicant for such a visa. The fee may be set to recover the cost of administering the diversity visa program, including the cost of processing all applications for diversity visas. It is intended that this fee would be paid by all entrants into the "lottery" for eligibility for a diversity visa.

Section 637—Senate recedes to House section 841, with modifications. This section provides that certain aliens selected as diversity immigrants during FY 1995, and whose applications for adjustment of status under INA section 245 were accepted by the Attorney General, shall be selected for diversity immigrant visas in FY 1997 and given priority over other aliens selected for such visas. The number of Polish nationals notified in FY 1995 that they were eligible for a diversity immigrant visa exceeded the number of visas that were available. The purpose of this provision is to place these individuals in the same position they would have been in FY 1995 had sufficient visas been available.

SUBTITLE D—OTHER PROVISIONS

Section 641—House recedes to Senate amendment section 215, with modifications. This section requires the Attorney General, in cooperation with the Secretaries of State and Education, to collect from colleges and universities certain information regarding nonimmigrant foreign students from designated countries who are enrolled at such institutions pursuant to visas under INA section 101(a)(15) (F), (J), or (M). The information shall include the alien's identity, current address, nonimmigrant classification, academic standing, and disciplinary action, if any. Institutions shall participate as a condition of their approval for participation in exchange student visa programs, and the collection of data shall be funded by a fee charged on all visas issued under section 101(a)(15) (F), (J), or (M).

Section 642—Senate amendment section 177 recedes to House section 833, with modifications. This section provides that notwithstanding any other provision of Federal, State, or local law, no State or local government entity shall prohibit or in any way restrict any government entity or official from sending to or receiving from the INS information regarding the immigration status of any individual in the United States.

Section 643—Senate recedes to House section 834. This section requires the Attorney General, not later than 6 months after the date of enactment, to issue regulations regarding the rights of "habitual residence" under the Compacts of Free Association between the United States and the governments of the Marshall Islands, and the Federated States of Micronesia, and between the United States and Palau.

Section 644—Senate recedes to House section 835. This section requires aliens from certain countries specified by the INS in consultation with the Secretary of State to be advised prior to or at the time of entry into the United States of the severe harm caused by female genital mutilation and the potential legal consequences in the United States of performing female genital mutilation or of allowing a child to be subjected to female genital mutilation.

Section 645—House recedes to Senate amendment section 335. This section amends chapter 7 of title 18 to add a new section 116, prohibiting the practice of female genital mutilation on any individual less than 18 years old, and setting penalties of up to 5 years imprisonment.

Section 646—Senate recedes to House section 837. This section will permit the adjustment of status of certain nationals of Poland and Hungary who were paroled into the United States between November 1, 1989, and December 31, 1991, after having been denied refugee status.

Section 647—Senate amendment section 307 recedes to House section 838. This section requires the Attorney General to make available funds up to $5,000 for demonstration projects in support of naturalization ceremonies to be conducted in fiscal years 1997 through 2001.

Section 648—Senate recedes to House section 842. This section states the sense of Congress that, to the extent practicable, all equipment and products purchased with funds authorized by this Act shall be American-made, and that recipients of grants under this Act receive notice of this statement of Congress.

Section 649—House recedes to Senate amendment section 171(b). This section amends 50 U.S.C. 191 to extend the authority of the Attorney General to direct the movement of vessels in emergencies to include situations of actual or anticipated mass migrations of aliens arriving by sea.

Section 650—House recedes to Senate amendment section 308. This section requires the Attorney General to investigate and submit a report to Congress regarding the practices of entities authorized by regulation to administer the English and civics tests to applicants for naturalization. A preliminary report shall be submitted within 90 days of enactment, and a final report shall be issued within 275 days after submission of the preliminary report.

Section 651—House recedes to Senate amendment section 309. This section provides that the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry in El Paso shall be known as the "Timothy C. McCaghren Customs Administrative Building."

Section 652—House recedes to Senate amendment section 312. This section addresses abuses in the practices of certain international matchmaking organizations ("mail order bride businesses") by requiring such organizations, under pain of civil penalty, to provide certain immigration information to potential recruits for immigration to the United States, and by requiring the Attorney General to conduct a study and submit a report to Congress regarding the number of mail order marriages, the extent of marriage fraud arising as a result of such marriages, the extent of domestic abuse in such marriages, and the need for expanded regulation to implement the policies of the Violence Against Women Act of 1994 in this area.

Section 653—House recedes to Senate amendment section 321. This section requires the Comptroller General to review the effectiveness of the H-2A nonimmigrant program to ensure that the program provides a workable safety valve in the event of future shortages of domestic agricultural workers. The report shall be submitted not later than December 31, 1996, or 3 months after the date of enactment, whichever is sooner.

Section 654—House recedes to Senate amendment section 333. This section requires the Commissioner of the Customs Service to initiate a study of allegations of harassment by Canadian Customs agents designed to deter cross-border commercial activity along the United States-New Brunswick border. The study shall include a review of the connection between such incidents of harassment and the imposition of the New Brunswick Provincial Sales Tax on goods purchased in the United States by New Brunswick residents. The Commissioner shall consult with State and local officials in Maine in conducting this study, and shall submit a report to Congress on results of the study within 120 days of enactment of this Act.

Section 655—House recedes to Senate amendment section 334. This section states the sense of Congress that the collection by Canadian Customs officials of a New Brunswick Provincial Sales Tax on goods purchased in the United States by residents of New Brunswick, but not on goods purchased by New Brunswick residents in other Canadian provinces, may violate the North American Free Trade Agreement (NAFTA) and that the United States Trade Representative should move without delay in seeking redress under the dispute resolution process in chapter 20 of NAFTA.

Section 656—House sections 831 and 832 recede to Senate amendment section 118, with modifications. Without placing mandates on states, this section establishes grant programs to encourage states to develop more counterfeit-resistant birth certificates and driver's licenses. After October 1, 2000, Federal agencies may only accept as proof of identity driver's licenses that conform to standards developed by the Secretary of the Treasury after consultation with state motor vehicle officials through the American Association of Motor Vehicle Administrators. Beginning 4 years after the date of enactment, Federal agencies may only accept birth certificates issued after such date that conform to standards developed by the Secretary of Health and Human Services after consultation with appropriate State officials. The managers intend that the new standards developed in consultation with state officials apply only to licenses issued or renewed after October 1, 2000, and only to birth certificates issued more than 4 years after the date of enactment.

Section 657—House recedes to Senate amendment section 332, with modifications. This section requires the Commissioner of Social Security to develop a prototype of a counterfeit-resistant social security card, and requires the Comptroller General to conduct a study and issue a report to Congress that examines different methods of improving the social security card application process.

Section 658—House recedes to Senate amendment section 314. This section will authorize the transfer of INA artifacts to the Border Patrol Museum and Memorial Library Foundation.

Section 659—Senate recedes to House section 840. This section states the sense of Congress regarding enforcement priorities of the INS.

SUBTITLE E—TECHNICAL CORRECTIONS.

Section 671—Senate recedes to House section 851, with modifications. This section makes a number of entirely technical corrections to the Immigration Reform and Control Act of 1986, the Immigration and Nationality Technical Corrections Act of 1994, the Immigration and Nationality Act, and other legislation.

OTHER PROVISIONS

The House recedes to the Senate on the following provisions: House sections 222, 300, 801.

The Senate recedes to the House on the following provisions: Senate amendment sections 120B, 120D, 120E, 305, 318.

Henry Hyde,
Lamar Smith,
Elton Gallegly,
Bill McCollum,
Bob Goodlatte,
Ed Bryant,
Sonny Bono,
Bill Goodling,
Randy "Duke" Cunningham,
Howard P. "Buck" McKeon,
E. Clay Shaw, Jr.,
Managers on the Part of the House.

Orrin Hatch,
Al Simpson,
Chuck Grassley,
Jon Kyl,
Arlen Specter,
Strom Thurmond,
Dianne Feinstein,
Managers on the Part of the Senate.

MEDICAID CERTIFICATION ACT OF 1995

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1791) to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services, as amended.

The Clerk read as follows:

H.R. 1791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTIONS RELATING TO PHYSICIANS' SERVICES.

(a) Correcting Reference to Unique Identifier System.—

(1) In general.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended, in the paragraph redesignated as paragraph (59) by section 13623(a)(6) of the Omnibus Budget Reconciliation Act of 1993 and inserted by section 4752(c)(1)(C) of the Omnibus Budget Reconciliation Act of 1990, by striking "subsection (v)" and inserting "subsection (x)".

(2) Effective date.—The amendment made by paragraph (1) shall be effective as if included in the enactment of the amendments made by section 4752(c)(1) of the Omnibus Budget Reconciliation Act of 1990.

(b) Correction in Minimum Qualifications for Billing for Physicians' Services to Children and Pregnant Women.—

(1) In general.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended, in the paragraph redesignated as paragraph (12) by section 13631(c)(3) of the Omnibus Budget Reconciliation Act of 1993 and inserted by section 4752(a)(2)(B) of the Omnibus Budget Reconciliation Act of 1990—

(A) in subparagraph (A)(i), by inserting "or is certified in family practice or pediatrics by the medical specialty board recognized by the American Osteopathic Association" before the comma at the end;

(B) in subparagraph (B)(i), by inserting "or is certified in family practice or obstetrics by the medical specialty board recognized by the American Osteopathic Association" before the comma at the end; and

(C) in each of subparagraphs (A) and (B)—

(i) by striking "or" at the end of clause (v),

(ii) in clause (vi), by inserting "(or certified by the State in accordance with policies of the Secretary)" after "Secretary",

(iii) by redesignating clause (vi) as clause (vii), and

(iv) by inserting after clause (v) the following new clause:

"(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or".

(2) Effective date.—The amendments made by paragraph (1) shall apply to physicians' services furnished on or after January 1, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. Bilirakis] and the gentleman from New York [Mr. Manton] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. Bilirakis].

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that the House is considering H.R. 1791, the Medicaid Certification Act of 1995.

This legislation makes technical corrections to title XIX of the Social Security Act relating to payments for physician serves in the Medicaid Program.

In OBRA 1990, due to an unintentional omission, Osteopathic Physicians were not included in provisions concerning Medicaid reimbursement for services provided to pregnant women and children.

The legislation before us today corrects this by adding that Medicaid may allocate funds for services to pregnant women and children when provided by physicians who are certified by the American Osteopathic Association.

This bill also clarifies that services provided in emergency departments of a participating hospital will be covered as well.

Finally, the legislation includes current HCFA practice that any physician certified by a State Medicaid plan will be allowed to participate in the Medicaid Program.

Mr. Speaker, this bill has 60 cosponsors and broad bipartisan support. I urge my colleagues to support this legislation.

Mr. Speaker, I thank the minority members of our committee, the gentleman from California [Mr. WAXMAN] and the gentleman from Michigan [Mr. DINGELL], and, of course, the staffs on both sides for their hard work on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MANTON. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 1791, the Medicaid Certification Act.

Mr. Speaker, current Medicaid law establishes quality standards for physicians providing care for children and pregnant women in the Medicaid Program. When we passed that original legislation, we specified that physicians certified by the medical specialty board recognized by the American Board of Medical Specialties would meet the quality standards. But we failed to make specific mention as well of the medical specialty board recognized by the American Osteopathic Association.

This legislation corrects that oversight. Clearly it was always the view of the committee that board-certified osteopaths are high quality providers, and should not be treated any differently than board-certified allopathic physicians. This simply corrects any misunderstanding that may have been implied by our failure to mention them in the original legislation.

I want to stress that in making this change we are in no way relaxing or stepping back from the original intention of the legislation to assure that quality standards are in effect for these providers of Medicaid services to pregnant women and children.

We expect the Secretary of HHS to implement the original provision and this change to it with full attention to the basic purposes for the provision.

I urge support of the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield 5 minutes to the gentleman from Florida, I mean the gentleman from Texas [Mr. BARTON], who is the chief sponsor—their loss would be our gain—the chief sponsor of this legislation. And certainly the American Osteopathic Association picked the right person to lead this legislation for them because he certainly is a doer.

Mr. BARTON of Texas. Mr. Speaker, I am sure at one time Texas was part of Florida; today, though, we are an independent State of the great 50-State Union.

Mr. Speaker, I do rise in support of H.R. 1791 as the chief sponsor in the Committee on Commerce. This legislation is required, quite frankly, because of an oversight in 1990 that both the gentleman from New York [Mr. MANTON] and the gentleman from Florida [Mr. BILIRAKIS] have already referred to. Because of a series of missteps and oversight in subsequent Congresses in 1990, we have never been able to rectify that original mistake until this point in time.

There is no opposition to this legislation. The American Medical Association supports it, the Clinton administration, the Health Care Finance Administration that implements Medicaid and oversees Medicaid supports it, the Rural Health Care Caucus supports it. It was reported by committee unanimously on a voice vote. The gentleman from Virginia, Chairman BLILEY, has been very active, as has Chairman BILIRAKIS in subcommittee. The ranking member, the gentleman from Michigan, Mr. DINGELL, and the gentleman from California, Mr. WAXMAN, have been very supportive. So there is no opposition.

This rectifies a mistake. Osteopathic physicians are board certified.

☐ 1615

There are 40,000 of them in the Nation. I have the fortune of having a cousin, Dr. Neil Gibson, who is an osteopathic physician licensed under the State of Texas, educated at the North Texas Health Science Center, Fort Worth, TX, in Mr. PETE GEREN's district. He is a physician in west Texas, in a community where he is the only physician that is licensed to practice medicine. Osteopathic physicians conduct over 100 million patient consultations per year. This legislation will make it possible for them to be reimbursed when they are caring for a pregnant woman or a child under the age of 21.

This legislation is long overdue. I am sure and hope that it will pass unanimously in the House, and then we will pass it in the Senate, so that it rectifies past mistakes. I am pleased to be the chief sponsor. I want to thank again all the Members of the House on both sides of the aisle that have worked so hard in this Congress to correct a mistake, especially Chairman BILIRAKIS who has been very, very supportive.

I urge unanimous adoption of the legislation.

Mr. DINGELL. Mr. Speaker, I am pleased the House is considering today a bill to correct a legislative oversight regarding eligibility for Medicaid reimbursement of board-certified osteopathic physicians. The primary purpose of H.R. 1791 is to clarify this eligibility, which has been in question since the omnibus budget reconciliation bill was passed in 1990. At that time, purely through an oversight, board certification by the American Osteopathic Association was omitted from the amendments to the Medicaid statute. Unfortunately, because this just required a short, simple solution, it has fallen to the bottom of the in-box, so to speak, beneath other legislative business that has been viewed as more significant. In addition, since making this correction required opening the Medicaid statute, it has been a magnet for other controversial measures.

In short, Mr. Speaker, this simple but important technical correction has spent an inordinate amount of time caught in the twists and turns of the legislative labyrinth. It is time to fix this problem once and for all, and I am pleased that my colleague from Virginia, the chairman of the Commerce Committee, was willing to include the bill as one of the committee's last items of business for the year. This clarification has been sought by osteopathic physicians and supported by many Members of Congress for a number of years.

The Medicaid statute requires that physicians be certified for family practice or pediatrics by the American Board of Medical Specialties to provide care for pregnant women and children in the Medicaid Program. Except for a mistake during the drafting of that provision, it also would have included certification by a board recognized by the American Osteopathic Association. To address this oversight in part, the Health Care Financing Administration issued regulations stating that providers certified by a State Medicaid program may be reimbursed. However, those regulations are necessarily time-limited and thus do not correct the problem. Doing this permanently requires amendment of the Medicaid statute. This amendment is long overdue, and I support it.

This bill may seem a small matter, but I know it is very important to many osteopathic physicians in my home State of Michigan and across the country. It's time to correct the error in OBRA '90, and I hope we will pass this bill today and the Senate will complete the process quickly so that the legislation can be signed by the President soon.

Mr. BARCIA. Mr. Speaker, I rise in support of H.R. 1791, a bill which provides the proper respect due osteopathic physicians, who provide a great service to millions of Americans.

With most of the doctors of osteopathic medicine being involved in primary care practices, it is high time that we reinstated osteopathic physicians as an eligible group of physicians to receive Medicaid reimbursement. There are thousands of osteopathic physicians in Michigan, more than in any other State, and a significant number in my own district. When one multiplies this group by the number of patients they serve, it is very easy to see that this error in OBRA '90 is of great consequence to many of our constituents.

I have been a great supporter of osteopathic medicine for some time. In the last Congress I sponsored House Concurrent Resolution 173 calling for the certain inclusion of osteopathic medicine as a key form of care in any health care proposal. It is only right that we take care to make sure osteopathic physicians are included in our current health care arsenal while we continue to work on improvements in our health care system.

One of the great frustrations the public has with the Government is when it seems to take forever for anyone to admit a mistake has been made, and even longer to correct it. This legislation is for the benefit of the health-care seeking public. It restores previously provided treatment that we erroneously terminated, and is long overdue. It deserves the support of all of our colleagues. I urge the adoption of H.R. 1791.

Mr. MANTON. Mr. Speaker, I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the motion offered by the gentleman from Florida [Mr. BILIRAKIS] that the House suspend the rules and pass the bill, H.R. 1791, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BILIRAKIS. I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1791, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

EXTENDING CERTAIN PROGRAMS UNDER ENERGY POLICY AND CONSERVATION ACT

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4083) to extend certain programs under the Energy Policy and Conservation Act through September 30, 1997.

The Clerk read as follows:

H.R. 4083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

The Energy Policy and Conservation Act is amended—

(1) by amending section 166 (42 U.S.C. 6246) to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 166. There are authorized to be appropriated for fiscal year 1997 such sums as may be necessary to implement this part.";

(2) in section 181 (42 U.S.C. 6251) by striking "June 30, 1996" both places it appears and inserting in lieu thereof "September 30, 1997";

(3) by adding at the end of section 256(h) (42 U.S.C. 6276(h)) "There are authorized to be appropriated for fiscal year 1997 such sums as may be necessary to carry out this part."; and

(4) in section 281 (42 U.S.C. 6285) by striking "June 30, 1996" both places it appears and inserting in lieu thereof "September 30, 1997";

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New York [Mr. MANTON] each will control 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Speaker, I yield myself such time as I may consume.

(Mr. SCHAEFER asked and was given permission to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Speaker, this bill reauthorizes certain provisions contained in the Energy Policy and Conservation Act for 1 fiscal year. Specifically, this bill assures that if there is an energy emergency when Congress adjourns, the President's authority to drawdown the strategic petroleum reserve and the ability of U.S. oil companies to participate in the International Energy Agreement without violating antitrust laws is preserved.

The Commerce Committee believes annual reauthorization of these provisions is appropriate as long as the reserve continues to be looked to as a budget balancing tool. For the past 2 years, I have been greatly troubled by the trend of selling oil from the strategic petroleum reserve to meet budgetary goals. When the first sale was authorized, over the objections of the Commerce Committee, we were told it would be a one time sale. Less than 1 year later a second, even larger sale was authorized. And a third sale is currently being considered.

The reserve was not intended to be used in such a manner and is not an effective tool for balancing the budget. The reserve is our first line of defense in an energy emergency. This energy security insurance policy for which we have paid over $200 billion should not be squandered carelessly to meet short-term budgetary objectives. I urge my colleagues on the Appropriations Committee as they prepare a continuing resolution to resist the temptation to use this strategic oil reserve which is so vital to our national security as a cash reserve.

Finally, I believe these provisions of EPCA are too important for us to adjourn without reauthorizing them. While an energy emergency which would require the reserve to be drawndown while we are adjourned is unlikely, it is not impossible. Consider the implications on our energy security of the recent terrorist attack in Saudi Arabia and the Iraqi aggressions into the no-fly zones. I believe this Nation must have the ability to use all its tools to deal with an energy emergency so I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to be here to support H.R. 4083, which reauthorizes the Energy Policy and Conservation Act for 1 year. This bill has been handled in a bipartisan manner, and was reported from the Commerce Committee on a voice vote. I know of no objection to it from this side of the aisle.

Mr. Speaker, I support the reauthorization of EPCA because it will ensure that the United States and industry are able to fulfill their respective duties in any oil-related emergency. Recent events in the Middle East have underscored, once again, how quickly circumstances can change, and the need for the United States to be self-sufficient during periods of instability.

I want to thank Chairman BLILEY and Chairman SCHAEFER for bringing this important bill to the House floor. The Democrats on the Commerce Committee strongly support their efforts to ensure that the strategic petroleum reserve is used for its intended purpose and not, as some have attempted, sold off for deficit reduction. EPCA is important to our country's economic and energy security, and I am pleased to support this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. SCHAEFER. Mr. Speaker, I have no further requests for time. I just want to say that I appreciate the gentleman from New York [Mr. MANTON] and also the gentleman from New Jersey [Mr. PALLONE], my ranking member, and the gentleman from Michigan [Mr. DINGELL] for moving this very, very rapidly as we tail into the end of our session, because it is very important legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 4083.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4083.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

RELATING TO EXTRADITION OF MARTIN PANG FROM BRAZIL

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 132) relating to the extradition of Martin Pang from Brazil to the United States, as amended.

The Clerk read as follows:

H. CON. RES. 132

Whereas it is alleged that Martin Pang intentionally started a warehouse fire in Seattle, Washington on January 5, 1995, that killed four firefighters;

Whereas shortly thereafter Martin Pang fled to Brazil from where he was extradited to the United States on March 1, 1996;

Whereas the extradition decision of the Supreme Court of Brazil states that Martin

Pang should stand trial in the United States only for arson and not for felony murder; and

Whereas it is accepted international practice in extradition cases for the executive authorities of the requested state to grant consent for prosecution of offenses other than those for which the fugitive was extradited: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that in the interests of justice and furthering good relations between the United States and Brazil, the Government of Brazil should grant its consent to prosecution of Martin Pang for both arson and felony murder.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Indiana [Mr. HAMILTON] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 132 was introduced by Rep. JENNIFER DUNN and her Washington State colleagues to urge the Government of Brazil to allow Mr. Martin Pang to be extradited to the United States to stand trial for both arson and first degree murder.

Mr. Pang is accused of starting a warehouse blaze in January 1995 in Seattle that took the lives of four firefighters. Since the introduction of this resolution, Mr. Pang has been extradited to Seattle, where he awaits trial.

However, the Brazilian extradition order is written in such a way that Mr. Pang can be tried for arson and not felony murder. Of course, U.S. authorities have a strong interest in trying this man for both crimes—arson and felony murder.

We commend our State Department for working diligently for months to resolve the legal difficulties of this case. In fact, the committee consciously deferred action on this measure in the hope that diplomatic efforts might overcome this problem. That has not happened.

In close consultation with the ranking Democratic Member, Mr. HAMILTON, the committee has approved a resolution intended to encourage Brazilian authorities to redouble their efforts to formally grant its consent to prosecution of Martin Pang for both arson and felony murder.

Mr. Speaker. I commend our colleague from Washington, JENNIFER DUNN, for the initiative she has shown in introducing this resolution. We certainly hope that our Brazilian friends will accept this resolution and act in the spirit of good relations and justice.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of the resolution. I commend the Washington delegation for drafting a timely, bipartisan resolution on a sensitive issue in United States-Brazilian relationships. I also commend Chairman GILMAN for having his staff work with us to update the language of the resolution. The resolution provides an opportunity for the United States Congress to urge that negotiations between the United States and Brazil move forward. I urge its adoption.

Mr. GILMAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN of Washington. Mr. Speaker, I rise today to urge passage of House Concurrent Resolution 132 relating to the extradition of Martin Pang from Brazil to the United States and to thank and praise the gentleman from New York [Mr. GILMAN] and the members of the Committee on International Relations for recognizing the importance of this case and for moving the resolution forward. For the benefit of my colleagues who have not been able to follow this horrible tragedy, I want to thank the gentleman from New York for giving a brief history earlier on the matter in the Pang case.

Let me just add that when Martin Pang set fire to that warehouse, a warehouse that belonged to his parents to Seattle, WA, that blaze ultimately took the lives of four brave firefighters.

Immediately after the blaze, Pang fled to Brazil, where he later admitted his guilt to the FBI. After serious and lengthy negotiations, he was extradited to the United States on March 1, 1996, but he was extradited under the Brazil Supreme Court stipulation that he be tried for arson only and not for murder.

This past February, as the chairman noted, I introduced the original version of today's resolution expressing the sense of Congress that Brazil should reverse its court decision and allow Pang to be tried both for arson and for murder.

We must past this resolution. Pang's pretrial hearing is set for October 8, and that is why it is so critical to do this today. We must try to persuade the Brazilian Government to amend its extraditional order prior to October 8.

They say that justice delayed is justice denied. Mr. Speaker, if we delay justice much longer, then justice literally will be denied in this case. We have waited some 20 months for justice. Now justice will only be served if Martin Pang is prosecuted to the fullest extent of the U.S. law. The four families who lost loved ones deserve what is right.

So, Mr. Speaker, I urge my fellow Members to do what is right, take a positive step toward justice.

Make no mistake; our action today will send a substantial message to the Government of Brazil in a strong bipartisan fashion. Indeed, my office has already been contacted by the Embassy with regard to this matter, so we know our message is being heard.

Mr. Speaker, justice demands that Mr. Pang be tried for the murders of the courageous men who gave their lives in the line of duty. Today this House can do what is right for the families who lost loved ones. They deserve that much.

I urge my colleagues to follow the bipartisan lead of the gentleman from New York [Mr. GILMAN] of the Committee on International Relations. Let us do what is right for the families affected by this tragedy and for the entire Northwest community by passing this resolution urging Brazil to reconsider and allowing us to try Martin Pang for both arson and murder.

Mr. DICKS. Mr. Speaker, Martin Pang stands accused of deliberately lighting the fire which led to the deaths of four Seattle firefighters. After allegedly committing this act, Pang fled to Brazil, where he was captured by Brazilian authorities.

Although the Brazilian Government has allowed the extradition of Pang on charges of arson, Brazilian law and their constitution does not allow him to be extradited on charges of murder—charges for which he can and should be tried under United States law. To charge Martin Pang with murder, a waiver must be granted from the Brazilian Government.

I would like to thank the gentlelady from Washington for introducing this legislation, which expresses to the Government of Brazil just how important this case is to the United States Congress and to the people of Washington State. I am hopeful that our efforts today, along with continued work by myself, the gentlelady, and the Justice Department, will lead to an agreement with the Brazilian Government which will allow justice to finally be done on behalf of the four firefighters and their families who were the victims of this terrible crime.

Mr. METCALF. Mr. Speaker, I thank the gentleman for yielding and ask for unanimous consent to revise and extend.

Mr. Speaker, as a cosponsor of House Concurrent Resolution 132 I rise in strong support of this legislation. I would like to thank the gentlelady from Washington State, Congresswoman DUNN, for her leadership on this issue and congratulate her on a job well done.

Mr. Speaker, as you have heard today by the previous speakers House Concurrent Resolution 132 expresses the sense of Congress that Martin Pang should stand trial for felony arson charges and first degree murder charges because of his alleged involvement in the fire on January 5, 1995, that killed four firefighters in Seattle WA. This bill should be unnecessary, because our judicial system has charged Mr. Pang with these crimes. However, the supreme court of Brazil has ruled that Mr. Pang may only be charged with felony arson.

Mr. Speaker, I submit that if this decision by the Brazilian supreme court is allowed to stand the families of the firefighters who gave their lives to protect our community will never receive the justice they deserve. The United States cannot allow another country veto power over the decisions of our judicial system.

Mr. Speaker, let me remind the House that Mr. Pang allegedly committed a crime in the United States and then fled to Brazil and was returned to this country for trial. The involvement of the Brazilian Government in any aspect of this case beside ensuring the safe passage of Mr. Pang to the United States is misplaced at best. The United States as a sovereign nation must maintain the ability to prosecute those persons who are accused of crime without interference from a foreign country.

Mr. Speaker, we have typically enjoyed favorable relations with the country of Brazil and we will continue to work toward that goal. But they must drop demands that infringe on our judicial system and U.S. sovereignty.

Mr. Speaker, this legislation has the support of the local prosecution team, the local government, the Attorney General of the United States, the State Department, and the White House. Mr. Speaker, it is essential that justice be served. I urge passage of this bill and yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 132, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution relating to the trial of Martin Pang for arson and felony murder.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of H. Con. Res. 132, the measure just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REGARDING TAIWAN'S EFFORTS TO JOIN THE COMMUNITY OF NATIONS

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 212) endorsing the adoption by the European Parliament of a resolution supporting the Republic of China on Taiwan's efforts at joining the community of nations, as amended.

The Clerk read as follows:

H. CON. RES. 212

Resolved by the House of Representatives (the Senate concurring), That the Congress endorses the adoption by the European Parliament on July 18, 1996, of resolution supporting the Republic of China on Taiwan's efforts at joining the community of nations, which is substantially as follows:

"The European Parliament,

—having regard to Article J.7 of the Treaty on European Union,

"(A) satisfied with the current state of Taiwan's democracy and Taiwan's respect for the principles of justice, human rights and fundamental freedom;

"(B) welcoming the fact that the elections in Taiwan were conducted democratically and peacefully despite the overt aggression and provocation by the People's Republic of China;

"(C) having regard to Taiwan's wish to participate in international aid to developing countries;

"(D) having regard to the significance of developments in the political situation in Taiwan for the whole of East Asia at a geopolitical and economic level and in terms of a policy of stability, security and peace in the Western Pacific region;

"(E) welcoming the attitude of reconciliation displayed by President Lee Tang-hui towards the People's Republic of China and looking forward to a dialogue spanning both sides of the Taiwan Straits;

"(F) convinced that the people of Taiwan ought to be better represented in international organizations than they are at present, which would benefit both Taiwan and the whole of the international community;

"(G) whereas neither the European Union nor any of its Member States have diplomatic relations with the Government of Taiwan, recognizing only the People's Republic of China;

"(H) whereas Taiwan is very important to the European Union and its Member States as a trade partner;

"(I) whereas it is important for the European Union and its Member States to develop their relations with the governments of both the People's Republic of China and Taiwan in an amicable and constructive spirit.

"(J) urging the governments of the People's Republic of China and Taiwan to intensify their cooperation;

"(K) stressing that participation by Taiwan in certain international organizations can assist with finding common ground between China and Taiwan and facilitate reconciliation between the two sides;

"(L) regretting the fact that Taiwan at present is prevented from making a full contribution to the United Nations and its agencies, and stressing that, for the efficiency of the United Nations, Taiwan's participation would be desirable and valuable;

"1. Urges:

"(a) the Council and Member States to support Taiwan's attempts to secure better representation than it currently enjoys in international organizations in the fields of human and labour rights, economic affairs, the environment and development cooperation . . .

"(b) the Council and Member States to ask the United Nations to investigate the possibility of setting up a United Nations working group to study the scope for Taiwan to participate in the activities of bodies answerable to the United Nations General Assembly;

"(c) the Council and Member States to encourage the governments of the People's Republic of China and Taiwan to intensify their cooperation in a constructive and peaceful spirit;

"(d) the Council to urge the Commission to adopt measures with a view to opening a European Union information office in Taipei;

"(2) Instructs its President to forward this resolution to the Council and to the Commission.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Indiana [Mr. HAMILTON] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the chairman of the Asia and Pacific Subcommittee, Congressman BEREUTER, and the ranking minority member, Congressman BERMAN, for their support for House Concurrent Resolution 212. I would also like to commend the chairman of the Rules Committee, Mr. SOLOMAN, for drafting the resolution.

On July 18, the European Parliament adopted a resolution that supports Taiwan's efforts at joining the United Nations. House Concurrent Resolution 212 endorses the European Parliament's initiative.

Taiwan is a free democracy, where people can express their thoughts and practice their religious beliefs. Through the long years, it has remained a loyal friend and steadfast ally of the United States.

Taiwan is also one of Asia's economic miracles, featuring a strong and growing economy with less than 1 percent unemployment. It is the type of free and democratic society we need to support in the region and around the world.

It is a stark contrast to the People's Republic of China. The Beijing leadership has repeatedly shown itself over the years to be a brutal dictatorship with little regard for human and religious rights, much less political freedom.

Taiwan's government has repeatedly asked for our help in their quest for their people to have the last word in their own future.

Now it the time to help our friends on Taiwan. We have been waiting far too long to respond to their aspirations and hope.

House Concurrent Resolution 212 is a good step in that direction. I urge my colleagues to support the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the resolution, but I do have some concerns about it. I do view the resolution as a friendly gesture to Taiwan, and certainly Taiwan deserves to be recognized for the remarkable strides it has made in recent years in transforming itself from an authoritarian system with a decrepit economy into a vibrant and prosperous democracy. I want to simply remind my colleagues that Taiwan has flourished under the status quo in East Asia. I would urge my colleagues to proceed with caution on this measure, on any measure that calls for a change in that status quo.

Having expressed that reservation, Mr. Speaker, I do support the resolution.

Mr. Speaker, I reserve the balance of my time.

□ 1630

Mr. GILMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules and the author of this resolution.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding this time to me, and certainly the ranking member of the committee a committee I spent many, many years on, and we have great admiration and respect for the job that both of these gentlemen do.

Mr. Speaker, this resolution is a small but significant show of support for one of the great success stories of the late 20th century, and one of the best friends America has: the Republic of China on Taiwan.

My resolution today simply endorses a European Parliament resolution passed on July 24th that urges support for greater participation in international organizations for Taiwan.

The resolution makes note of the great strides Taiwan has made toward democracy in recent years, especially its conduct of free presidential elections this past spring despite overt aggression by Communist China.

The resolution also notes Taiwan's importance as a trading partner, its willingness to participate in international aid and its strong desire to participate in the international community.

Mr. Speaker, this resolution is the very least we can do for our friends on Taiwan.

Indeed I can think of no other country that so richly deserves the opportunity to participate more in the international community.

And I would submit that the United States has a special moral obligation to help Taiwan achieve these ends.

As my colleagues know, back during the cold war, we really did not have a more steadfast ally in our struggle against Communism than the Republic of China on Taiwan.

They were integral in stopping the spread of that deadly system in Asia and for that we owe them a debt of gratitude.

Today the cold war is over and our relationship with Taiwan has developed along newer lines as that country has continued to mature and succeed.

For instance, we all are familiar with the great economic success story of this island nation.

A widely impoverished land just 45 years ago, Taiwan has vaulted to being the 19th largest economy in the world and has become the eighth largest trading partner of the United States.

With an economy characterized by low inflation, low unemployment, and a $12,000 per-capita GNP, Taiwan is nearly on par economically with countries such as Spain and Ireland.

A country on this level deserves greater access to and can contribute much to international economic organizations like the WTO.

And on the political front, this year's Presidential elections have rounded out a democratic transformation, and today Taiwan is marked by free elections, a free press, and respect for human rights and civil liberties.

In so doing, Taiwan has provided an excellent model for the rest of Asia and has proven itself worthy of participation in international political organizations.

That is why this resolution is necessary and why I have been pushing along these lines for several years now.

I am grateful for the support that I received in this endeavor to the chairman of the International Relations Committee, Mr. GILMAN, as well as to the many friends of Taiwan, too many to name, on both sides of the aisle.

This is truly a bipartisan measure, and I urge its unanimous adoption.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for his strong supportive arguments. He has been a long-time supporter of Taiwan. We appreciate his participation.

Mr. TOWNS. Mr. Speaker, I want to voice my support for the measure before us today which endorses the European Parliament's support of Taiwan's efforts to join the Community of Nations.

Taiwan has demonstrated its commitment to democracy and its respect for the principles of justice, human rights, and fundamental freedoms. We should commend the Government and people of Taiwan for conducting democratic and peaceful elections in spite of the overt aggression displayed by the People's Republic of China. I join my colleagues from the International Relations Committee in voicing support for Taiwan's efforts to obtain better representation in international organizations, including those bodies answerable to the U.N. General Assembly.

I am hopeful that this resolution will signal important support for Taiwan's inclusion in the Community of Nations, including membership in international organizations.

Mr. DEUTSCH. Mr. Speaker, I rise in strong support of House Concurrent Resolution 212, a long overdue resolution endorsing Taiwan's entry into the United Nations. Entry into the United Nations is based on certain fundamental principles: peace, democracy, and a willingness to join the international family of nations. Over the past several years, Taiwan has clearly shown that it has satisfied these requirements. First, Taiwan recently conducted a democratically held Presidential election—even in the face of overt military aggression and provocation from Mainland China. Second, Taiwan has repeatedly offered to make significant contributions in international aid to developing countries. Finally, Taiwan continues to provide economic and political stability to the Western Pacific region, one of the most strategic areas in the world.

The only thing preventing Taiwan's entry into the United Nations, is the bullying of the authoritarian Chinese regime. It is unconscionable to believe that an undemocratic and repressive nation such as China, the true antithesis of what the United Nations was founded upon, should have the ability to prevent an emerging democracy from joining the community of nations. I urge my colleagues to end this tragic situation and grant Taiwan entry into the United Nations. Pass House Concurrent Resolution 212 as the first step in this process.

Mr. HINCHEY, Mr. Speaker, with the approach of Taiwan's National Day, the 85th anniversary of the Republic of China on October 10, 1996, we have a chance to celebrate and applaud Taiwan's spectacular accomplishments during its past 85 years. The Republic of China proudly stands as a model democracy and a major economic power in the world. A great debt is owed its leaders, most notably President Lee Teng-hui. These leaders have created a modern nation out of modest beginnings, and provided other developing nations around the world with an example of the benefits of dynamic economic development and the importance of a commitment to freedom and democracy.

To President Lee Teng-hui, Vice President Lien Chan, and Representative Jason Hu of the Republic of China on Taiwan, we send our congratulations and wish them good luck in everything they do, including their campaign to return to the United Nations and other international organizations.

Mr. UNDERWOOD. Mr. Speaker, I rise today in support of House Concurrent Resolution 212, a concurrent resolution expressing this body's support of Taiwan's efforts at joining the community of nations.

Since the inception of the United States one-China policy, the United States has effectively severed all formal ties with Taiwan. By doing so, we have denied the existence and legitimacy to the Taiwanese Government and its 21 million citizens. This we have done despite the fact that Taiwan is one of the world's strongest economies, our sixth largest trading partner, and one of our closest Asian associates.

The recent elections conducted peacefully amid overt aggression and provocation from the People's Republic of China, attests to the Taiwanese Government's stability and commitment. Let us make a commitment to grant the government and people of Taiwan dignity and well-deserved opportunity to become viable participants in world affairs. I urge my colleagues to support House Concurrent Resolution 212.

Mr. PALLONE. Mr. Speaker, I wish to send my greetings and congratulations to the leaders of Taiwan on the anniversary of their national day. This October 10 marks the 85th anniversary of the founding of our close friend and fellow democracy, the Republic of China. In commemorating this anniversary, I applaud today's passage of House Concurrent Resolution 212, regarding Taiwan's efforts to join the community of nations.

Throughout the past 85 years, the United States has had a strong reciprocal friendship with the Republic of China. When Taiwan needed some help with agricultural projects, U.S. Agency for International Development [USAID] stepped in and gave them access to the resources that the farmers needed. Now Taiwan is returning our favor to countries in Africa, helping them to develop better grains and more robust crops. When Taiwan needed help developing manufacturing facilities on the island, United States business provided the support. Now Taiwan companies are helping out here in the United States by working with our manufacturers to develop joint venture projects in America.

The United States is very familiar with the economic advances the Republic of China has made, but many Americans may not be aware of the work the Republic of China has done to transform itself into a true democracy. During the past decade Taiwan has developed a robust multiparty system, open legislative elections, free speech, free press, and judicial oversight. These democratic reforms culminated in an open Presidential election. President Lee Teng-Hui was elected in a contest against three other candidates and more than 74 percent voter participation.

Despite the Republic of China's political and economic maturity, the Republic of China is still not allowed to be a part of vital international organizations. Congress took the first step today in bringing about a change in this policy.

Without question their economic status and legal system more than qualify them for membership in the World Trade Organization, but the People's Republic of China, which is not nearly as economically stable as the Republic of China, believes it must be admitted first. The 21 million people of Taiwan certainly deserve representation in the United Nations, but again, the People's Republic of China will not allow it. Given America's close relationship with the People's Republic of China, it would appear as though our friendship with Taiwan has been displaced by our concern about the People's Republic of China.

Mr. Speaker, Congress has begun to take action and today addressed the issue of Taiwan's involvement in the international community with the passage of House Concurrent Resolution 212. This resolution "urges the Council and Member States to support Taiwan's attempts to secure better representation than it currently enjoys in international organizations * * *" and "* * * ask the United Nations to investigate the possibility of setting up a United Nations working group to study the scope for Taiwan to participate in the activities of bodies answerable to the United Nations General Assembly * * *."

At the same token, I understand the need to be aware of the actions and decisions of the People's Republic of China. Obviously the 1.5 billion people living under People's Republic of China rule are important. However, I think it is vital that the United States work to see our friends in the Republic of China are duly recognized for their achievements and to make sure that Republic of China's borders are secure. On October 10, when the Republic of China celebrates their 85th anniversary, we here in Congress should remember to congratulate our friends on Taiwan and assure them that our relationship will remain strong. House Concurrent Resolution 212 is one step in the right direction, but more needs to be done.

The October 10 celebration marks the continuance of a longstanding friendship between our two countries, as well as the founding of a nation. Again, I congratulate Taiwan on the occasion of its national day.

Mr. TOWNS. Mr. Speaker, I would like to call attention to the 85th national day of the founding of the Republic of China. Not only for its rapid implementation of democratic policies and reforms but also for its responsiveness to trade imbalances between our two countries should the Republic of China on Taiwan be honored and congratulated on this historic occasion.

One proper way to celebrate the Republic of China's national day is for us to recognize Taiwan's campaign to reenter the United Nations and other international organizations. There really is no reason to deny the Republic of China membership in the United Nations. In my mind, Taiwan's membership in the United Nations is in total conformity with the U.N. principle of universality; will definitely contribute to peace and stability in East Asia and will serve the interests of the United States. Today, we have taken a small step in advancing this campaign by the House adopting House Concurrent Resolution 212, which supports Taiwan's entry into international organizations.

In commemoration of Taiwan's 85th national day, I extend greetings and best wishes to President Lee Teng-Hui, foreign representative, Ambassador Jason Hu. May Taiwan continue to prosper and to one day soon be welcomed back into the community of nations.

Mr. GILMAN. Mr. Speaker, I do not have any further requests for time on this measure, and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 212, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended; and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the measure just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REGARDING PERSECUTION OF CHRISTIANS WORLDWIDE

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 515) expressing the sense of the House of Representatives with respect to the persecution of Christians worldwide, as amended.

The Clerk read as follows:

H. RES. 515

Whereas oppression and persecution of religious believers around the world has emerged as one of the most compelling human rights issues of the day, in particular the worldwide persecution and martyrdom of Christians persists at alarming levels, and this is an affront to the international moral community and to all people of conscience;

Whereas in many places throughout the world, Christians are restricted in or forbidden from practicing their faith, victimized by a "religious apartheid" that subjects them to inhumane humiliating treatment, and are imprisoned, tortured, enslaved, and killed;

Whereas in some countries proselytizing is forbidden and extremist elements persist unchecked by governments in their campaigns to eradicate Christians and force conversions through intimidation, rape, and forced marriage;

Whereas in several Islamic countries conversion to Christianity from Islam is a crime punishable by death and on Islamic court in Kuwait has denied religious liberty to a convert from Islam to Christianity;

Whereas the militant Muslim Government of Sudan is waging what its leader has described as a jihad (religious war) against Christian and other non-Muslim citizens in the southern part of the country, enforcing Shari'a (Islamic law) against non-Muslim African Sudanese, torturing, starving, killing, and displacing over 1,000,000 people, and enslaving tens of thousands of women and children;

Whereas today in Sudan a human being can be bought for as little as $15;

Whereas Christians in China are now experiencing the worst persecution since the 1970's;

Whereas there are more documented cases of Christians in prison or in some form of detention in China than in any other country;

Whereas both Evangelical Protestant house church groups and Roman Catholics have been targeted and named "a principal threat to political stability" by the Central Committee of the Communist Party of China;

Whereas in recent months, in separate incidents, 3 Chinese Christian leaders were beaten to death by Chinese authorities simply because of their religious activities;

Whereas 3 Christian leaders in Iran were kidnapped and murdered during 1994 as part of a crackdown on the Iranian Christian community;

Whereas severe persecution of Christians is also occurring in North Korea, Cuba, Vietnam, Indonesia (including East Timor), and in certain countries in the Middle East, to name only a few;

Whereas religious liberty is a universal right explicitly recognized in numerous international agreements, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

Whereas Pope John Paul II recently sounded a call against regimes that "practice discrimination against Jews, Christians, and other religious groups, going even so far as to refuse them the right to meet in private for prayer", declaring that "this is an intolerable and unjustifiable violation, not only of all the norms of current international law, but of the most fundamental human freedom, that of practicing one's faith openly", stating that this is for human beings "their reason for living";

Whereas the National Association of Evangelicals in January 1996 issued a Statement of Conscience and Call to Action, subsequently commended or endorsed by the Southern Baptist Convention, the Executive Council of the Episcopal Church, and the General Assembly of the Presbyterian Church, United States of America, in which they pledged to end their "silence in the face of the suffering of all those persecuted for their religious faith" and "to do what is in our power to the end that the Government of the United States will take appropriate action to combat the intolerable religious persecution now victimizing fellow believers and those of other faiths";

Whereas the World Evangelical Fellowship has declared September 29, 1996, and the last Sunday in September each year thereafter, as an international day of prayer on behalf of persecuted Christians, and that day will be observed by numerous churches and human rights groups around the world;

Whereas the United States of America since its founding has been a harbor of refuge and freedom to worship for believers from John Winthrop to Roger Williams to William Penn and a haven for the oppressed, and has guaranteed freedom of worship in this country for people of all faiths;

Whereas historically the United States has in many instances failed to intervene successfully to stop anti-Christian and other religious persecution; and

Whereas in the past the United States has forcefully taken up the cause of other persecuted religious believers and the United States should continue to intervene on behalf of persecuted Christians throughout the world: Now, therefore, be it

Resolved, That the House of Representatives—

(1) reaffirms its commitment to the Nation's historic devotion to the principles of religious liberty;

(2) unequivocally condemns the egregious human rights abuses and denials of religious liberty to Christians and other persecuted religions around the world and calls upon the responsible regimes to cease such abuses;

(3) strongly recommends that the President expand and invigorate United States international advocacy on behalf of persecuted Christians and other persecuted religions and initiate a thorough examination of all United States policies that affect persecuted Christians;

(4) encourages the President to take organizational steps to strengthen United States policies to combat religious persecution, including the creation of a special advisory committee for religious liberty abroad which has an appropriate mandate and adequate staff or to consider the appointment of a White House special advisor on religious persecution; and

(5) applauds the actions of the World Evangelical Fellowship in declaring an annual international day of prayer on behalf of persecuted Christians.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Illinois [Mr. HAMILTON] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 515 concerns a worldwide human rights problem of intolerance which affects all of us regardless of our religious persuasion. It is a sad and astonishing commentary on our time that we need to consider such a resolution in this day and age.

Yet it remains an incontrovertible fact that the persecution of Christians around the world for circumstances arising from their faith is on the increase. While the reasons that underlie this increase in bigotry, zealotry, and intolerance are many, the basic fact is that thousands of men, women and children suffer because of the dictates of their conscience.

Intolerance aimed at one religion is an attack upon all religious freedom and all religions. It undermines a basic precept of our civilization that the individual is free to decide for himself how he wishes to worship, and that such a decision should be beyond the hand of governments or other individuals to react against.

As this House has done countless times to protest abuses aimed at other sects and faiths, we need to address the campaign now underway in several countries to deny Christians their fundamental human rights. Religious freedom is not some manifestation of a western cultural bias—it is a universal human right. There is no justification for religious persecution, whether the target is Jews, Christians, Muslims, Buddhists, or those of other faiths. Religious freedom is indivisible and must apply equally to all faiths, or no single faith can ever be safe from the scourge of intolerance.

I commend the gentleman from Virginia [Mr. WOLF] and the other sponsors of this resolution for bringing this matter before the House. Mr. SMITH, the distinguished chairman of our Subcommittee on International Operations and Human rights, is also a principal sponsor of this measure and one member who always strives to keep the issue of religious freedom alive before us. I urge all members of the House to join in passing this measure today. Please vote for House Resolution 515.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution. I want to commend the sponsor, the gentleman from Virginia [Mr. WOLF] for drafting the resolution to bring attention to this very serious international problem. I also want to commend the gentleman from California [Mr. LANTOS] for working to make it a bipartisan resolution and for broadening the resolution to condemn persecution of all religious groups. I share my colleague's opposition to religious persecution practices by any individual or any government. I want the United States to use all of its influence and leverage to halt such persecution.

Mr. Speaker, this resolution provides yet another opportunity for Congress to show its support for efforts to end all forms of religious persecution. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. WOLF], the major sponsor of this measure.

Mr. WOLF. Mr. Speaker, as lead sponsor of this resolution, I rise in strong support of House Resolution 515, a resolution condemning the persecution of Christians around the world. First, I want to thank Representative BILL GILMAN, chairman of the House International Relations Committee and Representatives CHRIS SMITH and TOM LANTOS, chairman and ranking member respectively of the Subcommittees on International Operations and Human Rights, for their support of the resolution and their help in getting this measure through committee in such a short time. I commend the House leadership for bringing this timely resolution to the floor this week.

I also want to thank Michael Horowitz of the Hudson Institute and Nina Shea of the Puebla Program of Freedom House for their leadership on this issue. Michael and Nina have worked tirelessly in the past year sensitizing the American Christian community about Christian persecution and encouraging action. I appreciate their hard work and their commitment to this compelling issue, which has been an important one for me for some time.

Mr. Speaker, religious persecution did not disappear with the cold war. It is very much alive today. In many countries around the world, people of faith are forced to endure severe persecution because they choose to worship Jesus Christ or adhere to the teachings of the Buddha dharma or practice the teachings of the Baha'u'lla (as in the case of the Bahai's) or otherwise practice their faith. In Bosnia, thousands of innocent men, women and children were slaughtered simply because they were Muslim. In Russia and some of the former Soviet republics, anti-Semitism persists.

This resolution focuses on persecution of Christians. First, it condemns persecution of Christians and the calls upon responsible regimes to cease such abuses. Second, it recommends that the President expand and invigorate international advocacy efforts on behalf of persecuted Christians. Third, it encourages the President to appoint a special advisor or advisory commission to recommend ways to modify U.S. policy to better address this problem. And fourth, it applauds the World Evangelical Fellowship for declaring an international day of prayer for persecuted Christians. The Senate unanimously passed a similar resolution on Tuesday, September 17.

House Resolution 515 is the first resolution in recent memory to focus specifically on Christian persecution. It focuses on Christians not because persecution of Christians is any more abominable than persecution of Jews or Bahai's or Buddhists. Persecuting a person because of his or her religious affiliation or beliefs is abominable anytime it occurs and should always be condemned by the international community. This resolution focuses on persecution of Christians to bring attention to a problem that is increasing in its regularity, its ferocity and its scope. One scholar has said that in the 20th century, more Christians have been killed for being Christian than in any of the previous 19 centuries combined.

We do not know the names of all today's Christian martyrs, but we do know what happens to them: Imprisonment and torture for attending Christian worship services or Bible studies; criminal prosecution, harassment and torture of believers for failing to register with government-sanctioned "religious associations" run by atheists who are hostile to religious practice; systematic beatings of children who attend Christian schools; unpunished looting and burning of Christian churches, businesses and homes; prosecution and sometimes extrajudicial murder for charges brought under broadly construed "blasphemy laws"—laws designed to punish people for saying something negative against the prophet Mohammed; imprisonment for possession of Bibles; and prosecution, torture, and murder of Christian converts.

In Sudan, a country I have visited three times, women and children from Southern Sudan (who are mostly Christian or practice a traditional African religion) are literally sold into slavery. Some for as little as $15. The authoritarian Government of Sudan, while fighting for land and power, has declared a jihad against the people of the South. Reports of forced Islamization are prevalent.

Human rights groups and humanitarian organizations have been reporting for several years that humanitarian assistance, including food and medicine, is often withheld from families that refuse to convert to Islam. Freedom House reports that Christian boys are sent to the front lines as cannon fodder. Entire villages have been relocated into so-called peace camps—squalid desert communities where food and water are scarce or nonexistent.

U.N. Special Rapporteur Gasper Biro reported that in May 1995, soldiers in uniform executed 12 men, women, and children for refusing to convert to Islam. Christian leaders, including clergy, have been assassinated, imprisoned, tortured, and flogged for their faith.

Christians in many other countries also practice their faith in danger. Earlier this year, the Subcommittee on International Organizations and Human Rights, chaired by Representative CHRIS SMITH, held a hearing on anti-Christian persecution where witnesses testified about persecution in North Korea, Pakistan, China, Vietnam, Mexico, and other places. We have heard reports of persecution of Assyrian Christians in Turkey and evangelical Christians in the Oromo region of Ethiopia. Human rights groups such as Human Rights Watch, Amnesty International, the Puebla Program of Freedom House, Christian Solidarity International, Open Doors, International Christian Concern, and others continue to document case after case of Christian persecution around the world.

But the best human rights reporting in the West only scratches the surface. Thousands of voiceless, nameless victims suffer alone. Families scared for their lives cannot share their pain with the world.

Mr. Speaker, these kinds of abuses must not escape notice by the American people, the Congress, or the administration if we are a Nation devoted to the principles of freedom and dedicated to preservation of human rights here and abroad. We cannot ignore suffering if we are a Nation of compassion.

Until recently, the American Christian community has been relatively silent on this growing problem. There are many Americans who do not know or understand the suffering which their fellow believers are forced to endure in countries that do not share our belief in liberty and the self-evident truth that all men are created equal.

But the American Christian community has begun to educate itself and call for action. This Sunday, worshipers in over one hundred thousand churches around the world will be observing the International Day of Prayer for Persecuted Christians, a day for Christians to pray for the persecuted and pledge themselves to action.

In January, the National Association of Evangelicals (NAE) issued a Statement of Conscience and Call to Action pledging to end their "silence in the face of the suffering of all those persecuted for their religious faith" and "to do what is in our power to the end that the Government of the United States will take appropriate action to combat the intolerable religious persecution." The statement of conscience was subsequently endorsed by the Executive Council of the Episcopal Church, the Southern Baptist Convention and the Presbyterian Church, United States of America.

Pope John Paul II recently sounded a call against regimes that "practice discrimination against Jews, Christians and other religious groups" declaring that "this is an intolerable and unjustifiable violation not only of international law, but of the most fundamental human freedom, that of practicing one's faith openly." The U.S. Catholic Conference has decried the low priority religious freedom generally receives in U.S. human rights policy and commended efforts to "give greater visibility to our government's defense of religious liberty wherever it is denied."

Christian leaders such as Don Argue, president of the National Association of Evangelicals; Richard Land, president of the Southern Baptist Convention; Chuck Colson, resident of Prison Fellowship; Ravi Zacharias, president of Ravi Zacharias International Ministries; and a wide range of interdenominational leaders and scholars have urged greater attention to this problem.

So, I urge you to support House Resolution 515. It's not about party; it's not about politics. It's about religious liberty and justice. It's about Mehdi Dibaj, martyred in Iran in 1994. It's about Bishop Su, a 64-year-old Catholic bishop imprisoned in China earlier this year, beaten with a wooden board until it broke in splinters, suspended upside down while being beaten, who has permanently lost his hearing due to repeated blows. It's about 15-year-old Salamat Masih, a young boy forced to give up his life in Pakistan after being accused of blaspheming Mohammed. And it's about To Ding Trung, a Vietnamese Christian evangelist serving time in Quang Ngai prison for "abusing his freedom as a citizen by propagating religion illegally."

We are a great Nation and we are compassionate people. Vote "yes" on House Resolution 515.

☐ 1645

In closing, Mr. Speaker, I urge support for the resolution. It is not about a party, it is not about politics, it is about religious liberty and justice. It is regarding and about those who have been persecuted for their faith.

This Congress, during the 1980's and 1970's, stood with those persecuted from different religious beliefs. I believe that this is one of the finest hours, that we stand for those who are being persecuted for their Christian faith, and want to again thank the chairman, the gentleman from New York [Mr. GILMAN], for his efforts, the gentleman from New Jersey [Mr. SMITH] for his efforts, the gentleman from California [Mr. LANTOS] for his efforts, and the House leadership on both sides of the aisle for moving this important bill.

Mr. HAMILTON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I thank the gentleman from Indiana [Mr. HAMILTON] and thank the gentleman from New York [Mr. GILMAN], the gentleman from California [Mr. LANTOS], and the gentleman from Virginia [Mr. WOLF].

Mr. Speaker, today I enjoy a privilege that can only be dreamed of by millions around the world. That privilege is freedom: My freedom to express myself as I choose. My freedom to openly believe in God and to serve Him according to the dictates of my faith.

Yet it is a tragic reality that millions around the world are denied this fundamental right. The United States has rightly affirmed the U.N. Declaration of 1981 stating that "Discrimination between human beings on grounds of religion or belief constitutes an affront to human dignity * * * and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights." We have justly condemned human rights abuses against Tibetan Buddhists, Bosnian Muslims, Soviet Jews, and others.

Yet there are many, many more whose cries we must also hear. For too long, we have shut them out, perhaps because of ignorance. We can do so no longer. These are the cries of millions of Christians in countries across the world who are harassed, tortured, raped, imprisoned, or even executed for exercising the freedoms we in America so easily enjoy.

In Vietnam, China, Egypt, Iran, and other countries, government forces have jailed and often brutally tortured pastors, priests, or converts to Christianity. Some have been beaten or tortured to death.

In the Sudan, government forces kidnap children from Christian communities and sell them as slaves and concubines. In China, Laos, and Cuba churches have been shut down or destroyed.

In Saudi Arabia, the Sudan, and other countries, conversion from Islam to Christianity is punishable by death. In Pakistan, a terrible blasphemy law carries the death penalty for any statement against the prophet Muhammed.

Mr. Speaker, it is unjust for us to ignore the suffering of these millions when it lies within our power to respond in some measure. It is my honor today to join my colleagues from both parties in cosponsoring House Resolution 515, introduced by Representative WOLF. This resolution reaffirms our historic commitment to religious freedom, recommends appropriate measures on the part of our government and applauds the designation of an annual international day for prayer for these brothers and sisters. This Sunday, September 29, I plan to exercise my own precious freedom to join in prayer for them with churches and citizens across America and in 117 other countries.

Mr. Speaker, religious freedom is not the privilege of one group. It is a universal right, and when the right of one is trampled, the rights of others follow. May we, today, not be condemned by these famous, haunting words of a Lutheran pastor in Nazi Germany, which now hang on the walls of the U.S. Holocaust Museum:

> * * * they came first for the Communists, and I didn't speak up because I wasn't a Communist. Then they came for the Jews, and I didn't speak up because I wasn't a Jew * * * Then they came for the Catholics, and I didn't speak up because I was a Protestant. Then they came for me, and by that time no one was left to speak up.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman for his eloquent words.

Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from California [Mr. CAMPBELL], a member of our committee.

Mr. CAMPBELL. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, today, we enact the resolution; we do not enact the "whereas" clauses. That is an important distinction that I wish to put on the record. I do not ask any of my brothers and sisters in this House of Representatives to vote no, because the resolution itself in my view is perfectly appropriate, but several of the "whereas" clauses, it seems to me, unnecessarily bring us to the edge of possibly saying things with regard to the religion of Islam that would not be constructive, and also with regard to the conditions in China.

I draw particular attention to the "whereas" clause on page 2 of the committee print: "Whereas, in several Islamic countries conversion to Christianity from Islam is a crime punishable by death."

This, I do not think is a helpful statement. I do not think it is helpful to criticize a part of a religion in a book regarding a punishment for giving up the faith, and I note that in the Judeo-Christian religions, as well, to the followers of Christian and Jewish of the Old Testament, the prohibition for blasphemy is stoning, in the book of Deuteronomy.

I am concerned as well in the "whereas" clauses regarding the militant Government of the Sudan as waging a "Jihad." Surely our cause today and the cause of good feeling and human rights, including religious rights, would be advanced by not using the phrase "Jihad" so readily. It has, I think, a very powerful and potentially misleading application in this context.

As I understand the Quran, "Jihad" means struggle, but certainly in the popular sense in the United States today it would mean a war commanded by, as a matter of faith, and/or as part of Islamic religion. I think that is a great danger to use such a phrase regarding the situation in the Sudan.

Surely we could have accomplished just as much by saying that we condemn the large-scale human rights abuses, killings, and slavery in the Sudan, some of which are done for religious purposes, without using the extremely dangerous and I think inflammatory phrase "Jihad (religions war)."

We have also a "whereas" clause that "Whereas an Islamic court in Kuwait has denied religious liberty to a convert to Islam from Christianity * * *." If it is a religious court, surely that is a matter for the religion in question. If the death penalty was applied, then that is a matter of human rights, but there is no allegation that it was applied; once more, a possible confusion of what is written in a book of ancient antiquity and what is actual practice.

Lastly, in reference to China, I think it would have been more profitable not to condemn China wholesale, but rather the specific instances at issue of discrimination and human rights abuses.

So, in conclusion, Mr. Speaker, I thank the gentleman for giving me the opportunity to speak in what I hope is a moderating tone, to insist that we are fair and do not add to the flames of difficulty in passing this resolution, but not in endorsing all of the "whereas" clauses.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from New Jersey [Mr. SMITH], the distinguished chairman of the Subcommittee on International Operations and Human Rights of the Committee on International Relations, who has been a long time and continuing advocate of this measure.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend, the gentleman from New York [Mr. GILMAN], for yielding time to me.

Mr. Speaker, I rise in strong support of House Resolution 515, offered by my good friend and colleague, the gentleman from Virginia [Mr. WOLF], who has been a tireless ally in defending the helpless, the imprisoned, the enslaved, and the persecuted, particularly persecuted Christians. I want to commend my colleague for authoring this legislation and recognizing the modern-day travesty of religious intolerance, imprisonment, and increasingly, the growing numbers of people who are martyrs.

In recent years, Pakistani Christian Javid Mashi was martyred; Iranian Christians, including Bishop Haik, have been killed and martyred by those regimes; Catholic and Protestant Church leaders in China, as well as ordinary believers, are regularly being arrested, regularly being beaten and fined by the dictatorship.

I have led three human rights trips to the People's Republic of China, Mr. Speaker. I have seen people in this country, the community that has made it to this country and gotten asylum, and also people who have risked much to tell stories in China itself, about the incredible repression that the house church movement and the Catholic Church that is aligned with Rome endures on behalf of their belief in Christ. It is unbelievable, the beatings, the middle of the night visits by the security police, who drag them off to be interrogated, and then the long incarcerations for their faith.

As a matter of fact, we met with one bishop who is aligned with Rome who actually celebrated mass in his apartment, only to be arrested and then get thrown back into prison for that expression of his religious belief, having already spent more than a dozen years in incarceration because of his faith.

We see that the same thing is happening in Vietnam. There are a number of believers who are not aligned with officially recognized churches, which are controlled by the dictatorship, who are languishing in prison and often being tortured and imprisoned for their faith.

Mr. Speaker, the Subcommittee on International Operations and Human Rights, which I chair, held a series of hearings in the springtime on religious persecution, and we spent an entire day looking at the rising tide of persecution against Christians.

□ 1700

The most compelling stories at that hearing and those that were submitted to us came from the actual victims who told us of the sufferings and of what they had endured. Persecution occurs in countries including Egypt, Indonesia, Iran, Morocco, Pakistan, Saudi Arabia, the Sudan, and Turkey, where Government policies repress religious practice and where Islamic extremists stir public uprisings against Christians, particularly those who seek to share their faith and perhaps to witness for Christ or those who convert from Islam to Christianity. People can be killed simply for changing their faith. Where is the religious freedom in those countries where that is practiced?

Persecution also occurs, as I said, in the People's Republic of China, in Cuba, in Laos, North Korea, and Vietnam, where Communist regimes feel threatened by Christians whose faith ultimately transcends the reach and control of political authorities.

In many parts of the world, those in political power rightly see that the inner freedom and human dignity inherent in the Christian faith undermines the pervasive thought control imposed by those dictatorial regimes. Tragically, the testimony heard by our subcommittee confirmed that in countries governed by antidemocratic and anti-Western regimes, Christians even become the scapegoats and as a means to vent and popularize hatred of the West and of the United States.

Finally, Mr. Speaker, the worldwide persecution of Christians continues to this day, and regrettably it is on the rise, one of the most compelling human rights issues in modern times. The martyrdom of Christians has reached absolutely staggering and shocking levels in this century. People of conscience have committed themselves to prayer and to action on behalf of those who are suffering.

I commend the National Association of Evangelicals for their clarion call to action. Pope John Paul II earlier this year denounced the persecution of Christians by Islamic extremists and by Communist regimes. The World Evangelical Fellowship has spearheaded an international day of prayer for the persecuted church. The first annual day of prayer is set for Sunday, September 29.

Mr. Speaker, the gentleman from Virginia [Mr. WOLF] has raised all of our attention for years to this. I have traveled with him to such disparate places as the PRC and Romania, and we have seen persecuted Christians. This is another manifestation of his concern for our suffering brethren. I hope everybody votes for this and supports it and joins in this effort to provide freedom and some help for our suffering brethren.

Mr. GILMAN. MR. Speaker, I thank the gentleman for his strong supporting arguments and for pushing this measure through at this time.

Mr. CUNNINGHAM. Mr. Speaker, I rise today to thank the gentleman from Virginia [Mr. WOLF] for bringing House Resolution 515 forward. He is a leader on the issue of protecting human rights of people around the world. And I am thankful that he has brought notice to this House the tragic increase of anti-Christian bigotry and persecution around the world.

America is the land of religious freedom, and should be a defender of religious liberty. We stand for a person's right to practice a faith. We have long since been familiar with anti-Semitism around the world, which continues to rear its ugly head. Many lawmakers have stood tall to fight that scourge. But we are here today because a new kind of persecution, anti-Christian persecution, is on the rise.

In Sudan, China, Iran, Vietnam, and India, and, I regret, in other countries as well, Christians are being punished for believing in Jesus Christ or for possessing a Bible. For merely acknowledging the Scripture, Christians in these countries risk being kidnapped, killed, raped, and subjected to many other forms of torture. This is an affront to the international community and to all people of conscience.

As a nation, the United States was founded on the basis that the Freedom of Religion was a basic human right. As elected representatives serving in a hall that declares "In God We Trust," we in Congress have an obligation to speak out when religious freedom is denied.

This resolution today affirms the commitment of Congress to condemn the threats to religious liberty around the world, on behalf of Christians and other persecuted people of faith. I call on all my colleagues to join us today in support of House Resolution 515.

Again, I thank the gentleman from Virginia [Mr. WOLF] for his leadership on this issue and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of House Resolution 515, offered by my good friend and colleague, Mr. WOLF of Virginia, who has been a tireless ally in defending the helpless, the imprisoned, the enslaved, and the persecuted—particularly persecuted Christians. I commend my colleague for authoring this resolution which recognizes the modern day travesty of religious intolerance, imprisonment and even martyrdom.

In recent years, Pakistani Christian Javid Mashi was martyred; Iranian Christian Mehdi Dibaj, Minister Tateos Michaelian and Bishop Haik Hovespian-Mehr were martyred; Catholic and Protestant church leaders in China, as well as ordinary believers, are regularly being arrested, beaten and fined; Christians in Sudan have been executed, enslaved, tortured, and sent into forced labor for their refusal to convert to Islam; for the last 18 years, about one dozen Catholic priests and monks in Vietnam have been imprisoned; in nearby Cuba, Pastor Orson Vila remains under house arrest following his 10 months imprisonment. Mr. Speaker, the entire century has been plagued with the martyrdom and persecution of religious leaders and their faithful flocks—the number of Catholic, Evangelical, and Orthodox Christians who have died for their faith will never be fully accounted.

The Subcommittee on International Operations and Human Rights, which I chair, held hearings this past spring on religious persecution, particularly Christian persecution. The most compelling stories were from the victims themselves. Persecution occurs in countries, such as Egypt, Indonesia, Iran, Morocco, Pakistan, Saudi Arabia, Sudan and Turkey, where government policies repress religious practice and where Islamic extremists stir public uprisings against Christians, particularly those who seek to share their faith or those who convert from Islam to Christianity.

Persecution also occurs in China, Cuba, Laos, North Korea and Vietnam, where Communist regimes feel threatened by Christians whose faith ultimately transcends the reach and control of political authorities. In many parts of the world, those in political power rightly see that the inner freedom and human dignity inherent in the Christian faith undermines the pervasive control sought by dictatorial regimes. Tragically, the testimony heard by the Subcommittee confirmed that, in countries governed by anti-democratic, anti-Western regimes, Christians become scapegoats as a means to vent and popularize hatred of the West and of the United States.

Clearly, if the United States is to retain its moral leadership, we must initiate policies that distance the United States from governments which engage in these persecutions, or allow rampages against the Christian communities and believers to go unchecked. The United States must seek to insure that the inalienable right to freedom of religion, along with the concomitant rights of freedom of speech, assembly, and the freedom to change one's religion, are supported through the United States foreign policy. Governments and tyrannical religious groups must be put on notice that persecution of Christians violates numerous international treaties and covenants and will not be tolerated by the United States. The Unites States must exercise decisive leadership and consistently raise these issues in bilateral negotiations and relations, and in multilateral fora.

My colleagues, Mr. WOLF and Mr. PORTER, and I had encouraged the White House to appoint a Special Advisor on matters of religious persecution. Recent press reports indicate that a special advisory committee is being appointed, headed by Department of State Assistant Secretary John Shattuck. While the stated mandate of the committee has not been made public, I would suggest that the mandate be unequivocal with a focus on the tragedy of religious persecution, particularly of Christians. The committee should have precise reporting deadlines. Proposing specific recommendations of policy, diplomatic action and other initiatives appropriate for government to undertake should be part of the committee's mandate.

The worldwide persecution of Christians is one of the most compelling human rights issues in modern times. The martyrdom of Christians has reached alarming levels in this century and people of conscience have committed themselves to prayer and to action on behalf of those suffering. I commend the National association of Evangelical for their clarion call to action. Pope John Paul II, earlier this year, denounced the persecution of Christians by Islamist and communist regimes. The World Evangelical Fellowship has spearheaded an international day of prayer for the persecuted church. The first annual day of prayer is set for Sunday, September 29. I urge my friends and colleagues of all faiths to join in this call to action.

Mr. Speaker, I urge my colleagues to support the resolution before the House, House Resolution 515.

Mr. PORTER. Mr. Speaker, I would like to thank my fried and colleague from Virginia for introducing this important piece of legislation and for his leadership on this issue. I am proud to be a cosponsor of this outstanding resolution.

The persecution of Christians throughout the world is a serious and growing problem, but it has received surprisingly little attention in the mainstream media. According to the World Christian Encyclopedia, 160,000 Christians are killed each year for practicing their faith. The Congressional Human Rights Caucus held a briefing for Members on March 7 of this year. We heard from various experts about the widespread persecution of Christians in China, Iran, Vietnam, North Korea, Cuba, Pakistan, Sudan, and Egypt.

In Sudan, Christian women and children as young as six are captured and sold into slavery as part of the Sudanese Government's jihad against Christianity. In China, churches and religious texts are destroyed and Christians are regularly jailed. Recently, three Christian leaders in China were beaten to death by Chinese authorities. In Kuwait, Robert Hussein was sentenced to death for converting to Christianity. These are just a few of the horrible examples of how Christians throughout the world are harassed and oppressed. Is it any surprise that among the worst offenders are the last remaining totalitarian regimes where religious freedom does not exist?

Mr. WOLF, Mr. SMITH of New Jersey and I sent a letter to President Clinton earlier this year, calling on him to present a statement on this crucial issue, and to fulfill his pledge to appoint a special adviser on religious persecution. As evidenced by the need for this legislation, the White House has failed to act. I am hopeful that this resolution will prompt strong action by the administration, placing the full force of our Nation's moral authority behind efforts to end persecution of religious minorities.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. GUNDERSON). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 515, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the measure just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

NATIONAL INVASIVE SPECIES ACT OF 1996

Mr. BOEHLERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3217) to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) IN GENERAL.—This Act may be cited as the "National Invasive Species Act of 1996".

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.).

SEC. 2. AMENDMENTS TO THE NONINDIGENOUS AQUATIC NUISANCE PREVENTION AND CONTROL ACT OF 1990.

(a) FINDINGS; DEFINITIONS.—

(1) FINDINGS.—Section 1002(a) (16 U.S.C. 4701(a)) is amended—

(A) by striking paragraphs (2) and (3) and inserting the following new paragraphs:

"(2) when environmental conditions are favorable, nonindigenous species become established, may compete with or prey upon native species of plants, fish, and wildlife, may carry diseases or parasites that affect native species, and may disrupt the aquatic environment and economy of affected near-shore areas;

"(3) the zebra mussel was unintentionally introduced into the Great Lakes and has infested—

"(A) waters south of the Great Lakes, into a good portion of the Mississippi River drainage;

"(B) waters west of the Great Lakes, into the Arkansas River in Oklahoma; and

"(C) waters east of the Great Lakes, into the Hudson River and Lake Champlain;";

(B) in paragraph (4)—

(i) by inserting "by the zebra mussel and ruffe, round goby, and other nonindigenous species" after "other species"; and

(ii) by striking "and" at the end;

(C) in paragraph (5), by striking the period and inserting a semicolon; and

(D) by adding at the end the following new paragraphs:

"(6) in 1992, the zebra mussel was discovered at the northernmost reaches of the Chesapeake Bay watershed;

"(7) the zebra mussel poses an imminent risk of invasion in the main waters of the Chesapeake Bay;

"(8) since the Chesapeake Bay is the largest recipient of foreign ballast water on the East Coast, there is a risk of further invasions of other nonindigenous species;

"(9) the zebra mussel is only one example of thousands of nonindigenous species that have become established in waters of the United States and may be causing economic and ecological degradation with respect to the natural resources of waters of the United States;

"(10) since their introduction in the early 1980's in ballast water discharges, ruffe—

"(A) have caused severe declines in populations of other species of fish in Duluth Harbor (in Minnesota and Wisconsin);

"(B) have spread to Lake Huron; and

"(C) are likely to spread quickly to most other waters in North America if action is not taken promptly to control their spread;

"(11) examples of nonindigenous species that, as of the date of enactment of the National Invasive Species Act of 1996, infest coastal waters of the United States and that have the potential for causing adverse economic and ecological effects include—

"(A) the mitten crab (Eriocher sinensis) that has become established on the Pacific Coast;

"(B) the green crab (Carcinus maenas) that has become established in the coastal waters of the Atlantic Ocean;

"(C) the brown mussel (Perna perna) that has become established along the Gulf of Mexico; and

"(D) certain shellfish pathogens;

"(12) many aquatic nuisance vegetation species, such as Eurasian watermilfoil, hydrilla, water hyacinth, and water chestnut, have been introduced to waters of the United States from other parts of the world causing or having a potential to cause adverse environmental, ecological, and economic effects;

"(13) if preventive management measures are not taken nationwide to prevent and control unintentionally introduced nonindigenous aquatic species in a timely manner, further introductions and infestations of species that are as destructive as, or more destructive than, the zebra mussel or the ruffe infestations may occur;

"(14) once introduced into waters of the United States, aquatic nuisance species are unintentionally transported and introduced into inland lakes and rivers by recreational boaters, commercial barge traffic, and a variety of other pathways; and

"(15) resolving the problems associated with aquatic nuisance species will require the participation and cooperation of the Federal Government and State governments, and investment in the development of prevention technologies.".

(2) DEFINITIONS.—Section 1003 (16 U.S.C. 4702) is amended—

(A) by striking paragraph (1) and redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively;

(B) in paragraph (2), as redesignated by subparagraph (A) of this paragraph, by striking "assistant Secretary" and inserting "Assistant Secretary";

(C) by redesignating paragraphs (9) through (15) as paragraphs (11) through (17), respectively; and

(D) by inserting after paragraph (7), as redesignated by subparagraph (A) of this paragraph, the following:

"(8) 'Great Lakes region' means the 8 States that border on the Great Lakes;

"(9) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(10) 'interstate organization' means an entity—

"(A) established by—

"(i) an interstate compact that is approved by Congress;

"(ii) a Federal statute; or

"(iii) a treaty or other international agreement with respect to which the United States is a party; and

"(B)(i) that represents 2 or more—

"(I) States or political subdivisions thereof; or

"(II) Indian tribes; or

"(ii) that represents—

"(I) 1 or more States or political subdivisions thereof; and

"(II) 1 or more Indian tribes; or

"(iii) that represents the Federal Government and 1 or more foreign governments; and

"(C) has jurisdiction over, serves as forum for coordinating, or otherwise has a role or responsibility for the management of, any land or other natural resource;".

(b) AQUATIC NUISANCE SPECIES CONTROL PROGRAM.—

(1) AMENDMENT TO HEADING.—The heading to subtitle B (16 U.S.C. 4711 et seq.) is amended to read as follows:

"Subtitle B—Prevention of Unintentional Introductions of Nonindigenous Aquatic Species".

(2) AQUATIC NUISANCE SPECIES.—Section 1101 (16 U.S.C. 4711) is amended to read as follows:

"SEC. 1101. AQUATIC NUISANCE SPECIES IN WATERS OF THE UNITED STATES.

"(a) GREAT LAKES GUIDELINES.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the exchange of ballast water of vessels prior to entering those waters.

"(2) CONTENT OF GUIDELINES.—The guidelines issued under this subsection shall—

"(A) ensure to the maximum extent practicable that ballast water containing aquatic nuisance species is not discharged into the Great Lakes;

"(B) protect the safety of—

"(i) each vessel; and

"(ii) the crew and passengers of each vessel;

"(C) take into consideration different vessel operating conditions; and

"(D) be based on the best scientific information available.

"(b) REGULATIONS.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Task Force, shall issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the ballast water of vessels.

"(2) CONTENT OF REGULATIONS.—The regulations issued under this subsection shall—

"(A) apply to all vessels equipped with ballast water tanks that enter a United States port on the Great Lakes after operating on the waters beyond the exclusive economic zone;

"(B) require a vessel to—

"(i) carry out exchange of ballast water on the waters beyond the exclusive economic zone prior to entry into any port within the Great Lakes;

"(ii) carry out an exchange of ballast water in other waters where the exchange does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States, as recommended by the Task Force under section 1102(a)(1); or

"(iii) use environmentally sound alternative ballast water management methods if the Secretary determines that such alternative methods are as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

"(C) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(D) provide for sampling procedures to monitor compliance with the requirements of the regulations;

"(E) prohibit the operation of a vessel in the Great Lakes if the master of the vessel has not certified to the Secretary or the Secretary's designee by not later than the departure of that vessel from the first lock in the St. Lawrence Seaway that the vessel has complied with the requirements of the regulations;

"(F) protect the safety of—

"(i) each vessel; and

"(ii) the crew and passengers of each vessel;

"(G) take into consideration different operating conditions; and

"(H) be based on the best scientific information available.

"(3) ADDITIONAL REGULATIONS.—In addition to promulgating regulations under paragraph (1), the Secretary, in consultation with the Task Force, shall, not later than November 4, 1994, issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through ballast water carried on vessels that enter a United States port on the Hudson River north of the George Washington Bridge.

"(4) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—The Secretary may carry out education and technical assistance programs and other measures to promote compliance with the regulations issued under this subsection.

"(c) VOLUNTARY NATIONAL GUIDELINES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the National Invasive Species Act of 1996, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of nonindigenous species in waters of the United States by ballast water operations and other operations of vessels equipped with ballast water tanks.

"(2) CONTENT OF GUIDELINES.—The voluntary guidelines issued under this subsection shall—

"(A) ensure to the maximum extent practicable that aquatic nuisance species are not discharged into waters of the United States from vessels;

"(B) apply to all vessels equipped with ballast water tanks that operate in waters of the United States;

"(C) protect the safety of—

"(i) each vessel; and

"(ii) the crew and passengers of each vessel;

"(D) direct a vessel that is carrying ballast water into waters of the United States after operating beyond the exclusive economic zone to—

"(i) carry out the exchange of ballast water of the vessel in waters beyond the exclusive economic zone;

"(ii) exchange the ballast water of the vessel in other waters where the exchange does not pose a threat of infestation or spread of nonindigenous species in waters of the United States, as recommended by the Task Force under section 1102(a)(1); or

"(iii) use environmentally sound alternative ballast water management methods, including modification of the vessel ballast water tanks and intake systems, if the Secretary determines that such alternative methods are at least as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

"(E) direct vessels to carry out management practices that the Secretary determines to be necessary to reduce the probability of unintentional nonindigenous species transfer resulting from—

"(i) ship operations other than ballast water discharge; and

"(ii) ballasting practices of vessels that enter waters of the United States with no ballast water on board;

"(F) provide for the keeping of records that shall be submitted to the Secretary, as prescribed by the guidelines, and that shall be maintained on board each vessel and made available for inspection, upon request of the Secretary and in a manner consistent with subsection (i), in order to enable the Secretary to determine compliance with the guidelines, including—

"(i) with respect to each ballast water exchange referred to in clause (ii), reporting on the precise location and thoroughness of the exchange; and

"(ii) any other information that the Secretary considers necessary to assess the rate of effective compliance with the guidelines;

"(G) provide for sampling procedures to monitor compliance with the guidelines;

"(H) take into consideration—

"(i) vessel types;

"(ii) variations in the characteristics of point of origin and receiving water bodies;

"(iii) variations in the ecological conditions of waters and coastal areas of the United States; and "(iv) different operating conditions;

"(I) be based on the best scientific information available;

"(J) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

"(K) provide an exemption from ballast water exchange requirements to passenger vessels with operating ballast water systems that are equipped with treatment systems designed to kill aquatic organisms in ballast water, unless the Secretary determines that such treatment systems are less effective than ballast water exchange at reducing the risk of transfers of invasive species in the ballast water of passenger vessels; and

"(L) not apply to crude oil tankers engaged in the coastwise trade.

"(3) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—Not later than 1 year after the date of enactment of the National Invasive Species Act of 1996, the Secretary shall carry out education and technical assistance programs and other measures to encourage compliance with the guidelines issued under this subsection.

"(d) REPORT TO CONGRESS.—Not sooner than 24 months after the date of issuance of guidelines pursuant to subsection (c) and not later than 30 months after such date, and after consultation with interested and affected persons, the Secretary shall prepare and submit to Congress a report containing the information required pursuant to paragraphs (1) and (2) of subsection (e).

"(e) PERIODIC REVIEW AND REVISION.—

"(1) IN GENERAL.—Not later than 3 years after the date of issuance of guidelines pursuant to subsection (c), and not less frequently than every 3 years thereafter, the Secretary shall, in accordance with criteria developed by the Task Force under paragraph (3)—

"(A) assess the compliance by vessels with the voluntary guidelines issued under subsection (c) and the regulations promulgated under this Act;

"(B) establish the rate of compliance that is based on the assessment under subparagraph (A);

"(C) assess the effectiveness of the voluntary guidelines and regulations referred to in subparagraph (A) in reducing the introduction and spread of aquatic nuisance species by vessels; and

"(D) as necessary, on the basis of the best scientific information available—

"(i) revise the guidelines and regulations referred to in subparagraph (A);

"(ii) promulgate additional regulations pursuant to subsection (f)(1); or

"(iii) carry out each of clauses (i) and (ii).

"(2) SPECIAL REVIEW AND REVISION.—Not later than 90 days after the Task Force makes a request to the Secretary for a special review and revision for coastal and inland waterways designated by the Task Force, the Secretary shall—

"(A) conduct a special review of guidelines and regulations applicable to those waterways in accordance with the review procedures under paragraph (1); and

"(B) as necessary, in the same manner as provided under paragraph (1)(D)—

"(i) revise those guidelines;

"(ii) promulgate additional regulations pursuant to subsection (f)(1); or

"(iii) carry out each of clauses (i) and (ii).

"(3) CRITERIA FOR EFFECTIVENESS.—Not later than 18 months after the date of enactment of the National Invasive Species Act of 1996, the Task Force shall submit to the Secretary criteria for determining the adequacy and effectiveness of the voluntary guidelines issued under subsection (c).

"(f) AUTHORITY OF SECRETARY.—

"(1) GENERAL REGULATIONS.—If, on the basis of a periodic review conducted under subsection (e)(1) or a special review conducted under subsection (e)(2), the Secretary determines that—

"(A) the rate of effective compliance (as determined by the Secretary) with the guidelines issued pursuant to subsection (c) is inadequate; or

"(B) the reporting by vessels pursuant to those guidelines is not adequate for the Secretary to assess the compliance with those guidelines and provide a rate of compliance of vessels, including the assessment of the rate of compliance of vessels under subsection (e)(2),

the Secretary shall promptly promulgate regulations that meet the requirements of paragraph (2).

"(2) REQUIREMENTS FOR REGULATIONS.—The regulations promulgated by the Secretary under paragraph (1)—

"(A) shall—

"(i) not be promulgated sooner than 180 days following the issuance of the report to Congress submitted pursuant to subsection (d);

"(ii) make mandatory the requirements included in the voluntary guidelines issued under subsection (c); and

"(iii) provide for the enforcement of the regulations; and

"(B) may be regional in scope.

"(3) INTERNATIONAL REGULATIONS.—The Secretary shall revise regulations promulgated under this subsection to the extent required to make such regulations consistent with the treatment of a particular matter in any international agreement, agreed to by the United States, governing management of the transfer of nonindigenous aquatic species by vessel.

"(g) SANCTIONS.—

"(1) CIVIL PENALTIES.—Any person who violates a regulation promulgated under subsection (b) or (f) shall be liable for a civil penalty in an amount not to exceed $25,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

"(2) CRIMINAL PENALTIES.—Any person who knowingly violates the regulations promulgated under subsection (b) or (f) is guilty of a class C felony.

"(3) REVOCATION OF CLEARANCE.—Upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance of a vessel required by section 4197 of the Revised Statutes (46 U.S.C. App. 91), if the owner or operator of that vessel is in violation of the regulations issued under subsection (b) or (f).

"(4) EXCEPTION TO SANCTIONS.—This subsection does not apply to a failure to exchange ballast water if—

"(A) the master of a vessel, acting in good faith, decides that the exchange of ballast water will threaten the safety or stability of the vessel, its crew, or its passengers; and

"(B) the recordkeeping and reporting requirements of the Act are complied with.

"(h) COORDINATION WITH OTHER AGENCIES.—In carrying out the programs under this section, the Secretary is encouraged to use, to the maximum extent practicable, the expertise, facilities, members, or personnel of established agencies and organizations that have routine contact with vessels, including the Animal and Plant Health Inspection Service of the Department of Agriculture, the National Cargo Bureau, port administrations, and ship pilots' associations.

"(i) CONSULTATION WITH CANADA, MEXICO, AND OTHER FOREIGN GOVERNMENTS.—In developing the guidelines issued and regulations promulgated under this section, the Secretary is encouraged to consult with the Government of Canada, the Government of Mexico, and any other government of a foreign country that the Secretary, in consultation with the Task Force, determines to be necessary to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species.

"(j) INTERNATIONAL COOPERATION.—The Secretary, in cooperation with the International Maritime Organization of the United Nations and the Commission on Environmental Cooperation established pursuant to the North American Free Trade Agreement, is encouraged to enter into negotiations with the governments of foreign countries to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species.

"(k) SAFETY EXEMPTION.—

"(1) MASTER DISCRETION.—The master of a vessel is not required to conduct a ballast water exchange if the master decides that the exchange would threaten the safety or stability of the vessel, its crew, or its passengers because of adverse weather, vessel architectural design, equipment failure, or any other extraordinary conditions.

"(2) OTHER REQUIREMENTS.—A vessel that does not exchange ballast water on the high seas under paragraph (1) shall not be restricted from discharging ballast water in any harbor unless the Secretary issues requirements applicable to such vessel under subsection (b)(2)(B)(ii), (b)(2)(B)(iii), (c)(2)(D)(ii), or (c)(2)(D)(iii).

"(l) NON-DISCRIMINATION.—The Secretary shall ensure that vessels registered outside of the United States do not receive more favorable treatment than vessels registered in the United States when the Secretary performs studies, reviews compliance, determines effectiveness, establishes requirements, or performs any other responsibilities under this Act.".

(c) NATIONAL BALLAST WATER MANAGEMENT INFORMATION.—Section 1102 (16 U.S.C. 4712) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 1102. NATIONAL BALLAST WATER MANAGEMENT INFORMATION.";

(2) in subsection (a)—

(A) in paragraphs (1) and (2), by inserting ", in cooperation with the Secretary," before "shall conduct" each place it appears;

(B) in paragraph (2), by inserting "Lake Champlain and other" after "economic uses of";

(3) by striking subsection (b) and inserting the following:

"(b) ECOLOGICAL AND BALLAST WATER DISCHARGE SURVEYS.—

"(1) ECOLOGICAL SURVEYS.—

"(A) IN GENERAL.—The Task Force, in cooperation with the Secretary, shall conduct ecological surveys of the Chesapeake Bay, San Francisco Bay, and Honolulu Harbor and, as necessary, of other estuaries of national significance and other waters that the Task Force determines—

"(i) to be highly susceptible to invasion by aquatic nuisance species resulting from ballast water operations and other operations of vessels; and "(ii) to require further study.

"(B) REQUIREMENTS FOR SURVEYS.—In conducting the surveys under this paragraph, the Task Force shall, with respect to each such survey—

"(i) examine the attributes and patterns of invasions of aquatic nuisance species; and

"(ii) provide an estimate of the effectiveness of ballast water management and other vessel management guidelines issued and regulations promulgated under this subtitle in abating invasions of aquatic nuisance species in the waters that are the subject of the survey.

"(2) BALLAST WATER DISCHARGE SURVEYS.—

"(A) IN GENERAL.—The Secretary, in cooperation with the Task Force, shall conduct surveys of ballast water discharge rates and practices in the waters referred to in paragraph (1)(A) on the basis of the criteria under clauses (i) and (ii) of such paragraph.

"(B) REQUIREMENTS FOR SURVEYS.—In conducting the surveys under this paragraph, the Secretary shall—

"(i) examine the rate of, and trends in, ballast water discharge in the waters that are the subject of the survey; and

"(ii) assess the effectiveness of voluntary guidelines issued, and regulations promulgated, under this subtitle in altering ballast water discharge practices to reduce the probability of accidental introductions of aquatic nuisance species.

"(3) COLUMBIA RIVER.—The Secretary, in cooperation with the Task Force and academic institutions in each of the States affected, shall conduct an ecological and ballast water discharge survey of the Columbia River system consistent with the requirements of paragraphs (1) and (2)."; and

(4) by adding at the end the following new subsections:

"(e) REGIONAL RESEARCH GRANTS.—Out of amounts appropriated to carry out this subsection for a fiscal year, the Under Secretary shall—

"(1) make available not to exceed $750,000 to fund research on aquatic nuisance species prevention and control in the Chesapeake Bay through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

"(2) make available not to exceed $500,000 to fund research on aquatic nuisance species prevention and control in the Gulf of Mexico through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

"(3) make available not to exceed $500,000 to fund research on aquatic nuisance species prevention and control for the Pacific Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

"(4) make available not to exceed $500,000 to fund research on aquatic nuisance species prevention and control for the Atlantic Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions; and

"(5) make available not to exceed $750,000 to fund research on aquatic nuisance species prevention and control in the San Francisco Bay-Delta Estuary through grants, to be competitively awarded and subject to peer review, to universities and research institutions.

"(f) NATIONAL BALLAST INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall develop and maintain, in consultation and cooperation with the Task Force and the Smithsonian Institution (acting through the Smithsonian Environmental Research Center), a clearinghouse of national data concerning—

"(A) ballasting practices;

"(B) compliance with the guidelines issued pursuant to section 1101(c); and

"(C) any other information obtained by the Task Force under subsection (b).

"(2) REPORT.—In consultation and cooperation with the Task Force and the Smithsonian Institution (acting through the Smithsonian Environmental Research Center), the Secretary shall prepare and submit to the Task Force and the Congress, on a biannual basis, a report that synthesizes and analyzes the data referred to in paragraph (1) relating to—

"(A) ballast water delivery and management; and

"(B) invasions of aquatic nuisance species resulting from ballast water.".

(d) ARMED SERVICES BALLAST WATER PROGRAM; BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.—Subtitle B (16 U.S.C. 4701 et seq.) is amended by adding at the end the following new sections:

"SEC. 1103. ARMED SERVICES BALLAST WATER PROGRAMS.

"(a) DEPARTMENT OF DEFENSE VESSELS.—Subject to operational conditions, the Secretary of Defense, in consultation with the Secretary, the Task Force, and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Department of Defense to minimize the risk of introduction of nonindigenous species from releases of ballast water.

"(b) COAST GUARD VESSELS.—Subject to operational conditions, the Secretary, in consultation with the Task Force and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Coast Guard to minimize the risk of introduction of nonindigenous species from releases of ballast water.

"SEC. 1104. BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.

"(a) TECHNOLOGIES AND PRACTICES DEFINED.—For purposes of this section, the term 'technologies and practices' means those technologies and practices that—

"(1) may be retrofitted—

"(A) on existing vessels or incorporated in new vessel designs; and

"(B) on existing land-based ballast water treatment facilities;

"(2) may be designed into new water treatment facilities;

"(3) are operationally practical;

"(4) are safe for a vessel and crew;

"(5) are environmentally sound;

"(6) are cost-effective;

"(7) a vessel operator is capable of monitoring; and

"(8) are effective against a broad range of aquatic nuisance species.

"(b) DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—During the 18-month period beginning on the date that funds are made available by appropriations pursuant to section 1301(e), the Secretary of the Interior and the Secretary of Commerce, with the concurrence of and in cooperation with the Secretary, shall conduct a ballast water management demonstration program to demonstrate technologies and practices to prevent aquatic nonindigenous species from being introduced into and spread through ballast water in the Great Lakes and other waters of the United States.

"(2) LOCATION.—The installation and construction of the technologies and practices used in the demonstration program conducted under this subsection shall be performed in the United States.

"(3) VESSEL SELECTION.—In demonstrating technologies and practices on vessels under this subsection, the Secretary of the Interior and the Secretary of Commerce, shall—

"(A) use only vessels that—

"(i) are approved by the Secretary;

"(ii) have ballast water systems conducive to testing aboard-vessel or land-based technologies and practices applicable to a significant number of merchant vessels; and

"(iii) are—

"(I) publicly or privately owned; and

"(II) in active use for trade or other cargo shipment purposes during the demonstration;

"(B) select vessels for participation in the program by giving priority consideration—

"(i) first, to vessels documented under chapter 121 of title 46, United States Code;

"(ii) second, to vessels that are a majority owned by citizens of the United States, as determined by the Secretary; and

"(iii) third, to any other vessels that regularly call on ports in the United States; and

"(C) seek to use a variety of vessel types, including vessels that—

"(i) call on ports in the United States and on the Great Lakes; and

"(ii) are operated along major coasts of the United States and inland waterways, including the San Francisco Bay and Chesapeake Bay.

"(4) SELECTION OF TECHNOLOGIES AND PRACTICES.—In selecting technologies and practices for demonstration under this subsection, the Secretary of the Interior and the Secretary of Commerce shall give priority consideration to technologies and practices identified as promising by the National Research Council Marine Board of the National Academy of Sciences in its report on ships' ballast water operations issued in July 1996.

"(5) REPORT.—Not later than 3 years after the date of enactment of the National Invasive Species Act of 1996, the Secretary of the Interior and the Secretary of Commerce shall prepare and submit a report to the Congress on the demonstration program conducted pursuant to this section. The report shall include findings and recommendations of the Secretary of the Interior and the Secretary of Commerce concerning technologies and practices.

"(c) AUTHORITIES; CONSULTATION AND COOPERATION WITH INTERNATIONAL MARITIME ORGANIZATION AND TASK FORCE.—

"(1) AUTHORITIES.—In conducting the demonstration program under subsection (b), the Secretary of the Interior may—

"(A) enter into cooperative agreements with appropriate officials of other agencies of the Federal Government, agencies of States and political subdivisions thereof, and private entities;

"(B) accept funds, facilities, equipment, or personnel from other Federal agencies; and

"(C) accept donations of property and services.

"(2) CONSULTATION AND COOPERATION.—The Secretary of the Interior shall consult and cooperate with the International Maritime Organization and the Task Force in carrying out this section.".

(e) AMENDMENTS TO SUBTITLE C.—

(1) SUBTITLE HEADING.—The heading to subtitle C (16 U.S.C. 4721 et seq.) is amended to read as follows:

"Subtitle C—Prevention and Control of Aquatic Nuisance Species Dispersal".

(2) TASK FORCE.—Section 1201 (16 U.S.C. 4721) is amended—

(A) in subsection (b)—

(i) by striking "and" at the end of paragraph (5);

(ii) by redesignating paragraph (6) as paragraph (7); and

(iii) by inserting after paragraph (5) the following new paragraph:

"(6) the Secretary of Agriculture; and"; and

(B) in subsection (c), by inserting "the Chesapeake Bay Program, the San Francisco Bay-Delta Estuary Program," before "and State agencies".

(3) RESEARCH PROGRAM.—Section 1202 (16 U.S.C. 4722) is amended—

(A) in subsection (f)(1)(A), by inserting "and impacts" after "economic risks"; and

(B) in subsection (i)—

(i) in paragraph (1)—

(I) by striking "(1) IN GENERAL.—The Task Force" and inserting the following:

"(1) ZEBRA MUSSEL.—

"(A) IN GENERAL.—The Task Force";

(II) by striking "(A) research" and inserting the following:

"(i) research";

(III) by striking "(B) tracking" and inserting the following:

"(ii) tracking";

(IV) by striking "(C) development" and inserting the following:

"(iii) development"; and

(V) by striking "(D) provision" and inserting the following:

"(iv) provision";

(ii) in paragraph (2), by striking "(2) PUBLIC FACILITY RESEARCH AND DEVELOPMENT.—" and inserting the following:

"(B) PUBLIC FACILITY RESEARCH AND DEVELOPMENT.—";

(iii) in subparagraph (B) of paragraph (1), as so redesignated, by striking the first sentence and inserting the following: "The Assistant Secretary, in consultation with the Task Force, shall develop a program of research, technology development, and demonstration for the environmentally sound control of zebra mussels in and around public facilities.";

(iv) in paragraph (1), by adding after subparagraph (B), as so redesignated, the following new subparagraph:

"(C) VOLUNTARY GUIDELINES.—Not later than 1 year after the date of enactment of this subparagraph, the Task Force shall develop and submit to the Secretary voluntary guidelines for controlling the spread of the zebra mussel and, if appropriate, other aquatic nuisance species through recreational activities, including boating and fishing. Not later than 4 months after the date of such submission, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines that are based on the guidelines developed by the Task Force under this subparagraph."; and

(v) by adding at the end the following new paragraphs:

"(2) DISPERSAL CONTAINMENT ANALYSIS.—

"(A) RESEARCH.—The Administrator of the Environmental Protection Agency, in cooperation with the National Science Foundation and the Task Force, shall provide research grants on a competitive basis for projects that—

"(i) identify environmentally sound methods for controlling the dispersal of aquatic nuisance species, such as the zebra mussel; and

"(ii) adhere to research protocols developed pursuant to subsection (f)(2).

"(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this paragraph, $500,000.

"(3) DISPERSAL BARRIER DEMONSTRATION.—

"(A) IN GENERAL.—The Assistant Secretary, in consultation with the Task Force, shall investigate and identify environmentally sound methods for preventing and reducing the dispersal of aquatic nuisance species between the Great Lakes-Saint Lawrence drainage and the Mississippi River drainage through the Chicago River Ship and Sanitary Canal, including any of those methods that could be incorporated into the operation or construction of the lock system of the Chicago River Ship and Sanitary Canal.

"(B) REPORT.—Not later than 18 months after the date of enactment of this paragraph, the Assistant Secretary shall issue a report to the Congress that includes recommendations concerning—

"(i) which of the methods that are identified under the study conducted under this paragraph are most promising with respect to preventing and reducing the dispersal of aquatic nuisance species; and

"(ii) ways to incorporate those methods into ongoing operations of the United States Army Corps of Engineers that are conducted at the Chicago River Ship and Sanitary Canal.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Army, to carry out this paragraph, $750,000.

"(4) CONTRIBUTIONS.—To the extent allowable by law, in carrying out the studies under paragraphs (2) and (3), the Administrator of the Environmental Protection Agency and the Secretary of the Army may enter into an agreement with an interested party under which that party provides in kind or monetary contributions for the study.

"(5) TECHNICAL ASSISTANCE.—The Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration shall provide technical assistance to appropriate entities to assist in the research conducted pursuant to this subsection.".

(4) IMPLEMENTATION.—Section 1202(j)(1) (16 U.S.C. 4722(j)(1)) is amended by striking "Not later than 18 months after the date of the enactment of this Act, the Director" and inserting "The Director, the Secretary,".

(5) REGIONAL COORDINATION.—Section 1203 (16 U.S.C. 4723) is amended—

(A) by striking the section heading and inserting the following:

"SEC. 1203. REGIONAL COORDINATION.";

(B) in subsection (a)—

(i) by striking "(a) IN GENERAL.—Not" and inserting the following:

"(a) GREAT LAKES PANEL.—

"(1) IN GENERAL.—Not";

(ii) by striking "(1) identify" and inserting the following:

"(A) identify";

(iii) by striking "(2) make" and inserting the following:

"(B) make";

(iv) by striking "(3) assist" and inserting the following:

"(C) assist";

(v) by striking "(4) coordinate" and inserting the following:

"(D) coordinate";

(vi) by striking "(5) provide" and inserting the following:

"(E) provide";

(vii) by striking "(6) submit" and inserting the following:

"(F) submit";

(viii) in paragraph (1), as so redesignated—

(I) in the matter preceding subparagraph (A), by inserting "region" before "representatives"; and

(II) in subparagraphs (A) through (F), by striking "Great Lakes" each place it appears and inserting "Great Lakes region";

(C) by striking "(b) CONSULTATION.—The Task Force" and inserting the following:

"(2) CONSULTATION.—The Task Force";

(D) by striking "(c) CANADIAN PARTICIPATION.—The panel" and inserting the following:

"(3) CANADIAN PARTICIPATION.—The panel";

(E) in paragraphs (2) and (3) of subsection (a), as so redesignated, by striking "this section" and inserting "this subsection"; and

(F) by adding at the end the following new subsections:

"(b) WESTERN REGIONAL PANEL.—Not later than 30 days after the date of enactment of the National Invasive Species Act of 1996, the Task Force shall request a Western regional panel, comprised of Western region representatives from Federal, State, and local agencies and from private environmental and commercial interests, to—

"(1) identify priorities for the Western region with respect to aquatic nuisance species;

"(2) make recommendations to the Task Force regarding an education, monitoring (including inspection), prevention, and control program to prevent the spread of the zebra mussel west of the 100th Meridian pursuant to section 1202(i) of this Act;

"(3) coordinate, where possible, other aquatic nuisance species program activities in the Western region that are not conducted pursuant to this Act;

"(4) develop an emergency response strategy for Federal, State, and local entities for stemming new invasions of aquatic nuisance species in the region;

"(5) provide advice to public and private individuals and entities concerning methods of preventing and controlling aquatic nuisance species infestations; and

"(6) submit annually a report to the Task Force describing activities within the Western region related to aquatic nuisance species prevention, research, and control.

"(c) ADDITIONAL REGIONAL PANELS.—The Task Force shall—

"(1) encourage the development and use of regional panels and other similar entities in regions in addition to the Great Lakes and Western regions (including providing financial assistance for the development and use of such entities) to carry out, with respect to those regions, activities that are similar to the activities described in subsections (a) and (b); and

"(2) cooperate with regional panels and similar entities that carry out the activities described in paragraph (1).".

(6) STATE OR INTERSTATE WATERSHED AQUATIC NUISANCE SPECIES MANAGEMENT PLAN.—Section 1204 (16 U.S.C. 4724) is amended—

(A) in subsection (a)—

(i) by striking the subsection designation and heading and inserting the following:

"(a) STATE OR INTERSTATE INVASIVE SPECIES MANAGEMENT PLANS.—";

(ii) in paragraph (1)—

(I) by striking the matter preceding subparagraph (A) and inserting the following:

"(1) IN GENERAL.—After providing notice and opportunity for public comment, the Governor of each State may prepare and submit, or the Governors of the States and the governments of the Indian tribes involved in an interstate organization, may jointly prepare and submit—";

(II) in subparagraph (A), by striking "technical and financial assistance" and inserting "technical, enforcement, or financial assistance (or any combination thereof)"; and

(III) in subparagraphs (A) and (B), by inserting "or within the interstate region involved" after "within the State" each place it appears;

(iii) in paragraph (2)—

(I) in subparagraph (B), by striking "and" at the end of the subparagraph;

(II) by redesignating subparagraph (C) as subparagraph (D);

(III) by inserting after subparagraph (B) the following:

"(C) identify any authority that the State (or any State or Indian tribe involved in the interstate organization) does not have at the time of the development of the plan that may be necessary for the State (or any State or Indian tribe involved in the interstate organization) to protect public health, property, and the environment from harm by aquatic nuisance species; and"; and

(IV) in subparagraph (D), as so redesignated, by inserting ", and enabling legislation" before the period;

(iv) in paragraph (3)—

(I) in subparagraph (A)—

(aa) by inserting "or interstate organization" after "the State"; and

(bb) by inserting "Indian tribes," after "local governments and regional entities,"; and

(II) in subparagraph (B), by inserting "or the appropriate official of an interstate organization" after "a State"; and

(v) in paragraph (4), by inserting "or the interstate organization" after "the Governor";

(B) in subsection (b)(1)—

(i) by striking "or the Assistant Secretary, as appropriate under subsection (a),"; and

(ii) by striking "approved management plans" and inserting "management plans approved under subsection (a)"; and

(C) by adding at the end the following new subsection:

"(c) ENFORCEMENT ASSISTANCE.—Upon request of a State or Indian tribe, the Director or the Under Secretary, to the extent allowable by law and in a manner consistent with section 141 of title 14, United States Code, may provide assistance to a State or Indian tribe in enforcing an approved State or interstate invasive species management plan.".

(f) AUTHORIZATIONS OF APPROPRIATIONS.—Section 1301 (16 U.S.C. 4741) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking paragraph (3) and inserting the following;

"(3) to the Secretary to carry out section 1101—

"(A) $2,000,000 for each of fiscal years 1997 and 1998; and

"(B) $3,000,000 for each of fiscal years 1999 through 2002;"; and

(C) by adding at the end the following new paragraphs:

"(4) for each of fiscal years 1997 through 2002, to carry out paragraphs (1) and (2) of section 1102(b)—

"(A) $1,000,000 to the Department of the Interior, to be used by the Director; and

"(B) $1,000,000 to the Secretary; and

"(5) for each of fiscal years 1997 through 2002—

"(A) $3,000,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to the Under Secretary to carry out section 1102(e); and

"(B) $500,000 to the Secretary to carry out section 1102(f).";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "1991, 1992, 1993, 1994, and 1995" and inserting "1997 through 2002"; and

(B) by striking paragraphs (1) through (7) and inserting the following:

"(1) $6,000,000 to the Department of the Interior, to be used by the Director to carry out sections 1202 and 1209;

"(2) $1,000,000 to the Department of Commerce, to be used by the Under Secretary to carry out section 1202;

"(3) $1,625,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to fund aquatic nuisance species prevention and control research under section 1202(i) at the Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration, of which $500,000 shall be made available for grants, to be competitively awarded and subject to peer review, for research relating to Lake Champlain;

"(4) $5,000,000 for competitive grants for university research on aquatic nuisance species under section 1202(f)(3) as follows:

"(A) $2,800,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to fund grants under section 205 of the National Sea Grant College Program Act (33 U.S.C. 1124);

"(B) $1,200,000 to fund grants to colleges for the benefit of agriculture and the mechanic arts referred to in the first section of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322); and

"(C) $1,000,000 to fund grants through the Cooperative Fisheries and Wildlife Research Unit Program of the United States Fish and Wildlife Service;

"(5) $3,000,000 to the Department of the Army, to be used by the Assistant Secretary to carry out section 1202(i)(1)(B); and

"(6) $300,000 to the Department of the Interior, to be used by the Director to fund regional panels and similar entities under section 1203, of which $100,000 shall be used to fund activities of the Great Lakes Commission.";

(3) by striking subsection (c) and inserting the following:

"(c) GRANTS FOR STATE MANAGEMENT PROGRAMS.—There are authorized to be appropriated for each of fiscal years 1997 through 2002 $4,000,000 to the Department of the Interior, to be used by the Director for making grants under section 1204, of which $1,500,000 shall be used by the Director, in consultation with the Assistant Secretary, for management of aquatic nuisance vegetation species."; and

(4) by adding at the end the following new subsection:

"(e) BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.—There are authorized to be appropriated $2,500,000 to carry out section 1104.".

(g) REFERENCES TO APPROPRIATE COMMITTEES.—The Act (16 U.S.C. 4701 et seq.) is amended by striking "appropriate Committees" each place it appears and inserting "Congress".

(h) TECHNICAL CORRECTIONS.—Public Law 101-646 (16 U.S.C. 4701 et seq.) is amended—

(1) in titles I, II, and IV, by striking the quotation marks at the beginning of any title, subtitle, section, subsection, paragraph, subparagraph, clause, subclause, or undesignated provision;

(2) at the end of titles II and IV, by striking the closing quotation marks and the final period; and

(3) in section 1003—

(A) by striking each single opening quotation mark and inserting double opening quotation marks; and

(B) by striking each single closing quotation mark and inserting double closing quotations marks.

SEC. 3. STATUTORY CONSTRUCTION.

Nothing in this Act or the amendments made by this Act is intended to affect the authorities and responsibilities of the Great Lakes Fishery Commission established under article II of the Convention on Great Lakes Fisheries between the United States of America and Canada, signed at Washington on September 10, 1954 (hereafter in this section referred to as the "Convention"), including the authorities and responsibilities of the Great Lakes Fishery Commission—

(1) for developing and implementing a comprehensive program for eradicating or minimizing populations of sea lamprey in the Great Lakes watershed; and

(2) carrying out the duties of the Commission specified in the Convention (including any amendment thereto) and the Great Lakes Fishery Act of 1956 (16 U.S.C. 931 et seq.).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. BOEHLERT] and the gentleman from Tennessee [Mr. CLEMENT] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this broadly supported bipartisan legislation, and I stress, broadly supported and bipartisan legislation, was introduced and championed by Mr. LATOURETTE. It builds upon the 1990 act that addressed zebra mussels and other invasive species in the Great Lakes.

H.R. 3217 is national in scope, extending a voluntary incentive-based approach to all coasts and regions at risk. Whether you call them invasive, exotic or nonindigenous, these species of plants, animals and invertebrates can wreak havoc on infrastructure, on commerce, on recreation and tourism, and the environment.

H.R. 3217 coordinates agencies, research institutions and others to prevent and control the introduction and spread of invasive species primarily through voluntary ballast water exchange and management education and research.

The Committee on Transportation and Infrastructure's report on H.R. 3217 provides a detailed description of the bill and our committee's intent.

Changes have been made in the suspension motion. In brief, these changes improve the bill by: incorporating recommendations by other committees on matters ranging from research grants and peer review to NOAA and the Smithsonian Institution; ensuring a fair and reasonable transition from voluntary guidelines to regulations, if necessary; tailoring the scope and content of the guidelines to account for special factors and situations; targeting research funding and assistance to additional areas at risk in the West; and ensuring the master of the vessel continues to have discretion to ensure the health and safety of the crew and the vessel.

Finally, I would be remiss if I did not thank some of the members of the committees instrumental in moving this important legislation. But more than anyone else, the gentleman from Ohio [Mr. LATOURETTE] is responsible for this bill and its movement through the House. He has worked with all interests to build broadly supported legislation. He has also worked closely with his colleagues from Ohio and in the other body, Senator GLENN, who worked on the 1990 law and the companion Senate bill to H.R. 3217.

Mr. Speaker, I do not want anyone to think that because of all the hard work on this that Mr. LATOURETTE is one-dimensional. He has cosponsored and been a leader in a number of legislative vehicles in this session of Congress dealing with the Great Lakes. Let me point out that the Great Lakes incorporate 20 percent of the world's fresh water surface water. So Mr. LATOURETTE has proven by performance very early in his distinguished career that he is a leader and a good legislator.

We have had the Committee on Transportation and Infrastructure members who also deserve a great deal of congratulations for their efforts, particularly the gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the full committee. The chairman and ranking member of the Subcommittee on Water Resources and Environment, the gentleman from Pennsylvania [Mr. BORSKI], who is my ranking member, and I am privileged to serve as chair of that subcommittee, and the chairman and ranking member of the Subcommittee on Coast Guard and Maritime Transportation, the gentleman from North Carolina [Mr. COBLE], and the gentleman from Tennessee [Mr. CLEMENT].

Other committees have been helpful as well, particularly the Committee on Resources, also the Committee on Science, the Committee on House Oversight, the Committee on International Relations, the Committee on National Security and the Committee on Agriculture. I think you get the picture here. Everyone worked together on this one, and Mr. LATOURETTE is the guy who brought everyone together.

Mr. Speaker, I strongly urge my colleagues to support this very important legislation.

Mr. Speaker, I include for the RECORD a brief summary of the manager's amendment, as follows:

H.R. 3217, NATIONAL INVASIVE SPECIES ACT OF 1996—SUMMARY OF MANAGER'S AMENDMENT

The amendment in the nature of a substitute makes certain minor changes to the bill to clarify certain exemptions, add a requirement to report to Congress prior to issuing national regulations, authorize additional research funding, address comments made by other committees, and make other technical and conforming changes.

A new subparagraph (K) is added to section 1101(c)(2) to clarify the intent that passenger vessels equipped with certain environmentally sound and protective ballast water treatment systems be exempt from otherwise applicable requirements to exchange ballast water. As noted in the Committee Report, H. Rept. 104–815, certain passenger vessels use sodium hyprochlorate solutions or metal electrolytic cathodes to kill undesirable organisms in ballast water. Passenger vessels equipped with such treatment systems are exempt from any requirement to exchange ballast water, unless the Secretary of Transportation determines that such ballast water treatment systems are not as environmentally sound and effective as ballast water exchange.

A new subparagraph (L) also is added to section 1101(c)(2) to codify an exemption from the national voluntary guidelines for crude oil tankers engaged in coastwide trade from Alaska. Under the laws of some states, these tankers are forbidden to travel within the exclusive economic zone ("EEZ"). By obeying the laws of those states and traveling a short distance outside the EEZ, these tankers could become subject to requirements to exchange ballast water under this Act. Such tankers have been engaged in coastwide trade for many years with no known adverse effect on ecosystems in Alaska or the West Coast. We expect the regional research funding authorized under this bill for the Pacific Coast to be used in part to conduct monitoring to verify that this remains true.

The amendment adds a safety exemption from ballast water change requirements under this Act in new section 1101(k). This language codifies the existing exemption found in the Great Lakes regulations and makes it applicable to any new national regulations that may be issued. This exemption applies only to a requirement under the Act to exchange ballast water, and is based on the fact that ballast water exchange may be unsafe for certain vessels. We note that the bill authorizes the Secretary to identify other methods of managing ballast water or other locations for ballast water exchange. If safe and available, a vessel may be required, by regulation, following notice and an opportunity for comment, to conduct such other ballast water management practices as are identified by the Secretary, in accordance with subsection (b) of the Act (for the Great Lakes) or (c) and (e) of the Act (for other waters of the United States). If no such alternative exists, a vessel exercising the safety exemption may not be precluded from discharging ballast. We also note that ballast water exchange by many passengers vessels may be unsafe, and such vessels also are likely to be eligible for the safety exemption from ballast water exchange added by this new paragraph (k).

The amendment also adds a requirement for the Secretary of Transportation to submit a report to Congress in new section 1101(d), prior to issuing any national regulations under section 1101(e). The purpose of this report is to provide Congress with an opportunity to review compliance with and the effectiveness of the national program for controlling aquatic nuisance species, before the program becomes enforceable regulations.

Several amendments are made to section 1102(e), relating to the regional research grants. First, due to its status as one of the most threatened estuaries, the amendment adds in section 1102(e) an authorization of $750,000 a year for research relating to the San Francisco Bay-Delta Estuary. The reported bill included $500,000 for grants for research on the Pacific Coast. We intend that the Pacific Coast funding be used for research in Pacific Coast areas other than the San Francisco Bay-Delta Estuary.

Second, because the Smithsonian does not generally act as a granting entity, the money for the regional research grants is authorized to be appropriated to the Under Secretary of Commerce, to allow the National Oceanic and Atmospheric Administration (NOAA) to act as the granting entity, rather than the Smithsonian Institution.

Third, the amendment deletes references to specific research consortia in section 1102(e) and elsewhere in the bill. This change does not reflect any intent to preclude the use of research consortia to assist in administering the regional research grants authorized by section 1102(e) or research under section 1202. The reported bill identified the Chesapeake Bay Consortium, the Louisiana Universities Consortium, and the Lake Champlain Research Consortium as appropriate entities to administer research grants. We encourage NOAA to make use of these research consortia in carrying out the research authorized by this Act.

The amendment also makes minor changes to the authorization of appropriations in section 1301(f). First, language is added to the authorization of appropriations to NOAA for aquatic nuisance species research to clarify the intent that the authorization in this bill is not an increase above the funding levels for all of NOAA's environmental research authorization in H.R. 3322, should H.R. 3322 be enacted into law.

Second, the amendment modifies the $4,000,000 a year authorized in the reported bill to be appropriated to NOAA's National Sea Grant College Program and land grant agricultural colleges for competitive grants for university research on aquatic nuisance species under section 1202(f)(3). The amendment clarifies this authorization by specifically authorizing $2,800,000 for NOAA and $1,200,000 for the land grant colleges.

Mr. BOEHLERT. Mr. Speaker, I reserve the balance of my time.

Mr. CLEMENT. Mr. Speaker, I yield myself such time as I may consume.

It is a pleasure to be working with the gentleman from New York [Mr. BOEHLERT] on this legislation. We now call him Mr. Bulldog because he was honored for saving the taxpayers money, and we are proud of the gentleman from New York.

Mr. Speaker, I rise in strong support of H.R. 3217, the National Invasive Species Act of 1996. On July 17, the Subcommittee on Coast Guard and Maritime Transportation and the Subcommittee on Water Resources held a joint hearing on this important legislation.

While Members from the Great Lakes region were very aware of the threat posed by foreign plants and animals that arrive in the United States in the ballast tanks of ships, we received much testimony on the ever growing threat that these nuisance species pose to communities outside the Great Lakes Region. For example, the Corps of Engineers has found that Zebra Mussels have spread from the Great Lakes region into the Mississippi River system and into my home state of Tennessee.

Congress enacted the Nonindegenous Aquatic Nuisance Prevention and Control of 1990 to address these issues on the Great Lakes. It is now time to expand this program nationally in order to protect our ecosystems and our communities. These exotic animals and plants are costing our communities additional money to keep our water and power systems operating. They threaten our commercial and recreational fisheries.

This bill will go a long way toward preventing the spread of existing aquatic nuisance species and the introduction of new species. Among the major accomplishments of this bill are:

Requiring voluntary guidelines will be developed to prevent the spread of all types of aquatic nuisance species by recreational vessels including zebra mussels.

Helping us develop and implement new technologies to prevent ships from further polluting our waters with these creatures.

Helping State and local governments coordinate their efforts in this fight with the various Federal agencies that are involved.

Requiring the Aquatic Nuisance Species Task Force to conduct ecological surveys of the Chesapeake Bay, San Francisco Bay, Honolulu Harbor, Prince William Sound, and other waters that may be highly susceptible to invasion by aquatic nuisance species from ballast water operations and other operations of vessels.

Establishing a ballast water management demonstration program to demonstrate technologies and practices to prevent aquatic nuisance species from being introduced and spread through ballast water in the Great Lakes and other waters of the United States.

Encouraging the formation of Regional panels to form and participate in activities to control introduction of aquatic nuisance species in their region.

Establishing a competitive research grant program on aquatic nuisance species prevention and control for the Chesapeake Bay, the Gulf of Mexico, the Pacific Coast, and the Atlantic Coast.

And providing continued funding for the 1990 Nonindigenous Aquatic Nuisance Prevention and Control program.

Mr. Speaker, this is a very bipartisan bill. Aquatic Nuisance Species can affect all of our communities. I believe that H.R. 3217 will help prevent other communities around the country from having to incur the costs and environmental damage that we have throughout the Great Lakes. I therefore urge my colleagues to support the passage of H.R. 3217, the National Invasive Species Act of 1996.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. LATOURETTE], the author and prime mover of this bill.

Mr. LATOURETTE. I very much thank the gentleman from New York [Mr. BOEHLERT] for yielding me this time, and thank him also for those kind words.

Mr. Speaker, I want to add my thanks to Chairman SHUSTER, the chairman of our full Committee on Transportation and Infrastructure, for helping expedite consideration of H.R. 3217 together with the gentleman from Minnesota [Mr. OBERSTAR], the ranking member, and also the ranking members of the other two subcommittees. This would not have been possible without the leadership of the gentleman from New York [Mr. BOEHLERT], our chairman of the Subcommittee on Water Resources and Environment.

I think it is also appropriate, and sometimes we do not take time to thank the staff, not only the staff of the Transportation and Infrastructure Committee but also the staff at the Northeast-Midwest Institute and in particular a woman by the name of Allegra Cangelosi who was talking about zebra mussels and its infestation in the Great Lakes before many other people were even recognizing it as a problem throughout the United States.

I have to praise all of the staff for working to gain a consensus of the interested parties including maritime organizations, environmental organizations, and water users throughout the coastal United States. It is also appropriate to recognize that the Committee on Resources and also the Committee on Science, which had jurisdiction over portions of this legislation, worked hard to get together with the Transportation and Infrastructure staff to present this final version before the House today.

Mr. Speaker, there is an urgent need for this particular piece of legislation. A single aquatic nuisance like the zebra mussel can literally cost our economy billions of dollars. In Cleveland, OH, which is just to the west of the district which I have the honor of representing, the vessel that brings in water from Lake Erie for our drinking water system becomes encrusted and literally costs hundreds of thousands of dollars each year to have the zebra mussels removed. Water users along the Great Lakes experience a similar cost and a similar problem, and no one can accurately predict where or when the next invasion will occur.

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The 1990 Invasive Species Act addressed the invasion of nonindigenous species in the Great Lakes only. This bill expands the scope of the 1990 act to all waters of the United States. However, it does not take the same regulatory approach. Instead of mandating ballast water exchange, NISA begins with voluntary guidelines which will become enforceable only if the Secretary of Transportation determines that the maritime industry is not complying.

This approach gives the benefit of the doubt to the maritime industry's intention to act in good faith while maintaining the teeth of the bill to ensure that the program is taken seriously by all affected parties.

This balanced, moderate approach has broad bipartisan support. There are now 40 cosponsors to this legislation. There are some interests who want an enforceable regulatory program immediately, while there are others who only want voluntary guidelines with no possibility of mandatory regulations. This bill chose to take the middle ground, the compromise approach of requiring mandatory regulations only if they are necessary.

The bill we are considering today includes both amendments passed by the Committee on Transportation and Infrastructure, as well as amendments subsequently worked out in consultation with the House Committees on Resources, Science and Agriculture, with personnel staff, with the Senate staff, and representatives of the maritime industries and Federal agencies.

These amendments represent a compromise position which works to the satisfaction of all involved parties, and I believe has the strongest possibility and probability of being passed into law this Congress.

I sincerely urge my colleagues to support this bill. It takes major steps to address the threat of invasion of aquatic nuisance species into our Nation's waters. Again, I thank the gentleman from New York, Chairman BOEHLERT, for his kind words and all Members for their attention.

Mr. CLEMENT. Mr. Speaker, I yield such time as he may consume to the outstanding gentleman from Minnesota [Mr. OBERSTAR], the ranking Democrat on the Committee on Transportation and Infrastructure, who I have had the opportunity to work with for a number of years.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, we have got a good bill here, and I am proud to be a cosponsor of it. I appreciate the initiative that the gentleman from Ohio, Mr. LATOURETTE, has taken, in moving the bill initially, the work that the gentleman from New York Chairman BOEHLERT, has undertaken on our committee to move this legislation along, and the support that the gentleman from Pennsylvania, Chairman SHUSTER, has demonstrated, and the work that our ranking member, the gentleman from the inland waterways, the gentleman from Tennessee, Mr. CLEMENT. It shows the great consensus that we can build and good legislation that can come in response to a very serious problem, a very serious environmental problem, that is a by-product of our enormous waterborne commerce.

It took about 130 years for the first devastating effect of an invasive species to be felt upon the fisheries of the United States, when in the mid-1950's the lake trout fishery on Lake Superior and Lake Michigan plummeted dramatically from 3 million pounds of lake trout caught in a year down to 300,000 pounds over a 2-year period, the light fish fishery plummeted from nearly 2 million pounds to under 250,000 pounds in scarcely a year and a half.

Suddenly, the Great Lakes States, the Nation, realized there was an ecological disaster at hand, and little understanding of what caused it. And we found what caused it, the lamprey eel, first introduced into the Great Lakes through the Welland Canal when it was opened to commerce in 1829, carried in as part of ballast water, discharged into the Great Lakes, and undisturbed, unchallenged by natural predators, it grew to enormous proportions, and then in one 2-year period, devastated a multimillion dollar fishery, now a multibillion dollar fishery.

Forever, we shall have to apply lampreycide to the estuaries of the rivers discharging into the Great Lakes to control this invasive species; we, Canada and the United States together, spending millions of dollars a year, to correct a mistake.

You would think we had learned that the source of that aquatic problem, aquatic disaster, was ballast water from foreign vessels coming into the Great Lakes, but we did not. We did not take sufficient control steps. And then came the zebra mussel, and the Eurasian milfoil, and then the European ruffe, which is now one of the most abundant fish in the harbors of Lake Superior, destroying other species, eating up the forage for other species, crowding them out. And there was a simple way to control this, and that is control the ballast water.

That is what we did on the Great Lakes. It has taken 5 years for our program of ballast water control to take hold in Great Lakes ports and to begin to control these devastating, nonindigenous species.

In the meantime, the problem multiplied on the salt water ports of the United States, as we have learned in the port of San Francisco, where every 12 weeks a new nonindigenous species is introduced into that harbor causing devastation upon the native species in their harbor. And just a few miles from here, 3,000 miles across the continent, in the Chesapeake Bay, we have nonindigenous species introduced into this greatest of all the estuaries in the world, the Chesapeake Bay, where over 100 nonindigenous species have been introduced into those unique waters, where the fresh and the salt water meet and create new forms of life, but not new forms of life introduced by ballast water, because those forms of life are brought in without native controls, without other environmental conditions that control the growth of those species.

So how are we going to deal with this issue? Well, we have here a legislative package that provides a framework for protecting our waters against the spiny water flea, the purple lustrife, the zebra mussel that I have already mentioned, and numbers of others, hundreds of other species that wreak devastation upon our fisheries, upon our water intakes, upon the quality of the waters, not just in the salt water ports, not just in the Chesapeake Bay estuary, not just in the Great Lakes waters themselves. But as fishermen go into the Great Lakes and move their boats from the Great Lakes into inland lakes, they carry these same species with them, and now we find zebra mussel spread all through lakes in Michigan, Wisconsin, and Minnesota, reaching down into the Mississippi River, and some of the zebra mussels are now being found as far south as New Orleans.

We have to use good judgment, learn from the past, and put into effect control measures that are reasonable, that will do the job effectively, and that is what this legislation does. It strikes a balance, as the gentleman from Ohio said so well and the gentleman from New York, not a hard regulatory program right from the outset, although frankly, given the experience we have had in the Great Lakes, I would welcome such a program.

I think we need to get tough right from the outset, because we know what the problem is, we know what to do with it. But this is a balance. We have struck a balance between a totally voluntary program on one hand and a regulatory program on the other.

This legislation expands the scope of the 1990 Great Lakes law that is now coming to be effective in controlling ballast water in the Great Lakes, to apply it to the salt water ports as well, a voluntary national ballast exchange program under which the vessels that operate outside of the exclusive economic zone exchange their ballast, purge the nonindigenous species in the high waters of the oceans, and thereby prevent their introduction into U.S. harbors.

But we also recognize that there are safety problems. The newer vessels in the international ocean trades have chambered ballast control measures. They can empty one chamber, fill it, and then empty another chamber and refill it, without endangering the safety of the vessel. Older vessels do not have that same ability. They have to pump all the ballast out at once on one side and load it with new ballast and then move to another side. So there are safety concerns about the stability of the vessel under those conditions, particularly if you have rough waters.

So the legislation recognizes that the safety of the crew or passengers or safety and stability of the vessel is paramount. So if the master of the vessel determines it would be unsafe to exchange ballast water under existing weather conditions or other conditions, then the judgment of the master of the vessel is paramount and ballast exchange is not required.

But our legislation does say that when a regulatory program is in place, and goodness knows, experience on the Great Lakes means it will take 5 years, then you have to comply with those regulations, but even then the judgment of the master of the vessel is paramount.

The legislation does keep in place our very effective and strong Great Lakes program. It authorizes continued funding for invasive species prevention programs, provides for demonstration programs and new technologies such as filtration for preventing the spread of invasive species in U.S. waters.

Since ballast water exchange is not a feasible control technique once the species are already into the Great Lakes, new technologies are critical to prevent the spread of dangerous species into the Great Lakes.

I just want to address another matter that has been added late in our negotiating process and which I fully support, and that is for our colleague from the great State of Alaska, the chairman of the Committee on Resources, Mr. YOUNG, who has had a lot of experience with crude oil tankers engaged in the coastwide trade.

The exemption included in this legislation is based on our understanding that the current practice of these oil tankers is to discharge their ballast into tanks where the ballast water is treated, thereby avoiding the discharge of nonindigenous species into U.S. salt water harbors. It is our expectation that crude oil tankers will continue their practice of treating their ballast water prior to discharge.

For these and for many other reasons that I will not go into at this point in order to save time, I think we have a good piece of legislation here. It will prevent the introduction of new time bombs into the salt water ports of this country. It will strengthen our ability to prevent introduction of new aquatic time bombs into the Great Lakes and the other inland waters of the United States, and it will give us tools to protect and take control of our own environment.

Mr. Speaker, I urge the passage of this legislation.

Mr. BOEHLERT. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Michigan, Dr. EHLERS, who is an interesting person to speak on this legislation, because he also serves as a member of the Committee on Science. He is a Ph.D., he is a fellow of the American Physical Society, so he brings a scientific background to his analysis of this very important legislation, and he also represents a State that the Great Lakes are very important to.

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding time and for his kind words.

Mr. Speaker, there is a very important environmental principle, first publicized by Garrett Hardin some 30 years ago, that states: "You cannot do just one thing." We as a Nation have had to learn that the hard way. We thought we could simply apply DDT everywhere and eliminate a number of insects in this country. It did not work that way.

First of all, the insects developed resistance and were not eliminated, but secondly, we found the DDT was affecting many organisms other than insects and we eventually had to ban it.

We have also learned that principle with issues, such as the public works projects which we are proud of in this Nation. And one of those projects was opening the St. Lawrence Seaway, which was a boon to my State of Michigan. But my State of Michigan also touches 4 of the 5 Great Lakes. So if anything goes wrong, we are affected more than any other State.

Things did go wrong. You have already heard from the gentleman from Minnesota about the lamprey eel, and now the zebra mussel. The zebra mussel certainly has hit Michigan harder than any other State. Yet when I arrived in the Congress, last year a bill came up which would zero out zebra mussel funding.

This funding was regarded as a laughingstock by those who were proposing zeroing it out. They thought it was another government boondoggle. I told them before this session ended they would probably have zebra mussels in their district. They do indeed now have problems with them.

Mr. Speaker, the problem is serious, and I am very pleased to get up and lend my support to this bill, because this bill is a very good first step at addressing the problems we face with invasive species. It is not just the lamprey eel, and it is not just the zebra mussel, which we now estimate is costing the Nation approximately $2 billion in cleanup costs every year; it is a matter of stopping all the future invasive species of one sort or another that create trouble not just in the Great Lakes, but in many parts of this Nation.

In addition to that, there is an even greater danger looming on the horizon, and that danger is bacterial contamination. Already we have evidence of some cholera appearing in some of the sea water ports of this Nation, and there is little to prevent them from also getting into the fresh water ports.

As you know, that is a disease which we are not used to dealing with in this Nation. It manifests itself primarily in Third World countries. We are not sure how we would address it. Clearly it is important to stop that disease before it even begins.

□ 1730

For those reasons and many more, I am pleased to lend my strong support to this bill and urge that this Congress pass this bill as soon as possible.

Mr. CLEMENT. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan, Mr. BART STUPAK, who represents three of the five Great Lakes.

Mr. STUPAK. Mr. Speaker, I thank the gentleman from Tennessee [Mr. CLEMENT] for yielding me this time.

Mr. Speaker, the National Invasive Species Act is an extremely important bill that reauthorizes and improves the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to protect the fragile ecosystems of U.S. waterways by further preventing the introduction and spread of aquatic nuisance species.

As the gentleman from Tennessee said, my district does border in part three of the five Great Lakes, and aquatic nuisance species are a threat to our aquatic ecosystem and the overall health of the Great Lakes and our economic vitality as a region.

Aquatic nuisance species are a serious threat to our water systems and the natural balance of our ecosystems. In the Great Lakes region alone, the zebra mussel, the sea lamprey, and the round goby are severely threatening the fishing industry of the Great Lakes and causing millions of dollars in damages to drinking and sewer systems.

A recent study of the Office of Technology Assessment estimates that the power industry alone will spend more than $3 billion over the next 10 years just to control zebra mussel infestation in the water intake systems of the Great Lakes.

These species are not only invading our Great Lakes region but, as has been pointed out, the zebra mussel is rapidly spreading across the United States, having been found in the Mississippi Valley, the Gulf Coast, the Chesapeake Bay, and in locations as far as away as California, both inland and in coastal waters.

H.R. 3217 will provide the vital resources for communities to combat this damaging invasion. Through the implementation of a national voluntary ballast management program for vessels visiting U.S. ports, as the gentleman from Minnesota [Mr. OBERSTAR] has stated, this bill will reduce the threat of aquatic nuisance species by eliminating their mode of transportation.

Mr. Speaker, the National Invasive Species Act will greatly benefit the environment, industry, and the public by authorizing funding for fighting as well as improving the methods to fight the introduction and spread of invasive species in U.S. Waters.

Finally, I want to extend my thank you to the gentleman from Ohio [Mr. LATOURETTE], the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from Tennessee [Mr. CLEMENT], the gentleman from New York [Mr. BOEHLERT], the gentleman from North Carolina [Mr. COBLE], and the gentleman from Pennsylvania [Mr. BORSKI], for moving forward this important legislation. I urge the passage of H.R. 3217.

Mr. DINGELL. Mr. Speaker, I rise today as a cosponsor and strong supporter of H.R. 3217, the National Invasive Species Act.

As a cochair of the House Great Lakes Task Force and a citizen of the Great Lakes State, I know all too well how much damage can be caused by nonindigenous, or non-native, nuisance species. Even as our Great Lakes have made a tremendous comeback from industrial and other pollution as a result of the Clean Water Act, we continue to see a significant threat from biological invasions. Over the past few decades these invasions have included the sea lamprey, the zebra mussel, and the Eurasian ruffe.

My colleagues may remember the lively floor debate that took place during consideration of the Commerce-Justice-State appropriations bill over funding for sea lamprey control. The sea lamprey is an eel-like creature that attaches itself to lake fish. With federal assistance, we have been somewhat successful at controlling sea lamprey infestation, meaning the preservation of a multi-billion dollar fishery. Despite the best efforts of the Great Lakes Fishery Commission (GLFC), however, the lamprey still exist in the lakes and remain a threat to be controlled.

Most commonly known today is the zebra mussel, which became widely known in 1989 when millions of the mussels became encrusted in the water intake in Monroe, MI, threatening Monroe's water supplies for several days. Since that time, the mussel has clogged other water supply intakes on American and Canadian shores, creating drinking water shortages and public safety hazards. Power plants, industrial cooling operations, and other large water users now spend an average of almost $400,000 per year to keep their investments clear of the zebra mussel.

Since 1989, the zebra mussel has spread throughout much of the nation, threatening waterways from coast to coast. According to Dr. Alfred M. Beeton, Acting Chief Scientist at that National Oceanic and Atmospheric Administration (NOAA), the rapid growth of the zebra mussel has caused not only added business costs for big industry, but for small intakes as well. The filtering activities of the zebra mussel, while increasing water clarity, have taken away desirable algae by 86 percent while helping bring the amount of native clams in Lake Erie and Lake St. Clair to near-extinction.

As a result of the Great Lakes problem, Congress passed the Non-Indigenous Aquatic Nuisance Prevention and Control Act of 1990 (P.L. 101–646). While this act has been successful, more efforts are needed to help States and communities nationwide control the biological integrity of their waters. The National Invasive Species Act will achieve that by establishing a national ballast plan for ships entering our seaports, lakes, and rivers. It also authorizes greatly needed funding to further research ways to prevent and control the growth of nonindigenous species.

This research will be carried out in part by the Great Lakes Environmental Research Laboratory (GLERL) in Ann Arbor, MI, in cooperation with several universities under the National Sea Grant College Program and other agencies.

Mr. Speaker, the National Invasive Species Act provides necessary help to States, cities, and industry while helping protect our native plant, animal and aquatic species. I urge my colleagues to support its passage.

Mr. UNDERWOOD. Mr. Speaker, I rise in favor of H.R. 3217, the National Invasive Species Act of 1996. This bill would reauthorize funds for the Brown Tree Snake Control Program which seeks to reduce the adverse effects of the nonindigenous brown tree snake to Guam as well as prevent the spread of the species to other outlying areas.

Brown tree snakes have long been identified as the cause of Guam's diminishing bird population and the extinction of some of the island's native species. Due to the lack of natural predators and to the ideal environment Guam provides for the propagation of the snakes, the brown tree snake has continually wreaked havoc on Guam's wildlife. If this present trend continues, we can soon expect the extinction of more of Guam's native birds and the introduction of this pest to snakeless areas such as Hawaii.

Controlling the snake population on Guam is the best approach towards wildlife preservation. In a misguided attempt to save Guam's birds, the U.S. Fish and Wildlife Service has imposed a wildlife refuge in the hopes that such a refuge would reverse the trend of a diminishing bird population. This notion is flawed at best. We know for a fact that the nonindigenous brown tree snakes must be taken out of the habitat in order for birds to thrive. Guam supports saving its endangered species but this must be done through the U.S. Fish and Wildlife Service controlling the brown tree snake population and not by them acquiring more land. After all, a wildlife refuge would only serve to gather the island's remaining bird species in an area that could easily be overrun by the brown tree snake. In a couple of years, this proposed bird sanctuary would surely be nothing more than a snakepit taken right out of an Indiana Jones movie.

The funds reauthorized by H.R. 3217 offer an alternative that imposes the least burden on Guam's limited resources and gives Guam's birds the best chance at survival. Providing for the development of programs to control the snake population also spares Guam's neighbors from the devastation brought about by the brown tree snake. Let us not allow harmful nonindigenous species to take over our fragile ecosystems. I urge my colleagues to support H.R. 3217.

Mr. CLEMENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOEHLERT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the motion offered by the gentleman from New York [Mr. BOEHLERT] that the House suspend the rules and pass the bill, H.R. 3217, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and that I may include extraneous material on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2202, ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Mr. QUILLEN from the Committee on Rules, submitted a privileged report (Report No. 104–829) on the resolution (H. Res. 528) waiving points of order against the conference report to accompany the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3259, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. QUILLEN, from the Committee on Rules, submitted a privileged report (Rept. No. 104–830) on the resolution (H. Res. 529) waiving points of order against the conference report to accompany the bill (H.R. 3259) to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 525 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 525

Resolved, That the requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported from that committee for the remainder of the second session of the One Hundred Fourth Congress providing for consideration or disposition of any of the following:

(1) A bill or joint resolution making general appropriations for the fiscal year ending September 30, 1997, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

(2) A bill or joint resolution that includes provisions making continuing appropriations for fiscal year 1997, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

SEC. 2. It shall be in order at any time for the remainder of the second session of the One Hundred Fourth Congress for the Speaker to entertain motions to suspend the rules, provided that the object of any such motion is announced from the floor at least one hour before the motion is offered. In scheduling the consideration of legislation under this authority, the Speaker or his designee shall consult with the minority leader or his designee.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for the purpose of debate only.

(Mr. SOLOMON asked and was given permission to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, House Resolution 525 is the customary rule we consider toward the end of a session to permit the House to expedite its business and adjourn. The rule does two things.

First, it permits same day consideration of special rules for the consideration of general and continuing appropriations measures, amendments thereto or conference reports thereon.

Second, it makes in order to consider motions to suspend the rules on any day during the remainder of the session, provided 1 hour's advance notice is given from the floor and the Speaker or his designee consults with the minority leader or his designee.

Mr. Speaker, as I mentioned in the Committee on Rules last Thursday when we considered this rule, I am not a big advocate of such expedited procedure rules such as this. I was not when I was the minority leader and I still am not now that I am in the majority.

Members still have a right to know what it is that they are being asked to vote on, notwithstanding the desire to complete our business and return home to our families and to our constituents in the remaining 6 weeks before the upcoming election.

Last Thursday in the Committee on Rules I expressed my agreement with the gentleman from Massachusetts [Mr. MOAKLEY] that these special rules for expedited procedures on appropriations and suspension measures should be used sparingly and they should be used judiciously, and they are going to be if I have anything to say about it, and I will.

I indicated my support for giving Members the maximum possible notice of the scheduling of any matters under these special procedures and the opportunity to review the text of legislation they will be voting on.

Last Thursday, in announcing the program for this week on the floor, the majority leader echoed those same sentiments, and he expressed the hope that it would not even be necessary to use the extra suspension days afforded by this resolution that we are considering right now.

If it does become necessary to utilize these special suspension days, this resolution does provide some safeguards, including at least 1 hour's advance notice of any suspension to be scheduled and also the required consultation between the Speaker and the minority leader or their designees on the scheduling of such suspension bills.

Mr. Speaker, I think it is also worth pointing out that there are three House rules, and if Members are listening in their offices, they ought to pay attention to this, there are three House rules that already exist that are of a similar nature as their resolution but are impractical, in effect, because of how they are worded. Let me explain that.

The first is found in House and rule XI, clause 4(b), which requires a two-thirds vote on the same day consideration of rules from the Committee on Rules. The rule goes on, however, to say that, and I quote, "this provision shall not apply during the last 3 days of the session." During the last 3 days of the session. When is that?

The problem with that is that we do not really know what are the last 3 days of the session until both Houses have passed a sine die adjournment resolution that contains a date certain for adjournment. We all hope that the next 3 days will be the last of this session, but we do not know that for certain.

As Yogi Berra put it one time, "It ain't over till it's over," and I wish I knew when it was going to be over. I hope it is going to be over this Friday.

Now, the second rule is House rule XXVII, which deals with consideration of measures under the suspension of the rules procedure. Clause 1 of that rule says that it is in order for the Speaker to entertain motions to suspend the rules, and I quote, "on Mondays and Tuesdays, and during the last 6 days of the session."

But, again, we do not know yet which are the last 6 days of the session without an adjournment resolution in place. Is it going to be tomorrow, Thursday, Friday, Saturday, Sunday, Monday? We just do not know that, and yet we have to expedite these matters, and that is why we have this kind of rule on the floor right now.

Finally, rule XXVIII, which deals with conference reports, requires in clause 2(a) that it is not in order to consider conference reports until the 3d day of their availability. That is what the rule says. But it goes on to say, and I quote again, "the preceding provisions do not apply during the last 6 days of the session."

□ 1745

Think about that.

In conclusion, Mr. Speaker, I think it can be seen from the standing House rules that I have just quoted that this resolution is not really a marked departure from those rules. It only makes such rules a practical working reality, whereas now they are not due to the lack of an adopted adjournment resolution. If you want to go ahead and adopt a resolution, that is fine with me; but absent that, we still have to do the people's work. We have to get these appropriations conference reports passed into law.

Mr. Speaker, let me conclude by reiterating my earlier expressed hope that these special procedures are used sparingly, that they are used judicially so that Members will have an opportunity to consider any measure brought under these procedures in an informed and deliberative manner.

This rule was adopted by the Committee on Rules by voice vote, though it was not a unanimous vote. I appreciate the cooperation of our ranking minority member [Mr. MOAKLEY] in allowing us to schedule this as an emergency matter on such short notice as last Thursday. He was trying to cooperate so that we can get out of here. I hope this will enable us to complete the work of this historic Congress this week and return to our constituents with a record of accomplishment of which I personally am very proud, particularly with the line item veto that we finally, once and for all, had signed into law and is now the law of the land.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank my colleague from New York [Mr. SOLOMON] for yielding me the customary half hour, and I yield myself such time as I may consume.

Mr. Speaker, this bill is a very very bad idea.

It gives the Republican leadership carte blanche to bring up just about anything they want just about whenever they want.

It is a very powerful tool and I urge my colleagues to oppose it.

Now I am not saying, Mr. Speaker, that martial law is always a bad idea, in fact when a session is coming to a close and a lot of bills need to be finished it can be useful on a short-term case-by-case basis, let me repeat that Mr. Speaker, martial law can be useful on a short term case-by-case basis, in which bills are specified by name.

But martial law is very dangerous when applied as a blanket over the end of the session.

In fact, last time the Republicans imposed martial law it lasted for 4 months from November 15 to March 15 during that time the U.S. Government was closed twice for a total of 27 days.

Mr. Speaker, martial law was a bad idea then and it's a bad idea now.

It takes away the normal protection afforded the minority and it keeps Members from adequately looking bills over before they vote on them. We have no way to make sure that bills are what they appear to be and that can be serious.

Under this rule, the Republican leadership can bring up a bill under suspension of the rules for the remainder of this session. All they need to do is give 1 hour's notice.

Mr. Speaker, this can be a very dangerous way of passing legislation, anything could be stuck in these suspension bills and, in all likelihood, Members won't be the wiser until it's too late.

This rule which suspends many of the protections of the House can lead to serious abuses of the democratic process and it can further undermine the credibility of the Republican leadership.

I urge my colleagues to defeat this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, everybody knows I dearly love my counterpart over on the Committee on Rules, JOE MOAKLEY. He is a delightful fellow, but I just have to take exception with some of the things he said.

I am looking at an article in what is called the Hill newspaper, I guess it is Roll Call. It is entitled, "In Adjournment Push, Martial Law Declared." It is written by a Jennifer Bradley. She quotes Mr. MOAKLEY at length in this article. She does not bother to quote me. Otherwise, I would have been glad to set the record straight.

Let me set that record straight, Mr. Speaker, because there really has been some disinformation circulated to the popular press by some under-informed staff on the other side of the aisle, which my good friend, Mr. MOAKLEY, seems to be espousing some of it right now.

I think it is important to set the record straight, since the press did not bother to check with the majority of our committee on the facts, either with me or with my chief of staff. It was claimed by an unnamed Democrat staff source quoted in yesterday's Roll Call that there are "significant differences between this martial law rule and one the Democrats pushed through in previous Congresses."

So let us get the record straight. The staffer is quoted as saying that the main differences between the time it occurred before and now is that before it was only for one bill. This martial law rule will go on until the end of the session. That is what this staffer said.

The Democrat staffer concluded, and I quote again from this article: "It's sort of a blanket authority for the scariest leadership on earth."

Boy, those are strong statements. I would just like to invite that staffer to visit places like Iraq or Iran or Libya or Cuba, to name just a few of the other countries, before condemning America in such harsh terms.

The fact is, first of all, Mr. Speaker, that this two-thirds waiver for same day consideration of a rule is not a blanket one. It only applies to rules for continuing or general appropriation bills and conference reports, and we will probably have only two or three such appropriation rules in the remainder of the session. That is all that is left out there.

Second, the fact is that in the past Congresses, the Democrats granted such rules for multiple classes or numbers of bills, six in the 101st Congress and three in the 102d Congress. Who was chairman of the Committee on Rules at that time? My good friend, JOE MOAKLEY. It came out under his leadership.

Third, the Democrats also had rules for extra suspension days in past Congresses that were not confined to single bills, one in the 101st Congress and three in the 102d Congress.

And fourth, Mr. Speaker, the number of expedited procedures or suspension rules granted in this Congress, 11 with today's rule, is identical to the number of two-thirds waiver or suspension rules granted by the Democrats in the last 2 years' Congress. Again, who was the chairman of the Committee on Rules? The gentleman who is standing up here complaining now, the chairman of the Committee on Rules, Mr. JOSEPH MOAKLEY.

In the 101st and 102d Congresses, there were nine such special rules in each Congress that either waived the two-thirdss rule or created extra suspension days, which is really what we are going here on a very, very limited basis.

At the conclusion of my remarks, I will include a list of such special rules in each of the last three Congresses, plus the list for this Congress, Mr. Speaker. I would hope my colleagues on the other side of the aisle would take greater care in doing their own research before they embrace uninformed and sloppy staff reports, because that is really what brought about this Roll Call article.

The fact is, Mr. Speaker, we are today utilizing the same traditional authorities granted by this House in previous Congresses to complete our work on time. There is nothing new, let alone scary about it, unless you are a paranoid, delusional, amnesiac of some kind, and I do not think anybody really is here.

Let us put an end to these exaggerated pre-Halloween scare tactics, face up to the facts and reality of both the past and the present and let us get on with completing the people's business. The people want us out of here, Mr. Speaker. They want us back home to campaign in the last 5 or 6 weeks of this election.

Again, I include for the RECORD the proof of what I have just cited on the 101st Congress, the 102d Congress, 103d Congress, and the 104th Congress:

EXPEDITED PROCEDURE AND EXTRA SUSPENSION DAY RULES REPORTED BY THE RULES COMMITTEE: 101ST–104TH CONGRESSES (1989–96)

101st Congress, 1989–90: (9 rules).

H. Res. 417—Extra suspension day (flag desecration constitutional amendment).

H. Res. 482—Two-thirds waiver (budget resolution, CR).

H. Res. 489—Two-thirds waiver (budget resolution, CR, debt limit).

H. Res. 497—Two-thirds waiver (budget resolution, CR, debt limit).

H. Res. 512—Two-thirds waiver (approps, reconciliation, debt limit).

H. Res. 517—Two-thirds waiver (approps, reconciliation, debt limit).

H. Res. 527—Two-thirds waiver (approps bills, reconciliation, debt limit).

H. Res. 533—Two-thirds waiver (Clean Air Act).

H. Res. 534—Extra suspension days (general).

102nd Congress, 1991–92: (9 rules).

H. Res. 294—Two-thirds waiver (7 specified bills) & extra suspension days (general).

H. Res. 304—Two-thirds waiver (MFN for China conf. rept.).

H. Res. 500—Two-thirds waiver (any rail strike bills).

H. Res. 507—Two-thirds waiver (unemployment comp conf. rept.).

H. Res. 591—Two-thirds waiver (approps bills), conf. rept. waivers, and extra suspension days.

H. Res. 597—Two-thirds waiver (auto theft bill).

H. Res. 425—Extra suspension day (Senate amendment to Older Americans Act).

H. Res. 577—Extra suspension days (MFN for Romania).

H. Res. 591—Two-thirds waiver (approps), conf. rept. waivers, extra suspension days (general).

103rd Congress, 1993–94: (11 rules).

H. Res. 61—Two-thirds waiver (family & medical leave act).

H. Res. 111—Two-thirds waiver (unemployment comp).

H. Res. 142—Two-thirds waiver (budget resolution).

H. Res. 150—Two-thirds waiver (emergency approps).

H. Res. 153—Two-thirds waiver (emergency approps).

H. Res. 322—Two-thirds waiver (Brady bill).

H. Res. 356—Two-thirds waiver (emergency approps).

H. Res. 395—Two-thirds waiver (crime bill).

H. Res. 441—Two-thirds waiver (Foreign ops approps).

H. Res. 522—Two-thirds waiver (Crime bill).

H. Res. 397—Extra suspension days (lobby reform).

104th Congress, 1995–96: (11 rules).

H. Res. 260—Two-thirds waiver (CR, debt limit).

H. Res. 265—Two-thirds waiver (CR).

H. Res. 275—Extra suspension days (general).

H. Res. 276—Two-thirds waiver (reconciliation, approps).

H. Res. 297—Two-thirds waiver (approps, debt limit, reconciliation, Bosnia bill).

H. Res. 342—Two-thirds waiver (approps, debt limit).

H. Res. 386—Two-thirds waiver (approps, debt limit).

H. Res. 412—Two-thirds waiver (approps).

H. Res. 492—Two-thirds waiver (reconciliation).

H. Res. 500—Two-thirds waiver (health care portability bill).

H. Res. 525—Two-thirds waiver (approps) and extra suspension days (general).

Sources: Rules Committee Activity Reports 101st–103rd Congresses; Rules Committee Calendar & House Calendar, 104th Congress.

EXPEDITED PROCEDURE—⅔ WAIVER RULES, 104TH CONGRESS

(Compiled by Rules Committee Majority Staff)

In the 104th Congress, the Rules Committee has reported eleven resolutions allowing for same-day consideration of certain rules. The authority granted by these resolutions has been utilized on twelve occasions.

In the first session, the Rules Committee reported four resolutions allowing for same-day consideration of certain resolutions from the Committee. The authority granted by these resolutions was utilized on five occasions.

In the second session to date, the Rules Committee has reported seven resolutions allowing for same-day consideration of certain resolutions from the Committee. The authority granted was utilized on seven occasions. Two of the resolutions allowed same-day consideration for rules dealing with specific bills. In both of these cases, the authority granted was utilized.

First Session

H. Res. 260, waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules.

Provisions: Allowed for same day consideration of rules providing for the consideration of the following: (1) any measure making further continuing appropriations; (2) any measure including provisions increasing or waiving the public debt limit for resolutions reported before November 13, 1995.

Disposed of: Reported on November 9, 1995 (House Report 104–330). Tabled by unanimous consent on December 6, 1995.

Authority Utilized: No.

H. Res. 265, waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules.

Provisions: Allowed for same-day consideration of rules providing for the consideration of any measure making further continuing appropriations for resolutions reported before November 23, 1995.

Disposed of: Adopted by the House on November 15, 1995 by voice vote.

Authority Utilized: (1) H. Res. 270, providing for consideration of H.J. Res. 122, making further continuing appropriations for FY 1996. Reported from the Rules Committee on November 15, 1995. Adopted by the House on November 15, 1995 by a vote of 249–176.

H. Res. 276, waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules.

Provisions: Allowed for same-day consideration of rules providing for the consideration of (1) H.R. 2491, budget reconciliation or (2) any measure making general appropriations for FY 1996 for resolutions reported before November 23, 1995.

Disposed of: Adopted by the House by voice vote on November 18, 1995.

Authority Utilized: (1) H. Res. 279, providing for consideration of the Senate amendment to H.R. 2491, budget reconciliation. Reported from the Rules Committee on November 18, 1995. Adopted by the House on November 18, 1995 by voice vote.

H. Res. 297, waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules.

Provisions: Allowed for same-day consideration of rules providing for consideration of (1) general appropriations measures for FY 1996; (2) a bill or joint resolution making further continuing appropriations for FY 1996; (3) a bill or joint resolution increasing or waiving the public debt limit; (4) a bill providing for a balanced budget by 2002; (5) a bill or resolution relating to Bosnia for resolutions reported during the remainder of the first session of the 104th Congress.

Disposed of: Adopted by the House on December 13, 1995 by a vote of 230–186.

Authority Utilized: (1) H. Res. 301, waiving points of order against the conference report to accompany H.R. 1977, Department of Interior and related agencies appropriations for FY 1996. Reported from the Rules Committee on December 13, 1995. Adopted by the House on December 13, 1995 by a vote of 231–188.

(2) H. Res. 304, providing for debate and consideration of three measures relating to Bosnia. Reported from the Rules Committee on December 13, 1995. Adopted by the House no December 13, 1995 by a vote of 357–70.

(3) H. Res. 317, providing for consideration of H.J. Res. 134, making further continuing appropriations for FY 1996. Reported from the Rules Committee on December 20, 1995. Adopted by the House on December 20, 1995 by a vote of 238–172.

Second Session

H. Res. 330, authorizing the Speaker to declare recesses subject to the call of the Chair, and waiving a requirement of clause 4(b) of rule XI with respect to certain resolutions reported from the Rules Committee.

Provisions: The rule allowed the Speaker to declare recesses subject to the call of the Chair and allowed for same-day consideration of rules providing for consideration of (1) a bill making general appropriations for FY1996; (2) a bill or joint resolution making further continuing appropriations for FY1996; (3) a bill or joint resolution that includes provisions increasing or waiving the public debt limit; (4) a bill to provide for a balanced budget by 2002 for resolutions reported by the Rules Committee before January 24, 1996.

Disposed of: Adopted by the House on January 5, 1996 by a vote of 224–190.

Authority Utilized: (1) H. Res. 336, providing for disposition of the Senate amendment to H.J. Res. 134, making further continuing appropriations for FY1996. Reported from the Rules Committee on January 5, 1996. Passed the House on January 5, 1996 by voice vote.

(2) H. Res. 338, providing for the disposition of the Senate amendment to H.R. 1358, to require the Secretary of Commerce to convey to the Commonwealth of Massachusetts the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts. Reported from Rules on January 5, 1996. Adopted by the House on January 5, 1996.

H. Res. 342, waiving a requirement of clause 4(b) of rule XI with respect to certain resolutions reported by the Rules Committee.

Provisions: Allowed for same-day consideration of rules providing for consideration of (1) a bill making general appropriations for FY1996; (2) a bill or joint resolution making further continuing appropriations for FY1996; (3) a bill or joint resolution including provisions increasing or waiving the public debt limit for resolutions reported before March 16, 1996.

Disposed of: Adopted by the House on January 25, 1996 by a vote of 229–191.

Authority Utilized: (1) H. Res. 351, waiving points of order against the conference report to accompany H.R. 2546, District of Columbia Appropriations for FY1996. Reported from the Rules Committee on January 31, 1996. Adopted by the House on January 31, 1996 by voice vote.

H. Res. 355, providing for consideration of H.R. 2924, to guarantee the timely payment of social security benefits in March 1996. Reported from the Rules Committee on February 1, 1996. Adopted by the House on February 1, 1996 by a voice vote.

H. Res. 386, providing for consideration of H.J. Res. 165, making further continuing appropriations for FY1996, and waiving a requirement of clause 4(b) of rule XI with respect to certain resolutions reported from the Rules Committee.

Provisions: Provides for consideration of the joint resolution under a closed rule, with one hour of general debate and one motion to recommit which may include instructions if offered by the Minority Leader or his designee. The rule allows for same-day consideration of rules providing for the consideration of (1) a bill making general appropriations for FY1996; (2) a bill or joint resolution making further continuing appropriations for FY1996; (3) a bill or joint resolution that includes provisions increasing or waiving the public debt limit for resolutions reported before April 1, 1996.

Disposed of: Adopted by the House on March 21, 1996 by a vote of 237–183.

Authority Utilized: Not used.

H. Res. 412, waiving a requirement of clause 4(b) of Rule XI with respect to the same day consideration of certain resolutions reported by the Rules Committee.

Provisions: Allows for same-day consideration of rules providing for consideration of (1) a bill making general appropriations for FY1996; (2) a bill or joint resolution including provisions making further continuing appropriations for FY1996 for resolutions reported before April 27, 1996.

Disposed of: Adopted by the House on April 25, 1996 by a vote of 286–135.

Authority Utilized: (1) H. Res. 415, waiving points of order against the conference report to accompany H.R. 3019, making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget. Reported from the Rules Committee on April 25, 1996. Adopted by the House on April 25, 1996 by voice vote.

H. Res. 492 (Welfare Only), waiving a requirement of clause 4(b) of Rule XI with respect to the same day consideration of a resolution reported by the Rules Committee.

Provisions: Allows for same-day consideration of a rule providing for consideration or disposition of a conference report to accompany H.R. 3734, the Personal Responsibility Act of 1996 for rules reported before August 1, 1996.

Disposed of: Adopted by the House on July 31, 1996 by voice vote.

Authority Utilized: (1) H. Res. 495, waiving points of order against the conference report to accompany H.R. 3734, the Personal Responsibility Act of 1996. Reported from the Rules Committee on July 31, 1996. Passed the House on July 31, 1996 by a vote of 281–137.

H. Res. 500 (Health Care Only), waiving a requirement of clause 4(b) of Rule XI with respect to the same-day consideration of a resolution reported by the Rules Committee.

Provisions: Allows for same day consideration of a rule providing for the consideration or disposition of a conference report to accompany H.R. 3103, the Health Insurance Portability and Accountability Act, for rules reported before August 2, 1996.

Disposed of: Adopted by the House on August 1, 1996 by voice vote.

Authority Utilized: (1) H. Res. 502, waiving points of order against the conference report to accompany H.R. 3103, the Health Insurance Portability and Accountability Act. Reported from the Rules Committee on August 1, 1996. Passed the House on August 1, 1996 by voice vote.

H. Res. 525, waiving a requirement of clause 4(b) of Rule XI with respect to same day consideration of certain resolutions reported by the Rules Committee, and for other purposes.

Provisions: Allows same day consideration of rules reported by the Rules Committee providing for consideration of any measures, amendments thereto, conference reports thereon, or amendments reported in disagreement thereon that (1) make general appropriations for FY 1977 or (2) make continuing appropriations for FY1997. H. Res. 525 also makes it in order to consider motions to suspend the rules on any day during the remainder of the second session of the 104th Congress.

Disposed of: Reported by the Rules Committee on September 19, 1996.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I just want to clear one thing up. The term "scariest" was not my statement. I did not say it was the scariest.

Mr. Speaker, I submit for the RECORD, Martial Law in the 104th Congress, some of the things it will cover:

MARTIAL LAW—104TH CONGRESS

Martial Law	Duration	Purpose	Rule	Bill
H. Res. 265 (11/15)	11/15–11/23	CR's	H. Res. 270 (11/15)	H.J. Res. 122 (CR).
H. Res. 276 (11/18)	11/18/–11/23	Recon./Gen apprs	H. Res. 279 (11/18)	H.R. 2491 (Recon).
H. Res. 297 12/13	12/13–1/3	Gen Apprs/Crs	H. Res. 301 (12/13)	H. R. 1977
		Debt Limit/Bal	H. Res. 304 (12/13)	Int Appr JC Rpt
		Budget/Bosnia	H. Res. 317 (12/20)	H.R.2770 (Bos)
				H.Res 302 (Bos)
				H.Res. 306 (Bos)
				H.J. Res 134 (CR)
H. Res. 330 (1/15)	1/5–1/24	Gen Apprs/Crs	H. Res. 334 (1/5)	H.R. 1643 (CR)
		Debt Limit/Bal.	H. Res. 336 (1/5)	H.J. Res. 134 (CR)
		Budget/Recess Auth.	H. Res 338 (1/5)	H.R. 1358 (CR)
H. Res. 342 (1/25)	1/25–3/15	Gen. Apprs/Crs	H. Res. 351 (1/31)	H.R. 2546 (DC Approps Crpt).
		Debt Limit		
H. Res. 412	4/25–4/27	Gen Apprs/Crs	H. Res. 415	H.R. 3019 (CR).
H. Res. 492	7/31/96	Reconciliation Conf. Rept	H. Res. 495	H.R. 3734 Recon. Con Rpt.
H. Res. 500	8/1/96	HealthCare Conf. Rpt	H. Res. 502	H.R. 3103 (Health Conf Rpt.
H. Res. 525	9/24–/96	Gen Apprs/Crs		

In the 104th Congress, the House conducted business continuously under martial law for four months (November 15 through March 15).

7 of the 9 measures considered under martial law were continuing resolutions or appropriations conference reports needed to stave off government shutdowns caused by the majority's failure to complete appropriations before the end of the fiscal year.

Most martial law resolutions in the 104th Congress have applied to classes of bills (e.g., general appropriations, continuing resolutions, debt limit, etc.) rather than to a specific bill.

By contrast, in the 103rd Congress, the House conducted business under martial law 5 days. Of the 5 resolutions adopted by the House, each was effective for a period of one day and applied to one specific bill or conference report.

Mr. MOAKLEY. Mr. Speaker, I yield 7 minutes to the gentleman from Michigan [Mr. BONIOR], minority whip.

Mr. BONIOR. Mr. Speaker, I thank my ranking member and my friend, the gentleman from Massachusetts, JOE MOAKLEY, for yielding me the time. Soon to be chairman.

Mr. Speaker, I come to the floor this evening to talk about this martial law rule, and what this rule does is gives the Speaker extraordinary power to bring up virtually any legislation, at any time, without any advance notice.

Now, have we not used this same procedure in previous Congresses? Yes, we have. But we have done it on a case-by-case basis and we have done it sparingly and judicially, to borrow the words of my friend from New York.

Under the Republican control of Congress, martial law has become a routine procedure, a routine procedure to block amendments and shut down debate. During last year's Government shutdown, the House operated under this martial law procedure for 4 continuous months, a third of the year.

This resolution allows the Speaker to consider any legislation under suspension of the rules, procedures at any time it allows the appropriation bills to be brought to the floor without the 1-day layover required under the House rules so that Members can become familiar with what is being brought down from the Committee on Rules. I lay this out because I wanted to talk about a pattern that has been set here.

Even before this historic Congress began, after the 1994 elections, one of the first things that the new majority did was try to move the Ethics Committee from the House Administration Committee, which is now known as the Committee on House Oversight; from the Ethics Committee to the House Administration Committee, which is a partisan committee. So what they were trying to do is shut down the voices on a very important part of our business here, the ethics of the Members.

The second thing they did, before we even hit the gavel to begin this new Congress and this historic Congress, what they did was to shut down the various groups in this institution that were trying to raise their voice on behalf of women. The Environmental Caucus, cannot have that; Women's Caucus, cannot have that; the Hispanic Caucus, cannot have that. Shut it down. The African American Caucus, Black Caucus, shut that down. The Democratic Study Group, which was the research arm for this institution, bipartisan in nature, mostly Democratically used but used by some Republicans, shut that down. So there has been a constant narrowing and winnowing of the ability of Members to speak clearly and to have their voices heard in this institution.

Then they went ahead and shut down the Government in order to cut Medicare; did it twice. Of course, now we are in the last week, maybe 10 days, whatever, of this session, and pending and hanging over the head of this institution is this cloud about the ethics report done by the outside counsel, Mr. Cole. So now today they come to the floor and they want to give the Speaker extraordinary powers to move legislation and to close this place up without having this released.

This is the Speaker's hometown paper, the Atlanta Constitution. In their editorial, Release the Gingrich Report, $500,000 of taxpayer money was spent to put that report together.

☐ 1800

Mr. Speaker, I think it is a shame that this Congress is about to adjourn without the American people knowing what is in that report.

Listen to what the gentleman from Georgia, NEWT GINGRICH, said back in 1989 when a similar situation existed for the existing Speaker and a report was being done. He said this:

> I think it's vital that we establish as a Congress our commitment to publish that report and to release those documents so that the country can judge whether or not the man second in line to be President, the Speaker of the House, should be in that position.

He went on to say, "I cannot imagine going to the country telling them, 'We've got a $1.6 million report, and, by the way, there's nothing in it, but you can't see it.'" And that is exactly what he is telling us now: There is a $500,000 report, half-a-million-dollar report, that the outside counsel has put together, but you cannot see it.

What are they trying to hide? What are they trying to hide? If my colleagues read the Atlanta Constitution, the Hartford Current, the New York Times, and the papers all across this country who have looked into this, they will say what they are trying to hide: Serious violations of law, tax law, corruption, tax fraud.

That report would have been released the minute it hit the hands of the Republicans if it would have been positive and exonerated the Speaker. It is being kept under lock and key because there is something they do not want the American people of see.

Mr. Speaker, we have a right to see it.

This type of martial law resolution that we have before us today will impede our ability to get a fair and an equitable treatment of something that is vitally important not only to the country, but to this institution. We must lift the cloud on this institution.

So I urge my colleagues to vote no on this resolution, to vote yes on Mr. LEWIS's resolution, which will come up later, which will release the report of the outside counsel.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I was hesitant to rise to make a point of order against the gentleman from Michigan [Mr. BONIOR], referring to matters pending before the Committee on Standards of Official Conduct which is against the rules of the House. I did not do that out of respect for him because he did not carry on. But we ought to all pay attention to the rules of the House.

Mr. Speaker, I would also say to the previous speaker, the minority whip, whom I have great respect for, he is certainly a respected member of this body, but I really worry about his memory. He is, in fact, a member—or was, I should say—a member of the Committee on Rules of the previous Congress, and he voted for all of these suspensions of the rules on these suspension days, and, as my colleagues know, they were very, very serious matters.

One was a two-thirds waiver for the Family and Medical Leave Act; another, a two-thirds waiver for the unemployment compensation bill; a two-thirds waiver for the budget resolution; a two-thirds waiver for emergency appropriations for the Brady bill, for the crime bill, for the foreign operations appropriations, lobby reform.

As my colleagues know, I do not think we really ought to get up here and criticize each other for trying to expedite the measures of the House.

Second, I would just point out something that was said by Norman J. Ornstein, a political scientist, discussing the 104th Congress in rollcall back just a couple of days ago. He said, "The most significant Congress in a generation. This is a plenty respectable output. Indeed, it ranks with the top Congresses of the past 30 years."

Mr. Speaker, that is exactly what we are doing tonight. We are trying to expedite these procedures. We do not want to leave business undone, but we do want to get out of here and go back home where our constituents want us. They do not want us inside this beltway.

So let us get on with the rule, enact it, and do the people's work.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I listened with close attention to my dear friend from New York, and he is right. He went through one by one the Family Leave Act, the suspensions. But each one of those martial law things was for specific bills. That is the difference. We do not mind martial law, but this is a blanket cover. We do not know what is going to be pulled out from underneath this blanket, and that is the only difference I am trying to make.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, as my colleagues know, we have urged the Speaker, the gentleman from New York, Mr. SOLOMON, and the gentlewoman from Connecticut, the chairwoman of the Committee on Standards of Official Conduct, NANCY "STONEWALL" JOHNSON, to release the report from the special counsel. We have heard from the Republicans and the Speaker himself that he has been exonerated for all these other complaints and allegations against him. He never mentions, he never mentions that he has been found guilty by the Committee on Standards of Official Conduct on other occasions and investigations.

POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, I have a point of order, and I hate to do that to my friend.

Mr. VOLKMER. The gentleman from New York is not in order, he is going to find out.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. SOLOMON. Mr. Speaker, the gentleman is referring to matters before the Committee on Standards of Official Conduct, and that is against the House rules. We need to stay to the germaneness of this expedited procedure.

Mr. VOLKMER. Mr. Speaker, I would like to be heard on the point of order, if I may.

The SPEAKER pro tempore. The Chair will hear the gentleman from Missouri [Mr. VOLKMER] on the point of order.

Mr. VOLKMER. My earlier comments were perhaps not in order, but where the gentleman has interjected himself, I am speaking of matters that already have been resolved by the Committee on Standards of Official Conduct and are no longer pending before the Committee on Standards of Official Conduct.

Mr. SOLOMON. Mr. Speaker, the exhibit speaks to pending matters before the Committee on Standards of Official Conduct.

The SPEAKER pro tempore. The Chair is prepared to rule, and the question is whether the matters are properly pending before the House. The issue is not just whether they are now or only at a prior time were ever before the committee, since the matters are not now properly before the House as a question of privilege, and debate on those matters, therefore, is not in order at this point.

Mr. VOLKMER. Is the gentleman saying——

Mr. SOLOMON. Could we have the exhibit removed?

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I would like to make a parliamentary inquiry of the Chair.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. Matters that have been resolved by the Committee on Standards of Official Conduct and are no longer pending before the Committee on Standards of Official Conduct, the Chair is saying, cannot be discussed on the floor of the House?

The SPEAKER pro tempore. That is correct, so long as that Member remains a sitting Member.

Mr. VOLKMER. Well, Mr. Speaker, now we cannot even talk about all the guilty things that the Committee on Standards of Official Conduct found the Speaker guilty of.

The SPEAKER pro tempore. The Chair would ask that the gentleman proceed in order and remind the gentleman that Members should refrain from discussing official conduct cases.

Mr. VOLKMER. Well, Mr. Speaker, now it appears that the Speaker can get up and say that, "I have been exonerated by the Committee on Standards of Official Conduct from all these charges," and I cannot stand down here and correct the record. Boy, oh boy.

We all know that the Committee on Standards of Official Conduct found the Speaker guilty of allowing his senior GOPAC official to act as chief of staff in the Speaker's office. We also know that the Committee on Standards of Official Conduct found the Speaker guilty of using the House floor to sell videotapes of his own lectures through a 1-800 scheme. That is all public record.

We also know that the Committee on Standards of Official Conduct found the Speaker guilty of using the House floor to advertise political activities of GOPAC—on this floor, using it as a political forum. They found him guilty. He also was found guilty of telecommunication entrepreneur Don Jones to use the Speaker's office to conduct personal business. Just think of that: using the Speaker's office to conduct person business. Found guilty, misuse of congressional resources to advertise, promote a Caribbean cruise sponsored by a private company. Found guilty. Found guilty. Failure to disclose financial transactions as required by law.

Yes, my colleagues. The Speaker—not guilty of all charges.

POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. SOLOMON. Mr. Speaker, clause 14 says that we have to be germane to the issue. I would make a point of order that the gentleman's delivery is not germane to this issue.

The SPEAKER pro tempore. The gentleman's point of order is well taken, and the Chair would ask the gentleman from Missouri [Mr. VOLKMER] to be in order.

Mr. WATT of North Carolina. Mr. Speaker, I would like to be heard on the point of order, please.

The SPEAKER pro tempore. Is the gentleman raising a new point of order?

Mr. WATT of North Carolina. I am seeking to be recognized on the gentleman's point of order and whether it is appropriate.

The SPEAKER pro tempore. The Chair has already ruled on the point of order. The point of order was well taken, and the Chair has admonished the gentleman from Missouri.

PARLIAMENTARY INQUIRY

Mr. WATT of North Carolina. Mr. Speaker, I have a parliamentary inquiry, if the gentleman from Missouri would yield?

Mr. VOLKMER. I yield to the gentleman from North Carolina.

The SPEAKER pro tempore. The gentleman from Missouri has yielded for a parliamentary inquiry to the gentleman from North Carolina. The gentleman will state his parliamentary inquiry.

Mr. WATT of North Carolina. Is the Chair saying that we have no right to be heard on whether a point of order is appropriate before the Chair rules on the point of order? As I understand it, Mr. Speaker, that is certainly not the rules of this House. Every party has an opportunity to be heard on whether a point of order is properly taken before the Chair rules on it.

The SPEAKER pro tempore. The discussion on the point of order is within the discretion of the Chair. When the hair is satisfied that the discussion on the point has been adequate, he can rule. In this case, the gentleman from New York [Mr. SOLOMON] stated his point, the gentleman from Missouri had his statement. The Chair has ruled.

Mr. WATT of North Carolina. Mr. Speaker, I was on my feet and seeking the attention of the Chair. I have the right to speak on the point of order just like anybody else has the right to speak on the point of order.

The SPEAKER pro tempore. The point of order has been ruled upon, and the gentleman from Missouri [Mr. VOLKMER] has yielded to the gentleman from North Carolina for a parliamentary inquiry. If the gentleman wishes to state a parliamentary inquiry, he may do so. Otherwise, the House will proceed in order.

Mr. WATT of North Carolina. Mr. Speaker, I made the parliamentary inquiry. I am asking the Chair to rule on whether I have the right to speak on the point of order.

Mr. VOLKMER. In deference to the gentleman from North Carolina, I would like to reclaim my time.

Mr. WATT of North Carolina. Go right ahead.

Mr. VOLKMER. Mr. Speaker, I will agree with the Chair that perhaps the words that I previously spoke about the gentleman from Georgia [Mr. GINGRICH] and the coverup that has taken place are not appropriate on the rule. But we do not have any other place to talk about it. They will not let us get any other place to talk about it.

So I would like to urge all Members to vote against this rule. I am sorry, gentleman from New York, who has been a good friend all throughout the years. We have together on various issues; we agree on many things.

But for this reason and this reason only, I am going to ask that everybody vote against this rule. Now that is appropriate.

Now the gentleman from New York, I will yield to him. Now are those words appropriate at this time?

Mr. SOLOMON. Mr. Speaker, is the gentleman from Missouri [Mr. VOLKMER] yielding to me?

Mr. VOLKMER. Mr. Speaker, I just want an answer, yes or no.

Mr. SOLOMON. How is the gentleman's cat?

Mr. VOLKMER. Bear is fine.

Mr. SOLOMON. My daughter loved the gentleman's speech about his cat the other day.

Mr. VOLKMER. Bear is fine.

Let us vote down the rule, and let us get the report out of the Committee on Standards of Official Conduct.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding this time to me, and I was very troubled by the Chair's ruling, and I am going to tell my colleagues why.

My understanding is, what we are debating is the martial law rule which gives the Speaker the right to bring any resolution to the floor whenever he wants to, waiving all the rule and normal procedures.

Now if that is true, I absolutely do not understand the Chair's ruling that something here is not germane. I would think under the martial law rule, everything would be germane because it goes to any resolution the Speaker could bring to the floor, and I think what this resolution is really about is so they can get out of Dodge, as we would say out west.

It is: "Let's get out of Dodge. It's getting hot in Dodge. Things are warming up in Dodge."

Whatever it is that we are not allowed to say, the R word, the report, but we are not allowed to say it. Oops, sorry, the it word. Whatever it is, the hundred pages downstairs is starting to smell. So we have got to get out of Dodge.

Now the problem is, the very first vote when this body reconvenes is going to be for the next Speaker.

□ 1815

Think how it is going to smell then. I think everybody ought to vote "no" on this rule. What in the world is the hustle to run away from this place at 100 miles an hour?

We look at the other side, and they came in here in all their glory celebrating. They are going to leave here looking like Dunkirk if they pass this thing. So this is martial law to avoid this type of response that we are seeing in the Speaker's very own hometown paper. It is saying, release that thing downstairs. I guess we cannot say that word. Release that.

I think most people feel it should be released. We are seeing more and more reports every day for releasing, and they are saying we have to have martial law, we have to get out of here fast, we have to get home, and we have to make so much smoke as we run for the door that they will not figure out what happened.

Mr. Speaker, 2 years and we have not dealt with this. This is very serious. I really thought that the gentleman from Missouri was making a great point. I am totally puzzled by the Chair saying that that is not germane, because if martial law is not germane to our running out the door, to our adjourning this body until next January, I do not know what is. When it is adjourning, the question is, what is it running from? What is the hurry? Why do we have to have martial law? Why do we have to have it on September 24?

I think we are all beginning to find out, and I think that is why the pressure is mounting to get this out, get us gagged, do not allow us to talk about anything on the floor. This morning we were told we could go outside and talk about it. Is that not wonderful? But I never heard of such a thing. I must say, I am very saddened. I have been here 24 years. I have never seen a performance like this. But it is really clear, it is really clear, people want to load the wagons and roll them out. I really hope everybody votes "no".

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mrs. SCHROEDER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, is this not another example of the entreme radical agenda of the majority? Is this not another example of the radical extremism of the majority?

Mrs. SCHROEDER. It certainly looks to me like we are checking all the regular procedures. We want to run away as fast as possible. The question is, what are we running from?

I am very saddened, because I think this is what we are running from. We are running from what the Atlanta Constitution is talking about, we are running from what many major newspapers are talking about. People who vote for this martial law are voting to just set off the guns so we can run.

I would hope that folks would feel that this should be a deliberative body where we can discuss things, and especially deal with the cloud that is over this House, and is going to remain over this House until we act on that R word and get it up here, so we know what it is. Going home and saying we did not have time to read it is not going to satisfy us.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just do not think it is right to stand up here and criticize the President of the United States that way. Let me just read one more time from Norman Ornstein, one of the most respected political scientists in America. He said, "The most significant Congress in a generation; this is a plently respectable output indeed. It ranks with the top Congresses of the past 30 years." Guess what, the President of the United States signed 65 percent of the contract for America into law.

Do not be so critical of your President.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Speaker, I must say, I am moved. The gentleman from New York quotes a pundit, saying this is the most significant Congress. It reminds me of going to visit friends who have had new babies and saying, that is some baby.

This is a significant Congress. It is significant in that we are being asked today to waive rules, to impose martial law. Does not the word "martial" get your attention when you hear about this? It gets my attention, because what it tells me is that we do not want to slow down this process to allow people to listen. What do we not want to let people listen to? We do not want to let people listen to our rebuttal of what the Speaker has been saying on television lately.

What I have been hearing him say, and it annoyed me to death, just last week I heard him say, I have been exonerated by the Ethics Committee. We do not know. We do know he was found guilty, guilty, guilty, guilty.

POINT OF ORDER

Mr. LINDER. Point of order, Mr. Speaker.

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman from Georgia [Mr. LINDER] will state his point of order.

Mr. LINDER. The gentleman is referring one more time to matters before the committee on ethics. I believe that is against the rules of the House.

Mr. WATT of North Carolina. Mr. Speaker, I wish to be heard on the point of order.

The SPEAKER pro tempore. The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. The Chair will hear me this time? I thank the Chair.

I just want to submit to the Speaker that this debate is about yielding unprecedented authority to the Speaker of the House. The Speaker's integrity, the person to whom we are proposing to yield that authority, his integrity is at the heart of the matter. If we cannot get to his integrity, then how can we determine whether we ought to be yielding these unprecedented, overwhelming authorities to him?

If we do not like what he was been doing, if he has been out disrespecting the House of the United States, then why should we give him some unprecedented authority called martial law? That is at the very heart. His responsibility, his ethics, are at the very heart of the matter.

I would submit, Mr. Speaker, that this is germane to the issues and the matter before this House.

The SPEAKER pro tempore. Does the gentleman from Kentucky [Mr. WARD] wish to be heard on the point of order?

Mr. WARD. Yes, Mr. Speaker. I would ask that the gentleman clarify his point of order so I can know what it is that I have said to which he objects.

The SPEAKER pro tempore. The Chair will hear each gentleman on his own time.

Mr. LINDER. Mr. Speaker, over the course of the last 10 days or so, when the minority party has tried to bring to the floor of this House a discussion of matters before the Committee on Ethics, the Chair has consistently ruled that not only referring to the matters before the Committee on Ethics, but referring to press reports about those matters is against the rules of the House.

The gentleman is standing there with a large print of an editorial out of a newspaper that does precisely that: To make the case, in print, for the people watching this, about matters before the Committee on Ethics. It strikes me that, if the Chair is going to rule that we cannot talk about it, the same argument would obtain that just displaying it is abusing the rules of the House.

Mr. WARD. Mr. Speaker, I thought the gentleman was responding to my saying that the Speaker had been found guilty of a number of ethics violations, according to a letter from the Ethics Committee dated December 6, 1995.

I was not referring to the document here displayed. I was referring to his allowing the senior GOPAC official to act as the chief of staff in the Speaker's office, for which he was found guilty. I was referring to abusing the House floor to sell videotapes. That is what I was referring to.

PARLIAMENTARY INQUIRY

Mr. LINDER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LINDER. Is the gentleman seeking to address the point of order, or is he making another speech? My point was this, that merely having that on display is an abuse of the rules of the House.

The SPEAKER pro tempore. The Chair is prepared to rule, having heard the arguments on both sides.

The Chair would say that the point of order is well taken; that the gentleman may debate the advisability of granting generic authorities proposed in the pending resolution but may not dwell on the merits of measures that might arise under those authorities.

The recent series of rulings by the Chair rest more squarely on the stricture against personalities in debate than on the requirements of relevance. With respect to the cases disposed of, todays's standard is not a new standard under the precedents. The point is not necessarily whether the matter is still pending elsewhere. The point is that the matter is not pending on the floor here and now as a question of privilege and the point of order is well taken.

The gentleman from Kentucky [Mr. WARD] may proceed in order.

Mr. CUNNINGHAM. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from Kentucky [Mr. WARD], yield for that purpose?

Mr. WARD. No. I would like to proceed, if I may.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. WARD] may proceed in order.

Mr. WARD. Again, Mr. Speaker, what I was talking about was my frustration as a Member of this House in having to vote on a matter which gives the Speaker martial law, at a time when I am deeply frustrated by watching the television and seeing the Speaker say that he has been found innocent 66 times, when, according to the letter of the Ethics Committee——

Mr. LINDER. Mr. Speaker, will the gentleman yield?

Mr. WARD. I yield to the gentleman from Georgia.

Mr. LINDER. Mr. Speaker, would the gentleman point out to me where in the entire resolution the words "martial law" appear? Could the gentleman point out to me where in the resolution the words "martial law" appear?

Mr. WARD. Mr. Speaker, I am using the code.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. WARD. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, it is the effect of the resolution, is to give the Speaker the power of martial law.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. WARD. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I would like to talk about the point that the gentleman has just made, the fact that the Speaker and others have advocated the position that they have been exonerated, when in fact, as the gentleman has correctly pointed out, on a number of occasions the Ethics Committee has found the Speaker guilty and has issued public letters from the Ethics Committee so indicating.

The gentleman has those instances before him, and I think the House would like and the American people would like to hear just exactly what that record is. I would hope the gentleman would continue with his remarks, so he could elaborate on just what is the record of the Ethics Committee with regard to the Speaker, as they have released these findings in public letter to the country.

Mr. WARD. I appreciate the gentleman's comments. I do share that concern. It is very frustrating to talk with people and explain to them what has happened when they just quote back to me, well, I saw Speaker GINGRICH on "Meet the Press," and he said he was exonerated 66 times, and the Democrats are just being mean to him.

By golly, according to the letter of the House Ethics Committee on December 6, 1995, I would advise the gentleman from Michigan that I share that frustration. We have not been able to make this straight on the floor. We have not been able to get, and I cannot talk about what we are not able to get, from what I understand.

That makes no sense to me as a freshman, why I cannot talk about a very important matter of public policy, especially when we remember what Speaker GINGRICH said in this exact same situation not that many years ago. I think we ought to be able to make these things open to the public.

So what I am going to do is make open to the public the facts that are on the record, that are in a letter from the Ethics Committee, that a senior GOPAC official was allowed to act as chief of staff in the Speaker's office, and that was improper commingling of political and official resources.

Mr. BONIOR. And it violated our rules, as I recall.

POINT OF ORDER

Mr. CUNNINGHAM. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California [Mr. CUNNINGHAM] will state his point of order.

Mr. CUNNINGHAM. Mr. Speaker, we are prevented from speaking about other Members on the other side, about previous ethics violations. It is not against the rules of the House to do so?

The SPEAKER pro tempore. The Chair would remind all Members that it is not in order to discuss past or present official conduct cases of sitting Members unless the matter is pending before the House as a question of privilege.

Mr. BONIOR. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. WARD. I yield to the gentleman from Michigan.

PARLIAMENTARY INQUIRY

Mr. BONIOR. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BONIOR. Mr. Speaker, the point that the gentleman from North Carolina [Mr. WATT] made I think is right on target. We are talking about extraordinary powers here, giving the Speaker extraordinary powers under this resolution.

□ 1830

The integrity of the person receiving those extraordinary powers is indeed germane to this issue.

Mr. WALKER. Mr. Speaker, the gentleman is not stating a parliamentary inquiry.

Mr. BONIOR. I ask the Speaker, is it not in order for us to raise the record on this gentleman's integrity with respect to what the Ethics Committee has found in public letter, in the past, not pending, not in the future, what it has made a determination on? Is it not in order for us to discuss those violations?

The SPEAKER pro tempore (Mr. GILLMOR). The Chair understands the inquiry, and the Chair would say that the gentleman may debate the advisability of granting the generic authorities proposed in the pending resolution, but may not address personalities, to wit, the allegations of misconduct of a sitting Member which have been before the Standards Committee.

Mr. BONIOR. These are findings, Mr. Speaker. These are not allegations that the gentleman from Kentucky is discussing. He is discussing findings made by the committee. It goes to the character of the individual to whom we are about to vote granting extraordinary powers.

The SPEAKER pro tempore. The Chair would respond to the gentleman from Michigan's parliamentary inquiry.

Even if a matter has been disposed of by the House, so long as that Member remains a Member of Congress, it constitutes personality in debate to further discuss that, and the Chair has responded to the gentleman's parliamentary inquiry.

The gentleman from Kentucky may proceed in order.

PARLIAMENTARY INQUIRY

Mr. HEFNER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from Kentucky yield?

Mr. WARD. Yes, I yield to the gentleman from North Carolina.

Mr. HEFNER. Could I make a point? I do not want to get involved in specifics, but we are considering a piece of legislation that we are going to grant to an individual, the Speaker of the House, to arbitrarily call bills to this House at his discretion.

Mr. SOLOMON. Mr. Speaker, the gentleman is not propounding a parliamentary inquiry.

Mr. HEFNER. I am making an inquiry.

Mr. SOLOMON. Have him ask a question.

Mr. WARD. I would be glad to yield him time for purposes of debate.

The SPEAKER pro tempore. The gentleman from Kentucky has yielded. The Chair will listen to the gentleman. The gentleman may proceed.

Mr. HEFNER. Mr. Speaker, it seems to me we are giving extraordinary power to one individual to make decisions, to call bills to this floor, that this House will be called upon to vote on, that one individual to make decisions that affects over 250 million Americans in this country, and we do not even have the right to talk about the ethics of the person that will be administering this martial law, whatever you want to call it, bill. To me this is absolutely totally——

The SPEAKER pro tempore. The gentleman has not stated a parliamentary inquiry.

Mr. HEFNER. No, but I have made a statement.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, we have many important issues to complete before we end the 104th Congress, and I would say we certainly ought to have whatever reports ought to be generically made before this House, whether on the Speaker or anyone else.

As we proceed through the business, we are attempting to hurry through that and give unprecedented power to the Speaker, one whose character is at question. Mr. Speaker, I would urge that we vote against that, because it is unprecedented that we should do that. We have done that on individual bills, but never have we given a blanket martial law exception. What we will have happening——

Mr. WALKER. Mr. Speaker, will the gentlewoman yield?

Mrs. CLAYTON. I think I only have a few minutes.

Mr. WALKER. I just wanted to point out to the gentlewoman that we have done this at the end of many Congresses.

Mr. VOLKMER. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman from North Carolina has the time.

Mr. VOLKMER. Would the Chair please admonish the gentleman from Pennsylvania not to interrupt the gentlewoman.

The SPEAKER pro tempore. And as well the gentleman from Missouri. The gentlewoman from North Carolina has the time.

Mrs. CLAYTON. Mr. Speaker, we should not rush to judgment or rush to leave here without having a deliberative process, and certainly we should not rush to give unspeakable authority to one whose character is at stake here. Shutting down the Congress was the result of martial law before. Do we want to do something even tantamount to that? I would say we need to vote against the martial law we are giving to the Speaker.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this martial law resolution to grant Speaker NEWT GINGRICH extraordinary power in the people's House. This legislation will give Speaker GINGRICH the power to bring up virtually any legislation at any time, with no advance notice.

Martial law is usually granted to military repressive regimes. It allows an individual, usually a dictator, to do whatever he or she wants to do without following the rule of law, without going through the regular processes of government. Do we in fact want to give that kind of power to Speaker NEWT GINGRICH given his past record in this 104th Congress? The resolution undermines debate in this House, but undermining debate is what this Congress has been all about, under the leadership of Speaker NEWT GINGRICH.

This week marks the anniversary of the hearings that Democrats were forced to hold outside of this institution, on the lawn of the Capitol, because the Republican leadership refused to allow debate on massive Medicare cuts that they proposed. The Speaker shut down the Government because he was piqued that he did not leave by the front door of the President's airplane but left by the back door.

Keep in mind, martial law, a dictator who can do whatever he or she wants to do without going through the regular process. The fact of the matter here is there is a pattern of silencing Members. We are watching it on this floor tonight.

What they are trying to tell us is that we cannot speak about past rulings that have had to do with the Speaker in this House, what his record is about. He has been found guilty, that is a fact, in a number of the instances from this committee. They refuse to allow us to speak about any of this. They refuse to allow us to report on the allegations against the Speaker regarding the Speaker's tax fraud. Release this report.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. My colleagues, I want to get back to what this debate is about. It is about whether we give unprecedented authority to the Speaker to bring up any legislation at any time with no advance notice, what we call in the vernacular, martial law.

I tell you, I cannot think of anybody in this House I would less like to give unprecedented authority to. If I am thinking about who I am going to give some unprecedented authority to, you think I want to give unprecedented authority to somebody who would lead people to take school lunches out of kids' mouths, to take Medicare away from elderly citizens, whose reputation and ethics are at stake and will not allow anybody to talk about it, who does not want to fund education programs for our children? This is the person we are talking about giving unprecedented authority to? I would not think of giving this man unprecedented authority and voting for this rule.

I can think of probably 434 other people in this House I would give it to before I would give it to this Speaker.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to the floor of the House because I am overwhelmed at how we have run this 104th Congress.

I think as a freshman I can count beyond 10, but certainly when you have a number as large as 10, to know that under Speaker GINGRICH we have had 10 opportunities to have martial law. That means simply we have had 10 opportunities to obliterate the rules of the House, to continue to have bills brought to the floor, without any hearings, without any review, without any sense of perspective, and now, included in that rule that we are now trying to vote, which I ask for people to vote against, we now have the refusal of the leadership of the House to bring the report that deals with the ethics violation of this Speaker. How can we say to the American people that in the course of this omnibus, large martial law that we will not be cutting Medicare more, we will not be cutting school lunches more, we will not be cutting direct student loans? How can we say to them that we will be doing the business of the American people?

Mr. Speaker, I would simply ask, 10 times is 10 times too many. We do not need martial law here in the United States of America. What we do need is a report from the ethics counsel that cost $500,000. That is what we need, Mr. Speaker.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, with all the allegations that I have made as to the Speaker and the ethics, with all the other ones that the Members on this side have made, many of which are true, it has amazed me that not one Member of the majority party, not one Member, has taken to the floor to answer those allegations. Not one Member has taken to the floor in support of why the Ethics Committee is not releasing this report. Not one Member has justified the secret keeping of this report. Not once has one Republican Member taken to the floor to support the Speaker.

Mr. HALL of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I pose the question, should Ken Starr release prematurely his report? I do not think the answer is yes. Think about that.

But as I have stood here and listened to speaker after speaker on the other side of the aisle talk about the unprecedented circumstances here, there is no unprecedented circumstance.

I have before you, and I will be glad to show each and every one of you, as I have already done for the record, that Speaker Foley in the 101st Congress, the 102d Congress, the 103d Congress, in other words, over the last 6 years, has been given blanket authority for exactly what we are doing here today. There is no unprecedented circumstance here at all.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Does that mean some of the very people that got down to the well and spoke on this matter voted for rules in the past that gave the Speaker this kind of authority?

Mr. SOLOMON. The gentleman was not on the floor earlier, but I cited my good friend and gentleman from Michigan [Mr. BONIOR] who is the minority whip, but who was at the time a member of the Rules Committee with me sponsoring the rule and carrying the rule on the floor which gives the exact blanket authority we are giving here today, along with Chairman MOAKLEY who was the chairman at the time. Even my good friend TONY HALL who is one of the most respected Members of this body voted time and again, 11 different times in the previous Congress, to do exactly what we are doing here today.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I will yield, but I have to conclude because we have to get on with a very important bill. But I yield to the gentleman from San Diego, CA.

Mr. CUNNINGHAM. As I understand it, the other side was talking about follow the rule of law. After the Jim Wright case, and correct me, the gentleman was on the Ethics Committee, there were problems and they did not want the same problems to resurface.

While the Democrats were in power, they rewrote the rules on ethics. What I was trying to get to during the parliamentary inquiry before, is it not correct that the rule we are following today was written when the Democrats were in the majority?

□ 1845

Mr. SOLOMON. Mr. Speaker, reclaiming my time, the gentleman is absolutely correct.

Mr. Speaker, let me conclude by citing clause 1 of our rules. It says on Mondays and Tuesdays during the last 6 days of the session, you shall have this blanket authority. That is what the rule actually says. Unfortunately, we cannot get a sine die resolution. We hope to get it this Thursday, Friday, Saturday, Sunday, or Monday at some point.

So, under normal circumstances, the normal rules of the House, we are given this authority to bring up suspension bills after due consultation with the minority, giving them 1 hour's notice. We intend to do that. We will do it. So we are not violating any rules of the House.

Mr. Speaker, having said all that, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 225, nays 191, not voting 17, as follows:

[Roll No. 425]

YEAS—225

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—191

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Blumenauer
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chenoweth
Clay
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooley
Costello
Coyne
Cramer
Cummings
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Geren
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
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Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
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Schumer
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Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—17

Bunn
Chapman
Durbin
Engel
Funderburk
Gephardt
Gibbons
Hayes
Heineman
Lincoln
Oxley
Peterson (FL)
Rangel
Roberts
Studds
Torres
Wilson

□ 1906

Mrs. CHENOWETH and Mr. METCALF changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3259, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. COMBEST submitted the following conference report and statement on the bill (H.R. 3259) to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-832)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3259), to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Community Management Account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Limitation on availability of funds for automatic declassification of records over 25 years old.
Sec. 304. Application of sanctions laws to intelligence activities.
Sec. 305. Expedited naturalization.
Sec. 306. Sense of Congress on enforcement of requirement to protect the identities of undercover intelligence officers, agents, informants, and sources.
Sec. 307. Sense of Congress on intelligence community contracting.
Sec. 308. Restrictions on intelligence sharing with the United Nations.
Sec. 309. Prohibition on using journalists as agents or assets.
Sec. 310. Report on policy of intelligence community regarding the protection of the national information infrastructure against attack.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Elimination of double surcharge on Central Intelligence Agency relating to employees who retire or resign in fiscal years 1998 or 1999 and who receive voluntary separation incentive payments.
Sec. 402. Post-employment restrictions.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Executive branch oversight of budgets of elements of the intelligence community.

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

Sec. 601. Access to telephone records.

TITLE VII—COMBATTING PROLIFERATION

Sec. 701. Short title.

Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation

Sec. 711. Establishment of commission.
Sec. 712. Duties of commission.
Sec. 713. Powers of commission.
Sec. 714. Commission personnel matters.
Sec. 715. Termination of commission.
Sec. 716. Definition.
Sec. 717. Payment of commission expenses.

Subtitle B—Other Matters

Sec. 721. Reports on acquisition of technology relating to weapons of mass destruction and advanced conventional munitions.

TITLE VIII—RENEWAL AND REFORM OF INTELLIGENCE ACTIVITIES

Sec. 801. Short title.
Sec. 802. Committee on Foreign Intelligence.
Sec. 803. Annual reports on intelligence.
Sec. 804. Transnational threats.
Sec. 805. Overall management of central intelligence.
Sec. 806. National Intelligence Council.
Sec. 807. Enhancement of authority of Director of Central Intelligence to manage budget, personnel, and activities of intelligence community.
Sec. 808. Responsibilities of Secretary of Defense pertaining to the National Foreign Intelligence Program.
Sec. 809. Improvement of intelligence collection.
Sec. 810. Improvement of analysis and production of intelligence.
Sec. 811. Improvement of administration of intelligence activities.
Sec. 812. Pay level of Deputy Director of Central Intelligence for Community Management and Assistant Directors of Central Intelligence.
Sec. 813. General Counsel of the Central Intelligence Agency.
Sec. 814. Assistance for law enforcement agencies by intelligence community.
Sec. 815. Appointment of officials responsible for intelligence-related activities.
Sec. 816. Study on the future of intelligence collection.
Sec. 817. Intelligence Reserve Corps.

TITLE IX—FINANCIAL MATTERS

Sec. 901. Authorization of funding provided by 1996 supplemental appropriations Act.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

(11) The National Reconnaissance Office.

(12) The National Imagery and Mapping Agency.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1997, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 3259 of the One Hundred Fourth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1997 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1997 the sum of $131,116,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee shall remain available until September 30, 1998.

(b) AUTHORIZED PERSONNEL LEVELS.—The staff of the Community Management Account of the Director of Central Intelligence is authorized 303 full-time personnel as of September 30, 1997. Such personnel of the Community Management Staff may be permanent employees of the Community Management Staff or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1997, any officer or employee of the United States or member of the Armed Forces who is detailed to the staff of the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a non-reimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(d) NATIONAL DRUG INTELLIGENCE CENTER.—(1) Of the amount authorized to be appropriated in subsection (a), $27,000,000 shall be available for the National Drug Intelligence Center located in Johnstown, Pennsylvania.

(2) The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the center.

(3) Amounts available for the center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403-3(d)(1)).

(4) Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the center.

(e) ENVIRONMENTAL PROGRAMS.—Of the amount authorized to be appropriated in subsection (a), $18,000,000 shall be available for the Environmental Intelligence and Applications Program, formerly known as the Environmental Task Force, and remain available until September 30, 1998.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1997 the sum of $184,200,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. LIMITATION ON AVAILABILITY OF FUNDS FOR AUTOMATIC DECLASSIFICATION OF RECORDS OVER 25 YEARS OLD.

Of the amounts authorized to be appropriated for fiscal year 1997 by this Act for the National

Foreign Intelligence Program, not more than $27,200,000 shall be available to carry out the provisions of section 3.4 of Executive Order 12958.

SEC. 304. APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking out "on the date which is one year after the date of the enactment of this title" and inserting in lieu thereof "on January 6, 1998".

SEC. 305. EXPEDITED NATURALIZATION.

(a) IN GENERAL.—With the approval of the Director of Central Intelligence, the Attorney General, and the Commissioner of Immigration and Naturalization, an applicant described in subsection (b) and otherwise eligible for naturalization may be naturalized without regard to the residence and physical presence requirements of section 316(a) of the Immigration and Nationality Act, or to the prohibitions of section 313 of such Act, and no residence within a particular State or district of the Immigration and Naturalization Service in the United States shall be required.

(b) ELIGIBLE APPLICANT.—An applicant eligible for naturalization under this section is the spouse or child of a deceased alien whose death resulted from the intentional and unauthorized disclosure of classified information regarding the alien's participation in the conduct of United States intelligence activities and who—

(1) has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least one year prior to naturalization; and

(2) is not described in subparagraph (A), (B), (C), or (D) of section 243(h)(2) of such Act.

(c) ADMINISTRATION OF OATH.—An applicant for naturalization under this section may be administered the oath of allegiance under section 337(a) of the Immigration and Nationality Act by the Attorney General or any district court of the United States, without regard to the residence of the applicant. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods, and activities.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "child" means a child as defined in subparagraphs (A) through (E) of section 101(b)(1) of the Immigration and Nationality Act, without regard to age or marital status; and

(2) the term "spouse" means the wife or husband of a deceased alien referred to in subsection (b) who was married to such alien during the time the alien participated in the conduct of United States intelligence activities.

SEC. 306. SENSE OF CONGRESS ON ENFORCEMENT OF REQUIREMENT TO PROTECT THE IDENTITIES OF UNDERCOVER INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND SOURCES.

It is the sense of Congress that title VI of the National Security Act of 1947 (50 U.S.C. 421 et seq.) (relating to protection of the identities of undercover intelligence officers, agents, informants, and sources) should be enforced by the appropriate law enforcement agencies.

SEC. 307. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should award contracts in a manner that would maximize the procurement of products properly designated as having been made in the United States.

SEC. 308. RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS.

(a) IN GENERAL.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end of title I the following new section:

"RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS

"SEC. 110. (a) PROVISION OF INTELLIGENCE INFORMATION TO THE UNITED NATIONS.—(1) No United States intelligence information may be provided to the United Nations or any organization affiliated with the United Nations, or to any officials or employees thereof, unless the President certifies to the appropriate committees of Congress that the Director of Central Intelligence, in consultation with the Secretary of State and the Secretary of Defense, has established and implemented procedures, and has worked with the United Nations to ensure implementation of procedures, for protecting from unauthorized disclosure United States intelligence sources and methods connected to such information.

"(2) Paragraph (1) may be waived upon written certification by the President to the appropriate committees of Congress that providing such information to the United Nations or an organization affiliated with the United Nations, or to any officials or employees thereof, is in the national security interests of the United States.

"(b) PERIODIC AND SPECIAL REPORTS.—(1) The President shall report semiannually to the appropriate committees of Congress on the types and volume of intelligence provided to the United Nations and the purposes for which it was provided during the period covered by the report. The President shall also report to the appropriate committees of Congress within 15 days after it has become known to the United States Government that there has been an unauthorized disclosure of intelligence provided by the United States to the United Nations.

"(2) The requirement for periodic reports under the first sentence of paragraph (1) shall not apply to the provision of intelligence that is provided only to, and for the use of, appropriately cleared United States Government personnel serving with the United Nations.

"(c) DELEGATION OF DUTIES.—The President may not delegate or assign the duties of the President under this section.

"(d) RELATIONSHIP TO EXISTING LAW.—Nothing in this section shall be construed to—

"(1) impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(6) of this Act; or

"(2) supersede or otherwise affect the provisions of title V of this Act.

"(e) DEFINITION.—As used in this section, the term 'appropriate committees of Congress' means the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on Foreign Relations and the Permanent Select Committee on Intelligence of the House of Representatives.".

(b) CLERICAL AMENDMENT.—The table of contents for the National Security Act of 1947 is amended by inserting after the item relating to section 109 the following:

"Sec. 110. Restrictions on intelligence sharing with the United Nations.".

SEC. 309. PROHIBITION ON USING JOURNALISTS AS AGENTS OR ASSETS.

(a) POLICY.—It is the policy of the United States that an element of the Intelligence Community may not use as an agent or asset for the purposes of collecting intelligence any individual who—

(1) is authorized by contract or by the issuance of press credentials to represent himself or herself, either in the United States or abroad, as a correspondent of a United States news media organization; or

(2) is officially recognized by a foreign government as a representative of a United States media organization.

(b) WAIVER.—Pursuant to such procedures as the President may prescribe, the President or the Director of Central Intelligence may waive subsection (a) in the case of an individual if the President or the Director, as the case may be, makes a written determination that the waiver is necessary to address the overriding national security interest of the United States. The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate shall be notified of any waiver under this subsection.

(c) VOLUNTARY COOPERATION.—Subsection (a) shall not be construed to prohibit the voluntary cooperation of any person who is aware that the cooperation is being provided to an element of the United States Intelligence Community.

SEC. 310. REPORT ON POLICY OF INTELLIGENCE COMMUNITY REGARDING THE PROTECTION OF THE NATIONAL INFORMATION INFRASTRUCTURE AGAINST ATTACK.

(a) REPORT.—(1) Not later than 120 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress a report on the potential responses of the intelligence community to threats to and attacks upon the information infrastructure of the United States by foreign countries, groups, or individuals, or by other entities, groups, or individuals.

(2) The report shall include the following:

(A) An analysis of the threats posed to the information infrastructure of the United States by information warfare and other forms of non-traditional attacks on the infrastructure by foreign countries, groups, or individuals, or by other entities, groups, or individuals.

(B) A description and assessment of the counterintelligence activities required to respond to such threats, including the plans of the intelligence community to support such activities.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "intelligence community" has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) The term "information infrastructure of the United States" includes the information infrastructure of the public sector and of the private sector.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. ELIMINATION OF DOUBLE SURCHARGE ON CENTRAL INTELLIGENCE AGENCY RELATING TO EMPLOYEES WHO RETIRE OR RESIGN IN FISCAL YEARS 1998 OR 1999 AND WHO RECEIVE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

Section 2(i) of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended by adding at the end the following: "The remittance required by this subsection shall be in lieu of any remittance required by section 4(a) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note).".

SEC. 402. POST-EMPLOYMENT RESTRICTIONS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of Central Intelligence shall prescribe regulations requiring each employee of the Central Intelligence Agency designated by the Director for such purpose to sign a written agreement restricting the activities of the employee upon ceasing employment with the Central Intelligence Agency. The Director may designate a group or class of employees for such purpose.

(b) AGREEMENT ELEMENTS.—The regulations shall provide that an agreement contain provisions specifying that the employee concerned not represent or advise the government, or any political party, of any foreign country during the three-year period beginning on the cessation of the employee's employment with the Central Intelligence Agency unless the Director determines that such representation or advice would be in the best interests of the United States.

(c) DISCIPLINARY ACTIONS.—The regulations shall specify appropriate disciplinary actions (including loss of retirement benefits) to be taken against any employee determined by the Director of Central Intelligence to have violated the agreement of the employee under this section.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. EXECUTIVE BRANCH OVERSIGHT OF BUDGETS OF ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report setting forth the actions that have been taken to ensure adequate oversight by the executive branch of the budget of the National Reconnaissance Office and the budgets of other elements of the intelligence community within the Department of Defense.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall—

(1) describe the extent to which the elements of the intelligence community carrying out programs and activities in the National Foreign Intelligence Program are subject to requirements imposed on other elements and components of the Department of Defense under the Chief Financial Officers Act of 1990 (Public Law 101-576), and the amendments made by that Act, and the Federal Financial Management Act of 1994 (title IV of Public Law 103-356), and the amendments made by that Act;

(2) describe the extent to which such elements submit to the Office of Management and Budget budget justification materials and execution reports similar to the budget justification materials and execution reports submitted to the Office of Management and Budget by the non-intelligence components of the Department of Defense;

(3) describe the extent to which the National Reconnaissance Office submits to the Office of Management and Budget, the Community Management Staff, and the Office of the Secretary of Defense—

(A) complete information on the cost, schedule, performance, and requirements for any new major acquisition before initiating the acquisition;

(B) yearly reports (including baseline cost and schedule information) on major acquisitions;

(C) planned and actual expenditures in connection with major acquisitions; and

(D) variances from any cost baselines for major acquisitions (including explanations of such variances); and

(4) assess the extent to which the National Reconnaissance Office has submitted to Office of Management and Budget, the Community Management Staff, and the Office of the Secretary of Defense on a monthly basis a detailed budget execution report similar to the budget execution report prepared for Department of Defense programs.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "appropriate congressional committees" means the following:

(A) The Select Committee on Intelligence and the Committee on Armed Services of the Senate.

(B) The Permanent Select Committee on Intelligence and the Committee on National Security of the House of Representatives.

(2) The term "National Foreign Intelligence Program" has the meaning given such term in section 3(6) of the National Security Act of 1947 (50 U.S.C. 401a(6)).

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

SEC. 601. ACCESS TO TELEPHONE RECORDS.

(a) ACCESS FOR COUNTERINTELLIGENCE PURPOSES.—Section 2709(b)(1) of title 18, United States Code, is amended by inserting "local and long distance" before "toll billing records".

(b) CONFORMING AMENDMENT.—Section 2703(c)(1)(C) of such title is amended by inserting "local and long distance" after "address,".

(c) CIVIL REMEDY.—Section 2707 of such title is amended—

(1) in subsection (a), by striking out "customer" and inserting in lieu thereof "other person";

(2) in subsection (c), by adding at the end the following: "If the violation is willful or intentional, the court may assess punitive damages. In the case of a successful action to enforce liability under this section, the court may assess the costs of the action, together with reasonable attorney fees determined by the court.";

(3) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(4) by inserting after subsection (c) the following new subsection (d):

"(d) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated this chapter and the court finds that the circumstances surrounding the violation raise the question whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department concerned shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee.".

TITLE VII—COMBATTING PROLIFERATION

SEC. 701. SHORT TITLE.

This title may be cited as the "Combatting Proliferation of Weapons of Mass Destruction Act of 1996".

Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation

SEC. 711. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction (in this subtitle referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall be composed of eight members of whom—

(1) four shall be appointed by the President;

(2) one shall be appointed by the Majority Leader of the Senate;

(3) one shall be appointed by the Minority Leader of the Senate;

(4) one shall be appointed by the Speaker of the House of Representatives; and

(5) one shall be appointed by the Minority Leader of the House of Representatives.

(c) QUALIFICATIONS OF MEMBERS.—(1) To the maximum extent practicable, the individuals appointed as members of the Commission shall be individuals who are nationally recognized for expertise regarding—

(A) the nonproliferation of weapons of mass destruction;

(B) the efficient and effective implementation of United States nonproliferation policy; or

(C) the implementation, funding, or oversight of the national security policies of the United States.

(2) An official who appoints members of the Commission may not appoint an individual as a member if, in the judgment of the official, the individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(h) MEETINGS.—The Commission shall meet at the call of the Chairman.

SEC. 712. DUTIES OF COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall carry out a thorough study of the organization of the Federal Government, including the elements of the intelligence community, with respect to combatting the proliferation of weapons of mass destruction.

(2) SPECIFIC REQUIREMENTS.—In carrying out the study, the Commission shall—

(A) assess the current structure and organization of the departments and agencies of the Federal Government having responsibilities for combatting the proliferation of weapons of mass destruction; and

(B) assess the effectiveness of United States cooperation with foreign governments with respect to nonproliferation activities, including cooperation—

(i) between elements of the intelligence community and elements of the intelligence-gathering services of foreign governments;

(ii) between other departments and agencies of the Federal Government and the counterparts to such departments and agencies in foreign governments; and

(iii) between the Federal Government and international organizations.

(3) ASSESSMENTS.—In making the assessments under paragraph (2), the Commission should address—

(A) the organization of the export control activities (including licensing and enforcement activities) of the Federal Government relating to the proliferation of weapons of mass destruction;

(B) arrangements for coordinating the funding of United States nonproliferation activities;

(C) existing arrangements governing the flow of information among departments and agencies of the Federal Government responsible for nonproliferation activities;

(D) the effectiveness of the organization and function of interagency groups in ensuring implementation of United States treaty obligations, laws, and policies with respect to nonproliferation;

(E) the administration of sanctions for purposes of nonproliferation, including the measures taken by departments and agencies of the Federal Government to implement, assess, and enhance the effectiveness of such sanctions;

(F) the organization, management, and oversight of United States counterproliferation activities;

(G) the recruitment, training, morale, expertise, retention, and advancement of Federal Government personnel responsible for the nonproliferation functions of the Federal Government, including any problems in such activities;

(H) the role in United States nonproliferation activities of the National Security Council, the Office of Management and Budget, the Office of Science and Technology Policy, and other offices in the Executive Office of the President having responsibilities for such activities;

(I) the organization of the activities of the Federal Government to verify government-to-government assurances and commitments with respect to nonproliferation, including assurances regarding the future use of commodities exported from the United States; and

(J) the costs and benefits to the United States of increased centralization and of decreased centralization in the administration of the nonproliferation activities of the Federal Government.

(b) RECOMMENDATIONS.—In conducting the study, the Commission shall develop recommendations on means of improving the effectiveness of the organization of the departments and agencies of the Federal Government in meeting the national security interests of the United States with respect to the proliferation of weapons of mass destruction. Such recommendations shall include specific recommendations to eliminate duplications of effort, and other inefficiencies, in and among such departments and agencies.

(c) REPORT.—(1) Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 713. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(2) CLASSIFIED INFORMATION.—A department or agency may furnish the Commission classified information under this subsection. The Commission shall take appropriate actions to safeguard classified information furnished to the Commission under this paragraph.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 714. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 715. TERMINATION OF COMMISSION.

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 712(c).

SEC. 716. DEFINITION.

For purposes of this subtitle, the term "intelligence community" shall have the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 717. PAYMENT OF COMMISSION EXPENSES.

The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

Subtitle B—Other Matters

SEC. 721. REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.

(a) REPORTS.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Director of Central Intelligence shall submit to Congress a report on—

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries.

(b) FORM OF REPORTS.—The reports submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

TITLE VIII—RENEWAL AND REFORM OF INTELLIGENCE ACTIVITIES

SEC. 801. SHORT TITLE.

This title may be cited as the "Intelligence Renewal and Reform Act of 1996".

SEC. 802. COMMITTEE ON FOREIGN INTELLIGENCE.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended—

(1) by redesignating subsection (h) as subsection (j); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h)(1) There is established within the National Security Council a committee to be known as the Committee on Foreign Intelligence (in this subsection referred to as the 'Committee').

"(2) The Committee shall be composed of the following:

"(A) The Director of Central Intelligence.

"(B) The Secretary of State.

"(C) The Secretary of Defense.

"(D) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

"(E) Such other members as the President may designate.

"(3) The function of the Committee shall be to assist the Council in its activities by—

"(A) identifying the intelligence required to address the national security interests of the United States as specified by the President;

"(B) establishing priorities (including funding priorities) among the programs, projects, and activities that address such interests and requirements; and

"(C) establishing policies relating to the conduct of intelligence activities of the United States, including appropriate roles and missions for the elements of the intelligence community and appropriate targets of intelligence collection activities.

"(4) In carrying out its function, the Committee shall—

"(A) conduct an annual review of the national security interests of the United States;

"(B) identify on an annual basis, and at such other times as the Council may require, the intelligence required to meet such interests and establish an order of priority for the collection and analysis of such intelligence; and

"(C) conduct an annual review of the elements of the intelligence community in order to determine the success of such elements in collecting, analyzing, and disseminating the intelligence identified under subparagraph (B).

"(5) The Committee shall submit each year to the Council and to the Director of Central Intelligence a comprehensive report on its activities during the preceding year, including its activities under paragraphs (3) and (4).".

SEC. 803. ANNUAL REPORTS ON INTELLIGENCE.

(a) IN GENERAL.—Section 109 of the National Security Act of 1947 (50 U.S.C. 404d) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"SEC. 109. (a) IN GENERAL.—(1) Not later than January 31 each year, the President shall submit to the appropriate congressional committees a report on the requirements of the United States for intelligence and the activities of the intelligence community.

"(2) The purpose of the report is to facilitate an assessment of the activities of the intelligence community during the preceding fiscal year and to assist in the development of a mission and a budget for the intelligence community for the fiscal year beginning in the year in which the report is submitted.

"(3) The report shall be submitted in unclassified form, but may include a classified annex.

"(b) MATTERS COVERED.—(1) Each report under subsection (a) shall—

"(A) specify the intelligence required to meet the national security interests of the United States, and set forth an order of priority for the collection and analysis of intelligence required to meet such interests, for the fiscal year beginning in the year in which the report is submitted; and

"(B) evaluate the performance of the intelligence community in collecting and analyzing

intelligence required to meet such interests during the fiscal year ending in the year preceding the year in which the report is submitted, including a description of the significant successes and significant failures of the intelligence community in such collection and analysis during that fiscal year.

"(2) The report shall specify matters under paragraph (1)(A) in sufficient detail to assist Congress in making decisions with respect to the allocation of resources for the matters specified.

"(c) DEFINITION.—In this section, the term 'appropriate congressional committees' means the following:

"(1) The Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Armed Services of the Senate.

"(2) The Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on National Security of the House of Representatives.".

(b) CONFORMING AMENDMENTS.—(1) The section heading of such section is amended to read as follows:

"ANNUAL REPORT ON INTELLIGENCE".

(2) The table of contents for Act is amended by striking out the item relating to section 109 and inserting in lieu thereof the following new item:

"Sec. 109. Annual report on intelligence.".

SEC. 804. TRANSNATIONAL THREATS.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by inserting after subsection (h), as amended by section 802 of this Act, the following new subsection:

"(i)(1) There is established within the National Security Council a committee to be known as the Committee on Transnational Threats (in this subsection referred to as the 'Committee').

"(2) The Committee shall include the following members:

"(A) The Director of Central Intelligence.

"(B) The Secretary of State.

"(C) The Secretary of Defense.

"(D) The Attorney General.

"(E) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

"(F) Such other members as the President may designate.

"(3) The function of the Committee shall be to coordinate and direct the activities of the United States Government relating to combatting transnational threats.

"(4) In carrying out its function, the Committee shall—

"(A) identify transnational threats;

"(B) develop strategies to enable the United States Government to respond to transnational threats identified under subparagraph (A);

"(C) monitor implementation of such strategies;

"(D) make recommendations as to appropriate responses to specific transnational threats;

"(E) assist in the resolution of operational and policy differences among Federal departments and agencies in their responses to transnational threats;

"(F) develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community; and

"(G) develop guidelines to enhance and improve the coordination of activities of Federal law enforcement agencies and elements of the intelligence community outside the United States with respect to transnational threats.

"(5) For purposes of this subsection, the term 'transnational threat' means the following:

"(A) Any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.

"(B) Any individual or group that engages in an activity referred to in subparagraph (A).".

SEC. 805. OVERALL MANAGEMENT OF CENTRAL INTELLIGENCE.

(a) OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by striking out section 102 and inserting in lieu thereof the following new section 102:

"OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE

"SEC. 102. (a) DIRECTOR OF CENTRAL INTELLIGENCE.—There is a Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall—

"(1) serve as head of the United States intelligence community;

"(2) act as the principal adviser to the President for intelligence matters related to the national security; and

"(3) serve as head of the Central Intelligence Agency.

"(b) DEPUTY DIRECTORS OF CENTRAL INTELLIGENCE.—(1) There is a Deputy Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) There is a Deputy Director of Central Intelligence for Community Management who shall be appointed by the President, by and with the advice and consent of the Senate.

"(3) Each Deputy Director of Central Intelligence shall have extensive national security expertise.

"(c) MILITARY STATUS OF DIRECTOR AND DEPUTY DIRECTORS.—(1)(A) Not more than one of the individuals serving in the positions specified in subparagraph (B) may be a commissioned officer of the Armed Forces, whether in active or retired status.

"(B) The positions referred to in subparagraph (A) are the following:

"(i) The Director of Central Intelligence.

"(ii) The Deputy Director of Central Intelligence.

"(iii) The Deputy Director of Central Intelligence for Community Management.

"(2) It is the sense of Congress that, under ordinary circumstances, it is desirable that one of the individuals serving in the positions specified in paragraph (1)(B)—

"(A) be a commissioned officer of the Armed Forces, whether in active or retired status; or

"(B) have, by training or experience, an appreciation of military intelligence activities and requirements.

"(3) A commissioned officer of the Armed Forces, while serving in a position specified in paragraph (1)(B)—

"(A) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

"(B) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

"(C) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of that officer.

"(4) Except as provided in subparagraph (A) or (B) of paragraph (3), the appointment of an officer of the Armed Forces to a position specified in paragraph (1)(B) shall not affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade.

"(5) A commissioned officer of the Armed Forces on active duty who is appointed to a position specified in paragraph (1)(B), while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances and shall not receive the pay prescribed for such position. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director of Central Intelligence.

"(d) DUTIES OF DEPUTY DIRECTORS.—(1)(A) The Deputy Director of Central Intelligence shall assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act.

"(B) The Deputy Director of Central Intelligence shall act for, and exercise the powers of, the Director of Central Intelligence during the Director's absence or disability or during a vacancy in the position of the Director of Central Intelligence.

"(2) The Deputy Director of Central Intelligence for Community Management shall, subject to the direction of the Director of Central Intelligence, be responsible for the following:

"(A) Directing the operations of the Community Management Staff.

"(B) Through the Assistant Director of Central Intelligence for Collection, ensuring the efficient and effective collection of national intelligence using technical means and human sources.

"(C) Through the Assistant Director of Central Intelligence for Analysis and Production, conducting oversight of the analysis and production of intelligence by elements of the intelligence community.

"(D) Through the Assistant Director of Central Intelligence for Administration, performing community-wide management functions of the intelligence community, including the management of personnel and resources.

"(3)(A) The Deputy Director of Central Intelligence takes precedence in the Office of the Director of Central Intelligence immediately after the Director of Central Intelligence.

"(B) The Deputy Director of Central Intelligence for Community Management takes precedence in the Office of the Director of Central Intelligence immediately after the Deputy Director of Central Intelligence.

"(e) OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE.—(1) There is an Office of the Director of Central Intelligence. The function of the Office is to assist the Director of Central Intelligence in carrying out the duties and responsibilities of the Director under this Act and to carry out such other duties as may be prescribed by law.

"(2) The Office of the Director of Central Intelligence is composed of the following:

"(A) The Director of Central Intelligence.

"(B) The Deputy Director of Central Intelligence.

"(C) The Deputy Director of Central Intelligence for Community Management.

"(D) The National Intelligence Council.

"(E) The Assistant Director of Central Intelligence for Collection.

"(F) The Assistant Director of Central Intelligence for Analysis and Production.

"(G) The Assistant Director of Central Intelligence for Administration.

"(H) Such other offices and officials as may be established by law or the Director of Central Intelligence may establish or designate in the Office.

"(3) To assist the Director in fulfilling the responsibilities of the Director as head of the intelligence community, the Director shall employ and utilize in the Office of the Director of Central Intelligence a professional staff having an expertise in matters relating to such responsibilities and may establish permanent positions and

appropriate rates of pay with respect to that staff.".

(b) CENTRAL INTELLIGENCE AGENCY.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 102, as amended by subsection (a), the following new section:

"CENTRAL INTELLIGENCE AGENCY

"SEC. 102A. There is a Central Intelligence Agency. The function of the Agency shall be to assist the Director of Central Intelligence in carrying out the responsibilities referred to in paragraphs (1) through (5) of section 103(d) of this Act.".

(c) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking out the item relating to section 102 and inserting in lieu thereof the following new items:

"Sec. 102. Office of the Director of Central Intelligence.
"Sec. 102A. Central Intelligence Agency.".

SEC. 806. NATIONAL INTELLIGENCE COUNCIL.

Section 103(b) of the National Security Act of 1947 (50 U.S.C. 403–3(b)) is amended—

(1) in paragraph (1)(B), by inserting ", or as contractors of the Council or employees of such contractors," after "on the Council";

(2) in paragraph (2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and";

(3) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(4) by inserting after paragraph (3) the following new paragraph (4):

"(4) Subject to the direction and control of the Director of Central Intelligence, the Council may carry out its responsibilities under this subsection by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this subsection."; and

(5) in paragraph (5), as so redesignated, by adding at the end the following: "The Council shall also be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.".

SEC. 807. ENHANCEMENT OF AUTHORITY OF DIRECTOR OF CENTRAL INTELLIGENCE TO MANAGE BUDGET, PERSONNEL, AND ACTIVITIES OF INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph (1):

"(1) facilitate the development of an annual budget for intelligence and intelligence-related activities of the United States by—

"(A) developing and presenting to the President an annual budget for the National Foreign Intelligence Program; and

"(B) participating in the development by the Secretary of Defense of the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities Program;";

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national collection assets, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President;".

(b) USE OF FUNDS.—Section 104(c) of the National Security Act of 1947 (50 U.S.C. 403–4(c)) is amended by adding at the end the following: "The Secretary of Defense shall consult with the Director of Central Intelligence before reprogramming funds made available under the Joint Military Intelligence Program.".

(c) PERIODIC REPORTS ON EXPENDITURES.—Not later than January 1, 1997, the Director of Central Intelligence and the Secretary of Defense shall prescribe guidelines to ensure prompt reporting to the Director and the Secretary on a periodic basis of budget execution data for all national, defense-wide, and tactical intelligence activities.

(d) DATABASE PROGRAM TRACKING.—Not later than January 1, 1999, the Director of Central Intelligence and the Secretary of Defense shall develop and implement a database to provide timely and accurate information on the amounts, purposes, and status of the resources, including periodic budget execution updates, for all national, defense-wide, and tactical intelligence activities.

(e) PERSONNEL, TRAINING, AND ADMINISTRATIVE ACTIVITIES.—Not later than January 31 of each year through 1999, the Director of Central Intelligence shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report on the policies and programs the Director has instituted under subsection (f) of section 104 of the National Security Act of 1947.

SEC. 808. RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

Section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended—

(1) in subsection (a), by inserting ", in consultation with the Director of Central Intelligence," after "Secretary of Defense" in the matter preceding paragraph (1); and

(2) by adding at the end the following:

"(d) ANNUAL EVALUATION OF THE DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence, in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, shall submit each year to the Committee on Foreign Intelligence of the National Security Council and the appropriate congressional committees (as defined in section 109(c) of this Act) an evaluation of the performance and the responsiveness of the National Security Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency in meeting their national missions.".

SEC. 809. IMPROVEMENT OF INTELLIGENCE COLLECTION.

(a) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR COLLECTION.—Section 102 of the National Security Act of 1947, as amended by section 805(a) of this Act, is further amended by adding at the end the following:

"(f) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR COLLECTION.—(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Collection who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Assistant Director for Collection shall assist the Director of Central Intelligence in carrying out the Director's collection responsibilities in order to ensure the efficient and effective collection of national intelligence.".

(b) CONSOLIDATION OF HUMAN INTELLIGENCE COLLECTION ACTIVITIES.—Not later than 90 days after the date of the enactment of this Act, the Director of Central Intelligence and the Deputy Secretary of Defense shall jointly submit to the Committee on Armed Services and the Select Committee on Intelligence of the Senate and the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives a report on the ongoing efforts of those officials to achieve commonality, interoperability, and, where practicable, consolidation of the collection of clandestine intelligence from human sources conducted by the Defense Human Intelligence Service of the Department of Defense and the Directorate of Operations of the Central Intelligence Agency.

SEC. 810. IMPROVEMENT OF ANALYSIS AND PRODUCTION OF INTELLIGENCE.

Section 102 of the National Security Act of 1947, as amended by section 809(a) of this Act, is further amended by adding at the end the following:

"(g) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR ANALYSIS AND PRODUCTION.—(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Analysis and Production who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Assistant Director for Analysis and Production shall—

"(A) oversee the analysis and production of intelligence by the elements of the intelligence community;

"(B) establish standards and priorities relating to such analysis and production;

"(C) monitor the allocation of resources for the analysis and production of intelligence in order to identify unnecessary duplication in the analysis and production of intelligence;

"(D) identify intelligence to be collected for purposes of the Assistant Director of Central Intelligence for Collection; and

"(E) provide such additional analysis and production of intelligence as the President and the National Security Council may require.".

SEC. 811. IMPROVEMENT OF ADMINISTRATION OF INTELLIGENCE ACTIVITIES.

Section 102 of the National Security Act of 1947, as amended by section 810 of this Act, is further amended by adding at the end the following:

"(h) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR ADMINISTRATION.—(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Administration who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Assistant Director for Administration shall manage such activities relating to the administration of the intelligence community as the Director of Central Intelligence shall require.".

SEC. 812. PAY LEVEL OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT AND ASSISTANT DIRECTORS OF CENTRAL INTELLIGENCE.

(a) EXECUTIVE SCHEDULE III PAY LEVEL.—Section 5314 of title 5, United States Code, is amended by striking out item the relating to the Deputy Director of Central Intelligence and inserting in lieu thereof the following:

"Deputy Directors of Central Intelligence (2).".

(b) EXECUTIVE SCHEDULE IV PAY LEVEL.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Directors of Central Intelligence (3).".

SEC. 813. GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) IN GENERAL.—The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following:

"GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY

"SEC. 20. (a) There is a General Counsel of the Central Intelligence Agency, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The General Counsel is the chief legal officer of the Central Intelligence Agency.

"(c) The General Counsel of the Central Intelligence Agency shall perform such functions as the Director of Central Intelligence may prescribe.".

(b) APPLICABILITY OF APPOINTMENT REQUIREMENTS.—The requirement established by section 20 of the Central Intelligence Agency Act of 1949, as added by subsection (a), for the appointment by the President, by and with the advice and consent of the Senate, of an individual to the position of General Counsel of the Central Intelligence Agency shall apply as follows:

(1) To any vacancy in such position that occurs after the date of the enactment of this Act.

(2) To the incumbent serving in such position on the date of the enactment of this Act as of the date that is six months after such date of enactment, if such incumbent has served in such position continuously between such date of enactment and the date that is six months after such date of enactment.

(c) EXECUTIVE SCHEDULE IV PAY LEVEL.—Section 5315 of title 5, United States Code, as amended by section 812 of this Act, is further amended by adding at the end the following:

"General Counsel of the Central Intelligence Agency.".

SEC. 814. ASSISTANCE FOR LAW ENFORCEMENT AGENCIES BY INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 105 the following new section:

"ASSISTANCE TO UNITED STATES LAW ENFORCEMENT AGENCIES

"SEC. 105A. (a) AUTHORITY TO PROVIDE ASSISTANCE.—Subject to subsection (b), elements of the intelligence community may, upon the request of a United States law enforcement agency, collect information outside the United States about individuals who are not United States persons. Such elements may collect such information notwithstanding that the law enforcement agency intends to use the information collected for purposes of a law enforcement investigation or counterintelligence investigation.

"(b) LIMITATION ON ASSISTANCE BY ELEMENTS OF DEPARTMENT OF DEFENSE.—(1) With respect to elements within the Department of Defense, the authority in subsection (a) applies only to the following:

"(A) The National Security Agency.

"(B) The National Reconnaissance Office.

"(C) The National Imagery and Mapping Agency.

"(D) The Defense Intelligence Agency.

"(2) Assistance provided under this section by elements of the Department of Defense may not include the direct participation of a member of the Army, Navy, Air Force, or Marine Corps in an arrest or similar activity.

"(3) Assistance may not be provided under this section by an element of the Department of Defense if the provision of such assistance will adversely affect the military preparedness of the United States.

"(4) The Secretary of Defense shall prescribe regulations governing the exercise of authority under this section by elements of the Department of Defense, including regulations relating to the protection of sources and methods in the exercise of such authority.

"(c) DEFINITIONS.—For purposes of subsection (a):

"(1) The term 'United States law enforcement agency' means any department or agency of the Federal Government that the Attorney General designates as law enforcement agency for purposes of this section.

"(2) The term 'United States person' means the following:

"(A) A United States citizen.

"(B) An alien known by the intelligence agency concerned to be a permanent resident alien.

"(C) An unincorporated association substantially composed of United States citizens or permanent resident aliens.

"(D) A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.".

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 105 the following new item:

"Sec. 105A. Assistance to United States law enforcement agencies.".

SEC. 815. APPOINTMENT OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES.

(a) IN GENERAL.—Section 106 of the National Security Act of 1947 (50 U.S.C. 403-6) is amended to read as follows:

"APPOINTMENT OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES

"SEC. 106. (a) CONCURRENCE OF DCI IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the Secretary of Defense shall obtain the concurrence of the Director of Central Intelligence before recommending to the President an individual for appointment to the position. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director's concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

"(2) Paragraph (1) applies to the following positions:

"(A) The Director of the National Security Agency.

"(B) The Director of the National Reconnaissance Office.

"(C) The Director of the National Imagery and Mapping Agency.

"(b) CONSULTATION WITH DCI IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the Director of Central Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.

"(2) Paragraph (1) applies to the following positions:

"(A) The Director of the Defense Intelligence Agency.

"(B) The Assistant Secretary of State for Intelligence and Research.

"(C) The Director of the Office of Nonproliferation and National Security of the Department of Energy.

"(3) In the event of a vacancy in the position of the Assistant Director, National Security Division of the Federal Bureau of Investigation, the Director of the Federal Bureau of Investigation shall provide timely notice to the Director of Central Intelligence of the recommendation of the Director of the Federal Bureau of Investigation of an individual to fill the position in order that the Director of Central Intelligence may consult with the Director of the Federal Bureau of Investigation before the Attorney General appoints an individual to fill the vacancy.".

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking out the item relating to section 106 and inserting in lieu thereof the following new item:

"Sec. 106. Appointment of officials responsible for intelligence-related activities.".

SEC. 816. STUDY ON THE FUTURE OF INTELLIGENCE COLLECTION.

(a) STUDY.—The Director of Central Intelligence shall, in consultation with the Deputy Secretary of Defense, conduct a study on the future of intelligence collection. The study shall address whether collection resources can be managed in a more consolidated, integrated manner. The study is not limited to, but should include, specific examination of the following:

(1) Establishing within the Intelligence Community a single agency with responsibility for—

(A) the clandestine collection of intelligence through human sources and other clandestine techniques;

(B) covert action; and

(C) representing the Director of Central Intelligence in liaison with foreign intelligence and security services.

(2) Establishing a single agency for the conduct of technical intelligence collection activities, including—

(A) signals intelligence (SIGINT), imagery intelligence (IMINT), and measurement and signatures intelligence (MASINT);

(B) first-phase (or initial) exploitation of the results of such collection;

(C) dissemination of such collection in a timely manner;

(D) development of processing and exploitation technologies to support these functions; and

(E) serving as the sole agent within the Intelligence Community for—

(i) the specification of technical requirements for such reconnaissance systems as may be needed to meet the signals intelligence, imagery intelligence, and measurement and signatures intelligence collection requirements of the Intelligence Community; and

(ii) the operation and final disposition of such systems.

(3) Establishing a single agency—

(A) to serve as the sole agent within the Intelligence Community for the conduct of research, development, test, and evaluation, for procurement, and for launch of satellite reconnaissance systems that may be required to satisfy the intelligence collection requirements of the Intelligence Community; and

(B) to serve as the primary agent within the Intelligence Community for the conduct of research, development, test, evaluation and for procurement of reconnaissance, surveillance, and sensor systems, including airborne and maritime reconnaissance capabilities within the National Foreign Intelligence Program and the Joint Military Intelligence Program.

(b) CRITERIA.—The study under subsection (a) shall—

(1) take into account current and future technological capabilities and intelligence requirements;

(2) take into account the costs and benefits associated with establishing each of the agencies described in paragraphs (1) through (3) of subsection (a) as well as the costs and benefits of maintaining the current system of distinct "collection stovepipes"; and

(3) examine establishing each of the agencies described in paragraphs (1) through (3) of subsection (a) both on their individual merits and also with a view toward having such agencies co-exist as an entire new organizational structure.

(c) REPORT.—Not later than April 15, 1997, the Director of Central Intelligence shall submit a report on the study to the following:

(1) The President.

(2) The Secretary of Defense.

(3) The Select Committee on Intelligence and the Committee on Armed Services of the Senate.

(4) The Permanent Select Committee on Intelligence and the Committee on National Security of the House of Representatives.

SEC. 817. INTELLIGENCE RESERVE CORPS.

(a) REPORT ON CORPS.—Not later than four months after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report on the Surge Augmentation Program to provide for an Intelligence Reserve Corps to serve as a surge or augmentation resource for the Intelligence Community. The report shall include such recommendations for legislation as the Director considers appropriate.

(b) APPROPRIATE COMMITTEES DEFINED.—In this section, the term "appropriate committees of Congress" means the following:

(1) The Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate.

(2) The Committee on Government Reform and Oversight and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE IX—FINANCIAL MATTERS

SEC. 901. AUTHORIZATION OF FUNDING PROVIDED BY 1996 SUPPLEMENTAL APPROPRIATIONS ACT.

Amounts obligated or expended for intelligence or intelligence-related activities based on and otherwise in accordance with the appropriations provided by the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134), including any such obligations or expenditures occurring before the enactment of this Act, shall be deemed to have been specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) and are hereby ratified and confirmed.

And the Senate agree to the same.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to the conference:

LARRY COMBEST,
ROBERT K. DORNAN,
BILL YOUNG,
JAMES V. HANSEN,
JERRY LEWIS,
PORTER J. GOSS,
BUD SHUSTER,
BILL MCCOLLUM,
MICHAEL N. CASTLE,
NORMAN D. DICKS,
BILL RICHARDSON,
JULIAN C. DIXON,
ROBERT TORRICELLI,
RONALD D. COLEMAN,
DAVID SKAGGS,
NANCY PELOSI,

From the Committee on National Security, for consideration of defense tactical intelligence and related agencies:

BOB STUMP,
FLOYD SPENCE,

Managers on the Part of the House.

ARLEN SPECTER,
DICK LUGAR,
RICHARD SHELBY,
MIKE DEWINE,
JON KYL,
J.M. INHOFE,
KAY BAILEY HUTCHISON,
BILL COHEN,
HANK BROWN,
BOB KERREY,
JOHN GLENN,
RICHARD H. BRYAN,
BOB GRAHAM,
JOHN F. KERRY,
MAX BAUCUS,
J. BENNETT JOHNSTON,
CHARLES S. ROBB,

From the Committee on Armed Services:

STROM THURMOND,
SAM NUNN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3259) to authorize appropriations for fiscal year 1997 for intelligence and the intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION FOR APPROPRIATIONS

Section 101 of the conference report lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorize appropriations for fiscal year 1997.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS

Section 102 of the conference report makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and applicable personnel ceilings covered under this title for fiscal year 1997 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations is incorporated into the Act by this section. The details of the Schedule are explained in the classified annex to this report.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS

Section 103 of the conference report authorizes the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, in fiscal year 1997 to exceed the personnel ceilings applicable to the components of the Intelligence Community under section 102 by an amount not to exceed two percent of the total of the ceilings applicable under section 102. The Director may exercise this authority only when doing so is necessary to the performance of important intelligence functions. Any exercise of this authority must be reported to the two intelligence committees of the Congress.

The conferees emphasize that the authority conferred by Section 103 is not intended to permit the wholesale raising of personnel strength in any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees. The conferees do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this bill.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT

Section 104 of the conference report authorizes appropriations for the Community Management Account of the Director of Central Intelligence and sets the personnel end-strength for the Intelligence Community Management Staff for fiscal year 1997.

Subsection (a) authorizes appropriations of $131,116,000 for fiscal year 1997 for the activities of the Community Management Account (CMA) of the Director of Central Intelligence. This amount includes funds identified for the Advanced Research and Development Committee, which shall remain available for two years.

Subsection (b) authorizes 303 full-time personnel for the Community Management Staff for fiscal year 1997 and provides that such personnel may be permanent employees of the Staff or detailed from various elements of the United States Government.

Subsection (c) requires that personnel be detailed on a reimbursable basis except for temporary situations of less than one year.

Subsection (d) authorizes $27,000,000 of the total CMA to be made available for the National Drug Intelligence Center (NDIC) in Johnstown, Pennsylvania. Subsection (d) is similar to section 104(e) of the House bill. The House bill authorized 35 positions at NDIC to be funded in the National Foreign Intelligence Program (NFIP). The conferees agreed that these positions will continue to be funded in the Department of Defense Community Management Account.

The Attorney General and the DCI have agreed to designate the NDIC as an element of the intelligence community, pursuant to section 3(4)(J) of the National Security Act of 1947, and accordingly the DCI shall approve the NDIC budget before its incorporation into the NFIP, pursuant to Section 104(b) of the National Security Act. The conferees anticipate that, as with the budget for the National Security Division of the FBI, the DCI will ordinarily approve the Attorney General's proposed budget for the NDIC without change or will make changes in the NDIC budget only after consultation with the Attorney General. Moreover, even though NDIC will be funded in the NFIP, the conferees emphasize that the DCI should not exercise direction or control over the operations of the NDIC. The conferees note that section 103(d)(1) of the National Security Act provides that the Central Intelligence Agency shall have no "law enforcement powers." Although section 103(d)(1) specifically applies only to the CIA and not to the DCI, because the DCI is both head of the intelligence community and head of the CIA, the conferees believe it is important that the DCI not appear to be involved in managing law enforcement activities. Accordingly, section 104(d) of the conference report makes clear that amounts appropriated for the NDIC may not be used in contravention of section 103(d)(1) of the Act.

Subsection (e) authorizes $18,000,000 of the total CMA to be made available for the Environmental Intelligence and Applications Program, formerly known as the Environmental Task Force, to remain available for two years.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Section 201 authorizes appropriations in the amount of $184,200,000 for fiscal year 1997 for the Central Intelligence Agency Retirement and Disability Fund.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

Section 301 of the conference report provides that appropriations authorized by the conference report for salary, pay, retirement, and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law. Section 301 is identical to section 301 of the House bill and section 301 of the Senate amendment.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

Section 302 provided that the authorization of appropriations by the conference report shall not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise authorized by the Constitution or laws of the United States. Section 302 is identical to section 302 of the House bill and section 302 of the Senate amendment.

SEC. 303. LIMITATION OF AVAILABILITY OF FUNDS FOR AUTOMATIC DECLASSIFICATION OF RECORDS OVER 25 YEARS OLD

Section 303 limits the availability of funds authorized to be appropriated in the National Foreign Intelligence Program to $27.2 million for the purpose of carrying out Section 3.4 of Executive Order 12958, which directs the automatic declassification of documents older than 25 years. The provision is similar to section 303 of the House bill. The Senate amendment contained no similar provision.

The conferees urge the Director of Central Intelligence to appoint one individual within the Community Management Staff to oversee programs to implement Section 3.4 in the intelligence community. This individual should be charged with ensuring the programs are making progress on the substantial task ahead of declassifying thousands of older documents while adequately protecting intelligence sources and methods. The individual should coordinate the preparation by the individual NFIP programs of the programs' FY 1998 budget requests for funds to implement Section 3.4.

SEC. 304. APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

Section 304 of the conference report extends until January 6, 1998 the authority granted by section 303 of the Intelligence Authorization Act for Fiscal Year 1996 for the President to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action when the President determines and reports to Congress that to proceed without delay would seriously risk the compromise of an intelligence source or method or an ongoing criminal investigation. Section 304 is identical to Section 303 of the Senate amendment and similar to section 304 of the House bill.

SEC. 305. EXPEDITED NATURALIZATION

Section 305 provides for naturalization of certain applicants without their having met the normal statutory requirements relating to continuous residency and physical presence in the United States and lack of recent affiliation with the Communist Party or other totalitartion organization. The section would apply to the spouse, son, or daughter of a deceased alien whose death resulted from the intentional and unauthorized disclosure of classified information (such as by convicted spy Aldrich Ames) regarding the alien's participation in U.S. intelligence activities. Existing law provides for expedited naturalization for aliens who themselves have made extraordinary contributions to the national security of the United States or to U.S. intelligence activities.

Naturalization benefits under this provision would have to be approved by the Director of Central Intelligence, the Attorney General, and the Commissioner of Immigration and Naturalization. Expedited naturalization would not be available, however, to aliens whom the Attorney General determines to have engaged in racial, religious, ethnic, or political persecution or to constitute a danger to the community or to the security of the United States.

Section 305 is identical to Section 305 of the House bill. The Senate amendment had no similar provision.

SEC. 306. SENSE OF THE CONGRESS ON INTELLIGENCE IDENTITIES PROTECTION ACT

Section 306 expresses the sense of the Congress that the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) should be enforced by appropriate law enforcement agencies. The provision is identical to Section 306 of the House bill. The Senate amendment had no similar provision.

The Intelligence Identities Protection Act makes it a crime for anyone with authorized access to classified information identifying a covert agent of the United States to disclose any information identifying that agent to an individual not authorized to receive classified information, knowing that information identifies the covert agent and that the U.S. is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States.

The conferees believe the Act should be enforced. The provision reflects concern about the apparent unwillingness of the Department of Justice to enforce the Act in several recent cases involving public officials and journalists. The conferees recognize that the decision whether to bring a prosecution under the Identities Act involves careful consideration of: whether each element of the offense can be proven; in those cases in which it is determined that each element of the offense can be proven, the need to deter future unauthorized disclosures; and an assessment of the risk of additional disclosures of classified information at trial. The conferees believe the Classified Information Procedures Act, enacted by Congress in 1980, can be used effectively to lessen the risks with using classified information in criminal trials. The conferees further believe that concerns about possible additional disclosures at trial should not be the sole determinant of whether the Identities Act is enforced.

In addition to the disclosures of agent identities, the conferees are concerned about the apparent increase in the public disclosure of sensitive national security information generally. These disclosures have placed lives at risk and, in at least one instance, may have contributed to a number of deaths. The intelligence oversight committees have expressed intense concern to both the DCI and the Justice Department and will continue to exercise appropriate oversight into the measures and policies for safeguarding sensitive information.

SEC. 307. INTELLIGENCE COMMUNITY PROCUREMENT

Section 307 expresses the sense of the Congress that the Director of Central Intelligence should continue to direct elements of the intelligence community to award contracts in a manner that would maximize the procurement of products produced in the United States, when such action is compatible with the national security interests of the United States, consistent with operational and security concerns, and fiscally sound. A provision similar to Section 307 has been contained in previous intelligence authorization acts. Section 307 is similar in intent to Sections 307 through 309 of the House bill. The Senate amendment had no similar provision.

SEC. 308. RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS

Section 308 reflects the desire of the conferees to improve oversight over the sharing of U.S. intelligence with the United Nations and the safeguarding of such intelligence by the U.N. through improved security practices. The provision prohibits sharing of intelligence with the U.N. unless the President certifies that (1) procedures are in place to protect information provided from unauthorized disclosure of U.S. intelligence sources and methods, or (2) that providing such information is in the U.S. national interest. It also requires the President to provide semiannual reports to Congress on the types and volume of intelligence information provided to the U.N. and to report to Congress any unauthorized disclosure of intelligence information provided.

The provision is identical to Section 310 of the House bill. The Senate amendment had no similar provision.

SEC. 309. PROHIBITION ON USING JOURNALISTS AS AGENTS OR ASSETS

Section 309 of the conference report would codify as policy of the United States that the intelligence community may not use as an agent or asset for intelligence collection purposes any individual who is either: authorized by contract or the issuance of press credentials to represent himself or herself, either in the United States or abroad, as a correspondent of a United States news media organization or is officially recognized by a foreign government as a representative of a United States media organization. The prohibition against the use of such individuals as intelligence agents or assets is not to exclude the voluntary cooperation of any person who is aware that the cooperation is being provided to an element of the intelligence community. Additionally, under such procedures as the President shall promulgate, the prohibition against the use of journalists may be waived by either the President or the Director of Central Intelligence (DCI) if he or she determines in writing that the waiver is necessary to address the overriding national security interests of the United States. The congressional intelligence committees shall be notified of any waivers provided under this section.

Section 309 is similar to section 311 of the House bill. The Senate amendment did not contain a similar provision.

The conferees recognize the dangers faced by journalists working overseas if they are suspected of being spies. Section 309 is intended to mitigate that danger to the maximum extent possible while providing the flexibility to deal with those extremely rare circumstances in which the national security interests of the United States can best be promoted by utilizing the voluntary cooperation of a journalist.

SEC. 310. REPORT ON INTELLIGENCE COMMUNITY POLICY ON PROTECTING THE NATIONAL INFORMATION INFRASTRUCTURE AGAINST STRATEGIC ATTACKS

Section 301 requires the DCI to submit a report to Congress on the threats to the national information infrastructure from information warfare and other nontraditional attacks by foreign nations, groups, or individuals or other groups or individuals. Section 310 is similar to Section 719 of the Senate amendment except for drafting modifications. The House bill did not contain a similar provision.

Title IV—Central Intelligence Agency

SEC. 401. ELIMINATION OF DOUBLE SURCHARGE ON THE CENTRAL INTELLIGENCE AGENCY RELATING TO EMPLOYEES WHO RETIRE OR RESIGN IN FISCAL YEAR 1998 OR 1999 AND WHO RECEIVE VOLUNTARY SEPARATION INCENTIVE PAYMENTS

Section 401 corrects a discrepancy in existing law which currently requires the CIA to make double payments to the Civil Service Retirement and Disability Fund for those Agency employees who take an early retirement. Section 4(a) of the Federal Workforce Restructuring Act (FWRA) requires agencies that offer retirement incentives, including CIA, to pay to the Fund 9 percent of the final basic pay of each employee who takes an early retirement. In addition, section (2)(i) of the CIA Voluntary Separation Pay Act (CVSPA), enacted as part of the Intelligence Authorization Act for Fiscal Year 1996, requires the CIA to make a 15 percent payment for each employee who takes an early retirement.

It was not Congress' intent to have CIA make double payments totalling 24 percent to the Fund. Accordingly, Section 401 of the conference report provides that the 15 percent payment CIA is required to pay under CVSPA is in lieu of the 9 percent payment required under the FWRA.

Section 401 is identical to section 402 of the House bill. The Senate amendment did not contain a similar provision.

SEC. 402. POST-EMPLOYMENT RESTRICTIONS

Section 402 of the conference report requires the Director of Central Intelligence to issue regulations requiring designated employees of the Central Intelligence Agency to sign written agreements committing not to represent or advise, for a period of three years after that employee's termination of employment with the CIA, the government or political party of any foreign country.

Section 402 is similar to Section 304 of the Senate amendment. The House bill did not contain a similar provision. The conferees agreed to a provision that is narrower than the Senate amendment in two respects. First, the written agreements would be required only of certain designated officials. The conferees expect that the DCI would designate senior Agency officials or others who have had significant contact with foreign governments such that their representation of a foreign government immediately after their cessation of employment with the Agency might create the appearance of a conflict of interest. Second, the restrictions would apply only for a period of three years, rather than five, following the employee's departure from CIA. The conferees have also modified the provision to allow the DCI to permit an employee to represent or advise a foreign government if the DCI determines that it would be in the best interest of the United States (for example, to allow a former CIA employee to assist an allied government with which the U.S. has a close liaison relationship).

Title V—Department of Defense Intelligence Activities

SEC. 501. EXECUTIVE BRANCH OVERSIGHT OF BUDGETS OF ELEMENTS OF THE INTELLIGENCE COMMUNITY

Section 501 requires the President to submit a report to Congress on actions that have been taken to ensure adequate oversight by the executive branch of the budget and expenditures of the National Reconnaissance Office and other elements of the intelligence community within the Department of Defense. The provision is identical to Section 305 of the Senate amendment. The House bill did not contain a similar provision.

Title VI—Federal Bureau of Investigation

SEC. 601. ACCESS TO TELEPHONE RECORDS

Section 601 amends Sections 2703 and 2709 of Title 18, United States Code to clarify that the "telephone toll billing records" which the Federal Bureau of Investigation may subpoena in certain law enforcement investigations include not only *long distance* but also *local* billing records. Section 601 also amends Section 2707 of Title 18 to allow courts to award punitive damages, and to institute disciplinary actions against employees of U.S. agencies or departments, for violations of Chapter 121 of Title 18.

Section 601 is identical to Section 401 of the Senate amendment. The House bill did not contain a similar provision.

Title VII—Combatting Proliferation

Title VII contains a number of provisions relating to proliferation of weapons of mass destruction. Sections 711 through 717 establish and define the duties of a Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction. The eight members of the Commission are to be appointed by the President and the congressional leadership. The Commission is required to conduct a study of the organization of the federal government, including the intelligence community, for combatting weapons proliferation. Section 711 of the conference report sets forth a specific list of issues for the Commission to address. The Commission is required to submit a report to Congress not later than eighteen months after enactment of this legislation. The conferees modified Section 717 to provide that commission expenses shall be paid out of funds available to the DCI for the payment of compensation, travel allowances, and per diem of CIA employees.

Section 721 of the conference report requires the Director of Central Intelligence to submit a semiannual report to Congress on the acquisition by foreign countries of technology for the development of weapons of mass destruction and advanced conventional munitions.

Title VII of the conference report is similar to Title VI of the Senate amendment. The House bill contained no similar provision.

Title VIII—Renewal and Reform of Intelligence Activities

Title VIII of the conference report contains provisions intended to make the Intelligence Community operate more effectively and more efficiently in the post-Cold War world. These provisions would create two committees of the National Security Council, one to provide better guidance to the intelligence community and the other to provide senior-level guidance on issues raised by the intersection of law enforcement and intelligence, particularly relating to terrorism, narcotics trafficking, and weapons proliferation. In addition, provisions in this section strengthen the ability of the Director of Central Intelligence to manage the Intelligence Community by codifying his authority to participate in the development of the budgets for defense-wide and tactical intelligence and to concur or be consulted with respect to the appointments of the heads of the principal NFIP agencies. Giving the DCI a database of all intelligence activities and requiring all NFIP elements to submit periodic budget execution reports should enable the DCI to make better use of his existing authorities—given to him by Congress in 1992—to approve the budgets of NFIP elements and to transfer funds and personnel with the concurrence of affected agency heads. The conferees urge the DCI to be more assertive in using these authorities. The bill also establishes a new Senate-confirmed Deputy Director of Central Intelligence for Community Management and three new Senate-confirmed Assistant Directors of Central Intelligence to assist the DCI in managing the Intelligence Community. Finally, the conference report clarifies the authority of intelligence collection agencies to provide support to law enforcement agencies.

Title VIII is similar to Title VII of the Senate amendment. As originally reported by the Senate Intelligence Committee as part of S. 1718, Title VII would have given the DCI budget execution authority over most elements of the National Foreign Intelligence Program; authority to reprogram funds among NFIP programs over the objection of the affected department head; authority to manage the national collection activities of the intelligence community; and shared responsibility—with the Secretary of Defense—for managing the National Security Agency, the National Reconnaissance Office, and the Central Imagery Office. After extensive discussions with the Senate Armed Services Committee, the Senate Intelligence Committee agreed to drop or modify a number of these provisions.

Although the House bill, H.R. 3259, contained no similar provisions, the House Permanent Select Committee on Intelligence also undertook a major review of the roles, functions, and structure of the intelligence community during the 104th Congress. On April 9, 1996, the House Committee released a study entitled "IC21: Intelligence Community in the 21st Century," which set forth the findings and recommendations of the Committee staff. On June 13, 1996, the House Committee reported H.R. 3237, which would have enacted many of the recommendations of the staff study and would have made significant changes to the current organization of the intelligence community. The House National Security Committee, which took H.R. 3237 on sequential referral, deleted many of these provisions, and the bill was never brought to the House floor.

The conferees believe that the provisions of Title VIII will help ensure that various elements of the intelligence community operate more cohesively and without unnecessary duplication. That the conferees agreed to more limited organizational changes this year does not mean that some of the more far-reaching changes proposed by S. 1718 and H.R. 3237 are without merit. To the contrary, the provisions in both bills were the culmination of exhaustive study by both committees as well as by the Commission on the

Roles and Capabilities of the U.S. Intelligence Community, the 17-member congressionally chartered commission which submitted its report to Congress on April 1, 1996, and deserve further consideration. The conferees specifically agreed that the DCI should study the establishment of an Intelligence Community Reserve and that the DCI and the Secretary of Defense should study the feasibility of creating a single technical collection agency as well as other specified agencies—the creation of which was recommended by the IC–21 study. The conferees anticipate that some of the other provisions in S. 1718 and H.R. 3237 that were not enacted this year will be taken up again in the 104th Congress.

SECTION 801

Section 801 contains the short title VIII, the "Intelligence Renewal and Reform Act of 1996."

SECTION 802

Section 802 amends Section 101 of the National Security Act of 1947 to create a Committee on Foreign Intelligence of the National Security Council. Section 802 is identical to Section 702 of the Senate amendment.

SECTION 803

Section 803 amends Section 109 of the National Security Act to require the President to submit an annual report to Congress on U.S. intelligence requirements and priorities and the performance of the U.S. Intelligence Community. Section 803 is identical to Section 703 of the Senate amendment.

SECTION 804

Section 804 amends Section 101 of the National Security Act of 1947 to create a Committee on Transnational Threats of the National Security Council. Section 804 is identical to Section 704 of the Senate amendment.

The Committee on Transnational Threats would identify transnational threats; develop strategies to respond to them in a coordinated way; assist in resolving operational differences among federal departments and agencies; develop policies and procedures to ensure the effective sharing of information among federal departments and agencies, including between the law enforcement and foreign policy communities; and develop guidelines for coordination of federal law enforcement and intelligence activities overseas.

The conferees note, that in response to the growth in global crime and the increasing number of U.S. statutes with extraterritorial application, the Federal Bureau of Investigation is significantly expanding its presence and activities outside the United States. The conferees are interested in the growth of these activities and the degree to which Bureau investigations, recruitment of assets, liaison with foreign intelligence services, and operational activities are coordinated with U.S. intelligence agencies. Accordingly, the conferees direct that, beginning no later than February 1, 1997, the Director of the Federal Bureau of Investigation shall submit an annual report to the appropriate congressional committees regarding the activities of the Bureau outside the United States. The report shall specify the number of Bureau personnel posted or detailed outside the United States and the extend to which the Bureau plans to increase the number of such personnel and/or the scope of its overseas activities. The report should describe how Bureau overseas investigations, asset handling, liaison, and operational activities are coordinated with the Intelligence Community, and the extent to which information derived from such activities is or will be shared with the Intelligence Community. The intelligence committees plan to monitor these matters closely.

SECTION 805

Section 705 of the Senate amendment would have amended Section 102 of the National Security Act of 1947 to add a new subsection (d) to establish an Office of the Director of Central Intelligence to include the DCI, the DDCI; the newly established positions of Assistant DCI for Collection, Assistant DCI for Analysis and Production, Assistant DCI for Administration, the National Intelligence Council, and such other offices as the DCI may designate.

The conferees agreed to accept the provisions in the Senate amendment with the addition of a new Deputy Director for Community Management (DDCI/CM), to whom the three new Assistant Directors would report. This DDCI for Community Management will be appointed by the President and confirmed by the Senate. This Deputy will work under the direction of the DCI and is responsible for assisting him in carrying out his responsibilities as head of the Intelligence Community. The DDCI/CM will manage a community management staff and direct community-wide functions, including personnel, resources, requirements, collection, research and development, and analysis and production.

The conferees recognize that there is always the potential that positions requiring Presidential appointment and Senate confirmation may be subject to inappropriate political pressures. This is of particular concern with respect to the Assistant Director of Central Intelligence for Analysis and Production. Nevertheless, the conferees believe the significant advantages in terms of stature and congressional oversight afforded by making this a confirmable position outweigh that potential concern. Moreover, the intelligence oversight committees will be vigilant in their efforts to ensure there is no politicization of these positions. The extensive focus on charges of politicization during the Senate confirmation of Robert Gates to be the DCI in 1991 demonstrates the seriousness with which the Congress views this issue. In reviewing potential nominees for any of the confirmable positions within the Intelligence Community and in the course of its oversight, the Congress will look carefully for any evidence that an individual has tailored his or her views to curry favor with the Administration or Congress, or that an individual has suffered retribution for failing to succumb to political pressure.

As amended by Section 805, section 102(d)(3) of the National Security Act directs the DCI to employ and utilize a professional staff to assist him in carrying out his Community-wide responsibilities. This staff would be part of the Office of the DCI. The staff could, at the DCI's discretion, operate as a unit, or be divided among the Deputy Director for Community Management and the three new Assistant DCIs. The conferees anticipate that this staff would replace the functions of the current Community Management Staff and, while it should include some detailees from the Intelligence Community, would consist primarily of a core staff of career professionals.

Section 805 also transfer the current section 102(a)(1) of the National Security Act, which establishes the Central Intelligence Agency, to a new section 102A of the National Security Act. Section 102A would reference Section 103(d), which sets forth the responsibilities of the Director of Central Intelligence as head of the CIA.

SECTION 806

Section 806, concerning the National Intelligence Council, is identical to Section 706 of the Senate amendment except that the NIC would also specifically be directed to evaluate intelligence community-wide collection and production activities.

SECTION 807

Section 807 strengthens the DCI's authorities as head of the intelligence community. It gives the DCI authority to participate in the development by the Secretary of Defense of the annual budgets for JMIP and TIARA; authority to approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national collection assets; and the right to be consulted by the Secretary of Defense with respect to reprogrammings of funds within the JMIP.

The provision also directs the DCI and the Secretary of Defense to develop, no later than January 1, 1999, a database of all intelligence and intelligence-related programs and activities, which would specify the purpose of each program or activity and include information for past and future years on the types and quantities of resources planned, programmed, budgeted, and executed in support of specific objectives. The conferees noted that the Office of Science and Technology Policy within the White House has recently developed a database of all research and development activities within the federal government and that this database has been invaluable for identifying duplication among federal R&D programs. The conferees believe that the DCI has been hampered in his ability to manage the intelligence community by a lack of accurate and comprehensive information about all intelligence community activities. Development of a database for intelligence activities should gibe the DCI crucial analytical and supervisory tools he needs to provide better direction to and control over U.S. intelligence programs. The conferees have provided funding for the development of the database and urge the DCI and the Secretary of Defense to move ahead as quickly as possible.

Section 807 is similar to Section 707 of the Senate amendment. In addition to minor drafting changes, the provision has been modified to specifically require the DCI and the Secretary of Defense to prescribe guidelines to require reporting of budget execution data on all intelligence activities to the DCI and the Secretary of Defense. This is to ensure that this data is available to the DCI and Secretary of Defense during FY 1997 and is not held up pending development of the database.

In addition, a new subsection has been added requiring the DCI to submit an annual report to Congress, for the next three years, on the steps he has taken under Section 104(f) of the National Security Act to rotate personnel, and to consolidate personnel, administrative, and security programs, among intelligence community elements. The DCI was given this authority in 1992 but appears to be making little use of it.

SECTION 808

Section 808 is identical to Section 708 of the Senate amendment. The Section requires the DCI to submit to the Committee on Foreign Intelligence and the appropriate congressional committees an evaluation of the performance and responsiveness of the NSA, NRO, and NIMA in meeting their national missions.

SECTION 809

Section 809(a) of the conference report adds a new subsection (f) to Section 102 of the National Security Act of 1947 to establish the position of Assistant Director of Central Intelligence for Collection. This position will be appointed by the President and confirmed by the Senate.

The ADCI for Collection will be one of three new Assistant Directors of Central Intelligence who will assist the DCI in carrying out his Community-wide management responsibilities. The ADCI for Collection will assist the DCI in carrying out his intelligence collection responsibilities. The ADCI for Collection will oversee all national intelligence collection activities, including identifying targets, setting priorities, and allocating resources where a particular intelligence collection discipline offers a comparative advantage. In performing this role, it is expected that the ADCI for Collection will be responsible for the effective and efficient operation of the interagency collection committees—including those focusing on IMINT, HUMINT, SIGINT, an MASINT—to ensure national collection requirements, priorities, and resources are consistent with intelligence consumer needs. Further, the ADCI for Collection will rely upon the ADCI for Analysis and Production for guidance on current collection requirements and for an assessment of the need for the acquisition of future collection capabilities. The ADCI for Collection will also assist in implementing the DCI's authorities regarding the procurement and operation of national collection systems under development by other agencies and assist the DCI in formulating plans and budgets of national collection activities.

Section 809(b) requires the DCI and the Deputy Secretary of Defense to submit, no later than 90 days after enactment of this Act, a report on their efforts to coordinate and, where practicable, consolidate the human intelligence collection activities of the clandestine collection elements of the Defense HUMINT Service and CIA's Directorate of Operations (DO). The conferees note that the Aspin-Brown Commission recommended that the clandestine HUMINT collection activities of the Defense HUMINT Service be consolidated into the DO. The report should address the desirability of such a consolidation.

SECTION 810

Section 810 adds a new section (g) to Section 102 of the National Security Act of 1947 to establish the position of Assistant Director of Central Intelligence for Analysis and Production. This position will be appointed by the President and confirmed by the Senate.

The ADCI for Analysis and Production will assist the DCI in overseeing analysis and production of intelligence by the Intelligence Community, establish priorities for analysis, and monitor the allocation of resources in order to eliminate unnecessary duplication in analysis and production thus ensuring timely delivery of intelligence products to consumers.

Intelligence analysis and production of analytical products is broadly dispersed across the Intelligence Community. Although some competitive analysis is necessary and some products are needed to serve only the needs of a single department or agency, most analysis supports the entire policy community. The DCI currently lacks an effective mechanism to review and supervise adequately intelligence analysis and production community-wide in order to ensure the most effective allocation of resources and to eliminate unnecessary duplication. Intelligence producers have worked together voluntarily to reduce overlaps, but the conferees believe that a better management structure is needed. The new ADCI for Analysis and Production would provide the basis for this structure. The conferees do not expect the ADCI for Analysis and Production to perform intelligence production functions or roles similar to those currently performed by the Chairman and members of the National Intelligence Council, CIA's Deputy Director for Intelligence, the Assistant Secretary of State for Intelligence & Research, or DIA's Director of Production.

SECTION 811

Section 811 adds a new subsection (h) to Section 102 of the National Security Act of 1947 to establish the position of Assistant Director of Central Intelligence for Administration. This position will be appointed by the President and confirmed by the Senate.

Numerous studies, including the Aspin-Brown Commission, have urged greater consolidation of personnel and administrative functions and use of common standards across the Intelligence Community. The largest agencies, nevertheless, continue to maintain separate administrative, personnel, security, and training systems. The Aspin-Brown Commission concluded "While the Commission is willing to accept that some latitude is needed for individual agencies to satisfy their unique requirements, we see no reason for all of these programs and activities to be administered separately, or, at least without greater uniformity." The conferees agree with this conclusion.

The role of the proposed ADCI for Administration would be to assist the DCI in bringing about this uniformity. The ADCI for Administration would coordinate the various personnel management systems, information systems, telecommunications systems, finance and accounting services, and security programs for the Intelligence Community. The conferees expect that the ADCI for Administration would also assist the DCI in exercising his authorities under Section 104(f) of the National Security Act to consolidate personnel, administrative, and security programs of Intelligence Community elements.

SECTION 812

Section 812 amends Section 5315 of Title 5, United States Code, to place the positions of Deputy Director of Central Intelligence and Deputy Director of Central Intelligence for Community Management at Executive Level III and the positions of Assistant Director of Central Intelligence for Collection, Assistant Director of Central Intelligence for Analysis and Production, Assistant Director of Central Intelligence for Administration, at Level IV of the Executive Schedule. Section 812 is similar to Section 712 of the Senate amendment.

SECTION 813

Section 813, which establishes the statutory position of General Counsel of the CIA, is identical to Section 713 of the Senate amendment, except that the conferees have modified the provision to provide that it shall take effect no later than six months from the date of enactment of this Act or upon the appointment of a General Counsel other than the individual occupying the position on the date of enactment of this Act, whichever is sooner. Thus, whoever occupies the non-statutory position of General Counsel at the time this provision is enacted may continue to occupy that position for up to six months after enactment before a formal nomination must be submitted to the Senate. Nothing in the provision would prevent the President from nominating the individual serving as non-statutory General Counsel at the time of enactment for the statutory General Counsel position. It is the intent of the conferees, however, that the President either nominate this individual to be the statutory General Counsel within six months of the date of enactment of this Act or, if this individual leaves the position of non-statutory General Counsel in less than six months, that the President nominate another individual to fill the statutory General Counsel position.

The conferees do not intend in any way that the establishment of the statutory General Counsel position limit the ability of the CIA Inspector General to obtain independent legal advice from members of the IG's staff or to otherwise carry out the duties of that office as provided for in section 17 of the CIA of 1949 (50 USC 403q). However, where an IG determination or report includes a legal opinion that differs from that of the CIA's Office of General Counsel, that difference of opinion should be noted. This would apply to reports presented to the DCI, briefings for Congress, or any other context in which IG legal opinions are presented.

SECTION 814

Section 814 creates a new Section 105A of the National Security Act that authorizes intelligence community elements to collect information about non-U.S. persons outside the United States at the request of U.S. law enforcement agencies. The section is identical to Section 715 of the Senate amendment, except that the Defense Intelligence Agency has been added to the list of Department of Defense agencies to which this provision applies.

SECTION 815

Section 815 amends Section 106 of the National Security Act to require the DCI to concur in, or be consulted regarding, the appointment of the heads of the principal NFIP elements. Section 815 is identical to Section 716 of the Senate amendment, with two modifications.

First, the Director of the National Imagery and Mapping Agency has been added to the list of agency heads for which DCA concurrence is required. This authority had originally been included separately in provisions relating to the appointment of the Director of NIMA. The conferees note that the conference report accompanying the National Defense Authorization Act for Fiscal Year 1997 also codifies the DCI's authority to concur in the appointments of the heads of NSA, NRO, and NIMA in Section 201 of Title 10, U.S. Code. The DOD bill also requires the DCI to provide to the Secretary of Defense an annual evaluation of the performance of the heads of NSA, NRO, and NIMA in fulfilling their responsibilities under the NFIP.

In addition, the conferees have modified the original Senate language regarding DCI consultation on the Assistant Director, National Security Division of the Federal Bureau of Investigation. This individual is selected by the Attorney General upon the recommendation of the Director of FBI. The bill now calls for timely notice to the DCI of the Director of FBI's recommendation regarding this position. The conferees understand that for the purposes of this section timely notice means notice will be provided at a sufficiently early stage in the process that consultation is still meaningful and that the

DCI will be provided sufficient time to respond to the notification prior to the recommendation being forwarded to the Attorney General. At the same time, the DCI should not use this opportunity for consultation as a means of delaying this process.

The conferees also emphasize that, by requiring the DCI to be consulted regarding the appointment of the head of the FBI's National Security Division, they do not intend to give the DCI control over FBI law enforcement activities. Nevertheless, the head of the National Security Division manages a significant portion, both in budgetary and substantive terms, of the NFIP, and the conferees believe it is wholly appropriate that the DCI have some voice in his or her appointment.

SECTION 816

Section 816 of the conference report directs the DCI, in consultation with the Deputy Secretary of Defense, to study the appropriate organization and management of intelligence collection for the future. A report on the study is to be forwarded to the President, the Secretary of Defense, and the appropriate Congressional committees no later than April 15, 1997. The conferees expect that the Assistant DCI for Collection will manage the production of this study on behalf of the DCI.

The study should examine how the Intelligence Community's collection apparatus can best function in the future, and not merely perform an examination of the effectiveness of the Intelligence Community at present or in the recent past, except to the extent such an examination illuminates the direction that must be taken in the future. The section specifies that the study must specifically include, but need not be limited to, feasibility studies of three changes to the current Intelligence Community structure: (1) the establishment of a Clandestine Service; (2) the establishment of a Technical Collection Agency; and (3) the establishment of a Technology Development Office.

The study should consider the merits of establishing a Clandestine Service responsible for the clandestine collection of intelligence through human sources and other clandestine means; the carrying out of covert action as directed by the President; and acting as the DCI's principal entity in carrying out liaison with foreign intelligence and security services. The study should keep in mind that this particular entity, the Clandestine Service (unlike the others under consideration), would have roles and missions outside the realm of intelligence collection. The study should also pay particular attention to the fact that a Clandestine Service's activities are, generally speaking, intrinsically risky and require the close oversight of the DCI. The study should also consider how military personnel might be integrated into a Clandestine Service in a manner allowing their proper career development and their being able to function as clandestine collectors under operational guidelines developed under DCI authorities.

The study should consider the costs and benefits associated with consolidating technical collection activities and exploitation into a single agency, not necessarily in one physical location but under a unified management structure. This agency would include all current signals intelligence, imagery intelligence and measurement and signatures intelligence collection and time-sensitive exploitation activities, including the operation of satellite collection systems. The study should consider whether consolidation would improve synergistic collection at the operator level, integrate multi-source tasking at the collection management level, and achieve cross-discipline trade-offs at the resources management level. The study should consider in particular how the agency as proposed would further or hinder these goals, and whether such a consolidation would further or hinder other identified goals for intelligence collection. This study should also examine whether the first-phase analysts exploiting the data collected for time-sensitive reporting should be integrated with the all-source analytical community and, if so, how.

The study should also consider the costs and benefits of consolidating research, development and acquisition activities for reconnaissance systems into a single agency responsible primarily for space-based, airborne and maritime reconnaissance systems. The study should consider whether consolidation would improve coherent development and complementary architectures, particularly in the space and air realms; promote development of common ground processing and dissemination capabilities; reduce unnecessary duplication; and promote the sharing of appropriate technologies.

Section 816 is a new provision. No similar provision was included in either the House bill or Senate amendment.

SECTION 817

Section 817 of the conference report requires the DCI to submit a report within four months of enactment describing the current efforts to establish a Surge Augmentation Program and making appropriate legislative recommendations.

The conferees believe that significant reductions in personnel and other resources throughout the Intelligence Community over the past few years, combined with significant increases in the need for intelligence information, have created a shortfall in analytic resources, especially in the areas of all-source analysis and linguists. Ad hoc crises, such as Rwanda and Somalia, further underscore the need for the Intelligence Community to be flexible enough to "surge" resources to meet immediate needs and to have a capability to augment existing resources in order to develop and maintain a worldwide "base" of knowledge. Such an intelligence "base" should allow for identification of trends and other changes that could portend future actions by U.S. policy makers. This warning function becomes critical both to the policy maker by providing adequate time to manage an impending situation before it develops into a crisis and to the military commander in cases where the proper policy response includes military activity. DCI Deutch has been addressing the same concerns in his "Hard Target/Global Coverage" efforts.

The conferees note that it is unlikely that internal Intelligence Community resources will ever be robust enough to meet all of the requirements that will be levied on them. The ability to augment existing resources with individuals who have intelligence experience and/or have maintained a level of substantive knowledge could prove invaluable in addressing what appears to be an ongoing pattern of small, often regional crises and situations. In this respect, a port of the Surge Augmentation Program, or "Intelligence Community Reserve," could operate similarly to existing military intelligence reserve resources, with periodic training and service within the Community in order to maintain expertise. In some cases, individuals who are our country's experts in certain areas are likely to be outside of the Intelligence Community—in industry or academia, for example—and should remain so in order to maintain their level of knowledge and contacts worldwide. In those cases, however, it would be extremely beneficial for the Intelligence Community to have access to this knowledge on an occasional basis. Although it is not envisioned that someone outside of the Intelligence Community would be asked to "serve" the Intelligence Community Reserve in the same capacity as those individuals who have had a prior association, it is envisioned that these "experts" might be held on a type of retainer requiring them to notify the Intelligence Community on a regular basis of significant trends and changes in their issue area. In addition, particular attention should be paid to building a linguistic "surge" capability, especially in more unique or less known languages, for use during crisis periods. Finally, the conferees believe that the Intelligence Community Reserve should be managed and funded at the Community level, ensuring that all valid "surge" requirements by all agencies/offices within the Intelligence Community are planned for and addressed as necessary.

Due to the complexities of issues such as pay, security, training and support, the conferees are not establishing the Reserve in legislation at this time. Instead, the DCI is directed to provide a report on current efforts and any legislation that might be considered by Congress.

Finally, the conferees note that the Intelligence Community Reserve is not envisioned as a panacea for addressing shortfalls in intelligence analytical expertise. Clearly, specific attention must be paid toward maintaining an experienced analytic workforce in specific subject areas that are of national security and policy concern.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. AUTHORIZATION OF FUNDING PROVIDED BY 1996 SUPPLEMENTAL APPROPRIATIONS ACT

Section 901 of the conference report is identical to section 601 of the House bill. The Senate amendment did not contain a similar provision. The section provides that funds appropriated as part of the supplemental appropriation in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 for intelligence, and intelligence-related activities in Bosnia shall be deemed to be specifically authorized for purposes of Section 504 of the National Security Act.

Provisions not included in the Conference Report

Multiyear leasing

Section 401 of the House bill would have amended the Central Intelligence Agency Act of 1949 to authorize the CIA to enter into multiyear leases for buildings and other facilities. However, an amendment added on the House floor would have required that the leases be fully funded in advance. As this requirement would have vitiated the effectiveness of the provision, the conferees agreed to drop it.

Intelligence Community personnel reforms

On April 23, 1996 DCI Deutch unveiled a CIA human resources reform initiative that will affect Intelligence Community personnel at the CIA and in various DoD agencies. The presentation of the personnel reform package had been long awaited by both intelligence committees as the DCI had stated on numerous occasions the priority he was attaching to revamping an ancient and antiquated personnel system. The sweeping nature of the CIA human resources reform proposal and the initial lack of specificity concerning its contents led the House Committee to include a provision in its bill (Section

403) to prevent expenditure of any funds until the Congress was fully briefed. The Senate amendment did not contain a similar provision. The CIA has now provided extensive briefings to both committees regarding its program; therefore, the conferees have agreed to drop the House provision.

The conferees have provided funding for the CIA personnel reform initiative albeit at a level substantially below the requested amount. The funding level is contained in the classified schedule of authorizations. The conferees concur with the CIA's view that the initial priorities should be the acquisition and installation of a new Human Resources Information System, the completion of a job skills analysis and implementation of associated training and educational programs.

The conferees initially understood that the CIA would issue a "Request for Proposal" (RFP) for the Human Resources Information System software component, but without informing the Congress, the CIA changed course and decided not to compete the contract. It is the view of the conferees that RFP's help to immunize the CIA from potential protests and enable the CIA, in the most transparent way possible, to identify the best contractor at the lower cost. Apparently, following a refinement of the requirements and the completion of an exhaustive market survey of the various software packages available, it was determined that only one vendor met and demonstrated the CIA's software requirements. Thus, the CIA expects to issue a single source contract in keeping with standard contracting procedures. It is the conferees understanding that the single source contract is for the acquisition of the software package only and that the systems integration, systems engineering and implementation components of the Human Resources Information System will be competitively bid. The conferees expect to be kept fully and currently informed of this process.

FOIA exemptions for certain defense agencies

Section 501 of the House bill would have amended and consolidated the information disclosure statutes for the Defense Intelligence Agency (DIA) and the National Reconnaissance (NRO), 10 U.S.C. 424 and 425 respectively, to permit the two organizations to withhold from release in response to Freedom of Information Act (FOIA) requests unclassified information relating to those agencies' organization, functions, and personnel. The Senate amendment did not contain a similar provision. The House recedes.

The conferees note that Section 1112 of the National Defense Authorization Act for Fiscal Year 1997 included a provision, added at conference, that is similar to Section 501 of the House bill but that covers personnel and organizational information of the National Imagery and Mapping Agency (NIMA) as well as of NRO and DIA. The conferees agree that it is legitimate to protect from disclosure personnel information relating to DIA, NRO, and NIMA because their employees may be counterintelligence targets. But the conferees have some reservations about providing a blanket exemption against disclosure of unclassified information about the organization and functions of these agencies. The conferees note that, when the NRO's information disclosure statute was enacted in 1992, Congress specifically declined to extend the provision to cover unclassified organizational information about the NRO.

The conferees understand that the Senate Armed Services Committee and the House National Security Committee may reconsider whether the blanket exemption for all organizational and functional information is appropriate. In the interim, the conferees urge DIA, NRO, and NIMA to use the exemption sparingly to protect only that information which is truly sensitive and not as a reason to deny all FOIA requests for information about their organization or functions.

Tier III Minus UAV

Section 502 of the House bill authorized an additional $22 million for the Tier III minus unmanned aerial vehicle. The Senate amendment did not contain a similar provision. The authorization level for this program has been included in the Classified Schedule of Authorizations, and accordingly the conferees agreed that the provision is not necessary.

Economic espionage

Title V of the Senate amendment contained provisions criminalizing theft of economic proprietary information undertaken on the behalf of, or with the intent benefit, a foreign government or its agent. The House bill did not contain similar provisions.

This legislation was initially introduced by Senator Arlen Specter and Senator Herb Kohl as S. 1557 (the Economic Espionage Act), along with additional legislation, S. 1556 (the Industrial Espionage Act), to provide a broader criminal statute for general industrial espionage. The provisions of S. 1557 were then adopted by the Senate Select Committee on Intelligence as part of S. 1718, the Intelligence Authorization Act for fiscal year 1997. Subsequent to the SSCI action on this provision, the Senate and House adopted legislation encompassing provisions similar to both the Economic Espionage Act and the Industrial Espionage Act. Thus, the conferees agreed to drop this provision from the Intelligence Authorization Act.

Budget disclosure

Section 718 of the Senate amendment contained a provision requiring the President, as part of his annual budget submission to Congress, to provide in unclassified form the total amount appropriated by Congress for all intelligence and intelligence-related activities during the current fiscal year and the total amount requested in the budget for the next fiscal year. The House bill contained no similar provision. The Senate agreed to recede to the House.

Office of Congressional Affairs of the DCI

Section 714 of the Senate amendment would have established an Office of Congressional Affairs of the DCI to coordinate the congressional affairs activities of the various elements of the Intelligence Community. The House bill contained no similar provision. The conferees have decided not to require the creation of this office in statute. The conferees agree, however, that there is occasionally a need for a coordinated Community response to Congressional inquiries and recommend that the DCI specifically designate the Director of the Office of Congressional Affairs within the CIA as the focal point for such inquiries from Congress. The conferees do not intend by this recommendation to preclude the individual offices of congressional affairs within the elements of the Intelligence Community from responding directly to requests from the congressional committees.

National Imagery and Mapping Agency

Section 801 of the Senate amendment would have added a new section to the National Security Act specifying the national museum and collection tasking authority for the new National Imagery and Mapping Agency. The House bill contained no similar provisions.

The conferees noted that Section 1112 of the National Defense Authorization Act for Fiscal Year 1997, which establishes and sets forth the missions for NIMA, contains similar provisions. These provisions were added to the Senate version of the Act by the Senate Intelligence Committee, which took the Senate bill on sequential provisions from the Senate Armed Services Committee in order to examine the provisions relating to NIMA. Accordingly, the conferees agreed to exclude Section 801 from the conference report.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committee to the conference:

LARRY COMBEST,
ROBERT K. DORNAN,
BILL YOUNG,
JAMES V. HANSEN,
JERRY LEWIS,
PORTER J. GOSS,
BUD SHUSTER,
BILL MCCOLLUM,
MICHAEL N. CASTLE,
NORMAN D. DICKS,
BILL RICHARDSON,
JULIAN C. DIXON,
ROBERT TORRICELLI,
RONALD D. COLEMAN,
DAVID SKAGGS,
NANCY PELOSI,

From the Committee on National Security, for consideration of defense tactical intelligence and related agencies:

BOB STUMP,
FLOYD SPENCE,
Managers on the Part of the House.

ARLEN SPECTER,
DICK LUGAR,
RICHARD SHELBY,
MIKE DEWINE,
JON KYL,
J.M. INHOFE,
KAY BAILEY HUTCHISON,
BILL COHEN,
HANK BROWN,
BOB KERREY,
JOHN GLENN,
RICHARD H. BRYAN,
BOB GRAHAM,
JOHN F. KERRY,
MAX BAUCUS,
J. BENNETT JOHNSTON,
CHARLES S. ROBB,

From the Committee on Armed Services:

STROM THURMOND,
SAM NUNN,
Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 3539, FEDERAL AVIATION AUTHORIZATION ACT OF 1996

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3539), to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee? The Chair hears none and, without objection, appoints the following conferees:

From the Committee on Transportation and Infrastructure, for consideration of the House bill (except section 501) and the Senate amendment (except section 1001), and modifications committed to conference: Messrs. SHUSTER, CLINGER, DUNCAN, OBERSTAR, and LIPINSKI.

From the Committee on Transportation and Infrastructure, for consideration of section 501 of the House bill and section 1001 of the Senate amendment, and modifications committed to conference: Messrs. SHUSTER, CLINGER, and OBERSTAR.

As additional conferees from the Committee on Rules, for consideration of section 675 of the Senate bill, and modifications committed to conference: Messrs. DREIER, LINDER, and BEILENSON.

As additional conferees from the Committee on Science, for consideration of sections 601–05 of the House bill, and section 103 of the Senate amendment, and modifications committed to conference: Mr. WALKER, Mrs. MORELLA, and Mr. BROWN of California.

As additional conferees from the Committee on Science, for consideration of section 501 of the Senate amendment and modifications committed to conference: Messrs. WALKER, SENSENBRENNER, and BROWN of California.

The SPEAKER pro tempore. The Chair will name members from the Committee on Ways and Means at a later date.

There was no objection.

CONFERENCE REPORT ON H.R. 3666, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

Mr. LEWIS of California. Mr. Speaker, pursuant to the order of the House of earlier today, I call up the conference report on the bill (H.R. 3666), making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Friday, September 20, 1996, at page 24117.)

The SPEAKER pro tempore. The gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. LEWIS].

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 3666 and that I may include tables, charts and other extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the very beginning of this discussion on this very important bill, I want my colleagues to know just how strongly I feel about the need to change the tons of the debate that often takes place on this floor.

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Often it is shrill. Often it is dominated by extremes. All too often it is partisan for the sake of being partisan.

It is my view that we should work hard to change that fact. Public policy is best developed in an atmosphere of bipartisanship. Working together, we do a much better job for the public and the people that we were elected to represent. Mr. Speaker, the bill that we are about to consider is a reflection of perhaps the best of that kind of effort to change our working environment.

With that, Mr. Speaker, my ranking member, the gentleman from Ohio [Mr. STOKES], and I are pleased to present the 1997 VA-HUD and Independent Agencies Conference Report. This report treats all accounts fairly within the allocation provided to the subcommittee. This is a bipartisan bill which I have every expectation will be signed by the President.

The fiscal year 1997 VA-HUD bill reaffirms our continued commitment to serving veterans, to protecting the environment, providing housing for the poorest of the poor and ensuring America's future leadership in space.

In spite of the difficult challenges in putting this conference report together, this final product represents a balance of tough choices and common interests. Most importantly, it keeps the appropriations process on track for meeting the vital objective clearly stated by the Congress and the administration of balancing the budget by the year 2002.

A majority of programs have been funded at either the President's request or the enacted levels for fiscal year 1996. We have succeeded in holding the line on spending by reducing the rate of growth in several spending programs. This bill is a demonstration that deficit reduction can be achieved while keeping an ever watchful eye on every taxpayer dollar the Government spends. In fact, this legislation is $3.2 billion below the President's request.

When this conference report becomes law, the Subcommittee on VA, HUD and Independent Agencies will have cut nearly $20 billion in discretionary spending over the last 2 years. At the same time we have dramatically reduced the rate of growth of Government. Our work clearly demonstrates that Congress can move toward a balanced budget while at the same time delivering funding for people programs that have performed well.

This bill has drawn a good deal of attention due to the fact that three health care riders were added to the bill in the Senate. While this is, in my judgment, not the proper vehicle to reform our health care and insurance delivery systems, the House voted overwhelmingly to instruct the conferees to retain the Senate provisions. House and Senate leadership agreed that these legislative riders should be included in the final version of the VA conference report and thereby we have responded.

These provisions relate to mental health parity, to 48-hour hospital stays for mothers and newborns, and veterans benefits to children suffering from spina bifida as a result of their parents military service. Because these issues are really outside the jurisdiction of the committee and certainly beyond the expertise of either the committee or our staff, the mental health parity provision is not effective until January 1, 1998. The spina bifida provision is not effective until October 1, 1997.

This bill will allow our authorizing committees time to more clearly evaluate these proposals before they became effective. Furthermore, the mental parity provisions contain small business exemptions as well as the Gramm amendment from the Senate side which voids the measure if group insurance policies increase by over more than 1 percent.

Let me take just a minute to list some of the bill's funding highlights. Within the Department of Veterans Affairs, we have provided a total agency budget of $39.158 billion. We have increased the medical care account by $5 million over the President's request to a total of $17 billion plus, 449 million over the 1996 level.

We have increased the medical and prosthetic research account by $5 million over the President's request to a total of $262 million. We have funded a replacement hospital at Travis Air Force base at $32.1 million. Within the Corporation for National Communities and Community Service, or what is known as AmeriCorps, we have frozen the spending level at the FY 1996 level of $400,500,000.

This appropriation is obviously a must to get our bill signed by the President. Although I carried an amendment last year to zero out this agency, our leadership has acknowledged that it must be funded to avoid a Presidential veto.

Within the Department of Housing and Urban Development, we provided a total agency budget of $19,450,000,000. Our bill increases housing for the elderly, section 202 funding, by some $50 million over the President's request to a total of $645 million. The bill increases housing for people with disabilities by $20 million over the President's request to a total of $194 million. It fully funds community development block grants at $4.6 billion.

We have increased HOPWA funding by $25 million. Within the Environmental Protection Agency, we have provided a total agency budget of $6.712 billion. This represents an increase of $70 million over last year. The bill contains no environmental riders; that is, no riders, period.

We have funded the Superfund program at the budget request of $1.394 billion. Clean water grants are fully funded at $625 million. The Safe Drinking Water State Resolving Fund, SRF, is fully funded at $1.275 billion.

Within the National Aeronautics and Space Agency, we have provided a total agency budget of $13.704 billion. We have fully funded the International Space Station at a long agreed upon figure of $2.1 billion. The Human Space Flight Account has been funded at $5.362 billion. The Science Aeronautics and Technology Account has been funded at $5.763 billion. We have also provided the National Science Foundation with a total agency budget of $3.270 billion.

The Federal Emergency Management Agency has been funded at $1,788,000,000. The Disaster Relief Account has been funded at $1.320 billion.

In closing, Mr. Speaker, let me first speak one more time to the atmosphere in which we developed this bill. I want to personally and publicly thank my ranking member and my very good friend, the gentleman from Ohio, Mr. LOU STOKES, for the working atmosphere and spirit that we have shared together, both the environment in which we have worked but also beyond the partnership itself. Our personal friendship is a very, very big part of the joy that I share with my family and staff in working with this committee and in this body. LOUIS STOKES, to say the least, is a legislator, in my judgment, to behold.

While working very closely together in the entire Committee on Appropriations, I believe the work of this subcommittee is a reflection of what we ought to be about in the entire committee in every one of our conference reports, and hopefully one day that will be the environment in which the entire House operates.

I would also like to take a moment and commend our very capable staff. Del Davis, who has worked very closely with Mr. STOKES, was greatly assisted earlier in the year by Leslie Atkinson, who has decided to leave us at least for now, but who contributed a great deal to our efforts, along with our very, very professional staff headed by Frank Cushing, Paul Thomson, Tim Peterson, Valerie Baldwin, Doug Disrud, Alex Heslop, Dave LesStrang and Jeff Shockey, for their hard work and long hours in putting together this diverse and very complex package. Working together, this has been indeed a bipartisan team spirit at the staff level as well.

Finally, I would like to bid farewell to two of our colleagues who will be leaving the House after this Congress and, therefore, will be leaving also the Subcommittee on VA, HUD and Independent Agencies. The gentlewoman from Nevada, Mrs. BARBARA VUCANOVICH, is a personal friend and dear colleague, a great member of our subcommittee. We will miss here greatly. The gentleman from Texas, Mr. JIM CHAPMAN, who will not be coming back, has been a great member of our committee and has made a great contribution to this effort.

I wish to thank them both for their extreme efforts to work closely with our subcommittee and participate in its many hours of markup. They have been a great addition to our work, and we will miss them in the years ahead.

Mr. Speaker, I reserve the balance of my time.

Mr. STOKES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this conference agreement. At the beginning I want to commend my friend, the gentleman from California, Mr. JERRY LEWIS, the chairman of the subcommittee, for his leadership on this measure. In marked contrast with the confrontational manner in which this bill was considered for fiscal year 1996, this year's experience has more closely reflected the mutual respect and the comity that has been the hallmark of this subcommittee's operations.

I am pleased and I am gratified that we have been able to set aside the divisive riders and the policies that caused so much trouble last year and have worked together to produce a bill that deserves the support of this body. It has indeed been a real pleasure to work, as Mr. LEWIS has already said, together in a bipartisan manner to produce a bill that both of us are extremely proud to present to this body.

I also, Mr. Speaker, want to take a moment and express my personal appreciation and that of the appreciation of the staff on this side for the excellent working relationship and cooperation we have had from the staff that works for Mr. LEWIS. Frank Cushing, Paul Thomson, Tim Peterson, Valerie Baldwin, Jeff Shockey, Dave LesStrang, Alex Heslop, and Doug Disrud, all of them have been cooperative, worked closely with me and with my staff in order to produce this bill and we are very appreciative of it.

I also want to take a moment and express my appreciation to Del Davis, a very able and capable staffer on this side, whose work has been very important to me in producing this bill; also Leslie Atkinson, who was mentioned by the chairman, who although she is no longer with our staff, a great deal of work went into this bill while she was still here on our staff and we are appreciative of her work.

Mr. Speaker, although we have not seen a formal statement of administration policy on this conference agreement, it is my understanding that the administration has no serious objections to the bill and expects to sign it. I might also add that it is important that we act quickly to send this bill to the President. The bill contains $100 million in supplemental 1996 funding for compensation and pension payments for veterans. If this bill is not cleared for the President very soon, the checks distributed later this week will not contain the full amount to which veterans are entitled.

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We cannot allow that to happen.

The chairman has done an extremely able job describing the major features of this conference agreement. I will just highlight some of the aspects of the bill that I feel are extremely important and make this legislation worthy of the Members' support.

First of all, the conference agreement includes the three health provisions added by the Senate that were the subject of my motion to instruct the conferees that was adopted by a vote of 392 to 17. Some technical changes were made, and the dates of implementation were extended, to allow the authorization committees to review the situation next year. They will be able to make changes or advance the effective dates. However, if they do nothing, the provisions will then take effect without further action by the Congress.

The result will be that offspring with spina bifida of Vietnam veterans exposed to Agent Orange will be eligible for treatment and benefits. The result will be that newborns and their mothers will be allowed to stay in hospitals for 48 hours after delivery. The result will be that mental health will be treated in the same manner as physical health in health insurance plans.

The bill also includes provisions targeted to help some of the most needy among us. I am referring to the $2.9 billion for public housing operating subsidies, $2.5 billion for public housing modernization, the $550 million for severely distressed public housing, HOPE VII, the $290 million for drug elimination grants, the $645 million for section 202 elderly housing, the $194 million for section 811 disabled housing, the $823 million for homeless assistance grants, and the $171 million for the housing opportunities for persons with AIDS program, among others.

In conjunction with the HOPWA Program, the conference agreement provides that, to the extent available, the department may use an additional $25 million in recaptured section 8 funds for HOPWA.

The bill extends for public housing authorities the provisions enacted in the 1996 act which allows them the flexibility to manage with reduced resources. In addition, provisions have been included in the preservation program and the section 8 contract renewal demonstration program intended to provide assistance to those residents who may be displaced due to funding constraints and program restructuring.

The conferees have agreed to the Senate's funding level for the Corporation for National and Community Service. That means that AmeriCorps will receive $400.5 million in 1997, the same amount as provided in 1996. Without funding for this program of the highest priority with the President, it is doubtful the bill would be signed into law.

For the Environmental Protection Agency, the conferees recommended more than $6.7 billion, which represents an increase of $144 million above the House passed amount and $184 million above 1996. There are no anti-environmental riders in this legislation.

Other features of the agreement are detailed in the report and the accompanying statement of the managers.

Also, I would be pleased to respond to any questions that Members may have about the conference agreement.

Overall, given the constraints within which the conferees had to operate, a solid and supportable product has been crafted.

As the gentleman from California [Mr. LEWIS] said, we worked in a bipartisan spirit and we have a bill that we are extremely proud of.

Let me also, in reserving the balance of my time, take just a moment to join with the gentleman from California, Mr. LEWIS, in extending our appreciation for the opportunity to work with the gentlewoman from Nevada, Mrs. BARBARA VUCANOVICH, and also the gentleman from Texas, Mr. JIM CHAPMAN. Both have been extremely valuable members of this subcommittee. It has been a pleasure and honor to work with them, and we certainly wish both of them the best when they leave the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are some technical items that I need to get out of the way before we proceed with other witnesses so I will do this at this point in time.

Mr. Speaker, for the benefit of all Members and those that may read and rely upon our Joint Explanatory Statement of the Managers, we have found a few small errors in that statement which should be noted as part of the legislative history of this legislation.

In amendment number 9 under Construction, Major Projects, within title I of the Veterans Affairs, the statement of the managers noted the reductions of $15,100,000 for renovation activities at Perry Point Maryland Virginia Medical Center, and $15,500,000 for renovation activities at Mountain Home Tennessee VA Medical Center. These 2 items were printing errors and should be additions to the budget request, not reductions.

In amendment No. 57 under science and technology within title III, Environmental Protection Agency, the amount over the budget request for the Mickey Leland National Urban Air Toxic Research Center was incorrectly listed at $2,150,000. The correct amount is $1,150,000.

Finally in amendment No. 70 under State and tribal assistance grants within title III of the Environmental Protection Agency, $1,150,000 was provided for wastewater improvement needs in 3 Pennsylvania counties. One of three counties, Huntingdon, was spelled incorrectly in the statement of managers.

I would also note with respect to this specific matter that it was the intent of the conferees that $400,000 in the wastewater needs of Metal Township Municipality Authority in Franklin County, $400,000 is for wastewater needs of Mount Union in Huntingdon County, $186,000 for wastewater needs of Huston Township, Clearfield County, and $164,000 is for wastewater needs of Osceola Mills, also Clearfield County.

With those corrections, Mr. Speaker, I would add further I have been asked to make a brief clarifying statement with regard to the newborns language contained in title 5 of the conference report. This clarification came at the request of the Office of Management and Budget, and it is my understanding it has been cleared by all sides of this question. The House conferees intend that the Newborns and Mothers Health Protection Act of 1996, title 6 of the bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development and independent agencies for fiscal year 1997 include the minimum 48 hour and 96 hour stay protections for mothers who are eligible beneficiaries under Medicaid in connection with Medicaid prepaid contracts.

Mr. Speaker, I reserve the balance of my time.

Mr. STOKES. Mr. Speaker, I yield 3½ minutes to the distinguished gentlewoman from New York [Mrs. LOWEY], a very able and valuable member of the full Committee on Appropriations.

Mrs. LOWEY. Mr. Speaker, before I enter into a colloquy with the distinguished gentleman from California [Mr. LEWIS], I, too, as a member of the committee, want to thank the chairman, Mr. LEWIS, and the distinguished ranking minority leader for their outstanding work on this bill, and I am very pleased to support it.

Recently this Congress passed, and President Clinton signed into law, legislation which I championed in the House designed to address the potential threat to human health posed by chemicals and pesticides that mimic human hormones. There is considerable concern in the scientific community that chemicals that mimic human hormones may be disrupting the human endocrine system and in this way may be linked to breast cancer in a wide range of reproductive problems. Therefore under the Food Quality Protection Act of 1996 and the Safe Drinking Water Act amendments of 1996, Congress has ordered EPA to develop a screening program to determine if certain pesticides and chemicals have an effect on humans similar to an effect produced by estrogen or other endocrine disrupter effects.

Under this legislation EPA has 2 years to develop the testing protocol and 3 years to begin testing. In selecting the testing protocol, EPA is required to develop a validated approach and to secure the outside review of the test program from one of two science advisory boards. The entire provision is intended to screen substances for potential further review, an action pursuant to EPA's existing programs.

Much to the disappointment of many Members, nothing in the provision gives EPA any new regulatory authority. As a modestly sound first step, the estrongenic substances testing provisions were widely supported by Members from both sides of the aisle and were heralded by leaders of both parties as a responsible response to a serious women's health and environmental issue.

Because of the strong bipartisan support for the estrogenic substance screening program, I was quite shocked to see in the joint explanatory statement the conferees' language which could be construed to put roadblocks in the way of EPA developing the necessary testing protocols. Specifically, the statement calls for EPA to enter into an agreement with the National Academy of Sciences to conduct a massive study on the entire issue of endocrine disrupters, looking at human health effects, comparative risk issues and a myriad of other issues.

While all of these issues may be relevant to EPA finalizing regulatory action on endocrine disrupters, they are not relevant to the more modest goal of developing a screening test for pesticides and chemicals. Yet the conferees' statement seems to state that EPA cannot develop and implement screening tests unless and until the study is completed.

So I would like to ask the gentleman from California [Mr. LEWIS] a question regarding this language in the conference report. Is it fair to say that, while conferees did intend for EPA to ensure that a comprehensive study of the endocrine disruption issue is completed by the NAS, it did not intend to freeze the EPA's ability to develop and implement a screening test as mandated by the Food Quality Protection Act and the Safe Drinking Water Act?

Mr. LEWIS of California. Mr. Speaker, will the gentlewoman yield?

Ms. LOWEY. I yield to the gentleman from California.

Mr. LEWIS of California. Responding to my colleague, and I very much appreciate the gentlewoman yielding, we intended with this language that EPA develop a sound scientific basis for all actions that it takes in this area. However, nothing in the managers' statement can or should be construed as changing EPA's obligation to develop a screening test program in a timely manner.

Mrs. LOWEY. Mr. Speaker, reclaiming my time, I thank the gentleman for his views and trust that the EPA will implement the statements in the conference report in a manner consistent with the views we have expressed tonight.

Mr. LEWIS of California. Let me say to the gentlewoman I very much appreciate her raising the question. It is an important question, and we are happy to work with the gentlewoman from New York.

Mr. Speaker, I yield 2½ minutes to the gentleman from New Jersey [Mr. FRELINGHUYSEN], a member of the subcommittee.

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in support of the conference agreement.

Mr. Speaker, let me first thank the gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] and the staff for their leadership and guidance.

Specifically, the bill provides funding for two very important programs that I am very pleased to support and that I have actively worked on throughout the year: the Superfund program and the program for housing for people with disabilities.

This conference report dedicates $1.3 billion to the Superfund program. All of us know how important this program is, and for the second time in the 104th Congress this committee has earmarked over $900 million, the most money ever for remediation activities. This money will go a long way toward cleaning up many serious toxic waste problems.

Coming from a State, New Jersey, that has the most Superfund sites of any State in the Nation, I am very pleased that Congress has attempted to put money towards cleanup and less money toward litigation. I am hopeful next year, Mr. Speaker, we can put our differences aside and reauthorize the Superfund program.

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Finally, I would like to comment on the increases for both the disabled and senior housing programs. Realizing the importance of both of these programs, this agreement increases the funding above the President's request by $20 million for the disabled housing and $50 million for senior housing.

In addition to these increases, the conference report recognizes the importance of providing housing for people with disabilities. The committee has, for the first time, earmarked $50 million for tenant-based rental assistance, to ensure that there is decent, safe, and affordable housing in the community for low-income people with disabilities.

I specifically thank the gentleman from Ohio [Mr. LEWIS] for his leadership and help on these earmarks.

Access to housing, Mr. Speaker, in the community, is a cornerstone to independence, integration, and productivity for people with disabilities, the three hallmarks of the philosophy of the disability community. This bill strongly supports these principles, and I believe these extra dollars will empower the community in their goals of living with dignity and independence.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. EVANS], a member of the Committee on Veterans' Affairs.

Mr. EVANS. Mr. Speaker, I appreciate the gentleman yielding time to me.

Mr. Speaker, there are a lot of good things in this bill. One of the most important things is the fact that we compensate and provide health care benefits for children of Agent Orange-exposed Vietnam veterans.

I believe that these children are as much veterans of the war as any other person that served or who was wounded during time of war. Through no choice of their own, they lost their health in service to our country. Because of this, they face a lifetime of extensive medical care. The provision in this conference bill fulfills the duty we owe to them and any other citizen that has sacrificed their health in defense of our Nation. We urge our colleagues to support the conference report.

Mr. Speaker, the VA–HUD bill is one of the most important bills we consider in ensuring our Nation's commitment to our veterans. This year, it takes on even greater significance, since for the first time it provides compensation and health care to the children of agent orange-exposed Vietnam veterans who suffer from spina bifida.

Earlier this year, the National Academy of Science's Institute of Medicine found that there is limited/suggestive evidence of an association between agent orange exposure to vets and the occurrence of Spina Bifida in their children. The report confirmed what Vietnam vets knew all along—that agent orange has and will continue to exact a high price on themselves and their families.

I believe these children deserve the same treatment as if they had been wounded or served during time of war. Through no choice of their own, they lost their health in the service of our Nation. Because of this, they face a lifetime of extensive medical care. The provision in the conference report fulfills a duty we have to them and any other citizen who has sacrificed in the defense of our nation.

There are many to thank for their hard work on this matter: Senator DASCHLE for his leadership on this and so many other issues concerning the tragedy of agent orange; The administration, especially VA Secretary Jesse Brown for proposing and closely coordinating the legislation; the Vietnam Veterans of America, the American Legion and the Veterans of Foreign War for their strong advocacy; and the disabilities community, such as the Spina Bifida Association of America, the National Association of Veteran Family Service Organizations and the American Association of University Affiliated Programs for Persons with Developmental Disabilities for their grassroots efforts. In particular, I would like to thank the ranking minority member, Mr. STOKES for his hard work and diligence. Without his perseverance, we may have never achieved success.

I urge my colleagues to support the conference report.

Mr. LEWIS of California. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. RIGGS] for purposes of a colloquy.

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, first I want to thank the chairman of the subcommittee and the ranking member, the gentleman from Ohio [Mr. STOKES] for their hard work in the conference report, and the wonderful things they have done in the context of this conference report for northern California veterans; specifically, the 440,000 veterans from all branches of the service who live in northern California, and who have been relying on the bipartisan promises made by the last two presidential administrations, the Bush administration and now the Clinton administration, that we will build a Veterans' Administration Medical Center at Travis Air Force Base in Fairfield, in Solano County, in my congressional district, to replace the one, that is the operative word, replace the one, closed in Martinez, CA, in the aftermath of the 1989 earthquake.

So it is my understanding, Mr. Speaker, that the gentleman has been able to, in the context of this conference report, preserve the funding that was included in the House version of this appropriations bill, and I believe that is $32.1 million. That is in addition to the $25 million approved in last year's bill, which is at least preliminarily earmarked for an outpatient clinic.

It is my understanding, I would say to the chairman of the subcommittee, that this $57.1 million could in fact go towards the construction of the replacement of the hospital at Travis Air Force Base. I ask the gentleman to confirm my understanding, and also the accompanying report language included in the report.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, let me first congratulate the gentleman from California [Mr. RIGGS]. I cannot think of a Member of the House who has been more diligent than he regarding this very important matter to his district for replacement of that VA hospital that was destroyed by an earthquake many years ago.

The gentleman is correct, we did appropriate $25 million in last year's bill that at least initially was designed for a clinic approach. This bill does provide $32.1 million in replacement monies for the hospital that was destroyed.

Indeed, we have asked that the appropriate committees review all of that to help us figure out how we best deliver services to people of the gentleman's vast region. The hospital replacement is the highest priority. Presuming it is logical, those funds could be merged, and certainly construction can go forward as soon as they respond.

Mr. RIGGS. Mr. Speaker, I would like to clarify that the report language directs the VA to make a report to Congress prior to the release of any construction funds, either from the 1996 or this next fiscal year, the 1997 bill, and that, as the gentleman just put it, the VA is directed to study the various service delivery options in the northern California catchment area.

But it is my understanding that the VA has long been on record as strongly supporting a replacement hospital as the most efficient and effective method of providing long-term acute care to northern California veterans.

So it is my expectation, Mr. Speaker, I would say to the gentleman, the VA would report to Congress in a timely manner to facilitate quick release of funds for replacement of hospital construction. The veterans of northern California, and I include myself in this group, because I am a proud military veteran, have waited 6 years for this day.

I believe, Mr. Speaker, it would be an affront to the men and women who have served their country beautifully to further delay the replacement of the hospital.

Mr. LEWIS of California. Let me say that the Veterans' Administration has given high priority to the replacement of the hospital, largely at the gentleman's urging. There is little question they will respond expeditiously and will go forward on it.

Mr. STOKES. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I would like to congratulate the gentleman from California [Mr. LEWIS], Republican chairman, and the ranking member, the gentleman from Ohio [Mr. STOKES], because they have participated in a very historic piece of legislation; historic because this is the first time, to my knowledge, in the Congress of the United States that there has been recognition of equality for mental illness as well as various physical illnesses; because, by the passage of this legislation, there will be protection for the first time, providing equality for lifetime and annual limits on health insurance policies.

That means if there is a lifetime cap of $1 million for various diseases, physical problems, they would be called, there cannot be a lower cap for mental-related disorders.

Twenty percent of Americans are affected sometime every year by mental disorders or addictive disorders. Only 20 percent of the 20 percent receive treatment. This is going to begin to open the doors for large numbers of people, including, hopefully, even more than the 42,000 West Virginians presently receiving some sort of mental disorder-related treatment.

Mr. Speaker, it is good also because this shows what Republicans and Democrats can do when they work together in health care.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from Texas [Mr. LAUGHLIN] for purposes of a colloquy.

Mr. LAUGHLIN. Mr. Speaker, I thank the distinguished chairman, my good friend, the gentleman from California, Mr. LEWIS, for entering into this colloquy.

Mr. Speaker, I would say to the gentleman, I wrote him on June 6 to urge him to include funding in the VA, HUD, and Independent Agencies appropriation bill for the Institute of Environmental and Industrial Sciences in San Marcos, Texas. This impressive institute is at the forefront of some of the most sophisticated basic and applied research that will help the petrochemical and other heavy industries comply with our complex environmental laws, regulations, and standards.

The Senate Appropriations Committee included language in its committee report which recognized this important institute and urged the EPA to consider funding the petrochemical industry environmental technology project that would be initiated by the institute in fiscal year 1997.

The conference agreement did not add any additional language regarding the institute, but it did include language supporting the project and other projects that were in one or the other committee reports. I would ask the chairman of the subcommittee, is that correct?

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. LAUGHLIN. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, the gentleman is correct. We worked very closely with the gentleman and the Senate in developing the language.

The language at the beginning of the statement of the managers makes it very clear that any program or language or allocation contained in one or the other report and which is not overturned in the conference is deemed to be approved by the conference committee. The conference committee supports the gentleman's project. The conferees also fully expect the Environmental Protection Agency to comply with the language and give it high priority for funding.

Mr. LAUGHLIN. Mr. Speaker, I thank my friend, the gentleman from California, for that assurance. Can he give me his personal commitment to work with me to stay in close contact with the EPA, to make sure that the agency makes every possible effort to identify the funding required to support the institute's efforts in fiscal year 1997? I am informed that due to budget constraints, the fiscal year 1997 requirement for the institute has been cut to $2,300,000.

Mr. LEWIS of California. Mr. Speaker, I can assure the gentleman from Texas that I will work with him to encourage the agency's cooperation in finding the resources to fund the important initiative next year.

Mr. LAUGHLIN. Mr. Speaker, I thank the distinguished chairman for his assurances, for his support, and for his friendship for many years.

Mr. LEWIS of California. Mr. Speaker, I am happy to work with my friend, the gentleman from Texas.

Mr. STOKES. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I have the highest respect for the gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] managing this bill, but I have concerns about the process that has taken place over the course of this bill leaving this Chamber and going to the other, and coming back with $690 million that we did not approve, including $15 million that this House voted overwhelmingly, by 60 votes, to save for the taxpayer on studying monkeys, Russian monkeys in space.

We just had Shannon Lucid come back down from space after 180 days. Now we want to spend $15 million studying the effects of gravitation on monkeys. Mr. Speaker, I have a big problem with that. I am sorry that got stuck back into this bill.

I am also worried about shuttle safety, Mr. Speaker. When we recovered one of the rockets that helped the shuttle get up on this last venture, we found a wrench in the rocket booster. I hope that we will continue to work in a bipartisan way to ensure that we have shuttle safety in the future and not have all this money go toward the Space Station with mixed-up priorities.

With that, Mr. Speaker, again, I commend the bipartisanship the gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] tried to put together in this bill.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank the distinguished gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of this conference report. Approximately 5,000 veterans per month enter the State of Florida. The veterans population continues to increase in a number of States like mine, and many of these States have seasonal increases in the number of veterans seeking care. This causes long waiting periods and puts a strain on the facility and also on the personnel.

Why should residents that live in these regions be subject to such delays before receiving treatment? As I understand it, the addition of the McCain amendment will ensure that all veterans will have similar access to health care, regardless of the region of the United States in which such veterans reside.

This amendment, like my bill, H.R. 549, requires the Secretary of the Department of Veterans' Affairs to develop a plan for allocation of health resources so these overburdened facilities are no longer being asked to provide more veterans with health care without providing the necessary funding. This goes along the lines of the bill that I have proposed, the Veterans Bill of Rights, which I have proposed since the 101st Congress.

As a veteran myself, I am glad we have finally put the McCain amendment into this conference report, and I particularly think it will benefit my home State, which has not been funded in terms of benefits for its exploding veterans population over the years. Veterans and their families have paid a price. Now it is our duty to keep faith with these heroes. So I commend both the minority chairman and the majority chairman and subcommittee chairman for putting this in place in this bill.

Mr. STOKES. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GONZALEZ], the ranking member of the Committee on Banking and Financial Services.

Mr. GONZALEZ. Mr. Speaker, I rise in support of the conference report.

Mr. STOKES. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Maryland, [Mr. HOYER], a member of the Committee on Appropriations.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of this legislation, and I am very, very pleased that the Goddard Space Flight Center Mission to Planet Earth has essentially been made whole. I know that resulted from the work of all the members of the subcommittee, and I appreciate that effort. I know that my colleague in the Senate, Senator MIKULSKI, has been a strong ally of ours.

I happen to represent Goddard Space Flight Center and the Mission to Planet Earth effort that they carry on there. It is a critically important scientific endeavor for this Nation and, indeed, for this globe.

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It will end up saving this country great sums of money, give much better information as to whether and the development of storm centers, give people much better warning and will give agriculture and business much better warning.

Mr. Speaker, I rise in strong support of this legislation and appreciation to both the gentleman from Ohio and the gentleman from California for their support of this particular piece of this important bill.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HOBSON], a member of the committee.

Mr. HOBSON. Mr. Speaker, I congratulate the chairman and ranking member, and I urge support of the bill.

Mr. Speaker, I rise today in strong support of the conference report on the 1997 appropriations bill for the VA, HUD, and independent agencies. I would first like to commend my chairman, JERRY LEWIS, and his excellent staff for their hard and tireless work on this legislation. I believe that we have produced an excellent bill which will provide for our veterans, help to meet our Nation's housing needs, protect the environment, and maintain our investment in space and science.

Specifically, the conference report appropriates $84.8 billion in new budget authority which is an increase of $2.4 billion over 1996 levels. More than half of the total spending under the bill supports military veterans by providing health, housing, education, and compensatory benefits. We increased funding for the Department of Housing and Urban Development by $323 million and for the Environmental Protection Agency by $184 million over 1996 levels.

Also, I am pleased that of $1.3 billion appropriated for the Federal Emergency Management Agency, funds will be available to provide disaster relief for those areas hardest hit by Hurricane Fran. The conference report also provides $13.7 billion for NASA and $3.3 billion for the National Science Foundation.

The conference report also includes priorities which are important for citizens of the State of Ohio. For example, in Chillicothe, OH, the VA Medical Center has been trying to expand their ambulatory care facility for several years. In fact, the Veterans Integrated Service Network ranked the Chillicothe project as the highest priority in the network last year and the design work on the project was recently completed. However, because of a shortage of funds within the network, no dollars were available for Chillicothe last year. I am pleased that this conference report recommends $2.9 million in minor construction funding for Chillicothe's ambulatory care facility.

The conference report also provides $206 million for FEMA's emergency management and planning assistance, which will fund priority emergency management programs in the States. In my home State, officials from the Ohio Emergency Management Agency have told me how important this funding is to supporting local response and recovery programs, preparedness training and exercises, and mitigation programs. I am glad this conference report supports these critical programs for the states.

I am also pleased that the conference report directs FEMA to look into a new emergency response system developed in my congressional district by MTL in Beavercreek, OH. There is a critical need to replace and upgrade emergency response vehicles and equipment, and the conference report specifically requires FEMA to come up with a priority list for upgrading its emergency equipment by the end of the year, including the MIDAS system built in my district.

To help address the shortage of affordable housing for persons with disabilities in Ohio and across the country, the conference report includes a $50 million set aside for section 8 tenant-based assistance for persons with disabilities. This appropriation is in line with the authorization provided in the Housing Opportunity Program Extension Act of 1995 and will provide much needed relief to persons with disabilities.

Additionally, the conference report includes language encouraging more cooperative efforts between NASA and other Federal agencies such as the Department of Defense. I believe such cooperative programs will result in budget savings and the elimination of duplicative programs. For example, in Ohio, NASA Lewis and Wright-Patterson Air Force base have entered into several cooperative aeronautics research agreements which allow knowledge and expertise to be shared between the two organizations.

Finally, I want to raise an issue that was not included in the conference report but is of importance of Ohio and hopefully will receive further consideration next year. The Wallace-Kettering Neuroscience Institute at Kettering Medical Center is a high technology neuroscience center which offers innovative programs dealing with brain diseases and injuries. The institute would like to expand its facilities to better serve patients in Ohio and the region. I look forward to discussing Kettering's neuroscience expansion with my colleagues.

In closing, I would like to again commend Chairman LEWIS, his staff, my colleagues on the subcommittee and our Senate counterparts. We have produced a good bill and have received every indication that it will be signed by the President.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, let me rise to heap praise on both JERRY LEWIS and LOU STOKES for the great job they, their committee and their staffs do on this vital piece of legislation and to submit for the RECORD a letter from Jess Brown asking us, as Secretary of the Veterans Affairs, to process this legislation and get it to the President so that they can implement much of the legislation by October 1.

Let me also thank you for $13 million for a new veterans cemetery in my home State of New York, in Saratoga. But most of all let me thank you for the Solomon-Bradley language included in the VA appropriation bill which requires insurers to permit a minimum hospital stay of 48 hours. Shorter stays will be permitted as long as the health provider in consultation with the mother decide that it is best. I am pleased to say it leaves these important decisions in the hands of the doctors.

Ladies and gentlemen, I just have to point out a serious problem when this legislation was adopted. It was really driven home to me when I heard from a gentleman from northern New York in my district. His 19-year-old daughter is a victim of the terrible practice of drive-through deliveries. She delivered a baby on April 6 and was released from the hospital less than 24 hours later. Several days later her right lung exploded and she had 3 strokes. Tragically she is still in the hospital and will never again have a normal life, but more tragic than that, she will never be able to take care of that new, young, infant child of hers. I am just so happy that JERRY LEWIS, LOU STOKES, and the rest saw fit to keep this language in the bill. It is vital, it is so important, and I thank you from the bottom of my heart.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in support of the VA-HUD appropriations bill for 1997. This bill provides increased funding to clean up the environment and insures health care coverage for mental health and for 48-hour hospital stays after a woman has given birth.

This is critical legislation. This speaks to the needs of working families today. These are the issues that people are truly concerned about in their lives. I went to the local hospitals, I talked to the nurses and the women who give birth, and how if they are there only 24 hours you cannot detect jaundice, you cannot detect other illnesses that they might come down with, or that a baby can. This means so much to women's health.

I want to commend Chairman LEWIS and the gentleman from Ohio, Mr. STOKES, the ranking member, for this opportunity.

I also am particularly gratified by the spirit of the legislation that I introduced in a prior Congress on mental health parity that has been incorporated into this bill, ending the practice of discrimination against those who suffer from mental illness and their families. This legislation makes a difference in people's lives. That is why we are here to serve.

Mr. LEWIS of California. Mr. Speaker, I reserve the balance of my time.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Speaker, I rise in support of this conference agreement, but in doing so I just want to take a moment to draw the body's attention to a growing problem within the Veterans Administration. Funding for Veterans Administration health care programs is not keeping pace with the need. The VA is faced with some very difficult problems. As a result, they have been triaging veterans in New York and New England and across the northern part of the country to send what little funds they have for veterans health care to the South.

New York veterans hospitals are suffering as a result of this. Budget cuts are forcing reductions in personnel and reductions in the quality of health care. New York State has 1.5 million veterans, the fourth largest veteran population in the country. We are going to have to address this issue in the future, and I hope to be able to work with the committee in developing a budget next year which will adequately address the health care needs of our veterans, particularly those in New York, New England and elsewhere across the northern part of the country.

Mr. STOKES. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 3666, the fiscal year 1997 VA-HUD Appropriations Conference Report. This bill funds vital programs and activities of the Department of Veterans' Affairs [VA], the Department of Housing and Urban Development [HUD], and independent agencies such as the National Aeronautics and Space Administration [NASA], Environmental Protection Agency [EPA], National Science Foundation [NSF], and Federal Emergency Management Agency [FEMA].

I am especially pleased that the conference agreement provides the full $2.1 billion requested for continued development of the International Space Station. While I would have preferred that NASA's overall budget be funded at the requested level of $13.8 billion, the bill's appropriation of $13.7 billion for NASA nevertheless represents an increase of $100 million over the House passed version. The Space Shuttle program is fully funded at $2.3 billion, as are U.S. cooperative activities with Russia at $138 million. Additionally, the conferees restored more than $220 million that the House cut in the Mission to Planet Earth program to study our environment.

This bill demonstrates Congress' continued strong support for the Space Station. This year, there was only one vote on the Space Station, and continued funding was approved by the overwhelmingly margin of 287 to 127. This follows votes of 299 to 126 and 287 to 132 last year. Clearly, there continues to be very strong, bipartisan support for the Space Station even as we make the very difficult decisions needed to balance the federal budget.

While I support the conference report, I am extremely disappointed that the Conference Committee decided to exclude my amendment prohibiting the EPA from implementing its rule allowing the importation of polychlorinated biphenyls [PCB's] for incineration. On June 26, 1996, I successfully offered an amendment on the floor of the House prohibiting the EPA from allowing the importation of PCB's for incineration in the United States. PCB's are a dangerous class of chemicals that can cause serious health problems, including cancer, reproductive damage, and birth defects. Earlier this year, the EPA issued a ruling allowing the importation of PCB's, reversing a ban in place since 1980. I strongly opposed this ruling because I believe importing PCB's is unnecessary and threatens our health and safety.

Although the Conference Committee did not accept my amendment in its Report, I will continue to work with the EPA to expand the Community Right-to-Know law and the Toxic Release Inventory to cover the importation of PCB's for incineration. My constituents and citizens around the United State that live with PCB incinerators in their neighborhoods have a right to know what kind and what levels of toxic emissions are in their air and water. If these efforts are not successful, I will ask the House and Senate to revisit this issue in the next Congress.

Mr. STOKES. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. I thank the gentleman from Ohio [Mr. STOKES] very much for his hard work in working with the chairman of the committee.

Mr. Speaker, I rise to support and note some of the important aspects of this legislation and to note in particular the overall increase of 3 percent in funding beyond the appropriated fiscal year 1996. I particularly want to note and say that I am pleased that the conference report funds the NASA space station. Although it appropriates $100 million less than requested for NASA overall, considering the current tumultuous budget and political climate, I consider this a victory for those who believe NASA, science and technology are important to our Nation and its future.

I would hope that we would move forward for additional research dollars and certainly continue support, particularly as we have noted the important work of Shannon Lucid, now returning to Earth with a world of history and information in her 6-month stay in space.

I am also gratified the conference report provides funding to AmeriCorps national service program at the current level. The conference report also provides significantly more funding for FEMA disaster relief, 18 percent more than the House bill; housing for persons with AIDS, 15 percent more than the House bill; and VA readjustment benefits, 12 percent more than the House bill.

We were also able to restore, or put in State safe drinking water revolving funds that were lost when Congress missed the August 1 deadline to enact the Safe Drinking Water Act and provide water improvement grants for United States/Mexico border wastewater projects.

I support the provisions of the conference report which would require that health insurance companies allow new mothers and their babies to spend a minimum stay of 48 hours in the hospital after delivery. This policy will insure that the mother and child receive the care that they need. I have supported this legislation over the past couple of months.

I also applaud the health provisions that require insurance companies to provide annual and lifetime limits on coverage for mental illness equal to those for physical illness.

If there is anything more that was raised by my constituents, it was the concern for balance.

May I also add that I support the provision for the spina bifida dollars that were provided for those children of parents who were exposed to Agent Orange.

Let me comment now in particular about the money spent for subsidized housing. This appropriations bill provides $1 billion for a new subsidized housing development account which provides for the elderly and also for those in disabled housing.

Let me also note that $550 million was installed for public housing. I also want to thank the gentleman from Ohio [Mr. STOKES] and the hard work of the committee that added that even though these moneys are for demolition, that we must also be concerned with the need for public housing for the homeless and those who need low-income housing, so that the HUD will be required to assess the homeless populations before these demolitions will be allowed and to be assured that we will provide housing for the homeless and housing for people who need it. I hope that we will support this legislation.

Mr. Speaker, I rise in support of H.R. 3666 the VA–HUD Appropriations Act of 1997's conference report. I would like to commend and thank the House and Senate conferees who worked hard to address the concerns expressed by me and other Members. The bill provides an overall increase of 3 percent in funding beyond the amount appropriated for fiscal year 1996.

Mr. Speaker, it would be an understatement for me to say that I am pleased that this conference report funds the National Aeronautics and Space Administration near the President's request. Although it appropriates $100 million less than requested for NASA overall, considering the current tumultuous budget and political environment, I consider this a victory for those who believe NASA, science and technology are important to our nation and its future.

This conference report provides funding to AmeriCorps national service program at the current level. The conference report also provides significantly more funding for FEMA disaster relief—18 percent more than the House bill—housing for persons with AIDS—15 percent more than the House bill—and VA readjustment benefits—12 percent more thank the House bill.

This measure also restores funding for State safe drinking water revolving funds that were lost when Congress missed the August 1st deadline to enact the Safe Drinking Water Act and provides water improvement grants for United States/Mexico border waste water projects.

I strongly support the provisions of the conference report which would require that health insurance companies allow new mothers and their babies to spend a minimum stay of 48 hours in the hospital after delivery. This policy will insure that mother and child receive the care that they may need.

I also applaud the health provisions that will require insurance companies to provide annual and lifetime limits on coverage for mental illnesses equal to those for physical illnesses. This conference also requires the VA to provide benefits to children with spina bifida whose parents were exposed to agent orange during the Vietnam War.

This conference report provides $19.5 billion in fiscal year 1997 for the Department of Housing and Urban Development [HUD] which is 2 percent less than the amount provided in the House bill.

The agreement provides a total of $196 million in FY 1997, which includes $25 million from certain recaptured Section 8 funds, for Housing Opportunities for Person with AIDS program. This is a 15 percent increase over fiscal year 1996 and the level requested by the President.

The conference report also provides $1 billion for a new Subsidized Housing Development acccount, which would provide $645 million for the Section 202 Elderly Housing program, and $194 million for the section 811 Disabled Housing program.

Like the House bill, the conference report appropriates $550 million for public housing authorities to demolish obsolete public housing projects and relocate tenants under the severely distressed public housing program which is 15 percent more than fiscal year 1996. However, it is important to realize that with the rush to demolition we must be cautious as to not eliminate sorely related housing for the poor.

Therefore, in connection with Public Housing, I am pleased that the conferees included report language that I proposed that encourages HUD and Public Housing Authorities to consider the shortages of affordable housing for low-income families, the size of the waiting list for pubic housing, as well as the size of the local homeless populations when assessing public housing demolition or dispossession applications.

It is my hope that this addition to the conference version of H.R. 3666 will help to balance to need for affordable housing for our nation's working poor with the reality of supply.

With the passage of this legislation this body should not consider its work done. We can still work to address areas of concern that improve the quality of life for all Americans.

I urge my colleagues to support this bill.

Mr. STOKES. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. GONZALEZ], the ranking member of the Committee on Banking and Financial Services.

Mr. GONZALEZ. Mr. Speaker, I rise in support for H.R. 3666, the conference report making appropriations for fiscal year 1997 for VA, HUD and independent agencies, although I continue to be deeply troubled by the severe budgetary limitations on domestic discretionary spending particularly for the most vulnerable and working families, funding for housing and community development programs in H.R. 3666 do not face any deeper cuts than they faced last year, nor does funding for the environment, veterans and NASA. And the extreme position of the House was overridden with respect to the AmeriCorps.

Thankfully, the circumstances surrounding consideration of this conference report today are vastly different from those last year. There are no noxious legislative riders. Instead, the conferees included authorizing provisions, both non-germane and germane, that I strongly support. The mental health parity provisions, the spina bifida provisions, and the 48 hour hospital stay for new mothers are important and humane health policy reforms.

The public housing and section 8 policy reform provisions are the very provisions that the authorizing committees are unable to bring to the House floor. We are hopelessly deadlocked on a very important public housing reform bill because the House majority refuses to compromise on many of its extreme provisions. This appropriations conference report includes the provisions on which we all agree.

I also want to commend the conferees for coming to an agreement on the very complicated issue of section 8 portfolio restructuring. After consulting widely with the majority and the minority on the authorizing committees and with the housing industry, the conferees have included a demonstration program that balances all the disparate interests of the tenants, owners, communities, and the Federal Government. I am confident that this demonstration program for 1997 will serve as the basis for a permanent program which will preserve as much affordable housing as possible, reduce the costs to the Federal Government, reasonably protect the financial investments of the owners, and protect the tenants from unnecessary displacement.

That having been said there remain two glaring deficiencies in this conference report. For the second year in a row there is absolutely no new money for incremental section 8 housing assistance even in the face of continued evidence that greater numbers of very low income families and the working poor are finding it ever more difficult to find affordable housing. The report also fails to provide sufficient funding for the preservation program and makes it more difficult for projects, particularly in high cost areas, to qualify for federal assistance for preservation.

On balance, however, this conference report is about as good as we can get under our severe and unnecessary budget constraints and I urge my colleagues to support H.R. 3666.

Mr. STOKES. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. FAZIO], a member of the full committee.

Mr. FAZIO of California. Mr. Speaker, I thank the gentleman from California [Mr. LEWIS], the chairman, and the gentleman from Ohio [Mr. STOKES], for the outstanding work they have done on this bill which I of course support.

I heard earlier a brief colloquy between my colleague Mr. RIGGS from California and Mr. LEWIS about the degree to which we were freeing up funds for the Travis Hospital in Fairfield, CA, the veterans facility. My reading of the report indicates to me that we have essentially moved 1 year and 3 months out into the future the decision date.

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Unless Congress is to take action in the interim, perhaps through a supplemental next year or through some other vehicle, maybe the authorizing committee would move, we in effect have put on hold the ultimate decision about going to construction, in hopes that some future resolution of this issue could be helpful to us in clarifying the intent of Congress and the administration.

I would like to ask my friend from California, is it his understanding that if no action is taken by any legislative body, by the Congress in general, that ultimately 1 year and 3 months from now the funding will be made available for this hospital, is that correct?

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, as I responded earlier to the gentleman from California [Mr. RIGGS] who has been so diligent in working on this matter, the VA holds this as a very high priority. I frankly expect to see them expedite the process. They will probably be asking to use all the money available, maybe as much as $50 million. We intend to be responsive.

Mr. FAZIO of California. Reclaiming my time, Mr. Speaker, if the VA says they are for this, the Congress would have to act to confirm that in some supplemental appropriations bill, would they not, in order to put the imprimatur if Congress on the decision?

Mr. LEWIS of California. The Veterans Administration has a lot of money in the pipeline regarding this whole process.

Mr. FAZIO of California. There is $57 million.

Mr. LEWIS of California. As the gentleman knows, we appropriated $25 million the previous Congress. There is authorization for that. They can do planning, use that for planning. I do not think they will be late at all. I would be very surprised if they would be delayed at all. On the other hand, I will be happy to work with the gentleman to make sure the VA is responsive.

Mr. FAZIO of California. My concern is not so much with the Department of Veterans Affairs as it is with the Congress. Do we have to take action within the next year and 3 months in order to bring about the immediate appropriation of that fund, and if we do not, at the end of that year and 3 months, would it automatically be spent out, in effect, if no action is taken by the Congress?

Mr. LEWIS of California. It is my judgment that they will be able to go forward with no action by the Congress within the next year, but I have every indication from the committee that they do intend to act. Frankly, I think we are on a fast track.

Mr. FAZIO of California. Does the gentleman mean the authorizing committees?

Mr. LEWIS of California. The authorizing committees. I have talked to the members in the House, and they seem to be enthusiastic about moving quickly and making the decisions.

Mr. FAZIO of California. The gentleman is hopeful they are positive and optimistic about moving forward on this, and not negative, is that his impression?

Mr. LEWIS of California. I would expect if they cannot move an authorization bill, they will probably let us do it somewhere else.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Speaker, I would like to first recognize the many excellent provisions of this legislation dealing with a whole range of subjects, from the needs of our veterans, to health care concerns for mothers who are hospitalized and wish to have an adequate period of time to care for their young and recover from the delivery, but I would also like to express my bitter disappointment that there are special pork barrel projects that have been added back into this bill in conference that we had struck from this bill on the House floor.

There is one in particular I would like to call to the attention of the Members of this body. We had deleted a $13 million earmark for the Museum of Natural History in New York, which was dubbed "Jurassic Pork." It now comes back with $8 million. The Senate had no such provision in its bill.

What has happened? We have made the decision on the House side, the Senate has not addressed the issue at all, and the appropriation reappears. This is persuasive evidence of the need for the line item veto.

Mr. STOKES. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will be very brief. I think this is the type of a bill that any Member of the House would be proud to associate his or her name with. It is the type of bill that, after working all year, the many hours spent on hearings, the hours spent in conference, we can come back to the House and be able to say to our colleagues that this is a good bill.

It is a good bill because it is a bipartisan bill. It is one that on both sides of the aisle we have worked together to try and produce a bill that all of us in the House can feel proud of and all of us can come to the floor and vote for.

Once again, I want to thank my good friend, the gentleman from California [Mr. LEWIS], for the pleasure of working with him to produce this excellent bill. I look forward to voting for it and I look forward to our continued, close working relationship together, to produce the kinds of legislation we produced today.

Mr. Speaker, I yield back the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I wish to compliment the members of the subcommittee for the work they have done.

Mr. Speaker, this Member rises, as vice chairman of the relevant authorizing subcommittee, the Subcommittee on Housing and Community Opportunity, to support the conference report and to express his thanks to the conferees who worked diligently in bringing this conference report before us today.

This Member is particularly pleased that the conferees approved the $3 million in funding for the Indian Housing Loan Guarantee Program at HUD. This very modest sum will guarantee the private financing of nearly $37 million in housing loans for Indian families. Mr. Speaker, there is a severe lack of decent, affordable housing in Indian country, due in large part to the lack of private financing in Indian country. This program provides a substantial means of bringing much needed private financing to Indian country. The very limited Federal funding for this new housing initiative is money well spent; therefore, this Member commends the conferees for including it in this measure.

Mr. Speaker, this Member is also pleased that the conferees allocate $645 million for section 202 elderly housing and $194 million for section 811 disabled housing in the newly established development of additional new subsidized housing account.

Additionally, Mr. Speaker, this Member would like to thank the conferees for including three reforms to the Federal Housing Administration's single family mortgage insurance program. These reforms will reduce regulatory red tape by allowing lenders who are authorized to underwrite loans under this program to also issue the mortgage insurance certificate, allow parents to lend money to their children for downpayment rather than being required to give the money as an outright gift, and reduce the up-front mortgage insurance premium.

Finally, this Member is eager to see the effectiveness of the demonstration program authorized in Hawaii and Alaska under the conference report which streamlines the downpayment calculation. Should this program prove effective, as this Member is confident it will, Congress should expand it to the rest of the Nation.

Mr. Speaker, this Member again thanks the conferees and urges his colleagues to vote aye on the conference report.

Mr. LEWIS of California. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in responding to my colleague's closing remarks, I would say one more time, it was a great pleasure to work throughout this year with the gentleman from Ohio [Mr. STOKES] as well as our colleagues on the subcommittee to produce this conference report, but especially our friendship makes it all the better. I look forward to working with the gentleman in the years ahead.

I am also happy to announce that earlier this evening this conference report was deemed passed upon receipt from the House by the other body, thus assuring a swift movement of the bill to the President. We are highly confident it will receive his signature within the next several days.

Mr. Speaker, as I have said, I am very proud of the work of this subcommittee, not only as reflected in the conference report before us, but throughout the 104th Congress. When we total up that effort, including the rescission bill of 1995, the appropriations product of last session and the bill before us tonight, this subcommittee has reduced spending a grand total of some $18 billion. That is almost $20 billion in reduced levels of spending that significantly impact the rate of growth of Government.

That, Mr. Speaker, gives us reason to be proud, for we have proven that the pathway to a balanced budget does not, I repeat, does not, mean the undermining of important people programs along the road.

As we have reduced spending wishlists some $20 billion, we have still very adequately funded programs for America's veterans; we have begun to make sense out of the Federal housing programs, while funding housing for aged and disabled above the President's request; we have supported efforts in space, giving priority to scientific research; and been very generous with the Environmental Protection Agency.

At the same time, we have made by far the largest commitment to a balanced budget by reducing discretionary spending throughout the last year and a half.

This committee has reduced spending more than any other committee in the House. I congratulate my committee member, and I urge my colleagues to vote for this conference report as we continue together down the roadway to a balanced budget by the year 2002.

Ms. HARMAN. Mr. Speaker, I rise today in strong support of the conference report on H.R. 3666, the VA–HUD–independent agencies appropriations bill for fiscal year 1997.

The conference report under consideration today is proof positive that Congress can deliver for the American people if it works from the sensible center. Subcommittee Chairman JERRY LEWIS and ranking member LEWIS STOKES should be commended for drafting a bill that is free of controversial riders and draconian spending cuts. Rather, this conference report moves us toward a balanced budget while continuing to invest in many key veterans, housing, space, and environmental programs.

As the representative of the aerospace center of the universe, I am especially pleased that the conferees provided $100 million more for NASA than the original House-passed measure. Investments in NASA and our Nation's space program are investments in our future. The recent discovery of possible ancient Martian life and Astronaut Shannon Lucid's record-setting stay in space have put NASA on the front pages of newspapers across the world. Such news reminds the public of the great challenges space exploration continues to pose to our Nation. We in Congress must do our part by keeping NASA robust.

Today's legislation fully funds several key NASA programs critical to our space program and to my South Bay district. The Mission to Planet Earth, a target of many for extreme budget cuts, will help us understand global climate change issues from space. The international space station will serve as our stepping stone to future space exploration. The advanced x-ray astrophysics facility telescope [AXAF] will soon be our Nation's next great observatory. The tracking and data relay satellites [TDRS] will provide NASA with crucial communication links to its astronauts, spacecraft and instruments. And, the X–33 Reusable Launch Vehicle Program will help us develop cheap and reliable access to space.

Mr. Speaker, a robust NASA will pay immediate dividends by keeping our aerospace industrial base vibrant. By turning our children on to science, space, and technology, investments in NASA will pay off in the future as we nurture the next generation of rocket scientists. I urge my colleagues to support this conference report and to stand up for our Nation's space program.

Mr. WAXMAN, Mr. Speaker, I rise to speak in regard to the VA–HUD appropriations bill and language in the conference report which may be construed to affect EPA's new Estrogenic Substances Screening Program.

As one of the principal authors of the Estrogenic Substances Screening Program in the Food Quality Protection Act of 1996 and the Safe Drinking Water Act Amendments of 1996, I would like to convey the bipartisan understanding we had in the Health and Environment Subcommittee of how this provision will be implemented by the Environmental Protection Agency.

The Estrogenic Substances Screening Program enhances the Environmental Protection Agency's authority to fully develop information on the endocrine disrupting effects of certain substances. The program will be an important tool to protect the public against endocrine disrupting substances.

The principal goal of the screening program is to determine which substances have endocrine effects. The screening program will determine whether certain substances have an effect in humans similar to an effect produced by a naturally occurring estrogen—that is—whether certain substances are endocrine disruptors.

The screening program must be developed not later than 2 years after enactment or August 2, 1998. The program must be implemented by August 2, 1999. These dates are nondiscretionary.

The conference report of the VA–HUD appropriations bill contains language which could be read to delay this program until the National Academy of Sciences conducts yet another massive study to perform comprehensive and redundant research. Obviously, this report language has no authority to delay a statutory deadline.

However, it is worth noting that the Commerce Committee had contemplated the release of a new National Academy of Sciences' report on this issue which is due out early next year. The Commerce Committee agreed to a 2-year timeline for development of the program so that this NAS study could be considered if it is released on schedule. It is my expectation that EPA will fully consider this report as well as any other relevant information in developing and implementing the screening program.

Consideration of available scientific information is crucial given the important policy decisions which will be made on the basis of the screening program's test results. As the House Commerce Committee report states, "The bill mandates EPA action 'as is necessary to ensure the protection of public health' if the screening program finds a substance to have an endocrine effect on humans."—Food Quality Protection Act of 1996, House Commerce Committee Report [Rept. 104–669 part 2 at p. 55].

In sum, the bipartisan agreement, enacted into law, is clear. The EPA has explicit statutory deadlines to meet. While conferees to the VA–HUD appropriations bill understandably wish to ensure a comprehensive study of the endocrine disruption issue is conducted, the conference report language does not and should not be construed to delay EPA's implementation of this important program.

Mr. MCCOLLUM. Mr. Speaker, I rise in support of the fiscal year 1997 VA, HUD, and independent agencies appropriations conference report, and to thank my friend and colleague, Chairman JERRY LEWIS, for all his good work on this bill. Under the leadership of Chairman LEWIS and the members who serve on the Committee on Appropriations, we have been able to save the taxpayers over $6 billion while providing better service to all Americans.

This bill saves the taxpayer money while matching or exceeding the President's budget request on several issues important to the citizens of this Nation. For example, this conference report increases medical care for our veterans by $449 million over the fiscal year 1996 level. Housing for the elderly has been increased by $70 million above the President's request. In addition, this conference report protects the environment by providing $140 million more than the fiscal year 1996 bill for the Environmental Protection Agency and by fully funding the Superfund program. Finally, this bill keeps America looking forward by providing full funding for the space shuttle program and the international space station.

Mr. Speaker, I would like to take a moment to talk about a program that has the potential of saving the taxpayer a great deal of money. As we are all aware, natural disasters have cost taxpayers well over $50 billion during the last 6 years. As the costs of responding to these disasters has increased, many insurance companies have determined that they can no longer afford to extend insurance to certain homeowners. Although hurricanes have caused severe damages this year, we are fortunate to have avoided the major devastation that a hurricane or earthquake can cause when it hits a major metropolitan area.

Language contained in the House report and approved by the conference committee urges the Federal Emergency Management Agency [FEMA] to consider technology being developed at the Institute for Simulation and Technology [IST] at the University of Central Florida. IST recently completed a demonstration project of an emergency management simulation used to drive realistic and interactive hurricane response exercises at the county level. Mr. Speaker, this technology could easily be adapted to simulate a broader range of disaster types and allow the interaction of multiple levels of government agencies and private relief organizations.

One of the lessons I learned from my involvement with H.R. 1856, the Natural Disaster Partnership Protection Act, is that once a mutual disaster occurs improved disaster planning and a timely response saves the taxpayer a great deal of money. This occurs because a well planned and coordinated post-disaster response will minimize additional losses and prevent resources from being squandered. For example, in the case of a hurricane, the rains following the storm usually cause significant additional damage to properties already ravaged by the winds. The technology being developed at IST will help to ensure that in the future FEMA will have the ability to coordinate even more efficient responses to natural disasters.

Mr. Speaker, I also want to tell you and my fellow colleagues about an exciting new project being developed by Florida Hospital. A new city known as Celebration is being established on the outskirts of Orlando, and Florida Hospital, a nonprofit hospital, has undertaken the development and management of a model community health care system called celebration health. Several corporations, including General Electric and Johnson & Johnson, have designated Celebration Health to showcase their most advanced technologies, attracting interest from national and international visitors.

The programs and facilities being developed by Celebration Health are designed to promote wellness by active personal management of health care, as well as to provide state-of-the-art treatment of patients through improved systems that allow them to have more involvement in their treatment. Celebration Health's objective is to demonstrate how to provide communities with the best affordable health care service, and in so doing make the town of Celebration the healthiest community in America.

In addition to these programs, there are plans to include a center for health innovations which will serve as a living laboratory for testing and evaluating the best methods for providing community based health care services. This center will provide the opportunity for health care providers to perform demonstrations and tests of new medical techologies, treatments and procedures, while documenting measurable outcomes. At the outset, the center for health innovations plans to concentrate on the areas of health information technology, medical problems associated with the elderly, heart disease, and cancer.

Of particular note is the access to information that will be available to patients and health care providers. For example, homes will have state-of-the-art capabilities that will permit residents access to on-line information developed by Celebration Health. With the development of a comprehensive computer information network, patients and professionals can access clinical data, personal medical records, diagnostic and treatment processes that will provide quick and efficient use of resources from home, hospital, outpatient clinic or home health agency.

Overall, Celebration Health will include an outpatient clinic, a health activities center, primary care facilities, medical support services and will be linked to area medical centers. Celebration Health will be a showcase for model health care delivery, operating from a technically advanced health care facility and providing state of the art medical care.

I urge the Department of Housing and Urban Development [HUD] to follow the recommendation of the Appropriations Committee in the conference report to H.R. 3666, the fiscal year 1997 VA, HUD, and independent agencies appropriations bill. Specifically, the committee urged HUD to support activities sponsored or administered by non-profit community-based entities. Celebration Health fits this requirement and I would be happy to assist the Department in supporting this important endeavor.

My colleagues, again I would like to commend Chairman LEWIS and the members on the Committee on Appropriations for their hard work on the VA, HUD, and independent agencies conference report. Their hard work on cutting spending while protecting the American people from unfair cuts is evident in this bill. Mr. Speaker, I strongly support this bill and urge my colleagues to do the same.

Mr. SHUSTER. Mr. Speaker, I would like to thank Chairman LEWIS for his hard work on this bill and the close cooperation he has afforded me and my committee, the Transportation and Infrastructure Committee during the 104th Congress. This conference report is good for our country. H.R. 3666, the VA, HUD, and independent agencies appropriations bill uses a commonsense approach to strengthen programs which protect our environment, support our veterans, and which help build environmental infrastructure for rural America.

In particular, I would like to clarify the intent of one provision related to my congressional district in Pennsylvania. On page 74 of the printed conference report 104–812, which accompanies H.R. 3666, the conference report directs EPA to make grants for $1,150,000 for waste water improvement needs in Franklin, Huntingdon, and Clearfield Counties, PA.

The following list should serve as a guide to the intent of this provision: $400,000 for wastewater needs of Metal Township in Franklin County, PA. $400,000 for wastewater needs of Mt. Union, PA in Huntingdon County, $186,000 for wastewater needs of Huston Township, PA in Clearfield County and $164,000 for Osceola Mills, PA in Clearfield County. This list equals the amount included in the report wastewater needs in these three countries and should stand to clarify any misunderstanding that might result from this provision. I thank Chairman LEWIS for this opportunity to clarify the intent of this provision and appreciate his hard work on this bill.

Mr. RICHARDSON. Mr. Speaker, I rise in support of the mental health provisions in this conference report.

Earlier this year, I offered an amendment to the health insurance reform bill which would have assured that patients with mental illness could not be discriminated against. It is long past time that this House be given the opportunity to vote on this important issue.

Mental illnesses are just as serious of a medical condition as heart disease or cancer, yet insurers have for years not offered complete coverages for the treatment of mental illness.

Nearly one out of four of all adults suffer from some type of severe mental illness in the United States each year, yet 95 percent of the major insurance companies in America have limited coverage of psychiatric care.

Of the adults in America suffering from mental health problems, less than half are receiving care for their mental illnesses.

It is time to eliminate discrimination against mental illness and I applaud this conference report for taking an important first step toward doing that.

I would urge my colleagues to support this conference report and the important mental health parity provisions it contains.

Mr. RAMSTAD. Mr. Speaker, I rise with mixed feelings about this conference report.

I am concerned about both the integrity of our legislative process and the narrowness of our mental health care debate. Earlier this year, I supported the House-passed version of the fiscal year 1997 VA/HUD appropriations measure. Since then the Senate has incorporated into this funding package three new health care mandates—in fact, it may be more appropriate to now refer to the bill before us as the VA/HUD/HHS appropriation bill. These three new public health provisions are not small and technical in nature, but rather significant changes that will affect the delivery of health care for hundreds of thousands of Americans.

To my knowledge, none of these new health care provisions have been reported out by any of the House committees of jurisdiction, nor reached the floor for a vote. I trust this leap frogging of our established legislative process, with the significant public policy implications it entails, is not a practice this body should encourage.

My second concern is that by passing the fiscal year 1997 VA/HUD conference report, this Congress will take an important, but incomplete step toward a more equitable relationship between mental and medical health benefits.

Like the initial Senate-passed mental health parity provision in the Health Insurance Portability and Accountability Act, the provision before us again ignores all substance abuse—alcohol and drug—treatment services, which are clearly badly needed to help combat our Nation's No. 1 public health care problem. Silence and inaction are not golden.

I speak from first-hand personal experience about the benefits that alcohol treatment can bring to millions of Americans and their families. Today, alcohol and other drug addictions affect 10 percent of American adults and 3 percent of our youth. Untreated addictions last year alone cost our country nearly $167 billion.

For alcoholism alone, the public is paying $86 billion a year in direct and indirect costs attributed to the disease. Untreated alcoholics incur health care costs at least double that of nonalcoholics. Yet, most of our Nation's medical schools do not even require future health care professionals to study the disease of alcoholism.

When will Congress stop ignoring the disease of alcoholism?

As a recovering alcoholic, I know many Members of Congress need to be educated on this rampant public health problem. Only then will we be in a position to change our Nation's response to this costly, fatal disease.

To help begin our national education on alcoholism, I have introduced H.R. 3600, legislation to establish the Harold Hughes Commission on Alcoholism.

By establishing this 13-member volunteer commission for 2 years, this Congress can set into motion a commission with the task of studying methods to better coordinate existing Government programs responsive to alcohol abuse, increase public and private sector cooperation, step up the education of health care professionals on the disease of alcoholism, heighten research on alcoholism, and evaluate the cost effectiveness of treatment methods and services.

In the remaining days of this Congress, I strongly urge my colleagues to help begin our national awakening and education on the disease of alcoholism with the enactment of H.R. 3600.

I also challenge the 105th Congress to continue the important national dialogue begun this year to respond to our Nation's escalating alcohol and drug problem. We must review the importance of providing the same kind of parity we have before us today on substance abuse benefits. By working in a pragmatic, bipartisan fashion on parity and other important alcohol issues and drug concerns, we can achieve the balance between affordable health care insurance coverage, treatment and equity.

Mr. DINGELL. Mr. Speaker, I am especially pleased that the House conferees followed the Democratic motion to instruct the conferees to retain the Senate provisions regarding mental health insurance coverage and coverage for appropriate hospital stays for mothers and newborn infants. it is a single moment of enlightenment in this otherwise dismal Congress—a moment when we can say honestly we have put the needs of average American people ahead of the concerns of big insurance companies.

Equitable treatment of individuals with mental illness has been a long time coming, and these provisions—though they are not all that anyone could have wanted—are a major step in the right direction in two important ways. First, we are opening a door to understanding mental illness. Mental illness is not shameful, but treatable. It is not something to be concealed, but something to be helped. And second, it tells insurers that they must be fair about the coverage they provide to their clients, treating all conditions equitably and providing appropriate coverage so that patients can be treated and can be restored to health, from a physical or a mental cause.

The conference report also includes provisions that place in the hands of new mothers and their doctors the power to decide what kind of care these women need when they give birth to babies. Several months ago, I introduced the MOMS bill, which required health insurance coverage for at least 48 hours of hospital stay, or 96 hours for a Caesarean section, for new mothers and their babies. I am pleased that these requirements of my bill are included in the legislation before us.

However, my legislation also recognized that some doctors and new mothers may choose a shorter hospital stay. Thus, my bill provided that a shorter hospital stay could be accompanied by covered services providing care and support for the mother and the baby after they leave the hospital. But, again, that after care would be on the terms and conditions decided by the doctor and the mother together. The MOMS bill did not bring the heavy hand of Federal regulation on this decision.

Unfortunately, in negotiating this conference report, the Senate provisions relating to insurance coverage for after-hospital care of new mothers and babies were dropped. I understand the Senate provisions were considered too much Government interference. I regret that the conferees did not look at my legislation for guidance about this decision, because I think they would have found a happy solution.

While this provision is not perfect, it is good for women and for babies. It means that the era of the so-called drive-through delivery will come to an end. And it means that this important health care decision—what kind of care a new mother and a new baby need—will be made where all health care decisions should be made, in discussions between doctors and their patients.

Finally, Mr. Speaker, the conference report addresses the very real and pressing public health needs of more than 1.5 million people who live in Michigan's 16th Congressional District, as well as six other congressional districts in my home State. The Rouge River national wet weather demonstration project, a $1.4 billion effort to improve the condition of one of this Nation's most polluted rivers, will continue with $16 million in additional Federal commitments in fiscal year 1997. My colleague from Bloomfield Hills, Mr. KNOLLENBERG, worked very hard in the Appropriations Committee to assure inclusion of these much-needed funds, and as a result, dozens of communities in Metropolitan Detroit will gain from a cleaner and more usable Rouge River watershed.

Mr. Speaker, I urge adoption of the conference report.

Mr. WELDON of Florida. Mr. Speaker, I rise in support of this legislation. I am pleased that the bill provides the full amount requested by the President for NASA's human space flight programs. This will allow the functions at Kennedy Space Center, the launch site for all human space flight, to be fully funded at the budget requested by the President. This will ensure the safe operation of our Nation's space shuttle fleet.

The overall NASA budget is $13.7 billion, just $100 million under the President's budget request. The $100 million reduction comes in the science, aeronautics, and technology account, and will have no adverse impact on the operations of our space shuttle fleet or Kennedy Space Center.

This funding is important for the future of our Nation. We are the world's leader in space and we are moving forward with the next step in this leadership, the space station. We already have over 100,000 pounds of hardware ready for launch. This Congress has soundly rejected efforts to eliminate the space station.

The VA/HUD/Independent Agencies Appropriations Subcommittee recognizes clearly that NASA has already done a significant amount of voluntary downsizing, and it can truly serve as a model for other parts of the Federal Government as we reduce the size and scope of Government. However, NASA can take no further cuts in this year's budget. The committee recognized this and provide an amount nearly the President's budget request. Our children and grandchildren will thank you for supporting NASA and supporting their future.

The bill also contains provisions that would allow NASA to offer buyouts to NASA employees. This is important as some additional downsizing may take place at NASA centers around the country. I was pleased to support the inclusion of this provision, which should make the transition easier for NASA employees.

Finally, the bill includes language that urges the VA to move forward with the outpatient clinic in Brevard County, FL. For nearly a decade and one-half, veterans in this part of Florida have been promised a medical facility and after all these years have nothing to show for it but broken promises. That has changed, earlier this year the Congress passed and the President signed into law an authorization and appropriation of $25 million for the construction of an outpatient clinic in Brevard.

In a letter to me dated July 17, 1996, Secretary of Veterans Affairs Jesse Brown committed to me and the veterans of Florida that he would award a design contract by the end of September. He has yet to do this, and the bill before us includes language directing the Secretary to move forward expeditiously with this clinic. I am pleased that the bill includes this direction and hopefully it will encourage the Secretary to act quickly. The money has been available for nearly 5 months, and it's past time to get moving.

Mr. THOMAS. Mr. Speaker, I rise in support of the conference report on H.R. 3666, the VA/HUD appropriation for 1997.

In particular, as chairman of the Subcommittee on Health of the Committee on Ways and Means, I want to point out that two legislative provisions contained in the conference report amend Public Law 104–191, the Health Insurance Portability and Accountability Act of 1996, which falls within the jurisdiction of the Committee on Ways and Means. The rule, which the House just passed, waives the necessary points of order allowing the conference report to be considered with these legislative items.

First, title VI of the conference report, titled "Newborns' and Mothers' Health Protection Act of 1996," would introduce new rules which must be met by group health plans subject to the requirements of the Health Insurance Portability and Accountability Act of 1996. These rules would prevent group health plans from restricting certain benefits for hospital care in connection with childbirth.

Second, title VII of the conference report, titled "Parity in the Application of Certain Limits to Mental Health Benefits," would introduce new rules which also must be met by group health plans subject to the requirements of the Health Insurance Portability and Accountability Act of 1996. These rules establish certain requirements concerning application of lifetime or annual limits to mental health benefits, if mental health benefits are included in the group health plan.

The conferees have noted in their report language that, in order for this provision to be fully implemented, the Internal Revenue Code must be appropriately amended. Such amendments would permit enforcement of these new requirements through the tax penalty structure that was recently enacted in the Health Insurance Portability and Accountability Act applicable to group health plans. In other words, we are adding new requirements to only the Public Health Service Act and ERISA—Employee Retirement and Income Security Act—portions of the underlying law without being able at this time, to make the necessary conforming requirements to the Internal Revenue Code due to procedural constraints on this appropriations bill. It is our intention on the Committee on Ways and Means to move the conforming tax provisions as soon as possible.

It is also important to note that the maternal stay provision has been scored as having a negative income and payroll tax revenue effect of $112 million over the period 1997–2002. The mental health parity provision has a negative revenue effect of $431 million over the same period. These revenue losses are clearly a matter of concern and responsibility for the committee with jurisdiction over tax matters.

The legislative language needed to accomplish full implementation of the maternal stay and mental health provisions in the framework of the underlying Health Insurance Portability and Accountability Act, is reflected in the text of H.R. 4135, introduced today by myself and Mr. STARK, the ranking minority member of the Subcommittee on Health. We are entering the text of H.R. 4135 in the CONGRESSIONAL RECORD to indicate the changes the Committee on Ways and Means intends to pursue.

Finally, we have exchanged letters regarding these jurisdictional matters with the chairman of the Committee on Appropriations and I understand that these letters will be placed in the CONGRESSIONAL RECORD.

H.R. 4135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Newborns' and Mothers' Health Protection and Mental Health Parity Implementation Amendments of 1996".

SEC. 2. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986 TO IMPLEMENT THE NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT OF 1996 AND THE MENTAL HEALTH PARITY ACT OF 1996.

(a) IN GENERAL.—Subtitle K of the Internal Revenue Code of 1986 (as added by section 401(a) of the Health Insurance Portability and Accountability Act of 1996) is amended—

(1) by striking all that precedes section 9801 and inserting the following:

"Subtitle K—Group Health Plan Requirements

"CHAPTER 100. Group health plan requirements.

"CHAPTER 100—GROUP HEALTH PLAN REQUIREMENTS

"Subchapter A. Requirements relating to portability, access, and renewability.
"Subchapter B. Other requirements.
"Subchapter C. General provisions.

"Subchapter A—Requirements Relating to Portability, Access, and Renewability

"Sec. 9801. Increased portability through limitation on preexisting condition exclusions.
"Sec. 9802. Prohibiting discrimination against individual participants and beneficiaries based on health status.
"Sec. 9803. Guaranteed renewability in multiemployer plans and certain multiple employer welfare arrangements.",

(2) by redesignating sections 9804, 9805, and 9806 as sections 9831, 9832, and 9833, respectively,

(3) by inserting before section 9831 (as so redesignated) the following:

"Subchapter C—General Provisions

"Sec. 9831. General exceptions.
"Sec. 9832. Definitions.
"Sec. 9833. Regulations.", and

(4) by inserting after section 9803 the following:

"Subchapter B—Other Requirements

"Sec. 9811. Standards relating to benefits for mothers and newborns.
"Sec. 9812. Parity in the application of certain limits to mental health benefits.

"SEC. 9811. STANDARDS RELATING TO BENEFITS FOR MOTHERS AND NEWBORNS.

"(a) REQUIREMENTS FOR MINIMUM HOSPITAL STAY FOLLOWING BIRTH.—

"(1) IN GENERAL.—A group health plan may not—

"(A) except as provided in paragraph (2)—

"(i) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a normal vaginal delivery, to less than 48 hours, or

"(ii) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a cesarean section, to less than 96 hours; or

"(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

"(2) EXCEPTION.—Paragraph (1)(A) shall not apply in connection with any group health plan in any case in which the decision to discharge the mother or her newborn child prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by an attending provider in consultation with the mother.

"(b) PROHIBITIONS.—A group health plan may not—

"(1) deny to the mother or her newborn child eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to mothers to encourage such mothers to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

"(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(c) Rules of Construction.—

"(1) Nothing in this section shall be construed to require a mother who is a participant or beneficiary—

"(A) to give birth in a hospital; or

"(B) to stay in the hospital for a fixed period of time following the birth of her child.

"(2) This section shall not apply with respect to any group health plan which does not provide benefits for hospital lengths of stay in connection with childbirth for a mother or her newborn child.

"(3) Nothing in this section shall be construed as preventing a group health plan from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or newborn child under the plan, except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(d) Level and Type of Reimbursements.—Nothing in this section shall be construed to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(f) Preemption; Exception for Health Insurance Coverage in Certain States.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (including a decision, rule, regulation, or other State action having the effect of law) for a State that regulates such coverage that is described in any of the following paragraphs:

"(1) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a normal vaginal delivery and at least a 96-hour hospital length of stay following a cesarean section.

"(2) Such State law requires such coverage to provide for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

"(3) Such State law requires, in connection with such coverage for maternity care, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the mother.

"SEC. 9812. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

"(a) In General.—

"(1) Aggregate lifetime limits.—In the case of a group health plan that provides both medical and surgical benefits and mental health benefits—

"(A) No lifetime limit.—If the plan does not include an aggregate lifetime limit on substantially all medical and surgical benefits, the plan may not impose any aggregate lifetime limit on mental health benefits.

"(B) Lifetime limit.—If the plan includes an aggregate lifetime limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable lifetime limit'), the plan shall either—

"(i) apply the applicable lifetime limit both to the medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit.

"(C) Rule in case of different limits.—In the case of a plan that is not described in subparagraph (A) or (B) and that includes no or different aggregate lifetime limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan with respect to mental health benefits by substituting for the applicable lifetime limit an average aggregate lifetime limit that is computed taking into account the weighted average of the aggregate lifetime limits applicable to such categories.

"(2) Annual limits.—In the case of a group health plan that provides both medical and surgical benefits and mental health benefits—

"(A) No annual limit.—If the plan does not include an annual limit on substantially all medical and surgical benefits, the plan may not impose any annual limit on mental health benefits.

"(B) Annual limit.—If the plan includes an annual limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable annual limit'), the plan shall either—

"(i) apply the applicable annual limit both to medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any annual limit on mental health benefits that is less than the applicable annual limit.

"(C) Rule in case of different limits.—In the case of a plan that is not described in subparagraph (A) or (B) and that includes no or different annual limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan with respect to mental health benefits by substituting for the applicable annual limit an average annual limit that is computed taking into account the weighted average of the annual limits applicable to such categories.

"(b) Construction.—Nothing in this section shall be construed—

"(1) as requiring a group health plan to provide any mental health benefits; or

"(2) in the case of a group health plan that provides mental health benefits, as affecting the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan, except as specifically provided in subsection (a) (in regard to parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits).

"(c) Exemptions.—

"(1) Small employer exemption.—This section shall not apply to any group health plan for any plan year of a small employer (as defined in section 4980D(d)(2)).

"(2) Increased cost exemption.—This section shall not apply with respect to a group health plan if the application of this section to such plan results in an increase in the cost under the plan of at least 1 percent.

"(d) Separate Application to Each Option Offered.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) Definitions.—For purposes of this section:

"(1) Aggregate lifetime limit.—The term 'aggregate lifetime limit' means, with respect to benefits under a group health plan, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan with respect to an individual or other coverage unit.

"(2) Annual limit.—The term 'annual limit' means, with respect to benefits under a group health plan, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the plan with respect to an individual or other coverage unit.

"(3) Medical or surgical benefits.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan, but does not include mental health benefits.

"(4) Mental health benefits.—The term 'mental health benefits' means benefits with respect to mental health services, as defined under the terms of the plan, but does not include benefits with respect to treatment of substance abuse or chemical dependency.

"(f) Sunset.—This section shall not apply to benefits for services furnished on or after September 30, 2001."

(b) Conforming Amendments.—

(1) Chapter 100 of such Code (as added by section 401 of the Health Insurance Portability and Accountability Act of 1996 and as previously amended by this section) is further amended—

(A) in the last sentence of section 9801(c)(1), by striking "section 9805(c)" and inserting "section 9832(c)";

(B) in section 9831(b), by striking "9805(c)(1)" and inserting "9832(c)(1)";

(C) in section 9831(c)(1), by striking "9805(c)(2)" and inserting "9832(c)(2)";

(D) in section 9831(c)(2), by striking "9805(c)(3)" and inserting "9832(c)(3)"; and

(E) in section 9831(c)(3), by striking "9805(c)(4)" and inserting "9832(c)(4)".

(2) Section 4980D of such Code (as added by section 402 of the Health Insurance Portability and Accountability Act of 1996) is amended—

(A) in subsection (c)(3)(B)(i)(I), by striking "9805(d)(3)" and inserting "9832(d)(3)";

(B) in subsection (d)(1), by inserting "(other than a failure attributable to section 9811)" after "on any failure";

(C) in subsection (d)(3), by striking "9805" and inserting "9832";

(D) in subsection (f)(1), by striking "9805(a)" and inserting "9832(a)".

(3) The table of subtitles for such Code is amended by striking the item relating to subtitle K (as added by section 401(b) of the Health Insurance Portability and Accountability Act of 1996) and inserting the following new item:

"Subtitle K. Group health plan requirements."

(c) Effective Date.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.

Mr. RANGEL. Mr. Speaker, I commend my good friends, Congressman STOKES, and Congressman JERRY LEWIS, ranking member and chairman respectively of the House Appropriations Subcommittee on Housing and Urban Development, Veterans Administrations Subcommittee for all their hard work in producing the conference report on the fiscal year 1997 VA–HUD appropriations bill.

I want to take this opportunity to discuss one of the important programs that has been supported in the past by this subcommittee, the Economic Development Initiatives of the Department of Housing and Urban Development. The EDI program is part of HUD's Community Development Block Grant Program. This program is assigned the important task of financing efforts that generate economic revitalization and link people to jobs and social services, goals which are critical to the communities which I represent in Harlem and Washington Heights.

I hope that over the next year Congressmen LEWIS and STOKES work with the Department of Housing and Urban Development to consider requests to fund grant proposals in the Economic Development Initiative Program. I also encourage the Department that if it does decide to fund such proposals, that it give strong consideration to an important project in my district, Columbia University's Center for Disease Prevention.

The Center for Disease Prevention provides a crucial instrument for the creation of new business and jobs in the economically depressed neighborhoods of Washington Heights and Harlem. CDP, as well as the larger Audubon Research Park of which it is a vital component, will be the central element of the new Enterprise Zone program in New York, providing job training and business development services to these north Manhattan neighborhoods. Furthermore, CDP will provide a center for enabling American biomedical science to generate new business in advanced pharmaceuticals and medical technologies in this economically depressed area. The purpose of the entire project is to attract entrepreneurs and expand businesses and establish the area as a hub of biotechnology industry employment.

When completed, the CDP will support 400 new jobs. The entire Audubon project will create nearly 2,500 jobs, including scientific, research, laboratory, clerical, administrative, retail, and building operations and support, and young people in the area will have access to job training and educational opportunities that would otherwise not be available to them. In addition to this important economic stimulus, the health benefits from new discoveries at CDP (and the entire Park) will flow directly to the surrounding community which is characterized by high rates of illness associated with poverty poor health, and urban distress.

In closing, I would appreciate the subcommittee encouraging the Department of Housing and Urban Development to consider proposals under CDBG's Economic Development Initiative program, and if such proposals are considered, I will work with the Department to favorably review Columbia University's Center for Disease Prevention, a project that will promote economic revitalization and job training and creation in New York City.

Mr. TOWNS. Mr. Speaker, I rise in full support of the maternity stay agreement reached in the Conference Report on VA–HUD appropriations for fiscal year 1997. The Maternity Stays provision ensures that newborn babies and their mothers receive appropriate health care in the critical first few days following birth.

The 48-hour minimum stay is consistent with steps being considered by some States and is very similar to the bill which I introduced during the 104th Congress, The Mother and Child Protection Act of 1996.

The typical length of stay over a decade ago for a woman and her infant after delivery was 3 to 5 days for a vaginal delivery and 1 to 2 weeks for a caesarean delivery. Over the past few years the typical length of stay decreased to 24 hours or less for a uncomplicated vaginal delivery and two or three for caesarean. In some regions of the country, hospitals are now discharging women 6 to 12 hours following a vaginal birth. The Conference Report on VA–HUD Appropriations for fiscal year 1997 will stop this problem from occurring.

I am pleased that my colleagues all agree that shorter hospital stays are placing the health of many newborns and mothers at risk. We all agree that the shorter stay increases the incidence in newborns of jaundice, dehydration, phenylketonuria [PKU], and other neonatal complications.

Prevention has always been a way to cut health care costs. However, discharging mothers and newborns early creates its own costs. No longer will a child have to suffer brain damage or other permanent disabilities because they did not receive adequate early care, insurers will not be forced to pay for treating patients for conditions which could have been prevented or lessened if caught earlier.

Mr. Speaker, the VA–HUD appropriations for 1997 will allow new mothers to focus on learning to care for their newborns and themselves instead of being concerned with when their insurance will run out. I also want to lend my full support of the mental health parity provisions contained in the 1997 VA–HUD Conference Report. As a trained social worker, I am quite comfortable with expressing the important of providing mental health coverage to the mentally ill population.

The mental health parity provision will help to eradicate the stigma that is commonly placed on mental health patients. This provision will begin to wash away the deep rooted ignorance of thinking that mental illness is due to some sinful behavior. This kind of stigma has kept many individuals from seeking help, and it has prevented health professionals from providing needed services. It is my honest belief that the stigma associated with mental health will be greatly reduced by this provision. No longer will patients be too embarrassed to seek help. And, no longer will providers be forced to turn patients away, and thus discriminate between illnesses.

I urge the adoption of these provisions.

Mr. FAZIO of California. Mr. Speaker, I rise in support of H.R. 3666, the VA/HUD and Independent Agencies Appropriations Conference Report. This bill provides a total of $84.7 billion for veterans and housing programs, the Environmental Protection Agency, NASA, and the National Science Foundation. While this bill falls well short of the administration's request, overall funding is $2.3 billion higher than last year's level. I would like to thank the chairman of the subcommittee, JERRY LEWIS, for moving this bill with little controversy, and I would like to recognize and thank the ranking member LOUIS STOKES for all of this assistance in getting this bill to the floor.

Although I am pleased that funding for the replacement hospital at Travis Air Force Base is included in this bill, I am concerned that construction for this hospital will continue to be delayed and cause veterans to wait even longer for adequate medical facilities. I would just like to point out that until last year this hospital was on track to be finished by the end of 1998. Now it looks as though we will not even begin construction until 1998 at the earliest.

I know that some members of the other body would like to see additional justifications for this project. However, with all due respect, Congress has already authorized this hospital. We don't need any more studies or more delays. We need to get concrete in the ground and begin to construct the hospital for our veterans.

I would again like to recognize the steadfast support of Operation VA, and in particular, Carolyn Rennert and George Pettygrove, who have been unwavering in their support for the construction of this hospital. The entire Travis community, including many hard working veterans and citizens throughout Solano County, deserve praise for their efforts. I would also like to thank the chairman of the VA–HUD Subcommittee, JERRY LEWIS, for his support for the hospital. His commitment to the hospital is a significant step in ensuring that the hospital at Travis becomes a reality.

I am also pleased that the bill includes funding for the Sacramento River Toxic Pollutant Control Program [SRTPCP] within the EPA's Environmental Programs and Management Account. This is a cooperative program conducted by the Sacramento Regional County Sanitation District and the Central Valley Regional Water Quality Control Board.

The Sacramento River is the largest and most important river in California. It supplies water for agricultural, municipal, and industrial uses as well as providing important recreational benefits. Unfortunately, this key environmental and economic asset is threatened by pollutant loadings that jeopardize these beneficial uses. The river exceeds State and EPA-recommended water quality criteria developed in the early 1990's for a number of toxic pollutants, particularly metals such as copper, mercury, and lead.

The SRTPCP, which is in its third year, was created to bring the Sacramento River into compliance with water quality standards. The program is based on watershed management concepts including the development of site-specific water quality standards and technically feasible, cost-effective programs to achieve water quality standards in the river and its tributaries.

I am also pleased that the conference committee was able to address three significant problems in the field of health policy.

First, I am glad to see that the conferees included a provision which will require insurance companies to pay for a mother and her newborn to stay in the hospital for at least 48 hours following delivery. Many of us have sponsored legislation which would achieve that same goal and I am glad that this bill includes that provision.

Next, I am pleased to see that the mental health parity provision was included in the conference report. This is an issue of fundamental fairness. Moreover, the Congressional Budget Office [CBO] has indicated that this provision will result in a minute increase in health insurance premiums. This is a small price to pay for equal treatment which will benefit millions of Americans.

Finally, I am particularly happy that the conference committee has included provisions that will have the Veterans Affairs provide certain benefits to children born with spina bifida, if one of the child's parents was exposed to Agent Orange while serving in the Vietnam War. I believe that we have the moral obligation to help these families. By having the VA provide benefits to these families who are in need of assistance, we can honor those who have served and stood by this country in times of need.

In closing, Mr. Speaker, I want to express my thanks to the conference committee for their fine work and urge my colleagues to support this bill.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of H.R. 3666, the VA, HUD and Independent Agencies Appropriations Act. I ask unanimous consent to revise and extend my remarks.

This legislation contains several important provisions for my home State of Florida. First, the conference report for H.R. 3666 includes $20 million for the construction of the first phase of a new spinal cord injury [SCI] unit at the James Haley VA Medical Center in Tampa, FL.

The State of Florida has one of the highest concentrations of veterans with spinal cord injuries [SCI] or spinal cord disease in the country. The 70 SCI beds currently in operation at the James A. Haley VA Medical Center were originally intended for use by psychiatry patients and are inadequate for the unique needs of SCI patients. The VA first proposed expanding the current SCI unit in 1979.

The construction of a new SCI unit will replace Tampa's severely overburdened SCI unit and improve services to meet the high demand for specialized care provided to spinal cord injured veterans in the State of Florida.

I have been working on this project for several years and am pleased that the House Appropriations Committee recognized the importance of the SCI unit project and included its funding in H.R. 3666. I want to thank Chairman LEWIS and ranking minority member STOKES for their continuing support of this important project. This construction funding will allow the process of building the new spinal cord injury unit to move forward.

The conference report also retains a Senate amendment which directs the Secretary of Veterans Affairs to develop a national plan for the allocation of health care resources among health care facilities. This provision would ensure that veterans have similar access to health care regardless of where they live.

This resource allocation problem has been verified by the General Accounting Office in a report entitled "Veterans' Health Care: Facilities' Resource Allocation Could Be More Equitable." The GAO found that the Department of Veterans' Affairs continues to allocate funding based on past budgets rather than current needs. In addition, the Agency has failed to implement the resource planning and management system [RPM] developed 2 years ago to help remedy funding inequity.

Since coming to Congress, I have heard from veterans who have moved to Florida and have been denied care by the VA. Prior to moving, these veterans were able to receive care from their local VA medical facility. However, once they move to Florida, which has one of the lowest rates of non-mandatory care in the country, they are turned away by the VA because they fall into the discretionary care category.

It is hard for these veterans to understand how they can lose their VA health care simply by moving to another part of the country. As their representative in Congress, I share their frustrations. Therefore, I am pleased that the House conferees agreed to the Senate amendment.

I urge my colleagues to support H.R. 3666.

Thank you, Mr. Speaker.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of the conference report for H.R. 3666, the FY VA–HUD appropriations bill. I urge all of my colleagues to join in passing this important measure.

As chairman and ranking minority member of the VA–HUD appropriations subcommittee, our colleagues, Mr. LEWIS and Mr. STOKES, have a very difficult job—almost by definition—trying to steer the 3d largest spending bill through the Congress in these times of fiscal restraint. I commend them for their decision to, in some very important areas, adopt the more favorable funding levels proposed by the Senate, including such high priorities as: a $726 million increase in funding for the Veterans Department; a $323 million increase in funding for the Housing and Urban Development Department; and a $184 million increase in funding for the Environmental Protection Agency.

At the same time, this appropriation conference report meets all of its budget targets as part of our ongoing effort to balance the budget by the year 2002 by simply slowing-down the growth rate of Federal spending.

But, more than any particular funding level that is contained in this bill, I am rising in strong support of H.R. 3666 because the conferees retained two very important Senate amendments regarding health care for American families.

In this respect, I particularly wish to commend Representative STOKES for his dedication in bringing the focus and spotlight to the health insurance provisions attached to this bill by the Senate. He brought this issue to the attention of this House through his very successful motion to instruct the conferees almost 2 weeks ago. Because of his bold action, this conference committee report contains the so-called Bradley-Frist amendment requiring at least 48 hours of hospitalization coverage for women giving birth and the Domenici-Wellstone amendment requiring non-discrimination or parity in a health plan's annual and lifetime limits for physical and mental illness were both clarified and retained for the conference committee.

48-HOUR HOSPITALIZATION FOR MOTHERS W/NEWBORN CHILDREN

The Bradley-Frist amendment builds on the law that New Jersey and more than 20 other States have recently enacted in response to some of the latest so-called cost savings proposals—which in reality ration care and violate standards of modern medicine—from the managed care industry. In fact, some managed care plans send mothers with newborn children home 12 or 18 hours after delivery in order to cut costs and enhance their bottom lines. These practices are a disgrace and our action here today will mark the beginning of our standing up for the tradition of quality of care in our Nation.

Women don't go to hospitals to give birth for the hotel room service they receive there—mothers and newborn children should be able to stay in the hospital as long as medically necessary. Establishing 48 hours as a minimum hospital stay isn't really asking for too much for a health insurance plan to provide for a mother with a newborn child. Medical monitoring for at least 48 hours is necessary if we are to guard against new mothers hemorrhaging or newborns getting jaundice, in order to avoid the threat of mental retardation.

MENTAL HEALTH PARITY COMPROMISE

And, in addition, the conference report included a modified version of the Domenici-Wellstone-Roukema mental health parity amendment. The latest compromise version of this legislation simply requires health insurance companies to have equal annual and lifetime caps on physical and mental illness.

This is only a first step toward ending the discrimination that insurance plans practice against the mentally ill. But I believe it will be a landmark breakthrough—a first step, if you will, toward full parity.

This requirement will go into effect in 1998 and remain in effect until 2001 for employers with more than 50 workers. And, if insurance premiums increase by more than 1 percent as a result of this change, employers will not be required to offer parity.

Now, I should advise my colleagues that the Congressional Budget Office [CBO] has reviewed the Domenici-Wellstone-Roukema plan and concluded that the health insurance premiums will increase by less than one-fifth of 1 percent.

In other words, CBO believes that health premiums will not even increase by a half of one-percent, let alone anything more than 1 percent, as a result of this modest mental health parity requirement.

In the final analysis, what that really means in plain English is "mental health parity is the right thing to do for workers, and it makes good business sense, too."

While Senator DOMENICI and I originally sponsored legislation that required full-blown parity of health insurance treatment between physical and mental illness, people of good faith on the conference committee were able to reach consensus and compromise in order to help millions of people who suffer from mental illness, and for that, I thank Chairman LEWIS and subcommittee ranking minority member STOKES.

With this breakthrough, we are advancing beyond the ignorance and apathy that has characterized the treatment of the mentally ill by the insurance industry.

Mr. Chairman, I want to again commend Senator DOMENICI and the conferees for this enlightened and humane legislative package. I urge its passage and enactment.

Mr. VENTO. Mr. Speaker, I rise in reluctant support of the Conference Agreement on H.R.

3666, the VA, HUD and independent agencies appropriations bill. This fiscal year 1997 conference agreement is overall an improved bill in comparison to the extreme bill passed by the majority party of the House last year and by the measure that the House earlier acted on this year for fiscal year 1997.

I remain concerned, however, that this measure largely out of step with people, priorities and shared sacrifice which should characterize reductions in spending necessary to achieve sound fiscal balance. I do pragmatically understand, however, that more often than not the votes in this Congress simply don't reflect American public opinion and priorities.

On the whole, the agreement basically maintains the status quo with 1996 levels of spending; that is levels established After serious cuts of between 20 and 30 percent were made to housing and homeless programs in 1995–96. Unfortunately, it does continue the trend of cutting housing programs. While it changes the names of many of the housing accounts, the agreement is unable to mask 17 percent cuts from last year's levels in section 202 elderly housing and section 811 disabled housing and a 10 percent cut in section 8 rental assistance contract renewals. It is impossible to mask the fact this bill provides no new section 8 tenant rental assistance. This bill does not even attempt to put a dent in the number of households that have worst case housing needs. HUD has reported to us that some 5.3 million people who do not receive housing assistance are underhoused or are paying much too much of their income to be housed. By treading water, this bill's allocation for HUD espouses a policy of inadequate and limited help for people in need of housing assistance.

I am pleased at the continued funding for the drug elimination grant program for public and assisted housing, a program I have fought to keep authorized in the 104th Congress. I note, however, that the inability to compromise or work bipartisanly has put off a partial authorization of housing programs in this Congress. We are left, again, to ask the appropriators to carry forward critical programs and to enact only incremental or temporary reforms in public and assisted housing, FHA multi-family, FHA single-family, and the FHA assignment program.

I am hopeful that the authorizing subcommittee will work bipartisanly next year on all housing programs in our jurisdiction so that we can move forward on FHA reforms to expand homeownership opportunities, neighborhood and economic development programs so we continue to improve our assistance to our Nation's communities, and public housing reform so we can move forward permanently with appropriate devolution of authority to local housing agencies balanced by Federal standards to protect low-income tenants and aspiring residents.

As a senior member of the authorizing committee for housing programs, I have grave concerns about a bill that basically maintains about $4 billion worth of cuts from FY 1995 levels and undercuts the Administration's request by $2.3 billion while at the same time continuing to provide $5.4 billion to NASA for human space flight, the space station, in its tenth reincarnation. Like so many before it, this appropriations bill continues to place deficit reduction on the backs of the most vulnerable Americans—the poor, the homeless, and even our elderly.

EPA funding is $330 million below the Administration's request. A strong and cost effective community program, AmeriCorp, is level-funded at $403 million by this Conference Agreement. Perhaps the only "safe" programs are those important programs within the Department of Veterans Affairs which has available over $39 billion. Even in this instance, we must acknowledge the greater needs for veterans and these programs. Despite funding less than the Administration requested, positive increases in VA medical care and major construction of VA facilities are achieved.

Although total spending for the Environmental Protection Agency is slightly higher than last year's level, if we are to protect the air we breathe and water we drink, we must be serious about the funding for this important agency. The bill also restores the $725 million funding to the state drinking water revolving funds which was lost when the Safe Drinking Water Act was reauthorized too late to include these funds in 1996 fiscal year. If the majority had been doing its job correctly, this deadline would have been respected and this funding would have been available as soon as the Safe Drinking Water Act was passed.

I do want to note my strong support for the $50 million of funding for the Neighborhood Reinvestment Corporation and for the provision of $45 million to continue the promising Community Development Financial Institutions Program. Both of these represent good public private partnership that would be penny wise and pound foolish to further cut or deny. I also note that the FEMA Emergency Food and Shelter Program has been level funded at $100 million for fiscal year 1997. Here again is an essential program that is a very successful partnership that should be pursued as vigorously as possible. With the non-profits who are attempting to cope with the needy, the homeless.

Mr. Chairman, while this agreement is a better bill, a less contentious bill, than last year's or this year's initial House-passed measure, I am concerned that this bill could have far reaching adverse effects as cuts masquerade as level funding amounts. The trick is viewing the reality of those cuts compared to a 1995 baseline. What I see is a continued reality of human deficits and environmental tragedies that will not be assuaged or fooled by the funding in this bill.

While this measure breaks the rules for consideration of policy matters. The fact is this 104th Congress has repeatedly disregarded such process specifics.

I am pleased to see the addition of several important health provisions to this bill. I am a supporter of parity health insurance coverage of mental illness and this bill states that insurers must provide the same spending cap for mental illness as they do for physical illness. This is a common sense measure of fairness.

Another important consumer victory in this bill is the inclusion of a provision to end "drive-through deliveries." The bill require insurance plans to provide for at least a two-day hospital stay for mothers and newborns following a normal delivery, and a four-day stay following a Caesarean procedure. I am a cosponsor of separate legislation to provide this protection and am pleased to see it included in this Conference report.

Although I do not support every aspect of the bill and have grave misgivings about some of the NASA programs funded at the expense of housing and homeless programs, along with the tremendous number and dollar amount of the earmarks made in veterans and EPA programs. I will support the bills—as this Congress and administration have been through this exercise during this section once and the outcome and mark established in 1996 Fiscal Year is improved in this 1997 fiscal year version—compromise and reality argues for a positive vote. With the hope that the future will change the priorities and the mind set in Congress that has skewed the programs this session.

Mr. NADLER. Mr. Speaker, I rise in support of the Veterans Administration and Housing and Urban Development Appropriations Conference Report. The inclusion of maternity care provisions which require health insurance companies to provide a minimum hospital stay of 48 hours following the delivery of a child and a 72 hour stay for cesarean sections; an increase of $25 million for a total of $196 million for Housing Opportunities for People with AIDS; and the adoption of a mental health party provision, all represent great victories.

I am proud that maternity care protection, modeled on legislation which I introduced with Representative TORRICELLI, the "Mothers' and Infants' Good Health Act," is included in this bill. As health care insurance companies continue to cut costs by reducing services and hospital stays the care given to mothers and newborns has suffered greatly. What has come to be known as "express deliveries" has led to numerous cases of undetected and untreated ailments—some potentially fatal—in both infants and mothers after they return home. The result has been additional complications, with more suffering, higher costs with increased emergency room visits, later hospital readmissions, and long lasting disability. The fact that it is now becoming the standard of care to release mothers and infants in under 24 hours following birth is atrocious.

As the trend continues for health insurance companies to sacrifice care for the sake of profits, the government has an obligation to make health insurers accountable to provide adequate and reliable health care for all Americans.

Numerous states have already enacted laws or regulations to enforce this provision. It's time that this became the national standard of care. I commend the Conferees for including it.

As a Representative of New York City, the city hardest hit by AIDS, I am pleased that this agreement contains an extra $25 million for the Housing Opportunities for People with AIDS program.

At any given time, one-third to one-half of all Americans with AIDS are either homeless or in imminent danger of losing their homes. HOPWA is the only federal housing program that specifically provides cities and states hardest-hit by the AIDS epidemic with the resources to address the housing crisis facing people living with AIDS in communities throughout the nation. This program is critically important is not only securing safe and suitable housing for the millions of people living with AIDS, but also for sustaining the health of those who have lost their housing or who have been homeless. Without stable housing, people with AIDS are at a greater risk of premature death due to exposure to other diseases, poor nutrition, stress, and lack of medical care.

The increase of $25 million for HOPWA will truly make a difference for people with AIDS in New York and the nation.

As millions of Americans suffer from mental illnesses which are quite often treatable, the mental health parity provisions in this bill are extremely important. To require health insurance companies to equalize the coverage of mental and physical illness is only fair and right, and to deny equal coverage amounts to nothing less than discrimination. As we continue to educate people about the nature of mental illness—that it is treatable like any other illness—we must continue to ensure that individuals suffering from those illnesses receive the help they need.

After a long year of fighting for these basic housing and health care protections I am pleased to see them included in this bill and urge my colleagues to support these very important provisions.

Mr. GOSS. Mr. Speaker, I am pleased to support H.R. 3666, the fiscal year 1997 VA/HUD appropriation bill. While a number of Members will undoubtedly touch on other important provisions in the bill—including parity for mental health benefits and mandatory stays for mothers and newborns—I would like to focus my limited time on veterans health care.

As we work to balance the budget, it is imperative that we maintain our sacred compact with our veterans. Again this year, we have demonstrated that you can save money and eliminate wasteful spending without cutting back on high priority items like veterans services. For fiscal year 1997, we have provided $17 billion for veterans medical care—a $449 million increase from last year's level and a raise from the President's request.

We have also moved to transform our health care delivery system from a hospital based system to one that emphasizes more cost-efficient primary and outpatient care. In my own district, we have moved forward to expand services to our underserved veterans through expansion of our Fort Myers outpatient clinic. I am pleased to report that the VA has chosen a site and we are on schedule for completion.

Veterans' health care continues to present other serious challenges as we enter the next century. For too many veterans in growth States like Florida, a guaranteed entitlement of medical care has become a hollow promise. We must find a way to have the dollars follow the veterans rather than being distributed in antiquated formulas. The Graham-McCain amendment, adopted in conference, is an excellent step in the right direction as we work for fairness and equity in the VA health care system. I hope and expect that the VA will follow this clear directive and expeditiously work for a better formula.

I applaud Chairman Lewis and Ranking Member Stokes for a job well done and I urge a yes vote for this important legislation.

Mrs. VUCANOVICH. Mr. Speaker, many people have stated that the VA-HUD-Independent Agencies Appropriations Subcommittee has to deal with everything but the kitchen sink. As a member of this important subcommittee, I can tell you that this year we had to deal with the kitchen sink too. Fortunately, under the superb leadership of my friend, Jerry Lewis, H.R. 3666 works hard for the citizens of our country.

Under the bill, veterans can be reassured that VA medical care is a top priority for Congress, increasing this account by 2.7 percent over last year. And for the first time ever, health benefits will be provided to children born with spina bifida, if one parent was exposed to agent orange while serving our country.

In addition, H.R. 3666 keeps our commitment to those who need housing assistance. Specifically, the bill provides $39.2 billion for the Department of Housing and Urban Development. This amount includes $4.6 billion for community development grants which continue to help communities across the Nation.

H.R. 3666 also ensures that our missions in space are mean and lean. Funding for NASA is carefully calculated so that every penny can be accounted.

While the kitchen sink may be a useful item in our homes, it can get cumbersome in an appropriations bill. But the chairman and his staff have the skills of excellent plumbers. The health provisions to help newborns and their moms, and provide mental health parity were carefully crafted to provide the maximum benefit to citizens, with limited pressures on businesses. I thank the committee and the leadership for inclusion of these provisions.

On a personal note, I would like to thank the committee staff for their hard work and dedication to finishing this bill on time. I would also like to thank Mr. Stokes and Mr. Lewis for their help and kind friendship throughout my years in Congress, and especially during my time on this important subcommittee.

Mr. Speaker, I strongly support passage of H.R. 3666, the VA-HUD-independent agencies appropriations bill for fiscal year 1997 and I urge my colleagues to do the same.

Mr. STARK. Mr. Speaker, this appropriations bill includes two important first steps toward improving health care in America—protection for mothers and newborn babies from being forced out of hospitals prematurely and better mental health insurance benefits.

Yet these are the first steps in what needs to be done.

Both amendments have gaping loopholes in them that we will need to fix in the next Congress.

The parity for mental health caps amendment has a potentially gutting amendment offered by the senior Senator from Texas [Mr. Gramm] which says that the parity in annual or lifetime limits between mental health and physical health need not apply if it causes the cost of the health insurance plan to rise by 1 percent or more. The Congressional Budget Office has estimated that the cap parity amendment should only affect health insurance premiums by about 0.4 percent. A recent Coopers & Lybrand analysis says that the premium impact should not only be about 0.12 percent. But thanks to the Gramm amendment, any employer or insurer who does not want to provide this equity treatment only has to say that it will increase costs by 1 percent or more. You can drive an armored division through that loophole—and I hope the next Congress will repeal the Senator's mischievous amendment.

The mental health cap parity amendment also does not include treatment for drug or alcohol addictions—even though the airwaves are filled with political ads decrying the rising level of drug use. If we were serious about turning Americans away from drug use, we would certainly provide health care services for drug and alcohol addiction—and this should be a priority for the next Congress. I would like to include in the Record at this point, a letter from the heads of several of the Nation's major addiction treatment centers—such as the Betty Ford Center—on this point.

SEPTEMBER 16, 1996.

Hon. FORTNEY PETE STARK,
House of Representatives,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN STARK: We are writing to express our grave concern over the mental health parity provision that was included as an amendment to the Senate's HUD–VA Appropriations bill, H.R. 3666. We are shocked that a provision that specifically excludes substance abuse treatment services is being recommended by the leadership in Congress at a time when Republicans and Democrats alike are engaged in a heated national dialogue about addressing our nation's escalating drug problem.

At the Betty Ford Center, the Hazelden Foundation, and the Valley Hope Association, we see first hand the devastation that spiraling alcohol and drug use has on the lives of millions of Americans and their families. We also know the benefit that cost effective treatment has on reducing collateral health care costs, increasing workplace productivity, and reestablishing strong family ties.

We urge you to insist that the leadership drop the language from the HUD–VA bill that excludes substance abuse services from the parity provision. The cost of providing these benefits is a nominal .7% increase in premiums according to an April 12, 1996 study prepared by Milliman and Robertson. At a time when Congress has pledged renewed efforts to address our nation's drug problem, you should not pass legislation that goes entirely in the wrong direction.

Sincerely,

JOHN SCHWARZLOSE,
President, Betty Ford Center.
JERRY SPICER,
President, Hazelden Foundation.
DENNIS GILHOUSEN,
President, Valley Hope Association.

On the new mothers and babies bill, the 48 hours of protection is an important first step. But again, look at the details. The amendment includes language that says nothing in the new law will interfere with a managed care plan's cost-sharing provisions. In other words, a managed care plan could require a two day deductible for maternity stays, thus completely negating this provision. It could require a

$1000 a day copayment for maternity stays, thus making a mockery of this provision for most middle income Americans. There are some plans that are so money-hungry they will probably adjust their cost-sharing arrangements so as to continue to force new mothers out of hospitals before they are ready. I call on the nation's consumer groups to form a database on what the current maternity co-pays and deductibles are in major managed care plans, and publicize any changes in those requirements that are designed to subvert this new law. The spotlight of publicity may be our only real protection against this loophole.

The amendment also drops original language that requires that if a mother and her baby leave the hospital before 48 hours that there be follow-up, at home services. The U.S. General Accounting Office has just released a report entitled, "Appropriate Follow-up Services Critical With Short Hospital Stays." This report clearly shows that we need to revisit this issue next year to provide the kind of care to new babies that a civilized society should provide. As the GAO says

> Although the public debate over maternity care has focused on the shortening of the hospital stay after childbirth, the critical issue is whether mothers and newborns are receiving all necessary services. . . .There is evidence that women and newborns are being discharged early without much follow-up care. Even when follow-up care is provided, it is not always delivered in a timely manner by properly trained professionals.
>
> Requiring insurers to either cover hospital stays of 48 hours for vaginal births or cover follow-up care within 72 hours of discharge may be giving the public a false sense of security. Extending hospital stays to 48 hours may provide for more medical surveillance, but it does not include the period when many neonatal problems usually occur—at 3 days of age. Follow-up care can be a safety net to protect mothers and newborns who are discharged early only if the appropriate services are actually provided.

Mr. KLECZKA. Mr. Speaker, I rise today in strong support of the VA/HUD appropriation bill's maternity stay provisions. I am a firm believer in the saying "mother knows best."

On Mothers' Day this year, I introduced the Newborns and Mothers Health Protection Act. Like the VA–HUD provisions, my bill would enable new mothers to receive insurance coverage for a 48-hour hospital stay after normal childbirth, and 96 hours for a Caesarean section.

Like the legislation we consider today, my bill is not Federal intrusion or a Federal mandate. Rather this bill removes a mandate—an insurance company mandate—and replaces it with the common sense idea that in America today mothers should be given the choice to stay in a hospital for more than 24 hours after they give birth.

My bill, like the language included in the VA/HUD bill, returns decisions about this important issue to those who know it best—a mother and her physician.

I introduced my bill after receiving numerous heartfelt letters from mothers in my district who were kicked out of the hospital only 24 hours after giving birth. I am happy to report to those mothers today that Congress listened, and Congress took action, to stop insurance companies who think their bottom line profits are more important than a newborn's health.

While I would have liked more elements of my bill to be included in the VA–HUD language—including coverage of post-delivery treatment—the provision I rise in support of today makes a major improvement in the way this Nation's mothers will be treated in the future.

Mr. Speaker, a birth is a sacred event. We cheapen it, and endanger lives, when we turn its management over to some insurance company official whose eye is only on the bottom line. The maternity stay provisions we approve today will end the discouraging, and demoralizing, practice of putting profits before people. I urge my colleagues to support this bill.

Ms. MCCARTHY. Mr. Speaker, I rise again today to express my support of one of our Nation's greatest success stories for our youth, the AmeriCorps Program. While the VA–HUD conference report does not provide the President's full funding request for AmeriCorps, it does appropriate $403 million in fiscal year 1997, an amount equal to the current funding level. This is an enormous improvement over the House-passed bill which eliminated funding for the program entirely.

The mission of AmeriCorps is sensible: provide educational opportunities for young people who serve their community in ways that make a real difference in the lives of others.

In my district, AmeriCorps members have partnered with professionals and nonprofit agencies to help immunize children, revitalize and clean up inner city neighborhoods, install smoke alarms in the homes of the elderly, and weatherize homes in low income areas. On Earth Day this year, I assisted AmeriCorps members with planting a community garden in a vacant lot once strewn with debris. The lot now is a source of neighborhood pride.

AmeriCorps members continually champion the cause of community service by their collective and individual efforts. In my community, members have worked with community police officers to initiate neighborhood watch programs and shut down drug houses. The energy of these young people has inspired many families to get more involved to preserve and protect their neighborhood. As a result, Kansas City is cleaner, safer, and more livable because AmeriCorps has made its mark.

As we work to balance the Federal budget, I believe we must set smart priorities. Certainly providing opportunities which afford young people access to job training and education ought to be among our national goals.

I urge my colleagues to support the funding for the AmeriCorps program included in this conference report.

Ms. ESHOO. Mr. Speaker, the conference report before the House today includes many provisions worthy of support. Funding for the Federal Emergency Management Administration [FEMA] is much better than the House-passed level. The Americorps Program will continue to provide civic minded young women and men the opportunity to help their communities and earn money for their college education. Even the Environmental Protection Agency [EPA], the target of endless Republican attacks, is funded at a level that will allow the agency to fulfill its mission.

In addition, this conference report contains three health-related provisions that deserve the strong support of every Member of the House. The year-long fight to ensure parity for mental health benefits has been successful. New mothers will no longer have to worry about being forced from the hospital by insurance companies placing costs over care. And the children of veterans exposed to agent orange will get the benefits they deserve to help treat spina bifida.

Because of these provisions and the improved funding levels, I will support this conference report; yet I must point out that this report also contains a provision I strongly disagree with and which fails the good public policy test. I am referring to language included by the conferees prohibiting the space agency from consolidating NASA research aircraft from centers east of the Mississippi, leaving only one facility subject to this ill-conceived proposal—NASA-Ames, located in the 14th District of California which I represent.

The numbers are clear. The NASA inspector general's final audit report states that the consolidation plan would mean nonrecurring costs of $11.3 million and annual savings of $218,049, resulting in a payback period of 52 years. If the cost of money—discount rate—is factored in, NASA will never recover its financial investment in aircraft consolidation.

Mr. Speaker, over the past several months I have worked with several of my colleagues, Democrats and Republicans, House and Senate, in opposition to NASA's consolidation plan. As I stand here today, it is only NASA Ames, which lies West of the Mississippi, that remains subject to the consolidation. I want my constituents to know that I continue to believe the consolidation is a bad plan and I will continue to press this case both with the Congress and the administration.

Mr. MOORHEAD. Mr. Speaker, I rise today to bring your attention to an effort in my district to establish a healthy lifestyles and opportunities for wellness in children. This enterprise is being undertaken by the Glendale Adventist Medical Center in a endeavor to establish an Institute for Childrens Health and Wellness. The institute will incorporate existing hospital treatment programs and add educational, clinical, and special family programs along with a comprehensive community outreach.

Good health is essential if children are to benefit fully from their education. At the same time, the education they receive must contribute to helping them to keep healthy. The link between education and health is strong and reciprocal. Prenatal and well baby care, language and speech development, good nutrition, emotional bonding, and the opportunity for age-appropriate cognitive, social, and physical experiences all have a profound impact in shaping a child's readiness to learn and become a healthy adult.

Today, tobacco, alcohol, diets rich in saturated fats and cholesterol, lack of physical exercises, the widespread use of drugs, and other hazards are, unfortunately, not only part of the lifestyle of many adult Americans, but of many teenagers and children as well. Helping children to live a healthy lifestyle in the face of destructive societal behaviors is a challenging task, but one that must be met head on. The savings in terms of human life and dollars will be monumental if children nationwide adopt a healthier lifestyle.

The Institute will serve community children in a wide array of services, touching every aspect of their development. Programs include a Learning Center, Mildly-Ill Care to assist working parents, Drop-In Care, Outpatient Pediatric rehabilitation, mental health services, health education classes, Outpatient Adolescent Recovery Program and extensive community outreach. The focus will not be to merely avoid illness, but rather to prolong life through activities that are designed to continually improve physical and emotional well-being.

We all recognize that children are America's most valuable resource. It is important to our future to give children opportunities for health and more importantly, the tools to learn how to live a healthy lifestyle that continue throughout their life.

It is my hope that the next Congress will want to join in partnership with Glendale Adventist Medical Center and create positive step toward a nation of healthier children. It is also my expectation that other communities across the Nation will undertake a replication of this admirable program. I hope to encourage the Department of Housing and Urban Development to support a proposal funding this initiative.

Mr. BORSKI. Mr. Speaker, I rise today in strong support of H.R. 3666, the conference report on VA-HUD-Independent Agencies Appropriations for fiscal year 1997. I support this bill for many reasons but especially because it includes a provision that requires health insurance companies to cover 48 hours of hospital care for a woman after she gives birth.

Mr. Speaker, my constituent, Mrs. Maureen Drumm is a perfect example of why this practice of drive-through deliveries must be stopped.

On August 31, 1992, Maureen gave birth to her first daughter, Bridget Theresa. Bridget's first twenty-four hours of life were that of a normal, beautiful, healthy baby. However, approximately twenty-hours after Bridget was born, Maureen began to experience severe physical distress. Maureen had developed a uterine infection, her temperature rose quickly to one hundred and four degrees, and she was in danger of lapsing into shock.

Mrs. Drumm's doctors immediately placed her on heavy doses of antibiotics and other intravenously administered medications. But, despite her doctor's best efforts, her fever persisted for 5 days at rates over one hundred degrees.

Although Maureen was quite ill, her greatest pain was not physical. Maureen was suffering mentally for her newborn daughter, Bridget. Approximately 48 hours after Bridget was born, she was moved to the intensive care unit. In a matter of hours, Bridget's bilirubin level—the yellow-brown bile pigment in the blood—had jumped from a normal level of 11 to a dangerous level of 19. Bilirubin levels in the twenties can cause bilirubin encephalopathy—a condition which causes permanent brain and nervous system damage. Bilirubin levels of over twenty-two require transfusions which replace all of the blood in the baby's body. Bridget Theresa was in great danger.

In time, Maureen's fever and Bridget's jaundice subsided because they were given high quality medical treatment and an adequate length of stay in the hospital. However, if they had been forced to leave twenty-four hours after Maureen gave birth—they would not have been so lucky. Mr. Speaker, forcing women and their newborn babies out of the hospital after 24 hours is cruel, barbaric, and extremely dangerous. If this policy of mandating "drive-through deliveries" was in effect in 1992, Bridget Theresa could be mentally retarded and Maureen could have died.

As you can imagine, Mr. Speaker, when Maureen became pregnant with her second child, she was quite nervous. Mrs. Drumm had learned that since her first delivery, her insurance company adopted a policy which required mothers and newborns be discharged from the hospital 24 hours after a "normal delivery." Well, Maureen did have a "normal delivery" with her first daughter Bridget Theresa. It was only after the first 24 hours that their conditions became obvious.

On July 26, 1995, Mrs. Drumm testified in front of the Pennsylvania House of Representatives Democratic Policy Committee. The next day Maureen received a phone call from Blue Cross/Blue Shield and was informed that because of her testimony, she would be pre-approved for a 48-hour stay in the hospital after giving birth. On August 3, 1995, Blue Cross/Blue Shield of Philadelphia changed their policy to "Mother's Option"—which is 24 hours in the hospital and two home health care visits or 48 hours in the hospital.

On August 6, 1995, Maureen gave birth to her second child—a beautiful, healthy baby girl—Maura Elizabeth. Maura also had an elevated bilirubin level on her second day of life and was given immediate treatment. Since Maureen and Maura were able to stay a second day in the hospital, Maureen was well rested and able to care for Maura's jaundice at home over the course of the next few days. Today, both of Maureen's daughters are growing beautifully.

Mr. Speaker, since Maura's birth, Pennsylvania has joined a number of other States in making the option of a 48-hour hospital stay law. Now, we need to make it a Federal law.

Mr. Speaker, Maureen Drumm's efforts in educating us all in this dangerous "drive-through delivery" practice should be commended. Maureen Drumm not only won a battle for herself, but for millions of women across this country. Although, many people would have been satisfied with being granted an extra day in the hospital for themselves, Maureen didn't stop there. Through many trips to Washington and many meetings with both Representatives and Senators, she has focused national attention on this issue, and has been a true leader in this fight for the rights of newborns and their mothers. Maureen Drumm has proven that one person really can make a difference. I congratulate Maureen Drumm and urge you to do the same by passing this important and vital legislation.

Mr. ORTON. Mr. Speaker, with the passage of the VA/HUD appropriations bill in the House and Senate and expected approval by the President, I am very pleased to note the enactment into law of important FHA reforms, which will improve and enhance the program.

The first reform is the elimination of the current prohibition against parental loans in conjunction with FHA mortgages. In spite of the fact that parental financial assistance plays an important role in meeting down payment requirements and promoting homeownership, current FHA rules do not permit parents to lend money to their children for this purpose. This prohibition is antihomeownership and antifamily. I am pleased to see Congress adopt my proposal and allow parental loans, on either a secured or unsecured basis, for this purpose.

The second reform would allow direct endorsement lenders to issue their own mortgage certificates. This will lower costs for lenders and for FHA which can be passed along to borrowers in the form of lower premiums and lower loan costs. Since direct endorsement lenders are already given underwriting authority, this change will not negatively affect the quality of loans approved. This proposal was adopted 2 years ago in the House, and was included in my FHA reform bill introduced at the beginning of this Congress.

The third reform is the establishment of an FHA down payment simplification proposal on a demonstration basis in Alaska and Hawaii. This proposal is based on my down payment proposal which was adopted in the Banking Committee in 1994. Virtually everyone who uses FHA acknowledges that the current down payment calculation is unnessarily complex. This proposal would greatly simplify the process for borrowers, lenders, and realtors.

I am disappointed that the Senate prevailed over the House on this issue, scaling back nationwide application to a demonstration project. However, I am pleased that Congress has finally acknowledged that we ought to take action on this issue. My hope is that next year, we can expand this demonstration status to the entire Nation and make it permanent.

And, I would like to acknowledge the efforts and leadership of Representative WELLER's amendment to codify the lowering of the FHA premium from 2.25 percent to 2 percent for first-time home buyers who receive homeownership counseling. This continues a trend over the last 4 years of lowering FHA premiums, as a result of lowered FHA loss rates and reductions in administrative costs.

These legislative changes represent a great achievement, in light of the fact that it now appears that no comprehensive housing legislation will be enacted this Congress.

The passage of these provisions is especially noteworthy, in light of the great number of House Members who are opposed to FHA. Early last year, legislation was introduced which would have effectively eliminated FHA. This legislation was supported by 60 House Members including many in leadership positions, such as Majority Leader DICK ARMEY and Majority Whip TOM DELAY. A companion bill was introduced in the Senate.

Not only were FHA proponents able to repel this effort to destroy FHA, but we were able to improve the program through much-needed reforms. These reforms are critically important in my home State of Utah and throughout the country. A recent Fannie Mae study cited the required downpayment as the No. 1 impediment to home ownership in this country. FHA, with its low downpayment provisions, is the most effective and widely available mortgage tool used to help young families and individuals overcome that downpayment hurdle. And, it does so at no cost to the taxpayer.

In fact, a recent GAO study showed that 77 percent of first-time home buyers who used FHA loans in 1995 would not have qualified for a loan without FHA. In my home State of Utah, 68 percent of first-time home buyers use FHA. Thus, in Utah, over half of first-time home buyers would not be able to enter the housing market without FHA.

These statistics clearly show the folly of proposals to end or privatize FHA. They also show how critical it is to continue to improve and modernize the program.

Therefore, it is my hope that next year, we can finish the job we started back in the 103d Congress. Specifically, we should extend the demonstration downpayment simplification proposal to nationwide status, raise the national FHA loan floor to 50 percent of the Fannie Mae/Freddie Mac limit, allow the use of two-step mortgages, and eliminate the outdated 90 percent loan-to-value limitation on new construction.

In closing, I would like to thank House and Senate conferees for preserving these important FHA reforms in the final conference report, and look forward to their implementation.

Mr. STUMP. Mr. Speaker, I rise in opposition to the conference report on H.R. 3666, the VA, HUD and independent agencies appropriations bill for fiscal year 1997.

As chairman of the Veterans' Affairs Committee, I am deeply dissatisfied with the way the conference report treats the veterans' portion of the bill.

The conference report switches priorities approved by the House.

The result, veterans lose out to nonveteran programs.

I strongly object to the conference report boosting programs for EPA, NASA, and Americorps at the expense of veterans.

The conference report drops VA medical care $55 million below the House, inadequately funds VA medical research $15 million below the House, and skims $13 million off the House on resources necessary for timely processing of veterans service connected benefit claims.

The conference report bumps up EPA by $140 million above the House, NASA $100 million above the House, FEMA $197 million above the House, and gives $400 million to "paid volunteers" and bureaucrats at Americorps, which the House had zero funded.

Mr. Chairman, the overall story is unfortunately a weakening of the House-passed priorities for veterans' programs.

Additionally, it is inappropriate for legislative amendments to find their way into appropriations measures.

While I would not necessarily disagree with all the attached legislative amendments had they been properly before the Veterans' Affairs Committee, I strongly object to their presence in the appropriations bill conference report.

The conference report creates an unprecedented benefits entitlement for children with spina bifida, on the basis of what can at best only be called questionable scientific foundation.

Worse than that is the way it has been paid for.

The appropriations bill reverses the Supreme Court's Gardner decision.

This is not simply an offset.

It is legislative savings that should be controlled by the Veterans' Affairs Committee, and it is more than what is needed to pay for the new entitlement.

Thus the VA Committee loses control over $500 million.

That's the difference between the costs of this brand-new entitlement and savings from repeal of Gardner.

It's the price for rushing these provisions through the appropriations process instead of the committee of jurisdiction.

The appropriations bill strips the House Veterans' Affairs Committee of our plan to achieve significant savings without hurting higher priority veterans' programs, and denies veterans the potential of using that $500 million for other benefits improvements for service-connected veterans.

Frankly, we should be able to do better for these men and women who served us in uniform.

Mr. LEWIS of California. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 388, nays, 25, not voting 20, as follows:

[Roll No. 426]

YEAS—388

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Dunn
Edwards
Ehlers
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Pelosi
Peterson (MN)
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sawyer
Saxton
Schaefer
Schiff
Schumer
Scott
Seastrand
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—25

Bachus
Coburn
Cooley
Cox
DeLay
Doolittle
Duncan
Ehrlich
Geren
Hall (TX)
Hancock
Hoekstra
Istook
Johnson, Sam
Largent
Minge
Neumann
Petri
Roemer
Sanford
Scarborough
Sensenbrenner
Shadegg
Stump
Walker

NOT VOTING—20

Bunn
Durbin
Funderburk
Gephardt
Gibbons
Goodling
Hayes
Heineman
Jacobs
Lincoln
Oxley
Parker
Payne (VA)
Peterson (FL)
Rangel
Schroeder
Studds
Wicker
Williams
Wilson

□ 2042

Mr. BACHUS and Mr. HALL of Texas changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore (Mr. LaHood). Pursuant to clause 5 of rule I, the pending business is the question on agreeing to the Speaker's approval of the Journal of the last day's proceedings.

Pursuant to clause 1, rule I, the Journal stands approved.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4134, AUTHORIZING STATES TO DENY PUBLIC EDUCATION BENEFITS TO CERTAIN ALIENS NOT LAWFULLY IN THE UNITED STATES

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–834) on the resolution (H. Res. 530) providing for consideration of the bill (H.R. 4134) to amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997, which was referred to the House Calendar and ordered to be printed.

PRESIDENTIAL AND EXECUTIVE OFFICE ACCOUNTABILITY ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rule and passing the bill, H.R. 3452, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Horn] that the House suspend the rules and pass the bill, H.R. 3452, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 410, nays 5, not voting 18, as follows:

[Roll No. 427]

YEAS—410

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Pelosi
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—5

Clyburn
Cox
Hilliard
Johnson, E. B.
Watt (NC)

NOT VOTING—18

Bunn
Durbin
Funderburk
Gephardt
Gibbons
Hayes
Heineman
Jacobs
Lincoln
Oxley
Payne (VA)
Peterson (FL)
Rangel
Schroeder
Studds
Wicker
Williams
Wilson

□ 2100

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FUNDERBURK. Mr. Speaker, on Tuesday, September 24, 1996 I was unavoidably detained and missed several votes. Had I been present, I would have recorded my vote as follows:

Rollcall vote number 426 on agreeing to the VA/HUD conference report—I would have voted "aye."

Rollcall vote number 427 on agreeing to H.R. 3452, the Presidential and Executive Office Accountability Act—I would have voted "aye."

Rollcall vote number 425 on agreeing to House Resolution 525 providing expedited procedures for the remainder of the second session of the 104th Congress—I would have voted "aye."

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 3539, FEDERAL AVIATION AUTHORIZATION ACT OF 1996

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the Chair appoints the following additional conferees from the Committee on Ways and Means for the consideration of section 501 of the bill, H.R. 3539, and sections 417, 906 and 1001 of the Senate amendment and modifications committed to conference: Messrs. ARCHER, CRANE, and GIBBONS.

There was no objection.

PRIVILEGES OF THE HOUSE—RESOLUTION REQUIRING THAT INVESTIGATION INTO MATTERS SURROUNDING COMPLAINT ON REPRESENTATIVE RICHARD GEPHARDT BE ASSIGNED TO SPECIAL COUNSEL

Mr. LINDER. Mr. Speaker, earlier in this day I served notice that I would ask the House to consider a question of privilege under rule IX. I respectfully request that that resolution be brought to the floor right now.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. Res. 531

Whereas, a complaint filed against Representative Gephardt alleges House Rules have been violated by Representative Gephardt's concealment of profits gained through a complex series of real estate tax exchanges and;

Whereas, the complaint also alleges possible violations of banking disclosure and campaign finance laws or regulations and;

Whereas, the Committee on Standards of Official Conduct has in other complex matters involving complaints hired outside counsel with expertise in tax laws and regulations and;

Whereas, the Committee on Standards of Official Conduct is responsible for determining whether Representative Gephardt's financial transactions violated standards of conduct or specific rules of the House of Representatives and;

Whereas, the complaint against Representative Gephardt has been pending before the committee for more than seven months and the integrity of the ethics process and the manner in which Members are disciplined is called into question; and

Whereas, on Friday, September 20, 1996 the ranking Democrat of the Ethics Committee, Representative James McDermott in a public statement suggested that cases pending before the committee in excess of 60 days be referred to an outside counsel; now be it

Resolved that the committee on Standards of Official Conduct is authorized and directed to hire a special counsel to assist in the investigation of the charges filed against the Democrat Leader Representative Richard Gephardt.

Resolved that all relevant materials presented to, or developed by, the committee to date on the complaint be submitted to a special counsel, for review and recommendation to determine whether the committee should proceed to a preliminary inquiry.

The SPEAKER pro tempore. The resolution constitutes a question of privileges of the House.

MOTION TO TABLE OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. ARMEY moves to lay the resolution on the table.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARMEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 390, noes 11, answered "present" 7, not voting 25, as follows:

[Roll No. 428]

AYES—390

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Orton
Owens
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—11

Doyle
Holden
Kanjorski
Klug
McDermott
McHale
Minge
Peterson (MN)
Quinn
Taylor (MS)
Walsh

ANSWERED "PRESENT"—7

Borski
Cardin
Goss
Hobson
Pelosi
Sawyer
Schiff

NOT VOTING—25

Boucher
Bunn
Cooley
de la Garza
Durbin
Flake
Funderburk
Gephardt
Gibbons
Hayes
Heineman
Jacobs
Lincoln
Martinez
Ortiz
Oxley
Payne (VA)
Peterson (FL)
Rangel
Schroeder
Studds
Tejeda
Torres
Williams
Wilson

□ 2121

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. JOHNSON of Connecticut. Mr. Speaker, on rollcall No. 428, I mistakenly voted "aye". I intended to vote "present."

PRIVILEGES OF THE HOUSE—CALLING FOR RELEASE OF OUTSIDE COUNSEL'S REPORT ON SPEAKER GINGRICH

Mr. LEWIS of Georgia. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a resolution pursuant to clause 2 of rule IX.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 532

Whereas on December 6, 1995, the Committee on Standards of Official Conduct agreed to appoint an outside counsel to conduct an independent, non-partisan investigation of allegations of ethical misconduct by Speaker Newt Gingrich;

Whereas, after an eight-month investigation, that outside counsel has submitted an extensive document containing the results of his inquiry;

Whereas the report of the outside counsel cost the taxpayers $500,000;

Whereas the public has a right—and Members of Congress have a responsibility—to examine the work of the outside counsel and reach an independent judgement concerning the merits of the charges against the Speaker;

Whereas these charges have been before the Ethics Committee for more than two years;

Whereas a failure of the Committee to release the outside counsel's report before the adjournment of the 104th Congress will seriously undermine the credibility of the Ethics Committee and the integrity of the House of Representatives;

Therefore be it resolved that

The Committee on Standards of Official Conduct shall release to the public the outside counsel's report on Speaker Newt Gingrich—including any conclusions, recommendations, attachments, exhibits or accompanying material—no later than Wednesday, September 25, 1996.

The SPEAKER pro tempore (Mr. LAHOOD). The resolution constitutes a question of the privileges of the House.

MOTION TO TABLE OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. ARMEY moves to lay the resolutions on the table.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 225, noes 173, answered "present" 9, not voting 26, as follows:

[Roll No. 429]

AYES—225

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—173

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Blumenauer
Bonior
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Cummings
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Peterson (MN)
Pickett
Pomeroy
Poshard
Quinn
Rahall
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Wise
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—9

Borski
Cardin
Goss
Hobson
Johnson (CT)
Pelosi
Sawyer
Schiff
Traficant

NOT VOTING—26

Berman
Boucher
Bunn
Cooley
de la Garza
Durbin
Flake
Funderburk
Gephardt
Gibbons
Hayes
Heineman
Jacobs
Lincoln
Martinez
Neal
Oxley
Payne (VA)
Peterson (FL)
Rangel
Schroeder
Studds
Torres
Waxman
Williams
Wilson

□ 2141

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. OXLEY. Mr. Speaker, on Tuesday September 24, 1996, I was unavoidably absent from the House Chamber during rollcall vote Nos. 425 to 429. Had I been present, I would have voted "yea" in all cases.

ANNOUNCEMENT OF LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF RULES ON WEDNESDAY, SEPTEMBER 25, 1996

Mr. GOSS. Mr. Speaker, pursuant to the rule adopted earlier today, I am announcing the following suspensions for Wednesday, September 25:

H.R. 3852, Comprehensive Methamphetamine Control Act of 1966;

H.R. 1499, Telemarketing Fraud Punishment and Prevention Act;

H.R. 3456, Sexual Offender Tracking and Identification Act of 1996;

H.R. 4137, Rohypnol; an unnumbered House resolution on the Government Accountability Act;

H.R. 2092, Private Security Officer Quality Assurance Act of 1995;

S. 919, Child Abuse Prevention and Treatment Act Amendments of 1995;

H.R. 1186, Professional Boxing Safety Act;

H.R. 3391, Leaking Underground Storage Tank Trust Fund Amendments;

H.R. 3700, Internet Election Information Act of 1996;

S. 1970, National Museum of the American Indian Act Amendments of 1996;

H.R. 4011, Congressional Pension Forfeiture Act of 1996;

S. 868, Federal Employees Emergency Leave Transfer Act of 1995;

H. Con. Res. 145, Concerning the Removal of Russian Forces from Moldova;

H. Con. Res. 189, Expressing Sense of Congress Regarding the Importance of U.S. Membership in Regional South Pacific Organizations;

H. Con. Res. 51, Expressing Sense of Congress Relating to the Removal of Russian Troops from Kaliningrad;

H.R. 4036, Human Rights Restoration Act of 1996;

H.R. 3497, Snoqualmie National Forest Boundary Adjustment Act of 1996;

H.R. 3155, Designating the Wekiva River for Study and Possible Addition to the National Wild and Scenic Rivers System;

H.R. 3568, Designating 51.7 miles of the Clarion River as a component of the National Wild and Scenic Rivers System;

S. 1834, Reauthorizing the Indian Environmental General Assistance Program; and

H.R. 3159, National Transportation Safety Board Amendments of 1996.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. LEWIS of Georgia. Mr. Speaker, pursuant to clause 2 of rule IX, I hereby give notice of my intention to offer a resolution which raises a question of the privileges of the House.

The form of the resolution is as follows:

Whereas on December 16, 1995, the Committee on Standards of Official Conduct agreed to appoint an outside counsel to conduct an independent, nonpartisan investigation of allegations of ethical misconduct by Speaker Newt Gingrich;

Whereas, after an eight-month investigation, that outside counsel has submitted an extensive document containing the results of his inquiry;

Whereas the report of the outside counsel cost the taxpayers $500,000;

Whereas the public has a right—and Members of Congress have a responsibility—to examine the work of the outside counsel and reach an independent judgment concerning the merits of the charges against the Speaker;

Whereas these charges have been before the Ethics Committee for more than two years;

Whereas a failure of the Committee to release the outside counsel's report before the adjournment of the 104th Congress will seriously undermine the credibility of the Ethics Committee and the integrity of the House of Representatives;

Therefore be it resolved that: The Committee on Standards of Official Conduct shall release to the public the outside counsel's report on Speaker Newt Gingrich, including any conclusions, recommendations, attachments, exhibits or accompanying material—no later than Thursday, September 26, 1996.

The SPEAKER pro tempore (Mr. ROTH). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative sch3dule within 2 legislative days. The Chair will announce that designation at a later time.

A determination as to whether the resolution constitutes a question of privilege will be made at a later time.

□ 2145

ORDER OF BUSINESS

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the special order of the gentleman from California [Mr. DREIER], which is addressed to the same subject as mine, be allowed to follow mine immediately thereafter.

The SPEAKER pro tempore (Mr. ROTH). Is there objection to the request of the gentleman from California?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO CARLOS J. MOORHEAD AND ANTHONY C. BEILENSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, the gentleman from California [Mr. DREIER] and I both want to say a few words about two of our retiring Members. At this late date in the session, it is becoming increasingly difficult to find the time to do that. So we are going to do our best, with each of us taking 5 minutes, to recognize the two distinguished senior Members of the California delegation who are retiring.

I want to take this opportunity to focus attention on the public service of Congressman CARLOS MOORHEAD and Congressman TONY BEILENSON. They have both served the Nation and the State of California and Congress for over two decades. They will both be very greatly missed.

TONY and CARLOS represent a special type of Member who is willing to work with colleagues of any political persuasion in order to get good things done here in the Congress. Each has weathered some criticism within their respective political parties for this tendency toward supporting good government. But it is that special approach to government that has earned them the affection of their colleagues and their constituents, and, of course, the great respect of those colleagues and constituents.

Congressman MOORHEAD came to Congress at the start of the 93d Congress in 1973 after serving in the California Assembly for 6 years. CARLOS has been a strong voice on the Commerce and Judiciary Committees from the Southern California region and has been an effective advocate for our entertainment industry in both of these committees. But CARLOS has been best known as a leader within the delegation who, as dean of the Republican delegation, has been willing to work with anyone on issues of importance to the State of California.

As chairman of the California Democratic Congressional delegation, it has been a joy for me to work with CARLOS on those issues where we can toss aside our party labels and simply become advocates for what is best for California.

Congressman BEILENSON came to Congress after 14 years in the California State Assembly and Senate, starting with the 95th Congress in 1977. TONY has been a strong voice for principle and reason in an institution that at times at least seems to lack both qualities.

As a member of the Committee on Rules, he has had the opportunity to show all of us how important those qualities are in the day-to-day operations of the Congress. Many times when I have been faced with tough fights involving institutional reform, it has been reassuring to look up at the Committee on Rules and to see TONY sitting on the dais. If nothing else, I knew that he would give me a fair hearing on my ideas.

Both CARLOS and TONY have been friends and colleagues of mine for much longer than two decades. I have enjoyed working with both of them, and I will miss them. But as one who has at times contemplated leaving this institution, I understand their desire to move on to a simpler lifestyle. This is a greatly changed institution from the one that they entered in the 1970's, and I am not referring to the changes that took place 2 years ago. This is an institution that has trouble rewarding the independent-minded person who struggles to represent their constituents as they see best, not as some committee chair or party leader feels would be best.

There are fewer people like CARLOS and TONY today, and tomorrow and in the next session of Congress there will be two fewer, and we will all be lessened by that. CARLOS and TONY, I wish you well, and thank you for your service on behalf of California.

Mr. Speaker, at this time I would like to yield to my good friend, the gentleman from California, Mr. DREIER.

FURTHER TRIBUTE TO CARLOS J. MOORHEAD AND ANTHONY C. BEILENSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I thank my friend, the gentleman from California [Mr. BROWN], for taking the time for this special order. I would like to congratulate my California colleague, the dean of the entire delegation, because he has served here longer than any other Member and I think longer than any Californian has served in the Congress. I appreciate his taking out this time to talk about our colleagues.

Mr. Speaker, I would like to offer just a little glimmer of hope with the spirit that both TONY BEILENSON and CARLOS MOORHEAD have embodied with their service here, that being that our colleagues, Messrs. LAHOOD and SKAGGS have led an effort, of which I am proud to be a part, that will see us in the 105th Congress, God and the voters willing, a number of us will be here to participate in that, we will be holding a bipartisan retreat for the first time ever.

I think there has been recognition that the work that TONY BEILENSON and CARLOS MOORHEAD and a number of others who have chosen to retire have done over the years, that that spirit of bipartisanship, when it is possible, should continue.

Mr. Speaker, the point that I would make is that these two individuals have done so much to try and deal responsibly with legislation, not in any way compromising their principle, but, in fact, as our former minority leader Bob Michel used to enjoy saying, you should never compromise your principles, but you should always be prepared to compromise for principle. I think the Moorhead-Beilenson spirit is very important, and I am confident that while we will have two fewer Members here because of their absence, that the spirit will be carried forth into the 105th Congress. A number of us I know are working on that.

Mr. Speaker, I yield to my friend from California, Mr. BROWN.

Mr. BROWN of California. Mr. Speaker, I appreciate the gentleman yielding to comment on the point he just made. I appreciate the fact that there are persons like himself and Mr. SKAGGS and Mr. LAHOOD who are making an effort to see if we can improve in the next Congress.

We have been through some bitter fights. There is always, of course, a need for a sharp clash of ideas, but there is also the need for collegiality and cooperation when we do share common goals. What we do need to achieve and what you are seeking to achieve, I think, is that proper balance between the clash of ideas that is so necessary in a democracy and the desire to cooperate, which is necessary to implement those ideas when we finally reach agreement on them.

Mr. DREIER. Absolutely. That clash of ideas is going to continue, but the debate can take place. I remember we often point back to Speaker O'Neill and Ronald Reagan, who said that at 6 o'clock in the evening, when the workday comes to an end, and we know it does not come to an end at 6 o'clock at all times, but there are after-hour times when people should have the chance to get together and get to know each other so the tension level can in fact be reduced. I hope we will be able to successfully do that in the 105th Congress.

Mr. Speaker, I should say I have had the privilege of serving, as I know my friend has, with these two great individuals. CARLOS MOORHEAD has served as dean of the California Congressional delegation on the Republican side for I believe longer than anyone. It was 1982 as I began my second term here that CARLOS became the dean of our delegation, and he has provided terrific leadership.

When it has come to California issues, CARLOS has constantly stood up to do everything possible to address the needs of our State. One of the least attractive, but most important areas, has been the one which my friend Mr. BROWN mentioned, that being the issue of intellectual property and job creation.

In California, as we have shifted from a defense and aerospace-based economy to an export-based economy with the proliferation of the high-tech-biotech industries and, of course, the entertainment industry, CARLOS MOORHEAD has been on the cutting edge, making sure that we have an opportunity to get our goods and services into other parts of the world.

When it has come to patent and trademark work, which is so important to that, CARLOS has led the charge, and we are hoping very much he is about going to be able in the waning days of the 104th Congress to continue his work on that with very important legislation.

I should say he has always been a great friend and traveling companion, and I have had the privilege of sharing the representation of the City of Pasadena during this decade of the 1990's with him. I know my friend Mr. BROWN has a particular interest in the Jet Propulsion Lab, which is technically in CARLOS MOORHEAD's district, but I am privileged to represent many of those who work at the Jet Propulsion Lab.

CARLOS is a Californian, a native of Glendale, a graduate of Hoover High School in Glendale, one who loves our State and one who has chosen to retire to California when he leaves. He and Val will be sorely missed, and I will miss the very levelheaded advice he has given this very enthusiastic guy on more than a couple of occasions.

Mr. Speaker, I have had the privilege of sitting with TONY BEILENSON up in the Committee on Rules. TONY has been an independent voice in the Committee on Rules, and independence is not something that is always sought in the Committee on Rules, but TONY has offered it. He has been extraordinarily thoughtful when it has come to fairness and deliberation, and I have appreciated the advice that he has provided me and the friendship that he has offered. He and Delores have also been terrific people to travel with and to go from Los Angeles to Dulles with on more than a couple of occasions.

TONY is a native of New York, but has been in California for a long period of time, as my friend said, and served there for many years.

□ 2200

He will be missed. And I should say that I hope that our colleagues will take advantage of a chance to add remarks into the RECORD as they see fit, and I am happy to yield to my friend.

Mr. BROWN of California. I thank the gentleman. The gentleman reminds me of an almost forgotten anecdote about when TONY was first appointed to the Committee on Rules. I was consulted then as a senior member of the delegation by the leadership, and asked my views as to what TONY's position might be, the implication being, will he follow the leadership? And I remember saying probably not, but he will do the right thing when he is on the Committee on Rules.

Mr. DREIER. That is a terrific story.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks for the Record on this special order that the gentleman from California, Mr. Brown, and I have held here.

The SPEAKER protempore. Is there objection to the request of the gentleman from California?

There was no objection.

ASSISTED SUICIDE FUNDING RESTRICTION ACT OF 1996

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. Hall] is recognized for 5 minutes.

Mr. HALL of Texas. Mr. Speaker, I rise today to introduce the Assisted Suicide Funding Restriction Act of 1996. It is a bill that will safeguard our Nation against the use of Federal tax dollars to subsidize or promote the practice of assisted suicide.

Now, this bill is the product of a bipartisan effort—we have over 100 signatures, and no one has turned me down as a cosponsor, we just have not had the time to get around to every office—with supporters from both sides of the aisle, and overwhelming support from the public.

This legislation is needed, Mr. Speaker, in light of recent court actions. Assisted suicide, or "aiding, abetting or encouraging the suicide of another," is a criminal offense in 40 States. Yet two Federal appeals courts, the 9th Circuit Court of Appeals and the 2d Circuit Court of Appeals, have ruled assisted suicide is a constitutional right. One State has already chosen to actually legalize assisted suicide, and while that law has not taken effect in that State yet, the 9th Circuit Court could reinstate it any day, and that State's Medicaid director has publicly stated that Medicaid, which is a Federal program funded by Federal tax dollars, will pay for assisted suicide.

Unless the Supreme Court disagrees with these opinions, physician-assisted suicide could become a legal and a routine practice throughout our country. Taxpayers could be funding assisted suicides, no matter how strong their conscientious objections were and how much they objected to the practice itself.

Polling shows us that a majority of Americans, 83 percent, oppose assisted suicide. This legislation will preempt the use of taxpayer dollars by preventing programs such ad Medicaid, Medicare, Indian health care, the military health care system, the Federal employees benefits plans and other Federal programs from paying for assisted suicide, euthanasia or mercy killing of an individual.

This bill does not affect the patient's right to reject or to discontinue medical treatment. It respects the wishes of the patient and it respects the sanctity of the doctor-patient relationship. It does not affect recognized modes of pain relief. Doctors will be able to continue to administer pain medication in any dose necessary to control pain. This bill permits full funding of this type of relief and any other type of medically recognized comfort or pain care that does not assist in the killing of patients.

The sum, Mr. Speaker, this legislation has the modest goal of keeping the Federal Government out of the business of euthanasia and out of the business of using taxpayer money for assisted suicide. I urge my colleagues to give their support to this bill, the Assisted Suicide Funding Restriction Act of 1996.

FLORIDA'S WINTER FRUIT AND VEGETABLE FARMERS FACE GRAVE SITUATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. Goss] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, this morning in Lake Worth, FL, the Subcommittee on Risk Management and Specialty Crops held an important field hearing regarding Florida's winter fruit and vegetable industry. I commend our colleagues, the gentleman from Florida, Mark Foley, and the gentleman from Illinois, Tom Ewing, for making this effort.

Although I was not able to be there myself, I want to share the feedback that my staff who were there got, because it definitely matches the information from the recent meetings we have been having in my own southwest Florida district, and that information is not good.

The situation on the ground in Florida for these farmers is grave. Bankruptcy, in fact, looms for many, many of whom have been in farming families, growing winter vegetables and fruits in Florida, for literally generations. Planted acreage numbers are declining and they are declining rapidly. In some places we understand the contraction of the industry this year has been as much as 30 percent. That is a giant impact and it is a negative one.

We have also heard from local bankers in my district who, despite longstanding relationships with the farming community, today just simply have to say "no" to new loans because the risks are too high for them.

In the long term there are legislative steps this Congress can take, such as country-of-origin labeling laws, we know about and have been working on to assist our growers' in the transition to what we call a post-NAFTA trade system. In fact, the House has already taken action to relieve some farmers of unnecessary burdens by modernizing pesticide regulation, by voting for commonsense regulatory reform and doing things like that.

But the farmers face more immediate problems, a situation that I think now clearly calls for decisive action by the executive branch within the existing authority that it has to provide immediate assistance for our farmers.

Prior to the passage of NAFTA, I well recall the Clinton White House made a lot of promises to the Florida delegation and to the fruit and vegetable industry in our area, and today the Florida growers need the administration to take action to halt the potentially unfair Mexican trading practices we are seeing; to get full enforcement of NAFTA and its side agreements; to utilize existing mechanisms, notably section 316 of NAFTA, to consult with their Mexican counterparts; and to simply give growers a chance to compete on a level playing field. They think they can win competitively, and so do I, if they have a level playing field.

So we are looking to the administration for help. We only hope the White House will honor the pledge they made to these hard-working Americans and give them a chance to prove that they can do the job in a fair field.

Mr. MILLER OF Florida. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to my friend and colleague from the west coast of Florida, Dan Miller, who knows this problem as well as I do and is working just as hard to bring a satisfactory conclusion.

Mr. MILLER OF Florida. Mr. Speaker, both of our districts have a very significant amount of winter tomato raised in our area. We have two crops a year in our area. We have one in November and one in May. The Florida tomato farmers are really hurting. They really are.

Last season the imports of Mexican tomatoes went up 44 percent. The production of Florida tomatoes went down 23 percent. Another set of numbers is that in 1991, 5 years ago, there were 230 growers of tomatoes in Florida. Today there are only 80 growers in Florida. They are going out of business. And these are families that have been around a hundred years. Third and fourth generation. One hundred years in Florida is a long time. That may not be very long in Massachusetts, but it is in Florida.

So they are really hurting, and the question is, is the administration doing everything they should be doing.

When NAFTA was voted on, at the very end it was the Florida delegation who held out to make sure that agriculture was taken care of properly under NAFTA. Because Florida agriculture competes directly with Mexican agriculture. Michigan tomatoes do not compete with Mexican tomatoes. Mexican tomatoes only grow in the winter, and that is when we grow our tomatoes.

And it is not always a fair trade that is going on. There is a difference between free trade and fair trade. We want to have both. To make it fair, we need a level playing field. It is not always a level playing field, and we think the administration can and should do more, and they promised to do everything they could back when we talked about NAFTA in the fall of 1993.

I am really delighted that the gentleman from Illinois, Congressman EWING, was able to have the hearing down in Florida today, and so they are trying to get to the bottom of what can be done. There are certain limits to what we can do, but the gentleman is right, the administration has some ability, and I think the Department of Commerce is getting ready to come out with a ruling soon and maybe will tell us what is available for us.

One of the things that make it a fair trade issue, and one of the things I have been working on, is the situation of methyl bromide. The administration should be more cooperative. The President spoke out in California about the issue and he said, yes, I will help on that issue, but then, when he gets back to Washington, he turns it over to the EPA and they say, no, we are not going to do anything.

A University of Florida study showed the impact of methyl bromide to be a 43 percent reduction in production of those agriculture products where methyl bromide is eliminated. It would destroy Florida agriculture; not just tomatoes but winter vegetables in general.

So it is very important to work with us on that issue. They have beat us up with the Mexican tomatoes, so why can they not allow us something to give the farmer. The minimum wage will hurt our tomato farmers, so we need to see what can be done.

Mr. GOSS. Mr. Speaker, reclaiming my time, I am glad the gentleman brought these points out because this is a half billion dollar industry for Florida and there are a lot of folks who have nothing else. This is what they do. They are small farms. They have been growing for years and generations, and they are being displaced and the administration is not keeping the promises it made to help in the enforcement and the side agreements on the NAFTA compact.

It is quite clear the Mexicans, indeed, are dumping. They are selling below cost. This is putting our farmers at an unfair disadvantage. And I believe if they comply with the laws of NAFTA that our farmers can beat the socks off the Mexicans, but they have both got to play by the same rules.

TIME TO DISCUSS TRULY CRITICAL EVENTS OF 104TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, I think that in these closing days of this Congress, it is particularly important that what we try to do is to organize the remaining time that we have to discuss the truly critical events of this 104th Congress. Quite honestly, that has not always been easy to do, and time and again in the Gingrich Congress Members have been gagged and have been unable to talk about truly critical events.

In fact, this week we mark an anniversary. A year ago, Democrats were forced to go out onto the lawn in front of the Capitol to hold a hearing on the cuts in Medicare that were proposed by Speaker GINGRICH and the House Republican leadership. We held these hearings out on the lawn, and my colleagues will recall that we did that because the committees of jurisdiction were only going to hold one hearing.

I repeat: One hearing on their proposal to devastate Medicare with a $270 billion cut, a cut, I might add, that was going to be used to pay for something coined the crown jewel of the Contract With America. And that was a tax cut, as it turned out, where we saw a tax cut for the most privileged people in our country.

On that day, while we held these hearings on the lawn, to give a full airing to the impact of these cuts, we had a number of stalwart seniors who protested at the sham hearing that was being held. Those seniors, and sometimes we forget past events, those seniors were arrested.

So, sadly, the history of this Congress has been a relentless attempt to keep the truth from coming out about the impact of some of these proposals.

It is particularly important to note and to talk about again because what we are seeing in a proposal that has been offered by the standard bearer for the Republican Party, by Bob Dole, his economic plan, which, if we take a hard look at it could have devastating impact on Medicare.

We also need in this context to recall what Senator Dole said about his own vote on Medicare, and I quote. Being only 1 of 12, proud to have been 1 of 12 who voted against the creation of Medicare because, he said, and again I quote, we knew it would not work. End quote.

So Senator Dole has a track record on Medicare that seniors need to be informed about. Their families need to be informed about this track record. And, frankly, they need to be concerned about it.

Under the Gingrich-Dole plan, Medicare could be cut by as much as $300 billion by the year 2002, even more than what NEWT GINGRICH and this Republican Congress tried to cut in 1995. If my colleagues will recall, that number was $270 billion, and no coincidence between the number 270 in Medicare cuts and the $245 billion that they wanted to provide in tax breaks for the wealthiest Americans.

So if we take a look at what this $300 billion means to seniors, it means even higher out-of-pocket costs and lower quality health care for seniors. These Medicare cuts would help to pay for a tax plan in which more than 40 percent of the benefits would go to the wealthiest 5 percent of Americans.

And the best evidence of how we would treat Medicare is what Republicans proposed to do to Medicare when they took over the Congress in 1995, and it is worth repeating.

First, they proposed cutting $270 billion from Medicare to pay for a $245 billion tax cut for the wealthy.

□ 2045

Second, they proposed policy changes that would have doubled premiums and would have reduced senior's choice of a doctor. Third, they proposed creating risky medical savings accounts that would skim the healthy and the wealthy out of traditional Medicare, thereby weakening the system and increasing premiums for those who remained in the program.

Let me quote to you Dr. Joseph White from the Brookings Institution, a nonpartisan Washington think tank. He said recently, "I have to look at the numbers, at the campaign statements and at what then Senator Dole and his colleagues supported in 1995 and I have to conclude that the risks to Medicare from candidate Dole's economic program are substantial."

Finally I want to point out that this assault on Medicare is part of a larger attack on America's retirement security. Think about it. When Americans look forward to retirement, the three pillars of a secure retirement that they can count on are Medicare, private pensions and nursing home care. These were all under attack in 1995.

TRIBUTE TO WALTER "CHICK" HOLTKAMP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. HOKE] is recognized for 5 minutes.

MEDICARE

Mr. HOKE. Mr. Speaker, before I begin, I yield to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Ohio. I wanted to show this chart, which apparently the previous speaker might not have read the bill, but it does show clearly that the Republican plan, which is a reaction to the Clinton trustees saying that Medicare is going bankrupt, our plan to strengthen, save, and preserve Medicare is very much on target and increases the amount per recipient from about $5,200 to over $7,000. In my neck of the woods and I think in

Ohio that is not considered a cut. I know here in Lala land, Washington, DC, you can call anything a cut, just as you can call Clinton a conservative.

Mr. HOKE. Is there a rule that you have to be truthful on the floor in what is said.

Mr. KINGSTON. Not that I know of. But the fact is that this is available publicly. What is very important is that we do Medicare on a bipartisan basis. It is not time to scare the seniors. It is not time to bring out all the demagoguery and partisan politics. It is time only to save the program for your mom and dad.

Mr. HOKE. Mr. Speaker, I thank the gentleman from Georgia for pointing that out.

I rise, Mr. Speaker, tonight to recognize one of northeast Ohio's leading citizens, Mr. Walter "Chick" Holtkamp. Chick is the retiring CEO of the Holtkamp Organ Co., our Nation's leading manufacturer of pipe organs. It is my purpose tonight to pay tribute to the all-inspiring contributions that he has made to his craft. On September 28, 1996, in Cleveland, OH, a gala in Chick Holtkamp's honor aptly dubbed chickfest is bringing together the world's foremost organists, composers, and artisans of the trade to recognize Chick Holtkamp and his remarkable career.

A fixture in the northeast Ohio community for over 40 years, Chick has continuously crafted organs which have earned him the reputation of premier craftsman in his trade.

Chick Holtkamp has strived and succeeded in producing organs which sustain the original musicality of classical organs. Turned off by synthesized and modern sounds, Chick gains his inspiration from the musical eras of days past. His approach to organ building is from the perspective of the musician and the organist so as to produce the most pleasing and melodic tones. A master organ builder, Chick has built more than 400 organs in his lifetime. Chick takes his place in a distinguished Holtkamp family tradition begun 141 years ago, which, remarkable in itself, makes the Holtkamp Organ Co., Cleveland, OH's oldest company.

The company, now headed by Chick's son Chris, is a benchmark for organ quality throughout the country and the world. The company's work is of such high quality and the family reputation so well known that the Encyclopedia Britannica cites Chick's father, Walter, as a world leader in an organ building revolution that began in the 1930's.

It was at that time that standard organ builders had decided that the pipes of an organ should be hidden behind screens. Why? Because the pipes were simply thought to be too unattractive and needed to be concealed. Walter Holtkamp pioneered changes both to improve the sound and the appearance of the pipes and to expose them, thus realizing the great beauty that they could add to the architectural esthetics of any building. Holtkamp organs are distinguished by their magnificent pipe displays and by the simplicity and beauty of their consoles.

Chick continued his father's tradition of ingenuity with his organ building, deciding to work closely with organists to maintain the historical significance of the organ while developing and tailoring a modern instrument which could play a new repertoire of modern music. In doing this, Chick freed the organ of earlier stereotypes and permitted organists to compose new modern works for this dynamic instrument.

These organs are a unique treasure to all because be they organist, composer, or the individual who has the privilege of seeing and hearing a Holtkamp organ personally, they are enriched. While there is no set formula for the specificities of a Holtkamp organ, indeed Holtkamp organs have been made in the entire spectrum of sizes and styles. One mainstay has been the strong and steady demand for these very special instruments.

Holtkamp organs already grace such fine institutions as the Julliard School of Music, Yale University, Notre Dame University, Western Reserve Academy, and Cleveland's own Museum of Art. The tradition of excellence will no doubt continue as Holtkamp organs are still commissioned today, making the Holtkamp Organ Co. an organ-builder in great demand today.

To commemorate his unparalleled dedication to the organ, chickfest will feature a hymn festival and organ recital by premier organists and composers from as far away as Germany. Perhaps most impressive is the fact that five composers have actually written commissioned pieces specifically to honor Chick.

Mr. Speaker, all too often in our hurried lifestyles we forget the importance of art and music in our culture and the beauty that it creates and inspires. I have had the privilege of knowing the Holtkamp family, particularly Chick's nephew, Henry, who has been my best friend for the past 30 years, and I wish to personally thank Chick and his entire family for their dedication to preserving the extraordinary and magical craft of organ building that in their hands has indeed risen to the level of art itself.

I join countless other admirers of his work in sending my sincerest congratulations on a lifetime of superb achievement.

AMERICA LOSES UNDER DOLE ECONOMIC PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I have expressed my concerns several times in the House over the Republican cuts in their budgets in Medicare, Medicaid, education programs, environmental programs over the last 2 years.

But I am particularly concerned, and I wanted to express my concern tonight, that the Dole economic plan will have an even more negative impact on Medicare and Medicaid and some of these other programs than the Republican proposals that we have seen for the last 2 years. This includes the tools to fight crime effectively. I am very concerned about the fact that Mr. Dole's suggestions in terms of his economic plan will essentially cut money that is needed by our various States and municipalities to fight crime.

If you look at Mr. Dole's record, he talks about how he is tough on crime, but he has failed in his numerous speeches to admit that he voted against putting 100,000 policemen on the street and has repeatedly tried to cut funding for this program that was established by President Clinton. His economic plan would mean ending this program when clearly the evidence indicates that crime has come down in our cities and our towns.

In my New Jersey district alone, over $6 million has been spent on hiring policemen, about 110 additional policemen. The overall crime rate has dropped in the district since President Clinton took office. But Mr. Dole has threatened to kill the Violence Against Women Act which strengthened domestic violence laws, hired more prosecutors, and created a national domestic violence hotline.

In addition, Dole voted against the Safe and Drug-free Schools Act which enables communities to implement violence and drug prevention programs. The Dole-Gingrich Congress initially tried to cut nearly $6 million from New Jersey alone for this vital program.

Mr. Dole may talk tough on crime, but his actions speak louder than his words. His economic plan will mean even more drastic cuts in the crime-fighting tools that have already brought the crime rate down.

Bob Dole has been in Congress now, until he resigned recently, for about 35 years. President Clinton has been the President for about 4 years. President Clinton and the Democrats passed a crime bill with teeth in it to put criminals behind bars, to increase the use of the death penalty, and create more jails. The Fraternal Order of Police has endorsed President Clinton, not Bob Dole.

Mr. Speaker, I have to say that after the Republicans gained control of the House and the Senate for the first time in 40 years, I expected that there would be radical changes. But looking back over the last 2 years, I could never have imagined the extremism that poured from Speaker GINGRICH and former Senator Dole. Most important, I could never imagine the cuts and radical changes in Medicare that they have proposed.

I know that my colleagues on the other side have talked about that, and so has Ms. DELAURO tonight, but the majority of Republicans in Congress opposed Medicare's initial enactment. That included staunch opposition from then Congressman Dole, who later recalled 30 years later, and I quote, "I was there, fighting the fight, voting against Medicare, because we knew it wouldn't work in 1965."

The fact is, last year Speaker GINGRICH said he wanted to see Medicare "wither on the vine." Initial Republican proposals included increased Medicare part B premiums, additional copayments, increased deductibles, severe hospital reimbursement cuts, less services, elimination of doctor choice, and vouchers. Basically the Grand Old Party, or the GOP, wanted to get old people to pay for primarily a tax cut that would have benefited mostly rich people.

The Democrats in Congress fought these radical proposals which we think would have ended Medicare as we know it. President Clinton stood up to Republican demands to slash Medicare in last year's budget battles. Speaker GINGRICH and former Senator Dole were so intent on cutting Medicare that they held the Government hostage to their demands.

If you think about the Government shutdown that we witnessed in 1995, seniors and workers were unable to apply for Social Security or disability benefits, America's veterans were unable to file compensation pension and educational benefit claims or adjustments, and the 1-800 help line for Social Security actually went unanswered.

The Democrats prevailed and Medicare was saved for now, but former Senator Dole, out of desperation in his Presidential ambitions, has proposed even larger tax cuts than he and Speaker GINGRICH proposed last year.

I support tax cuts, but not at the expense of Medicare. I am really concerned that when Dole says we can trust him not to dismantle Medicare, that his record during his long career in Congress essentially says otherwise.

LAW ENFORCEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

Mr. MCINNIS. Mr. Speaker, a little of my background. I used to be a police officer. I believe very strongly in a lot of the activities of law enforcement in this country. After I got out of law school, I never really could practice defense law because my heart was not in it. I am too much of a pro-policeman type of person.

But I also have a very deep and fundamental belief that we have civil rights in this country that are guaranteed by our Constitution. In fact, if you look at the preamble to our Constitution, and I will quote from the Constitution, we, the people of the United States, in order to form a more perfect union, establish justice, and inferred in the name of the word "justice" is fairness, it is reasonableness. We do not have a Gestapo type of society. We do not sanction Gestapo type of tactics by law enforcement.

Now follow me into July of this year. In July of this year, we had a horrible, horrible situation down at the Olympics where somebody set off a bomb. It was a fatality, a couple of fatalities. Within a couple of days, the FBI or someone from the law enforcement agencies leaked to the media that they had fingered their suspect. This began the long nightmare for one individual called Richard Jewell. Within hours, this is the headline that appears on the New York Post, "Saint or Savage?" Within hours, another picture, "I didn't do it." This is Richard Jewell. "I didn't do it."

□ 2230

Throughout this entire country instantly, instantly this man's name became a household name, a man to be held in disgust, a man who is being labeled as the bomber of the Olympics.

Well, the FBI does as the FBI should do. They immediately executed search warrants. They went to Mr. Jewell's home he shared with his mother. They went through that home. They seized everything they possibly could seize, including their silverware, tupperware, and she said even her Disney tapes.

These are the conclusions 2 months later. Washington Post: After 2 months of exhaustive investigation of the Atlanta Olympics bombing, Federal law enforcement officials have found no solid evidence linking former security guard Richard Jewell to a pipe bomb attack, according to senior officials.

It goes on. One senior law enforcement official said investigators who have combed Jewell's apartment, Jewell's truck, and Jewell's previous residence have found no conclusive bomb residue, no witnesses to the attack, no accomplices. Moreover, preliminary analysis of the 911 phone call placed minutes before the bombing suggests that the caller was not Jewell.

What is happening to this man? Every minute of his life he has FBI agents that follow him. If he pulls out in his car to the grocery store, he has four or five law enforcement cars that go everywhere he goes. He cannot even contact his friends for fear of instigating an investigation of his friends.

My message to the FBI: If you have got the evidence, arrest him. If you do not, back off. If the man is a suspect—if the man is a suspect and you have got that evidence, then go get him. It is simple. All of us want this case resolved. But none of us should stand by and allow a citizen of this great country, especially a country where thousands and thousands of people have given their lives to maintain our fundamental foundation of justice; we should not stand by and let this persecution continue unless the FBI has investigation—excuse me, has evidence.

Now let me tell you how the FBI treats their own people. They have right now two or three agents who are being investigated for their involvement or alleged misconduct at Ruby Ridge. This has been going on for a long period of time. These agents are not followed. These agents do not wake up in the morning to find lots of cameras and FBI cars and other law enforcement cars riding their bumper. They do not have to worry about going to the grocery store and being followed by Federal law enforcement officials. No.

What the FBI does with its own, they put these people on paid leave. The deputy director, for example. He receives $122,000 a year, and he does absolutely nothing. Including benefits. He gets benefits on top of that.

Now I am not questioning whether that is justice or not, but what I am questioning is that I think the director of the FBI and the agents of the FBI and other law enforcement agencies need to apply the golden rule, and that is do unto others as you would have them do unto you.

We demand justice here. If he has got the evidence, get him; if he does not, back off.

A WITCH HUNT AGAINST THE SPEAKER OF THE HOUSE

The SPEAKER pro tempore (Mr. ROTH). Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 5 minutes.

Mr. RIGGS. Mr. Speaker, I know the hour is getting late, and I just came back from California tonight to attend the debate and votes and have a nasty head cold to boot, but I had to come down and speak during special orders tonight after watching the partisan discord on the floor earlier tonight and listening to the comments coming from the other side of the political aisle, and that is what it is, from the very partisan Democrats in this House of Representatives, the people's House, who are now engaged, have been engaged for months, in a witch hunt against the Speaker of the House.

And make no mistake about it, that is exactly what they are doing. They have no new ideas on policy, and they cannot win a debate on the issues, so they are now resorting to political attacks against the Speaker of the House.

Now what is the origin of all this? Well, back in February of last year, this is 1 month after this Congress began, Congressman HARRY JOHNSTON, a Democrat from Florida, told the Miami Herald that the Democrats, meaning the Democrat Party leadership in the House, including the minority leader, DICK GEPHARDT, and the Democratic National Committee, were meeting weekly to, quote, investigate NEWT, end quote, referring to Speaker of the House NEWT GINGRICH. Congressman GEORGE MILLER, who is a very fiery Democratic partisan, has sponsored many complaints against the Speaker, and he is quoted in a recent book by a very respected journalist and author, Elizabeth Drew, as confirming that the Democrats intended to attack the Speaker, saying quote: NEWT is the nerve center and the energy source. Going after him is like taking out command and control. End quote.

So what we are talking about now is a very dubious claim on the part of the Democrats that a draft discussion document in the Committee on Standards of Official Conduct should be publicly released when in fact the ranking Democrat on the Committee on Standards of Official Conduct says when there is information to report, we will be complying with House rules in making such a report. That is an actual quote.

These complaints are all politically motivated, and the public should know as well as our colleagues that since 1989 Democrats in the House of Representatives have filed literally hundreds and hundreds of allegations against NEWT GINGRICH without one, without one ethics complaint being referred for further action.

In fact the only—just over the last year they have filed numerous complaints, all of which have been effectively dismissed, and the only remaining issue is a technical issue regarding tax laws, which relates to a college course that the Speaker was teaching, and I find it remarkable and commendable that he would teach a college course on the side, in addition to being Speaker of the House and a Congressman representing a Georgia congressional district.

So what is going on here? Do our Democrat colleagues in the House, are they really attempting to divert attention from the ethical problems of the Clinton administration? Because some of us remember when Bill Clinton was sworn in; in fact, when he said on the campaign trail as candidate Clinton that he would have the most ethical administration in the history of the Republic, when arguably he has given us one of the more corrupt administrations in the history of the Republic, including 14 business associates and friends who have either been convicted or pled guilty in conjunction with the Whitewater matter, and that does not even begin to speak to his wife's involvement in those same affairs.

So what is going on here? This has been, in fact, a very reform-minded Congress. We passed the Congressional Accountability Act saying that Congress has to live under the same laws as everybody else, under the same laws that we impose on American citizens and businesses. We passed a very strict gift ban. We passed tough lobbying reform. And tomorrow on this floor I am going to be able to offer legislation with some of my colleagues, eliminating taxpayer funded pensions for Members of Congress convicted of felony crimes while serving in office.

Mr. Speaker, that is something I attempted to do 2 Congresses ago in the 102nd Congress, but the leadership of the House then, the Democratic Party leadership, would not allow it, my bill to come to the House floor. Our leadership has allowed it. We will be debating on it and voting on it tomorrow. I am sure it will pass overwhelmingly.

My legislation was the direct outgrowth of the House bank and post office scandals two Congresses ago, and we do not hear our colleagues, many of whom were serving then, talking, you know, expressing outrage or ire at not only the ethical lapses of the Clinton administration, but about the things that happened on their watch: The Dan Rostenkowski affair in the last Congress. There was concerted effort to cover up then-Congressman Rostenkowski's involvement in the House post office scandal and allegations of ghost employees. That was led by many of the Democrats who are now in an incredible, I think, feed of hypocrisy and role reversal attacking the Speaker.

When we took over last January, we lost an independent audit by an outside accounting firm of House finances, and we found incredible disarray and mismanagement. Again that is something that happened, and the American people need to understand this, on the watch of the Democrat Party leadership. So they are hardly models of propriety, having conducted and presided over the whitewashed Congresses of years past, and somebody has got to stand up on this floor and provide a little institutional memory, if you will, and someone has to say to my colleagues and to the American people: Look, you are smarter than they think you are. They are banking on the facts, they are betting that you do not know and you do not care about the truth, and we think you do.

THE DRUG ISSUE IN OUR COUNTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. SOUDER] is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, I first want to make a brief comment on Medicare. I get tired, night after night, hearing us being accused of cutting Medicare. I know the President alleges that this year, and I know many Americans have probably seen the tape or heard that Mrs. Clinton last year, when the President proposed a smaller increase than we said, explained very carefully that it was an increase and not a cut, and President Clinton before we took power carefully explained that it was an increase and not a cut, and, quite frankly, two or three Clintons is not bad, and I think that the Democratic Party should listen to two of the three Clintons who said it was not a cut, rather than coming up and giving misinformation to the American people.

But I came here tonight to talk about the drug issue. A lot of people think this just came up at the last minute here in the campaign. I serve on the Government Reform Subcommittee on Internal Security and Foreign Affairs where we deal with the drug issue regularly, and our subcommittee chairman, BILL ZELIFF, started right after we took over Congress in focusing on this issue and deserves tremendous credit for his persistence in keeping us in front of Congress and America and working with—when he started working with then-Senator Dole in New Hampshire over a year ago—to show him what had happened and what we had learned from our hearings. We thought we were going to have one or two hearings on the drug issue. We started with Nancy Reagan and Bill Bennett and heard some of the devastation and were shocked at the cutbacks that this administration did, and as we got in and had hearings with then-drug czar Lee Brown and had multiple hearings with the current drug czar, General McCaffrey, we have had multiple hearings with the Coalition for Partnership for Drug-free America. We met multiple times with the director of the DEA, Mr. Constantine. We have met with all branches. It became more and more clear that this was not a little issue, this was a huge issue.

Sometimes here in Washington it takes us awhile to realize what the people back home know already, and that is kids are getting shot in the streets, there are gangs all over not only our major cities, but in small towns throughout. In northeast Indiana, in my home area, in Bluffton, in Auburn and Huntington, the gangs have spread out into the small towns and dealing drugs, and we have drug battles going on. It was Congress and Washington that was slow.

It is not that this is some kind of a political effort at the last minute. We are responding to what American people saw.

A number of us went down to Central and South America and met with the leaders of those nations in Bolivia and Peru and Columbia and Mexico and

Panama, and delivered very strong messages and are trying to work with source country eradication and interdiction. We also held regional hearings in the Northeast and the Midwest, two in California. We have an upcoming one in Arizona, and going down to the border there, and over in Florida. We have been all over this Nation. It also is not a last minute political issue, it is an issue that the American people are screaming for attention, and we have been slow in responding.

I also want to comment briefly on two hearings that we did this past weekend in California. One in particular I want to talk about is one we did in Hollywood looking at the movie industry, and also one last week on the music industry. I am not going to get heavily into that, but I want to make two points.

One is we are very concerned that the message is being sent out in our music and our movies. Let me give two examples.

After I was challenged by the leader of the recording industry of America to produce some names, and I am not a big rock music fan, but the staff provided some names, she said in the newspaper that "Heroin Girl" was an antidrug message. I went out and bought it. The group Everclear whose very name basically stands for some sort of white lightning or something; there is another song on there called "Chemical Smile". If you—the song "Heroin Girl", it is at best marginal as an antidrug message. But as we heard in Hollywood, the plain fact, that and movies like "Trainspotting", while to adults may look like they have a subtle antidrug message, that when you are looking at music and movies with the glorification of death, of black clothing and skulls and so on, even presenting something with a slightly negative image like the song "Heroin Girl" does, slightly is, in fact, advancing the cause of drugs and adding to the kind of perverse romance.

In other words what they said: When you talk about drugs either direction on heroin, you advance many young people using heroin.

I want to say also why this administration I believe wants to forget about the past. I am tired of hearing that, well, we should focus on what is next, not talk about the last few years. Quite frankly, if I had their past, I would want to forget about it too. The plain truth of the matter is interdiction funds went down, supply went up, and prices went down. The acceptability of drugs in the schools went up in our teenagers.

It is very clear what happened. The President diverted funds from all operations around the country from drug interdiction and more drugs came into America. He sent messages. We had a witness at the Hollywood hearing, a psychologist who is a consultant to the movie industry, who said that when adults say to their children, look, everybody did drugs when I was a kid, do not do it now, you are sending a double message, particularly when the President of the United States laughs it off. Kids look at it and say, when I get to be an old fuddy-duddy, I will not do it either. Every kid did it, even you did it, Dad, and unless you stand up, you are going to be held accountable, and I am glad to have President Clinton on board at this point, but we cannot bring back the lives that have been lost the last few years because of past neglect.

□ 2245

AMERICA SHOULD TAKE A STAND AGAINST THE GROWING PROBLEM OF DRUG ABUSE IN AMERICA

The SPEAKER pro tempore (Mr. ROTH). Under a previous order of the House, the gentleman from Arizona [Mr. SHADEGG] is recognized for 5 minutes.

MISREPRESENTING SPEAKER GINGRICH TO THE AMERICAN PEOPLE

Mr. SHADEGG. Mr. Speaker, I, too, came to the floor to discuss the issue of drugs. Before I do, I have to turn my remarks to a comment made by one Member from the other side.

I have watched time and time and time again in this Congress, on this floor, and in television ads across America, a clear fraud and deception perpetrated on the American people. A quote from the Speaker of the U.S. House of Representatives that he wanted to see HCFA, a huge, massive Federal bureaucracy that has failed for decades to do its job well, wither on the vine. He wanted to see HCFA wither on the vine. I have watched my colleagues, one after the other on this floor, come to the floor, as happened earlier tonight, and tell the American people that that statement, wither on the vine, was said by the Speaker in reference to Medicare.

No honest, self-respecting Member of this institution can come to the floor and continue to perpetrate that misrepresentation to the American people. The Speaker did not then nor has he ever urged that Medicare wither on the vine. He urged that HCFA, a failed Federal bureaucracy, should be replaced. I am tired of hearing it misrepresented.

Mr. Speaker, last night at my home I turned on the television after having returned from a weekend trip where I attended two hearings on the problem of drugs in America. As I turned on the television, the camera went live from the TV studio to a location at an apartment complex in my congressional district, where the Arizona Department of Public Safety had just busted a metamphetamine lab in a large complex of apartments. They detailed the danger to the other residents and the fact that the operator of that metamphetamine lab had himself been arrested on the exact same charge just 2 weeks earlier.

My colleague, the gentleman from Indiana [Mr. SOUDER], has pointed out that the issue of illegal drugs is one that is not new, nor is it being brought forth just for its political points. Rather, it is an issue that our committee, the Subcommittee on National Security, International Affairs, and Criminal Justice, under the leadership of the gentleman from New Hampshire [Mr. ZELIFF], has been aggressively pursuing since the beginning of this Congress.

But I must tell the Members, we have so much more to do, and I am so distressed by what has happened. I hope America is listening. I hope they are paying attention. I hope they will cut through the fog of those who say this is just politics.

Mr. Speaker, let me bring you some facts. Drug use among American teenagers since 1992 has doubled in America. Overall drug use surged in 1 year, from 1994 to 1995, by a full 33 percent. That is a one-third increase in a single year. Since 1992, 3 years ago, it has increased by 105 percent.

Yet, in the face of these staggering statistics, what has the White House said? The White House said that this issue should not be politicized. I agree. The issue of drug use, its terrorization of our children, the testimony that I heard this weekend in Los Angeles County, CA, about the music industry and the entertainment industry and their casual attitude toward drug use in America, indeed, their promotion in movies and records of the drug lifestyle, should not be politicized.

The evidence I heard in San Luis Obispo at a hearing sponsored by my colleague, the gentlewoman from California, ANDREA SEASTRAND, where witness after witness from the DEA in Los Angeles, from the DEA in San Francisco, from the Border Patrol in San Diego, from the FBI, from the San Luis Obispo County sheriff's office about the fight they are in for the survival of this Nation and for the lives of our children against the war of drugs being waged on America should not be politicized.

Yet, we ought to look at this issue. The President, who says we should not make drugs a political issue, who says they should not be politicized, in February, 1993, eliminated on his own, 83 percent of the staff of the Office of National Drug Control Policy. The President says we should not now politicize the issue of drugs. In his fiscal year 1995 budget he called for eliminating 621 drug enforcement agents at the DEA, the FBI, the INS, the Customs Service, and the Coast Guard.

The same administration which now says, in the face of the staggering increase of drug usage by our children at every age level and among every drug, it should not be politicized, issued an executive order early in his administration which eliminated nearly 1,000 antidrug positions in our U.S. military. The same President who now says we should not politicize the drug issue in his fiscal year 1997 budget proposal reduced drug ring interdiction spending, proposed that it be reduced by an additional 25 percent.

Mr. Speaker, I listened to the testimony in San Luis Obispo, testimony by the special agent in charge of the Drug Enforcement Administration in San Francisco, Mr. William Mitchell, that marijuana is today the No. 1 cash crop in the State of California.

When questioned by myself and others on the panel if that was a factual statement, he said, absolutely, it is the No. 1 drug problem, drug cash crop in the State of California. This is a serious problem. I commend those who testified, and I urge our Nation to take a stand against the continued plague of illegal drugs in our Nation.

Mr. Speaker, I include for the RECORD the testimony before the Subcommittee on National Security, International Affairs and Criminal Justice.

The material referred to is as follows:

TESTIMONY BEFORE THE SUBCOMMITTEE ON NATIONAL SECURITY, INTERNATIONAL AFFAIRS AND CRIMINAL JUSTICE

(By Edward C. Williams, Sheriff-Coroner, San Luis Obispo, CA)

Congressman Zeliff, members of the subcommittee, Congresswoman Seastrand, I am Ed Williams, Sheriff-Corner and Marshal of San Luis Obispo County. I have been a sworn police officer in California for over 38 years, during portions of five decades. I wish to thank you for the opportunity to testify before you on a subject about which I have very strong feelings and unfortunately extensive exposure.

The time allotted for me to appear before you does not allow me the opportunity to bring large boxes containing the thousands of research documents I have reviewed nor copies of lesson plans and speeches I have developed, to train police officers and inform citizens about the impact of narcotics use in our state. I won't be able to describe in detail to you the total devastation to the lives of people, young and old, from the streets of South Central Los Angeles where I grew up and subsequently worked as a Homicide detective Supervisor, to the luxurious homes of the Pacific Palisades in west Los Angeles or from the very poor section of North Palm Springs to the homes of some of the most wealthy people in this country. I also won't have time to elaborate on the helplessness that I feel as I watch the hard working members of my office attempt to deal with the effects of the flood of drugs coming into this country, knowing they will do the same work over again when the defendants are released on bail and eventually given probation, on the condition that they participate in a treatment program that admits to a 97% recidivism rate.

I do, however, have time to make a few candid statement to you and hope that you receive them in the spirit intended. First let me tell you that the term "war on drugs" when applied to the government's response to the narcotics problem in this country, were it not so serious a problem would almost be humorous. This is not simply the view of law enforcement, it is the opinion of criminals we deal with routinely. Most are themselves baffled by the legal gymnastics and lenient sentences they are given for the very serious crimes they commit. I have personally known criminals who are themselves shocked and confused by a sentence so lenient they thought it may have been received by mistake.

What can Congress do about it? I would suggest that Congress decide that the destruction caused by drugs can no longer be tolerated. Congress could withhold federal funds from states that do not deal directly and seriously with the drug problem. Congress could stop funding failed programs. Congress should stop funding social programs, just because they are packaged as drug prevention programs. If a program is funded for a year, require proof of success, before it is funded for a second year.

I don't believe this country can continue to act as if there is a never ending supply of money available to fund every whimsical program suggested, in hopes that there may be some slight reduction in drug use. The fact is that long term incarceration is cheaper than any alternative and it allows a defendant time to benefit from treatment, without constant exposure to the drug culture on the streets.

Congress should secure our nation's borders, not with more border patrols using the present catch and release policy as if fishing for an endangered species, but with a catch and keep policy to stop the repetitious violations of our borders. I believe a person who violates our border should be incarcerated for a minimum of six months. We must stop the cycle of people from all over the world walking back and forth across our borders at will.

The military should be used in an all out effort against drugs. It is clear that the problem is now so great that such a response is clearly justified. There should be no limitation of military support to federal and local law enforcement, in the "war on drugs".

Finally, bring the considerable influence of Congress to bear against those promoting the use of illegal drugs in any form. Members of Congress should take a stand against the legalization of marijuana in California, the promotion of drug use on television, and the casual statements regarding drugs made by political leaders which imply that narcotic use is not a real problem in our country and everybody does it. The fact of the matter is everybody does not do it, everybody has not done it and when everybody does it the experiment known as a democratic society will lay in ruins.

I am sure you are very much aware of the magnitude of the drug problem in this country and many experts will provide you with statistics on the subject. I would ask to introduce two short publications into your record, if that is possible. The first was published this month by Dan Lundgren, the Attorney General of California. The booklet deals with the methamphetamine problem in our state. The second was published this year by the California Narcotics Officers Association and is titled Marijuana Is Not A Medicine. This pamphlet combats the argument that marijuana is somehow good for people suffering life threatening disease.

I want to thank members of the subcommittee for the opportunity to address you this morning and I would be pleased to respond to any questions you may have.

SALUTING MICHAEL MATZ AND AMERICA'S HUMBLE HEROES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

THE REPUBLICANS' PLAN TO SAVE MEDICARE

Mr. FOX of Pennsylvania. Mr. Speaker, I come before the House tonight to bring up a few topics, not the least of which would be Medicare. We have heard from the other side tonight the Mediscare, the fiction.

The facts are, Mr. Speaker, that this House is working hopefully in a bipartisan fashion to make sure we take care of health care for our seniors. It is the same Republican majority that this year, in this session, we raised the income eligibility for seniors from $11,200 to $30,000 that seniors can earn without deductions from Social Security. It is the same Republican majority in the House that reduced the 1993 tax on Social Security that was placed by a prior Congress from that side of the aisle.

So it would be the same majority Republican Congress that would propose that we save Medicare, protect Medicare, and to make sure it is here for the next year's seniors and for the next generation of seniors.

We have a problem we ought to face. The President talked about it a few years ago, but we are doing something about it. There is $30 billion a year in fraud, waste and abuse. Under the proposed legislation, Mr. Speaker, we would hope to reduce that fraud, waste and abuse, and thus be able to make sure that Medicare is preserved and protected. That is what we are talking about here; not cuts in Medicare, preserving Medicare. We will do that.

In addition to the legislation to make penalties for those who commit fraud, waste and abuse, we are also talking about reducing paperwork costs to Medicare so those dollars go back to health care and to also make sure that medical education, which now part of that cost comes out of Medicare, that should be a separate line item in the budget, so we make sure our interns and residents are at the cutting edge of technology at our medical schools.

But let us make sure that we have that lockbox; that any savings we have from fraud, waste and abuse does not go to the general fund, Mr. Speaker, but goes back to Medicare for our seniors. We will continue to fight for seniors in this Congress.

As well, we are going to continue to fight for our citizens, be they seniors or be they young people, to make sure we increase penalties for those who would commit crimes against seniors and crimes against our youth.

We also passed legislation, not only for more police officers on the street, but we have passed legislation which gives the flexibility to communities and counties to have a drug court if they want it, to have crime prevention programs, to increase the equipment for police, and also make sure they have the vehicles they need, as well as other programs that each community will design. So we have gone beyond the President's program for just more police. We have gone further.

But I want to take a moment of my colleagues' time tonight to also salute a local hero in my district. Michael Matz was saluted on Saturday in Montgomery County, PA. He is a humble hero, a gentleman who won a silver medal as part of the American equestrian team, but he is a third-time Olympian. For the last 20 years he has been involved with this sporting activity, which has brought him for the third time to the Olympics, but this time to the winner's circle.

What is most poignant about this day we saluted Michael Matz and his family was the fact that the individuals who came to that event were local officials, to be sure, and his family; but a very special family also came, the Roth family.

Just a few years ago when there was a horrible plane accident and tragedy in Sioux City, IA, Michael Matz and his wife were there to help save some of those individuals. The Roth family was there because three of their children were saved when Mr. Matz and his wife went back into the plane, after they got out, to save three children.

Those with great character and those humble heroes are in our own backyard. We should salute those people every day because America's heroes are all across the country. I am very lucky to have them in my district in Pennsylvania.

But I bring it to your attention tonight, my fellow colleagues, because we have great people in this country who are role models for our youth and role models for adults. I am very proud that Michael Matz is my constituent. I hope that he will continue to be followed by the public, because great projects in the future will be those that Michael Matz will be part of, and I hope America is watching.

A QUESTION FOR MIDDLE-CLASS AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, to the middle class in America, there is one question now: Are you working longer and harder and have less to show for it? Are you concerned that, while you may be better off than your parents were, will your children be better off than you are? Are you concerned that your children will not be able to share in the American dream; or has big government, irresponsible bureaucratic policies, command and control Washington politics, stolen the American dream from our children?

I believe that it has. I am not going to say it is the only cause, the only threat to the American dream, but it certainly is a significant one. As Washington grows, our own personal freedoms contract. We lose freedom with every new regulation, with every new law, with every new tax, with every new bureaucracy.

In the 1950's, the average American family paid 5 percent Federal income tax. Today it is 24 percent. That means that the average family is a two-income family, with 38 percent of the family income going to pay the Federal Government.

What does that mean? Mom and dad wake up in the morning all over America at 6:30 a.m., run downstairs, put Pop Tarts in the toaster, wake up Junior and little Sally, say, "It is time to get ready for school. I know you are tired because you stayed up last night doing your homework and playing soccer, and so forth."

Then they try to give them a quick breakfast, hoping everybody remembers to make his or her bed, brush his or her teeth. They rush them out the door. Dad kisses mom good-bye, she runs off to her job, he runs off to his job, they see each other again at 6 o'clock at night.

At 6 o'clock at night it is car pool time, it is quick dinnertime, it is bath time, it is homework, and it is bedtime at 8:30 to 9, and then they start all over again. It is a doggoned rat race. The problem is, the Federal Government is as guilty of creating it as everything that has ever happened inside the homeplace.

The reason why, as much as anything else, is this huge, growing bureaucracy that has to feed upon the taxes of the middle-class members of society. The people who are out there busting their tail, day in and day out, are feeding the Washington bureaucracy. It is time to say enough is enough.

In the early 1960's when President Kennedy cut taxes, with the top rate from 91 percent to 70 percent, the economy grew by over 42 percent. In the 1980's Reagan cut the top tax rate from 70 percent to 28 percent. As a result, the economy grew by 32 percent. Even in the 1920's, when income taxes were cut from 73 percent to 25 percent, the economy grew by 59 percent.

What does that mean? That means that businesses grow and, as businesses grow, jobs are created. Jobs are created, more revenue comes into the folks in Washington, DC, so you can balance the budget and lower the deficit by cutting taxes.

Just look at the tax cut that Dole and Kemp have proposed. If you are making $30,000 a year, if that is your family income, under the current tax plan, you are paying $1,700 in taxes. With this, you would be paying $500. The savings to families are $1,200.

I ask the middle class in America today, what would you do if you had $1,200 more today in spendable income? Maybe a little bit for college education accounts, maybe a few more shoes, a few more hamburgers, a few more CD's, maybe fixing your car up from that dent you got 6 months ago that you cannot quite fix. That is what it means. This is the real world.

In Washington, the elitists up here in the bureaucracy and the press always say, how are you going to pay for it? I do not remember any of them asking in 1993 when President Clinton passed the largest tax increase in the history of America, I do not remember anybody going back to the middle class of America and saying, how are you going to pay for this? You know, the President is about to stick it to you. He is going to get another $500 or $600 from you. How are you going to pay for it? Because they know the answer.

□ 2300

Mom and dad are going to continue working hard and busting their tail and doing the right thing, and the fat cat bureaucrats in Washington are going to continue to lap it up and enjoy it.

Think about what this tax cut means to a single mother with two children making $30,000 a year. Under the current tax system, under President Clinton, that lady pays $2,300 a year. Under the Dole plan she would pay $1,000 a year. That means to that single woman with two children, she would have another $1,300 in her wallet. Do you not think she can spend that money a lot better than the Department of Human Resources or the Department of Education, or the Department of the Interior up here in Washington?

Let us give the middle class in America a break. Let us return to them the freedom that they have earned that has been handed down from the previous generation, and let us not kill them and choke them off with excessive taxes the way we are going now.

CONFERENCE REPORT ON H.R. 1296, OMNIBUS PARKS AND PUBLIC LANDS MANAGEMENT ACT OF 1996

Mr. HAYWORTH (during the special order of the gentleman from Indiana, Mr. BURTON) submitted the following conference report and statement on the bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer:

CONFERENCE REPORT (H. REPT. 104-836)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1296), to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SEC. 1. TABLE OF CONTENTS.

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TITLE I—THE PRESIDIO OF SAN FRANCISCO

SEC. 101. FINDINGS.

The Congress finds that—

(1) the Presidio, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

(2) the Presidio is the oldest continuously operated military post in the Nation dating from 1776, and was designated a National Historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use recognizes its significant role in the history of the United States;

(4) the Presidio, in its entirety, is a part of the Golden Gate National Recreation Area, in accordance with Public Law 92-589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's significant natural, historic, scenic, cultural, and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protects the Presidio from development and uses which would destroy the scenic beauty and historic and natural character of the area and cultural and recreational resources;

(6) removal and/or replacement of some structures within the Presidio must be considered as a management option in the administration of the Presidio; and

(7) the Presidio will be managed through an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources.

SEC. 102. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF THE INTERIOR.

(a) INTERIM AUTHORITY.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized to manage leases in existence on the date of this Act for properties under the administrative jurisdiction of the Secretary and located at the Presidio. Upon the expiration of any such lease, the Secretary may extend such lease for a period terminating not later than 6 months after the first meeting of the Presidio Trust. The Secretary may not enter into any new leases for property at the Presidio to be transferred to the Presidio Trust under this title, however, the Secretary is authorized to enter into agreements for use and occupancy of the Presidio properties which are assignable to the Trust and are terminable with 30 days notice. Prior to the transfer of administrative jurisdiction over any property to the Presidio Trust, and notwithstanding section 1341 of title 31 of the United States Code, the proceeds from any such lease shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. The Secretary may adjust the rental charge on any such lease for any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties and infrastructure within the Presidio.

(b) PUBLIC INFORMATION AND INTERPRETATION.—The Secretary shall be responsible, in cooperation with the Presidio Trust, for providing public interpretive services, visitor orientation and educational programs on all lands within the Presidio.

(c) OTHER.—Those lands and facilities within the Presidio that are not transferred to the administrative jurisdiction of the Presidio Trust shall continue to be managed by the Secretary. The Secretary and the Presidio Trust shall cooperate to ensure adequate public access to all portions of the Presidio. Any infrastructure and building improvement projects that were funded prior to the enactment of this Act shall be completed by the National Park Service.

(d) PARK SERVICE EMPLOYEES.—(1) Any career employee of the National Park Service, employed at the Presidio at the time of the transfer of lands and facilities to the Presidio Trust, shall not be separated from the Service by reason of such transfer, unless such employee is employed by the Trust, other than on detail. Notwithstanding section 3503 of title 5, United States Code, the Trust shall have sole discretion over whether to hire any such employee or request a detail of such employee.

(2) Any career employee of the National Park Service employed at the Presidio on the date of enactment of this title shall be given priority placement for any available position within the National Park System notwithstanding any priority reemployment lists, directives, rules, regulations or other orders from the Department of the Interior, the Office of Management and Budget, or other Federal agencies.

SEC. 103. ESTABLISHMENT OF THE PRESIDIO TRUST.

(a) ESTABLISHMENT.—There is established a wholly owned government corporation to be known as the Presidio Trust (hereinafter in this title referred to as the "Trust").

(b) TRANSFER.—(1) Within 60 days after receipt of a request from the Trust for the transfer of any parcel within the area depicted as Area B on the map entitled "Presidio Trust Number 1", dated December 7, 1995, the Secretary shall transfer such parcel to the administrative jurisdiction of the Trust. Within 1 year after the first meeting of the Board of Directors of the Trust, the Secretary shall transfer to the Trust administrative jurisdiction over all remaining parcels within Area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on such map. The Secretary shall retain jurisdiction over those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The Building shall be named the "William Penn Mott Visitor Center". Any parcel of land, the jurisdiction over which is transferred pursuant to this subsection, shall remain within the boundary of the Golden Gate National Recreation Area. With the consent of the Secretary, the Trust may at any time transfer to the administrative jurisdiction of the Secretary any other properties within the Presidio which are surplus to the needs of the Trust and which serve essential purposes of the Golden Gate National Recreation Area. The Trust is encouraged to transfer to the administrative jurisdiction of the Secretary open space areas which have high public use potential and are contiguous to other lands administrated by the Secretary.

(2) Within 60 days after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively which records, equipment, and other personal property are deemed to be necessary for the immediate administration of the properties to be transferred, and the Secretary shall immediately transfer such personal property to the Trust. Within 1 year after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively what, if any, additional records, equipment, and other personal property used by the Secretary in the administration of the properties to be transferred should be transferred to the Trust.

(3) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, the unobligated balance of all funds appropriated to the Secretary, all leases, concessions, licenses, permits, and other agreements affecting such property.

(4) At the request of the Trust, the Secretary shall provide funds to the Trust for preparation of the program required under section 104(c) of this title, hiring of initial staff and other activities deemed by the Trust as essential to the establishment of the Trust prior to the transfer of properties to the Trust.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers and management of the Trust shall be vested in a Board of Directors (hereinafter referred to as the "Board") consisting of the following 7 members:

(A) The Secretary of the Interior or the Secretary's designee.

(B) 6 individuals, who are not employees of the Federal Government, appointed by the President, who shall possess extensive knowledge and experience in one or more of the fields of city planning, finance, real estate development, and resource conservation. At least one of these individuals shall be a veteran of the Armed Services. At least 3 of these individuals shall reside in the San Francisco Bay Area. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act and shall ensure that the fields of city planning, finance, real estate development, and resource conservation are adequately represented. Upon establishment of the Trust, the Chairman of the Board of Directors of the Trust shall meet with the Chairman of the Energy and Natural Resources Committee of the United States Senate and the Chairman of the Resources Committee of the United States House of Representatives.

(2) TERMS.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 3 shall serve for a term of 2 years. Any vacancy in the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) QUORUM.—Four members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) ORGANIZATION AND COMPENSATION.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) LIABILITY OF DIRECTORS.—Members of the Board of Directors shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) MEETINGS.—The Board shall meet at least three times per year in San Francisco and at least two of those meetings shall be open to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues. The Board may establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues through the Golden Gate National Recreation Area Advisory Commission.

(7) STAFF.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(8) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of California, and its political subdivisions, including the City and County of San Francisco.

(10) GOVERNMENT CORPORATION.—(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(B) At the end of each calendar year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a comprehensive and

detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms the Trust's goals for the current fiscal year.

SEC. 104. DUTIES AND AUTHORITIES OF THE TRUST.

(a) OVERALL REQUIREMENTS OF THE TRUST.—The Trust shall manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92–589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with the general objectives of the General Management Plan (hereinafter referred to as the "management plan") approved for the Presidio.

(b) AUTHORITIES.—The Trust may participate in the development of programs and activities at the properties transferred to the Trust, except that the Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of Federal, State and local governments as are necessary and appropriate to carry out its authorized activities. Any such agreement may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b). The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Presidio facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition. The Trust may not dispose of or convey fee title to any real property transferred to it under this title. Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust, with the exception of laws and regulations related to Federal government contracts governing working conditions and wage rates, including the provisions of sections 276a–276a–6 of title 40, United States Code (Davis-Bacon Act), and any civil rights provisions otherwise applicable thereto. The Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

(c) MANAGEMENT PROGRAM.—The Trust shall develop a comprehensive program for management of those lands and facilities within the Presidio which are transferred to the administrative jurisdiction of the Trust. Such program shall be designed to reduce expenditures by the National Park Service and increase revenues to the Federal Government to the maximum extent possible. In carrying out this program, the Trust shall be treated as a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act and other environmental compliance statutes. Such program shall consist of—

(1) demolition of structures which in the opinion of the Trust, cannot be cost-effectively rehabilitated, and which are identified in the management plan for demolition,

(2) evaluation for possible demolition or replacement those buildings identified as categories 2 through 5 in the Presidio of San Francisco Historic Landmark District Historic American Buildings Survey Report, dated 1985,

(3) new construction limited to replacement of existing structures of similar size in existing areas of development, and

(4) examination of a full range of reasonable options for carrying out routine administrative and facility management programs.

The Trust shall consult with the Secretary in the preparation of this program.

(d) FINANCIAL AUTHORITIES.—To augment or encourage the use of non-Federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

(1) The authority to guarantee any lender against loss of principal or interest on any loan: Provided, That—

(A) the terms of the guarantee are approved by the Secretary of the Treasury;

(B) adequate subsidy budget authority is provided in advance in appropriations Acts; and

(C) such guarantees are structured so as to minimize potential cost to the Federal Government. No loan guarantee under this title shall cover more than 75 percent of the unpaid balance of the loan. The Trust may collect a fee sufficient to cover its costs in connection with each loan guaranteed under this title. The authority to enter into any such loan guarantee agreement shall expire at the end of 15 years after the date of enactment of this title.

(2) The authority, subject to appropriations, to make loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(3) The authority to issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy and that a repayment schedule is established and only to the extent authorized in advance in appropriations acts. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or obligations acquired by the Secretary of the Treasury under this subsection. Obligations issued under this subparagraph shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(4) The aggregate amount of obligations issued under this subsection which are outstanding at any one time may not exceed $50,000,000.

(e) DONATIONS.—The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust is encouraged to maintain a liaison with the Golden Gate National Park Association.

(f) PUBLIC AGENCY.—The Trust shall be deemed to be a public agency for purposes of entering into joint exercise of powers agreements pursuant to California government code section 6500 and related provisions of that Code.

(g) PROCEEDS.—Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under its administrative jurisdiction. The Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities which shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United Stats of comparable maturity.

(h) SUITS.—The Trust may sue and be sued in its own name to the same extent as the Federal Government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Northern District of California shall have exclusive jurisdiction over any suit filed against the Trust.

(i) MEMORANDUM OF AGREEMENT.—The Trust shall enter into a Memorandum of Agreement with the Secretary, acting through the Chief of the United States Park Police, for the conduct of law enforcement activities and services within those portions of the Presidio transferred to the administrative jurisdiction of the Trust.

(j) BYLAWS, RULES, AND REGULATIONS.—The Trust may adopt, amend, repeal, and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised. The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this title. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

(k) DIRECT NEGOTIATIONS.—For the purpose of compliance with applicable laws and regulations concerning properties transferred to the Trust by the Secretary, the Trust shall negotiate directly with regulatory authorities.

(l) INSURANCE.—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

(m) BUILDING CODE COMPLIANCE.—The Trust shall bring all properties under its administrative jurisdiction into compliance with Federal building codes and regulations appropriate to use and occupancy within 10 years after the enactment of this title to the extent practicable.

(n) LEASING.—In managing and leasing the properties transferred to it, the Trust shall consider the extent to which prospective tenants contribute to the implementation of the General Management Plan for the Presidio and to the reduction of cost to the Federal Government. The Trust shall give priority to the following categories of tenants: Tenants that enhance the financial viability of the Presidio and tenants that facilitate the cost-effective preservation of historic buildings through their reuse of such buildings.

(o) REVERSION.—If, at the expiration of 15 years, the Trust has not accomplished the goals and objectives of the plan required in section 105(b) of this title, then all property under the administrative jurisdiction of the Trust pursuant to section 103(b) of this title shall be transferred to the Administrator of the General Services Administration to be disposed of in accordance with the procedures outlined in the Defense Authorization Act of 1990 (104 Stat. 1809), and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area. In the event of such transfer, the terms and conditions of all agreements and loans regarding such lands and facilities entered into by the Trust shall be binding on any successor in interest.

SEC. 105. LIMITATIONS ON FUNDING.

(a)(1) From amounts made available to the Secretary for the operation of areas within the Golden Gate National Recreation Area, not more than $25,000,000 shall be available to carry out this title in each fiscal year after the enactment of this title until the plan is submitted under subsection (b). Such sums shall remain available until expended.

(2) After the plan required in subsection (b) is submitted, and for each of the 14 fiscal years thereafter, there are authorized to be appropriated to the Trust not more than the amounts specified in such plan. Such sums shall remain available until expended. Of such sums, not more than $3,000,000 annually shall be available through the Trust for law enforcement activities and services to be provided by the United States Park Police at the Presidio in accordance with section 104(h) of this title.

(b) Within 1 year after the first meeting of the Board of Directors of the Trust, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funding that will achieve, at a minimum, self-sufficiency for the Trust within 15 complete fiscal years after such meeting of the Trust. No further funds shall be authorized for the Trust 15 years after the first meeting of the Board of Directors of the Trust.

(c) The Administrator of the General Services Administration shall provide necessary assistance, including detailees as necessary, to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Presidio.

SEC. 106. GENERAL ACCOUNTING OFFICE STUDY.

(a) Three years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this title.

(b) In consultation with the Trust, the General Accounting Office shall develop an interim schedule and plan to reduce and replace the Federal appropriations to the extent practicable for interpretive services conducted by the National Park Service, and law enforcement activities and services, fire and public safety programs conducted by the Trust.

(c) Seven years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct a comprehensive study of the activities of the Trust, including the Trust's progress in meeting its obligations under this title, taking into consideration the results of the study described in subsection (a) and the implementation of plan and schedule required in subsection (b). The General Accounting Office shall report the results of the study, including any adjustments to the plan and schedule, to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives.

TITLE II—BOUNDARY ADJUSTMENTS AND CONVEYANCES

SEC. 201. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001–B, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) ACQUISITION.—

(1) IN GENERAL.—Within the lands described in subsection (a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SEC. 202. ZION NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW$^{1}/_{4}$ of Section 28, Township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in section 28 to the park and to exclude the 5.51 acres in section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) EXPIRATION.—The authority granted by this section shall expire 2 years after the date of the enactment of this Act.

SEC. 203. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on the map entitled "Area Proposed for Addition to Pictured Rocks National Lakeshore", numbered 625–80,043A, and dated July 1992.

SEC. 204. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled "Exhibit 1, Independence National Historical Park, Boundary Adjustment", and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

SEC. 205. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) BOUNDARY REVISION.—The boundary of Craters of the Moon National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled "Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustment", numbered 131–80,008, and dated October 1987, which map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(b) ADMINISTRATION AND ACQUISITION.—Federal lands and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands and interests therein added to the national monument by this section shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto. The Secretary is authorized to acquire private lands and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SEC. 206. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection after subsection (c):

"(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall be administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a noncontiguous parcel.".

SEC. 207. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

The boundaries of the Wupatki National Monument, Arizona, are hereby revised to include the lands and interests in lands within the area generally depicted as "Proposed Addition 168.89 Acres" on the map entitled "Boundary—Wupatki and Sunset Crater National Monuments, Arizona", numbered 322–80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands and interests therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

SEC. 208. WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION.

(a) PURPOSE.—The purpose of this section is to modify the boundaries of the Walnut Canyon National Monument (hereafter in this section referred to as the "national monument") to improve management of the national monument and associated resources.

(b) BOUNDARY MODIFICATION.—Effective on the date of enactment of this Act, the boundaries of the national monument shall be modified as depicted on the map entitled "Boundary Proposal—Walnut Canyon National Monument, Coconino County, Arizona", numbered 360/80,010, and dated September 1994. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior. The Secretary of the Interior, in consultation with the Secretary of Agriculture, is authorized to make technical and clerical corrections to such map.

(c) ACQUISITION AND TRANSFER OF PROPERTY.—The Secretary of the Interior is authorized to acquire lands and interest in lands within the national monument, by donation, purchase with donated or appropriated funds, or exchange. Federal property within the boundaries of the national monument (as modified by this section) is hereby transferred to the administrative jurisdiction of the Secretary of the Interior for management as part of the national monument. Federal property excluded from the

monument pursuant to the boundary modification under subsection (b) is hereby transferred to the administrative jurisdiction of the Secretary of Agriculture to be managed as a part of the Coconino National Forest.

(d) ADMINISTRATION.—The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national monument in accordance with this title and the provisions of law generally applicable to units of the National Park Service, including "An Act to establish a National Park Service, and for other purposes" approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 209. BUTTE COUNTY, CALIFORNIA LAND CONVEYANCE.

(a) PURPOSE.—It is the purpose of this section to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Butte County, California, to persons claiming to have been deprived of title to such lands.

(b) DEFINITIONS.—For the purpose of this section:

(1) The term "affected lands" means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 11, 12, 13, and 14, township 21 north, range 5 East, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land line location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident.

(2) The term "claimant" means an owner of real property in Butte County, California, whose real property adjoins Plumas National Forest lands described in paragraph (1), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys.

(3) The term "Secretary" means the Secretary of Agriculture.

(c) CONVEYANCE OF LANDS.—Notwithstanding any other provision of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in subsection (b)(1), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in subsection (d).

(d) NOTIFICATION.—Not later than 2 years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Plumas National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(e) ISSUANCE OF DEED.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this section, the Secretary shall issue a quit claim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989;

(B) all new property lines established by such surveys have been monumented and marked; and

(C) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(f) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this section no later than 30 days after the date such deed is issued.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out the purposes of this section.

SEC. 210. TAOS PUEBLO LAND TRANSFER.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 31, 1933 (48 Stat. 108) (as amended, including as amended by Public Law 91–550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Lands transferred to the Pueblo of Taos—proposed" and dated September 1994, comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) RESOLUTION OF OUTSTANDING CLAIMS.—The Congress finds and declares that, as a result of the enactment of this section, the Taos Pueblo has no unresolved equitable or legal claims against the United States on the lands to be held in trust and to become part of the Pueblo de Taos Reservation under this section.

SEC. 211. COLONIAL NATIONAL HISTORICAL PARK.

(a) TRANSFER AND RIGHTS-OF-WAY.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary") is authorized to transfer, without reimbursement, to York County, Virginia, that portion of the existing sewage disposal system, including related improvements and structures, owned by the United States and located within the Colonial National Historical Park, together with such rights-of-way as are determined by the Secretary to be necessary to maintain and operate such system.

(b) REPAIR AND REHABILITATION OF SYSTEM.—The Secretary is authorized to enter into a cooperative agreement with York County, Virginia, under which the Secretary will pay a portion, not to exceed $110,000, of the costs of repair and rehabilitation of the sewage disposal system referred to in subsection (a).

(c) FEES AND CHARGES.—In consideration for the rights-of-way granted under subsection (a), and in recognition of the National Park Service's contribution authorized under subsection (b), the cooperative agreement under subsection (b) shall provide for a reduction in, or the elimination of, the amounts charged to the National Park Service for its sewage disposal. The cooperative agreement shall also provide for minimizing the impact of the sewage disposal system on the park and its resources. Such system may not be enlarged or substantially altered without National Park Service concurrence.

(d) INCLUSION OF LAND IN COLONIAL NATIONAL HISTORICAL PARK.—Notwithstanding the provisions of the Act of June 28, 1938 (52 Stat. 1208; 16 U.S.C. 81b et seq.), limiting the average width of the Colonial Parkway, the Secretary of the Interior is authorized to include within the boundaries of Colonial National Historical Park and to acquire by donation, exchange, or purchase with donated or appropriated funds the lands or interests in lands (with or without improvements) within the areas depicted on the map dated August 1993, numbered 333/80031A, and entitled "Page Landing Addition to Colonial National Historical Park". Such map shall be on file and available for inspection in the offices of the National Park Service at Colonial National Historical Park and in Washington, District of Columbia.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 212. CUPRUM, IDAHO RELIEF.

(a) FINDINGS.—The Congress finds and declares that:

(1) In 1899, the citizens of Cuprum, Idaho, commissioned E.S. Hesse to conduct a survey describing these lands occupied by their community. The purpose of this survey was to provide a basis for the application for a townsite patent.

(2) In 1909, the Cuprum Townsite patent (Number 52817) was granted, based on an aliquot parts description which was intended to circumscribe the Hesse survey.

(3) Since the day of the patent, the Hesse survey has been used continuously by the community of Cuprum and by Adams Country, Idaho, as the official townsite plat and basis for conveyance of title within the townsite.

(4) Recent boundary surveys conducted by the United States Department of Agriculture, Forest Service, and the United States Department of the Interior, Bureau of Land Management, discovered inconsistencies between the official aliquot parts description of the patented Cuprum Townsite and the Hesse survey. Many lots along the south and east boundaries of the townsite are now known to extend onto National Forest System lands outside the townsite.

(5) It is the determination of Congress that the original intent of the Cuprum Townsite application was to include all the lands described by the Hesse survey.

(b) PURPOSE.—It is the purpose of this section to amend the 1909 Cuprum Townsite patent to include those additional lands described by the Hesse survey in addition to other lands necessary to provide an administratively acceptable boundary to the National Forest System.

(c) AMENDMENT OF PATENT.—The 1909 Cuprum Townsite patent is hereby amended to include parcels 1 and 2, identified on the plat, marked as "Township 20 North, Range 3 West, Boise Meridian, Idaho, Section 10: Proposed Patent Adjustment Cuprum Townsite, Idaho" prepared by Payette N.F.—Land Survey Unit, drawn and approved by Tom Betzold, Forest Land Surveyor, on April 25, 1995. Such additional lands are hereby conveyed to the original patentee, Pitts Ellis, trustee, and Probate Judge of Washington County, Idaho, or any successors or assigns in interest in accordance with State law. The Secretary of Agriculture may correct clerical and typographical errors in such plat.

(d) SURVEY.—The Federal Government shall survey the Federal property lines and mark and post the boundaries necessary to implement this section.

SEC. 213. CONVEYANCE OF CERTAIN PROPERTY TO THE STATE OF WYOMING.

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey to the State of Wyoming without reimbursement—

(A) all right, title, and interest of the United States in and to the portion of the property commonly known as "Ranch A" in Crook County,

Wyoming, other than the portion described in subparagraph (B), consisting of approximately 600 acres of land (including all real property, buildings, and all other improvements to real property) and all personal property (including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture directly related to the site, including personal property on loan to museums and other entities at the time of transfer); and

(B) all right, title, and interest of the United States in and to all buildings and related improvements and all personal property associated with the real property described as Township 52 North, Range 61 West, Section 24 N½ SE¼, consisting of approximately 80 acres of land, including a permanent right of way to allow the use of the improvements and personal property as provided in subsection (b)(1).

(b) Use and Reversionary Interest.—

(1) Use.—The property conveyed to the State of Wyoming under this section shall be retained in public ownership and be used by the State for the purposes of—

(A) fish and wildlife management and educational activities; and

(B) using, maintaining, displaying, and restoring, through State or local agreements, or both, the museum-quality real and personal property and the historical interests and significance of the real and personal property, consistent with applicable Federal and State laws.

(2) Access by institutions of higher education.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institutions of higher education.

(3) Reversion.—All right, title, and interest in and to the property shall revert to the United States if—

(A) the property described in subsection (a) is not used by the State of Wyoming for the purposes set forth in paragraph (1);

(B) there is any development of the property (including commercial or recreational development, but not including the construction of small structures strictly in accordance with paragraph (1)); or

(C) the State does not make every reasonable effort to protect and maintain the quality and quantity of fish and wildlife habitat on the property.

(c) Addition to the Black Hills National Forest.—

(1) Transfer.—Administrative jurisdiction of the real property described in subsection (a)(1)(B) (excluding the improvements and personal property conveyed to the State of Wyoming) is transferred to the Secretary of Agriculture, to be included in and managed as part of the Black Hills National Forest.

(2) No hunting or mineral development.—No hunting or mineral development shall be permitted on any of the land transferred to the administrative jurisdiction of the Secretary of Agriculture by paragraph (1).

SEC. 214. RELINQUISHMENT OF INTEREST.

(a) In General.—The United States relinquishes all right, title, and interest that the United States may have in land that—

(1) was subject to a right-of-way that was granted to the predecessor of the Chicago and Northwestern Transportation Company under the Act entitled "An Act granting to railroads the right of way through the public lands of the United States", approved March 3, 1875 (43 U.S.C. 934 et seq.), which right-of-way the Company has conveyed to the city of Douglas, Wyoming; and

(2) is located within the boundaries of the city limits of the city of Douglas, Wyoming, or between the right-of-way of Interstate 25 and the city limits of the city of Douglas, Wyoming, as determined by the Secretary of the Interior in consultation with the appropriate officials of the city of Douglas, Wyoming.

(b) Conveyance.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall file for recordation in the real property records of Converse County, Wyoming, a deed or other appropriate form of instrument conveying to the city of Douglas, Wyoming, all right, title, and interest in the land described in subsection (a).

(c) Conveyance of Certain Property to the Big Horn County School District Number 1, Wyoming.—The Secretary of the Interior shall convey, by quit claim deed, to the Big Horn County School District Number 1, Wyoming, all right, title, and interest of the United States in and to the following described lands in Big Horn County, Wyoming: Lots 19–24 of Block 22, all within the town of Frannie, Wyoming, in the S½NW¼NW¼ and N½SW¼NW¼ of section 31 of T. 58N., R. 97 W., Big Horn County.

SEC. 215. MODOC NATIONAL FOREST.

(a) In General.—The boundary of the Modoc National Forest is hereby modified to include and encompass 760 acres, more or less, on the following described lands: Mount Diablo Meridian, Lassen County, California, T. 38 N., R. 10 E., sec. 5, SE¼NW¼, E½SW¼; sec. 8, E½NE¼, NE¼NW¼, NE¼SE¼; sec. 16, W½; sec. 25, Lots 13, 14 and 15 (S½SW¼, SW¼SE¼); T. 37 N., R. 11 E., sec. 20, NW¼SE¼.

(b) Rule for Land and Water Conservation Fund.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundary of the Modoc National Forest, as modified by this title, shall be considered to be the boundary of that National Forest as of January 1, 1965.

SEC. 216. CONVEYANCE TO CITY OF SUMPTER, OREGON.

(a) Conveyance Required.—The Secretary of Agriculture shall convey, without consideration, to the city of Sumpter, Oregon (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property of approximately 1.43 acres consisting of all of block 8 of the REVISED PLAN OF SUMPTER TOWNSITE in the City, as shown in plat recorded March 6, 1897, in Plat Book 3, page 26; including the alley running through such block, vacated by Ordinance No. 1966–3, recorded December 14, 1966, in Deed 66–50–014.

(b) Additional Description of Property.—The real property to be conveyed under subsection (a) consists of the same property that was deeded to the United States in the following deeds:

(1) Warranty Deed from Sumpter Power & Water Company to the United States of America dated October 12, 1949, and recorded in Vol. 152, page 170 of Baker County records on December 22, 1949.

(2) Warranty Deed from Mrs. Alice Windle to the United States of America dated October 11, 1949, and recorded in Vol. 152, page 168 of Baker County records on December 22, 1949.

(3) Warranty Deed from Alice L. Windle Charles and James M. Charles to the United States of America dated August 8, 1962, and recorded in Book 172, page 1331 on August 27, 1962.

(c) Condition of Conveyance.—The conveyance under subsection (a) shall be subject to the condition that the City use the conveyed property only for public purposes, such as a city park, information center, or interpretive area.

(d) Release.—Upon making the conveyance required by subsection (a), the United States is relieved from liability for any and all claims arising from the presence of materials on the conveyed property.

(e) Reversionary Interest.—If the Secretary of Agriculture determines that the real property conveyed under subsection (a) is not being used in accordance with the condition specified in subsection (c) or that the City has initiated proceedings to sell, lease, exchange, or otherwise dispose of all or a portion of the property, then, at the option of the Secretary, the United States shall have a right of reentry with regard to the property, with title thereto revesting in the United States.

(f) Authorized Sale of Property.—Notwithstanding subsections (c) and (e), the Secretary of Agriculture may authorize the City to dispose of the real property conveyed under subsection (a) if the proceeds from such disposal are at least equal to the fair market value of the property and are paid to the United States. The Secretary shall deposit amounts received under this subsection into the special fund in the Treasury into which funds are deposited pursuant to the Act of December 4, 1967 (16 U.S.C. 484a), commonly known as the Sisk Act. The disposal of the conveyed property under this subsection shall be subject to such terms and conditions as the Secretary may prescribe.

(g) Additional Terms and Conditions.—The Secretary of Agriculture may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 217. CUMBERLAND GAP NATIONAL HISTORICAL PARK.

(a) Authority.—Notwithstanding the Act of June 11, 1940 (16 U.S.C. 261 et seq.), the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange not to exceed 10 acres of land or interests in land, which shall consist of those necessary lands for the establishment of trailheads to be located at White Rocks and Chadwell Gap.

(b) Administration.—Lands and interests in lands acquired pursuant to subsection (a) shall be added to and administered as part of Cumberland Gap National Historical Park.

SEC. 218. SHENANDOAH NATIONAL PARK.

(a) In General.—The boundary of Shenandoah National Park is hereby modified to include only those lands and interests therein that, on the day before the date of the enactment of this Act, were in Federal ownership and were administered by the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") as part of the park. So much of the Act of May 22, 1926 (Chapter 363; 44 Stat. 616) as is inconsistent herewith is hereby repealed.

(b) Minor Boundary Adjustments.—

(1) Minor boundary adjustments.—The Secretary is authorized to make minor adjustments to the boundary of Shenandoah National Park, as modified by this section, to make essential improvements to facilitate access to trailheads to the park that exist on the day before the date of the enactment of this Act. In addition, the Secretary may acquire or accept donations of lands adjacent to the park for the purposes of making minor boundary adjustments, whenever the Secretary determines such lands would further the purposes of the park.

(2) Further limitations on minor boundary adjustments.—

(A) In general.—Except as otherwise provided in this subsection, the Secretary may acquire lands and interests therein under this subsection only—

(i) by donation, or exchange; and

(ii) with the consent of the owner.

(B) Additional restrictions.—When acting under this subsection—

(i) the Secretary may add to the Shenandoah National Park only lands and interests therein that are contiguous with Federal lands administered by the Secretary as part of the park;

(ii) prior to accepting title to any lands or interests therein, the Secretary shall hold a public *meeting in the county in which such lands and interests are located;*

(iii) the Secretary shall not alter the primary means of access of any private landowner to the lands owned by such landowner; and

(iv) the Secretary shall not cause any property owned by a private individual, or any group of adjacent properties owned by private individuals, to be surrounded on all sides by land administered by the Secretary as part of the park.

(C) PUBLIC LAND.—Lands or interests in land located within the boundaries of a park owned by the Commonwealth of Virginia or a political subdivision of the Commonwealth of Virginia may be acquired by the Secretary under this section only by donation or exchange.

(D) NO CONDEMNATION.—Under this section, the Secretary may not accept a donation of land or an interest in land that was acquired through condemnation.

(c) MITIGATION OF IMPACTS AT ACCESS POINTS.—The Secretary shall take all reasonable actions to mitigate the impacts associated with visitor use at trailheads around the perimeter of Shenandoah National Park. The Secretary shall enlist the cooperation of the State and local jurisdictions, as appropriate, in carrying out this subsection.

(d) COMPREHENSIVE BOUNDARY STUDY.—Within 3 years after the date of enactment of this Act, the Secretary shall complete a comprehensive boundary study for Shenandoah National Park in accordance with the National Environmental Policy Act. The Secretary shall forward copies of such study to the appropriate congressional committees.

SEC. 219. TULARE CONVEYANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to subsections (c), (d), and (e), the following conveyance is hereby validated to the extent that the conveyances would have been legal or valid if all right, title, and interest of the United States had been held by the Southern Pacific Transportation Company at the time of such conveyance:

(1) Conveyance of parcels from the lands described in subsection (b) made by the Southern Pacific Transportation Company or its subsidiaries, predecessors, successors, agents, or assigns, on or before April 15, 1996.

(2) Conveyance of parcels from the lands described in paragraphs (1) and (2) of subsection (b) made after April 15, 1996, by the Southern Pacific Transportation Company, or its successors, agents, or assigns, to the Redevelopment Agency of the city of Tulare.

(b) LANDS DESCRIBED.—The lands referred to in subsection (a) are the lands that—

(1) formed part of a railroad right-of-way granted to the Southern Pacific Railroad Company, or its successors, agents, or assigns, by the Federal Government; and

(2) are located within the boundaries of Amended Urban Renewal Plan for California A-8-1 (the Downtown Plan) adopted by the city of Tulare, California, generally depicted on the map entitled "Amended Urban Renewal Plan for California A-8-1", dated March 7, 1989.

The map referred to in paragraph (2) shall be on file and available for public inspection in the offices of the director of the Bureau of Land Management.

(c) MINERALS.—(1) The United States hereby reserves any federally owned minerals that may exist in land that is conveyed pursuant to this section, including the right of the United States, its assignees or lessees, to enter upon and utilize as much of the surface of such land as is necessary to remove minerals under the laws of the United States.

(2) Any and all minerals reserved by paragraph (1) are hereby withdrawn from all forms of entry, appropriation, and patent under the mining, mineral leasing, and geothermal leasing laws of the United States.

(d) TAKING OF PRIVATE LAND.—If the validation of any conveyance pursuant to subsection (a) would constitute a taking of the private property within the meaning of the Fifth Amendment to the United States Constitution, the validation of the conveyance shall be effective only upon payment by the Southern Pacific Transportation Company (or its subsidiaries, successors, agents, or assigns) to the Secretary of the Treasury of the fair market value of the property taken.

(e) PRESERVATION OF EXISTING RIGHTS OF ACCESS.—Nothing in this section shall impair any existing rights of access in favor of the public or any owner of adjacent lands over, under or across the lands which are referred to in subsection (a).

SEC. 220. ALPINE SCHOOL DISTRICT.

(a) CONVEYANCE REQUIRED.—(1) The Secretary of Agriculture shall convey, without consideration, to the Alpine Elementary School District 7 of the State of Arizona (in this section referred to as the "School District"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 30 acres located in the Apache National Forest, Apache County, Arizona, and further delineated as follows: North ½ of Northeast ¼ of Southeast ¼ of section 14, Township 5 North, Range 30 East, Gila and Salt River meridian, and North ½ of South ½ of Northeast ¼ of Southeast ¼ of such section.

(2) The exact acreage and legal description of the real property to be conveyed under paragraph (1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the School District.

(b) CONDITION OF CONVEYANCE.—The conveyance made under subsection (a) shall be subject to the condition that the School District use the conveyed property for public school facilities and related public school recreational purposes.

(c) RIGHT OF REENTRY.—The United States shall retain a right of reentry in the property to be conveyed. If the Secretary determines that the conveyed property is not being used in accordance with the condition in subsection (b), the United States shall have the right to reenter the conveyed property without consideration.

(d) ENCUMBRANCES.—The conveyance made under subsection (a) shall be subject to all encumbrances on the property existing as of the date of the enactment of this Act.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 221. MERCED IRRIGATION DISTRICT LAND EXCHANGE.

(a) CONVEYANCE.—(1) The Secretary of the Interior may convey the Federal lands described in subsection (d)(1) in exchange for the non-Federal lands described in subsection (d)(2), in accordance with the provisions of this Act.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—The land exchange required in this section shall be carried out in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) and in accordance with other applicable laws.

(c) ACCEPTABILITY OF TITLE AND MANNER OF CONVEYANCE.—The Secretary of the Interior shall not carry out an exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

(d) LANDS TO BE EXCHANGED.—

(1) FEDERAL LANDS TO BE EXCHANGED.—The Federal lands referred to in this section to be exchanged consist of approximately 179.4 acres in Mariposa County, California as generally depicted on the map entitled "Merced Irrigation District Exchange—Proposed, Federal Land", dated March 15, 1995, more particularly described as follows:

T. 3 S., R. 15 E., MDM (Mount Diablo Meridian): sec. 35, SW¼SE¼, containing approximately 40 acres.

T. 4 S., R. 15 E., MDM (Mount Diablo Meridian):

Sec. 14: E½SE¼SE¼, containing approximately 20 acres.

Sec. 23: NE¼SE¼, containing approximately 40 acres.

T. 5 S., R. 15 E., MDM (Mount Diablo Meridian):

Sec. 2: Lot 1, containing approximately 57.9 acres.

Sec. 3: Lots 7 thru 15, containing approximately 21.5 acres.

(2) NON-FEDERAL LANDS TO BE EXCHANGED.—The non-Federal lands referred to in this section to be exchanged consist of approximately 160 acres in Mariposa County, California as generally depicted on the map entitled "Merced Irrigation District Exchange—Proposed, Non-Federal Land", dated March 15, 1995, more particularly described as T. 4 S., R17E MDM (Mount Diablo Meridian): sec. 2, SE¼.

(3) MAPS.—The maps referred to in this subsection shall be on file and available for inspection in the office of the Director of the Bureau of Land Management.

(4) PARTIAL REVOCATION OF WITHDRAWALS.—The Executive order of December 31, 1912, creating Powersite Reserve No. 328, and the withdrawal of Federal lands for Power Project No. 2179, filed February 21, 1963, in accordance with section 24 of the Federal Power Act are hereby revoked insofar as they affect the Federal lands described in paragraph (1). Any patent issued on such Federal lands shall not be subject to section 24 of said Act.

SEC. 222. FATHER AULL SITE TRANSFER.

(a) SHORT TITLE.—This section may be cited as the "Father Aull Site Transfer Act of 1996".

(b) CONVEYANCE OF PROPERTY.—Subject to valid existing rights, all right, title and interest of the United States in and to the land (including improvements on the land), consisting of approximately 43.06 acres, located approximately 10 miles east of Silver City, New Mexico, and described as follows: T. 17 S., R. 12 W., Section 30: Lot 13, and Section 31: Lot 27 (as generally depicted on the map dated July 1995) is hereby conveyed by operation of law to St. Vincent DePaul Parish in Silver City, New Mexico, without consideration.

(c) RELEASE.—Upon the conveyance of any land or interest in land identified in this section to St. Vincent DePaul Parish, St. Vincent DePaul Parish shall assume any liability for any claim relating to the land or interest in the land arising after the date of the conveyance.

(d) MAP.—The map referred to in this section shall be on file and available for public inspection in—

(1) the State of New Mexico Office of the Bureau of Land Management, Santa Fe, New Mexico; and

(2) the Las Cruces District Office of the Bureau of Land Management, Las Cruces, New Mexico.

SEC. 223. COASTAL BARRIER RESOURCES SYSTEM.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such corrections to the maps described in subsection (b) as are necessary to ensure that depictions of areas on those maps are consistent with the depictions of areas appearing on the maps entitled "Amendments to Coastal Barrier Resources System", dated November

1, 1995, and June 1, 1996, and on file with the Secretary.

(b) MAPS DESCRIBED.—The maps described in this subsection are maps that—

(1) are included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) relate to the following units of the Coastal Barrier Resources System: P05, P05A, P10, P11, P11A, P18, P25, P32, and P32P.

SEC. 224. CONVEYANCE TO DEL NORTE COUNTY UNIFIED SCHOOL DISTRICT.

(a) CONVEYANCE.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall convey to the Del Norte County Unified School District of Del Norte County, California, in accordance with this section, all right, title, and interest of the United States in and to the property described in subsection (b).

(b) PROPERTY DESCRIPTION.—The property referred to in subsection (a) is that portion of Township 17 North, Range 2 East, Humboldt Meridian in Del Norte County, California, which is further described as follows:

Beginning at Angle Point No. 3 of Tract 41 as resurveyed by the Bureau of Land Management under survey Group No. 1013, approved August 13, 1990, and shown on the official plat thereof;

thence on the line between Angle Points No. 3 and No. 4 of Tract 41, North 89 degrees, 24 minutes, 20 seconds East, a distance of 345.44 feet to Angle Point No. 4 of Tract 41;

thence on the line between Angle Points No. 4 and No. 5 of Tract 41, South 00 degrees, 01 minutes, 20 seconds East, a distance of 517.15 feet;

thence West, a distance of 135.79 feet;

thence North 88 degrees, 23 minutes, 01 seconds West, a distance of 61.00 feet;

thence North 39 degrees, 58 minutes, 18 seconds West, a distance of 231.37 feet to the East line of Section 21, Township 17 North, Range 2 East;

thence along the East line of Section 21, North 00 degrees, 02 minutes, 20 seconds West, a distance of 334.53 feet to the point of beginning.

(c) CONSIDERATION.—The conveyance provided for in subsection (a) shall be without consideration except as required by this section.

(d) CONDITIONS OF CONVEYANCE.—The conveyance provided for in subsection (a) shall be subject to the following conditions:

(1) Del Norte County shall be provided, for no consideration, an easement for County Road No. 318 which crosses the Northeast corner of the property conveyed.

(2) The Pacific Power and Light Company shall be provided, for no consideration, an easement for utility equipment as necessary to maintain the level of service provided by the utility equipment on the property as of the date of the conveyance.

(3) The United States shall be provided, for no consideration, an easement to provide access to the United States property that is south of the property conveyed.

(e) LIMITATIONS ON CONVEYANCE.—The conveyance authorized by subsection (a) is subject to the following limitations:

(1) ENCUMBRANCES.—Such conveyance shall be subject to all encumbrances on the land existing as of the date of enactment of this Act.

(2) RE-ENTRY RIGHT.—The United States shall retain a right of re-entry in the land described for conveyance in subsection (b). If the Secretary determines that the conveyed property is not being used for public educational or related recreational purposes, the United States shall have a right to re-renter the property conveyed therein without consideration.

(f) ADDITIONAL TERMS AND CONDITIONS.—The conveyance provided for in subsection (a) shall be subject to such additional terms and conditions as the Secretary of Agriculture and the Del Norte County Unified School District agree are necessary to protect the interests of the United States.

TITLE III—EXCHANGES

SEC. 301. TARGHEE NATIONAL FOREST LAND EXCHANGE.

(a) CONVEYANCE.—Notwithstanding the requirements in the Act entitled "An Act to Consolidate National Forest Lands", approved March 20, 1922 (16 U.S.C. 485), and section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) that Federal and non-Federal lands exchanged for each other must be located within the same State, the Secretary of Agriculture may convey the Federal lands described in subsection (d) in exchange for the non-Federal lands described in subsection (e) in accordance with the provisions of this section.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Except as otherwise provided in this section, the land exchange authorized by this section shall be made under the existing authorities of the Secretary.

(c) ACCEPTABILITY OF TITLE AND MANNER OF CONVEYANCE.—The Secretary shall not carry out the exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

(d) FEDERAL LANDS.—The Federal lands referred to in this section are located in the Targhee National Forest in Idaho, are generally depicted on the map entitled "Targhee Exchange, Idaho-Wyoming—Proposed, Federal Land", dated September 1994, and are known as the North Fork Tract.

(e) NON-FEDERAL LANDS.—The non-Federal lands referred to in this section are located in the Targhee National Forest in Wyoming, are generally depicted on the map entitled "Non-Federal land, Targhee Exchange, Idaho-Wyoming—Proposed", dated September 1994, and are known as the Squirrel Meadows Tract.

(f) MAPS.—The maps referred to in subsections (d) and (e) shall be on file and available for inspection in the office of the Targhee National Forest in Idaho and in the office of the Chief of the Forest Service.

(g) EQUALIZATION OF VALUES.—Prior to the exchange authorized by this section, the values of the Federal and non-Federal lands to be so exchanged shall be established by appraisals of fair market value that shall be subject to approval by the Secretary. The values either shall be equal or shall be equalized using the following methods:

(1) ADJUSTMENT OF LANDS.—

(A) PORTION OF FEDERAL LANDS.—If the Federal lands are greater in value than the non-Federal lands, the Secretary shall reduce the acreage of the Federal lands until the values of the Federal lands closely approximate the values of the non-Federal lands.

(B) ADDITIONAL FEDERALLY OWNED LANDS.—If the non-Federal lands are greater in value than the Federal lands, the Secretary may convey additional federally owned lands within the Targhee National Forest up to an amount necessary to equalize the values of the non-Federal lands and the lands to be transferred out of Federal ownership. However, such additional federally owned lands shall be limited to those meeting the criteria for land exchanges specified in the Targhee National Forest Land and Resource Management Plan.

(2) PAYMENT OF MONEY.—The values may be equalized by the payment of money as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (b)).

(h) DEFINITIONS.—For purpose of this section:

(1) The term "Federal lands" means the Federal lands described in subsection (d).

(2) The term "non-Federal lands" means the non-Federal lands described in subsection (e).

(3) The term "Secretary" means the Secretary of Agriculture.

SEC. 302. ANAKTUVUK PASS LAND EXCHANGE.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The village of Anaktuvuk Pass, located in the highlands of the central Brooks Range, is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk Pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access to pursue caribou and other subsistence resources.

(3) In a 1983 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

(b) RATIFICATION OF AGREEMENT.—

(1) RATIFICATION.—

(A) IN GENERAL.—The terms, conditions, procedures, covenants, reservations, and other provisions set forth in the document entitled "Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America" (hereinafter referred to in this section as "the Agreement"), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this title, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(B) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(2) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled "Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates

of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

(c) NATIONAL PARK SYSTEM WILDERNESS.—

(1) GATES OF THE ARCTIC WILDERNESS.—

(A) REDESIGNATION.—Section 701(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres as wilderness and the rescission of approximately 73,993 acres as wilderness, thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres.

(B) MAP.—The lands redesignated by subparagraph (A) are depicted on a map entitled "Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(2) NOATAK NATIONAL PRESERVE.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act (94 Stat. 2380) is amended by—

(A) striking "approximately six million four hundred and sixty thousand acres" and inserting in lieu thereof "approximately 6,477,168 acres"; and

(B) inserting "and the map entitled "Noatak National Preserve and Noatak Wilderness Addition" dated September 1994" after "July 1980".

(3) NOATAK WILDERNESS.—Section 701(7) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417) is amended by striking "approximately five million eight hundred thousand acres" and inserting in lieu thereof "approximately 5,817,168 acres".

(d) CONFORMANCE WITH OTHER LAW.—

(1) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid existing rights.

(2) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this section or the Agreement, nothing in this section or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

SEC. 303. ALASKA PENINSULA SUBSURFACE CONSOLIDATION.

(a) DEFINITIONS.—As used in this section:

(1) AGENCY.—The term "agency"—

(A) means any instrumentality of the United States, and any Government corporation (as defined in section 9101(1) of title 31, United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the same meaning as is provided for "Native Corporation" in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTERESTS THEREIN.—The term "Federal lands or interests therein" means any lands or properties owned by the United States (A) which are administered by the Secretary, or (B) which are subject to a lease to third parties, or (C) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties: Provided however, That excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term "Koniag" means Koniag, Incorporated, which is a regional Corporation.

(5) REGIONAL CORPORATION.—The term "Regional Corporation" has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term "selection rights" means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as "Koniag Selections" on the map entitled "Koniag Interest Lands, Alaska Peninsula", dated May 1989.

(b) VALUATION OF KONIAG SELECTION RIGHTS.—

(1) IN GENERAL.—Pursuant to paragraph (2) of this subsection, the Secretary shall value the Selection Rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(2) VALUE.—

(A) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(i) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(ii) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(B) APPRAISAL.—

(i) SELECTION OF APPRAISER.—

(I) IN GENERAL.—Not later than 90 days after the date of enactment of this section the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to subclause (II), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(II) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in subclause (I), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(ii) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(iii) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to clause (i), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(C) DETERMINATION OF VALUE.—

(i) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under subparagraph (B)(iii), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(ii) ALTERNATIVE DETERMINATION OF VALUE.—

(I) IN GENERAL.—Subject to subclause (II), if Koniag does not agree with the value determined by the Secretary under clause (i), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (d)) shall be used to establish the value.

(II) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

(c) KONIAG ACCOUNT.—

(1) IN GENERAL.—(A) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the Selection Rights.

(B) If the value of the Federal property to be exchanged is less than the value of the Selection Rights established in subsection (b), and if such Federal property to be exchanged is not generating receipts to the Federal Government in excess of $1,000,000 per year, then the Secretary may exchange the Federal property for that portion of the Selection Rights having a value equal to that of the Federal property. The remaining selection rights shall remain available for additional exchanges.

(C) For the purposes of any exchange to be consummated under this section, if less than all the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to subsection (b) hereof and the denominator of which is the total number of acres of selection rights.

(2) ADDITIONAL EXCHANGES.—If, after 10 years from the date of the enactment of this section, the Secretary was unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such Federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the Federal Government in excess of $1,000,000 per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (A) declining to proceed with the exchange and identifying other property, or (B) paying the difference in value between the property rights.

(d) CERTAIN CONVEYANCES.—

(1) INTERESTS IN LAND.—For the purposes of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)), the receipt of consideration, including, but not limited to, lands, cash or other property, by a Native Corporation

for the relinquishment to the United States of land selection rights granted to any Native Corporation under such Act shall be deemed to be an interest in land.

(2) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629c), Koniag may delegate, in whole or in part, the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

SEC. 304. SNOWBASIN LAND EXCHANGE ACT.

(a) PURPOSE AND INTENT.—The purpose of this section is to authorize and direct the Secretary to exchange 1,320 acres of federally-owned land within the Cache National Forest in the State of Utah for lands of approximately equal value owned by the Sun Valley Company. It is the intent of Congress that this exchange be completed without delay within the period specified by subsection (d).

(b) DEFINITIONS.—As used in this section:

(1) The term "Sun Valley Company" means the Sun Valley Company, a division of Sinclair Oil Corporation, a Wyoming Corporation, or its successors or assigns.

(2) The term "Secretary" means the Secretary of Agriculture.

(c) EXCHANGE.—

(1) FEDERAL SELECTED LANDS.—(A) Not later than 45 days after the final determination of value of the Federal selected lands, the Secretary shall, subject to this section, transfer all right, title, and interest of the United States in and to the lands referred to in subparagraph (B) to the Sun Valley Company.

(B) The lands referred to in subparagraph (A) are certain lands within the Cache National Forest in the State of Utah comprising 1,320 acres, more or less, as generally depicted on the map entitled "Snowbasin Land Exchange—Proposed" and dated October 1995.

(2) NON-FEDERAL OFFERED LANDS.—Upon transfer of the Federal selected lands under paragraph (1), and in exchange for those lands, the Sun Valley Company shall simultaneously convey to the Secretary all right, title and interest of the Sun Valley Company in and to so much of the following offered lands which have been previously identified by the United States Forest Service as desirable by the United States, or which are identified pursuant to subparagraph (E) prior to the transfer of lands under paragraph (1), as are of approximate equal value to the Federal selected lands:

(A) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 640 acres and are generally depicted on a map entitled "Lightning Ridge Offered Lands", dated October 1995.

(B) Certain lands located within the Cache National Forest in Weber County, Utah, which comprise approximately 635 acres and are generally depicted on a map entitled "Wheeler Creek Watershed Offered Lands—Section 2" dated October 1995.

(C) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, and lying immediately adjacent to the outskirts of the City of Ogden, Utah, which comprise approximately 800 acres and are generally depicted on a map entitled "Taylor Canyon Offered Lands", dated October 1995.

(D) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 2,040 acres and are generally depicted on a map entitled "North Fork Ogden River—Devil's Gate Valley", dated October 1995.

(E) Such additional offered lands in the State of Utah as may be necessary to make the values of the lands exchanged pursuant to this section approximately equal, and which are acceptable to the Secretary.

(3) SUBSTITUTION OF OFFERED LANDS.—If one or more of the precise offered land parcels identified in subparagraphs (A) through (D) of paragraph (2) is unable to be conveyed to the United States due to appraisal or other reasons, or if the Secretary and the Sun Valley Company mutually agree and the Secretary determines that an alternative offered land package would better serve long term public needs and objectives, the Sun Valley Company may simultaneously convey to the United States alternative offered lands in the State of Utah acceptable to the Secretary in lieu of any or all of the lands identified in subparagraphs (A) through (D) of paragraph (2).

(4) VALUATION AND APPRAISALS.—(A) Values of the lands to be exchanged pursuant to this section shall be equal as determined by the Secretary utilizing nationally recognized appraisal standards and in accordance with section 206 of the Federal Land Policy and Management Act of 1976. The appraisal reports shall be written to Federal standards as defined in the Uniform Appraisal Standards for Federal Land Acquisitions. If, due to size, location, or use of lands exchanged under this section, the values are not exactly equal, they shall be equalized by the payment of cash equalization money to the Secretary or the Sun Valley Company as appropriate in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)). In order to expedite the consummation of the exchange directed by this section, the Sun Valley Company shall arrange and pay for appraisals of the offered and selected lands by a qualified appraiser with experience in appraising similar properties and who is mutually acceptable to the Sun Valley Company and the Secretary. The appraisal of the Federal selected lands shall be completed and submitted to the Secretary for technical review and approval no later than 120 days after the date of enactment of this Act, and the Secretary shall make a determination of value not later than 30 days after receipt of the appraisal. In the event the Secretary and the Sun Valley Company are unable to agree to the appraised value of a certain tract or tracts of land, the appraisal, appraisals, or appraisal issues in dispute and a final determination of value shall be resolved through a process of bargaining or submission to arbitration in accordance with section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(B) In order to expedite the appraisal of the Federal selected lands, such appraisal shall—

(i) value the land in its unimproved state, as a single entity for its highest and best use as if in private ownership and as of the date of enactment of this Act;

(ii) consider the Federal lands as an independent property as though in the private marketplace and suitable for development to its highest and best use;

(iii) consider in the appraisal any encumbrance on the title anticipated to be in the conveyance to Sun Valley Company and reflect its effect on the fair market value of the property; and

(iv) not reflect any enhancement in value to the Federal selected lands based on the existence of private lands owned by the Sun Valley Company in the vicinity of the Snowbasin Ski Resort, and shall assume that private lands owned by the Sun Valley Company are not available for use in conjunction with the Federal selected lands.

(d) GENERAL PROVISIONS RELATING TO THE EXCHANGE.—

(1) IN GENERAL.—The exchange authorized by this section shall be subject to the following terms and conditions:

(A) RESERVED RIGHTS-OF-WAY.—In any deed issued pursuant to subsection (c)(1), the Secretary shall reserve in the United States a right of reasonable access across the conveyed property for public access and for administrative purposes of the United States necessary to manage adjacent federally-owned lands. The terms of such reservation shall be prescribed by the Secretary within 30 days after the date of the enactment of this Act.

(B) RIGHT OF RESCISSION.—This section shall not be binding on either the United States or the Sun Valley Company if, within 30 days after the final determination of value of the Federal selected lands, the Sun Valley Company submits to the Secretary a duly authorized and executed resolution of the Company stating its intention not to enter into the exchange authorized by this section.

(2) WITHDRAWAL.—Subject to valid existing rights, effective on the date of enactment of this Act, the Federal selected lands described in subsection (c)(1) and all National Forest System lands currently under special use permit to the Sun Valley Company at the Snowbasin Ski Resort are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) and from disposition under all laws pertaining to mineral and geothermal leasing.

(3) DEED.—The conveyance of the offered lands to the United States under this section shall be by general warranty or other deed acceptable to the Secretary and in conformity with applicable title standards of the Attorney General of the United States.

(4) STATUS OF LANDS.—Upon acceptance of title by the Secretary, the land conveyed to the United States pursuant to this section shall become part of the Wasatch or Cache National Forests as appropriate, and the boundaries of such National Forests shall be adjusted to encompass such lands. Once conveyed, such lands shall be managed in accordance with the Act of March 1, 1911, as amended (commonly known as the "Weeks Act"), and in accordance with the other laws, rules and regulations applicable to National Forest System lands. This paragraph does not limit the Secretary's authority to adjust the boundaries pursuant to section 11 of the Act of March 1, 1911 ("Weeks Act"). For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Wasatch and Cache National Forests, as adjusted by this section, shall be considered to be boundaries of the forests as of January 1, 1965.

(e) PHASE FACILITY CONSTRUCTION AND OPERATION.—

(1) PHASE I FACILITY FINDING AND REVIEW.—(A) The Congress has reviewed the Snowbasin Ski Area Master Development Plan dated October 1995 (hereinafter in this subsection referred to as the "Master Plan"). On the basis of such review, and review of previously completed environmental and other resource studies for the Snowbasin Ski Area, Congress hereby finds that the "Phase I" facilities referred to in the Master Plan to be located on National Forest System land after consummation of the land exchange directed by this section are limited in size and scope, are reasonable and necessary to accommodate the 2002 Olympics, and in some cases are required to provide for the safety of skiing competitors and spectators.

(B) Within 60 days after the date of enactment of this Act, the Secretary and the Sun Valley Company shall review the Master Plan insofar as such plan pertains to Phase I facilities which are to be constructed and operated wholly or partially on National Forest System lands retained by the Secretary after consummation of the land exchange directed by this section. The Secretary may modify such Phase I facilities

upon mutual agreement with the Sun Valley Company or by imposing conditions pursuant to paragraph (2) of this subsection.

(C) Within 90 days after the date of enactment of this Act, the Secretary shall submit the reviewed Master Plan on the Phase I facilities, including any modifications made thereto pursuant to subparagraph (B), to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives for a 30-day review period. At the end of the 30-day period, unless otherwise directed by Act of Congress, the Secretary may issue all necessary authorizations for construction and operation of such facilities or modifications thereof in accordance with the procedures and provisions of paragraph (2) of this subsection.

(2) PHASE I FACILITY APPROVAL, CONDITIONS, AND TIMETABLE.—Within 120 days of receipt of an application by the Sun Valley Company to authorize construction and operation of any particular Phase I facility, facilities, or group of facilities, the Secretary, in consultation with the Sun Valley Company, shall authorize construction and operation of such facility, facilities, or group of facilities, subject to the general policies of the Forest Service pertaining to the construction and operation of ski area facilities on National Forest System lands and subject to reasonable conditions to protect National Forest System resources. In providing authorization to construct and operate a facility, facilities, or group of facilities, the Secretary may not impose any condition that would significantly change the location, size, or scope of the applied for Phase I facility unless—

(A) the modification is mutually agreed to by the Secretary and the Sun Valley Company; or

(B) the modification is necessary to protect health and safety.

Nothing in this subsection shall be construed to affect the Secretary's responsibility to monitor and assure compliance with the conditions set forth in the construction and operation authorization.

(3) CONGRESSIONAL DIRECTIONS.—Notwithstanding any other provision of law, Congress finds that consummation of the land exchange directed by this section and all determinations, authorizations, and actions taken by the Secretary pursuant to this section pertaining to Phase I facilities on National Forest System lands, or any modifications thereof, to be nondiscretionary actions authorized and directed by Congress and hence to comply with all procedural and other requirements of the laws of the United States. Such determinations, authorizations, and actions shall not be subject to administrative or judicial review.

(f) NO PRECEDENT.—Nothing in subsection (c)(4)(B) of this section relating to conditions or limitations on the appraisal of the Federal lands, or any provision of subsection (e), relating to the approval by the Congress or the Forest Service of facilities on National Forest System lands, shall be construed as a precedent for subsequent legislation.

SEC. 305. ARKANSAS AND OKLAHOMA LAND EXCHANGE.

(a) FINDINGS.—Congress finds that:

(1) the Weyerhaeuser Company has offered to the United States Government an exchange of lands under which Weyerhaeuser would receive approximately 48,000 acres of Federal land in Arkansas and Oklahoma and all mineral interests and oil and gas interests pertaining to these exchanged lands in which the United States Government has an interest in return for conveying to the United States lands owned by Weyerhaeuser consisting of approximately 181,000 acres of forested wetlands and other forest land of public interest in Arkansas and Oklahoma and all mineral interests and all oil and gas interests pertaining to 48,000 acres of these 181,000 acres of exchanged lands in which Weyerhaeuser has an interest, consisting of—

(A) certain lands in Arkansas (Arkansas Ouachita lands) located near Poteau Mountain, Caney Creek Wilderness, Lake Ouachita, Little Missouri Wild and Scenic River, Flatside Wilderness and the Ouachita National Forest;

(B) certain lands in Oklahoma (Oklahoma lands) located near the McCurtain County Wilderness, the Broken Bow Reservoir, the Glover River, and the Ouachita National Forest; and

(C) certain lands in Arkansas (Arkansas Cossatot lands) located on the Little and Cossatot Rivers and identified as the "Pond Creek Bottoms" in the Lower Mississippi River Delta section of the North American Waterfowl Management Plan;

(2) acquisition of the Arkansas Cossatot lands by the United States will remove the lands in the heart of a critical wetland ecosystem from sustained timber production and other development;

(3) the acquisition of the Arkansas Ouachita lands and the Oklahoma lands by the United States for administration by the Forest Service will provide an opportunity for enhancement of ecosystem management of the National Forest System lands and resources;

(4) the Arkansas Ouachita lands and the Oklahoma lands have outstanding wildlife habitat and important recreational values and should continue to be made available for activities such as public hunting, fishing, trapping, nature observation, enjoyment, education, and timber management whenever these activities are consistent with applicable Federal laws and land and resource management plans; these lands, especially in the riparian zones, also harbor endangered, threatened and sensitive plants and animals and the conservation and restoration of these areas are important to the recreational and educational public uses and will represent a valuable ecological resource which should be conserved;

(5) the private use of the lands the United States will convey to Weyerhaeuser will not conflict with established management objectives on adjacent Federal lands;

(6) the lands the United States will convey to Weyerhaeuser as part of the exchange described in paragraph (1) do not contain comparable fish, wildlife, or wetland values;

(7) the values of all lands, mineral interests, and oil and gas interests to be exchanged between the United States and Weyerhaeuser are approximately equal in value; and

(8) the exchange of lands, mineral interests, and oil and gas interests between Weyerhaeuser and the United States is in the public interest.

(b) PURPOSE.—The purpose of this section is to authorize and direct the Secretary of the Interior and the Secretary of Agriculture, subject to the terms of this title, to complete, as expeditiously as possible, an exchange of lands, mineral interests, and oil and gas interests with Weyerhaeuser that will provide environmental, land management, recreational, and economic benefits to the States of Arkansas and Oklahoma and to the United States.

(c) DEFINITIONS.—As used in this section:

(1) LAND.—The terms "land" or "lands" mean the surface estate and any other interests therein except for mineral interests and oil and gas interests.

(2) MINERAL INTERESTS.—The term "mineral interests" means geothermal steam and heat and all metals, ores, and minerals of any nature whatsoever, except oil and gas interests, in or upon lands subject to this title including, but not limited to, coal, lignite, peat, rock, sand, gravel, and quartz.

(3) OIL AND GAS INTERESTS.—The term "oil and gas interests" means all oil and gas of any nature, including carbon dioxide, helium, and gas taken from coal seams (collectively "oil and gas").

(4) SECRETARIES.—The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture.

(5) WEYERHAEUSER.—The term "Weyerhaeuser" means Weyerhaeuser Company, a company incorporated in the State of Washington.

(d) EXCHANGE OF LANDS AND MINERAL INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, within 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall convey to Weyerhaeuser, subject to any valid existing rights, approximately 20,000 acres of Federal lands and mineral interests in the State of Arkansas and approximately 28,000 acres of Federal lands and mineral interests in the State of Oklahoma as depicted on maps entitled "Arkansas-Oklahoma Land Exchange—Federal Arkansas and Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(2) OFFER AND ACCEPTANCE OF LANDS.—The Secretary of Agriculture shall make the conveyance to Weyerhaeuser if Weyerhaeuser conveys deeds of title to the United States, subject to limitations and the reservation described in subsection (e) and which are acceptable to and approved by the Secretary of Agriculture to the following—

(A) approximately 115,000 acres of lands and mineral interests in the State of Oklahoma, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries;

(B) approximately 41,000 acres of lands and mineral interests in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Ouachita Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries; and

(C) approximately 25,000 acres of lands and mineral interests in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Cossatot Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(e) EXCHANGE OF OIL AND GAS INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, at the same time as the exchange for land and mineral interests is carried out pursuant to this section, the Secretary of Agriculture shall exchange all Federal oil and gas interests, including existing leases and other agreements, in the lands described in subsection (d)(1) for equivalent oil and gas interests, including existing leases and other agreements, owned by Weyerhaeuser in the lands described in subsection (d)(2).

(2) RESERVATION.—In addition to the exchange of oil and gas interests pursuant to paragraph (1), Weyerhaeuser shall reserve oil and gas interests in and under the lands depicted for reservation upon a map entitled Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oil and Gas Interest Reservation Lands , dated February 1996 and available for public inspection in appropriate offices of the Secretaries. Such reservation shall be subject to the provisions of this title and the form of such reservation shall comply with the jointly agreed to Memorandum of Understanding between the Forest Service and Weyerhaeuser dated March 27, 1996 and on file with the Office of the Chief of the Forest Service in Washington, D.C. and

with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives.

(f) GENERAL PROVISIONS.—

(1) MAPS CONTROLLING.—The acreage cited in this section is approximate. In the case of a discrepancy between the description of lands, mineral interests, or oil and gas interests to be exchanged pursuant to subsections (d) and (e) and the lands, mineral interests, or oil and gas interests depicted on a map referred to in such subsection, the map shall control. The maps referenced in this section shall be subject to such minor corrections as may be agreed upon by the Secretaries and Weyerhaeuser so long as the Secretary of Agriculture notifies the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives of any such minor corrections.

(2) FINAL MAPS.—Not later than 180 days after the conclusion of the exchange required by subsections (d) and (e), the Secretaries shall transmit maps accurately depicting the lands, mineral interests, and oil and gas interests conveyed and transferred pursuant to this section and the acreage and boundary descriptions of such lands, mineral interests, and oil and gas interests to the Committees on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(3) CANCELLATION.—If, before the exchange has been carried out pursuant to subsections (d) and (e), Weyerhaeuser provides written notification to the Secretaries that Weyerhaeuser no longer intends to complete the exchange, with respect to the lands, mineral interests, and oil and gas interests that would otherwise be subject to the exchange, the status of such lands, mineral interests, and oil and gas interests shall revert to the status of such lands, mineral interests, and oil and gas interests as of the day before the date of enactment of this Act and shall be managed in accordance with applicable law and management plans.

(4) WITHDRAWAL.—Subject to valid existing rights, the lands and interests therein depicted for conveyance to Weyerhaeuser on the maps referenced in subsections (d) and (e) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from the operation of mineral leasing and geothermal steam leasing laws effective upon the date of the enactment of this title. Such withdrawal shall terminate 45 days after completion of the exchange provided for in subsections (d) and (e) or on the date of notification by Weyerhaeuser of a decision not to complete the exchange.

(g) NATIONAL FOREST SYSTEM.—

(1) ADDITION TO THE SYSTEM.—Upon approval and acceptance of title by the Secretary of Agriculture, the 156,000 acres of land conveyed to the United States pursuant to subsection (d)(2)(A) and (B) of this section shall be subject to the Act of March 1, 1911 (commonly known as the Weeks Law) (36 Stat. 961, as amended), and shall be administered by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest System.

(2) PLAN AMENDMENTS.—No later than 12 months after the completion of the exchange required by this section, the Secretary of Agriculture shall begin the process to amend applicable land and resource management plans with public involvement pursuant to section 6 of the Forest and Rangeland Renewable Resource Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1604); Provided, that no amendment or revision of applicable land and resource management plans shall be required prior to completion of the amendment process required by this paragraph for the Secretary of Agriculture to authorize or undertake activities consistent with forest wide standards and guidelines and all other applicable laws and regulations on lands conveyed to the United States pursuant to subsection (d)(2)(A) and (B).

(h) OTHER.—

(1) ADDITION TO THE NATIONAL WILDLIFE REFUGE SYSTEM.—Once acquired by the United States, the 25,000 acres of land identified in subsection (d)(2)(C), the Arkansas Cossatot lands, shall be managed by the Secretary of the Interior as a component of the Cossatot National Wildlife Refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

(2) PLAN PREPARATION.—Within 24 months after the completion of the exchange required by this section, the Secretary of the Interior shall prepare and implement a single refuge management plan for the Cossatot National Wildlife Refuge, as expanded by this title. Such plans shall recognize the important public purposes served by the nonconsumptive activities, other recreational activities, and wildlife-related public use, including hunting, fishing, and trapping. The plan shall permit, to the maximum extent practicable, compatible uses to the extent that they are consistent with sound wildlife management and in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws. Any regulations promulgated by the Secretary of the Interior with respect to hunting, fishing, and trapping on those lands shall, to the extent practicable, be consistent with State fish and wildlife laws and regulations. In preparing the management plan and regulations, the Secretary of the Interior shall consult with the Arkansas Game and Fish Commission.

(3) INTERIM USE OF LANDS.—

(A) IN GENERAL.—Except as provided in paragraph (2), during the period beginning on the date of the completion of the exchange of lands required by this section and ending on the first date of the implementation of the plan prepared under paragraph (2), the Secretary of the Interior shall administer all lands added to the Cossatot National Wildlife Refuge pursuant to this title in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws.

(B) HUNTING SEASONS.—During the period described in subparagraph (A), the duration of any hunting season on the lands described in paragraph (1) shall comport with the applicable State law.

(i) OUACHITA NATIONAL FOREST BOUNDARY ADJUSTMENT.—Upon acceptance of title by the Secretary of Agriculture of the lands conveyed to the United States pursuant to subsection (d)(2)(A) and (B), the boundaries of the Ouachita National Forest shall be adjusted to encompass those lands conveyed to the United States generally depicted on the appropriate maps referred to in subsection (d). Nothing in this subsection shall limit the authority of the Secretary of Agriculture to adjust the boundary pursuant to section 11 of the Weeks Law of March 1, 1911. For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Ouachita National Forest, as adjusted by this section, shall be considered to be the boundaries of the Forest as of January 1, 1965.

(j) MAPS AND BOUNDARY DESCRIPTIONS.—Not later than 180 days after the date of enactment of this title, the Secretary of Agriculture shall prepare a boundary description of the lands depicted on the map(s) referred to in subsection (d)(2)(A) and (B). Such map(s) and boundary description shall have the same force and effect as if included in this Act, except that the Secretary of Agriculture may correct clerical and typographical errors.

SEC. 306. BIG THICKET NATIONAL PRESERVE.

(a) EXTENSION.—The last sentence of subsection (d) of the first section of the Act entitled "An Act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes", approved October 11, 1974 (16 U.S.C. 698(d)), is amended by striking out "two years after date of enactment" and inserting "five years after the date of enactment".

(b) INDEPENDENT APPRAISAL.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)) is further amended by adding at the end the following: "The Secretary, in considering the values of the private lands to be exchanged under this subsection, shall consider independent appraisals submitted by the owners of the private lands.".

(c) LIMITATION.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)), as amended by subsection (b), is further amended by adding at the end the following: "The authority to exchange lands under this subsection shall expire on July 1, 1998.".

(d) REPORTING REQUIREMENT.—Not later than 6 months after the date of the enactment of this Act and every 6 months thereafter until the earlier of the consummation of the exchange or July 1, 1998, the Secretary of the Interior and the Secretary of Agriculture shall each submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate concerning the progress in consummating the land exchange authorized by the amendments made by Big Thicket National Preserve Addition Act of 1993 (Public Law 103–46).

(e) LAND EXCHANGE IN LIBERTY COUNTY, TEXAS.—If, within one year after the date of the enactment of this Act—

(1) the owners of the private lands described in subsection (f)(1) offer to transfer all their right, title, and interest in and to such lands to the Secretary of the Interior, and

(2) Liberty County, Texas, agrees to accept the transfer of the Federal lands described in subsection (f)(2),

the Secretary shall accept such offer of private lands and, in exchange and without additional consideration, transfer to Liberty County, Texas, all right, title, and interest of the United States in and to the Federal lands described in subsection (f)(2).

(f) LANDS DESCRIBED.—

(1) PRIVATE LANDS.—The private lands described in this paragraph are approximately 3.76 acres of lands located in Liberty County, Texas, as generally depicted on the map entitled "Big Thicket Lake Estates Access—Proposed".

(2) FEDERAL LANDS.—The Federal lands described in this paragraph are approximately 2.38 acres of lands located in Menard Creek Corridor Unit of the Big Thicket National Preserve, as generally depicted on the map referred to in paragraph (1).

(g) ADMINISTRATION OF LANDS ACQUIRED BY THE UNITED STATES.—The lands acquired by the Secretary under subsection (e) shall be added to and administered as part of the Menard Creek Corridor Unit of the Big Thicket National Preserve.

SEC. 307. LOST CREEK LAND EXCHANGE.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this section as the "Secretary") shall--

(A) acquire by exchange certain land and interests in land owned by R-Y Timber, Inc., and its affiliates, successors, and assigns (referred to in this section as the "Corporation"), located in

the Lost Creek and Twin Lakes areas of the Beaverhead-Deerlodge National Forest, Montana; and

(B)(i) convey certain land and interests in land owned by the United States and located in the Beaverhead-Deerlodge National Forest and the Gallatin National Forest, Montana, to the Corporation; and

(ii) grant the right to harvest timber on land in the Beaverhead-Deerlodge National Forest and the Gallatin National Forest as specified in the document under paragraph (4).

(2) OFFER AND ACCEPTANCE OF LAND.—

(A) NON-FEDERAL LAND.—If the Corporation offers to convey to the United States fee title that is acceptable to the Secretary to approximately 17,567 acres of land owned by the Corporation and available for exchange, as depicted on the map entitled "R-Y/Forest Service Land Exchange Proposal", dated June, 1996, and described in the document under paragraph (4), the Secretary shall accept a warranty deed to the land.

(B) FEDERAL LAND.—

(i) CONVEYANCE.—On acceptance of title to the Corporation's land under subparagraph (A) and on the effective date of the document under paragraph (4), the Secretary shall—

(I) convey to the Corporation, subject to valid existing rights, by exchange deed, fee title to approximately 7,185 acres in the Beaverhead-Deerlodge National Forest; and

(II) grant to the Corporation the right to harvest approximately 6,200,000 board feet of timber on certain land in the Beaverhead-Deerlodge National Forest and approximately 4,000,000 board feet of timber on certain land in the Gallatin National Forest, collectively referred to as the harvest volume, as depicted on the map described in subparagraph (A) and subject to the terms and conditions stated in the document under paragraph (4).

(3) TIMBER HARVESTING.—

(A) IN GENERAL.—The timber harvest volume described in paragraph (2)(B)(i)(II) is in addition to, and is not intended as an offset against, the present or future planned timber sale program for the Beaverhead-Deerlodge National Forest or the Gallatin National Forest, so long as the allowable sale quantity for each national forest, respectively, is not exceeded for the planning period.

(B) SBA SHARE.—The Forest Service shall not reduce its Small Business Administration share of timber sale set-aside offerings in the Beaverhead-Deerlodge National Forest or the Gallatin National Forest by reason of the land exchange under this subsection.

(C) MINIMUM AND MAXIMUM ANNUAL HARVESTS.—

(i) IN GENERAL.—Subject to clause (ii)—

(I) not less than 20 nor more than 30 percent of the timber described in paragraph (2)(B)(i)(II) shall be made available by the end of each fiscal year over a 4- or 5-year period beginning with the first fiscal year that begins after the date of enactment of this Act; and

(II) the Corporation shall be allowed at least 3 years after the end of each fiscal year in which to complete the harvest of timber made available for that fiscal year.

(ii) EXCEPTIONAL CIRCUMSTANCES.—The timber harvest volumes specified in clause (i) shall not be required in the case of the occurrence of exceptional circumstances identified in the agreement under paragraph (4). In the case of such an occurrence that results in the making available of less than 20 percent of the timber for any fiscal year, the Secretary shall provide compensation of equal value to the Corporation in a form provided for in the agreement under paragraph (4).

(4) LAND EXCHANGE SPECIFICATION AGREEMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a document entitled "R-Y/Forest Service Land Exchange Specifications" shall be jointly developed and agreed to by the Corporation and the Secretary.

(B) DESCRIPTIONS OF LANDS TO BE EXCHANGED.—The document under subparagraph (A) shall define the non-Federal and Federal lands and interests in land to be exchanged and include legal descriptions of the lands and interests in land and an agreement to harvest timber on National Forest System land in accordance with the standard timber contract specifications, section 251.14 of title 36, Code of Federal Regulations (as in effect on the date of enactment of this Act), and any other pertinent conditions.

(C) SUBMISSION TO CONGRESS.—The document under subparagraph (A)—

(i) upon its completion shall be submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives; and

(ii) shall not take effect until 45 days after the date of submission to both committees.

(D) DESIGN AND LAYOUT.—

(i) IN GENERAL.—The Forest Service shall determine the timber sale design and layout in consultation with the Corporation.

(ii) HARVEST VOLUME.—Identification of the timber harvest volume shall be determined in accordance with Department of Agriculture standards.

(iii) MONITORING.—The Forest Service shall monitor harvest and post-harvest activities to ensure compliance with the terms and conditions of the document under subparagraph (A).

(5) CONFLICT.—In case of conflict between the map described in paragraph (2)(A) and the document under paragraph (4), the map shall control.

(b) TITLE.—

(1) REVIEW OF TITLE.—Not later than 60 days after receipt of title documents from the Corporation, the Secretary shall review the title for the non-Federal land described in subsection (a)(2)(A) and determine whether—

(A) title standards of the Department of Justice applicable to Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary; and

(D) the Corporation has complied with the conditions imposed by this section.

(2) UNACCEPTABLE QUALITY OF TITLE.—If the quality of title does not meet Federal standards and is not otherwise acceptable to the Secretary, the Secretary shall advise the Corporation regarding corrective actions necessary to make an affirmative determination.

(3) CONVEYANCE OF TITLE.—The Secretary shall accept the conveyance of land described in subsection (a)(2)(A) not later than 60 days after the Secretary has made an affirmative determination of quality of title.

(c) GENERAL PROVISIONS.—

(1) MAPS AND DOCUMENTS.—

(A) IN GENERAL.—The map described in subsection (a)(2)(A) and the document under subsection (a)(4) shall be subject to such minor corrections as may be agreed upon by the Secretary and the Corporation.

(B) PUBLIC AVAILABILITY.—The map described in subsection (a)(2)(A) and the document under subsection (a)(4) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(2) NATIONAL FOREST SYSTEM LAND.—

(A) IN GENERAL.—All land conveyed to the United States under this section shall be added to and administered as part of the Beaverhead-Deerlodge National Forest and shall be administered by the Secretary in accordance with the laws (including regulations) pertaining to the National Forest System.

(B) WILDERNESS STUDY AREA ACQUISITIONS.—Land acquired under this section that is located within the boundary of a wilderness area in existence on the date of enactment of this Act shall be included within the National Wilderness Preservation System.

(3) VALUATION.—The values of the lands and interests in land to be exchanged under this section are deemed to be equal.

(4) LIABILITY FOR HAZARDOUS SUBSTANCES.—The United States (including the departments, agencies, and employees of the United States) shall not be liable under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), or any other Federal, State, or local law solely as a result of the acquisition of an interest in the land described in subsection (a)(2)(A) or because of circumstances or events occurring before the acquisition, including any release or threat of release of a hazardous substance.

(5) RELEASE FROM STUDY.—The land comprising approximately 1,320 acres in the Beaverhead-Deerlodge National Forest, as generally depicted on the map entitled "West Pioneer Study Deletion—Proposed", dated 1994, is released from study under section 2(a)(1) of the Montana Wilderness Study Act of 1977 (91 Stat. 1243).

SEC. 308. CLEVELAND NATIONAL FOREST LAND EXCHANGE.

(a) CONVEYANCE BY THE SECRETARY OF AGRICULTURE.—

(1) CONVEYANCE.—In exchange for the conveyance described in subsection (b), the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall convey to the Orange County Council of the Boy Scouts of America all right, title, and interest of the United States in and to the parcel of land described in paragraph (2) located in the Cleveland National Forest. The parcel conveyed by the Secretary shall be subject to valid existing rights and to any easements that the Secretary considers necessary for public and administrative access.

(2) DESCRIPTION OF PARCEL.—The parcel of land referred to in paragraph (1) consists of not more than 60 acres of land in Section 28, Township 9 South, Range 4 East, San Bernardino Meridian, in the unincorporated territory of San Diego County, California.

(b) CONVEYANCE BY THE BOY SCOUTS OF AMERICA.—

(1) CONVEYANCE.—In exchange for the conveyance described in subsection (a), the Orange County Council of the Boy Scouts of America shall convey to the United States all right, title, and interest to the parcel of land described in paragraph (2). The parcel conveyed under this subsection shall be subject to such valid existing rights of record as may be acceptable to the Secretary, and the title to the parcel shall conform with the title approval standards applicable to Federal land acquisitions.

(2) DESCRIPTION OF PARCEL.—The parcel of land referred to in paragraph (1) shall be approximately equal in value to the lands described in subsection (a)(2) and shall be at least the Southerly 94 acres of the Westerly ½ of Section 34, Township 9 South, Range 4 East, San Bernardino Meridian, in the unincorporated territory of San Diego County, California.

(c) BOUNDARY ADJUSTMENT.—Upon the completion of the land exchange authorized under this section, the Secretary shall adjust the boundaries of the Cleveland National Forest to exclude the parcel conveyed by the Secretary under subsection (a) and to include the parcel *obtained by the Secretary under subsection (b). For purposes of section 7 of the Land and Water Conservation Fund Act of 1964 (16 U.S.C. 460l-9), the boundary of the Cleveland National Forest, as modified by this title, shall be considered the boundary of the forest as of January 1, 1965.*

(d) INCORPORATION INTO CLEVELAND NATIONAL FOREST.—Upon acceptance of title by the Secretary, the parcel obtained by the Secretary under subsection (b) shall become part of the Cleveland National Forest and shall be subject to all laws applicable to such national forest.

SEC. 309. SAND HOLLOW LAND EXCHANGE.

(a) DEFINITIONS.—As used in this section:

(1) DISTRICT.—The term "District" means the Water Conservancy District of Washington County, Utah.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) BULLOCH SITE.—The term "Bulloch Site" means the lands located in Kane County, Utah, adjacent to Zion National Park, comprised of approximately 550 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(4) SAND HOLLOW SITE.—The term "Sand Hollow Site" means the lands located in Washington County, Utah, comprised of approximately 3,000 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(5) QUAIL CREEK PIPELINE.—The term "Quail Creek Pipeline" means the lands located in Washington County, Utah, comprised of approximately 40 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(6) QUAIL CREEK RESERVOIR.—The term "Quail Creek Reservoir" means the lands located in Washington County, Utah, comprised of approximately 480.5 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(7) SMITH PROPERTY.—The term "Smith Property" means the lands located in Washington County, Utah, comprised of approximately 1,550 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(b) EXCHANGE.—

(1) IN GENERAL.—Subject to the provisions of this section, if within 18 months after the date of the enactment of this Act, the Water Conservancy District of Washington County, Utah, offers to transfer to the United States all right, title, and interest of the District in and to the Bulloch Site, the Secretary of the Interior shall, in exchange, transfer to the District all right, title, and interest of the United States in and to the San Hollow Site, the Quail Creek Pipeline and Quail Creek Reservoir, subject to valid existing rights.

(2) WATER RIGHTS ASSOCIATED WITH THE BULLOCH SITE.—The water rights associated with the Bulloch Site shall be transferred to the United States pursuant to Utah State law.

(3) WITHDRAWAL OF MINERAL INTERESTS.—Subject to valid existing rights, the mineral interests underlying the Sand Hollow Site, the Quail Creek Reservoir, and the Quail Creek Pipeline are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from the operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the "Materials Act of 1947" (30 U.S.C. 601 et seq.).

(4) GRAZING.—The exchange of lands under paragraph (1) shall be subject to agreement by the District to continue to permit the grazing of domestic livestock on the Sand Hollow Site under the terms and conditions of existing Federal grazing leases or permits, except that the District, upon terminating any such lease or permit, shall fully compensate the holder of the terminated lease or permit.

(c) EQUALIZATION OF VALUES.—The value of the lands transferred out of Federal ownership under subsection (b) either shall be equal to the value of the lands received by the Secretary under that section or, if not, shall be equalized by—

(1) to the extent possible, transfer of all right, title, and interest of the District in and to lands in Washington County, Utah, and water rights of the District associated thereto, which are within the area providing habitat for the desert tortoise, as determined by the Director of the Bureau of Land Management;

(2) transfer of all right, title, and interest of the District in and to lands in the Smith Site and water rights of the District associated thereto; and

(3) the payment of money to the Secretary, to the extent that lands and rights transferred under paragraphs (1) and (2) are not sufficient to equalize the values of the lands exchanged under subsection (b)(1).

(d) MANAGEMENT OF LANDS ACQUIRED BY THE UNITED STATES.—Lands acquired by the Secretary under this section shall be administered by the Secretary, acting through the Director of the Bureau of Land Management, in accordance with the provisions of law generally applicable to the public lands, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(e) NATIONAL ENVIRONMENTAL POLICY ACT OF 1976.—The exchange of lands under this section is not subject to section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4322).

(f) VALUATION OF LANDS TO BE ACQUIRED BY THE UNITED STATES IN WASHINGTON COUNTY, UTAH.—In acquiring any lands and any interests in lands in Washington County, Utah, by purchase, exchange, donation or other transfers of interest, the Secretary of the Interior shall appraise, value, and offer to acquire such lands and interests without regard to the presence of a species listed as threatened or endangered or any proposed or actual designation of such property as critical habitat for a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 310. BUREAU OF LAND MANAGEMENT AUTHORIZATION FOR FISCAL YEARS 1997 THROUGH 2002.

Section 318(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1748(a)) is amended by striking out "October 1, 1978" and by inserting in lieu thereof "October 1, 2002".

SEC. 311. LAND EXCHANGE WITH CITY OF GREELEY, COLORADO, AND THE WATER SUPPLY AND STORAGE COMPANY.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—If the city of Greeley, Colorado, and The Water Supply and Storage Company, a Colorado mutual ditch company, offer to transfer all their right, title, and interest in and to the Rockwell Ranch property and Timberline Lake property, and The Water Supply and Storage Company designated lands, all described in paragraph (2), the Secretary of Agriculture shall, in exchange for such property, transfer to the city and to the company, as they each shall designate, all right, title, and interest of the United States, including the mineral estate, in and to the Federal lands described in paragraph (3) within 12 months of the date of the city's and company's offer.

(2) CITY AND COMPANY LANDS.—

(A) The city and company lands to be exchanged under this subsection are these lands depicted on maps entitled "Rockwell Ranch Property Land Exchange" and "Timberline Lake Property" and "Cameron Pass Lands" dated July 26, 1996.

(B) The Rockwell Ranch property is comprised of 4 parcels containing approximately 520 acres of lands.

(C) The Timberline Lake Property is a parcel of approximately 10 acres located in the Comanche Peak Wilderness which shall be conveyed by quit claim deed for the purposes of eliminating any future title conflict between the city of Greeley and the United States in regard to the property.

(D) The Cameron Pass Lands consist of 2 parcels totaling approximately 178 acres owned by The Water Supply and Storage Company.

(3) FEDERAL LANDS TO BE EXCHANGED.—The Federal lands to be exchanged under this subsection are those lands depicted on the maps referred to in paragraph (2) as "Federal Exchange Lands". The total area of Federal lands to be exchanged is approximately 1,176 acres, including approximately 447 acres occupied by the city and the company under perpetual easements of the United States Department of the Interior, Numbers D-028135 and D-029149. The Federal lands to be exchanged include the following:

(A) All Federal land within the high water contour lines of the following existing reservoirs: Barnes Meadow, Chambers Lake, Comanche, Hourglass, Long Draw, Milton Seaman, Peterson Lake, and Twin Lakes, together with their dams and structures. The high water line is defined as the elevation at the dam crest of each reservoir.

(B) A surcharge and operational access area around each reservoir consisting of an average 50 foot horizontal projection from the high water line and an average 100 foot horizontal projection from the outer perimeter of all dams and appurtenant structures, including but not limited to, outlets, measuring devices, spillways, wasteways, toe drains, canals, abutments, and the Peterson Lake operations cabin, as generally depicted on such map. The access area to the east of Long Draw Reservoir will be limited to the extent necessary to convey only those lands within the boundary of the National Forest.

(C) Those Federal lands which would be occupied by an enlargement of Seaman Reservoir to an approximate capacity of 43,000 acre feet (but not to exceed 50,000 acre feet), including an average 50 foot horizontally projected buffer zone around the enlarged water line and structures, and an 80-acre parcel of Federal land south of Seaman Reservoir potentially required for a downstream damsite on the North Fork of the Cache la Poudre River, as generally depicted on such map.

(b) TERMS AND CONDITIONS RELATING TO LAND EXCHANGE.—The land exchange under subsection (a) shall be processed in accordance with Forest Service Land Exchange Regulations in part 254 of title 36, Code of Federal Regulations, subpart A subject to the direction in subsection (a) and the following terms and conditions:

(1) The United States shall grant perpetual access easements to the city of Greeley and to The Water Supply and Storage Company to the lands conveyed by the United States under subsection (a) as part of the consideration of this exchange. The United States shall reserve easements for all designated roads and trails crossing any Federal lands to be conveyed that are necessary to assure public access to adjoining National Forest lands.

(2) The city of Greeley, Colorado, and The Water Supply and Storage Company shall continue to make the following facilities accessible

to visitors to the Roosevelt National Forest: Chambers, Long Draw, Peterson, Barnes Meadow, Comanche, Seaman and Twin Lakes Reservoirs, under rules and restrictions as determined by the city and the company.

(3)(A) All special use permits and/or easements or other instruments authorizing occupancy of the Federal lands identified in subsection (a)(3) are rescinded upon completion of the exchange.

(B) The conditions specified in the December 28, 1994, and the January 4, 1995, easements for Long Draw, Peterson Lake and Barnes Meadow Reservoirs requiring a joint operations plan providing instream winter flows to the mainstream of the Cache La Poudre River from Chambers Lake and Barnes Meadow shall continue to be fulfilled regardless of land ownership unless mutually agreed otherwise.

(C) No further consultation with the United States Fish and Wildlife Service shall be required for completion of this land exchange.

(D) No additional conditions, including instream or bypass flow requirements, shall be required as a condition of this land exchange.

(4) The exchange under subsection (a) does not include any water right owned by the city of Greeley, Colorado, or The Water Supply and Storage Company, except as provided in paragraph (5).

(5) The city of Greeley's one-half interest in the following rights associated with the Rockwell Ranch property, to wit: Rockwell Ditches No. 1 in the volume of 1.2 c.f.s., No. 2 in the volume of 1.7 c.f.s., No. 3 in the volume of 2.68 c.f.s., No. 4 in the volume of 1.87 c.f.s., No. 5 in the volume of 1.95 c.f.s. and No. 6 in the volume of 2.5 c.f.s., diverting from the South Fork of the Cache la Poudre River, and its tributaries, Little Beaver Creek and the North Fork of Little Beaver Creek, and all with the appropriation date of December 31, 1888, shall be dedicated to the Colorado Water Conservation Board in perpetuity for the instream flow program of the State of Colorado upon completion of the exchange in accordance with substantive and procedural requirements of the laws of Colorado.

(6) The Federal Exchange Lands to be exchanged under subsection (a) shall be conveyed to the city of Greeley and to The Water Supply and Storage Company by means of a land exchange deed issued by an authorized officer of the United States Department of Agriculture, Forest Service, and notwithstanding any other requirements of law, the Secretary of Agriculture is authorized to conduct and approve all cadastral surveys necessary for completion of the exchange.

(7) Values of the respective lands exchanged between the United States and the city of Greeley and The Water Supply and Storage Company pursuant to subsection (a) are deemed to be of approximately equal value, without any need for cash equalization, as based on statements of value prepared by a qualified Forest Service Review Appraiser.

(8) It is recognized that some Federal lands to be conveyed to the city of Greeley and The Water Supply and Storage Company will create new holdings in otherwise consolidated areas of Federal ownership. If the city or the company decide to permanently discontinue reservoir operations on any of the properties acquired through this exchange, the United States Forest Service, Arapaho-Roosevelt National Forest Supervisor shall be advised of the intent to perform nonreconstructive breaching of the dam for purposes of permanently terminating reservoir operations. Upon such notification, the United States Forest Service will be afforded the opportunity to reacquire property at fair market value or exchange or upon such other terms and conditions as the parties may agree for a period of time not to exceed one year.

(9) The Federal lands to be exchanged under subsection (a), with the exception of the Seaman Reservoir enlargement area and potential new damsite below Seaman Reservoir on the North Fork of the Cache la Poudre River, are already fully developed and authorized for occupancy by the city of Greeley and The Water Supply and Storage Company. Therefore, this land exchange may be completed without further inventory or consultation under the National Historic Preservation Act. Should the city of Greeley seek enlargement of Seaman Reservoir or construction of a new dam on the North Fork of the Poudre River below Seaman Reservoir for a Seaman Reservoir Enlargement, the site will be subject to all Federal statutes and regulations applicable at the time of proposed construction.

(10) The Forest Service shall grant a 20–year easement to the city of Greeley for use of the existing cabin in the north half of the southwest quarter of Section 30, Township 8 North, Range 72 West. The easement shall allow the use of the cabin, other improvements, and access to the forest lands nearby. The access road shall be available for city employees to access the cabin for recreational purposes and to the United States Forest Service for administrative purposes.

(11) The Forest Service shall grant a 20–year easement to the city of Greeley for use of approximately 1 acre of land under the existing cabin in the vicinity of Jacks Gulch Campground on Pingree Road as depicted on the attached map. The easement shall include the administrative use of the access road to the cabin and the reservation of the use of the cabin to those permitted under the existing special use permit.

(c) Administration of Lands Acquired by the United States.—The Rockwell Ranch, Timberline Lake, and Cameron Pass Lands acquired by the United States under this section shall be added to and administered as part of the Roosevelt National Forest. Those portions of such property located within a wilderness area shall be added to and administered as part of the wilderness area.

(d) Boundary Modification of the Arapaho National Forest and Roosevelt National Forest.—

(1) In General.—In order to provide for more efficient administration of certain Federal lands adjoining the Arapaho National Forest and Roosevelt National Forest, the exterior boundary of the Arapaho Forest is hereby modified as shown on Department of Agriculture, Forest Service map entitled "Boundary Modification, Arapaho National Forest" dated December 22, 1991, and the exterior boundary of the Roosevelt Forest is hereby modified as shown on Department of Agriculture, Forest Service map entitled "Boundary Modification, Roosevelt National Forest", dated August 15, 1995. The maps and a legal description of the boundary changes shall be on file and available for public inspection in the offices of the Chief of the Forest Service and appropriate field offices.

(2) Administration.—All Federal lands brought within the boundary of the Arapaho National Forest and Roosevelt National Forest by this section are hereby added to the Arapaho National Forest and Roosevelt National Forest, respectively, and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(3) Availability of Certain Lands.—For the purpose of section 7 of the Land and Water Conservation Act of 1965 (16 U.S.C. 460l–9), the boundary of the Arapaho National Forest and Roosevelt National Forest, as modified by this subsection, shall be treated as if it were the boundary of that forest as of January 1, 1965.

SEC. 312. GATES OF THE ARCTIC NATIONAL PARK AND PRESERVE LAND EXCHANGE AND BOUNDARY ADJUSTMENT.

(a) Acquisition and Exchange Authority: Killik River Ecosystem.—(1) The Secretary of the Interior (hereinafter in this section referred to as the "Secretary") is authorized to acquire by exchange certain lands which have been or may hereafter be conveyed to the Arctic Slope Regional Corporation pursuant to the provisions of the Alaska Native Claims Settlement Act and the State of Alaska pursuant to the Alaska Statehood Act. These lands consist of—

(A) approximately 1,270,000 acres of Arctic Slope Regional Corporation lands and are depicted on a map entitled "Arctic Slope Regional Corporation Killik River Ecosystem Lands", dated July 1996, appended to which is a legal description of such lands; and

(B) up to 1,270,000 acres selected by the State of Alaska pursuant to the Alaska Statehood Act, consisting of—

(i) approximately 750,000 acres of State of Alaska lands in the Killik River Ecosystem which are depicted on a map entitled "Study of Potential Addition of State of Alaska and Other Lands, by Exchange, to the Gates of the Arctic Park"; and

(ii) the remainder being other State of Alaska lands which are acceptable to the Secretary.

The Killik River Ecosystem map and the Study of Potential Addition map are on file at the Alaska Regional Office of the National Park Service and the offices of the Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(2) The private lands described in subparagraphs (A) and (B)(i) of paragraph (1) may be acquired for addition to the Gates of the Arctic National Preserve with the consent of the owners, the Arctic Slope Regional Corporation, or the State of Alaska, respectively. Upon acquisition by the Secretary, such lands shall become, and be administered as, a part of Gates of the Arctic National Preserve to the same extent as if the lands were included within the boundaries of the Preserve by the provisions of section 201(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

(b) Acquisition and Exchange Authority: Ogotoruk Creek Lands Contaminated by Undisclosed Nuclear Testing.—(1) The Secretary of the Interior is authorized to acquire by exchange certain additional lands which have been or may hereafter be conveyed to the Arctic Slope Regional Corporation pursuant to the provisions of the Alaska Native Claims Settlement Act. These lands consist of approximately 204,860 acres and are depicted on a map entitled "Arctic Slope Regional Corporation Ogotoruk Creek Lands Contaminated by Undisclosed Nuclear Testing", dated July 1996, appended to which is a legal description of such lands. The Ogotoruk Creek Lands map is on file at the Alaska State Office of the Bureau of Land Management.

(2) The lands described in paragraph (1) were selected by the Arctic Slope Regional Corporation under the Alaska Native Claims Settlement Act for use as a transportation corridor, without any disclosure by the Department of the Interior that the southern portion of these lands had been the subject of nuclear tests conducted by the United States prior to selection by the Arctic Slope Regional Corporation. The Arctic Slope Regional Corporation selected these lands with no knowledge of the nuclear tests that had been conducted on these lands, and the Inupiat Eskimo shareholders of the Arctic Slope Regional Corporation believe that the radiation tests have caused physical injury to some of the shareholders, and therefore desire to exchange these lands. The private lands described in paragraph (1) may be acquired by the Secretary with the consent of the Arctic Slope Regional Corporation. Upon acquisition by the Secretary, such lands shall become public lands except that, to the extent such lands are located within the exterior boundaries of the Alaska Maritime National Wildlife Refuge—Chukchi Sea Unit, such

lands shall become, and be administered by the Secretary as, a part of such unit of the National Wildlife Refuge System.

(c) OTHER LANDS.—To facilitate the exchanges authorized by this section, the Secretary is authorized to make available to the Arctic Slope Regional Corporation and to the State of Alaska lands, or interests therein, from public lands within the 23,000,000 acre National Petroleum Reserve-Alaska. The Arctic Slope Regional Corporation was precluded from making land selections, under the terms of the Alaska Native Claims Settlement Act, from the National Petroleum Reserve-Alaska. The State of Alaska was precluded from making land selections, under the terms of the Alaska Statehood Act, from the National Petroleum Reserve-Alaska. Since 1980, the Federal policy with respect to the National Petroleum Reserve-Alaska has been changed, and this area has been opened to oil and gas leasing.

(d) WITHDRAWAL.—(1) To facilitate the land exchanges authorized by this section, the Secretary is authorized to withdraw, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, lands identified for acquisition through an exchange under this section by written notices submitted no later than 120 days after enactment of this Act, to the Secretary by the Arctic Slope Regional Corporation and the State of Alaska.

(2) The Arctic Slope Regional Corporation is authorized to identify by notice for withdrawal pursuant to paragraph (1) not more than twice the number of acres of private land identified for exchange in subsections (a) and (b).

(3) The State of Alaska is authorized to identify by notice for withdrawal pursuant to paragraph (1) not more than twice the number of acres of State of Alaska land identified for exchange in subsection (a).

(4) In the event of any overlap of lands identified for withdrawal and potential acquisition by the Arctic Slope Regional Corporation and the State of Alaska, the Secretary shall request an identification by the Arctic Slope Regional Corporation of one township of land (23,040 acres) within the area of overlap and such township shall be available only for acquisition by the Arctic Slope Regional Corporation. Thereafter, the Secretary shall request an identification by the State of Alaska of one township of land within the area of overlap and such township shall be available only for acquisition by the State of Alaska. Thereafter, the Secretary shall request alternating identifications by the Arctic Slope Regional Corporation and by the State of Alaska of one township of land within the area of overlap until all lands within the area of overlap shall have been identified by either the Arctic Slope Regional Corporation or the State of Alaska.

(5) The withdrawal of lands required pursuant to paragraph (1) shall terminate either upon the consummation of land exchanges with the Arctic Slope Regional Corporation and the State of Alaska or upon the expiration of a period of 3 years from the date of the withdrawal, whichever first occurs: Provided, That the Secretary may terminate the withdrawal of any lands withdrawn under this subsection whenever the Secretary and the party identifying such lands for withdrawal mutually agree to exclude such lands from further consideration for exchange under this section; and, Provided further, That the Secretary may conduct activities preparatory to leasing oil and gas on lands withdrawn pursuant to this subsection.

(e) OTHER LAWS.—Land exchanges authorized under this section shall be consummated in accordance with the provisions of this section, section 22(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, 1621(f)), and section 1302(h) of the Alaska National Interest Lands Conservation Act, and all of the lands, or interests therein, conveyed to and received by the Arctic Slope Regional Corporation pursuant to an exchange authorized by subsections (a) and (b) of this section shall be deemed conveyed and received pursuant to an exchange under section 22(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, 1621(f)).

(f) OTHER USES.—Subsistence, cultural, traditional, and other uses of the Arctic Slope Regional Corporation's shareholders and local residents on the lands to be acquired under subsections (a) and (b) shall continue to be permitted.

(g) AUTHORIZATION.—There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

SEC. 313. KENAI NATIVES ASSOCIATION LAND EXCHANGE.

(a) PURPOSE.—The purpose of this section is to authorize and direct the Secretary, at the election of the Kenai Natives Association, to complete the conveyances provided for in this section.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "ANCSA" means the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 et seq.);

(2) the term "ANILCA" means the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371 et seq.);

(3) the term "conservation system unit" has the same meaning as in section 102(4) of ANILCA (16 U.S.C. 3102 (4));

(4) the term "CIRI" means Cook Inlet Region, Inc., a Native Regional Corporation incorporated in the State of Alaska pursuant to the terms of ANCSA;

(5) the term "EVOS" means the Exxon Valdez oil spill;

(6) the term "KNA" means the Kenai Natives Association, Inc., an urban corporation incorporated in the State of Alaska pursuant to the terms of ANCSA;

(7) the term "lands" means any lands, waters, or interests therein;

(8) the term "Refuge" means the Kenai National Wildlife Refuge;

(9) the term "Secretary" means the Secretary of the Interior;

(10) the term "Service" means the United States Fish and Wildlife Service; and

(11) the term "Terms and Conditions" means the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified on August 31, 1976, ratified by section 12 of Public Law 94-204 (43 U.S.C. 1611 note).

(c) ACQUISITION OF LANDS.—

(1) OFFER TO KNA.—

(A) IN GENERAL.—Subject to the availability of funds identified in paragraph (2)(C), no later than 90 days after the date of enactment of this Act, the Secretary shall offer to convey to KNA the interests in land and rights set forth in paragraph (2)(B), subject to valid existing rights, in turn for the conveyance by KNA to the United States of the interests in land or relinquishment of ANCSA selections set forth in paragraph (2)(A). Payment for the lands conveyed to the United States by KNA is contingent upon KNA's acceptance of the entire conveyance outlined herein.

(B) LIMITATION.—The Secretary may not convey any lands or make payment to KNA under this section unless title to the lands to be conveyed by KNA under this section has been found by the United States to be sufficient in accordance with the provisions of section 355 of the Revised Statutes (40 U.S.C. 255).

(2) ACQUISITION LANDS.—

(A) LANDS TO BE CONVEYED TO THE UNITED STATES.—The lands to be conveyed by KNA to the United States, or the valid selection rights under ANCSA to be relinquished, all situated within the boundary of the Refuge, are the following:

(i) The conveyance of approximately 803 acres located along and on islands within the Kenai River, known as the Stephanka Tract.

(ii) The conveyance of approximately 1,243 acres located along the Moose River, known as the Moose River Patented Lands Tract.

(iii) The relinquishment of—

(I) KNA's selection known as the Moose River Selected Tract, containing approximately 753 acres located along the Moose River;

(II) KNA's remaining ANCSA entitlement of approximately 454 acres; and

(III) all KNA's remaining over selections.

Upon completion of all relinquishments specified in this paragraph, all KNA's entitlement shall be deemed to be extinguished and the completion of this acquisition shall satisfy all KNA's ANCSA acreage entitlement.

(iv) The conveyance of an access easement providing the United States and its assigns access across KNA's surface estate in SW¼ of section 21, T.6N., R.9W., Seward Meridian, Alaska.

(v) The conveyance of approximately 100 acres within the Beaver Creek Patented Tract, which is contiguous to lands being retained by the United States contiguous to the Beaver Creek Patented Tract, in exchange for 280 acres of Service lands currently situated within the Beaver Creek Selected Tract.

(B) LANDS TO BE CONVEYED TO KNA.—The rights provided or lands to be conveyed by the United States to KNA, are the following:

(i) The surface and subsurface estate to approximately 5 acres, subject to reservations of easements for existing roads and utilities, located within the City of Kenai, Alaska, identified as United States Survey 1435, withdrawn by Executive Order 2934, and known as the old Fish and Wildlife Service Headquarters site.

(ii) The remaining subsurface estate held by the United States to approximately 13,811 acres, including portions of the Beaver Creek Selected Tract, and portions of the Swanson River Road West Tract and the Swanson River Road East Tract, where the surface was previously or will be conveyed to KNA pursuant to this section. The conveyance of these subsurface interests shall be subject to the rights and obligations of CIRI to the coal, oil, and gas, and to all rights and obligations of CIRI, its successors, and assigns would have under paragraph 1(B) of the Terms and Conditions, including the right to sand and gravel, to construct facilities, to have rights-of-way, and to otherwise develop its subsurface interests.

(iii)(I) The nonexclusive right to use sand and gravel which is reasonably necessary for on-site development without compensation or permit on those portions of the Swanson River Road East Tract, comprising approximately 1,738.04 acres; where the entire subsurface of the land is presently owned by the United States. The United States shall retain the ownership of all other sand and gravel located within the subsurface and KNA shall not sell or dispose of such sand and gravel.

(II) The right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate.

(iv) The nonexclusive right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate on the SW¼ section 21, T.6N., R.9W., Seward Meridian, Alaska, where the entire subsurface of the land is owned by the United States and which public lands shall continue to be withdrawn from mining following their removal from the Refuge boundary under subsection (d)(1)(A).

The United States shall retain the ownership of all other sand and gravel located within the subsurface of this parcel.

(v) The surface estate of approximately 280 acres known as the Beaver Creek Selected Tract. This tract shall be conveyed to KNA in exchange for lands conveyed to the Unite States as described in paragraph (2)(A)(ii).

(C) PAYMENT.—The United States shall make a total cash payment to KNA for the above-described lands described in subparagraph (B) of $4,443,000, contingent upon the appropriate approvals of the Federal or State of Alaska EVOS Trustees (or both) necessary for any expenditure of the EVOS settlement funds.

(D) NATIONAL REGISTER OF HISTORIC PLACES.—Upon completion of the acquisition authorized in paragraph (1)(A), the Secretary shall, at no cost to KNA, in coordination with KNA, promptly undertake to nominate the Stephanka Tract to the National Register of Historic Places, in recognition of the archaeological artifacts from the original Dena'ina Settlement. If the Department of the Interior establishes a historical, cultural, or archaeological interpretive site, KNA shall have the exclusive right to operate a Dena'ina interpretive site on the Stephanka Tract under the regulations and policies of the department. If KNA declines to operate such a site, the Department may do so under its existing authorities. Prior to the Department undertaking any archaeological activities whatsoever on the Stephanka Tract, KNA shall be consulted.

(d) GENERAL PROVISIONS.—

(1) REMOVAL OF KNA LANDS FROM THE NATIONAL WILDLIFE REFUGE SYSTEM.—

(A) IN GENERAL.—Effective on the date of closing for the Acquisition Lands identified in subsection (c)(2)(B), all lands retained by or conveyed to KNA pursuant to this section, and the subsurface interests of CIRI underlying such lands shall be automatically removed from the National Wildlife Refuge System and shall neither be considered as part of the Refuge nor subject to any laws pertaining solely to lands within the boundaries of the Refuge. The conveyance restrictions imposed by section 22(g) of ANCSA (i) shall then be ineffective and cease to apply to such interests of KNA and CIRI, and (ii) shall not be applicable to the interests received by KNA in accordance with subsection (b)(2)(B) or to the CIRI interests underlying them. The Secretary shall adjust the boundaries of the Refuge so as to exclude all interests in lands retained or received in exchange by KNA in accordance with this section, including both surface and subsurface, and shall also exclude all interests currently held by CIRI. On lands within the Swanson River Road East Tract, the boundary adjustment shall only include the surface estate where the subsurface estate is retained by the United States.

(B) AGREEMENT.—(i) The Secretary, KNA, and CIRI shall execute an agreement within 45 days of the date of enactment of this section which preserves CIRI's rights under paragraph 1(B)(1) of the Terms and Conditions, addresses CIRI's obligations under such paragraph, and adequately addresses management issues associated with the boundary adjustment set forth in this section and with the differing interests in land resulting from enactment of this section.

(ii) In the event that no agreement is executed as provided for in clause (i), solely for the purposes of administering CIRI's rights and obligations under paragraph 1(B)(1) of the Terms and Conditions, the Secretary and CIRI shall be deemed to have retained their respective rights and obligations with respect to CIRI's subsurface interests under the requirements of the terms and Conditions in effect on June 18, 1996. Notwithstanding the boundary adjustments made pursuant to this section, conveyances to KNA shall be deemed to remain subject to the Secretary's and CIRI's rights and obligations under paragraph 1(B)(1) of the Terms and Conditions.

(C) AUTHORIZATION.—The Secretary is authorized to acquire by purchase or exchange, on a willing seller basis only, any lands retained by or conveyed to KNA. In the event that any lands owned by KNA are subsequently acquired by the United States, they shall be automatically included in the Refuge System. The laws and regulations applicable to Refuge lands shall then apply to these lands and the Secretary shall then adjust the boundaries accordingly.

(D) CERTAIN CIRI AND KNA RIGHTS.—Nothing in this section is intended to enlarge or diminish the authorities, rights, duties, obligations, or the property rights held by CIRI under the Terms and Conditions, or otherwise except as set forth in this section. In the event of the purchase by the United States of any lands from KNA in accordance with subsection (c)(1)(C), the United States shall reassume from KNA the rights it previously held under the Terms and Conditions and the provisions in any patent implementing section 22(g) of ANCSA will again apply.

(E) CERTAIN IN-LIEU SUBSURFACE ENTITLEMENT.—By virtue of implementation of this section, CIRI is deemed entitled to 1,207 acres of in-lieu subsurface entitlement under section 12(a)(1) of ANCSA. Such entitlement shall be fulfilled in accordance with paragraph 1(B)(2)(A) of the Terms and Conditions.

(e) MAPS AND LEGAL DESCRIPTIONS.—Maps and a legal description of the lands described above in subsection (c)(2) shall be on file and available for public inspection in the appropriate offices of the United States Department of the Interior, and the Secretary shall, no later than 90 days after enactment of this section, prepare a legal description of the lands described in subsection (c)(2)(A)(v). Such maps and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors.

(f) ACCEPTANCE.—KNA may accept the offer made in this section by notifying the Secretary in writing of its decision within 180 days of receipt of the offer. In the event the offer is rejected, the Secretary shall notify the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

(g) FINAL MAPS.—Not later than 120 days after the conclusion of the acquisition authorized by subsection (c), the Secretary shall transmit a final report and maps accurately depicting the lands transferred and conveyed pursuant to this section and the acreage and legal descriptions of such lands to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

(h) ADJUSTMENTS TO NATIONAL WILDERNESS SYSTEM.—Upon acquisition of lands by the United States pursuant to subsection (c)(2)(A), that portion of the Stephanka Tract lying south and west of the Kenai River, consisting of approximately 592 acres, shall be included in and managed in accordance with the applicable provisions of the Wilderness Act and ANILCA.

(i) DESIGNATION OF LAKE TODATONEN SPECIAL MANAGEMENT AREA.—To offset the removal of KNA lands from the Refuge System, the Secretary is hereby authorized to withdraw, subject to valid existing rights, and to create as a special management unit for uses other than Wilderness, including the protection of fish, wildlife, and habitat, certain unappropriated and unreserved public lands, totaling approximately 15,500 acres adjacent to the west boundary of the Kanuti National Wildlife Refuge to be known as the "Lake Todatonten Special Management Area", from the 37,000 acres as depicted on the map entitled Proposed: Lake Todatonten Special Management Area, dated June 13, 1996, and to be managed by the Bureau of Land Management. Such withdrawal shall not include any validly selected land by the State of Alaska or Alaska Native Corporation or any lands that the Secretary determines has mineral potential based on surveys conducted or to be conducted by the United States Geological Survey. Such withdrawals shall not occur, however, until the Secretary has complied with the requirements of subparagraphs (1) through (12) of paragraph 204(c)(2) of FLPMA. The Secretary may study the remaining lands within the area depicted on the map for future potential withdrawal pursuant to section 204 of FLPMA.

(j) MANAGEMENT.—

(1) Such designation is subject to all valid existing rights including R.S. 2477 Rights-of-Way, as well as the subsistence preferences provided under title VIII of ANILCA.

(2)(A) The BLM shall establish the Lake Todatonten Special Management Area Committee. The membership of the Committee shall consist of 11 members as follows:

(i) Two residents each from the villages of Alatna, Allakaket, Hughes, and Tanana.

(ii) One representative from each of Doyon Corporation, the Tanana Chiefs Conference, and the State of Alaska.

(B) Members of the Committee shall serve without pay.

(C) The BLM shall hold meetings of the Lake Todatonten Special Management Area Committee at least once per year to discuss management issues within the Special Management Area. The BLM shall not allow any new type of activity in the Special Management Area without first conferring with the Committee in a timely manner.

(k) ACCESS.—The Secretary shall allow the following:

(1) Private access for any purpose, including economic development, to lands within the boundaries of the Special Management Area which are owned by third parties or are held in trust by the Secretary for third parties pursuant to the Alaska Native Allotment Act (25 U.S.C. 336). Such rights may be subject to restrictions issued by the BLM to protect subsistence uses of Special Management Area.

(2) Section 1110 of ANILCA shall apply to the Special Management Area.

(l) SECRETARIAL ORDER AND MAPS.—The Secretary shall file with the Committee on Resources of the United States House of Representatives and the Committee and Energy and Natural Resources of the United States Senate, the Secretarial Order and maps setting forth the boundaries of the Area within 90 days of the completion of the acquisition authorized by this section. Once established, this Order may only be amended or revoked by Act of Congress.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE IV—RIVERS AND TRAILS

SEC. 401. CACHE LA POUDRE CORRIDOR.

(a) PURPOSE.—The purpose of this section is to designate the Cache La Poudre Corridor within the Cache La Poudre River Basin and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area.

(b) DEFINITIONS.—As used in this section:

(1) COMMISSION.—The term "Commission" means the Cache La Poudre Corridor Commission established by subsection (f)(1).

(2) CORRIDOR.—The term "Corridor" means the Cache La Poudre Corridor established by section 401(c).

(3) GOVERNOR.—The term "Governor" means the Governor of the State of Colorado.

(4) PLAN.—The term "Plan" means the interpretation plan prepared by the Commission pursuant to subsection (j)(1).

(5) POLITICAL SUBDIVISION OF THE STATE.—The term "political subdivision of the State" means a political subdivision of the State of Colorado, any part of which is located in or adjacent to the Corridor, including a county, city, town, water conservancy district, or special district.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(c) ESTABLISHMENT.—There is established in the State of Colorado the Cache La Poudre Corridor.

(d) BOUNDARIES.—The boundaries of this Corridor shall include those lands within the 100-year flood plain of the Cache La Poudre River Basin, beginning at a point where the Cache La Poudre River flows out of the Roosevelt National Forest and continuing east along said floodplain to a point one quarter of one mile west of the confluence of the Cache La Poudre River and the South Platte Rivers in Weld County, Colorado, comprising less than 35,000 acres, and generally depicted as the 100-year flood boundary on the Federal Flood Insurance maps listed below:

(1) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0146B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(2) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0147B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(3) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0162B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(4) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0163C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(5) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0178C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(6) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080102 0002B, February 15, 1984. Federal Emergency Management Agency, Federal Insurance Administration.

(7) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0179C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(8) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0193D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(9) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0194D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(10) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0208C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(11) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0221C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(12) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0605D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(13) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080264 0005A, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(14) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0608D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(15) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0609C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(16) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0628C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(17) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080184 0002B, July 16, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(18) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0636C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(19) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0637C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a detailed description and map of the boundaries of the Corridor.

(e) PUBLIC ACCESS TO MAPS.—The maps shall be on file and available for public inspection in—

(1) the offices of the Department of the Interior in Washington, District of Columbia, and Denver, Colorado; and

(2) local offices of the city of Fort Collins, Larimer Country, the city of Greeley, and Weld County.

(f) ESTABLISHMENT OF THE CACHE LA POUDRE CORRIDOR COMMISSION.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established the Cache La Poudre Corridor Commission.

(B) FUNCTION.—The Commission, in consultation with appropriate Federal, State, and local authorities, shall develop and implement an integrated plan to interpret elements of the history of water development within the Corridor.

(2) MEMBERSHIP.—The Commission shall be composed of 15 members appointed not later than 6 months after the date of enactment of this title. Of these 15 members—

(A) 1 member shall be a representative of the Secretary of the Interior which member shall be an ex officio member;

(B) 1 member shall be a representative of the Forest Service, appointed by the Secretary of Agriculture, which member shall be an ex officio member;

(C) 3 members shall be recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the State;

(ii) 1 member shall represent Colorado State University in Fort Collins; and

(iii) 1 member shall represent the Northern Colorado Water Conservancy District;

(iv) 6 members shall be representatives of local governments who are recommended by the Governor and appointed by the Secretary, of whom—

(I) 1 member shall represent the city of Fort Collins;

(II) 2 members shall represent Larimer County, 1 of which shall represent agriculture or irrigated water interests;

(III) 1 member shall represent the city of Greeley;

(IV) 2 members shall represent Weld County, 1 of which shall represent agricultural or irrigated water interests; and

(V) 1 member shall represent the city of Loveland; and

(v) 3 members shall be recommended by the Governor and appointed by the Secretary, and shall—

(I) represent the general public;

(II) be citizens of the State; and

(III) reside within the Area.

(3) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission from among members appointed under clauses (iiii), (iv), or (v) of subparagraph (A). The chairperson shall be elected for a 2-year term.

(4) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(5) TERMS OF SERVICE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each member of the Commission shall be appointed for a term of 3 years and may be reappointed.

(B) INITIAL MEMBERS.—The initial members of the Commission first appointed under paragraph (2)(A) shall be appointed as follows:

(i) 3-YEAR TERMS.—The following initial members shall serve for a 3-year term:

(I) The representative of the Secretary of the Interior.

(II) 1 representative of Weld County.

(III) 1 representative of Larimer County.

(IV) 1 representative of the city of Loveland.

(V) 1 representative of the general public.

(ii) 2-YEAR TERMS.—The following initial members shall serve for a 2-year term:

(I) The representative of the Forest Service.

(II) The representative of the State.

(III) The representative of Colorado State University.

(IV) The representative of the Northern Colorado Water Conservancy District.

(iii) 1-YEAR TERMS.—The following initial members shall serve for a 1-year term:

(I) 1 representative of the city of Fort Collins.

(II) 1 representative of Larimer County.

(III) 1 representative of the city of Greeley.

(IV) 1 representative of Weld County.

(V) 1 representative of the general public.

(C) PARTIAL TERMS.—

(i) FILLING VACANCIES.—A member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of their term.

(ii) EXTENDED SERVICE.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

(6) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission.

(7) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(g) STAFF OF THE COMMISSION.—

(1) STAFF.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out the duties of the Commission.

(A) APPOINTMENT AND COMPENSATION.—Staff appointed by the Commission—

(i) shall be appointed without regard to the civil service laws and regulations; and

(ii) shall be compensated without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(2) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(3) STAFF OF OTHER AGENCIES.—

(A) FEDERAL.—Upon request of the Commission, the head of a Federal agency may detail, on a reimbursement basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the Commission's duties. The detail shall be without interruption or loss of civil service status or privilege.

(B) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(C) STATE.—The Commission may—

(i) accept the service of personnel detailed from the State, State agencies, and political subdivisions of the State; and

(ii) reimburse the State, State agency, or political subdivision of the State for such services.

(h) POWERS OF THE COMMISSION.—

(1) HEARINGS.—

(A) IN GENERAL.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out this title.

(B) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(2) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(3) MATCHING FUNDS.—The Commission may use its funds to obtain money from any source under a program or law requiring the recipient of the money to make a contribution in order to receive the money.

(4) GIFTS.—

(A) IN GENERAL.—Except as provided in subsection (e)(3), the Commission may, for the purpose of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services received from any source.

(5) REAL PROPERTY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission may not acquire real property or an interest in real property.

(B) EXCEPTION.—Subject to subparagraph (C), the Commission may acquire real property in the Corridor, and interests in real property in the Corridor—

(i) by gift or device;

(ii) by purchase from a willing seller with money that was given or bequeathed to the Commission; or

(iii) by exchange.

(C) CONVEYANCE TO PUBLIC AGENCIES.—Any real property or interest in real property acquired by the Commission under subparagraph (B) shall be conveyed by the Commission to an appropriate non-Federal public agency, as determined by the Commission. The conveyance shall be made—

(i) as soon as practicable after acquisition;

(ii) without consideration; and

(iii) on the condition that the real property or interest in real property so conveyed is used in furtherance of the purpose for which the Area is established.

(6) COOPERATIVE AGREEMENTS.—For the purpose of carrying out the Plan, the Commission may enter into cooperative agreements with Federal agencies, State agencies, political subdivisions of the State, and persons. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action that may affect the implementation of the Plan.

(7) ADVISORY GROUPS.—The Commission may establish such advisory groups as it considers necessary to ensure open communication with, and assistance from Federal agencies, State agencies, political subdivisions of the State, and interested persons.

(8) MODIFICATION OF PLANS.—

(A) IN GENERAL.—The Commission may modify the Plan if the Commission determines that such modification is necessary to carry out this section.

(B) NOTICE.—No modification shall take effect until—

(i) any Federal agency, State agency, or political subdivision of the State that may be affected by the modification receives adequate notice of, and an opportunity to comment on, the modification;

(ii) if the modification is significant, as determined by the Commission, the Commission has—

(I) provided adequate notice of the modification by publication in the area of the Corridor; and

(II) conducted a public hearing with respect to the modification; and

(III) the Governor has approved the modification.

(i) DUTIES OF THE COMMISSION.—

(1) PLAN.—The Commission shall prepare, obtain approval for, implement, and support the Plan in accordance with subsection (j).

(2) MEETINGS.—

(A) TIMING.—

(i) INITIAL MEETING.—The Commission shall hold its first meeting not later than 90 days after the date on which its last initial member is appointed.

(ii) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the chairperson or 7 of its members, except that the commission shall meet at least quarterly .

(B) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(C) BUDGET.—The affirmative vote of not less than 10 members of the Commission shall be required to approve the budget of the Commission.

(3) ANNUAL REPORTS.—Not later than May 15 of each year, following the year in which the members of the Commission have been appointed, the Commission shall publish and submit to the Secretary and to the Governor, an annual report concerning the Commission's activities.

(j) PREPARATION, REVIEW, AND IMPLEMENTATION OF THE PLAN.—

(1) PREPARATION OF PLAN.—

(A) IN GENERAL.—Not later than 2 years after the Commission conducts its first meeting, the Commission shall submit to the Governor an Interpretation Plan.

(B) DEVELOPMENT.—In developing the Plan, the Commission shall—

(i) consult on a regular basis with appropriate officials of any Federal or State agency, political subdivision of the State, and local government that has jurisdiction over or an ownership interest in land, water, or water rights within the Area; and

(ii) conduct public hearings within the Area for the purpose of providing interested persons the opportunity to testify about matters to be addressed by the Plan.

(C) RELATIONSHIP TO EXISTING PLANS.—The Plan—

(i) shall recognize any existing Federal, State, and local plans;

(ii) shall not interfere with the implementation, administration, or amendment of such plans; and

(iii) to the extent feasible, shall seek to coordinate the plans and present a unified interpretation plan for the Corridor.

(2) REVIEW OF PLAN.—

(A) IN GENERAL.—The Commission shall submit the Plan to the Governor for his review.

(B) GOVERNOR.—The Governor may review the Plan and if he concurs in the Plan, may submit the Plan to the Secretary, together with any recommendations.

(C) SECRETARY.—The Secretary shall approve or disapprove the Plan within 90 days. In reviewing the Plan, the Secretary shall consider the adequacy of—

(i) public participation; and

(ii) the Plan in interpreting, for the educational and inspirational benefit of present and future generations, the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Corridor.

(3) DISAPPROVAL OF PLAN.—

(A) NOTIFICATION BY SECRETARY.—If the Secretary disapproves the Plan, the Secretary shall, not later than 60 days after the date of disapproval, advise the Governor and the Commission of the reasons for disapproval, together with recommendations for revision.

(B) REVISION AND RESUBMISSION TO GOVERNOR.—Not later than 90 days after receipt of the notice of disapproval, the Commission shall revise and resubmit the Plan to the Governor for review.

(C) RESUBMISSION TO SECRETARY.—If the Governor concurs in the revised Plan, he may submit the revised Plan to the Secretary who shall approve or disapprove the revision within 60 days. If the Governor does not concur in the revised Plan, he may resubmit it to the Commission together with his recommendations for further consideration and modification.

(4) IMPLEMENTATION OF PLAN.—After approval by the Secretary, the Commission shall implement and support the Plan as follows:

(A) CULTURAL RESOURCES.—

(i) IN GENERAL.—The Commission shall assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the conservation and interpretation of cultural resources within the Corridor.

(ii) EXCEPTION.—In providing the assistance, the Commission shall in no way infringe upon the authorities and policies of a Federal agency, State agency, or political subdivision of the State concerning the administration and management of property, water, or water rights held by such agency, political subdivision, or private persons or entities, or affect the jurisdiction of the State of Colorado over any property, water, or water rights within the Corridor.

(B) PUBLIC AWARENESS.—The Commission shall assist in the enhancement of public awareness of, and appreciation for, the historical, recreational, architectural, and engineering structures in the Area, and the archaeological, geological, and cultural resources and sites in the Corridor—

(i) by encouraging private owners of identified structures, sites, and resources to adopt voluntary measures for the preservation of the identified structure, site, or resource; and

(ii) by cooperating with Federal agencies, State agencies, and political subdivisions of the State in acquiring, on a willing seller basis, any identified structure, site, or resource which the Commission, with the concurrence of the Governor, determines should be acquired and held by an agency of the State.

(C) RESTORATION.—The Commission may assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the restoration of any identified structure or site in the Corridor with consent of the owner. The assistance may include providing technical assistance for historic preservation, revitalization, and enhancement efforts.

(D) INTERPRETATION.—The Commission shall assist in the interpretation of the historical, present, and future uses of the Corridor—

(i) by consulting with the Secretary with respect to the implementation of the Secretary's duties under subsection (l);

(ii) by assisting the State and political subdivisions of the State in establishing and maintaining visitor orientation centers and other interpretive exhibits within the Corridor;

(iii) by encouraging voluntary cooperation and coordination, with respect to ongoing interpretive services in the Corridor, among Federal agencies, State agencies, political subdivisions of the State, nonprofit organizations, and private citizens; and

(iv) by encouraging Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations to undertake new interpretive initiatives with respect to the Corridor.

(E) RECOGNITION.—The Commission shall assist in establishing recognition for the Corridor by actively promoting the cultural, historical, natural, and recreational resources of the Corridor on a community, regional, statewide, national, and international basis.

(F) LAND EXCHANGES.—The Commission shall assist in identifying and implementing land exchanges within the State of Colorado by Federal and State agencies that will expand open space and recreational opportunities within the flood plain of the Corridor.

(k) TERMINATION OF TRAVEL EXPENSES PROVISION.—Effective on the date that is 5 years after the date on which the Secretary approves the Plan, members of the Commission may no longer receive reimbursement for travel expenses.

(l) DUTIES OF THE SECRETARY.—

(1) ACQUISITION OF LAND.—The Secretary may acquire land and interests in land within the Corridor that have been specifically identified by the Commission for acquisition by the Federal Government and that have been approved for such acquisition by the Governor and the political subdivision of the State where the land is located by donation, purchase with donated or appropriated funds, or exchange. Acquisition authority may only be used if such lands cannot be acquired by donation or exchange. No land or interest in land may be acquired without the consent of the owner.

(2) TECHNICAL ASSISTANCE.—The Secretary shall, upon the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the Plan pursuant to subsection (j).

(3) DETAIL.—Each fiscal year during the existence of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under subsection (i).

(m) OTHER FEDERAL ENTITIES.—

(1) DUTIES.—Subject to subsection (a), a Federal entity conducting or supporting activities directly affecting the flow of the Cache La Poudre River through the Corridor, or the natural resources of the Corridor shall consult with the Commission with respect to such activities;

(2) AUTHORIZATION.—

(A) IN GENERAL.—The Secretary or Administrator of a Federal agency may acquire land in the flood plain of the Corridor by exchange for other lands within such agency's jurisdiction within the State of Colorado, based on fair market value: Provided, That such lands have been identified by the Commission for acquisition by a Federal agency and the Governor and the political subdivision of the State or the owner where the lands are located concur in the exchange. Land so acquired shall be used to fulfill the purpose for which the Corridor is established.

(B) AUTHORIZATION TO CONVEY PROPERTY.—The Federal Property and Administrative Services Act of 1949 shall not apply to any property within the State of Colorado for the Cache La Poudre Corridor.

(n) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS, RESTRICTIONS, AND SAVINGS PROVISIONS.—

(1) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.—

(A) VOLUNTARY COOPERATION.—In carrying out this section, the Commission and Secretary shall emphasize voluntary cooperation.

(B) RULES, REGULATIONS, STANDARDS, AND PERMIT PROCESSES.—Nothing in this section shall be considered to impose or form the basis for imposition of any environmental, occupational, safety, or other rule, regulation, standard, or permit process that is different from those that would be applicable had the Corridor not been established.

(C) ENVIRONMENTAL QUALITY STANDARDS.—Nothing in this section shall be considered to impose the application or administration of any Federal or State environmental quality standard that is different from those that will be applicable had the Corridor not been established.

(D) WATER STANDARDS.—Nothing in this section shall be considered to impose any Federal or State water use designation or water quality standard upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the Corridor, that is more restrictive than those that would be applicable had the Corridor not been established.

(E) PERMITTING OF FACILITIES.—Nothing in the establishment of the Corridor shall abridge, restrict, or alter any applicable rule, regulation, standard, or review procedure for permitting of facilities within or adjacent to the Corridor.

(F) WATER FACILITIES.—Nothing in the establishment of the Corridor shall affect the continuing use and operation, repair, rehabilitation, expansion, or new construction of water supply facilities, water and wastewater treatment facilities, stormwater facilities, public utilities, and common carriers.

(G) WATER AND WATER RIGHTS.—Nothing in the establishment of the Corridor shall be considered to authorize or imply the reservation or appropriation of water or water rights for any purpose.

(2) RESTRICTIONS ON COMMISSION AND SECRETARY.—Nothing in this section shall be construed to vest in the Commission or the Secretary the authority to—

(A) require a Federal agency, State agency, political subdivision of the State, or private person (including an owner of private property) to participate in a project or program carried out by the Commission or the Secretary under the title;

(B) intervene as a party in an administrative or judicial proceeding concerning the application or enforcement of a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including, but not limited to, authority relating to land use regulation; environmental quality; licensing; permitting; easements; private land development; or other occupational or access issue;

(C) establish or modify a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including authority relating to—

(i) land use regulation;

(ii) environmental quality; or

(iii) pipeline or utility crossings;

(D) modify a policy of a Federal agency, State agency, or political subdivision of the State;

(E) attest in any manner the authority and jurisdiction of the State with respect to the acquisition of lands or water, or interest in lands or water;

(F) vest authority to reserve or appropriate water or water rights in any entity for any purpose;

(G) deny, condition, or restrict the construction, repair, rehabilitation, or expansion of water facilities, including stormwater, water, and wastewater treatment facilities; or

(H) deny, condition, or restrict the exercise of water rights in accordance with the substantive and procedural requirements of the laws of the State.

(3) SAVINGS PROVISION.—Nothing in this section shall diminish, enlarge, or modify a right of a Federal agency, State agency, or political subdivision of the State—

(A) to exercise civil and criminal jurisdiction within the Corridor; or

(B) to tax persons, corporations, franchises, or property, including minerals and other interests in or on lands or waters within the urban river corridor portions of the Corridor.

(4) ACCESS TO PRIVATE PROPERTY.—Nothing in this section requires an owner of private property to allow access to the property by the public.

(o) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated not to exceed $50,000 to the Commission to carry out this section.

(2) MATCHING FUNDS.—Funds may be made available pursuant to this subsection only to the extent they are matched by equivalent funds or in-kind contributions of services or materials from non-Federal sources.

SEC. 402. RIO PUERCO WATERSHED.

(a) MANAGEMENT PROGRAM.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management shall—

(A) in consultation with the Rio Puerco Management Committee established by subsection (b)—

(i) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin, as depicted on the map entitled "the Rio Puerco Watershed" dated June 1994, including—

(I) current and historical natural resource conditions; and

(II) data concerning the extent and causes of watershed impairment; and

(ii) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project, as depicted on the map entitled "the Rio Puerco Watershed" dated June 1994; and

(B) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(2) RIO PUERCO MANAGEMENT REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall prepare a report for the improvement of watershed conditions in the Rio Puerco Drainage Basin described in paragraph (1)(A).

(B) CONTENTS.—The report under subparagraph (A) shall—

(i) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(ii) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(iii) recommend voluntary implementation of appropriate best management practices on public and private lands;

(iv) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on public and private lands;

(v) provide for the development of public participation and community outreach programs that would include proposals for—

(I) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(II) Involvement of private citizens in restoring the watershed;

(vi) provide for the development of proposals for voluntary cooperative programs among the members of the Rio Puerco Management Committee to implement best management practices in a coordinated, consistent, and cost-effective manner;

(vii) provide for the encouragement of, and support implementation of, best management practices on private lands; and

(viii) provide for the development of proposals for a monitoring system that—

(I) builds on existing data available from private, Federal, and State sources;

(II) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(III) will provide information to assess existing resource and socioeconomic conditions; identify priority implementation actions; and assess the effectiveness of actions taken.

(b) RIO PUERCO MANAGEMENT COMMITTEE.—

(1) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(2) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management and shall include representatives from—

(A) the Rio Puerco Watershed Committee;

(B) affected tribes and pueblos;

(C) the National Forest Service of the Department of Agriculture;

(D) the Bureau of Reclamation;

(E) the United States Geological Survey;

(F) the Bureau of Indian Affairs;

(G) the United States Fish and Wildlife Service;

(H) the Army Corps of Engineers;

(I) the Natural Resources Conservation Service of the Department of Agriculture;

(J) the State of New Mexico, including the New Mexico Environment Department of the State Engineer;

(K) affected local soil and water conservation districts;

(L) the Elephant Butte Irrigation District;

(M) private landowners; and

(N) other interested citizens.

(3) DUTIES.—The Rio Puerco Management Committee shall—

(A) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in subsection (a); and

(B) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in subsection (a)

(4) TERMINATION.—The Committee shall terminate on the date that is 10 years after the date of enactment of this Act.

(c) REPORT.—Not later than the date that is 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report containing—

(1) a summary of activities of the management program under subsection (a); and

(2) proposals for joint implementation efforts, including funding recommendations.

(d) LOWER RIO GRANDE HABITAT STUDY.—

(1) IN GENERAL.—The Secretary of the Interior, in cooperation with appropriate State agencies, shall conduct a study of the Rio Grande that—

(A) shall cover the distance from Caballo Lake to Sunland Park, New Mexico; and

(B) may cover a greater distance.

(2) CONTENTS.—The study under paragraph (1) shall include—

(A) a survey of the current habitat conditions of the river and its riparian environment;

(B) identification of the changes in vegetation and habitat over the past 400 years and the effect of the changes on the river and riparian area; and

(C) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and to restore habitat through reintroduction or establishment of appropriate native plant species.

(3) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary of the Interior shall transmit the study under paragraph (1) to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section a total of $7,500,000 for the 10 fiscal years beginning after the date of enactment of this Act.

SEC. 403. OLD SPANISH TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"( ) The Old Spanish Trail, beginning in Santa Fe, New Mexico, proceeding through Colorado and Utah, and ending in Los Angeles, California, and the Northern Branch of the Old Spanish Trail, beginning near Espanola, New Mexico, proceeding through Colorado, and ending near Crescent Junction, Utah.".

SEC. 404. GREAT WESTERN SCENIC TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"( ) The Great Western Scenic Trail, a system of trails to accommodate a variety of travel users in a corridor of approximately 3,100 miles in length extending from the Arizona-Mexico border to the Idaho-Montana-Canada border, following the approximate route depicted on the map identified as 'Great Western Trail Corridor, 1988', which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture. The trail study shall be conducted by the Secretary of Agriculture, in consultation with the Secretary of the Interior, in accordance with subsection (b) and shall include—

"(A) the current status of land ownership and current and potential use along the designated route;

"(B) the estimated cost of acquisition of lands or interests in lands, if any; and

"(C) an examination of the appropriateness of motorized trial use along the trail.".

SEC. 405. RS 2477.

No final rule or regulation of any agency of the Federal Government pertaining to the recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 (43 U.S.C. 932) shall take effect unless expressly authorized by an Act of Congress subsequent to the date of enactment of this Act.

SEC. 406. HANFORD REACH PRESERVATION.

Section 2 of Public Law 100–605 is amended as follows:

(1) By striking "interim" in the section heading.

(2) By striking "For a period of eight years after" and inserting "After" in subsection (a).

(3) By striking in subsection (b) "During the eight year interim protection period, provided by this section, all" and inserting "All".

SEC. 407. LAMPREY WILD AND SCENIC RIVER.

(a) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end thereof:

"(157) LAMPREY RIVER, NEW HAMPSHIRE.—The 11.5-mile segment extending from the southern Lee town line to the confluence with the Piscassic River in the vicinity of the Durham-Newmarket town line (hereinafter in this paragraph referred to as the 'segment') as a recreational river. The segment shall be administered by the Secretary of the Interior through cooperative agreements between the Secretary and the State of New Hampshire and its relevant political subdivisions, namely the towns of Durham, Lee, and Newmarket, pursuant to section 10(e) of this Act. The segment shall be managed in accordance with the Lamprey River Management Plan dated January 10, 1995, and such amendments thereto as the Secretary of the Interior determines are consistent with this Act. Such plan shall be deemed to satisfy the requirements for a comprehensive management plan pursuant to section 3(d) of this Act.".

(b) MANAGEMENT.—

(1) COMMITTEE.—The Secretary of the Interior shall coordinate his management responsibilities under this Act with respect to the segment designated by subsection (a) with the Lamprey River Advisory Committee established pursuant to New Hampshire RSA 483.

(2) LAND MANAGEMENT.—The zoning ordinances duly adopted by the towns of Durham, Lee, and Newmarket, New Hampshire, including provisions for conservation of shorelands, floodplains, and wetlands associated with the segment, shall be deemed to satisfy the standards and requirements of section 6(c) of the Wild and Scenic Rivers Act, and the provisions of that section, which prohibit Federal acquisition of lands by condemnation, shall apply to the segment designated by subsection (a). The authority of the Secretary to acquire lands for the purposes of this paragraph shall be limited to acquisition by donation or acquisition with the consent of the owner thereof, and shall be subject to the additional criteria set forth in the Lamprey River Management Plan.

(c) UPSTREAM SEGMENT.—Upon request by the town of Epping, which abuts an additional 12 miles of river found eligible for designation as a recreational river, the Secretary of the Interior shall offer assistance regarding continued involvement of the town of Epping in the implementation of the Lamprey River Management Plan and in consideration of potential future addition of that portion of the river within Epping as a component of the Wild and Scenic Rivers System.

SEC. 408. WEST VIRGINIA NATIONAL RIVERS AMENDMENTS OF 1996.

(a) AMENDMENTS PERTAINING TO THE NEW RIVER GORGE NATIONAL RIVER.—

(1) BOUNDARIES.—Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C.

460m–15) is amended by striking out "NERI–80,023, dated January 1987" and inserting "NERI–80,028A, dated March 1996".

(2) FISH AND WILDLIFE MANAGEMENT.—Section 1106 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–20) is amended by adding the following at the end thereof: "The Secretary shall permit the State of West Virginia to undertake fish stocking activities carried out by the State, in consultation with the Secretary, on waters within the boundaries of the national river. Nothing in this Act shall be construed as affecting the jurisdiction of the State of West Virginia with respect to fish and wildlife.".

(3) CONFORMING AMENDMENTS.—Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15 and following) is amended by adding the following new section at the end thereof:

"SEC. 1117. APPLICABLE PROVISIONS OF OTHER LAW.

"(a) COOPERATIVE AGREEMENTS.—The provisions of section 202(e)(1) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–1(e)(1)) shall apply to the New River Gorge National River in the same manner and to the same extent as such provisions apply to the Gauley River National Recreation Area.

"(b) REMNANT LANDS.—The provisions of the second sentence of section 203(a) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–2(a)) shall apply to tracts of land partially within the boundaries of the New River Gorge National River in the same manner and to the same extent as such provisions apply to tracts of land only partially within the Gauley River National Recreation Area.".

(b) VISITOR CENTER.—The Secretary of the Interior is authorized to construct a visitor center and such other related facilities as may be deemed necessary to facilitate visitor understanding and enjoyment of the New River Gorge National River and the Gauley River National Recreation Area in the vicinity of the confluence of the New and Gauley Rivers. Such center and related facilities are authorized to be constructed at a site outside of the boundary of the New River Gorge National River or Gauley River National Recreation Area unless a suitable site is available within the boundaries of either unit.

(c) AMENDMENTS PERTAINING TO THE GAULEY RIVER NATIONAL RECREATION AREA.—

(1) TECHNICAL AMENDMENT.—Section 205(c) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–4(c)) is amended by adding the following at the end thereof: "If project construction is not commenced within the time required in such license, or if such license is surrendered at any time, such boundary modification shall cease to have any force and effect.".

(2) GAULEY ACCESS.—Section 202(e) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–1(e)) is amended by adding the following new paragraph at the end thereof:

"(4) ACCESS TO RIVER.—(A) In order to facilitate public safety, use, and enjoyment of the recreation area, and to protect, to the maximum extent feasible, the scenic and natural resources of the area, the Secretary is authorized and directed to acquire such lands or interests in lands and to take such actions as are necessary to provide access by noncommercial entities on the north side of the Gauley River at the area known as Woods Ferry utilizing existing roads and rights-of-way. Such actions by the Secretary shall include the construction of parking and related facilities in the vicinity of Woods Ferry for noncommercial use on lands acquired pursuant to paragraph (3) or on lands acquired with the consent of the owner thereof within the boundaries of the recreation area.

"(B) If necessary, in the discretion of the Secretary, in order to minimize environmental impacts, including visual impacts, within portions of the recreation area immediately adjacent to the river, the Secretary may, by contract or otherwise, provide transportation services for noncommercial visitors, at reasonable cost, between such parking facilities and the river.

"(C) Nothing in subparagraph (A) shall affect the rights of any person to continue to utilize, pursuant to a lease in effect on April 1, 1993, any right of way acquired pursuant to such lease which authorizes such person to use an existing road referred to in subparagraph (A). Except as provided under paragraph (2) relating to access immediately downstream of the Summersville project, until there is compliance with this paragraph the Secretary is prohibited from acquiring or developing any other river access points within the recreation area.".

(d) AMENDMENTS PERTAINING TO THE BLUESTONE NATIONAL SCENIC RIVER.—

(1) BOUNDARIES.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking out "WSR–BLU/20,000, and dated January 1987" and inserting "BLUE–80,005, dated May 1996".

(2) PUBLIC ACCESS.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by adding the following at the end thereof: "In order to provide reasonable public access and vehicle parking for public use and enjoyment of the river designated by this paragraph, consistent with the preservation and enhancement of the natural and scenic values of such river, the Secretary may, with the consent of the owner thereof, negotiate a memorandum of understanding or cooperative agreement, or acquire not more than 10 acres of lands or interests in such lands, or both, as may be necessary to allow public access to the Bluestone River and to provide, outside the boundary of the scenic river, parking and related facilities in the vicinity of the area known as Eads Mill.".

SEC. 409. TECHNICAL AMENDMENT TO THE WILD AND SCENIC RIVERS ACT.

(a) NUMBERING OF PARAGRAPHS.—The unnumbered paragraphs in section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), relating to each of the following river segments, are each amended by numbering such paragraphs as follows:

River:	*Paragraph Number*
East Fork of Jemez, New Mexico	*(109)*
Pecos River, New Mexico	*(110)*
Smith River, California	*(111)*
Middle Fork Smith River, California	*(112)*
North Fork Smith River, California	*(113)*
Siskiyou Fork Smith River, California	*(114)*
South Fork Smith River, California	*(115)*
Clarks Fork, Wyoming	*(116)*
Niobrara, Nebraska	*(117)*
Missouri River, Nebraska and South Dakota	*(118)*
Bear Creek, Michigan	*(119)*
Black, Michigan	*(120)*
Carp, Michigan	*(121)*
Indian, Michigan	*(122)*
Manistee, Michigan	*(123)*
Ontonagon, Michigan	*(124)*
Paint, Michigan	*(125)*
Pine, Michigan	*(126)*
Presque Isle, Michigan	*(127)*
Sturgeon, Hiawatha National Forest, Michigan	*(128)*
Sturgeon, Ottawa National Forest, Michigan	*(129)*
East Branch of the Tahquamenon, Michigan	*(130)*
Whitefish, Michigan	*(131)*
Yellow Dog, Michigan	*(132)*
Allegheny, Pennsylvania	*(133)*
Big Piney Creek, Arkansas	*(134)*
Buffalo River, Arkansas	*(135)*
Cossatot River, Arkansas	*(136)*
Hurricane Creek, Arkansas	*(137)*
Little Missouri River, Arkansas	*(138)*
Mulberry River, Arkansas	*(139)*
North Sylamore Creek, Arkansas	*(140)*
Richland Creek, Arkansas	*(141)*
Sespe Creek, California	*(142)*
Sisquoc River, California	*(143)*
Big Sur River, California	*(144)*
Great Egg Harbor River, New Jersey	*(145)*
The Maurice River, Middle Segment	*(146)*
The Maurice River, Middle Segment	*(147)*
The Maurice River, Upper Segment	*(148)*
The Menantico Creek, Lower Segment	*(149)*
The Menantico Creek, Upper Segment	*(150)*
Manumuskin River, Lower Segment	*(151)*
Manumuskin River, Upper Segment	*(152)*
Muskee Creek, New Jersey	*(153)*
Red River, Kentucky	*(154)*
Rio Grande, New Mexico	*(155)*
Farmington River, Connecticut	*(156)*

(b) STUDY RIVERS.—Section 5(a) of such Act is amended as follows:

(1) Paragraph (106), relating to St. Mary's, Florida, is renumbered as paragraph (108).

(2) Paragraph (112), relating to White Clay Creek, Delaware and Pennsylvania, is renumbered as paragraph (113).

(3) The unnumbered paragraphs, relating to each of the following rivers, are amended by numbering such paragraphs as follows:

River:	*Paragraph Number*
Mills River, North Carolina	*(109)*
Sudbury, Assabet, and Concord, Massachusetts	*(110)*
Niobrara, Nebraska	*(111)*
Lamprey, New Hampshire	*(112)*
Brule, Michigan and Wisconsin	*(114)*
Carp, Michigan	*(115)*
Little Manistee, Michigan	*(116)*
White, Michigan	*(117)*
Ontonagon, Michigan	*(118)*
Paint, Michigan	*(119)*
Presque Isle, Michigan	*(120)*
Sturgeon, Ottawa National Forest, Michigan	*(121)*
Sturgeon, Hiawatha National Forest, Michigan	*(122)*
Tahquamenon, Michigan	*(123)*
Whitefish, Michigan	*(124)*
Clarion, Pennsylvania	*(125)*
Mill Creek, Jefferson and Clarion Counties, Pennsylvania	*(126)*
Piru Creek, California	*(127)*
Little Sur River, California	*(128)*
Matilija Creek, California	*(129)*
Lopez Creek, California	*(130)*
Sespe Creek, California	*(131)*
North Fork Merced, California	*(132)*
Delaware River, Pennsylvania and New Jersey	*(133)*
New River, West Virginia and Virginia	*(134)*
Rio Grande, New Mexico	*(135)*

SEC. 410. PROTECTION OF NORTH ST. VRAIN CREEK, COLORADO.

(a) NORTH ST. VRAIN CREEK AND ADJACENT LANDS.—The Act of January 26, 1915, establishing Rocky Mountain National Park (38 Stat. 798; 16 U.S.C. 191 and following), is amended by adding the following new section at the end thereof:

"SEC. 5. NORTH ST. VRAIN CREEK AND ADJACENT LANDS.

"Neither the Secretary of the Interior nor any other Federal agency or officer may approve or issue any permit for, or provide any assistance for, the construction of any new dam, reservoir, or impoundment on any segment of North St. Vrain Creek or its tributaries within the boundaries of Rocky Mountain National Park or on

the main stem of North St. Vrain Creek downstream to the point at which the creek crosses the elevation 6,550 feet above mean sea level. Nothing in this section shall be construed to prevent the issuance of any permit for the construction of a new water gaging station on North St. Vrain Creek at the point of its confluence with Coulson Gulch.".

(b) ENCOURAGEMENT OF EXCHANGES.—

(1) LANDS INSIDE ROCKY MOUNTAIN NATIONAL PARK.—Promptly following enactment of this Act, the Secretary of the Interior shall seek to acquire by donation or exchange those lands within the boundaries of Rocky Mountain National Park owned by the city of Longmont, Colorado, that are referred to in section 111(d) of the Act commonly referred to as the "Colorado Wilderness Act of 1980" (Public Law 96-560; 94 Stat. 3272; 16 U.S.C. 192b-9(d)).

(2) OTHER LANDS.—The Secretary of Agriculture shall immediately and actively pursue negotiations with the city of Longmont, Colorado, concerning the city's proposed exchange of lands owned by the city and located in and near Coulson Gulch for other lands owned by the United States. The Secretary shall report to Congress 2 calendar years after the date of enactment of this Act, and every 2 years thereafter on the progress of such negotiations until negotiations are complete.

TITLE V—HISTORIC AREAS AND CIVIL RIGHTS

SEC. 501. THE SELMA TO MONTGOMERY NATIONAL HISTORIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end thereof the following new paragraph:

"( ) The Selma to Montgomery National Historic Trail, consisting of 54 miles of city streets and United States Highway 80 from Brown Chapel A.M.E. Church in Selma to the State Capitol Building in Montgomery, Alabama, traveled by voting rights advocates during March 1965 to dramatize the need for voting rights legislation, as generally described in the report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled "Selma to Montgomery" and dated April 1993. Maps depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered in accordance with this Act, including section 7(h). The Secretary of the Interior, acting through the National Park Service, which shall be the lead Federal agency, shall cooperate with other Federal, State and local authorities to preserve historic sites along the route, including (but not limited to) the Edmund Pettus Bridge and the Brown Chapel A.M.E. Church.".

SEC. 502. VANCOUVER NATIONAL HISTORIC RESERVE.

(a) ESTABLISHMENT.—There is established the Vancouver National Historic Reserve in the State of Washington (referred to in this section as the "Reserve"), consisting of the area described in the report entitled "Vancouver National Historic Reserve Feasibility Study and Environmental Assessment" published by the Vancouver Historical Study Commission and dated April 1993 as authorized by Public Law 101–523 (referred to in this section as the "Vancouver Historic Reserve Report").

(b) ADMINISTRATION.—(1) The Reserve shall be administered through a general management plan developed in accordance with this section, and approved by the Secretary of the Interior and the Secretary of the Army.

(2) Not later than three years after the date of enactment of this Act, the National Park Service shall submit to the Secretaries a general management plan for the administration of the Reserve.

(3) The general management plan shall be developed by a Partnership comprised of a representative from the National Park Service, a representative of the Historic Preservation Office of the State of Washington, a representative of the Department of the Army, and a representative of the City of Vancouver, Washington.

(4) The general management plan shall be developed in accordance with the specific findings and recommendations of the Vancouver Historic Reserve Report, along with any other considerations not otherwise in conflict with the Report, and shall include at a minimum a statement of purpose, an interpretive plan, and a economic plan for Pearson Field.

(5) The Reserve shall not be deemed to be a new unit of the National Park System.

(c) NO LIMITATION ON FAA AUTHORITY.—The establishment of the Reserve shall not limit—

(1) the authority of the Federal Aviation Administration over air traffic control, or aviation activities at Pearson Airpark; or

(2) limit operations and airspace in the vicinity of Portland International Airport.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $400,000 per year for operational costs for each fiscal year following enactment of this Act and $5,000,000 for development costs.

SEC. 503. EXTENSION OF KALOKO-HONOKOHAU ADVISORY COMMISSION.

(a) KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK.—Notwithstanding section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(f)(7)), the Na Hoa Pili O Kaloko-Honokohau, the Advisory Commission for Kaloko-Honokohau National Historical Park, is hereby re-established in accordance with section 505(f), as amended by paragraph (2) of this subsection.

(b) CONFORMING AMENDMENT.—Section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), is amended by striking "this Act" and inserting in lieu thereof, "the Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1996".

SEC. 504. AMENDMENT TO BOSTON NATIONAL HISTORIC PARK ACT.

Section 3(b) of the Boston National Historical Park Act of 1974 (16 U.S.C. 410z–1(b)) is amended by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of informational and interpretive materials relating to the park and to the Freedom Trail.".

SEC. 505. WOMEN'S RIGHTS NATIONAL HISTORICAL PARK.

(a) INCLUSION OF OTHER PROPERTIES.—Section 1601(c) of Public Law 96–607 (16 U.S.C. 410ll) is amended to read as follows:

"(c) ESTABLISHMENT.—To carry out the purposes of this section there is hereby established the Women's Rights National Historical Park (hereinafter in this section referred to as the "park"). The park shall consist of the following designated sites in Seneca Falls and Waterloo, New York:

"(1) Stanton House, 32 Washington Street, Seneca Falls;

"(2) dwelling, 30 Washington Street, Seneca Falls;

"(3) dwelling, 34 Washington Street, Seneca Falls;

"(4) lot, 26–28 Washington Street, Seneca Falls;

"(5) former Wesleyan Chapel, 126 Fall Street, Seneca Falls;

"(6) theater, 128 Fall Street, Seneca Falls;

"(7) McClintock House, 16 East Williams Street, Waterloo;

"(8) Hunt House, 401 East Williams Street, Waterloo;

"(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in Seneca Falls for development of a maintenance facility;

"(10) dwelling, 1 Seneca Street, Seneca Falls;

"(11) dwelling, 10 Seneca Street, Seneca Falls;

"(12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and

"(13) dwelling, 12 East Williams Street, Waterloo.".

(b) MISCELLANEOUS AMENDMENTS.—Section 1601 of Public Law 96–607 (16 U.S.C. 410ll) is amended by redesignating subsection (i) as "(i)(1)" and inserting at the end thereof the following new paragraph:

"(2) In addition to those sums appropriated prior to the date of enactment of this paragraph for land acquisition and development, there is hereby authorized to be appropriated an additional $2,000,000.".

SEC. 506. BLACK PATRIOTS MEMORIAL EXTENSION.

The legislative authority for the Black Revolutionary War Patriots Foundation to establish a commemorative work (as defined by the Commemorative Works Act (40 U.S.C. 1001 et seq.)) shall expire October 27, 1998, notwithstanding the time period limitation specified in section 10(b) of that Act (40 U.S.C. 1010(b)).

SEC. 507. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES HISTORIC BUILDING RESTORATION AND PRESERVATION.

(a) AUTHORITY TO MAKE GRANTS.—From the amounts made available to carry out the National Historic Preservation Act, the Secretary of the Interior shall make grants in accordance with this section to eligible historically black colleges and universities for the preservation and restoration of historic buildings and structures on the campus of these institutions.

(b) GRANT CONDITIONS.—Grants made under subsection (a) shall be subject to the condition that the grantee covenants, for the period of time specified by the Secretary, that—

(1) no alteration will be made in the property with respect to which the grant is made without the concurrence of the Secretary; and

(2) reasonable public access to the property with respect to which the grant is made will be permitted by the grantee for interpretive and educational purposes.

(c) MATCHING REQUIREMENT FOR BUILDINGS AND STRUCTURES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES.—(1) Except as provided by paragraph (2), the Secretary may obligate funds made available under this section for a grant with respect to a building or structure listed on, or eligible for listing on, the National Register of Historic Places only if the grantee agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal or greater than the grant.

(2) The Secretary may waive paragraph (1) with respect to a grant if the Secretary determines from circumstances that an extreme emergency exists or that such a waiver is in the public interest to assure the preservation of historically significant resources.

(d) FUNDING PROVISION.—Pursuant to section 108 of the National Historic Preservation Act, $29,000,000 shall be made available to carry out the purposes of this section. Of amounts made available pursuant to this section, $5,000,000 shall be available for grants to Fisk University, $2,500,000 shall be available for grants to Knoxville College, $2,000,000 shall be available for grants to Miles College, Alabama, $1,500,000 shall be available for grants to Talladega College, Alabama, $1,550,000 shall be available for grants to Selma University, Alabama, $250,000 shall be available for grants to Stillman College, Alabama, $200,000 shall be available for grants to Concordia College, Alabama $2,900,000 shall be available for grants to Allen University, South Carolina, $1,000,000 shall be available for grants to Claflin College, South Carolina,

$2,000,000 shall be available for grants to Voorhees College, South Carolina, $1,000,000 shall be available for grants to Rust College, Mississippi, and $3,000,000 shall be available for grants to Tougaloo College, Mississippi.

(e) REGULATIONS.—The Secretary shall develop such guidelines as may be necessary to carry out this section.

(f) DEFINITIONS.—For the purposes of this section:

(1) HISTORICALLY BLACK COLLEGES.—The term "historically black colleges and universities" has the same meaning given the term "part B institution" by section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(2) HISTORIC BUILDING AND STRUCTURES.—The term "historic building and structures" means a building or structure listed on, or eligible for listing on, the National Register of Historic Places or designated a National Historic Landmark.

SEC. 508. MEMORIAL TO MARTIN LUTHER KING, JR.

(a) IN GENERAL.—The Secretary of the Interior is authorized to permit the Alpha Phi Alpha Fraternity to establish a memorial on lands under the administrative jurisdiction of the Secretary in the District of Columbia or its environs to honor Martin Luther King, Jr., pursuant to the Commemorative Works Act of 1986.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" approved November 14, 1986 (40 U.S.C. 1001, et seq.).

(c) PAYMENT OF EXPENSES.—The Alpha Phi Alpha Fraternity shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

(d) DEPOSIT OF EXCESS FUNDS.—If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 4401(b)), or upon expiration of the authority for the memorial under section 10(b) of that Act, there remains a balance of funds received for the establishment of the memorial, the Alpha Phi Alpha Fraternity shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.

SEC. 509. ADVISORY COUNCIL ON HISTORIC PRESERVATION REAUTHORIZATION.

(a) REAUTHORIZATION.—The last sentence of section 212(a) of the National Historic Preservation Act (16 U.S.C. 470 and following) is amended to read as follows: "There are authorized to be appropriated for the purposes of this title not to exceed $4,000,000 in each fiscal year 1997 through 2000.".

(b) REPORTING REQUIREMENTS.—Within 18 months after the date of enactment of this Act, the Advisory Council on Historic Preservation shall submit a report to the appropriate congressional committees containing an analysis of alternatives for modifying the regulatory process for addressing impacts of Federal actions on nationally significant historic properties, as well as alternatives for future promulgation and oversight of regulations for implementation of section 106 of the National Historic Preservation Act.

(c) TECHNICAL AMENDMENTS.—Title II of the National Historic Preservation Act (16 U.S.C. 470 and following) is amended as follows:

(1) By striking "appointed" in section 201(a)(4) and inserting "designated".

(2) By striking "and 10" in section 201(c) and inserting "through (11)".

(3) By adding the following new section after section 214:

"SEC. 215. Subject to applicable conflict of interest laws, the Council may receive reimbursements from State and local agencies and others pursuant to agreements executed in furtherance of the purposes of this Act.".

(4) By amending subsection (g) of section 205 to read as follows:

"(g) Any Federal agency may provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the agency, with such funds, personnel, facilities, and services under its jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. Any funds provided to the Council pursuant to this subsection must be expended by the end of the fiscal year following the fiscal year in which the funds are received by the Council. To the extent of available appropriations, the Council may obtain by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act.".

SEC. 510. GREAT FALLS HISTORIC DISTRICT, NEW JERSEY.

(a) PURPOSES.—The purposes of this section are—

(1) to preserve and interpret, for the educational and inspirational benefit of the public, the contribution to our national heritage of certain historic and cultural lands and edifices of the Great Falls Historic District, with emphasis on harnessing this unique urban environment for its educational and recreational value; and

(2) to enhance economic and cultural redevelopment within the District.

(b) DEFINITIONS.—In this section:

(1) DISTRICT.—The term "District" means the Great Falls Historic District established by subsection (c).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) HISTORIC INFRASTRUCTURE.—The term "historic infrastructure" means the District's historic raceway system, all four stories of the original Colt Gun Mill, including belltower, and any other structure that the Secretary determines to be eligible for the National Register of Historic Places.

(c) GREAT FALLS HISTORIC DISTRICT.—

(1) ESTABLISHMENT.—There is established the Great Falls Historic District in the city of Paterson, in Passaic County, New Jersey.

(2) BOUNDARIES.—The boundaries of the District shall be the boundaries specified for the Great Falls Historic District listed on the National Register of Historic Places.

(d) DEVELOPMENT PLAN.—The Secretary may make grants and enter into cooperative agreements with the State of New Jersey, local governments, and private nonprofit entities under which the Secretary agrees to pay not more than 50 percent of the costs of—

(1) preparation of a plan for the development of historic, architectural, natural, cultural, and interpretive resources within the District;

(2) implementation of projects approved by the Secretary under the development plan; and

(3) a market analysis assessing the economic development potential of the District and recommending steps to be taken to encourage economic development and revitalization in a manner consistent with the District's historic character.

(e) RESTORATION, PRESERVATION, AND INTERPRETATION OF PROPERTIES.—

(1) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the State of New Jersey, local governments and nonprofit entities owning property within the District under which the Secretary may—

(A) pay not more than 50 percent of the cost of restoring, repairing, rehabilitating, and improving historic infrastructure within the District;

(B) provide technical assistance with respect to the preservation and interpretation of properties within the District; and

(C) mark and provide interpretation of properties within the District.

(2) PROVISIONS.—A cooperative agreement under paragraph (1) shall provide that—

(A) the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes;

(B) no change or alteration may be made in the property except with the agreement of the property owner, the Secretary, and any Federal agency that may have regulatory jurisdiction over the property; and

(C) any construction grant made under this section shall be subject to an agreement that provides that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this section shall result in a right of the United States to compensation from the beneficiary of the grant, and that provides for a schedule for such compensation based on the level of Federal investment and the anticipated useful life of the project.

(3) APPLICATIONS.—

(A) IN GENERAL.—A property owner that desires to enter into a cooperative agreement under paragraph (1) shall submit to the Secretary an application describing how the project proposed to be funded will further the purposes of the District.

(B) CONSIDERATION.—In making such funds available under this subsection, the Secretary shall give consideration to projects that provide a greater leverage of Federal funds.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Historic Preservation Fund authorized under the National Historic Preservation Act to the Secretary to carry out this section—

(1) $250,000 for grants and cooperative agreements for the development plan under subsection (d); and

(2) $50,000 for the provision of technical assistance and $3,000,000 for the provision of other assistance under cooperative agreements under subsection (e).

SEC. 511. NEW BEDFORD NATIONAL HISTORIC LANDMARK DISTRICT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the New Bedford National Historic Landmark District and associated historic sites as described in subsection (c)(2), including the Schooner Ernestina, are National Historic Landmarks and are listed on the National Register of Historic Places as historic sites associated with the history of whaling in the United States;

(B) the city of New Bedford was the 19th century capital of the world's whaling industry and retains significant architectural features, archival materials, and museum collections illustrative of this period;

(C) New Bedford's historic resources provide unique opportunities for illustrating and interpreting the whaling industry's contribution to the economic, social, and environmental history of the United States and provide opportunities for public use and enjoyment; and

(D) during the nineteenth century, over two thousand whaling voyages sailed out of New Bedford to the Arctic region of Alaska, and joined Alaska Natives from Barrow, Alaska and other areas in the Arctic region in subsistence whaling activities; and

(E) the National Park System presently contains no sites commemorating whaling and its contribution to American history.

(2) PURPOSES.—The purposes of this section are—

(A) to help preserve, protect, and interpret the resources within the areas described in subsection (c)(2), including architecture, setting, and associated archival and museum collections;

(B) to collaborate with the city of New Bedford and with associated historical, cultural, and preservation organizations to further the purposes of the park established under this section; and

(C) to provide opportunities for the inspirational benefit and education of the American people.

(b) DEFINITIONS.—For the purposes of this section—

(1) the term "park" means the New Bedford Whaling National Historical Park established by subsection (c); and

(2) the term "Secretary" means the Secretary of the Interior.

(c) NEW BEDFORD WHALING NATIONAL HISTORICAL PARK.—

(1) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain districts structures, and relics located in New Bedford, Massachusetts, and associated with the history of whaling and related social and economic themes in America, there is established the New Bedford Whaling National Historical Park.

(2) BOUNDARIES.—(A) The boundaries of the park shall be those generally depicted on the map numbered NAR–P49–80000–4 and dated June 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. In case of any conflict between the descriptions set forth in clauses (i) through (iv) and such map, such map shall govern. The park shall include the following:

(i) The area included within the New Bedford National Historic Landmark District, known as the Bedford Landing Waterfront Historic District, as listed within the National Register of Historic Places and in the Massachusetts State Register of Historic Places.

(ii) The National Historic Landmark Schooner Ernestina, with its home port in New Bedford.

(iii) The land along the eastern boundary of the New Bedford National Historic Landmark District over to the east side of MacArthur Drive from the Route 6 overpass on the north to an extension of School Street on the south.

(iv) The land north of Elm Street in New Bedford, bounded by Acushnet Avenue on the west, Route 6 (ramps) on the north, MacArthur Drive on the east, and Elm Street on the south.

(B) In addition to the sites, areas and relics referred to in subparagraph (A), the Secretary may assist in the interpretation and preservation of each of the following:

(i) The southwest corner of the State Pier.

(ii) Waterfront Park, immediately south of land adjacent to the State Pier.

(iii) The Rotch-Jones-Duff House and Garden Museum, located at 396 County Street.

(iv) The Wharfinger Building, located on Piers 3 and 4.

(v) The Bourne Counting House, located on Merrill's Wharf.

(d) RELATED FACILITIES.—To ensure that the contribution of Alaska Natives to the history of whaling in the United States is fully recognized, the Secretary shall provide—

(1) financial and other assistance to establish links between the New Bedford Whaling National Historical Park and the North Slope Borough Cultural Center, located in Barrow, Alaska; and

(2) to provide other appropriate assistance and funding for the North Slope Borough Cultural Center.

(e) ADMINISTRATION OF PARK.—

(1) IN GENERAL.—The park shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(2) COOPERATIVE AGREEMENTS.—(A) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(B) Any payment made by the Secretary pursuant to a cooperative agreement under this paragraph shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this section, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(3) NON-FEDERAL MATCHING REQUIREMENTS.—(A) Funds authorized to be appropriated to the Secretary for the purposes of—

(i) cooperative agreements under paragraph (2) shall be expended in the ratio of one dollar of Federal funds for each four dollars of funds contributed by non-Federal sources; and

(ii) construction, restoration, and rehabilitation of visitor and interpretive facilities (other than annual operation and maintenance costs) shall be expended in the ratio of one dollar of Federal funds for each one dollar of funds contributed by non-Federal sources.

(B) For the purposes of this paragraph, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this section, any money so contributed. With the approval of the Secretary, any donation of property, services, or goods from a non-Federal source may be considered as a contribution of funds from a non-Federal source for the purposes of this paragraph.

(4) ACQUISITION OF REAL PROPERTY.—For the purposes of the park, the Secretary may acquire only by donation such lands, interests in lands, and improvements thereon within the park as are needed for essential visitor contact and interpretive facilities.

(5) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept donated funds, property, and services to carry out this section.

(e) GENERAL MANAGEMENT PLAN.—Not later than the end of the second fiscal year beginning after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park and shall implement such plan as soon as practically possible. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a–7(b)) and other applicable law.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out annual operations and maintenance with respect to the park and to carry out the activities under section 3(D).

(2) EXCEPTIONS.—In carrying out this section—

(A) not more than $2,000,000 may be appropriated for construction, restoration, and rehabilitation of visitor and interpretive facilities, and directional and visitor orientation signage;

(B) none of the funds authorized to be appropriated by this section may be used for the operation or maintenance of the Schooner Ernestina; and

(C) not more than $50,000 annually of Federal funds may be used for interpretive and educational programs for the Schooner Ernestina pursuant to cooperative grants under subsection (d)(2).

SEC. 512. NICODEMUS NATIONAL HISTORIC SITE.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the Town of Nicodemus, in Kansas, has national significance as the only remaining western town established by African-Americans during the Reconstruction period following the Civil War;

(B) the town of Nicodemus is symbolic of the pioneer spirit of African-Americans who dared to leave the only region they had been familiar with to seek personal freedom and the opportunity to develop their talents and capabilities; and

(C) the town of Nicodemus continues to be a valuable African-American community.

(2) PURPOSES.—The purposes of this section are—

(A) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations, the remaining structures and locations that represent the history (including the settlement and growth) of the town of Nicodemus, Kansas; and

(B) to interpret the historical role of the town of Nicodemus in the Reconstruction period in the context of the experience of westward expansion in the United States.

(b) DEFINITIONS.—In this section:

(1) HISTORIC SITE.—The term "historic site" means the Nicodemus National Historic Site established by subsection (c).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(c) ESTABLISHMENT OF NICODEMUS NATIONAL HISTORIC SITE.—

(1) ESTABLISHMENT.—There is established the Nicodemus National Historic Site in Nicodemus, Kansas.

(2) DESCRIPTION.—

(A) IN GENERAL.—The historic site shall consist of the First Baptist Church, the St. Francis Hotel, the Nicodemus School District Number 1, the African Methodist Episcopal Church, and the Township Hall located within the approximately 161.35 acres designated as the Nicodemus National Landmark in the Township of Nicodemus, Graham County, Kansas, as registered on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a), and depicted on a map entitled "Nicodemus National Historic Site", numbered 80,000 and dated August 1994.

(B) MAP AND BOUNDARY DESCRIPTION.—The map referred to in subparagraph (A) and an accompanying boundary description shall be on file and available for public inspection in the office of the Director of the National Park Service and any other office of the National Park Service that the Secretary determines to be an appropriate location for filing the map and boundary description.

(d) ADMINISTRATION OF THE HISTORIC SITE.—

(1) IN GENERAL.—The Secretary shall administer the historic site in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666, Chapter 593; 16 U.S.C. 461 et seq.).

(2) COOPERATIVE AGREEMENTS.—To further the purposes of this section, the Secretary may enter into a cooperative agreement with any interested individual, public or private agency, organization, or institution.

(3) TECHNICAL AND PRESERVATION ASSISTANCE.—

(A) IN GENERAL.—The Secretary may provide to any eligible person described in subparagraph (B) technical assistance for the preservation of historic structures of, the maintenance of the cultural landscape of, and local preservation planning for, the historic site.

(B) ELIGIBLE PERSONS.—The eligible persons described in this subparagraph are—

(i) an owner of real property within the boundary of the historic site, as described in subsection (c)(2); and

(ii) any interested individual, agency, organization, or institution that has entered into an agreement with the Secretary pursuant to paragraph (2).

(e) ACQUISITION OF REAL PROPERTY.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary is authorized to acquire by donation, exchange, or purchase with funds made available by donation or appropriation, such lands or interests in lands as may be necessary to allow for the interpretation, preservation, or restoration of the First Baptist Church, the St. Francis Hotel, the Nicodemus School District Number 1, the African Methodist Episcopal Church, or the Township Hall, as described in subsection (c)(2)(A), or any combination thereof.

(2) LIMITATIONS.—

(A) ACQUISITION OF PROPERTY OWNED BY THE STATE OF KANSAS.—Real property that is owned by the State of Kansas or a political subdivision of the State of Kansas that is acquired pursuant to paragraph (1) may only be acquired by donation.

(B) CONSENT OF OWNER REQUIRED.—No real property may be acquired under this subsection without the consent of the owner of the real property.

(f) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not Later than the last day of the third full fiscal year beginning after the date of enactment of this Act, the Secretary shall, in consultation with the officials described in paragraph (2), prepare a general management plan for the historic site.

(2) CONSULTATION.—In preparing the general management plan, the Secretary shall consult with an appropriate official of each of the following:

(A) The Nicodemus Historical Society.

(B) The Kansas Historical Society.

(C) Appropriate political subdivisions of the State of Kansas that have jurisdiction over all or a portion of the historic site.

(3) SUBMISSION OF PLAN TO CONGRESS.—Upon the completion of the general management plan, the Secretary shall submit a copy of the plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section.

SEC. 513. UNALASKA.

(a) SHORT TITLE.—This section may be cited as the "Aleutian World War II National Historic Areas Act of 1996".

(b) PURPOSE.—The purpose of this section is to designate and preserve the Aleutian World War II National Historic Area within lands owned by the Ounalaska Corporation on the island of Amaknak, Alaska and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant circumstances involving the history of the Aleut people, and the role of the Aleut people and the Aleutian Islands in the defense of the United States in World War II.

(c) BOUNDARIES.—The Aleutian World War II National Historic Area shall be comprised of areas on Amaknak Island depicted on the map entitled "Aleutian World War II National Historic Area".

(d) TERMS AND CONDITIONS.—Nothing in this section shall—

(1) authorize the conveyance of lands between the Ounalaska Corporation and the United States Department of the Interior, nor remove land or structures appurtenant to the land from the exclusive control of the Ounalaska Corporation; or

(2) provide authority for the Department of the Interior to assume the duties associated with the daily operation of the historic area or any of its facilities or structures.

(e) TECHNICAL ASSISTANCE.—The Secretary of the Interior may award grants and provide technical assistance to the Ounalaska Corporation and the City of Unalaska to assist with the planning, development, and historic preservation from any program funds authorized by law for technical assistance, land use planning or historic preservation.

SEC. 514. JAPANESE AMERICAN PATRIOTISM MEMORIAL.

(a) PURPOSE.—It is the purpose of this section—

(1) to assist in the effort to timely establish within the District of Columbia a national memorial to Japanese American patriotism in World War II; and

(2) to improve management of certain parcels of Federal real property located within the District of Columbia,

by transferring jurisdiction over such parcels to the Architect of the Capitol, the Secretary of the Interior, and the Government of the District of Columbia.

(b) TRANSFERS OF JURISDICTION.—

(1) IN GENERAL.—Effective on the date of the enactment of this Act and notwithstanding any other provision of law, jurisdiction over the parcels of Federal real property described in paragraph (2) is transferred without additional consideration as provided by paragraph (2).

(2) SPECIFIC TRANSFERS.—

(A) TRANSFERS TO SECRETARY OF THE INTERIOR.—

(i) IN GENERAL.—Jurisdiction over the following parcels is transferred to the Secretary of the Interior:

(I) That triangle of Federal land, including any contiguous sidewalks and tree space, that is part of the United States Capitol Grounds under the jurisdiction of the Architect of the Capitol bound by D Street, N.W., New Jersey Avenue, N.W., and Louisiana Avenue, N.W., in Square W632 in the District of Columbia, as shown on the Map Showing Properties Under Jurisdiction of the Architect of the Capitol, dated November 8, 1994.

(II) That triangle of Federal land, including any contiguous sidewalks and tree space, that is part of the United States Capitol Grounds under the jurisdiction of the Architect of the Capitol bound by C Street, N.W., First Street, N.W., and Louisiana Avenue, N.W., in the District of Columbia, as shown on the Map Showing Properties Under Jurisdiction of the Architect of the Capitol, dated November 8, 1994.

(ii) LIMITATION.—The parcels transferred by clause (i) shall not include those contiguous sidewalks abutting Louisiana Avenue, N.W., which shall remain part of the United States Capitol Grounds under the jurisdiction of the Architect of the Capitol.

(iii) CONSIDERATION AS MEMORIAL SITE.—The parcels transferred by sibclause (I) of clause (i) may be considered as a site for a national memorial to Japanese American patriotism in World War II.

(B) TRANSFERS TO ARCHITECT OF THE CAPITOL.—Jurisdiction over the following parcels is transferred to the Architect of the Capitol:

(i) That portion of the triangle of Federal land in Reservation No. 204 in the District of Columbia under the jurisdiction of the Secretary of the Interior, including any contiguous sidewalks, bound by Constitution Avenue, N.E., on the north, the branch of Maryland Avenue, N.E., running in a northeast direction on the west, the major portion of Maryland Avenue, N.E., on the south, and 2nd Street, N.E., on the east, including the contiguous sidewalks.

(ii) That irregular area of Federal land in Reservation No. 204 in the District of Columbia under the jurisdiction of the Secretary of the Interior, including any contiguous sidewalks, northeast of the real property described in clause (i) bound by Constitution Avenue, N.E., on the north, the branch of Maryland Avenue, N.E., running to the northeast on the south, and the private property on the west known as lot 7 in square 726.

(iii) The two irregularly shaped medians lying north and east of the property described in clause (i), located between the north and south curbs of Constitution Avenue, N.E., west of its intersection with Second Street, N.E., all as shown in Land Record No. 268, dated November 22, 1957, in the Office of the Surveyor, District of Columbia, in Book 138, Page 58.

(iv) All sidewalks under the jurisdiction of the District of Columbia abutting on and contiguous to the land described in clauses (i), (ii), and (iii).

(C) TRANSFERS TO DISTRICT OF COLUMBIA.—Jurisdiction over the following parcels is transferred to the Government of the District of Columbia:

(i) That portion of New Jersey Avenue, N.W., between the northernmost point of the intersection of New Jersey Avenue, N.W., and D Street, N.W., and the northernmost point of the intersection of New Jersey Avenue, N.W., and Louisiana Avenue, N.W., between squares 631 and W632, which remains Federal property.

(ii) That portion of D Street, N.W., between its intersection with New Jersey Avenue, N.W., and its intersection with Louisiana Avenue, N.W., between Squares 630 and W632, which remains Federal property.

(c) MISCELLANEOUS.—

(1) COMPLIANCE WITH OTHER LAWS.—Compliance with this section shall be deemed to satisfy the requirements of all laws otherwise applicable to transfers of jurisdiction over parcels of Federal real property.

(2) LAW ENFORCEMENT RESPONSIBILITY.—Law enforcement responsibility for the parcels of Federal real property for which jurisdiction is transferred by subsection (b) shall be assumed by the person acquiring such jurisdiction.

(3) UNITED STATES CAPITOL GROUNDS.—

(A) DEFINITION.—The first section of the Act entitled "An Act to define the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 193a), is amended to include within the definition of the United States Capitol Grounds the parcels of Federal real property described in subsection (b)(2)(B).

(B) JURISDICTION OF CAPITOL POLICE.—The United States Capitol Police shall have jurisdiction over the parcels of Federal real property described in subsection (b)(2)(B) in accordance with section 9 of such Act of July 31, 1946 (40 U.S.C. 212a).

(4) EFFECT OF TRANSFERS.—A person relinquishing jurisdiction over a parcel of Federal real property transferred by subsection (b) shall not retain any interest in the parcel except as specifically provided by this section.

SEC. 515. MANZANAR NATIONAL HISTORIC SITE.

(a) TERMINATION OF WITHDRAWALS.—

(1) UNAVAILABILITY OF CERTAIN LANDS.—The Congress, by enacting the Act entitled "An Act to establish the Manzanar National Historic Site in the State of California, and for other purposes", approved March 3, 1992 (106 Stat. 40; Public Law 102–248), (1) provided for the protection and interpretation of the historical, cultural, and natural resources associated with the relocation of Japanese-Americans during World War II and established the Manzanar National Historic Site in the State of California, and (2) authorized the Secretary of the Interior to acquire lands or interests therein within the boundary of the Historic Site by donation, purchase with donated or appropriated funds, or by exchange. The public lands identified for disposal in the Bureau of Land Management's Bishop Resource Area Resource Management Plan that could be made available for exchange in support of acquiring lands within the boundary of the Historic Site are currently unavailable for this purpose because they are withdrawn by an Act of Congress.

(2) TERMINATION OF WITHDRAWAL.—To provide a land base with which to allow land exchanges in support of acquiring lands within the boundary of the Manzanar National Historic Site, the withdrawal of the following described lands is terminated and such lands shall not be subject to the Act of March 4, 1931 (chap. 517; 46 Stat. 1530):

MOUNT DIABLO MERIDIAN

Township 2 North, Range 26 East

Section 7:

North half south half of lot 1 of southwest quarter, north half south half of lot 2 of southwest quarter, north half south half southeast quarter.

Township 4 South, Range 33 East

Section 31:

Lot 1 of southwest quarter, northwest quarter northeast quarter, southeast quarter;

Section 32:

Southeast quarter northwest quarter, northeast quarter southwest quarter, southwest quarter southeast quarter.

Township 5 South, Range 33 East

Section 4:

West half of lot 1 of northwest quarter, west half of lot 2 of northwest quarter.

Section 5:

East half of lot 1 of northeast quarter, east half of lot 2 of northeast quarter.

Section 9:

Northwest quarter southwest quarter northeast quarter.

Section 17:

Southeast quarter northwest quarter, northwest quarter southeast quarter.

Section 22:

Lot 1 and 2.

Section 27:

Lot 2, west half northeast quarter, southeast quarter northwest quarter, northeast quarter southwest quarter, northwest quarter southeast quarter.

Section 34:

Northeast quarter, northwest quarter, southeast quarter.

Township 6 South, Range 31 East

Section 19:

East half northeast quarter southeast quarter.

Township 6 South, Range 33 East

Section 10:

East half southeast quarter.

Section 11:

Lot 1 and 2, west half northeast quarter, northwest quarter, west half southwest quarter, northeast quarter southwest quarter.

Section 14:

Lots 1 through 4, west half northeast quarter, southeast quarter northwest quarter, northeast quarter southwest quarter, northwest quarter southeast quarter.

Township 7 South, Range 32 East

Section 23:

South half southwest quarter.

Section 25:

Lot 2, northeast quarter northwest quarter.

Township 7 South, Range 33 East

Section 30:

South half of lot 2 of northwest quarter, lot 1 and 2 of southwest quarter.

Section 31:

North half of lot 2 of northwest quarter, southeast quarter northeast quarter, northeast quarter southeast quarter.

Township 8 South, Range 33 East

Section 5:

Northwest quarter southwest quarter.

Township 13 South, Range 34 East

Section 1:

Lots 43, 46, and 49 thru 51.

Section 2:

North half northwest quarter southeast quarter southeast quarter.

Township 11 South, Range 35 East

Section 30:

Lots 1 and 2, east half northwest quarter, east half southwest quarter, and west half southwest quarter southeast quarter.

Section 31:

Lot 8, west half west half northeast quarter, east half northwest quarter, and west half southeast quarter.

Township 13, South, Range 35 East

Section 18:

South half of lot 2 of northwest quarter, lot 1 and 2 of southwest quarter, southwest quarter northeast quarter, northwest quarter southeast quarter.

Section 29:

Southeast quarter northeast quarter, northeast quarter southeast quarter.

Township 13 South, Range 36 East

Section 17:

Southwest quarter northwest quarter, southwest quarter.

Section 18:

South half of lot 1 of northwest quarter, lot 1 of southwest quarter, northeast quarter, southeast quarter.

Section 19:

North half of lot 1 of northwest quarter, east half northeast quarter, northwest quarter northeast quarter.

Section 20:

Southwest quarter northeast quarter, northwest quarter, northeast quarter southwest quarter, southeast quarter.

Section 28:

Southwest quarter southwest quarter.

Section 29:

East half northeast quarter.

Section 33:

Northwest quarter northwest quarter, southeast quarter northwest quarter.

Township 14 South, Range 36 East

Section 31:

Lot 1 and 2 of southwest quarter, southwest quarter southeast quarter.

aggregating 5,630 acres, more or less.

(b) AVAILABILITY OF LANDS.—Upon enactment of this Act, the lands specified in subsection (a) shall be open to operation of the public land laws, including the mining and mineral leasing laws, only after the Secretary of the Interior has published a notice in the Federal Register opening such lands.

(c) ADDITIONAL AREA.—Section 101 of Public Law 102–248 is amended by inserting in subsection (b) after the second sentence "The site shall also include an additional area of approximately 300 acres as demarcated as the new proposed boundaries in the map dated March 8, 1996, entitled 'Manzanar National Historic Site Archaeological Base Map'."

SEC. 516. RECOGNITION AND DESIGNATION OF THE AIDS MEMORIAL GROVE AS NATIONAL MEMORIAL.

(a) RECOGNITION OF SIGNIFICANCE OF THE AIDS MEMORIAL GROVE.—The Congress hereby recognizes the significance of the AIDS Memorial Grove, located in Golden Gate Park in San Francisco, California, as a memorial—

(1) dedicated to individuals who have died as a result of acquired immune deficiency syndrome; and

(2) in support of individuals who are living with acquired immune deficiency syndrome and their loved ones and caregivers.

(b) DESIGNATION AS NATIONAL MEMORIAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall designate the AIDS Memorial Grove as a national memorial.

TITLE VI—CIVIL AND REVOLUTIONARY WAR SITES

SEC. 601. UNITED STATES CIVIL WAR CENTER.

(a) DESIGNATION.—The Civil War Center, located on Raphael Semmes Drive at Louisiana State University in Baton Rouge, Louisiana (hereinafter in this section referred to as the "center") shall be known and designated as the "United States Civil War Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the center referred to in subsection (b) shall be deemed to be a reference to the "United States Civil War Center".

(c) FLAGSHIP INSTITUTIONS.—The center and the Civil War Institute of Gettysburg College, located at 233 North Washington Street in Gettysburg, Pennsylvania, shall be the flagship institutions for planning the sesquicentennial commemoration of the Civil War.

SEC. 602. CORINTH, MISSISSIPPI, BATTLEFIELD ACT.

(a) PURPOSE.—The purpose of this section is to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the Region and to enhance public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

(b) ACQUISITION OF PROPERTY AT CORINTH, MISSISSIPPI.—The Secretary of the Interior (referred to in this title as the "Secretary") shall acquire by donation, purchase with donated or appropriated funds, or exchange, such land and interests in land in the vicinity of the Corinth Battlefield, in the State of Mississippi, as the Secretary determines to be necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth.

(c) PUBLICLY OWNED LAND.—Land and interests in land owned by the State of Mississippi or a political subdivision of the State of Mississippi may be acquired only by donation.

(d) INTERPRETIVE CENTER AND MARKING.—

(1) INTERPRETIVE CENTER.— The Secretary shall construct, operate, and maintain on the property acquired under subsection (b) a center for the interpretation of the Siege and Battle of Corinth and associated historical events for the benefit of the public.

(2) MARKING.—The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if the sites are determined by the Secretary to be protected by State or local governmental agencies.

(3) ADMINISTRATION.—The land and interests in land acquired, and the facilities constructed and maintained pursuant to this section, shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws (including regulations) applicable to the Park, the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $6,000,000 for development to carry out this section.

SEC. 603. RICHMOND NATIONAL BATTLEFIELD PARK.

(a) FINDINGS AND PURPOSE.—Section 1 of the Act of March 2, 1936 (chapter 113, 49 Stat. 1155; 16 U.S.C. 423j), is amended to read as follows:

"SECTION 1. FINDINGS AND PURPOSE.

"(a) FINDINGS.—In 1996 the Congress finds that:

"(1) In 1936 the Congress established the Richmond National Battlefield Park in and around the city of Richmond, Virginia. The park's boundary was established to permit the inclusion of all military battlefield areas related to the battles fought during the Civil War in defense of and against the city of Richmond. The park originally included the area then known as the Richmond Battlefield State Park.

"(2) The total acreage of the area identified in 1936 for consideration for inclusion in the Richmond National Battlefield Park encompasses approximately 225,000 acres in and around the city of Richmond, Virginia. A study undertaken by the congressionally authorized Civil War Sites Advisory Committee determined that within those 225,000 acres, the historically significant areas in and around Richmond relating to the campaigns against and in defense of Richmond encompass approximately 38,000 acres. The National Park Service, through its general management planning process for Richmond National Battlefield Park, has identified approximately 7,121 acres which satisfy the National Park Service criteria of significance, integrity, feasibility, and suitability for inclusion in Richmond National Battlefield Park.

"(3) There is national interest in protecting and preserving sites of historic significance associated with the Civil War and Richmond.

"(4) The Commonwealth of Virginia and its local units of government have authority to prevent or minimize adverse uses of these historic resources and can play a significant role in the protection of the historic resources related to the battles of Richmond.

"(b) PURPOSES.—Therefore, it is the purpose of this Act—

"(1) to establish a revised boundary for the Richmond National Battlefield Park based on the findings of the Civil War Sites Advisory Committee and the National Park Service; and

"(2) to direct the Secretary of the Interior to work in cooperation with the Commonwealth of Virginia, the city of Richmond, and other political subdivisions of the Commonwealth, other public entities, and the private sector in the management, protection, and interpretation of the resources associated with the Civil War and the Battles of Richmond in and around the city of Richmond, Virginia.".

(b) MODIFICATION OF BOUNDARY.—Section 2 of the Act of March 2, 1936 (chapter 113, 49 Stat. 1155; 16 U.S.C. 423k), is amended to read as follows:

"SEC. 2. BOUNDARY.

"The boundary of the Richmond National Battlefield Park (hereinafter in this Act referred to as the 'park') is hereby modified to comprise the lands, waters, and interests in lands therein that, on the day before the date of the enactment of this Act, were in Federal ownership and were administered by the Secretary of the Interior as part of the park.".

(c) LAND ACQUISITION.—The Act of March 2, 1936 (chapter 113, 49 Stat. 1155; 16 U.S.C. 423j and following), is amended by adding the following new section after section 3:

"SEC. 4. LAND ACQUISITION.

"(a) The Secretary is authorized to acquire any lands and interests in lands identified in the general management plan for the park approved June 7, 1996, and depicted within the area delineated as 'Park Boundary' on the map entitled 'Richmond National Battlefield Park Boundary Map', as numbered 367–NEFA 80026 and dated August 1996, which shall be on file and available for inspection in the Office of the Director of the National Park Service, Department of the Interior.

"(b) The Secretary is authorized to acquire the lands identified in subsection (a) by donation, purchase with donated or appropriated funds, exchange, or otherwise. Privately owned lands or the interest therein may be acquired only with the consent of the property owner. In acquiring lands and interest in lands under this Act, the Secretary shall acquire the minimum Federal interests necessary to achieve the objectives of the park.

"(c) Upon acquisition by the Secretary of any lands and interests in lands identified in subsection (a), the Secretary shall revise the boundary of the park to include those lands within the boundary of the park and shall manage them as part of the park and consistent with the purposes of the Act.".

(d) PARK MANAGEMENT AND ADMINISTRATION.—The Act of March 2, 1936 (chapter 113; 49 Stat. 1155; 16 U.S.C. 423j and following), is amended by adding the following new section after section 4:

"SEC. 5. PARK MANAGEMENT AND ADMINISTRATION.

"(a) In administering the park, the Secretary shall interpret, for the benefit of visitors to the park and the general public, the Battles of Richmond in the larger context of the Civil War and American history, including the causes and consequences of the Civil War and the effects of the war on all the American people.

"(b) The Secretary is directed to work with the Commonwealth of Virginia, its political subdivisions, including the city of Richmond, private property owners, and the private sector to develop mechanisms to protect and interpret the resources identified within the boundary as depicted on the map identified in section 2 of this Act. In order to carry out this section, the Secretary is authorized to enter into cooperative agreements with the public and private sectors to carry out the purposes of this Act, and to find means of protecting and interpreting the historic resources for the benefit of present and future generations in a manner that would allow for continued private ownership and use where compatible with the purposes of the park. The Secretary is also authorized to provide technical assistance to governmental entities, nonprofit organizations, and private property owners in the development of comprehensive plans, land use guidelines, and other activities which are consistent with conserving the historic, cultural, natural, and scenic resources found within the park boundary.

"(c) The Secretary is authorized to provide technical assistance to the Commonwealth of Virginia, its political subdivisions, nonprofit entities, and private property owners engaged in the protection, interpretation, or commemoration of historically significant Civil War resources located outside of the park boundary. Such technical assistance does not authorize the Secretary to own or manage any of the resources outside the park boundary.".

(e) TECHNICAL AMENDMENT.—Section 3 of the Act of March 2, 1936 (chapter 113, 49 Stat. 1156; 16 U.S.C. 423l) is amended by striking the period and inserting ", and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).".

SEC. 604. REVOLUTIONARY WAR AND WAR OF 1812 HISTORIC PRESERVATION STUDY.

(a) SHORT TITLE.—This section may be cited as the "Revolutionary War and War of 1812 Historic Preservation Study Act of 1996".

(b) FINDINGS.—The Congress finds that—

(1) Revolutionary War sites and War of 1812 sites provide a means for Americans to understand and interpret the periods in American history during which the Revolutionary War and War of 1812 were fought;

(2) the historical integrity of many Revolutionary War sites and War of 1812 sites is at risk because many of the sites are located in regions that are undergoing rapid urban or suburban development; and

(3) it is important, for the benefit of the United States, to obtain current information on the significance of, threats to the integrity of, and alternatives for the preservation and interpretation of Revolutionary War sites and War of 1812 sites.

(c) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the National Park Service.

(2) REVOLUTIONARY WAR SITE.—The term "Revolutionary War site" means a site or structure situated in the United States that is thematically tied with the nationally significant events that occurred during the Revolutionary War.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) WAR OF 1812 SITE.—The term "War of 1812 site" means a site or structure situated in the United States that is thematically tied with the nationally significant events that occurred during the War of 1812.

(d) STUDY.—

(1) PREPARATION.—The Secretary, acting through the Director, shall prepare a study of Revolutionary War sites and War of 1812 sites.

(2) MATTERS TO BE ADDRESSED.—The study under subsection (b) shall—

(A) identify Revolutionary War sites and War of 1812 sites, including sites within units of the National Park System in existence on the date of enactment of this Act;

(B) determine the relative significance of the sites;

(C) assess short- and long-term threats to the integrity of the sites;

(D) provide alternatives for the preservation and interpretation of the sites by Federal, State, and local governments, or other public or private entities, including designation of the sites as units of the National Park System; and

(E) research and propose land preservation techniques.

(3) CONSULTATION.—During the preparation of the study under paragraph (1), the Director shall consult with—

(A) the Governor of each affected States;

(B) each affected unit of local government;

(C) State and local historic preservation organizations;

(D) scholarly organizations; and

(E) such other interested parties as the Secretary considers advisable.

(4) TRANSMITTAL TO CONGRESS.—Not later than 2 years after the date on which funds are made available to carry out the study under paragraph (1), the Director shall transmit a report describing the results of the study to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the State.

(5) REPORT.—If the Director submits a report on the study to the Director of the Office of Management and Budget, the Secretary shall concurrently transmit copies of the report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000, to remain available until expended.

SEC. 605. AMERICAN BATTLEFIELD PROTECTION PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "American Battlefield Protection Act of 1996".

(b) PURPOSE.—The purpose of this section is to assist citizens, public and private institutions, and governments at all levels in planning, interpreting, and protecting sites where historic battles were fought on American soil during the armed conflicts that shaped the growth and development of the United States, in order that present and future generations may learn and gain inspiration from the ground where Americans made their ultimate sacrifice.

(c) PRESERVATION ASSISTANCE.—

(1) IN GENERAL.—Using the established national historic preservation program to the extent practicable, the Secretary of the Interior, acting through the American Battlefield Protection Program, shall encourage, support, assist, recognize, and work in partnership with citizens, Federal, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations in identifying, researching, evaluating, interpreting, and protecting historic battlefields and associated sites on a National, State, and local level.

(2) FINANCIAL ASSISTANCE.—To carry out paragraph (1), the Secretary may use a cooperative agreement, grant, contract, or other generally adopted means of providing financial assistance.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 annually to carry out this section, to remain available until expended.

(e) REPEAL.—

(1) IN GENERAL.—This section is repealed as of the date that is 10 years after the date of enactment of this section.

(2) NO EFFECT ON GENERAL AUTHORITY.—The Secretary may continue to conduct battlefield studies in accordance with other authorities available to the Secretary.

(3) UNOBLIGATED FUNDS.—Any funds made available under this section that remain unobligated shall be credited to the general fund of the Treasury.

SEC. 606. CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARKS.

Section 1(c) of the Act entitled "An Act to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia", approved December 24, 1987 (101 Stat. 1442), is amended by striking "$30,000,000" and inserting "$51,900,000".

SEC. 607. SHENANDOAH VALLEY BATTLEFIELDS.

(a) SHORT TITLE.—This section may be cited as the "Shenandoah Valley Battlefields National Historic District and Commission Act of 1996".

(b) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) there are situated in the Shenandoah Valley in the Commonwealth of Virginia the sites of several key Civil War battles;

(2) certain sites, battlefields, structures, and districts in the Shenandoah Valley are collectively of national significance in the history of the Civil War;

(3) in 1992, the Secretary of the Interior issued a comprehensive study of significant sites and structures associated with Civil War battles in the Shenandoah Valley, and found that many of the sites within the Shenandoah Valley possess national significance and retain a high degree of historical integrity;

(4) the preservation and interpretation of these sites will make a vital contribution to the understanding of the heritage of the United States;

(5) the preservation of Civil War sites within a regional framework requires cooperation among local property owners and Federal, State, and local government entities; and

(6) partnerships between Federal, State, and local governments, the regional entities of such governments, and the private sector offer the most effective opportunities for the enhancement and management of the Civil War battlefields and related sites in the Shenandoah Valley.

(c) STATEMENT OF PURPOSE.—The purposes of this section are to—

(1) preserve, conserve, and interpret the legacy of the Civil War in the Shenandoah Valley;

(2) recognize and interpret important events and geographic locations representing key Civil War battles in the Shenandoah Valley, including those battlefields associated with the Thomas J. (Stonewall) Jackson campaign of 1862 and the decisive campaigns of 1864;

(3) recognize and interpret the effect of the Civil War on the civilian population of the Shenandoah Valley during the war and postwar reconstruction period; and

(4) create partnerships among Federal, State, and local governments, the regional entities of such governments, and the private sector to preserve, conserve, enhance, and interpret the nationally significant battlefields and related sites associated with the Civil War in the Shenandoah Valley.

(d) DEFINITIONS.—As used in this section:

(1) The term "District" means the Shenandoah Valley Battlefields National Historic District established by section 5.

(2) The term "Commission" means the Shenandoah Valley Battlefields National Historic District Commission established by section 9.

(3) The term "plan" means the Shenandoah Valley Battlefields National Historic District Commission plan approved by the Secretary under section 6.

(4) The term "management entity" means a unit of government or nonprofit organization designated by the plan to manage and administer the District.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The term "Shenandoah Valley" means the Shenandoah Valley in the Commonwealth of Virginia.

(e) SHENANDOAH VALLEY BATTLEFIELDS NATIONAL HISTORIC DISTRICT.—

(1) ESTABLISHMENT.—To carry out the purposes of this section, there is hereby established the Shenandoah Valley Battlefields National Historic District in the Commonwealth of Virginia.

(2) BOUNDARIES.—(A) The corridor shall consist of lands and interests therein as generally depicted on the map entitled "Shenandoah Valley National Battlefields", numbered SHVA/80,000, and dated April 1994.

(B) The District shall consist of historic transportation routes linking the units depicted on the map referred to in subparagraph (A).

(C) The map referred to in subparagraph (A) shall be on file and available for public inspection in the offices of the Commission, the management entity, and in the appropriate offices of the National Park Service.

(f) SHENANDOAH VALLEY BATTLEFIELDS NATIONAL HISTORIC DISTRICT PLAN.—

(1) IN GENERAL.—The District shall be managed and administered by the Commission and the management entity in accordance with the purposes of this Act and the Shenandoah Valley Battlefields National Historic District Plan developed by the Commission and approved by the Secretary, as provided in this subsection.

(2) SPECIFIC PROVISIONS.—The plan shall include—

(A) an inventory which includes any property in the District which should be preserved, restored, managed, maintained, or acquired because of its national historic significance;

(B) provisions for the protection and interpretation of the natural, cultural, and historic resources of the District consistent with the purposes of this section;

(C) provisions for the establishment of a management entity which shall be a unit of government or a private nonprofit organization that administers and manages the District consistent with the plan, and possesses the legal ability to—

(i) receive Federal funds and funds from other units of government or other organizations for use in preparing and implementing the management plan;

(ii) disburse Federal funds to other units of government or other nonprofit organizations for use in preparing and implementing the plan;

(iii) enter into agreements with the Federal, State, or other units of government and nonprofit organizations;

(iv) acquire lands or interests therein by gift or devise, or by purchase from a willing seller using donated or appropriated funds, or by donation and no lands or interests therein may be acquired by condemnation; and

(v) make such reasonable and necessary modifications to the plan which shall be approved by the Secretary;

(D) recommendations to the Commonwealth of Virginia (and political subdivisions thereof) for the management, protection, and interpretation of the natural, cultural, and historical resources of the District;

(E) identification of appropriate partnerships between the Federal, State, and local governments and regional entities, and the private sector, in furtherance of the purposes of this section;

(F) locations for visitor contact and major interpretive facilities;

(G) provisions for implementing a continuing program of interpretation and visitor education concerning the resources and values of the District;

(H) provisions for a uniform historical marker and wayside exhibit program in the District, including a provision for marking, with the consent of the owner, historic structures and properties that are contained within the historic core areas and contribute to the understanding of the District;

(I) recommendations for means of ensuring continued local involvement and participation in the management, protection, and development of the District; and

(J) provisions for appropriate living history demonstrations and battlefield reenactments.

(3) PREPARATION OF DRAFT PLAN.—(A) Not later than 3 years after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a draft plan that meets the requirements of paragraph (2).

(B) Prior to submitting the draft plan to the Secretary, the Commission shall ensure that—

(i) the Commonwealth of Virginia, and any political subdivision thereof that would be affected by the plan, receives a copy of the draft plan;

(ii) adequate notice of the availability of the draft plan is provided through publication in

appropriate local newspapers in the area of the District; and

(iii) at least 1 public hearing in the vicinity of the District is conducted by the Commission with respect to the draft plan.

(4) REVIEW OF THE PLAN BY THE SECRETARY.—The Secretary shall review the draft plan submitted under paragraph (3) and, not later than 90 days after the date on which the draft plan is submitted, shall either—

(A) approve the draft plan as the plan if the Secretary finds that the plan, when implemented, would adequately protect the significant historical and cultural resources of the District; or

(B) reject the draft plan and advise the Commission in writing of the reasons therefore and indicate any recommendations for revisions that would make the draft plan acceptable.

(g) DUTIES OF THE SECRETARY.—

(1) IN GENERAL.—(A) The Secretary may award grants, provide technical assistance and enter into cooperative agreements with the Commission, management entity, other units of government, or other persons to provide for the preservation and interpretation of the natural, cultural, and historical resources within the District.

(2) TECHNICAL ASSISTANCE.—The Secretary may make grants, provide technical assistance, and enter into cooperative agreements for—

(A) the preparation and implementation of the plan pursuant to subsection (f);

(B) interpretive and educational programs;

(C) acquiring lands or interests in lands from willing sellers;

(D) capital projects and improvements undertaken pursuant to the plan; and

(E) facilitating public access to historic resources within the District.

(3) EARLY ACTIONS.—After enactment of this Act but prior to approval of the plan, the Secretary may provide technical and financial assistance for early actions which are important to the purposes of this Act and which protect and preserve resources in imminent danger of irreversible damage but for the fact of such early action.

(4) ACQUISITION OF LAND.—The Secretary may acquire land and interests in lands from a willing seller or donee within the District that have been specifically identified by the Commission for acquisition by the Federal Government. No lands or interests therein may be acquired by condemnation.

(5) DETAIL.—Each fiscal year during the existence of the Commission and upon request of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section 9. Such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(6) REPORT.—Not later than 2 years after approval of the plan, the Secretary shall submit to Congress a report recommending whether the District or components thereof meet the criteria for designation as a unit of the National Park Service.

(7) OTHER ASSISTANCE.—Nothing in this section shall be deemed to prohibit the Secretary or units of government from providing technical or financial assistance under any other provision of law.

(h) SHENANDOAH VALLEY BATTLEFIELDS NATIONAL HISTORIC DISTRICT COMMISSION.—

(1) ESTABLISHMENT.—There is hereby established the Shenandoah Valley Battlefields National Historic District Commission.

(2) MEMBERSHIP.—The Commission shall be composed of 19 members, to be appointed by the Secretary as follows:

(A) 5 members representing local governments of communities in the vicinity of the District, appointed after the Secretary considers recommendations made by appropriate local governing bodies.

(B) 10 members representing property owners within the District (1 member within each unit of the battlefields).

(C) 1 member with demonstrated expertise in historic preservation.

(D) 1 member who is a recognized historian with expertise in Civil War history.

(E) The Governor of Virginia, or a designee of the Governor, ex officio.

(F) The Director of the National Park Service, or a designee of the Director, ex officio.

(3) APPOINTMENTS.—Members of the Commission shall be appointed for terms of 3 years. Any member of the Commission appointed for a definite term may serve after the expiration of the term until the successor of the members is appointed.

(4) ELECTION OF OFFICERS.—The Commission shall elect 1 of its members as Chairperson and 1 as Vice Chairperson. The Vice Chairperson shall serve as Chairperson in the absence of the Chairperson.

(5) VACANCY.—Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made, except that the Secretary shall fill any vacancy within 30 days after the vacancy occurs.

(6) QUORUM.—Any majority of the Commission shall constitute a quorum.

(7) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members of the Commission, but not less than quarterly. Notice of the Commission meetings and agendas for the meetings shall be published in local newspapers that have a distribution throughout the Shenandoah Valley. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

(8) STAFF OF THE COMMISSION.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(9) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission, without reimbursement, such administrative support services as the Commission may request.

(10) FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail to the Commission or management entity, without reimbursement, personnel of the agency to assist the Commission or management entity in carrying out its duties and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(11) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(12) EXPENSES.—Members of the Commission shall serve without compensation, but the Secretary may reimburse members for expenses reasonably incurred in carrying out the responsibilities of the Commission under this Act.

(13) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(14) GIFTS.—The Commission may, for purposes of carrying out the duties of the Commission, seek, accept, and dispose of gifts, bequests, or donations of money, personal or real property, or services received from any source.

(15) TERMINATION.—The Commission shall terminate at the expiration of the 45-day period beginning on the date on which the Secretary approves the plan under subsection (f)(4).

(i) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall—

(A) develop the plan and draft plan referred to in subsection (f), in consultation with the Secretary;

(B) assist the Commonwealth of Virginia, and any political subdivision thereof, in the management, protection, and interpretation of the natural, cultural, and historical resources within the District, except that the Commission shall in no way infringe upon the authorities and policies of the Commonwealth of Virginia or any political subdivision; and

(C) take appropriate action to encourage protection of the natural, cultural, and historic resources within the District by landowners, local governments, organizations, and businesses.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—From the amounts made available to carry out the National Historic Preservation Act, there are authorized to be appropriated to the Commission not more than $250,000 annually to remain available until expended.

(2) ASSISTANCE.—(A) From the amounts made available to carry out the National Historic Preservation Act, there are authorized to be appropriated to the Secretary for grants and technical assistance pursuant to subsections (g)(1), (2), and (3) not more than $2,000,000 annually to remain available until expended.

(B) The Federal share of any funds awarded under subsection (g)(2) may not exceed the amount of non-Federal funds provided for the preservation, interpretation, planning, development, or implementation with respect to which the grant is awarded.

(3) LAND ACQUISITION.—From the amounts made available to carry out the National Historic Preservation Act, there are authorized to be appropriated for land acquisition pursuant to subsection (g)(4) not more than $2,000,000 annually to remain available until expended.

(4) MANAGEMENT ENTITY.—From the amounts made available to carry out the National Historic Preservation Act, there are authorized to be appropriated to the management entity not more than $500,000 annually to remain available until expended.

TITLE VII—FEES

SEC. 701. SKI AREA PERMIT RENTAL CHARGE.

(a) The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading "SURVEYING THE PUBLIC LANDS" under the heading "UNDER THE DEPARTMENT OF THE INTERIOR" in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b). Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: Provided, That a permittee may, at the permittee's option, use the calculation method set forth in subsection (b).

(b)(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee's gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. That amount shall be increased by the gross year-round revenue from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking and other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(A) 1.5 percent of all adjusted gross revenue below $3,000,000;

(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;

(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and

(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

Utilizing the abbreviations indicated in this subsection the ski area permit fee (SAPF) formula can be simply illustrated as:

$$SAPF = ((LT + SS)\ STFP) + GRAF = AGR;\ AGR\ \%\ BRACKETS$$

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in subsection (b) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.

(3) In order to ensure that the rental charge remains fair and equitable to both the United States and the ski area permittees, the adjusted gross revenue figures for each revenue bracket in paragraph (1) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year. No later than 3 years after the date of enactment of this Act and every 5 years thereafter the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a report analyzing whether the ski area permit rental charge legislated by this Act is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications of the system.

(c) The rental charge set forth in subsection (b) shall be due on June 1 of each year and shall be paid or pre-paid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to enactment of this Act. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, United States Forest Service.

(d) The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: Provided however, That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to the date of enactment of this Act, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this Act, the rental charge paid by any individual permittee shall be—

(1) for the 1995–1996 permit year, either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(2) for the 1996–1997 permit year, either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher; and

(3) for the 1997–1998 permit year, either the rental charge for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher.

If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the 1994–1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this Act.

(e) Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.

(f) To reduce administrative costs of ski area permittees and the Forest Service the terms "revenue" and "sales", as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets) for which the permittee does not receive money.

(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pursuant to subsection (a), the permittee shall pay an annual minimum rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined appropriate by the Secretary.

(h) Where the new rental charge provided for in subsection (b)(1) results in an increase in permit rental charge greater than one-half of 1 percent of the permittee's adjusted gross revenue as determined under subsection (b)(1), the new rental charge shall be phased in over a five year period in a manner providing for increases of approximately equal increments.

(i) To reduce Federal costs in administering the provisions of this Act, the reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

(j) Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on or after the date of enactment of this Act pursuant to authority of the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), and the Act of June 4, 1897, or the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal thereof. Unless the Secretary requests otherwise of the Secretary of the Interior, such withdrawal shall be canceled automatically upon expiration or other termination of the permit and the land automatically restored to all appropriation not otherwise restricted under the public land laws.

SEC. 702. DELAWARE WATER GAP.

(a) IN GENERAL.—Effective at noon on September 30, 2005, the use of Highway 209 within Delaware Water Gap National Recreation Area by commercial vehicles, when such use is not connected with the operation of the recreation area, is prohibited, except as provided in subsection (b).

(b) LOCAL BUSINESS USE PROTECTED.—Subsection (a) does not apply with respect to the use of commercial vehicles to serve businesses located within or in the vicinity of the recreation area, as determined by the Secretary.

(c) CONFORMING PROVISIONS.—

(1) Paragraphs (1) through (3) of the third undesignated paragraph under the heading "ADMINISTRATIVE PROVISIONS" in chapter VII of title I of Public Law 98–63 (97 Stat. 329) are repealed, effective September 30, 2005.

(2) Prior to noon on September 30, 2005, the Secretary shall collect and utilize a commercial use fee from commercial vehicles in accordance with paragraphs (1) through (3) of such third undesignated paragraph. Such fee shall not exceed $25 per trip.

SEC. 703. VISITOR SERVICES.

(a) SHORT TITLE.—This section may be cited as the "Visitor Services Improvement and Outdoor Legacy Act of 1996".

(b) PURPOSE.—The purpose of this section is to improve the overall quality of the visitor recreation experience on Federal lands through increased funding provided by an innovative and incentive-based recreation fee program combined with an appropriation targeted to meet the increasing demand for recreational use of the Federal lands.

(c) REPEAL OF EXISTING RECREATION FEE PROGRAM AND ESTABLISHMENT OF NEW RECREATION FEE PROGRAM.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a) is amended to read as follows:

"RECREATION FEE PROGRAM

"SEC. 4. (a) PROGRAM GOALS AND POLICIES.—

"(1) CONGRESSIONAL GOALS.—It is the policy of Congress that the Federal land management agencies develop and implement high quality recreation programs adequate to meet the needs of the American people and to fund a portion of the cost of providing recreation services through recreation fees.

"(2) ADMINISTRATIVE POLICIES.—The administering Secretaries shall jointly issue an integrated policy for the establishment and collection of recreation fees under this section. Such policy shall—

"(A) permit flexibility with regard to the amounts charged;

"(B) provide for maximization of the number of persons who pay fees to ensure that fees remain at the lowest possible level;

"(C) provide that comparable fees be charged by the several Federal agencies for similar services and facilities;

"(D) provide for the establishment of fees in a manner which is equitable among user groups and which accounts for any other fees, such as commercial tour fees and concession fees, which are paid by user groups and used on Federal lands for recreational purposes;

"(E) define administrative overhead and specify accounting procedures to ensure that administrative overhead is not included in the cost of visitor services provided;

"(F) provide for a uniform procedure for accounting for fees collected under this section; and

"(G) recognize the importance of the convenience of the public by avoiding fee programs which are overly complex or which would require the payment of numerous fees at a particular area.

"(b) DEFINITIONS.—For the purposes of this section:

"(1) ADMINISTERING SECRETARIES.—The term 'administering Secretaries' means—

"(A) the Secretary of Agriculture with respect to the Forest Service; and

"(B) the Secretary of the Interior with respect to the National Park Service and Bureau of Land Management.

"(2) AGENCY.—The term 'agency' means an agency referred to in paragraph (1)(A) or (B).

"(3) AREA.—The term 'area' means an administrative area managed by an agency, such as a unit of the National Park System or a national forest.

"(4) AREA OF CONCENTRATED PUBLIC USE.—The term 'area of concentrated public use' means an area or portion of an area which—

"(A) provides developed facilities or services necessary to accommodate public use maintained at Federal expense;

"(B) contains at least one major visitor attraction, including (but not limited to) a lake, river, historical or cultural site, or geologic feature; and

"(C) provides public access such that admission fees can be cost-effectively collected.

"(5) RECREATION FEES.—The term 'recreation fees' means admission fees, recreation use fees, and fees granted to Federal agencies from States whether collected by agency personnel or others.

"(6) ADMISSION FEES.—The term 'admission fees' means fees charged for entry into any area designated by the administering Secretary.

"(7) RECREATION USE FEES.—The term 'recreation use fees' means the charge for specialized recreation services or facilities furnished at Federal Government expense, including (but not limited to) campgrounds, boat ramps, and back country camping by permit.

"(8) VISITOR SERVICES.—The term 'visitor services' means services and costs directly associated with management of recreation visitors to Federal lands, including (but not limited to) such programs as maintenance of facilities which serve primarily visitor recreation use (such as campgrounds, scenic roads, trails, visitor centers and picnic areas), public information and interpretation, resource protection directly related to public use (such as stream improvement to improve fishing or mitigation of impacts to resources resulting from visitor use), and other activities of personnel assigned predominantly to management of visitors or public safety programs, but not including costs of regional and Washington headquarters offices or any administrative services such as personnel, budget and finance, and procurement.

"(9) CONCESSION FEES.—The term 'concession fees' means fees paid to the United States pursuant to provisions of law other than this section for the privilege of providing concession services, fees paid for the lease of government-owned facilities, and non-Federal amounts paid for construction of visitor facilities.

"(c) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to improve the quality of the visitor experience on Federal lands, the administering Secretaries shall establish and implement a fee program in accordance with this section which provides for partial recovery of the costs of visitor services provided through admission fees, recreation use fees, and concession fees. In carrying out such program, the administering Secretaries are authorized and directed to collect admission fees in accordance with this section at areas administered by the National Park Service and areas of concentrated public use. In addition, the administering Secretaries shall collect recreation use fees at areas under their administration.

"(2) FACTORS IN ESTABLISHING AND ADJUSTING AMOUNT OF FEES.—(A) All fees established pursuant to this section shall be fair and equitable, taking into consideration the cost to the Federal Government, the benefits to the recipient, the public policy or interest served, the comparable recreation fees charged by other public and private entities, the economic and administrative feasibility of fee collection, convenience to the recreation user, and other pertinent factors.

"(B) Any adjustments in fees shall take into account the factors specified in subparagraph (A). Any increases in fees shall be on an incremental basis over time.

"(3) PUBLIC COMMENT AND FEDERAL REGISTER NOTICE ON ADMISSION AND COMMERCIAL TOUR FEES.—(A) In the case of public admission fees, the administering Secretaries shall publish in the Federal Register, for a 30-day comment period, a proposed schedule of all changes to such fees not later than six months prior to such fee changes.

"(B) In the case of changes to commercial tour fees or initiating a new commercial tour fee, the administering Secretaries shall publish in the Federal Register—

"(i) for a 30-day comment period, a proposed schedule of all changes in such fees not later than 14 months prior to such fee change or initiation; and

"(ii) a final schedule not later than 12 months prior to such fee change or initiation.

"(4) CONTINUATION OF FEE AUTHORITY.—Until an admission or commercial tour fee is initiated and in effect under this section, the admission or commercial tour fee at an area administered by the agencies shall be determined in accordance with the applicable laws in effect on the day before the date of enactment of the Visitor Services Improvement and Outdoor Legacy Act of 1996.

"(5) NOTICE OF FEES.—Clear notice that a fee has been established pursuant to this section, and the amount thereof, shall be prominently posted at appropriate locations in each area and shall be included in agency publications distributed with respect to such areas.

"(6) FEE COLLECTION PERSONNEL.—Personnel exclusively assigned to fee collection duties, which are over and above the number of such personnel assigned exclusively to fee collection duties on the day prior to enactment of the Visitor Services Improvement and Outdoor Legacy Act of 1996, shall not be counted against any full-time equivalent ceiling established for that agency.

"(d) RECREATION FEES.—

"(1) ADMISSION FEES.—Reasonable admission fees for a single visit to any designated area shall be established by the administering Secretary. A 'single visit' means a more or less continuous stay within a designated area. Payment of a single visit admission fee shall authorize exits from and reentries to a single designated area for a period of from one to fifteen days, such period to be defined for each designated area by the administering Secretary based on a determination of the period of time reasonably and ordinarily necessary for such a single visit. The entrance fee for private parties and commercial tours shall be set in accordance with this section by the administering Secretaries and may be adjusted, taking into account the factors specified in subsection (c)(2). The Secretaries shall ensure that where appropriate the admission fee schedule developed provides economic incentives for use of alternative modes of transportation, including mass transportation, at areas experiencing high levels of automobile traffic. The administering Secretaries are authorized to implement admission fee practices which vary by day of the week, season, expedite entry and reduce congestion. The fee for single admission visits shall be no greater than $10 per person or $25 per vehicle.

"(2) ANNUAL ADMISSION PERMITS: GOLDEN EAGLE PASSPORT.—(A) GOLDEN EAGLE PASSPORT.—For admission into any area at which admission fees are charged pursuant to this section, an admission permit, to be known as the 'Golden Eagle Passport', valid for a 12-month period, shall be available. The fee for the passport shall be set jointly by the administering Secretaries, taking into account the factors specified in subsection (c)(2). The permittee and all persons accompanying the permittee in a single, private, non-commercial vehicle or, alternatively, the permittee and the permittee's spouse, children, and parents accompanying the permittee shall be entitled to general admission into any area designated pursuant to this section. The permit shall be nontransferable, and the unlawful use thereof shall be punishable in accordance with regulations established pursuant to subsection (g). The permit shall be available for purchase at any such designated area. The fee for a Golden Eagle Passport shall be no greater than $50.

"(B) NON-FEDERAL SALE.—The administering Secretaries may authorize units of State or local government, organizations, businesses, and nonprofit entities to sell and collect admission fees, including the Golden Eagle Passport, subject to such conditions as the Secretaries may jointly prescribe. The Secretaries shall develop detailed guidelines for promotional advertising of non-Federal passport sales and monitor compliance with those guidelines. The Secretaries may authorize the seller or sellers to maintain an inventory of Golden Eagle Passports for periods not to exceed six months and to withhold amounts up to, but not exceeding, eight percent of the gross fees collected from Golden Eagle Passport sales as reimbursement for actual expenses of the sales.

"(C) DISCOUNT FOR PERSONS 62 YEARS OF AGE OR OLDER.—The administering Secretaries shall provide for the sale of the Golden Eagle Passport to persons 62 years of age or older at a rate which is no more than 50 percent of the established rate for the Golden Eagle Passport. Such passport shall provide the same privileges as any other passport issued pursuant to this subsection, except that such passport shall cover admission only for the purchaser and one accompanying individual.

"(3) ANNUAL GEOGRAPHIC ADMISSION PERMITS.—For admission into a specific designated area or into several specific areas located in a particular geographic region at which admission fees are charged pursuant to this section, the administering Secretary or Secretaries are authorized to make available an annual admission permit. The permit shall convey the privileges of, and shall be subject to the same terms and conditions as, the Golden Eagle Passport, except that it shall be valid only for admission into the specific area or areas indicated at the time of purchase. The fee for an annual geographic admission permit shall be no greater than $25.

"(4) GOLDEN ACCESS PASSPORT.—The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person legally domiciled in, the United States, if such citizen or person applies for such permit and is permanently disabled. Such procedures shall ensure that a lifetime admission permit shall be issued only to persons who have been medically determined to be permanently disabled. A lifetime admission permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and one accompanying individual to general admission into any area designated pursuant to this section, notwithstanding the method of travel.

"(5) RECREATION USE FEES.—Each agency developing, administering, providing, or furnishing at Federal expense services for such activities as camping at campgrounds with basic sanitation and public safety services, back country camping under permit, developed swimming sites, boat launch facilities, group activities including picnic sites, managed parking lots, motorized recreation use and other recreation uses, shall in accordance with this section provide for the collection of recreation use fees at the place of use or any reasonably convenient location. The administering Secretary may establish both daily and annual recreation use fees. Fees may not be charged by any such agency for the use,

either singly or in any combination, of drinking water, wayside exhibits, overlook sites, toilet facilities, picnic tables, or visitor centers for areas where admission fees are charged.

"(6) COMMERCIAL TOUR USE FEE.—(A) For each area for which an admission fee is charged under this section, the administering Secretary shall charge an admission fee for each vehicle entering the area for the purpose of providing commercial tour services. Such admission fees shall be charged on a per vehicle basis and shall be deposited into the special account established under subsection (e).

"(B) The administering Secretary shall establish fees per commercial tour entry as follows:

"(i) $25 per vehicle with a passenger capacity of 25 persons or less; and

"(ii) $50 per vehicle with a passenger capacity of 26 or more persons

"(C) The administering Secretary may periodically make adjustments to such fees in accordance with subsection (c)(3)(B).

"(D) At Grand Canyon, Hawaii Volcanoes, and Haleakala National Parks only, the Secretary of the Interior is authorized to charge a fee for aircraft providing scenic tours of these areas. Fees for such aircraft use shall be in accordance with subparagraph (B), except as provided in subparagraph (E).

"(E) Within 12 months after the date of enactment of the Visitor Services Improvement and Outdoor Legacy Act of 1996, the Secretary of the Interior and the Secretary of Transportation shall jointly submit a report to the appropriate committees of Congress outlining revisions to the commercial tour fee schedule for aircraft which encourages the use of quiet aircraft technology.

"(7) TRANSPORTATION PROVIDED BY THE SECRETARY.—Where the administering Secretary provides transportation to visit all or a portion of any area, he may impose a charge for such service in lieu of an admission fee. Collection of such fees may occur at the transportation staging area or any reasonably convenient location, whether inside or outside of the area boundary. The administering Secretary may enter into arrangements with qualified public or private entities pursuant to which such entities may collect such fees. Such funds collected shall be retained at the area where the service was provided and expended for costs associated with the transportation system. The charge imposed under this paragraph shall not exceed the limits established in subsection (d)(1).

"(8) ACCESS PROVIDED BY CONCESSIONER.—Where the primary public access to an area at which an admission fee is charged is provided by a concessioner, the administering Secretary may not charge an admission fee.

"(9) FREE ADMISSION FOR PERSONS 12 YEARS OF AGE OR UNDER.—A person who is 12 years of age or under shall be charged no admission fee at any area at which admission fees are charged.

"(e) ESTABLISHMENT OF ACCOUNTS AND DEPOSIT OF RECREATION FEES.—

"(1) ESTABLISHMENT.—The Secretary of the Treasury shall establish a special account in the Treasury for each agency which collects recreation fees under this section. Within each such account, the administering Secretary shall separately account for receipts and disbursements of funds for each area.

"(2) DEPOSITS.—(A) The administering Secretary shall deposit in each agency account all receipts from fees collected pursuant to this section by any Federal agency (or by any public or private entity under contract with a Federal agency).

"(B) All funds from the sale of the Golden Eagle Passport shall be divided among the agencies based on a formula which the administering Secretaries shall devise and which considers total recreation admission fees collected by the agency and total recreation use at designated admission fee areas provided by the agency. Funds from the sale of the Golden Eagle Passport shall be deposited as recreation fees collected into the appropriate agency account.

"(C) All funds from the sale of geographic admission permits under subsection (d)(3) shall be divided among the areas for which such permits were issued on the basis of visitor use, length of stay, and other pertinent factors as determined by the administering Secretaries and shall be deposited as recreation fees collected from those areas into the appropriate agency account.

"(3) FEE COLLECTION COSTS.—Notwithstanding any other provision of law, the administering Secretary may, in any fiscal year, withdraw from the special account established under paragraph (1) an amount up to 15 percent of all receipts collected under this section in the preceding fiscal year. The amounts so withdrawn shall be retained by the administering Secretaries, and shall be available, without further appropriation, for expenditure by the Secretary concerned to cover fee collection costs, and shall remain available until expended. For the purposes of this paragraph, for any fiscal year, the term 'fee collection costs' means those costs for personnel and infrastructure directly associated with the collection of fees imposed under this section.

"(4) USE OF SPECIAL ACCOUNTS.—Amounts covered into the special account for each agency during each fiscal year shall be available after the end of such fiscal year for appropriation for visitor services, except as provided in paragraphs (3) and (5). Funds credited to the special account shall remain available until expended.

"(5) AVAILABILITY OF RECREATION FEES.—(A) Of amounts deposited in special accounts (as established in paragraph (1)) in the Treasury for the National Park Service, beginning in fiscal year 1998, 100 percent of the amounts earned in the previous year in excess of the following amounts (except for amounts made available for fee collection costs under paragraph (3)) shall be made available to the National Park Service without further appropriation as follows:

Amount	***Fiscal year***
$ 85,000,000	*1998*
88,000,000	*1999*
91,000,000	*2000*
94,000,000	*2001*
97,000,000	*2002*
100,000,000	*2003*
103,000,000	*2004*
106,000,000	*2005*
109,000,000	*2006.*

"(B) Of the funds deposited in special accounts (as established in paragraph (1)) in the Treasury for the Forest Service and the Bureau of Land Management, beginning in fiscal year 1998 and extending through fiscal year 2006, 100 percent of the amounts earned in the previous year in excess of $10,000,000 and $4,000,000 respectively (except for amounts made available for fee collection costs under paragraph (3)) shall be made available without further appropriations.

"(C) Beginning in fiscal year 2007, and each fiscal year thereafter, the amount which shall be available without further appropriation for each agency shall be the amount in excess of the amounts specified for deposit in the Treasury in fiscal year 2006 under subparagraph (A) or (B), as the case may be.

"(6) USE OF RECREATION FEES.—Of the amounts made available without appropriation under paragraph (5), after the application of paragraph (3), 75 percent shall be allocated among the areas of each agency in the same proportion as fees collected from that specific area bear to the total amount of fees collected from all areas of that agency for the fiscal year. The remainder of the fees collected pursuant to this section shall be allocated among each agency's areas on the basis of need as determined by the Secretary. All such funds shall remain available until expended. Funds deposited into accounts under this paragraph may only be used (A) to fund visitor services on Federal lands, (B) for repair, rehabilitation, or replacement of visitor use facilities, and (C) for construction of new facilities as necessary to establish a recreation fee program at any area.

"(f) ENFORCEMENT OF FEE COLLECTION POLICIES.—In accordance with the provisions of this section, the administering Secretaries may prescribe rules and regulations for areas under their administration for the collection of any fee established pursuant to this section. Persons authorized by the administering Secretaries to enforce any such rules or regulations issued under this section may, within areas under the administration or authority of such administering Secretary and with or, if the offense is committed in his presence, without a warrant, arrest any person who violates such rules and regulations. Any person so arrested may be tried and sentenced by the United States magistrate specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided in subsections (b), (c), (d), and (e) of section 3401 of title 18, United States Code. Any violations of the rules and regulations issued under this subsection shall be punishable by a fine as provided by law.

"(g) NON-FEDERAL RESERVATIONS.—The administering Secretary, under such terms and conditions as he deems appropriate, may contract with any public or private entity to provide visitor reservation services. Any such contract may provide that the contractor shall be permitted to deduct a commission to be fixed by the agency head from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency.

"(h) USE OF VOLUNTEERS FOR FEE COLLECTION.—When authorized by the administering Secretary, volunteers at designated areas may collect fees authorized or established pursuant to this section. The administering Secretary shall ensure that such volunteers have adequate training for this purpose. The administering Secretary may require a surety bond for any such volunteer performing services under this subsection. Funds available to the collecting agency may be used to cover the cost of any such surety bond.

"(i) MITIGATION OF ANY IMPACTS OF RECREATIONAL FEES ON LOW-INCOME INDIVIDUALS.—In carrying out this section, the administering Secretaries shall implement such programs as are necessary to ensure any impacts of recreational fees on low-income persons are minimized. The administering Secretaries shall determine any effects on low-income individuals of recreation use and admission fees and shall jointly submit recommendations to the Congress regarding actions to be taken to resolve such impacts.

"(j) LIMITATIONS ON FEES.—

"(1) ACTIVITIES NOT SUBJECT TO FEES.—Nothing in this section shall be construed to—

"(A) authorize Federal hunting or fishing licenses or fees;

"(B) affect any rights or authority of the States with respect to fish and wildlife;

"(C) authorize the collection of fees from any person who has a right of access for hunting or fishing privileges under a specific provision of law or treaty;

"(D) authorize charges for commercial or other activities not related to recreation; or

"(E) authorize an admission fee or a commercial tour fee at any area for organized school groups on outings conducted for educational purposes.

"(2) THROUGH TRAVEL.—No admission fee shall be charged for travel by private, noncommercial vehicle or commercial tour vehicle over any national parkway or any road or highway established as a part of the National Federal Aid System, as defined in section 101, title 23, United States Code, which is commonly used by the public as a means of travel between two places either or both of which are outside the area. Nor shall any fee be charged for travel by private, noncommercial vehicle over any road or highway to any land in which such person has any property right if such land is within any such designated area.

"(3) PERSONS CONDUCTING GOVERNMENTAL BUSINESS.—No admission fee shall be charged to persons engaged in the conduct of official Federal, State or local government business or to others authorized by the administering Secretary to conduct administrative duties within the area.

"(4) LIFETIME ADMISSION PERMITS.—No admission fee shall be charged under this section to any person who possesses a lifetime admission permit issued under section 4(a)(4) of this Act as in effect on the day before the date of the enactment of the Visitor Services Improvement and Outdoor Legacy Act of 1996.

"(k) ANNUAL REPORTING REQUIREMENTS.—Reports indicating the number and location of fee collection areas, visitor use statistics, fees collected, and other pertinent data, shall be coordinated and compiled by the administering Secretaries and transmitted to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. In order to enable Congress to discern the specific benefits of this section, the agencies shall include in the report area-specific details on what is being accomplished with funds provided pursuant to this section. These reports shall be transmitted annually not later than the submission of the President's budget under section 1105 of title 31, United States Code, and shall include any recommendations which the Secretaries may have with respect to improving the recreation fee program.

"(l) EXEMPTION OF FEES.—Amounts collected under this section which exceed the 1995 authorized recreation receipts shall not be taken into account for the purposes of the Act of May 23, 1908, and the Act of March 1, 1911 (16 U.S.C. 500), the Act of March 4, 1913 (16 U.S.C. 501), the Act of July 22, 1937 (7 U.S.C. 1012), the Act of August 8, 1937, and the Act of May 24, 1939 (43 U.S.C. 1181f et seq.), the Act of June 14, 1926 (43 U.S.C. 869–4), chapter 69 of title 31, United States Code, section 401 of the Act of June 15, 1935 (16 U.S.C. 715s), the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–1–4–460l–11), and any other provision of law relating to revenue allocation.".

(d) CONFORMING AMENDMENTS.—(1)(A)(i) Title I of the Department of the Interior and Related Agencies Appropriations Act, 1994 is amended by striking out the third proviso under the heading "ADMINISTRATIVE PROVISIONS" which is under the heading "NATIONAL PARK SERVICE" (related to recovery of costs associated with special use permits).

(ii) For those recreational activities for which a fee was charged prior to September 30, 1995, under the provision of law amended by subparagraph (A), the Secretary may continue to charge and retain all such fees until such park is authorized to charge and retain such fees under section 4 of the Land and Water Conservation Fund Act of 1965.

(B) Section 3 of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 3), is amended—

(i) by inserting "(a)" after "3."; and

(ii) by adding at the end the following:

"(b) The Secretary shall publish regulations governing commercial or nonrecreational special uses of units of the National Park System for which a fee is not authorized to be charged under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6), including (but not limited to) such activities as filming, special athletic or sporting events, weddings, cultural events and festivals. After adoption of such regulations, the Secretary may retain an amount equal to the direct administrative costs associated with issuing any permits and managing such activities (including, but not limited to, personnel costs, clean up costs, and other special services) for which such permit is issued. Such amounts retained shall be credited to the appropriation current at the time, and may only be spent for activities directly in support of the purposes for which the permit was issued. Such amounts retained are authorized to remain available until expended.".

(2) The following Public Laws are amended as follows:

(A) Section 5(e) of Public Law 87–657 (16 U.S.C. 459c–5(e)), as amended, is hereby repealed.

(B) Section 3(b) of Public Law 87–750 (16 U.S.C. 398e(b)) is hereby repealed.

(C) Section 4(e) of Public Law 92–589 (16 U.S.C. 460bb–3), as amended, is further amended by striking the first sentence.

(D) Section 6(j) of Public Law 95–348 (92 Stat. 493) is hereby repealed.

(E) Section 207 of Public Law 96–199 (94 Stat. 77) is hereby repealed.

(F) Section 106 of Public Law 96–287 (94 Stat. 600) is amended by striking the last sentence.

(G) Section 204 of Public Law 96–287 (94 Stat. 601) is amended by striking the last sentence.

(H) Section 5 of Public Law 96–428 (94 Stat. 1842) is hereby repealed.

(I) Public Law 100–55 (101 Stat. 371) is hereby repealed.

(J) Section 203 of the Alaska National Interest Lands Conservation Act shall not apply with respect to charging an admission fee at Denali National Park and Preserve in Alaska.

(e) SAVINGS PROVISION RELATING TO AREAS ADMINISTERED BY THE UNITED STATES ARMY CORPS OF ENGINEERS.—Areas at civil works projects administered by the United States Army Corps of Engineers shall be subject to section 4 of the Land and Water Conservation Fund Act of 1965, as in effect immediately before the enactment of this Act, in lieu of being subject to the amendments made by this section.

(f) APPLICABILITY OF THIS SECTION.—Notwithstanding any other provision of law, this section and the amendments and repeals made by this section shall apply to all recreation fees charged by the Forest Service, National Park Service, and Bureau of Land Management, except for recreation fees charged by the Forest Service pursuant to Public Law 104–134.

SEC. 704. GLACIER BAY NATIONAL PARK.

Section 3(g) of Public Law 91–383 (16 U.S.C. 1a-2(g)) is amended by: striking "and park programs" and inserting the following at the end: "Sixty percent of the fees paid by permittees for the privilege of entering into within Glacier Bay for the period beginning on the first full fiscal year following the date of enactment of this sentence shall be deposited into a special account and that such funds shall be available—

"(1) to the extent determined necessary, to acquire and preposition necessary and adequate emergency response equipment to prevent harm or the threat of harm to aquatic park resources from permittees; and

"(2) to conduct investigations to quantify any effect of permittees' activity on wildlife and other natural resource values of Glacier Bay National Park. The investigations provided for in this subsection shall be designed to provide information of value to the Secretary, in determining any appropriate limitations on permittees' activity in Glacier Bay. The Secretary shall protect park resources through limitations on permittees in Glacier Bay only if the need for such limitations is based on substantial verifiable scientific information, including, but not limited to, information made available through the investigations under this subsection. The Secretary may not impose any additional permittee operating conditions in the areas of air, water, and oil pollution beyond those determined and enforced by other appropriate agencies. When competitively awarding permits to enter Glacier Bay, the Secretary may take into account the relative impact particular permittees will have on park values and resources, provided that no operating conditions or limitations relating to noise abatement shall be imposed unless the Secretary determines, based on the weight of the evidence from all available studies including verifiable scientific information from the investigations provided for in this subsection, that such limitations or conditions are necessary to protect park values and resources. Fees paid by certain permittees for the privilege of entering into Glacier Bay shall not exceed $5 per passenger. For the purposes of this subsection, 'certain permittee' shall mean a permittee which provides overnight accommodations for at least 500 passengers for an itinerary of at least 3 nights, and 'permittee' shall mean a concessionaire providing visitor services within Glacier Bay. Nothing in this subsection authorizes the Secretary to require additional categories of permits in Glacier Bay National Park.".

TITLE VIII—MISCELLANEOUS ADMINISTRATIVE AND MANAGEMENT PROVISIONS

SEC. 801. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading "MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR", which appears under the heading "UNDER THE DEPARTMENT OF THE INTERIOR", as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SEC. 802. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j–2), is amended by adding at the end the following:

"(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.".

SEC. 803. FERAL BURROS AND HORSES.

(a) VEHICLES AND AIRCRAFT.—Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: "Nothing in this title shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this title, or the provisions of section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18, United States Code, shall be applicable to such use.".

(b) OZARK NATIONAL SCENIC RIVERWAYS.—Section 7 of the Act entitled "An Act to provide for the establishment of the Ozark National Scenic Riverways in the State of Missouri, and for other purposes", approved August 27, 1964 (16 U.S.C. 460m–6), is amended to read as follows:

"SEC. 7. (a) The Secretary, in accordance with this section, shall allow free-roaming horses in the Ozark National Scenic Riverways. Within 180 days after enactment of this section, the Secretary shall enter into an agreement with the Missouri Wild Horse League or another qualified nonprofit entity to provide for management of free-roaming horses. The agreement shall provide for cost-effective management of the horses and limit Federal expenditures to the costs of monitoring the agreement. The Secretary shall issue permits for adequate pastures to accommodate the historic population level of the free-roaming horse herd, which shall be not less than the number of horses in existence on the date of the enactment of this section nor more than 50.

"(b) The Secretary may not remove, or assist in, or permit the removal of any free-roaming horses from Federal lands within the boundary of the Ozark National Scenic Riverways unless—

"(1) the entity with whom the Secretary has entered into the agreement under subsection (a), following notice and a 90-day response period, substantially fails to meet the terms and conditions of the agreement;

"(2) the number of free-roaming horses exceeds 50; or

"(3) in the case of an emergency or to protect public health and safety, as defined in the agreement.

"(c) Nothing in this section shall be construed as creating liability for the United States for any damages caused by the free-roaming horses to property located inside or outside the boundaries of the Ozark National Scenic Riverways.".

SEC. 804. AUTHORITIES OF THE SECRETARY OF THE INTERIOR RELATING TO MUSEUMS.

(a) FUNCTIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in subsection (b) of the first section, by striking out "from such donations and bequests of money"; and

(2) by adding at the end thereof the following:

"SEC. 2. ADDITIONAL FUNCTIONS.

"(a) MUSEUM OBJECTS AND COLLECTIONS.—In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

"(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies, including the Smithsonian Institution, that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this Act from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purpose of this Act.

"(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

"(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

"(b) REVIEW AND APPROVAL.—The Secretary shall ensure that museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the highest standards of the museum profession for all actions taken under this section.".

(b) APPLICATION AND DEFINITIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), as amended by subsection (a), is further amended by adding the following after section 2:

"SEC. 3. APPLICATION AND DEFINITIONS.

"(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for the purposes of the National Park System before the date of enactment of this section as well as those museum objects and museum collections that may be acquired on or after such date.

"(b) DEFINITION.—For the purposes of this Act, the terms 'museum objects' and 'museum collections' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.".

SEC. 805. VOLUNTEERS IN PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j) is amended by striking out "$1,000,000" and inserting in lieu thereof "$3,500,000".

SEC. 806. KATMAI NATIONAL PARK AGREEMENTS.

(a) IN GENERAL.—Section 3 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a–2), is amended—

(1) in paragraph (i), by striking the period at the end thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(j) enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to any such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.".

(b) VOLCANOLOGICAL RESEARCH IN KATMAI NATIONAL PARK.—Title II of the Alaska National Interest Lands Conservation Act (94 Stat. 2377 et seq.) is amended by adding at the end the following new section:

"SEC. 207. VOLCANOLOGICAL RESEARCH IN KATMAI NATIONAL PARK.

"The Secretary of Interior shall permit personnel, under the direction of the United States Geological Survey, to conduct research activities within Katmai National Park for the purpose of obtaining rock and core samples from the 1912 eruption and to make subsurface measurements for volcanological research.".

SEC. 807. CARL GARNER FEDERAL LANDS CLEANUP DAY.

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 169i–169i-1) is amended by striking the terms "Federal Lands Cleanup Day" each place it appears and inserting "Carl Garner Federal Lands Cleanup Day".

SEC. 808. FORT PULASKI NATIONAL MONUMENT, GEORGIA.

Section 4 of the Act of June 26, 1936 (ch. 844; 49 Stat. 1979), is amended by striking ": Provided, That" and all that follows and inserting a period.

SEC. 809. LAURA C. HUDSON VISITOR CENTER.

(a) DESIGNATION.—The visitor center at Jean Lafitte National Historical Park, located at 419 Rue Decatur in New Orleans, Louisiana, is hereby designated as the "Laura C. Hudson Visitor Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "Laura C. Hudson Visitor Center".

SEC. 810. ROBERT J. LAGOMARSINO VISITOR CENTER.

(a) DESIGNATION.—The visitor center at the Channel Islands National Park, California, is designated as the "Robert J. Lagomarsino Visitor Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other document of the United States to the visitor center referred to in section 301 is deemed to be a reference to the "Robert J. Lagomarsino Visitor Center".

SEC. 811. EXPENDITURE OF FUNDS OUTSIDE AUTHORIZED BOUNDARY OF ROCKY MOUNTAIN NATIONAL PARK.

The Secretary of the Interior is authorized to collect and expend donated funds and expend appropriated funds for the operation and maintenance of a visitor center to be constructed for visitors to and administration of Rocky Mountain National Park with private funds on privately owned lands located outside the boundary of the park.

SEC. 812. DAYTON AVIATION.

Section 201(b) of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419, approved October 16, 1992), is amended as follows:

(1) In paragraph (2), by striking "from recommendations" and inserting "after consideration of recommendations".

(2) In paragraph (4), by striking "from recommendations" and inserting "after consideration of recommendations".

(3) In paragraph (5), by striking "from recommendations" and inserting "after consideration of recommendations".

(4) In paragraph (6), by striking "from recommendations" and inserting "after consideration of recommendations".

(5) In paragraph (7), by striking "from recommendations" and inserting "after consideration of recommendations".

SEC. 813. PROHIBITION ON CERTAIN TRANSFERS OF NATIONAL FOREST LANDS.

After the date of the enactment of this Act the Secretary of Agriculture shall not transfer (by exchange or otherwise) any lands owned by the United States and managed by the Secretary as part of the Angeles National Forest to any person unless the instrument of conveyance contains a restriction, enforceable by the Secretary, *on the future use of such land prohibiting the use of any portion of such land as a solid waste landfill. Such restriction shall be promptly enforced by the Secretary when and if a violation of the restriction occurs.*

SEC. 814. GRAND LAKE CEMETERY.

(a) AGREEMENT.—Notwithstanding any other law, not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall enter into an appropriate form of agreement with the town of Grand Lake, Colorado, authorizing the town to maintain permanently, under appropriate terms and conditions, a cemetery within the boundaries of the Rocky Mountain National Park.

(b) CEMETERY BOUNDARIES.—The cemetery shall be comprised of approximately 5 acres of land, as generally depicted on the map entitled "Grand Lake Cemetery" and dated February 1995.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—The Secretary of the Interior shall place the map described in subsection (b) on file, and make the map available for public inspection, in the headquarters office of the Rocky Mountain National Park.

(d) LIMITATION.—The cemetery shall not be extended beyond the boundaries of the cemetery shown on the map described in subsection (b).

SEC. 815. NATIONAL PARK SERVICE ADMINISTRATIVE REFORM.

(a) NATIONAL PARK SERVICE HOUSING IMPROVEMENT.—

(1) PURPOSES.—The purposes of this section are—

(A) to develop where necessary an adequate supply of quality housing units for field employees of the National Park Service within a reasonable time frame;

(B) to expand the alternatives available for construction and repair of essential government housing;

(C) to rely on the private sector to finance or supply housing in carrying out this section, to the maximum extent possible, in order to reduce the need for Federal appropriations;

(D) to ensure that adequate funds are available to provide for long-term maintenance needs of field employee housing; and

(E) to eliminate unnecessary government housing and locate such housing as is required in a manner such that primary resource values are not impaired.

(2) GENERAL AUTHORITY.—To enhance the ability of the Secretary of the Interior (hereafter in this subsection referred to as "the Secretary"), acting through the Director of the National Park Service, to effectively manage units of the National Park System, the Secretary is authorized where necessary and justified to make available employee housing, on or off the lands under the administrative jurisdiction of the National Park Service, and to rent or lease such housing to field employees of the National Park Service at rates based on the reasonable value of the housing in accordance with requirements applicable under section 5911 of title 5, United States Code.

(3) REVIEW AND REVISION OF HOUSING CRITERIA.—Upon the enactment of this Act, the Secretary shall review and revise the existing criteria under which housing is provided to employees of the National Park Service. Specifically, the Secretary shall examine the existing criteria with respect to what circumstances the National Park Service requires an employee to occupy Government quarters to provide necessary services, protect Government property, or because of a lack of availability of non-Federal housing in the geographic area.

(4) SUBMISSION OF REPORT.—A report detailing the results of the revisions required by paragraph (3) shall be submitted to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than 180 days after the date of the enactment of this Act. The report shall include justifications for keeping, or for changing, each of the criteria or factors used by the Department of the Interior with regard to the provision of housing to employees of the National Park Service.

(5) REVIEW OF CONDITION OF AND COSTS RELATING TO HOUSING.—Using the revised criteria developed under paragraph (3), the Secretary shall undertake a review, for each unit of the National Park System, of existing government-owned housing provided to employees of the National Park Service. The review shall include an assessment of the physical condition of such housing and the suitability of such housing to effectively carry out the missions of the Department of the Interior and the National Park Service. For each unit of such housing, the Secretary shall determine whether the unit is needed and justified. The review shall include estimates of the cost of bringing each such unit that is needed and justified into usable condition that meets all applicable legal housing requirements or, if the unit is determined to be obsolete but is still warranted to carry out the missions of the Department of the Interior and the National Park Service, the cost of replacing the unit.

(6) AUTHORIZATION FOR HOUSING AGREEMENTS.—For those units of the National Park System for which the review required by paragraphs (3) and (5) has been completed, the Secretary is authorized, pursuant to the authorities contained in this subsection and subject to the appropriation of necessary funds in advance, to enter into housing agreements with housing entities under which such housing entities may develop, construct, rehabilitate, or manage housing, located on or off public lands, for rent or lease to National Park Service employees who meet the housing eligibility criteria developed by the Secretary pursuant to this Act.

(7) JOINT PUBLIC-PRIVATE SECTOR HOUSING PROGRAMS.—

(A) LEASE TO BUILD PROGRAM.—Subject to the appropriation of necessary funds in advance, the Secretary may—

(i) lease Federal land and interests in land to qualified persons for the construction of field employee quarters for any period not to exceed 50 years; and

(ii) lease developed and undeveloped non-Federal land for providing field employee quarters.

(B) COMPETITIVE LEASING.—Each lease under subparagraph (A)(i) shall be awarded through the use of publicly advertised, competitively bid, or competitively negotiated contracting procedures.

(C) TERMS AND CONDITIONS.—Each lease under subparagraph (A)(i)—

(i) shall stipulate whether operation and maintenance of field employee quarters is to be provided by the lessee, field employees or the Federal Government;

(ii) shall require that the construction and rehabilitation of field employee quarters be done in accordance with the requirements of the National Park Service and local applicable building codes and industry standards;

(iii) shall contain such additional terms and conditions as may be appropriate to protect the Federal interest, including limits on rents the lessee may charge field employees for the occupancy of quarters, conditions on maintenance and repairs, and agreements on the provision of charges for utilities and other infrastructure; and

(iv) may be granted at less than fair market value if the Secretary determines that such lease will improve the quality and availability of field employee quarters available.

(D) CONTRIBUTIONS BY UNITED STATES.—The Secretary may make payments, subject to appropriations, or contributions in kind either in advance of or on a continuing basis to reduce the costs of planning, construction, or rehabilitation of quarters on or off Federal lands under a lease under this paragraph.

(8) RENTAL GUARANTEE PROGRAM.—

(A) GENERAL AUTHORITY.—Subject to the appropriation of necessary funds in advance, the Secretary may enter into a lease to build arrangement as set forth in paragraph (7) with further agreement to guarantee the occupancy of field employee quarters constructed or rehabilitated under such lease. A guarantee made under this paragraph shall be in writing.

(B) LIMITATIONS.—The Secretary may not guarantee—

(i) the occupancy of more than 75 percent of the units constructed or rehabilitated under such lease; and

(ii) at a rental rate that exceeds the rate based on the reasonable value of the housing in accordance with requirements applicable under section 5911 of title 5, United States Code.

In no event shall outstanding guarantees be in excess of $3,000,000.

(C) RENTAL TO GOVERNMENT EMPLOYEES.—A guarantee may be made under this subsection only if the lessee agrees to permit the Secretary to utilize for housing purposes any units for which the guarantee is made.

(D) FAILURE TO MAINTAIN A SATISFACTORY LEVEL OF OPERATION AND MAINTENANCE.—The lease shall be null and void if the lessee fails to maintain a satisfactory level of operation and maintenance.

(9) JOINT DEVELOPMENT AUTHORITY.—The Secretary may use authorities granted by statute in combination with one another in the furtherance of providing where necessary and justified affordable field employee housing.

(10) CONTRACTS FOR THE MANAGEMENT OF FIELD EMPLOYEE QUARTERS.—

(A) GENERAL AUTHORITY.—Subject to the appropriation of necessary funds in advance, the Secretary may enter into contracts of any duration for the management, repair, and maintenance of field employee quarters.

(B) TERMS AND CONDITIONS.—Any such contract shall contain such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and assure that necessary quarters are available to field employees.

(11) LEASING OF SEASONAL EMPLOYEE QUARTERS.—

(A) GENERAL AUTHORITY.—Subject to subparagraph (B), the Secretary may lease quarters at or near a unit of the national park system for use as seasonal quarters for field employees. The rent charged to field employees under such a lease shall be a rate based on the reasonable value of the quarters in accordance with requirements applicable under section 5911 of title 5, United States Code.

(B) LIMITATION.—The Secretary may only issue a lease under subparagraph (A) if the Secretary finds that there is a shortage of adequate and affordable seasonal quarters at or near such unit and that—

(i) the requirement for such seasonal field employee quarters is temporary; or

(ii) leasing would be more cost effective than construction of new seasonal field employee quarters.

(C) UNRECOVERED COSTS.—The Secretary may pay the unrecovered costs of leasing seasonal quarters under this paragraph from annual appropriations for the year in which such lease is made.

(12) SURVEY OF EXISTING FACILITIES.—The Secretary shall—

(A) complete a condition assessment for all field employee housing, including the physical condition of such housing and the necessity and

suitability of such housing for carrying out the agency mission, using existing information; and

(B) develop an agency-wide priority listing, by structure, identifying those units in greatest need for repair, rehabilitation, replacement, or initial construction.

(13) USE OF HOUSING-RELATED FUNDS.—Expenditure of any funds authorized and appropriated for new construction, repair, or rehabilitation of housing under this section shall follow the housing priority listing established by the agency under paragraph (13), in sequential order, to the maximum extent practicable.

(14) ANNUAL BUDGET SUBMITTAL.—The President's proposed budget to Congress for the first fiscal year beginning after enactment of this Act, and for each subsequent fiscal year, shall include identification of nonconstruction funds to be spent for National Park Service housing maintenance and operations which are in addition to rental receipts collected.

(15) STUDY OF HOUSING ALLOWANCES.—Within 12 months after the date of enactment of this Act, the Secretary shall conduct a study to determine the feasibility of providing eligible employees of the National Park Service with housing allowances rather than government housing. The study shall specifically examine the feasibility of providing rental allowances to temporary and lower paid permanent employees. Whenever the Secretary submits a copy of such study to the Office of Management and Budget, he shall concurrently transmit copies of the report to the Resources Committee of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(16) STUDY OF SALE OF EMPLOYEE HOUSING.—Within 18 months of the date of the enactment of the Act, the Secretary shall complete a study of the sale of Government quarters to a cooperative consisting of field employees. The Secretary shall examine the potential benefits to the Government as well as the employees and any risks associated with such a program.

(17) GENERAL PROVISIONS.—

(A) CONSTRUCTION LIMITATIONS ON FEDERAL LANDS.—The Secretary may not utilize any lands for the purposes of providing field employee housing under this section which will impact primary resource values of the area or adversely affect the mission of the agency.

(B) RENTAL RATES.—To the extent practicable, the Secretary shall establish rental rates for all quarters occupied by field employees of the National Park Service that are based on the reasonable value of the quarters in accordance with requirements applicable under section 5911 of title 5, United States Code.

(C) EXEMPTION FROM LEASING REQUIREMENTS.—The provisions of section 5 of the Act of July 15, 1968 (82 Stat. 354, 356; 16 U.S.C. 460l-22), and section 321 of the Act of June 30, 1932 (40 U.S.C. 303b; 47 Stat. 412), shall not apply to leases issued by the Secretary under this section.

(18) PROCEEDS.—The proceeds from any lease under paragraph (7)(A)(i)(I), any lease under paragraph (11)(B), and any lease of seasonal quarters under subsection (l), shall be retained by the National Park Service. Such proceeds shall be deposited into the special fund established for maintenance and operation of quarters.

(19) DEFINITIONS.—For purposes of this subsection:

(A) The term "field employee" means—

(i) an employee of the National Park Service who is exclusively assigned by the National Park Service to perform duties at a field unit, and the members of their family; and

(ii) other individuals who are authorized to occupy Government quarters under section 5911 of title 5, United States Code, and for whom there is no feasible alternative to the provision of Government housing, and the members of their family.

(B) The term "land management agency" means the National Park Service, Department of the Interior.

(C) The term "primary resource values" means resources which are specifically mentioned in the enabling legislation for that field unit or other resource value recognized under Federal statute.

(D) The term "quarters" means quarters owned or leased by the Government.

(E) The term "seasonal quarters" means quarters typically occupied by field employees who are hired on assignments of 6 months or less.

(b) MINOR BOUNDARY REVISION AUTHORITY.—Section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9(c)) is amended as follows:

(1) In the first sentence, by striking "Committee on Natural" and inserting "Committee on".

(2)(A) By striking ": Provided, however," and all that follows through "1965"; and

(B) by inserting "(1)" after "(c)" and by inserting at the end the following:

"(2) For the purposes of clause (i) of paragraph (1), in all cases except the case of technical boundary revisions (resulting from such causes as survey error or changed road alignments), the authority of the Secretary under such clause (i) shall apply only if each of the following conditions is met:

"(A) The sum of the total acreage of lands, waters, and interests therein to be added to the area and the total such acreage to be deleted from the area is not more than 5 percent of the total Federal acreage authorized to be included in the area and is less than 200 acres in size.

"(B) The acquisition, if any, is not a major Federal action significantly affecting the quality of the human environment, as determined by the Secretary.

"(C) The sum of the total appraised value of the lands, water, and interest therein to be added to the area and the total appraised value of the lands, waters, and interests therein to be deleted from the area does not exceed $750,000.

"(D) The proposed boundary revision is not an element of a more comprehensive boundary modification proposal.

"(E) The proposed boundary has been subject to a public review and comment period.

"(F) The Director of the National Park Service obtains written consent for the boundary modification from all property owners whose lands, water, or interests therein, or a portion of whose lands, water, or interests therein, will be added to or deleted from the area by the boundary modification.

"(G) The lands are adjacent to other Federal lands administered by the Director of the National Park Service.

Minor boundary revisions involving only deletions of acreage owned by the Federal Government and administered by the National Park Service may be made only by Act of Congress.".

(c) AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF ZION NATIONAL PARK.—In order to facilitate the administration of Zion National Park, the Secretary of the Interior is authorized, under such terms and conditions as he may deem advisable, to expend donated or appropriated funds for the establishment of essential facilities for park administration and visitor use outside the boundaries, but within the vicinity, of the park. Such facilities and the use thereof shall be in conformity with approved plans for the park. The Secretary shall use existing facilities wherever feasible. Such facilities may only be constructed by the Secretary upon a finding that the location of such facilities would—

(1) avoid undue degradation of natural or cultural resources within the park;

(2) enhance service to the public; or

(3) provide a cost saving to the Federal Government.

The Secretary is authorized to enter into cooperative agreements with State or local governments or private entities to undertake the authority granted under this subsection. The Secretary is encouraged to identify and utilize funding sources to supplement any Federal funding used for these facilities.

(d) ELIMINATION OF UNNECESSARY CONGRESSIONAL REPORTING REQUIREMENTS.—

(1) REPEALS.—The following provisions are hereby repealed:

(A) Section 302(c) of the Act entitled "An Act to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes (Public Law 95–344; 92 Stat. 478; 16 U.S.C. 2302(c)).

(B) Section 503 of the Act of December 19, 1980 (Public Law 96–550; 94 Stat. 3228; 16 U.S.C. 410ii-2).

(C) Subsections (b) and (c) of section 4 of the Act of October 15, 1982 (Public Law 97–335; 96 Stat. 1628; 16 U.S.C. 341 note).

(D) Section 7 of Public Law 89–671 (96 Stat. 1457; 16 U.S.C. 284f).

(E) Section 3(c) of the National Trails System Act (Public Law 90–543; 82 Stat. 919; 16 U.S.C. 1242(c)).

(F) Section 4(b) of the Act of October 24, 1984 (Public Law 98–540; 98 Stat. 2720; 16 U.S.C. 1a–8).

(G) Section 106(b) of the National Visitor Center Facilities Act of 1968 (Public Law 90–264; 82 Stat. 44; 40 U.S.C. 805(b)).

(H) Section 6(f)(7) of the Act of September 3, 1964 (Public Law 88–578; 78 Stat. 900; 16 U.S.C. 460l–8(f)(7)).

(I) Subsection (b) of section 8 of the Act of August 18, 1970 (Public Law 91–383; 90 Stat. 1940; 16 U.S.C. 1a–5(b)).

(J) The last sentence of section 10(a)(2) of the National Trails System Act (Public Law 90–543; 82 Stat. 926; 16 U.S.C. 1249(a)(2)).

(K) Section 4 of the Act of October 31, 1988 (Public Law 100–573; 102 Stat. 2891; 16 U.S.C. 460o note).

(L) Section 104(b) of the Act of November 19, 1988 (Public Law 100–698; 102 Stat. 4621).

(M) Section 1015(b) of the Urban Park and Recreation Recovery Act of 1978 (Public Law 95–625; 92 Stat. 3544; 16 U.S.C. 2514(b)).

(N) Section 105 of the Act of August 13, 1970 (Public Law 91–378; 16 U.S.C. 1705).

(O) Section 307(b) of the National Historic Preservation Act (Public Law 89–665; 16 U.S.C. 470w–6(b)).

(2) AMENDMENTS.—The following provisions are amended:

(A) Section 10 of the Archaeological Resources Protection Act of 1979, by striking the last sentence of subsection (c) (Public Law 96–95; 16 U.S.C. 470ii(c)).

(B) Section 5(c) of the Act of June 27, 1960 (Public Law 86–523; 16 U.S.C. 469a–3(c); 74 Stat. 220), by inserting a period after "Act" and striking "and shall submit" and all that follows.

(C) Section 7(a)(3) of the Act of September 3, 1964 (Public Law 88–578; 78 Stat. 903; 16 U.S.C. 460l–9(a)(3)), by striking the last sentence.

(D) Section 111 of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101–313; 104 Stat. 278), by striking the second sentence.

(E) Section 307(a) of the National Historic Preservation Act (Public Law 89–665; 16 U.S.C. 470w–6(a)) is amended by striking the first and second sentences.

(F) Section 101(a)(1)(B) of the National Historic Preservation Act (Public Law 89–665; 16 U.S.C. 470a) by inserting a period after "Register" the last place such term appears and by striking "and submitted" and all that follows.

(e) SENATE CONFIRMATION OF THE DIRECTOR OF THE NATIONAL PARK SERVICE.—

(1) IN GENERAL.—The first section of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1; commonly referred to as the "National Park Service Organic Act"), is amended in the first sentence by striking "who shall be appointed by the Secretary" and all that follows and inserting "who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have substantial experience and demonstrated competence in land management and natural or cultural resource conservation. The Director shall select two Deputy Directors. The first Deputy Director shall have responsibility for National Park Service operations, and the second Deputy Director shall have responsibility for other programs assigned to the National Park Service.".

(2) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall take effect on February 1, 1997, and shall apply with respect to the individual (if any) serving as the Director of the National Park Service on that date.

(f) NATIONAL PARK SYSTEM ADVISORY BOARD AUTHORIZATION.—

(1) NATIONAL PARK SYSTEM ADVISORY BOARD.—Section 3 of the Act of August 21, 1935 (49 Stat. 667; 16 U.S.C. 463) is amended as follows:

(A) In subsection (a) by striking the first 3 sentences and inserting in lieu thereof: "There is hereby established a National Park System Advisory Board, whose purpose shall be to advise the Director of the National Park Service on matters relating to the National Park Service, the National Park System, and programs administered by the National Park Service. The Board shall advise the Director on matters submitted to the Board by the Director as well as any other issues identified by the Board. Members of the Board shall be appointed on a staggered term basis by the Secretary for a term not to exceed 4 years and shall serve at the pleasure of the Secretary. The Board shall be comprised of no more than 12 persons, appointed from among citizens of the United States having a demonstrated commitment to the mission of the National Park Service. Board members shall be selected to represent various geographic regions, including each of the administrative regions of the National Park Service. At least 6 of the members shall have outstanding expertise in 1 or more of the following fields: history, archeology, anthropology, historical or landscape architecture, biology, ecology, geology, marine science, or social science. At least 4 of the members shall have outstanding expertise and prior experience in the management of national or State parks or protected areas, or national or cultural resources management. The remaining members shall have outstanding expertise in 1 or more of the areas described above or in another professional or scientific discipline, such as financial management, recreation use management, land use planning or business management, important to the mission of the National Park Service. At least 1 individual shall be a locally elected official from an area adjacent to a park. The Board shall hold its first meeting by no later than 60 days after the date on which all members of the Advisory Board who are to be appointed have been appointed. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. The Board may adopt such rules as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel. All members of the Board shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board while away from home or their regular place of business, in accordance with subchapter 1 of chapter 57 of title 5, United States Code. With the exception of travel and per diem as noted above, a member of the Board who is otherwise an officer or employee of the United States Government shall serve on the Board without additional compensation.".

(B) By redesignating subsections (b) and (c) as (f) and (g) and by striking from the first sentence of subsection (f), as so redesignated "1995" and inserting in lieu thereof "2006".

(C) By adding the following new subsections after subsection (a):

"(b)(1) The Secretary is authorized to hire 2 full-time staffers to meet the needs of the Advisory Board.

"(2) Service of an individual as a member of the Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Board, or as an employee of the Board, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

"(c)(1) Upon request of the Director, the Board is authorized to—

"(A) hold such hearings and sit and act at such times,

"(B) take such testimony,

"(C) have such printing and binding done,

"(D) enter into such contracts and other arrangements,

"(E) make such expenditures, and

"(F) take such other actions,

as the Board may deem advisable. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(2) The Board may establish committees or subcommittees. Any such subcommittees or committees shall be chaired by a voting member of the Board.

"(d) The provisions of the Federal Advisory Committee Act shall apply to the Board established under this section with the exception of section 14(b).

"(e)(1) The Board is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Board may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Board, upon request made by a member of the Board.

"(2) Upon the request of the Board, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality to the Board, on a nonreimbursable basis, to assist the Board in carrying out its duties under this section.

"(3) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies in the United States.".

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Park System Advisory Board $200,000 per year to carry out the provisions of section 3 of the Act of August 21, 1935 (49 Stat. 667; 16 U.S.C. 463).

(3) EFFECTIVE DATE.—This subsection shall take effect on December 7, 1997.

(g) CHALLENGE COST-SHARE AGREEMENT AUTHORITY.—

(1) DEFINITIONS.—For purposes of this subsection:

(A) The term "challenge cost-share agreement" means any agreement entered into between the Secretary and any cooperator for the purpose of sharing costs or services in carrying out authorized functions and responsibilities of the Secretary of the Interior with respect to any unit or program of the National Park System (as defined in section 2(a) of the Act of August 8, 1953 (16 U.S.C. 1c(a))), any affiliated area, or any designated National Scenic or Historic Trail.

(B) The term "cooperator" means any State or local government, public or private agency, organization, institution, corporation, individual, or other entity.

(2) CHALLENGE COST-SHARE AGREEMENTS.—The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with cooperators.

(3) USE OF FEDERAL FUNDS.—In carrying out challenge cost-share agreements, the Secretary of the Interior is authorized to provide the Federal funding share from any funds available to the National Park Service.

(h) COST RECOVERY FOR DAMAGE TO NATIONAL PARK RESOURCES.—Public Law 101–337 is amended as follows:

(1) In section 1 (16 U.S.C. 19jj), by amending subsection (d) to read as follows:

"(d) 'Park system resource' means any living or non-living resource that is located within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(2) In section 1 (16 U.S.C. 19jj) by adding at the end thereof the following:

"(g) 'Marine or aquatic park system resource' means any living or non-living part of a marine or aquatic regimen within or is a living part of a marine or aquatic regimen within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(3) In section 2(b) (16 U.S.C. 19jj–1(b)), by inserting "any marine or aquatic park resource" after "any park system resource".

SEC. 816. MINERAL KING ADDITION PERMITS.

Paragraph (2) of section 314(d) of the National Parks and Recreation Act of 1978 (16 U.S.C. 45f(d)) is amended by adding at the end the following:

"(C)(i) Notwithstanding subparagraphs (A) and (B), until the date of the death of the last cabin permittee of record on the date of enactment of this Act, the Secretary may renew or extend permits or leases continued under subparagraph (A) or (B) to the heirs of lessees or permittees (including heirs to whom such leases or permits have been renewed or extended) who have died prior to the enactment of this subparagraph or may die after its enactment in the same manner (including by requiring the payment of annual fees based on fair market value) as leases or permits may be renewed or extended under subparagraph (B), unless—

"(I) the permit or lease is incompatible with the protection of the parks resources; or

"(II) the land occupied under the leases or permit will be used for some other park purpose in accordance with the comprehensive management plan prepared under subsection (e), and the Secretary has available sufficient funds to carry out such use.

"(ii) For the purposes of this subparagraph, the term 'heirs' means—

"(I) those family members of the deceased permittee or lessee, designated by the permittee or lessee, in a manner prescribed by the Secretary, as heirs eligible for renewals or extensions under this subparagraph, and

"(II) in the absence of such designation, those family members of the deceased permittee or lessee who are entitled to inherit the estate of the permittee or lessee.".

SEC. 817. WILLIAM B. SMULLIN VISITOR CENTER.

(a) DESIGNATION.—The Bureau of Land Management's visitors center in Rand, Oregon is hereby designated as the "William B. Smullin Visitor Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "William B. Smullin Visitor Center".

SEC. 818. CALUMET ECOLOGICAL PARK.

(a) FEASIBILITY STUDY.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall conduct a study of the feasibility of establishing an urban ecological park to be known as "Calumet Ecological Park", in the Lake Calumet area situated between the Illinois and Michigan Canal National Heritage Corridor and the Indiana Dunes National Lakeshore.

(2) PARTICULARS OF STUDY.—The study under paragraph (1) shall include consideration of the following:

(A) The suitability of establishing a park in the Lake Calumet area that—

(i) conserves and protects the wealth of natural resources threatened by development and pollution in the Lake Calumet area; and

(ii) consists of a number of nonadjacent sites forming green corridors between the Illinois and Michigan Canal National Heritage Corridor and the Indiana Dunes National Lakeshore, that are based on the lakes and waterways in the area.

(B) The long term future use of the Lake Calumet area.

(C) Ways in which a Calumet Ecological Park would—

(i) benefit and enhance the cultural, historical, and natural resources of the Lake Calumet area; and

(ii) preserve natural lands and habitats in the Lake Calumet area and northwest Indiana.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report containing findings and recommendations of a study under this section.

SEC. 819. ACQUISITION OF CERTAIN PROPERTY ON SANTA CRUZ ISLAND.

Section 202 of Public Law 96–199 (16 U.S.C. 410ff–1) is amended by adding the following new subsection at the end thereof:

"(e)(1) Notwithstanding any other provision of law, effective 90 days after the date of enactment of this subsection, all right, title, and interest in and to, and the right to immediate possession of, the real property on the eastern end of Santa Cruz Island which is known as the Gherini Ranch is hereby vested in the United States, except for the reserved rights of use and occupancy set forth in Instrument No. 90–027494 recorded in the Official Records of the County of Santa Barbara, California.

"(2) The United States shall pay just compensation to the owners of any real property taken pursuant to this subsection, determined as of the date of taking. The full faith and credit of the United States is hereby pledged to the payment of any judgment entered against the United States with respect to the taking of such property. Payment shall be in the amount of the agreed negotiated value of such real property plus interest or the valuation of such real property awarded by judgment plus interest. Interest shall accrue from the date of taking to the date of payment. Interest shall be compounded quarterly and computed at the rate applicable for the period involved, as determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities from the date of enactment of this subsection to the last day of the month preceding the date on which payment is made. Payment shall be made from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

"(3) In the absence of a negotiated settlement, or an action by the owner, within 1 year after the date of enactment of this subsection, the Secretary shall initiate a proceeding, seeking in a court of competent jurisdiction a determination of just compensation with respect to the taking of such property.".

"(4) The Secretary shall not allow any unauthorized use of the lands to be acquired under this subsection, except that the Secretary shall permit the orderly termination of all current activities and the removal of any equipment, facilities, or personal property.".

TITLE IX—HERITAGE AREAS

SEC. 901. BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR.

(a) BOUNDARY CHANGES.—Section 2 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by striking the first sentence and inserting the following new sentence: "The boundaries shall include the lands and water generally depicted on the map entitled 'Blackstone River Valley National Heritage Corridor Boundary Map', numbered BRV–80–80,011, and dated May 2, 1993.".

(b) TERMS.—Section 3(c) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by inserting before the period at the end the following: ", but may continue to serve after the expiration of this term until a successor has been appointed".

(c) REVISION OF PLAN.—Section 6 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(d) REVISION OF PLAN.—(1) Not later than 1 year after the date of the enactment of this subsection, the Commission, with the approval of the Secretary, shall revise the Cultural Heritage and Land Management Plan. The revision shall address the boundary change and shall include a natural resource inventory of areas or features that should be protected, restored, managed, or acquired because of their contribution to the understanding of national cultural landscape values.

"(2) No changes other than minor revisions may be made in the approved plan as amended without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the plan, except minor revisions, in accordance with subsection (b).".

(d) EXTENSION OF COMMISSION.—Section 7 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

"SEC. 7. TERMINATION OF COMMISSION.

"The Commission shall terminate on the date that is 10 years after the date of enactment of this section.".

(e) IMPLEMENTATION OF PLAN.—Subsection (c) of section 8 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

"(c) IMPLEMENTATION.—(1) To assist in the implementation of the Cultural Heritage and Land Management Plan in a manner consistent with purposes of this Act, the Secretary is authorized to undertake a limited program of financial assistance for the purpose of providing funds for the preservation and restoration of structures on or eligible for inclusion on the National Register of Historic Places within the Corridor which exhibit national significance or provide a wide spectrum of historic, recreational, or environmental education opportunities to the general public.

"(2) To be eligible for funds under this section, the Commission shall submit an application to the Secretary that includes—

"(A) a 10-year development plan including those resource protection needs and projects critical to maintaining or interpreting the distinctive character of the Corridor; and

"(B) specific descriptions of annual work programs that have been assembled, the participating parties, roles, cost estimates, cost-sharing, or cooperative agreements necessary to carry out the development plan.

"(3) Funds made available pursuant to this subsection shall not exceed 50 percent of the total cost of the work programs.

"(4) In making the funds available, the Secretary shall give priority to projects that attract greater non-Federal funding sources.

"(5) Any payment made for the purposes of conservation or restoration of real property or structures shall be subject to an agreement either—

"(A) to convey a conservation or preservation easement to the Department of Environmental Management or to the Historic Preservation Commission, as appropriate, of the State in which the real property or structure is located; or

"(B) that conversion, use, or disposal of the resources so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States for reimbursement of all funds expended upon such resources or the proportion of the increased value of the resources attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

"(6) The authority to determine that a conversion, use, or disposal of resources has been carried out contrary to the purposes of this Act in violation of an agreement entered into under paragraph (5)(A) shall be solely at the discretion of the Secretary.".

(f) LOCAL AUTHORITY.—Section 5 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(j) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this Act shall be construed to affect or to authorize the Commission to interfere with—

"(1) the rights of any person with respect to private property; or

"(2) any local zoning ordinance or land use plan of the Commonwealth of Massachusetts or any political subdivision of the Commonwealth.".

(g) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provision of law regarding limitations on funding for heritage areas, section 10 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law

99–647; 16 U.S.C. 461 note), as amended, is further amended:

(1) in subsection (a), by striking "$350,000" and inserting "$650,000"; and

(2) by amending subsection (b) to read as follows:

"(b) DEVELOPMENT FUNDS.—For fiscal years 1996, 1997, and 1998, there is authorized to be appropriated to carry out section 8(c) not to exceed $5,000,000.".

SEC. 902. ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 (Public Law 98–398; 16 U.S.C. 461 note) is amended by inserting after section 117 the following new section:

"SEC. 118. STUDY OF POSSIBLE ADDITIONS TO CORRIDOR

"The Commission shall undertake a study to determine whether the Joliet Army Ammunition Plant and the Calumet-Sag and Chicago Sanitary and Ship Canals should be added to the corridor. The study shall specifically examine the relationship between the purposes of this Act and the areas proposed for study and shall identify any specific resources which are related to the purposes for which the corridor was established. The study shall propose boundaries which provide for the inclusion of any related resources within the corridor. The Commission shall submit the study to the Secretary and the appropriate congressional committees. Upon receipt of the study, the Secretary shall determine which lands (if any) should be added to the corridor and shall so notify the appropriate congressional committees.".

TITLE X—MISCELLANEOUS

Subtitle A—Tallgrass Prairie National Preserve

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "Tallgrass Prairie National Preserve Act of 1996".

SEC. 1002. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) of the 400,000 square miles of tallgrass prairie that once covered the North American Continent, less than 1 percent remains, primarily in the Flint Hills of Kansas;

(2) in 1991, the National Park Service conducted a special resource study of the Spring Hill Ranch, located in the Flint Hills of Kansas;

(3) the study concludes that the Spring Hill Ranch—

(A) is a nationally significant example of the once vast tallgrass ecosystem, and includes buildings listed on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a) that represent outstanding examples of Second Empire and other 19th Century architectural styles; and

(B) is suitable and feasible as a potential addition to the National Park System; and

(4) the National Park Trust, which owns the Spring Hill Ranch, has agreed to permit the National Park Service—

(A) to purchase a portion of the ranch, as specified in this subtitle; and

(B) to manage the ranch in order to—

(i) conserve the scenery, natural and historic objects, and wildlife of the ranch; and

(ii) provide for the enjoyment of the ranch in such a manner and by such means as will leave the scenery, natural and historic objects, and wildlife unimpaired for the enjoyment of future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to preserve, protect, and interpret for the public an example of a tallgrass prairie ecosystem on the Spring Hill Ranch, located in the Flint Hills of Kansas; and

(2) to preserve and interpret for the public the historic and cultural values represented on the Spring Hill Ranch.

SEC. 1003. DEFINITIONS.

In this subtitle:

(1) ADVISORY COMMITTEE.—The term "Advisory Committee" means the Advisory Committee established under section 1007.

(2) PRESERVE.—The term "Preserve" means the Tallgrass Prairie National Preserve established by section 1004.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRUST.—The term "Trust" means the National Park Trust, Inc., a District of Columbia nonprofit corporation, or any successor-in-interest.

SEC. 1004. ESTABLISHMENT OF TALLGRASS PRAIRIE NATIONAL PRESERVE.

(a) IN GENERAL.—In order to provide for the preservation, restoration, and interpretation of the Spring Hill Ranch area of the Flint Hills of Kansas, for the benefit and enjoyment of present and future generations, there is established the Tallgrass Prairie National Preserve.

(b) DESCRIPTION.—The Preserve shall consist of the lands and interests in land, including approximately 10,894 acres, generally depicted on the map entitled "Boundary Map, Flint Hills Prairie National Monument" numbered NM–TGP 80,000 and dated June 1994, more particularly described in the deed filed at 8:22 a.m. of June 3, 1994, with the Office of the Register of Deeds in Chase County, Kansas, and recorded in Book L–106 at pages 328 through 339, inclusive. In the case of any difference between the map and the legal description, the legal description shall govern, except that if, as a result of a survey, the Secretary determines that there is a discrepancy with respect to the boundary of the Preserve that may be corrected by making minor changes to the map, the Secretary shall make changes to the map as appropriate, and the boundaries of the Preserve shall be adjusted accordingly. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service of the Department of the Interior.

SEC. 1005. ADMINISTRATION OF NATIONAL PRESERVE.

(a) IN GENERAL.—The Secretary shall administer the Preserve in accordance with this subtitle, the cooperative agreements described in subsection (f)(1), and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2 through 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) APPLICATION OF REGULATIONS.—With the consent of a private owner of land within the boundaries of the Preserve, the regulations issued by the Secretary concerning the National Park Service that provide for the proper use, management, and protection of persons, property, and natural and cultural resources shall apply to the private land.

(c) FACILITIES.—For purposes of carrying out the duties of the Secretary under this subtitle relating to the Preserve, the Secretary may, with the consent of a landowner, directly or by contract, construct, reconstruct, rehabilitate, or develop essential buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property that is not owned by the Federal Government and is located within the Preserve.

(d) LIABILITY.—

(1) LIABILITY OF THE UNITED STATES AND ITS OFFICERS AND EMPLOYEES.—Except as otherwise provided in this subsection, the liability of the United States is subject to the terms and conditions of the Federal Tort Claims Act, as amended, 28 U.S.C. 2671 et seq., with respect to the claims arising by virtue of the Secretaries administration of the Preserve pursuant to this Act.

(2) LIABILITY OF LANDOWNERS.—

(A) The Secretary of the Interior is authorized, under such terms and conditions as he deems appropriate, to include in any cooperative agreement entered into in accordance with subsection (f)(1) an indemnification provision by which the United States agrees to hold harmless, defend and indemnify the landowner in full from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim of personal injury or property damage that occurs in connection with the operation of the Preserve under the agreement: Provided however, That indemnification shall not exceed $3 million per claimant per occurrence.

(B) The indemnification provision authorized by subparagraph (A) shall not include claims for personal injury or property damage proximately caused by the wanton or willful misconduct of the landowner.

(e) UNIT OF THE NATIONAL PARK SYSTEM.—The Preserve shall be a unit of the National Park System for all purposes, including the purpose of exercising authority to charge entrance and admission fees under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a).

(f) AGREEMENTS AND DONATIONS.—

(1) AGREEMENTS.—The Secretary may expend Federal funds for the cooperative management of private property within the Preserve for research, resource management (including pest control and noxious weed control, fire protection, and the restoration of buildings), and visitor protection and use.

(2) DONATIONS.—The Secretary may accept, retain, and expend donations of funds, property (other than real property), or services from individuals, foundations, corporations, or public entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of this subtitle.

(g) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than the end of the third full fiscal year beginning after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a general management plan for the Preserve.

(2) CONSULTATION.—In preparing the general management plan, the Secretary, acting through the Director of the National Park Service, shall consult with—

(A)(i) appropriate officials of the Trust; and

(ii) the Advisory Committee; and

(B) adjacent landowners, appropriate officials of nearby communities, the Kansas Department of Wildlife and Parks, and the Kansas Historical Society, and other interested parties.

(3) CONTENT OF PLAN.—The general management plan shall provide for the following:

(A) Maintaining and enhancing the tallgrass prairie within the boundaries of the Preserve.

(B) Public access and enjoyment of the property that is consistent with the conservation and proper management of the historical, cultural, and natural resources of the ranch.

(C) Interpretive and educational programs covering the natural history of the prairie, the cultural history of Native Americans, and the legacy of ranching in the Flint Hills region.

(D) Provisions requiring the application of applicable State law concerning the maintenance of adequate fences within the boundaries of the Preserve. In any case in which an activity of the National Park Service requires fences that exceed the legal fence standard otherwise applicable to the Preserve, the National Park Service shall pay the additional cost of constructing and maintaining the fences to meet the applicable requirements for that activity.

(E) Provisions requiring the Secretary to comply with applicable State noxious weed, pesticide, and animal health laws.

(F) Provisions requiring compliance with applicable State water laws and Federal and State waste disposal laws (including regulations) and any other applicable law.

(G) Provisions requiring the Secretary to honor each valid existing oil and gas lease for lands within the boundaries of the Preserve (as described in section 1004(b)) that is in effect on the date of enactment of this Act.

(H) Provisions requiring the Secretary to offer to enter into an agreement with each individual who, as of the date of enactment of this Act, holds rights for cattle grazing within the boundaries of the Preserve (as described in section 1004(b)).

(4) HUNTING AND FISHING.—The Secretary may allow hunting and fishing on Federal lands within the Preserve.

(5) FINANCIAL ANALYSIS.—As part of the development of the general management plan, the Secretary shall prepare a financial analysis indicating how the management of the Preserve may be fully supported through fees, private donations, and other forms of non-Federal funding.

SEC. 1006. LIMITED AUTHORITY TO ACQUIRE.

(a) IN GENERAL.—The Secretary shall acquire, by donation, not more than 180 acres of real property within the boundaries of the Preserve (as described in section 1004(b)) and the improvements on the real property.

(b) PAYMENTS IN LIEU OF TAXES.—For the purposes of payments made under chapter 69 of title 31, United States Code, the real property described in subsection (a)(1) shall be deemed to have been acquired for the purposes specified in section 6904(a) of that title.

(c) PROHIBITIONS.—No property may be acquired under this section without the consent of the owner of the property. The United States may not acquire fee ownership of any lands within the Preserve other than lands described in this section.

SEC. 1007. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established an advisory committee to be known as the "Tallgrass Prairie National Preserve Advisory Committee".

(b) DUTIES.—The Advisory Committee shall advise the Secretary and the Director of the National Park Service concerning the development, management, and interpretation of the Preserve. In carrying out those duties, the Advisory Committee shall provide timely advice to the Secretary and the Director during the preparation of the general management plan under section 1005(g).

(c) MEMBERSHIP.—The Advisory Committee shall consist of 13 members, who shall be appointed by the Secretary as follows:

(1) Three members shall be representatives of the Trust.

(2) Three members shall be representatives of local landowners, cattle ranchers, or other agricultural interests.

(3) Three members shall be representatives of conservation or historic preservation interests.

(4)(A) One member shall be selected from a list of persons recommended by the Chase County Commission in the State of Kansas.

(B) One member shall be selected from a list of persons recommended by appropriate officials of Strong City, Kansas, and Cottonwood Falls, Kansas.

(C) One member shall be selected from a list of persons recommended by the Governor of the State of Kansas.

(5) One member shall be a range management specialist representing institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) in the State of Kansas.

(d) TERMS.—

(1) IN GENERAL.—Each member of the Advisory Committee shall be appointed to serve for a term of 3 years, except that the initial members shall be appointed as follows:

(A) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 3 years.

(B) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 4 years.

(C) Five members shall be appointed, one each from paragraphs (1) through (5) of subsection (c), to serve for a term of 5 years.

(2) REAPPOINTMENT.—Each member may be reappointed to serve a subsequent term.

(3) EXPIRATION.—Each member shall continue to serve after the expiration of the term of the member until a successor is appointed.

(4) VACANCIES.—A vacancy on the Advisory Committee shall be filled in the same manner as an original appointment is made. The member appointed to fill the vacancy shall serve until the expiration of the term in which the vacancy occurred.

(e) CHAIRPERSON.—The members of the Advisory Committee shall select 1 of the members to serve as Chairperson.

(f) MEETINGS.—Meetings of the Advisory Committee shall be held at the call of the Chairperson or the majority of the Advisory Committee. Meetings shall be held at such locations and in such a manner as to ensure adequate opportunity for public involvement. In compliance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall choose an appropriate means of providing interested members of the public advance notice of scheduled meetings.

(g) QUORUM.—A majority of the members of the Advisory Committee shall constitute a quorum.

(h) COMPENSATION.—Each member of the Advisory Committee shall serve without compensation, except that while engaged in official business of the Advisory Committee, the member shall be entitled to travel expenses, including per diem in lieu of subsistence in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(i) CHARTER.—The rechartering provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee.

SEC. 1008. RESTRICTION ON AUTHORITY.

Nothing in this subtitle shall give the Secretary authority to regulate lands outside the land area acquired by the Secretary under section 1006(a).

SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this subtitle.

Subtitle B—Sterling Forest

SEC. 1011. PALISADES INTERSTATE PARK COMMISSION.

(a) FUNDING.—The Secretary of the Interior is authorized to provide funding to the Palisades Interstate Park Commission to be used for the acquisition of lands and interests in lands within the area generally depicted on the map entitled "Boundary Map, Sterling Forest Reserve", numbered SFR-60,001 and dated July 1, 1994. There are authorized to be appropriated for purposes of this section not more than $17,500,000. No funds made available under this section may be used for the acquisition of any lands or interest in lands without the consent of the owner thereof.

(b) LAND EXCHANGE.—The Secretary of the Interior is authorized to exchange unreserved unappropriated Federal lands under the administrative jurisdiction of the Secretary for the lands comprising approximately 2,220 acres depicted on the map entitled "Sterling Forest, Proposed Sale of Sterling Forest Lands" and dated July 25, 1996. The Secretary shall consult with the Governor of any State in which such unreserved unappropriated lands are located prior to carrying out such exchange. The lands acquired by the Secretary under this section shall be transferred to the Palisades Interstate Park Commission to be included within the Sterling Forest Reserve. The lands exchanged under this section shall be of equal value, as determined by the Secretary utilizing nationally recognized appraisal standards. The authority to exchange lands under this section shall expire on the date 18 months after the date of enactment of this Act.

Subtitle C—Additional Provisions

SEC. 1021. BLACK CANYON OF THE GUNNISON NATIONAL PARK COMPLEX.

(a) ESTABLISHMENT OF BLACK CANYON OF THE GUNNISON NATIONAL PARK.—

(1) There is hereby established the Black Canyon of the Gunnison National Park (hereinafter referred to as the "park") in the State of Colorado. The Black Canyon National Monument is abolished as such, and all lands and interests therein are hereby incorporated within and made part of the Black Canyon of the Gunnison National Park. Any reference to the Black Canyon of the Gunnison National Monument shall be deemed a reference to Black Canyon of the Gunnison National Park, and any funds available for the purposes of the monument shall be available for purposes of the park.

(2) The Secretary of the Interior (hereinafter referred to as the "Secretary") acting through the Director of the National Park Service shall manage the park, subject to valid existing rights, in accordance with this subsection and under the provisions of law generally applicable to units of the National Park System, including but not limited to the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), and other applicable provisions of law.

(b) ESTABLISHMENT OF THE GUNNISON GORGE NATIONAL CONSERVATION AREA.—

(1) There is hereby established the Gunnison Gorge National Conservation Area (hereinafter referred to as the "conservation area") in the State of Colorado, consisting of approximately 64,139 acres as generally depicted on the map entitled "Black Canyon of the Gunnison National Park Complex—Map No. 9, dated July 29, 1996" (hereinafter referred to as the "map").

(2) The Secretary, acting through the Director of the Bureau of Land Management, shall manage the conservation area, subject to valid existing rights, in accordance with this subsection, the Federal Land Management and Policy Act of 1976, and other applicable provisions of law.

(3) In addition to the use of motorized vehicles on established roadways, the use of motorized vehicles in the conservation area shall be allowed to the extent compatible, in accordance with existing off-highway vehicle designations as described in the current approved management plan, or as part of the comprehensive plan prepared pursuant to this subsection.

(4) If no later than 5 years after the date of enactment of this Act the United States acquires, from willing sellers only, lands that are depicted on the map as private lands within the conservation area as established by this section, such lands upon their acquisition by the United States shall be included in and managed as part of the conservation area.

(5) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.) certain lands in the conservation area comprised of approximately 22,111 acres, as generally depicted on the map, and which shall be known as the Gunnison Gorge Wilderness.

(6) That portion of the Gunnison Gorge Wilderness Study Area (Uncompahgre Basin Wilderness Final Environmental Impact Statement, 1989) not designated as wilderness by this Act, is no longer subject to the terms and conditions contained in section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) for management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation, and shall be managed for multiple use or other values in accordance with land use plans developed pursuant to section 202 of the Federal Land Policy and Management Act of 1976.

(7) Nothing in this subsection or any other Act shall constitute either an express or implied Federal reservation of water or water rights for any purpose arising from the designation of areas as wilderness by this subsection.

(c) ESTABLISHMENT OF THE CURECANTI NATIONAL RECREATION AREA, AND THE DENVER AND RIO GRANDE RAILROAD NATIONAL HISTORIC SITE.—

(1) In order to conserve the scenic, natural, historic, archaeological, wildlife, and fishery resources, and to provide for the public use and enjoyment of the land withdrawn or acquired for, and the water areas created by the Wayne N. Aspinall Unit of the Colorado River Storage Project, there is hereby established the Curecanti National Recreation Area (hereinafter referred to as the "recreation area") in the State of Colorado. The recreation area shall consist of the lands and waters within the area designated "Curecanti National Recreation Area" as depicted on the map.

(2) The Secretary, acting through the Director of the National Park Service, shall manage the recreation area, subject to valid existing rights, in accordance with this subsection and under provisions of law generally applicable to units of the National Park System including but not limited to the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), and other applicable provisions of law, except as otherwise provided in this subsection.

(3) The establishment of the recreation area and land transfer of administration under subsection (a) and (b) shall not affect or interfere with the validity of existing rights, including withdrawals, acquisitions and conveyances, made before the date of enactment of this section for reclamation or power purposes. Subject to their respective authorities under the Colorado River Storage Project Act of 1956 (42 U.S.C. 620 et seq.) and the Uncompahgre Project, operation, maintenance, and management of all facilities and improvements on and the management of lands occupied by dams, structures, administrative areas, or other facilities shall be the responsibility of the Secretary and the Secretary of Energy, acting through the Commissioner of the Bureau of Reclamation and the Western Area Power Administration. Such lands shall be delineated through a joint agreement among the Bureau of Reclamation, the National Park Service, and the Western Area Power Administration. The Secretary may enter into additional agreements which address sharing of jurisdiction and authorities on the delineated lands. All lands within the recreation area which have been withdrawn or acquired by the United States for reclamation purposes shall remain subject to the purposes and uses established under the Colorado River Storage Project Act of 1956 (42 U.S.C. 620 et seq.) and the Uncompahgre Project as originally authorized by the Secretary as the Gunnison Project on March 14, 1903 under the provisions of the Reclamation Act of October 17, 1902 (32 Stat. 388, 43 U.S.C. 391), as amended. The Secretary, acting through the Bureau of Reclamation, may exclude any area from the recreation area for reclamation or power purposes upon determining that it is in the national interest to do so.

(4) Subject to valid existing rights, all Federal lands and interests within the national recreation area administered by the Bureau of Land Management are withdrawn from disposition under the public land laws from location, entry, and patent under the mining laws of the United States, from the operation of mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, and the administrative jurisdiction of such lands is transferred to the National Park Service upon enactment of this section.

(5) Within the recreation area there is hereby established, subject to the provisions of this subsection, the Denver and Rio Grande National Historic Site (hereinafter referred to as the "historic site") consisting of the Denver and Rio Grande rolling stock and train trestle at Cimarron, as depicted on the map. The Secretary may include those portions of the historic railroad bed within the boundaries of the historic site which would serve to enhance or contribute to the interpretation of the development of the railroad and its role in the development of western Colorado.

(6) The Secretary is authorized to convey to the city of Gunnison, Colorado, or to such public agency as the Secretary deems appropriate, for an amount not to exceed fair market appraised value, the land known as the Riverway Tract in section 8, township 49 north, range 1 west, New Mexico principal meridian.

(7) The Secretary is authorized, upon a finding that it is not needed for public purposes, to convey without consideration by quit claim deed all right, title, and interest in the United States in and to parcels of ten acres or less which are encroached upon, as of the date of this section, by improvements occupied or used to such person or persons under claim or color of title by persons to whom no advance notice was given that such improvements encroached or would encroach upon such parcels, and who in good faith relied upon an erroneous survey, title search or other land description indicating there was not such encroachment. Such lands so conveyed shall be deleted from the national recreation area.

(8) The Secretary shall complete an official boundary survey of the areas depicted on the map within three years of the date of this subsection.

(9) If no later than 3 years after the date of enactment of this title the United States acquires lands comprising approximately 520 acres adjacent to Colorado Highway 92 and the Curecanti National Recreation Area as designated by this title and as generally depicted on a map entitled "Hall Property, Colorado", dated September, 1996, such lands upon their acquisition by the United States from willing sellers only shall be included in and managed as part of such recreation area.

(d) THE ESTABLISHMENT OF THE BLACK CANYON OF THE GUNNISON NATIONAL PARK COMPLEX.—

(1) There is hereby established the Black Canyon of the Gunnison National Park Complex (hereinafter referred to as the "complex") in the State of Colorado. The purposes of the complex are to emphasize management of the Gunnison River and its environs while managing the components of the complex (the park, the conservation area, and the recreation area) according to their respective purposes and mandates; to seek out and promote efficiencies in the management of the complex; to integrate and coordinate planning efforts within the complex; and as permitted by agency mandates and policies, to utilize the resources of the involved agencies cooperatively to enhance public service, to resolve issues, and to provide a focal point for public contact. The complex shall include the following lands as depicted on the map:

(A) The park.

(B) The conservation area

(C) The recreation area.

(D) Those portions of lands comprising the Gunnison National Forest as depicted on the map.

(2) The Secretary, acting through the Director of the National Park Service, shall manage the park, recreation area, historic site and district; and acting through the Director of the Bureau of Land Management, shall manage the conservation area in accordance with this subsection, and other applicable provisions of law.

(3) The Secretary of Agriculture, acting through the Chief of the Forest Service shall manage, subject to valid existing rights, those portions of the forest that have been included in the complex in accordance with the laws, rules, and regulations pertaining to the National Forest System and this subsection.

(4) The Secretaries shall manage the areas under their jurisdiction within the complex in a consistent manner, and are authorized to share personnel, equipment, and other resources to reduce or eliminate duplication of effort.

(5) Within four years following the date of enactment of this section, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Resources of the United States House of Representatives a comprehensive plan for the long-range protection and management of the complex. The plan shall describe the appropriate uses and management of the complex consistent with the provisions of this section. The plan may incorporate appropriate decisions contained in any current management or activity plan for the complex. The plan may also incorporate appropriate wildlife habitat management or other plans that have been prepared for the lands within or adjacent to the complex, and shall be prepared in close consultation with appropriate Federal agencies and agencies of the State of Colorado and shall use information developed in previous studies of the lands within or adjacent to the complex.

(e) WATER RIGHTS.—Nothing in this section, nor in any action taken pursuant thereto under any other Act, shall constitute an express or implied reservation of water for any purpose. Nothing in this section, nor any actions taken pursuant thereto shall affect any existing water rights, including, but not limited to, any water rights held by the United States prior to the date of enactment of this section. Any water rights that the Secretary determines are necessary for the purposes of this section shall be acquired under the procedural and substantive requirements of the laws of the State of Colorado.

(f) RECREATIONAL AND MULTIPLE-USE ACTIVITIES.—

(1) In carrying out this section, in addition to other related activities that may be permitted pursuant to this section, the Secretaries shall provide for general recreation and multiple use activities that are considered appropriate and compatible within the areas of their respective jurisdiction, including, but not limited to, swimming, fishing, boating, rafting, hiking, horseback riding, camping and picnicking. The Secretaries shall also provide for certain multiple use activities, subject to valid existing rights, including grazing; and the maintenance of existing designated roads, stock driveways, and utility rights-of-way. Within the boundaries of the recreation area the Secretary may also provide for off-road vehicle use below high water levels, on frozen lake surfaces, and on related designated access routes; and other such uses as the Secretary may deem appropriate.

(2) The Secretaries shall permit hunting, fishing, noncommercial taking of fresh-water crustaceans, and trapping on the lands and waters

under the Secretaries jurisdiction in accordance with applicable laws and regulations of the United States and the State of Colorado, except that the Secretaries, after consultation with the Colorado Division of Wildlife, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Subject to valid existing rights, hunting and trapping will not be allowed within the boundaries of the park.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1022. NATIONAL PARK FOUNDATION.

(a) The Act entitled "An Act to establish the National Park Foundation", approved December 18, 1967 (16 U.S.C. 19e–19n), is amended—

(1) in section 1—

(A) by striking "therein" and inserting in lieu thereof "therein, and to develop and implement means of securing funds from the private sector, to enhance funding for the National Park System without supplanting appropriated funds otherwise available for the National Park System,"; and

(B) by striking "to accept and administer such gifts";

(2) in section 3—

(A) by inserting "(a)" after "SEC. 3."; and

(B) by inserting at the end:

"(b)(1) In furtherance of the purposes of this Act, the Foundation shall have exclusive authority to license or authorize persons to use such trademarks, tradenames, signs, symbols, emblems, insignia, logos, likenesses or slogans that are or may be in the future adopted and owned by the Foundation, and for which the Foundation has filed an application or applications with the United States Patent and Trademark Office, for the purposes of representing, promoting or advertising for commercial purposes or pecuniary gain that an individual, company, or particular good or service is an official sponsor or official supporter of the National Park System or National Park Service.

"(2) The authority provided in paragraph (1) shall be subject to the following conditions:

"(A) The criteria and guidelines for the competitive issuance and the maintenance of a license or authorization, and the issuance of each license or authorization, shall be subject to the prior written approval of the Secretary as being appropriate to the image of the National Park System and consistent with the management policies and practices of the National Park Service, and such approval authority may not be delegated. Criteria and guidelines developed under this paragraph shall be printed in the Federal Register and shall not take effect until 60 days after the date of publication.

"(B) For good cause, the Secretary of the Interior may, after consultation with the Foundation, terminate any license or authorization granted pursuant to this subsection.

"(C) Neither the Secretary of the Interior, the Foundation, nor any other person may authorize an individual, company, or particular good or service to represent, promote, or advertise, and no person may represent or imply, for commercial purposes or for pecuniary gain that it is an official sponsor or official supporter of any individual unit of the National Park System.

"(D) The advertisements and promotional activities undertaken by a licensee or authorized person shall be appropriate to the image of the National Park System and consistent with the management policies and practices of the National Park Service.

"(E) Neither the Secretary of the Interior, the Foundation, nor any other person may authorize an individual, company, or particular good or service to represent that it is endorsed by the National Park Service.

"(F) Any license or authorization issued pursuant to this subsection shall be for a term not to exceed 5 years and shall not grant any right or preference of renewal.

"(G) Nothing in this Act shall in any way restrict the authority of the President to manage White House matters or restrict or preclude the Statue of Liberty - Ellis Island Foundation, Inc. (the "Statue of Liberty Foundation"), so long as its activities are authorized by a Memorandum of Agreement with the Secretary of the Interior, from raising donations for the restoration of the Statue of Liberty and Ellis Island by, among other things, offering to any third parties exclusive rights to any trademark, tradename, sign, symbol, insignia, emblem, logo, likeness, or slogan owned by the Statue of Liberty Foundation.

"(F) Activities of the Foundation undertaken pursuant to this Act, including the licensing or authorizing of official sponsors and official supporters of the National Park System or National Park Service by the Foundation, shall not preclude charitable organizations or cooperating associations from conducting fundraising activities or selling merchandise to generate support for a unit or units of the National Park System or the National Park Service, so long as such activities do not convey a right to be considered as an official sponsor or official supporter of such unit or units as prohibited by subparagraph (B) or of the National Park System or National Park Service.

"(c) No license or authorization referred to in subsection (b) shall grant any person any right or authority to market, advertise, display, sell, or promote, any goods, products or services in any unit of the National Park System or in any related facility operated outside the boundaries of any unit, or to advertise or promote that it is an official sponsor or official supporter within the meaning of subsection (b) in any such unit or related facility.

"(2) No license or authorization may be granted to any person—

"(A) that is in litigation against the Department of the Interior; or

"(B) that has had a judgment rendered against it by a court of law for a violation of any Federal environmental law during the previous 5 years; or

"(C) which would create a conflict of interest or the appearance thereof between the Department of the Interior and such person.

(3) in section 4—

(A) by inserting "and section 8(b)" between "transfer" and the comma;

(B) by inserting "license," between "lease," and "invest"; and

(C) by striking "any business, nor shall the Foundation" and inserting in lieu thereof "business for pecuniary profit or gain, except for the purposes set forth in this Act; operate any commercial establishment or enterprise within any unit of the National Park System; engage in any lobbying activities as defined in section 3(7) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602(7)) concerning the management of the National Park System; or";

(4) in section 8—

(A) by inserting "(a)" after "SEC. 8."; and

(B) by inserting at the end:

"(b) All of the income in the Foundation, net of reasonable operating expenses, any contributions to local government pursuant to subsection (a), and reserves determined necessary or appropriate by the Board, shall be provided to or for the benefit of the National Park Service: Provided, That all such net income derived from the licenses and authorizations referred to in section 3(b) shall be expended in accordance with policies and priorities of the National Park Service on programs, projects, or activities that benefit the National Park System or National Park Service as identified by the Secretary in consultation with the Foundation Provided further, That no person designated as an official sponsor or supporter pursuant to section 3(b) shall be permitted to direct or stipulate how fees paid for such designated are to be expended.";

(5) in section 10—

(A) by inserting "(a)" after "SEC. 10."; and

(B) by inserting at the end:

"(b) Within 30 days of the execution of each license or authorization referred to in section 3(b), the Foundation shall transmit a copy thereof to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

"(c) No later than 5 years after the date of enactment of this subsection, the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report assessing the cost, effectiveness, and effects of the licensing and authorization program established pursuant to section 3(b). The report shall include, but not be limited to, assessments of the effect of such program on—

"(1) visitation levels in the National Park System;

"(2) the image of the National Park System;

"(3) achievement of the needs and priorities of the National Park Service;

"(4) appropriations for the National Park System;

"(5) the costs of the Foundation and the Secretary of the Interior to administer the program."; and

(6) at the end, by inserting:

"SEC. 11. Whoever, without the authorization of the Foundation, uses for purposes of trade, to induce the sale of any good or service, to promote any commercial activity, or for other commercial purpose the name of the Foundation or any trademark, tradename, sign, symbol, emblem, insignia, logo, likeness, or slogan referred to in section 3(b)(1), or any facsimile or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to suggest falsely that an individual, company, or particular good or service is an official sponsor or official supporter of the National Park System or National Park Service, shall be subject to suit in a civil action by the Foundation for the remedies provided in the Act of July 5, 1946, 60 Stat. 427 (15 U.S.C. sec. 1051 et. seq.).".

(b) Section 1 of Public Law 88–504 (36 U.S.C. 1101), as amended, is further amended by adding at the end, "(78) The National Park Foundation.".

SEC. 1023. RECREATION LAKES.

(a) FINDINGS AND PURPOSES.—The Congress finds that the Federal Government, under the authority of the Reclamation Act and other statutes, has developed manmade lakes and reservoirs that have become a powerful magnet for diverse recreational activities and that such activities contribute to the well-being of families and individuals and the economic viability of local communities. The Congress further finds that in order to further the purposes of the Land and Water Conservation Fund, the President should appoint an advisory commission to review the current and anticipated demand for recreational opportunities at federally-managed manmade lakes and reservoirs through creative partnerships involving Federal, State and local governments and the private sector and to develop alternatives for enhanced recreational use of such facilities.

(b) COMMISSION.—The Land and Water Conservation Fund Act of 1965 (P.L. 88–578, 78 Stat. 897) is amended by adding at the end the following new section:

"SEC. 13. (a) The President shall appoint an advisory commission to review the opportunities for enhanced opportunities for water based recreation which shall submit a report to the President and to the Committee on Energy and Natural Resources of the Senate and in the House of Representatives to the Committee on Transportation and Infrastructure and the Committee on Resources of the House of Representatives within one year from the date of enactment of this section.

"(b) The members of the Commission shall include—

"(1) the Secretary of the Interior, or his designee;

"(2) the Secretary of the Army, or his designee;

"(3) the Chairman of the Tennessee Valley Authority, or his designee;

"(4) the Secretary of Agriculture, or his designee;

"(5) a person nominated by the National Governor's Association; and

"(6) four persons familiar with the interests of the recreation and tourism industry, conservation and recreation use, Indian tribes, and local governments, at least one of whom shall be familiar with the economics and financing of recreation related infrastructure.

"(c) The President shall appoint one member to serve as Chairman. Any vacancy on the Commission shall be filled in the same manner as the original appointment. Members of the Commission shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. The Secretary of the Interior shall provide all financial, administrative, and staffing requirements for the Commission, including office space, furnishings, and equipment. The heads of other Federal agencies are authorized, at the request of the Commission, to provide such information or personnel, to the extent permitted by law and within the limits of available funds, to the Commission as may be useful to accomplish the purposes of this section.

"(d) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable: Provided, That, to the maximum extent possible, the Commission shall use existing data and research. The Commission is authorized to use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States.

"(e) The report shall review the extent of water related recreation at Federal manmade lakes and reservoirs and shall develop alternatives to enhance the opportunities for such use by the public. In developing the report, the Commission shall—

"(1) review the extent to which recreation components identified in specific authorizations associated with individual federal manmade lakes and reservoirs have been accomplished,

"(2) evaluate the feasibility of enhancing recreation opportunities at federally-managed lakes and reservoirs under existing statutes,

"(3) consider legislative changes that would enhance recreation opportunities consistent with and subject to the achievement of the authorized purposes of federal water projects, and

"(4) make recommendations on alternatives for enhanced recreation opportunities including, but not limited to, the establishment of a National Recreation Lake System under which specific lakes would receive national designation and which would be managed through innovative partnership-based agreements between federal agencies, State and local units of government, and the private sector.

Any such alternatives shall be consistent with and subject to the authorized purposes for any manmade lakes and reservoirs and shall emphasize private sector initiatives in concert with State and local units of government.".

SEC. 1024. BISTI/DE-NA-ZIN WILDERNESS EXPANSION AND FOSSIL FOREST PROTECTION.

(a) SHORT TITLE.—This section may be cited as the "Bisti/De-Na-Zin Wilderness Expansion and Fossil Forest Protection Act".

(b) WILDERNESS DESIGNATION.—Section 102 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3155) is amended—

(1) in subsection (a)—

(A) by striking "wilderness, and, therefore," and all that follows through "System—" and inserting "wilderness areas, and as one component of the National Wilderness Preservation System, to be known as the 'Bisti/De-Na-Zin Wilderness'—";

(B) in paragraph (1), by striking ", and which shall be known as the Bisti Wilderness; and" and inserting a semicolon;

(C) in paragraph (2), by striking ", and which shall be known as the De-Na-Zin Wilderness." and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(3) certain lands in the Farmington District of the Bureau of Land Management, New Mexico, which comprise approximately 16,525 acres, as generally depicted on a map entitled 'Bisti/De-Na-Zin Wilderness Amendment Proposal', dated May 1992.";

(2) in the first sentence of subsection (c), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and as soon as practicable after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)";

(3) in subsection (d), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and where established prior to the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)"; and

(4) by adding at the end the following new subsection:

"(e)(1) Subject to valid existing rights, the lands described in subsection (a)(3) are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

"(2) The Secretary of the Interior may issue coal leases in New Mexico in exchange for any preference right coal lease application within the area described in subsection (a)(3). Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

"(3) Operations on oil and gas leases issued prior to the date of enactment of subsection (a)(3) shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5–1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the ecological, educational, scientific, recreational, scenic, and other wilderness values of the lands described in subsection (a)(3) in existence on the date of enactment of subsection (a)(3). In order to satisfy valid existing rights on the lands described in subsection (a)(3), the Secretary of the Interior may exchange any oil and gas lease within this area for an unleased parcel outside this area of like mineral estate and with similar appraised mineral values.".

(c) EXCHANGES FOR STATE LANDS.—Section 104 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3156) is amended—

(1) in the first sentence of subsection (b), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and not later than 120 days after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)";

(2) in subsection (c), by inserting before the period the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and as of the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)"; and

(3) in the last sentence of subsection (d), by inserting before the period the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and not later than 2 years after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)".

(d) EXCHANGES FOR INDIAN LANDS.—Section 105 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3157) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of the Interior shall exchange any lands held in trust for the Navajo Tribe by the Bureau of Indian Affairs that are within the boundary of the area described in subsection (a)(3).

"(2) The lands shall be exchanged for lands within New Mexico approximately equal in value that are selected by the Navajo Tribe.

"(3) After the exchange, the lands selected by the Navajo Tribe shall be held in trust by the Secretary of the Interior in the same manner as the lands described in paragraph (1).".

(e) FOSSIL FOREST RESEARCH NATURAL AREA.—Section 103 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3156) is amended to read as follows:

"SEC. 103. FOSSIL FOREST RESEARCH NATURAL AREA.

"(a) ESTABLISHMENT.—To conserve and protect natural values and to provide scientific knowledge, education, and interpretation for the benefit of future generations, there is established the Fossil Forest Research Natural Area (referred to in this section as the 'Area'), consisting of the approximately 2,770 acres in the Farmington District of the Bureau of Land Management, New Mexico, as generally depicted on a map entitled 'Fossil Forest', dated June 1983.

"(b) MAP AND LEGAL DESCRIPTION.—

"(1) IN GENERAL.—As soon as practicable after the date of enactment of this paragraph, the Secretary of the Interior shall file a map and legal description of the Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

"(2) FORCE AND EFFECT.—The map and legal description described in paragraph (1) shall have the same force and effect as if included in this Act.

"(3) TECHNICAL CORRECTIONS.—The Secretary of the Interior may correct clerical, typographical, and cartographical errors in the map and legal description subsequent to filing the map pursuant to paragraph (1).

"(4) PUBLIC INSPECTION.—The map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior.

"(c) MANAGEMENT.—

"(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the Area—

"(A) to protect the resources within the Area; and

"(B) in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable provisions of law.

"(2) MINING.—

"(A) WITHDRAWAL.—Subject to valid existing rights, the lands within the Area are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

"(B) COAL PREFERENCE RIGHTS.—The Secretary of the Interior is authorized to issue coal leases in New Mexico in exchange for any preference right coal lease application within the Area. Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

"(C) OIL AND GAS LEASES.—Operations on oil and gas leases issued prior to the date of enactment of this paragraph shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5–1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the natural, educational, and scientific research values of the Area in existence on the date of enactment of this paragraph.

"(3) GRAZING.—Livestock grazing on lands within the Area may not be permitted.

"(d) INVENTORY.—Not later than 3 full fiscal years after the date of enactment of this subsection, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall develop a baseline inventory of all categories of fossil resources within the Area. After the inventory is developed, the Secretary shall conduct monitoring surveys at intervals specified in the management plan developed for the Area in accordance with subsection (e).

"(e) MANAGEMENT PLAN.—

"(1) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Secretary of the Interior shall develop and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a management plan that describes the appropriate uses of the Area consistent with this Act.

"(2) CONTENTS.—The management plan shall include—

"(A) a plan for the implementation of a continuing cooperative program with other agencies and groups for—

"(i) laboratory and field interpretation; and

"(ii) public education about the resources and values of the Area (including vertebrate fossils);

"(B) provisions for vehicle management that are consistent with the purpose of the Area and that provide for the use of vehicles to the minimum extent necessary to accomplish an individual scientific project;

"(C) procedures for the excavation and collection of fossil remains, including botanical fossils, and the use of motorized and mechanical equipment to the minimum extent necessary to accomplish an individual scientific project; and

"(D) mitigation and reclamation standards for activities that disturb the surface to the detriment of scenic and environmental values.".

SEC. 1025. OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.

(a) DEFINITIONS.—In this section:

(1) BULL OF THE WOODS WILDERNESS.—The term "Bull of the Woods Wilderness" means the land designated as wilderness by section 3(4) of the Oregon Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132 note).

(2) OPAL CREEK WILDERNESS.—The term "Opal Creek Wilderness" means certain land in the Willamette National Forest in the State of Oregon comprising approximately 12,800 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic Recreation Area", dated July 1996.

(3) SCENIC RECREATION AREA.—The term "Scenic Recreation Area" means the Opal Creek Scenic Recreation Area, comprising approximately 13,000 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic Recreation Area", dated July 1996 and established under subsection (c)(1)(C).

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) PURPOSES.—The purposes of this section are—

(1) to establish a wilderness and scenic recreation area to protect and provide for the enhancement of the natural, scenic, recreational, historic and cultural resources of the area in the vicinity of Opal Creek;

(2) to protect and support the economy of the communities in the Santiam Canyon; and

(3) to provide increased protection for an important drinking water source for communities served by the North Santiam River.

(c) ESTABLISHMENT OF OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.—

(1) ESTABLISHMENT.—On a determination by the Secretary under paragraph (2)—

(A) the Opal Creek Wilderness, as depicted on the map described in subsection (a)(2), is hereby designated as wilderness, subject to the provisions of the Wilderness Act of 1964, shall become a component of the National Wilderness System, and shall be known as the Opal Creek Wilderness;

(B) the part of the Bull of the Woods Wilderness that is located in the Willamette National Forest shall be incorporated into the Opal Creek Wilderness; and

(C) the Secretary shall establish the Opal Creek Scenic Recreation Area in the Willamette National Forest in the State of Oregon, comprising approximately 13,000 acres, as generally depicted on the map described in subsection (a)(3).

(2) CONDITIONS.—The designations in paragraph (1) shall not take effect unless the Secretary makes a determination, not later than 2 years after the date of enactment of this title, that the following conditions have been met:

(A) the following have been donated to the United States in an acceptable condition and without encumbrances:

(i) all right, title, and interest in the following patented parcels of land—

(I) Santiam Number 1, mineral survey number 992, as described in patent number 39–92–0002, dated December 11, 1991;

(II) Ruth Quartz Mine Number 2, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991;

(III) Morning Star Lode, mineral survey number 993, as described in patent number 36–91–0011, dated February 12, 1991;

(ii) all right, title, and interest held by any entity other than the Times Mirror Land and Timber Company, its successors and assigns, in and to lands located in section 18, township 8 south, range 5 east, Marion County, Oregon, Eureka numbers 6, 7, 8, and 13 mining claims; and

(iii) an easement across the Hewitt, Starvation, and Poor Boy Mill Sites, mineral survey number 990, as described in patent number 36–91–0017, dated May 9, 1991. In the sole discretion of the Secretary, such easement may be limited to administrative use if an alternative access route, adequate and appropriate for public use, is provided.

(B) a binding agreement has been executed by the Secretary and the owners of record as of March 29, 1996, of the following interests, specifying the terms and conditions for the disposition of such interests to the United States Government—

(i) The lode mining claims known as Princess Lode, Black Prince Lode, and King Number 4 Lode, embracing portions of sections 29 and 32, township 8 south, range 5 east, Willamette Meridian, Marion County, Oregon, the claims being more particularly described in the field notes and depicted on the plat of mineral survey number 887, Oregon; and

(ii) Ruth Quartz Mine Number 1, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991.

(3) ADDITIONS TO THE WILDERNESS AND SCENIC RECREATION AREAS.—

(A) Lands or interests in lands conveyed to the United States under this subsection shall be included in and become part of, as appropriate, Opal Creek Wilderness or the Opal Creek Scenic Recreation Area.

(B) On acquiring all or substantially all of the land located in section 36, township 8 south, range 4 east, of the Willamette Meridian, Marion County, Oregon, commonly known as the Rosboro section by exchange, purchase from a willing seller, or by donation, the Secretary shall expand the boundary of the Scenic Recreation Area to include such land.

(C) On acquiring all or substantially all of the land located in section 18, township 8 south, range 5 east, Marion County, Oregon, commonly known as the Times Mirror property, by exchange, purchase from a willing seller, or by donation, such land shall be included in and become a part of the Opal Creek Wilderness.

(d) ADMINISTRATION OF THE SCENIC RECREATION AREA.—

(1) IN GENERAL.—The Secretary shall administer the Scenic Recreation Area in accordance with this section and the laws (including regulations) applicable to the National Forest System.

(2) OPAL CREEK MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 2 years after the date of establishment of the Scenic Recreation Area, the Secretary, in consultation with the advisory committee established under subsection (e)(1), shall prepare a comprehensive Opal Creek Management Plan (Management Plan) for the Scenic Recreation Area.

(B) INCORPORATION IN LAND AND RESOURCE MANAGEMENT PLAN.—Upon its completion, the Opal Creek Management Plan shall become part of the land and resource management plan for the Willamette National Forest and supersede any conflicting provision in such land and resource management plan.Nothing in this paragraph shall be construed to supersede the requirements of the Endangered Species Act or the National Forest Management Act or regulations promulgated under those Acts, or any other law.

(C) REQUIREMENTS.—The Opal Creek Management Plan shall provide for a broad range of land uses, including—

(i) recreation;

(ii) harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets; and

(iii) educational and research opportunities.

(D) PLAN AMENDMENTS.—The Secretary may amend the Opal Creek Management Plan as the Secretary may determine to be necessary, consistent with the procedures and purposes of this section.

(3) CULTURAL AND HISTORIC RESOURCE INVENTORY.—

(A) IN GENERAL.—Not later than 1 year after the date of establishment of the Scenic Recreation Area, the Secretary shall review and revise the inventory of the cultural and historic resources on the public land in the Scenic Recreation Area developed pursuant to the Oregon

Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132).

(B) INTERPRETATION.—Interpretive activities shall be developed under the management plan in consultation with State and local historic preservation organizations and shall include a balanced and factual interpretation of the cultural, ecological, and industrial history of forestry and mining in the Scenic Recreation Area.

(4) TRANSPORTATION PLANNING.—

(A) IN GENERAL.—Except as provided in this subparagraph, motorized vehicles shall not be permitted in the Scenic Recreation Area.To maintain reasonable motorized and other access to recreation sites and facilities in existence on the date of enactment of this title, the Secretary shall prepare a transportation plan for the Scenic Recreation Area that—

(i) evaluates the road network within the Scenic Recreation Area to determine which roads should be retained and which roads should be closed;

(ii) provides guidelines for transportation and access consistent with this section;

(iii) considers the access needs of persons with disabilities in preparing the transportation plan for the Scenic Recreation Area;

(iv) allows forest road 2209 beyond the gate to the Scenic Recreation Area, as depicted on the map described in subsection (a)(2), to be used by motorized vehicles only for administrative purposes and for access by private inholders, subject to such terms and conditions as the Secretary may determine to be necessary; and

(v) restricts construction or improvement of forest road 2209 beyond the gate to the Scenic Recreation Area to maintaining the character of the road as it existed upon the date of enactment of this Act, which shall not include paving or widening.

In order to comply with subsection (f)(2), the Secretary may make improvements to forest road 2209 and its bridge structures consistent with the character of the road as it existed on the date of enactment of this Act.

(5) HUNTING AND FISHING.—

(A) IN GENERAL.—Subject to applicable Federal and State law, the Secretary shall permit hunting and fishing in the Scenic Recreation Area.

(B) LIMITATION.—The Secretary may designate zones in which, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment of the Scenic Recreation Area.

(C) CONSULTATION.—Except during an emergency, as determined by the Secretary, the Secretary shall consult with the Oregon State Department of Fish and Wildlife before issuing any regulation under this subsection.

(6) TIMBER CUTTING.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall prohibit the cutting and/or selling of trees in the Scenic Recreation Area.

(B) PERMITTED CUTTING.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary may allow the cutting of trees in the Scenic Recreation Area only—

(I) for public safety, such as to control the continued spread of a forest fire in the Scenic Recreation Area or on land adjacent to the Scenic Recreation Area;

(II) for activities related to administration of the Scenic Recreation Area, consistent with the Opal Creek Management Plan; or

(III) for removal of hazard trees along trails and roadways.

(ii) SALVAGE SALES.—The Secretary may not allow a salvage sale in the Scenic Recreation Area.

(7) WITHDRAWAL.

(A) subject to valid existing rights, all lands in the scenic recreation area are withdrawn from—

(i) any form of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) disposition under the mineral and geothermal leasing laws.

(8) BORNITE PROJECT.—

(A) Nothing in this section shall be construed to interfere with or approve any exploration, mining, or mining-related activity in the Bornite Project Area, depicted on the map described in subsection (a)(3), conducted in accordance with applicable laws.

(B) Nothing in this section shall be construed to interfere with the ability of the Secretary to approve and issue, or deny, special use permits in connection with exploration, mining, and mining-related activities in the Bornite Project Area.

(C) Motorized vehicles, roads, structures, and utilities (including but not limited to power lines and water lines) may be allowed inside the Scenic Recreation Area to serve the activities conducted on land within the Bornite Project.

(D) After the date of enactment of this Act, no patent shall be issued for any mining claim under the general mining laws located within the Bornite Project Area.

(9) WATER IMPOUNDMENTS.—Notwithstanding the Federal Power Act (16 U.S.C. 791a et seq.), the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work in the Scenic Recreation Area, except as may be necessary to comply with the provisions of paragraph (8) with regard to the Bornite Project.

(10) RECREATION.—

(A) RECOGNITION.—Congress recognizes recreation as an appropriate use of the Scenic Recreation Area.

(B) MINIMUM LEVELS.—The management plan shall permit recreation activities at not less than the levels in existence on the date of enactment of this Act.

(C) HIGHER LEVELS.—The management plan may provide for levels of recreation use higher than the levels in existence on the date of enactment of this Act if such uses are consistent with the protection of the resource values of Scenic Recreation Area.

(D) The management plan may include public trail access through section 28, township 8 south, range 5 east, Willamette Meridian, to Battle Axe Creek, Opal Pool and other areas in the Opal Creek Wilderness and the Opal Creek Scenic Recreation Area.

(11) PARTICIPATION.—So that the knowledge, expertise, and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Scenic Recreation Area and its various subareas for the benefit of the public:

(A) ADVISORY COUNCIL.—The Secretary shall consult on a periodic and regular basis with the advisory council established under subsection (e) with respect to matters relating to management of the Scenic Recreation Area.

(B) PUBLIC PARTICIPATION.—The Secretary shall seek the views of private groups, individuals, and the public concerning the Scenic Recreation Area.

(C) OTHER AGENCIES.—The Secretary shall seek the views and assistance of, and cooperate with, any other Federal, State, or local agency with any responsibility for the zoning, planning, or natural resources of the Scenic Recreation Area.

(D) NONPROFIT AGENCIES AND ORGANIZATIONS.—The Secretary shall seek the views of any nonprofit agency or organization that may contribute information or expertise about the resources and the management of the Scenic Recreation Area.

(e) ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—not later than 90 days after the establishment of the scenic recreation area, the secretary shall establish an advisory council for the scenic recreation area.

(2) MEMBERSHIP.—the advisory council shall consist of not more than 13 members, of whom—

(A) 1 member shall represent Marion County, Oregon, and shall be designated by the governing body of the county;

(B) 1 member shall represent the State of Oregon and shall be designated by the Governor of Oregon; and

(C) 1 member shall represent the City of Salem, and shall be designated by the mayor of Salem, Oregon;

(D) 1 member from a city within a 25 mile radius of the Opal Creek Scenic Recreation Area, to be designated by the Governor of the State of Oregon from a list of candidates provided by the mayors of the cities located within a 25 mile radius of the Opal Creek Scenic Recreation Area; and

(E) not more than 9 members shall be appointed by the Secretary from among persons who, individually or through association with a national or local organization, have an interest in the administration of the Scenic Recreation Area, including, but not limited to, representatives of the timber industry, environmental organizations, the mining industry, inholders in the Opal Creek Wilderness and Scenic Recreation Area, economic development interests and Indian tribes.

(3) STAGGERED TERMS.—Members of the advisory council shall serve for staggered terms of 3 years.

(4) CHAIRMAN.—The Secretary shall designate 1 member of the advisory council as chairman.

(5) VACANCIES.—The Secretary shall fill a vacancy on the advisory council in the same manner as the original appointment.

(6) COMPENSATION.—Members of the advisory council shall receive no compensation for their service on the advisory council.

(f) GENERAL PROVISIONS.—

(1) LAND ACQUISITION.—

(A) IN GENERAL.—Subject to the other provisions of this section, the Secretary may acquire any lands or interests in land in the Scenic Recreation Area or the Opal Creek Wilderness that the Secretary determines are needed to carry out this section.

(B) PUBLIC LAND.—Any lands or interests in land owned by a State or a political subdivision of a State may be acquired only by donation or exchange.

(C) CONDEMNATION.—Within the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area, the Secretary may not acquire any privately owned land or interest in land without the consent of the owner unless the Secretary finds that—

(i) the nature of land use has changed significantly, or the landowner has demonstrated intent to change the land use significantly, from the use that existed on the date of the enactment of this Act; and

(ii) acquisition by the Secretary of the land or interest in land is essential to ensure use of the land or interest in land in accordance with the purposes of this title or the management plan prepared under subsection (d)(2).

(D) Nothing in this section shall be construed to enhance or diminish the condemnation authority available to the Secretary outside the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area.

(2) ENVIRONMENTAL RESPONSE ACTIONS AND COST RECOVERY.—

(A) RESPONSE ACTIONS.—Nothing in this section shall limit the authority of the Secretary or a responsible party to conduct an environmental response action in the Scenic Recreation Area in

connection with the release, threatened release, or cleanup of a hazardous substance, pollutant, or contaminant, including a response action conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(B) LIABILITY.—Nothing in this section shall limit the authority of the Secretary or a responsible party to recover costs related to the release, threatened release, or cleanup of any hazardous substance or pollutant or contaminant in the Scenic Recreation Area.

(3) MAPS AND DESCRIPTION.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a boundary description for the Opal Creek Wilderness and for the Scenic Recreation Area with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(B) FORCE AND EFFECT.—The boundary description and map shall have the same force and effect as if the description and map were included in this section, except that the Secretary may correct clerical and typographical errors in the boundary description and map.

(C) AVAILABILITY.—The map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(4) SAVINGS PROVISION.—Nothing in this section shall interfere with any activity for which a special use permit has been issued, has not been revoked, and has not expired, before the date of enactment of this Act, subject to the terms of the permit.

(g) ROSBORO LAND EXCHANGE.—

(1) AUTHORIZATION.—Notwithstanding any other law, if the Rosboro Lumber Company (referred to in this subsection as "Rosboro") offers and conveys marketable title to the United States to the land described in paragraph (2), the Secretary of Agriculture shall convey all right, title and interest held by the United States to sufficient lands described in paragraph (3) to Rosboro, in the order in which they appear in this subsection, as necessary to satisfy the equal value requirements of paragraph (4).

(2) LAND TO BE OFFERED BY ROSBORO.—The land referred to in paragraph (1) as the land to be offered by Rosboro shall comprise Section 36, Township 8 South, Range 4 East, Willamette Meridian.

(3) LAND TO BE CONVEYED BY THE UNITED STATES.—The land referred to in paragraph (1) as the land to be conveyed by the United States shall comprise sufficient land from the following prioritized list to be of equal value under paragraph (4):

(A) Section 5, Township 17 South, Range 4 East, Lot 7 (37.63 acres);

(B) Section 2, Township 17 South, Range 4 East, Lot 3 (29.28 acres);

(C) Section 13, Township 17 South, Range 4 East, S½ SE¼ (80 acres);

(D) Section 2, Township 17 South, Range 4 East, SW¼ SW¼ (40 acres);

(E) Section 2, Township 17 South, Range 4 East, NW¼ SE¼ (40 acres);

(F) Section 8, Township 17 South, Range 4 East, SE¼ SW¼ (40 acres);

(G) Section 11, Township 17 South, Range 4 East, W½ NW¼ (80 acres);

(4) EQUAL VALUE.—The land and interests in land exchanged under this subsection shall be of equal market value as determined by nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, or shall be equalized by way of payment of cash pursuant to the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law. The appraisal shall consider access costs for the parcels involved.

(5) TIMETABLE.—

(A) The exchange directed by this subsection shall be consummated not later than 120 days after the date Rosboro offers and conveys the property described in paragraph (2) to the United States.

(B) The authority provided by this subsection shall lapse if Rosboro fails to offer the land described in paragraph (2) within 2 years after the date of enactment of this Act.

(6) CHALLENGE.—Rosboro shall have the right to challenge in United States District Court for the District of Oregon a determination of marketability under paragraph (1) and a determination of value for the lands described in paragraphs (2) and (3) by the Secretary of Agriculture. The court shall have the authority to order the Secretary to complete the transaction contemplated in this subsection.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(h) DESIGNATION OF ELKHORN CREEK AS A WILD AND SCENIC RIVER.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"( )(A) ELKHORN CREEK.—The 6.4-mile segment traversing federally administered lands from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to that point where the segment leaves Federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, in the following classes:

"(i) a 5.8-mile wild river area, extending from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to its confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered as agreed on by the Secretaries of Agriculture and the Interior, or as directed by the President; and

"(ii) a 0.6-mile scenic river area, extending from the confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to that point where the segment leaves Federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered by the Secretary of Interior, or as directed by the President.

"(B) Notwithstanding section 3(b) of this Act, the lateral boundaries of both the wild river area and the scenic river area along Elkhorn Creek shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.".

(i) ECONOMIC DEVELOPMENT.—

(1) ECONOMIC DEVELOPMENT PLAN.—As a condition for receiving funding under paragraph (2), the State of Oregon, in consultation with Marion County, Oregon, and the Secretary of Agriculture, shall develop a plan for economic development projects for which grants under this subsection may be used in a manner consistent with this section and to benefit local communities in the vicinity of the Opal Creek area. Such plan shall be based on an economic opportunity study and other appropriate information.

(2) FUNDS PROVIDED TO THE STATES FOR GRANTS.—Upon completion of the Opal Creek Management Plan, and receipt of the plan referred to in paragraph (1), the Secretary shall provide, subject to appropriations, $15,000,000 to the State of Oregon. Such funds shall be used to make grants or loans for economic development projects that further the purposes of this section and benefit the local communities in the vicinity of the Opal Creek area.

(3) REPORT.—The State of Oregon shall—

(A) prepare and provide the Secretary and Congress with an annual report on the use of the funds made available under this subsection;

(B) make available to the Secretary and to Congress, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this subsection; and

(C) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

SEC. 1026. UPPER KLAMATH BASIN ECOLOGICAL RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ECOSYSTEM RESTORATION OFFICE.—The term "Ecosystem Restoration Office" means the Klamath Basin Ecosystem Restoration Office operated cooperatively by the United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, and Forest Service.

(2) WORKING GROUP.—The term "Working Group" means the Upper Klamath Basin Working Group, established before the date of enactment of this title, consisting of members nominated by their represented groups, including—

(A) 3 tribal members;

(B) 1 representative of the city of Klamath Falls, Oregon;

(C) 1 representative of Klamath County, Oregon;

(D) 1 representative of institutions of higher education in the Upper Klamath Basin;

(E) 4 representatives of the environmental community, including at least one such representative from the State of California with interests in the Klamath Basin National Wildlife Refuge Complex;

(F) 4 representatives of local businesses and industries, including at least one representative of the forest products industry and one representative of the ocean commercial fishing industry and/or the recreational fishing industry based in either Oregon or California;

(G) 4 representatives of the ranching and farming community, including representatives of Federal lease-land farmers and ranchers and of private land farmers and ranchers in the Upper Klamath Basin;

(H) 2 representatives from State of Oregon agencies with authority and responsibility in the Klamath River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department;

(I) 4 representatives from the local community; and

(J) One representative each from the following Federal resource management agencies in the Upper Klamath Basin: Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Natural Resources Conservation Service, National Marine Fisheries Service and Ecosystem Restoration Office.

(K) One representative of the Klamath County Soil and Water Conservation District.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TASK FORCE.—The term "Task Force" means the Klamath River Basin Fisheries Task Force as established by the Klamath River Basin Fishery Resource Restoration Act (P.L. 99-552, 16 U.S.C. 460ss-3, et.seq.).

(5) COMPACT COMMISSION.—The term "Compact Commission" means the Klamath River Basin Compact Commission created pursuant to the Klamath River Compact Act of 1954.

(6) CONSENSUS.—The term "consensus" means a unanimous agreement by the Working Group

members present and consisting of at least a quorum at a regularly scheduled business meeting.

(7) QUORUM.—The term "quorum" means one more than half of those qualified Working Group members appointed and eligible to serve.

(8) TRINITY TASK FORCE.—The term "Trinity Task Force" means the Trinity River Restoration Task Force created by Public Law 98–541, as amended by Public Law 104–143.

(b) IN GENERAL.—

(1) The Working Group through the Ecosystem Restoration Office, with technical assistance from the Secretary, will propose ecological restoration projects, economic development and stability projects, and projects designed to reduce the impacts of drought conditions to be undertaken in the Upper Klamath Basin based on a consensus of the Working Group membership.

(2) The Secretary shall pay, to the greatest extent feasible, up to 50 percent of the cost of performing any project approved by the Secretary or his designee, up to a total amount of $1,000,000 during each of fiscal years 1997 through 2001.

(3) Funds made available under this title through the Department of the Interior or the Department of Agriculture shall be distributed through the Ecosystem Restoration Office.

(4) The Ecosystem Restoration Office may utilize not more than 15 percent of all Federal funds administered under this section for administrative costs relating to the implementation of this section.

(5) All funding recommendations developed by the Working Group shall be based on a consensus of Working Group members.

(c) COORDINATION.—(1) The Secretary shall formulate a cooperative agreement among the Working Group, the Task Force, the Trinity Task Force and the Compact Commission for the purposes of ensuring that projects proposed and funded through the Working Group are consistent with other basin-wide fish and wildlife restoration and conservation plans, including but not limited to plans developed by the Task Force and the Compact Commission;

(2) To the greatest extent practicable, the Working Group shall provide notice to, and accept input from, two members each of the Task Force, the Trinity Task Force, and the Compact Commission, so appointed by those entities, for the express purpose of facilitating better communication and coordination regarding additional basin-wide fish and wildlife and ecosystem restoration and planning efforts.The roles and relationships of the entities involved shall be clarified in the cooperative agreement.

(d) PUBLIC MEETINGS.—The Working Group shall conduct all meetings subject to Federal open meeting and public participation laws.The chartering requirements of the Federal Advisory Committee Act (5 U.S.C. App.) are hereby deemed to have been met by this section.

(e) TERMS AND VACANCIES.— Working Group members shall serve for three-year terms, beginning on the date of enactment of this title. Vacancies which occur for any reason after the date of enactment of this title shall be filled by direct appointment of the governor of the State of Oregon, in consultation with the Secretary of the Interior and the Secretary of Agriculture, in accordance with nominations from the appropriate groups, interests, and government agencies outlined in subsection (a)(2).

(f) RIGHTS, DUTIES AND AUTHORITIES UNAFFECTED.—The Working Group will supplement, rather than replace, existing efforts to manage the natural resources of the Klamath Basin. Nothing in this section affects any legal right, duty or authority of any person or agency, including any member of the working group.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1997 through 2002.

SEC. 1027. DESCHUTES BASIN ECOSYSTEM RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) WORKING GROUP.—The term "Working Group" means the Deschutes River Basin Working Group established before the date of enactment of this title, consisting of members nominated by their represented groups, including—

(A) 5 representatives of private interests including one each from hydroelectric production, livestock grazing, timber, land development, and recreation/tourism;

(B) 4 representatives of private interests including two each from irrigated agriculture and the environmental community;

(C) 2 representatives from the Confederated Tribes of the Warm Springs Reservation of Oregon;

(D) 2 representatives from Federal agencies with authority and responsibility in the Deschutes River Basin, including one from the Department of the Interior and one from the Agriculture Department;

(E) 2 representatives from the State of Oregon agencies with authority and responsibility in the Deschutes River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department; and

(F) 4 representatives from county or city governments within the Deschutes River Basin county and/or city governments.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) FEDERAL AGENCIES.—The term "Federal agencies" means agencies and departments of the United States, including, but not limited to, the Bureau of Reclamation, Bureau of Indian Affairs, Bureau of Land Management, Fish and Wildlife Service, Forest Service, Natural Resources Conservation Service, Farm Services Agency, the National Marine Fisheries Service, and the Bonneville Power Administration.

(4) CONSENSUS.—The term "consensus" means a unanimous agreement by the Working Group members present and constituting at least a quorum at a regularly scheduled business meeting.

(5) QUORUM.—The term "quorum" means one more than half of those qualified Working Group members appointed and eligible to serve.

(b) IN GENERAL.—

(1) The Working Group will propose ecological restoration projects on both Federal and non-Federal lands and waters to be undertaken in the Deschutes River Basin based on a consensus of the Working Group, provided that such projects, when involving Federal land or funds, shall be proposed to the Bureau of Reclamation in the Department of the Interior and any other Federal agency with affected land or funds.

(2) The Working Group will accept donations, grants or other funds and place such funds received into a trust fund, to be expended on ecological restoration projects which, when involving Federal land or funds, are approved by the affected Federal agency.

(3) The Bureau of Reclamation shall pay from funds authorized under subsection (h) of this title up to 50 percent of the cost of performing any project proposed by the Working Group and approved by the Secretary, up to a total amount of $1,000,000 during each of the fiscal years 1997 through 2001.

(4) Non-Federal contributions to project costs for purposes of computing the Federal matching share under paragraph (3) of this subsection may include in-kind contributions.

(5) Funds authorized in subsection (h) of this section shall be maintained in and distributed by the Bureau of Reclamation in the Department of the Interior. The Bureau of Reclamation shall not expend more than 5 percent of amounts appropriated pursuant to subsection (h) for Federal administration of such appropriations pursuant to this section.

(6) The Bureau of Reclamation is authorized to provide by grant to the Working Group not more than 5 percent of funds appropriated pursuant to subsection (h) of this title for not more than 50 percent of administrative costs relating to the implementation of this section.

(7) The Federal agencies with authority and responsibility in the Deschutes River Basin shall provide technical assistance to the Working Group and shall designate representatives to serve as members of the Working Group.

(8) All funding recommendations developed by the Working Group shall be based on a consensus of the Working Group members.

(c) PUBLIC NOTICE AND PARTICIPATION.—The Working Group shall conduct all meetings subject to applicable open meeting and public participation laws. The activities of the Working Group and the Federal agencies pursuant to the provisions of this title are exempt from the provisions of 5 U.S.C. App. 2 1–15.

(d) PRIORITIES.—The Working Group shall give priority to voluntary market-based economic incentives for ecosystem restoration including, but not limited to, water leases and purchases; land leases and purchases; tradable discharge permits; and acquisition of timber, grazing, and land development rights to implement plans, programs, measures, and projects.

(e) TERMS AND VACANCIES.—Members of the Working Group representing governmental agencies or entities shall be named by the represented government. Members of the Working Group representing private interests shall be named in accordance with the articles of incorporation and bylaws of the Working Group.Representatives from Federal agencies will serve for terms of 3 years.Vacancies which occur for any reason after the date of enactment of this title shall be filled in accordance with this title.

(f) ADDITIONAL PROJECTS.—Where existing authority and appropriations permit, Federal agencies may contribute to the implementation of projects recommended by the Working Group and approved by the Secretary.

(g) RIGHTS, DUTIES AND AUTHORITIES UNAFFECTED.—The Working Group will supplement, rather than replace, existing efforts to manage the natural resources of the Deschutes Basin. Nothing in this title affects any legal right, duty or authority of any person or agency, including any member of the working group.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $1,000,000 for each of fiscal years 1997 through 2001.

SEC. 1028. MOUNT HOOD CORRIDOR LAND EXCHANGE.

(a) AUTHORIZATION.—Notwithstanding any other law, if Longview Fibre Company (referred to in this section as "Longview") offers and conveys title that is acceptable to the United States to some or all of the land described in subsection (b), the Secretary of the Interior (referred to in this section as the "Secretary") shall convey to Longview title to some or all of the land described in subsection (c), as necessary to satisfy the requirements of subsection (d).

(b) LAND TO BE OFFERED BY LONGVIEW.—The land referred to in subsection (a) as the land to be offered by Longview are those lands depicted on the map entitled "Mt. Hood Corridor Land Exchange Map", dated July 18, 1996.

(c) LAND TO BE CONVEYED BY THE SECRETARY.—The land referred to in subsection (a) as the land to be conveyed by the Secretary are those lands depicted on the map entitled "Mt. Hood Corridor Land Exchange Map", dated July 18, 1996.

(d) EQUAL VALUE.—The land and interests in land exchanged under this section shall be of equal market value as determined by nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, or shall be equalized by way of payment of cash pursuant to the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(e) REDESIGNATION OF LAND TO MAINTAIN REVENUE FLOW.—So as to maintain the current flow of revenue from land subject to the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon", approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary may redesignate public domain land located in and west of Range 9 East, Willamette Meridian, Oregon, as land subject to that Act.

(f) TIMETABLE.—The exchange directed by this section shall be consummated not later than 1 year after the date of enactment of this title.

(g) WITHDRAWAL OF LANDS.—All lands managed by the Department of the Interior, Bureau of Land Management, located in Townships 2 and 3 South, Ranges 6 and 7 East, Willamette Meridian, which can be seen from the right-of-way of U.S. Highway 26, (in this section, such lands are referred to as the "Mt. Hood Corridor Lands"), shall be managed primarily for the protection or enhancement of scenic qualities. Management prescriptions for other resource values associated with these lands shall be planned and conducted for purposes other than timber harvest, so as not to impair the scenic qualities of the area.

(h) TIMBER CUTTING.—Timber harvest may be conducted on Mt. Hood Corridor Lands following a resource-damaging catastrophic event. Such cutting may only be conducted to achieve the following resource management objectives, in compliance with the current land use plans—

(1) to maintain safe conditions for the visiting public;

(2) to control the continued spread of forest fire;

(3) for activities related to administration of the Mt. Hood Corridor Lands; or

(4) for removal of hazard trees along trails and roadways.

(i) ROAD CLOSURE.—The forest road gate located on Forest Service Road 2503, located in T. 2 S., R. 6 E., sec. 14, shall remain closed and locked to protect resources and prevent illegal dumping and vandalism. Access to this road shall be limited to—

(1) Federal and State officers and employees acting in an official capacity;

(2) employees and contractors conducting authorized activities associated with the telecommunication sites located in T. 2 S., R. 6 E., sec. 14; and

(3) the general public for recreational purposes, except that all motorized vehicles will be prohibited.

(j) NEPA EXEMPTION.—Notwithstanding any other provision of law, the National Environmental Policy Act of 1969 (Public Law 91–190) shall not apply to this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 1029. CREATION OF THE COQUILLE FOREST.

The Coquille Restoration Act (Public Law 101–42) is amended by inserting at the end of section 5 the following:

"(d) Creation of the Coquille Forest.

"(1) DEFINITIONS.—In this subsection:

"(A) The term 'Coquille Forest' means certain lands in Coos County, Oregon, comprising approximately 5,400 acres, as generally depicted on the map entitled 'Coquille Forest Proposal', dated July 8, 1996.

"(B) The term 'Secretary' means the Secretary of Interior.

"(C) The term 'the Tribe' means the Coquille Tribe of Coos County, Oregon.

"(2) MAP.—The map described in paragraph (1)(A), and such additional legal descriptions which are applicable, shall be placed on file at the local District Office of the Bureau of Land Management, the Agency Office of the Bureau of Indian Affairs, and with the Senate Committee on Energy and Natural Resources and the House Committee on Resources.

"(3) INTERIM PERIOD.—From the date of enactment of this subsection until two years after the date of enactment of this subsection, the Bureau of Land Management shall—

"(A) retain Federal jurisdiction for the management of lands designated under this subsection as the Coquille Forest and continue to distribute revenues from such lands in a manner consistent with existing law; and

"(B) prior to advertising, offering or awarding any timber sale contract on lands designated under this subsection as the Coquille Forest, obtain the approval of the Assistant Secretary for Indian Affairs, acting on behalf of and in consultation with the Tribe.

"(4) TRANSITION PLANNING AND DESIGNATION.—

"(A) During the two-year interim period provided for in paragraph (3), the Assistant Secretary for Indian Affairs, acting on behalf of and in consultation with Tribe, is authorized to initiate development of a forest management plan for the Coquille Forest. The Secretary, acting through the director of the Bureau of Land Management, shall cooperate and assist in the development of such plan and in the transition of forestry management operations for the Coquille Forest to the Assistant Secretary for Indian Affairs.

"(B) Two years after the date of enactment of this subsection, the Secretary shall take the lands identified under subparagraph (d)(1)(A) into trust, and shall hold such lands in trust, in perpetuity, for the Coquille Tribe.Such lands shall be thereafter designated as the Coquille Forest.

"(5) MANAGEMENT.—The Secretary of Interior, acting through the Assistant Secretary for Indian Affairs shall manage the Coquille Forest under applicable forestry laws and in a manner consistent with the standards and guidelines of Federal forest plans on adjacent or nearby Federal lands. The Secretary shall otherwise manage the Coquille Forest in accordance with the laws pertaining to the management of Indian Trust lands and shall, except as provied in subparagraph (C), distribute revenues in accordance with PL 101–630, 25 U.S.C. 3107.

"(A) Unprocessed logs harvested from the Coquille Forest shall be subject to the same Federal statutory restrictions on export to foreign Nations that apply to unprocessed logs harvested from Federal lands.

"(B) Notwithstanding any other provision of law, all sales of timber from land subject to this subsection shall be advertised, offered and awarded according to competitive bidding practices, with sales being awarded to the highest responsible bidder.

"(C) So as to maintain the current flow of revenue from land subject to the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon" (the O & C Act), approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary shall redesignate, from public domain lands within the Tribe's service area, as defined in this Act, certain lands to be subject to the O & C Act. Lands redesignated under this subparagraph shall not exceed lands sufficient to constitute equivalent timber value as compared to lands constituting the Coquille Forest.

"(6) INDIAN SELF-DETERMINATION ACT AGREEMENT.—No sooner than 2 years after the date of enactment of this subsection, the Secretary may, upon a satisfactory showing of management competence and pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.), enter into a binding Indian self-determination agreement (agreement) with the Coquille Indian Tribe. Such agreement may provide for the Tribe to carry out all or a portion of the forest management for the Coquille Forest.

"(A) Prior to entering such an agreement, and as a condition of maintaining such an agreement, the Secretary must find that the Coquille Tribe has entered into a binding memorandum of agreement (MOA) with the State of Oregon, as required under paragraph (7), and with the 18 Oregon counties as required by paragraph (8).

"(B) The authority of the Secretary to rescind the Indian self-determination agreement shall not be encumbered.

"(i) The Secretary shall rescind the agreement upon a demonstration that the Tribe and the State of Oregon or the 18 Oregon counties are no longer engaged in a memorandum of agreement as required under paragraph (7).

"(ii) The Secretary may rescind the agreement on a showing that the Tribe has managed the Coquille Forest in a manner inconsistent with this subsection, or the Tribe is no longer managing, or capable of managing, the Coquille Forest in a manner consistent with this subsection.

"(7) MEMORANDUM OF AGREEMENT WITH OREGON.—The Coquille Tribe shall enter into a memorandum of agreement (MOA) with the State of Oregon relating to the establishment and management of the Coquille Forest. The MOA shall include, but not be limited to, the terms and conditions for managing the Coquille Forest in a manner consistent with paragraph (5) of this subsection, preserving public access, advancing jointly-held resource management goals, achieving tribal restoration objectives and establishing a coordinated management framework. Further, provisions set forth in the MOA shall be consistent with Federal trust responsibility requirements applicable to Indian trust lands and paragraph (5) of this subsection.

"(8) PUBLIC ACCESS.—The Coquille Forest shall remain open to public access for purposes of hunting, fishing, recreation and transportation, except when closure is required by state or Federal law, or when the Coquille Indian Tribe and the State of Oregon agree in writing that restrictions on access are necessary or appropriate to prevent harm to natural resources, cultural resources or environmental quality: Provided, That the State of Oregon's agreement shall not be required when immediate action is necessary to protect archaeological resources.

"(9) JURISDICTION.—

"(A) The United States District Court for the District of Oregon shall have jurisdiction over actions against the Secretary arising out of claims that this subsection has been violated. Consistent with existing precedents on standing to sue, any affected citizen may bring suit against the Secretary for violations of this subsection, except that suit may not be brought against the Secretary for claims that the MOA has been violated. The court has the authority to hold unlawful and set aside actions pursuant to this subsection that are arbitrary and capricious, an abuse of discretion, or otherwise an abuse of law.

"(B) The United States District Court for the District of Oregon shall have jurisdiction over actions between the State of Oregon, or the 18 Oregon counties, and the tribe arising out of claims of breach of the MOA.

"(C) Unless otherwise provided for by law, remedies available under this subsection shall be limited to equitable relief and shall not include damages.

"(10) STATE REGULATORY AND CIVIL JURISDICTION.—In addition to the jurisdiction described in paragraph (7) of this subsection, the State of Oregon may exercise exclusive regulatory civil jurisdiction, including but not limited to adoption and enforcement of administrative rules and orders, over the following subjects:

"(A) Management, allocation and administration of fish and wildlife resources, including but not limited to establishment and enforcement of hunting and fishing seasons, bag limits, limits on equipment and methods, issuance of permits and licenses, and approval or disapproval of hatcheries, game farms, and other breeding facilities: Provided, That nothing herein shall be construed to permit the State of Oregon to manage fish or wildlife habitat on Coquille Forest lands.

"(B) Allocation and administration of water rights, appropriation of water and use of water.

"(C) Regulation of boating activities, including equipment and registration requirements, and protection of the public's right to use the waterways for purposes of boating or other navigation.

"(D) Fills and removals from waters of the State, as defined in Oregon law.

"(E) Protection and management of the State s proprietary interests in the beds and banks of navigable waterways.

"(F) Regulation of mining, mine reclamation activities, and exploration and drilling for oil and gas deposits.

"(G) Regulation of water quality, air quality (including smoke management), solid and hazardous waste, and remediation of releases of hazardous substances.

"(H) Regulation of the use of herbicides and pesticides.

"(I) Enforcement of public health and safety standards, including standards for the protection of workers, well construction and codes governing the construction of bridges, buildings, and other structures.

"(J) Other subject where State authority is provided for except that, in the event of a conflict between Federal and State law under this subsection, Federal law shall control.

"(11) SAVINGS CLAUSE; STATE AUTHORITY.—

"(A) Nothing in this subsection shall be construed to grant Tribal authority over private or State-owned lands.

"(B) To the extent that the State of Oregon is regulating the foregoing areas pursuant to a delegated Federal authority or a Federal program, nothing in this subsection shall be construed to enlarge or diminish the State's authority under such law.

"(C) Where both the State of Oregon and the United States are regulating, nothing herein shall be construed to alter their respective authorities.

"(D) To the extent that Federal law authorizes the Coquille Indian Tribe to assume regulatory authority over an area, nothing herein shall be construed to enlarge or diminish the Tribe's authority to do so under such law.

"(E) Unless and except to the extent that the Tribe has assumed jurisdiction over the Coquille Forest pursuant to Federal law, or otherwise with the consent of the State, the State of Oregon shall have jurisdiction and authority to enforce its laws addressing the subjects listed in paragraph (10) of this subsection on the Coquille Forest against the Coquille Indian Tribe, its members and all other persons and entities, in the same manner and with the same remedies and protections and appeal rights as otherwise provided by general Oregon law. Where the State of Oregon and Coquille Indian Tribe agree regarding the exercise of tribal civil regulatory jurisdiction over activities on the Coquille Forest lands, the tribe may exercise such jurisdiction as is agreed upon.

"(12) In the event of a conflict between Federal and State law under this subsection, Federal law shall control.".

SEC. 1030. BULL RUN PROTECTION.

(a) AMENDMENTS TO PUBLIC LAW 95–200.—

(1) The first sentence of section 2(a) of Public Law 95–200 is amended after "referred to in this subsection (a)" by striking "2(b)" and inserting in lieu thereof "2(c)".

(2) The first sentence of section 2(b) of Public Law 95–200 is amended after "the policy set forth in subsection (a)" by inserting "and (b)".

(3) Subsection (b) of section 2 of Public Law 95–200 is redesignated as subsection (c).

(4) Section 2 of Public Law 95–200 is amended by inserting after subsection (a) the following new subsection:

"(b) TIMBER CUTTING.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall prohibit the cutting of trees in that part of the unit consisting of the hydrographic boundary of the Bull Run River Drainage, including certain lands within the unit and located below the headworks of the city of Portland, Oregon's water storage and delivery project, and as depicted in a map dated July 22, 1996 and entitled 'Bull Run River Drainage'.

"(2) PERMITTED CUTTING.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of Agriculture shall prohibit the cutting of trees in the area described in subparagraph (1).

"(B) PERMITTED CUTTING.—Subject to subparagraph (C), the Secretary may only allow the cutting of trees in the area described in subparagraph (1)—

"(i) for the protection or enhancement of water quality in the area described in subparagraph (1); or

"(ii) for the protection, enhancement, or maintenance of water quantity available from the area described in subparagraph (1); or

"(iii) for the construction, expansion, protection or maintenance of municipal water supply facilities; or

"(iv) for the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or previously authorized hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.

"(C) SALVAGE SALES.—The Secretary of Agriculture may not authorize a salvage sale in the area described in subparagraph (1).".

[(5) Redesignate subsequent subsections of Public Law 95–200 accordingly.]

(b) REPORT TO CONGRESS.—The Secretary of Agriculture shall, in consultation with the city of Portland and other affected parties, undertake a study of that part of the Little Sandy Watershed that is within the unit (hereinafter referred to as the "study area"). The study shall determine—

(1) the impact of management activities within the study area on the quality of drinking water provided to the Portland Metropolitan area;

(2) the identity and location of certain ecological features within the study area, including late successional forest characteristics, aquatic and terrestrial wildlife habitat, significant hydrological values, or other outstanding natural features; and

(3) the location and extent of any significant cultural or other values within the study area.

(c) RECOMMENDATIONS.—The study referred to in subsection (b) shall include both legislative and regulatory recommendations to Congress on the future management of the study area. In formulating such recommendations, the Secretary shall consult with the city of Portland and other affected parties.

(d) EXISTING DATA AND PROCESSES.—To the greatest extent possible, the Secretary shall use existing data and processes to carry out the study and report.

(e) SUBMISSION TO CONGRESS.—The study referred to in subsection (b) shall be submitted to the Senate Committees on Energy and Natural Resources and Agriculture and the House Committees on Resources and Agriculture not later than one year from the date of enactment of this section.

(f) MORATORIUM.—The Secretary is prohibited from advertising, offering or awarding any timber sale within the study area for a period of two years after the date of enactment of this section.

(g) WATER RIGHTS.—Nothing in this section shall in any way affect any State or Federal law governing appropriation, use of or Federal right to water on or flowing through National Forest System lands.Nothing in this section is intended to influence the relative strength of competing claims to the waters of the Little Sandy River.Nothing in this section shall be construed to expand or diminish Federal, State, or local jurisdiction, responsibility, interests, or rights in water resources development or control, including rights in and current uses of water resources in the unit.

(h) OTHER LANDS IN UNIT.—Lands within the Bull Run Management Unit, as defined in Public Law 95–200, but not contained within the Bull Run River Drainage, as defined by this section and as depicted on the map dated July 1996 described in section 604 of this title, shall continue to be managed in accordance with Public Law 95–200.

SEC. 1031. OREGON ISLANDS WILDERNESS, ADDITIONS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act of 1964, certain lands within the boundaries of the Oregon Islands National Wildlife Refuge, Oregon, comprising approximately 95 acres and as generally depicted on a map entitled "Oregon Island Wilderness Additions—Proposed" dated August 1996, are hereby designated as wilderness. The map shall be on file and available for public inspection in the offices of the Fish and Wildlife Service, Department of Interior.

(b) OTHER AREAS WITHIN REFUGE BOUNDARIES.—All other federally owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the coast of Oregon and above mean high tide, not currently designated as wilderness and also within the Oregon Islands National Wildlife Refuge boundaries under the administration of the U.S. Fish and Wildlife Service, Department of Interior, as designated by Executive Order 7035, Proclamation 2416, Public Land Orders 4395, 4475 and 6287, and Pubic Laws 91–504 and 95–450, are hereby designated as wilderness.

(c) AREAS UNDER BLM JURISDICTION.—All federally owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the coast of Oregon and above mean high tide, and presently under the jurisdiction of the Bureau of Land Management, except Chiefs Island, are hereby designated as wilderness, shall become part of the Oregon Islands National Wildlife Refuge and the Oregon Islands Wilderness and shall be under the jurisdiction of the United States Fish and Wildlife Service, Department of the Interior.

(d) MAP AND DESCRIPTION.—As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Senate Committee on Energy and Natural Resources and the House Committee on Resources, and such map shall

have the same force and effect as if included in this section: Provided, however, That correcting clerical and typographical errors in the map and land descriptions may be made.

(e) ORDER 6287.—Public Land Order 6287 of June 16, 1982, which withdrew certain rocks, reefs, islets, and islands lying within three geographical miles off the coast of Oregon and above mean high tide, including the 95 acres described in subsection (a), as an addition to the Oregon Islands National Wildlife Refuge is hereby made permanent.

SEC. 1032. UMPQUA RIVER LAND EXCHANGE STUDY: POLICY AND DIRECTION.

(a) IN GENERAL.—The Secretaries of the Interior and Agriculture (Secretaries) are hereby authorized and directed to consult, coordinate and cooperate with the Umpqua Land Exchange Project (ULEP), affected units and agencies of State and local government, and, as appropriate, the World Forestry Center and National Fish and Wildlife Foundation, to assist ULEP's ongoing efforts in studying and analyzing land exchange opportunities in the Umpqua River basin and to provide scientific, technical, research, mapping and other assistance and information to such entities. Such consultation, coordination and cooperation shall at a minimum include, but not be limited to—

(1) working with ULEP to develop or assemble comprehensive scientific and other information (including comprehensive and integrated mapping) concerning the Umpqua River basin's resources of forest, plants, wildlife, fisheries (anadromous and other), recreational opportunities, wetlands, riparian habitat and other physical or natural resources;

(2) working with ULEP to identify general or specific areas within the basin where land exchanges could promote consolidation of forestland ownership for long-term, sustained timber production; protection and restoration of habitat for plants, fish and wildlife (including any federally listed threatened or endangered species); protection of drinking water supplies; recovery of threatened and endangered species; protection and restoration of wetlands, riparian lands and other environmentally sensitive areas; consolidation of land ownership for improved public access and a broad array of recreational uses; and consolidation of land ownership to achieve management efficiency and reduced costs of administration; and

(3) developing a joint report for submission to the Congress which discusses land exchange opportunities in the basin and outlines either a specific land exchange proposal or proposals which may merit consideration by the Secretaries or the Congress, or ideas and recommendations for new authorizations, direction, or changes in existing law or policy to expedite and facilitate the consummation of beneficial land exchanges in the basin via administrative means.

(b) MATTERS FOR SPECIFIC STUDY.—In analyzing land exchange opportunities with ULEP, the Secretaries shall give priority to assisting ULEP's ongoing efforts in:

(1) studying, identifying, and mapping areas where the consolidation of land ownership via land exchanges could promote the goals of long term species and watershed protection and utilization, including but not limited to the goals of the Endangered Species Act of 1973 more effectively than current land ownership patterns and whether any changes in law or policy applicable to such lands after consummation of an exchange would be advisable or necessary to achieve such goals;

(2) studying, identifying and mapping areas where land exchanges might be utilized to better satisfy the goals of sustainable timber harvest, including studying whether changes in existing law or policy applicable to such lands after consummation of an exchange would be advisable or necessary to achieve such goals;

(3) identifying issues and studying options and alternatives, including possible changes in existing law or policy, to insure that combined post-exchange revenues to units of local government from state and local property, severance and other taxes or levies and shared Federal land receipts will approximate pre-exchange revenues;

(4) identifying issues and studying whether possible changes in law, special appraisal instruction, or changes in certain Federal appraisal procedures might be advisable or necessary to facilitate the appraisal of potential exchange lands which may have special characteristics or restrictions affecting land values;

(5) identifying issues and studying options and alternatives, including changes in existing laws or policy, for achieving land exchanges without reducing the net supply of timber available to small business;

(6) identifying, mapping, and recommending potential changes in land use plans, land classifications, or other actions which might be advisable or necessary to expedite, facilitate or consummate land exchanges in certain areas;

(7) analyzing potential sources for new or enhanced Federal, State, or other funding to promote improved resource protection, species recovery, and management in the basin; and

(8) identifying and analyzing whether increased efficiency and better land and resource management could occur through either consolidation of Federal forest management under one agency or exchange of lands between the Forest Service and Bureau of Land Management.

(c) REPORT TO CONGRESS.—No later than February 1, 1998, ULEP and the Secretaries shall submit a joint report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate concerning their studies, findings, recommendations, mapping and other activities conducted pursuant to this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—In furtherance of the purposes of this section, there is hereby authorized to be appropriated the sum of $2,000,000, to remain available until expended.

SEC. 1033. BOSTON HARBOR ISLANDS RECREATION AREA.

(a) PURPOSES.—The purposes of this section are—

(1) to preserve for public use and enjoyment the lands and waters that comprise the Boston Harbor Islands National Recreation Area;

(2) to manage the recreation area in partnership with the private sector, the Commonwealth of Massachusetts, municipalities surrounding Massachusetts and Cape Cod Bays, the Thompson Island Outward Bound Education Center, and Trustees of Reservations, and with historical, business, cultural, civic, recreational and tourism organizations;

(3) to improve access to the Boston Harbor Islands through the use of public water transportation; and

(4) to provide education and visitor information programs to increase public understanding of and appreciation for the natural and cultural resources of the Boston Harbor Islands, including the history of Native American use and involvement.

(b) DEFINITIONS.—For the purposes of this section—

(1) the term recreation area means the Boston Harbor Islands National Recreation Area established by subsection (c); and

(2) the term "Secretary" means the Secretary of the Interior.

(c) BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA.—

(1) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national recreation area certain lands located in Massachusetts Bay, there is established as a unit of the National Park System the Boston Harbor Islands National Recreation Area.

(2) BOUNDARIES.—(A) The recreation area shall be comprised of the lands, waters, and submerged lands generally depicted on the map entitled "Proposed Boston Harbor Islands NRA", numbered BOHA 80002, and dated September 1996. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. After advising the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(B) The recreation area shall include the following:

(i) The areas depicted on the map referenced in subparagraph (A).

(ii) Landside points required for access, visitor services, and administration in the city of Boston along its Harborwalk and at Long Wharf, Fan Pier, John F. Kennedy Library, and the Custom House; Charlestown Navy Yard; Old Northern Avenue Bridge; the city of Quincy at Squantum Point/Marina Bay, the Fore River Shipyard, and Town River; the Town of Hingham at Hewitt's Cove; the Town of Hull; the city of Salem at Salem National Historic Site; and the city of Lynn at the Heritage State Park.

(d) ADMINISTRATION OF RECREATION AREA.—

(1) IN GENERAL.—The recreation area shall be administered in partnership by the Secretary, the Commonwealth of Massachusetts, City of Boston and its applicable subdivisions and others in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467) as amended and supplemented and in accordance with the integrated management plan specified in subsection (f).

(2) STATE AND LOCAL JURISDICTION.—Nothing in this section shall be construed to diminish, enlarge, or modify any right of the Commonwealth of Massachusetts or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out State laws, rules, and regulations within the recreation area, including those relating to fish and wildlife, or to tax persons, corporations, franchises, or private property on the lands and waters included in the recreation area.

(3) COOPERATIVE AGREEMENTS.—The Secretary may consult and enter into cooperative agreements with the Commonwealth of Massachusetts or its political subdivisions to acquire from and provide to the Commonwealth or its political subdivisions goods and services to be used in the cooperative management of lands within the recreation area, if the Secretary determines that appropriations for that purpose are available and the agreement is in the best interest of the United States.

(4) CONSTRUCTION OF FACILITIES ON NON-FEDERAL LANDS.—In order to facilitate the administration of the recreation area, the Secretary is authorized, subject to the appropriation of necessary funds in advance, to construct essential administrative or visitor use facilities on non-Federal public lands within the recreation area. Such facilities and the use thereof shall be in conformance with applicable plans.

(5) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept and use donated funds, property, and services to carry out this section.

(6) RELATIONSHIP OF RECREATION AREA TO BOSTON-LOGAN INTERNATIONAL AIRPORT.—With respect to the recreation area, the present and future maintenance, operation, improvement and use of Boston-Logan International Airport and associated flight patterns from time to time in effect shall not be deemed to constitute the use of publicly owned land of a public park, recreation area, or other resource within the meaning of section 303(c) of title 49, United States Code, and shall not be deemed to have a significant effect on natural, scenic, and recreation assets within the meaning of section 47101(h)(2) of title 49, United States Code.

(7) MANAGEMENT IN ACCORDANCE WITH INTEGRATED MANAGEMENT PLAN.—The Secretary shall preserve, interpret, manage, and provide educational and recreational uses for the recreation area, in consultation with the owners and managers of lands in the recreation area, in accordance with the integrated management plan.

(e) BOSTON HARBOR ISLANDS PARTNERSHIP ESTABLISHMENT.—

(1) ESTABLISHMENT.—There is hereby established the Boston Harbor Islands Partnership whose purpose shall be to coordinate the activities of Federal, State, and local authorities and the private sector in the development and implementation of an integrated resource management plan for the recreation area.

(2) MEMBERSHIP.—The Partnership shall be composed of 13 members, as follows:

(A) One individual appointed by the Secretary, to represent the National Park Service.

(B) One individual, appointed by the Secretary of Transportation, to represent the United States Coast Guard.

(C) Two individuals, appointed by the Secretary, after consideration of recommendations by the Governor of Massachusetts, to represent the Department of Environmental Management and the Metropolitan District Commission.

(D) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Massachusetts Port Authority.

(E) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Massachusetts Water Resources Authority.

(F) One individual, appointed by the Secretary, after consideration of recommendations by the Mayor of Boston, to represent the Office of Environmental Services of the city of Boston.

(G) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Boston Redevelopment Authority.

(H) One individual, appointed by the Secretary, after consideration of recommendations of the President of the Thompson Island Outward Bound Education Center, to represent the Center.

(I) One individual, appointed by the Secretary, after consideration of recommendations of the Chair, to represent the Trustees of Reservations.

(J) One individual, appointed by the Secretary, after consideration of recommendations of the President of the Island Alliance, to represent the Alliance, a non-profit organization whose sole purpose is to provide financial support for the Boston Harbor Islands National Recreation Area.

(K) Two individuals, appointed by the Secretary, to represent the Boston Harbor Islands Advisory Council, established in subsection (g).

(3) TERMS OF OFFICE; REAPPOINTMENT.—(A) Members of the Partnership shall serve for terms of three years. Any member may be reappointed for one additional 3-year term.

(B) The Secretary shall appoint the first members of the Partnership within 30 days after the date on which the Secretary has received all of the recommendations for appointment pursuant to subsections (b)(3), (4), (5), (6), (7), (8), (9), and (10).

(C) A member may serve after the expiration of his or her term until a successor has been appointed.

(4) COMPENSATION.—Members of the Partnership shall serve without pay, but while away from their homes or regular places of business in the performance of services for the Partnership, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(5) ELECTION OF OFFICERS.—The Partnership shall elect one of its members as Chairperson and one as Vice Chairperson. The term of office of the Chairperson and Vice Chairperson shall be one year. The Vice Chairperson shall serve as chairperson in the absence of the Chairperson.

(6) VACANCY.—Any vacancy on the Partnership shall be filled in the same manner in which the original appointment was made.

(7) MEETINGS.—The Partnership shall meet at the call of the Chairperson or a majority of its members.

(8) QUORUM.—A majority of the Partnership shall constitute a quorum.

(9) STAFF OF THE PARTNERSHIP.—The Secretary shall provide the Partnership with such staff and technical assistance as the Secretary, after consultation with the Partnership, considers appropriate to enable the Partnership to carry out its duties. The Secretary may accept the services of personnel detailed from the Commonwealth of Massachusetts, any political subdivision of the Commonwealth or any entity represented on the Partnership.

(10) HEARINGS.—The Partnership may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Partnership may deem appropriate.

(11) DONATIONS.—Notwithstanding any other provision of law, the Partnership may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out this section.

(12) USE OF FUNDS TO OBTAIN MONEY.—The Partnership may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(13) MAILS.—The Partnership may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(14) OBTAINING PROPERTY.—The Partnership may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties, except that the Partnership may not acquire any real property or Interest in real property.

(15) COOPERATIVE AGREEMENTS.—For purposes of carrying out the plan described in subsection (f), the Partnership may enter into cooperative agreements with the Commonwealth of Massachusetts, any political subdivision thereof, or with any organization or person.

(f) INTEGRATED RESOURCE MANAGEMENT PLAN.—

(1) IN GENERAL.—Within three years after the date of enactment of this Act, the Partnership shall submit to the Secretary a management plan for the recreation area to be developed and implemented by the Partnership.

(2) CONTENTS OF PLAN.—The plan shall include (but not be limited to) each of the following:

(A) A program providing for coordinated administration of the recreation area with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, and local levels, and non-profit organizations, including each of the following:

(i) A plan to finance and support the public improvements and services recommended in the plan, including allocation of non-Federal matching requirements set forth in subsection (h)(2) and a delineation of private sector roles and responsibilities.

(ii) A program for the coordination and consolidation, to the extent feasible, of activities that may be carried out by Federal, State, and local agencies having jurisdiction over land and waters within the recreation area, including planning and regulatory responsibilities.

(B) Policies and programs for the following purposes:

(i) Enhancing public outdoor recreational opportunities in the recreation area.

(ii) Conserving, protecting and maintaining the scenic, historical, cultural, natural and scientific values of the islands.

(iii) Developing educational opportunities in the recreation area.

(iv) Enhancing public access to the Is lands, including development of transportation networks.

(v) Identifying potential sources of revenue from programs or activities carried out within the recreation area.

(vi) Protecting and preserving Native American burial grounds connected with the King Philip's War internment period and other periods.

(C) A policy statement that recognizes existing economic activities within the recreation area.

(3) DEVELOPMENT OF PLAN.—In developing the plan, the Partnership shall—

(A) consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the recreation area;

(B) consult with interested conservation, business, professional, and citizen organizations; and

(C) conduct public hearings or meetings for the purposes of providing interested persons with the opportunity to testify with respect to matters to be addressed by the plan.

(4) APPROVAL OF PLAN.—(A) The Partnership shall submit the plan to the Governor of Massachusetts for review. The Governor shall have 90 days to review and make any recommendations. After considering the Governor's recommendations, the Partnership shall submit the plan to the Secretary, who shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

(i) The adequacy of public participation.

(ii) Assurances of plan implementation from State and local officials.

(iii) The adequacy of regulatory and financial tools that are in place to implement the plan.

(B) If the Secretary disapproves the plan, the Secretary shall within 60 days after the date of such disapproval, advise the Partnership in writing of the reasons therefore, together with recommendations for revision. Within 90 days of receipt of such notice of disapproval, the Partnership shall revise and resubmit the plan to the Secretary who shall approve or disapprove the revision within 60 days.

(5) INTERIM PROGRAM.—Prior to adoption of the Partnership's plan, the Secretary and the Partnership shall assist the owners and managers of lands and waters within the recreation area to ensure that existing programs, services, and activities that promote the purposes of this section are supported.

(g) BOSTON HARBOR ISLANDS ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—The Secretary, acting through the Director of the National Park Service, shall establish an advisory committee to be known as the Boston Harbor Islands Advisory Council. The purpose of the Advisory Council shall be to represent various groups with interests in the recreation area and make recommendations to the Boston Harbor Islands Partnership on issues related to the development and implementation of the integrated resource management plan developed under subsection (f). The Advisory Council is encouraged to establish committees relating to specific recreation area management issues, including (but not limited to) education, tourism, transportation, natural resources, cultural and historic resources, and revenue raising activities. Participation on any such committee shall not be limited to members of the Advisory Council.

(2) MEMBERSHIP.—The Advisory Council shall consist of not fewer than 15 individuals, to be appointed by the Secretary, acting through the Director of the National Park Service. The Secretary shall appoint no fewer than three individuals to represent each of the following categories of entities: municipalities; educational and cultural institutions; environmental organizations; business and commercial entities, including those related to transportation, tourism and the maritime industry; and Boston Harbor-related advocacy organizations; and organizations representing Native American interests.

(3) PROCEDURES.—Each meeting of the Advisory Council and its committees shall be open to the public.

(4) FACA.—The provisions of section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), are hereby waived with respect to the Advisory Council.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this section, provided that no funds may be appropriated for land acquisition.

(2) MATCHING REQUIREMENT.—Amounts appropriated in any fiscal year to carry out this section may only be expended on a matching basis in a ration of at least three non-Federal dollars to every Federal dollar. The non-Federal share of the match may be in the form of cash, services, or in-kind contributions, fairly valued.

SEC. 1034. NATCHEZ NATIONAL HISTORICAL PARK.

Section 3 of the Act of October 8, 1988, entitled "An Act to create a national park at Natchez, Mississippi" (16 U.S.C. 410oo et seq.), is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 3."; and

(2) by adding at the end the following:

"(b) BUILDING FOR JOINT USE BY THE SECRETARY AND THE CITY OF NATCHEZ.—

"(1) CONTRIBUTION TOWARD CONSTRUCTION.—The Secretary shall enter into an agreement with the city of Natchez under which the Secretary agrees to pay not to exceed $3,000,000 toward the planning and construction by the city of Natchez of a structure to be partially used by the Secretary as an administrative headquarters, administrative site, and visitors' center for Natchez National Historical Park.

"(2) USE FOR SATISFACTION OF MATCHING REQUIREMENTS.—The amount of payment under paragraph (1) may be available for matching Federal grants authorized under other law notwithstanding any limitations in any such law.

"(3) AGREEMENT.—Prior to the execution of an agreement under paragraph (1), and subject to the appropriation of necessary funds in advance, the Secretary shall enter into a contract, lease, cooperative agreement, or other appropriate form of agreement with the city of Natchez providing for the use and occupancy of a portion of the structure constructed under paragraph (1) (including appropriate use of the land on which it is situated), at no cost to the Secretary (except maintenance, utility, and other operational costs), for a period of 50 years, with an option for renewal by the Secretary for an additional 50 years.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 to carry out this subsection.".

SEC. 1035. SUBSTITUTION OF TIMBER FOR CANCELED TIMBER SALE.

(a) IN GENERAL.—Notwithstanding the provisions of the Act of July 31, 1947 (30 U.S.C. 601 et seq.), and the requirements of section 5402.0–6 of title 43, Code of Federal Regulations, the Secretary of the Interior, acting through the Bureau of Land Management, is authorized to substitute, without competition, a contract for timber identified for harvest located on public lands administered by the Bureau of Land Management in the State of California of comparable value for the following terminated timber contract: Elkhorn Ridge Timber Sale, Contract No. CA–050–TS–88–01.

(b) DISCLAIMER.—Nothing in this section shall be construed as changing any law or policy of the Federal Government beyond the timber sale substitution specified in this section.

SEC. 1036. RURAL ELECTRIC AND TELEPHONE FACILITIES.

(a) IN GENERAL.—Section 504(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(g)) is amended by striking "financed pursuant to the Rural Electrification Act of 1936, as amended," in the last sentence and inserting "eligible for financing pursuant to the Rural Electrification Act of 1936, as amended, determined without regard to any application requirement under that Act,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to rights-of-way leases held on or after the date of enactment of this Act.

SEC. 1037. FEDERAL BOROUGH RECOGNITION.

(a) Section 6901(2) of title 31, United States Code, is amended to read as follows:

"(2)(A) 'unit of general local government' means—

"(i) a county (or parish), township, borough, or city where the city is independent of any other unit of general local government, that—

"(I) is within the class or classes of such political subdivision in a State that the Secretary of the Interior, in his discretion, determines to be the principal provider or providers of governmental services within the State; and

"(II) is a unit of general government, as determined by the Secretary of the Interior on the basis of the same principles as were used by the Secretary of Commerce on January 1, 1983, for general statistical purposes;

"(ii) any area in Alaska that is within the boundaries of a census area used by the Secretary of Commerce in the decennial census, but that is not included within the boundary of a governmental entity described under clause (i);

"(iii) the District of Columbia;

"(iv) the Commonwealth of Puerto Rico;

"(v) Guam; and

"(vi) the Virgin Islands.

"(B) the term 'governmental services' includes, but is not limited to, those services that relate to public safety, the environment, housing, social services, transportation, and governmental administration.".

(b) PAYMENT IN LIEU OF TAXES.—Section 6902(a) of title 31, United States Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), the Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located as set forth in this chapter. A unit of general local government may use the payment for any governmental purpose.

"(2) For each unit of general local government described in section 6901(2)(A)(ii), the Secretary of the Interior shall make a payment for each fiscal year to the State of Alaska for entitlement land located within such unit as set forth in this chapter. The State of Alaska shall distribute such payment to home rule cities and general law cities (as such cities are defined by the State) located within the boundaries of the unit of general local government for which the payment was received. Such cities may use monies received under this paragraph for any governmental purpose.".

SEC. 1038. ALTERNATIVE PROCESSING.

The Secretary of Agriculture shall not terminate or otherwise interfere with the purchaser's operations under Forest Service Timber Contract A10fs-1042 for failure to operate a pulp mill and such failure shall not prejudice any other contract dispute currently under appeal or in litigation.

SEC. 1039. VILLAGE LAND NEGOTIATION.

(a) NEGOTIATIONS.—The Secretary of the Interior shall negotiate with the Alaska Native Village Corporations of Tyonek Native Corporation, Ninilchik Native Association Inc., Knikatnu Inc., Seldovia Native Association Inc., Chikaloon Moose Creek Native Association, Inc. and the Alaska Native Regional Corporation, Cook Inlet Region, Inc. (CIRI) for the purpose of finalizing conveyance to the affected village corporation of the high priority lands or, in the case of CIRI, subsurface estate underlying lands described in "Appendix C" of the Deficiency Agreement dated August 31, 1976, pursuant to Public Law 94–456 or such alternative lands or other consideration as the village corporation, CIRI and the Secretary may agree upon.

(b) REPORT TO COMMITTEES.—The Secretary shall report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives by March 1, 1997, the result of those negotiations.

(c) STATUTE OF LIMITATIONS.—

(1) If the Secretary is unable to reach an agreement with the affected corporation on conveyance of the lands described in paragraph (1) or alternative consideration by March 1, 1997, the affected corporation or corporations may commence litigation at any time within 12 months of enactment of this Act in Federal District Court for Alaska to challenge any determination by the Department of the Interior that the Native Corporations will not receive conveyance of lands described in "Appendix C" of the Deficiency Agreement.

(2) If such litigation is commenced, trial de novo to the Federal District Court for Alaska shall be held and the Deficiency Agreement shall be construed as an agreement for the benefit of Alaska Natives as Native Americans consistent with the Federal trust responsibilities.

SEC. 1040. UNRECOGNIZED COMMUNITIES IN SOUTHEAST ALASKA.

(a) ESTABLISHMENT OF ADDITIONAL NATIVE CORPORATIONS IN SOUTHEAST ALASKA.—(1) Section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)), hereinafter in this section referred to as the "Act") is amended by adding at the end the following new paragraph:

"(12)(A) The Native residents of each of the Native Villages of Haines, Ketchikan, Petersburg and Wrangell, Alaska, may organize as an Urban Corporation.

"(B) The Native residents of the Native Village of Tenakee, Alaska, may organize as a Group Corporation.

"(C) Nothing in this paragraph shall affect existing entitlement to land of any Native Corporation pursuant to this Act or any other provision of law.".

(2) Notwithstanding any other provision of the Act, nothing in this section shall create any

entitlement to Federal lands for an urban or group corporation organized pursuant to paragraph (1) without further Act of Congress.

(b) DISTRIBUTION RIGHTS.—Section 7 of the Alaska Native Claims Settlement Act is amended by adding at the end of subsection (j) the following new sentence: "Native members of the communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell who are shareholders of Sealaska Corporation and who become shareholders in an Urban or Group Corporation for such a community shall continue to be eligible to receive distributions under this subsection as at-large shareholders of Sealaska Corporation.".

(c) PLANNING GRANTS.—The Native Corporation for the communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell are authorized to receive grants in the amount of $250,000 to each such corporation, to be used only for planning, development, and other purposes for which Native Corporations are organized under this section.

(d) CONSIDERATION OF RECOMMENDATIONS.—(1) In developing the Tongass Land Management Plan, the Secretary of Agriculture shall, after consultation with the Southeast Alaska Landless Coalition, Sealaska Corporation, the Urban Corporations for the Native communities of Haines, Ketchikan, Petersburg, and Wrangell, and the Group Corporation for the Native Community of Tenakee (hereinafter collectively referred to as "Southeast Native Corporations"), take into account the establishment of additional Native Corporations under section 14(h)(12) of the Act, as amended by this section.

(2) In meeting the requirements set forth in paragraph (1), the Secretary shall fully consider and analyze all recommendations by the Southeast Native Corporations.

(3) Within 9 months following the enactment of this section, the Secretary shall submit a report to Congress setting forth an analysis of the impact that establishment of the Native Corporations under section 14(h)(12) of the Act, as amended by this section, will have on the Tongass Land Management Plan.

(4) The Tongass Land Management Plan shall incorporate all appropriate recommendations from the Southeast Native Corporations.

(e) MISCELLANEOUS PROVISION.—No provision of this section shall affect the ratio for determination of distribution of revenues among the Regional Corporations under section 7(i) of the Act and the 1982 section 7(i) Settlement Agreement among the Regional Corporations or among Village Corporations under section 7(j) of the Act.

SEC. 1041. CONVEYANCE TO GROSS BROTHERS.

(a) IN GENERAL.—The Secretary of Agriculture shall—

(1) survey certain real property located in Tongass National Forest and described in subsection (b); and

(2) convey all right, title, and interest of the United States, subject to valid existing rights, in and to the property, to Danial J. Gross, Sr., and Douglas K. Gross of Wrangell Alaska.

(b) DESCRIPTION.—The real property referred to in subsection (a)—

(1) consists of approximately 160.8 acres;

(2) is located at Green Point on the Stikine River in Alaska; and

(3) has the legal description T61S R84E S31, NE1/4, NW1/4 and NW1/4, NE1/4, Copper River Meridian.

SEC. 1042. REGULATION OF FISHING IN CERTAIN WATERS OF ALASKA.

(a) IN GENERAL.—Local residents who are descendants of Katmai residents who lived in the Naknek Lake and River Drainage shall be permitted, subject to reasonable regulations established by the Secretary of the Interior, to continue their traditional fishery for red fish within Katmai National Park (the national park and national preserve redesignated, established, and expanded under section 202(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh–1)).

(b) RED FISH DEFINED.—For the purposes of subsection (a), the term "red fish" means spawned-out sockeye salmon that has no significant commercial value.

(c) TITLE.—No provision of this section shall be construed to invalidate or validate or in any other way affect any claim by the State of Alaska to title to any or all submerged lands, nor shall any actions taken pursuant to or in accordance with this Act operate under any provision or principle of the law to bar the State of Alaska from asserting at any time its claim of title to any or all of the submerged lands.

(d) JURISDICTION.—Nothing in this section nor in any actions taken pursuant to this section shall be construed as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in management, regulation, or control over waters of the State of Alaska or submerged lands under any provision of Federal or State law.

SEC. 1043. CREDIT FOR RECONVEYANCE.

Within 24 months after the date of the enactment of this Act, the Cape Fox Corporation may transfer all or part of its right, title, and interest in and to the approximately 320-acre parcel that includes Beaver Falls Hydroelectric powerhouse site to the United States. In exchange for the transfer, the acreage entitlement of the Cape Fox Corporation shall be credited in the amount of the number of acres returned to the United States under this section.

SEC. 1044. RADIO SITE REPORT.

The Secretary of Agriculture (1) shall have a period of 180 days from the date of enactment of this Act to review management of Inspiration Point, San Bernadino National Forest, make a determination whether the continued presence of the KATY–FM antenna on the site is in the public interest, and report the determination with the reasons therefor to the Committee on Energy and Natural Resources, United States Senate, and the Committee on Resources, House of Representatives, and (2) shall take no action within such period which causes or results in, directly or indirectly, the removal of the antenna from the site.

SEC. 1045. MANAGEMENT OF EXISTING DAMS AND WEIRS.

With respect to the Emigrant Wilderness in the Stanislaus National Forest, California, as designated by section 2(b) of Public Law 93–632 (88 Stat. 2154; 16 U.S.C. 1132 note), the Secretary of Agriculture shall retain and maintain the 18 concrete dams and weirs that were located within the boundaries of the Emigrant Wilderness on the date of the enactment of such Public Law, January 3, 1975. If personnel of the Forest Service are unavailable to perform the maintenance of the dams and weirs, or to supplement the maintenance activities of Forest Service personnel, the Secretary shall contract with other persons to perform the maintenance at Government expense or permit other persons to perform the maintenance at private expense.

SEC. 1046. UNIVERSITY OF ALASKA LAND NEGOTIATION.

(a) Subject to valid existing rights and the conditions set forth in this legislation, the Secretary of the Interior is authorized to convey to the University of Alaska, as a grant and in fee simple, a basic Federal entitlement of 350,000 acres of Federal lands in Alaska.

(b) The University of Alaska may submit to the Secretary a list of properties the university has selected to receive under the conditions of this grant. The university may submit selections that exceed the basic entitlement, except that such selections shall not exceed 385,000 acres.

(c) The Secretary shall not approve or convey, under this grant—

(1) any Federal lands which, at the time of enactment of this Act, are included in a Conservation System Unit as defined in the Alaska National Interests Lands Conservation Act or a National Forest.

(2) any Federal lands validly selected but not conveyed to the State of Alaska or the corporations organized pursuant to the Alaska Native Claims Settlement Act.

(d) Lands shall be conveyed to the university only to the extent that the State of Alaska conveys, or has conveyed an equivalent amount of acreage to the university subsequent to enactment of this Act.

TITLE XI—CALIFORNIA BAY DELTA ENVIRONMENTAL ENHANCEMENT

SEC. 1101. PROGRAM FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 1998, 1999, and 2000, there are authorized to be appropriated an additional $143,300,000 for both—

(1) the initial Federal share of the cost of developing and implementing that portion of an ecosystem protection plan for the Bay-Delta, referred to as "the Category III program" emanating out of the document entitled "Principles for Agreement on Bay-Delta Standards Between the State of California and the Federal Government", dated December 15, 1994, and

(2) the initial Federal share of the cost of developing and implementing the ecosystem restoration elements of the long-term CALFED Bay-Delta Program, pursuant to the cost sharing agreement required by section 78684.10 of California Senate Bill 900, Chapter 135, Statutes of 1996, signed by the Governor of California on July 11, 1996.

Funds appropriated pursuant to this section shall remain available until expended and shall be administered in accordance with procedures established by CALFED Bay-Delta Program until Congress authorizes another entity that is recommended by CALFED Bay-Delta Program to carry out this section.

(b) TREATMENT OF FUNDS.—Funds authorized to be appropriated pursuant to this section to those agencies that are currently or subsequently become participants in the CALFED Bay-Delta Program shall be in addition to the baseline funding levels established pursuant to subsection (e), for currently authorized projects and programs under the Central Valley Project Improvement Act (title XXXIV of of Public Law 102–575) and other currently authorized Federal programs for the purpose of Bay-Delta ecosystem protection and restoration.

(c) LONG-TERM SOLUTION.—Nothing in this section shall be deemed to diminish the Federal interest in and responsibility for working with the State of California through the CALFED Bay-Delta Program in developing, funding, and implementing a balanced, long-term solution to the problems of ecosystem quality, water quality, water supply and reliability, and system vulnerability affecting the San Francisco Bay/Sacramento-San Joaquin Delta Watershed in California. Participation in such long term solution shall only be undertaken pursuant to authorization provided by law other than this section, and shall be based on the equitable allocation of program costs among beneficiary groups that the CALFED Bay-Delta programs shall develop.

(d) ACTIVITIES.—To the extent not otherwise authorized, those agencies and departments that are currently or subsequently become participants in the CALFED Bay-Delta Program are hereby authorized to undertake the activities and programs for which Federal cost sharing is provided by this section. The United States shall immediately initiate coordinated consultations and negotiations with the State of California to *expeditiously execute the cost-sharing agreement required by section 78684.10 of California Senate Bill 900, Chapter 135, Statutes of 1996, signed by the Governor of California on July 11, 1996. Such activities shall include, but not be limited to, planning, design, technical assistance, and construction for ecosystem restoration programs and projects.*

(e) BUDGET CROSSCUT.—The Office of Management and Budget is directed to submit to the House and Senate Committees on Appropriations, as part of the President's Fiscal Year 1998 Budget, an interagency budget crosscut that displays Federal spending for fiscal years 1993 through 1998 on ecosystem restoration and other purposes in the Bay-Delta region, separately showing funding provided previously or requested under both pre-existing authorities and new authorities granted by this section.

(f) EFFECTIVE DATE.—Subsections (a) through (d) of this section shall take effect on the date of passage of California State Proposition 204.

And the Senate agree to the same.

DON YOUNG,
JAMES V. HANSEN,
WAYNE ALLARD,
J.D. HAYWORTH,
BARBARA CUBIN,
Managers on the Part of the House.

FRANK H. MURKOWSKI,
PETE V. DOMENICI,
DON NICKLES,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1296), to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment.

TITLE I: PRESIDIO OF SAN FRANCISCO

Title I is very similar to H.R. 1296 passed by the House and described in House Report 104-202. The Managers have made a number of relatively small refinements to the language as passed.

Perhaps most importantly, the Managers have clarified that all lands within the Presidio will remain within the boundary of Golden Gate National Recreation Area, even after formation of the Presidio Trust. This location within a unit of the National Park System is expected to have a strong influence on the future management of the area.

The Managers have made adjustments to the language regarding the transition of the Presidio from management by the National Park Service to management by the Presidio Trust. Those adjustments include clarification of how previously appropriated funds would be handled, how current employees of the National Park Service would be dealt with, and the manner in which the National Park Service would continue to oversee certain ongoing activities, particularly construction projects. In addition, the Managers have provided guidance with respect to the transfer of personal property. The Managers are aware that the National Park Service inherited a substantial amount of personal property from the Army when they departed. In fact, there was so much personal property transferred that some of the equipment has already been transferred to other park units in the Bay area. The Managers have therefore specified that personal property received by the National Park Service should be transferred to the Trust for their ongoing management of the property, rather than remain with the National Park Service.

The Managers have provided for the U.S. Park Police to provide for continued law enforcement presence at the Presidio. Currently, the National Park Service has both park rangers and park police performing such services; and the Managers concur with the position of the Senate that the park police are best suited to carry out this function.

The Managers have agreed to provide reasonable flexibility to the Trust in terms of compliance with Federal procurement laws. The flexibility provided to the Trust in this legislation is consistent with overall efforts by both the Administration and the Congress to reduce the administrative burden of procurement laws.

Finally, the Managers have agreed to extend the timeframe for providing federal funding to the Trust from 12 to 15 years. While analysis conducted by the Trust indicates that it is feasible to eliminate the need for Federal funds in 12 years, extending such authority for 15 years provides a greater level of assurance of success for the Trust. In recognition of the overall level of funding which will still be required to implement this legislation, as well as in the interest of charting the progress of this relatively unique partnership, the Managers have agreed to a strong commitment on behalf of the General Accounting Office to provide oversight and feedback to the Congress.

TITLE II: BOUNDARY ADJUSTMENTS AND CONVEYANCES

SECTION 201

For an explanation of the text see House Report 104-59 (H.R. 694).

SECTION 202

For an explanation of the text see House Report 104-59 (H.R. 694).

SECTION 203

For an explanation of the text see House Report 104-59 (H.R. 694).

SECTION 204

For an explanation of the text see House Report 104-59 (H.R. 694).

SECTION 205

For an explanation of the text see House Report 104-59 (H.R. 694).

SECTION 206

For an explanation of the text see House Report 104-59 (H.R. 694).

SECTION 207

For an explanation of the text see House Report 104-59 (H.R. 694).

SECTION 208

For an explanation of the text see House Report 104-60 (H.R. 562).

SECTION 209

For an explanation of the text see House Report 104-9 (H.R. 440).

SECTION 210

For an explanation of the text see House Report 104-7 (H.R. 101).

SECTION 211

The Managers agreed to modify the language pertaining to the expansion of Colonial National Historical Park as passed by the House in H.R. 1091 by deleting the limitation on land acquisition. The acquisition methods agreed to by Managers are typical of park expansion legislation.

SECTION 212

For an explanation of the text see Senate Report 104-189 (S. 1196).

SECTION 213

For an explanation of the text see House Report 104-711 (H.R. 3579).

SECTION 214

The language is self-explanatory.

SECTION 215

For an explanation of the text see House Report 104-307 (H.R. 1585).

SECTION 216

For an explanation of the text see House Report 104-308 (H.R. 1585).

SECTION 217

For an explanation of the text see House Report 104-176 (H.R. 1091).

SECTION 218

The Managers agreed to certain changes in language pertaining to the establishment of Shenandoah National Park as contained in the House-passed version of H.R. 1091. While the boundary of the park is established to consist of lands in Federal ownership as of the date of enactment of the provision, the Secretary is provided additional flexibility in making future minor boundary adjustments at the park. The original House version of H.R. 1091 permitted future minor boundary adjustments only where essential to facilitate trailhead access. The Managers agreed to permit minor boundary adjustments where the Secretary determines it would further the purposes of the park. H.R. 1091 as passed by the House limited the methods for future boundary adjustments to donation only, while the Managers agreed to permit such adjustments by donation, exchange or acquisition from willing sellers. The Managers also agreed to direct the National Park Service to undertake a comprehensive boundary study, which would guide all future boundary modifications after its completion.

SECTION 219

The purpose of this provision is to validate certain conveyances made by the Southern Pacific Transportation Company within the city of Tulare, California.

From 1862 through 1871, Congress adopted the Pacific Railroad Acts (The Charter Acts) to establish a system of railroads in the western United States. The Charter Acts gave railroads a right-of-way to strips of land 200 feet wide on each side of the railroad tracks where the tracks were laid along routes established in the Charter Acts.

The right-of-way for the railroad tracks and a strip 200 feet wide on either side within the Downtown Redevelopment Area of the City of Tulare (Railroad Right-of-Way) was granted to the Central Pacific Railroad Company of California and the Southern Pacific Railroad Company under the Charter Acts in 1862.

Currently, the Railroad Rights-of-Way through Tulare are an active and essential part of the railroad corridor. There is only a remote possibility that the railroad tracks through downtown Tulare will ever be abandoned; however, that possibility means title to eight parcels of land is somewhat clouded and could be impaired or lost. Congressional action is the only relief to clear title to the eight parcels.

The Managers have agreed to correct the problem by validating and confirming title to the eight parcels in accordance with 43 U.S.C. 912. On seven previous occasions, Congress has validated similar conveyances under the same authority.

SECTION 220

For an explanation of the text see House Report 104–759 (H.R. 3547).

SECTION 221

For an explanation of the text see House Report 104–760 (H.R. 3147).

SECTION 222

The language is self-explanatory.

SECTION 223

For an explanation of the text see House Report 104–452 (H.R. 2100).

SECTION 224

For an explanation of the text see House Report 104–763 (H.R. 2709).

TITLE III: EXCHANGES

SECTION 301

For an explanation of the text see House Report 104–55 (HR 529).

SECTION 302

For an explanation of the text see House Report 104–8 (HR 400).

SECTION 303

For an explanation of the text see Senate Report 104–49 (S. 719).

SECTION 304

For an explanation of the text see House Report 104–409 (HR 2402).

SECTION 305

For an explanation of the text see Senate Report 104–268 (S. 1025).

SECTION 306

For an explanation of the text see House Report 104–371 (HR 826).

SECTION 307

The language is self-explanatory. This section includes a waiver of the Comprehensive Environmental Response, Compensation and Liability Act and the Federal Water Pollution Control Act at the insistence of the Administration.

SECTION 308

For an explanation of the text see House Report 104–310 (HR 207).

SECTION 309

For an explanation of the text see House Report 104–306 (HR 1838).

SECTION 310

For an explanation of the text see House Report 104–658 (HR 3290).

SECTION 311

The City of Greeley, Colorado and the Water Supply and Storage Company operate eight reservoirs in the Roosevelt National Forest in Colorado. This provision would provide the framework for the agreement that has been reached between the United States Forest Service and the City of Greeley and Water Supply and Storage.

The agreement has been negotiated over the last twelve months and would provide for the Forest Service with 708 acres of land to improve the administration of the Roosevelt National Forest. Some of this land is within the boundaries of Federally designated Wilderness Areas.

SECTION 312

The Conference Committee has adopted language which could lead to a major expansion of the Gates of the Arctic National Park and Preserve and to significant additions to the Maritime National Wildlife Refuge and other conservation system units in Alaska. These expansions would be made if mutually agreeable land exchanges are negotiated by the Secretary of the Interior with the Arctic Slope Regional Corporation (ASRC) and the State of Alaska. In return for conveying to the United States title to lands long sought for addition to the Park and other conservation units, ASRC and the State could receive title to lands located within the 23 million acre National Petroleum Reserve-Alaska (NPR–A).

SECTION 313

See House Report 104–756 for background information.

TITLE IV: RIVERS AND TRAILS

SECTION 401

For an explanation of the text see Senate Report 104–188 (S 342). The Managers changed the title to reflect it was not a heritage area and per a request from the Government Reform Committee the Federal Property and Administrative Services Act was waived instead of amended.

SECTION 402

For an explanation of the text see Senate Report 104–37 (S 363).

SECTION 403

For an explanation of the text see Senate Report 104–41 (S 587).

SECTION 404

For an explanation of the text see House Report 104–54 (HR 531).

SECTION 405

For an explanation of the text see Senate Report 104-261 (S 1425).

SECTION 406

For an explanation of the text see House Report 104-716 (HR 2292).

SECTION 407

For an explanation of the text see House Report 104-716 (HR 2292).

SECTION 408

The Managers agreed to add an amendment to the House-passed text of HR 2292 which authorizes the National Park Service to construct a new visitor center at New River Gorge National Recreation Area.

SECTION 409

For an explanation of the text see House Report 104–716 (HR 2292).

SECTION 410

For an explanation of the text see House Report 104–716 (HR 2292).

TITLE V: HISTORIC AREAS AND CIVIL RIGHTS

SECTION 501

For an explanation of the text see House Report 104-567 (HR 1129).

SECTION 502

The language is self-explanatory.

SECTION 503

For an explanation of the text see House Report 104-59 (HR 694).

SECTION 504

For an explanation of the text see House Report 104-59 (HR 694).

SECTION 505

For an explanation of the text see Senate Report 104-49 (S 719).

SECTION 506

The Managers agree that establishment of the memorial to Black Revolutionary War Patriots is an important effort. Further, it is the understanding of the Managers that the fund raising effort for the memorial is now well underway and therefore the Managers have agreed that an additional two year extension of this authority to complete such fundraising efforts is meritorious.

SECTION 507

For an explanation of the text see House Report 104-758 (HR 1179).

SECTION 508

For an explanation of the text see Senate Report 104-190 (S 426).

SECTION 509

The authorization for the Advisory Council on Historic Preservation is scheduled to expire at the end of the current fiscal year. The Managers are aware that under the current Section 106 process for implementation of the National Historic Preservation Act, the Advisory Council plays an important role in assessing and mitigating the impacts of Federal actions on significant historic properties. The Managers are also aware that in the recent past, the Advisory Council has attempted to promulgate regulations which could have led to significant increases in the cost of compliance with the National Historic Preservation Act, and which would have provided little additional benefit in terms of resource protection. While the Advisory Council has subsequently withdrawn those regulations in the face of overwhelming public opposition, the Managers remain concerned about the nature of final regulations to be adopted.

The Managers agreed to a four-year extension of the authorization of the Advisory Council, but within that time frame have directed that the Council provide recommendations for modifying the overly complex historic preservation compliance process. In particular, the Managers are seeking alternative ways to carry out the Historic Preservation Act which will be less burdensome on both the public and private sectors.

The Managers have also agreed on a number of technical amendments which are needed to improve the day-to-day operations of the Advisory Council.

SECTION 510

See Senate Report 104–49 (S. 188) for background information.

SECTION 511

The language is self-explanatory.

SECTION 512

The language is self-explanatory.

SECTION 513

The Conference Committee adopted a Senate provision which designates the Aleutian World War II National Historic Area within lands owned by the Ounalaska Corporation on the island of Amaknak, Alaska and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant circumstances involving the history of the Aleut people, and the role of the Aleut people and the Aleutian Islands in the defense of the United States in World War II.

SECTION 514

For an explanation of the text see House Report 104-368 (HR 2636).

SECTION 515

For an explanation of the text see House Report 104-709 (HR 3006).

SECTION 516

The language is self-explanatory.

TITLE VI: CIVIL AND REVOLUTIONARY WAR SITES

SECTION 601

For an explanation of the text see Senate Report 104-263 (SJ Res 42).

SECTION 602

For an explanation of the text see Senate Report 104-43 (S 610).

SECTION 603

Richmond National Battlefield Park

Subsection a: Findings and purposes

This subsection establishes the findings and purposes. Congress finds that the boundaries of the Richmond National Battlefield Park do not include all of the historically significant areas important to the Civil War campaigns in and around the City of Richmond which served as the capital of the Confederacy.

The purposes of this section are to establish a revised boundary for the park to consist of the lands currently in Federal ownership and to provide for procedures for the National Park Service to expand the boundaries.

Subsection b: Modification of boundary

This subsection designates the boundary of the park to comprise those lands in Federal ownership and administered by the National Park Service before the date of enactment of this legislation.

Subsection c: Land acquisition

This subsection authorizes the Secretary to expand the boundaries of the park to include those lands identified in the general management plan for the park approved in June 1996 and depicted on the National Park Service map dated August 1993. The Secretary may acquire lands for addition to the park by donation, purchase with donated or appropriated funds or exchange with the consent of the land owner. Upon acquisition of any lands by the Secretary, the park boundary is modified to include those lands without further action by Congress.

Subsection d: Park management and administration

This subsection directs the Secretary to interpret for the benefit of the public the significance of the Battles of Richmond on the Civil War and the effects of the Civil War on all American people. To further the interpretation and preservation of the historic resources of the park identified in the general management plan, the Secretary is directed to provide technical assistance and to enter into cooperative agreements with local governments, nonprofit organizations and land owners. The Secretary is also authorized to provide technical assistance to local governments, nonprofit organizations and land owners to protect and preserve historically significant Civil War resources located outside of the boundary of the park.

Subsection e: Administration

This subsection clarifies that Richmond National Battlefield Park is to be managed in accord with the Historic Sites Act of 1935.

SECTION 604

For an explanation of the text see Senate Report 104-310 (S 1226).

SECTION 605

For an explanation of the text see Senate Report 104-310 (S 1226).

SECTION 606

For an explanation of the text see House Report 104-603 (HR 848).

SECTION 607

Title 607. Shenandoah Valley Battlefields National Historic District

Subsection (a.): Short title

This subsection entitles this section as the Shenandoah Valley National Battlefields National Historic District comprising 10 Civil War battlefields in Virginia's Shenandoah Valley.

Subsection (b.): Congressional findings

In 1990, Congress enacted the Civil War Sites Study Act (section 1204 of Public Law 101-628). That law directed the Secretary of the Interior to prepare a study of Civil War sites within the Shenandoah Valley in Virginia. The study was completed in September 1992, and transmitted to Congress in summer of 1993.

The study notes that "the battlefields identified in this study collectively appear to meet criteria for national significance. The study shows that the Shenandoah Valley represents a unique geographic and historic resource: that it possesses tremendous scenic beauty and exceptional potential for interpreting aspects of the Civil War that are currently not represented in the National Park System; . . . and that many portions of the Valley retain a high degree of historic, rural, and scenic integrity."

The study identifies the historical significance of the battles in the Valley associated with Confederate General Thomas J. (Stonewall) Jackson's campaign of 1862 and the decisive Union campaigns of 1864 led by Union General Philip Sheridan.

Subsection (c.): Statement of purposes

Until recently, most of the Shenandoah Valley had remained in the same type of agricultural use since the Civil War. However, increasing development within the Valley has begun to threaten the integrity of many of these battlefield sites. This subsection sets forth the purposes of the Historic District to provide a coordinated strategy for protection involving the National Park Service, the Commonwealth of Virginia, local governments, private organizations and land owners.

Partnerships between all levels of government, private landowners and non-profit organizations will foster the protection of the natural, cultural, and historic resources within the historic district linking the battlefields.

Subsection (d.): Definitions

This subsection defines certain key terms used in this section.

Subsection (e.): Shenandoah Valley Battlefields National Historic District

This subsection establishes the Shenandoah Valley Battlefields National Historic District consisting of lands identified in the Park Service study, the battlefield areas identified on the National Park Service map at Cedar Creek, Cross Keys, Fisher's Hill, McDowell, New Market, Opequon, Port Republic, Second Kernstown, Second Winchester, and Tom's Brook, and the historic transportation routes linking these battlefields.

Subsection (f.): Shenandoah Valley Battlefields National Historic District Plan

This subsection provides that the District is to be managed by the Commission and the management entity pursuant to this Act and the Shenandoah Valley Battlefields Historic District Plan (the "plan"), pursuant to this section.

It also sets forth the specific provisions of the plan, including the development of an inventory of lands that should be acquired, managed or preserved because of its historical significance; provisions for the establishment of a management entity which may be either a unit of government or a private nonprofit organization; identification of partnerships between state, local and regional entities and the private sector; and, provisions for the protection and interpretation of natural, cultural and historic resources in the Historic District.

The purpose of the management entity is to administer the District consistent with the plan. The management entity would have legal ability to receive and disburse Federal funds, enter into agreements with all levels of governments or organizations to provide for the implementation of the plan, and to acquire lands from willing sellers for the purposes of preserving the historic resources in the District.

This subsection directs the Commission to prepare a draft plan within 3 years. The Commission is required to ensure that appropriate notice of the draft plan is provided to local communities.

It also requires that the Secretary review the plan and within 90 days after receiving the plan, either approve it or reject the plan and recommend modifications that would make the plan acceptable.

Subsection (g.): Duties of the Secretary

This subsection authorizes the Secretary to award grants, provide technical assistance and enter into cooperative agreements with local governments, property owners and nonprofit organizations to preserve and interpret the historic resources in the District.

The Secretary may acquire land from a willing seller that has been identified by the Commission as important to the preservation of battlefields within the District.

The Secretary is directed, upon request of the Commission, to detail two employees of the Department of the Interior to the Commission to assist with the preparation of the plan.

Following the approval of the plan, the Secretary is to report to Congress on whether the Historic District or specific components should be added as units of the National Park System.

Subsection (h.): Shenandoah Valley Battlefields National Heritage Corridor Commission

This subsection establishes the Shenandoah Valley National Battlefields Historic District Commission (the "Commission") consisting of 19 members. The Commission is to be composed of local governments, property owners, a member with expertise in historic preservation, a Civil War historian, and the Governor of Virginia and the Director of the National Park Service, in an ex-officio capacity.

Subsection (I.): Duties of the Commission

The duties of the Commission are the development of the plan; assisting in the management, protection and interpretation of the natural, cultural and historical resources within the District; and, taking appropriate action to encourage protection of the resources within the District by landowners, local governments, and other organizations.

Section (j.): Authorization of appropriations

This subsection authorizes the appropriation of $250,000 annually from the amounts available to carry out the National Historic Preservation Act for the establishment and operation of the Commission.

There is authorized to be appropriated to the Secretary $2,000,000 annually from the National Historic Preservation Act to make grants, provide technical assistance and enter into cooperative agreements pursuant to Section 7.

For the purposes of land acquisition within the Historic District, $2,000,000 is authorized to be appropriated from the National Historic Preservation Act pursuant to Section 7(d).

A total of $500,000 annually is authorized to be appropriated from the National Historic Preservation Act for the establishment and operation of the management entity.

TITLE VII: FEES

SECTION 701

For an explanation of the text see House Report 104–516 part I (HR 1527).

SECTION 702

For an explanation of the text see House Report 104–57 (HR 536).

SECTION 703

The Managers agree that many provisions of the existing recreation fee policy, as provided in Section 4 of the Land and Water Conservation Act are outdated and unworkable. The Managers have therefore agreed that current law should be replaced in its entirety. The policy adopted by the Managers is similar to the recreation fee policy contained in HR 2107 as reported by the House Resources Committee. However, the Managers have agreed to include a number of limitations on fee increases, similar to those included in the Balanced Budget Act which was vetoed by the President.

The inclusion of caps in the legislation is probably one of the biggest changes to the fee policy reported by the House Resources Committee. The Managers have agreed to caps of $10 per person or $25 per car for single admission visits, $25 for annual geographic permits and $50 for Golden Eagle Passports. The Managers have also provided that Golden Eagle Passports would be available to persons 62 years of age or older for no more than 50 percent of the rate charged for other persons. In addition, the Managers have agreed that all children 12 and under should be charged no admission fee. The Managers have included language which provides that increases in fees will be implemented over a reasonable period of time in order to minimize rapid escalation of fees charged to recreation users. The Managers do not anticipate that agencies will begin to immediately charge fees as provided for in this legislation at the maximum allowable rate.

The Managers have agreed to limit the scope of this provision to the National Park Service, Bureau of Land Management and Forest Service only, at this time. The Managers recognize that over the long term, it is desirable for the public to have a single recreation fee policy for all Federal lands. However, since other agencies have recreation fee authority conformance is not essential at this time. The Managers expect that other such agencies will undertake no program inconsistent with this provision, unless otherwise specifically provided in law.

The Managers have also simplified the recreation fee program as contained in HR 2107. Specifically, the Managers have agreed to delete target recreation revenue goals, delete appropriation language and simplify the calculation of how much revenue should be retained by each of the collecting areas.

The Managers have included in the text the current fee schedule for admission fees for commercial tour operators. The Managers recognize that in some cases agencies may already be charging rates higher than those specifically included in this text, but does not intend in any way to imply that current fees schedules should be modified. Rather, the Managers intend simply that future increases in such commercial tour entry fees be in accord with the provisions of this section.

The Managers recognize that the four land management agencies were recently authorized under the FY 96 Interior Appropriation Act (Public Law 104-134) to implement recreation fee demonstration programs. Unfortunately, none of the agencies with this authority, except the Forest Service, have elected to implement it. Therefore, in order to develop a consistent policy, this legislation repeals that authority for all agencies except the Forest Service.

SECTION 704

This section provides for the protection of the natural resources of Glacier Bay National Park by the Secretary of the Interior while preserving the authority of other Federal agencies to enforce environmental laws under their authority in the Park. The Secretary of the Interior issues permits and charges fees to concessionaires in the Glacier Bay national park, including cruise ships. The fees collected by the Secretary be used to protect Park resources within the Park. Therefore, this section provides that 60 percent of the fees charged to certain permittees be used by the Secretary to protect park resources, including prepositioned oil spill prevention equipment.

In addition, the Committee on Conference is concerned that recent rulemakings by the Secretary of the Interior regarding permit conditions for park concessionaires appear to overstep the authority of the Secretary and usurp the authority of other Federal agencies, such as the Coast Guard and the Environmental Protection Agency, to enforce the Oil Pollution Act, the Federal Water Pollution Control Act and the Clean Air Act. Accordingly, this provision limits the authority of the Secretary to condition permits, including permits for vessel operations, in the Park.

Finally, the Committee is concerned that the permit conditions being considered by the Secretary be based on substantial, verifiable scientific information. Therefore, this section allows permit fees to be used for further scientific investigations to help the Secretary to develop appropriate and justified permit conditions to protect Glacier Bay National Park resources.

TITLE VIII: MISCELLANEOUS ADMINISTRATIVE AND MANAGEMENT PROVISIONS

SECTION 801

For an explanation of the text see House Report 104–59 (HR 694).

SECTION 802

For an explanation of the text see House Report 104–59 (HR 694).

SECTION 803

For an explanation of the text see House Report 104–59 (HR 694) and Senate Report (104–312)

SECTION 804

For a basic explanation of the text see House Report 104–59 (HR 694). The Managers also agreed to a provision to ensure that the Smithsonian Institute is consulted whenever the National Park Service determines that it has museum collections surplus to its needs.

SECTION 805

The Managers agreed to a ceiling of $3.5 million for expenditures for volunteer purposes.

SECTION 806

The Committee adopted a provision which would allow for core sampling to take place in Katmai National Park for the purposes of volcanological research.

SECTION 807

For an explanation of the text see House Report 104-34 (S. 197).

SECTION 808

For an explanation of the text see House Report 104-59 (HR 694).

SECTION 809

For an explanation of the text see House Report 104-262 (S. 1627).

SECTION 810

For an explanation of the text see House Report 104-10 (H.J. Res. 50).

SECTION 811

For an explanation of the text see Senate Report 104-50 (H.R. 629).

SECTION 812

For an explanation of the text see House Report 104-58 (H.R. 606).

SECTION 813

For an explanation of the text see House Report 104-309 (H.R. 924).

SECTION 814

For an explanation of the text see Senate Report 104-198 (S. 509).

SECTION 815

The Managers agreed to a broad array of administrative reforms for the National Park Service as generally provided by H.R. 2941 (see House Report 104-802, Part I). However, the Managers did agree to make changes to the language from H.R. 2941 pertaining to both housing and construction of administrative facilities outside of the boundaries of park areas.

The most significant change to the housing authority is the elimination of the authority to sell government housing to cooperatives consisting of field employees. While Managers agree that this provision has merit, they also agree that there are potential problems and have therefore agreed to a study of such a program prior to its authorization. The Managers have also agreed to direct the Secretary to refine the concept of required occupancy. The Managers have found evidence that this concept is not applied uniformly and believe that employees who are required to occupy government quarters due to isolation deserve similar treatment regardless of occupation.

The Managers deleted the generic authority for the National Park Service to construct facilities outside of park boundaries on non-federal land and substituted the site-specific authority for such construction at Zion National Park. The Managers are aware of several similar proposals currently receiving congressional consideration. However, the Managers generally believe that park facilities should be located in the park, and that other federal leasing authorities are generally adequate to provide needed building space outside the parks. It is the conclusion of the Managers that the need for facilities outside of park boundaries should continue to be evaluated on a case-by-case basis.

SECTION 816

Section 816 is based on legislation passed by the House Resources Committee (H.R. 3534) which authorizes the National Park Service to continue to issue special use permits to cabin owners at Mineral King in Sequoia National Park, after the death of the permittee of record.

There is no accurate count of persons living within areas designated by Congress as units of the national park system, either on private property or on Federally-owned property. For example, Indiana Dunes National Lakeshore reports that at one point, there were over 700 use and occupancy agreements at that park alone.

Individuals currently reside inside parks under three basic sets of conditions. The first is on private property within the park boundary which has not yet been acquired by the Federal government. The second is when property has been acquired by the Federal government under terms of a use and occupancy agreement. The third is when the Federal government permits persons to reside on Federal lands.

Since 1972, acquisition of Federal lands has been guided by the Uniform Relocation and Assistance Act. That law generally provides for the government to authorize the lease back of an improved residence which has been acquired, for up to 25 years or the life of the occupant, depending on any limitations contained in the specific authorizing statute. For example, if the Federal government is acquiring the area for road construction purposes, the resident would typically not be offered a lifetime estate. The homeowner pays for this extended use of the property through a reduction in the purchase price paid by the government. These persons have a property right which is reflected as a use and occupancy agreement. Such use of the property can be bought and sold.

In the 1970's, when the Federal government was acquiring extensive lands for park purposes, it has been alleged that some of the acquisition was heavy-handed. It is unclear whether residents were fully advised of their rights, and there were a number of bitter land acquisition disputes across the park system. Congress has addressed this issue at least once before, when an Act was passed which permitted residents of Minute Man National Historic Park to extend their original use and occupancy agreements (PL 102-488).

The history of the National Park Service permitting persons to use park lands for residential purposes is less clear. Typically these situations arise due to prevailing conditions at the time of park establishment. However, there has been a wide discrepancy among parks with regard to how any generic authority is interpreted. Some park superintendents claim they have no authority to permit such non-park residential use of the land, while others have seen no problem with the issuance of special use permits for residential purposes.

Mineral King was Forest Service land added to Sequoia-Kings Canyon National Park in the 1970's in order to prevent Disney from developing a ski area. When the land was added, there were a number of residents within the addition; both persons who owned their property and persons who occupied cabins under a special use permit from the Forest Service. The legislation establishing the area stated that such "special use" permits would only be issued to the owner or lessee of record at the time. Now, nearly 20 years after enactment of the original law, some original owners have died and their heirs are seeking to continue their permits.

This provision amends the 1978 statute adding the Mineral King area to Sequoia-Kings Canyon National Park by specifically authorizing the National Park Service to issue cabin leases to the heirs of the original permittees of record until the death of the last permittee of record.

The language of the bill requires permittees to pay fair market value for such use, and specifically provides for protection of park resources and termination of the use if lands are needed for other purposes. The legislation provides that the Secretary must have the funds to implement such alternative use, rather than simply prepare a plan calling for such use. The Managers do not believe that these persons should be forced out of their cabins until such alternative use is a reality.

SECTION 817

Language is self-explanatory.

SECTION 818

This section directs the Secretary of the Interior to conduct a study of the Lake Calumet area to analyze alternative ways to manage the area.

SECTION 819

This section provides for a legislative taking of the balance of private property in the Gherini Ranch on Santa Cruz Island in Channel Islands National Park. The National Park Service currently owns a three-fourths undivided interest in the Gherini Ranch, which is a 6,200-acre parcel located on the east end of Santa Cruz Island. This parcel of land is currently being severely impacted by uncontrolled populations of feral sheep. While the Federal government has acquired three undivided one-fourth interest portions of this ranch on a willing seller basis, there is little hope of the Federal government reaching agreement with the remaining property owner regarding the value of the land. Therefore, in order to bring an end to overgrazing, and resultant impacts on park resources, including irreversible destruction of archeological sites, the Managers support this legislative taking.

TITLE IX: HERITAGE AREAS

SECTION 901

For an explanation of the text see Senate Report 104-42 (S. 601).

SECTION 902

The language is self-explanatory. The Managers agreed to direct the Administration to study the area.

TITLE X: MISCELLANEOUS

SUBTITLE A

The conference agreement includes language to create a tallgrass prairie national preserve in the Flint Hills of Kansas. The preserve will be created through a unique private/public partnership between the federal government and a private conservation group. The partnership is the culmination of decades of discussions between agriculture and conservation interests who, until now, have disagreed over issues such as federal ownership and cattle grazing as part of a tallgrass prairie preserve in Kansas. The language drafted in this legislation is the result of consensus building and compromise between these various groups.

While the conference agreement only provides for federal ownership, by donation, of 180 acres of land on the preserve, it is hoped that the National Park Service, through the cooperative agreement language contained in this bill, will be able to work with the private land owners (and its leasee) of the rest of the 10,894-acre ranch to provide interpretive and recreation opportunities within the boundaries of the preserve, but beyond the federally owned-core.

The stated purposes of this bill remain broad to give the National Park Service maximum flexibility in determining land use practices within the preserve through the general management planning process, with input from an advisory committee created by this bill. We believe a public planning process, with input from all Kansans, including local citizens and adjacent landowners, will enable the National Park Service to identify the best use for the 180 federally-owned acres, and provide guidance for possible cooperative agreements between the federal government and the private owner and its leasee.

The conferees note that the Kansas congressional delegation is united in its belief that a strong emphasis of the preserve should include the management of range lands through historic and contemporary ranching practices. While the conferees are unwilling to include language in the act that would require any predetermined use of private property mentioned within this bill, the conferees agree with the Kansas congressional delegation that current cattle ranching activities, consistent with the ecologically sound and sustainable management of this property, should continue after the preserve is created. Cattle ranching, as practiced under the current grazing lease, is consistent with the interpretation of the history and culture of the Flint Hills region of the tallgrass prairie.

SUBTITLE B

The language is self-explanatory.

SUBTITLE C

SECTION 1021

This provision establishes a national recreation area, changes the designation of the black canyon of the Gunnison National Monument to a National Park, and designates a new BLM conservation area on the Lower Black Canyons.

The conferees intend that all agencies operating within the newly designated complex share personnel, supplies, materials and equipment to the extent practicable for a more efficient and effective overall operation.

SECTION 1022

See Senate Report 104-299 (S. 1703) for background information. Miscellaneous amendments were added to protect the integrity of the park system.

SECTION 1023

The language is self-explanatory.

SECTION 1024

The language is self-explanatory.

SECTION 1025

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1026

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1027

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1028

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1029

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1030

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1031

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1032

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1033

The language is self-explanatory.

SECTION 1034

The language is self-explanatory.

SECTION 1035

For an explanation of the text see House Report 104-761 (HR 2711).

SECTION 1036

The language is self-explanatory.

SECTION 1037

Despite Alaska's stature as the largest State in the Union and the millions of acres of federal lands in the State, Alaska ranks 10th in Payment in Lieu of Taxes (PILT) receipts. This is because the definition of "unit of local government" includes only organized boroughs and certain independent cities in Alaska. Yet over 60 percent of the federal lands in Alaska are located outside any organized borough.

This section will not increase the current entitlement ceiling of PILT, it will only change the way the PILT fund is divided by providing a small additional share of the PILT fund distribution to those Alaskan communities that are outside unorganized boroughs. The legislation also will not reduce other states PILT funding significantly because PILT calculations also include population statistics.

SECTION 1038

The conferees have included bill language that prohibits termination of a timber sale contract solely for failure to operate a pulp mill. This provision is necessary to provide flexibility to the Administration so that jobs in the sawmill portion of the contract holder's operation are not lost along with pulp mill jobs. The Forest Service shall work with the contract holder to make any excess volume available to sawmills in Southeast Alaska closed for lack of timber.

SECTION 1039

This provision directs the Secretary of the Interior to undertake a negotiation with several Alaska Native Corporations in the Cook Inlet region of Alaska to resolve disagreements over final land conveyances to the Native Corporations under the Alaska Native Claims Settlement Act. The Secretary is required to report to the relevant authorizing committees the results of the negotiation by March 1, 1997. To facilitate the negotiation, the amendment extends a statute of limitations which could be interpreted as requiring the filing of a suit by the corporations against the Secretary for failure to convey lands described in the Deficiency Agreement of August 31, 1976.

SECTION 1040

This section authorizes the Native residents of the Southeast Alaska Native villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell to organize as urban or group corporations under an amendment to the Alaska Native Claims Settlement Act of 1971 (ANCSA). ANCSA authorized the creation of village, urban and regional corporations to receive settlements and manage assets distributed to settle aboriginal claims of Natives and Native groups in Alaska. The original ANCSA language failed to include the Native villages of Haines, Ketchikan, Petersburg, Tenakee or Wrangell in the exclusive list of villages in Southeast Alaska eligible to create village or urban corporation. Unlike the treatment of other Native villages elsewhere in Alaska, ANCSA did not provide an appeal right or other procedures for qualification of Southeast Native villages not included in the original list. Although Natives enrolled to Haines, Ketchikan, Petersburg, Tenakee and Wrangell during the ANCSA process did become at-large shareholders in the regional corporation for Southeast Alaska, Natives from these five communities were denied the benefits from rights to land and local resources that other village and urban corporations in Southeast Alaska received under ANCSA.

SECTION 1041

This section would transfer legal title to approximately 160 acres of land to Daniel and Douglas Gross. The Gross brothers are the surviving sons of Mr. and Mrs. Lee Gross of Wrangell, Alaska, the original homesteaders.

SECTION 1042

For an explanation of the text see House Report 104–687 (HR 1786).

SECTION 1043

The Conferees adopted a provision recognizing that in 1982, Cape Fox Corporation (CFC) selected approximately 320 acres surrounding the Beaver Falls hydro-project's powerhouse. The facility was constructed in 1945 and licensed by the FPC, now FERC. It is owned and operated by the City of Ketchikan through the Ketchikan Public Utilities. The City of Ketchikan protested CFC's selection of the site to the Interior Board of Land Appeals (IBLA). The IBLA upheld CFC's selection in a decision made in 1983. In this decision IBLA essentially ruled that the City could continue to operate the hydro facility under the terms of Section 14(g) of ANCSA until their license expired in 1995. At license expiration, use of the land by the City would be subject to acquisition of a real property interest from CFC.

A FERC order dated November 7, 1994, issuing the "new" license for this facility, Project No. 1922-008, includes a clause that directs the City to pay all land use fees including use of CFC land to the federal government. The effect of this decision removes CFC's property rights, which deprive CFC of its ability to make economic use of its land. The FERC order also creates a conflict between two federal agencies, IBLA and FERC.

This section grants authority for CFC to return the 320 acre Beaver Falls selection area to the federal government and expands CFC's selection area accordingly.

SECTION 1044

The conferees have included bill language requiring the Secretary to report to the relevant committees of the House and Senate on a determination of whether the continued presence of a small antenna at an existing radio communications site barely within the San Bernardino National Forest at Inspiration Point is in the public interest. The conferees regret the need to direct that such a report, given the overwhelming community support for continued presence of the antenna, is necessary for public safety and emergency broadcasts.

SECTION 1045

Between 1931 and 1954 local sporting enthusiasts and back country users built and constructed a series of 18 dams and concrete weirs throughout the area which later came to be known as the Immigrant Wilderness Area. These dams were built from native rock so as to blend in naturally with their surroundings, most of these dams do not exceed two feet in height. The last dam was built 20 years before wilderness designation was considered for the area.

Report language for H.R. 12884 which established the Immigrant Wilderness Area indicated that "the weirs and small dams will be retained." Inclusion of this provision in the conference report to preserve these dams will maintain traditional wilderness and recreation uses.

SECTION 1046

This provision concerns a longstanding inequity affecting the University of Alaska, the State's only federal land grant institution of higher learning. The University was established in 1890. However, because of Alaska's territorial status, it did not benefit from the original Morrill School Lands Act, which only benefited states. Congress sought to address this problem in 1915 and 1929 through legislation which reserved certain public lands in Alaska for the benefit of the University. Unfortunately, the University has as of today received less than one-third of the acres it was entitled to receive from the federal government. As a result, even though Alaska is the largest of the fifty states, it ranks 48th in terms of land devoted to higher education. This language begins to address both of these problems by authorizing the Secretary of the Interior to convey up to 350,000 acres of federal lands, on a matching basis with the State of Alaska, to the University.

TITLE XI: CALFIRONIA BAY-DELTA ENVIRONMENTAL ENHANCEMENT

The Managers agreed to the inclusion of this proposal which will authorize $430 million for fiscal years 1998 through 2000 for ecosystem protection and restoration in the San Francisco Bay-Delta region. These funds will represent the three-year federal match of state funds allocated in accordance with California Proposition 204. This provision is only effective if the corresponding state proposition 204 is adopted by the voters in November of 1996. If passed, the corresponding state proposition would provide $995 million in state dollars for the program.

DON YOUNG,
JAMES V. HANSEN,
WAYNE ALLARD,
J.D. HAYWORTH,
BARBARA CUBIN,
Managers on the Part of the House.

FRANK H. MURKOWSKI,
PETE V. DOMENICI,
DON NICKLES,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

FBI AGENT'S BOOK RAISES CONCERNS

The SPEAKER pro tempore (Mr. ROTH). There being no Member to claim the minority leader's hour, under the Speaker's announced policy of May 12, 1995, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes as the designee of the majority leader.

Mr. BURTON of Indiana. Mr. Speaker, we had two FBI agents who worked at the White House, both of whom have retired now, who are very concerned about the policies of the Clinton administration. I have talked with both of those individuals, and they have for the most part corroborated what each other said about what was going at the White House and it has been very disturbing. As a matter of fact, Gary Aldrich, one of the two FBI agents who worked at the White House, wrote a book called "Unlimited Access", and it raises a number of serious issues that I believe should be of concern to the American people. Much of the information in the book directly relates to matters that have been the subjects of investigation by the Committee on Government Reform and Oversight on which I serve. Much of the Aldrich book focuses on the security problems that he and his colleague Dennis Sculimbrine directly observed. The background investigation process is very thorough and probing because we need to ensure that persons working at the White House do not have character or other problems that would endanger the President or otherwise jeopardize our national security.

The White House is no doubt very familiar with the book "Unlimited Access". In February, 4 months before the book was published, FBI general counsel Howard Shapiro gave the White House counsel Jack Quinn a copy of the manuscript of the book, even though the White House is supposed to play no role whatsoever in the FBI's prepublication review of books by former agents.

We were very concerned about that, because Mr. Shapiro was the assistant counsel to FBI Director Louis Freeh when he was a chief prosecutor in New York City, and Mr. Freeh was prosecuting some very high-profile figures, in the Mafia and otherwise. And for Mr. Shapiro not to know the policies of the FBI and the legal profession was just beyond me. Nevertheless, he went to the White House with this book, 4 months, to give the White House a heads up on what was going to be in the book so they could protect their derriere, and we thought that that was totally out of order.

Recently the Committee on Government Reform and Oversight learned that the White House attempted to send the manuscript of "Unlimited Access" back to the FBI. John Collingwood, the inspector in charge of the Office of Public and Congressional Affairs, returned the manuscript back to the White House. In a letter to Jack Quinn dated September 17, 1996 he said, "Because this is a document in the possession of the White House, which you have described as responsive to a congressional subpoena, we believe it would be inappropriate for the FBI to become involved in this matter."

I have a copy of this letter I want to submit for the RECORD, Mr. Speaker.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, September 17, 1996.

Mr. JOHN M. QUINN,
Counsel to the President,
The White House, Washington, DC.

DEAR MR. QUINN: This is in response to your letter to Director Freeh, dated September 13, 1996, in which you enclosed a copy of the manuscript of Gary Aldrich's book. Although your letter is marked "By Hand," it and the enclosure were sent by United States Priority Mail and received by the FBI only today.

We are returning the manuscript to you with this letter. Because this is a document in the possession of the White House which you have described as "responsive" to a congressional subpoena, we believe it would be inappropriate for the FBI to become involved in this matter.

You correctly note that Mr. Aldrich made certain deletions at the request of the FBI. However, the FBI prepublication review process should not affect your consideration of the subpoena. Nothing in the manuscript contains classified information.

Sincerely,
JOHN E. COLLINGWOOD,
Inspector-in-Charge,
Office of Public and Congressional Affairs.

This is very important, because they gave this book to the White House. The White House then tried to get it back to cover their tracks and the FBI said, "Hey, wait a minute, we don't want to be involved in this," and so they were not.

Now, a lot of things were pointed out in this book that I think the American people ought to know about, Mr. Speaker.

Illegal drug use in the Clinton administration was higher than in the Bush administration and not confined to minor use of marijuana that was used in the past. There were cases of several decades of use of marijuana. Clinton staffers' drug use included hard drugs such as cocaine, crack, LSD, and methamphetamine. These were people who went to work at the White House and they had been using hard drugs, cocaine, crack, LSD and methamphetamine, and those people were involved in issues of national security, and they had not had background FBI checks.

According to Mr. Aldrich in his book, he said, if I had to guess, about 10 percent of the persons coming to the Bush White House had tried an illegal drug, which was about a third of the national average, and it was almost always marijuana and only once. Prior use of cocaine was almost never, on occasion; use of more serious drugs was unheard of. The illegal drug use was invariably confined to an individual's college days.

Though the age breakdown in the Bush and Clinton administration was probably about the same, illegal drug use in the Clinton administration was much higher and not confined to minor drugs like marijuana. Generally if marijuana was used, it was not confined to the college years, either. In fact, a striking number of cases began to emerge in which the use of marijuana, once started in high school or college, continued into one's twenties, thirties and sometimes the forties. We were talking about decades of illegal drug use.

There was another important difference between the Bush and Clinton staffers. In the Bush administration, more of the younger, post-baby boom staffers had managed to get through college with no drug use at all. They were a reflection of the national downward trend in drug use inspired by Nancy Reagan's much mocked but effective "just say no" campaign, but in the Clinton administration it was harder to find young staffers who had not experimented with marijuana, cocaine, and heavier drugs. Evidently they just could not say no.

The minority of Bush applicants who experimented and admitted inhaling did not try to defend their use of illegal drugs. They were invariably apologetic. "Yes, I did smoke marijuana once or twice, I was in college and everyone was doing it, so I tried it. I stopped using marijuana after I left college, but I'm ashamed that I ever did it because it was stupid. I'm sorry agents like you are risking your lives fighting drug traffickers while I didn't have the guts to stand to peer pressure."

By contrast, and this is important, Mr. Speaker, the Clinton staffers, older or younger, made no apology for their illegal drug use, which was more extensive and included many heavy drugs like cocaine, crack, LSD, and methamphetamine. Many were actually in your face about it, using the FBI interview to try to debate me on the merits of making drugs legal.

Of course, when I asked them how they obtained their drugs, the lies began. It was a rare Clinton staffer who ever purchased any drugs. Almost all the Clinton staffers were given drugs by friends or could not recall who gave them the drugs or used the drugs at a party where they did not really know anybody there. But the fact is they had an attitude when they were confronted by the FBI agent there, Mr. Aldrich, by saying, "Hey, what's wrong with using drugs," in effect.

Clinton staffers often showed no remorse for drug use. They lied about purchasing drugs, as I just said, and they said someone gave them drugs. Bill Kennedy did not seem to regard the drug use as a serious issue. When a case came up involving a staffer who had admitted to serious illegal drug use over a long time, including recently, Kennedy said, quote, now this is one of the counsels to the President of the United States, "I can hardly fire somebody for being honest with the FBI, can I?" The staffer was still working at the White House when "Unlimited Access" was written and Mr. Aldrich left the White House. This is on page 118 of the book "Unlimited Access."

There were problems with White House interns, including theft of lap top computers. There may also have been drug problems. Livingstone, Mr. Livingstone was in charge of White House security. He is the one we have heard about with the 900 FBI files being brought to the White House improperly, and we believe illegally, and I might add at this point one FBI file was used by Chuck Colson during the Nixon administration, and he got a 2-year prison sentence. Mr. Livingstone had 900 and some FBI files, and nothing yet has been done.

Livingstone told the interns, "And I know that some of you guys are going to do it but don't get caught." Now this is the chief of security over there. "I know that some of you guys are going to do it but don't get caught. I mean, I am not asking you to become a narc or anything, but go easy on that kind of thing." This is a White House security person in charge of security. Telling them, you know, "just don't get caught." That is unbelievable. That is on page 37 and 38 of the book, "Unlimited Access."

A White House intern told Craig Livingstone that she wanted to pursue an FBI career. Livingstone told her that the FBI would investigate her background thoroughly and she could not hide her past. Livingstone said, I mean, quote, this is a quote from him, "I mean, it isn't like the White House where you can use drugs before and skate past other indiscretions and still work here." In other words, if you are trying to get a job at the FBI, they are going to really scrutinize you, but at the White House you are not being scrutinized and you can get around that sort of thing. That is on page 118 and 119 of Mr. Aldrich's book.

FBI agents who conducted SPIN investigations; that is, the background check investigations for people wanting to work at the White House, were the first to see disturbing trends in the administration. Then the analysts at FBI headquarters saw them. Problems included drugs, bizarre sexual behavior, failure to pay taxes, failure to honor financial obligations, severe credit problems, bankruptcy, civil suits, liens, loan defaults, failure to repay federally funded student loans. These are people that were working at the White House. That is on pages 125 and 126 in Mr. Aldrich's book. I hope my colleagues will take the time to read that.

Now regarding the White House Travel Office and the FBI, we had a Travelgate investigation. The White House did not use Secret Service to investigate travel office staff because the Secret Service had traveled with Billy Dale and the Travel Office staff for years and had never seen the slightest evidence of wrongdoing.

On page 131, and I quote, "Why didn't they use the Secret Service then? Because Secret Service agents had been traveling with Billy Dale and his crew for years and had never seen the slightest evidence of theft or fraud."

Yet these people were accused of all kinds of wrongdoing. Their reputations were besmirched and ruined. They had to spend thousands and thousands of dollars of legal fees defending themselves and the Secret Service said there were never anything that they did wrong.

Craig Livingstone said that it was stupid of David Watkins at the White House to have the FBI investigate the Travel Office staff. Livingstone said this in a meeting on page 81H in the book, and I want to read to you what he said:

At the mention of the Travel Office, Livingstone, the chief of security there, really got going. "That blanking Watkins," he said. "I told them that Watkins was going to screw everything up." He is talking to Gary Aldrich, the guy, the FBI agent at the White House. "Gary, I sat in a meeting when it was decided that the Travel Office guys were going to get fired and that they would be reported to the FBI." So the FBI was supposed to try to make them look bad and to convince everybody in this country that they were guilty of wrongdoing:

> I told them they were nuts. Look, we had heard rumors that the press was taken care of by the Travel Office guys, bottles of wine in their rooms, easy customs exams and stuff like that, but it was stupid of Watkins to suggest that the FBI be brought into it. There was no wrongdoing.

Now, this is Livingstone working at the Clinton White House saying this:

> There was no wrongdoing, no illegal acts that we could prove. The only good rumor we had some some reporter brought in a carpet illegally through customs. A carpet. That was it. I argued very strongly against bringing in the FBI. It was wrong. We unnecessarily ruined their reputations. It was Watkins and Kennedy, Gary. This was their big idea of how to get rid of them. I told them it was stupid idea that would never work.

Nevertheless, Mr. Watkins and Mr. Kennedy, the White House counsel, and some people believe even the First Lady were involved in saying, "We're got to get those guys out of there so we can put our people in." And so they fired them and they accused them of wrongdoing, they summarily moved them out of the White House and after they moved them out of the White House, in an unmarked white van and made them sit in the back of it, they said that they were guilty of pilfering funds for the White House Travel Office. They were exonerated in less than about 10 minutes before a jury once the case went to trial, and yet they have never had their legal expenses paid and they have never received an apology, to my knowledge, from the White House.

Bill Kennedy said to Aldrich, this is assistant counsel to the President of the United States, Bill Kennedy said to Aldrich and Schulimbrine, "By the way, tomorrow you guys are going to hear about something you aren't going to like, but you're going to thank me for keeping you out of it."

□ 2315

Aldrich asked Kennedy what he was talking about. Kennedy said, I can't tell you now. Just read the papers. You are going to thank me for keeping you out of this thing. Just read the papers. And the next day, the White House Travel Office people were fired.

At the same time, the announcement was being made that the FBI would be conducting a criminal investigation of the White House Travel Office. Evidently the White House was going to FBI headquarters rather than having Aldrich and Scuimbrene, the agent on site at the white House, to investigate the travel office. So they went around them to people they thought they could work with at the White House.

And in our hearings today and in testimony that was sworn deposition involving Mr. Livingstone, we went through a litany of issues today and in the past, and we found that Mr. Livingstone and others had indicated that there were FBI agents who said that they would do favors for the White house. So they went around Sculimbrine and Aldrich, the agents on site there, and went to these other people. It creates a lot of questions about why they did that, and were they trying to get their political agenda through by using the FBI, which could involve some felonies.

Late one night, after the Billy Dale trial, Dennis Sculimbrine talked to Craig Livingstone in his office. Sculimbrine had been subpoenaed to testify in Billy Dale's defense. Livingstone said, I don't appreciate what you did for Billy Dale, Dennis. It wasn't helpful.

Sculimbrine, who is retired from the FBI, said he was subpoenaed. He had to tell the truth. What else could he do? I mean, he was subpoenaed, he had to go before the grand jury, and he had to tell the truth. What else could he do?

Livingstone responded, and I quote:

> The truth, Dennis? Don't you know the truth is relative? Your testimony was your version of the truth. Truth is what ever you want it to be. And another thing, I don't ever want to discuss anything related to the FBI or background investigations with you ever again.

That is on page 134 of the book. I hope my colleagues will read that, because that is the way to split hairs and to get to your ends by obfuscating or skirting the truth, so you can get what you want done. that is what they did, and they fired the White House staff. And because Mr. Sculimbrine, the FBI agent at the White House, told the truth, he was criticized severely by Mr. Livingstone.

Associate Counsel William Kennedy asked Aldrich what he thought about hiring Craig Livingstone in the first place. Mr. Livingstone had been involved, along with Mr. Marceca, his sidekick there at the office involving security, they had been involved in the nefarious political activities, dirty tricks, back in 1984 during the Gary Hart campaign. They were working for Mondale, and they were trying to get some information on some labor people who were supporting—I guess they were working for Hart and trying to get some information on some labor people supporting his opponent, and the fellow in charge of the campaign there said that he would not work with these fellows because they were involved in these dirty tricks, and they were summarily dismissed.

But anyhow, let me get back to the subject. Associate Counsel William Kennedy asked FBI agent Aldrich, on the way to the airport when he was taking him out there to drop him off one day, what he thought about hiring Craig Livingstone to replace Jane Danehauer, and in particular asked him what he would think if there were character issues that were flaws in his background.

Aldrich simply responded that the position should be filled by someone who is squeaky clean, but Kennedy cut him off and said, quoting, "I guess I see your point, but it really doesn't matter. It is a done deal. Hillary wants him."

That is on page 36–K.

I will quote exactly what he said:

> I responded gingerly, saying that it was a post that should be filled with someone squeaky clean, and before that, before Kennedy cut me off. And Kennedy did cut me off and he said, I see your point, but it doesn't matter, it is a done deal, Hillary wants him. So they hired Mr. Livingstone, and Mr. Livingstone was the one that got the 900-some FBI files unethically and, we believe, illegally.

Beginning after the election, the incoming Clinton administration stonewalled the FBI's attempts to conduct background investigations and interviews that were necessary to get clearances for people to go into the White House.

This is on pages 8 and 9.

> But we were already off to a bad start. There were about 70 days between the election and the inauguration, sufficient time to complete a large number of Spin cases, that is background investigations. But for some reason there aren't many cases coming in. All of this chaos was so unnecessary, and eventually it caused the administration so much trouble that there seemed to be only 3 possible explanations, all disturbing: The administration was being managed by people so disorganized that they could not conform to basic procedures essential to the administration's own effectiveness; or, key people in the administration had simply decided the security procedures were not important and were taking a so what attitude toward possible scandal, embarrassment or worse; or, key people in the administration were so actively hostile to the background investigation process that they wanted to guarantee we wouldn't have enough time to perform adequate checks and follow up on allegations.

Now, think about that. These people are working in the White House on national security issues, and they did not have FBI background checks. That is unthinkable. Also think about the security of the President himself.

David Watkins was evasive in his background investigation interview, in particular, finally telling FBI agent Aldrich to back off because he was a close personal friend of Bill and Hillary Clinton.

That is on page 18–M.

He said back off, because I am a friend of Bill and Hillary.

That is on page 18.

FBI agents Aldrich and Sculimbrine made countless complaints and wrote many memos about the White House's lack of cooperation in background investigations. This is on pages 28 and 29.

Aldrich and Craig Livingstone were discussing the security problems at the White House. FBI agent Aldrich suggested they both talk to the White House counsel, Nussbaum. Livingstone replied Bernie Nussbaum, the chief counsel to the President? It is not Nussbaum we got to talk to. We will be talking to Hillary.

That is on pages 82 ad 83. Livingstone went on to say Hillary is the one to talk to. However, Livingstone never mentions the possible meeting to Aldrich again. Pages 82 and 83. I hope my colleagues will take a look at that. Most of this is all in sworn deposition by Mr. Aldrich.

The media reported that David Watkins, he wouldn't submit to an FBI background check. The media reported that David Watkins had been accused of sexual harassment in 1992. It was also reported that the victim of the harassment was illegally given $37,000 of campaign money from the Clinton campaign to keep quiet. The media reported that a document to this effect was crafted by Chris Barney, who is now working in the White House as a Cabinet secretary, a high level position.

Aldrich approached Barney regarding the matter because he believed it was relevant to Watkins' background investigation. Barney did not cooperate, and Aldrich wrote a memo to the FBI spin unit chief, James Bork, the man who was supposed to make sure they got the background checks, asking him to call the White House counsel's office to get the relevant people to submit to interviews. Nothing happened.

Aldrich was later told the case was to be closed without any interviews. They closed the case with no interviews, never got to the bottom of the White House, and Watkins was later fired for some of his nefarious activities. But the fact of the matter is they had evidence the Clinton for President campaign paid $37,000 to pay this girl off on a sexual harassment suit, yet the FBI couldn't even conduct a background check involving Mr. Watkins.

Dee-Dee Myers was uncooperative in filling out forms for her background investigation. In her position Myers was seeing and hearing highly classified, very sensitive national security information. Aldrich wrote a report about this problem and faxed it to headquarters and his immediate supervisor. The FBI ignored the report. They simply couldn't get through to the White House and to the President, because evidently they had gone around Sculimbrine and Mr. Aldrich, the FBI agents there, and had gone to somebody at the FBI who was willing to shut off the FBI background checks.

Related security problems. According to an October 1995 General Accounting Office report, from January 20, 1993 to March of 1994, only 24 employees in the Clinton White House had been cleared to handle classified documents. The Bush administration had hundreds of people handling the same volume of classified material. This raises a serious possibility that Clinton employees without security clearances were handling classified, secret material, in violation of the law. This is on page 67 and 68 of this book.

Mr. Aldrich says there was no way they could have handled the workload. I believe that classified material passed through the hands of Clinton employees without security clearances. After all, little or no regard was given to any other security related policy or procedure. Why would they treat classified documents any differently? Handling classified material without a clearance or allowing classified material to pass through uncleared personnel is a violation of Federal law and yet it was taking place. But to think of what it means for national security when just about anyone can handle classified material? It wouldn't take a KGB genius to infiltrate the Clinton administration. Apparently most of the White House documents are freely available to whomever might look at them, however inadvertently. Accordingly, many of the more than 200 volunteers who worked at the White House, worked for weeks, sometimes months, with no salary, no benefits and no security clearance to work at the White House. That is page 25–S.

Mr. Aldrich says, nor did they have any legal right to work in the White House, review classified material, or do anything else as government employees, and yet they had them working there.

Now, Vince Foster, before he committed suicide, or was found dead at Fort Marcy, Foster asked FBI agent Aldrich if all staffers in the West Wing were required to have FBI security background investigations. Aldrich said that Mr. Foster did not have a clue. This on page 73.

Clinton had the old phone system replaced, even though it had worked well. The new phone system cost more than $27 million. It offered staffers a secret unpublished phone number, a secret phone number, that even the FBI was not allowed to know about. FBI agent Aldrich was told please don't call it secret. It makes people around here nervous.

Patsy Thomasson responded with crude language that she would not furnish this phone list to the FBI. They wanted these phone numbers to be kept secret. Why would they not want the FBI to know about them? Maybe some things were going on on the phones that they simply did not want anybody to find out about. The new phone system was installed without the usual input or approval from neither the FBI or the Secret Service. Patsy

Thomasson and David Watkins made this decision. This is on page 46 and 47.

I would like to read a little bit of the dialog that took place. There was a lady there named Sylvia, who evidently worked with Patsy Thomasson, and Mr. Aldrich says on page 46, later I met a good friend in the hallway, a permanent employee who saw Patsy Thomasson frequently. Gary, there is no secret phone list. Her eyes swiveled to see if she had been overheard. Sylvia, it sure as hell is secret, if I, an FBI agent, can't get it.

Well, all right, Gary, but please don't call it secret. It makes people around here nervous. The next day a very muted and intimidated Sylvia called me. Gary, I passed your request on to Patsy, Patsy Thomasson, and you don't want to hear what she said.

Oh, go ahead. Nothing would surprise me anyhow, Mr. Aldrich said. When I told Patsy you wanted the list, she said screw the FBI, to hell with the FBI, they are not getting this list.

In addition to making it tougher to reach people, the new phone system was a security nightmare. The old system was self-contained and manned 24 hours a day. The new system was computerized and therefore not self-contained.

In preparation for this book, I interviewed a White House telephone company official who requested confidentiality. Gary, as you know, the Secret Service has always had a say in the past on changes to the phone system. This time they were effectively told to sit down and shut up. The system was installed without any of the usual input or approval from the Secret Service.

Oh, come on, you are kidding. What bonehead would cut the Secret Service out, Aldrich said?

No, I am not kidding, it was Patsy Thomasson and David Watkins who were the boneheads, Gary.

Aldrich met with Vince Foster and told him that the counsel's office had blocked the Secret Service from seeing the FBI background reports. This is important because the Secret Service needs to know if there is something problematic in an employee's background. This is on page 71 and 65. I want to read this.

Then Foster turned to the question of security as I had anticipated and hoped that he would. How is the security around here? Not that good, Mr. Foster. What is the problem? If the FBI knew I were offering you my opinions on the faults in the White House security, it would cost me my assignment or even my job.

It is all right, Gary, this is just between you and me. You have my word on that. Now, tell me what the problems are.

I told him the security process was still stalled and I was seriously worried about how the Secret Service had been blocked from seeing the FBI reports. Blocked? Who blocked them? Well, Mr. Foster, it was the counsel's office. He seemed surprised to hear this. He asked about the magnitude of the character issues we discovered during our investigations. I told him they were numerous and serious. I also told him I was not comfortable about giving him any information about any particular staff member. After all, many of these persons were his friends and there were questions of protocol and discretion. Any negative comments from me about specific individuals could be misinterpreted or even misused. Foster should simply order copies of the FBI summaries and read the results and judge for himself.

□ 2330

And he went on, on page 65:

> In the past, the Secret Service had a right to determine the potential dangerousness of an individual and advise the counsel's office accordingly. In the past, there has been no question that the experts, the Secret Service, not the associate counsel, was the agency responsible for security and its recommendations carried great weight and were rarely, if ever, overruled.
>
> To shut the Secret Service out from receiving the spin or background check reports would change the Secret Service into a reactive body. Without access to the background investigations, the Secret Service could not prevent security problems. It could only react once they had occurred.

In other words, denying the Secret Service access to background investigations would mortally wound its capacity to protect the President and everyone else who working in the White House.

Kennedy's problem was that he needed to hire Clinton's appointees regardless of their character issues that were considered irrelevant by the group as a whole. The yardstick by which person were selected to work in the Clinton administration was different from any yardstick used by the FBI or the Secret Service.

The Clintonites adjusted the White House security system accordingly and, I might add, to fit their needs. An example of this problem: Questions raised by Foster's death. What if he had brought a gun to the White House and shot himself there or shot others? The Secret Service had never examined his FBI summary. And that is on page 76. And I want to read that.

> At 10 a.m. the next morning, I met a Secret Service buddy in the hallway of the Old Executive Office Building. We were both in deep shock. This is after Vince Foster's death. Not only because we knew Vince Foster but because we understood the possible ramifications of his death.
>
> What if Foster had shot himself in his office? What if he had first turned the gun on others? The fact that the Secret Service had never examined Foster's FBI summary and had no idea what risk he might pose to others or to other staffers. I thought the security mess would hit the fan now and we might be called in front of a Congressional committee in a major battle between Congress, which had oversight responsibility, and the White House over the unconscionable and inexcusable risks that were being taken with the President's security. And I knew who would get the blame, the FBI and the Secret Service, not the higher-ups, not the Bernie Nussbaums and the others in that office who knew how to cover their tails.
>
> Staffers with temporary I.D. wanted to bring visitors to the West Wing. Rules prohibit people with temporary passes from bringing in visitors. Secret Service turned them away, and the staffers got very angry. Within hours—

Because they were bringing people that should not have been in the White House.

> Within hours, the rule forbidding uncleared staffers from bringing in visitors was waived.

That is on page 53 of the book.

Temporary pass holders had to go through the metal detectors. They didn't like this and got the rule rescinded, even though one Clinton volunteer got caught trying to bring in a pistol. Even though they tried to bring in a pistol through a metal detector, they got that waived, that you didn't have to go through the metal detector. That is absolutely ridiculous.

That is on page 53 of the book, and I hope my colleagues will read that as well.

> Clinton criticized the Bush administration—this is a little side issue that I think my colleagues might get a kick out of. Clinton criticized the Bush administration's use of limousines, really small dark sedans, but bought new ones to replace the year-old vehicles.

And that is on page 17 of the book. I hope my colleagues will read that, because they used that in the campaign.

And as soon as they got into office, they bought all new ones.

Mr. BURTON of Indiana. There was an attempt to get retroactive pay. People showed up at the White House to work in the Clinton White House, with many not having a job arranged. Later, David Watkins wanted to pay them retroactively, go back and pay them for the time that they were volunteers before they were actually hired. He wanted to pay them for the volunteer work before they were actually hired.

The head of the personnel for the Office of Administration, Phil Larson, refused and then quit because they were forcing him to illegally go back and pay people when they were volunteers before they were hired by the White House.

This is on page 24, and I would like to read to you what it said there.

> It eventually dawned on the Clinton administration that these people had to be given appointments. David Watkins called Larson and told him to draw up the appropriate documents. Larson told him, and Mr. Larson was the head of personnel for the Office of Administration, Larson hold him, "It is too late. It is illegal, illegal, to grant appointments retroactively to pay people. We would have to create phony documents to do that."
>
> Watkins did not care whether it was legal or illegal. He ordered Larson to backdate

> forms and create whatever documents were necessary, phony or not, so Clinton staff members could get paid. Larson refused, and he ultimately quit because he was under such pressure.
>
> There were transition employees who were double-dipping. Twenty-five transition office staffers were also put on the White House payroll and, thus, were doubling-dipping. Some were caught by a General Accounting Office audit but as late as September of 1993 had not paid back the money. The White House said it was too busy to deal with this problem.

This is on page 24 and 25.

> These 25 had no problem paying their bills since they were now collecting two taxpayer financed paychecks. Some were caught by the GAO audit and were forced to pay back the money, but as late as September 1993, 9 months after the Inauguration, they were still refusing to reimburse the Government and were resisting official notice they had committed what happened to be fraud against the Government and a Federal felony.

And, finally, a little footnote. Special agent, FBI agent Dennis Sculimbrene was waiting to interview Chief of Staff, Mack McLarty. He overheard a conversation between two of McLarty's assistants to the effect that Hillary Clinton wanted all of McLarty's ingoing and outgoing mail to go through her office.

This is on page 92. And he said in his book,

> I do not know what she is trying to do. If we route all of McLarty's incoming and outgoing mail through her office, it's just going to create another step and delay things even worse.
>
> Yeah, but Hillary wants to see who's coming in to see Mack and what he is reading and writing and working on. She wants to control this office. That's the long and the short of it. Hillary is trying to be the chief of staff. I guess we should just get ready for it, since nobody around here seems to know how to say no to Hillary.

These are just a few of the things that are in this book that are very disturbing to me, as a Congressman, I believe to the Committee on Government Reform and Oversight, of which I am a member.

And when we see these things involving national security, the security of the White House, security of sensitive information, top-secret information with people looking at them without having proper clearance, people breaking the law by getting back-pay when they are not supposed to, and trying to falsify documents, all of these things are things that we should not tolerate as a Government, and yet nothing has been done, by my knowledge, to bring any of these people to justice or to bring these things to a head or a conclusion.

So we are going to continue to pursue this. We are running out of time in this session of Congress, but the Committee on Government Reform and Oversight has issued a couple of reports that get to some of the questions and answers, but more needs to be researched.

No person, no group of persons, no individuals in this country are above the law. We are a Nation of laws and not of men or women. And when people break the law, no matter where they are in our society, the lowest person or the highest person, they should be held accountable. And toward that end, we must get to the bottom of these questions which have been raised in Mr. Aldrich's book.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HEINEMAN (at the request of Mr. ARMEY) for today and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of California, for 5 minutes, today.

Mr. HALL of Texas, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. DRIER, for 5 minutes each day, on today and on September 25.

Mr. HOUGHTON, for 5 minutes, on September 25.

Mr. LONGLEY, for 5 minutes, today.

Mr. HOKE, for 5 minutes, today.

Mr. DIAZ-BALART, for 5 minutes, on September 25.

Mr. MCINNIS, for 5 minutes, today.

Mr. SOUDER, for 5 minutes, today.

Mr. MICA, for 5 minutes, today, and on September 25.

Mr. RIGGS, for 5 minutes, today.

Mr, SHADEGG, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes today.

Mr. KINGSTON, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous materials:)

Mr. HOKE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous material:)

Mr. JOHNSON of South Dakota.
Mr. DIXON.
Mrs. LINCOLN.
Mr. MURTHA.
Mr. KANJORSKI.
Mr. KLECZKA.
Mr. FALEOMAVAEGA.
Mr. DEUTSCH.
Mr. LIPINSKI.
Mr. HAMILTON.
Mr. HOYER.
Mr. ANDREWS.
Mr. DEFAZIO.
Mr. UNDERWOOD.
Ms. NORTON.
Mr. ACKERMAN.
Mr. POSHARD.
Mr. THOMPSON.
Mr. FILNER.
Mr. STARK.
Mr. MILLER of California.
Mr. TOWNS.

(The following Members (at the request of Mr. GOSS) and to include extraneous material:)

Mr. CHRYSLER in four instances.
Mr. YOUNG of Alaska.
Mr. SMITH of New Jersey.
Mr. MARTINI in two instances.
Mr. BAKER of California.
Mr. BEREUTER in two instances.
Mr. CLINGER.
Mr. CASTLE.
Mr. SPENCE.
Mr. LIGHTFOOT.
Mr. GILMAN in two instances.
Mr. FRELINGHUYSEN.
Mr. BURTON of Indiana.
Mr. STOCKMAN.
Mr. FLANAGAN.
Mr. PORTER.
Mrs. JOHNSON of Connecticut.
Mrs. MEYERS of Kansas.
Ms. MOLINARI.
Mr. GOSS.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. SAXTON.
Mr. WALKER.
Mr. DORNAN of California.
Mr. KIM.
Mrs. FOWLER.
Ms. KAPTUR.
Mr. KLINK.
Mr. BALDACCI.
Mr. STARK.
Mr. DELLUMS.
Mr. VISCLOSKY.
Mr. BAKER of California.
Mrs. MEYERS of Kansas.
Mr. SOLOMON in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2101. An act to provide education assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties; to the Committee on the Judiciary.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on the following date present to the President, for his approval, bills and a joint resolution of the House of the following title:

On September 20, 1996:

H.R. 1772. An act to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex.

H.R. 2464. An act to amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes.

H.R. 2512. An act to provide for certain benefits of the Pick-Sloan Missouri River basin program to the Crow Creek Sioux Tribe, and for other purposes.

H.R. 2909. An act to amend the Silvio O. Conte National Fish and Wildlife Refuge Act to provide that the Secretary of the Interior may acquire lands for purposes of that Act only by donation or exchange, or otherwise with the consent of the owner of the lands.

H.R. 2982. An act to direct the Secretary of the Interior to convey the Carbon Hill National Fish Hatchery to the State of Alabama.

H.R. 3120. An act to amend title 18, United States Code, with respect to witness retaliation, witness tampering, and jury tampering.

H.R. 3287. An act to direct the Secretary of the Interior to convey the Crawford National Fish Hatchery to the city of Crawford, Nebraska.

H.R. 3675. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

H.R. 3676. An act to amend title 18, United States Code, to clarify the intent of Congress with respect to the Federal carjacking prohibition.

H.R. 3802. An act to amend section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, to provide for public access to information in an electronic format, and for other purposes.

H.J. Res. 191. A joint resolution to confer honorary citizenship of the United States on Agnes Gonxha Bojaxhiu, also known as Mother Teresa.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 25, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5273. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Domestic Dates Produced or Packed in Riverside County, California; Assessment Rate [Docket No. FV96–987–1 IFR] received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5274. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Almonds Grown in California; Assessment Rate [Docket No. FV96–981–2 FIR] received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5275. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Vidalia Onions Grown in Georgia; Assessment Rate [Docket No. FV96–955–1 IFR] received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5276. A letter from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting notification that the commander of Kessler Air Force Base [AFB], MS, has conducted a cost comparison study to reduce the cost of operating the grounds maintenance function, pursuant to 10 U.S.C. 2304 note; to the Committee on National Security.

5277. A letter from the Secretary of the Board, National Credit Union Administration, transmitting the Administration's final rule—Community Development Revolving Loan Program for Credit Loans (12 CFR Part 701 and 705) received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5278. A letter from the Secretary of the Board, National Credit Union Administration, transmitting the Administration's final rule—Organization and Operations of Federal Credit Unions (12 CFR Parts 701, 709 and 741) received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5279. A letter from the Secretary of the Board, National Credit Union Administration, transmitting the Administration's final rule—Management Official Interlocks (12 CFR Part 711) received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5280. A letter from the Secretary of the Board, National Credit Union Administration, transmitting the Administration's final rule—Supervisory Committee Audits and Verifications (12 CFR Part 701) received September 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5281. A letter from the Secretary of the Board, National Credit Union Administration, transmitting the Administration's final rule—Loans in Areas Having Special Flood Hazards (RIN: 3052–AB57) received September 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5282. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year, if any and the budget year provided by H.R. 3517 and H.R. 3754, pursuant to Public Law 101–508, Section 13101(a) (104 Stat. 1388–578); to the Committee on the Budget.

5283. A letter from the Secretary of the Commission, Consumer Product Safety Commission, transmitting the Commission's final rule—Standard for the Flammability of Children's Sleepware: Sizes 0 Through 6XT, Standard for the Flammability of Children's Sleepware: Sizes 7 Through 14 (16 CFR Parts 1615 and 1616) received September 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5284. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Current Good Manufacturing Practices for Blood and Blood Components: Notification of Consignees Receiving Blood and Blood Components at Increased Risk for Transmitting HIV Infection [Docket No. 91N–0152] (RIN: 0910–AA05) received September 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5285. A letter from the Chairman, Nuclear Waste Technical Review Board, transmitting the Board's report entitled "Disposal and Storage of Spent Nuclear Fuel—Finding the Right Balance," pursuant to 42 U.S.C. 10268; to the Committee on Commerce.

5286. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the removal of items from the U.S. munitions list, pursuant to 22 U.S.C. 2778(f); to the Committee on International Relations.

5287. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Italy (Transmittal No. DTC–67–96), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5228. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting (RIN: 1018–AD69) received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5289. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska [Docket No. 960129018–6018–01; I.D. 091896A] received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5290. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Closure from the Oregon-California Border to Humboldt South Jetty, CA [Docket No. 960126016–6121–04] received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5291. A letter from the National President, Women's Army Corps Veterans' Association, transmitting the annual audit of the Association as of June 30, 1996, pursuant to 36 U.S.C. 1103; to the Committee on the Judiciary.

5292. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on NASA's intent to declare Parcels III, IV, V and VI of the NASA Industrial Plant [NIP] as excess to the needs of NASA, pursuant to 42 U.S.C. 2476a; to the Committee on Science.

5293. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Revenue Ruling 96–49) received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5294. A letter from the Chief of Staff, Social Security Administration, transmitting the Administration's final rule—Income Exclusions in the Supplemental Security Income Program (RIN: 0960–AE22) received September 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLINGER: Committee on Government Reform and Oversight. H.R. 1281. A bill to amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals who participated in Nazi war crimes during the period in which the United States was involved in World War II; with amendments (Rept. 104–819, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on Government Reform and Oversight. H.R. 3452. A bill to make certain laws applicable to the Executive Office of the President, and for other purposes; with an amendment (Rept. 104–820, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on Government Reform and Oversight. Sampling and Statistical Adjustment in the Decennial Census: Fundamental Flaws (Rept. 104–821). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 3391. A bill to amend the Solid Waste Disposal Act to require at least 85 percent of funds appropriated to the Environmental Protection Agency from the leaking underground storage tank trust fund to be distributed to States for cooperative agreements for undertaking corrective action and for enforcement of subtitle I of such act; with an amendment (Rept. 104–822, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2508. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes; with an amendment (Rept. 104–823). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3155. A bill to amend the Wild and Scenic Rivers Act by designating the Wekiva River, Seminole Creek, and Rock Springs Run in the State of Florida for study and potential addition to the National Wild and Scenic Rivers System; with an amendment (Rept. 104–824). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3568. A bill to designate 51.7 miles of the Clarion River, located in Pennsylvania, as a component of the National Wild and Scenic Rivers System (Rept. 104–825). Referred to the Committee on the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 1791. A bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services; with an amendment (Rept. 104–826). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on the Judiciary. H.R. 2092. A bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes; with an amendment (Rept. 104–827 Pt. 1). Ordered to be printed.

Mr. HYDE: Committee of Conference. Conference report on H.R. 2202. A bill to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes (Rept. 104–828). Ordered to be printed.

Mr. DREIER: Committee on Rules. House Resolution 528. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes (Rept. 104–829). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 529. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3259) to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 104–830). Referred to the House Calendar.

Mr. CLINGER: Committee on Government Reform and Oversight. H.R. 3841. A bill to amend the civil service laws of the United States, and for other purposes; with an amendment (Rept. 104–831). Referred to the Committee of the Whole House on the State of the Union.

Mr. COMBEST: Committee on Conference. Conference report on H.R. 3259. A bill to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency Retirement and Disability System, and for other purpose (Rept. 104–832). Ordered to be printed.

Mr. BLILEY: Committee on Commerce. H.R. 1186. A bill to provide for the safety of journeymen boxers, and for other purposes; with an amendment (Rept. 104–833 Pt. 1). Ordered to be printed.

Mr. McINNIS: Committee on Rules. House Resolution 530. Resolution providing for the consideration of the bill (H.R. 4134) to amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997 (Rept. 104–834). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3752. A bill to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands; with an amendment (Rept. 104–835). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee of Conference. Conference report on H.R. 1296. A bill to provide for the Administration of certain Presidio properties at minimal cost to the Federal taxpayer (Rept. 104–836). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committees on Intelligence (Permanent Select) and the Judiciary discharged from further consideration. H.R. 1281 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 5 of rule X the Committee on Ways and Means discharged from further consideration. H.R. 3391 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 5 of rule X the Committees on Economic and Educational Opportunities, the Judiciary, and Veterans' Affairs discharged from further consideration. H.R. 3452 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATIONS OF REFERRED BILLS

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1281. Referral to the Committees on Intelligence (Permanent Select) and the Judiciary extended for a period ending not later than September 24, 1996.

H.R. 3452. Referral to the Committees on Economic and Educational Opportunities, the Judiciary, and Veterans' Affairs for a period ending not later than September 24, 1996.

H.R. 3391. Referral to the Committee on Ways and Means extended for a period ending not later than September 24, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LATOURETTE (for himself, Mr. STOKES, Mr. GILCHREST, Mr. TRAFICANT, Mr. REGULA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OBERSTAR, and Mr. MASCARA):

H.R. 4133. A bill to designate the U.S. courthouse to be constructed at the corner of Superior and Huron Roads, in Cleveland, OH, as the "Carl B. Stokes United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. GALLEGLY:

H.R. 4134. A bill to amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997; to the Committee on the Judiciary, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS (for himself and Mr. STARK):

H.R. 4135. A bill to amend the Internal Revenue Code of 1986 to fully implement the

Newborns' and Mothers' Health Protection Act of 1996 and the Mental Health Parity Act of 1996; to the Committee on Ways and Means.

By Mr. MCINTOSH (for himself, Mr. CONDIT, Mr. GOODLATTE, and Mr. DAVIS):

H.R. 4136. A bill to provide for a reduced rate of postage for certain mailings that, under Federal or State law, are required to be made by local governments; to the Committee on Government Reform and Oversight.

By Mr. SOLOMON (for himself, Mr. MCCOLLUM, Ms. MOLINARI, Mr. BARR, Mr. HEINEMAN, Mr. ACKERMAN, Mr. BAKER of Louisiana, Mr. BILBRAY, Mr. BLUTE, Mr. CHRISTENSEN, Mr. CLYBURN, Ms. DUNN of Washington, Mrs. FOWLER, Mr. FRANKS of Connecticut, Mr. GALLEGLY, Mr. GREEN of Texas, Mr. JOHNSTON of Florida, Mrs. KELLY, Mr. MCINTOSH, MR. MCKEON, Mr. NETHERCUTT, Mr. OXLEY, Ms. PRYCE, Mrs. SEASTRAND, Mr. SHAW, Ms. SLAUGHTER, Mrs. VUCANOVICH, Mr. WALSH, Mr. WATTS of Oklahoma, Mr. WELLER, and Mr. PAYNE of New Jersey):

H.R. 4137. A bill to combat drug-facilitated crimes of violence, including sexual assaults; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WALKER (for himself and Mr. BROWN of California):

H.R. 4138. A bill to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes; to the Committee on Science.

By Mr. SAXTON:

H.R. 4139. A bill to reauthorize and amend the Atlantic Striped Bass Conservation Act and the Anadromous Fish Conservation Act; to the Committee on Resources.

By Mr. BALDACCI:

H.R. 4140. A bill to establish a National Center for Rural Law Enforcement, and for other purposes; to the Committee on the Judiciary.

By Mr. BARRETT of Wisconsin:

H.R. 4141. A bill to ensure that purchasers of single family residential properties owned by the Department of Housing and Urban Development are notified of the penalties authorized for intentionally misrepresenting the purchaser's intent to occupy the properties after purchase and that purchasers indicating an intent to use such properties as their principal residences use the properties in such manner; to the Committee on Banking and Financial Services.

By Mr. BARTON of Texas (for himself and Mr. STENHOLM):

H.R. 4142. A bill to amend the Congressional Budget Act of 1974; to the Committee on the Budget, and in addition to the Committees on Government Reform and Oversight, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUTE:

H.R. 4143. A bill to amend the Immigration and Nationality Act to waive the English language and civics requirements for naturalization for persons who are over 65 and have resided legally in the United States for at least 20 years; to the Committee on the Judiciary.

By Mr. BREWSTER (for himself, Mr. YOUNG of Alaska, Mr. PETE GEREN of Texas, Mr. CHAMBLISS, and Mr. CUNNINGHAM):

H.R. 4144. A bill to protect and enhance sportsmen's opportunities and enhance wildlife conservation; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BRYANT of Texas (for himself, Mrs. MALONEY, Mr. CLAY, Ms. ESHOO, Mr. YATES, Mrs. LOWEY, Mr. TORRICELLI, Mr. LEWIS of Georgia, Mr. MORAN, Ms. VELAZQUEZ, Mr. LANTOS, Mr. BERMAN, Mr. FRANKS of New Jersey, Mr. FILNER, Mr. STARK, Mr. HINCHEY, Mr. FARR, Mr. DELLUMS, Mr. EVANS, Mr. GUTIERREZ, Mr. SERRANO, Ms. WOOLSEY, Mr. PORTER, Mr. ANDREWS, Mr. BROWN of California, Mr. BEILENSON, and Mr. NADLER):

H.R. 4145. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal lands, and to designate certain Federal lands as Northwest Ancient Forests, roadless areas, and special areas where logging and other intrusive activities are prohibited; to the Committee on Agriculture, and in addition to the Committee on Resources, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CANADY:

H.R. 4146. A bill to provide for the collection of certain information, in the next decennial census of population, relating to individuals who regularly provide care to a family member who is unable to care for himself or herself due to age or continuing physical or mental condition or impairment; to the Committee on Government Reform and Oversight.

By Mrs. CHENOWETH (for herself, Mr. CRAPO, Mr. DOOLITTLE, and Mr. COOLEY):

H.R. 4147. A bill to prohibit further extension or establishment of any national monument without an express act of Congress; to the Committee on Resources.

By Mr. FRANKS of New Jersey (for himself and Mr. FLAKE):

H.R. 4148. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the breaking of the color barrier in major league baseball by Jackie Robinson; to the Committee on Banking and Financial Services.

By Mr. HALL of Texas (for himself, Mr. ALLARD, Mr. BAKER of California, Mr. BALLENGER, Mr. BARCIA of Michigan, Mr. BARR, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BONILLA, Mr. BOEHNER, Mr. BROWNBACK, Mr. BRYANT of Tennessee, Mr. BUNN of Oregon, Mr. BUNNING of Kentucky, Mr. BURR, Mr. CAMP, Mr. CANADY, Mr. CHABOT, Mrs. CHENOWETH, Mr. CLINGER, Mr. COBLE, Mr. COBURN, Mr. COLLINS of Georgia, Mr. COOLEY, Mr. CREMEANS, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DICKEY, Mr. DOOLITTLE. Mr. DORNAN, Mr. DOYLE, Mr. DUNCAN, Ms. DUNN of Washington, Mr. ENGLISH of Pennsylvania, Mr. FRISA, Mr. FUNDERBURK, Mr. GOODLATTE, Mr. GRAHAM, Ms. GREENE of Utah, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HILLEARY, Mr. HOKE, Mr. HOLDEN, Mr. HOSTETTLER, Mr. HOEKSTRA, Mr. HUNTER, Mr. HUTCHINSON, Mr. HYDE, Mr. INGLIS of South Carolina, Mr. ISTOOK, Mr. KING, Mr. KASICH, Mr. KINGSTON, Mr. KNOLLENBERG, Mr. LAHOOD, Mr. LARGENT, Mr. LATHAM, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LIPINSKI, Mr. LIVINGSTON, Mr. MCHUGH, Mr. MANTON, Mr. MANZULLO, Mr. MASCARA, Mr. MICA, Mr. MOORHEAD, Mr. MYERS of Indiana, Mrs. MYRICK, Mr. NEY, Mr. NORWOOD, Mr. OBERSTAR, Mr. ORTON, Mr. PACKARD, Mr. PARKER, Mr. PETERSON of Minnesota, Mr. PETRI, Mr. POSHARD, Mr. QUINN, Mr. RAHALL, Mr. ROBERTS, Mr. SCARBOROUGH, Mr. SCHIFF, Mrs. SEASTRAND, Mr. SENSENBRENNER, Mr. SKELTON, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mrs. Smith of Washington, Mr. SOLOMON, Mr. SOUDER, Mr. STEARNS, Mr. STENHOLM, Mr. STOCKMAN, Mr. STUMP, Mr. STUPAK, Mr. TALENT, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mr. TIAHRT, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. WAMP, Mr. WATTS of Oklahoma, Mr. WELDON of Pennsylvania, Mr. WELDON of Florida, Mr. WICKER, Mr. WOLF, Mr. MONTGOMERY, Mr. CONDIT, Mr. SISISKY, Mr. CRAMER, Mr. CLEMENT, Mr. DELAY, Mr. BREWSTER, Mr. FROST, and Mr. DE LA GARZA):

H.R. 4149. A bill to clarify Federal law with respect to assisted suicide, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, Economic and Educational Opportunities, Government Reform and Oversight, Resources, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HEFLEY:

H.R. 4150. A bill to suspend temporarily the duty on certain industrial nylon fabrics; to the Committee on Ways and Means.

By Mr. JOHNSON of South Dakota (for himself, Mr. FALEOMAVAEGA, Mr. KILDEE, Mr. MILLER of California, and Mr. RICHARDSON):

H.R. 4151. A bill to establish a National Indian Bonding Authority Pilot Project to oversee the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs of the Department of the Interior, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. LEWIS of Georgia:

H.R. 4152. A bill to designate the Federal building located at 100 Alabama Street NW, in Atlanta, GA, as the "Sam Nunn Federal Center"; to the Committee on Transportation and Infrastructure.

By Mrs. MORELLA (for herself and Mr. JONES):

H.R. 4153. A bill to extend health insurance and survivor annuity benefits to certain former spouses of Federal employees who would otherwise be ineligible for those benefits; to the Committee on Government Reform and Oversight.

By Mrs. MORELLA:

H.R. 4154. A bill to amend the Internal Revenue Code 1986 to make the dependent care credit refundable, and for other purposes; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 4155. A bill to amend the Internal Revenue Code of 1986 to provide for individuals who are residents of the District of Columbia a maximum rate of tax of 15 percent on income from sources within the District of Columbia; to the Committee on Ways and Means.

By Mr. PORTER:

H.R. 4156. A bill to provide for special immigrant status for certain aliens working as journalists in Hong Kong; to the Committee on the Judiciary.

By Mr. RAMSTAD (for himself, Mr. GUTKNECHT, Mr. LUTHER, Mr. MINGE, Mr. OBERSTAR, Mr. PETERSON of Minnesota, Mr. SABO, and Mr. VENTO):

H.R. 4157. A bill to amend the Internal Revenue Code of 1986 to provide that the conducting of certain games of chance shall not be treated as an unrelated trade or business; to the Committee on Ways and Means.

By. Mr. RAMSTAD (for himself and Mr. MINGE):

H.R. 4158. A bill to exclude certain general service wages and hours associated with a separate skilled nursing facility owned by certain hospitals in determining a hospital's eligibility for continued geographic reclassification under the Medicare Program; to the Committee on Ways and Means.

By Mr. SAXTON (for himself, Mr. BONIOR, Mr. SHAW, Mr. ZIMMER, Mr. SMITH of New Jersey, Mr. JONES, Mr. PETRI, Mr. BREWSTER, Mr. NEUMANN, Mr. OBERSTAR, Mr. CLEMENT, Mr. BILIRAKIS, Mr. DEUTSCH, Mr. TORRICELLI, Mr. PALLONE, Mr. BALLENGER, Mr. LOBIONDO, and Mr. FRANKS of New Jersey):

H.R. 4159. A bill to amend title 17, United States Code, to protect vessel hull designs against unauthorized duplication, and for other purposes; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 4160. A bill to amend titles XVIII and XIX of the Social Security Act to require Medicare and Medicaid health plans to provide for orientation and medical profiles for enrollees and to require Medicaid health plans to assure appropriate immunizations for children; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS (for himself and Mr. MONTGOMERY):

H.R. 4161. A bill to provide for a role models academy demonstration program; to the Committee on Economic and Educational Opportunities.

By Mr. TORRICELLI:

H.R. 4162. A bill to amend the Employee Retirement Income Security Act of 1974 to provide continued participation under a defined benefit plan to employees who are terminated from employment within 7 years of attaining normal retirement age under the plan; to the Committee on Economic and Educational Opportunities.

By Mrs. MORELLA (for herself, Mrs. MYRICK, Ms. GREENE of Utah, Mrs. KELLY, Mrs. SEASTRAND, Mrs. ROUKEMA, Ms. DUNN of Washington, Mrs. JOHNSON of Connecticut, Mrs. FOWLER, Mrs. VUCANOVICH, Ms. MOLINARI, and Mrs. MEYERS of Kansas):

H. Con. Res. 216. Concurrent resolution providing for relocation of the Portrait Monument; to the Committee on House Oversight.

By Mr. MORAN (for himself, Mr. PORTER, Mr. LANTOS, Ms. MOLINARI, and Mr. ENGEL):

H. Con. Res. 217. Concurrent resolution concerning human and political rights of the Bosniac people of the Sanjak region of the Federal Republic of Yugoslavia (Serbia/Montenegro); to the Committee on International Relations.

By Mr. LINDER:

H. Res. 531. Resolution relating to a question of the privileges of the House.

By Mr. LEWIS of Georgia:

H. Res. 532. Resolution relating to a question of the privileges of the House.

By Mr. BONO:

H. Res. 533: Resolution amending the Rules of the House of Representatives to require that every Member establishes a written office policy regarding standards for the use of computer software, programs, and data bases; to the Committee on Rules.

By Mr. CLINGER:

H. Res. 534. Resolution recognizing and honoring the crew members of the U.S.S. *Pittsburgh* for their heroism in March 1945 rendering aid and assistance to the U.S.S. *Franklin* and its crew; to the Committee on National Security.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. YOUNG of Florida:

H.R. 4163. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and on the Great Lakes and their tributary and connecting waters in trade with Canada for the vessel *Medrx III*; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 553: Mr. KOLBE.

H.R. 784: Mr. GOODLING.

H.R. 789: Mr. SAM JOHNSON, Mr. ABERCROMBIE, and Mr. SKEEN.

H.R. 858: Ms. SLAUGHTER and Mrs. SEASTRAND.

H.R. 1073: Mr. EHLERS and Mr. CAMP.

H.R. 1074: Mr. EHLERS and Mr. CAMP.

H.R. 1309: Mr. BALDACCI, Mr. FLAKE, Mr. ACKERMAN, Mr. HASTINGS of Florida, and Mr. ABERCROMBIE.

H.R. 1427: Mr. GOODLING.

H.R. 1507: Mr. YATES.

H.R. 1619: Mr. MCHALE.

H.R. 1994: Mr. ANDREWS.

H.R. 2011: Mr. HEFNER.

H.R. 2508: Mr. EVANS, Mr. WELDON of Pennsylvania, Mr. ROGERS, and Mr. PETE GEREN of Texas.

H.R. 2579: Mr. FAWELL and Mr. LAZIO of New York.

H.R. 2727: Mr. CAMP.

H.R. 2807: Mr. THOMPSON.

H.R. 3201: Mr. FRELINGHUYSEN.

H.R. 3217: Mr. ABERCROMBIE.

H.R. 3244: Mr. JACKSON.

H.R. 3355: Mr. THOMPSON and Ms. RIVERS.

H.R. 3401: Mr. SHADEGG.

H.R. 3436: Mr. DELLUMS, Mr. ACKERMAN, Mr. FROST, Mr. DEFAZIO, and Mr. NADLER.

H.R. 3714: Mr. FOGLIETTA and Mr. TORKILDSEN.

H.R. 3752: Mr. DICKEY and Mr. CREMEANS.

H.R. 3804: Mr. KILDEE.

H.R. 3830: Ms. SLAUGHTER, Mr. ACKERMAN, Mr. BALDACCI, Mr. GREEN of Texas, and Mr. FATTAH.

H.R. 3838: Mr. NEY.

H.R. 3839: Mr. EVANS, Mr. BAESLER, and Mr. KLECZKA.

H.R. 3857: Mr. GEJDENSON and Mr. HORN.

H.R. 3947: Mr. BARCIA of Michigan.

H.R. 3950: Mr. BALDACCI.

H.R. 3963: Mr. EVANS and Mr. ENSIGN.

H.R. 3966: Mr. BATEMAN and Mr. BOEHLERT.

H.R. 4028: Mr. TOWNS, Mr. STUPAK, Mr. BROWN of Ohio, Mr. FROST, and Mr. OBERSTAR.

H.R. 4045: Mr. LEWIS of Georgia.

H.R. 4046: Mr. RANGEL and Mr. FATTAH.

H.R. 4067: Mr. ROMERO-BARCELO, Mr. KIM, Mr. FRAZER, and Mr. RAHALL.

H.R. 4068: Mr. BACHUS, Mr. QUINN, Mr. GUTIERREZ, Mr. SCHAEFER, Mr. BARRETT of Nebraska, and Mr. LONGLEY.

H.R. 4073: Mr. LEWIS of Georgia, Mr. PAYNE of New Jersey, Mr. BROWN of Ohio, and Mr. KINGSTON.

H.R. 4120: Mr. DOOLITTLE and Mr. COOLEY.

H.R. 4126: Mr. TORRES, Mr. BEILENSON, Mr. CAMPBELL, Mr. LEWIS of California, and Mr. BECERRA.

H.R. 4131: Mrs. MINK of Hawaii, Mr. BACHUS, Mr. WATTS of Oklahoma, Mr. BROWN of Ohio, Mr. BOEHLERT, Mr. RICHARDSON, Mr. GILMAN, Mr. DEFAZIO, Mr. FARR, and Mr. CRAMER.

H. Con. Res. 145: Mr. HAMILTON.

H. Con. Res. 199: Mr. TORRES.

H. Con. Res. 209: Mr. BARRETT of Wisconsin and Mr. LIPINSKI.

H. Res. 515: Mr. BONIOR, Mr. PORTMAN, Mr. GREEN of Texas, and Mr. WELDON of Florida.

H. Res. 518: Mr. MILLER of California, Mr. DELLUMS, Ms. LOFGREN, Mr. WYNN, Mr. BLUMENAUER, and Mr. CUMMINGS.

H. Res. 521: Ms. ESHOO, Mr. CLEMENT, Mr. LEWIS of Georgia, and Ms. LOFGREN.

EXTENSIONS OF REMARKS

IN HONOR OF DR. RUSSELL F. BLOWERS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. BURTON of Indiana. Mr. Speaker, I would like to recognize one of the best men I have had the privilege to know. His life reflects his life's work: Preaching the message of Jesus. Dr. Russell F. Blowers has served his congregation at East 91st Street Christian Church in Indianapolis for 45 years. As Russ retires I am filled with mixed emotions. While I am happy that he will be able to have time for new ventures, he will be sorely missed in the weeks, months, and years to come.

Under his committed leadership, Dr. Blowers has seen church membership grow from 85 people on his first Sunday, to nearly 4,000, making it one of Indiana's largest congregations. East 91st Street Church has provided a myriad of ways for its members to serve, grow spiritually, and evangelize. Russ attributes this amazing growth to having stayed true to the Christian scriptures. By God's grace, Russ has remained faithful to the gospel by preaching the lordship of Jesus Christ, the power of the Holy Spirit, the essential plan of salvation through the Cross and resurrection, and the inerrant nature of the divinely inspired Word of God.

Russ Blowers has preached about issues that transcend politics and reflect unchangeable Biblical truths, such as opposition to abortion and that homosexuality is against God's will. Russ has counseled Senator RICHARD LUGAR, former Vice President Dan Quayle, Representative ANDY JACOBS, and myself, a member of the church since 1981. ANDY JACOBS has said, "I think Russ's legacy will be that he showed us all the potential of the human heart. He showed us what a considerable contribution one person can make by simply seeking to love and be loved in return." I wholeheartedly agree with my colleague. Russ Blowers has lived out the words he has preached. He is Christ-like.

Russ was born in Zanesville, OH, in 1924. He is a World War II veteran, having served with the 343d Fighter Squadron, 55th Fighter Group of the 8th Air Force in England and Germany. After his return from the 8th Air Force, Russ entered Ohio University as a journalism-advertising major and met his future wife, Marian. She introduced Russ to Christianity. "She didn't beat me over the head with the Bible." he says. "She just lived the life and answered my dumb questions about the Bible. I fell in love with her first and then with my Lord."

After graduation from Ohio University, Russ received a Master of Divinity from Christian Theological Seminary and Milligan College later conferred on him with the Doctor of Divinity. Dr. Russ Blowers became pastor of East 49th Street Christian Church in 1951. As the church grew, the congregation changed its name when it moved to 6049 East 91st Street. Russ Blowers preached his final sermon on September 8, 1996. He sums up his ministry by reflecting, "Above all, as I close this phase of my ministry, I give God the glory for whatever has been accomplished. He has been faithful to me beyond my deserving, and my most precious honor is being one of His children, one of His servants."

Russ has also been involved in ministry beyond his local congregation. He has preached in 11 nations and has hosted nine tour groups to Europe and the Middle East. He hosted "The Chapel Door" live on WISH–TV daily for 12 years. Russ has also been a contributing columnist for "The Lookout Magazine" as well as the church's newsletter "The 91st Edition."

Russ and Marian have two sons: Philip, Marion County deputy prosecuting attorney; and Paul, associate professor of church history at Emmanuel School of Religion. Their accomplished sons will confirm that this Pastor who loved the congregation of East 91st Street is the same genuine article at home with his family as he is in the pulpit. The Blowers also have four grandchildren: Shannon, Alison, Leslie, and Colin.

Russ has not only been a great pastor, he has also been my good friend and confidant through the years. May the Lord continue to bless Russ and Marian very generously in the years to come, in the way that they have been a blessing to others.

ST. BONIFACE CHURCH CELEBRATES 100TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues, the 100th anniversary of St. Boniface Church in Wilkes-Barre, PA. I am pleased to have been asked to participate in the observance of this milestone.

On August 16, 1896 a group of German immigrants from the Pfalz region of Bavaria met to form a new congregation. An executive committee of 12 was formed to obtain permission from the bishop to build a new church. When permission was granted a lot was purchased on Blackman Street in Wilkes-Barre. Five men mortgaged their homes to provide the initial money to build the church. On October 4, 1896 the cornerstone of the church was laid by Bishop O'Hara. The original construction cost of the church was $4,345.

On the suggestion of Bishop O'Hara and reflecting the German heritage of the majority of the parishioners, the church was named after St. Boniface, the apostle of the Germans as the church's patron saint.

The first mass was held in March 1897 in the newly built church which still didn't have pews. The dedication of the church followed shortly after that. The first pastor of the church was the Reverend Charles J. Goeckel who lived with neighbors until a rectory could be built at the church.

The church began a series of fundraising activities and parish socials in order to raise money for construction of facilities and to provide community services for the parishioners. The traditional St. Boniface "Kaffee Klatsch" is still held today on Shrove Tuesday night as a way for members of the parish to get together.

Under the leadership of the Reverend Charles Von Weldon, the parish and community offerings of St. Boniface grew and the adjoining convent was enlarged.

Mr. Speaker, every succeeding pastor of St. Boniface helped to expand and enlarge the property and make the parish prosper. The church today is an important presence in the religious life of the Wyoming Valley. Serving German immigrants and others for 100 years, St. Boniface has continued the traditions and preserved the heritage of its founders.

Mr. Speaker, I am proud to congratulate St. Boniface on this milestone in its history and send best wishes for continued prosperity.

THE PASSING OF EVELYN DAVIS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. GILMAN. Mr. Speaker, I rise with deep regret to inform our colleagues of the passing of an outstanding journalist and publisher who was widely read and respected in my 20th district of New York.

Evelyn Burtz Davis, a resident of Old Tappan, NJ, was the publisher of the Rockland County Times, located in Haverstraw, NY. Recently, she became publisher also of the Rockland Review, also published in Rockland County, NY.

In her role as publisher of the Times since 1984, she became known for the caustic comments and unique insight of her editorials. Although she quite often advocated stands on issues with which on occasion I was in total disagreement, no one could ever question the extensive research which Evelyn undertook on each and every editorial she composed. While many of us may have often questioned her conclusions, no one ever questioned the factual validity of the data which led her to make these conclusions. No one ever questioned the intellectual integrity for which Evelyn Davis became a living legend in our community.

Perhaps most significantly of all, no matter how deeply Evelyn may have disagreed with a

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

public official on an issue, she always welcomed divergent points of view, and was never afraid to change her mind or to have errors pointed out to her. Evelyn always, with gracious enthusiasm, afforded space in her own newspaper for those who wished to express opinions contrary to her own or who wished to rebut her editorials.

Evelyn was the widow of Sylvan Davis, who preceded her as publisher of the Rockland County Times. During Sylvan's tenure as publisher, from 1974 until his untimely death in 1984, the Rockland County Times enjoyed an outstanding reputation as a fair, accurate mirror of the community news. During the tenure of Sylvan Davis as publisher of the Rockland County Times, this newspaper, which was over 100-years old, enjoyed a resurgence as a thought provoking and thorough medium for the issues and news of the day.

Throughout his time as publisher, Sylvan's wife Evelyn was always at his side with sage advice and assistance. The publication of the Times became a joint effort. Accordingly, when Sylvan quite suddenly and unexpectedly passed away in 1984, it was no surprise to any of us that Evelyn agreed to take up his fallen torch.

Evelyn Burtz was born July 14, 1933, in New York City, the daughter of the late Alexander and Gussie Goldstein Burtz. Evelyn attended Pennsylvania State University and earned a degree in journalism from the New York University School of Commerce, now known as the Stern School of Business. Evelyn went to work for Macy's Department Store, and after 15 years of dedicated service, worked her way up to the position of home furnishings coordinator.

Evelyn married Sylvan Davis on November 7, 1965. Their marriage brought about one of the outstanding mergings of intellect. It was during this period that the Davis' became my friends, and I will cherish the memories of that friendship forever.

In addition to her responsibilities as publisher, Evelyn Davis served on the School Board in Old Tappan, NJ, from 1981 to 1987. She was also an outstanding mother to two children: Paul Allen Davis, who now resides in Minneapolis, MN, and Randy Allison Davis, who still resides in Old Tappan.

Since the earliest days of our republic, the press has been a major component of our democratic form of government. Ben Franklin has been the model of the outstanding journalist turned patriot.

Evelyn Davis, like her husband who predeceased her, was just such a patriot. She believed the press existed to educate, to inform, and to stimulate thought.

Mr. Speaker, I shall profoundly miss the insight and thoughtfulness of Evelyn Davis, and I invite all of our colleagues to join with me in extending our condolences to her son, her daughter, her four nieces, and the many employees and community leaders who loved this truly remarkable woman.

"SUSPICIOUS CRIME REPORT"

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. BEREUTER. Mr. Speaker, this Member highly commends to his colleagues the following editorial regarding violent crime rates and the Clinton administration which appeared in the Omaha World Herald on September 20, 1996.

[From the Omaha World Herald, Sept. 20, 1996]

SUSPICIOUS CRIME REPORT

The Clinton administration claims that it has significantly reduced violent crime. So why don't Americans feel safer?

For one thing, the administration's claim is based in part on a survey in which the methodology had been changed. For another, even if the crime rate had a one-year decline, a similar survey showed no significant decline in the 1992–94 period. Moreover, the statistics still don't reflect the evidence of the creeping chaos that is encountered by many citizens on their streets and in their neighborhoods.

Researchers at the Justice Department's Bureau of Justice Statistics said this week preliminary results of a survey show that an estimated 9.9 million violent crimes were committed in the United States in 1995, a 9 percent drop from the previous year, but a decline of only 3.7 percent from 1992. Attorney General Janet Reno said the figures demonstrated that the Clinton administration had found "solutions that work."

The Justice Department released the survey report at an odd time. Last year, no preliminary estimates at all were released. This year, though spring is the normal release time, the estimates were not made public until this week. It's just a coincidence, we suppose, that the election is only seven weeks away.

President Clinton hailed the report as proof that "we're moving in the right direction," implying that the administration had caused a drop in crime.

However, the numbers don't reflect actual crimes. They are from an estimate based on a survey. Unreported crimes—a wildly speculative notion—are included. Moreover, the survey did not track homicides.

The sharpest decline in violent crimes was in rape. The Justice Department's National Crime Victimization Study included date rape, and in the category of domestic violence and date rape it used "enhanced questions" to get a better estimate. The result was that in spite of reports of increased sexual assaults by rape crisis centers, the Justice Department estimated that rapes declined from 432,700 in 1994 to 354,670 last year. Crime experts were stunned.

If rape figures—either in 1994 or in 1995—are treated with the skepticism that they deserve, and if homicides weren't even included, what is left is at best a slight one-year decline in aggravated assault, simple assault and robbery—as reported by victims, not as reported to the FBI.

Another way to calculate the crime rate is to consolidate the figures from local law enforcement reports. That is the method used in compiling the FBI's annual Uniform Crime Report, made public last May. The dean of the criminal justice college at Northeastern University, noting that the FBI report indicated a 4 percent decline, said the country was experiencing "the calm before the crime storm." Other experts said that as the children of the baby boomers move into the high-crime 15-to-24 age bracket, more violent crime is likely. * * *

Americans are entitled to be annoyed at political rhetoric and rosy statistics purporting to show that violent crime is decreasing sharply. If they now have to barricade themselves inside a car and have a cellular phone in order to drive the streets of Omaha safely at 8 in the morning, government at all levels is failing. And the Clinton administration's claims to have made a major difference are no better than a sick joke.

INTRODUCTION OF THE BOAT PROTECTION ACT OF 1996

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. SAXTON. Mr. Speaker, today I am introducing a bill to stop an increasingly common problem facing America's marine manufacturers. This problem, originally brought to my attention by a boat manufacturer in my congressional district, entails the theft of proprietary designs with respect to the production of boat hulls. Such piracy threatens not only the integrity of the U.S. marine manufacturing industry, but the safety of America boaters as well.

Boat manufacturers invest significant resources in the design and development of safe, structurally sound, and often high performance boat hull designs. Including research and developmental costs, a boat manufacturer often invests as much as $50,000 to develop a design from which a single line of vessels can be manufactured. When a boat hull is designed, and the engineering and tooling process is completed, engineers then develop a boat plug, from which they construct a boat mold. The manufacturer is then able to produce a particular line of boats from this mold. In contrast, those intent on stealing the original boat design, rather than developing their own, can simply use a finished boat hull in place of the manufacturer's plug to develop or splash a mold. This copied mold can then be used to manufacture a line of vessels with a hull identical to that appropriated from the competitor at a cost well below that of the company that originally designed the hull.

Hull splashing is a significant problem for consumers, as well as manufacturers and boat design firms. Consumers of copied boats are defrauded in the sense that they are not benefiting from the aspects of the hull design, other than shape, that are structurally relevant to safety. It is also more unlikely that consumers are aware that a boat has been copied from an existing design. Moreover, if manufacturers are unable to recoup at least some of their research and development costs, they may no longer be willing to invest in new, innovative boat designs—designs that could lead to safer watercraft for consumers.

The Boat Protection Act of 1996 would work in concert with current Federal law to protect American marine manufacturers from harmful and unfair competition from unscrupulous foreign and domestic rivals.

I urge my colleagues to support the Boat Protection Act of 1996 and stand with me in my effort to protect the American public and the marine manufacturing community from the assault on American ingenuity caused by hull splashing.

TRIBUTE TO VETERANS OF FOREIGN WARS ALBION PLACE MEMORIAL POST NO. 7165

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. MARTINI. I rise today in recognition of the Veterans of Foreign Wars Albion Place Memorial Post No. 7165. This year marks their 50th anniversary of service to the citizens of Clifton, NJ. They will be celebrating their 50th anniversary on September 21, 1996, with a dinner at the Three Saints Cultural Center in Garfield, NJ.

Mr. Speaker, the history of VFW Post 7165 is a lesson in perseverance and determination. Not only were the original members of the post tested in war, but also in patience.

Without a building or hall to call home, VFW Post 7165 first met in the Clifton Volunteer Fire House. Soon thereafter, they were granted permission to meet in the Acquanonck Gardens Community Center. As luck would have it, Mr. Speaker, the community center was destroyed by a devastating fire before the post was even able to hold its first meeting.

However, the original members of Post 7165 were resolute in their decision not to let this setback ruin their vision of a refuge to honor patriotism. They rebuilt the community center from the ashes of the fire and established the first true home of VFW Post 7165 in the early 1950's. Today, Mr. Speaker, with over 580 members, the post has the largest following in Passaic County,

The large membership of VFW Post 7165 not only selflessly served their country, but continues to donate its time and efforts to help all members of the Clifton community. VFW Post 7165 is involved in a number of charitable and community-oriented activities in Clifton. For example, the post is highly active in the education of young adults. It supports Project Graduation which provides assistance to the Clifton High School graduating class and awards college scholarships to the winners of essay contests. In addition, the post promotes and administers safety program for the youngsters of the city.

VFW Post 7165 also supports and recognizes the police and firefighters for their unyielding allegiance to the community, and champions American patriotism through their appearances at various community functions, marches and parades.

Mr. Speaker, I join Veterans of Foreign Wars Albion Place Memorial Post No. 7165 in their celebration of 50 years of service. I encourage others to emulate their actions and salute their commitment to excellence.

DAN CANTU—IN APPRECIATION OF A JOB WELL DONE

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. LIGHTFOOT. Mr. Speaker, this week the House of Representatives will be losing one of its finest staff members when Dan Cantu leaves us to begin, with his wife Karin, law school at the University of Chicago.

For the past 4 years Dan has served on the professional staff of the House Appropriations Committee, and, specifically, as a staff member on my Treasury Appropriations Subcommittee. Dan Cantu embodies the professionalism and excellence found throughout the entire staff of the House Appropriations Committee. Dan has worked on some of the most difficult, challenging, and technical issues under our subcommittee's jurisdiction. In every instance, he has risen to the challenges presented him with grace and good humor and helped the Congress reach agreement on what are often extremely difficult fiscal and policy issues.

The House is not only losing an excellent staff member, I am losing someone I have come to rely upon and who has become my friend. All of us on the Treasury Appropriations Subcommittee wish Dan and Karin all the best as they begin their studies.

DOMESTIC VIOLENCE SERVICE CENTER 20TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues a very important anniversary which will be commemorated in my district in October. The Domestic Violence Service Center [DVSC] will observe the 20th anniversary of its founding. I am pleased to have the opportunity to commend the center for its tireless dedication to helping women and children in crisis.

Originally called Womencenter when it was first conceived in October 1976, the DVSC began as an assessment agency to focus on the needs of area women. The pleas for help from battered women in the first 6 months was overwhelming. Because of this the Womencenter refocused its purpose to address the issue of domestic violence and how it affects women and children in the Wyoming Valley. A task force was formed to study the issue. The result of that meeting was the founding of the Pennsylvania Coalition Against Domestic Violence [PCADV]. The first coalition of its kind in the United States, the PCADV is still a leader in victims' rights issues in the State and the Nation.

In 1977, the Womencenter received a grant to develop a full-time domestic violence program. Services expanded and a liaison with Legal Services of Northeastern Pennsylvania was established.

A speakers' bureau was begun to promote community awareness. In 1978, the task force established the first shelter for battered women in northeastern Pennsylvania. Within 1 week the unadvertised shelter was completely filled to capacity. That June the Womencenter incorporated as the Domestic Violence Service Center. A board was formed and the first officers were elected.

Mr. Speaker, the Domestic Violence Service Center has served the area as a shelter, an advocacy agency, an outreach center, and a counseling center. The DVSC has been on the forefront of public education of domestic violence and involved with other social service agencies and the District Attorney's office in creating a county wide protocol for the handling of domestic violence cases. The center has coordinated with local police forces to create a common protocol in handling the actual distress calls. This program serves as an example to the entire State of Pennsylvania.

Most importantly, Mr. Speaker, the Domestic Violence Service Center has provided shelter for thousands of battered women who flee their homes often in the middle of the night afraid for their lives and the lives of their children.

Mr. Speaker, the impact of domestic violence affects the entire community. Each year the center conducts a solemn and poignant candlelight vigil at the Luzerne County Courthouse to commemorate Domestic Violence Month. I have had the honor of participating in this event. I am proud to commend the hardworking staff, board of directors, and volunteers on their dedicated effort to help those who would otherwise be trapped indefinitely in a crisis situation. Through their work and dedication they offer a place for women and children to turn to break the cycle of violence. Although this anniversary is not a celebration, it is a call to each of us to help stop this devastation of the American family. Mr. Speaker, I hope this anniversary will expand public awareness of the important work that the DVSC does.

A TRIBUTE TO PERSONNELMAN FIRST CLASS CARL JOHN PALMER, JR.

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. GILMAN. Mr. Speaker, it has come to my attention that a constituent of mine who has enjoyed an excellent record with the U.S. Naval Reserve is retiring after 20 years of loyal and faithful active service.

Personnelman First Class Carl John Palmer, Jr., began his military career in the U.S. Navy in 1976 at the Recruit Training Center in San Diego, CA. After completion of recruit training in March 1977, he transferred to Attack Squadron Eighty-Two, Naval Air Station, Cecil Field, FL. In June 1978, he was transferred to the Naval Technical Training Center in Meridian, MS, for Personnelman Class "A" School.

Subsequent to graduation from that school, PN1 Palmer enjoyed a distinguished career with the U.S. Navy Training and Administration of Reserve [TAR] program and later transferred to Staff duty at the Naval Reserve

Force Management School in New Orleans, LA, and served in a number of other locations, including Orlando, FL, and Boston, MA. In August 1994, he was transferred to the Naval Reserve Center, currently located at the Naval Air Station in South Weymouth, MA, where he remains posted to this day.

Personnelman First Class Carl John Palmer, Jr., has throughout an exemplary career earned two naval Achievement Medals, the Navy Unit Commendation, two Meritorious Unit Commendations, the Navy Expeditionary Medal, four Good Conduct Medals, the Nation Defense Medal, the Armed Forces Reserve Medal, the Navy Recruiting Service Medal, the Armed Forces Reserve Medal, the Navy Recruiting Service Ribbon, the Sea Service Ribbon with Bronze Star, the Pistol Marksman Ribbon, six Naval Reserve Recruiting Gold Wreath of Excellence in Recruiting Awards and the Command Career Counseling Badge.

PN1 Palmer is a resident of Pond Eddy, NY. This community, located on the wild and scenic Delaware River, is one of the most breathtaking parts of the beautiful State of New York, and we hope that PN1 Palmer and his family will be staying in our community for a long, long time.

PN1 Palmer will be joined in retirement by his lovely wife, Virginia, also of Pond Eddy. It is often said that the spouse of a military person sacrifices as much as the person in the military. Any sacrifices endured by Virginia and their daughters, Sabrina and Kristinia, were done with uncomplaining charm and grace. PN1 Palmer's mother, Helen, is also still with us to assist Carl in enjoying his well earned retirement.

On October 3, PN1 Palmer's colleagues will be hosting a retirement ceremony to commemorate this outstanding American's 20 year contribution to the defenses of our Nation and to point with pride to a career which is an inspiration to all of us.

"UNIVERSITY SHOULD PICK BEST LOAN PROGRAM FOR ITS STUDENTS"

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. BEREUTER. Mr. Speaker, this Member highly commends to his colleagues the following editorial regarding competition between the direct student loan program and the Federal guaranteed student loan program which appeared in the Lincoln Journal Star on September 20, 1996. The popularity of the direct student loan program is forcing private sector lenders to offer better deals—such as a prompt-payment incentive—to students. This competition is good for lending institutions and, most importantly, for students.

[From the Lincoln Journal Star, Sept. 20, 1996]

UNIVERSITY SHOULD PICK BEST LOAN PROGRAM FOR ITS STUDENTS

* * * Changes made in federal law in 1993 allowed schools to choose a lending program in which students borrow all their money directly from the federal government. Especially at the larger universities across the United States, that is seen as the easiest way and ultimately the cheapest way to proceed.

Unfortunately, the absence of a prompt-payment feature in the federal lending package means that it is not necessarily the cheapest option for students on this campus this school year. Parents and students have reason to be concerned.

But they should not rush to the conclusion that this is another example of the government doing what the private sector should be doing and doing it worse.

Besides demonstrating a new form of public commitment to higher education, and a cheaper form than grants, a federal presence in financial aid is a form of competition for an industry that needed some competition. When there is lively marketing competition, the advantage passes back and forth between the competitors and customers can count on coming out ahead.

Before Congress authorized a direct lending program, there was no prompt payment program in the private sector. Loan origination fees were typically higher. Banks were collecting another type of middleman fee—federal payment of interest charges while students were in school—without much pressure to sweeten the deal for young borrowers.

Now, in the words of another financial aid expert on another Nebraska campus, there is "that very nice tension" between the people in charge of the government's public lending program and the people in charge in the private sector. The one has to try to match what the other one does. * * *

Any school's approach to financing a college education cannot be judged a success just because it is the cheapest for taxpayers or because it is generates the least paperwork. Whether through a government program or through partnership with private enterprise, success is only achieved when it is the cheapest choice for students.

EUROPEAN RIGHTS COURT RULES AGAINST TURKEY IN VILLAGE BURNING

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. SMITH of New Jersey. Mr. Speaker, on September 16, the European Court of Human Rights for the first time rules that the Government of Turkey must compensate Kurdish villagers whose houses had been destroyed by security forces. The Court found that the burning of homes violated European Human Rights Conventions. The Court also found that the Turkish Government had interfered with the applicants' right to appeal to the European Commission on Human Rights.

Mr. Speaker, presently, more than 150 cases involving more than 400 individuals have been submitted to the European Commission. These cases relate to the destruction of Kurdish villages, extra-judicial executions, disappearances, rape, and torture. Already, 56 such cases have been deemed admissible by the European Commission, and a handful have proceeded to the European Court.

Mr. Speaker, the sheer volume of cases brought against Turkey and declared admissible, as well as the circumstances surrounding each, leave little doubt that the Government of Turkey is not only conducting a violent campaign against its own citizens, but also trying to cover up its abuses with intimidation and propaganda. Earlier this year, Human Rights Watch/Helsinki released a report which documented efforts by Turkish authorities to prevent individuals from pursuing cases at the European Commission and Court. The report referenced numerous incidents in which applicants, as well as their family members and lawyers, had faced harassment, torture and murder in attempts to prevent them from pursuing their cases.

Mr. Speaker, Turkish officials often recognize the European Court's jurisdiction and the right of Turkish citizens to appeal to the Court as proof of a commitment to human rights. Yet following this first ruling against Turkey, officials have called the ruling wrong and criticized the Court as being politically biased. Following a familiar pattern in which public proclamations bear little resemblance to actuality, other international human rights commitments are similarly dismissed when implementation would bring attention to serious abuses. Last July, at the Organization for Security and Cooperation in Europe [OSCE] Parliamentary Assembly meeting in Stockholm, members of the Turkish delegation agreed to invite an assembly delegation to Turkey. One week later, Turkey's Ambassador to the OSCE in Vienna stated that his government would not cooperate in issuing such an invitation. Not only has Turkey reneged on the OSCE invitation, efforts by the International Committee of the Red Cross [ICRC] to discuss questions of access to conflict areas have also been rebuffed.

Mr. Speaker, the ruling by the European Court will surely be the first of many. The longer Turkish rulers refuse to acknowledge the true reality of the Kurdish situation the more all citizens will pay in precious blood and resources. Turkish economic and political development has been stunted by the crisis in southeast Turkey and its human dimension; 21,000 lives have been lost, 3,000 villages have been destroyed and approximately 3 million people forced from their homes in Kurdish regions by Turkish troops. And, despite what officials and their mouthpieces in the media claim, restrictions on free speech and the media persist. The U.S. Government should use every opportunity to press for real reform. If we want to fully develop a deep and lasting relationship with NATO ally Turkey, our policymakers must not continue to downplay human rights problems to advance economic and strategic interests.

TRIBUTE TO MAYOR FRANK COSTELLO

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. SAXTON. Mr. Speaker, for some of us, public service is a part of our being. Those who have chosen this path give up a part of their life for the betterment of their community.

Nobody exemplifies this more than Beverly Mayor Frank Costello. For six decades, Mayor

Costello has selflessly given his time and hard work to his country and community.

Beginning with World War II and continuing through the Korean war, this Bronze Star recipient served his country in the U.S. Army, retiring in 1968 with the rank of captain.

After his heroic military service, Frank Costello turned his talent to local needs. He was elected to the Beverly City Council in 1968, a position which he still holds today. In 1972, he was successful in running for mayor and has been loyally returned to office at each election.

While this may have been enough for most, Frank Costello continued to give to his community. He has served as chairman of the Beverly Sewerage Authority since 1985, the City Planning Board for over 20 years, and the chairman of the Burlington County League of Municipalities for the last 12 years. Additionally, he has been the chairman of the Beverly City Democratic Party since 1986, and was president of the New Jersey Mayors Association from 1990 to 1996.

While we do not belong to the same political party, I know that the residents of Beverly—Republican, Democrat, and Independent—could count on Frank Costello to do what was in the best interest of the community.

On behalf of the residents of the city of Beverly, the Third Congressional District, and the people of the United States, I would like to thank Mayor Frank Costello for his dedication, loyalty, and tireless efforts in serving his community and country.

TRIBUTE TO JANINA IGIELSKA AND THE CENTRAL OF POLISH ORGANIZATIONS OF PASSAIC, CLIFTON, AND VICINITY

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. MARTINI. Mr. Speaker, I rise today to honor Janina Igielska and the Central of Polish Organizations of Passaic, Clifton, and Vicinity. On Sunday, October 6, 1996, the Central of Polish Organizations will hold the 60th Annual General Casimir Pulaski Memorial Parade on Fifth Avenue in New York City. Janina Igielska is the newly selected grand marshal of the parade.

Mr. Speaker, the Central of Polish Organizations of Passaic, Clifton and Vicinity is the center for activity in the Polish-American community throughout the area. Janina Igielska was selected as this year's grand marshal for her outstanding contributions to the Polish community.

Mrs. Igielska was born in Pultusk, Poland, where she received her early education. Subsequently, she continued her education at the Szczecin University in the field of economics.

Mrs. Igielska immigrated to the United States in 1970 to pursue a career in education; where, since 1979, she has served as the principal of the Polish Supplementary School of Ada Mickiewicz.

However, Mr. Speaker, Janina Igielska's ties to the Polish community do not end with her teaching in a Polish supplementary school. She is extremely active in the Polish community outside of her occupation. She has been a member of the Polish American Youth Association of Passaic and Vicinity since 1971. In 1972, she also was a delegate to the Polish Supplementary School Council of America [PSSCA], where she has served as their executive vice president since 1974. Currently, she serves as editor of the Polish Teachers Quarterly magazine.

Through her dedication to education, Mr. Speaker, Mrs. Igielska has become a decisive leader in the Polish community. For instance, with the assistance of curator the Reverend Monsignor Jan Podgorny, Mrs. Igielska was the principal organizer of the Artistic Circle in Poland. In 1985, she was also the coorganizer of the First Polish Teachers Convention at the Alliance College in Cambridge Springs, PA.

In addition, Mr. Speaker, Mrs. Igielska is the recipient of many awards; including a medal in 1983 for her social and educational work by the Catholic University of Lublin, Poland; in 1988, a gold medal by the Polish School Association in London, England; a medal from the National Commission of Education-Polish Government Warsaw, Poland; and in 1994, a sash by the Central of Polish Organizations in Passaic for excellence in teaching.

Mr. Speaker, I wish to congratulate the Central of Polish Organizations of Passaic, Clifton and Vicinity for their 60th annual parade and Mrs. Janina Igielska for her tremendous achievements in the Polish community.

TRIBUTE TO THE CREW OF THE "U.S.S. PITTSBURGH"

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. CLINGER. Mr. Speaker, today, I rise today to share with you the story of the U.S.S. *Pittsburgh* as I introduce a House resolution to commemorate the heroic acts of its crew.

In March 1945, the United States—well engaged in World War II—was preparing for an air attack on Okinawa. On the morning of March 19, Task Force 58 launched an offensive attack against Japanese ships in the Inland Sea and at Kure and Kobe.

Later that morning the U.S.S. *Franklin* became the target of an enemy plane that dropped two bombs—striking the *Franklin* and setting it ablaze. The carrier suffered extensive damage as the hanger and flight decks were struck spreading fire to the parked and armed planes on board.

With the entire ship engulfed in flames crew members were forced overboard. Subsequently, the U.S.S. *Santa Fe* and the U.S.S. *Pittsburgh* were dispatched to render aid and assistance to the impaired cruiser and its crew.

In addition to rescuing members abandoned in the water, the U.S.S. *Santa Fe* helped to fend off subsequent air attacks as the U.S.S. *Pittsburgh* approached the flaming cruiser to attach a towline. With the towline in place, and the *Franklin* dead in the water, the *Pittsburgh* engaged in towing the *Franklin* working against an easterly, blowing wind. As the cruiser picked up speed to 6 knots, enemy attacks were still looming.

Nearly 24 hours later, the *Franklin* was able to regain steering control and gradually build up speed to clear the *Pittsburgh* to operate, albeit slowly, on its own accord.

Mr. Speaker, this thumbnail sketch offers a mere glimpse of the tragedy and suffering that occurred as a result of the attack on the morning of March 19, 1945. The outstanding performance and the remarkable and concerted efforts of the three crews saved and the capital ship of the task force—which later earned the distinction of being the only capital ship in naval history that was towed to safety after being disabled in battle.

While the *Franklin* tragically suffered 724 casualties and 265 injuries, the heroic acts of crew members prevented another 300 deaths aboard the *Franklin*. As history unfolded, the U.S.S. *Franklin* has become one of the most decorated crews in U.S. naval history. And deservingly, the U.S.S. *Santa Fe* received a Navy unit commendation for its part in assisting the failing cruiser.

So today, Mr. Speaker, I will introduce a resolution in the House of Representatives to recognize and commemorate the outstanding feast of seamanship performed by the crew of the U.S.S. *Pittsburgh* who—to date—has never been collectively honored for their role in the rescue effort.

Having served in the U.S. Navy, I can attest to the fact that one does not make the commitment to defend this great Nation for the prospects of fame or glory. The consequences of engaging in battle, as the crew members of Task Force 58 learned, are dire and real.

Mr. Speaker, I believe it's only fitting that we take this opportunity, some 51 years later, to solemnly recall the tragic events off the coast of Japan and to recognize the crew of the U.S.S. *Pittsburgh* for their contribution in assisting the U.S.S. *Franklin*, and to U.S. naval history.

RETIREMENT OF BARBARA REPKO

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to a dedicated woman from my District in Pennsylvania, Mrs. Barbara Repko. I am pleased to have been asked to participate in a surprise recognition ceremony in honor of her retirement.

Mrs. Repko is retiring after serving for 20 years as the dedicated manager of the Berwick Senior Citizens Center. Although most famously known for its winning high school football team, Mrs. Repko brings another type of recognition to this beautiful borough on the Susquehanna River.

Mr. Speaker, Barbara Repko personifies Pennsylvania values in her caring dedication to her profession. Her diligence on behalf of area seniors is legendary. For 20 years Barbara Repko has run fund-raising drives to benefit the center, and has gone door to door to area businesses in search of their support. This beautiful modern center owes its existence to this outstanding woman and her husband Bill.

Her dedication to the center extends beyond to a financial commitment to area seniors. Seven years ago Bill and Barbara Repko were so dedicated to providing quality care and services to Berwick area seniors that they provided a loan to the Board of Directors of the center so that the center could purchase its own building. This combined with donations of time, additional money and ideas allows this beautiful center to today provide support services to hundreds of local senior citizens.

During Barbara's leadership the facility gained a new kitchen, new roof, air-conditioning and an exercise room with brand new equipment for the well-being of the seniors. The center is one of the finest in the State of Pennsylvania due to Barbara's dedication, forward thinking and financial commitment.

Mr. Speaker, it is not often that I have the honor to pay tribute to such a selfless, caring individual. This woman deserves our recognition and sincere appreciation and I am extremely proud to bring her good deeds to the attention of my colleagues. I know that Mrs. Repko's greatest reward is the love, respect and gratitude of those whose lives she has touched over the last twenty years. I send my very best wishes to her for a long, happy and productive retirement.

RECOGNIZING GE VALLECITOS NUCLEAR CENTER

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. BAKER of California. Mr. Speaker, in an era in which energy resources are increasingly critical to our society, it is good to know that dedicated scientists and researchers are working to make sure that safe, affordable, and environmentally friendly energy will be available for years to come. Many of these men and women live and work in the East Bay region of the San Francisco area, serving at one our national laboratories or General Electric's Vallecitos Nuclear Center.

Forty years ago, the men and women of General Electric [GE] opened a new plant in Pleasanton, CA, a beautiful community in the heart of my congressional district. GE opened the facility to pioneer the commercial development of atomic energy. Through its Vallecitos boiling water reactor, GE has brought safe and efficient electric power to eleven nations. Later this year, GE will witness another proud moment when the Tokyo Power Co. advanced boiling water reactor—supplied by GE and its associates—becomes available for commercial use.

The Vallecitos Nuclear Center [VNC] in Pleasanton is the hub of GE's nuclear energy research. As the site of the Nation's first privately financed nuclear generating facility, GE VNC has compiled an outstanding record of safety and service. Already a national historic site for its many contributions to the development of commercial nuclear power, the laboratories and test facilities of the VNC are helping GE stay on the leading edge of groundbreaking research.

None of these achievements would be possible without the effort, expertise, and commitment of the men and women who comprise the GE family. Today it is my pleasure to urge my colleagues to join me in thanking the GE VNC organization, its management, staff, researchers, and all its workers, for their contributions to America's energy future. Innovation, leadership, and possibility are alive and well at GE VNC, and I applaud everyone at the VNC for their outstanding work for our country and our world.

TRIBUTE TO MR. AND MRS. CARL L. KILGUS

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. SPENCE. Mr. Speaker, I rise to recognize two outstanding South Carolinians, Carl and Betty Kilgus, of Bamberg. The Kilguses recently retired from the printing business that they founded on December 1, 1956.

During the 40 years that the Kilgus Printing Co. has been in business, Carl and Betty have worked together to build their company into a firm that employs over 45 employees, offering a variety of services. The Kilgus Printing Co. publishes three weekly newspapers: North Trade Journal, the Advertiser-Herald, and the Santee Striper, which have a wide circulation in our State. Also, the company has the distinction of, at one time, being the largest bulk mailer in the Columbia Sectional Center of the U.S. Postal Service, based on the volume of circulars for grocery store chains that it printed and mailed for stores throughout South Carolina, North Carolina, and Georgia.

The Kilguses have devoted much of their lives to improving their community. Carl is the chairman of the Bamberg County Economic Development Commission, as well as a member of the Bamberg Board of Public Works Commission, the Thoroughbred Country Tourism District, and the Bamberg City Development Association. Betty has devoted many years of service to the Bamberg County Board of Registration and Elections, and is currently its chairman. They are also active members of the First Baptist Church of Bamberg.

Mr. Speaker, Carl and Betty Kilgus are dedicated leaders, whose lives have been marked by hard work and achievement. For many years, it was my honor to represent them in the House of Representatives. Although they have retired from their positions at the company that they worked so diligently to establish, they will certainly continue to devote themselves to the needs of the citizens of Bamberg County, and surrounding areas. I would like to take this opportunity to commend Carl and Betty Kilgus on the numerous contributions that they have made to the Palmetto State, and to wish them much happiness in their retirement.

TRIBUTE TO LYNN ROGERS AND SALLY STEVENSON FOR THEIR SERVICE TO DELAWARE

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. CASTLE. Mr. Speaker, I rise today to commend the fine work and contributions of two outstanding, dedicated, and caring Delawareans—Lynn Rogers, president of the Delaware Volunteer Firemen's Association and Sally Stevenson, president of the Delaware Volunteer Firemen's Association Ladies Auxiliary.

Delaware fire companies are comprised of outstanding, dedicated, and caring men and women who give of their time and talents to help prevent or battle fires and perform emergency medical services for our citizens. Because of the leadership and teamwork of Lynn and Sally, Delaware fire and emergency medical services have remained a vital and integral part of our community.

I salute Lynn and Sally for their exemplary record of public and community service. They are truly an inspiration for all of us. Their commitment and dedication to the cause of volunteer firefighters will find a permanent place in the Delaware volunteer fire service history.

Mr. Speaker, just recently the Delaware Volunteer Fireman's Association and Ladies Auxiliary celebrated its 76th anniversary of leadership and service to the towns and communities of Delaware. It is important that this fine, dedicated organization continue to be able to recruit and retain young men and women who are committed to this outstanding form of public service. The support for the Delaware Volunteer Fireman's Association and Ladies Auxiliary is strong and the tradition of service is solid, I hope that they realize how deeply their efforts are appreciated.

ESTABLISHING A NATIONAL COMPETITIVE ADVANTAGE THROUGH DYNAMIC COMPETITION

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. HINCHEY. Mr. Speaker, professors Nathan Mao and Winstan Yang have called to my attention an interesting discussion of the Republic of China's economic competitiveness written by ROC Vice President/Premier Lien Chang. Vice President Lien's discussion takes the form of a review of Michael Porter's book, "The Competitive Advantage of Nations." He found that the book has much to say about Taiwan's future role in the global economy. I hereby ask permission that Vice President/Premier's review of "Establishing a National Competitive Advantage Through Dynamic Competition" be printed in the RECORD.

ESTABLISHING A NATIONAL COMPETITIVE ADVANTAGE THROUGH DYNAMIC COMPETITION

(By Lien Chan, Vice-President/Premier, R.O.C.)

The nearly 600,000-word book, "The Competitive Advantage of Nations," by Harvard

University professor Michael E. Porter is an examplar of works on the leading edge of contemporary academic thought that can influence current government policy.

A book is considered a classic if its author raises profound questions and offers penetrating insights that enlighten the reader. One may disagree with some of its theses but must give serious consideration to their implications.

At this juncture when the whole country is vigorously working toward attaining supreme global competitiveness, reading Porter's epochal masterwork, "The Competitive Advantage of Nations," greatly bolsters our confidence and, during the process of government policymaking, helps us confront the following major questions:

What is a national competitive advantage?

What role should government play vis-a-vis industry regarding international competition?

How should government and industry work together to create a national competitive advantage?

How can industry seek an industrial competitive advantage?

What efforts should be made with the private sector to cultivate a healthy, aggressive, and full competitive macroenvironment?

Reading this book has made me keenly aware that the pattern of economic competition has changed with the times.

Traditionally, competition was static, and success or failure hinged on production factors. Modem competition is dynamic, and new technologies, new products, new market demarcations, new production processes, and new management concepts are constantly emerging to change and even undermine a national and industrial competitive advantage.

This book also reminds me of some of the theses proposed many years ago by Bruce R. Scott, also a professor at Harvard. After comparing the United States, France, and some developing nations, including the Republic of China, Scott formulated his "dynamics of comparative interest." He maintained that some postwar countries, such as Japan and the Republic of China, have advanced and prospered rapidly because they were able to transcend the concept of static comparative interest and break through their resource limitations through scientific and technological innovation, enlarging the scale of production, and actively expanding foreign trade. Scott particularly cited Japan as an example. The Japanese understand that comparative interest can be created and renewed through the enhancement of skills, capital, and the workforce. In addition, an environment conducive to economic development can be established through institutional reform.

These experiences confirm that in the midst of modern dynamic competition, it is paramount to raise national, social, industrial, and private-sector competitiveness.

DIAMOND SYSTEM

Over the past dozen years, Porter has published three books on "competitive advantage." The first two focused on industry, while this one concerns nations. This change is quite meaningful. Porter discovered that a nation's macroenvironment crucially affects industrial competitiveness; it can either help or hinder industrial development. He astutely pointed out that the relationship between national and industrial competitiveness directly correlates with how the nation stimulates industrial improvement and innovation.

After spending three years comparing the industrial development of ten nations (the United States, Germany, Sweden, Switzerland, Denmark, Italy, the United Kingdom, Japan, South Korea, and Singapore), Porter proposed his well-known Diamond Theory.

He argued that two sets of determinants affect the industrial competitive advantage and, despite the rushing tide of strong globalization, the importance of these factors in determining national competitive advantage has not diminished, but in fact has become more definite.

Among the first set of fundamental determinants are:

Factors of production, including human resources, physical resources, knowledge resources, capital resources, and infrastructure;

Demand conditions;

Related and supporting industries; and

Firm strategy, structure, and rivalry.

The second set comprises two additional variables:

Chance; and

Government.

Porter described the rhombic relationship formed by the four determinants in the first set as a national "diamond." He emphasized that a country cannot rely on unique competitive advantages such as low-cost labor. Such reliance is risky because it can be replaced by even cheaper labor in less developed nations. When this situation occurs, the diamond may be said to be in "static disequilibrium," and the competitive advantage cannot be maintained. Accordingly, Porter points out, a nation's competitive advantage should be firmly rooted in a durable diamond configuration. That is, both set of determinants should develop in relation and coordination with one another, stimulating and upgrading each other in the process. This kind of national diamond can be said to be in a state of dynamic development. It is the optimal combination for continual national progress.

Professor Porter also enumerated four stages of national competitive development:

a factor-driven stage;

an investment-driven stage;

an innovation-driven stage; and

a wealth-driven stage.

In order to move from one stage to the next, the government and private sector must carry out a complete metamorphosis of industrial infrastructure, international distribution the financial system, technological standards, and conventional ways of thinking. On top of this, I personally believe that even more profund consideration should be given to the cultural ethics and values behind the initiating and sustaining forces for the creation and distribution of wealth and value.

In their research on the culture of capitalism British scholar Charles Hampden-Turner and Dutch scholar Alfons Trompenaars once declared that different cultures engender different cultural ethics and values, and thereby diverse ways of creating and distributing wealth. Thus, to be able to comprehend the success of similar systems adopted by different countries, one must have a profound understanding of the cultural ethics and social values of these nations. This is a point all of us should consider and study further. However, in the transitional stage of national development, it is indisputable that the government should act as healthy promoter and courageous challenger. Porter has said with great profundity that the world today needs great leaders and great executives rather than great housekeepers.

NATIONAL REINVENTION PROJECT

According to Porter's four stages of national competitive development, Taiwan may be between the second, or investment-driven; stage and the third, or innovation-driven, stage. In promoting national competitiveness at this time, we hope to build our base on the strengths of the private sector, and thereby push forward comprehensive reform and accomplish the goal of national modernization. However, after comparing several countries for the growth or diminution of their national competitiveness, Professor Porter has proposed a concept mirroring the situation that deserves our vigilance.

Professor Porter believes that in the first three stages of economic development, national competitiveness grows continuously, while at the forth stage, or turning point, the economy may decline. After entering the wealth-driven stage, domestic competitive activities diminish; management strategies change from aggressive to conservative; industrial re-investment willingness decreases; major businesses manipulate government protection policies to insulate themselves from their competitors. The first generation of entrepreneurs, who became rich from scratch die out and are replaced by a new generation used to operating within the system. Personnel do not work hard due to their high incomes. Labor-management relations stiffen as each party tries to retain its own vested interests. At this stage, people are far more interested in other professional fields rather than industry. The educational concept of pragmatism gradually disappears. The negligence of education by society and family results in a deterioration of educational standards. The proportion of investment in the factors of production is greatly reduced.

Hovever, investment in other areas increases. The government tends to heavily tax rich people, further reducing their willingness to invest. Business capital exceeds internal deeds, yet such businesses are not willing to risk investment in setting up new businesses, but instead change their goals to merging with or buying up other businesses. Porter states that wealth-driven stage will lead to economic recession since existing wealth is not sufficient to support the needs of the economy. The ambitions of investors, managers, and people change, innovation based on sustained investment disappears, and economic improvement is sluggish. National economic goals during this stage differ from before. Emphasis is placed on pursuing social welfare, but may people overlook the fact that social welfare is based on continual economic progress. I feel that these alarming observations are very meaningful.

Raising national competitiveness is for us the core of our reform, and is in line with professor Porter's ideas. However, we have not just established a national diamond of "dynamic development," we have in fact instituted a project of national reinvention from a much broader angle. This task of raising national competitiveness is unique in concept and action, and deserves further elaboration for those people concerned about national competitiveness. First of all, it is global. Today, we are a member of the global village and neither can nor will exclude ourselves from international competition. Therefore, we must fully join in the globalization trend. There are many yard sticks and authoritative agencies for assessing international competitiveness, such as the International Institute for Management Development in Switzerland, and the World Economic Forum. They differ in the categories they evaluate and rank, and many factors tend to be subjective, but this is no excuse for our not pursuing competitiveness. If we want to compete in this world, we need to keep an eye on these evaluation factors, make judgments according to our own need, and decide on which evaluation categories we shall strive for. This way we can avoid being subjective and meet out real needs.

Second, it is comprehensive. When we talk of competitive advantage, many people immediately associate it with such economic meanings as an increase in national financial might or a boots in productive power.

Undoubtedly, these factors constitute a major portion of what national competitive advantage means. However, we believe that competitive advantage means more than just economic issues; education, public safety, the quality of life, and technical might are all part of the concept. In particular, at this present stage.

CLINTON ADMINISTRATION CLOSES COURTHOUSE DOOR

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. YOUNG of Alaska. Mr. Speaker, I rise to bring to your attention a terrible injustice. The victims of this injustice are hardworking, taxpaying American citizens who are being deprived of basic rights guaranteed to each citizen under the Constitution. Those rights are the right to due process of law and the right to equal protection of the law. Due process guarantees that when the Government might cause us harm, we should have a right to be heard. Equal protection requires equal treatment before the law.

If the Clinton administration has it's ways, our citizens will be gagged and denied the right to be heard when they want to complain about what their Government is doing to them under the guise of protecting endangered or threatened species.

The Supreme Court has agreed to hear a case filed by two ranchers in Oregon asserting that Secretary Babbitt violated the Endangered Species Act [ESA] when he tried to reduce the amount of water available to those ranchers for their cattle and crops. They alleged that he disobeyed several requirements of the ESA that would have protected their economic interests. However, they never got their day in court. Mr. Babbitt's lawyers asked the judge to throw out their claim without a hearing. His lawyers claim that people are not protected by the Endangered Species Act so they have no right to complain when the Secretary violates the act and therefore, takes away their ability to support themselves.

The lawyers argued that people's economic, social or recreational concerns are not within the "zone of interest" of the ESA and therefore, they cannot sue to have the Court decide if the Secretary had violated the law.

The judge threw the ranchers out of court, but they appealed to the Ninth Circuit Court of Appeal. Once again. Secretary Babbitt's attorneys argued that the ranchers could not sue to have the Secretary's actions reviewed by the court, because they have no protections under the ESA. This is called the zone of interest test. The ninth circuit in *Bennett* v. *Plent,* 63 F. 3d 915 (1995) agreed with Secretary Babbitt's lawyers and once again threw these ranchers out of court ruling that they were not within ESA's zone of interest. The ranchers have now appealed to the Supreme Court. However, Secretary Babbitt's attorneys are now worried about the political consequences of having everyday people denied access to judicial review of Secretary Babbitt's decisions, so they have quit arguing that these ranchers are not protected by the ESA. Instead, they are still arguing that these ranchers should not be allowed to sue but are basing their arguments on other legal technicalities, such as claiming that the ranchers sued the wrong Government agency within Secretary Babbitt's vast Department. At the Supreme Court level the case is known as Bennett versus Spear.

If the Supreme Court decides the case the way the lawyers have asked them to, it will leave the zone of interest test in place in all courts within the ninth circuit's jurisdiction. This means that people living in California, Oregon, Washington, Idaho, Alaska, Hawaii, Guam, Nevada, Arizona, and Montana will not be able to sue under the ESA to have a court review illegal actions by Secretary Babbitt. Since the courts in other areas of the country are not bound by the Ninth Circuit Court's decision, citizens in those areas will not have to pass the zone of interest test to have access to the courts. However, if the Supreme Court agrees with the ninth circuits decision, this zone of interest test will become the law of the land and will have broad legal implications, not just for the interpretation of the Endangered Species Act, but for a variety of other environmental statutes as well.

Putting it in layman's language—Secretary Babbitt's lawyers have opened the door of the courthouse to the environmental lawyers, given them millions of dollars of taxpayers money to pay for their lawsuits, and invited them to keep coming back. This has spawned a cottage industry for so-called environmentalists. Although the Federal Government subsidizes hundreds of environmentalist's lawsuits, they have slammed the door of the courthouse to average citizens just trying to protect themselves from abuses by Secretary Babbitt's Department. I have attached a list of cases filed under the ESA and the attorney's fees received by the lawyers in each of these cases. This list was supplied to the Committee on Resources by the Department of Justice.

To say this is unfair is a gross understatement. It is unfair in the extreme and in addition, it is resulting in unreasonable and unbalanced public policy. It is no secret that Federal judges are playing a key role in implementing the Endangered Species Act. When Secretary Babbitt adopts new rules, he is required by law to receive public comment from any member of the public. When Federal judges interpret the law, they can exclude the general public and allow only a limited viewpoint to be heard. It is no wonder that we end up with judge-made law that is so unbalanced and unreasonable in so many cases.

Not all judges would turn away those citizens who wish to sue to protect their economic, social, or recreational interest. Judge Rosenbaum of the U.S. District Court in Minnesota had this to say when the lawyers representing the Clinton administration asked him to dismiss a suit filed by a group of snowmobilers. He scolded the Government because they could not identify a single person who would have been qualified to complain about the Government's overprotection of endangered species.

Judge Rosenbaum said "the Court is unwilling to adopt the view that the Fish and Wildlife Service is unrestrained if it cloaks any of its acts in the laudable robe of endangered and threatened species protection. This is a form of totalitarian virtue—a concept for which no precedent has been advanced and which is foreign to the rule of law."

He apparently does not agree with the Secretary Babbitt's view that under the law the Federal Government can never go too far in protecting endangered species. In briefs to the Supreme Court the Government says that no one can sue them if they go too far under the ESA.

According to the Secretary Babbitt's lawyers, if the Government violates the constitutional and legal rights of citizens, if it fails to follow the requirements in the Endangered Species Act designed to protect citizens right's, there is no citizen who can sue to stop such Government overreaching.

That is an incredible statement by our Justice Department lawyers sworn to uphold our Constitution and our Bill of Rights.

I agree with Judge Rosenbaum that allowing only professional environmentalists to use the ESA to further their agenda, whatever that agenda may be, is foreign to the principles of fairness and due process that we hold so dear.

We need to let citizens who are directly impacted by the ESA into the courthouse so that the courts can hear all the facts, all the evidence, and let the truth guide their decisions. When only one side is allowed to present the facts, the truth becomes the victim of injustice.

Case name	Suit number	District	Attorney fees paid
1. Biodiversity Legal Foundation v. Babbitt	95–601	Colorado	$1,000.00
2. Biodiversity Legal Foundation v. Babbitt	95–382	Colorado	8,000.00
3. Restore: The North Woods v. Babbitt	95–37	New Hampshire	5,400.00
4. Biodiversity Legal Foundation v. Babbitt	95–1815	Colorado	3,500.00
5. Biodiversity Legal Foundation v. Babbitt	95–816	Colorado	500.00
6. The Bay Institute of San Francisco, et al. v. Babbitt	94–0265	California, East	5,000.00
7. National Audubon Society v. Babbitt, et al.	94–0105	California, South	7,540.61
8. Friends of the Wild Swan, Inc., Alliance for the Wild Rockies, inc., et al. v. Babbitt	94–0246	District of Columbia	4,500.00
9. Southern Utah Wilderness Alliance v. Morgenweck.	94–717	Colorado	4,200.00
10. Environmental Defense Center v. Babbitt.	94–0743	California, Central	4,074.75

Case name	Suit number	District	Attorney fees paid
11.. Biodiversity Legal Foundation, et al. v. Babbitt	94–1086	Colorado	1,408.19
12. Biodiversity Legal Foundation v. Babbitt	94–0920	District of Columbia	5,000.00
13. Biodiversity Legal Foundation v. Babbitt	94–0920	District of Columbia	3,815.00
14. Greater Gila Biodiversity Project v. USFWS	94–0288	Arizona	2,048.91
15. Southwest Center for Biological Diversity, et al. v. USFWS	94–0696	Arizona	1,665.00
16. Southwest Center for Biological Diversity, et al. v. USFWS	94–0739	Arizona	1,000.00
17. Environmental Defense Center v. Babbitt	94–0788	California, Central	3,815.00
18. Oregon Natural Resources Council v. Babbitt	94–666	Oregon	4,000.00
19. Mountain Lion Fountain v. Babbitt	94–1165	California, East	6,500.00
20. Dr. Robin Silver, et al. v. Babbitt	94–0337	Arizona	4,000.00
21. Dr. Robin Silver, et al. v. Babbitt	94–0337	Arizona	102,418.86
22. Southwest Center for Biological Diversity v. Babbitt	94–1034	Arizona	5,145.00
23. The Biodiversity Legal Foundation v. Babbitt	94–02441	District of Columbia	4,000.00
24. Idaho Conservation League v. Babbitt	94–0351	Idaho	5,000.00
25. Northwest Coalition for Alternatives to Pesticides v. Babbitt	94–6339	Oregon	10,500.00
26. Southwest Center for Biological Diversity v. Babbitt	94–1946	Arizona	1,971.01
27. Southwest Center for Biological Diversity v. Babbitt	94–2036	Arizona	40,000.00
28. Native Plant Society of Oregon v. U.S. DOI	93–180	Oregon	13,046.19
29. National Audubon Society et al. v. Babbitt et al..	93–1152	District of Columbia	22,500.00
30. Idaho Dept. of Fish and Game v. National Marine Fisheries Service	93–1603	Oregon	8,405.06
31. Oregon Natural Resources Council v. Dept. of Commerce	93–293	Oregon	16,200.00
32. Clemmys Karmorata v. USFWS	93–6135	Oregon	2,522.30
33. Environmental Defense Center v. Bruce Babbitt	93–1847	California, Central	4,700.00
34. Environmental Defense Center v. Bruce Babbitt	93–1848	California, Central	4,700.00
35. Environmental Defense Center v. Babbitt	93–3379	California, Central	4,300.00
36. Desert Tortoise, et al. v. Lujan	93–0114	California, North	69,000.00
37. Southern Utah Wilderness Alliance v. Bruce Babbitt	93–2376	Colorado	8,500.00
38. Greater Yellowstone Coalition, et al. v. F. Dale Robertson (Chief, USFWS)	93–1495	District of Columbia	32,750.00
39. Natural Resources Defense Council, et al. v. Bruce Babbitt, Sec. DOI	93–0301	California, North	262,096.76
40. Sierra Club, et al. v. Bruce Babbitt, et al.	93–1717	California, South	11,368.76
41. Greater Gila Biodiversity Project v. USFWS	93–1913	Arizona	11,000.00
42. Sierra Club, et al. v. David Garber, et al.	93–069	Montana	55,000.00
43. Bay Institute of San Francisco v. Lujan	92–2132	California, East	60,000.00
44. Pacific Rivers Council v. Thomas	92–1322	Oregon	165,000.00
45. Colorado Wildlife Federation v. Turner	92–884	Colorado	31,351.90
46. Colorado Wildlife Federation v. Turner	92–884	Colorado	5,000.00
47. Environmental Defense Center v. Lujan	92–6082	California, Central	7,500.00
48. Idaho Conservation League v. Manuel Lujan, et al.	92–0260	Idaho	21,166.00
49. Canadian Lynx, Greater Ecosystem Alliance v. Lujan	21–1269	Washington, West	2,000.00
50. Canadian Lynx, Greater Ecosystem Alliance v. Lujan	92–1269	Washington, West	9,500.00
51. Friends of Walker Creek Wetlands v. Dept. of the Interior	92–1626	Oregon	12,000.00
52. Idaho Conservation League, et al. v. Lujan	92–0406	Idaho	8,000.00
53. Fund for Animals v. Manuel Lujan, et al.	92–800	District of Columbia	67,500.00
54. National Audubon Society v. Lujan	92–209	California, South	7,348.75
55. Wendell Wood, et al. v. Manuel Lujan, et al.	91–6496	Oregon	14,547.05
56. Wendell Wood, et al. v. Manuel Lujan, et al.	91–6496	Oregon	550.00
57. California Native Plant Society v. Manuel Lujan, Jr.	91–0038	California, East	16,678.25
58. Earth Island Institute, et al. v. Manuel Lujan, Jr.	91–6015	Oregon	32,338.70
59. The Fund for Animals ein., et al. v. Turner	91–2201	District of Columbia	36,000.00
60. West Snowy Plover v. Lujan	91–1421	Washington, West	7,710.92
61. Edward Wilkinson Mudd Jr. v. William Reilly, Admin., EPA	91–1392	Alabama, North	39,000.00
62. Hawaiian Crow v. Manuel Lujan	91–00191	Hawaii	195,000.00
63. Sierra Club v. Lujan	91–069	Texas, West	666,666.67
64. Sierra Club v. Lujan	91–069	Texas, West	666,666.67
65. Sierra Club v. Lujan	91–069	Texas, West	666,666.66
66. Sierra Club v. Lujan	91–069	Texas, West	1,550,000.00
67. Marbled Murrelet, et al. v. Manuel Lujan	91–522	Washington, West	43,519.49
68. Marbled Murrelet, et al. v. Manuel Lujan	91–522	Washington, West	17,589.98
69. Dioxin/Organichlorine Center and Columbia River United v. Dana Rasmussen	91–1442	Washington, West	61,500.00
70. Colorado Envtl. Coalition v. J. Turner	91–1765	Colorado	5,168.40
71. Florida Key Deer, et al. v. Robert H. Morris	90–10037	Florida, South	130,000.00
72. Conservation Council for Hawaii, et al. v. Manuel Lujan and John F. Turner	89–00953	Hawaii	44,635.25
73. National Wildlife Federation, et al. v. Robert Mosbacher, Sec. of Commerce	89–2089	District of Columbia	42,500.00
74. Sierra Club Legal Defense Fund v. Manuel Lujan, Jr., Sec. of Interior, et al.	89–1140	District of Columbia	9,000.00
75. Sierra Club, et al. v. James A. Baker, et al	89–3005	District of Columbia	18,583.72
76. Resources Limited Inc., et al. v. F. Dale Robertson, et al.	89–41	Montana	90,000.00 47,000.00
77. Environmental Defense Fund v. Lujan	89–2034	District of Columbia	2,237.50
78. Silver Rice Rat, et al. v. Manuel Lujan	89–3409	District of Columbia	19,500.00
79. Northern Spotted Owl, et al. v. Donald Hodel, et al.	88–573	Washington, West	56,718.00
80. World Wildlife Fund v. Donald P. Hodel, et al.	88–573		56,000.00
81. Sierra Club and League for Coastal Protection v. John Marsh, et al.	86–1942	California, South	44,774.16
82. Greenpeace v. Baldrige	86–0129	Hawaii	88,794.01
83. Sierra Club, et al. v. Richard Lyng	85–69	Texas, East	149,647.50
84. Natural Resources Defense Council v. Donald Hodel (Kesterson)	85–1214	California, East	518,000.00
85. Natural Resources Defense Council v. Donald Hodel (Kesterson)	85–1214	California, East	57,000.00
86. Natl. Wildlife Foundation, et al. v. Endangered Species Committee, et al.	79–1851	District of Columbia	20,000.00
87. Defenders of Wildlife v. Thomas	Strychnine	Minnesota	122,500.00

H.R. 4138, THE HYDROGEN FUTURE ACT OF 1996

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. WALKER. Mr. Speaker, I ask unanimous consent to bring before the House H.R. 4138, the Hydrogen Future Act of 1996, for its immediate consideration.

Mr. BROWN and I are introducing H.R. 4138 to focus the U.S. Department of Energy's research and development of hydrogen as a fuel. Last year, with support on both sides of the aisle, a bill similar to this one, H.R. 655, passed the House with an overwhelming majority on May 2, 1995.

H.R. 4138, incorporates some changes made to the earlier bill to accommodate interests of Members of the Senate. These changes have been approved by the chairman and ranking members of the committees of jurisdiction.

I would like to thank the ranking member of the House Science Committee, Mr. BROWN, for his support in cosponsoring this bill with me. Mr. BROWN has long been a supporter of hydrogen research and development, and I have appreciated his efforts in this area.

I would also like to thank the Committee on Government Reform and Oversight for its cooperation on a provision in this bill over which it has jurisdiction.

Mr. Speaker, H.R. 4138 provides the legislative authority necessary to continue the research and development of hydrogen as fuel into the 21st century.

Hydrogen is essentially a nonpolluting, environmentally friendly, renewable resource that is one of the answers to our future energy needs.

Under H.R. 4138, the U.S. Department of Energy is directed to continue and expand its research and development of hydrogen as a fuel cooperatively with the private sector under a peer reviewed competitive process. H.R. 4138 slowly increases funding for R&D over a period of 5 years to a level recommended by the Department of Energy's hydrogen technical advisory panel. This increase, which will occur at a slower pace than recommended, will help assure the best utilization of the increase while allowing budget priorities to be decided under a balanced plan.

The Hydrogen Future Act, gives the House the opportunity to send to the Senate, and then the President's desk, a bill which is good for the environment, good for the economy, good for our health, and good for our future.

I hope my colleagues will join me in voting for passage of H.R. 4138, the Hydrogen Future Act of 1996.

ANTHONY ENGLISH HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KANJORSKI. Mr. Speaker, I am pleased to rise today to congratulate Mr. Tony English on his 25th anniversary with the Catholic Youth Center in Wilkes-Barre, PA. The community will gather to honor Tony on October 20, 1996, and I am honored to have been asked to participate in this event.

Having attended local schools, Tony began with the CYC as a volunteer fundraiser in 1962. After starting with the CYC he also joined the membership committee and the capital improvement drive committee. In 1966, Tony was hired as assistant to the athletic director. Under his direction, the CYC basketball league was expanded and the diocesan boys basketball tournament was initiated. He held one of the first area karate tournaments and founded the Junior Basketball Officials Club and was its first advisor. This club trained young people in officiating basketball games.

In 1967, Tony left the CYC to become the program director of the Wilkes-Barre City Recreation Board for 1 year. He then became superintendent of recreation for the city, supervising 23 playgrounds and 4 swimming pools.

Tony found the position challenging as he supervised more than 300 students in leadership positions.

In 1971 Tony left the superintendent position to return to the CYC as its executive director. For the next 25 years, Tony worked to expand the center's many services. He helped acquire land from Wilkes-Barre to build outdoor basketball and tennis courts. The center obtained money through the National Park Service to open a health center. The center went on to develop a firstrate child care and senior citizen program. The center's programs now benefit everyone including infants to seniors. Under Tony's leadership, the center has also been a strong antidrug policy supporter and has numerous antidrug programs in operation today.

Mr. Speaker, Tony English is a valuable member of the Wyoming Valley community. His youth programs have set the standard for excellence in our area. The CYC has grown and prospered under his able leadership. I am pleased to congratulate Tony on this milestone in his career and send my best wishes for continued success.

RISE 'N' STRIDE WALKING CLUB 10TH ANNIVERSARY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. MURTHA. Mr. Speaker, it's a pleasure for me to congratulate the Richland Mall Rise 'n' Stride Walking Club on its 10th anniversary.

Americans are living longer, healthier, more active lives and much of it can be traced to these types of clubs. Gathering early each morning, the group, some of whose members are in their nineties, sets a brisk pace. The club stresses the benefits of walking in reducing the risks of heart disease, high blood pressure, diabetes, high cholesterol, and osteoporosis.

The Rise 'n' Stride Club also has started a Walker of the Month Program with plaques on display at the Richland Mall. I believe this kind of recognition of personal achievement will encourage more Americans to get out and walk for their health.

In addition, the club serves the community by organizing fund drives that have donated over $3,000 in support of various community activities.

Maybe I feel so strongly about this club because my wife, Joyce, and I are regular walkers who have benefited from this low-stress form of exercise. It is clubs like Rise 'n' Stride that are helping to change attitudes toward fitness and provide incentive for people of all ages to get out and do something positive for their health.

I congratulate the Rise 'n' Stride Club on its 10th anniversary, its community involvement, and its dedication to improving its members' health and well-being.

GERMAN-AMERICAN DAY IS OCTOBER 6, 1996

HON. MICHAEL PATRICK FLANAGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. FLANAGAN. Mr. Speaker, the annual anniversary of German-American Day is on October 6, 1996. Due to the fact that this date falls on a Sunday this year, Chicago's National German-American Day will be celebrated on Friday, October 4, 1996, under the auspices of the Steuben Society of America, Chicago unit. This annual ceremony is held so that all German-Americans of the Chicago area can honor not only the illustrious General Von Steuben, but all German-Americans who have fought, served, and worked to make the United States the greatest country in the world. Today, more than 57 million Americans trace at least part of their ancestry to Germany and many of those are residents of the great city of Chicago, which has long had a most active and vibrant German-American community.

Since the arrival of the first German immigrants in Philadelphia, PA, on October 6, 1683, German-Americans have much distinguished themselves by their loyalty to their new homeland and their contributions to the cultural and economic life of the United States of America. German-Americans have faithfully supported and bolstered America's democratic principles. They have staunchly and steadfastly committed themselves to the advocacy of freedom for all people throughout the globe.

German-Americans have long been active participants in our society. They are part of the very foundation that has made the United States of America what it is today. Their example makes them most deserving of an annual German-American Day.

We in Congress honor and acknowledge all German-Americans and what they have done for our country and for the world. We in Congress call upon all citizens of the United States of America to acknowledge the exemplary services and contributions of our German-American citizens and to celebrate German-American Day on October 6.

TRIBUTE TO GREG MORRIS

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. DIXON. Mr. Speaker, the entertainment world lost a gifted and beloved actor on August 27, 1996, with the passing of Greg Morris. Morris, who would have turned 62 on Friday, is best known to all of us as the electronics genius who helped his fellow agents thwart the activities of unscrupulous governments in the immensely popular 1960's television series, "Mission Impossible."

Greg Morris was born in Cleveland, OH on September 27, 1934. He entered the University of Iowa in 1958 to play basketball; however, his basketball career was short-lived. Greg studied communications and theater arts and it was from this curricula that his love for the theater and acting would grow. Although he did not complete his studies at the University of Iowa, Greg expanded his skills in the arts by writing a jazz column for the Daily Iowan and producing a radio program on WSUI, "Tea Time."

From Iowa, Greg moved northwest to Seattle, where he landed his first professional roles in a few minor stage productions. His appetite for acting further whetted, he decided in the early 1960's to try his luck in Hollywood. Those of us who remember Hollywood during that period, can appreciate how difficult it must have been for Greg to strike out for the entertainment capital of the world. Although there were many gifted African-American actors looking for work in the television and film industry, only a few, such as Morris, Bill Cosby, Brock Peters, and Diahann Carroll were lucky enough to land roles that did not mirror the stereotypical roles historically given to African-American actors.

Like his African-American acting peers, however, Greg was special and his superior acting talents landed him roles in such television classics as "The Dick Van Dyke Show," "Ben Casey," "The Twilight Zone," and "Dr. Kildare."

Greg Morris was a pioneer for African-Americans seeking serious roles in television. His

7-year portrayal of "electronics wizard" Barney Collier thrilled millions of viewers, and no doubt steered many a youngster to pursue an education in electrical engineering, or to follow his/her dream to an acting career in Hollywood. I understand that Mr. Morris was most fond of the 7 years spent on this wonderful series, which was created by famed television pioneer Bruce Geller, who also served as the series' executive producer.

In 1979, Greg moved to Las Vegas to costar in the television series "Vega$," with Robert Urich. Each week. Greg's character, "Lt. David Nelson," joined forces with Urich's character, "Dan Tana," to track down that episode's scourge of the week. Greg fell in love with the city of Las Vegas and decided to make it his permanent home.

Greg Morris was married for 38 years to Leona Morris. The couple had three children, including the actor Phil Morris, and daughters, Linda and Iona.

Mr. Speaker, I confess to having been a huge fan of Greg Morris. He was an outstanding actor; a man who broke down barriers in Hollywood, and a man who carved out a rich legacy for other aspiring African American actors to emulate.

I also confess to having loved "Mission Impossible." I took tremendous pride in turning on my television set each week to watch Greg's character, Barney Collier, develop the most sensational electronics gizmo to foil the bad guys. Along with millions of his fans, I will miss Greg Morris. I therefore ask that my colleagues join me in extending our heartfelt appreciation to Greg's children for sharing their distinguished father with us for nearly four decades. He was a great actor. We shall miss him and extend our sincere condolences to his beloved family.

TRIBUTE TO JERRY JANCZAK

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KLECZKA. Mr. Speaker, I rise today in tribute to Mr. Jerome "Jerry" Janczak, of Greenfield, WI, who will be honored November 7, 1996, by the South Side Business Club of Milwaukee as their Man of the Year.

Jerry's dedication to his family, his business and the Polish community in Milwaukee is a fine example for us all. He and his wife, Grace, have been married since 1954, are the proud parents of two sons and have been blessed with five grandchildren. A graduate of Milwaukee's Notre Dame High School, Jerry served our country proudly in the Air Force. In 1957, he began a distinguished career as a Milwaukee County employee, retiring in 1988 as a deputy clerk of courts, probate division.

Since 1972, Jerry has owned and operated J & J Trophies, a small business.

For many, many years, Jerry has been active in Milwaukee's Polish community, utilizing his talents in numerous ways, including serving on the board of directors of the Milwaukee Society, Polish National Alliance; the board of directors of Polish Festivals, Incorporated; and as a volunteer at Polish Fest, one of our city's unique ethnic festivals.

Jerry has served his parish well, and has been an active office holder of the South Side Business Club, St. Joseph's Foundation, and the St. Vincent DePaul Society.

It is therefore very fitting that Jerry Janczak be honored by the South Side Business Club for his many years of service to the community.

TRIBUTE TO LUCILLE MATYAS ON HER RETIREMENT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to a longtime staff member in my district office, Lucille Matyas. Lucille has been an exceptional staff member in my office. She recently retired from after 11 years of exceptional service to the residents of the 3rd District of Illinois.

Family has always been of the utmost importance to Lucille. Lucille is the wife of the late Richard A. Matyas Sr. Lucille and her husband had three children, George A. Matyas, Richard A. Matyas and Victoria A. Smith. She has two grandchildren, Richard and Reanna Matyas. While raising her three children, Lucille was involved in local activities and charities. In the past she has devoted her time to such groups as, Clear Ridge Baseball, St. Rene Mother's Club, Girl Scouts, De La Salle High School Parent's Club and the Maria High School Mother's Club. Lucille's dedication to these and other groups led to her involvement with politics on a local level. Lucille was a member of the 23rd Ward Democratic Women's Organization as well as the Chicago Democratic Women's Organization. The VFW Women's Auxiliary and St. Rene's Alter and Rosary Society have also received the benefit of support and volunteer time from Lucille.

Like a true Chicagoan, Lucille enjoys watching all Chicago sports teams and counts herself as one of the biggest Bulls fans in Chicago. Lucille enjoys spending time with her family and friends. In her spare time Lucille plays bingo, is an avid reader of books, collects dolls with her daughter and devotes quality time with her two grandchildren. Clearly, Lucille lives a life rich in experience and goodwill.

Lucille has a great many plans for after her retirement, these include enjoying life, spending time with her grandchildren and visiting with friends and family. Additionally, Lucille plans on traveling and sight seeing around the United States Finally, Lucille will volunteer her spare time at local charities.

Mr. Speaker, I thank Lucille Matyas for her many years of dedicated service to the citizens of the 3rd district and to her family. With the combination of dedication to her community and family, Lucille is an inspiration and example to all. I will surely miss seeing her in my district office in Illinois. Lucille has truly been a joy to work with and her hard work and positive attitude have served my district well. I wish Lucille good luck in all of life's adventures.

TRIBUTE TO FRAN KLAUBER AND HOWARD KUSNICK

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. DEUTSCH. Mr. Speaker, I rise today to honor two exceptional individuals from Sunrise, FL, Ms. Fran Klauber and Mr. Howard Kusnick. They will both be inducted into the Sunrise Chamber Hall of Fame on October 4, 1996 for their notable accomplishments in the chamber and in the local community. This is the second annual Sunrise Chamber Hall of Fame fundraiser dedicated to recognizing outstanding chamber members who have contributed their time and effort to help the chamber achieve a variety of successes in the Sunrise community.

I applaud the many years that Fran Klauber has spent as an active member of the Sunrise chamber. Fran has served on the chamber board, the president's advisory council, and has been involved in various programs that bridge the Sunrise business community and the local community. Fran has been instrumental in the success of the One for the Kids Program which brings business and schools together so that students, teachers, and parents can interact with leaders in the community. Fran has actively supported the Sunrise Police Athletic League by helping to facilitate the program which provides sport activities for at-risk youth in the community. She devotes a considerable amount of time to enrich the lives of residents in the community through these programs. Currently, she continues to work on behalf of the education system as an ongoing day chair for the Leadership Sunrise Program, a program which gives business leaders valuable insight into Broward's public education system. Her accomplishments as a member of the chamber will forever touch the Sunrise community.

As three term president of the chamber, Howard Kusnick has been an active board member and currently represents the chamber as legal counsel. In 1995, the Broward County Council of Chambers recognized Howard as the Small Business Person of the Year for his leadership, direction and commitment to the business community. As an active member of the Broward Economic Development Council, he has helped to encourage new business in the county to improve the economy. Howard's contributions to the chamber have made a tremendous difference in Broward County.

I wish Fran and Howard the best on receiving this prestigious recognition from the Sunrise Chamber. I know that they will each continue to be effective business leaders and make a difference in the community.

F.M. KIRBY CENTER 10TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues the

10th anniversary of the F.M. Kirby Center for the Performing Arts in Wilkes-Barre, PA. I am pleased to have been asked to join in a community salute of this milestone and to pay tribute to two outstanding community leaders, Mr. F.M. Kirby and Mr. Albert Boscov.

The Kirby Center was originally the centerpiece of the Comerford Theater chain. The state of the art movie theater was the first in the United states to offer air conditioning to its customers. Up until the 1950's the theater remained the focal point of motion picture entertainment in northeastern Pennsylvania. As television gained in popularity, attendance at the Comerford Theater began to suffer.

In 1972, the Wyoming Valley was hit by Hurricane Agnes. The storm caused the Susquehanna River to overflow its banks and devastate downtown Wilkes-Barre with dangerous flooding. The flooding caused extensive damage to the Comerford Theater which was eventually reopened. The flooding caused considerable damage to the downtown retail community and shoppers dwindled. In 1976, due to a lack of attendance the theater was forced to close.

The Comerford Building sat unused and in disrepair for the next 10 years. In order to avoid the destruction of the building, a group of concerned citizens took the first step of having the building placed on the historic register. This initial attempt at preservation was done with hopes of future development.

In 1985, Albert Boscov, the owner of Boscov's Department in downtown Wilkes-Barre became interested in renovating the theater. Mr. Boscov had a dream of turning the theater into a centerpiece performing arts center which would host local and national talent. He began a fund-raising campaign which in a little over a year and half raised $4.3 million from thousands of members of the community, in large and small contributions. A major benefactor of the project was F.M. Kirby II, the son of the cofounder of the Woolworth's Department Store chain. In March of 1986 work was underway on what was to become the F.M. Kirby Center for the Performing Arts. In September 1986, the theater hosted opening night with a gala performance attended by local dignitaries and community leaders.

Mr. Speaker, the 10 years since that opening night have had many high and low points. Like most artistic institutions in our country, the members of the Kirby Center board have endured some economic hardship. In response to diminishing funding for the arts, patron memberships were established and the board of directors forged a profitable alliance with local business leaders to make the center a vibrant and active facility.

Demonstrating its commitment to the Wyoming Valley community, the center provides quality entertainment to over 15,000 school children a year. The center underwrites ticket costs to children's social service agencies and each year introduces a new class of children to the wonders of the arts through its International Children's Theater Festival which draws thousands of children to experience this spectacular event.

As the home of the Northeast Philharmonic Orchestra to its hosting of ballet, Broadway and Sesame Street Live, the Kirby Center has become the center for cultural activity in northeastern Pennsylvania.

Mr. Speaker, the entire community of the Wyoming Valley owes a debt to Mr. Al Boscov and Mr. Fred Kirby for their financial generosity and visionary thinking. They are responsible for taking a forlorn theater and converting it into the vibrant arts center it is today. They believed in the promise of downtown Wilkes-Barre and its long-term economic growth. I am proud to join in the tribute to these outstanding community leaders and to be part of this anniversary celebration.

CAMDEN CITY POLICE

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. ANDREWS. Mr. Speaker, I invite my colleagues to join me in honoring a group of citizens that glorify the State of New Jersey. On May 14 of this year the city of Camden held its' police awards banquet. The event recognized citizens and police officers that went beyond the call of duty in their particular areas of service. While I have formerly acknowledged some of these individuals, due to a clerical error certain police officers were not mentioned by name. Therefore, I would like to highlight these officers who protect our communities and place our lives before their own. Their dedication and service to the people enables us to live in safety. Moreover, their example serves as a model for all citizens.

The following Rutgers University Police should be recognized for their meritorious service: Capt. Guy Still; Lt. Edmund Johnson; Sgt. Michael Amorim; Sgt. Louis Capelli; Officer John Denmark; Officer William Singleton; Officer Lynn Vrooman; Officer Tracy McGriff; and Officer William Princiotta.

The following officers were killed in the line of duty: Officer George F. Jefferis (1951); Sgt. Carmin Fuscellaro (1961); Officer George Schultz (1969); Officer Charles Sutman (1969); Officer Rand Chandler (1969); Officer Elwood Ridge (1973); and Officer Stuart Roberts (1975).

INTRODUCTION OF THE NATIONAL INDIAN EDUCATION BONDING AUTHORITY PILOT PROJECT ACT OF 1996

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. JOHNSON of South Dakota. Mr. Speaker, today, I am introducing legislation to establish an innovative funding mechanism to enhance the ability of Indian tribes to construct, repair, and maintain quality educational facilities. Representatives from tribal schools in my State of South Dakota have been working with tribes nationwide to develop an initiative which I believe will be a positive first step toward addressing the serious crisis we are facing in Indian education. The National Indian Education Bonding Authority Pilot Project Act is currently in draft form. I am introducing this legislation at this stage to begin dialog and debate among my colleagues on this important funding initiative.

Mr. Speaker, 56 percent of the American Indian population in this country is age 24 or younger. Consequently, the need for improved educational programs and facilities, and for training the American Indian workforce is pressing. American Indians have been, and continue to be, disproportionately affected by both poverty and low educational achievement. The high school completion rate for Indian people aged 20 to 24 was 12.5 percent below the national average. American Indian students, on average, have scored far lower on the National Assessment for Education Progress indicators than all other students. In 1994, the combined average score for Indian students on the Scholastic Achievement Test was 65 points lower than the average for all students. These statistics reflect the continued neglect of America's underserved Indian student population and are unacceptable.

By ignoring the most fundamental aspect of education; that is, safe, quality educational facilities, there is little hope of breaking the cycle of low educational achievement, and the unemployment and poverty that result from neglected academic potential.

The National Indian Education Bonding Authority Pilot Project Act establishes a bonding authority to use existing tribal education funds for bonds in the municipal finance market which currently serves local governments across the Nation. Instead of funding construction projects directly, these existing funds will be leveraged through bonds to fund substantially more tribal school construction, maintenance and repair projects.

The Bureau of Indian Affairs estimates the tribal school construction and repair backlog at $850 million. Confounding this backlog, inflation and facility deterioration increases this amount by an estimated $80 million per year. The administration's school construction request for fiscal year 1997 was $23 million, and the House-passed level was a mere $21 million. In this budgetary climate, I believe every avenue for efficiently stretching the Federal dollar should be explored.

Tribal schools in my State and around the country address the unique learning needs and styles of Indian students, with sensitivity to Native cultures, ultimately promoting higher academic achievement. There are strong historical and moral reasons for continued support of tribal schools. In keeping with our special trust responsibility to sovereign Indian nations, we need to promote the self-determination and self-sufficiency of Indian communities. Education is absolutely vital to this effort. Allowing the continued deterioration and decay of tribal schools through lack of funding would violate the Government's commitment and responsibility to Indian nations and only slow the progress of self-sufficiency.

Mr. Speaker, I urge my colleagues to closely examine the National Indian Education Bonding Authority Pilot Project Act and join me in working to make this innovative funding mechanism a reality.

CONGRATULATING THE REPUBLIC OF CHINA ON ITS 85TH ANNIVERSARY

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. FALEOMAVAEGA. Mr. Speaker, on the eve of the Republic of China's 85th anniversary—this October 10, 1996—I wish to congratulate Taiwan for the outstanding accomplishments of this thriving and vibrant democracy of 21 million people.

Taiwan is one of the world's most compelling economic success stories, rising from World War II's destructiveness to become a global trading power with foreign exchange reserves today second only to Japan. Taiwan must also be commended for its significant progress toward democratization, which came to full bloom this year with Tawian's first Presidential elections. These historic elections were conducted democratically and peacefully, despite the threats and provocations issued by the People's Republic of China.

In light of these achievements, Taiwan deserves not only our admiration, but support for Taiwan's drive for greater participation in the affairs of the international community. Taiwan's aspirations to be an active member of international organizations of the world community are well-founded. It has all the necessary qualifications: a sound political system, a much-admired world-class economy, and a genuine desire to maintain peace and stability in East Asia, and around the globe.

As noted recently by Taiwan's chief representative to Washington, Dr. Jason Hu, Taiwan's people only seek to receive fair treatment with dignity in the international community. The goal of participation within the global community of governments is, in my opinion, not the same as seeking independence.

On this 85th anniversary celebration for Taiwan, I would urge our colleagues to call upon the world's governments and international organizations to open their doors to Taiwan and extend upgraded ties to this most deserving friend and democracy.

GREECE: A VITAL ALLY IN THE BALKANS AND THE EASTERN MEDITERRANEAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. HAMILTON. Mr. Speaker, I would like to include in the RECORD some recent remarks of mine on the topic of Greece: A vital ally in the Balkans and the Eastern Mediterranean. The text follows:

GREECE: A VITAL ALLY IN THE BALKANS AND THE EASTERN MEDITERRANEAN

THE IMPORTANCE OF UNITED STATES RELATIONS WITH GREECE

The civilization of ancient Greece has shaped the New World. Our democracy, and our highest ideals of citizen participation in public life, follow the Hellenic tradition. Our architecture, our arts and sciences, and the names of towns large and small across the breadth of the continent bear witness to Greece's profound influence on the American experience.

The historical legacy is great, but I also would like to speak of the importance of Greece today: the importance of strong United States relations with our friend, partner, and ally—the people and government of Greece.

A STABLE AND DEMOCRATIC GREECE

If you consider the Balkans and the Eastern Mediterranean today, you see a wide swath of instability, the result of several unresolved ethnic and national questions:

Intercommunal violence and the division of Cyprus continue; the peace process in Bosnic is at a critical stage; Albanian populations present a challenge to current governments in the former Yugoslavia and the Former Yugoslav Republic of Macedonia (FYROM); and Turkey is troubled by political instability and a new Islamic-led government that seems to be turning eastward.

In this uncertain environment of the southern Balkans, Greece stands out as a stable, democratic nation.

Greece's geography, as well as its long history of security cooperation with the United States and NATO, gives it a unique role to play.

The smooth transition from the Papandreou government to that of Prime Minister Costas Simitis underscores Greece's stability.

Greece is headed for another political transition now that Prime Minister Simitis has won re-election and will begin a full term as head of government. I am confident that the United States will be able to forge close working ties with him and his government.

THE GREEK-TURKISH RELATIONSHIP

Greek Prime Minister Simitis is to be commended for the peaceful resolution of the confrontation with Turkey over the Imia rocks in the Aegean earlier this year. His clear, stated desire to improve Greece's relations with all its neighbors and its European Union partners is encouraging. Once again Greece is demonstrating that it is taking steps to enhance peace and security in its part of the world.

I am also pleased that two months ago Greece agreed to lift its hold on a $4.3 billion European Union (EU) aid package to several African and Middle East states, including Turkey.

Greece retains its hold on a $490 million EU aid package for Turkey designed to help the Turks adjust to the demands of the EU-Turkey customs union.

GREECE'S SPECIAL CONCERNS

A sound U.S. policy in southeastern Europe must take into account Greece's special concerns and sensitivities.

The principle elements of good relations in this part of the world must be respect for international borders and respect for minority rights. In the absence of these two, there will be no stability.

We cannot contribute to political stability elsewhere in southeastern Europe and the eastern Mediterranean region if we contribute to political problems in Greece. In other words, we cannot resolve problems in Turkey, the FYROM, Albania or Cyprus at Greece's expense. In this regard, the United States has a special interest in ensuring the human rights of the Greek minority in Albania.

The United States also wants to ensure the rights of, and respect for, the important seat of the Ecumenical Patriarch of the Orthodox Church in Istanbul. The Patriarch is the spiritual leader of 260 million Orthodox Christians.

INSTABILITY IN TURKEY

This country, as well as Greece and our other NATO allies, are justifiably concerned by the political instability in Turkey. On July 8, the Turkish Parliament endorsed the coalition government led by Islamic Welfare Party leader Necmettin Erbakan.

This coalition includes the right-of-center True Path Party led by former Prime Minister and current Foreign Minister, Tansu Ciller.

This marks the first time in the 73-year history of the Turkish Republic that it is headed by an avowed Islamic, instead of secular, leader. The Welfare party and its leader, Erbakan, have taken a populist, anti-western and anti-NATO position on several key issues.

Regardless of the leadership in Turkey, it is in the national interests of Greece and the U.S. to keep Turkey firmly rooted in the western security alliance.

In a hopeful sign, Erbakan initially allayed U.S. and western concerns about the nature of his government. Contrary to his campaign rhetoric, he reaffirmed Turkey's status as a democratic, secular state as well as its links to NATO and the west. His Welfare Party also reversed its previous position and agreed in July in a parliamentary vote to extend the mandate of the U.S.-led Operation Provide Comfort in northern Iraq until the end of the year.

These are positive sighs. But there re many tests ahead.

In Iraq, Saddam Hussein's invasion of Irbil, and the success of his Kurdish partner Massoud Barzani against a rival Kurdish faction, place great stress on U.S.-Turkish ties. Turkey supported U.S. military action against Iraq, but U.S. planes based in Turkey did not participate in that military action. Turkey wants to resume normal commerce and normal relations with Iraq, but the United States wants to keep Turkey part of the coalition to contain Iraqi aggression.

In southeastern Turkey, the government's attempt to stamp out an insurgency with military force is causing great hardship, and by all account appears counterproductive. The Turkish government needs to pursue a political solution that respects the rights of Kurdish citizens of Turkey if it is to defeat the terrorist challenge of the Kurdish Worker's Party (PKK).

In Iran, Prime Minister Erbakan unfortunately has acted upon his campaign promises of closer ties to his eastern Islamic neighbors. Last month, on his first official visit abroad as Prime Minister, Erbakan signed a $23 billion, long-term agreement to purchase natural gas from Iran.

Turkey is energy short and wanted to reduce its dependence on natural gas for Russia. But this move toward Iran is disturbing. It pushes Turkey toward a broader and more active relationship with Iran, a terrorist nation, just at a time when the U.S. is moving to further isolate that nation.

This new gas deal could also trigger economic sanctions against Turkey as a result of the new Iran-Libya sanctions law.

Greece and the United States must remain vigilant to ensure that Turkey under the leadership of the Welfare Party continues to remain an integral part of the western security alliance.

THE CYPRUS ISSUE—THE YEAR OF CYPRUS

According to former Assistant Secretary of State for Europe, Richard Holbrooke, 1996 was supposed to be the "Year of Cyprus" when the Administration was to make a big push for a negotiated settlement.

Many of us in the Congress applauded this long-awaited initiative to provide active and sustained U.S. leadership in the pursuit of a settlement of the Cyprus dispute.

But the initiative got derailed even before the new year began, with the fall of the Ciller government in Turkey and then the Imia rocks confrontation.

As I understand it, the planned U.S. initiative—if and when it gets off the ground—is more procedural than substantive. The plan is to determine if the political will for a settlement exists among the parties in Cyprus and in Athens and Ankara. If the will exists, the U.S. will begin an intensive round of shuttle diplomacy among the parties.

Substantively, the outlines of a settlement have been on the table for some time—the UN plan for a bi-communal, bi-zonal federation.

EU and UN officials are hopeful that EU accession talks with Cyprus, planned to begin in late 1997 upon completion of the EU's on-going Inter-Governmental Conference, will provide the impetus necessary—both among Greek and Turkish Cypriots—for a comprehensive solution to the Cyprus problem.

RECENT VIOLENCE IN CYPRUS

Unfortunately, the violence in Cyprus southeast of Nicosia this summer which claimed at least four lives darkens the prospects of progress toward peace.

In a press statement of August 14, I condemned the violence on Cyprus—the worst clashes since the Turkish invasion of 1974—and urged all sides to step back from further escalation. I also expressed my deep concern about the fighting between Greek and Turkish Cypriots as well as the use of force by Turkish troops which resulted in the death of two Greek Cypriots and the wounding of 11, including two UN peacekeepers.

It is clear that the current stalemate cannot be allowed to fester. If it does, further violence and escalation is predictable. The tense situation on Cyprus needs concerted and top-level attention and the involvement of the President himself.

Our priorities should be to reduce tensions along the UN buffer zone on the island, reduce the inflow of arms to the island, restart intercommunal peace talks and find a basis for direct Greek Cypriot-Turkish Cypriot talks.

THE ALBRIGHT-BEATTIE TRIP

Prior to the recent round of violence, the Administration had energized its diplomatic activity on the Cyprus issue. I was pleased that on July 17-18, U.S. Ambassador to the UN Madeleine Albright and Special Envoy Richard Beattie traveled to the region with specific recommendations for easing tension in the buffer zone and in an effort to improve the atmosphere for advancing a negotiated settlement.

Unfortunately, one of the positive results of this visit, a proposed meeting between the commanders of the Greek Cypriot forces and of the Turkish forces on the island—which would have been the first such meeting since the occupation of northern Cyprus in 1974—did not take place as hoped, due to differences over whether representatives of Turkish Cypriot forces would be present.

Although the trip did not result in any significant break-throughs, it was viewed in the Administration and the region as an important step in diffusing tension, in dealing with security and military issues and, hopefully, in creating a suitable environment to start a more substantive U.S. initiative later this year.

THE U.S. ROLE IS CRITICAL

The recent violence in Cyprus underscores my long-held view that progress on Cyprus is long overdue and should be a high U.S. priority. It remains my hope that a fair and lasting settlement of the Cyprus dispute can be reached in the coming months.

It has always been my firm belief that only high-level an sustained U.S. attention will convince all parties and particularly the Turks, to resolve the Cyprus issue.

It is in U.S. interest as well as all the people of the region that we find a just and lasting solution to this problem.

Turkey remains the key to progress on Cyprus. Only Turkey can push Turkish-Cypriot leader Denktash toward a settlement.

Now is the time to push a U.S. initiative forward. I urge the Administration and specifically Ambassador Beattie, the President's special envoy on Cyprus, to reactivate his diplomacy so that further violence can be averted.

MACEDONIA

Improved relations between Greece and the Former Yugoslav Republic of Macedonia, FYROM, are critical to greater stability in the southern Balkans.

The U.S. has been more sensitive than any of Greece's other allies to Greek concerns regarding FYROM. This Administration has sought to balance its desire to respect Greek concerns with the need to address the new realities created by the dissolution of the former Yugoslavia.

I have consistently urged the Administration to link recognition and the establishment of diplomatic relations with FYROM to a series of steps by the Skopje government to reassure the legitimate security concerns of Greece.

Now this policy is succeeding. Last fall, the Foreign Ministers of Greece and FYROM finalized an agreement which separated the intractable name issue from the other issues. Under the agreement FYROM agreed to change its flag and amend its constitution, and Greece agreed to end its economic blockade of FYROM—which was hurting Greece as well.

This historic agreement was brokered by two Americans, former Secretary of State Cyrus Vance on behalf of the UN and special U.S. envoy Matthew Nimetz.

Face-to-face talks at the UN have so far been unable to produce an agreement on the official name for FYROM. It seems that the FYROM authorities have been unwilling to compromise on this key issue.

I am hopeful that the agreement between Greece FYROM will move us from an era of confrontation and instability to one which will prove mutually advantageous to the people of both Greece and FYROM.

The United States and its NATO allies want to continue to assist Greece and FYROM—within the framework of the UN-sponsored negotiations—to work out their remaining mutual problems, particularly the name issue, as soon as possible.

The failed assassination attempt on FYROM President Gligorov last year, as well as the continuing unrest among the ethnic Albanian population, vividly demonstrates the fragile stability in FYROM, and the need for regional stability.

CONCLUSION

I would like to conclude by reaffirming the special relationship that exists between the United States and Greece. This relationship is based on our long history of shared values and our common interests in stability in southern Europe.

Stability in Greece stands in stark contrast to the unsettled situation in Turkey and the rest of the Balkans. We must continue to engage with Turkey, as a critical NATO ally on a whole range of issues.

But until Turkey can resolve key issues—particularly finding some sort of political solution in southeastern Turkey and ending the division of Cyprus—the U.S. and Greece will find their efforts to achieve lasting stability in southeastern Europe thwarted.

PERSONAL EXPLANATION

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mrs. MEYERS of Kansas. Mr. Speaker, last week, on two occasions, I was recorded as not voting on measures at a time when I was on the House floor and did insert my voting card.

On Tuesday, September 17, I voted "yes" on rollcall 415, a motion to suspend the rules and pass the bill conferring honorary citizenship on Mother Teresa.

On Thursday, September 19, I was on the floor when rollcall vote No. 422 was called, and I voted "yes" on the majority leader's motion to table the Linder privileged resolution.

I am uncertain why these votes did not register, but I was present and voting in both instances.

THE IMPACT OF THE IRISH POTATO FAMINE ON AMERICAN HISTORY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. FRELINGHUYSEN. Mr. Speaker, today, I introduced legislation along with Representative MENENDEZ to encourage America's schools to teach our young students about a tragic period in history that nearly destroyed the people and country of Ireland and forever changed the face of America.

The mass starvation in Ireland from 1845 to 1850 initiated by the dramatic failure of the Irish potato crop is most commonly referred to as the Irish Potato Famine. Although Europe's poorest country in the middle 19th century, Ireland's 8 million inhabitants were curiously well-nourished. The Irish people relied on the potato for the bulk of their diet since it was inexpensive and high in nutrients. However, in 1845, the Irish potato crop was ruined across the entire countryside by phytophthora infestans, an airborne petilence. At the time, no one knew what caused the potato blight and so little could be done to save the crops. Across the whole of Ireland, potatoes simply rotted on the ground.

The failure of the potato crop led to the inability of most Irish families to pay the rent on their cottages which, after Britain's annexation of the island in the late 18th century, were often owned by British landholders. The vicious cycle of poverty was held intact by both the continuation of the potato blight and the active exportation of the Irish grain crop by the British Crown. Those who traveled across the island during the famine noted the horrifying situation in which they encountered the Irish people. Men, women, and children literally starved to death on the roadside and families huddled together in the cold waiting to die. In fact, while visiting Ireland in l845, the African-American abolitionist Frederick Douglas wrote that the people of Ireland "are in the same degradation as the American slaves."

A number of British groups threw aside the prevailing prejudices against the Irish to provide relief from what had become a starvation of epidemic proportions in the colony. The Quakers, or the Society of Friends, even set up a vast array of soup kitchens throughout the countryside. However, it was not enough to stop the hunger and loss of farming wages. By the end of the epidemic in 1850, more than 1 million Irish had perished from the hunger, cold, and disease brought about by the potato blight. It seemed the only way to elude the horrors of the famine was to leave Ireland—and so many did just that:

Although the voyage was treacherous and relatively expensive, more than 1 million Irish emigrated to the United States during the famine. Initially, they settled in the cities of the northeastern seaboard such as Boston and New York. Later they pushed westward to Chicago, the Great Plains, and the uncharted Western territories. With them they brought their Celtic culture and determination. Aside from impacting the basic makeup of the American people, Irish-Americans have made significant contributions in American business, law, music, athletics, literature, religion, and politics. In fact, U.S. Presidents John F. Kennedy and Ronald Reagan, considered by many to be the greatest Presidential orators in their respective political parties this century, are both from Irish-American families.

Perhaps, though, the legacy of the Irish Famine's immigration wave to America is most evident in our everyday lives. Today, 5 million of New Jersey's 8 million inhabitats claim some Irish descent, as do millions of other Americans. The resolution put forth today by myself and Representative MEMENDEZ recognizes the contributions made by Irish-Americans to our greater American heritage. Irish-Americans have left an indelible mark on American culture and history, and for that reason our children should learn more about the tragic famine which brought so many of them to our shores in search of freedom from hunger, freedom from want, and freedom from colonial rule.

SITUATION IN CYPRUS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. PORTER. Mr. Speaker, the recent shootings of two young Cypriots and a Turkish Cypriot soldier highlight the need to demilitarize Cyprus as a first step toward achieving a just and lasting solution to the Cyprus problem. Last fall, the U.S. House of Representatives adopted a resolution calling for demilitarization, and its was subsequently approved by the Senate Foreign Relations Committee.

Unfortunately, demilitarization will not occur demilitarization, and it was subsequently approved by the Senate Foreign Relations Committee.

Unfortunately, demilitarization will not occur unless Turkey demonstrates the political will to compromise. In order for that to happen, the United States and its European allies must make a concerted effort to convince Turkey that an end to the division of Cyprus is in everyone's security interest.

I urge all Members to consider the following letter to the editor submitted by Andrew J. Jacovides, the Ambassador of the Republic of Cyprus and respected colleague. Mr. Jacovides makes a compelling case in support of a strong effort toward Cyprus reunification and the protection of human rights on the island. It appeared in the Washington Post on September 9, 1996.

[From the Washington Post, Sept. 9, 1996]

CYPRUS: THE PROBLEM IS SOLVABLE

(By Andrew J. Jacovides)

The editorial "Cyprus: Try Everything" [Aug. 26], though well intended and timely, particularly in the wake of the recent brutal murders of two unarmed young Greek Cypriots who were peacefully demonstrating their justifiable feelings against Turkish occupation, miscasts some of the main relevant issues.

The recent events demonstrate that the status quo of occupation and forcible division is unacceptable and is indeed a source of tension and instability as well as the cause of grave injustice and much human suffering. In fact, there is much more in common that can unite Greek and Turkish Cypriots than the differences that at present divide them (though, of course, this does not hold true for the Anatolian settlers or the "Grey Wolves" imported from Turkey).

The Cyprus problem is solvable, and the basis for its solution lies within the parameters defined by U.N. resolutions, voted for also by the United States. In addition to the prospect of Cyprus's accession to the European Union highlighted in The Post's editorial, the demilitarization of Cyprus is a key element. In a resolution overwhelmingly adopted by the House of Representatives last September, Congress "considers that ultimate, total demilitarization of the Republic of Cyprus would meet the security concerns of all parties involved, would enhance prospects for a peaceful and lasting resolution of the dispute regarding Cyprus, would benefit all of the people of Cyprus, and merits international support."

There has been no lack of prominent diplomats engaged in the search for a Cyprus settlement, including Richard Holbrooke, Richard Beattie and, most recently, U.N. Ambassador Madeleine Albright. We certainly welcome such engagement. What is lacking, however, is the political will and the flexibility necessary to make a breakthrough toward a compromise solution on the part of Ankara, which has long held the key to such a solution through its military, economic and political dominance of the occupied northern part of Cyprus since 1974. Regrettably, the current regime in Turkey does not hold much promise that this will happen soon, unless there is a concerted international effort directed toward Ankara.

A just and lasting solution to the Cyprus problem is to the benefit of all parties concerned and is in fact crucial to improved relations between Greece and Turkey. For the United States, which has excellent relations with Cyprus as highlighted during the recent visit of President Glafcos Clerides to Washington, such a solution enjoys bipartisan support and is in the national interest. It can be achieved with active U.S. engagement and will be a foreign policy success for the United States and indeed for any administration.

The issue is not to just "try everything" but to take all appropriate and effective steps to end the division of the island and safeguard the security and human rights of all its people in a demilitarized, federal Cyprus within the European Union.

BROOKSIDE AMERICAN LEGION 50TH YEAR

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the American Legion Brookside Post 837 on its 50th anniversary. In commemoration of this special event, it is my pleasure to bring the history of this post to the attention of my colleagues.

The dedication of the members of Brookside Post 837 and its many members have brought it to this proud moment. Fifty years ago in 1946, a group of World War II veterans from the Brookside and North End sections of Wilkes-Barre gathered to begin plans to organize a chapter of the American Legion. Contact was made with Commander Renfer of District 12. He advised the group and provided charter application information. The application was submitted with only 20 signatures and the charter was granted. An election of officers was conducted, and the group chose Nick Maliborsky as the first commander.

Over the years the membership declined and the charter was in jeopardy. A reorganization of the post began. Paul Makuch was elected second commander of the post. Commander Makuch's resilience and good leadership were instrumental in bringing a number of members back to the post. There are now approximately 185 members.

Brookside Post 837, "The smallest Post that does the most," is known for its support of Legion affairs such as; military wake services and funerals, parades, community sponsored activities, and strong comradeship.

Their history would be incomplete if not for the dedication of the women of the Ladies Auxiliary. These ladies must be acknowledged for their tireless efforts on behalf of the post and their spouses.

Mr. Speaker, the beginning years were difficult for this post, but due to the solid foundation of loyal members past and present, Brookside Post 837 now proudly celebrates 50 golden years of dedicated service to God, country, and the community. I am pleased to have been asked to be a part of this milestone celebration and send my best wishes to these proud Legionnaires for a prosperous future.

TRIBUTE TO DAVID E. McCREE

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. DIXON. Mr. Speaker, today marks the 29th anniversary of Rayburn Underground Garage Attendant Dave McCree's employment on Capitol Hill. On Monday, September 30, 1996, Dave will retire from the "Hill," where he has worked for nearly three decades. In recognition of his years of service to this great institution, I am pleased to rise today to wish him a wonderful retirement and to thank him for his year of service to the United States House of Representatives.

For the past 29 years, Dave's has been one of the first faces Members and staff encounter upon entering the Rayburn garage on C Street, S.W. If your battery failed, Dave has been there for all of us with the portable recharger. If your problem was a flat tire, he has been there to repair your flat. And if the problem was a bothersome little clink under the hood, he has been there to offer advice and to occasionally tinker under the hood until the problem was resolved. In every instance, Dave has rendered this service with a smile, and with a sincere willingness to help.

Dave began his career on Capitol Hill on September 24, 1967. For the past 29 years, he has risen before most of us to make the trip from his native Baltimore to work on Capitol Hill. Among his most cherished memories I am told are the many dignitaries he has met, especially the renowned actors Kirk Douglas, Telly Savalas, legendary football great Rosie Grier, and the actress we all know as Wonder Woman, Linda Carter.

A man of few words, Dave has—I am sure—witnessed many changes on the "Hill" during the past 29 years. He has done so with dignity, and with a resolve to discharge his duties with the same high degree of excellence and dedication that have served as hallmarks of his career with the United States House of Representatives.

Mr. Speaker, those of us who have been here for many years can look with pride to the character and service of people like Dave McCree. He has been a loyal and dedicated employee whom we shall miss. Please join me in extending our heartfelt thanks to him for his years of service to this institution, and in wishing him and his family of five adult children continued happiness and success in the future.

CORPORATE RESPONSIBILITY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. HOYER. Mr. Speaker, corporate downsizing and layoffs continue to heighten the anxiety of the American worker.

In the new economy of the 1990's American workers can expect to change jobs seven or eight times throughout their careers.

No one can guarantee American families job security—however, American families can be protected from the destructive consequences of economic change—such as families losing health insurance and losing pension protection. We can also offer job training to increase the skills of our workers facing a rapidly changing job market.

Both President Clinton and the Democratic families first agenda call for initiatives to solve these problems, as well as to promote worker retraining and put people on the path of reemployment and higher wages.

But Government cannot solve the problem of worker anxiety alone—Corporate America must take responsibility, as well.

The following essay by noted social commentator Paul Harvey directly addresses the issue of corporate responsibility. Mr. Harvey, in his unique style, discusses Aaron Feurstein, president of Malden Mills, who continued to pay his employees even after his plant burned down.

Mr. Speaker, I commend Mr. Feurstein's actions—it is this type of commitment that builds security, trust and commitment between our Nation's workers and their employees.

[From the Paul Harvey News, Apr. 27, 1996]

NONE OF MY BUSINESS

Any business begins with an idea and grows by selling that idea. It sounds simple. It is not.

Retirement areas are studded with cheap grave markers. Pa and Ma, recently retired, have always enjoyed meeting people. Why not take their life savings and invest in a small retail business?

Buying and selling sounds like fun.

But Pa and Ma and their business are likely to suffocate under an avalanche of tax forms and other government required documents.

You'll see this cruel rise and fall repeated many times in any shopping mall. This next relates to that, however, distantly:

These days, for any business to keep going requires further investment in tax accountant, lawyers, bookkeepers and sales staff.

And on the way to incorporation on a large scale, the business is likely to accumulate redundant layers of bureaucracy and to leave its "heart" behind.

You have sometimes been amazed at how some big corporation will invest millions of dollars a year in "public relations" then—with one heartless massive layoff of workers just before Christmas—the corporation shoots itself in the foot.

A corporation has outgrown its britches when its bean-counters announce with pride "record profits" one week before its labor relations lawyers are scheduled to negotiate a new contract.

What has come to be called "corporate downsizing" is going to be a significant economic issue in the next election.

There is no way to streamline an overbloated business other than by shrinking the number of employees but unless corporate giants also practice "the golden rule" in their dealings with employees they are inviting a rude rebuke.

Enlightened management has already learned to weigh short-term profits and the obligation to stockholders—and balance those considerations against treating employees fairly, preserving customer loyalty and maintaining an affirmative public image.

Any CEO who orders layoffs in the name of cost-cutting while preserving his own multimillion dollar income intact is at least unfeeling.

Industries are going to need all the friends they can get next polling time.

One good example is worth a thousand admonitions: When Malden Mills burned last December, its President Aaron Feurstein vowed to rebuild and to keep all his workers on the payroll.

This icon of corporate decency has been rewarded with three divisions already running again and 80% of all employees back at work.

It cost Malden Mills ten million dollars to pay those workers while they are idle but, back at work, both quality and efficiency are better than ever. At one plant production has doubled!

Mr. Feurstein says, "To discard responsibility to our workers and to think only of profit in the long run will profit no one."

HONORING TELAMON ELECTRONICS

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KIM. Mr. Speaker, I rise today to congratulate a dynamic small business in my district. Telamon Electronics will celebrate the opening of its expanded facility in Chino, CA, on October 1. Located 35 miles of Los Angeles, the growth of Telamon Electronics—a subsidiary of Telamon Corp. in Indianapolis—is having a significant impact on the economy of California's 41st District.

Telamon Corp.—working with suppliers and customers, including Nortel and Pacific Bell—has been providing high-technology telecommunications products and services to the telecommunications industry since 1984. Telamon was founded by Albert Chen, who built the company with the vision that a highly creative company poised to support one of the world's fastest growing industries could gracefully combine financial success, corporate growth, employee satisfaction, the highest quality products, and services in the industry, as well as customer satisfaction.

Over the years Telamon's range of capabilities has increased, as its reputation for creative solutions with uncompromising quality has become widely recognized. This has resulted in enormous growth—from sales of $400,000 in 1985 to sales of $108 million in 1995.

In 1989, Telamon Electronics was established as a value-added supplier of material management, preinstallation assembly, and other support services to Regional Bell Operating Cos., independent telephone companies, and government agencies located in the Western United States. Under the leadership of Michael Shen, president and Allen Vick, vice president, Telamon Electronics has achieved great success, which it has passed along to the city of Chino, the county of San Bernardino, and the State of California. As the highest sales tax generator out of 2,100 businesses in the city of Chino, Telamon Electronics added almost $1 million in tax revenue to the economy of California's 41st District.

Tax revenue is only one part of Telamon Electronics' impact on the local economy.

Telamon provides employment for many people in the inland Empire. The number of employees has grown to over 35 in 1996. To foster employee growth, Telamon Electronics offers profit sharing, suggestion rewards, scholarships for employees' children, and education grants for professional growth.

It gives me great pleasure to ask my colleagues to join me in congratulating Albert Chen, Michael Shen, Allen Vick, and all the employees of Telamon Electronics for making a real difference in our local community.

THE 175TH ANNIVERSARY OF TRINITY EPISCOPAL CHURCH IN ST. AUGUSTINE, FL

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mrs. FOWLER. Mr. Speaker, I would like to bring the attention of my colleagues to an event of great historical significance which will be occurring in my district on October 13, 1996. On that date, Trinity Episcopal Church of St. Augustine—Florida's oldest Protestant Church—will celebrate its 175th anniversary.

Established in 1821 by a missionary priest from St. Phillips Episcopal Church in Charleston, SC, Trinity has had a long and distinguished history. It was one of five churches in the State of Florida which met in 1838 to form the diocese of Florida; and it has always been an integral part of life in St. Augustine, America's oldest city.

Trinity has met the worship needs of many thousands of people over the last 175 years. In addition, the parish has shown a continuing commitment to serving the community at large. Trinity supports St. Gerard House, which ares for unmarried pregnant women; and provides meeting space for various groups, including alcoholics anonymous. The church also helped to create St. Francis House, a facility which provides assistance to the poor and to transients who pass through St. Augustine. In addition, Trinity's Early Learning Center provides a nurturing and educational environment for some of the community's youngest residents.

Mr. Speaker, I know my colleagues will join me in congratulating the members of Trinity Church on reaching this significant milestone, and in thanking them for their devotion to spreading the word of God and serving others.

RETIREMENT COMMENDATION OF RICKY N. RIGGINS

HON. DICK CHRYSLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. CHRYSLER. Mr. Speaker, I rise today to commend Chief Ricky N. Riggins.

Chief Ricky N. Riggins was born in Oxnard, CA, on June 29, 1954. He graduated from Nordhoff High School in June, 1972, and attended Ventura Junior College for one semester before joining the U.S. Navy on February 5, 1973. His illustrious 24-year career has led Chief Riggins to various assignments after completing signalman training in San Diego.

While on active duty, Chief Riggins attended Central Texas College. He graduated in August of 1994, receiving an associates degree in general studies. Signalman Chief Petty Officer Riggins plans to attend Michigan State University to complete his masters degree after he retires.

Chief Riggins has served his last 2 years as the leading chief signalman on board the U.S.S. *Germantown* (LSD–42), responsible for the welfare and training of all assigned personnel in the communications division as well as the operations department. Chief Riggins is married to Pantipa Hartke of Korat, Thailand. They have four children: First, Ricky, Jeremy, and Jamie, as well as two grandchildren, Ricky and Jeremy, Jr.

Chief Riggins has had significant community involvement. He was active in his church as a deacon, a lay leader, as a member of his church council youth ministries committee, and as church council secretary. Chief Riggins served as a Red Cross volunteer providing service to military families, and as a contact person for military service members and their families through the Red Cross Service to Military Families. With over 500 hours contributed in the State of Michigan and around the world, Rick was selected as the SMF Volunteer in the Spotlight for the month of October 1993.

Rick has been involved in the Boy Scouts of America in Lansing, MI, and abroad in Japan's Far East Council. During his reassignment to Sasebo, Japan, for the last 2 years, Chief Riggins has served as the unit commissioner for Troop and Pack 76 as a member of the Far East Council. His accomplishments and awards are truly awe-inspiring, and I thank Chief Riggins for his contributions to our society not only as a Member of Congress, but as a citizen of Michigan, the United States, and the world.

HONORING CALVERTON NATIONAL CEMETERY AS 1996 TROPHY WINNER OF ROBERT W. CAREY QUALITY AWARD

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. ACKERMAN. Mr. Speaker, I rise today to congratulate the Calverton National Cemetery of Calverton, NY, for being recognized as this year's Robert W. Carey Quality Award winner.

The Robert W. Carey Quality Award is an annual award presented by the Secretary of Veteran's Affairs to recognize organizations within the Department which have implemented quality management in an exemplary manner, resulting in high quality products and services while promoting the effective use of taxpayer dollars. Named in memory of Robert W. Carey, Director of the Veterans Administration Regional Office and Insurance Center in Philadelphia, this award is the highest and most prestigious quality award presented to an organization by the Department of Veterans Affairs. It seeks to promote quality management awareness and implementation throughout the Department and to provide a model against which organizations can assess their quality transformation efforts and organizational effectiveness in delivering services. This award is used as an internal assessment tool and supports the Secretary's Performance Agreement with the President.

I urge all my colleagues to join me in congratulating the Calverton National Cemetery for their outstanding achievement and well-deserved honors.

THE RURAL LAW ENFORCEMENT ACT OF 1996

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. BALDACCI. Mr. Speaker, I am pleased to introduce today the Rural Law Enforcement Act of 1996. This bill recognizes that in spite of recent efforts to provide adequate funding and resources for law enforcement departments around our Nation, a significant segment within this population continues to be underserved. I am speaking about those departments that serve rural areas.

One-third of all Americans live in nonurban areas and 90 percent of all law enforcement agencies serve populations of fewer than 25,000 residents; 75 percent of all law enforcement agencies serve a population of fewer than 10,000 residents; 85 percent of police departments in America have 10 or less officers on the force. Yet statistics show that fewer than 200 cities get the lion's share of Federal funding for combating crime. This would not be problematic but for the fact that while the national crime index for violent crime has been on a steady decline over the past 5 years, rural violent crime has increased over 35 percent from 1985 to 1995. It is in response to this trend along with the pleas for increased resources that I have heard from rural law enforcement agencies in my district that I introduce this legislation.

This bill seeks to enhance the National Center for Rural Law Enforcement and charges this Center to provide, among other things, the following resources for rural law enforcement agencies nationwide:

Training of law enforcement supervisors and personnel who serve in rural communities on how best to address those criminal issues that are unique to their rural areas, taking into consideration the limited resources available to these departments.

Funding for grants and contracts for Federal, State, and local units of government; as well as for public and private agencies, educational institutions, organizations, and individuals; to work together effectively in combating crime in rural areas.

The establishment of a clearinghouse and information center on criminal justice and law enforcement to provide a communications network to link rural agency heads to one another, around the country.

Consulting assistance to criminal justice agencies with respect to problem solving, training, and community outreach in rural law enforcement jurisdiction.

I have been in touch with law enforcement officials and community leaders in my home State of Maine regarding this legislation. From the community response coordinator for a domestic violence program in Bangor, to the U.S. marshal of Maine, to the sheriff of rural Aroostook County, to the former chief of police of Presque Isle, I have heard unanimous support for this legislation. The reasons for their support were unanimous as well—there are just not enough resources currently available for rural law enforcement to adequately address the needs of the populations they serve.

Providing public safety is a crucial part of the infrastructure that makes up our communities; allowing effective and impartial enforcement of the law is one of the most important functions of the Government. We look to law enforcement officials to adequately address issues of crime and violence in our communities, to know how to quickly assess situations and respond appropriately, and to reach out to other individuals and services in the community in efforts to learn about their concerns and about the resources available within their programs. I believe that this bill will make these goals into realities for our rural law enforcement agencies.

ECONOMIC DEVELOPMENT IN PUERTO RICO

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mrs. JOHNSON of Connecticut. Mr. Speaker, Congress took dramatic action last month in the Small Business Job Protection Act (Public Law 104–188) by eliminating the principal tax incentive for economic development in Puerto Rico, section 936 of the Internal Revenue Code. While I supported this measure, it was unfortunate that we could not use this opportunity to construct a long-term replacement incentive program, as urged by Puerto Rico Governor Pedro Rossello. I believe it is very important that we return to this subject in the next Congress to build a new long-term economic incentive for Puerto Rico using as its base the new section 30A of the Tax Code, which we established in the small business legislation.

There is consensus that the job creation incentives in section 30A, while a useful start, do not provide the dynamic incentives needed by the 3.7 million American citizens of Puerto Rico to become economically self sufficient. along with Ways and Means Committee Chairman BILL ARCHER, I would like to work with Governor Rossello and other elected leaders of Puerto Rico to develop a sound long-term economic program to achieve this goal.

Although section 936 has been eliminated because its benefits were deemed overly generous in the current budgetary climate, the last chapter for Puerto Rico economic incentives has not been written. I look forward to working in the next Congress toward long-term, effective incentives that foster new investment and create high-quality jobs in Puerto Rico.

TRIBUTE TO WILLIAM BROWER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Ms. KAPTUR. Mr. Speaker, I rise today to note the recent retirement from the Blade newspaper of Toledoan, William Brower, a well-known veteran journalist of more than 50 years. He became one of the first African-Americans to work for a daily Ohio newspaper. He was officially recognized this year by the National Association of Black Journalists for its Lifetime Achievement Award.

A Wilberforce University graduate, Bill began his journalism career writing for African-American newspapers in Baltimore, Philadelphia, and Richmond, VA. Hired by Toledo's newspaper, the Blade, in 1947, Bill began as a general assignment reporter. Throughout his years with the paper, he held positions covering the police, courthouse, and education beats, and served as an assistant city editor, news editor, and associate editor. His thrice weekly editorial columns covering politics, sports, and topics of interest to African-Americans became a staple of Toledo area news.

In 1951, he was awarded a Pulitzer Prize nomination for a series of stories written after a tour of 20 States on the conditions experienced by black Americans. In 1971, he followed that story with a series, "Black America—20 Years Later," which won him a Robert F. Kennedy Foundation Award.

The National Association of Black Journalists paid tribute to Bill for his "pioneering spirit" and "outstanding leadership in the media industry." The same can be said of his role in our community. Bill Brower and his wife Edna have been groundbreakers, trailblazers, and voices of strength and wisdom in Toledo. Their dedication to one another continues to be a source of inspiration to us all. His writings have often required us to look at a reflection of ourselves, and in doing so, have moved us to become better people.

No commendation could sum up fully half a century of journalistic achievement. But in honoring his life, the Blade has endorsed independent thought and the advancement of our common heritage as a free people.

ETHNIC TENSIONS CONTINUE IN THE BALKANS

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Ms. MOLINARI. Mr. Speaker, as the international community awaits analysis of last Saturday's Bosnian elections, it is now time to focus the spotlight on the other ethnic conflicts that continue to fester in the Balkans. A lasting peace in the region can never be obtained without a satisfactory resolution of the ethnic tensions there.

With that in mind, I commend the Congressional Human Rights Caucus for holding a briefing last week to report on the situation in Sanjak, a small region of the former Yugoslavia that is bordered on one side by Bosnia and on the other by Kosova. Testifying at the briefing was Mr. Bajram Omeragic, president of the external board of the Muslim National Council of Sanjak. His statement provides an illuminating discussion of the plight of the Bosniac people of Sanjak, and why they believe the international community must come to their assistance.

TESTIMONY OF MR. BAJRAM OMERAGIC

I.

Mr. Chairman an Distinguished Members of the Caucus. It is an honor for me to testify before you this morning to discuss the problems facing the Bosniac people of Sanjak, a region of former Yugoslavia that has largely been ignored by the international community. We are grateful for the growing interest in Sanjak among Members of the U.S. House of Representatives and Senate.

We have suffered in relative obscurity until now, and you are helping us generate the attention our people deserve and recognition that the intolerable situation we face cannot be prolonged.

II.

On the eve of the elections in Bosnia Saturday, the eyes of America and the world are focused on the Balkans. Regardless of the outcome of the Bosnian elections, the struggle to achieve lasting peace and freedom in the Balkans has just begun. As U.S. mediator Richard Holbrooke said recently, the Bosnia elections do not constitute the end of the game, but rather the beginning of establishing democracy in former Yugoslavia.

Mr. Holbrooke's recognition that the Dayton agreement was incomplete and inadequate implies that there is indeed unfinished business that must be resolved. We agree with Mr. Holbrooke that a new Dayton-type international conference on former Yugoslavia should occur soon after the Bosnian elections to address the wide range of issues that were intentionally left out of last year's agreements.

The "Dayton II" agenda should include resolution of the status of the Sanjak region and other troubling, and potentially dangerous conflicts that must be resolved before lasting peace can be achieved in the Balkans.

As Western powers meet with Balkan leaders at the December London conference, the issue of Sanjak must be on the agenda of unfinished business.

III.

While the world focuses on the Bosnia elections Saturday, there is another election coming up that demands the attention of the international community and world news media.

On November 3, the citizens of the Federal Republic of Yugoslavia, that is Serbia and Montenegro, will go to the polls to elect federal leaders. In Sanjak, we have decided to participate in the elections.

A boycott by our people would mean that we would have absolutely no opposition voice in federal government decisions. We prefer to fight for change from within.

While we are committed to democratic and fair elections, the Belgrade regime is not. We have evidence that Milosevic is trying to rig the elections in Sanjak in favor of the Serbs. By arbitrarily changing the number of voters comprising an election unit, based on numbers of Serbs in each voting district, Milosevic is trying to steal the election in Sanjak. There are election districts in which 200 Serbs will elect candidates, while similar districts will require 2,000 Bosniacs to elect a candidate. Such undemocratic, unfair and illegal tactics must be exposed. This cynical manipulation of the election process should alarm the U.S. and other democratic nations.

The president of our Council, Dr. Sulkeman Ugljanin, is meeting in Sarajevo this week with Carl Bildt, the international community's representative in former Yugoslavia, to express our outrage at such tactics. We are urgently requesting international election monitors to observe and report on such election irregularities and abuses.

We call on the U.S. Congress to send observers to Sanjak to see for themselves.

IV.

Sanjak is a small region of Yugoslavia, some 8,687 square kilometers, bordered on one side by Bosnia and Kosovo on the other. Two-thirds, or 350,000, of our people are Bosniacs who have historically maintained strong ties to Bosnia.

Throughout its history, Sanjak has been subjected to a deliberate, premeditated campaign of brutality and repression at the hands of the Serbs and Montenegrins. Conditions became much worse since the Milosevic regime unleashed its campaign of terror against non-Serbs and Bosnia exploded into war.

In April 1992, the Bosniac people were expunged from the constitution of Yugoslavia. Bosniacs living near the border were subjected to "ethnic cleansing" even though they lived within Serbia.

Over 60,000 Bosniacs have fled our homeland, dispersed throughout Europe and America;

250 Bosniacs have been killed, kidnapped and/or disappeared;

In the townships of Priboj and Pljevlja, 51 villages have been ethnically cleansed with homes looted and demolished;

317 homes have been destroyed;

Over 17,000 Bosniacs have been subjected to some form of state military-police brutality and terrorism;

During 1993 and 1994, our political leaders, including Mr. Hadzic, were arrested and organized political processes were halted;

An arrest warrant was issued for the President of the Muslim National Council of Sanjak and SDA, when he was going to a peace conference in Geneva; he has been living in exile for three years.

Please allow us to remind you that Sanjak is the only territory in the Federal Republic of Yugoslavia where citizens do not have freedom of movement. People from Priboj and Pljevlja are forbidden from returning to their villages from which they were expelled.

Many Bosniac citizens have been sacked from their jobs with state companies, leading to a serious humanitarian situation in the country.

V.

I can tell you today that President Ugljanin will return to Sanjak before the end of this month. When he does, we are afraid he could be arrested by Yugoslav authorities. This must not be allowed to happen.

We appeal to Members of the U.S. Congress and parliamentarians around the world who are committed to political freedom and liberty to join us in an unprecedented demonstration of support for democracy. We invite Members of the Congressional Human Rights Caucus to come to Sanjak, to accompany President Ugljanin as he returns, and to lend their opposition to the antidemocratic Yugoslav regime at this critical time.

We encourage U.S. and international journalists to shine the revealing spotlight of media coverage on the Yugoslav autocratic, repressive and undemocratic regime.

We need your help, and we need it now.

VI.

There are other peoples in the Balkans who have suffered tremendous hardships and atrocities, confirmed by dozens of investigations and reports by officials such as Tadeusz Mazowiecki, former U.N. Special Rapporteur for human rights in former Yugoslavia, and his successor, Mrs. Elisabeth Rhen. Reports from the U.N. Human Rights Commission, U.S. State Department, Amnesty International, Helskini Watch, and many others have documented the Serbian-Montenegrin reign of terror and human rights violations.

In 1991, the Muslim National Council of Sanjak encouraged all young men from Sanjak and other parts of Yugoslavia not to participate in the war in Slovenia and Croatia. We have chosen a path of peaceful resistance to achieve a special status or autonomy within Yugoslavia. So far, the international community has not addressed our problem, in spite of the fact that we have chosen peaceful means to achieve that goal. That is a bad message for the future.

While we accept, if not fully understand, why the Dayton Agreements focused solely on the situation in Bosnia, now is the time to look beyond Bosnia to the range of ethnic problems that will cause continued unrest in the Balkans until they are satisfactorily addressed.

In Dayton, the United States assumed a leadership role toward seeking peace in the Balkans. We applaud that leadership, and ask that you now take the next steps to begin soon after Saturday's elections. On the agenda should be a special status for Sanjak which recognizes the rights and freedoms of our people.

We seek:

Natinal equality within former Yugoslavia;

A special status (autonomy) as a mechanism to achieve national equality;

The maintenance of the "outer wall" of sanctions in Serbia-Montenegro until the status of Sanjak is resolved;

Return of the OSCE permanent mission to Sanjak to help establish the necessary conditions for observing elections.

An end to political persecution such as that in Novi Pazar, our capital, where our elected political representatives have no freedom of movement. Their passports have been confiscated by Serbian police, making it impossible for them to travel. They are forced to come to so-called "informative talks" with the Serb authorities during which they are abused and terrorized.

U.S. pressure on the War Crimes Tribunal in The Hague to charge those who destroyed 51 villages and kidnapped and killed Bosniac people in Sanjak.

VII.

Since 1991, the world has witnessed in the Balkans the worst crimes against humanity since World War II. At the War Crimes Tribunal meeting in The Hague is demonstrating, the overwhelming preponderance of atrocities have been committed by the Serbs, in quest of a "Great Serbia." With the Bosian elections Saturday a key benchmark in implementation of the Dayton agreement, the future is far from settled.

Indeed, the elections with the expected fraud, manipulation, intimidation and incompleteness will most likely perpetuate the confusion and fall short of moving toward a unified Bosnia.

The Bosnia people of Sanjak have endured a lot, and while we are prepared to negotiate our fate in good faith, we call on the United States of America, the one champion of human rights and political freedom in the world, to come to our aid.

Thank you, again, for providing us this opportunity to appear before you today. We are prepared to respond to your questions.

IN HONOR OF HELEN L. SEVERNS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to Mrs. Helen L. Severns, who passed away May 2, 1996.

Born and raised in Decatur, IL, Helen Severns was a pillar of the community who served in countless ways up to the very day of her passing.

The daughter of the late Russell Waggoner and Goldie Waggoner Watson, Helen Severns was an active member of the Concordia Lutheran Church. She was a tireless volunteer for the Retired Senior Citizen Program, Meals-On-Wheels and other civic groups, including being given a lifetime membership award from the Parent-Teachers Association.

Being a political volunteer was perhaps the most colorful thread she wove into the fabric of her hometown. Helen Severns began her remarkable career when she served as Democratic election judge from 1972 to 1976. She was a precinct committeewoman from 1976 to 1992. She coordinated Macon County for Senator PAUL SIMON, was a member of the Independent Democratic Women's Organization, served as cochair of the Illinois Electoral College in 1992 and represented Illinois as an elector to President Clinton's inauguration in 1993.

Despite all of these lofty achievements, Helen's greatest joy was when her daughter won her first State Senate race. I have been honored to serve in the Illinois State Senate with Senator Penny Severns and to share the responsibility of dealing with the issues important to our many mutual constituents. With Penny and Helen Severns, the apple did not fall far from the tree.

Helen Severns is survived by her husband, Donald, her sons Donald Severns, Jr. and Rodney Severns, and her daughters Patty Severns Love and Penny Severns. She is dearly missed, but we are comforted by her memory and inspired by her legacy.

LEO BALCER INDUCTED INTO THE MICHIGAN POLKA MUSIC HALL OF FAME

HON. DICK CHRYSLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. CHRYSLER. Mr. Speaker, I rise today to commend Leo A. Balcer.

Leo A. Balcer was born in Bay City, MI, in 1932. Keeping with a family tradition of music, Leo became a first-rate accordion player. I am pleased to witness Leo Balcer become the newest member of the Michigan Polka Music Hall of Fame.

From playing with the "Melody Makers" in Bay City St. Stanislaus High School, Leo continued his musical career in the U.S. Air Force in 1952. His dance bands were fabulous entertainment, and were competitive in band contests in the United States and abroad.

After graduating from Michigan State University in 1960, Leo and his family settled in the Lansing area. Soon, Leo and his seven piece band became a cornerstone of the mid-Michigan music scene. Leo has brought joy to thousands of people as he led his band to restaurants, bars, dance clubs, and community events.

Leo's career has not been confined to the United States. Along with performing competitively in Libya while in the Air Force, Leo has performed twice in Austria at the International Polkafest.

I salute the musical accomplishments of Leo Balcer, and commend him for his years of dedicated entertainment to the people of Michigan and around the world. In the words of our Polish forefathers, "gratulacje!"

DISTRICT OF COLUMBIA ECONOMIC RECOVERY ACT OF 1996

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Ms. NORTON. Mr. Speaker, this replacement bill contains an amendment which was meant to be incorporated into H.R. 3244, the District of Columbia Economic Recovery Act of 1996. Only because of the rush to get H.R. 3244 in on April 15, 1996, income tax day, was it omitted from the bill. This amendment is not an unusual provision. As is often the case with a bill which strives for particular effects, this amendment provides a mechanism to measure those effects. The primary importance of this amendment is to provide for course corrections, if necessary. Because no bill of this kind has been attempted before, unintended consequences could arise and changes may be needed. The data the Treasury will provide will alert Congress of any need for changes or improvements in the bill based on actual experience.

THE ETHICS PROCESS

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. GOSS. Mr. Speaker, I offer these comments in response to those submitted by my dear friend, the ranking member of the Rules Committee, Mr. MOAKLEY, late last week. Mr. MOAKLEY was continuing the dialog about our ethics process and I wish to respond directly to his comments.

I am delighted to know that members of the minority are now engaging in a productive discussion about the need to review—and consider changes to—our current ethics process. As I have said for some time, it is my view—shared by many of our colleagues on both sides of the aisle—that the process is broken and needs comprehensive reform.

Of course the existence and authority of the Ethics Committee is provided for under rule X, which is the unique province of our Rules Committee. I agree that matters relating to this committee and its functions are best addressed without partisanship and with the best interests of this institution in mind. All of my efforts to date in attempting to bring about constructive change in the current process have been made in a spirit of bipartisan cooperation.

The Rules Committee included a commitment to review the ethics process, as prescribed by House rule X, in our oversight plan for the 104th Congress. I refer interested observers to the Government Reform and Oversight Committee's report from March 1995 which incorporated the oversight plans of all committees as required by rule X(2)(d). Specifically, the Subcommittee on Legislative and Budget Process' intentions with respect to the ethics process can be found on page 169 of that report, which states that "the subcommittee intends to review the mandate of the [standards] committee as established in rule X, clause 4 as amended by the Ethics Reform Act of 1989 and the manner in which its members are chosen and required to serve." That particular oversight recommendation was made as part of our committee's overall oversight agenda, and adopted by voice vote of our committee with no complaint by the minority on February 14, 1995.

Since that time I have made several efforts to proceed with what I have always believed would be a bipartisan review of the current process, followed by a bipartisan discussion of options for reform for the next Congress. I had many conversations with our subcommittee's ranking minority member, MARTIN FROST during which he expressed continued reluctance to proceed on this subject. In fact, we conducted a lengthy written correspondence as well, and in deference to him and to the apparent wishes of the Democrat leadership, I postponed our formal review several times. I did, however, proceed in my capacity as a Member of this House in late January of this year and put forward House Resolution 346, embodying my own ideas about ways in which the process should be revised.

At that time, Chairman SOLOMON released a statement that said: "We are honoring the request of the ranking minority member on the Goss subcommittee, Mr. FROST, by not proceeding with hearings at this time. But I think we have an obligation to begin to gather reactions and suggestions from Members and persons outside the Congress on these proposals so that we are prepared to proceed with formal hearings later this year."

It has always been clear to me that ethics process reform should be a bipartisan effort and should be based on input from all points of view. I don't think there is any disagreement on that point. In fact, during our committee's unprecedented hearings to take input from Members and outside witnesses about ideas for building upon the changes that were made to our rules in this Congress as we prepare for the 105th Congress, it became clear that many Members already have developed ideas about improving the ethics process.

The purpose of all of my efforts on this subject is to move the review process forward in a productive manner so that we do not find ourselves in the position where Members want change yet we are locked into the current process for another whole Congress. It is my view that there is advantage to having Members involved in that effort who have had front-line experience with our current process.

I look forward to working with all my colleagues on a bipartisan basis in addressing this issue.

HONORING THE HUNTINGTON BREAST CANCER ACTION COALITION

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. ACKERMAN. Mr. Speaker, I rise today to honor the extraordinary work of the Huntington Breast Cancer Action Coalition. This coalition has been instrumental in escalating our awareness about the high rate of breast cancer throughout the Huntington community.

The Huntington Breast Cancer Action Coalition conducts town meetings, provides breast exam workshops and distributes educational literature. Moreover, this important organization works with the Suffolk County Department of Health Services to provide yearly mammograms at St. Hughes of Lincoln Church in Huntington Station. The success of this independent, grassroots organization has been studied around the world. In fact, the Huntington organization has inspired the creation of the Tokyo Breast Cancer Action Coalition.

The coalition was created on October 12, 1992, by a group of women led by Karen Miller, who cared deeply about the high rate of breast cancer in their community and had been affected personally by this most serious condition. These women educated their families, friends, and neighbors about various prevention and early detection measures. By 1993, the organization had opened administrative offices. Today, the Huntington Breast Cancer Action Coalition has 1,500 active volunteers, each of whom is committed to putting an end to this serious condition. The organization has sent a woman's breast health survey to 68,000 households throughout Huntington. So far, they have compiled 26,000 responses in their computer data base. The coalition eventually wants to use these findings to help determine the cause of the high rate of breast cancer in Huntington. At a dinner on October 1, the coalition will honor the following members who truly demonstrate the selflessness and compassion of an entire organization.

Michael Miller, who is the husband of the founder of the coalition, has been an outstanding leader in our fight against breast cancer. His wife's struggle with breast cancer has led him to nearly a decade of outspoken advocacy. Mr. Miller has owned and operated the A-OK Appliance Co. for 33 years. He is also an active trustee of his synagogue. Michael Miller has lived happily on Long Island with his wife and three children since the 1960's.

Denise Kleinman, another Coalition activist, has been working toward the creation of a

Breast Cancer Awareness Clinic. Her lifetime of work truly represents how one individual can make such an extraordinary difference. This former New York City teacher has been involved in both her local PTA and in her synagogue. She is also a volunteer for Island Harvest which collects excess food and distributes it to the needy on Long Island. Denise Kleinman currently resides in Dix Hills with her husband and three children.

Carol Caruso has been one of the most active members of the Huntington Breast Cancer Action Coalition. Both she and her husband have donated substantial resources from their family business in order to support this worthwhile cause. Her actions demonstrate how a local business can work alongside a volunteer organization in order to further the common interest of an entire community. Carol Caruso has also been an active volunteer in the Multiple Sclerosis Foundation. She currently lives in Oyster Bay where she enjoys the company of her six grandchildren.

The Huntington Breast Cancer Coalition truly represents the ideas of compassion, community and determination. Their selfless actions will help others overcome their struggles with breast cancer. Mr. Speaker, I ask my colleagues to join me in honoring these extraordinary individuals and the outstanding work they have done for their community. The organization's dynamic leaders and dedicated volunteers should serve as a model for us all.

WE CAN NO LONGER WAIT FOR MENTAL HEALTH PARITY

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. DEFAZIO. Mr. Speaker, Americans are tired of being discriminated against by their insurance company. Mental health parity language included in the VA–HUD appropriation bill was recently endorsed by an overwhelming majority in the House. Nearly five million men, women and children suffer from a severe mental illness. Yet, only 2 percent of the mentally ill receive insurance coverage. Unfortunately, greed seems to be the driving force behind efforts to deprive so many of our friends, relatives and neighbors of this basic care.

We cannot wait any longer to subject mental health benefits to the same annual and lifetime caps as those for physical health. Currently, private insurers place lifetime limits of $1 million for cancer, heart disease, diabetes, and tuberculosis but lifetime limits on mental illness is typically set at $50,000 or less. This disparity is a straightforward solution that will provide financial relief.

A study conducted by Coopers & Lybrand indicates that mental parity legislation would save over $16 million in Medicaid costs annually. People who exhaust their current health care benefits are forced to fall back on the Federal health care system. This is certainly not my idea of responsible fiscal management of our public health care. America's insurance companies can well afford to equalize caps for both mental and medical conditions. We have waited long enough for this comprehensive, financially prudent approach to health care reform. By providing parity for mental health benefits, we are helping millions of Americans move closer toward meaningful recovery. I urge all of my colleagues to listen to the voices of concerned citizens and guarantee mental health parity for all those in need of long-term treatment.

RECOGNIZING OLYMPIC ACHIEVEMENT AND WOMEN'S ATHLETICS

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. BALDACCI. Mr. Speaker, I want to take a moment to recognize the outstanding accomplishment of a gifted athlete and special constituent of mine. Her name is Diane Madl. She is a talented field hockey player and coach. Diane is also an Olympian. At the Atlanta games, she helped the U.S. women's field hockey team to a very respectable fifth place finish. All of Maine is rightfully proud of Diane's selection for the U.S. team and of her performance at the centennial games.

Perhaps more importantly, however, Maine people are grateful for her work at the University of Maine in Orono. As an assistant field hockey coach, Diane serves as a teacher and mentor to many female athletes. Along with head coach Terry Kix, Diane is helping to build a strong athletic program; one that is instilling valuable lessons in each woman associated with it.

Diane's commitment to excellence in the Olympics and at the University of Maine, as well as her dedication to female athletes and belief in all the good that athletes can do is deserving of our recognition, and a heartfelt thank you.

CONGRESS MUST PRIORITIZE STUDENT FINANCIAL AID AND EDUCATION PROGRAMS

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. THOMPSON. Mr. Speaker, I am concerned that as the budget process for fiscal year 1997 comes to a close, whether through an omnibus appropriations bill or by normal appropriations bills, this Congress may not sufficiently prioritize student financial aid and education programs. As we all search to balance the budget, let us not forget the heavy burden that our educational institutions have for preparing today's youth to lead America in the next century.

I understand that cuts will inevitably be made, and many of the President's funding requests will not be met as we wind our way through these budget debates. However, to those Members who feel it is necessary to balance the budget by eliminating Goals 2000, Perkins loans, and Healthy Start while also slashing funding for Pell grants, teacher training programs, and Safe and Drug-Free Schools, I must ask that you reexamine your values.

For example, consider the words that Tomika Harris of Fayette, MI wrote as she applied for a summer scholarship for needy students at the University of Southern Mississippi. In response to the question, "What impact will the loss of financial aid have on your educational goals and what does financial aid mean to you?", Ms. Harris gave us an insight into how important financial aid and a higher education are to today's youth:

> The loss of financial aid will have a dramatic impact on not only me, but also my peers. In my community, there is mostly lower middle class and poverty stricken people. However, most of the kids want to continue their education, but because we have low employment rates, we depend on financial aid terribly to attend a higher education institution. If Congress takes financial aid away, that will be more students on the streets probably selling drugs instead of learning in a classroom. To me, financial aid is not money to go to college, but an opportunity for success.

Perkins loans, Pell grants, Goals 2000, Healthy Start and many of these other programs serve as primary vehicles to lift by State out of the poverty that has consumed generations of bright, young minds. Even now, I can hear the voices of the mothers and fathers I see each weekend in Mississippi telling me that they know their child will have a chance to end the cycle of broken dreams if he or she can only get a Head Start. Now, just as years of hard work by teachers and public officials have helped Mississippi and this Nation to finally begin throwing off the heavy shrouds of poverty, do not send us back into an abyss of shattered lives and undereducated minds.

Each of us has a duty as elected official to heed these voices. Listen to them, they are the children of today hoping for tomorrow.

TRIBUTE TO THE TOWN OF NEW BEDFORD

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KLINK. Mr. Speaker, it is with great pleasure that I rise today to recognize the town of New Bedford on the occasion of its 200th anniversary celebration.

New Bedford, located in northern Lawrence County, was settled in 1796 by James, Thomas, and Andrew Black. The Black family established a 400-acre tract which today encompasses the entire town of New Bedford. The town itself was named for Dr. Samuel Bedford, whose Bedford claim included portions of land in Mercer and Lawrence Counties.

The original town, designed by Daniel Inbody, was laid out in 1818, and consisted of 89 lots. In 1827, a post office was established and other early enterprises included a grist mill, pottery, tavern, tannery, creamery, and distillery. The first school in the area was situated at Hopewell in the old building erected by the Presbyterian congregation. The town of

New Bedford was a well-known stopping place for stage and mail coaches traveling between Mercer and Youngstown, OH.

A beautiful, rural area, New Bedford lies hundreds of feet above the water level of the Shenango River. This close-knit community is home to some 300 residents, many of whom can trace their roots of the founding families of the town. Such early entrepreneurial spirit is today reflected in the pride, patriotism, and virtues of the citizens of this outstanding town. It is a pleasure and an honor to congratulate them on the occasion of this historic celebration.

PRESIDENTIAL MEDAL OF FREEDOM TO MORRIS UDALL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. MILLER of California. Mr. Speaker, two weeks ago, President Bill Clinton awarded the Presidential Medal of Freedom to our former colleague, and my good friend, Morris Udall. I can not think of a more deserving recipient of our nation's highest civilian award.

Mo represented the 2nd District of Arizona in Congress for 30 years, coming in as a young upstart bent on dismantling the old seniority system and leaving as one of our most revered senior Members.

Mo served as Chairman of the House Interior and Insular Affairs Committee for fourteen years. He was instrumental in leading the way for the enactment of landmark legislation protecting the environment as well as the rights of American Indians and those living in the U.S. Territories.

Some of the laws which now stand as a testament to Chairman Udall are: the Alaska Lands Act, the 1984 Wilderness Act, the 1982 Nuclear Waste Management Act, the American Indian Religious Freedom Act, the Indian Child Welfare Act, the Alcohol and Substance Abuse Prevention and Treatment Act, the Native American Graves Protection and Repatriation Act of 1989, the National Trails System Improvements Act of 1988, the Wild and Scenic Rivers Act of 1968, the Federal Land Policy and Management Act of 1976, the Archaeological Resources Protection Act of 1979, the Surface Mining Control and Reclamation Act, and the Compact of Free Association with the Trust Territories of the Pacific.

Mr. Speaker, Mo Udall was so successful in getting legislation passed because he was a master at building coalitions out of diverse interests. I am inspired each time I sit in the Morris K. Udall hearing room of the Longworth House Office Building where Mo served and presided for three decades. Mo's portrait looking down at us from its perch over the fireplace reminds me of the fairness, humor, and dignity with which he ran the committee. The issues before the Interior (now Resources) Committee have always been contentious. But Mo Udall was able to bring us all together to make the important decisions on how best to protect our precious natural resources for future generations.

In 1976 Mo ran for President of the United States. Many say his incredible wit and unabashed kindness got in his way. He simply would not attack his opponents. After coming in a close second in numerous primary battles, Mo stepped back and refocused on the environment. He also put his carefully collected notes together and authored Too Funny to Be President, a compilation of some of his favorite campaign stories and political humor. I think he wrote this book so he could just hand it out each time one of us came up to him and ask him to tell a story just one more time so we could get it straight and then use it ourselves.

Mo is a World War II veteran and played professional basketball for the Denver Nuggets; he is also an attorney and private pilot. Mo lost one of his eyes in a childhood accident. His basketball prowess was so unaffected by this disability that one sport reporter claimed the false eye to be a myth.

Mo's stories are legendary. He made us laugh, he made us think, and he made this Nation a better place for our children and our children's children. As we get caught up in this contentiousness and tumult of this Congress, we should ponder one of Mo Udall's most oft repeated lines: "Oh Lord, may you help me today to utter words which are soft and tender—for tomorrow I may have to eat them."

Mr. Speaker, today our friend Mo Udall remains in a nursing home not far from here. Parkinson's Disease has rendered this excellent communicator unable to regale us with his wisdom and his wit. Yet his good deeds here will be long remembered, just as they so appropriately earned him the Medal of Freedom.

Congratulations, Mo, on receiving the Presidential Medal of Freedom.

DEFENSE BREAKS COMMITMENTS TO GUAM

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. UNDERWOOD. Mr. Speaker, in the past four weeks, Guam has shown once again its immense value to the projection of our national interests in the western Pacific. Guam is the base that launched the B-52s against Iraq. Guam is now the temporary home for over 2100 Kurdish refugees who were evacuated from Iraq. And Guam may be called on again in the coming days to do even more to help with the Kurdish refugees.

Guam is the reliable partner for United States interests in Asia, indeed the world. But recent actions of the Department of Defense threaten to undermine this partnership, and to determine the good will between the people of Guam and the military.

Today DoD sent a letter to the Chairman of the House Committee on Resources objecting to certain provisions of my bill to return excess federal land to the people of Guam. The basis of the DoD objections cause us to wonder if any progress has been made in Guam's efforts to return excess lands over the past twenty five years.

In 1993 and again in 1994, I hosted two Guam Land Conferences that DoD participated in. The first land conference, held on Guam, allowed our people to make a direct plea for land no longer needed by DoD. The second conference built on the initial good will as we discussed actions to be taken to return land.

It used to be our common ground to agree that DoD should in fact give up land it no longer needs. In preparing for the Guam Land Conferences, DoD prepared a comprehensive study detailing its needs for the future—a study drafted by operational commanders in the Pacific and on Guam. Now we learn today that past assurances by a whole array of military officials over the past twenty five years are no longer valid. Now we learn that DoD does not know what its land needs are, and in fact, would rater not return land to the people of Guam, preferring instead to give its excess holdings to the Fish and Wildlife Service.

It is impossible for Guam to make a case for excess lands if we do not know what DoD's needs are. It is troubling if DoD does not know itself what it needs are. But it is even more ridiculous, if just for the sake of the Fish and Wildlife's interests, DoD would now repudiate its own report issued just seventeen months ago by the operational commands where releasable lands were listed in great detail acre by acre.

We are told today that DoD prefers to give land to the Fish and Wildlife Service just so that it may take these lands back at some indeterminate point in the future for some unknown contingency.

Yet, I would point out that all the operational commanders who gave their input to the 1994 Guam Land Use Plan did in fact consider all their needs for any credible contingency. It is now amazing to me that the Department of Defense has surrendered its military planning functions to the U.S. Fish and Wildlife Service.

I want to enter into the record the three taskings that the Guam Land Use Plan addressed:

(1) Review the requirements for military land holdings based on foreseeable mission taskings and force levels;

(2) Develop a comprehensive plan for all DoD land requirements on Guam which considers combined service use of property where feasible; and

(3) Identify opportunities for functional consolidations and joint use arrangements, and address environmental considerations that affect land use.

Nowhere in the Guam Land Use Plan is there any mention of giving excess lands to the Fish and Wildlife Service for some unknown contingency. But now that Congress is considering legislation to give the people of Guam the first right of refusal for any excess Federal land, DoD suddenly remembers that this is what they want to do with excess lands.

This is wrong. This is unfair to the people of Guam who have been the most accommodating community for the needs of our national security.

We cannot make progress on land issues on Guam unless we deal with the issues in a forthright and open manner. We cannot accept double dealing and broken promises. We cannot let a special interest, the environmentalists, and their narrow agenda define and not influence the entire relationship between the people of Guam and the military bases.

That is what happened today in the DoD letter to Congress. I hope that those who are serious about solving land issues to ensure the future good will of the people of Guam to the military presence on our island will work with us to undo the damage done by this DoD action. After this latest crisis with Iraq passes, Guam will be called upon again to serve the national security interest. If we want to have a reliable partner in Guam, we have to work to return unneeded land to the people of Guam.

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, September 24, 1996.

Hon. DON YOUNG,
Chairman, Committee on Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to your request, the Department of Defense provides the following views on H.R. 3501, the "Guam Land Return Act."

The Department of Defense opposes enactment of Section 2 of H.R. 3501. Section 2 would give the Government of Guam a priority over Federal agencies with respect to the acquisition of Federal real property declared by one agency to be excess to that agency's needs. Specifically, Section 2 would amend the Organic Act of Guam to require the Administrator of GSA to transfer to the Government of Guam, at no cost, all Federal real property on Guam declared excess by any Federal agency, notwithstanding the possibility that another Federal agency may have a demonstrable need for that property. In this way, the proposed bill would, in effect, trump the existing GSA property disposal process.

Our principal objection to Section 2 is that it represents a piecemeal approach to the resolution of issues currently being discussed with the Guamanians in the context of a draft Guam Commonwealth Act. The Guamanians, through Mr. John Garamendi, Deputy Secretary of the Interior and the Administration's Special Representative for the Guam Commonwealth negotiations, have proposed a draft Guam Commonwealth Act for consideration by interested Federal agencies. (An earlier version of this draft was introduced in the 104th Congress as H.R. 1056, the "Guam Commonwealth Act"; the draft under consideration in these negotiations has evolved significantly from that which remains before Congress.) The Department of Defense has been actively engaged in discussions and is working with all concerned parties to develop a mutually satisfactory position on all issues presented in the draft Guam Commonwealth Act, including those concurrently presented by Section 2 of this bill. Because the disposition of excess Federal lands on Guam is being addressed in the context of negotiations on the draft Guam Commonwealth Act, and because resolution of this issue is closely linked to other land issues presented by the Guam Commonwealth Act, the Department of Defense believes Congressional action on Section 2 of H.R. 3501 is not appropriate at this time. We recommend instead that this issue be considered only in the context of the more comprehensive Guam Commonwealth discussions. The Department of Defense is committed to making every reasonable effort to reach a mutually satisfactory resolution of all the issues presented by the draft Guam Commonwealth Act, and to that end will continue to participate cooperatively in interagency discussions of that draft Act.

In the event Congress elects to consider H.R. 3501 outside of the Guam Commonwealth discussions, the Department of Defense has several more specific concerns with enactment of Section 2 as currently drafted.

The Department of Defense currently relies on the flexibility inherent in the GSA land disposal process to ensure the viability of current and future missions. The existing process allows the Department of Defense to transfer lands not presently being actively managed for core needs (e.g., certain safety and buffer zones) to another Federal agency to further that agency's mission, yet retain the ability both to protect continuing operations on retained lands and, under certain limited circumstances, obtain access to the transferred lands to meet national defense contingencies. This flexibility is critically important to the Department of Defense and the nation. While the Department is quite willing to discuss with Guam alternative ways of providing this needed flexibility, the Department believes these discussions would more profitably take place in the context of the overall Guam Commonwealth proposal.

In addition, Section 2 is unclear with respect to its effect on existing Federal environmental laws. As currently drafted, it is difficult to reconcile the requirement of Section 2 for the immediate transfer to Guam of all excess federal lands with the requirement of Section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) that all necessary environmental cleanup actions be in place and operating successfully before property may be transferred from Federal ownership. In order to meet the requirements of Section 120(h)(3) of CERCLA, the Government of Guam must be prepared to wait until all necessary cleanup actions have been taken (which may—depending on the complexity of the situation, the risk presented, and the availability of resources—take several years).

In summary, the Department of Defense opposes enactment of Section 2 of H.R. 3501 as currently drafted. While we prefer resolving this issue in the context of the Guam commonwealth discussions, if Congress elects to consider H.R. 3501 at this time, we request that it consider the attached redrafting of that bill. I am forwarding a letter expressing similar views on S. 1804 (which contains language identical to Section 2 of H.R. 3501) to Senator Murkowski, Chairman of the Senate Energy and National Resources Committee and Senator McCain, Chairman of the Senate Armed Services Committee, Readiness Subcommittee.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presentation of these views for the consideration of the Committee.

Sincerely,

JUDITH A. MILLER.

Enclosure.

GUAM LAND USE PLAN UPDATE

The island of Guam is strategically located at the boundary between the Pacific Ocean and Philippine Sea, and has been an integral part of the U.S. military's base support complex since World War II. Guam is a major logistic, communication, surveillance, and weather center in the Western Pacific, and is becoming more important as a training area for units assigned to the island, as well as transient units.

The intent of the Guam Land Use Plan Update (GLUP 94) is to:

Review the requirements for military land holdings based on foreseeable mission taskings and force levels.

Develop a comprehensive plan for all DOD land requirements on Guam which considers combined service use of property where feasible.

Identify opportunities for functional consolidations and joint use arrangements, and address environmental considerations that affect land use.

The study area for GLUP 94 includes all land currently owned by the Department of Defense (DOD) on Guam. This amounts to a total of approximately 44,800 acres of land. Of this, about 24,500 acres are owned by the Navy and 20,300 acres are owned by the Air Force. The total DOD land holdings constitute approximately 33 percent of the total land area of Guam.

Projected base loading requirements provided the major focus for GLUP 94. The Air Force's current personnel loading is 2,500 persons (PN). No personnel loading changes are anticipated in the near- or long-term, although there is a need to maintain an adequate footprint on Guam to accommodate the Air Force's contingency plan for the Pacific Region. The Navy's current authorized personnel loading is 7,700 PN. Reductions in the near-term are expected to occur due to the closure of Naval Air Station (NAS) Agana and the transfer of supply ship operations from military control to the Military Sealift Command (MSC). These actions would result in an estimated loading of 5,600 PN. Based on the recent decision to temporarily relocate the VQ–1 and VQ–5 squadrons to CONUS, this figure will decrease to approximately 4,600 PN. Neither the Air Force nor the Navy have long-term land requirements to accommodate a potential rollback scenario.

[Note: During the final stages of the preparation of this report, potential changes to baseloading on Guam were announced as part of the Base Realignment and Closure (BRAC) process for 1995. These proposed changes were not incorporated in this report since the final decisions for BRAC 95 will not be final until Fall of this year.]

DOD land requirements were addressed through analyses of various functional areas. This effort was guided by an overall land use concept which recommended the consolidation of military activities in the northern and southern sectors of the island. Such a concept would create more efficient operations and lower operational costs. The result of the functional analyses was the identification of lands which are currently developed and required for military use, in addition to undeveloped areas that are impacted by DOD missions (i.e., training areas, explosive safety zones, electromagnetic interference/hazard zones, and aircraft safety zones). The process also identified areas not required for DOD mission requirements.

An overview of land release recommendations is presented in Figure ES–1. Recommendations of this study propose the release or potential release of an estimated 8,207 acres. This includes 3,670 acres of land owned by the Air Force, and 4,537 acres owned by the Navy. When combined with 3,200 acres previously identified as excess, the DOD footprint on Guam is projected to decrease by about one fourth.

Several major steps must be completed prior to final disposal of the property. First, plant account holding activities need to submit reports of excess, environmental certification forms and McKinney Act checklists to the Pacific Division, Naval Facilities Engineering Command (PACNAVFACENGCOM) via their chain of command to the major claimant level. Environmental baseline surveys may be prepared to complete the environmental certification forms. The next step is to request Washington, D.C. approvals for disposal actions. Then, legal property descriptions and easement boundaries must be established. The above tasks may require one and two years to complete, respectively. The initial environmental baseline surveys will cost approximately $520,000, and could be higher if follow-up studies are required. The cost of preparing property descriptions will be approximately $300,000.

Following the environmental baseline surveys, environmental mitigation studies (including clean-up analyses, cultural resource surveys, etc.) would be conducted in order to determine necessary environmental mitigation actions and timeframe for completion. It should be noted that property disposal actions for contaminated areas must be deferred until environmental mitigation studies and clean up actions are completed. For example, any military land listed on the National Priority List (NPL), which includes all land owned by the Air Force on Guam, must be first certified clean by the Administrator of the U.S. Environmental Protection Agency (EPA).

TRIBUTE TO JOHN LOCKHART, LEGISLATIVE ADVOCATE FOR THE SAN DIEGO COUNTY OFFICE OF EDUCATION

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. FILNER. Mr. Speaker, I rise today to commemorate the retirement of John Lockhart, who later this month will complete a distinguished career in education spanning nearly 30 years, including the last 20 as the legislative advocate for the San Diego County Office of Education.

As legislative advocate, John Lockhart has been charged with a multitude of difficult tasks: following education legislation both in the California Legislature and in Congress; working closely with local, State, and Federal officials in San Diego County; coordinating with superintendents, trustees, and staff of the San Diego County School District; and organizing an endless number of programs, briefings, and workshops.

For all of these responsibilities, John Lockhart has had one goal: to improve the education of elementary school students in San Diego with leadership and service. As a former member of the San Diego School Board, I can attest to the fact that John Lockhart has achieved this goal year after year. The entire San Diego County educational community will remember John for his efforts to improve the educational quality of our schools.

John began his career in 1957 as a science education researcher for the National Science Foundation. He next served as executive assistant to the chief lobbyist at the National Education Association.

Beginning in 1966 he was an educational systems specialist at Litton Educational Publishing in Washington, DC. He later served as vice president of the Taber Management Co. in Washington, DC, where he helped education clients with membership, funding, and program promotion, and was involved in the marketing of multimedia materials in applied behavioral sciences.

John has also worked for the Washington State Department of Public Instruction and the Colorado Education Association.

Since his arrival to San Diego in 1977, John has become a highly respected member of the Association of California School Administrators. His contributions as legislative advocate for education in San Diego County will forever be remembered and appreciated. I ask all residents of San Diego County to join me in saying "well done" to a true leader and advocate for education.

40TH ORDINATION ANNIVERSARY OF FATHER STANLEY CZARNOTA

HON. DICK CHRYSLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. CHRYSLER. Mr. Speaker, I rise today to commend Father Stanley Czarnota.

Father Stanley Czarnota was born in Wolka, Poland, in January of 1933 in a small village located along the largest river in Poland. He is the youngest child of Frank and Helen, and he has two sisters, Mary and Jessica.

Father Czarnota graduated from high school in 1951 and then attended Catholic Lubin University. In 1956, he received his degree in theology and was ordained a priest on December 22, 1956. He worked in Poland as an assistant pastor and then pastor at Borowicz, located near the Russian border.

Relatives from both Fr. Czarnota's mother's and father's family reside in the United States. His father spent 10 years in Michigan before returning to Poland. In 1976, Father Czarnota's family came to America and fell in love with this country. After receiving permission from his bishop in Poland, Father Czarnota applied for permanent residence in the United States. He was accepted in the Lansing dioceses and began working in this area. On August 6, 1981, he became a citizen of the United States of America. He described the event as "an unforgettable day, a very special day in my life, a day I will never forget and will always treasure."

Father Czarnota has always stated that he had the marvelous opportunity to repay this country for adopting him by accepting a commission in the U.S. Navy on May 15, 1988. On September 29, 1996, Father Czarnota will celebrate his 40th ordination anniversary as a priest.

A former commanding officer in the Navy stated, "Father Stanley no matter where he works has left a very important message with many people. No matter what task, and there are many in various areas, his work with the youth or older community have left a healthy and lasting impression of encouragement and always going out of his way to improve or be helpful with the individuals when needed."

Father Stanley Czarnota is well known in Flint, Ann Arbor, Detroit and Lansing for his work with the refugees from Poland. His work has been fulfilled when he saw newcomers pursue their dreams in America and succeed in many fields of work, not only for themselves, but also for their families.

His motto is quite simple: "Don't worry, be happy."

THE MANAGED CARE ORIENTATION AND MEDICAL PROFILE ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. STARK. Mr. Speaker, I am pleased to introduce "The Managed Care Orientation and Medical Profile Act."

For the past decade, the Medicare and Medicaid programs have been joining the national movement to managed care. Medicare enrollment in capitated Health Maintenance Organizations (HMOs) jumped from 441,000 members in 1985 to almost 3.5 million beneficiaries as of March 1996. Medicaid enrollment in managed care has been more dramatic as States have received Federal waivers to enroll almost all of their Medicaid recipients in HMOs.

The growth in managed care is largely due to the aggressive marketing practices of managed care plans. HMOs place financial incentives on door-to-door agents to enroll as many new members as the plans can handle. Medicaid HMOs even stake out food stamp offices targeting would-be enrollees with free gifts and high pressure tactics.

Unfortunately, these practices put some of our most vulnerable populations at severe risk. Consumer advocates have reported that Medicare and Medicaid beneficiaries are often enrolled without understanding what they are signing. Some unscrupulous health plans even prey on non-English speakers or the mentally handicapped. As a result, many new enrollees are left clueless as to how their health plan works or how to access care while the HMOs begin receiving payments from the government for care they are not providing.

Once an individual is enrolled, Medicare sends the HMO somewhere between $300 and $700 per month (depending on the region of the nation) to maintain the health of that person and to treat them when they are sick. In many cases—perhaps most cases—Medicare can spend thousands and thousands of dollars on behalf of an enrollee before that person ever visits the HMO. In the meantime, the health of the enrollee can actually be deteriorating and more serious problems can be developing.

The legislation I propose today address this problem by making HMOs more accountable for the lives they enroll. In order to enroll new patients, HMOs would have to fulfill the following requirements before payment begins:

First, conduct an orientation meeting with the new enrollees introducing them to managed care and clarifying where to access care, which benefits are covered, and all payment structures including deductibles and copayments.

Second, conduct a preventive screening as defined by the Secretary and an immunization assessment for children.

Managed care claims to be effective because it works with the patient to "manage" health and prevent illness. When the government is paying the bill, we ought to demand that plans live up to this promise by mandating the orientation and medical profile before their payment begins. In the medical profiling encounter, the HMO can begin to work with the enrollee on issues such as diabetes, lack of immunization, obesity, smoking, alcoholism, pre-cancerous skin conditions, high blood pressure—the whole range of potential health problems that a good HMO should know about their enrollees and be working to improve.

The August 1996 issue of New York's United Hospital Fund newsletter "PolicyLine" shows why the idea of requiring a meeting and work-up before we start paying HMOs makes a great deal of sense:

> Even if specifically required to assume certain public health responsibilities, however, managed care plans may not yet have the experience or systems to fulfill their responsibilities, as experienced in Wisconsin demonstrates. Five years into its managed care initiative, Milwaukee experienced a measles epidemic. According to Paul Nannis, Milwaukee Commissioner of Health, the city had 1,100 cases of measles in 1990, mostly among disadvantaged preschool-aged children. Eighty-three percent of these children were in HMOs; three of them died. Subsequent analysis revealed that of all the preschoolers enrolled in the HMOs, two-thirds were not appropriately immunized. In the wake of this crisis, the department of health provided 20,000 shots in a ten-week period, 55 percent of them to children enrolled in HMOs.
>
> In analyzing the events that led to the crisis, Mr. Nannis said that the independent practice associations that were operating as managed care organizations had not fundamentally altered the way they delivered primary care services. Simply renaming the existing system managed care and changing the reimbursement process for physicians who continue to practice medicine the same way they always have done does not magically manage anybody's care, said Mr. Nannis.

While the Milwaukee example refers to a Medicaid managed care type program, I believe its lessons apply more broadly. As the article continues, Mr. Nannis is quoted as saying

> * * * public health agencies [read: HCFA] and HMOs need to be at the same table before initiatives start. Managed care plans should be expected to provide uniform data on enrollees including prevalence and cause of mortality, morbidity, and disability; timing and frequency of immunizations; and effectiveness of interventions.

HMOs and managed care can be a wonderful thing for the health of the American people—but only if people know how to use their HMO and only if their HMO works with them to prevent the minor problems of today from becoming the medical catastrophes of tomorrow.

SENATE—*Wednesday, September 25, 1996*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. We have a guest Chaplain this morning, the Reverend George W. Evans, Jr., of the Redeemer Lutheran Church in McLean, VA.

We are pleased to have you with us.

PRAYER

The guest Chaplain, the Reverend Dr. George W. Evans, Jr., the Redeemer Lutheran Church, McLean, VA, offered the following prayer:

Let us pray. Holy Father, ever mindful of us, ever with us, of that we have been assured. It is true. We spend our days in Your sight. So teach us and so guide us that we may be mindful of Your presence.

In this honored Chamber for debate and decision, where the weight of government rests on the minds and hearts of these chosen women and men who contend here in the name of all our people, cause Your presence to mold what occurs. Intrude, O God, lest these Senators carrying our Nation's burdens and responsibilities lose Your voice amid all the voices that plead for their attention. If Your voice is still and small, give them quiet hearts, peace-filled minds, and receptive souls so they may discern Your presence and be drawn to Your ways. Never are they apart from You. It is urgent that they have the strength of this knowledge. Likewise, protect their homes and loved ones with the security of Your presence. Let no press of events, no calendar, no clamor for attention, no tumult of the day detract from the plain task of pursuing what You call needful, right, and just.

O God, blessed are You. O God, bless these Senators in this day's labors and through them the people of our land. In Your name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Mr. President, I yield to the Senator from North Dakota. The guest Chaplain this morning is from his church.

THE GUEST CHAPLAIN

Mr. DORGAN. Mr. President, I appreciate the courtesy of the Senator from Mississippi. The prayer this morning was offered by the Reverend George Evans, who is pastor at Redeemer Lutheran Church in McLean, VA.

When I remain in Washington, DC, on the weekends, I attend Pastor Evans' church. He is truly an inspiring Christian leader. He comes from Pennsylvania. He was a Chaplain in the Marine Corps for this country. Has served America and now serves his Christian duties in McLean, VA, at Redeemer Lutheran Church. I am very pleased he was able to be with us here in the U.S. Senate today to offer the opening prayer. Mr. President, I yield the floor.

NOTICE

A final issue of the Congressional Record for the 104th Congress will be published on October 21, 1996, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–220 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m., through October 21. The final issue will be dated October 21, 1996 and will be delivered on October 23.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event, that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record at Reporters."

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Congressional Printing Management Division, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

WILLIAM M. THOMAS, *Chairman.*

Mr. LOTT addressed the Chair.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, this morning, to accommodate a number of requests by Senators, there will be a period for morning business until the hour of 12 noon. Following morning business, the Senate will proceed to executive session in order to consider the International Natural Rubber Treaty Agreement under the parameters of a previous unanimous-consent agreement. I understand that a rollcall vote will not be necessary on that treaty and that some of the debate time probably will be yielded back.

Following the disposition of that treaty, the Senate may be asked to turn to consideration of any of the following matters: the pipeline safety bill, with only one nongermane issue remaining unresolved; the work force development conference report—we attempted to reach a time agreement on that one, but have been unsuccessful; we will keep working on that—the debate on the veto message to accompany the partial-birth abortion bill override, the NIH reauthorization bill, or any other items that can be cleared for action.

The Senate may also be asked to begin consideration of the continuing resolution, if an agreement can be reached as to how to proceed on that. I continue to say that I would be glad to begin the debate and allow amendments to be offered as long as there is some order to it as to what we can expect to happen and when it would be completed. But just to start down the trail without any end in sight, without any certainty as to how we proceed, I do not believe is in the best interest of the Senate. We will continue to work on that. I hope we will be able to begin that appropriations bill today.

We do have the end of the fiscal year next week, on Monday as a matter of fact. It is imperative that we finish the work on that bill as quickly as possible.

I note that there are very important negotiations underway now to wrap up, not only the amounts in that continuing resolution, but also language that would be included. We are hoping we will be able to take up the illegal immigration bill also in some form before we go out for the year.

Senators should be alerted that rollcall votes are expected to occur throughout the day, but we do not have any agreed-to time right now as to when that might happen.

One final cautionary note. I do not feel a sense of urgency yet. I think Senators are still feeling, well, we can agree later. Time is running out. Example A is NIH reauthorization. Everybody says they want it, but we continue to not be able to bring it up. Today is the last day for NIH. If we do not get an agreement, I am going to call it up, somebody is going to have to come over here and object, and a very, very important piece of legislation that everybody knows we should pass will be gone for the year, because beyond today—Thursday, Friday, Saturday, Sunday, Monday—we are going to be involved in the partial-birth abortion ban debate and a vote tomorrow, and we are going to be involved in the continuing resolution, the DOD appropriations conference report, and the illegal immigration reform bill. There will not be any time for any other chitchat, even 1 hour on these other issues.

So for those of you who are interested in parks, those of you interested in NIH, those of you who think pipeline safety is something we should do—by the way, that legislation needs to be done before the end of the month also or we are going to have a lot of expiring laws on our hands. I hope the Senators will get serious. I have my doubt that they are serious. But I also have my limits in what I can do working with the Democratic leader because we have people coming and saying, "Well, can we just have 6 hours? 4 hours? 1 hour?" They are all gone. Today is the day. Do it today or it will be gone for the year.

I yield the floor, Mr. President.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. GREGG). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak for not to exceed 5 minutes each.

Senator THOMAS from Wyoming is recognized for a period of 30 minutes.

Mr. THOMAS. Thank you, Mr. President.

ELECTION TIME IS DECISION TIME

Mr. THOMAS. Mr. President, several of us want to continue our discussions of the upcoming election, discussions that have to do with the issues that are involved. It is election time. Of course, as evidenced by what the leader said today, the time is short. It is election time, and it is decision time. This is a government of the people, by the people, and for the people. Therefore, there is a responsibility for all of us, as voters, of course, to participate in the election, to participate as informed voters.

If we are to have self-government, then the decisions and the direction that this country takes must be the result of the composite wisdom of voters. That time has arrived.

It seems almost a paradox that in a time when technically we have more information available to us than we have ever had in history—imagine 100 years ago how much we knew in Wyoming about what was going on in Washington. Very little. If we did, it was much after the event had happened. Now we know instantly, of course. The paradox is that it seems to me it is more difficult for us as voters now to kind of weed out among all the stuff that is out there as to what the real issues are. Whether it is the fault of the media, whether it is the idea of the media picking out the emotional things, whether it is the idea of professional campaign planners who spin and intentionally blur the issues, whether it is a Congress and an administration that seek to make the choices less clear, I do not know. Perhaps it is a combination of each of those.

Nevertheless, you and I have a responsibility to choose. On my way back Sunday, I had a book I have been intending to read about the Constitution. I was struck by the idea that the Constitution, and more particularly the Bill of Rights, was designed exclusively to limit the powers of Government. You do not find in the Bill of Rights, the Government will do this, the Government shall do this, the Government shall provide that. It says, the Government "shall not."

The great concern of our forefathers was to make sure that we limit the central Government, limit the power of central Government. Still, it seems to me, in our own way, in our own judgment, that is the choice we make. How do we see the Government? What do we think the role of the Federal Government is? Is it to provide all the little nice things we would like to have happen personally in our lives? Every day is a new program for something that is probably pretty nice. Is that the role? Or is the role more one of insuring freedom, insuring opportunity, insuring an environment in which the private sector can function, providing for strong local government, State and county?

These are the decisions, and I know my prejudices are pretty well arranged. I seek to have a Federal Government that is the protector of those things, rather than a provider of those things. Obviously, there are things that are appropriate for the Federal Government to do—in interstate commerce, in defense and those kind of things. Those are the decisions that we will make. I hope each of us is prepared to do that.

I happen to think we have begun to do some of those things in the last 2 years in this Congress, and, in fact, this has been one of the most effective Congresses we have had for a very long time. Unfortunately, our minority leader does not agree with that. He was quoted as saying this has not been a productive Congress. I am sorry to hear him say that. I do not agree. We will talk about a number of things that have been done, things I believe move us more into the direction of a smaller Federal Government, a less expensive Federal Government, a less regulated society.

Lower taxes: In the 104th Congress, the Republicans passed a $245 billion tax cut, including a $500 child tax credit to move toward allowing families to spend their own money, to allow families to provide for their children. Unfortunately, it was vetoed by the President.

Lower spending: This Congress has cut spending $9.3 billion in 1995, and $23 billion in 1996 was eliminated from 270 programs. That is good. I think that is a real movement. The administration claims to have reduced the size of Government. Indeed they have—they claim, 200,000. The fact is that most was from the base closures, civilian employees of defense; the other was the termination of the savings and loan. Nevertheless, it reduced employees, and that is good.

Balanced budget: How many times before the last 2 years did you hear people talking about balancing the budget? Not very much. It has not been balanced in 40 years. Now, suddenly, everyone is for it. The discussion is not, do you balance the budget; the discussion is, how do you do that? Unfortunately, the balanced budget amendment to the Constitution was defeated here. Nevertheless, we now are on the road to a balanced budget.

Ending welfare as we know it: We have done that, something that has not been done for a very long time, providing the States more opportunity to do something about the entitlement aspect of welfare. Everybody wants to help people who need help. The question is, how do we help them to help themselves? That is what we have sought to do. It took three times to get it passed. Nevertheless, it is a success.

Market-based health reform: Portability, availability, limited medical savings account, the end to preexisting condition exclusions, combat fraud and waste in health care. A success.

Here is an interesting one, ensuring access to higher education. This Congress increased student loan volume by 50 percent, from $24 billion to $36 billion in 2002. Unfortunately, it was vetoed as part of the balanced budget amendment.

Farm programs: Many of us have been involved in farm programs for a very long time. Most everyone has said we need to move toward market orientation, toward the marketplace. Finally, we have done that over a period of 7 years. Agriculture is moving toward a market-oriented economy. It needs to be done. Finally, it is done.

We helped to end lawsuit abuse. Securities litigation was passed. Unfortunately, it was vetoed. Telecommunications was passed. A deregulation of telecommunications which give us some of the kind of new opportunities to communicate that we have never had.

Unfunded mandates is something that local governments have been talking about for a very long time. Unfunded mandates reforms were passed this time.

Regulatory reform: Unfortunately, the real broad one was killed. I think it should have been passed. A lesser one was passed.

Mr. President, we have done a lot of things this time. Line-item veto: A line-item veto in 40 years has not been done. This Congress passed a line-item veto.

Congressional accountability: People in this place, now, have to live under the same rules in their offices and in their conduct, the same as everybody else, in the laws they pass for others.

Reduce congressional funding, small business regulatory reform, gift ban.

Mr. President, I think this has been an extremely successful Congress. The choice with respect to the election is, do we want to continue in this direction, or do we want to go back to where we have been for 40 years in continuing to grow with the kind of Lyndon Johnson programs we have had? That is the choice. It is really the choice.

I think, in addition, and perhaps as important as anything, this Congress has changed the culture of Washington. For the first time, I think, in a very long time—certainly for the first time since I have been here in 6 years—the Congress really took a look at programs that exist and said, do they need to continue to exist? If so, can they be done more efficiently? Could they be done more efficiently by the States or local government? These are the kind of things that need to be examined constantly.

I have a bill that I hope gets consideration next year which would give us a biannual budget so we do not each year spend all of our time on appropriations bills. As you can see by the leader's comments this morning, we are still working on them, and we will not get them done at all this year. We do that every year. I hope, as most States do, we can go to a biannual budget. It is better for agencies. Then we can spend the last year with oversight, looking at programs, to see if indeed this is a better way to do it.

There are a great many things we can do, a great many things we have done. Mr. President, my whole point is, in this election, we make some choices. It is not always easy. It is not always easy to determine where the choices lie, of course. We see all the advertisements, and sometimes you wonder where they are. But I think we have a responsibility to ask, to seek, to point out where these things are. Where do you stand on the balanced budget amendment? Where do you stand on less Government rather than more? Where do you stand on less taxes rather than more? I think those are the basic issues that you and I need to decide. I urge we all do that.

There are other issues, of course. The issue of character, I think, is one. I think we have to ask ourselves, what do we expect of leaders in terms of character? As we look back, character has been an important factor, has been a key factor, and continues to be.

Mr. President, we have some choices. The choices, frankly, are rather clear. We can go back where we were or we can continue the kinds of things that have been done in this Congress in the last 2 years, and it does need an opportunity to continue. You can't change 40 years of history and turn things around in 2 years. Despite the difficulties, it is my view that this Congress has done exceptionally well and will go down in history as one who has sought to turn the direction of this country. I hope that we continue to do that.

I yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

THE POSITIVE ACCOMPLISHMENTS OF CONGRESS

Mr. INHOFE. Mr. President, we hear so many negative things, and it is kind of enjoyable to talk about what has been accomplished sometimes. The Senator from Wyoming has been very articulate in expressing those positive things. I remember in 1987 when I was first elected to the other body. We had as our class project at that time to repeal the earnings test. I have always felt there is nothing more un-American than to tell the people in America that once you reach a certain age, you have to become nonproductive, and if you are not nonproductive, then we are going to take away some of your Social Security. Well, we tried for about 10 years to get that done, and it was not until we had a Republican Congress that we were able to have a major reform. We haven't totally repealed it, but we will phase into a position where we actually will be telling the people of America that you are not going to be punished if you decide to be productive past a certain age.

Many years ago, I was the mayor of a major city in America, Tulsa, OK, and every time I go and talk to mayors now, I say, "Tell us what the major problem facing your city has been." They don't say it's crime in the streets and welfare. They say it's unfunded mandates. I can remember so well as the mayor of the city of Tulsa when the Federal Government would come and tell us certain things that we had to do, and if we didn't do it, they are going to be taking money away from us, or if we did it, we would have to pay for it ourselves. Consequently, it would be up to us to allow Congress in Washington, with all of the lofty attitudes that they seem to portray here, to say that we have done these wonderful things for the people of America, and to say that some political subdivision underneath them—the cities, or counties, or States—had to pay for them.

We passed an unfunded mandates bill where we are not going to be faced with that anymore. I would like for it to have been retroactive, but it could not have been. So that has been resolved. It is a major reform, and it was done by this Congress. I am very, very proud of that. I counted the reforms we have passed, and I would challenge anybody to find a 10-year period in history when there have been more reforms passed by Congress than we have passed.

Congressional accountability—the fact that we now have to live under the same laws that we impose upon other people in the rest of the country. I spent 30 years in the private sector. I understand what it is like to have to live under an overregulated society, and, yet, Members of Congress historically have been exempt from most of those impositions. Now they are going to have to live under the same laws that we pass for other people. I think that is a major accomplishment of this Republican Congress.

The line-item veto: As long as I can remember, we have talked about that—about reforming the line-item veto. A lot of my friends say, well, I would like to have the line-item veto, as long as we know we have a conservative in the White House, or the other side of the fence would say they would like to have a line-item veto as long as we have a liberal there. But I suggest to you, Mr. President, that they miss the point when they say that, because all a line-item veto does is force the President and Congress to be accountable.

Republicans and Democrats in the White House, for decades, have been able to say, well, I didn't want that law, but I had to either sign that because veterans benefits are in there, or something else was in there, and consequently they go ahead and sign something that they say they are opposed to. This forces them, or him, or her, Democrat or Republican, to be accountable, so that if there is 1 thing out of 25 things in a bill that he doesn't like, he can veto it and send it back, and that makes us accountable.

So the whole idea there is accountability. We have passed that. I feel very good about it and think that is a major improvement. Back before I was in the U.S. Senate, I represented an all-urban area, primarily one county in the State of Oklahoma. So I did not have much of the agricultural areas and interests in my district. But I found, as I traveled around the State after becoming a Member of the U.S. Senate, where I had largely an agricultural State, the people who are in the farm communities in Oklahoma—and I suspect it is that way throughout the Nation—really have felt that we have had a failed agricultural policy in this country, that we have imposed upon our farmers things that they must do. Yet, they are not free to plant what they think the market will bear and what will best take care of their needs.

Well, the Freedom to Farm Act was passed, and I find, as I go around—as I did, as a matter of fact, only Monday of this week. I had, I think, seven town meetings throughout agricultural areas in Oklahoma. They all think it is very good.

Do you know what else they think, Mr. President? They want to do something about property rights. Well, that is one area where we have not been successful. I would like to say that we are able to pass all of the reforms that we wanted to pass. Unfortunately, several of them were vetoed by this President. The reform that will go down, I think, in history as the most significant reform that the public is aware of would be welfare reform. I have to remind you that President Clinton vetoed this bill twice. We passed a welfare reform bill that was based on what he campaigned on for President in 1992. He vetoed it, and then he vetoed it a second time. But just as we are getting into the final stages of the Presidential election year, he has signed it. At the same time, he has whispered to his friends on the left that if he is reelected, he will change some of the reforms that we have in the welfare bill.

There are three things I have often said that make us globally noncompetitive, Mr. President. One is that we are overtaxed. The other is we are overregulated. Third is our tort laws in this country. I was proud to be a part of the success in changing our tort laws as it pertains to just one manufacturing item: airplanes and airplane parts. I have about a 39-year history and background in aviation. So I know a little bit about that. Prior to 1970, we made almost the entire world supply of airplanes in the United States—a major export item. And then, over the 10-year period of the 1970's, and up through to the present time, we quit making single-engine airplanes in America. We quit making them only for one reason, which is that you can't be globally competitive and offset the cost of all these lawsuits. So we have lawsuit after lawsuit against manufacturers of airplane parts and of airplanes where maybe it has worked perfectly well for 50 years, but all of a sudden there is an accident and they will go back and get a multimillion-dollar judgment against the manufacturer, and, consequently, our manufacturers either went broke or quit making small airplanes.

I remember the case of Piper Aircraft. They said to the bankruptcy court, "We can move our plant and all of our equipment to Canada and make the same airplanes and supply the same market and do so at a profit because of the fact that they don't have the tort laws we have in this country." So we passed a bill. Even though the President made a commitment to veto any kind of meaningful tort reform, he signed it because we had so much pressure out there. People realized this is a major manufacturing area that could benefit all of America.

In Oklahoma alone, we can identify 4,000 jobs as a result of that one tort reform. Well, it would only stand to reason that if we can put America back into making airplanes by having tort reform, insofar as the manufacture of airplanes and parts is concerned, why not spread that across the entire manufacturing base? So we did. We passed a bill that would make America competitive again, and the President vetoed it.

So I think we have a lot of things that we wanted to do. There was the $500-per-child tax credit, which the President vetoed. There was regulation reform, and some of the marriage penalties that we were going to correct, and the President vetoed it.

In spite of that, we have been a very productive House and Senate, and I am very proud of the major reforms that have passed. I only regret that we were unable to get them all passed because of the vetoes of the President, and perhaps that will change in the near future.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

SENATOR PAUL SIMON

Mr. BROWN. Mr. President, I rise to pay tribute to our departing colleague, PAUL SIMON.

All of us have an image of what a U.S. Senator ought to be. It will not surprise anyone that not all who serve here measure up. PAUL SIMON is someone who clearly measures up. He is thoughtful, hard-working, and committed. He has a clear philosophy and the integrity to stand up for it. PAUL'S manner is open. His approach is thoughtful and considerate. He is one who cares more about solving problems than making himself look good.

I think of him as a part of a long line of Senators from Illinois that are epitomized by Paul Douglas. Perhaps I should say that in my mind Paul Douglas is epitomized by PAUL SIMON because both of them brought great integrity and intellect to this body.

It is not unusual for PAUL SIMON and I to be on opposite sides of an issue. But, I have never found him to be unwilling to listen or unwilling to be objective. He is the kind of person who comes here to serve, who displays integrity in office, and places the integrity of his person above selfish interests.

It has been a great privilege for me to work with PAUL SIMON. He is someone I admire now and I will admire him for the rest of my life because he embodies, the best that is in us. He has brought to this body a nobleness which is in short supply. As one who hopes the Republican Party will win the seat in Illinois, I will still be sad to see PAUL SIMON go. He has enriched this body. He has enriched all of us who have had the pleasure to serve with him.

I yield the floor.

Mr. KENNEDY. Mr. President, I thank my friend and colleague from Colorado for those excellent words about a colleague—a very serious tribute, a very sincere one, and we are grateful to him as a friend of PAUL'S for his observations about his service. I thank him for his very generous comments. I am sure Senator SIMON will, but I would certainly agree with all of his conclusions. I thank him for making those views clear on the Senate floor today.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is recognized for up to 30 minutes.

THE CONGRESS, THE PRESIDENT, AND HEALTH CARE

Mr. KENNEDY. Mr. President, this past weekend, Bob Dole used his Saturday radio address to attack the President's record on health care. He repeated his attack yesterday. He even claimed credit for passage of the Kassebaum-Kennedy health insurance reform bill.

Few issues are more important to the American people than access to affordable, quality health care. They want it for their children, for their parents, and for themselves. But Bob Dole was wrong on his facts, and he was wrong in his conclusions.

On health care, the choice in November is clear. President Clinton and Democrats in Congress stand on the side of American families. Bob Dole and the Republican leadership in Congress have consistently put families last and special interests first when it comes to health care and health reform.

The Republican leadership in this Dole-Gingrich Congress tried to slash Medicare. They tried to trash Medicaid. Bob Dole personally tried to kill the Kassebaum-Kennedy bill. The Republican leadership blocked mental health parity and new protection for mothers and infants, until Democratic members of Congress forced them to act. Republicans continue to resist enactment of a simple rule telling HMO's and insurance companies that they can't prohibit doctors from telling patients about medical treatments they need.

Throughout this Congress, Republicans have been obstructionists on health care reform. There is no reason to believe they will deal constructively with the problems facing our health care system if they retain control of the Congress or win the White House.

President Clinton and Democrats in Congress are committed to genuine progress on health reform. The American people know we're on their side. Every American who works hard and plays by the rules should have access to affordable health insurance coverage. Senior citizens deserve the Medicare they have earned. They should also be able to keep their own doctor, and be protected against profiteering by private insurance companies.

Senior citizens deserve quality nursing home care, without bankrupting their families. President Clinton has led the effort to fill the gaps in Medicare by providing coverage for prescription drugs, and for long-term care in a nursing home or a senior citizen's own home.

Americans deserve protection against the excesses of insurance companies that put healthy profits above healthy patients. They deserve a strong FDA to protect people from harmful drugs, guarantee a safe food supply, and crack down on shameful tobacco industry practices that entice children to start smoking.

These are basic principles that the vast majority of Americans support—but not Bob Dole, NEWT GINGRICH, and Republicans in Congress. NEWT GINGRICH has said that he wants Medicare to wither on the vine." House Majority Leader DICK ARMEY has called it a program that he would have no part of in a free world." Bob Dole said that he is proud to have voted against Medicare at the beginning. As he told the American Conservative Union, "I was there, fighting the fight, voting against Medicare, one of twelve, because we knew it wouldn't work."

That was said not in 1965, Mr. President, but in his run for the Presidency.

The Dole-Gingrich Republican budget would have slashed Medicare by $270 billion. Under the Republican budget Bob Dole forced through the Senate, Medicare premiums would have doubled, deductibles would have doubled, and the Medicare age of eligibility would have been raised.

Every senior couple would have paid an additional $2,400 over the life of the plan in increased premiums alone. Make no mistake, Bob Dole and the Republican Congress are no friends of Medicare.

To make matters worse, Bob Dole and NEWT GINGRICH formed an unholy alliance with the private insurance industry to try to privatize Medicare, to force senior citizens to give up their family doctor, leave conventional Medicare, and join a private insurance plan. The Republicans claimed their plan was intended to give senior citizens a choice. But as all elderly Americans know, giving up the doctor they have chosen to provide billions of dollars in profits for private insurance companies is no choice at all. Again and again, Congress voted on these issues. Again and again, Bob Dole voted with most Republicans in favor of private insurance plans and against senior citizens.

Bob Dole claimed before the 1994 election that Republicans had no plan to cut Medicare. He said that President Clinton and the Democrats were just using scare tactics. Bob Dole is saying the same thing this year—but this time the American people know better, because they know Medicare was put on the chopping block by this Republican Congress.

Despite various promises made prior to the 1994 election that there would be no cuts in Medicare, the Republicans proposed cuts of $270 billion to Medicare to pay for a $245 billion tax cut. Now Bob Dole is talking about an economic plan that will cost $681 billion over a 7-year period. He has indicated he is not going to cut the defense budget; in fact, he has said he would increase the defense budget with additional funding for B-2 bombers and a number of other areas.

The whole question is how can we have any confidence that the Medicare cut is not going to be of a similar proportion in spite of his statements made prior to the election. "President Clinton and Vice President GORE are resorting to scare tactics falsely accusing Republicans of secret plans to cut Medicare benefits." Bob Dole said this just before the election in 1994. Haley Barbour said the same thing: "As far as I'm concerned, the Democrats' big lie campaign is that the Contract With America would require huge Medicare cuts. It would not."

Soon after the election, the GOP introduced their plan: $270 billion in cuts in Medicare to pay for $245 billion in tax cuts.

Republicans in Congress didn't stop with Medicare. They also proposed deep cuts in Medicaid—a devastating one-two punch for senior citizens and the disabled. Under the GOP plan, 9 million Americans—children, senior citizens, and the disabled—would have lost health care coverage under Medicaid. They proposed to slash the program by $180 billion. They also proposed to eliminate Federal nursing home quality standards—not modify them, not improve them, but eliminate them.

No one should be forced to go back to the time before Federal nursing home quality standards were enacted in 1987. Elderly patients were often allowed to go uncleaned for days, lying in their own excrement. They were tied to wheelchairs and beds under conditions that would not be tolerated in any prison in America.

Deliberate abuse and outright violence were inflicted on helpless senior citizens by callous and sadistic attendants. Painful, untreated, and completely avoidable bedsores were widespread. Patients were scalded to death in hot baths and showers, sedated to the point of unconsciousness, or isolated from all normal life—all because fly-by-night nursing home operators were profiteering from the misery of their patients.

Congress stopped all that by insisting that all nursing homes must meet basic standards. Yet those are the standards that Bob Dole and NEWT GINGRICH tried to eliminate. They would also have removed protections against impoverishing children and spouses of senior citizens who need nursing home care.

Democrats opposed all of these Republican schemes. As the debate in Congress took place and the American people came to understand what was at stake, Republicans retreated from their most extreme proposals. But the retreat was always grudging. The desire to roll back basic protections was always there. If Republicans retain control of the Congress, we are likely to see a new Republican effort to enact these cruel and unfair proposals.

The Dole-Gingrich Republican plan for Medicare and Medicaid made a mockery of the family values they claim to support. Under their plan, millions of elderly Americans would have been forced to go without the health care they need. Millions more would have to choose between food on the table, adequate heat in the winter, paying the rent, or paying for medical care. Senior citizens have earned their Medicare benefits. They have paid for them. They deserve them. And we don't intend to let Republicans take them away.

President Clinton and Democrats in Congress stopped the Republican assault for the time being. Now it is up to the American people to stop it for good, by the ballots cast in November. Republicans must never again have the opportunity to turn Medicare into a slush fund for tax breaks for the wealthy.

Younger Americans, too, deserve affordable health insurance for themselves and their families. President Clinton has fought hard to give all Americans the guarantee that health care will be there when they need it.

The Kassebaum-Kennedy health insurance reform bill passed by this Congress will end some of the worst abuses in the current system. It guarantees that, as long as you faithfully pay your premiums, your insurance cannot be taken away—even if you become seriously ill, or lose your job, or change your job. Under that bill, insurance companies can no longer impose preexisting condition exclusions on your coverage, as long as you do not let your insurance lapse. The bill opens the door of opportunity for Americans locked in their current job and afraid to pursue new opportunities for fear they would lose their coverage or face exclusions for preexisting conditions.

In the end, this legislation was bipartisan. It passed the Senate 98 to 0. But without President Clinton's leadership it would never have become law. The bill languished on the Senate Calendar for months, with no hope of passage, because Bob Dole refused to let the Senate act. It passed the Labor and Human Resources Committee 17 to 0 on August 2, but in spite of repeated requests Senator Dole refused to bring it up. He hid for months behind a series of rolling, anonymous holds placed by Republican Senators at the insistence of the insurance industry.

Ultimately, Bob Dole, who controled the Senate Calendar, stalled, stonewalled, and sabotaged every effort to bring the bill forward and succeeded in delaying it for 9 months. And, if he had his way, he would have killed it.

The gridlock finally began to break when President Clinton highlighted the bill in his State of the Union Address last January. When the press focused on the anonymous holds that were holding the legislation captive and Senator Dole's refusal to bring it to the floor, public pressure began to mount. But he still refused to act. Only when the "Nightline" program confronted Senator Dole directly in New Hampshire and demanded to know why he was holding up the legislation did he finally agree to bring the bill to the floor.

How ironic that Senator Dole has the gall to claim credit for the insurance reform bill. It passed the Labor Committee in August. It was on the Senate Calendar by the beginning of October. Time and time again, Senator Dole was asked to bring the bill up by Senator KASSEBAUM and myself. We asked for floor time in November, but he refused. Senator KASSEBAUM and I, we asked for floor time in December, but he refused. We asked for floor time in January, but he refused. And he claims credit for this legislation.

What was Bob Dole's excuse? Well, there were holds on the bill—anonymous holds. But those holds were not anonymous to the majority leader. He knew who was blocking the bill. And he knew that he could bring the bill to the floor any time he wanted. But he did nothing—because his friends in the insurance industry did not want the bill to pass. And he claims credit for this legislation.

It was President's Clinton's call to pass this legislation in the State of the Union on January 23 that focused the attention of the press and the public on the Senate's failure to act. Editorials called for action, but still Senator Dole refused. There were holds on the bill, he said—even though everyone knows that a majority leader can override any hold from any Senator. But Bob Dole still refused to act.

The press kept up its drumbeat. What is this rolling hold? Where is Senator Dole? The press even identified some of the Senators placing holds—but where was Bob Dole? Did he urge any of these Senators to lift these holds?

And then came the breakthrough. "Nightline" confronted Senator Dole on January 31 in New Hampshire. He refused to explain why he would not bring the bill to the floor. Miraculously, the next day, Senator Dole moved to lift the holds. But he still tried to delay the bill as long as possible, so the health insurance industry could mobilize to kill or gut the bill.

He asked that the consent agreement delay the bill for an additional 6 months, to the July 4 recess. When Democrats refused to go along with yet another delay, Senator Dole proposed to delay for 5 months—until Memorial Day. And he wants to claim credit for this bill.

Finally, with increasing pressure from the public, Senator Dole finally agreed to schedule the bill—but he still delayed its consideration to April 15, at the earliest.

Anyone would think that there was tremendously important legislation tieing up the floor for these many months. But what was Senator Dole finding time for? Mostly nothing. Of course, there was work going on off the Senate floor on the budget, but for most of February, Senator Dole kept the Senate out of session, so he could campaign. When he came back to Washington, his main priority was extending Senator D'AMATO's investigation of Whitewater. He also found time to schedule votes on legislation that would have gutted food safety, environmental safety and a host of other consumer protection for the benefit of big business. But health insurance protection for the American people was not on Senator Dole's priority list. And he wants to claim credit for this legislation.

Even when the bill passed the Senate, Bob Dole and the House leadership still delayed it for months by their insistence on stacking the deck of the conference to include a provision on medical savings accounts that was a giveaway to the Golden Rule Insurance Co. and a threat to everyone with a comprehensive insurance policy.

As late as the day before the bill was finally passed, congressional Republicans and their special interest allies in the insurance industry were trying to weaken key provisions allowing people to buy individual insurance coverage if they lost coverage through an employer.

For many months this moderate, non-partisan bill was adamantly opposed by insurance companies that profit from the worst abuses of the current system. And Bob Dole was actively supporting their opposition and delay.

The story of insurance against mental illness is similar. The Domenici-Wellstone amendment to give the mentally ill and their families fair treatment was a bipartisan effort. It received overwhelming votes in the Senate both times it was considered. But the insurance industry opposed it. And so the Republican House leadership insisted on dropping it from the Kassebaum-Kennedy bill, and fought up to the last moment to keep it out of the VA-HUD appropriations bill. And Bob Dole never lifted a finger to help. He was MIA at every critical stage of the debate.

Quality health care for the American people also depends on a strong Food and Drug Administration, to guarantee that food is healthy, that prescription drugs will cure and not kill, and that medical devices will sustain and improve life, rather than end it.

But Republicans in Congress have a different priority. They want to turn critical functions of the FDA over to the tender mercies of private companies hired and paid for by the very manufacturers whose products they are supposed to regulate.

President Clinton and Democrats in Congress refuse to allow Republicans to expose Americans again to drug disasters like thalidomide and DES and device failures like the Dalkon shield and the Shiley heart valve.

And unlike Senator Dole, President Clinton and Democrats know that tobacco is addictive, and that children deserve protection from the unconscionable targeted assaults of tobacco advertising.

Another key health issue for families is the quality of the insurance they purchase with their premium dollars. The growth of managed care and HMO's in recent years has been soaring. Today, more than half of all Americans with private insurance are enrolled in such plans. Seventy percent of covered employees in businesses with more than 10 employees are enrolled in managed care. Between 1990 and 1995 alone, the proportion of Blue Cross and Blue Shield enrollees participating in managed care plans rose from just one in five to almost half. Even conventional fee-for-service plans have increasingly adopted features of managed care, such as ongoing medical review and case management.

At its best, managed care can improve quality while reducing costs. But at its worst, managed care puts the bottom line ahead of the patient's health—and pressures physicians to do the same. The most widespread abuses include failure to inform patients of particular treatments; excessive barriers to specialists for evaluation and treatment; unwillingness to order appropriate diagnostic tests; evicting mothers and infants prematurely from hospitals; and refusal to pay for potentially lifesaving treatment. In too many cases, these failures have had tragic consequences.

President Clinton and Democrats—Senator BRADLEY, Senator WYDEN, others—have fought to end these abuses, and we will do more in a Democratic Congress. We fought for the Mothers and Infants Protection Act, which guarantees that a mother will not be forced to leave the hospital too soon after her baby is born. We are urging legislation to bar HMO gag rules, to prevent insurance companies from prohibiting physicians from giving all the facts to their patients. The Mothers and Infants Protection Act is on the verge of becoming law—because Republican opposition was proving too costly with the public.

But just the other day, the Republican leadership in the Senate used a parliamentarian technicality to kill legislation to prohibit managed care plans from gagging doctors. Negotiations are continuing, and I hope this legislation can still be passed before the end of the year.

But if it does pass, it will be in large measure because President Clinton and Democrats in Congress have championed it over relentless Republican opposition.

We all know the many other serious health issues facing the country. Down-sizing, layoffs, cutbacks, the growth of the contingent work force, and the escalating cost of health insurance are peeling back the protections that most Americans count on for themselves and their families. According to recent projections, less than half of all Americans will enjoy reliable, on-the-job health insurance by the year 2002.

President Clinton and Democrats in Congress will work to reverse these trends and give all families the health insurance protection they deserve. President Clinton has already proposed assistance to help workers between jobs keep their health insurance. Democrats in Congress are pledged to put affordable health insurance for children within the reach of every family. That is leadership provided by my colleague and friend from Massachusetts, Senator KERRY.

The Republican leadership in Congress and Bob Dole refuse to deal with these issues. They oppose us every step of the way. Their record shows that they care more about protecting powerful special interests than protecting American families.

It is ironic that Bob Dole in recent days has been attacking President Clinton on health care. Whether the issue is Medicare, Medicaid, health care for working families, safe and effective medical products, mental health parity, or protection against the abuses of the private insurance industry, the record is clear. President Clinton and Democrats in Congress want to preserve and protect the benefits that the American people have earned. We want to do more to meet the challenge of providing adequate health care to senior citizens and all working families.

By contrast, Bob Dole and Republicans want to turn the clock back. Whether the issue is slashing Medicare to pay for new tax breaks for the wealthy, enabling insurance firms to reap greater profits at the expense of senior citizens, and other families, Republican priorities are as clear as they are wrong. President Clinton and a Democratic Congress will reverse those backward Republican priorities in the next 4 years.

Bob Dole is right. Health care is a defining issue, but the issue is not, as he claims, whether the Government should run the health care system. That kind of charge is a smokescreen. The real issue is whether Government is on the side of American people, or allied with the greedy guardians of the status quo. On all of the critical issues of health reform, President Clinton and Democrats have consistently fought for better health care for families, and we will continue to do so in the years ahead.

Mr. President, I yield back my time.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington. [Mrs. MURRAY] is recognized to speak up to 10 minutes.

Mrs. MURRAY. I thank the Chair.

TRIBUTE TO DR. JOHN N. LEIN

Mrs. MURRAY. Mr. President, I rise today, along with my senior colleague from the State of Washington, to honor a very special individual from our home State. I want to take a few minutes today to honor Jack Lein, not only for his decades of service to Washington State, but for his tireless dedication and commitment to this Nation's health and education.

Mr. President, Jack Lein was born and raised near former House Speaker Tom Foley in Spokane, WA. He served his country bravely during World War II as a medical corpsman atop the mountains of Idaho. Though Jack would tell us he saw very limited military conflict above America's prized potato fields, he did begin a career of medical service that has now spanned generations.

After receiving his medical degree in 1955 and spending some time in private practice, he joined the faculty and administration of the University of Washington where he has remained for over 32 years. Being myself a proud alumnus of Washington State University, it is, indeed, difficult to salute a man so entrenched in the success of our rival, the University of Washington. But I am proud to say, Dr. Lein's tenure at the university has helped to produce one of this Nation's premier research and health science facilities.

Dr. Lein's career at the University of Washington has encompassed most aspects of modern medicine, medical and health sciences education, university administration and Federal relations. He founded the University of Washington School of Medicine continuing medical education program and was its director for 19 years. He was also assistant dean and then associate dean of the school of medicine. He pioneered regionalized medical education and served as the university's vice president for health sciences, the highest academic administrative position ever achieved by a UW graduate.

Dr. Lein's work will be seen by generations to come through his perseverance and foresight which has produced and will continue to produce thousands of America's health professionals. His leadership has been noted by both his peers and the press. In 1993, Dr. Lein was honored with the Recognition Award by the Society for Teachers of Family Medicine. For the third consecutive year, the University of Washington School of Medicine was ranked the best primary care medical school in the Nation. Among medical teaching disciplines, the UW ranked first in family and rural medicine, third in women's health care and fifth in pediatrics.

Although it may be appropriate to call the university's last three decades the "Lein" years, that description would be far from accurate. As the director of Federal relations, Dr. Lein has transformed the university into one of the Nation's leading research universities. The University of Washington has been ranked in the top five in receipt of Federal grant and contract dollars, which account for 80 percent of the university's grant funding.

If anyone could document the history of Washington State's congressional delegation over the last 50 years, it would be Jack. His wit is legendary around Washington State circles, and he can quickly recount a story about Scoop or Dan Evans. Jack will tell you that Maggie thought "foreign policy was anything outside Washington State." He was always there with either the right information or the right resource to find the answer.

Dr. Lein will step down from his position at the university at the end of this year. His absence will be felt by U.S. Senators, congressional staff, college faculty, and students for many years to come.

Mr. President, on behalf of the citizens of Washington State, I salute Dr. Jack Lein and his wife, Claire, for a lifetime of dedicated service to his alma mater, his State and his Nation.

Jack, we will miss you, but we will always know that you are close by.

Mr. President, I yield the remainder of my time to the senior Senator from the State of Washington.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, for the two of us who represent the State of Washington in the U.S. Senate, this is a day that is both joyous and sad. It is sad because on December 31 of this year, we will miss the company of Dr. Jack Lein who, for decades, has represented the University of Washington before this body and with particularly, of course, the Members of the House of Representatives and the Senate who represent the State of Washington.

It is a happy occasion, of course, because it gives us an opportunity to crown his career with at least a tiny share of the praise that it deserves.

I can say, Mr. President, after a relatively long career in the U.S. Senate and an even longer one in the Government of the State of Washington, that no person, no individual representing an institution has matched Jack Lein in the quality of his knowledge about the issues that he brings to us, in his dedication to the university that he represents, or in the personal qualities which cause all of us to welcome him into our office, to go out of our way to seek his company and to learn from him.

He has been nonpartisan or bipartisan in the highest sense of that term, with an ability to tell wonderful and always affirmative stories about the people he has met along the way, but with the overwhelming ability to cause us, who obviously believe in our university and want to help our university, to go even further than we would otherwise do simply because it is so important to please him and to help him.

He will be not just difficult to follow in that respect, he will be impossible to follow in that respect. So from the point of view of this Senator—and I know that my sentiments are shared, as they have already been expressed, by my junior colleague—we are not just simply missing someone who represents a vital institution to us here in this body, we are going to miss a very close friend, a good and delightful companion, a wonderful servant of this institution and his State and his medical profession in Dr. Jack Lein. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. If the Senator would withhold that request for just a moment.

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DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the conference report accompanying H.R. 3666 will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3666) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

(The conference report is printed in the House proceedings of the RECORD of September 20, 1996.)

Mr. BOND. Mr. President, I wish to express my appreciation to the leadership and the Members on both sides for allowing the VA–HUD, independent agencies bill, H.R. 3666, to be passed.

Mr. DOMENICI. Mr. President, I rise in strong support of the conference agreement on H.R. 3666, the VA–HUD appropriations bill for 1997.

This bill provides new budget authority of $84.3 billion and new outlays of $49.7 billion to finance operations of the Department of Veterans Affairs and Housing and Urban Development, the Environmental Protection Agency, NASA, and other independent agencies.

I congratulate the chairman and ranking member for producing a bill that is within the subcommittee's 602(b) allocation. When outlays from prior-year budget authority and other adjustments are taken into account, the bill totals $84.3 billion in budget authority and $98.7 billion in outlays. The total bill is under the Senate subcommittee's 602(b) nondefense allocation by $43 million for budget authority and by $8 million for outlays. The subcommittee is also under its defense allocation by $3 million for budget authority and by $4 million for outlays.

Mr. President, I ask unanimous consent to have printed in the RECORD a table displaying the Budget Committee scoring of the conference agreement on H.R. 3666.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

VA–HUD SUBCOMMITTEE—SPENDING TOTALS—CONFERENCE REPORT

[Fiscal year 1997, in millions of dollars]

	Budget authority	Outlays
Defense discretionary:		
Outlays from prior-year BA and other actions completed	....	61
H.R. 3666, conference report	126	64
Scorekeeping adjustment	....	....
Subtotal defense discretionary	126	125
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed	365	47,431
H.R. 3666, conference report	63,917	31,589
Scorekeeping adjustment	....	....
Subtotal nondefense discretionary	64,282	79,020
Mandatory:		
Outlays from prior-year BA and other actions completed	....	1,153
H.R. 3666, conference report	20,260	18,013
Adjustment to conform mandatory programs with Budget Resolution assumptions	−406	381
Subtotal mandatory	19,854	19,547
Adjusted bill total	84,262	98,692
Senate Subcommittee 602(b) allocation:		
Defense discretionary	129	129
Nondefense discretionary	64,325	79,048
Violent crime reduction trust fund	....	....
Mandatory	19,854	19,547
Total allocation	84,308	98,724
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary	−3	−4
Nondefense discretionary	−43	−28
Violent crime reduction trust fund	....	....
Mandatory	....	....
Total allocation	−46	−32

Note: Details may not add to totals due to rounding. Totals adjusting for consistency with current scorekeeping conventions. Prepared by SBC Majority Staff, Sept. 24, 1996.

SECTION 8 MULTIFAMILY HOUSING PORTFOLIO DEMONSTRATION

Mr. BOND. Mr. President, a number of my colleagues have questions concerning the implementation of the section 8 multifamily housing portfolio demonstration—Section 8 mark-to-market—which was adopted as part of the conference report to H.R. 3666, the VA/HUD fiscal year 1997 Appropriations Act. The purpose of this statement is to clarify these questions for my colleagues, as well as for HUD. The conference report adopts a bipartisan strategy to build on the section 8 multifamily housing portfolio restructuring demonstration which was adopted as part of the HUD fiscal year 1996 appropriations bill, H.R. 3019, a further downpayment toward a balanced budget.

The conference report establishes a revised demonstration program to emphasize that portfolio restructuring needs to be undertaken to reform and improve the FHA multifamily housing programs from a financial and operating perspective, but not to abandon the long-term commitment to resident protection and ongoing low-income affordability. The revised demonstration, therefore, continues to give HUD a number of flexible tools for restructuring section 8 assisted, FHA-insured projects, while emphasizing the preservation of the existing stock as low-income housing by generally restructuring these FHA-insured mortgages and reducing the cost of renewing the section 8 contracts. I emphasize that this demonstration, including the concept of reasonable offer, is intended to preserve affordable low-income housing, prevent the dislocation of current residents, preserve the rights of current owners who have complied with program requirements, and to not create any significant exposure of tax liability to owners.

The section 8 mark-to-market inventory covers some 8,500 projects with almost one million units that are both FHA-insured and whose debt service is almost totally dependent on rental assistance payments made under section 8 project-based contracts. Most of these projects serve very low-income families, with approximately 37 percent of the stock serving elderly families. Many of these projects are oversubsidized and, without the renewal of expiring section 8 contracts, are at risk of mortgage default. This raises concerns of owner disinvestment, resident displacement, and government ownership, management and disposition of this housing inventory. While continuing the existing subsidy arrangements would be very popular to both owners and tenants, the combination of the Federal Government overpaying for the value of this low-income housing resource as well as the growing tide of discretionary budget cuts require new policies and reforms to these programs.

The cost of renewing the section 8 project-based contracts on this multifamily housing inventory emphasizes the many difficult budget and policy issues which need to be addressed as Congress reevaluates Federal housing policy. In particular, according to HUD estimates, the cost of all section 8 contract renewals, both tenant-based and project-based, will require appropriations of about $3.8 billion in fiscal year 1997, $10 billion in fiscal year 1998, and over $16 billion in fiscal year 2000. In addition, the cost of renewing the section 8 project-based contracts will grow from $1.2 billion in fiscal year 1997 to almost $4 billion in fiscal year 2000, and to some $8 billion in 10 years. Moreover, the unpaid principal balance [UPB] on the mortgages associated with this FHA-insured housing inventory represents a contingent liability of some $17 billion to HUD and the Federal Government.

The section 8 multifamily housing portfolio restructuring demonstration is designed as an interim strategy and as a stepping stone for more comprehensive legislation by the authorizing committees as well as consideration of associated tax issues by the tax committees. This demonstration will require HUD to renew for up to 1 year all section 8 contracts with rents at or below 120 percent of the fair market rent for an area. In addition, project owners with expiring contracts above 120 percent of fair market rent may opt to have their section 8 contracts renewed at 120 percent of the fair market rent. This safe harbor will cover many of the 240,000 units which are supported by expiring section 8 contracts in fiscal year 1997, and will provide HUD with the administrative ability to focus on those FHA-insured multifamily housing projects with significantly oversubsidized rents. The projects with units which do not qualify for the contract renewal safe harbor will be eligible to participate in the section 8 multifamily mortgage restructuring portfolio demonstration and, at a minimum, will be renewed at budget-based rents.

The demonstration would encourage HUD to enter into contracts with qualified State housing finance agencies, local housing agencies, and nonprofits either as a partner or as designee to administer the program for HUD. The conference report reflects the belief that balancing the fiscal goals of reducing costs with the public policy goals of preserving and maintaining affordable low-income housing requires an intermediary which is accountable to the public interest. Because of the Department's capacity and management problems as documented by the Inspector General and the General Accounting Office, the demonstration reflects the understanding that capable public entities and certain qualified nonprofits should be accorded an opportunity to restructure mortgages on behalf of the Federal Government. I believe that many State housing finance agencies [HFA's], local HFA's, and other State and local housing and community development entities have the requisite capacity and expertise to implement the mortgage restructuring demonstration program and that developing this capacity and expertise will be important in the future for further establishing and building on both new and existing public and private partnerships for the development of affordable housing. I emphasize that nonprofits must be financially sound and have a demonstrated record in the area of affordable housing issues. I warn HUD to be very careful that sham nonprofits are not to be included, especially where a nonprofit is determined to be acting as a tool for the interests of some other entity.

It also is expected that HUD and these public purpose designees will contract and subcontract with other entities, including private entities such as financial institutions and mortgage bankers and servicers, to enhance the expertise and capacity necessary to ensure that mortgaging restructurings are handled to the best advantage of the Federal Government, the project, the community, and the residents. It is hoped that these partnerships can be used to crossfertilize public and private approaches to low-income housing to create new strategies and leverage new funds for the preservation and creation of low-income affordable housing resources.

The multifamily housing portfolio restructuring demonstration will provide HUD and the public agencies, and nonprofits, with a number of tools to restructure the FHA-insured mortgages and reduce the cost of section 8 project-based housing assistance. These tools include broad authority to restructure mortgages, including the forgiveness of mortgage indebtedness. For example, HUD could restructure a project mortgage so that a first mortgage would reflect the market value of a project while HUD holds a soft second on the remainder of the project debt. This would preserve the low-income character of the housing while reducing both the cost of the section 8 assistance and the risk of foreclosure. In exchange for mortgage restructuring, project owners would have to agree to preserve the housing as affordable for low-income families in accordance with requirements established by the Department or a designee. These requirements shall be balanced to ensure the long-term economic viability of the housing.

The demonstration also allows HUD to implement budget-based rents to squeeze out any inflated profits while covering the debt service, operating costs and a reasonable return to the owners of these federally assisted projects. The use of budget-based rents are intended to be flexible enough to ensure the preservation of unique and critically needed low-income housing projects, such as elderly projects in rural areas, projects designed to house large families, projects in localities with low vacancy rates, and projects with operating costs which exceed any comparable market rents. I emphasize that the Department should exercise a special sensitivity to certain projects, such as elderly projects in rural areas, that house a special population, especially where the availability of other affordable housing is questionable.

The conference report has elected to focus the restructuring demonstration on projects with contract rents above 120 percent of the fair market rents. According to recent HUD estimates, section 8 contracts affecting approximately 35,000 project-based assisted units will expire in fiscal year 1997. Of this amount, about 12,000 are assisted by HUD's section 8 new construction and substantial rehabilitation [NC/SR] programs. The program expects HUD to focus most of its mortgage restructuring efforts on the NC/SR assisted, or newer assisted portfolio since the costs of section 8 rental assistance attached to these properties are much greater than those assisted by HUD's section 8 loan management set aside [LMSA] program and the budgetary costs to maintain this inventory is greater. Therefore, the conference believes that greater budgetary savings will be realized on restructuring the newer assisted stock.

Further, unlike rents on the newer assisted stock, section 8 contract rents on the older assisted stock are regulated on a budget-based process. As such, the rents are supposed to be set already at the minimum level necessary to meet operating and debt service expenses. Contract rents on the newer assisted stock also are higher than prevailing market rates due to the initial construction costs and automatic rent increases that have been provided during the term of the assistance contract regardless of operating needs. Finally, restructuring the debt on the older assisted portfolio would likely achieve only minimal section 8 subsidy savings since the UPB on the remaining mortgage is smaller than the UPB on the newer stock. For example, older assisted properties have an average UPB of $14,000 per unit compared to an average UPB of $35,000 per unit for newer assisted properties. Therefore, focusing on the older assisted properties for debt restructuring likely would not necessarily be cost-beneficial especially when considering the time and transaction costs of such a process.

The conference bill also requires at least 75 percent of mortgages be restructured with FHA insurance. It is my belief that FHA mortgage insurance and other forms of credit enhancement are necessary for debt financing considering the short terms of section 8 contract renewals that are being provided in recent appropriation acts. Without long-term section 8 contracts, debt financing likely is to be difficult for restructured projects. If no insurance is provided when mortgages are restructured, debt restructuring costs also will be likely be higher, or mortgage debt discount deeper, than if the mortgages were restructured with insurance because private lenders would set the terms of the loans to reflect the risk of default. These projects could not have been built or financed without the original FHA mortgage insurance due to the inherent risks in developing low-income housing and the areas that these projects were built in.

Nevertheless, I emphasize that the use of FHA mortgage insurance and other forms of credit enhancement should be explored carefully to minimize the default risk to the Federal Government. In some cases, mortgage insurance may not be necessary when owners can obtain reasonable financing without insurance. As a result, the demonstration program allows some discretion in exploring and creating new forms of credit enhancement that would reduce the default risk and credit subsidy costs to the Federal Government. The demonstration also includes the use of mortgage insurance under risk-sharing arrangements currently practiced under the mortgage risk-sharing programs enacted under the Housing and Community Development Act of 1992. Mortgage insurance under these risk-sharing arrangements would be encouraged by not applying the current statutory limitations on the number of units that can be made available for mortgage insurance under this program.

There is also concern about the Department's plans to sell its benefits and burdens, including rights and obligations, under the FHA mortgage insurance program to public agencies as well as private entities. The demonstration permits HUD to sell to private entities the benefits and burdens of FHA multifamily mortgage insurance on up to 5,000 units. While it is important to test various restructuring strategies under the demonstration, the Department needs to ensure that the housing be preserved as low income, with residents and owners not displaced because of any risks associated with this mortgage refinancing strategy.

The demonstration also allows HUD to test the use of vouchers on up to 10 percent of the units in the demonstration so long as the owner agrees and the residents are consulted. As a further protection for residents, this strategy may only be implemented where it is determined that residents will be able to use successfully vouchers to obtain decent, safe, and sanitary housing.

Finally, this demonstration is an interim step to a more comprehensive long-term solution to the preservation of section 8 assisted housing. It is expected that the authorizing committee, consistent with hearings held by both the House and Senate authorizing committess, will consider reform of the section 8 mark-to-market inventory a priority for legislation during the next Congress.

MARK-TO-MARKET DEMONSTRATION

Mr. MACK. Mr. President, I would like to commend Senator Bond for addressing the expiration of thousands of section 8 housing assistance contracts by including a FHA multifamily demonstration program in the VA–HUD appropriations bill. This demonstration program incorporates many of the major principles of S. 2042, the Multifamily Assisted Housing Reform and Affordability Act of 1996, which I introduced last month along with Senators Bond, D'Amato, and Bennett. However, the success of the demonstration program depends on HUD's implementation. I would like to ask Senator Bond a few questions to clarify the intent of the legislation.

First, the demonstration program would allow the Secretary to use nonprofit entities as "designees" to carry out the functions and responsibilities of portfolio restructuring. Athough I believe that there are legitimate and qualified nonprofits who could be used as restructuring entities, I am concerned about the use of nonprofits that do not have the support of the local community or residents. How does the demonstration program address "sham" nonprofits?

Mr. BOND. I share the Senator's concern and believe that the demonstration authority does address "sham" nonprofits. Specifically, the demonstration requires the Secretary to select only these entities that have a long-term record of service in providing low-income housing and meet standards of fiscal responsibility. I expect HUD to issue detailed guidelines on what would constitute a qualified "designee" whether it is a nonprofit or public entity.

Mr. MACK. My second concern is about the Department's capacity to restructure up to 50,000 units in the demonstration program. Numerous studies by the HUD IG and GAO and statements by HUD officials themselves have indicated that there are serious capacity problems in the multifamily housing area at HUD. HUD's response to these problems is to liquidate the inventory through sales of HUD-held and guaranteed mortgages to Wall Street investors. S. 2042, however, would protect the Federal Government's affordable housing investment by transferring the portfolio management responsibilities to publicly accountable entities such as State and local housing finance agencies. How does the demonstration program address these issues?

Mr. BOND. The demonstration program is significantly based on S. 2042. Like S. 2042, the demonstration program addresses the Department's capacity constraints by requiring HUD to form arrangements with qualified third party public entities. The demonstration program assumes that the participation of public entities such as State and local housing finance agencies will be encouraged and utilized to the fullest extent possible by HUD. In response to the Senator's concern about HUD's liquidation policy, the demonstration does allow HUD to transfer or sell up to 5,000 units of HUD mortgages to private sector parties. This provision is not intended to be used as means of liquidating the housing stock. Instead, the intent is to test the efficiency and effectiveness of using private sector entities to preserve the affordable housing stock at the lowest possible cost to the American taxpayer while recognizing the impact on communities and owners.

Mr. MACK. Thank you again for your work and dedication to this issue and for considering the views of the authorizing committee in the demonstration program.

Mr. BOND. I appreciate the Senator's support and work on this issue, and I look forward to our continued cooperative effort to develop a comprehensive portfolio restructuring program early next year.

SECTION 8 CONTRACT RENEWALS

Mr. GREGG. I have a question for the chairman Senator BOND. I congratulate him for tackling the difficult problem of renewal of section 8 contracts in a comprehensive manner, providing for renewal of all contracts with rents less than 120 percent of fair market rent at the existing contract rent and permitting FHA-insured projects with rents over 120 percent of fair market rents either to accept rents at 120 percent of fair market rents, or to enter the demonstration. The Senator also permits projects financed or insured by State or local agencies, or under section 202, 811, and 515, to be renewed at current rents. However, there is an omission, with regard to conventionally financed contracts with rents over 120 percent of fair market rent, which are not explicitly covered by the legislation.

Many of these projects, including some in New Hampshire, were developed in the early years of section 8, and I assume that the conferees did not intend to exclude them.

Mr. BOND. The Senator is correct. Under present law, namely section 405(a) of the Balanced Budget Down Payments Act I, HUD has the authority to renew conventionally-financed section 8 contracts at up to 120 percent of fair market rents. Indeed, in August HUD sent out a memorandum stating that it would renew such contracts at rents not in excess of 120 percent of Fair Market Rent. Nothing in this year's appropriations bill withdraws HUD's authority under section 405(a) to renew such contracts. I ask unanimous consent to have printed in the RECORD the legal opinion by Judge Diaz, the General Counsel for HUD, which confirms this analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT,
Washington, DC, September 24, 1996.

Memorandum to: Nicolas P. Retsinas, Assistant Secretary for Housing—FEA Commissioner.

From: Nelson A. Diaz, General Counsel.

Subject: Expiring project-based section 8 contracts on noninsured multifamily housing projects.

This memorandum is in response to your request for an opinion from the Office of General Counsel (OGC) regarding the legal authority to renew expiring project-based section 8 contracts on noninsured multifamily projects which have rents greater than 120% of the fair market rent.

Under Section 408(a) of the Balanced Budget Downpayment Act I, HUD has the authority to renew conventionally-financed section 9 contracts at up to 120% of the fair market rents. This position was set forth in HUD Notice H 96-74, entitled Project-Based section 8 Contracts Expiring in Fiscal Year 1997, issued on August 28, 1996. As it is currently composed in the draft before us on September 23, 1996, it is OGC's opinion that nothing in this year's proposed appropriation bill withdraws HUD's authority under 405(a) to enter into project-based maintenance contracts on those non-FHA insured projects whose expiring contract rents exceed 120% of the fair market rents for the market area in which the projects are located.

SECTION 8 RENTS

Mr. LAUTENBERG. Mr. President, I am concerned that this legislation does not adequately address the circumstances faced by certain unique properties. Specifically, I am worried about situations where the current section 8 rents exceed the fair market rents set by HUD by more than 120 percent, but are below the comparable market rents. If HUD cannot renew these contracts at current rents, the low and moderate-income residents of these properties may quickly find themselves without a decent place to live, especially in tight housing market such as we have in northern New Jersey. In this situation, I fear that an owner may have little choice other than to terminate the leases and rent the property to people who are willing to pay the real market rent. I do not believe that we have provided any sort of inducement for the owner of this type of property to continue to house low and moderate income people, many of whom may be elderly. Sticky vouchers would have been a very good solution to this problem. However, I have been advised by staff that the budget-based rent provisions under the demonstration address my concerns. I would like to be assured that this is, in fact, the case.

Mr. BOND. I would like to assure my colleague that the budget-based rent provisions can be used to address the concerns you raise. Under the budget-based rent provisions, the owner of unique property located in a tight housing market which houses elderly families and where the market rates are greater than the current contract rents and the rents are in excess of 120 percent of the FMR, could be provided with a contract renewal at the current contract rent level for 1 year. Also, Congress should look at the use of sticky vouchers in the future.

Mr. LAUTENBURG. So the budget-based rent provision is not limited to properties where the operating costs exceed comparable market rents?

Mr. BOND. That is correct. Properties where the operating costs exceed the comparable market rents are eligible for the budget-based rent provisions, but eligibility for budget-based rents is not limited to such properties. I emphasize that the mark-to-market demonstration is designed to ensure that HUD is particularly sensitive to the need to preserve existing low-income housing for the elderly and disabled.

Mr. LAUTENBURG. What would induce an owner of the type of property I described to continue to keep the property as an affordable housing resource?

Mr. BOND. The owner could be induced to continue to keep the property as an affordable housing resource by allowing the owner an adequate return on equity.

Mr. LAUTENBERG. Would the calculation of an adequate return on equity take into account the true market value of the property in unique circumstances such as the one I have described?

Mr. BOND. The Secretary would have the discretion to determine an adequate return on equity in this way if he so chose.

SECTION 8 HOUSING FOR THE ELDERLY

Mr. KERREY. I am very concerned that in Nebraska and its neighboring States, section 8 projects for the elderly will be disadvantaged under the language in the conference report, unless a special effort is made to preserve them. Fair market rents in these areas for zero and 1-bedroom apartments are low which cause high rents necessary to sustain section 8 projects with appropriate services for the elderly. These projects often have elevators, additional facilities for food, recreation and services, and extra management services such as 24-hour-in-house staff. They are above the 120 percent of FMR threshold for renewal at current rents. In order to bring these project rents down to FMR, all or most of the debt services would have to be eliminated. Debt reduction of this magnitude would most certainly give rise to significant tax liabilities. Is it your intent that debt restructuring occur?

Mr. BOND. The legislation is intended to preserve section 8 housing for the elderly and special populations. While debt restructuring may be unnecessary in most cases, it may be advantageous in some. Therefore, the chairman's intent is for HUD to review carefully each case and limit the use of debt restructuring to those rare cases where it is most advantageous. Furthermore, in any calculation HUD uses in determining the market rent for these projects, HUD must include compensation to cover services that meet the unique needs of the elderly and special populations.

Mr. HARKIN. I would ask that the chairman clarify his intentions on the limitations placed on HUD when considering debt restructuring.

Mr. BOND. HUD is instructed to use a three-pronged approach in determining whether the debt should be restructured. First, no tenants should be displaced. Second, the owners should not be forced to sell the project. Third, owners should not be subject to significant tax liability.

Mr. KERREY. I thank the chairman and look forward to assisting in the oversight of the implementation of these legislative provisions.

Mr. HARKIN. I would also like to thank the chairman. It is increasingly important that we preserve these projects for the elderly, especially in rural areas.

SECTION 8 CONTRACT RENEWALS

Ms. SNOWE. Mr. President, Senator COHEN and I have been working extensively with the U.S. Department of Housing and Urban Development and the Maine State Housing Authority to clarify the status and handling of contracts for 17 housing projects in Maine that were originally subsidized under section 23 and were later converted to section 8. We would like to confirm that these housing projects meet the definition of "project-based" as defined under paragraph (5), section 21 of the housing appropriations bill.

Mr. BOND. Mr. President, that is correct.

Mr. COHEN. Mr. President, of these housing projects, all of which receive project-based assistance from the Department of Housing and Urban Development, 14 are financed through the Maine State Housing Authority. None of them are FHA-insured. We would like to further confirm our understanding that the project-based contracts for these particular housing projects will be renewed for 1-year at the current rent level under the terms and conditions of paragraph (2), section 211 of the housing appropriations bill.

Mr. BOND. Mr. President, the senior Senator from Maine is absolutely right.

Mr. MACK. Mr. President, I want to commend the chairman of the subcommittee, Senator BOND, for incorporating report language clarifying that Congress does not intend for the Fair Housing Act to apply to property insurance. HUD's assertion of authority over the conduct of the property insurance market overreaches, and in fact contradicts, congressional intent as reflected in the plain language and legislative history of the Fair Housing Act.

HUD's attempt to regulate the business of insurance, notwithstanding the lack of any reference to property insurance in the Fair Housing Act or its legislative history, also contradicts the statutory mandate of the McCarran-Ferguson Act of 1945, which requires that, unless a Federal law "specifically relates to the business of insurance," that law shall not apply where it would "invalidate, impair or supersede" State law. HUD's assumption of authority to regulate property insurance has the practical effect of invalidating, impairing and superseding the State laws which prohibit unfair discrimination by insurers, and it is the type of duplicative regulation which Congress sought to avoid through McCarran-Ferguson.

We should not tolerate illegal discriminatory practices by anyone involved in the real estate market. However, every State provides recourse for addressing complaints of unfair discrimination by insurers. There is no need for HUD, which currently has difficulty meeting its statutory mandates, to step into the shoes of State regulators to create a Federal regulatory regime without clear justification or authority.

PROPERTY INSURANCE REGULATION

Mr. BOND. Mr. President, I want to make it clear that I am fundamentally and adamantly opposed to discrimination in any form, including discrimination in the provision of property insurance. Nevertheless, I believe that HUD has no authority under the Fair Housing Act to regulate the practices of the insurance industry, including practices related to the provision of property insurance. Moreover, HUD does not have the capacity or ability to address discrimination issues in the practices of the insurance industry, and any attempts to establish and enforce standards are likely to result in confusion and questionable actions.

The purpose of both the Senate and House committee reports to the VA/HUD fiscal year 1997 appropriations bill is to ask HUD to focus its fair housing resources of $30 million toward activities designed to fight discrimination in the sale, rental, and financing of housing.

These are limited resources and the committee report language in both House and Senate reports is designed to ensure that this funding is used in a comprehensive and focused manner to fight housing discrimination.

Furthermore, while the courts have not always been consistent in the application of the Fair Housing Act, I believe Congress has made it clear that the regulation of property insurance is outside the scope of the Fair Housing Act and is contrary to the intent of the MacCarran-Ferguson Act which states that the responsibility for insurance matters, including property insurance, is the responsibility of the States. The Fair Housing Act says nothing about Federal action with regard to discrimination in the provision of property insurance.

In fact, the legislative history of the Fair Housing Act indicates that the Fair Housing Act does not apply to insurance. Notably, in the Senate floor debate on the 1980 amendments to the Fair Housing Act, Senator HEFLIN stated that it was * * *

> * * * the decision of the Subcommittee on the Constitution, acquiesced in by the full Senate Judiciary Committee, to leave the regulation and oversight of the property insurance business to the States and to reject extension of [the Fair Housing Act] to that business.

HUD's property insurance activities are wholly unwarranted. Every State and the District of Columbia have laws and regulations addressing unfair discrimination in property insurance. We need to avoid duplication of effort and also avoid the risk of creating new and different standards that will be confusing and administratively burdensome. The House and Senate reports to the VA/HUD fiscal year 1997 Appropriations Act are identical on the issue of fair housing and property insurance, and are designed to state the understanding of the House and Senate that HUD should not intrude upon the responsibilities of the States with regard to the regulation of insurance, including property insurance.

Mr. SHELBY. Mr. President, on September 5, 1996, several senators expressed concern about language regarding property insurance activities by HUD's Office of Fair Housing and Equal Opportunity contained in the committee report accompanying the VA, HUD, and independent agencies appropriation bill.

For some time now, HUD has claimed it has jurisdiction under the Fair Housing Act to investigate complaints about alleged insurance redlining practices. Statements have been made that the committee report language is an effort to somehow exempt the insurance industry from civil rights enforcement. Nothing could be further from the truth. This is not about civil rights. It is about regulation.

Congress never intended to apply the Fair Housing Act to property insurance for the simple reason that the insurance industry is subject to State regulation under the McCarran-Ferguson Act. It is for this reason that the Congress chose specifically not to include the sale or underwriting of insurance under the Fair Housing Act.

HUD's enforcement and regulatory activities regarding property insurance is clearly a waste of resources because it duplicates State laws and regulations. Virtually every State and the District of Columbia have laws or regulations governing unfair discriminatory practices by insurance companies. States are actively investigating and addressing discrimination where it is found to occur. HUD is just adding another wasteful and unnecessary layer of bureaucracy.

Congress faces many hard choices in working to fulfill its commitment to eliminate unnecessary Federal spending and red tape. With respect to HUD, Congress must determine how to preserve essential programs while creating a more efficient Federal Government and reduce the budget deficit. If there is one area of Federal spending where Congress need not struggle to determine whether cutbacks are appropriate, it is HUD's activities regarding property insurance.

Mr. FAIRCLOTH. Mr. President, I rise today to speak about HUD's attempts over the past few years to regulate property insurance under the Fair Housing Act. Let me state for the record that I am committed to strict enforcement of the Fair Housing Act and its prohibitions against discrimination in housing.

The Fair Housing Act is one of the basic tenets of our country's civil rights laws. Where outright discrimination in housing is found, enforcement must be swift and strong.

However, my concerns stem from two issues. First, HUD lacks the authority to regulate property insurance. Second, regulation of property insurance is already being done by the States.

The Fair Housing Act makes it unlawful "to discriminate against any person in the terms, conditions, or privileges of sale or rental of a home . . . Because of race." The language goes on to refer to the services provided by mortgage bankers and real estate brokers. Nowhere in the language does the act refer to property insurance. The Fair Housing Act does not specifically relate to the business of insurance. Courts have held that Congress never intended the Fair Housing Act to apply to insurance. HUD is clearly overstepping its authority by pursuing any regulation in this area. In fact, it spent hundreds of thousands of dollars on outside legal help to write this regulation because the legal basis for doing so was so tenuous.

By pursuing this issue, HUD is assuming that States have not been doing anything in this area. That assumption is wrong. All 50 States and the District of Columbia have enacted statutes or regulations, or both, that address unfair discrimination in insurance practices, violations of civil rights or which permit insurance departments to investigate unfair trade practices. I will submit for the record a compilation of some of these State statutes or regulations governing unfair discrimination in insurance. States are active in investigating discrimination. There is strong protection against illegal discrimination. HUD's actions only add another unnecessary layer of Federal bureaucracy.

This is just another example of HUD trying to assert more Federal power and more Federal control in an area traditionally under the domain of the States. HUD has shown, over the more than 30 years that the department has been in existence, that it cannot perform well those programs that are under its administration. What case can be made for HUD to take on yet another program. HUD is a failure. Regulation of property insurance is not within HUD's authority, and every effort should be made to keep HUD out of this area.

I ask unanimous consent that a representative sample of State statutes or regulations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE LAWS GOVERNING UNFAIR DISCRIMINATION IN INSURANCE

[Below is a compilation of laws and regulations in the 50 states and the District of Columbia which address unfair discrimination in insurance practices, violations of civil rights, or which permit insurance departments to investigate unfair trade practices. All 50 states and the District of Columbia have enacted statutes or regulations, or both, to address these issues. Except where otherwise indicated, all citations are to insurance codes or regulations]

State: Citation and chapter/section heading	Relevant text
Alabama:	
Trade Practices Law: § 27–12–2; § 27–12–21	No person shall engage in this state in any trade practice which is . . . determined [by the Commissioner] to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.
Rates and Rate Organizations: § 27–13–1; § 27–13–65	Every rating organization and every insurer which makes its own rates shall make rates that are not unreasonably high or inadequate for the safety and soundness of the insurer and which do not unfairly discriminate between risks in this state . . .
Arkansas:	
Trade Practices: § 23–66–205; § 23–66–206(7)	Prohibited unfair competition or unfair or deceptive acts or practices include the following: (C) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless: (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate. (D) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk or on the personal property contained therein because of the age of the residential property, unless: (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate.
Rates and Rating Organizations: § 23–67–201; § 23–67–208	(a) [Insurance] rates shall not be excessive, inadequate, or unfairly discriminatory.
California:	
Prohibition of Discriminatory Practices by Certain Admitted Insurers: § 679.71	No admitted insurer shall fail or refuse to accept an application for, or to issue a policy to an applicant, or cancel insurance, under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every marital status, sex, race, color, religion, national origin, or ancestry; nor shall sex, race, color, religion, national origin, or ancestry itself constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for such insurance.
CA Code of Regulations (CCR): § 2646.6	Requires insurers to collect and submit comprehensive insurance premium/exposure, marketing and customer demographic data by geographical area on an annual basis to the Department of Insurance.
District of Columbia:	
Fire, Casualty, and Marine Insurance: § 35–1533	Discrimination between individual risks of the same class or hazard in the amount of premiums or rates charged for any policy, or in the benefits or amount of insurance payable thereon, or in any of the terms or conditions of such policy, or in any other manner whatsoever, is prohibited, and the Superintendent is empowered after investigation to order removed at such time and in such manner as he shall specify any such discrimination which his investigation may reveal.
Regulation of Casualty and Other Insurance Rates: § 35–1703	(a) Rates for insurance within the scope of this chapter shall not be excessive, inadequate, or unfairly discriminatory.
Georgia:	
Unfair Trade Practices: § 33–6–3; § 33–6–4(b)(A)(iii)	Prohibited unfair methods of competition and unfair and deceptive acts or practices in the business of insurance include the following: (A)(iii) Making or permitting any unfair discrimination in the issuance, renewal, or cancellation of any policy or contract of insurance against direct loss to residual property and the contents thereof, in the amount of premium, policy fees, or rates charged for the policies or contracts when the discrimination is solely based upon the age or geographical location of the property within a rated fire without regard to objective loss experience relating thereto.
Regulation of Rates, Underwriting Rules, and Related Organizations: § 33–9–1; § 33–9–4.	(1) [Insurance] rates shall not be excessive or inadequate, as defined in this Code section, nor shall they be unfairly discriminatory.
GA Regulations: 120–2–65; 120–2–66	Prohibitive underwriting guidelines for automobile insurance. Prohibitive underwriting guidelines for property insurance.
Illinois:	
Unfair Methods of Competition and Unfair and Deceptive Acts and Practices: 215 ILCS 5/423; 215 ILCS 5/424; 215 ILCS 5/155.22.	Prohibited unfair methods of competition or unfair and deceptive acts or practices include the following: (3) Making or permitting, in the case of insurance of the types enumerated in classes 2 and 3 of section 4, any unfair discrimination between individuals or risks of the same class or of essentially the same hazard and expense element because of the race, color, religion or national origin of such insurance risks or applicant. No company authorized to transact in this State the kinds of business described in Classes 2 and 3 of Section 4,[1] and no officer, director, agent, clerk, employee or broker of such company shall upon proper application refuse to provide insurance solely on the basis of the specific geographic location of the risk sought to be insured unless such refusal is for a business purpose which is not a mere pretext for unfair discrimination.
Louisiana:	

STATE LAWS GOVERNING UNFAIR DISCRIMINATION IN INSURANCE—Continued

[Below is a compilation of laws and regulations in the 50 states and the District of Columbia which address unfair discrimination in insurance practices, violations of civil rights, or which permit insurance departments to investigate unfair trade practices. All 50 states and the District of Columbia have enacted statutes or regulations, or both, to address these issues. Except where otherwise indicated, all citations are to insurance codes or regulations]

State: Citation and chapter/section heading	Relevant text
Unfair Trade Practices: § 22.1213; § 22:1214(7)	Prohibited unfair methods of competition in the business of insurance include the following: (7)(d) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazard by refusing to insure, refusing to renew, cancelling, or limiting the amount of insurance coverage on a property or casualty risk solely because of the geographic location of the risk, unless such action is a result of the application of sound underwriting and actuarial principles related to actual or reasonably anticipated loss experience; (e) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to insure, refusing to renew, canceling, or limiting the amount of insurance coverage on the residential property risk, or the personal property contained therein, solely because of the age of the residential property; (f) Refusing to insure, refusing to continue to insure or limiting the amount of coverage available to an individual solely because of the sex, marital status, race, religion, or national origin of the individual. However, nothing in this Subsection shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits. Nothing in this Section shall prohibit or limit the operation of fraternal benefit societies.
§ 22:652	No insurer shall make or permit any unfair discrimination in favor of particular individuals or persons, or between insureds or subjects of insurance having substantially like insuring risk and exposure factors, or expense elements, in the terms or conditions of any insurance contract, or in the rate of amount of premium charged therefor, or in the benefits payable or in any other rights or privileges accruing thereunder . . .
Louisiana Insurance Rating Commission and Rate Regulation: § 1402; § 1404	(2) [Insurance] rates shall not be excessive, inadequate or unfairly discriminatory.
New York:	
Unfair Claim Settlement Practices; Other Misconduct; Discrimination: § 2606	(a) . . . no individual or entity subject to the supervision of the superintendent shall because of race, color, creed or national origin: (1) Make any distinction or discrimination between persons as to the premiums or rates charged for insurance policies or in any other manner whatever. (2) Demand or require a greater premium from any persons than it requires at that time from others in similar cases. (b) . . . no individual or entity subject to the superintendent's supervision shall solely because of the applicant's race, color, creed or national origin: (1) Reject any application for a policy of insurance issued and/or sold by it. (2) Refuse to issue, renew or sell such policy after appropriate application therefor.
§ 2607	No individual or entity shall refuse to issue any policy of insurance, or cancel or decline to renew such policy because of the sex or marital status of the applicant or policyholder.
Property/Casualty Insurance Rates: § 2301; § 2303	Rates shall not be excessive, inadequate, unfairly discriminatory, destructive of competition or detrimental to the solvency of insurers.
North Carolina:	
Unfair Trade Practices: § 58–63–10; § 58–63–15(7)	Prohibited acts of unfair discrimination include: (7)c. Making or permitting any unfair discrimination between or among individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless: 1. The refusal or limitation is for the purpose of preserving the solvency of the insurer and is not a mere pretext for unfair discrimination or 2. The refusal, cancellation, or limitation is required by law. d. Making or permitting any unfair discrimination between or among individuals or risks of the same class and of essentially the same hazard by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless: 1. The refusal or limitation is for the purpose of preserving the solvency of the insurer and is not a mere pretext for unfair discrimination, or 2. The refusal, cancellation, or limitation is required by law.
Regulation of Insurance Rates: § 58–40–1; § 58–40–20	(a) In order to serve the public interest, rates shall not be excessive, inadequate or unfairly discriminatory.
Texas:	
Misrepresentation and Discrimination: Art. 21.21 sec. 3; Art. 21.21 sec. 4	Prohibited acts of unfair discrimination include: (7)(c) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to renew, canceling or limiting the amount of coverage on a policy of insurance covered by Subchapter C, Chapter 4, of this code because of the geographic location of the risk unless: (1) the refusal, cancellation or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or (2) the refusal, cancellation or limitation is required by law or regulatory mandate.
Casualty Insurance and Fidelity, Guaranty and Surety Bonds: Art. 5.14	(3) Rates shall be reasonable, adequate, not unfairly discriminatory.

[1] 215 ILCS 5/4.

FAIR HOUSING INITIATIVE PROGRAM

Mr. BURNS. Mr. President, during consideration of the VA, HUD, and independent agencies appropriations bill on September 5, 1996, several of my colleagues made statements about language contained in the report accompanying the bill that directs HUD to expend the limited funds available for the Fair Housing Initiative Program [FHIP] only on such forms of discrimination as are explicitly identified under title VIII of the Civil Rights Act.

The Fair Housing Act makes no mention of property insurance. A reading of the legislative history of the act will disclose that Congress intentionally left out property insurance because insurance is a State regulated activity. Since the States regulate property insurance and have laws and regulations addressing unfair discrimination in property insurance, it was our conclusion that this is one area where HUD does not need to expend its resources.

Moreover, the report language was included in response to testimony from the Department of Housing and Urban Development stating it had limited resources available for the FHIP Program. It was our thought that HUD should use its limited resources to address only those areas specifically mentioned in the law that include the sale, rental, and financing of housing and in the provision of brokerage services.

Throughout all of its efforts and funding of outside groups to investigate insurance practices, it is interesting that neither HUD nor the private groups it funds with public money have been able to produce one individual who has failed to purchase a home because insurance was denied to that person. So much for "no insurance, no loan, no house."

In a statement released September 11, 1995, Max Boozell, the Illinois director of insurance, stated,

> I am very disturbed by the contention that major homeowner insurance companies are redlining in Chicago. To the contrary, our 1994 study of homeowners insurance not only reflects a healthy, viable urban insurance market in Illinois, but provides no hard evidence of institutional redlining by any Illinois insurer.

Nor is this a civil rights debate as many would have us believe. Activities of the Justice Department under the Fair Housing Act have not been curtailed, nor does the inclusion of this report language impact the application to property insurance practices of section 1981 of the U.S. Code, which prohibits racial discrimination in the provision of insurance and other services under contract.

Nowhere in the Fair Housing Act is property insurance mentioned. More than 50 years ago, Congress wisely decided that, in the area of insurance regulation, the States should be spared Federal interference. Under the McCarran-Ferguson Act of 1945, Congress explicitly provided that, unless a Federal law "specifically relates to the business of insurance," that law shall not be deemed applicable to insurance practices. By applying the Fair Housing Act to insurance, HUD simply disregards the fact that the law does not "specifically relate to the business of insurance."

Mr. President, the courts are divided on this issue. It was disappointing that the Supreme Court failed to grant certiorari in the case of Nationwide Mutual versus Cisneros. The Court could have resolved the conflict that now exists in 2 circuits out of our 13 Federal circuit courts. The two courts that have found that the Fair Housing Act applies to property insurance practices have relied on HUD's regulations, which, without any statutory authority, refer to discrimination in property insurance. In other words, HUD did not have a law, so the bureaucrats got to work and created one through regulations.

There is simply no justification for HUD continuing to expend funds for insurance regulatory activities that duplicate comprehensive State regulation at the expense of the American taxpayer. HUD would do better to work within the framework of the law with its limited resources.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

Mr. BOND. Mr. President, the conference report to H.R. 3666, the VA/HUD Fiscal Year 1997 Appropriations Act, included an amendment by Senator BENNETT, that requires GAO to audit the operations of the Office of Federal Housing Enterprise Oversight [OFHEO] concerning staff organization, expertise, capacity, and contracting authority to ensure that the resources are adequate and that they are being used appropriately to ensure that Fannie Mae and Freddie Mac are adequately capitalized and operating safely. As Senator BENNETT previously advised, OFHEO is over 2 years behind in developing risk-based capital standards which are intended to ensure the financial safety and soundness of these Government-sponsored entities. Senator BENNETT further advised that OFHEO needs to refocus its activities, away from such activities as trips abroad, to ensure that these critically needed risk-based capital standards are developed and operative.

I also am very concerned over OFHEO's lapse in its responsibility for the timely development of these risk-based capital standards, and I urge OFHEO to expedite these necessary rulemaking requirements. I also advise that the Housing and Community Development Act of 1992 established OFHEO as an independent office in HUD and not as a new Federal agency. Nevertheless, in a time of Government downsizing, OFHEO continues to request additional staff and funding, while focusing on activities other than its primary responsibility to promulgate financial safety and soundness rules.

The 1992 housing bill, which I worked on, intended OFHEO, as a practical matter, to be a tripwire to alert Congress and the Nation to any significant financial risks that may be confronting Fannie Mae and Freddie Mac. This is a critically important function and OFHEO's primary function—I do not think that anyone intends or expects OFHEO to become a new agency or act as a political entity. I expect the GAO audit to lend some perspective to OFHEO's purpose, its ability to perform its purpose, and recommend ways to streamline and ensure OFHEO's capacity and expertise will meet its rulemaking and regulatory functions.

DRINKING WATER HEALTH EFFECTS RESEARCH

Mr. BOND. Mr. President, since completion of the VA-HUD conference, some confusion has arisen as to funding of drinking water health effects research. First, let me state unequivocally that I strongly support funding for drinking water health effects research to ensure that rules governing drinking water quality are based on the best science and result in cost-effective protection of public health. As a member of the Environment and Public Works Committee, I advocated amending the Safe Drinking Water Act to change the standard setting process and improve the scientific basis for regulations.

As chairman of the VA, HUD, and Independent Agencies Appropriations Subcommittee, I have worked to fund fully the new State revolving fund program for the construction of drinking water plants. The conference report before us includes $1.275 billion—$550 million as requested by the President, and an additional $725 million to restore funds previously appropriated for this program but released last month for clean water SRF's.

Unfortunately, delays in enactment of the Safe Drinking Water Act amendments precluded in VA-HUD subcommittee's consideration of the many additional funding requirements associated with implementation of this legislation.

However, the conference agreement acknowledges that the new legislation will require resources, and states "the conferees expect EPA to address any funding requirements for implementation of [this] important statute, such as drinking water health effects research, in the agency's operating plan."

Funding for drinking water health effects research—outside of the amounts included in the science and technology account—was not in either House or Senate version of the VA-HUD bill, and hence was not an issue in conference. While I object to off-the-top setasides from State revolving funds, I fully support funding for health effects research from the science and technology account, which funds all of EPA's research activities. Should EPA propose to increase the relative priority for health effects research as part of its operating plan, and request additional funding for such research within the $542 million appropriated for science and technology, it is my expectation that this would be favorably received.

In conclusion, I encourage EPA to consider carefully the funding requirements associated with this new legislation, and propose a redirection of funds for these important activities within the $6.7 billion fiscal year 1997 appropriation.

COORDINATED TRIBAL WATER QUALITY PROGRAM

Mrs. MURRAY. Mr. President, I want to thank the subcommittee for its hard and diligent work on this bill. In particular, I appreciate the earmark of $500,000 for the Coordinated Tribal Water Quality Program for fiscal year 1997.

This program began in 1990 when the 26 tribes and tribal organizations in Washington State came together with a cooperative intergovernmental strategy to accomplish national clean water goals. As a result of Federal court decisions, the State of Washington has recognized the tribes as comanagers of water quality in the State. This program has been an effective tool for leveraging scarce public funds to create viable, watershed-based water quality protection plans.

It is my understanding that the $500,000 earmark in the committee report is not intended to preclude the Coordinated Tribal Water Quality Program from receiving the needed additional $2 million from the Environmental Protection Agency's existing funds under section 104(b)3 of the Clean Water Act.

Mr. BOND. Mr. President, the Senator from Washington is correct. The earmark is intended to be a floor from which the EPA may supplement the Coordinated Tribal Water Quality Program. The additional funding will allow the tribes to fulfill their roles as comanagers of water quality in Washington State.

Mrs. MURRAY. I thank the distinguished Chairman for this clarification.

The PRESIDING OFFICER. Pursuant to the previous order, the conference report accompanying H.R. 3666, the VA-HUD appropriations bill, having been received, the conference report is agreed to, and the motion to reconsider is tabled.

The conference report was agreed to.

Mr. GORTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask unanimous consent to proceed for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

STRENGTHENING THE FAMILY AND MEDICAL LEAVE ACT

Mr. KENNEDY. Mr. President, passage of the Family and Medical Leave Act in 1993 was a true landmark for America's families. For the first time, millions of working men and women were freed from the threat of job loss if they needed time off for the birth of a child or to care for a sick family member.

The act has worked well—for employees and for their employers. Employees are now able to take a leave of absence to be with their children or with a sick relative at a crucial time for the family, so that they can provide the special care and compassion which are the glue that binds a family together. In the 3 years since its enactment, it has already helped millions of American families.

For seriously ill children it is particularly important. Having the emotional support of close family members can be a crucial element in their recovery. Allowing a parent the time to be with his or her child under these circumstances can truly make a difference.

The impact on employers has been negligible. A research survey commissioned by the Bureau of Labor Statistics found that 93 percent of businesses incurred little or no additional cost due to the Family and Medical Leave Act. There was no noticeable effect on productivity, profitability, and growth resulting from the new law, according to 87 percent of the businesses surveyed.

In light of these facts, it is particularly shocking that Bob Dole would attack the Family and Medical Leave Act as he did the other day. He criticized the Family and Medical Leave Act as an example of "the long arm of the Federal Government" interfering with the rights of business owners. As he stated, "My view is, why should the Federal Government be getting into family leave? * * * the Federal Government ought to be out of it."

Bob Dole is wrong about family and medical leave and many other issues. In more and more American homes today, both parents must have jobs in order to support their families. A substantial majority of children live in families where neither parent is at home during the day because of their jobs. If we value families—if we are serious about helping parents meet the needs of their children—then family medical leave is essential. Family members must be allowed time off from work to care for a newborn infant, to nurse a sick child back to health, or to be with a sick parent or spouse in a time of medical crisis.

The price of meeting these family responsibilities should not be losing your job. That is why family and medical leave is essential. Bob Dole may not understand this, but American people, by an overwhelming majority, do understand it.

The current law has made a dramatic difference for working families. But, it does not address another very important issue for such families—the need for a brief break in the workday to meet the more routine, but still very important, demands of raising children. At a time when more children than ever are growing up in one parent homes or in families where both parents work outside the home, this flexibility is becoming more and more essential.

Every working parent has experienced the strain of being torn between the demands of their job and the needs of their children. Taking a child to the pediatrician, meeting with a teacher to discuss a problem at school, accompanying a child to a school event, watching a child perform in a special recital or in the big game—all of these often require time off from work. No parent should have to choose between alienating the boss and neglecting the child.

Many employers understand this, and allow their workers to take time for family responsibilities. But many other companies refuse to accommodate their workers in this way. The ability of parents to meet these family obligations should not be dependent on the whim of their employer. In a society that genuinely values families, it should be a matter of right.

Under proposed Democratic amendments to the Family and Medical Leave Act, working parents would be entitled to 4 hours of unpaid leave a month, up to a total of 24 hours of leave a year, to participate in their child's school and community activities or to take that child to the doctor. Employers would have to receive at least 7 days advance notice of each absence, so that employers will have ample opportunity to arrange work schedules around the brief absence of the employee.

Clearly, this legislation is needed. A recent survey of 30,000 PTA leaders found that 89 percent of parents cannot be as involved in their children's education as they would like because of job demands. A Radcliffe Public Policy Institute study completed last year found that the total time that parents spend with their children has dropped by a third in the past 30 years. This disturbing trend must be reversed.

Greater involvement of parents in their children's education can make a vital difference in their learning experience. A big part of that involvement is more regular contact between parent and teacher, and more regular participation by parents in their children's school activities.

Many of those meetings and activities are scheduled during the workday. As a result, millions of parents are unable to participate because their employers refuse to allow time off. Permitting a modest adjustment in a parent's workday can greatly enrich a child's schoolday. All children will benefit from this kind of parental support and encouragement, and so will the country.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that I be permitted to speak for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

WIFE AND CHILD ABUSERS CAN STILL OWN GUNS

Mr. LAUTENBERG. Mr. President, on September 12, the U.S. Senate, by a vote of 97 to 2, approved an amendment that I sponsored to ban wife beaters and child abusers from having guns. Last night, I learned something about this place that shocks me, and I am here now for 14 years. I learned that even a mandate, voted on 97 to 2, can be dispensed with by a wink of the eye and a nod of the head, with the Rifle Association looking over Members' shoulders. I was told last night that, behind closed doors, the Republican leadership has decided to entirely gut this legislation and say that someone who beats his wife and beats his child ought to be able to own a gun. In other words, the gun is more valuable than the life that may be in jeopardy.

According to the information I received, the continuing resolution now will contain language that seems to have been drafted directly by the National Rifle Association. This new language would allow child abusers to have guns. It also lets off the hook all wife beaters who are convicted in a bench trial, that is, as opposed to a jury trial, just a judge sitting there. And it contains special notification requirements that will allow many wife beaters to hold on to their guns, and that will say to these wife beaters: For you, unlike for everyone else in our society, ignorance of the law is an appropriate excuse.

Mr. President, perhaps it is obvious, but I am absolutely outraged by this proposal, and I hope Americans across our Nation will be outraged, particularly those who have a sister, a mother, a daughter, those who care about what happens with women in our society. It represents a complete cave-in to the most radical fringe of the gun lobby. It will jeopardize the lives of thousands of battered women and children around our Nation.

I am especially outraged because the language approved by the Senate had won such broad, bipartisan support. Among those who approved this legislation were Senator CRAIG, Senator LOTT, the distinguished majority leader, and Senator HUTCHISON from Texas. They all agreed to this. That is why my amendment passed this body by a vote of 97 to 2.

Unfortunately, the gun lobby is now intruding in the legislative process and emasculating this legislation. The NRA language, apparently being placed in the CR, would completely gut the protections in our amendment. It would put guns directly in the hands of people who have beaten their wives or abused their kids. The end result, without any question, would be more shootings, more injuries, and more death.

Mr. President, this new language has several flaws, and I want to take a moment to explain them. First of all, this amendment would completely exempt child abusers from the ban on firearm possession. OK, you can beat your kid, you can still have your gun. Is that the kind of society that we want? I don't think so.

As I have explained, my proposal, as approved by the Senate, applies both to those who abuse their spouses and those who abuse their children. The new language in the Republican bill stands for the proposition that child abusers may continue to possess their guns.

Mr. President, that is absurd, it is outrageous, infuriating, and it is an insult to women in our society. It is an insult to men who think positively about the females in their lives. If someone assaults his own child and is convicted for it, that abuser, in my legislation, has sacrificed any claim to a gun. That is the way I think it ought to be, and 97 Senators agreed with me. That was the second vote, by the way, on my legislation. One time it was unanimous, by a voice vote, with not one objection. More importantly, the child needs protection, and he or she deserves it.

If we can't protect the most vulnerable among us, our abused children, what does that say about us? What does it say about this cowardly Congress? What does it say about the power the National Rifle Association has over our entire society?

Mr. President, excluding child abusers from this ban would be reason enough to defeat this amendment. But there is more. This amendment would also allow many wife beaters to continue to possess firearms. The amendment would entirely exempt from the ban anyone who has been convicted in a trial that was heard solely by a judge. Only convictions from a jury trial would be subject to this watered-down ban.

Mr. President, I can tell you that many wife abusers in my State of New Jersey are convicted in a bench trial. They are brought before the judge and he renders a verdict. These convictions are entirely valid. They can send someone to jail or declare it a misdemeanor. There is no basis for excluding those charged and convicted by a judge—excluding them from the prohibition.

Mr. President, States vary considerably with respect to the types of crimes for which a jury trial is required. In some States, jury trials are used in most domestic violence cases. But in others, judges handle many of these cases.

So the effect of this amendment would be to exclude from the ban a large number of wife beaters, who happen to beat their wives in a State that has a bench trial rather than a jury trial. These wife beaters may have been just as violent as those in other States, where other abusers would be tried by a jury. But under this new language, these wife beaters would have a special exemption. They would be off the hook. "Aha, you didn't try me by a jury, so I want my gun while I beat my wife." Meanwhile, the wives and kids will remain unprotected from gun violence and, for some, that will mean, very simply, they are going to die. The difference often between the beating and a murder is the presence of a gun. Mr. President, it is wrong.

It is time to establish a very clear rule. If you are convicted of beating your wife or your child, you lose your gun. If you are convicted of abusing your child, you lose your gun, no ifs, ands, or buts.

Mr. President, another problematic provision in the new CR language—the continuing resolution is going to determine how we finance most of Government, and I want everybody to understand that, starting with the fiscal year, October 1. That is how we are going to finance Government. In that is this language that gives special exemption to wife beaters. The new language says to wife beaters: We are going to create a special exemption for you if you have been convicted by a judge.

In general, as most Americans know, ignorance of the law is no excuse. But, here, there is another out for the wife beater. For some reason or other, under this amendment, wife beaters would not be subjected to this rule. This amendment says that a wife beater must explicitly be given notice of the firearm ban at the time he is charged or notified of the complaint. Otherwise, if the notice is not given at the time of complaint or charging, the wife beater will be entirely free to have the gun. In other words, "Aha, I wasn't told that if I beat my wife, I might lose my gun, so therefore, it is my gun and my wife, and if I want to beat her, I will beat her." That is what they are saying.

Now, Mr. President, I am all for telling wife beaters they can't have a gun at any time. That is the best way, and it ought to be. It should not be a prerequisite for a ban. After all, it is not a prerequisite for anyone also. Felons are prohibited from having guns, regardless of whether they have ever been officially given notice. For them, ignorance of the law is no excuse. But under this amendment, it would be an excuse for a wife beater.

In fact, this amendment is constructed so poorly, that it would even allow wife beaters to get guns if they did get notice, if the notice wasn't at the time of the complaint or charging. In other words, if someone is only given notice about the ban when they're convicted, they could still possess guns.

Another effect of this language, Mr. President, is that it would completely exempt from the ban anyone who beat their wife, and was convicted, before the CR gets enacted, if they want to make it easy for these wife beaters to escape. This means that huge numbers of battered wives and abused children will remain vulnerable to firearm violence.

Mr. President, the bottom line is that the provision apparently to be included in the CR is not serious legislation even though Speaker GINGRICH said on a Sunday show that was witnessed by millions of Americans when he said he would accept this proposition, this legislation that I put forward. He promised he would do it. But once the NRA got hold of him and pulled on his coat a little bit he said, "Well, OK. Maybe we will just water it down a little bit." The same thing happened on the floor of this body.

It's little more than a sham. It claims to establish a gun ban for those committing domestic violence. But it's been drafted cleverly by the gun lobby. And, not surprisingly, it's got loopholes large enough to drive a truck of wife beaters through.

Mr. President, the problems with this amendment go on and on. And that's because this is not a serious amendment. It's a sham. It is a dodge. It is a shame.

It's a desperate attempt to let wife beaters and child abusers keep their guns. And nobody should be fooled into believing otherwise.

Mr. President, I know the NRA has a lot of power around here. We see it exhibited all the time—raw power. I do not know how many members they have. It is estimated, as I understand it, at 3 million but they have 260 million other Americans in the grip of their hands. But isn't there some point at which we draw the line? Isn't their some point at which we draw the line? Isn't their some point where we say enough is enough? Isn't their some point where they want to protect their own wives, or their own children? Isn't there some point when we can stand behind a 97 to 2 amendment approved in the U.S. Senate and say, "Yes, we meant it?" Or did we say in some cases we meant it until we got into the darkness of a closed room and then we made our deal, and in the light before the public? Oh, no. We are good guys. We do not want those wife beaters to have guns, those child abusers to have guns. But in the secret of a dark room they said "Yes. The guy ought to have a gun. What the heck. He only beat his wife." If he beat the wife next door he would be in jail for 5 years; or, if he abused the child next door he would be in jail 5 years, or maybe in some States they want child abusers to be in jail for life. But if it is your own kid, if it is your own wife, it is like that is chattel property, you know. Just do as you please.

Mr. President, I hope my colleagues will keep something in mind when they think about this provision. This is nothing short of a matter of life and death.

Somewhere out there, there are thousands of battered wives and abused children. Thousands of innocent Americans who are virtually helpless against their abusers.

Mr. President, every year, there are about 2 million reported cases of domestic violence. Very few of them get prosecuted because they are convinced or frightened by the abuser that it would be tough. He wants to be forgiven. In approximately 100,000 of these cases a gun is involved—some put this figure at 150,000. In other words, an argument ensues, a gun is held, aimed and pointed to the head of the woman, and he says, "If you do not do this I am going to blow your head off." And the child witnessing that carries that trauma for life.

There is no question that the presence of a gun dramatically increases the likelihood that domestic violence will escalate into murder. According to one study, for example, in households with a history of battering, the presence of a gun increases the likelihood that a woman will be killed threefold.

As Senator WELLSTONE put it so beautifully and succinctly on the floor one day, all too often, the difference between a battered woman and a dead woman is the presence of a gun.

Mr. President, it is not an exaggeration to say that for many women and children, we have their lives in our hands.

We can save their lives by enacting the Senate proposal, and keeping guns away from their abusers. Or we can cave in gutlessly to the NRA. And they will die. And they will be buried in their communities. But some of the grief has to extend to this place.

Mr. President, my message is simple. Wife beaters should not have guns, and child abusers should not have guns. And I urge my colleagues to stand up for the victims of domestic violence, to reject this sham legislation, and to enact meaningful law to keep guns away from wife beaters and child abusers.

And if the NRA and their supporters insist on pushing a sham ban, I want to put everyone on notice that I intend to fight this every step of the way with all the tools at my disposal.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

VOTE TO OVERRIDE THE PRESIDENT'S VETO OF H.R. 1833

Mr. THURMOND. Mr. President, I rise today to speak on the President's veto of legislation to ban partial-birth abortions.

The President should have signed this legislation and helped us ban the shocking procedure known as partial-birth abortions. Instead, he ignored the overwhelming evidence that compels the need for this legislation to become law. I heard testimony on this matter from doctors before the Judiciary Committee and without any doubt, the availability of this procedure is indefensible.

The former Surgeon General, C. Everett Koop, stated, and I quote, "In no way can I twist my mind to see that partial-birth —and then destruction of the unborn child before the head is born—is a medical necessity for the mother."

Mr. President, one important issue that must be addressed here is the constitutionality of the partial-birth abortion ban. I believe that based on Supreme Court rulings in this area, the Partial-Birth Abortion Ban Act of 1995 would survive a constitutional challenge. In fact, in Planned Parenthood of Southeastern Pennsylvania versus Casey the Supreme Court stated, "The woman's liberty is not so unlimited * * * that from the outset the State cannot show its concern for the life of the unborn, and at a later point in fetal development the State's interest in life has sufficient force so that the right of the woman to terminate the pregnancy can be restricted."

The Casey decision established the undue burden test with the threshold question being whether the abortion-related statute imposes an undue burden on a mother's right to choose to have an abortion.

Mr. President, I believe that the Partial-Birth Abortion Ban Act of 1995 would survive constitutional challenge and would be subject to the rational basis scrutiny because it does not impose an undue burden on the mother's right to choose to have an abortion. The legislation is constitutionally sound, serves a legitimate governmental interest, and should become law.

The House recently voted to override the President's veto of this important bill and we should join them when the Senate votes on Thursday. I urge my colleagues to override the President's misguided veto of the Partial-Birth Abortion Ban Act of 1995.

I wish to thank the able Senator from North Dakota for allowing me to speak at this time.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to be allowed to speak in morning business for 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ISSUES IMPORTANT TO THE AMERICAN PEOPLE

Mr. DORGAN. Mr. President, earlier this morning, as is often the case, in the Senate we had a number of Senators come to the Senate floor with a message that essentially the folks who sit on the Democratic side of the aisle have not been very constructive in their legislative approach, and the Republican legislators have been carrying the issues that were important to the American people. They take on the President, and they take on the Democratic leader of the Senate. We have to come to the floor occasionally to respond to these, and I do so again today.

It is interesting. Today we were told that the Democratic leader of the Senate, Senator DASCHLE, was wrong in his assessment of the 104th Congress. They said he didn't know what he was talking about with respect to the 104th Congress. Why, this was a wonderful Congress. What a productive Congress it was.

I would like to talk a little about that because at the first part of this Congress I recall seeing someone stand on the other side of the floor and offer a message to the American people, saying we ought to be ashamed of the last 50 years; what an awful place this country has become—50 years downhill for America. Who caused it? The Democrats, of course, according to that speaker. I rose that day, and I said we must be living in different countries.

Let me stand up and say I am proud of the last half century in this country. I am proud of what we have done. In fact, some of the same people who tell us that this country has gone to hell in a handbasket, they would say, are suggesting that we build a fence to keep immigrants out.

Why would someone suggest we need to build a fence around this country to keep people out if it is such an awful place? This country is a strong, resourceful, wonderful country that a lot of the people in the rest of the world want to come to because it is a beacon of hope and opportunity.

The fact is this Congress is a very unusual Congress. At the start of this Congress, Republicans were elected to control the House and the Senate. The American people made that choice, and I respect that choice. But they came to town, elected a new Speaker of the House of Representatives, and they had a victory lap like peacocks in full mating season. It was almost like a coronation at the start of this Congress. And full of themselves, they proposed a range of issues. They said, look, the first thing let's do, let's invite the polluters into the U.S. Capitol in something called project relief. We will tell those corporations in America who are disadvantaged by the clean air and the clean water laws: Come in. Help us to rewrite the clean air and clean water laws to make it a little easier for polluters. A couple hundred representatives of industries that pollute in America were told by the majority: We would like to make it easier for you.

Now, the background here is that in the last 20 years our country has doubled its use of energy. But in 20 years, while we doubled the use of energy, we also have cleaner air and cleaner water. Why would that be the case? Because the American people decided and Congress responded to say to those who are polluting: You must stop polluting, and if you do not, there will be severe penalties. Regulations requiring clean air and clean water have cleaned up America's airshed and cleaned America's waters—not perfect, but it is on the road to substantial improvement even though we have doubled our use of energy.

The majority party said, by the way, we will make available some office space for you. You all come in and tell us how we can back away from clean air and clean water regulations. A significant calculation, but that was just the tip of the iceberg. They seemed to think that their mandate was this country would want more pollution and less education and more defense but less health care; proposals that said let us provide a very significant tax break that will provide a $30,000 tax refund if you happen to be making $300,000 a year. Smile all the way to the bank. And in order to pay for that, we are going to tell little children in school: If you are a poor kid going to school, in the middle of the day you no longer have entitlement to a hot lunch. Or say to people who are disabled: We are going to make sure that you no longer have an entitlement to health care if you are disabled.

You think that was not the case. It was. One hundred proposals in the first 100 days, some of them so bizarre, so extreme, so far off the chart that I think the American people took a look at this and said: That is not what we wanted. We want good Government. Not more Government, we want good Government. But we do not want people taking Government apart in circumstances where it is important to help the lives of the American people. We want better schools. We want police protection. We want a good Defense Department. We also want to care about the disabled. We want to care about poor kids in school who are hungry in the middle of the day.

That is what this has been about.

The manifestation of all of this was that some of us said we will not agree to cutting Medicare $270 billion so that you can have a tax cut of $245 billion, the majority of which will go to the upper income folks. We will not agree to that. We will not agree to saying to poor kids in school that you no longer can get a hot lunch. We will not agree to stripping the entitlement for health care for the disabled.

What happened as a result of that? As a result of that, we had a pique of anger, a fit of anger, and the Government was closed down twice. We will just close it down, they said. We do not care about Government anyway. Just close it down. And they closed it down.

The American people said: What kind of behavior is this? Do they need adult supervision? What kind of behavior is this in this Congress?

They quickly turned against the majority in this Congress.

It is interesting; the second half of this Congress has been markedly different. It is exactly as the Democratic leader portrayed it. The second half we have accomplished some things which largely represent the agenda of those of us who fought for constructive changes. We have said there are health care changes that we ought to make, and initially it was blocked and then embraced by the majority party, and we passed the health care reform bill. We said we ought to have an adjustment in the minimum wage; it has been 7 years. Initially, it was blocked and then embraced by the majority party, and we passed a bipartisan minimum wage bill.

There are a number of steps which have occurred that represent bipartisan achievements finally in the latter stages of this session. And now this session limps to a close. We have not yet enacted five of the appropriations bills so we will have those put into what is called a continuing resolution.

I think the record of this Congress is going to provide some of the most remarkable reading for historians a century from now. They will look at this and they will scratch their head and say: What on Earth happened in 1995 and 1996? They will see two different Congresses, one confrontational, belligerent, give no quarter, extreme, pushing and pushing and pushing for a philosophy which believes that America is helped if you somehow put something in at the top and let it all drip down and filter down and trickle down to the rest, fought tooth and nail by others who believe that America's economic engine is represented by the folks on the foundation at the bottom who are working every day, working hard to try and make do for themselves and their families. We call that the percolate up belief in this economy. Hubert Humphrey used to say trickle down, percolate up. He said trickle down, now that is the theory where if you feed the horse some hay, later on the birds will have something to eat. Anyone who has been around horses knows what all that means. That is trickle down. Supply-side economics, some call it. Supply-side, that is when the other side gets all the supplies. That is pretty easy to understand.

My only point today is to say those who characterize this Congress as a Congress constructive only by the majority party over the objections of the minority misconstrue the record of this Congress. This Congress started in a set of circumstances that represented the most extreme proposals, including finally Government shutdowns because we would not go along, and then Congress changed and the second half of this Congress has been more productive because it has been bipartisan and because we have seen the embracing of some of the constructive things that we think, policies that we think will make life better in this country for the American people.

My point is this. This Congress does not work, cannot work, and will never work with one party trying to make it work. Congress will always work and work best if you find bipartisan consensus. The fact is, Senator Dole sat over there during his Senate career. I have said before and I will say again that Senator Dole is a wonderful American who has provided enormous service to this country, and I deeply admire him. He served here many, many years. While I might disagree with him on some policies, he, I think, was a remarkable Senator. I have said before and let me say again, I would not trade Senator Dole for all 73 freshmen House Republicans who came here bragging they had no experience, and quickly showed it. The fact is, there are people serving in this Congress, Republicans and Democrats, for whom I have the most enormous respect, who have the kind of experience which can provide solid, stable leadership for this country, who will help this country advance and grow, help our economy produce new opportunities, help maintain this country's leadership in the rest of the world. We can, it seems to me, and should, it seems to me, in the 105th Congress not talk about just what we do right and the other party does wrong. We should talk about what we can do together. And part of the demonstration of that is in what we have done toward the end of the 104th Congress.

Mr. President, I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

WHITEWATER PARDONS

Mr. FAIRCLOTH. Mr. President, I rise to speak on what I consider a travesty that I believe to be imminent. Mr. President, yesterday a number of newspapers reported that President Clinton refused to rule out a pardon for his Whitewater business partners James and Susan McDougal and former Gov. Jim Guy Tucker. He would not rule it out, and, Mr. President, I believe that he has ruled it in.

The President said that such pardons would be handled in a routine fashion. I do not see how he can think about handling the McDougals and Governor Tucker in a routine fashion. That is absurd.

His statements should serve as a warning to voters of what to expect after the election. It is very possible that there will be pardons for all those involved in Whitewater, and the significance of this outrage should not be lost on the public. The President was sending a strong message to the McDougals and their friends. Susan McDougal is in jail for contempt of court because she refuses to answer legitimate questions before a duly constituted Federal grand jury that is attempting to investigate Whitewater. Her defiance is a challenge to the foundation of our judicial system, and, Mr. President, her attempt to politicize her criminal convictions, handed down by a jury of fellow Arkansans, is outrageous.

She clearly got the message yesterday, however, when she read the headlines. Essentially, the message was, "Hang in Susan. The cavalry is coming. Don't break down and cooperate. The pardon is on the way after the election."

The same message went to her former husband, Jim McDougal. He is facing 84 years in prison for his conviction last May, and he is supposedly cooperating with the Independent Counsel in an attempt to reduce his prison sentence. Nonetheless, the President comes forth and says, "Jim, I'm raising the bid. I am offering a better deal. Don't cooperate with the prosecutors and I will reduce your sentence to nothing because I will pardon you even before you start serving time."

How can the prosecutor attempt to compete with a complete pardon from the President? The message also went out to Jim Guy Tucker. Now, Mr. Tucker received a light sentence that included no jail time, but he potentially faces other charges that Mr. Starr could bring. In exchange for dropping those charges, Mr. Tucker could cooperate more fully than he has. But now he has gotten the President's message: Hold tight, sit still, the election will be over in November and win, lose, or draw, you will be pardoned.

Mr. President, I would remind people that 12 fellow Arkansans convicted the McDougals and Jim Guy Tucker. They were convicted of misusing taxpayers' money. Mrs. McDougal used a $300,000 Government loan intended for disadvantaged people to increase her real estate holdings and to redecorate her home. Who is going to pay for the $300,000 loss? The hard-working taxpayers in this country. The McDougals ran a savings and loan into the ground and into bankruptcy. That cost the American taxpayers $68 million. Today, on the Senate floor, we will very likely consider legislation to address the problems of funding the savings and loan crisis. It is still with us. Banks and savings and loans that had nothing to do with creating the crisis are going to be taxed to pay billions of dollars more to help end this and solve the problem.

You can rest assured that there are job losses in this country, and many of them, because of the billions that the banking industry will have to pay back to further solve the savings and loan crisis. But I have not heard anybody complaining about the job losses. Yet, you see a nightly sympathetic portrayal of the position of Susan McDougal, who contributed to the losses significantly, and about the plight of her life now that she has been caught and convicted.

Mr. President, I hope the American people would not be fooled by President Clinton's action. I can only conclude, and I do not think anybody can conclude otherwise, that he intends a full pardon, which would amount to a full-blown coverup of Whitewater, between November and his exit from the Presidency, in January. He just needs to keep everyone tight-lipped until the November election and then he will eliminate Whitewater as an issue altogether.

Can you imagine what would have happened, how changed things would have been, if Richard Nixon had been so bold? What if he had simply pardoned all Watergate burglars immediately after his election? If he had, Watergate would not be in the vernacular of politics today and he never would have been forced into a resignation.

Mr. President, the American people need to be forewarned and alerted. If reelected, or not reelected, I believe that Bill Clinton has every intention of pardoning his friends in the Whitewater case. What does this say about his supposed innocence in the affair?

Many people would like to suggest that Whitewater is not a story, that it is old news, that it has no relevance for today. They are wrong. Today's headlines, "Whitewater Pardons Possible" speaks volumes about this administration and its integrity. This can be applied to a whole host of issues that have come before this administration, and it is a good glimpse into how Mr. Clinton would conduct the Presidency if he were to be elected for 4 more years.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding the Senator from Nevada has 15 minutes under a unanimous consent as agreement?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask unanimous consent that Senator FEINGOLD be allowed to speak for up to 10 minutes as in morning business.

Mr. INHOFE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I do not believe I will object but I would like, for clarification purposes—I intended to speak right after the Senator from Nevada. Would the 10 minutes be included as part of his 15 minutes?

Mr. REID. No. The unanimous consent was to give him 10 minutes. I did not say when it would be, but it would be as in morning business.

Mr. INHOFE. I would not object if I would be allowed to speak for 5 minutes prior to that.

Mr. REID. I ask that be part of the unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKING FIREFIGHTERS

Mr. REID. Mr. President, as I indicated last week, one of my concerns is how people feel about Government. We hear so much negativism that it seems that nothing good ever happens in Government. Whenever I return to Nevada, and especially when I go to the elementary and secondary schools, and universities, I always tell those young people that Government has done good things for people and continues to do good things for people.

What I want to do is, certainly, not whitewash what Government has done or is doing, because we all know we can do better and could have done better in the past. What I want to do, on a periodic basis, is talk about some of the things that are happening in Government that are good.

Every summer, communities up and down the east coast keep a wary eye out for the hurricane season and the havoc that hurricanes wreak. It is hard for me to comprehend the devastation that has taken place in the State of Florida, as an example.

Here in Washington, we only have to look back a few weeks to the chaos caused by Hurricane Fran. But just getting a little bit of that vicious storm, the Potomac overflowed its banks, we have roads that were washed out, and people all across Virginia have soaked basements. Commuting became very difficult.

Out in the western part of the United States, we have problems that are also created by nature. It happens almost on a yearly basis, and that, Mr. President, is the calamity of wildfires. I am sure people from the East have difficulty understanding how these fires will rage over thousands and sometimes millions of acres of land. They are very difficult to stop. The dry hot weather, mixed with the brittle underbrush, makes millions of acres nothing more than tinderboxes waiting for a flash of lightning, or a careless act by a human being.

So far this year in 1996, almost 6 million acres have been consumed by fires across the United States. About 90,000 fires have started. Firefighters have managed to quell most all the fires. Those they have been unable to defeat are in the hundreds.

The manpower required to battle Mother Nature is mindboggling. Mr. President, 25,000 firefighters worked this summer to save communities from these wild raging fires. On August 30, it reached its peak; that is, the battle of man against nature, when 22,000 men and women in 1 day were on the fire lines trying to control these fires.

The efforts of these firefighters are coordinated through a Government agency called the National Interagency Fire Center, which is based in Boise, ID. This agency was established 31 years ago as a cooperative project with the Bureau of Land Management and the Forest Service.

When a fire breaks out, local firefighters usually can handle it, but if they cannot, it is then that they call the National Interagency Fire Center, in effect, asking for help. Then the Fire Center calls in resources from the Bureau of Land Management, Fish and Wildlife Service, National Park Service, Forest Service, and the Bureau of Indian Affairs, or any combination thereof. As ground and air crews battle these fires, the National Interagency Fire Center—experts in fire ecology, fire behavior—work with the National Weather Service personnel to plan strategies for fighting these raging fires while keeping an eye, of course, on changing weather patterns. These fires become so intense, Mr. President, that they, on occasion, create their own weather.

As we all know, firefighting is a dangerous and unglamorous business. But fighting wildfires is more grueling than most can imagine.

There are different types of firefighters. There are the major league firefighters and there are firefighters who are referred to as type 2 crews.

What are type 1 crews? They consist, first of all, of smokejumpers. When the fire breaks out and the National Interagency Fire Center is called, usually who they send in first are these very courageous, well-trained men and women who are smokejumpers.

There are only 400 of them in the United States, but they do so much. They are chosen for their incredible physical and mental stamina. These elite crews parachute into areas that are otherwise inaccessible. They carry with them packs that can weigh over 80 pounds. They jump from these airplanes with packs, as I indicated, weighing over 80 pounds. In the packs, they have firefighting equipment, and they have food and water, enough to last them for up to 3 days.

They are the first line of defense most of the time in stopping one of these fires. When they are in the middle of one of these infernos, they push on and go for as many as 3 days without sleeping.

We also have as first line fire crews people who rappel into an area off helicopters. Helicopter firefighting is something that is relatively new, but these helicopters also take these people into very remote areas. Once they have reached their destination, these brave people rappel down to the fire and begin their work.

They, too, carry huge packs. There are 400 smokejumpers. There are only 200 of these so-called heli-rappellers working for the Forest Service.

Hotshots are also part of the type 1 crews. These firefighters, part of an elite ground crew, are working the front lines of fires that have raged out of control. Many times we have the smokejumpers come in, we have the heli-rappellers come in and then if a fire cannot be contained, you have these hotshots come in and work the front lines of fires that have raged out of control.

Mr. President, very recently, I called a man at one of the hospitals in Nevada. He was at the university medical center. He was there because it is the best and perhaps the only intensive care facility for people who are badly burned in all of the State of Nevada. He was transported about 400 miles from a fire that he had been fighting. He had to be transported because Dave Webb, the man who I called on the telephone, had been badly burned in a fire near Winnemucca, NV. He had second- and third-degree burns on his face, hands, and legs.

When I called, he was not able to handle the telephone. Someone had to handle the telephone for him. He is one of the very brave men who every summer endanger their own lives to go into these areas where it is difficult to comprehend people would be willing to go into.

I talked with him about what had happened, and he explained it to me, with a lot of humility, embarrassed that the fire had gotten to him and burned him so badly. He felt that he had been a failure. Of course, he had not been a failure. He had worked in many of these fires.

This happens every summer. He was one of the lucky ones. He was not killed.

These type 1 crews, like Dave Webb, have worked together for many years. They know each other. They are, in effect, the Green Berets of the firefighters. I extend my appreciation to the type 1 firefighting crews, those who jump out of airplanes, climb out of helicopters, who work the front lines.

Mr. President, there are others, though, thousands and thousands of others who do not jump out of airplanes or helicopters or are not trained to be hotshots, but are extremely important. These are the type 2 crews. They come in, they fight fires. They watch fires after they have been put out, because one of the real dangers we have with fires is they appear to be out, but some of the worst forest fires we have had have been initiated after the fire has been put out, when people thought the fires died down.

Over 3,000 fires in the Great Basin alone burned almost 2 million acres this summer, and communities across the State of Nevada were witness to the dramas that played out in the hills and mountains above their homes.

Driving just 2 miles out of Reno on Highway 80 going to the west, you see the results of one fire they had there this summer. There in the Belli Ranch area, 7,000 acres were consumed by a fire that is suspected to have been caused by an arsonist. This cost the taxpayers at least $2 million.

As you go past the Belli Ranch area and drive into the community, you are confronted by really a breathtaking scene.

You can see the black sweep of the fires that rolled up and down hill after hill. Then, almost magically, the black gives way to the beautiful green of the sage and other brush and grasses. This green is the buttress of only about 10 or 20 feet from the homes. The fire got within 10 to 20 feet of the homes. Saved and intact, the homes in the community are alive with the daily hustle and bustle of life, having come so close to having been consumed, as other homes in Nevada and the West were consumed this summer.

So people in Nevada and other parts of the West are grateful to the men and women who put their lives on the line to stop the fires before communities were swallowed up, just like the homes that were saved in the Belli Ranch fire.

This fire season is drawing to a close, Mr. President, and we in the West breathe a sigh of relief that we have been able to endure again the wrath of mother nature, or sometimes an act of malice, or carelessness by man.

We say thanks to the 22,000 firefighters that have been employed by the Federal Government during this fire season. To the pilots who fly into the face of these fires, the crews that jump out of these airplanes, out of these helicopters, the ground crews that struggle against the infernos that threaten communities, to the people of the National Interagency Fire Center who coordinate so well so much of the battle, I say thank you. And to my fellow Americans, Mr. President, I say, that is how Government works for you.

I yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent to extend my 5 minutes to not to exceed 10 minutes.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. I would like to add to that unanimous-consent request that at the conclusion of the Senator's remarks, I be allowed to speak for 15 minutes for purposes of introduction of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Thank you, Mr. President. I will be very happy to accommodate the distinguished Senator from Florida with his request.

SETTING THE RECORD STRAIGHT

Mr. INHOFE. Mr. President, I happened to be presiding this morning when the very distinguished senior Senator from Massachusetts, Senator KENNEDY, made a number of comments. I know that he would not intentionally say anything that is not totally accurate in reflecting upon the positions and past performances of Senator Bob Dole, but I think inadvertently he misrepresented his stand on a number of issues. I would like to just briefly go over a couple of these.

First of all, it seems as if it has been over a year now since the demagoging of Medicare has taken place on this floor. I was very pleased a year ago today, I believe it was, to read an editorial in the Washington Post. And, Mr. President, I do not think anyone has ever accused the Washington Post of being a Republican publication.

So, finally, I feel that they looked at this and thought this is such a serious thing, that the Republicans had a program to save Medicare, and that by the admission of the board of trustees that was appointed by President Clinton, if we did not do something, Medicare would have gone broke by the year 2002, then that was updated a year later and they said it really would be 2001, and the Republicans had a program to control growth, not cut—there has never been any intention to cut benefits of Medicare to the American people—but have controlled growth, do away with waste and fraud and abuse and install some other things that would make it a viable program.

So, finally, the editorial boards around the country, that are normally not sensitive to Republican causes, rallied and said, we are going to have to do something about it.

I would like to read the last two sentences of an editorial found in the Washington Post a year ago, just about now. I believe it was a year ago today. It was called "Medagogues, Cont'd." This is the second one. A week before that they had one where they demonstrated very clearly and very persuasively that what the Republicans were trying to do was to save Medicare. The last two sentences are:

> The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and to duck responsibility, both at the same time. We think it's wrong.

Mr. President, I ask unanimous consent that at the conclusion of my remarks, the editorial entitled "Medagogues, Cont'd" from the Washington Post be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INHOFE. Mr. President, the second attack on Senator Bob Dole by the distinguished Senator from Massachusetts had to do with the Kennedy-Kassebaum bill, implying that Bob Dole was opposed and had been opposed to the Kennedy-Kassebaum bill. I would suggest to you, Mr. President, that one thing that Bob Dole was opposed to was a single payer Government-run system which the President had advocated earlier in his administration. In other words, socializing medicine, taking about 12 percent of the economy of this country and putting it in the hands of Government because they can do it so much better than the private sector can do it.

That is what Senator Dole was opposed to. He was not opposed to some of the reforms that were found in the Kennedy-Kassebaum bill. There were a couple of reforms that he wanted that ended up being in the bill. In fact, the President said that if the MSA's, medical savings accounts, were added to the Kennedy-Kassebaum bill, at one point he said he would veto it. Many of those on the other side of the aisle said that if the MSA's are in, it would be vetoed.

Why were people concerned about the MSA's? They were concerned about them because those people who would want to have a socialized approach to health care delivery in this country know that once we have MSA's, we will never go back to that system.

What do MSA's do? They merely allow the choice of individuals so that if an individual wants to shop around for his health delivery services, and he can save money doing so, then he can benefit and have the rewards of what he has saved. I think that our health delivery in America is the only product or service known that actually has a built-in disincentive to save. And I am guilty like everyone else. You know, if I have my deductible and I go ahead and pay that, then I am inclined to go and get any kind of medical or health service that is out there because it no longer costs me any more money. That is human nature.

We finally got a modified medical savings account system put into the Kennedy-Kassebaum bill. I say "modified." It is only on a trial basis. It is going to prove itself. I heard estimates that we could actually reduce the total cost of health care in this country by as much as 50 percent just by having MSA's.

Mr. President, there is another thing we need to do that is not in this bill, and that is to have some kind of medical malpractice so we do not have such a high defensive cost. But anyway, the fact that MSA's are in there now—the President had said he would veto it if they were in there. He did not veto it. I am glad he did not veto it. But certainly it was never Bob Dole's intention to oppose the Kennedy-Kassebaum bill with the reforms in it that he felt were in the best interests of the American people.

The third thing that Senator KENNEDY said about Senator Dole that I think was misleading, and it was a misrepresentation of his position, was in reference to tax cuts. It is true that Senator Dole, if elected President, wants to come to Congress, which I believe will still be controlled by the Republicans, and come with tax cuts.

He outlined five major tax cuts. I am very supportive of all five of those tax cuts. People ask, how are you going to pay for them? I think people forget about the fact that three decades in the last 100 years Presidents have decided to have tax cuts, and in all three decades it has dramatically increased the revenues.

It is ironic that Senator KENNEDY would be talking about tax cuts and all the damage that is being done when it was John Kennedy in 1962, when he was President of the United States, who said, and I quote:

> In short, it is a paradoxical truth that tax rates are too high today and tax revenues are too low. And the soundest way to raise the revenues in the long run is to cut rates now. The purpose of cutting taxes now is not to incur a budget deficit, but to achieve the more prosperous, expanding economy which can bring a budget surplus.

That was what President Kennedy said in 1962. And that is exactly what happened during the 1960's with the massive tax reductions, and we were able to have revenue increases—revenue increases.

Look what happened. The marginal rates of our tax system in 1980 produced $244 billion. In 1990, it almost doubled to $466 billion, and that was during a 10-year period when we had the most massive cuts in our tax revenues.

So I think that it would be good to go back and look at history and see that this country, when it has been overtaxed in the past, that they reduced taxes and had the result of increasing revenues. Certainly, we are in an overtaxed posture right now.

I have often said there are three things that make this country nonproductive, on a global basis, and noncompetitive: One is our high tax rates; one is overregulation; the other is our tort laws. There is not time in this brief time to cover that.

I conclude, Mr. President, by saying when Senator KENNEDY assailed Senator Dole for talking about tax cuts, that he start realizing those individuals—those of us who want to have tax reductions—are the same ones that were trying to stop the 1993 tax increase. In 1993, when President Clinton had control of both the House and the Senate, he passed a tax increase that was characterized not by Republicans but by the chairman of the Senate Finance Committee, which was Senator

MOYNIHAN, who said it was the largest single tax increase in the history of public finance in America or any place in the world.

I think, essentially, what we—what Senator Dole, and what the Republicans and the conservatives in this body and in the other body—want to do is merely undo the damage that was done by that massive tax increase and actually repeal the taxes that were increased in 1993. Essentially, that is what Senator Dole wants to do. I believe that is an accurate characterization of his program.

EXHIBIT 1

[From the Washington Post, Sept. 5, 1996]

MEDAGOGUES

We print today a letter from House minority leader Richard Gephardt, taking exception to an editorial that accused the Democrats of demagoguing on Medicare. The letter itself seems to us to be more of the same. It tells you just about everything the Democrats think about Medicare except how to cut the cost. That aspect of the subject it puts largely out of bounds, on grounds that Medicare is "an insurance program, not a welfare program," and "to slash the program to balance the budget" or presumably for any purpose other than to shore up the trust fund is "not just a threat to . . . seniors, families, hospitals" etc. but "a violation of a sacred trust."

That's bullfeathers, and Mr. Gephardt knows it. Congress has been sticking the budget knife to Medicare on a regular basis for years. Billions of dollars have been cut from the program; both parties have voted for the cutting. Most years the cuts have had nothing to do with the trust funds, which, despite all the rhetoric, both parties understand to be little more than accounting devices and possible warning lights as to program costs. Rather, the goal has been to reduce the deficit. It made sense to turn to Medicare because Medicare is a major part of the problem. It and Medicaid together are now a sixth of the budget and a fourth of all spending for other than interest and defense. If nothing is done those shares are going to rise, particularly as the baby-boomers begin to retire early in the next century.

There are only four choices, none of them pleasant. Congress can let the health care programs continue to drive up the deficit, or it can let them continue to crowd out other programs or it can pay for them with higher taxes. Or it can cut them back.

The Republicans want to cut Medicare. It is a gutsy step. This is not just a middle-class entitlement; the entire society looks to the program, and earlier in the year a lot of the smart money said the Republicans would never take it on. They have. Mr. Gephardt is right that a lot of their plan is still gauzy. It is not year clear how tough it will finally be; on alternate days you hear it criticized on grounds that it seeks to cut too much from the program and on grounds that it won't cut all it seeks. Maybe both will turn out to be true; we have no doubt the plan will turn out to have other flaws as well.

They have nonethless—in our judgement—stepped up to the issue. They have taken a huge political risk just in calling for the cuts they have. What the Democrats have done in turn is confirm the risk. The Republicans are going to take away your Medicare. That's their only message. They have no plan. Mr. Gephardt says they can't offer one because the Republicans would simply pocket the money to finance their tax cut. It's the perfect defense; the Democrats can't do the right thing because the Republicans would then do the wrong one. It's absolutely the case that there ought not be a tax cut, and certainly not the indiscriminate cut the Republicans propose. But that has nothing to do with Medicare. The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and to duck responsibility, both at the same time. We think it's wrong.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I ask unanimous consent I be allowed to speak for up to 10 minutes in morning business, and following my remarks, that Senator GRAHAM of Florida be recognized for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES POLICY TOWARD INDONESIA

Mr. FEINGOLD. Thank you, Mr. President. I rise today to make a few brief remarks about United States policy in Indonesia.

I am deeply concerned about some of the views being expressed by some members of the Clinton administration, and am particularly concerned because the administration has been quite culpable in the past with regard to aspects of our Indonesia policy. Despite a violent crackdown in Jakarta on July 27—not quite 2 months ago—this administration says it still intends to go forward with the sale of nine F-16 fighter jets to Indonesia.

Mr. President, the administration had fully intended to send up notification of this sale earlier this month. Fortunately, objections from myself and many of my colleagues convinced the administration that now was not the right time to announce officially the intention to sell fighter jets to Indonesia.

I am pleased that—for the time being—this sale cannot move forward, at least until Congress reconvenes in January.

But what concerns me today, Mr. President, are recent statements that suggest that the administration necessarily will attempt to notify Congress again in January—apparently without conditioning this move on any actions by the Indonesian authorities either in the past or in the coming months.

Given the history of human right abuses in Indonesia, as well as the events of July 27, I find this attitude difficult to accept.

Last week, the Senate Foreign Relations Committee held a hearing on United States policy toward Indonesia. We heard from two very capable administration witnesses and four distinguished private panelists, including a political science professor from the University of Wisconsin, Madison.

As one of the witnesses commented, this may have been the first hearing in many years to look at the full scope of American ties to Indonesia.

Mr. President, I recognize that Indonesia is an important country and a valuable ally. It is the largest country in Southeast Asia, and its population of more than 200 million people is the fourth largest in the world. It plays a significant role in Asian affairs, and has been instrumental in conflict resolution efforts in the region. It also has been an important ally of the United States in international forums, such as the United Nations.

I also salute Indonesia's economic success, and believe there are many valuable lessons in Indonesia's experience which can be applied to other developing countries across the world.

Mr. President, these achievements cannot—and do not—excuse Indonesia's consistently dismal record on human rights and its continuous assault on democratic freedoms.

Mr. President, I am particularly concerned about the massive human rights abuses that continue in East Timor.

As we all know, Indonesia has sustained a brutal military occupation of East Timor since 1975. Human rights organizations from around the world, as well as our own State Department, continue to report substantial human rights violations by the Indonesian military—including arbitrary arrests and detentions, curbs on freedom of expression and association, and the use of torture and summary killings of civilians.

More recently, we have heard reports of the Indonesian military conducting systematic training of East Timorese youth to take part in local militia groups. We also have heard disturbing reports of increasing religious and ethnic tension in East Timor, which at times is exacerbated by government inaction.

On top of the ongoing pattern in East Timor, the July 27 events in Jakarta reinforce my perception of an Indonesian regime that squashes alternative political discourse.

On that day, hundreds of people rioted after President Soeharto attempted to oust Megawati Sukarnoputri, a popular opposition leader, from her position as chair of the Indonesian Democratic Party, or PDI.

During the riot, arson-led fires caused considerable property damage. At least five people were killed, at least 149 injured, and hundreds arrested. But, as Human Rights Watch reports, many of those arrested did not appear to be responsible for initiating the riot. Instead, most were linked, or accused of being linked, to the reform movement or specifically to the Megawati camp.

Mr. President, I ask unanimous consent to have printed in the RECORD a

September 20, 1996, article from the Washington Post which describes how difficult it is for Megawati to operate as an opposition candidate after government officials ousted her as party leader, threatened to shut down party headquarters, and arrested many of her supporters.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 20, 1996]

INDONESIAN SAYS SLOW APPROACH AVOIDS A TRAP

(By Keith B. Richburg)

JAKARTA, INDONESIA, Sept. 19—Police are still hauling in her supporters for questioning. Already more than 100 languish in jail, and dozens others are missing. A member of parliament, she has been left off the list of candidates for next year's parliamentary elections, meaning she may lose her only official platform for challenging the government. Now the police say they will shut down her new headquarters because it violates local zoning laws.

These are trying times for Indonesia's premier opposition leader, Megawati Sukarnoputri. Just a few months after she emerged from virtual obscurity to become the first real rallying point for opposition to President Suharto's 30-year rule, Sukarnoputri finds herself besieged, harassed, called in for questioning like a common criminal, facing the likelihood of being sidelined from her country's tightly controlled political process—and grappling with the mounting impatience of her own supporters.

But even with these pressures weighing on her, Sukarnoputri remains surprisingly sanguine, unhurried, almost eerily serene. She is not out on the streets, not leading rallies, not exhorting her followers. This morning, she is seated at the dining room table of her spacious house in Jakarta's south suburbs, taking a Spanish lesson from her regular tutor.

What has learning Spanish got to do with leading a "people power" movement against Asia's longest-serving and most durable leader?

"I think it will be easier for me to communicate with Latin American people,"; Sukarnoputri explains later, after the tutor has left for the day. "And also Spanish is more important in the United States," she adds, citing the increasing Hispanic population there.

Sukarnoputri clearly has her own agenda. And while her backers and sympathizers may be growing frustrated, she is determined to proceed at her own slow and steady pace, careful not to engage the government in direct confrontation and not be goaded by her more radical followers.

"They want me to do something more concrete, like have a rally," she said. "But at the moment, I think that is not a good tactic, because so many people are still intimidated."

She said the political situation remains tense after a July 27 riot—prompted by a government raid—in which five people were killed and several banks and government offices gutted by fire. The government used the riot as a pretext to launch a widespread crackdown on opposition organizers, labor leaders, human rights activists and anyone else suspected of links to the long-dormant and outlawed Indonesian Communist Party, which tried to foment revolution here three decades ago.

The most serious anti-government outburst in recent memory, the July riot erupted after police backed by army troops raided the old headquarters of the officially sanctioned Indonesian Democratic Party, or PDI, to oust a group of Sukarnoputri supporters who had occupied the building in protest of a government-orchestrated party coup that replaced her as party leader. The government apparently feared that Sukarnoputri, the daughter of Indonesia's charismatic first president, Sukarno, could become a potent challenger to the incumbent Suharto.

Sukarnoputri said today that she did not believe her supporters were involved in the rioting, but that the violence was sparked by government agents who wanted to discredit her movement and use the unrest as the pretext for the wider crackdown that followed.

"It could not have been common people," she said. "It must have been professionals. . . . I think there was some engineering. How could common people burn so many high buildings in such a short time? I think they wanted to make a trigger, a trap, for people who are pro-democracy."

Sukarnoputri said her go slowly, softly approach—for example, not calling any new street protests and, thus, not defying a government ban on rallies—is to avoid falling into another "trap." She said: "So many people try to make moves, to push, to push PDI to use violence or hard action. But if we do, they will trap us, just like that riot."

Some observers here—Western diplomats, journalists, academics—say Sukarnoputri may be correct, that moving too quickly with mass actions will expose more of her supporters to arrest, prison, or worse.

But many also say that with her quiet approach, Sukarnoputri may have let her moment pass, that the momentum and publicity generated by the government's heavy-handed takeover of party headquarters may already be lost.

"I don't think she's in an enviable position," a Western diplomat said. "She can maintain her status as a symbol of opposition, but without doing anything, that fades."

The other legal challenges and obstacles Sukarnoputri faces may prove even more damaging to her long-term ability to mount a credible challenge to the regime.

On Monday, the day for filing candidate lists for next June's parliamentary elections, the anti-Sukarnoputri faction of the Democratic Party showed up early in the morning at the National Election Commission offices with a list of names that did not include Sukarnoputri or any of her supporters. When a Sukarnoputri deputy came that afternoon with a separate "Megawati slate," election officials refused to accept it.

Sukarnoputri is challenging her ouster as party leader in Indonesian courts, and she said she also will file suit to have her candidates' list accepted. If she is not a candidate next year, she will lose her seat and whatever slim chance she may have had of running against Suharto for the presidency in the next election in two years. (The Indonesian president is not directly elected but voted on by a people's assembly.) Under Indonesia's restricted political system, if Sukarnoputri loses her current parliamentary seat, she will be unable to gather supporters, make speeches or call political rallies.

But Sukarnoputri is undeterred. She said she insists on exhausting all legal remedies first, mainly as a way to test the independence of the country's judiciary. If she is prevented from running for office next year, she said, her exclusion will serve to point out flaws in the electoral process.

"It will be a big problem for the government," she said. "There are already so many people protesting to the government [about] why I, a popular and sympathetic person in the country, am not on the national list. People will see the election is not free and fair."

But even if she loses, Sukarnoputri disagrees with the analysis that her stature will fade.

In our culture, there is not only a formal leader. There is also an informal leader," she said. "Sometimes the informal leader can be more powerful than the formal leader. You can see how my father, even though he has already passed away, in spirit still lives inside the Indonesian people."

She added, "I'm sure about that."

Mr. FEINGOLD. The climate described in the article clearly is not one that supports freedom of expression, freedom of the press or freedom of association.

The events of July 27 underscore the Government's intention to foster a repressive climate in the months leading up to the 1997 parliamentary elections.

As the New York Times declared in a recent editorial, "This is no time to be selling high-performance warplanes to Indonesia."

The administration says its policy is "to make available to Indonesia military equipment that will support legitimate external defense needs." At the same time, the United States will not export or transfer to Indonesia small arms, crowd control equipment or armored personnel carriers until we have seen significant improvement in human rights in the country, particularly in East Timor.

Mr. President, I am pleased that the Congress and the administration have worked together to develop a policy linking the sale of small arms to Indonesia to its human rights record. This policy evolved from an amendment that I offered to the foreign aid appropriations bill several years ago.

But I believe that we are missing an important opportunity to apply pressure to the Indonesian regime by failing to impose comparable conditions on the F–16 sale. In fact, in public statements since congressional notification was delayed, the administration has not even mentioned human rights or democratic values in connection with the sale.

Instead, it continues to state publicly that it intends to go through with the sale as early as January.

I believe official advocacy of the F–16 sale sends the wrong message to the Indonesian military. It sends the message that—despite our concerns about the lack of respect for human rights in East Timor and despite the continued failure of the Indonesian military to respond substantively to these concerns—the United States will continue to supply substantial amounts of lethal military equipment to Indonesia.

If the events of July 27 tell us nothing else, they should signal to us that

Indonesia still has a long way to go in terms of respect for human rights and democratic values.

I believe that we should support progress in these areas—only when real progress actually is achieved. Instead, within weeks of a major crackdown by the Indonesian authorities, the administration persists in its plans to provide Indonesia with nine advanced military planes.

I do not think now is the time to be rewarding Indonesia with nine planes. Only when we see some improvement in Indonesia's conduct should we be elevating the level of our military ties to the country.

In sum, I continue to believe that—in Indonesia, as elsewhere—we must consider a military's human rights record as one of the determining factors in deciding whether or not the U.S. Government should license or facilitate a foreign arms sale.

As a result, I oppose the administration's plans to allow the transfer of the F-16's to Indonesia at this time, or in the near future, and I intend to work with a number of other Members of the Senate who share that view to persuade the administration that a change in policy is warranted here.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2121 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

HONORING THE ZOLLER'S ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Bill and Mable Zoller of Billings, MO, who on September 22, 1996 celebrated their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. Bill and Mable's commitment to the principles and values of their marriage deserves to be saluted and recognized.

RETIREMENT OF SENATOR BENNETT JOHNSTON

Mr. CONRAD. Mr. President, with the scheduled adjournment of the 104th Congress quickly approaching, I wanted to say a few words about a very accomplished legislator who, unfortunately, will not be returning to this body next January: Senator BENNETT JOHNSTON.

I was saddened to hear of his decision to retire at the conclusion of this Congress, and I know he will be missed by his colleagues as well as his constituents in Louisiana. Senator JOHNSTON does not depart, however, without leaving a significant legacy of accomplishment. He is a skilled negotiator, and has demonstrated a tremendous ability to navigate the tumultuous legislative waters, even when faced with the most difficult obstacles.

I had the privilege of working closely with Senator JOHNSTON while I served on the Energy and Natural Resources Committee with him during my first term as a Senator. As chairman of the Energy Committee, and now ranking member, Senator JOHNSTON has been a leading advocate of a comprehensive national energy strategy. Under his leadership, Congress passed the landmark 1992 Energy Policy Act, which promoted increased conservation, increased competition in the wholesale electricity markets, and encouraged additional development of domestic sources of energy. With this country now importing more than 50 percent of the oil we consume every year, Senator JOHNSTON has been fully committed to developing new domestic sources of energy to help reduce our dependence on foreign oil.

Senator JOHNSTON has also addressed a myriad of other energy-related issues during his distinguished Senate career. He shepherded deregulation of the natural gas industry through the Congress; he helped defeat the ill-conceived Btu tax; and he has been a leading advocate of maintaining our Strategic Petroleum Reserve, an important investment in protecting our Nation's energy supply from disruption.

Senator JOHNSTON's work in the Senate has not been limited to energy issues. I have also had the privilege of serving with the Senator on the Budget Committee, where he has served with great distinction. As the past chairman, and now ranking member, of the Energy and Water Development Appropriations Subcommittee, Senator JOHNSTON has demonstrated a strong commitment to developing and maintaining our Nation's water resources, an issue of great importance to Western States like North Dakota. Senator JOHNSTON has also been a leading advocate of maintaining an adequate B-52 bomber fleet, our most cost-effective, reliable, and only battle-tested bomber.

Mr. President, Senator JOHNSTON will be long-remembered as an extremely capable and responsible public servant, who addressed issues with a zeal few can bring to this body. All in public life owe Senator JOHNSTON a debt of gratitude for his tremendous contributions, and I wish the senior Senator from Louisiana all the best in his future endeavors, no matter what path he chooses to follow upon departing this body.

HONORING WALTER DROSKIE

Mr. PRYOR. Mr. President, last Wednesday night, as I looked around the Russell Caucus Room at the many wonderful people that have served on my staff these past 18 years, I was filled with pride. I will always remember the loyalty and hard work of my staff—the greatest in the Senate. Today I would like to honor one such staffer, Walter Edwin Droskie.

Walter Droskie is retiring at the end of the 104th Congress after 35 years as a Senate employee, serving 6 senators over the years. In 1962, Senator Patrick McNamara from Michigan, was the first senator to realize Walter s potential. Hired as a data entry operator, Walter started off on his long journey of service to his home State of Michigan and eventually the States of Texas and Arkansas. In 1966, Walter continued working for the State of Michigan by joining the staff of Senator Robert Griffin and spent 13 years there. By now Walter was developing a reputation for his expertise as mailroom manager. In 1979 Senator John Tower from Texas heard about Walter and offered him his next job. He continued this pattern of invaluable service to the State of Texas by going to work for Senator Lloyd Bentsen in 1984. When Bob Krueger filled Lloyd Bentsen's seat in 1992, Walter was wisely kept on staff.

In 1993, I was fortunate enough to finally get Walter Droskie on my staff. We had been hoping to catch him between Senators for a long time—he was always in demand. Walter has brought so much to my office. The mailroom has never run smoother, and Walter's wonderful disposition has won him the friendship of everyone on my staff—past and present. As he retires this year, I hope Walter Droskie realizes how much he has contributed not only to my office, but all the offices he has worked for during these past 35 years. His dedication and tireless hard work have won him the respect and gratitude of all he has known. I wish him the best during his retirement. The U.S. Senate will surely miss the many contributions of this fine man.

COMMENDING CHARLES N. QUIGLEY

Mrs. BOXER. Mr. President, I am proud to recognize Charles N. Quigley, who participated in CIVITAS at Bosnia-Herzegovina, an intensive program from July 17-27, 1996, to train local teachers in education for democracy. Mr. Quigley was part of a team of 18

American educators and 15 teachers from the Council of Europe who were assigned to key cities throughout the Federation of Bosnia-Herzegovina.

The summer training program was developed by the Center for Civic Education as part of a major education initiative in Bosnia-Herzegovina supported by the United States Information Agency and the United States Department of Education. The goals of the program are to help prepare students and their communities to participate in elections and other aspects of poltical life in emerging democracies. Achieving this goal will contribute to the reconstitution of a sense of community, cooperation, tolerance, and support for democracy and human rights in war torn areas.

I am also pleased to announce that the curricular materials used for the program in Bosnia-Herzegovina have been adapted from the "We the People . . . the Citizen and the Constitution" and the "We the People . . . Project Citizen" programs, as well as other programs supported by the Congress which are used in schools throughout the United States. Initial reports evaluating the summer program indicate the materials and teaching methods were enthusiastically received and can be adapted for use in classrooms throughout Bosnia-Herzegovina.

Mr. Quigley is the executive director of the Center for Civic Education which is located in Calabasas, CA. Mr. Quigley has traveled on four different occasions to Bosnia-Herzegovina to promote education for democracy efforts in the schools of that country.

Mr. President, I wish to commend Charles Quigley for his dedication and commitment during the CIVITAS at Bosnia-Herzegovina summer training program. His work is helping to achieve the overall objective of building support for democracy on Bosnia-Herzegovina.

TRIBUTE TO SENATOR PAUL SIMON

Mr. CONRAD. Mr. President, before the end of the 104th Congress, I wanted to take a moment to pay tribute to Senator PAUL SIMON of Illinois, who is retiring this year. PAUL SIMON is quite simply one of the most respected and honorable Members of the U.S. Senate.

Senator SIMON has been a dedicated public servant for more than 40 years. He has served in the Illinois House and Senate, as Lieutenant Governor of the State of Illinois, and in the U.S. House and Senate.

Even as he tirelessly served in public office, PAUL SIMON also found ways to pursue his second career—that of a distinguished and thoughtful writer. A former newspaperman, SIMON has written numerous books on our political process and democratic values. He still types his manuscripts out on an old manual typewriter.

Senator SIMON's top legislative priority for years has been passage of a balanced budget amendment to the Constitution. PAUL SIMON understands that the greatest threat to future generations is the Federal budget deficit and our enormous national debt. Eliminating our budget deficit is the most important thing we can do for our Nation and PAUL SIMON pursued this goal with steadfast tenacity.

I have had the privilege of serving with Senator SIMON on the Budget Committee since 1987. PAUL SIMON will be most remembered there for his efforts to restore equity between defense and nondefense spending. Senator SIMON and I also joined together last year in offering an alternative budget reconciliation measure. I was proud of that effort.

PAUL SIMON will also be remembered as a staunch supporter of education and an advocate for people with disabilities. While serving in the Illinois Legislature, he was among the first to introduce legislation to provide public education for children with disabilities. Years later he was one of the original sponsors of Public Law 94–142, the first Federal law to ensure that all children with disabilities would receive free and appropriate public education. This landmark legislation was signed in 1975.

Because of SIMON's devotion and perseverance, Congress passed the National Literacy Act, to create literacy centers and to authorize funding for adult education and literacy programs. SIMON also championed the direct college loan program, originally passed in 1991 and expanded in 1993, which made fundamental changes in our Nation's student loan program.

Although some may remember SIMON for his bowties, I will always remember his simple honesty, integrity, and character. PAUL SIMON not only remembered the bipartisanship and comity that used to be standard operating procedure in the Senate, but he continued to serve in that tradition, even as Congress changed around him.

I know Senator SIMON will be happy to return to his home in southern Illinois. He'll be heading up the Simon Public Policy Institute at southern Illinois University at Carbondale. He'll have more time for his grandchildren, more time to write. But he'll be missed in the U.S. Senate, by the people he represented and by those who knew him.

CUTTING TAXES AND BALANCING THE BUDGET—THE POSSIBLE DREAM

Mr. ABRAHAM. Mr. President, as the Presidential campaign heats up, it is clear that a central issue will be economic growth. Despite recent positive economic news, the long-term outlook is not good. Growth is slow and family incomes are down. At the same time, the tax burden on Americans is at an all-time high, squeezing families while discouraging savings and investment.

In response to this disturbing trend, Bob Dole has proposed an aggressive plan to both cut taxes and balance the budget by the year 2002. The goal of the plan is to spur economic growth by reducing both the size and tax burden of the Federal Government. Its centerpiece is a 15-percent, across-the-board income-tax cut designed to lower taxes on families and small businesses while spurring job creation and investment. The Dole plan would also provide families with a $500 per child tax credit, improved IRA's, and lower taxes on capital gains. For a typical family earning $30,000, his plan would allow them to keep an additional $1,261 per year, enough to pay tuition to a private school, move into a better neighborhood, or save for an early retirement.

People like the idea of a tax cut, but they wonder how it can be done without increasing the Federal budget deficit or gutting essential Federal programs. In a recent radio address, President Clinton sounded that theme, attacking Bob Dole's plan by arguing that the tax cut is too big and asserting that Dole has failed to explain how we can pass them without ballooning the deficit. Neither claim is accurate.

First, Bob Dole's tax cuts are an appropriate and necessary response to the record tax burdens American families currently face. Following President Clinton's World's Largest Tax Increase of 1993, the Federal tax burden has risen to 20.5 percent of GDP—its second highest level ever. Meanwhile, the combination of Federal, State, and local taxes now consumes more than 38 cents out of every dollar the family earns.

The Dole tax cut would help relieve this burden by reducing taxes across the board while targeting additional tax relief toward families with children. Fully implemented, the Dole tax cut would reduce the tax burden back to where it was before Bill Clinton began raising taxes in 1993. That's hardly an excessive goal.

The second objection to Bob Dole's tax cut proposal is that it will cause the deficit to balloon. That is the issue upon which I want to focus today. Far from being vague and irresponsible, the Dole tax cuts are in fact both detailed and well within the ability of Congress to carry out.

Under the Dole plan, cutting taxes on families and small businesses would reduce Federal revenues by $548 billion over the next 6 years. How does the Dole plan offset these cuts while balancing the budget? First, it slows the growth of the Federal Government over the next 6 years. Second, it encourages economic growth to help offset a portion of these tax cuts.

Let me begin with slowing the growth of Government. The Dole plan builds upon the comprehensive balanced budget resolution Congress adopted in June. That resolution calls for reducing the growth of spending by $393 billion over the next 6 years, including the phase-out of farm support payments, welfare overhaul, and Federal prison reform.

On top of the balanced budget resolution, the Dole plan proposes savings of an additional $217 billion over 6 years, targeting wasteful programs like the departments of Commerce and Energy and reducing Government overhead.

Mr. President, there has been much criticism and misinformation regarding these proposed savings. I have seen reports from several outside groups, both conservative and liberal, who claim these savings would literally gut whole portions of the Federal Government. This is completely false.

First of all, in the spending restraints assumed in the Dole plan beyond those contained in the balanced budget resolution, Bob Dole has made it clear that they will not come from reductions to Social Security, Medicare, or Defense. Those programs are off-limits. Under the Dole plan, Medicare spending would increase by 44 percent between 1996 and 2002—a 6.2 percent growth rate, or more than two times the rate of inflation. Spending would increase from $5,200 per beneficiary in 1996 to $7,000 in 2002.

Subtracting Social Security, Medicare, Defense, and interest expenses from total Federal spending over the next 6 years leaves $3.9 trillion eligible for savings under the Dole plan. Contrary to those groups that have portrayed this proposal as unreasonable, the Dole plan proposes to reduce this amount by just 5 percent—5 cents on the dollar.

Let's look at it on a year-by-year basis. Projected Federal spending next year is $1642 billion—or $70 billion more than we expect to spend this year. Under the Dole plan, Government spending would continue to grow, but by $37 billion instead.

Let's compare the Dole plan to President Clinton's own recommendation. Whereas President Clinton would allow Government spending to grow by 20 percent over the next 6 years, the Dole plan would hold spending growth to 14 percent—or about 2 percent per year. In other words, limiting spending growth to 2 percent per year will produce the savings necessary to cut taxes and balance the budget.

Is holding the growth of Government spending to 2 percent per year reasonable? Absolutely.

Under Republican leadership—and with no help from congressional Democrats or President Clinton—Congress has successfully reduced the growth of Federal spending over the last 2 years by $53 billion, or about $26 billion per year. Moreover, just this summer, we enacted a comprehensive welfare reform measure. In other words Mr. President, in response to those who claim the Dole economic plan's spending savings are too severe, I would point out that we have already succeeded in reducing the growth of Government by similar amounts. The Earth didn't stop rotating. The Sun hasn't stopped shining. And in the process, we have made the Government more efficient and more responsive to the wishes of the American voters.

In addition to slowing the growth of government, the Dole plan also assumes that his pro-growth tax cuts will produce enough extra economic activity to offset 27 percent of their cost—$147 billion over 6 years. And just as we have seen with the budget savings, this assumption has been the focus of numerous criticisms from various groups. Mr. President, contrary to what some have said, assuming additional revenues from economic growth—or revenue feedback as it is called—has a long and credible history on both sides of the political aisle.

In 1982, the Congressional Budget Office found that "between roughly one-tenth and two-tenths of the static revenue loss" from an across the board tax cut would be recouped through revenue feedback during the first year. In later years, the CBO estimated that between one-third and one-half would be recouped in later years.

More recently, Clinton's Trade Representative Mickey Kantor told the House Ways and Means Committee that reductions in American tariffs would more than pay for themselves through increased exports and jobs.

And just this summer, Lawrence Chimerine, chief economist for the liberal Economic Strategy Institute argued in the Washington Post that "credible evidence overwhelmingly indicates that revenue feedback from tax cuts" could be as high as 35 percent.

For those who are unimpressed with the estimates of economists and accountants, let me give two examples of how this feedback effect puts real dollars in the pockets of both American families and Uncle Sam. In 1981, the tax burden was at a similar record high as it is today. In response, newly elected President Ronald Reagan cut tax rates across the board by 25 percent. Mr Reagan could have cut taxes in any number of ways, but he chose reducing marginal rates because he understood—as does Bob Dole—that cutting marginal rates encourages people to work harder, save more, and invest in economic growth and job creation.

The Reagan tax cut worked. In 1984, real GDP growth reached 6.8 percent—the highest single year growth since 1951. In President Reagan's second term, growth averaged 3.4 percent per year—well above the anemic 2.5 percent growth we have seen under President Clinton.

How did these tax cuts affect families. In addition to lowering their overall tax burden, the tax cuts of 1981 helped save family incomes from declining, as they had under President Carter. Instead, median family incomes grew 1.7 percent per year under Reagan, putting an additional $4,000 in the typical families pockets every year.

Mr. Reagan was not the only President to recognize the growth potential of reducing marginal tax rates. In 1962, John Kennedy was also adamant about cutting marginal tax rates. When he announced his tax cut plan in 1962, he explained his thinking with the following words: "I am not talking about a 'quickie' or a temporary tax cut, which would be more appropriate if a recession were imminent. . . . I am talking about the accumulated evidence of the last 5 years that our present tax system, developed as it was, during World War II to restrain growth, exerts too heavy a drag on growth in peacetime; that it reduces the financial incentives for personal effort, investment, and risk-taking."

The Kennedy tax rate cut proved to be one for the greatest economic successes of the postwar era. Real GDP growth jumped to 5.8 percent in 1964 and to 6.4 percent in 1965 and 1966. Today, the media calls growth rates half that size a surge.

Clearly there is a consensus that a tax cut like Bob Dole's will partially pay for itself through income revenue growth. As Nobel laureate Professor Gary Becker put it, the revenue feedback effect is "basically Econ. 101. Investors and workers in the economy respond in an important way to incentives, including tax incentives." Becker then points out that, if the Dole plan increases GDP growth from its current 2.3 to 3.5 percent over 6 years, the income growth effect will be "far in excess of $147 billion. It would be more like $200 billion."

Mr. President, I have a list of over 100 prominent economists, including four Nobel Laureates, who share Dr. Becker's support of cutting taxes and balancing the budget. These economists are from all over the country, but they have one thing in common—faith in the American family and the ability of the American economy to grow faster than 2 percent per year. By cutting marginal tax rates and allowing families to keep more of what they earn—so they can spend it on their priorities rather than Congresses—the Dole plan will help the economy grow faster, resulting in more jobs, more opportunity, and a higher standard of living for everyone.

How do we offset the tax cuts? We restrain the growth of Government. By limiting the future growth of Federal spending to 2 percent per year, we can reduce income tax rates by 15 percent for every taxpayer, provide a $500 per child tax credit for middle-class families, and cut the capital gains tax rate in half—all while balancing the budget in 2002. The Dole plan is the possible dream that will result in a smaller, more efficient Government that allows families to keep more of what they earn, so they can spend it on their priorities rather than Washington's.

Mr. President, I ask unanimous consent that the list of economists be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

STATEMENT IN SUPPORT OF BOB DOLE'S PLAN FOR ECONOMIC GROWTH

"This is an excellent economic program."—Milton Friedman, Nobel Laureate.

"The Dole Economic Growth Plan is much superior to the Clinton do-nothing alternative."—James M. Buchanan, Nobel Laureate.

"Senator Dole's plan . . . can raise the growth rate of the economy to well over 3 percent per year."—Gary Becker, Nobel Laureate.

"The Dole-Kemp program makes real economic sense at this time."—Merton H. Miller, Nobel Laureate.

Slow economic growth is America's number one economic problem. Bob Dole's plan for Economic Growth, "Restoring the American Dream," is a bold, doable plan that addresses this problem. By lowering marginal income tax rates and reducing disincentives to save and invest—first steps to a fundamentally lower, flatter, simpler and more savings-encouraging tax system, balancing the budget through a reduction in the growth of government spending, reforming our education and job training system, and cutting back government regulation and eliminating litigation excesses,

the plan will significantly increase economic growth, raise real wages, and provide greater opportunities for all Americans.

The numbers in Bob Dole's year-by-year strategy to both reduce taxes and balance the budget are credible, including: the baseline revenue projections; the income growth effect, a simple implication of elementary economics through which the economic growth plan changes incentives, raises taxable income, and thereby offsets part of the revenue loss of the tax cuts as described by the plan; the planned budgetary savings achieved by reducing the growth of government spending.

Bob Dole's plan is far superior to the approach of the Clinton Administration, during which productivity growth has slowed to a historic low and real wages have stagnated.

Signed,

Annelise Anderson, Hoover Institution; Martin Anderson, Hoover Institution; Wayne Angell, Bear Stearns, Fmr Governor of Federal Reserve Board.

Bruce Bartlett, National Center for Policy Analysis; Ben Bernanke, Princeton University; Michael Boskin, Stanford University, Fmr Chair, Council of Econ Advisers; David Bradford, Princeton University; Stuart Butler, Heritage Foundation; Richard C.K. Burdekin, Claremont McKenna College.

Phillip D. Cagan, Columbia University; W. Glenn Campbell, Hoover Institution; John Cogan, Hoover Institution.

Carl Dahlman, Rand Corporation; Michael Darby, University of California at Los Angeles; Christopher DeMuh, American Enterprise Institute; Rimmer de Bries, J.P. Morgan; Thomas DiLorenzo, Loyola College in Maryland.

Martin Eichenbaum, Northwestern University; Stephen Entin, Former Deputy Assistant, Secretary of Treasury; Paul Evans, Ohio State University.

David Fand, George Mason University; Martin Feldstein, Harvard University, Former Chair, Council Econ Advisers; Diana Furchtgott-Roth, American Enterprise Institute.

Lowell Gallaway, Ohio University; Robert Genetski, Chicago Capital, Inc. John Goodman, National Center for Policy Analysts; Wendy Lee Gramm, Former Chair of the Commodity, Futures Trading Commission.

Robert Hahn, American Enterprise Institute; C. Lowell Harriss, Columbia University; H. Robert Heller, Fair, Isaac and Co., Fmr. Governor of Federal Reserve Board; David Henderson, Naval Post-Graduate School; Jack Hirshleifer, University of California at Los Angeles; Lee Hoskins, Huntington Nat. Bank, Fmr. President of the Federal Reserve, Cleveland; R. Glenn Hubbard, Columbia University; Lawrence Hunter, Empower America.

Manual H. Johnson, Johnson-Smick International, Fmr. Vice Chair of the Federal Reserve.

Raymond Keating, Small Business Survival Committee; Robert Keleher, Johnson-Smick International; Michael Keran, Sea Bridge Capital Management; Robert G. King, University of Virginia; Michael M. Knetter, Dartmouth College; Melvyn B. Krauss, New York University; Anne Krueger, Stanford University.

Lawrence Lau, Stanford University; Edward Leazar, Stanford University; James R. Lothian, Fordham University; Mickey D. Levy, NationsBanc Capital Markets.

Paul MacAvoy, Yale University; John Makin, American Enterprise Institute; Burton Malkiel, Princeton University; David Malpass, Bear Stearns; N. Gregory Mankiw, Harvard University; Dee T. Martin, Eastern New Mexico University; Bennett McCallum, Carnegie-Mellon University; Paul McCracken, University of Michigan, Fmr. Vice Chair, Council Econ Advisers; David Meiselman, Virginia Polytechnic Institute; Allan Meltzner, Carnegie-Mellon University; Michael Melvin, Arizona State University; Daniel J. Mitchell, Heritage Foundation; Thomas G. Moore, Hoover Institute; David Mullins, Long-Term Capital Management, Fmr. Vice Chair, Federal Reserve.

Charles Nelson, University of Washington; Charles Plosser, University of Rochester; Steve Pejovich, Texas A&M University; William Poole, Brown University.

Richard Rahn, Novecorr; John Raisan, Hoover Institute; Ralph Reiland, Robert Morris College; Alan Reynolds, Hudson Institute; Morgan O. Reynolds, Texas A&M University; Rita Ricardo-Campbell, Hoover Institute; Richard Roll, University of California at Los Angeles; Robert Rosanna, Wayne State University; Harvey Rosen, Princeton University; Sherwin Rosen, University of Chicago; Timothy Roth, University of Texas at El Paso.

Thomas Saving, University Texas at A&M University; Anna J. Schwartz, National Bureau of Economic Research; John J. Seater, North Carolina State University; Judy Shelton, Empower America; Myron Scholes, Long-term Capital Management; George Schultz, Fmr. Secretary of State, Treasury and Labor, Former Director of OMB; John Silvia, Zurich Kemper Investments; Clifford Smith, University Rochester; Vernon L. Smith, University of Rochester; Ezra Solomon, Stanford University; Beryl W. Sprinkel, Fmr. Chair, Council Economic Advisors; Alan Stockman, University of Rochester; Richard Stroup, Montana University; W.C. Stubblebine, Claremont McKenna College; James Sweeney, Stanford University.

John B. Taylor, Stanford University; Robert Tollison, George Mason University; Gordon Tullock, University of Arizona; Norman Ture, Inst. for Research on Economics and Taxation.

Ronald Utt, Heritage Foundation.

Richard Vedder, Ohio University; Karen Vaughn, George Mason University; J. Antonio Villanio, The Washington Economics Group.

W. Allen Wallis, University of Rochester; Murray Weidenbaum, Fmr. Chair, Council of Econ. Advisers; Charles Wolf, Rand Graduate School.

SENATOR CLAIBORNE PELL

Mr. CONRAD. Mr. President, with the adjournment of the 104th Congress, the Senate will lose one of its most respected and accomplished members, Senator CLAIBORNE PELL.

For a period that spans more than three decades, Senator PELL has served Rhode Islanders and the Nation in the finest tradition of our elected civil servants. His accomplishments since coming to the Senate in 1961 are extraordinary; particularly in the areas of the arts and humanities, environmental protection, foreign affairs, human rights, and education. He has without question touched and improved the lives of every American family.

Early in his Senate career, Senator PELL was the principal architect of the 1965 law establishing the National Endowment for the Arts and the National Endowment for the Humanities. One year later, he authored the National Sea Grant College Act, legislation to encourage the careful use of our resources from the sea, and to establish marine sciences programs at universities across the country.

Unquestionably, Senator PELL's most significant contribution in education has been his effort to ensure that every student has the opportunity to pursue education and training beyond the high school level—financial barriers should not prevent a student from continuing education. In pursuit of this goal, Senator PELL introduced legislation to establish the Basic Educational Opportunity Grant, a program later named the PELL Grant Program in 1980. Last year alone, more than 3.6 million Pell grants were awarded to students attending institutions of higher education. Since 1973, when the first Pell Grants were awarded, more than 60 million grants have enabled students to meet their educational goals through this student financial assistance program.

Mr. President, Senator PELL's remarkable record in the Senate has not been limited to education and the arts. Over the years, and through his leadership in foreign affairs as chairman of the Senate Foreign Relations Committee, Senator PELL has worked tirelessly on behalf of refugees, against human rights abuses, and to reduce the threats from weapons of mass destruction. As a result of these efforts, treaties have been ratified that reduce nuclear weapons, prohibit the emplacement of weapons of mass destruction on the seabed, and the use of environmental modification techniques as weapons of war.

Mr. President, Senator PELL's legacy is one of hope, opportunity, and integrity. For those of us who remain in the Senate, we are challenged to continue his important work on behalf of peace, and to ensure that our children can realize their fullest potential through the widest possible educational opportunities. We have all been enriched by Senator PELL's service in the Senate, and are deeply grateful for his immeasurable contributions to the Nation.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, September 24, the Federal debt stood at $5,195,854,879,174.22.

Five years ago, September 24, 1991, the Federal debt stood at $3,629,138,000,000.

Ten years ago, September 24, 1986, the Federal debt stood at $2,107,495,000,000.

Fifteen years ago, September 24, 1981, the Federal debt stood at $979,131,000,000.

Twenty-five years ago, September 24, 1971, the Federal debt stood at $415,688,000,000. This reflects an increase of more than $4 trillion ($4,780,166,879,174.22) during the 25 years from 1971 to 1996.

REPORT BY SENATOR PELL

Mr. THOMAS. Mr President, over the weekend I had the opportunity to read a report to the Foreign Relations Committee prepared by the distinguished ranking minority member of the Committee, Senator CLAIBORNE PELL.

The report, entitled "Democracy: An Emerging Asian Value," details the Senator from Rhode Island's recent trip to Asia. I was very interested in the report because the countries Senator PELL visited—Taiwan, Vietnam, and Indonesia—fall within the jurisdiction of the subcommittee I chair, the Subcommittee on East Asian and Pacific Affairs. In fact, all three have been of special interest to me and have been the subject of several hearings in the subcommittee.

I found the distinguished Senator's observations about this dynamic region to be particularly cogent, and believe that our colleagues—and the public at large—would benefit from having those observations accessible to them in the RECORD. However, since the report is somewhat lengthy in terms of it being reproduced in the RECORD, I am going to treat one country at a time; today, Mr. President, I would direct the Senate's atttention to the portion of the report on Indonesia.

So, Mr. President, I ask unanimous consent that pages 9 to 17 of S. Prt. 104-45, the section on Indonesia, be printed in the RECORD at the conclusion of my remarks.

PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THOMAS. In closing, I must say that it has been a unique pleasure and honor to serve on the committee with its former Chairman, Senator PELL. I appreciate his views and opinions, as well as his frequent participation in the work of my subcommittee. His departure from the Senate is a loss both to the committee and to the whole institution; he will be missed.

EXCERPT FROM SENATE PRINT 104-45

INDONESIA

A. INTRODUCTION

Indonesia is a vast, dynamic and complicated country. It has the fourth largest population in the world and the largest Muslim population in the world; yet it remains strongly secular. The government is an authoritarian one, led and dominated by President Soeharto, a small number of his advisors and the military. There is no apparent successor to Soeharto and no tested process in place for a transition of power. The economy is increasingly open and deregulated, but subject to widespread corruption and influence peddling.

There are a number of issues of interest to the United States in Indonesia. Indonesia has had an impressive economic development and an impressive increase in the average life expectancy. There is a developing middle class. The government has developed and implemented a model population control program. The focus of my trip, however, was a visit to East Timor. When I was in Indonesia in 1992, President Soeharto refused my request to visit East Timor because it was not convenient at that time. I appreciate his willingness to allow me to visit during this trip.

It is important to note that there are other human rights problems in Indonesia aside from those in East Timor. Many independent human rights observer groups criticize government policies in Ache and Irian Jaya. Issues such as freedom of the press, freedom of speech, the right to form political parties and the development of the rule of law are all of substantial concern in Indonesia today.

In response to a request by the UN, Indonesia establishes a National Commission on Human Rights to investigate human rights issues country-wide. I met with several representatives from the Commission in Jakarta and was impressed with their dedication to improving the lives of ordinary Indonesians. Their investigations are hampered, however, by a lack of funding and staff. Still, they seem to be operating truly independent of the government and I commend their efforts.

That our delegation did not focus on human rights issues outside of East Timor does not mean they are unimportant or that they are unworthy of international attention. The broader spectrum of human rights concerns will likely continue to be an issue for U.S.-Indonesian relations for the foreseeable future. Time limitations of our trip caused us to focus our scrutiny primarily on East Timor.

B. EAST TIMOR

In December 1975, Indonesia invaded East Timor, a former Portuguese colony, during a period of great political upheaval in Lisbon, which meant that Portugal was in no position to resist. The Indonesian military has committed widespread and well-documented human rights abuses in the 20 years since the invasion. The number of East Timorese who have died from violence, abuse or starvation in these 21 years will probably never be known, but there are credible estimates that they could number as many as 200,000. A particularly egregious incident took place on November 12, 1991, when the Indonesian military shot and killed over 200 people (by most credible estimates, although the actual total will likely never be known), during a peaceful demonstration. By all accounts, the protesters were unarmed. This became known alternatively as the Dili or Santa Cruz Massacre. While no events on this scale have been reported since then, widespread reports of abuse continue, including arbitrary arrest, torture, disappearances and killings. I heard several credible reports of these types of abuses while I was there.

Since I have been back in the U.S., there has been yet another conflict between Indonesian troops and East Timorese youth. The most recent disturbance took place in Baucau, a small city on the northern coast, to the east of Dili. Early news reports indicated that Catholic East Timorese had taken to the streets to protest reports that Muslim Indonesians had torn a picture of the Virgin Mary. The U.S. State Department reported that roughly 80 were arrested and that the International Committee of the Red Cross (ICRC) had been given access to all of them. There were additional press reports quoting East Timorese leaders saying that some of those arrested had been mistreated.

Indonesia and Portugal have not had diplomatic relations since the takeover. Since 1992, the foreign ministers of each country have held talks under the auspices of the UN Secretary General on East Timor, but these talks have produced little. I met with Indonesian Foreign Minister Ali Alatas in Jakarta and was particularly pleased to hear him speak highly of Portugal's relatively-new Foreign Minister Jaime Gama. For my part I attended the inauguration of Portugal's new President, Jorge Sampaio, in April and was struck by the new Government's interest in seeking some accommodation with the Indonesians.

Alatas felt that Gama showed a new willingness to listen to Indonesia's views, in contrast to his predecessor. I, too, am impressed with Gama and know his personal sense that the issue of East Timor should be resolved. Alatas told me that they could work toward a solution that would satisfy both countries and the international community as long as both sides were "realistic" in their position.

Sadly, Alatas did not mention the need to satisfy the wishes of the people of East Timor, although, when I raised it, he agreed it was important. I encourage continued talks between Portugal and Indonesia and welcome positive movements toward a solution. But I believe that any solution which does not make the desires of the East Timorese as a paramount concern will ultimately fail.

One of the most obvious issues for most East Timorese is the strong presence of Indonesian military (ABRI) troops stationed there. Government officials in East Timor, including Governor Abilio Soares and Colonel Mahidin Simbolon, the military commander, told me that Indonesia stations in

East Timor 15,403 troops (including police who, in Indonesia, are a branch of the military). Government officials in East Timor and in Jakarta said that there were two primary reasons why such a force was needed in East Timor.

First, they are said to be required to keep the peace threatened by rebels, known as FRETILIN, of whom, according to Colonel Simbolon, there are 188, armed with 88 weapons.

Second, the military force is needed to perform public works projects such as building bridges, roads and houses. The military commander told me that not only were ABRI troops the only ones willing to go into remote villages to do such work, but that when the government did pull some troops last year, local leaders and villagers protested. He argued that it was much less expensive to have military troops do these projects than to have civilians do then.

I should note that East Timorese not in the government strongly and repeatedly disputed the claims that only the military can perform these tasks and that locals would protest the removal of troops.

The vast majority of these ABRI troops are not East Timorese. When asked why so few East Timorese held high level positions in the military, Colonel Simbolon argued that not enough East Timorese had gone through the military academy. He told us only eleven East Timorese had graduated from Indonesia's military academy and, of those eleven, one is a first lieutenant and two are second lieutenants. These are the highest-ranking East Timorese officers in ABRI. On the police side, the highest-ranking East Timorese is a Major, who is a traffic chief. Again, Simbolon made the argument that the East Timorese were not qualified enough.

The presence of this armed, uniformed, non-Timorese force in East Timor causes immense friction and conflict. The East Timorese are ethnically different in culture and appearance from other Indonesian ethnic groups. I was repeatedly told that Indonesian military and police routinely treat the East Timorese with disdain and even contempt. Simply put, the people of East Timor feel they are subjected by a foreign army of occupation.

I firmly believe that a tremendous amount of the tension and conflict which exists in East Timor could be relieved if Indonesia were to slash its troop levels there and turn over authority at all levels to East Timorese citizens. Governor Soares and Colonel Simbolon agreed that this could help the situation, but offered no ideas on how such a change could come about.

Governor Soares and Armindo Mariano, head of the Golkar Party in East Timor, are both East Timorese and both stressed in our meetings that they were working to improve the "Timorization" of the local government. Mariano has been a participant in the All-Timorese dialogue, a forum sponsored by the UN Secretary General for East Timor—current residents and those in exile—to explore practical measures to improve the situation there. It is not a forum for discussing East Timor's political status.

Both Soares and Mariano are firm in their conviction that East Timor will develop and prosper only as a part of Indonesia. When asked how many East Timorese supported integration with Indonesia, both said the majority did.

But East Timorese who are not a part of the government and other observers living in East Timor quickly and insistently contradict this. When asked how a plebiscite on the issue of independence versus integration would turn out, I was told that over 90% of the people would choose independence and that number would include some who formerly supported integration.

The personification of East Timorese resistance to Indonesia's occupation of the territory is Commander Xanana Gusmao, who, at the time he was captured in 1992, was the leader of the armed resistance. He remains the titular head of the East Timor-based National Council of Maubere Resistance (CNRM), which he founded in 1988 to unify East Timor's various political and armed resistance groups.

Since his arrest and trial he has been imprisoned in Jakarta where, he is visited regularly by the ICRC and by all accounts is treated in accordance with international norms. Xanana, as he is commonly known, has attained a status for East Timorese similar to that which Nelson Mandela had for black South Africans while he was in prison.

I was eager to meet with him while I was in Jakarta both to get to know a person who has such a reputation in East Timor and to learn his current thinking on the possibilities for a political settlement of the East Timor situation.

Through I made a request of the Indonesian government for permission to visit Xanana before I left the U.S. and repeated the request in each of the meetings I had in Jakarta, I did not receive permission to see him.

From East Timor I wrote him a letter inquiring about the conditions of his imprisonment and his views on East Timor's future. (A copy is printed at the conclusion of this report.) I then request the letter be delivered to him, but that request was refused. The Indonesian Correctional Authorities deemed my message to Xanana "political" and therefore prohibited.

Whenever the possible independence of East Timor is discussed, talk quickly turns to its potential economic viability. The territory has few natural resources, but advocates of independence point out that many independent Pacific island nations also have few or no resources. One person questioned what economic independence meant in an era of increasing international economic interdependence.

Florentino Sarmento, the head of East Timor's largest non-governmental organization, Etadep, and a delegate to the All-Timorese dialogue, acknowledged that going it alone would be difficult, but was convinced that a solution could be found especially with consultation with political leaders abroad.

In regard to natural resources, East Timor's most valuable crop is coffee. I was able to visit a coffee cooperative started last year and funded by USAID. The cooperative, carried out by the National Cooperative Business Association, started with only 700 farming families and $7 million in USAID seed money. It now boasts 6,700 families and expects to turn a profit as early as the end of this year. Project director Sam Filiaci stressed he is not there for charity; he is developing a money-making organization that will provide lasting economic advantage to all involved, and especially to East Timorese coffee growers.

On the day I visited one of their processing plants in a remote mountain location, farmers from miles around gathered. Proud of their skill and of their new facilities, these people also told stories of harassment by the military and police (who turned out in a large force for my visit) and of insistent pressure on the farmers to move out of the mountains and down to the more populous areas on the coast.

C. THE CHURCH'S VIEW

East Timor is an overwhelmingly Catholic entity. More than 90% of the population is Catholic and the Church occupies a critical role in the lives of its citizens. The Church also plays a large role in the communication between East Timorese and those in the United States who are interested in the fate of this land. A number of Portuguese priests previously stationed in East Timor, along with a number of Timorese priests, now live in the U.S.

I had hoped to meet with the Bishop of East Timor, Msgr. Carlos Filipe Ximenes Belo. Bishop Belo is widely admired for his forthright objections to Indonesian human rights abuses and is a vital leader of his people. Regrettably, he was away from East Timor during my visit, through we were able to talk by phone.

I was able to meet with eleven priests from a variety of East Timorese parishes in what was by far the most fruitful and dramatic meeting of my trip. Sitting in a large room with open windows, using a microphone to be heard and taping the conversation, these priests gradually and fearlessly opened up to me and told me what they had seen and heard in their parishes over the last 20 years.

They spoke of military harassment of the Church that varies from obstructing their ability to meet with their parishioners to trying to create mistrust among the people of the Church. One priest told me ABRI tries to reinterpret his interest in the welfare of his parishioners as political opposition to Indonesia and integration. No one at the meeting had ever been arrested by the Indonesian authorities, but several had been detained and interrogated by them, for up to ten hours at a time. One told me of receiving a letter signed by the police insisting that he leave town for a month, although he proudly said he never left. The worst of these interrogations took place in 1991 and 1992, in the aftermath of the Santa Cruz massacre.

None of the priests had been present at the 1991 massacre but one told us, with great emotion, of his experiences that day and in the months afterwards. His home is near the Santa Cruz cemetery where the massacre occurred. He had heard the shots that morning, but thought at first they were the rumblings of a storm. When he went out later, he heard from people what had happened and he went to the cemetery and tried to give last rites to those who were dying or dead. The military would not let him approach and tried to make him leave. He stayed anyway and soon saw three large military trucks approach and be loaded with corpses. Then he saw other trucks come that were filled with water and he watched them spray the blood off the ground where the killings had taken place.

The wounded were all taken to military hospitals, he said. He then proceeded, without prompting, to confirm the stories I had read and been told earlier, that no one was allowed to visit these wounded in the hospitals, not even the priests. Again, he was unable to give last rites to the dying. He estimated that in the month following the massacre as many people died in the hospitals, either from poor treatment or from torture, as had been killed in the cemetery. He told of hearing eyewitness accounts of mass graves holding as many as 100 corpses in one pit. He said the month following the massacre came to be known as "The Second Massacre."

When asked about the type of human rights abuses that occur today, the priests argued that the fundamental human right of any people is that of self-determination. The people of East Timor have been denied that right for over 20 years and all other rights abuses follow from that fact. They asked me how far the U.S. government and the U.S. people were willing to go in helping East Timor in its struggle for self determination? They asked why, if the U.S. government says it cares about human rights and cares about human rights abuses in East Timor, it still continues to support the government of Indonesia on its occupation of East Timor?

Emotions around the room continued to rise, both from those telling the stories and those of us listening to them. I was struck by the knowledge that 5 years previously this group would have risked the sudden intrusion of armed ABRI officials, as the priests systematically contradicted everything Indonesian government officials in Jakarta and in Dili had said, the people of East Timor resist integration into Indonesia as strongly now as they did 20 years ago. There is an "ebb and flow" quality to the resistance; the Indonesians gain the upper hand [through various forms of intimidation] and the East Timorese temporarily retreat. When Indonesia seems to lighten up a bit, and the East Timorese "have the courage to shout," the resistance pushes back, but ABRI always comes back again, in a "continuous game." They provided a document listing the exact type and number of troops located throughout East Timor (a translated copy of this document is attached as an appendix to this report) to show us how pervasive and strong the military is there. When asked about Indonesia's argument that it has poured more economic investment into East Timor than into any other province in Indonesia, they responded disdainfully that "the people are not willing to sell their liberty for all the gold in the world."

Finally, I asked the fundamental question I had asked in all the meetings: if it were possible to hold a plebiscite in East Timor, offering a choice of political arrangements from autonomy to integration, how would the people vote? This classical political science-approach to finding a solution was met with hard nosed realism: how can you even hold out this approach to a people who have suffered so much for 20 years? More importantly—and fundamentally—after over 20 years of continued resistance in the face of abuse, even torture and death, have not the people of East Timor already made their preference clear? Does not their resistance itself constitute a referendum? What more proof do you need that the people of East Timor want independence from Indonesia?

To confirm this message, the acting rector of the University of East Timor, handed me a letter at the airport as we were leaving Dili, in full view of my ever-present official escort. By all accounts I have heard, I believe he was probably questioned after we left; one only hopes that his position will protect him from rougher treatment. The letter was written and signed by five university students, and asks the U.S. Congress to support East Timor in its struggle for independence from Indonesia. (A copy of the letter is printed as an annex to this report.) The end of the letter was particularly moving, as it thanked me for coming and hoped that my visit was "independent," because they were concerned that Indonesia sponsored the visits of other delegations in order to "shut their mouth and close their eyes."

D. CONCLUSION AND RECOMMENDATION

By the time of my departure, it was clear to me that the people of East Timor continue to resist the often heavy handed occupation of their island by Indonesia. The resistance takes many forms and, while armed resistance and physical resistance may have diminished, it was evident that the people of East Timor practice an emotional and intellectual resistance that no amount of military pressure will ever be able to suppress.

Yet it was also evident that Indonesia will not, in the foreseeable future, grant East Timor either the autonomy it clearly wants or a process for determining its own future. How, then, can U.S. policy bridge the gulf?

The U.N. can both help and hurt. The U.N. sponsored talks between Portuguese Foreign Minister Gama and Indonesian Foreign Minister Alatas can bring positive results. But these talks run a serious risk of ignoring the views and wishes of the East Timorese themselves. The All-Timorese dialogue offers more hope, although for the moment the political status of East Timor is not on the table for discussion. The best outcome of these two series of talks would be the implementation of confidence-building measures such as some form of autonomy for East Timor; a reduction in Indonesian troop strength; and an increase in the number of East Timorese in leadership positions in Dili.

Progress in any of these areas would, I believe, be welcome in East Timor and would ease some of the stark anti-Indonesian sentiment there. Passions could calm and economic initiatives, such as the coffee project, could develop. Then a compromise solution between the East Timorese and the Indonesians might be found. The key is that the East Timorese themselves must be a part of the solution from the beginning. A deal struck between Portugal and Indonesia or between Alatas and Boutros Ghali, or between Jakarta and Washington will not provide the solution. No true and lasting solution can come without East Timorese input; no solution that is seen as being imposed from above will work.

Indonesia is one of the most important countries in the region and will grow increasingly important. It is evident that the U.S. should have close relations with Indonesia. Both countries have mutual strategic, economic and environmental interests and would benefit from increased cooperation in those areas.

But Indonesia also has serious shortcomings in the way it treats the East Timorese and others of its citizens and it is important that, in our dealings with Indonesia, we not ignore or downplay the fact of these serious human rights problems.

When we have an important bilateral relationship with a country in which there are human rights problems, there are those who argue that we should downplay the human rights concerns and focus, instead, on those areas of mutual interest, such as strategic or economic, which can strengthen the relationship. Their theory is that a stronger relationship might encourage more progress on human rights. I do not agree with that approach.

U.S. support for human rights in other countries does matter. All the East Timorese I met told me that foreign pressure, and especially U.S. pressure, had succeeded in moving the Indonesian government. Our ability to effect changes in the human rights politics of Indonesia and other countries may be limited, but it is important for our nation to make every effort to do so.

I believe we could have a better and closer relationship with Indonesia if the government would take what seem to me to be relatively easy steps. If, for example, they would switch from a "heavy" hand to a "light" hand in East Timor, they would gain improved relations with the U.S. and other countries and would, in my view, lose little.

Quite aside from its policies toward East Timor, Indonesia is quickly approaching a critical point in its political development. President Soeharto's sixth 5-year term in office will end in 1998. While he has been quoted in the press as saying he will not run for a seventh term, most political analysts fully expect him to be in office for life. There is no chosen successor nor established process for succession.

Indonesian citizens cannot change the government by democratic means. The government is still heavily dominated by GOLKAR, the President's party. The government appoints half the members of the People's Consultative Assembly, theoretically the highest authority of the state, and the Assembly in turn elects the President and Vice-President. The military is automatically given 15% of the seats in the National Parliament and while 80% of the Parliament is elected, there are only three legal political parties. Civil liberties, such as freedom of speech and assembly or freedom of the press, are severely restricted.

Indonesia has actively worked to open its economy while keeping its political system relatively closed. Deregulation and moving away from central control has brought tremendous growth and development, of which the Indonesian government is rightfully proud. Could not the same be done in the political sphere?

Indonesia has the potential to be a great nation with world-wide influence. But it will never reach that goal with the anachronistic, authoritarian style of government it currently has. There are limited signs that this system may be loosening. The Court system has taken steps toward functioning independently, but it is not yet truly independent. There are some non-government organizations that criticize government policies, but they still operate in an atmosphere of surveillance and fear of retaliation.

Indonesia should follow the example of Taiwan in the late 1980s and 1990s and take strong steps toward a true democratic system. One important change it could make now would be to legalize the formation of other political parties. The region and even the world has much to gain from a democratic Indonesia. The U.S. should offer assistance and encouragement where ever possible and adopt policies that will help move Indonesia toward that goal.

I hope that Jakarta will take seriously the recommendations in this report, work for a solution that is acceptable to all parties, put the issue of East Timor behind them, move toward democracy, and become the important international power it is meant to be.

RETIREMENT OF SENATOR WILLIAM S. COHEN

Mr. CONRAD. Mr. President, Senator BILL COHEN's decision not to seek reelection at the end of the 104th Congress deprives the U.S. Senate of one of its most respected Members.

Senator COHEN leaves behind a long and impressive career of public service for the people of Maine. With his election to the U.S. House of Representatives in 1973, Senator COHEN represented his constituents from Maine diligently, and continued his efforts upon his election to the U.S. Senate in 1978.

Mr. President, Senator COHEN has remained a moderate and thoughtful voice in a Senate that is increasingly marked by strident and partisan debate. Senator COHEN has attempted to rise above partisan politics to accomplish what is best for the people of Maine and the Nation. In 1991, Senator COHEN voted to override a veto of an extension of unemployment benefits, at a time when America's families were beginning to feel the effects of an economic recession. In the 103d Congress, Senator COHEN participated in a bipartisan coalition that attempted to overhaul the U.S. health care system, after the administration's efforts were not successful.

During the 104th Congress, I have had the distinct pleasure of working with Senator COHEN in the Centrist Coalition. A group of about 20 Senators, the Centrist Coalition worked to reach agreement on a comprehensive budget alternative to those put forward by President Clinton and the Republican leadership. The plan we developed built upon the suggestions of the National Governors' Association with respect to the Medicaid and welfare programs. It also built in needed flexibility for States, while preserving the social safety net for our Nation's most vulnerable populations. It was the only bipartisan budget alternative that received significant support in the 104th Congress, and I am proud to have been part of that effort.

Mr. President, throughout his political career Senator COHEN has held government officials accountable to the high ethical standards that people expect of their elected leaders, regardless of party affiliation. This was evident during courageous votes he made during Watergate and the investigation of the Iran Contra affair.

Senator COHEN also helped create the independent counsel law, which mandates the appointment of an independent counsel to probe allegations against certain high executive branch officials. Further, Senator COHEN sponsored legislation to require that contacts between lobbyists and Members of Congress are officially reported.

Mr. President, we are all grateful for Senator COHEN's dedicated service and tireless efforts in the U.S. Senate. Senator COHEN's distinguished Senate career is a testament to his hard work on behalf of the people of Maine and the Nation. His insightful approach to the challenges we face as a nation will be greatly missed.

FAREWELL ADDRESS TO AMERICA

Mr. HEFLIN. Mr. President, all Members of the Senate are faced with difficult decisions almost on a daily basis. The day of my announcement not to seek a fourth term in the Senate—March 29, 1995—was one of the most difficult of my life. By that day, I had been wrestling with this decision for some time. There had been some health problems, but I was fully confident of running for and winning a fourth term. I have always loved campaigning, and getting back on the trail was a powerful temptation. The reality was, however, that another term would have taken me well beyond the normal age for retirement. I am 75 and would have been 81 by the end of another term. Ultimately, the decision was that the time had come to pass the torch to another generation.

Anyone who has ever held a Senate seat understands the magnitude of this great constitutional responsibility. The Senate is an awesome institution, and the opportunity to serve there is one of the highest honors that can be bestowed upon any individual. For anyone in public life who has attained the confidence of the people to carry out such a responsibility, the decision to leave voluntarily is a difficult one, even when we know that it is best for ourselves, our State, and our Nation. It is a bittersweet decision that stems from a solemn responsibility. Those returning to the 105th Congress already know this; those who will be joining that Congress in the coming days will soon come to that realization.

As Senators, we have to be students of the issues. It is important to be impartial, fair-minded, and willing to listen to opposing views. My decisions and votes have been based upon conscientious beliefs motivated by what I thought was in the best interests of my State and Nation, but sometimes tempered by the views of a sizable portion of my constituency. No doubt, Alabamians and my party were confounded at times, but hopefully, they understood that my positions were based on what I believed to be right.

One of our responsibilities as Senators is to sometimes take stands and positions with which the majority of citizens in our States do not agree. The difficulty of taking such unpopular stands and decisions cannot be overestimated. It can be a wrenching experience, as was the vote on the 1993 budget reconciliation legislation which raised taxes—even though primarily on a small number of wealthy individuals—but which also headed us in the right direction in terms of deficit reduction. This 1993 budget reconciliation bill had been grossly distorted and mischaracterized by its opponents almost beyond recognition. Several courageous Members of Congress who supported it were defeated in the next election. Since then, the economic and budgetary figures and forecasts show that supporting that bill was the right thing for the Nation.

In any case, since our first duty under the Constitution is to our country as a whole, these times and politically difficult situations will inevitably arise. Rather than running away from these stands, Senators have to meet them directly, stand firm, and explain to our constituents why we believe we are right. Although they might never agree with us, over time, they will understand and respect us for assuming responsibility. This will be even more true in the new Congress, the Congress whose leaders, along with the President sworn in on January 20, 1997, will take the country right into the new century and millennium.

As a member of the Judiciary Committee, I have had to oppose Supreme Court nominees I thought to be ill-suited by temperament or background to serve on the Nation's highest court. On other occasions, I have supported nominees whom I knew not to be popular among my constituents, but who deserved my support.

Despite criticism that the Senate is no longer the great forum for debate and policymaking established by the Founders, there have been many examples of such debate during my tenure. These are times when the Senate as an institution soars, when Members are the statesmen they are elected to be.

One such time was the debate on the resolution authorizing military action in the Persian Gulf in early 1991. It was one of those rare moments when each and every Member had to look deep within his or her soul and go on record telling the American people either why they would allow young men and women to be sent into harm's way without a declaration of war, or why they could oppose the President of the United States and an entire world coalition poised to thwart aggression. As each Senator spoke, you could see and feel the deep emotion that seemed to emanate from the very heart of each speaker. Each decision, each vote, was profoundly personal. Many of us had served in the military and knew something of the horrors of military operations, even if those operations were successful. I know of no one who did not understand the gravity of what we were deciding.

Ultimately, the Senate voted narrowly, 52 to 47, to authorize the use of force to eject Saddam Hussein's army from Kuwait. Despite reservations and uncertainty, I was one of a few from my party who supported the authorization. All we could draw from in making this decision was our own experience and knowledge, our faith in the American Armed Forces, and the collective will of the civilian and military leaders to ensure victory. I would venture that most of us said a private prayer before casting our votes, hoping that we were doing the right thing and that events would vindicate us. I was struck at the sincerity and emotion surrounding this debate, and, as a Senator, was proud to have taken part. I thought to myself that this was the kind of debate the Founders envisioned.

Another one of these dramatic and emotional debates took place on the Senate floor on July 22, 1993. One Senator had offered an amendment to pending legislation to grant an extension of the United Daughters of the Confederacy patent outside the normal process established by the Patent and Trademark Office. Only a very small number of organizations had ever been granted patents by the Senate, with the United Daughters of the Confederacy being one of those. This extension by the Senate would place that body's stamp of approval on the group's patent. Part of its insignia is a Confederate national flag.

Freshman Senator CAROL MOSELEY-BRAUN of Illinois, the only black Member of the Senate and the first-ever female black Member in all its history, came to the floor to oppose the amendment. She spoke eloquently on the floor of the issue of race, of symbolism, of division, and of intolerance. Her passion, candor, spirit, emotion, and determination moved the Chamber in a way that I have rarely witnessed. One by one, Members began articulating very personal statements about their feelings on race relations in this country and the lingering symbolism and emotions that complicate those relations.

As I listened to the debate, I felt a deep personal conflict as to how I should vote on this amendment. I was torn between my love for my native South and the racial conflicts which remain in America today.

I come from an ancestral background deeply rooted in the Old Confederacy. One of my great-grandfathers was one of the signers of the Ordinance of Secession by which the State of Alabama seceded from the Union in 1860. My paternal grandfather was a surgeon in the Confederate Army. History always provides perspectives on a particular time in the life of a nation, and I have always had a firm belief with regard to my family's background that they did what they thought was right at that time and in those circumstances. I have always revered my family and respected those who thought what they were doing at that particular time in our history was morally correct.

Ultimately, it became clear that the issue was primarily one of symbolism. By adopting this amendment, which would put the Senate's stamp of approval on an insignia carrying the Confederate flag in a very special and honorific manner, we would not serve the causes of advancing race relations or healing wounds. It would not be a step forward. I felt that if my ancestors were alive today and witnessing that debate, they would stand for what is right and honorable and would want to take a symbolic step forward.

In this case, one Senator, acting upon the courage of her convictions and her unique perspectives as an African-American, helped reverse a decision of the Senate. I thought again about how the Senate as an institution was fulfilling the promise of the Founders. New and returning Members of this body, as well as the House of Representatives, will no doubt face similar debates and issues which will test and challenge the Congress.

Despite these proud moments in the life of the Senate and Congress, there is still the perception among the vast majority of Americans that the system as a whole does not work as it should. They feel strongly that government does not respond to their needs. In many cases, they view it as being totally irrelevant to their daily lives and experiences. Ironically, as more and more information about government has become available over the last decade, the alienation of the citizenry has increased. Despite the C-Span cameras, the proliferation of constituent-service staff, and the plethora of news, both written and broadcast, people still feel that they are somehow cut out of the political process. This is one of the gravest problems the new Congress and administration will face as they approach the next century, since it undermines the very legitimacy of our democratic form of government.

There are any number of reasons for this ongoing alienation. Gridlock between the two Houses of Congress, between the political parties, and between the Congress and White House is most often cited as the primary reason for the public's disgust. A certain amount of what is called gridlock, however, is built into the system by the Constitution. Congress is, by design, an institution which moves rather slowly in making law. This is especially true of the Senate, where the wishes of a cohesive minority hold considerable sway. This is so the passions of the moment are allowed to cool before laws are passed. Careful deliberation, analysis, and long-range thinking were important to the Founders, and these are usually necessary ingredients in legislating. If anything, the Congress which will be sworn in shortly will not have enough of these ingredients. Few in their right mind will argue that it suffers from too much deliberation, analysis, or thought. In fact, it will need more.

If we look back over the last few years and compare passed conditions with those in mid-1996, we see that we have made tremendous strides. We won the cold war; our economy is healthy; we have the lowest combined rates of unemployment and inflation in 27 years; the budget deficit is decreasing even faster than rosy projections earlier predicted; and our national defense and international diplomatic structure are strong. Millions of new jobs in basic industries like automobiles and construction have been created and for 3 years in a row, we have had a record number of new businesses started in our country. More and more businesses are making capital investments, a strong sign of economic prosperity. The rate of violent crime is coming down all across America, although we still have a long way to go to make our streets safe. Race relations are still not anywhere near what they should be, but civil rights laws have helped secure the promise of America for more of our citizens than ever. The road toward equal opportunity for all persons, regardless of race, color, gender, creed, or other station in life has many miles to go, but we should be proud of the progress we have made and build upon it for the future.

In terms of the institution of Congress itself, there is no doubt that it has made great strides in terms of ethics and behavioral standards. People might not want to hear it or believe it, but the people we have serving in Congress today are the most ethical and least corrupt of any in its history. I served on the Senate Ethics Committee for a total of 13 years as either chairman or vice chairman, and can say definitively that the vast majority of Members tried their best to comply with ethical standards and rules. The perception that they are here to enrich themselves at taxpayers' expense is simply false. Senators were always coming to the Ethics Committee trying to comply with the rules, not to get around them. Of course, there are inevitable lapses, as would be the case with any large organization made up of people from all over the country and from all kinds of backgrounds, some of low standards of integrity. From the perspective of "how it used to be," the taxpayers are vastly better off now than in decades passed, regardless of the perceptions and media distortions.

We have accomplished a great deal and have made tangible progress. Why don't people recognize these areas of progress? Part of the answer undoubtedly lies in the fact that we no longer have a common, external enemy at which to direct our considerable energies. For the first 40 or so years after World War II, communism was our greatest threat. It caused the Government and the public to rally together toward its ultimate defeat. In the early 1990's, as that promise was realized, people seemed to turn toward one another and ask "What now?"

As I watched in amazement as the Berlin Wall fell in 1989, I couldn't help but feel that somehow, many Americans were missing the event's true significance. Our victory in the cold war did not seem to have the resonance around the country that one would expect. For decades, our entire defense and foreign policy had been formulated around the goal of fighting communism. It was truly astounding that our resources could now be channeled elsewhere. And yet, the passion, the excitement, the relief just didn't seem to be there. Almost immediately, a sizable segment of the population seemed to begin searching for another enemy. Unfortunately, there are those whose primary motivation is the hatred of an enemy. There was talk of a peace dividend. Various special interest groups staked their claims to pieces of that dividend, while others wanted to substantially reduce taxes. New enemies were found within our own borders as the competition arose for still-scarce resources.

As the cold war ended, the mounting budget deficit and national debt became a policy issue. There would really not be a peace dividend, as such, since our fiscal house was not in order. I had long supported a constitutional amendment requiring a balanced budget, but by the mid-1990's, it had gained broad public support and majority support in Congress, but still not the two-thirds needed to send it to the States for ratification.

Sadly, what brought us to such a serious budgetary state was a failure on the part of our Government to address our fiscal problems before they nearly spiralled out of control. It was the fault of the political parties, the Congress, and the President. But it was also the fault of the public for expecting and demanding so much, much of it contradictory to the long-term health of our economy. Government leaders should have had the courage to say no much more often than they did. We all have to accept responsibility for our mistakes if we are to move forward and continue to bring down the deficit. It does no good to blame each other; it does profound good to acknowledge mistakes and collectively dedicate ourselves to fiscal discipline and the modest sacrifice it requires.

Regardless of the legitimacy of public perceptions, the alienation and frustration with our Government are real threats to the stability of our Nation. Unless they feel like they are a part of the process and able to influence its outcome, the alienation and frustration will only grow and intensify.

For much of our history, our national leaders and political parties adopted mainstream, centrist policies aimed at securing economic security and promoting opportunity. Of course, there are times when this has not been the case, but Government has worked best when it has operated from the center of the spectrum. Only when we have strayed too far to the left or right have we fallen so out of favor with the citizenry. To a great degree, that is what has happened over the last few years, with Democrats becoming more liberal and Republicans becoming more conservative. Since the vast majority of the people are politically moderate in their beliefs and values, they have become, in a sense, alienated from both sides, not comfortable with the extreme views the parties have adopted. The bipartisanship that is so crucial to the operation of Congress, especially the Senate, has been abandoned for quick fixes, sound bites, and, most harmfully, the frequent demonization of those with whom we disagree.

It is supremely ironic that as we try to foster democratic principles throughout the rest of the world and have seen democracy make great strides in many areas, we seem to face our strongest threat from within. Some elected officials, media personalities, extreme elements within political parties, and single-issue organizations strive to pit one group of Americans against another. The focus on divisive issues has increased the alienation and driven us farther and farther apart.

In my judgment, much of the answer to this alienation lies in what I call compassionate moderation. Instead of being so concerned with policies which are left and right, Government should be concerned with the principles of right and wrong that come from approaching issues in measured, moderate, and compassionate tones. Both compassion and moderation must be seeded in basic conservatism and responsibility, rooted to induce individualistic growth and opportunity. Even where voters opt for change, they do not favor extremism; instead, they want carefully crafted and nuanced policies that address the concerns of the majority and, where needed, the disadvantaged in our society. This is the kind of responsible and compassionate moderation upon which our Nation was founded. Our Constitution itself came about through a series of great compromises; it was not written by ideologues who clung to their way or no way. Compromise and negotiation—the hallmarks of moderation—aimed at achieving moderate, centrist policies for our country should not be viewed as negatives. They should be valued, for that is the only way to reach consensus on complicated issues and problems that face us.

By being compassionately moderate in our attitudes, we can govern ourselves responsibly and reach the potential which we have yet to attain. Thomas Jefferson demonstrated a belief in the concept of compassionate moderation when he called for basic republican simplicity in institutions and manners. He knew that a limitation on Government did not mean the abdication of the Government's responsibility. Similarly, in his own farewell address to the Nation, President Eisenhower said that:

> It is the task of statesmanship to mold, to balance, and to integrate forces, new and old, within the principles of our democratic system—ever aiming toward the supreme goals of our free society.

Both of these great leaders envisioned a strong, but limited, National Government which could balance competing interests in the pursuit of overall liberty and equality.

During his term as Vice President, Jefferson once asked for a room in Baltimore's preeminent hotel. Not recognizing the Vice President, who had shown up alone and in soiled working clothes, the owner turned him away. Shortly after Jefferson's departure, the owner was told that he had just sent away the Vice President of the United States. The horrified proprietor immediately dispatched some of his workers to find Jefferson and offer him as many rooms as he liked. The Vice President had already taken a room at another, more modest, hotel, and sent the man who found him back to the owner with this message:

> Tell [the owner] that I value his good intentions highly, but if he has no room for a dirty farmer, he shall have none for the Vice President.

Our Government's greatest successes have come about precisely because it has made room for dirty farmers and all kinds of hard workers. It has made room for those who want to work hard, but who might be disadvantaged by poverty, injustice, or oppression. It has never been the task of Government to guarantee success to everyone across-the-board. Instead, it has been to ensure, through responsible sensitivity and compassion, that everyone has the opportunity to work toward the kind of life and success for which we all strive given the same opportunities. When we fall short, it should not be because Government has done the wrong thing, whether too much or too little—it should be only because we as individuals did not take advantage of the opportunities afforded by our free society through our Constitution and backed up by representative, democratic Government.

The extreme elements of our Government must realize that compromise is not bad, that we can be compassionate and responsible at the same time by being moderate in our approach to public policy. No one of us can remake Government or society in our own image. With 535 Members of Congress, thousands of executive branch officials, constitutionally mandated checks and balances, shared power, and a strong two-party political system, compromise is an inherent necessity. If compromise is abandoned for rigid ideology, the system cannot work as it was intended. Frequently, it becomes a hostage to gridlock and inaction.

If we look back over history, we see that moderation and centrism in Government have led to some rather remarkable achievements. As we ponder the cynicism and disfavor with which the Government is viewed today, it occurs to me that we may have, in some ways, become victims of our own successes. As more and more is taken for granted, standards are set higher, often unrealistically so. This results in recurring disappointment.

In 1954, ours was a country where poll taxes separated millions of citizens from their basic right to vote. Restaurants, hotels, schools, and neighborhoods were totally segregated by race. Through the Civil Rights Act of 1964, Voting Rights Act of 1965, and subsequent legislation, these Americans have been brought into the process and enfranchised. The Head Start Program, for example, remains one of the single most effective program ever designed for keeping high-risk children in school.

My own civil rights record is one of which I am exceedingly proud. It has been publicly stated by black leaders that I was the first Senator from my State who believed in and supported the civil rights movement. I worked to secure the extension of the Voting Rights Act; to appoint African-Americans and women to the Federal bench and other Federal offices; to support historically black colleges; to ensure passage of the civil rights restoration bill; to help pass the fair housing bill; and to establish a national holiday honoring the late Martin Luther King, Jr. My philosophy on the issue of civil rights has always been one of moderation, of trying, where possible, to get people to lower their voices and work together for progress. Again, by avoiding the lightning rod rhetoric of the extreme positions, we can successfully move forward.

In 1955, only 63 percent of our high school students graduated. Those who did stay in school did not have access to advanced science or math courses in a majority of school districts until passage of the Defense Education Act of 1958. Higher education had traditionally been the preserve of the well to do. A full decade after the GI bill was signed into law, there were still only 430,000 college graduates each year. Following passage of the Higher Education Act of 1965, college enrollment increased by 300 percent.

Perhaps the largest public construction project in American history began with the Interstate Highway Act of 1956, which ultimately doubled the Nation's highway system and provided new corridors of growth. The National Highway System of today is the envy of the world and is a growing testimony to the strong, steady leadership of President Eisenhower, who did not shy away from the moderate label. Indeed, he eloquently championed the concept of balance in public affairs throughout his January 1961 farewell address to the Nation. Other legislation and policies guided technology into the marketplace. The leadership and vision of President John Kennedy in terms of space exploration led to the lunar landings, the commercialization of space, and numerous scientific advances. These projects were not advanced in the pursuit of a party's retaining power or in the interest of a particular ideology being thrust upon the American people. They were advanced because there was a bipartisan consensus that they were good for the future of the country. They came from the center, not the extremes.

In the America of 1954, poverty and age were often indistinguishable, especially in parts of the South. The average monthly Social Security benefit was only $59. A child was three times less likely than today to survive its first year of life. The success of the Social Security Program has helped lower poverty rates among senior citizens to the lowest level in the population. The Medicare Program brought 32 million seniors into the health care system. The Women, Infants, and Children Program began to reduce infant mortality and aid to families with dependent children brought vulnerable children basic sustenance. Revelations of child hunger during the 1960's gave rise to the school lunch program. Later, deregulation of the airline, trucking, and telecommunications industries produced millions of new jobs and lowered prices for transportation and telephone services.

The agricultural community is considerably better off today than when I came to the Senate in 1979. We have strived to craft farm policy which provides market stability and allows American farmers to aggressively pursue international markets. At the same time, these farm programs have dramatically reduced the cost to the U.S. Treasury.

When I came to the Senate, one of my major goals was to help modernize and reform our Federal courts, much as we had done on the State level while I was on Alabama's Supreme Court. My efforts were focused on improving the Federal judicial system and relieving court congestion in criminal and civil cases. We were successful to a large degree, particularly in the areas of criminal justice and bankruptcy, although much could still be done.

Today, our system of civil justice faces one of the greatest tests in its long history. The very foundation of our civil justice system and more than 500 years of the development of common law are under attack, including the right of trial by jury. We must continue to face these assaults by improving the administration of justice and maintaining its historic role in protecting the weak and disadvantaged.

Of course, the programs mentioned above, as well as many others, are in need of reform. We all agree they should be streamlined and made more efficient. We should implement incentives for those on public assistance to work and become self-sufficient. The task of government, however, should just that—reform, streamlining, and improving efficiency. It should not be to tear down, eliminate, and dismantle just for the sake of reducing government.

These government success stories and others are the result of compassionate, moderate, democratic government aimed at securing opportunity for and promoting responsibility among all Americans. No, these accomplishments did not result in the Great Society as envisioned by President Johnson and much-maligned in some political circles today. Some want to label all the Great Society programs as failures. It is fashionable to make them euphemisms for liberal big-spending government.

Some of these programs were indeed disappointments worthy of the criticism they receive today. Certainly, there was some idealistic overreaching, which resulted in a pattern of dependency we are trying to combat through current welfare reform efforts. Even so, many good things came about, resulting in a better society, one that has come about due to more Americans than ever having basic opportunities to succeed and pursue their dreams. Instead of focusing on our failure to reach some sort of utopia, or unduly blaming each other for the overreaching that led to dependency among some segments of the population, we should take enormous pride in the fact that when it has been needed, our Government has usually done the right thing for our people.

At the same time, we cannot rest on our laurels, but must learn from success—and from our failures—in order to reach even greater success and avoid the same shortfalls in the future. In this way, personal initiative can be enhanced where it is needed. In an era of shrinking government, programs designed to provide incentives for the private sector to search for solutions to public problems will become increasingly important.

What can we do specifically to enhance the concept of moderation and promote its ability to yield the kinds of centrist government actions that help the vast majority of our citizens? How can the leaders of the next American century put aside personal ideology and work for policies and programs that promote opportunity and individual initiative, and that promote the public good? What can the new Congress do to change public perceptions about government?

To begin with, bipartisanship should be one of the most used—if not the most used—guide for Congressmen and Senators when they initiate and pursue legislation. The lessons of the 1993 budget debate, health care reform in 1994, and most elements of the Contract With America in 1995 and 1996 point to the obvious pitfalls of one party trying to govern by itself.

To promote more bipartisanship, ways should be found to bring about more informal togetherness among Members of opposite parties. One of the wonderful byproducts of the weekly Senate Prayer Breakfast gatherings has been the friendships forged across party and ideological lines. These friendships have led to more openness and willingness to discuss issues on a cordial basis. They promote the identification of common ground. This informal togetherness concept could be expanded to Senate standing committees like Agriculture, where I serve. Members could hold regularly scheduled luncheons and dinners among themselves and occasionally with their spouses.

Another way to foster bipartisanship would be to have more committee hearings outside Washington in various regions of the country. These should be scheduled during recess periods, when Members are usually out of Washington anyway, or during extended weekends. Committee members traveling together get to know each other on a personal basis much better. Friendships and better understanding will no doubt be among the results.

Issue discussions in informal settings should be frequent occurrences, particularly between the leadership of the respective parties and should, on occasioin, include White House leadership. Similar informal togetherness gatherings should occur among staff members. Such recommendations to enhance a spirit of bipartisanship and to foster personal relations among Members of Congress might seem to be stating the obvious, even trivial in light of all the challenges we face. This spirit and these relationships have suffered greatly in recent years, however, and can only be restored through focusing on them. Congress, and especially the Senate, is only as strong and effective as the links between its Members. Newcomers to the institutuion will soon learn the importance—the necessity—of working together and compromising. The basic point is to soften the lines of partisanship and division that often impede the legislative process.

Along with sincere efforts to increase bipartisanship, overall expectations must be lowered. There is a consensus in both parties and among the public at large that Government cannot be expected to do all things for all people. Constituents cannot continue to make contradictory calls for a downsizing of Government and a lowered deficit while at the same time demanding more services and benefits. Members must have the political courage to tell this truth and to point out this reality.

The realities of our two-party system dictate that there will be issues upon which the parties will never agree. After all, the parties do hold competing views for the future of the country. This is not necessarily bad. It creates alternatives and requires leaders to articulate a vision. But, there are enough large issues that confront us that bipartisanship is the best way—perhaps the only way—to achieve success. By focusing on broad goals that come about through compromise, Members do not foresake their parties or philosophies.

Where bipartisanship and working together are not possible, perhaps it is best to pull back and perhaps wait for another time to pursue action. This is in stark contrast to the tendency in recent Congresses to forge ahead, even where failure is certain, and then blame the other side or party for the failure. Sometimes legislation and ideas need to simmer and gel before being acted upon.

There should be a ladies' and gentlemen's agreement making it a taboo to demonize your political opponents. Far too much of today's debate consists of trying to promote one's position through the character assassination of an opponent. Even in circumstances where this tactic succeeds, the victory is inherently hollow and will not stand the test of time. Both major parties could have their campaign committees designed to work together to create less negativity and friction in political campaigns. The first agreement should be to ban negative campaign ads.

In the spirit of President Eisenhower, the status of his self-proclaimed moderation should be returned to that of a political virtue rather than a governing liability. Regardless of the personal ideologies and views of individual Members of Congress, the national legislature should reflect the moderate course of a moderate populace. This does not mean that ideology and political passion do not or should not count; it does mean that sometimes they should be suppressed in the best interests of the Nation as a whole. In such a complex, diverse, and large country as ours, extreme, rigid views on either side can only perpetuate alienation from and dissatisfaction with Government.

It has always struck me as rather interesting that the vast majority of the policy foundations, issue study centers, and think tanks are either identifiably conservative or liberal in their orientation. There are very few that are seen as centrist in their outlook. Perhaps private sources could establish an Institute for reason and moderation or a center for responsible government to review and monitor legislation under broad guidelines designed to produce a scholarly moderate approach to and evaluation of issues.

As I leave the Senate and public service, I want to thank the people of my State for their faith and trust over the years. As I pass the torch to a new generation, I also want to thank my Creator for the blessing of health and energy during my lifetime so far, and for giving me the opportunity to serve our great Nation and my fellow citizens.

As my time in the Senate draws to a close, I am reminded of the fact that our Nation—the United States of America—is not based on any one language, culture, or geographic area as are most older nations. Instead, it is based on a set of ideals, which, while relatively few in number, really encompass all the elements that constitute the core of who we are as a people. These are liberty, freedom, democracy, equality, opportunity, human dignity, and respect for others. These are the great ideals that brought us to these shores in the first place, and which will take us into the next century.

Since our country is still so much a work in progress, I still believe that our best years are ahead. Sure, growing pains, in the nature of social problems, world threats, and ideological divides, will continue to occur. But by weathering these storms and finding remedies for them, we become stronger and better able to meet and adapt to changing demands and conditions. This adaptability and resourcefulness—benefits resulting from the genius of our Constitution and the Government it charters—have served us particularly well during the last several decades of intense social and technological change. This ability, with which America is uniquely equipped due to the ideals upon which it is founded and the Constitution which enshrines those ideals, can continue to guide and serve us well and will continue to be our greatest natural resource.

TRIBUTE TO RETIRING SENATOR MARK HATFIELD OF OREGON

Mr. CONRAD. Mr. President, I rise today to bid farewell to our distinguished colleague from Oregon, Senator MARK HATFIELD. Senator HATFIELD's career in the Senate has spanned three decades, a record of service that the State of Oregon, as well as the rest of the Nation, should be proud of.

Senator HATFIELD has devoted his entire adult life to serving the people of Oregon, as an educator, a statesman, a public servant of the highest caliber. Senator HATFIELD's long and distinguished career began as college professor and dean at Willamette University. He has served in both the Oregon House and Senate, as Oregon's youngest secretary of state, its Governor, and, since his election in 1966, as the longest-serving U.S. Senator from the State of Oregon. Senator HATFIELD's commitment to the people of Oregon is unquestionable. In announcing his retirement, Senator HATFIELD explained, "Thirty years of voluntary separation from the State I love is enough." As I am sure my colleagues will agree, Oregon's gain is the U.S. Senate's loss.

Senator HATFIELD served as the chair of the Senate Appropriations Committee from 1981 to 1987, and in 1995 he returned to the helm of that committee. As chairman and in the Senate as a whole, he often helped fashion bipartisan compromises, putting the good of the country ahead of partisan politics. I had the good fortune to work with Senator HATFIELD as part of the Mainstream Coalition, which tried to break the gridlock surrounding health care reform.

Senator HATFIELD is not afraid to stand up for what he believes is right, even when it means going toe-to-toe with his own party or disregarding popular public opinion. In 1995, during the fight over the balanced budget amendment, Senator HATFIELD stood by his beliefs, in the face of enormous pressure from his own party, and voted against the amendment.

In addition to his tenure in the U.S. Senate, MARK HATFIELD also served his country as a Navy Lieutenant in the Pacific theater in World War II. He was at the battles of Iwo Jima and Okinawa, and served in the occupation of Hiroshima after the dropping of the atomic bomb. This experience gave him a deep and unshakable commitment to peace, leading him to vigorously oppose war and nuclear proliferation. As Governor of Oregon, he spoke out against Lyndon Johnson's policies on Vietnam. He helped author legislation passed by the Senate in 1992 calling for an end to U.S. nuclear testing, legislation that I supported. He also helped found the Oregon Peace Institute and the U.S. Institute for Peace.

Mr. President, I have the deepest respect and admiration for our friend and colleague from Oregon, and I say with confidence that he will be deeply missed by every Member of this Chamber. I wish him all the best as he returns to his home State of Oregon and resumes his career in education, and I thank him for his dedicated service to this body and the Nation.

SENATOR BILL BRADLEY

Mr. BYRD. Mr. President, I pay tribute today to the senior Senator from New Jersey, BILL BRADLEY, who has, unfortunately, decided to retire from the Senate after three terms.

BILL BRADLEY has brought to the Senate a keen mind and an athlete's drive to cut through highly complicated, but vital issues affecting the economy of the United States, especially the Tax Code's treatment of the middle class, and the need to eliminate the accumulation of deductions and special interest provisions which have skewed our tax code in multifarious and unfair ways.

In tackling the most vexing and wide-ranging problems affecting the economy, Senator BRADLEY had a central impact on the Tax Reform Act of 1986 after 4 years of hard work, perseverance, and studious attention to these very difficult issues. Using the springboard of his seat on the Finance Committee to grind away at his colleagues and the Senate as a whole as to the need for basic reform of the Tax Code, BILL showed that he could go the extra mile, and through sheer determination use the legislative process in textbook fashion. He produced far-reaching proposals on issues that have made a real difference for Americans, based on careful study and on convincing the rest of us to stand up, pay attention, and support the soundness of his position.

He has tackled a variety of other tough and central problems facing American society, including deficit reduction, pension reform, college loan programs, Medicaid reform, and a variety of initiatives in the energy area through his active membership on the Senate Energy Committee. In addition, he has been extremely industrious as a legislator on a wide range of issues in the education field, from community-based initiatives involving families, to reform of higher education. BILL BRADLEY has gone much further than legislative initiatives, however. He has sponsored a number of enduring seminars and special programs for high school and college students and athletes, all with a dual focus on effective citizenship and educational excellence.

Senator BILL BRADLEY added his engaging personality, integrity, and studious manner to the mosaic of the Senate, and gave this body another dimension. His unique background as a Rhodes Scholar, and as a former professional basketball player turned U.S. Senator sent a message to our young people that intellectual and athletic excellence need not be two competing worlds.

In all his work in the Senate, BILL has performed with dignity, grace, and with great respect for the opportunity that the Senate affords for informed debate. Unfortunately, informed debate has not always been a great hallmark of recent years in the Senate, and I regret that this body will no longer have the benefit of BILL BRADLEY's keen mind and tenacious, yet gentlemanly approach to the issues of our day.

Senator BRADLEY is a young, vibrant, vigorous man with, God willing, a long span of productive years ahead of him. I am pleased to note that he has recently been writing and speaking out on a variety of fundamental issues concerning the Nation, including race relations; the need for a more responsible civil society where grassroots and local institutions assume more responsibility for our civic life; on the need for campaign finance reform; on the need for economic transformation and growth more fairly shared across the full range of economic groups in American society; and on the role of faith in the fabric of American society. Of particular interest is his comparison of American society with a three-legged stool made up of the private sector, government, and civil society. Obviously Senator BRADLEY is correct when he points out that our future depends on all three.

BILL BRADLEY is an independent, and thoughtful thinker on some of the most fundamental issues confronting our Nation.

Senator BRADLEY has focused his considerable mental powers well on a broad landscape of difficult problems which will trouble our Nation in the years ahead.

The breadth of issues on BILL BRADLEY's plate clearly shows that he intends to make an indelible mark on the continuing American dialogue about solutions to these problems, and I, for one, encourage him and look forward to his contribution. It would not surprise me to see citizen BILL BRADLEY at the witness table at future Senate hearings giving us his views on many fundamental issues.

I wish BILL and his wife, Ernestine, the best as he departs from this latest stopping place in his varied and successful life, knowing that there is much more to come, and with the hope that he will return frequently to include the Senate in his personal quest for a better America.

TRIBUTE TO SENATOR BRADLEY

Mr. CONRAD. Mr. President, today I want to pay tribute to Senator BILL BRADLEY's distinguished service in the U.S. Senate.

From his election to the Senate in 1978, BILL BRADLEY has influenced the policymaking agenda in Washington by plunging into the intricacies of an impressive array of interests and learning the strengths and weaknesses of his opponents' arguments better than they did. His sheer intellectual dominance of issues has allowed him to succeed against the political odds on issues as far-ranging as tax reform and water-use policy.

Senator BRADLEY has been a true leader on tax reform and fiscal responsibility. He was an early and persistent voice urging us to put our fiscal house in order. If we had had more BILL BRADLEY's in the Senate in the early 1980's, we could have avoided the deficits of the Reagan era and subsequent years that have left us with our enormous national debt. Last year, I was privileged to work closely with BILL BRADLEY in putting together a fair share budget plan that would have balanced the unified Federal budget. His advice was absolutely central to developing the specifics of the plan and bringing together a coalition of supporters.

In 1986, BILL BRADLEY almost single-handedly pushed through a tax reform bill that dramatically reduced the number and size of tax loopholes, gave middle-class American families tax relief, and greatly simplified the Tax Code. Since joining the Finance Committee, I have had the opportunity of working with BILL on tax policy, and his knowledge of the intricacies and politics of our Tax Code is truly astounding. We will sorely miss his knowledge on these issues as we consider tax issues in the future.

Senator BRADLEY has also been a courageous voice on other issues that many politicians choose to avoid. For example, he has been one of a very few Members of Congress to move beyond sound bites and talk honestly and directly about the issue of race in America. And he was a strong voice criticizing those who seek to use race to divide us for political purposes.

Senator BRADLEY also devoted a great deal of time to foreign policy. Whenever a complex foreign policy issue forced itself upon the Senate, it seemed like BILL had found time to think through the options and U.S. and regional interests involved.

In short, Mr. President, BILL BRADLEY has been an intellectual giant in the Senate. The U.S. Senate is losing a champion for average American families and particularly for the least fortunate among us. But I do not doubt that he will continue these fights. As he said when he announced his decision not to seek reelection, there are other places where he can put his skills to work making our country better and stronger. I wish him well as he seeks out the best place and way to continue his calling to public service.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be able to proceed for up to 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR CLAIBORNE PELL

Mr. BIDEN. Mr. President, I rise this morning to speak not to an issue but to speak to a man—about a man.

Mr. President, I rise this morning on the floor of the Senate to perform a task that I am anxious to perform but, at the same time, reluctant to perform.

I have been in the Senate now for 24 years. I have had the opportunity in those 24 years to serve with some very famous, significant political figures in modern American history. When I arrived here in 1972, Richard Nixon was President. The Senate was markedly different in terms of its makeup and membership, so much so that I now find myself—I was No. 100 in seniority—I now find myself somewhere in the low teens in seniority, and finding only a half a dozen or so Democrats who have been here longer than I have.

The reason I bother to mention that is I have had an opportunity to meet and work with and become friends with some truly great and famous Members of the U.S. Senate. The loss—in some cases by death, such as in the case of Hubert Humphrey and Dewey Bartlett and others; in some cases as a consequence of having lost an election, in the case of people like Frank Church and other great leaders such as Jacob Javits; the loss in some cases on the part of a Senator deciding he did not wish to run again, like Senator Mansfield and others—has impacted on the Senate and has impacted on the country.

I know my Grandfather Finnegan—God rest his soul—was right when he always used to say, "Joey, don't forget Paddy's a 9-day wonder. When you're gone, you're gone." In one sense that is true. In another sense it is not true because every once in a while someone passes this way. Every once in a while someone assumes a position in the U.S. Senate, or takes the place on the floor of this august body, who changes not only the nature of our laws and the attitude of our country about major issues but who impact upon how this institution functions.

In my mind, and I believe I reflect the view of the American public in this case, one of the things that is most troubling in our discourse is a growing lack of civility, not only in our public discourse but in our private discourse.

You need only go down this long aisle to the next, patterned after the Parliament in Great Britain. Look out this door. Many people who watch us on C-SPAN don't realize that you walk through the door of this institution, this floor, and look out that door, and you look straight all the way through, you will see a similar set of doors at the other end that lead into another Chamber called the House of Representatives. For years and years, we have avoided the kind of invective that seems to have infected the debate on that end of the Capitol. And one of the reasons we have avoided it is because there have been men and women on the floor of this Senate who will not tolerate that kind of discourse and constantly remind us of our moral conscience: that we, as the greatest institution—not as individuals, but as an institution—should not stoop to the level of engaging in uncivil conduct.

If the Presiding Officer, the former Governor of Missouri, will excuse my personal reference, it is like using profanity. You know that one may engage in using profanity in the locker room with a bunch of guys when you are in high school, but you would never do that in front of your mother. You would never do that in front of your grandmother. You would never do that in front of the people you most respected, even if you slipped and did it in front of the guys.

Well, the presence of Claiborne PELL on the floor of the U.S. Senate—just, literally, his physical presence on the floor—inhibits Members from yielding to the temptation of engaging in uncivil conduct, in conduct that, quite frankly, we should all realize is beneath us and demeans the public debate and demeans this institution. And I can say, without reservation, that in the 24 years I have served here there is not a single, solitary person whose mere physical presence in a committee, in a caucus room, on the floor of the U.S. Senate—just his presence inhibits negative behavior on the part of all of us. He is a man of such character, such gentility, such class, and such persuasion by his actions. I mean it. Think about it. I say to my colleagues who may be listening to this in their offices: Name for me a single solitary person with whom we have ever served who has that kind of impact—he walks into a room, and his mere presence exposes demeaning conduct that any of us, including myself, may be engaging in in the course of political discourse.

He likes to point out—and he never lectures, but he likes to point out—that he has never negatively referred to any one of his opponents.

I remember one of the highest compliments I ever received. We were at a candidate forum. The chairman and I, Senator PELL, a Democratic candidate, were getting ready for the last election. And one of the leading political advertisers for Democrats was up there showing us the latest ad, all the Members of the Senate who were running in the 1990 race, when Senator PELL and I ran together the last time. He was saying, "This is what works, and this is what the Republicans are doing, and this is what we should do." This particular guy has great wit and was actually the guy doing my advertising, and may have been the one doing Senator PELL's as well. I can't recall. His name is Bob Squire, one of the leading political advertisers in the country, and a fine man. Actually he was doing the President's campaign, if I am not mistaken. Bob Squire with his dry wit looked down at all of us, and said, "There are only two men in America that do not get it"—that you must respond to negative ads and you must be negative.

And I do not know whether it is true, if it was only two. It does not matter for purposes of what I am going to say. He literally said, "CLAIBORNE PELL and JOE BIDEN." Just for me to be mentioned in the same sentence with CLAIBORNE PELL—just to be mentioned in the same sentence—was one of the highest compliments I have received since I have been in the Senate.

I am not in CLAIBORNE PELL's class. Few are. If you will forgive me, as we say, a point of personal privilege here, when I first came to the Senate, I say to the Presiding Officer, I came under circumstances that were not the most ideal. I was not anxious to come. There had been an accident involving my family, and I lost my wife and daughter.

Almost everybody, when I came, embraced me, Democrat and Republican, and they were very generous with their time and their concern. But I remember four people, only one of whom I will name today: CLAIBORNE PELL. CLAIBORNE PELL came to me, and in his inimitable way. He did not do what Hubert Humphrey did. Hubert Humphrey literally came over to my office and sat on my couch and cried with me, I mean literally cried with me. CLAIBORNE PELL did not do that.

I give you my word that there was not a week that went by without him at least twice a week personally coming to me and inquiring of me how I was doing, inviting me to his home, inviting me to stay with him in his home, offering me a room in his lovely home in Georgetown because he knew I commuted and my boys were still in the hospital. And that did not stop when my boys became healthy. That has continued for 24 years. And his wife, Nuala, is equally as wonderful.

In addition to that, CLAIBORNE PELL did something few were able to do for me at the time, and again continuing on this point of personal privilege. He invited me to dinner parties, private parties, private dinners at his home, knowing that it was important for me, in retrospect, just to get out, just to be somewhere with someone. He never did it in a way that made me feel beholden. He never did it in a way as if he were doing me a favor. He never did it in a way other than the way he does everything: in a purely genuine, straightforward, embracing way.

Mr. President, that has characterized everything about CLAIBORNE PELL.

Let me conclude by saying that everything about CLAIBORNE PELL's public life has in fact emulated his private life. There are not many people who can say there is simply no distinction between their private conduct and their public conduct. CLAIBORNE PELL would not say that, but he can say that, and I can say that for him.

The last point I wish to make, and I will elaborate on this later when we finish this treaty or at another time before we leave, is this man is a man who is, to use a trite-sounding phrase, a quiet visionary. This is a fellow who wrote about the transportation system in the Northeast and predicted what would be needed and used a word I learned as an undergraduate that no one had ever heard of—"megalopolis"—and he talked about Richmond to Boston and what would have to be done to accommodate the needs of this area of the country. He is the guy who came up with the notion of ACDA. He has been the single most consistent, persistent spearheader of the notion of bringing about the diminution of the number of nuclear weapons that exist in this world. He is the man who has been devoted to the notions and concepts embodied in the United Nations. He is a man who has been the leader in education and learning, a man who comes from considerable standing in terms of his own personal wealth and education but has bent down to make sure that people of competence, regardless of their economic status, would be able to achieve the same intellectual competence, capability, and background as he has achieved.

This is a wonderful man, I say to my friends. You all know it. But not many have passed this way who have his personal characteristics and capabilities, and I doubt whether very many will come this way again. I will truly miss his presence in the Senate.

I yield the floor and thank my colleagues.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I appreciate the remarks of the distinguished Senator from Delaware. He was unable to come to a meeting of the Foreign Relations Committee this morning at which we spent 1½ hours paying tribute to this wonderful man, and I agree with everything that Senator BIDEN has said about Senator PELL.

At the meeting this morning, a resolution of commendation for Senator PELL was adopted by standing ovation, and I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION OF COMMENDATION FOR SERVICES RENDERED BY THE HON. CLAIBORNE DEB. PELL

Whereas Senator CLAIBORNE DEB. PELL has been a member of the Committee on Foreign Relations since January 8, 1965; served as Ranking Minority Member from January 5, 1981 until January 6, 1987; served as Chairman from January 6, 1987 until January 3, 1995; and served again as Ranking Minority Member from January 4, 1995 until the present;

Whereas by serving as Chairman of the Foreign Relations Committee, Senator Pell became the second Rhode Islander, following The Honorable Theodore F. Green, to serve the State of Rhode Island as Chairman of this distinguished Committee;

Whereas as a Member and Chairman of the Committee Senator Pell has always been courteous, extending to all Members true respect for their views, and leaving an indelible mark on the Committee as a true gentleman of diplomacy;

Whereas in the discharge of his duties as chairman, Senator Pell has at every opportunity encouraged the development and furtherance of a bipartisan foreign policy;

Whereas Senator Pell, having served on the International Secretariat of the San Francisco Conference which drew up the Charter of the United Nations, has always worked to find international solutions to global problems in such areas as the environment, the oceans, climate control, human rights, the plight of refugees, and the rights of oppressed minorities throughout the world;

Whereas Senator Pell has steadfastly argued for greater contact and dialogue between all nations so as to reduce tensions, resolve differences, and promote the development of democracy, advocating negotiations and diplomacy as an alternative to armed conflict and military action;

Whereas Senator Pell has been instrumental in the initiation of arms control accords such as the Environmental Modification Treaty and the Seabed Arms Control Treaty, in the successful Senate consideration of numerous arms control treaties with such goals as the limitation, reduction and elimination of various classes of nuclear weapons, in the passage of legislation to restrain the proliferation of weapons of mass destruction, and in the inception, fostering and strengthening of the Arms Control and Disarmament Agency;

Whereas Senator Pell, through his energy and vision, has contributed immeasurably to the development of United States leadership in world affairs and the establishment of better relations among nations;

Whereas Senator Pell has announced his intention to retire from the Senate in January 1997; and

Whereas Senator Pell's leadership and wisdom will be sorely missed by his colleagues on the Committee and his many friends in the Senate: Now, therefore, be it

Resolved, That the Committee on Foreign Relations expresses its warm and deep affection for Senator Claiborne Pell, its profound appreciation for his devotion to duty and its sincere gratitude for the outstanding service which he has rendered to the Committee, the Senate, the United States of America, and to the entire world through his great ability, initiative, and statesmanship.

EXECUTIVE SESSION

INTERNATIONAL NATURAL RUBBER AGREEMENT, 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the consideration of Executive Calendar No. 23, which the clerk will report.

The legislative clerk read as follows:

Treaty Document 104–27, the International Natural Rubber Agreement of 1995.

Resolved (two thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The International Natural Rubber Agreement, 1995, done at Geneva on February 17, 1995, subject to the following declaration:

It is the sense of the Senate that "no reservations" provisions as contained in Article 68 have the effect of inhibiting the Senate from exercising its constitutional duty to give advice and consent to a treaty, and the Senate's approval of this treaty should not be construed as a precedent for acquiescence to future treaties containing such a provision.

The PRESIDING OFFICER. Under the previous order, the pending business is the resolution of ratification. The previous order provides that the proposed declaration to the resolution is agreed to. Debate on the resolution is limited to 1 hour, of which 30 minutes is under the control of Senator PELL and Senator HELMS, 30 minutes under the control of Senator BROWN.

Who yields time?

Mr. HELMS. Would the Senator like to go first?

Mr. PELL. The Senator should.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, please advise me when I have used 10 minutes.

Mr. President, one of the most important responsibilities of the Senate Committee on Foreign Relations, and specified as such under the Senate rules, is to consider measures that "foster commercial intercourse with foreign nations and safeguard American business interests abroad."

Throughout the 104th Congress, I have placed a high priority on measures that promote American commercial interests in the United States and overseas. During this Congress the Foreign Relations Committee has reported six bilateral tax treaties providing for reduced withholding tax liabilities and protection against the double taxation of American goods and services.

During this Congress, the Foreign Relations Committee also reported nine bilateral investment treaties, or BIT's, as they are known around the world. BIT's between the United States and other countries can have an enormous impact in opening doors for American business in less developed markets. To date, the Senate has overwhelmingly approved all of the bilateral tax and investment treaties reported from our committee during the 104th Congress.

Today, the Senate is considering yet another treaty that expands opportunities for U.S. business and protects American jobs. This treaty, the International Natural Rubber Agreement (INRA) is designed to stabilize product and prices of natural rubber. This agreement has been in effect for 16 years and has proved a useful tool for maintaining a relatively stable supply of natural rubber at a fairly consistent price. The pending treaty would extend the agreement for an additional 4 years.

This commodity agreement essentially reauthorizes a buffer stock that stabilizes the price of natural rubber. The buffer stock is designed to buy and sell rubber in order to keep the price within 15 percent of a reference price established annually based on the market. The stock is financed by direct cash contributions from its members, who are both producers and consumers of natural rubber. Absent the development of a mature futures market for natural rubber, the agreement ensures predictable supplies of natural rubber priced at annual market rates.

Virtually all Americans, whether aware of it or not, depend on rubber products every day of the week. Any American who drives a car, or rides a bus, or takes a taxi to work relies on rubber products. Many Americans may not be aware that we are completely dependent upon foreign countries for our supply of natural rubber. In fact, synthetic rubber products still require some natural rubber.

Here is the point. Seventy-five percent of all natural rubber is grown in only three countries—Malaysia, Thailand, and Indonesia. About 80 percent of natural rubber is grown by small farmers, and it requires seven years for new rubber trees to reach full production level. Thus, a drastic reduction in rubber prices could force small farmers to convert their crops to more profitable commodities such as palm oil. Since natural rubber takes seven years to mature, valuable time could be lost before the market was once again provided with a reliable supply.

In terms of jobs, the president of the Rubber Manufacturing Association testified before the Senate Foreign Relations Committee that the livelihood of more than 100,000 employees, and the thousands of suppliers to the rubber industry and its customers, depends on available supplies of natural rubber and the continued production of finished products. By keeping the cost of tires—and other rubber products that we all depend upon—relatively stable, U.S. consumers benefit directly from the agreement.

Ensuring that small farmers will continue to grow rubber is therefore essential to ensuring an adequate supply level for the United States. One of the main reasons the United States signed the original agreement, it is known in short form as INRA—with broad bipartisan support—and its renewal in 1987, was to encourage producers to invest in planting new trees and to continue to harvest rubber to meet the projected increases in worldwide demands. Since the original INRA, production of natural rubber has doubled to keep pace with a similar rise in consumption of rubber products.

Senate ratification of this treaty is essential to ensuring market stability as the United States and other consuming countries transition to a system that relies on private sector institutions to manage market risk. In a letter to me, dated January 22, 1996, the State Department said it "shared industry's and labor's concern that a precipitous end to the accord would be disruptive." As we know all too well in Washington, private institutions do not replace public institutions overnight—much as we might like to see it be otherwise. INRA III will bridge the period of transition and decrease the potential for disruption of the natural rubber supply during the four year period in which the treaty will be in force.

Membership in INRA has proved to be profitable to the U.S. Treasury. The original International Natural Rubber Agreement [INRA] was funded by the United States in 1980 with a contribution of $53 million. Since that time, the U.S. contribution has increased through profit and interest by $25 million and now stands at $78 million. Given this record it is evident that the U.S. Treasury will benefit directly from its membership in the International Natural Rubber Organization [INRO] in more ways than ensuring an adequate supply of natural rubber. When the U.S. contribution to the INRO is returned to the Treasury in four years, we can expect the U.S. share of INRO to have grown beyond its current level of $78 million.

Commitment to INRA III will be funded without additional appropriations from the United States. According to the Office of Management and Budget, in a letter to me dated August 8, 1996, "because rolling over U.S. government resources currently in the INRO Buffer Stock Account will not require any legislation, ratification of INRA 1995 will not be subject to pay-as-you-go budgetary procedures, and will simply change the timing of the return of these assets to the U.S. Treasury."

According to the Office of Management and Budget, the proposed rollover of resources in the Buffer Stock Account from INRA 1987 to INRA 1995 is based upon the provisions of INRA 1987, and the 1988 precedent of the Senate rolling over funds from INRA 1979 to INRA 1987. Some annual appropriations are necessary; specifically, the U.S. share of the administrative costs of INRO are estimated to be $300,000 per year.

Finally, Mr. President, the administration, U.S. industry, and this Senator, agree that it is time to move toward a system which relies on private sector institutions to manage market risk. I agree with Senator BROWN on that point. But, consequently, in correspondence with the Secretary of State and during a hearing of the Senate Foreign Relations Committee on June 20, 1996, I stated that industry must begin such a transition. So, this will be the last International Natural Rubber Agreement. However, industry needs sufficient time to create a mechanism and prepare for a smooth transition to such a system. Given the unique production challenges of natural rubber, ratification of INRA III will provide an adequate transition period.

Mr. President, I ask unanimous consent that correspondence to me emphasizing the importance of this agreement be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 8, 1996.

Hon. JESSE HELMS,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you are aware, the Administration strongly supports U.S. participation in the International Natural Rubber Agreement ("INRA") 1995 and has asked the Senate to give this treaty prompt consideration and its advice and consent to ratification. This letter is in response to a request from the staff of your committee for our views on the budgetary implications of U.S. participation. In summary, because rolling over U.S. government resources currently in the International Natural Rubber Organization (INRO) Buffer Stock Account will not require any legislation, ratification of INRA 1995 will not be subject to pay-as-you-go budgetary procedures, and will simply change the timing of the return of these assets to the U.S. Treasury.

The Administration proposes to roll over the current U.S. share in the Buffer Stock Account, which totals approximately $78.5 million, from INRA 1987 to INRA 1995 without a new appropriation. (This includes $7.5 million in the Buffer Stock Account and $71 million held in the Surplus Funds Account, which is part of the Buffer Stock Account managed by Rothschild Asset Management Ltd., Singapore.) We believe this amount will be sufficient to cover all likely U.S. government obligations during the life of INRA 1995.

The proposed roll-over of resources in the Buffer Stock Account from INRA 1987 to INRA 1995 is based upon the provisions of INRA 1987, and the 1988 precedent of the Senate rolling over funds from INRA 1979 to INRA 1987. Consistent with the 1988 precedent, such a roll-over does not require any authorizing or appropriation legislation, only treaty ratification and U.S. government consent. Thus, a roll-over of resources in the Buffer Stock Account is not subject to pay-as-you-go procedures established by the Balanced Budget and Emergency Deficit Control Act of 1985.

The U.S. share of the administrative costs of running the International Natural Rubber Organization are estimated to be approximately $300,000 per year. These costs will require annual appropriations, and the State Department's proposed budget for FY 1997 includes money for this purpose in the Contributions to International Organizations account.

The Administration expects that at the end of the four-year duration of INRA 1995, the objectives of INRA will be achievable through the operation of free market mechanisms. Therefore, INRA 1995 is intended to be the last such agreement in which the United States participates, and the U.S. share of the Buffer Stock Account (including buffer stock trading profits and interest) will return to the U.S. Treasury as miscellaneous offsetting receipts at that point. The transfer of U.S. government assets from INRA 1987 to INRA 1995 will not affect the U.S. claim on those assets, but will only change the timing of their return to the Treasury.

Again, the Administration strongly supports U.S. participation in INRA 1995 and awaits consideration of the treaty by the full Senate. We appreciate the support that you have given to this proposal and your expeditious action on it.

Please let me know if you would like any additional information.

Sincerely,

JACOB J. LEW,
Acting Director.

RUBBER MANUFACTURERS ASSOCIATION,
Washington, DC, September 13, 1996.
Hon. JESSE HELMS,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HELMS: Withn the next week or so, the third iteration of the International Natural Rubber Agreement will be brought to the floor of the Senate for ratification.

Supported by both industry and labor, INRA III is, in essence, a routine extension of an Agreement (INRA I) which has been in effect since 1979. INRA II, essentially a continuation of the first, was submitted to the Senate by the Reagan Administration and approved unanimously by a vote of 97-0. To the extent INRA III differs from its predecessors, it does so in a positive way, by making its economic provisions even more market-oriented, and more automatic than discretionary.

INRA, unlike other commodity agreements, has worked successfully for more than 16 years.

On behalf of the rubber manufacturing industry, I ask for your support of this important Agreement.

Sincerely,

THOMAS E. COLE,
President.

UNITED STEELWORKERS OF AMERICA,
RUBBER/PLASTICS INDUSTRY CONFERENCE,
Akron, OH, September 11, 1996.
Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: On behalf of the 97,000 members of the Rubber/Plastics Industry Conference of the United Steelworkers of America, I urge you to support ratification of the International Natural Rubber Agreement (INRA III) when it comes to the Senate floor in the near future.

For the last 16 years, INRA has successfully met its primary objective of assuring an adequate supply of natural rubber for the world. In fact, since INRA began, global natural rubber production has increased 50 percent. This is especially important for the U.S. as the world's largest consumer of natural rubber.

Assured supplies of natural rubber are particularly critical to the tire and rubber products industry and our union members. To put it simply, you cannot manufacture such products for our varied civilian and military transportation needs—or provide jobs in this vital industry—without natural rubber. Contrary to a common misconception, there is no substitute for this critical industrial input. If future supplies of natural rubber are inadequate, there can be no question that job disruptions and losses among our members would result.

Also, consumers would be severely impacted. Every one cent increase in the price of natural rubber costs the U.S. tire industry $22 million on an annualized basis. Thus, consumers could face tremendous price increases for tires and other rubber products, and could very well face shortages.

In the final analysis, the United States is one of the only countries among the 28 nations covered by the treaty that has not yet ratified it. We must do so by the end of this year or the agreement that has served the world so well for almost two decades will die. The Senate has previously recognized the importance of INRA as reflected in the 97-0 vote in favor of ratification when INRA was last renewed in 1988. I urge your support on this matter of critical importance to our union, its members and families—and the consumers who purchase the products we produce.

Sincerely yours,

JOHN SELLERS,
Executive Vice President.

BRIDGESTONE/FIRESTONE, INC.,
Wilson, NC, September 16, 1996.
Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: I am writing on behalf of Bridgestone/Firestone, Inc. and the 2,200 employees of the Wilson Plant to reiterate our strong support for the ratification of the Third International Natural Rubber Agreement (INRA III), which is scheduled for vote by the Senate this month. This will continue a treaty that has effectively served the needs of the U.S. tire industry.

Natural rubber is a strategic commodity for the production of tires as well as for a wide variety of other products. For the past 25 years, the International Natural Rubber Organization (INRO), which operated under the authority of the INRA Charter, has helped ensure a stable price and long-term supply of natural rubber, benefiting both producers and buyers of natural rubber. Without this stabilizing influence, we believe that the international rubber market could easily be disrupted, jeopardizing the availability of natural rubber and long-term damage to the industry.

INRA is different from many other commodity agreements. First, it uses a "buffer stock" mechanism (rather than export controls or market quotas) to dampen the swings in market prices that can hurt both producers and consumers. Second, the price intervention levels are directly and automatically linked to free market trends. Third, and perhaps the most important, it has worked.

During the last several years, much time and effort has been spent to achieve the consensus among producing and consuming countries embodied by this new agreement. We believe that a reasonable compromise among the parties has been reached in the adopted INRA III document, and that its ratification will serve the interests of the U.S. tire and rubber industry.

As a major U.S. tire manufacturer and an employer of 2,500 in North Carolina and nearly 35,000 nationwide, we urge you to vote for the ratification of INRA III by the U.S. Senate. We are eager to provide whatever assistance or information may be required to assist you in attaining this goal.

Sincerely,

JOHN MCQUADE,
Plant Manager—Wilson.

KELLY SPRINGFIELD TIRE CO.,
Fayetteville, NC, January 26, 1996.
Hon. MICHAEL KANTOR, *Ambassador,*
U.S. Trade Representative,
Washington, DC.

DEAR AMBASSADOR KANTOR: I have been working very closely with Senator Jesse Helms on the International Natural Rubber Agreement (INRA) since before Thanksgiving. Success in getting the Agreement renewed is crucial to the future health of North Carolina's large tire industry and our plant, in particular, which is the largest in the world.

It is my understanding that the Administration will sign INRA III shortly and send it to the United States Senate for its advice and consent. This would not have occurred without your personal support and leadership.

Thank you, Ambassador Kantor, for all your efforts in moving INRA III forward.

Sincerely,

J.R. KONNEKER.

Mr. HELMS. In order for the United States to retain its membership in

INRO, the United States must ratify INRA 1995 prior to the end of 1996. I ask that the Senate move expediently to a vote on this treaty.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio. Who yields time? The Senator from Rhode Island?

Mr. PELL. Mr. President, I yield 8 minutes to the Senator from Ohio.

Mr. GLENN. I thank my distinguished colleague from Rhode Island.

Mr. President, I rise today also to speak on behalf of Senate ratification of the third International Rubber Agreement, INRA III.

As my colleagues are well aware, INRA III is a renewal of an existing commodity agreement. This is not new. It has been in existence between more than two dozen nations who are either producers or consumers of natural rubber. The first INRA was ratified in 1979. It was renewed in 1987. INRA III was negotiated in 1994–95 with the very active participation of the United States. According to the Department of State.

> . . . the objectives pursued by the United States resulted in a well-structured accord which offers a fair balance of benefits and responsibilities for both consumers and producers of natural rubber.

In the negotiations, the United States sought and achieved a number of improvements in the new agreement. After a very lengthy interagency review, INRA III was formally signed by the United States and sent to the Senate for our ratification.

United States participation in INRA has been supported by Republican and Democratic administrations, including those of Presidents Carter, Reagan, Bush, and Clinton. So it has enjoyed broad bipartisan support in the Senate when INRA I and INRA II were considered.

This year, the Senate Foreign Relations Committee recommended ratification of INRA III by a near unanimous and bipartisan majority. The agreement is strongly supported by the Rubber Manufacturers Association and by the Rubber/Plastic Industry Conference of the United Steelworkers.

Mr. President, more than two-thirds of the world's production of natural rubber comes from just three countries: Thailand, Malaysia, and Indonesia. The purpose of INRA is very simple. It is to ensure an adequate supply of natural rubber at fair and stable prices without distorting long-term market trends and to foster expanded natural rubber supplies at reasonable prices.

As Secretary of State Christopher points out in his letter of submittal accompanying the agreement:

> Prior to conclusion of INRA 1979, rubber prices had historically been unstable with strong rises.

This was particularly noticeable, Mr. President, in 1951, in 1955, in 1960 and in 1973, 1974, followed by sharp and sudden declines. "This behavior not only destabilized producers' incomes, but also contributed to inflation in industrial countries." That was a statement by Secretary of State Christopher.

So those ups and downs in 1951, 1955, 1960, 1973 and 1974 are what led to INRA being passed in 1979.

The Secretary continued:

> In addition, it discouraged needed long-term investments in natural rubber production. This was and is of particular concern to the United States which, as the world's largest consumer of natural rubber, has a substantial interest in assuring adequate future supplies of this commodity.

In other words, what that says in simpler terms is, it's good for the consumers of this country that we have this kind of supply arrangement that does not permit price fluctuations.

In contrast with other commodity arrangements which have sought to control prices, INRA uses a buffer-stock mechanism to avoid severe price fluctuations which can injure both producing and consuming countries. Absent alternative institutions to manage market risk, the agreement represents the best way of assuring predictable supplies of fairly priced natural rubber. INRA III will provide a transition period needed to allow industry time to prepare for a free market in natural rubber and to allow for the further development of these alternative institutions.

That is very important. I already pointed out why to my colleague from North Carolina, because the fact is this will be the last INRA. After this, we go to a free market, and this time period for this INRA that we are going to approve today, I trust, will provide for arranging for development of these alternative institutions.

INRA has effectively discouraged cartel-like behavior on the part of the producing countries by supporting prices sufficient to ensure adequate production, as well as a fair return to the producer, while giving consuming countries an equal voice in how this unique commodity agreement is implemented.

The best part about it is, Mr. President, it has worked, it has been successful. Over the life of INRA I and II, production has increased by 50 percent to meet rising demand, yet prices have remained relatively stable. That is a great testament to the success of INRA I and II since they have been in effect. I repeat that. Over the life of INRA I and II, production has increased 50 percent to meet rising demand, yet prices have remained relatively stable.

Natural rubber is a component of every tire and many rubber products. There is no substitute. The amount of natural rubber used varies depending on the type of tire or rubber product. All aircraft, as an example, however, including military planes, have tires which contain a high percentage of natural rubber.

The economic impact on our whole Nation of ups and downs in the price of rubber is very real. A 1-cent-per-pound rise in natural rubber prices costs the United States an additional $22 million. Hence, the importance of price and supply stability is readily apparent. Short supplies or unreasonably high prices would be costly to American consumers and could be devastating to the tire and rubber industry in the United States.

I will say, we have a very substantial part of this industry represented in my home State of Ohio.

U.S. participation in INRA III should not require any additional money to cover our share of the buffer stock. It is my understanding the administration and the Senate are agreed that we will roll over moneys already invested in the buffer stock. This arrangement seems the simplest and most sensible means of addressing the financing question and is the same procedure which was used successfully for the transition from INRA I to INRA II.

In closing, Mr. President, as the world's largest consumer of natural rubber, U.S. participation in INRA III is critical to the continued viability of the arrangement. I urge my colleagues to approve INRA III in the broad, bipartisan fashion which has characterized consideration of this issue to date.

Mr. President, I yield back the remainder of my time to Senator PELL.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield 3 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I thank the Senator.

Mr. President, this is the second extension of a treaty that has already been approved by this body on two separate occasions: in 1980 on a vote of 90 to 1, and in 1988 on a vote of 97 to 0.

The purpose of this treaty is to stabilize the supply and price levels of natural rubber in the world market. Through a buffer-stock mechanism, the treaty assures that natural rubber will be available to the United States in sufficient supply and at reasonable prices.

Mr. President, securing a reliable supply of natural rubber at fair prices is essential for our tire and rubber industry. As a letter from treaty supporters put it, "you cannot manufacture such products for our varied civilian and military transportation needs—or provide jobs in this vital industry—without natural rubber. Contrary to a common misconception, there is no substitute for this critical industrial input. If future supplies of natural rubber are inadequate, there can be no question that job disruptions and losses would result."

This treaty is extremely important because 75 percent of the world's natural rubber supply is produced in just three countries—Thailand, Indonesia and Malaysia—and the United States is, by far, the world's largest importer of natural rubber. Since natural rubber is a commodity whose production is strictly limited by climate, without this treaty, the United States could be subject to great market volatility.

On the one hand, one possible problem could be the formation of cartels that could push the price of rubber way up, almost beyond reach; on the other hand, at the other extreme is a danger that rubber production could become unprofitable, and there would be a disruption in supply. This treaty charts the way between these two extremes.

The INRA addresses these issues not by eliminating market pricing and production, but by restraining some of the volatility. INRA's buffer-stock mechanism goes into action only when prices move beyond 15 percent above or below the reference price. That reference price is adjusted annually to reflect long-term market trends.

Under the Reagan administration, the U.S. Trade Representative distinguished the rubber agreement from other commodity agreements by stating the following:

> Experience shows that most arrangements with economic measures have not worked and often result in market disruptions by attempting to support prices at unrealistic levels.
>
> In contrast, however, the rubber agreement has been successful in moderating price fluctuations through a market-oriented mechanism that operates consistent with market trends.

My colleague from Ohio put out a very important figure in terms of the impact of rapid price fluctuations. Every 1-cent increase in the price of natural rubber is estimated to cost the U.S. tire and rubber industry $22 million on an annualized basis.

This agreement is strongly supported not only by U.S. tire and rubber manufacturers, but also by organized labor—the people who work in the tire and rubber manufacturing industry. It has been supported by four successive administrations: Presidents Carter, Reagan, Bush, and Clinton. We have the benefit of 16 years of experience with this treaty to know that it can and does work.

Mr. President, it would be a great mistake if we did not take advantage of this opportunity to give our advice and consent to ratification of the International Natural Rubber Agreement. I urge my colleagues to do so. I yield the floor.

Mr. HOLLINGS. Mr. President, I rise in support of the International Natural Rubber Agreement [INRA] and urge the Senate to ratify this agreement. This is the third INRA. The first two agreements were ratified by this body by overwhelming margins in 1980 and 1988. The third agreement merits that same level of support.

Since entry into force of the first agreement, INRA has effectively met its basic purpose: to encourage cultivation of natural rubber by reducing market volatility and thus ensuring adequate supply. Unless INRA is ratified, we will return to the unstable price situation that characterized the period before the first INRA went into effect. Price volatility discourages investment in natural rubber production, which in turn affects supply. Rubber trees can only be grown in a few areas of the world and production does not begin until at least 5 years after the trees are planted. Therefore, a reduction in planting has a long, adverse effect on supply.

As the world's largest consumer of natural rubber, the United States has a particularly strong economic interest in assuring stability and adequate supply for the future. Natural rubber is an essential product for which there is no substitute. Seventy-five percent of the world's rubber production is used in the manufacture of tires. Every tire must contain some amount of natural rubber in order to meet required performance and quality specifications. If U.S. rubber manufacturing plants cannot obtain adequate supplies of natural rubber, jobs will be disrupted and consumers will face increased prices. In South Carolina alone, more than 10,000 workers are employed in the rubber manufacturing industry.

The administration has proposed funding INRA by rolling over the existing U.S. share of the buffer stock. I endorse this proposal. A rollover is specifically permitted under the terms of INRA. This was the method used when the second INRA was ratified. Based on historic experience, these funds should be adequate to meet our obligations under the third INRA. And these funds will be returned to the taxpayers when the agreement terminates.

I urge my colleagues to support the resolution of ratification.

Mr. HEFLIN. Mr. President, I rise in support of the resolution of ratification of the third International Natural Rubber Agreement [INRA]. The purpose of INRA is to assure adequate supplies of natural rubber by stabilizing natural rubber prices without distorting long-term market trends. It accomplishes this through the operation of a buffer stock which buys and sells natural rubber whenever the price falls outside of a market-based price band. The INRA benefits both producers and consumers of natural rubber.

Natural rubber is a critical material used in virtually every tire and many rubber products made in the United States. There is no material that can serve as a complete substitute for natural rubber. The United States is the largest consumer of natural rubber in the world, and adequate supplies are critical to major U.S. manufacturers such as the automotive industry. For 16 years, the United States has benefited substantially from the market stability which resulted from the operation of the two previous INRA agreements. Failure to ratify the third INRA is likely to result in price volatility and supply shortages. This in turn will have serious adverse consequences for workers and consumers across the country and in my own State.

Alabama is a major producer of tires and other rubber products. Companies manufacturing these products have invested an estimated $1.5 billion in their Alabama facilities. They employ nearly 6,000 workers. The price volatility and supply shortages that would follow if INRA is not ratified would have an immediate impact on these workers. And the price effect of short supplies would soon be felt by consumers.

INRA has the support of the Rubber/Plastic Industry Conference of the United Steel Workers of America as well as the tire and rubber products industry. Other major consumer and producer nations have already approved INRA. Our action today will allow this beneficial agreement to go into effect.

Finally, the administration is not requesting an appropriation of funds to carry out this agreement. Rather it proposes rolling over the U.S. share of the buffer stock under the second agreement to carry out our obligations under the third agreement. This is precisely the course of action taken when the second INRA agreement was approved. When the agreement ends, these funds will return to the Treasury.

Mr. President, I urge the Senate to support INRA.

Mr. SHELBY. Mr. President, today the Senate is considering ratification of the International Natural Rubber Agreement. This agreement will impact large sectors of our economy, primarily those for which natural rubber is a vital interest.

The first International Natural Rubber Agreement was ratified in 1979 by all major rubber producing and consuming countries. The second agreement was ratified in 1988 and expired in December 1995. The purpose of renewing this agreement is to stabilize the price of natural rubber and to guarantee adequate supplies. The agreement accomplishes this through the International Natural Rubber Organization which maintains a natural rubber buffer stock from which the organization may purchase or sell natural rubber to help control the volatile price.

Agricultural growth for natural rubber is limited to a small area around the equator, and it takes 5 to 7 years to cultivate this product. Seventy-five percent of the world's natural rubber is grown in just three countries—Thailand, Indonesia, and Malaysia. I generally do not favor Government intervention in the marketplace to stabilize prices, but failure to ratify this agreement could lead to a few small countries colluding to fix natural rubber prices. Even small fluctuations in the price of natural rubber have a significant impact on American industry; a one-cent increase in the natural rubber price costs industry $22 million. Sharp fluctuations in the natural rubber price will, in turn, impact American consumers heavily.

Moreover, this program is not draining the taxpayers' money; the original U.S. contribution was $53 million and our share of the organization has grown to $78 million. When the INRA terminates, these funds will be returned to the Treasury.

The Government should play a minimal role in regulating or controlling the price of any commodity. There are rare circumstances where, for the sake of American consumers, it is permissible for the Government to ensure the stability of certain commodity prices, and this is one of those circumstances. I urge my colleagues to support this agreement.

Mr. ROBB. Mr. President, I rise in support of ratification of the International Natural Rubber Agreement [INRA III].

For the last 16 years, INRA has provided the consuming nations of the world with a reliable supply of natural rubber at stable prices. The United States, as the world's largest consumer of natural rubber, has much to gain from the stabilization provided by the agreement. Many believe that the tires and other rubber products U.S. consumers use daily do not need natural rubber. But that is simply not the case.

Natural rubber is, in fact, a critical material in the manufacture of most rubber products. Aircraft tires used by the U.S. military have a particularly high percentage of natural rubber and it just so happens the world's largest aircraft tire plant is located in Danville, VA. At least a third of the plant's production provides aircraft tires to the U.S. military, and this production depends on the availability of natural rubber.

U.S. consumers and workers also have much to gain from renewal of INRA. Every one-cent rise in the price of natural rubber costs the U.S. tire and rubber industry $22 million on an annualized basis. Such cost increases will inevitably lead to higher prices for consumers and possible shortages and potential job losses.

On behalf of the nearly 4,000 workers in Virginia that are employed in the tire and rubber industry and for the broader economic and defense preparedness interests of the United States, I urge the favorable consideration of the International Natural Rubber Agreement.

In closing, I ask unanimous consent that a letter I sent to National Security Adviser Anthony Lake be printed in the RECORD, as well as his return reply.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 12, 1996.

Hon. W. ANTHONY LAKE,
Assistant to the President for National Security Affairs, The White House, Washington, DC.

DEAR TONY: I wanted to convey my strong support for the International Natural Rubber Agreement [INRA], and urge that the National Security Council expedite its review of the accord and submit it to the Senate for its advice and consent.

The INRA serves an important purpose in ensuring an adequate supply of rubber to U.S. corporations using this product in bulk in their manufacturing operations. The Chairman of Goodyear Tire & Rubber Company, Mr. Stan Gault, visited my office yesterday to emphasize that very point and explain how important extension of the rubber pact is to his corporation. Should the pact not be renewed, our industrial base would face serious production and supply shortages, and the American consumer would ultimately be forced to pay higher prices.

The Senate supported renewal of INRA in 1988 by a wide margin, 97–0, and I believe there is a consensus to support extension of the pact once again. I hope the White House can submit the accord to the Senate in short order so that we can move ahead.

Sincerely,

CHARLES S. ROBB.

THE WHITE HOUSE,
Washington, DC, July 3, 1996.

Hon. CHARLES S. ROBB,
U.S. Senate,
Washington, DC.

DEAR CHUCK: I am writing in response to your letter urging support for renewal of the International Natural Rubber Agreement (INRA). I fully agree with you on the importance of providing adequate natural rubber supplies, at reasonable prices, for U.S. manufacturers to ensure U.S. consumers pay reasonable prices for rubber-related products.

I am pleased to report that on June 19, President Clinton transmitted the INRA to the Senate for advice and consent. The new agreement incorporates improvements sought by the United States to help ensure that the INRA fully reflects market trends and is operated in an effective and financially sound manner. We believe that renewal of the agreement will provide the transition period necessary for the industry to prepare for a free, open market in natural rubber.

We appreciate your interest in this important matter.

Sincerely,

ANTHONY LAKE,
Assistant to the President For National Security Affairs.

The PRESIDING OFFICER (Mrs. FRAHM). Who yields time?

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Madam President, I yield myself 20 minutes.

Madam President, the advocates of this treaty have come to the floor with the suggestion that this measure has been considered and approved by large margins in the past. That assertion is correct. It has been. They have come with the assertion and the implication that the American companies that buy rubber products support this agreement. Madam President, I believe that assertion is largely correct as well.

They have come to the floor with the assertion that this measure has broad support of rubber producers. And I believe that assertion is correct as well. They have come to the floor and suggested that, implied that the labor organizations that work for the big rubber companies may support this agreement. Madam President, I believe that assertion as well is correct.

This country has had experience with cartels. It is not new. It is as old as commerce is itself. It is perhaps a most natural inclination that could come about. One who reads Warren Buffett's books, in terms of investing, is quickly impressed with his understanding of the market. And one of the things he looks for is markets where there is not competition or there is reduced competition, where it is possible for the industry to have a greater margin because of the limited competition—or the franchise, as he refers to it.

The simple fact is, if you have a very competitive commodity market, margins, that is, profits, tend to be less than they are if it is a somewhat protected market. It is natural and understandable that businesses and entrepreneurs would seek to limit competition, would seek to minimize risk. That is human nature. And it is a way to maximize profits.

Madam President, I think our responsibilities go further than simply responding to big labor or to big business or to large producers of rubber. Our responsibilities go to the consumers of this country and the citizens of this country as well. We have had experience in recent years with cartels. When we have a limited number of producers, and they organize and they work together to control prices, we have seen what happened.

The lessons of the 1970's in dealing with the oil cartel was a dramatic reminder to the Americans of what happens when competition is reduced. The oil cartel was an association of oil-producing companies that conspired together to dramatically increase oil prices; and they did it. It had a dramatic and shocking impact on the consumers of America, and, as a matter of fact, the economy of the entire world.

We have a number of other examples where countries have talked about developing cartels. Thankfully, they have been resisted. As a matter of fact, the distinguished chairman of the Foreign Relations Committee is one who has been a key fighter in the effort to eliminate many of these cartels. I think Members and American citizens will be surprised to learn that many of these cartels' efforts to control the market had the blessing of the Federal Government.

The coffee association. Ironically, this country produces very little coffee, but we have been a member of what was an attempt to develop a coffee cartel. One can understand why the producing country would want a coffee agreement that would limit competition of their product, but why in the world would the United States want to be a member of it? We import coffee.

The distinguished chairman of the committee played a key role in helping us eliminate the coffee cartel. Imagine taking American taxpayers' money to participate in a cartel that had the impact of boosting the price Americans have to pay for coffee.

When that agreement was proposed by administrations—and it had been proposed by administrations in the past—it was not the American taxpayer they were looking out for. They were responding to the special interest groups that had found a way to limit competition. I do not condemn people for looking out for their own economic interest, but I do think it is wrong for American legislators to think that their responsibility goes only to respond to those special interests.

This Congress in the last few years has played a key role in eliminating some of these cartels or efforts to limit competition. International organizations designed to help control, manipulate the price of coffee or jute or other products that we import have fallen by the wayside, and great progress has been made when we focus on them.

Now what comes to the floor is an agreement on rubber. Madam President, some facts are painfully clear. One, the United States does not produce rubber. We are an importer. We are a consumer of rubber. Is rubber important? It has been alleged so. The answer by the advocates of this treaty is yes. Madam President, I agree completely. Of course natural rubber is important, important in the world economy and important in our economy.

They have alleged that the rubber agreement will help producing countries. Madam President, I agree. It will help the producing countries because it will help them get a better price for their product.

They have alleged that the rubber agreement will help the tire companies and the rubber processors in this country. And, yes, I agree, it will help them.

It will bail out rubber producers by protecting them against lower prices, because, you see, the way the agreement is set up is, we put up the money with other countries, and when prices get lower or are attempted to be dropped, the association will step in and buy rubber at a low price. That does help the producers. It will help the tire companies. They have a huge investment in inventory. That investment in inventory is at risk because it can drop. By stabilizing the price, keeping it from getting too low by buying up inventory when there is a big supply, it will help those tire companies from ever suffering a loss on that inventory or at least some of the dangerous suffered loss on that inventory.

It will also protect them against competition because when they are out there trying to maintain a high price, and the price of rubber falls, someone else can come in and produce the product and undersell them in the market. So I agree, it is in the interest of the big rubber companies to maintain a restriction on competition, as this agreement implies.

But, Madam President, it is also true that America is the biggest consumer. It is in our interest to have low prices, not high prices for rubber. How in the world do you justify taking taxpayers' money—in this case $78 million of money—to be used to guarantee that prices do not get too low?

Are we standing up for the American taxpayer when you do that? I do not think anyone can seriously suggest we are. Yes, I talked to some Members who tell me with great earnestness that if we do not have this agreement, if we do not guarantee the producers against the possibilities of low prices, that maybe nobody will produce rubber at all. Madam President, if they believe that—and I believe many of them who said that are sincere; I do not count the chairman of the committee in that group—but there are Members who do believe that the market system would not work without Government controls and without Government assistance and that indeed people might go out of business in producing rubber and we would not have any rubber at all if we did not have Government interference. And if they believe that, they will want to support this agreement.

But, Madam President, the history of economics is quite clear. When the economic system provides rewards and a good price, people want to produce it because they want to make money. And when it does not, they drop production and cut back. And that responsiveness is what makes the market system work. And the reality is, that product after product after product that is produced in the American marketplace responds to market incentives, and that far from going out of business, this will make it more healthy if we eliminate the agreement.

Madam President, I hope as Members vote they will ask themselves some questions. Will producers not produce without Government subsidies? The advocates of the treaty will tell you yes. I think the facts are quite clear, in the industries across our land, production is not dependent on Government subsidies. It is a function of the marketplace and marketplace incentives. Will tire producers not process tires without Government subsidies?

The advocates of this agreement, some of them, will tell you yes, that there is a danger of people not producing tires in America—or, for that matter, around the world—to meet the market demand unless we have a Government program to subsidize them and stabilize them. Those who believe that will want to support this agreement.

Madam President, the facts belie that allegation. The fact is that a strong, healthy, vibrant economy thrives on competition and is stifled by Government controls and Government subsidy programs. Will buying up rubber supplies lower the price? Here is an interesting question. Will buying up the supplies of rubber, when there is a surplus on the market, increase price or lower price?

The advocates of this treaty have come to the floor and said this agreement will help give us lower prices. If you believe that buying a product in the marketplace will lower its price, then you will want to support this treaty. Madam President, anybody who believes that ought to take Economics 101 or simply use common sense. Buying the product props up the price. That is why the producing countries are interested in this agreement. They want higher prices. That is why they fought so hard for this.

This treaty is simple logic. This treaty is a simple question: If you want to be responsive to the big rubber companies who want to stabilize their product and avoid risk with their inventory, you will want to vote for it; if you want to please big labor who works for those companies and is concerned about the potential of outside competition in their marketplace, you will want to support the treaty; if you want to help out the producers of rubber, who are all overseas, you will want to support the treaty.

But, Madam President, if you are concerned about competition in our economy, you will be concerned about a treaty that reduces competition; if you are concerned about consumers in America, you will want to be concerned about a treaty that guarantees they will not have low prices, because that is the purpose of this measure. Madam President, if you are concerned about the taxpayers of this country, you will have some misgivings about taking $78 million of our taxpayers' money and giving it in subsidies or putting it out in subsidies for these big producers.

This is a vote that people should have no doubt about because the sides are very clear. Big labor, big business, lobbyists for importers, all favor the treaty; people who are concerned about the taxpayers of this country and about the consumers of this country will want to vote against the treaty.

I was concerned particularly about the lesson it sends and the message it sends with regard to our economy. If there is one hallmark of the American economy, it has been a concern about the concentration of power and a commitment to a competitive economy.

Our very existence of the antitrust laws comes out of an experience when you had cartels and restrictions on competition. The Sherman Antitrust Act and the Clayton Act and other measures that have come forth in this area have focused on our efforts to ensure we continue to have price competition in products just such as rubber.

In that effort, I sent an inquiry to the Congressional Research Service, the American Law Division. Madam President, I ask unanimous consent to have their entire response to my letter, along with my letter, printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 11, 1996.

Hon. JANET RENO,
Attorney General of the United States, Department of Justice, Washington, DC.

DEAR MADAM ATTORNEY GENERAL: Your answers to the questions below concerning the application of United States antitrust law and practice to an organization's business practices would be greatly appreciated.

(1) Under United States antitrust law, is it permissible for 26 competing producers and purchasers of a particular commodity to form a single organization for the purpose of regulating their business interests or activities?

(a) Would the fact that three of the producers provide 92% of the commodity affect your answer to question 1?

(b) Would the fact that three of the purchasers buy 77% of the commodity affect your answer to either question 1 or 1a?

(2) Under United States antitrust law, can an organization of producers and purchasers be formed for any of the following expressed purposes:

(a) To achieve a balanced growth between the supply and the demand for a commodity in order to alleviate difficulties arising from shortages or surpluses of that commodity?

(b) To stabilize a commodity price in order to avoid excessive price fluctuations that might adversely affect the long-term interests of both producers and purchasers?

(c) To stabilize the earnings of the producers of a commodity and to increase their earnings based on expanding the commodity supply at fair and remunerative prices?

(d) To ensure an adequate supply of a commodity to meet purchasers' needs at a "reasonable price" (determined by the organization)?

(e) To take feasible steps to mitigate members' economic difficulties in case of a commodity surplus or shortage?

(f) To expand international trade in, and market access for, products derived from the commodity?

(g) To improve the overall competitiveness of a commodity by supporting research and development of commodity-related products?

(h) To facilitate the efficient development of a commodity by improving its processing and distribution?

(f) To promote international cooperation and consultations regarding commodity supply and demand and to coordinate commodity research?

(3) Under United States antitrust law, can an organization of producers and purchasers of a particular commodity set a reference price which establishes a permissible price range for that commodity?

(4) If members of an organization of producers and purchasers of a particular commodity were to contribute substantial funds to establish a large buffer stock of that commodity to enable the organization to intervene in the market to stabilize the supply of that commodity and to defend the organization's reference price, would that violate United States law?

(a) Specifically, would it be permissible under United States law for an organization of producers and purchasers of a particular commodity to establish a buffer stock?

(b) Specifically, would it be permissible under United States law for an organization of producers and purchasers of a particular commodity to use the buffer stock to intervene and regulate the market?

(5) Under United States law, can an organization of producers and purchasers of a particular commodity defend its reference price—support its minimum price—by buying any market surplus of that commodity that causes the commodity price to drop 15% below the organization's reference price?

(6) Under United States law, can an organization of producers and purchasers of a particular commodity sell some of its buffer stock to cover a commodity shortage?

(7) Under United States law, whenever the commodity price is 15% above the reference price, can an organization of producers and purchasers of a particular commodity sell some of its buffer stock to decrease the market price?

(a) If the answer to question 7 is no, please discuss fully what aspects of United States law are violated by the organization's behavior in question 7?

(8) Under United States law, is it permissible for an organization of producers and purchasers of a particular commodity to decide what grades of that commodity are eligible to be included in its buffer stock?

(9) Under United States law, may an organization of producers and purchasers of a particular commodity penalize members for failing to meet their obligations to contribute to the buffer stock by suspending their voting privileges in that organization?

(10) Under United States law, is it permissible for an organization of producers and purchasers of a particular commodity to conduct an annual financial audit of its activities?

(a) Would the behavior in question 10 tend to suggest anticompetitive practices? Please explain.

(11) Under United States law, is it permissible for an organization of producers and purchasers of a particular commodity to require all its members to accept as binding its decisions regarding the market for that particular commodity?

(12) Under United States law, is it permissible for an organization of producers and purchasers of a particular commodity to have its members formally agree not to limit or undermine in any way the organization's decisions concerning that commodity?

(13) Under United States law, can an organization of producers and purchasers of a particular commodity limit the potential liability of each of its members for the organization's activities to the amount each member contributes to the administration of that organization and to the creation of a buffer stock?

(14) Before supporting the development of a more efficient supply of a particular commodity, is it permissible under United States law for an organization of producers and purchasers of that particular commodity to consider the development's financial implications to all of its producers and purchasers?

(15) Under United States law, is it permissible for an organization of producers and purchasers of a particular commodity to encourage and facilitate "reasonable freight rates" as determined by that organization for the purpose of providing a more efficient and regular supply of the commodity?

I thank you in advance for your assistance and consideration of this matter.

Sincerely,

HANK BROWN,
U.S. Senator.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, July 24, 1996.

To: Senate Committee on the Judiciary, Subcommittee on Constitution, Federalism, and Property Rights, Attention: Jack Saul
From: American Law Division
Subject: Partial Answers to Some Questions About the Antitrust Implications of Forms/Activities of Certain Business Organizations

You have requested that we provide you with answers to several hypothetical questions concerning some activities of business organizations or associations. As we indicated in a conservation with your office, however, many or most of the questions you have submitted cannot be answered definitively by us; we will attempt, therefore, to set out some of the considerations which would be relevant to decisions by (1) the Antitrust Division of the Department of Justice to investigate or prosecute an activity, or (2) a court hearing a complaint (Government or private), and which require us to answer most of the questions with either "it depends" or "probably not." A small number of your questions can be answered with probable "Okays."[1]

Your first question—"Under United States antitrust law, is it permissible for 26 competing producers and purchasers of a particular commodity to form a single organization for the purpose of regulating their business activities?"—is the basis for all those which follow. Certainly the act of forming an organization comprised of members with like interests is neither unheard of nor automatically (per se) unlawful; that is precisely the rationale for the formation of trade associations or other cooperative activity among competitors that is meant to enhance their business or professional positions. Because the antitrust laws are concerned with competition and not competitors, they are not generally invoked to challenge the existence of organizations, only organizational behavior or activities which may disadvantage consumers (i.e., the "market"). (For the same reasons, an organization such as the one posited in Question 2 (one formed for the purpose of carrying out the specific purposes set out in Questions 2a–2i), would not likely offend any of United States antitrust laws, although, as we discuss below, and the enclosed article illustrates, the actual carrying out of some of them may constitute violations of those laws.)[2]

Market share data is most generally used with respect to the likely consequences of a merger or acquisition, i.e., with whether the "effect of [the transaction] may be substantially to lessen competition, or to tend to create a monopoly."[3] Accordingly, the information contained in Questions 1a and 1b (three producers in the proposed organization supply 92% of the commodity in question; three purchasers in the proposed organization buy 77% of the commodity) would not likely affect the lawfulness of the formation or existence of an organization or association. Those market-share numbers could, however, be determinative of the lawfulness of several of the activities described in your subsequent questions. Because the use of market power has the potential to harm consumers, it has been suggested that the market power of the participants in an organization may be an appropriate starting point in an antitrust analysis of the organization's actions: an examination of an agreement among competitors, for example, should focus on determining whether the agreement's (organization's) provisions "enrich the participants by harming consumers" (i.e., "whether the participants have an incentive to behave in anticompetitive ways").[4]

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[1] Footnotes to appear at end of article.

Using such a test, and assuming the market-share numbers you offer in Questions 1a and 1b, agreements or by-laws expressing the purposes you set out in Questions 2a–2i, any concerning the establishment or use of "buffer stocks," as well as any that spell out a participant's obligation to act in accordance with organization-designated rules designed to maintain a stable market price for the commodity at issue, would be ideal candidates for close antitrust scrutiny. In addition, use of "buffer stocks" to influence or stabilize prices, as would any agreement or action directly or indirectly affecting price, would constitute price fixing under Section 1 of the Sherman Act (15 U.S.C. §1). Notwithstanding its decision in *Broadcast Music, Inc.* v. *Columbia Broadcasting System* that seems to suggest a tolerate for at least some agreements that technically fix prices,[5] the Supreme Court has stated innumerable times that

"The aim and result of every price-fixing agreements, if effective, is the elimination of one form of competition. The power to fix prices, whether reasonably exercised or not, involves power to control the market and to fix arbitrary and unreasonable prices. The reasonable price fixed today may through economic and business changes become the unreasonable price of tomorrow. Once established, it may be maintained unchanged because of the absence of competition secured by the agreement for a price reasonable when fixed."[6]

Situations similar to those described in questions 4b (use of "buffer stock" to "intervene and regulate the market"), 5 (use of a "reference price" and "buying any market surplus * * * that causes the commodity price to drop 15% below the organization's reference price"), and 7 (sale of some of "buffer stock" to cause market prices to decrease when they are 10% above the reference price) have been addressed by the Court in, e.g., *United States* v. *Socony-Vacuum Oil Co.*[7] In that case, the Court declared unlawful a program pursuant to which gasoline companies effectively placed a "floor" under prices by purchasing surplus gasoline on the spot market. Noting that the program was instituted in order to prevent gasoline gasoline price from dropping sharply, the Court stated that even if the agreeing companies "were in no position to control the market, to the extent that they raised, lowered, or stabilized prices they would be directly interfering with the free play of market forces":

"[U]nder the Sherman Act a combination formed for the purpose and with the effect of raising, depressing, fixing, pegging, or stabilizing the price of a commodity in interstate or foreign commerce is illegal per se."[8]

As the enclosed article notes, the Court has also taken the position that per se price fixing occurs even when the agreement attempts to decrease a commodity's price (the situation described in Question 7):

"The respondent's [competing physicians who agreed to limit fees charged to certain patients] principal argument is that the per se rule is inapplicable because their agreements are alleged to have procompetitive justifications. The argument indicates a misunderstanding of the per se concept. The anticompetitive potential inherent in all price-fixing agreements justifies their facial invalidation even if procompetitive justifications are offered for some."[9]

Question 9 (re whether an organization of producers and purchasers of a particular commodity may "penalize members for failing to meet their obligations to contribute to the buffer stock by suspending their voting privileges") is one of the few to which the answer is "Probably yes" *if* the organization rule violated is not one found likely to have an anticompetitive effect.[10] Suspension of organization voting privileges probably does not violate the antitrust laws,[11] and is certainly not likely to considered as a *per se* violation of them.[12] On the other hand, any organization rule directed at maintenance of a "buffer stock" is, as noted above, likely subject to antitrust scrutiny; further, a finding that full access to the organization was necessary in order for the denied member to effectively compete in the market could also affect the antitrust lawfulness of a suspension of voting rights.

An annual financial audit of an organization's activities (Question 10) would probably not present an antitrust problem so long as the audit were conducted in a manner that would not permit organization members to achieve any competitive advantage over other members: an audit conducted by a third party, and in which any reported data were aggregated so as not to indicate the source of any particular information would probably pass antitrust muster (Question 10a).

We do not know of any antitrust reason that an organization would be required to support an activity/development it considered not to be in its best interests; accordingly, there would not seem to be any antitrust reason that would prevent an organization from "consider[ing]" the "financial implications to all of its producers and purchasers" of the "development of a more efficient supply of a particular commodity" (Question 14).

Depending upon what is meant by "encouraging" and "facilitating" "reasonable freight rates," such an activity could subject an organization of producers and purchasers of the commodity to be shipped to antitrust sanctions. If, for example, "encouragement" and "facilitation" translated to an organization-sponsored or -enforced boycott of shippers whose rates the organization did not consider "reasonable," the organization could be considered as a combination in restraint of trade in violation of Section 1 of the Sherman Act;[13] endorsement or encouragement or sponsorship of various pricing schemes in which freight costs are included in the price paid by buyers, on the other hand, have received varying treatment by the courts.[14]

JANICE E. RUBIN,
Legislative Attorney.

FOOTNOTES

[1] We are also supplementing this memorandum with a copy of an article, "The Future of Horizontal Restraints Analysis," by James T. Halverson, reprinted in Collaborations Among Competitors: Antitrust Policy and Economics, Fox and Halverson, eds., Section of Antitrust Law, American Bar Association, 1991, at 659–674. The article discusses at length virtually all of the cases mentioned in our July 22 conversation with your office.

[2] "The law of horizontal restraints has undergone considerable change in recent years. Starting with the Supreme Court's decision in *Broadcast Music, Inc. v. Columbia Broadcasting System*, 441 U.S. 1 (1979), the courts have become increasingly reluctant to apply a strict rule of per se illegality predicated on particular characterizations of conduct at issue. Instead, the courts have been more willing to explore the economic effects of collaborative conduct between and among competitors under the rule of reason approach. The retreat from the per se rule has led to the development of new legal rules for analyzing horizontal restraints and of more sophisticated microeconomic models to guide the application of those rules." Collaborations Among Competitors (note 1) at 655.

[3] 15 U.S.C. §18 (Section 7 of the Clayton Act). See also the Horizontal Merger Guidelines promulgated jointly by the Department of Justice and the Federal Trade Commission on April 2, 1992 (reprinted in a Special Supplement to 62 Antitrust & Trade Regulation Report (April 2, 1992)).

[4] Collaborations Among Competitions (note 1) at 801.

[5] 441 U.S. 1 (1979).

[6] United States v. Trenton Potteries, Co., 273 U.S. 392, 397 (1927).

[7] 310 U.S. 150 (1940).

[8] *Id.* at 221, 223 (emphasis added).

[9] Arizona v. Maricopa Medical Society, 457 U.S. 332, 351 (1982).

[10] "[T]he courts have long recognized that every association must have some type of limiting rules, criteria, or disciplinary procedures which, when invoked, restrain trade at least incidentally. In determining whether such rules . . . constitute unlawful horizontal concerted refusals to deal, courts typically have examined whether the collective action is intended to accomplish a goal justifying self-regulation and, if go, whether the action is reasonable related to the goal. It also has been considered significant that the members actually making the decision to exclude were not economic competitors of the excluded party." ABA Antitrust Section, Antitrust Law Developments (3d ed. 1992) at 86–87 (citations omitted).

[11] But see, Fashion Originators' Guild of America, Inc. v. Federal Trade Commission, 312 U.S. 457 (1941), affirming a Commission cease and desist order pursuant to which the Guild was prohibited from carrying out its plan to penalize (via a boycott of them) Guild members (textile and garment manufacturers) who sold to retailers who sold "style-pirated" garments: "In addition to [violating the edicts of the Sherman and Clayton Acts concerning concerted refusals to deal, and "narrowing the outlets" to which garment manufacturers may sell and from which retailers may buy, and requires each manufacturer to "reveal to the Guild the intimate details of their individual affairs"], the combination is in reality an extra-governmental agency, which prescribes rules for the regulation and restraint of interstate commerce, and provides extra-judicial tribunals for determination and punishment of violations, and thus 'trenches upon the power of the national legislature". 312 U.S. at 465 (citations omitted).

[12] Northwest Wholesale Stationers Inc. v. Pacific Stationery & Printing Co., 472 U.S. (1985). There, the Court refused to find a *per se* antitrust violation in the expulsion from membership of a member that had refused to abide by the rule of the subject organization (a buying cooperative). The case is discussed is the enclosed article, at page 666.

[13] See note 11 discussion of Fashion Originators' opinion.

[14] See enclosed material copied from ABA Antitrust Law Developments (full citation in note 10).

Mr. BROWN. Madam President, the first question—and I will read a portion of their answer because I think it is quite relevant to this question of this treaty's impact on reducing competition. The question is, under the U.S. antitrust law, is it permissible for 26 competing producers and purchasers of a particular commodity to form a single organization for the purpose of regulating their business activities?

That was an effort to sum up in a question what this rubber treaty, this rubber agreement, is designed for. The American Law Division, I thought, would have a good handle on what U.S. law is, and if this happened outside of the support of the U.S. Senate in the treaty arrangement, would this agreement be legal under antitrust laws? Is what we are about to approve something that is legal under the antitrust laws? Or are we, by approving this treaty, making something that is illegal permissible?

Their answer will be in depth in the RECORD, but I want to quote briefly from their response because I think it is direct and to the point. This is from the American Law Division of the Congressional Research Service:

> Because the use of market power has the potential to harm consumers, it has been suggested that the market power of the participants in an organization may be an appropriate starting point in an antitrust analysis of the organization's actions: an examination of an agreement among competitors, for example, should focus on determining whether the agreement's [that is, the organization's] provisions "enrich the participants by harming consumers" (i.e., "whether the participants have an incentive to behave in anticompetitive ways").
>
> Using such a test, and assuming the market-share numbers you offer in Questions 1a and 1b, agreements or by-laws expressing the purpose you set out in Questions 2a-2i, any concerning the establishment or use of "buffer stocks," as well as any that spell out in participant's obligation to act in accordance with organization-designated rules designed to maintain a stable market price for the commodity at issue, would be ideal candidates for close antitrust scrutiny.

Madam President, in other words, the agreement we are considering today would be an ideal candidate for close antitrust scrutiny.

If Members have a doubt about how to vote, they ought to be concerned that the very kind of agreement we are putting forth here would be a candidate for close antitrust scrutiny. Those are my words which I have interjected.

Continuing:

> In addition, use of "buffer stocks" to influence or stabilize prices, as would any agreement or action directly or indirectly affecting price, would constitute price fixing under Section 1 the Sherman Antitrust Act.

Let me repeat that, Madam President: "* * * would constitute price fixing under Section 1 of the Sherman Antitrust Act."

Anybody who votes on this treaty who thinks they are stocking up for the American consumers ought to think about that, because there is real indication here that what we are about to do would violate the antitrust laws if it were considered on its own merit without the blessings of the U.S. Senate in the treaty format.

They go on to quote from the Broadcast Music versus Columbia Broadcasting decision by the Supreme Court. I will quote their passage that they have selected from the Supreme Court decision:

> The aim and result of every price-fixing agreement, if effective, is the elimination of one form of competition. The power to fix prices, whether reasonably exercised or not, involves power to control the market and to fix arbitrary and unreasonable prices. The reasonable price fix today may through economic and business changes become the unreasonable price of tomorrow. Once established, it may be maintained unchanged because of the absence of competition secured by the agreement for a price reasonable when fixed.

Madam President, I am under no illusions that this treaty will be ratified today. I am cheered by recent progress, though, of eliminating some of these international cartels, and I am cheered greatly by the distinguished chairman of the committee and a commitment that this will be the last time this kind of measure comes before the U.S. Senate with regard to rubber. His plea for a phaseout period is a reasonable and thoughtful argument. I appreciate the great support he has given to American consumers as he has dealt with this issue in the past.

Madam President, as Members consider this issue, I hope very much they will ask themselves if they are comfortable in taking $78 million of taxpayers' money to be used to stabilize prices.

The PRESIDING OFFICER. The Senator has used 20 minutes.

Mr. BROWN. I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BROWN. Madam President, I hope they will ask themselves if they are comfortable taking $78 million of taxpayers' money to help out the big tire companies and the other special interests that will benefit by this. I hope they will ask themselves if they are comfortable in passing or ratifying something that appears to violate our very antitrust laws, if they hadn't put it in the form of a treaty. I hope they will ask themselves whether or not they are comfortable in telling consumers that we are going to protect them against lower prices.

Madam President, this agreement is an embodiment of special interests. There isn't anybody lobbying against the treaty. There have been tire companies lobbying on the hill for it. There have been people interested in higher prices for rubber lobbying for it. There have been representatives of corporations and labor on the hill lobbying for it.

Madam President, there hasn't been anybody lobbying against it. The taxpayers don't really have a lobby. The consumers don't really have a lobby. No one pays people to come up here and speak for them—except one group. You see, the people who sent us here believed and thought that it was our obligation to stand up for them. I think most of them would be surprised to know that sometimes when they don't have a lobbyist, that voice goes unheard.

Madam President, this agreement is wrong. It is wrong because it is anticompetitive. It is wrong because it is a response to the special interests. It is wrong because it is a misallocation of taxpayers' money. And it is wrong because it sets the bad example for what a competitive economy is all about. At a point in our world's history when the rest of the world is waking up to the advantages of free enterprise and competition, it is a shame to see the United States consider and enact this kind of anticompetitive agreement.

Madam President, I yield the floor and retain the balance of my time.

The PRESIDING OFFICER. Who seeks recognition.

Mr. PELL. Madam President, how much time do I have?

The PRESIDING OFFICER. The Senator has 8 minutes 47 seconds.

Mr. PELL. Mr. President, I rise to express my strong support for the third International Natural Rubber Agreement, which was reported favorably by the Foreign Relations Committee 3 months ago. After holding a hearing on this important measure, our committee agreed that it would clearly serve the interests of the United States and ordered it reported favorably on a voice vote.

I believe that the Natural Rubber Agreement is a clear example of the way in which both producing and consuming nations of a major natural resource can work together to ensure adequate supply and stable prices. Its primary purposes are to encourage investment in rubber production in order to assure adequacy of supply, and to set up a mechanism to prevent excessive volatility in prices. These functions are particularly important because the United States is the largest importer of natural rubber, while just three countries—Thailand, Indonesia, and Malaysia—control 75 percent of the world's production. Without a mechanism like the INRA, U.S. tire and rubber manufacturers as well as consumers would be more vulnerable to cartel-like behavior that raises prices and creates uncertainty of supply.

U.S. participation in INRA has been supported by four successive administrations, Democratic and Republican alike, and has received the advice and consent of the Senate on two previous occasions. The original agreement was adopted in 1980 by a vote of 90 to 1, and the first extension in 1988 was approved unanimously, by a vote of 97 to 0. The United Steelworkers of America has called ratification of this treaty "a matter of critical importance to our union, its members and families—and the consumers who purchase the products we produce." If the United States fails to ratify this treaty by the end of this year, it could mean the end of an agreement which has served to the benefit of the United States and the world for the last 16 years.

Mr. President, during the course of my service in the Senate I have risen many times in support of treaties that have come under attack. There are currently a number of extremely important treaties pending before the Senate that I deeply regret have not been taken up during this session. The Chemical Weapons Convention is only the most recent example, but several other agreements such as the U.N. Convention on the Law of the Sea, the Convention on Biological Diversity, and the Convention on the Elimination of All Forms of Discrimination Against Women, should also be taken up at the earliest opportunity. I welcome the chance to consider the International Natural Rubber Agreement today, and I urge that it be followed expeditiously by the other treaties I have mentioned.

In closing, let me say that a failure to approve this treaty now would be a great mistake. The objections that have been raised are not borne out by our experience with this agreement, and I urge my colleagues to join me in giving their advice and consent to its ratification.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BROWN. Madam President, my distinguished friend from Rhode Island has summarized the case well, and, as is always the case, he is a very accurate describer of events and facts. In this case, I find myself coming to an opposite conclusion. But I continue to admire his commitment to a sound presentation.

Madam President, I want to indicate that I think he is right that both Democratic and Republican administrations in the past have supported the agreement. I indicate that he is right. I think both the large corporations and the unions—at least it is my information—support the agreement. But, Madam President, I want to invite the Members' attention to what happens if this agreement is not ratified, the specter that the distinguished Senator has raised. What happens? If the agreement is not ratified, $78 million goes back in the Treasury that would be used to prop up prices of natural rubber. In other words, the taxpayers of this country get a $78 million break.

Second, if this agreement is not ratified, we will have lower prices for rubber than we would if the agreement is ratified.

Third, if the agreement is not ratified, we will have greater competition in the marketplace.

Finally, I think if the agreement is not ratified, we will have set an example that this country is serious about competition and its antitrust laws, and we will have renewed a commitment to our consumers. My sense is that returning money to the Treasury, lower prices for consumers, increased competition in the marketplace are good things, and that saying no to the special interests is appropriate as well. So at least in this Senator's judgment, we have a responsibility to vote against the treaty.

I retain the balance of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PELL. How much time remains?

The PRESIDING OFFICER. There are 5 minutes 30 seconds.

Mr. PELL. I am happy to yield that back.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. I yield back all time as well.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification.

Mr. PELL. Madam President, I ask for consideration of the resolution before the Senate by a division vote.

The PRESIDING OFFICER. A division is requested. Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. BYRD. Madam President, is the Senate in executive or legislative session?

The PRESIDING OFFICER. It is in executive session.

Mr. BYRD. Madam President, I ask unanimous consent that the President be notified of the approval of the treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Madam President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I ask unanimous consent to proceed out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR CLAIBORNE PELL

Mr. BYRD. Madam President, at the end of this session of Congress, one of the Senate's longest-serving Members will be retiring. Senator CLAIBORNE PELL's sterling 35-year record—actually it is 36 years this year—of dedicated service to the people of Rhode Island and the United States began in 1960, when he was elected to the first of his six terms. He is the third longest-serving Member of today's Senate, after only Senator THURMOND and myself. Yet Senator PELL's service to the United States and to his own strong principles began even earlier.

Senator PELL's life has continued a long and honorable family tradition of service. His father, Herbert Claiborne Pell, was a Congressman and a Democratic State chairman before serving as U.S. Minister to Portugal and Hungary. Other Pell family ancestors include five Members of the Senate or House of Representatives, one of whom, George M. Dallas, also served as Vice President of the United States from 1845 to 1849, during the term of President Polk.

Senator PELL began his own lifetime of service when he was just 22 years old. In 1940, after graduating cum laude from Princeton University, he went to Europe to try and help concentration camp inmates. For his efforts, he was arrested not once but several times by the Nazis. He has never ceased his efforts to assist the suffering. This has been a guiding principle of his service on the Senate Foreign Relations Committee, and underlies the truth of his acknowledged creed as a Senator: "Translate ideas into action and help people." CLAIBORNE PELL has long lived that precept. Four months before Pearl Harbor, he enlisted in the Coast Guard. As an enlisted man and then officer, he was posted to duty stations in the North Atlantic and Sicily. He remained in the Coast Guard Reserve after the war, attaining the rank of captain before retiring in 1978.

After the war, Senator PELL turned his intellect and energies from the waging of war to the building of peace, participating in the San Francisco Conference that established the United Nations. He then served 7 years in the State Department, representing the United States as a Foreign Service officer in Czechoslovakia and Italy. Just as I carry a much-thumbed copy of the Constitution in my shirt pocket, Senator PELL carries in his hip pocket a copy of the United Nations Charter. Wherever you see Senator PELL, you can say, "There goes the United Nations Charter."

His passion for peace, born from a tradition of diplomacy and tempered by the brutality of the Nazis and the anguish of world-consuming war, has honed his character and shaped his subsequent legislative legacy.

As elegant in his reasoning as he is in his person, Senator PELL has been a key player in the passage of many pieces of landmark legislation during his years in the Capitol. As befits his background of education and diplomacy, Senator PELL's accomplishments in the fields of education and arms control are most notable, but he also has been instrumental in authoring or ensuring passage of legislation supporting rail travel, curtailing drunk driving, and promoting cultural activities. He is the originator of the High

Speed Ground Transportation Act to improve passenger rail service. He is also a founding father of the National Endowment for the Arts and the National Endowment for the Humanities, having served as the principal Senate sponsor of the legislation that created these entities in 1965.

As chairman of the Senate Committee on Foreign Relations, Senator PELL has been influential in securing the passage of major arms control treaties, including the Intermediate Nuclear Forces Treaty that reduced the nuclear arsenals of the Soviet Union and the United States, a treaty to prohibit the deployment of weapons of mass destruction on the sea floor, and a treaty prohibiting the use of environmental modification techniques as weapons of war. I feel certain that he regrets that this, his final session of Congress, will end without the ratification of the Chemical Weapons Convention, the passage of which he has labored so mightily and so long to secure.

Senator PELL's longstanding commitment to universal human rights lends passion to his efforts to stem the spread of chemical weapons as well as to other efforts. He has been a steadfast advocate for diplomacy and multilateral solutions that avoid armed conflict, as well as a strong voice for justice when crimes have been committed against humanity. He opposed the Vietnam war, opposed the gulf war, and called early for the establishment of a war crimes tribunal in Bosnia, just as his father had called for the Nuremburg tribunals after World War II.

On the home front, Senator PELL's appreciation for the benefits of education resulted in perhaps his best known legacy, the Pell grants for education. In 1972, Senator PELL won passage of legislation establishing basic educational opportunity grants. This grant program, which provides assistance directly to low- and middle-income college students, was renamed the Pell Grant Program in 1980, in recognition of Senator PELL's leadership in making college more accessible to deserving students.

Education is the hope of the future, the basis on which civilized society rests. Senator PELL has been active in furthering that principle in his service as chairman and ranking member on the Education, Arts and Humanities Subcommittee of the Labor and Human Resources Committee. He also authored the National Sea Grant College and Program Act of 1966, and he has been instrumental in supporting vocational and special education programs. These efforts, again, illustrate the credo that he has lived by, translating ideas into actions that help people. +

I will now refer to John Milton and his great work, Paradise Lost, which was written after he was totally blind.

In his work, "Of Education," John Milton (1608–74) wrote:

> I call therefore a complete and generous education that which fits a man to perform justly, skillfully and magnanimously all the offices both private and public of peace and war.

By those standards, Senator CLAIBORNE PELL can surely be judged a well-educated man. He has served justly, skillfully, and magnanimously as a human rights activist, soldier, diplomat, businessman, and legislator. He has done so all of his life, as a private citizen and as an elected official. In doing so, he has educated and informed all of us by his example.

Senator PELL has never let his passions override his reason or his courtesy. He has never let the passions of the moment override his principles. And in a time when public service has been belittled and derided, he has never stopped striving to the best of his considerable ability to make the world a safer, more civilized, more educated place.

I think of CLAIBORNE PELL as Mr. Integrity. There is not a false word that he has ever knowledgeably spoken. His word is as good as his bond. His handshake is as good as his bond. And to Mr. Integrity I say I wish him well as he leaves us to enjoy a much-deserved retirement with his lovely wife Nuala and his family.

RETIREMENT OF SENATOR PAUL SIMON

Mr. BYRD. Madam President, as we here in the Senate complete our work in the waning days of the 104th Congress, I would like to take just a few minutes now to note the retirement of Senator PAUL SIMON, one of the finest public servants it has been my privilege to know. Although Senator SIMON is leaving us at the conclusion of only his second term, his accomplishments and his work in the Senate are representative of those who have served far more years.

Anyone who knew PAUL SIMON as a young man must have known that this was someone who was going somewhere, was going to go beyond the norm, someone who was going to succeed despite his modest beginnings.

Consider, for example, that at the tender age of 19, an age when few young men possess the maturity and the passion necessary for such an undertaking, Senator SIMON began his career when he bought the Troy Tribune in Troy, IL, thus becoming the youngest editor-publisher in the Nation. There he made a name for himself by leading a crusade against local crime figures and machine politicians. Eventually expanding his business to a chain of 14 weeklies, Senator SIMON's dedication to the principles of free speech and political reform were solidified as a result of his firsthand experience.

Following his service in the U.S. Army Counterintelligence Corps, which included an assignment along the Iron Curtain during the height of the cold war, the young Senator-to-be returned to the United States and entered legislative politics by winning election to the Illinois House of Representatives in 1954.

Madam President, as a clear signal of the political reformer he intended to be, Representative PAUL SIMON was one of the first legislators to publicly release his personal financial data, a practice that he has observed ever since. After 8 years in the House, PAUL SIMON moved to the Illinois Senate where he again served with distinction. In addition to gaining invaluable experience in the State legislature, Senator SIMON's illustrious career also includes service as his State's Lieutenant Governor, as a teacher at both Sangamon State University in Springfield and the John F. Kennedy School of Politics at Harvard University and as a U.S. Congressman in the House of Representatives.

I believe that the public life of PAUL SIMON will best be remembered for the passion and the integrity that he brought to his work in the Senate. Let us not forget that it was our colleague from Illinois who was the Senate's lead sponsor of the direct student loan program which President Clinton has cited as one of the major legislative achievements of his Presidency. Let us not forget that it was PAUL SIMON who led the way and won passage of the National Literacy Act, a bill that created national and State literacy centers to improve the education of adults. And let us not forget that it was our same soft-spoken friend who championed the School-to-Work Opportunities Act so that those young citizens who may not go on to college are not left behind. And let us not forget that it was the former newspaper man, for whom the first amendment has always had special meaning, who was willing to take on the broadcast networks and lead the fight to curb television violence.

Despite these numerous accomplishments, I personally will remember with eternal respect and admiration the degree of passion and intellectual intensity that Senator SIMON brought to our several debates over the balanced budget constitutional amendment. Since entering this body in January of 1985, no one has been more outspoken on the need for a constitutional amendment requiring a balanced Federal budget than has my friend, PAUL SIMON.

Of course, no one has opposed it with more intensity than I have opposed it, but that does not gainsay the fact that he was a very worthy protagonist and supporter of that amendment.

Now, Paul—not PAUL SIMON, the Apostle Paul—in his epistle to the Philippians said, and I read from chapter 4, verse 8:

> Finally, brethren, whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are

pure, whatsoever things are lovely, whatsoever things are of good report; if there be any virtue, and if there be any praise, think on these things.

Madam President, as I look at that bit of Scripture which has been given to us by the Apostle Paul, I think of its application to the life of PAUL SIMON—PAUL SIMON. Paul the Apostle said, "Whatsoever things are true, whatsoever things are honest, whatsoever things are just." I think these typify the life and actions of PAUL SIMON. He is true; he is honest. I cannot even imagine PAUL SIMON ever doing a dishonest thing or ever having spoken an untrue word or ever having acted other than in a just and upright manner. So the Apostle Paul may very well have been speaking of PAUL SIMON and others like him.

So throughout it all, Madam President, the hours upon hours that we spent in this Chamber debating the balanced budget amendment and others, I never once saw PAUL SIMON exhibit any rancor, never once did he waver in his commitment to his cause, and I can say truthfully that in all of my 44 years in the Congress of the United States I have never faced a more affable, a more sincere opponent than I have faced in the likes of the senior Senator from Illinois.

PAUL SIMON has served his country as a journalist, editor, businessman, soldier, teacher, and legislator. In each of these endeavors he has always undertaken his work skillfully, fairly, and with a degree of integrity and honesty that has been an inspiration to us all. As he prepares to leave the Senate and return to his beloved State of Illinois, I offer this remarkable American my gratitude for his fairness and good fellowship. He is, indeed, the happy warrior, and I extend my best wishes to him, and so does Erma, my wife—to him and to his lovely wife, our best wishes, by saying thank you and good luck to our friend from the State of Illinois.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from New Mexico.

Mr. BINGAMAN. Madam President, first let me compliment my colleague, the Senator from West Virginia, on the eloquent statements he has made with regard to our colleagues here. He speaks with great eloquence and feeling about both Senator PELL and Senator SIMON. Obviously, I join him in the accolades that he is heaping upon both of those Senators. They are certainly deserving.

(The remarks of Mr. BAUCUS and Mr. BINGAMAN pertaining to the introduction of S. 2123 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BAUCUS. Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. SNOWE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AIRLINE SAFETY

Mr. PRESSLER. Madam President, this morning we had excellent testimony in the Commerce, Science, and Transportation Committee from a number of witnesses who represented the families of airplane crashes. I believe we had five or six unfortunate airplane crashes. We also had other representatives of next of kin there at the Commerce, Science, and Transportation Committee. It was a very moving hearing.

I want to commend the witnesses who appeared. I also want to say that it is time we act in terms of designating the National Transportation Safety Board as the responsible agency in terms of what happens after an airplane crash. We hope there are no airplane crashes. That would be an ideal situation. Whether it is a small crash or a big crash, inevitably in human history there will probably be some.

We want the next of kin to be taken care of and notified in a sensitive and organized way. This is not entirely the fault of the airlines, as was pointed out in the balance of the testimony we received. In the past, the rules have not been clear as to who is in charge. Some of the manifest problems in the past have arisen because of different practices. Sometimes passengers will get off a plane at the very last minute, even after having checked in.

In fairness to the airlines, there has been some uncertainty. Now we have an opportunity to set up a system, working with the Gore Commission, and I am pleased to be designated to be a liaison to the Gore Commission, plus the FAA bill that is before the Senate. This afternoon at 3:30 I believe the conferees on the FAA bill will be meeting, and part of that will be to be sure the National Transportation Safety Board is designated as the agency with the responsibility and the proper equipment, funding and personnel to deal with families and next of kin, and to work with our airports and our airlines in times of emergencies.

Let me commend the National Transportation Safety Board, because under the leadership of Jim Hall, I believe they have been doing an excellent job with their responsibilities. I am glad they are willing to assume this additional responsibility of being the lead agency, of taking the lead, in terms of dealing with families and next of kin and notification and counseling and so forth in times of an airplane crash.

Let me also say a word about some of our smaller airports and some of our smaller airplanes. We want to be sure they are safe for the flying public. Many of our people do not live at a hub airport. A hub airport is a central airport such as New York, Minneapolis, or Denver. Over half of the airline passengers in this country originate at small airports, on smaller planes. We certainly want to make them safe and reassure the flying public of their safety. However, we cannot get into a real expensive situation. We have to find some of the new devices, see they are brought in line and manufactured in large numbers, so we can find reasonable ways to achieve air safety.

This afternoon, as the Federal aviation authorization bill moves forward and comes to the Senate floor, I hope we all keep in mind the fine testimony we heard this morning from those fine witnesses. I want to help them.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR CLAIBORNE PELL

Mr. DASCHLE. Madam President, I know that a number of our colleagues this morning and this afternoon called attention to the retirement of our colleague, the senior Senator from Rhode Island, Senator PELL. I want to commend Senator HELMS and the others for their comments and identify with the remarks made earlier today by the distinguished senior Senator from West Virginia, Senator BYRD.

There are few people who can claim the record, the respect, or the admiration of all of their colleagues as can Senator PELL. Senator PELL, as most people know, came to the Senate in 1960. Someone entering the Senate today, in order to have the same record in terms of numbers of years served, would retire in the year 2033. Thirty-six years from now, our country—and perhaps this body—will be much different, and I daresay 36 years from now, there will still be those who will recall the contribution and, again, the remarkable record of this very gentle man.

Senator PELL came during turbulent times. He became a U.S. Senator under then President Kennedy, served under President Johnson, President Nixon, President Ford, President Carter, President Reagan, President Bush, and now President Clinton. He has seen leadership of all kinds, Democratic and Republican, liberal and conservative, good and bad. Through all of this, his gentle nature, his remarkable ability to find common ground, his willingness to reach out to all sides in an effort to govern is something we can all be thankful for. He has a deep-seated belief in good Government, in democracy, and knows what it takes in this democracy to govern well. I don't recall how many times, but I can recall many occasions when Senator PELL would lecture us in our caucus about how ill-advised people are to pursue negative campaigns in Senate elections. He would remind us of that time and again. In spite of all the advice he got to be a negative campaigner, he adamantly refused. In spite of all that advice, and perhaps because of his determination to override that advice, he won every election by more than 60 percent of the vote. I think, in large measure, that is because the people of Rhode Island know him the best. We know him, but they know him better. They know his decency, they know his commitment to them and to all of us, and they know of his record. They are proud in so many ways for all that he has done for them and for our country in the time that he served.

So it is with regret that we note his departure in this Congress. It is with a great deal of gratitude that many of us have been able to call him our friend. It is with admiration that we look at his record and aspire to the heights and to the accomplishments that it represents. We thank him for his friendship. We wish him and Nuala well in their life ahead.

In my view, there are still opportunities for Senator PELL to serve his country. I hope that that might happen. But regardless of what the future holds, no one can take away the 36 years of accomplishment, the 36 years of contribution to democracy, to the strength of this country, to the breadth and depth of the affection and love he has for it. Madam President, he will be missed. We don't wish him farewell. We only wish him Godspeed as he continues in his role—whatever it may be.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Madam President, I ask unanimous consent that I may proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

THE PRESIDIO OMNIBUS PARKS BILL

Mr. MURKOWSKI. Madam President, today I am proud to announce that we have an opportunity to pass the most wide ranging national parks and public land legislation in decades; that is, the Presidio omnibus parks bill.

This report encompasses 2 years, or thereabouts, of various attempts by Members on both sides to pass bills that affect this area of our national heritage. We had hearings. We had intense negotiations. I think the bills contained in the package really meet our Nation's environmental needs. It is good news for the national parks, and good news for land and resource conservation.

This package has over 700 pages. At last count there were 126 bills included. They range from the San Francisco Presidio to the Tallgrass Prairie National Preserve, Sterling Forest protection, Snowbasin land exchange, Black Patriot Memorial extension, Nicodemus National Historic Site, Japanese-American Patriotism Memorial, numerous Civil War sites, Oak Creek Wilderness Scenic Recreation Area, the New Bedford whaling parks, and the Women's Rights National Heritage Park. It is estimated that there are about 37 States that are going to be affected by this package.

It is quite reasonable, Madam President, to ask the Senator from Alaska, well, why do we have to have this in a big package? Why did we not move on this over the last 2 years? I will tell you. As chairman of the Energy and Natural Resources Committee, we have held hearings on these bills. So has the House. But on our side we have had holds on every single bill at one time or another in this package. The way it works around here, as we all know, is some Members feel if they want to get their bill through and they see others moving, they put what we call holds on things. We have had holds, and there is no use pointing the finger at each other because that is not going to get this package passed.

I do want to explain because some of the media cannot seem to understand why we have this enormous package. It is simply because of the way this place works. And when a Member wants to proceed with a bill out of our committee and we have voted it out and we cannot bring it up, it is because there is a hold on that bill. So we are down to the end of the 104th Congress. The name of the game is to try to address this package and recognize that we have withdrawn from the package the contentious portions that were identified potentially as veto material. These included some bills that the Senator from Alaska supported and felt very strongly about. One was the Tongass 15-year extension which would have prolonged the life of our only manufacturing plant, our only pulp mill, our only year-around manufacturing plant that wanted to convert from an old technology to a new technology by investing some $150 million to $200 million, but in order to do that they had to have an extension of the contract with the Forest Service to have an adequate timber supply to amortize that investment.

Members say, why is Alaska different? Why do you have to have a contractual commitment? The reasons are simple. We have no other source of supply than the U.S. Government through the U.S. Forest Service because we do not have private timber which is exported out of the State. The Forest Service timber, Government timber is prohibited from export, and as a consequence nobody is going to make that kind of investment without an extension of the contract. And their current contract expires in the year 2004. But the administration found that unacceptable and advised us that they would proceed with a veto if it were in the package. So the Senator from Alaska withdrew that.

Boundary Waters Canoe Area, which is an issue that some Members feel very strongly about in Minnesota, was also noted by the administration that if it were in there, they would initiate a veto. Other issues that were contentious that were threatened for veto included Utah Wilderness, and that issue is somewhat academic because of the action taken by the President in invoking the antiquities; grazing issue, which many Members in the West felt very strongly about. So they are not in the package. We have taken them out—grazing, Utah wilderness, Tongass, Boundary Waters Canoe Area.

Now we are left with a situation where it is very late in the Congress. This legislation is crucial in California not just to the Presidio but to an area that I feel very strongly about, and that is the cleanup of the San Francisco Bay area. I know how strongly the California delegation feels about that. If the administration wants to find an excuse to veto this, obviously they can do it. But they are contemplating, if you will, a veto message per correspondence with the White House, and I ask unanimous consent that a letter from the Executive Office of the President be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 20, 1996.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMAN MURKOWSKI: I am responding to your September 16th request for the Administration's view on the proposed conference report on H.R. 1296, the Omnibus Parks legislation. The Administration received this legislation late Tuesday night, September 17th, and is carefully reviewing this massive proposal, which now incorporates over 100 free-standing bills and spans over 500 pages of legislative language.

We strongly support legislation to improve the management of the Presidio in San Francisco, use Federal funds to help acquire the Sterling Forest in the New York/New Jersey Highlands Region, and establish the Tallgrass Prairie National Preserve in Kansas. These are measures that would protect nationally significant natural resources, have been the subject of thorough public review, and enjoy broad, bipartisan support.

Your letter, however, indicates that the conference report will contain a number of wholly unacceptable provisions—ones which erode protection of nationally significant natural resource areas, override existing legal requirements, and prevent responsible management of federal lands. Your letter indicates, for example, that the report includes a mandated extension of the Ketchikan Pulp Company (KPC) contract in the Tongass National Forest (AK) and a requirement to allow motorized use in the Boundary Waters Canoe Area Wilderness (MN). Department of Agriculture officials have repeatedly indicated that the Secretary would recommend veto of a bill that would mandate an extension of the KPC contract. Similarly, actions such as opening up three portages at the Boundary Waters Wilderness areas to motorized use would be cause for a veto of this bill.

On July 26th, the President urged the Congress to refrain from including controversial measures during the conference on H.R. 1296. Unfortunately, it appears that many of these objectionable provisions remain.

We are committed to working with the Congress on legislation that protects our Nation's natural resources. As soon as the Administration completes its review, we can work together to eliminate controversial items and discuss other provisions that could move forward in a bipartisan way.

Sincerely,

FRANKLIN D. RAINES,
Director.

Mr. MURKOWSKI. They cite specifically what their veto threat covers, and we have eliminated those, Madam President. Now I am told some Members on the other side are going to insist that the bill be read. That is fine—700 pages. It is going to take 10 hours. Talk about delay tactics. What is the objective of that? I do not know. They say they have not read the bill. We ought to go back to the Members because this stuff has been hanging around for 2½ years. We have had hearings on it. We have had discussions. The Members who are motivated from the 37 States know what is in the bill. We are talking about further delay which is not necessary. We should act now. It is late in the game. If we do not act now, we are going to lose.

Let me tell you what the parliamentary procedure is. I hope this will come up today. It should come up now. We have the time. But if a Member moves to recommit the package, the whole package is dead. It is over. It will not happen.

What we have done in this bill, we have created new parks, established five new parks: Shenandoah Valley National Battlefield in Virginia to protect the Civil War battlefields; Tallgrass Prairie Natural Preserve in Kansas to protect one of the last remaining unplowed sections of tallgrass prairie in the country; Nicodemus National Historic site to protect the town established as a community for freed black slaves after the Civil War; New Bedford National Historical Park to honor the whaling industry—not just in Massachusetts because the whaling industry started in Massachusetts and where did they whale? They whaled in Alaska, my State. They went around Pt. Barrow, and that is where they whaled. You go to Pt. Barrow today and you can see the remnants of the contribution of the New Bedford whalers. So this is a joint effort; Boston Harbor Islands to protect unique islands in the Boston Harbor.

There is better protection of existing national parks. It provides for boundary modifications, expansion of 20 parks around the country from a 1,000 percent increase in size at the Richmond National Battlefield in Virginia to minor boundary adjustments in Zion National Park in Utah. It protects existing national parks. The legislation provides protection for important historical events and persons by expanding the boundary to further protect the Manzanar National Historic Site in California, adjusting boundaries at Independence Hall, improved management of the route taken by voting rights marchers from Selma to Montgomery as a national historic trail, and reauthorizing funding for the Advisory Council on Historic Preservation.

We established new memorials. This legislation provides for the construction of memorials on The Mall in Washington, DC, the Martin Luther King, Jr., Black Revolutionary War Patriots, and the Japanese American Patriots. We protect rivers from coast to coast. The bill protects important rivers, from the Columbia in Washington to the St. Vrain in Colorado and the Lamprey in New Hampshire. And we protect hallowed ground, where the blood of American soldiers was shed in battle. The bill protects important battlefields from Yorktown, where Americans won independence, through the Civil War battlefields in Virginia, Mississippi, Louisiana and Georgia, and establishes the American Battlefield Protection Program.

Madam President, it authorizes funding to begin restoration of the San Francisco Bay. This bill authorizes $450 million over 3 years to provide restoration for that jewel of the west coast.

This bill is not just about expanding the role of the Federal Government. It also contains significant reforms of existing programs and policies, and makes unneeded Federal lands available for use by other levels of government. We have a reduction of unneeded Federal lands. The legislation transfers unreserved BLM land in the State of Wyoming for schools, removes inappropriate limitations from developed lands across the coast of North Dakota, corrects a 90-year-old survey of public lands in Idaho, provides lands to the Taos Pueblo tribe in New Mexico.

The administrative reforms of the national parks are addressed. The bill includes a number of provisions to improve the management of the National Park Service, from encouraging private sector involvement to improving the housing of park rangers, which is sorely needed; Senate confirmation for the park director; the elimination of unnecessary congressional reporting requirements, and numerous other authorities to increase the leverage of Federal funds.

Recreation Fee Policy Program: The bill provides for the complete overhaul of the current recreation fee policies, which will provide improved funding for the parks and forests by establishing a permanent program to permit agencies to retain recreation fees without appropriations.

The environmental agenda: We have tried to address it within my committee, and the legislation provides two key provisions which represent the vision of how we intend to better protect the environment without the heavy hand of the Federal Government.

One of those issues is the significant development of the Presidio trust. I have been out to the Presidio on several occasions. I know how the Pennsylvania Avenue Development Corporation, which brought about the tremendous and successful renovation of Pennsylvania Avenue here in Washington, DC, has worked for the benefit and the beautification of this city. The Presidio, a former military installation at the foot of the Golden Gate, has been managed by the park service. But, clearly, the park service does not have the expertise or the knowledge to develop that area in compatibility with its unique recreational attractiveness and the traditional association of what that military facility was.

As a consequence, we have created a Presidio trust. Instead of the $1.2 billion proposal at one time that was advocated by some for the Federal Government to manage the Presidio, San Francisco, in perpetuity, what we have here is a bipartisan approach. We talked about it this morning in a press conference with the two Senators from California. It turns the real estate management aspects of the Presidio over to a private volunteer nonprofit trust—again, similar to the Pennsylvania Avenue Development Corporation.

I have met with the volunteers in San Francisco that have worked to put this concept together. I am satisfied that they have the vision and the expertise and the capability to make this work. It will reduce the burden of the Federal Government's role. It will still provide a presence for the National Park Service, and it will add dramatically to the full utilization, with the right balance, by the people on the ground who have the best interests of the Presidio and San Francisco at heart.

This is a bill for all Americans, and that is why it is so attractive, and that is why it is so necessary we move at this time. The bill authorizes, as well, a land exchange in Utah. The significance of this is the Olympics, which are going to take place in Utah in the year 2002. This would provide a very simple exchange that would make the downhill event for the 2002 Olympics a reality, which will permit thousands, hundreds of thousands of persons around the world to enjoy it.

So, what we have here, as a consequence of action taken last night, where my conferees agreed to sign off on the package and send it over to the House of Representatives, and the House stayed in until midnight last night to accommodate their procedure and sign off on the bill, and now it is over here, the package. So, Mr. President, it is fair to say that now is the time to take it up.

I have been advised there had been some concern on the other side. I have yet to be privy to what that concern might be. But, again, we have been waiting 2 years for this material to get this far. If we pass it, it will go over to the House, and I am satisfied the House will move it because we have taken the contentious portions out of it. I do not know what more we can responsibly do, what more and greater obligation I have as chairman of the Energy and Natural Resources Committee to try to move this, because I know how much it means to each Senator with regard to various parts and portions of the 126 parts that are in this bill. And I am sorry that we were not able to be responsive, as we reported these bills out of committee individually. But, again, I want to make reference to the way this place works, when Members put holds on every bill and we cannot move them on the floor to passage. We are left with this dilemma, which is the 126-bill package.

Some people say, why do we have to have it this way? I am sorry we have to have it this way, but it is this way now or nothing, because there is simply no other alternative and there is no more time left.

The leadership has indicated we are winding this session up. The end of the fiscal year is coming. It is now or never for the Presidio package, because if it is held up, those people who are holding it up have to bear the responsibility for annihilating, killing the largest single environmental package of parks bills that have come before the Congress in this session and, I am told, for the last decade.

I am pretty reasonable. I have been around here for a while. I have tried to accommodate everybody. I have taken my licks on this one. I have lost, in my State, my only year-round industry because I could not get enough support for a 15-year extension of the Ketchikan Pulp Mill, so they could put in a $200 million investment. That is my sacrifice. That probably means more to me than any other single thing. But the obligation I have to move this package is real as well. So, at the dictate of the administration, we have stricken the Tongass out of it.

Some might ask, do you have any fallback? Yes, I suspect there is a fallback. Perhaps the RECORD should note what it is, because without getting too technical, what we asked for was a 15-year extension of a contract that was going to expire in the year 2004. The administration said they would veto the bill if that was in.

What we have proposed in this package, I will be very direct with the President, is not to pursue the 15-year contract which would mandate 15 years beyond the year 2004, but to simply take the remaining years on that contract, which are 8 years, and simply transfer that from pulp utilization to our two operating sawmills. That is all we have left in Alaska of any significance.

In brief, the contract for the remainder of the term through the year 2004, for the next 8 years, would simply be transferred over from pulp utilization to sawmill utilization.

The 15-year extension, as a consequence of the Presidential veto threat, has been withdrawn. I understand that that has been satisfactory to those who have objected. Of course, the Utah wilderness has been withdrawn. Grazing has been withdrawn. The boundary waters canoe area, which was also under Presidential veto threat, has been withdrawn.

To those who are scrutinizing this, I wish them well, but that is the package, that is what we are left with. It is now or never, and we better do it now because we simply don't have time, and we will walk out of here in the next few days leaving behind us a truly monumental bill with monumental implications.

I might add, the Senator from New Jersey and I have had differences of opinion relative to his role in the bill. I am not going to prolong those differences other than to say Sterling Forest is it. He is a winner. He can leave the U.S. Senate bringing home something that is very meaningful to New Jersey and New York.

I could go on into the history of the process over the last 2 years, but I don't know that that would serve any purpose at this time. I could lament the dissatisfaction of my friends from some of the States whose issues we simply had to take out of here in the spirit of compromise relative to trying to get the job done and get a package out that is meaningful, but I hope that those who are listening and reflecting now recognize that they, too, have an obligation. That obligation is either to come forth and support this package now, this compromise package that is so important, that is so significant, that is so meaningful, or accept the responsibility of killing a package that has been over 2½ years—one Senator reminded me that his particular interest in the bill had been in this over 4 years.

So I encourage my colleagues to look through the title portion and recognize the items that are of interest to their State, whether it covers rivers and trails, historic areas, civil rights issues, Civil and Revolutionary War sites, fee generations for their own parks, recommended administration management provisions, boundary adjustments, the Presidio, certainly the California bay environmental enhancement, and recognize that it is now or never. We can get it done now and go out of session with the most meaningful bipartisan legislative package that has come before the U.S. Senate, or we can grouse around, object, send it back for reconsideration and leave with nothing done.

But I want the RECORD to note, as chairman of my committee, I have discharged, along with my conferees and our committee, both Democrats and Republicans, our obligation. We have held the hearings, we reported it out, we moved on it last night through a conference process. The House signed off on it. It is over here now. I do not want to be presumptuous in being critical, but I don't know what we are waiting for, Mr. President. We are ready to go. We can get this done now. The Senator from Alaska is ready to bring it to the body. I have discussed it with the leadership. I am awaiting word.

So the rest is up to you, I say to my distinguished colleagues, whether this package is meaningful enough to recognize, just like every package, that sure, there are some things in there somebody doesn't like. But you try to put together 126 bills and have to put it in a package like this because there is no other way that you are allowed to bring them up individually because Members put holds on them.

I implore the media that is going to scrutinize this to recognize the reality. The poison pills, so to speak, have been taken out. I am not going to reflect on the fact there are an awful lot of westerners who are unhappy because their concerns are not met in this package. That is going to be for the next session. That is going to be for, perhaps, the election. But we have to do what we have to do, and right now, the thing to do is to move this bill out because the poison pills are out.

I ask unanimous consent that my letter and Representative DON YOUNG's letter to the President asking for a position on those items that he would veto be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, DC, September 16, 1996.

Hon. WILLIAM J. CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We are about to conclude action on H.R. 1296, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer. As you may know, a number of popular and also controversial measures have become part of the conference discussion; therefore, this bill is now known as the Omnibus Parks legislation containing well over 100 specific legislative provisions.

Among the controversial issues discussed for inclusion in this conference report are the Senate-passed grazing reform legislation, S. 1459; reforms to the management of the Boundary Waters Wilderness, S. 1738; Sterling Forest Protection Act, S. 223; S. 884, the Utah Public Lands Management Act; S. 1877, the Ketchikan Pulp Company contract extension; and S. 1371, the Snow Basin Land Exchange, which is necessary for the winter olympics.

We are about to file a conference report on this omnibus legislation, and it is important that we have your views. Because of your Administration's long-standing opposition, we are prepared to propose excluding the grazing reform legislation, any Utah Wilderness proposals, and several other controversial measures to which the Administration has expressed opposition. Attached is a list of measures we propose for inclusion in the conference report. Among these measures, we feel the need to include two items which your Administration has expressed opposition to in the past. One is the extension of the Ketchikan Pulp Co. contract, S. 1877; and the other is a proposed compromise on the Boundary Waters Canoe Area which would allow motorization on three portages, but nothing more.

It is important that we have your views on this conference report prior to close of business on Wednesday, September 18. We are ready and prepared to discuss any of the measures proposed for inclusion in this conference report at any time, and our staffs are prepared to provide any additional information you may need in your consideration of this important legislation.

Sincerely,

DON YOUNG,
Chairman, House Committee on Resources.
FRANK H. MURKOWSKI,
Chairman.

Mr. MURKOWSKI. I encourage those who are responsible for the movement of the process around here to reflect on my words.

I compliment all those who have worked so hard to bring this package together, both in the minority and majority: Senator JOHNSTON, Senator BUMPERS, Senator DOMENICI, Senator NICKLES. I also thank the California delegation for their tireless efforts to push this legislation. I thank those who have volunteered their time in San Francisco, as well as other areas of California, to push the merits of the creation of the trust in the Presidio package, and I thank the staff on both the minority side and majority side: Tom Williams, GREGG Renkes and many others, who worked night and day to put this package together; my colleague in the House, Representative YOUNG, of course; my senior Senator, Senator STEVENS, because oftentimes we, as Alaskans, are typified as those who want to run through the public domain with development schemes of one kind or another.

We will take our lumps as we go along the road in trying to communicate the particular posture of our State, which is only 38 years old, and the realization that we are still trying to create land patterns in a State that is 80 percent owned by the Federal Government, at a time when the other States accomplished that 150–200 years ago. They developed their land patterns. They had private ownership within their State. We have public ownership in ours one-fifth the size of the United States.

We are a storehouse of natural resources. What we try to communicate is that with science and technology we can do a better job of developing our resources. We look at our timber industry. We have the largest of all our national forests at 17 million acres. We set aside two-thirds of that forest in perpetuity, set aside 5 to 7 million acres of prime timberland. We are trying to maintain a timber industry in the largest of all our forests on about 1.7 million acres in perpetuity and a 100-year regrowth cycle. They cut more firewood in New York than we cut commercially in Alaska in the Nation's largest forest. They cut over 1 billion board feet for their commercial activities, yet there are those who want to close us down, terminate all timbering in our forests.

The Sierra Club wants to terminate all timbering in the national forests. But what we are trying to do is maintain a viability based on renewability, do a better job. Our fisheries are at an all time high. We have had record runs 8 of the last 11 years. We have been doing it right. We think others could learn from us. It is a little like rowing uphill.

You talk about oil and gas exploration. We know we can open up ANWR safely, given the opportunity. But we have become an environmental cause. We have over 60 environmental agencies that have established themselves in Anchorage, AK. The young attorneys come up and do their missionary work, because these organizations need a cause. The cause is far away. It is a "good cause," idealistic. When we attempt to say, well, just a minute now, we have an opportunity and a right to come into the Union, develop our resources, manage them correctly; they, through extreme rhetoric, suggest that we are desecrating the country. The media picks up on it. And it is simply not true.

So we feel a little sensitive when we are criticized with any development scenario. We could open up ANWR safely. We know it. We have the technology. We are selling American ingenuity short. The environmental community has in many cases established a fear mentality in the American public that somehow we cannot develop resources safely. It is evidenced in the debate around here on the grazing issue, on the timbering salvage issue, on oil and gas exploration, on mining—drive them offshore; bring them in from other countries; send those jobs overseas.

The deficit balance of payment; what is it all about? Over a third of it is the cost of imported oil. What are we doing today? We are 51.4 percent dependent on imported oil. In 1974, we were about 36 percent dependent. We took action. We created the Strategic Petroleum Reserve. Now we are selling it off. The Department of Energy says by the year 2000 we will be two-thirds, 66 percent, dependent on imported oil. What does that do with our leverage with the Mideast? The Mideast is in a crisis. One of these days, we are going to pay the price because we have increasingly become more dependent on imported oil.

Well, I am using my time to vent my frustration, but what I want to communicate here is we have put aside some of our Alaskan issues relative to the merits of this bill, issues that we feel very strongly about, simply because this is a good bill. It is a compromise bill. And it is time, after 2½ years, or 4 years, depending on your point of view, or at least the 104th Congress, to move it now. If we do not move it now, it is not going to be moved this session.

Those who have the responsibility for it not moving are going to have to stand up and be counted and explain to me and the other conferees specific reasons as to why, because, again, I would challenge the administration, and my colleagues, if you are looking for an excuse to veto it, yeah, you will find an excuse to veto it. But the poison pills have been taken out because Representative Young and I and others working together went through a laborious process to identify those contentious issues that were veto bait. Again, for the benefit of those who do not recall, grazing is out, Utah wilderness is out, Tongass is out, the boundary water canoe area is out. And what we have left is a good package, 126 bills, everything from the Presidio to the New Bedford National Historic Park to honor the whaling industry.

Mr. President, I ask unanimous consent that the entire titles of those bills, including Sterling Forest and the land transfer for the Winter Olympics, the entire group be printed in the RECORD so each Member can recognize what is in the package.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Authorizes funding to Begin Restoration of the San Francisco Bay—the bill authorizes $450 million over three years to provide for restoration of the San Francisco Bay.

The Bill is not just about expanding the role of the Federal Government, it also contains significant reforms of existing programs and policies, and makes unneeded Federal lands available for use by other levels of government.

Reduction of Unneeded Federal Lands—the legislation transfers unreserved BLM lands to the State of Wyoming for schools; removes inappropriate limitations from developed lands along the coast of Florida; corrects a ninety year old survey of public lands in Idaho; and provides lands to the Taos Pueblo tribe in New Mexico.

Administration Reform of the National Park Service—the bill includes a number of provisions to improve the management of the National Park Service from encouraging private sector involvement in improving the housing of park rangers, Senate confirmation for the Park Director, to elimination of unnecessary Congressional reporting requirements and several other authorities to increase the leveraging of federal funds.

Recreation Fee Policy Program—the bill provides for complete overhaul of the current recreation fee policies which will provide improved funding for parks and forests by establishing a permanent program to permit agencies to retain recreation fees without appropriations.

New Republican Environmental Agenda—the legislation provides two key provisions which represent the vision of how Republicans intend to better protect the environment without the heavy hand of the Federal government.

1. Presidio Trust—instead of the $1.2 billion proposal advocated by some for the federal government to manage the Presidio of San Francisco in perpetuity, this bipartisan approach turns the real estate management aspects of the Presidio over to a private, non-profit trust similar to the Pennsylvania Avenue Development Corporation.

Enhancement of the National Park Foundation—the bill enhances the ability of the existing National Park Foundation to raise private sector funds to support National Parks.

A bill for all Americans. This bill authorizes a land exchange in Utah which will make the downhill event for the 2002 Olympics a reality and permit billions of persons around the world to enjoy it.

HIGHLIGHTS OF THE BILL

This package is the biggest and most important parks and public land package since 1978 (nearly 20 years).

It provides for protection of some of the most important natural and historical events and landscapes in the country as follows:

Creation of New Parks—Establishes five (5) new parks: the Shenandoah Valley National Battlefield in Virginia to protect important Civil War battlefields; Tallgrass Prairie National Preserve in Kansas to protect one of the last remaining unplowed stretches of tallgrass prairie in the country; Nicodemus National Historic Site to protect a town established as a community for freed Black slaves after the Civil War; New Bedford National Historic Park to honor the whaling industry in Alaska and Massachusetts; and Boston Harbor Islands to protect a dozen unique islands in Boston Harbor.

Better Protection of Existing National Parks—provides for boundary modifications and expansions of 20 parks around the country from a 1,000 percent increase in size at Richmond National Battlefield in Virginia to a minor boundary adjustment at Zion National Park in Utah.

Protection of Important Historic Sites—legislation provides protection for very important historical events and persons by expanding the boundary to further protect the Manzanar national Historic Site in California; adjusting the boundary at Independence Hall to improve management; designating the route taken by voting rights marchers from Selma to Montgomery as a National Historic Trail; and reauthorizing funding for the Advisory Council on Historic Preservation.

Establishment of New Memorials—legislation provides for the construction of memorials on the mall in Washington, DC to Martin Luther King, Junior, Black Revolutionary War Patriots and Japanese-American patriots.

Protection of Rivers from Coast to Coast—the bill protects important rivers from the Columbia River in Washington to the St. Vrain in Colorado and the Lamprey in New Hampshire.

Protects Hallowed Ground Where the Blood of American Soldiers was Shed in Battle—the bill protects important battlefields from Yorktown, where America won independence, through the Civil War in Virginia, Mississippi, Louisiana, and Georgia and establishes the American Battlefield Protection Program.

Mr. MURKOWSKI. That may save them from threatening to read 2,700 pages of the bill.

Mr. President, I have just been given a list of the States that are affected here, and if my colleagues will just give me a couple more minutes, I will conclude my remarks with this, because it is so important that each Member understand what is in this for his or her State.

Alabama. Selma to Montgomery Historic Trail designation, historic black college funding.

Alaska. Anaktuuk land exchange, Alaska Peninsula land exchange, Alaska PLT, unalaska historic site, Glacier Bay fee, unrecognized communities, Federal borough recognition, village land negotiation, conveyance to Gross brothers, regulation of Alaska fishing, University of Alaska.

Arizona. Walnut Cameron exchange, Wupatiki boundary adjustment, Alpine School District conveyance, ski fees.

Arkansas. Arkansas-Oklahoma land exchange, Carl Garner Federal lands clean-up.

California. Pesidio, Elsmere Canyon protection, San Francisco Bay enhancement, Butte County conveyance, Modoc Forest boundary adjustment, Cleveland National Forest, conveyance, Lagomarsino visitor center, Tular conveyance, Mineral King, Merced irrigation district land exchange, Manzanar historic site exchange, AIDS memorial grove, timber sale exchange, Santa Cruz Poland acquisition, Stanislaus Forest management, Del Norte School conveyance, ski fees.

Colorado. Cache La Poudre corridor designation, Rocky Mountain Park visitor center, Grand Lake Cemetery authorization, Yucca House boundary modification, Rockwell ranch, Black Canyon of the Gunnison, St. Vrain exchange, ski fees, Greeley, Colorado land exchange.

Florida. Florida coastal barrier amendments.

Georgia. Chickamauga-Chattanooga authorization increase, Fort Pulaski.

Hawaii. Kaloko-Honokohau Advisory Commission extension.

Idaho. Craters of the Moon boundary adjustment, waterman fossil beds boundary adjustment, Cuprum conveyance, Targhee exchange, ski fees.

Illinois. Illinois and Michigan Canal, Calumet Ecological Park study.

Kansas. Tallgrass prairie National Preserve authorization, Nicodemus Park establishment.

Lousiana. Civil War center, Laura Hudson visitor center.

Maryland. Lower Eastern Shore hedge study.

Massachusetts. Boston Harbor Islands park establishment, Blackstone heritage area, Boston Public Library on Freedom Trail, New Bedford establishment.

Michigan. Pictured Rocks boundary adjustment.

Mississippi. Corinth visitor center historic black college funding, Natchez visitor center.

Missouri. Ozark wild horses preservation.

Montana. Lost Creek exchange, ski fees.

New Hampshire. Lamprey River, ski fees.

New Jersey. Sterling Forest, Great Falls historic district.

New Mexico. Bisti/De-Na-Zin wilderness, Taos Pueblo conveyance, Rio Puerco project, Father Aull land transfer, ski fees.

New York. Women's rights boundary adjustment, Sterling forest.

Ohio. Dayton Aviation Commission.

Oklahoma. Arkansas/Oklahoma land exchange.

Oregon. Sumpter conveyance, Upper Klamath basin restoration, Deschutes basin restoration, Mount Hood corridor exchange, Coquille Forest establishment, Bull Run watershed protection, Oregon Islands wilderness, Umpaqua River exchange, ski fees.

Pennyslvania. Delaware Water Gap fee, Independence Park boundary adjustment.

Rhode Island. Blackstone heritage area expansion.

South Carolina. Historic black colleges funding.

Tennessee. Historic black colleges funding.

Texas. Big Thicket exchange.

Utah. Snowbasin exchange, Sand Hollow exchange, Zion Park exchange, ski fees.

Virginia. Cumberland Gap boundary adjustment, Richmond Battlefield boundary adjustment, Shenandoah Valley Battlefield establishment, Shenandoah NP boundary adjustment, Colonial Parkway boundary adjustment.

Washington. Vancouver Reserve establishment, Hanford Reach protection, ski fees.

West Virginia. West Virginia Rivers.

Wisconsin. Pictured Rocks boundary adjustment.

Wyoming. Bighorn County conveyance, Douglas County conveyance, Ranch A conveyance, ski fees.

Generic. RS. 2477, Black Revolutionary War Patriots Memorial, MLK Memorial, advisory council historic preservation, Revolutionary War & War 1812, Am. battlefield protection, ski fees, recreation fees, recreation lakes, National Park Foundation, NPS administrative reforms, BLM re-authorization, Japanese-American Patriot Memorial, REA right-of-way.

Finally, Mr. President, do not be misled. These bills will not pass, they will not pass as part of an appropriations bill. Some Members may be under the impression that you can just cherry pick this thing and their bills will pass as part of the final appropriations. Do not be misled. This is not going to happen. As chairman, I will not let it happen. I want to put those Members on notice if this conference bill fails, all the bills, all of them, are absolutely dead for this Congress.

Finally, I want to recognize the work of Bill Lane, from San Francisco, a long-time acquaintance of mine, former publisher and still associated with Sunset Magazine, who has done so much groundwork on the Presidio effort. I know there are others that deserve recognition, but Bill Lane has been a stalwart, promoting the objective to get the job done, and get it done now, because if you do not, the Presidio will deteriorate to a point where it may be too late.

I have gone on longer than the Senator from Alaska usually does, not preaching to my colleagues. I am imploring you to recognize this for what it is. We have all taken a hit. The poison pills have been taken out. If the administration wants to use this as an exchange, OK. Then it becomes, perhaps, a campaign issue.

I hope we hear from the administration, their recognition that perhaps there is not everything they like in this, but there is so much in it, and it is so necessary we address these things now, and the recognition of the way this process works—that you cannot move the bills through individually because there are holds on them. You have to move them in a package. We can get this done now, for the good of the States affected, for the good of the Nation, and for the good of the House of Representatives and the U.S. Senate. Mr. President, the time is now. The day is now. We should get on with it.

I yield the floor.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Nebraska is recognized.

Mr. EXON. The Senator from Nebraska understands we are in morning business, is that correct?

The PRESIDING OFFICER. The Senator may proceed as though we were in morning business.

Mr. EXON. I ask that we continue morning business for the purpose of making remarks with regard to several retiring Members of the U.S. Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANK YOU TO SENATOR ROBERT C. BYRD

Mr. EXON. Mr. President, while I have had ample opportunity to review the RECORD of yesterday while I was awaiting my chance to make remarks, I want to thank very much my close and dear friend, Senator BYRD, for his kind remarks about this Senator as printed in yesterday's RECORD, page 24233. Senator BYRD made some very kind remarks about me and our association and work here in the U.S. Senate. I thank him for that.

I also wish to take this opportunity and thank others who have made farewell remarks with regard to this Senator from Nebraska, and with particular reference to Senator BYRD. I think we all recognize what a unique experience we have had here in the U.S. Senate, serving with one of the greatest U.S. Senators, by any measurement, that this body has ever seen. BOB BYRD of West Virginia has no peer with regard to his understanding of the rules of the U.S. Senate. He has written books on the history of the U.S. Senate. Certainly, as I think back over my last 18 years, and I will be thinking about this in the future, I thank the Lord for the great opportunity, and the people of Nebraska, for giving me the opportunity to serve with a truly great American, a true pillar of the U.S. Senate, ROBERT BYRD of West Virginia.

In that regard, I also would like to take just a moment, Mr. President, to thank a number of my colleagues from both sides of the aisle that stopped by a reception held for me last evening. My wife Pat and I appreciated that. A good time was had by all.

TRIBUTE TO SENATOR SAM NUNN

Mr. EXON. Mr. President, I would like to proceed in making some brief statements with regard to several of the retiring Members that this Senator has had the honor of serving with.

Let me start, Mr. President, if I might, with a statement with regard to the great Senator from Georgia, SAM NUNN. We will be leaving the U.S. Senate together. This Nation will likely lose the most important Senator of all with regard to national security and foreign policy when my colleague SAM NUNN departs this body.

I believe Senator NUNN is one of the greatest leaders of the current era. He has been a leader and a close personal friend and confidant of mine since the very first day I came here 18 years ago. SAM NUNN has been my Democratic leader on the Senate Armed Services Committee. We have worked closely together, and always in harmony, on many, many issues of vital importance to this Nation's national security. SAM has been a stalwart in helping to win the cold war. I remind all that SAM is, bar none, the Senate's top expert on national security matters. No one has done more to help recruit and retain the Nation's soldiers, sailors, airmen, and marines, who are on duty today and are the best that we have ever had in uniform in our Nation's history.

I was proud to be a charter member of the informal "Sam Nunn for President" group in 1988. I believed then, and continue to believe to this day, that SAM NUNN would have been an outstanding President of the United States. SAM has the unique qualities of being strong in his principled viewpoints and yet compromising in the means to achieve his goal. In short, SAM NUNN is a true statesman in every respect of the word. I will always treasure my association and my friendship with him. Pat and I want to wish him and his family all of the best and, indeed, all of the blessings of the future.

TRIBUTE TO SENATOR DAVID PRYOR

Mr. EXON. Mr. President, I rise today to pay tribute to my departing colleague from Arkansas, Senator DAVID PRYOR. I have treasured our 20 years of friendship.

Senator PRYOR is one of the true gentlemen of the Senate and it has been my good fortune to serve as Senators together as it was my pleasure to serve as governors during the same time period in the 1970's. DAVID has been a good friend to me here in the Senate and I have appreciated his leadership in a number of areas including pharmaceuticals, seniors, taxpayer rights issues and many, many more.

Senator PRYOR has taken his intelligence and sense of fair play and worked to see that America's seniors are treated with dignity and respect by serving as the top-ranking Democrat on the Special Committee on Aging. Government programs do a better job of serving Americans because of the leadership of DAVID PRYOR.

A leader in keeping pharmaceutical prices low, Senator PRYOR has fought long and hard to make sure that Americans do not pay for the low prices pharmaceutical companies charge other countries for their products. Because of his leadership, the Medicaid program instituted a prescription drug rebate program so that drugs could be purchased at a more favorable rate. I was also pleased to be an original cosponsor of Senator PRYOR's Taxpayers'

Bill of Rights. This was landmark legislation to remind the Internal Revenue Service to treat taxpayers' with dignity and respect.

The hallmark of Senator PRYOR's tenure here in the Senate is leadership. Leadership in legislation, a leader among his fellow Senators and leadership for his beloved State of Arkansas. The people of Arkansas have always been his priority and he has served them well.

Farewell my friend. Pat and I wish you the very best for the future.

TRIBUTE TO SENATOR PAUL SIMON

Mr. EXON. Mr. President, I rise today to say a few words regarding the retirement of the senior Senator from Illinois, PAUL SIMON.

PAUL SIMON was first elected to the Senate in 1984 and I have been honored to serve with him for the past 12 years. Before entering the Senate, PAUL SIMON represented his constituents as a Member of the House of Representatives for 10 years. He will truly be missed by the people of Illinois and his colleagues in the Senate.

Over the years I have worked with Senator SIMON on the Budget Committee. Despite his reputation as a compassionate liberal who believes the Federal Government has an important role to play in the lives of Americans, Senator SIMON has not shied away from following his personal convictions, even if it meant going against the majority of his party.

Senator SIMON has been a leading proponent of a constitutional amendment to require the Federal Government to balance the budget each year. He has been guided by his common sense, midwestern views on living within your means. I, too, have been a longtime proponent of a balanced budget constitutional amendment. Senator SIMON's ability to work with Members on both sides of the aisle is unfortunately a diminishing quality among Members of this body.

PAUL SIMON has been a strong supporter of free speech as a Senator. He is an author and began his career as a newspaper editor and publisher. Despite his background, Senator SIMON has also been willing to criticize the television broadcasters over the excessive amount of violent programming.

PAUL SIMON has a special connection to my State of Nebraska. He was a student at Dana College in Blair, NE. I know that Dana College appreciates his continued interest in the students and the college over the years.

I commend Senator PAUL SIMON for his many years of dedicated service to the people of Illinois. Pat and I wish him the very best in his retirement.

TRIBUTE TO SENATOR HOWELL HEFLIN

Mr. EXON. Mr. President, I rise to salute the service of Senator HOWELL HEFLIN and give the Senator and his family best wishes.

Senator HEFLIN and I came to the U.S. Senate together and we will be leaving this grand institution together. Over the years I have not only developed a tremendous working relationship with the senior Senator from Alabama but also a deep and lasting friendship. Mike and HOWELL HEFLIN have been among the closest friends and associates of the EXONS.

Over the years, I think that there are few Senators with whom I vote with more frequently than with Senator HOWELL HEFLIN. I value his opinion and respect his views. He is not only a mainstream Democrat, he is a mainstream American.

Few Members realize that HOWELL HEFLIN is a bona fide war hero. If I may Mr. President, I would like to share a little story about the Senator from Alabama. A few years ago I had an opportunity to lead a delegation to the Pacific rim. HOWELL HEFLIN was a member of our group. We had scheduled a stop in Guam for refueling en route to Manila. When we arrived, I was informed that there would be a brief unscheduled ceremony for HOWELL HEFLIN.

It was anything but a brief ceremony. It was obviously one of the most important ceremonies that the Island of Guam has had, I suppose, since the American forces drove out the Japanese from that island during the war in the Pacific. There was a large entourage of cars. I could not imagine what was going on. Finally, I began to get the feel of things. They wanted to take us out to the beach where the American Marines landed when the United States of America started taking back that very important and strategic island.

We went out to the beach, and we saw where they landed. This beautiful beach was once a bloody battlefield. During the war the Marines had great difficulty in landing. The coral reefs reeked havoc on the landing crafts and on the men.

Our delegation went to the museum out on the beach. We were greeted by the mayor, the Governor and there was a small Navy band playing. In addition, there was a small tent with a number of people from the Island of Guam who were there when the Americans landed.

This celebration was not in honor of the Senate delegation but in honor of one of our Members, Senator HEFLIN. It was a moving sight. There was a big sign out there that I shall never forget. It said, "Welcome Back Our Liberating Hero, Lt. HOWELL HEFLIN."

Because of all his other accomplishments, I suspect few of my colleagues in the Senate even know about Senator HEFLIN's heroism. He was one of those marines who liberated Guam. Lt. HOWELL HEFLIN was part of the assault force of the Americans landing to take Guam from the Japanese. He was wounded in the initial assault and kept on fighting. He pointed out the hill to me where he took his second hit.

He was evacuated to the United States where he spent considerable time in the hospital.

This story illustrates that Senator HEFLIN's love of country has been a constant throughout his life. As marine, judge, and as Senator, duty, honor, and valor are all words associated with HOWELL HEFLIN.

This is a side of the proud HOWELL HEFLIN that I know. That is a side that I want his colleagues and history to know. He is one of those who serves his country in time of need, and we must never forget that.

As I bring my Senate career to a close, I point to serving and knowing people like HOWELL HEFLIN as one of the most wonderful benefits of being involved in politics.

Having known HOWELL and Mike Heflin and knowing of their stature, and character, having had them as friends, means a great deal to me as I look back on my life in public service and see what really has been important.

I simply say that one of the great treasures of my life has been knowing the Heflins. May God bless and keep HOWELL and Mike Heflin forever in his grace.

TRIBUTE TO SENATOR CLAIBORNE PELL

Mr. EXON. Mr. President, when the Senate concludes its business this year and adjourns the 104th Congress, we will be bidding farewell to one of the most respected and accomplished Senators this institution has known. Senator CLAIBORNE PELL's decision to retire following the completion of his sixth term has brought to a close a legislative career that is noteworthy for not only its longevity but also its accomplishments. Whether in the area of student educational loans, arms control or foreign affairs, Senator PELL has distinguished himself as an effective force in not simply representing the interests of Rhode Island residents but in authoring a national agenda designed to improve the quality of life for all Americans.

Senator PELL's colleagues know him as a quiet, thoughtful man of strong intellect and compassion. In his words and by his actions, CLAIBORNE PELL has demonstrated an unyielding commitment to serving the public good for the past 36 years. This remarkable devotion to serving the common good will long be remembered by those of us who worked with CLAIBORNE PELL and lament his departure from the Senate. After devoting so much of himself to improving the welfare of this Nation, he can retire with the comfort of knowing that it is well-earned.

HONORING SENATOR J. BENNETT JOHNSTON

Mr. EXON. Mr. President, it is with great pleasure that I rise today to salute my departing colleague and dear friend from Louisiana, Senator BENNETT JOHNSTON.

It has been a sheer pleasure to serve for the past 18 years with BENNETT JOHNSTON. Since the time I came to the U.S. Senate in 1979, I have always admired BENNETT'S determination and rugged individualism. BENNETT JOHNSTON possesses many of the qualities that make this institution great, not the least of which is his ability to compromise.

Some have called him the master of compromise. I, for one, have always admired his ability to work both sides of the aisle. And as we all know too well, a willingness to look past partisan differences is something of precious commodity in the Senate these days.

Whether it was oil and gas price deregulation, the Supercollider, the Tongass National Forest, or nuclear waste disposal, BENNETT always delved deep into the heart of the matter regardless of how complex or controversial. While we may not have always agreed on the issues, I have always known I could rely on him, time and again, for his wise and fair counsel. And, I did.

For over two decades BENNETT JOHNSTON has been a dedicated public servant to the great State of Louisiana. As the Nation moves toward the new millennium, his service to this body and this country will not be forgotten.

I salute BENNETT JOHNSTON, and Pat and I wish him all the best for the future.

TRIBUTE TO SENATOR BILL BRADLEY

Mr. EXON. Mr. President, it is with great pleasure that I rise today to pay tribute to the senior Senator from New Jersey, BILL BRADLEY, who will be retiring at the end of this Congress. Senator BRADLEY and I were elected to Congress in the same year, 1978, and it has been a great pleasure and an honor to have served three terms in the Senate with him.

Senator BRADLEY has distinguished himself as a thoughtful and outspoken leader on the issues of tax reform, education, community revitalization and crime reduction. He has also been a vocal critic of wasteful Government spending. Senator BRADLEY and I share a keen interest in fiscal responsibility and concerns about the impact of the debt and deficit situation on our Nation's future. I was pleased to have the opportunity to work closely with Senator BRADLEY on line-item veto legislation. A form of this legislation was signed into law this year and I believe it is a crucial step toward eliminating wasteful spending and keeping us on the path of deficit reduction.

I commend BILL BRADLEY for his hard work in the Senate and his contribution to our Nation. I expect that he will continue to participate in the debate over important public policy issues. Pat and I wish him success in all his future endeavors.

TRIBUTE TO SENATOR ALAN SIMPSON

Mr. EXON. Mr. President, I rise today to say a few words regarding the retirement of the senior Senator from Wyoming, our own ALAN SIMPSON. It all came back to me last evening when my neighboring State Senator came by a reception honoring me, adding his usual good humor and sincerity.

ALAN SIMPSON was first elected to the Senate in the same year as me and I have been honored to serve in this body with him for the past 18 years. Senator SIMPSON has served the people of Wyoming through his hard work and dedicated efforts in matters of importance to his constituents and the American people. I am sure he will be missed by the people of Wyoming and his colleagues in the Senate.

Through his service on the Judiciary Committee, ALAN SIMPSON has been the Senate's leading force in reforming our immigration laws. His common sense approach to immigration reform has been vital to cracking down on illegal immigration. The highlight of the 1986 reform bill was a provision which made it unlawful for an employer to hire an illegal immigrant. For many years, I worked to place into law another common sense measure to prohibit illegal immigrants from receiving Federal benefits and I appreciate Senator SIMPSON'S support of my efforts.

Despite his moderate and bipartisan approach, Senator SIMPSON has been the target of criticism from groups on both sides of the immigration issue. ALAN SIMPSON'S willingness to push forward in the face of strong opposition from many tells a lot about how seriously he takes his position as a public servant. Without his determination, I doubt we would have been able this year to adopt such a strong, yet fair, bill to crack down on illegal immigration with such overwhelming bipartisan support. This legislation will serve as yet another testament to Senator SIMPSON'S dedicated efforts to bring illegal immigration under control.

ALAN SIMPSON, while always fighting for what he felt was right and never being shy about speaking up, will also surely be remembered for his efforts to highlight the looming financial crisis that is facing our Federal entitlement programs. I strongly believe that the disintegration of bipartisan cooperation has seriously weakened the ability of this body to tackle the most difficult issues facing our Nation and has led to far too many ill feelings. Senator SIMPSON, while undoubtedly a true conservative, has been willing to go against the majority of his party on major issues while remaining true to himself and his constituents.

Pat and I commend Senator Alan SIMPSON for his dedicated public service over the years and wish him the very best in his retirement.

TRIBUTE TO SENATOR MARK HATFIELD

Mr. EXON. Mr. President, a record number of our colleagues are retiring from the Senate this year. I am among those who have voluntarily decided to not return and I do so knowing how much I will miss the nearly day-to-day contact with many of the great statesmen and women our country has known.

I consider Senator MARK HATFIELD among this pantheon of accomplished public servants. While some may speak highly of Senator HATFIELD for his length of service to Oregon and the Nation as a whole, I have been most impressed by the strength of conviction he has brought to his job of U.S. Senator over the past 30 years. The fire of purpose has burned brightly and consistently within Senator HATFIELD during this time and, on so many occasions too numerous to recount here, Senator HATFIELD'S voice has been the voice of the forgotten, the weak, and the disenfranchised.

The steadfast humanity and moral judgment Senator HATFIELD has displayed transcends political affiliation or partisan alignment. From what I have observed of him during my own 18 years in the Senate, I would sum up MARK HATFIELD'S credo in a simple and straightforward way: Senator MARK HATFIELD has committed his energies to the betterment of all persons through the fight against the destructive forces of war, disease, ignorance and want. This raising of the human condition, this crusade against needless suffering and the ravages of mankind's self-destructive tendencies, has been MARK HATFIELD'S rich legacy to the Nation and the world.

Above all else, I salute him for his unswerving dedication against heavy odds at times to his dedication to end nuclear testing, and without his steadfast leadership the treaty that was signed yesterday at the United Nations in New York would not have come to pass.

I was there, and many people came up to me and talked about this great accomplishment. To each and every one of them I said I wished Senate duties would have allowed MARK HATFIELD to be there along with myself and Senator PELL. I know he was invited.

At year's end, he will leave this institution a lion among his peers. But lest anyone be fooled, beneath the chiseled and proud visage of this lion is the true source of his strength, a compassionate heart that has kept him humble and grounded, his path straight, his words true, and his conviction undiminished. The career of Senator MARK HATFIELD should be an inspirational model to all those who aspire to public service, for to follow in his footsteps is to embrace all that is admirable in the pursuit of elected office and service to the people.

TRIBUTE TO SENATOR WILLIAM COHEN

Mr. EXON. Mr. President, the senior Senator from Maine, BILL COHEN, is among those Senators who have decided to not seek another term in service to their country. Senator COHEN and I both arrived in the Senate in January 1979 and we have served together on the Armed Services Committee ever since.

BILL COHEN's skills as a United States Senator were evident from the beginning. His mastery of detail along with his understanding of the larger implications of legislative policies has made him a universally respected oracle on a wide range of issues. His views are no more revered, perhaps, than those in the area of national defense and foreign policy. I can attest firsthand to how important Senator COHEN has been in furthering our national security interests over the past two decades. There is no aspect of our collective national security policy over this time that has not benefitted from Senator COHEN's contribution. Whether in the area of arms control or military reorganization or shipbuilding, Senator COHEN has displayed an effective ability to analyze problems and propose workable solutions that garnered bipartisan support. This is BILL COHEN's legacy to the United States Senate and the country as a whole.

He has been a renaissance man of sorts during these past 18 years: A bestselling novelist and published poet, an articulate speaker, and a gifted legislator. His departure will certainly deprive the Senate of one of its most meaningful and respected voices. I have no doubt he will continue to be as successful in his future endeavors as he has been as a United States Senator.

TRIBUTE TO SENATOR NANCY KASSEBAUM

Mr. EXON. Mr. President, I rise today to salute one of our departing colleagues and Senator from the neighboring State of Kansas, of course it is our own Senator NANCY KASSEBAUM.

NANCY and I have served together in the Senate over the last 18 years. I have always admired her willingness to look beyond partisan politics and work to solve the problems at hand. She can be proud of the recently passed Health Insurance Reform Act. I have no doubts that this will be seen for a long time as a very important piece of legislation. Finally, people will be able to move from job to job without fear of losing their health insurance.

Senator KASSEBAUM can also be proud in the role she played during the reauthorization of the Higher Education Act several years ago. Because of her efforts and those of the Labor and Human Services Committee more of America's young people can seek the higher education they need to fulfill their dreams. NANCY has also been willing to work on a very important issue to me, Impact Aid. With her help and leadership, improvements to this program were made so that the children of our military personnel have better educational opportunities.

Senator KASSEBAUM comes from an honorable Kansas Republican family. Her father Alfred Landon served as Governor and Presidential nominee. Governor Landon and the legacy he left, has been significantly enhanced by the way that his daughter has continued in his footsteps.

Kansas will be losing a great Senator, one who has served her constituents well. Pat and I wish NANCY and her family all the best for the future.

TRIBUTE TO SENATOR HANK BROWN

Mr. EXON. Mr. President, I rise today to pay tribute to Senator HANK BROWN, the senior Senator from a neighboring State, Colorado, who is retiring at the end of this Congress. It seems, out there on the plains, we are dropping like flies.

HANK BROWN's service to the State of Colorado and our Nation has ranged from the U.S. Navy and a tour in Vietnam, to serving in the Colorado State Senate, the U.S. House of Representatives, and the U.S. Senate. More importantly, however, I understand that Senator BROWN played some football while at the University of Colorado. While Nebraskans are not usually humble about football, I humbly acknowledge that the Nebraska record against Colorado from 1958 to 1961 was 1 win and 3 losses.

As the ranking Democrat on the Senate Budget Committee, I have had the privilege of working with Senator BROWN on several budget initiatives. I believe he and I share a commitment to deficit reduction and responsible Federal spending second to none. I appreciate Senator BROWN's hard work in this area and have enjoyed the opportunity to work with him on these most important issues. HANK BROWN possesses one of the keenest senses of humor in the Senate. He is a delightful individual.

I commend HANK BROWN for his hard work in the Senate and his contribution to our Nation and the State of Colorado. I wish him success in all his future endeavors.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Missouri.

SMALL BUSINESS INVESTMENT ACT AMENDMENTS

Mr. BOND. Mr. President, as chairman of the Small Business Committee, I am working with Senator BUMPERS, my ranking member. We have agreed that we should pass H.R. 3719, the Small Business Act and Small Business Investment Act amendments, with a substitute.

Senator BUMPERS and I have tried to accommodate all of the concerns of Members, both of the committee itself and of this body. It is vitally important, if we are going to continue to provide funding for small businesses through the SBA programs, that we move on this.

I am advised that there are still some clearances to be obtained on the other side. I serve notice on all my colleagues we are, we hope sometime later today, to proceed to unanimous consent to proceed with this measure so we can continue small business financing efforts.

I acknowledge my colleague from Pennsylvania has been waiting a long time. I will not pursue this any further. But I want all of our colleagues to know that we hope to be able to get consent to pass this bill and send it back to the House for final action, we hope by tonight, because this is vitally important.

The PRESIDING OFFICER. The Senator from Pennsylvania.

PARTIAL BIRTH ABORTIONS

Mr. SANTORUM. Mr. President, I rise today to continue the deliberation here in the Senate of the issue of partial-birth abortions. We have had a discussion over the past several days in the Senate about this issue. I think it is good that we continue the debate. I have asked for a time agreement for tomorrow, and I hope we can get that, from 9 to 2 tomorrow morning and into tomorrow afternoon, and then a vote at 2 o'clock. I know that is being hotlined right now. I do not know if there has been any objection to that. But I think 5 hours of debate is a reasonable period of time for both sides to get the opportunity to put forward their views on this issue. I think, while we have had some debate, and maybe we will even have some more debate today, I think this is such an important issue that that kind of time is necessary to really have the Senate work its will, for it to be a deliberative process and a deliberative decision based on all the information.

As I said yesterday, there is a tremendous amount of information, frankly even still coming out, about this issue and about the number of these procedures that are performed in this country. I think it is important for all Senators to realize exactly what we are voting on here and its impact, as I said yesterday, not only on what we will tolerate as a country, what lines we will draw as to what is permissible in our society, in our civilization, but what it will say about the quality of life in our country.

While I was sitting here listening to some of the remarks, I thought about what I read last night in the House debate. Member after Member got up and talked about: Well, you know, we are talking about deformed fetuses—I will talk about that later in my remarks—deformed fetuses, as if, because they are not perfect, they are expendable. I found it sort of ironic that the very people in the House of Representatives who stood up and gave as a rationale for allowing late-term abortions a deformity of a fetus, in many cases—in fact, in most of the cases described by the testimony—not fatal deformities but just deformities, those people who say that a mother can abort a baby because of that deformity are the same people who get up with passion—and I admire the passion—who fight for the Americans With Disabilities Act because they believe people with disabilities can, in fact, contribute to our society and who argue for IDEA because they believe children with mental difficulties or physical disabilities can, in fact, contribute to the educational process of all children.

Yet, when it comes to the very initial right—not the right to go to school, not the right to have a curb cut so your wheelchair can get from street to street, but the right to live, the right to be a citizen of this country—that is where they draw the line; that that is not an issue worth fighting for; that that disability is somehow so great that it is not worth fighting to protect that disabled child from being delivered through this procedure feet first, completely delivered up to the head.

The only thing remaining in the birth canal is the baby's head. A pair of scissors is taken and punctures the base of the skull. A catheter is then inserted into the brain and the brains are suctioned out. That brutal, gruesome, barbaric procedure administered to a baby from 20, 21 weeks on; in some cases, third trimester abortions, late third trimester abortions in some cases. That is OK, because the baby isn't perfect.

Fortunately, in the House of Representatives, many Members who voted against this piece of legislation to ban this procedure had second thoughts, gathered more information, listened to the testimony that was given, listened to the new findings which I talked about yesterday in Richard Cohen's article in the Washington Post where he said when he wrote his original article back in June of last year, "I was under the understanding that late-term abortions were rare and they were only for health and life of the mother reasons, or that the child to be born would have no chance of surviving. But I find that is not the case," he says. He cited an article written by a colleague of his, a physician at the Washington Post, Dr. BROWN.

We have another article written by a woman with the Bergen County Record who said that in New Jersey alone this late-term abortion procedure done, in many cases, on viable babies at 24 weeks and older are not 500 a year, as some of the pro-choice lobbyists would have you believe, like Planned Parenthood and others who conveniently don't keep close track of these things, but 1,500 a year, just in one particular area of New Jersey alone—1,500 a year.

That fact was not known when the Senate first deliberated. It was an important fact that caused the change of opinion of one Member that was written about by Cal Thomas today in the Washington Times, MARGE ROUKEMA. I served with MARGE during the 4 years I was in the House. Marge is a pro-choice moderate Republican from New Jersey. Quoting Mr. Thomas:

> Representative MARGE ROUKEMA, a pro-choice moderate Republican from New Jersey, decided that instead of voting in lockstep with the rest of her pro-choice colleagues, she would go beyond the sloganeering and the sound bites. Though Mrs. Roukema voted against the original bill banning partial-birth abortion—a procedure in which a fully formed baby is delivered feet first—

Scissors inserted in the head and the brains sucked out—

> she switched sides and voted to override President Clinton's veto of the measure.
>
> The reasons Mrs. Roukema gave for her change were as honest as they were profound. She said her concerns about protecting the mother's life had been answered—

In fact, there is a provision in the bill that was inserted by Senator Dole when the bill came through that this procedure would still be permitted if it were necessary to save the life of the mother

> putting the lie to pro-choicers' charges that the bill would jeopardize women's lives. She also said she was satisfied that doctors would not be prosecuted if the procedure were performed in dire circumstances.
>
> Mrs. Roukema said, "Over time, I've been reading about this and informing myself. It's a decision that was very difficult to make, but I decided (partial-birth abortion) comes too close to infanticide."

She took the time to weigh the facts. As I said yesterday, I have a tremendous amount of faith—a tremendous amount of faith—in the U.S. Senate and its deliberative capabilities, and I have faith in every one of the Members here who will not be blinded or blocked into a position because they are pro-choice or pro-life.

This is not a pro-life, pro-choice issue. This is an issue about a procedure that is so barbaric and inhumane that if it were performed on an animal, we would be hearing the animal rights activists storming the Capitol today. If it were performed in another country, the human rights people would be saying we should have trade sanctions against them until they stop it. And yet it is performed in this country thousands of times and in many, many cases, as I quoted yesterday from the doctors in the Bergen County Record, in most cases on healthy babies, healthy pregnancies, and healthy women who had no problem with their pregnancy but was purely elective.

Other Members who are pro-choice stood up and took a very difficult position in support of the override of the President's veto.

I give them a lot of credit for doing so, because it is not easy to stand up and draw a line. One such person was a Member from across the river, Mr. MORAN, who I was elected with when I first came to the House of Representatives back in 1990. I will quote from his statement on the floor of the House just last week:

> Mr. Speaker, I am very hesitant to speak on this issue.

I share with Mr. MORAN that I was very hesitant to speak on this issue. I had been a Member of the House for 4 years and have been a Member of the Senate for 2 years. Never once, prior to this issue, did I ever speak on the issue of abortion. I have talked to several of my colleagues over the past few days, now that I have stood here talking about this and they, too, have told me, "You know, RICK, I've never spoken on the floor of the Senate on this issue, but I feel compelled to do it this time." So I give credit to Mr. MORAN, a Democrat, pro-choice.

Continuing his talk:

> For one thing, I have been associated with the pro-choice side throughout my legislative career, and I do believe that when the issue of abortion is considered, it really ought not to be a legislative issue; it ought to be a personal decision by a woman with the advice of her physician, within the context of her religion and family. I do not believe that this issue falls within that rubric, within that context of decisionmaking.

He then says he agrees with Roe versus Wade and describes the decision of Roe versus Wade. I will continuing quoting:

> What we are talking about now, though, goes beyond that third trimester. We are talking about the delivery of a fetus clearly in the shape and with the functions of a human being. And when that human being is delivered in the birth canal, it cannot be masked as anything but a human being.
>
> We should not act in any legislative way that sanctions the termination of that life. And that is why I urge my colleagues to vote to override the President's veto of this legislation.

I know that is not an easy thing to do. I know it is not easy to get up and talk about those issues. What I also know is I know it is not easy for people to listen to talk about this issue.

One of the things that I think probably led me not to speak so much—not so much—at all on the floor of the U.S. Senate about this issue is because it is so uncomfortable to talk about. I was assailed yesterday by one of my colleagues saying, "Well, you never delivered a child, and so you really don't know what it's like, and you really don't have any standing to talk about it."

It is true I never delivered a child, but I have been there for the three deliveries of my children with my wife Karen, and I saw those children born. I had the privilege of cutting the umbilical cord in all three cases and holding that little, vulnerable baby. Two of our children were born premature. We are lucky enough to have a fourth child on the way, and we follow the growth and development of that child.

No, I have never had a baby, but I am a father who understands what life is about. So while I may not have the standing that some in this Chamber believe I should have, I think I have every right to stand up for those children as a father, as a citizen, and as a Senator. So I will continue to do so.

This is a difficult issue because it pushes us to the edge and makes us so uncomfortable to think about a viable baby, not a blob of tissue an inch long, not a little embryo, but a baby. My wife—as I mentioned, we have three children—but my wife has had a lot more experience with babies than just our three children. For many years she was a neonatal intensive care nurse in Pittsburgh, PA. She worked in the NICU unit, level 3, which is the most severe level, with the babies that are having the toughest time surviving. She worked with 24-week-old babies. She even worked with a 23-week-old baby. She reminded me last night that the eyes were still fused on that baby. That baby is alive today.

She said, yes, it is a struggle for those young babies. But they fought and they fought and they fought, so many of them, and they did survive. What this procedure does to those little babies, if we allow that to happen in this country—well, I hope we do not.

The Senator from California yesterday said that we could get a bill agreed to here in the U.S. Senate just like that if we just had a provision that said, that in addition to protecting the life of the mother, that we added a section that said, "to protect the health of the mother." I attempted to respond, but I sort of ran out of time. I would like to respond to that.

I will assure the Senator from California that we could not get an agreement on that issue with Members who voted for this legislation. The reason is very simple. No. 1—and I will read for you physician after physician after physician who say that this procedure does not—does not—protect the health of the mother. In fact, they would argue that in fact it greatly endangers the life of the mother, more so than other procedures, No. 1.

No. 2, it also enhances the risk of infertility and the inability to carry a child to term.

So even if you accept—I cannot accept the premise that there is a need for this procedure to save the health of the mother. It is in fact contradicted, and it is in fact more threatening to the health of the mother to do this procedure. So to say this procedure is necessary to do that puts forth a false assumption, and then you are asking me to agree to it. I cannot agree with something that is not true.

Second, what we have seen repeatedly in this country is that health of the mother is in fact not a limitation at all; that health of the mother means, yes, physical health, but also mental health, social health in the sense that if it is a young girl who wants to have this procedure, that we have to worry about her social standing in order to allow this to happen, and financial health. Health has been broadly defined in this country to the point where it is not a limitation to a procedure at all. I think anyone who argues that fact knows fully well that it is not a limitation. So the underlying premise of the health exception is a faulty one. Secondly, health is not a limitation.

So in either instance, I could not accept an amendment like that because, No. 1, it is not true, because the health is not endangered by doing some other procedure more than it is by doing this one, and, No. 2, it is not a limitation.

Let me read from some obstetricians who have commented on this health issue and life issue.

> "I can't think of any situation where you would have to carry out a specific, direct attack on the fetus," said Dr. James R. Jones in an April 19 interview at St. Vincent's Hospital and Medical Center in Manhattan.
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> Dr. Jones is chairman of the department of obstetrics and gynecology at the New York Medical College in Valhallaran. . .and head of obstetrics and gynecology for the hospital.
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> * * * *
>
> "Their intent is fetal death," Dr. Jones said. "I can't imagine that being an indicated procedure for the saving of a life or well-being of the mother." He said it amounted to "simply another elective abortion" and was "practically infanticide."
>
> In cases of special difficulty, obstetricians can always resort to Caesarean delivery, he said. Even if an obstetrician knows in a particular case that the baby is unlikely to live, he said, its death is not the intent and no direct action is taken to kill the baby.

Dr. Nancy Roemer, who I know has testified before here, and in fact may have been up on the Hill today—I do not know that. I know there were some physicians up here again to try to educate Members of this body who are going to have to make this critical decision, possibly tomorrow afternoon, as to what the medical facts are, not some information thrown out there by advocacy groups attempting to influence the debate, like Planned Parenthood, who put out, "Oh, there's only a few hundred of these done," when we find out the facts after the bill was passed and vetoed. The fact is, there are thousands of them done. In fact, as Richard Cohen said in his article in the Washington Post yesterday, nobody knows. Conveniently, those people who perform a lot of the abortions do not want to keep track of these kinds of abortions, do not want to keep track of late second-trimester and third-trimester abortions.

It is inconvenient for their cause of trying to convince the American public that these abortions only occur when they are very early on, and we do not have a baby that looks like a baby. It is not really a baby. At 24 weeks, it is a baby. You can call it what you want, you can try to call it a choice, but it is a baby.

I asked the Senator from California yesterday three times—and I really do not want to be combative. I really want the Senate to try to deliberate thoughtfully, to try to remove some of the emotion that always gets wrapped up in these debates, obviously, with reason. This is a very emotional subject. I asked her three times, and I will ask her again, because unfortunately she did not answer me any of the three times yesterday. I said, let me give you this set of facts: A partial-birth abortion is being performed—whether it is a normal baby, a perfect baby, or a baby that has some abnormalities—and you have a 24-week-old baby being delivered feet first, everything is delivered, the shoulders are then delivered, and by some mistake of the obstetrician, the head is also delivered. Would it be the choice of the mother and the obstetrician to then kill the baby?

Now, I think most people within the sound of my voice would clearly say, "No." But if you say no, if it is so obvious, and is it not obvious? Does it not just hit you? Of course not, of course not, absolutely not, not even a question that the doctor at that point, with a baby in its hand, and maybe just in one hand, moving, that that doctor could not kill that baby.

Two or three inches, then, is the difference between what some would say, "Of course not," to "OK." Two inches before, "OK," two inches later, "Of course not." That is the line being drawn in this country now about life—about life. Is that the line that the U.S. Senate, this great deliberative body, this body that when I talk to people from other countries look at this place and see this country as something they aspire to, something they want to emulate, that we cannot get two-thirds of the men and women of this body to say that 2 inches is too close of a call, that

that is too fine a line, that we have gone over the line about what is right in our society?

I think we as a body can do that. I think we as a body can stand up and do the right thing. I think Members who have voted differently on this issue in the past can change their vote based on new information.

Dr. Nancy Roemer said on the claim "medical necessity" that the President has invoked and Members on the other side have invoked, "I am insulted to be told that I am tearing a woman's body apart by not doing this procedure." The "tearing a woman's body apart" line comes from a White House ceremony where the President vetoed this bill. "As physicians, we can no longer stand by while abortion advocates, the President of the United States, the newspaper and television shows, continue to repeat false medical claims to Members of Congress and the public. This procedure is currently not an accepted medical procedure."

The American Medical Association legislative counsel said it is not a recognized medical procedure. It is done in abortion clinics, as many of the doctors have said here, for the convenience of the person performing the abortion.

> A search of medical literature reveals no mention of this procedure, and there is no critically evaluated or peer review journal that describes this procedure. There is currently also no peer review or accountability of this procedure. It is currently being performed by a physician who is not an obstetrician. It is in an outpatient facility behind closed doors and no peer review.

That is what Dr. Roemer says about the necessity for this procedure and the appropriateness of this procedure. Let me quote another physician who happens to also be a Member of Congress, and that is Dr. COBURN from Oklahoma, who spoke last week on the floor of the House of Representatives.

> Mr. Speaker, I have spent the last 18 years of my life, including a great deal of time of the time 2 years while I have been in this Congress, caring for women who deliver babies. I personally have been involved in over 3,000 births that I attended. I have seen every complication and every anomaly that has been mentioned in this debate on partial-birth abortion.
>
> I am not standing here as someone who is pro-life. I am not standing here as someone that is a freshman Republican. I stand here today to make known to Members that they can vote against an override for only two reasons on this bill: One is that they are totally misinformed of the true medical facts; or that they are pro-abortion at any stage for any reason.
>
> The facts will bear this out. That is not meant to offend anybody. If someone feels that way, they should stand up and speak that truth. But this procedure, this procedure is designed to aid and abet the abortionist. There is no truth to the fact that this procedure protects the lives of women. There is no truth to the fact that this procedure preserves fertility. There is no truth to the fact that this procedure, in fact, is used on complicated anomalous conceptions. This procedure is used to terminate mid and late second-term pregnancies at the elective request of a woman who so desired—in some cases, I might add, third-trimester abortions.
>
> This has nothing to do with women's emotional health. This has to do with termination of an oftentimes viable child by a gruesome and heinous procedure.
>
> What we should hear from those who are going to vote against overriding this is that they agree, that they agree that this procedure is an adequate and expected procedure that should be used, and that it is all right to terminate the life of a 26-week fetus, that otherwise the physicians would be held liable under the courts of every State to not save its life should it be born spontaneously.

This debate is not about the health of the women. This debate is about whether or not true facts are going to be discussed in this Chamber on the basis of knowledge and sound science, rather than a political end point that sacrifices children in this country.

That is an obstetrician. I have a letter here signed by 4 obstetricians of an organization called PHACT, which is the Physician Ad Hoc Coalition for Truth. It lists scores and scores of OB/GYN'S, who are against this procedure—and speak in very graphic terms against this procedure—including 123 members of the American College of Obstetricians and Gynecologists. They say the same thing: "This procedure is not necessary to preserve health, fertility, or the life of a mother."

I see the Senator from Oklahoma here. I have more things to say, but I have been on the floor for a while, and I want to give him an opportunity to speak. I will continue talking about this at a later time.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I wish to compliment the Senator from Pennsylvania for his courage in taking on this very sensitive and yet very important issue. It is an issue that we deal with in the Senate, maybe with some reluctance, but it is certainly an issue that deals with life and death. The Senator from Pennsylvania is trying to save the lives of innocent, unborn, almost-born human beings. He is trying to see that the overwhelming opinion of a majority of the American people is upheld—in this case, outlawing the most gruesome type of abortion possible.

I was doing a little homework on this. I compliment the Senator from New Hampshire, Senator SMITH, for his leadership on this issue because he made a lot of us aware that this practice was ongoing—a practice that people who are opposed to this ban, who don't want to see any restriction of abortion whatsoever, say rarely ever happens. I don't think that is the case. As a matter of fact, I have a couple comments that show there are thousands of these abortions performed every year. But in learning a little bit about the practice, it is really gruesome. The doctor—I don't want to call it a doctor. The abortionist has to go to some trouble to make sure the baby is not totally delivered. It is not an easy process. If the baby's head comes out, then you have a live child. Before that, you have a live fetus, by their definition. So they have to hold the baby's head in, in order to kill the baby, extract the brains from the head of the baby, and then remove the dead baby. This is happening thousands of times in our country.

We passed a ban. Congress overwhelmingly passed a ban to stop this gruesome, painful procedure. Unfortunately, President Clinton vetoed the ban. I think he was wrong. Dr. Koop mentioned that he thought maybe President Clinton had bad advice. I think he had bad advice, and I also think he was basically coopted by the groups who call themselves pro-choice. I know a lot of individuals who classify themselves as pro-choice that want to see this procedure stopped. They are offended by this procedure.

Let me make this one comment. Dr. Pamela Smith, an obstetrician at Mt. Sinai Hospital in Chicago, and Director of Medical Education in the Department of Obstetrics and Gynecology at that hospital, testified before the House Judiciary Subcommittee on the Constitution that even when describing the procedure to groups of pro-choice physicians, she found that "many of them were horrified to learn that such a procedure was even legal." That is in the House report 104–267, page 5.

As Dr. Smith further points out, "partial-birth abortion is a surgical technique devised by abortionists in the unregulated abortion industry to save them the trouble of 'counting the body parts' that are produced in dismemberment procedures."

That was in a letter to U.S. Senators on November 4, 1995. She says in the same letter, "Opponents have insinuated that aborting a live human fetus is sometimes necessary to preserve the reproductive potential and/or life of the mother. Such an assertion is deceptively and patently untrue."

In a July 9, 1995, letter to Congressman TONY HALL, a registered nurse who had observed Dr. Haskell, who has performed over a thousand partial-birth abortions himself, perform several partial-birth abortions, described one such procedure. Again, this is somebody who was assisting the abortionist. She saw the procedure.

> The baby's body was moving. His little fingers were clasping together. He was kicking his feet. All the while, his little head was stuck inside. Dr. Haskell took a pair of scissors and inserted them into the back of the baby's head. Then he opened the scissors up. Then he stuck the high-powered suction tube into the hole and sucked the baby's brains out.

That is this procedure. That is gruesome. That is cruel. That is killing an innocent baby that is only seconds or inches away from delivery.

The American Medical Association's Council on Legislation, 12 members, thoroughly considered H.R. 1833 and voted unanimously to endorse the bill. After their action became public, they reconsidered the matter and voted unanimously again to endorse the bill. Although the full AMA Board of Trustees decided to take a neutral stance, the Senate does have the benefit of the carefully considered judgment of the AMA Council on Legislation on the bill. The AMA Legislative Council did not call for more time in which to study the bill. They had all the facts they needed to make a judgment. And so does the Senate. This bill should be passed. The President's veto should be overridden.

Mr. President, some people say that partial-birth abortions are done in order to save the life of the mother, or to protect her health. President Clinton used that as an excuse in his veto. I will give you a quote. According to the Physician's Ad Hoc Coalition for Truth, a coalition of about 300 medical specialists, including former Surgeon General C. Everett Koop, they emphatically state that even in cases involving severe fetal disorders partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. Never. These are the professionals. They say that a partial-birth abortion is never necessary to protect the mother's health or future fertility.

Dr. Martin Haskell—who I spoke about early and who performs partial-birth abortions—one of the major proponents and practitioners of this technique, states that some 80 percent which he has performed were for purely elective reasons. That was in an interview with AMA's American Medical News, July 5, 1993. His late colleague and fellow proponent of the partial-birth method claimed in material submitted to the House subcommittee that nonelective reasons to perform the procedure include psychiatric indications, such as depression and pediatric indications, that is, the mother is young.

Mr. President, one other comment. Some of the people who have advocated that this procedure should not be banned say it is very rare. I think they are incorrect. The stark fact is that unless this bill becomes law, more innocent unborn children will have their lives brutally ended by the inhumane partial-birth procedure. During last year's debate, the New York Times quoted the pro-choice National Abortion Federation as saying that only about 450 partial-birth abortions are performed each year. However, two lengthy investigative reports published last week in the Washington Post and the Record of Hackensack, New Jersey, reporters for both newspapers found that the procedure is far more common than pro-abortion groups have indicated, and is typically performed for nonmedical reasons.

The Record found, for example, that a single abortion clinic in Englewood, New Jersey, performs at least 1,500 partial-birth abortions per year—three times the number that the National Abortion Federation had claimed occur annually in the entire country. Doctors at the Englewood clinic say that only a minuscule amount are for medical reasons. One of the abortion doctors at that clinic told the Record

> Most are Medicaid patients, black and white, and most are for elective, not medical reasons: People who didn't realize, or didn't care, how far along they were. Most are teenagers.

Mr. President, it is unbelievable to me that this unspeakable abortion procedure even exists in this country, much less that we have to take legislative action to ban such a procedure, as well as attempt to override a Presidential veto.

It is further unbelievable to me that anyone in good conscience can even defend the partial-birth abortion procedure. It is a fiction to believe that it is all right to end the life of a baby whose body, except the head, is fully delivered. In order to engage in such a fiction one has to take the position that the curling fingers and the kicking legs have no life in them. Those who subscribe to such a fiction are at best terribly misguided. It is time to end this injustice and the practice of this procedure. I urge my colleagues to join us in voting to override the President's veto.

Mr. President, I agree with my colleague, Congressman TOM COBURN, who has delivered over 3,000 babies. He is still an active obstetrician. He is a professional in this area. He said this procedure is never, never called for. It is never necessary. He knows. The people who are supporting this procedure are saying we should never have any restrictions on abortion; that if you can't have this restriction, then you should not have any restriction, period. That means abortions for sex selection. That means abortion on demand for any reason. Abortion is a method of birth control; in this case birth control when the baby's head is only a few inches from delivery; maybe just a few seconds. Maybe the doctor is keeping the baby's head in so that life can be destroyed inside while the baby's head is still in the mother instead of just a few seconds later when it would be recognized as murder.

Mr. President, how can you say when the baby's arms and legs are kicking that it is not a live baby? We need to protect the lives of those innocent children. We need to override the President's veto.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE OMNIBUS PARKS BILL

Mr. MURKOWSKI. Mr. President, I am waiting for one of my colleagues. But in the interim I would like to bring to the attention of the Members the prospects again for addressing the 126 individual bills in the omnibus parks package.

This has been the culmination of some 2 years in the committee of jurisdiction, the Energy and Natural Resources Committee. As a consequence of that effort we are on the eve of initiating an action in this body that would result in the passage of this very important legislation which clearly is the most significant environmental package with some 126 bills that has come before this body.

As a continuation of my previous remarks, the conference-adopted amendments in sum serve to ensure that this legislation will rectify particularly the accumulation of inadequate funding which now totals some $4 billion necessary to maintain our parks in a manner which is in keeping with the uniqueness and oftentimes the sanctity of those areas.

One of the amendments adopted and totally submitted by the Senator from Arkansas, Senator BUMPERS, which addressed concerns of the National Park Foundation Act, is evidence that that amendment would serve to ensure that the legislation would not lead to unwarranted commercialization of the parks, or abuse by corporate sponsors. The theory, Mr. President, here is that this legislation would be implemented in such a way that it followed very much that patterned after the national Olympic committees which authorize certain very select stipulations with regard to certification by the Olympic committees of activities that can occur in association with the Olympics.

For example, if a movie is made in one of our national parks, is there any contribution given to that national park to that movie? If there is a picture of an automobile, a new model portrayed in front of Mount Shasta, is there a contribution from Chrysler, Ford or General Motors to that park?

This is the innovative approach that we are hoping to prevail in the National Park Foundation Act to help fund our parks, not to commercialize the parks. We are not going to have the park sponsored by "Joe Blow's Gas Station," or something of that nature, I assure you. It is going to be in keeping with the intention of the park.

Mr. GORTON. Mr. President, will the Senator, while he retains the floor, yield for a question?

Mr. MURKOWSKI. I am pleased to yield to the chairman of the committee of jurisdiction on parks.

Mr. GORTON. Mr. President, I want to say to my dear friend, the distinguished colleague from Alaska, how much I have admired all of the work that he has done as the chairman of the Committee on Energy and Natural Resources, and especially for his dedication to putting together and crafting a bill with a wide-ranging impact on our national parks and on other recreational land, and lands that are appropriate for preservation. I know how much that he wanted also to pass and have included provisions that are very important to him and to the people he represents in Alaska, and to other Members of this body.

I must confess that I felt that his ambitions were as great as they were worthy and that they were very likely to cause this body to not be able to act on many of these matters. As a consequence at the request of a number of Members of both the House and Senate, I have seriously considered whether or not it is appropriate to include in the Department of the Interior portion of our appropriations bill at least some of the important and not so controversial elements of that bill. I do have a particular interest—not that of a constituent interest—in one part of that. The Presidio portion of that bill is very important because the Presidio is by far the most expensive of our national parks and takes up a tremendous amount of the appropriations in which I supervise and oversee and chair in this body. To get the kind of community participation in San Francisco that we have desired to take some of the burdens of the local aspects of the Presidio off our hands so that we can better fund other national parks is important. So that was one element of the bill that we proposed to include.

I have been as delighted, however, as I was surprised at the ability of the Senator from Alaska now to put together a conference committee report which is ready to be reported and debated in the Senate. I simply say to my colleagues they are not going to get the half or quarter loaf that was a possibility in the appropriations bill. This was an alternative if the conference committee could not work a way out. I am as committed and as dedicated to the passage of the entire bill that the Senator from Alaska as the chairman of the committee has submitted, I hope, almost as much as he is. It is, in the vernacular, the only train through town during the rest of this session, and I hope the Senate will soon be able to take it up and be able to pass it.

With that, I yield.

Mr. MURKOWSKI. If I may respond to my colleague with reference to the Presidio in relation to the trust which is authorized in the legislation, it is my understanding the proposal advocated by some for the Government to manage that facility was somewhere in the area of $1.2 billion. The intention of the trust will be to use some of the extraordinarily talented people in San Francisco who are knowledgeable on finance, development, and environmental concerns to come together and operate this similar to the Pennsylvania Avenue effort here in Washington that has been so effective in rejuvenating the downtown area. Obviously, the people of San Francisco are closest to that and the justification for that application working, I am satisfied, having met several people that I assume would be appointed by the President if, indeed, the Presidio package becomes law.

Mr. GORTON. The Senator from Alaska is entirely correct. The National Park Service is not set up to be the manager of the extensive and varied kinds of buildings that are found on the Presidio, very expensive to keep up, very expensive in requiring a great deal of sensitivity to lease or to rent in a way that is consistent with the land around and in the Presidio itself. So the trust is clearly the right way to go, and that is the leading element of the bill that the Senator from Alaska has reported. It is by no means the only one. As I understand from his notes, as many as 41 States may have projects that are helped by that bill. I hope, as the Senator from Alaska does, that the Senate will take it up promptly and will pass it promptly and it will be signed by the President. But in any event, that is the only way we are going to get from here to there.

Mr. MURKOWSKI. I thank my friend from Washington. I remind him, too, that Washington has some other interests. There is the Vancouver Reserve establishment and the Hanford Reach protection that are associated with the State of Washington exclusively. There are currently 126 individual bills in this package, and the significance of it, as the Senator well knows, is the result of a great deal of individual Members' and staffs' time, commitment, and hearings that have resulted in the last 2 years of effort.

Now, some of my friends tell me they have been at their individual bills longer than that. I want to assure my friend from Washington that those items that the administration identified as items, in their opinion, warranting a veto—the Tongass was one, Utah wilderness, grazing, the Minnesota boundary waters—all have been removed. I am sure if the administration wants to find something to veto, why, they will choose to do that, but they should also bear the responsibility of accountability for the very positive aspects of this bill which do represent some 41 States' interests and 126 individual participations in this portion.

I thank my friend from Washington for his statement relative to the fact that this is the train. It has left the station. I encourage my colleagues to recognize that, if we do not do it now, it simply will not get done. I thank my friend from Washington.

I will conclude my references with the remainder of my statement, Mr. President, relative to a little more enlightenment on the issue. I again refer to the National Park Foundation Act and the aspects of ensuring that we will get the balance necessary to ensure that the parks are not victimized by commercialization associated with this amendment, which would simply relieve some of the appropriation process to ensure that the funds can be contributed by appropriate corporate sponsors related to legitimate activities that are allowed in the parks similar to what I have described relative to movie background and the tradition there has been no consideration given to the parks for that and other types of activities in keeping with the sanctity of the park.

I do want to expand on one more item of major importance which I think some would suggest is as important to some extent as the Presidio and that is the California bay delta environmental enhancement legislation which is in there. This provision is backed by virtually everyone and is equal to or certainly on a par with the Everglades initiative in its significance because those of us who are familiar with the bay area recognize what this bay delta environmental enhancement legislation would do to clean up the bay. The authorities in this bill will allow for massive restoration, massive cleanup in San Francisco Bay and the delta region.

As I have indicated in the colloquy with my friend from Washington, this legislation touches nearly every State in the Nation, and while we attempted to address the concerns of all of our colleagues, as I have indicated, some of the items fell by the wayside either because we could not agree among our conferees, the House and Senate could not agree, or the administration could not agree. Of course, as I have indicated earlier, President Clinton made it very clear that if certain provisions were included in the package, he would veto the entire effort, no matter how meritorious.

As I indicated, we addressed that in the wilderness bill which was abandoned, the grazing bill which was abandoned. Unfortunately, communities in our Western States are not too happy about this. A portion of Minnesota will not have the benefit of motorized portages in the Boundary Waters Canoe Area. In my State, the Ketchikan contract extension provision was left on the table because the President made it clear that he would veto the entire bill. This meant as many as potentially 4,000 jobs—1,000 direct, 3,000 indirect—would be the result of not including that contract extension. Those are the only year-round manufacturing jobs we have in the State. As a consequence, I feel very badly about this. These are jobs that this administration sacrificed in my State, in my opinion, to appease an environmental lobby, which I think is unfortunate because the environmental lobby has attempted to instill fear instead of reality and logic. There is a very positive reaction which could result from the Ketchikan contract extension leading to advanced technology in other mills. But, for reasons that are quite obvious, the objective is simply to terminate harvesting of all timber in forests. And this administration and the environmental community seem to be hell-bent to achieve that.

The administration seems to have continued to oppose any value-added use of the Tongass National Forest. I think it is difficult, and sad, when the Government turns its back on the men and women who have built communities and towns and made them livable for those who come after. I think it is a harsh action. It is one without compassion. And the explanation is, well, if there are people suffering, we will simply write a check; we will provide funds to offset their loss of jobs through various types of assistance.

That is not what built America. That is not what built my State. It is not what is going to continue to maintain our area. There are certain limitations on what taxpayers should be expected to do given what people want to do to help themselves. I think it is disappointing the administration has chosen to turn its back on our workers, again, effectively killing our only year-round manufacturing/processing plant in the State.

So, we have come full circle in the Tongass. Some of my Alaskan friends will reflect on the time when we were a territory, prior to 1959. They had a couple of sawmills. There was no real available timber at that time. There was no demand at that time. The Forest Service was not structured to any extent at that time. The theory was: How can we develop some jobs, some tax base, an economy in southeastern Alaska?

After the war, they began to look north towards the pulp stands. I might add, 50 percent of the standing timber is in the form usable for pulp. It does not meet sawmill requirements. It has virtually no other use than dissolving pulp. The question is, are we going to allow this 50 percent of timber in southeastern Alaska to be exported to the pulp mills in the south 48, Washington, Oregon, British Columbia?

The head of the Forest Service, who later became Governor in the State of Alaska, Governor Hickel, initiated a plan to establish four pulp mills in Alaska. Two of those were built. Two years ago, under environmental opposition, the Sitka mill was closed. Today, or in the not too distant future, we are about to see the termination of the one remaining mill, the Ketchikan pulp mill. So we made full circle to where we were when we were a territory. We have no utilization of 50 percent of the timber, other than to export it to mills in the Pacific Northwest and British Columbia, exporting our jobs, exporting our tax base.

There are a lot of unhappy Alaskans as a consequence of the inability of this administration to consider the merits of extending the contract so the $200 million investment can be made in a new mill.

So, the administration eliminated the chances for the pulp mill contract extension because there are certainly not enough votes in a Presidential election year to override a Presidential veto. I think it is truly regrettable that this administration has seen fit to make Tongass management an election issue, to pander to some of the extreme environmental groups who have established themselves in our State. I think we have 62 of them now. If you are not in Alaska, you are not a legitimate environmental group. They send their lawyers up to do missionary work, because everybody has a little different view and vision of Alaska. Their vision is that somehow Alaska should not be subject to any responsible resource development. Whether it be timber, oil and gas, mining, we cannot do it safely, really selling American technology short. They use their presence, then, for their cause or causes, raising money and increasing membership by advanced rhetoric, fear tactics that we cannot do it safely.

Mr. President, we are currently 51.4 percent dependent on imported oil. In 1973, we were 36 percent dependent on imported oil. The Department of Energy says by the year 2000, 4 years away, we will be 66 percent dependent on imported oil.

We are exporting our jobs, we are exporting our dollars, we are exposing the national energy security interests of this country to the whims of the Mideast that we have become so dependent on. We will pay the piper. The public will blame Government. They will blame the industry. We have been producing 25 percent of the total crude oil for the last 18 years. It is in decline. We can replace it. We have the know-how. But America's environmental community says no.

They do not say no with an alternative; they simply say no, because it generates membership and the American people cannot go up and look at it. They cannot go up and look at Endicott, which is now the seventh largest producing field in North America. The footprint is 54 acres. If we could develop, with the technology we have, the ANWR area would be 12,500 acres or less, about the size of the Dulles International Airport if the rest of Virginia were wilderness. Those are the dimensions. That is the technology. We will pay the piper and the environmental groups will not take any of the responsibility.

Their cause is fear. They have been very effective. And those of us who have tried to be a little more objective, I guess, have failed. That is where we are, certainly, on this issue, with the loss of our only manufacturing plant.

In conclusion, all the controversial items have been removed from this bill. The administration may not like every detail of every provision, but in total it is a very acceptable, very profound, very worthwhile package because it is for our parks and for resource conservation. It addresses the concerns of our national parks and our public lands. I guess it also represents what is wrong with our system, because Member after Member will come to me, as does the media, and say: Why did you have to have this huge package of bills? Why did you not pass them out? You are the chairman of the committee.

In deference to all of us, we know how this place works. Virtually every bill we reported out, every one of these 126 bills that are in the package, have had holds placed on them after we moved them out of committee, reported them out of committee. This is a right, under the rules of the Senate, but that is what is wrong with the process. So, after our efforts to untangle this and put it together and take away those items that were poison pills that the administration addressed, we presented the package as a consequence of the conference last night and our ability to have the House accept and send over the package.

We had one senior Senator who placed a hold on committee bills because of totally unrelated bills which the full Senate eventually voted, 63 to 37, to pass.

The abuse of the hold has contributed to the construction of this package. I guess one bill cannot move without another and another and another. The system needs repair so the Senate can proceed to meritorious legislation in a timely fashion on the merits of each individual bill.

I see other Senators waiting. This Senator has been waiting to bring the Presidio package before this body since 1 o'clock. I understand there is some concern on the other side of the aisle. We have not heard an expression of what that concern is. As I have indicated, if they are looking for an excuse to hold it up, veto it, then let's say so. Let's say so. Let's have it out. I am sure they can find one.

But if not, as the Senator from Washington said, if you are expecting some of the issues, some of these bills to be taken out of the omnibus parks package and put in the reconciliation package as a consequence of work underway by the Interior Appropriations Subcommittee, you have just heard the Senator from Washington, the chairman of that subcommittee, indicate that this is the only train moving. He is not going to take bills out of this portion and put them in the Interior appropriations bill and put it on the CR.

This is the train that is moving. We are ready to move with it. If you are going to hold up the train, you have to bear the responsibility for 41 States that are affected here—37 to 41, depending. Some of them are double-counted, like New Jersey and New York, because they affect both States, or the 126 individual bills that are in the package.

I encourage my colleagues to either come to the floor and indicate why they find it unacceptable, or face up to the opportunity we have now and pass it now. Procedurally, the last point I want to make is, if there is a motion that prevails to recommit, the package is dead. It is over. That is it once and for all. It is gone. We have lost our opportunity.

I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, may I inquire what the procedure is at the current time?

The PRESIDING OFFICER. The Senators can speak in morning business.

PARTIAL-BIRTH ABORTION

Mr. COATS. Mr. President, I would like to take a few minutes to speak on the issue that we will be debating at some length tomorrow, partial-birth abortion. My understanding is we have reserved a considerable amount of time for debate tomorrow.

I think it is important we have that debate. Clearly, we are heading toward perhaps one of the most difficult, but most important, votes in the U.S. Senate, difficult because it deals with an issue of such immense consequences that I think it is important that each Senator focus very clearly on the issue at hand.

This is not another one of those issues where I think anybody can just simply say, "Well, I'm pro-life." "I'm pro-choice." "What is the pro-life vote?" "What is the pro-choice vote?" "Tell me what that is and I'll vote and walk off the floor and go on with my business." In my opinion, whether you are of the pro-life persuasion or the pro-choice persuasion, this issue deals with something of even greater consequence than that issue which is of extreme consequence. But this deals with something beyond the normal discussion that has taken place on the issues that would be categorized under the "pro-life, pro-choice" issues.

The President's veto of legislation passed by the Senate and passed by the House of Representatives banning partial-birth abortions, except in the case where the mother's life is jeopardized, forces us, I believe, to confront a fundamental question of whether we will have a society that is civilized or one that is uncivilized.

It is of such great importance and such consequence that I urge every Senator to examine carefully the facts—not the rhetoric—but the facts surrounding this issue. Facts that were—at least information that was purported to be fact during the original discussion of this issue have now fallen to new information, information that has indicated to us that we did not have all of the facts at hand when we made that original vote. Hopefully, that will cause some Senators to reconsider their vote. It certainly has caused some of those who have examined the subject and written about the subject to reconsider their position.

Richard Cohen, who less than a year ago, during the time of debate on the partial-birth question, wrote an article which was published in the Washington Post, and probably in other periodicals around the country, justifying his conclusion that the partial-birth abortion procedure was justified.

But after examination of what he called "new data about this type of abortion," he wrote a second article in which he admitted to having been misled by the data supplied by, and I quote his writing, "the usual pro-choice groups."

Ruth Pabawer, writing for the Sunday Record in New Jersey, after extensive investigation determined that "interviews with physicians who use the method"—that is the method of partial-birth abortion—"reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year—three times the supposed national rate."

It was stated on this floor a number of times, and has been repeated on this floor a number of times, that we are talking about a very rare procedure, one that is used primarily, and almost exclusively, in cases of extreme health distress or extreme risk to the life of the mother; that it is performed roughly around 600 or so times a year on a national basis.

Yet, a respected reporter writing in New Jersey has concluded after her investigations that at least 1,500 partial-birth abortions are performed each year in that State alone, and that most of those 1,500 abortions are not performed in situations or instances when the life of the mother is at stake, not even performed for medical reasons, but simply performed because the mother-to-be of that child has changed her mind; that circumstances are different, that there has been some indication of a problem but, in most cases, not even that, merely a change of mind as to whether or not that child was a wanted child. And so the abortion is performed.

If we extrapolate the 1,500 in New Jersey out nationwide, we are talking about several thousand, if not tens of thousands, of these procedures occurring every year. This is data that was not available to us when we discussed this issue on the floor previously.

Mr. President, it was the Washington Post that reported that it is possible, and I am quoting, "and maybe even likely, that the majority of the partial-birth abortions performed are performed on normal fetuses, not on fetuses suffering genetic or developmental abnormalities. Furthermore, in most cases where the procedure is used, physical health of the woman whose pregnancy is being terminated is not in jeopardy. In virtually all cases, there are alternative ways to perform the abortion safely."

This is only part of the evidence that has been supplied to us and provided to us that was not available when we debated the issue earlier. I suggest this new data is something that every Member of the Senate ought to very carefully consider, because if a decision to support a procedure, a medical procedure, which, as Senator MOYNIHAN has suggested, really borders on infanticide—taking a child, sometimes five, six or even more months of gestation, a child that, if born, would, in most instances, easily survive, easily be nurtured to complete health—if that happened at that stage, then we clearly would have a situation that would require no medical procedure, no abortion procedure.

Yet, that child is, under partial-birth abortion, almost born, is within 3 inches and 3 seconds of birth and then killed, terminated. That life is terminated. The heart is beating, the brain is functioning, the body is complete, the child is ready—even though it might be premature—it is ready to become a functioning member of the human race, of the human society. Yet, that child, and I will talk more about this tomorrow, that child is then subjected to generally a probe or scissors punctured into its brain, a suction tube inserted through that hole, its brains sucked out of its skull, the skull then collapses to allow the abortion then of the dead child.

That is the procedure we are talking about. It may have been justified in some minds on the basis that this was a rare procedure. It may have been justified in some minds on the basis that this procedure was necessary to save a mother's life. We now know that that is not the case. We now know that in most instances of partial-birth abortion, that no such situation is reality. Rather, we now know that these are simply done as a feasible, medically feasible means of terminating the life of the child.

This Nation has, in its history, always sought to expand the circle of those who deserve equal rights under the Constitution, and deserve to be a part of this civilization. We have fortunately—and too late—but still fortunately shed the discomfort and disgust we once had, or at least some had, for people of different color, and we have brought them into the full civil rights of the Constitution and of people in this Nation.

We have extended those rights to people of the other gender, women in terms of their rights and ability to vote. Our impulses have extended rights to those who are disabled. The Americans With Disabilities Act extends those rights. But the history of civil rights in this country has been an ever-widening circle of inclusion.

Yet, for the most defenseless in our society, for the smallest, the weakest of our society, we refuse to extend that right. And in this situation, in the case where the child is clearly beyond the age of viability, under any definition, when birth of the child simply means an extended hospital stay until the child is a little stronger and able to go home, with his or her mother, we have a situation where, in most instances, for the sake of convenience that child's life is terminated.

But, Mr. President, I do not mean to imply that this is a matter of numbers, that even if there were only 660 abortions performed on an annual basis that that would justify that procedure. Because even if one abortion were performed using the medical procedures used in partial-birth abortions or performed at the age of the child which these abortions are performed, even if there was only one, we ought to have this debate on the Senate floor. And we ought to have this vote, because this is a procedure that it is now clear is a procedure that takes the life of a living human being, a human being fully viable, fully capable of living on its own.

If this procedure were performed in another country, I would guess that we would be down here debating the human rights of that country, and there would be amendments offered to deny trade, to deny foreign relations, to reach out and call out these unspeakable procedures that are taking place in nations around the world.

If this were a procedure that was being performed during conflict, in a war, we would have people standing on this floor arguing and debating and offering amendments calling for war criminal trials against those who were performing the procedure. And yet, here we are standing on the floor of the U.S. Senate, and calling this a choice, a medical procedure, chosen by a woman in consultation with her doctor. And those of us who believe that this procedure should not be performed are being labeled as those who attempt to interfere with that choice.

Mr. President, I will have a great deal more to say about this tomorrow as we engage in our full debate. But I hope again that each Member would avail themselves of the new information that has come to light about this procedure, about the number of times that it is performed, about why it is performed, and would think through very carefully about the consequences of allowing this procedure to continue, the consequences to us as a society, as a civilization, and what it says about a society that, under the mantle of law, allows such a procedure to take place. Mr. President, with that, I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

THE NATIONAL ENDOWMENT FOR THE ARTS, THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Mr. PELL. Mr. President, during my last days in Congress, I wish to state my unequivocal support of the restoration of funds to the National Endowment for the Arts and the National Endowment for the Humanities. These fine agencies have sustained disproportionate and unreasonable cuts over the past 2 years, and the erosion must stop.

As coauthor of the legislation that created the endowments 31 years ago, I have felt like a proud father as both endowments have served the guiding principles upon which they were conceived. Overall, their programs have been remarkably successful. There has been overwhelming evidence of the positive impact of the arts and humanities on education, the economy, urban renewal, and cultural pride. It is important that two endowments are funded sufficiently to be able to continue their worthwhile and extremely effective endeavors to improve the quality of life for all Americans.

Mr. President, I am by no means alone today in favor of continued Federal funding for the arts and humanities. There is a strong bipartisan commitment. Earlier, Senator JEFFORDS and I circulated a letter signed by 31 Members that expressed their support of appropriations for the NEA, NEH, and IMS in fiscal year 1997 at current or slightly increased levels, and I ask that the letter be included in the RECORD. Other Members have spoken with us subsequently regarding their support.

The American public remains solidly and strongly behind Federal support for the arts and humanities. A recent Harris poll found that a 61 percent majority of Americans—to 37 percent saying "no"—would be willing to be taxed $5 more in order to pay for Federal financial support for the arts. These people believe the arts to be important and would sorely miss them if they were not there.

In Rhode Island, the restored Humanities funding means quite literally survival for an extremely important project that provides fascinating information to all Americans, not just the residents of my State. With NEH funding, the Rhode Island Historical Society is reassembling the Papers of Nathanael Greene from over 100 libraries and collections scattered around the country, and is currently preparing the 10th of a total of 13 planned volumes. Nathanael Greene, you will recall was a Rhode Islander sent by George Washington to liberate the South—a task he accomplished with distinction. If work on the Papers stops now, it will be the history of Georgia and the Carolinas that would not be published. Interestingly, while Greene was alive, Congress promised to publish his daily letters and orders. How poignant that we fulfill this promise now.

As I enter my last days as a U.S. Senator—36 years among wonderful colleagues—I urge Congress to support the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services at a level where they can fulfill their potential and continue to bring American culture to all Americans. I hope to hear that the issues that are preventing the reauthorization of the programs of these agencies will be resolved amicably in the 105th Congress.

Mr. President, I ask unanimous consent that a letter to the chairman of the Subcommittee on Interior Appropriations be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 18, 1996.

Senator SLADE GORTON,
Chairman, Subcommittee on Interior Appropriations, Washington, DC.

DEAR SLADE: As the appropriations process for fiscal year 1997 begins in the Senate, we wanted to take a moment to share with you our strong commitment to supporting continued funding for the National Endowment for the Arts (NEA), the National Endowment for the Humanities (NEH) and the Institute for Museum Services (IMS). As you know, this issue of continued federal funding for the arts and humanities is one of great importance to us—one which was successfully resolved last year, in large part due to your leadership in working out the differences between the House and the Senate.

As you recall, last July, the Labor and Human Resource Committee passed a bill to reauthorize the National Endowments for the Arts and Humanities and the Institute for Museum and Library Services—by a vote of 12-4. This strong show of bi-partisan support, we believe, demonstrates a continued sentiment on the part of the Senate to fund these agencies. Therefore, we strongly support your efforts to include appropriations for the NEA, NEH and IMS for the upcoming fiscal year and hope that we might see an increase over last fiscal year's appropriations for these agencies—enabling each one to continue the important job of making the arts and humanities more accessible to people all across our nation.

We recognize that you will face many difficult decisions in the weeks ahead, and ask only that you continue to keep in mind the positive and valuable effect that arts and humanities projects have in all of our respective States. The Senate's commitment to federal support will ensure that arts and humanities programs, activities and exhibitions will continue to be available in local communities—engaging and educating individuals of all ages—in addition to making an enormous contribution to expanding and enriching our nation's cultural heritage and artistic traditions.

We are grateful for your support of the reauthorization of the National Endowments as well as your leadership in managing the Interior Appropriations bill last year, and look forward to working with you again this year.

Sincerely,

Jim Jeffords, John Chafee, Al Simpson, Bill Frist, Jay Rockefeller, Barbara A. Mikulski, Frank R. Lautenberg, Paul D. Wellstone, Carol Moseley-Braun, Claiborne Pell, John Glenn, ———, Barbara Boxer, J. Lieberman, John Breaux, Bill Bradley, ———, Daniel Patrick Moynihan, Carl Levin, Bob Kerry, Wendell H. Ford, ———, Charles S. Robb, Olympia J. Snowe, ———, Patrick J. Leahy, Christopher J. Dodd, Ron Wyden, Daniel K. Akaka, ———, Thomas A. Daschle

HOW THE UNITED NATIONS BENEFITS AMERICANS: THE U.N. ENVIRONMENT PROGRAMME

Mr. PELL. Mr. President, last week, the 51st session of the U.N. General Assembly convened in New York City. To recognize the occasion, I spoke on the floor of the Senate to highlight some of the many benefits that the United Nations brings to the American public. The United Nation has furthered American national interests by working to promote peace and democracy, to protect human rights, to strengthen international stability, and to foster cooperation between states on a wide range of important issues. Today I wish to focus on one of these important issues—an area where the United Nations has made significant advances by enabling countries to work together and to find common solutions to common problems. Today I wish to discuss the unique role of the U.N. Environment Programme.

The 1972 U.N. Conference on the Human Environment in Stockholm was the catalyst for the creation of the U.N. Environment Programme [or UNEP]. As a participant in those meetings, I eagerly supported the effort to integrate human development and the protection of the environment as two equally important goals to the international community. The establishment of UNEP ensured that all countries would have access to technical information and skills in order to develop and improve national environmental policy. UNEP has also served as a valuable forum for reaching international and regional consensus on laws and operational standards that reinforce cooperative efforts to achieve long-term sustainable development.

Because of its unique role within the United Nations as the only agency with the mandate to make environmental concerns the top priority, UNEP has facilitated U.S. policy initiative in the environmental field. As Secretary of State Warren Christopher noted in an address at Stanford University last April:

> The environment has a profound impact on our national interests in two ways: First, environmental forces transcend borders and oceans to threaten directly the health, prosperity and jobs of American citizens. Second, addressing natural resource issues is frequently critical to achieving political and economic stability, and to pursuing our strategic goals around the world.

I wholeheartedly agree with Secretary Christopher that the United States must view environmental problems from a global perspective. The actions of one state inevitably affect the well-being of the citizens of its neighbors. The United States cannot afford to ignore the overpopulation, or the pollution, or the deforestation occurring in other countries because the consequences could be devastating right here at home.

That is why the United States has participated in and supported U.N. agencies like UNEP. It is in our own best interests to work together with other states to protect the international environment. Under the leadership of UNEP over the last 20 years, the international community has agreed upon several international conventions which directly further U.S. environmental objectives. These conventions include the 1973 Convention on International Trade in Endangered Species [or CITES] which prohibits or regulates trade in some 35,000 endangered species; the 1985 Vienna Convention for the Protection of the Ozone Layer and the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, which have led to a 77 percent drop in global CFC emissions since 1988—saving millions of lives through the prevention of skin cancer—and the 1992 UN Framework Convention on Climate Change, which commits industrialized countries to reducing their emissions of greenhouse gases by the year 2000. These are but a few examples of international cooperation led by UNEP which have benefited U.S. citizens.

Despite these tangible benefits, however, I am concerned that the survival of UNEP is in jeopardy today. At a time when our Government's financial constraints are increasing, the United States should be looking for ways to increase cooperation with other states in order to avoid bearing the cost of acting alone. While I support the calls for making U.N. agencies more efficient and effective, it is important that the United States continue to play a leading role in promoting international environmental cooperation by supporting UNEP. The Clinton administration should persist in its efforts to streamline the programs and personnel of UNEP while making some real financial commitments at the upcoming meeting of the governing council in January. Equally important, the decision on the leadership of UNEP should be given high priority for United States attention during the next month.

This is a critical moment for UNEP as the agency's financial crisis has reached a point where many of its important programs may no longer be viable. Given the recent decrease in financial and political support for UNEP from its member states, the international community must decide whether or not environmental concerns are still a priority on the international agenda. If the answer is yes, then all member states must commit themselves to both reforming and financially supporting UNEP. We have seen 20 years of impressive progress in the environmental field that has often been achieved through the expertise and leadership of UNEP. With so much at stake, it would be a tragedy to allow this organization to founder today.

WORLD LEADERS SIGN TEST BAN TREATY

Mr. PELL. Mr. President, I was fortunate to be in New York at the United Nations yesterday with President Clinton for the signing of the Comprehensive Test Ban Treaty.

I can report to you that there is a tremendous sense of gratification of achievement in the United Nations with regard to this treaty. It was finally approved last week by an overwhelming majority of the Members in a 158-to-3 vote.

I will be serving this fall at the United Nations as a Member of the United States delegation. Fifty-one years ago, I had the honor of serving on the International Secretariat of the San Francisco Conference that drew up the United Nations' Charter. I was one of those flushed with youthful enthusiasm with regard to the potential future of the United Nations. In the years since, there have been excellent achievements and some disappointments. I must say that I rank the united effort that led to the comprehensive test ban as one of the paramount successes.

President Clinton has been able to bring to fruition an effort begun more than three decades ago by Presidents Eisenhower and Kennedy. The first test ban was negotiated under the direct and forceful leadership of President Kennedy, who drew upon the workable aspects of the Russian position in order to help bring about the Limited Test Ban Treaty of 1963, which restricted nuclear testing to underground environs.

The next test ban treaty came in 1974 under President Nixon's leadership, when the Threshold Test Ban Treaty was negotiated. The companion Peaceful Nuclear Explosions Treaty was signed in 1976 in the Ford administration.

President Carter attempted to achieve agreement on a comprehensive test ban, but lacked sufficient time to do so. President Clinton played a leading role in bringing the comprehensive test ban, which represents the culmination of those earlier efforts, to conclusion this summer.

Under this treaty, the parties will be obligated not to conduct any nuclear weapon test explosion or any other nuclear explosion. This very strong prohibition is a direct result of President Clinton's forward-thinking decision on August 11, 1995, not to agree to any exceptions to this ban, but instead to negotiate a true zero yield comprehensive test ban treaty.

Bringing this to fruition was a very high priority of Secretary of State Warren Christopher and ACDA Director John Holum. It involved years of painstaking work at the Conference on Disarmament in Geneva by Ambassador Stephen Ledogar and his delegation and in Washington by the backstopping team led by Dr. Pierce Corden of the Arm Control and Disarmament Agency.

There is no question in my mind that this treaty from this date forward will constrain the qualitative development of nuclear weapons. International controls and the inspection regime will become active upon entry into force. It will serve to ban the development of advanced new types of nuclear weapons and it will serve to demonstrate to the world that the declared nuclear powers—United States, Great Britain, France, Russia, and China—are truly committed to control their nuclear arsenals and genuinely desire to contribute to the prevention of nuclear proliferation.

This treaty truly represents a significant step toward nuclear disarmament.

Mr. President, we would be deluding ourselves if we thought that gaining Senate advice and consent to a comprehensive test ban treaty is going to be easy. It will not be. Once the treaty is submitted by the President, the Committee on Foreign Relations, of which I have been chairman or ranking member since 1981, will hold thorough and wide-ranging hearings. It is a process that I would enjoy very much, but will instead be viewing from a distance as a retired Senator.

The degree of contentiousness that is possible can be seen in the simple fact that the treaty was achieved by a Democratic President with the support of his party and is rejected in the Republican Party platform adopted this summer.

I hope that the hearings to be held by the Committee on Foreign Relations will serve to bring the sides together and will serve to assuage the fears and concerns of those who fear the possible consequences to our national security of a comprehensive ban on nuclear testing.

I believe that, since nuclear weapons design clearly is a mature science, we do not need further testing to assure that our scientists have done their work well and that we can move into a future without nuclear testing secure in the knowledge that we have a fine and reliable nuclear arsenal deterrent that will serve us well so long as we rely upon nuclear weapons to protect us.

Experts will testify that there are no safety and reliability issues that would necessitate further testing. Experts will also assure us that the restraints that this treaty will place on other nations are very much in our national security interests. Moreover, I would expect there will be expert testimony from the intelligence community that will provide the necessary reassurance to the Senate.

When all of that happens, I would expect that the Senate will, indeed, determine that it can proceed ahead with the comprehensive test ban without any jeopardy to our national security. That step forward will bring us well-deserved commendation from other nations and it will be a gift beyond value to the generations that will succeed us.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

PARTIAL-BIRTH ABORTIONS

Mr. INHOFE. Mr. President, like the Senator from Indiana, this is kind of a preview to coming attractions. I plan tomorrow to spend some time on the floor talking about one of the most serious issues we have been addressing here in the U.S. Senate, that is, the issue of partial-birth abortion.

As I was listening to the Senator from Indiana, the statements he made, it occurred to me that if we made one mistake during this entire debate, it has been to refer to this as an abortion, because most people think of abortions as something that is taking place prior to the time that, in their own minds, a fetus becomes a human being. I suggest that everyone has to make that decision as to when human life begins. I made my decision many years ago.

But I think when you deal with something as barbaric as a procedure such as the partial-birth abortion, you have to understand that this is something that happens at a time and can happen during a normal birth process.

I know the occupant of the Chair recently went through an experience when his wife delivered a new child. I am happy to tell you, Mr. President, that on Friday of this week, I will have my fourth grandchild, so I know something about this, too.

I remember so well, and I will be referring to this tomorrow, an experience I had about January of this year when we had the birth, at that time, of my third grandchild. My daughter called me up and said, "Daddy, would you like to come over and come into the delivery room?" Of course, back when we were having babies they would not let you in the same hospital, let alone the same delivery room. I remember so well when the baby was born, baby Jason was just a tiny, beautiful thing, and it had not been more than a minute since his first breath and she handed this baby to me, and I thought, this is just about the time this procedure has been customarily used; if only people knew what was happening, the fact that an incision would be made into the back of the head in a baby that is three-fourths of the way already born in this world, open up the head, and place a catheter and suck the brains out and the skull collapses. It is barbaric. It is a procedure that we have to do something about in this country.

I had occasion to ride back to Oklahoma with one of my fellow delegates, a Member of Congress, TOM COBURN, a medical doctor. TOM COBURN, Member of the House of Representatives, described this, because he saw this procedure take place one time. He said it was nightmarish.

Last Monday, I had occasion to be in a number of cities and small towns in Oklahoma, having a series of town meetings, places, Mr. President, you have never heard of, like Durant, OK, and Idabel, OK, and Pontotoc, OK. There was not one place where they did not bring up in the course of this meeting: Are you really going to do something back there like the House did, do away with this procedure? Well, when I told them that the votes were not there and that President Clinton had vetoed our attempt to make this procedure illegal, it became, all of a sudden, a character question on him: Why would he do that? I have no way of answering that.

Tomorrow I will present over 15,000 signatures of people from Oklahoma and the comments they have made, over 15,000 people who are saying: Whatever you do, override the veto as the House of Representatives did.

As I have served here and I see people who want to retain a medical procedure that allows this method of taking the life of a small baby and I think of the people who are behind this, and you know what the baby is going through, because tomorrow I will read a report that will lead you to the incontrovertible conclusion that a baby, even in the first trimester, feels and senses the same pain that you feel, Mr. President, or anyone else in this Chamber, or any baby that is fully born and out and breathing today.

It occurred to me when the distinguished Senator from Indiana, Senator

COATS, was talking a few minutes ago and he talked about if this were happening in another country we would be invoking sanctions, we would be talking about how this might affect trade, talking about economic aid. I would go a step further than the Senator from Indiana. I would say if this had been happening, if this procedure were legal and taking place in an animal, a dog or a cat, those same people who are trying to keep this medical procedure in our law would be picketing back and forth outside our Senate offices.

Tomorrow we will have a chance to talk about it.

(The remarks of Mr. INHOFE pertaining to the introduction of S. 2129 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Senator from Colorado is recognized.

Mr. BROWN. Mr. President, I am advised by leadership that there will be no further votes today.

Mr. President, I rise to address the question of the partial-birth abortion ban.

Mr. President, I must disclose at the start of this discussion that I am pro-choice. I have been pro-choice ever since I entered public life. I have been pro-choice in my voting pattern in the Senate and pro-choice in my voting pattern in the House of Representatives. I was pro-choice in my voting pattern in the State legislature of Colorado. I have been pro-choice in the discussions and debates we have had in Colorado, as well as in Washington, DC. So I come to this question of partial-birth abortions with a clear pro-choice record.

I must say that I am not for subsidizing abortions. In that regard, no one is liable to give you a perfect score—even the pro-choice groups of which I feel part of, because occasionally those votes get counted. But then I have not been very good at subsidizing anything with public funds. So perhaps I can be seen as unforgiving in that area.

Mr. President, I am pro-choice because I believe in limited Government. I know many of my friends and colleagues have described someone who is pro-choice as being liberal. My own sense is that it is exactly the opposite. A society that gives citizens maximum choice and discretion in their lives is conservative, in my way of thinking, not liberal. For those who have suggested that this unreasonably or unfairly restricts a person's right to choose, I submit that that is a mistake. If someone shares my view that part of limited Government involves maximizing individual freedom and choice, then they rightly wish to preserve rights for people, even though they may not agree with them. Such, I think, is the case with many people who seek to preserve people's rights or the freedom to choose with regard to abortions. That does not mean—in spite of what the critics say—that one has to be in favor of abortions. It does mean that one has to understand that sometimes things happen in a free society, that we don't like, and where we do not think it is the Government's right to dictate the answer.

Mr. President, it seems to me that it is important for Members, as they cast this very important vote on the veto override, to take a look at the specifics of the bill itself. Here are some observations, that I see as I look at it. The expert testimony we had before the committee indicated that as many as 1,000 to 1,500 abortions a year, perhaps more are done using this procedure. The actual number of partial-birth abortions performed in a year is unknown. Second, it is a very rare procedure and very limited in scope, primarily confined to a late-term pregnancies. If one approaches this issue with concern about preserving the right to choose, and suggests that banning this procedure eliminates the right to choose, I think they would be mistaken. It is quite clear, if one looks at the facts and the number of these procedures that are performed, that restricting them or prohibiting them does not eliminate someone's right to choose. The bill is extremely tightly drawn.

Mr. President, I played a small part in helping to make it a tighter bill. As Members are aware, the bill does involve potential liability claims for people who violate the law. That liability was more broad than I thought it ought to be. To limit the scope of the bill on the issue of liability, my amendment was adopted to prohibited a complainant from suing those who assist the doctor in performing the procedure. Prior to that amendment, it was possible to sue the nurses, anesthesiologist, and attendants associated with one of these procedures. My amendment eliminated those potential liability claims because those people primarily respond to the initiatives of the patients and physicians and not acting on their own authority. I also offered the amendment that prohibited the father from suing under these circumstances, if he was not married to the mother at the time of the procedure and if he had not stepped forward to acknowledge the child and provide support for the child. I see no reason for us to provide a windfall to deadbeat dads. We ought to be encouraging people to take responsibility, not think up rewards for those who don't.

But, Mr. President, we cannot ignore the medical evidence. Let me be specific in this case.

The experts that testified before the committee not only indicated quite clearly that this is an extremely rare procedure but they disagreed dramatically with regard to the effectiveness of this procedure.

Here I call to mind Dr. Warren Hern. Dr. Warren Hern is a resident of Colorado. He runs an abortion clinic in Boulder, CO. He runs a clinic that probably does more late-term abortions than any clinic in the State of Colorado and perhaps one of the largest number of late-term abortions of any clinic in the country. By anyone's description, Dr. Warren Hern is pro-choice. We were contacted by Dr. Hern a few days ago. He is director of the Boulder Abortion Clinic and the assistant clinical professor of the Department of Obstetrics and Gynecology at the University of Colorado Health Science Center.

Dr. Hern has written three books, is an avowed advocate of abortion choice, and has written over 40 academic papers concerning abortions and other aspects of women's health and fertility. He is clearly regarded as an expert in this field and an expert in this field who is clearly pro-choice. Dr. Hern's message, as it was relayed to me, is consistent with the testimony he submitted to our committee hearings; and, that was simply that the partial-birth abortion procedure is not a safe procedure for women and that he himself, who practices in this field and performs late-term abortions, would not use it because of the danger involved.

Mr. President, some Members will choose to vote on this issue solely on the question of whether they are pro-choice or pro-life. Let me suggest that Members ought to give a little more deep thought to what this bill involves. It does not, in this Senator's belief, involve whether or not you are pro-choice or pro-life. It involves taking a look at a procedure that is judged by many experts to be extremely dangerous. We ought to be concerned about that.

The partial-birth abortion ban does not preclude someone from having a late term abortion, it precludes the use of this horrific procedure. It protects women and protects those involved from what many experts consider a procedure that is not safe, is not advised and is not necessary.

Former Surgeon General Everett Koop said.

> Contrary to what abortion activists would have us believe, partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true. The procedure can pose a significant and immediate threat to both the pregnant woman's health and fertility. It is clear that late abortion is a dangerous procedure, and in the instance of partial-birth abortion is not necessary.

Mr. President, let me reiterate that. Dr. C. Everett Koop says it is not necessary.

Mr. President, I want to quote from one of our editorials in Colorado. I must say that in Colorado our newspapers and our population are probably some of the most pro-choice newspapers and pro-choice population of any State in the Nation. We were one of the first States in the Nation to eliminate the legal restrictions on abortions.

This is an editorial from the Grand Junction Sentinel that has traced the Roe versus Wade decision and has consistently been pro-choice. Here are the Grand Junction Sentinel comments.

> Much will be made about the politics of the House vote Thursday to override President Clinton's veto of a bill to ban partial-birth abortions and whether it is possible to get enough votes in the Senate to override.
>
> Lost in the haze if political rhetoric is information about the procedure Congress seeks to ban.
>
> This corner historically has been supportive of the right to choose, and in support of Roe vs. Wade, the 1973 Supreme Court decision that guaranteed that right. But partial-birth abortion, usually performed after the fifth month of pregnancy, is quite simply an unconscionable procedure in which the brain of the infant is sucked out after the baby has been partially delivered.
>
> When he vetoed the bill in April, Clinton produced five women whose lives, he said, were endangered by pregnancy complications but saved by partial-birth abortions.
>
> This week four nationally recognized doctors who specialize in obstetrics and gynecology, part of a growing national medical group opposed to this, said Clinton's claims were wrong. All of the conditions presented by the president could have been treated by methods safer than partial-birth abortions, they said.
>
> Women who have partial-birth abortions risk being cut, having excessive bleeding and lifelong infertility.

They close with this sentence.

> One doesn't have to be a member of the Christian Coalition or an antiabortion zealot to believe that partial-birth abortions should be outlawed.

Mr. President, I am pro-choice and I believe partial-birth abortions should be outlawed, and I believe claims that outlawing partial-birth abortions interferes with the right to choose are simply not accurate. I believe a careful review of the medical evidence that is before us and that has been presented in the committee will clearly document this.

Mr. President, what we need here is not Members lining up on the side of pro-life or pro-choice, although that surely will happen. It happens every time we vote on this issue. But we do need some common sense, and we do need to listen to each other. When we vote on this issue, I believe it is appropriate to look to the medical authorities that have condemned this practice. There are those who will cast a vote because they believe this procedure is immoral. Moreover, they believe that all abortions are immoral and wrong. I am one who has not fallen into that camp. But I do believe we would be remiss if we didn't take the time to look at the facts of the bill and look at the reality of the situation.

These operations are disgusting and horrible and not essential for a woman's right to choose.

I hope Members will go deeper than just their political party or their affection for the President. I hope they will go deeper in making their vote on just whether they are pro-life or pro-choice. I hope they will take the time to look at this procedure, and I believe an objective review of the procedure will lead to the conclusion that this is not an appropriate procedure that should be allowed in the United States.

Mr. President, I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

Mr. President, I want to congratulate my friend from Colorado.

The Senator from Nebraska was talking earlier about some Member who had distinguished himself in his ability to articulate his position well and to take stands on principles, ones he deeply believes in, not be afraid to cross the line sometimes and to take controversial stands that are outside of maybe what would be expected of him.

I think the Senator from Colorado has done that in this case, and he will be missed for his thoughtful and thorough analysis of the issue. I think anyone who listened to his presentation had to come away with an understanding that this is someone who did exactly what I had been hoping and what he called for all Members of the Senate to do, which is to step back. It is not, SANTORUM, don't put your pro-life hat on, or, Hank BROWN, don't put your pro-choice hat on, but let us look at the bill, let us look at the facts, and let us try to see whether this is something that we want to have to continue in this country. I think what you saw in the House of Representatives is just that.

No one can stand up on this floor and say that two-thirds of the House of Representatives are people who are pro-life. They are not. They are not pro-life. Two-thirds of the House is not pro-life. I am not even sure if half of them would consider themselves or call themselves pro-life by the traditional definitions used in this town and across the country. But two-thirds of the House said no to this procedure; said it is time to draw the line irrespective of your opinion on the issue.

So for those who did in the House and already have done so in the Senate to come here and say, well, this is just some of these pro-life extremists trying to meddle again in the right to an abortion does not hold water. It did not happen in the House. That was not a group of pro-life extremists. It was in fact a bipartisan coalition. It was people of both opinions on the issue of abortion as it was here.

You heard from the Senator from Colorado. You will hear, I hope, tomorrow the Senator from New York [Mr. MOYNIHAN] and others who are pro-choice say this goes too far, this crosses the line.

I think we have done an injustice by, as the Senator from Oklahoma said, referring to this procedure as partial-birth abortion, because I know in having discussed this issue many times you mention the word abortion and people scurry to their column—pro-life, pro-choice, and tend to only listen to those who agree with them on that issue, as to what their opinion should be on this issue of abortion.

That is why I wanted to thank the Senator from Colorado for his courage in not only offering amendments, as he did, to improve the bill and tighten the bill as he said, but for his courage to stand up and talk to people who may listen and identify with his position on that issue and recognize that it is anything but extremism to say that a child that is delivered all but the head, that in many, many cases is fully viable outside of the womb, is then killed by a blunt instrument to the back of the head and the suctioning procedure, banning that procedure is not extremism.

I have not mentioned but I will—I do not like to talk about these things when I talk about issues of this nature—polls. I hesitate to talk about polls because this should not be an issue that we have to take a poll on. But the polls say that as people understand this and once it is explained to them what the procedure is, over three-quarters of the American public find this abhorrent—in some cases much higher than that. I would think if three-quarters of the American public once informed of this procedure find it to be abhorrent, that two-thirds of the Senate could find it to be abhorrent.

I discussed in my comments earlier the medical necessity for doing this, and the Senator from Colorado did the same and quoted a different physician who said this is not a medically necessary procedure, this is in fact contraindicated as other physicians have said, that this in fact is dangerous to the woman's health, and I went through physicians and what they said about it. I talked about, as I just did, other Members of the House and now Members of the Senate who feel differently on the issue of abortion who have looked at all the evidence and decided that now with this new evidence—one thing the Senator from Colorado did not mention was the new evidence that this is not a rare procedure. I think he still referred to it as a rare procedure, and that is what everyone was led to believe when this bill was first passed, that this was a rare procedure. Planned Parenthood provided information that there was only a few hundred, 300 to 500 of these performed every year. And yet we hear from the report in the Washington Post by Dr.

Brown, I think David Brown, on September 17 that this procedure is performed in this area more than just a few hundred times, just here. In fact, Planned Parenthood said this is only done by a doctor in Ohio and the doctor in California. They are the only two. And the Post found that in fact there are physicians in other areas who do it. It was found in the area around Bergen County there are 1,500 such abortions performed, partial-birth abortions performed on fetuses 20 to 24, 26 weeks. I do not refer to a 26-week-old fetus as anything but a baby because it is viable, clearly viable outside of the mother's womb.

So we have had all of that new information, and again I hope to share that and I hope that people do look at that and realize that with this information and with the medical—this is a medical procedure and should be judged not based on your opinion on abortion but based on medical evidence and whether this is medically necessary.

That is one thing it should be judged on. Obviously, you cannot avoid the effect a decision like this has on our culture; about what we say is legal and permissible in our culture. It obviously has an impact on who we are. If the Government says that this is OK, it will have an impact on who we are. And so that is something that you have to think about, too.

The other thing that is not talked about much that I think is important to discuss in light of those who support the procedure, and particularly the President, is the whole issue of fetal abnormality. The President of the United States brought to the White House when he decided to veto this legislation five women, all of whom said that they needed this procedure to be done to protect their health. All of these women had babies—some of them were late-term abortions—had babies who had some sort of fetal abnormality.

In the House and in the previous debate in the Senate many of the supporters of this legislation and the President said that this is a very good reason to have an abortion, that a fetal abnormality, many of which are fatal, some of which are not always, is a good reason to have an abortion, a late-term abortion, and this type of abortion. We have discussed the health aspects of this, is this type of procedure necessary for the health reason. And clearly the evidence, the facts show physicians, both prolife and prochoice, say, no, it is not necessary.

I think there is a bigger issue here. It really goes beyond this whole debate on abortion. And that is the debate on this whole issue of fetal abnormality as a good reason to kill a child, a baby. In some cases we are talking about very late term, we are talking about in the thirties weeks, very late-term abortion, because then we are getting into the fact that, well, it is OK to perform this procedure because the quality of life of the baby will not be what we believe is good, which is the perfect baby.

Now, you have some extreme examples of this in this debate with Dr. McMahon out in California who said that he had nine third-trimester abortions—that is 7th, 8th and 9th month—he had nine such abortions that were done electively, which means there was no health risk to the mother in delivering the baby—nine such abortions done because the child had a cleft palate—a cleft palate. And we have the President of the United States and people in the Senate who are saying it is a decision between the mother and the doctor, it is not our job to say that that is wrong; that the mother has the determination as to what is perfect in her eyes and then the Government, the State has no decision.

I said earlier that the very same people who make that argument are the very same people who stood in this Chamber and the House, and I am proud they did, and argued for the Americans with Disabilities Act. They said that people who are not perfect, who have a disability, have a right to be able to get around to different places, to have employment opportunities, to be treated equally.

We did not bring up this issue. I do not know whether we will before we leave, but the issue of I-D-E-A, IDEA, which is education for the mentally disabled in our school system and the physically disabled—again, the very same people, many of them, not all, but many of whom will stand and say this feature is OK because we have a deformed baby, say that we have an obligation to provide equal education to children with disabilities.

If we have an obligation as a State, as a government, to provide equal opportunities for education for people who are not perfect, at least in the eyes of some, those who have disabilities should have the equal right to education, should have the equal right under the ADA to treatment in the workplace and other places, how can you stop short and say they do not have an equal right to life? How can you be for all those things and not be for giving this poor—in some cases, yes, badly deformed—baby a right to die with dignity, if that is the case, a right to live?

There is an article in the Washington Times today. It quotes a man, a correspondent. I should not say it is a man because it does not say that. I apologize for that. The article is written by a woman, Maggie Gallagher. It may, in fact, be a woman. It says:

> I ran across excerpts from a letter to the editor of the London Spectator. The correspondent wrote: "I have severe spina bifida, and am a full-time wheelchair user . . . Every day I read in the press about 'exciting breakthroughs' which mean yet another way to kill people like me before birth.

I think that is the point I want to make here. Let us just put aside the whole issue of partial-birth abortion for just one second. Think about what message we are sending out to the people who have disabilities, who have suffered through some of the disabilities described by some of the women that the President brought to justify his decision here. Yes, many of the people who had these disabilities—in fact, in some cases, all of the people who had these deformities—died. But some lived. Some lived for a short period of time, some for a long period of time. What are we saying to them? What are we saying to our culture? What are we saying about these people who came to the floor for month after month on the issue of disabilities, on the issue of welfare, and said, "What about the children? Don't you care? Where is your compassion? Where is your concern for the least of us as a society?"

Did these children do anything to end up disabled? Is it their fault that they were abnormal, that we should look upon them and say, "Well, because you are abnormal, you are therefore expendable, and it is justifiable to treat you that way"?

I am going to read an article from a doctor who wrote this just last month in the Los Angeles Times, the Washington edition. The doctor's name is Katherine Dowling. She is a family physician at USC School of Medicine. The title of the article is, "What Constitutes a Quality Life?"

> The nights can be long and frustrating for we doctors whose shifts fall with regularity in the wee hours. A young lady comes in demanding to know if she is pregnant, then fussing for instant termination when she is found to be. An elderly lady wants a cure for her constipation. An addict arrives, angling for a legal fix.
>
> But every once in a while, like the astronomer whose long nocturnal vigils are rewarded one clear night with the smudge of a new comet on his photography plate, we sometimes encounter the extraordinary. I did one recent night.
>
> I doubt you'd peg the couple as extraordinary if you saw them on the street. She had perhaps once been somewhat of a beauty. Her brown hair was cropped short and hung limply, and she clearly had put on a bit more weight with each of her pregnancies. His tummy flopped over his belt, and he had a kind smile. Their child was a young adult based on his birth date, but his brain hadn't really developed much beyond that of a 4-year-old. As he lay on the gurney, occasionally using words only his mother could understand, she calmly told of the recent worsening of his medical problems. When she left the room, he searched for her with the tenacity of an infant, and like an infant, looked into her eyes with pure joy when she returned. Dad waited outside, ready with a smile and a little joke.
>
> They had been caring for their child with love and patience since early infancy, when his problem first began. I suspect that he was a happy young man, in spite of his bad neurologic luck. He'd certainly had good luck in his choice of parents.
>
> To me, these parents showed a caliber of heroism that only a few humans are called

on to exhibit in a lifetime. They had put aside their own wants, had accepted a child who would never be capable of doing things even the most ordinary of nonhandicapped children could, had given their son enough love and physical help to make his life not just bearable but apparently happy. In the process, they'd raised a bunch of other children now doing well, and they'd stayed together in a strong and supportive marriage.

Far too often, we assume that a child born with a medical problem is a child whose life is not worth living. We think that parenting such a child is an impossible task. When President Clinton vetoed the bill that would have banned partial birth abortions, implicit in the stories of the women he gathered around him was that they were doing a noble thing for their children and themselves. Extracting the brain from a living, sensate fetus was felt to be better than allowing that fetus to be born with a body that was less than perfect.

In 1995, James McMahon, a leading Los Angeles abortion doctor (recently deceased), sent a submission to the House Judiciary subcommittee on the Constitution, which was holding hearings on partial birth abortion. This document revealed the reasons partial birth abortions were done in a survey of more than 1,000 babies. More than 10% were done because of fetal death, but by definition, this is not abortion. Twenty-four were done for cystic hydroma (a benign lymphatic mass, usually treatable in a child of normal intelligence). Nine were done for cleft lip-palate syndrome (a friend of mine, mother of five, and a colleague who is a pulmonary specialist both were born with this problem). Other reasons included cystic fibrosis (my daughter went through high school with a classmate with cystic fibrosis) and duodenal atresia (surgically correctable, but many children with this problem are moderately mentally retarded). Guess they can't enjoy life, can they? In fact, most of the partial birth abortions in that survey were done for problems that were either surgically correctable or would result in some degree of neurologic or mental impairment, but would not harm the mother. Or they were done for reasons that were pretty skimpy: depression, chicken pox, diabetes, vomiting.

I'd like to commend those parents who have the courage to raise handicapped children. Whenever I see a mother or father holding a sickly baby and looking into its eyes with love, each time there's a Down's syndrome child learning from its sibling how to pile blocks on top of each other, I'm awed by the power of the family to make a "less than perfect" life a thing of happiness. And then I know how lucky I am to be in a profession where every once in a while, I get a glimpse of the best in humanity.

Is what we are doing here today a sign of the best of humanity? If we allow this procedure to continue, is this the best we can be? Is this the seminal point? Is this the moment of pride that we came to the Senate to allow to happen on our watch?

For those who voted to allow this procedure to continue, when we vote tomorrow, look around, look inside and tell me whether you think we are exhibiting the best of humanity.

Dr. Dowling said that she had so much respect for parents who went through with difficult pregnancies possibly and maybe with the knowledge of an abnormal child being born.

I would like to read—and I hope I can read, because they are sometimes very difficult to read—letters from mothers who knew that the child within them had fetal abnormalities. I believe all of the letters included here represent all of the conditions that the women that President Clinton had at his side when he vetoed this bill, all of the women—I shouldn't say that, I should read them—certainly a lot of the things that the fetuses of the mothers at President Clinton's veto ceremony—those conditions are represented in these cases.

In some of these cases, the child didn't live an hour, and in some, miracles happened. But in every case, there is a case of courage, and their expressed purpose in writing was not to say that you won't hear this about partial-birth abortion, it was to deliver the point that, "Mr. President, and those who are arguing for this bill to be defeated, for the override to be sustained, please understand, that this procedure doesn't need to be done to protect the health of the mother, No. 1, and No. 2, that we went through with these pregnancies that you say are necessary to have these abortions, are necessary to preserve our health, that we actual actually did the alternative, and were alive and were well, and we had beautiful experiences. Tragic but, yes, in many cases beautiful experiences. And, please, Mr. President, please the Members who argue for the sustaining of the President's veto on this bill, don't use the baby, don't use the children as a shield. Don't use them as the reason for allowing this to continue. Don't make them the enemy of the mother. In fact, they are not."

I would like to read a letter first from Jeanne French, from Oak Park, IL, dated July 1996, to the President. And I think she conveys much better than I that point:

DEAR MR. PRESIDENT: I write to you today as a fellow Democrat with something to say about a difficult subject, partial-birth abortion.

You may know that last November I testified before the Senate Judiciary Committee on the partial-birth abortion ban legislation. I was on the same panel as those mothers who chose partial-birth abortions. It was ironic to see you veto the ban framed by the women whose stories I got to know as I sat beside them that day. In my naivete, I expected that your administration would be more open to hearing the other side of the partial-birth abortion question.—I was deeply saddened to be excluded from the dialog you sought on this issue.

In recent months, I've had the opportunity to get to know many women who have carried and given birth to children with fatal conditions from anacephaly encephaloceles, Trisom 18, hydrocephaly, and even a rare disease called body stalk anomaly in which internal organs develop outside a baby's body. We gave birth to our children knowing that their serious physical disabilities might not allow them to live long.

I do not tell you this because we are, or want to appear heroic. We simply want the truth to be heard regarding the risks of carrying disabled children to term. You say that partial-birth abortion has to be legal for cases like ours, because women's bodies would be "ripped to shreds" by carrying the very sick children to term. By your repeated statements, you imply that partial-birth abortion is the only or most desirable response to children suffering severe disabilities like our children.

Perhaps inadvertently, you send a message of hopelessness to women and families who anticipate the birth of children with serious or fatal disabilities.

This message is so wrong. We feel that it is imperative that you reconsider the way you talk about options available to mothers carrying very sick babies like ours. Will you consider meeting with me and a few of the women I have come to know over this issue? Will you please extend to the Morsmans, Heinemans, Sheridans, and to me the same courtesy extended to those families who had partial-birth abortions? Will you meet with us personally, and hear our stories?

Thank you for considering this request. I look forward to your response.

The response came back 13 days later that "the President appreciated the letter but will not have the opportunity to speak with you or your group."

I ask unanimous consent to have printed in the RECORD the President's response after the reading of the letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, July 30, 1996.

MS. JEANNIE W. FRENCH,
Oak Park, IL.

DEAR MS. FRENCH: Thank you for interest in speaking with President Clinton on the subject of partial birth abortion. President Clinton appreciates your kind letter.

At this time, it seems that the tremendous demands on the President will not give him the opportunity to speak with you and your group. However, we will keep your invitation on file and will be sure to contact you if any changes in his schedule allow him to accept.

Once again, thank you for your thoughtful letter. Your continued interest and support are deeply appreciated.

Sincerely,
STEPHANIE S. STREETT,
Director of Scheduling.
ANNE HAWLEY,
Director of Scheduling.

Mr. SANTORUM. What are those stories? Why are they important in this debate? I think Mrs. French said why they are important. I think they are important for the purposes of this whole idea that we need to have these abortions legal because of the health of the mother. That is important. That is why, the President said, he vetoed the bill.

We have all sorts of medical evidence and testimony, and even newer testimony, testimony from both pro-choice and pro-life physicians, who say that there is absolutely no health-of-the-mother or life-of-the-mother reason for doing this procedure. In fact, it is contraindicated. It is more dangerous, according to Dr. Hern, who performs abortions and late-term abortions, to do this procedure. So we have lots of medical testimony about the cold medical aspect of it.

What Mrs. French is getting to is something that is maybe more important for us who are nonphysicians, who do not, frankly, feel comfortable about making medical decisions but, hopefully, feel more comfortable about making cultural decisions. That is where we are. The cultural decision is, as Dr. Dowling said, what constitutes quality of life? We are making that decision here. If we sustain the President's veto, the children who just do not measure up, are not perfect, for that reason alone, that we should allow this procedure to continue because they are not wanted in the human family here in the United States of America.

The Senator from Indiana said just a few minutes ago, if we knew that a civilization, a country, was deliberately killing disabled children, what an outcry—what an outcry—there would be from a lot of the very same people who say it is OK to do it if they are only 24 weeks old in their life.

So I think it is necessary to read these stories. I do not know whether I will be able to read them all tonight because I find it very difficult to read them. I have been very lucky as a father of three children that we did not have any "fetal abnormalities" with our children. My wife Karen had three healthy pregnancies and is having another healthy pregnancy to date.

But I cannot help but hear these stories and feel such great empathy, as a father, who stood there in the birthing room, in the delivery room, and just waited, with incredible anticipation, for that child to be born, and encouraging my wife, and seeing that little baby, and wondering how that little baby is. "Please cry. Please take that first breath." Jeannie and William and Teresa, Whitney and Bruce, Margaret, the people who wrote these letters, knowing that they were delivering a baby, that once it took its first breath, how difficult that breath would be and how many breaths will they be able to take, and how to deal with them.

The first story is of William and Teresa Heineman of Rockville, MD. I will read their story as they dictated it.

We have noted with concern statements made by several couples suggesting, from their very personal and very tragic experiences, that the partial birth abortion is the only procedure available to a women when the child she is carrying is diagnosed with a severe abnormality.

We have had experiences that were very similar and yet so very different. We have had three children biologically and have adopted three more. Two of our children were born with a genetic abnormality—5-p Trisomy. One also had hydrocephalus. The medical prognosis for these children was that they would have at best a short life with minimal development. Some medical professionals recommended abortion; others were ready to help support their lives. We chose life. That decision carried some hardships. However, God blessed us immeasurably through their short lives.

Our first child, Elizabeth, was diagnosed after her birth. We were deeply saddened but desired to give her the best life we could. Though she never could say a word and could not sit up on her own, she clearly knew us. she learned to smile, laugh, and clap her hands. She was a joy to us for two and one half years. We clearly saw how many lives she had touched with over 200 people attended her Memorial Mass! One child was touched in a very personal way when he received Elizabeth's donated liver. Two others received sight through her eyes.

Our third child, Mary Ann, had been diagnosed with hydrocephalus in utero and shortly after birth with the same genetic abnormality that our oldest daughter had. (We could have known this during pregnancy via amniocentesis, but refused the procedure due to the risk to the baby.) Terry's obstetrician said that we were fortunate, though, that Mary Ann would have the chance to go home with us. We learned to feed her through a gavage tube as she was unable to suck to receive nourishment. Our son, Andrew, developed a special bond with his sister. We spent the next five months as a family, learning, growing and caring for our children. When our precious daughter died, we celebrated her life at a memorial Mass with family and friends.

Our belief in Jesus Christ and His gift of salvation provided comfort for us as our daughters entered their new home in heaven. They remain a part of our family and are always in our hearts. They enriched our lives and touched the lives of many others. Our Creator sent these children to us and we were privileged to love and care for them. What a tremendous loss to all of us who know them to terminate their lives because they were not physically perfect. We look forward to a joyous reunion with them in heaven.

It is so easy to see the half of the glass that is empty when we face difficult problems; will we have the courage to allow our children to have the half of the glass that is full? We pray for other mothers and fathers who are faced with agonizing decisions that they will remain open to the gift being entrusted to them. God's love is ever-present during our times of joy and sadness. He is with us now as well are parents to Andrew, now nine years old, and three children: Maria, Christina, and Joseph; ages 11, 9, and 7, who joined our family through adoption.

Again, this is a story about children who die as a result of the fetal abnormalities that some would suggest are medically necessary to save the life of the mother or health of the mother.

I think what Terry Heineman and Bill Heineman said is that not only is it not necessary to do this procedure to preserve the health of the mother, but I think it says something about how we value life in this country. It is a very disturbing thing, indeed.

Whitney and Bruce Goin from Orlando, FL:

On March 20, 1995 my husband and I found out that we were expecting a precious baby. The discovery was an incredible surprise. We were not trying to become pregnant, but knowing that the Lord's plan for our lives was being carried out, we were overjoyed, a little overwhelmed, but completely thrilled. I began my prenatal vitamins immediately and followed all known guidelines to protect my unborn child.

Three months later, on June 18, I had an uneasy feeling, nothing that I felt physically, just an anxious, strange feeling. I called my obstetrician and requested a fetal heart check. They dismissed my concern as the first-time-mother jitters but agreed to let me come into the office. unable to find a heart beat, the nurse sent me down the hall for a sonogram to reassure me that there were no problems. This would be my first sonogram where I would actually be able to see the baby. I was five months pregnant.

The nurse began pointing out our baby's toes and feet, and when the baby kicked I smiled, believing that everything was alright. Then, the nurse suddenly stopped answering my questions and began taking a series of pictures and placed a videotape into the recorder. Unaware of what a normal sonogram projects, I did not decipher the enormous abdominal wall defect that my child would be born with four months later.

My husband was unreachable so I sat alone, until my mother arrived, as the doctor described my baby as being severely deformed with a gigantic defect and most likely many other defects that he could not detect with their equipment. He went on to explain that babies with this large of a defect are often stillborn, live very shortly or could survive with extensive surgeries and treatments, depending on the presence of additional anomalies and complications after birth. The complications and associated problems that a surgical baby in this condition could suffer include but are not limited to: bladder exstrophy, imperforate anus, collapsed lungs, diseased liver, fatal infections, cardiovascular malformations, etc.

I describe my situation in such detail in hopes that you can understand our initial feelings of despair and hopelessness, for it is after this heartbreaking description that the doctor presented us with the choice of a late-term abortion. My fear is that under this emotional strain many parents do and will continue to choose this option that can be so easily taken as a means of sparing themselves and their child from the pain that lies ahead. With our total faith in the Lord, we chose uncertainty, wanting to give us as much life as we could possibly give to our baby.

On October 26, 1995, the doctors decided that, although a month early, our baby's chance of survival became greater outside the womb than inside, due to a drop in amniotic fluid. At 7:53 am, by cesarean section, Andrew Hewitt Goin was born. The most wonderful sound that I have ever heard was his faint squeal of joy for being brought into the world. Two hours after being born he underwent his first of three major operations.

For two weeks Andrew lay still, incoherent from drugs, with his stomach, liver, spleen and small and large intestines exposed. He was given drugs that kept him paralyzed, still able to feel pain but unable to move. Andrew had IV's in his head, arms and feet. He was kept alive on a respirator for six weeks, unable to breathe on his own. He had tubes in his nose and throat to continually suction his stomach and lungs. Andrew's liver was lacerated and bled. He received eight blood transfusions and suffered a brain hemorrhage. Andrew's heart was pulled to the right side of his body. He contracted a series of blood infections and developed hypothyroidism. Andrew's liver was severely diseased, and he received intrusive biopsies to find the cause. The enormous pressure of the organs being replaced slowly into his body caused chronic lung disease for which he received extensive oxygen and steroid treatments as he overcame a physical addiction to the numerous pain killers he was given.

The pain and suffering was unbearable to watch, but the courage and strength of our child was a miraculous sight. We were fortunate. The worst case scenarios that were painted by the doctors did not come to fruition, and we are thankful that our son was allowed the opportunity to fight. His will to live overcame all obstacles, and, now, we are blessed by his presence in our lives each and every minute. Our deepest respect and prayers go out to the courageous parents who knew that their baby would not survive and yet chose to love them on earth as long as God allowed and intended for them to be.

This is an issue that goes beyond abortion. This is an issue that goes beyond a medical procedure. This is an issue about what we view as life, as good enough life, to be born or to live. To use as a reason for allowing this procedure to continue, fetal abnormality, so badly misses the mark, sends a message to the women of this country, families of this country who are listening, who are having to deal with this issue today, right now the President of the United States said because of fetal abnormality these women should have abortions, it is a good reason to have an abortion, this kind of a partial-birth abortion.

What these women are saying is that we do not need to do that to protect our health and that there is an alternative out there, and that the message from the President of hopelessness for their situation is, as Mrs. French said, wrong. There may be no hope for an encephalitic child to survive long, hours if that, but that does not mean that the situation is as hopeless as you have heard from these letters.

We have an obligation here in the U.S. Senate when we vote on an issue to look at every aspect of that issue, particularly one of this importance and consequence, to look at every aspect of that issue and to weigh all the facts and to weigh the message that we send out when we do something—not only the direct consequences. The direct consequences are clear: Thousands of children, of babies that are 20 weeks and later, will be allowed to be partially delivered, feet first, the entire body delivered except for the head, and will be allowed to be killed—that far, inches away from its first breath.

We know that. That is a fact. That will happen if this bill is not passed here by the Senate over the President's objection. That is what we sort of focused on. We focused on, rightfully, the horror of that procedure being given a legal imprimatur by the U.S. Senate and by the President of the United States of America. That is a tough one for many of us to swallow. It is a tough one for many Americans to swallow. But there is more, and I think the stories of these women and the children involved is another element to this story. I think I am going to save these last couple of letters for tomorrow to read because I don't want to be repetitive tomorrow.

My colleagues, many of whom are otherwise involved right now with meetings and receptions and other kinds of things here on Capitol Hill, I just hope that at some point tomorrow when we are debating this, their television sets are turned on, or they happen to be on the floor, and that they understand this is not just an issue—although it is an issue—of a medical procedure being performed. This is a horrific procedure. It is not just an abortion, it is infanticide. It is infanticide. It is killing a baby. If you can accept that, I guess the argument that we are also making a decision on regarding the quality of life in America sort of pales in comparison, maybe—I don't know. But if you are troubled by that, if it causes you to think again, with all the new information that has been provided over the past several months and weeks, if it bothers you enough to rethink, then also think about that message that we are sending to the less-than-perfect children of America and the mothers who are, right now, dealing with the possibility of delivering an abnormal baby.

My wife is due in March. We haven't had a sonogram done. We are hopeful that everything is fine. What message would it send to me, in looking at that sonogram in a week or two, if they say that if that child just isn't what you want, if that baby of 20-some weeks is just not what you bargained for, you have our permission to go through this procedure. In fact, it is your right to do so. I don't think we want to send that out. As Dr. Dowling said, I don't think that's a glimpse of the best in humanity. I don't think that is a moment that many of the retiring Senators here want to look back and say, "That was one of my last actions here in the U.S. Senate." I don't think we as Americans want our legislative bodies to say those things—that infanticide is OK, as long as the mother and the doctor agree that it is OK. And the children who just are not what we wanted them to be is a justification for terminating a pregnancy of a viable baby.

But let's make no mistake about this; that is what we are saying if we do not override the President's veto. That will be the message to America, to the world, to children who have been so afflicted, and to mothers and fathers who have to make that decision. I think we are better than that.

As HANK BROWN, the Senator from Colorado, came down here and talked about his position on abortion, which is pro-choice, he said that this is the proper place to draw the line. That is all we are asking. Are there no more lines in this country?

(Mr. SMITH assumed the chair.)

Mr. BENNETT. Will the Senator yield for a question?

Mr. SANTORUM. I am happy to yield to the Senator from Utah.

Mr. BENNETT. Mr. President, I remember the original debate on this issue when the Senator from California talked about the very few numbers of procedures and insisted that medical personnel—doctors—were solidly in favor of allowing these things to continue. I ask the Senator if he has seen the article that appeared in the Wall Street Journal a few days ago, where a group of doctors said it is time to stop listening to the politicians, stop listening to the special interest groups, and let the doctors speak. And they then said, "We know the vast majority of these procedures are done for elective purposes only and that the health of the mother is, in fact, never in danger."

I ask the Senator if he is familiar with that presentation and if my memory of it is correct?

Mr. SANTORUM. The Senator's memory is accurate. I, in fact, discussed that article yesterday on the floor and entered it into the RECORD for anyone who would like to see it, as well as other articles from physicians concerning this. Yesterday, a columnist, Richard Cohen—who is pro-choice and liberal, and who wrote an article a year ago supporting partial-birth abortions—wrote an article saying he was wrong, that what he was told by the pro-choice establishment here in Washington, the special interest establishment, was incorrect. He did not say this, but I will say it for him. They lied to him, or they deliberately misled him, based on an incomplete presentation of the facts. But in either case, he did not have all the information. He admits that he still doesn't have all the information as to how many of these procedures are done and when they are done. But what we do know is that that argument by Members who oppose this bill, who want to continue this procedure to be legal, no longer exists.

Those who stood and said, well, this is a very rare procedure that is only used to protect the life of the mother—I can refer you to speaker after speaker in the Congressional RECORD of last week in the House who defended this procedure, who got up and said, "But, Mr. Speaker, we have to do this to protect the life of the mother."

Well, we have all sorts of medical testimony that that is not the case, No. 1. No. 2, even if it were the case, the bill provides an exception for the life of the mother.

Mr. BENNETT. Mr. President, that was going to be my next question of the Senator. It is my understanding that the bill says that in those circumstances where the life of the mother is in danger, the prohibitions of the bill would not apply.

Mr. SANTORUM. That is correct.

Mr. BENNETT. It is also my understanding that according to the medical information the health of the mother might in fact be in danger by this process.

Mr. SANTORUM. There is testimony that I entered in the RECORD yesterday—and I know Senator SMITH has entered into the RECORD previously, and we will do so again tomorrow—that provides ample testimony of how this procedure is in fact more dangerous than the alternatives, including and particularly delivering the baby at term through either a vaginal delivery or cesarean section. The Senator from Colorado again reminded everyone—who is pro-choice and talked about a physician in Boulder, CO, who performs late-term abortions—saying that this procedure is more dangerous than other abortion techniques used at that stage.

So even if you are for, as I am, the belief that it is important that these mothers have that—we respect all life, even those who are less than perfect, and give them every opportunity to live—even if you do not believe in that, even if you believe that a child that has a fetal abnormality at 35 weeks, premature 5 weeks, should be allowed to be killed before it is born, even though you can deliver the baby without any additional health risks, if you waited 5 weeks, even if you believe that could happen, according to the Senator from Colorado, that is a still a more dangerous procedure.

Mr. BENNETT. I will not prolong the conversation. I thank the Senator for yielding for these questions.

I make this comment. My personal position on abortion is under the pro-life banner. I am one who would be willing to consider an abortion in a circumstance where the pregnancy came about as a result of a rape or incest—which is really nothing more than another form of rape—or where the life of the mother is in fact in jeopardy by virtue of the pregnancy. I was, therefore, somewhat troubled with the initial debate by those who kept insisting that the sole justification for this procedure was because the life of the mother was at risk, and I worried about Congress micromanaging medical procedures. But I have come completely to the conclusion that we did the right thing in passing the bill in the first place. I voted for it.

I intend to vote for the override, and I am heartened by the comment of my friend from New York, who is known for his independence, who is a pro-choice Senator on this issue but who summarized I think better than any of us can in a single sentence when he said, "For me, this comes too close to infanticide." Infanticide, for whatever purpose, is not something with which I wish to be associated.

I congratulate the Senator from Pennsylvania on his leadership on this issue. I congratulate him for his compassion. I congratulate him for the depth of his commitments to an issue that I think should touch the hearts of all Americans. I thank him for yielding.

Mr. SANTORUM. I thank the Senator from Utah. If I can, I would like to deflect the praise, frankly, that in every respect should be deflected to the Senator who is sitting in the chair, the Presiding Officer, who in spite of calls against him of being an extremist, and, in spite of—as this issue was just beginning to rise in the political arena—being cast in an extreme pro-life position because, as the Senator from Utah, there is a lot of misinformation out there when this procedure was originally considered and even more misinformation when the Senator from New Hampshire introduced the bill to outlaw this procedure. But Senator SMITH, to his credit, got all of the information, studied it, and presented a bill that was reasonable, mainstream—not by definition when you have 70 percent to 80 percent of the people in this country saying this procedure should not be legal—it is not extreme to agree with them. You can say a lot of things. But when you are with 80 percent of the American public you are not an extremist by definition. Yet, I guarantee that you will hear Member after Member—I do not know how many Members will actually come up and speak against the override, but those that do will come up and will charge the Senator from New Hampshire, the Senator from Pennsylvania, the Senator from Utah, and other Senators with extremism for supporting this bill.

Mr. BENNETT. Mr. President, if I might be allowed, I thank the Senator from Pennsylvania for his correction about the leadership of the Senator from New Hampshire. I agree that is where the credit goes. I say to the people of New Hampshire that PAT MOYNIHAN is not generally thought of as a right-wing extremist, and to have him join the Senator from New Hampshire in this circumstance should provide sufficient cover for anyone who thinks the issue through.

Mr. SANTORUM. The Senator from Utah is absolutely correct. I just have to finish my comment on the Senator from New Hampshire.

The Senator from New Hampshire took this issue when no one else would take it. The Senator from New Hampshire stood on the floor of the Senate and carried the debate the last time in spite of enormous criticism for doing so. The Senator from Pennsylvania is a Johnny-come-lately to this issue, admittedly. I was not aware of this issue until the Senator from New Hampshire was standing on the floor debating one day. I became aware of it, and couldn't believe that we were actually debating something like this on the floor of the U.S. Senate. Are you serious? This actually happens in this country? I will never forget listening to him and listening to the volleys that were lobbed at him and listening to him trying to stand up and present the facts although they were continually obfuscated by the other side. He stood tall, and he can stand tall because he is a tall guy. But he stood tall, and we were able to get this bill through.

So now we are back. But I can tell you, as I said earlier, I had never wanted to debate the issue of abortion on the floor of the U.S. Senate, or in the House when I was there. The Senator from New Hampshire out of courage of his conviction stands up and says we believe. I saw him that day going toe to toe with the opponents of this legislation. I said to myself "Where were you? Where were you when they needed to count the people to stand up for what you believe in?

So I came down to the floor for a few minutes. And the Senator was on the floor for hours. I was on the floor, in comparison, for a second, but entered into the debate for the first time. And I want to say to the Senator from New Hampshire that the inspiration that he showed is the reason I am here today, and the reason we are all here today is we won a tough battle. People now are thinking, "Well, 75 or 80 percent of the American public"—in fact then it was 75 to 80 percent. They had no idea. And there was a lot of misinformation out there that has now been clarified by thankfully a lot of obstetricians coming forward—hundreds of them coming forward—saying that we need to do this. The only people who are coming forward saying that this procedure is an acceptable medical procedure are those performing the procedure. No one else is. Some are saying we should allow this to continue because doctors should be able to do what they want to do; that we should not limit doctors' choices and women's choices. That is not the same as saying that this procedure is a healthy, good procedure; that they would do it, because they are not doing it and they wouldn't do it. And the Senator from New Hampshire stood up here and made the case. Unfortunately, by the skin of our teeth, we won here in U.S. Senate. I say "unfortunately." We should have won by more, if people had had all of the information that they have today. We found that out over the last several months.

I am hopeful that Republicans and Democrats alike who voted against this legislation will examine the facts. I am not even going to ask you to examine your conscience or examine your morals. Make that decision outside of that, although I hope you would not.

Examine the facts as we now know them, not as given to us by the advocates of abortion, the National Abortion Federation or Planned Parenthood, but of doctors who are out there performing these procedures, of reporters, physicians, in some cases, who have done investigative reporting to find out what is going on out there—not what they tell us but what actually is going on.

Now, you cannot hide behind what people who agree with you on this issue would like to have you believe. You have to face facts that this is not a rare procedure done to protect the lives and health of women. Anyone who stands up in this Chamber and says that this is a rare procedure done to protect the lives and health of women is not stating the facts. The facts counter that, are absolutely opposite to it.

So let us have a debate about the facts. Let us not have a debate about the right to choose. This is not about the right to choose. Whether I like it or not, and, frankly, admittedly, I do not like it, late-term abortions will continue to be performed if this procedure is outlawed. And they have been described. We can enter into the RECORD all the varieties of other abortion procedures that can be done. So do not argue the right to choose. Do not argue it is a decision between the doctor and the patient, because the doctor and the patient have plenty of alternatives.

This is an issue about what 100 Senators believe is the line in this country. Where is that line? Or do we not have a line anymore? Have we gotten to the point in our culture that any drawing of lines is offensive to us, any determination of what is right and what is wrong is for every individual to make a choice, that there is no right and wrong anymore, it is just whatever you decide to do is OK, no matter who it affects and how it affects them.

I do not think that any Member of this Chamber believes there are no rights and wrongs and that there are no limits to what any individual can do to themselves or to somebody else. But you cannot hide from the fact that that is exactly what we are talking about here. We are talking about right and wrong. We are talking about how far we are going to let people go to infringe on the rights of others even if those others are less than perfect, are fetally abnormal.

I hope we would stand up for those children, the lesser as some would suggest, lesser children. I would suggest—and the women more importantly, the women whose letters I read earlier would suggest—that they are not lesser, not by any stretch of the imagination are they lesser. They are important members of the human family and they make a significant contribution. I bet you could ask some of those mothers and they would tell you that the child who lived 2 months made more contributions to them and to their community than people who lived there for 30 years.

I remember we in my generation always like to say when it comes to our children it is not the quantity of time, it is the quality of time you spend with your kids. How many times do you hear that? I wish that were true, but it is both. But certainly quality of time is important. Are we going to say that because their quantity of time is not going to be such for our standards, that their quality of life is not normal by our standards, that they are expendable by the most brutal procedure I think any of us have ever heard?

Oh, I have faith in the Senate. I have faith that, as I look at these empty chairs—and most of them are empty, all but the Senator from Iowa—I look at those chairs, and I can see in those chairs every Senator sitting there as they will be tomorrow, or standing down in the well, and they will have to be making a decision that they have to come to terms with what is right and wrong, about what comes up to the line and what crosses the line. I believe that enough Senators will look inside and see that this calls for a moment to look at what the best of our humanity is about, not the worst, and they will do the right thing. I will pray for that tonight. I hope you will, too.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I compliment the Senator from Pennsylvania for all the time he has devoted to this issue and how he causes everyone in this body and throughout America to think of the importance of this issue. I also compliment the Presiding Officer, the Senator from New Hampshire, for his leadership and his work as well.

I agree with everything the Senator from Pennsylvania has said. I am going to speak tomorrow on this issue during final debate.

CHILD PORNOGRAPHY PREVENTION ACT

Mr. GRASSLEY. Mr. President, I rise today in strong support of S. 1237, the Child Pornography Prevention Act, introduced by Senator HATCH. I am proud to be an original cosponsor of this very important piece of legislation, which would close loopholes in the current child pornography statutes created by computer technology. Now, due to the marvels of modern technology, child pornographers can use computers to create synthetic child pornography which is so realistic and life-like that no expert can distinguish it from traditional kiddie porn. S. 1237 would close that gap.

But the bill has not come up for a vote yet, even though the bill was put on the calendar over a month ago. Why is that? Why has not the Senate moved to pass this legislation quickly and send it to the House as the 104th Congress comes to an end?

The reason, Mr. President, is that some Senators from the other side of the aisle will not let the bill come up for a vote because they oppose stiff new mandatory penalties for child pornographers.

In the Judiciary Committee, I offered an amendment which would create a three-strikes-and-you're-out penalty structure for the production of child pornography. First time offenders will receive a 10-year minimum sentence. For a second offense, there would be a 15-year minimum sentence, and for a third offense, there would be a minimum sentence of 30 years to life. My amendment passed the committee after much debate.

But now, some Senators from the other side of the aisle are using senatorial privilege in order to have my amendment stripped out of the bill without ever having a vote on the matter. These Senators are literally holding the Senate hostage. In contrast, Senators on my side of the aisle have informally offered to have another vote on this issue. But to no avail.

Mr. President, this is outrageous. I believe that the American people want tougher penalties for child molesters and child pornographers. And I am proud to have taken a leadership role on the issue. To the Democrat Senators who oppose minimum sentences for child pornographers, I say let's have a vote. Secret tricks like holds should not be used to drop the bottom out of the penalties for child pornographers.

I think that this is shameful, Mr. President. And I believe that the American people have a right to know why the Child Pornography Prevention Act is bottled up on the Senate floor. The roadblock to passage of this vitally important bill with tougher child pornography penalties is not the Republican caucus. It is not my side of the aisle which is blocking this bill trying to lower the penalties for child pornographers.

If the bill does not pass this year, the fault will rest squarely on the shoulders of the other side of the aisle.

I remain ready to vote on this matter. I encourage my friends on the other side of the aisle to come out and debate minimum sentences for child pornographers.

THE NATIONAL DEFENSE AUTHORIZATION ACT

Mr. GRASSLEY. Mr. President, I think the leadership of the Armed Services Committee deserves a lot of credit for wrapping up the conference on the fiscal year 1997 Defense authorization bill in record time.

This measure was ready before the August recess. We just could not get to it because of other pending business.

The chairman of the committee, Senator THURMOND, and the ranking Democrat, Senator NUNN, have done an outstanding job.

They resolved a number of very complicated and difficult issues, and they did it in a very timely and businesslike way.

I would also like to thank the committee for protecting my amendments:

Section 217 that establishes a 1991 baseline for the independent cost estimate for the F–22 fighter; and

Section 809 that places a $250,000 per year cap on executive compensation.

However, I am very unhappy with one part of the final bill—section 405.

I am very disappointed to see this provision in the final bill.

Section 405 authorizes an increase in the number of general officers on active duty in the Marine Corps.

It raises the current ceiling from 68 to 80 generals.

That is an increase of 12 generals.

I attempted to block this measure but failed. My amendment was defeated by a vote of 79 to 21.

The House had rejected it earlier but could not prevail in conference.

So we lost the fight.

The Marine Commandant, General Krulak, visited me in late July and helped to soften some of my objections.

For example, he assured me that the 12 new generals will be assigned to warfighting billets. That is good.

He promised me that the new generals will not fill mushrooming headquarters billets.

Those are the billets that Marine General Sheehan is so worried about.

But General Krulak's guarantees do not overcome my basic objection to the idea of adding brass at the top when the military is downsizing.

From that standpoint, section 405 of the bill defies understanding.

With 80 generals on board, the Marine Corps will have more generals than it had at the height of World War II when the Marine Corps was three times as big as it is today.

The Marine Corps is critically short of platoon sergeants. That is where we should add money—not for generals.

The Marine Corps is already topheavy with brass.

That came through loud and clear during Operation Restore Hope in Somalia, according to Col. David Hackworth.

Colonel Hackworth's thoughts are presented in his new book entitled:

Hazardous Duty: America's Most Decorated Living Soldier Reports From the Front and Tells It the Way It Is."

Marine Lt. Gen. Robert Johnson was in charge of Operation Restore Hope in late 1992.

He had 12 rifle companies under his command or about 1,200 fighters.

But as Colonel Hackworth points out, General Johnson's headquarters strength was 1,141.

So General Johnson's headquarters staff almost outnumbered the fighters.

In all, he said, there were 12 American generals in Somalia, one for every rifle company.

A rifle company is commanded by a captain, and a captain does not need a bunch of generals giving him orders.

All he needs is one good colonel.

Colonel Hackworth concludes with this thought: "Never had so few been commanded by quite so many."

So why does a shirinking Marine Corps need more generals? The Marine Corps already has too many generals commanding troops in the field. Somalia proved that point. They aren't needed for combat. They are needed for bureaucratic infighting in the Pentagon budget wars.

The Committee makes that point crystal clear in its report. I quote: "The increase is intended to permit the Marine Corps to have greater representation at the general officer level on the Department of the Navy-Secretariat staff and in the joint arena."

The Marines think more generals at the table will mean a bigger slice of the pie or a better piece of the action somewhere down the road.

That's what this is all about: capturing important bureaucratic real estate.

Mr. President, in my mind, this is bad public policy. It's going to backfire—big time. Giving in to the Marine Corps's request will not lay this issue to rest. This is not the end of it. It's just the beginning.

It is an ominous sign of interservice rivaalry that could ignite a war over who can get the most stars.

The Army, Navy, and Air Force are now going to complain: The Marines got theirs. Now we want ours.

The floodgates are about to open.

The Army, Navy, and Air Force are already lining up with their requests for more generals.

The Navy went on record in March, saying it has "331 valid flag officer requirements."

The Navy is authorized to have 220 today. Does this mean the Navy needs another 111 admirals?

The Navy is already topheavy with brass, having just about one admiral per ship.

The Army and the Air Force are even more topheavy—fatter with brass.

Yet both the Army and the Air Force are lobbying Secretary Perry to get their requests for more generals approved.

Now, while Mr. Perry is doing this, he is also telling the military to continue downsizing.

Does this make sense, Mr. President? Does it make sense to topsize when you're downsizing?

Former Chairman of the Joint Chiefs of Staff, Gen. Colin Powell, shed some light on this issue back in 1990 when post-cold-war downsizing began in earnest.

General Powell's thinking on this issue was outlined in an article that appeared in the August 1 issue of the Washington Post.

The article was written by Mr. Walter Pincus.

I ask unanimous consent to have this report printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 1, 1996]

MARINES LAND GENERALS DESPITE SOME OPPOSITION

(By Walter Pincus)

The Marines have landed their 12 more generals and despite some opposition appear to have the situation well in hand.

House conferees yesterday reached an agreement on the fiscal 1997 defense authorization bill that will allow the Corps to appoint a dozen more generals, enlarging its top tier so that the Marines will have a fair share of representatives in joint commands and be able to fill vacant positions.

If the conference report passes both houses and is signed by President Clinton, the Marines will be entitled to raise the number of active duty generals from 68 to 80. That would give the 174,000-member Corps, one more general than it had in June 1945 when the force was 475,000 strong, according to Rep. G.V. "Sonny" Montgomery (D-Miss.), who opposed the increase.

Sen. Charles E. Grassley (R-Iowa), who led the opposition in the Senate, said yesterday he was "very disappointed and frustrated" by the House conferees' action. He said he had hoped the increase could have been held off pending a study "based on recent downsizing in the rank and file."

But the Marines have insisted that the increase is warranted. "We don't ask for something unless it is truly needed," Marine Commandant Gen. Charles C. Krulak said in a letter to Grassley.

The Iowa Republican warned that other services will now be encouraged to request more admirals and generals, despite the military drawdown. "This is just a small snowball rolling down a hill that is going to expand very rapidly the number of brass in all services," he said.

Last March, Adm. Frank L. Bowman, chief of naval personnel, told the Senate Armed Services Committee, "I am convinced the Navy needs 25 to 30 more flag officers in order to have a manageable number of people to assign without having to rely on gapped billets or filling flag officer billets with senior captains."

Yesterday, Capt. Jim Kudla, spokesman for Bowman, said the Navy proposal "is not yet out of the hopper," but added that a number is under study in the office of Navy Secretary John H. Dalton.

The Navy, which this year has 428,000 officers and enlisted personnel, currently is authorized to have 216 flag officers plus four more allowed by the Joint Chiefs of Staff. That is down from a total force of 535,000 in 1990 when it had 256 admirals.

Under current plans, Navy personnel will go down to 395,000 by late 1998 and level off there. Nonetheless, according to Bowman, the Navy's increase in admirals is justified because "I believe we went too far in flag officer reductions in the Navy. We are feeling the pinch."

In 1990, then-Defense Secretary Richard B. Cheney and his chairman of the Joint Chiefs of Staff, Gen. Colin L. Powell, agreed that as they reduced overall service levels, they would as a "matter of good faith" look at cutting generals and flag officers "proportional to the reductions in base forces," a former senior Powell aide said yesterday.

Since the main forces were being reduced by 25 percent, Cheney and Powell looked at cutting the number of generals and admirals by at least 20 percent. Powell argued that the military services were like a pyramid. "You can't just cut at the bottom," the former aide said in describing Powell's position. "You have to take some off at every level so it still had the proper shape to it."

Powell regularly met with other members of the Joint Chiefs to have them "pledge their commitment" to the cuts which, the former aide said, "were painful." Those chiefs have now retired and the services, starting with the Marines, have begun to relieve the pain, the aide added.

The issue has led to some tough back-room politicking while House and Senate conferees worked out their differences.

Recently, House and Senate aides said they had been told by Pentagon sources that Arnold L. Punaro, minority staff director of the Armed Services panel, aide to Sen. Sam Nunn (D-Ga.) for 23 years and a Marine Corps Reserve brigadier general, had masterminded the move. The sources, from other services, alleged that Punaro was preparing a billet for himself for next year after Nunn retires from the Senate.

Punaro, who had heard the rumor, reacted sharply to it.

"The new active-duty Marine Corps general officer positions have nothing whatsoever to do with my future," he said. "I will remain a civilian when I leave my current position with the Senate Armed Services Committee."

Committee sources said Punaro stayed out of the issue other than to sit in on briefings by Krulak in Nunn's office.

Mr. GRASSLEY. I will quote from the article:

> As a matter of good faith, General Powell reportedly said, "you have to look at cutting generals and flag officers proportional to the reductions in base forces."

General Powell said the military services were organized like a pyramid. He said, "you can't just cut at the bottom. You have to take some off at every level so it still has the proper shape to it."

Mr. President, that is Colin Powell talking, and he should know something about how the military is supposed to be organized. Colin Powell says we should reduce the number of generals when the force structure is shrinking.

So why are we adding brass at the top when the force is getting smaller? Someone needs to provide an honest answer to that question. I have not heard one yet.

If we keep adding at the top and cutting at the bottom, pretty soon the military pyramid will lose its shape. We will have an upside-down pyramid.

Congress must not allow its decisions to be driven by interservice rivalry. There has to be a better way to determine the right number of generals.

On July 19, I wrote to the President, asking him to intervene in this matter. He is our Commander in Chief and needs to take charge and show some leadership.

I asked him to delay this decision until an independent review is conducted to determine how many general officer positions are needed, based on real military requirements. I have never received a response.

I am afraid he's been steamrollered by the generals, just like the Congress.

ILLEGAL DRUG TRADE

Mr. GRASSLEY. Mr. President, a few steps from this Capitol Building is a combat zone. In just a few blocks from here lies the killing ground that is one of the consequences of the illegal drug trade in this country. On average, over 400 people in Washington are murdered every year. That is roughly 60 lives lost per 100,000 population. The national average is 6 per 100,000. That makes Washington the Nation's murder capital. Those casualties, the lives lost and maimed, occur in just a few neighborhoods. They are not spread out over the whole city. Much of this carnage is directly the result of drugs and the harm that they cause, a harm that falls disproportionately on a few neighborhoods.

Now, virtually every ounce of illegal drug you can buy within a stone's throw of here—and that is just about any drug you could want in any quantity you care to buy—is produced overseas. It is imported into this country. Washington is not on the border with Mexico. We don't grow poppies in ward 6 or coca in Anacostia. These drugs find their way here in commercial cargo, in motor homes, in peoples' stomachs. They fly, walk, drive, and float into this country every day in a thousand ways. That availability is killing us. But the story does not stop here.

The criminal thugs that bring drugs into this country are not philanthropists. They are in the business to make money. And lots of it. That's why they come to the world's largest emporium. And they do well. But that leaves them with the problem of what to do with all the loot: how to turn all that dirty money into nice, clean cash. To do this, they exploit our banks and business. They smuggle cash out in bulk. They use our electronic highways.

As the Center for Technology Assessment noted last year, our "Financial institutions and their wire transfer systems provide the battleground to control money laundering." Criminal gangs employ a thousand techniques that fertile imaginations—the best that money can buy—can devise. They do all of this in defiance of our laws, in vicious contempt for common decency. And when these sorry riches find their way into secure havens, they are then used to corrupt and intimidate individuals, institutions, and whole governments. The vicious cycle is complete and begins again.

These criminal gangs, to push their drugs and launder their millions, make use of the very same systems that are the sources of our prosperity. They smuggle drugs in and they sneak the cash out. They exploit our financial processes and our commercial mechanisms to do this. We must not permit this to happen. There in lies our dilemma.

On the one hand, we must decide on those policies and practices that will most effectively facilitate our trade and finance. We must do this in order to sustain our continued prosperity and competitiveness. On the other hand, we must decide how best to discourage the criminal exploitation of our financial systems and our commercial arrangements. This clash of interests is no easy problem to deal with, but deal with it we must.

Unfortunately, this country has a major drug problem. As it is in virtually every other area of economic activity, the United States is the world's largest market for illegal drugs. Americans have more money and more time than do many other people. This means that every entrepreneur in the world is out to make it big in the U.S. market. Some of the most skilled, intelligent, and ruthless of these entrepreneurs are drug traffickers.

We are not dealing here with mom-and-pop operations. We are dealing with well-financed, international business enterprises with a global reach. They are sophisticated and dangerous. Let there be no mistake, the criminal organizations that traffic in drugs or other illegal goods are among the most significant threats to our well-being that we currently face.

The major international criminal organizations—based in Asia, Europe, Africa, and Latin America—now dispose of economic resources that enable them to defy local and international law. They are richer than many countries. They are ruthless, and they are remorseless. Either through a process of threat and intimidation or by bribery and financial manipulation, they are able to challenge the authority of governments. They are able to undermine the integrity of public and private institutions. Where they cannot suborn they subvert. Where they cannot corrupt they kill.

The rollcall of countries currently facing direct and serious challenges from these groups is disturbing. Today criminal gangs in Russia, China, Italy, Nigeria, Mexico, and Colombia openly operate or have been able to penetrate into the depths of the political, social, and economic systems in those countries. Many smaller countries, without the range of resources available elsewhere, are simply overmatched and outmaneuvered in trying to enforce their own sovereignty. In some cases, criminal penetration has become so serious that it raises questions about the future stability of the country in question. There is growing concern about the ability of many governments, often deeply penetrated by criminal corruption, to respond meaningfully—if at all—to these criminal gangs.

In addition, banks and businesses pay out billions of dollars every year, directly or indirectly, to these same criminal gangs. Whether in protection money or in losses suffered from sophisticated scams. Whether in extortion or swindles, individual businesses and national economies are routinely ripped off, to the tune of billions of dollars annually, by ruthless criminal thugs.

The cost of their activities are not paid out just in the crimes that they commit. They also exact a cost in terms of trust. They undermine good faith. When left unchecked, they pervert the very ideas of a free market. The bleed public establishments of public support. They threaten democratic institutions and the social, political, and economic circumstances that must sustain those institutions. We can see that process at work in Colombia, and Russia, and next door in Mexico. But the problem does not stop here.

In this country, these criminal gangs daily kill and maim more Americans than have suffered at the hands of terrorist bombs. They have done more damage to our social fabric and well-being than has any rogue political leader in Libya or Iran. They have caused more real harm in a day than all the illegal videotapes produced in China. Through the drugs that these scoundrels make and sell, they sow havoc in our homes and neighborhoods, on our streets, and in our clinics.

We must take the steps necessary to ensure that our citizens are secure from harm and that the very processes of our well-being are protected from abuse. We must ensure that the free-trade highway does not become an expressway for drug smuggling. We have to ensure that banking without borders does not become an opportunity for banking without conscience. But how to do that without smothering legitimate activity? We must devise the means to disrupt criminal enterprise without destroying free markets. We must ensure effective international cooperation and yet work with countries often incapable of taking effective action. We must lead, but we cannot succeed without cooperation.

That is what this hearing is about. We must look at what we are doing and what we can do better. We need to consider what works and what does not. We need to cast a critical eye on our actions and those of our allies and friends to determine what more we can do. I am concerned that our policies are not up to the task. I am concerned that we have put our priorities in the wrong places. Frankly, we have a long way to go and a lot of work ahead of us. More kids are starting to use drugs. We are seeing more calls for legalization. We have dropped the ball on fighting back.

In the meantime, the criminals are getting richer and more sophisticated. As we face 21st century thugs, we need 21st century G-men. We need to be smarter and faster. We need to be focused and consistent. As one Treasury official put it, money laundering is a "crime hidden in the details of legitimate commerce." The same is true for smuggling. The devil is in the details. It is the details that we want to get at. It is how to respond effectively to the details of these criminal activities that we must address in our policies.

THE NET EFFECT

Mr. GRASSLEY. Mr. President, the Congress is now engaged in the business of passing a budget to fund this Government for another year. This process is one of the most important pieces of business that this body engages in. In discussing where and how and for what we spend the public's money on public business in the public interest is one of the most compelling stories of government. I wish that more of our fellow citizens watched the debates on this floor as we argue among ourselves on their behalf how best to spend their hard earned dollars. It is an important lesson in civics. It is a course in practical politics, on how real differences on important matters of substance are resolved. It is sometimes not an elegant process but it is one of the critical features of democratic government.

One of the most inelegant parts of the process, is the fact that legislating budgets is not coherent in the sum of its parts. We divide our budget consideration into many pieces. It's the only practical way to deal with the problem of how to spend money. This means, however, that money and the politics that it is spent on is similarly considered in its many parts, not as a whole.

Rarely, legislatively, does a program receive strategic or comprehensive consideration that combines all the elements. Doing that is typically one of the responsibilities of the executive branch. We look to the administration to present the comprehensive plan, to integrate all the pieces into meaningful policy. It is Congress' role to ensure that the net results are what is intended. That the money is buying what it is meant for.

We may not always agree with how things are put together, but a dialog on our disagreements is how a democracy makes up its mind. This process, however, does not lend itself to central direction. Congress may, through the oversight process, seek to encourage cohesiveness. It may, through legislation, require strategic thinking. But, while you can lead an administration to water, you cannot necessarily make it take the plunge. You cannot give it coherence. You cannot supply a vision that is wanting, a conviction that is simply not there. You cannot enforce wisdom. When these are lacking, Congress is not always the best body to provide uniform direction. It is, however, bound to try.

That is the situation we face now is so many areas of our international policy. Things are drifting. There is no coherence, no vision. And, sometimes, I wonder about the wisdom behind what passes for policy. This is painfully clear in looking at our drug policy.

I have spoken a number of times about the incoherence in our present efforts. I have documented, recently, the consequences of these failed policies for drug use in this country. Unless we simply do not expect our policies to make any difference. Unless we are committed to the idea that we spend the public's money for the heck of it. Unless we believe that words are meant to substitute for results. Then, we cannot look at our current efforts and the trend in youthful drug use and conclude that what we are doing is working.

Simply put, the present strategy from this administration on drugs is a failure. It has been a failure from the beginning. The most recent effort at a written strategy, while an admirable attempt by the new drug czar, is thin. It lacks substance. It has no measurable standards of performance. It contains little new. It has few measures of success. Even more disappointing, the administration has been noticeably invisible on the Hill in defending its own programs. This, also, is not new. Even in the Democratic-controlled Congress, the administration largely left the drug program to fend for itself.

This under-supported policy was also the program that the administration took to the public. Its most remembered hallmarks are "I didn't inhale", and the Surgeon General's call for serious consideration of legalization. Hardly substitutes for "Just Say No." The consequences were vanishing interest in serious counter-drug efforts and renewed calls for legalization—given encouragement by this administration's Surgeon General. The results of that indifference and incoherence are clear for anyone who wants to take a look at the recent reporting on youthful drug use in this country over the past 3½ years. The picture is sobering. The results are dramatic increases of drug use among kids. All the recent surveys confirm this. In addition, the forthcoming annual PRIDE survey will add further weight to the body of evidence.

In response to this fact, the congressional leadership, led by Bob Dole, commissioned a joint House-Senate task force last year to do what the administration has not done: develop a coherent view of what needs to be done. The task force report, which came out earlier this year, provides us with guidance on where we need to be going with our drug policy. In particular, as Congress now considers the international drug budget in its many parts, the report indicates the direction that we need to be taking to give us more coherence and sense of purpose in our efforts.

In the absence of meaningful policies from the administration, we have a responsibility to the public to make up for the deficit. As we construct our separate drug budgets, we must take this need into our deliberations.

In essence, our overall drug programs are an effort to build a fisherman's net—a web of programs, efforts, and policies that will catch and hold the school of drug problems. We must construct a balanced weave. One without gaping holes. One that is suited to the circumstances of our needs and our capabilities. The budget process is our net. It is here that we must ensure that we bring more consistency to our deliberations over the various parts of our drug budget to ensure that the result is more than the sum of its parts.

We need to ensure, as we balance the many conflicting needs represented in our budgets, that our drug program is adequately funded in its constituent elements. We must ensure that DOD bears responsibility for doing something more than it has recently in supporting drug operations. We must see that Customs programs along the Southwest border, in Puerto Rico, and in support of interdiction operations are adequately supported, after years of neglect. We need to refurbish DEA's international effort. We need to support Coast Guard's drug enforcement mission. We need to provide support to the efforts to develop a Midwest high intensity drug trafficking area to stem the flow of methamphetamine.

These things we can do more immediately. In the longer term, we in Congress need to exercise more vigorous oversight over present programs to ensure that the public is getting a proper return on its investment. We need more accountability. In the next days and weeks, as we work to do the people's business, we must keep in mind our responsibility to provide adequate, consistent support to drug programs. In doing so, we help to put our drug policy back on track. We engaged a problem that we cannot afford to ignore or wish away. In responding, we must consider the net effect. I urge my colleagues to support funding for the programs I have mentioned above as we work on the appropriations bills before us.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LORET RUPPE

Mr. COVERDELL. Mr. President, today the Senate Foreign Relations Committee reported House Joint Resolution 158, a joint resolution commending the Peace Corps and its volunteers for their 35 years of service to America and the world. I was especially pleased that my colleagues on the committee agreed to an amendment to this resolution offered by Senator DODD and myself which honors the memory of Loret Ruppe, the longest serving director of the Peace Corps. When I became director of the Peace Corps in 1989, I had the privilege of inheriting a corps that had been revitalized by Loret Ruppe's great leadership, vision, and dedication. Under her direction the Peace Corps began or revived programs in Sri Lanka, Haiti, Burundi, Guinea-Bissau, Chad, Equatorial Guinea, and the Cape Verde Islands and she energized a new generation to take up the challenge of serving in the corps. Her great accomplishments and belief in the Peace Corps won the respect of volunteers and built bipartisan support for the Peace Corps' mission of peace through development. I feel that it is especially appropriate that the Members of this great legislative body, so many of whom on both sides of the aisle count themselves as admirers of this great woman, pass this resolution to stand as a testament to her great service to America and to the millions of the world's citizens touched by her efforts.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Rules and Administration.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

A message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1791. An act to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

H.R. 3217. An act to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes.

H.R. 3452. An act to make certain laws applicable to the Executive Office of the President, and for other purposes.

H.R. 4083. An act to extend certain programs under the Energy Policy and Conservation Act through September 30, 1997.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 132. Concurrent resolution relating to the trial of Martin Pang for arson and felony murder.

H. Con. Res. 200. Concurrent resolution honoring the victims of the June 25, 1996, terrorist bombing in Dhahran, Saudi Arabia.

H. Con. Res. 212. Concurrent resolution endorsing the adoption by the European Parliament of a resolution supporting the Republic of China on Taiwan's efforts at joining the community of nations.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3666) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3539) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on Transportation and Infrastructure, for consideration of the House bill (except section 501) and the Senate amendment (except section 1001), and modifications committed to conference: Mr. SHUSTER, Mr. CLINGER, Mr. DUNCAN, Mr. OBERSTAR, and Mr. LIPINSKI;

From the Committee on Transportation and Infrastructure, for consideration of section 501 of the House bill and section 1001 of the Senate amendment, and modifications committed to conference: Mr. SHUSTER, Mr. CLINGER, and Mr. OBERSTAR;

As additional conferees from the Committee on Rules, for consideration of section 675 of the Senate bill, and modifications committed to conference: Mr. DREIER, Mr. LINDER, and Mr. BEILENSON;

As additional conferees from the Committee on Science, for consideration of sections 601–605 of the House bill, and section 103 of the Senate amendment, and modifications committed to conference: Mr. WALKER, Mrs. MORELLA, and Mr. BROWN of California;

As additional conferees from the Committee on Science, for consideration of section 501 of the Senate amendment and modifications committed to conference: Mr. WALKER, Mr. SENSENBRENER, and Mr. BROWN of California;

As additional conferees from the Committee on Ways and Means, for the consideration of section 501 of the bill H.R. 3539, and sections 417, 906, and 1001 of the Senate amendment and modifications committed to conference: Mr. ARCHER, Mr. CRANE, and Mr. GIBBONS.

ENROLLED BILLS SIGNED

At 12:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks announced that the Speaker has signed the following enrolled bills:

H.R. 3666. An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes.

S. 1507. An act to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

At 12:31 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the Committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3259) to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

At 4:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing penalties for alien smuggling and for document fraud, and be reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3217. An act to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

MEASURE READ THE FIRST TIME

The following measure was read the first time:

H.R. 4134. An act to amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on September 25, 1996, he had presented to the President of the United States, the following enrolled bill:

S. 1507. An act to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4161. A communication from the Acting Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–4162. A communication from the Acting Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–4163. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation concerning the sale of excess federal aircraft to facilitate the suppression of wildfire; to the Committee on Armed Services.

EC–4164. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, a rule concering migritory bird hunting (RIN 1018–AD69) received on September 24, 1996; to the Select Committee on Indian Affairs.

EC–4165. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report for fiscal year 1995 with respect to outer continental shelf lease sales; to the Committee on Energy and Natural Resources.

EC–4166. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, a rule regarding migratory bird hunting (RIN 1018–AD69) received on September 24, 1996; to the Committee on Environment and Public Works.

EC–4167. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, a rule regarding migratory bird hunting (RIN 1018–AD69) received on September 23, 1996; to the Committee on Environment and Public Works.

EC–4168. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, a rule regarding migratory bird hunting (RIN 1018–AD69) received on September 19, 1996; to the Committee on Environment and Public Works.

EC–4169. A communication from the Assistant Attorney General, Office of Legislative Affairs, transmitting, a draft of proposed legislation entitled "The Environmental Crimes and Enforcement Act of 1996"; to the Committee on Environment and Public Works.

EC–4170. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, three rules including one entitled "Operating Permits Program Interim Approval Extentions" (received on September 19, 1996); to the Committee on Environment and Public Works.

EC–4171. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, a rule regarding the Puget Sound Air Quality Ozone (received on September 19, 1996); to the Committee on Environment and Public Works.

EC–4172. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, Revenue Ruling 96–49 (received on September 24, 1996); to the Committee on Finance.

EC–4173. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, Revenue Ruling 96–45 (received on September 23, 1996); to the Committee on Finance.

EC–4174. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, Revenue Ruling 96–49 (received on September 20, 1996); to the Committee on Finance.

EC–4175. A communication from the Chief of Staff, Office of the Commissioner of Social Security, transmitting, pursuant to law, a report with respect to a rule regarding income exclusions (RIN 0960–AE22) received on September 19, 1996; to the Committee on Finance.

EC–4176. A communication from the Chief of Staff, Office of the Commissioner of Social Security, transmitting, pursuant to law, a report with respect to a rule regarding income exclusions (RIN 0960–AE22) received on September 19, 1996; to the Committee on Finance.

EC–4177. A communication from the Assistant Secretary of Legislative Affairs, Department of State, tramnsmitting, pursuant to law, the report of a Presidential Determination regarding Mongolia; to the Committee on Finance.

EC–4178. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Notice 96–49 (received on September 19, 1996); to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance, with an amendment in the nature of a substitute:

H.R. 3815. A bill to make technical corrections and miscellaneous amendments to trade laws.

By Mr. HELMS, from the Committee on Foreign Relations, without amendment:

H.R. 3846. A bill to amend the Foreign Assistance Act of 1961 to authorize the provision of assistance for microenterprises, and for other purposes.

H.R. 3916. A bill to make available certain Voice of America and Radio Marti multilingual computer readable text and voice recordings.

By Mr. HELMS, from the Committee on Foreign Relations, with amendments and an amendment to the title and an amended preamble:

H.J. Res. 158. A joint resolution to recognize the Peace Corps on the occasion of its 35th anniversary and the Americans who have served as Peace Corps volunteers.

By Mr. HELMS, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and an amendment to the title and an amended preamble:

S. Res. 285. A resolution expressing the sense of the Senate that the Secretary of State should make improvements in Cambodia's record on human rights, the environment, narcotics trafficking, and the Royal Government of Cambodia's conduct among the primary objectives in our bilateral relations with Cambodia.

By Mr. HELMS, from the Committee on Foreign Relations, without amendment:

S. 2130. An original bill to extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation:

The following individual for appointment as a permanent regular commissioned officer in the U.S. Coast Guard in the grade of lieutenant commander:

Laura H. Guth.

The following officers of the U.S. Coast Guard Permanent Commissioned Teaching Staff at the Coast Guard Academy for promotion to the grade indicated:

To be commander

Robert R. Albright, II
Lucretia A. Flammang

To be lieutenant commander

James R. Dire

The following Regular officers of the U.S. Coast Guard for promotion to the grade of captain:

Joseph F. Ahern
Jeffrey G. Lantz
Adan D. Guerrero
Walter S. Miller
Mark E. Blumfelder
Richard W. Goodchild
Jon T. Byrd
David W. Ryan
Jeffrey Florin
John C. Simpson
William C. Bennett
Joel R. Whitehead
James J. Lober, Jr.
Wayne D. Gusman
Michael J. Devine
Scott F. Kayser
James B. Crawford
William J. Hutmacher
Glenn L. Snyder
Douglas P. Rudolph
John L. Grenier
Timothy S. Sullivan
Mark G. Vanhaverbeke
James Sabo
Paul C. Ellner
Steven A. Newell
Douglas E. Martin
Richard A. Rooth
Lawrence M. Brooks

The following Reserve officer of the U.S. Coast Guard for promotion to the grade of captain:

Catherine M. Kelly

The following Regular officers of the U.S. Coast Guard for promotion to the grade of commander:

George A. Russell, Jr.
Patrick J. Cunningham, Jr.
Dane S. Egli
Jeffrey S. Gordon
Bret K. McGough
Jody B. Turner
Mark L. McEwen
Mark A. Skordinski
Donald K. Strother
Francis X. Irr, Jr.
Robert A. Farmer
Richard M. Kaser
Kurtis J. Guth
Gary E. Felicetti
Daniel A. Laliberte
Kurt W. Devoe
Robert J. Legier
Robert E. Korroch
Thomas P. Ostebo
Mark A. Prescott
Kenneth H. Sherwood
Mark S. Guillory
Preston D. Gibson
David L. Hill
Michael P. Farrell
Richard A. Stanchi
Scott S. Graham
Mark R. Devries
Kenneth R. Burgess, Jr.
Warren L. Haskovec
Jennifer L. Yount
Barry P. Smith
William D. Lee
John R. Lindley, Jr.
Robert R. O'Brien, Jr.
Scott G. Woolman
William W. Whitson, Jr.
Larry E. Smith
Mark A. Frost
Mitchell R. Forrester
Patrick J. Nemeth
Curtis A. Stock
Christopher K. Lockwood
Barry L. Dragon
Michael D. Brand
Bruce E. Grinnel
Brian K. Swanson
Robert J. Malkowski
Brian J. Goettler
Charles W. Ray
Stephen J. Minutolo
Virginia K. Holtzman-Bell
Matthew M. Blizard
Richard A. Rendon
Bryan D. Schroder
John W. Yager, Jr.
Marshall B. Lytle III
Thomas D. Criman
Stephen J. Ohnstad
Carol C. Bennett
Thomas E. Hobaica
David S. Stevenson
James T. Hubbard
George P. Vance, Jr.
Robert M. Atkin
Christine D. Balboni
Mark D. Rutherford
Patrick B. Trapp
Dennis D. Blackall
Bradley R. Mozee
Richard J. Ferraro
Richard L. Matters
Ekundayo G. Faux
David L. Lersch
Ricki G. Benson
Norman L. Custard, Jr.
Gregory B. Breithaupt
Steven E. Vanderplas
Frederick J. Kenney, Jr.
Steven J. Boyle
Thomas K. Richey
Dennis A. Hoffman
David M. Gundersen
Jeffrey N. Garden
James E. Tunstall
Kevin G. Quigley
John R. Ochs
Ronald D. Hassler
Timothy J. Dellot
Kenneth D. Forslund
Tomas Zapata
Dennis M. Sens
Peter V. Neffenger
Alvin M. Coyle
Daniel R. MaCleod
Melissa A. Wall
Robert M. Wilkins
Curtis A. Springer
Timothy G. Jobe
Christian Broxterman
Rickey W. George
Elmo L. Alexander II

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. PRESSLER. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably four nomination lists in the Coast Guard, which were printed in full in the CONGRESSIONAL RECORDS on July 29, and September 3, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of July 29, and September 3, 1996, at the end of the Senate proceedings.)

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Doc. 104-15 Income Tax Convention with Kazakstan (Exec. Rept. 104-34)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the Government of the United States of America and the Government of the Republic of Kazakstan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, Together with the Protocol, signed at Almaty on October 24, 1993, and Two Related Exchanges of Notes, dated August 1 and September 7, 1994, and dated August 15 and September 7, 1994 (Treaty Doc. 103-33); an Exchange of Notes dated at Washington July 10, 1995, Relating to the Convention Between the Government of the United States of America and the Government of the Republic of Kazakstan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, Together with a Related Protocol, signed at Almaty on October 24, 1993 (Treaty Doc. 104-15); and in Exchange of Notes, dated June 16 and 23, 1995 (EC-1431). The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

"The United States shall not exchange the instruments of ratification with the Government of the Republic of Kazakstan until such time as the Government of the Republic of Kazakstan has notified the Government of the United States that its laws no longer permit anonymous bank accounts to be established."

Treaty Doc. 104-23 Protocol Amending Article VIII of the 1948 Tax Convention with Respect to the Netherlands Antilles (Exec. Rept. 104-35)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Between the Government of the United States of America and the Government of the Kingdom of the Netherlands in Respect of the Netherlands Antilles Amending Article VIII of the 1948 Convention with Respect to Taxes on Income and Certain Other Taxes as Applicable to the Netherlands Antilles, signed at Washington on October 10, 1995 (Treaty Doc. 104-23).

Treaty Doc. 104-32 Taxation Protocol Amending Convention with Indonesia (Exec. Rept. 104-36)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol, signed at Jakarta on July 24, 1996, Amending the Convention Between the Government of the United States of America and the Government of the Republic of Indonesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, with a Related Protocol and Exchange of Notes signed at Jakarta on July 11, 1988 (Treaty Doc. 104-32).

By Mr. HELMS, from the Committee on Foreign Relations:

Arma Jane Karaer, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papua New Guinea, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands, and as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Vanuatu.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Arma Jane Karaer.

Post: Port Moresby, Papua New Guinea.

Contributions, amount, date, and donee:

1. Self: Arma Jane Karaer, none.
2. Spouse: Yasar Karaer, none.
3. Children and spouses: Alexandra Karaer and Ceren Karaer, none. (Both children are unmarried)
4. Parents: Alexander Szczepanski, father, (deceased), Ida Szczepanski (mother), none.
5. Grandparents: Bronislaw Szczepanski (deceased), Caroline Szczepanski (deceased), Irving E. Anderson, Sr. (deceased), and Hedwig L. Anderson (deceased).
6. Brothers and spouses: Bruce Szczepanski, none, Edith Szczepanski, none. David J. Szczepanski, $50.00, 3/20/95, Republican Party; $100.00 8/23/95, Dennis Newinski. Currently a member of the Dennis Newinski finance committee. Joan Szczepanski (deceased). Michael Szczepanski, none; Nancy Szczepanski, none; Steven Szczepanski (unmarried), none; Thomas Szczepanski, none; Cynthia Szczepanski, none.

Sisters and spouses: I have no sisters.

Anne W. Patterson, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Anne W. Patterson.

Post: El Salvador.

Contributions, amount, date, and donee:

1. Self: Anne W. Patterson, none.
2. Spouse: David R. Patterson none.
3. Children and Spouses Names: Edward C. Patterson (age 14), Andrew Patterson (age 8), none.
4. Parents Names: John and Carol Woods, none.
5. Grandparents Names: Sarah Ackley, none.
6. Brothers and Spouses Names: John Davis Woods, Jr., none; Jean Byers Woods, none.
7. Sisters and Spouses Names: none.

John Francis Maisto, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador extraordinary and Plenipotentiary of the United States of America to the Republic of Venezuela.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: John E. Maisto.

Post: U.S. Ambassador to Venezuela.

Contributions, amount, date, and donee:

1. Self: John F. Maisto, none.
2. Spouse: Maria Consuelo G. Maisto, none.
3. Children and Spouses Names: John Joseph Maisto/Karen Nelson, none.
4. Parents Names: John Maisto (deceased), Mary P. Maisto, none.
5. Grandparents Names: Elpedio Maisto (deceased), Luisa Maisto (deceased).
6. Brothers and Spouses Names: Albert L. Maisto, none; Mary Jean Mills Maisto, none.
7. Sisters and Spouses Names: none.

Dennis K. Hays, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Suriname.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Dennis K. Hays

Post: Suriname

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: none.
3. Children and Spouses Names: none.
4. Parents: Ronald and Jane Hays; $50.00 per year Richard Matsuura (D-Hawaii); $25.00 per year Gene Ward (R-Hawaii); $25.00 per year Tom Okamura (D-Hawaii); $1,000.00 1995 Orson Swindle (R-Hawaii); $100.00 per year Republican National Committee.
5. Grandparents Names: none.
6. Brothers and Spouses Names: none.
7. Sisters and Spouses Names: none.

Genta Hawkins Holmes, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, as Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia.

Nominee: Genta Hawkins Holmes

Post: Australia

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: none.
3. Children and Spouses Names: none
4. Parents Names: deceased.
5. Grandparents Names: deceased.
6. Brothers and Spouses Names: Ronald H. Hawkins, none; Lynn A. Hawkins none.
7. Sisters and Spouses Names: none.

John Stern Wolf, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as U.S. Coordinator for Asia Pacific Economic Cooperation (APEC).

Madeleine Korbel Albright, of the District of Columbia, to be Representative of the United States of America to the Fifty-first Session of the General Assembly of the United Nations.

Edward William Gnehm, Jr., of Georgia, to be Representative of the United States of America to the Fifty-first Session of the General Assembly of the United Nations.

Karl Frederick Inderfurth, of North Carolina, to be Alternate Representative of the United States of America to the Fifty-first Session of the General Assembly of the United Nations.

Victor Marrero, of New York, to be Alternate Representative of the United States of America to the Fifty-first Session of the General Assembly of the United Nations.

Richard W. Bogosian, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Special Coordinator for Rwanda/Burundi.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably four nomination lists in the Foreign Service which were printed in full in the CONGRESSIONAL RECORDS of June 26, September 9, and September 19, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of June 26, September 9 and 19, 1996, at the end of the Senate proceedings.)

The following-named Career Member of the Senior Foreign Service of the U.S. Information Agency for promotion in the Senior Foreign Service to the class indicated:

Career Member of the Senior Foreign Service of the United States of America, Class of Career Minister:

Marilyn McAfee, of Florida

The following-named persons of the agencies indicated for appointment as Foreign Service Officers of the classes stated, and also for the other appointments indicated herewith:

For appointment as Foreign Service Officer of Class One, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Paul Albert Bisek, of Virginia

For appointment as Foreign Service Officers of Class Two, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Susumo Ken Yamashita, of Maryland

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Susan Kucinski Brems, of the District of Columbia

Christine M. Byrne, of Virginia

James Eric Schaeffer, of Florida

DEPARTMENT OF COMMERCE

Karla B. King, of Florida
Terry J. Sorgi, of Wisconsin

For appointment as Foreign Service Officers of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

U.S. INFORMATION AGENCY

Tania Bohachevsky Chomiak, of Florida
Linda Joy Hartley, of California
Sharon Hudson-Dean, of Pennsylvania
Constance Colding Jones, of Indiana
Steven Louis Pike, of New York
David Michael Reinert, of New Mexico

DEPARTMENT OF STATE

Sarah J. Metzger, of Virginia

For appointment as Foreign Service Officers of Class Four, Consular Officers and Secretary in the Diplomatic Service of the United States of America effective June 28, 1996:

DEPARTMENT OF STATE

Marc C. Johnson, of the District of Columbia

The following-named Members of the Foreign Service of the Department of Commerce and the Department of State to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Robert L. Adams, of Virginia
Veomayoury Baccam, of Iowa
Douglass R. Benning, of the District of Columbia
Steven A. Bowers, of Virginia
Michael A. Brennan, of Connecticut
Kerry L. Brougham, of California
Andrea Brouillette-Rodriguez, of Minnesota
Paal Cammermeyer, of Maryland
Priscilla Carroll Caskey, of Maryland
Julianne Marie Chesky, of Virginia
Carmela A. Conroy, of Washington
julie Chung, of California
Edward R. Degges, Jr., of Virginia
Thomas L. Elmore, of Florida
Wayne J. Fahnestock, of Maryland
Denis Barrett Finotti, of Maryland
Kenneth Fraser, of Maryland
Gary R. Guiffrida, of Maryland
Patricia M. Gonzalez, of Texas
David J. Greene, of New York
Raymond Franklin Greene III, of Maryland
Ronald Allen Gregory, of Tennessee
Deborah Guido-O'Grady, of Virginia
Audrey Louise Hagedorm, of Virginia
Patti Hagopian, of California
Charles P. Harrington, of Virginia
Ronald S. Hiett, of Virginia
Ruth-Ercile Hodges, of New York
Kristina M. Hotchkiss, of Virginia
Andreas O. Jaworski, of Virginia
Ralph M. Jonassen, of New York
Marni Kalapa, of Texas
Jane J. Kang, of California
Sarah E. Kemp, of New York
Frederick J. Kowaleski, of Virginia
Steven W. Krapcho, of Virginia
Gregory R. Lattanze, of Virginia
Charles W. Levesque, of Illinois
Janice O. MacDonald, of Virginia
C. Wakefield Martin, of Texas
Brian I. McCleary, of Virginia
Alan D. Meltzer, of New York
David J. Mico, of Indiana
Christopher S. Misciagno, of Florida
Joseph P. Mullin, Jr., of Virginia
Burke O'Connor, of California
Edward J. Ortiz, of Virginia
Maria Elena Pallick, of Indiana
David D. Potter, of South Dakota
Eric N. Richardson, of Michigan
Heather C. Roach, of Iowa
Taylor Vinson Ruggles, of Virginia
Thomas L. Schmitz, of South Dakota
Jonathan L.A. Shrier, of Florida
James E. Smeltzer III, of Maryland
Christine L. Smith, of Virginia
Keenan Jabbar Smith, of Pennsylvania
Brian K. Stewart, of Virginia
Christine D. Stuebner, of New York
Stephanie Faye Syptak, of Texas
Erminido Telles, of Virginia
Mark Tesone, of Virginia
Michael Anthony Veasy, of Tennessee
Glenn Stewart Warren, of California
Mark E. Wilson, of Texas
Anthony L. Wong, of Virginia
Gregory M. Wong, of Missouri
Kim Woodward, of Virginia
Martha-Jean Hughes Wynnyczok, of Virginia
Teresa L. Young, of Virginia

Secretary in the Diplomatic Service of the United States of America:

John Weeks, of Virginia

The following-named Career Members of the Senior Foreign Service of the Department of State for promotion in the Senior Foreign Service to the classes indicated:

Career Member of the Senior Foreign Service of the United States of America, Class of Career Minister:

John C. Kornblum, of Michigan
Edward S. Walker, Jr., of Maryland

Career Members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

Marshall P. Adair, of Florida
Jeffrey A. Bader, of Florida
Lawrence Rea Baer, of California
Donald Keith Bandler, of Pennsylvania
James W. Bayuk, of Illinois
James D. Bindenagel, of California
Ralph L. Boyce, Jr., of Virginia
Prudence Bushnell, of Virginia
Wendy Jean Chamberlin, of Virginia
Lynwood M. Dent, Jr., of Virginia
C. Lawrence Greenwood, Jr., of Florida
John Randle Hamilton, of Virginia
Howard Franklin Jeter, of South Carolina
Charles Kartman, of Virginia
Kathryn Dee Robinson, of Tennessee
Peter F. Romero, of Florida
Wayne S. Rychak, of Maryland
Earl A. Wayne, of California
R. Susan Wood, of Florida

The following-named Career Members of the Foreign Service for promotion into the Senior Foreign Service, and for appointment as Consular Officers and Secretaries in the Diplomatic Service, as indicated:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

Lawrence E. Butler, of Maine
James Philip Callahan, of Florida
James J. Carragher, of California
John R. Dinger, of Iowa
Ben Floyd Fairfax, of Virginia
Nick Hahn, of California
William Thomas Harris, Jr., of Florida
Ann Kelly Korky, of New Jersey
Richard E. Kramer, of Tennessee
Richard Burdette LeBaron, of Virginia
Antoinette S. Marwitz, of Virginia
Robert John McAnnenny, of Connecticut
Edward McKeon, of the District of Columbia
William T. Monroe, of Connecticut
Lauren Moriarty, of Hawaii
Michael C. Mozur, of Virginia
Stephen D. Mull, of Pennsylvania
Michael Eleazar Parmly, of Florida
Jo Ellen Powell, of the District of Columbia
David E. Randolph, of Arizona
Victor Manuel Rocha, of California
Anthony Francis Rock, of New Hampshire
Lawrence George Rossin, of California
John M. Salazar, of New Mexico
Sandra J. Salmon, of Florida
Janet A. Sanderson, of Arizona
Ronald Lewis Schlicher, of Tennessee
Joseph B. Schreiber, of Michigan
Richard Henry Smyth, of California
William A. Stanton, of California
Gregory Michael Suchan, of Ohio
Laurie Tracy, of Virginia
Frank Charles Urbancic, Jr., of Indiana
Harry E. Young, Jr., of Missouri

Career Members of the Senior Foreign Service, Class of Counselor, and Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

John R. Bainbridge, of Maryland
Bernard W. Bies, of South Dakota
Melvin L. Harrison, of Virginia
George N. Reinhardt, of Colorado
Bernardo Segura-Giron, of Virginia
Mark Stevens, of Florida
Frederick J. Summers, of California
Brooks A. Taylor, of New Hampshire
William L. Young, of Virginia
Joseph DeMaria, of New Jersey
Michael Ralph DeTar, of New York
Rodger Jan Deuerlein, of California
Stephen A. Druzak, of Washington
Mary Eileen Earl, of Virginia
Linda Laurents Eichblatt, of Texas
Jessica Ellis, of Washington
Stephanie Jane Fossan, of Virginia
Christopher Scott Hegadorn, of the District of Columbia
Harry R. Kamian, of California
Marc E. Knapper, of California
Blair L. LaBarge, of Utah
William Scott Laidlaw, of Washington
Kaye-Anne Lee, of Washington
Brian Lieke, of Texas
Bernard Edward Link, of Delaware
Lee MacTaggart, of Washington
Richard T. Reiter, of California
Kai Ryssdal, of Virginia
Norman Thatcher Scharpf, of the District of Columbia
Jennifer Leigh Schools, of Texas
Justin H. Siberell, of California
Anthony Syrett, of Washington
Herbert S. Traub III, of Florida
Arnoldo Vela, of Texas
J. Richard Walsh, of Alabama
David K. Young, of Florida
Darcy Fyock Zotter, of Vermont

The following-named Members of the Foreign Service of the Department of Commerce and the Department of State to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Derek A. Bower, of Virginia
Steven P. Chisholm, of Virginia
Henry J. Heim, Jr., of Virginia
Holly Ann Herman, of Virginia
E. Keith Kirkham, of Maine
Mary Pat Moynihan, of Virginia
John W. Ratkiewicz, of New Jersey

Secretary of the Diplomatic Service of the United States of America:

William B. Clatanoff, Jr., of Virginia

The following-named Career Members of the Foreign Service of the Department of State for promotion in the Senior Foreign Service to the class indicated, effective October 18, 1992:

Career Members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

Elizabeth B. Bollmann, of Missouri
Marsha D. von Duerckheim, of California

The following-named Career Members of the Foreign Service of the Department of State, previously promoted in the Senior Foreign Service to the class indicated on October 18, 1992, now to be effective April 7, 1991:

Career Members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

The following-named persons of the agencies indicated for appointment as Foreign Service Officers of the classes stated, and also for the other appointments indicated herewith:

For appointment as Foreign Service Officer of Class One, Consular Officer and Secretary in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Larry Corbett, of Nevada

For appointment as Foreign Service Officers of Class Two, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF COMMERCE

Hans J. Amrhein, of Virginia

DEPARTMENT OF STATE

Phyllis Marie Powers, of Texas
Michael S. Tulley, of California

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Kimberly J. Delaney, of Virginia
Edith Fayssoux Jones Humphreys, of North Carolina

DEPARTMENT OF STATE

Jemile L. Bertot, of Connecticut

For appointment as Foreign Service Officers of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Alfred B. Anzaldua, of California
David A. Beam, of Pennsylvania
Donald Armin Blome, of Illinois
P.P. Declan Byrne, of Washington
Lauren W. Catipon, of New Jersey
James Patrick DeHart, of Michigan
Joan Ellen Corbett, of Virginia
Judith Rodes Johnson, of Texas
Mary Elizabeth Swope, of Virginia

The following-named Career Member of the Foreign Service of the Department of State, previously promoted in the Senior Foreign Service to the class indicated on October 18, 1992, now to be effective October 6, 1991:

Career Member of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

Sylvia G. Stanfield, of Texas

The following-named Career Member of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on November 6, 1988, now effective October 12, 1986:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

Joan Ellen Corbett, of Virginia
Judith Rodes Johnson, of Texas
Mary Elizabeth Swope, of Virginia

The following-named Career Member of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on November 6, 1988, now effective January 3, 1988:

Career Member of the Senior Foreign Service of the United States of America, Class of Counselor:

Sylvia G. Stanfield, of Texas

The following-named Career Member of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on April 7, 1991, now effective November 19, 1989:

Career Member of the Senior Foreign Service of the United States of America, Class of Counselor:

Virginia Carson Young, of the District of Columbia

The following-named Career Member of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on October 6, 1991, now effective April 7, 1991:

Career Member of the Senior Foreign Service of the United States of America, Class of Counselor:

Judith M. Heimann, of Connecticut

The following-named Career Members of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on October 18, 1992, now effective April 7, 1991:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor

Judyt Landstein Mandel, of the District of Columbia
Mary C. Pendleton, of Virginia

The following-named Career Members of the Foreign Service of the Department of State, previously promoted into the Senior Foreign Service to the class indicated on October 18, 1992, now effective October 6, 1991:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

Jean Anne Louis, of Virginia
Sharon K. Mercurio, of California
Ruth H. van Heuven, of Connecticut
Robin Lane White, of Massachusetts

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. KASSEBAUM (for herself and Mr. INOUYE):

S. 2117. A bill to enhance the administrative authority of the president of Haskell Indian Nations University, and for other purposes; to the Committee on Indian Affairs.

By Mr. FAIRCLOTH (for himself and Mr. HELMS):

S. 2118. A bill to amend the Internal Revenue Code of 1986 to allow casualty loss deduction for disaster losses without regard to the 10-percent adjusted gross income floor; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. KERREY):

S. 2119. A bill to establish the Commission to Study the Federal Statistical System, and for other purposes; to the Committee on Governmental Affairs.

By Mr. NUNN:

S. 2120. A bill to designate the Federal building and United States courthouse located at 475 Mulberry Street in Macon, Georgia, as the "William Augustus Bootle Federal Building and United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Ms. MOSELEY-BRAUN, Mr. CHAFEE, Mr. JEFFORDS, Mr. BAUCUS, Mr. SIMON, Mr. HOLLINGS, and Mr. WELLSTONE):

S. 2121. A bill to ensure medicare beneficiaries participating in managed care have access to emergency and urgent care; to the Committee on Finance.

By Mr. DEWINE:

S. 2122. A bill to establish the Fallen Timbers Battlefield, Fort Meigs, and Fort Miamis National Historical Site in the State of Ohio; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself, Mr. BINGAMAN, Mr. HARKIN, Mr. COHEN, Mr. DOMENICI, Mr. PRESSLER, Mr. GRASSLEY, Mr. LEAHY, Mr. GREGG, Mrs. KASSEBAUM, Mr. AKAKA, Mr. LIEBERMAN, Mr. KENNEDY, Mr. KERRY, Mr. D'AMATO, Mrs. FRAHM, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. THOMAS, Mr. DODD, Mr. DORGAN, Mr. BRADLEY, Mr. CHAFEE, and Mr. LAUTENBERG):

S. 2123. A bill to require the calculation of Federal-aid highway apportionments and allocations for fiscal year 1997 to be determined so that States experience no net effect from a credit to the Highway Trust Fund made in correction of an accounting error made in fiscal year 1994, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KEMPTHORNE:

S. 2124. A bill to provide for an offer to transfer to the Secretary of the Army of certain property at the Navy Annex, Arlington, Virginia; to the Committee on Armed Services.

By Mr. LOTT:

S. 2125. A bill to provide a sentence of death for certain importations of significant quantities of controlled substances; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 2126. A bill to temporarily waive the enrollment composition rule under the medicaid program for certain health maintenance organizations; to the Committee on Finance.

By Mr. KENNEDY:

S. 2127. A bill to amend the Fair Labor Standards Act of 1938 to provide for legal accountability for sweatshop conditions in the garment industry, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. AKAKA:

S. 2128. A bill to consolidate and revise the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. INHOFE:

S. 2129. A bill to provide for the immediate application of certain orders relating to the amendment, modification, suspension, or revocation of certificates under chapter 447 of title 49, United States Code; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS:

S. 2130. An original bill to extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices; from the Committee on Foreign Relations; placed on the calendar.

By Mr. MOYNIHAN:

S. 2131. A bill to establish a bipartisan national commission on the year 2000 computer problem; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. KASSEBAUM (for herself and Mr. INOUYE):

S. 2117. A bill to enhance the administrative authority of the president of Haskell Indian Nations University, and for other purposes; to the Committee on Indian Affairs.

THE HASKELL INDIAN NATIONS UNIVERSITY ADMINISTRATIVE SYSTEMS ACT OF 1996

Mrs. KASSEBAUM. Mr. President, I rise today to introduce the Haskell Indian Nations University Administrative Systems Act of 1996. I am pleased to have the vice-chairman of the Indian Affairs Committee, Senator INOUYE, as a cosponsor. The purpose of this bill is to give Haskell Indian Nations University the authority and flexibility it needs to make a successful transition from a junior college to a 4-year university.

Founded in 1884 as the U.S. Indian Industrial Training School, Haskell provided agricultural education in grades one through five. Ten years later, the school had changed its name to Haskell Institute and expanded its academic training beyond the eighth grade. By 1927 the secondary curriculum had been accredited, and in 1970 the school became Haskell Indian Junior College. In October 1993, after receiving accreditation to offer a bachelor of science degree in elementary teacher education, the school changed its name to Haskell Indian Nations University.

Haskell is a Kansas treasure and an institution cherished by native Americans and Alaska Natives. At any one time, as many as 175 tribes are represented in the student body. Integrating the perspectives of various native American cultures have assured Haskell's growth and success. As the first baccalaureate class graduates in May 1997, Haskell Indian Nations University is developing 4-year programs in other fields and continues to accept the challenge of enriching the lives of young native Americans and Alaska Natives.

As the school has changed, so should the system by which it is administered. Haskell's ability to make a successful transition from a junior college to a 4-year university is being compromised by the present system under which the Bureau of Indian Affairs must approve its appointments and the Office of Personnel Management establishes rankings for its professors.

This legislation allows the school to remain within the Bureau of Indian Affairs and its employees to continue to participate in Federal retirement and health benefit programs. However, the Haskell president and Board of Regents will have authority over organizational structure, the classification of positions, recruitment, procurement, and determination of all human resource policies and procedures. This legislation will give Haskell the autonomy enjoyed by the tribally controlled community colleges and BIA elementary and secondary schools. This bill has been introduced in the House of Representatives by Representative JAN MEYERS.

Mr. President, I am aware that we are near adjournment and it is unlikely that we can get this bill passed in the time remaining. However, I wanted to introduce it now because I am convinced that such legislation is essential to the success of Haskell Indian Nations University and that it should be a priority in the next Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Haskell Indian Nations University Administrative Systems Act of 1996".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the provision of culturally sensitive curricula for higher education programs at Haskell Indian Nations University is consistent with the commitment of the Federal Government to the fulfillment of treaty obligations to Indian tribes through the principle of self-determination and the use of Federal resources; and

(2) giving a greater degree of autonomy to Haskell Indian Nations University, while maintaining the university as an integral part of the Bureau of Indian Affairs, will facilitate the transition of the university to a 4-year university.

SEC. 3. DEFINITIONS.

For purposes of this Act the following definitions shall apply:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) UNIVERSITY.—The term "Haskell Indian Nations University" or "university" means the Haskell Indian Nations University, located in Lawrence, Kansas.

SEC. 4. PERSONNEL MANAGEMENT.

(a) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—Chapters 51, 53, and 63 of title 5, United States Code (relating to classification, pay, and leave, respectively) and the provisions of such title relating to the appointment, performance evaluation, promotion, and removal of civil service employees shall not apply to applicants for employment with, employees of, or positions in or under the university.

(b) ALTERNATIVE PERSONNEL MANAGEMENT PROVISIONS.—

(1) IN GENERAL.—The president of the university shall by regulation prescribe such personnel management provisions as may be necessary, in order to ensure the effective administration of the university, to replace the provisions of law that are inapplicable with respect to the university by reason of subsection (a).

(2) PROCEDURAL REQUIREMENTS.—The regulations prescribed under this subsection shall—

(A) be prescribed in consultation with the board of regents of the university and other appropriate representative bodies;

(B) be subject to the requirements of subsections (b) through (e) of section 553 of title 5, United States Code; and

(C) not take effect without the prior written approval of the Secretary.

(c) SPECIFIC SUBSTANTIVE REQUIREMENTS.—Under the regulations prescribed under this subsection—

(1) no rate of basic pay may, at any time, exceed—

(A) in the case of an employee who would otherwise be subject to the General Schedule, the maximum rate of basic pay then currently payable for grade GS–15 of the General Schedule (including any amount payable under section 5304 of title 5, United States Code, or other similar authority for the locality involved); or

(B) in the case of an employee who would otherwise be subject to subchapter IV of chapter 53 of title 5, United States Code (relating to prevailing rate systems), the maximum rate of basic pay which (but for this section) would then otherwise be currently payable under the wage schedule covering such employee;

(2) the limitation under section 5307 of title 5, United States Code (relating to limitation on certain payments) shall apply, subject to such definitional and other modifications as may be necessary in the context of the alternative personnel management provisions established under this section;

(3) procedures shall be established for the rapid and equitable resolution of grievances;

(4) no university employee may be discharged without notice of the reasons therefor and opportunity for a hearing under procedures that comport with the requirements of due process, except that this paragraph shall not apply in the case of an employee serving a probationary or trial period under an initial appointment; and

(5) university employees serving for a period specified in or determinable under an employment agreement shall, except as otherwise provided in the agreement, be notified at least 30 days before the end of such period as to whether their employment agreement will be renewed.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to affect—

(1) the applicability of any provision of law providing for—

(A) equal employment opportunity;

(B) Indian preference; or

(C) veterans' preference; or

(2) the eligibility of any individual to participate in any retirement system, any program under which any health insurance or life insurance is afforded, or any program under which unemployment benefits are afforded, with respect to Federal employees.

(e) LABOR-MANAGEMENT PROVISIONS.—

(1) COLLECTIVE-BARGAINING AGREEMENTS.—Any collective-bargaining agreement in effect on the day before the effective date specified under subsection (f)(1) shall continue to be recognized by the university until altered or amended pursuant to law.

(2) EXCLUSIVE REPRESENTATIVE.—Nothing in this Act shall affect the right of any labor organization to be accorded (or to continue to be accorded) recognition as the exclusive representative of any unit of university employees.

(3) OTHER PROVISIONS.—Matters made subject to regulation under this section shall not be subject to collective bargaining, except in the case of any matter under chapter 63 of title 5, United States Code (relating to leave).

(f) EFFECTIVE DATE.—

(1) ALTERNATIVE PERSONNEL MANAGEMENT PROVISIONS.—The alternative personnel management provisions under this section shall take effect on such date as may be specified in the regulations, except that such date may not be later than 1 year after the date of the enactment of this Act.

(2) PROVISIONS MADE INAPPLICABLE BY THIS SECTION.—Subsection (a) shall take effect on the date specified under paragraph (1).

(g) APPLICABILITY.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the alternative personnel management provisions under this section shall apply with respect to all applicants for employment with, all employees of, and all positions in or under the university.

(2) CURRENT EMPLOYEES NOT COVERED EXCEPT PURSUANT TO A VOLUNTARY ELECTION.—

(A) IN GENERAL.—A university employee serving on the day before the effective date specified under subsection (f)(1) shall not be subject to the alternative personnel management provisions under this section (and shall instead, for all purposes, be treated in the same way as if this section had not been enacted, notwithstanding subsection (a)) unless, before the end of the 5-year period beginning on such effective date, such employee elects to be covered by such provisions.

(B) PROCEDURES.—An election under this paragraph shall be made in such form and in such manner as may be required under the regulations, and shall be irrevocable.

(3) TRANSITION PROVISIONS.—

(A) PROVISIONS RELATING TO ANNUAL AND SICK LEAVE.—Any individual who—

(i) makes an election under paragraph (2), or

(ii) on or after the effective date specified under subsection (f)(1), is transferred, promoted, or reappointed, without a break in service of 3 days or longer, to a university position from a non-university position with the Federal Government or the government of the District of Columbia,

shall be credited, for the purpose of the leave system provided under regulations prescribed under this section, with the annual and sick leave to such individual's credit immediately before the effective date of such election, transfer, promotion, or reappointment, as the case may be.

(B) LIQUIDATION OF REMAINING LEAVE UPON TERMINATION.—

(i) ANNUAL LEAVE.—Upon termination of employment with the university, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with section 5551(a) and section 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed under this section shall not be so liquidated.

(ii) SICK LEAVE.—Upon termination of employment with the university, any sick leave remaining to the credit of an individual within the purview of this section shall be creditable for civil service retirement purposes in accordance with section 8339(m) of title 5, United States Code, except that leave earned or accrued under regulations prescribed under this section shall not be so creditable.

(C) TRANSFER OF REMAINING LEAVE UPON TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the case of any university employee who is transferred, promoted, or reappointed, without a break in service of 3 days or longer, to a position in the Federal Government (or the government of the District of Columbia) under a different leave system, any remaining leave to the credit of that individual earned or credited under the regulations prescribed under this section shall be transferred to such individual's credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Office of Personnel Management.

(4) WORK-STUDY.—Nothing in this section shall be considered to apply with respect to a work-study student, as defined by the president of the university in writing.

SEC. 5. DELEGATION OF PROCUREMENT AUTHORITY.

The Secretary shall, to the maximum extent consistent with applicable law and subject to the availability of appropriations therefor, delegate to the president of the university procurement and contracting authority with respect to the conduct of the administrative functions of the university.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1997, and for each fiscal year thereafter—

(1) the amount of funds made available by appropriations as operations funding for the administration of the university for fiscal year 1996; and

(2) such additional sums as may be necessary for the operation of the university pursuant to this Act.

By Mr. FAIRCLOTH (for himself and Mr. HELMS:)

S. 2118. A bill to amend the Internal Revenue Code of 1986 to allow casualty loss deduction for disaster losses without regard to the 10-percent adjusted gross income floor; to the Committee on Finance.

DISASTER LOSSES LEGISLATION

• Mr. FAIRCLOTH. Mr. President, joined by my colleague from North Carolina, Mr. HELMS, I introduce a bill that addresses a real concern for millions of middle-class people in disaster-prone areas.

The Tax Code permits the deduction of uninsured casualty losses. The Tax Code, however, requires these losses to total more than 10 percent of the taxpayer's adjusted gross income. Consequently, although a large number of middle-class taxpayers are faced with large repair and cleanup bills, these bills often fall short of the 10 percent of adjusted gross income threshold.

Mr. President, 43 North Carolina counties—home to more than half of the State population—were declared Federal disaster areas as a result of Hurricane Fran. Thousands of houses were destroyed and tens of thousands of houses suffered serious damage. These losses are clearly substantial enough to fall within the scope of the deduction.

However, there are hundreds of thousands of North Carolina families that suffered uninsured damage that, although substantial, falls short of the 10 percent limitation.

In fact, Mr. President, homeowners' insurance policies cover removal of trees that strike the house, but these policies do not otherwise cover downed or damaged trees. Further, insurance payments for tree removal are often capped far below the real cost of these efforts, which leaves insured homeowners, too, with a large bill.

It is estimated that Hurricane Fran caused $500 million in tree damage in North Carolina. The foresters estimate that the hurricane downed between 1 and 25 percent of the trees in affected areas.

I drove back to Sampson County, NC, during the hurricane, and the roads were littered with trees and branches. It was a sight of pure devastation.

Unfortunately, standard insurance policies do not cover much of this damage, so homeowners face some large and unexpected bills for cleanup costs.

For example, in the city of Raleigh, which is more than 100 miles inland, thousands of homeowners lost trees. Families across North Carolina face tree removal bills that range from $1,000 to $3,000 and upward. In fact, Mr. President, many families were required to hire crane crews to remove downed trees. The tree loss was remarkable in much of North Carolina.

These are middle-class families that earn under $50,000 per year. These tree removal bills are a real hit. However, because these bills often do not quite reach the 10 percent threshold, the deduction is unavailable.

As you know, Mr. President, an unanticipated $3,000 bill is a tremendous blow for most middle-class families. Consequently, many families are forced to dip into their savings, and others are required to borrow thousands of dollars.

It is a shame to see these people forced to raid their savings due to the 10 percent floor on the uninsured loss deduction. The Tax Code acknowledges that uninsured casualty losses are appropriate deductions. This bill, however, further acknowledges the burdens of catastrophic storms on the families that live in these areas.

This legislation thus eliminates the 10-percent requirement in Federal disaster areas. It permits working Americans to hold on to a bit more of their own earnings in the wake of a catastrophic storm.

Many families enjoy incomes sufficient enough to disqualify them for Federal grant assistance. These middle-class families do not want handouts. This bill, however, represents an acknowledgment of the special burdens on hard-working families in Federal disaster areas.

I think that this is reasonable legislation, Mr. President, and I hope that my colleagues will join me and Senator HELMS in this effort.•

By Mr. MOYNIHAN (for himself and Mr. KERREY):

S. 2119. A bill to establish the Commission to Study the Federal Statistical System, and for other purposes; to the Committee on Governmental Affairs.

THE COMMISSION TO STUDY THE FEDERAL STATISTICAL SYSTEM ACT OF 1996

Mr. MOYNIHAN. Mr. President, I rise today to introduce, along with Senator KERREY of Nebraska, legislation that would establish a Commission To Study the Federal Statistical System.

The United States has the oldest and by and large finest data gathering system in the world. Statistics are part of our constitutional arrangement, which provides for a decennial census that, among other purposes, is the basis for apportionment of membership in the House of Representatives. I quote from article I, section I:

> . . . enumeration shall be made within three Years after the first meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct.

But, while the Constitution directed that there be a census, there was, initially, no Census Bureau. The earliest censuses were conducted by U.S. marshals. Later on, statistical bureaus in State governments collected the data, with a Superintendent of the Census overseeing from Washington. It was not until 1902 that a permanent Bureau of the Census was created by the Congress, housed initially in the Interior Department. In 1903 the Bureau was transferred to the newly established Department of Commerce and Labor.

The Statistics of Income Division of the Internal Revenue Service, which was originally an independent body, began collecting data in 1866. It too was transferred to the new Department of Commerce and Labor in 1903, but then was put in the Treasury Department in 1913 following ratification of the 16th amendment, which gave Congress the power to impose an income tax.

The Bureau of Labor Statistics, created in 1884, was also initially in the Interior Department. The first Commissioner of the BLS, appointed in 1885, was Col. Carroll D. Wright, a distinguished Civil War veteran of the New Hampshire Volunteers. A self-trained social scientist, Colonel Wright pioneered techniques for collecting and analyzing survey data on income, prices, and wages. He had previously served as chief of the Massachusetts Bureau of Statistics, a post he held for 15 years, and in that capacity had supervised the 1880 Federal Census in Massachusetts.

In 1888, the Bureau of Labor Statistics became an independent agency. In 1903 it was once again made a Bureau, joining other statistical agencies in the Department of Commerce and Labor. When a new Department of Labor was formed in 1913—giving labor an independent voice, as labor was removed from the Department of Commerce and Labor—the Bureau of Labor Statistics was transferred to it.

And so it went. Statistical agencies sprung up as needed. And they moved back and forth as new executive departments were formed. Today, some 89 different organizations in the Federal Government comprise parts of our national statistical infrastructure. Eleven of these organizations have as their primary function the generation of data. These 11 organizations are:

Agency	Department	Date Established
National Agricultural Statistical Service.	Agriculture	1863
Statistics of Income Division, IRS.	Treasury	1866
Economic Research Service	Agriculture	1867
National Center for Education Statistics.	Education	1867
Bureau of Labor Statistics	Labor	1884
Bureau of the Census	Commerce	1902
Bureau of Economic Analysis	Commerce	1912
National Center for Health Statistics.	Health and Human Services	1912
Bureau of Justice Statistics	Justice	1968
Energy Information Administration.	Energy	1974
Bureau of Transportation Statistics.	Transportation	1991

NEED FOR LEGISLATION

President Kennedy once said:

> Democracy is a difficult kind of government. It requires the highest qualities of self-discipline, restraint, a willingness to make commitments and sacrifices for the general interest, and also it requires knowledge.

That knowledge often comes from accurate statistics. You cannot begin to solve a problem until you can measure it.

This legislation would require the new Commission to conduct a comprehensive examination of our current statistical system and focus particularly on the agencies that produce data as their primary product—agencies such as the Bureau of Economic Analysis [BEA] and the Bureau of Labor Statistics [BLS].

This week I received a letter from nine former chairmen of the Council of Economic Advisers [CEA] endorsing this legislation. Excluding the two most recent chairs, who are still serving in the Clinton administration, the signatories include virtually every living chair of the CEA. While acknowledging that the United States "possesses a first-class statistical system," these former chairmen remind us that "problems periodically arise under the current system of widely scattered responsibilities." They conclude as follows:

> Without at all prejudging the appropriate measures to deal with these difficult problems, we believe that a thoroughgoing review by a highly qualified and bipartisan Commission as provided in your Bill has great promise of showing the way to major improvements.

The letter is signed by: Michael J. Boskin, Martin Feldstein, Alan Greenspan, Paul W. McCracken, Raymond J. Saulnier, Charles L. Schultze, Beryl W. Sprinkel, Herbert Stein, and Murray Weidenbaum.

I ask unanimous consent that the full text of this letter be printed in the RECORD following my statement.

It happens that this Senator's association with the statistical system in the executive branch began over three decades ago. I was Assistant Secretary of Labor for Policy and Planning in the administration of President John F. Kennedy. This was a new position in which I was nominally responsible for the Bureau of Labor Statistics. I say nominally out of respect for the independence of that venerable institution, which as I noted earlier long predated the Department of Labor itself. The then-Commissioner of the BLS, Ewan Clague, could not have been more friendly and supportive. And so were the statisticians, who undertook to teach me to the extent I was teachable. They even shared professional confidences. And so it was that I came to have some familiarity with the field.

For example, at that time the monthly report of the unemployment rate was closely watched by capital and labor, as we would have said, and was frequently challenged. Committees regularly assembled to examine and debate the data. Published unemployment rates, based on current monthly survey methodology appeared, if memory serves, in 1948, and so the series was at most 14 years in place at this time.

There is, of course, a long history of attempts to reform our Nation's statistical infrastructure. From the period 1903 to 1990, 16 different committees, commissions, and study groups have convened to assess our statistical infrastructure, but in most cases little or no action has been taken on their recommendations. The result of this inaction has been an ever expanding statistical system. It continues to grow in order to meet new data needs, but with little or no regard for the overall objectives of the system. Janet L. Norwood, former Commissioner of the BLS, writes in her book "Organizing to Count":

> The U.S. system has neither the advantages that come from centralization nor the efficiency that comes from strong coordination in decentralization. As presently organized, therefore, the country's statistical system will be hard pressed to meet the demands of a technologically advanced, increasingly internationalized world in which the demand for objective data of high quality is steadily rising.

In this era of government downsizing and budget cutting it is unlikely that Congress will appropriate more funds for statistical agencies. It is clear that to preserve and improve the statistical system we must consider reforming it, yet we must not attempt to reform the system until we have heard from experts in the field.

The Commission established in the legislation will also examine the accuracy of our statistics. In the past few years there has been a growing concern that the methodology used to generate U.S. statistics may be outdated and can be improved.

It is clear there is a need for a comprehensive review of the Federal statistical infrastructure. For if the public loses confidence in our statistics, they are likely to lose confidence in our policies as well.

DESCRIPTION OF LEGISLATION

The legislation establishes the Commission to Study the Federal Statistical System. The Commission would consist of 13 members: 5 appointed by the President with no more than 3 from the same political party, 4 appointed by the President pro tempore of the Senate with no more than 2 from the same political party, and 4 appointed by the Speaker of the House with no more than 2 from the same political party. A chairman would be selected by the President from the appointed members. The members must have expertise in statistical policy with a background in disciplines such as actuarial science, demography, economics, and finance.

The Commission will conduct a comprehensive study of all matters relating to the Federal statistical infrastructure, including:

An examination of multipurpose statistical agencies such as the Bureau of Labor Statistics [BLS];

A review and evaluation of the mission and organizational structure of statistical agencies, including activities that should be expanded or deleted and the advantages and disadvantages of a centralized statistical agency;

An examination of the methodology involved in producing data and the accuracy of the data itself;

A review of interagency coordination and standardization of collection procedures;

A review of information technology and an assessment of how data is disseminated to the public;

An examination of individual privacy in the context of statistical data;

A comparison of our system with the systems of other nations; and

Recommendations for a strategy to maintain a modern and efficient statistical infrastructure.

All of these objectives will be addressed in an interim report due no later than June 1, 1998, with a final report due January 15, 1999.

The Commission is expected to spend $10 million: $2.5 million in FY 1997, $5 million in FY 1998, and $2.5 million in FY 1999. The Commission will cease to exist 90 days after the final report is submitted.

This legislation is only a first step, but an essential one. The Commission will provide Congress with the blueprint for reform. It will be up to us to finally take action after nearly a century of inattention to this very important issue.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission to Study the Federal Statistical System Act of 1996".

SEC. 2. FINDINGS.

The Congress, recognizing the importance of statistical information in the development and administration of policies for the private and public sector, finds that—

(1) accurate Federal statistics are required to develop, implement, and evaluate government policies and laws;

(2) Federal spending consistent with legislative intent requires accurate and appropriate statistical information;

(3) business and individual economic decisions are influenced by Federal statistics and contracts are often based on such statistics;

(4) statistical information on the manufacturing and agricultural sectors is more complete than statistical information regarding the service sector which employs more than half the Nation's workforce;

(5) experts in the private and public sector have long-standing concerns about the accuracy and adequacy of numerous Federal statistics, including the Consumer Price Index, gross domestic product, trade data, wage data, and the poverty rate;

(6) Federal statistical data should be accurate, consistent, and continuous;

(7) the Federal statistical infrastructure should be modernized to accommodate the increasingly complex and ever changing American economy;

(8) Federal statistical agencies should utilize all practical technologies to disseminate statistics to the public; and

(9) the Federal statistical infrastructure should maintain the privacy of individuals.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission to Study the Federal Statistical System (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 13 members of whom—

(A) 5 shall be appointed by the President;

(B) 4 shall be appointed by the President pro tempore of the Senate, in consultation with the Majority Leader and Minority Leader of the Senate; and

(C) 4 shall be appointed by the Speaker of the House of Representatives, in consultation with the Majority Leader and Minority Leader of the House of Representatives.

(2) POLITICAL PARTY LIMITATION.—(A) Of the 5 members of the Commission appointed under paragraph (1)(A), no more than 3 members may be members of the same political party.

(B) Of the 4 members of the Commission appointed under subparagraphs (B) and (C) of paragraph (1), respectively, no more than 2 members may be members of the same political party.

(3) CONSULTATION BEFORE APPOINTMENTS.—In making appointments under paragraph (1), the President, the President pro tempore of the Senate, and the Speaker of the House of Representatives shall consult with the National Science Foundation and appropriate professional organizations such as the American Economic Association and the American Statistical Association.

(4) QUALIFICATIONS.—An individual appointed to serve on the Commission—

(A) shall have expertise in statistical policy and a background in such disciplines as actuarial science, demography, economics, and finance;

(B) may not be a Federal officer or employee; and

(C) should be an academician, a statistics user in the private sector, or a former government official with experience related to—

(i) the Bureau of Labor Statistics of the Department of Labor; or

(ii) the Bureau of Economic Analysis or the Bureau of the Census of the Department of Commerce.

(5) DATE.—The appointments of the members of the Commission shall be made no later than 150 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN.—The President shall designate a Chairman of the Commission from among the members.

SEC. 4. FUNCTIONS OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a comprehensive study of all matters relating to the Federal statistical infrastructure, including longitudinal surveys conducted by private agencies and partially funded by the Federal Government.

(2) STUDY AND RECOMMENDATIONS.—The matters studied by and recommendations of the Commission shall include—

(A) an examination of multipurpose statistical agencies that collect and analyze data of broad interest across department and function areas, such as the Bureau of Economic Analysis and the Bureau of the Census of the Commerce Department, and the Bureau of Labor Statistics of the Labor Department;

(B) a review and evaluation of the collection of data for purposes of administering such programs as Old-Age, Survivors and Disability Insurance and Unemployment Insurance under the Social Security Act;

(C) a review and evaluation of the mission and organization of various statistical agencies, including—

(i) recommendations with respect to statistical activities that should be expanded or deleted;

(ii) the order of priority such activities should be carried out;

(iii) a review of the advantages and disadvantages of a centralized statistical agency or a partial consolidation of the agencies for the Federal Government; and

(iv) an assessment of which agencies could be consolidated into such an agency;

(D) an examination of the methodology involved in producing official data and recommendations for technical changes to improve statistics;

(E) an evaluation of the accuracy and appropriateness of key statistical indicators and recommendations of ways to improve such accuracy and appropriateness;

(F) a review of interagency coordination of statistical data and recommendations of methods to standardize collection procedures and surveys, as appropriate, and presentation of data throughout the Federal system;

(G) a review of information technology and recommendations of appropriate methods for disseminating statistical data, with special emphasis on resources, such as the Internet, that allow the public to obtain information in a timely and cost-effective manner;

(H) an examination of individual privacy in the context of statistical data;

(I) a comparison of the United States statistical system to statistical systems of other nations;

(J) a consideration of the coordination of statistical data with other nations and international agencies, such as the Organization for Economic Cooperation and Development; and

(K) a recommendation of a strategy for maintaining a modern and efficient Federal statistical infrastructure as the needs of the United States change.

(b) REPORT.—

(1) INTERIM REPORT.—No later than June 1, 1998, the Commission shall submit an interim report on the study conducted under subsection (a) to the President and to the Congress.

(2) FINAL REPORT.—No later than January 15, 1999, the Commission shall submit a final report to the President and the Congress which shall contain a detailed statement of the findings and conclusions of the Commission, and recommendations for such legislation and administrative actions as the Commission considers appropriate.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) IN GENERAL.—Subject to paragraph (2), each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(2) CHAIRMAN.—The Chairman shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level III of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission. Such travel may include travel outside the United States.

(c) STAFF.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall, without regard to the provisions of title 5, United States Code, relating to the competitive service, appoint an executive director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5382 of title 5, United States Code. The Commission shall appoint such additional personnel as the Commission determines to be necessary to provide support for the Commission, and may compensate such additional personnel without regard to the provisions of title 5, United States Code, relating to the competitive service.

(2) LIMITATION.—The total number of employees of the Commission (including the executive director) may not exceed 30.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits the final report of the Commission.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,500,000 for fiscal year 1997, $5,000,000 for fiscal year 1998, and $2,500,000 for fiscal year 1999 to the Commission to carry out the purposes of this Act.

SEPTEMBER 23, 1996.

Hon. DANIEL P. MOYNIHAN,
Hon. J. ROBERT KERREY,
U.S. Senate,
Washington, DC.

DEAR SENATORS MOYNIHAN AND KERREY: All of us are former Chairmen of the Council of Economic Advisers. We write to support the basic objectives and approach of your Bill to establish the Commission to Study the Federal Statistical System.

The United States possesses a first-class statistical system. All of us have in the past relied heavily upon the availability of reasonably accurate and timely federal statistics on the national economy. Similarly, our professional training leads us to recognize how important a good system of statistical information is for the efficient operations of our complex private economy. But we are also painfully aware that important problems of bureaucratic organization and methodology need to be examined and dealt with if the federal statistical system is to continue to meet essential public and private needs.

All of us have particular reason to remember the problems which periodically arise under the current system of widely scattered responsibilities. Instead of reflecting a balance among the relative priorities of one statistical collection effort against others, statistical priorities are set in a system within which individual Cabinet Secretaries recommend budgetary tradeoffs between their own substantive programs and the statistical operations which their departments, sometimes by historical accident, are responsible for collecting. Moreover, long range planning of improvements in the federal statistical system to meet the changing nature and needs of the economy is hard to organize in the present framework. The Office of Management and Budget and the Council of Economic Advisers put a lot of effort into trying to coordinate the system, often with success, but often swimming upstream against the system.

We are also aware, as of course are you, of a number of longstanding substantive and methodological difficulties with which the current system is grappling. These include the increasing importance in the national economy of the service sector, whose output and productivity are especially hard to measure, and the pervasive effect both on measures of national output and income and on the federal budget of the accuracy (or inaccuracy) with which our measures of prices capture changes in the quality of the goods and services we buy.

Without at all prejudging the appropriate measures to deal with these difficult problems, we believe that a thoroughgoing review by a highly qualified and bipartisan Commission as provided in your Bill has great promise of showing the way to major improvements.

Sincerely,

PROF. MICHAEL J. BOSKIN,
The Hoover Institution.
DR. MARTIN FELDSTEIN,
National Bureau of Economic Research.
ALAN GREENSPAN.
PROF. PAUL W. MCCRACKEN,
University of Michigan.
RAYMOND J. SAULNIER.
CHARLES L. SCHULTZE,
The Brookings Institution.
BERYL W. SPRINKEL.
HERBERT STEIN,
American Enterprise Institute.
PROF. MURRAY WEIDENBAUM,
Center for the Study of American Business.

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Ms. MOSELEY-BRAUN, Mr. CHAFEE, Mr. JEFFORDS, Mr. BAUCUS, Mr. SIMON, Mr. HOLLINGS, and Mr. WELLSTONE):

S. 2121. A bill to ensure medicare beneficiaries participating in managed care have access to emergency and urgent care; to the Committee on Finance.

THE MEDICARE ACCESS TO EMERGENCY MEDICAL CARE ACT

Mr. GRAHAM. Mr. President, today I will introduce legislation entitled Medicare Access to Emergency Medical Care Act, joined by Senators GRASSLEY, MOSELEY-BRAUN, CHAFEE, BAUCUS, JEFFORDS, SIMON, HOLLINGS, and WELLSTONE.

This legislation would require Medicare health maintenance organizations to pay for emergency care services provided to prudent beneficiaries seeking emergency care and would preclude health maintenance organizations from requiring prior authorizations in such situations. This language, Mr. President, was previously approved by unanimous consent in the Senate during consideration of the Balanced Budget Act of 1995.

Why is this bill necessary? Mr. President, lack of a "prudent lay person" definition places Medicare beneficiaries in the unreasonable position of having emergency room visits for experiences, such as chest pain, denied for reimbursement by managed care organizations, in some cases significantly subsequent to the visit to the emergency room. Why denied? Denied because the beneficiary did not seek prior authorization, or denied because the beneficiary was diagnosed not to have an emergency condition, even if a reasonable person believed that they had an emergency condition.

According to the congressionally established Physician Payment Review Commission's 1996 annual report to Congress:

> Medicare requires health plans to provide or pay for care needed in an emergency, but what constitutes an emergency may be misunderstood or disputed by plans and beneficiaries. The definition of "emergency" is central to resolve such disputes and guide beneficiaries before they seek emergency care.

Mr. President, currently, 60 percent of the claims that are disputed between Medicare beneficiaries and managed care plans involve emergency room services. Let me repeat that. Sixty percent of the claims that are disputed between Medicare beneficiaries and managed care plans involve emergency room services. As a result, the Physician's Payment Review Commission recommends, "A prudent lay person's perspective should be considered as one of the factors in determining when a health plan that participates in Medicare should pay for initial screening and stabilization, if necessary, in an emergency.

That is the standard which this legislation adopts. This legislation would protect Medicare beneficiaries who appear to act prudently from the perspective of a lay person—such as thinking that chest pain may be an indication of a heart attack and seeking emergency care. It would protect those Medicare beneficiaries from facing substantial, or in some cases even catastrophic, financial liabilities. The irony of this situation is that the Federal Emergency Medical Treatment and Labor Act requires that all persons who come to a Medicare-participating hospital for emergency care be given a screening examination to determine if they are experiencing a medical emergency and, if so, that they receive stabilizing treatment before being discharged or moved to another facility. And that facility, that Medicare-participating hospital emergency room is required to provide those services without regard to the financial ability of the individual to pay.

As a result, emergency room doctors and hospitals face a Catch-22. They are required by Medicare law and their own professional ethics to perform diagnostic tests and examinations to rule out emergency conditions. But those same health care providers may be denied reimbursement due to prior authorization requirements or a finding that the condition was not of an emergent nature, even though symptoms, such as extreme pain, shortness of breath, chest pains, loss of blood, or others, would prompt most lay persons to conclude that they need to seek medical care immediately.

Dr. Paul Lindeman wrote in an article in the Miami Herald on July 30, 1995, about an 85-year-old woman with a hip fracture who was denied admission to his hospital's emergency department by her health maintenance organization so that she could be transferred to an emergency department across town. The patient had to wait 3 hours for the HMO ambulance service. According to Dr. Lindeman, "No matter how well-trained or talented the emergency physician, there are also times when he or she requires the urgent services of a consultant to provide definitive care for a patient (for instance, vascular and orthopedic surgeons to repair a severely traumatized limb). In these cases, delays in care due to managed care bureaucracy can become a legitimate hazard to the patient."

Now, Mr. President, some might be concerned that this legislation would preclude health maintenance organizations from limiting reimbursement for frivolous emergency room use and abuse by some beneficiaries. Such concern is unwarranted because this legislation does not prevent managed care plans from retrospectively reviewing services delivered in the hospital emergency department to Medicare beneficiaries. All it does is require the plans to base their review on whether the patient acted prudently given the patient's symptoms. Frivolous or abusive emergency room use by a patient would not be prudent and, therefore, could still be denied by the HMO.

Mr. President, in 1993, the Network Design Group, a group which is best known for their work as a national mediator and arbiter of disputes between Medicare beneficiaries and their health maintenance organizations, wrote a report for the Federal Government. In that it stated, "Definitions of 'emergency' in regulation should be modified so that a reasonable and prudent lay person can anticipate claims that would be covered versus denied."

Michael Stocker, the president and chief executive officer of Empire Blue Cross/Blue Shield in New York, argued a similar point in an editorial entitled "The Ticket To Better Managed Care," which was published in the New York Times on October 28, 1995. Mr. Stocker wrote, "At times, managed care is a euphemism for cost-cutting that puts the patient second. Because of the industry's financial success, too few organizations are paying attention to people's rising worries about how they will fare in HMO's that restrict access to specific doctors and hospitals."

Mr. Stocker further argues that plans must "provide high-quality service in ways that can be proved and readily understood."

As part of providing quality of care to patients that is readily understood, Mr. Stocker concludes that, "Health plans should pay for emergency room coverage for consumers who believe they have a legitimate emergency, even if it turns out that they do not." That is a perfect description of this bill's "prudent lay person" standard.

Finally, since the Federal Government and beneficiaries are paying through Medicare for emergency room services—that is, emergency room services are on the list of medical services that a Medicare beneficiary contracts to receive when they join a health maintenance organization—it makes sense to require that those services be provided and paid for on a reasonable basis.

Without it, Medicare becomes like a horribly ineffective Government program where money goes in but results and the delivery of services are lacking to the beneficiary. We in this Congress have a financial responsibility to demand that the services which we pay for are being delivered.

Mr. President, as we know managed care is becoming an increasing part of our health care system as it relates to Medicare beneficiaries. In 1990, there were only 3.5 percent of all Medicare beneficiaries enrolled in a managed care plan. Today that number exceeds 9 percent. The importance and need for this legislation will only increase as more and more Medicare beneficiaries are encouraged to elect managed care over fee-for-service as the form of receiving their Medicare services.

As a result, with the cosponsors, a broad bipartisan group of my colleagues, I am introducing this important legislation today. And I urge its adoption in the remaining days of this session, or in the next Congress.

Mr. President, I ask unanimous consent that copies of newspaper articles which I have cited from the Miami Herald and the New York Times regarding this issue be printed in the RECORD.

Mr. GRAHAM. Mr. President, I send to the desk this legislation, and request its immediate referral.

The PRESIDING OFFICER. The bill will be referred to the appropriate committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Miami Herald, July 30, 1995]

HMO'S IN THE ER: A VIEW FROM THE TRENCHES

(By Paul R. Lindeman)

I arrived for my 12-hour shift in the Emergency Department at 7 p.m. As the departing physician and I went over the cases of the current patients, I was told the woman in Room 2 was being transferred to a psychiatric facility. The patient was pregnant, addicted to crack cocaine and had been assessed as suicidal by a psychiatrist.

An obstetrician was required to care for the patient during her stay at the mental health facility. The only two groups of practicing obstetricians who were on this woman's HMO "panel" and on staff at this facility both refused to accept this high-risk case. That left this unfortunate woman, and our staff, caught in the "never-never land" of managed care.

When I left the Emergency Department at 7:30 the following morning, she was still in Room 2. It took hospital administrators and attorneys all day to arrange disposition, and the patient was eventually transferred—at 6:30 that evening.

Managed-care health plans typically limit choice of doctors and hospitals and attempt to closely monitor services provided. Their goal is to curb unnecessary tests and hospitalizations to keep costs down. In the case of for-profit managed-care companies, the additional purpose is obvious. But what happens when managed care meets the emergency room?

Federal law requires a screening exam at emergency facilities, but HMOs are not required to pay. By exploiting this fact, managed care is able to shift costs onto hospitals, doctors and policyholders, thereby "saving" money.

Consider the case of a 50-year-old male who awakes at 4 a.m. with chest pain and goes to the hospital 10 blocks away—instead of his HMO hospital an extra 30 minutes away. After examination and testing, it's determined that the patient is not having a heart attack and that it's safe for him to go home.

His diagnosis is submitted on a claim form with a code for "gastritis."

His insurance company denies payment, stating that "gastritis" is not an emergency. As a result, the hospital and the company who employs the emergency department physician both bill the patient.

While this "retrospectoscope" is widely employed and industry standard for denying payment, there are many other "savings" techniques. For instance, many HMOs require "pre-authorization" to treat a patient in the ER.

Consider now a 60-year-old female who arrives at the emergency room complaining also of chest pain. The triage nurse examines the patient, obtaining a brief history and vital signs. A call is placed to the insurance company and a recorded message is obtained without specific instruction regarding emergencies. The patient is treated but the payment is denied. Reason: Authorization was never obtained.

Here's an alternate scenario, same patient, again waiting for pre-authorization. (Non-critical patients often wait for more than an hour.) This time "the insurance company" answers the phone. Reading from a list, a series of questions is asked, limited almost exclusively to obtaining recorded numbers. Based on these numbers, the individual speaking for the company determines that it is safe for the patient to be transferred to its hospital. The emergency physician disagrees. The patient stays and is admitted to the hospital.

The HMO denies payment for the ER visit and the 24-hour hospitalization, stating that the patient should have been transferred. Again, the patient/policyholder, who pays a monthly premium for his or her insurance, is billed for all hospital and physician services.

The representative for the insurance company who decides on preauthorization can range from someone with no medical background at all to another physician (albeit with a vested economic incentive). Generally the level of expertise is somewhere between this. Thus, the near-Orwellian scenario frequently plays out whereby a doctor who has seen and examined a patient is trying to convince a nurse, over the telephone, that a patient is sick.

Rudy Braccili Jr., business operations director for the North Broward Hospital District, was quoted in The Herald as saying. "It's just a game they play to avoid paying, and it's one of the ways they save money. They do not see the realities of people who in the middle of the night come into emergency rooms." He estimates that North District hospitals have lost millions of dollars a year because of HMOs' reluctance to pay bills.

Part of the problem is that what managed-care organizations are trying to do is often quite difficult: determine prospectively which patients are truly deserving of emergency-room care. Indeed, this may in fact be a Catch-22. I know of no way to accurately discern acute appendicitis from a "tummy ache" without a history and physical examination. Furthermore, medicine does not always lend itself to black and white. For instance, is a woman who screams and gyrates hysterically as a result of a squirming cockroach in her ear an emergency?

Unfortunately, problems with HMOs in the ER go beyond cost shifting and denial of payment. They often turn an otherwise brief encounter into a harrowing ordeal. Another example from "the trenches" is illustrative.

Our patient this time is an 85-year-old woman with a hip fracture. But instead of being admitted, her HMO mandates that she be transferred across town to the emergency department at another facility where they contract their surgical hip repairs. The patient waits three hours for the HMO ambulance service, which is "backed up."

Consumers note: Had the patient not sold her Medicare privileges to this HMO, she would have been admitted to our hospital uneventually in a fraction of the time required to complete her managed-care sojourn.

No matter how well trained or talented the emergency physician, there are also times when she or he requires the urgent services of a consultant to provide definitive care for a patient (for instance, vascular and orthopedic surgeons to repair a severely traumatized limb). In these cases, delays in care due to managed-care bureaucracy can become a legitimate hazard to the patient.

Dr. Charlotte S. Yeh, chief of emergency medicine at the New England Medical Center, has said, "In some ways, it's less frustrating for us to take care of homeless people than HMO members. At least we can do what we think is right for them, as opposed to trying to convince an HMO over the phone of what's the right thing to do."

In my experience that is not an exaggeration. In the emergency department, the homeless—while certainly deserving of medical care—often receive better and more prompt care than the HMO policyholder.

Conventional political wisdom holds that health-care reform is dead, in fact, nothing could be further from the truth. Reform has been taking place at breakneck speed entirely independent of Washington. In the last five to 10 years, managed-care companies and the private sector have changed profoundly the manner in which many Americans now receive their health care.

As for-profit managed care has usurped decision-making authority from physicians, so have they also diverted funds from hospitals, physicians and policyholders to their own CEOs and stockholders. Last year, HMO profits grew by more than 15 percent, with the four largest HMOs each reporting more than $1 billion in profits. What Democrats and Republicans alike fail to appreciate is that the allegiance of managed care is to neither the patient nor the reduction of the federal deficit, but to its CEOs and stockholders.

So next time you see one of those warm and fuzzy television commercials for an HMO that promises the world, remember this: "choose your own doctor" really means choose your own doctor from our list. And as for the claim "no premiums, no deductibles, no copayment" (health insurance for free?), you may as well pencil in: "no doctor." At least, not one likely to get up in the middle of the night.

[From the New York Times, Oct. 28, 1995]

THE TICKET TO BETTER MANAGED CARE

(By Michael A. Stocker)

The central question about the future of health care goes beyond the outcome of the debate over Medicare and Medicaid: Can health maintenance organizations and other managed care plans truly provide low-cost and high-quality health care?

Like many people, I am dismayed at the way some managed care organization work. At times, managed care is a euphemism for cost-cutting that puts the patient second. Because of the industry's financial success, too few organizations are paying attention to people's rising worries about how they will fare in H.M.O.'s that restrict access to specific doctors and hospitals.

H.M.O.'s can no longer expect to prosper simply because they are less expensive than traditional fee-for-service medical care. They must keep proving that their goal, first and foremost, is to provide high-quality service in ways that can be proved and readily understood. Not every health plan will succeed, but there are some avenues that every health plan executive should follow.

Learning about a good health plan by word of mouth is insufficient. The industry needs to provide information that enables people to compare plans and chose intelligently among them when they are not sick.

In my view, in New York State that means establishing a public-private system that compares the performances of competing plans and requires all plans to participate. The criteria might include the time it takes to get problems solved properly and to see an appropriate doctor when one needs to do so.

Like the rest of the medical profession, H.M.O.'s need to improve the way they measure the outcome of their treatments. While the art of diagnosis is well-developed, often treatment involves more uncertainty. In New York, the Department of Health has been releasing risk-adjusted mortality data about common types of heart surgery. However uneasy doctors are about such findings, the data have pointed out real differences in the quality of care among doctors and hospitals. We need more information like this. Most companies are not investing enough money in developing and operating patient-information banks. Keeping inferior records is self-defeating.

Most people thing a high-quality health plan is one that lets them choose their doctors. While such a choice is important, it is not the whole story. Some plans that limit access to physicians and hospitals can be very high in quality. But they really have to prove it.

H.M.O's must go out of their way to involve patients in their own care. Studies show that when patients know more about their alternatives, and participate with their doctors in decision-making, the result is not only happier but also healthier patients, and even cost savings.

Legislation should be introduced in Albany that lays down a number of requirements: First, intelligible full-disclosure literature is imperative. Health plans must make clear the guidelines they want their doctors to follow when treating patients. The plans should disclose the treatments not covered. Second, the plans should full disclose their payment to physicians, including bonuses related to cost containment and quality of care.

Third, health plans should pay for emergency room coverage for consumers who believe they have a legitimate emergency, even if it turns out they do not. Fourth, patients should be aware of the drugs that managed care plans allow doctors to prescribe. They should also know how to appeal decisions about drugs.

In short, health plans have to stop ignoring the public's fears and acting so much like cold insurance companies. They have to start listening more like doctors.

[From the New York Times, July 9, 1995]

H.M.O.'S REFUSING EMERGENCY CLAIMS, HOSPITALS ASSERT

TWO MISSIONS IN CONFLICT

"Managed Care" Groups Insist They Must Limit Costs—Doctors Are Frustrated

(By Robert Pear)

WASHINGTON, July 8.—As enrollment in health maintenance organizations soars, hospitals across the country report that H.M.O.'s are increasingly denying claims for care provided in hospital emergency rooms.

Such denials create obstacles to emergency care for H.M.O. patients and can leave them responsible for thousands of dollars in medical bills. The denials also frustrate emergency room doctors, who say the H.M.O. practices discourage patients from seeking urgently needed care. But for their part, H.M.O.'s say their costs would run out of control if they allowed patients unlimited access to hospital emergency rooms.

How H.M.O.'s handle medical emergencies is an issue of immense importance, given recent trends. Enrollment in H.M.O.'s doubled in the last eight years, to 41 million in 1994, partly because employers encouraged their use as a way to help control costs.

In addition, Republicans and many Democrats in Congress say they want to increase the use of H.M.O.'s because they believe that such prepaid health plans will slow the growth of Medicare and Medicaid, the programs for the elderly and the poor, which serve 73 million people at a Federal cost of $267 billion this year.

Under Federal law, a hospital must provide "an appropriate medical screening examination" to any patient who requests care in its emergency room. The hospital must also provide any treatment needed to stabilize the patient's condition.

Dr. Toni A. Mitchell, director of emergency care at Tampa General Hospital in Florida, said: "I am obligated to provide the care, but the H.M.O. is not obligated to pay for it. This is a new type of cost-shifting, a way for H.M.O.'s to shift costs to patients, physicians and hospitals."

Most H.M.O.'s promise to cover emergency medical services, but there is no standard definition of the term. H.M.O.'s can define it narrowly and typically reserve the right to deny payment if they conclude, in retrospect, that the conditions treated were not emergencies. Hospitals say H.M.O.'s often refuse to pay for their members in such cases, even if H.M.O. doctors sent the patients to the hospital emergency rooms. Hospitals then often seek payment from the patient.

Dr. Stephan G. Lynn, director of emergency medicine at St. Luke's-Roosevelt Hospital Center in Manhattan, said: "We are getting more and more refusals by H.M.O.'s to pay for care in the emergency room. The problem is increasing as managed care becomes a more important source of reimbursement. Managed care is relatively new in New York City, but it's growing rapidly."

H.M.O.'s emphasize regular preventive care, supervised by a doctor who coordinates all the medical services that a patient may need. The organizations try to reduce costs by redirecting patients from hospitals to less expensive sites like clinics and doctors' offices.

The disputes over specific cases reflect a larger clash of missions and cultures. An H.M.O. is the ultimate form of "managed care," but emergencies are, by their very nature, unexpected and therefore difficult to manage. Doctors in H.M.O.'s carefully weigh the need for expensive tests or treatments, but in an emergency room, doctors tend to do whatever they can to meet the patient's immediate needs.

Each H.M.O. seems to have its own way of handling emergencies. Large plans like Kaiser Permanente provide a full range of emergency services around the clock at their own clinics and hospitals. Some H.M.O.'s have nurses to advise patients over the telephone. Some H.M.O. doctors take phone calls from patients at night. Some leave messages on phone answering machines, telling patients to go to hospital emergency rooms if they cannot wait for the doctors' office to reopen.

At the United Healthcare Corporation, which runs 21 H.M.O.'s serving 3.9 million people, "It's up to the physician to decide how to provide 24-hour coverage," says Dr. Lee N. Newcomer, chief medical officer of the Minneapolis-based company.

George C. Halvorson, chairman of the Group Health Association of America, a trade group for H.M.O.'s, said he was not aware of any problems with emergency care. "This is totally alien to me," said Mr. Halvorson, who is also president of HealthPartners, an H.M.O. in Minneapolis. Donald B. White, a spokesman for the association said, "We just don't have data on emergency services and how they're handled by different H.M.O.'s."

About 3.4 million of the nation's 37 million Medicare beneficiaries are in H.M.O.'s. Dr. Rodney C. Armstead, director of managed care at the Department of Health and Human Services, said the Government had received many complaints about access to emergency services in such plans. He recently sent letters to the 164 H.M.O.'s with Medicare contracts, reminding them of their obligations to provide emergency care.

Alan G. Raymond, vice president of the Harvard Community Health Plan, based in Brookline, Mass., said, "Employers are putting pressure on H.M.O.'s to reduce inappropriate use of emergency services because such care is costly and episodic and does not fit well with the coordinated care that H.M.O.'s try to provide."

Dr. Charlotte S. Yeh, chief of emergency medicine at the New England Medical Center, a teaching hospital in Boston, said: "H.M.O.'s are excellent at preventive care, regular routine care. But they have not been able to cope with the very unpredictable, unscheduled nature of emergency care. They often insist that their members get approval before going to a hospital emergency department. Getting prior authorization may delay care.

"In some ways, it's less frustrating for us to take care of homeless people than H.M.O. members. At least, we can do what we think is right for them, as opposed to trying to convince an H.M.O. over the phone of what's the right thing to do."

Dr. Gary P. Young, chairman of the emergency department of Highland Hospital in Oakland, Calif., said H.M.O.'s often directed emergency room doctors to release patients or transfer them to other hospitals before it was safe to do so. "This is happening every day," he said.

The PruCare H.M.O. in the Dallas-Forth area, run by the Prudential Insurance Company of America, promises "rock solid health overage," but the fine print of its members' handbook says, "Failure to contact the primary care physician prior to emergency treatment may result in denial of payment."

Typically, in an H.M.O., a family doctor or an internist managing a patient's care serves as "gatekeeper," authorizing the use of specialists like cardiologists and orthopedic surgeons. The H.M.O.'s send large numbers of patients to selected doctors and hospitals; in return, they receive discounts on fees. But emergencies are not limited to times and places convenient to an H.M.O.'s list of doctors and hospitals.

H.M.O.'s say they charge lower premiums than traditional insurance companies because they are more efficient. But emergency room doctors say that many H.M.O.'s skimp on specialty care and rely on hospital emergency rooms to provide such services, especially at night and on weekends.

Dr. David S. Davis, who works in the emergency department at North Arundel Hospital in Glen Burnie, Md., said: "H.M.O.'s don't have to sign up enough doctors as long as they have the emergency room as a safety net. The emergency room is a backup for the H.M.O. in all its operations." Under Maryland law, he noted, an H.M.O. must have a system to provide members with access to doctors at all hours, but it can meet this obligation by sending patients to hospital emergency rooms.

To illustrate the problem, doctors offer this example: A 57-year-old man wakes up in the middle of the night with chest pains. A hospital affiliated with his H.M.O. is 50 minutes away, so he goes instead to a hospital just 10 blocks from his home. An emergency room doctor orders several common but expensive tests to determine if a heart attack has occurred.

The essence of the emergency physician's art is the ability to identify the cause of such symptoms in a patient whom the doctor has never seen. The cause could be a heart attack. But it could also be indigestion, heartburn, stomach ulcers, anxiety, a panic attack, a pulled muscle or any of a number of other conditions.

If the diagnostic examination and tests had not been performed, the hospital and the emergency room doctors could have been cited for violating Federal law.

But in such situations, H.M.O.'s often refuse to pay the hospital, on the ground that the hospital had no contract with the H.M.O., the chest pain did not threaten the patient's life or the patient did not get authorization to use a hospital outside the H.M.O. network.

Representative Benjamin L. Cardin, Democrat of Maryland, said he would soon introduce a bill to help solve these problems. The bill would require H.M.O.'s to pay for emergency medical services and would establish a uniform definition of emergency based on the judgment of "a prudent lay person." The bill would prohibit H.M.O.'s from requiring prior authorization for emergency services. A health plan could be fined $10,000 for each violation and $1 million for a pattern of repeated violations.

The American College of Emergency Physicians, which represents more than 15,000 doctors, has been urging Congress to adopt such changes and supports the legislation.

When H.M.O.'s deny claims filed on behalf of Medicare beneficiaries, the patients have a right to appeal. The appeals are heard by a private consulting concern, the Network Design Group of Pittsford, N.Y., which acts as agent for the Government. The appeals total 300 to 400 a month, and David A. Richardson, president of the company, said that a surprisingly large proportion—about half of all Medicare appeals—involved disagreements over emergencies or other urgent medical problems.

By Mr. DEWINE:

S. 2122. A bill to establish the Fallen Timbers Battlefield, Fort Meigs, and Fort Miamis National Historical Site in the State of Ohio; to the Committee on Energy and Natural Resources.

THE FALLEN TIMBERS ACT

• Mr. DEWINE. Mr. President, I introduce legislation that will designate the Fallen Timbers Battlefield, Fort Meigs, and Fort Miamis as national historic sites.

Mr. President, the people of northwest Ohio are committed to preserving the historic heritage of the United States and the State of Ohio, as well as that of their own community.

The truly national significance of the Battle of Fallen Timbers and Fort Meigs have been acknowledged already. In 1960, Fallen Timbers was designated as a National Historic Landmark. In 1969, Fort Meigs received this designation.

The Battle of Fallen Timbers is acknowledged by the National Park Service as a culminating event in the history of the struggle for dominance in the old Northwest Territory.

Fort Meigs is recognized by the National Park Service as the zenith of the British advance in the west as well as the maximum effort by Native forces under the Shawnee, Tecumseh, during the War of 1812.

Fort Miamis, which was attacked twice without success by British troops, led by Gen. Henry Proctor, in the spring of 1813, is listed on the National Register of Historic Places.

Recently, the National Park Service completed a special resource study examining the proposed national historic site designation and the suitability of these sites for inclusion in the National Park System.

The Park Service concluded that these sites were suitable for inclusion in the National Park System—with non-Federal management and National Park Service assistance. The bill I am introducing today would act on that recommendation.

My legislation will accomplish the following:

Recognize and preserve the 185-acre Fallen Timbers Battlefield site;

Formalize the linkage between the Fallen Timbers Battlefield and Monument to Fort Meigs and Fort Miamis;

Preserve and interpret U.S. military history and native American culture during the period from 1794 through 1813; and,

Provide technical assistance to the State of Ohio as well as interested community and historical groups in the development and implementation of programming and interpretation of the three sites.

However, my legislation will not require the Federal Government to provide direct funding to these three sites. That responsibility remains with—and is welcomed by—the many individuals, community groups, elected officials, and others who deserve recognition for their many hours of hard work dedicated to this issue.

Mr. President, we have entered an era where the responsibility and the drive behind the management, programming, and—in many cases—the funding for historic preservation is the responsibility of local community groups, local elected officials, and local business communities.

This legislation to designate the Fallen Timbers Battlefield, Fort Meigs, and Fort Miamis as national historic sites represents just such an effort. In my opinion, it is long overdue.

Mr. President, it's time to grant these truly historic areas the measure of respect and recognition they deserve. I agree with the National Park Service—and the people of Ohio—on this issue. That is why I am proposing this important legislation today.•

By Mr. BAUCUS (for himself, Mr. BINGAMAN, Mr. HARKIN, Mr. COHEN, Mr. DOMENICI, Mr. PRESSLER, Mr. GRASSLEY, Mr. LEAHY, Mr. GREGG, Mrs. KASSEBAUM, Mr. AKAKA, Mr. LIEBERMAN, Mr. KENNEDY, Mr. KERRY, Mr. D'AMATO, Mrs. FRAHM, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. THOMAS, Mr. DODD, Mr. DORGAN, Mr. BRADLEY, Mr. CHAFEE, Mr. LAUTENBERG, and Mr. BURNS):

S. 2123. A bill to require the calculation of Federal-aid highway apportionments and allocations for fiscal year 1997 to be determined so that States experience no net effect from a credit to the highway trust fund made in correction of an accounting error made in fiscal year 1994, and for other purposes; to the Committee on Environment and Public Works.

THE HIGHWAY FUNDING FAIRNESS ACT OF 1996

Mr. BAUCUS. Madam President, the cosponsors of our legislation include the following Senators, in addition to myself and Senator BINGAMAN: Senator AKAKA from Hawaii, Senator COHEN, Senator D'AMATO, Senator DODD, Senator DOMENICI, Senator FRAHM, Senator GREGG, Senator GRASSLEY, Senator HARKIN, Senator JEFFORDS, Senator KASSEBAUM, Senator KENNEDY, Senator KERRY, Senator LEAHY, Senator LIEBERMAN, Senator MOYNIHAN, Senator PRESSLER, and Senator THOMAS.

I ask unanimous consent that all those Senators be listed as original cosponsors of our legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Madam President, essentially, this is a bipartisan bill to correct a bureaucratic, administrative error that has penalized 28 States under the highway program. It is that simple. This bill is identical to the amendment I offered to the Transportation appropriations bill on July 31. It is the same bill. Although that amendment received the support of 57 Senators—57 Senators voted in favor of it—the conference committee dropped the issue from the conference report. That is why Senator BINGAMAN, myself, and my colleagues are back here today. Let me briefly explain this bill.

In 1994, the Treasury delayed crediting the highway trust fund with approximately $1.6 billion in revenues collected from the Federal gasoline tax. It was an error. They made a mistake. While the money was later eventually deposited into the highway trust fund, this delay has had very serious ramifications on all of our States.

As most of my colleagues know, the formulas for distributing Federal highway funds to the States were set in place in 1991 in the highway bill, otherwise known as ISTEA. Those formulas govern the distribution of funds for 6 years through September 30 of next year. That is the formula. It is in place. It is in the law for distributing allocations of highway funds among our States.

Of our many categories of highway funding, there is a direct correlation between the amount of money a State pays into the highway trust fund and the amount of money a State subsequently receives. If the revenue the States paid to the highway trust fund are not correctly credited to the appropriate accounts, the wrong amount of funds is subsequently distributed to the individual States. That is what happened.

When the Treasury made this mistake and delayed crediting $1.6 billion to the highway trust fund, the amount of money distributed to the States under one category, called 90 percent of payments category, was skewed, simply because of a bureaucratic delay. Pure and simple bureaucratic delay, mistake.

As a consequence, some States were initially shortchanged in 1996 of their distributions, and on this coming Tuesday, October 1, the error will be compounded. Some States will receive much more than the original highway bill formula called for; others will receive much less. A lot of money is at stake.

In the fiscal year 1997 Transportation appropriations conference report, highway spending was set at $18 billion. That is $450 million more than last year, a record amount for the highway program. One would think that such an increase would mean that each State will receive an increase in available funds. Not so. Just the opposite has happened. Even with that large increase in total funds allocated, 28 States will see a decrease in their highway apportionments.

Some States will lose up to 17 percent. Others will see an increase of up to 30 percent. A good part of these fluctuations is due to the Treasury Department error, obviously unfair.

Our bill fixes this, puts us right back to the status quo, to the formula prescribed allocations. It requires the Department of Transportation use the correct numbers in fiscal year 1997 when calculating the distribution of funds to States under ISTEA, the highway bill.

It also requires the Department of Transportation to correct the error in fiscal year 1996. So the distributions errors made in 1996, as well as the errors that will be made, unless corrected, in 1997, will both be corrected. In other words, I want to completely correct the situation. No State should gain or lose Federal highway funds based only on a bureaucratic error at the Department of Treasury.

Now that we understand the tremendous financial impact of this error, now that it is discovered, I don't think it should be compounded and continued in the future.

Let me stress to my colleagues that this is not—I repeat, is not—an ISTEA formula change. This is not a legislative change to change the formula that Congress set back in 1991. This has nothing to do with the allocation that was set by legislation back in 1991. In fact, this bill will ensure that all States receive the amount of money originally authorized under ISTEA, no more, no less.

Furthermore, this is not a donor State versus donee State funding issue, as some would say. It is not that at all. I am disappointed that some continue to characterize the situation in those terms. Some have even said that States interested in fixing the error are being greedy, a few believe. How can a State who seeks to correct an acknowledged error be called greedy? We are trying put the situation back to where it was as we legislated and intended it to be. This is truly a case of correcting an honest bureaucratic mistake. Both the Departments of Treasury and Transportation admit that the error was made.

If some States are not happy with the ISTEA formulas adopted in 1991, I say so be it. There is ample opportunity to have that debate next year when Congress takes up the highway bill and deals with formula allocations. It is going to be a big fight, but that is where the fight should be, Madam President. We all know that. It should be in the context of the highway bill. But to use a bureaucratic error as a backdoor way to change the formulas, I think, is underhanded and is not the way the Senate—the whole Congress, for that matter—ought to do business.

We are introducing this legislation before the end of the 104th Congress. I want to alert my colleagues that many of us feel that this Treasury error is of such magnitude and of such importance that it must be addressed in the future.

I thank my good friend, Senator BINGAMAN, from New Mexico, for his hard work and the welcome support of other Senators. We are helping get this error corrected.

I thank you, Madam President, for your hopeful help, too, as I see your colleague is a cosponsor. It is my hope that the other Senator from Maine will see the wisdom of his efforts as well.

I ask unanimous consent that Senator DORGAN be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Madam President, I send the bill to the desk and ask unanimous consent it be printed in the RECORD and referred to the appropriate committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Highway Funding Fairness Act of 1996".

SEC. 2. CALCULATION OF FEDERAL-AID HIGHWAY APPORTIONMENTS AND ALLOCATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), for fiscal year 1997, the Secretary of Transportation shall determine the Federal-aid highway apportionments and allocations to a State without regard to the approximately $1,596,000,000 credit to the Highway Trust Fund (other than the Mass Transit Account) of estimated taxes paid by States that was made by the Secretary of the Treasury for fiscal year 1995 in correction of an accounting error made in fiscal year 1994.

(b) ADJUSTMENTS FOR EFFECTS IN 1996.—The Secretary of Transportation shall, for each State—

(1) determine whether the State would have been apportioned and allocated an increased or decreased amount for Federal-aid highways for fiscal year 1996 if the accounting error referred to in subsection (a) had not been made (which determination shall take into account the effects of section 1003(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1921)); and

(2) after apportionments and allocations are determined in accordance with subsection (a)—

(A) adjust the amount apportioned and allocated to the State for Federal-aid highways for fiscal year 1997 by the amount of the increase or decrease; and

(B) adjust accordingly the obligation limitation for Federal-aid highways distributed to the State under section 310 of the Department of Transportation and Related Agencies Appropriations Act, 1997.

(c) NO EFFECT ON 1996 DISTRIBUTIONS.—Nothing in this section shall affect any apportionment, allocation, or distribution of obligation limitation, or reduction thereof, to a State for Federal-aid highways for fiscal year 1996.

(d) EFFECTIVE DATE.—This section shall take effect on September 30, 1996.

Mr. BINGAMAN. Madam President, let me speak briefly about a bill entitled the "Highway Funding Fairness Act" that Senator BAUCUS is introducing today, and which several of us are cosponsoring, to correct a serious problem in the calculation of fiscal year 1997 Federal-aid highway fund apportionments and allocations. It is our intention to use whatever vehicles are available, including the omnibus appropriations bill, to try to correct an error that exists in the transportation appropriations bill that was earlier passed in this body and sent to the President.

Senator BAUCUS will describe in more detail the technical mistake that was made by the Department of Treasury in 1994, which resulted in faulty projections for this fiscal year. It is my understanding that the Department of Transportation has previously been instructed and empowered by the Office of Management and Budget to apportion highway funds on the basis of this error being corrected. And, in fact, baseline budget projections for the Department of Transportation reflect this agreement.

Somewhere between then and now, signals have changed and States are about to get either unfairly rewarded or unfairly punished because of a flawed apportionment formula.

Many of us in this Chamber thought that the problem had been fixed when we passed Senator BAUCUS' amendment as part of the fiscal year 1997 Transportation appropriations bill. This amendment, like the bill we are introducing today, would have corrected the accounting error.

When the conference report emerged, however, the amendment that would have fixed the problem had been dropped. Unfortunately, when we voted on this issue last Wednesday night, very few Senators were adequately informed that the correcting amendment which Senator BAUCUS had previously offered was no longer included and that many of their States would be taking serious, unexpected cuts in spending authority for highway projects.

I have asked the President, as have many other Senators, to try to fix this by working with the Department of Transportation to apportion funds based on their original baseline projections, as understood by the Office of Management and Budget and the Congressional Budget Office, or if the President determines that is not possible, to then veto the legislation and return it to the Congress so we can fix the problem. I believe our States are not well-served by this legislation. We must use all opportunities available to call attention to this error and correct it before the Congress adjourns.

What is even more disturbing in assessing the impact of the error is that overall highway spending will increase in fiscal year 1997 to $18 billion, $455 million over current levels, the highest amount in history. It is not reasonable for States like my own, New Mexico, to be taking a $20 million reduction in highway funds when the overall accounts are being increased to their highest levels.

It is not acceptable to me or to the residents of my State of New Mexico to accept outcomes that are the result of accounting errors.

Let me list the funding reductions that 28 States are about to receive in fiscal year 1997 highway fund distributions unless we are able to correct this problem before we leave town.

The States that are losers under the bill as it now stands would be: Alaska, $22 million less than the current year; Colorado, $1.2 million less; Connecticut, $37 million less; Delaware, $8 million less; Hawaii, $13 million less; Idaho, $7 million less; Illinois, $71 million less; Iowa, $21 million less; Kansas, $22 million less; Maine, $7 million less; Maryland, $3 million less; Massachusetts, $73 million less; Minnesota, $32 million less; Montana, $21 million less; Nebraska, $15 million less; New Hampshire, $9 million; New Jersey, $44 million; my own State, as I have indicated, $20 million less; New York, $111 million less than current year funding; North Dakota, $11 million less; Ohio, $19 million less; Rhode Island, $14 million less; South Dakota, $12 million less; Utah, $4 million less; Vermont, $8 million less; Washington State, $33 million less; West Virginia, $17 million less; and Wyoming, $12 million less.

Madam President, in contrast, there are some very large winners because of this accounting error. Texas, for example, is receiving a $183 million increase in next year's funding, which is about a 19 percent increase over the current year. Arizona, which borders my home State of New Mexico, will receive a 24 percent increase. California will receive an additional $122 million over current year funding.

My home State's total highway funds will be cut by 12 percent unless we can correct the error that the amendment of Senator BAUCUS seeks to correct. In our State, we have six highway department districts that will have to shoulder the burden of these cuts, resulting in each of those districts receiving something around $3 or $4 million less than in the current year.

Albuquerque, and that portion of my State, will be hit harder than other regions because it generally receives more Federal highway funds than other regions. Our State and Federal funding contributions now hardly extend far enough to manage maintenance and upgrade of existing highways, not to mention initiate new projects. This impact will most likely mean that few, if any, such new projects will be initiated.

My real concern, Madam President—and I will conclude with this—my real concern is that the impact of this accounting error is that my State of New Mexico will proceed, as will all the other States I have mentioned, into the debates on the reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA) legislation in a disadvantaged position. There are going to be lots of discussions, debate, and back and forth negotiations about highway funding formulas. This is going to severely harm the 28 States that are going to have to enter those discussions with a lower baseline of funding, a baseline of funding that should not have ever occurred.

The bottom line in all of this is that we are allowing an accounting error to drive our legislative outcome, rather than the collective intent of the Senate. This is unacceptable. I strongly urge my colleagues to work with us in correcting this problem and to support Senator BAUCUS' lead on this. We have time before we leave town to legislatively address the issue, particularly when we have the opportunity to amend the omnibus appropriations bill, which will be coming to the floor in the next few days.

Madam President, we were not sent here to legislate based on accounting errors. I hope we can correct this one.

I thank the Chair, and I yield the floor.

Mr. BAUCUS. Madam President, I thank my good friend, Senator BINGAMAN, from New Mexico, for his statement. The words he spoke are true. He very well characterized the nature of this problem. I appreciate his assistance.

Mr. LAUTENBERG. Mr. President, I join my colleagues from Montana and New Mexico in introducing a bill that will correct an accounting error made by the Treasury Department in calculating highway allocations. The Highway Funding Fairness Act of 1996 does not change any formulas established in ISTEA, it does not affect any existing donor-donee relationship.

Simply put, the bill merely corrects the fact that the Department of the Treasury misinterpreted revenue reports because these reports were put in a new format. This error is acknowledged by the Treasury Department and the Federal Highway Administration. The unfortunate result is that the Treasury Department grossly overstated the amount of gas tax receipts to the highway trust fund during 1994. With the passage of this bill, States will receive the funding that they are entitled to —no more, no less.

This amendment will not deny any state the full 90 percent of payments that they are due through the Federal Aid Highway Formula Program. What this amendment will do is set these payments at 90 percent of what the States actually paid, rather than 90 percent of the Treasury's erroneous estimates.

Mr. President, this body is familiar with the problem this bill seeks to address. During consideration of the Transportation appropriations bill, the Senator from Montana, Senator BAUCUS, offered an amendment to correct the mistake. This bill is identical to that amendment. After significant discussion, the Senate adopted the provision directing first that the Treasury and Transportation Departments ensure that there was indeed an accounting error, a mistake, and second, that Treasury would be directed to correct the error.

Again, Mr. President, the Senate adopted that amendment. Unfortunately, it was dropped in conference. And here we are again, faced with the prospect that, without a correction, States would receive the wrong highway funding levels to which they are entitled.

The logic behind the Highway Funding Fairness Act of 1996 is simple, it is fair. Congress, in 1991, passed the landmark ISTEA law, containing the highway funding formulas. Congress should ensure that those formulas are adhered to when the administration calculates States' highway funds. This bill will correct the bureaucratic error and ensure that States receive the accurate amounts calculated under the highway funding formula.

I urge my colleagues to join me in cosponsoring the bill, and I look forward to its swift passage.

By Mr. KEMPTHORNE:

S. 2124. A bill to provide for an offer to transfer to the Secretary of the

Army of certain property at the Navy Annex, Arlington, VA; to the Committee on Armed Services.

THE ARLINGTON NATIONAL CEMETERY ENHANCEMENT ACT OF 1996

• Mr. KEMPTHORNE. Mr. President, today, I am introducing legislation that would allow the Secretary of Defense to transfer 31 acres to the Arlington National Cemetery once he determines this property is no longer needed by the Department of Defense. This land is critical to the future tribute of our national heroes.

I believe all members of this body would agree that it is important to honor the men and women who have bravely fought to protect our liberty. Arlington National Cemetery has served the people proudly as one of the ways our Nation pays respect to our national heroes. Unfortunately, the space reserved for Arlington National Cemetery is limited. The additional property provided by this legislation would allow our Nation to honor our future champions of freedom for years to come.

I am proud to introduce this legislation which I encourage the U.S. Senate to overwhelmingly support. This legislation is not only a tribute to our fallen heroes but to the families and friends who have lost these valiant men and women.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arlington National Cemetery Enhancement Act of 1996".

SEC. 2. REQUIREMENT FOR OFFER OF TRANSFER OF CERTAIN PROPERTY AT THE NAVY ANNEX, ARLINGTON, VIRGINIA.

(A) OFFER.—Upon the determination of the Secretary of Defense under subsection (b), the Secretary of Defense shall offer to transfer to the Secretary of the Army administrative jurisdiction over a parcel of real property consisting of approximately 31 acres located in Arlington, Virginia, and known as the Navy Annex/Federal Building Number 2. The Secretary of defense shall make the offer as soon as practicable after the date of the determination.

(b) DETERMINATION.—The Secretary of Defense shall make the offer required under subsection (a) upon a determination by the Secretary that the Department of Defense no longer requires the property referred to in that subsection for the purposes for which such property is used as of the date of the enactment of this Act.

(c) REQUIREMENTS RELATING TO TRANSFER.—(1)(A) If the Secretary of Defense transfers jurisdiction over the property referred to in subsection (a) pursuant to the offer under that subsection, the transfer shall be without reimbursement.

(B) The Secretary of the Army shall bear any costs associated with such transfer of property, including costs of a survey of the property and costs of compliance with environmental laws with respect to the property.

(2) The Secretary of the Army shall utilize the property as part of the Arlington National Cemetery, Virginia.•

By Mr. LOTT:

S. 2125. A bill to provide a sentence of death for certain importations of significant quantities of controlled substances; to the Committee on the Judiciary.

THE DRUG IMPORTER DEATH PENALTY ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Drug Importer Death Penalty Act of 1996".

SEC. 2. INCREASED PENALTIES FOR INTERNATIONAL DRUG TRAFFICKING.

Section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended by adding at the end the following:

"(e)(1) Notwithstanding any other provision of law, the court shall sentence a person convicted of a violation of subsection (a), consisting of bringing into the United States a mixture or substance—

"(A) which is described in subsection (b)(1); and

"(B) in an amount the Attorney General by rule has determined is equal to 100 usual dosage amounts of such mixture or substance;

to imprisonment for life without possibility of release. If the defendant has violated this subsection on more than one occasion and the requirements of chapter 228 of title 18, United States Code, are satisfied, the court shall sentence the defendant to death.

"(2) The maximum fine that otherwise may be imposed, but for this subsection, shall not be reduced by operation of this subsection."

SEC. 3. CONFORMING AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) INCLUSION OF OFFENSE.—Section 3591(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the comma at the end of paragraph (2) and inserting "; or" at the end of paragraph (2); and

(3) by inserting after paragraph (2) the following:

"(3) an offense described in section 1010(e)(1) of the Controlled Substances Import and Export Act;"

(b) ADDITIONAL AGGRAVATING FACTOR.—Section 3592(d) of title 18, United States Code, is amended by inserting after paragraph (8) the following:

"(9) SECOND IMPORTATION OFFENSE.—The offense consisted of a second or subsequent violation of section 1010(a) of the Controlled Substances Import and Export Act consisting of bringing a controlled substance into the United States.".

By Mr. KENNEDY:

S. 2127. A bill to amend the Fair Labor Standards Act of 1938 to provide for legal accountability for sweatshop conditions in the garment industry, and for other purposes; to the Committee on Labor and Human Resources.

THE STOP THE SWEATSHOPS ACT

Mr. KENNEDY. Madam President, today I am introducing the Stop the Sweatshops Act. This needed legislation attacks the exploitation of garment industry workers by unscrupulous clothing manufacturers. By making clothing manufacturers liable for sweatshop practices by contractors, the bill will require manufacturers to exert their considerable economic power to ensure fair treatment of garment workers.

Sweatshops continue to plague the garment industry. Of the 22,000 manufacturers of clothing and accessories in the United States, more than half are paying wages substantially below the minimum wage, and a third are exposing their workers to serious safety and health risks.

Sweatshops run by unscrupulous contractors have a long and sordid history in this country. In 1911, a tragic fire at the Triangle Shirtwaist Co. on Manhattan's Lower East Side killed 146 young immigrant women, who suffocated or burned to death because the exits had been locked or blocked.

Eighty-five years later, conditions too often have not improved. In August 1996, four Brooklyn garment factories were closed and their owners arrested for operating sweatshops. Among the fire code violations were locked exit doors, obstructed aisles, and violations of sprinkler system requirements. In addition, the contractors maintained two sets of accounting records, one showing that workers were being paid as little as $2.67 per hour—far less than the minimum wage. The workers, all Asian immigrants, were making clothes for K-Mart. A similar sweatshop scandal came to light last spring with respect to clothing made for Wal-Mart stores.

In August 1995, Federal investigators raided a sewing factory outside Los Angeles. In a compound surrounded by barbed wire, agents found dozens of Thai and Mexican immigrant women working 20-hour days for as little as $1 per hour. The women were held captive at their sewing tables by guards who threatened them if they tried to escape.

As these examples make clear, current law is not adequate to prevent such abuses. The 800 investigators of the Department of Labor who monitor compliance with wage and hour laws cannot do the job alone. Manufacturers have the economic muscle and market power to end these abuses. Instead, under the current system, the market power works in the wrong direction—it encourages contractors to inflict sweatshop conditions on employees, rather than pay fair wages and maintain proper working conditions.

Many law-abiding manufacturers already recognize the need to stamp out sweatshops in the United States. But voluntary codes of conduct and monitoring programs cannot eradicate the problem. K-Mart requires its garment contractors to identify all subcontractors they employ and make regular and surprise inspections of manufacturing operations. But this requirement did not prevent the fire code violations, wage violations, and other illegal practices of the contractors arrested in Brooklyn this summer.

The most effective way to enlist manufacturers in the battle against sweatshops is to make them liable along with their contractors for violations of the law. Manufacturers who know they will face liability will take the steps necessary to ensure that their contractors comply with applicable laws.

Our Stop the Sweatshops Act does just that. It amends the Fair Labor Standards Act to make manufacturers in the garment industry liable with contractors for violations of these laws.

Manufacturers will be liable for injunctive relief and civil penalties assessed against a contractor found to have broken the law. They will also be liable for back pay owed to employees for such violations. Manufacturers will be liable only for violations committed on work done for that manufacturer.

The bill also authorizes the Secretary of Labor to assess a civil penalty of up to $1,000 for each employee in cases where contractors fail to keep required payroll records. If the records are fraudulent, the Secretary can assess penalties up to $10,000 for the first offense and $15,000 for further offenses. These penalties will give employers an incentive to keep proper records, and will punish contractors who attempt to conceal their abuses by maintaining two sets of records.

The bill sends a clear message to garment industry employers. Exploitation of workers will not be tolerated. Sweatshops are unacceptable. We intend to do all we can to stamp them out, and this legislation will help us achieve that goal.

By Mr. AKAKA:

S. 2128. A bill to consolidate and revise the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE PLANT PROTECTION ACT

• Mr. AKAKA. Mr. President, today I am introducing the Plant Protection Act, a comprehensive consolidation of Federal laws governing plant pests, noxious weeds, and the plant products that harbor pests and weeds.

Over the past century, numerous Federal laws have been enacted to address problems caused by plant pests and noxious weeds. While some of these laws are effective tools for protecting agriculture and the environment from these threats, others are in conflict or create enforcement ambiguities. The Nation's agricultural community, as well as private, State and Federal land managers, cannot afford the continuing uncertainty caused by Federal plant pest laws, some of which were enacted prior to World War I. Legislation to revise and consolidate Federal plant pest laws is urgently needed and long overdue.

Agriculture Secretary Dan Glickman recently characterized the problems created by hodgepodge of Federal plant protection laws when he Stated that "in some instances, it is unclear which statutes should be relied upon for authority. It is difficult to explain to the public why some apparently similar situations have to be treated differently because different authorities are involved."

A 1993 report issued by the Office of Technology Assessment reached the same conclusion. The OTA found that Federal and State statutes, regulations, and programs are not keeping pace with new and spreading alien pests.

The Plant Protection Act will correct many, but not all, of these problems. The bill I have introduced today will enhance the Federal Government's ability to combat plant pests and noxious weeds, and protect our farms, environment, and economy from the harm they cause.

Plant pests are a problem of monumental proportions. Some of the most damaging insects include the Mediterranean fruit fly, fire ant, and the gipsy moth. Disease pathogens include chestnut blight, which wiped out the most common tree of our Appalachian forests, the elm blight, which destroyed many splendid trees lining our city streets, and the white pine blister rust, which eliminated western white pine as a source of timber for several decades.

Alien weeds also cause havoc, and nowhere is this problem more apparent than in Hawaii. Because our climate is so accommodating, Hawaii is heaven-on-earth for weeds. Alien plants such as gorse, ivy gourd, miconia, and banana poka are ravaging our tropical and subtropical forests. Earlier this year, Hawaii's environment passed an unfortunate milestone: for the first time, foreign introduced plants outnumber Hawaii's diverse native species.

Hawaii is not alone in facing this problem. In fact, no State or region is immune to this threat.

Invasive foreign weeds do more than just compete with domestic species. They transform the landscape, change the rules by which native plants and animals live, and undermine the economic and environmental health of the areas they infest.

Alien weeds fuel grass and forest fires, promote soil erosion, and destroy critical water resources. They significantly increase the cost of farming and ranching. Noxious weeds destroy or alter natural habitat, damage waterways and power lines, and depress property values. Some are toxic to humans, livestock, and wildlife.

Alien weeds are biological pollution, pure and simple. The worldwide growth in trade and travel has caused an explosion in the number of foreign weeds that plague our Nation.

Just how big is this problem? Let me offer an example. Last year, on Federal lands alone, we lost 4,500 acres each day to noxious weeds. That's a million-and-a-half acres a year, or an area the size of Delaware. By comparison, forest fires—one of the most fearsome natural disasters—claimed only half as many Federal acres as weeds.

Noxious foreign weeds have been called a biological wildfire, and for good reason. Forests, national parks, recreation areas, urban landscapes, wilderness, grasslands, waterways, farm and range land across the Nation are overrun by noxious weeds.

The greatest economic impact of this problem is felt by farmers. The Office of Technology Assessment estimates that exotic weeds cost U.S. farmers $3.6 to $5.4 billion annually due to reduced yields, crops of poor quality, increased herbicide use, and other weed control costs. Noxious weeds are a significant drain on farm productivity.

Despite the magnitude of this problem, few people get alarmed about weeds. The issue certainly doesn't appear on the cover of Time or Newsweek. Perhaps if kudzu, a weed known as the "vine that ate the South," attacked the Capitol dome, weeds would finally get the attention they deserve.

Several of these foreign weeds are truly the "King Kong of plants." Some are 50 feet tall. Others have 4 inch thorns. Some have roots 25 feet deep, and others produce 20 million seeds each year.

My least-favorite weed is the tropical soda apple, a thorny plant with a sweet-sounding name. This import from Brazil has inch long spikes covering its stems and leaves. The only attractive thing about this plant is its small yellow and green fruit.

Tropical soda apple presents a particularly difficult control problem because the fruit is a favorite among cattle. They consume the apples and then pass the seeds in their manure where new weed infestations quickly sprout. As cattle are shipped from State to State with soda apple seeds in their stomachs you can easily see how the problem rapidly spreads. It's a weed control nightmare.

The saga of tropical soda apple prompted me to introduce S. 690, the Federal Noxious Weed Improvement Act in April 1995. S. 690 would grant the Secretary of Agriculture emergency powers to restrict the entry of a foreign weed until formal action can be taken to place it on the noxious weed list. This legislation would prevent future tropical soda apples from taking root.

I have incorporated the text of S. 690 into section 4 of the Plant Protection Act. Other provisions of the legislation I have introduced today are drawn from USDA recommendations for consolidating weed and plant pest authorities.

Because the U.S. Department of Agriculture's authority over plant pests and noxious weeds is dispersed throughout numerous statutes, Federal efforts to protect agriculture, forestry, and our environment are seriously hindered. To enable the Department to respond more efficiently to this challenge, I have introduced legislation to consolidate these authorities into a single statute. The text of this measure is drawn from draft recommendations prepared by USDA, although I have made some significant changes, particularly in the provisions relating to weeds.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Plant Protection Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the detection, control, eradication, suppression, prevention, and retardation of the spread of plant pests and noxious weeds is necessary for the protection of the agriculture, environment, and economy of the United States;

(2) biological control—

(A) is often a desirable, low-risk means of ridding crops and other plants of plant pests and noxious weeds; and

(B) should be facilitated by the Secretary of Agriculture, Federal agencies, and States, whenever feasible;

(3) markets could be severely impacted by the introduction or spread of pests or noxious weeds into or within the United States;

(4) the unregulated movement of plant pests, noxious weeds, plants, biological control organisms, plant products, and articles capable of harboring plant pests or noxious weeds would present an unacceptable risk of introducing or spreading plant pests or noxious weeds;

(5) the existence on any premises in the United States of a plant pest or noxious weed new to or not known to be widely prevalent in or distributed within and throughout the United States could threaten crops, other plants, plant products, and the natural resources and environment of the United States and burden interstate commerce or foreign commerce; and

(6) all plant pests, noxious weeds, plants, plant products, or articles capable of harboring plant pests or noxious weeds regulated under this Act are in or affect interstate commerce or foreign commerce.

SEC. 3. DEFINITIONS.

In this Act (unless the context otherwise requires):

(1) ARTICLE.—The term "article" means any material or tangible object that could harbor a pest, disease, or noxious weed.

(2) BIOLOGICAL CONTROL ORGANISM.—The term "biological control organism" means a biological entity, as defined by the Secretary, that suppresses or decreases the population of another biological entity.

(3) ENTER.—The term "enter" means to move into the commerce of the United States.

(4) ENTRY.—The term "entry" means the act of movement into the commerce of the United States.

(5) EXPORT.—The term "export" means to move from the United States to any place outside the United States.

(6) EXPORTATION.—The term "exportation" means the act of movement from the United States to any place outside the United States.

(7) IMPORT.—The term "import" means to move into the territorial limits of the United States.

(8) IMPORTATION.—The term "importation" means the act of movement into the territorial limits of the United States.

(9) INDIGENOUS.—The term "indigenous" means a plant species found naturally as part of a natural habitat in a geographic area in the United States.

(10) INTERSTATE.—The term "interstate" means from 1 State into or through any other State, or within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(11) INTERSTATE COMMERCE.—The term "interstate commerce" means trade, traffic, movement, or other commerce—

(A) between a place in a State and a point in another State;

(B) between points within the same State but through any place outside the State; or

(C) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(12) MEANS OF CONVEYANCE.—The term "means of conveyance" means any personal property or means used for or intended for use for the movement of any other personal property.

(13) MOVE.—The term "move" means to—

(A) carry, enter, import, mail, ship, or transport;

(B) aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting;

(C) offer to carry, enter, import, mail, ship, or transport;

(D) receive to carry, enter, import, mail, ship, or transport; or

(E) allow any of the activities referred to this paragraph.

(14) NOXIOUS WEED.—The term "noxious weed" means a plant, seed, reproductive part, or propagative part of a plant that—

(A) can directly or indirectly injure or cause damage to a crop, other useful plant, plant product, livestock, poultry, or other interest of agriculture (including irrigation), navigation, public health, or natural resources or environment of the United States; and

(B) belongs to a species that is not indigenous to the geographic area or ecosystem in which it is causing injury or damage.

(15) PERMIT.—The term "permit" means a written or oral authorization (including electronic authorization) by the Secretary to move a plant, plant product, biological control organism, plant pest, noxious weed, or article under conditions prescribed by the Secretary.

(16) PERSON.—The term "person" means an individual, partnership, corporation, association, joint venture, or other legal entity.

(17) PLANT.—The term "plant" means a plant or plant part for or capable of propagation, including a tree, shrub, vine, bulb, root, pollen, seed, tissue culture, plantlet culture, cutting, graft, scion, and bud.

(18) PLANT PEST.—The term "plant pest" means—

(A) a living stage of a protozoan, animal, bacteria, fungus, virus, viroid, infection agent, or parasitic plant that can directly or indirectly injure or cause damage to, or cause disease in, a plant or plant product; or

(B) an article that is similar to or allied with an article referred to in subparagraph (A).

(19) PLANT PRODUCT.—The term "plant product" means a flower, fruit, vegetable, root, bulb, seed, or other plant part that is not considered a plant or a manufactured or processed plant or plant part.

(20) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(21) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(22) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

SEC. 4. RESTRICTIONS ON MOVEMENT OF PLANTS, PLANT PRODUCTS, BIOLOGICAL CONTROL ORGANISMS, PLANT PESTS, NOXIOUS WEEDS, ARTICLES, AND MEANS OF CONVEYANCE.

(a) IN GENERAL.—The Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the interstate dissemination of a plant pest or noxious weed.

(b) MAIL.—

(1) IN GENERAL.—No person shall convey in the mail, or deliver from a post office or by a mail carrier, a letter or package containing a plant pest, biological control organism, or noxious weed unless it is mailed in accordance with such regulations as the Secretary may issue to prevent the introduction into the United States, or interstate dissemination, of plant pests or noxious weeds.

(2) POSTAL EMPLOYEES.—This subsection shall not apply to an employee of the United States in the performance of the duties of the employee in handling the mail.

(3) POSTAL LAWS AND REGULATIONS.—Nothing in this subsection authorizes a person to open a mailed letter or other mailed sealed matter except in accordance with the postal laws and regulations.

(c) STATE RESTRICTIONS ON NOXIOUS WEEDS.—No person shall move into a State, or sell or offer for sale in the State, a plant species the sale of which is prohibited by the State because the plant species is designated as a noxious weed or has a similar designation.

(d) ADMINISTRATION.—The Secretary may issue regulations to carry out this section, including regulations requiring that a plant,

plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance imported, entered, to be exported, or moved in interstate commerce—

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, or movement in interstate commerce;

(2) be accompanied by a certificate of inspection issued in a manner and form required by the Secretary or by an appropriate official of the country or State from which the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is to be moved;

(3) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests; and

(4) in the case of a plant or biological control organism, be grown or handled under post-entry quarantine conditions by or under the supervision of the Secretary for the purpose of determining whether the plant or biological control organism may be infested with a plant pest or noxious weed, or may be a plant pest or noxious weed.

(e) LIST OF RESTRICTED NOXIOUS WEEDS.—

(1) PUBLICATION.—The Secretary may publish, by regulation, a list of noxious weeds that are prohibited or restricted from entering the United States or that are subject to restrictions on interstate movement within the United States.

(2) PETITIONS TO ADD OR REMOVE PLANT SPECIES.—

(A) IN GENERAL.—A person may petition the Secretary to add or remove a plant species from the list required under paragraph (1).

(B) ACTION ON PETITION.—The Secretary shall—

(i) act on a petition not later than 1 year after receipt of the petition by the Secretary; and

(ii) notify the petitioner of the final action the Secretary takes on the petition.

(C) BASIS FOR DETERMINATION.—The Secretary's determination on the petition shall be based on sound science, available data and technology, and information received from public comment.

(D) INCLUSION ON LIST.—To include a plant species on the list, the Secretary must determine that—

(i) the plant species is nonindigenous to the geographic region or ecosystem in which the species is spreading and causing injury; and

(ii) the dissemination of the plant in the United States may reasonably be expected to interfere with natural resources, agriculture, forestry, or a native ecosystem of a geographic region, or management of an ecosystem, or cause injury to the public health.

(f) CONFORMING AMENDMENTS.—

(1) Section 102 of the Act of September 21, 1944 (58 Stat. 735, chapter 412; 7 U.S.C. 147a) is amended by striking "(a)" in subsection (a) and all that follows through "(2)" in subsection (f)(2).

(2) The matter under the heading "ENFORCEMENT OF THE PLANT-QUARANTINE ACT:" under the heading "MISCELLANEOUS" of the Act of March 4, 1915 (commonly known as the "Terminal Inspection Act") (38 Stat. 1113, chapter 144; 7 U.S.C. 166) is amended—

(A) in the second paragraph—

(i) by striking "plants and plant products" each place it appears and inserting "plants, plant products, animals, and other organisms";

(ii) by striking "plants or plant products" each place it appears and inserting "plants, plant products, animals, or other organisms";

(iii) by striking "plant-quarantine law or plant-quarantine regulation" each place it appears and inserting "plant-quarantine or other law or plant-quarantine regulation";

(iv) in the second sentence—

(I) by striking "Upon his approval of said list, in whole or in part, the Secretary of Agriculture" and inserting "On the receipt of the list by the Secretary of Agriculture, the Secretary"; and

(II) by striking "said approved lists" and inserting "the lists";

(v) by inserting after the second sentence the following: "On the request of a representative of a State, a Federal agency shall act on behalf of the State to obtain a warrant to inspect mail to carry out this paragraph."; and

(vi) in the last sentence, by striking "be forward" and inserting "be forwarded"; and

(B) in the third paragraph, by striking "plant or plant product" and inserting "plant, plant product, animal, or other organism".

SEC. 5. NOTIFICATION OF ARRIVAL AND INSPECTION BEFORE MOVEMENT OF PLANTS, PLANT PRODUCTS, BIOLOGICAL CONTROL ORGANISMS, PLANT PESTS, NOXIOUS WEEDS, ARTICLES, AND MEANS OF CONVEYANCE.

(a) NOTIFICATION AND HOLDING BY SECRETARY OF THE TREASURY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Treasury shall—

(A) promptly notify the Secretary of the arrival of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance at a port of entry; and

(B) hold the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance until inspected and authorized for entry into or transit movement through the United States, or otherwise released by the Secretary.

(2) APPLICATION.—Paragraph (1) shall not apply to a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that is imported from a country or region of countries that the Secretary designates as exempt from paragraph (1), pursuant to such regulations as the Secretary may issue.

(b) NOTIFICATION BY RESPONSIBLE PERSON.—The person responsible for a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to subsection (a) shall promptly, on arrival at the port of entry and before the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is moved from the port of entry, notify the Secretary or, at the Secretary's direction, the proper official of the State to which the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is destined, or both, as the Secretary may prescribe, of—

(1) the name and address of the consignee;

(2) the nature and quantity of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance proposed to be moved; and

(3) the country and locality where the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance was grown, produced, or located.

(c) NO MOVEMENT WITHOUT INSPECTION AND AUTHORIZATION.—No person shall move from the port of entry or interstate an imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance unless the imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance has been inspected and authorized for entry into or transit movement through the United States, or otherwise released by the Secretary.

SEC. 6. REMEDIAL MEASURES OR DISPOSAL FOR PLANT PESTS OR NOXIOUS WEEDS; EXTRAORDINARY EMERGENCY.

(a) REMEDIAL MEASURES OR DISPOSAL FOR PLANT PESTS OR NOXIOUS WEEDS.—

(1) IN GENERAL.—Except as provided in subsection (c), if the Secretary considers it necessary to prevent the dissemination of a plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States, the Secretary may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of—

(A) a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that is moving into or through the United States or interstate and that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(B) a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that has moved into the United States or interstate and that the Secretary has reason to believe was infested with the plant pest or noxious weed at the time of the movement;

(C) a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that is moving into or through the United States or interstate, or has moved into the United States or interstate, in violation of this Act;

(D) a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that has not been maintained in compliance with a post-entry quarantine requirement;

(E) a progeny of a plant, plant product, biological control organism, plant pest, or noxious weed that is moving into or through the United States or interstate, or has moved into the United States or interstate, in violation of this Act; or

(F) a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that is infested with a plant pest or noxious weed that the Secretary has reason to believe was moved into the United States or in interstate commerce.

(2) ORDERING TREATMENT OR DISPOSAL BY THE OWNER.—Except as provided in subsection (c), the Secretary may order the owner of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to disposal under paragraph (1), or the owner's agent, to treat, apply other remedial measures to, destroy, or otherwise dispose of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance, without cost to the Federal Government and in a manner the Secretary considers appropriate.

(3) CLASSIFICATION SYSTEM FOR NOXIOUS WEEDS.—

(A) IN GENERAL.—To facilitate control of noxious weeds, the Secretary shall develop a classification system to describe the status and action levels for noxious weeds.

(B) CATEGORIES.—The classification system shall differentiate between—

(i) noxious weeds that are not known to be introduced into the United States;

(ii) noxious weeds that are not known to be widely disseminated within the United States;

(iii) noxious weeds that are widely distributed within the United States; and

(iv) noxious weeds that are not indigenous, including native plant species that are invasive in limited geographic areas within the United States.

(C) OTHER CATEGORIES.—In addition to the categories required under subparagraph (B), the Secretary may establish other categories of noxious weeds for the system.

(D) VARYING LEVELS OF REGULATION AND CONTROL.—The Secretary shall develop varying levels of regulation and control appropriate to each of the categories of the system.

(E) APPLICATION OF REGULATIONS.—The regulations issued to carry out this paragraph shall apply, as the Secretary considers appropriate, to—

(i) exclude a noxious weed;

(ii) prevent further dissemination of a noxious weed through movement or commerce;

(iii) establish mandatory controls for a noxious weed; or

(iv) designate a noxious weed as warranting control efforts.

(F) REVISIONS.—The Secretary shall revise the classification system, and the placement of individual noxious weeds within the system, in response to changing circumstances.

(G) INTEGRATED MANAGEMENT PLANS.—In conjunction with the classification system, the Secretary may develop an integrated management plan for a noxious weed for the geographic region or ecological range of the United States where the noxious weed is found or to which the noxious weed may spread.

(b) EXTRAORDINARY EMERGENCIES.—

(1) IN GENERAL.—Subject to paragraph (2), if the Secretary determines that an extraordinary emergency exists because of the presence of a plant pest or noxious weed new to or not known to be widely prevalent in or distributed within and throughout the United States and that the presence of the plant pest or noxious weed threatens a crop, other plant, plant product, or the natural resources or environment of the United States, the Secretary may—

(A) hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(B) quarantine, treat, or apply other remedial measures to a premises, including a plant, plant product, biological control organism, article, or means of conveyance on the premises, that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(C) quarantine a State or portion of a State in which the Secretary finds the plant pest or noxious weed, or a plant, plant product, biological control organism, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed; or

(D) prohibit or restrict the movement within a State of a plant, plant product, biological control organism, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of the plant pest or noxious weed or to eradicate the plant pest or noxious weed.

(2) REQUIREMENTS FOR ACTION.—

(A) INADEQUATE STATE MEASURES.—After review and consultation with the Governor or other appropriate official of the State, the Secretary may take action under this subsection only on a finding that the measures being taken by the State are inadequate to eradicate the plant pest or noxious weed.

(B) NOTICE TO STATE AND PUBLIC.—Before taking any action in a State under this subsection, the Secretary shall—

(i) notify the Governor or another appropriate official of the State;

(ii) issue a public announcement; and

(iii) except as provided in subparagraph (C), publish in the Federal Register a statement of—

(I) the Secretary's findings;

(II) the action the Secretary intends to take;

(III) the reason for the intended action; and

(IV) if practicable, an estimate of the anticipated duration of the extraordinary emergency.

(C) NOTICE AFTER ACTION.—If it is not possible to publish a statement in the Federal Register under subparagraph (B) prior to taking an action under this subsection, the Secretary shall publish the statement in the Federal Register within a reasonable period of time, not to exceed 10 business days, after commencement of the action.

(3) COMPENSATION.—

(A) IN GENERAL.—The Secretary may pay compensation to a person for economic losses incurred by the person as a result of action taken by the Secretary under paragraph (1).

(B) FINAL DETERMINATION.—The determination by the Secretary of the amount of any compensation paid under this subsection shall be final and shall not be subject to judicial review.

(c) LEAST DRASTIC ACTION TO PREVENT DISSEMINATION.—No plant, plant product, biological control organism, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section unless, in the opinion of the Secretary, there is no less drastic action that is feasible, and that would be adequate, to prevent the dissemination of a plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

(d) COMPENSATION OF OWNER FOR UNAUTHORIZED DISPOSAL.—

(1) IN GENERAL.—The owner of a plant, plant product, biological control organism, article, or means of conveyance destroyed or otherwise disposed of by the Secretary under this section may bring an action against the United States in the United States District Court of the District of Columbia, not later than 1 year after the destruction or disposal, and recover just compensation for the destruction or disposal of the plant, plant product, biological control organism, article, or means of conveyance (not including compensation for loss due to delays incident to determining eligibility for importation, entry, exportation, movement in interstate commerce, or release into the environment) if the owner establishes that the destruction or disposal was not authorized under this Act.

(2) SOURCE FOR PAYMENTS.—A judgment rendered in favor of the owner shall be paid out of the money in the Treasury appropriated for plant pest control activities of the Department of Agriculture.

SEC. 7. INSPECTIONS, SEIZURES, AND WARRANTS.

(a) IN GENERAL.—Consistent with guidelines approved by the Attorney General, the Secretary may—

(1) stop and inspect, without a warrant, a person or means of conveyance moving into the United States to determine whether the person or means of conveyance is carrying a plant, plant product, biological control organism, or article regulated under this Act or is moving subject to this Act;

(2) stop and inspect, without a warrant, a person or means of conveyance moving in interstate commerce on probable cause to believe that the person or means of conveyance is carrying a plant, plant product, biological control organism, or article regulated under this Act or is moving subject to this Act;

(3) stop and inspect, without a warrant, a person or means of conveyance moving in interstate commerce from or within a State, portion of a State, or premises quarantined under section 6(b) on probable cause to believe that the person or means of conveyance is carrying any plant, plant product, biological control organism, or article regulated under this Act or is moving subject to this Act; and

(4) enter, with a warrant, a premises in the United States for the purpose of making inspections and seizures under this Act.

(b) WARRANTS.—

(1) IN GENERAL.—A United States judge, a judge of a court of record in the United States, or a United States magistrate judge may, within the judge's or magistrate's jurisdiction, on proper oath or affirmation showing probable cause to believe that there is on certain premises a plant, plant product, biological control organism, article, facility, or means of conveyance regulated under this Act, issue a warrant for entry on the premises to make an inspection or seizure under this Act.

(2) EXECUTION.—The warrant may be executed by the Secretary or a United States Marshal.

SEC. 8. COOPERATION.

(a) IN GENERAL.—To carry out this Act, the Secretary may cooperate with—

(1) other Federal agencies;

(2) States or political subdivisions of States;

(3) national, State, or local associations;

(4) national governments;

(5) local governments of other nations;

(6) international organizations;

(7) international associations; and

(8) other persons.

(b) RESPONSIBILITY.—The individual or entity cooperating with the Secretary shall be responsible for conducting the operations or taking measures on all land and property within the foreign country or State, other than land and property owned or controlled by the United States, and for other facilities and means determined by the Secretary.

(c) TRANSFER OF BIOLOGICAL CONTROL METHODS.—At the request of a Federal or State land management agency, the Secretary may transfer to the agency biological control methods utilizing biological control organisms against plant pests or noxious weeds.

(d) IMPROVEMENT OF PLANTS, PLANT PRODUCTS, AND BIOLOGICAL CONTROL ORGANISMS.—The Secretary may cooperate with State authorities in the administration of regulations for the improvement of plants, plant products, and biological control organisms.

SEC. 9. PHYTOSANITARY CERTIFICATE FOR EXPORTS.

The Secretary may certify a plant, plant product, or biological control organism as free from plant pests and noxious weeds, and exposure to plant pests and noxious weeds, according to the phytosanitary requirements of the country to which the plant, plant product, or biological control organism may be exported.

SEC. 10. ADMINISTRATION.

(a) IN GENERAL.—The Secretary may acquire and maintain such real or personal property, employ such persons, make such grants, and enter into such contracts, cooperative agreements, memoranda of understanding, or other agreements as are necessary to carry out this Act.

(b) PERSONNEL OF USER FEE SERVICES.—Notwithstanding any other law, the Secretary shall provide adequate personnel for services provided under this Act that are funded by user fees.

(c) TORT CLAIMS.—

(1) IN GENERAL.—The Secretary may pay a tort claim (in the manner authorized in the first paragraph of section 2672 of title 28, United States Code) if the claim arises outside the United States in connection with an activity authorized under this Act.

(2) TIME LIMITATION.—A claim may not be allowed under paragraph (1) unless the claim is presented in writing to the Secretary not later than 2 years after the claim accrues.

SEC. 11. REIMBURSABLE AGREEMENTS.

(a) PRECLEARANCE.—

(1) IN GENERAL.—The Secretary may enter into a reimbursable fee agreement with a person for preclearance (at a location outside the United States) of plants, plant products, and articles for movement into the United States.

(2) ACCOUNT.—All funds collected under this subsection shall be credited to an account that may be established by the Secretary and remain available until expended without fiscal year limitation.

(b) OVERTIME.—

(1) IN GENERAL.—Notwithstanding any other law, the Secretary may pay an employee of the Department of Agriculture performing services under this Act relating to imports into and exports from the United States, for all overtime, night, or holiday work performed by the employee, at a rate of pay determined by the Secretary.

(2) REIMBURSEMENT OF SECRETARY.—The Secretary may require a person for whom the services are performed to reimburse the Secretary for any funds paid by the Secretary for the services.

(3) ACCOUNT.—All funds collected under this subsection shall be credited to the account that incurs the costs and remain available until expended without fiscal year limitation.

(c) LATE PAYMENT PENALTY AND INTEREST.—

(1) PENALTY.—On failure of a person to reimburse the Secretary in accordance with this section, the Secretary may assess a late payment penalty against the person.

(2) INTEREST.—Overdue funds due the Secretary under this section shall accrue interest in accordance with section 3717 of title 31, United States Code.

(3) ACCOUNT.—A late payment penalty and accrued interest shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

SEC. 12. VIOLATIONS; PENALTIES.

(a) CRIMINAL PENALTIES.—A person who knowingly violates this Act, or who knowingly forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys a certificate, permit, or other document provided under this Act shall be guilty of a misdemeanor, and, on conviction, shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 1 year, or both.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—A person who violates this Act, or who forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys a certificate, permit, or other document provided under this Act may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary of not more than $25,000 for each violation.

(2) FINAL ORDER.—The order of the Secretary assessing a civil penalty shall be treated as a final order that is reviewable under chapter 158 of title 28, United States Code.

(3) VALIDITY OF ORDER.—The validity of an order of the Secretary may not be reviewed in an action to collect the civil penalty.

(4) INTEREST.—A civil penalty not paid in full when due under an order assessing the civil penalty shall (after the due date) accrue interest until paid at the rate of interest applicable to a civil judgment of a court of the United States.

(c) PECUNIARY GAINS OR LOSSES.—If a person derives pecuniary gain from an offense described in subsection (a) or (b), or if the offense results in pecuniary loss to a person other than the defendant, the defendant may be fined not more than an amount that is the greater of twice the gross gain or twice the gross loss, unless imposition of a fine under this subsection would unduly complicate or prolong the imposition of a fine or sentence under subsection (a) or (b).

(d) AGENTS.—For purposes of this Act, the act, omission, or failure of an officer, agent, or person acting for or employed by any other person within the scope of the employment or office of the other person shall be considered also to be the act, omission, or failure of the other person.

(e) CIVIL PENALTIES OR NOTICE IN LIEU OF PROSECUTION.—The Secretary shall coordinate with the Attorney General to establish guidelines to determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of this Act.

SEC. 13. ENFORCEMENT.

(a) INVESTIGATIONS, EVIDENCE, AND SUBPOENAS.—

(1) INVESTIGATIONS.—The Secretary may gather and compile information and conduct any investigations the Secretary considers necessary for the administration and enforcement of this Act.

(2) EVIDENCE.—The Secretary shall at all reasonable times have the right to examine and copy any documentary evidence of a person being investigated or proceeded against.

(3) SUBPOENAS.—

(A) IN GENERAL.—The Secretary shall have power to require by subpoena the attendance and testimony of any witness and the production of all documentary evidence relating to the administration or enforcement of this Act or any matter under investigation in connection with this Act.

(B) LOCATION.—The attendance of a witness and production of documentary evidence may be required from any place in the United States at any designated place of hearing.

(C) NONCOMPLIANCE WITH SUBPOENA.—If a person disobeys a subpoena, the Secretary may request the Attorney General to invoke the aid of a court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated to require the attendance and testimony of a witness and the production of documentary evidence.

(D) ORDER.—If a person disobeys a subpoena, the court may order the person to appear before the Secretary and give evidence concerning the matter in question or to produce documentary evidence.

(E) NONCOMPLIANCE WITH ORDER.—A failure to obey the court's order may be punished by the court as a contempt of the court.

(F) FEES AND MILEAGE.—

(i) IN GENERAL.—A witness summoned by the Secretary shall be paid the same fees and reimbursement for mileage that is paid to a witness in the courts of the United States.

(ii) DEPOSITIONS.—A witness whose deposition is taken, and the person taking the deposition, shall be entitled to the same fees that are paid for similar services in a court of the United States.

(b) ATTORNEY GENERAL.—The Attorney General may—

(1) prosecute, in the name of the United States, a criminal violation of this Act that is referred to the Attorney General by the Secretary or is brought to the notice of the Attorney General by a person;

(2) bring an action to enjoin the violation of or to compel compliance with this Act, or to enjoin any interference by a person with the Secretary in carrying out this Act, if the Secretary has reason to believe that the person has violated or is about to violate this Act, or has interfered, or is about to interfere, with the Secretary; and

(3) bring an action for the recovery of any unpaid civil penalty, funds under a reimbursable agreement, late payment penalty, or interest assessed under this Act.

(c) JURISDICTION.—

(1) IN GENERAL.—Except as provided in section 12(b), a United States district court, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of other territories and possessions shall have jurisdiction over all cases arising under this Act.

(2) VENUE.—Except as provided in subsection (b), an action arising under this Act may be brought, and process may be served, in the judicial district where a violation or interference occurred or is about to occur, or where the person charged with the violation, interference, impending violation, impending interference, or failure to pay resides, is found, transacts business, is licensed to do business, or is incorporated.

(3) SUBPOENAS.—A subpoena for a witness to attend court in a judicial district or to testify or produce evidence at an administrative hearing in a judicial district in an action or proceeding arising under this Act may apply to any other judicial district.

SEC. 14. PREEMPTION.

(a) IN GENERAL.—Except as provided in subsection (b), no State or political subdivision of a State may regulate any article, means of conveyance, plant, biological control organism, plant pest, noxious weed, or plant product in foreign commerce to control a plant pest or noxious weed, eradicate a plant pest or noxious weed, or prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed.

(b) STATE NOXIOUS WEED LAWS.—This Act shall not invalidate the law of any State or political subdivision of a State relating to noxious weeds, except that a State or political subdivision of a State may not permit any action that is prohibited under this Act.

SEC. 15. REGULATIONS AND ORDERS.

The Secretary may issue such regulations and orders as the Secretary considers necessary to carry out this Act, including (at the option of the Secretary) regulations and orders relating to—

(1) notification of arrival of plants, plant products, biological control organisms, plant pests, noxious weeds, articles, or means of conveyance;

(2) prohibition or restriction of or on the importation, entry, exportation, or movement in interstate commerce of plants, plant products, biological control organisms, plant pests, noxious weeds, articles, or means of conveyance;

(3) holding, seizure of, quarantine of, treatment of, application of remedial measures to, destruction of, or disposal of plants, plant products, biological control organisms, plant pests, noxious weeds, articles, premises, or means of conveyance;

(4) in the case of an extraordinary emergency, prohibition or restriction on the movement of plants, plant products, biological control organisms, plant pests, noxious weeds, articles, or means of conveyance;

(5) payment of compensation;

(6) cooperation with other Federal agencies, States, political subdivisions of States, national governments, local governments of other countries, international organizations, international associations, and other persons, entities, and individuals;

(7) transfer of biological control methods for plant pests or noxious weeds;

(8) negotiation and execution of agreements;

(9) acquisition and maintenance of real and personal property;

(10) issuance of letters of warning;

(11) compilation of information;

(12) conduct of investigations;

(13) transfer of funds for emergencies;

(14) approval of facilities and means of conveyance;

(15) denial of approval of facilities and means of conveyance;

(16) suspension and revocation of approval of facilities and means of conveyance;

(17) inspection, testing, and certification;

(18) cleaning and disinfection;

(19) designation of ports of entry;

(20) imposition and collection of fees, penalties, and interest;

(21) recordkeeping, marking, and identification;

(22) issuance of permits and phytosanitary certificates;

(23) establishment of quarantines, post-importation conditions, and post-entry quarantine conditions;

(24) establishment of conditions for transit movement through the United States; and

(25) treatment of land for the prevention, suppression, or control of plant pests or noxious weeds.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS; TRANSFERS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

(2) INDEMNITIES.—Except as specifically authorized by law, no part of the money made available under paragraph (1) shall be used to pay an indemnity for property injured or destroyed by or at the direction of the Secretary.

(b) TRANSFERS.—

(1) IN GENERAL.—In connection with an emergency in which a plant pest or noxious weeds threatens any segment of the agricultural production of the United States, the Secretary may transfer (from other appropriations or funds available to an agency or corporation of the Department of Agriculture) such funds as the Secretary considers necessary for the arrest, control, eradication, and prevention of the spread of the plant pest or noxious weed and for related expenses.

(2) AVAILABILITY.—Any funds transferred under this subsection shall remain available to carry out paragraph (1) without fiscal year limitation.

SEC. 17. REPEALS.

The following provisions of law are repealed:

(1) Public Law 97-46 (7 U.S.C. 147b).

(2) The Joint Resolution of April 6, 1937 (50 Stat. 57, chapter 69; 7 U.S.C. 148 et seq.).

(3) Section 1773 of the Food Security Act of 1985 (7 U.S.C. 148f).

(4) The Act of January 31, 1942 (56 Stat. 40, chapter 31; 7 U.S.C. 149).

(5) The Golden Nematode Act (7 U.S.C. 150 et seq.).

(6) The Federal Plant Pest Act (7 U.S.C. 150aa et seq.).

(7) The Act of August 20, 1912 (commonly known as the "Plant Quarantine Act") (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.).

(8) The Halogeton Glomeratus Control Act (7 U.S.C. 1651 et seq.).

(9) The Act of August 28, 1950 (64 Stat. 561, chapter 815; 7 U.S.C. 2260).

(10) The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.), other than the first section of the Act (Public Law 93-629; 7 U.S.C. 2801 note) and section 15 of the Act (7 U.S.C. 2814).

By Mr. INHOFE:

S. 2129. A bill to provide for the immediate application of certain orders relating to the amendment, modification, suspension, or revocation of certificates under chapter 447 of title 49, United States Code; to the Committee on Commerce, Science, and Transportation.

FAA EMERGENCY REVOCATION POWERS

Mr. INHOFE. For several months now, I have been working with representatives of the aviation community, with which I have been a part for just under 40 years, on legislation which will address the problem with the Federal Aviation Administration's use of their emergency revocation powers. In a revocation action, brought on an emergency basis, the airman or other certificate holder loses the use of the certificate immediately without any intermediary review or by any kind of an impartial party. The result is that the airman is grounded. In most cases, that is an airman who worked for some airline, and that is his or her only method of making a living.

Simply put, I believe the FAA unfairly uses this emergency power to prematurely revoke certificates when the circumstances do not support such drastic action. A more reasonable approach where safety is not an issue would be to adjudicate the revocation on a nonemergency basis, allowing the certificate holder continued use of his certificate.

Do not misunderstand: In no way do I want to suggest that the FAA should not have emergency revocation powers. I believe it is critical to safety that the FAA have the ability to ground unsafe airmen. However, I also believe that the FAA must be judicious in its use of the extraordinary power. A review of recent emergency cases clearly demonstrates a pattern whereby the FAA uses their emergency powers as standard procedure rather than extraordinary measures. Perhaps the most visible case has been that of Bob Hoover.

Now, Mr. President, I have flown in a lot of air shows over the last 40 years, and I can tell you right now the one person that you ask anyone who has a background like mine, "Who is the hero within the industry," it has been Hoover. He is getting up in years but is as sharp as he ever was. Something happened to him. He is probably the most highly regarded and accomplished aerobatic pilot today. In 1992, his medical certificate was revoked based on alleged questions regarding his physical condition. After getting a clean bill of health from four separate sets of doctors over the continuing objections of the Federal air surgeon, who never examined Bob personally, his medical certificate was reinstated only after the Administrator, David Hinson, intervened.

I say at this point, I have been a strong supporter of Administrator David Hinson. I have often said that he is probably the very best appointment that President Clinton has made since he has been President. I also say there is not a lot of competition for that title.

He already has more serious problems coming. His current medical certificate expires this coming Monday, September 30, 1996. Unlike most airmen, like myself, when mine expires I go down, take a physical that lasts approximately 30 minutes, and it is reinstated at that time, something that happens every 12 months.

Bob Hoover's experience is one of many. I have several other examples of pilots who had licenses revoked on an emergency basis, such as Ted Stewart, who has been an American Airlines pilot—who I know personally—has been an American Airlines pilot for 12 years and is presently a Boeing 767 captain. Until January 1995, Mr. Stewart had no complaints registered against him or his flying. In January 1995, the FAA suspended Mr. Stewart's examining authority as part of a larger FAA effort to respond to a problem of falsifying records.

Now, there was never any indication that Mr. Stewart was involved in that, but, nonetheless, that was part of the investigation. He was exonerated by the full NTSB, National Transportation Safety Board, in July 1995. In June 1996, he received a second revocation. One of the charges in the second revocation involved falsification of records for a flight instructor certificate with a multiengined rating and his air transport pilot, ATP, certificate dating back to 1979.

Like most, I have questioned how an alleged 17½-year-old violation could constitute an emergency, especially since he has not been cited for any cause in the intervening years. Nonetheless, the FAA vigorously pursued this action. On August 30, 1996, the NTSB issued its decision in this second revocation and found in favor of Mr. Stewart.

A couple of comments in Mr. Stewart's decision bear closer examination. First, the board notes that "the Administrator's loss in the earlier case appears to have prompted further investigation of the respondent * * *" I found this rather troubling, that an impartial third party appears to be suggesting that the FAA has a vendetta against Ted Stewart, which is further emphasized with the footnote in which the board notes:

> [We,] of course, [are] not authorized to review the Administrator's exercise of his power to take emergency certificate action . . . We are constrained to register in this matter, however, our opinion that where, as here, no legitimate reason is cited or appears for not consolidating all alleged violations into one proceeding, subjecting an airman in the space of a year to two emergency revocations, and thus to the financial and other burdens associated with an additional 60-day grounding, without prior notice and hearing, constitutes an abuse and unprincipled discharge of an extraordinary power.

Mr. President, I obviously cannot read the minds of the NTSB, but I believe a reasonable person would conclude from these comments that the board believes, as I do, that there is an abuse of emergency revocation powers by the FAA.

This is borne out further by the fact that, since 1989, emergency cases as a total of all enforcement actions heard by the NTSB have more than doubled. In 1989, the NTSB heard 1,107 enforcement cases. Of those, 66 were emergency revocation cases, or 5.96 percent. In 1995, the NTSB heard 509 total enforcement cases, and of those 160 were emergency revocation cases or 31.43 percent. I believe it is clear that the FAA has begun to use an exceptional power as a standard practice.

In response, I am proposing legislation which would establish a procedure whereby the FAA must show just cause for bringing an emergency revocation action against an airman.

Not surprisingly, Mr. President, the FAA opposes this language. But they also oppose the changes to the civil penalties program where they served as judge, jury, and executioner in civil penalty actions against airmen. Fortunately, we were able to change that just a couple of years ago so that airmen can now appeal a civil penalty case to the NTSB. This has worked very well because the NTSB has a clear understanding of the issues.

My proposal allows an airman, within 48 hours of receiving an emergency revocation order, to request a hearing before the NTSB on the emergency nature of the revocation—not whether or not the revocation was justified, but the emergency nature of the revocation. The NTSB then has 48 hours to hear the arguments and decide if a true emergency exists. During this time, the emergency revocation remains in effect. In other words, the airman loses use of his certificate for 4 days. However, should the NTSB decide an emergency does not exist, then the certificate would be returned to the airman and he could continue to use it while the FAA pursued their revocation case against him in a normal manner. If the NTSB decides that an emergency does exist, then the emergency revocation remains in effect and the airman cannot use his certificate until the case is adjudicated.

This bill is supported by virtually all of the major aviation groups, such as the Air Transport Association, the Allied Pilots Association, the Aircraft Owners and Pilots Association, the Experimental Aircraft Association, the NTSB Bar Association, and many others.

My intention in introducing this bill today is to get it out so that interested groups can look at it and work with me to make changes, if that is necessary. I am pleased that Senator MCCAIN, who is the chairman of the Aviation Subcommittee of Commerce, has agreed to hold a hearing on this in the 105th Congress. In the intervening time, I will be working to make sure this issue is fully vetted, and it is my hope that we will be able to address this issue very early in the 105th Congress.

By Mr. MOYNIHAN:

S. 2131. A bill to establish a bipartisan national commission on the year 2000 computer problem; to the Committee on Commerce, Science, and Transportation.

THE YEAR 2000 COMPUTER PROBLEM NATIONS COMMISSION ESTABLISHMENT ACT OF 1996

Mr. MOYNIHAN. Mr. President, I rise today to offer my last in a series of warnings to the 104th Congress. I warn of a problem which may have extreme negative economic and national security consequences in the year 2000 and beyond. It is the problem of the Year 2000 Time Bomb, which has to do with the transition of computer programs from the 20th to the 21st century. Throughout history, much forewarning of the millennium has been foolishly apocalyptic, but this problem is not trifling.

Simply put, many computer programs will read January 1, 2000 as January 1, 1900. Outwardly innocuous, the need to reprogram computers' internal clocks will not only cost billions, but if left undone—or not done in time—all levels of government, the business community, the medical community, and the defense establishment could face a maelstrom of adverse effects. Widespread miscalculation of taxes by the Internal Revenue Service; the possible failure of some Defense Department weapons systems; the possibility of misdiagnosis or improper medical treatment due to errors in medical records; and the possibility of widespread disruption of business operations due to errors in business records.

Mr. Lanny J. Davis, in his thoughtful analysis of the dilemma presented in an article in the Washington Post of September, 15, 1996, cited one industry expert who called the Y2K defect—as the computer literate call it—"the most devastating virus to ever infect the world's business and information technology systems." Mr. Davis also tabulated the cost: "Current estimates for business and government range from $50 billion to $75 billion—and will only increase as 2000 draws closer."

Moreover, it seems the problem is not limited to main frame computers as once was thought. In an article entitled "Even Some New Software Won't Work in 2000," the Wall Street Journal reported on Wednesday, September 18, 1996, that owners of personal computers will be affected as well. Mr. Lee Gomes wrote: "In fact, tens of millions of PC owners will be affected. Current or very recent versions of such best sellers as Quicken, FileMaker Pro and at least one brand-new program from Microsoft will stumble at the approach of Jan. 1, 2000. There will be hardware hiccups, too. Many PC owners will have to take extra steps to teach their systems about the new millennium."

Early in 1996, John Westergaard first informed me of this impending problem. I asked the Congressional Research Service to assess its extent. In July, CRS reported back and substantiated the doomsayers' worst fears. I immediately wrote to the President, alerted him to the problem and suggested that a presidential aide—a general perhaps—be appointed to take responsibility for assuring that all Federal agencies and Government contractors be Y2K date-compliant by January 1, 1999. No word back yet.

Over the past few weeks I have periodically updated my colleagues in the Senate as to the nature of this problem, the possible costs of the problem, and advances in thinking about the problem. The business community has begun to stir, but it seems all is quiet here in the Nation's capital, or nearly quiet.

Today, I am introducing a bill to establish a nonpartisan commission on the year 2000 computer problem. It will be composed of 15 members—five selected by the President; 5, the President pro tempore of the Senate, and 5, the Speaker of the House of Representatives—in consultation with the minority leaders respectively. The commission will study the problem, analyze its costs, and provide immediate recommendations and requirements for the Secretary of Defense, the President, and Congress. Because of the urgency of this problem, the commission will complete its study and make its report to the President by December 31, 1997. The onus is now on us to see this bill passed.

I urge my colleagues to recognize this problem, and help establish this Commission. As Mr. Davis warned, we have begun a "Countdown to a Meltdown." The longer we delay, the more costly the solution and the more dire the consequences. The computer has been a blessing; if we do not act in a timely fashion, however, it could become the curse of the age.

I ask unanimous consent that the Wall Street Journal article of Wednesday, September 18, 1996, entitled "Even Some New Software Won't Work in 2000," by Lee Gomes, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 18, 1996]

EVEN SOME NEW SOFTWARE WON'T WORK IN 2000

(By Lee Gomes)

In his syndicated newspaper column this past July, Microsoft Corp. Chairman Bill Gates answered an anxious reader's question about whether PC owners have to worry about the "Year 2000 problem," which is now roiling the world of corporate mainframes.

"Most PC users won't be affected," wrote Mr. Gates. "There shouldn't be much of an issue with up-to-date software. Microsoft software, for instance, won't cause problems."

The reply may have been reassuring, but it was also wrong. In fact, tens of millions of PC owners will be affected. Current or very recent versions of such best-sellers as Quicken, File Maker Pro and at least one brand-new program from Microsoft will stumble at the approach of Jan. 1, 2000. There will be hardware hiccups, too. Many PC owners will have to take extra steps to teach their systems about the new millennium.

The date rollover will trip up computers because programmers have tended to use only two-digit numbers to represent years—"96" instead of "1996"—assuming that all dates would be in the 20th century.

As a result, 40 months from now, unfixed computers will calculate, for example, that "00" is "1900," and thus an earlier date than "99," and decline to perform certain functions.

The good news is that fixing any Year 2000 problems on PCs will seem like a picnic compared with the data-processing nightmare now occurring in the corporate world. For PC owners, a few simple steps will usually take care of things—assuming users can identify the problem.

But, as Mr. Gates's two-month-old column suggests, the fact that the Year 2000 is a PC issue at all will come as a surprise to many, including some in the industry. At Microsoft, the company has realized only in the past few weeks that some of its own software is not "Year 2000 compliant." Many other software companies, when first asked, said they had no Year 2000 difficulties, only to call back a few days later to report that they had found some after all.

Unlike mainframe makers, though, PC companies don't have much excuse for having problems. Mainframe programmers took short cuts during the '60s and '70s because computer memory was then a precious commodity. But some PC programmers followed that lead, even after memory was no longer in short supply and the new millennium was much closer. The moral: Even in an industry whose leaders often portray themselves as social and technical visionaries, companies can suffer from old-fashioned shortsightedness.

So what exactly is the problem? Many PC software programs allow users to enter years using either a four-digit or two-digit format that can lead some PC programs astray. Intuit Inc.'s Quicken financial program, for example, lets people schedule future electronic payments up to a year in advance. Come late 1999, a user trying to set up a payment for "01/10/00" will get a message saying, in effect, that it's too late to make a payment for 1900. To schedule the payment, users will have to know enough to type "01/10/2000" or use a special Quicken shortcut.

The fall release of Quicken will fix the problem, says Roy Rosin, the Quicken for Windows product manager at Intuit. The company didn't fix it before because "it just wasn't on the radar screen." The new Quicken, he adds, will assume that any two-digit date occurs between 1950 and 2027; a four-digit year date can still specify a date outside that period. The approach is a common one for Year 2000 compliant software.

Microsfot's problem arises with Access 95, the database program that was shipped last August with Windows 95. Like Quicken, Access 95 doesn't properly handle two-digit dates after "99," says Douglas S. Dedo, who is handling most Year 2000 questions for Microsoft.

Doesn't that show a lack of foresight by Microsoft programmers? "I couldn't agree with you more," replies Mr. Dedo. He says the omission will be corrected in the next version of the product, to be released next year. As with Quicken, Access 95 users can work around the problem by using a four-digit date.

Microsfot's operating systems, by themselves, don't have a Year 2000 problem, says Mr. Dedo, and neither do such major company products as the Excel spreadsheet program.

There is, though, an annoying problem with the basic date-keeping portion of a PC's hardware, called the CMOS, says Tom Becker of Air System Technologies Inc. in Miami. In this case, the blame belongs to International Business Machines Corp. and the basic PC design it set down in the mid-1980s. It turns out, Mr. Becker says, that the CMOS is something of a dolt in keeping track of centuries. As a result, many PC owners will need to manually reset the date to the Year 2000 the first time they use their machines in the 21st century.

Mr. Dedo says that Microsoft's newer operating systems, Windows 95 and Windows NT, will fix hardware date glitches automatically. He adds that the company is also working on fixer programs that will do the same for older DOS and Windows 3.1-based machines.

Year 2000 difficulties will probably occur mainly on the IBM compatible side of the house. Apple Computer Inc.'s Macintosh computer has no such problems, says an Apple spokesman.

But some recent Apple programs do, including both the Mac and Windows versions of FileMaker Pro, a popular database project that the Apple-owned Claris Corp. shipped until last December. For forthcoming versions, says Claris's Christopher Crim, the company took pains to make sure all dates were converted from two to four digits before being stored. "We've learned our lesson," Mr. Crim says.

ADDITIONAL COSPONSORS

S. 1044

At the request of Mrs. KASSEBAUM, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1044, a bill to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes.

S. 1505

At the request of Mr. LOTT, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1505, a bill to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes.

S. 1965

At the request of Mr. HATCH, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 1965, a bill to prevent the illegal manufacturing and use of methamphetamine.

S. 2030

At the request of Mr. LOTT, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 2030, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, and for other purposes.

S. 2034

At the request of Mr. BREAUX, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2034, a bill to amend title XVIII of the Social Security Act to make certain changes to hospice care under the Medicare Program.

S. 2047

At the request of Mr. HATCH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2047, a bill to amend the Internal Revenue Code of 1986 to modify the application of the pension nondiscrimination rules to governmental plans.

S. 2057

At the request of Mr. WARNER, the names of the Senator from North Carolina [Mr. FAIRCLOTH] and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 2057, a bill to amend title 38, United States Code, to make permanent the authority of the Secretary of Veterans Affairs guarantee loans with adjustable rate mortgages.

S. 2101

At the request of Mr. KERRY, his name was added as a cosponsor of S.

2101, a bill to provide educational assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties.

SENATE RESOLUTION 285

At the request of Mr. ROTH, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of Senate Resolution 285, a resolution expressing the sense of the Senate that the Secretary of State should make improvements in Cambodia's record on human rights, the environment, narcotics trafficking and the Royal Government of Cambodia's conduct among the primary objectives in our bilateral relations with Cambodia.

AMENDMENTS SUBMITTED

CONTINUING APPROPRIATIONS JOINT RESOLUTION

FAIRCLOTH (AND OTHERS) AMENDMENT NO. 5402

Mr. FAIRCLOTH (for himself, Mr. SIMON, Ms. MOSELEY-BRAUN, and Mr. ABRAHAM) proposed an amendment to the joint resolution (S.J. Res. 63) making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes; as follows:

At the appropriate place, insert the following new section:

EXTENSION OF AUTHORIZED PERIOD OF STAY FOR CERTAIN NURSES

SEC. . (a) ALIENS WHO PREVIOUSLY ENTERED THE UNITED STATES PURSUANT TO AN H-IA VISA.—

(1) Notwithstanding any other provision of law, the authorized period of stay in the United States of any nonimmigrant described in paragraph (2) is hereby extended through September 30, 1997.

(2) A nonimmigrant described in this paragraph is a nonimmigrant—

(A) who entered the United States as a nonimmigrant described in section 101(a)(15)(H)(i)(a);

(B) who was within the United States on or after September 1, 1995, and who is within the United States on the date of the enactment of this Act; and

(C) whose period of authorized stay has expired or would expire before September 30, 1997 but for the provisions of this section.

(3) Nothing in this section may be construed to extend the validity of any visa issued to a nonimmigrant described in section 101(a)(15)(H)(i)(A) of the Immigration and Nationality Act or to authorize the reentry of any person outside the United States on the date of the enactment of this Act.

(b) CHANGE OF EMPLOYMENT.—A nonimmigrant whose authorized period of stay is extended by operation of this section shall be eligible to change employers in accordance with section 214.2(h)(2)(i)(D) of title 8, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

(c) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Attorney General shall issue regulations to carry out the provisions of this section.

(d) INTERIM TREATMENT.—A nonimmigrant whose authorized period of stay is extended by operation of this section, and the spouse and child of such nonimmigrant, shall be considered as having continued to maintain lawful status as a nonimmigrant through September 30, 1997.

THE NATIONAL PHYSICAL FITNESS AND SPORTS FOUNDATION ESTABLISHMENT ACT

PRESSLER AMENDMENT NO. 5403

Mr. GRASSLEY (for Mr. PRESSLER) proposed an amendment to the bill (S. 1311) to establish a National Fitness and Sports Foundation to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports, and for other purposes; as follows:

On page 2, line 8, strike "nonprofit" and insert "not for profit".

On page 2, line 10, after the period insert the following: "The Foundation shall be established as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and shall be presumed, for purposes of such Code, to be such an organization until the Secretary of the Treasury determines that the Foundation does not meet the requirements applicable to such an organization. Section 508(a) of such Code does not apply to the Foundation.".

On page 5, line 8, after the period, insert the following: "The three numbers appointed by the Secretary shall include the representative of the United States Olympic Committee.".

On page 5, line 21, after the period insert the following: "The Chairman of the President's Council on Physical Fitness shall serve as Chairperson until a Chairman is elected by the Board.".

On page 12, line 4, strike "contributors," and insert "contributions,".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2 p.m. on Wednesday, September 25, 1996, in open session, to receive testimony on the impact of the Bosian elections and the deployment of United States military forces to Bosnia and the Middle East.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet twice during the Wednesday, September 25, 1996, session of the Senate for the purpose of conducting a hearing on the Mars discovery and a hearing on the treatment of families after airline accidents.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Wednesday, September 25, 1996, beginning at 10 a.m. in room SH-215, to conduct a markup on a committee amendment to H.R. 3815.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 25, 1996, at 10 a.m. to hold a business meeting to vote on pending items, and for the Subcommittee on Near Eastern and South Asian Affairs to meet at 2 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, September 25, 1996, at 1:30 p.m. in room 485 of the Russell Senate Office Building to conduct a hearing on the phase-out of the Office of Navajo and Hopi Indian Relocation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 25, 1996, at 10 a.m. to hold a hearing on White House access to FBI background summaries.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 25, 1996, at 2 p.m. to hold a hearing on the role of the U.S. Department of Justice in implementing the Prison Litigation Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. GRASSLEY. Mr. President, the Committee on Veterans' Affairs asks unanimous consent to hold a joint hearing with the Senate Select Committee on Intelligence on the Department of Defense and intelligence reports of U.S. military personnel exposures to chemical agents during the Persian Gulf war.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, September 25, 1996, at 10:30 a.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL MANAGEMENT AND ACCOUNTABILITY

Mr. GRASSLEY. Mr. President, I ask unanimous consent on behalf of the Subcommittee on Financial Management and Accountability of the Governmental Affairs Committee to meet on Wednesday, September 25, 1996, at 10 a.m., for a hearing on oversight of regulatory review activities of the Office of Information and Regulatory Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, September 25, 1996, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to consider S. 9871, a bill to provide for the full settlement of all claims of Swain County, NC, against the United States under the agreement dated July 30, 1943, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL FINANCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, September 25, 1996, to conduct a hearing on the release of the fourth Trade Promotion Coordinating Committee [TPCC] annual report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TAIWAN'S NEW FOREIGN MINISTER, JOHN H. CHANG

• Mr. COHEN. Mr. President, I rise today to say a few words about Taiwan's new Foreign Minister, John H. Chang.

Mr. Chang's selection as Foreign Minister at this crucial moment in relations between mainland China and Taiwan is particularly appropriate, because his background represents the complexity of the cross-straits relationship writ small. Born on the mainland in the midst of the Second World War, Chang came with his family to Taiwan in 1949.

Although a mainlander by background, Minister Chang grew up among local Taiwanese and became equally comfortable speaking Mandarin, Taiwanese, and Hakka. He has been able to bridge the tensions between Taiwanese and mainlanders that have marked much of the island's postwar politics. Among the first KMT leaders to open a dialog with opposition members, Minister Chang served as a key player in the talks between the governing party and the Taiwanese opposition in the years leading up to the democratizing reforms of the late 1980's. Earlier this year, Chang won the highest percentage of votes of any candidate in Taiwan's assembly elections.

Minister Chang is a skilled diplomat and a seasoned negotiator. His presence in President Lee Teng-hui's cabinet should be a force for good in cross-straits relations.

Mr. President, I request that an article on Minister Chang from the Asian Wall Street Journal be placed in the RECORD at this point to further acquaint my colleagues with Minister Chang and his background.

[From the Asian Wall Street Journal, June 21, 1996]

CHANG AIMS TO EXPAND TAIWAN'S ROLE ON WORLD STAGE

(By Leslie Chang)

TAIPEI.—By his second day in office, Taiwan's foreign minister was hearing the first attacks from China: He is "untrustworthy" and "betraying (his) family."

Mention of the criticisms, attributed to Beijing sources and reported in a Hong Kong newspaper, elicits only a diplomatic "no comment" from John Chang, in his first interview since joining the new cabinet of Taiwan President Lee Teng-hui last week. But in an hour long conservation in the ministry's lushly appointed reception room, lined with framed photographs of the career diplomat with everyone from Mikhail Gorbachev to Bob Hope, the 55-year-old Mr. Chang isn't always so circumspect.

"It is mainland China which has complicated the issue, which has confused all the world," asserts Mr. Chang, speaking of a year of heightened tensions between Beijing and Taipei.

As Mr. Chang takes on the touchiest of ministerial portfolios amid that standoff, such broadsides and rebuttals seem a fitting start. After all, the very existence of his job is irritating to Chinese leaders, who regard Taiwan as a Chinese province, which shouldn't pursue its own foreign policy. And Mr. Chang likely will work aggressively to beef up the island's ties with other countries, analysts say, while his good relations with the president ensure a more seamless foreign policy than ever before.

"His profile will be higher" than that of his predecessor, Fredrick Chien, predicts Chou Yu-kou, who has written a biography of Mr. Chang's mother as well as three biographies of Taiwan's current president. Mr. Chang's "voice can be louder; he can push hard for 'pragmatic diplomacy,'" Ms. Chou says, referring to Mr. Lee's policy of establishing formal ties with as many nations as possible.

One reason Mr. Chang can step up these efforts lies in his unusual background: He is a grandson of Chiang Kai-shek, who ruled China for two decades before fleeing with his Nationalist troops to Taiwan in 1949, defeated by the Chinese Communists in a civil war. Mr. Chang and a twin brother who died earlier this year were the illegitimate offspring of a wartime affair between Chiang Ching-kuo, the general's son and later Taiwan's president, and a woman he met in the southern Chinese province of Jiangxi, who died shortly after the twins were born.

But Mr. Chang and his twin brother, who came to Taiwan in 1949 and were raised by their maternal grandmother, were unaware of their illustrious parentage until they went to college, according to Ms. Chou's book. While most main landers settled in Taipei, speaking the official Chinese Mandarin dialect among themselves and dominating all top government and military posts, the boys grew up in the smaller northern city of Hsinchu and spoke the local Taiwanese and Hakka dialects.

"I was brought up . . . with native children," says Mr. Chang. "I see no differences between mainlanders and Taiwanese." Mr. Chang's viewpoint is unusual on an island where ethnic differences often lie just beneath the surface. Such close associations with local Taiwanese people, he believes, helped him garner the highest percentage of votes island-wide in March elections to Taiwan's National Assembly.

The combination of an elite mainland background and Taiwanese sympathies also gives Mr. Chang the clout to do things his way. As a rising star in Taiwan's diplomatic corps in the late 1970s, Mr. Chang was one of the first government officials to initiate contact with antigovernnment politicians, many of whom had fled abroad and faced treason charges if they returned. Mr. Chang helped some of those politicians to get off the government's blacklist and return to Taiwan.

"He was pretty open, willing to take (such) risks," recalls C.J. Chen, a vice minister of foreign affairs who has known Mr. Chang for more than two decades. At the same time, he adds, "because of his background, people would have little doubt about his loyalty."

Acquaintances describe Mr. Chang as liberal-minded and full of energy. In his previous post as Overseas Chinese Affairs Commissioner, for example, Mr. Chang shook up the sleepy cabinet-level position by expanding contacts with overseas Chinese communities around the world. In January, he hosted a high-profile breakfast meeting in Washington between Taiwan politicians and some of their U.S. counterparts, including House Speaker Newt Gingrich.

At a news conference last week, while other new cabinet members shuffled papers and rattled off statistics, Mr. Chang addressed each reporter by name and gave colorful responses. Asked which was more important, Taiwan's foreign policy or its policy toward the mainland, he responded, "If you are going fishing, is it the hook or the line that is important?"

Already, Mr. Chang is signaling a shift in tone from that of his predecessor, Mr. Chien, who held the more conciliatory stance that policy toward the mainland took precedence over foreign policy. It is Mr. Chang's stepped up efforts to raise Taiwan's international profile that has led some in Beijing to accuse him of betraying the ideals of his father and grandfather, who had hoped that the island would one day reunify with the mainland.

On some points, Mr. Chang strikes softer notes. Taiwan's continuing efforts to join international organizations, he says, will focus more on "functional agencies" such as the World Bank, the International Monetary Fund and the World Trade Organization.

And while Taiwan will continue its efforts to take a more active role in the United Nations—the move on the international stage that most angers Beijing—Mr. Chang notes that Taiwan isn't formally seeking U.N. membership, but rather, it asks only that the U.N. study the issue of the representation of Taiwan, which hasn't been a member of the world body since 1971.

But in the next breath, Mr. Chang says he is planning overseas trips for later this year, and hopes to sign on new countries "who want to have formal relationships with us," adding to the 31 nations that currently recognize Taiwan.

Which new countries might those be? The diplomatic veil drops again. "You will hear about it," he promises, smiling.•

A NEW MARSHALL PLAN FOR THE EAST

• Mr. SIMON. Mr. President, the Chicago Tribune had an editorial calling for a Marshall plan for Eastern Europe.

That really makes sense. I know that between now and election day we're not going to hear calls from our leaders for this, but after election day, I hope that will happen.

It would take courage, just as the original Marshall plan took courage. After President Truman and General Marshall announced the plan, the first Gallup Poll showed only 14 percent of the American public supporting it.

But what a great thing that was for the United States and the world; and let me add we need a Marshall plan for our domestic scene, particularly urban America.

President Clinton was not correct when he said that this is the end of the era of big Government.

The question is not whether the Government is big or small but whether it is good, whether it is doing the things that need to be done.

There are needs today in Eastern Europe and in the cities of our country. My hope is that the next President of the United States—and my hope is that it will be Bill Clinton—and the next Congress will show greater leadership than we have shown in foreign affairs and domestic affairs these last 2 years.

Mr. President, I ask that this editorial from the Chicago Tribune be printed in the RECORD.

The editorial follows:

A NEW MARSHALL PLAN FOR THE EAST

Sometimes the martial mind can discern more accurately than others how this nation should pursue its interests short of war. Think of Gen. George C. Marshall, who traded in his olive-drab for pinstripes after World War II and, as secretary of state, drafted the inspired plan (that now bears his name) to inject billions of dollars into the charred economies of Western Europe to create stable conditions in which democracy thrived and communism was held at bay.

Now that the Western democracies have won the Cold War, along comes another general with a compelling vision for America's role in Europe.

U.S. Gen. George Joulwan, the NATO supreme commander, argues that the Cold War's conclusion is not a time for America to disengage from Europe but to "consolidate the gains of democracy." In military terms, he says, "When you take an objective, the first thing you think about is not pulling back from the objective but of securing it." And the Western democracies, he says, have not yet consolidated their gains among the fragile, emerging democracies to the east.

True enough. But it is the method by which Joulwan proposes to achieve that consolidation—expansion of NATO—that gives us pause.

Pentagon troop strength in Europe, which forms the backbone of the Western alliance, has dropped to 100,000 from a Cold War high of 350,000.

Joulwan argues for expanding NATO eastward. That is the determination of both the North Atlantic Council that governs NATO and of his own commander in chief, President Clinton. (Republican challenger Bob Dole also favors allowing former Warsaw Pact states into NATO.)

But no military threat requires expanding NATO, particularly at a time when the wounded Russian bear would feel caged, provoked.

True, partnership training exercises between NATO and the armies of the East can teach discipline, order and the powerful concept of control over the military by a democratically elected civilian government. But even Joulwan avers that America "stands for much more than ships, tanks and planes. It stands for shared values that are sought in the rest of Europe."

Military alliances are no substitute for political and economic integration, and that is the best way to share western values with Central and Eastern Europe. Proof of that rests in the dusty archives of American diplomacy, in a proposal mostly forgotten as a casualty of the Moscow-Washington competition.

It's not widely remembered, but the Marshall Plan envisioned America's investing billions of dollars in Eastern Europe—yes, even in Russia—as well as in the West. Moscow vetoed that aid, so Marshall's visionary proposal benefited Western Europe alone.

Time to dust that plan off. The successor administration of the Marshall Plan, the Organization for Economic Cooperation and Development, is alive and healthy today. Along with European Union membership and American guidance, it represents the best strategy for integrating the new Europe.•

TRIBUTE TO MERRILL MOORE

• Mr. FRIST. Mr. President, I rise today to salute Merrill Moore, an experienced and devoted journalist who has become a living legend in upper east Tennessee and southwest Virginia. Merrill Moore is recognized by many in his community as the steadfast anchorman on WCYB-TV in Bristol. For 30 years, he has been one of the most trusted and most watched journalists in the five State area.

Moore began his career in radio broadcasting as a student at East Tennessee State University [ETSU]. He was a familiar radio personality on WETB, the college radio station, and remained active in broadcasting throughout his college career. After 2 years of military service, Moore returned home to the tri-cities area and to the radio booth.

Mr. President, at the urging of his colleagues Moore moved to WCYB-TV in Bristol where he worked his way through the ranks. In 1962, Moore anchored his first newscast at 11 p.m. and by 1964, he was anchoring the 6 p.m. newscast. Thirty-four years later, Merrill Moore has reached the pinnacle of his broadcasting career. In those years, he has covered countless national and local events and has had the opportunity to interview Presidents Ford, Carter, Bush, and Clinton.

Most importantly, Moore has had the opportunity to witness the growth of the tri-cities area. Many of his reports have spanned the beginning and completion of area projects, such as the construction of the East Tennessee State University Medical School and the highway connecting the tri-cities to Asheville, NC. He has been a main source of information to the community from the drawing board to the dedication of many area improvements. And he never fails to provide an up-to-date and informative newscast.

Recently, Merrill Moore was awarded the prestigious George Bowles Broadcast Journalism Award for his many years of dedication to WCYB-TV and the tri-cities area. The award, presented by the Virginia Association of Broadcasters, is an annual honor given to successful broadcast journalists that are respected by their peers and the community. It also honors journalists for their devotion to their work and the amount of insight they bring to the stories they cover. Merrill Moore most certainly qualifies for this award and has maintained these high standards for many years.

Mr. President, I would like to ask you to join me in applauding the efforts and continued service that Merrill Moore has provided upper east Tennessee and south west Virginia. His commitment to the tri-cities is to be admired by many.

OBJECTION TO CONFERENCE REPORT TO ACCOMPANY H.R. 1296

• Mr. WYDEN. Mr. President, I am announcing that I would object to any request for unanimous consent to proceed to consider the conference report on H.R. 1296.

I would object to any unanimous request to proceed with this conference report because it contains a provision to that would allow the Secretary of the Interior to sell corporate sponsorships to America's National Parks System.

This provision has the potential to completely change the character of our national parks and fosters conflicts of interest between the Department of the Interior and potential sponsors. Importantly, it would fail to contribute significantly to critical funding needs of the National Parks System.

I will object to consideration of the conference report because I don't believe we should consider such a controversial provision under procedures that do not provide for the debate and amendment of such objectionable provisions.•

NATIONAL ENDOWMENT FOR DEMOCRACY

• Mr. LUGAR. Mr. President, I am a strong supporter of the programs sponsored by the National Endowment for Democracy and the four core groups that are part of the endowment family. For a very modest investment from the U.S. Government, this nongovernment organization has accomplished remarkable achievements in promoting democratic institutions, advancing the norms of a civil society, and furthering the principle and practice of market economics abroad. NED has contributed significantly to the foreign policy goals of the United States.

It is exciting to chronicle the rich and positive role the NED has played in the promotion of American political values since its inception in 1983. It has been helpful in winding down the cold war in Eastern and Central Europe, in facilitating democratic transition, growth and consolidation in Asia and Latin America, and in supporting proponents of human rights and freedom in all geographic regions of the globe and in more than 90 countries.

Rather than listing the additional successes of NED, I ask that a statement entitled "The United States Needs The National Endowment for Democracy" be inserted in the RECORD for all Members to read. The statement was drafted by the Forum for International Policy whose president is Brent Scowcroft and whose chairman is Larry Eagleburger. They, along with virtually every individual who served in the positions of National Security Advisor and Secretary of State in every administration since 1983 have endorsed the NED's work and support its full funding. I ask all Members to read this statement carefully.

The material follows:

THE UNITED STATES NEEDS THE NATIONAL ENDOWMENT FOR DEMOCRACY

The United States' only international political foundation, the National Endowment for Democracy (NED), is under threat. Establishment in 1983, the Endowment operates openly and independently to support individuals, groups and institutions who are working to promote and consolidate democracy in their own countries. Although it is federally funded and subject to Congressional oversight, NED is not a government agency. An independent, non-partisan board of directors sets its policies and strategies. The Endowment channels its support directly to grantees or through four core institutes: the Center for International Private Enterprise, the International Republican Institute, the Free Trade Union Institute, and the National Democratic Institute for International Affairs. They, too, are independent of any government direction. The House of Representatives has approved an appropriation for fiscal 1997 of $30 million, reflecting no increase over the current level. The Senate Appropriations Committee, however, has recommended that funding be eliminated entirely on the grounds that the Endowment is a Cold War institution which has outlived its usefulness. That is a short-sighted judgment and should be reversed.

In 1983, President Ronald Reagan called for a non-governmental institution along the lines of political foundations in other Western democracies. The National Endowment for Democracy was created to assist the transition to modern, pluralistic, particularly systems in other countries within the context of their own individual histories, cultures and traditions. The United States has fundamental and enduring interests in the promotion of American political values and ensuring the spread of pluralism, freedom and democracy throughout the world. Pursuit of those interests is no less important today than it was at the height of the Cold War. Our own national security and economic prosperity are no less at stake. NED and its core institutes are uniquely able to accomplish this task by the employment of non-governmental structures untainted by direct association with the U.S. Government.

At the official level, our choice of instruments to pursue democracy support strategies is limited. The Agency for International Development's (AID) focussed programs have been effective, but they reflect the immediate priorities of any administration in office (or of actively interested members of Congress). Because of the way they are funded and operated, the emphasis of AID programs is too often on short to medium-term results. They are managed by federal employees in accord with bureaucratic rules and regulations. AID's "official" programs require us to work with host governments or at least with their tacit acceptance. The State Department, the United States Information Agency, and other federal agencies as well, promote democracy, but they, too, must operate within limits and norms set for official government representatives in foreign lands. NED and its institutes, however, are able to use their resources to nurture the development of grass roots democratic movements and long-term processes which must grow from within. NED operates where there is no official U.S. presence and it is not obligated to work through official channels. NED is not driven by the short-term imperatives which often, quite legitimately, drive government decisions and actions.

The Endowment's non-governmental approach has worked. Through its low-cost programs NED does openly and aboveboard what our government is not able to do: it supports monitoring of elections, conferences and exchanges in Russia on party organization, polling methods, publicity and the nuts and bolts of open elections which have been credited with contributing to the success of democratic forces in the recent elections. In the Central Asian Republics it has funded civic education centers. In Slovakia it supports teacher-training workshops to introduce citizenship education into primary and secondary schools. In Bosnia it has kept an important source of news alive. It helps sustain Burma's hard-pressed democratic movement. It supported grass roots education for Palestinian voters. In Mexico it aids a coalition that focuses on electoral reform, political participation and accountability of public officials. NED even funds initiatives to strengthen democracy and human rights movements in Cuba. In many instances, however, despite free elections and outward signs of change, the transition to more deeply-rooted, stable democracy is incomplete or even at risk. It is in our interest to sustain NED's efforts because today's initiatives are no less important than those of the past.

Signs that America is prepared to disengage from the important work of fostering democracy are unsettling to our allies and do not serve our national interests. The National Endowment for Democracy has proven itself to be a cost effective, long-term investment in America's security. It would be a mistake to eliminate it. The Senate should restore funding for the National Endowment for Democracy as approved by the House.•

THE FORGOTTEN INTERNMENT OF JAPANESE LATIN AMERICANS

• Mr. SIMON. Mr. President, one of the most shameful episodes in our Nation's history was the internment of Japanese-Americans during World War II. In response, although belatedly, Congress enacted in 1988 the law providing reparations to those who were uprooted and sent to internment camps.

There is another group of people who suffered the same injustice, but are ineligible for redress under the law. As detailed in a recent article in the Los Angeles Times, more than 2,200 Japanese Latin Americans were taken from their homes in 13 countries, mostly from Peru, and brought to the United States to be detained. Most spent the war in a camp in rural Texas, and some were even held until 1948. The U.S. Government never officially acknowledged a reason for this policy. Since the Japanese Latin Americans were not legal residents of the United States at the time of their internment, they are not eligible for an apology or reparations. Clearly, this injustice demands a remedy.

Of those who were forcibly brought to the United States, only 200 were allowed to return to Latin America. Others returned to Japan, while many stayed in the United States and eventually became citizens. Some 300 applications by Latin American Japanese for redress under the 1988 law have been denied because they were not legal residents before the law's June 1946 cutoff date.

The article gives an account of a journey of a detention ship that in 1944 was steaming from South America to the United States escorted by destroyers and submarines. In the year of the invasion of Normandy, not to mention the war in the Pacific, it is astounding that our Nation saw fit to devote military resources to this shameful and questionably legal undertaking.

I have written Senator INOUYE, who authored the 1988 reparations bill, to see if something can be done. While I will not be in the Senate next year, I hope that my colleagues will consider legislation in the next Congress to provide payments to family members of the Japanese Latin American who were detained. After so many years, that would be the right thing to do.•

TRIBUTE TO VIC HELLARD, JR.

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to a man who dedicated most of his career to making

Kentucky government run more smoothly. For over 20 years, Vic Hellard, Jr., who passed away September 18, worked behind the scenes as the glue that held the Kentucky General Assembly together.

Vic Hellard was born and raised in Versailles, KY, the son of a Ford dealer. He received his undergraduate degree from Eastern Kentucky University and earned a law degree from the University of Kentucky. In fact, Vic and I attended law school together. He later practiced law in Versailles and was twice elected to the State House of Representatives.

After a year as chief counsel to House Speaker Bill Kenton, Mr. Hellard was hired as director of the Legislative Research Commission—the administrative and research arm of the General Assembly. He held this position from 1977 until his retirement in 1995. This career spanned a period of sweeping change in Kentucky government.

Former House Speaker Bobby Richardson told the Courier-Journal, "Vic's legacy is that he turned the LRC into a professional, informed support staff for the legislature, which allowed the legislature to become an equal partner with the governor."

Attorney General Ben Chandler said of Mr. Hellard, "He was the shepherd of legislative independence, but he never accepted the credit he deserved for anything he did. That was part of his charm."

Mr. Hellard was also known for remaining above the fray. He was always courteous to lawmakers regardless of their party affiliation or seniority. He always avoided partisan and factional rivalries.

Vic Hellard, Jr. is survived by his wife, Ellen Carpenter Hellard, his mother, Leona Tilghman Hellard, and two brothers, George D. and Ronald W. Hellard. I ask that my colleagues join me in paying tribute to this outstanding Kentuckian.•

AD HOC HEARING ON TOBACCO

• Mr. LAUTENBERG. Mr. President, on September 11, I cochaired with Senator KENNEDY an ad hoc hearing on the problem of teen smoking. We were joined by Senators HARKIN, WELLSTONE, BINGAMAN, and SIMON. Regrettably, we were forced to hold an ad hoc hearing on this pressing public health issue because the Republican leadership refused to hold a regular hearing, despite our many pleas.

Yesterday I entered into the RECORD the statements of the Senators who attended the hearing. Today I am entering the testimony of the witnesses from the first panel which included Justin Hoover, a 12-year-old addicted to tobacco, and his DARE officer, Jody Hayes.

Mr. President, I ask that the testimony from the first panel of this ad hoc hearing be printed in the RECORD.

The testimony follows:

TESTIMONY OF JUSTIN HOOVER, SEPTEMBER 11, 1996

Hello, my name is Justin Hoover. I am twelve years old and a sixth grader at Clegg Park Elementary School in West Des Moines, Iowa.

I would like to tell you how I became addicted to cigarettes. I tried my first cigarette when I was six years old. My mother smokes and always kept a carton of cigarettes in her bedroom. I would see her go into her drawer and take a pack of smokes out every now and then. I had an older brother that was fifteen then and saw him and my mother smoking all the time. I wanted to be older than I was and thought smoking was cool and would show everyone that I wasn't a little kid. One day I stole a pack of cigarettes from my mother's drawer, went outside and smoked four or five. My little sister told my mother I was smoking. She found me smoking them. My mother told me that I was never to smoke again or I would be in big trouble. She said that even though my brother and her smoked, it wasn't a good thing to do.

I didn't smoke again until I was nine. I started again because I thought it was the cool thing to do. I saw people smoking on T.V. shows, when we went out to eat, driving down the street on billboards and in stores I would always see tobacco advertisements especially Joe Cool for Camel cigarettes and I always thought it looked kind of cool. I started sneaking cigarettes from my mother again I did that for awhile until I needed more than just one or two a day. I started to steal cigarettes and sometimes chewing tobacco from stores. Sometimes I would sneak out of the house to steal them from convenience stores late at night because that was when the clerk was in the back room a lot making it easier to get away with. I tried to stop three times, but never made it longer than five days before I started again. I would smoke butts that I found in the ashtray at the store across the street. Sometimes I would pick up a bunch of used butts, take several of them and pour the unused tobacco on a piece of paper and try to roll my own. Sometimes I would drop the cigarettes in the house burning the carpet and furniture. One night I fell asleep and dropped a cigarette on the bed. It caught fire and we had to put it out. No one was hurt.

I am now smoking seven cigarettes a day. One in the morning, and six after school and before bedtime. Officer Hayes and my mother have tried to help me stop, I have come close, but can't completely stop.

When I was told that I was going to come to Washington, DC, I was embarrassed to tell people what I have done. But I know that smoking is bad for me and can affect my health. I don't want my little brother and sisters to start smoking. My brother who is three acts like his crayons are cigarettes because he sees all of us smoking. If things don't change, I am sure he will follow in my footsteps. That would make me feel bad.

I believe the only way I will be able to stop smoking is if I can't get them. If stores make them harder to steal, and there are no more vending machines that sell them, I think I could stop. As for my brother and sister, if I don't smoke, and they don't see cigarettes on T.V. or billboards I think they have a better chance of not using them and becoming addicted to cigarettes like me.

Everyone else in my life has tried to help me stop smoking cigarettes. My mother, my brother, Officer Hayes, teachers, my principal and my counselor at school. I came here today for myself and my brother and sister. I hope you can help us.

TESTIMONY OF JODY HAYES, SEPTEMBER 11, 1996

My name is Jody Hayes. I am a Police Officer with the West Des Moines Police Department located in Iowa. I have been an officer for seven years. I have served as a patrol officer on the street for three of those years. For the past four years I have been a community relations officer. I teach a wide variety of safety education programs to the public, with my primary responsibility focused on teaching drug awareness to the youth of West Des Moines. I do this through the D.A.R.E. program (*Drug Abuse Resistance Education*). I am here today to share with you my concern over tobacco use among youth.

As a police officer, I have had the unfortunate experience of seeing how bad the drug problem in society really is. I see kids as young as twelve years old walking home from school with cigarettes in their hand. The police department has hundreds of cases on file where youth have been caught trying to steal cigarettes from stores because they're not old enough to purchase them. Our high school kids cross the street at lunchtime to smoke their cigarettes so they don't get in trouble by the school for smoking on the grounds. It is not uncommon to see twenty or thirty teenagers smoking across from the school during and after it lets out. There are countless teenagers in our community that have worn a hole in their jeans from carrying a chewing tobacco can in the back pocket. Tobacco use among teenagers is the worst I have ever seen.

Some parents that I talk with say "Well, if all they do is smoke or chew tobacco, then that's not so bad. It's not like they're doing drugs." The D.A.R.E. curriculum, which is currently taught to children in every state within America, defines the word drug as this: Any substance other than food that can affect the way your mind and body work. Some people would lead you to believe tobacco doesn't affect both your mind and body.

First, let us consider if it affects the body. What about the high school athlete that used to be the best in his/her class that has now taken up smoking? They can't make it around the track during practice, or run down field to catch a pass during the big game, or even swim an entire lap in the pool because the cigarettes have limited their oxygen intake? What about the band or chorus member who can't seem to manage enough air to play their instrument or to reach the next note they have to sing? What about the deadly diseases that seem to follow tobacco use, like cancer or emphysema? What about gum disease and yellow teeth? What about the tar left behind in their lungs causing them to wake every morning to the sound of coughing and hacking and their body trying to flush the poison out of it's system? Yes, tobacco does affect the way the body works.

Does tobacco affect the mind? An addiction is defined in the dictionary as this: "To become psychologically or physiologically dependent upon something." Since the word psychological refers to the mind and behavior, I think it would be safe to say yes, tobacco does affect the way your mind works. It is called addiction. Thus, tobacco is indeed a drug that is both affecting our children's minds and bodies during the most vulnerable time in their life.

Cigarettes are a gateway drug, meaning they are opening the door for our youth to experiment with a world of even more deadly drugs. After tobacco comes marijuana. "Why not," the child asks. Why not try marijuana, I'm already getting smoke in my lungs from the cigarettes. After that comes all of the other drugs that society continues to lose children to, cocaine, heroin, methamphetamines, and LSD. The list goes on and on. We have to stop where drug use starts and that is with tobacco.

We can not allow the tobacco industry to brainwash our children, through colorful cartoon billboards and advertisements, into believing tobacco use as a hobby that is fun to do. We can not allow them to advertise tobacco products as a glamorous habit to be involved with to feel grown-up. Children are too vulnerable to expect them to resist these types of pressure. As a D.A.R.E. officer, I know how hard it is to convince youth to stand up to peer pressure, to face challenges in their life; not escape them, and to ignore the curiosity surrounding drugs. The last thing our children need is another type of pressure in their life. Tricky advertising techniques by the tobacco industry attempt and often succeed in luring kids to try their product. They place cartoon billboards where children play and go to school. They give away thousands of promotion products such as T-shirts, ball caps and jackets that we see children wearing around the community. They get T.V. role models and athletes the kids look up to to advertise their products. Lastly, they portray tobacco use as the grown-up thing to do, which again influences children that want to feel older, only need to smoke to do so. It is a known fact that most children will always want to be older than they are. This type of advertising plays on that wish. I was surprised to learn the tobacco industry can deduct the cost of advertising from their taxes. This alone is an incentive for them to advertise more often. I was personally glad to see Senator Harkin introduce a bill that would put an end to such a ridiculous tax deduction.

The fact is we can not change a child's wish to feel older. Although, we can change what they do to feel older. We can take away the billboards advertising tobacco where our children play and go to school, and put up positive messages against drug use for them to see. We can make stricter consequences for tobacco vending that sell to under age buyers without checking their identification prior to the sell. We can get rid of the vending machines that offer tobacco products to any one with enough change in their pocket to buy them no matter the age. We need to put a stop to free tobacco samples and promotional items such as caps, shirts and jackets. We need to use our role models in society to promote drug awareness instead of drug use. Lastly but most importantly, we need to educate our children continuously as to the harmful effects of tobacco use.

Yes, tobacco is a drug that will extinguish a child's dreams and goals. It is a drug that will keep them from reaching their full potential and it is a drug that will keep them from living a long and prosperous life. Remember this, the children are our future, and without our help they may not have a future. Our children are in desperate need of your help.•

HONORARY NATIONAL HUNTING AND FISHING DAY FAMILY

• Mr. FAIRCLOTH. Mr. President, I rise today to honor the Gary F. Coley family of Raleigh, NC. They have been selected as the first-ever honorary hunting and fishing day family as part of the 25th anniversary celebration of National Hunting and Fishing Day.

In the Coley family, working for wildlife is a natural and perpetual part of enjoying the outdoors. As hunter education instructors or supporters of wildlife scholarships, outdoor camps, and other community service activities such as Hunters for the Hungry, grandparents Beverly and Harriet, children Brad and Jennifer, and parents Harriet and Gary are there.

A focal point of the Coley family is their leadership role in the Wake County Wildlife Club. The club, which has received several national and Governor's conservation awards, promotes high standards of sportsmanship, exemplary conduct afield, and greater out door opportunities for all.•

TRIBUTE TO THE COMMUNITY OF NORTH CHARLESTOWN, NH, FOR RENOVATING THE FARWELL SCHOOL

• Mr. SMITH. Mr. President, I rise today to pay tribute to the families of Harvey Hill and Paul St. Pierre and all the residents of North Charlestown, NH, who renovated a 105-year-old two-room building to provide additional space for the Farwell School. The philanthropy of the Hill and St. Pierre families and their community is truly commendable. Last month, the residents of North Charlestown gathered for a ribbon-cutting ceremony, a family-style barbeque, and soccer games to celebrate the recent opening of the new Farwell School.

Harvey Hill and his wife, Christina, who are North Charlestown residents, donated $450,000 for the construction of the old Farwell Elementary School. He is the Editor of the Claremont Eagle Times and a successful businessman in North Charlestown. Hill is a graduate of the original Farwell School and has a daughter who now attends the new elementary school. Before the addition was built, Hill's daughter was bused to the North Walpole School, which took a total of 2 hours every day. The Hill and the St. Pierre families have tried several times to get a bond passed, but were unsuccessful. Harvey and his wife are pleased to have helped with the education of the children in the Fall Mountain School District.

The St. Pierre Family also contributed an enormous sum for the construction of the new school. Paul and Rolande St. Pierre are parents of thirteen children and operators of a successful construction business in North Charlestown. The family donated part of the land for the addition of the Farwell School. Additionally, the St. Pierres performed much of the construction and site work for the building, and donated $125,000. The St. Pierre family, like the Hill family, did not want North Charlestown children to have to ride the bus for two hours every day.

The extra space in the Farwell School provides several advantages for the community of North Charlestown. For the last 16 years, 45 of the 80 students now attending the new Farwell School were bused to the North Walpole School 16 miles away. Not only do these North Charlestown children now attend school closer to home, but the transfer of the students frees up more space in the North Walpole School. The expansion of the Farwell School has helped decrease the problem of overpopulation in the Walpole School.

The Farwell Trust, the group that previously owned the building and land, donated the existing building, valued at $150,000, and the 5-acre property, valued at $100,000, to the Fall Mountain Regional School District. This gift freed the Farwell School from having to pay rent. These savings combined with savings from the elimination of two bus routes to neighboring North Walpole will save the school district money.

Before the Hill and St. Pierre families offered their donations, Fall Mountain voters rejected a new school for several years. In response residents and volunteers worked hard to raise $58,000 in donations, which arrived in the forms of money, supplies, and other essential gifts. Even with these donations, the new elementary school still would not have been possible without financial assistance from the Hill and St. Pierre families.

The students who now attend the Farwell School appreciate the community's hard work and dedication in making their school truly the school that volunteers built. They are also grateful for the tremendous gift the Hill and St. Pierre families have given them. Indeed, the young children of North Charlestown are enthusiastic about their new school. How wonderful to know that the children of America, who are the future of our country, are eager to receive an education.

The expansion of the Farwell School would not have been possible without the generous donations from the residents of North Charlestown. I commend the Hill and St. Pierre families for their generous outpouring of support, and all the volunteers who made the Farwell School expansion possible. The North Charlestown residents should be very proud of their new school. They have given such a wonderful gift to the children in their community.•

FORD MOTOR COMPANY'S 250-MILLIONTH VEHICLE

• Mr. ABRAHAM. Mr. President, I rise today to commemorate October 8, 1996 as a day on which the citizens of my State, and indeed the entire country, can take great pride in the milestone of a true Michigan institution: Ford Motor Co. For on this day, the 250-millionth Ford vehicle will roll off the assembly line.

In 1903, the first Ford Model A was built by 10 employees in a small converted wagon factory in Detroit. More than nine decades later, Ford still calls Michigan home, maintaining its world headquarters in Dearborn. It is from these Michigan roots that Ford has grown into its present status as a global corporation. Ford cars, trucks and components are made in 185 plants in 36 countries on 5 continents and sold in over 200 markets. Last year, worldwide sales revenues surpassed $137 billion, factory production exceeded 6.6 million vehicles, and the company employed more than 346,000 workers.

No car company has contributed more to America's love affair with the automobile than Ford From the Model T to the F-Series pickup to the Escort, Ford has built and sold some of the bestselling nameplates in automotive history. Other Ford classics, such as the Mustang and the Thunderbird, remain American cultural icons.

Evidence of the positive impact of Ford Motor Co. isn't limited to our roads and highways. The results of founder Henry Ford innovative adaption of the moving assembly line to automotive production, higher volumes at lower costs, revolutionized industrial manufacturing practices around the globe. And Henry Ford 1914 announcement that he would pay $5 for an eight hour work day, twice the going rate, spawned the creation of high-skilled, high-wage jobs for American automotive workers.

It is often said that Ford Motor Company "put the world on wheels," and I like to believe Michigan played an integral role in this accomplishment. Our State has always offered an exceptional standard of living for its residents, in no small measure due to the presence of Ford, its suppliers and customers. On behalf of my colleagues, I congratulate Ford and its employees on this special occasion, and look forward to celebrating future milestones with Ford Motor Co. and its home State.

MONGOLIA

• Mr. ROTH. Mr. President, I rise today to add to the words of praise for Mongolia expressed yesterday by Senator THOMAS, chairman of the Subcommittee on East Asian and Pacific Affairs, when he introduced legislation to extend nondiscriminatory trade status to that country.

Mongolia has made striking advances toward the development of a democratic political system and a free market economy. This past July, Mongolians went to the polls and resoundingly voted into Government the Democratic Opposition Party, ending 75 years of control by Communists and their heirs. The new Government's peaceful assumption of power underscores Mongolia's rise to the front ranks of Asian democracies. The new Government in Ulaanbataatar, moreover, has outlined an ambitious plan for faster and continued economic liberalization and political reform.

Given these and other developments, I look forward to considering legislation granting to Mongolia nondiscriminatory trade status early in the next Congress.•

TRIBUTE TO THE NEW HAMPSHIRE BOY SCOUTS OF AMERICA TROOP NO. 55 ON THE OCCASION OF THEIR 75TH ANNIVERSARY

• Mr. SMITH. Mr. President, I rise today to pay tribute to the New Hampshire Boy Scouts of America Troop No. 55 as they celebrate their 75th anniversary. Troop 55 has diligently served the New Hampshire town of Meredith and the New England region for 75 years. The troops members and their family and friends will celebrate this impressive milestone on September 28th in Hesky Park, Meredith, with a special presentation and a cookout. I am proud to congratulate Troop 55 for 75 years of dedication to New Hampshire and New England.

Boy Scout Troop 55 was founded in January 1921 by the Whittier Men of the First Congregational Church of Meredith. Today, Troop 55 is sponsored by the Meredith Kiwanis Club. For 75 years, Troop 55 has accomplished a long history of achievement and service to their community. While the Troop has a number of accomplishments, their area of specialty is the preservation of elm trees throughout New England. To preserve the elm trees, Troop 55 uses Dutch Elm trees, which are especially resistant to disease. The members of Boy Scout Troop 55 participate in the planting of these special Dutch Elm trees throughout New England. To further the use of Dutch Elm trees, Boy Scout Troop 55 has their own nursery of trees.

Troop 55 of Meredith is also very proud of 10 of their members who have attained the Eagle Scout status. To become an Eagle Scout, a young man must earn badges for citizenship in the community, citizenship in the Nation, and citizenship in the world. The Eagle Scout designation is the highest attainable rank for a young man. Those who achieve it have every reason to be proud.

The Boy Scouts of America promote citizenship, character-building, and community service among the boys of our country. This organization also provides respectable, solid role models for the youth of our Nation and teaches them about commitment, dedication, and hard work. Members of the Boy Scout Troops of America learn valuable skills that serve them for a lifetime. I am proud to honor such an outstanding Boy Scout troop in New Hampshire. Congratulations to all the members of Troop 55 on reaching this remarkable milestone.•

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY DEMOCRATIC LEADER FROM APR. 3 TO 12, 1996

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Tom Daschle:									
Croatia	Dollar		280.00						280.00
Hungary	Forint	121,126	853.00					121,126	853.00
Albania	Dollar		178.00						178.00
Macedonia	Dollar		199.00						199.00
Slovenia	Dollar		217.00						217.00
Senator Orrin G. Hatch:									
Croatia	Dollar		280.00						280.00
Hungary	Forint	121,126	853.00					121,126	853.00
Albania	Dollar		178.00						178.00
Macedonia	Dollar		199.00						199.00
Slovenia	Dollar		217.00						217.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY DEMOCRATIC LEADER FROM APR. 3 TO 12, 1996—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Harry Reid:									
Croatia	Dollar		280.00						280.00
Hungary	Forint	121,126	853.00					121,126	853.00
Albania	Dollar		178.00						178.00
Macedonia	Dollar		199.00						199.00
Slovenia	Dollar		217.00						217.00
Laura Petrou:									
Croatia	Dollar		280.00						280.00
Hungary	Forint	121,126	853.00					121,126	853.00
Albania	Dollar		178.00						178.00
Macedonia	Dollar		199.00						199.00
Slovenia	Dollar		217.00						217.00
Paul Matulic:									
Croatia	Dollar		280.00						280.00
Hungary	Forint	121,126	853.00					121,126	853.00
Albania	Dollar		178.00						178.00
Macedonia	Dollar		199.00						199.00
Slovenia	Dollar		217.00						217.00
Jan Paulk:									
Croatia	Dollar		280.00						280.00
Hungary	Forint	121,126	853.00					121,126	853.00
Albania	Dollar		178.00						178.00
Macedonia	Dollar		199.00						199.00
Slovenia	Dollar		217.00						217.00
Delegation expenses:[1]									
Croatia							627.47		627.47
Hungary							4,455.67		4,455.67
Albania							856.22		856.22
Macedonia							1,515.41		1,515.41
Slovenia							780.74		780.74
Bosnia-Herzegovina							617.50		617.50
Total			10,362.00				8,853.01		19,215.01

[1] Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and Senate Resolution 179, agreed to May 25, 1977.

TOM DASCHLE,
Democratic Leader, Sept. 3, 1996.

MEASURE READ FOR THE FIRST TIME—H.R. 4134

Mr. GRASSLEY. Mr. President, I understand that H.R. 4134 has arrived from the House, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4134) to amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997.

Mr. GRASSLEY. Mr. President, I now ask for its second reading, and I object to my own request on behalf of Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. Objection is heard.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1997—CONFERENCE REPORT

Mr. GRASSLEY. Mr. President, I submit a report of the committee of conference on (H.R. 3259) and ask for its immediate consideration.

THE PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3259) to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 24, 1996.)

Mr. SPECTER. Mr. President, I am pleased to be able to submit for my colleagues' consideration the conference report on H.R. 3259, the Intelligence Authorization Act for Fiscal Year 1997. As you know, the Senate passed its authorization bill only last week and this may be an unprecedented turnaround time from passage of our bill to consideration of the conference report. For this, I want to thank House Chairman LARRY COMBEST for his outstanding management of what could have been a difficult effort at reconciling our two bills. Ranking Member NORMAN DICKS and Vice Chairman ROBERT KERREY played equally valuable roles in finding the right balance between ardently advocating their positions and ensuring eventual passage of this important legislation.

The rapid progress of this conference report is all the more noteworthy in that, in addition to the usual annual authorization of expenditures for intelligence and intelligence-related activities, this year's authorization bill adds important new provisions to the National Security Act of 1947 designed to help the Director of Central Intelligence [DCI] exert stronger direction and control over the intelligence community.

Let me remind my colleagues that under the National Security Act the DCI wears three hats: principal intelligence adviser to the President and the National Security Council; Director of the Central Intelligence Agency; and head of the intelligence community, which is composed of 13 different intelligence agencies.

For a variety of reasons, a long succession of DCI's have devoted almost all of their time and energy to their first two jobs—advising the President and running the CIA—and have given short shrift to the third—managing the intelligence community. The result has been an unfortunate lack of coordination and focused effort by our various intelligence agencies. This is not to say that our intelligence agencies have not been successful. The opposite is true: the United States has the premier intelligence apparatus in the world. But because they are scattered among so many different departments and agencies they have not been able to operate as efficiently and effectively as they could.

Title VIII of the conference report—the Intelligence Renewal and Reform

Act of 1996—contains provisions intended to strengthen the overall management of the intelligence community.

In particular, to help the DCI perform his community responsibilities, title VIII establishes a new Senate-confirmed Deputy Director of Central Intelligence for Community Management and three new Senate-confirmed Assistant Directors of Central Intelligence. Since the National Security Act was enacted in 1947, there have been only two statutory positions to manage the intelligence community: a Director of Central Intelligence and a Deputy Director of Central Intelligence. The time has come to give the DCI a better community management structure. The conference report provides that the DDCI for Community Management will manage an intelligence community staff and will direct communitywide functions, including personnel, resources, requirements, collection, research and development, and analysis and production. Each of the three Assistant DCI's will oversee communitywide efforts in a particular functional area: collection, analysis and production, and administration.

I should mention that the DCI has expressed some concern about whether the three Assistant DCI's should all be Presidential appointments subject to Senate confirmation. While noting the DCI's concerns, a majority of the conferees concluded that the advantages of Senate-confirmation outweigh any potential disadvantages. In light of the fact that the three Assistant DCI's will be responsible for coordinating functions that cut across a number of different departments and agencies, the conferees determined that Senate confirmation is necessary to ensure that each of these individuals has sufficient stature and focus to impose a more cohesive and coherent process for allocating resources in each of these key functional areas.

The DCI has also questioned whether Senate confirmation of the Assistant Directors is warranted given the limited authority vested in these positions. In fact, the statutory authority vested in these positions is the full authority of the DCI for each respective area. Thus, the actual authority exercised by the Assistant Directors will depend in large measure on the authority the DCI chooses to delegate and support.

In addition to creating a better intelligence community management team, the bill gives the DCI significant new management authorities. For example, the Secretary of Defense will be required to obtain the DCI's concurrence—or note the DCI's lack of concurrence—before recommending an individual to the President to be Director of the National Security Agency, the National Reconnaissance Office, and the new National Imagery and Mapping Agency. The DCI will also have to be consulted regarding the appointments of the heads of the smaller intelligence community elements, including the Defense Intelligence Agency, the State Department's Bureau of Intelligence and Research, and the FBI's National Security Division. In addition, separate provisions added to this year's DOD authorization bill require the DCI to submit an annual performance evaluation of the heads of the major defense intelligence agencies to the Secretary of Defense. These provisions are very significant. Previously, the DCI had little or no say in the appointments or evaluation of the heads of the major operating elements of the intelligence community.

I should note that the Director of the FBI objected strenuously to requiring the DCI to be consulted before the Attorney General appoints the head of the FBI's National Security Division. Director Freeh appeared to be concerned that requiring consultation might somehow make the FBI Director appear to be subservient to the DCI. In response to these concerns, the conferees agreed to modify the original Senate provision to require the FBI Director to give the DCI timely notice of his recommendation of an individual to fill the position, and to give the DCI an opportunity to consult. While agreeing to these changes, the conferees noted that the Director of the National Security Division manages a significant portion of the national intelligence budget and concluded that it is wholly appropriate to give the DCI some voice in his or her appointment.

In addition to having a stronger voice in appointments, the DCI is given new statutory authority to participate in the preparation of defense intelligence budgets and to be consulted with respect to reprogrammings of funds among defensewide intelligence activities. For the first time, the DCI is also given the statutory right to establish intelligence collection requirements and priorities, and to resolve conflicts in collection priorities.

I also want to take a moment to address the press reports that opposition from the Department of Defense killed intelligence reform this year. It is true that bureaucratic resistance to change threatened reform efforts and that both the Senate and House Intelligence Committees agreed to scale back some of their proposals in the interest of ensuring passage of the bill. However, many very significant provisions remain. The conference report gives the DCI important new authorities to manage the intelligence community and, for the first time in 50 years, establishes a new intelligence community management structure. We expect these provisions will go far to make the intelligence community operate more effectively and more efficiently. In short, to paraphrase Mark Twain, the reports of the death of intelligence reform are greatly exaggerated.

With the end of the 104th Congress, we mark a significant milestone in the history of this Senate, the executive branch, and most of all, the intelligence community. Twenty years ago, on May 19, 1976, the Senate adopted Senate Resolution 400, establishing the Select Committee on Intelligence. The following day, May 20, 15 Senators were appointed to this committee, with Senator Inouye as its Chairman and Senator Howard Baker its Vice Chairman. Thus, from the very beginning, the nonpartisan nature of the committee was reinforced with the seating of a Vice Chairman rather than a ranking member. This nonpartisan attitude has continued for 20 years, with the Chairmen and Vice Chairmen working together overseeing U.S. intelligence, and at the same time ensuring that this important instrument of national security is maintained.

Mr. President, I ask unanimous consent that a brief statement outlining the impressive history of this committee be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. Speaker, the conclusion of the 104th Congress also marks the end of my term as chairman of the Senate Select Committee on Intelligence. Thanks in large measure to the commitment of the Vice Chairman, Senator BOB KERREY, and a dedicated staff, it has been a productive tenure. Beginning in early 1995 with the confirmation of a new Director of Central Intelligence and Deputy Director of Central Intelligence and culminating with the passage today of significant legislation to strengthen the ability of the intelligence community to meet the needs of the post-cold-war world, the past 2 years have seen this committee address virtually all of the important national security issues confronting the country. Through hearings, intensive inquiries, committee reports, and legislation, the SSCI has examined the growing transnational threats of terrorism, narcotics, proliferation of weapons of mass destruction, organized crime, and economic espionage. We have continued the committee's focus on counterintelligence and the fallout from the treachery of Aldrich Ames, reopened longstanding inquiries into the role of the intelligence community in Central America, explored the risks and benefits of economic intelligence collection, overseen intelligence support to military operations in Bosnia, the Persian Gulf, Somalia, Haiti, and elsewhere, and provided insights to the Senate on intelligence-related aspects of arms control.

The role that the Vice Chairman has played in these committee endeavors cannot be overstated. Senator KERREY brings a keen mind and deep personal commitment to the committee's task of ensuring that this country has the best possible intelligence capability—one that is effective, efficient, and operates in a manner fully consistent with American laws and values. The Vice Chairman and I have not always agreed on every aspect of every issue, although the areas of disagreement have been remarkably rare. Senator KERREY has always approached these issues with characteristic grace and good humor. A determined advocate, he nevertheless finds ways to work through problems in a principled manner totally devoid of partisanship. As those of you who have had the privilege to serve on the Intelligence Committee know, the issues do not all have the glamour of James Bond adventures or the sensationalism of front page scandals. Senator KERREY has shown a willingness and an acumen for tackling even the most technical and obscure aspects of the committee's work where the effectiveness of our intelligence capability is at stake.

Senator KERREY's outstanding attributes are echoed in his staff director for the committee, Chris Straub. Mr. Straub has brought the same kind of nonpartisan professionalism to his work for the committee over the past 8 years. I have always found Chris fair, tough, and knowledgeable.

I also want to recognize Art Grant, the minority deputy staff director, whose command of the complex and at times arcane world of intelligence satellites has contributed greatly to the committee's oversight responsibilities in this area.

Which brings me to the committee's staff director, Charles Battaglia. When I first joined the committee in 1984, I was determined to hire a staff person with extensive intelligence experience and an excellent reputation within his field. I was lucky enough to find someone who not only had these qualities but also possessed the patience, perspective, and perseverance that are essential to a successful working relationship in this hectic institution. It was Charles Battaglia who urged that the committee move from the designee system, where each Member could bring on their own staff person—often resulting in staffers with little or no intelligence background who's focus was more on individual Member issues than on the core work of the committee—to a fully professional, nonpartisan staff. This was not an easy transition, but Charles Battaglia has managed to ensure Members' needs are met without sacrificing the essential work of the committee staff. The result is a stronger, more cohesive staff and committee. Mr. Battaglia has been an excellent manager, valued adviser, and good friend.

In addition, I would like to thank the other members of the committee staff, particularly Suzanne Spaulding, the committee's general counsel, and her legal staff, Mark Heilbrun and John Bellinger, for their hard work on this legislation and on the many legal issues which have confronted the committee over the last 2 years; senior staff member Ed Levine, who has led the committee's inquires into issues such as the flow of Iranian arms into Bosnia and human rights abuses in Guatemala, managing to draft committee reports on these potentially divisive issues in a manner that is fair, accurate, and thorough; the committee's budget director, Mary Sturtevant, whose mastery of every nook and cranny of the dispersed and complex intelligence community apparatus has been essential to our oversight function; and Pat Hanback, whose audit team has provided professional, detailed reviews of areas of oversight concern and has made many important recommendations for improvements.

I would like to express my gratitude as well to the committee's support staff for its professionalism in the face of continuing demands. Jim Wolfe, the committee's security director, and his staff did yeoman work in successfully maintaining the security of a vast array of classified material. Kathleen McGhee, the committee's chief clerk, and the rest of the staff literally made the engine run. I will thank each of them personally at a later time.

Mr. President, the outstanding efforts of the entire committee staff and membership is reflected in this Intelligence Authorization Act for Fiscal Year 1997 and I urge its passage.

THE SENATE SELECT COMMITTEE ON INTELLIGENCE: TWENTY YEARS OF INTELLIGENT OVERSIGHT

The Senate Select Committee on Intelligence was established in 1976 directly as a result of the Senate Select Committee to Study Governmental Operations With Respect to Intelligence Activities, or the Church Committee, which was set up to examine allegations of intelligence abuses by various intelligence agencies. The findings of this Committee were ample evidence that existing Congressional mechanisms were inadequate to meet the need for continual, focused, institutionalized oversight of the Intelligence Community.

The Intelligence Committee responded promptly to the need for changes highlighted by the Church Committee. Working with the Judiciary Committees of each house, the intelligence committees developed legislation known as the Foreign Intelligence Surveillance Act of 1978 which, for the first time, required that a court order be obtained from a special court established under the Act as a condition for undertaking electronic surveillance for intelligence purposes within the United States. Prior to that time, such surveillance had been carried out without a search warrant or court order, pursuant to the asserted constitutional authority of the President. The Committee, in the 95th Congress, also was the first to begin work on legislation to address the problem of "Graymail", i.e., the threat by defendants to disclose highly classified information if they were prosecuted. The committees were instrumental in the enactment of the Classified Information Procedures Act of 1980, which established statutory procedures for handling classified information involved in a Federal criminal proceeding.

Perhaps the most striking fact that we encounter when we look back 20 years, however, is how many of the issues then confronting the Committee are still relevant. Hearings were held in 1977 on the question of whether or not to declose the bottom line amount of the intelligence budget, a question with which we are still wrestling. The Committee looked into the involvement of the National Security Agency in developing the Data Encryption Standard. Today, we are looking into the development of new encryption standards in an effort headed by NSA. Again, in the 95th Congress the Committee published a case study on "Activities of 'Friendly' Foreign Intelligence Services in the United States." Presently, in Congress we are looking into activities within the continental United States of the intelligence services of allies and adversaries in the field of economic espionage. The Committee also published its first report on terrorism in the 1970's.

One of the most important activities of the Senate Select Committee in the 1970's was its involvement in S. 2525, The National Intelligence Reorganization and Reform Act of 1978, for out of this effort was born the duty of the Intelligence Community to ensure that both the House and Senate Intelligence Committees were "fully and currently informed of all the national intelligence activities," to include, "any significant anticipated intelligence activity." This has proven to be central to the Committee's ability to carry out its oversight responsibilities.

As we moved into the 1980's, a new Administration brought a new Director of Central Intelligence. The legislative underpinnings in place were to be sorely tested in the coming years, but in the end, they held up under great pressure. In the early 1980's the Committee looked into and reported on such disparate matters as the U.S. capability to monitor the SALT II treaty; Soviet succession; political violence in El Salvador; the Soviet presence in the United Nations; unrest in the Philippines; and renewed counterintelligence and security concerns in the United States. In 1983 the Committee hired, as a full time staff employee, a Court Reported because of the sensitivity of hearing information. The Select Committee on Intelligence remains the only Committee of either House to have a Reporter as a staffer.

In late November 1986, the Select Committee on Intelligence was the first Committee to begin an investigation into the Iran-Contra matter. Between the initiation of its investigation on December 1, 1986, and the publication of its public report on January 29, 1987, the Select Committee held over 50 hearings and interviews into the Iran-Contra matter. Following these events, S. 1721, the Intelligence Oversight Act of 1987, and S. 1818, the National Security Act of 1987, were introduced and brought clearly into focus the need for agreement between the Administration and the Congress on reporting requirements and covert action finding notification.

The Committee reported on many other matters of concern during 1987 and 1988. An extensive investigation resulted in a report on the security at the United States mission in Moscow and other areas of high risk. An exhaustive Committee and staff inquiry resulted in the publication of a report on the monitoring and verification of the Treaty on the Elimination of Intermediate-Range and Shorter Range Missiles, the INF Treaty. The Committee further investigated and reported on the FBI's mishandling of a domestic case involving the Committee in Solidarity with the People of El Salvador, or CISPES. While the Committee determined that there were improprieties in the FBI investigation, it also determined that this was an aberration, and that the Bureau continually held to the high standards that were demanded of it.

The 1980's were also the "Decade of the Spy." By the end of 1987, over 20 Americans had been implicated in espionage or were investigated on counterintelligence grounds. In hindsight, we now know that beginning with the Walker-Whitworth, Pollard and Pelton cases in 1985, was Aldrich Ames, who began his traitorous career in 1985 and lasted until 1994.

Following hearings in 1987 and 1988, the Committee established an independent Inspection General for the CIA. This legislation was included in the Intelligence Authorization Act of 1990, and the first statutory Inspection General at the Central Intelligence Agency was confirmed in the fall of that year.

In the aftermath of the Iran-Contra affair, legislation was introduced with the objective of clarifying the roles of the President and the Congress in approving and overseeing intelligence activities, particularly covert actions. The legislation also provided that Presidential finding must be written, and defined what a covert action is and is not. After much negotiation, the FY 1991 bills was signed into law in August 1991.

Convinced of the growing threat posed to international stability by the proliferation of weapons of mass destruction, the Committee, through the FY91 Intelligence Authorization Bill, instructed the DCI to establish a mechanism to deal with these growing threats. This led to the development of the DCI's Nonproliferation Center to look into the spread of chemical biological and nuclear weapons.

Robert M. Gates, who had been Deputy Director of Central Intelligence under Director Casey, had been nominated for the position of DCI after Director Casey's death in 1987. He pulled his nomination when Members raised questions about his role in Iran-Contra. In mid-1991 he was again nominated to the Director of Central Intelligence. The confirmation hearings for Mr. Gates to be DCI in September and October 1991 were unprecedented in terms of their scope and substance. Eight days of hearings were held, including seven in public session. The nominee's role in the so-called Iran-Contra affair was explored at length, as were allegations that during the tenure of the nominee as Deputy Director for Intelligence the nominee undertook actions resulting in the "politicization" of intelligence, or the shaping of intelligence for political purposes. At the conclusion of the Committee's inquiry, the Committee issued a 225 page report of its findings. In the end, the nomination was approved by the Committee and subsequently approved by the full Senate.

In October 1992, the Committee began an inquiry into the Intelligence Community's role in the Banca Nazionale del Lavoro, or BNL, affair. This initial inquiry by the Committee resulted in a full staff investigation of the matter. After an intensive investigation, the staff prepared a 163 page report released on February 4, 1993, which focused on the Intelligence Community's involvement in the affair, and found numerous institutional weaknesses in the relationship between intelligence and law enforcement, as well as serious errors in judgment by officials of the CIA, the Defense Intelligence Agency, and the Department of Justice.

Other efforts by the Committee in 1992 included the Assassination Materials Disclosure Act of 1992, which fostered the release of materials concerning the assassination of President John Kennedy; a report on the Treaty on the Reduction of Limitation of Strategic Offensive Arms, or START; and many other activities surrounding chemical, biological, and nuclear weapons, Iraqi disarmament, covert action, and so forth.

Counterintelligence rose to the fore with the February 1994 arrest of CIA employee Aldrich Ames. After extensive hearings the Committee issued an analysis of the Ames case in November 1994. In addition to criticizing the leniency of the internal disciplinary actions promulgated by the DCI, the Committee found "numerous and egregious" shortcomings in the handling of the Ames case. In its report, the Committee proposed 23 separate recommendations for change at the agency.

Counterterrorism jumped to the front with the January 1993 murder of two CIA employees at the main gate to CIA headquarters, and a month later the bombing of the World Trade Center in New York City.

Economic intelligence also emerged in the 1990's to lay claim to the time and assets of the Intelligence Committee and the Intelligence Community. Unfortunately, one of the more noteworthy events which combined the new direction of intelligence gathering with the continued and even enhanced need for counterintelligence occurred when the French government accused the CIA in France of targeting French government officials and high ranking officials in key French commercial firms. Six people were requested to leave the country, and several CIA personnel in other European cities were identified.

The Intelligence Committee requested the CIA Inspector General to "analyze the events of this case in detail and report to the Committee on the mistakes that occurred and any necessary corrective measures." In the end, it was poor counterintelligence and poor tradecraft which led to the events in France.

The Committee, in addition, addressed such disparate issues as the Clipper Chip digital telephony, the North American Free Trade Agreement (NAFTA), Russian and East European organized crime, environmental intelligence, NSA support to law enforcement, as well as the traditional budget and program oversight.

Controversy, however, seems to have found a home in the Intelligence Community. Charges arose in the mid-1990's that the Central Intelligence Agency had been involved with and had knowledge of several events in Guatemala. The Committee, again through hearings, staff interviews and record reviews, investigated the events surrounding the abduction and murder of an American who ran a small hotel in Guatemala, Michael DeVine; the kidnapping, rape and torture of Sister Diana Ortiz; and the disappearing of Efraim Bamaca, a Guatemalan guerrilla married to an American, Jennifer Harbury. In each of these cases, claims have been made that the CIA had knowledge of or that agents of the CIA were involved in the events themselves.

Following up on information learned as a result of the Ames inquiry, the Committee investigated a series of events in the CIA's Intelligence Directorate where material prepared for the highest policymakers in the nation was inappropriately identified as to its source. For a period of time, intelligence that the CIA knew was from controlled or co-opted sources was delivered to policymakers without proper warnings that the reports did come from controlled sources.

The Committee is presently involved in investigating the role of U.S. officials in the flow of arms from Iran to Bosnia at a time when there were U.S. and UN sanctions active against such shipments.

Throughout this 20 year period, two things have stood true. The dedication of the Members of the Senate to this Committee—a Committee assignment which garners more headaches than headlines—and the dedication of a truly professional staff which handles the most sensitive material our nation produces. Since 1976, 61 Senators have served on the Senate Select Committee on Intelligence, and there have been a total of 221 staff members.

As the Senate begins its third decade of oversight of the Intelligence Community, it can look back with some pride on the successes of the institutional framework it established. Oversight of intelligence has indeed been conducted in the nonpartisan, focused manner intended. This pride must be tempered, however, with a serious examination of how this oversight can be improved. The Committee advocated one such improvement this year, with the effort to remove the eight-year term limit for membership. This restriction, initially put in place out of concern that members might become captives of the intelligence community over time, has proven unnecessary and counterproductive. The concern of cooptation has been belied by the unerring vigilance of long-time members such as Senators William Cohen and John Glenn, whose unswerving principles have led them to be both ardent advocates for and among the harshest critics of the intelligence community. Instead, the term limit has hampered the ability of the Committee to develop the kind of expertise, institutional memory, and dedication the complex field of intelligence requires. While the Committee failed in its effort to remove this limit this year, it will no doubt try again and eventually succeed.

Additional issues involving the Committee's ability to ensure that it is fully and currently informed of all intelligence activities, the Committee's relationship with other Senate committees, and measures which undermine the authorizing authority of the Committee may require further legislative efforts. Intelligence is a uniquely challenging area of Congressional oversight. Its activities must often be shrouded in secrecy, sheltered from the scrutiny of investigative journalists who so often uncover problems in other areas of government. It is essential, therefore, that Congress have sufficiently strong and effective institutional mechanisms to perform that crucial oversight.

Mr. KERREY. Mr. President, the conference report accompanying the fiscal year 1997 Intelligence Authorization Act highlights the results of significant efforts by many people. This bill creates important changes which will help to improve the Director of Central Intelligence's ability to manage the intelligence community and also improves oversight of the Nation's intelligence activities. It is an important step in reforming and renewing the intelligence community.

I would like to thank Chairman SPECTER for his bipartisan approach to the intelligence community's problems. Intelligence can become the topic of partisan debate if we are not careful to preserve its goal of providing the unvarnished truth to policy-makers—congressional as well as executive branch. Because of the important issues at stake, there have been many opportunities throughout this year for partisan politics to enter the intelligence community's analysis of what threatens our vital interests. But Chairman SPECTER has steadfastly resisted any effort in that direction. As his term as chairman comes to a close, I salute him for his wise and farsighted leadership during a period of great challenge for the Intelligence Committee. He turned those challenges into accomplishments, including the significant reforms contained in this conference report. Chairman SPECTER has also acted on behalf of the entire Senate to provide thorough and attentive oversight of this Nation's intelligence activities. In the process he has taken the bold, and I believe correct, course of convening frequent open oversight hearings to acquaint the public with these important issues, all the while protecting the secrecy of intelligence sources and methods. So I am proud to have served with Chairman SPECTER during this momentous two years, and to have been part of the process which produced the Intelligence Authorization Act for fiscal year 1997.

Chairman SPECTER and I have been supported by a superb staff effort led by a real intelligence professional, Charles Battaglia, the staff director of the Intelligence Committee. Mr. Battaglia followed a distinguished naval career with service at CIA, he knows this complex business from every angle, creates the conditions and prepares the tools Senators can use to get results. He also has every right to be proud of this bill.

I would also like to add my sincere thanks to the members of the House Permanent Select Committee on Intelligence. As some of my colleagues may recall, there was considerable disagreement between the House and Senate in last year's lengthy authorization conference. Not so this year. Although there were important differences between the two Houses at the beginning of the year, we resolved our differences quickly because we realized the significance of our combined efforts. Chairman LARRY COMBEST, Ranking Member NORM DICKS, and the other members of the House Committee worked with us in a spirit of comity and the Senate can be proud of the product. We are returning to the Senate with an important piece of legislation.

Naturally, most of the programmatic work is classified. Nevertheless, as I mentioned when I helped introduce the Senate version of the bill, some of the most significant provisions are unclassified. The Office of the Director of Central Intelligence has been strengthened to allow him to manage the intelligence community much better. Among the most prominent of these are improved financial management procedures, strengthened delineation of authorities for collecting, analyzing, and disseminating intelligence, and better internal oversight of intelligence activities. In this bill, we have successfully preserved the equities of the Secretary of Defense so that intelligence support of military operations will be stronger than ever. We have also included important provisions to improve intelligence support of law enforcement. And, finally, there are also major improvements in support of our war against terrorism.

I cannot overemphasize the importance of the bill's provisions to strengthen the Director of Central Intelligence's management of the intelligence community. I am aware of some senior intelligence officials to the Oversight Committees efforts to strengthen community management, specifically the creation of three new Presidentially-appointed, Senatorially confirmed Assistant Directors of Central Intelligence. I am reminded of the intense effort by some elements of the Department of Defense some years ago to undermine the Goldwater-Nichols reform of defense. As was the case then, we are told that strengthened management is, on the one hand, unnecessary and, on the other hand, unwieldy. I assure my colleagues that neither criticism is warranted.

Mr. President, the management of intelligence suffers from poor senior level management. The culprit is not a person. It is not a comment on the superb abilities of the current Director of Central Intelligence or his Deputy. Rather, it is a comment on the structure they inherited. As the Aspin-Brown Commission noted when it evaluated the intelligence community's readiness for the 21st century, the DCI faces a dilemma on managing the community which the current structure does not solve. He is relatively weak in his ability to manage the community and therefore spends most of his time as the principal intelligence adviser to the President and as the head of the CIA. The bill solves his dilemma by creating a new Deputy Director for Community Management. This new senior level official will be assisted by three Assistant Directors who will be functional managers of the intelligence community. One will handle administration, one will oversee analysis and production, and one will supervise intelligence collection.

In deciding which information to collect about our vital interests, four different and independent organizations every day set their own goals, priorities, and allocate resources. Except on a by-exception basis—and also during an annual budget review—neither the Director of Central Intelligence nor his staff have any idea of the duplication which exists, the relative effectiveness of one method of collection over another to break a tough intelligence target, or the marginal utility of procuring new systems to solve new problems. With all of the responsibilities pressing upon their daily lives, neither the Director nor his Deputy have the time to understand or direct daily the community's intelligence collection efforts. In response, the bill gives the DCI help in the form of an assistant whose sole purpose is to help him do what he already is responsible for doing—manage the collection of intelligence.

Similar problems exist in the areas of intelligence analysis and production. Today, CIA's analysts analyze military problems. The Defense Intelligence Agency analyzes political problems. The Department of State evaluates political and military problems. On a daily, weekly, or monthly basis, no one reviews—with any hope of changing the community's direction toward new problems—who is analyzing what throughout the community. Certainly, as part of the annual budget process, the DCI makes a quick review of the intelligence analysis structure supporting policy makers. But the DCI's annual review addresses analysis and production in only a cursory manner. He needs help. The bill gives him help in the form an assistant whose sole purpose is to help the DCI do what he already is responsible for doing—analyze and produce intelligence.

Perhaps most fragmented of all are the administrative programs of the various intelligence agencies. Each agency maintains separate administrative, personnel, security, and training programs. In 1992, Congress gave the DCI specific authority to consolidate and reduce duplication in these programs, but successive DCI's have done little to make use of this authority. Again, the DCI needs help. The bill gives him help in the form of an assistant DCI for administration.

Mr. President, in its confirmation of these new officials, the Senate must be vigilant in protecting intelligence from politicization. I expect the candidates for these positions to be life-long intelligence professionals approaching the pinnacle of their careers. I don't expect them to have political leanings that would affect their professional judgments, any more than I would expect such leanings in the career diplomats the Senate confirms to be Assistant Secretaries of State or in the career military officers the Senate confirms to be flag officers. I have also heard it argued that senatorial confirmation might make these intelligence officials less loyal or less responsive to their superiors. Looking again at the Assistant Secretaries of State and at the military, I see no empirical data to support this concern. I have high hopes that these officials will make our intelligence more timely and useful to all its customers, and I will use my role in the confirmation process to that end.

Mr. President, let me note two other provisions in the conference report of special interest to me. One provision modifies the House bill's prohibition on the CIA use of U.S. journalists as intelligence assets unless the President waived the prohibition and made a written certification. This procedure seemed to the Senate conferees to be too onerous and time consuming. We accepted Director Deutch's assurance that any CIA approach to a U.S. journalist would be extremely rare. But it seemed to us that such a rare occasion might also require speed, and the process to obtain a Presidential waiver and certification would take too long. Consequently the conferees agreed to give waiver authority to the President or the DCI. In either case, use of the waiver would be reported to the oversight committees.

Second, the conferees agreed to modify a Senate provision denying senior CIA personnel the possibility of accepting employment with a foreign country within 5 years of retirement. It seemed to us that security and the reputation of the service are best protected by a clear prohibition on such employment. Our compromise with the House reduced the period of prohibition from 5 years to 3 and provided authority for the DCI to waive the provision when foreign employment of a former senior official is in the U.S. interest. Nonetheless, I think we are sending a strong message with this provision and I support it.

The effort to bring the bill forward for final passage has not been easy. Significant change never is, and there is no object more resistant to change than the baroque bureaucratic structure that our intelligence community has evolved into since 1945. But the effort to bring the bill to this point has been worth it. It has been strengthened by the intense discussions it generated with the Director of Central Intelligence, the Department of Defense, and the other Senate committees. Quite correctly, each had strong concerns, and we have answered those concerns with an excellent bill. I urge my colleagues to support final passage of this important legislation.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President; I rise to express my concern regarding the fiscal year 1997 intelligence authorization conference report. I make these observations, not in my capacity as the chairman of the Armed Services Committee, but as an individual Senator concerned about growth in Government bureaucracy.

I am particularly concerned by the fact that the intelligence conferees have decided to establish four new senior positions under the Director of Central Intelligence, all requiring Senate confirmation. In addition to a new Deputy Director, which the administration requested, the Intelligence Conferees have agreed to create three new Assistant Directors of Central Intelligence. The administration has clearly indicated its opposition to the establishment of these Assistant Director positions.

In my view, this is an unnecessary expansion of bureaucracy at a time when virtually every other area of Government is shrinking. There is no evidence that I am aware of to justify this growth. The Presidential commission that just completed its study of these matters, the Brown Commission, did not make such a recommendation, nor has the Director of Central Intelligence.

Since the organization of the Office of the Director of Central Intelligence does not come under the jurisdiction of the Armed Services Committee, Senator NUNN and I have not sought to oppose the establishment of these new positions on behalf of the Armed Services Committee, even though we agree that the case for their creation is not compelling. In the areas where the Armed Services Committee does have jurisdiction, the intelligence conference report has been adjusted to address concerns that Senator NUNN and I raised on behalf of the Armed Services Committee and the Department of Defense. Since the Intelligence Conferees addressed these concerns in a satisfactory manner, Senator NUNN and I have agreed not to oppose the intelligence conference report.

Notwithstanding our general satisfaction with the intelligence authorization conference report, Senator NUNN joins me in registering opposition to what we view as an unwarranted expansion of intelligence bureaucracy. It is my intent to follow this matter closely in the future. The executive branch may choose not to fill these positions. Nevertheless, I plan to reexamine the legislation establishing these new positions during the 105th Congress.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the conference report be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the conference report appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

ANIMAL DRUG AVAILABILITY ACT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 2508, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2508) to amend the Federal Food, Drug and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be deemed read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2508) was deemed read the third time, and passed.

NATIONAL MAMMOGRAPHY DAY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and that the Senate turn to the immediate consideration of Senate Resolution 295.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 295) to designate October 18, 1996, as "National Mammography Day."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRASSLEY. I ask unanimous consent that the resolution and the preamble be agreed to, en bloc, that the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 295) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 295

Whereas according to the American Cancer Society, 184,300 women will be diagnosed with breast cancer in 1996, and 44,300 women will die from this disease;

Whereas in the decade of the 1990's, it is estimated that about 2,000,000 women will be diagnosed with breast cancer, resulting in nearly 500,000 deaths;

Whereas, the risk of breast cancer increases with age, with a woman at age 70 having twice as much of a chance of developing the disease than a woman at age 50;

Whereas, at least 80 percent of the women who get breast cancer have no family history of the disease;

Whereas, mammograms, when operated professionally at a certified facility, can provide a safe and quick diagnosis;

Whereas, experts agree that mammography is the best method of early detection of breast cancer, and early detection is the key to saving lives; and

Whereas, mammograms can reveal the presence of small cancers of up to 2 years or more before regular clinical breast examination or breast self-examination (BSE), saving as many as 30 percent more lives: Now, therefore, be it.

Resolved, That the Senate designates October 18, 1996, as "National Mammography Day". The Senate requests that the President issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

AUTHORITY TO PRINT REPORT AS SENATE DOCUMENT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the report mandated by Public Law 101–423, entitled "Final Report to Congress on the Joint Resolution to Establish a National Policy on Permanent Papers," be printed as a Senate document, and I ask further that 300 additional copies be made available for use of the Joint Committee on the Library.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I am pleased to call to the attention of my colleagues—especially those who cosponsored my legislation establishing a national policy on permanent paper—the final mandated report to the Congress on progress in reaching the objectives of that policy. That legislation, which became Public Law 101–423 on October 12, 1990, stated that:

> It is the policy of the United States that Federal records, books, and publications of enduring value be produced on acid free permanent papers.

The Librarian of Congress, the Archivist of the United States, and the Public Printer were required to make three progress reports to the Congress over a 5 year period, and the last of these has now been made, reporting developments through 1995. This latest report is a record of remarkable progress and I am pleased that it will be printed as a Senate document.

When I first introduced a permanent paper bill in October 1988, almost all documents and publications produced by the Federal Government or by Federal funds were on acidic papers with a useful life of less than 100 years. These papers had been in general use since the mid-19th century. The Federal Government was not unique. State and local governments and private publishers all used such papers.

Librarians and archivists had for some time expressed their concerns about the loss of irreplaceable historical, cultural and scientific books, publications and other records. Many millions of dollars were already being spent by research libraries, foundations, and State and Federal governments either to save these materials by deacidification or to preserve their contents by microfilming—both costly processes.

I might note that when the present Librarian of Congress, James H. Billington, appeared before the Senate Committee on Rules and Administration for his confirmation hearing on July 14, 1987, he described at considerable length the deterioration of the holdings of our national library. In response to our questions, he told us that he regarded the problem of "brittle books" as a major one, both retrospectively, in terms of salvaging the records of the last century and a half, and prospectively, in terms of preventing continuation of the problem. He spoke of the need for "mobilizing informed opinion to assure that we get a better response from those who publish, so that this problem is not with us in the future."

It was by no coincidence that an active campaign to "mobilize informed opinion" ensued thereafter. Many people throughout the library community were actively involved, but I would particularly like to cite the efforts of Robert Frase, former vice president and economist of the Association of American Publishers. Mr. Frase was instrumental in conceiving and helping to bring to fruition the resolution to establish a National Policy on Permanent Paper, which as I indicated, was first introduced in 1988.

Looking back at the short span of eight years since that time, one is struck by the relatively low level of activity in permanent paper production that then prevailed. Research had demonstrated that the deterioration of papers produced from mid-19th century onward was caused by chemicals in a process using wood pulp rather than rags as raw material. The resulting acidic papers began to yellow and crumble (hence the term "brittle books") within a few decades, while the earlier rag papers continued to last for centuries. Research financed by the Council on Library resources and others, however, had demonstrated that wood pulp based papers could be produced by an alkaline process, resulting in estimated useful lives comparable with the old rag papers. A small amount of such papers was actually being produced.

What was required at that point was an increased awareness of the problem and a dramatic demonstration that something was going to be done about it. This would then lead to an increased demand for new papers, and in turn induce paper mills to convert to an alkaline process. Increased production would result in lower costs and prices competitive with acidic papers. The American Library Association started the ball rolling by passing its first resolution on this subject in January 1988. After my first bill was introduced in October of that year it was promptly endorsed by another ALA resolution in early 1989. This led to similar resolutions by other U.S. organizations and then by the International Federation of Library Associations and Institutions [IFLA] and the International Publishers Association later in 1989.

A big and prominent institution was needed to provide the impact of taking the first step into an action program, and the U.S. Government was an obvious choice. Its responsible agencies—the Library of Congress and National Archives—were well aware of the issues and the enormous problems and costs which were building up for the future unless alkaline paper came into general use; it was the world's largest producer of publications and documents; and its example would have a profound influence both at home and abroad. These were the considerations that led to the introduction of the bills that became Public Law 101–423 —my Senate Joint Resolution 57 and Representative PAT WILLIAMS' House Joint Resolution 226, both in early 1989.

Public Law 101–423 did not mandate the use of alkaline papers by Federal agencies. To have done so would have been impractical because the supply of such papers was limited and the price uncompetitive. But by establishing a policy and a goal, it set a process in motion which in a period of a few years would achieve the same results.

An important technical prerequisite to realizing the goal was the establishment of a clear definition of the term "acid free permanent paper." Since the most important factor in paper deterioration is acidity any long-lived paper must be acid free, or alkaline. To be permanent, however, a paper must conform to additional technical specifications, the most widely recognized of which is designated as the American National Standard and often referred to by the acronym ANSI/NISO. The technical designation is "American National Standard for Permanence of Paper for Publications and Documents in Libraries and Archives, ANSI/NISO Z39.48–1992." As a practical matter, companies deciding to produce alkaline paper can easily take the small further steps required to produce permanent paper meeting the ANSI/NISO standard.

An important feature of Public Law 101–423 was a monitoring device to help ensure that the national policy was actually being carried out, and that device is the requirement that three progress reports be made to the Congress on December 31, 1991, 1993, and 1995, by the Librarian of Congress, the Archivist of the United States, and the Public Printer. Although the 1995 report is the last to be required by law, these three officials have stated their intention to continue to monitor progress in achieving the goals of the legislation on an ad hoc basis. I welcome their decision, a sentiment I am sure is shared by the many members of Congress who have taken an interest in this matter, as well as those in the library, archival, scholarly and historical professions throughout the world. I urge that these progress reports continue to be issued every 2 years through the rest of this century.

PROGRESS IN THE FEDERAL GOVERNMENT

Since Public Law 101–423 focused on the production of Federal records, books and publications of enduring value on acid-free permanent paper, I am very pleased to note that the third report documents a number of very encouraging developments in this regard. Here are some of the most notable:

The National Archives and Records administration has circulated widely bulletin No. 95–7, Procurement of Writing, Copying, and Printing Papers for Federal Records, which provides guidance to Federal agencies in the use of alkaline and permanent papers. Permanent or alkaline papers are recommended for all Federal records; at least alkaline for routine use; and permanent in offices that create and file a high proportion of long-term and permanent records.

There has been a notable increase in the availability of permanent and alkaline paper for Government use. When Public Law was enacted in 1990, the Joint Committee on Printing listed only one grade of permanent paper. In 1995 it had four; plus 16 grades of alkaline paper.

The General Services Administration provides papers for purchase by Federal agencies that match the standards set by the Joint Committee on Printing.

The executive branch has ruled that the requirements of Executive Order 12873 mandating the use of recycled paper by Federal agencies are not to conflict in any way with the concurrent requirement for permanent paper use.

The National Endowment for the Humanities and the National Historical Records Commission mandate the use of permanent and alkaline papers in projects they fund.

The National Library of Medicine has carried on a remarkably successful, and little recognized, campaign to ensure that the world's biomedical journals are printed on alkaline or permanent paper. This effort was started in 1988. Then only 4 percent of the 3,000 journals throughout the world that were indexed in the Library's Index Medicus were being printed on alkaline paper. Due in large part to the Library's campaign, this figure had risen by April 1995 to 91 percent.

PROGRESS IN THE PRIVATE SECTOR

The ultimate success of the permanent paper campaign depends on inducing changes in the nongovernmental sector. Governments—Federal, State, and local—primarily produce documents, many of which, of course, need to be preserved. But publications, the carriers of our literature, culture, history and science, are overwhelmingly produced by private publishers, profit and nonprofit. These publishers had to be persuaded to use permanent paper and the paper mills had to be persuaded to produce it. Publishers would not use permanent paper, even if they thought they should, because it was not easily available at competitive prices. Paper manufacturing companies saw no reason to shift to an alkaline process lacking a strong demand from publishers.

It was here that the development of standards for permanent paper played an important role. These were developed primarily in the private sector by a collaborative effort of profit and nonprofit organizations, but with participation also of Government agencies. Such standards enable publishers to state their permanent paper requirements without having to develop, by themselves, the specifications included in their paper purchasing contracts. We have already taken note of the 1992 American National Standard ANSI/NISO, which was first developed by the library and publishing committee of the American National Standards Institute in 1984 and subsequently revised and expanded in 1992. Standards had also been developed by the American Society for Testing and Materials and the Council on Library Resources. Since publishing, paper manufacturing, and libraries are not confined to national boundaries, it was appropriate that an international standard for permanent paper compatible with the American standard should be published in 1994.

In the spring of 1988, the New York Public Library began a campaign, jointly with well-known authors, to get book publishers to use alkaline or permanent paper. Public pledges to this effect were secured from prominent publishing houses. The industry trade group, the Association of American Publishers, gave its endorsement to the campaign. University presses—publishers of scholarly, scientific, and historical works, had earlier recognized the problem of paper deterioration and had begun to use alkaline paper for their relatively small editions. They have not only been the most faithful in doing so, but also in noting this fact in the books themselves and in the bibliographic information provided to the Library of Congress under the Cataloging in Publication program.

But the most gratifying development in the private sector in the past several years has been the great increase in the production of permanent papers in the United States and Canada. A 1988 report of the Congressional Office of Technology Assessment had estimated that only 15 to 25 percent of the books produced in the United States were on acid-free paper and predicted that this percentage was unlikely to change. It now appears that this prediction has proven to be unduly cautious.

Two indications of this production increase may be noted. The first is the fact that 99.9 percent of book papers procured through bulk purchase by the Government Printing Office in 1995 were alkaline. The second is the information provided in North American Permanent Papers 1995, published as a public service by Abbey Publications of Austin, Texas. This catalog of papers produced by 34 United States and Canadian companies lists by brand name 423 different papers that are reported to meet the specifications of the 1994 ANSI/NISO permanent paper standard.

The great increase in permanent paper production has come about primarily through the conversion of existing paper mills from acid to alkaline processes, a shift encouraged by regulations issued under the Clean Water Act, requiring the reduction of pollution of streams by the effluent of paper mills. Conversion to an alkaline process reduces this pollution, but also results in the production of paper at the same or lesser cost. The happy result was that environmental preservation helped to promote the availability of acid-free paper.

PROGRESS IN THE STATES

Connecticut led the way to conversion to permanent paper at the State level. As a result of a campaign led by the State Librarian, the first statute was enacted in 1988. Subsequently additional legislation extended the use long-lived paper to most State and local documents. In later years many other States took action, either by legislation or administrative rulings, to require alkaline or permanent paper use to some degree. But few went as far as Connecticut. The progress of State legislation was stimulated by three letters to State Governors from the U.S. National Commission on Libraries and Information Services calling attention to developments under the Federal law and requesting information on State activity. The last such survey, jointly with the Library of Congress, was conducted in July 1995. In the third report the following 21 States were listed as having taken some kind of action: Arizona, Colorado, Connecticut, Florida, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Missouri, Montana, Nebraska, New Mexico, North Carolina, Rhode Island, South Dakota, Tennessee, Virginia, Washington, West Virginia, and Wisconsin. Utah has now been added to that list.

INTERNATIONAL

The international library community had long been aware of the problem of brittle books. The subject was discussed as early as the 1920's at a conference in Europe. It was not until 1989, however, that the first resolution urging action was adopted by the International Federation of Library Associations and Institutions [IFLA]. A similar resolution was adopted that same year by the International Association of Publishers. Note has already been taken of the impact of the program of the U.S. National Library of

Medicine on biomedical journals throughout the world.

Nevertheless, until recently European publishers and governments lagged behind this country. A 1993 survey of 142 publishers in 17 European countries reported that: 31 did not know that most currently used book paper becomes brittle after 50 years; and 90 were unaware of the ANSI/NISO permanent paper standards. Governments, with some notable exceptions, have been slow to require the use permanent paper by legislation or administrative regulations, even with respect to their own publications and documents. The same has been true of the agencies of the United Nations. But in the last couple of years the pace has picked up. A number of European organizations, both official and private, are now actively promoting permanent paper. European paper manufactures contributed to a 1994 catalog listing about 100 different permanent papers being sold by 26 paper mills or their agents—papers meeting the specifications of the 1992 American National Standard.

SUMMARY

It is now 9 years since I first raised the question with Librarian of Congress Billington as to whether something could not be done to bring to an end the indefinite production of brittle books. Enormous progress been made—at least in the United States, in Canada, in much of Europe, and in Japan—in the production of books, other publications, and documents on paper which should endure for several centuries, instead of self-destructing in less than 100 years. Many individuals and organizations, public and private, have contributed to this result—some known to me and others not. I note once again the efforts of Robert Frase in this connection. We owe them all a debt of gratitude. I celebrate the fact that the Congress and Federal agencies have made major contributions to this progress in a variety of ways, not the least of which has been through the passage and the implementation of Public Law 101–423 to establish a National Policy on Permanent Papers.

EXTRADITION OF MARTIN PANG FROM BRAZIL TO THE UNITED STATES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 132, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 132) relating to the extradition of Martin Pang from Brazil to the United States.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. GORTON. Mr. President, on January 5, 1995, four firefighters were killed in a blaze in Seattle's International District. After intensive investigations by the Seattle police and fire departments, the King County Prosecutor's Office, the U.S. Attorney General's Office, and the Bureau of Alcohol, Tobacco and Firearms, Martin S. Pang was charged with deliberately setting his parents' seafood warehouse on fire to collect insurance money. In January of 1995, Mr. Pang fled to Brazil where he stayed until March 1, 1996. He was extradited on the condition that murder charges not be brought against him.

The focus of this resolution is on that extradition, and why those conditions should be waived by the Brazilian Government to see that justice is fully served. You see, Mr. President, under the extradition treaty we have with Brazil, criminal suspects may only be extradited to face charges for crimes that exist in both countries. In Brazil, murder as a result of arson is not a crime. It is in the United States.

Martin Pang's pretrial hearing is scheduled for October 8, 1996. Under the conditions of our extradition treaty, the Brazilian Supreme Court ruled that Pang could be returned to the States to face arson charges only. Murder, a crime of which he has been accused and which he should stand trial for, is not an option. There is recourse, however. The United States Government believes that under our extradition treaty, the executive branch of Brazil has the authority to consent to the prosecution of Martin Pang on felony murder charges, despite the Brazilian Supreme Court's ruling. By doing so in this case, Brazil would give its consent for the United States to try Pang on all of the charges which have been brought against him.

This resolution sends a strong message to the Brazilian Government. Four firefighters died doing their job honorably. It is no less our responsibility to see that the accused be tried for the full scope of his crime.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution be deemed agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 132) was agreed to.

RAILROAD UNEMPLOYMENT INSURANCE AMENDMENTS ACT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2594, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2594) to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2594) was deemed read a third time, and passed.

MEDICARE AND MEDICAID COVERAGE DATA BANK

Mr. GRASSLEY. I ask unanimous consent that the Finance Committee be discharged of H.R. 2685, and further the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2685) to repeal the Medicare and Medicaid Coverage Data Bank.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2685) was deemed read for a third time and passed.

SOCIAL SECURITY ACT AMENDMENT

Mr. GRASSLEY. I ask unanimous consent the Finance Committee be discharged of H.R. 2366, and further the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2366) to repeal an unnecessary medical device reporting requirement.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2366) was deemed read for a third time and passed.

CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985 AMENDMENT

Mr. GRASSLEY. I ask unanimous consent the Finance Committee be discharged of H.R. 3056, and further the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3056) to permit a county-operated health insuring organization to qualify as an organization exempt from certain requirements otherwise applicable to health ensuring organizations under the Medicaid Program notwithstanding that the organization enrolls Medicaid beneficiaries residing in another county.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements pertaining to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3056) was deemed read for a third time and passed.

NATIONAL PHYSICAL FITNESS AND SPORTS FOUNDATION ESTABLISHMENT ACT

Mr. GRASSLEY. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 550, and that happens to be S. 1311.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1311) to establish a National Fitness and Sports Foundation to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5403

(Purpose: To make minor and technical changes in the bill as reported)

Mr. GRASSLEY. Senator PRESSLER has an amendment at the desk that would make technical corrections. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. PRESSLER, proposes an amendment numbered 5403.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 8, strike "nonprofit" and insert "not for profit".

On page 2, line 10, after the period insert the following: "The Foundation shall be established as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and shall be presumed, for purposes of such Code, to be such an organization until the Secretary of the Treasury determines that the Foundation does not meet the requirements applicable to such an organization. Section 508(a) of such Code does not apply to the Foundation.".

On page 5, line 8, after the period, insert the following: "The three members appointed by the Secretary shall include the representative of the United States Olympic Committee.".

On page 5, line 21, after the period insert the following: "The Chairman of the President's Council on Physical Fitness shall serve as Chairperson until a Chairperson is elected by the Board.".

On page 12, line 4, strike "contributions," and insert "contributions,".

Mr. PRESSLER. Mr. President, I am pleased to bring to the Senate S. 1311, the National Physical Fitness and Sports Foundation Establishment Act. S. 1311, would create a charitable, not-for-profit foundation to actively raise private funds to support the activities of the President's Council on Physical Fitness, President's Council.

In the past, the President's Council has relied on Federal appropriations to support its activities. Future appropriations for the President's Council are unlikely as we strive to balance the Federal budget.

The Foundation created by this bill would raise private funds to sustain the President's Council on Physical Fitness. To facilitate fund-raising, the Foundation is permitted to offer the use of the seal of the President's Council for promotional purposes in exchange for sponsorship funds. The bill does not authorize the expenditure of Federal funds.

The goals of the President's Council are identified in Executive Order 12345. The primary goal is to foster programs that encourage people of all ages to participate regularly in sports and physical activities. Perhaps the Council's most well known activity is the President's Challenge Physical Fitness Awards Program which is administered by teachers and youth programs in every State. We should act to preserve the President's Council. Its activities are particularly important because our Nation's children are becoming increasingly less physically fit even as we learn that physical fitness in one's youth is important to living a healthy life during adulthood.

Senators CAMPBELL and BRADLEY introduced this bill in October 1995. The Committee on Commerce, Science, and Transportation unanimously ordered the bill reported on June 6, 1996. I have an amendment that makes certain technical modifications to the bill. I urge my colleagues to support this worthy legislation.

Mr. GRASSLEY. I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5403) was agreed to.

The bill (S. 1311), as amended, was deemed read for a third time and passed as follows:

S. 1311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Physical Fitness and Sports Foundation Establishment Act".

SEC. 2. ESTABLISHMENT AND PURPOSE OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the National Physical Fitness and Sports Foundation (hereinafter in this Act referred to as the "Foundation"). The Foundation shall be a charitable and not for profit corporation and shall not be an agency or establishment of the United States. The Foundation shall be established as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and shall be presumed, for purposes of such Code, to be such an organization until the Secretary of the Treasury determines that the Foundation does not meet the requirements applicable to such an organization. Section 508(a) of such Code does not apply to the Foundation.

(b) PURPOSES.—It is the purpose of the Foundation to—

(1) in conjunction with the President's Council on Physical Fitness and Sports, develop a list and description of programs, events and other activities which would further the goals outlined in Executive Order 12345 and with respect to which combined private and governmental efforts would be beneficial; and

(2) encourage and promote the participation by private organizations in the activities referred to in subsection (b)(1) and to encourage and promote private gifts of money and other property to support those activities.

(c) DISPOSITION OF MONEY AND PROPERTY.—At least annually the Foundation shall transfer, after the deduction of the administrative expenses of the Foundation, the balance of any contributions received for the activities referred to in subsection (b), to the Public Health Service Gift Fund pursuant to section 231 of the Public Health Service Act (42 U.S.C. 238) for expenditure pursuant to the provisions of that section and consistent with the purposes for which the funds were donated.

SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—

(1) IN GENERAL.—The Foundation shall have a governing Board of Directors (hereinafter referred to in this Act as the "Board"), which shall consist of nine Directors, to be appointed not later than 90 days after the date of enactment of this Act, each of whom shall be a United States citizen and—

(A) three of whom must be knowledgeable or experienced in one or more fields directly connected with physical fitness, sports or the relationship between health status and physical exercise; and

(B) six of whom must be leaders in the private sector with a strong interest in physical fitness, sports or the relationship between health status and physical exercise (one of which shall be a representative of the United States Olympic Committee).

The membership of the Board, to the extent practicable, shall represent diverse professional specialties relating to the achievement of physical fitness through regular participation in programs of exercise, sports and similar activities.

(2) EX OFFICIO MEMBERS.—The Assistant Secretary for Health, the Executive Director of the President's Council on Physical Fitness and Sports, the Director for the National Center for Chronic Disease Prevention and Health Promotion, the Director of the National Heart, Lung, and Blood Institute and the Director for the Centers for Disease Control and Prevention shall serve as ex officio, nonvoting members of the Board.

(3) NOT FEDERAL EMPLOYMENT.—Appointment to the Board or serving as a member of the staff of the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal employment or other law.

(b) APPOINTMENT AND TERMS.—

(1) APPOINTMENT.—Of the members of the Board appointed under subsection (a)(1), three shall be appointed by the Secretary of Health and Human Services (hereinafter referred to in this Act as the "Secretary"), two shall be appointed by the Majority Leader of the Senate, one shall be appointed by the Minority Leader of the Senate, two shall be appointed by the Speaker of the House of representatives, and one shall be appointed by the Minority Leader of the House of Representatives. The three members appointed by the Secretary shall include the representative of the United States Olympic Committee.

(2) TERMS.—Members appointed to the Board under subsection (a)(1) shall serve for a term of 6 years. A vacancy on the Board shall be filled within 60 days of the date on which such vacancy occurred in the manner in which the original appointment was made. A member appointed to fill a vacancy shall serve for the balance of the term of the individual who was replaced. No individual may serve more than two consecutive terms as a Director.

(c) CHAIRPERSON.—A Chairperson shall be elected by the Board from among its members and serve for a 2-year term. The Chairperson shall not be limited in terms or service. The Chairman of the President's Council on Physical Fitness shall serve as Chairperson until a Chairperson is elected by the Board.

(d) QUORUM.—A majority of the sitting members of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the Chairperson, but in no event less than once each year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and the vacancy filled in accordance with subsection (b)(2).

(f) REIMBURSEMENT OF EXPENSES.—The members of the Board shall serve without pay. The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(g) GENERAL POWERS.—

(1) ORGANIZATION.—The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provision of this Act; and

(C) undertaking such other acts as may be necessary to carry out the provisions of this Act.

In establishing bylaws under this paragraph, the Board shall provide for policies with regard to financial conflicts of interest and ethical standards for the acceptance, solicitation and disposition of donations and grants to the Foundation.

(2) LIMITATIONS ON OFFICERS AND EMPLOYEES.—The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to compensate such individuals for their service. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for Executive Level V in the Federal service.

(B) The first officer or employee appointed by the Board shall be the secretary of the Board who—

(i) shall serve, at the direction of the Board, as its chief operating officer; and

(ii) shall be knowledgeable and experienced in matters relating to physical fitness and sports.

(C) No Public Health Service employee nor the spouse or dependent relative of such an employee may serve as an officer or member of the Board of Directors or as an employee of the Foundation.

(D) Any individual who is an officer, employee, or member of the Board of the Foundation may not (in accordance with the policies developed under paragraph (1)(B)) personally or substantially participate in the consideration or determination by the Foundation of any matter that would directly or predictably affect any financial interest of the individual or a relative (as such term is defined in section 109(16) of the Ethics in Government Act of 1978) of the individual, of any business organization or other entity, or of which the individual is an officer or employee, or is negotiating for employment, or in which the individual has any other financial interest.

SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall locate its principal offices in or near the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out the purposes under section 2, the Foundation shall have the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) except as otherwise provided herein, to accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

(4) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except for gross negligence;

(5) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(6) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

For purposes of this Act, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

SEC. 5. PROTECTION AND USES OF TRADEMARKS AND TRADE NAMES.

(a) PROTECTION.—Without the consent of the Foundation, in conjunction with the President's Council on Physical Fitness and Sports, any person who uses for the purpose of trade, to induce the sale of any goods or services, or to promote any theatrical exhibition, athletic performance or competition—

(1) the official seal of the President's Council on Physical Fitness and Sports consisting of the eagle holding an olive branch and arrows with shield breast encircled by name "President's Council on Physical Fitness and Sports";

(2) the official seal of the Foundation;

(3) any trademark, trade name, sign, symbol or insignia falsely representing association with or authorization by the President's Council on Physical Fitness and Sports or the Foundation;

shall be subject in a civil action by the Foundation for the remedies provided for in the Act of July 9, 1946 (60 Stat. 427; commonly known as the Trademark Act of 1946).

(b) USES.—The Foundation, in conjunction with the President's Council on Physical Fitness and Sports, may authorize contributors and suppliers of goods or services to use the trade name of the President's Council on Physical Fitness and Sports and the Foundation, as well as any trademark, seal, symbol, insignia, or emblem of the President's Council on Physical Fitness and Sports or the Foundation, in advertising that the contributions, goods or services when donated, supplied, or furnished to or for the use of, approved, selected, or used by the President's Council on Physical Fitness and Sports or the Foundation.

SEC. 6. VOLUNTEER STATUS.

The Foundation may accept, without regard to the civil service classification laws, rules, or regulations, the services of volunteers in the performance of the functions authorized herein, in the same manner as provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

SEC. 7. AUDIT, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of Public Law 88–504 (36 U.S.C. 1101 et seq.), the Foundation shall be treated as a private corporation under Federal law. The Inspector General of the Department of Health and Human Services and the Comptroller General of the United States shall have access to the financial and other records of the Foundation, upon reasonable notice.

(b) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to the Secretary and to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice or policy that is inconsistent with the purposes described in section 2(b); or

(2) refuses, fails, or neglects to discharge its obligations under this Act, or threaten to do so;

the Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GRASSLEY. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar, en bloc: Calendar Nos. 747 through 755, and all nominations placed on the Secretary's desk in the Air Force, the Army, the Marine Corps, and the Navy. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

AIR FORCE

The following-named officer for appointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Joseph J. Redden, [redacted]

The following-named officers for appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of title 10 United States Code, sections 8374, 12201, and 12212:

To be brigadier general

Col. William J. Broadley, [redacted] Air National Guard of the United States.
Col. Walter R. Ernst II, [redacted] Air National Guard of the United States.
Col. Dennis A. Higdon, [redacted] Air National Guard of the United States.
Col. Enrique J. Lanz, [redacted] Air National Guard of the United States.
Col. Thomas P. Lauppe, [redacted] Air National Guard of the United States.
Col. James A. McDevitt, [redacted] Air National Guard of the United States.
Col. Joseph I. Mensching, [redacted] Air National Guard of the United States.
Col. Fisk Outwater, [redacted] Air National Guard of the United States.
Col. Lawrence L. Paulson, [redacted] Air National Guard of the United States.
Col. Maxey J. Phillips, [redacted] Air National Guard of the United States.
Col. Wallace F. Pickard, Jr., [redacted] Air National Guard of the United States.
Col. Richard A. Platt, [redacted] Air National Guard of the United States.
Col. John C. Schnell, [redacted] Air National Guard of the United States.
Col. Allen J. Smith, [redacted] Air National Guard of the United States.
Col. Paul J. Sullivan, [redacted] Air National Guard of the United States.
Col. Michael H. Tice, [redacted] Air National Guard of the United States.

ARMY

The following-named officers for promotion in the Regular Army of the United States to the grade indicated, under title 10, United States Code, sections 611(a) and 624:

To be brigadier general

Col. John P. Abizaid [redacted] U.S. Army.
Col. Daniel L. Montgomery [redacted] U.S. Army.

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

To be brigadier general

Col. Lloyd E. Krase, [redacted]

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

To be brigadier general

Col. Paul J. Glazar, [redacted]

The following-named officer for appointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Douglas D. Buchholz, [redacted] U.S. Army.

The following-named Army Competitive Category officers for promotion in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, United States Code, sections 611(a) and 624(c):

To be brigadier general

Col. Anders B. Aadland [redacted]
Col. Lawrence R. Adair [redacted]
Col. Robert E. Armbruster, Jr. [redacted]
Col. Raymond D. Barrett, Jr. [redacted]
Col. Joseph L. Bergantz [redacted]
Col. William L. Bond [redacted]
Col. Colby M. Broadwater III [redacted]
Col. James D. Bryan [redacted]
Col. Kathryn G. Carlson [redacted]
Col. John P. Cavanaugh [redacted]
Col. Richard A. Cody [redacted]
Col. Billy R. Cooper [redacted]
Col. John M. Curran [redacted]
Col. Peter M. Cuviello [redacted]
Col. Dell L. Dailey [redacted]
Col. John J. Deyermond [redacted]
Col. James M. Dubik [redacted]
Col. John P. Geis [redacted]
Col. Larry D. Gottardi [redacted]
Col. James J. Grazioplene [redacted]
Col. Robert H. Griffin [redacted]
Col. Richard A. Hack [redacted]
Col. Wayne M. Hall [redacted]
Col. William P. Heilman [redacted]
Col. Russel L. Honore [redacted]
Col. James T. Jackson [redacted]
Col. Terry E. Juskowiak [redacted]
Col. Geoffrey C. Lambert [redacted]
Col. William J. Leszczynski [redacted]
Col. Wade H. McManus, Jr. [redacted]
Col. Richard J. Quirk III [redacted]
Col. William H. Russ [redacted]
Col. Donald J. Ryder [redacted]
Col. John K. Schmitt [redacted]
Col. Walter L. Sharp [redacted]
Col. Toney Stricklin [redacted]
Col. Frank J. Toney, Jr. [redacted]
Col. Alfred A. Valenzuela [redacted]
Col. John R. Vines [redacted]
Col. Craig B. Whelden [redacted]
Col. Roy S. Whitcomb [redacted]
Col. Robert Wilson [redacted]
Col. Walter Wojdakowski [redacted]
Col. Joseph L. Yakovac, Jr. [redacted]

The following-named officer for reappointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code section 601(a):

To be lieutenant general

Lt. Gen. Jay M. Garner [redacted]

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code sections 3385, 3392 and 12203(a):

To be brigadier general

Col. Frank A. Avallone [redacted]

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY+

Air Force nomination of Wendell R. Keller, which was received by the Senate and appeared in the Congressional Record of September 19, 1996.

Air Force nominations beginning Sean P. Abell, and ending Timothy T. Wilday, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 1996.

Air Force nominations beginning Randall R. Ball, and ending David B. Gruber, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 1996.

Air Force nominations beginning James E. Ball, and ending Phyllis M. Campbell, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 1996.

Army nominations beginning Ernest R. Adkins, and ending Raymond F. Root, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 1996.

Army nominations beginning William A. Ayers, Jr., and ending Jeffery Hart, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 1996.

Marine Corps nomination of Robert T. Bader, which was received by the Senate and appeared in the Congressional Record of September 13, 1996.

Marine Corps nomination of Wayne D. Szymczyk, which was received by the Senate and appeared in the Congressional Record of September 13, 1996.

Navy nominations beginning Brian G. Buck, and ending Eric M. Van Meter, which nominations were received by the Senate and appeared in the Congressional Record of November 7, 1995.

Navy nominations beginning Jeffery L. Bennett, and ending Steven A. Swittel, which nominations were received by the Senate and appeared in the Congressional Record of December 11, 1995.

Navy nominations beginning Rufus S. Abernethy, III, and ending James A. Weselis, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 1996.

Navy nominations beginning Glenn F. Abad, and ending Russell L. Wyckoff, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1996.

TRIBUTE TO JAMES McDEVITT

Mr. GORTON. Mr. President, today I want to recognize James A. McDevitt, who has just been promoted to brigadier general in the Washington Air National Guard. I take special pleasure in offering my congratulations because Jim is a friend and former colleague; for 5 years, he worked for me in the State attorney general's office as assistant attorney general. He is also my frequent host when I go to Spokane to run in the wonderful Bloomsday race.

Jim has served this country for three decades. He was trained as a navigator and bombardier, and went on to serve as a weapons systems officer and flight examiner in the late 1960's and early 1970's. His assignments took him to Korea, Thailand, Vietnam, Spain, Germany, and England.

In January 1971, Jim joined the 116th Fighter Interceptor Squadron, Washington Air National Guard, as a radar intercept officer in the F–101. When the unit converted to KC–135 Air Refueling aircraft, he became a navigator and has maintained that qualification since.

At the time of the gulf war, Jim was the squadron commander of the 116th Air Refueling Squadron. When hostilities broke out in August 1990, Jim and a group of Washington flyers volunteered for 30-day active duty tours. As the Nation faced a new crisis in the Middle East, the Guard stepped up. At first, most of their duties involved ferrying material from one air base to another, within the United States. Our victory in the gulf was due in no small part to the magnificent logical prowess of the U.S. Armed Services, and Jim contributed to America's success.

Throughout the months leading to actual combat, Jim continued volunteering for active duty work, making 2-week rotations all through September, October, and November. Jim's active duty call up came on December 20, 1990. Along with 325 brave men and women from the Spokane area, Jim deployed to the gulf region to be absorbed in the active duty Air Force. Half of Jim's squadron went to Cairo, Egypt. The other half, including Jim, flew to Jeddah, Saudi Arabia to join with active duty components. It is important to note here the adaptability of our Guard forces. With superior training and total dedication, the Washington State Air National Guard linked with the regular Air Force to form an active duty squadron—the 1709th Air Refueling Squadron provisional. Jim not surprisingly, was second in command.

With bankers, teachers, lawyers, housewives, contractors, judges, and active duty personnel, this squadron represented 50 airplanes, 80 crews, and 320 crew members for 8 different States. Home based in Jeddah, from the December 31 to January 15, 1991, Jim and his team planned now they were going to wage a war. They planned well.

As he tells it, the morning of January 16, 1991—the start of the war—was the most difficult day in Jim's life. Commanding officers were prohibited from flying in sorties during the first missions. So Jim had to wait and pray that his comrades, men and women he had flown with for 25 years, would come back safely. Of course they all performed brilliantly, as did Jim, and this Nation is better off for their hard work and patriotism.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

ORDERS FOR THURSDAY, SEPTEMBER 26, 1996

Mr. GRASSLEY. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Thursday, September 26; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and I further ask the Senate immediately begin the veto message to accompany H.R. 1833, the partial-birth abortion bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. GRASSLEY. For the information of all Senators, the Senate will vote on the veto message with respect to the partial-birth abortion bill, hopefully by early afternoon on Thursday. The Senate can also be expected to consider any and all of the following items: Immigration conference report, Presidio Park conference report, NIH authorization bill, the pipeline safety bill.

In addition, the Senate can also be expected to begin, if available, the omnibus appropriation bill making continuing appropriations for fiscal year 1997. Therefore, votes can be expected throughout Thursday's session of the Senate, and Senators should be prepared to be in session late each night for the remainder of the session in an effort to adjourn the 104th Congress prior to the new fiscal year, which begins Tuesday, October 1.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. GRASSLEY. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:33 p.m, adjourned until Thursday, September 26, 1996, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 25, 1996:

FEDERAL ELECTION COMMISSION

KELLY D. JOHNSTON, OF OKLAHOMA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2001, VICE JOAN D. AIKENS, TERM EXPIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 25, 1996:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JOSEPH J. REDDEN, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10 UNITED STATES CODE, SECTIONS 8374, 12201, AND 12212:

To be brigadier general

COL. WILLIAM J. BROADLEY, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. WALTER R. ERNST II [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DENNIS A. HIGDON, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. ENRIQUE J. LANZ, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. THOMAS P. LAUPPE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JAMES A. MCDEVITT, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JOSEPH I. MENSCHING, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. FISK OUTWATER, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. LAWRANCE L. PAULSON, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. MAXEY J. PHILLIPS [redacted], AIR NATIONAL GUARD OF THE UNITED STATES.
COL. WALLACE F. PICKARD, JR., [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. RICHARD A. PLATT, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JOHN C. SCHNELL, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. ALLEN J. SMITH [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. PAUL J. SULLIVAN [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. MICHAEL H. TICE, 0214, AIR NATIONAL GUARD OF THE UNITED STATES.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be brigadier general

COL. JOHN P. ABIZAID [redacted] U.S. ARMY.
COL. DANIEL L. MONTGOMERY [redacted] U.S. ARMY.

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICER FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 3385, 3392 AND 12203(A):

To be brigadier general

COL. LLOYD E. KRASE [redacted]

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICER FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 3385, 3392 AND 12203(A):

To be brigadier general

COL. PAUL J. GLAZAR [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. DOUGLAS D. BUCHHOLZ, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED ARMY COMPETITIVE CATEGORY OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be brigadier general

COL. ANDERS B. AADLAND, [redacted]
COL. LAWRENCE R. ADAIR, [redacted]
COL. ROBERT E. ARMBRUSTER, JR., [redacted]
COL. RAYMOND D. BARRETT, JR., [redacted]
COL. JOSEPH L. BERGANTZ, [redacted]
COL. WILLIAM L. BOND, [redacted]
COL. COLBY M. BROADWATER III, [redacted]
COL. JAMES D. BRYAN, [redacted]
COL. KATHRYN G. CARLSON, [redacted]
COL. JOHN P. CAVANAUGH, [redacted]
COL. RICHARD A. CODY, [redacted]
COL. BILLY R. COOPER, [redacted]
COL. JOHN M. CURRAN, [redacted]
COL. PETER M. CUVIELLO, [redacted]
COL. DELL L. DAILEY, [redacted]
COL. JOHN J. DEYERMOND, [redacted]
COL. JAMES M. DUBIK, [redacted]
COL. JOHN P. GEIS, [redacted]
COL. LARRY D. GOTTARDI, [redacted]
COL. JAMES J. GRAZIOPLENE, [redacted]
COL. ROBERT H. GRIFFIN, [redacted]
COL. RICHARD A. HACK, [redacted]
COL. WAYNE M. HALL, [redacted]
COL. WILLIAM P. HEILMAN, [redacted]
COL. RUSSELL L. HONORE, [redacted]
COL. JAMES T. JACKSON, [redacted]
COL. TERRY E. JUSTKOWIAK, [redacted]
COL. GEOFFREY C. LAMBERT, [redacted]
COL. WILLIAM J. LESZCZYNSKI, [redacted]
COL. WADE H. MCMANUS, JR., [redacted]
COL. RICAHRD J. QUIRK III, [redacted]
COL. WILLIAM H. RUSS, [redacted]
COL. DONALD J. RYDER, [redacted]
COL. JOHN K. SCHMITT, [redacted]
COL. WALTER L. SHARP, [redacted]
COL. TONEY STRICKLIN, [redacted]
COL. FRANK J. TONEY, JR., [redacted]
COL. ALFRED A. VALENZUELA, [redacted]
COL. JOHN R. VINES, [redacted]
COL. CRAIG B. WHELDEN, [redacted]
COL. ROY S. WHITCOMB, [redacted]
COL. ROBERT WILSON, [redacted]
COL. WALTER WOJDAKOWSKI, [redacted]
COL. JOSEPH L. YAKOVAC, JR., [redacted]

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. JAY M. GARNER, [redacted]

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICER FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 3385, 3392 AND 12203(A):

To be brigadier general

COL. FRANK A. AVALLONE, [redacted]

IN THE AIR FORCE

AIR FORCE NOMINATION OF WENDELL R. KELLER WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 19, 1996.

AIR FORCE NOMINATIONS BEGINNING SEAN P. ABELL, AND ENDING TIMOTHY T. WILDAY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 1996.

AIR FORCE NOMINATIONS BEGINNING RANDALL R. BALL, AND ENDING DAVID B. GRUBLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 1996.

AIR FORCE NOMINATIONS BEGINNING JAMES E. BALL, AND ENDING PHYLLIS M. CAMPBELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 1996.

IN THE ARMY

ARMY NOMINATIONS BEGINNING ERNEST R. ADKINS, AND ENDING RAYMOND F. ROOT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 1996.

ARMY NOMINATIONS BEGINNING WILLIAM A. AYERS, JR., AND ENDING JEFFREY HART, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 1996.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF ROBERT T. BADER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 13, 1996.

MARINE CORPS NOMINATION OF WAYNE D. SZYMCZYK, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 13, 1996.

IN THE NAVY

NAVY NOMINATIONS BEGINNING BRIAN G. BUCK, AND ENDING ERIC M. VAN METER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 7, 1995.

NAVY NOMINATIONS BEGINNING JEFFRY L. BENNETT, AND ENDING STEVEN A. SWITTEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 11, 1995.

NAVY NOMINATIONS BEGINNING RUFUS S. ABERNETHY III, AND ENDING JAMES A. WESELIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 1996.

NAVY NOMINATIONS BEGINNING GLENN F. ABAD, AND ENDING RUSSELL L. WYCKOFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 9, 1996.

HOUSE OF REPRESENTATIVES—*Wednesday, September 25, 1996*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Oh gracious God, as we seek to do the works of justice in our land, we know that You have called us to be messengers of reconciliation and understanding in all we do. May we build bridges of respect between people and sense the unity that we share by Your hand. Help us to recognize that though we differ on how we will achieve the goals to which we strive, we can honor each person, respect the differences that are ever with us, and seek to strengthen the unity and the bonds of trust that can knit us together as one people. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Michigan [Mr. KNOLLENBERG] come forward and lead the House in the Pledge of Allegiance.

Mr. KNOLLENBERG led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1350. An act to amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, and for other purposes.

H.R. 2504. An act to designate the Federal Building located at the corner of Patton Avenue and Otis Street, and the United States Courthouse located on Otis Street, in Asheville, North Carolina, as the "Veach-Baley Federal Complex."

H.R. 3186. An act to designate the Federal building located at 1655 Woodson Road in Overland, Missouri, as the "Sammy L. Davis Federal Building."

H.R. 3400. An act to designate the Federal building and United States courthouse to be constructed at a site on 18th Street between Dodge and Douglas Streets in Omaha, Nebraska, as the "Roman L. Hruska Federal Building and United States Courthouse."

H.R. 3710. An act to designate the United States courthouse under construction at 611 North Florida Avenue in Tampa, Florida, as the "Sam M. Gibbons United States Courthouse."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2660. An act to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge.

H.R. 3546. An act to direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3666) "An Act making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes."

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested.

S. 1802. An act to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes.

S. 1875. An act to designate the United States courthouse in Medford, Oregon, as the "James A. Redden Federal Courthouse".

S.J. Res. 64. Joint resolution to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize ten 1-minutes on each side.

A SAD STATE OF AFFAIRS

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, the Democratic Party finds itself in a very sad state of affairs. Instead of engaging the Republican Party on issues of importance to the American people, liberal Democrats come to the floor of the House engaged in a campaign to destroy the reputation of one man.

But I say to my colleagues, tearing down one man will not elevate the lives of the American people. Engaging in a smear campaign will not ease the worries of working Americans. The voters do not care about the personal insults we hurl at one another on this floor. They care about their children and the future we leave them. They care about the sad state of education in this country. They worry about crime and drugs, and they struggle under the burden of an insane Tax Code.

I ask my colleagues this one question:

Does that venom with which you speak to the C-SPAN cameras reflect well on the House of Representatives?

I urge my colleagues to think first about this Nation and the reputation of this House and leave the personal attacks in the gutter where they belong.

RELEASE THE SPECIAL COUNSEL'S REPORT ON NEWT GINGRICH

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I am not going to call the Speaker a liar. But it is a fact that the Speaker has not been telling the media the whole truth about the findings of the Committee on Standards of Official Conduct. The Committee on Standards of Official Conduct has found him guilty of six charges.

And I am not going to call the Speaker a law violator even though it appears that the Speaker participated in a scheme to use nonprofit corporation's tax-free contributions for political purposes. That is against the law.

It is quite clear that the Speaker has instructed "Stonewall" not to release the special counsel's report. Why not? Because the report will show that the Speaker——

POINT OF ORDER

Mr LINDER. Point of order, Mr. Speaker.

The SPEAKER pro tempore (Mr. CAMP). The gentleman will state his point of order.

Mr. LINDER. The gentleman from Missouri is referring to matters before the Committee on Standards of Official Conduct, which is explicitly against the House rules.

The SPEAKER pro tempore. The Chair sustains the point of order, and the gentleman must proceed in order.

Mr. VOLKMER. Because the report will show that the Speaker is not the

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

lily-white angel his supporters say he is, let us remove this dark cloud that hangs over these Chambers.

NANCY "Stonewall" JOHNSON, release the special counsel's report on NEWT GINGRICH.

POINT OF ORDER

Mr. LINDER. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. LINDER. Mr. Speaker, at what point does the Chair decide that these scurrilous attacks on personalities and this abuse of the House rules becomes so out of order that people are asked to take their seat?

Mr. VOLKMER. Release the report.

The SPEAKER pro tempore As stated on September 8 by the Chair, at some point the Chair will put it to the entire House to determine whether Members who continually violate the rules will continue to proceed in order.

□ 1015

PARLIAMENTARY INQUIRY

Mrs. SCHROEDER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. CAMP). The gentlewoman will state the parliamentary inquiry.

Mrs. SCHROEDER. Mr. Speaker, is there not a way that the gentleman from Georgia could test the gentleman from Missouri's words if he wished to?

The SPEAKER pro tempore. The Chair will answer that question if that situation arises.

Mrs. SCHROEDER. Parliamentary inquiry, Mr. Speaker. Is there not a customary way that this procedure is normally done, rather than asking the Chair to enforce that?

The SPEAKER pro tempore. The Chair is proceeding under announced established practices at this point.

INTRODUCTION OF THE JACKIE ROBINSON COMMEMORATIVE COIN ACT

(Mr. FRANKS of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKS of New Jersey. Mr. Speaker, yesterday I was joined by Congressman FLOYD FLAKE in introducing legislation entitled the Jackie Robinson Commemorative Coin Act. Our bill authorizes the minting of one-dollar coins to commemorate the 50th anniversary of the breaking of the color barrier in major league baseball by Jackie Robinson.

Jackie Robinson was, in all respects, a great American. If all Jackie Robinson had done was to integrate baseball, that alone would have ensured his place in history. But Jackie Robinson also made baseball truly the national pastime through his outstanding accomplishments on and off the field.

Mr. Speaker, Jackie Robinson is still admired by millions of Americans today, I ask my colleagues to join me in paying tribute to this great athlete and humanitarian by supporting this legislation.

JACKIE ROBINSON COMMEMORATIVE COIN

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, I rise this morning, along with Mr. BOB FRANKS, to honor the late Jackie Robinson, one of our Nation's greatest historical treasures. We do this by introducing legislation to mint a commemorative coin honoring the 50th anniversary of Jackie Robinson breaking the color barrier in major league baseball.

As we all observe the remarkable pennant and wild card races this week, we should take time out to remember that America's pastime was once not the diverse sport that most Americans enjoy today. Through segregation, African Americans were relegated to the Negro leagues. Although these leagues were considered second rate, the baseball played was of the highest quality. This athletic segregation was the standard for most organized sports, and was a sad reflection of American society in general.

Jackie Robinson, however, became the trailblazer of professional athletic integration. He was the first of many Negro league stars to play in the big leagues, and he suffered the strains of racism throughout major league ball parks. By successfully bearing this burden, he in fact became a symbol of victory for African Americans, and he carried the torch of equality that lit the flame of equality in America.

Mr. FRANKS and I urge our colleagues to rekindle this flame by cosponsoring the Jackie Robinson Commemorative Coin Act. Join us and our colleagues in the other body in remembering Jackie Robinson's baseball legacy, and honoring him as a great American.

ADMINISTRATION POLICY IS "JUST SAY NOTHING" ON DRUGS

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, why since 1993 have we experienced such a dramatic increase in the use of drugs among our Nation's children, when just a decade ago we were winning that fight? The answer is simple. We now have an administration that has replaced "Just say no" with "Just say nothing."

The facts speak for themselves. Since 1993, marijuana use among 12- to 13-year-olds has increased 137 percent. This should not be surprising when we look at this administration's priorities.

Do Members know that they have over 110,000 IRS agents collecting taxes? That is enough to audit almost every person in the State of Texas. Compare that to 12,000 total drug enforcement and border patrol agents that protect our borders. That is taxes over drugs, 10 to 1. This administration must take responsibility for its failed drug policies and stop this epidemic before it destroys our children's future.

IN SOME SCHOOLS RAPISTS GET COUNSELING WHILE 6-YEAR-OLDS GO TO THE SLAMMER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, it is common sense, schools are under attack. Guns, drugs, rape, even murder. Some schools are so bad they hire police to monitor the hallways and to combat this growing phenomenon.

Schools have clamped down all over the country, as evidenced by an action in Lexington, NC, where the schools suspended 6-year-old Johnathan Prevette for kissing a 6-year-old on the cheek. That is right, Johnathan was cited for sexual harassment.

Think about it. In some schools where rapists get counseling, 6-year-olds are getting busted. Mr. Speaker, it does not take a rocket scientist to figure out what is going wrong in our schools, when murderers and rapists are getting probation and counseling and 6-year-olds are going to the slammer. Johnathan, make sure you do not hug anybody.

I yield back the balance of my friendship that might come out of our schools.

BOB DOLE AND JACK KEMP SHOULD NOT BE COUNTED OUT OF THE PRESIDENTIAL RACE

(Mr. SALMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SALMON. Mr. Speaker, last Saturday my alma mater, the Arizona State Sun Devils, took on the No. 1 ranked, two-time defending national champion cornhuskers of Nebraska. The result should be a lesson to all the pundits who have already written off Bob Dole.

The pundits and so-called experts said A.S.U. had no chance against Nebraska. They pointed out that Nebraska had a 37 game winning streak, and that Nebraska had not been shut out in a regular season game since 1973. The point spread, looking a lot like some of the recent presidential polls, predicted that Nebraska would win by 23 points.

Yet Arizona State managed to shut out Nebraska 19–0.

The experts said Arizona State could not beat Nebraska, but the experts were wrong. The experts also tell us that Bob Dole and Jack Kemp do not have a chance to beat a certain liberal currently living in the White House. We Sun Devils know better.

RELEASE THE ETHICS REPORT AND THE WOMEN FROM THE BASEMENT

(Mrs. MALONEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, we are appealing to you to release the ethics report and to release the women from the basement.

As a New Yorker, I am anguished that the statute of our State's most distinguished leaders—Susan B. Anthony, Elizabeth Cady Stanton, and Lucretia Mott—have remained in the basement of the Capitol for the past 76 years.

Mr. Speaker, almost every great struggle throughout American history is represented in the Capitol's rotunda, including the leaders of those revolutions, Lincoln, Washington, and King.

Exactly 76 years ago American women gained the right to vote, but our great leaders still are not allowed in the living room to stand beside the great male leaders.

Mr. Speaker, American women ask the same question they asked President Wilson: how long must we wait?

PRESIDENT CLINTON'S NEW REPUBLICAN AGENDA

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, I guess we should be happy. After weeks of distortions and millions of dollars of AFL–CIO deceptions, and some downright crazy claims about the 104th Congress, the President has finally come clean. His acceptance speech at the Democratic National Convention and his recent campaign speeches trumpeting his support for our agenda and our outstanding successes kind of amazes me.

In fact, the President took credit for 14 different initiatives that Republicans promised. How is that for extreme? Is he stealing Republican ideas, or, as Jay Leno says, maybe he is just borrowing them until after the election. It seems as if the only extremism is the extreme way the President wants to be reelected.

Now his own party must not even know where he stands. As some of my friends on the other side of the aisle say, if you do not like where the President is, just wait a while. I guess they hope he will come around, just like in 1992. I yield back the balance of the President's Republican agenda.

REPUBLICAN LAWMAKERS ATTEMPT TO STIFLE QUESTIONS BY SENIOR CITIZENS AND DEMOCRATS

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, today marks the 1-year anniversary of what I would consider the darkest day of this 104th Congress. Let me set the scene. The Republicans were attempting to cut $270 billion from Medicare, so they could afford to give tax breaks to the wealthiest individuals and corporations in this entire Nation.

One week earlier, a group of senior citizens who purported to be in favor of that plan came into the Committee on Commerce and they dumped letters on the floor in a show of support. It proved out that many of those letters were from people who were deceased, or they were children, or they were nonexistent.

This time senior citizens arrived in the Committee on Commerce to say they were against what was happening and they wanted to simply know why were there no hearings. Our Republicans, fearing the debate, fearing that question, ordered that those senior citizens, some in wheelchairs, some in walkers, some with canes, be arrested, arrested and hauled away by the Capitol Hill police, photographed, and fingerprinted.

Today it is 1 year later. Many of those seniors will be here again. As that occurs, we should also recognize that the Republicans want to stop the debate from the Democrats, who ask, where is the ethics report on Speaker GINGRICH?

PRESIDENT CLINTON SHOULD DROP CONSIDERATION OF PARDONS FOR WHITEWATER FRIENDS

(Mr. BACHUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BACHUS. Mr. Speaker, this May, a Little Rock jury returned guilty verdicts on a total of 24 felony counts against President and Mrs. Clinton's Whitewater business partners, James and Susan McDougal, and the President's successor as Governor of Arkansas, Jim Guy Tucker.

It must have come as great comfort to Susan McDougal and her codefendants earlier this week when, in a televised interview, the President refused to rule out the possibility of pardons for them if he is reelected.

Accordingly, Mr. Speaker, I am introducing today a resolution that would declare that it is the sense of this House that President Clinton should specifically, categorically, and immediately disavow any Presidential pardons for his former Whitewater business partners and to former Governor Tucker. By passing this resolution before we adjourn to go home and face our constituents, we can send the right signal—that in this country, no one is above the law, and convicted criminals do not walk free by virtue of having friends in positions of power.

YOU CAN RUN BUT YOU CAN'T HIDE

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, last week the Ethics Committee concluded for the third time that the gentleman from Georgia, NEWT GINGRICH, violated House rules in his use of a political adviser for official business. The committee concludes——

POINT OF ORDER

Mr. CHRYSLER. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. CHRYSLER. Mr. Speaker, referring to matters before the Ethics Committee, which is specifically forbidden in the House rules, is my point of order.

The SPEAKER pro tempore. The Chair will reiterate the principle in this matter. The Chair will repeat the admonitions of the Chair from June 26, 1996, September 12, September 17, and September 24.

It is an essential rule of decorum in debate that Members should refrain from references in debate to the conduct of other Members, where such conduct is not the question actually pending before the House, by way of a report from the Committee on Standards of Official Conduct or by way of another question of the privileges of the House.

This principle is documented on pages 168 and 526 of the House Rules and Manual, and reflects the consistent rulings of the Chair in this and in prior Congresses and applies to 1-minute and special order speeches.

The fact that a resolution has been noticed pursuant to rule IX does not permit such references where that resolution is not actually pending.

Neither the filing of a complaint before the Committee on Standards of Official Conduct, nor the publication in another forum of charges that are personally critical of another Member, justify the references to such charges on the floor of the House. This includes references to the motivations of Members who file complaints and to members of the Committee on Standards of Official Conduct.

As cited on page 526 of the Manual, this also includes references to concluded investigations of sitting Members by the Standards Committee. (July 24, 1970). Clause 1 of rule XIV is a prohibition against engaging in personality in debate. It derives from article 1, section 5 of the Constitution, which authorizes each House to make its own rules, and to punish its Members for disorderly behavior, and has been part of the rules of the House in some relevant form since 1789. This rule supersedes any claim of a Member to be free from questioning in any other place.

On January 27, 1909, the House adopted a report that stated the following: "It is the duty of the House to require its Members, in speech or debate, to preserve that proper restraint which will permit the House to conduct its business in an orderly manner and without unnecessarily and unduly exciting animosity among its Members," from Cannon's Precedents, Volume VIII. at Section 2497. This report was in response to improper references in debate to the President, but clearly reiterated a principle that all occupants of the Chair in this and in prior Congresses have held to be equally applicable to Members' remarks in debate toward the Speaker and each other.

☐ 1030

The Chair asks and expects the cooperation of all Members in maintaining a level of decorum that properly dignifies the proceedings of the House.

The gentleman from Georgia may proceed in order.

Mr. LEWIS of Georgia. Mr. Speaker, quote, the committee concludes that your conduct of allowing the routine presence in your office of Mr. Jones demonstrates a continuing pattern of lax administration and poor judgment that has concerned this committee in the past, unquote.

NEWT GINGRICH has repeatedly shown his willingness to break House rules to suit his needs. The charges being investigated by the outside counsel, James Cole, are far more serious and involve violations of the law, including tax fraud.

POINT OF ORDER

Mr. CHRYSLER. Point of order, Mr. Speaker.

The SPEAKER pro tempore (Mr. CAMP). The gentleman will suspend. The gentleman will state his point of order.

Mr. CHRYSLER. Mr. Speaker, he is referring to matters that are before the House Ethics Committee which are specifically forbidden in the House rules, is my point of order.

Mr. LEWIS of Georgia. Mr. Speaker, may I be heard on the point of order?

The SPEAKER pro tempore. The Chair will hear the gentleman.

Mr. LEWIS of Georgia. Let me say to the gentleman from the other side, there comes a time when an injustice is so great, when you must even challenge the rule to demonstrate that injustice. I know the gentleman from the other side and the Members from the other side would not like for this report to come out.

The SPEAKER pro tempore. The gentleman will suspend. The Chair again sustains the point of order, and the gentleman will proceed in order.

Mr. LEWIS of Georgia. There now exists a $500,000 report from the outside counsel. Later today or tomorrow, the House will once again consider a privileged resolution I have offered calling for the release of the outside counsel's report. The public deserves the right to see that report. I encourage all of my colleagues to vote for the release of the secret Gingrich ethics report.

ISSUES OF ETHICS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute.)

Mr. KINGSTON. Mr. Speaker, I appreciate that, and I certainly hope that the Democrats who are so hung up on bringing down NEWT GINGRICH to the extent of breaking House rules in terms of issues in front of the Ethics Committee, will show equal compassion and curiosity when we review the Gephardt ethics allegations and a lot of other ethics allegations on some of their Members. If we are going to bring this House down to such partisan fervency, then maybe my colleagues want to consider that.

Why does the Democrat Party not concern themselves with why the President will not reveal his health care records? Why Susan McDougal will not talk but would rather go to jail even if, as the President has publicly said, a pardon is out there? Why do my colleagues not have any curiosity of who hired Craig Livingstone?

Let us just admit, this is politicking on taxpayer time, with taxpayer equipment, in a taxpayer-paid facility. I hope my colleagues will also wonder why they do not have drug testing at the White House. If we are going to get into this, Mr. Speaker, this is a double-edged sword and I hope the House does not fall for this.

HOLDING THE LINE ON INTEREST RATES

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, it is not often that I have occasion to rise and commend the Federal Reserve Board, but the decision yesterday to hold the line on interest rates certainly merits commendation.

We all know the Federal Reserve Board is allergic to good economic news. If too many Americans find jobs, the Fed ominously warns of runaway inflation when there is no evidence of inflation, and cranks up interest rates to slow the economy down. The Fed has seemed determined to maintain an unemployment rate, to guarantee an unemployment rate of at least 5.6 percent or more. To keep this in perspective, every percentage point of unemployment represents 1.3 million Americans.

That should be a cause for concern to anyone in this Chamber who has been conscientiously cutting the deficit or scrapping the Nation's social safety net in the belief that their efforts will lower interest rates and put people to work.

So my congratulations to the Federal Reserve for enduring the economic good news with restraint. Hopefully this is a sign that in the future we may be able to begin to count on the Fed to help, not hinder, the effort to improve the lives of all Americans.

And as a consequence of this, Mr. Speaker, I again ask and I join my colleagues in asking that the Ethics Committee stop covering up and release the Gingrich report.

MAJORITY OF CONTRACT WITH AMERICA NOW LAW

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, our friends on the other side would like the American people to believe that this 104th Congress has been a failure and that Republicans are running from the Contract With America. Well, they are wrong, and here is why.

In this Congress, the Republican majority has given the American people tax cuts for small businesses, an adoption tax credit, the Congressional Accountability Act, the line-item veto, unfunded mandate reform, the Personal Responsibility Act, health insurance reform, lobbying reform, the gift ban, welfare-to-work tax credits, food safety reform, et cetera, et cetera, et cetera, and they are now all law. In fact, fully 65 percent of the Contract With America has been signed into law, but some of the most popular measures, like tax cuts for working families, have been vetoed by Bill Clinton.

Mr. Speaker, the Republicans are delivering on our promise to change the spending culture here in Washington DC. In fact, just yesterday when reporters pressed a Member of the Democrat leadership to name another Congress as productive, he could not name one, and he said "I know there have been several. I will get back to you."

CAN THE PEOPLE TRUST THIS CONGRESS?

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, in these final days of the 104th Congress, the American people need to remember what this Congress has been all about.

Time and again Members of Congress who have tried to speak out on issues of concern to the American people in fact have been silenced. We have seen it today when Members of Congress attempted to discuss the very serious charges of Federal tax fraud documented in an independent counsel's report which the Ethics Committee refuses to release to the public.

A year ago, Republican zeal——

POINT OF ORDER

Mr. CHRYSLER. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman will suspend. The gentleman will state his point of order.

Mr. CHRYSLER. Mr. Speaker, the gentlewoman is violating House rules by referring to matters before the Ethics Committee which are specifically forbidden by House rules.

The SPEAKER pro tempore. The Chair will sustain the point of order, and asks the gentlewoman to proceed in order.

Ms. DELAURO. A year ago, Republican zeal to silence debate in the people's House resulted in the arrest of senior citizens who came to speak out against Republican plans to cut $270 billion from Medicare to pay for a $245 billion tax cut for the privileged few. And with the Medicare bill still on the chopping block because the Dole plan would require even deeper cuts in Medicare than the $270 billion in Medicare cuts proposed last year, the American people should ask themselves if they can trust this Republican Congress when it is so afraid of the truth, whether it be on Medicare or whether it be releasing the ethics report from the committee.

A GLIMPSE OF THE FUTURE

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, last week President Clinton's Interior Secretary, Bruce Babbitt, endorsed a plan to tax anything having to do with the great outdoors. The plan he endorsed called for a 5-percent tax on everything from binoculars to canteens to sleeping bags to birdseed.

Birdseed, Mr. Speaker? What is next? The air we breathe? It is true that Bill Clinton, the great conservative Republican that he is, has backed away from the plan, but is this just a glimpse of the future if Bill Clinton were to stay in power? Higher taxes, bigger government and more regulation. Mr. Speaker, they say it is hard for a leopard to change its spots. It is also hard for liberals to change their tax-and-spend tendencies, as Interior Secretary Babbitt has so eloquently proved.

Mr. Speaker, I believe that if the Clinton administration wins reelection, tax and spend will be back again. Welcome to the future, Mr. and Mrs. America.

CALL FOR RELEASE OF ETHICS COMMITTEE REPORT

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, normally what goes around comes around. Normally people who abuse their positions of power to destroy political rivals in underhanded and dishonest ways ultimately become the victims of their own corruption. The snake that they unleash from their souls invariably comes around to bite them as well. But that natural law of justice has been thwarted in this body. It has been thwarted because Speaker GINGRICH has suppressed the release of an Ethics Committee report that details activities that makes Speaker Wright's improprieties pale in comparison.

Mr. Speaker, we have a number of quotes from Speaker GINGRICH that identify the reasons why Speaker Wright was charged. They are far more applicable to the charges that have been leveled against Speaker GINGRICH. If you take Speaker GINGRICH at his words, we would release this Ethics Committee report today.

TROUBLING STATISTICS RELEASED ON TEEN DRUG USE

(Mr. RADANOVICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RADANOVICH. Mr. Speaker, I am greatly troubled by the statistics recently released on teenage drug use. How can we feel good about ourselves as a society when teen drug use has increased 78 percent since 1992? By the time teenagers reach 17, 58 percent know someone personally who uses acid, cocaine or heroin, and 43 percent have a friend with a serious drug problem.

Mr. Speaker, these are daunting statistics. And what makes matters worse is that this administration has done little to combat this rising tide of drug use. The Clinton administration's 1995 budget proposed to cut 621 drug enforcement slots, and although Congress fought most of the cuts, 227 agents still lost their jobs with the Drug Enforcement Agency.

Mr. Speaker, this is a serious problem which demands serious answers. And the only answer we get from President Clinton when asked if he would inhale if he had it to do over again is, "Sure, if I could. I tried before."

THE SPEAKER AND ETHICS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, 1 year ago, the Speaker of this House was unable to find a room anyplace in this Capitol Hill complex for the Democrats to have a hearing on Medicare cuts, and so we were outdoors—outdoors—for many long days talking about what they were trying to do behind closed doors. And when seniors came to the Hill a year ago to ask the questions of the committees who were in charge, Speaker GINGRICH had them arrested and we had to go get them out. And now when we have charges against the Speaker that have been analyzed by an outside independent counsel, we are not allowed to see them. What is going on here?

POINT OF ORDER

Mr. CHRYSLER. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore. The gentlewoman will suspend. The gentleman will state his point of order.

Mr. CHRYSLER. Mr. Speaker, the gentlewoman from Colorado is violating House rules by referring to matters before the Ethics Committee which are specifically forbidden in House rules.

Mrs. SCHROEDER. May I be heard on the point of order, Mr. Speaker?

The SPEAKER pro tempore. The gentlewoman may be heard.

Mrs. SCHROEDER. My question is, what does this House do when not only just a regular Member of the House but the chief officer of the House, the third in line for the presidency, has these serious charges and we cannot see them even though they were publicly funded? Why can we not discuss them on this House floor and why are we told we must go outside to discuss them as we had to do Medicare cuts?

The SPEAKER pro tempore. For reasons previously stated, the Chair sustains the point of order and asks the gentlewoman to proceed in order.

Mrs. SCHROEDER. Mr. Speaker, I thought the gentleman from Georgia [Mr. LEWIS] made a very emotional and correct approach. There comes a time when we all must stand up and say, what are these rules for? Are they to keep the American people from learning the truth?

I am shocked that the United States of America that believes in free speech is gagging Members of Congress about the third most important elected official in America, and I am stunned the other side is insisting on that.

CONFERENCE REPORT ON H.R. 3259, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up

House Resolution 529 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 529

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3259) to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

□ 1045

The SPEAKER pro tempore (Mr. CAMP). The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this rule is standard for a conference report, and is a fair product given our time constraints as we conclude this session of the Congress. The rule before us waives all points of order against the conference report accompanying the bill H.R. 3259, to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency retirement and disability system and for other purposes. In addition the rule provides that the conference report shall be considered as read.

Mr. Speaker, I was honored to have participated in the tremendous effort that led to the completion of this bill. As a member of the House Permanent Select Committee on Intelligence—generally known as HPSCI—I was proud to serve under the tough and fair leadership of my chairman, Mr. COMBEST, in crafting this bill. It is a product I think we can all be proud of, born of bipartisan and bicameral cooperation and negotiation.

Mr. Speaker, I thought my colleague from California, Mr. BEILENSON, put his finger on an important point yesterday in our Rules Committee meeting, as he often does, when he said that no one pays much attention to our Nation's intelligence programs. The truth is that, given the very nature of the topic, intelligence matters do not have a natural public constituency and do not generally arise for discussion around America's dinner tables. But, as Mr. BEILENSON also pointed out, perhaps that is as it should be—and I would argue that fact is a testament to the successes we have had with our intelligence operations, for the most part. Yes, there have been some high profile problems—and we have worked hard to be sure we deal with them expeditiously and effectively. But overall, the way you know that there is good news in the intelligence world is when you hear no news at all. That is how the intelligence business works—the success stories are those that never become stories at all, because good, accurate, and timely intelligence allowed us to prevent bad things from happening.

Mr. Speaker, it is my view that the changing world around us makes good intelligence more necessary than ever before. There are more varied threats and more dispersed targets and the need for us to have well-tuned and properly trained eyes and ears has never been greater. The Intelligence Oversight Committees of this Congress recognize that and have conducted our oversight in a thoughtful and comprehensive manner. In addition to the efforts of our House committee, known as IC 21, which made some very important recommendations for adapting our intelligence capabilities to be ready for the next century, there was also the so-called Aspin-Brown Commission Review, which I was privileged to serve on. These efforts have laid down the groundwork and we now must move ahead in developing consensus and implementing meaningful change. Finally, Mr. Speaker, let me say that everyone understands the intense competition that exists in our finite budget world when it comes to the expenditure of America's tax dollars.

We know that that intelligence is a necessary commodity that saves lives and allows for prudent decisionmaking by our leaders, decisions that are not just involved with the military, although we all know that is a major component, but decisions also in other vital areas, such as fighting terrorism and dealing with the international drug problems.

I think this bill addresses these needs, although I think we must guard against expanding international law enforcement activity at the expense of intelligence operations.

Mr. Speaker, this is a fair rule, and it is a good bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my good friend, the gentleman from Florida [Mr. GOSS], for yielding the customary half hour of debate time to me.

Mr. Speaker, we do not oppose House Resolution 529, the rule for the conference report on H.R. 3259, the Intelligence Authorization Act for fiscal year 1997, which the gentleman from Florida explained so well. We do, however, have concerns about the waivers of several standing House rules that the resolution provides, and wanted to mention them to the membership.

The resolution protects against possible points of order, provisions that violate rules that prohibit conference committees from including provisions, one, that are outside the committee's scope; two, that are not germane to the legislation; three, that violate the Budget Act; and four, that provide appropriations in a legislative bill.

The resolution also waives the 3-day layover rule, whose purpose is to ensure that Members have the opportunity to examine a conference agreement, and with respect to this particular measure, the classified annex to the report. We are not yet convinced that the House is so short on time just now that disregarding this important rule is necessary.

Many of us believe that we should be much more cautious in general about providing such significant waivers in so routine a fashion. Many waivers are purely technical in nature, and we all know that in order to keep House operations moving along, it is sometimes necessary to exempt some legislation or provisions of legislation from certain standing rules of the House. But Members should at the least be told exactly what is being protected by waivers and the necessity and the reason for them before being asked to vote on a rule granting them.

Mr. Speaker, with respect to the conference agreement itself, we continue to be disturbed about several provisions in the bill, and most especially those dealing with funding levels. Total spending authorized in the conference report exceeds the amount appropriated for fiscal year 1996 by 4.2 percent and is 2.3 percent above the President's fiscal year 1997 request.

We only have to pick up the morning newspapers to be reminded that the world is still a very dangerous place and we must not remain silent without and within our borders. But we are operating under severe and very real budget constraints, and we are suggesting only that intelligence programs and activities should be subject to the same level of severe scrutiny as are other functions of the Federal Government.

A considerable amount of effort, Mr. Speaker, has been spent over the last 2 years on proposals for intelligence reform. We are pleased to see that some steps have been taken in the conference report to enhance the ability of the Director of Central Intelligence to get a handle on spending within the intelligence community. But we do have reservations about the provisions creating, in the name of reform, four new deputy or assistant directors of Central Intelligence who require Senate confirmation.

The legislation creates new assistant DCI's for collection, analysis, and for production, and for administration under a new deputy DCI for community management. However, the legislation only gives these new ADCI's a coordination function. Placing four officials requiring Senate confirmation into an organization of approximately 100 people seems excessive and an unnecessary layer of bureaucracy. In addition, this is an area where the management staff is supposed to be professional or outside politics, and so I express the hope that future Congresses will handle these appointments with a great deal of caution to avoid their politicization.

The conference report also contains a provision that is intended to clarify that law enforcement agencies may request that intelligence agencies collect information overseas on non-United States persons. While we appreciate the fact that many of the most serious national security threats to the United States now arise in the intersections between law enforcement, intelligence and diplomacy, we do hope there will be careful oversight of how these three communities are working together in order to ensure respect for the civil liberties of the people of the United States.

We also have concerns, Mr. Speaker, about the apparent lack of meaningful, substantive reforms to give the Director of Central Intelligence more authority over the intelligence functions of the Department of Defense.

Many of us agree with the blue ribbon commissions that have issued reports advising that the only way to ensure that our national security operations are coordinated, are not being duplicated by another intelligence office, is to put one person in charge of the entire community. Unfortunately, the conference agreement has only very minor provisions designed to strengthen, indeed, very modestly, the authority of the Director of Central Intelligence.

I hope the Congress will revisit this issue next year and be successful in placing authority and responsibility in a single office, so that one person can exercise that authority as necessary.

Mr. Speaker, if I might, ending here, I would like to add a brief personal note. As many of my colleagues know, I had the privilege of serving on the Permanent Select Committee on Intelligence for 7 years, two of those years as its chairman. Those were among the most challenging and rewarding years in Congress for me.

I simply want to thank my colleagues, those with whom I served on the committee, many of whom remain only committee, and those who have followed us, for the dedication and the enormous amount of time and energy they give to the work of the committee, especially the gentleman from Texas, the chairman, Mr. COMBEST, and the gentleman from Washington, Mr. DICKS, the ranking member, and also our mutual friend, and also my colleague on the Committee on Rules, probably the only person around here who has much of a background in intelligence and really knows what he is talking about, the gentleman from Florida, Mr. GOSS, for the dedication and enormous amount of time and energy that they give to the work of the committee. And also I would like to personally attest to the fact that the committee staff is among the best in Congress, and I thank them too, as I know we all do, for helping make this committee outstanding.

Mr. Speaker, to repeat, we are not opposed to this rule providing waivers for the conference report on the intelligence authorization bill. We urge our colleagues to approve it, so we may expedite consideration of the conference agreement.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I understand that the gentleman from California [Mr. BEILENSON] has yielded back the balance of his time, and I have no further speakers, but I would be remiss if I did not take a minute to thank Mr. BEILENSON for his extraordinary service to this House, to his country, to the Permanent Select Committee on Intelligence, to the Committee on Rules, and to his many other endeavors in this institution. He is a credit to himself, clearly, but not only that, he leaves this House better than he found it, and I think he leaves this country better than it was before he started in public service. I am very proud to say that, and count him among my friends.

I demurred from participating last night in the colloquy for Mr. BEILENSON and Mr. MOORHEAD, where many nice things were said, primarily because it was done by Californians. But I want Mr. BEILENSON to understand that Floridians feel the same way, although we have to be a little more circumspect how we say it.

I also wanted to say with the point on the rule that Mr. BEILENSON brought up, the discussion that took place yesterday on the waivers, we did have some conversation on the record in the committee, and much of what Mr. BEILENSON has talked about was testified to by the gentleman from Texas, Chairman COMBEST, and the gentleman from Washington, Mr. DICKS, and I believe has properly been attended to. It is a matter in the classified annex, but I agree with Mr. BEILENSON's general philosophy on that.

I can assure the gentleman that I am satisfied, having participated in some of that, that I think everything is in order, and I know the gentleman would accept the statements of Mr. COMBEST and Mr. DICKS.

Mr. Speaker, having said all that, I have nothing further to add, except I urge support of this rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. COMBEST. Mr. Speaker, pursuant to House Resolution 529, I call up the conference report on the bill (H.R. 3259) to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 529, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 24, 1996, at page 24488.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. COMBEST] and the gentleman from Washington [Mr. DICKS] each will control 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report for H.R. 3259, the Intelligence Authorization Act for fiscal year 1997.

H.R. 3259 authorizes appropriations for the intelligence activities of the U.S. Government. H.R. 3259 makes a modest increase of 2.3 percent over the President's request; it is 2.2 percent higher than last year's appropriation, adjusted for inflation. We continue to believe that intelligence, more than ever, must be our first line of defense, of warning and of analysis. Dollars well-spent on intelligence are, I believe, fewer than dollars we would be forced to spend elsewhere if our intelligence capabilities decreased.

I also wish to call my colleagues' attention to a number of provisions in this bill that will set the intelligence community on the road to a 21st century structure and function.

At the outset of this Congress, the Permanent Select Committee on Intelligence embarked on a major study, IC21: The Intelligence Community in the 21st Century. Committee majority staff produced what I believe is already recognized as a landmark study on how the Intelligence Community can be transformed so as to be best able to deal with the national security issues we may face in the future.

We did not get enacted all of the many recommendations we made. Indeed, I recognized at the outset of IC21 that we were unlikely to get it all done in one Congress. Like so many of the major national security reforms of the past—the National Security Act, Goldwater-Nichols—this is a multiyear, multi-Congress effort.

But I think H.R. 3259 makes a useful start, largely by beginning to give the Director of Central Intelligence the management tools he needs so that his capabilities begin to match his responsibilities as head of the entire Intelligence Community.

Finally, I wish to thank all of the members of our committee on both sides of the aisle who have worked so hard on this legislation, and those Members of the other body with whom we share responsibility for this important legislation. I also want to thank our staff, who have put in long hours and, more importantly, serious and creative thoughts and hard work in the crafting of this bill.

□ 1100

Mr. DICKS. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of the conference report on H.R. 3259.

At the outset I want to commend the gentleman from Texas, Chairman COMBEST, for the effort he has devoted to bringing this legislation back to the House. I also want to join him in complimenting our staff. I think the staff of the Permanent Select Committee on Intelligence is extraordinarily professional and effective and does a very good job for this institution.

The intelligence authorization had relatively smooth sailing in the House last May, but its passage through the Senate was difficult, to say the least. On more than one occasion it appeared likely that there would be no authorization bill for intelligence programs and activities in fiscal year 1997. In my judgment, that result would have been bad for the congressional oversight process and bad for the intelligence agencies.

Chairman COMBEST's persistence and his willingness to compromise when it was necessary, without sacrificing the essence of the positions taken by the House, contributed immeasurably to our having reached this point in the legislative process.

The conference report contains an overall authorization level which is 2.3 percent above the amount requested by President Clinton in part because a significant amount recently requested by the administration for counterterrorism activities is included. Even with this initiative, the conference report is 1.5 percent below the level approved by the House in May.

I believe the increase above the request is justifiable given the costs inherent in many sophisticated intelligence collection systems, and the absolute necessity of ensuring that our policymakers and military commanders have access to the most comprehensive, reliable, and timely information possible on which to base their decisions and actions. Intelligence is expensive, but the cost of not having information about threats to our national security is incalculable.

The Permanent Select Committee on Intelligence devoted a great deal of time in this Congress to the questions of how the intelligence community should be structured for the next century. In that endeavor the committee was joined not only by its Senate counterpart but by the Aspin-Brown Commission, on which I served, and several other groups. Out of these efforts emerged many thought-provoking ideas, some of which deserve further consideration.

What did not emerge, however, was a consensus on the question of whether or not the community needed fundamental organizational change. There was simply no showing and certainly no conclusion by executive branch officials that the current structure hinders the effective conduct of intelligence activities.

The relationship between the Secretary of Defense and the Director of Central Intelligence on intelligence matters, particularly the intelligence budget, is key to the management of the intelligence community. Currently that relationship works. In the absence of any evidence that it cannot continue to do so, there is simply no impetus for radical change.

The conference report does, however, make some changes in the community's structure. Despite my support for the conference agreement, I have reservations about placing additional layers of bureaucracy on the community's organizational charts. It is not all clear what purpose three Assistant Directors of Central Intelligence will serve, nor is it clear what shortcomings in the existing structure they are to remedy.

When the reform process began last year, its stated purpose in the House and in the other body was to produce a more streamlined, flexible intelligence community. I am concerned that what we have done, instead, is to create more Senate-confirmed positions whose occupants will spend most of their time searching for something productive to do.

Despite these reservations, I intend to support the conference agreement because I believe that, on balance, it makes progress in some technical collection areas in which innovation is necessary. I urge my colleagues to give it their support as well.

Mr. Speaker, I reserve the balance of my time.

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume to make certain the record is complete and say that I join with my colleague from Washington in concerns about the three new deputies in CIA. That was the recommendation made in the other legislative body. We arrived at a conference report which did include that, but I do have those reservations and concerns as well.

Mr. Speaker, I reserve the balance of my time.

Mr. DICKS. Mr. Speaker, I yield 6 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, first let me commend the gentleman from Texas, Chairman COMBEST, and the ranking member, the gentleman from Washington, Mr. DICKS, for the comity and excellent relationship they have that enable our committee to be bipartisan, especially in an area that is as critically important to the country as intelligence and national security.

This is a committee that works well together. Sure, we have disagreements and differences in style and sometimes substance, but, in general, both Members make sure that the bipartisanship is there.

Second, let me say that I think this bill is important because it is the first major piece of legislation where the shift into human intelligence is dramatic, the way it should be. As we are going to face challenges that are no longer related to one country but are transnational, problems of international terrorism and drugs and nuclear outlaws and rogue states and economic competition, it is critically important we beef up our intelligence capabilities, our human intelligence capabilities.

It is critically important that we understand Islamic fundamentalism. That is going to take more linguists. To be perfectly candid, it will take more spies. It is going to take more James Bonds. This is something that should not be viewed as being a bit farfetched, but it basically means that covert operations are going to be needed once again to deal with these problems of nuclear nonproliferation and the problems of rogue states and international outlaws and terrorism and narcotics. These problems are transnational.

I think President Clinton very accurately outlined the threats to our country in his speech to the United Nations yesterday in which very proudly the United States led the effort to stop nuclear testing, and the treaty was signed. Only three states did not support this. We are moving in a very important direction, especially since nuclear proliferation is one of the biggest challenges that the Western world and the United States will face in the days ahead.

Mr. Speaker, I support this conference report that provides an authorization for intelligence and intelligence-related activities. I want to highlight one specific section that I had a little bit to do with, section 309 of the conference agreement, which deals with the use by U.S. intelligence agencies of American journalists as intelligence agents or assets.

Section 309 is similar to an amendment to the House bill which I authored and which, after modification by the gentleman from Pennsylvania, Congressman MURTHA, was adopted by a vote of 417 to 6. The enactment of the conference report will place in statute for the first time a policy statement that correspondents or representatives of the U.S. media organizations may not be used to collect intelligence.

Nothing could be more detrimental to the safety of U.S. journalists who work in dangerous places overseas and who by the very nature of their profession must be constantly asking questions and trying to discover information than to be suspected as a spy for the United States. This could have drastic consequences, and in some cases it has.

As I noted when my amendment was debated in the House last May, there is a distinction between reporters as commentators on Government and reporters as instruments of government. The prohibition in this conference report on the use of American journalists as intelligence agents or assets will underscore and strengthen that distinction.

The language in section 309 would not prevent those journalists who choose to provide information to a U.S. intelligence agency from doing so. It also recognizes that there may be extraordinary circumstance in which the prohibition needs to be waived in the interest of our national security. In those rare cases, however, the national security determination must be made in writing and the intelligence committees must be informed.

Mr. Speaker, section 309 is consistent with the independence guaranteed to the press by our constitution, and it is consistent with the proper discharge of our responsibility to protect as best we can American journalists who travel or work in difficult circumstances overseas. I urge that we better ensure the safety of those journalists by passing this conference agreement.

Mr. Speaker, in conclusion, again I want to thank the chairman of the committee for his very liberal and positive use, in my judgment, of allowing me to undertake international missions, sometimes on behalf of the administration, other times on behalf of the committee. He has been extremely cooperative every single time, and I am most grateful.

And to the ranking member, Mr. DICKS, the same thanks for his unyielding support. I want to commend both gentlemen for their bipartisan effort in running this committee.

Mr. Speaker, I support the conference report to provide an authorization for the coming fiscal year for intelligence and intelligence-related activities.

I want to highlight section 309 of the conference agreement which deals with the use by U.S. intelligence agencies of U.S. journalists as intelligence agents or assets. Section 309 is similar to an amendment to the House bill which I authored and which, after modification by Congressman MURTHA, was adopted by a vote of 417 to 6.

The enactment of the conference report will place in statute for the first time a policy statement that correspondents or representatives of U.S. news media organizations may not be used to collect intelligence. Nothing could be more detrimental to the safety of U.S. journalists who work in dangerous places overseas and who, by the very nature of their profession must be constantly asking questions and trying to discover information, than to be suspected of being a spy for the United States. As I noted when my amendment was debated in the House last May, there is a distinction between reporters as commentators on government and reporters as instruments of government. The prohibition in this conference report on the use of U.S. journalists as intelligence agents or assets will underscore and strengthen that distinction.

The language in section 309 would not prevent those journalists who choose to provide information to a U.S. intelligence agency from doing so. It also recognizes that there may be extraordinary circumstances in which the prohibition needs to be waived in the interests of our national security. In those rare cases, however, the national security determination must be made in writing and the intelligence committees must be informed.

Mr. Speaker, section 309 is consistent with the independence guaranteed to the press by our Constitution and it is consistent with the proper discharge of our responsibility to protect as best we can American journalists who travel or work in difficult circumstances overseas. I urge that we better ensure the safety of these journalists by passing this conference agreement.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from New Mexico.

Mr. DICKS. Mr. Speaker, I want to commend the gentleman from New Mexico [Mr. RICHARDSON] for his extraordinary service to the committee. He has undertaken a series of international initiatives which have been completely successful and important to our country. I just want him to know how much I personally appreciate his work and efforts and his tireless energy, especially in the area of human rights and protecting Americans internationally.

Mr. COMBEST. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Texas.

Mr. COMBEST. Mr. Speaker, I would say to the gentleman from New Mexico that this is the first time I have ever been commended for my liberal views, but I appreciate that.

I would be remiss as well, and was planning to rise to pay commendation to the gentleman from New Mexico. I have served with him the entire time I have been on the Permanent Select Committee on Intelligence. In fact, I think the gentleman from New Mexico is serving continuously longer than any other member of the committee.

He has done yeoman work which not only the Congress but the American people are aware of and has traveled extensively, probably our most extensive traveler, but he is quite successful. The only thing I have ever asked of Mr. RICHARDSON when he travels is he bring more back than he took with him, and he has done a great job.

Mr. DICKS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise to discuss an important intelligence matter that is not contained in this conference report and, hopefully, I can establish a colloquy with the ranking member, the gentleman from Washington, Congressman DICKS, on this matter.

I am speaking about recent reports that hired CIA operatives sold drugs in the United States to fund the Nicaraguan contra operations in the early 1980's. The crack cocaine operation started by those that were involved in this particular project caused the introduction of the substance to south central Los Angeles and to other innercity communities.

Now, news of this scandal has spread across America like wildfire, and there has been a flurry of activities around these reports. Today, I would first like to commend Congressman DICKS, along with the gentleman from California, Congressman DIXON, and the gentleman from Texas, Congressman COMBEST, for their response to the request to open investigations around this issue.

I would like to ask Congressman DICKS, who is here with us today, whether or not he feels it is possible for the Permanent Select Committee on Intelligence to provide the kind of investigation that can satisfy the citizens of this country, one way or the other, that our Government, the CIA, DEA, was or was not involved in this kind of activity.

The reason I ask the gentleman this is because of his seniority on the committee. He knows the quality of the work there. There is a lot of suspicion from the calls that I receive that there will not be the kind of investigation that will reap the kind of information that we need to put this issue to rest.

I would like to ask the gentleman whether or not he thinks this committee is up to the chore, up to the job. What can we expect?

Mr. DICKS. Mr. Speaker, will the gentlewoman yield?

Ms. WATERS. I yield to the gentleman from Washington.

□ 1115

Mr. DICKS. Mr. Speaker, first of all, I want to commend the gentlewoman for her attention to this very serious matter. As someone who has a McClatchy paper in my district, when I read these two articles, I was stunned by them. Of course, the conclusions drawn there are done by inference. As you know, the Central Intelligence Agency denies complicity in this series of events.

Having said that, first of all, I think I wanted to give my assurance, and certainly I would like to have the chairman have an opportunity to comment here as well, my assurance that our committee will look into this completely and fully because we take it as a very serious matter.

I called Director Deutch when I read the articles and told him that I thought this was going to be a very serious problem and that he had to personally get involved and find out as much about this as he could.

The Director has done that, and he has asked that. He has also stated that he does not believe that the CIA was involved, but he has asked the independent inspector general to completely look at this matter. That is underway. We are going to have an investigation over the next 60 days.

Then there will be a report to the committee, which we will then look at, as we conduct our own investigation going back and looking at events surrounding the Iran-Contra affair and previous reports that were done on this issue, because this is not the first time that this issue has come up.

Also, I am told that the Attorney General has directed the Justice Department's inspector general to also conduct an investigation into the Department's knowledge and involvement, if any, in this issue, the involvement of the CIA in this issue. So we have the Justice Department looking at this; General McCaffrey has also said, the drug czar for the President, that they are looking at it; and the Director of the CIA and this committee and our counterpart in the Senate I assume will look at it as well.

I hope for the sake of the American people that we are able to investigate this matter. I hope and pray that the story is not accurate. I think it would be a devastating blow to the intelligence community, to the country, and to thousands of Americans who have been affected by crack cocaine if this, in fact, proved to be true or if there was even knowledge about it and no action was taken at the time.

I will just give the gentlewoman, the only pledge I can give you is that the minority member of the Select Committee on Intelligence, the gentleman from California [Mr. DIXON], has been very much involved. We will vigorously pursue this to try to find the truth and to present it to the American people.

Maybe the gentleman from Texas [Mr. COMBEST] would like to enter into this at this juncture.

Mr. COMBEST. Mr. Speaker, will the gentlewoman yield?

Ms. WATERS. I yield to the gentleman from Texas.

Mr. COMBEST. Mr. Speaker, just to make certain that there is a complete record, first of all, all of the assurances that the gentleman from Washington has given, I certainly stand behind and support. Congressman DIXON, a member of our committee, is the first Member of the House that brought this to our attention. I think that was simultaneous with the gentlewoman's understanding of the potential problem. The assurances were given at that time to Congressman DIXON that there would be a complete investigation. The staff was asked to embark immediately on a full, thorough, and tenacious investigation.

There are a number of other reports and investigations this committee has done that are not mentioned in this conference report either. So it is not that we are sliding your concerns about this matter. Those are matters that would not be normally brought up in a conference report.

I would also like to mention to the gentlewoman, and, Mr. Speaker, I will include in the RECORD a letter that the gentlewoman from California [Ms. WATERS] sent to me, a response that I sent to her in regard to the committee's actions and the fact that the Central Intelligence Agency had begun an IG's report, had also contacted the Attorney General as well; and a letter to me from the Speaker in which he references a contact that he had received from Ms. WATERS and his concerns and his requests that the committee report back to the Speaker, who is ex officio on this committee as well, so that there is a complete paper trail in this discussion on the part of the CONGRESSIONAL RECORD about the committee's interests, the Speaker's interest, the gentlewoman's interest, the interest of the gentleman from Washington, Congressman DIXON's interest. It is a matter that I hope as well does not prove true, but it is not one that we have any preconceived discussions or decisions about. We will investigate it with all vigor.

I thank the gentlewoman for yielding.

Mr. Speaker, I include for the RECORD the letters to which I referred:

OFFICE OF THE SPEAKER,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, September 18, 1996.

HON. LARRY COMBEST,
Chairman, House Permanent Select Committee on Intelligence, Washington, DC.

DEAR CHAIRMAN COMBEST: Enclosed is a letter and enclosures I have received from Congresswoman Maxine Waters concerning a recent series of articles that appeared in the San Jose Mercury News that allege CIA involvement in the introduction, financing and distribution of crack cocaine in Los Angeles.

I request that your committee investigate the allegations contained in these articles in an effort to determine the truth of the matter. I would appreciate your reporting to me the findings and conclusions of your investigation as soon as they are available.

Thank you for your attention to this matter.

Sincerely,

NEWT GINGRICH,
Speaker of the House.

Enclosure.

U.S. HOUSE OF REPRESENTATIVES,
PERMANENT SELECT COMMITTEE
ON INTELLIGENCE,
Washington, DC. September 18, 1996.

Hon. MAXINE WATERS,
Cannon Building, Washington, DC.

DEAR REPRESENTATIVE WATERS: I am writing in response to your letter of September 17, 1996, concerning press allegations about CIA assets being involved in crack cocaine distribution in California.

I have already instructed the staff of the Intelligence Committee to investigate these allegations and have sent letters to DCI Deutch and Attorney General Reno requesting the cooperation of their agencies with our efforts.

I know you have seen the press reports that DCI Deutch has instructed the CIA Inspector General to investigate these allegations as well. I think this is a worthwhile step. It has been Committee practice to withhold any final statements on issues of this sort until the Inspector General has reported. I think it is prudent that we follow this course on this issue.

I understand your concern and appreciate your interest. Please feel free to contact me or the Committee staff director, Mark Lowenthal, if we may be of further help on this matter.

Sincerely,

LARRY COMBEST,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 17, 1996.

Hon. LARRY COMBEST,
Chairman, Permanent Select Committee on Intelligence, The Capitol, Washington, DC.

DEAR MR. COMBEST: I call your attention to an astonishing series of articles which appeared August 18–20, 1996 in the San Jose Mercury News. This report traces the origins of the crack cocaine trade in South-Central Los Angeles to the early Central Intelligence Agency (C.I.A.)-directed effort to raise funds for the Contra rebels seeking to overthrow the Nicaraguan government in the early 1980s. The CIA-connected agents who smuggled cocaine into the United States, converted it into crack, and sold it on the streets of Los Angeles. They subsequently expanded their business into other inner city neighborhoods throughout this country.

Because of their seriousness, I believe these charges must be examined, in detail, as quickly as possible by Congress. As the chairman of the Intelligence Committee, I believe you can begin this process.

What is being alleged is that portions of the United States government—in particular, members of our intelligence community—may have exposed, indeed introduced, the horror of crack cocaine to many American citizens. I, and many people in communities across America, are horrified by the documented travails of these activities. As policymakers, we have an obligation to uncover the truth in this matter.

I believe Congress, and in particular the United States House of Representatives, must take swift, serious, and forceful action to show the American people we are determined to examine the allegations leveled by these reports. Moreover, we must show our determination to punish the drug dealers who have literally destroyed thousands of American families through the horrors of crack cocaine and the violence associated with it.

I understand we are approaching the end of this session of Congress. However, I believe these charges are so serious that they warrant Congress' immediate attention, even if that necessitates extraordinary procedures.

I look forward to working with you on this most serious matter. your committee is charged with one of the most important responsibilities in Congress. With your help, I believe we can start a process that will give us answers to the serious questions raised by the San Jose Mercury News. Thank you in advance for your cooperation.

Sincerely,

MAXINE WATERS.

Mr. DICKS. Mr. Speaker, if the gentlewoman will continue to yield, I would also like to insert in the RECORD a letter that the chairman and I sent to Mr. Deutch. I do not believe that was mentioned by the chairman.

I would also like to put in the RECORD a response that was given to us from John Moseman, director of congressional affairs, and also another letter that was sent to me by Mr. Deutch after I had talked to him on the phone about this issue on, late in August, just to complete the RECORD.

The letters are as follows:

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, September 4, 1996.

Hon. NORMAN D. DICKS,
Ranking Democratic Member, Permanent Select Committee on Intelligence, House of Representatives, Washington, DC.

DEAR MR. DICKS: As you and I discussed in a 4 September conversation, allegations have been made by the San Jose Mercury News that the Central Intelligence Agency engaged in drug trafficking to support the Contras in their effort to overthrow the Sandinista government in Nicaragua. Specifically, the Mercury News alleges or infers a relationship between the Agency and drug smuggling activities in which two Nicaraguan nationals, Oscar Danilo Blandon Reyes and Juan Norwin Meneses Cantarero, were engaged.

I consider these to be extremely serious charges. The review I ordered of Agency files, including a study conducted in 1988 and briefed to both intelligence committees, supports the conclusion that the Agency neither participated in nor condoned drug trafficking by Contra forces. In particular, the Agency never had any relationship with either Blandon or Meneses, nor did it ever seek to have information concerning either of them withheld in the trial of Rick Ross.

Although I believe there is no substance to the allegations in the Mercury News, I do wish to dispel any lingering public doubt on the subject. Accordingly, I have asked the Agency's Inspector General to conduct an immediate and thorough internal review of all the allegations concerning the Agency published by the newspaper.

I will write again to report to you when the Inspector General's review is completed. I have asked that the review be finished within 60 days.

An similar letter is being sent to Chairman Combest.

Sincerely,

JOHN DEUTCH,
Director of Central Intelligence.

U.S. HOUSE OF REPRESENTATIVES,
PERMANENT SELECT COMMITTEE
ON INTELLIGENCE,
Washington, DC. September 17, 1996.

Hon. JOHN M. DEUTCH,
Director of Central Intelligence,
Washington, DC.

DEAR DR. DEUTCH: We have read with concern the recent series of articles that appeared in the San Jose Mercury News alleging Central Intelligence Agency involvement in the introduction, financing and distribution of crack cocaine into communities of Los Angeles. According to the articles, these activities were undertaken to provide a continuing stream of support to the Nicaraguan Democratic Resistance in their efforts to overthrow the leftist Sandinista government.

These allegations, if true, raise serious concerns about the activities of the United States intelligence community in support of the Nicaraguan Democratic Resistance. To effectively discharge the responsibilities of this Committee, we have instructed the staff to undertake an investigation of the charges leveled in the Mercury News. In order to complete this undertaking it will be necessary for staff to review certain documents in the possession of the CIA and to interview relevant Agency personnel. In this regard, we request that necessary information and personnel be made available to the Committee staff. The documents necessary for the Committee to complete its investigation will be specified as the investigation proceeds.

Allegations of the sort contained in the Mercury News erode public confidence in the Central Intelligence Agency. While we commend your decision to have the Inspector General investigate this matter, the Committee must conduct its own inquiry as part of its oversight responsibilities. Your cooperation in this matter will be greatly appreciated.

Sincerely,

LARRY COMBEST,
Chairman.
NORM D. DICKS,
Ranking Democratic Member.

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, September 17, 1996.

Hon. NORMAN D. DICKS,
Ranking Democratic Member, Permanent Select Committee on Intelligence, House of Representatives, Washington, DC.

DEAR MR. DICKS: I am writing in response to your letter of 6 September 1996 to Director Deutch, in which you expressed concern about recent press allegations that the Central Intelligence Agency engaged in drug trafficking in association with the Contras in Nicaragua. We appreciate the concern noted in your letter and stand ready to assist you and the Committee in your review of these extremely serious charges.

The briefing that Agency officers provided to you and Mr. Dixon on 11 September 1996 conveyed our assessment that the Agency neither participated in nor condoned drug trafficking by Contra forces. As the Director has stated, though, we believe it is essential to dispel any public doubt on this subject. In particular, the Director shares your view that the extent and disposition of any knowledge by CIA officials of Contra involvement in drug trafficking must be assessed.

As you know, the Agency Inspector General (IG) has launched an investigation of the allegations and we will keep you apprised of progress and results of that work. Beyond the IG effort, however, I want to reiterate Director Deutch's assurances that we will cooperate fully with you and the Committee in any inquiry you may conduct.

Sincerely,

JOHN H. MOSEMAN,
Director of Congressional Affairs.

Ms. WATERS. Mr. Speaker, I would like to thank the chairman and the ranking member for the cooperation that they have shown thus far in moving toward this investigation. It has been mentioned on any number of occasions that we have had these kinds of investigations, but this one, I think, is very special and different.

While in the past there has been some mention of drugs, there has not been an investigation that tried to determine whether, in fact, there was an introduction of large amounts of cocaine into south central Los Angeles and spread out among the gangs in south central Los Angeles and further to other gangs in other cities, and the proceeds from this drug activity being given to the Contras to fund the FDN.

So it takes a little bit of a different turn here when we look at whether or not CIA operatives were involved in this drug trafficking into inner-city areas. And of course my interest is well known. Part of my district is south central Los Angeles, where that is identified in the San Jose Mercury News report, and part of that district that I represent is plagued with crack cocaine addiction, crack-born babies, violence, gang warfare, turf warfare.

So if I seem a little bit overzealous on this issue, I beg your understanding. It is something that is near and dear to me and an issue that I really do feel we need to get at in this Congress. We have had the so-called war on drugs, but as I read through the records and I see where there was a lot of drug activity around this Contra funding and where we have had operatives involved with drugs who ended up getting off with no time, little time, and all the conversations and the notations in some of the diaries of leading figures in this activity, I want you to know that it leaves me no choice but to be overzealous and to be very, very persistent and to work cooperatively with all of you to try and keep people focused on this new link, this direct link, of drugs into the inner cities.

And maybe it will help us to create a real war on drugs, not just rhetoric, not just public relations efforts, but a real effort by the Congress of the United States to rid our communities of drugs and crack cocaine, one of the most awful drugs that any human being could have ever introduced.

Mr. COMBEST. Mr. Speaker, if the gentlewoman will continue to yield, one other matter that I think would be pertinent to mention at this time: The gentleman from Ohio [Mr. STOKES], who in fact at one time was chairman of this committee and was a member of the Iran-Contra Committee, we understand there is a letter on its way to the committee from Mr. STOKES requesting that he be granted access to documents during the time he served as chairman to further investigate part of the Iran-Contra papers.

I have discussed this with Mr. DICKS and we have, are going to take that up with the where the committee would have to vote to approve that. The committee will have absolutely no objection to that and will take that up this afternoon at a hearing at 2:00, assuming that we have that letter. So we are trying to move as expeditiously as possible to help Mr. STOKES in his inquiries as well.

Ms. WATERS. Mr. Speaker, it is my understanding that, as chairman of the committee, you automatically have subpoena powers; is that correct?

Mr. COMBEST. The gentlewoman is correct.

Ms. WATERS. And that you may choose to use those subpoena powers at any point in your investigation and your hearings?

Mr. COMBEST. The gentlewoman is correct.

Ms. WATERS. I thank the gentleman very much. I just wanted to put that on the RECORD, because the question has been asked of me by people calling in.

Mr. DICKS. I want to commend the gentlewoman for her leadership on this issue and tell her that we will work very closely with her.

Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, as the discussion just concluded indicates, a free and democratic country such as ours faces a peculiar predicament in trying to deal with secrets, with spying, with the activities of the intelligence community in a way that is as consistent as possible with our democratic values and the principles of open government. It is a ticklish and delicate responsibility that this committee undertakes on behalf of the full membership of the House.

I just want to commend both the gentleman from Texas, our chairman, and our ranking member from Washington State and the fine staff that the committee has for this ongoing effort.

One of the things that we are able to talk about in debate and in the open is the efforts that are ongoing to try to deal with the system of classification of national security information. This bill continues the effort that has been under way for a couple of years now to push the intelligence community, both with regard to greater discipline in classifying information and improved activity toward declassification of old material or material that no longer really has national security significance, so that as much as possible we can bring the records of this Government into the public domain, when they present no further risk to national security, and honor as much as we possibly can the important principle that this is the people's government and they ought to know as much as they can about what goes on.

Related to that is, again, an important provision in this bill that continues the efforts that have been under way for a couple of years as well, to bring into public domain and access, information gathered through our intelligence assets that relate to very pressing global and domestic environmental issues.

I think we all recognize that much of this country's foreign policy and national security issues will derive directly or indirectly from the pressures of environmental degradation, population growth, all that goes with that.

It is important that we make available to the civilian community, the folks outside the national security establishment, as much of the information as we can relating to these issues that happens to have come into our possession through overhead imagery and other assets that the intelligence community has.

This bill, along with pushing on declassification in general, also increases the funding levels for moving some of this material out of the classified realm and sharing it with appropriate agencies of government, civilian researchers, and others that can put to productive use this very significant information that we happen to acquire through out intelligence capabilities. I want to thank again Mr. COMBEST and Mr. DICKS for their willingness and help in bringing the bill along in this respect.

I urge adoption of the conference report.

Mr. DICKS. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Oregon [Ms. FURSE], my good friend and colleague.

Ms. FURSE. Mr. Speaker, I thank the gentleman for yielding me the time.

I want to refer to the conversation that took place earlier regarding the crack situation, the articles of crack cocaine being brought in to fund the Nicaraguan war.

There are two points I would like to make: One, that did not just happen in east Los Angeles. It is my understanding from this article that a notorious drug dealer who plagued Portland, OR, the gangs moved into Portland, OR, and they brought the crack cocaine, is also implicated in this issue. So this is a nationwide problem that every one of us needs to be concerned about.

The second issue I would like to bring to the chairman and the ranking member is an issue of immigration. We are going to deal with an immigration bill later today, but I wanted to quote from a judge who talked about a notorious person, a Mr. Meneses, who was very involved in this. He was arrested in 1991 in Nicaragua. The judge, Judge Martha Quezada, said, "How do you explain the fact that Norwin Meneses, implicated since 1974 in the trafficking of drugs, has not been detained in the United States, a country in which he entered, lived, departed many times since 1974?"

The contras who were funded with this drug money had their base camps in Honduras at the time. There are allegations that some of them were involved in cases of disappearances in Honduras. Right now, in a landmark case, Honduran military officers have been indicted for their involvement with human rights violations and their trial is pending. Some of those military officers had very close ties to the contras.

During the early 1980's the United States sent millions of dollars to the Honduran military as a bulwark against the Sandinista government in Nicaragua and against the guerrillas in both El Salvador and Guatemala. We built and operated military bases, airfields, and sophisticated radar systems on Honduran territory. The United States Government also helped to establish, train, and equip a special military unit which was responsible for kidnapping, torture, disappearance, and murder of at least 184 Honduran citizens; students, professors, journalists, and human rights activists.

Human rights investigators have been thwarted by a dearth of information within Honduras. Our Government has records that would be useful to those in the Honduran Government who are attempting to bring justice and prosecute those who are guilty of human rights atrocities.

Mr. Speaker, I want to stress the importance of declassification of documents, the funding for which is authorized in this conference report. The State Department has provided some initial documents to the Honduran Government. My colleagues, Mr. LANTOS and Mr. PORTER, cochairs of the Congressional Human rights Caucus, are circulating a letter to the President right now that asks for declassification of documents that will help shed light on the situation of human rights abuses in Honduras during the time of our contra-drug connection.

I urge my colleagues to sign Mr. LANTOS' and Mr. PORTER's letter, and to continue our quest for truth in the morass of problems caused by United States involvement in war against the Nicaraguans.

□ 1130

So I want to congratulate the chairman and the ranking member for taking this so seriously because it really does implicate so many of the institutions we hold in such high esteem in this country, and I want to say that the citizens of Portland, OR, are extremely concerned that these drugs came into our fair city and have so hurt the lives of young people.

Mr. COMBEST. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. McCOLLUM], a member of the committee.

Mr. McCOLLUM. Mr. Speaker, I thank the gentleman for yielding this time to me. I am very concerned about the allegations I have heard discussed this morning about the CIA having had a role in drug trafficking back during the Iran-contra period, mainly because I do not personally think there is any truth to it and I have some personal knowledge about it.

I recall that when I was the ranking member and when we were in the minority on my side of the aisle and I was the ranking member of the Crime Subcommittee of which I am now chairman, then-Chairman Bill Hughes of New Jersey and I spent 2 years investigating the question that is raised by the newspaper accounts that have been reported this morning. We sent committee staff actually live down into the Nicaraguan scene to investigate these allegations. A lot of time, staff time, was spent, and the net result of the 2-year investigation was there was no substantial credible evidence that this occurred.

Mr. Speaker, what we have out here this morning and what we have seen discussed in the last week or so are some newspaper accounts of a statement made by a known criminal in California in a case which has been released to the public now where he has made these allegations, but there is no corroboration of it. I understand that Mr. Deutch, who is the director of the Central Intelligence Agency, has said he will thoroughly look into this again, but I feel very confident that based on what I know and having been through this process for 2 years with an investigative team, that there is going to be no credible evidence turned up to corroborate this.

I do not doubt there may have been some drug dealing by somebody who was in some way connected historically with a group that was involved with the contras, but to say they were out there raising money at the behest of the U.S. Government, the CIA was helping them, and that kind of innuendo, I think is putting the horse before the cart and making some conclusions or suggested conclusions that just are not warranted at this time, and I would urge my colleagues to refrain from jumping to any conclusions about this matter.

Let the CIA do its investigation.

Ms. WATERS. Mr. Speaker, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Speaker, I would like to caution the gentleman, before he takes such a tough stand in defense of the CIA, that there has been testimony under oath in Federal court in northern California by Mr. Blandon that he indeed under oath said he worked for the CIA, and it is also recorded and documented that he was a known drug dealer.

So I want to caution the gentleman that there is testimony under oath in Federal court by one of the CIA operatives, and the gentleman from Florida needs to know that.

Mr. MCCOLLUM. Mr. Speaker, I want to reclaim my time and say, so one person has said this under oath; I do not doubt he has. I am suggesting his credibility is seriously in question, has been all along. We knew about Mr. Blandon at the time that we did our investigation in the Subcommittee on Crime several years ago, and that was one of the primary reasons why we did the investigation, was because of this whole trail.

I am not saying it is not possible, and I am not saying that we should not have the CIA look into it. I am happy they are doing it. All I am suggesting is that this morning there has been nobody questioning these articles. In this discussion we have been sounding like we are taking it as probably true. I think it is probably not true, but we will wait and find out. But my judgment from what I know of it is it is probably not going to be corroborated.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, I just want to caution the gentleman not to do exactly what he is cautioning everybody else not to do. Everybody else has talked about allegations. It is the gentleman who has come to the floor and sprung instinctively to the defense of somebody that we have not even charged with doing anything other than "let's investigate," and for the gentleman to come to the floor and say I have concluded that I do not think these allegations have any basis is the gentleman doing exactly what he is cautioning us not to do.

Mr. MCCOLLUM. Reclaiming my time, I have not concluded anything. I am telling my colleagues that at the time we spent 2 years investigating this very subject matter in the Subcommittee on Crime there was no credible evidence to corroborate the allegations that were made. If there had been, we would have been putting it forward back several years ago, and what is now being put on the table in public knowledge in court is very comparable to what we had 2 years ago; and I just doubt, and I am not saying I am concluding it, but I doubt seriously further investigation is going to turn up more, but I am happy to have further investigation. I just do not want it to go past today with all these comments being spread on the record, with innuendoes out there, with the impression being left everybody who knows anything about this in Congress thinks it might be true. I think it in all probability is not, but I do not know that for a fact, just like I was not sure a 100-percent back when we did the investigation. But we sure did not turn up anything, and we spent a lot of time looking for it.

Mr. COMBEST. Mr. Speaker, how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. CAMP). The gentleman from Texas [Mr. COMBEST] has 23 minutes remaining, and the gentleman from Washington [Mr. DICKS] has 2 minutes remaining.

Mr. COMBEST. Mr. Speaker, I yield 5 minutes to the gentleman from Washington [Mr. DICKS], and I ask unianimous consent that the gentleman from Washington be permitted to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DICKS. Mr. Speaker, I approrpiate that courtesy and I yield 2 minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Speaker, I want to express my appreciation to the chairman and the ranking minority member of the committee for their expressed interest in the issues that have been raised this morning by the gentlewoman from California and Oregon.

We are aware of a recent series of articles that appeared in the San Jose Mercury News which once again draws very disturbing attention to allegations that the Central Intelligence Agency during the early years, the decade of the 1980's conspired with former members of the Samosa government in Nicaragua to bring into this country large quantities of cocaine, and that cocaine traffic was used to finance the early years of the war that was lost by the contras against the Nicaraguan Government; and furthermore, that those large quantities of cocaine were distilled into crack cocaine, and that crack cocaine eipidemic then swept from California and the West Coast all the way across this country and constituted the worst epidemic of drug abuse that we have seen in the history of our Nation.

This is an issue that needs detailed, thorough examination.

The reason these stories persist is because prior investigations by this body and other bodies have failed to reach into the very depths of the problem and uncover precisely what went on here.

I am not suggesting that there was a coverup, but what I am suggesting however is this: that there was an inadequate investigation by the Iran-Contra Committee and by other investigative bodies that looked into this issue in the past.

This issue will not die, it will not go away until it is resolved once and for all, until we get to the very bottom of it, until we know precisely and exactly what occurred, and it is critical that we do so because the veracity and authenticity of very important agencies within this Government are at stake, and until we know exactly what happened and who was involved in it and what went on, this issue will not rest.

It is the responsibility of this Congress to look at this matter and to look at it with the utmost care, concern and in the greater depth and detail, and I am very grateful that we have had these expressions of support in this regard from both the chairman and the ranking member this morning. This is something that we have to get to the bottom of.

Mr. DICKS. Mr. Speaker, I yield 4 minutes to the gentlewoman from California [Ms. PELOSI] who is a valued member of our Permanent Select Committee on Intelligence.

Ms. PELOSI. Mr. Speaker, I thank our ranking member for giving me this time today and for his leadership, as well as that of the gentleman from Texas [Mr. COMBEST], of the Permanent Select Committee on Intelligence.

While we do not always agree on many of the issues before the committee, I do want to associate myself with the comments that went before regarding the investigation of the potential drug Contra crack cocaine into the United States and especially into the African-American community.

Before I go into that, though, I want to associate myself with the remarks of my distinguished colleague, the gentleman from Colorado [Mr. SKAGGS], that he made on the declassification issue and on the environmental issues related to the resources of the intelligence community and to thank him for his leadership on those two scores, as well as others, that come before our committee. They are both very important, and in the interest of time I will just associate myself with his remarks and spend my time on the issue of the crack cocaine.

I think it is perfectly appropriate that we have the exchange that we have had. Certainly we do not want to just make accusations, we want to see what is real about them in order for us to keep faith with the American people, with the intelligence community, and as my colleagues know, that is a big order.

I would just like to say that when I first came to Congress, which was 9 years ago, shortly thereafter we had a conference in our community, headed up by Dr. Cecil Williams of the Glide memorial to see why we had this epidemic of crack cocaine among African-American women. There were those in the African-American community who thought, and others of us who shared their view, that there was an attempt to target these women as well as targeting the African-American family. It seemed like an act of the devil, and I had hoped that it was not true, and I still do hope that it is not true.

So that is why when the articles came out in the newspaper and we heard other rumors of this, it rang true, it related to something, and hopefully again it is not true, but it does beg the question. If the Central Intelligence Agency was not involved, and let us hope they were not, did they know that the Contras were involved in drug trafficking at a time when the United States was funding the Contras? If they did not know, if the Central Intelligence Agency did not know that the Contras were engaged in drug trafficking to get money, why did they not know? Is it not the business of the Central Intelligence Agency?

So while I respect the first response that we have received from Director Deutch, whom I hold in high regard, I do think that we have to look into this, and that is why I was so pleased to hear our chairman, the gentleman from Texas [Mr. COMBEST], respond to the gentlewoman from California [Ms. WATERS] that the subpoena powers would be available; that is my understanding, and that I thank the gentlewoman from California [Ms. WATERS] for her leadership and the gentleman from New York [Mr. HINCHEY] for speaking out on this issue.

But we are at a crossroads. Much has been said about the end of the cold war and the rest. We are at a crossroads now where we look at the intelligence community and say why are we committing *x* number of billions of dollars in resources to this? Why is it justified? And there has to be a justification in this stiff competition for the dollar.

At the same time, we have to have confidence We want our President, whoever that President is, to have the best possible intelligence to help make his decisions to help make the world a safer place. We do not want to see us going into a place where intelligence funding is justified by economic espionage or other things that are not appropriate to it; those that are appropriate in the realm of the economy, sure, but not just across the board.

And at this very time we have this very serious question about the integrity of the intelligence community in the past decade, of the CIA in the past decade, at a time where this Congress was divided in a way that new Members have not even seen the likes of.

So I want to associate myself with those, especially the gentlewoman from California [Ms. WATERS], who have expressed grave concern about this issue and again leave on the table the question if this did occur, let us find out, and if it was occurring, this transfer, the sale of crack cocaine for money for the Contras was taking place, and the CIA did not know about it, why did they not know about it?

Mr. COMBEST. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LEWIS], a valued member of the committee.

Mr. LEWIS of California. Mr. Speaker, I thank very much my chairman for yielding me this time, and I must say that I would like to associate myself with many of the remarks of my colleague from California [Ms. PELOSI] who serves with me on the Permanent Select Committee on Intelligence. She could say, as I would, that very much of our work is done behind closed doors.

□ 1145

During the short time that I have been on the committee, I am amazed at the number of hours that we spend looking at these agencies that are so important to our country.

Mr. Speaker, I would start with that comment. The FBI and the CIA and agencies that relate to intelligence work are critical to the interests of our country here at home as well as in the world.

In this time of very significant change in the world, the President needs now more than at any other time excellent sources of information available to him as he represents our interests here at home, but especially abroad. I must say that because we meet behind closed doors, ofttimes the stories of the successes of those agencies are not heard about, let alone told or believed.

On the other hand, I can certainly understand the concern of many of my colleagues, like the gentlewoman from Los Angeles, CA [Ms. WATERS], about the potential impact of any government activity that might affect a community that we would hope to serve here in this Congress, especially as it relates to drugs. Stories in a newspaper are one thing. Believing those stories automatically is another. For goodness sakes, in my own campaigns I have seen stories developed by so-called reputable people that I wish somebody would question before they conclude.

Having said that, it is very, very important that we recognize the impact of drugs upon our society, and not allow a story like this to take our eye off the ball. The ball involves those people who make a living importing drugs and then delivering them to our communities. We should take our gangs and the repeated sellers and throw the key away when they are killing our young people because of their activities.

It is very important that we recognize that the President knows well the successes of these agencies and knows of their importance to his work. At the same time, we in the committee are committed to doing everything we can to make sure if there is any agency involved in this sort of linkage, that they be taken to the wall.

There is work to be done here. Most of it must be done in our intelligence room. I would urge my colleagues not to deal with the extreme sensationalism that is here, that sometimes gets headlines that we all kind of love. In the meantime, it is very important for America that we deal with this responsibly.

Mr. DICKS. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I just want to respond to the gentleman from California [Mr. LEWIS], and say that I completely agree with him that we should not be taking at face value anything we read in the newspaper, especially something of this gravity. However, we do need to look beyond the headlines. I do not take him to say anything other than that.

I wanted to make one more point. In our Committee on Appropriations last week we had a big item for interdiction, hundreds of millions of dollars we spent for interdiction. We are spending that on the intelligence community to keep drugs out of the United States, and at the same time we do not know, we might not know about one very, very egregious example of drugs coming in which we should have been aware of, that we may have been party to. I think it is a very serious issue.

Mr. COMBEST. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. DICKS], and I ask unanimous consent that he may yield that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DICKS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. MILLENDER-MCDONALD], a new Member who is very concerned about this subject and has talked to me about it on several occasions.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I have come down because I was just getting back to my office when I recognized my colleague, the gentlewoman from California [Ms. WATERS], speaking to this whole issue that we have been plagued with in south central Los Angeles. I, too, represent the heart of Watts, Willowbrook, and Compton, those areas that were ravished by this insidious act.

While I was sitting here watching the gentleman who spoke about his inability to think that the CIA was involved in this, I had to come down to say we cannot conclude whether they were involved or not involved, but it is a serious issue that we must call up for a thorough investigation.

I join the ranks of all of the Members who have spoken this morning, because when we find crack babies lying in hospitals, when we find children who are trying to go to school and who are unable to be educated because of the mental incapacity that they have, when we have a community that has been totally destroyed, we cannot help but to come to this body to ask for a thorough investigation.

I join the ranks of all of the Members who have spoken this morning, because when we find crack babies lying in hospitals, when we find children who are trying to go to school and who are unable to be educated because of the mental incapacity that they have, when we have a community that has been totally destroyed, we cannot help but to come to this body to ask for a thorough investigation.

This has now become not just a south central Los Angeles problem or a California problem. Members heard the gentlewoman from another part of the northern States, I think Oregon, who spoke on this issue. This is a national problem. I think it is incumbent upon this body to ask for and demand a thorough investigation of this drug trafficking into south central and into other urban areas of this country.

We can ill afford to have a community think that we will not pay close attention nor will we take this very seriously and look into the allegations that are very startling in the San Jose Mercury News.

I join with all of the Members who have spoken this morning, I join with my colleague, the gentlewoman from California, Ms. MAXINE WATERS, in asking that this be brought to the forefront and that we get down to the bottom of this very insidious act that has plagued our communities and that has absolutely destroyed a whole community. I urge Members to pay close attention, and I call on my colleagues for a thorough investigation of this insidious act.

Mr. DICKS. Mr. Speaker, I yield 30 seconds to the gentlewoman from Texas, Ms. SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member of the committee very much for yielding time to me.

Mr. Speaker, in responding to the gentleman from California, let me acknowledge that we do not have to make a broad-based attack on the intelligence community. All of us acknowledge the importance of national security.

However, we must stand aside from the intelligence community and demand an investigation of the bad actors that have been alleged to have conveyed and transported dangerous and devastating drugs throughout the entire Nation, that have resulted in the loss of lives throughout my community and the loss of lives of young children and babies and families and destruction. We must now demand an investigation and have one.

I ask my colleagues to join us in agreeing with those who have spoken that we have a full investigation of these devastating charges of crack cocaine being brought in by CIA agents and others.

Mr. DICKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume.

In closing, Mr. Speaker, I would just say, in my 8 years on the committee, one of the highlights has been the opportunity to get to know people who work in the intelligence community, not only in the United States but around the world. They do it knowing that and hoping that their successes and endeavors will not be on the front page of the paper. They do it because they are true patriots. They are people who literally put their lives on the line for this country and the national security of this country, and have done a remarkable job. I wish it were possible to talk about the successes that this country enjoys from the hard, dedicated, and very dangerous work these people do.

Mr. Speaker, I ask that Members support this conference report.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. COMBEST. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to concur with the gentleman from Texas. In my service on this committee, and as a member of the Committee on Appropriations over the years, the professionalism, the competence, the hard work, and the dedication of the people in the intelligence community is extraordinary. They have done a tremendous service for this country.

Having said that, I still believe we have to look at these charges seriously. I will remind everyone here that there were some extralegal questionable activities during this whole Iran-Contra period run right out of the White House. So it is conceivable that there may be some explanation besides the one that the San Jose Mercury has come up with. That is, again, another reason why we need to get to the bottom of this.

Even if it was not the CIA, I am very interested to know, how did crack cocaine get introduced into this country, who was behind it. And maybe that is not even our jurisdiction, but that is something this Congress should be interested in as well. I appreciate the gentleman yielding. I urge Members to pass the conference report.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I only want to point out to the House that part of our responsibility in this committee is to see to it that, indeed, we understand and recognize our role in dealing with the issue of the hiring, the retention, the promotion of minorities and women and the handicapped in the agencies that we oversee.

There have been allegations made public in the past that indeed the NSA, the CIA, the Department of Defense, and others may not have been doing the kind of job we want them to do.

Thanks to Chairman COMBEST's leadership and that of the ranking member, the gentleman from Washington, Mr. DICKS, there have been a series of hearings over the past several years in acquiring and achieving the kind of data that will show that this Congress does take very seriously its charge from this House that we intend to do what the President of the United States, Bill Clinton, said when he took office. That was that we wanted our Government to reflect the diversity that is America. I want to thank publicly Chairman COMBEST for permitting those hearings.

Mr. COMBEST. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. COMBEST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 3259.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 2202, ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 528 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 528

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentleman from Woodland Hills, CA [Mr. BEILENSON], pending which, I yield myself such time as I may consume. All time yielded is for the purpose of debate only.

Mr. Speaker, illegal immigration is a major problem that exists in this country, and nearly every one of us knows it. In my State of California, this may be the single most important law and order issue we have faced in a generation. Three million illegal immigrants enter the country each year, 300,000 to stay here permanently. More live in California than in any other State. In 3 years, that is enough people, Mr. Speaker, to create a city the size of San Francisco.

Mr. Speaker, it is increasingly clear that this Congress is dedicated to results. I believe results are what the American people want from their representatives here in Washington, both in Congress and at the White House. When there is a national problem like illegal immigration, they want action. Today, with this bill that we are considering that was crafted so expertly by chairman of the subcommittee, the gentleman from Texas [Mr. LAMAR SMITH], we are giving them a response.

☐ 1200

Mr. Speaker, back in the 19th century, the German practitioner of politics Otto von Bismarck made a very famous statement, with which we are all very familiar, that people should not watch sausage or laws being made.

That dictum has never been more true than in looking at what has taken place over the past couple of years. Under the barrage of 18 months and tens of millions of dollars of special interest attack ads, as well as the political rhetoric that came along with Congress changing hands for the first time in four decades, Washington has not presented a pretty picture to the American people.

But look beyond the rhetoric, the soundbites, and the smokescreens, Mr. Speaker. Look at the results. We have gotten bipartisan welfare reform, bipartisan telecommunications reform, bipartisan health insurance reform, a line-item veto measure that passed with bipartisan support, environmental protections that have had bipartisan support, and now a major illegal immigration bill that also enjoys tremendous bipartisan support. In each case, the final product from this Congress has been a major accomplishment where past Congresses have unfortunately produced failure.

Mr. Speaker, in California, illegal immigration is a problem in its own right, but it is also a factor that contributes to other problems. It undermines job creation by taxing local resources, it threatens wage gains by supplying undocumented labor, it has been a major factor in public school overcrowding, forcing nearly $2 billion in State and local resources to be spent each year educating illegal immigrants rather than California's children.

As with other major national problems, the American people want results, not rhetoric, as I was saying. H.R. 2202 fills that bill. It is not perfect. There are Members of this House who spent years trying to address illegal immigration who think that the bill could be better, and I am one who thinks that this bill could be better. This conference report is not the answer to all of our problems.

However, that is not a fair test, and it is not the test that the American people want us to use. People do not want us to kill good results in the name of perfection. There is no question that this conference report, filled with bipartisan proposals to improve the fight against illegal immigration, should pass, and pass with broad bipartisan support, as I am sure it will.

The bill dramatically improves border enforcement, fights document fraud and targets alien smuggling, makes it easier to deport illegal immigrants, creates a much needed pilot program to get at the problem of illegal immigrants filling jobs, and makes clear that illegal immigrants do not qualify for welfare programs. Together, Mr. Speaker, this is not just a good first step; it takes us a good way toward our goal of ending this very serious problem of illegal immigration.

Mr. Speaker, I must note that the 104th Congress did not just come around to this problem at the end of the session. This important bill only adds to other accomplishments, other results.

Congress tripled funding, Federal funding, to $500 million to reimburse States like California for the cost of housing felons in State prisons if they are illegal aliens. The remarkable fact is that we are 1 week from the close of fiscal year 1996 and the Clinton administration has not distributed $1 in fiscal year 1996 money to States like California.

The welfare reform bill, signed by the President, disqualified illegal immigrants from all Federal and State welfare programs and empowered State welfare agencies to report illegals to the INS. Congress also created a $3.5 billion Federal fund to reimburse our hospitals for the cost of emergency health care to illegals, only to see that provision die due to a Presidential veto.

Finally, Mr. Speaker, I must add that promoting economic growth and stability in Mexico, in particular, whether through implementing the North American Free Trade Agreement or working with our neighbor to avoid a financial collapse that would create untold economic refugees on our Southern border is critical to the success of our fight against illegal immigration. We want to do what we can to give people an opportunity to raise their families at home rather than come to this country for jobs and other benefits.

Mr. Speaker, now is the time for final action on this important illegal immigration bill. California must deal every day with that flood of illegal immigrants who are coming across the border seeking government services, job opportunities, and family members. There is simply no question that the President, for all his rhetoric, has failed to make this a top priority. Once again, as with welfare reform, we can give the President a chance to live up to his rhetoric. Let us pass this rule, pass this conference report, and give the American people another issue of which they can be very proud.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for yielding me the customary 30 minutes of debate time, and I yield myself such time as I may consume.

I want to say at the outset, I say it gently and nicely, this is not directed personally to my truly good and close friend whom I admire, respect and like a huge amount from California, but I want to say to our friends on the other side that I am personally shocked and astounded by the lack of comity and collegiality that was shown in this particular instance. This is the first time I can recall in my 18 years of service on the Rules Committee where the majority party started taking up a rule before the minority party was here, and in fact we learned of the rule being taken up at this time after having been assured, I know it is not the gentleman's fault, so I am not directing my comments at all to him, I say to my good friend, but to whoever is responsible for changing or speeding up the course of action here. We were assured this would not be taken up for some time, until sometime after we had disposed of the intelligence bill and after at least some of the other bills on suspension would be taken up, and our people are not prepared or are not so prepared as they would have been an hour or two from now to debate this matter.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. BEILENSON. I yield to the gentleman from California.

Mr. DREIER. I just want to say that I agree with the gentleman. I wish that it had been run in a more orderly fashion. I was assuming that there would have been a recorded vote on that intelligence bill.

Mr. BEILENSON. I understand. As I said to the gentleman from California [Mr. DREIER], my friend, I know it was not the gentleman's doing. I just wanted to say if we seem a little hurried on this side and some of our folks have not arrived yet, it is because they did not expect to have to be over here quite at this time. At any rate, let us get down to the matter. We do have the remainder of the day to deal with this and its other matter. Mr. GALLEGLY's amendment, and we could have given ourselves a little more time, it seems to me.

Mr. Speaker, we do oppose this rule and the legislation it makes in order, the conference report on the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

By waiving all points of order against the conference report and its consideration, this rule allows the leadership to bring this measure to the floor fewer than 24 hours from the time it emerged from the conference committee. Hardly anyone besides the majority Members and staff who worked on the conference report knows much about its specific provisions. We know that it does not contain Mr. GALLEGLY's amendment on educating children of illegal immigrants, which is, we think, good. That is, it is good that it does not contain it, but that is the only provision that has received much attention in the press. We are being asked to rush to judgment on a matter that needs far more deliberation and discussion than it will have prior to the vote on final passage. Furthermore, the rule essentially sanctions House consideration of legislation that is not the product of a legitimate House-Senate conference committee. There is good reason why no Democratic member except for one signed the conference report. Democratic members who had worked hard on this legislation along with their Republican colleagues from its inception were completely shut out of the conference process. There was no consultation with Democrats over the past 5 months after the House and Senate had both passed immigration bills of their own. Democratic members went to the conference meeting yesterday not knowing what was in the final product and were not given the opportunity to offer amendments despite the fact that the proposed conference report contained many new items and quite a few that were outside the scope of the conference itself and no vote was taken on the report. And now here on the floor we are being asked to endorse this egregious practice by adopting this rule. We should not do that, we should defeat this rule or, failing that, we should defeat the conference report itself.

Mr. Speaker, those of us who represent communities where large numbers of immigrants settle have been working hard for a number of years to get Congress and the administration to stop the flow of illegal immigrants into the United States. Many of us have also been trying to slow the growth or slow the rate at which legal immigrants are flowing into our country.

Our efforts have been supported by not only people who are affected directly by rapid population growth resulting from immigration, but also by the vast majority of Americans everywhere. More than 80 percent of the American people, according to poll after poll, want Congress to get serious about stopping illegal immigration, and they want us to reduce the rate of legal immigration. Unfortunately, this legislation would do neither. This measure is a feeble and misguided response to one of the most significant problems facing our Nation. For us to spend as much time and energy as we have identifying ways to solve our immigration problems and then produce such a weak piece of legislation is, I think it is fair to say, a travesty, and eventually the American people, perhaps soon, I hope soon, will understand that we have not fulfilled our responsibilities in this matter.

If we truly care about immigration reform, we must vote down this conference report today so that the Congress and the President will be forced to revisit this issue next year. Otherwise, I am afraid the Congress and the administration will have an excuse to put this issue aside and it will be years again, literally years, before we get really serious about stopping illegal immigration and reducing legal immigration.

One of this bill's greatest defects is its lenient treatment of employers who hire illegal immigrants. An estimated 300,000 illegal immigrants settle permanently in the United States each year. As we all know, virtually all of them are lured here by the prospect of jobs which they are able to obtain because the law allows them to prove work authorization through documents that can be easily forged.

That will continue to be the case despite this legislation's reduction in the kinds of documents that can be used to prove work eligibility. As a result, it is next to impossible for employers to determine who is and who is not authorized to work in the United States.

This is not a problem we recently discovered, Mr. Speaker. Congress knew a decade ago and more when we first established penalties for employers who knowingly hire illegal immigrants that it would be difficult to enforce the law, impossible actually, if we did not have some kind of system requiring employers to verify the authenticity of documents that employees use to show work authorization.

Moreover, because more than 50 percent of illegal immigrants come here legally and then overstay their visas, we cannot stop these types of immigrants simply by tightening border control. The only real way we can stop them is by forcing employers to check their work authorization status with the government.

But despite knowing full well that the lack of an enforceable verification system is the largest obstacle to enforcing employer sanctions and thus the biggest hole in our efforts to stop illegal immigration, this legislation fails to cure that major principal problem.

For employment verification, the bill provides only for pilot programs in States that have the highest numbers of undocumented workers. Because these pilot programs will be voluntary, employers will be able to avoid checking the status of their employees. Thus, businesses that hire illegal immigrants, and there are plenty of them, Mr. Speaker, who do, will continue to be able to get away with it the same way they do now, by claiming that they did not know that employees' work authorization documents were fraudulent. And that will continue until the Congress revisits the issue and passes legislation making verification mandatory.

To make matters worse, the bill fails to provide for an adequate number of investigators within either the Immigration and Naturalization Service or the Labor Department to identify employers who are hiring illegal immigrants.

The other glaring failure of this piece of legislation is its failure to reduce the huge number of legal immigrants who are settling in the United States each year. Many people have been focusing on the problem of illegal immigration, which is understandable. Undocumented immigrants and employers who hire them are breaking our laws and should be dealt with accordingly. But if a fundamental immigration problem we are concerned with, and I believe it is, it certainly is amongst the people I represent back home, is the impact of too many people arriving too quickly into this country, the sheer numbers dictate that we cannot ignore the role that legal immigration plays. About three-quarters of the estimated 1.1 million foreigners who settle permanently in the United States each year do so legally.

□ 1215

It is the 800,000, more or less, legal immigrants, more so than the estimated 300,000 illegal ones, who determine how fierce the competition for jobs is, how overcrowded our schools are, and how large and densely populated our urban areas are becoming. More importantly, the number of foreigners we allow to settle in the United States now will determine how crowded this country will become during the next century.

The population of the United States has just about doubled since the end of World War II. That is only about 50 years ago. It is headed for another doubling by the year 2050, just 53 or 54 years from now, when it will probably exceed half a billion people. Half a billion people in this country. Immigration is the engine driving this unprecedented growth.

Natives of other lands who have settled here since the 1970's and their offspring account for more than half the population increase we have experienced in the last 25 years. The effects of immigration will be even more dramatic, however, in the future. By the year 2050, more than 90 percent of our annual growth will be attributable to immigrants who have settled here since the early 1990's; not prior immigration, but just the immigration that is occurring now and will continue to occur if this bill is allowed to pass.

As recently as 1990, the Census Bureau predicted that U.S. population would peak and then level off a few decades from now at about 300,000 people. In 1994, however, just 4 years later, because of unexpectedly high rates of immigration, the bureau changed its predictions and now sees our population growing unabated into the next century, into the late 21st century, when it will reach 800 million, or perhaps 1 billion Americans, in the coming century.

Now, a year ago, there was a near consensus among Members and others working closely on immigration reform that we needed to reduce the number of legal as well as illegal immigrants entering this country. The Clinton administration has proposed such reductions, and both the House and Senate Judiciary Committee versions of the immigration reform legislation also contained those reductions. All three proposals were based on the recommendations of the immigration reform commission, headed by the late Barbara Jordan, which proposed a decrease in legal immigration of about a quarter million people a year.

The commission's recommended reduction would still, of course, have left the United States in a position of being by far the most generous nation in the world in terms of the number of immigrants we accept legally. We would continue to be a country which accepts more legal immigrants than all of the other countries of the world combined.

But, unfortunately, Mr. Speaker, after intensive lobbying by business interests and by proimmigration organizations, both the House and the Senate stripped the legal immigration reduction from this legislation entirely, and did so with the Clinton administration's blessing. Now, unless the Congress defeats this legislation today, reductions in legal immigration, are unlikely for the foreseeable future.

Our failure to reduce legal immigration will only be to our Nation's great detriment. The rapid population growth that will result from immigration will make it that much more difficult to solve our most pervasive and environment problems such as air and water pollution, trash and sewage disposal, loss of agriculture lands, and many others, just to name some of the major ones.

More serious environmental threats are not all that we will face when our communities, especially those in large coastal urban areas, speaking mainly, of course, at the amount, of California and Texas and Florida and New York and New Jersey, but there are others that are already being affected and more that will be in the future, areas that are magnets for immigrants, whether legal or illegal, are already straining to meet the needs of the people here right now. There could be no doubt that our ability in the future to provide a sufficient number of jobs or adequate housing and enough water, food, education, especially health care and public safety, is certain to be tested in ways that we cannot now even imagine.

However we look at it, Mr. Speaker, however we look at it, failing to reduce the current rate of immigration, legal and illegal, clearly means that our children and our grandchildren cannot possibly have the quality of life that we ourselves have been fortunate to have enjoyed. With twice as many people here in this country, and then more than twice as many, we can expect to have at least twice as much crime, twice as much congestion, twice as much congestion, twice as much poverty, twice as many problems in educating our children, providing health care and everything else.

In terms of both process and outcome, this conference report is a grave disappointment. It is notable more for what it is not than for what it is. Instead of a conference report that reflects only the views of the majority party, this measure could have been a bipartisan product as immigration bills traditionally are, but it is not. Instead of a measure developed in someone's office, this continuing resolution could have been the result of a conference committee, but it is not. Instead of legislation that is lax or lenient on employers who hire illegal immigrants, this could have been a measure that finally established a workable system that enforced penalties against those who knowingly hire illegal immigrants, but it is not.

Instead of a bill that fails to slow the tide of legal immigrants, except by singling them out for unfair treatment, as it does, this could have been a bill that reduces the rate at which immigrants settle here and thus help solve many problems which confront us as a society already, but it is not.

Mr. Speaker, the bill this rule makes in order, does not, to be frank about it, deserve our support. I urge our colleagues to vote it down, both the rule and/or the conference report, so that Congress and the President, and the administration, which did not do its duty, it seems to this Member by these issues, both the Congress and the President will be forced to return to this issue next year and to produce the kind of immigration reform legislation that the American people want and that our country badly needs.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 1 minute to my very good friend, the gentleman from Texas [Mr. SMITH], the chairman of the subcommittee.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the comments by opponents of this legislation simply do not represent the views of most Americans. They do not even represent the desires of a majority of the Members of their own party. Every substantive provision in this compromise conference report has already been supported by a majority of Democrats and a majority of Republicans either in the House or Senate.

I find it curious that when the American people want us to reduce illegal immigration, every single criticism made by the opponents of this bill would make it easier for illegal aliens to enter or stay in the country, or it would make it easier for noncitizens to get Federal benefits paid for by the taxpayer.

Mr. DREIER. Mr. Speaker, I yield 3½ minutes to my friend, the gentleman from Sanibel FL [Mr. GOSS], the chairman of the Subcommittee on Budget and Legislative Process.

Mr. GOSS. Mr. Speaker, I thank the vice chairman of the Committee on Rules, my friend, the gentleman from California [Mr. DREIER], for yielding. I wish to commend the gentleman for his efforts on this important bill. I can say that he has been persistent and he has been instrumental in getting us to this point.

I support the rule, but I do agree with the gentleman from California [Mr. BEILENSON] that there was a mixup in the scheduling, and I think that we have understood there was nothing sinister behind it. A vote dropped off, so we got ahead of ourselves.

Mr. Speaker, many months ago the House passed 2202 to reform our Nation's broken immigration system.

This landmark legislation will tighten our borders, block illegal immigrants from obtaining jobs that should go to those who are in the United States legally, streamline the process for removing illegals, and make illegal immigrants ineligible for most public benefits.

All along in this process, the drumbeat from the American people has been very clear—it's long past time for reform. We have come to understand that reform is not for the faint of heart—that there are tough choices to be made and that there are real human beings on all sides of the immigration process. In the end, I believe we have legislation that is tough but fair—legislation designed to keep the door open for those who want to come to America but are willing to do it via an orderly, legal process, not sneak in the back or side door.

H.R. 2202 will add 5,000 new border patrol agents over the next 5 years Yes, 5,000. It will make illegal immigrants ineligible for many public benefits, while still allowing them access to emergency medical care. It also requires future sponsors to take more responsibility for their charges—a prospective change that is a win for immigrants and for American taxpayers alike, reducing the $26 billion annual tab American taxpayers currently pay. H.R. 2202 sets up a 3-year voluntary pilot program in five States so employers can use a phone system to verify Social Security numbers of prospective employees. If the pilot is successful, we may finally have a simple and effective way for employers to fulfill their legal responsibility to hire only eligible workers. There is no national identity card and no big brother database in this legislation. Mr. Speaker, as with all things that are borne of compromise, this legislation is not without disappointments. In my State of Florida, we know that undocumented immigrants cost Florida taxpayers millions of dollars every year in education costs. The Governor's office estimated the cost for 1 year to have been $180 million. Nationwide for 1 year the estimate was more than $4.2 billion. We simply cannot afford to educate all of the world's children while extending a magnet that fuels illegal entry into our country. Although I am disappointed it's not in this bill, I am pleased that this House has a chance to debate the Gallegly language as a separate measure, to end the current unfunded Federal mandate and give States an opportunity to make their own decision about how to handle this problem.

Overall, Mr. Speaker, this is a solid bill. It is one more example of this Congress, under our new majority, living up to its commitments. One more time we have promises made, promises kept.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Speaker, I thank my colleague from California for yielding me time. TONY, we will miss you next year and all your work you have done for not only our district, but the people of California, and the people of our country.

Mr. Speaker, there is a consensus that illegal immigration is a national problem that needs to be addressed. I believe our immigration laws need to be strengthened. But this conference agreement ignores the real reasons for illegal immigration and does little to protect American jobs. The reason people are in our country illegally is not to go to school, it is to get a job.

A successful control of illegal immigration requires comprehensive efforts not only to police our borders, but also to effectively reduce the incentives to employ illegal immigrants.

The bill has serious deficiencies in regard to employment and work site enforcement. The conference report does not contain the Senate provision that would authorize 350 additional enforcement staff for the Department of Labor, Wage and Hour Division, to enhance worksite enforcement of our laws.

This conference report does not contain the Senate provision authorizing enhanced civil penalties for employers who violate the employment sanctions and specified labor laws. Higher penalties would also serve to reduce the incentives to employ and thereby deter illegal immigration.

This conference report does not contain the Senate provision that would have provided subpoena authority to the Secretary of Labor to carry out enforcement responsibilities under this act.

Even though I served on the conference committee, and I was honored to do so, I nor other Democrats were given the opportunity to offer amendments to correct these deficiencies: We will have real immigration reform when we as Democrats are not locked out of the process.

Is this bill better than no bill? Maybe. But the people of America want something that will stop illegal immigration. This will not stop it. It may be better than the status quo because of the additional border patrol, but it does not go as far as the American people want it to go to deter illegal immigration. That is why this is not the panacea that you may hear from the other side of the aisle. It is an election year gimmick to say we passed immigration reform, but we have not.

Mr. DREIER. Mr. Speaker, as the gentleman from Texas just said, this bill is clearly better than the status quo.

Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Orlando, FL [Mr. MCCOLLUM], the chairman of the Subcommittee on Crime.

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman for yielding 2 minutes to me.

Mr. Speaker, I just want to make a comment. There are a few things in this bill that maybe I could quibble over, but very few. There are a number of things that are not in this bill that I would like to see here, and I know many other Members would. But, overall, this is an excellent work product. There are some very significant things in this bill.

One of the things this bill does is to reform the whole process of asylum, that is the question where somebody seeking to come here or to stay here claims that they have been or would be persecuted for religious or political reasons if they return to the country of their origin.

We have had lots of people coming in here claiming that. Most of them who claim it have no foundation in claim at all. Once they get a foot in the airport or wherever, they make that claim, they get into the system, many of them are never heard from again. We do not get the kind of speedy process we need to resolve this.

Under this legislation there is a system much better than we have today for resolving the whole question of asylum from A to Z. We have an expedited or summary exclusion process that will be guaranteed in the sense you get two bites at the apple. If you ask for asylum at the airport, an asylum officer specially trained will screen you. If you think you have been given a raw deal and he says you do not have a credible fear of persecution and decides to return you straight home, you get to go before an immigration judge. That has to be done though within a matter of 24 hours, 7 days at the most.

It is a very, very positive provision, because it you do not qualify, you are going to be shipped right back out again, and do not get caught up in our system. And the list goes on and on.

So this is a very important and positive bill. But there are a couple of things that I think should have been in here that are not. One of them is the strengthening of the Social Security card that the gentleman from California [Mr. BEILENSON] talked about at some length. We need a way, a very difficult way, to get rid of document fraud, in order to make employer sanctions work. All too many people are coming into this country today getting fraudulent documents for $15 or $20 on the streets, including Social Security cards, drivers licenses or whatever, and then they go get a job. There is no way to make a law that says it is illegal to knowingly hire an illegal alien work.

□ 1230

And until we solve this fraud problem and we do more than we are doing in this bill to do that, we will never make it such that we can cut the magnet of people coming in here illegally.

But the bill is excellent. Let us vote for this bill and work on these other matters in the next Congress.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. BONIOR], the minority whip.

Mr. BONIOR. Mr. Speaker, I thank my colleague for yielding me this time.

And let me say at this point briefly to my friend from California, whom I have had the honor of serving with, and we were in the same class together, been here for 20 years, how much I have appreciated his friendship and his counsel and all that he has done for this institution. He is truly one of the most decent people I have ever served with in public life, one of the brightest people I have ever served with, and I will miss him dearly as we go into our next Congress.

Mr. Speaker, I would like to echo the comments of my friend from California in opposing this rule and opposing this conference report. I do so for the following reasons:

This conference report weakens protection for American workers while making it easier for employers to hire illegal workers. The conference report includes broad language that is not contained in the House-passed bill which rolls back antidiscrimination protections and makes it more difficult for American workers to bring employment discrimination claims.

Workers will now have to prove that an employer deliberately had an intent to discriminate, which is an almost impossible standard to meet. Workers who are wrongfully denied employment because of computer errors, and we know in this brave new world we live in that is becoming more and more common, under this bill they will not be able to seek compensation from the Federal Government because of that error because they were just kind of wiped out on the list and were not able to get a job.

At the same time it does this, it does something else. It will make it easier for employers to hire illegal workers. The conference report does not include the Senate provision that would have increased penalties for employers who knowingly hire illegal workers.

Now, that is significant, because each year more than 100,000 foreign workers enter the work force by overstaying their visas. Many are hired in illegal sweatshops, in violation of minimum wage laws. And we have seen what the Labor Department has unveiled in this regard over the last couple of years: Sweatshops all over this country with illegal people who are working in these sweatshops and no crackdown on the employers. The conference report does not include the additional 350 labor inspectors.

Let me also say something about class. This is a bill that discriminates against average working people in this country and average folks. Millions of Americans would be denied the ability to reunite with their spouses or minor children because they do not earn more than 140 percent of the poverty level, which is the income standard set by the conference report in order for it to sponsor a family member to come here.

A third of the country would be ineligible to bring in folks under this particular conference report. But if you have a few bucks, no problem. If you are an average worker in this country, we are sorry.

Another point in this bill that I think Members should pay attention to: An individual serves his country. They are here not as a citizen but as a legal immigrant, and they decide to serve in the armed forces, the Air Force, the Marine Corps, the Army, and they put in 2 years or 4 years, and then they leave and get in an automobile accident and take advantage of some medical benefits. They can go under this bill. They can be deported.

There are a lot of things in this bill that are discriminatory against a lot of people who care about this country. I think it is a bad piece of legislation. Say no to the rule. Say no to the bill. We will come back and do it right in the next Congress.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume and would say to my friend, if he does not like the sponsor provision that exists today, he should try to get rid of it rather than leaving it absolutely meaningless.

Mr. Speaker, I yield 2 minutes to the gentleman from Huntington Beach, CA [Mr. ROHRABACHER], my friend, and one of the strongest proponents of legal immigration.

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of the rule and the conference report.

Mr. Speaker, millions of illegal aliens have been pouring into our country, and we have heard year after year after year a reason of why we should not act. There is always going to be a reason that the other side will prevent us from acting.

In fact, for years those of us on the Republican side have begged for an immigration bill, and we have been prevented time and time again from having any type of legislation where we could come to grips with this problem.

In California, our health facilities and our schools have been flooded with illegal aliens. Our public services are stretched to the breaking point. Tens of billions of dollars that should be going to benefit our own citizens are being drained away to provide services and benefits to foreigners who have come here illegally.

Who is to blame? Certainly not the immigrants. We cannot blame them if we are to provide them with all these services and benefits. This administration and the liberal Democrats, who have controlled both Houses of Congress for decades, have betrayed the trust of the American people.

We are supposed to be watching out for our own people. When we allocate money for benefits, for service, SSI and unemployment benefits, it is supposed to benefit our citizens, the people that are paying taxes, who fought our wars. Instead, when we have tried to make sure these are not drained away to illegal aliens, we have been stopped every time by the Democrats who controlled this House.

This bill finally comes to grips with the problem that has threatened the well-being of every American family. And, yes, we are going to hear a little nitpicking from the other side of why it is not a perfect bill. But the American people should remind themselves, it is this type of nitpicking that has placed their families in jeopardy for decades and permitted a problem of illegal immigration to mushroom into a catastrophe for our country.

Mr. BEILENSON. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from California, and let me say as a new Member of Congress, I have admired his leadership, his determination, and particularly the demeanor in which he has led not only his district, the State of California, but the Nation, and I thank him very much for his services.

It is important as we rise to the floor, Mr. Speaker, on this issue, to chronicle for the American people just how far we have come. This legislation started out as a combination of some effort in response to legal immigration and illegal immigration.

Unfortunately, the provisions of the legal immigration part of this legislation were extremely harsh and, in fact, did not capture the spirit of the Statue of Liberty, which indicates that this Nation, bar none, regardless of the standards used by other countries, we do not follow, we lead, was not a country that would close its doors to those seeking opportunities for work but opportunities for justice and liberty and freedom.

So I am delighted that we were able to separate out the major parts of legal immigration and to acknowledge that, yes, we must work with regulating the influx of those coming into this country, but we should never deny the opportunity for those seeking political refuge and needing social justice and fleeing from religious persecution. Our doors should never be closed.

I am disappointed, as we now look at illegal immigration, we have several points that need to be considered. This is not a good jobs bill for America because it does not give to the Department of Labor the 350 staff persons needed to make sure that employers are following the rules as they should.

And, likewise, I would say that this is an unfair bill with respect to those who are here legally, for it says if they want to bring their loved ones, their mother, their father, their siblings, they must not be a regular working person, but they have to be a rich person.

I thought this country was respective of all working citizens, all working individuals who worked every day. But now we require a high burden of some 200 percent more over the poverty level than had been required before in order for a legal resident, a citizen, to bring in their loved ones to, in essence, join their family together. I think that is unfair.

Then we raise a much higher standard on those citizens who now, or those individuals who are seeking employment who may be legal residents. Now they must prove intentional discrimination. I think that is extremely unfair.

We likewise determine that we do not have the ability for redress of grievances by those individuals who have been discriminated against. That is unfair.

And let me say this in conclusion, Mr. Speaker. Mr. Speaker, let me say that we treat juveniles unfairly and we should vote down the rules and vote down the bill.

Mr. DREIER. Mr. Speaker, I yield 1½ minutes to the gentleman from Mount Holly, NJ [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman from California for yielding me this time.

Mr. Speaker, first let me say that I support the rule and I will vote in favor of the bill itself today. However, I am deeply disturbed by one aspect of the bill.

Most of the provisions of the bill, I think, are in accord with good sound policy. However, this bill does contain one provision, to exempt the Immigration and Naturalization Service from both the Endangered Species Act and the National Environmental Policy Act.

This provision is intended to address an issue that has to do with the California-Texas-Mexico border. However, the way this section is written, the exemption applies to the entire border of the United States, not just the California-Mexico border near San Diego.

This waiver is not necessary, either in theory or in reality. Section 7, as a matter of fact, of the Endangered Species Act provides the framework to address any fence building. I have letters from the Department of Justice and the Department of the Interior stating that these waivers are not necessary.

Mr. Speaker, if it is important enough to exempt the Immigration and Naturalization Service from these important environmental laws, then we have to grow food, why do we not just exempt the Department of Agriculture? We have to get around in this country, so why do we not just exempt the Department of Transportation? And flood control is extremely important in my district, so why do we not just exempt the Corps of Engineers?

Mr. Speaker, this is a bad provision, and while I am going to vote for this bill, I pledge to spend the next 2 years making sure we straighten out this part of the bill which, to me, is a serious problem.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I thank the distinguished gentleman from California, a friend of mine, for yielding me this time.

I also want to join all my colleagues who are acknowledging the many years of service the gentleman from California [Mr. BEILENSON] has provided to this institution and to the people of America. They probably do not realize how instructive he has been in helping us fashion all sorts of policy, and I certainly will miss him, and I hope that he continues to be involved in policy for this country, because he has been a voice that has brought reason and, I think, a great deal of wisdom to this country's policies and laws.

Mr. Speaker, let me go on to say that I am very disappointed in what we have here today, for a couple of reasons, not only because I think substantively this is a bill that needs a great deal of improvement, but because procedurally it is disappointing to see, in the greatest democracy in the world, that the Republicans, the majority in this Congress, saw fit not to allow anyone to participate in the structuring of this final version of the bill unless one happened to be Republican.

Not one point in time, since the bill first passed out of the House of Representatives back in March, have Democrats had an opportunity to provide amendments to this particular conference report or to participate even in discussion of amendments on this report.

We had a conference committee yesterday that was only for the purpose of offering an opening statement. We did not have a chance to make an offer of an amendment that say, "This is a provision that needs to be changed; can we change it?" Not a word. We were not allowed one opportunity to do so.

This has come to the floor, with changes made in the back room in the dead of night, and some people are only now finding out what some of the provisions are.

I want to give you one example of how procedurally this bill has gone wrong. In conference we happened to have found out, because we were handed a sheet that same morning, that a provision in the bill that we thought was in, which would deny a billionaire a visa to come into this country after that billionaire had renounced his U.S. citizenship.

In other words, we have a billionaire in this country who renounces his U.S. citizenship, says, "I do not want to be a U.S. citizen any more." Why? Because he wants to avoid taxes. If an individual is not a U.S. citizen, they do not pay U.S. taxes.

So he renounces his citizenship, goes abroad, and then comes right back, applies for a visa to come back into this country. He has not paid any taxes, and he gets to come back into the country.

We had a provision in the bill that said, no, if an individual renounces their U.S. citizenship because they want to avoid taxes, they cannot come back in. We walk in that morning, and that provision is no longer there. So these billionaires can come back into the country without having paid their taxes.

□ 1245

We said, why did you put that back in there? Why did we not have a chance to discuss this?

Good news? Billionaires cannot come back in, if they renounce their citizenship. Bad news? We did not know it until this morning when we walked in and found it is back in the bill. That is the democratic process that we have undergone in this bill, where Members are not told what is in the bill until the last moment.

What is the result? One Member called it, one colleague called it nitpicking. I do not call it nitpicking when through a stealth move we remove increased penalties for employers who we know are hiring people who are not authorized to work in this country.

Why? I do not know. Who does it hurt? Only those employers who are violating the law. Why do we want to reduce the penalties on employers who are violating the law?

Final point I will make, young student in college, tries to get financial aid, has been valedictorian in high school. Because he is a legal immigrant, he happens to be qualified for a Pell grant. Gets a Pell grant for 1 year, is now deportable because the person qualified for a Pell grant or maybe a student loan. Crazy.

Mr. DREIER. Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from Scottsdale, AZ [Mr. HAYWORTH], my thoughtful and hardworking and eloquent colleague.

Mr. HAYWORTH. Mr. Speaker, I thank my good friend from California for this time. Mr. Speaker, I would make the observation that despite the prevailing winds of what is politically correct, this is one of the few instances in official Washington where a description accurately fits the act it is describing, for this rule and this legislation addresses the problem of illegal immigration. By its very definition, it is an act against the law. And for that reason primarily, if an action is taken which is illegal, there should be sanctions against those who would participate in that illegal act. That is why I rise in strong support of the rule and the legislation.

Mr. Speaker, I come from the border State of Arizona. It is of great concern to the people of Arizona that we close the door on illegal immigration. Hear me clearly, on illegal immigration, because by closing this illegal back door, we can keep the front door open to immigrants who have helped our society and helped our constitutional Republic.

I think of one of them who hails from Holbrook in the sixth district of Arizona, who makes that place her home. Her name is Pee Wee Mestas. She is a restaurant owner. She came to this Nation legally. Her mother applied for a visa, went through the necessary legal steps to become a citizen. Her mother worked hard, going to school, going to cosmetology classes while working as a domestic servant to provide for her family. Pee Wee's mom was willing to work hard and follow the rules. Because she was, she raised up a generation of citizens, citizens who work hard and play by the rules.

That is the basic issue here. End an illegal act and instill responsibility. If it is good enough for the Mestas family, it should be good enough for the United States of America. Support the rule. Support the legislation. Let us take steps to end illegal immigration.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Speaker, I would like to take this opportunity to offer thanks to the gentleman from California [Mr. BEILENSON] for his guidance, leadership, and vision, and we all are going to miss him.

Mr. Speaker, I rise today to express my strong opposition to this conference report. This so-called immigration reform bill not only attacks a wide range of very hard-working Americans but, worst of all, it wreaks havoc on the lives of children. When did we become such a distrustful society that we would even turn on our most vulnerable members?

In a frenzy to shove undocumented immigrants out of the country, the Republican majority has crafted one of the most offensive pieces of legislation ever. They did not make this bill any better simply by removing the bar on undocumented children attending public school. The conference agreement still severely restricts legal immigrants' access to benefits, even though they play by the rules, they work hard and they pay taxes. But yet those multibillionaires who renounce their citizenship just so they cannot pay taxes, they are welcome to come back.

I ask my colleagues and urge them to vote down the rule and vote this legislation down.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Lula, GA [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Speaker, we have heard a lot of terms here the today. One is unfairness. Let me talk about the greatest unfairness there is. That is those citizens and those legal immigrants who are finding their jobs taken away from them, who are finding their taxes increased to pay for the jobs that are going to those who are illegally in this country and the benefits that are going to them.

There are a lot of things that we as Americans hold dear. One is citizenship. Those of us who are lucky to achieve it by the virtue of birth or those who have achieved it by virtue of immigration and naturalization. Another thing we hold dear is that we are a country that has a system of law.

I submit to you that the ever-increasing tide of illegal immigrants undermines both of these things. Citizenship should not be cheapened. Respect for the law, which includes immigration laws, should not be denigrated.

This bill is the first major step this institution has taken in the direction of dealing with illegal immigration in more than a decade. Is it perfect? Certainly not. But does it begin to restore the sanctity of citizenship and respect for the law, yes, it does.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, first I want to say to my colleague from California, whom I have known for 34 years, who walked precincts in his first campaign, that I will truly, sincerely and sorely miss him. He is a model legislator and a pleasure to work with. I wish him well.

The gentleman from Arizona, who spoke a few minutes ago, is so totally wrong when he says this is the bill that will finally do something about illegal immigration. Everyone knows, when they think about it, the only effective ways to do something to deter illegal immigration are at the border, and this bill authorizes more Border Patrol, but already the Committee on Appropriations and the administration have gone far beyond the authorization contained in this particular bill to do that. Setting up and committing to a national verification program to make employer sanctions meaningful. This bill started out like that but totally fell apart on the House floor, primarily at the behest of the majority party Members. And then to go after those industries that systematically recruit and employ illegal immigrants in order to have a competitive edge in wages and working conditions in their own operations.

The Border Patrol increase is being done by the administration and the other 2 provisions are outrageously ignored in this conference report.

I voted for this bill when it came out of the House of Representatives. I indicated I would vote for it in the form it was in if the Gallegly amendment was removed. The Gallegly amendment was removed, but in a dozen different ways the conference report is worse than the House bill and in many cases, notwithstanding the Committee on Rules waivers, exceeds the scope of what either House did in the most draconian ways. Draconian against illegal immigration? No. Draconian against legal immigrants.

This is truly a desire by the people who lost on both the House and Senate floor in their efforts to cut back on legal immigration to do the same thing, but in the most unfair fashion, not straightforwardly by reducing the numbers but by focusing on the working class people in the society and stripping them of their right to bring legal immigrants over.

The new welfare law bars legal immigrants from programs such as SSI and food stamps and from Medicaid for 5 years. It gives States the ability to permanently deny AFDC and Medicaid to legal immigrants.

This conference report goes much, much further than that, makes legal immigrants not ineligible for these three or four programs but subject to deportation for use of almost every means-tested program for which they are eligible under the welfare law. In other words, what the welfare conference did not do, they decided to do here, and not declare ineligibility but make you subject to deportation.

Let me tell you what that means. You are a legal immigrant child who goes through high school, applies to a college based on your superb academic performance and test scores. You get admitted to an expensive university, ivy league college, Stanford. You apply for a student loan. If you are on that student loan for more than a year, you are subject to deportation. What an outrageous provision that is. What a slap in the face of this country's traditions that is.

Let me tell you how much else they do here. For the first time in American history, an U.S. citizen will be subject to an income test before he can bring his spouse into the country.

I urge a "no" vote on the rule, a "no" vote on the conference report.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PACKARD], former mayor of Carlsbad, now of Oceanside, CA.

Mr. PACKARD. Mr. Speaker, I rise in very strong support of this rule and the conference report. Immigration has been the most significant critical problem in my State for many, many years. I have worked a lifetime, it seems, on trying to resolve our serious illegal immigration problems. They are affecting southern California and California generally and the Nation generally in very significant ways.

In fact, the two bills that I introduced on the first day that I started this session of Congress, the 104th Congress, have been incorporated into this bill, one of which would increase the Border Patrol to 10,000 agents, and the second would deny Federal benefits to illegal aliens. In essence, that was Prop 187 in California.

But this bill is not only about protecting our borders from those who are entering here illegally. It is about protecting American taxpayers from being forced to pay for those who are breaking our laws just to be in this country. California alone pays out billions of dollars per year to deal with the problems of illegal immigration. This bill will help to ease this problem by removing the incentives for immigrants to cross our borders illegally, and by reimbursing those States who have to incarcerate illegal immigrant felons.

Mr. Speaker, this bill is the culmination of a process that began in California with Prop 187 and continued through the Immigration Task Force called by the speaker. I want to congratulate all those who have worked so hard on it. I particularly want to congratulate LAMAR SMITH, who has worked to put this bill together. I also want to congratulate ELTON GALLEGLY for his efforts, and certainly I will support his bill and the vote on this issue.

Let me conclude by simply telling the minority leader of the Committee on Rules, Mr. BEILENSON, at least on this issue how much I have appreciated working with him. He is one of the gentlemen of the House. It has been a real pleasure to work with him over these years. We will miss him dearly.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. GALLEGLY], my very good friend who has chaired our Task Force on Illegal Immigration, former mayor of Simi, CA.

Mr. GALLEGLY. Mr. Speaker, I thank the gentleman for yielding. I rise today in strong support of this rule.

For the better part of the past decade I have been working to bring badly needed reforms to our Nation's immigration laws. Unfortunately, for far too long I have felt like I was talking to myself.

That is clearly no longer the case. Immigration reform is an issue on the minds of nearly all Americans, and nearly all express deep dissatisfaction with our current system and the strong desire for change. Today we are delivering that change.

I truly believe that this conference report that we will be hearing shortly represents the most serious and comprehensive reform of our Nation's immigration law in modern times. It also closely follows the recommendations of both the Speaker's Task Force on Immigration Reform, which I chaired, and those of the Jordan Commission. Approximately 60 percent of the recommendations made by the Speaker's Task Force have been included in this conference report.

They include, in part, provisions to double the number of Border Patrol agents stationed at our borders to 10,000 agents; expanded preinspection at foreign airports to more easily identify and deny entry to those persons with fraudulent documents or criminal backgrounds; tough new penalties for those who use or distribute fake documents, bringing the penalty for that offense in line with the use or production of counterfeit currency.

☐ 1300

Mr. Speaker, the primary responsibilities of any sovereign nation are the protection of its borders and enforcement of its laws. For too long in the area of immigration policy, we at the Federal Government have shirked both those duties. It may have taken a long time, but policy makers in Washington are finally ready to acknowledge the devastating effects of illegal immigration on our cities and towns.

Finally, I would like to congratulate my colleague, the gentleman from Texas [Mr. SMITH], who chairs the Subcommittee on Immigration and Claims for all the effort that he has put into this, putting his heart and soul into this legislation. I would also like to thank him for welcoming the input of myself and other members of the task force in crafting this legislation, and I urge my colleagues to vote yes on this rule and let us pass immigration reform that this Nation sorely needs.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my very good friend the gentleman from Imperial Beach, CA [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, as somebody who lives on the border with Mexico and grew up with the immigration issue, I am very concerned to hear my colleagues on the other side of the aisle say, "Let's not do it now. Let's put it off and try to do something else in the next Congress."

I as a mayor and as a county supervisor, I worked with the problems in our community with illegal immigration, crime, the impacts on our health care system. In fact, if my colleagues go to our hospitals today, they will see there are major adverse impacts. Talk to our law enforcement people about the major impact of illegal immigration. The cost is not just in dollars and cents.

And I would ask my colleagues on the other side of the aisle, if you don't care about the cost to the working class people, because this illegal immigration does not affect the rich white people, illegal immigration hurts those who need our services and our jobs in this country more than anything else, those who are legally here. But if you don't care about that, let me ask you to care about the humanity that is being slaughtered every day along our border because Washington, not Mexico, not Latin America, not anywhere else in the country, but Washington and the leadership in Washington has pulled a cruel hoax that says, "Come to our country illegally, and we will reward you. Come to our country, and we will give you benefits."

I ask my colleagues to consider this: In my neighborhoods in south San Diego, we have had more people die in the last few years being slaughtered on our freeways, drowned in our rivers, run off of cliffs. More people have died, my colleagues, trying to cross the border illegally in San Diego than were killed in the Oklahoma bombing.

Now I ask my colleagues on the other side of the aisle who wanted to delay and put it off, Would you delay addressing one of the greatest terrorist acts that we have seen in our neighborhoods and along the border than we have seen in our lifetime? If Oklahoma's explosion was so important that we address that slaughter, please do not walk away from the loss of humanity down in San Diego and in California along the border. There are people that are dying because they are told to come to this country and we will reward them.

Please join with us. Support the rule. Let us reform illegal immigration and let us do it now. Quit finding excuses.

Mr. BEILENSON. Mr. Speaker, I yield myself the remainder of our time.

The SPEAKER pro tempore (Mr. CAMP). The gentleman from California is recognized for 30 seconds.

Mr. BEILENSON. Mr. Speaker, we urge, as we have before, a "no" vote on this rule. The rule allows consideration of a conference report that was not given proper consideration by the conference committee, a conference report on which the minority party had no involvement. More importantly, the conference report that this rule makes in order is a feeble and misguided response to one of the most significant problems facing our Nation. Passage of this legislation will allow employers who hire illegal immigrants to continue to do so and to get away with it. Passage of this legislation will let Congress say that we have done something about illegal immigration when in fact we have not done the real work that we know that we have to do.

The real tragedy, Mr. Speaker, and I say to my friends, is that we have missed here a great opportunity to know what to do. The Members who have worked hardest on this issue know what we need to do.

So I suggest, Mr. Speaker, that we defeat this rule and force the Congress and the President to revisit this issue next year and then produce the kind of immigration reform legislation that the American people want and that this country so badly needs.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time to simply say that this may be the last rule that will be managed by my very good friend from California and to join in letting my colleagues know that he will be, by me, sorely missed. He has been a great friend and, I do appreciate the advice and counsel that he has given me over the years.

Let me say on this particular measure, Mr. Speaker, that as we look at this issue, it has been a long time in coming. Getting to this point has been a struggle, and I should say to my friends on the other side of the aisle that I can certainly relate to the level of frustration that those in the minority have felt, because having gone through four decades of serving in the majority, they find that they are not able to have quite the control that they did as now members of the minority.

But I believe that, as was the case when this bill first emerged from the committee, that it will in the end enjoy tremendous bipartisan support. The measure earlier this year had a tremendous number of votes. As I recall, there were only 80 some odd votes against the bill itself and 330 votes in support of it, and so the vote may not be identical to the earlier one, but I do believe that there will be Democrats and Republicans alike recognizing that this Congress has done more than past Congresses to deal with this problem of illegal immigration.

The American people have asked us to do it, and the 104th Congress has been result-oriented as we go through the litany of items from telecommunications reform, welfare reform, line-item veto, unfunded mandates. We have provided tremendous results, and this immigration bill is further evidence of that.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 254, nays 165, not voting 14, as follows:

[Roll No. 430]

YEAS—254

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Zeliff
Zimmer

NAYS—165

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Blumenauer
Bonior
Borski
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cummings
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pickett
Poshard

Rahall
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Barton
Diaz-Balart
Gibbons
Heineman
Lincoln
Mascara
Moran
Peterson (FL)
Pomeroy
Rohrabacher
Rose
Williams
Wilson
Young (FL)

□ 1327

Mrs. CLAYTON and Messrs. DEUTSCH, TORRES, LEWIS of Georgia, and LUTHER changed their vote from "yea" to "nay."

Mrs. JOHNSON of Connecticut, Ms. FURSE, and Mr. ARMEY changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1330

Mr. SMITH of Texas. Mr. Speaker, pursuant to House Resolution 528, I call up the conference report on the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing Border Patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. (Mr. RIGGS). Pursuant to House Resolution 528, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday September 24, 1996, at page 24389.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. SMITH] and the gentleman from Michigan [Mr. CONYERS] each will control 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report gives Congress the best opportunity in decades to address the illegal immigration crisis. Every 3 years, enough illegal aliens enter the country permanently to populate a city the size of Boston or Dallas or San Francisco. Classrooms bulge; welfare jumps; the crime rate soars. Innocent victims pay the price, and law-abiding taxpayers foot the bill.

This bill secures America's borders, penalizes alien smugglers, expedites the removal of criminal and illegal aliens, prevents illegal aliens from taking American jobs, and ends noncitizens' abuse of the welfare system.

By doubling the number of Border Patrol agents and securing our borders, we will protect our communities from the burdens imposed by illegal immigration: crime, drug trafficking, and increased demands on local police and social services. The benefits of securing our borders will be felt not only in border States but throughout the entire Nation.

If we cannot control who enters our country, such as illegal aliens, we cannot control what enters our country, such as illegal drugs. To control who enters, this bill increases criminal penalties for alien smuggling and document fraud. The Nation cannot allow alien smuggling to continue, especially since many alien smugglers are also kingpins in the illegal drug trade.

Illegal aliens should be removed from the United States immediately and effectively. Illegal aliens take jobs, public benefits, and engage in criminal activity. In fact, one-quarter of all Federal prisoners are illegal aliens. This bill will lower the crime rate, lower the cost of imprisoning illegal aliens, and make our communities safer places to live.

This legislation also relieves employers of a high level of uncertainty they face by streamlining the hiring process. It makes the job application process easier for our citizens and legal residents by establishing voluntary employment quick-check pilot programs in 5 States. The quick-check system will give employers the certainty and stability of a legal work force.

Since the beginning of this century, immigrants have been admitted to the United States on a promise that they will not use public benefits. Yet every year the number of noncitizens applying for certain welfare programs increases an astonishing 50 percent. America should continue to welcome those who want to work and produce and contribute, but we should discourage those who come to live off the taxpayer. America should keep out the welcome mat but not become a doormat.

This legislation also ensures that those who sponsor immigrants will have sufficient means to support them. Just as we require deadbeat dads to provide for the children they bring into the world, we should require deadbeat sponsors to provide for the immigrants they bring into the country. By requiring sponsors to demonstrate the means to fulfill their financial obligations, we make sure that taxpayers are not stuck with the bill, now $26 billion a year in benefits to noncitizens.

The provisions in this conference report are not new. These are the same reforms that passed the House on a bipartisan vote of 333 to 87, and in the Senate on a bipartisan vote of 97 to 3. And these are the same reforms that President Clinton has urged Congress to pass and send to his desk.

This bill will benefit American families, workers, employers, and taxpayers across the Nation, but especially in California, Texas, Florida, and other States that face the illegal immigration crisis on a daily basis.

Mr. Speaker, America is not just a nation of immigrants. It is a nation of immigrants committed to personal responsibility and the rule of law. It is time for Congress to stand with the American people and approve this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, we are dealing with a bill that is so flawed, we will need a lot of speakers to make it clear why Members should not support the immigration conference report that is now before them.

What we do to the environment is a crime. The National Environmental Protection Act is the Nation's founding charter for environmental protection, and this bill repeals that law, in effect, when it comes to border-related construction. That means when we are working on highways, roads, bridges, fences, that it is OK to ignore the environment. Do my colleagues really mean that?

This conference report means that border construction can pollute our public waterways anyway, dirty our air, create hazardous point sources that can create dangerous runoffs, and generally ignore any adverse environmental impact of that construction. Do my colleagues really want that in a conference report?

This is yet another Republican attack on the environment. If it pleases my colleagues on the Democratic side, I will offer a motion to recommit the conference report to correct these glaring wrongs.

The next matter that my colleagues should carefully consider is the part that deals with the American workers. What we are doing here is giving us a conference report, and the lack of procedure has been amply dealt with, but what we are doing now is that we are being told to take it or leave it. I think that this amendment process, which we were completely shut out of, deserves a no vote on the conference, regardless of anything Members may like about it.

It was the Republicans, I say to Chairman HYDE, that railed and railed about how unfair we were. It was the

Speaker of the House, NEWT GINGRICH, that has railroaded every conference bill for the last year. We do not even come to conference and have a right to offer an amendment. The process alone deserves every Member of this House to reject this conference report on due process procedural grounds.

And then what about the discriminatory aspects of this bill? Not only do we weaken illegal immigration but we say yes to more discrimination, because we now have onerous material that was not even in the bad bill I opposed in committee and on the floor.

We now have included unilaterally provisions that tell employers that they may engage in practices of racial discrimination so long as it cannot be proved that they had intent to violate the law. Coming out of the Committee on the Judiciary, I think it is a very sad day for any legislation to come out doing this to the most sensitive problem in our society.

Vote "no" on the conference report.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 15 seconds and say that the last provision that the gentleman from Michigan referred to was in the Senate bill which passed by 97 to 3.

Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE], the distinguished chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I listened to the last gentleman in the well and I am a little bewildered because we marked this bill up, it took us 9 days, and we dealt with 103 amendments, 39 of which were decided by rollcall vote. The bill, when we finally got it to the floor, passed 333 to 87 in the House and 97 to 3 in the Senate. Prior to introducing the bill, the House Immigration Subcommittee heard from more than 100 witnesses and the Democrats were present and participated fully. So the gentleman, I think, is mistaken.

In any event, this is among the most important pieces of legislation this Congress will handle. A country has to control its borders. A country has the right to define itself. I think this is a good bill. It cannot please everybody, but it pleases a lot of people and I think it ought to pass.

I am pleased to speak in support of the conference report on H.R. 2202, because I believe it will facilitate major progress in addressing one of our Nation's most urgent problems—illegal immigration. In reconciling House and Senate versions of this landmark legislation, we provide for substantially enhanced border and interior enforcement, greater deterrents to immigration related crimes, more effective mechanisms for denying employment to illegal aliens, and more expeditious removal of persons not legally present in the United States.

The most difficult matter for the conferees to resolve concerned public education benefits for illegal aliens. Because public education is a major State function, the House had recognized the interests of each individual State in issues involving public school attendance at State taxpayer expense.

In that connection, we appreciated the fact that concerns about the welfare of unsupervised children and adolescents might lead many States to continue providing free public education to undocumented aliens—and we did nothing to discourage such choices at the State level. The compromise House and Senate conferees initially developed, both gave expression to the right of a State to choose a different course and extended important transitional protections to current students. Because of an explicit veto threat from the President, however, we subsequently decided that it would be preferable to address this entire issue in the context of other legislation rather than place at risk the many needed enforcement-related provisions of this bill.

The conferees also struggled with the issue of how to fairly and expeditiously adjudicate asylum claims of persons arriving without documents or fraudulent documents. We recognized that layering of prolonged administrative and judicial consideration can overwhelm the immigration adjudicatory process, serve as a magnet to illegal entry, and encourage abuse of the asylum process. At the same time, we recommended major safeguards against returning persons who meet the refugee definition to conditions of persecution.

Specially trained asylum officers will screen cases to determine whether aliens have a "credible fear of persecution"—and thus qualify for more elaborate procedures. The credible fear standard is redrafted in the conference document to address fully concerns that the "more probable than not" language in the original House version was too restrictive.

In addition, the conferees provided for potential immigration judge review of adverse credible fear determinations by asylum officers. This is a major change providing the safeguard of an important role for a quasi-judicial official outside the Immigration and Naturalization Service.

The conference document includes a House provision I offered in the Committee on the Judiciary to protect victims of coercive population control practices. Our law—which appropriately recognizes persecution claims in a number of contexts—must not turn a blind eye to egregious violations of human rights that occur when individuals are forced to terminate the life of an unborn child, submit to involuntary sterilization, or experience persecution for failing or refusing to undergo an abortion or sterilization or for resisting a coercive population control program in other ways. A related well-founded fear clearly must qualify as a well-founded fear of persecution for purposes of the refugee definition.

Our modification of the refugee definition responds to the moral imperative of aiding victims and potential victims of flagrant mistreatment. We also take a public stand against forcible interference with reproductive rights and forcible termination of life—a stand that hopefully will help to discourage such inhumane practices abroad.

This omnibus legislation includes a number of miscellaneous provisions that are responsive to a range of problems. For example, certain Polish applicants for the 1995 diversity immigrant program reasonably anticipated being able to adjust to permanent resident status; by facilitating their adjustment in fiscal year 1997 we effectively rectify a bureaucratic error. We also recognize the equities of certain nationals of Poland and Hungary who were paroled into the United States years ago—and thus entered our country legally—by affording them an opportunity to adjust to permanent resident status. I welcomed the opportunity to seek appropriate conference action in these compelling situations.

This omnibus immigration legislation makes major needed changes in the Immigration and Nationality Act. The primary thrust of the conference document is to respond in a measured and comprehensive fashion to a multifaceted breakdown in immigration law enforcement. I urge my colleagues to support it.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BRYANT] who is completing his 14th year. He has served with great distinction in the Congress on a variety of committees, including the House Committee on the Judiciary.

Mr. BRYANT of Texas. I thank my good friend from Michigan for yielding me this time and for those nice remarks.

Mr. Speaker, the gentleman from Illinois [Mr. HYDE] and the gentleman from Texas [Mr. SMITH] have spoken of a bill that passed by wide margins. Indeed it did. But it is not the bill before the House today, and that is the whole point that we are making. It was changed radically before it even got to the floor by the leadership. It has been changed radically since, and that is why we say to Members today, vote for the motion to recommit but do not vote for this bill.

Members of the House, I was a cosponsor of this legislation. I stood in a press conference alongside the gentleman from Texas [Mr. SMITH] and said we have got to do something to reduce legal immigration and to reduce illegal immigration. With a great deal of criticism from many people on my side, I said we had to pass a bill, and I was for the bill we introduced. But that is not the bill that is before the House today.

We put together a bill that was to have reflected what the Barbara Jordan Commission recommended to us was to have been a bipartisan bill. It was going to be tough on employers that hire illegal aliens and include tough measures to stop illegal aliens from coming into the country and taking jobs.

But somewhere along the way, in the back rooms, the stuff that was tough on the folks that bring illegal aliens here, and that is to say, the employers that attract them here with a promise of jobs, somehow it disappeared, and in its place was put a list, a wish list offered up by lobbyists for the biggest employers of these illegal aliens in the country.

The bill that passed the House committee included 150 wage and hour inspectors that were asked for by the Jordan Commission. The Senate bill included 350. Why? Because people that hire illegal aliens also violate the wage and hour laws. Why? Because half of the jobs in this country that are lost to illegal aliens are lost to illegal aliens that did not get here by sneaking across the border. They are the ones that got here with a visa, but then they did not go home, they overstayed the visa. You can put a million Border Patrol agents at the border, but you are not going to find that one-half of the problem. The only way you are going to find it is with wage and hour inspectors. Those are gone from the bill. Why? Because some lobbyist for an employer somewhere wanted it done.

The bill eliminates the increased civil penalties for employers to tell them we are not going to put up any more with chronic violators of the laws that say you cannot hire people that are not citizens or are not here legally. Those enhanced civil penalties are gone. Why? Because the American people wanted them gone? Because the Jordan Commission said that they ought to be gone? Of course not. Because a lobbyist for an employer that hires illegal aliens came down here and said, "Mr. GINGRICH, you Republicans do your job and get us off the hook." And that is exactly what they did.

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They also added into the bill gratuitous language that eliminates the anti-discrimination provisions in the current law. Not in the bill, but in the current law. We passed a bill in 1986. Many Hispanics said this is going to result in inadvertent discrimination against Americans who are of Hispanic descent because they are going to be confused with somebody who is here illegally.

The GAO, after the bill was passed, did a study and found that they were right, so we included in the law strong prohibitions on discriminating against people in the course of asking for a job by asking them for too many papers or giving them a hard time when they come to the workplace. The law says you can ask for one of several papers, and that is all you can do.

But now the Republican provision says it does not make any difference if you ask them for all the papers in the world. If you cannot prove you intended to discriminate against them, you are not guilty of discrimination. That is a fundamental violation of the compact that we made between the groups in this country that make up our population, so that no one would be disadvantaged by the enforcement of a bill and law that is difficult to enforce. Well, it is gone.

The simple fact is this: What the employers that hire illegal immigrants wanted got done in this bill, and what working Americans who need to have their jobs protected, from being lost to illegal aliens, was not done. Worse, those that are the subject of discrimination, inadvertent or advertent, now have lost their protection.

Mr. Speaker, this is not a good bill. I can see the handwriting on the bill. I know it is an election year. Anti-immigration rhetoric is real good in an election year, and I am sure we are probably going to see a lot of folks coming down here thinking well, I should not vote for this, but I am probably going to have to. You do not have to. Vote for the motion to recommit. We fix all of these problems and a few I do not have time to mention. Vote for the motion to recommit. Vote against the bill.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Mrs. SEASTRAND], who has been such a fighter in our effort to reduce illegal immigration.

Mrs. SEASTRAND. Mr. Speaker, I rise in very strong support of the conference report to H.R. 2202. It has completely rewritten the laws regarding the apprehension and removal of illegal aliens and will fully fund initiatives to double the size of our Border Patrol and increase the level of immigration enforcement in the interior of these United States. It will implement a strategy of both prevention and deterrence at our Nation's land borders.

This legislation will require aliens who arrive at our airports with fraudulent documents to be returned without delay to their point of departure, making it far more difficult for aliens to enter the United States, either across our land borders or through our airports. It will also aggressively attack immigration-related crimes. It is going to increase penalties for alien smuggling and document fraud and expand the enforcement capacity against such crimes. It will also make it easier for employers to be certain that they are hiring legal workers by providing a toll-free worker verification number that employers may call to verify the eligibility of employees to work legally in the United States.

I will just tell you, America, and especially California, needs immigration reform, and we need it now.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK], the senior member of the Committee on the Judiciary, who has worked with great diligence on trying to reform the bill.

Mr. FRANK of Massachusetts. Mr. Speaker, we have here Congress and American politics at its absolute worse. We have a very important issue, illegal immigration.

I worked for a very long time in a bipartisan way with departing Senator AL SIMPSON, whose departure I regret now even more than before, and others, in 1986 and in 1990 to fashion legislation in a bipartisan way to deal with this problem. Bipartisan, because this is not and ought not be an ideological issue. Some issues are legitimately partisan.

I was sorry to here hear the chairman of the Committee on the Judiciary defend the shabbiest legislative procedure I have ever seen here. Yes, we had full markups; yes, we had full debates. And then once we did, this bill disappeared into a series of secret meetings between the Republican House and Senate staffs, it seemed to me, with some input from the Members, and the Dole campaign, and virtually all of the things on which we seriously worked in committee disappeared, and others appeared.

Now, this is a popular issue, getting rid of illegal immigrants to the extent that we can, as it ought to be. Unfortunately, this is a bill which does not do nearly as much as it could to diminish illegal immigration, and, instead, as the gentleman from Texas noted, makes it a little easier than it used to be for people to take advantage of them once they are here.

This is a bill that says gee, it would be nice if there were not so many illegal immigrants, but as long as they are here, maybe we can get a little cheap work out of them. That is the general thrust.

But then it does other things. I want to talk about one thing that appeared that was in neither bill.

At the Republican Convention we had speakers who talked about AIDS and how terrible it is. When the Republican leadership amended the military bill to say that if you are HIV positive you would be forced out, that was recognized to be a mistake and it was repealed. But here they go again.

What they have done is to take the issue of illegal immigration, a popular issue, and use it as a shield behind which to do ugly things to vulnerable people. The gentleman from Texas pointed out the extent to which they are weakening the civil rights protection. Here is another thing they do. It was not in either bill. It has not been voted on, and in the most extraordinary arrogance ever seen, we were not allowed to offer an amendment on this or any other thing in the conference. Because I will give my Republican leadership friends credit, they know how embarrassing this is, and therefore they are determined not to let anyone vote on it, so they did it in a forum in which you could not vote.

They simply say, OK, we got a bill on illegal immigration. By the way, they are going to stick in a couple of these things, and you have no way to vote, other than no on the whole bill.

The one I am talking about has to do with people who are HIV positive. This bill says if you are a legal immigrant, you came here legally, and there has been some economic misfortune and you get very sick, you cannot take federally-funded medical care for more than a year. That in and of itself seems to me to be cruel and unfair.

But then they say, well, in the interest of public health, we do not want epidemics around, we will make an exception for communicable diseases. That was in the bill as it came out.

Then, in the mysterious darkness that they use instead of a conference report, they gave an exception to the exception. What is the exception to the exception? If you are here legally and you are HIV positive, you may not get any treatment if you need Federal funds. If you are here legally and you contracted this terrible illness, which they profess to think is something we ought to fight, then you are, by this bill, condemned to death, with no help, because you cannot get Federal assistance.

I guess when they tote up the death penalties that they want to take credit for, they ought to add one: Legal immigrants here with HIV illness.

They created an exception for communicable diseases, but then they created an exception to the exception, so that if you are here legally and you get HIV, no matter how, and, by the way, we have changed the law, I did not agree with it, but this is the law, no one is now challenging it, so if you are known to be HIV positive and we test you, you cannot come in. So we are not talking about becoming a magnet for people who are HIV positive to come here. There is already a limit on that. What we are talking about are people who are here and become HIV positive, or who are here and become HIV positive when they got here, and they are denied medical treatment for more than 12 months, which, of course, if you are HIV positive, is the medical treatment you need.

What is the reason for that? What is that doing in a bill to deal with illegal immigration? I am talking about illegal immigrants. They can be deported if they take advantage of this medical care. I do not think it is a good idea to deny medical care to people in need elsewhere.

But this? We said "Gee, we made a mistake. We should not kick people who are HIV positive out of the military." Should we kick them out of existence? Because that is what you do when you say to people who are here and do not have a lot of money and who are HIV positive, that you cannot get any medical treatment beyond 12 months.

I take it back. When they are about to die, then I guess they can get some.

This is an unworthy substantive and procedural piece of legislation, and it ought to be defeated.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. GOODLATTE], a member of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of this legislation, and I commend the gentleman from Texas for his outstanding work, in working so hard to put together a bill that has had very, very difficult times getting different pieces of legislation included.

I agree with some of the Members on the other side that I would like to see legal immigration reforms. I would like to see an employer verification system that really will help employers screen out fraudulent documents. But it is time for us to do and see the good things that are in this bill.

So I strongly disagree with those who did not get one piece of legislation into this bill that they would like or dislike and are going to vote against the entire bill, which they admit has dozens and dozens of positive, good illegal immigration reforms dealing with cracking down on illegal entry at our borders, dealing with illegal overstays in the country, dealing with cutting off access to government benefits for people who are not lawfully in this country.

Mr. Speaker, I urge the support for this legislation.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. COBURN], one of the only two medical doctors in the House.

Mr. COBURN. Mr. Speaker, I just want to answer a couple of questions about this in terms of HIV in regard to AIDS. This bill does not deny treatment to legal immigrants that have AIDS. What it says is the government does not have a responsibility to pay for that treatment on non-U.S. citizens. I think if we poll the vast majority of the people in this country, I think they would agree with this.

The second thing is most Americans in this country pay for their own health care, either through a health plan, insurance payment, or working. They pay for their health care. We have created a class in this country that does not feel that it should pay for its health care on a disease that at this point in time the vast majority of which is a preventible disease.

The third point that I would like to make is that this bill does deny AIDS treatment to illegal immigrants, illegal. Yes, it does. Illegal immigrants, those people who are here illegally. So what we are saying with this bill is that if you have a sponsor and you are here legally, that sponsor should cover for your cost of the AIDS treatment.

Mr. BRYANT of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I understand why the gentleman did not want to yield. The bill does not say that legal immigrants can get AIDS treatment and illegal cannot. It gives disabilities to both of them for getting it with Federal funds. Anybody who can pay for it on their own the bill does not affect. The bill says with regard to legal and illegal immigrants, they cannot get it with Federal funds. The distinction between legal and illegal does not exist in the bill. The degree of penalty may be different. In both cases the bill says if you are here legally or illegally and you have HIV, you cannot be treated with Federal funds. That includes legal immigrants.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 15 seconds to say what the bill says, and that is it does not deny AIDS treatment to legal immigrants. It simply says the immigrant's sponsor, not the American taxpayer, should pay for the treatment.

Mr. BRYANT of Texas. Mr. Speaker, I yield 10 seconds to the gentleman from Massachusetts. [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, it is a good sign that they are uncomfortable when it is described accurately. It does not just say you go after the sponsor. If you are a legal immigrant and you are treated, you can be deported for it. It becomes a deportable offense to be a sick person who gets treated if you have AIDS. At least describe accurately the harm you are inflicting on people.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, let me take 10 seconds out of the beginning of my short remarks here as a border State Congressman from California.

One of the greatest selling jobs of all-time was to take the behavioral conduct ring out of the word AIDS. If we were discussing this as what it is, a fatal venereal disease, and it had the ring of syphilis, which is no longer fatal, I do not think we would be going back and forth like this. We would say illegal immigrants cannot get treatment for syphilis, and if they are legal then their sponsor has to take care of it.

But because we have done this magnificent PR on the only fatal venereal disease in the country, we still go back and forth as though AIDS is a badge of honor. It shows you are a swinger and you are part of the in crowd in this country. Sad.

I cannot add anything to the brilliance of the gentleman from California [Mr. GALLEGLY] or the gentleman from Texas or the people who have worked out an excellent piece of legislation. I just, for my 5 grown children and my constituents, want to get up and say: Illegal-legal. Illegal is lawbreaking; law breakers have no rights in this country.

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Mr. BRYANT of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I want to join my other colleagues in indicating how sorely I will miss my friend from Texas, who is really a great Member of Congress, and I am sorry he will be leaving this body.

The people of my congressional district and of southern California, and probably the entire country, desperately want us to do something effective to stop illegal immigration. It is wrong to conclude that the people who voted for Proposition 187 are racist or xenophobes. They are people who are looking at what has happened: The employer sanctions did not work, the other strategies did not work, the refusal or earlier administrations to fund the Border Patrol and the Congress to appropriate the money left the border essentially unprotected. They want something done.

The problem with this bill is it cons the American people into thinking major new steps are going to be done.

This President is the first President to put the money where the mouth is. He has proposed, and the Committee on Appropriations, to its credit, has funded massive increases in Border Patrol. He has initiated through Executive order an expedited procedure for asylum, which has reduced those frivolous asylum applications by 58 percent. We are depositing more criminal aliens and more illegal immigrants than we ever did before, and all the trend lines are up.

What the Jordan commission and every single independent academic study of this issue says, without a verification system we will never make employer sanctions meaningful. Nothing else. Nothing else is serious if we do not do that and make a commitment to do that.

Second, we know there are industries that systematically recruit and hire illegal immigrants, and for reasons that I do not know, the gentleman from Texas [Mr. BRYANT] has a theory which sounds plausible to me, this conference committee struck inspectors and investigators to cover those industries. We should not be conned.

Let me turn to what it does with legal immigrants. For the first time in American history, even when we had the moratoriums on immigration, a U.S. citizen, and, remember, this bill puts an income requirement on petitioning for spouses. An individual has to make 140 percent. Fifty-three percent of the unmarried American people do not make 53 percent, do not make 140 percent of the poverty standard. Mr. Speaker, 53 percent of the American people do not make it.

A graduate student woman in medical school, who is not making that money, falls in love and marries a physician in France. She cannot bring him in because, even though he is affluent, has all the assets needed, there is no indication in the world he will go on any government program, she cannot bring him in.

This is the stupidest as well as the meanest provision I can imagine. When we had moratoriums on immigration in this country, we allowed U.S. citizens to bring in their spouses. Why would we want to change that now?

I urge a "no" vote on a bill that is soft on illegal immigration and harsh and mean on legal immigrants.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HUNTER], who has contributed so much to this bill.

Mr. HUNGER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, for my friend who just spoke, let me set the record straight. When he claimed the Clinton administration has funded thousands and thousands of Border Patrol agents, Republican amendments have added 1,700 Border Patrol agents over the last 3 years above and beyond what the Clinton administration requested. President Clinton cut 93 Border Patrol agents in the fiscal year 1994 budget. We added 600. The next year we came with an additional 500, and the next year with an additional 400 agents.

The Clinton administration has been dragged kicking and screaming to the border. They have opposed the border fence every step of the way.

My last point is, even after they opposed the additional Border Patrol agents, President Clinton then sent his public relations people to San Diego to welcome the agents that he had opposed. If these people just linked arms, all the Clinton public relations people, we would not need a Border Patrol because they would stretch across the entire State.

Mr. BRYANT of Texas. Mr. Speaker, I yield 10 seconds to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I would say to my friend, the gentleman from California knows that no President has proposed more Border Patrol agents than this President. The Committee on Appropriations, not the authorizing committee, the Committee on Appropriations has funded those positions and more. He has signed those bills. We are doing more now than we ever did before.

Mr. SMITH of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. GALLEGLY], the chairman of the House task force on illegal immigration.

Mr. GALLEGLY. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, this is truly a humbling moment for me because this conference report is something that truly I wondered if we would ever see in this body.

I came to Congress nearly a decade ago, and since that time my overwhelming focus has been on two things: to stop the unchecked flow of illegal immigration in this country and to find a way to convince those that are already illegally in this country that it is time to go home. This conference report goes a long way toward accomplishing both of those objectives.

For many years many of us in California, Texas, and other States that have been disproportionately impacted by illegal immigration have been walking through the halls and through this body ringing alarm bells. We have been urging this Congress to wake up to the fact that our country is, in effect, under a full-scale invasion by those that have no legal right to be here yet who come by the thousands every day and consume precious social benefits that are denied every day to legal residents who are truly entitled to those benefits.

Today this is a different bell ringing in this Chamber, Mr. Speaker, and the bell is a bell of change. The passage of this conference report finally signals the willingness of this Congress to seriously address the issue of illegal immigration.

Mr. Speaker, we are a generous Nation, by far the most generous Nation on the face of the Earth. This legislation does not endanger or threaten that generosity but, in fact, it does nothing more than to preserve it.

The simple fact is that the greatest potential threat to legal immigration is illegal immigration. There are many who would see us close the front door to legal immigration because the back door to illegal immigration is off the hinges. We simply cannot allow this to happen. I believe this conference report goes a long way toward ensuring that it never will happen. I urge its passage.

Mr. BRYANT of Texas. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding me this time. I want to point out a couple of important health consequences from this bill.

In the welfare bill we excluded legal aliens from health care but we left those who are already patients to be covered under Medicaid. They are now excluded.

Second, we exclude any legal alien from any Medicaid services whatsoever. That is going to put a burden on the counties and the States and on the hospitals and on people who pay for private insurance when that insurance goes up, because a lot of people are still going to get care, but their care is going to have to be paid for by someone else.

On the AIDS issue, what we are doing is really a disastrous policy. This bill provides that all people can be tested but they cannot get care. Why would anybody want to come to know whether they are HIV positive if they cannot then get any medical care to assist them? They will rather be ignorant about it and spread the disease.

For those of us who call ourselves pro-life, understand that this bill would allow a pregnant women to be tested; but when she is determined to be HIV positive, she will not be allowed to have the Government pay for her AZT to stop the transmission of HIV, which is successful under this treatment to two-thirds of those children.

We will condemn babies to getting AIDS when it could have been prevented. That, to me, is antilife and nonsensical, and this bill smacks of a lot of injustices that have not been thought through.

I want to point this out to Members as another reason to vote against a very unjust bill.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, every substantive issue in the bill before us today has been voted on by the House or the Senate. I would say to my colleagues on the other side that even in welfare, many of them, no matter what we did, they would vote against it, both for political reasons and issue reasons.

In California over two-thirds of the children born in our hospitals are to illegal aliens. Members should take that into effect when they are talking about helping the poor and American citizens and taking away funds from Medicaid.

We have over 400,000 children K through 12. At $5,000 each to educate a child, that is over $2 billion. They should try to take that out of their State for education.

Some 70 percent of the environment is done at the State level. Members should think about $3 billion taken out of their States. They could not afford that.

This bill does not help all of those things. Prop 187, that the Gallegly amendment was in, passed by two-thirds in California. It has been taken out of this.

There are some things in here that I do not like as well, but I would ask my colleagues on the other side to think about how they could afford it in their States, and I think it would be very difficult.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Speaker, I rise in strong support of this conference report and commend the gentleman from Texas, Chairman SMITH, for his great leadership in bringing this bill to the floor.

As legislators we work on an endless number of issues, but today we are addressing one of our Nation's most critical, that of protecting our borders. H.R. 2202 not only secures our borders with the addition of 5,000 new Border Patrol agents, it also streamlines the deportation of criminal aliens, protects American jobs and holds individuals responsible to support immigrants that they sponsor, and, finally, eases the tax burdens on all Americans.

It is no longer possible to ignore the magnitude of the illegal immigration problem. These reforms will go a long way toward restoring reason, integrity, and fairness to our immigration policy and to controlling our borders. Through the adoption of this conference report, the 104th Congress achieves another commonsense change for a better America.

Mr. BRYANT of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, this bill, which contains some valid provisions to enforce our immigration laws, has been poisoned with unconscionable provisions that violate fundamental American values.

The bill would deny treatment to people with AIDS but not to people with syphilis. It would promote discrimination in employment by removing provisions of Federal law, of present law, designed to prevent that.

The bill would not permit an American citizen, denied a job because the Federal Government made a computer mistake, from recovering damages. This is outrageous and will result in Americans being denied jobs and having no recourse.

The agreement will undermine American family values by curtailing the ability of American citizens to sponsor the entry of family members into the community.

The bill exempts the Immigration and Naturalization Service from our environmental laws, even though none of these laws have ever hindered the enforcement of immigration laws.

The bill will send genuine refugees back to their oppressors without having their claims properly considered. If a person arrives at the border without proper documents, the officer at the border can send that person back without a hearing. Guess who cannot get proper papers? Refugees. A refugee cannot go to the Gestapo and KGB and say: I am trying to escape your oppression, please give me the proper papers so I can go to America.

The bill eliminates judicial review for most INS actions. Just think, a Federal bureaucracy with no judicial accountability. When did the Republicans become such spirited advocates of unrestrained big government? No government agency should be allowed to act, much less lock people up or send them back to dictatorships, without being subject to court review.

□ 1415

Should we ensure that our immigration laws are respected and enforced? Of course. Do we need to undercut public health efforts, destroy our environment, debase our fundamental values, violate the rights of American citizens and waste taxpayer dollars on foolish or dangerous enterprises in order to enforce our immigration? Of course not.

This bill is not a credit to this country. I hope Members stand up for American values and vote "no."

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. GILMAN], chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I support the passage of this important immigration conference report. The American people want and expect the Federal Government to do its job of controlling our borders. We have a strong obligation in protecting our citizens from illegal criminal aliens, who prey on them with drugs, and other crime-related activity.

I am particularly proud to support this immigration bill which includes some of my own initiatives directed at these serious threats from criminal aliens, engaged in both the illicit drug trade as well as international terrorism.

The first provision provides clear authority to our National Guard units to allow them to move criminal aliens facing deportation to INS deportation centers, when these aliens have engaged in drug related offenses. In the past, many States did so effectively with their National Guard units. My provision restores that vital authority to our National Guard as part of its counterdrug mission.

The National Guard can now help expedite the deportation out of the U.S. on Guard air flights of large numbers of these criminal aliens involved in the deadly drug trafficking in our communities after they serve their jail time, and before they can return to the streets, and once again in their trade in drugs. I hope many Guard units will do so.

The provision recognizes the limits on the INS's inability to individually transport numerous criminal aliens for deportation, using INS personnel on commercial flights. We have provided one more effective tool in the war on drugs, the use of our National Guard in the deportation of criminal aliens involved in drugs.

Nearly one-fourth of our Nation's jail cells in the United States, are occupied by criminal aliens, mostly those who have engaged in drug related offenses. We need more effective and creative tools to handle this crisis. I hope that our State and local authorities and the INS takes advantage of this assistance that the National Guard can provide.

New York City Mayor Giuliani on "Face the Nation" recently said it best with regard to our Nation's drug crisis, including criminal aliens, on what the Federal Government can best do to combat the serious drug problems facing our cities and local communities:

> What the Federal Government could do is to deport more of the illegal drug dealers that we have in our city (sic) unfortunately, very few deportations take place of the people who are actually selling drugs who are illegal immigrants and that would be very helpful.

My provision helps do just that. Senator Dole has wisely urged an even greater role for our excellent National Guard already involved in the battle against illicit drugs. Today we provide the first installment on Senator Dole's wise call for additional Guard action.

My other provision in the conference provides for criminal asset forfeiture penalties for visa and passport fraud and related offenses surrounding misuse or abuse of these key entry and travel documents.

Nine of the original indictable counts in the World Trade Center terrorist bombing involved visa or passport fraud. It was clear that those responsible for that bombing misused our travel and entry documents to facilitate their deadly terrorist blast. By this measure we have made those who would make and help create fraudulent visas and passports to promote terrorism and drug smuggling here at home, subject to even tougher penalties.

The potential loss of the printers, copiers, buildings, and large financial proceeds of this massive illicit business in key U.S. travel and entry documents, should help further deter terrorism and other criminal activity, facilitated by these fraudulent travel documents.

Although this is a good bill, I am hopeful that the sponsors will review provisions in the conference report that would greatly expand "deeming" for legal immigrants beyond the compromise agreed to in the recently enacted welfare bill, which combines the income of the immigrant and the sponsor for Medicaid eligibility determination. Regrettably, the deeming provisions may adversely affect many States with high immigrant populations, including New York, which are implementing welfare reform. The result may potentially cause a marked increase in the amount of uncompensated care for area hospitals and increase the costs of the Ryan White treatment program. I have brought this issue to the attention of Chairman SMITH and have asked him to consider the contention that confusion is likely to result as the States implement the language of the two bills and I thank him for that consideration.

Accordingly, Mr. Speaker, I am pleased to support the conference report, and urge its adoption.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of this conference report. Today when this bill passes, the American people will be able to judge for themselves who is on their side and who is for draining dollars meant for our people, draining those dollars away from American families and taking them and giving them to foreigners who have come to this country illegally.

We have had to fight for years, first through a democratically controlled Congress and now this administration which has fought us and dragged us by the feet every step of the way but we have finally got a bill to the floor.

Giving illegal aliens benefits that should be going to our own people is a betrayal of our people. People who are sick, they come to our borders. Yes, we care about them. I do not care if it is AIDS or tuberculosis. But if someone is sick and illegally in this country, they should be deported from this country to protect our own people instead of spending hundreds of thousands of dollars that should go for the health benefits of our own citizens. The question is, To whom do we owe our loyalty? Who do we care about? The American people should come first.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BILBRAY] who actually lives on the border and faces the crisis of illegal immigration every day.

Mr. BILBRAY. Mr. Speaker, I rise in strong support of this conference report. I would like to thank Chairman SMITH and Chairman SIMPSON for the leadership they have shown on this bill. I would also like to commend Senator FEINSTEIN of California for her commitment to make the conference report work and encourage the President to sign it into law.

I think that the public is sick and tired of seeing the partisan fighting on important issues such as this. Senator FEINSTEIN had a major concern about one portion of the bill, part of the bill I feel strongly about, and that is the issue of the mandate of the Federal Government that we give free education to illegal aliens while our citizen and legal resident children are doing without. But, Mr. Speaker, this Member, and I think the American people, are not willing to kill this bill because of a single provision.

I think there are those who will find excuses to try to kill this bill and try to find ways not to address an issue that has been ignored for over a decade.

We must not forget that California has been disproportionately hit with paying $400 million a year in emergency health care, $500 million for incarceration costs, and $2 billion in providing education for illegal aliens in our State.

Congress must still recognize that these are federally mandated costs and it is up to the Federal Government to either put up or shut up in ending these unfunded mandates.

Thank you, Mr. Speaker, and I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. McCOLLUM], chairman of the Subcommittee on Crime.

Mr. McCOLLUM. Mr. Speaker, I rise in support of this bill today. It is a very, very fine product. H.R. 2202 is a much needed boost to our efforts against illegal immigration.

Included in the bill are 5,000 new border patrol agents, more INS agents to track alien smugglers and visa overstayers, more detention space for illegal aliens, and the list goes on and on.

I am most pleased that many of the asylum reform provisions that we have needed for years and I worked on with the gentleman from Texas for years are now in this bill. We have very generous asylum laws but now we are going to have provisions that make it a lot more difficult for somebody to come here and claim that they have a fear of persecution if they are sent back home to their native country, when they really do not, and be able to overstay and stay and get lost in our country and never get kicked out. Instead we have got a provision that I think is very fair for summary and expedited exclusion which, by the way, is already law as a result of the antiterrorism bill earlier this year but which we are making much more livable and a better product today.

Also we have in here some efforts to try to get document fraud under control. We lessen the number of documents used in employer sanctions where we attempt to cut off the magnet of jobs by a 1986 provision that makes it illegal for an employer to knowingly hire an illegal alien. There were far too many documents that could be produced to get a job. Now we have reduced that number to a manageable number.

What is left to be done is we need to find a way to get document fraud out of it. I think that some steps are taken in this bill, not enough, and I have introduced another separate piece of legislation I hope passes the next Congress to make the Social Security card much more tamper-proof than it is today.

We also have some provisions in here I think are important with regard to Cuba. We have allowed the Cuban Adjustment Act to continue to operate and with regard to the expedited exclusion issue, we have made a special provision so that those Cubans who arrive by air are going to be not subject to that particular provision.

We have also taken care of student aid problems that were earlier in this bill, whereby if you are deemed to have the money value in your pocket of your sponsor, you no longer will be in the case of education, at least for student aid purposes, excluded from those benefits.

The bill is an excellent bill. I urge my colleagues to adopt it and we need to send it down to the President and get it put into law.

Mr. BRYANT of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Speaker, for generations immigrants have played a vital role in our economy, but today immigrants play the role of villain in the Republican's morality play. By exploiting a false image of millions of illegal immigrants crossing the border into the United States, NEWT GINGRICH and his Republican allies have crossed the border from decency to indecency.

After all, under this bill the simple idea of uniting with your closest family members will become a luxury that only the wealthiest will be able to afford. The Republicans say they want to get tough on crime, so how do they do that? Under this bill legal immigrants are deportable for the crime of wanting to improve their education to adding something to this country. That is right, under this bill if you are a legal immigrant and you use public benefits, including a student loan for more than a year, you are shown the door. What does that accomplish? It means that we throw our young people who are taking steps to gain an education and job skills and, yes, improve their English skills also. It means that this bill does not simply punish immigrants, it punishes all Americans who benefit from contributions that immigrants make to our Nation. Let us defeat this sad, cynical, and shortsighted legislation.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, legal immigration, yes; illegal immigration, no. Californians and residents of other border States have been fighting illegal immigration for years. It took the current Republican majority to take a serious look at this issue. Do not listen to the charges of those who oppose this bill. It is not cruel to ask immigrants and their sponsors to live up to their obligations. It is not heartless to try to put some teeth in our immigration laws. It is a pretty sad day when you can jump a fence, have more rights in this side of the border than when you are coming through legally. We need to protect legal immigration.

Recently I held a hearing near the border. Our border in southern California is still a sieve. They have simply moved the problem 40 miles east. They refuse to indict those that are coming over with drugs. And generally it is chaotic still. What it means, we had gained more congressional seats but that will not be good for everybody east of California, I am sure. So I would hope we would have the help of our colleagues throughout this Chamber because this is a national problem, not just a Southwest, Southeast problem.

Mr. BRYANT of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I want to commend the chairman and the ranking member. They worked very hard with this bill. There are still some problems. The common perception is that once you get the Gallegly amendment out, the bill is OK. The problems are still there and more work is needed on this bill.

The Endangered Species Act, nobody has talked about it today, but it is part of this package. In other words, the Environmental Policy Act and the Endangered Species Act are waived if we are talking about construction of roads and barriers at the border. That is not right.

Mr. Speaker, this bill also rolls back three decades of civil rights policy by establishing an intent standard. It exacerbates the results and the effects of the welfare reform law but now it seems that we are castigating legal immigrants.

This bill includes back-door cuts in legal immigration by establishing a new income standard. It guts the American tradition we have always had to refugees by including summary exclusion provisions that are going to require instant return of any refugee.

Perhaps, most importantly, what this bill does is it is tougher on legal immigrants and American workers than on illegal immigration. It makes life harder for American workers and easier for American businesses. Eliminated are provisions in the bill to increase the number of inspectors for the Department of Labor to enforce worker protections, the Barney Frank amendments that allowed us in the past to vote for this bill. This bill also strips authority from the courts with provisions that will eliminate the power of the courts to hold the INS accountable and eliminate protections against error and abuse.

I want to return to the Barney Frank provisions that allowed many civil libertarians, those concerned with civil rights, when we passed very tough employer sanctions in the old immigration bill, to support this bill because we knew there would be recourse if there was discrimination. All of these inspectors, all of these that enforce civil rights provisions are eliminated from this bill. That is a key component that is going to hurt American workers.

This bill eliminates also longstanding discretionary relief from deportation that will say to American family members of immigrants being deported that you get no second chance. I know there are enormous pressures for dealing with illegal immigration bill. There are political pressures that are very intense. But we should not allow the politics and the fact that this is a wedge issue to prevent us from doing the right thing. The right thing is that this bill needs more work. We do want to have strong measures against illegal immigration. There are a lot of provisions here in the bill that are good, that make sense. But the attack on legal immigrants, American workers, right now, is stronger than on illegal immigration. Therefore, I think that we should reject this bill. Give it one more shot.

There is additional time. I understand we will be in next week now. Let us do the right thing. Let us defeat this conference report.

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore (Mr. BILBRAY). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, several times today, various opponents have mentioned that we do not have in this legislation the Department of Labor inspectors.

□ 1430

But I want to remind them that they have already lost that argument twice. That provision was taken out on the House floor by amendment, and then subsequent to that we passed the House bill without those inspectors in it. That means two times it has come before this body and two times the Members have spoken.

The point is that we have already debated that, we have already voted.

The other thing about the inspectors that seems to be conveniently overlooked is that in this bill we have added an additional 900 inspectors, 300 each year for 3 years, and these are INS inspectors. It makes far more sense to have Immigration and Naturalization Service inspectors enforcing immigration laws than the Department of Labor.

And, Mr. Speaker, I also want to itemize some of the provisions that are in this bill that might have been overlooked.

We have heard tonight by Members on both sides of the aisle that this bill doubles the number of Border Patrol agents over the next 5 years. That is the largest increase in our history.

It also streamlines the current system of removing illegal aliens from the United States to make it both quick and efficient.

It increases penalties for alien smuggling and document fraud.

It establishes a three-tier fence along the San Diego border, which is the area with the highest number of illegal border crossings.

It strengthens the public charter provisions and immigration laws so that noncitizens do not break their promise to the American people not to use welfare.

It ensures that sponsors have sufficient means to fulfill their financial support obligation.

It also strengthens provisions in the new welfare law prohibiting illegal aliens from receiving public benefits, and it strengthens penalties against fraudulent claims to citizenship for the purposes of illegally voting or applying for public benefits.

Lastly, Mr. Speaker, I just want to say that I know my friend from Texas, Mr. BRYANT, opposes this bill, but I still want to say that he deserves public credit for many of the provisions still in the bill that he would consider beneficial, even if he does not consider the entire bill beneficial.

Mr. Speaker, I just want to continue the comments I was making a while ago and express to the gentleman from Texas [Mr. BRYANT] my appreciation for his constructive role in the process. Even if he cannot support the entire bill, he has played a significant role in getting us to this point, and especially at the beginning when he was a cosponsor of this bill.

Lastly, Mr. Speaker, I want to make the point once again that the opponents who we are hearing from this afternoon do not represent a majority of their own party. They certainly are entitled to try to kill this bill or block the bill or defeat the bill, but we have every right, those of in the majority, to try to pass this legislation.

The reason I say that they do not even represent a majority of their own party is simply because every major provision in this conference report, which is itself a compromise, is the result of either the House passage of the bill which passed by 333 to 87, or the Senate immigration bill which passed by a vote of 97 to 3.

So there is wide and deep bipartisan support for the provisions in this bill, and I expect to see that bipartisan support continue when the bill comes on a conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume, only to say that I once again take issue with this characterization of the bill. This is not the bill that the House voted on; it is not the bill the Senate voted on. It is a bill that the Republicans spent 4 months behind closed doors cooking up so it would serve their electioneering and political interests this year.

The fact of the matter is that this bill now does not have wage and hour inspectors in it which are necessary, it does not have the subpoena authority for the Labor Department which is necessary, it does not have the requirement that employers participate in the verification project. In other words, they have done exactly what the employers wanted them to do so that the draw of illegal aliens into this country, which is to get a job, has not been effective.

Oh, yes, we are talking about more people on the border if the Committee on Appropriations goes along with this. That sounds good. I am certainly for that. But the only way we are ever going to solve this problem is to deal with the fact that there are people out there who habitually hire illegal aliens, and we had many, many inspectors in the House committee, had many, many inspectors in the House committee version, the 150. We had 350 in the Senate bill. They are gone. Of the enhanced penalties that we had in the bill, the enhanced penalties that we had in the bill so that habitual offenders would suffer for their acts have now been removed.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, the chairman of the subcommittee has given the perfect rationale for voting against the bill and for our motion to recommit. He says many of these provisions are here in part because of the gentleman from Texas, the ranking member. That is exactly right, and if this bill had only those provisions, it would not be controversial. He has conceded the point. There is a core of agreement on measures to restrict illegal immigration that would not be controversial.

But here is what happens, and people should understand people sometimes think the party does not mean anything. Yes, party control means something. The Republicans are in control of this Congress. That means their ideological agenda and the interest groups that they are most interested in get served.

What that means is that we do not get a chance to vote just on the bill dealing with illegal immigration. It comes with illegal immigration and an unbreakable format, a conference I have never seen before, where the chairman just decided no amendments would be allowed because he is afraid to have his members vote on these things.

Other provisions are there. Well, what are the other provisions? One provision reaches back to antidiscrimination language. It has nothing to do with illegal immigration. We have said that we feared, when we put employer sanctions into the law, that this would lead to discrimination against people born in America who were of Mexican heritage. The GAO said, "You're right, it's happened." What they have done in this bill is to reach back to that section not otherwise before us and made it much harder for us to protect those people against discrimination.

Then we will have a recommit to undo that. My colleagues could vote for the recommit and it will not effect their commitment on illegal immigration.

With regard to the people with AIDS, that is a provision that was in neither bill. The gentleman from Texas who does not want to defend things on the merits says, "Well, the majority is with me." Well, that was not in the House bill, and it was not in the Senate bill. It is an add-on in that secret conference that they had.

What this bill does is to weaken our enforcement powers against those who employ people who are here illegally and then, serving the Republican ideological agenda, says "If you're here legally and you have AIDS, you may die if you need Federal funds because you will get none. If you are a Mexican-American born here, we will make it easier for people to discriminate against you. If you are an American legally eligible to work and the Government falsely certifies that you weren't and makes a mistake, in the House version of the bill we had a protection for you." In this version of the bill there is none. if they apply for a job, having been born in this country, and they are turned down because the government inaccurately reported that they were not eligible to work, they have no recourse. Our bill would have given some recourse.

This bill protects the employers. This bill makes it harder if someone is a potential victim of discrimination, or if they are a perfectly legal resident of the United States with AIDS, including a child. Children with AIDS who are not yet eligible to become citizens, children who are brought here; they did not sneak in, not these terrible people my colleagues are worried about, children who are here with AIDS are denied Federal health benefits in certain circumstances by this bill. That is shameful.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the States have indicated that there is likely to be confusion in the interpretation of title V of this bill in the recently enacted welfare bill. The intent of some of the provisions in title V may need to be addressed in the later bill. Until that time the States should be held harmless on issues which are ambiguous.

However, the immigration bill is not intended to change in any way the eligibility provisions in the recent welfare bill. Non-citizens are not eligible for SSI or food stamps, and future immigrants are not eligible for Medicaid as well as for their first 5 years, and this bill simply does not change that.

Mr. Speaker, I also on a different subject want to reiterate the fact that all of us who are strong supporters of this bill also are strong supporters of employer sanctions. That is why in this bill we have increased Interior enforcement, we have increased the number of INS inspectors, we have increased the penalties, and we have this quick-check system that will allow employers to determine who is eligible to work and who is not.

So this bill goes exactly in that direction, which of course is supported by a majority of the American people as well.

Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I come before the House today, as we debate this immigration reform legislation, from a State that has been impacted and sometimes devastated by a lack of a national immigration policy.

I notice we have some reforms in here, and there are some good reforms. We are doubling the number of Border Patrol, but also in this we are also restricting some payments, some benefits, to illegal aliens, and we should go even beyond that.

But I tell my colleagues that unless we stop some of the benefits, unless we demagnetize the magnet that is attracting these folks to come to our shores—we can put a Border Patrol person every 10 yards across our border, and we will not stop the flow because people will come here because of the attraction of the benefits.

How incredible it is that we debate whether we give education benefits or medical benefits and legal benefits and housing benefits and other benefits to illegal aliens and even legal aliens in this country when we do not give the same benefits in this Congress, and that side of the aisle has denied them to our veterans who have served and fought and died for this country in many cases, or their families, and to our senior citizens. So this is a much larger debate.

Finally, my colleagues, we must have a President who will enforce the laws, and we have not had a President who will enforce the immigration laws, and we have a new policy every day, and we cannot live that way.

Mr. BRYANT of Texas. Mr. Speaker, I yield 1 minute 15 seconds to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I rise to voice my strong opposition to this so-called immigration reform bill. There must be some confusion over what immigration actually means, over what immigration actually is. The dictionary defines immigration as "coming into a country of which one is not a native resident."

Basic logic tells us that any attempt to reform immigration should address those issues that directly relate to immigration: strict border control, effective verification of citizenship, and penalizing those businesses and industries who knowingly employ undocumented immigrants.

Most Americans would agree with those goals. But this bill goes way beyond these sensible, logical goals. Instead, it attacks the very principles upon which this country was founded. America's Founding Fathers built this country on the principles of fairness and equality, on honoring the law and creating safeguards against any kind of discrimination. Throughout history, our country has welcomed those immigrants who play by the rules, pay their taxes, and contribute to our cherished diversity.

But this bill ignores those traditions and attacks the very people who we say are welcome—legal immigrants. The welfare bill effectively stripped legal residents of many safeguards, and this bill goes on to clean up what the welfare bill missed.

Under this bill, legal immigrants who enter the country and begin the process of living the life of an American resident would lose the protections guaranteed by the Constitution.

Employers would be given the go-ahead to discriminate by a bill that does not enforce current immigration requirements and citizenship verification. Employers would be allowed to exploit workers by weakening civil rights protections and gutting wage and law enforcement.

This bill is not about immigration reform, it's about punishing women and children who play by the rules and represent the very best in our country. Most legal immigrants work hard for low to moderate wages, with little or no health insurance. Should the family need Federal assistance, too bad. Because if one of these workers ends up in the hospital and cannot pay his bill, and the sponsor cannot pay his bill, that worker will be deported. Never mind that he has been paying taxes for the past few years. Suddenly, it just doesn't matter that he has contributed to our economy and has followed our laws.

It doesn't stop there. It isn't just the worker. It's his family, his children. If his child needs medical care and he can't pay, his tax money suddenly isn't available. This bill sends the child to school sick, with the fear of deportation always looming in the background.

Legal immigrant children must have their sponsor's income deemed for any means-tested program. This effectively bars these children from child care, Head Start, and summer jobs and job training programs.

What does reducing a legal resident's access to health care and Federal benefits have to do with restricting illegal immigration I would argue—nothing. Absolutely nothing. Because this is not about reducing illegal immigration. If it were, I would not be standing before you asking these simple questions.

For these reasons, I encourage my colleagues to oppose this blatant offense to our sense of fairness, justice, and equal protection for every American resident.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, let us talk about playing by the rules.

If this bill is not passed, those who have broken immigration law and entered this country legally have more rights than those who are waiting patiently at the ports of entry to enter into this country. That kind of confuses me, because my colleagues on the other side of the aisle have no problem with an immigration agent turning away somebody at the port of entry if they are coming to a legal port of entry, without a judge's rulings, without court cases, without lawyers. But if somebody jumps the fence, breaks the law, then they want to continue to empower these people with more rights than those who are playing by the rules.

□ 1445

I have to say, this is the absurdity of Washington, that we are even discussing this issue. But they are saying, what if this legislation passes, what could happen?

Let me tell the Members, as somebody who lives on the border, let me say what happened today and what has happened in the past. San Diego County, when I was a supervisor, spent $30,000 sending people back to foreign countries in body bags, because of how many people are dying because of this problem.

The fact is, there are law-abiding citizens who are doing without in their hospitals because the Federal Government is actively dumping patients onto working-class hospitals and expecting those communities to pay the bill that Washington has played the deadbeat dad and walked away from. This bill will finally correct that.

Mr. Speaker, I think the chairman of the committee said quite clearly, we want to have a welcome mat out for legal immigration, but there is a difference between having a welcome mat and being a doormat. Our taxpayers have a right to expect that citizens do have rights and should be first in our priorities for social programs and for the taxpayers' dollars; the fact that illegal aliens should not be given preference over legal residents and citizens.

Mr. Speaker, if our colleagues from the other side of the aisle want to walk away from this issue, then they are walking away from a major mandate, not just from the people of California, but across this country. We had bipartisan support at finally addressing the issue of the absurdity of welfare, and we passed a welfare reform bill the President signed. It is time to be bipartisan. Pass this bill. Give the President the chance to sign this bill, too.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I commend the chairman of the subcommittee for his hard work on H.R. 2202.

Mr. Speaker, let us just say everybody is in bipartisan support of this bill. The House passed the bill 333 to 87. The Senate bill passed 97 to 3. This bill secures our borders, cuts crime, protects American jobs, and saves taxpayers from paying billions of dollars in benefits to noncitizens.

The conference report doubles the number of Border Patrol agents, expedites the removal of illegal aliens, increases penalties for alien smuggling and document fraud, prohibits illegal aliens from receiving most public benefits, and encourages sponsors of legal immigrants to keep their commitment of financial support.

My grandmother came from Poland with a sponsor, a job, and a clean bill of health. We should expect no less from any other person coming to this country. We must stop illegal immigration. We must stop the waste of Treasury dollars towards people who come here illegally. We need to clean up our communities. This bill goes a long way to doing it.

Again, I commend the gentleman from Texas for his leadership on this issue.

Mr. SMITH of Texas. Mr. Speaker, I yield 15 seconds to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I would just say to my colleagues, coming here the wrong way is not the American way. I support this bill. I compliment the gentleman from Texas [Mr. SMITH] for the work he has done.

As a Representative from a State heavily impacted by our Nation's immigration policies, I strongly urge all of my colleagues to support the immigration in the national interest conference report. The sweeping reforms in H.R. 2202 will stem illegal immigration, secure our borders, and encourage personal responsibility for legal immigrants.

While America is a nation of immigrants, its borders must be protected from illegal immigrants. According to INS there are 4.5 million illegal aliens in the United States. By doubling the number of border patrol agents, H.R. 2202 protects legal residents from the social and economic burdens of illegal immigrants.

H.R. 2202 improves legal immigration policies to ensure those who sponsor immigrants have the means to support them. If we don't require sponsors to fulfill their financial obligations, taxpayers will continue to pay $26 billion annually for legal immigration. Sponsors must honor their obligations so legal immigrants may become self-reliant, productive residents of the United States rather than dependents of the welfare state.

Again, I urge all of my colleagues to support H.R. 2202.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from Texas [Mr. BRYANT] is recognized for 15 seconds.

Mr. BRYANT of Texas. Mr. Speaker, I simply want to say that Members should vote for the motion to recommit. All of the things that will strengthen this bill are in it, plus the things that have been talked about by the other side.

Second, I regret the gentleman from Texas [Mr. SMITH] and I we did not work together on this bill at the end. He is a good friend of mine. I appreciate so much the spirit in which we began. I look forward to working with him on something we agree on in the future. I thank the gentleman very much.

Mr. SMITH of Texas. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Texas [Mr. SMITH] is recognized for 1 minute and 30 seconds.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Texas for his generous comments. I feel the same.

Mr. Speaker, for the sake of American families, American workers, and American taxpayers, we have to pass immigration reform right now. To secure our borders is a worthy effort. If we secure our borders, we are going to reduce crime, we are going to reduce the number of illegal aliens coming into the country, we are going to protect jobs for American workers, and we are going to save taxpayers billions and billions of dollars.

In addition to that, we have to distinguish and say to legal immigrants, we want you if you are going to come to contribute and work and produce, but you cannot come to take advantage of the taxpayer. I urge my colleagues to vote for this conference report, and against the motion to recommit.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong opposition to H.R. 2202.

We all agree that we need to control illegal immigration by strengthening our borders, enforcing our laws, and ensuring compliance with our national labor laws.

While there are some provisions in H.R. 2202 that move in this direction, this bill continues to fall short of achieving meaningful reform in crucial areas.

For example, rather than provide the Labor Department with additional resources to investigate labor abuses, H.R. 2202 contains zero additional funding in this area.

In addition, this bill deletes important antidiscrimination protections in the workplace, and denies fair compensation to employees for errors in the employment verification process.

This bill fails to address the fact that jobs are the primary reason immigrants, whether legal or illegal, come to this country. Instead, this bill unfairly punishes legal immigrants, and threatens discrimination against American workers.

H.R. 2202 is flawed and unfair. I urge a "no" vote on this bill.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to express my strong opposition to the conference agreement on the Immigration and Nationality Act. This conference report goes far beyond efforts to curb illegal immigration in this country by unfairly targeting legal immigrants and promoting discrimination among U.S. citizens as well.

Once again the proponents of the anti-immigration sentiment in this country are using the banner of illegal immigration to impose injustice on those immigrants legally in this country—immigrants who pay taxes, contribute millions of dollars into our economy, abide by the same laws we do, and are even eligible to be drafted into the military. Yet this conference report, like the welfare bill before it, singles out legal immigrants by effectively denying them access to Federal programs.

Specifically the conference report subjects legal immigrants to deportation if they use any means-tested Federal assistance—Federal assistance in which eligibility is based on income—for more than 1 year in the aggregate. Practically speaking this provision bans legal immigrants from any Federal assistance program based on income level—student financial aid, federally funded English classes, job training, health and assistance under Medicaid, or other Federal programs.

It just escapes me why we would want to punish a legal immigrant for pursuing education or job training and making an effort to become an even more productive participant in our economy and society.

The proponents of today's measure are the same people screaming for English only legislation. They state that people in this country should learn English, people can't succeed in this country if they don't know English, yet on the other hand they support this conference report which could cause the deportation of legal immigrants because they utilize a year of federally funded English classes. One can only surmise that the intention here is not to help legal immigrants assimilate into American society but to keep them out of our country altogether.

The conference report limits legal immigration by putting a new arbitrary income barrier to family immigration into this country. It establishes a new income requirement of 200 percent of the poverty level for anyone who seeks to sponsor a parent, sibling, or adult child, and 140 percent for those sponsoring a spouse or minor child.

This provision goes against the very principle of family reunification and would deny low-income families from reuniting with their own minor children and other family members. This is an egregious example of discrimination against the poor. It says that we only care about reuniting families of a certain income level, and that because you are poor you do not deserve to be reunited with your family. I can think of nothing that is more anti-American and antifamily.

It is not only legal immigrants who are hurt under this conference report, but also U.S. citizens who will be subject to more discrimination with limited remedies for violations of their rights.

This conference report makes it more difficult for prospective employees to bring discrimination cases against an employer. A job applicant must now prove that the refusal of a job is a result of intentional discrimination, a higher legal standard than is currently required. This provision will affect U.S. citizens who look Asian or Hispanic, who will no doubt be singled out for greater scrutiny and discrimination, with very limited remedies available to them.

It gets even worse, because the conference report does not include language in the

House-passed bill which would have allowed American workers who lose their jobs because of government computer errors concerning their immigration status to seek compensation. This means if someone is mistakenly discriminated against, loses their job because of a computer error, they have no way to seek just compensation.

This is not a theoretical argument, because it is already happening in our education system. Even before the passage of this bill students of Asian and Hispanic ethnic heritage are experiencing heightened scrutiny and delays because of extra measures to verify their citizenship status. Student loan checks for student loans are being revoked because of mistakes in the Social Security system, even though these students are U.S. citizens and their only crime is being born of Asian/Pacific or Hispanic ethnic origin.

It pains me to think that we have come to a place in our society that we must single out anyone who looks different or speaks differently and make them second-class citizens in this Nation. This is where this immigration bill takes us.

Mr. Speaker, many of us want to tackle the problem of illegal immigration in this country, but not at the expense of the rights of legal immigrants and citizens. I urge my colleagues to vote against this mean-spirited bill.

Mr. DINGELL. Mr. Speaker, we should be meeting here today to discuss a bipartisan bill to better protect American jobs, public services, and our borders. We have missed that opportunity. We are now faced with a bill, H.R. 2202, introduced after closed-door Republican sessions, that could damage our borders, hurt American workers and their families, and increase the burden on our taxpayers.

Jobs are the magnet attracting illegal immigrants, and it is a criminal network of employers who hire these workers at the expense of unemployed Americans. We must make it clear to those rogue employers, who are willing to cheat hard-working Americans out of employment opportunities, that their behavior will not be tolerated.

Instead, this bill lessens the penalties against those who skip over American workers to hire foreign workers. It also reduces the number of inspectors we wanted to put in the field to combat this illegal behavior. If you are a U.S. citizen, willing to work hard and make an honest living, you may still lose out due to the growing number of employers allowed to flaunt the law and hire cheaper illegal immigrants without the real risk of punishment under the law.

Mr. Speaker, existing laws limit the ability of legal immigrants to become public charges. However, the harsh deeming requirements in H.R. 2202 will deny many legal immigrants assistance they should be entitled to. I say entitled, not only because they are legal residents who pay taxes and are eligible for the draft, but because they pay far more in taxes than they use in public services.

The Urban Institute conducted a study which found that legal immigrants pay $40 billion more in taxes than they collect in public assistance. Similar studies have shown that legal immigrants are less likely to collect public assistance than U.S. citizens. And the conservative Federal Reserve Bank of New York published a study which shows that immigrant families contribute approximately $2,500 more in taxes than they obtain in public services.

In addition, it appears that the anti-environment 104th Congress had to attack our environmental laws one more time in their mad rush to adjourn. The provision, deemed even by my pro-environment Republican colleagues to be outrageous, would inflict a loss of power for States and local governments anywhere along thousands of miles of our Canadian and Mexican borders to build fences, roads, or other infrastructure.

As a representative of a Canadian border district, I cannot support legislation which casts aside opportunities for public participation under the National Environmental Policy Act [NEPA] so that local communities and citizens in Michigan could have a say before the INS decides we need a giant fence to separate ourselves from our Canadian neighbors. Indeed, Speaker GINGRICH has received word from the attorney general, the Secretary of the Interior, and the chair of the President's Council on Environmental Quality that the administration objects strongly to this weakening of environmental standards.

Mr. Speaker, previous experience teaches us that: limiting services to legal immigrants can risk public health and safety, as well as raise costs; limiting employment enforcement provisions costs American's jobs; and limiting environmental protections under Federal statute can place our communities' health and well-being at needless risk as a result of incompetent legislation.

I urge support for Democratic efforts to fix some of the more obvious errors in the bill through the motion to recommit, and barring its acceptance, I urge rejection of the conference report.

Mr. SERRANO. Mr. Speaker, I rise in strong opposition to the conference agreement on H.R. 2202, the immigration reform bill.

Mr. Speaker, this bill is often described as an effort to improve border enforcement and employment eligibility verification, but, in fact, it goes far beyond these widely-supported elements to attack legal immigrants in the United States, as well as the rights and health of all Americans, citizens and noncitizens alike, and our commitment to international human rights.

Of course, this very unfortunate conference agreement is the result of the Republicans' negotiating and writing a new bill behind closed doors, with no input from Democrats—even those who were initially supporters of immigration reform—during either the negotiations or the actual public meeting of the conference committee!

The employment provisions in this bill are simply wrongheaded. First, the bill defies logic by failing to improve enforcement of our Nation's wage and hour laws despite the fact that unscrupulous employers hire undocumented immigrants precisely so they can overwork and underpay them. Better wage and hour enforcement is the best deterrent both to this exploitation and to the jobs magnet. Next, computerized employment verification systems invite the creation of national databases on every citizen and resident of the United States, without offering safeguards against improper use or disclosure of information or any recourse if the information provided to a potential employer is simply wrong. Moreover, the bill strips from our immigration law existing antidiscrimination provisions, which were originally enacted three decades ago because it was a fact that minority citizens and residents were discriminated against in the employment process.

As illogical as it may sound to my colleagues, while legal immigrants would remain eligible for certain public assistance under this bill, and many have worked and paid taxes to support public assistance and other government programs, they could be deported for actually using the benefits for which they are eligible. Worse, the deeming provisions could bar legal immigrants from receiving even emergency medical services under Medicaid. Legal immigrant children are at particular risk. They may be priced out of eligibility for means-tested programs such as Head Start or job training by deeming. Or they may be frightened away from participation in other programs such as housing, child care, or even health care lest they become deportable.

And any immigrants who, despite sponsor income and the threat of deportation, actually receive services—even emergency services or services to children—must pay the government back before they will be allowed to become naturalized citizens. I guess in the Republicans' view of American citizenship, only the rich need apply.

The conference agreement includes provisions that neither House nor Senate adopted and that conferees were not permitted to strike, that explicitly deny publicly-funded medical care for immigrants who test positive for HIV. There is no reason to treat HIV and AIDS differently from other communicable diseases such as tuberculosis or influenza except raw prejudice. This is also totally counterproductive to our efforts to control the AIDS epidemic in America.

If enacted, these public assistance provisions, which are far more extreme than the already alarming provisions in welfare reform, will cause either a vast increase in human misery in this country or, more likely, a vast cost-shift to State and local governments and to churches and charities, including our already overburdened nonprofit hospitals.

This bill would raise the income levels required to sponsor a child or spouse, sibling or parent, to levels that would disqualify 40 percent of all American families, both citizen and noncitizen, from bringing their families together in America. I guess Republican family values are not for hardworking families of modest means, but only for the wealthy.

This conference agreement would also undermine our commitment to protect people fleeing from real persecution by restricting their ability to make their case for admission and denying them a hearing and judicial review. Hundreds of bona fide refugees could be returned to their persecutors under this bill.

Mr. Speaker, this bill, like so many others presented by the Republican majority over the last 2 years, goes far beyond what Republicans claim to be its purposes and into the ugliest sort of politics. It is designed and intended to drive wedges into the population and to exploit some people's fears of people who look or sound different.

This bill is shockingly cruel and will do real harm. I urge all my colleagues to vote to defeat this conference agreement. If it is adopted, I implore the President to stand up to the demagogues and veto it. That is the right thing to do.

Mr. DURBIN. Mr. Speaker, I rise in opposition to the conference report on the Immigration and Nationality Act. I support genuine immigration reform, to end illegal immigration and protect American workers from employers who knowingly hire illegal immigrants and put Americans out of work. I regret that the conference report which is now before the House does not meet the standard of genuine immigration reform.

The United States cannot afford to absorb all those who want to settle in our country. I support continued funding of our existing efforts to deter illegal immigration. I have voted for provisions to strengthen the laws, including doubling the number of border patrol agents and increasing the number of work site inspectors to enforce laws against the hiring of illegal aliens. And I support efforts to prevent abuses in enforcement and ensure that enforcement efforts conform to our civil rights and our laws of justice.

Most Americans are immigrants or the descendants of immigrants. Legal immigrants have made and continue to make significant contributions to America's scientific, literary, artistic, and cultural resources. As the son of an immigrant, I believe America's strength is in its diversity. It is in our national interest to build upon that strength through a system which maximizes the positive opportunities legal immigration affords by allowing qualified immigrants to participate in our economy and share their talents and strengths with our communities. Family unification should be one of the key guideposts for evaluating immigration reform proposals.

I voted for the immigration reform bill which was passed by the House in March. It was not a perfect bill, but it would have made needed changes in the law to stop illegal immigration. It would have doubled the number of border patrol agents; permanently barred those who previously entered the country illegally from ever being legally admitted; increased the number of work-site inspectors to enforce laws against the hiring of illegal aliens; and streamlined the deportation process.

The conference report which is now before the House is worse than the bill passed by the House in March in several ways. For example, the bill that was passed by the House retained civil penalties for employers who knowingly hire illegal immigrants. But the conference reports which is now before the House removes the civil penalties against employers who knowingly hire illegal immigrants, which will make it easier for unscrupulous employers to hire illegal immigrants and put Americans out of work.

I support effective and reasonable income-deeming requirements on the sponsors of legal immigrants who apply for public benefits. At the same time, I believe that immigrants and refugees who live legally in the United States, and contribute to our country's progress just as all of our ancestors have done, should not be discriminated against in the area of public assistance.

The conference report is worse than the bill passed by the House in its treatment of legal immigrants. For example, the conference report would allow the deportation of battered women and children, who are legal immigrants, if they receive public shelter and counseling for more than 1 year. The House-passed bill exempted shelter and counseling for battered women and children.

I voted for the immigration reform bill that passed the House because I believe that illegal immigration is an urgent problem that must be addressed by this Congress, and I had hoped that the bill would be improved as it moved through the legislative process. Instead, we find that the Republican leadership has decided to turn the effort to reform our Nation's immigration laws into a cynical political game.

I urge my colleagues to vote to recommit this bill to the conference committee. Reject this conference report, and instead bring genuine immigration reform legislation to the House before Congress adjourns.

Mr. DUNCAN. Mr. Speaker, just yesterday, the Knoxville News-Sentinel reported that a Tennessee Highway Patrolman stopped a van on I–75 which contained 25 illegal immigrants.

The arresting officer attempted to contact the INS but could not even get a person to answer the phone at the Memphis INS office.

He was quoted in the paper as saying: "Immigration just took the phone off the hook."

He repeatedly attempted to contact INS officials but all he got was: "360 degrees of answering machines."

So what did the trooper do? All he could do, he let illegal aliens go. Simply, he had no legal authority to detain them.

This is the sixth time this year that illegal aliens have been stopped by local authorities in my district and had to be released.

Six different vans containing at least 130 illegal immigrants have been let go because of the INS' refusal to act. When local officials have talked to INS, they were told that there were no funds available to send INS officers to arrest, detain, and deport these illegal aliens.

The INS has received a 72-percent increase in funding in the last 3 years, which is approximately eight times the rate of inflation over that period. Almost no other Federal agency has received that type of increase in recent years.

With this increase in funding, local officials have a right to be outraged by INS' inaction. I agree with them completely. One sheriff in my district has told his deputies to not even bother questioning individuals they stop to determine if they are illegal aliens because of the INS' inaction.

Have things gotten so bad that law enforcement officials have no choice but to, in effect, condone the breaking of the law?

The six vans that I am referring to are only those reported by the local media. Just think how many other illegal aliens travel through Tennessee without being caught.

The Clinton administration bureaucrats seem unwilling to correct this situation. Mr. Speaker, I am outraged. Who do these INS bureaucrats work for, themselves, or the taxpayers?

The nearest INS office to my district is located in Memphis, 450 miles away. INS claims that they cannot apprehend illegal aliens in east Tennessee because it will cost too much to round them up.

Last spring, I asked the INS to open a branch office in east Tennessee or at least a more centrally located office in middle Tennessee. Despite my repeated requests, they have been very unresponsive and unwilling to provide service to east Tennessee.

I have met face to face with INS officials in Washington to inform them of what is going on in east Tennessee, and I have made dozens of calls about this disgraceful inaction.

In fact, this is not the first time I have had to contact the INS. Several years ago, the Sheriff's Department in Loudon County contacted me about a problem they were having with the INS and illegal aliens.

After months of work and literally dozens of phone calls from my office, the INS finally responded to our concerns. In Operation South Paw, the INS conducted a series of raids that resulted in the apprehension of many illegal aliens working in my district. I am glad that the INS finally took action, but the reluctance on their part to fulfill their mission of deporting illegal aliens is inexcusable.

After my most recent meeting with the INS, I was informed that the INS would add two trainees to the Memphis office. This would be an improvement, but this is not enough. Middle and east Tennessee desperately need more INS officials who will enforce the law.

However, I am glad that H.R. 2202, the Illegal Immigration Reform and Immigrant Responsibility Act, includes language Congressmen CHRIS COX and LAMAR SMITH and I incorporated into the House version of this legislation.

Our language, insofar as arrest and detention, will allow local law enforcement officers to act as INS officials since it is obvious that INS officials won't take action.

Specifically, it will allow law enforcement agencies to enter into agreements with the Justice Department so that local officers will be able to function as an immigration officer in relation to investigation, apprehension, or detention of illegal aliens.

I want to thank Congressmen CHRIS COX and LAMAR SMITH who worked with me in formulating this language and for the House and Senate conferees for including this language in the final version of this bill.

Mr. Speaker, I believe this legislation will help to solve the problem of illegal immigration and I urge its passage.

Mr. BUNNING of Kentucky. Mr. Speaker, it is time to take back our borders and cut off the stream of illegal aliens currently flooding across them. This can only be done by increasing the number of border patrol guards and Immigration and Naturalization Service [INS] agents. The Illegal Immigration Reform and Immigrant Responsibility Act provides over 5,000 border guards and increases the number of INS agents by 300. This additional manpower will give a significant boost to current Republican initiatives such as Operation Gatekeeper and Operation Hold the line which were started under President Bush and have clearly demonstrated their effectiveness in keeping illegal immigrants out of our country.

Unfortunately, no matter how much we try to tighten down our borders, some illegal aliens will slip through the lines. But, even though they may get by our first line of defense this bill will make it more likely that they will be hunted down and deported by the joint efforts of local, State and Federal law enforcement agencies. In addition to the increase in manpower that this bill provides, H.R. 2202, gives law enforcement agencies the technological resources and jurisdiction powers to locate illegal immigrants and deport them expeditiously.

Lastly, this bill makes a conscious effort to reform our legal immigration system. Most importantly it will hold sponsors of legal immigrants financially responsible for their guests in our country. As Congress has taken efforts to crack down on "deadbeat dads", H.R. 2202, will crack down on "deadbeat sponsors". In doing so, we will save millions of welfare dollars, which are now being collected by legal aliens.

This bill is not the end-all of immigration reform, but this bill, coupled with the Republican welfare bill which was recently signed into law will go a long way in slowing the tide.

I urge my colleagues to support it.

Mr. SMITH of New Jersey. Mr. Speaker, I intend to vote in favor of the conference report on H.R. 2202, the illegal immigration bill, because it includes many important provisions to help the United States get control of its borders: 5,000 new Border Patrol agents, stricter penalties for alien smuggling and document fraud, and procedural reforms that would make it easier to deport people who have abused our hospitality. I strongly support these provisions.

Mr. Speaker, we no longer live in an age when everyone from anywhere in the world who would like to live in the United States can do so. In an age of instant communication and easy transportation, border control has become not just a national prerogative but a practical necessity. Particularly when it comes to illegal immigrants, the American tradition of generosity is tempered by commitment to fairness and orderly procedures.

I am pleased that the House deleted provisions in the bill that would have imposed drastic cuts in the numbers of legal immigrants and refugees. The House adopted my amendment to delete a provision that would have imposed a statutory cap on the number of refugees who can be admitted into the United States. The cap would have been 75,000 in fiscal year 1997 and 50,000 in each year thereafter—less than half the number we admitted in fiscal year 1995. This may sound like a fairly high number, but even at their current levels, refugees are only about 8 percent of those who immigrate to the United States each year. Proportionally, refugees would have taken an even bigger hit than family or business immigrants. The cut would have hurt people who are in trouble because they share our values: "old soldiers" and religious refugees from Vietnam, Christians and Jews from extremist regimes in the Middle East, Chinese women who have fled forced abortion, and those who have escaped the tyranny of Fidel Castro. So I am pleased that the House adopted the Smith-Schiff-Gilman-Schumer-Boucher-Fox-Souder amendment to preserve the American tradition of providing safe haven for genuine refugees.

Unfortunately, the bill still contains provisions that subject legal immigrants, refugees, and U.S. citizens to unnecessarily harsh treatment. I think in particular of the requirement that a U.S. citizen must earn 140 percent of the official national poverty level in order to sponsor other family members. This provision leaves the unfortunate impression that family reunification is a luxury for the well-to-do, rather than a fundamental and laudable goal of millions of American families.

An even more unfortunate provision, section 633, would explicitly authorize the State Department to discriminate, by race, gender, and nationality in the processing of visas for legal immigrants.

The case of LAVAS versus Department of State, which this provision would attempt to overrule, is a carefully reasoned opinion by Judge David Sentelle, a highly respected Reagan appointee to the U.S. Court of Appeals for the D.C. Circuit. It reflects the court's shock and dismay that the State Department was violating Federal statutes as well as its own regulations by practicing nationality-based discrimination in order to force legal immigrants from Vietnam—typically the immediate relatives of United States citizens—back to the country they had fled.

The tragic consequence of the State Department's position is that many of those who have returned to Vietnam, on the assurance that their immigrant visas will be expeditiously processed by the United States, have languished for months or years because hostile and corrupt Vietnamese Government officials have refused to give them exit permits.

Fortunately, the harsh effects of section 633 can be cured by regulation, or even by sound administration. The President should direct the State Department to change its policy and to process these legal immigrants—and never, never again to discriminate invidiously by race, by gender, or by national origin.

Despite these and other deficiencies in the bill, I am voting in the affirmative, not only because I support the provisions that are directed against illegal immigrants, but also because of two provisions that cure important deficiencies in current law.

Mr. Speaker, the anti-terrorism bill passed by Congress in April contained several provisions that had nothing whatever to do with terrorism. One of these sections provided for the summary exclusion of persons attempting to enter the United States without proper documentation.

It is important that we exclude persons who would abuse our generous immigration laws, and it is important that the process of exclusion be a speedy one. It is also important, however, that the process be fair—and particularly that it not result in sending genuine refugees back to persecution.

The counterterrorism legislation provided that no person shall be summarily excluded if, in the opinion of an asylum officer at the port of entry, he or she has a credible fear of persecution. Unfortunately, the definitions of "asylum officer" and of "credible fear of persecution" were not as clear as they might be. H.R. 2202 goes at least part of the way toward the necessary clarity.

In particular, the antiterrorism legislation defined an asylum officer as someone who has "professional training" in asylum law, country conditions, and interviewing techniques—but did not state how much training or what kind. The immigration bill makes it clear that this training is to be equivalent to that of members of the highly respected Asylum Corps. The best way to ensure that this standard is met is to provide by regulation that only experienced members of the Asylum Corps—people who by training and experience think of themselves as adjudicators rather than as enforcement officers—will exercise the extraordinary power to send people summarily back to dangerous places.

I think it should also be clear that our asylum officers will need to be very careful in applying the "credible fear" standard. In a close case, they must give the benefit of the doubt to the applicant. There are also some countries—such as Cuba, China, North Korea, Iran, and Iraq—in which persecution is so pervasive that almost any credible applicant would have a significant chance of success in the asylum process.

I hope that regulations will be promptly adopted that explicitly provide for these and other safeguards in the expedited exclusion process. In any event, however, the current legislation is a substantial improvement over the regime that would go into force on November 1 if this legislation were not adopted.

Finally, Mr. Speaker, section 601(a)(1) of the conference report will restore an important human rights policy that was in force from 1986 until 1994. It would simply provide that forced abortion, forced sterilization, and other forms of persecution for resistance to a coercive population control program are "persecution on account of political opinion" within the meaning of U.S. refugee law.

Restoration of asylum eligibility for these victims of persecution is supported by human rights advocates from across the spectrum. Protection for these refugees has also enjoyed wide bipartisan support in Congress. Section 601(a)(1) is identical to section 1255 of H.R. 1561, the Foreign Relations Authorization Act, which passed both the House and Senate but was vetoed by the President for reasons unrelated to this provision. Section 601(a)(1) is also identical to the DeWine amendment to the Senate immigration bill, which enjoyed broad bipartisan support in the Senate but was withdrawn after objections had been raised to its germaneness under postcloture rules. Finally, the Clinton administration, which initially opposed this provision, recently announced its support.

As in every other asylum case, an applicant under this provision must prove his or her claim. Contrary to the cartoon being promulgated by opponents of this provision, we would not have to let in 1.2 billion people. In fact, during the Reagan and Bush administrations the number of people granted asylum on this ground was usually less than 100 per year, and never more than 200 per year.

Mr. Speaker, this provision merely states the truth. Forced abortion, forced sterilization, and other severe punishments inflicted on resisters to the PRC program are persecution on account of political opinion. PRC officials have repeatedly attacked resisters to the Chinese program as political and ideological criminals. The infliction of extraordinarily harsh punishment is also generally regarded as evidence that those who inflict such punishment regard the offenders not as ordinary lawbreakers but as enemies of the state.

Forced abortions often take place in the very late stages of pregnancy. Sometimes the procedure is carried out during the process of birth itself, either by crushing the baby's skull with forceps as it emerges from the womb or by injecting formaldehyde into the soft spot of the head.

Especially harsh punishments have been inflicted on persons whose resistance is motivated by religion. According to a recent Amnesty International report, enforcement measures in two overwhelmingly Catholic villages in northern China have included torture, sexual abuse, and the detention of resisters' relatives as hostages to compel compliance. The campaign is reported to have been conducted under the slogan "better to have more graves than more than one child."

The dramatic and well-publicized arrival in 1993–94 of a few vessels containing Chinese boat people has tended to obscure the fact that these people have never amounted to more than a tiny fraction of the undocumented immigrants to the United States. The total number of Chinese boat people who arrived during the years our more generous asylum policy was in force, or who were apprehended while attempting to do so, was fewer than 2,000. This is the equivalent of a quiet evening on the border in San Diego.

Nor is there evidence that denying asylum to people whose claims are based on forced abortion or forced sterilization will be of any use in preventing false claims. People who are willing to lie in order to get asylum will simply switch to some other story. The only people who will be forced to return to China will be those who are telling the truth—who really do have a reasonable fear of being subjected to forced abortion or forced sterilization. The solution to credibility problems is careful case-by-case adjudication, not wholesale denial.

Opponents add rhetorical punch to the asylum-as-magnet argument by asserting that treating forced abortion victims decently will be a unique incentive to smuggling and criminal gangs. Everyone is against smuggling. But let's prosecute the smugglers. Let's not take it out on the victims. The passengers on the St. Louis who were forced back to occupied Europe in 1939 were smuggled aliens too.

Finally, we should be extremely careful about forcibly repatriating asylum seekers to China in light of evidence that a number of those sent back by the United States since 1993 have been subjected to "re-education camps," forced labor, beatings, and other harsh treatment.

The passage of this legislation, despite its defects, should be good news for the dozens of people who are still being detained by INS, even though they were found to have testified credibly to a well-founded fear of forced abortion or forced sterilization—or even that they have already been subjected to these procedures. People whose claims were rejected under the discredited case of Matter of Chang and its progeny should be released from detention immediately, and their asylum cases should be reheard under the rule that is restored by this law.

Mr. Speaker, the problem is not people fleeing persecution, and it is not people who obey our immigration laws. The problem is illegal immigration. The solution is to cut illegal immigration from 300,000 per year to zero, and to provide speedy deportation proceedings for millions of illegal immigrants who have abused our hospitality.

As President Reagan said in his farewell address: "The shining city upon a hill is still a beacon for all who must have freedom, for all the pilgrims from all the lost places who are hurtling through the darkness, toward home." We are still the land of the free, still the most generous nation on Earth, but we must also insist on fairness and on respect for law. We must continue to work for the swift and sure enforcement of our immigration laws, without sacrificing American values.

Mr. STUDDS. Mr. Speaker, I rise to express my opposition to the bill.

We all appreciate the need for the immigration laws to be effectively enforced. But the conference agreement goes far beyond such legitimate concerns. It is an arbitrary and punitive measure which abandons our Nation's historic pledge to those seeking refuge from deprivation and persecution. It is a lamentable throwback to the anti-immigrant hysteria of bygone days, and I believe it will be so regarded by the international community and our own posterity.

The bill's numerous defects have been ably set forth by my Democratic colleagues on the committee, and I will not belabor them. I will address only one particular provision, inserted at the 11th hour, whose cruelty and illogic exceed even the extraordinary standards previously set by this Congress.

I refer to those sections of the bill that would eliminate all publicly funded HIV treatment services for both legal immigrants and undocumented individuals. Let me emphasize that the bill does this not through inadvertence but by design: the conference agreement goes out of its way to ensure access to medical care for all communicable diseases—except HIV/AIDS.

No public health rationale has been offered in defense of this mischievous provision. It has not been offered because it does not exist. Indeed, anyone concerned with public health would want to be sure that we treat every infected individual, and it is both callous and shortsighted to do otherwise.

Mr. Speaker, some of my colleagues who will vote for this bill today have on other occasions professed deep concern for the plight of children living with HIV. I do not question their sincerity, but their consistency is open to serious doubt. If this bill is enacted in its present form, there will be children living with HIV in this country to whom we are categorically denying all publicly funded medical care. I do not wish that on my conscience, Mr. Chairman, and for this and many other reasons I oppose the bill and urge its defeat.

Mr. CONYERS. Mr. Speaker, this is a weak ans shameful bill, which does not deserve the Members support in its current form.

The final product produced by the conference was given to us at the very last minute, on a take it or leave it basis. There was no Democratic input whatsoever, and we were completely shut out of the amendment process.

1. FAILING TO PROTECT AMERICAN WORKERS

This bill says that we will make it easier for unscrupulous employers to hire illegal aliens once they are here. It also says that, by weakening antidiscrimination laws, it will make it harder for legal workers to get jobs.

This bill says a resounding no to more Department of Labor inspectors to check illegal sweatshop and other havens of illegal, undocumented workers. No even though at least 100,000 foreign workers overstay their visas each year.

This bill says a resounding no to Labor Department subpoena authority to review employment records, a critical tool needed to combat illegal immigration.

This bill says no to more civil penalties for abusive employers who hire the illegals. That's the magnet that brings illegal immigrants here. That's what really counts. But the special interests have had their way with this bill.

The Republicans have refused to includes those provisions that can most effectively attack illegal immigration. Therefore this bill is a toothless tiger, an election year special, designed to fool voters in California and elsewhere that we are getting tough. In reality, the Republican leadership is just caving to special interests and bringing us a weak bill.

2. THIS BILL SAYS YES TO DISCRIMINATION

It's not enough to simply be weak on illegal immigration. This bill also says yes to more discrimination.

Even though not in the original bill, this bill now includes new provisions that tell employers that may engage in patterns and practices of discrimination so long as the discrimination is not so egregious as to lead itself to a showing of intent in a court of law.

The conference report also says yes to discrimination by race, gender, and nationality in visa processing. This would allow the Department to select one particular type of nationality and subject them to burdensome and dangerous new visa processing requirements—a practice that has already been found to violate the antidiscrimination laws by the D.C. Circuit. That would have the immediate effect of forcing several dozen Vietnamese nationals who are family members of United States citizens to return to Vietnam to have their visas processed. Because of the hostility and corruption of the Vietnamese Government, those forced back are likely to have their visas languish for many more years.

3. THIS BILL SAYS NO TO THE ENVIRONMENT

The National Environmental Protection Act, known as NEPA, is the Nations founding charter for environmental protection.

But this bill repeals that law, yes repeals that law, when it comes to the broader related construction.

That means that when we are constructing roads, bridges, fences, we can ignore the environment.

That means that broader construction can pollute our public waterways, dirty our air, create hazardous point sources that can create dangerous run offs, and generally ignore any adverse environmental impact of that construction.

This is just one more, yes one more Republican attack on our environment.

I plan on offering to recommit the conference report which corrects these glaring flaws. There is still time to come together and achieve a genuine bipartisan agreement on immigration.

If you want to reform the Nation's immigration laws and crack down on illegal immigration without taking extreme and counterproductive measures which harm American workers, I urge you to vote for the motion to recommit. If that motion fails, I urge you to vote against the conference report.

Mrs. MEEK of Florida. Mr. Speaker, I rise in opposition to this bill.

The United States has long been committed to the protection of refugees seeking safehaven from oppression. But this bill—under a provision called expedited exclusion—gives immigration officials the final say in deciding who has a credible fear of persecution—on the spot, with no right to an interpreter or an attorney. It strips the Federal courts of any review of these decisions.

Many of my constituents escaped from brutal dictatorships in Haiti and Cuba and the oppression of the former Soviet Union. They faced political oppression and religious persecution. In many cases, their lives were in danger. Most of these people did not speak English; some were uneducated and most were unsophisticated in their understanding of U.S. law and documents. Yet all faced danger in the countries from which they fled. I shudder to think of how many of my constituents would have been deported back into harm's way if this provision had been in effect in the past.

This bill would prevent the Federal courts from reviewing many actions of the U.S. Immigration and Naturalization Service, thereby eliminating a great safeguard against abuse. Federal court orders have often been the last resort in correcting INS decisions that violate the law or the Constitution. For example, an INS policy denied Haitian refugees the right to apply for political asylum. That INS decision was overturned—for good reason—by the Federal courts.

This bill weakens protections against job discrimination for legal U.S. residents. The bill makes it harder for employees to prove that employers illegally discriminated against them by not hiring them. The bill also restricts the documentation that legal U.S. residents can use to establish their ability to work and their identity. Unscrupulous employers would be given greater latitude to discriminate against or exploit legal U.S. residents.

This bill is as bad for what it does not do as for what it does. For the past 20 years, the taxpayers of my State and my county have been paying billions of dollars to cover the health care, education, housing, and other costs necessitated by the failures of U.S. immigration policy. Simple fairness should dictate that the Federal Government would pick up the costs of the failures of its own policies. Instead, the Federal Government abdicated its responsibilities and left our local taxpayers to pick up the bill. The bill is silent on this problem and does nothing to help us with these costs.

The immigration reform conference report is the result of last minute partisan political maneuvering, rather than thoughtful, dispassionate consideration of policy.

In the words of the American Bar Association, this bill "abandons the U.S. commitment to the protection of refugees seeking asylum, threatens basic safeguards of due process, eliminates the historic role for the judiciary in reviewing the implementation of the immigration laws * * * and requires the deportation of legal immigrants who receive assistance for which they qualify."

Mr. GOODLING. Mr. Speaker, I rise in strong support of the conference report on the immigration legislation and thank Chairman HYDE and Representative SMITH for their able stewardship of this comprehensive and far-reaching reform bill. I also thank them for working so closely with the Committee on Economic and Educational Opportunities on the areas of the bill that concern education, human service, and workplace issues within the jurisdiction of our committee.

Mr. Speaker, this conference report represents a comprehensive approach to addressing the problem of illegal immigration that will ensure that this Nation can continue to welcome the hope and creativity that new voices can offer us while feeling secure that the wonderful opportunities that life here presents will continue to be available for generations. The legislation recognizes that one of the primary—if not the preeminent—inducements to illegal immigration is the availability of U.S. jobs. The fact of the matter is that this Nation will never be able to fully control its borders with law enforcement strategies alone. The immigration reform proposal also recognizes, however, the practical constraints on employers in policing the attempts of immigrants to illegally secure employment. Thus, the bill contains needed reforms in the worksite verification process and authorizes a workable pilot telephone verification system to allow employers to readily document which applicants for employment are legally authorized to work.

The conference report recognizes as well the role that the availability of public benefits can play in inducing individuals to unlawfully enter or remain in the United States. I am pleased that the bill takes a strong stand to stem the tide of illegal immigration. Those who break the law to come here will not be allowed to receive taxpayer-supported Federal benefits. They are barred and that is as it should be.

I am also pleased that an agreement was reached to separately consider the Gallegly amendment on the education of illegal aliens. For some border States, like California, the education of illegal aliens costs $2 billion a year. For other States, it's not a problem. It is reasonable for States to have the right to decide this issue, and we'll have the chance to consider a separate bill, H.R. 4134, on this matter.

With respect to legal immigrants, I am pleased that the conferees saw the wisdom of continuing to make higher education student aid, school lunch and breakfast benefits, and elementary and secondary education benefits available, as under current law, without counting their sponsors' income.

In sum, Mr. Speaker, the conference report is an excellent piece of legislation that represents months of work by the relevant committees to define a set of policies that will confront the serious repercussions of illegal immigration. I urge my colleagues on both sides of the aisle to give it your strong support so we can send immigration legislation to the President's desk, where I believe it should and will receive his signature.

Ms. HARMAN. Mr. Speaker, as the daughter of a legal immigrant father who fled Nazi Germany, I understand the strength that legal immigration has brought to America. I regret that provisions unfairly targeting legal immigrants have been added to this bill.

But I firmly believe that we must act now to stop illegal immigration, and so I rise in support of H.R. 2202, the Immigration in the National Interest Act, which tackles many of the tough issues around illegal immigration, and speaks to one of our fundamental values: that all of us have to live and work by the same set of rules. As a member of the bipartisan task force that contributed many of the best features of this bill, I commend the leadership of our California colleague, ELTON GALLEGLY.

This bill doubles the number of Border Patrol agents to 10,000 over the next 5 years. And it authorizes the purchase of much-needed equipment and technology to aid these new agents in the fight against increasingly sophisticated alien smuggling rings.

It also takes some important first steps toward eliminating the jobs for undocumented workers which are the primary lure for illegal immigration. It authorizes new eligibility-verification programs to keep undocumented workers from obtaining employment, and to protect the vast majority of American businesses who would never willingly hire an undocumented worker. In addition, it strengthens much-needed anticounterfeiting laws.

Mr. Speaker, this bill is not perfect. I am firmly committed to changing its unfair provisions targeting legal immigrants. And I am disappointed to see that provisions increasing civil penalties on employers who hire undocumented workers at the expense of American labor have been removed.

But on balance, this bill is important and necessary. It represents progress. And as the Torrance Daily Breeze has editorialized, "California needs this [bill]."

I urge its passage.

Mr. RIGGS. Mr. Speaker, I rise today in strong support of H.R. 2202, the Illegal Immigration reform bill. This legislation is the product of countless hours of negotiation between House Republicans and Democrats. While this bill currently does not have the tough provisions like the Gallegly amendment, that are so important to Californians, it is a step in the right direction.

Although the United States is a Nation of immigrants, its borders should be protected from immigrants who unlawfully enter the country and become a burden on citizen taxpayers. I believe that individuals should come to this country through legal channels in order to become productive Americans.

It has been estimated that it costs California more to educate illegal immigrants children than the entire educational budget of Rhode Island and Delaware. While the Clinton administration has turned a blind eye to the strains illegal immigrants places on local economies and communities, the Republican Congress is cracking down on illegal immigration in order to save all Americans money.

According to INS, there are currently 4.5 million illegal aliens in the United States. While the illegal alien population increases by more than 300,000 every year, only about 45,000 illegal aliens are deported from the United States each year. We have clearly lost control of our borders.

Why play by the rules when it is so easy to jump to the head of the line and enter illegally? H.R. 2202 does the following to ensure we are ready to combat this ever-increasing problem: It beefs up border security; it expedites deportations; it toughens penalties for illegal aliens; it gives law enforcement new tools to combat illegal immigration; and it eliminates the job magnet.

Mr. Speaker, most legal immigrants who come to this country work hard and pursue the American Dream. Unfortunately, increasing numbers come to this country in search of government handouts. Consequently, taxpayers will spend $26 billion this year to provide welfare to noncitizens. This could rise to $70 billion by 2004. California spends about $3 billion annually for public education and health care for illegal aliens and incarceration of some 20,000 felons who illegally entered the country. This legislation encourages personal responsibility by requiring illegal aliens to pay their own way. It reinforces prohibition against illegal aliens receiving public benefits. In addition this legislation starts holding deadbeat sponsors legally financially responsible by one, counting the sponsor's income as part of the immigrant's in determining eligibility for welfare, and two, ensuring that sponsors have sufficient means to fulfill their financial obligations.

Mr. Speaker, it is time to act on immigration reform. My district needs it; my home State needs it; America needs it. My colleagues should vote favorably on this legislation.

Mr. KLECZKA. Mr. Speaker, I rise today to oppose the conference report on the immigration reform bill.

I voted for the immigration bill when it was considered by the House, even though I disagreed with some of its mean-spirited provisions that would kick children out of school and onto the street. I felt that it was a good, tough measure that would lead to a reduction in the level of illegal immigration. However, I rise today to oppose this conference report because special interest groups have managed to kill important provisions.

Everyone knows the real reason that immigrants enter this country illegally: jobs. Common sense tells us that if we clamp down on this demand, we will see a corresponding drop in the supply.

It is also a matter of common knowledge that employers in this country are exacerbating this problem by knowingly hiring illegal immigrants. Quite simply, they are acting as a magnet for illegal immigrants. These employers brutalize their workers by forcing them to work in sweatshop conditions at below minimum wage rates. And, significantly, they reduce job opportunities for American citizens.

Sensible immigration reform must entail a crackdown on these unscrupulous employers. Sadly, this bill fails in that respect. The House-passed version, which I supported, provided 500 new Immigration and Naturalization Service [INS] officers to investigate employers who hire illegal immigrants.

The Republican leadership, after consulting with their special interest lobbyists, decided to water down this provision. Now, the INS will get 200 fewer agents. And the agents the INS does get will be prohibited from focusing exclusively on employer violations.

This bad conference report, in fact, weakens sanctions against employers who knowingly hire illegal immigrants. If we are serious about curbing illegal immigration, it is simply illogical to pass legislation that is soft on these lawbreaking employers.

At the same time, this measure radically attacks our Nation's antidiscrimination laws, making it harder for American citizens to prove that they have been discriminated against when seeking employment. It would require those claiming discrimination to prove that their employer intended to discriminate against them, which is an almost impossible legal hurdle to clear.

I find it very unfortunate that this bill, originally intended to protect the American worker by stopping illegal immigration, will actually curtail the legal rights of American workers.

Finally, Mr. Speaker, I rise to criticize provisions which will seriously undermine American families. Historically, our Nation's immigration laws permitted Americans to reunify their families by acting as sponsors for their foreign relatives. The immigration measure on the floor today raises the income level that prospective sponsors must meet to 200 percent of the poverty level. In plain terms, middle-income Americans—the police officer or the schoolteacher—will be denied the ability to bring their aging parents to this country.

Mr. Speaker, if we are to stem the tide of illegal immigration, we must undertake tough and effective measures. But we must insist that such measures apply to all the actors in the immigration problem—illegal immigrants as well as the employers who hire them. Unfortunately, this bad bill, by exempting the latter, insures that the problem of illegal immigration will continue, as unscrupulous employers continue to lure employees with jobs.

Mr. VENTO. Mr. Speaker, I rise today to oppose H.R. 2202, the Immigration and National Interest Act. Mr. Speaker, this legislation is not in the Nation's best interest, as the title erroneously suggests. While I agree that measures must be undertaken to reduce the influx of illegal immigrants crossing our Nation's borders, this measure goes too far by punishing legal immigrants.

Like the welfare reform measure enacted into law earlier this year, H.R. 2202 would establish a ban on means-tested Federal assistance for legal immigrants. These are not illegal immigrants, but rather those who have followed the procedures and policies of the Federal Government to enter and live lawfully in this country. Even though I supported the overall welfare measure on final passage, I specifically do not agree with the provisions that would deny legal immigrants public benefits. President Clinton has agreed that these provisions are misguided, and he has stated his commitment to see them modified. I support such changes. H.R. 2202, however, includes almost those same provisions, altering deeming requirements for legal immigrants that would effectively make them ineligible for most means-tested public assistance. This measure has a provision that states that legal immigrants can be deported for accepting a Federal student aid loan and even for attending federally funded English classes. How can a legal immigrant learn the English language and pass the citizenship test with such a policy in place?

While future legal immigrants will have legally binding affidavits to guarantee their support during difficult financial times, those who are already in the U.S. holding non-binding affidavits, or no such documents at all, will be left out in the cold. These immigrants will have nowhere else to turn for up to 5 years if their sponsor cannot or will not support them.

Cutting off such life-sustaining assistance to those immigrants who, under Federal policies, legally entered this country without a guaranteed source of financial support is unacceptable. Furthermore, enacting such provisions will not reduce the needs of these legal immigrants. It will simply allow the Federal Government to abandon its responsibility for these individuals, shifting that responsibility and expense to State and local governments that will be forced to fill that gap.

Ironically, while punitive provisions are put in place for legal immigrants already in the U.S., new categories of refugees and asylees are created by this measure. H.R. 2202 provides that the family planning policies of the individual's country of origin would become a basis for such status.

Another provision in H.R. 2202 that would harm legal immigrants relates to their ability to reunite with family members they left behind in their homelands. H.R. 2202 increases the income needed to become a sponsor to 200 percent of the poverty level in most cases, which is over $30,000 for a family of four. Only where the sponsored immigrant is a spouse or a minor child does the bill lower that income level to 140 percent of the poverty level, which is in excess of $20,000 for a family of four. For many immigrants who work at minimum wage jobs, even the lower figure effectively prevents them from reuniting with family members.

Furthermore, legal immigrants lose protection from discrimination in hiring, and the standards are stacked against them in the legal language of this bill. At the same time, illegal immigrants are hired by employers under the provisions of this measure with relaxed employer sanctions. This is two steps backwards from the policy enacted in 1986.

When this measure was considered by the House, I successfully amended the bill with language that would have corrected a situation that is currently hindering some Hmong residents of my district from naturalizing. Unfortunately, the majority stripped the language from the bill during the conference committee.

The Hmong the would have been affected are those who served alongside U.S. Forces in the Vietnam war, protecting and defending this nation and losing their homeland in the process. Because they served in Special Guerrilla Forces operated by the CIA, and not regular military units, they are eligible for expedited naturalization as other non-national veterans of U.S. Forces are. Additionally, extraordinary language barriers and other hardships have prevented many Hmong from meeting some naturalization requirements. The Vento Amendment would have provided for expedited naturalization for these non-citizens who have served the United States honorably during the course of the Vietnam War. I am dismayed that the authors of this bill have chosen to ignore the service of the Hmong in the Vietnam War by choosing to deny them full citizenship in the nation whose freedom and democracy they fought so hard to protect.

This bill does have some good provisions that are needed in the efforts to deal with the problem of increasing illegal entries into the United States, such as increased penalties for such activity and increasing the number of border control agents and Immigration and Naturalization Service personnel. However, it targets more than simply those immigrants that make the unlawful trek across our borders. Punishing legal immigrants along with those without legal status who have broken the law is the wrong policy path for our nation to travel. Let's solve the problems that require solutions without creating new ones. I ask my colleagues to oppose this measure.

Mr. RADANOVICH. Mr. Speaker, I believe that States should be able to decide whether taxpayer dollars should be spent on public schooling of illegal aliens. That is why I supported the Gallegly amendment when the House passed the immigration reform bill earlier this year.

That amendment was adopted by more than a 60 percent margin in the House. If the same support level existed in the other body, we could send a final immigration reform bill to the White House, with the Gallegly amendment intact.

Regrettably, that seems not to be the case. A filibuster was threatened against any immigration bill including the Gallegly provision, and reportedly there aren't enough votes to shut it off.

That means that getting immigration reform in this Congress requires us to relinquish the Gallegly restriction in the House-Senate conference report. Thus, I shall vote for the conference report.

However, to keep faith with my belief and the wishes of the good citizens I represent, I also intend to vote, in the succeeding action, for H.R. 4134, a bill that is a stand-alone Gallegly measure.

Finally, Mr. Speaker, I want to urge my colleagues to be mindful of a workable alternative to the problem of illegal aliens who are receiving public benefits. It's called report and deport.

The immigration reform bill calls for additional INS enforcement personnel and for strengthened deportation. And, the welfare reform law this Congress enacted says that there can be no silencing of those in state and local government who communicate with the INS.

The bottom line is that those who remain in this country illegally should know they are breaking the law and are subject to being reported and deported.

Mr. FOGLIETTA. Mr. Speaker, I rise to speak in opposition to this immigration conference report.

Let's not be fooled here. We have been focusing on how wrong it is to punish children as we pull the precious words from the Statue of Liberty with this bill. But taking Gallegly out of this bill makes a mean, bad bill, just a little less mean and bad.

This is a bad bill because it creates two classes of people—those who can afford to be reunited with their families and those who cannot.

This is a bad bill because it stresses law enforcement on the border with more INS agents but it killed the proposal to increase Labor Department agents. If we really are concerned about illegal aliens taking the jobs of our constituents, why have we sacrificed workplace enforcement?

This is a bad bill because it persists with the mean spirit of the welfare law—cutting safety net benefits to children.

This is a bad bill because it denies medical care for people with HIV and AIDS.

This is a bad bill because it makes it harder for prospective employees to sue for discrimination.

I could go on and on.

Most of us are immigrants or the children of immigrants. Our parents and grandparents who arrived at Ellis Island and other immigration points helped to make this country great. And here we are tearing apart the texture and heart of America—all for another Contract on America soundbite.

My colleagues, vote against this conference report.

Mr. FLANAGAN. Mr. Speaker, I rise in strong support of the motion to recommit and against the conference report to immigration reform as it is currently written. It is with great regret that I do so, but I must in order to prevent a great injustice, a misuse of the House rules, and the enactment of a dangerous policy that threatens the health and safety of all people living in this country, not just immigrants.

Mr. Speaker, I have been a long and strong proponent of illegal immigration reform ever since I have had the privilege to serve in Congress. During the 104th Congress, I have voted for this legislation in both the Judiciary Committee and on the House floor. I have done so because I believe we must do something to halt the flood of illegals that enter our country, inflate our welfare rolls, depress the wages of working Americans, and cause a great deal of crime and hardship in our Nation.

However, the conference report to H.R. 2022, the Immigration in the National Interest Act, contains provisions that I find both shortsighted and narrow minded. These provisions would deny basic medical treatment to any ineligible and undocumented immigrant who is HIV-positive, this includes a legal immigrant who has had publicly financed medical treatment for more than 12 months. While the bill would allow the Department of Health and Human Services to do whatever is necessary to prevent the spread of all other communicable diseases, it expressly prohibits HHS from providing basic medical care and treatment to HIV-positive immigrants. Those legal immigrants who exceed the 12-month limit will be automatically deported.

These provisions were not included in either the House or the Senate versions of H.R. 2022. In fact, both Houses voted overwhelmingly to separate legal immigration reform from the bill earlier in the Congress and, instead, focus only on controlling illegal immigration.

Mr. Speaker, current law already prohibits individuals who test positive for HIV and AIDS from immigrating to the United States. Therefore, this shortsighted and, I must say, discriminatory provision would only bar treatment for HIV-positive individuals who contracted the virus while in the United States. There is no logical public health or pubic health or public policy argument for distinguishing HIV and AIDS from all other communicable diseases. It would make absolutely no sense to allow testing and treatment for tuberculosis, measles, and influenza but refuse it for HIV and AIDS. Mr. Speaker, these provisions would not only be cruel and inhumane for those who suffer with the AIDS virus, but it would also be dangerous for those of us who don't.

There is no doubt that this conference report contains many positive provisions that would help to stifle illegal immigration. Among the bill's initiatives are provisions to increase by 5,000 the Border Patrol, to improve border-crossing barriers along areas of high illegal immigration, and to prohibit illegal aliens from receiving Federal means-test benefits except emergency medical services. Yet, this bill also contains provisions that are so shortsighted and so narrow-minded that it literally boggles the mind.

Mr. Speaker, the HIV provisions should be stricken from this legislation. They should be stricken because they are, first and foremost, blatantly discriminatory. They would also produce a dangerous Federal policy of allowing HIV-positive individuals from roaming the streets and neighborhoods of our cities and towns without detection and without treatment. This provision is also wrong because it violates our own Rules of the House that confines conferees to the differences contained in the bill and not allow them to attach any items they wish. Finally, this provision should be defeated because it is inconsistent with an earlier vote, when the House and the other body overwhelmingly decided to separate legal immigration reform from the bill.

Mr. Speaker, with all this said, I respectfully urge my colleagues to vote for the motion to recommit. Thank you, Mr. Speaker.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT

Mr. BRYANT of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. BRYANT of Texas. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BRYANT of Texas moves to recommit the conference report on the bill H.R. 2202 to the committee of conference with instructions to the managers on the part of the House to take all of the following actions:

(1) ENHANCING ENFORCEMENT OF PROTECTIONS FOR AMERICAN WORKERS.—

(A) Recede to (and include in the conference substitute recommended by the committee of conference, in this motion referred to as the "conference substitute") section 105 of the Senate Amendment (relating to increased personnel levels for the Labor Department).

(B) Recede to (and include in the conference substitute) section 120A of the Senate Amendment (relating to subpoena authority for cases of unlawful employment of aliens or document fraud).

(C) Recede to (and include in the conference substitute) section 119 of the Senate Amendment (relating to enhanced civil penalties if labor standards violations are present).

(2) PRESERVING SAFEGUARDS AGAINST DISCRIMINATION.—

(A) Disagree to (and delete) section 421 (relating to treatment of certain documentary practices as unfair immigration-related employment practices) in the conference substitute and insist, in its place, and include in the conference substitute, the provisions of section 407(b) (relating to treatment of certain documentary practice as employment practices) of H.R. 2202, as passed the House of Representatives.

(B) Disagree to (and delete) section 633 (relating to authority to determine visa processing procedures) in the conference substitute.

(C) Insist that the phrase "(which may not include treatment for HIV infection or acquired immune deficiency syndrome)" be deleted each place it appears in sections 501(b)(4) and 552(d)(2)(D) of the conference substitute and in the section 213A(c)(2)(C) of the Immigration and Nationality Act (as proposed to be inserted by section 551(a) of the conference substitute).

(3) PRESERVING ENVIRONMENTAL SAFEGUARDS.—Disagree to (and delete) subsection (c) of section 102 (relating to waivers of certain environmental laws) in the conference substitute.

Mr. BRYANT of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BRYANT of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device if ordered, will be taken on the question of agreeing to the conference report.

The vote was taken by electronic device, and there were—yeas 179, nays 247, not voting 7, as follows:

[Roll No. 431]

YEAS—179

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Campbell
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cummings
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Ford
Frank (MA)
Frost
Furse

Gejdenson
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha

Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates
Zimmer

NAYS—247

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn

Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham

Davis
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske

Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach

Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema

Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—7

Gibbons
Heineman
Lincoln

Mascara
Peterson (FL)
Williams

Wilson

☐ 1511

Messrs. CUNNINGHAM, EWING, LINDER, CHRISTENSEN, McDADE, BAESLER, and SKELTON changed their vote from "yea" to "nay."

Messrs. YATES, WYNN, and LOBIONDO changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. RIGGS). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 305, noes 123, not voting 6, as follows:

[Roll No. 432]

AYES—305

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLay
Deutsch
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kim
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—123

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Blumenauer
Bonior
Borski
Brown (OH)
Bryant (TX)
Bunn
Clay
Clayton
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cummings
de la Garza
DeLauro
Dellums
Diaz-Balart
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gutierrez
Hastings (FL)
Hilliard
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
King
Kleczka
LaFalce
Lantos
Lewis (GA)
Lofgren
Lowey
Maloney
Markey
Martinez
Matsui
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Morella
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pastor
Payne (NJ)
Pelosi
Rahall
Rangel
Richardson
Rivers
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Torres
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—6

Gibbons
Heineman
Lincoln
Mascara
Peterson (FL)
Wilson

□ 1521

Ms. KAPTUR changed her vote from "aye" to "no."

Messrs. KIM, BROWN of California, and HOSTETTLER changed their vote from "no" to "aye."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. POMEROY. Mr. Speaker, today I missed the vote on the rule covering debate on the Immigration Act conference agreement. At the time of the vote, I was presenting testimony before the Federal Energy Regulatory Commission on a matter of utmost importance to the people of the State of North Dakota. Resolution of the matter currently before the Commission will likely determine the continued viability of the Great Plains Synfuels Plant in Beulah, ND, a unique facility which converts lignite coal to synthetic natural gas and which brings tremedous economic benefit to our State. It was critical that I be present before the Commission—along with North Dakota's two distinguished Senators—to advocate on behalf of this facility. Mr. Speaker, I regret having to miss any vote in this Chamber and I regret my unavoidable conflict today.

PERSONAL EXPLANATION

Mr. GONZALEZ. Mr. Speaker, I rise to clarify my vote on the Immigration and Nationality Act conference report. While my vote was recorded as "aye", it was my intention to vote "no", as I still oppose this legislation. My position on the issue of immigration is long standing and a matter of public record. I would thus like the RECORD to accurately reflect my position on this bill. Thank you, Mr. Speaker.

PERSONAL EXPLANATION

Mr. MASCARA. Mr. Speaker, the President was in my district this morning for an event at Robert Morris College. He gave a great address and received a very warm welcome from the people of the 20th District of Pennsylvania.

However, as a result, I was detained in my district and missed several votes. If I had been here, I would have voted "no" on the rule for the immigration conference report, rollcall No. 430, "yes" on the motion to recommit, rollcall No. 431, and "yes" on passage, rollcall No. 432.

AUTHORIZING STATES TO DENY PUBLIC EDUCATION BENEFITS TO CERTAIN ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 530 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 530

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4134) to amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997. The bill shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary or their designees. The previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. CHAMBLISS). The gentleman from Colorado [Mr. McINNIS] is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 530 is a simple resolution. The proposed rule is a closed rule providing for 1 hour of general debate divided equally between the chairman and the ranking minority member of the Committee on the Judiciary or their designees. Finally, the rule provides for one motion to recommit.

House Resolution 530 was reported out of the Committee on Rules by a voice vote.

Mr. Speaker, we are all very familiar with the issue addressed in the underlying legislation. During consideration of the comprehensive immigration bill, the gentleman from California [Mr. GALLEGLY], offered an amendment which was adopted by a record vote of 257 to 163. The Gallegly amendment allowed States the option of providing free education benefits to illegal aliens. Because the President threatened to veto the immigration conference agreement if it contained the Gallegly amendment, even in a modified form, the modified form of the Gallegly amendment has been introduced as stand-alone legislation, H.R. 4134.

H.R. 4134, unlike the original Gallegly amendment, will ensure that it impacts only prospective illegal immigrant students. The grandfather provision provides that a State must provide free public education through grade 12 for illegal aliens enrolled in any public school at any time during the current school year.

Mr. Speaker, I urge my colleagues to support this simple rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Republican majority seems to have no shame when it comes to playing political games. The fact that this House is being asked, at what seems to be the 11th hour of this Congress, to consider this very bad bill—and under a closed rule—that's right, a closed rule—ranks right up there with some of the worst legislative chicanery I have seen in the 18 years I have been privileged to serve in this body.

Mr. Speaker, it is no secret why this proposition is being brought before us today. It does not take a rocket scientist to figure out that this bill is under consideration in a futile attempt to save a faltering and failing Presidential campaign. Mr. Speaker, the Gallegly amendment threatened to bring down the whole immigration conference report and so it was excised and relegated to the trash heap. But now, like the phoenix, it rises from the ashes and this House is being asked to vote once again on a proposition that directly attacks some of the most vulnerable in our society.

Mr. Speaker, whether these children should or should not be in this country is really beside the point. The fact is that every child, no matter his or her race, creed, nationality, religion, or immigration status should have a desk in a school. Every child living in this Nation should be entitled to an education. Denying the children of illegal immigrants access to education will not solve the problem of illegal immigration and seal our borders.

What good does it do to punish children? Is that what this Republican-controlled, and family friendly Congress is to be remembered for? Mr. Speaker, I cannot be party to standing in the schoolhouse door as the Republican leadership seems so willing to do. I urge each and every one of the Members of this body to reject out of hand this closed rule and this very bad bill.

Mr. Speaker, I reserve the balance of my time.

□ 1530

Mr. McINNIS. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of the rule and strong support of the Gallegly amendment.

In California alone we spend $2 billion, that is $2 billion every year, educating illegal alien children. That is $2 billion that is equal to what we spend on the entire University of California system.

Is this right? No, it is absolutely wrong to spend $2 billion on the children of foreigners who have come here illegally. That $2 billion should be going to benefit the children of the people of the United States of America.

That is what this vote is all about, it is to determine what our priorities are. Our priorities should be what is in the interest of the people of the United States. We can care for the children of foreigners, we can care about their well-being, but we must first care about our own children, our own families.

It is very clear to me that the people on the other side of the aisle who are opposing this and have opposed us every step of the way, and in the Clinton administration, have their priorities all screwed up.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BRYANT].

(Mr. BRYANT of Texas asked and was given permission to revise and extend his remarks.)

Mr. BRYANT of Texas. Mr. Speaker, we began considering immigration legislation after the Jordan Commission gave us a report outlining the problems and proposing to us a set of bipartisan solutions. In no part of the Jordan Commission report, or in any other study, for that matter, that is credible, has anyone ever found that the fact that an illegal alien child might be able to get into school causes people to leave their homes, walk, ride, swim, if necessary, across very, very threatening territory to get into the United States.

No study has indicated those people come here because they think they might be able to get their kids into school. In fact, the police agencies, the educational agencies, every expert that has looked at this problem has said this is a mistake.

Do not be led by hot rhetoric on the part of those who see a political opportunity, in my view, to make people think that somehow this is a solution. Instead, be guided by common sense. There will be no impact on illegal immigration if this passes. There will be an impact on our communities because notwithstanding the attempts to water it down, the fact is the school districts would have to check the citizenship of every single child. They do not have the resources to do that. And if there is one child in a family that cannot come to school, none of them will come to school. We need every kid out there being in school.

The solution to stopping illegal immigration is to stop employers from hiring illegal immigrants and to stop illegal immigrants at the borders. Leave these kids alone.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

I think initially here it is clear that the discussion that is going to take place over the period of time that has been allotted to us to debate the rule is going to get into the substantive issues of the bill, so I think it is important that we address what the gentleman from Texas has just said.

First of all, remember that this bill allows every State to make their own decision. This is not a mandate upon the States, Mr. Speaker. In fact, this bill takes the mandate off the States that is not being paid for by the Federal Government.

What happens right now is Washington, DC, has gone to the States and said, we know what is best for you and we want you to pay for it. And Washington, DC, has said to States like Texas, or to States like Colorado, you pay 95 percent of the tab, we are going to force you to put these kids into your school.

All this bill simply does is to say to the State of Texas or says to the State of Colorado, you now have the option. If you want to undertake this Federal mandate and pay for 95 percent of the cost, then you may choose to do so.

This does not prevent the State of Texas from continuing to educate the children of illegal aliens, and I think it is clear that we justify that substance.

Mr. BRYANT of Texas. Mr. Speaker, will the gentleman yield?

Mr. McINNIS. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. Mr. Speaker, I thank the gentleman for yielding. I would just pose this question. Does the gentleman think the States should be given the power to decide whether or not the schools should be integrated?

Mr. McINNIS. Mr. Speaker, reclaiming my time, I would respond to the gentleman's question by saying, does he think the States should pick up 95 percent of the cost?

Mr. BRYANT of Texas. Answer my question first.

Mr. McINNIS. I yield to the gentleman to respond to mine.

Mr. BRYANT of Texas. Well, I asked a question of the gentleman: Does he think the States should have the power to decide whether or not the schools are going to be integrated?

Mr. McINNIS. Let me say I think every State has a right to determine whether or not the Federal Government can mandate upon them an expenditure of which they pay 95 percent, as the gentleman just heard from the gentleman from California. It is an extensive expense in the State of California.

So the answer is, yes, I do think that States should have the right to determine their own future, especially when it comes to an issue as important as education.

Now, would the gentleman respond to my question? Should the States respond to 95 percent of the tab or would the gentleman be willing to have the Federal Government pay for what it mandates?

Mr. BRYANT of Texas. In fact, the Federal Government ought to pay the full cost of it. The bill included that but the Republicans took that out of the bill. So, there.

Mr. McINNIS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank my colleague, the gentleman from Texas, for yielding me this time and for his kindness.

I think it is quite misrepresenting to all of us to put this smoke-and-mirror legislation on the floor of the House. There is no one that does not agree that we want to be fair to all of America, and we certainly want to be fair to our children and fair to our communities and how they hold the responsibility of educating our children. But I take great issue with someone who comes on the floor of the House to say that we need to be taking care of our American children, we need to be taking care of the children of the United States.

I say to my colleagues that these are children of the United States. And I agree with the gentleman from Texas, we can help fund those States that have serious problems with overburdening of children in their school systems; but what about the child that comes over that is 9 months old? They are still in this community, this State, when they are 5 years old. Are we now going to deny them the right to a public education, an education that has been considered part of our basic human rights as signed by many countries around the world?

What about if there is a family that has a child that is a citizen and one that is not a citizen? How do we respond to educating one child and not the other?

And then my Republican friends talk about crime. They want to repeal the assault weapons ban, the Brady bill, and now they do not want children to be educated. They just want a bunch of people running around uneducated, without the opportunity to be able to access the virtues of this Nation.

And so this is a smoke-and-mirrors legislation. It is something to make someone else feel good. Well, we do not come to the Chambers of the U.S. Congress to make people feel good. We come here to pass good legislation. The legislation is to educate our children, to help the States who are heavily burdened by such educational needs, and to be fair to all American children, all children on this soil, and to recognize that this country was founded on the backs of immigrants.

I will not be like the Little Rock nine, standing in front of the schoolhouse, keeping children from going to school.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

I think that any argument using children as a pawn has no merit on this House floor. I think the issue that is important here, and I do not know how we got on to the assault weapons bill, the issue is very clear here. I do not think I could find a Congressman on the Democratic side or on the Republican side that does not believe in a good solid education for children. So I wish my Democratic colleagues would quit trying to claim the issue of the children as their issue.

Let us talk about who pays the bill. If we want to talk about smoke and mirrors, the smoke and mirrors in this situation is where Washington, DC, which by the way think they have a monopoly on common sense, reaches beyond the Washington, DC, city limits and says to the rest of the country, we mandate upon you that you will educate these people.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. McINNIS. No, I will not yield. The gentlewoman can request time, however, from the gentleman from Texas.

Ms. JACKSON-LEE of Texas. I would like the gentleman to yield on the point——

Mr. McINNIS. I am sure he would be happy to yield to the gentlewoman. But, in fairness, both of us have an equal amount of time, and she can do that.

Ms. JACKSON-LEE of Texas. I thank the gentleman for his kindness.

Mr. McINNIS. Mr. Speaker, my point here is very clear. If the Federal Government wants to put this burden, if Washington, DC, wants to force the States in this country to accept this demand, then the Federal Government ought to pay for it.

We know what happens. The Federal Government comes into Colorado, for example, mandates this program, demands that Colorado institute it, demands that Colorado pay 95 percent of it, and what does it do? It dilutes that money. It dilutes the money that needs to go to these children.

So, in summary, let me say I think that the gentlewoman's speech, while it was well spoken, certainly does not allow the gentlewoman to claim the guardianship of children in this country.

I think we have to address the real substance of this bill, and the real substance of this bill is to allow the States to make their own decisions.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. I thank the gentleman. I wanted to respond if he would have yielded.

The SPEAKER pro tempore (Mr. RIGGS). The gentlewoman from Texas is not recognized.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

I appreciate my good friend from Colorado's response, and let me suggest to him that under the Constitution of the United States and the equal protection clause, there is a right to treat all individuals on our soil equally.

As I indicated, we would be more than happy to be a partnership with local government, both the local school districts and our States' governments, as my colleague from Texas, Mr. BRYANT, who was one of the leaders on this issue of immigration, by helping to fund and respond to those States who are heavily burdened by this issue. But we know the Republicans did not want to do that, for they wanted to have this kind of legislation to present and divide our country.

What I am suggesting is that I do not want to dominate our local school systems and I do not want to burden our States. I do not believe in unfunded mandates. I do believe in the right of children to be educated.

And where I got the assault weapons ban from is that all of what I hear our Republican friends doing, repealing the assault weapons ban, repealing the Brady bill, has a lot to do with promoting crime.

The SPEAKER pro tempore. The time of the gentlewoman from Texas has expired.

Ms. JACKSON-LEE of Texas. When people are not educated, it has a lot to do with not allowing them the opportunity to pursue the American dream.

The SPEAKER pro tempore. The gentlewoman's time has expired.

Ms. JACKSON-LEE of Texas. This is a foolish piece of legislation that should not prevail before the House.

The SPEAKER pro tempore. The gentlewoman will proceed in order by desisting.

Ms. JACKSON-LEE of Texas. I yield back and I thank the gentleman for the time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would advise the gentlewoman from Texas she will proceed in order and abide by the rules of the House when her time for recognition has expired.

Mr. McINNIS. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, again, as someone who has lived on the frontier and close to this issue all my life, I need to ask of our colleagues to do a reality check here.

The fact is that the existing system is wrong, and I would ask my colleagues to recognize that in my community, where I went to school, in my schools, in my high school, there were legal and illegal immigrants going to school there. But under the existing law that this body talks about, and we talk among ourselves, and this is not where the message is we need to send, we need to send it out there, it is illegal to enter the country illegally and go to school for free in San Francisco. But if someone crosses the border illegally, then they have the guaranteed right from the government for a free education.

And for those individuals who say this has nothing to with people coming here illegally, we have documents showing, in fact testimony that showed up in the paper where an illegal woman was caught at the border with three letters form a school district that said your children will get a free education even if you are here illegally.

Now, Mr. Speaker, in the words of this lady, she said, you want us here. You want us to come here illegally. You would not reward us and give us free education.

Mr. Speaker, the message that needs to be sent not here in these Chambers but to the rest of the world and America, is that, no, the days of encouraging illegal immigration is over. We are not going to reward people for breaking the law. We are not going to punish those who play by the rules and reward those who break the rules.

I would ask every Member to consider the fact that 4062 says let us reimburse for the cost if we do not want to drop the mandate.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from North Dakota [Mr. POMEROY].

□ 1545

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I voted for the preceding legislation to come to this floor because I believe it is appropriate to toughen the Nation's response to illegal immigration. But as to the matter that this rule would present before the House, I take a very serious exception. I think it is time that we just step back a minute, take a deep breath and think about what we are doing here.

Do any of us possibly think that the illegal activity of a parent ought to be taken out on the kid? I think if any of us were asked that question, we would say, of course not. You cannot hold the kid, the little kid responsible for the illegal acts of the parent.

That is precisely, however, what the bill this rule would bring to the floor would allow. In fact, the scenes that I would create are horrible to contemplate. I envision education officials, maybe even INS officials, going down the rows of first grade classes trying to single out whether Johnny stays, this one leaves and I just think it is, it would be awful. Imagine the scene, imagine those of us who have children in grade school, what they would think of a little boy or a little girl pulled out of their chair, hauled out of class crying because they are being sent out of school. That is not something that ought to occur in any classroom in any public school in the United States of America.

We think about the family friendly Congress. What kind of family friendly Congress would send a 6-year-old home to a house that maybe there is no one there because both parents are working, but there is nowhere for that 6-year-old to go because they are holding that 6-year-old responsible for the illegal acts of its parents.

We worry about gangs and juvenile crime, yet this would take those young people that want to learn and put a bar in front of the schoolroom door, leaving nothing but gangs and street corners and idle time that would in all likelihood be the result of barring these people from the opportunity to pursue an education.

Then finally I worry about the implementation of this strategy because how in the world are you going to sort out legals from the illegals when you are looking at first graders.

The thing that comes to my mind is those that look a little different. I am the adoptive parents of two children of different races, a different race from me. I love these children as much as I love anything, as much as any father could love his kids. The fear that my children might be pulled out of a classroom because of an inane act of Congress that this rule would bring before the House, allowing school officials to toss little kids out into the street rather than educate them in their schools, is too horrible to contemplate.

I do not love my kids any more than any other parents love their kids. The fear of parents across this country that putting their children, any children that do not look, that might look like they are somehow at risk of being illegal in the face of being interrogated and research as to their background, this is just a bad, bad idea and we ought to reject it. We should reject the rule and not even bring it to the floor.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

I know the gentleman very well from the Dakotas. I have a great deal of respect for the gentleman. I know that he is compassionate and cares about his children and the other children that he represents. But so does everybody on this House floor, whether you are Democrat or Republican.

I think it is a diversion for someone to stand up here and say that this bill somehow throws young kids out onto the street, that it denies them school. What I would do is refer any of my colleagues that somehow have been convinced by this argument, I would refer them to something very simple, read the bill. Look on page 5. It is very simple. No State shall be required by this section, no State shall be required by this section to deny public education benefits to any alien not lawfully present in the United States. It is very simple.

What we are doing with this bill is saying that the Federal Government ought to pay for what it is demanding the States do. That is all. Why should the States have the option if the Federal Government is not going to pay for it. If the gentleman from the Dakotas is that concerned, he has an opportunity under this rule to offer a motion to recommit to do exactly what he is concerned about. But do not be taken or diverted aside by these excited statements that say we are going to throw kids out of school. That is purely, simply a diversion. It is away from the substance of this bill, and it is away from the rule on the bill.

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield 4½ minutes to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, the bill H.R. 4134 is a modified version of the Gallegly amendment which passed by a margin of almost 100 votes on this House floor during a debate on immigration reform just last March. Like the Gallegly amendment which was passed overwhelmingly by a bipartisan majority, H.R. 4134 does nothing more than remove the Federal Government's ability to force States to provide a free public education to persons who are not legally in this country. This legislation would allow all States full discretion in the way they want to handle the public education of illegal immigrants.

However, unlike the original Gallegly amendment, this bill has been modified to ensure that it impacts only prospectively illegal immigrant students. This grandfathered provision provides that all illegal aliens currently enrolled in any public school at any time during the current year up to July 1, 1997, a State could not deny a free public education through grade 12. It only ends the current policy by which the Federal Government guarantees all future illegal immigrants in every State a free public education at the expense of the taxpayers in perpetuity.

In other words, even if a State determined that they would like to deny free public education to illegals, they would only be permitted to deny future entrants or future illegal entries to be enrolled. Those currently enrolled would be exempt.

Let me make one other important point. For instance, if my friends from the State of Texas, Oregon or New Jersey decide they want to provide a free public education to all illegal immigrants, even those that arrive here illegally in the future, they would be still perfectly entitled to do so under this legislation.

Mr. Speaker, this bill is good for California and it is good for the Nation. We must end a policy that encourages future illegal immigration which further depletes our funds for public education and results in overcrowded classrooms. There has been a lot of debate about the children. But we have forgotten about the children that have a legal right in this country, whether they are legal residents or citizens.

In California our State continues to spend millions and millions of dollars every year, more than the previous year, and we have gone from number 4 or 5 in the Nation based on scholastic scores and the quality of education to number 43 in the Nation.

Let me remind my fellow colleagues, we cannot forget these children either. This Congress must continue to dismantle the system of public benefits that convinces people to come here illegally. It must continue to decentralize the Federal Government and shift the power to States.

This revised version of my amendment accomplishes both of these critical objectives. The only thing that this amendment does not do is provide an entitlement in perpetuity that guarantees that anyone that might come here illegally in the future, the Federal Government would force the States to provide them with a free public education. It eliminates that guarantee after July 1997.

Mr. McINNIS. Mr. Speaker, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from Colorado.

Mr. McINNIS. Mr. Speaker, I would just like to ask the gentleman, it takes away that entitlement, but it allows every State to have what options?

Mr. GALLEGLY. It allows the States to continue to educate anyone they want, legal or other wise. The only thing that it does do is after 1997, it puts those illegally entering this country or considering illegally entering this country on notice that they may not be provided a guarantee to a free public education in the State of their choice.

Mr. McINNIS. Which is exactly what we are saying here; that is, the States now will have this option, where before they had to pay the bill and had no option even to debate this within the boundaries of their own State.

Mr. GALLEGLY. Absolutely. One point I think is very important to further note. This does not turn any school teacher into a border patrol agent or a law enforcement person. All it does is provide the person that enrolls students at the beginning of the year the same right of asking to verify what their status is in this country as they verify immunization records, as they verify residency, and so on, to determine whether they live on the right side of the street as to whether they go to this school or that school. This does not turn anybody into removing anybody from school now or in the future.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, first let me respond to the issue of no costs would be involved if this legislation were passed. Let us just debunk it right now because if there were no costs involved, then you would not have organizations like the California School Board Association that represents every single school board in California opposed to this legislation. You would not have most of the law enforcement agencies in this Nation opposing this particular legislation. You do because they know the costs would be tremendous, tremendous to the schools because someone would have to administer it, tremendous for law enforcement because someone would have to watch these kids that would not be in school but on the street. These organizations know what happens in real life practical terms and they are opposed to it.

We can say all we want, but until you are going to put some money where your month is, it is going to cost and someone will pay and the locals will have to pay the price.

Let me read from a few of the letters, just a few of the many that have come in. The International Union of Police Associations:

> Make no mistake, our position is not based on partisan election year politics.

They are opposed:

> It is not based on broad social theory. But we do clearly object to denying any child access to schools and education within our borders regardless of origin. We base our position on immediate pragmatic concerns that can only come from collective years on the streets of America. How can anyone advocate throwing thousands of children onto the street without supervision where they will become both victims and criminals? Local law enforcement officers, our members will be overwhelmed at a time when we can ill afford the extra pressure.

That is, as I said, the International Union of Police Associations.

CLEAT, the Combined Law Enforcement Association of Texas, says:

> Numerous officials and organizations within the law enforcement community have contacted you and other congressional conferees in a unified position of opposing the Gallegly bill. This issue as we see it is very simple. We must do all we can to support every child's right to receive an education. Legislation that promotes the notion of keeping children out of school is only going to act as another avenue of increasing the already unacceptable practice of placing more children on the streets.

I could go on and on. The city of Elmhurst in Illinois, the National Association of Police Organizations, which represents over 185,000 law enforcement officers and 3,500 police associations, opposed to this bill. The Sioux City, ID, police chief, the city of Chicago's police chief, the city of San Jose's police chief. The 47 Senators, Democrat and Republican, who signed a letter asking that the Gallegly bill be defeated. It goes on and on and on.

Let us be real. We can set policy in this Chamber, but we can talk politics. This was a measure, an amendment that was included in the immigration bill that we just voted on that passed by a pretty wide margin. It was pulled by the Republicans yesterday. Why? Because they were afraid it would jeopardize the entire immigration bill. Now we have it. Miraculously, in less than a day we have a bill go from inception to the floor.

Folks, understand this, whether you are on this floor getting ready to vote or watching on television, this is a bill that is on the floor being debated today when we have hundreds of other bills that will never be heard because we are about to end the session that went from nothing, because it was not a bill we were considering, to all of a sudden being debated on the floor of the House. It did not go through the committee. It never was heard in the committee on jurisdiction. But here it is being debated on the House floor. We could have debated it in the immigration bill that we just passed, but it was pulled because there were some discussions that had been taking place over the last several months.

□ 1600

A lot of them were with Bob Dole in his campaign about how to do best to politically structure this debate, and what do we have? It is this debate on the floor. We know the President is going to veto this bill, so what are we doing? Why are we wasting this time when we are really at the end of this session and we have other things that are more important to deal with?

Well, there is a point to be made here, there are some political points to be made here, and unfortunately what we are going to run into is a situation where, damn the cops, damn the school administrators, damn the teachers, damn, the least important of which, I guess, in many people's eyes, the children; let us do this because there are points to be had. It is fortunate that practical people are against this bill. We should be against it, too.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think there is an obligation for accuracy for statements made on this floor, and let me tell the gentleman, the preceding speaker, that there certainly was a meeting last night in the Committee on Rules. No, the gentleman did not find time to be there, the gentleman was not there. But for a statement to be made that this was not discussed thoroughly in a committee meeting is not accurate.

Mr. BECERRA. Mr. Speaker, will the gentleman yield?

Mr. McINNIS. No. I will not.

Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Speaker, I thank the gentleman from Colorado for yielding——

Mr. BECERRA. Mr. Speaker, point of personal privilege. I believe the gentleman said——

The SPEAKER pro tempore. The gentleman may not raise a point of personal privilege.

Mr. BECERRA. Parliamentary inquiry then? When would a point of personal privilege be——

The SPEAKER pro tempore. Does the gentleman from Colorado [Mr. McINNIS] yield for a parliamentary inquiry?

Mr. McINNIS. I do not. In fact, Mr. Speaker, I think the floor belongs to the gentleman from California [Mr. GALLEGLY] to whom I yielded 30 seconds.

Mr. BECERRA. I would ask the gentleman from California [Mr. GALLEGLY] then to yield for 10 seconds.

Mr. GALLEGLY. To yield for a parliamentary inquiry?

Mr. BECERRA. Parliamentary inquiry.

Mr. GALLEGLY. Mr. Speaker, I yield to the gentleman from California.

PARLIAMENTARY INQUIRY

Mr. BECERRA. Mr. Speaker, I thank the gentleman from California for yielding for a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

Mr. BECERRA. My parliamentary inquiry would be, at what point would it be appropriate to raise a point of personal privilege when the gentleman from Colorado indicated that I inaccurately stated some facts, when I think I stated them correctly when I said the committee of jurisdiction never heard this bill? I never spoke of the Committee on Rules.

So I am asking, when would a point of personal privilege be appropriate?

The SPEAKER pro tempore. The remedy of a Member is to engage in debate as it is not appropriate to raise a point of personal privilege at this point.

Mr. FROST. Mr. Speaker, if the gentleman will yield, it is my intention, when they are through, to yield some additional time to the gentleman in the well.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. GALLEGLY] has expired.

Mr. FROST. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding the additional time, and I will not take much time, I will not consume it other than to say that I appreciate what the gentleman from Colorado is attempting to say, but I do not believe I misstated any fact, because when I said that this bill has not gone through committee, I said the committee of jurisdiction, which is the Committee on the Judiciary, upon which I sit. It may have gone through the Committee on Rules at about 8 o'clock at night on, perhaps, 3 hours' notice, that is true, when a number of us had many things pending throughout that night of work.

I will say this though. In all the months, and we have been debating the immigration bill since last year, and my friend from California knows this, the originator of the amendment knows this because he is on the committee with me in Judiciary: Not once did we debate the substance of his amendment in the Committee on the Judiciary when we had a chance to do so.

But my point here is, we have a bill that has gone through the process in less than 12 hours, or 24 hours, when we have a lot of substantive legislation that affects the lives of Americans in this country that will never see the light of day because we are going to run out of time.

Let me yield back my time, and, as the gentleman from Colorado said, we each have time to yield.

Mr. GALLEGLY. Mr. Speaker, will the gentleman yield? I just want to respond to one comment.

Mr. BECERRA. I yield to the gentleman from California if it is a brief comment.

Mr. GALLEGLY. Mr. Speaker, when the gentleman said we have not had an opportunity to debate this, I would remind the gentleman that we debated this for 2 hours on the floor of this House, which is a bigger committee and a broader committee than any individual committee. It was debated; it was included in the bill; it passed by a 100-vote margin on a bipartisan level; it was taken out at the conference committee level.

So with all due respect to my good friend from California, this bill has had the attention, and for the sake of expediting the overall bill, I suggested that we have it as a stand alone. That is the reason it came. This is where it should be.

Mr. BECERRA. Mr. Speaker, I appreciate the comments of the gentleman from California. He is correct that it was debated on the floor, never having gone through committee, but it did get debated on the floor.

I will say this. While it got debated on the floor, at least it came up through the process of the immigration debate. This came up as a result of having been extracted from an immigration bill. We could have debated it in the bill that just took place, because it was there, Mr. GALLEGLY. The gentleman and I know it. It was taken out, for whatever reason.

Mr. GALLEGLY. If the gentleman would yield, we did not want to give our President an excuse to kill a very important bill.

Mr. BECERRA. He is still going to, I hope, veto this. But the point remains that back when we debated it earlier and today, law enforcement organizations, the school board associations, a lot of folks are saying this is not a practical bill, this is not a way to go, it is not only going to deny kids an education, but it is going to put kids on the street to either be victims of crime and perhaps even be criminals themselves, and for that reason my colleagues continue to see objections from the folks who will have to administer this.

It is not a good piece of legislation, and it should be defeated for those reasons, least of which are the procedural matters, which I believe violate the spirit of democracy.

Mr. McINNIS. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Speaker, I thank the gentleman from Colorado for yielding this time to me.

I would just like to respond to my good friend's, the gentleman from California [Mr. BECERRA], comments, and he is a good friend. We agree to disagree on many things, and this happens to be one of them.

He mentioned the list of people that were opposing this provision. Let me give my colleagues a list of some of those, a partial list, that are supporting it: Fraternal Law Enforcement, California, Arizona chapters; Law Enforcement Alliance of America, the largest law enforcement organization in the Nation; Hispanic Business Round Table; Republican Governors Association; National Taxpayers Union; Americans for Tax Reform; Traditional Values Coalition; Eagle Forum; the Congressional Task Force on California; and on and on and on.

Mr. McINNIS. Mr. Speaker, we are prepared to yield back the balance of our time if the gentleman from Texas would like to do so.

Mr. FROST. The gentleman has no more speakers?

Mr. McINNIS. We are prepared to yield back at this time.

Mr. FROST. At this point then, Mr. Speaker, we yield back the balance of our time and ask for a no vote on the rule.

Mr. McINNIS. Mr. Speaker, I yield back the balance of time, urge a yes vote, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid upon the table.

Mr. GALLEGLY. Mr. Speaker, pursuant to House Resolution 530, I call the bill (H.R. 4134), to amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 4134 is as follows:

H.R. 4134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZING STATES TO DENY PUBLIC EDUCATION BENEFITS TO CERTAIN ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding after title V the following new title:

"TITLE VI—AUTHORIZING STATES TO DISQUALIFY CERTAIN ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM PUBLIC EDUCATION BENEFITS

"CONGRESSIONAL POLICY REGARDING INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FOR PUBLIC EDUCATION BENEFITS

"SEC. 601. (a) STATEMENT OF POLICY.—Because Congress views that the right to a free public education for aliens who are not lawfully present in the United States promotes violations of the immigration laws and because such a free public education for such aliens creates a significant burden on States' economies and depletes States' limited educational resources, Congress declares it to be the policy of the United States that—

"(1) aliens who are not lawfully present in the United States are not entitled to public education benefits in the same manner as United States citizens, nationals, and lawful resident aliens; and

"(2) States should not be obligated to provide public education benefits to aliens who are not lawfully present in the United States.

"(b) CONSTRUCTION.—Nothing in this section shall be construed as expressing any statement of Federal policy with regard to—

"(1) aliens who are lawfully present in the United States,

"(2) benefits other than public education benefits provided under State law, or

"(3) preventing the exclusion or deportation of aliens unlawfully present in the United States.

"AUTHORITY OF STATES

"SEC. 602 (a) IN GENERAL.—In order to carry out the policies described in section 601, each State may provide, subject to subsection (f), with respect to an alien who is not lawfully present in the United States that—

"(1) the alien is not eligible for public education benefits under State law; or

"(2) the alien is required, as a condition of obtaining such benefits, to pay a fee in an amount consistent with the following:

"(A) In the case of a State that requires payment of a fee of nonresidents as a condition of obtaining such benefits, the amount of such nonresident fee.

"(B) In the case of any other State, an amount specified by the State, not to exceed the average per pupil expenditures for such benefits (as determined by the State and selected by the State either for the State or for the local educational agency involved).

"(b) INDIVIDUALS NOT LAWFULLY PRESENT IN THE UNITED STATES.—For purposes of subsection (a), an individual shall be considered to be not lawfully present in the United States unless the individual (or, in the case of an individual who is a child, another on the child's behalf)—

"(1) declares in writing under penalty of perjury that the individual (or child) is a citizen or national of the United States and (if required by a State) presents evidence of United States citizenship or nationality; or

"(2)(A) declares in writing under penalty of perjury that the individual (or child) is not a citizen or national of the United States but is an alien lawfully present in the United States, and

"(B) presents either—

"(i) documentation described in section 1137(d)(2) of the Social Security Act, or

"(ii) such other documents as the State determines constitutes reasonable evidence indicating that the individual (or child) is an alien lawfully present in the United States.

"(c) PROCEDURES FOR SCREENING.—If a State provides for immigration eligibility screening pursuant to this section for individuals who are seeking public education benefits, the State shall provide for such screening for all individuals seeking such benefits.

"(2) A State may (at its option) verify with the Service the alien's immigration status through a system for alien verification of eligibility (SAVE) described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b–7(d)(3)).

"(d) OPPORTUNITY FOR FAIR HEARING.—If a State denies public education benefits under this section with respect to an alien, the State shall provide the alien with an opportunity for a fair hearing to establish that the alien has been determined by the Service to be lawfully present in the United States, consistent with subsection (b) and Federal immigration law.

"(e) NO REQUIREMENT TO DENY FREE PUBLIC EDUCATION.—No State shall be required by this section to deny public education benefits to any alien not lawfully present in the United States.

"(f) NO AUTHORITY TO DENY FREE PUBLIC EDUCATION TO STUDENTS ENROLLED AT ANY TIME DURING THE PERIOD BEGINNING SEPTEMBER 1, 1996, AND ENDING JULY 1, 1997.—(1) A State may not deny, and may not require payment of a fee as a condition for the receipt of, public education benefits under this section with respect to a protected alien.

"(2) For purposes of this subsection, the term 'protected alien' means an alien who is not lawfully present in the United States and is enrolled as a student in a public elementary or secondary school in the United States at any time during the period beginning September 1, 1996, and ending July 1, 1997.

"(g) NO IMPACT ON IMMIGRATION STATUS.—Nothing in this section or section 601 shall be construed as affecting the immigration status of any alien, including the conferring of any immigration benefit or change in any proceedings under this Act with respect to the alien.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by adding at the end the following new items:

"TITLE VI—AUTHORIZING STATES TO DISQUALIFY CERTAIN ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM PUBLIC EDUCATION BENEFITS

"Sec. 601. Congressional policy regarding ineligibility of aliens not lawfully present in the United States for public education benefits.

"Sec. 602. Authority of States.".

The SPEAKER pro tempore. Pursuant to House Resolution 530, the gentleman from California [Mr. GALLEGLY] and the gentleman from Texas [Mr. BRYANT] each will control 30 minutes.

The Chair recognizes the gentleman from California [Mr. GALLEGLY].

GENERAL LEAVE

Mr. GALLEGLY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 4134.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GALLEGLY. Mr. Speaker, I yield myself whatever amount of time I shall consume.

Mr. Speaker, I rise in strong support of H.R. 4134. This is a modified version of the original Gallegly amendment which passed this House by a vote of 257 to 163 during the debate of the immigration reform bill just this past March.

I might remind my colleagues that the entire immigration bill, which at the time contained the original Gallegly amendment, passed this body by a strong bipartisan vote of 333 to 87. Like the original amendment, today's bill does nothing more than ensure that the Federal Government will no longer be able to force the States to educate those who are in this country illegally.

This legislation will allow all States full discretion in the way they want to handle public education and illegal immigration. However, unlike the original Gallegly amendment, this bill has been modified to ensure that it impacts only prospective illegal immigrants. In other words, all we are trying to do through this legislation is stop an entitlement that would otherwise exist in perpetuity.

This modified version of my amendment does not kick one child out of school, but it does serve notice to those who have not yet come to this country illegally, using education as a magnet, that public school may not be available. It does not offer the States the option of closing the school door to those who have arrived there currently.

Today this education represents an enormous unfunded mandate the Federal Government imposes on the States. California alone spends an estimated $2 billion annually providing education to illegal immigrants. That is enough to hire 51,000 new teachers or put 1 million new computers in every classroom. If we fail to act, States will be forced to provide a free public education to illegal immigrants until the end of time, and that is not right.

As the primary funders of public education, State lawmakers and the State taxpayers they represent should have the ability to decide whether illegal immigrants should continue to receive a free public education.

This Congress must continue to dismantle the system of public benefits that convinces those in foreign lands to come here illegally. It must also continue to decentralize the Federal Government and shift the power to the States. The revised version of the Gallegly amendment accomplishes both of these critical objectives, and I urge passage of H.R. 4134.

Mr. Speaker, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it would have been best, frankly, had my good friend, the gentleman from California [Mr. GALLEGLY], who I believe to be quite sincere about this, had simply brought to the floor the original amendment which says flatly that we are going to prohibit the children of illegal aliens, illegal immigrants, from going to school. This is a repackaged version which attempts to make it seem like it is a little more palatable, but it has really the same effect. I know that my friend from California would argue that point. But it has the same lack of effect as well.

Illegal immigrants do not come to the United States so they can get their kids in school. It really is, if my colleagues think about it, ridiculous to allege that they do. They come here to get jobs. The fact that we have illegal immigrants in the schools is the fault of our Federal policy which has, particularly in Mr. GALLEGLY's State and mine of Texas, border States and big border States, resulted in an awful lot of kids being in the school system; there is no question about it. It is aggravating, and it is expensive.

We put in the immigration bill a provision to require the Federal Government, who is to blame for the situation, to require them to pay the cost. It is not fair to make the schools of Texas, the school districts in Texas or California or anywhere else, pay this cost. Well that disappeared somewhere along the line in a House in which the Republicans are the majority. That is gone. The blame for that must be laid on the Republican side of the aisle.

The fact of the matter is, this is not a solution to illegal immigration. None of the studies have said that it is. A Jordan Commission report, which began this whole effort to change the immigration laws, did not ask for this kind of a measure, and that is because, as I said a moment ago, illegal immigrants do not come here to get their kids in school; they come here to get a job.

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Mr. BRYANT of Texas. Mr. Speaker, if they are coming to get a job and they have kids, the kids are coming. Do we want, as a matter of national policy, to have these kids wandering the streets?

We might hear it said in a moment, well, the new version of this does not require that, it simply says the States can keep them out of school or can charge them tuition prospectively, beginning, I believe, with the class of next year. It does not make any difference. How many of these kids can pay tuition? Zero. They cannot pay tuition.

Second, if there is any possibility that their being in school is going to result in any type of notice being taken of them or their parents by the Immigration Service, they are not going to bring the kids to school. Some of my colleagues might say that is great, that is exactly what we want. I ask them to think again. That is not what we want. That is not what the police departments want, that is not what the school districts want. Nobody gives this a second thought.

We cannot afford to have a huge population of kids, no matter who their parents are, on the streets. Ultimately, that is exactly where this is going to lead. That is why every responsible institution in this country has said, do not pass this amendment; it sounds good, but it will cause an enormous amount of trouble. I urge Members to look twice at this.

I also urge them to take a look at how the public views this matter. I think originally everyone was quite afraid of the issue, afraid to vote against it and so forth, because they thought at election time it might come back to haunt them.

I have noticed even some Republicans are beginning to speak up and say they are against it, including, in my State, my two Senators and my Governor. All three Republicans have come out against this approach, at least the original Gallegly approach. I would have to let the gentleman speak with regard to the modified version, but certainly with regard to the original one, they were against it.

Mr. GALLEGLY. Mr. Speaker, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from California.

Mr. GALLEGLY. Mr. Speaker, I appreciate the gentleman yielding. It is my understanding that the Governor of the State, George Bush, supported the Gallegly amendment in its original form. However, he did support his right to continue to provide a free public education and said he would probably continue that policy, but he did like the idea of having the option, which is all this amendment is about.

Mr. BRYANT of Texas. Mr. Speaker, reclaiming my time, I would simply observe that of the two of us, I am the one that reads the daily newspapers of Texas, and I believe I can produce the reports that would say differently than that.

Mr. Speaker, the fact of the matter is that the impractical result of this alluring proposal is obvious to those who study it carefully. I urge Members to do what is right for our kids, do what is right for our neighborhoods, do what is right for our police departments. Do not put another burden on the school districts, and vote against this bill.

Mr. GALLEGLY. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I think it should be abundantly clear as a result of the debate on the previous bill and on this bill here that the enforcement of our immigration laws has a very low priority in the minds of some, and perhaps not the same degree of urgency that it has in the minds of others who have appeared before this body today to speak.

I would simply say that we are dealing with two very separate and different issues here. One is truly the issue of unfunded mandates. By definition, we have traditionally thought of that as this body passing laws that have costs that are associated with other levels of government paying for them; namely, States and local communities.

Here we are not talking about passing laws, we are talking about the failure of the Federal Government to enforce its existing laws, that is, namely, our immigration laws; and by failing to do so passing on, by virtue of court decisions, the costs to States and to local communities in the cost of education.

If we are not serious about doing anything about unfunded mandates, then simply let us defeat this proposal. But if we are serious about it, then we should restore to the level of government that is having to pay for these decisions the power to make the decisions: namely, States and local communities.

My State, like most States, I am sure, divides that cost up, the cost of education. In our State of Georgia roughly half of the cost is paid by the State, the other half being paid by local property taxpayers. We have heard a lot of talk about compassion here, compassion for children. I would submit to the Members, there is another element of compassion, the senior citizen, the widow who is fighting to hold onto her home, and every year sees her ad valorem taxes go up, and part of that reason, a significant part, being the cost of education.

I would say that this is a matter of compassion, to restore to those who are paying the cost for our failure to enforce our immigration laws the ability to make a decision: Should they or should they not allow those who are illegally in our country to participate in the education system? That is a decision that they are paying for. They should have the right to make that choice. I say that is compassion. That is putting meaning into doing away with unfunded mandates.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself 45 seconds.

Mr. Speaker, I would observe that the same taxpayers that the gentleman from Georgia, Mr. DEAL, was speaking of would have to pay the cost of the law enforcement which would result from having all these kids on the street, the cost of the schools checking the citizenship of every kid in the school in an effort to find a handful who might not be here legally, and all the other attendant costs. That is why these institutions all oppose this approach.

Mr. GALLEGLY. Mr. Speaker, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from California.

Mr. GALLEGLY. Mr. Speaker, one of the reasons the Sheriffs Association of the State of California, the largest sheriffs association in the Nation, supports this legislation is the cost of education far exceeds the cost of enforcing the law.

Mr. BRYANT of Texas. Mr. Speaker, I would just observe that the Association of Elected Sheriffs, who are politicians like us, may have come out with a resolution like that, but the professional police departments and the school districts and those that have to deal with this really on the ground do not agree.

Mr. GALLEGLY. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding time to me, and for the hard work and tremendous leadership and expertise of the gentleman from California [Mr. GALLEGLY], on this particular issue, which is of tremendous concern and importance to California citizens.

Mr. Speaker, obviously there are many things that we can do to at least reduce the tide, the flow of illegal immigration into California and our other border States, but the best way to control our border is by demagnetizing it. That was clearly pointed out in the Jordan Commission, the commission headed up by the late Congresswoman of Texas, who said we had to reduce and ultimately eliminate social welfare benefits, including a free public education, for illegal aliens, if in fact again we were going to do a good job of controlling our borders.

This is just so important in California, and it is pretty clear the direction that this Congress should take. We have to have a national policy which specifies that the Federal Government no longer can impose mandates on State and local governments by forcing them, which is what current law does, by forcing them to provide taxpayer-financed benefits to illegal immigrants. The decision should rest solely in the hands of State and local authorities to decide where their resources go. That certainly applies in the area of education.

One of the more compelling of the border magnets is the free public education California and the other border States are mandated to provide the children of illegal immigrants, who are themselves illegal immigrants. This year their education will cost California taxpayers over $1.8 billion. That is an increase of 144 percent over just 8 years. So make no mistake about it, the availability of free public education is attractive.

In the fiscal years 1988 to 1989 there were 187,000 illegal immigrant children in California. Today, there are almost 380,000. That is a doubling in just 7 years. That number continues to grow every year. That is why California voters spoke very loudly, very clearly, in 1994 when they approved the California statewide ballot initiative, Proposition 187, by nearly a 60 to 40 margin.

Let me just put this in a little different perspective, though. If not compelled by Federal mandate to spend $2 billion annually to educate illegal immigrants, California could instead hire more than 58,000 new teachers, install at least 1 million computers in classrooms. Are they listening, our Democratic colleagues in the Clinton administration? Because, of course, we have heard the President talking about linking every single classroom in the country to the Internet, making sure that everybody is on line. And with that funding we could construct 23,400 new classrooms to ease overcrowding in California public schools. That is clearly the direction that the California State Legislature and the Governor want to go, on a bipartisan basis.

One other bit of perspective on this. The $2 billion we are spending annually to educate illegal immigrants is equal to the total amount the State spends to run all nine campuses of the University of California. So the Gallegly provision is very necessary to allow California taxpayers to protect themselves from these exploding costs.

We are hearing objections from congressional Democrats and from the Clinton administration, saying California taxpayers must educate any illegal immigrant, even those who have yet to enter the country. That clearly is not what California voters want. I think those of us who are elected to this House have a first and foremost responsibility, obviously, to represent the constituents of our districts and our home States.

Mr. BRYANT of Texas. Mr. Speaker, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. Mr. Speaker, I would just like to ask the gentleman how he distinguishes here between this and other questions.

The SPEAKER pro tempore (Mr. CHAMBLISS). The time of the gentleman from California [Mr. RIGGS] has expired.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would ask the gentleman if he would respond to my question. The gentleman says that the school systems ought to decide whether or not, the States should decide whether or not this Federal issue should be dealt with locally or not. Does the gentleman think that the States should be deciding whether or not we require them to integrate the schools, or should the Federal Government require them to integrate the schools?

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, did the gentleman say integrate or immigrate?

Mr. BRYANT of Texas. Integrate. The Federal Government now requires the school systems to be integrated, to permit all students to come to schools. Do you think that we should continue that policy?

Mr. RIGGS. That has been a matter of Federal policy for years, of course.

Mr. BRYANT of Texas. How does the gentleman distinguish, now? We are talking about a Federal issue here. Ought it not be the same in all States also, that we require they be in school?

Mr. RIGGS. If the gentleman will continue to yield, let me put it in the words of Gov. Pete Wilson: Should a State want to commit its educational resources in this area, and I think the gentleman is correct, that is the course his home State of Texas would like to take, it would be free to do so under the Gallegly amendment, because the decision under the Gallegly amendment is left to the States.

Mr. BRYANT of Texas. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding time to me.

Certainly it is no wonder the Speaker GINGRICH chose to elevate another anti-education proposal in these waning hours, precious hours, and to say he will place this above all the other issues that face the American working families today. For, indeed, this has been the most consistently anti-education House in memory.

We have replaced decades, if not centuries, of a bipartisan commitment to Federal aid to education with extremism, with a hatchet that goes after one program after another. This is the same crowd that in the last 2 years has attempted to cut almost $20 million from Federal student loans. It is the same crowd, this Gingrich Congress, that tried to raise the cost of going to college by $5,000. It is the same crowd that said to thousands of American citizens that we will give their children a wrong start, not a Head Start. And whether it was Head Start or college or anything in between, they went after every title in the education code, whether it was safe-and-drug-free schools bilingual education or any other provision.

So when we have a Congress that is that extreme and that anti-education, how can it be a wonder to anyone that they would want to cut off educational opportunities to the newest arrivals, because they have had little use for education for Americans who have been here for generations.

Basically, this new crowd, this Gingrich Congress, its position is that we should terminate the entire Federal commitment to education. They just plan to do it one program at a time. This is just part of the overall scheme.

As for the specific children that the Speaker wants to deny education to today, the plan is simple enough. When the kids get old enough and they have gotten above the pre-Head Start level and the Head Start level, when they get old enough to join a gang, the program being advanced here today is to give them an education, all right, give them a education in the street, education of the gang, of drugs and of crime. That is why, instead of learning their ABCs, they will learn how to break into your house or car. That is why every major law enforcement organization nationwide, almost, has come out against this provision.

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Of course this nonsensical approach is antieducation, and it is not going to work in the interest of our law enforcement officers.

The supporters of this measure continue to insist that ignorance is cheaper than education. When we look back over this Congress, we look at the $1.5 billion wasted on costly government shutdowns. The legacy of destruction and ignorance in this Congress is great indeed when we look back over the costly government shutdowns. When we look at all the education programs this Congress has tried to wreck under the leadership of Speaker GINGRICH, I think we can certainly say that the cost to the American people of ignorance has been dear indeed.

Mr. GALLEGLY. Mr. Speaker, I yield myself 15 seconds to respond to the gentleman from Texas.

First of all, this is not antieducation, it is proeducation. It is proeducation for the students that have a legal right to be in this country, that are either legal residents or citizens. This is the most proeducation bill we have had in a long time.

And on the issue of law enforcement, as the gentleman from Texas knows, it is broadly supported by more law enforcement people across this country than it is opposed.

Mr. Speaker, I yield 3½ minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I congratulate my fellow Californian, Congressman ELTON GALLEGLY. He has fought a long and hard battle to get this issue to the floor and to have our Government come to grips with a major threat to the well-being of the people of the United States of America.

This Congressman, when I first came here in 1989, took me aside and we spoke about the illegal immigration problem, and that was back in 1989. We have worked together diligently ever since, and he has provided enormous leadership on this issue. We were never able to get this to the floor for a vote. Why is that? Because when the liberal Democrats controlled the House of Representatives and the U.S. Senate, they were not about to let any honest debate on this issue take place. Perhaps it is because there is an alliance, a political alliance somewhere that someone wants to maintain that is costing the American people the right to run their own country and the right to educate their children and the right to actually control our own borders.

The fact is that, until the Republicans took control of the House, the liberal Democrats put us down every time we tried to discuss this issue. We could never get a vote. Thank God that at last this problem is being confronted. Since Mr. GALLEGLY and I talked in 1989, millions upon millions of illegal immigrants have flooded into our home State of California and across the country as well. Those millions of illegal immigrants that have come here, they may be fine people, but they are consuming resources and benefits that are meant for the people of the United States of America.

In California, we see our health care system breaking down. We hear and see our education system breaking down. We know something must be done, but we have been prevented from doing so because the people who ran this House for all of those years refused to let Mr. GALLEGLY present a bill and get it to the floor of the House of Representatives.

I applaud Congressman GALLEGLY and the others who have worked so hard on this, because we care. We care about the people of the United States of America, and we know that the people are not going to buy the line that this is antieducation because we want education dollars to go to the benefit of our children rather than foreigners that have come here illegally. That is antieducation? Nobody buys that. That is the type of arrogance that has been rejected by the people of this country.

I hope that when they go to the polls a month from now that they realize that type of arrogance is a thing of the past and put it to bed forever. The fact is the people of the United States expect the tax dollars that are being taken from them to be used for their benefit.

The Gallegly amendment basically focuses on education, which is of major concern. For us to say that those people coming from other parts of the world do not care about their children, are not coming here to give their children a free education is ridiculous. All the Gallegly bill now does, and I do not think it should have been compromised before, I mean the fact is it was much stronger before, saying illegal aliens who are here should not get the benefit, but this bill now before us just says future illegal immigrants should not get this right of education.

Let us end this attraction to illegal immigrants. This bill at least cuts off the attraction to future illegal immigrants from taking away those limited tax dollars that we have available for education.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself 1 minute.

I just wonder if the gentleman was reading the papers back in 1986 when the House of Representatives under Democratic leadership took up the fundamental immigration law for the first time in many, many years and passed legislation making it against the law for people to hire illegal immigrants who are in this country. The gentleman gave us a pretty hard time there talking about how all the evils of the world are a result of the fact that you could not get the Gallegly amendment up on the floor. The fact of the matter is we passed about three immigration bills in the time that I have been here which is 14 years.

Mr. ROHRABACHER. If the gentleman will yield, to answer the gentleman's question, I remember the 1986 bill. That is the one that granted amnesty to millions of illegal immigrants and sent the message out to all the people in the world, "Come to the United States because if you get in, eventually they're going to wear down and they're going to give you amnesty." That bill precipitated this flaw.

Mr. BRYANT of Texas. I would like to ask the gentleman further, have you not read the bill? It did not say to the rest of the world, "Come on in, you can get amnesty." I do not know where you got that. But I suggest you read the bill and read some history before you come to the floor and indict the last 10 years of this Congress.

Mr. ROHRABACHER. We know what happened after that bill passed.

Mr. BRYANT of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time.

I am going to go back a bit, because a number of speakers have come up here and said, and I suspect will get up here and say about the costs of illegal immigration and the immigrants that are coming, and California and the costs. Certainly there are costs, but it would not be a full and honest debate, I say to each and every Member that is going to get up here and say that, if you did not also say what they are contributing. Whether it is the food you eat, the clothes you wear, you are able to purchase it for a decent price because of the work that some of these folks do.

On top of that, it would not be an honest debate whether they are here legally or not. Because if they are not legally here, I think everyone agrees that they should be deported; but while they are here and working, if they happen to buy an article of clothing the way you or I do, they pay the same sales tax that you and I have paid. If they purchase a car, or furniture, they pay the same sales tax that you and I have paid. If they own property, and many of them do, they pay property taxes the way you and I do. If they do not own property but they rent, they are ultimately still helping to pay for the property tax on that property through their rent. If they own a business, and many of these folks do, they pay business taxes to the local government.

All of that, as the gentleman from Georgia [Mr. DEAL] had mentioned, all of that is the basis of the payment for education in most States. I know for a fact in California, most of the money comes from sales tax and local property taxes for the schools in our State. So please, if you are going to make an honest debate, if you are going to talk about the estimated cost because it only can be an estimated cost, what the estimated cost is of having a child go to school if he or she happens to be undocumented, also mention what is contributed by these families because they are not just languishing. Most of them are providing some payment.

Another point: In bad times or in good times, we have had folks in this country who do not have documents who are, as I said before, and everyone will agree, deportable. Bad times or good times. In good times, folks were not saying that they were costing our schools all this money and as a result our kids were not getting educated, our people were not getting their health care.

In good times or in bad times, they have been here. When the economy shot up, when the economy has shot down, they have been around. It just so happens that in bad economic times, you look for the scapegoats, and it is easy to point your finger at those individuals.

Mr. ROHRABACHER. If the gentleman will yield, I am not suggesting these are bad economic times.

Mr. BECERRA. I am not suggesting that. I am just saying whether it is good or bad times. Mr. Speaker, I suspect the gentleman will agree with me, as a Republican, that these are good economic times.

Let me continue if I may. This whole argument really, if you boil it down, is the following. I think everyone in this Chamber will ultimately agree, if you kick a kid out of school, you will not drive the parents out of the country. What you do is you kick a kid out of school and you put the kid on the street. The parent is probably here because he or she probably has a job, probably in the underground economy, is going to stay here because chances are in the home country the person would not be making as much money. In the home country there is a good chance the kid would not get educated anyhow.

So they are probably going to stay here whether or not you place a kid out on the street. The real concern, as most of the law enforcement officials and Sherm Block, the Sheriff of L.A. County, will attest to this, and he is a Republican, he is opposed to this particular provision by the gentleman from California [Mr. GALLEGLY], he will attest, it is better to have a child in school than on the street.

If this is meant to drive people out of the country who are here without documents, it is going to fail miserably. And if it is, what are the consequences? You and I will not see the consequences because we are here in Washington, DC, making the policy. The consequences will be faced by the school districts and the school boards that are opposed to this measure and most of the law enforcement officials who are opposed to this measure because it does not help them take care of their worries locally.

How much will it cost? This really is antieducation. Why? Because if you think someone is going to have their child pay tuition, this proposal says, well, these people who are undocumented can pay tuition for their kids to go to school if they want to continue using the public schools.

Let me tell you, if you are going to use $5,000 or $6,000, I guarantee you most people would send their kids to some private school for that amount of money if they could because they would avoid the problem to begin with of having their kids go to a public school and being caught. You are not going to do anything with this measure, no kid is going to be able to afford to pay the tuition for a public or private school.

Mr. GALLEGLY. If the gentleman will yield, there is no tuition in the amendment here.

Mr. BECERRA. But the real issue in terms of cost and why this is so antieducation is the following. In California, which by the way, unfortunately, our Governor has been unwilling to fund education in our schools the way it should be. We are now ranked one of the last in this country. We used to be one of the first back in he 1950's in terms of education funding. But we provide about $6,000 per pupil in California in money. That is in school.

You drive a kid off on the streets, and you are going to have come costs to the local law enforcement to try to make sure that they are making sure these kids that are on the street now are not committing crimes or becoming victims of crime. But should they become involved in criminal activity, this young child who has been kicked out of school will probably be incarcerated, not imprisoned because they do not take them to adult prisons. They take them to the youth offender facilities, which cost about $33,000 per year in the State of California.

So if you think $6,000 is expensive in our public schools, then $32,000 is surely much more expensive than that. That is what you are driving towards with this particular piece of legislation.

A couple of more points: Why we would want to set as a national policy a principle that says we are going to hit the kid, we are going to punish the kid for the acts of an adult, I am not certain. I know the courts right now are debating whether you can punish a parent for the acts of a child. Some of these delinquents, children who become delinquents, we are now having some local laws that say, OK, let us punish the parents for letting this kid become a delinquent.

The courts have not decided yet if, in fact, you can punish the parent for the acts of a child. Not only are you going beyond what the courts have even permitted, but you are turning it on its head, you are saying punish the child for the acts of the adult, as if a 2-, 4- or 7-year-old could tell his or her parent, "Don't cross that border without documents, Mom or Dad, because, if you do so, we're in trouble."

Be realistic. This is not sound policy. If we are going to address the issue of illegal immigration, let us do it where it most counts, at the border. We did that in the bill that just passed. We did provide additional funding to Border Patrol.

We could have done more to provide more protections at the workplace to make sure people do not work without documentation. We did not. This is just another measure that sounds good. That is why it is bottled up in California after Prop 187, because it does not work. We should be about the business of passing laws that will work, not just because they sound good but because they will work. Unfortunately, this will not work.

Mr. GALLEGLY. Mr. Speaker, I yield 1½ minutes to the gentleman from Oregon [Mr. COOLEY].

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Mr. COOLEY of Oregon. Mr. Speaker, I rise today in support of H.R. 4134, a bill that allows States to deny public education benefits to illegal immigrants.

This bill is only a matter of fundamental fairness. States are trying hard to balance their budgets. Meanwhile, a growing population of illegal immigrants strain the public resources of the State and local governments.

We order the States to give taxpayers funded public education, to who? To those who are here illegally. Is this not an unfunded Federal mandate, which we just passed legislation to discontinue?

Come on. At a time when we are trying to introduce common sense to Washington, DC, let us get rid of these senseless mandates. Let us have compassion for the hard-working taxpayers of this country. Let us let the people of the States decide whether or not they want to spend their tax dollars on public education for illegal immigrants.

Mr. GALLEGLY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I have had the privilege of actually discussing and negotiating this issue at length with representatives in Mexico of the Senate and the Congress. Let me tell you, I heard the same arguments in Mexico that I am hearing on the floor right now of excuses not to do the reasonable thing.

What is interesting is I do not think any of us think that Mexico is xenophobic or antiimmigrant. But the fact is in Mexico, they have a law that says you must prove you are a legal resident, if you are not a citizen, before you even get into a private school, let alone a public school. So the xenophobic issue, I think, is pretty settled and Mexico agrees it is a reasonable approach.

But I ask you, who are the children we are talking about here? I hear people on the floor saying "our children." Are they talking about the legal citizen children who are not getting their fair share of education in the States impacted? Or are they talking about "our children" who are the legal resident aliens, who have played by the rules, who are not getting their fair share of the revenue for their education? Or are they talking about "our children" as being the illegal aliens in school right now? Because this bill does not affect any of those people. It says if you are illegally here today, you can continue to go to school.

It just says that the people who are thinking of coming here to the United States, who are not here now, we will not require a free education to be given to your children.

So when you say "our children," are you talking about the people here in the United States today, or are you saying this Congress represents the illegal immigrants who are not even in this country today, that are thinking of coming, that they take priority over everyone else in the educational system today.

Mr. Speaker, I ask to pass this bill, because it is for our children, both those who are legally and illegally here today, and the citizens. All it asks is that those who have not come here and made the decision to break our laws not be rewarded and encouraged to do that. That is all we are asking for.

I would ask my colleagues, when you talk about this, think about the fact that the message we are sending around the world, to my cousins in Australia who say "We hear if you break the laws of America you get rewarded." It is time we stop sending that message, not just to Latin America and Australia, but the rest of the world. Let us play by the rules.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself 15 seconds to observe, this bill does not relate to or exempt the kids that are not here today; it exempts the kids that are not in school today. Those kids that are not in school today would not be able to get in school in the future, and they would remain on the streets. Heaven knows what would happen to these little kids if they were left on the streets.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I thank my good friend for yielding me time.

Mr. Speaker, the previous speaker, also a good friend of mine, from California, said that this cousins in Australia have heard that if you break the law in America you get rewarded.

Well, what did you tell them, Mr. Lawmaker?

Mr. BILBRAY. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I have not finished my question to you yet. It is going to be a little more complicated than that. If you break the law in America, you get rewarded? We have got more people in prison for breaking the law than any nation on the face of the planet, and building more prisons than schools.

We are now federally subsidizing the increase of prisons in States, and your cousins in Australia are telling you, a Federal lawmaker, that you get rewarded for breaking the law in America, and you repeat that on the floor of the House without even telling us what you told your cousin.

Mr. BILBRAY. Would the gentleman yield?

Mr. CONYERS. Not yet, I have some more to tell you about this subject, sir, and then I will be pleased to yield.

Now, it just so happens that the bill that you so avidly support here on the floor is nothing more than a mean-spirited attempt to punish children for the actions of their parents. Did you explain that to your cousins from Australia?

And, by the way, what do you think happens to all these hundreds of thousands of kids that you would exclude from schools here? What do they do? Join the Boy Scouts and the Girl Scouts? Or do they get part-time work? Or do they go the day care centers that their parents will assign to them? Or do they stay out on the streets and become criminals or victims of crime that your nephews fail to understand that you do get punished here in America? You get punished more in America than you do anywhere else in the world.

Mr. BILBRAY. Would the gentleman yield now?

Mr. CONYERS. Not yet. I have not completed.

Now, my dear friend, Mr. GALLEGLY, one of the best mayors California ever produced, how come you did not allow this great provision to remain where it was created, in the immigration bill? You have not explained that on the floor.

Mr. GALLEGLY. Yes, sir, I did.

Mr. CONYERS. No, you did not.

Mr. GALLEGLY. I will be happy to.

Mr. CONYERS. Well, you ought to be happy to. But this is the provision that came out of the immigration bill so it would have a life. And it did not come from the President or the Democrats. Guess who wanted it out?

Mr. GALLEGLY. I will tell you.

Mr. CONYERS. The Speaker of the House wanted it out. Your colleagues on the Republican side pleaded to have it taken out. And now, after it has been taken out, you march right up again telling us about all the provisions.

And now, if there is any time left, I would be happy to yield to my distinguished colleague from California for 15 seconds.

Mr. BILBRAY. If I may answer the question, what I told my cousin in Australia is: Tom, just because in the past America has rewarded people for breaking our immigration law——

Mr. CONYERS. Stop, I do not yield any more. Because if you told them that we once used to reward people for breaking the law, then you have failed your obligation as a Federal lawmaker. I am not yielding to you, sir, because you are giving misinstruction on the Federal law to your relatives in your family. Now, they ought to check with the ranking member of the Committee on the Judiciary if they want to know what happen to people that break the law in America.

Mr. Speaker, I will now yield to my distinguished friend, the subcommittee chairman on Judiciary, for 15 whole seconds.

Mr. GALLEGLY. Mr. Speaker, I thank the gentleman, my friend, and he is my friend, from the great State of Michigan for yielding, to answer his question about whose idea it was to change this. I think the gentleman would agree that this was something that I wanted in this bill or I would not have brought it to the floor during the debate in March.

Mr. CONYERS. Why was it taken out?

Mr. GALLEGLY. Let me remind the gentleman, if the gentleman will give me 10 seconds uninterrupted, I will give him a complete answer. Will the gentleman yield me 10 seconds?

Mr. CONYERS. Well, the majority of my colleagues want me to do it, so I will do it.

Mr. GALLEGLY. I thank the gentleman for yielding. The reason this was taken out is the President of the United States, our President, said he would veto any bill that gave the States anything short of an unfunded mandate in perpetuity, guaranteeing a free public education entitlement for anyone, whether they are here today or in the future. We did not want to see a very important immigration bill threatened. The President said we only had that in there so he would veto it.

Mr. CONYERS. Mr. Speaker, reclaiming my time, in other words, you are blaming the President of the United States for NEWT GINGRICH's decision to remove it?

Mr. GALLEGLY. It was my suggestion.

Mr. CONYERS. Is that the idea?

Mr. GALLEGLY. No, it is not.

Mr. CONYERS. It was your suggestion to remove it?

Mr. GALLEGLY. Because I would not allow the President to hold this hostage.

Mr. Speaker, I yield myself 15 seconds to finish that. I think it is very important the American people understand why this provision is a standalone bill. In March this provision passed overwhelmingly in the House. We brought it back after we modified it. The President said I will veto this bill, I will veto this bill.

We were not going to allow the President to have an excuse to veto this bill. I suggested we remove it, let it stand alone. I believe in the democratic process. If the people of this Congress say, GALLEGLY, your bill is bad, so be it. I do not think that is going to be the case. That is the reason it is here.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I would say to my colleagues on the other side of the aisle, those that are going directly toward the issue, I laud that. That is fair and open debate. I think that is what this House is for.

Those that use this as a political satire to demonize the Speaker of the House, and according to the gentleman from California, GEORGE MILLER, the leadership meets once a week to take out and find ethics violations for the Speaker, and according to GEORGE MILLER, and I quote, "He is the general, it is in our best interests to take him out," that is wrong.

But those that speak to the issue, I laud them, and I respect their opinion. But I disagree with it.

I would say those from the liberal left that would not support the welfare, would not support the balanced budget, and then told stories to try and scare the American people, I think that is wrong.

What I would say to my liberal left friends is that my mom once told me, "If you lie enough, you are going to go to Hades, and I will be very happy and justified when you pass away to send you a fan."

And this issue is costing not only taxpayers, it is costing children. I will speak to California, children in California. It is not $6,000 a year, it is $4,850 per student times 250,000 students in K through 12. That is $2 billion a year, I would say to the gentleman from Texas [Mr. BRYANT]. Think in 5 years what we could do in the State of California with fiberoptics, computers, and paying teachers and the rest of it.

We have 18,000 illegal felons. When one talks about we are building more prisons than we are schools, that is one of the reasons I think, yes, the border is a good place to start. But economically, criminally, and against our poor and Medicare, we are destroying American citizens, and that is why we are supporting this, not mean-spirited.

Mr. GALLEGLY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, I want to thank the gentleman for yielding me time.

Let me make a proposition to the Members of the Congress. Let us take American taxpayer dollars and send it to Mexico or to any other country and educate their children. Those that have chosen to stay in their country and to abide by our border laws, they probably have a better right to our taxpayer dollars to educate their children than those that break our laws to bring their children here and get an education at taxpayer expense.

Now, I think it would be a ridiculous idea to send our tax dollars to Mexico or to any other country to educate their children. But it is more plausible and more just and more reasonable than to invite them to come illegally into our country and educate the children.

Now, you think about that.

□ 1700

We will not send our money to foreign countries to educate their children, but I think a parent of a child that stays in their own country has a better right to our dollars then those who break our laws and bring them to this country.

Now, the argument has been how can we turn them out on the streets without being able to get a job? We can take an illegal child all the way from kindergarten through high school and graduate from high school and they cannot legally get a job in this country, so we should not use the argument that they need a job.

I have an end to the idea that this bill is antieducation. That is the most spurious of all arguments. I have 33 grandchildren, my wife and I, and every dollar that we spend on illegal alien children is a dollar that my grandchildren do not have for their education.

I do not need to tell my colleagues that in California, at least, maybe not in other States but in our State, we do not have enough dollars for education. Our children are being shortchanged. I do not want my 33 grandchildren, all in school virtually, to be shortchanged because we are spending our tax dollars to educate illegal children.

I strongly urge a vote for Gallegly.

Mr. GALLEGLY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Speaker, I rise in strong support of H.R. 4134. This legislation allows each State to decide whether it should provide a public education to illegal immigrant children. Just because the Federal Government has failed in its duty to secure our borders, States should not be required to spend limited State resources on education benefits for illegal immigrants.

For example, in my home State of California, taxpayers shoulder a $2 billion burden to provide an education to nearly 400,000 illegal immigrants. Further, California's children struggle to learn in overcrowded classrooms with a limited number of teachers and few resources.

In short, H.R. 4134 restores a fundamental State right to establish its own education policy and removes one of the most costly unfunded mandates of the Federal Government.

Again, I urge my colleagues to vote in favor of H.R. 4134.

Mr. GALLEGLY. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I thank the gentleman very much for his leadership on this issue, and I am urging my colleagues to vote "yes" on a modified Gallegly.

First, it ends the unfunded Federal mandate that forces States to provide free public education to illegal aliens not yet in our schools; it protects children already in schools as of July 1, 1997, and does not kick anyone out of school; and it guards against creating a new education entitlement for those not yet even in this country.

Now, folks, today, we have 35 to 40 children in every public education classroom. We are, indeed, overcrowded. In the Palm Beach County School System there are 37 languages spoken. In Palm Beach County, FL, teachers are required to complete some 300 hours of training to be prepared for English As A Second Language, to be able to assist students with other languages, taking time away from their families to learn to adapt to others who do not speak the English language.

A moment ago a colleague suggested that we do not talk about the benefits illegal aliens provide to this State and Nation, we do not talk about the taxes that they pay. Well, then, is it fair to say that we respect and appreciate drug dealers because they certainly pay taxes themselves, as well?

The gentleman from California, Congressman BONO, and I were talking a moment ago, and this is the only topic in this Congress where the word "illegal" is actually protected. We talk about illegal drugs and we give 5-minute speeches on the terror of drugs in our Nation. We talk about rape and murder, illegal, crimes, and we talk about the toughest, most serious punishments we will level out in this Congress. Yet we talk about people illegally coming to this country, and we are supposed to be silent. We are supposed to be quiet.

Now, some of our colleagues are defending Governors, like Governor Chiles in Florida, who is suing the tobacco companies to recover health care costs because of the tobacco deteriorating one's health and costing the States moneys. Well, I would suggest to Governor Chiles that he sue the Federal Government to recover moneys for education benefits paid to illegals. In Florida we are spending $800 million to $3 billion annually for illegal immigration.

Now, clearly, this Congress stepped up to the challenge when Mexico needed to help in its currency to the tune of $20 billion. But how are States like Florida, Texas, and California going to meet their payroll obligations, their fiduciary obligations to their taxpayers, if we do not start discussing this in an honest and fair manner?

People who come here illegally should not be rewarded. No, none of us suggests we want our children out on the street, but we have to send a message sooner or later that the United States of America is not going to accept everybody in illegally.

There are hundreds of thousands of people who are seeking to come to this country legally, that have applied to their Embassy to gain the privilege of being an American and to come to this country and participate. So we should not let others who illegally come in to this country to jump in front of that line, jump in front of those honest citizens who want to find opportunity in American society. Do not deny those people that are waiting in line to come to this country by suggesting that people who are illegally here should have all rights and privileges.

I have to think, ladies and gentlemen, of those 35 and 40 kids in those classrooms in Palm Beach County that are not getting a good education because of the overcrowded conditions. The gentleman from California, [Mr. GALLEGLY] has worked tremendously hard on the Task Force on Immigration Reform, and in particular on this issue, because he knows well enough that California, Florida, Texas, New York, and other States have long endured the cost to their taxpayers to provide benefits for illegals.

It is time simply to stop. Not stop with the people who are here today, but stop July 1, 1997, for those who would arrive and expect something for free from this Nation.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself 30 seconds only to observe that I think it is all our responsibilities to take the next step and say what would be the actual result of doing what the gentleman is advocating.

Nobody wants illegal immigrants to be in this country, but the simple fact is not one single credible source believes that if we keep these kids out of school that their parents are going to leave or that they will not come here because, as the gentleman from California [Mr. BECERRA] said, they are not getting a decent education where they came from anyway.

If that is the case, what do we expect to do with all these kids on the street, first; and, second, what do we think will happen to all these kids on the street?

Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, there were several Members that got up that were in the State legislature, the same as I was, who decried the lack of money or education in California. Let me tell my colleagues something. The lack of money in education for California is the fault of the State legislature. The State constitution states the highest priority of any revenues collected should be for education, and yet the State has never acted that way and there are schools that are in desperate need of monies that the State has never provided for. So this is a lousy argument, that the illegal children that are being educated are depriving monies to the children of the citizens that should be educated.

I take umbrage with the statement the chairman made about Mayor Gallegly being the best mayor to come out of California, because I always thought I was.

Having said that, let me go back to the law itself. There is no Federal law that says that States must educate children of illegals. It was a court decision that acted because there was no policy statement by the Congress.

So now the Congress is making a policy statement that will only allow it to go back to the court, because the court acted under Article XIV, which really says that no State shall make or enforce any law which shall abridge the privilege or immunity of a citizen of the United States, nor shall deprive any person of life, liberty or pursuit of happiness without due process—and now get this, this is the important part—nor deny any person within its jurisdiction, it does not say legal or illegal, any person within its jurisdiction the equal protections of the law.

I suggest that should this bill pass and become law, if the President would sign it, which I doubt that he will, it will still come back. The first time a State decides to act on our prerogative, our policy, it will still come back to the court and the court will still, under the protection clause of the Fourteenth Amendment, will say we have to educate children.

But what really is surprising to me is people and Members that get up in the well of the House and talk about the funds that we do not spend abroad. We spend too many funds abroad and not enough here in the United States, and maybe we should start thinking about that.

The fact is that what we are really talking about is the dignity of our country. We have talked and people have gotten on the floor here and talked about the suffering children all over the world and the starving children. And we have such sympathy for them, but yet if there are children here in the United States, we have no sympathy.

I admire the strength, the aggressiveness, the tenacity, the determination of those Republicans on that side that would get tough on immigration, get tough on the perpetrators of the illegalities we talk about with regard to the adults that are coming across, not the children.

Mr. GALLEGLY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, I thank my good friend and California colleague, Mr. GALLEGLY, for yielding me this time.

Mr. Speaker, I want to clarify one I think fundamental issue in this whole debate, and that is that we are talking about legislation which is prospective; that is to say, the Gallegly amendment would only apply to children who are not yet illegal immigrant children, who are not yet in our public schools.

So all these objections that we are hearing basically have the effect of overriding the concerns and the feelings of taxpayers who are opposed to magnetizing our borders. Basically, our Democratic friends and the President and his administration are saying we must educate any illegal immigrant, even those who have yet to enter the country.

Now, that makes no sense. It makes no sense whatsoever for one Federal law to reward illegal immigrants from violating another Federal law, and that is what we are talking about in this debate, especially when it heaps tremendous burdens upon State taxpayers and deprives legal residents of needed services.

So I want to conclude with a letter that our governor, Pete Wilson, sent to the Speaker of the House, who I believe is going to conclude the debate here momentarily, back in March when we first debated the Gallegly amendment. And it is as applicable now as it was then.

He said in his letter, the governor, should a State want to commit its educational resources in this area, it would be free to do so under the Gallegly amendment because the decision is left to the States. On the other hand, California would be freed from this mandate, as dictated by the overwhelming passage of Proposition 187, and allowed instead to target limited State resources to meet the educational needs of our legal residents.

The gentleman from Texas [Mr. BRYANT] brought up, I thought, a fair question earlier. And the response, really, is the basic premise of the Gallegly amendment, which is to leave education decisions where they rightfully belong, at the State level. And that is very much in keeping with the longstanding American decision of decentralized decision-making in public education.

Yet unless we pass this legislation today, the burdens of this particular mandate will remain, and thousands of needy California schoolchildren will be shortchanged. I urge the House to pass the Gallegly legislation.

Mr. BRYANT of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. GENE GREEN].

Mr. GENE GREEN of Texas. Mr. Speaker, I thank my Texas friend for allowing me 1 minute to speak against this bill.

One of the reasons I voted for the immigration bill ultimately was because this amendment was removed from it. This is an amendment, Mr. Speaker, that sets the pattern that we have seen in the Congress for the last 2 years: If we are going to cut the budget, let us cut education; if we are going to punish somebody, let us punish children, and that is what this amendment will do.

People do not come to this country to put their kids in public school. The children do not come here because of their own volition. They come here because somebody brings them. And to punish a 10-year-old in Texas or a 10-year-old in California who is not here of their own volition and say they cannot go to public school, it is wrong and this is bad public policy. It is bad public policy on the State level as well as the Federal level.

I am always proud to be a Texan, but I am particularly proud to be a Texan because our Governor of Texas, who is a Republican, by the way, Governor Bush, has said he would not allow the children to be removed from Texas schools. And I admire him for that and thank him for his commitment to education. That is why this bill is so bad, Mr. Speaker.

□ 1715

Mr. GALLEGLY. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I rise in support of this bill. Let me point out to my colleagues, legal residents of this Nation cost the American taxpayers $4.5 billion. Who pays this? Most of the education, public education funds are raised almost exclusively through the taxation of State residents. The State has to tax individual families, individual people to pay for this, $4.5 billion. Therefore, it is fitting that the State decide this issue, not the Federal Government. So the gentleman's bill is simply saying let the States decide instead of forcing an unfunded mandate from the Federal Government.

It is also a case where it is only right. There are disincentives, if we pass this bill, for people to come and put their children into schools illegally. I urge my colleagues to think of it in those terms. Would Members want to be taxed to pay for the education of illegal immigrants? Why not let each State decide? If New York City or New York wants to decide one way, they can decide. I urge my colleagues to support this amendment.

Mr. GALLEGLY. Mr. Speaker, I have only one speaker remaining, and I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have heard a lot of talk about education here today. I would remind Members of what the gentleman from Texas [Mr. DOGGETT] observed a moment ago, that it is coming from the side of the aisle that proposed a 15 percent cut in Federal aid to education. So I wonder, really, if this is not election year rhetoric as opposed to substantive concern. I see some heads shaking. I will give them the benefit of the doubt.

We cannot leave this floor without explaining to the American people why it is that a Republican Governor of Texas, two Republican Senators from Texas, and a State very large, very much impacted, disagree with this approach; why the Republican sheriff of LA County, certainly he knows the meaning of this, disagrees with this approach; what we are going to do with all of these kids that are going to be left on the streets; what is going to happen to these little kids wandering the streets; why the majority Members think anybody is going to pick up and go home because their bill passes, when all of the studies indicate that they are wrong about that. We have got to be able to answer these questions.

All of these hot speeches we have heard out here today, they are just fine for getting reelected. They are not fine for governing the country. Everybody would like to make a speech that will draw the applause. But I will not yield. We must pass legislation that can govern this country. I do not want the illegal immigrants here either. Everybody agrees with that. But I do not want gangs. I do not want kids wandering the streets. I do not want kids kidnapped off the streets who are left defenseless on the streets.

I simply would say, we do not want the pandemonium that will be caused by this policy which looks good on the face of it but will not work, as every expert has testified. Members, please vote against the Gallegly bill.

Mr. GALLEGLY. Mr. Speaker, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH], the Speaker of the House.

The SPEAKER pro tempore. (Mr. CHAMBLISS). The gentleman from Georgia [Mr. GINGRICH] is recognized for 2¼ minutes.

Mr. GINGRICH. Mr. Speaker, this is, I think, actually a very simple issue. First of all, I commend the gentleman from California for listening carefully to the country and revising this. Members need to understand, any student enrolled in this school year is grandfathered until they graduate from high school. So there is not a question about kicking anybody out.

There are two core questions here: The first is, prospectively for the future, should we be saying across the planet, come to America illegally and you are guaranteed the taxpayers will provide the social services at the expense of legal immigration and at the expense of children of Americans? That is what is happening.

What is happening today in California is that 51,000 teachers are being used up by an unfunded Federal mandate. We are taking teachers, classrooms and computers away from legal immigrants in California and away from the children of Americans and we are transferring it to people from families that are here illegally.

We lock in everybody to make sure that nobody has any question. The child in school during this school year is grandfathered until they graduate from high school. But we say for the future to the world, do not come to America illegally and expect that you are going to have the taxpayers of America, the legal immigrants and those who are American citizens, pay for social services other than emergency Federal care. This Congress began in 1995 by saying we would not pass unfunded mandates. That is what this is. This is a $4.5 billion a year unfunded mandate on the children of America who have to share resources because the Federal Government has failed to do its job of stopping illegal immigration.

Let me make a second point to my friends from Texas who have been speaking. Nothing in this bill requires the State of Texas to do anything. If the State of Texas wants to pay to educate illegal immigrants, that is the right of the State of Texas. But how can any Member walk on this floor, deny the citizens of California the right to implement proposition 187, without expecting California to come right back here and ask for $3 billion from the Federal Government annually to pay California for the cost of a Federal failure?

Any Member who votes no on this bill should be prepared to go back home and tell their taxpayers that they are prepared to send California $3 billion a year to pay for what the Federal Government has failed to do. I think it is just wrong to say to the taxpayers and the citizens of California and to the legal immigrants who go to California, we are going to at the Federal level require you to ignore your own proposition 187, we are going to require you to ignore the vote of 60 percent of your citizens and we are going to make you pay out of the money that ought to go to your children, while we in Washington both fail to protect the border and fail to provide the money.

This is an important bill, it is a good bill. It is a fair bill. It grandfathers the children who are in school this year but it sends the signal to the world, do not come to America and think that taxpayers of America are going to take care of you if you are here illegally. We want legal migration. We do not want illegal migration. This bill is a vote on that core premise.

Ms. GREENE of Utah. Mr. Speaker, I rise in opposition to H.R. 4134, the bill to deny public education to illegal immigrant children.

Earlier today, I voted for the immigration reform bill, H.R. 2202, because it makes many important improvements to our immigration system by stepping up efforts to enforce current immigration laws, taking stronger steps to promote greater self-reliance among immigrants, and holding sponsors financially responsible for persons that they sponsor to migrate to the United States.

I am particularly pleased that H.R. 2202 included an amendment I offered that encourages the Immigration and Naturalization Service to focus more resources on detecting, apprehending, and deporting illegal aliens that are involved in criminal activity, such as drug trafficking. This provision will help ensure that the INS commits enough resources to communities such as mine to combat drug trafficking by illegal aliens.

However, while I support immigration reform, I strongly oppose denying education to immigrant children. Educating the children in our communities is, in my view, as important as protecting them from physical harm. We would not stand by and allow someone to physically abuse a child who was in our country illegally. Neither should we stand by while these children pass their formative years in increasing ignorance. We should not penalize innocent children for the illegal actions of their parents, and for the failure of the U.S. Government to control our borders.

I recognize that many States are carrying a significant financial burden to educate these children. That is why I believe we must focus more efforts and resources on enforcing our borders to stop illegal immigrants from coming to this country in the first place, and improve enforcement of immigration laws to ensure that people who initially come to this country legally do not overstay their visa. For too many years, the Federal Government has failed to enforce our immigration laws, and we are paying the price for that inaction. Consequently, I believe that the Federal Government should fully reimburse the States for the costs incurred for educating illegal alien children.

I appreciate the efforts made by the gentleman from California to address the negative consequences of illegal immigration. However, I strongly oppose efforts to banish any children from the classroom, regardless of whether they are in this country legally. I encourage my colleagues to vote against H.R. 4134. However, should Congress pass this bill and the President sign it into law, I urge my State of Utah in the strongest terms to continue to provide a free quality education to all of our State's children.

Ms. HARMAN. Mr. Speaker, earlier today, I saluted the bipartisan leadership of my California colleague, ELTON GALLEGLY, and joined a majority of my colleagues in voting for tough measures to combat illegal immigration. We voted to increase control of our borders by doubling the size of the Border Patrol, to remove employment opportunities for undocumented workers, and to strengthen anticounterfeiting laws so employers can conduct fair and even-handed checks of legal status.

Mr. Speaker, the bill before us now, to allow the States to deny public education to the children of illegal immigrants, is bad public policy. As the Torrance Daily Breeze editorializes:

> . . . the Gallegly amendment is plainly abhorrent. To begin with, it would do absolutely nothing to counter illegal immigration. Far worse, it would create by deliberate design a growing underclass of illiterate young people denied the opportunity to learn English, much less acquire the basic education required to get a job one day and support themselves.

Nearly every major law enforcement organization opposes this bill. They know its enactment will worsen our crime rate. Chief Tim Grimmond of the El Segundo Police told me that kicking kids out of school "doesn't mean the families will pack up and leave * * * it will leave us with kids who have nothing to do except get into trouble."

Mr. Speaker, illegal immigration violates one of our fundamental values: that all of us have to live and work by the same set of rules. We should punish those who break our laws—the parents. As Chief Gary Johansen of the Palos Verdes Estates Police Department told me, the bill's focus on schoolchildren is "simply a bad idea."

I urge its defeat.

[From the Daily Breeze, Sept. 20, 1996]

IMMIGRATION BILL IN U.S. INTEREST

ENCOURAGING SIGNS FROM CAPITOL

There are encouraging signs on Capitol Hill that Republican leaders finally are coming to their senses on immigration reform by scuttling the repugnant Gallegly amendment.

The sooner, the better.

Authored by Rep. Elton Gallegly, R-Simi Valley, the provision is the biggest roadblock to passage of a sweeping immigration bill that is critically important to California. The amendment would allow states to kick an estimated 700,000 illegal-immigrant children out of public classrooms, leaving them idle on street corners and in other crime-prone situations.

As public policy, the Gallegly amendment is plainly abhorrent. To begin with, it would do absolutely nothing to counter illegal immigration. Far worse, it would create by deliberate design a growing underclass of illiterate young people denied the opportunity to learn English, much less acquire the basic education required to get a job one day and support themselves.

The disastrous social implications of the House-passed amendment are clear to a majority of senators, including a dozen Republicans, who have announced their opposition to it. Consequently, the immigration bill will not get out of Congress unless the school provision is stripped from it.

Some GOP lawmakers would rather let the bill die than give President Clinton an opportunity to sign a measure that is popular in vote-rich California. But Senate Republican leader Trent Lott suggested Wednesday it would not be "in the best interest of the country" to kill the measure over the Gallegy amendment. He's right.

Republicans who control a House-Senate conference committee on the bill should jettison the education provision and get the measure to the president's desk before they adjourn for the election. Among other badly needed reforms, the legislation would double the size of the U.S. Border Patrol, stiffen penalties for document fraud and alien smuggling, and make it easier for employers to verify that prospective workers are legal.

Also Wednesday, there were rumblings on Capitol Hill that Clinton might veto the bill even if the Gallegly amendment is removed.

Several liberal Democrats are raising objections to other elements of the bill and urging a veto.

Vetoing this landmark legislation would be not only bad public policy but also politically stupid for the White House. California needs this sweeping reform measure—providing the punitive Gallegly amendment is discarded.

Mr. KOLBE. Mr. Speaker, I rise in support of H.R. 4134. Congressman GALLEGLY has raised a very important issue that Congress has too long ignored: who is responsible for educating children who illegally reside in our country? But, the bill still raises some issues that, if never addressed, could be counterproductive. I will discuss those in a moment.

The real issue at hand is that illegal immigration imposes a giant unfunded mandate on States and local school districts. Failure to stem illegal immigration is a failure of the Federal Government. But the consequences of failure are paid by State and local governments. Teachers and administrators in Tucson's public schools have told me that as many as 40 percent of pupils in certain schools are illegal immigrants. California estimates the annual cost of educating illegal immigrants in that State alone at $1.8 billion. I'm sure State legislatures and school boards impacted by illegal immigration could find better uses for their taxpayers' hard earned dollars than spending money to educate kids here illegally.

Now this bill will not throw any kids out of school immediately, and some States may choose never to avail themselves of its provisions. Rather, this bill allows States to decide for themselves whether to provide free public education benefits to illegal immigrants who are not already enrolled in public schools. Further, it allows illegal immigrants already in the school system to receive a free public education through the highest grade in their current school level—although only if they remain within the same school district.

To the bill's credit, it does not force the States to adopt a particular course. States could choose to continue to educate illegal immigrants for free, charge them nonresident tuition—but not deny them an education.

However, we must work to ensure that some of the unanswered questions in H.R. 4134 are resolved. For example, will school districts be required to notify the Immigration and Naturalization Service about students and their families who are illegally in the United States—effectively making school districts into immigration police? What are the legal consequences if they do? Or if they don't? Will there be a uniform way that citizenship is determined for elementary students in each State? How about secondary students where it may not be common to give proof of birth to enroll? How will schools deal with fraudulent documentation and will they be held liable for admitting students with false identification? Will there be a different standard for special needs children? I stand ready and willing to work with my colleagues and with our Nation's State and local officials to resolve these issues that cannot be ignored.

I would add that ideally, the immigration and national interest bill which the House just passed and which I hope President Clinton will sign, should render H.R. 4134 unnecessary. It takes some big steps to address the problem of illegal immigration by keeping illegal immigrants and their families out of the United States—not by surrendering the battle at our borders and moving enforcement to the classrooms of America.

Mr. LAZIO of New York. Mr. Speaker, I rise today in support of H.R. 4134, a bill that would merely allow the States to decide, rather than the Federal Government, whether to provide a free public education, deny public education, or charge tuition to illegal aliens. This does not apply to illegal aliens currently enrolled, or those who enroll prior to July 1, 1997.

I support this legislation despite my personal reservations regarding the wisdom of denying public education to illegal immigrants. Some argue that this is not the best approach to combating illegal immigration, and that denying education to illegal immigrant children will in the long run have the unintended consequence of perpetuating the influx of an illegal immigrant underclass within our society. I have been assured by New York Governor George Pataki that New York will continue to choose to provide a free public education to illegal immigrant children.

But what is really at issue here is who should decide whether a State educates illegal aliens within its State borders, the States, or the Federal Government. The public education of illegal immigrants is a tremendous unfunded mandate on the States. Public education has traditionally been within the purview of the States. States should have the power to decide what is best for their State educational systems, rather than have the Federal Government determine this for them.

In an area where the existence of the 10th amendment to our Constitution is being rediscovered, it is about time we trust our State legislatures and Governors and allow them to do their jobs. State capitals are closer than Washington, DC, to the problems that exist within their respective States, and I would suggest that they are in a better position to find the solutions.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong opposition to H.R. 4134. This bill would allow States to deny public education to children whose only crime is that their parents came to this country illegally.

Mr. Speaker, there is a reason that this terrible provision was left out of the conference report on H.R. 2202, in fact there are several. Barring children from public schools will pose a serious burden on the community and create safety hazards. Many of these children will be left with nothing to do during the school hours, posing a danger to themselves and others. It will be more difficult for parents to keep their children safe and out of mischief. Are we suggesting that organized gang activity is better than organized public education?

This bill will create added burdens for schools. Teachers and educators are nearly unanimous in opposition to changing their mission from education to border enforcement. The Federal Government should not force its responsibility to enforce immigration laws onto our already overburdened schools.

In addition, excluding children from public schools will be costly in the long run. Keeping children out of our schools will not magically transport them elsewhere. This bill threatens to create a class of persons within our communities who have grown up in this country permanently hobbled by lack of formal education. Moreover, denial of elementary education is likely to scar a child's ability to perform the most basic public responsibilities and to contribute fully to society at large. It is for this reason that, in the United States, education is compulsory, and it is a crime for a parent or guardian to keep his or her children out of school. For the same reason, elementary education has been officially recognized as a fundamental human right, explicitly affirmed in the United Nations Universal Declaration of Human Rights, of which the United States is a signatory.

Finally, the most logical reason of all to vote against this bill is that it will not impact illegal immigration. Kicking little children out of school is not one of them. This measure does nothing to cure illegal immigration. If some States have a greater need for assistance than others, then the Federal Government can provide monetary assistance. Don't stand at the schoolhouse door to stop children from being educated.

I urge all my colleagues to avoid making scapegoats of innocent children under the guise of immigration reform—vote against H.R. 4134.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today to oppose H.R. 4134 on behalf of a generation of children who will be left to twist in the wind because they have been denied an elementary education.

I agree that measures should be taken to discourage and prevent undocumented individuals from entering our country. I will not support, however, any meanspirited, punitive attempts to secure our borders that will devastate numbers of children because of the sins of their parents.

Are we as a body going to reduce ourselves to mistreating little children because we are angry that their parents have not complied with our laws? The obvious recourse would be to punish their parents or proactively prevent them from immigrating here unlawfully. What good will it do to ban their children from attending public school? In the long run, it is the children of American citizens that will also be punished, because they will be forced to deal with the tragedy of a population of uneducated immigrants.

It sickens me to think of the discrimination that will inevitably result as parents will be forced to prove that there children are indeed legal. Unfortunately, those children who look foreign will be forced to prove that they are, in fact, Americans. Be assured that the children whose ancestors are Irish, or British or Dutch or French won't be asked to prove their legality—they can easily pass as American.

Since the Civil Rights Act of 1964 was implemented, we have made enormous strides in our quest for an egalitarian society. This bill will only take us back to a dark period in our Nation—one in which those who looked different from the majority were treated as second-class citizens.

What good will it do us to leave a generation of children—most of whom were born here and are American citizens—uneducated, unskilled, and downright hopeless? In an era when we are intent on reducing crime, cutting

Government spending and helping American families strive for a better living standard, relegating thousands of children to a lifetime of virtual poverty as a consequence of their lack of education is morally reprehensible, politically irresponsible and fiscally imprudent.

Need I remind my colleagues of the numbers of organizations, including every major law enforcement organization in the United States are opposed to this measure. They recognize that putting thousands of kids on the streets will not decrease illegal immigration but only promote crime, gangs and drugs and place enormous strains on the cities and countries that will be forced to deal with these problems.

I ask my colleagues, Will you feed, clothe, house and offer work to this generation of uneducated adults? Certainly my colleagues on the other side of the aisle have not fully ingested the ramifications of this potentially devastating legislation. I urge my colleagues to vote against H.R. 4134.

Mr. CONYERS. Mr. Speaker, I rise in opposition to this legislation granting States the option to deny public education to undocumented alien children. This provision is strongly opposed by the Fraternal Order of Police and the vast majority of law enforcement organizations because it will kick children out onto the streets, where they are likely to become victims of—or parties to—crime.

As a matter of fact this bill represents yet another in a long series of Republican proposals which are weak on crime—from trying to repeal the assault weapons ban, to trying to repeal 100,000 cops on the beat, failing to ban cop-killer bullets, opposing extending the Brady bill to apply to domestic violence, and failing to get tough on terrorists by placing taggants in explosive materials or giving law enforcement the investigative tools they need.

The Republicans have a miserable record on crime, and this bill would only make it worse by making our street more dangerous.

It's an insult to this body that we are voting on this measure. If the House approves it, it will likely die in the Senate. Even if it doesn't, it faces certain Presidential veto.

The only reason we are considering the bill is pure politics. Republicans are trying to inject this divisive issue into the Presidential election. Well in the closing days of this Congress we have far better things to do than spend our time on partisan political issues which are going nowhere.

No matter how the Republicans try to repackage it, the bill will have the same dangerous consequences as the original proposal. This bill remains a mean-spirited attempt to punish children for the actions of their parents. Any money the States save from denying education benefits will be spent on the increased costs of crime.

In addition to being bad policy, the bill is unconstitutional. When Texas and California adopted similar provisions they were held to be unconstitutional denials of equal protection. If we enact the same policy at the Federal level it's still going to be unconstitutional.

This bill is tough on innocent children, and is just as bad as the provision we dropped from the conference which was opposed by Democrats and Republicans alike. I urge the Members to vote no.

Mr. CLAY. Mr. Speaker, I oppose H.R. 4134 as an outrageous attempt to punish children for the illegal conduct of their parents. The sentence to be meted on these innocent children is ignorance, imposed by the States with the express explicit encouragement of the Federal Government. H.R. 4134 is below the dignity of this Nation and should be rejected.

One of the sad legacies of this Congress will be the contemptuous disregard of the Republican majority for legislative integrity in this institution. Once again, with this bill, the Republican majority rushed legislation to the floor without careful consideration.

As ranking Democrat on the Committee on Economic and Educational Opportunities, I would have appreciated an opportunity to have that committee analyze the enormous impact of this bill on local, State, and Federal education policy. I am very disappointed that the Republican leadership of the Opportunities Committee failed to assert its clear jurisdiction over this bill.

Grave questions haunt this bill. And because no hearing or markup was held on this legislation, major concerns have been left unresolved. For instance, how will public school administrators and teachers carry out the enormous mandate this bill will generate? Is it fair, moral, or even practical to expect teachers to identify and expel from the classroom children who are not lawfully present in the United States? What effect will the bill have on administration, planning, and classroom decorum and order? And perhaps of greatest concern to me is this question: What emotional harm will children suffer as they try to learn in an environment fraught with suspicion, discrimination, and finger-pointing?

Without sufficient consideration of these and many other questions, both the process and substance relevant to H.R. 4134 are deeply flawed. I urge its defeat.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today to oppose H.R. 4134 on behalf of a generation of children who will be left to twist in the wind because they have been denied an elementary education.

I agree that measures should be taken to discourage and prevent undocumented individuals from entering our country. I will not support, however, any mean spirited, punitive attempts to secure our borders that will devastate numbers of children because of the sins of their parents.

Are we, as a body, going to reduce ourselves to mistreating little children because we are angry that their parents have not complied with our laws? The obvious recourse would be to punish their parents or proactively prevent them from immigrating here unlawfully. What good will it do to ban their children from attending public school? In the long run, it is the children of American citizens that will also be punished, because they will be forced to deal with the tragedy of a population of uneducated immigrants.

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What good will it do us to leave a generation of children—most of whom were born here and are American citizens—uneducated, unskilled, and downright hopeless? In an era when we are intent on reducing crime, cutting Government spending, and helping American families strive for a better living standard, relegating thousands of children to a lifetime of virtual poverty as a consequence of their lack of education is morally reprehensible, politically irresponsible, and fiscally imprudent.

Need I remind my colleagues of the numbers of organizations, including every major law enforcement organization in the United States are opposed to this measure. They recognize that putting thousands of kids on the streets will not decrease illegal immigration but only promote crime, gangs and drugs, and place enormous strains on the cities and counties that will be forced to deal with these problems.

I ask my colleagues, will you feed, clothe, house, and offer work to this generation of uneducated adults?

Certainly my colleagues on the other side of the aisle have not fully ingested the ramification of this potentially devastating legislation. I urge my colleagues to vote against H.R. 4134.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong opposition to H.R. 4134.

It is indeed a sad day in the long history of our country when Members of this esteemed body must come to this Chamber to plead that the right to an education given to all children in this country by our Constitution should not be violated.

There is no question that we all want to protect our borders. The fact is, however, that H.R. 4134 will do nothing to stem the flow of illegal immigration or lessen the burden on our schools. It will, instead, significantly reduce the quality of life for all Americans. The bill will substantially increase costs to school districts and State and local governments by requiring them to use scarce resources to act as INS agents to document the legal status of all students.

And, there is no doubt that foreign appearing and speaking children will be discriminated against. This bill will only serve to create a climate of fear and distrust in which the children of U.S. citizens may also be harassed, or prevented from enrolling in school if they are unable to provide the necessary documents.

H.R. 4134 is not a viable alternative to sensible immigration control policies. All this bill will accomplish is to put thousands of children on the streets and either tempt them to turn to crime or make them vulnerable to the influence of gangs.

That very real danger is precisely why numerous law enforcement officials, school teachers and administrators, and police associations are opposed to H.R. 4134.

Mr. Speaker, we must not crush the future of thousands of children whose only crime is their desire to go to school and to earn an education, as is their right under the U.S. Constitution.

I urge my colleagues to take a stand in preserving this important constitutional right by defeating H.R. 4134.

The SPEAKER pro tempore. Pursuant to House Resolution 530, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the "ayes" appeared to have it.

Mr. GALLEGLY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 254, nays 175, not voting 5, as follows:

[Roll No. 433]

YEAS—254

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—175

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Beilenson
Bentsen
Berman
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Campbell
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cummings
de la Garza
DeFazio
DeLauro
Dellums
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
English
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Green (TX)
Greene (UT)
Gunderson
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E.B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Leach
Levin
Lewis (GA)
Lincoln
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Pomeroy
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Souder
Spratt
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
Weller
White
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—5

Gibbons
Heineman
Peterson (FL)
Peterson (MN)
Wilson

☐ 1743

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1745

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. LINDER. Mr. Speaker, Pursuant to clause 2, rule IX, I hereby give notice of my intention to offer a question of the privileges of the House.

Mr. Speaker, the resolution says:

Whereas, a complaint filed against Representative Gephardt alleges House Rules have been violated by Representative Gephardt's concealment of profits gained through a complex series of real estate tax exchanges and;

Whereas, the complaint also alleges possible violations of banking disclosure and campaign finance laws or regulations and;

Whereas, the Committee on Standards of Official Conduct has in other complex matters involving complaints hired outside counsel with expertise in tax laws and regulations and;

Whereas, the Committee on Standards of Official Conduct is responsible for determining whether Representative Gephardt's financial transactions violated standards of conduct or specific rules of the House of Representatives and;

Whereas, the complaint against Representative Gephardt has been pending before the committee for more than seven months.

Whereas, on Friday, September 20, 1996 the ranking Democrat of the Ethics Committee, Representative James McDermott in a public statement suggested that cases pending before the committee in excess of 60 days be referred to an outside counsel; now be it

Resolved that the committee on Standards of Official Conduct is authorized and directed to hire a special counsel to assist in the investigation of the charges filed against the Democrat Leader Representative Richard Gephardt.

Resolved that all relevant materials presented to, or developed by, the committee to date on the complaint be submitted to a special counsel, for review and recommendation to determine whether the committee should proceed to a preliminary inquiry.

The SPEAKER pro tempore (Mr. HANSEN). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative schedule within 2 legislative days. The Chair will announce that designation at a later time.

A determination as to whether the resolution constitutes a question of privilege will be made at that later time.

ANNOUNCEMENT OF ADDITIONAL BILL TO BE CONSIDERED UNDER SUSPENSION OF THE RULES ON TODAY

Mr. NETHERCUTT. Mr. Speaker, pursuant to House Resolution 525, I announce the following suspension to be considered today: H.R. 4167, the Professional Boxing Safety Act.

REMOVAL OF NAMES OF MEMBERS AS COSPONSORS OF H.R. 3559

Mr. NETHERCUTT. Mr. Speaker, I ask unanimous consent to delete the following Members as cosponsors of H.R. 3559: Messrs. TRAFICANT, EHLERS, McINTOSH, Ms. DUNN of Washington, Mrs. CHENOWETH, and Mr. McHUGH.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT ON H.R. 2977, ADMINISTRATIVE DISPUTE RESOLUTION ACT OF 1996

Mr. FLANAGAN (during consideration of H.R. 3852) submitted the following conference report and statement on the bill (H.R. 2977) to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–841)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2977), to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Dispute Resolution Act of 1996".

SEC. 2. AMENDMENT TO DEFINITIONS.

Section 571 of title 5, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking ", in lieu of an adjudication as defined in section 551(7) of this title,";

(B) by striking "settlement negotiations,"; and

(C) by striking "and arbitration" and inserting "arbitration, and use of ombuds"; and

(2) in paragraph (8)—

(A) in subparagraph (B) by striking "decision," and inserting "decision;"; and

(B) by striking the matter following subparagraph (B).

SEC. 3. AMENDMENTS TO CONFIDENTIALITY PROVISIONS.

(a) LIMITATION OF CONFIDENTIALITY APPLICATION TO COMMUNICATION.—Subsections (a) and (b) of section 574 of title 5, United States Code, are each amended in the matter before paragraph (1) by striking "any information concerning".

(b) DISPUTE RESOLUTION COMMUNICATION.—Section 574(b)(7) of title 5, United States Code, is amended to read as follows:

"(7) except for dispute resolution communications generated by the neutral, the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding.".

(c) ALTERNATIVE CONFIDENTIALITY PROCEDURES.—Section 574(d) of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) To qualify for the exemption established under subsection (j), an alternative confidential procedure under this subsection may not provide for less disclosure than the confidential procedures otherwise provided under this section.".

(d) EXEMPTION FROM DISCLOSURE BY STATUTE.—Section 574 of title 5, United States Code, is amended by amending subsection (j) to read as follows:

"(j) A dispute resolution communication which is between a neutral and a party and which may not be disclosed under this section shall also be exempt from disclosure under section 552(b)(3).".

SEC. 4. AMENDMENT TO REFLECT THE CLOSURE OF THE ADMINISTRATIVE CONFERENCE.

(a) PROMOTION OF ADMINISTRATIVE DISPUTE RESOLUTIONS.—Section 3(a)(1) of the Administrative Dispute Resolution Act (5 U.S.C. 571 note; Public Law 101–552; 104 Stat. 2736) is amended to read as follows:

"(1) consult with the agency designated by, or the interagency committee designated or established by, the President under section 573 of title 5, United States Code, to facilitate and encourage agency use of alternative dispute resolution under subchapter IV of chapter 5 of such title; and".

(b) COMPILATION OF INFORMATION.—

(1) IN GENERAL.—Section 582 of title 5, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by striking the item relating to section 582.

(c) FEDERAL MEDIATION AND CONCILIATION SERVICE.—Section 203(f) of the Labor Management Relations Act, 1947 (29 U.S.C. 173(f)) is amended by striking "the Administrative Conference of the United States and other agencies" and inserting "the agency designated by, or the interagency committee designated or established by, the President under section 573 of title 5, United States Code,".

SEC. 5. AMENDMENTS TO SUPPORT SERVICES PROVISION.

Section 583 of title 5, United States Code, is amended by inserting "State, local, and tribal governments," after "other Federal agencies,".

SEC. 6. AMENDMENTS TO THE CONTRACT DISPUTES ACT.

Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended—

(1) in subsection (d) by striking the second sentence and inserting: "The contractor shall certify the claim when required to do so as provided under subsection (c)(1) or as otherwise required by law."; and

(2) in subsection (e) by striking the first sentence.

SEC. 7. AMENDMENTS ON ACQUIRING NEUTRALS.

(a) EXPEDITED HIRING OF NEUTRALS.—

(1) COMPETITIVE REQUIREMENTS IN DEFENSE AGENCY CONTRACTS.—Section 2304(c)(3)(C) of title 10, United States Code, is amended by striking "agency, or" and inserting "agency, or to procure the services of an expert or neutral for use".

(2) COMPETITIVE REQUIREMENTS IN FEDERAL CONTRACTS.—Section 303(c)(3)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(3)(C)), is amended by striking "agency, or" and inserting "agency, or to procure the services of an expert or neutral for use".

(b) REFERENCES TO THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES.—Section 573 of title 5, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

"(c) The President shall designate an agency or designate or establish an interagency committee to facilitate and encourage agency use of dispute resolution under this subchapter. Such agency or interagency committee, in consultation with other appropriate Federal agencies and professional organizations experienced in matters concerning dispute resolution, shall—

"(1) encourage and facilitate agency use of alternative means of dispute resolution; and

"(2) develop procedures that permit agencies to obtain the services of neutrals on an expedited basis."; and

(2) in subsection (e) by striking "on a roster established under subsection (c)(2) or a roster maintained by other public or private organizations, or individual".

SEC. 8. ARBITRATION AWARDS AND JUDICIAL REVIEW.

(a) ARBITRATION AWARDS.—Section 580 of title 5, United States Code, is amended—

(1) by striking subsections (c), (f), and (g); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) JUDICIAL AWARDS.—Section 581(d) of title 5, United States Code, is amended—

(1) by striking "(1)" after "(b)"; and

(2) by striking paragraph (2).

(c) AUTHORIZATION OF ARBITRATION.—Section 575 of title 5, United States Code, is amended—

(1) in subsection (a)(2), by striking "Any" and inserting "The";

(2) in subsection (a)(2), by adding at the end the following: "Each such arbitration agreement shall specify a maximum award that may be issued by the arbitrator and may specify other conditions limiting the range of possible outcomes.";

(3) in subsection (b)—

(A) by striking "may offer to use arbitration for the resolution of issues in controversy, if" and inserting "shall not offer to use arbitration for the resolution of issues in controversy unless"; and

(B) by striking in paragraph (1) "has authority" and inserting "would otherwise have authority"; and

(4) by adding at the end the following:

"(c) Prior to using binding arbitration under this subchapter, the head of an agency, in consultation with the Attorney General and after taking into account the factors in section 572(b), shall issue guidance on the appropriate use of binding arbitration and when an officer or employee of the agency has authority to settle an issue in controversy through binding arbitration.".

SEC. 9. PERMANENT AUTHORIZATION OF THE ALTERNATIVE DISPUTE RESOLUTION PROVISIONS OF TITLE 5, UNITED STATES CODE.

The Administrative Dispute Resolution Act (Public Law 101–552; 104 Stat. 2747; 5 U.S.C. 571 note) is amended by striking section 11.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subchapter IV of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§584. Authorization of appropriations

"There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of

title 5, United States Code, is amended by inserting after the item relating to section 583 the following:

"584. Authorization of appropriations.".

SEC. 11. REAUTHORIZATION OF NEGOTIATED RULEMAKING ACT OF 1990.

(a) PERMANENT REAUTHORIZATION.—Section 5 of the Negotiated Rulemaking Act of 1990 (Public Law 101–648; 5 U.S.C. 561 note) is repealed.

(b) CLOSURE OF ADMINISTRATIVE CONFERENCE.—

(1) IN GENERAL.—Section 569 of title 5, United States Code, is amended—

(A) by amending the section heading to read as follows:

***"§569. Encouraging negotiated rulemaking"**; and*

(B) by striking subsections (a) through (g) and inserting the following:

"(a) The President shall designate an agency or designate or establish an interagency committee to facilitate and encourage agency use of negotiated rulemaking. An agency that is considering, planning, or conducting a negotiated rulemaking may consult with such agency or committee for information and assistance.

"(b) To carry out the purposes of this subchapter, an agency planning or conducting a negotiated rulemaking may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal if that agency's acceptance and use of such gifts, devises, or bequests do not create a conflict of interest. Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the head of such agency. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by striking the item relating to section 569 and inserting the following:

"569. Encouraging negotiated rulemaking.".

(c) EXPEDITED HIRING OF CONVENORS AND FACILITATORS.—

(1) DEFENSE AGENCY CONTRACTS.—Section 2304(c)(3)(C) of title 10, United States Code, is amended by inserting "or negotiated rulemaking" after "alternative dispute resolution".

(2) FEDERAL CONTRACTS.—Section 303(c)(3)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(3)(C)), is amended by inserting "or negotiated rulemaking" after "alternative dispute resolution".

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subchapter III of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§570a. Authorization of appropriations

"There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 570 the following:

"570a. Authorization of appropriations.".

(e) NEGOTIATED RULEMAKING COMMITTEES.—The Director of the Office of Management and Budget shall—

(1) within 180 days of the date of the enactment of this Act, take appropriate action to expedite the establishment of negotiated rulemaking committees and committees established to resolve disputes under the Administrative Dispute Resolution Act, including, with respect to negotiated rulemaking committees, eliminating any redundant administrative requirements related to filing a committee charter under section 9 of the Federal Advisory Committee Act (5 U.S.C. App.) and providing public notice of such committee under section 564 of title 5, United States Code; and

(2) within one year of the date of the enactment of this Act, submit recommendations to Congress for any necessary legislative changes.

SEC. 12. JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS: PROCUREMENT PROTESTS.

(a) PROCUREMENT PROTESTS.—

(1) TERMINATION OF JURISDICTION OF DISTRICT COURTS.—Section 1491 of title 28, United States Code, is amended—

(A) by redesignating subsection (b) as subsection (d) and by striking "(d)" and inserting "(d) EXCLUSIVE JURISDICTION OF OTHER TRIBUNALS.—";

(B) in subsection (a)—

(i) by striking "(a)(1)" and inserting "(a) CLAIMS AGAINST THE UNITED STATES.—";

(ii) in paragraph (2), by striking "(2) To" and inserting "(b) REMEDY AND RELIEF.—To"; and

(iii) by striking paragraph (3); and

(C) by inserting after subsection (b), as designated by paragraph (1)(B)(ii), the following new subsection (c):

"(c) PROCUREMENT PROTESTS.—(1) The United States Court of Federal Claims has exclusive jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for procurements or proposals for a proposed contract or to a proposed award or the award of a contract. The court has jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

"(2) To afford relief in such an action, the court may award any relief that the court considers proper, including declaratory and injunctive relief.

"(3) In exercising jurisdiction under this subsection, the court shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

"(4) In any action under this subsection, the court shall review the agency's decision pursuant to the standards set forth in section 706 of title 5, United States Code.".

(2) CLERICAL AMENDMENTS.—

*(A) SECTION HEADING.—The heading of such section is amended by inserting "**procurement protests;**" after "**generally;**".*

(B) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 91 of title 28, United States Code, is amended by striking the item relating to section 1491 and inserting the following:

"1491. Claims against United States generally; procurement protests; actions involving Tennessee Valley Authority.".

(b) NONEXCLUSIVITY OF GAO REMEDIES.—Section 3556 of title 31, United States Code, is amended by striking "a district court of the United States or" in the first sentence.

(c) SAVINGS PROVISIONS.—

(1) ORDERS.—The amendments made by this section shall not terminate the effectiveness of orders that have been issued by a court in connection with an action within the jurisdiction of that court on the day before the effective date of this section. Such orders shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

(2) PROCEEDINGS AND APPLICATIONS.—(A) The amendments made by this section shall not affect the jurisdiction of a court of the United States to continue with any proceeding that is pending before the court on the day before the effective date of this section.

(B) Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if this section had not been enacted. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

(C) Nothing in this paragraph prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on December 31, 1996.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the bill.

HENRY HYDE,
GEORGE W. GEKAS,
MICHAEL PATRICK FLANAGAN,
JOHN CONYERS, JR.,
JACK REED,
Managers on the Part of the House.

TED STEVENS,
BILL COHEN,
CHUCK GRASSLEY,
JOHN GLENN,
CARL LEVIN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2977) to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The conferees incorporate by reference in this Statement of Managers the legislative history reflected in both House Report 104–597 and Senate Report 104–245. To the extent not otherwise inconsistent with the conference agreement, those reports give expression to the intent of the conferees.

Section 3—House recedes to Senate amendment with modifications. This section clarifies that, under 5 U.S.C. section 574, a dispute resolution communication between a party and a neutral or a neutral and a party that meets the requirements for confidentiality in section 574 is also exempt from disclosure under FOIA. In addition, a dispute resolution communication originating from a neutral and provided to all of the parties, such as Early Neutral Evaluation, is protected from discovery under 574(b)(7) and from disclosure under FOIA. A dispute resolution communication originating from a party to a party or parties is not protected from disclosure by the ADR Act.

The Managers recognize that the intent of the Conference Agreement not to exempt from disclosure under FOIA a dispute resolution communication given by one party to another party could be easily thwarted if a neutral in receipt of a dispute resolution communication agrees with a party to in turn pass the communication on to another party. It is the intent of the Managers that if the neutral attempts to circumvent the prohibitions of the ADR Act in this manner, the exemption from FOIA would not apply.

As with all other FOIA exemptions, the exemption created by section 574(j) is to be construed narrowly. The Managers would not expect the parties to use the new exemption as a mere sham to exempt information from FOIA. Thus, for example, we would not expect litigants to resort to ADR principally as a means of taking advantage of the new exemption. In such a case the new exemption would not apply.

Section 7—Senate recedes to House with a modification. This section requires the President to designate an agency or to designate or establish an interagency committee to facilitate and encourage the use of alternative dispute resolution. The Managers encourage the President to designate the same entity under this provision as is designated under section 11 (regarding Negotiated Rulemaking). This would promote the coordination of policies, enhance institutional memory on the relevant issues, and make more efficient the use of ADR and Negotiated Rulemaking.

Section 8—House recedes to Senate amendment with modifications. This section permits the use of binding arbitration under certain conditions, and clarifies that an agency cannot exceed its otherwise applicable settlement authority in alternative dispute resolution proceedings.

The head of an agency that is a party to an arbitration proceeding will no longer have the authority to terminate the proceeding or vacate any award under 5 U.S.C. section 580. However, it is the Managers' intent that an arbitrator shall not grant an award that is inconsistent with law. In addition, prior to the use of binding arbitration, the head of each agency, in consultation with the Attorney General, must issue guidelines on the use and limitations of binding arbitration.

Section 11—House recedes to Senate amendment with modifications. This section permanently reauthorizes the Negotiated Rulemaking Act of 1990. The President is required to designate an agency or interagency committee to facilitate and encourage the use of negotiated rulemaking.

In addition, this section requires the Director of the Office of Management and Budget to take action to expedite the establishment of negotiated rulemaking committees and committees to resolve disputes under the Administrative Dispute Resolution Act. It is the understanding of the Managers that the Federal Advisory Committee Act (FACA) applies to proceedings under the Negotiated Rulemaking Act, but does not apply to proceedings under the Administrative Dispute Resolution Act. The Director also is required to submit recommendations to Congress for any necessary legislative changes within one year after enactment.

The Managers deleted language in paragraph (b)(1)(B) determining that property accepted under this section shall be considered a gift to the United States for federal tax purposes because the Managers determined that the language merely repeated current law.

Secton 12—House recedes to Senate amendment with modifications. This section consolidates federal court jurisdiction for procurement protest cases in the Court of Federal Claims. Previously, in addition to the jurisdiction exercised by the Court of Federal Claims, certain procurement protest cases were subject to review in the federal district courts. The grant of exclusive federal court jurisdiction to the Court of Federal Claims does not affect in any way the authority of the Comptroller General to review procurement protests pursuant to Chapter 35 of Title 31, U.S. Code.

This section also applies the Administrative Procedure Act standard of review previously applied by the district courts (5 U.S.C. sec. 706) to all procurement protest cases in the Court of Federal Claims. It is the intention of the Managers to give the Court of Federal Claims exclusive jurisdiction over the full range of procurement protest cases previously subject to review in the federal district courts and the Court of Federal Claims. This section is not intended to affect the jurisdiction or standards applied by the Court of Federal Claims in any other area of the law.

HENRY HYDE,
GEORGE W. GEKAS,
MICHAEL PATRICK
FLANAGAN,
JOHN CONYERS, JR.,
JACK REED,
Managers on the Part of the House.

TED STEVENS,
BILL COHEN,
CHUCK GRASSLEY,
JOHN GLENN,
CARL LEE,
Managers on the Part of the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken tomorrow.

COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1996

Mr. McCOLLUM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3852) to prevent the illegal manufacturing and use of methamphetamine, as amended.

The Clerk read as follows:

H.R. 3852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Methamphetamine Control Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—IMPORTATION OF METHAMPHETAMINE AND PRECURSOR CHEMICALS

Sec. 101. Support for international efforts to control drugs.
Sec. 102. Penalties for manufacture of listed chemicals outside the United States with intent to import them into the United States.

TITLE II—PROVISIONS TO CONTROL THE MANUFACTURE OF METHAMPHETAMINE

Sec. 201. Seizure and forfeiture of regulated chemicals.
Sec. 202. Study and report on measures to prevent sales of agents used in methamphetamine production.
Sec. 203. Increased penalties for manufacture and possession of equipment used to make controlled substances.
Sec. 204. Addition of iodine and hydrochloric gas to list II.
Sec. 205. Civil penalties for firms that supply precursor chemicals.
Sec. 206. Injunctive relief.
Sec. 207. Restitution for cleanup of clandestine laboratory sites.
Sec. 208. Record retention.
Sec. 209. Technical amendments.
Sec. 210. Withdrawal of regulations.

TITLE III—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

Sec. 301. Trafficking in methamphetamine penalty increases.
Sec. 302. Penalty increases for trafficking in listed chemicals.
Sec. 303. Enhanced penalty for dangerous handling of controlled substances: amendment of sentencing guidelines.

TITLE IV—LEGAL MANUFACTURE, DISTRIBUTION, AND SALE OF PRECURSOR CHEMICALS

Sec. 401. Diversion of certain precursor chemicals.
Sec. 402. Mail order restrictions.

TITLE V—EDUCATION AND RESEARCH

Sec. 501. Interagency methamphetamine task force.
Sec. 502. Public health monitoring.
Sec. 503. Public-private education program.
Sec. 504. Suspicious orders task force.

TITLE I—IMPORTATION OF METHAMPHETAMINE AND PRECURSOR CHEMICALS

SEC. 101. SUPPORT FOR INTERNATIONAL EFFORTS TO CONTROL DRUGS.

The Attorney General, in consultation with the Secretary of State, shall coordinate international drug enforcement efforts to decrease the movement of methamphetamine and methamphetamine precursors into the United States.

SEC. 102. PENALTIES FOR MANUFACTURE OF LISTED CHEMICALS OUTSIDE THE UNITED STATES WITH INTENT TO IMPORT THEM INTO THE UNITED STATES.

(a) UNLAWFUL IMPORTATION.—Section 1009(a) of the Controlled Substances Import and Export Act (21 U.S.C. 959(a)) is amended—

(1) in the matter before paragraph (1), by inserting "or listed chemical" after "schedule I or II"; and

(2) in paragraphs (1) and (2), by inserting "or chemical" after "substance".

(b) UNLAWFUL MANUFACTURE OR DISTRIBUTION.—Paragraphs (1) and (2) of section 1009(b) of the Controlled Substances Import and Export Act (21 U.S.C. 959(b)) are amended by inserting "or listed chemical" after "controlled substance".

(c) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by striking the comma at the end and inserting "; or"; and

(3) by adding at the end the following:

"(7) manufactures, possesses with intent to distribute, or distributes a listed chemical in violation of section 959 of this title.".

TITLE II—PROVISIONS TO CONTROL THE MANUFACTURE OF METHAMPHETAMINE

SEC. 201. SEIZURE AND FORFEITURE OF REGULATED CHEMICALS.

(a) PENALTIES FOR SIMPLE POSSESSION.—Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended—

(1) in subsection (a)—

(A) by adding after the first sentence the following: "It shall be unlawful for any person knowingly or intentionally to possess any list I chemical obtained pursuant to or under authority of a registration issued to that person under section 303 of this title or section 1008 of title III if that registration has been revoked or suspended, if that registration has expired, or if the registrant has ceased to do business in the manner contemplated by his registration."; and

(B) by striking "drug or narcotic" and inserting "drug, narcotic, or chemical" each place it appears; and

(2) in subsection (c), by striking "drug or narcotic" and inserting "drug, narcotic, or chemical".

(b) FORFEITURES.—Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(1) in paragraphs (2) and (6), by inserting "or listed chemical" after "controlled substance" each place it appears; and

(2) in paragraph (9), by—

(A) inserting "dispensed, acquired," after "distributed," both places it appears; and

(B) striking "a felony provision of".

(c) SEIZURE.—Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended—

(1) in subsection (a)(3), by inserting "or listed chemical" after "controlled substance"; and

(2) by amending subsection (b) to read as follows:

"(b) As used in this section, the terms 'controlled substance' and 'listed chemical' have the meaning given such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

SEC. 202. STUDY AND REPORT ON MEASURES TO PREVENT SALES OF AGENTS USED IN METHAMPHETAMINE PRODUCTION.

(a) STUDY.—The Attorney General of the United States shall conduct a study on possible measures to effectively prevent the diversion of red phosphorous, iodine, hydrochloric gas, and other agents for use in the production of methamphetamine. Nothing in this section shall preclude the Attorney General from taking any action the Attorney General already is authorized to take with regard to the regulation of listed chemicals under current law.

(b) REPORT.—Not later than January 1, 1998, the Attorney General shall submit a report to the Congress of its findings pursuant to the study conducted under subsection (a) on the need for and advisability of preventive measures.

(c) CONSIDERATIONS.—In developing recommendations under subsection (b), the Attorney General shall consider—

(1) the use of red phosphorous, iodine, hydrochloric gas, and other agents in the illegal manufacture of methamphetamine;

(2) the use of red phosphorous, iodine, hydrochloric gas, and other agents for legal purposes, and the impact any regulations may have on these purposes; and

(3) comments and recommendations from law enforcement, manufacturers of such chemicals, and the consumers of such chemicals for legal purposes.

SEC. 203. INCREASED PENALTIES FOR MANUFACTURE AND POSSESSION OF EQUIPMENT USED TO MAKE CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Section 403(d) of the Controlled Substances Act (21 U.S.C. 843(d)) is amended—

(1) by striking "(d) Any person" and inserting "(d)(1) Except as provided in paragraph (2), any person"; and

(2) by adding at the end the following:

"(2) Any person who violates paragraph (6) or (7) of subsection (a), if the controlled substance is methamphetamine, shall be sentenced to a term of imprisonment of not more than 10 years, a fine under title 18, United States Code, or both; except that if any person commits such a violation after one or more prior convictions of that person—

"(A) for a violation of paragraph (6) or (7) of subsection (a);

"(B) for a felony under any other provision of this subchapter or subchapter II of this chapter; or

"(C) under any other law of the United States or any State relating to controlled substances or listed chemicals,

has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine under title 18, United States Code, or both.".

(b) SENTENCING COMMISSION.—The United States Sentencing Commission shall amend the sentencing guidelines to ensure that the manufacture of methamphetamine in violation of section 403(d)(2) of the Controlled Substances Act, as added by subsection (a), is adequately punished.

(c) TECHNICAL AMENDMENT.—Section 403(d) of the Controlled Substances Act (21 U.S.C. 843(d)) is amended—

(1) by striking "of not more than $30,000" and inserting "under title 18, United States Code"; and

(2) by striking "of not more than $60,000" and inserting "under title 18, United States Code".

SEC. 204. ADDITION OF IODINE AND HYDROCHLORIC GAS TO LIST II.

(a) IN GENERAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended by adding the end the following:

"(I) Iodine.

"(J) Hydrochloric gas.".

(b) IMPORTATION AND EXPORTATION REQUIREMENTS.—(1) Iodine shall not be subject to the requirements for listed chemicals provided in section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971).

(2) EFFECT OF EXCEPTION.—The exception made by paragraph (1) shall not limit the authority of the Attorney General to impose the requirements for listed chemicals provided in section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971).

SEC. 205. CIVIL PENALTIES FOR FIRMS THAT SUPPLY PRECURSOR CHEMICALS.

(a) OFFENSES.—Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (9), by striking "or" after the semicolon;

(2) in paragraph (10), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(11) to distribute a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, in violation of this title or title III, with reckless disregard for the illegal uses to which such a laboratory supply will be put.

As used in paragraph (11), the term 'laboratory supply' means a listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General, which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals. For purposes of paragraph (11), there is a rebuttable presumption of reckless disregard at trial if the Attorney General notifies a firm in writing that a laboratory supply sold by the firm, or any other person or firm, has been used by a customer, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals a firm distributes and 2 weeks or more after the notification the notified firm distributes a laboratory supply to the customer.".

(b) CIVIL PENALTY.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by adding at the end the following:

"(C) In addition to the penalties set forth elsewhere in this title or title III, any business that violates paragraph (11) of subsection (a) shall, with respect to the first such violation, be subject to a civil penalty of not more than $250,000, but shall not be subject to criminal penalties under this section, and shall, for any succeeding violation, be subject to a civil fine of not more than $250,000 or double the last previously imposed penalty, whichever is greater.".

SEC. 206. INJUNCTIVE RELIEF.

(a) TEN-YEAR INJUNCTION MAJOR OFFENSES.—Section 401(f) of the Controlled Substances Act (21 U.S.C. 841(f)) is amended by—

(1) inserting "manufacture, exportation," after "distribution,"; and

(2) striking "regulated".

(b) TEN-YEAR INJUNCTION OTHER OFFENSES.—Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) in subsection (e), by—

(A) inserting "manufacture, exportation," after "distribution,"; and

(B) striking "regulated"; and

(2) by adding at the end the following:

"(f) INJUNCTIONS.—(1) In addition to any penalty provided in this section, the Attorney General is authorized to commence a civil action for appropriate declaratory or injunctive relief relating to violations of this section or section 402.

"(2) Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business.

"(3) Any order or judgment issued by the court pursuant to this subsection shall be tailored to restrain violations of this section or section 402.

"(4) The court shall proceed as soon as practicable to the hearing and determination of such an action. An action under this subsection is governed by the Federal Rules of Civil Procedure except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.".

SEC. 207. RESTITUTION FOR CLEANUP OF CLANDESTINE LABORATORY SITES.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end the following:

"(q) The court, when sentencing a defendant convicted of an offense under this title or title III involving the manufacture of methamphetamine, may—

"(1) order restitution as provided in sections 3612 and 3664 of title 18, United States Code;

"(2) order the defendant to reimburse the United States for the costs incurred by the United States for the cleanup associated with the manufacture of methamphetamine by the defendant; and

"(3) order restitution to any person injured as a result of the offense as provided in section 3663 of title 18, United States Code.".

SEC. 208. RECORD RETENTION.

Section 310(a)(1) of the Controlled Substances Act (21 U.S.C. 830(a)(1)) is amended by striking the dash after "transaction" and subparagraphs (A) and (B) and inserting "for two years after the date of the transaction.".

SEC. 209. TECHNICAL AMENDMENTS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34), by amending subparagraphs (P), (S), and (U) to read as follows:

"(P) Isosafrole.

"(S) N-Methylephedrine.

"(U) Hydriodic acid."; and

(2) in paragraph (35), by amending subparagraph (G) to read as follows:

"(G) 2-Butanone (or Methyl Ethyl Ketone).".

SEC. 210. WITHDRAWAL OF REGULATIONS.

The final rule concerning removal of exemption for certain pseudoephedrine products marketed under the Federal Food, Drug, and Cosmetic Act published in the Federal Register on August 7, 1996 (61 FR 40981–40993) is null and void and of no force or effect.

TITLE III—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

SEC. 301. TRAFFICKING IN METHAMPHETAMINE PENALTY INCREASES.

(a) CONTROLLED SUBSTANCES ACT.—

(1) LARGE AMOUNTS.—Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by—

(A) striking "100 grams or more of methamphetamine," and inserting "50 grams or more of methamphetamine,"; and

(B) striking "1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "500 grams or more of a mixture or substance containing a detectable amount of methamphetamine".

(2) SMALLER AMOUNTS.—Section 401(b)(1)(B)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)(viii)) is amended by—

(A) striking "10 grams or more of methamphetamine," and inserting "5 grams or more of methamphetamine,"; and

(B) striking "100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "50 grams or more of a mixture or substance containing a detectable amount of methamphetamine".

(b) IMPORT AND EXPORT ACT.—

(1) LARGE AMOUNTS.—Section 1010(b)(1)(H) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(H)) is amended by—

(A) striking "100 grams or more of methamphetamine," and inserting "50 grams or more of methamphetamine,"; and

(B) striking "1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "500 grams or more of a mixture or substance containing a detectable amount of methamphetamine".

(2) SMALLER AMOUNTS.—Section 1010(b)(2)(H) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)(H)) is amended by—

(A) striking "10 grams or more of methamphetamine," and inserting "5 grams or more of methamphetamine,"; and

(B) striking "100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "50 grams or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 302. PENALTY INCREASES FOR TRAFFICKING IN LISTED CHEMICALS.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by striking the period and inserting the following: "or, with respect to a violation of paragraph (1) or (2) of this subsection involving a list I chemical, if the Government proves the quantity of controlled substance that could reasonably have been manufactured in a clandestine setting using the quantity of list I chemicals possessed or distributed, the penalty corresponding to the quantity of controlled substance that could have been produced under subsection (b).".

(b) CONTROLLED SUBSTANCE IMPORT AND EXPORT ACT.—Section 1010(d) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d)) is amended by striking the period and inserting the following: ", or, with respect to an importation violation of paragraph (1) or (3) of this subsection involving a list I chemical, if the Government proves the quantity of controlled substance that could reasonably have been manufactured in a clandestine setting using the quantity of list I chemicals imported, the penalty corresponding to the quantity of controlled substance that could have been produced under title II.".

(c) DETERMINATION OF QUANTITY.—

(1) IN GENERAL.—For the purposes of this section and the amendments made by this section, the quantity of controlled substance that could reasonably have been manufactured shall be determined by using a table of manufacturing conversion ratios for list I chemicals.

(2) TABLE.—The table shall be—

(A) established by the United States Sentencing Commission based on scientific, law enforcement, and other data the Sentencing Commission deems appropriate; and

(B) dispositive of this issue.

SEC. 303. ENHANCED PENALTY FOR DANGEROUS HANDLING OF CONTROLLED SUBSTANCES: AMENDMENT OF SENTENCING GUIDELINES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall determine whether the Sentencing Guidelines adequately punish an offense described in subsection (b) and, if not, promulgate guidelines or amend existing guidelines to provide an appropriate enhancement of the punishment for a defendant convicted of that offense.

(b) OFFENSE.—The offense referred to in subsection (a) is a violation of section 401(d), 401(g)(1), 403(a)(6), or 403(a)(7) of the Controlled Substances Act (21 U.S.C. 841(d), 841(g)(1), 843(a)(6), and 843(a)(7)), if in the commission of the offense the defendant violated—

(1) subsection (d) or (e) of section 3008 of the Solid Waste Disposal Act (relating to handling hazardous waste in a manner inconsistent with Federal or applicable State law);

(2) section 103(b) of the Comprehensive Environmental Response, Compensation and Liability Act (relating to failure to notify as to the release of a reportable quantity of a hazardous substance into the environment);

(3) section 301(a), 307(d), 309(c)(2), 309(c)(3), 311(b)(3), or 311(b)(5) of the Federal Water Pollution Control Act (relating to the unlawful discharge of pollutants or hazardous substances, the operation of a source in violation of a pretreatment standard, and the failure to notify as to the release of a reportable quantity of a hazardous substance into the water); or

(4) section 5124 of title 49, United States Code (relating to violations of laws and regulations enforced by the Department of Transportation with respect to the transportation of hazardous material).

TITLE IV—LEGAL MANUFACTURE, DISTRIBUTION, AND SALE OF PRECURSOR CHEMICALS

SEC. 401. DIVERSION OF CERTAIN PRECURSOR CHEMICALS.

(a) IN GENERAL.—Section 102(39) of the Controlled Substances Act (21 U.S.C. 802(39)) is amended—

(1) in subparagraph (A)(iv)(I)(aa), by striking "as" through the semicolon and inserting ", pseudoephedrine or its salts, optical isomers, or salts of optical isomers, or phenylpropanolamine or its salts, optical isomers, or salts of optical isomers unless otherwise provided by regulation of the Attorney General issued pursuant to section 204(e) of this title;"; and

(2) in subparagraph (A)(iv)(II), by inserting ", pseudoephedrine, phenylpropanolamine," after "ephedrine".

(b) LEGITIMATE RETAILERS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (39)(A)(iv)(I)(aa), by inserting before the semicolon the following: ", except that any sale of ordinary over-the-counter pseudoephedrine, phenylpropanolamine, or combination ephedrine products by retail distributors shall not be a regulated transaction (except as provided in section 401(d) of the Comprehensive Methamphetamine Control Act of 1996)";

(2) in paragraph (39)(A)(iv)(II), by inserting before the semicolon the following: ", except that the threshold for any sale of pseudoephedrine, phenylpropanolamine, or combination ephedrine products by retail distributors or by distributors required to submit reports by section 310(b)(3) of this title shall be 24 grams of pseudoephedrine, 24 grams of phenylpropanolamine, or 24 grams of ephedrine in a single transaction";

(3) by redesignating paragraph (43) relating to felony drug offense as paragraph (44); and

(4) by adding at the end the following:

"(45) The term 'ordinary over-the-counter pseudoephedrine, phenylpropanolamine, or combination ephedrine product' means any product containing pseudoephedrine, phenylpropanolamine, or ephedrine (where the ephedrine is combined with therapeutically significant quantities of another active medicinal ingredient) that is—

"(A) regulated pursuant to this title; and

"(B)(i) except for liquids, sold in package sizes of not more than 3.0 grams of pseudoephedrine base, 3.0 grams of phenylpropanolamine base or 2.0 grams of ephedrine base, and that is packaged in blister packs, each blister containing not more than two dosage units, or where the use of blister packs is technically infeasible, that is packaged in unit dose packets or pouches; and

"(ii) for liquids, sold in package sizes of not more than 3.0 grams of pseudoephedrine base or 3.0 grams of phenylpropanolamine base.

"(46)(A) The term 'retail distributor' means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to pseudoephedrine, phenylpropanolamine, or combination ephedrine products are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

"(B) For purposes of this paragraph, sale for personal use means the sale of below-threshold quantities in a single transaction to an individual for legitimate medical use.

"(C) For purposes of this paragraph, entities are defined by reference to the Standard Industrial Classification (SIC) code, as follows:

"(i) A grocery store is an entity within SIC code 5411.

"(ii) A general merchandise store is an entity within SIC codes 5300 through 5399 and 5499.

"(iii) A drug store is an entity within SIC code 5912.

"(47) The term 'combination ephedrine product' means a drug product containing ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically significant quantities of another active medicinal ingredient.".

(c) REINSTATEMENT OF LEGAL DRUG EXEMPTION.—Section 204 of the Controlled Substances Act (21 U.S.C. 814) is amended by adding at the end the following new subsection:

"(e) REINSTATEMENT OF EXEMPTION WITH RESPECT TO EPHEDRINE, PSEUDOEPHEDRINE, AND PHENYLPROPANOLAMINE DRUG PRODUCTS.—Pursuant to subsection (d)(1), the Attorney General shall by regulation reinstate the exemption with respect to a particular ephedrine, pseudoephedrine, or phenylpropanolamine drug product if the Attorney General determines that the drug product is manufactured and distributed in a manner that prevents diversion. In making this determination the Attorney General shall consider the factors listed in subsection (d)(2). Any regulation issued pursuant to this subsection may be amended or revoked based on the factors listed in subsection (d)(4).".

(d) REGULATION OF RETAIL SALES.—

(1) PSEUDOEPHEDRINE.—

(A) LIMIT.—

(i) IN GENERAL.—Not sooner than the effective date of this section and subject to the requirements of clause (ii), the Attorney General may establish by regulation a single-transaction limit of 24 grams of pseudoephedrine base for retail distributors. Notwithstanding any other provision of law, the single-transaction threshold quantity for pseudoephedrine-containing compounds may not be lowered beyond that established in this paragraph.

(ii) CONDITIONS.—In order to establish a single-transaction limit of 24 grams of pseudoephedrine base, the Attorney General shall determine, following notice, comment, and an informal hearing that since the date of the enactment of this Act there are a significant number of instances where ordinary over-the-counter pseudoephedrine products as established in paragraph (45) of section 102 of the Controlled Substances Act (21 U.S.C. 802 (45)), as added by this Act, sold by retail distributors as established in paragraph (46) in section 102 of the Controlled Substances Act (21 U.S.C. 802(46)), are being widely used as a significant source of precursor chemicals for illegal manufacture of a controlled substance for distribution or sale.

(B) VIOLATION.—Any individual or business that violates the thresholds established in this paragraph shall, with respect to the first such violation, receive a warning letter from the Attorney General and, if a business, the business shall be required to conduct mandatory education of the sales employees of the firm with regard to the legal sales of pseudoephedrine. For a second violation occurring within 2 years of the first violation, the business or individual shall be subject to a civil penalty of not more than $5,000. For any subsequent violation occurring within 2 years of the previous violation, the business or individual shall be subject to a civil penalty not to exceed the amount of the previous civil penalty plus $5,000.

(2) PHENYLPROPANOLAMINE.—

(A) LIMIT.—

(i) IN GENERAL.—Not sooner than the effective date of this section and subject to the requirements of clause (ii), the Attorney General may establish by regulation a single-transaction limit of 24 grams of phenylpropanolamine base for retail distributors. Notwithstanding any other provision of law, the single-transaction threshold quantity for phenylpropanolamine-containing compounds may not be lowered beyond that established in this paragraph.

(ii) CONDITIONS.—In order to establish a single-transaction limit of 24 grams of phenylpropanolamine base, the Attorney General shall determine, following notice, comment, and an informal hearing, that since the date of the enactment of this Act there are a significant number of instances where ordinary over-the-counter phenylpropanolamine products as established in paragraph (45) of section 102 of the Controlled Substances Act (21 U.S.C. 802(45)), as added by this Act, sold by retail distributors as established in paragraph (46) in section 102 of the Controlled Substances Act (21 U.S.C. 802(46)), are being widely used as a significant source of precursor chemicals for illegal manufacture of a controlled substance for distribution or sale.

(B) VIOLATION.—Any individual or business that violates the thresholds established in this paragraph shall, with respect to the first such violation, receive a warning letter from the Attorney General and, if a business, the business shall be required to conduct mandatory education of the sales employees of the firm with regard to the legal sales of pseudoephedrine. For a second violation occurring within 2 years of the first violation, the business or individual shall be subject to a civil penalty of not more than $5,000. For any subsequent violation occurring within 2 years of the previous violation, the business or individual shall be subject to a civil penalty not to exceed the amount of the previous civil penalty plus $5,000.

(3) COMBINATION EPHEDRINE PRODUCTS.—

(A) LIMIT.—

(i) IN GENERAL.—Not sooner than the effective date of this section and subject to the requirements of clause (ii), the Attorney General may establish by regulation a single-transaction limit of 24 grams of ephedrine base for retail distributors of combination ephedrine products. Notwithstanding any other provision of law, the single-transaction threshold quantity for combination ephedrine products may not be lowered beyond that established in this paragraph.

(ii) CONDITIONS.—In order to establish a single-transaction limit of 24 grams of ephedrine base, the Attorney General shall determine, following notice, comment, and an informal hearing, that since the date of the enactment of this Act there are a significant number of instances where ordinary over-the-counter combination ephredrine products as established in paragraph (45) of section 102 of the Controlled Substances Act (21 U.S.C. 802(45)), as added by this Act, sold by retail distributors as established in paragraph (46) in section 102 of the Controlled Substances Act (21 U.S.C. 802(46)), are being widely used as a significant source of precursor chemicals for illegal manufacture of a controlled substance for distribution or sale.

(B) VIOLATION.—Any individual or business that violates the thresholds established in this paragraph shall, with respect to the first such violation, receive a warning letter from the Attorney General and, if a business, the business shall be required to conduct mandatory education of the sales employees of the firm with regard to the legal sales of combination ephedrine products. For a second violation occurring within 2 years of the first violation, the business or individual shall be subject to a civil penalty of not more than $5,000. For any subsequent violation occurring within 2 years of the previous violation, the business or individual shall be subject to a civil penalty not to exceed the amount of the previous civil penalty plus $5,000.

(4) SIGNIFICANT NUMBER OF INSTANCES.—(A) For purposes of this subsection, isolated or infrequent use, or use in insubstantial quantities, of ordinary over-the-counter pseudoephedrine, over-the-counter phenylpropanolamine, or over the counter combination ephedrine, and sold at the retail level, for the illicit manufacture of a controlled substance may not be used by the Attorney General as the basis for establishing the conditions for establishing a single transaction limit under this section.

(B) In making a determination under paragraph (1)(A)(ii), paragraph (2)(A)(ii), or paragraph (3)(A)(ii), the Attorney General shall consult with the Secretary of Health and Human Services in order to consider the effects on public health that would occur from the establishment of new single transaction limits under this section.

(C) After making a determination under paragraph (1)(A)(ii), paragraph (2)(A)(ii), or paragraph (3)(A)(ii), the Attorney General shall transmit a report to the Committees on the Judiciary of the House of Representatives and the Senate in which the Attorney General will provide the factual basis for establishing the new single transaction limits under this section.

(5) DEFINITION OF BUSINESS.—For purposes of this subsection, the term "business" means the entity that makes the direct sale and does not include the parent company of a business not involved in a direct sale regulated by this subsection.

(6) JUDICIAL REVIEW.—Any regulation promulgated by the Attorney General under this section shall be subject to judicial review pursuant to section 507 of the Controlled Substances Act (21 U.S.C. 877).

(e) EFFECT ON THRESHOLDS.—Nothing in the amendments made by subsection (b) or the provisions of subsection (d) shall affect the authority of the Attorney General to modify thresholds (including cumulative thresholds) for retail distributors for products other than ordinary over-the-counter pseudoephedrine, phenylpropanolamine, or combination ephedrine products (as defined in section 102(45) of the Controlled Substances Act, as added by this section) or for non-retail distributors, importers, or exporters.

(f) EFFECTIVE DATE OF THIS SECTION.—Notwithstanding any other provision of this Act, this section shall not apply to the sale of any pseudoephedrine, phenylpropanolamine, or combination ephedrine product prior to 12 months after the date of enactment of this Act.

SEC. 402. MAIL ORDER RESTRICTIONS.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended by adding at the end the following:

"(3) MAIL ORDER REPORTING.—(A) Each regulated person who engages in a transaction with a nonregulated person which—

"(i) involves ephedrine, pseudoephedrine, or phenylpropanolamine (including drug products containing these chemicals); and

"(ii) uses or attempts to use the Postal Service or any private or commercial carrier;

shall, on a monthly basis, submit a report of each such transaction conducted during the previous month to the Attorney General in such form, containing such data, and at such times as the Attorney General shall establish by regulation.

"(B) The data required for such reports shall include—

"(i) the name of the purchaser;

"(ii) the quantity and form of the ephedrine, pseudoephedrine, or phenylpropanolamine purchased; and

"(iii) the address to which such ephedrine, pseudoephedrine, or phenylpropanolamine was sent.".

TITLE V—EDUCATION AND RESEARCH

SEC. 501. INTERAGENCY METHAMPHETAMINE TASK FORCE.

(a) ESTABLISHMENT.—There is established a "Methamphetamine Interagency Task Force" (referred to as the "interagency task force") which shall consist of the following members:

(1) The Attorney General, or a designee, who shall serve as chair.

(2) 2 representatives selected by the Attorney General.

(3) The Secretary of Education or a designee.

(4) The Secretary of Health and Human Services or a designee.

(5) 2 representatives of State and local law enforcement and regulatory agencies, to be selected by the Attorney General.

(6) 2 representatives selected by the Secretary of Health and Human Services.

(7) 5 nongovernmental experts in drug abuse prevention and treatment to be selected by the Attorney General.

(b) RESPONSIBILITIES.—The interagency task force shall be responsible for designing, implementing, and evaluating the education and prevention and treatment practices and strategies of the Federal Government with respect to methamphetamine and other synthetic stimulants.

(c) MEETINGS.—The interagency task force shall meet at least once every 6 months.

(d) FUNDING.—The administrative expenses of the interagency task force shall be paid out of existing Department of Justice appropriations.

(e) FACA.—The Federal Advisory Committee Act (5 U.S.C. App. 2) shall apply to the interagency task force.

(f) TERMINATION.—The interagency task force shall terminate 4 years after the date of enactment of this Act.

SEC. 502. PUBLIC HEALTH MONITORING.

The Secretary of Health and Human Services shall develop a public health monitoring program to monitor methamphetamine abuse in the United States. The program shall include the collection and dissemination of data related to methamphetamine abuse which can be used by public health officials in policy development.

SEC. 503. PUBLIC-PRIVATE EDUCATION PROGRAM.

(a) ADVISORY PANEL.—The Attorney General shall establish an advisory panel consisting of an appropriate number of representatives from Federal, State, and local law enforcement and regulatory agencies with experience in investigating and prosecuting illegal transactions of precursor chemicals. The Attorney General shall convene the panel as often as necessary to develop and coordinate educational programs for wholesale and retail distributors of precursor chemicals and supplies.

(b) CONTINUATION OF CURRENT EFFORTS.—The Attorney General shall continue to—

(1) maintain an active program of seminars and training to educate wholesale and retail distributors of precursor chemicals and supplies regarding the identification of suspicious transactions and their responsibility to report such transactions; and

(2) provide assistance to State and local law enforcement and regulatory agencies to facilitate the establishment and maintenance of educational programs for distributors of precursor chemicals and supplies.

SEC. 504. SUSPICIOUS ORDERS TASK FORCE.

(a) IN GENERAL.—The Attorney General shall establish a "Suspicious Orders Task Force" (the "Task Force") which shall consist of—

(1) appropriate personnel from the Drug Enforcement Administration (the "DEA") and other Federal, State, and local law enforcement and regulatory agencies with the experience in investigating and prosecuting illegal transactions of listed chemicals and supplies; and

(2) representatives from the chemical and pharmaceutical industry, including representatives from the DEA/Distributor Working Committee and the DEA/Pharmacy Working Committee.

(b) RESPONSIBILITIES.—The Task Force shall be responsible for developing proposals to define suspicious orders of listed chemicals, and particularly to develop quantifiable parameters which can be used by registrants in determining if an order is a suspicious order which must be reported to DEA. The quantifiable parameters to be addressed will include frequency of orders, deviations from prior orders, and size of orders. The Task Force shall also recommend provisions as to what types of payment practices or unusual business practices shall constitute prima facie suspicious orders. In evaluating the proposals, the Task Force shall consider effectiveness, cost and feasibility for industry and Government, an other relevant factors.

(c) MEETINGS.—The Task Force shall meet at least two times per year and at such other times as may be determined necessary by the Task Force.

(d) REPORT.—The Task Force shall present a report to the Attorney General on its proposals with regard to suspicious orders and the electronic reporting of suspicious orders within one year of the date of enactment of this Act. Copies of the report shall be forwarded to the Committees of the Senate and House of Representatives having jurisdiction over the regulation of listed chemical and controlled substances.

(e) FUNDING.—The administrative expenses of the Task Force shall be paid out of existing Department of Justice funds or appropriations.

(f) FACA.—The Federal Advisory Committee Act (5 U.S.C. App. 2) shall apply to the Task Force.

(g) TERMINATION.—The Task Force shall terminate upon presentation of its report to the Attorney General, or two years after the date of enactment of this Act, whichever is sooner.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. MCCOLLUM] and the gentlewoman from California [Ms. LOFGREN] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3852.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Comprehensive Methamphetamine Control Act of 1996 represents a major, bipartisan effort to respond to the national methamphetamine crisis confronting our Nation today.

Back in October 1995, the Crime Subcommittee held a hearing on the rapidly growing problem of methamphetamine. The testimony given by Federal and State law enforcement witnesses painted a grim picture of a problem that is no longer regional, but national in scope, and devastating some communities much like cocaine did in the 1980's.

The witnesses also testified about the unique problems associated with meth. The profits involved in the meth trade are enormous; meth causes longer highs than cocaine, with many users becoming chronic abusers. Meth is processed in clandestine labs, often located in remote areas, making them difficult to detect. Mexican traffickers, now the major force in meth production and trafficking, have established clandestine labs throughout the Southwest, and have saturated the Western U.S. market with high-purity meth, leading to lower prices. The 1994 mathamphetamine-related murder of DEA agent Richard Fass is a sober reminder of the violence associated with meth trafficking. In short, methamphetamine represents a dangerous, time-consuming, and expensive investigative challenge to law enforcement.

H.R. 3852 is the most comprehensive congressional effort ever mounted to respond to the meth crisis. It was introduced by Representative HEINEMAN of the Crime Subcommittee, who cannot be with us today because he is busy making a recovery from intestinal surgery. This bill is nearly identical to S. 1965, introduced by Senate Judiciary

Chairman HATCH and a large, bipartisan group of Senators, including Senators, BIDEN, DASCHLE, and FEINSTEIN. Representatives RIGGS and FAZIO, also introduced bills almost identical to the one before us today.

On August 7, 1996, the DEA sought to respond to the problem of over-the-counter-drugs being diverted to manufacture meth when it published a final rule, to take effect on October 7, 1996. The rule would remove the exemption for certain over-the-counter pseudoephedrine and phenylpropanolamine, or PPA, products from the regulatory chemical control provisions of the Controlled Substances Act.

H.R. 3852 achieves the same objectives as the DEA rule by providing for the regulation of over-the-counter products when they are shown to be diverted to make meth. Its five titles, taken together, are a tough, smart, and balanced attack on the manufacturing and trafficking of meth.

Title I calls on the Attorney General to coordinate international drug enforcement efforts to interdict methamphetamine precursor chemicals, and imposes tough penalties on those who manufacture precursor chemicals outside the United States with the intent to import them into the United States.

Title II permits the seizure and forfeiture of certain precursor chemicals, and calls on the Attorney General to conduct a study and report to Congress on measures to prevent the diversion of agents used to produce meth. The title also increases the penalties for the possession of equipment used to make controlled substances and requires the Sentencing Commission to ensure that the manufacture of meth in violation of this section is adequately punished. Importantly, title II declares the DEA rule to be null and void. The DEA has agreed to this provision because of the other improvements made to the bill which make the rule unnecessary.

Title III increases the penalties for trafficking meth so as to make them the same as those provided for trafficking crack cocaine, with 5 grams of meth triggering a 5-year mandatory minimum prison sentence and 50 grams triggering a 10-year mandatory minimum prison sentence. Importantly, the Justice Department's National Methamphetamine Strategy calls for the same sentence increase. The President even wrote to the Speaker 10 days ago and criticized the House for not passing these penalties. Let the record be clear: These increased penalties are being blocked by a small handful of Democrat Members in the other body. Unless a couple of Senators change their minds, the American people will not enjoy the additional protection and deterrence provided by tough mandatory prison sentences for trafficking meth, the penalties even the President wants to see pass.

It's my hope that the President will pick up the phone and call those Members of the other body opposed to these penalties, and ask them to drop their opposition.

Title III also increases the penalties for trafficking in listed precursor chemicals, and requires the Sentencing Commission to ensure that the sentencing guidelines adequately punish violations of environmental laws resulting from clandestine meth labs.

Title IV establishes a so-called "safe harbor," which provides that lawfully manufactured over-the-counter drug products that contain pseudoephedrine and PPA are exempt from regulation unless the Attorney General finds the need to control them because they're being diverted in large quantities. Under this title, if the Attorney General determines that ordinary, over-the-counter products containing pseudoephedrine and PPA are being widely used as a significant source of precursor chemicals used to manufacture methamphetamine, the Attorney General may establish a single transaction limit of 24 grams. Importantly, this bill requires the Attorney General to report to the Judiciary Committees of the House and Senate any finding of diversion before the single transaction limit is imposed. Under the bill, the DEA can begin to collect evidence of diversion of over-the-counter products upon the enactment of the act. Any delay in such data collection must be avoided so as to ensure prompt action against diversion. Both the DEA and the pharmaceutical industry have worked long and hard with the Congress on this provision. I believe this title strikes a careful balance between providing Federal law enforcement the regulatory authority it needs to restrict diversion of over-the-counter products, and ensuring that the millions of annual consumers of cough and cold products have access to the products that bring much-needed relief.

Finally, title V creates a methamphetamine interagency task force, headed by the Attorney General, to design, implement, and evaluate methamphetamine education, prevention, and treatment practices.

Mr. Speaker, this is a smart, tough bill. The gentleman from North Carolina [Mr. HEINEMAN] could not be with us today, but he should have been proud, and I know he was, to introduce this bill.

The chief and his staffer are to be congratulated on their work on this bill. We urge him a speedy recovery, and we urge, I certainly urge, the adoption of this very fine bill he has crafted. It is a long overdue bill, to give us some real teeth in the laws against this horrible drug trafficking in the product known as methamphetamine; more commonly known to the public as speed.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is not a single Member of this Chamber who does not detest the evil of illegal drugs. Parents bury children killed by other children, locked into a deadly cycle of drugs and guns and gangs and violence. Fathers and mothers abandon children because they are driven mad by their addiction. Entire neighborhoods are laid waste. Every single Member of this Congress wants to stop this national sickness. So, we all support being tough on drug trafficking that is killing our young, destroying families, and damaging society.

Most of us will support this bill. We will support it because we know that methamphetimine is dangerous and growing fast in cities, suburbs, and towns all across America. But, Mr. Speaker, there are some among us who take principled exception to one feature of the bill, the imposition of mandatory minimum penalties.

Some of them will speak against those penalties, and some of them may even vote against the bill. I urge all of us to listen to their position carefully and to resist the temptation to engage in cheap theatrical politics, as if this principled opposition to mandatory minimum penalties were evidence of some kind of softness of drugs.

On the contrary, Mr. Speaker, those who will speak against mandatory minimums will do so because they have seen firsthand the impact in their own communities, and they believe that the impact of this bill is futile as to mandatory minimums.

With that, Mr. Speaker, I urge my colleagues to vote for this bill, but to listen respectfully to the views of those who object to one of its features.

Mr. Speaker, I reserve the balance of my time.

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Mr. McCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. BURR].

Mr. BURR. I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I am here today to speak on behalf of my colleague, the gentleman from North Carolina, FRED HEINEMAN, who, unfortunately, is not here because of intestinal surgery. Congressman HEINEMAN has dedicated the last 6 months to working on this issue. I really regret that he cannot be here to speak on his own bill.

As all of us know, speed is a highly addictive, illegal drug which may cause brain damage in long-term users. It can cause users to go into deep depressions and violent rages. In fact, in Arizona, Phoenix specifically, local police attribute a 40-percent increase in homicides directly with an increase in methamphetamine production. As a former police chief, let me assure my colleagues, FRED HEINEMAN understands the relationship between drugs and crime. It is time that Congress addresses this issue in a real way.

One of the obstacles that law enforcement faces in dealing with methamphetamine production is that two of our most common cold, flu, and allergy drugs can be used to make speed. Congressman HEINEMAN's bill meets this challenge head-on. It protects consumers' rights to buy cold and allergy medicine off the shelf, while at the same time increasing the penalties for manufacture, sale, and distribution of speed, making them equivalent to the penalties for crack cocaine.

FRED HEINEMAN worked closely with the Drug Enforcement Administration, the Clinton administration, and the pharmaceutical manufacturers on this legislation.

Mr. Speaker, this has broad bipartisan support and I urge my colleagues in Congressman HEINEMAN's absence, support this bill, stop the production of speed in this country, and save the future generation of our children. With this legislation, we can do that.

Ms. LOFGREN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. SCOTT], a member of the committee.

Mr. SCOTT. Mr. Speaker, I rise in opposition to the bill. We all agree that we need to address the problem of methamphetamine manufacture, sale, and use. The question is whether we address it in a way that is clearly effective in reducing the problem or whether we address it in a way that is calculated only to enhance our political posture.

This bill relies on mandatory minimum penalties as the primary vehicle for reducing the manufacture and use of methamphetamine. Yet there is no evidence that such penalties will have any impact on reducing drug use. In fact, Mr. Speaker, the 5-year mandatory minimum for crack cocaine has not demonstrated any effect in switching drug users from selling crack to powder cocaine, for which they can get probation for 99 times more drugs.

Mr. Speaker, if we are going to look at the best way of reducing the use of speed, all of the credible evidence indicates that drug treatment is many times more effective and cheaper than mandatory minimum sentences. The drug court program has indicated that the costs of drug court is not only cheaper but more effective in reducing crime. In fact, using rehabilitation rather than prisons, we found that prisons cost five times more and result in much more crime.

A drug study in California showed that $7 was saved in prison costs for every dollar put into drug rehabilitation. According to an impact statement, Mr. Speaker, we are going to spend $100 million in additional prison costs if we pass this bill.

Mr. Speaker, those opposing the bill want to return it to the Committee on the Judiciary so that we can seriously address the best way of reducing the use of methamphetamine rather than this last-minute waste of the taxpayers' money.

So, Mr. Speaker, I would hope that we would save money and reduce crime by defeating this bill.

Mr. McCOLLUM. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, I thank the gentleman from Florida for yielding me this time. He and the gentleman from North Carolina have pretty well given Members a good review of this proposed legislation.

Chief HEINEMAN, as the gentleman from Florida said, is recuperating from intestinal surgery. Mr. Speaker, he may have a hole in his intestine but he has fire in his belly when it comes to diligent work for law enforcement. He is a former New York cop, a street cop, a former chief of police in Raleigh, the capital city of my State, and he has worked diligently on this methamphetamine control act bill as well as on the telemarketing fraud bill which we will discuss subsequently.

Meth, or speed, is highly addictive and can cause permanent brain damage, as has already been indicated. Secret labs around the country have begun to manufacture speed with chemicals that have legitimate medical uses. Rogue chemists, Mr. Speaker, I am told, can easily convert cold and flu medicines into meth. Representative HEINEMAN's bill strikes a balanced approach to combat this problem by, A, increasing penalties for possession and trafficking of meth, while at the same time establishing a safe harbor for ordinary over-the-counter products containing the relevant chemicals.

It is a good piece of legislation, Mr. Speaker. I urge its passage.

Ms. LOFGREN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. WATT], a member of the committee.

Mr. WATT of North Carolina. Mr. Speaker, I rise in opposition to this bill. There are a number of reasons that I could oppose it and do oppose it, but I want to speak to two or three of those in this debate since my time is limited.

First of all, we asked the Justice Department, as is our prerogative, to give us a prison impact analysis of this bill. Their analysis indicates that over the next 5 years, this bill will cost the taxpayers over $268 million. This is money which, as the gentleman from Virginia [Mr. SCOTT] has indicated, could be better spent on preventing drug use rather than building more prison space and locking up more and more people and still not addressing the underlying problem.

Second, my Republican colleagues know that this bill is going nowhere. They are just playing politics with this issue. The Senate has agreed to and passed a methamphetamine bill which does not contain mandatory minimum penalties and they have stated that they will not pass one that does have mandatory minimum sentences. We are too late to conference a bill, so passing a different bill in the House than the one that has passed in the Senate gets you, in the final analysis, absolutely nothing, and that is exactly what my Republican colleagues want. They do not want any bill. They just want to make political points.

The third reason I oppose this bill is because they just absolutely abandoned the process. We were in the middle in the Judiciary Committee of marking up this bill. All of a sudden they took the bill from committee, vaulted out on the floor, put it on the suspension calendar and just absolutely disregarded the process that we should be going through. We are rushing to judgment on something that is a serious, serious issue, building another disparity in our sentencing mechanism just like the one that we have between crack cocaine and powder cocaine, ignoring the fact that prevention works better than prisons and doing something shortsighted that is simply political.

Oppose this bill today.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply want to respond very briefly to the gentleman from North Carolina. He and I have had a long-standing difference of opinion, though I respect his opinion, over the question of these minimum mandatory sentences in crack and powder and so forth. What we are doing in this bill is very important with regard to minimum mandatory. We are setting the same minimum mandatory tough standards for methamphetamine that we have now for crack. A very small quantity of meth is even more potent than crack. Speed can do even more damage. A small quantity is all it takes, 5 grams, to do enormous damage to somebody. Because it is so, so, so bad, we need to send a message of deterrence out there. We need to take people off the streets who are dealing in this quantity. It is not a lot but it is enough to mean that anybody who has this amount on their person, just as is the case with crack, is a dealer, is a trafficker, is not simply a user. That message needs to be there. There is no other way you can send a message of deterrence than with a minimum mandatory sentence, and I believe in them for limited purposes. This is one of those purposes. That is why it is in the bill.

As far as the process is concerned, we are here today because this is the only way we can get this bill on up in a quick period of time and consider it by the full House with what is left in this session of Congress. We do not want to just accept the other body's bill. This is our body doing our will.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, the question I want to ask of the gentleman is if we are sending a message, has the message worked on crack cocaine? You have not deterred a thing with the failed policies of building more prisons, and so all we are doing now is spending $268 million more on prisons to send some other message that has already failed. This is a failed policy that we are pursuing.

Mr. McCOLLUM. If I could reclaim my time, if your President would put the resources necessary for interdiction of cocaine coming into this country that are needed and to just say no to drugs and send that message out to the kids, if we had been doing that these last 3 years, we would have a lot better statistics on crack and cocaine and all of the other drugs in this country.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the President of the United States is all our President, just as Reagan was my President and Bush was my President. He is my President, not your President.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CUMMINGS].

Mr. CUMMINGS. I thank the gentlewoman for yielding me this time.

Mr. Speaker, the eradication of drug use and distribution in our communities is one of my highest priorities. Illegal drug abuse has created havoc on my congressional district of Balitmore and the entire country. It has led to increased crime rates, untimely and unnecessary deaths, gun violence, and skyrocketing health care costs.

Our communities are being hard hit, with no relief in sight. Our precious resources are being depleted in this war against drugs. I believe in drug prevention to thwart drug abuse and treatment to assist struggling addicts. And I believe that we must prosecute drug dealers to the fullest extent that the law will allow. However, I believe that we must have parity in the penalties that we place on illegal drugs.

Mr. Speaker, crack cocaine, powder cocaine, methamphetamine, LSD and heroin all ravage and devastate our communities. Their destruction is undiscriminating. This body should be just as undiscriminating when assessing penalties for their abuse. This body should not create drugs of choice by calling for stiffer penalties on some illegal drugs and not for others. The sale, distribution and use of all illegal substances is abhorrent, and I too want to be tough on all illegal drugs, but we must not continue to fill our prisons with poor persons involved in less expensive substances like crack and methamphetamine while the wealthy abusers dealing in more expensive drugs wreak havoc on our communities.

This measure is not a solution to our drug epidemic. It is election year politics at the expense of poor, undeserved communities. Mr. Speaker, it is these kinds of unncesseary battles that prevent us from winning the war on drugs.

Mr. McCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, I rise in strong support of this legislation. I would first like to thank my colleague, the gentleman from North Carolina, Congressman HEINEMAN, for his hard work and vision on this piece of legislation. I think he is in our thoughts, in each one of our thoughts, as he is on his way to a speedy recovery.

Mr. Speaker, there is an epidemic taking place across this country, an epidemic that is casting a long, dark shadow over our land. The epidemic that I am referring to is this dramatic increase that we are seeing in the production, distribution, and consumption of methamphetamines.

☐ 1815

This is not an east coast or west coast problem, it is not an urban or rural problem, it is a national problem, and the statistics show an alarming increase in the use of meth.

Overall, the United States has seen an 80-percent increase in drugs under a President who would inhale if again he had the chance. In fact, Mr. Speaker, in a national survey released today by the Parents' Resource Institute for Drug Education, or PRIDE, as it is commonly referred to, shows that teen drug use has hit the highest level in the survey's 9-year history. An appalling one in five high school seniors now uses illegal drugs on a weekly base. Almost 1 in 10 high school seniors say they use illegal drugs every single day.

The methamphetamine epidemic has hit home, particularly in America's heartland. The Nebraska State Patrol is seizing methamphetamine at alarming rates. The amount seized has gone from less than 1 pound in 1992 to more than 5 pounds in the first 9 months of 1996. In 1995 law enforcement officials found crank in nearly six times the items than just 2 years earlier.

The number of Nebraska arrests by law enforcement officials jumped from 23 in 1990 to 370 in 1995. Unfortunately, convictions have not been on that same percentage increase because of slick criminal trial lawyers getting them off on legal loopholes and technicalities. But these are unconscionable statistics, statistics we can no longer afford to ignore.

The ingredients used to make this drug are available in States like Nebraska that have a strong agricultural base. Interstate 80 has long been a drug pipeline for methamphetamine. This is a good legislation, and I urge the committee for its passage.

Ms. LOFGREN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. FAZIO], a member who has a long history of fighting methamphetamines and an author of a companion bill, H.R. 3908.

Mr. FAZIO of California. Mr. Speaker, I thank my friend, the gentlewoman from California, for her help on this bill and for yielding me time.

Mr. Speaker, I rise today in strong support of the bill before us, H.R. 3852. The Comprehensive Methamphetamine Control Act of 1996 is the product of many long hours of complex negotiations between industry representatives, members of the Drug Enforcement Administration, the Department of Justice, and many Members of both the House and the Senate.

Before I speak to the merits of this fine bipartisan legislation, I want to thank a number of individuals: My Senator, DIANNE FEINSTEIN of California; the gentleman from Illinois, Chairman HYDE; Chairman HATCH; the gentleman from Florida, Chairman McCOLLUM; and the ranking member, the gentleman from New York, Mr. SCHUMER, for their work on this bill and for their determination to see this bill passed before the adjournment of the 104th Congress. Also I would like to thank my colleagues and coauthor, the gentleman from North Carolina, Mr. HEINEMAN, for his work on this bill.

Mr. Speaker, I am very proud of the legislation before the House today. For many of us, both in the Congress and in the law enforcement community, it represents the culmination of many years of hard work on this issue.

I have been working on legislative solutions to the problems created by methamphetamine since the 101st Congress, when I introduced the Regulated Precursor Chemical Act of 1990. While we have enacted antimeth legislation in almost every subsequent Congress, the illicit manufacturers and sellers of this drug have remained a step ahead of law enforcement and devised new ways to produce methamphetamine. In addition, Mexican drug cartels are now involved in the importation of many of the precursor chemicals used to manufacture meth. These cartels present additional problems and burdens for law enforcement, requiring a truly national approach to this problem's solution.

As a result, production and usage of methamphetamine in the United States has grown at alarming proportions over the last several years. According to the DEA, it has been the most prevalent clandestinely produced drug in the United States since 1979. Unfortunately, much of this production is centered in my home State of California and throughout other Western and Southwestern States.

Methamphetamine has caused a dramatic escalation in the number of overdoses, emergency hospital admissions, and drug shootings, from America's largest western cities to our most rural areas. Crack is more potent, more addictive, and much cheaper. It represents a tremendous challenge. It is a public health and law enforcement crisis of truly epidemic proportions, and we must respond to it now.

I believe this bill, H.R. 3852, offers the right solution to this crisis. It includes tough enforcement provisions which increase the penalties for production and trafficking of methamphetamine, enhanced penalties for the possession and trafficking of precursor chemicals and the equipment used to make meth, and more stringent reporting requirements on the sale of products containing precursor chemicals.

The bill also contains provisions which will make a better coordinated international effort, and strengthens provisions against illegal important of meth.

Finally, this bill requires all levels of law enforcement, in addition to public health officials, to stay ahead of the meth epidemic by creating a national working group which would educate the public on the dangers of meth production, trafficking, and abuse.

The story of our failure to foresee and prevent the crack cocaine epidemic is one of the most significant public policy mistakes in our recent history. We now face similar warnings with methamphetamine. We are seeing the destruction of families all across America as a result of the abuse of crack, and we must act now to stop it, for without swift action, this sad history may repeat itself.

The Fazio-Heineman-McCollum legislation is the comprehensive tool that we need to stay ahead of the meth epidemic and avoid the mistakes made during the early stages of the crack cocaine epidemic. I urge all my colleagues to support this much-needed legislation and vote for this bill, giving the opportunity for it to be taken up for a final vote on the morrow.

Mr. Speaker, I thank my friend from Florida for his assistance in making it possible to bring this bill to the floor.

Ms. LOFGREN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas, Ms. SHEILA JACKSON-LEE, a distinguished member of our committee.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding time and thank her for her service on the Committee on the Judiciary.

This is a difficult topic, primarily because all of us face the rising tide of drug use, and I do not think this is now a time to suggest who said, "Just say no," who said, "Just don't do it." All of us who are parents and all of us who are members of our community clearly want to be on the side of expressing to our teenagers, in particular, the devastation of the impact of drug use.

H.R. 3852 has good intentions. Having just listened to an array of leaders in my community at a drug hearing, I do realize that there is cause for concern. But to a one, starting with the special agent of the Drug Enforcement Agency in my community, the U.S. attorney, police officers and, yes, those involved in prevention and treatment, they emphasized more than mandatory sentencing that we need to now focus, if you will, on treatment and prevention.

One of the concerns I have about this legislation is that it does not address what we have been discussing with the U.S. Sentencing Commission, a bipartisan commission that argued vigorously to change the disparate sentencing between crack and cocaine. This was ignored by the Republican Congress, for they wanted to leave and go home and beat their respective chests to talk about how they are tough on drugs.

We have young people dying every day. They do not die because we lock up people in jail. We realize that people must be incarcerated. They are dying because we do not have a serious prevention program and education program. We are not getting to the bottom question, of getting those to not buy into slogans, but buy into a commitment to save their lives by staying off drugs.

Methamphetamine is a dangerous drug. So is crack, so is cocaine, and so is heroin. But there must be an opportunity to have our Federal judges have discretion, to penalize those who are suppliers but yet to have some sort of response to those who are addicted, and as well be served by treatment.

I am also here to suggest that we have a major problem in dealing with a real problem in our community, and that is the recognition of the allegations made in the report in the San Jose Mercury newspaper in California, that alleges that individuals associated with the Nicaraguan contra rebel group sold cocaine to gangs in the south central area of Los Angeles. These news articles indicate that the CIA used the proceeds from these drug sales to purchase weapons for the contras to overthrow the Sandinista Government in the 1980's.

These allegations need to be investigated. Several Members of this House have gone to the CIA Director requesting the CIA and the Justice Department as well as this House investigate it. I think if we are serious about drug prevention, we will get to the source of those drugs in Los Angeles and other cities around the Nation and emphasize prevention and treatment. That is the way we should go.

Ms. LOFGREN. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California [Ms. WATERS], a respected member of the Committee on the Judiciary.

Ms. WATERS. Mr. Speaker, I would like to thank the gentlewoman from California for yielding me this time and for providing some leadership on this issue.

Mr. Speaker, there has been an awful lot of discussion about drugs of late. It is in the campaign now, with candidate Dole accusing President Clinton of not paying attention, somehow blaming on him the fact that there appears to be an increase in the use of drugs by teenagers.

We watch this political debate and we begin to watch legislating and legislation come forward at this time that really does not do justice to this issue. It should not be about politicking. It should not be about trying to make the public believe that something important is really happening as we look at the drug problem.

The fact of the matter is there has not been a war on drugs, and there will never be a war on drugs as long as we do this kind of legislating. We debated for hours about the disparity in crack cocaine and powder cocaine sentening. We have mandatory sentencing, and the prisons are filling up with young black and Latino males, for the most part, got with one rock cocaine, small amounts of cocaine, thrown into the Federal system in prison, prisons just running over.

Where are the big drug dealers? Where are the people who bring in the huge amounts of cocaine? Where are the big time manufacturers of crack? They are not really talked about. We do not really understand, or do we not care perhaps, where and how this gets into the communities in the first place.

If we really want to do something about drugs, we will stop this penny ante legislating and we will do some real studying. We will get to the bottom of where the precursors are, how do they get involved in the manufacture of crack. We will get down to who the big guys are, so we can really take it off the street.

This does not do this that. This is simply on of these little piecemeal bills at election time, trying to make the public believe we are doing something about drugs, and we are not.

I think we are better legislators than this. I think we are better public policy makers than this. I think we should stop, we should focus, take this out of the political arena, come back here in January, and get together and really develop some public policy that is going to help the children and the young people of this Nation.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a number of comments have been made, and accurately made, in the course of this debate. The gentleman from North Carolina [Mr. WATT] pointed out that the committee process was truncated midway and this bill brought directly to the floor, and that is the truth.

There have been comments made that prevention and treatment is the most effective tool against drugs in America, and I think that it is clear that is true. Our own Governor Wilson's administration released a report last year showing that treatment and prevention efforts were massively more successful in fighting drugs than just pure law enforcement.

However, that does not mean that we should not pass this bill today, and I highly recommend it.

I agree with the speakers who said that sentencing for crack and powdered cocaine should be equalized. I agree with that. But that is also not about this bill.

Unfortunately, speed and methamphetamine is an equal opportunity drug. You will find it being manufactured in suburban and rural areas all across California. It is a very dangerous drug, not only to the users, but to neighborhoods. In my own district, I can recall just a short while ago a lab bursting and exploding into flames, posing threats not only from the scourge of drugs but also to firefighters and police officers and neighbors from the conflagration that ensued.

☐ 1830

A lot of people in America do not realize that this bill deals very severely with the precursor drugs that are used by those who would make methamphetamines illegally for sale to the young and others in our communities.

What is that? Well, I sometimes have allergies, especially in the spring, and I must confess I take Sudafed and the generic equivalent with some frequency when that happens, and I like to buy it in the little bottle so I do not have to struggle with the little bubble caps. After this bill is enacted into law we are all going to have to struggle with the little bubble caps, because one of the things we are going to do is to make it harder to buy the precursor chemicals so that people cannot manufacture this drug.

That is going to involve some inconvenience for consumers across this country, including myself, and I think it is a small price to pay in order to take effective efforts against this drug.

As I said at the opening of this discussion, we have many principled Members on our side who have spoken quite eloquently on the issue of mandatory minimum sentencing. I know each one of these individuals well. I know that perhaps even more than those of us who may not represent areas that have been targeted for drug sales, they and their constituents know the heavy price paid by those who are involved in drugs and how terrible the dealing of drugs is.

I again respect that the issue over mandatory minimum sentences really says nothing about their concern to fight drugs. I urge that we pass this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to concur with a lot of what the gentlewoman from California just said. This is a bipartisan bill. There are a few disagreements among some of the Members over the minimum mandatory sentences in this bill and perhaps with some other features in it.

The bottom line though is we need to pass this legislation tonight. We need to get it enacted into law, because methamphetamine, better known as speed, is a really dangerous drug. It give you a higher and longer high, they tell me, than crack cocaine does. It is commonly found, it is pretty darn cheap, and it is manufactured synthetically and manufactured with chemicals, we call them pseudoephedrine, which is a big word, but basically is found in most of our cough and flu medications in the drugstore, the grocery store, whatever.

It takes large quantities of this and normally and historically those large quantities have been acquired through chemical plant sources from abroad or elsewhere, and they have been done illegally and surreptitiously, but more recently we have been seeing the folks in the United States, and that is where this is made usually, are going to the drugstore or going somewhere and buying very large quantities of off-the-counter, over-the-counter I should say, off-the-shelf products, and that is not good. We need to stop that.

This bill goes a long way toward stopping that, while still providing access for every American to have their flu and cough medications found in the so-called pseudoephedrine product line.

In addition to that, it takes care of being sure that we have the right kind of sentencing in here. While some may disagree with it, and I have heard somebody say this is penny-ante legislation and somebody else say it is too expensive, I would suggest it is neither one. There is nothing that would be too expensive, in my judgment, to stop the kind of crisis we are getting in this particular drug.

We have already heard about the statistics that are so alarming about our young people tonight, generally with drugs, in this Nation. We are seeing this dramatic increase in the last couple of years in 12- to 17-year-olds using drugs, period. Over the last 3 years I think the figure is close to a 100-percent increase in drug usage among teenagers of that age group in this Nation. And it is very, very high with cocaine, 166 percent in 1 year, while it is also very, very high with methamphetamine, which is becoming a choice drug over crack cocaine, even more popular in some parts of the country than cocaine.

So tonight's bill is not a small, penny-ante bill. It is not too expensive. It is just right. It is the formula to give our law enforcement community the tools they need to try to stop the use of methamphetamine and the production of methamphetamine, better known as speed. If we can give them more tools, there is nothing in this bill that would be too expensive.

Frankly, there is no money involved in this bill. It is a bill, however, that does contain minimum mandatory sentences. Those minimum mandatory sentences are very tough because small quantities, 5 grams, just like with crack, are trafficking quantities of meth. It does not take much to do the job, and I do not think anybody here should be ashamed to vote for 5 years minimum mandatory sentence for somebody caught with 5 grams of this stuff because they are trafficking in it. They are causing hardship and death in some cases to our young people, and they are the villains in this process.

We cannot lock everybody up, but we can certainly lock up the drug traffickers. If somebody is the big, big, big drug dealer, we have the death penalty for that. We have a lot harsher punishment for them. What we need is the will to go carry out those laws and to come and do the interdiction, the "just say no" education programs for young people, the drug treatment and the work abroad, where that is necessary, in a balanced war against drugs.

When need to come together as a Nation. This is a good step in the right direction tonight. It is a bipartisan product. Democrats and Republicans alike have worked on this bill, and it is a bill which the President should sign.

I hope that when this gets over to the Senate, if President Clinton will pick up that telephone and call those Senators who say that they are going to try to block this bill from passing over there, and it does not take very many of them in the other body to do that because they have procedural problems at the end of a session, I hope he will get on the phone and call those members of his own party who say they are going to block it over these minimum mandatory sentences. I urge him to do that tonight, and if he does it, we will have a bill. It will get passed into law, and the Nation will be far better as a result of that and we will have many better law enforcement tools.

Mr. Speaker, again I urge the passage of this bill.

Mr. MATSUI. Mr. Speaker, in recent years, Sacramento County has been increasingly troubled by the prevalence of the drug methamphetamine. Last year, the Sacramento Sheriff's Department made 1,117 arrests for methamphetamine charges, a number that greatly exceeded the amount of arrests for cocaine, marijuana, and heroin combined. The Sheriff's Department also discovered and dismantled seven methamphetamine labs, a significant accomplishment but one that drained the county government of approximately $40,000 of its valuable resources.

This year, the Sacramento Sheriff's Department conducted an investigation that led to the arrest of four individuals and the seizure of 80 pounds of methamphetamine, valued at $2.9 million. Although law enforcement officials have made great progress, there is much more work to be done.

I am proud to support the Comprehensive Methamphetamine Control Act of 1996, which takes a big step in addressing this very serious problem. In light of the public health, safety, and law enforcement challenges posed by methamphetamine in California and elsewhere in the United States, this bill represents an effective means of attacking its production, distribution and use. It is my hope that we will soon rid Sacramento County and the rest of the country of the terrible consequences of this dangerous drug.

Mr. BLILEY. Mr. Speaker, I rise in support of H.R. 3852. The legislation increases penalties for trafficking and manufacturing methamphetamine substances or other materials used to produce methamphetamines. The bill also establishes an interagency task force to design, implement, and evaluate methamphetamine education, prevention, and treatment practices.

Section 207 also contains a provision which permits judges, as a condition of sentencing, to require those convicted of running an illegal methamphetamine lab to (1) pay for the costs of cleaning up any toxic wastes, (2) reimburse the government for any costs it incurs in cleaning up any toxic waste at the site, and (3) to pay restitution to any person injured by a release of toxic substances at the site. Unlike Superfund's system of strict, joint and several, and retroactive liability, this is a "polluter pays" provision which makes sense—someone who acts illegally should be held responsible for the costs to clean up the mess that they made.

I support the legislation; however, I must point out that the bill has not been fully considered by the committees of jurisdiction. H.R. 3852 was referred to the Committee on the Judiciary and the Committee on Commerce. The Crime Subcommittee has considered the bill, but the full Judiciary Committee has not; in addition, the Commerce Committee has not considered this legislation. Given the limited time remaining in this session of Congress, I will not object to this bill moving forward. In doing so, however, the Committee on Commerce in no way is yielding any of its jurisdiction on this and other similar matters.

Mr. BEREUTER. Mr. Speaker, this Member is pleased to support H.R. 3852, the Methamphetamine Control Act. Methamphetamine is a powerful drug that is relatively easy to manufacture. The use of this dangerous drug is escalating rapidly due to its low cost and highly addictive qualities.

Methamphetamine use is expanding into the Midwest. According to the Nebraska State Patrol, in 1991, Nebraska had 25 arrests for possession of methamphetamine or delivery. In 1995, there were 374 methamphetamine arrests. This is a 350-percent increase. Communities along the I–80 corridor are the hardest hit. The severity of the problem in Nebraska was highlighted last spring by the tragic death of a teenager in York, NE, at his prom from an overdose of methamphetamine. It was a shock and wake-up call to this prototypical county seat community of 7,500 and to all of Nebraska.

The Methamphetamine Control Act increases penalties for trafficking and manufacturing methamphetamine substances or other materials used to produce methamphetamines. It appropriately establishes mandatory minimum sentences for methamphetamine trafficking. For trafficking 5 to 49 grams of the drug there will be a 5-year minimum sentence. The bill requires a 10-year minimum sentence for trafficking 50 or more grams. These new penalties are crucial to efforts to decrease the availability of this dangerous and proliferating drug.

In closing, Mr. Speaker, we must pass this bill in the short time left in this session of Congress. It must also be passed by the Senate with these tough but appropriate sentencing provisions so that it can be sent to the President for signature. The Nation must become serious and effective in combating this very serious problem. This bill must become law this year in order to do all we can to fight the use of this dangerous drug.

Mr. RIGGS. Mr. Speaker, I rise today in strong support of the Methamphetamine Control Act of 1996. This is a bipartisan bill designed to attack the production, distribution, and use of methamphetamine in the United States.

Methamphetamine poses a serious and growing public health concern in this country, and requires immediate government attention. While regulations recently promulgated by the Drug Enforcement Administration provide a first step towards combating methamphetamine trafficking, further action is needed to close loopholes in those regulations and provide a more complete response to control methamphetamine in this country.

H.R. 3852 would combat this drug scourge by giving the law enforcement community the muscle it needs to fight trafficking in methamphetamine and its precursor chemicals. To this end, the bill restricts the importation of methamphetamine and precursor chemicals into the United States; increases criminal penalties for methamphetamine manufacturers and traffickers; cracks down on the ability of rogue companies to sell bulk quantities of precursor chemicals that are diverted to clandestine laboratories for the manufacture of methamphetamine; and expands regulatory enforcement of all precursor chemicals used to make methamphetamine, which, in turn, will plug a loophole in current Drug Enforcement Administration regulations that apply only to a narrow range of products that could potentially be diverted to illegally manufacture methamphetamine.

Importantly, the Methamphetamine Control Act balances these critical law enforcement objectives with the need to protect consumer access to over-the-counter medicines.

Thus, while imposing measures to decrease the availability of precursor chemicals, the legislation does not restrict the ability of law-abiding citizens to use common remedies for colds and allergies. Nor does the legislation subject sales of such legal products to onerous record keeping requirements at the retail level.

Finally, the bill institutes a number of programs to improve and expand existing education and research activities related to methamphetamine and other drug abuse, and to monitor methamphetamine abuse in the United States and improve reporting of suspicious precursor chemical orders.

Mr. Speaker, I have received letters in support of the Methamphetamine Control Act from law enforcement and health officials across California. Among those who have contacted me are Jim Maready, Sheriff-Coroner of Del Norte County, and James Tuso, Sheriff-Coroner of Mendocino County. Both jurisdictions have experienced increases in violence related to the trafficking and use of methamphetamine.

The tragic death of 14-year-old Raina Shirley in March of this year as the result of methamphetamine furnished to her focused national attention to the problem in Northern California.

As cosponsor of the original version of Methamphetamine Control Act, I strongly endorse the measure before the House today. H.R. 3852 represents a comprehensive response to this spreading national menace. It is my hope that Congress will move rapidly to enact the bill, and help prevent future tragedies like the one that methamphetamine brought to Raina Shirley and her family.

Mr. Speaker, I include the letters referenced earlier.

COUNTY OF DEL NORTE,
OFFICE OF THE SHERIFF,
Crescent City, CA, September 18, 1996.
Re Methamphetamine Control Act of 1996.

Congressman FRANK RIGGS,
Longworth Office Building,
Washington, DC.

HON. CONGRESSMAN RIGGS: I understand that the Methamphetamine Control Act of 1996 bill is making its way through Congress and came up for mark-up in committee last Wednesday. Ideally, the fewer changes made to the bill, the better. This will help facilitate passage through the Senate.

Methamphetamine at this stage in our society, even in small rural counties, is in many cases to the young people of today what marijuana was to the same age group in the '60's and '70's.

The precursers used in the process of manufacturing methamphetamine are readily available to those that wish to manufacture the illegal drug. In addition, the new processes used in the making of the drug is much less sophisticated, thus novices can manufacture the drug in a very short period of time.

I would urge any new sanctions that could be used in fighting this invasive drug that is crippling many of our young people. I am in constant contact with the young people of our community through my office as Sheriff, coaching high school football, D.A.R.E., and other civic involvements. Please do not hesitate in contacting me if I can be of any assistance.

Sincerely,

JIM MAREADY,
Sheriff-Coroner.

OFFICE OF THE SHERIFF-CORONER,
COUNTY OF MENDOCINO,
Ukiah, CA, September 16, 1996.

Congressman FRANK RIGGS,
U.S. Congress,
Longworth Office Building, Washington, DC.

DEAR CONGRESSMAN RIGGS: I am in receipt of Senator Feinstein's correspondence in regards to the Methamphetamine Control Act of 1996, and will be most honored to endorse this proposed legislation and offer any assistance for it's successful passage. In Mendocino County, methamphetamine continues to be the drug of choice, and as such, presents a most serious and dangerous problem for law enforcement and community members.

Here in our county, the Mendocino County Major Crimes Task Force has conducted 832 investigations involving methamphetamine during Fiscal Years 1992–1993, 1993–1994, 1994–1995, and 1995–1996. From these investigations, 719 arrests were made and 58 clandestine laboratories were seized.

Methamphetamine Investigations

Fiscal year:	
1992–93	220
1993–94	245
1994–95	226
1995–96	141
Total	832

Of the total number of all narcotics investigations conducted by the Mendocino County Major Crimes Task Force during this time period (1357), 61% were directly related to methamphetamine.

Methamphetamine Arrests

Fiscal year:	
1992–93	176
1993–94	220
1994–95	199
1995–96	124
Total	719

Of the total number of all narcotics arrests made by our Major Crimes Task Force during this time period (1174), 61% were for offenses related to methamphetamine.

Methamphetamine Seized

Fiscal year 1992–93:	
Cost	$1,003,000
Amount (grams)	10,030.00
Fiscal year 1993–94:	
Cost	$231,390
Amount (grams)	2,313.90
Fiscal year 1994–95:	
Cost	$545,283
Amount (grams)	5,452.83
Fiscal year 1995–96:	
Cost	$221,535
Amount (grams)	2,408.00
Total:	
Cost	$2,001,208
Amount (grams)	20,204.73

Our Major Crimes Task Force reported witnessing an increase in the number and sophistication of clandestine laboratories in our county. Out-of-county methamphetamine laboratory operators are paying labsite brokers to secure areas to manufacture methamphetamine. The property owners are paid a fee to allow the process to occur. Once the cooking process is complete, the clandestine laboratory is moved. Some of these cooking processes yield up to 350 pounds of methamphetamine.

Clandestine Laboratories

Fiscal year:	
1992–93	6
1993–94	12
1994–95	19
1995–96	21
Total	58

Like other jurisdictions, Mendocino County has experienced an increase in violence related to the use and trafficking of methamphetamine. Our most heinous act of violence occurred on August 23, 1993, when 21 year old Ronald Trever Harden shot and killed his mother, father, sister and 16 month old niece while under the influence of methamphetamine. He then took his own life.

The tragic death of 14 year old Raina Bo Shirley in March of this year as a result of the ingestion of methamphetamine furnished to her brought national attention to our small county due to the circumstances surrounding her disappearance and death. As you know, the suspect is still being sought in her death. In another tragedy, 17 year old Angel Ann Miller died from methamphetamine toxicity after being furnished the drug by a male friend, who has since been arrested for murder as a result of her death.

Therefore, it is without hesitation that I offer my support to your efforts in seeking legislation to further enhance our ability to curb methamphetamine production. If necessary, we can provide testimony to what we have encountered.

Sincerely,

JAMES TUSO, *Sheriff-Coroner.*

Mr. HEINEMAN. Mr. Speaker, I want to thank Crime Subcommittee Chairman BILL MCCOLLUM and his staff for all their assistance in getting this vital legislation to the floor. I introduced H.R. 3852, the Comprehensive Methamphetamine Control Act of 1996 because of the growing scourge of meth. Senator HATCH introduced companion legislation, S. 1965, which passed the Senate earlier this month.

Meth, commonly known as speed, is highly addictive and causes permanent brain damage in long-term users. Meth has become a public health crisis in California and the Southwest and is moving East. DEA records indicate a 57-percent increase in meth lab seizures from January to May of this year alone. In 1994, California experienced a 49-percent increase in meth-related emergency room admissions. In Phoenix, police link a 40-percent increase in homicides directly to the sudden rise in meth production. Meth produces a euphoric high, but also produces deep depression and violent rages. In one particularly gruesome incident, Eric Smith of Chandler, AZ, binged on meth for 24 hours and then beheaded his son and tossed his son's head from the window of his van onto a busy highway.

Secret labs manufacture meth from chemicals with legitimate medical uses. Two of the most common precursor drugs—ephedrine and pseudoephedrine—are common ingredients in cold, cough, and flu medications. More than 100 over-the-counter cold and allergy medicines contain pseudoephedrine. These products are used by more than 90 million Americans and account for $1 billion a year in lawful sales. However, rogue chemists can easily convert these cold and allergy medicines containing pseudoephedrine into meth.

While I am committed to eliminating meth, I believe that we can do so without forcing drug stores from removing cold and allergy medication from their shelves because of overlyburdensome regulations. As written, the DEA regulations apply new recordkeeping requirements to retailers, forcing individual clerks to engage in complicated calculations concerning base chemical quantities. Failure to comply or make correct calculations can result in $30,000 in fines or incarceration. Instead of complying with these criminal regulations, drug stores will simply remove most cold and allergy medicines from the shelves. This will dramatically affect the 90 million consumers who rely on this medicine. My bill revokes these DEA regulations.

This is a nonpartisan issue. Ranking member CHARLES SCHUMER wrote DEA Administrator Tom Constantine on February 28, 1996, to express the very same concerns regarding DEA's proposed regulations that Congressmen MEL WATT and HOWARD COBLE and I raised in a March 19, 1996, letter. In addition, I was pleased to work closely with Congressman VIC FAZIO from California who introduced similar legislation. The administration is also on record as being supportive of this bill. This is indicative of the bipartisan nature of this legislation.

As a 38-year law enforcement veteran, I have seen epidemics of heroin, LSD, cocaine, and crack infect our cities and communities. We must take immediate and dramatic action to ensure that meth is eradicated, while at the same time enabling consumers access to cold, flu, and allergy medication. That is why I introduced H.R. 3852, which:

Increases penalties for possession and trafficking of methamphetamine, making them equivalent to the penalties for crack-cocaine

Increases penalties for illegal possession and trafficking of precursor chemicals used for the manufacture of methamphetamine and other controlled substances.

Reduces single transaction reporting requirements for all sales other than ordinary over-the-counter pseudoephedrine or phenylpropanolamine containing products from 1 kg to 24 grams.

Creates a safe harbor for ordinary over-the-counter products containing pseudoephedrine or phenylpropanolamine to cover those products packaged in package sizes of not greater than three grams of pseudoephedrine or phenylpropanolamine base and packaged in blister packs. This will effectively combat shelf sweeping.

Establishes new reporting requirements for firms that sell pseudoephedrine or phenylpropanolamine products via mail order.

Imposes tougher penalties on those who import meth or its precursor chemicals with the intent to distribute them within the United States.

H.R. 3852 represents a common sense approach to a dangerous problem. It fairly balances the concerns of consumers with those of law enforcement so that meth can be eliminated. It is my sincere hope that the President joins our antidrug initiative and signs H.R. 3852 into law. I urge my colleagues to support this tough, bipartisan legislation. Pass H.R. 3852!

Thank you, Mr. Speaker.

Mr. HEINEMAN. Mr. Speaker, today I am pleased that the House is poised to pass my bill, H.R. 1499, the Telemarketing Fraud Punishment and Prevention Act of 1996. H.R. 1499 protects senior citizens from a sophisticated type of white collar criminal—telemarketing scam artists who target vulnerable elderly citizens.

These crimes are among the most outrageous in society because telemarketing scam artists prey on the most vulnerable—seniors who can least afford to lose their limited savings. In fact, Members have already spoken against telemarketing fraud once before, and many of my colleagues thought that the job of getting tough on these kinds of crimes was already completed. However, the job is only half done. The 1994 crime bill included important language cracking down on telemarketing fraud. Today we will pass legislation which completes what was begun in the 1994 crime bill, legislation that takes the tough sentences included in the 1994 crime bill and makes certain that telemarketing scam artists actually receive tougher penalties.

H.R. 1499 was approved unanimously by the Subcommittee on Crime together with a technical amendment offered by Chairman BILL MCCOLLUM. This legislation was developed in consultation with the Department of Justice and staff of the U.S. Sentencing Commission. It is a reasonable, bipartisan bill, and I want to thank my colleagues on both sides of the aisle who have expressed their support for this legislation.

Why is this legislation needed? Telemarketing fraud against seniors is on the rise, but the average sentence for this kind of crime is only 18 months. The 1994 Crime bill directed the U.S. Sentencing Commission to review the Federal sentencing guidelines and report back to Congress on amendments to the guidelines that would ensure tough sentences for telemarketing frauds. Unfortunately, when the Sentencing Commission reported back to Congress in March of 1995, it concluded that no enhancements for telemarketing fraud were needed.

This past April, the Subcommittee on Crime heard the tragic testimony of senior citizens who lost their life savings to telemarketing scams. One of my constituents, Mary Ann Downs from Raleigh lost over $74,000. In Durham, NC, an elderly woman was victimized for $212,000. The FBI estimates that U.S. consumers lose over $40 billion a year to fraudulent telemarketers.

My legislation directs the U.S. Sentencing Commission to amend the sentencing guidelines so that sentences for general telemarketing fraud offenses are enhanced by 4 levels, and telemarketing fraud offenses committed against seniors are enhanced by 8 levels.

According to staff of the U.S. Sentencing Commission, a 4-level enhancement for telemarketing frauds would equal roughly 11 months, or a 60-percent increase from the average 18 months sentence currently received. An 8-level increase would equal roughly an additional 25 months, or a 140-percent increase from the current average 18-month sentence for these frauds. This still falls short of the full extent of the 5 years and 10 years additional prison time envisioned by the 1994 Crime bill, but it is a critical step in combating telemarketing fraud.

The bill also includes a sentencing enhancement of 2 levels for frauds committed by defendants in a foreign country. This is in response to the fact that increasing numbers of telemarketers are moving their operations to foreign jurisdictions in an attempt to evade prosecution in the United States. In addition, H.R. 1499 provides for criminal forfeiture of the proceeds of telemarketing scams.

I urge my colleagues to support H.R. 1499, the Telemarketing Fraud Punishment and Prevention Act of 1996 and help protect their senior constituents from telemarketing predators. Thank you, Mr. Speaker.

Mr. McCOLLUM. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DICKEY). The question is on the motion offered by the gentleman from Florida [Mr. McCOLLUM] that the House suspend the rules and pass the bill, H.R. 3852, as amended.

The question was taken.

Mr. McCOLLUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1296, OMNIBUS PARKS AND PUBLIC LANDS MANAGEMENT ACT OF 1996

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–842) on the resolution (H. Res. 536) waiving points of order against the conference report to accompany the bill (H.R. 1296), to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, which was referred to the House Calendar and ordered to be printed.

DRUG-INDUCED RAPE PREVENTION AND PUNISHMENT ACT OF 1996

Mr. McCOLLUM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4137) to combat drug-facilitated crimes of violence, including sexual assaults.

The Clerk read as follows:

H.R. 4137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug-Induced Rape Prevention and Punishment Act of 1996".

SEC. 2. USE OF CONTROLLED SUBSTANCES TO COMMIT SEXUAL ASSAULT CRIMES OF VIOLENCE

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting "a person convicted under this subsection for the possession of a mixture or substance containing a detectable amount of a controlled substance, with the intent to administer such mixture or substance to another person to facilitate a crime of violence, as defined in section 16 of title 18, United States Code, (including a sexual assault) against that person, shall be fined under title 18, United States Code, or imprisoned not more than 15 years, or both, and if the victim or intended victim of the crime of violence is age 14 or under, shall be imprisoned not more than 20 years, and" after "Notwithstanding the preceding sentence,".

SEC. 3. ADDITIONAL PENALTIES RELATING TO FLUNITRAZEPAM.

(a) GENERAL PENALTIES.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended—

(1) in subsection (b)(1)(A)—

(A) by striking "or" at the end of clause (vii);

(B) by inserting "or" at the end of clause (vii);

(C) by inserting after clause (viii) the following:

"(ix) 1 gram or more of flunitrazepam;";

(2) in subsection (b)(1)(B)—

(A) by striking "or" at the end of clause (vii);

(B) by inserting "or" at the end of clause (vii);

(C) by inserting after clause (viii) the following:

"(ix) 100 mg or more of flunitrazepam;"; and

(3) in subsection (b)(1)(C), by inserting "or flunitrazepam" after "I or II".

(b) IMPORT AND EXPORT PENALTIES.—

(1) Section 1009(a) of the Controlled Substances Import and Export Act (21 U.S.C. 959(a)) is amended by inserting "or flunitrazepam" after "I or II".

(2) Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(A) in paragraph (1)—

(i) by striking "or" at the end of subparagraph (G);

(ii) by inserting "or" at the end of subparagraph (H);

(iii) by inserting after subparagraph (H) the following:

"(I) 1 gram or more of flunitrazepam;"; and

(B) in paragraph (2)—

(i) by striking "or" at the end of subparagraph (G);

(ii) by inserting "or" at the end of subparagraph (H);

(iii) by inserting after subparagraph (H) the following:

"(I) 100 mg or more of flunitrazepam;" and

(C) in paragraph (3), by inserting "or flunitrazepam" after "I or II,".

(3) Section 1010(b)(4) of the Controlled Substances Import and Export Act is amended by inserting "(except a violation involving flunitrazepam)" after "III, IV, or V,".

SEC. 4. SENTENCING GUIDELINES.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the sentencing guidelines for offenses involving flunitrazepam. The Commission shall submit to Congress a summary of its review, and an explanation for any amendment to the sentencing guidelines made pursuant to this section. In carrying out this section, the Commission shall ensure that the sentencing guidelines for such offenses reflect the serious nature of such offenses.

SEC. 5. STUDY ON RESCHEDULING FLUNITRAZEPAM.

The Administrator of the Drug Enforcement Administration shall conduct a study on the appropriateness and desirability of rescheduling flunitrazepam as a Schedule I controlled substance under the Controlled Substances Act (21 U.S.C. 801 et seq.), and shall consult with other Federal and State agencies as appropriate. Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit the results of such study, together with any recommendations as to such rescheduling, to the Committees on the Judiciary of the House of Representatives and the Senate.

SEC. 6. EDUCATIONAL PROGRAM FOR POLICE DEPARTMENTS.

The Attorney General is authorized to create educational materials regarding the use of controlled substances in the furtherance of rapes and sexual assaults and disseminate those materials to police departments throughout the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. MCCOLLUM] and the gentleman from New York [Mr. SCHUMER] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, they call it "the forget pill" or "the date-rape drug." Technically known as flunitrazepam, better known by its trade name Rohypnol, this inexpensive drug is being used by sexual predators to incapacitate their victims before they are raped.

Rohypnol is colorless, odorless, tasteless and dissolves quickly and easily in alcohol. In fact, alcohol enhances the drug's intoxicating effects, and leaves the victim utterly helpless and vulnerable to rape.

Mr. Speaker, what makes the use of this drug even more vile and contemptible is that victims are likely to suffer amnesia. This makes it impossible for them to recount to law enforcement the circumstances surrounding the rape. These victims suffer the knowledge that they have been sexually assaulted—they just can't remember or explain how it happened.

The distribution and abuse of this drug is a particularly big problem in my home State of Florida. From 1990 to 1992, there were 14 State and local law enforcement cases involving flunitrazepam, and the drug was found almost exclusively in the Dade County area. By 1995, the number of cases had escalated to in excess of 480. Moreover, as law enforcement encounters indicate, the drug has now spread all over the State of Florida.

This drug has been frequently found at nightclubs and college parties. It is also horrifying to learn that distribution of this drug has been discovered at junior and senior high schools—in Florida, as well as in numerous other States. The drug has also been adopted by street gang members across the country. In Texas, street gangs have been known to administer Rohypnol to females in order to commit gang rape as part of the initiation into a gang.

Although it is approved in other countries for short-term treatment of anxiety and sleep disorders, this drug is not currently approved by the Food and Drug Administration for marketing in the United States. According to the Drug Enforcement Administration, Rohypnol is being smuggled in from Mexico and other Latin America countries.

This drug is currently listed as a Schedule IV drug on the Controlled Substances Act. Schedule IV drugs are drugs with accepted medical uses and low potential for abuse. The DEA has suggested that the drug be moved to Schedule I—which are drugs with no currently accepted medical uses in the United States and which have a high potential for abuse. The difficulty in deciding whether to reschedule flunitrazepam is that the drug has some accepted medical uses—it is prescribed legally in 64 other countries. This bill will substantially increase the penalties for manufacturing or distributing flunitrazepam, to give law enforcement the muscle it needs to prosecute these cases. However, it also directs the Administrator of the DEA to conduct a thorough study on the appropriateness and desirability of rescheduling flunitrazepam to a Schedule I controlled substance. The Administrator is given 6 months to conduct this study, and I fully expect Congress to revisit this issue when that report is completed. As chairman of the Crime Subcommittee, I intend to hold a hearing on the DEA's report shortly after it's received.

It is entirely possible that other drugs may now exist, or may come along in the future, which have the same properties as Rohypnol. This legislation address those drugs, by making it illegal to posses a controlled substance with the intent to administer that substance to facilitate a crime of violence. If a victim is under the age of 14, the penalties are even higher. This bill ensures that whatever new "date-rape drug" may come along, the penalties are there for any sexual predator who may try and use it.

The bill also directs the Sentencing Commission to recommend additional penalties for the distribution of various quantities of flunitrazepam, and authorizes the Attorney General to create educational materials regarding the use of controlled substances in furtherance of rapes.

Mr. Speaker, we have a short time left in this Congress, and it would be a tragedy if we did not pass such a significant and important piece of legislation. This bill can help put a stop to the abhorrent practice of incapacitating woman for the purpose of sexual assault. I commend the gentleman from New York [Mr. SOLOMON] for being the force responsible for getting this bill to the floor today. I strongly urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill, even though I believe that it does not go far enough.

Mr. Speaker, this bill is aimed at an alarming growth in the domestic abuse of a drug popularly known as "the date rape drug."

This drug, technically known as flunitrazepam is a sedative and a hypnotic. Although it is marketed abroad, it is not legally available in the United States.

It is marketed under a variety of trade names, the most widely used being Roche Pharmaceutical's "Rohypnol." It is known on the street by slang names such as "roofies," "ropies," and "ropes."

Rohypnol enters this country through a variety of channels, and substantial evidence of abuse has emerged. This abuse includes: use by high school teenagers and college students to increase and prolong highs from alcohol; use by heroin addicts to boost heroin highs; use by cocaine users to parachute down from a cocaine binge, and use as an aid in the commission of rape. This abuse has earned it the infamous names of the date rape drug.

The use of Rohypnol in rape stems from the fact that the drug—especially in combination with other depressants—puts the victim in a virtual stupor, with profound sedation, impaired motor control, and adversely altered mental judgment and behavior. And it also induces amnesia, so that the victim cannot accurately remember what happened to her.

Mr. Speaker, the bill before us is a watered down version of what the full Judiciary Committee approved just last week. At that time, the committee voted to raise the drug's classification from what is known as schedule four—with relatively weak penalties—to schedule one—with the toughest penalties applicable to any controlled substance.

Somehow, between then and today, the majority was persuaded to weaken this bill, and to take out the rescheduling provision. There is no way to describe this but a cave in to the demands of the pharmaceutical industry.

I regret that the majority backed down in the face of heavy, behind-the-scenes lobbying and brought this weak measure to the floor.

Nevertheless, because it does substantially increase penalties for the use of controlled substances in crimes of violence, including rape, I will support the measure and urge my colleagues to vote for it.

However, I hope that the next Congress, perhaps with a change in leadership, will stand up to the special interests and get even tougher on this dangerous drug. Maybe we will even do it without a change in leadership because it is the right thing to do no matter who takes over.

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Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from New York, Mr. SCHUMER. And might I say that there is much to say about this, but I will certainly contain my remarks.

This is a very serious matter that is made more serious by a recent incident in my community. I hope this brings home the importance of this legislation, albeit I am concerned with the mysterious way that it has changed from being a schedule 4 circumstance to a schedule 1.

That is, a young lady, a teenager, healthy, academically inclined, an athlete, respected in her community, had much life before her, tragically lost her life in the last 2 months because of a so-called date rape drug.

Having come home from a volleyball camp and just wanting to spend some time with her friends at one of the local teenage clubs, where no alcohol, might I say, was served, but having spent a few hours there and drinking whatever the soft drinks were that were there, went home around midnight and failed to wake up. The tragedy was even prolonged, for it took a month before it was determined, the cause of death.

All of her family members were shocked. They certainly knew that this was not a drug abuser, and they certainly knew that this young lady had much to live for. But tragically, it was determined, after law enforcement notified some of the officials dealing with the autopsy, that they might just look into this so-called date rape drug, and there it was, that this particular healthy teenager died because of a tragic use of this type of drug.

So it is very important to recognize that we can say no, we can say, just do not do it, but this is a drug that needs the pointed focus of this House of Representatives.

The drug is odorless, it is colorless, it is tasteless, and it causes sedation and euphoric effects within 15 minutes. In the instance in my community, this young lady had a terrible headache. Afraid to tell her parents what had happened, that she had been out when she should have been at home, she tragically went to bed and did not wake up.

The effects are boosted further by alcohol use or marijuana. Most offensively, this particular drug has become a tool of predators who spike the drinks of unsuspecting young women and then rape them. In this instance, that did not occur. But tragically, this is what occurs on many occasions. So we must recognize the dangers of the Rohypnol drug.

The FDA has begun the administrative process of moving this drug from schedule 4 to schedule 1, to put the drug in the same category that carries the same penalties as LSD and heroin. But, unfortunately, we found that even after this bill passed through the Committee on the Judiciary, it seems to have been reworded and reworked, and so this drug today remains a schedule 4 drug, not because anyone actually believes it is safe as the other schedule 4 drugs like Valium, but because a drug company has successfully lobbied, to the detriment of women and girls across the country.

I will simply say, Mr. Speaker, that I certainly have the confidence that we will go back and correct this. I certainly hope the life of this young, and vigorous young lady, does not go in vain. I also hope that we add to this effort certainly the importance of prevention and education, programs like the Safe and Drug-free Schools, DARE programs, explaining to our teenagers that the utilization of any drug is not the way to go, but recognizing that the date rape drug is usually dropped on an unsuspecting victim.

It is important that we focus on this drug, focus on this legislation, and in fact, maybe at another day, emphasize the level that it should be at, which should be schedule 4.

I thank the gentleman for his kindness and his leadership, and I hope that we can work together in a bipartisan manner, and I thank the chairman for his work in passing this legislation through. I am just concerned that we move it to a stronger penalty at this time.

Mr. Speaker, I rise today in support of H.R. 4137. Unfortunately, violence against women is a major problem in our country today and one of its most devastating forms is that of date rape. While this is an issue that has plagued us for a long long time, it is the emergence of a drug called Rohypnol, which was the catalyst for this legislation. This legislation also applied to "GHB" another such drug that caused the recent tragic death of a teenager in Texas.

To reiterate for my colleagues, Rohypnol is a drug used in many foreign countries for the treatment of tension, stress and insomnia, but it has not been certified for prescription in the United States. This is a drug almost identical to other FDA approved drugs currently prescribed by doctors in the U.S. and has several legitimate and practical uses.

Regardless, like many other illegal drugs, it is now being smuggled in from Mexico and South America and it is being used in the execution of the most horrible crimes possible—those of sexual assault against another person.

While this drug represents a particular problem within a larger issue this bill is much broader since it criminalized the use of any controlled substance with the intent to commit sexual assault. This bill also sets stiff penalties for those who are convicted of such crimes and attempts to protect children by inflicting prison sentences of up to 20 years for those perpetrators whose victims are 14 years old or younger.

I applaud the efforts of Mr. SOLOMON to address this dire social issue at least partially, if not completely. For it cannot be refuted that while Rohypnol is used for the purposes of sexual assault, its use represents only a small fraction of sexual assaults.

Regardless, I support this bill and what it attempts to do. I stand with the other Members on both sides of the aisle, in the fight against violence against women, in whatever form it takes. This bill is only another battle in the long, arduous war that we are fighting and that we will one day win.

Mr. McCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the author of this legislation.

Mr. SOLOMON. Mr. Speaker, I thank the chairman, and I commend the chairman of the Subcommittee on Crime, the gentleman from Florida, Mr. BILL McCOLLUM, for the outstanding job he does as chairman of that subcommittee and particularly for his support dealing with this heinous crime of date rape.

I would also like to commend my colleague, the gentlewoman from New York, Ms. SUSAN MOLINARI, for her recognition of this problem and her cosponsorship of the bill to punish people who use this drug to commit rapes.

Also, I would like to thank the gentleman from Georgia, Mr. BOB BARR, for his support and the gentleman from North Carolina, Mr. FRED HEINEMAN, a young marine, 45 years ago, that went through boot camp with me, for his assistance with this bill in the committee. Unfortunately, Mr. HEINEMAN is ill and recovering from surgery and could not be here to lend his support tonight.

Mr. Speaker, the use of any illegal drug as a tool to commit sexual battery and rape is as loathsome as using a weapon. It seems to me that this kind of manipulative drug use is just as dangerous and just as loathsome as holding a knife to someone's throat and should be dealt with accordingly. That is what we are attempting to do with this legislation.

In response to the growing use of date rape drugs and the use of other drugs in violent sex crimes against women and children, the bill before us today increases the penalties for anyone who possesses a drug with the intent to commit a crime of violence, including sexual battery. That is what this is all about.

Our bill increases the maximum penalty to 15 years in prison for using any controlled substance to commit a crime of violence, and greater penalties are imposed on someone who is sick enough to use the drug to rape a vicitm 14 years of age and younger.

This legislation marks the first time, the very first time, the use of a controlled substance will be viewed as a weapon anywhere in the United States. That is the importance of this legislation. The stiffer sentences in this bill focus on the criminal intent of the individual possessing that drug.

Mr. Speaker, it is important to point out that illegal drugs have been at the very root of the social ills facing our society today. Consider this fact, Mr. Speaker: Approximately 75 percent of all of the violent crimes in America today against women and children are drug related, 75 percent. In other words, in three out of four violent crimes against women and children, some irresponsible adult or juvenile is getting high on drugs and then committing a despicable act against a helpless woman or child.

That is bad enough. But this bill focuses on even more sinister problems, another kind of low-life who uses drugs as a weapon against unsuspecting, helpless women or young girls, someone who fully intends to commit an act of sexual battery against another with the help of a controlled substance. Mr. Speaker, there are literally dozens of drugs, especially sedative, hypnotic drugs, that could be combined with alcohol and used to commit such a crime.

Our bill is not limited to punishing one particular drug. There is no single date rape drug. Earlier this year we heard the reports of how the drug, Rohypnol, known on the streets as roofies, was being slipped into the drinks of unsuspecting women with the intent to induce extensive blackout periods and make them susceptible to sexual crimes without them even knowing it. The use of this drug continues to be a real concern for law enforcement, for drug counselors, for teachers and parents.

According to the Drug Enforcement Administration, Rohypnol has merged as a significant abuse and trafficking problem in the United States. Between 1985 and 1991, the DEA experienced three cases or less each year involving this drug, only three cases back during the years 1985 to 1991. By 1993, that number climbed to 15, primarily, as the chairman of the subcommittee, Mr. BILL MCCOLLUM, said before, in Texas and Florida. And by 1995, the DEA had 38 Rohypnol investigations. This year, the DEA has initiated 108 cases and the U.S. Customs Service has 271 cases. So you can see the progression that is taking place now.

Given this disturbing trend, our bill increases the penalties for possessing drugs like Rohypol to levels comparable to cocaine, heroin, and LSD. The bill also requires the DEA to study whether Rohypnol should be moved to schedule 1 and to submit a report to Congress with its recommendations within 6 months. Regardless of the end result on the side issue of rescheduling, the public at large will be protected now with stiffer penalties imposed for possession of roofies.

Mr. Speaker, any drug like Rohypol that is odorless, colorless, tasteless, which renders someone defenseless, potentially could be the next date rape drug. For instance, I have an article which appeared in the September 11 issue of the San Francisco Chronicle. This article describes how a young 17-year-old girl died after someone slipped a drug called gamma y-hydroxybutyrate into her drink.

That particular drug is not even a controlled substance; it is an allowed drug in this country. Yet that drug is an odorless and almost tasteless drug that was slipped into an unsuspecting victim's drink, and, in this sad case, she did not even survive. This is exactly why we must have an approach that is broader that just one drug. This is why we must be careful not to fool ourselves by branding a particular the date rape drug. We need to go after all of them.

The bill before us today is a common sense, tough response by this Congress to protect the safety and sanctity of young women and children. It sends a very powerful message to any sex offender, anywhere, and any other violent criminal, for that matter, that you will get the book thrown at you for using these kinds of drugs in committing a crime of rape.

So on behalf of Congressman FRED HEINEMAN, the major cosponsor of this bill, and Chairman BILL MCCOLLUM, I ask Members to vote yes on this vital legislation that will stop this heinous crime of date rape. I really do appreciate the support of BOB BARR, who now has taken over management of this bill, for his strong support for the bill.

Mr. SCHUMER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARR of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, much has been said quite eloquently, most recently by the gentleman from New York, about the background of this legislation and why it is necessary. I would simply like to take a few moments to commend him, to commend the chairman of the Subcommittee on Crime, Mr. MCCOLLUM, to commend the other cosponsors of this legislation on both sides of the aisle, for putting forward a piece of legislation in a bipartisan manner with broad-ranging support which it deserves.

Mr. Speaker, the ability or the imagination of drug abusers and criminals to figure out or fashion or come up with or imagine new ways of using controlled substances, mind-altering drugs, that is, is unfortunately limitless. The Congress of the United States, therefore, Mr. Speaker, needs to be vigilant in working with our law enforcement officials to identify these new problems as they develop, not all of which can be foreseen, to maintain the flexibility to meet the challenges posed by new and dangerous uses of drugs and the development of new drugs, given the state of technology to manufacture new drugs.

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We have to do so, Mr. Speaker, in a way that addresses a specific problem yet maintains the proper jurisdictional bases and the proper concept of federalism in the developing of that new legislation to meet these new challenges posed to law enforcement.

This piece of legislation before us today, Mr. Speaker, is a textbook example, I believe, of how to responsibly meet that challenge in a very timely manner and without running afoul of important concepts of federalism. A problem was identified. It has become a crisis to law enforcement. They have come to the Congress, citizens have come to this Congress, and said there is a problem here, please help us. We have met that challenge in a bipartisan manner, Mr. Speaker, in a way that does not expand Federal jurisdiction. It just recognizes that there is a new facet of existing Federal jurisdiction.

I was very honored last week to propose this amendment to a piece of legislation then under consideration in the Committee on the Judiciary, and working with the gentleman from New York [Mr. SOLOMON], with the gentleman from Florida [Mr. MCCOLLUM], with the gentlewoman [Mrs. SCHROEDER], and with others, we were able to present this matter to the Committee on the Judiciary in such a way so that it obtained the support by voice of that great committee.

We have before us today that piece of legislation, which obviously has bipartisan support, as it enjoyed bipartisan last week in the Committee on the Judiciary, and I would ask for its favorable consideration.

Mrs. KELLY. Mr. Speaker, I rise in strong support of H.R. 4137, legislation which seeks to addressing the growing and disturbing problem of drug-induced date rape.

Mr. Speaker, rape, regardless of the circumstances, is a terrible act of violence against women. But what is particularly troubling is a growing trend of sexual violence against women who are unknowingly drugged and then sexually assaulted. Sexual predators have found a dangerous weapon in certain kinds of drugs, and we must recognize and respond to this growing problem.

H.R. 4137 will increase criminal penalties for the possession of certain drugs with the intent to use them to commit crimes of violence, including rape, against another person. The bill puts special emphasis on a drug known as Rohypnol or "roofies," which is commonly used in date rape cases, and also directs the Justice Department to make available educational materials on the use of drugs in rape and sexual assault cases.

Mr. Speaker, the Drug-Induced Rape Prevention and Punishment Act sends a clear message that we will not tolerate crimes of violence against women. I urge my colleagues to join me in supporting this important legislation.

Ms. DUNN of Washington. Mr. Speaker, a special thanks to Mr. SOLOMON, Ms. MOLINARI and all of my colleagues who worked so diligently to move this legislation forward.

As my colleagues know, the incidence of violence and crime against women continues to escalate daily. Criminals and would-be criminals keep finding new ways to victimize women. This bill represents one of the many steps that need to be taken in order to help stop the violation of innocent women. I urge my colleagues to take this vital stride forward.

First and foremost this legislation would impose tough minimum sentences on first-time offenders who distribute what are referred to as "date-rape drugs" with the intent to rape. This is only right, Mr. Speaker. These drugs render women helpless. When criminals administer drugs like Rohypnol, their victims are not aware it has been added to their drink because the drug is tasteless and odorless. Rohypnol is intended for use in treating people with severe sleep disorders and is 10 times more powerful than Valium. Unfortunately, it can induce amnesia as a side effect, which in date-rape cases obviously impairs the victim's ability to relay what transpired and to recall who raped them. Rapists prefer Rohypnol because it is fact-acting. It's effects begin within 30 minutes, peak within 2 hours and may persist up to 8 hours or more. Often times, the effects have lasted as much as 24 hours after ingestion.

Mr. SOLOMON's "Drug-Induced Rape Prevention and Punishment Act" proposes minimum sentences of not less than 20 years for Rohypnol traffickers and would-be rapists.

Mr. Speaker, this stiff penalty is justified to combat this problem. No parent should have to send a daughter off to college afraid that she might be drugged and victimized by a rapist. We should give those parents whose children have left home reassurance that we have done all we can to deter this criminal behavior.

No woman should have to worry about this heinous act affecting her life. No woman should live in fear that the next beverage she consumes will render her a defenseless victim. That is why this House should stand up today, for women across the country, and say to the cowardly individuals who commit this crime: no more. We must establish zero-tolerance for rape and the use of drugs to commit rape.

I urge passage of this important bill.

Mr. BLILEY. Mr. Speaker. I rise in support of H.R. 4137. We recently have heard several tragic instances of women being sexually assaulted after their drinks were laced with potent sedative drugs. The bill imposes stiff penalties for the unlawful distribution and trafficking of Rohypnol and extends criminal penalties to anyone convicted of using a controlled substance with the intent to commit a sexual battery.

I support the legislation; however, I must point out that the bill has not been fully considered by the committees of jurisdiction. H.R. 4137 was referred to both the Committee on the Judiciary and the Committee on Commerce. Neither committee had an opportunity to report the bill. Given the limited time remaining in this session of Congress, and the importance of this issue, I will not object to this bill moving forward. In doing so, however, the Committee on Commerce in no way is yielding any of its jurisdiction on this and other similar matters.

Mrs. FOWLER. Mr. Speaker, I urge my colleagues to join me in support of this important measure. This is an issue that is too important for politics—especially for someone like me, who has a college-aged daughter.

Drug-induced date rape is the ultimate crime of cowardice. It is intolerable, and this bill sends the message that it will not be tolerated—regardless of what drug is used.

By most accounts, Rohypnol is currently the drug of choice for sex offenders. It is powerful, it is odorless, it is tasteless, and it is cheap. This issue is not just confined to Rohypnol, however: Alcohol has always been and probably will remain the primary date-rape drug.

The real problem here is sex offenders—and we know that if they cannot get Rohypnol they will use something else. That is why H.R. 4137 applies schedule I penalties for the possession of Rohypnol, and also imposes tough penalties on sex offenders who use other drugs to render their victims helpless. Think about your daughters and support this bill.

Mrs. SCHROEDER. Mr. Speaker, because I believe that it is critically important that we increase the penalties for possession and trafficking in Rohypnol, I support this legislation even though it does not go far enough.

Rohypnol has been proven dangerous. The drug is odorless, colorless and tasteless and cause sedation and euphoric effects within 15 minutes. The effects are boosted further by alcohol or marijuana. And, most offensively, Rohypnol has become the tool of predators who spike the drinks of unsuspecting young women and then rape them.

Recognizing the dangers posed by Rohypnol, the DEA has begun the administrative process of moving Rohypnol from Schedule IV to Schedule I to put the drug in the same category—and have it carry the same penalties—as other dangerous drugs including LSD and heroin.

In an effort to speed up the process of changing Rohypnol's schedule, last week, the Judiciary Committee voted unanimously to reschedule the drug. Despite that vote, this week, we see a brand new bill on the floor without the rescheduling provision?

Why, you might ask, would anyone oppose rescheduling a dangerous drug with no legitimate purpose in the United States and which has been used to facilitate the rape of numerous young women, including many minors? Why would anyone argue for lenient treatment of a drug that has been banned by the FDA and declared dangerous by the DEA?

Because Hoffman-LaRoche, the pharmaceutical company that manufactures Rohypnol and which sells the drug in 64 foreign countries, has worked very hard to see the rescheduling provision dropped. Hoffman-LaRoche stands to lose $100 million if Rohypnol is rescheduled because sales in other countries tend to go down when the United States decides a drug is so dangerous that it belongs on Schedule I.

So in today's legislation, Rohypnol remains a Schedule IV drug not because anyone actually believes it is as safe as other Schedule IV drugs like Valium, but because a drug company has successfully lobbied—to the detriment to women and girls across the country—to keep Rohypnol's Schedule IV status.

I sincerely hope that after this bill has passed, we can go back to the Committee process and pass a bill rescheduling Rohypnol so it is treated as seriously as other dangerous drugs.

Mr. BARR of Georgia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DICKEY). The question is on the motion offered by the gentleman from Florida [Mr. MCCOLLUM] that the House suspend the rules and pass the bill, H.R. 4137.

The question was taken.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

HUMAN RIGHTS, REFUGEE, AND OTHER FOREIGN RELATIONS PROVISIONS ACT OF 1996

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4036) to strengthen the protection of internationally recognized human rights, as amended.

The Clerk read as follows:

H.R. 4036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—FOREIGN RELATIONS PROVISIONS

Sec. 101. Fees for machine readable visas.
Sec. 102. Report to Congress concerning Cuban emigration policies.
Sec. 103. Extension of certain adjudication provisions.
Sec. 104. Persecution for resistance to coercive population control methods.
Sec. 105. Conduct of certain educational and cultural exchange programs.
Sec. 106. Educational and cultural exchanges and scholarships for Tibetans and Burmese.
Sec. 107. International Boundary and Water Commission.

TITLE II—FOREIGN ASSISTANCE PROVISIONS

Sec. 201. Human rights reports.
Sec. 202. Assistance for Mauritania.

TITLE I—FOREIGN RELATIONS PROVISIONS

SEC. 101. FEES FOR MACHINE READABLE VISAS.

Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) is amended—

(1) by striking paragraphs (2) and (3) and inserting the following:

"(2) For fiscal years 1996 and 1997, not more than $150,000,000 in fees collected under the authority of paragraph (1) for each fiscal year shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of the Department of State's border security program, including the costs of—

"(A) installation and operation of the machine readable visa and automated name-check process;

"(B) improving the quality and security of the United States passport;

"(C) passport and visa fraud investigations; and

"(D) the technological infrastructure to support and operate the programs referred to in subparagraphs (A) through (C).

Such fees shall remain available for obligation until expended.

"(3) For any fiscal year, fees collected under the authority of paragraph (1) in excess of the amount specified for such fiscal year under paragraph (2) shall be deposited in the general fund of the Treasury as miscellaneous receipts."; and

(2) by striking paragraph (5).

SEC. 102. REPORT TO CONGRESS CONCERNING CUBAN EMIGRATION POLICIES.

Beginning 3 months after the date of the enactment of this Act and every subsequent 6 months, the Secretary of State shall include in the monthly report to Congress entitled "Update on Monitoring of Cuban Migrant Returnees" additional information concerning the methods employed by the Government of Cuba to enforce the United States-Cuba agreement of September 1994 to restrict the emigration of the Cuban people from Cuba to the United States and the treatment by the Government of Cuba of persons who have returned to Cuba pursuant to the United States-Cuba agreement of May 1995.

SEC. 103. EXTENSION OF CERTAIN ADJUDICATION PROVISIONS.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking "and 1996" and inserting "1996, and 1997"; and

(B) in subsection (e), by striking out "October 1, 1996" each place it appears and inserting "October 1, 1997"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking out "September 30, 1996" and inserting "September 30, 1997".

SEC. 104. PERSECUTION FOR RESISTANCE TO COERCIVE POPULATION CONTROL METHODS.

(a) DEFINITION OF REFUGEE.—

(1) Section 101(a)(42) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)) is amended by adding at the end the following: "For purposes of determinations under this Act, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to such forced procedures, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.".

(2) Not later than 90 days after the end of each fiscal year, the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate describing the number and countries of origin of aliens granted refugee status or asylum under determinations pursuant to the amendment made by paragraph (1). Each such report shall also contain projections regarding the number and countries of origin of aliens that are likely to be granted refugee status or asylum for the subsequent 2 fiscal years.

(b) NUMERICAL LIMITATION.—Section 207(a) of the Immigration and Nationality Act (8 U.S.C. 1157(a)) is amended by adding at the end the following new paragraph:

"(5) For any fiscal year, not more than a total of 1,000 refugees may be admitted under this subsection or granted asylum under section 208 pursuant to a determination under the third sentence of section 101(a)(42) (relating to persecution for resistance to coercive population control methods).".

(c) CONTINGENT REPEALER.—Subsections (a) and (b) of this section and the amendments made by such subsections shall not take effect and this section and such amendments are repealed whenever the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is enacted into law (whether before, on, or after the date of the enactment of this Act).

SEC. 105. CONDUCT OF CERTAIN EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.

In carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy (including but not limited to China, Vietnam, Cambodia, Tibet, and Burma), the Director of the United States Information Agency shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.

SEC. 106. EDUCATIONAL AND CULTURAL EXCHANGES AND SCHOLARSHIPS FOR TIBETANS AND BURMESE.

(a) ESTABLISHMENT OF EDUCATIONAL AND CULTURAL EXCHANGE FOR TIBETANS.—The Director of the United States Information Agency shall establish programs of educational and cultural exchange between the United States and the people of Tibet. Such programs shall include opportunities for training and, as the Director considers appropriate, may include the assignment of personnel and resources abroad.

(b) SCHOLARSHIPS FOR TIBETANS AND BURMESE.—

(1) Subject to the availability of appropriations, for fiscal year 1997 at least 30 scholarships shall be made available to Tibetan students and professionals who are outside Tibet, and at least 15 scholarships shall be made available to Burmese students and professionals who are outside Burma.

(2) WAIVER.—Paragraph (1) shall not apply to the extent that the Director of the United States Information Agency determines that there are not enough qualified students to fulfill such allocation requirement.

(3) SCHOLARSHIP DEFINED.—For the purposes of this section, the term "scholarship" means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books, and supplies, equipment required for courses at an educational institution, living expenses at a United States educational institution, and travel expenses to and from, and within, the United States.

SEC. 107. INTERNATIONAL BOUNDARY AND WATER COMMISSION.

The Act of May 13, 1924 (49 Stat. 660, 22 U.S.C. 277–277f), is amended in section 3 (22 U.S.C. 277b) by adding at the end the following new subsection:

"(d) Pursuant to the authority of subsection (a) and in order to facilitate further compliance with the terms of the Convention for Equitable Distribution of the Waters of the Rio Grande, May 21, 1906, United States-Mexico, the Secretary of State, acting through the United States Commissioner of the International Boundary and Water Commission, may make improvements to the Rio Grande Canalization Project, originally authorized by the Act of August 29, 1935 (49 Stat. 961). Such improvements may include all such works as may be needed to stabilize the Rio Grande in the reach between the Percha Diversion Dam in New Mexico and the American Diversion Dam in El Paso.".

TITLE II—FOREIGN ASSISTANCE PROVISIONS

SEC. 201. HUMAN RIGHTS REPORTS.

(a) SECTION 116 REPORT.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year;

"(4) the extent to which each country has extended protection to refugees, including the provision of first asylum and resettlement; and".

(b) SECTION 502B REPORT.—Section 502B(b) of such Act (22 U.S.C. 2304(b)) is amended by adding after the second sentence the following new sentence: "Each report under this section shall list the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year.".

SEC. 202. ASSISTANCE FOR MAURITANIA.

(a) PROHIBITION.—The President should not provide economic assistance, military assistance or arms transfers to the Government of Mauritania unless the President certifies to the Congress that such Government has taken appropriate action to eliminate chattel slavery in Mauritania, including—

(1) the enactment of anti-slavery laws that provide appropriate punishment for violators of such laws; and

(2) the rigorous enforcement of such laws.

(b) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) ECONOMIC ASSISTANCE.—The term "economic assistance" means any assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), except that such term does not include humanitarian assistance.

(2) MILITARY ASSISTANCE OR ARMS TRANSFERS.—The term "military assistance or arms transfers" means—

(A) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.; relating to military assistance), including the transfer of excess defense articles under sections 516 through 519 of that Act (22 U.S.C. 2321j through 2321m);

(B) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training);

(C) assistance under the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act (22 U.S.C. 2763); or

(D) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SMITH] and the gentleman from Virginia [Mr. MORAN] each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first of all want to thank the gentleman from Florida [Mr. MCCOLLUM] for allowing us to sandwich our bill because of a scheduling conflict in between his other bills that are scheduled and to especially thank the gentleman from Virginia [Mr. MORAN] for graciously agreeing to be here tonight and to join us in hopefully passing this important legislation.

Mr. Speaker, very briefly, this legislation is nine provisions, human rights and refugee related. It is a bipartisan bill. It is cosponsored, I am happy to say, by our committee chairman, full committee chairman, the gentleman from New York [Mr. GILMAN], the ranking member, the gentleman from Indiana [Mr. HAMILTON], the gentleman from California [Mr. LANTOS], who is ranking on my subcommittee, the gentleman from California [Mr. BERMAN], the gentleman from Illinois [Mr. HYDE], the gentlewoman from Florida [Ms. ROS-LEHTINEN], the gentleman from Pennsylvania [Mr. GOODLING], and others.

It is a consensus bill about what needs to be done in a number of important human rights areas. It also provides some authorities that the State Department would like to have, one especially dealing with machine readable fees to finance border security programs at no cost to the U.S. taxpayer and an authority of the United States to stabilize the channel of the Rio Grande River in accordance with international agreements, and there are also some provisions dealing with USIA.

Mr. Speaker, I do think it is a good bill, and again I ask to put my full statement into the RECORD.

The statement referred to is as follows:

Mr. Speaker, I am pleased to begin this discussion of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996. This act, which I am proud to sponsor along with BEN GILMAN, LEE HAMILTON, TOM LANTOS, HOWARD BERMAN, HENRY HYDE, ILEANA ROS-LEHTINEN, and BILL GOODLING, consists of nine provisions that were originally included in H.R 1561, the Foreign Relations Act for Fiscal Years 1996 and 1997, which was passed by the House and Senate last year.

Several provisions of the act extend or enhance authority to conduct important programs that are already underway. Two of these authorities relate to the security of our Nation's borders: The State Department's authority to use machine-readable fees to finance its Border Security Program at no cost to U.S. taxpayers, and the authority of the United States to stabilize the channel of the Rio Grande River in accordance with international agreements.

The act extends the authority of USIA to include Tibetan and Burmese exiles in its scholarship programs, and requires USIA to take appropriate steps to involve pro-democracy and human rights leaders in exchange programs with countries whose people do not fully enjoy freedom and democracy. It also requires that the State Department's Country Reports on Human Rights Practices include reports on each country's votes on resolutions before the U.N. Human Rights Commission, as well as its treatment of refugees. The latter provision is designed to enhance efforts to persuade other countries in the Western Hemisphere and elsewhere to accept their fair share of the world's refugee population, rather than leaving the brunt of the burden on the United States and a few other nations.

The act extends for 1 year the current law relating to refugees in certain high-risk categories, such as Jews and evangelical Christians from the former Soviet Union and Southeast Asians who have suffered persecution for their wartime associations with the United States. It also clarifies the law with respect to forced abortion, forced sterilization, and persecution on account of resistance to such forced procedures. It requires periodic reports on the Castro government's methods of enforcing its immigration agreements with the United States and its treatment of people returned to Cuba in accordance with these agreements.

Finally, the act provides that the United States should not give foreign assistance, other than humanitarian assistance, to Mauritania unless that country rigorously enforces its laws against human chattel slavery. This is a vicious form of persecution—it involves racial discrimination against blacks, religious persecution of Christians, and the worst forms of degradation of women and children. The policies of our Government toward Mauritania must be calculated to put a speedy end to this heinous practice.

None of these sections was a source of controversy in the conference or on the House or Senate floor, and none was alluded to in the statement accompanying the President's veto of H.R. 1561. Several sections have been modified slightly to address concerns expressed by the administration. The act does not authorize expenditures for foreign assistance. We have worked with the administration and with Democrats on the International Relations Committee to meet their concerns. I have been assured that the administration does not oppose this bill and that it actively supports several important provisions of the legislation. Major provisions of this bill are also supported by a broad range of human rights organizations and other groups including the Council of Jewish Federations, the Hebrew Immigrant Aid Society, the Union of Councils for Soviet Jewry, the Lawyers Committee for Human Rights, the U.S. Committee for Refugees, the United States Catholic Conference, the Christian Coalition, the Family Research Council, and the International Campaign for Tibet.

I urge a "yes" vote on this important human rights bill.

Mr. Speaker, I yield back the balance of my time.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume to say that this bill has been modified so that it is truly a bipartisan product. It is supported by a number of the senior ranking members on the Committee on International Relations. It does some good and important things in the area of international human rights, many of which have been described by the gentleman from New Jersey [Mr. SMITH]. As a result, the minority has no objection and urges passage of the bill.

Mr. GILMAN. Mr. Speaker, H.R. 4036 was introduced by my friend, the chairman of the Subcommittee on International Operations and Human Rights, the gentleman from New Jersey [Mr. SMITH]. I want at this time to thank him once again for his steadfast support in Committee during this very eventful Congress.

This bill consists largely of items culled from the conference report on H.R. 1561 that help enforce human rights around the world or make other, needed changes to the laws involved in the foreign relations of the United States.

Among the matters that are taken up are the extension of the so-called Lautenberg amendment, which provides for expedited consideration for Christians and Jews still in jeopardy in parts of the former Soviet Union, extending the authorization for the State Department to collect the special machine readable visa fee which goes for border security operations, extending certain authorities for the International Boundary and Water Commission's operations on the U.S.-Mexican Border, and several human rights provisions relating to Mauritania and other places.

This bill has wide, deserved support and I commend the gentleman from New Jersey for his perseverance in shepherding it to this point. I urge my colleagues to support the bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 4036, the Human Rights, Refugees and Other Foreign Relations Provisions Act. I support the provisions of the bill that reduce the discretion of U.S. immigration authorities to deny political asylum to individuals who claim coercion by a foreign government to participate in population control programs. This provision will make it easier for immigrants to claim asylum on this basis.

Furthermore, I support the prohibition on economic and military assistance to the Government of Mauritania unless our President certifies that Mauritania has taken action to eliminate slavery.

Another important provision of the bill orders the President to submit reports to Congress regarding the voting record of the U.N. Commissioners on Human Rights on country-specific resolutions. We need to continue to make human rights a major factor in the formulation and implementation of our foreign policy. The President's report must also include information on each country's effort to protect refugees.

With respect to human rights, I would have preferred that the bill contain provisions relating to human rights problems in Ethiopia. While the current government in Ethiopia is much better than the previous government in the area of human rights, there is still much work to be done. I am concerned by reports that academicians, journalists and opposition leaders are being persecuted for their beliefs and efforts against the current government. The State Department should continue to carefully monitor human rights progress in Ethiopia as we allocate funding to Ethiopia in fiscal year 1997.

I urge my colleagues to support this legislation

Mr. PORTER. Mr. Speaker, I am pleased to rise in support of this legislation which would ensure passage of several important provisions which are included in the Immigration bill. Should partisan differences continue to hold up the Immigration bill, we would still be able to address the serious issues of U.S. support to Tibetan and Burmese exiles and reclassification of resistance to reproductive persecution as constituting political persecution under the refugee definition. In addition, this bill will provide continued authorization for one of the most successful aspects of our refugee and asylum law: the protection of high risk refugees such as Soviet Jews.

These measures have already received the support of this House in other legislation. H.R. 4036 will provide a stop-gap to ensure their continuation. I urge my colleagues to support this most worthwhile legislation.

Mr. MORAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 4036, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill making certain provisions with respect to internationally recognized human rights, refugees, and foreign relations."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4036, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

TELEMARKETING FRAUD PUNISHMENT AND PREVENTION ACT OF 1996

Mr. McCOLLUM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1499) to improve the criminal law relating to fraud against consumers, as amended.

The Clerk read as follows:

H.R. 1499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telemarketing Fraud Punishment and Prevention Act of 1996".

SEC. 2. FORFEITURE OF FRAUD PROCEEDS.

Section 982(a) of title 18, United States Code, is amended by adding at the end the following:

"(6) The Court, in sentencing a defendant for an offense under section 2326, shall order that the defendant forfeit to the United States any real or personal property—

"(A) used or intended to be used to commit or to promote the commission of such offense, if the court in its discretion so determines, taking into consideration the nature, scope, and proportionality of the use of the property in the offense; and

"(B) constituting, derived from, or traceable to the gross receipts that the defendant obtained directly or indirectly as a result of the offense,".

SEC. 3. SENTENCING GUIDELINES CHANGES.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the sentencing guidelines to provide a sentencing enhancement for any offense listed in section 2326 of title 18, United States Code—

(1) by at least 4 levels if the circumstances authorizing an additional term of imprisonment under section 2326(1) are present; and

(2) by at least 8 levels if the circumstances authorizing an additional term of imprisonment under section 2326(2) are present.

SEC. 4. INCREASED PUNISHMENT FOR USE OF FOREIGN LOCATION TO EVADE PROSECUTION.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the sentencing guidelines to increase the offense level for any fraud offense by at least 2 levels if the defendant conducted activities to further the fraud from a foreign country.

SEC. 5. CLARIFICATION OF ENHANCEMENT OF PENALTIES.

Section 2327(a) of title 18, United States Code, is amended by striking "under this chapter" and inserting "for which an enhanced penalty is provided under section 2326 of this title".

SEC. 6. ADDITION OF CONSPIRACY OFFENSES TO SECTION 2326 ENHANCEMENT.

Section 2326 of title 18, United States Code, is amended by inserting ", or a conspiracy to commit such an offense," after "or 1344".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. McCOLLUM] and the gentlewoman from California [Ms. LOFGREN] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, older Americans have rapidly become the preferred targets of fraudulent telemarketers. Some of them are lonely, and appreciate having someone to talk to during the day. Many of them are just trusting, and they simply cannot tell a legitimate telephone sales pitch from an illegitimate one.

These elderly victims are tricked into giving money to phony charities, applying for bogus credit cards or paying for unnecessary repairs for their homes. Worst of all, many of them are further scammed when they receive phone calls from people claiming to be private investigators or attorneys who want to help them get their lost money back. Organizers of these so-called "recovery-room scams" convince the elderly person that almost all of the already spent money can be recovered—this is, provided that a few thousands dollars are mailed up front first. The cost to consumers for these and other reprehensible telemarketing schemes is currently estimated to be about $40 billion a year.

This past April, the Subcommittee on Crime, which I Chair, held a hearing on telemarketing fraud and victimization of the elderly. Subcommittee members heard from an elderly woman who was swindled by crooked telemarketers, and lost nearly $75,000—practically hear life's savings. Mr. Speaker, this woman was asked at the hearing why she let the phone calls go on for so long. Why didn't she tell her family that she was being targeted? This poor woman responded that she was too ashamed and embarrassed to tell her children. She had lost all the money that she and her late husband had so carefully saved, and she was too humiliated to admit it to anyone. Tragically, that woman's story is not an uncommon one.

Embarrassment is a weapon for these telefrauds, and they freely exploit it. Some even threaten their older victims that control over their credit cards and bank accounts will be taken away from them by their children if they tell anyone how they have lost their money. Humiliation, and the fear of losing of independence, keeps these elderly victims as easy prey for scam artists.

In response to this heartless activity, Mr. HEINEMAN introduced H.R. 1499. Unfortunately he cannot be here with us today because he is at home in this district recovering from surgery, and I know we all wish him a speedy recovery.

Chief HEINEMAN's bill strikes back at those who would take advantage of trusting or vulnerable members of our society. The bill amends §982(a) of title

18, United States Code, by requiring a defendant convicted of fraud involving a telemarketing scam to forfeit property used in the commission of the offense or any proceeds received as a result of the offense. The bill also directs the U.S. Sentencing Commission to amend the sentencing guidelines to increase sentences for telemarketing fraud offenses as defined in section 2326 of title 18, United States Code. The increase shall be at least 4 levels for general telemarketing fraud, and at least 8 levels if the defendant is found to have targeted persons over the age of 55.

Under current law, telemarketers are supposed to be getting up to 10 years in prison for seeking out and victimizing persons over the age of 55. But the sentencing guidelines have never been amended regarding telemarketing fraud, even though Congress encouraged the Commission to do so in 1994. Crooked telemarketers are spending an average of only 1 year in jail. It is undeniable that criminal telemarketers are getting off easy, and this bill will ensure that their sentences are more than doubled.

The bill also adds conspiracy language to section 2336. This addition allows Federal prosecutors to seek out the masterminds behind the boiler rooms—the places where the telemarketers conduct their illegal activities. This conspiracy language will aid prosecutors by allowing them to go after the organizers of these fraudulent activities. This provision was added at the behest of the Department of Justice.

Finally, this bill makes a small, technical clarification to section 2337(a) of title 18. Currently, section 2337 directs the court to order restitution for any offense under this chapter. The bill makes it clear that section 2336 of the telemarketing fraud chapter of title 18 is merely a penalty enhancement section, and not a new Federal offense. The Department of Justice was concerned about this ambiguity, so this language makes clear that there is no new offense under chapter 113A.

Mr. Speaker, I would like to commend my good friend from North Carolina, Mr. HEINEMAN, for his commitment to this issue, and his efforts to combat this serious problem. He introduced H.R. 1499 more than a year ago, and his dedication to protecting the elderly who are being preyed upon by greedy, heartless crooks is truly admirable. I am very sorry that he is unable to be here to see the fruits of all his efforts, and I urge my colleagues to support the bill.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill. This bill strikes at one of the most cynical crimes in America, fraud against older Americans. The unscrupulous crooks who run the schemes that this bill aims at has stolen the life savings of scores of honest, hard-working older Americans. They have driven thousands of others deep into debt. These con artists have turned years that ought to be spent in well-earned hours of enjoyment into hellish nightmares. Unfortunately, many of these schemes operate not only across State lines, but even across international boundaries. Often only the Federal Government has the resources and the jurisdictions to stop a given fraud scheme and punish its perpetrators.

This bill gives the Federal Government a few additional tools to go after those who prey on our parents, grandparents and other older Americans. It allows for criminal forfeiture of property used in such schemes, enhances penalties in cases of telemarketing fraud aimed at persons over 55 years of age, and directs the Sentencing Commission to increase sentencing in cases where criminals operate from foreign countries to evade prosecution.

Mr. Speaker, this is a modest bill, but an important bipartisan blow against crime. I congratulate the chairman for working with us on this measure, and I urge my colleagues to vote for it.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE], a distinguished member of the committee.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I wanted to add to the impact of this legislation as I rise to support H.R. 1499. Not only does it respond to the humiliation that occurs through our senior citizens in their sunset years of which they may be active in community life, but yet somewhat intimidated by those who might prey upon them through telephone fraud. It also impacts the mentally retarded or physically or mentally challenged and other vulnerable consumers.

If there is anything that we hear as we travel about our districts, it is some of the tragic stories that occur from some of the overly aggressive telemarketing efforts to prey upon those individuals that will be easily vulnerable to say a quick "yes," and I think that this legislation helps give a minimal amount of support to those individuals who might clearly have lost their way, well-intended, wanting to be kind, generous in spirit, and yet being preyed upon by those with sinister ideas.

I do not want to see any more of our citizens and their life savings, those individuals who are mentally regarded or mentally challenged and other vulnerable consumers fall prey to these kinds of devastating acts.

So I rise to support this, and I ask my colleagues to support H.R. 1499.

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Ms. LOFGREN. I again urge passage of this bill. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I urge passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DICKEY). The question is on the motion offered by the gentleman from Florida [Mr. McCOLLUM] that the House suspend the rules and pass the bill, H.R. 1499, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PAM LYCHNER SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT OF 1996

Mr. McCOLLUM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3456) to provide for the nationwide tracking of convicted sexual predators, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pam Lychner Sexual Offender Tracking and Identification Act of 1996".

SEC. 2. OFFENDER REGISTRATION.

(a) ESTABLISHMENT OF FBI DATABASE.—Subtitle A of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended by adding at the end the following new section:

"SEC. 170102. FBI DATABASE.

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'FBI' means the Federal Bureau of Investigation;

"(2) the terms 'criminal offense against a victim who is a minor', 'sexually violent offense', 'sexually violent predator', 'mental abnormality', and 'predatory' have the same meanings as in section 170101(a)(3); and

"(3) the term 'minimally sufficient sexual offender registration program' means any State sexual offender registration program that—

"(A) requires the registration of each offender who is convicted of an offense described in subparagraph (A) or (B) of section 170101(a)(1);

"(B) requires that all information gathered under such program be transmitted to the FBI in accordance with subsection (g) of this section;

"(C) meets the requirements for verification under section 170101(b)(3); and

"(D) requires that each person who is required to register under subparagraph (A) shall do so for a period of not less than 10 years beginning on the date that such person was released from prison or placed on parole, supervised release, or probation.

"(b) ESTABLISHMENT.—The Attorney General shall establish a national database at the Federal Bureau of Investigation to track the whereabouts and movement of—

"(1) each person who has been convicted of a criminal offense against a victim who is a minor;

"(2) each person who has been convicted of a sexually violent offense; and

"(3) each person who is a sexually violent predator.

"(c) Registration Requirement.—Each person described in subsection (b) who resides in a State that has not established a minimally sufficient sexual offender registration program shall register a current address, fingerprints of that person, and a current photograph of that person with the FBI for inclusion in the database established under subsection (b) for the time period specified under subsection (d).

"(d) Length of Registration.—A person described in subsection (b) who is required to register under subsection (c) shall, except during ensuing periods of incarceration, continue to comply with this section—

"(1) until 10 years after the date on which the person was released from prison or placed on parole, supervised release, or probation; or

"(2) for the life of the person, if that person—

"(A) has 2 or more convictions for an offense described in subsection (b);

"(B) has been convicted of aggravated sexual abuse, as defined in section 2241 of title 18, United States Code, or in a comparable provision of State law; or

"(C) has been determined to be a sexually violent predator.

"(e) Verification.—

"(1) Persons convicted of an offense against a minor or a sexually violent offense.—In the case of a person required to register under subsection (c), the FBI shall, during the period in which the person is required to register under subsection (d), verify the person's address in accordance with guidelines that shall be promulgated by the Attorney General. Such guidelines shall ensure that address verification is accomplished with respect to these individuals and shall require the submission of fingerprints and photographs of the individual.

"(2) Sexually violent predators.—Paragraph (1) shall apply to a person described in subsection (b)(3), except that such person must verify the registration once every 90 days after the date of the initial release or commencement of parole of that person.

"(f) Community Notification.—

"(1) In general.—Subject to paragraph (2), the FBI may release relevant information concerning a person required to register under subsection (c) that is necessary to protect the public.

"(2) Identity of victim.—In no case shall the FBI release the identity of any victim of an offense that requires registration by the offender with the FBI.

"(g) Notification of FBI of Changes in Residence.—

"(1) Establishment of new residence.—For purposes of this section, a person shall be deemed to have established a new residence during any period in which that person resides for not less than 10 days.

"(2) Persons required to register with the FBI.—Each establishment of a new residence, including the initial establishment of a residence immediately following release from prison, or placement on parole, supervised release, or probation, by a person required to register under subsection (c) shall be reported to the FBI not later than 10 days after that person establishes a new residence.

"(3) Individual registration requirement.—A person required to register under subsection (c) or under a minimally sufficient offender registration program, including a program established under section 170101, who changes address to a State other than the State in which the person resided at the time of the immediately preceding registration shall, not later than 10 days after that person establishes a new residence, register a current address, fingerprints, and photograph of that person, for inclusion in the appropriate database, with—

"(A) the FBI; and

"(B) the State in which the new residence is established.

"(4) State registration requirement.—Any time any State agency in a State with a minimally sufficient sexual offender registration program, including a program established under section 170101, is notified of a change of address by a person required to register under such program within or outside of such State, the State shall notify—

"(A) the law enforcement officials of the jurisdiction to which, and the jurisdiction from which, the person has relocated; and

"(B) the FBI.

"(5) Verification.—

"(A) Notification of local law enforcement officials.—The FBI shall ensure that State and local law enforcement officials of the jurisdiction from which, and the State and local law enforcement officials of the jurisdiction to which, a person required to register under subsection (c) relocates are notified of the new residence of such person.

"(B) Notification of FBI.—A State agency receiving notification under this subsection shall notify the FBI of the new residence of the offender.

"(C) Verification.—

"(i) State agencies.—If a State agency cannot verify the address of or locate a person required to register with a minimally sufficient sexual offender registration program, including a program established under section 170101, the State shall immediately notify the FBI.

"(ii) FBI.—If the FBI cannot verify the address of or locate a person required to register under subsection (c) or if the FBI receives notification from a State under clause (i), the FBI shall—

"(I) classify the person as being in violation of the registration requirements of the national database; and

"(II) add the name of the person to the National Crime Information Center Wanted person file and create a wanted persons record: *Provided*, That an arrest warrant which meets the requirements for entry into the file is issued in connection with the violation.

"(h) Fingerprints.—

"(1) FBI registration.—For each person required to register under subsection (c), fingerprints shall be obtained and verified by the FBI or a local law enforcement official pursuant to regulations issued by the Attorney General.

"(2) State registration systems.—In a State that has a minimally sufficient sexual offender registration program, including a program established under section 170101, fingerprints required to be registered with the FBI under this section shall be obtained and verified in accordance with State requirements. The State agency responsible for registration shall ensure that the fingerprints and all other information required to be registered is registered with the FBI.

"(i) Penalty.—A person required to register under paragraph (1), (2), or (3) of subsection (g) who knowingly fails to comply with this section shall—

"(1) in the case of a first offense—

"(A) if the person has been convicted of 1 offense described in subsection (b), be fined not more than $100,000; or

"(B) if the person has been convicted of more than 1 offense described in subsection (b), be imprisoned for up to 1 year and fined not more than $100,000; or

"(2) in the case of a second or subsequent offense, be imprisoned for up to 10 years and fined not more than $100,000.

"(j) Release of Information.—The information collected by the FBI under this section shall be disclosed by the FBI—

"(1) to Federal, State, and local criminal justice agencies for—

"(A) law enforcement purposes; and

"(B) community notification in accordance with section 170101(d)(3); and

"(2) to Federal, State, and local governmental agencies responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a).".

"(k) Notification Upon Release.—Any State not having established a program described in section 170102(a)(3) must—

"(1) upon release from prison, or placement on parole, supervised release, or probation, notify each offender who is convicted of an offense described in subparagraph (A) or (B) of section 170101(a)(1) of their duty to register with the FBI; and

"(2) notify the FBI of the release of each offender who is convicted of an offense described in subparagraph (A) or (B) of section 170101(a)(1).".

SEC. 3. DURATION OF STATE REGISTRATION REQUIREMENT.

Section 170101(b)(6) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(6)) is amended to read as follows:

"(6) Length of registration.—A person required to register under subsection (a)(1) shall continue to comply with this section, except during ensuing periods of incarceration, until—

"(A) 10 years have elapsed since the person was released from prison or placed on parole, supervised release, or probation; or

"(B) for the life of that person if that person—

"(i) has 1 or more prior convictions for an offense described in subsection (a)(1)(A); or

"(ii) has been convicted of an aggravated offense described in subsection (a)(1)(A); or

"(iii) has been determined to be a sexually violent predator pursuant to subsection (a)(2).".

SEC. 4. STATE BOARDS.

Section 170101(a)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)(2)) is amended by inserting before the period at the end the following: ", victim rights advocates, and representatives from law enforcement agencies".

SEC. 5. FINGERPRINTS.

Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended by adding at the end the following new subsection:

"(g) Fingerprints.—Each requirement to register under this section shall be deemed to also require the submission of a set of fingerprints of the person required to register, obtained in accordance with regulations prescribed by the Attorney General under section 170102(h).".

SEC. 6. VERIFICATION.

Section 170101(b)(3)(A)(iii) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(3)(A)(iii)) is amended by adding at the end the following: "The person shall include with the verification form, fingerprints and a photograph of that person.".

SEC. 7. REGISTRATION INFORMATION.

Section 170101(b)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(2)) is amended to read as follows:

"(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.—The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State Law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit all information described in paragraph (1) to the Federal Bureau of Investigation for inclusion in the FBI database described in section 170102.".

SEC. 8. IMMUNITY FOR GOOD FAITH CONDUCT.

State and Federal law enforcement agencies, employees of State and Federal law enforcement agencies, and State and Federal officials shall be immune from liability for good faith conduct under section 170102.

SEC. 9. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall issue regulations to carry out this Act and the amendments made by this Act.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall become effective 1 year after the date of enactment of this Act.

(b) COMPLIANCE BY STATES.—Each State shall implement the amendments made by sections 3, 4, 5, 6, and 7 of this Act not later than 3 years after the date of enactment of this Act, except that the Attorney General may grant an additional 2 years to a State that is making good faith efforts to implement such amendments.

(c) INELIGIBILITY FOR FUNDS.—

(1) A State that fails to implement the program as described in section 3, 4, 5, 6, and 7 of this Act shall not receive 10 percent of the funds that would otherwise be allocated to the State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3765).

(2) Any funds that are not allocated for failure to comply with section 3, 4, 5, 6, or 7 of this Act shall be reallocated to States that comply with these sections.

SEC. 11. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. MCCOLLUM] and the gentlewoman from California [Ms. LOFGREN] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

GENERAL LEAVE

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3456.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3456 is the Sexual Offender Tracking and Identification Act of 1996. It is an important piece of legislation that builds on previous efforts of this Congress to ensure that reliable records are available to keep track of convicted sexual predators. H.R. 3456 amends the Jacob Wetterling Act of 1994 which requires the States to set up sex offender registry programs which require child sex offenders to register their addresses and other pertinent information with local law enforcement upon release from prison. I am pleased to report that since enactment of the Wetterling Act, all 50 States have developed sex offender registration programs and the District of Columbia is expected to follow suit this month.

The States have taken this issue quite seriously and should be commended. But despite these efforts, some child sex offenders are slipping through the cracks. Fifty-one individual State sex offender registration programs would be sufficient if sex offenders never moved out of State. Unfortunately, they do. These offenders tend to be particularly transient individuals and have already found ways of getting lost in the paperwork by simply crossing State lines. Moreover, although the Wetterling Act requires States to forward copies of their registry information to the FBI, essentially nothing is done with the information. Because the FBI was not directed to do so, it has not taken a proactive stance in obtaining this information. It is simply a receptacle.

Mr. Speaker, I think it has become clear that while the Wetterling Act has significantly improved our ability to keep track of convicted sex offenders, there are new obstacles that must be addressed. H.R. 3456, the Sexual Offender Tracking and Identification Act of 1996, will do just that.

The sponsor of this bill, the gentleman from New Jersey [Mr. ZIMMER], deserves special recognition for his years of work to implement Federal and State recordkeeping procedures for child sex predators. Mr. ZIMMER was instrumental in fighting for final passage of the Jacob Wetterling Act in 1994, and was the original sponsor of Megan's Law, a bill this Congress passed earlier this session which strengthened community notification laws with regard to registered sex offenders. H.R. 3456, Sexual Offender Tracking and Identification Act of 1996 is yet another step to strengthen these efforts.

Mr. Speaker, let me briefly describe what the bill does: H.R. 3456 establishes a national database, using existing FBI criminal record keeping systems, to keep track of individuals who have been convicted of sexual offenses against minors or other sexually violent offenses, and who have completed their prison sentences. This initiative will ensure that these offenders, who have a recidivism rate estimated to be 10 times greater than other criminals, will be tracked by State authorities, and, as they move from State to State, by the FBI. If an offender fails to register at any time, he will be subjected to tougher penalties and—with the help of the FBI's national "Wanted Persons Index"—be brought to justice.

Now, as some of you may recall, on August 24, 1996, President Clinton issued an Executive Order to the Attorney General to begin work on a Sex Offender Registry Network which is very similar to the type of national database program proposed in H.R. 3456. This presidential directive will ensure that the Justice Department and the FBI have a national network operational in 6 months. I commend the President on his commitment to this issue. However, this directive is only the first step. H.R. 3456 is a necessary component to the establishment of a national system and will serve to compliment and even strengthen the President's Executive Order. In addition, unlike the President's proposal, H.R. 3456 improves verification procedures by requiring offenders to provide fingerprints and a photo in addition to the signed verification form required under current law and also establishes criminal penalties for failure to meet interstate registration requirements. H.R. 3456 has received strong support from the Department of Justice and the National Center for Missing and Exploited Children.

Now, the bill in the form which is being considered today contains a few modifications from the bill as it was introduced. These modifications are largely technical and clarifying changes that were requested by the FBI. In addition, H.R. 3456, in the form that we are considering, is identical to the Senate version of the bill which passed by voice vote last July.

Mr. Speaker, sexual offenders not only victimize the women and children upon which they prey, they victimize society as a whole. As a nation, we have depleted sense of trust and security because of these individuals. It is well recognized that sexual predators are remarkably clever and persistently transient. These offenders are not confined within State lines—neither should our efforts to keep track of them. By establishing a national registration program. H.R. 3456 will serve as an effective crime fighting tool for State and Federal law enforcement across the country. Again, I commend the gentleman from New Jersey [Mr. ZIMMER] for sponsoring this bill, and I urge my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this bill. Mr. Speaker, I support this legislation, which strengthens and improves the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

The Jacob Wetterling Act, enacted as part of the 1994 crime bill, requires states to enact laws to register and track criminals who are the most violent, the most horrible and the least likely to be rehabilitated—criminals who attack children and who are sexually violent predators.

Since the enactment of Jacob Wetterling, states have made great progress in building effective tracking systems. To make sure that these criminals are tracked however, this legislation does three important things:

First, it creates a nationwide system that will help state and local law enforcement track offenders as they move from state to state;

Second, while most States have established or are about to establish tracking systems, this legislation will ensure that there is no place—no one state—where sexual predators can hide and not register. This system will track all offenders even if a specific state does not track such criminals.

Finally, this legislation ensures that the most serious predators will be registered with law enforcement officials for the rest of their lives.

This legislation works by requiring all offenders to verify their addresses on a regular basis by returning verification cards with their fingerprints and a recent photograph. A nationwide warning will be issued whenever an offender fails to verify his address or when an offender cannot be located. There are also tough penalties for offenders who deliberately fail to register.

I am pleased that we have worked in a bipartisan fashion to protect our Nation's children from sexual predators, and I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. ZIMMER], the author of this bill.

Mr. ZIMMER. I thank the gentleman for yielding time to me, and I thank him for his expeditious consideration of this legislation and for his concern, which stretches back for years, for the problem of sexual predators and the need to track their movements and to notify communities of their whereabouts.

Mr. Speaker, we have all heard some of the chilling stories. In Arlington, TX, Amber Hagerman was dragged from her bicycle and never seen alive again. Police have no suspects, but they think the crime was committed by a sexual predator. In California, 12-year-old Polly Klaas was abducted from her own bedroom and brutally murdered. Her killer had been out on parole 3 months, and twice before had been arrested for kidnaping.

In Manalapan Township, NJ, little Amanda Wengert was murdered by a previously convicted sex offender, and in Hamilton Township, NJ, 7-year-old Megan Kanka was raped and murdered, allegedly by a twice-convicted sex offender who lived across the street from her family.

As evidenced by these tragic events, there is a need to arm communities with information about the whereabouts of previously convicted sex offenders. In many instances, lives could have been saved if only communities had known about these dangerous predators.

After the death of Megan Kanka, her parents, Richard and Maureen Kanka, mobilized New Jersey and the entire Nation in the fight for community notification of the presence of sexual offenders. Had they known that an offender lived directly across the street from them, the Kankas would have been able to protect Megan from harm, and Megan would be alive today.

On May 17, 2 years of hard work by Rich and Maureen Kanka reached their culmination when the President signed into law my Federal Megan's Law. As a result, local law enforcement agencies in all 50 States must now notify schools, day care centers, and parents, the people who need to know, about the presence of dangerous predators.

But we still have to do more. We need to make sure that when sexual predators move from State to State, we do not lose track of them. All 50 States have registration now. Forty-one have some sort of notification system, and 27 have active dissemination of this information to the public. But unless we make this a unified, seamless, national system, community notification will not be fully successful.

My bill will establish a nationwide tracking system to keep tabs on sex offenders as they move from State to State, and provide a backup system for the States themselves. My legislation requires offenders to verify their address periodically by returning verification cards, along with their fingerprints. It requires a nationwide warning to be issued whenever the offender fails to verify his address or when the offender cannot be located.

H.R. 3456 establishes tough penalties for offenders who willfully fail to register and keep up with their verification requirements, and requires the FBI to ensure local authorities are notified every time a sex offender moves into or out of the local jurisdiction.

My bill continues to preserve State authority in determining exactly what sort of notification will be required when a sexual predator moves into the neighborhood.

In July, the other body passed its own FBI sexual predator tracking bill, S. 1675, sponsored by Senators GRAMM and BIDEN. My legislation, as amended, is identical to S. 1675. The amendments made in the Senate all make this a better bill. If we pass H.R. 3456 today, it will go directly to the President, who has pledged to sign it into law.

Mr. Speaker, now that so many States have effective registration systems and tracking systems, we need to take the next step. We have to build a system where all movements of sexually violent child molesters can be tracked so that no predator can cross a State line and simply disappear.

This, in fact, is exactly what happened in the case of the predator whose case was considered by the New Jersey State Supreme Court when it upheld the validity of our State Megan's Law. He left New Jersey, and although his lawyers may know his whereabouts, no one else does.

I ask my colleagues to vote for H.R. 3456.

Ms. LOFGREN. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. WATT], a distinguished member of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I thank my colleague from California for yielding me time to debate this bill.

Mr. Speaker, I rise in opposition to the bill. I guess I could sit quietly. This bill is on suspension. I am sure it will pass. I know that I am swimming against the tide. But there are some things that I think need to be said about the bill, and this is not the first time I have said these things about these kinds of bills, so I feel compelled to say them.

□ 1930

I know that tomorrow when I get the messages off my machine in the office, there will be a line of messages from people saying that I have stood up and defended sex offenders and that I have just lost my mind on this bill. That always happens. But somebody needs to talk about what we are doing here and approach this with some degree of rationality. I hope that at least some people will appreciate how I approach it.

First of all, this bill has not seen itself in the Committee on the Judiciary, which is where bills of this kind normally go for discussion. Not that the result would be any different. I would be the first to concede that if it had come to the Committee on the Judiciary, it would have been voted out and would have been reported to the floor favorably. But the bill in my opinion offends some sensibilities that we as U.S. citizens ought to be aware of.

There are two principles I hold very dearly, because I have been taught about them for as long as I have been in the criminal justice system as a lawyer. First of all is that once a person pays their debt to society, they ought to have the opportunity to put the offense behind them and move on. Under this bill, as under all the Megan's Law bills, there is not that opportunity because the individuals are then, after they have paid their debt to society, required to register with somebody and be basically branded with a badge for the rest of their life under this bill, because this one says that the registration process must go on for life. It used to be 10 years. Now we are extending it to life under this bill.

Second, if one does not register, that in and of itself becomes a crime under this bill, which subjects a person to a penalty of up to 1 year in prison or $100,000, and subsequent offenses up to 10 years in prison and up to $100,000, even if the person has done absolutely nothing else to offend the system. They just simply did not register under this bill.

Well, it offends me that failure to register should subject somebody to an additional penalty, be put in jail. They have not committed any crime against anybody. They just simply failed to be able to move on with their life.

There is a second concern I have about the bill, and that is a constitutional provision which presumes that every American citizen is innocent of a crime until they are proven guilty. This bill presumes just the opposite. If a person is ever convicted of a sexual offense, for the rest of their life they are presumed guilty of some violation. They cannot move into a community and put that incident behind them. They cannot refuse to register without subjecting themselves to additional penalties.

So the whole presumption of innocence goes by the board once a person commits some crime for which they have already been sentenced, served their time, paid their debt to society and yet somehow under this bill they are presumed guilty for the balance of their life. I think those two principles, in my estimation, are simply un-American.

This can be politically popular. I am sure it is. I mean, Mr. GRAMM and Mr. BIDEN, on opposite sides of the political fence. The President, I am sure, will sign the bill. Most of the public will say that this is something that we should not be concerned about, but I think we are going overboard and we are going further and further overboard the more we beat our chest and sound even tougher on these crimes, which in this bill simply happens to be, well, they did not register.

I do not want a Government that requires me, or any citizen, to register. I think that is un-American, and I think it is something that we all ought to be concerned about. I appreciate the gentlewoman yielding me this time.

Mr. MCCOLLUM. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I find what the gentleman said stated eloquently as the gentleman from North Carolina usually states it in his reservations about such legislation as this where we see differently, but I think he is being a little bit too creative with regard to the presumption of innocence comments he made. Remember that the person who is registering here and being registered, or required to register, is somebody who has been convicted of a sexual offense; could well be, probably has been, a child molester of some sort. That is not unlikely under this provision to be the case. And, frankly, that person has already been convicted and this is really part of what the consequences are that go with being convicted of the acts that are delineated in the bill. And for better or for worse, the bottom line of why we need this legislation is that history shows us that people who commit these kind of crimes are likely to get out of jail and commit them again. It is not true that everybody does. But there is a high probability of that in many cases. And so consequently this is not punishment for some act that might occur in the future. This is an additional burden that somebody is going to bear as a result of the act that they have already committed and been convicted of. I would submit that the registration and in this case this bill's provision that give the FBI and so forth a chance to really follow these people across State lines is very, very important, and the gentleman from New Jersey should be commended for this, although notwithstanding I understand the gentleman from North Carolina's reservations.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I just want to say something briefly. I strongly believe that we ought to pass this bill, but I did want to say something about my colleague the gentleman from North Carolina [Mr. WATT], because, as he mentioned, it cannot be a popular position to stand up and speak what you think the Constitution calls out for. I disagree with him on the conclusion that he has reached and as the chairman has pointed out in this case, the presumption of innocence ends when the conviction is obtained under due process of law. I take the view of the gentleman from Florida [Mr. MCCOLLUM]. I do think the recidivism rate among child molesters is the highest of any crime. I frankly would prefer life sentences for those who would prey upon children in this way, but until that happens in every State, we are going to have to deal with people who have been released from prison and who still pose threats to children.

So I did want to say that but also to note that the gentleman from North Carolina [Mr. WATT], although I do not agree with him on this issue, has certainly shown integrity in standing up for what he believes the Constitution requires.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Mrs. JACKSON-LEE], a distinguished member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. I thank the gentlewoman from California for her leadership on these issues. We have worked together in Judiciary, and I thank the chairman for bringing this legislation, and I thank the chairman for bringing this legislation, and to the gentleman from New Jersey [Mr. ZIMMER], and the bipartisan spirit that it has been brought.

The gentleman from New Jersey in his presentation offered a litany, a very tragic litany, a rollcall, if you will, of the lives of children lost around the Nation. He cited those names which many of us know because of the large amount of publicity that was given to these individuals. But for every one of those children, I imagine any one of us could go to our communities and cite just enormous tragedies that have occurred by those pedophiles, sexual offenders who have preyed upon children.

What comes to mind is, again in my community, the tragedy of a Monique Miller. She was 4 years old. The individual who was charged with the sex crime, the vicious murder that resulted in her death, was someone who was mentally challenged, if you will. And, of course, part of the defense did raise the question of this person's inability to understand what they had done.

Monique Miller, however, is dead. And in the course of the loss of her life, it was a very tragic and brutal killing. It was only after three or four trials that this individual was ultimately convicted. Can you imagine the experience of that parent who time after time to appear in that courtroom just to get a conviction?

I want to laws on this country to work. I believe that anyone accused of a crime should have due process, be treated fairly in the court system. But sexual predators who have been convicted of the most violent sexual offenses or are a repeat child sexual offender remain a threat even after they may have served their prison sentences. And I might say that the murderer of Monique Miller, no matter how long his time may be in prison, will remain a threat to this society.

It is a known fact that the scientific community has concluded that most pedophiles cannot control themselves. Some have even admitted it themselves. In fact, we have another very massively publicized incident in Texas where one of the pedophiles who was about to be released asked to be castrated. This is not a time on the floor of the House that I wish to debate that procedure, and I am not suggesting it, advocating it or encouraging it. I am saying that was a pedophile, an offender who himself wanted some procedure to occur because he felt he could not control himself. So, therefore, we are responsible as legislators to control these individuals and to safeguard our childern after these individuals leave the prison.

This bill would expand the tracking of those individuals by establishing a nationwide system managed by the FBI. That system would be made available for access by Federal, State, and local law enforcement officials. These sexual offenders will be required to register with this nationwide system. If they move, we do not lose them. We are able to track them. We will be able to again notify the system of their whereabouts. If they fall to do so, they face a stiff punishment.

It is more tragic than having these individuals be required to register for an innocent community to be preyed upon by this individual who cannot control their vicious desires. Thus the data base would track all intrastate and interstate movements of sex offenders, even States that have no offender registration. Let me commend the author of this legislation for his persistence. These offenders would provide the system with their fingerprints and photographs.

Let me say this: Anyone that moves into a community, that has been reborn, no longer has the desire, can live in peace. This legislation does not go out and seek individuals who have been released to disrupt their lives. What it does say, however, is that the commuity is notified, and the community is, in fact, the controller of our society and our environment. Why should they not have information that may disrupt their environment, their community, their children?

If this individual is in fact someone who has made amend, someone who has sought forgiveness and repentance, someone who is born again, then that person will live in peace in this community. But if they are not, if this sickness still preys upon their mind and they pose a threat, with this legislation I would simply say thank God that the local Law enforcement will not be left hapless and helpless, without any way to seek and to find this predator that now is in the community.

Violent sexual predators, repeat child abusers and repeat sex offenders will be in the system for life under this act. That only makes sense in light of the facts before us. Again let me say that I considered the idea of a reasoned civil libertarian response to following people to travel freely in this Nation.

□ 1945

I think it is important that we stand on the side of civil liberties. But when I think of an innocent child, one who cannot defend herself or himself, one who cannot speak for themselves, one who may be torn away from the parent, torn away from the custodian, torn away from the guardian, who is now with someone who preys upon them, then my voice raises for that innocent child against that violent sex offender, against that child abuser, against that murderer. In fact, my voice rises for all of the innocent children in this county. It rises for Monique Miller in my community and all other children that this legislation is the right way to go, the best way to go, to protect further our children in this Nation.

Mr. Speaker, I rise today in support of this bill. It will allow local communities and the FBI to track some of the worst elements of our society. Sexual predators who have been convicted for the most violent sexual offenses or are a repeat child sexual offender remain a threat even after they may have served their prison sentences. The scientific community has concluded that most pedophiles can not control themselves. Some have even admitted it themselves. Their whereabouts after the leave prison therefore needs to be tracked to safeguard the children in the communities where they live.

This bill amends the 1994 crime law which now allows for the registration and tracking of offenders who have committed such crimes against children or sexually violent crimes. The bill would expand the tracking of those individuals by establishing a nationwide system managed by the FBI. That system would be made available for access by Federal, State, and local law enforcement officials.

These sexual offenders will be required to register with this nationwide system. If they moved, they would be again required to notify the system of their whereabouts. And if they fail to do so, they face stiff punishment.

Thus, the database would track all intrastate and interstate movements of sex offenders, even into States that have no offender registration. These offenders would provide the system with their fingerprints and photographs. The FBI can then release the information to local authorities where the offenders live.

Violent sexual predators, repeat child abusers and repeat sex offenders will be in the system for life under this act. That only makes sense in light of the facts before us. This is an important piece of legislation that can directly protect innocent lives and I urge my colleagues to vote for H.R. 3456.

Ms. LOFGREN. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I have no further requests for the time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DICKEY). The question is on the motion offered by the gentleman from Florida [Mr. McCOLLUM] that the House suspend the rules and pass the bill, H.R. 3456, as amended.

The question was taken.

Mr. ZIMMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PRIVATE SECURITY OFFICER QUALITY ASSURANCE ACT OF 1996

Mr. BARR of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2092) to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2092

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Security Officer Quality Assurance Act of 1996".

SEC. 2. FINDINGS.

Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) the private security industry provides numerous opportunities for entry-level job applicants, including individuals suffering from unemployment due to economic conditions or dislocations;

(3) sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are only supplemented by private security officers who provide prevention and reporting services in support of, but not in place of, regular sworn police;

(4) given the growth of large private shopping malls, and the consequent reduction in the number of public shopping streets, the American public is more likely to have contact with private security personnel in the course of a day than with sworn law enforcement officers;

(5) regardless of the differences in their duties, skill, and responsibilities, the public has difficulty in discerning the difference between sworn law enforcement officers and private security personnel; and

(6) the American public demands the employment of qualified, well-trained private security personnel as an adjunct, but not a replacement for sworn law enforcement officers.

SEC. 3. BACKGROUND CHECKS.

(A) IN GENERAL.—An association of employers of private security officers, designated for the purpose of this section by the Attorney General, may submit fingerprints or other methods of positive identification approved by the Attorney General, to the Attorney General on behalf of any applicant for a State license or certificate or registration as a private security officer or employer of private security officers. In response to such a submission, the Attorney General may, to the extent provided by State law conforming to the requirements of the second paragraph under the heading "Federal Bureau of Investigation" and the subheading "Salaries and Expenses" in title II of Public Law 92–544 (86 Stat. 1115), exchange, for licensing and employment purposes, identification and criminal history records with the State governmental agencies to which such applicant has applied.

(b) REGULATIONS.—The Attorney General may prescribe such regulations as may be necessary to carry out this section, including measures relating to the security, confidentiality, accuracy, use, and dissemination of information and audits and recordkeeping and the imposition of fees necessary for the recovery of costs.

(c) REPORT.—The Attorney General shall report to the Senate and House Committees on the Judiciary 2 years after the date of enactment of this bill on the number of inquiries made by the association of employers under this section and their disposition.

SEC. 4 SENSE OF CONGRESS.

It is the sense of Congress that States should participate in the background check system established under section 3.

SEC. 5. DEFINITIONS.

As used in this Act—

(1) the term "employee" includes an applicant for employment;

(2) the term "employer" means any person that—

(A) employs one or more private security officers; or

(B) provides, as an independent contractor, for consideration, the services of one or more private security officers (possibly including oneself);

(3) the term "private security officer"—

(A) means—

(i) an individual who performs security services, full or part time, for consideration as an independent contractor or an employee, whether armed or unarmed and in uniform or plain clothes whose primary duty is to perform security services, or

(ii) an individual who is an employee of an electronic security system company who is engaged in one or more of the following activities in the State: burglar alarm technician, fire alarm technician, closed circuit television technician, access control technician, or security system monitor; but

(B) does not include—

(i) sworn police officers who have law enforcement powers in the State,

(ii) attorneys, accountants, and other professionals who are otherwise licensed in the State,

(iii) employees whose duties are primarily internal audit or credit functions,

(iv) persons whose duties may incidentally include the reporting or apprehension of shoplifters or trespassers, or

(v) an individual on active duty in the military service;

(4) the term "certificate of registration" means a license, permit, certificate, registration card, or other formal written permission from the State for the person to engage in providing security services;

(5) the term "security services" means the performance of one or more of the following:

(A) the observation or reporting of intrusion, larceny, vandalism, fire or trespass;

(B) the deterrence of theft or misappropriation of any goods, money, or other item of value;

(C) the observation or reporting of any unlawful activity;

(D) the protection of individuals or property, including proprietary information, from harm or misappropriation;

(E) the control of access to premises being protected;

(F) the secure movement of prisoners;

(G) the maintenance of order and safety at athletic, entertainment, or other public activities;

(H) the provision of canine services for protecting premises or for the detection of any unlawful device or substance; and

(I) the transportation of money or other valuables by armored vehicle; and

(6) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia [Mr. BARR] and the gentleman from North Carolina [Mr. WATT] each will control 20 minutes.

The Chair recognizes the gentleman from Georgia [Mr. BARR].

GENERAL LEAVE

Mr. BARR of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2092.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BARR of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in this great body in support of passage of the Private Security Officer Quality Assurance Act. I introduced this legislation in the first session of this Congress along with our colleague, the gentleman from California [Mr. MARTINEZ] who could not be here this evening, but has championed this bill not only in this Congress but in the previous Congress as well.

This bill will help ensure that private security officers undergo thorough and timely criminal background checks. The bill is straightforward and simple. It proposes an expedited procedure similar to those in use by the financial and parimutuel industries today to match the fingerprints of job applicants against records maintained by the Federal Bureau of Investigation's Criminal Justice Services Division.

Mr. Speaker, there are more than 1.5 million private security officers in the United States. The security industry is dynamic, and there is great pressure to meet ongoing need to hire qualified personnel as vacancies occur. Thorough reviews of job applicants' backgrounds are critical to employers, both to protect assets and to ensure protection for the public. Employers must depend on State and Federal agencies for criminal history information. They need this information promptly, but under existing law, Mr. Speaker, this process can take from 3 to 18 months.

Thirty-nine States now require security contractors to conduct background checks of their personnel, usually requiring fingerprint matches. To obtain a review of FBI records, a cumbersome, unwieldy process is used, leading to lengthy delays. Today an employer must submit prints to the State police agency which forwards them to the bureau where they are processed. The so-called rap sheet is then sent back to the police agency, which then sends these results to the State's agency charged with regulating the industry. That agency then must judge the fitness of the applicant for employment and a decision is made. At that point, if a permit is issued, it is sent to the applicant.

The existing system for private security employers to learn whether an applicant's criminal history disqualifies that person is often cumbersome and time consuming. The typical transaction provides many opportunities for the process to bog down. With State agencies commonly stretched thin by tight budgets, the time required for staff to forward an applicant's fingerprints to the FBI sometimes consumes months.

Still further delays can and do occur after the FBI completes the check and returns the results to the State. As I stated earlier, in many States the results of the background check review then go to a law enforcement agency, then to a separate regulatory agency responsible for security officers, thereby lengthening the process. The bottom line is that in some instances an employer may wait more than a year before learning whether an applicant has a serious criminal record.

Financial institutions were authorized by Congress under Public Law 92-544 to obtain criminal records directly from the FBI. Under that system, which needs to be authorized by law and was authorized by law, the American Bankers Association screens fingerprint cards received from banks for legibility and then forwards them to the FBI for analysis. The rap sheet is then returned directly to the bank. Under this system, the ABA has indicated the process is reduced to about 20 business days.

Congress created another so-called express lane for obtaining criminal record information with the enactment of Public Law 100-413, the Parimutuel Licensing Simplification Act of 1988. This is a similar process to the one used by the ABA, but the rap sheet is sent back to the State regulatory agency, not to the employer. This system approximates that proposed in H.R. 2092.

This bill will authorize the Attorney General to name an association to aggregate fingerprint cards, screen them for legibility, and then forward them to the FBI. The results of the record search would then be forwarded back to the appropriate State officials. By sending the records to State officials rather than to employers, we avoid potential concerns about privacy rights of job applicants. By eliminating several steps from the process, this system should result in a far more efficient system of background checks.

This system has been endorsed by the National Association of State Security and Investigative Regulators. As under current law, fees will be assessed to compensate the FBI for their costs, and there will be no net cost to the Government for this expedited procedure. We have made that clear in the language of the bill, Mr. Speaker.

The bill contains absolutely no mandates for the States. The States are not required to participate in any part of the proposed bill if they elect not to.

I strongly urge this Congress to join in support of H.R. 2092, the Private Security Officer Quality Assurance Act. In so doing, we will be filling in one small but important chink in the armor against terrorism and other crimes that plague us. As the bombing incident in Atlanta recently made very clear, though a small chink in the armor, this is indeed an important one to fill.

Mr. Speaker, I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me time.

This bill falls into the category of lukewarm ideas that may come back to haunt us. It is strongly, strongly opposed by every major rank and file police organization in the country. The police do not like the bill because they believe it is a further step in the creeping legitimization of private uniform security forces that look like real police, but are not.

They raise a concern that all of us ought to ponder. When you go to a mall or into an office building or into an airport parking lot these days, you see a lot of uniformed police that look like policemen and policewomen, but in fact many of these police are not sworn officers of the law. They do not have the same restraints that Government imposes on sworn officers, they are not backed up by the same system of checks and balances and public liabilities that uniform officers carry and they often are not professionally trained. Yet all too often not one of us here could tell the real cop from the uniformed cop. That is a reason for caution, Mr. Speaker, and it is a reason that a measure very similar to this was soundly defeated in the last Congress when it was offered as an amendment of the 1994 crime bill. That vote was 340 "noes" and only 80 "ayes."

Additionally, the Justice Department has expressed reservations that the bill would institute procedures that would initially bypass the State criminal record system in favor of direct access to the FBI. The Justice Department believes that this procedure may inhibit the FBI from making the most efficient use of its resources.

Although there are some positive efforts behind this legislation, I think it is important that my colleagues carefully consider the views of the national police organizations when they decide how they wish to vote on this measure. I believe that we can provide guidance to our private security firms and individuals without some of he major obstacles that this legislation imposes.

Mr. Speaker, the goal of H.R. 2092, the Private Security Officer Quality Assurance Act, is to improve the oversight and regulation of private security officers. This is a laudable goal that most Members would support.

Currently, it generally takes up to 18 months for private security companies to get background checks completed. This legislation will enable State regulatory agencies to obtain easy access to the criminal histories of security guard applicants and contains a sense of the Congress provision that encourages States to develop standards for private security officers.

There are some concerns, however, which we must consider as we vote on this bill. Most police organizations have strong reservations about this bill because it seems to blur the distinctions between sworn police officers and private uniformed security guards. Private security guards do not have the same restraints that governments impose on sworn officers. In many cases, they have not been professionally trained and have not been subject to the same system of checks and balances of uniformed police officers.

Some Members of the House may also have concerns about permitting an association of employers of private security guards to conduct criminal history record checks directly with the Federal Bureau of Investigation.

Additionally, the Justice Department has expressed reservations that the bill would institute procedures that would initially bypass the State criminal records system in favor of direct access to the FBI. The Justice Department believes that this procedure may inhibit the FBI from making the most efficient use of its resources.

I urge my colleagues to carefully review the provisions of this bill and make an informed choice.

Mr. GOODLING. Mr. Speaker, I rise today in support of H.R. 2092, the Private Security Officer Quality Assurance Act. Modest though it may be, I believe this legislation can provide a valuable first step toward assuring that only qualified individuals are hired as private security officers.

H.R. 2092 would accomplish two basic goals. First, it would allow the Attorney General to establish an association of private security guard employers that would, in turn, serve as a clearinghouse for submitting applicant information to the Federal Bureau of Investigation for purposes of doing individual background checks. This would help ensure that both the States and employers would more quickly receive important background information concerning individuals seeking to become private security officers. Second, the bill includes a Sense of the Congress that simply says that the States should participate in the background check system noted above.

I would note, Mr. Speaker, that the legislation we are considering today is a vast improvement from the bill as originally introduced. In its original form, H.R. 2092 addressed a broad range of employment issues, including a Sense of the Congress that the States should enact statutes imposing potentially onerous registration and training requirements on employers of private security officers. While I strongly support the notion of thoroughly checking the background of all private security officer job applicants, and of assuring an adequate level of training for such applicants, I found the proscriptive nature of the bill's original language—and, its suggestion that these requirements be mandated upon either the States or employers—troubling. For that reason, I am pleased that the bill before us today no longer includes those particular provisions.

Finally, Mr. Speaker, I would note that H.R. 2092 was originally introduced by Representative BARR of Georgia, and was referred to the Committee on Economic and Educational Opportunities, and in addition, to the Committee on the Judiciary. While the Committee on Economic and Educational Opportunities has not reported H.R. 2092, the Judiciary Committee ordered the bill favorably reported by a voice vote on September 18, 1996. Given Congress' impending adjournment, I saw no reason to slow the legislative process; however, these actions should hold no precedence regarding the interest that the Committee on Economic and Educational Opportunities has regarding our jurisdiction with respect to issues raised in the bill.

Mr. FAWELL. Mr. Speaker, I rise today in support of H.R. 2092, the Private Security Officer Quality Assurance Act. I believe this legislation will help ensure that only qualified individuals are hired as private security officers, thereby improving the important public service these individuals provide.

H.R. 2092 is not broad in scope; rather, it seeks modest changes that would simply expedite the process by which States and employers can check the backgrounds of individuals applying for private security officer jobs. The bill would accomplish this in two basic ways. First, it would allow the Attorney General to establish an association of private security guard employers. This association would, in turn, serve as an industry clearinghouse that could submit applicant information to the Federal Bureau of Investigation for purposes of doing individual background checks. This would help ensure that both the States and employers would quickly receive important background information concerning individuals seeking to become private security officers. Second, the bill includes provisions expressing the Sense of the Congress that the States should participate in the background check system noted above.

It is important to note, Mr. Speaker, that the legislation we are considering today is very different—and, much improved—than the bill that was originally introduced. In its original form, H.R. 2092 included lengthy provisions declaring the Sense of the Congress that the States should enact statutes imposing numerous certification and training requirements on employers of private security officers. Although I support the concept of improving efforts to screen and adequately train private security officer job applicants, the bill's focus on achieving these improvements through proscriptive and cumbersome mandates—imposed on either the States or employers—was troubling to me as well as to other Members of our Committee. For that reason, I am pleased that the bill that we take up today no longer includes those particular provisions.

Finally, Mr. Speaker, I would note that H.R. 2092, which was originally introduced by Representative BARR of Georgia, was referred to the Committee on Economic and Educational Opportunities, and in addition, to the Committee on the Judiciary. While the Committee on Economic and Educational Opportunities has not reported H.R. 2092, the Judiciary Committee did, in fact, order the bill favorably reported by a voice vote on September 18, 1996. Given Congress' impending adjournment, I agree with my committee chairman, Mr. GOODLING, that there is no reason to slow the legislative process; however, I also share his view that these actions should hold no precedence regarding the interest that the Committee on Economic and Educational Opportunities has regarding our jurisdiction with respect to issues raised in the bill.

Mr. WATT of North Carolina. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. BARR of Georgia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia [Mr. BARR] that the House suspend the rules and pass the bill, H.R. 2092, as amended.

The question was taken.

Mr. WATT of North Carolina. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GOVERNMENT ACCOUNTABILITY ACT OF 1996

Mr. McCOLLUM. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 535) providing for the concurrence of the House, with an amendment, in the amendments of the Senate to the bill H.R. 3166.

The Clerk read as follows:

H. RES. 535

Resolved, That upon adoption of this resolution, the bill H.R. 3166, to amend title 18, United States Code, with respect to the crime of false statement in a Government matter, with the Senate amendments thereto, shall be considered to have been taken from the Speaker's table and the same are agreed to with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "False Statements Accountability Act of 1996".

SEC. 2. RESTORING FALSE STATEMENTS PROHIBITION.

Section 1001 of title 18, United States Code, is amended to read as follows:

"§ 1001. Statements or entries generally

"(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

"(2) makes any materially false, fictitious, or fraudulent statement or representation; or

"(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title or imprisoned not more than 5 years, or both

"(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

"(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

"(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

"(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with the applicable rules of the House or Senate.".

SEC. 3. CLARIFYING PROHIBITION ON OBSTRUCTING CONGRESS.

Section 1515 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) As used in section 1505, the term 'corruptly' means acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.".

SEC. 4. ENFORCING SENATE SUBPOENA.

Section 1365(a) of title 28, United States Code, is amended in the second sentence, by striking "Federal Government acting within his official capacity" and inserting "executive branch of the Federal Government acting within his or her official capacity, except that this section shall apply if the refusal to comply is based on the assertion of a personal privilege or objection and is not based on a governmental privilege or objection the assertion of which has been authorized by the executive branch of the Federal Government".

SEC. 5. COMPELLING TRUTHFUL TESTIMONY FROM IMMUNIZED WITNESS.

Section 6005 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or ancillary to" after "any proceeding before"; and

(2) in subsection (b)—

(A) in paragraphs (1) and (2), by inserting "or ancillary to" after "a proceeding before" each place that term appears; and

(B) in paragraph (3), by adding a period at the end.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. McCOLLUM] and the gentleman from North Carolina [Mr. WATT] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 535.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for decades, section 1001 of title 18 of the United States Code has been a powerful tool in the hands of prosecutors seeking to address the willful misleading of the executive, judicial, and legislative branches. Over the years, section 1001 has been used to prosecute a wide variety of misconduct. Notable prosecutions under section 1001 include those of Colonel North and Admiral Poindexter, and more recently, the case against former Congressman Rostenkowski.

On May 15, 1996, the U.S. Supreme Court dramatically changed Federal criminal law dealing with the offense of willfully misleading a branch of Government. In the case Hubbard versus United States, the Supreme Court limited the application of section 1001 to only the executive branch, leaving the offenses of misleading Congress and the courts outside its scope.

On June 30, 1995, the Crime Subcommittee held a hearing to examine how section 1001 could be amended to ensure that those who willfully mislead any branch of the Government are held accountable. At that hearing, all of the witnesses agreed that law enforcement must have the ability to punish those who willfully mislead the Government. But they further agreed that such an ability must be weighed against our commitment to free speech, a balanced adversarial system of justice, and a genuine separation of power between the three branches of Government.

H.R. 3166 is responsive to the concerns raised at our June hearing. The bill provides us with the means of punishing those who willfully mislead the executive, legislative, and judicial branches, while at the same time avoiding unintended consequences.

The bill applies section 1001 to all three branches of the U.S. Government, with two exceptions. First, the bill has a judicial function exception, which provides that section 1001 does not apply "to a party to a judicial proceeding or that party's counsel, for statements, representations, writings, or documents submitted by such party or counsel to a judge or magistrate in that proceeding." This exception applies the criminal penalties of section 1001 to those representations made to a court when it is acting in its administrative function, and exempts from the scope of section 1001 those representations that are part of a judicial proceeding. The failure to establish such a judicial function exception would allow a prosecutor to threaten his or her opposing counsel with criminal prosecution for statements made by such counsel to a judge in the case before them. Such threats would clearly chill vigorous advocacy, and, as such, would have a substantial detrimental effect on the adversarial process.

The second exception is the legislative function exception. This exception is the result of much work by Members on both sides of the aisle, and much work with the Senate Judiciary Committee. It is agreed to by all these parties. The purpose of this provision is to guard against creating an intimidating atmosphere in which all communications made in the legislative context—including unsworn testimony and constituent mail—would be subject to section 1001's criminal penalties. Such an atmosphere could undermine the free-flow of information that is so vital to the legislative process.

The legislative function exception limits section 1001's application in a legislative context to administrative matters and to any investigation or review that is conducted pursuant to the authority of a committee, subcommittee, commission or Office of Congress, consistent with applicable rules. I think it is important to note that the term "review," as used here, refers to an action that is ordinarily initiated by the chairman of a committee, subcommittee, office, or commission, consistent with the performance of their oversight or enforcement activities. "Investigation or review" is not intended to include routine fact gathering or miscellaneous inquiries by committee or personal staff. While the operation of this provision is not contingent on any changes to the Rules of the House, certain changes to the rules may be advisable in the future to provide increased clarity regarding what constitutes an "investigation or review" for purposes of this section.

At the same time, section 1001 continues to apply to the many administrative filings that have been covered in the past. As such, it covers Members of Congress who knowingly and willfully lie on their financial disclosure forms, initiate ghost employee schemes, knowingly submit false vouchers, and purchase goods and services with taxpayer dollars.

Importantly, statutes such as perjury and contempt of Congress continue to provide a means of holding accountable those who knowingly and willfully mislead Congress.

I believe that the institutional interests of the Congress, and the interests of the American people, are advanced when unsworn congressional testimony and legislative advocacy occur without the fear of possible criminal prosecution for misstatements. The functioning of this body would be seriously undermined, and the people poorly served, if all statements and correspondence from constituents were subject to criminal prosecution. H.R. 3166 avoids creating such an atmosphere.

The bill includes three additional sections which, along with the amendments to section 1001, help to safeguard the legislative and oversight roles of Congress assigned to it by the Constitution. All of these sections have been worked out and agreed to by both sides in the House and the Senate.

In brief, section three responds to the D.C. Circuit Court's decision in Poindexter and clarifies that a person acting alone may obstruct a congressional inquiry. Section 4 clarifies that resistance to a Senate subpoena by a Federal employee claiming a governmental privilege must be authorized by the executive branch. And section 5 allows Congress to compel an immunized witness to testify at depositions as well as hearings.

I would like to thank my friend from New Jersey, Congressman MARTINI, for his leadership and hard work on this bill. He has been out front on this issue since the Supreme Court handed down Hubbard, and has worked with parties on both sides of the aisle to make sure that we moved a good bill through this House. Mr. MARTINI—I want to congratulate you and your staff on a job well done.

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Mr. Speaker, I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill overturns the 1995 Supreme Court case of United States versus Hubbard in which the Supreme Court overturned 40 years of case law to hold that section 1001 of title 18 of the United States Code does not allow prosecution for false statements made to the judiciary or to Congress. In essence, the Court's holding allows individuals to make false statements to Congress with impunity.

When this bill was originally marked up in subcommittee, I was concerned that legislative advocacy not be criminalized. At full committee, however, an amendment providing an exception for legislative advocacy was passed unanimously.

In a conference with the Senate, this exception has been further refined. As a result, statements made to Congress for the purpose of legislative advocacy will not be prosecutable. Not only Members of Congress but lobbyists and members of the public will be protected by this provision.

I believe that a legislative advocacy exception is necessary, because in the heat of intense arguments over legislation, positions may be exaggerated or overemphasized. Such statements should not be subject to potential prosecution.

This amendment will ensure that Members of Congress and members of the public will continue to engage in full uncensored debate over legislation. At the same time, this bill does not protect those who make false statements to Congress in other contexts. Lies about financial statements or other administrative matters should be subject to prosecution.

In addition, false statements made to Members of Congress or congressional staff pursuant to authorized investigations would also be subject to criminal prosecution.

In short, this bill overturns the recent Supreme Court case and, once again, makes lying to Congress a Federal crime. But it also includes an important but narrow exception designed to ensure uninhibited debate.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. MARTINI], the author of this bill.

Mr. MARTINI. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I am pleased after months of negotiations and discussions within our own House and with the other body that we are finally able to complete the action on this important legislation.

I would like to take this moment to thank the gentleman from Florida, Chairman McCOLLUM, and the capable Crime Subcommittee counsel Paul McNulty and Dan Bryant, and Dan Gans of my own staff, for their hard work and commitment to bringing this legislation to the floor.

Mr. Speaker, today, upon enactment of this legislation, we will finally know with certainty that individuals who knowingly and intentionally issue a materially fraudulent or false statement to the legislative or judicial branch of the Federal Government will be subject to criminal prosecution under title 18, section 1001, of the United States Code.

As I stated previously, I believe that the public has a right to know that congressional financial disclosure forms and other required congressional filings are filled out truthfully and accurately. Our service in the Congress is based upon mutual trust with the American people.

Citizens should know that Members of Congress and candidates seeking office have provided honest, complete responses on their congressional financial disclosure forms. Only an enforceable Federal false statement statute will protect that valuable trust.

In addition, when Congress receives testimony before the various committees of the House of Representatives, it is only right to expect that the information and statements provided to us by those witnesses is truthful and factual, especially in an investigative setting.

I serve as a member of the Committee on Government Reform and Oversight, which is the primary committee charged with oversight of the entire Federal Government. This past year I have sat through a number of investigative hearings without having the benefit of a viable Federal false statement statute. Having done so, I am convinced, now more than ever, of the necessity for enacting the False Statements Accountability Act.

Mr. Speaker, I have stated time and time again as we debated this issue that this is simply an issue of parity. There is no reason why we would hold false statements issued to Congress or the judiciary with any less severity than those issued to the executive branch.

Before I conclude, some of my colleagues in the House and in the other body had expressed concern that the False Statements Accountability Act needed to include a congressional advocacy exception that would exempt certain types of legislative advocacy from the scope of section 1001. These individuals should be assured that the current compromise version of H.R. 3166 adequately addresses their concerns while simultaneously protecting the veracity and legitimacy of the investigative activities of the Congress.

Mr. Speaker, last week I was concerned that, had we gone home next week without passing H.R. 3166, it would have given the perception that Congress was attempting to avoid consideration of this type of legislation.

Well, I am proud to say that this evening I am part of a Congress that does not tolerate the self-serving interest that too often went unnoticed in the past. For over a year, Congress has not enjoyed the protection of the Federal false statement statute. Enactment of this legislation will clear up any existing ambiguity in the law so that lying to Congress will once again have serious consequences.

In closing, I want to again thank Chairman MCCOLLUM and his staff, and I urge my colleagues to support this bipartisan reform bill.

Mr. GOSS. Mr. Speaker, above the door to the Supreme Court Building are the words "Equal Justice Under the Law." These words apply to all citizens including Members of Congress—but, the Supreme Court decision last spring placed this institution above the law. In Hubbard versus United States the Court held that section 1001 of 18 United States Code is only applicable to individuals who knowingly issue a false statement to the executive branch. This means that individuals—including Members of Congress—who intentionally lie to this institution can no longer be prosecuted under this statute. Following the Supreme Court's decision we witnessed numerous legal briefs filed to dismiss or lessen charges against former Members of Congress. We all know of one former Member that may have received a longer prison sentence for the criminal acts against the American people if Congress was under section 1001. This is not equal justice under the law. We cannot allow criminal activity to go unpunished. H.R. 3166 extends the false statement statute to all three branches of the Government.

It is very clear that individuals doing business with the Government or appearing before a committee are under this statute. H.R. 3166 makes Members of Congress legally accountable to the American people. I support this measure and encourage my colleagues to do the same.

Mr. WATT of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DICKEY). The question is on the motion offered by the gentleman from Florida [Mr. MCCOLLUM] that the House suspend the rules and agree to the resolution, H. Res. 535.

The question was taken.

Mr. MCCOLLUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. LEWIS of Georgia (during consideration of S. 919). Mr. Speaker, pursuant to clause 2 of rule IX, I hereby give notice of my intention to offer a resolution which raises a question of the privileges of the House.

The form of the resolution is as follows:

Whereas on December 6, 1995, the Committee on Standards of Official Conduct agreed to appoint an outside counsel to conduct an independent, nonpartisan investigation of allegations of ethical misconduct by Speaker New Gingrich;

Whereas, after an eight-month investigation, that outside counsel has submitted an extensive document containing the results of his inquiry;

Whereas the report of the outside counsel cost the taxpayers $500,000;

Whereas the public has a right—and Members of Congress have a responsibility—to examine the work of the outside counsel and reach an independent judgment concerning the merits of the charges against the Speaker;

Whereas these charges have been before the Ethics Committee for more than two years;

Whereas a failure of the Committee to release the outside counsel's report before the adjournment of the 104th Congress will seriously undermine the credibility of the Ethics Committee and the integrity of the House of Representatives;

Therefore be it resolved that

The Committee on Standards of Official Conduct shall release to the public the outside counsel's report on Speaker Newt Gingrich, including any conclusions, recommendations, attachments, exhibits or accompanying material—no later than Friday, September 27, 1996.

The SPEAKER pro tempore (Mr. DICKEY). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative schedule within 2 legislative days. The Chair will announce that designation at a later time.

A determination as to whether the resolution constitutes a question of privilege will be made at that later time.

CHILD ABUSE PREVENTION AND TREATMENT ACT AMENDMENTS OF 1996

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 919) to modify and reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes, as amended.

The Clerk read as follows:

S. 919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Abuse Prevention and Treatment Act Amendments of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT

Sec. 100. Findings.

Subtitle A—General Program

Sec. 101. Office on Child Abuse and Neglect.
Sec. 102. Advisory Board on Child Abuse and Neglect.
Sec. 103. Repeal of Inter-Agency Task Force on Child Abuse and Neglect.
Sec. 104. National clearinghouse for information relating to child abuse.
Sec. 105. Research, evaluation and assistance activities.
Sec. 106. Grants for demonstration programs.
Sec. 107. State grants for prevention and treatment programs.
Sec. 108. Repeal.
Sec. 109. Miscellaneous requirements.
Sec. 110. Definitions.
Sec. 111. Authorization of appropriations.
Sec. 112. Rule of construction.
Sec. 113. Technical and conforming amendments.

Subtitle B—Community-Based Family Resource and Support Grants

Sec. 121. Establishment of program.

Subtitle C—Certain Preventive Services Regarding Children of Homeless Families or Families At Risk of Homelessness

Sec. 131 Repeal of title III.

Subtitle D—Miscellaneous Provisions

Sec. 141. Table of contents.
Sec. 142. Repeals of other laws.

TITLE II—AMENDMENTS TO OTHER ACTS

Subtitle A—Family Violence Prevention and Services Act

Sec. 201. State demonstration grants.
Sec. 202. Allotments.
Sec. 203. Authorization of appropriations.

Subtitle B—Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 ("Adoption Opportunities Act")

Sec. 211. Findings and purpose.
Sec. 212. Information and services.
Sec. 213. Authorization of appropriations.

Subtitle C—Abandoned Infants Assistance Act of 1988

Sec. 221. Priority requirement.
Sec. 222. Reauthorization.

Subtitle D—Reauthorization of Various Programs

Sec. 231. Missing Children's Assistance Act.
Sec. 232. Victims of Child Abuse Act of 1990.

TITLE I—AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT

SEC. 100. FINDINGS.

Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended—

(1) in paragraph (1), to read as follows:

"(1) each year, close to 1,000,000 American children are victims of abuse and neglect;";

(2) in paragraph (3)(C), by inserting "assessment," after "prevention,";

(3) in paragraph (4)—

(A) by striking "tens of"; and

(B) by striking "direct" and all that follows through the semicolon and inserting "tangible expenditures, as well as significant intangible costs;";

(4) in paragraph (7), by striking "remedy the causes of" and inserting "prevent";

(5) in paragraph (8), by inserting "safety," after "fosters the health,";

(6) in paragraph (10)—

(A) by striking "ensure that every community in the United States has" and inserting "assist States and communities with"; and

(B) after "child" insert "and family"; and

(7) in paragraph (11)—

(A) by striking "child protection" each place that such term appears and inserting "child and family protection"; and

(B) in subparagraph (D), by striking "sufficient".

Subtitle A—General Program

SEC. 101. OFFICE ON CHILD ABUSE AND NEGLECT.

Section 101 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended to read as follows:

"SEC. 101. OFFICE ON CHILD ABUSE AND NEGLECT.

"(a) ESTABLISHMENT.—The Secretary of Health and Human Services may establish an office to be known as the Office on Child Abuse and Neglect.

"(b) PURPOSE.—The purpose of the Office established under subsection (a) shall be to execute and coordinate the functions and activities of this Act. In the event that such functions and activities are performed by another entity or entities within the Department of Health and Human Services, the Secretary shall ensure that such functions and activities are executed with the necessary expertise and in a fully coordinated manner involving regular intradepartmental and interdepartmental consultation with all agencies involved in child abuse and neglect activities.".

SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.

Section 102 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102) is amended to read as follows:

"SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.

"(a) APPOINTMENT.—The Secretary may appoint an advisory board to make recommendations to the Secretary and to the appropriate committees of Congress concerning specific issues relating to child abuse and neglect.

"(b) SOLICITATION OF NOMINATIONS.—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the advisory board under subsection (a).

"(c) COMPOSITION.—In establishing the board under subsection (a), the Secretary shall appoint members from the general public who are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

"(1) law (including the judiciary);

"(2) psychology (including child development);

"(3) social services (including child protective services);

"(4) medicine (including pediatrics);

"(5) State and local government;

"(6) organizations providing services to disabled persons;

"(7) organizations providing services to adolescents;

"(8) teachers;

"(9) parent self-help organizations;

"(10) parents' groups;

"(11) voluntary groups;

"(12) family rights groups; and

"(13) children's rights advocates.

"(d) VACANCIES.—Any vacancy in the membership of the board shall be filled in the same manner in which the original appointment was made.

"(e) ELECTION OF OFFICERS.—The board shall elect a chairperson and vice-chairperson at its first meeting from among the members of the board.

"(f) DUTIES.—Not later than 1 year after the establishment of the board under subsection (a), the board shall submit to the Secretary and the appropriate committees of Congress a report, or interim report, containing—

"(1) recommendations on coordinating Federal, State, and local child abuse and neglect activities with similar activities at the Federal, State, and local level pertaining to family violence prevention;

"(2) specific modifications needed in Federal and State laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing the ability to identify and substantiate legitimate cases of abuse or neglect which place a child in danger; and

"(3) recommendations for modifications needed to facilitate coordinated national data collection with respect to child protection and child welfare.".

SEC. 103. REPEAL OF INTER-AGENCY TASK FORCE ON CHILD ABUSE AND NEGLECT.

Section 103 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103) is repealed.

SEC. 104. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

Section 104 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104) is amended—

(1) in subsection (a), to read as follows:

"(a) ESTABLISHMENT.—The Secretary shall through the Department, or by one or more contracts of not less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse.";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "Director" and inserting "Secretary";

(B) in paragraph (1)—

(i) by inserting "assessment," after "prevention,"; and

(ii) by striking ", including" and all that follows and inserting "; and";

(C) in paragraph (2)—

(i) in subparagraph (A), by striking "general population" and inserting "United States";

(ii) in subparagraph (B), by adding "and" at the end;

(iii) in subparagraph (C), by striking "; and" at the end and inserting a period; and

(iv) by striking subparagraph (D); and

(D) by striking paragraph (3); and

(3) in subsection (c)—

(A) in the matter preceding paragraph (1)—

(i) by striking "In establishing" and inserting the following:

"(1) IN GENERAL.—In establishing"; and

(ii) by striking "Director" and inserting "Secretary";

(B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and by moving the text of subparagraphs (A) through (D) (as redesignated) 2 ems to the right;

(C) in subparagraph (B) (as redesignated), by striking "that is represented on the task force" and inserting "involved with child abuse and neglect and mechanisms for the sharing of such information among other Federal agencies and clearinghouses";

(D) in subparagraph (C) (as redesignated), by striking "State, regional" and all that follows and inserting the following: "Federal, State, regional, and local child welfare data systems which shall include—

"(i) standardized data on false, unfounded, unsubstantiated, and substantiated reports; and

"(ii) information on the number of deaths due to child abuse and neglect;";

(E) by redesignating subparagraph (D) (as redesignated) as subparagraph (F);

(F) by inserting after subparagraph (C) (as redesignated), the following new subparagraphs:

"(D) through a national data collection and analysis program and in consultation with appropriate State and local agencies and experts in the field, collect, compile, and make available State child abuse and neglect reporting information which, to the extent practical, shall be universal and case specific and integrated with other case-based foster care and adoption data collected by the Secretary;

"(E) compile, analyze, and publish a summary of the research conducted under section 105(a); and"; and

(G) by adding at the end the following:

"(2) CONFIDENTIALITY REQUIREMENT.—In carrying out paragraph (1)(D), the Secretary shall ensure that methods are established and implemented to preserve the confidentiality of records relating to case specific data.".

SEC. 105. RESEARCH, EVALUATION AND ASSISTANCE ACTIVITIES.

(a) RESEARCH.—Section 105(a) of the Child Abuse Prevention and Treatment Act (42 (42 U.S.C. 5105(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ", through the Center, conduct research on" and inserting ", in consultation with other Federal agencies and recognized experts in the field, carry out a continuing interdisciplinary program of research that is designed to provide information needed to better protect children from abuse or neglect and to improve the well-being of abused or neglected children, with at least a portion of such research being field initiated. Such research program may focus on";

(B) by redesignating subparagraphs (A) through (C) as subparagraph (B) through (D), respectively;

(C) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) the nature and scope of child abuse and neglect;";

(D) in subparagraph (B) (as so redesignated), to read as follows:

"(B) causes, prevention, assessment, identification, treatment, cultural and socio-economic distinctions, and the consequences of child abuse and neglect;"; and

(E) in subparagraph (D) (as so redesignated)—

(i) by striking clause (ii);

(ii) in clause (iii), to read as follows:

"(ii) the incidence of substantiated and unsubstantiated reported child abuse cases;"; and

(iii) by adding at the end the following:

"(iii) the number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;

"(iv) the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;

"(v) the extent to which the lack of adequate resources and the lack of adequate training of individuals required by law to report suspected cases of child abuse have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;

"(vi) the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;

"(vii) the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;

"(viii) the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care; and

"(ix) the incidence and outcomes of abuse allegations reported within the context of divorce, custody, or other family court proceedings, and the interaction between this venue and the child protective services system."; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "and demonstration"; and

(ii) by striking "paragraph (1)(A) and activities under section 106" and inserting "paragraph (1)"; and

(B) in subparagraph (B), by striking "and demonstration".

(b) REPEAL.—Subsection (b) of section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(b)) is repealed.

(c) TECHNICAL ASSISTANCE.—Section 105(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(c)) is amended—

(1) by striking "(c)" and inserting "(b)";

(2) by striking "The Secretary" and inserting:

"(1) IN GENERAL.—The Secretary";

(3) by striking ", through the Center,";

(4) by inserting "State and local" before "public and nonprofit";

(5) by inserting "assessment," before "identification"; and

(6) by adding at the end thereof the following new paragraphs:

"(2) EVALUATION.—Such technical assistance may include an evaluation or identification of—

"(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

"(B) ways to mitigate psychological trauma to the child victim; and

"(C) effective programs carried out by the States under titles I and II.

"(3) DISSEMINATION.—The Secretary may provide for and disseminate information relating to various training resources available at the State and local level to—

"(A) individuals who are engaged, or who intend to engage, in the prevention, identification, and treatment of child abuse and neglect; and

"(B) appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse.".

(d) GRANTS AND CONTRACTS.—Section 105(d) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(d)) is amended—

(1) by striking "(d)" and inserting "(c)"; and

(2) in paragraph (2), by striking the second sentence.

(e) PEER REVIEW.—Section 105(e) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(e)) is amended—

(1) in the heading preceding paragraph (1), by striking "(e)" and inserting "(d)";

(2) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "establish a formal" and inserting ", in consultation with experts in the field and other federal agencies, establish a formal, rigorous, and meritorious";

(ii) by striking "and contracts"; and

(iii) by adding at the end thereof the following new sentence: "The purpose of this process is to enhance the quality and usefulness of research in the field of child abuse and neglect."; and

(B) in subparagraph (B)—

(i) by striking "Office of Human Development" and inserting "Administration on Children and Families"; and

(ii) by adding at the end thereof the following new sentence: "The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines for review committees.";

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ", contract, or other financial assistance"; and

(B) by adding at the end thereof the following flush sentence:

"The Secretary shall award grants under this section on the basis of competitive review."; and

(4) in paragraph (3)(B), by striking "subsection (e)(2)(B)" each place it appears and inserting "paragraph (2)(B)".

(f) TECHNICAL AMENDMENT.—Section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105) is amended in the section heading by striking "**OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT**".

SEC. 106. GRANTS FOR DEMONSTRATION PROGRAMS.

Section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106) is amended—

(1) in the section heading, by striking "or service";

(2) in subsection (a), to read as follows:

"(a) DEMONSTRATION PROGRAMS AND PROJECTS.—The Secretary may make grants to, and enter into contracts with, public agencies or private nonprofit agencies or organizations (or combinations of such agencies or organizations) for time limited, demonstration programs and projects for the following purposes:

"(1) TRAINING PROGRAMS.—The Secretary may award grants to public or private nonprofit organizations under this section—

"(A) for the training of professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect, including the links between domestic violence and child abuse;

"(B) to improve the recruitment, selection, and training of volunteers serving in public and private nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally; and

"(C) for the establishment of resource centers for the purpose of providing information and training to professionals working in the field of child abuse and neglect.

"(2) MUTUAL SUPPORT PROGRAMS.—The Secretary may award grants to private nonprofit organizations (such as Parents Anonymous) to establish or maintain a national network of mutual support and self-help programs as a means of strengthening families in partnership with their communities.

"(3) OTHER INNOVATIVE PROGRAMS AND PROJECTS.—

"(A) IN GENERAL.—The Secretary may award grants to public and private nonprofit agencies that demonstrate innovation in responding to reports of child abuse and neglect including programs of collaborative partnerships between the State child protective services agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies to allow for the establishment of a triage system that—

"(i) accepts, screens and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program or project;

"(ii) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and

"(iii) provides further investigation and intensive intervention where the child's safety is in jeopardy.

"(B) KINSHIP CARE.—The Secretary may award grants to public and private nonprofit entities in not more than 10 States to assist such entities in developing or implementing procedures using adult relatives as the preferred placement for children removed from their home, where such relatives are determined to be capable of providing a safe nurturing environment for the child and where such relatives comply with the State child protection standards.

"(C) PROMOTION OF SAFE, FAMILY-FRIENDLY PHYSICAL ENVIRONMENTS FOR VISITATION AND EXCHANGE.—The Secretary may award grants to entities to assist such entities in establishing and operating safe, family-friendly physical environments—

"(i) for court-ordered supervised visitation between children and abusing parents; and

"(ii) to safely facilitate the exchange of children for visits with noncustodian parents in cases of domestic violence.";

(3) by striking subsection (b);

(4) by redesignating subsection (c) as subsection (b)

(5) in subsection (b) (as redesignated)—

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) through (7) as paragraphs (1) through (5), respectively; and

(6) by adding at the end the following new subsection:

"(c) EVALUATION.—In making grants for demonstration projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.".

SEC. 107. STATE GRANTS FOR PREVENTION AND TREATMENT PROGRAMS.

Section 107 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a) is amended to read as follows:

"SEC. 107. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.

"(a) DEVELOPMENT AND OPERATION GRANTS.—The Secretary shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective services system of each such State in—

"(1) the intake, assessment, screening, and investigation of reports of abuse and neglect;

"(2)(A) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and

"(B) improving legal preparation and representation, including—

"(i) procedures for appealing and responding to appeals of substantiated reports of abuse and neglect; and

"(ii) provisions for the appointment of an individual appointed to represent a child in judicial proceedings;

"(3) case management and delivery of services provided to children and their families;

"(4) enhancing the general child protective system by improving risk and safety assessment tools and protocols, automation systems that support the program and track reports of child abuse and neglect from intake through final disposition and information referral systems;

"(5) developing, strengthening, and facilitating training opportunities and requirements for individuals overseeing and providing services to children and their families through the child protection system;

"(6) developing and facilitating training protocols for individuals mandated to report child abuse or neglect;

"(7) developing, strengthening, and supporting child abuse and neglect prevention, treatment, and research programs in the public and private sectors;

"(8) developing, implementing, or operating—

"(A) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

"(i) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

"(ii) the parents of such infants; and

"(B) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

"(i) existing social and health services;

"(ii) financial assistance; and

"(iii) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption; or

"(9) developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

"(b) ELIGIBILITY REQUIREMENTS.—

"(1) STATE PLAN.—

"(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall, at the time of the initial grant application and every 5 years thereafter, prepare and submit to the Secretary a State plan that specifies the areas of the child protective services system described in subsection (a) that the State intends to address with amounts received under the grant.

"(B) ADDITIONAL REQUIREMENT.—After the submission of the initial grant application under subparagraph (A), the State shall provide notice to the Secretary of any substantive changes to any State law relating to the prevention of child abuse and neglect that may affect the eligibility of the State under this section.

"(2) COORDINATION.—A State plan submitted under paragraph (1) shall, to the maximum extent practicable, be coordinated with the State plan under part B of title IV of the Social Security Act relating to child welfare services and family preservation and family support services, and shall contain an outline of the activities that the State intends to carry out using amounts received under the grant to achieve the purposes of this title, including—

"(A) an assurance in the form of a certification by the chief executive officer of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a Statewide program, relating to child abuse and neglect that includes—

"(i) provisions or procedures for the reporting of known and suspected instances of child abuse and neglect;

"(ii) procedures for the immediate screening, safety assessment, and prompt investigation of such reports;

"(iii) procedures for immediate steps to be taken to ensure and protect the safety of the abused or neglected child and of any other child under the same care who may also be in danger of abuse or neglect and ensuring their placement in a safe environment;

"(iv) provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;

"(v) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this Act shall only be made available to—

"(I) individuals who are the subject of the report;

"(II) Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;

"(III) child abuse citizen review panels;

"(IV) child fatality review panels;

"(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

"(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose;

"(vi) provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality;

"(vii) the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse or neglect;

"(viii) provisions requiring, and procedures in place that facilitate the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false, except that nothing in this section shall prevent State child protective services agencies from keeping information on unsubstantiated reports in their casework files to assist in future risk and safety assessment;

"(ix) provisions and procedures requiring that in every case involving an abused or neglected child which results in a judicial proceeding, a guardian ad litem, who may be an attorney or a court appointed special advocate (or both), shall be appointed to represent the child in such proceedings—

"(I) to obtain first-hand, a clear understanding of the situation and needs of the child; and

"(II) to make recommendations to the court concerning the best interests of the child;

"(x) the establishment of citizen review panels in accordance with subsection (c);

"(xi) provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section—

"(I) for the expedited termination of parental rights in the case of any infant determined to be abandoned under State law; and

"(II) by which individuals who disagree with an official finding of abuse or neglect can appeal such finding;

"(xii) provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section that assure that the State does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction—

"(I) to have committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

"(II) to have committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

"(III) to have aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter; or

"(IV) to have committed a felony assault that results in the serious bodily injury to the surviving child or another child of such parent; and

"(xiii) an assurance that, upon the implementation by the State of the provisions, procedures, and mechanisms under clause (xii), conviction of any one of the felonies listed in clause (xii) constitute grounds under State law for the termination of parental rights of the convicted parent as to the surviving children (although case by case determinations of whether or not to seek termination of parental rights shall be within the sole discretion of the State);

"(B) an assurance that the State has in place procedures for responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

"(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

"(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

"(iii) authority, under State law, for the State child protective services system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life threatening conditions;

"(C) a description of—

"(i) the services to be provided under the grant to individuals, families, or communities, either directly or through referrals aimed at preventing the occurrence of child abuse and neglect;

"(ii) the training to be provided under the grant to support direct line and supervisory personnel in report taking, screening, assessment, decision making, and referral for investigating suspected instances of child abuse and neglect; and

"(iii) the training to be provided under the grant for individuals who are required to report suspected cases of child abuse and neglect; and

"(D) an assurance or certification that the programs or projects relating to child abuse and neglect carried out under part B of title IV of the Social Security Act comply with the requirements set forth in paragraph (1) and this paragraph.

"(3) LIMITATION.—With regard to clauses (v) and (vi) of paragraph (2)(A), nothing in this section shall be construed as restricting the ability of a State to refuse to disclose identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect, except that the State may not refuse such a disclosure where a court orders such disclosure after such court has reviewed, in camera, the record of the State related to the report or complaint and has found it has reason to believe that the reporter knowingly made a false report.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'near fatality' means an act that, as certified by a physician, places the child in serious or critical condition; and

"(B) the term 'serious bodily injury' means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(c) CITIZEN REVIEW PANELS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each State to which a grant is made under this section shall establish not less than 3 citizen review panels.

"(B) EXCEPTIONS.—

"(i) ESTABLISHMENT OF PANELS BY STATES RECEIVING MINIMUM ALLOTMENT.—A State that receives the minimum allotment of $175,000 under section 203(b)(1)(A) for a fiscal year shall establish not less than 1 citizen review panel.

"(ii) DESIGNATION OF EXISTING ENTITIES.—A State may designate as panels for purposes of this subsection one or more existing entities established under State or Federal law, such as child fatality panels or foster care review panels, if such entities have the capacity to satisfy the requirements of paragraph (4) and the State ensures that such entities will satisfy such requirements.

"(2) MEMBERSHIP.—Each panel established pursuant to paragraph (1) shall be composed of volunteer members who are broadly representative of the community in which such panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

"(3) MEETINGS.—Each panel established pursuant to paragraph (1) shall meet not less than once every 3 months.

"(4) FUNCTIONS.—

"(A) IN GENERAL.—Each panel established pursuant to paragraph (1) shall, by examining the policies and procedures of State and local agencies and where appropriate, specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities in accordance with—

"(i) the State plan under subsection (b);

"(ii) the child protection standards set forth in subsection (b); and

"(iii) any other criteria that the panel considers important to ensure the protection of children, including—

"(I) a review of the extent to which the State child protective services system is coordinated with the foster care and adoption programs established under part E of title IV of the Social Security Act; and

"(II) a review of child fatalities and near fatalities (as defined in subsection (b)(4)).

"(B) CONFIDENTIALITY.—

"(i) IN GENERAL.—The members and staff of a panel established under paragraph (1)—

"(I) shall not disclose to any person or government official any identifying information about any specific child protection case with respect to which the panel is provided information; and

"(II) shall not make public other information unless authorized by State statute.

"(ii) CIVIL SANCTIONS.—Each State that establishes a panel pursuant to paragraph (1) shall establish civil sanctions for a violation of clause (i).

"(5) STATE ASSISTANCE.—Each State that establishes a panel pursuant to paragraph (1)—

"(A) shall provide the panel access to information on cases that the panel desires to review if such information is necessary for the panel to carry out its functions under paragraph (4); and

"(B) shall provide the panel, upon its request, staff assistance for the performance of the duties of the panel.

"(6) REPORTS.—Each panel established under paragraph (1) shall prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the panel.

"(d) ANNUAL STATE DATA REPORTS.—Each State to which a grant is made under this section shall annually work with the Secretary to provide, to the maximum extent practicable, a report that includes the following:

"(1) The number of children who were reported to the State during the year as abused or neglected.

"(2) Of the number of children described in paragraph (1), the number with respect to whom such reports were—

"(A) substantiated;

"(B) unsubstantiated; or

"(C) determined to be false.

"(3) Of the number of children described in paragraph (2)—

"(A) the number that did not receive services during the year under the State program funded under this section or an equivalent State program;

"(B) the number that received services during the year under the State program funded under this section or an equivalent State program; and

"(C) the number that were removed from their families during the year by disposition of the case.

"(4) The number of families that received preventive services from the State during the year.

"(5) The number of deaths in the State during the year resulting from child abuse or neglect.

"(6) Of the number of children described in paragraph (5), the number of such children who were in foster care.

"(7) The number of child protective services workers responsible for the intake and screening of reports filed in the previous year.

"(8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.

"(9) The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made.

"(10) The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.

"(11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse and neglect, including the death of the child.

"(12) The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children.

"(e) ANNUAL REPORT BY THE SECRETARY.—Within 6 months after receiving the State reports under subsection (i), the Secretary shall prepare a report based on information provided by the States for the fiscal year under such subsection and shall make the report and such information available to the Congress and the national clearinghouse for information relating to child abuse.".

SEC. 108. REPEAL.

Section 108 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106b) is repealed.

SEC. 109. MISCELLANEOUS REQUIREMENTS.

Section 110 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106d) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

SEC. 110. DEFINITIONS.

Section 113 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h) is amended—

(1) by striking paragraphs (1), (2), (5), and (9);

(2)(A) by redesignating paragraphs (3), (4), and (6) through (8) as paragraphs (1) through (5), respectively; and

(B) by redesignating paragraph (10) as paragraph (6);

(3) in paragraph (2) (as redesignated), to read as follows:

"(2) the term 'child abuse and neglect' means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm;"; and

(4) in paragraph (4)(B) (as redesignated), by inserting ", and in cases of caretaker or inter-familial relationships, statutory rape" after "rape".

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

Section 114(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to carry out this title, $100,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.

"(2) DISCRETIONARY ACTIVITIES.—

"(A) IN GENERAL.—Of the amounts appropriated for a fiscal year under paragraph (1), the Secretary shall make available 30 percent of such amounts to fund discretionary activities under this title.

"(B) DEMONSTRATION PROJECTS.—Of the amounts made available for a fiscal year under subparagraph (A), the Secretary make available not more than 40 percent of such amounts to carry out section 106.".

SEC. 112. RULE OF CONSTRUCTION.

Title I of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended by adding at the end the following new section:

"SEC. 115. RULE OF CONSTRUCTION.

"(a) IN GENERAL.—Nothing in this Act shall be construed—

"(1) as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the parent or legal guardian; and

"(2) to require that a State find, or to prohibit a State from finding, abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.

"(b) STATE REQUIREMENT.—Notwithstanding subsection (a), a State shall, at a minimum, have in place authority under State law to permit the child protective services system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life threatening conditions. Except with respect to the withholding of medically indicated treatments from disabled infants with life threatening conditions, case by case determinations concerning the exercise of the authority of this subsection shall be within the sole discretion of the State.".

SEC. 113. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CHILD ABUSE PREVENTION AND TREATMENT ACT.—

(1)(A) Sections 104 through 107 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104 through 5106a), as amended by this subtitle, are redesignated as sections 103 through 106 of such Act, respectively.

(B) Sections 109 through 114 of the Child Abuse Prevention and Treatment Act (42 U.S.C 5106c through 5106h), as amended by this subtitle, are redesignated as sections 107 through 112 of such Act, respectively.

(C) Section 115 of the Child Abuse Prevention and Treatment Act, as added by section 112 of this Act, is redesignated as section 113 of the Child Abuse Prevention and Treatment Act.

(2) Section 107 of the Child Abuse Prevention and Treatment Act (as redesignated) is amended—

(A) in subsection (a), by striking "acting through the Center and";

(B) in subsection (b)(1), by striking "sections" and inserting "section";

(C) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting a comma after "maintain"; and

(ii) in subparagraph (F), by adding a semicolon at the end; and

(D) in subsection (d)(1), by adding "and" at the end.

(3) Section 110(b) of the Child Abuse Prevention and Treatment Act (as redesignated) is amended by striking "effectiveness of—" and all that follows and inserting "effectiveness of assisted programs in achieving the objectives of section 107.".

(b) VICTIMS OF CRIME ACT OF 1984.—Section 1404A of the Victims of Crime Act of 1984 (42 U.S.C. 10603a) is amended—

(1) by striking "1402(d)(2)(D) and (d)(3)." and inserting "1402(d)(2)"; and

(2) by striking "section 4(d)" and inserting "section 109".

Subtitle B—Community-Based Family Resource and Support Grants

SEC. 121. ESTABLISHMENT OF PROGRAM.

Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116 et seq.) is amended to read as follows:

"TITLE II—COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT GRANTS

"SEC. 201. PURPOSE AND AUTHORITY.

"(a) PURPOSE.—It is the purpose of this title—

"(1) to support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs that coordinate resources among existing education, vocational rehabilitation, disability, respite care, health, mental health, job readiness, self-sufficiency, child and family development, community action, Head Start, child care, child abuse and neglect prevention, juvenile justice, domestic violence prevention and intervention, housing, and other human service organizations within the State; and

"(2) to foster an understanding, appreciation, and knowledge of diverse populations in order to be effective in preventing and treating child abuse and neglect.

"(b) AUTHORITY.—The Secretary shall make grants under this title on a formula basis to the entity designated by the State as the lead entity (hereafter referred to in this title as the 'lead entity') under section 202(1) for the purpose of—

"(1) developing, operating, expanding and enhancing Statewide networks of community-based, prevention-focused, family resource and support programs that—

"(A) offer assistance to families;

"(B) provide early, comprehensive support for parents;

"(C) promote the development of parenting skills, especially in young parents and parents with very young children;

"(D) increase family stability;

"(E) improve family access to other formal and informal resources and opportunities for assistance available within communities;

"(F) support the additional needs of families with children with disabilities through respite care and other services; and

"(G) decrease the risk of homelessness;

"(2) fostering the development of a continuum of preventive services for children and families through State and community-based collaborations and partnerships both public and private;

"(3) financing the start-up, maintenance, expansion, or redesign of specific family resource and support program services (such as respite care services, child abuse and neglect prevention activities, disability services, mental health services, housing services, transportation, adult education, home visiting and other similar services) identified by the inventory and description of current services required under section 205(a)(3) as an unmet need, and integrated with the network of community-based family resource and support program to the extent practicable given funding levels and community priorities;

"(4) maximizing funding for the financing, planning, community mobilization, collaboration, assessment, information and referral, startup, training and technical assistance, information management, reporting and evaluation costs for establishing, operating, or expanding a Statewide network of community-based, prevention-focused, family resource and support program; and

"(5) financing public information activities that focus on the healthy and positive development of parents and children and the promotion of child abuse and neglect prevention activities.

"SEC. 202. ELIGIBILITY.

"A State shall be eligible for a grant under this title for a fiscal year if—

"(1)(A) the chief executive officer of the State has designated a lead entity to administer funds under this title for the purposes identified under the authority of this title, including to develop, implement, operate, enhance or expand a Statewide network of community-based, prevention-focused, family resource and support programs, child abuse and neglect prevention activities and access to respite care services integrated with the Statewide network;

"(B) such lead entity is an existing public, quasi-public, or nonprofit private entity (which may be an entity that has not been established pursuant to State legislation, executive order, or any other written authority of the State) with a demonstrated ability to work with other State and community-based agencies to provide training and technical assistance, and that has the capacity and commitment to ensure the meaningful involvement of parents who are consumers and who can provide leadership in the planning, implementation, and evaluation of programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;

"(C) in determining which entity to designate under subparagraph (A), the chief executive officer should give priority consideration equally to a trust fund advisory board of the State or to an existing entity that leverages Federal, State, and private funds for a broad range of child abuse and neglect prevention activities and family resource programs, and that is directed by an interdisciplinary, public-private structure, including participants from communities; and

"(D) in the case of a State that has designated a State trust fund advisory board for purposes of administering funds under this title (as such title was in effect on the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996) and in which one or more entities that leverage Federal, State, and private funds (as described in subparagraph (C)) exist, the chief executive officer shall designate the lead entity only after full consideration of the capacity and expertise of all entities desiring to be designated under subparagraph (A);

"(2) the chief executive officer of the State provides assurances that the lead entity will provide or will be responsible for providing—

"(A) a network of community-based family resource and support programs composed of local, collaborative, public-private partnerships directed by interdisciplinary structures with balanced representation from private and public sector members, parents, and public and private nonprofit service providers and individuals and organizations experienced in working in partnership with families with children with disabilities;

"(B) direction to the network through an interdisciplinary, collaborative, public-private structure with balanced representation from private and public sector members, parents, and public sector and private nonprofit sector service providers; and

"(C) direction and oversight to the network through identified goals and objectives, clear lines of communication and accountability, the provision of leveraged or combined funding from Federal, State and private sources, centralized assessment and planning activities, the provision of training and technical assistance, and reporting and evaluation functions; and

"(3) the chief executive officer of the State provides assurances that the lead entity—

"(A) has a demonstrated commitment to parental participation in the development, operation, and oversight of the Statewide network of community-based, prevention-focused, family resource and support programs;

"(B) has a demonstrated ability to work with State and community-based public and private nonprofit organizations to develop a continuum of preventive, family centered, comprehensive services for children and families through the Statewide network of community-based, prevention-focused, family resource and support programs;

"(C) has the capacity to provide operational support (both financial and programmatic) and training and technical assistance, to the Statewide network of community-based, prevention-focused, family resource and support programs, through innovative, interagency funding and interdisciplinary service delivery mechanisms; and

"(D) will integrate its efforts with individuals and organizations experienced in working in partnership with families with children with disabilities and with the child abuse and neglect prevention activities of the State, and demonstrate a financial commitment to those activities.

"SEC. 203. AMOUNT OF GRANT.

"(a) RESERVATION.—The Secretary shall reserve 1 percent of the amount appropriated under section 210 for a fiscal year to make allotments to Indian tribes and tribal organizations and migrant programs.

"(b) REMAINING AMOUNTS.—

"(1) IN GENERAL.—The Secretary shall allot the amount appropriated under section 210 for a fiscal year and remaining after the reservation under subsection (a) among the States as follows:

"(A) 70 percent of such amount appropriated shall be allotted among the States by allotting to each State an amount that bears the same proportion to such amount appropriated as the number of children under the age of 18 residing in the State bears to the total number of children under the age of 18 residing in all States (except that no State shall receive less than $175,000 under this subparagraph).

"(B) 30 percent of such amount appropriated shall be allotted among the States by allotting to each State an amount that bears the same proportion to such amount appropriated as the amount leveraged by the State from private, State, or other non-Federal sources and directed through the State lead agency in the preceding fiscal year bears to the aggregate of the amounts leveraged by all States from private, State, or other non-Federal sources and directed through the lead agency of such States in the preceding fiscal year.

"(2) ADDITIONAL REQUIREMENT.—The Secretary shall provide allotments under paragraph (1) to the State lead entity.

"(c) ALLOCATION.—Funds allotted to a State under this section—

"(1) shall be for a 3-year period; and

"(2) shall be provided by the Secretary to the State on an annual basis, as described in subsection (a).

"SEC. 204. EXISTING GRANTS.

"(a) IN GENERAL.—Notwithstanding the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996, a State or entity that has a grant, contract, or cooperative agreement in effect, on the date of the enactment of such Act under any program described in subsection (b), shall continue to receive funds under such program, subject to the original terms under which such funds were provided under the grant, through the end of the applicable grant cycle.

"(b) PROGRAMS DESCRIBED.—The programs described in this subsection are the following:

"(1) The Community-Based Family Resource programs under section 201 of this Act, as such section was in effect on the day before the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996.

"(2) The Family Support Center programs under subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.), as such title was in effect on the day before the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996.

"(3) The Emergency Child Abuse Prevention Services grant program under section 107A of this Act, as such section was in effect on the day before the date of the enactment of the Human Services Amendments of 1994.

"(4) Programs under the Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986.

"SEC. 205. APPLICATION.

"A grant may not be made to a State under this title unless an application therefore is submitted by the State to the Secretary and such application contains the types of information specified by the Secretary as essential to carrying out the provisions of section 202, including—

"(1) a description of the lead entity that will be responsible for the administration of funds provided under this title and the oversight of programs funded through the Statewide network of community-based, prevention-focused, family resource and support programs which meets the requirements of section 202;

"(2) a description of how the network of community-based, prevention-focused, family resource and support programs will operate and how family resource and support services provided by public and private, nonprofit organizations, including those funded by programs consolidated under this Act, will be integrated into a developing continuum of family centered, holistic, preventive services for children and families;

"(3) an assurance that an inventory of current family resource programs, respite care, child abuse and neglect prevention activities, and other family resource services operating in the State, and a description of current unmet needs, will be provided;

"(4) a budget for the development, operation and expansion of the State's network of community-based, prevention-focused, family resource and support programs that verifies that the State will expend in non-Federal funds an amount equal to not less than 20 percent of the amount received under this title (in cash, not in-kind) for activities under this title;

"(5) an assurance that funds received under this title will supplement, not supplant, other State and local public funds designated for the Statewide network of community-based, prevention-focused, family resource and support programs;

"(6) an assurance that the State has the capacity to ensure the meaningful involvement of parents who are consumers and who can provide leadership in the planning, implementation, and evaluation of the programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;

"(7) a description of the criteria that the entity will use to develop, or select and fund, individual community-based, prevention-focused, family resource and support programs as part of network development, expansion or enhancement;

"(8) a description of outreach activities that the entity and the community-based, prevention-focused, family resource and support programs will undertake to maximize the participation of racial and ethnic minorities, children and adults with disabilities, homeless families and those at risk of homelessness, and members of other underserved or underrepresented groups;

"(9) a plan for providing operational support, training and technical assistance to community-based, prevention-focused, family resource and support programs for development, operation, expansion and enhancement activities;

"(10) a description of how the applicant entity's activities and those of the network and its members will be evaluated;

"(11) a description of the actions that the applicant entity will take to advocate systemic changes in State policies, practices, procedures and regulations to improve the delivery of prevention-focused, family resource and support program services to children and families; and

"(13) an assurance that the applicant entity will provide the Secretary with reports at such time and containing such information as the Secretary may require.

"SEC. 206. LOCAL PROGRAM REQUIREMENTS.

"(a) IN GENERAL.—Grants made under this title shall be used to develop, implement, operate, expand and enhance community-based, prevention-focused, family resource and support programs that—

"(1) assess community assets and needs through a planning process that involves parents and local public agencies, local nonprofit organizations, and private sector representatives;

"(2) develop a strategy to provide, over time, a continuum of preventive, family centered services to children and families, especially to young parents and parents with young children, through public-private partnerships;

"(3) provide—

"(A) core family resource and support services such as—

"(i) parent education, mutual support and self help, and leadership services;

"(ii) outreach services;

"(iii) community and social service referrals; and

"(iv) follow-up services;

"(B) other core services, which must be provided or arranged for through contracts or agreements with other local agencies, including all forms of respite care services to the extent practicable; and

"(C) access to optional services, including—

"(i) referral to and counseling for adoption services for individuals interested in adopting a child or relinquishing their child for adoption;

"(ii) child care, early childhood development and intervention services;

"(iii) referral to services and supports to meet the additional needs of families with children with disabilities;

"(iv) referral to job readiness services;

"(v) referral to educational services, such as scholastic tutoring, literacy training, and General Educational Degree services;

"(vi) self-sufficiency and life management skills training;

"(vii) community referral services, including early developmental screening of children; and

"(viii) peer counseling;

"(4) develop leadership roles for the meaningful involvement of parents in the development, operation, evaluation, and oversight of the programs and services;

"(5) provide leadership in mobilizing local public and private resources to support the provision of needed family resource and support program services; and

"(6) participate with other community-based, prevention-focused, family resource and support program grantees in the development, operation and expansion of the Statewide network.

"(b) PRIORITY.—In awarding local grants under this title, a lead entity shall give priority to effective community-based programs serving low income communities and those serving young parents or parents with young children, including community-based family resource and support programs.

"SEC. 207. PERFORMANCE MEASURES.

"A State receiving a grant under this title, through reports provided to the Secretary—

"(1) shall demonstrate the effective development, operation and expansion of a Statewide network of community-based, prevention-focused, family resource and support programs that meets the requirements of this title;

"(2) shall supply an inventory and description of the services provided to families by local programs that meet identified community needs, including core and optional services as described in section 202;

"(3) shall demonstrate the establishment of new respite care and other specific new family resources services, and the expansion of existing services, to address unmet needs identified by the inventory and description of current services required under section 205(3);

"(4) shall describe the number of families served, including families with children with disabilities, and the involvement of a diverse representation of families in the design, operation, and evaluation of the Statewide network of community-based, prevention-focused, family resource and support programs, and in the design, operation and evaluation of the individual community-based family resource and support programs that are part of the Statewide network funded under this title;

"(5) shall demonstrate a high level of satisfaction among families who have used the services of the community-based, prevention-focused, family resource and support programs;

"(6) shall demonstrate the establishment or maintenance of innovative funding mechanisms, at the State or community level, that blend Federal, State, local and private funds, and innovative, interdisciplinary service delivery mechanisms, for the development, operation, expansion and enhancement of the Statewide network of community-based, prevention-focused, family resource and support programs;

"(7) shall describe the results of a peer review process conducted under the State program; and

"(8) shall demonstrate an implementation plan to ensure the continued leadership of parents in the on-going planning, implementation, and evaluation of such community based, prevention-focused, family resource and support programs.

"SEC. 208. NATIONAL NETWORK FOR COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

"The Secretary may allocate such sums as may be necessary from the amount provided under the State allotment to support the activities of the lead entity in the State—

"(1) to create, operate and maintain a peer review process;

"(2) to create, operate and maintain an information clearinghouse;

"(3) to fund a yearly symposium on State system change efforts that result from the operation of the Statewide networks of community-based, prevention-focused, family resource and support programs;

"(4) to create, operate and maintain a computerized communication system between lead entities; and

"(5) to fund State-to-State technical assistance through bi-annual conferences.

"SEC. 209. DEFINITIONS.

"For purposes of this title:

"(1) CHILDREN WITH DISABILITIES.—The term 'children with disabilities' has the same meaning given such term in section 602(a)(2) of the Individuals with Disabilities Education Act.

"(2) COMMUNITY REFERRAL SERVICES.—The term 'community referral services' means services provided under contract or through interagency agreements to assist families in obtaining needed information, mutual support and community resources, including respite care services, health and mental health services, employability development and job training, and other social services, including early developmental screening of children, through help lines or other methods.

"(3) FAMILY RESOURCE AND SUPPORT PROGRAM.—The term 'family resource and support program' means a community-based, prevention-focused entity that—

"(A) provides, through direct service, the core services required under this title, including—

"(i) parent education, support and leadership services, together with services characterized by relationships between parents and professionals that are based on equality and respect, and designed to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

"(ii) services to facilitate the ability of parents to serve as resources to one another (such as through mutual support and parent self-help groups);

"(iii) outreach services provided through voluntary home visits and other methods to assist parents in becoming aware of and able to participate in family resources and support program activities;

"(iv) community and social services to assist families in obtaining community resources; and

"(v) follow-up services;

"(B) provides, or arranges for the provision of, other core services through contracts or agreements with other local agencies, including all forms of respite care services; and

"(C) provides access to optional services, directly or by contract, purchase of service, or interagency agreement, including—

"(i) child care, early childhood development and early intervention services;

"(ii) referral to self-sufficiency and life management skills training;

"(iii) referral to education services, such as scholastic tutoring, literacy training, and General Educational Degree services;

"(iv) referral to services providing job readiness skills;

"(v) child abuse and neglect prevention activities;

"(vi) referral to services that families with children with disabilities or special needs may require;

"(vii) community and social service referral, including early developmental screening of children;

"(viii) peer counseling;

"(ix) referral for substance abuse counseling and treatment; and

"(x) help line services.

"(4) OUTREACH SERVICES.—The term 'outreach services' means services provided to assist consumers, through voluntary home visits or other methods, in accessing and participating in family resource and support program activities.

"(5) RESPITE CARE SERVICES.—The term 'respite care services' means short term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, or guardian) to children who—

"(A) are in danger of abuse or neglect;

"(B) have experienced abuse or neglect; or

"(C) have disabilities, chronic, or terminal illnesses.

Such services shall be provided within or outside the home of the child, be short-term care (ranging from a few hours to a few weeks of time, per year), and be intended to enable the family to stay together and to keep the child living in the home and community of the child.

"SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title, $66,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2001.".

Subtitle C—Certain Preventive Services Regarding Children of Homeless Families or Families At Risk of Homelessness

SEC. 131. REPEAL OF TITLE III.

Title III of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5118 et seq.) is repealed.

Subtitle D—Miscellaneous Provisions

SEC. 141. TABLE OF CONTENTS.

The table of contents of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended to read as follows:

"Sec. 1. Short title and table of contents.
"Sec. 2. Findings.

"TITLE I—GENERAL PROGRAM

"Sec. 101. Office on Child Abuse and Neglect.
"Sec. 102. Advisory Board on Child Abuse and Neglect.
"Sec. 103. National clearinghouse for information relating to child abuse.
"Sec. 104. Research and assistance activities.
"Sec. 105. Grants to public agencies and nonprofit private organizations for demonstration programs and projects.
"Sec. 106. Grants to States for child abuse and neglect prevention and treatment programs.
"Sec. 107. Grants to States for programs relating to the investigation and prosecution of child abuse and neglect cases.
"Sec. 108. Miscellaneous requirements relating to assistance.
"Sec. 109. Coordination of child abuse and neglect programs.
"Sec. 110. Reports.
"Sec. 111. Definitions.
"Sec. 112. Authorization of appropriations.
"Sec. 113. Rule of construction.

"TITLE II—COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT GRANTS

"Sec. 201. Purpose and authority.
"Sec. 202. Eligibility.
"Sec. 203. Amount of grant.
"Sec. 204. Existing grants.
"Sec. 205. Application.
"Sec. 206. Local program requirements.
"Sec. 207. Performance measures.
"Sec. 208. National network for community-based family resource programs.
"Sec. 209. Definitions.
"Sec. 210. Authorization of appropriations.

SEC. 142. REPEALS OF OTHER LAWS.

(a) TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES ACT OF 1986.—The Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117 et seq.) is repealed.

(b) FAMILY SUPPORT CENTERS.—Subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.) is repealed.

TITLE II—AMENDMENTS TO OTHER ACTS

Subtitle A—Family Violence Prevention and Services Act

SEC. 201. STATE DEMONSTRATION GRANTS.

Section 303(e) of the Family Violence Prevention and Services Act (42 U.S.C. 10420(e)) is amended—

(1) by striking "following local share" and inserting "following non-Federal matching local share"; and

(2) by striking "20 percent" and all that follows through "private sources." and inserting "with respect to an entity operating an existing program under this title, not less than 20 percent, and with respect to an entity intending to operate a new program under this title, not less than 35 percent.".

SEC. 202. ALLOTMENTS.

Section 304(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10403(a)(1)) is amended by striking "$200,000" and inserting "$400,000".

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended—

(1) in subsection (b), by striking "80" and inserting "70"; and

(2) by adding at the end thereof the following new subsections:

"(d) GRANTS FOR STATE COALITIONS.—Of the amounts appropriated under subsection (a) for each fiscal year, not less than 10 percent of such amounts shall be used by the Secretary for making grants under section 311.

"(e) NON-SUPPLANTING REQUIREMENT.—Federal funds made available to a State under this title shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services and activities that promote the purposes of this title.".

Subtitle B—Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 ("Adoption Opportunities Act")

SEC. 211. FINDINGS AND PURPOSE.

Section 201 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "50 percent between 1985 and 1990" and inserting "61 percent between 1986 and 1994"; and

(ii) by striking "400,000 children at the end of June, 1990" and inserting "452,000 as of June 1994";

(B) in paragraph (5), by striking "local" and inserting "legal"; and

(C) in paragraph (7), to read as follows:

"(7)(A) currently, 40,000 children are free for adoption and awaiting placement;

"(B) such children are typically school aged, in sibling groups, have experienced neglect or abuse, or have a physical, mental, or emotional disability; and

"(C) while the children are of all races, children of color and older children (over the age of 10) are over represented in such group;"; and

(2) in subsection (b)—

(A) by striking "conditions, by—" and all that follows through "Department of Health and Human Services to—" and inserting "conditions, by providing a mechanism to—"; and

(B) by redesignating subparagraphs (A) through (C) of paragraph (2), as paragraphs (1) through (3), respectively, and by realigning the margins of such paragraphs accordingly.

SEC. 212. INFORMATION AND SERVICES.

Section 203 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113) is amended—

(1) in subsection (a), by striking the last sentence;

(2) in subsection (b)—

(A) in paragraph (6), to read as follows:

"(6) study the nature, scope, and effects of the placement of children in kinship care arrangements, pre-adoptive, or adoptive homes;";

(B) by redesignating paragraphs (7) through (9) as paragraphs (8) through (10), respectively; and

(C) by inserting after paragraph (6), the following new paragraph:

"(7) study the efficacy of States contracting with public or private nonprofit agencies (including community-based and other organizations), or sectarian institutions for the recruitment of potential adoptive and foster families and to provide assistance in the placement of children for adoption;"; and

(3) in subsection (d)(2)—

(A) by striking "Each" and inserting "(A) Each";

(B) by striking "for each fiscal year" and inserting "that describes the manner in which the State will use funds during the 3-fiscal years subsequent to the date of the application to accomplish the purposes of this section. Such application shall be"; and

(C) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide, directly or by grant to or contract with public or private nonprofit agencies or organizations—

"(i) technical assistance and resource and referral information to assist State or local governments with termination of parental rights issues, in recruiting and retaining adoptive families, in the successful placement of children with special needs, and in the provision of pre- and post-placement services, including post-legal adoption services; and

"(ii) other assistance to help State and local governments replicate successful adoption-related projects from other areas in the United States.".

SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5115) is amended—

(1) in subsection (a), by striking "$10,000,000" and all that follows through "203(c)(1)" and inserting "$20,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001 to carry out programs and activities authorized";

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

Subtitle C—Abandoned Infants Assistance Act of 1988

SEC. 221. PRIORITY REQUIREMENT.

Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by adding at the end the following:

"(h) PRIORITY REQUIREMENT.—In making grants under subsection (a), the Secretary shall give priority to applicants located in States that have developed and implemented procedures for expedited termination of parental rights and placement for adoption of infants determined to be abandoned under State law.".

SEC. 222. REAUTHORIZATION.

Section 104(a)(1) of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by striking "$20,000,000" and all that follows and inserting "$35,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2001.".

Subtitle D—Reauthorization of Various Programs

SEC. 231. MISSING CHILDREN'S ASSISTANCE ACT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended—

(1) by striking "To" and inserting "(a) IN GENERAL.—To"

(2) by striking "1993, 1994, 1995, and 1996" and inserting "1997 through 2001"; and

(3) by adding at the end the following new subsection:

"(b) EVALUATION.—The Administrator may use not more than 5 percent of the amount appropriated for a fiscal year under subsection (a) to conduct an evaluation of the effectiveness of the programs and activities established and operated under this title.".

(b) SPECIAL STUDY AND REPORT.—Section 409 of the Missing Children's Assistance Act (42 U.S.C. 5778) is repealed.

SEC. 232. VICTIMS OF CHILD ABUSE ACT OF 1990.

Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004) is amended—

(1) in subsection (a)(2), by striking "and 1996" and inserting "1996, and each of the fiscal years 1997 through 2000"; and

(2) in subsection (b)(2), by striking "and 1996" and inserting "1996, and each of the fiscal years 1997 through 2000".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Michigan [Mr. KILDEE] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to have the opportunity to voice my support for a very important piece of legislation aimed at protecting the most vulnerable segment of this Nation's population—abused and neglected children. This legislation, which was crafted in a bicameral and bipartisan fashion, authorizes and makes critical improvements to the current Child Abuse Prevention and Treatment Act, otherwise known as the CAPTA Program.

First, let me point out some of the successes of the CAPTA Program. Since its passage in 1974, CAPTA has provided valuable research in the area of child abuse and neglect, thereby allowing us to better understand the extent and causes of child abuse, but perhaps most importantly pinpointing promising initiatives at preventing, child abuse and neglect. CAPTA has also provided a vital framework for States under which to establish comprehensive child protective service systems. In addition, CAPTA has provided extensive funding to States and localities for projects which have been instrumental in identifying the most successful strategies to preventing, identifying and responding to child abuse and neglect.

Yet, despite the best efforts of the CAPTA Program, the fact is the incidence of child abuse and neglect continues to rise. In the "Third National Incidence Study of Child Abuse and Neglect," released last week, we learn that child abuse and neglect nearly doubled in the United States from 1.4 million cases in 1986 to 2.8 million in 1993. While I recognize there is some controversy in these numbers, there is no question this Nation faces a serious crisis. Clearly this issue needs to be properly addressed.

Beyond the issue of child abuse is that of child fatalities. A report issued last year found that over 2,000 children die at the hands of their own parents every year, while almost 150,000 children are seriously injured. Buried in the statistics of such studies are the very real and horrific stories of children like Nadine Lockwood, a 4-year-old girl from New York City, who just weeks ago was found to have been starved to death in her own bedroom by her own mother. Tragically, stories such as hers are all too common.

Furthermore the tragedy of child abuse is not solely reflected in statistical data. Too often abused children are left emotionally scarred, find themselves unable to cope in school and in employment, and worse yet, carry their abuse on to their own children and future generations. This vicious cycle must end.

At the same time we find an increasing number of children who are seriously abused, there is also a significant problem related to unsubstantiated reports of child abuse due to insufficient evidence on which to proceed. In fact, of all of the reported cases of child abuse, nearly one-third are never substantiated. While it is clear that some of these cases involve actual abuse that simply is unable to be proven, it is also true that many people report situations which do not constitute legal grounds of abuse or neglect. The most tragic of these cases is where an individual knowingly makes a false report. Beyond the turmoil these cases inflict upon innocent parents, they also preoccupy child protective services which in turn endangers children who are truly being abused.

I will review shortly the changes we have made to CAPTA in order to address this problem. However, let me just point out that among these changes include increased research in the area of unsubstantiated cases of abuse and the impact it is having on child protective services.

Although child abuse and neglect continues to rise in the face of prevention programs such as CAPTA, we simply cannot turn our backs on these children. We must continue to better manage child protection programs—beginning at the Federal level; learn how to respond better to cases of abuse and neglect; and we must emphasize that preventing and curbing the incidence of child abuse begins, not at the Federal level, but instead within our very own communities and neighborhoods.

The amendments to CAPTA, as unanimously passed in the Senate in July, continue this mission—while making much needed improvements. These changes include:

Simplifying and streamlining the administration of the CAPTA program at the Federal, State and local level;

Restructuring and consolidating various research functions into a single coordinated effort, thereby improving the dissemination of critical information on child abuse and successful methods to prevent it, to States, local government and communities;

Placing an increased and significant emphasis on local innovation and experimentation.

Ensuring that persons who maliciously file reports of abuse or neglect will no longer be protected by CAPTA's immunity for reporting. Only good faith reports will be protected; and

Clarifying the definition of child abuse or neglect to provide additional guidance and clarification to States as they endeavor to protect children from abuse and neglect.

The House amendment to S. 919, before us today, maintains these important changes by the Senate and further improves upon the Senate bill by making significant additional changes. These House changes, which are supported by the Senate, coupled with the initial improvements in the Senate bill will further assist abused and neglected children. Under these changes:

No longer will infants who have been abandoned by their parents in hospitals or back alleys be denied the opportunity to be adopted in a timely manner by loving parents. States will be required to have procedures in place to expedite the termination of parental rights, when infants have been abandoned. Currently, when an infant is abandoned, they often end up in "foster care limbo" for months, even years, while continued vain attempts are made to reunify the infant with his or her parents who abandoned them in their first hours of life.

No longer will States, in overzealous attempts of "family preservation," place children back into homes where parents have been convicted of egregious acts such as murder, voluntary manslaughter or felony assaults of their own children.

Finally, the changes made in the House will provide new opportunities for citizens—not just child protection bureaucrats—to play an integral role in ensuring that States are meeting their goals of protecting children from abuse and neglect.

With the changes made to CAPTA by both the Senate and the House, I believe there is new hope for a better child protection system in this nation. However, it will take much more than passage of this legislation to stop the tragic increase of child abuse and neglect. It takes responsibility and dedication from each and every citizen to be active within our communities, churches, and schools—to not only reach out and support children who are being abused but also to hold child protection services accountable within their communities to ensure that child protection agencies are effectively responding to cases of child abuse and neglect.

I want to further detail and explain the changes which are included in the House substitute to the Senate passed version of S. 919.

Under section 104, dealing with the National Clearinghouse for Information Related to Child Abuse, language was added to ensure the confidentiality of any case specific data. However, pursuant to the confidentiality language contained in section 107, as amended, we do not foresee any particular instance where the clearinghouse would have information on any case specific data. Instead, this provision is intended as a precautionary provision in the event the clearinghouse does in fact come into contact with any such information.

Under section 106, Grants for Demonstration Programs, language was deleted from the Senate passed version dealing with grants to provide culturally specific instruction. In general, there has been much sensitivity with regard to "culturally specific instruction" in the field of child abuse and neglect. This stems from a concern that in some instances true cases of child abuse have been disregarded as "acceptable behavior" in a specific culture. In light of the deletion of this provision, along with several other such references, additional language was added to section 201(a) of the Community-Based Family Resource and Support Grants. Specifically, this language adds as a purpose, "to foster an understanding, appreciation, and knowledge of diverse populations in order to be effective in preventing and treating child abuse and neglect." In addition, language was maintained in section 105 of the Senate bill which will provide research in the area of "cultural and socio-economic distinctions" of child abuse and neglect. It is our hope that this research will shed additional light onto this important topic.

Also within section 106, language was added to limit the number of grants available for Kinship Care. Specifically, no more than 10 States may be awarded a grant to assist such entities in developing or implementing procedures using adult relatives as the preferred placement for children removed from their home.

Under section 107, Grants to States for Child Abuse and Neglect Prevention and Treatment Programs, several significant changes were made.

In general, the House amendment streamlines the State plan and the State eligibility requirements. Under the Senate bill, as under current law, the plan and requirements are separate and to a certain extent duplicative. The new language merges the plan elements under the State requirements. Senate language, which I strongly support, was also maintained to ensure coordination to the maximum extent practicable between this State plan and the State plan under part B of title IV of the Social Security Act relating to the child welfare services and family preservation and family support services.

With respect to the elements included under the State plan requirements, language was added to provide more flexibility to States in appointing a guardian ad litem, by clarifying that they need not be an attorney, but instead may be a court appointed special advocate (or both). Language was also added to clarify that the role of such individuals shall include obtaining first hand, a clear understanding of the situations and needs of the child and to make recommendations to the court concerning the best interests of the child. However, it is not intended that this be an exhaustive list of the responsibilities of these representatives. Under the current system, there are more and more cases where an appointed guardian has made virtually no contact with the child, while proceeding to make unfounded recommendations to the courts. This legislation strengthens the requirement that these representatives know and actively advocate the best interests of the children they are representing. Related to this, the House amendment adds language which will ensure more information is gathered with regard to these representatives.

Another key provision added under this section pertains to assisting abandoned infants. Specifically, within 2 years, States will be required, as a condition of funding, to have procedures in place for the expedited termination of parental rights in the case of any infant determined to be abandoned under State law. With these provisions in place, countless numbers of infants who would otherwise languish in the foster care system will have new opportunities of being adopted at a very young age by loving parents.

In addition to providing new opportunities for babies that have been abandoned, this legislation also adds balance to a system which by many accounts has moved too far towards a model of "family preservation" even in the face of the most egregious crimes committed by parents against their own children.

Under this legislation, States will have no more than 2 years to ensure that they do not require reunification of a surviving child with a parent who has been convicted of a serious and violent crime such as murder, voluntary manslaughter or felony assaults upon their own children. In addition, States must ensure that these felonies constitute grounds under State law for the termination of parental rights of the convicted parent as to the surviving children. However, we have clarified that case by case determinations of whether or not to seek termination of parental rights shall be within the sole discretion of the State.

Another key change in the House amendment is the addition of citizen review panels. These panels will provide new opportunities for citizens to play an integral role in ensuring that States are meeting their goals of protecting children from abuse and neglect.

Under this provision, each State is required to establish a minimum of three citizen review panels—with exception for those States meeting the legislation's "small State minimum" standards. Although the language includes a minimum number of such panels, it is strongly encouraged that larger States take the initiative to establish more than just three panels as not to overburden a limited number of panels within an extremely large populous.

It was recognized that indeed most, if not all, States already have in place panels in the area of foster care and to oversee cases of child fatalities. It is not the intent for this legislation to create unnecessary duplication at the State and local level which is why a provision was added to clarify that States may utilize existing panels such as foster care review panels and child fatality panels as long as they also fulfill the requirements under this legislation.

It is expected that the citizen review panels will evaluate the extent to which States are meeting their responsibilities related to the State plan, the child protection standards, and coordination with foster care and adoption programs. They will also review child fatality and near fatality cases. In carrying out these duties, language has been added which clarifies that the State provide the panel access to information the panel desires as to allow the panel to carry out its functions.

Because these panels will have access to case specific records, language was included to ensure that the members and staff of these panels be held to stringent confidentiality standards back up with civil sanctions for violating these standards.

I also want to highlight language included in section 107 from the Senate passed version. These new language will require States to submit a report on the success of their child protection system. Along with the Senate's data elements, the House amendment includes an additional requirement that data be collected on the number of children reunited with their families or receiving family preservation services, that within 5 years, result in subsequent substantial reports of child abuse and neglect, including the death of the child. In addition, information will be gathered on the number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children. Quality data in both of these areas is lacking despite the fact that much time and effort has been invested at the Federal, State and local levels into "family preservation" and requirements for the appointment of individuals to represent abused and neglected children in courts. This information will provide valuable insight into these areas.

Under section 110, language was added in the House amendment to expand the definition of sexual abuse to include statutory rape in cases of caretaker or interfamilial relationships. Although rape has always been within the definition of sexual abuse this will clarify this to also mean statutory rape.

Under section 111, Authorization of Appropriations, Senate language was modified to slightly decrease the amount of funds under title I made available for discretionary activities. As a result, additional funds will be available to go directly to States in order to improve their child protective systems.

The House amendment also made several modifications to the Senate language included under title II, the community-based family resource and support grants.

Specifically, language was added under section 202, clarifying that a lead entity, as designated to administer these funds, may be an entity that has not been established pursuant to State legislation, Executive Order, or any written authority of the State. Further, language was added to ensure that States that have already designated a State trust fund advisory board to administer funds under the existing program, go through the process of again designating a lead entity taking into consideration the capacity and expertise of all entities desiring to be lead agencies.

Modifications were also made to the formula under title II of the Senate bill. As passed, the Senate's formula, as an incentive, provided more funds for those States able to leverage funds for services related to child abuse and neglect. However, according to the Congressional Research Service, the actual language would have made it difficult, if not impossible for such a determination to be made because it could potentially be interpreted as requiring the Federal Government to match any amount of funds leveraged by the State. Therefore, language was added to first, distribute a majority, 70 percent, of funds under a straight proportion based on population of children under the age of 18, the Senate bill would have allotted 50 percent based on this factor, and second to clarify that the remainder be distributed by how much a State is able to leverage as compared to the amount all other States are able to leverage for sources other than the Federal Government.

Related to the formula, the House amendment provided an increase to the small State minimum over current law, but a decrease as compared to the Senate bill. It has also come to my attention that the current small State minimum has been interpreted by the administration to first send all States the minimum amount of funding and subsequently distribute the remaining funds by the statutory formula. It should be clarified that congressional intent of this legislation is that the Secretary calculate the allotments to all States under the formula, after which, all States receiving under $175,000, be provided additional funding taken, pro rata from other State, in order to achieve the $175,000 minimum.

Language under section 204 dealing with existing grants was also modified by striking a clause in the Senate bill dealing with "continuation grants." It was the opinion that the intent of this clause was adequately addressed under section 204(a).

Under section 206 Local Program Requirements, several minor modifications were made dealing with references to early developmental screening of children. Specifically, clarification was made that these services, under community-based programs, be optional and may include referral to, as opposed to the provision of these services. A similar modification related to this was added under the definition section to the definition of "Family Resource and Support Program." Also under the definition section, the Senate definition of "National Network for Community-Based Family Resource" was deleted due to the fact that it did not appear in the Senate-passed version nor the House amendment.

Finally, with respect to the authorization levels under title II, the House amendment included a modified authorization of $66 million for 1997 and such sums thereafter. This more accurately reflects the current funding of the program.

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Mr. Speaker, I reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of S. 919, which will reauthorize the Child Abuse Prevention and Treatment Act into the first year of the new century.

I am very gratified that we are here today with a proposal that has bipartisan backing and is supported by the professionals across this country who provide assistance to some of the most vulnerable among us—abused, neglected and abandoned children, and their families.

Mr. Speaker, we are all too familiar with the horrific high profile cases which sear our consciences and force us again and again to ask why we could not prevent the loss or scarring of such innocent lives. Unfortunately, these high-profile cases represent only the tip of a very tragic iceberg. As we all know, last week Health and Human Services Secretary Donna Shalala released the Third National Incidence Survey of Child Abuse and Neglect which revealed that the number of child abuse cases has doubled in just 7 years. That report also points out that States had investigated only 28 percent of children identified as harmed or abused—a 16 percent drop in a 7-year period.

Shrinking State budgets have meant increasing caseloads. In most States, Child Protective Services [CPS] caseworkers have on average double the standard recommended caseload. This translates into reports that go unanswered and children that remain in perilous conditions. I sincerely hope that the Citizen Review Panels established under title I will help increase public awareness that even the most heroic caseworkers cannot possibly serve the needs of the children and families in their communities under these circumstances.

When the changes and requirements of the new welfare reform law are fully implemented caseworkers are likely to face even greater burdens. Those of us who are familiar with the child care delivery system in this country fully expect that the new work requirements of the welfare reform law will result in serious child care shortages across the country. Where child care is unavailable and children are left at home alone when parents work, child protective services will be further challenged to find remedies for such cases of child neglect. I sincerely hope that the Citizen Review Panels, which States will be required to establish, will help build a case for additional resources to child protection agencies which provide critical family support and prevention services to communities.

Mr. Speaker, the CAPTA reauthorization proposal before us today will help communities improve services to families through increased flexibility for child protection programs and reduced administrative burdens on States. The bill does not promote the status quo. It consolidates several Federal funding streams by folding four categorical programs into one community-based prevention grant to support prevention services to families. It will also help refine the role played by the Federal Government in helping States and communities to prevent and treat child abuse and neglect, including support for research and demonstration efforts to develop new approaches to prevention.

I want to thank my Committee Chair BILL GOODLING and Darcy Phelps of his staff for their consideration of issues I raised in the last several weeks. I thank Sara Davis of my staff. I also want to thank my colleagues in the other body, Senators KENNEDY, DODD, and COATES, whose staffs made very valuable contributions to this measure.

Mr. Speaker, I am very gratified that this crucial program was not "block granted" back to the States in the welfare reform bill. I think that would have been a serious mistake. Instead, this proposal reaffirms the strong Federal leadership role in combating child abuse and neglect. What does that mean? It means targeting funds at prevention efforts, guaranteeing essential protection for children who are the most vulnerable, providing funds for research, as well as valuable technical assistance, training, and data collection.

Finally, I would like to say this to my colleagues. This reauthorization proposal ensures that each of us will continue to have a voice for children like Lisa Steinberg and Nadine Lockwood whose voices were silenced before anyone could help.

I urge my colleagues to vote for this proposal.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield 4 minutes to the very distinguished gentleman from Arkansas [Mr. HUTCHINSON], a member of the committee.

Mr. HUTCHINSON. Mr. Speaker, I rise today in strong support of S. 919, the Child Abuse, Prevention and Treatment Act.

I commend Chairman GOODLING, Ranking Member CLAY, as well as our colleagues in the Senate for working together to bring this important bill to the floor.

Mr. Speaker, 2 years ago this month I received a 1,300 name petition from my constituents in northwest Arkansas regarding the child abuse case of Kendall Shea Moore. Kendall was a tiny infant who in the first 5 months of his life had virtually every bone in his body broken and his skull cracked. Finally on April 7, 1994, after the baby was admitted to the intensive care unit, authorities arrested those responsible for this horrendous abuse—the child's own father and as an accomplice, the baby's mother.

As you can imagine, this case caused an uproar in northwest Arkansas. However, the action that really incensed my constituents was when the court decided to return the baby to his mother. Just over 9 months from the day he was admitted to the intensive care unit, Kendall Shea Moore was permanently returned to his mother's custody.

In response to the outcry from my constituents, in January 1995, I hosted a meeting in my district office, bringing together Arkansas State legislators, foster parents and child advocates. I was appalled by the stories I heard from these foster parents. Time and time again they told me of children being returned to abusive situations. They told me of foster parents being aware of criminal abuse and not being able to testify in court. I was also told of doctors not being able to come forward due to confidentiality concerns. Unfortunately, I do not believe this tragic situation is unique to Arkansas.

Mr. Speaker, I am a strong supporter of the family and of doing everything we can to keep families together and encouraging the bond between parent and child. I am also a strong defender of the constitutional rights of parents.

However, we as a society have an obligation to protect the weakest and most vulnerable. There is something seriously wrong when we allow children and infants to be returned to homes where criminal abuse has occurred.

Based on the input I have received, there are several areas where we could reform CAPTA. First, we need to allow foster parents a greater opportunity to have input into the system. S. 919 requires States to establish citizen review panels to review the activities of State and local agencies. Specific duties include review coordination of child abuse prevention programs with foster care and adoption programs; and the review of cases involving child fatalities and near fatalities.

Second, we need to promote greater interagency cooperation. Very often State human services departments are not equipped to deal with cases of criminal abuse; nor should they be. These cases rightfully fall under the jurisdiction of law enforcement. S. 919 specifically encourages the cooperation of State law enforcement, courts, and State agencies in the investigation, prosecution and treatment of child abuse or neglect.

Finally, S. 919 deals with the issue of family reunification and the termination of parental rights. In cases of criminal abuse, where a parent has been convicted in a court of law, the legislation directs the States to have provisions in place protecting a surviving child from reunification with the convicted abuser. In addition, the legislation clarifies that such a conviction is grounds for the termination of parental rights.

No longer will States put children back into homes where parents have been convicted of egregious acts such as murder, voluntary manslaughter or felony assaults of their own children.

Children, like Kendall Shea Moore should never have to face the possibility of abuse again. We owe our children more than that.

Mr. Speaker, as we witness the continuing dissolution of the family in our society, I fear that the incidence of child abuse will only increase. We need to act and I strongly encourage my colleagues to support passage of S. 919.

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Mr. KILDEE. Mr. Speaker, I yield 5 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I rise today in support of S. 919, the Child Abuse Prevention and Treatment Act amendments. These amendments are especially important for States like Hawaii that will benefit from an increase in the small State minimum for the distribution of funds under the Family Violence Prevention and Services Act.

Under the Child Abuse Prevention and Treatment Act, services and shelter for victims of domestic violence are provided by the Family Violence Prevention and Services Act to States on a population basis. Small population States receive a minute allocation under this act of $200,000, or 1 percent, whichever is less. S. 919 would increase the minimum allocation to $400,000 so small States can receive a fair share of the new funding available under the Violence Against Women Act.

In the State of Hawaii, the percentage of homicides that were committed by family members is now seen as twice the national average, and it is my hope that increased funding and focus for Hawaii's domestic violence shelters and services can turn this frightening statistic around.

Mr. Speaker, I wanted to go over a bit of the chronology of events as to how this report now reaches us on the floor because I think it is instructive not only for the membership, but for the community at large, as to how a matter that is seen as having tremendous public impact and community impact is able to be dealt with by the Congress. I think it is a lesson, a civics lesson, if my colleagues will, Mr. Speaker, in how to deal with drastic circumstances that are not otherwise amenable to being resolved in the community minus the legislative support of the Congress.

In the course of that I want to compliment the office of the gentleman from Delaware [Mr. CASTLE], the staff in his office, and I most especially want to thank the ranking member, the gentleman from Michigan [Mr. KILDEE], and his staff, and I want to recognize and commend the gentleman from Pennsylvania [Mr. GOODLING], and his staff, for recognizing in turn how important this amendment was in seeing it through the entire conference. It is the kind of thing that can easily be lost unless there is an alert staff as well as an alert Chair and ranking member who have the good of the community at heart, and most particularly, those most vulnerable, the innocent among us, our children.

I had received a letter, Mr. Speaker, from Governor Benjamin Cayetano, the Governor of our State of Hawaii, asking for support of the amendment and indicating that he was aware of how important the change from $200,000 to $400,000 would be. I got that in July. I am citing the specific times, Mr. Speaker, because I want to show how it is possible for the Congress to act with a concerted effort and respond rapidly, and this is an excellent example of it.

I drafted a letter, a "Dear Colleague" letter, to Members, and I am very pleased that the gentlewoman from Hawaii, Mrs. MINK, my colleague, and the gentleman from Delaware, Mr. CASTLE, were the original signers of the letter, and we consulted with the staff of Mr. GOODLING's committee, and we sent a "Dear Colleague" letter out to Members whose districts and whose States were affected. We invited them to sign a letter to Chairman GOODLING of the Committee on Economic and Educational Opportunities in support of increasing the minimum, and I would like to quote, if I might, Mr. Speaker, briefly from the letter to Mr. GOODLING because I think it provides, again, an example and a basis for understanding how legislation can be brought promptly to the floor in a way that effectively serves the ends sought.

In addressing the chairman we wrote requesting his support for increasing the small State minimum in the distribution of funds. Small States were guaranteed a minimum, as I indicated, of $200,000. Congress recently increased the appropriation from $32 million in fiscal year 1995 to $47 million in 1996. Unfortunately, the small State minimum did not receive a comparable increase; thus States which we represented, those of us who signed the letter to the gentleman from Pennsylvania [Mr. GOODLING], Alaska, Delaware, Washington, DC, Hawaii, Idaho, Maine, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont, West Virginia and Wyoming did not benefit from the funding increase. Small States, of course, have the same pressing needs as large States to provide adequate services for women who have been the victims of domestic violence. Consequently we believed that it was imperative that the small State minimum be increased. The Senate had already increased the small

State minimum to $400,000 in the Child Abuse and Prevention Treatment Act and was expected to include it.

Mr. Speaker, the Senate, as I said, expected to include this provision in the Labor, HHS and Education appropriations bill but obviously required support of the gentleman from Pennsylvania [Mr. GOODLING] and the conferees in the conference. The result, Mr. Speaker, is before us today. It has been accomplished. In other words, between July and September of this year on a bipartisan basis, we were able to deal with this crisis. Small States were recognized, and more importantly, the children and those others who come under the aegis of this act were recognized as being in need.

So I would like to close with a profound sense of gratitude to the gentleman from Pennsylvania [Mr. GOODLING] and the committee and indicate that I hope that this will, if it has to be voted on, will be a unanimous vote of the Congress and offer in conclusion, Mr. Speaker, again a reference to the fact that it is possible for men and women of good will and acting in faith with the Constitution and our duties here in the House to act promptly on behalf of the children of this country.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I am pleased that I rise in support of the Child Abuse Prevention and Treatment Act [CAPTA] Amendments of 1996. Since its passage in 1974, CAPTA has provided protection and assistance for one of our nation's most vulnerable segments—children who have been abused and/or neglected. I am delighted to say that this is yet another bipartisan measure produced by the House Opportunities Committee and brought to the floor under suspension of the rules. I commend Chairman GOODLING and ranking member, Mr. CLAY and Mr. KILDEE for their fine effort in bringing this important legislation to the floor.

Mr. Speaker, for a number of years, I have sponsored the "At-Birth Abandoned Baby Act". The bill guarantees all babies abandoned at-birth, or shortly thereafter, the right to immediate placement and bonding with "preadoptive parents." The preadoptive parents are given the right to immediately initiate proceedings for an expeditious adoption of the abandoned baby.

One of the major provisions of the At-Birth Abandoned Baby Act simply requires State welfare authorities to immediately place "at-birth abandoned babies" with suitable "pre-adoptive parents" who, in turn, will be allowed to immediately file for an expeditious adoption of the abandoned baby in the State court of proper jurisdiction.

Mr. Speaker, I am pleased the Child Abuse Prevention and Treatment Act contains similar provisions which will provide for an expedited adoption procedure for abandoned infants. The bill requires that in order to be eligible to receive funds under the Child Abuse Prevention and Treatment Act, States must have in place a program within 2 years which will provide "for the expedited termination of parental rights in the case of any infant determined to be abandoned under State law". Mr. Speaker, I strongly support the inclusion of this provision in the bill.

I would also like to mention that the bill contains a provision which will require the Secretary of Health and Human Services, in dispensing funds under the Abandoned Infants Assistance Act, to give priority to States which have developed and implemented procedures for expedited placement of abandoned infants. I believe this provision will give States the added incentive to implement this vital expedited adoption procedure.

Mr. Speaker, passage of these two commonsense provisions will give those infants abandoned at-birth at least a fighting chance for immediate parental bonding by adoptive parents and a permanent home. I strongly support this bill and urge all of my colleagues to join me in voting for its passage.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH] for the purpose of engaging in a colloquy.

Mr. SMITH of Texas. Mr. Speaker, first of all I want to thank my friend from Pennsylvania, Mr. GOODLING, who is the chairman of the Committee on Economic and Educational Opportunities for yielding this time to me, but I also want to thank him and the many others who have helped us reach an agreement on such an important subject.

Mr. Speaker, it is my understanding that under CAPTA, States have been allowed to exempt parents from prosecution on grounds of medical neglect if the parent was employing alternative means of healing as part of the parent's religious practice. CAPTA also has required the States to have procedures in place to report, investigate and intervene in situations where children are being denied medical care needed to prevent harm.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Speaker, that is correct. The two provisions the gentleman has described have caused problems for some States. In recent years, the Department of Health and Human Services has moved to disqualify certain States from CAPTA funding based on the State's accommodation of the religion treatment in lieu of medical treatment.

Mr. SMITH of Texas. Mr. Speaker, it is my further understanding that we have clarified that issue in the rule of construction before us.

Mr. GOODLING. Yes, we have. After a very lengthy negotiation we have reached a compromise which will both protect children in need of medical intervention while ensuring that the first amendment rights of parents to practice their religion are not infringed upon. Under this bill, no parent or legal guardian is required to provide a child with medical service or treatment against their religious beliefs, nor is any State required to find, or prohibited from finding, abuse or neglect cases where the parent or guardian relied solely or partially upon spiritual means rather than medical treatment in accordance with their religious beliefs.

Mr. SMITH of Texas. Does the bill address States' authority to pursue any legal remedies necessary to provide medical care or treatment when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life-threatening conditions?

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Mr. GOODLING. Yes, it does. In addition, the bill gives States sole discretion over case-by-case determinations relating to exercise of authority in this area. No State is foreclosed from considering parents' use of treatment by spiritual means. No State is required to prosecute parents in this area. But every State must have in place the authority to intervene to protect children in need.

Let me also state that nothing under this bill should be interpreted as discouraging the reporting of suspected incidences of medical neglect to child protection services, where warranted.

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, I also see a new section has been added that requires the States to include in their State laws, as statutory grounds for termination of parental rights, conviction of parents for certain specified crimes against children.

It also eliminates the Federal mandate that States must seek reunification of the convicted parent with surviving children. Given the crimes that have been specified, a murder or voluntary manslaughter and felonious assault, it appears what we are addressing is a parent who deliberately takes a life or seriously injuries his child.

Mr. GOODLING. That is correct. This section is intended to give the States flexibility in this area by not requiring them to seek to reunify a parent convicted of a serious and violent crime against his child with that surviving child or other children. States may still seek to reunify the family, but will no longer be required to do so by Federal law.

Second, the bill provides that these very serious crimes should be grounds in State law for the termination of parental rights. Any decision, however, to terminate parental rights even in these cases is entirely a State issue and remains so under the bill.

Mr. SMITH of Texas. Would States be allowed to consider a parents' motive when deciding to terminate parental rights or seek reunification of this family, and could this include sincerely held religious beliefs of the parents?

Mr. GOODLING. Absolutely. Since this is entirely a matter of State law, States are free to consider whatever mitigating circumstances they wish.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman for yielding, and for his help.

Mr. GOODLING. I want to thank the staff on both sides, Mr. Speaker, and the gentleman from Michigan [Mr. KILDEE], the ranking member. This is just another indication, one more of those bipartisan bills that this committee has brought to the floor and acted upon expeditiously.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman's remarks. I have always enjoyed working with him, and we are able to achieve a great deal of bipartisan work because of our respect for one another. I think more of that would be helpful to the whole House.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of the Child Abuse Prevention and Treatment Act. This measure will authorize $100 million in fiscal year 1997 for child abuse prevention and treatment programs.

The bulk of this money will support the State grant program which provides child protective services where they are most effective—at the State level. This grant program helps States screen and investigate reports of child abuse or neglect; provide case management and deliver service to children and their families; improve risk and safety assessment tools and expand training for service providers and those required to report suspected cases of child abuse.

Our children are our most precious resource and we must take steps to root out and eliminate abuse and maltreatment. This bill is a move in that direction. I urge all my colleagues to support these amendments and pass this bill.

Mr. UNDERWOOD. Mr. Speaker, I rise today to join my colleagues in supporting the passage of S. 919, the Child Abuse Prevention and Treatment Act Amendments. Child protection is our collective responsibility and the Congressional approval today reinforces our commitment to help our Nation's most vulnerable children and families.

The number of children reported abused and neglected has tripled since 1981. As more and more families encounter pressures, the caseloads at the child protection agencies increase. The steps we take today, in reauthorizing this program for another 5 years, will expand services to strengthen and support families in need.

Guam is currently receiving about $177,000 in consolidated grants from the Department of Health and Human Services to assist our efforts to combat this problem. Our local child protective agencies have flexibility in designing child protective services, investigations of child abuse and neglect, improvements in risk and safety assessments, and the training of service providers.

The bill will allow Guam the opportunity to apply for family resource grants and adoption opportunities grants authorized in this legislation. We can be more effective if we consolidate a number of broad-based networks of child abuse and prevention programs, family support programs, foster care and adoption initiatives. This bill expands the current program and facilitates the collaboration necessary to maximize resources.

Our children are our most important resources. We need to guarantee them a safe haven when threatened or harmed. We need to reassure children at risk that their safety net is strong and viable. And we need to reduce the incidence of child abuse and neglect. The bill passed by the Congress today moves us in the right direction.

Mr. CUNNINGHAM. Mr. Speaker, I rise today in support of S. 919, the Child Abuse Prevention and Treatment Act Amendments, better known as CAPTA.

BICAMERAL, BIPARTISAN SUPPORT FOR REFORMS

This Congress has already adopted CAPTA reforms several times, as part of welfare reform legislation. However, for technical reasons, CAPTA reforms were deleted from the welfare reform package enacted by Congress and signed into law by the President. Thus, the Senate adopted S. 919. We take it up today, having negotiated additional improvements with both parties and both Houses of Congress.

THE NEED FOR BETTER CHILD PROTECTIVE SERVICES

Since 1974, CAPTA has provided States a framework to follow with respect to child protective services. Unfortunately, child abuse continues to increase. The latest studies show reports of child abuse and neglect have doubled in the United States, from 1.4 million cases in 1986 to 2.8 million in 1993.

This is nothing less than a national tragedy. We can and must take action. We do, through this bill. Let me identify just a few improvements we are making in CAPTA to fight the epidemic of child abuse and neglect.

We are providing expanded adoption opportunities for babies who have been abandoned. This follows our previous work in this Congress to expand the adoption tax credit.

We are providing greater protection so that children will not be put back into homes where parents have been convicted of terrible acts against their own children.

We are providing new and expanded roles for private citizens in the area of child abuse and neglect.

In an area we heard a great deal about in my subcommittee hearings, this bill ensures that persons who maliciously file reports of abuse will no longer be protected by CAPTA's immunity for reporting. Under our bill, only goodfaith reports will be protected.

And we are simplifying the administration of the CAPTA program at the State and local levels.

There is much, much more in this bill that is in the best interests of America's children. Every American must take a stand that child abuse is wrong. We must stop this plague of child abuse on our land. Our bipartisan CAPTA reforms cannot stop child abuse; they give help to those people who can.

I thank Chairman GOODLING for his outstanding leadership on this issue. I urge my colleagues to support S. 919 as amended, and I yield back the balance of my time.

Mr. RIGGS. Mr. Speaker, I rise today in support of the House substitute to S. 919, a bill that makes amendments to the Child Abuse Prevention and Treatment Act, known as CAPTA. This legislation, which has been crafted in a bicameral and bipartisan fashion, authorizes and makes critical amendments to the current CAPTA Act.

As a former law enforcement officer I urge support for this legislation so that we can protect the most vulnerable segment of this Nation's population—abused and neglected children. As you know crime against children is on the rise and we must act now. It is because of the children we need to pass this today.

One important component of this bill is that is provides expanded adoption opportunities for babies who have been abandoned. The parents of these children have indicated by their actions that they do not want these children, then lets make it easier for these children to go to homes that will love, care, provide nourishment for them. In addition this act will take a closer look at the effects of the placement of children in kinship care arrangements, pre-adoptive, or adoptive homes. This legislation adds a requirement for states to explore contracting with public or private nonprofit agencies, or sectarian institutions for the recruitment of potential foster and adoptive families. This legislation increases the authorization for the Adoptive Opportunities Act to $20 million and continues authorization through 2001.

It is time that we all join together and protect our children. I urge my colleagues to vote favorably on this legislation.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DICKEY). The question is on the motion offered by the gentleman from Pennsylvania [Mr. GOODLING] that the House suspend the rules and pass the Senate bill, S. 919, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 919, the Child Abuse Prevention and Treatment Act Amendments of 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROFESSIONAL BOXING SAFETY ACT OF 1996

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4167) to provide for the safety of journeymen boxers, and for other purposes.

The Clerk read as follows:

H.R. 4167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Professional Boxing Safety Act of 1996".

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) BOXER.—The term "boxer" means an individual who fights in a professional boxing match.

(2) BOXING COMMISSION.—(A) The term "boxing commission" means an entity authorized under State law to regulate professional boxing matches.

(3) BOXER REGISTRY.—The term "boxer registry" means any entity certified by the Association of Boxing Commissions for the purposes of maintaining records and identification of boxers.

(4) LICENSEE.—The term "licensee" means an individual who serves as a trainer, second, or cut man for a boxer.

(5) MANAGER.—The term "manager" means a person who receives compensation for service as an agent or representative of a boxer.

(6) MATCHMAKER.—The term "matchmaker" means a person that proposes, selects, and arranges the boxers to participate in a professional boxing match.

(7) PHYSICIAN.—The term "physician" means a doctor of medicine legally authorized to practice medicine by the State in which the physician performs such function or action.

(8) PROFESSIONAL BOXING MATCH.—The term "professional boxing match" means a boxing contest held in the United States between individuals for financial compensation. Such term does not include a boxing contest that is regulated by an amateur sports organization.

(9) PROMOTER.—The term "promoter" means the person primarily responsible for organizing, promoting, and producing a professional boxing match.

(10) STATE.—The term "State" means each of the 50 States, Puerto Rico, the District of Columbia, and any territory or possession of the United States.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to improve and expand the system of safety precautions that protects the welfare of professional boxers; and

(2) to assist State boxing commissions to provide proper oversight for the professional boxing industry in the United States.

SEC. 4. BOXING MATCHES IN STATES WITHOUT BOXING COMMISSIONS.

No person may arrange, promote, organize, produce, or fight in a professional boxing match held in a State that does not have a boxing commission unless the match is supervised by a boxing commission from another State and subject to the most recent version of the recommended regulatory guidelines certified and published by the Association of Boxing Commissions as well as any additional relevant professional boxing regulations and requirements of such other State.

SEC. 5. SAFETY STANDARDS.

No person may arrange, promote, organize, produce, or fight in a professional boxing match without meeting each of the following requirements or an alternative requirement in effect under regulations of a boxing commission that provides equivalent protection of the health and safety of boxers:

(1) A physical examination of each boxer by a physician certifying whether or not the boxer is physically fit to safely compete, copies of which must be provided to the boxing commission.

(2) Except as otherwise expressly provided under regulation of a boxing commission promulgated subsequent to the enactment of this Act, an ambulance or medical personnel with appropriate resuscitation equipment continuously present on site.

(3) A physician continuously present at ringside.

(4) Health insurance for each boxer to provide medical coverage for any injuries sustained in the match.

SEC. 6. REGISTRATION.

(a) REQUIREMENTS.—Each boxer shall register with—

(1) the boxing commission of the State in which such boxer resides; or

(2) in the case of a boxer who is a resident of a foreign country, or a State in which there is no boxing commission, the boxing commission of any State that has such a commission.

(b) IDENTIFICATION CARD.—

(1) ISSUANCE.—A boxing commission shall issue to each professional boxer who registers in accordance with subsection (a), an identification card that contains each of the following:

(A) A recent photograph of the boxer.

(B) The social security number of the boxer (or, in the case of a foreign boxer, any similar citizen identification number or professional boxer number from the country of residence of the boxer).

(C) A personal identification number assigned to the boxer by a boxing registry.

(2) RENEWAL.—Each professional boxer shall renew his or her identification card at least once every 2 years.

(3) PRESENTATION.—Each professional boxer shall present his or her identification card to the appropriate boxing commission not later than the time of the weigh-in for a professional boxing match.

SEC. 7. REVIEW.

(a) PROCEDURES.—Each boxing commission shall establish each of the following procedures:

(1) Procedures to evaluate the professional records and physician's certification of each boxer participating in a professional boxing match in the State, and to deny authorization for a boxer to fight where appropriate.

(2) Procedures to ensure that, except as provided in subsection (b), no boxer is permitted to box while under suspension from any boxing commission due to—

(A) a recent knockout or series of consecutive losses;

(B) an injury, requirement for a medical procedure, or physician denial of certification;

(C) failure of a drug test; or

(D) the use of false aliases, or falsifying, or attempting to falsify, official identification cards or documents.

(3) Procedures to review a suspension where appealed by a boxer, including an opportunity for a boxer to present contradictory evidence.

(4) Procedures to revoke a suspension where a boxer—

(A) was suspended under subparagraph (A) or (B) of paragraph (2) of this subsection, and has furnished further proof of a sufficiently improved medical or physical condition; or

(B) furnishes proof under subparagraph (C) or (D) of paragraph (2) that a suspension was not, or is no longer, merited by the facts.

(b) SUSPENSION IN ANOTHER STATE.—A boxing commission may allow a boxer who is under suspension in any State to participate in a professional boxing match—

(1) for any reason other than those listed in subsection (a) if such commission notifies in writing and consults with the designated official of the suspending State's boxing commission prior to the grant of approval for such individual to participate in that professional boxing match; or

(2) if the boxer appeals to the Association of Boxing Commissions, and the Association of Boxing Commissions determines that the suspension of such boxer was without sufficient grounds, for an improper purpose, or not related to the health and safety of the boxer or the purposes of this Act.

SEC. 8. REPORTING.

Not later than 48 business hours after the conclusion of a professional boxing match, the supervising boxing commission shall report the results of such boxing match and any related suspensions to each boxer registry.

SEC. 9. CONFLICTS OF INTEREST.

No member or employee of a boxing commission, no person who administers or enforces State boxing laws, and no member of the Association of Boxing Commissions may belong to, contract with, or receive any compensation from, any person who sanctions, arranges, or promotes professional boxing matches or who otherwise has a financial interest in an active boxer currently registered with a boxer registry. For purposes of this section, the term "compensation" does not include funds held in escrow for payment to another person in connection with a professional boxing match. The prohibition set forth in this section shall not apply to any contract entered into, or any reasonable compensation received, by a boxing commission to supervise a professional boxing match in another State as described in section 4.

SEC. 10. ENFORCEMENT.

(a) INJUNCTIONS.—Whenever the Attorney General of the United States has reasonable cause to believe that a person is engaged in a violation of this Act, the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order, against the person, as the Attorney General determines to be necessary to restrain the person from continuing to engage in, sanction, promote, or otherwise participate in a professional boxing match in violation of this Act.

(b) CRIMINAL PENALTIES.—

(1) MANAGERS, PROMOTERS, MATCHMAKERS, AND LICENSEES.—Any manager, promoter, matchmaker, and licensee who knowingly violates, or coerces or causes any other person to violate, any provision of this Act

shall, upon conviction, be imprisoned for not more than 1 year or fined not more than $20,000, or both.

(2) CONFLICT OF INTEREST.—Any member or employee of a boxing commission, any person who administers or enforces State boxing laws, and any member of the Association of Boxing Commissions who knowingly violates section 9 of this Act shall, upon conviction, be imprisoned for not more than 1 year or fined not more than $20,000, or both.

(3) BOXERS.—Any boxer who knowingly violates any provision of this Act shall, upon conviction, be fined not more than $1,000.

SEC. 11. NOTIFICATION OF SUPERVISING BOXING COMMISSION.

Each promoter who intends to hold a professional boxing match in a State that does not have a boxing commission shall, not later than 14 days before the intended date of that match, provide written notification to the supervising boxing commission designated under section 4. Such notification shall contain each of the following:

(1) Assurances that, with respect to that professional boxing match, all applicable requirements of this Act will be met.

(2) The name of any person who, at the time of the submission of the notification—

(A) is under suspension from a boxing commission; and

(B) will be involved in organizing or participating in the event.

(3) For any individual listed under paragraph (2), the identity of the boxing commission that issued the suspension described in paragraph (2)(A).

SEC. 12. STUDIES.

(a) PENSION.—The Secretary of Labor shall conduct a study on the feasibility and cost of a national pension system for boxers, including potential funding sources.

(b) HEALTH, SAFETY AND EQUIPMENT.—The Secretary of Health and Human Services shall conduct a study to develop recommendations for health, safety, and equipment standards for boxers and for professional boxing matches.

(c) REPORTS.—Not later than one year after the date of enactment of this Act, the Secretary of Labor shall submit a report to the Congress on the findings of the study conducted pursuant to subsection (a). Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on the findings of the study conducted pursuant to subsection (b).

SEC. 13. PROFESSIONAL BOXING MATCHES CONDUCTED ON INDIAN RESERVATIONS.

(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INDIAN TRIBE.—The term "Indian tribe" has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) RESERVATION.—The term "reservation" means the geographically defined area over which a tribal organization exercises governmental jurisdiction.

(3) TRIBAL ORGANIZATION.—The term "tribal organization" has the same meaning as in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

(b) REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a tribal organization of an Indian tribe may, upon the initiative of the tribal organization—

(A) regulate professional boxing matches held within the reservation under the jurisdiction of that tribal organization; and

(B) carry out that regulation or enter into a contract with a boxing commission to carry out that regulation.

(2) STANDARDS AND LICENSING.—If a tribal organization regulates professional boxing matches pursuant to paragraph (1), the tribal organization shall, by tribal ordinance or resolution, establish and provide for the implementation of health and safety standards, licensing requirements, and other requirements relating to the conduct of professional boxing matches that are at least as restrictive as—

(A) the otherwise applicable standards and requirements of a State in which the reservation is located; or

(B) the most recently published version of the recommended regulatory guidelines certified and published by the Association of Boxing Commissions.

SEC. 14. RELATIONSHIP WITH STATE LAW.

Nothing in this Act shall prohibit a State from adopting or enforcing supplemental or more stringent laws or regulations not inconsistent with this Act, or criminal, civil, or administrative fines for violations of such laws or regulations.

SEC. 15. EFFECTIVE DATE.

The provisions of this Act shall take effect on January 1, 1997, except as follows:

(1) Section 9 shall not apply to an otherwise authorized boxing commission in the Commonwealth of Virginia until July 1, 1998.

(2) Sections 5 through 9 shall take effect on July 1, 1997.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. OXLEY] and the gentleman from New York [Mr. MANTON] each will control 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4167, the Professional Boxing Safety Act.

This bill represents months of bipartisan, bi-committee, and bicameral negotiations. Its primary purpose is to establish a State and privately run system for licensing professional boxers.

H.R. 4167 is identical to H.R. 1186, which was marked up by the Committee on Commerce on September 18, and reported to the full House on September 24, 1996. Since the provisions of the bills are identical, it is the intent of the Committee on Commerce and the Committee on Economic and Educational Opportunities that the Committee on Commerce report on H.R. 1186 should serve as the legislative history governing the interpretation of H.R. 4167.

I include for the RECORD a memorandum of understanding between Chairman BLILEY and Chairman GOODLING on this point.

The memorandum referred to is as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 25, 1996.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: We are writing regarding the jurisdiction and legislative history of H.R. 4167, the Professional Boxing Safety Act, which has been introduced today by Rep. Pat Williams and Rep. Michael G. Oxley and referred to the Committee on Economic and Educational Opportunities and in addition to the Committee on Commerce and H.R. 1186, the Professional Boxing Safety Act, which was referred to the Committee on Economic and Educational Opportunities and in addition to the Committee on Commerce. After negotiations between the two Committees, H.R. 1186 was favorably reported from the Committee on Commerce and agreed to be considered under suspension of the House Rules.

Subsequently and in honor of the retirement of Rep. Pat Williams, our friend and colleague, Rep. Williams introduced H.R. 4167, Professional Boxing Safety Act, which is identical to the Commerce Committee reported bill to H.R. 1186 and we have agreed to consider this bill in lieu of consideration of H.R. 1186. We now agree that the legislative history of H.R. 1186 should be deemed part of the legislative history of H.R. 4167, Professional Boxing Safety Act and that the jurisdiction of the two Committees should not be prejudiced by any of these events.

Sincerely,

BILL GOODLING,
Chairman, Committee on Economic and Educational Opportunities.

THOMAS J. BLILEY,
Chairman, Committee on Commerce.

Mr. Speaker, when people think of professional boxing they imagine the multi-million dollar fight with Mike Tyson or George Foreman or Tim Witherspoon in the corner. But the vast majority of professional matches are between two little known boxers, fighting for less than $100 per round, who are often intentionally mismatched to provide the crowd with a spectacle of gore.

Unlike every other major American sport, there is no merit system in boxing for advancing to a title. Sanctioning bodies are controlled by promoters with their own agendas. Even the officials who regulate boxing through the State commissions often have personal financial interest and involvement in their own pet fighters. With fraud and corruption allowed to run rampant in boxing, it's no wonder that we've had so many boxers left penniless, with severe medical injuries, forced to depend for health care and survival on the backs of the Federal taxpayers. Boxing needs reform, and it needs it now.

This bill is not something dreamed up by Washington bureaucrats to be imposed on the States. Rather, these reforms have been specifically requested and actively supported by State boxing commissions around the country.

Commissioner after commissioner has complained to us that State suspensions are flouted by boxers who hop from town to town fighting under different names, ignoring failed drug tests and medical injuries, ultimately leaving Federal health care and welfare programs to pick up the tab after their bodies have broken down.

So long as there are no uniform licensing procedures for reviewing, honoring, and appealing commission authorized suspensions, States will remain powerless to enforce their own health and safety regulations, with the taxpayers losing out as the result.

This bill requires that no professional boxing match be held without the approval of a State authorized commission. The commission may be public or private, and no State is required under this bill to establish a commission. If a State chooses not to get involved in regulating boxing, then the promoter of a fight is allowed to contract with an authorized boxing commission of any other State to come in and supervise a fight.

This bill is not a cure-all for every problem that boxing faces. But it is a huge step in the right direction. It enacts strict conflict of interest provisions, establishes minimum protections for boxers, and empowers States to enforce their own suspensions.

I recognize that many of my colleagues believe that this compromise goes too far, while others feel it does not go far enough to involve the Federal Government in helping the States regulate professional boxing. But after decades of legislative neglect, professional boxing needs uniform State-supervision before it can clean up its act. This is a good bill, a good compromise, and a much needed reform.

Mr. Speaker, I reserve the balance of my time.

Mr. MANTON. Mr. Speaker, I ask unanimous consent that the gentleman from Montana [Mr. WILLIAMS] be permitted to control one-half of the time on this side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. MANTON. Mr. Speaker, I am pleased to rise today in support of H.R. 4167. This is the same bill that was reported out of the Committee on Commerce last Wednesday, and it is a product of bipartisan cooperation among members of both the Committee on Commerce and the Committee on Economic and Educational Opportunities.

I would like to commend my colleagues, the gentleman from Virginia [Mr. BLILEY], the gentleman from Ohio [Mr. OXLEY], the gentleman from Pennsylvania [Mr. GOODLING], the chairman, the gentleman from Montana [Mr. WILLIAMS], and the gentleman from Michigan [Mr. DINGELL], for their hard work in moving this bill forward.

In addition, negotiations on the bill have included Senators MCCAIN and BRYAN, who demonstrated significant commitment to gaining consensus on the bill, enabling us to bring this legislation to the House floor today. By passing H.R. 4167, the House will take a positive step forward toward correcting some of the most negative aspects associated with the boxing industry.

Mr. Speaker, Members in the House have long considered legislation to improve the sport of boxing. Early hearings and discussions of problems in the industry date back to the 1960's and since that time, various proposals have been promoted in an effort to address some of the more persistent and destructive problems with the sport.

I would like to recognize a number of my colleagues in the House, in particular, Representatives BILL RICHARDSON, RALPH HALL, and MAJOR OWENS, who have dedicated significant time and energy over the years in support of legislation to regulate the boxing industry. Their leadership on this issue has helped educate and motivate members on both sides of the aisle, enabling us to at last reach agreement on legislation at this time. While the bill before us today is perhaps more minimal in scope than my colleagues would prefer, it does include a number of provisions that should satisfy some of their long-term interests in seeing improvements made by the boxing industry.

The purpose of this bill should not surprise many. Numerous problems associated with the sport of boxing are not new, and have proven persistent over many years. Observers of the industry have criticized it for a number of reasons including: inadequate health and safety standards for the athletes; industry corruption; exploitation of the fighters; organized crime influence; and blatant conflict of interest between regulatory and sanctioning bodies. But despite a considerable amount of congressional scrutiny and various legislative proposals, no specific Federal law dealing with professional boxing has been enacted. By passing H.R. 4167 today, the House can improve this record.

Mr. Speaker, as I stated earlier, the bill before us was crafted with bipartisan cooperation in both bodies. It is a good bill that addresses many of the most distressing problems in the sport of boxing. In particular, H.R. 4167 includes a provision which will put an end to conflicts of interest between regulatory and sanctioning bodies in the industry. In addition, the bill includes minimum health and safety requirements to better protect boxers and expands the State oversight role of the industry.

Mr. Speaker, we could probably go further in our efforts to regulate the boxing industry and clean up more problems which surely exist in some quarters of the sport. However, I believe this legislation will yield some positive changes in the industry and the House should be proud to adopt it. As a cosponsor of the bill and ranking minority member of the Commerce, Trade, and Hazardous Materials Subcommittee, I urge my colleagues to support the measure.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I recognize the gentleman from Montana [Mr. WILLIAMS] for his strong work in this area for a number of years, working to get a bill passed. I think we are just about there. We would not have been there without the efforts of the gentleman from Montana.

Mr. Speaker, I am pleased to yield such time as he may consume to my good friend, the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank my friend, the gentleman from Ohio, chairman of the Subcommittee on Commerce, Trade, and Hazardous Materials of the Committee on Commerce, for his kindness in yielding time to me. If he should need more time, and I am controlling 10 minutes, I will yield it back to him, but for now I will use his time.

Mr. Speaker, I want to begin by thanking my Republican colleagues, the gentleman from Ohio [Mr. OXLEY], the gentleman from Virginia [Mr. BLILEY], and over on the Committee on Economic and Educational Opportunities, the gentleman from Pennsylvania [Mr. GOODLING], and the gentleman from North Carolina [Mr. BALLENGER], for their kindness in bringing this bill forward and allowing me to be the prime sponsor of it.

Without their generosity, Mr. Speaker, it may have been that I would not have been able to gain this recognition, deserved or not, for 18 years of work on this issue.

Mr. Speaker, it was not 18 years but 35 years ago that the first proposal to reform the sport of boxing was introduced. It was done so by then Senator Estes Kefauver of Tennessee. That legislation was aimed at trying to prevent what Senator Kefauver then believed was mob control of the sport. His legislation would have set up a commission under the Department of Justice to investigate fights. That legislation was not passed, and since that time there have been many attempts to resurrect the issue and reform the "sweet science."

The issue lay dormant until early in the 1970's, when then Congressman Van Derling wanted to regulate television's influence on the sport under the Federal Communications Commission. Later, former Congressman Ed Beard wanted to establish a Federal boxing commission. None of these efforts were successful.

Then I and some others came on the scene in 1979, and with the House Committee on Labor held several days of hearings on the safety of the sport and possible avenues of reform, and we approached it as a matter of protecting workers in their workplace. The workers are fighters. Their workplace is the ring.

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Those hearings opened 18 years of discussion and more than a dozen bills aimed at the setting of minimum health and safety standards for boxing. But even those efforts, until tonight, fell short, primarily for two reasons. One was the difficult job of reassuring folks in the sport of boxing that minimum standards are indeed in the fighter's best interest, and the second reason was in setting just the right balance between State commissions and any Federal assistance.

The bill before us today is the product of all those years of congressional and public discussion and debate. Because of continual scandal and increasing fan disillusionment—and I am a fan—the sport has long ago, I think, been convinced that minimum health and safety standards are necessary if boxing is to prosper and fighters are to be protected.

This legislation before us tonight leaves the regulation of boxing with the State commissions, and it sets a basic code of conduct and minimum health and safety standards to assist the State commissions in the protection of fighters in their workplace, the ring.

One of the most important provisions in this legislation is the establishment of a boxer passport system. This provision will essentially prevent a fighter who is knocked out in one State and then changes his name and fights under the false name in another State the next night, even though the boxer himself is physically at risk. A passport system will stop that terrible practice.

I must say I think that potentially the weakest provision in the bill is the definition of how a State boxing commission should be organized. The legislation allows States to privatize their commissions. We may find that that move toward privatized commissions is a mistake. However, I also believe that the conflict of interest provisions of the bill will mean that there will be little chance for boxing ranking organizations or promoters to capture control of these privatized commissions.

This legislation gives the States the chance to bring the sport of boxing under control, and I am certain that the existing State commissions are up to the task. The legislation is, in fact, simply an attempt by the Congress of the United States to provide for those athletes who labor in the ring the basic worker protections that the United States provides for all other workers in their workplace. I urge my colleagues to support it.

Finally, I again want to thank Chairman OXLEY and my colleagues and friends on the Republican side for their generosity in allowing H.R. 4167, the bill which I have sponsored along with Chairman OXLEY and Congressman MANTON, to come before us tonight.

Mr. Speaker, I am pleased to rise today in support of H.R. 4167. I have worked on this issue for 18 years and I want to thank my colleagues on the Economic Opportunities and Commerce Committees for their work and assistance on this legislation and I urge your support for my bill.

It was 35 years ago that the first proposal to reform the sport of boxing was introduced by then Senator Estes Kefauver. This legislation was aimed at the stopping of mob control of the sport and set up a commission under the Department of Justice to investigate any illegal fights. That legislation was not passed and since that time there has been many attempts to resurrect this issue and reform the "sweet science."

In the 1970's Congressman Van Derling wanted to regulate television's influence on the sport under the Federal Communication Commission and Congressman Beard wanted to establish a Federal boxing commission under the Department of Labor. None of these efforts was successful and in 1979 our House Labor Committee held several days of hearings on the safety of the sport and possible avenues of reform. These hearings opened 18 years of discussion and more than a dozen bills aimed at the setting of minimum health and safety standards for boxers. These bills all fell short primarily for two reasons: one was the difficult job of reassuring folks in the sport of boxing that minimum standards are in the sport's best interest, and the second reason was in setting just the right balance between State commissions and any Federal assistance.

The bill before us today is the product of all those years of discussion and debate. Because of continual scandal and increasing fan disillusionment, the sport and its fans have long ago been convinced that minimum health and safety standards were absolutely necessary if the sport was to prosper and fighters be protected, and during those years the State boxing commissions have their own standards and professional organizations. This legislation leaves the regulation of boxing with the State commissions, and it sets a basic code of conduct and minimum health and safety standards to assist those commissions in the protection of fighters in their workplace—the ring.

One of the most important provisions in this legislation is the establishment of the boxer passport system. This provision will essentially stop a fighter from being knocked out in one State and then changing names and fighting in another State even though they are physically at risk. This legislation sets basic safety standards for any fight, and it also carries a provision that will have the appropriate Federal agencies conduct a study of what minimum health and safety provisions should include and also how the sport might provide a basic pension system. This study will be presented to the next Congress to consider strengthening the mandatory requirements of the bill.

The weakest provision in the bill is the definition of how a State boxing commission should be organized. This legislation allows States to privatize their commissions. We may find that the move toward privatized commissions is a mistake. However, I also believe that the conflict of interest provisions of the bill will mean that there will be little chance for boxing ranking organizations or promoters to capture control of key commissions—even under privatization. I want to commend my colleagues on the Commerce Committee for their effort on this provision. I believe that as the State commissions are strengthened then there will be less reason for States to consider privatization.

This legislation gives the States the chance to bring the sport of boxing under control and I am certain that the existing commissions will be up to the task, with our assistance. If we do not take this action today, or if the States do not live up to the challenge, then I believe we will see the continued downward spiral of both the sport and fan confidence.

This legislation is, in fact, simply an attempt to provide for folks who labor in the ring the basic worker protections we provide for almost all other workers. The decentralized nature of the sport has promoted minimum regulation because those States that enforce strict standards simply lose future fights. This flaw has denied fighters basic protections and the result has been needless injury and death.

The House of Representatives has passed reforms one other time—only to have the bill die in the Senate. Senator MCCAIN has worked tirelessly on this legislation and is in agreement with the House's bipartisan proposal. Let's not deny fighters these reforms; they are long overdue.

Mr. MANTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, in closing, let me just again thank the gentleman from Montana for his leadership. As all of you know, this is PAT WILLIAMS' last term, he is retiring, will be leaving Congress after a distinguished number of years here. This is in many ways a tribute to PAT WILLIAMS and his dedicated service here in the Congress. I wanted to point that out to the Members and for the record.

Also, to thank the gentleman from New York, Mr. MANTON, my ranking member; also the gentleman from Virginia, Mr. BLILEY, the chairman; the gentleman from Michigan, Mr. DINGELL, as well, the ranking member; Senator MCCAIN who had worked so feverishly on this bill; and last, the gentleman from New Mexico, BILL RICHARDSON, who has had an interest in this issue and was one of those I had mentioned that wanted to go further with this legislation but was kind enough to work on a compromise with an understanding that we would work together in the next Congress on some other legislation dealing with the boxing issue.

Mr. Speaker, I ask for a favorable consideration of the bill, and I yield back the balance of my time.

Mr. WILLIAMS. Mr. Speaker, I yield myself 30 seconds.

I would thank our friend and colleague, Senator MCCAIN, who I think, as everyone interested in this bill knows, started the process in this Congress in the Senate and has worked tirelessly, even though a Senator, to help get this bill to the floor of the House tonight. I do not think we would have gotten there without Senator

MCCAIN and we are very grateful to him.

Mr. GOODLING. Mr. Speaker, I rise today in support of the Professional Boxing Safety Act of 1996. This legislation establishes minimum health and safety requirements for professional boxers and will improve the ability of State authorized boxing commissions to properly oversee professional boxing matches.

Currently, State athletic commissions have differing policies with regard to boxing. In one State, boxers, promoters, and managers may be required to meet certain standards, while another State may have no requirements or safety and health standards at all. The bill which we are considering today will make it easier for States to share information on suspensions of boxers and will help to ensure that all boxing matches are properly supervised by the appropriate State officials.

I would like to acknowledge the personal interest and hard work of the sponsors of the bill, Representative PAT WILLIAMS and Representative MICHAEL OXLEY. As a colleague of mine on the Economic and Educational Opportunities Committee, PAT WILLIAMS' effort over the years with regard to issues in the sport of boxing has helped to focus attention on the seriousness of the problems which exist in the sport and which, hopefully, will be reduced as a result of this legislation. I also appreciate the efforts of the athletic commission in my State of Pennsylvania and their assistance in improving the bill.

H.R. 4167 is identical to H.R. 1186, as reported by the Committee on Commerce on September 18, 1996. H.R. 1186 was introduced by Representative MICHAEL OXLEY on March 9, 1995 and referred to the Committee on Economic and Educational Opportunities, and in addition, to the Committee on Commerce, which ordered the bill favorably reported by voice vote. Given the impending adjournment and since I support the Commerce Committee reported bill, I saw no reason to slow the legislative process, thus the Committee on Economic and Educational Opportunities did not report H.R. 1186 and I intend no prejudice to jurisdiction by these events.

H.R. 4167 is being considered today in lieu of H.R. 1186 and the legislative history which accompanies H.R. 1186 should be deemed to be part of the legislative history of H.R. 4167. The jurisdiction of the Committee on Economic and Educational Opportunities and the Committee on Commerce should not be prejudiced by these events.

Mr. RICHARDSON. Mr. Speaker, I rise in support of H.R. 4167, the Professional Boxing Safety Act of 1996. But, I want to express some serious reservations that I have with this piece of legislation.

Let me start out by saying thank you to the many people that have worked on professional boxing legislation this year and in the past: Senator MCCAIN; Senators ROTH of Delaware; Bryan of Nevada; DORGAN of North Dakota; PAT WILLIAMS; MAJOR OWENS; TOM MANTON; and Jim Florio.

I would especially like to thank Chairman BLILEY, MIKE OXLEY, and Ranking Member JOHN DINGELL for their work in shepherding this bill through a reluctant Commerce Committee. Finally, I would like to thank Gary Galemore of the Congressional Research Service who has crafted various boxing bill's since 1977.

Since my initial election to the House in 1983, I have associated myself with Congressional efforts to enact meaningful reform that adequately addresses the serious problems that plague the professional boxing world.

Although these efforts were initiated by Senator Estes Kefauver in the 1960s, Congress has been unable to enact meaningful reform. Numerous hearings and investigations have uncovered a world of improprieties that range from the influence of organized crime to atrocious health adn safety conditions for professional boxers.

Consider a sport that is heavily influenced by the likes of Don King, a convicted felon who could not testify before congressional committees because he was under a perennial FBI investigation.

The most notable discovery of these investigations is the existence of a haphazard patchwork of state rules governing the sport of boxing. This non-system of health and safety standards endangers the lives of thousands of young men who pursue boxing careers as a form of employment.

Consider a sport that will not allow Tommy Morrison to fight in New York because he has tested HIV positive, ye Morrison can go to another State that has no testing requirements and fight.

Boxing enthusiasts both in Congress and in the industry have agreed that legislation should require some form of Federal oversight to properly implement health and safety standards.

Let me make some points to my colleagues who argue that Congress has no role in the affairs of boxing. The provisions of the McCain-Oxley bill fit comfortably under the broad reach of the Commerce Clause. The interstate character of the industry has been recognized by the Supreme Count in connection with anti-trust regulation. The Court held that "the promotion of professional championship boxing contests on a multistate basis, coupled with sale of rights to televise, broadcast, and film the contests for interstate transmission" constitutes interstate commerce.

RESERVATIONS WITH THE MC CAIN-OXLEY BILL

Because I believe the McCain-Oxley bill is a good first step—particularly the inclusion of the Dingell amendment—I shall support it. However, I believe the bill comes up short in critical areas. I am afraid that without some degree of Federal oversight the unsavory elements of boxing will retain their influence with state boxing commissions and continue to work their will.

Simply put the bill does not address the main problem with boxing standards: lack of enforcement.

The bill's reliance on U.S. Attorneys to enforce the health and safety provisions is an extraordinary leap of faith on the part of this Congress. However, I commend the bill's authors for their efforts to include provisions designed to increase the interaction of state boxing officials and local law enforcement.

Without specific enforcement mechanisms designed to administer the legislation's new standards, we are forced to rely on state boxing commissions to police the sport. If we have learned anything since Estes Kefauver first began investigating boxing, it is that state boxing commissions—with several notable exceptions like New York and Nevada—are incapable, unwilling, or deliberately choosing not to enforce their own rules.

While I recognize the political constraints of enacting boxing legislation, I still feel that we will need to provide some legitimizing entity that allows honorable boxing interests to take the reins and lead the boxing industry to eventual self-regulation. We need to motivate the industry to clean up its own house.

I have maintained all along that this is the bill that Don King supports because it will put to rest the annual congressional review of the boxing industry. But I have retained assurances from Senator MCCAIN that Congress will not abandon this issue. We intend to monitor the effectiveness of this bill and if necessary will craft further legislation to right the wrongs that plague the boxing industry.

I have received assurances that my concerns will receive scrutiny either from a General Accounting Office [GAO] study, a President Commission on boxing, or both.

I encourage my colleagues to join me in issuing a challenge to the State Boxing Commissioners: Clean up the sport, or Congress will.

Mr. Speaker, I am supporting the McCain-Oxley legislation because it makes headway in two important areas.

First, this bill takes the important step of creating minimal Federal health and safety standards. This will send an important signal to the boxing industry that certain standards have to be met in order to conduct a match. Most importantly, this will set precedent in getting Congress involved in a serious matter that has for too long been overlooked.

Second, the bill includes a provision crafted by Ranking Member Dingell that will prohibit the numerous conflicts of interest that permeate the relationship of regulators and those regulated. I sincerely believe that this provision will go a long way in cleaning up the less-than-reputable business relationships that have damaged the integrity of the sport.

I am supporting this measure because I love the sport of boxing. Let me again say that this is the best bill that Congress can enact. But you can be sure that—unless real reform becomes apparent to Congress—this is not the last round of this fight.

Mr. DINGELL. Mr. Speaker, the House Commerce Committee has a long history of investigating problems in professional boxing. Since 1965, the committee has held numerous hearings and considered a broad array of legislation in this area. Over the years, persistent allegations of serious improprieties have plagued professional boxing, including: First, inadequate health and safety protections for boxers; second, organized crime influence; third, boxer exploitation; fourth, fan deception, such as mismatches and fixed contests; fifth, blatant conflicts of interest between regulators and those who promote and arrange matches; sixth, market monopolization; seventh, the industry's inability to police itself; and eighth, the inadequacy of existing regulation at the State and local levels. Despite a variety of efforts, no law has been enacted to date.

During the past few weeks, Representative MANTON and I have worked with Chairmen

BLILEY and OXLEY, Representative WILLIAMS, Senators MCCAIN and BRYAN, and with others, to seek a consensus on this legislation. Last week, the Commerce Committee reported the same bill we are considering today by voice vote. I believe this compromise represents a positive step forward in trying to address some of the most egregious problems in the boxing industry.

In particular, I support the bill because it includes a provision that prohibits State boxing regulators from contracting with, belonging to, or receiving compensation from the boxing organizations they are charged with regulating. This should help address conflicts of interest between State regulators and the industry. It will not clean up all problems in the industry. But it is a positive step. It will lend credibility to State regulatory activities and prohibit incestuous relationships that too many State officials have developed with the boxing industry.

There are those who argue the bill does not go far enough and others who argue it goes too far. On balance, I believe the bill represents a sound bipartisan compromise that will strengthen State regulatory activities and promote improved health and safety standards.

I want to single out two Members for their contributions and leadership in this area. First, I commend our colleague, Mr. RICHARDSON. Over the years, he has authored several bills to improve oversight and regulation of the boxing industry. I understand his concerns that this bill does not go as far as he would prefer. Despite his misgivings, Mr. RICHARDSON has continued to be a constructive force in forging this bipartisan compromise. His efforts are greatly appreciated.

Second, I commend my good friend from Montana [Mr. WILLIAMS], the sponsor of this legislation. He has made many lasting contributions to the debate in this particular area. Unfortunately, he has announced his retirement at the end of this Congress. All of us will miss the leadership he has exhibited during his distinguished tenure in this body on this bill and, more importantly, on many other issues of national concern.

I urge all my colleagues to support this bipartisan legislation and yield back the time of my balance.

Mr. WILLIAMS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The question is on the motion offered by the gentleman from Ohio [Mr. OXLEY] that the House suspend the rules and pass the bill, H.R. 4167.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 640, WATER RESOURCES DEVELOPMENT ACT OF 1996

Mr. BOEHLERT submitted the following conference report and statement on the Senate bill (S. 640) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes:

CONFERENCE REPORT (H. REPORT. 104-843)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 640), to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1996".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definition.

TITLE I—WATER RESOURCES PROJECTS

Sec. 101. Project authorizations.
Sec. 102. Small flood control projects.
Sec. 103. Small bank stabilization projects.
Sec. 104. Small navigation projects.
Sec. 105. Small shoreline protection projects.
Sec. 106. Small snagging and sediment removal project, Mississippi River, Little Falls, Minnesota.
Sec. 107. Small projects for improvement of the environment.

TITLE II—GENERAL PROVISIONS

Sec. 201. Cost sharing for dredged material disposal areas.
Sec. 202. Flood control policy.
Sec. 203. Cost sharing for feasibility studies.
Sec. 204. Restoration of environmental quality.
Sec. 205. Environmental dredging.
Sec. 206. Aquatic ecosystem restoration.
Sec. 207. Beneficial uses of dredged material.
Sec. 208. Recreation policy and user fees.
Sec. 209. Recovery of costs.
Sec. 210. Cost sharing for environmental projects.
Sec. 211. Construction of flood control projects by non-Federal interests.
Sec. 212. Engineering and environmental innovations of national significance.
Sec. 213. Lease authority.
Sec. 214. Collaborative research and development.
Sec. 215. National dam safety program.
Sec. 216. Hydroelectric power project uprating.
Sec. 217. Dredged material disposal facility partnerships.
Sec. 218. Obstruction removal requirement.
Sec. 219. Small project authorizations.
Sec. 220. Uneconomical cost-sharing requirements.
Sec. 221. Planning assistance to States.
Sec. 222. Corps of Engineers expenses.
Sec. 223. State and Federal agency review period.
Sec. 224. Section 215 reimbursement limitation per project.
Sec. 225. Melaleuca.
Sec. 226. Sediments decontamination technology.
Sec. 227. Shore protection.
Sec. 228. Conditions for project deauthorizations.
Sec. 229. Support of Army civil works program.
Sec. 230. Benefits to navigation.
Sec. 231. Loss of life prevention.
Sec. 232. Scenic and aesthetic considerations.
Sec. 233. Termination of technical advisory committee.
Sec. 234. Interagency and international support authority.
Sec. 235. Sense of Congress; requirement regarding notice.
Sec. 236. Technical corrections.
Sec. 237. Hopper dredges.

TITLE III—PROJECT-RELATED PROVISIONS

Sec. 301. Project modifications.
Sec. 302. Mobile Harbor, Alabama.
Sec. 303. Nogales Wash and Tributaries, Arizona.
Sec. 304. White River Basin, Arkansas and Missouri.
Sec. 305. Channel Islands Harbor, California.
Sec. 306. Lake Elsinore, California.
Sec. 307. Los Angeles and Long Beach Harbors, San Pedro Bay, California.
Sec. 308. Los Angeles County drainage area, California.
Sec. 309. Prado Dam, California.
Sec. 310. Queensway Bay, California.
Sec. 311. Seven Oaks Dam, California.
Sec. 312. Thames River, Connecticut.
Sec. 313. Canaveral Harbor, Florida.
Sec. 314. Captiva Island, Florida.
Sec. 315. Central and Southern Florida, Canal 51.
Sec. 316. Central and Southern Florida, Canal 111.
Sec. 317. Jacksonville Harbor (Mill Cove), Florida.
Sec. 318. Panama City Beaches, Florida.
Sec. 319. Chicago, Illinois.
Sec. 320. Chicago Lock and Thomas J. O'Brien Lock, Illinois.
Sec. 321. Kaskaskia River, Illinois.
Sec. 322. Locks and Dam 26, Alton, Illinois and Missouri.
Sec. 323. White River, Indiana.
Sec. 324. Baptiste Collette Bayou, Louisiana.
Sec. 325. Lake Pontchartrain, Louisiana.
Sec. 326. Mississippi River-Gulf Outlet, Louisiana.
Sec. 327. Tolchester Channel, Maryland.
Sec. 328. Cross Village Harbor, Michigan.
Sec. 329. Saginaw River, Michigan.
Sec. 330. Sault Sainte Marie, Chippewa County, Michigan.
Sec. 331. St. Johns Bayou and New Madrid Floodway, Missouri.
Sec. 332. Lost Creek, Columbus, Nebraska.
Sec. 333. Passaic River, New Jersey.
Sec. 334. Acequias irrigation system, New Mexico.
Sec. 335. Jones Inlet, New York.
Sec. 336. Buford Trenton Irrigation District, North Dakota.
Sec. 337. Reno Beach-Howards Farm, Ohio.
Sec. 338. Broken Bow Lake, Red River Basin, Oklahoma.
Sec. 339. Wister Lake project, Leflore County, Oklahoma.
Sec. 340. Bonneville Lock and Dam, Columbia River, Oregon and Washington.
Sec. 341. Columbia River dredging, Oregon and Washington.
Sec. 342. Lackawanna River at Scranton, Pennsylvania.
Sec. 343. Mussers Dam, Middle Creek, Snyder County, Pennsylvania.
Sec. 344. Schuylkill River, Pennsylvania.
Sec. 345. South Central Pennsylvania.
Sec. 346. Wyoming Valley, Pennsylvania.
Sec. 347. Allendale Dam, North Providence, Rhode Island.
Sec. 348. Narragansett, Rhode Island.
Sec. 349. Clouter Creek disposal area, Charleston, South Carolina.

Sec. 350. Buffalo Bayou, Texas.
Sec. 351. Dallas floodway extension, Dallas, Texas.
Sec. 352. Grundy, Virginia.
Sec. 353. Haysi Lake, Virginia.
Sec. 354. Rudee Inlet, Virginia Beach, Virginia.
Sec. 355. Virginia Beach, Virginia.
Sec. 356. East Waterway, Washington.
Sec. 357. Bluestone Lake, West Virginia.
Sec. 358. Moorefield, West Virginia.
Sec. 359. Southern West Virginia.
Sec. 360. West Virginia trailhead facilities.
Sec. 361. Kickapoo River, Wisconsin.
Sec. 362. Teton County, Wyoming.
Sec. 363. Project reauthorizations.
Sec. 364. Project deauthorizations.
Sec. 365. Mississippi Delta Region, Louisiana.
Sec. 366. Monongahela River, Pennsylvania.

TITLE IV—STUDIES

Sec. 401. Corps capability study, Alaska.
Sec. 402. Red River, Arkansas.
Sec. 403. McDowell Mountain, Arizona.
Sec. 404. Nogales Wash and tributaries, Arizona.
Sec. 405. Garden Grove, California.
Sec. 406. Mugu Lagoon, California.
Sec. 407. Murrieta Creek, Riverside County, California.
Sec. 408. Pine Flat Dam fish and wildlife habitat restoration, California.
Sec. 409. Santa Ynez, California.
Sec. 410. Southern California infrastructure.
Sec. 411. Stockton, California.
Sec. 412. Yolo Bypass, Sacramento-San Joaquin Delta, California.
Sec. 413. West Dade, Florida.
Sec. 414. Savannah River Basin comprehensive water resources study.
Sec. 415. Chain of Rocks Canal, Illinois.
Sec. 416. Quincy, Illinois.
Sec. 417. Springfield, Illinois.
Sec. 418. Beauty Creek watershed, Valparaiso City, Porter County, Indiana.
Sec. 419. Grand Calumet River, Hammond, Indiana.
Sec. 420. Indiana Harbor Canal, East Chicago, Lake County, Indiana.
Sec. 421. Koontz Lake, Indiana.
Sec. 422. Little Calumet River, Indiana.
Sec. 423. Tippecanoe River watershed, Indiana.
Sec. 424. Calcasieu River, Hackberry, Louisiana.
Sec. 425. Morganza, Louisiana, to Gulf of Mexico.
Sec. 426. Huron River, Michigan.
Sec. 427. City of North Las Vegas, Clark County, Nevada.
Sec. 428. Lower Las Vegas Wash wetlands, Clark County, Nevada.
Sec. 429. Northern Nevada.
Sec. 430. Saco River, New Hampshire.
Sec. 431. Buffalo River greenway, New York.
Sec. 432. Coeymans, New York.
Sec. 433. New York Bight and Harbor study.
Sec. 434. Port of Newburgh, New York.
Sec. 435. Port of New York-New Jersey navigation study.
Sec. 436. Shinnecock Inlet, New York.
Sec. 437. Chagrin River, Ohio.
Sec. 438. Cuyahoga River, Ohio.
Sec. 439. Columbia Slough, Oregon.
Sec. 440. Charleston, South Carolina.
Sec. 441. Oahe Dam to Lake Sharpe, South Dakota.
Sec. 442. Mustang Island, Corpus Christi, Texas.
Sec. 443. Prince William County, Virginia.
Sec. 444. Pacific Region.
Sec. 445. Financing of infrastructure needs of small and medium ports.
Sec. 446. Evaluation of beach material.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Land conveyances.
Sec. 502. Namings.
Sec. 503. Watershed management, restoration, and development.
Sec. 504. Environmental infrastructure.
Sec. 505. Corps capability to conserve fish and wildlife.
Sec. 506. Periodic beach nourishment.
Sec. 507. Design and construction assistance.
Sec. 508. Lakes program.
Sec. 509. Maintenance of navigation channels.
Sec. 510. Chesapeake Bay environmental restoration and protection program.
Sec. 511. Research and development program to improve salmon survival.
Sec. 512. Columbia River Treaty fishing access.
Sec. 513. Great Lakes confined disposal facilities.
Sec. 514. Great Lakes dredged material testing and evaluation manual.
Sec. 515. Great Lakes remedial action plans and sediment remediation.
Sec. 516. Sediment management.
Sec. 517. Extension of jurisdiction of Mississippi River Commission.
Sec. 518. Sense of Congress regarding St. Lawrence Seaway tolls.
Sec. 519. Recreation partnership initiative.
Sec. 520. Field office headquarters facilities.
Sec. 521. Earthquake Preparedness Center of Expertise expansion.
Sec. 522. Jackson County, Alabama.
Sec. 523. Benton and Washington Counties, Arkansas.
Sec. 524. Heber Springs, Arkansas.
Sec. 525. Morgan Point, Arkansas.
Sec. 526. Calaveras County, California.
Sec. 527. Faulkner Island, Connecticut.
Sec. 528. Everglades and South Florida ecosystem restoration.
Sec. 529. Tampa, Florida.
Sec. 530. Watershed management plan for Deep River Basin, Indiana.
Sec. 531. Southern and Eastern Kentucky.
Sec. 532. Coastal wetlands restoration projects, Louisiana.
Sec. 533. Southeast Louisiana.
Sec. 534. Assateague Island, Maryland and Virginia.
Sec. 535. Cumberland, Maryland.
Sec. 536. William Jennings Randolph Access Road, Garrett County, Maryland.
Sec. 537. Poplar Island, Maryland.
Sec. 538. Erosion control measures, Smith Island, Maryland.
Sec. 539. Restoration projects for Maryland, Pennsylvania, and West Virginia.
Sec. 540. Control of aquatic plants, Michigan, Pennsylvania, and Virginia and North Carolina.
Sec. 541. Duluth, Minnesota, alternative technology project.
Sec. 542. Lake Superior Center, Minnesota.
Sec. 543. Redwood River basin, Minnesota.
Sec. 544. Coldwater River Watershed, Mississippi.
Sec. 545. Natchez Bluffs, Mississippi.
Sec. 546. Sardis Lake, Mississippi.
Sec. 547. St. Charles County, Missouri, flood protection.
Sec. 548. St. Louis, Missouri.
Sec. 549. Libby Dam, Montana.
Sec. 550. Hackensack Meadowlands area, New Jersey.
Sec. 551. Hudson River habitat restoration, New York.
Sec. 552. New York City Watershed.
Sec. 553. New York State Canal System.
Sec. 554. Orchard Beach, Bronx, New York.
Sec. 555. Dredged material containment facility for Port of New York-New Jersey.
Sec. 556. Queens County, New York.
Sec. 557. Jamestown Dam and Pipestem Dam, North Dakota.
Sec. 558. Northeastern Ohio.
Sec. 559. Ohio River Greenway.
Sec. 560. Grand Lake, Oklahoma.
Sec. 561. Broad Top region of Pennsylvania.
Sec. 562. Curwensville Lake, Pennsylvania.
Sec. 563. Hopper dredge McFarland.
Sec. 564. Philadelphia, Pennsylvania.
Sec. 565. Seven Points Visitors Center, Raystown Lake, Pennsylvania.
Sec. 566. Southeastern Pennsylvania.
Sec. 567. Upper Susquehanna River basin, Pennsylvania and New York.
Sec. 568. Wills Creek, Hyndman, Pennsylvania.
Sec. 569. Blackstone River Valley, Rhode Island and Massachusetts.
Sec. 570. Dredged material containment facility for Port of Providence, Rhode Island.
Sec. 571. Quonset Point-Davisville, Rhode Island.
Sec. 572. East Ridge, Tennessee.
Sec. 573. Murfreesboro, Tennessee.
Sec. 574. Tennessee River, Hamilton County, Tennessee.
Sec. 575. Harris County, Texas.
Sec. 576. Neabsco Creek, Virginia.
Sec. 577. Tangier Island, Virginia.
Sec. 578. Pierce County, Washington.
Sec. 579. Greenbrier River Basin, West Virginia, flood protection.
Sec. 580. Lower Mud River, Milton, West Virginia.
Sec. 581. West Virginia and Pennsylvania flood control.
Sec. 582. Site designation.
Sec. 583. Long Island Sound.
Sec. 584. Water monitoring station.
Sec. 585. Overflow management facility.
Sec. 586. Privatization of infrastructure assets.

TITLE VI—EXTENSION OF EXPENDITURE AUTHORITY UNDER HARBOR MAINTENANCE TRUST FUND

Sec. 601. Extension of expenditure authority under Harbor Maintenance Trust Fund.

SEC. 2. DEFINITION.

In this Act, the term "Secretary" means the Secretary of the Army.

TITLE I—WATER RESOURCES PROJECTS

SEC. 101. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH CHIEF'S REPORTS.—Except as provided in this subsection, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports designated in this subsection:

(1) AMERICAN RIVER WATERSHED, CALIFORNIA.—

(A) IN GENERAL.—The project for flood damage reduction, American and Sacramento Rivers, California: Report of the Chief of Engineers, dated June 27, 1996, at a total cost of $56,900,000, with an estimated Federal cost of $42,675,000 and an estimated non-Federal cost of $14,225,000, consisting of—

(i) approximately 24 miles of slurry wall in the levees along the lower American River;

(ii) approximately 12 miles of levee modifications along the east bank of the Sacramento River downstream from the Natomas Cross Canal;

(iii) 3 telemeter streamflow gauges upstream from the Folsom Reservoir; and

(iv) modifications to the flood warning system along the lower American River.

(B) CREDIT TOWARD NON-FEDERAL SHARE.—The non-Federal interest shall receive credit toward the non-Federal share of project costs for expenses that the non-Federal interest incurs for design or construction of any of the features authorized under this paragraph before the date on which Federal funds are made available for

construction of the project. The amount of the credit shall be determined by the Secretary.

(C) INTERIM OPERATION.—Until such time as a comprehensive flood damage reduction plan for the American River watershed has been implemented, the Secretary of the Interior shall continue to operate the Folsom Dam and Reservoir to the variable 400,000/670,000 acre-feet of flood control storage capacity and shall extend the agreement between the Bureau of Reclamation and the Sacramento Area Flood Control Agency with respect to the watershed.

(D) OTHER COSTS.—The non-Federal interest shall be responsible for—

(i) all operation, maintenance, repair, replacement, and rehabilitation costs associated with the improvements carried out under this paragraph; and

(ii) 25 percent of the costs incurred for the variable flood control operation of the Folsom Dam and Reservoir during the 4-year period beginning on the date of the enactment of this Act and 100 percent of such costs thereafter.

(2) HUMBOLDT HARBOR AND BAY, CALIFORNIA.—The project for navigation, Humboldt Harbor and Bay, California: Report of the Chief of Engineers, dated October 30, 1995, at a total cost of $15,180,000, with an estimated Federal cost of $10,000,000 and an estimated non-Federal cost of $5,180,000.

(3) MARIN COUNTY SHORELINE, SAN RAFAEL, CALIFORNIA.—The project for hurricane and storm damage reduction, Marin County shoreline, San Rafael, California: Report of the Chief of Engineers, dated January 28, 1994, at a total cost of $28,300,000, with an estimated Federal cost of $18,400,000 and an estimated non-Federal cost of $9,900,000.

(4) PORT OF LONG BEACH (DEEPENING), CALIFORNIA.—The project for navigation, Port of Long Beach (Deepening), California: Report of the Chief of Engineers, dated July 26, 1996, at a total cost of $37,288,000, with an estimated Federal cost of $14,318,000 and an estimated non-Federal cost of $22,970,000.

(5) SAN LORENZO RIVER, CALIFORNIA.—The project for flood control, San Lorenzo River, California: Report of the Chief of Engineers, dated June 30, 1994, at a total cost of $21,800,000, with an estimated Federal cost of $10,900,000 and an estimated non-Federal cost of $10,900,000 and habitat restoration, at a total cost of $4,050,000, with an estimated Federal cost of $3,040,000 and an estimated non-Federal cost of $1,010,000.

(6) SANTA BARBARA HARBOR, CALIFORNIA.—The project for navigation, Santa Barbara Harbor, California: Report of the Chief of Engineers, dated April 26, 1994, at a total cost of $5,840,000, with an estimated Federal cost of $4,670,000 and an estimated non-Federal cost of $1,170,000.

(7) SANTA MONICA BREAKWATER, CALIFORNIA.—The project for hurricane and storm damage reduction, Santa Monica Breakwater, Santa Monica, California: Report of the Chief of Engineers, dated June 7, 1996, at a total cost of $6,440,000, with an estimated Federal cost of $4,220,000 and an estimated non-Federal cost of $2,220,000.

(8) ANACOSTIA RIVER AND TRIBUTARIES, DISTRICT OF COLUMBIA AND MARYLAND.—The project for environmental restoration, Anacostia River and Tributaries, District of Columbia and Maryland: Report of the Chief of Engineers, dated November 15, 1994, at a total cost of $17,144,000, with an estimated Federal cost of $12,858,000 and an estimated non-Federal cost of $4,286,000.

(9) ATLANTIC INTRACOASTAL WATERWAY, ST. JOHNS COUNTY, FLORIDA.—The project for navigation, Atlantic Intracoastal Waterway, St. Johns County, Florida: Report of the Chief of Engineers, dated June 24, 1994, at a total Federal cost of $15,881,000. Operation, maintenance, repair, replacement, and rehabilitation shall be a non-Federal responsibility, and the non-Federal interest shall assume ownership of the bridge.

(10) CEDAR HAMMOCK (WARES CREEK), FLORIDA.—The project for flood control, Cedar Hammock (Wares Creek), Manatee County, Florida: Report of the Chief of Engineers, dated August 23, 1996, at a total cost of $13,846,000, with an estimated Federal cost of $10,385,000 and an estimated non-Federal cost of $3,461,000.

(11) LOWER SAVANNAH RIVER BASIN, GEORGIA AND SOUTH CAROLINA.—The project for environmental restoration, Lower Savannah River Basin, Georgia and South Carolina: Report of the Chief of Engineers dated, July 30, 1996, at a total cost of $3,431,000, with an estimated Federal cost of $2,573,000 and an estimated non-Federal cost of $858,000.

(12) LAKE MICHIGAN, ILLINOIS.—The project for storm damage reduction and shoreline erosion protection, Lake Michigan, Illinois, from Wilmette, Illinois, to the Illinois-Indiana State line: Report of the Chief of Engineers, dated April 14, 1994, at a total cost of $204,000,000, with an estimated Federal cost of $110,000,000 and an estimated non-Federal cost of $94,000,000. The project shall include the breakwater near the South Water Filtration Plant described in the report as a separate element of the project, at a total cost of $11,470,000, with an estimated Federal cost of $7,460,000 and an estimated non-Federal cost of $4,010,000. The Secretary shall reimburse the non-Federal interest for the Federal share of any costs incurred by the non-Federal interest—

(A) in reconstructing the revetment structures protecting Solidarity Drive in Chicago, Illinois, if such work is determined by the Secretary to be a component of the project; and

(B) in constructing the breakwater near the South Water Filtration Plant in Chicago, Illinois.

(13) KENTUCKY LOCK AND DAM, TENNESSEE RIVER, KENTUCKY.—The project for navigation, Kentucky Lock and Dam, Tennessee River, Kentucky: Report of the Chief of Engineers, dated June 1, 1992, at a total cost of $393,200,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(14) POND CREEK, JEFFERSON COUNTY, KENTUCKY.—The project for flood control, Pond Creek, Jefferson County, Kentucky: Report of the Chief of Engineers, dated June 28, 1994, at a total cost of $16,080,000, with an estimated Federal cost of $10,993,000 and an estimated non-Federal cost of $5,087,000.

(15) WOLF CREEK DAM AND LAKE CUMBERLAND, KENTUCKY.—The project for hydropower, Wolf Creek Dam and Lake Cumberland, Kentucky: Report of the Chief of Engineers, dated June 28, 1994, at a total cost of $53,763,000, with an estimated non-Federal cost of $53,763,000. Funds derived by the Tennessee Valley Authority from its power program and funds derived from any private or public entity designated by the Southeastern Power Administration may be used to pay all or part of the costs of the project.

(16) PORT FOURCHON, LAFOURCHE PARISH, LOUISIANA.—The project for navigation, Belle Pass and Bayou Lafourche, Louisiana: Report of the Chief of Engineers, dated April 7, 1995, at a total cost of $4,440,000, with an estimated Federal cost of $2,300,000 and an estimated non-Federal cost of $2,140,000.

(17) WEST BANK OF THE MISSISSIPPI RIVER, NEW ORLEANS (EAST OF HARVEY CANAL), LOUISIANA.—The project for hurricane damage reduction, West Bank of the Mississippi River in the vicinity of New Orleans (East of Harvey Canal), Louisiana: Report of the Chief of Engineers, dated May 1, 1995, at a total cost of $126,000,000, with an estimated Federal cost of $82,200,000 and an estimated non-Federal cost of $43,800,000.

(18) BLUE RIVER BASIN, KANSAS CITY, MISSOURI.—The project for flood control, Blue River Basin, Kansas City, Missouri: Report of the Chief of Engineers, dated September 5, 1996, at a total cost of $17,082,000, with an estimated Federal cost of $12,043,000 and an estimated non-Federal cost of $5,039,000.

(19) WOOD RIVER, GRAND ISLAND, NEBRASKA.—The project for flood control, Wood River, Grand Island, Nebraska: Report of the Chief of Engineers, dated May 3, 1994, at a total cost of $11,800,000, with an estimated Federal cost of $6,040,000 and an estimated non-Federal cost of $5,760,000.

(20) LAS CRUCES, NEW MEXICO.—The project for flood control, Las Cruces, New Mexico: Report of the Chief of Engineers, dated June 24, 1996, at a total cost of $8,278,000, with an estimated Federal cost of $5,494,000 and an estimated non-Federal cost of $2,784,000.

(21) ATLANTIC COAST OF LONG ISLAND, NEW YORK.—The project for storm damage reduction, Atlantic Coast of Long Island from Jones Inlet to East Rockaway Inlet, Long Beach Island, New York: Report of the Chief of Engineers. dated April 5, 1996, at a total cost of $72,091,000, with an estimated Federal cost of $46,859,000 and an estimated non-Federal cost of $25,232,000.

(22) CAPE FEAR—NORTHEAST (CAPE FEAR) RIVERS, NORTH CAROLINA.—The project for navigation, Cape Fear—Northeast (Cape Fear) Rivers, North Carolina: Report of the Chief of Engineers, dated September 9, 1996, at a total cost of $221,735,000, with an estimated Federal cost of $132,936,000 and an estimated non-Federal cost of $88,799,000.

(23) WILMINGTON HARBOR, CAPE FEAR RIVER, NORTH CAROLINA.—The project for navigation, Wilmington Harbor, Cape Fear and Northeast Cape Fear Rivers, North Carolina: Report of the Chief of Engineers, dated June 24, 1994, at a total cost of $23,953,000, with an estimated Federal cost of $15,572,000 and an estimated non-Federal cost of $8,381,000.

(24) DUCK CREEK, CINCINNATI, OHIO.—The project for flood control, Duck Creek, Cincinnati, Ohio: Report of the Chief of Engineers, dated June 28, 1994, at a total cost of $15,947,000, with an estimated Federal cost of $11,960,000 and an estimated non-Federal cost of $3,987,000.

(25) WILLAMETTE RIVER TEMPERATURE CONTROL, MCKENZIE SUBBASIN, OREGON.—The project for environmental restoration, Willamette River Temperature Control, McKenzie Subbasin, Oregon: Report of the Chief of Engineers, dated February 1, 1996, at a total Federal cost of $38,000,000.

(26) RIO GRANDE DE ARECIBO, PUERTO RICO.—The project for flood control, Rio Grande de Arecibo, Puerto Rico: Report of the Chief of Engineers, dated April 5, 1994, at a total cost of $19,951,000, with an estimated Federal cost of $10,557,000 and an estimated non-Federal cost of $9,394,000.

(27) CHARLESTON HARBOR, SOUTH CAROLINA.—The project for navigation, Charleston Harbor Deepening and Widening, South Carolina: Report of the Chief of Engineers, dated July 18, 1996, at a total cost of $116,639,000, with an estimated Federal cost of $71,940,000 and an estimated non-Federal cost of $44,699,000.

(28) BIG SIOUX RIVER AND SKUNK CREEK, SIOUX FALLS, SOUTH DAKOTA.—The project for flood control, Big Sioux River and Skunk Creek, Sioux Falls, South Dakota: Report of the Chief of Engineers, dated June 30, 1994, at a total cost of $34,600,000, with an estimated Federal cost of $25,900,000 and an estimated non-Federal cost of $8,700,000.

(29) GULF INTRACOASTAL WATERWAY, ARANSAS NATIONAL WILDLIFE REFUGE, TEXAS.—The project for navigation and environmental preservation, Gulf Intracoastal Waterway, Aransas National Wildlife Refuge, Texas: Report of the Chief of Engineers, dated May 28, 1996, at a total cost of $18,283,000, with an estimated Federal cost of $18,283,000.

(30) HOUSTON-GALVESTON NAVIGATION CHANNELS, TEXAS.—The project for navigation and environmental restoration, Houston-Galveston Navigation Channels, Texas: Report of the Chief of Engineers, dated May 9, 1996, at a total cost of $298,334,000, with an estimated Federal cost of $197,237,000 and an estimated non-Federal cost of $101,097,000, and an average annual cost of $786,000 for future environmental restoration over the 50-year life of the project, with an estimated annual Federal cost of $590,000 and an estimated annual non-Federal cost of $196,000. The removal of pipelines and other obstructions that are necessary for the project shall be accomplished at non-Federal expense. Non-Federal interests shall receive credit toward cash contributions required during construction and subsequent to construction for design and construction management work that is performed by non-Federal interests and that the Secretary determines is necessary to implement the project.

(31) MARMET LOCK, KANAWHA RIVER, WEST VIRGINIA.—The project for navigation, Marmet Lock, Kanawha River, West Virginia: Report of the Chief of Engineers, dated June 24, 1994, at a total cost of $229,581,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(b) PROJECTS SUBJECT TO REPORT.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in a final report (or in the case of the project described in paragraph (10), a Detailed Project Report) of the Corps of Engineers, if the report is completed not later than December 31, 1996:

(1) CHIGNIK, ALASKA.—The project for navigation, Chignik, Alaska, at a total cost of $10,365,000, with an estimated Federal cost of $4,282,000 and an estimated non-Federal cost of $6,083,000.

(2) COOK INLET, ALASKA.—The project for navigation, Cook Inlet, Alaska, at a total cost of $5,700,000, with an estimated Federal cost of $3,700,000 and an estimated non-Federal cost of $2,000,000.

(3) ST. PAUL ISLAND HARBOR, ST. PAUL, ALASKA.—The project for navigation, St. Paul Harbor, St. Paul, Alaska, at a total cost of $18,981,000, with an estimated Federal cost of $12,239,000 and an estimated non-Federal cost of $6,742,000.

(4) NORCO BLUFFS, RIVERSIDE COUNTY, CALIFORNIA.—The project for bluff stabilization, Norco Bluffs, Riverside County, California, at a total cost of $8,600,000, with an estimated Federal cost of $6,450,000 and an estimated non-Federal cost of $2,150,000.

(5) TERMINUS DAM, KAWEAH RIVER, CALIFORNIA.—The project for flood control and water supply, Terminus Dam, Kaweah River, California, at a total cost of $34,500,000, with an estimated Federal cost of $20,200,000 and an estimated non-Federal cost of $14,300,000.

(6) REHOBOTH BEACH AND DEWEY BEACH, DELAWARE.—The project for storm damage reduction and shoreline protection, Rehoboth Beach and Dewey Beach, Delaware, at a total cost of $9,423,000, with an estimated Federal cost of $6,125,000 and an estimated non-Federal cost of $3,298,000, and an estimated average annual cost of $282,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $183,000 and an estimated annual non-Federal cost of $99,000.

(7) BREVARD COUNTY, FLORIDA.—The project for shoreline protection, Brevard County, Florida, at a total cost of $76,620,000, with an estimated Federal cost of $36,006,000 and an estimated non-Federal cost of $40,614,000, and an estimated average annual cost of $2,341,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $1,109,000 and an estimated annual non-Federal cost of $1,232,000.

(8) LAKE WORTH INLET, FLORIDA.—The project for navigation and shoreline protection, Lake Worth Inlet, Palm Beach Harbor, Florida, at a total cost of $3,915,000.

(9) MIAMI HARBOR CHANNEL, FLORIDA.—The project for navigation, Miami Harbor Channel, Miami, Florida, at a total cost of $3,221,000, with an estimated Federal cost of $1,800,000 and an estimated non-Federal cost of $1,421,000.

(10) NEW HARMONY, INDIANA.—The project for streambank erosion protection, Wabash River at New Harmony, Indiana, at a total cost of $2,800,000, with an estimated Federal cost of $2,100,000 and an estimated non-Federal cost of $700,000.

(11) WESTWEGO TO HARVEY CANAL, LOUISIANA.—The project for hurricane damage prevention and flood control, West Bank Hurricane Protection (Lake Cataouatche Area), Jefferson Parish, Louisiana, at a total cost of $14,375,000, with an estimated Federal cost of $9,344,000 and an estimated non-Federal cost of $5,031,000.

(12) CHESAPEAKE AND DELAWARE CANAL, MARYLAND AND DELAWARE.—The project for navigation and safety improvements, Chesapeake and Delaware Canal, Baltimore Harbor Connecting Channels, Delaware and Maryland, at a total cost of $82,800,000, with an estimated Federal cost of $53,852,000 and an estimated non-Federal cost of $28,948,000.

(13) ABSECON ISLAND, NEW JERSEY.—The project for storm damage reduction and shoreline protection, Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, New Jersey, at a total cost of $52,000,000, with an estimated Federal cost of $34,000,000 and an estimated non-Federal cost of $18,000,000.

SEC. 102. SMALL FLOOD CONTROL PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, may carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

(1) SOUTH UPLAND, SAN BERNADINO COUNTY, CALIFORNIA.—Project for flood control, South Upland, San Bernadino County, California.

(2) BIRDS, LAWRENCE COUNTY, ILLINOIS.—Project for flood control, Birds, Lawrence County, Illinois.

(3) BRIDGEPORT, LAWRENCE COUNTY, ILLINOIS.—Project for flood control, Bridgeport, Lawrence County, Illinois.

(4) EMBARRAS RIVER, VILLA GROVE, ILLINOIS.—Project for flood control, Embarras River, Villa Grove, Illinois.

(5) FRANKFORT, WILL COUNTY, ILLINOIS.—Project for flood control, Frankfort, Will County, Illinois.

(6) SUMNER, LAWRENCE COUNTY, ILLINOIS.—Project for flood control, Sumner, Lawrence County, Illinois.

(7) VERMILLION RIVER, DEMONADE PARK, LAFAYETTE, LOUISIANA.—Project for nonstructural flood control, Vermillion River, Demonade Park, Lafayette, Louisiana. In carrying out the study and the project (if any) under this paragraph, the Secretary shall use relevant information from the Lafayette Parish feasibility study and expedite completion of the study under this paragraph.

(8) VERMILLION RIVER, QUAIL HOLLOW SUBDIVISION, LAFAYETTE, LOUISIANA.—Project for nonstructural flood control, Vermillion River, Quail Hollow Subdivision, Lafayette, Louisiana. In carrying out the study and the project (if any) under this paragraph, the Secretary shall use relevant information from the Lafayette Parish feasibility study and expedite completion of the study under this paragraph.

(9) KAWKAWLIN RIVER, BAY COUNTY, MICHIGAN.—Project for flood control, Kawkawlin River, Bay County, Michigan.

(10) WHITNEY DRAIN, ARENAC COUNTY, MICHIGAN.—Project for flood control, Whitney Drain, Arenac County, Michigan.

(11) FESTUS AND CRYSTAL CITY, MISSOURI.—Project for flood control, Festus and Crystal City, Missouri. In carrying out the study and the project (if any) under this paragraph, the Secretary shall use relevant information from the existing reconnaissance study and shall expedite completion of the study under this paragraph.

(12) KIMMSWICK, MISSOURI.—Project for flood control, Kimmswick, Missouri. In carrying out the study and the project (if any) under this paragraph, the Secretary shall use relevant information from the existing reconnaissance study and shall expedite completion of the study under this paragraph.

(13) RIVER DES PERES, ST. LOUIS COUNTY, MISSOURI.—Project for flood control, River Des Peres, St. Louis County, Missouri. In carrying out the study and the project (if any), the Secretary shall determine the feasibility of potential flood control measures, consider potential storm water runoff and related improvements, and cooperate with the Metropolitan St. Louis Sewer District.

(14) MALTA, MONTANA.—Project for flood control, Malta, Montana.

(15) BUFFALO CREEK, ERIE COUNTY, NEW YORK.—Project for flood control, Buffalo Creek, Erie County, New York.

(16) CAZENOVIA CREEK, ERIE COUNTY, NEW YORK.—Project for flood control, Cazenovia Creek, Erie County, New York.

(17) CHEEKTOWAGA, ERIE COUNTY, NEW YORK.—Project for flood control, Cheektowaga, Erie County, New York.

(18) FULMER CREEK, VILLAGE OF MOHAWK, NEW YORK.—Project for flood control, Fulmer Creek, village of Mohawk, New York.

(19) MOYER CREEK, VILLAGE OF FRANKFORT, NEW YORK.—Project for flood control, Moyer Creek, village of Frankfort, New York.

(20) SAUQUOIT CREEK, WHITESBORO, NEW YORK.—Project for flood control, Sauquoit Creek, Whitesboro, New York.

(21) STEELE CREEK, VILLAGE OF ILION, NEW YORK.—Project for flood control, Steele Creek, village of Ilion, New York.

(22) WILLAMETTE RIVER, OREGON.—Project for nonstructural flood control, Willamette River, Oregon, including floodplain and ecosystem restoration.

SEC. 103. SMALL BANK STABILIZATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, may carry out the project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r):

(1) ST. JOSEPH RIVER, INDIANA.—Project for bank stabilization, St. Joseph River, South Bend, Indiana, including recreation and pedestrian access features.

(2) ALLEGHENY RIVER AT OIL CITY, PENNSYLVANIA.—Project for bank stabilization to address erosion problems affecting the pipeline crossing the Allegheny River at Oil City, Pennsylvania, including measures to address erosion affecting the pipeline in the bed of the Allegheny River and its adjacent banks.

(3) CUMBERLAND RIVER, NASHVILLE, TENNESSEE.—Project for bank stabilization, Cumberland River, Nashville, Tennessee.

SEC. 104. SMALL NAVIGATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, may carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(1) AKUTAN, ALASKA.—Project for navigation, Akutan, Alaska, consisting of a bulkhead and a wave barrier, including application of innovative technology involving use of a permeable breakwater.

(2) ILLINOIS AND MICHIGAN CANAL, ILLINOIS.—Project for navigation, Illinois and Michigan Canal, Illinois, including marina development at Lock 14.

(3) GRAND MARAIS HARBOR BREAKWATER, MICHIGAN.—Project for navigation, Grand Marais Harbor breakwater, Michigan.

(4) DULUTH, MINNESOTA.—Project for navigation, Duluth, Minnesota.

(5) TACONITE, MINNESOTA.—Project for navigation, Taconite, Minnesota.

(6) TWO HARBORS, MINNESOTA.—Project for navigation, Two Harbors, Minnesota.

(7) CARUTHERSVILLE HARBOR, PEMISCOT COUNTY, MISSOURI.—Project for navigation, Caruthersville Harbor, Pemiscot County, Missouri, including enlargement of the existing harbor and bank stabilization measures.

(8) NEW MADRID COUNTY HARBOR, MISSOURI.—Project for navigation, New Madrid County Harbor, Missouri, including enlargement of the existing harbor and bank stabilization measures.

(9) BROOKLYN, NEW YORK.—Project for navigation, Brooklyn, New York, including restoration of the pier and related navigation support structures, at the Sixty-Ninth Street Pier.

(10) BUFFALO INNER HARBOR, BUFFALO, NEW YORK.—Project for navigation, Buffalo Inner Harbor, Buffalo, New York, including enlargement of the existing harbor and bank stabilization measures.

(11) GLENN COVE CREEK, NEW YORK.—Project for navigation, Glenn Cove Creek, New York, including bulkheading.

(12) UNION SHIP CANAL, BUFFALO AND LACKAWANNA, NEW YORK.—Project for navigation, Union Ship Canal, Buffalo and Lackawanna, New York.

SEC. 105. SMALL SHORELINE PROTECTION PROJECTS.

The Secretary shall conduct a study for each of the following projects, and if the Secretary determines that the project is feasible, may carry out the project under section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426g; 60 Stat. 1056):

(1) FORT PIERCE, FLORIDA.—Project for 1 mile of additional shoreline protection, Fort Pierce, Florida.

(2) SYLVAN BEACH BREAKWATER, VERONA, ONEIDA COUNTY, NEW YORK.—Project for shoreline protection, Sylvan Beach breakwater, Verona, Oneida County, New York.

SEC. 106. SMALL SNAGGING AND SEDIMENT REMOVAL PROJECT, MISSISSIPPI RIVER, LITTLE FALLS, MINNESOTA.

The Secretary shall conduct a study for a project for clearing, snagging, and sediment removal, East Bank of the Mississippi River, Little Falls, Minnesota, including removal of sediment from culverts. The study shall include a determination of the adequacy of culverts to maintain flows through the channel. If the Secretary determines that the project is feasible, the Secretary may carry out the project under section 3 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (33 U.S.C. 603a; 59 Stat. 23).

SEC. 107. SMALL PROJECTS FOR IMPROVEMENT OF THE ENVIRONMENT.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is appropriate, may carry out the project under section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(a)):

(1) PINE FLAT DAM, CALIFORNIA.—Project for fish and wildlife habitat restoration, Pine Flat Dam, Kings River, California, including construction of a turbine bypass.

(2) UPPER TRUCKEE RIVER, EL DORADO COUNTY, CALIFORNIA.—Project for environmental restoration, Upper Truckee River, El Dorado County, California, including measures for restoration of degraded wetlands and wildlife enhancement.

(3) WHITTIER NARROWS DAM, CALIFORNIA.—Project for environmental restoration and remediation of contaminated water sources, Whittier Narrows Dam, California.

(4) LOWER AMAZON CREEK, OREGON.—Project for environmental restoration, Lower Amazon Creek, Oregon, consisting of environmental restoration measures relating to the flood reduction measures constructed by the Corps of Engineers and the related flood reduction measures constructed by the Natural Resources Conservation Service.

(5) ASHLEY CREEK, UTAH.—Project for fish and wildlife restoration, Ashley Creek near Vernal, Utah.

(6) UPPER JORDAN RIVER, SALT LAKE COUNTY, UTAH.—Project for channel restoration and environmental improvement, Upper Jordan River, Salt Lake County, Utah.

TITLE II—GENERAL PROVISIONS

SEC. 201. COST SHARING FOR DREDGED MATERIAL DISPOSAL AREAS.

(a) CONSTRUCTION.—Section 101(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a); 100 Stat. 4082–4083) is amended—

(1) in paragraph (2) by striking the last sentence and inserting the following: "The value of lands, easements, rights-of-way, and relocations provided under paragraph (3) and the costs of relocations borne by the non-Federal interests under paragraph (4) shall be credited toward the payment required under this paragraph.";

(2) in paragraph (3)—

(A) by inserting "and" after "rights-of-way,";

(B) by striking ", and dredged material disposal areas"; and

(C) by inserting ", including any lands, easements, rights-of-way, and relocations (other than utility relocations accomplished under paragraph (4)) that are necessary for dredged material disposal facilities" before the period at the end of such paragraph; and

(3) by adding at the end the following:

"(5) DREDGED MATERIAL DISPOSAL FACILITIES FOR PROJECT CONSTRUCTION.—In this subsection, the term 'general navigation features' includes constructed land-based and aquatic dredged material disposal facilities that are necessary for the disposal of dredged material required for project construction and for which a contract for construction has not been awarded on or before the date of the enactment of this paragraph.".

(b) OPERATION AND MAINTENANCE.—Section 101(b) of such Act (33 U.S.C. 2211(b); 100 Stat. 4083) is amended—

(1) by inserting "(1) IN GENERAL.—" before "The Federal";

(2) by indenting and moving paragraph (1) (as designated by paragraph (1) of this subsection) 2 ems to the right;

(3) by striking "pursuant to this Act" and inserting "by the Secretary pursuant to this Act or any other law approved after the date of the enactment of this Act"; and

(4) by adding at the end the following:

"(2) DREDGED MATERIAL DISPOSAL FACILITIES.—The Federal share of the cost of constructing land-based and aquatic dredged material disposal facilities that are necessary for the disposal of dredged material required for the operation and maintenance of a project and for which a contract for construction has not been awarded on or before the date of the enactment of this paragraph shall be determined in accordance with subsection (a). The Federal share of operating and maintaining such facilities shall be determined in accordance with paragraph (1).".

(c) AGREEMENT.—Section 101(e)(1) of such Act (33 U.S.C. 2211(e)(1); 100 Stat. 4083) is amended by striking "and to provide dredged material disposal areas and perform" and inserting "including those necessary for dredged material disposal facilities, and perform".

(d) CONSIDERATION OF FUNDING REQUIREMENTS AND EQUITABLE APPORTIONMENT.—Section 101 of such Act (33 U.S.C. 2211; 100 Stat. 4082–4084) is amended by adding at the end the following:

"(f) CONSIDERATION OF FUNDING REQUIREMENTS AND EQUITABLE APPORTIONMENT.—The Secretary shall ensure, to the extent practicable, that—

"(1) funding requirements for operation and maintenance dredging of commercial navigation harbors are considered before Federal funds are obligated for payment of the Federal share of costs associated with the construction of dredged material disposal facilities in accordance with subsections (a) and (b);

"(2) funds expended for such construction are apportioned equitably in accordance with regional needs; and

"(3) use of a dredged material disposal facility designed, constructed, managed, or operated by a private entity is not precluded if, consistent with economic and environmental considerations, the facility is the least-cost alternative.".

(e) ELIGIBLE OPERATIONS AND MAINTENANCE DEFINED.—Section 214(2) of such Act (33 U.S.C. 2241; 100 Stat. 4108) is amended—

(1) in subparagraph (A)—

(A) by inserting "Federal" after "means all";

(B) by inserting "(i)" after "including"; and

(C) by inserting before the period at the end the following: "; (ii) the construction of dredged material disposal facilities that are necessary for the operation and maintenance of any harbor or inland harbor; (iii) dredging and disposing of contaminated sediments that are in or that affect the maintenance of Federal navigation channels; (iv) mitigating for impacts resulting from Federal navigation operation and maintenance activities; and (v) operating and maintaining dredged material disposal facilities"; and

(2) in subparagraph (C) by striking "rights-of-way, or dredged material disposal areas," and inserting "or rights-of-way,".

(f) AMENDMENT OF COOPERATION AGREEMENT.—If requested by the non-Federal interest, the Secretary shall amend a project cooperation agreement executed on or before the date of the enactment of this Act to reflect the application of the amendments made by this section to any project for which a contract for construction has not been awarded on or before that date.

(g) SAVINGS CLAUSE.—Nothing in this section (including the amendments made by this section) shall increase, or result in the increase of, the non-Federal share of the costs of—

(1) expanding any confined dredged material disposal facility that is operated by the Secretary and that is authorized for cost recovery through the collection of tolls;

(2) any confined dredged material disposal facility for which the invitation for bids for construction was issued before the date of the enactment of this Act; and

(3) expanding any confined dredged material disposal facility constructed under section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a) if the capacity of the confined dredged material disposal facility was exceeded in less than 6 years.

SEC. 202. FLOOD CONTROL POLICY.

(a) FLOOD CONTROL COST SHARING.—

(1) INCREASED NON-FEDERAL CONTRIBUTIONS.—

(A) IN GENERAL.—Subsections (a) and (b) of section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213(a) and (b)) are each amended by striking "25 percent" each place it appears and inserting "35 percent".

(B) APPLICABILITY.—The amendments made by subparagraph (A) shall apply to any project authorized after the date of the enactment of this Act and to any flood control project that is not specifically authorized by Congress for which a Detailed Project Report is approved after such date of enactment or, in the case of a project for which no Detailed Project Report is prepared, construction is initiated after such date of enactment.

(2) PHYSICAL CONSTRUCTION DEFINED.—Section 103(e)(1) of such Act (33 U.S.C. 2213(e)(1)) is amended by adding at the end the following: "For the purpose of the preceding sentence, physical construction shall be considered to be initiated on the date of the award of a construction contract.".

(b) ABILITY TO PAY.—

(1) IN GENERAL.—Section 103(m) of such Act (33 U.S.C. 2213(m)) is amended to read as follows:

"(m) ABILITY TO PAY.—

"(1) IN GENERAL.—Any cost-sharing agreement under this section for flood control or agricultural water supply shall be subject to the ability of a non-Federal interest to pay.

"(2) CRITERIA AND PROCEDURES.—The ability of a non-Federal interest to pay shall be determined by the Secretary in accordance with criteria and procedures in effect on the day before the date of the enactment of the Water Resources Development Act of 1996; except that such criteria and procedures shall be revised within 1 year after such date of enactment to reflect the requirements of paragraph (3).

"(3) REVISION OF CRITERIA AND PROCEDURES.—In revising criteria and procedures pursuant to paragraph (2), the Secretary—

"(A) shall consider—

"(i) per capita income data for the county or counties in which the project is to be located; and

"(ii) the per capita non-Federal cost of construction of the project for the county or counties in which the project is to be located;

"(B) shall not consider criteria (other than criteria described in subparagraph (A)) in effect on the day before the date of the enactment of the Water Resources Development Act of 1996; and

"(C) may consider additional criteria relating to the non-Federal interest's financial ability to carry out its cost-sharing responsibilities, to the extent that the application of such criteria does not eliminate areas from eligibility for a reduction in the non-Federal share as determined under subparagraph (A).

"(4) NON-FEDERAL SHARE.—Notwithstanding subsection (a), the Secretary may reduce the requirement that a non-Federal interest make a cash contribution for any project that is determined to be eligible for a reduction in the non-Federal share under criteria and procedures in effect under paragraphs (1), (2), and (3).".

(2) APPLICABILITY.—

(A) GENERALLY.—Subject to subparagraph (C), the amendment made by paragraph (1) shall apply to any project, or separable element thereof, with respect to which the Secretary and the non-Federal interest enter into a project cooperation agreement after December 31, 1997.

(B) AMENDMENT OF COOPERATION AGREEMENT.—If requested by the non-Federal interest, the Secretary shall amend a project cooperation agreement executed on or before the date of the enactment of this Act to reflect the application of the amendment made by paragraph (1) to any project for which a contract for construction has not been awarded on or before such date of enactment.

(C) NON-FEDERAL OPTION.—If requested by the non-Federal interest, the Secretary shall apply the criteria and procedures established pursuant to section 103(m) of the Water Resources Development Act of 1986 as in effect on the day before the date of the enactment of this Act for projects that are authorized before the date of the enactment of this Act.

(c) FLOODPLAIN MANAGEMENT PLANS.—

(1) IN GENERAL.—Section 402 of such Act (33 U.S.C. 701b–12; 100 Stat. 4133) is amended to read as follows:

"SEC. 402. FLOODPLAIN MANAGEMENT REQUIREMENTS.

"(a) COMPLIANCE WITH FLOODPLAIN MANAGEMENT AND INSURANCE PROGRAMS.—Before construction of any project for local flood protection, or any project for hurricane or storm damage reduction, that involves Federal assistance from the Secretary, the non-Federal interest shall agree to participate in and comply with applicable Federal floodplain management and flood insurance programs.

"(b) FLOOD PLAIN MANAGEMENT PLANS.—Within 1 year after the date of signing a project cooperation agreement for construction of a project to which subsection (a) applies, the non-Federal interest shall prepare a flood plain management plan designed to reduce the impacts of future flood events in the project area. Such plan shall be implemented by the non-Federal interest not later than 1 year after completion of construction of the project.

"(c) GUIDELINES.—

"(1) IN GENERAL.—Within 6 months after the date of the enactment of this subsection, the Secretary shall develop guidelines for preparation of floodplain management plans by non-Federal interests under subsection (b). Such guidelines shall address potential measures, practices, and policies to reduce loss of life, injuries, damages to property and facilities, public expenditures, and other adverse impacts associated with flooding and to preserve and enhance natural floodplain values.

"(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to confer any regulatory authority upon the Secretary or the Director of the Federal Emergency Management Agency.

"(d) TECHNICAL SUPPORT.—The Secretary may provide technical support to a non-Federal interest for a project to which subsection (a) applies for the development and implementation of plans prepared under subsection (b).".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any project or separable element thereof with respect to which the Secretary and the non-Federal interest have not entered into a project cooperation agreement on or before the date of the enactment of this Act.

(d) NONSTRUCTURAL FLOOD CONTROL POLICY.—

(1) REVIEW.—The Secretary shall conduct a review of policies, procedures, and techniques relating to the evaluation and development of flood control measures with a view toward identifying impediments that may exist to justifying nonstructural flood control measures as alternatives to structural measures.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the findings of the review conducted under this subsection, together with any recommendations for modifying existing law to remove any impediments identified under such review.

(e) EMERGENCY RESPONSE.—Section 5(a)(1) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n(a)(1)), is amended by inserting before the first semicolon the following: ", or in implementation of nonstructural alternatives to the repair or restoration of such flood control work if requested by the non-Federal sponsor".

(f) LEVEE OWNERS MANUAL.—Section 5 of such Act of August 18, 1941 (33 U.S.C. 701n), is amended by adding at the end the following:

"(c) LEVEE OWNERS MANUAL.—

"(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this subsection, in accordance with chapter 5 of title 5, United States Code, the Secretary of the Army shall prepare a manual describing the maintenance and upkeep responsibilities that the Corps of Engineers requires of a non-Federal interest in order for the non-Federal interest to receive Federal assistance under this section. The Secretary shall provide a copy of the manual at no cost to each non-Federal interest that is eligible to receive Federal assistance under this section.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out this subsection.

"(3) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) MAINTENANCE AND UPKEEP.—The term 'maintenance and upkeep' means all maintenance and general upkeep of a levee performed on a regular and consistent basis that is not repair and rehabilitation.

"(B) REPAIR AND REHABILITATION.—The term 'repair and rehabilitation'—

"(i) means the repair or rebuilding of a levee or other flood control structure, after the structure has been damaged by a flood, to the level of protection provided by the structure before the flood; but

"(ii) does not include—

"(I) any improvement to the structure; or

"(II) repair or rebuilding described in clause (i) if, in the normal course of usage, the structure becomes structurally unsound and is no longer fit to provide the level of protection for which the structure was designed.".

(g) VEGETATION MANAGEMENT GUIDELINES.—

(1) REVIEW.—The Secretary shall undertake a comprehensive review of the current policy guidelines on vegetation management for levees. The review shall examine current policies in view of the varied interests in providing flood control, preserving, protecting, and enhancing natural resources, protecting the rights of Native Americans pursuant to treaty and statute, and such other factors as the Secretary considers appropriate.

(2) COOPERATION AND CONSULTATION.—The review under this section shall be undertaken in cooperation with interested Federal agencies and in consultation with interested representatives of State and local governments and the public.

(3) REVISION OF GUIDELINES.—Based upon the results of the review, the Secretary shall revise, not later than 270 days after the date of the enactment of this Act, the policy guidelines so as to provide a coherent and coordinated policy for vegetation management for levees. Such revised guidelines shall address regional variations in levee management and resource needs and shall be incorporated in the manual proposed under section 5(c) of such Act of August 18, 1941 (33 U.S.C. 701n).

(h) RISK-BASED ANALYSIS METHODOLOGY.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study of the Corps of

Engineers' use of risk-based analysis for the evaluation of hydrology, hydraulics, and economics in flood damage reduction studies. The study shall include—

(A) an evaluation of the impact of risk-based analysis on project formulation, project economic justification, and minimum engineering and safety standards; and

(B) a review of studies conducted using risk-based analysis to determine—

(i) the scientific validity of applying risk-based analysis in these studies; and

(ii) the impact of using risk-based analysis as it relates to current policy and procedures of the Corps of Engineers.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study under paragraph (1), as well as such recommendations as the Secretary considers appropriate.

(3) LIMITATION ON USE OF METHODOLOGY.—During the period beginning on the date of the enactment of this Act and ending 18 months after that date, if requested by a non-Federal interest, the Secretary shall refrain from using any risk-based technique required under the studies described in paragraph (1) for the evaluation and design of a project.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $250,000 to carry out this subsection.

SEC. 203. COST SHARING FOR FEASIBILITY STUDIES.

(a) NON-FEDERAL SHARE.—Section 105(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) COST SHARING.—

"(A) IN GENERAL.—The Secretary shall not initiate any feasibility study for a water resources project after November 17, 1986, until appropriate non-Federal interests agree, by contract, to contribute 50 percent of the cost of the study.

"(B) PAYMENT OF COST SHARE DURING PERIOD OF STUDY.—During the period of the study, the non-Federal share of the cost of the study payable under subparagraph (A) shall be 50 percent of the sum of—

"(i) the cost estimate for the study as contained in the feasibility cost-sharing agreement; and

"(ii) any excess of the cost of the study over the cost estimate if the excess results from—

"(I) a change in Federal law; or

"(II) a change in the scope of the study requested by the non-Federal interests.

"(C) PAYMENT OF COST SHARE ON AUTHORIZATION OF PROJECT OR TERMINATION OF STUDY.—

"(i) PROJECT TIMELY AUTHORIZED.—Except as otherwise agreed to by the Secretary and the non-Federal interests and subject to clause (ii), the non-Federal share of any excess of the cost of the study over the cost estimate (excluding any excess cost described in subparagraph (B)(ii)) shall be payable on the date on which the Secretary and the non-Federal interests enter into an agreement pursuant to section 101(e) or 103(j) with respect to the project.

"(ii) PROJECT NOT TIMELY AUTHORIZED.—If the project that is the subject of the study is not authorized by the date that is 5 years after the completion of the final report of the Chief of Engineers concerning the study or the date that is 2 years after the termination of the study, the non-Federal share of any excess of the cost of the study over the cost estimate (excluding any excess cost described in subparagraph (B)(ii)) shall be payable to the United States on that date.

"(D) AMENDMENT OF COST ESTIMATE.—The cost estimate referred to in subparagraph (B)(i) may be amended only by agreement of the Secretary and the non-Federal interests.

"(E) IN-KIND CONTRIBUTIONS.—Not more than ½ of the non-Federal share required under this paragraph may be satisfied by the provision of services, materials, supplies, or other in-kind services necessary to prepare the feasibility report."; and

(2) in paragraph (2) by striking "(2) This subsection" and inserting the following:

"(2) APPLICABILITY.—This subsection".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply notwithstanding any feasibility cost-sharing agreement entered into by the Secretary and the non-Federal interests. On request of the non-Federal interest, the Secretary shall amend any feasibility cost-sharing agreements in effect on the date of the enactment of this Act so as to conform the agreements with the amendments.

(c) NO REQUIREMENT OF REIMBURSEMENT.—Nothing in this section or any amendment made by this section requires the Secretary to reimburse the non-Federal interests for funds previously contributed for a study.

SEC. 204. RESTORATION OF ENVIRONMENTAL QUALITY.

(a) REVIEW OF PROJECTS.—Section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(a)) is amended—

(1) by striking "the operation of"; and

(2) by inserting before the period at the end the following: "and to determine if the operation of such projects has contributed to the degradation of the quality of the environment".

(b) PROGRAM OF PROJECTS.—Section 1135(b) of such Act is amended by striking the last 2 sentences.

(c) RESTORATION OF ENVIRONMENTAL QUALITY.—Section 1135 of such Act is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (b) the following:

"(c) RESTORATION OF ENVIRONMENTAL QUALITY.—If the Secretary determines that construction of a water resources project by the Secretary or operation of a water resources project constructed by the Secretary has contributed to the degradation of the quality of the environment, the Secretary may undertake measures for restoration of environmental quality and measures for enhancement of environmental quality that are associated with the restoration, through modifications either at the project site or at other locations that have been affected by the construction or operation of the project, if such measures do not conflict with the authorized project purposes.

"(d) NON-FEDERAL SHARE; LIMITATION ON MAXIMUM FEDERAL EXPENDITURE.—The non-Federal share of the cost of any modifications or measures carried out or undertaken pursuant to subsection (b) or (c) shall be 25 percent. Not more than 80 percent of the non-Federal share may be in kind, including a facility, supply, or service that is necessary to carry out the modification or measure. Not more than $5,000,000 in Federal funds may be expended on any single modification or measure carried out or undertaken pursuant to this section."; and

(3) in subsection (f) (as so redesignated) by striking "program conducted under subsection (b)" and inserting "programs conducted under subsections (b) and (c)".

(d) DEFINITION.—Section 1135 of such Act (as amended by subsection (c)(1) of this section) is amended by adding at the end the following:

"(h) DEFINITION.—In this section, the term 'water resources project constructed by the Secretary' includes a water resources project constructed or funded jointly by the Secretary and the head of any other Federal agency (including the Natural Resources Conservation Service).".

SEC. 205. ENVIRONMENTAL DREDGING.

Section 312 of the Water Resources Development Act of 1990 (33 U.S.C. 1252 note; 104 Stat. 4639–4640) is amended—

(1) in each of subsections (a), (b), and (c) by inserting "and remediate" after "remove" each place it appears;

(2) in subsection (b)—

(A) in paragraph (1) by inserting "and remediation" after "removal" each place it appears; and

(B) in paragraph (2) by striking "$10,000,000" and inserting "$20,000,000"; and

(3) by striking subsection (f) and inserting the following:

"(f) PRIORITY WORK.—In carrying out this section, the Secretary shall give priority to work in the following areas:

"(1) Brooklyn Waterfront, New York.

"(2) Buffalo Harbor and River, New York.

"(3) Ashtabula River, Ohio.

"(4) Mahoning River, Ohio.

"(5) Lower Fox River, Wisconsin.".

SEC. 206. AQUATIC ECOSYSTEM RESTORATION.

(a) GENERAL AUTHORITY.—The Secretary may carry out an aquatic ecosystem restoration and protection project if the Secretary determines that the project—

(1) will improve the quality of the environment and is in the public interest; and

(2) is cost-effective.

(b) COST SHARING.—Non-Federal interests shall provide 35 percent of the cost of construction of any project carried out under this section, including provision of all lands, easements, rights-of-way, and necessary relocations.

(c) AGREEMENTS.—Construction of a project under this section shall be initiated only after a non-Federal interest has entered into a binding agreement with the Secretary to pay the non-Federal share of the costs of construction required by this section and to pay 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to the project in accordance with regulations prescribed by the Secretary.

(d) COST LIMITATION.—Not more than $5,000,000 in Federal funds may be allotted under this section for a project at any single locality.

(e) FUNDING.—There is authorized to be appropriated to carry out this section $25,000,000 for each fiscal year.

SEC. 207. BENEFICIAL USES OF DREDGED MATERIAL.

Section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326; 106 Stat. 4826) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) SELECTION OF DREDGED MATERIAL DISPOSAL METHOD.—In developing and carrying out a project for navigation involving the disposal of dredged material, the Secretary may select, with the consent of the non-Federal interest, a disposal method that is not the least-cost option if the Secretary determines that the incremental costs of such disposal method are reasonable in relation to the environmental benefits, including the benefits to the aquatic environment to be derived from the creation of wetlands and control of shoreline erosion. The Federal share of such incremental costs shall be determined in accordance with subsection (c).".

SEC. 208. RECREATION POLICY AND USER FEES.

(a) RECREATION POLICY.—

(1) IN GENERAL.—The Secretary shall provide increased emphasis on, and opportunities for recreation at, water resources projects operated, maintained, or constructed by the Corps of Engineers.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary

shall transmit to Congress a report on specific measures taken to implement this subsection.

(b) USER FEES.—

(1) IN GENERAL.—Section 210(b)(4) of the Flood Control Act of 1968 (16 U.S.C. 460d–3(b)(4)) is amended by inserting before the period at the end the following: "and, subject to the availability of appropriations, shall be used for the purposes specified in section 4(i)(3) of such Act at the water resources development project at which the fees were collected".

(2) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report, with respect to fiscal years 1995 and 1996, on—

(A) the amount of day-use fees collected under section 210(b) of the Flood Control Act of 1968 (16 U.S.C. 460d–3(b)) at each water resources development project; and

(B) the administrative costs associated with the collection of the day-use fees at each water resources development project.

(c) ALTERNATIVE TO ANNUAL PASSES.—

(1) IN GENERAL.—The Secretary shall evaluate the feasibility of implementing an alternative to the $25 annual pass that the Secretary currently offers to users of recreation facilities at water resources projects of the Corps of Engineers.

(2) ANNUAL PASS.—The evaluation under paragraph (1) shall include the establishment on a test basis of an annual pass that costs $10 or less for the use of recreation facilities, including facilities at Raystown Lake, Pennsylvania.

(3) REPORT.—Not later than December 31, 1999, the Secretary shall transmit to Congress a report on the results of the evaluation carried out under this subsection, together with recommendations concerning whether annual passes for individual projects should be offered on a nationwide basis.

(4) EXPIRATION OF AUTHORITY.—The authority to establish an annual pass under paragraph (2) shall expire on the later of December 31, 1999, or the date of transmittal of the report under paragraph (3).

SEC. 209. RECOVERY OF COSTS.

Amounts recovered under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) for any response action taken by the Secretary in support of the civil works program of the Department of the Army and any other amounts recovered by the Secretary from a contractor, insurer, surety, or other person to reimburse the Department of the Army for any expenditure for environmental response activities in support of the Army civil works program shall be credited to the appropriate trust fund account from which the cost of such response action has been paid or will be charged.

SEC. 210. COST SHARING FOR ENVIRONMENTAL PROJECTS.

(a) IN GENERAL.—Section 103(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(c); 100 Stat. 4085) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by inserting after paragraph (6) the following:

"(7) environmental protection and restoration: 35 percent; except that nothing in this paragraph shall affect or limit the applicability of section 906.".

(b) APPLICABILITY.—The amendments made by subsection (a) apply only to projects authorized after the date of the enactment of this Act.

SEC. 211. CONSTRUCTION OF FLOOD CONTROL PROJECTS BY NON-FEDERAL INTERESTS.

(a) AUTHORITY.—Non-Federal interests are authorized to undertake flood control projects in the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of actual construction.

(b) STUDIES AND DESIGN ACTIVITIES.—

(1) BY NON-FEDERAL INTERESTS.—A non-Federal interest may prepare, for review and approval by the Secretary, the necessary studies and design documents for any construction to be undertaken pursuant to subsection (a).

(2) BY SECRETARY.—Upon request of an appropriate non-Federal interest, the Secretary may undertake all necessary studies and design activities for any construction to be undertaken pursuant to subsection (a) and provide technical assistance in obtaining all necessary permits for such construction if the non-Federal interest contracts with the Secretary to provide to the United States funds for the studies and design activities during the period in which the studies and design activities will be conducted.

(c) COMPLETION OF STUDIES AND DESIGN ACTIVITIES.—In the case of any study or design documents for a flood control project that were initiated before the date of the enactment of this Act, the Secretary may complete and transmit to the appropriate non-Federal interests the study or design documents or, upon the request of such non-Federal interests, terminate the study or design activities and transmit the partially completed study or design documents to such non-Federal interests for completion. Studies and design documents subject to this subsection shall be completed without regard to the requirements of subsection (b).

(d) AUTHORITY TO CARRY OUT IMPROVEMENT.—

(1) IN GENERAL.—Any non-Federal interest that has received from the Secretary pursuant to subsection (b) or (c) a favorable recommendation to carry out a flood control project, or separable element of a flood control project, based on the results of completed studies and design documents for the project or element may carry out the project or element if a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been filed for the project or element.

(2) PERMITS.—Any plan of improvement proposed to be implemented in accordance with this subsection shall be deemed to satisfy the requirements for obtaining the appropriate permits required under the Secretary's authority. Such permits shall be granted subject to the non-Federal interest's acceptance of the terms and conditions of such permits if the Secretary determines that the applicable regulatory criteria and procedures have been satisfied.

(3) MONITORING.—The Secretary shall monitor any project for which a permit is granted under this subsection in order to ensure that such project is constructed, operated, and maintained in accordance with the terms and conditions of such permit.

(e) REIMBURSEMENT.—

(1) GENERAL RULE.—Subject to appropriations Acts, the Secretary may reimburse any non-Federal interest an amount equal to the estimate of the Federal share, without interest, of the cost of any authorized flood control project, or separable element of a flood control project, constructed pursuant to this section—

(A) if, after authorization and before initiation of construction of the project or separable element, the Secretary approves the plans for construction of such project by the non-Federal interest; and

(B) if the Secretary finds, after a review of studies and design documents prepared pursuant to this section, that construction of the project or separable element is economically justified and environmentally acceptable.

(2) SPECIAL RULES.—

(A) REIMBURSEMENT.—For work (including work associated with studies, planning, design, and construction) carried out by a non-Federal interest with respect to a project described in subsection (f), the Secretary shall, subject to amounts being made available in advance in appropriations Acts, reimburse, without interest, the non-Federal interest an amount equal to the estimated Federal share of the cost of such work if such work is later recommended by the Chief of Engineers and approved by the Secretary.

(B) CREDIT.—If the non-Federal interest for a project described in subsection (f) carries out work before completion of a reconnaissance study by the Secretary and if such work is determined by the Secretary to be compatible with the project later recommended by the Secretary, the Secretary shall credit the non-Federal interest for its share of the cost of the project for such work.

(3) MATTERS TO BE CONSIDERED IN REVIEWING PLANS.—In reviewing plans under this subsection, the Secretary shall consider budgetary and programmatic priorities and other factors that the Secretary considers appropriate.

(4) MONITORING.—The Secretary shall regularly monitor and audit any project for flood control approved for construction under this section by a non-Federal interest to ensure that such construction is in compliance with the plans approved by the Secretary and that the costs are reasonable.

(5) LIMITATION ON REIMBURSEMENTS.—The Secretary may not make any reimbursement under this section until the Secretary determines that the work for which reimbursement is requested has been performed in accordance with applicable permits and approved plans.

(f) SPECIFIC PROJECTS.—For the purpose of demonstrating the potential advantages and effectiveness of non-Federal implementation of flood control projects, the Secretary shall enter into agreements pursuant to this section with non-Federal interests for development of the following flood control projects by such interests:

(1) BERRYESSA CREEK, CALIFORNIA.—The Berryessa Creek element of the project for flood control, Coyote and Berryessa Creeks, California, authorized by section 101(a)(5) of the Water Resources Development Act of 1990 (104 Stat. 4606); except that, subject to the approval of the Secretary as provided by this section, the non-Federal interest may design and construct an alternative to such element.

(2) LOS ANGELES COUNTY DRAINAGE AREA, CALIFORNIA.—The project for flood control, Los Angeles County Drainage Area, California, authorized by section 101(b) of the Water Resources Development Act of 1990 (104 Stat. 4611).

(3) STOCKTON METROPOLITAN AREA, CALIFORNIA.—The project for flood control, Stockton Metropolitan Area, California.

(4) UPPER GUADALUPE RIVER, CALIFORNIA.—The project for flood control, Upper Guadalupe River, California.

(5) FLAMINGO AND TROPICANA WASHES, NEVADA.—The project for flood control, Las Vegas Wash and Tributaries (Flamingo and Tropicana Washes), Nevada, authorized by section 101(13) of the Water Resources Development Act of 1992 (106 Stat. 4803).

(6) BRAYS BAYOU, TEXAS.—Flood control components comprising the Brays Bayou element of the project for flood control, Buffalo Bayou and tributaries, Texas, authorized by section 101(a)(21) of the Water Resources Development Act of 1990 (104 Stat. 4610); except that, subject to the approval of the Secretary as provided by this section, the non-Federal interest may design and construct an alternative to the diversion component of such element.

(7) HUNTING BAYOU, TEXAS.—The Hunting Bayou element of the project for flood control,

Buffalo Bayou and tributaries, Texas, authorized by such section; except that, subject to the approval of the Secretary as provided by this section, the non-Federal interest may design and construct an alternative to such element.

(8) WHITE OAK BAYOU, TEXAS.—The project for flood control, White Oak Bayou watershed, Texas.

(g) TREATMENT OF FLOOD DAMAGE PREVENTION MEASURES.—For the purposes of this section, flood damage prevention measures at or in the vicinity of Morgan City and Berwick, Louisiana, shall be treated as an authorized separable element of the Atchafalaya Basin feature of the project for flood control, Mississippi River and Tributaries.

SEC. 212. ENGINEERING AND ENVIRONMENTAL INNOVATIONS OF NATIONAL SIGNIFICANCE.

(a) SURVEYS, PLANS, AND STUDIES.—To encourage innovative and environmentally sound engineering solutions and innovative environmental solutions to problems of national significance, the Secretary may undertake surveys, plans, and studies and prepare reports that may lead to work under existing civil works authorities or to recommendations for authorizations.

(b) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1997 through 2000.

(2) FUNDING FROM OTHER SOURCES.—The Secretary may accept and expend additional funds from other Federal agencies, States, or non-Federal entities for purposes of carrying out this section.

SEC. 213. LEASE AUTHORITY.

Notwithstanding any other provision of law, the Secretary may lease space available in buildings for which funding for construction or purchase was provided from the revolving fund established by the 1st section of the Civil Functions Appropriations Act, 1954 (33 U.S.C. 576; 67 Stat. 199), under such terms and conditions as are acceptable to the Secretary. The proceeds from such leases shall be credited to the revolving fund for the purposes set forth in such Act.

SEC. 214. COLLABORATIVE RESEARCH AND DEVELOPMENT.

(a) FUNDING FROM OTHER FEDERAL SOURCES.—Section 7 of the Water Resources Development Act of 1988 (33 U.S.C. 2313; 102 Stat. 4022–4023) is amended—

(1) in subsection (a) by inserting "civil works" before "mission"; and

(2) by striking subsection (e) and inserting the following:

"(e) FUNDING FROM OTHER FEDERAL SOURCES.—The Secretary may accept and expend additional funds from other Federal programs, including other Department of Defense programs, to carry out this section.".

(b) PRE-AGREEMENT TEMPORARY PROTECTION OF TECHNOLOGY.—Section 7 of such Act is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(2) by inserting after subsection (a) the following:

"(b) PRE-AGREEMENT TEMPORARY PROTECTION OF TECHNOLOGY.—

"(1) IN GENERAL.—If the Secretary determines that information developed as a result of research and development activities conducted by the Corps of Engineers is likely to be subject to a cooperative research and development agreement within 2 years of its development and that such information would be a trade secret or commercial or financial information that would be privileged or confidential if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a), the Secretary may provide appropriate protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code, until the earlier of the date the Secretary enters into such an agreement with respect to such technology or the last day of the 2-year period beginning on the date of such determination.

"(2) TREATMENT.—Any technology covered by this section that becomes the subject of a cooperative research and development agreement shall be accorded the protection provided under section 12(c)(7)(B) of such Act (15 U.S.C. 3710a(c)(7)(B)) as if such technology had been developed under a cooperative research and development agreement."; and

(3) in subsection (d) (as so redesignated) by striking "(b)" and inserting "(c)".

SEC. 215. NATIONAL DAM SAFETY PROGRAM.

(a) PURPOSE.—The purpose of this section is to reduce the risks to life and property from dam failure in the United States through the establishment and maintenance of an effective national dam safety program to bring together the expertise and resources of the Federal and non-Federal communities in achieving national dam safety hazard reduction. It is not the intent of this section to preempt any other Federal or State authorities nor is it the intent of this section to mandate State participation in the grant assistance program to be established under this section.

(b) EFFECT ON OTHER DAM SAFETY PROGRAMS.—Nothing in this section (including the amendments made by this section) shall preempt or otherwise affect any dam safety program of a Federal agency other than the Federal Emergency Management Agency, including any program that regulates, permits, or licenses any activity affecting a dam.

(c) DAM SAFETY PROGRAM.—The Act entitled "An Act to authorize the Secretary of the Army to undertake a national program of inspection of dams", approved August 8, 1972 (33 U.S.C 467 et seq.; Public Law 92–367), is amended—

(1) by striking the 1st section and inserting the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'National Dam Safety Program Act'.";

(2) by striking sections 5 through 14;

(3) by redesignating sections 2, 3, and 4 as sections 3, 4, and 5, respectively;

(4) by inserting after section 1 (as amended by paragraph (1) of this subsection) the following:

"SEC. 2. DEFINITIONS.

"In this Act, the following definitions apply:

"(1) BOARD.—The term 'Board' means a National Dam Safety Review Board established under section 8(h).

"(2) DAM.—The term 'dam'—

"(A) means any artificial barrier that has the ability to impound water, wastewater, or any liquid-borne material, for the purpose of storage or control of water, that—

"(i) is 25 feet or more in height from—

"(I) the natural bed of the stream channel or watercourse measured at the downstream toe of the barrier; or

"(II) if the barrier is not across a stream channel or watercourse, from the lowest elevation of the outside limit of the barrier;

to the maximum water storage elevation; or

"(ii) has an impounding capacity for maximum storage elevation of 50 acre-feet or more; but

"(B) does not include—

"(i) a levee; or

"(ii) a barrier described in subparagraph (A) that—

"(I) is 6 feet or less in height regardless of storage capacity; or

"(II) has a storage capacity at the maximum water storage elevation that is 15 acre-feet or less regardless of height;

unless the barrier, because of the location of the barrier or another physical characteristic of the barrier, is likely to pose a significant threat to human life or property if the barrier fails (as determined by the Director).

"(3) DIRECTOR.—The term 'Director' means the Director of FEMA.

"(4) FEDERAL AGENCY.—The term 'Federal agency' means a Federal agency that designs, finances, constructs, owns, operates, maintains, or regulates the construction, operation, or maintenance of a dam.

"(5) FEDERAL GUIDELINES FOR DAM SAFETY.—The term 'Federal Guidelines for Dam Safety' means the FEMA publication, numbered 93 and dated June 1979, that defines management practices for dam safety at all Federal agencies.

"(6) FEMA.—The term 'FEMA' means the Federal Emergency Management Agency.

"(7) HAZARD REDUCTION.—The term 'hazard reduction' means the reduction in the potential consequences to life and property of dam failure.

"(8) ICODS.—The term 'ICODS' means the Interagency Committee on Dam Safety established by section 7.

"(9) PROGRAM.—The term 'Program' means the national dam safety program established under section 8.

"(10) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

"(11) STATE DAM SAFETY AGENCY.—The term 'State dam safety agency' means a State agency that has regulatory authority over the safety of non-Federal dams.

"(12) STATE DAM SAFETY PROGRAM.—The term 'State dam safety program' means a State dam safety program approved and assisted under section 8(f).

"(13) UNITED STATES.—The term 'United States', when used in a geographical sense, means all of the States.";

(5) in section 3 (as redesignated by paragraph (3) of this subsection)—

(A) by striking "SEC. 3. As" and inserting the following:

"SEC. 3. INSPECTION OF DAMS.

"(a) IN GENERAL.—As"; and

(B) by adding at the end the following:

"(b) STATE PARTICIPATION.—On request of a State dam safety agency, with respect to any dam the failure of which would affect the State, the head of a Federal agency shall—

"(1) provide information to the State dam safety agency on the construction, operation, or maintenance of the dam; or

"(2) allow any official of the State dam safety agency to participate in the Federal inspection of the dam.";

(6) in section 4 (as redesignated by paragraph (3) of this subsection) by striking "SEC. 4. As" and inserting the following:

"SEC. 4. INVESTIGATION REPORTS TO GOVERNORS.

"As";

(7) in section 5 (as redesignated by paragraph (3) of this subsection) by striking "SEC. 5. For" and inserting the following:

"SEC. 5. DETERMINATION OF DANGER TO HUMAN LIFE AND PROPERTY.

"For"; and

(8) by inserting after section 5 (as redesignated by paragraph (3) of this subsection) the following:

"SEC. 6. NATIONAL DAM INVENTORY.

"The Secretary of the Army, acting through the Chief of Engineers, may maintain and periodically publish updated information on the inventory of dams in the United States.

"SEC. 7. INTERAGENCY COMMITTEE ON DAM SAFETY.

"(a) ESTABLISHMENT.—There is established an Interagency Committee on Dam Safety—

"(1) comprised of a representative of each of the Department of Agriculture, the Department of Defense, the Department of Energy, the Department of the Interior, the Department of Labor, FEMA, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the Tennessee Valley Authority, and the United States Section of the International Boundary Commission; and

"(2) chaired by the Director.

"(b) DUTIES.—ICODS shall encourage the establishment and maintenance of effective Federal and State programs, policies, and guidelines intended to enhance dam safety for the protection of human life and property through—

"(1) coordination and information exchange among Federal agencies and State dam safety agencies; and

"(2) coordination and information exchange among Federal agencies concerning implementation of the Federal Guidelines for Dam Safety.

"SEC. 8. NATIONAL DAM SAFETY PROGRAM.

"(a) IN GENERAL.—The Director, in consultation with ICODS and State dam safety agencies, and the Board shall establish and maintain, in accordance with this section, a coordinated national dam safety program. The Program shall—

"(1) be administered by FEMA to achieve the objectives set forth in subsection (c);

"(2) involve, to the extent appropriate, each Federal agency; and

"(3) include—

"(A) each of the components described in subsection (d);

"(B) the implementation plan described in subsection (e); and

"(C) assistance for State dam safety programs described in subsection (f).

"(b) DUTIES.—The Director shall—

"(1) not later than 270 days after the date of the enactment of this paragraph, develop the implementation plan described in subsection (e);

"(2) not later than 300 days after the date of the enactment of this paragraph, submit to the appropriate authorizing committees of Congress the implementation plan described in subsection (e); and

"(3) by regulation, not later than 360 days after the date of the enactment of this paragraph—

"(A) develop and implement the Program;

"(B) establish goals, priorities, and target dates for implementation of the Program; and

"(C) to the extent feasible, provide a method for cooperation and coordination with, and assistance to, interested governmental entities in all States.

"(c) OBJECTIVES.—The objectives of the Program are to—

"(1) ensure that new and existing dams are safe through the development of technologically and economically feasible programs and procedures for national dam safety hazard reduction;

"(2) encourage acceptable engineering policies and procedures to be used for dam site investigation, design, construction, operation and maintenance, and emergency preparedness;

"(3) encourage the establishment and implementation of effective dam safety programs in each State based on State standards;

"(4) develop and encourage public awareness projects to increase public acceptance and support of State dam safety programs;

"(5) develop technical assistance materials for Federal and non-Federal dam safety programs; and

"(6) develop mechanisms with which to provide Federal technical assistance for dam safety to the non-Federal sector.

"(d) COMPONENTS.—

"(1) IN GENERAL.—The Program shall consist of—

"(A) a Federal element and a non-Federal element; and

"(B) leadership activity, technical assistance activity, and public awareness activity.

"(2) ELEMENTS.—

"(A) FEDERAL.—The Federal element shall incorporate the activities and practices carried out by Federal agencies under section 7 to implement the Federal Guidelines for Dam Safety.

"(B) NON-FEDERAL.—The non-Federal element shall consist of—

"(i) the activities and practices carried out by States, local governments, and the private sector to safely build, regulate, operate, and maintain dams; and

"(ii) Federal activities that foster State efforts to develop and implement effective programs for the safety of dams.

"(3) FUNCTIONAL ACTIVITIES.—

"(A) LEADERSHIP.—The leadership activity shall be the responsibility of FEMA and shall be exercised by chairing ICODS to coordinate Federal efforts in cooperation with State dam safety officials.

"(B) TECHNICAL ASSISTANCE.—The technical assistance activity shall consist of the transfer of knowledge and technical information among the Federal and non-Federal elements described in paragraph (2).

"(C) PUBLIC AWARENESS.—The public awareness activity shall provide for the education of the public, including State and local officials, in the hazards of dam failure, methods of reducing the adverse consequences of dam failure, and related matters.

"(e) IMPLEMENTATION PLAN.—The Director shall—

"(1) develop an implementation plan for the Program that shall set, through fiscal year 2002, year-by-year targets that demonstrate improvements in dam safety; and

"(2) recommend appropriate roles for Federal agencies and for State and local units of government, individuals, and private organizations in carrying out the implementation plan.

"(f) ASSISTANCE FOR STATE DAM SAFETY PROGRAMS.—

"(1) IN GENERAL.—To encourage the establishment and maintenance of effective State programs intended to ensure dam safety, to protect human life and property, and to improve State dam safety programs, the Director shall provide assistance with amounts made available under section 12 to assist States in establishing and maintaining dam safety programs—

"(A) in accordance with the criteria specified in paragraph (2); and

"(B) in accordance with more advanced requirements and standards established by the Board and the Director with the assistance of established criteria such as the Model State Dam Safety Program published by FEMA, numbered 123 and dated April 1987, and amendments to the Model State Dam Safety Program.

"(2) CRITERIA AND BUDGETING REQUIREMENT.—For a State to be eligible for primary assistance under this subsection, a State dam safety program must be working toward meeting the following criteria and budgeting requirement, and for a State to be eligible for advanced assistance under this subsection, a State dam safety program must meet the following criteria and budgeting requirement and be working toward meeting the advanced requirements and standards established under paragraph (1)(B):

"(A) CRITERIA.—For a State to be eligible for assistance under this subsection, a State dam safety program must be authorized by State legislation to include substantially, at a minimum—

"(i) the authority to review and approve plans and specifications to construct, enlarge, modify, remove, and abandon dams;

"(ii) the authority to perform periodic inspections during dam construction to ensure compliance with approved plans and specifications;

"(iii) a requirement that, on completion of dam construction, State approval must be given before operation of the dam;

"(iv)(I) the authority to require or perform the inspection, at least once every 5 years, of all dams and reservoirs that would pose a significant threat to human life and property in case of failure to determine the continued safety of the dams and reservoirs; and

"(II) a procedure for more detailed and frequent safety inspections;

"(v) a requirement that all inspections be performed under the supervision of a State-registered professional engineer with related experience in dam design and construction;

"(vi) the authority to issue notices, when appropriate, to require owners of dams to perform necessary maintenance or remedial work, revise operating procedures, or take other actions, including breaching dams when necessary;

"(vii) regulations for carrying out the legislation of the State described in this subparagraph;

"(viii) provision for necessary funds—

"(I) to ensure timely repairs or other changes to, or removal of, a dam in order to protect human life and property; and

"(II) if the owner of the dam does not take action described in subclause (I), to take appropriate action as expeditiously as practicable;

"(ix) a system of emergency procedures to be used if a dam fails or if the failure of a dam is imminent; and

"(x) an identification of—

"(I) each dam the failure of which could be reasonably expected to endanger human life;

"(II) the maximum area that could be flooded if the dam failed; and

"(III) necessary public facilities that would be affected by the flooding.

"(B) BUDGETING REQUIREMENT.—For a State to be eligible for assistance under this subsection, State appropriations must be budgeted to carry out the legislation of the State under subparagraph (A).

"(3) WORK PLANS.—The Director shall enter into a contract with each State receiving assistance under paragraph (2) to develop a work plan necessary for the State dam safety program to reach a level of program performance specified in the contract.

"(4) MAINTENANCE OF EFFORT.—Assistance may not be provided to a State under this subsection for a fiscal year unless the State enters into such agreement with the Director as the Director requires to ensure that the State will maintain the aggregate expenditures of the State from all other sources for programs to ensure dam safety for the protection of human life and property at or above a level equal to the average annual level of such expenditures for the 2 fiscal years preceding the fiscal year.

"(5) APPROVAL OF PROGRAMS.—

"(A) SUBMISSION.—For a State to be eligible for assistance under this subsection, a plan for a State dam safety program shall be submitted to the Director for approval.

"(B) APPROVAL.—A State dam safety program shall be deemed to be approved 120 days after the date of receipt by the Director unless the Director determines within the 120-day period that the State dam safety program fails to meet the requirements of paragraphs (1) through (3).

"(C) NOTIFICATION OF DISAPPROVAL.—If the Director determines that a State dam safety program does not meet the requirements for approval, the Director shall immediately notify the

State in writing and provide the reasons for the determination and the changes that are necessary for the plan to be approved.

"(6) REVIEW OF STATE DAM SAFETY PROGRAMS.—Using the expertise of the Board, the Director shall periodically review State dam safety programs. If the Board finds that a State dam safety program has proven inadequate to reasonably protect human life and property and the Director concurs, the Director shall revoke approval of the State dam safety program, and withhold assistance under this subsection, until the State dam safety program again meets the requirements for approval.

"(g) DAM SAFETY TRAINING.—At the request of any State that has or intends to develop a State dam safety program, the Director shall provide training for State dam safety staff and inspectors.

"(h) BOARD.—

"(1) ESTABLISHMENT.—The Director may establish an advisory board to be known as the 'National Dam Safety Review Board' to monitor State implementation of this section.

"(2) AUTHORITY.—The Board may use the expertise of Federal agencies and enter into contracts for necessary studies to carry out this section.

"(3) MEMBERSHIP.—The Board shall consist of 11 members selected by the Director for expertise in dam safety, of whom—

"(A) 1 member shall represent the Department of Agriculture;

"(B) 1 member shall represent the Department of Defense;

"(C) 1 member shall represent the Department of the Interior;

"(D) 1 member shall represent FEMA;

"(E) 1 member shall represent the Federal Energy Regulatory Commission;

"(F) 5 members shall be selected by the Director from among dam safety officials of States; and

"(G) 1 member shall be selected by the Director to represent the United States Committee on Large Dams.

"(4) COMPENSATION OF MEMBERS.—

"(A) FEDERAL EMPLOYEES.—Each member of the Board who is an officer or employee of the United States shall serve without compensation in addition to compensation received for the services of the member as an officer or employee of the United States.

"(B) OTHER MEMBERS.—Each member of the Board who is not an officer or employee of the United States shall serve without compensation.

"(5) TRAVEL EXPENSES.—Each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Board.

"(6) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

"SEC. 9. RESEARCH.

"(a) IN GENERAL.—The Director, in cooperation with ICODS, shall carry out a program of technical and archival research to develop—

"(1) improved techniques, historical experience, and equipment for rapid and effective dam construction, rehabilitation, and inspection; and

"(2) devices for the continued monitoring of the safety of dams.

"(b) CONSULTATION.—The Director shall provide for State participation in research under subsection (a) and periodically advise all States and Congress of the results of the research.

"SEC. 10. REPORTS.

"(a) REPORT ON DAM INSURANCE.—Not later than 180 days after the date of the enactment of this subsection, the Director shall report to Congress on the availability of dam insurance and make recommendations concerning encouraging greater availability.

"(b) BIENNIAL REPORTS.—Not later than 90 days after the end of each odd-numbered fiscal year, the Director shall submit a report to Congress that—

"(1) describes the status of the Program;

"(2) describes the progress achieved by Federal agencies during the 2 preceding fiscal years in implementing the Federal Guidelines for Dam Safety;

"(3) describes the progress achieved in dam safety by States participating in the Program; and

"(4) includes any recommendations for legislative and other action that the Director considers necessary.

"SEC. 11. STATUTORY CONSTRUCTION.

"Nothing in this Act and no action or failure to act under this Act shall—

"(1) create any liability in the United States or its officers or employees for the recovery of damages caused by such action or failure to act;

"(2) relieve an owner or operator of a dam of the legal duties, obligations, or liabilities incident to the ownership or operation of the dam; or

"(3) preempt any other Federal or State law.

"SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

"(a) NATIONAL DAM SAFETY PROGRAM.—

"(1) ANNUAL AMOUNTS.—There are authorized to be appropriated to FEMA to carry out sections 7, 8, and 10 (in addition to any amounts made available for similar purposes included in any other Act and amounts made available under subsections (b) through (e)), $1,000,000 for fiscal year 1998, $2,000,000 for fiscal year 1999, $4,000,000 for fiscal year 2000, $4,000,000 for fiscal year 2001, and $4,000,000 for fiscal year 2002.

"(2) ALLOCATION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for each fiscal year, amounts made available under this subsection to carry out section 8 shall be allocated among the States as follows:

"(i) One-third among States that qualify for assistance under section 8(f).

"(ii) Two-thirds among States that qualify for assistance under section 8(f), to each such State in proportion to—

"(I) the number of dams in the State that are listed as State-regulated dams on the inventory of dams maintained under section 6; as compared to

"(II) the number of dams in all States that are listed as State-regulated dams on the inventory of dams maintained under section 6.

"(B) MAXIMUM AMOUNT OF ALLOCATION.—The amount of funds allocated to a State under this paragraph may not exceed 50 percent of the reasonable cost of implementing the State dam safety program.

"(C) DETERMINATION.—The Director and the Board shall determine the amount allocated to States needing primary assistance and States needing advanced assistance under section 8(f).

"(b) NATIONAL DAM INVENTORY.—There is authorized to be appropriated to carry out section 6 $500,000 for each fiscal year.

"(c) DAM SAFETY TRAINING.—There is authorized to be appropriated to carry out section 8(g) $500,000 for each of fiscal years 1998 through 2002.

"(d) RESEARCH.—There is authorized to be appropriated to carry out section 9 $1,000,000 for each of fiscal years 1998 through 2002.

"(e) STAFF.—There is authorized to be appropriated to FEMA for the employment of such additional staff personnel as are necessary to carry out sections 6 through 9 $400,000 for each of fiscal years 1998 through 2002.

"(f) LIMITATION ON USE OF AMOUNTS.—Amounts made available under this Act may not be used to construct or repair any Federal or non-Federal dam.".

(d) CONFORMING AMENDMENT.—Section 3(2) of the Indian Dams Safety Act of 1994 (25 U.S.C. 3802(2); 108 Stat. 1560) is amended by striking "the first section of Public Law 92-367 (33 U.S.C. 467)" and inserting "section 2 of the National Dam Safety Program Act".

SEC. 216. HYDROELECTRIC POWER PROJECT UPRATING.

(a) IN GENERAL.—In carrying out the maintenance, rehabilitation, and modernization of a hydroelectric power generating facility at a water resources project under the jurisdiction of the Department of the Army, the Secretary may take, to the extent funds are made available in appropriations Acts, such actions as are necessary to increase the efficiency of energy production or the capacity of the facility, or both, if, after consulting with the heads of other appropriate Federal and State agencies, the Secretary determines that the increase—

(1) is economically justified and financially feasible;

(2) will not result in any significant adverse effect on the other purposes for which the project is authorized;

(3) will not result in significant adverse environmental impacts;

(4) will not involve major structural or operational changes in the project; and

(5) will not adversely affect the use, management, or protection of existing Federal, State, or tribal water rights.

"(b) CONSULTATION.—Before proceeding with the proposed uprating under subsection (a), the Secretary shall provide affected State, tribal, and Federal agencies with a copy of the proposed determinations under subsection (a). If the agencies submit comments, the Secretary shall accept those comments or respond in writing to any objections those agencies raise to the proposed determinations.

(c) EFFECT ON OTHER AUTHORITY.—This section shall not affect the authority of the Secretary and the Administrator of the Bonneville Power Administration under section 2406 of the Energy Policy Act of 1992 (16 U.S.C. 839d-1; 106 Stat. 3099).

SEC. 217. DREDGED MATERIAL DISPOSAL FACILITY PARTNERSHIPS.

(a) ADDITIONAL CAPACITY.—

(1) PROVIDED BY SECRETARY.—At the request of a non-Federal interest with respect to a project, the Secretary may provide additional capacity at a dredged material disposal facility constructed by the Secretary beyond the capacity that would be required for project purposes if the non-Federal interest agrees to pay, during the period of construction, all costs associated with the construction of the additional capacity.

(2) COST RECOVERY AUTHORITY.—The non-Federal interest may recover the costs assigned to the additional capacity through fees assessed on third parties whose dredged material is deposited at the facility and who enter into agreements with the non-Federal interest for the use of the facility. The amount of such fees may be determined by the non-Federal interest.

(b) NON-FEDERAL USE OF DISPOSAL FACILITIES.—

(1) IN GENERAL.—The Secretary—

(A) may permit the use of any dredged material disposal facility under the jurisdiction of, or managed by, the Secretary by a non-Federal interest if the Secretary determines that such use will not reduce the availability of the facility for project purposes; and

(B) may impose fees to recover capital, operation, and maintenance costs associated with such use.

(2) USE OF FEES.—Notwithstanding section 401(c) of the Federal Water Pollution Control

Act (33 U.S.C. 1341(c)) but subject to advance appropriations, any monies received through collection of fees under this subsection shall be available to the Secretary, and shall be used by the Secretary, for the operation and maintenance of the disposal facility from which the fees were collected.

(c) PUBLIC-PRIVATE PARTNERSHIPS.—

(1) IN GENERAL.—The Secretary may carry out a program to evaluate and implement opportunities for public-private partnerships in the design, construction, management, or operation of dredged material disposal facilities in connection with construction or maintenance of Federal navigation projects. If a non-Federal interest is a sponsor of the project, the Secretary shall consult with the non-Federal interest in carrying out the program with respect to the project.

(2) PRIVATE FINANCING.—

(A) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into an agreement with a non-Federal interest with respect to a project, a private entity, or both for the acquisition, design, construction, management, or operation of a dredged material disposal facility (including any facility used to demonstrate potential beneficial uses of dredged material) using funds provided in whole or in part by the private entity.

(B) REIMBURSEMENT.—If any funds provided by a private entity are used to carry out a project under this subsection, the Secretary may reimburse the private entity over a period of time agreed to by the parties to the agreement through the payment of subsequent user fees. Such fees may include the payment of a disposal or tipping fee for placement of suitable dredged material at the facility.

(C) AMOUNT OF FEES.—User fees paid pursuant to subparagraph (B) shall be sufficient to repay funds contributed by the private entity plus a reasonable return on investment approved by the Secretary in cooperation with the non-Federal interest with respect to the project and the private entity.

(D) FEDERAL SHARE.—The Federal share of such fees shall be equal to the percentage of the total cost that would otherwise be borne by the Federal Government as required pursuant to existing cost-sharing requirements, including section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213) and section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2325).

(E) BUDGET ACT COMPLIANCE.—Any spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 651(c)(2))) authorized by this section shall be effective only to such extent and in such amounts as are provided in appropriation Acts.

SEC. 218. OBSTRUCTION REMOVAL REQUIREMENT.

(a) PENALTY.—Section 16 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 3, 1899 (33 U.S.C. 411; 30 Stat. 1153), is amended—

(1) by striking "thirteen, fourteen, and fifteen" each place it appears and inserting "13, 14, 15, 19, and 20"; and

(2) by striking "not exceeding twenty-five hundred dollars nor less than five hundred dollars" and inserting "of up to $25,000 per day".

(b) GENERAL AUTHORITY.—Section 20 of such Act (33 U.S.C. 415) is amended—

(1) in subsection (a) by striking "expense" the 1st place it appears and inserting "actual expense, including administrative expenses,";

(2) in subsection (b) by striking "cost" and inserting "actual cost, including administrative costs,";

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following:

"(b) REMOVAL REQUIREMENT.—Not later than 24 hours after the Secretary of the Department in which the Coast Guard is operating issues an order to stop or delay navigation in any navigable waters of the United States because of conditions related to the sinking or grounding of a vessel, the owner or operator of the vessel, with the approval of the Secretary of the Army, shall begin removal of the vessel using the most expeditious removal method available or, if appropriate, secure the vessel pending removal to allow navigation to resume. If the owner or operator fails to begin removal or to secure the vessel pending removal or fails to complete removal on an expedited basis, the Secretary of the Army shall remove or destroy the vessel using the summary removal procedures under subsection (a).".

SEC. 219. SMALL PROJECT AUTHORIZATIONS.

Section 14 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 24, 1946 (33 U.S.C. 701r), is amended—

(1) by striking "$12,500,000" and inserting "$15,000,000"; and

(2) by striking "$500,000" and inserting "$1,000,000".

SEC. 220. UNECONOMICAL COST-SHARING REQUIREMENTS.

Section 221(a) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)) is amended by striking the period at the end of the 1st sentence and inserting the following: "; except that no such agreement shall be required if the Secretary determines that the administrative costs associated with negotiating, executing, or administering the agreement would exceed the amount of the contribution required from the non-Federal interest and are less than $25,000.".

SEC. 221. PLANNING ASSISTANCE TO STATES.

Section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–16) is amended—

(1) in subsection (a) by inserting ", watersheds, or ecosystems" after "basins";

(2) in subsection (b)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(3) in subsection (c)—

(A) by striking "$6,000,000" and inserting "$10,000,000"; and

(B) by striking "$300,000" and inserting "$500,000".

SEC. 222. CORPS OF ENGINEERS EXPENSES.

Section 211 of the Flood Control Act of 1950 (33 U.S.C. 701u; 64 Stat. 183) is amended—

(1) by striking "continental limits of the"; and

(2) by striking the 2d colon and all that follows through "for this purpose".

SEC. 223. STATE AND FEDERAL AGENCY REVIEW PERIOD.

Paragraph (a) of the 1st section of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes", approved December 22, 1944 (33 U.S.C. 701–1(a); 58 Stat. 888), is amended—

(1) by striking "Within ninety" and inserting "Within 30"; and

(2) by striking "ninety-day period." and inserting "30-day period.".

SEC. 224. SECTION 215 REIMBURSEMENT LIMITATION PER PROJECT.

(a) IN GENERAL.—The last sentence of section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d–5a(a)) is amended—

(1) by striking "$3,000,000" and inserting "$5,000,000"; and

(2) by striking the final period.

(b) MODIFICATION OF REIMBURSEMENT LIMITATION FOR SAN ANTONIO RIVER AUTHORITY.—Notwithstanding the last sentence of section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d–5a(a)) and the agreement executed on November 7, 1992, by the Secretary and the San Antonio River Authority, Texas, the Secretary shall reimburse the Authority an amount not to exceed a total of $5,000,000 for the work carried out by the Authority under the agreement, including any amounts paid to the Authority under the terms of the agreement before the date of the enactment of this Act.

SEC. 225. MELALEUCA.

Section 104(a) of the River and Harbor Act of 1958 (33 U.S.C. 610(a)) is amended by inserting "melaleuca," after "milfoil,".

SEC. 226. SEDIMENTS DECONTAMINATION TECHNOLOGY.

(a) PROJECT PURPOSE.—Section 405(a) of the Water Resources Development Act of 1992 (33 U.S.C. 2239 note; 106 Stat. 4863) is amended by adding at the end the following:

"(3) PROJECT PURPOSE.—The purpose of the project to be carried out under this section is to provide for the development of 1 or more sediment decontamination technologies on a pilot scale demonstrating a capacity of at least 500,000 cubic yards per year.".

(b) AUTHORIZATION OF APPROPRIATIONS.—The 1st sentence of section 405(c) of such Act is amended to read as follows: "There is authorized to be appropriated to carry out this section $10,000,000.".

(c) REPORTS.—Section 405 of such Act is amended by adding at the end the following:

"(d) REPORTS.—Not later than September 30, 1998, and periodically thereafter, the Administrator and the Secretary shall transmit to Congress a report on the results of the project to be carried out under this section, including an assessment of the progress made in achieving the purpose of the project set forth in subsection (a)(3).".

SEC. 227. SHORE PROTECTION.

(a) DECLARATION OF POLICY.—Subsection (a) of the 1st section of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426e), is amended—

(1) by striking "damage to the shores" and inserting "damage to the shores and beaches"; and

(2) by striking "the following provisions" and all that follows through the period at the end of such subsection and inserting the following: "this Act, to promote shore protection projects and related research that encourage the protection, restoration, and enhancement of sandy beaches, including beach restoration and periodic beach nourishment, on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprises. In carrying out this policy, preference shall be given to areas in which there has been a Federal investment of funds and areas with respect to which the need for prevention or mitigation of damage to shores and beaches is attributable to Federal navigation projects or other Federal activities.".

(b) AUTHORIZATION OF PROJECTS.—Subsection (e) of such section is amended—

(1) by striking "(e) No" and inserting the following:

"(e) AUTHORIZATION OF PROJECTS.—

"(1) IN GENERAL.—No";

(2) by moving the remainder of the text of paragraph (1) (as designated by paragraph (1) of this subsection) 2 ems to the right; and

(3) by adding at the end the following:

"(2) STUDIES.—

"(A) IN GENERAL.—The Secretary shall—

"(i) recommend to Congress studies concerning shore protection projects that meet the criteria established under this Act (including subparagraph (B)(iii)) and other applicable law;

"(ii) conduct such studies as Congress requires under applicable laws; and

"(iii) report the results of the studies to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) RECOMMENDATIONS FOR SHORE PROTECTION PROJECTS.—

"(i) IN GENERAL.—The Secretary shall recommend to Congress the authorization or reauthorization of shore protection projects based on the studies conducted under subparagraph (A).

"(ii) CONSIDERATIONS.—In making recommendations, the Secretary shall consider the economic and ecological benefits of the shore protection project.

"(C) COORDINATION OF PROJECTS.—In conducting studies and making recommendations for a shore protection project under this paragraph, the Secretary shall—

"(i) determine whether there is any other project being carried out by the Secretary or the head of another Federal agency that may be complementary to the shore protection project; and

"(ii) if there is such a complementary project, describe the efforts that will be made to coordinate the projects.

"(3) SHORE PROTECTION PROJECTS.—

"(A) IN GENERAL.—The Secretary shall construct, or cause to be constructed, any shore protection project authorized by Congress, or separable element of such a project, for which funds have been appropriated by Congress.

"(B) AGREEMENTS.—

"(i) REQUIREMENT.—After authorization by Congress, and before commencement of construction, of a shore protection project or separable element, the Secretary shall enter into a written agreement with a non-Federal interest with respect to the project or separable element.

"(ii) TERMS.—The agreement shall—

"(I) specify the life of the project; and

"(II) ensure that the Federal Government and the non-Federal interest will cooperate in carrying out the project or separable element.

"(C) COORDINATION OF PROJECTS.—In constructing a shore protection project or separable element under this paragraph, the Secretary shall, to the extent practicable, coordinate the project or element with any complementary project identified under paragraph (2)(C).".

(c) REQUIREMENT OF AGREEMENTS PRIOR TO REIMBURSEMENTS.—

(1) SMALL SHORE PROTECTION PROJECTS.—Section 2 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426f), is amended—

(A) by striking "SEC. 2. The Secretary of the Army" and inserting the following:

"SEC. 2. REIMBURSEMENTS.

"(a) IN GENERAL.—The Secretary";

(B) in subsection (a) (as designated by subparagraph (A) of this paragraph)—

(i) by striking "local interests" and inserting "non-Federal interests";

(ii) by inserting "or separable element of the project" after "project"; and

(iii) by inserting "or separable elements" after "projects" each place it appears; and

(C) by adding at the end the following:

"(b) AGREEMENTS.—

"(1) REQUIREMENT.—After authorization of reimbursement by the Secretary under this section, and before commencement of construction, of a shore protection project, the Secretary shall enter into a written agreement with the non-Federal interest with respect to the project or separable element.

"(2) TERMS.—The agreement shall—

"(A) specify the life of the project; and

"(B) ensure that the Federal Government and the non-Federal interest will cooperate in carrying out the project or separable element.".

(2) OTHER SHORELINE PROTECTION PROJECTS.—Section 206(e)(1)(A) of the Water Resources Development Act of 1992 (33 U.S.C. 426i–1(e)(1)(A); 106 Stat. 4829) is amended by inserting before the semicolon the following: "and enters into a written agreement with the non-Federal interest with respect to the project or separable element (including the terms of cooperation)".

(d) STATE AND REGIONAL PLANS.—The Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946, is amended—

(1) by redesignating section 4 (33 U.S.C. 426h) as section 5; and

(2) by inserting after section 3 (33 U.S.C. 426g) the following:

"SEC. 4. STATE AND REGIONAL PLANS.

"The Secretary may—

"(1) cooperate with any State in the preparation of a comprehensive State or regional plan for the conservation of coastal resources located within the boundaries of the State;

"(2) encourage State participation in the implementation of the plan; and

"(3) submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out the plan.".

(e) NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM AND DEFINITIONS.—

(1) IN GENERAL.—The Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426e et seq.), is amended by striking section 5 (as redesignated by subsection (d)(1) of this section) and inserting the following:

"SEC. 5. NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT OF EROSION CONTROL PROGRAM.—The Secretary shall establish and conduct a national shoreline erosion control development and demonstration program for a period of 6 years beginning on the date that funds are made available to carry out this section.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—The erosion control program shall include provisions for—

"(A) projects consisting of planning, designing, and constructing prototype engineered and vegetative shoreline erosion control devices and methods during the first 3 years of the erosion control program;

"(B) adequate monitoring of the prototypes throughout the duration of the erosion control program;

"(C) detailed engineering and environmental reports on the results of each demonstration project carried out under the erosion control program; and

"(D) technology transfers to private property owners and State and local entities.

"(2) EMPHASIS.—The projects carried out under the erosion control program shall emphasize, to the extent practicable—

"(A) the development and demonstration of innovative technologies;

"(B) efficient designs to prevent erosion at a shoreline site, taking into account the life-cycle cost of the design, including cleanup, maintenance, and amortization;

"(C) natural designs, including the use of vegetation or temporary structures that minimize permanent structural alterations;

"(D) the avoidance of negative impacts to adjacent shorefront communities;

"(E) in areas with substantial residential or commercial interests adjacent to the shoreline, designs that do not impair the aesthetic appeal of the interests;

"(F) the potential for long-term protection afforded by the technology; and

"(G) recommendations developed from evaluations of the original 1974 program established under the Shoreline Erosion Control Demonstration Act of 1974 (42 U.S.C. 1962d–5 note; 88 Stat. 26), including—

"(i) adequate consideration of the subgrade;

"(ii) proper filtration;

"(iii) durable components;

"(iv) adequate connection between units; and

"(v) consideration of additional relevant information.

"(3) SITES.—

"(A) IN GENERAL.—Each project under the erosion control program shall be carried out at a privately owned site with substantial public access, or a publicly owned site, on open coast or on tidal waters.

"(B) SELECTION.—The Secretary shall develop criteria for the selection of sites for the projects, including—

"(i) a variety of geographical and climatic conditions;

"(ii) the size of the population that is dependent on the beaches for recreation, protection of homes, or commercial interests;

"(iii) the rate of erosion;

"(iv) significant natural resources or habitats and environmentally sensitive areas; and

"(v) significant threatened historic structures or landmarks.

"(C) AREAS.—Projects under the erosion control program shall be carried out at not fewer than—

"(i) 2 sites on each of the shorelines of the Atlantic and Pacific coasts;

"(ii) 2 sites on the shoreline of the Great Lakes; and

"(iii) 1 site on the shoreline of the Gulf of Mexico.

"(4) DETERMINATION OF FEASIBILITY.—Implementation of a project under this section is contingent upon a determination by the Secretary that such project is feasible.

"(c) CONSULTATION.—

"(1) PARTIES.—The Secretary shall carry out the erosion control program in consultation with—

"(A) the Secretary of Agriculture, particularly with respect to vegetative means of preventing and controlling shoreline erosion;

"(B) Federal, State, and local agencies;

"(C) private organizations;

"(D) the Coastal Engineering Research Center established under the 1st section of the Act entitled 'An Act to make certain changes in the functions of the Beach Erosion Board and the Board of Engineers for Rivers and Harbors, and for other purposes', approved November 7, 1963 (33 U.S.C. 426–1); and

"(E) university research facilities.

"(2) AGREEMENTS.—The consultation described in paragraph (1) may include entering into agreements with other Federal, State, or local agencies or private organizations to carry out functions described in subsection (b)(1) when appropriate.

"(d) REPORT.—Not later than 60 days after the conclusion of the erosion control program, the Secretary shall prepare and submit an erosion control program final report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include a comprehensive evaluation of the erosion control program and recommendations regarding the continuation of the erosion control program.

"(e) FUNDING.—

"(1) RESPONSIBILITY.—The cost of and responsibility for operation and maintenance (excluding monitoring) of a demonstration project under the erosion control program shall be borne by non-Federal interests on completion of construction of the demonstration project.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $21,000,000 to carry out this section.

"SEC. 6. DEFINITIONS.

"In this Act, the following definitions apply:

"(1) EROSION CONTROL PROGRAM.—The term 'erosion control program' means the national shoreline erosion control development and demonstration program established under this section.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of the Army.

"(3) SEPARABLE ELEMENT.—The term 'separable element' has the meaning provided by section 103(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(f)).

"(4) SHORE.—The term 'shore' includes each shoreline of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, and lakes, estuaries, and bays directly connected therewith.

"(5) SHORE PROTECTION PROJECT.—The term 'shore protection project' includes a project for beach nourishment, including the replacement of sand.".

(2) CONFORMING AMENDMENTS.—The Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946, is amended—

(A) in subsection (b)(3) of the 1st section (33 U.S.C. 426e(b)(3))—

(i) by striking "of the Army, acting through the Chief of Engineers,"; and

(ii) by striking the final period;

(B) in subsection (e) of the 1st section by striking "section 3" and inserting "section 3 or 5"; and

(C) in section 3 (33 U.S.C. 426g) by striking "Secretary of the Army" and inserting "Secretary".

(f) OBJECTIVES OF PROJECTS.—Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962-2; 84 Stat. 1829) is amended by inserting "(including shore protection projects such as projects for beach nourishment, including the replacement of sand)" after "water resource projects".

SEC. 228. CONDITIONS FOR PROJECT DEAUTHORIZATIONS.

(a) IN GENERAL.—Section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2); 100 Stat. 4201) is amended—

(1) in the 1st sentence by striking "10" and inserting "7";

(2) in the 2d sentence by striking "Before" and inserting "Upon"; and

(3) in the last sentence by inserting "the planning, design, or" before "construction".

(b) CONFORMING AMENDMENTS.—Section 52 of the Water Resources Development Act of 1988 (102 Stat. 4044) is amended—

(1) by striking subsection (a) (33 U.S.C. 579a note);

(2) by redesignating subsections (b) through (e) as subsections (a) through (d), respectively; and

(3) in subsection (d) (as so redesignated) by striking "or subsection (a) of this section".

SEC. 229. SUPPORT OF ARMY CIVIL WORKS PROGRAM.

(a) GENERAL AUTHORITY.—In carrying out research and development in support of the civil works program of the Department of the Army, the Secretary may utilize contracts, cooperative research and development agreements, cooperative agreements, and grants with non-Federal entities, including State and local governments, colleges and universities, consortia, professional and technical societies, public and private scientific and technical foundations, research institutions, educational organizations, and nonprofit organizations.

(b) COMMERCIAL APPLICATION.—With respect to contracts for research and development, the Secretary may include requirements that have potential commercial application and may use such potential application as an evaluation factor where appropriate.

SEC. 230. BENEFITS TO NAVIGATION.

In evaluating potential improvements to navigation and the maintenance of navigation projects, the Secretary shall consider, and include for purposes of project justification, economic benefits generated by cruise ships as commercial navigation benefits.

SEC. 231. LOSS OF LIFE PREVENTION.

Section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281; 100 Stat. 4185) is amended by inserting "and information regarding potential loss of human life that may be associated with flooding and coastal storm events," after "unquantifiable,".

SEC. 232. SCENIC AND AESTHETIC CONSIDERATIONS.

In conducting studies of potential water resources projects, the Secretary shall consider measures to preserve and enhance scenic and aesthetic qualities in the vicinity of such projects.

SEC. 233. TERMINATION OF TECHNICAL ADVISORY COMMITTEE.

Section 310 of the Water Resources Development Act of 1990 (33 U.S.C. 2319; 104 Stat. 4639) is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by striking "(b) PUBLIC PARTICIPATION.—"; and

(B) by striking "subsection" each place it appears and inserting "section".

SEC. 234. INTERAGENCY AND INTERNATIONAL SUPPORT AUTHORITY.

(a) IN GENERAL.—The Secretary may engage in activities in support of other Federal agencies or international organizations to address problems of national significance to the United States.

(b) CONSULTATION.—The Secretary may engage in activities in support of international organizations only after consulting with the Secretary of State.

(c) USE OF CORPS' EXPERTISE.—The Secretary may use the technical and managerial expertise of the Corps of Engineers to address domestic and international problems related to water resources, infrastructure development, and environmental protection.

(d) FUNDING.—There is authorized to be appropriated $1,000,000 to carry out this section. The Secretary may accept and expend additional funds from other Federal agencies or international organizations to carry this section.

SEC. 235. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).

SEC. 236. TECHNICAL CORRECTIONS.

(a) CONTRIBUTIONS FOR ENVIRONMENTAL AND RECREATION PROJECTS.—Section 203(b) of the Water Resources Development Act of 1992 (33 U.S.C. 2325(b); 106 Stat. 4826) is amended by striking "(8662)" and inserting "(8862)".

(b) CHALLENGE COST-SHARING PROGRAM.—The 2d sentence of section 225(c) of such Act (33 U.S.C. 2328(c); 106 Stat. 4838) is amended by striking "(8662)" and inserting "(8862)".

SEC. 237. HOPPER DREDGES.

Section 3 of the Act of August 11, 1888 (33 U.S.C. 622; 25 Stat. 423), is amended by adding at the end the following:

"(c) PROGRAM TO INCREASE USE OF PRIVATE HOPPER DREDGES.—

"(1) INITIATION.—The Secretary shall initiate a program to increase the use of private-industry hopper dredges for the construction and maintenance of Federal navigation channels.

"(2) READY RESERVE STATUS FOR HOPPER DREDGE WHEELER.—In order to carry out this subsection, the Secretary shall place the Federal hopper dredge Wheeler in a ready reserve status not later than the earlier of 90 days after the date of completion of the rehabilitation of the hopper dredge McFarland pursuant to section 563 of the Water Resources Development Act of 1996 or October 1, 1997.

"(3) TESTING AND USE OF READY RESERVE HOPPER DREDGE.—The Secretary may periodically perform routine tests of the equipment of the vessel placed in a ready reserve status under paragraph (2) to ensure the vessel's ability to perform emergency work. The Secretary shall not assign any scheduled hopper dredging work to such vessel but shall perform any repairs needed to maintain the vessel in a fully operational condition. The Secretary may place the vessel in active status in order to perform any dredging work only if the Secretary determines that private industry has failed to submit a responsive and responsible bid for work advertised by the Secretary or to carry out the project as required pursuant to a contract with the Secretary.

"(4) REPAIR AND REHABILITATION.—The Secretary may undertake any repair and rehabilitation of any Federal hopper dredge, including the vessel placed in ready reserve status under paragraph (2) to allow the vessel to be placed in active status as provided in paragraph (3).

"(5) PROCEDURES.—The Secretary shall develop and implement procedures to ensure that, to the maximum extent practicable, private industry hopper dredge capacity is available to meet both routine and time-sensitive dredging needs. Such procedures shall include—

"(A) scheduling of contract solicitations to effectively distribute dredging work throughout the dredging season; and

"(B) use of expedited contracting procedures to allow dredges performing routine work to be made available to meet time-sensitive, urgent, or emergency dredging needs.

"(6) REPORT.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall report to Congress on whether the vessel placed in ready reserve status under paragraph (2) is needed to be returned to active status or continued in a ready reserve status or whether another Federal hopper dredge should be placed in a ready reserve status.

"(7) LIMITATIONS.—

"(A) REDUCTIONS IN STATUS.—The Secretary may not further reduce the readiness status of any Federal hopper dredge below a ready reserve status except any vessel placed in such status for not less than 5 years that the Secretary determines has not been used sufficiently to justify retaining the vessel in such status.

"(B) INCREASE IN ASSIGNMENTS OF DREDGING WORK.—For each fiscal year beginning after the date of the enactment of this subsection, the Secretary shall not assign any greater quantity of dredging work to any Federal hopper dredge in active status than was assigned to that vessel in the average of the 3 prior fiscal years.

"(C) REMAINING DREDGES.—In carrying out the program under this section, the Secretary shall not reduce the availability and utilization of Federal hopper dredge vessels stationed on the Pacific and Atlantic coasts below that which occurred in fiscal year 1996 to meet the navigation dredging needs of the ports on those coasts.

"(8) CONTRACTS; PAYMENT OF CAPITAL COSTS.—The Secretary may enter into a contract for the maintenance and crewing of any Federal hopper dredge retained in a ready reserve status. The capital costs (including depreciation costs) of any dredge retained in such status shall be paid for out of funds made available from the Harbor Maintenance Trust Fund and shall not be charged against the Corps of Engineers' Revolving Fund Account or any individual project cost unless the dredge is specifically used in connection with that project.".

TITLE III—PROJECT-RELATED PROVISIONS

SEC. 301. PROJECT MODIFICATIONS.

(a) PROJECTS WITH REPORTS.—

(1) SAN FRANCISCO RIVER AT CLIFTON, ARIZONA.—The project for flood control, San Francisco River at Clifton, Arizona, authorized by section 101(a)(3) of the Water Resources Development Act of 1990 (104 Stat. 4606), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Corps of Engineers dated May 28, 1996, at a total cost of $21,100,000, with an estimated Federal cost of $13,800,000 and an estimated non-Federal cost of $7,300,000.

(2) OAKLAND HARBOR, CALIFORNIA.—The projects for navigation, Oakland Outer Harbor, California, and Oakland Inner Harbor, California, authorized by section 202 of the Water Resources Development Act of 1986 (100 Stat. 4092), are modified to direct the Secretary—

(A) to combine the 2 projects into 1 project, to be designated as the Oakland Harbor, California, project; and

(B) to carry out the combined project substantially in accordance with the plans and subject to the conditions recommended in the report of the Corps of Engineers dated July 15, 1994, at a total cost of $90,850,000, with an estimated Federal cost of $59,150,000 and an estimated non-Federal cost of $31,700,000.

The non-Federal share of project costs and any available credits toward the non-Federal share shall be calculated on the basis of the total cost of the combined project.

(3) SAN LUIS REY, CALIFORNIA.—The project for flood control of the San Luis Rey River, California, authorized pursuant to section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d-5; 79 Stat. 1073–1074), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Corps of Engineers dated May 23, 1996, at a total cost of $81,600,000, with an estimated Federal cost of $61,100,000 and an estimated non-Federal cost of $20,500,000.

(4) POTOMAC RIVER, WASHINGTON, DISTRICT OF COLUMBIA.—The project for flood control, Potomac River, Washington, District of Columbia, authorized by section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 22, 1936 (49 Stat. 1574), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum dated May 1992 at a Federal cost of $1,800,000; except that a temporary closure may be used instead of a permanent structure at 17th Street. Operation and maintenance of the project shall be a Federal responsibility.

(5) NORTH BRANCH OF CHICAGO RIVER, ILLINOIS.—The project for flood control, North Branch of the Chicago River, Illinois, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115), is modified to authorize the Secretary—

(A) to carry out the project substantially in accordance with the report of the Corps of Engineers dated May 26, 1994, at a total cost of $34,228,000, with an estimated Federal cost of $20,905,000 and an estimated non-Federal cost of $13,323,000; and

(B) to reimburse the city of Deerfield, Illinois, an amount not to exceed $38,500 for a flood control study financed by the city if the Secretary determines that the study is necessary to address residual damages in areas upstream of Reservoir 29A.

(6) HALSTEAD, KANSAS.—The project for flood control, Halstead, Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4116), is modified to authorize the Secretary to carry out the project substantially in accordance with the report of the Corps of Engineers dated March 19, 1993, at a total cost of $11,100,000, with an estimated Federal cost of $8,325,000 and an estimated non-Federal cost of $2,775,000.

(7) CAPE GIRARDEAU, MISSOURI.—The project for flood control, Cape Girardeau, Jackson Metropolitan Area, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118–4119), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Corps of Engineers dated July 18, 1994, including implementation of nonstructural measures, at a total cost of $45,414,000, with an estimated Federal cost of $33,030,000 and an estimated non-Federal cost of $12,384,000.

(8) MOLLY ANN'S BROOK, NEW JERSEY.—The project for flood control, Molly Ann's Brook, New Jersey, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4119), is modified to authorize the Secretary to carry out the project substantially in accordance with the report of the Corps of Engineers dated April 3, 1996, at a total cost of $40,100,000, with an estimated Federal cost of $22,600,000 and an estimated non-Federal cost of $17,500,000.

(9) RAMAPO RIVER AT OAKLAND, NEW JERSEY.—The project for flood control, Ramapo River at Oakland, New Jersey, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4120), is modified to authorize the Secretary to carry out the project substantially in accordance with the report of the Corps of Engineers dated May 1994, at a total cost of $11,300,000, with an estimated Federal cost of $8,500,000 and an estimated non-Federal cost of $2,800,000.

(10) WILMINGTON HARBOR-NORTHEAST CAPE FEAR RIVER, NORTH CAROLINA.—The project for navigation, Wilmington Harbor-Northeast Cape Fear River, North Carolina, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum dated April 1990 and the General Design Memorandum Supplement dated February 1994, at a total cost of $52,041,000, with an estimated Federal cost of $25,729,000 and an estimated non-Federal cost of $26,312,000.

(11) SAW MILL RUN, PENNSYLVANIA.—The project for flood control, Saw Mill Run, Pittsburgh, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), is modified to authorize the Secretary to carry out the project substantially in accordance with the report of the Corps of Engineers dated April 8, 1994, at a total cost of $12,780,000, with an estimated Federal cost of $9,585,000 and an estimated non-Federal cost of $3,195,000.

(12) SAN JUAN HARBOR, PUERTO RICO.—The project for navigation, San Juan Harbor, Puerto Rico, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4097), is modified to authorize the Secretary to deepen the bar channel to depths varying from 49 feet to 56 feet below mean low water with other modifications to authorized interior channels as described in the General Reevaluation Report and Environmental Assessment dated March 1994, at a total cost of $45,085,000, with an estimated Federal cost of $28,244,000 and an estimated non-Federal cost of $16,841,000.

(13) INDIA POINT RAILROAD BRIDGE, SEEKONK RIVER, PROVIDENCE, RHODE ISLAND.—The project for navigation, India Point Railroad Bridge, Seekonk River, Providence, Rhode Island, authorized by section 1166(c) of the Water Resources Development Act of 1986 (100 Stat. 4258), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Report dated August 1994 at a total cost of $1,300,000, with an estimated Federal cost of $650,000 and an estimated non-Federal cost of $650,000.

(14) UPPER JORDAN RIVER, UTAH.—The project for flood control, Upper Jordan River, Utah, authorized by section 101(a)(23) of the Water Resources Development Act of 1990 (104 Stat. 4610), is modified to authorize the Secretary to carry out the project substantially in accordance with the General Design Memorandum for the project dated March 1994, and the Post Authorization Change Report for the project dated April 1994, at a total cost of $12,870,000, with an estimated Federal cost of $8,580,000 and an estimated non-Federal cost of $4,290,000.

(b) PROJECTS SUBJECT TO REPORTS.—The following projects are modified as follows, except that no funds may be obligated to carry out work under such modifications until completion of a report by the Corps of Engineers finding that such work is technically sound, environmentally acceptable, and economic, as applicable:

(1) ALAMO DAM, ARIZONA.—The project for flood control and other purposes, Alamo Dam and Lake, Arizona, authorized by section 10 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 900), is modified to authorize the Secretary to operate the Alamo Dam to provide fish and wildlife benefits both upstream and downstream of the Dam. Such operation shall not reduce flood control and recreation benefits provided by the project.

(2) PHOENIX, ARIZONA.—The project for flood control and water quality improvement, Phoenix, Arizona, authorized by section 321 of the Water Resources Development Act of 1992 (106 Stat. 4848), is modified—

(A) to make ecosystem restoration a project purpose; and

(B) to authorize the Secretary to construct the project at a total cost of $17,500,000.

(3) GLENN-COLUSA, CALIFORNIA.—The project for flood control, Sacramento River, California, authorized by section 2 of the Act entitled "An Act to provide for the control of the floods of the Mississippi River and of the Sacramento River, California, and for other purposes", approved March 1, 1917 (39 Stat. 949), and modified by section 102 of the Energy and Water Development Appropriations Act, 1990 (103 Stat. 649), is further modified to authorize the Secretary to carry out the portion of the project at Glenn-Colusa, California, at a total cost of $14,200,000.

(4) TYBEE ISLAND, GEORGIA.—The project for beach erosion control, Tybee Island, Georgia, authorized pursuant to section 201 of the Flood Control Act of 1968 (42 U.S.C. 1962d–5; 79 Stat. 1073–1074), is modified to include as an integral

part of the project the portion of Tybee Island located south of the existing south terminal groin between 18th and 19th Streets, including the east bank of Tybee Creek up to Horse Pen Creek.

(5) COMITE RIVER, LOUISIANA.—The Comite River Diversion project for flood control, authorized as part of the project for flood control, Amite River and Tributaries, Louisiana, by section 101(11) of the Water Resources Development Act of 1992 (106 Stat. 4802–4803), is modified to authorize the Secretary to construct the project at a total cost of $121,600,000, with an estimated Federal cost of $70,577,000 and an estimated non-Federal cost of $51,023,000.

(6) GRAND ISLE AND VICINITY, LOUISIANA.—The project for hurricane damage prevention, flood control, and beach erosion along Grand Isle and Vicinity, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to authorize the Secretary to construct a permanent breakwater and levee system at a total cost of $17,000,000.

(7) RED RIVER WATERWAY, LOUISIANA.—The project for mitigation of fish and wildlife losses, Red River Waterway, Louisiana, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4142) and modified by section 102(p) of the Water Resources Development Act of 1990 (104 Stat. 4613), is further modified—

(A) to authorize the Secretary to carry out the project at a total cost of $10,500,000; and

(B) to provide that lands that are purchased adjacent to the Loggy Bayou Wildlife Management Area may be located in Caddo Parish or Red River Parish.

(8) RED RIVER WATERWAY, MISSISSIPPI RIVER TO SHREVEPORT, LOUISIANA.—The project for navigation, Red River Waterway, Mississippi River to Shreveport, Louisiana, authorized by section 101 of the River and Harbor Act of 1968 (82 Stat. 731), is modified to require the Secretary to dredge and perform other related work as required to reestablish and maintain access to, and the environmental value of, the bendway channels designated for preservation in project documentation prepared before the date of the enactment of this Act. The work shall be carried out in accordance with the local cooperation requirements for other navigation features of the project.

(9) STILLWATER, MINNESOTA.—The project for flood control, Stillwater, Minnesota, authorized by section 363 of the Water Resources Development Act of 1992 (106 Stat. 4861–4862), is modified—

(A) to authorize the Secretary to expand the flood wall system if the Secretary determines that the expansion is feasible; and

(B) to authorize the Secretary to construct the project at a total cost of $11,600,000, with an estimated Federal cost of $8,700,000 and an estimated non-Federal cost of $2,900,000.

(10) JOSEPH G. MINISH PASSAIC RIVER PARK, NEW JERSEY.—The streambank restoration element of the project for flood control, Passaic River Main Stem, New Jersey and New York, authorized by section 101(a)(18)(B) of the Water Resources Development Act of 1990 (104 Stat. 4608) and known as the "Joseph G. Minish Passaic River Waterfront Park and Historic Area, New Jersey", is modified—

(A) to authorize the Secretary to construct such element at a total cost of $75,000,000;

(B) to provide that construction of such element may be undertaken before implementation of the remainder of the Passaic River Main Stem project; and

(C) to provide that such element shall be treated, for the purpose of economic analysis, as an integral part of the Passaic River Main Stem project and shall be completed in the initial phase of the Passaic River Main Stem project.

(11) ARTHUR KILL, NEW YORK AND NEW JERSEY.—The project for navigation, Arthur Kill, New York and New Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098), is modified to authorize the Secretary to carry out the project to a depth of not to exceed 45 feet, at a total cost of $83,000,000.

(12) KILL VAN KULL, NEW YORK AND NEW JERSEY.—

(A) COST INCREASE.—The project for navigation, Kill Van Kull, New York and New Jersey, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to authorize the Secretary to carry out the project at a total cost of $750,000,000.

(B) CONTINUATION OF ENGINEERING AND DESIGN.—The Secretary shall continue engineering and design in order to complete the navigation project at Kill Van Kull and Newark Bay Channels, New York and New Jersey, authorized by chapter IV of title I of the Supplemental Appropriations Act, 1985 (99 Stat. 313) and section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095).

SEC. 302. MOBILE HARBOR, ALABAMA.

The undesignated paragraph under the heading "MOBILE HARBOR, ALABAMA" in section 201(a) of the Water Resources Development Act of 1986 (100 Stat. 4090) is amended by striking the 1st semicolon and all that follows and inserting a period and the following: "In disposing of dredged material from such project, the Secretary, after compliance with applicable laws and after opportunity for public review and comment, may consider alternatives to disposal of such material in the Gulf of Mexico, including environmentally acceptable alternatives for beneficial uses of dredged material and environmental restoration.".

SEC. 303. NOGALES WASH AND TRIBUTARIES, ARIZONA.

The project for flood control, Nogales Wash and tributaries, Arizona, authorized by section 101(a)(4) of the Water Resources Development Act of 1990 (104 Stat. 4606), is modified to direct the Secretary to permit the non-Federal contribution for the project to be determined in accordance with subsections (k) and (m) of section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213) and to direct the Secretary to enter into negotiations with non-Federal interests pursuant to section 103(l) of such Act concerning the timing of the initial payment of the non-Federal contribution.

SEC. 304. WHITE RIVER BASIN, ARKANSAS AND MISSOURI.

The project for flood control and power generation at White River Basin, Arkansas and Missouri, authorized by section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1218), shall include recreation and fish and wildlife mitigation as purposes of the project, to the extent that the additional purposes do not adversely affect flood control, power generation, or other authorized purposes of the project.

SEC. 305. CHANNEL ISLANDS HARBOR, CALIFORNIA.

The project for navigation and shore protection, Channel Islands Harbor, Port of Hueneme, California, authorized by section 101 of the River and Harbor Act of 1954 (68 Stat. 1252), is modified to authorize biennial dredging and sand bypassing at an annual downcoast replenishment rate to establish and maintain a littoral sediment balance which is estimated at 1,254,000 cubic yards per year. The cost of such dredging and sand bypassing shall be 100 percent Federal as long as Federal ownership of the entrance channel and jetties of the Port of Hueneme necessitates restoration and maintenance of the downcoast shoreline.

SEC. 306. LAKE ELSINORE, CALIFORNIA.

(a) MAXIMUM FEDERAL EXPENDITURE.—The maximum amount of Federal funds that may be expended for the project for flood control, Lake Elsinore, Riverside County, California, shall be $7,500,000.

(b) REVISION OF PROJECT COOPERATION AGREEMENT.—The Secretary shall revise the project cooperation agreement for the project referred to in subsection (a) to take into account the change in the Federal participation in such project pursuant to subsection (a).

(c) COST SHARING.—Nothing in this section shall be construed to affect any cost-sharing requirement applicable to the project referred to in subsection (a) under the Water Resources Development Act of 1986.

(d) STUDY.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall—

(1) conduct a study of the advisability of modifying, for the purpose of flood control pursuant to section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), the project for flood control, Lake Elsinore, Riverside County, California, to permit water conservation storage up to an elevation of 1,249 feet above mean sea level; and

(2) report to Congress on the study, including making recommendations concerning the advisability of so modifying the project.

SEC. 307. LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA.

The project for navigation, Los Angeles and Long Beach Harbors, San Pedro Bay, California, authorized by section 201(a) of the Water Resources Development Act of 1986 (100 Stat. 4091), is modified to provide that, for the purpose of section 101(a)(2) of such Act (33 U.S.C. 2211(a)(2)), the sewer outfall relocated over a distance of 4,458 feet by the Port of Los Angeles at a cost of approximately $12,000,000 shall be considered to be a relocation. The cost of such relocation shall be credited as a payment provided by the non-Federal interest.

SEC. 308. LOS ANGELES COUNTY DRAINAGE AREA, CALIFORNIA.

The non-Federal share for a project to add water conservation to the existing Los Angeles County Drainage Area, California, project, authorized by section 101(b) of the Water Resources Development Act of 1990 (104 Stat. 4611), shall be 100 percent of separable first costs and separable operation, maintenance, and replacement costs associated with the water conservation purpose.

SEC. 309. PRADO DAM, CALIFORNIA.

(a) REVIEW.—

(1) SEPARABLE ELEMENT DETERMINATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall review, in cooperation with the non-Federal interest, the Prado Dam feature of the project for flood control, Santa Ana River Mainstem, California, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113), with a view toward determining whether the feature may be considered a separable element (as defined in section 103(f) of such Act (33 U.S.C. 2213(f))).

(2) MODIFICATION OF COST-SHARING REQUIREMENT.—If the Prado Dam feature is determined to be a separable element under this subsection, the Secretary shall reduce the non-Federal cost-sharing requirement for such feature in accordance with section 103(a)(3) of such Act and shall enter into a project cooperation agreement with the non-Federal interest to reflect the modified cost-sharing requirement and to carry out construction.

(b) SAFETY IMPROVEMENTS.—The Secretary, in coordination with the State of California, shall provide technical assistance to Orange County, California, in developing appropriate public

safety and access improvements associated with that portion of California State Route 71 being relocated for the Prado Dam feature of the project authorized as part of the project referred to in subsection (a)(1).

SEC. 310. QUEENSWAY BAY, CALIFORNIA.

Section 4(e) of the Water Resources Development Act of 1988 (102 Stat. 4016) is amended by adding at the end the following: "In addition, the Secretary shall perform advance maintenance dredging in the Queensway Bay Channel, California, at a total cost of $5,000,000. The Secretary shall coordinate with Federal and State agencies the establishment of suitable dredged material disposal areas.".

SEC. 311. SEVEN OAKS DAM, CALIFORNIA.

The non-Federal share for a project to add water conservation to the Seven Oaks Dam, authorized as part of the project for flood control, Santa Ana River Mainstem, California, by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113), shall be 100 percent of separable first costs and separable operation, maintenance, and replacement costs associated with the water conservation purpose.

SEC. 312. THAMES RIVER, CONNECTICUT.

(a) Modification.—The project for navigation, Thames River, Connecticut, authorized by the 1st section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1029), is modified to reconfigure the turning basin in accordance with the following alignment: Beginning at a point on the eastern limit of the existing project, N251052.93, E783934.59, thence running north 5 degrees, 25 minutes, 21.3 seconds east 341.06 feet to a point, N251392.46, E783966.82, thence running north 47 degrees, 24 minutes, 14.0 seconds west 268.72 feet to a point, N251574.34, E783769.00, thence running north 88 degrees, 41 minutes, 52.2 seconds west 249.06 feet to a point, N251580.00, E783520.00, thence running south 46 degrees, 16 minutes, 22.9 seconds west 318.28 feet to a point, N251360.00, E783290.00, thence running south 19 degrees, 1 minute, 32.2 seconds east 306.76 feet to a point, N251070.00, E783390.00, thence running south 45 degrees, 0 minutes, 0 seconds, east 155.56 feet to a point, N250960.00, E783500.00 on the existing western limit.

(b) Payment for Initial Dredging.—Any required initial dredging of the widened portions identified in subsection (a) shall be carried out at no cost to the Federal Government.

(c) Deauthorization.—The portions of the turning basin that are not included in the reconfigured turning basin described in subsection (a) are not authorized after the date of the enactment of this Act.

SEC. 313. CANAVERAL HARBOR, FLORIDA.

The project for navigation, Canaveral Harbor, Florida, authorized by section 101(7) of the Water Resources Development Act of 1992 (106 Stat. 4802), is modified to authorize the Secretary to reclassify the removal and replacement of stone protection on both sides of the channel as general navigation features. The Secretary shall reimburse any costs that are incurred by the non-Federal sponsor in connection with the reclassified work and that the Secretary determines to be in excess of the non-Federal share of costs for general navigation features. The Federal and non-Federal shares of the cost of the reclassified work shall be determined in accordance with section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211).

SEC. 314. CAPTIVA ISLAND, FLORIDA.

The project for shoreline protection, Captiva Island, Lee County, Florida, authorized pursuant to section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d–5; 79 Stat. 1073), is modified to direct the Secretary to reimburse the non-Federal interest for beach nourishment work carried out by such interest as if such work occurred after execution of the agreement entered into pursuant to section 215 of the Flood Control Act of 1968 (42 U.S.C. 1962d–5a) with respect to such project if the Secretary determines that such work is compatible with the project.

SEC. 315. CENTRAL AND SOUTHERN FLORIDA, CANAL 51.

The project for flood protection of West Palm Beach, Florida (C–51), authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1183), is modified to provide for the construction of an enlarged stormwater detention area, Storm Water Treatment Area 1 East, generally in accordance with the plan of improvements described in the February 15, 1994, report entitled "Everglades Protection Project, Palm Beach County, Florida, Conceptual Design", with such modifications as are approved by the Secretary. The additional work authorized by this section shall be accomplished at Federal expense. Operation and maintenance of the stormwater detention area shall be consistent with regulations prescribed by the Secretary for the Central and Southern Florida project, and all costs of such operation and maintenance shall be provided by non-Federal interests.

SEC. 316. CENTRAL AND SOUTHERN FLORIDA, CANAL 111.

(a) In General.—The project for Central and Southern Florida, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1176) and modified by section 203 of the Flood Control Act of 1968 (82 Stat. 740–741), is modified to authorize the Secretary to implement the recommended plan of improvement contained in a report entitled "Central and Southern Florida Project, Final Integrated General Reevaluation Report and Environmental Impact Statement, Canal 111 (C–111), South Dade County, Florida", dated May 1994, including acquisition by non-Federal interests of such portions of the Frog Pond and Rocky Glades areas as are needed for the project.

(b) Cost Sharing.—

(1) Federal Share.—The Federal share of the cost of implementing the plan of improvement shall be 50 percent.

(2) Secretary of Interior Responsibility.—The Secretary of the Interior shall pay 25 percent of the cost of acquiring such portions of the Frog Pond and Rocky Glades areas as are needed for the project. The amount paid by the Secretary of the Interior shall be included as part of the Federal share of the cost of implementing the plan.

(3) Operation and Maintenance.—The non-Federal share of operation and maintenance costs of the improvements undertaken pursuant to this section shall be 100 percent; except that the Federal Government shall reimburse the non-Federal interest with respect to the project 60 percent of the costs of operating and maintaining pump stations that pump water into Taylor Slough in the Everglades National Park.

SEC. 317. JACKSONVILLE HARBOR (MILL COVE), FLORIDA.

The project for navigation, Jacksonville Harbor (Mill Cove), Florida, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139–4140), is modified to direct the Secretary to carry out a project for mitigation consisting of measures for flow and circulation improvement within Mill Cove, at an estimated total Federal cost of $2,000,000.

SEC. 318. PANAMA CITY BEACHES, FLORIDA.

(a) In General.—The project for shoreline protection, Panama City Beaches, Florida, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4133), is modified to direct the Secretary to enter into an agreement with the non-Federal interest for carrying out such project in accordance with section 206 of the Water Resources Development Act of 1992 (33 U.S.C. 426i–1).

(b) Reports.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the progress made in carrying out this section and a report on implementation of section 206 of the Water Resources Development Act of 1992.

SEC. 319. CHICAGO, ILLINOIS.

The project for flood control, Chicagoland Underflow Plan, Illinois, authorized by section 3(a)(5) of the Water Resources Development Act of 1988 (102 Stat. 4013), is modified to limit the capacity of the reservoir project to not to exceed 11,000,000,000 gallons or 32,000 acre-feet, to provide that the reservoir project may not be located north of 55th Street or west of East Avenue in the vicinity of McCook, Illinois, and to provide that the reservoir project may be constructed only on the basis of a specific plan that has been evaluated by the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 320. CHICAGO LOCK AND THOMAS J. O'BRIEN LOCK, ILLINOIS.

The project for navigation, Chicago Harbor, Lake Michigan, Illinois, for which operation and maintenance responsibility was transferred to the Secretary under chapter IV of title I of the Supplemental Appropriations Act, 1983 (97 Stat. 311), and section 107 of the Energy and Water Development Appropriation Act, 1982 (95 Stat. 1137), is modified to direct the Secretary to conduct a study to determine the feasibility of making such structural repairs as are necessary to prevent leakage through the Chicago Lock and the Thomas J. O'Brien Lock, Illinois, and to determine the need for installing permanent flow measurement equipment at such locks to measure any leakage. The Secretary may carry out such repairs and installations as are necessary following completion of the study.

SEC. 321. KASKASKIA RIVER, ILLINOIS.

The project for navigation, Kaskaskia River, Illinois, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1175), is modified to add fish and wildlife and habitat restoration as project purposes.

SEC. 322. LOCKS AND DAM 26, ALTON, ILLINOIS AND MISSOURI.

Section 102(l) of the Water Resources Development Act of 1990 (104 Stat. 4613) is amended—

(1) by striking ", that requires no separable project lands and" and inserting "on project lands and other contiguous nonproject lands, including those lands referred to as the Alton Commons. The recreational development";

(2) by inserting "shall be" before "at a Federal construction"; and

(3) by striking ". The recreational development" and inserting ", and".

SEC. 323. WHITE RIVER, INDIANA.

The project for flood control, Indianapolis on West Fork of the White River, Indiana, authorized by section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes", approved June 22, 1936 (49 Stat. 1586), is modified to authorize the Secretary to undertake riverfront alterations as described in the Central Indianapolis Waterfront Concept Master Plan, dated February 1994, at a total cost of $85,975,000, with an estimated Federal cost of $39,975,000 and an estimated non-Federal cost of $46,000,000. The cost of work, including relocations undertaken by the non-Federal interest after February 15, 1994, on features identified in the Master Plan shall be credited toward the non-Federal share of project costs.

SEC. 324. BAPTISTE COLLETTE BAYOU, LOUISIANA.

The project for navigation, Mississippi River Outlets, Venice, Louisiana, authorized by section 101 of the River and Harbor Act of 1968 (82

Stat. 731), is modified to provide for the extension of the 16-foot deep (mean low gulf) by 250-foot wide Baptiste Collette Bayou entrance channel to approximately mile 8 of the Mississippi River Gulf Outlet navigation channel at a total estimated Federal cost of $80,000, including $4,000 for surveys and $76,000 for Coast Guard aids to navigation.

SEC. 325. LAKE PONTCHARTRAIN, LOUISIANA.

The project for hurricane damage prevention and flood control, Lake Pontchartrain, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to provide that St. Bernard Parish, Louisiana, and the Lake Borgne Basin Levee District, Louisiana, shall not be required to pay the unpaid balance, including interest, of the non-Federal cost-share of the project.

SEC. 326. MISSISSIPPI RIVER-GULF OUTLET, LOUISIANA.

Section 844 of the Water Resources Development Act of 1986 (100 Stat. 4177) is amended by adding at the end the following:

"(c) COMMUNITY IMPACT MITIGATION PLAN.—Using funds made available under subsection (a), the Secretary shall implement a comprehensive community impact mitigation plan, as described in the evaluation report of the New Orleans District Engineer dated August 1995, that, to the maximum extent practicable, provides for mitigation or compensation, or both, for the direct and indirect social and cultural impacts that the project described in subsection (a) will have on the affected areas referred to in subsection (b).".

SEC. 327. TOLCHESTER CHANNEL, MARYLAND.

The project for navigation, Baltimore Harbor and Channels, Maryland, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297), is modified to direct the Secretary—

(1) to expedite review of potential straightening of the channel at the Tolchester Channel S-Turn; and

(2) if determined to be feasible and necessary for safe and efficient navigation, to implement such straightening as part of project maintenance.

SEC. 328. CROSS VILLAGE HARBOR, MICHIGAN.

(a) GENERAL RULE.—Notwithstanding section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a), the project for navigation, Cross Village Harbor, Michigan, authorized by section 101 of the River and Harbor Act of 1966 (80 Stat. 1405), shall remain authorized to be carried out by the Secretary.

(b) LIMITATION.—The project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

SEC. 329. SAGINAW RIVER, MICHIGAN.

The project for flood protection, Saginaw River, Michigan, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 311), is modified to include as part of the project the design and construction of an inflatable dam on the Flint River, Michigan, at a total cost of $500,000.

SEC. 330. SAULT SAINTE MARIE, CHIPPEWA COUNTY, MICHIGAN.

(a) IN GENERAL.—The project for navigation, Sault Sainte Marie, Chippewa County, Michigan, authorized by section 1149 of the Water Resources Development Act of 1986 (100 Stat. 4254–4255), is modified as follows:

(1) PAYMENT OF NON-FEDERAL SHARE.—The non-Federal share of the cost of the project shall be paid as follows:

(A) That portion of the non-Federal share that the Secretary determines is attributable to use of the lock by vessels calling at Canadian ports shall be paid by the United States.

(B) The remaining portion of the non-Federal share shall be paid by the Great Lakes States pursuant to an agreement entered into by such States.

(2) PAYMENT TERM OF ADDITIONAL PERCENTAGE.—The amount to be paid by non-Federal interests pursuant to section 101(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a)) and this subsection with respect to the project may be paid over a period of 50 years or the expected life of the project, whichever is shorter.

(b) GREAT LAKES STATES DEFINED.—In this section, the term "Great Lakes States" means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

SEC. 331. ST. JOHNS BAYOU AND NEW MADRID FLOODWAY, MISSOURI.

Notwithstanding any other provision of law, Federal assistance made available under the rural enterprise zone program of the Department of Agriculture may be used toward payment of the non-Federal share of the costs of the project for flood control, St. Johns Bayou and New Madrid Floodway, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118).

SEC. 332. LOST CREEK, COLUMBUS, NEBRASKA.

(a) MAXIMUM FEDERAL EXPENDITURE.—The maximum amount of Federal funds that may be allotted for the project for flood control, Lost Creek, Columbus, Nebraska, shall be $5,500,000.

(b) REVISION OF PROJECT COOPERATION AGREEMENT.—The Secretary shall revise the project cooperation agreement for the project referred to in subsection (a) to take into account the change in the Federal participation in such project pursuant to subsection (a).

SEC. 333. PASSAIC RIVER, NEW JERSEY.

Section 1148 of the Water Resources Development Act of 1986 (100 Stat. 4254) is amended to read as follows:

"SEC. 1148. PASSAIC RIVER BASIN.

"(a) ACQUISITION OF LANDS.—The Secretary may acquire from willing sellers lands on which residential structures are located and that are subject to frequent and recurring flood damage, as identified in the supplemental floodway report of the Corps of Engineers, Passaic River Buyout Study, September 1995, at an estimated total cost of $194,000,000.

"(b) RETENTION OF LANDS FOR FLOOD PROTECTION.—Lands acquired by the Secretary under this section shall be retained by the Secretary for future use in conjunction with flood protection and flood management in the Passaic River Basin.

"(c) COST SHARING.—The non-Federal share of the cost of carrying out this section shall be 25 percent plus any amount that might result from application of subsection (d).

"(d) APPLICABILITY OF BENEFIT-COST RATIO WAIVER AUTHORITY.—In evaluating and implementing the project under this section, the Secretary shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c), to the extent that the Secretary's evaluation indicates that applying such section is necessary to implement the project.".

SEC. 334. ACEQUIAS IRRIGATION SYSTEM, NEW MEXICO.

The second sentence of section 1113(b) of the Water Resources Development Act of 1986 (100 Stat. 4232) is amended by inserting before the period at the end the following: "; except that the Federal share of reconnaissance studies carried out by the Secretary under this section shall be 100 percent".

SEC. 335. JONES INLET, NEW YORK.

The project for navigation, Jones Inlet, New York, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 13), is modified to direct the Secretary to place uncontaminated dredged material on beach areas downdrift from the federally maintained channel to the extent that such work is necessary to mitigate the interruption of littoral system natural processes caused by the jetty and continued dredging of the federally maintained channel.

SEC. 336. BUFORD TRENTON IRRIGATION DISTRICT, NORTH DAKOTA.

(a) ACQUISITION OF EASEMENTS.—

(1) IN GENERAL.—The Secretary may acquire, from willing sellers, permanent flowage and saturation easements over—

(A) the land in Williams County, North Dakota, extending from the riverward margin of the Buford Trenton Irrigation District main canal to the north bank of the Missouri River, beginning at the Buford Trenton Irrigation District pumping station located in the NE¼ of section 17, T–152–N, R–104–W, and continuing northeasterly downstream to the land referred to as the East Bottom; and

(B) any other land outside the boundaries of the land described in subparagraph (A) within or contiguous to the boundaries of the Buford Trenton Irrigation District that has been affected by rising ground water and the risk of surface flooding.

(2) SCOPE.—Any easements acquired by the Secretary under paragraph (1) shall include the right, power, and privilege of the Federal Government to submerge, overflow, percolate, and saturate the surface and subsurface of the lands and such other terms and conditions as the Secretary considers appropriate.

(3) PAYMENT.—In acquiring easements under paragraph (1), the Secretary shall pay an amount based on the unaffected fee value of the lands to be acquired by the Federal Government. For the purpose of this paragraph, the unaffected fee value of the lands is the value of the lands as if the lands had not been affected by rising ground water and the risk of surface flooding.

(b) CONVEYANCE OF DRAINAGE PUMPS.—The Secretary shall—

(1) convey to the Buford Trenton Irrigation District all right, title, and interest of the United States in the drainage pumps located within the boundaries of the District; and

(2) provide a lump-sum payment of $60,000 for power requirements associated with the operation of the drainage pumps.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $34,000,000.

SEC. 337. RENO BEACH-HOWARDS FARM, OHIO.

The project for flood protection, Reno Beach-Howards Farm, Ohio, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1178), is modified to provide that the value of lands, easements, rights-of-way, and disposal areas that are necessary to carry out the project and are provided by the non-Federal interest shall be determined on the basis of the appraisal performed by the Corps of Engineers and dated April 4, 1985.

SEC. 338. BROKEN BOW LAKE, RED RIVER BASIN, OKLAHOMA.

The project for flood control and water supply, Broken Bow Lake, Red River Basin, Oklahoma, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 309) and modified by section 203 of the Flood Control Act of 1962 (76 Stat. 1187) and section 102(v) of the Water Resources Development Act of 1992 (106 Stat. 4808), is further modified to provide for the reallocation of a sufficient quantity of water supply storage space in Broken Bow Lake to support the Mountain Fork trout fishery. Releases *of water from Broken Bow Lake for the Mountain Fork trout fishery as mitigation for the loss of fish and wildlife resources in the Mountain Fork River shall be carried out at no expense to the State of Oklahoma.*

SEC. 339. WISTER LAKE PROJECT, LEFLORE COUNTY, OKLAHOMA.

The Secretary shall maintain a minimum conservation pool level of 478 feet at the Wister Lake project in LeFlore County, Oklahoma, authorized by section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1218). Notwithstanding title I of the Water Resources Development Act of 1986 (33 U.S.C. 2211 et seq.) or any other provision of law, any increase in water supply yield that results from the pool level of 478 feet shall be treated as unallocated water supply until such time as a user enters into a contract for the supply under such applicable laws concerning cost-sharing as are in effect on the date of the contract.

SEC. 340. BONNEVILLE LOCK AND DAM, COLUMBIA RIVER, OREGON AND WASHINGTON.

(a) In General.—The project for Bonneville Lock and Dam, Columbia River, Oregon and Washington, authorized by the Act of August 20, 1937 (50 Stat. 731), and modified by section 83 of the Water Resources Development Act of 1974 (88 Stat. 35), is further modified to authorize the Secretary to convey to the city of North Bonneville, Washington, at no further cost to the city, all right, title and interest of the United States in and to the following:

(1) Any municipal facilities, utilities fixtures, and equipment for the relocated city, and any remaining lands designated as open spaces or municipal lots not previously conveyed to the city, specifically, Lots M1 through M15, M16 (the "community center lot"), M18, M19, M22, M24, S42 through S45, and S52 through S60.

(2) The "school lot" described as Lot 2, block 5, on the plat of relocated North Bonneville.

(3) Parcels 2 and C, but only upon the completion of any environmental response actions required under applicable law.

(4) That portion of Parcel B lying south of the existing city boundary, west of the sewage treatment plant, and north of the drainage ditch that is located adjacent to the northerly limit of the Hamilton Island landfill, if the Secretary determines, at the time of the proposed conveyance, that the Department of the Army has taken all action necessary to protect human health and the environment.

(5) Such portions of Parcel H as can be conveyed without a requirement for further investigation, inventory, or other action by the Department of the Army under the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(6) Such easements as the Secretary considers necessary for—

(A) sewer and water line crossings of relocated Washington State Highway 14; and

(B) reasonable public access to the Columbia River across those portions of Hamilton Island that remain under the ownership of the United States.

(b) Time Period for Conveyances.—The conveyances referred to in subsections (a)(1), (a)(2), (a)(5), and (a)(6)(A) shall be completed within 180 days after the United States receives the release referred to in subsection (d). All other conveyances shall be completed expeditiously, subject to any conditions specified in the applicable subsection.

(c) Purpose.—The purpose of the conveyances authorized by subsection (a) is to resolve all outstanding issues between the United States and the city of North Bonneville.

(d) Acknowledgement of Payment; Release of Claims Relating to Relocation of City.—As a prerequisite to the conveyances authorized by subsection (a), the city of North Bonneville shall execute an acknowledgement of payment of just compensation and shall execute a release of any and all claims for relief of any kind against the United States arising out of the relocation of the city of North Bonneville, or any prior Federal legislation relating thereto, and shall dismiss, with prejudice, any pending litigation, if any, involving such matters.

(e) Release by Attorney General.—Upon receipt of the city's acknowledgment and release referred to in subsection (d), the Attorney General of the United States shall dismiss any pending litigation, if any, arising out of the relocation of the city of North Bonneville, and execute a release of any and all rights to damages of any kind under Town of North Bonneville, Washington v. United States, 11 Cl. Ct. 694, affirmed in part and reversed in part, 833 F.2d 1024 (Fed. Cir. 1987), cert. denied, 485 U.S. 1007 (1988), including any interest thereon.

(f) Acknowledgment of Entitlements; Release by City of Claims.—Within 60 days after the conveyances authorized by subsection (a) (other than paragraph (6)(B)) have been completed, the city shall execute an acknowledgement that all entitlements under such paragraph have been completed and shall execute a release of any and all claims for relief of any kind against the United States arising out of this section.

(g) Effects on City.—Beginning on the date of the enactment of this Act, the city of North Bonneville, or any successor in interest thereto, shall—

(1) be precluded from exercising any jurisdiction over any lands owned in whole or in part by the United States and administered by the Corps of Engineers in connection with the Bonneville project; and

(2) be authorized to change the zoning designations of, sell, or resell Parcels S35 and S56, which are presently designated as open spaces.

SEC. 341. COLUMBIA RIVER DREDGING, OREGON AND WASHINGTON.

The project for navigation, Lower Willamette and Columbia Rivers below Vancouver, Washington, and Portland, Oregon, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes", approved June 18, 1878 (20 Stat. 157), is modified to direct the Secretary—

(1) to conduct channel simulation and to carry out improvements to the existing deep draft channel between the mouth of the river and river mile 34 at a cost not to exceed $2,400,000; and

(2) to conduct overdepth and advance maintenance dredging that is necessary to maintain authorized channel dimensions.

SEC. 342. LACKAWANNA RIVER AT SCRANTON, PENNSYLVANIA.

(a) In General.—The project for flood control, Lackawanna River at Scranton, Pennsylvania, authorized by section 101(17) of the Water Resources Development Act of 1992 (106 Stat. 4803), is modified to direct the Secretary to carry out the project for flood control for the Plot and Green Ridge sections of the project.

(b) Applicability of Benefit-Cost Ratio Waiver Authority.—In evaluating and implementing the project, the Secretary shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1986 (100 Stat. 4184), to the extent that the Secretary's evaluation indicates that applying such section is necessary to implement the project.

SEC. 343. MUSSERS DAM, MIDDLE CREEK, SNYDER COUNTY, PENNSYLVANIA.

Section 209(e)(5) of the Water Resources Development Act of 1992 (106 Stat. 4830) is amended by striking "$3,000,000" and inserting "$5,000,000".

SEC. 344. SCHUYLKILL RIVER, PENNSYLVANIA.

The navigation project for the Schuylkill River, Pennsylvania, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 8, 1917 (40 Stat. 252), is modified to provide for the periodic removal and disposal of sediment to provide for a depth of 6 feet within portions of the Fairmount pool between the Fairmount Dam and the Columbia Bridge, generally within the limits of the channel alignments referred to as the Schuylkill River Racecourse and return lane, and the Belmont Water Works intakes and Boathouse Row.

SEC. 345. SOUTH CENTRAL PENNSYLVANIA.

(a) Cost Sharing.—Section 313(d)(3)(A) of the Water Resources Development Act of 1992 (106 Stat. 4846) is amended to read as follows:

"(A) In general.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be provided in the form of grants or reimbursements of project costs. The non-Federal interests shall receive credit—

"(i) for design and construction services and other in-kind work, whether occurring subsequent to, or within 6 years prior to, entering into an agreement with the Secretary; and

"(ii) for grants and the value of work performed on behalf of such interests by State and local agencies, as determined by the Secretary.".

(b) Authorization of Appropriations.—Section 313(g)(1) of such Act (106 Stat. 4846) is amended by striking "$50,000,000" and inserting "$80,000,000".

(c) Section Heading.—The heading to section 313 of such Act is amended to read as follows:

"SEC. 313. SOUTH CENTRAL PENNSYLVANIA ENVIRONMENT IMPROVEMENT PROGRAM.".

SEC. 346. WYOMING VALLEY, PENNSYLVANIA.

The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), is modified to authorize the Secretary—

(1) to include as part of the construction of the project mechanical and electrical upgrades to stormwater pumping stations in the Wyoming Valley; and

(2) to carry out mitigation measures that the Secretary would otherwise be authorized to carry out, but for the General Design Memorandum for phase II of the project, as approved by the Assistant Secretary of the Army having responsibility for civil works on February 15, 1996, providing that such measures are to be carried out for credit by the non-Federal interest.

SEC. 347. ALLENDALE DAM, NORTH PROVIDENCE, RHODE ISLAND.

The project for reconstruction of the Allendale Dam, North Providence, Rhode Island, authorized by section 358 of the Water Resources Development Act of 1992 (106 Stat. 4861), is modified to authorize the Secretary to reconstruct the dam, at a total cost of $350,000, with an estimated Federal cost of $262,500 and an estimated non-Federal cost of $87,500.

SEC. 348. NARRAGANSETT, RHODE ISLAND.

Section 361(a) of the Water Resources Development Act of 1992 (106 Stat. 4861) is amended—

(1) by striking "$200,000" and inserting "$1,900,000";

(2) by striking "$150,000" and inserting "$1,425,000"; and

(3) by striking "$50,000" and inserting "$475,000".

SEC. 349. CLOUTER CREEK DISPOSAL AREA, CHARLESTON, SOUTH CAROLINA.

(a) TRANSFER OF ADMINISTRATIVE JURISDICTION.—Notwithstanding any other law, the Secretary of the Navy shall transfer to the Secretary administrative jurisdiction over the approximately 1,400 acres of land under the jurisdiction of the Department of the Navy that comprise a portion of the Clouter Creek disposal area, Charleston, South Carolina.

(b) USE OF TRANSFERRED LAND.—The land transferred under subsection (a) shall be used by the Department of the Army as a dredged material disposal area for dredging activities in the vicinity of Charleston, South Carolina, including the Charleston Harbor navigation project.

(c) COST SHARING.—Operation and maintenance, including rehabilitation, of the dredged material disposal area transferred under this section shall be carried out in accordance with section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211).

SEC. 350. BUFFALO BAYOU, TEXAS.

The non-Federal interest for the projects for flood control, Buffalo Bayou and tributaries, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1258) and by section 101(a)(21) of the Water Resources Development Act of 1990 (104 Stat. 4610), may be reimbursed by up to $5,000,000 or may receive a credit of up to $5,000,000 toward required non-Federal project cost-sharing contributions for work performed by the non-Federal interest at each of the following locations if such work is compatible with 1 or more of the following authorized projects: White Oak Bayou, Brays Bayou, Hunting Bayou, Garners Bayou, and the Upper Reach on Greens Bayou.

SEC. 351. DALLAS FLOODWAY EXTENSION, DALLAS, TEXAS.

(a) IN GENERAL.—The project for flood control, Dallas Floodway Extension, Dallas, Texas, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1091), is modified to provide that flood protection works constructed by the non-Federal interests along the Trinity River in Dallas, Texas, for Rochester Park and the Central Wastewater Treatment Plant shall be included as a part of the project and the cost of such works shall be credited against the non-Federal share of project costs.

(b) DETERMINATION OF AMOUNT.—The amount to be credited under subsection (a) shall be determined by the Secretary. In determining such amount, the Secretary may permit credit only for that portion of the work performed by the non-Federal interests that is compatible with the project referred to in subsection (a), including any modification thereof, and that is required for construction of such project.

(c) CASH CONTRIBUTION.—Nothing in this section shall be construed to limit the applicability of the requirement contained in section 103(a)(1)(A) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(a)(1)(A)) to the project referred to in subsection (a).

SEC. 352. GRUNDY, VIRGINIA.

The Secretary shall proceed with planning, engineering, design, and construction of the Grundy, Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project, authorized by section 202 of the Energy and Water Development Appropriation Act, 1981 (94 Stat. 1339), in accordance with Plan 3A as set forth in the preliminary draft detailed project report of the Huntington District Commander, dated August 1993.

SEC. 353. HAYSI LAKE, VIRGINIA.

The Haysi Lake, Virginia, feature of the project for flood control, Tug Fork of the Big Sandy River, Kentucky, West Virginia, and Virginia, authorized pursuant to section 202(a) of the Energy and Water Development Appropriation Act, 1981 (94 Stat. 1339), is modified—

(1) to add recreation and fish and wildlife enhancement as project purposes;

(2) to direct the Secretary to construct the Haysi Dam feature of the project substantially in accordance with Plan A as set forth in the Draft General Plan Supplement Report for the Levisa Fork Basin, Virginia and Kentucky, dated May 1995;

(3) to direct the Secretary to apply section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m); 100 Stat. 4087) to the construction of such feature in the same manner as that section is applied to other projects or project features constructed pursuant to such section 202(a); and

(4) to provide for operation and maintenance of recreational facilities on a reimbursable basis.

SEC. 354. RUDEE INLET, VIRGINIA BEACH, VIRGINIA.

The project for navigation and shoreline protection, Rudee Inlet, Virginia Beach, Virginia, authorized by section 601(d) of the Water Resources Development Act of 1986 (100 Stat. 4148), is modified to authorize the Secretary to continue maintenance of the project for 50 years beginning on the date of initial construction of the project. The Federal share of the cost of such maintenance shall be determined in accordance with title I of the Water Resources Development Act of 1986 (33 U.S.C. 2211 et seq.).

SEC. 355. VIRGINIA BEACH, VIRGINIA.

(a) ADJUSTMENT OF NON-FEDERAL SHARE.—Notwithstanding any other provision of law, the non-Federal share of the costs of the project for beach erosion control and hurricane protection, Virginia Beach, Virginia, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4136), shall be reduced by $3,120,803 or by such amount as is determined by an audit carried out by the Department of the Army to be due to the city of Virginia Beach as reimbursement for beach nourishment activities carried out by the city between October 1, 1986, and September 30, 1993, if the Federal Government has not reimbursed the city for the activities prior to the date on which a project cooperation agreement is executed for the project.

(b) EXTENSION OF FEDERAL PARTICIPATION.—

(1) IN GENERAL.—In accordance with section 156 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d–5f), the Secretary shall extend Federal participation in the periodic nourishment of Virginia Beach as authorized by section 101 of the River and Harbor Act of 1954 (68 Stat. 1254) and modified by section 101 of the River and Harbor Act of 1962 (76 Stat. 1177).

(2) DURATION.—Federal participation under paragraph (1) shall extend until the earlier of—

(A) the end of the 50-year period provided for in section 156 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d–5f); and

(B) the completion of the project for beach erosion control and hurricane protection, Virginia Beach, Virginia, as modified by section 102(cc) of the Water Resources Development Act of 1992 (106 Stat. 4810).

SEC. 356. EAST WATERWAY, WASHINGTON.

The project for navigation, East and West Waterways, Seattle Harbor, Washington, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1919 (40 Stat. 1285), is modified to direct the Secretary—

(1) to expedite review of potential deepening of the channel in the East waterway from Elliott Bay to Terminal 25 to a depth of up to 51 feet; and

(2) if determined to be feasible, to implement such deepening as part of project maintenance. In carrying out work authorized by this section, the Secretary shall coordinate with the Port of Seattle regarding use of Slip 27 as a dredged material disposal area.

SEC. 357. BLUESTONE LAKE, WEST VIRGINIA.

Section 102(ff) of the Water Resources Development Act of 1992 (106 Stat. 4810) is amended by inserting after "project," the 1st place it appears "except for that organic matter necessary to maintain and enhance the biological resources of such waters and such nonobtrusive items of debris as may not be economically feasible to prevent being released through such project,".

SEC. 358. MOOREFIELD, WEST VIRGINIA.

(a) REVIEW.—The Secretary, as part of the implementation of the project for flood control, Moorefield, West Virginia, shall conduct a review of the activities of the Corps of Engineers to determine whether the failure of the Corps of Engineers to complete land acquisition for the project by May 1, 1996, contributed to any flood damages at the town of Moorefield during 1996.

(b) REDUCTION OF NON-FEDERAL SHARE.—To the extent the Secretary determines under subsection (a) that the activities of the Corps of Engineers contributed to any flood damages, the Secretary shall reduce the non-Federal share of the flood control project by up to $700,000. Such costs shall become a Federal responsibility for carrying out the flood control project.

SEC. 359. SOUTHERN WEST VIRGINIA.

(a) COST SHARING.—Section 340(c)(3) of the Water Resources Development Act of 1992 (106 Stat. 4856) is amended to read as follows:

"(3) COST SHARING.—

"(A) IN GENERAL.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be in the form of grants or reimbursements of project costs.

"(B) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest prior to entering into a local cooperation agreement with the Secretary for a project. The credit for such design work shall not exceed 6 percent of the total construction costs of the project.

"(C) CREDIT FOR INTEREST.—In the event of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of a project's cost.

"(D) CREDIT FOR LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of such project on publicly owned or controlled lands), but not to exceed 25 percent of total project costs.

"(E) OPERATION AND MAINTENANCE.—Operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent non-Federal.".

(b) FUNDING.—Section 340(g) of the Water Resources Development Act of 1992 (106 Stat. 4856) is amended by striking "$5,000,000" and inserting "$20,000,000".

SEC. 360. WEST VIRGINIA TRAILHEAD FACILITIES.

Section 306 of the Water Resources Development Act of 1992 (106 Stat. 4840–4841) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(2) by adding at the end the following:

"(b) INTERAGENCY AGREEMENT.—The Secretary shall enter into an interagency agreement with the Federal entity that provided assistance in the preparation of the study for the purposes of providing ongoing technical assistance and oversight for the trail facilities envisioned by the plan developed under this section. The Federal entity shall provide such assistance and oversight.".

SEC. 361. KICKAPOO RIVER, WISCONSIN.

(a) IN GENERAL.—The project for flood control and allied purposes, Kickapoo River, Wisconsin, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1190) and modified by section 814 of the Water Resources Development Act of 1986 (100 Stat. 4169), is further modified as provided by this section.

(b) TRANSFER OF PROPERTY.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary shall transfer to the State of Wisconsin, without consideration, all right, title, and interest of the United States to the lands described in paragraph (3), including all works, structures, and other improvements to such lands.

(2) TRANSFER TO SECRETARY OF THE INTERIOR.—Subject to the requirements of this subsection, on the date of the transfer under paragraph (1), the Secretary shall transfer to the Secretary of the Interior, without consideration, all right, title, and interest of the United States to lands that are culturally and religiously significant sites of the Ho-Chunk Nation (a federally recognized Indian tribe) and are located within the lands described in paragraph (3). Such lands shall be described in accordance with paragraph (4)(C) and may not exceed a total of 1,200 acres.

(3) LAND DESCRIPTION.—The lands to be transferred pursuant to paragraphs (1) and (2) are the approximately 8,569 acres of land associated with the LaFarge Dam and Lake portion of the project referred to in subsection (a) in Vernon County, Wisconsin, in the following sections:

(A) Section 31, Township 14 North, Range 1 West of the 4th Principal Meridian.

(B) Sections 2 through 11, and 16, 17, 20, and 21, Township 13 North, Range 2 West of the 4th Principal Meridian.

(C) Sections 15, 16, 21 through 24, 26, 27, 31, and 33 through 36, Township 14 North, Range 2 West of the 4th Principal Meridian.

(4) TERMS AND CONDITIONS.—

(A) HOLD HARMLESS; REIMBURSEMENT OF UNITED STATES.—The transfer under paragraph (1) shall be made on the condition that the State of Wisconsin enters into a written agreement with the Secretary to hold the United States harmless from all claims arising from or through the operation of the lands and improvements subject to the transfer. If title to the lands described in paragraph (3) is sold or transferred by the State, the State shall reimburse the United States for the price originally paid by the United States for purchasing such lands.

(B) IN GENERAL.—The Secretary shall make the transfers under paragraphs (1) and (2) only if on or before October 31, 1997, the State of Wisconsin enters into and submits to the Secretary a memorandum of understanding, as specified in subparagraph (C), with the tribal organization (as defined by section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l))) of the Ho-Chunk Nation.

(C) MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding referred to in subparagraph (B) shall contain, at a minimum, the following:

(i) A description of sites and associated lands to be transferred to the Secretary of the Interior under paragraph (2).

(ii) An agreement specifying that the lands transferred under paragraphs (1) and (2) shall be preserved in a natural state and developed only to the extent necessary to enhance outdoor recreational and educational opportunities.

(iii) An agreement specifying the terms and conditions of a plan for the management of the lands to be transferred under paragraphs (1) and (2).

(iv) A provision requiring a review of the plan referred to in clause (iii) to be conducted every 10 years under which the State of Wisconsin, acting through the Kickapoo Valley Governing Board, and the Ho-Chunk Nation may agree to revisions to the plan in order to address changed circumstances on the lands transferred under paragraph (2). Such provision may include a plan for the transfer by the State to the United States of any additional site discovered to be culturally and religiously significant to the Ho-Chunk Nation.

(v) An agreement preventing or limiting the public disclosure of the location or existence of each site of particular cultural or religious significance to the Ho-Chunk Nation if public disclosure would jeopardize the cultural or religious integrity of the site.

(5) ADMINISTRATION OF LANDS.—The lands transferred to the Secretary of the Interior under paragraph (2), and any lands transferred to the Secretary of the Interior under the memorandum of understanding entered into under paragraph (4), or under any revision of such memorandum of understanding, shall be held in trust by the United States for, and added to and administered as part of the reservation of, the Ho-Chunk Nation.

(6) TRANSFER OF FLOWAGE EASEMENTS.—The Secretary shall transfer to the owner of the servient estate, without consideration, all right, title, and interest of the United States in and to each flowage easement acquired as part of the project referred to in subsection (a) within Township 14 North, Range 2 West of the 4th Principal Meridian, Vernon County, Wisconsin.

(7) DEAUTHORIZATION.—Except as provided in subsection (c), the LaFarge Dam and Lake portion of the project referred to in subsection (a) is not authorized after the date of the transfer under this subsection.

(8) INTERIM MANAGEMENT AND MAINTENANCE.—The Secretary shall continue to manage and maintain the LaFarge Dam and Lake portion of the project referred to in subsection (a) until the date of the transfer under this subsection.

(c) COMPLETION OF PROJECT FEATURES.—

(1) REQUIREMENT.—The Secretary shall undertake the completion of the following features of the project referred to in subsection (a):

(A) The continued relocation of State highway route 131 and county highway routes P and F substantially in accordance with plans contained in Design Memorandum No. 6, Relocation-LaFarge Reservoir, dated June 1970; except that the relocation shall generally follow the existing road rights-of-way through the Kickapoo Valley.

(B) Site restoration of abandoned wells, farm sites, and safety modifications to the water control structures.

(2) ADDITIONAL REQUIREMENTS.—All activities undertaken pursuant to this subsection shall comply with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.), the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), and any subsequent Federal law enacted relating to cultural artifacts, human remains, or historic preservation.

(3) PARTICIPATION BY STATE OF WISCONSIN AND THE HO-CHUNK NATION.—In undertaking completion of the features under paragraph (1), the Secretary shall consult with the State of Wisconsin and the Ho-Chunk Nation on the location of each feature.

(d) FUNDING.—There is authorized to be appropriated to carry out this section $17,000,000.

SEC. 362. TETON COUNTY, WYOMING.

Section 840 of the Water Resources Development Act of 1986 (100 Stat. 4176) is amended—

(1) by striking ": Provided, That" and inserting "; except that";

(2) by striking "in cash or materials" and inserting ", through providing in-kind services or cash or materials,"; and

(3) by adding at the end the following: "In carrying out this section, the Secretary may enter into agreements with the non-Federal sponsor permitting the non-Federal sponsor to perform operation and maintenance for the project on a cost-reimbursable basis.".

SEC. 363. PROJECT REAUTHORIZATIONS.

(a) GRAND PRAIRIE REGION AND BAYOU METO BASIN, ARKANSAS.—The project for flood control, Grand Prairie Region and Bayou Meto Basin, Arkansas, authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 174) and deauthorized pursuant to section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary; except that the scope of the project includes ground water protection and conservation, agricultural water supply, and waterfowl management if the Secretary determines that the change in the scope of the project is technically sound, environmentally acceptable, and economic, as applicable.

(b) WHITE RIVER, ARKANSAS.—The project for navigation, White River Navigation to Batesville, Arkansas, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139) and deauthorized by section 52(b) of the Water Resources Development Act of 1988 (102 Stat. 4044), is authorized to be carried out by the Secretary.

(c) DES PLAINES RIVER, ILLINOIS.—The project for wetlands research, Des Plaines River, Illinois, authorized by section 45 of the Water Resources Development Act of 1988 (102 Stat. 4041) and deauthorized pursuant to section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

(d) ALPENA HARBOR, MICHIGAN.—The project for navigation, Alpena Harbor, Michigan, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090) and deauthorized pursuant to section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

(e) ONTONAGON HARBOR, ONTONAGON COUNTY, MICHIGAN.—The project for navigation, Ontonagon Harbor, Ontonagon County, Michigan, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1176) and deauthorized pursuant to section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

(f) KNIFE RIVER HARBOR, MINNESOTA.—The project for navigation, Knife River Harbor, Minnesota, authorized by section 100 of the Water Resources Development Act of 1974 (88 Stat. 41) and deauthorized pursuant to section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

(g) CLIFFWOOD BEACH, NEW JERSEY.—The project for hurricane-flood protection and beach erosion control on Raritan Bay and Sandy Hook Bay, New Jersey, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1181) and deauthorized pursuant to section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

SEC. 364. PROJECT DEAUTHORIZATIONS.

The following projects are not authorized after the date of the enactment of this Act:

(1) BRANFORD HARBOR, CONNECTICUT.—The 2,267 square foot portion of the project for navigation in the Branford River, Branford Harbor, Connecticut, authorized by the 1st section of the Act entitled "An Act making appropriations for

the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved June 13, 1902 (32 Stat. 333), lying shoreward of a line described as follows: Beginning at a point on the authorized Federal navigation channel line the coordinates of which are N156,181.32, E581,572.38, running thence south 70 degrees, 11 minutes, 8 seconds west a distance of 171.58 feet to another point on the authorized Federal navigation channel line the coordinates of which are N156,123.16, E581,410.96.

(2) BRIDGEPORT HARBOR, CONNECTICUT.—

(A) ANCHORAGE AREA.—The portion of the project for navigation, Bridgeport Harbor, Connecticut, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297), consisting of a 2-acre anchorage area with a depth of 6 feet at the head of Johnsons River between the Federal channel and Hollisters Dam.

(B) JOHNSONS RIVER CHANNEL.—The portion of the project for navigation, Johnsons River Channel, Bridgeport Harbor, Connecticut, authorized by the 1st section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 24, 1946 (60 Stat. 634), that is northerly of a line across the Federal channel the coordinates of which are north 123318.35, east 486301.68, and north 123257.15, east 486380.77.

(3) GUILFORD HARBOR, CONNECTICUT.—The portion of the project for navigation, Guilford Harbor, Connecticut, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 13), that consists of the 6-foot deep channel in Sluice Creek and that is not included in the following description of the realigned channel: Beginning at a point where the Sluice Creek Channel intersects with the main entrance channel, N159194.63, E623201.07, thence running north 24 degrees, 58 minutes, 15.2 seconds west 478.40 feet to a point N159628.31, E622999.11, thence running north 20 degrees, 18 minutes, 31.7 seconds west 351.53 feet to a point N159957.99, E622877.10, thence running north 69 degrees, 41 minutes, 37.9 seconds east 55.00 feet to a point N159977.08, E622928.69, thence turning and running south 20 degrees, 18 minutes, 31.0 seconds east 349.35 feet to a point N159649.45, E623049.94, thence turning and running south 24 degrees, 58 minutes, 11.1 seconds east 341.36 feet to a point N159340.00, E623194.04, thence turning and running south 90 degrees, 0 minutes, 0 seconds east 78.86 feet to a point N159340.00, E623272.90.

(4) MYSTIC RIVER, CONNECTICUT.—The following portion of the project for improving the Mystic River, Connecticut, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 4, 1913 (37 Stat. 802): Beginning in the 15-foot deep channel at coordinates north 190860.82, east 814416.20, thence running southeast about 52.01 feet to the coordinates north 190809.47, east 814424.49, thence running southwest about 34.02 feet to coordinates north 190780.46, east 814406.70, thence running north about 80.91 feet to the point of beginning.

(5) NORWALK HARBOR, CONNECTICUT.—

(A) IN GENERAL.—The following portions of projects for navigation, Norwalk Harbor, Connecticut:

(i) The portion authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1919 (40 Stat. 1276), that lies northerly of a line across the Federal channel having coordinates N104199.72, E417774.12 and N104155.59, E417628.96.

(ii) The portions of the 6-foot deep East Norwalk Channel and Anchorage, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 13), that are not included in the description of the realigned channel and anchorage set forth in subparagraph (B).

(B) DESCRIPTION OF REALIGNED CHANNEL AND ANCHORAGE.—The realigned 6-foot deep East Norwalk Channel and Anchorage referred to in subparagraph (A)(ii) is described as follows: Beginning at a point on the East Norwalk Channel, N95743.02, E419581.37, thence running northwesterly about 463.96 feet to a point N96197.93, E419490.18, thence running northwesterly about 549.32 feet to a point N96608.49, E419125.23, thence running northwesterly about 384.06 feet to a point N96965.94, E418984.75, thence running northwesterly about 407.26 feet to a point N97353.87, E418860.78, thence running westerly about 58.26 feet to a point N97336.26, E418805.24, thence running northwesterly about 70.99 feet to a point N97390.30, E418759.21, thence running westerly about 71.78 feet to a point on the anchorage limit N97405.26, E418689.01, thence running southerly along the western limits of the Federal anchorage in existence on the date of the enactment of this Act until reaching a point N95893.74, E419449.17, thence running in a southwesterly direction about 78.74 feet to a point on the East Norwalk Channel N95815.62, E419439.33.

(C) DESIGNATION OF REALIGNED CHANNEL AND ANCHORAGE.—All of the realigned channel shall be redesignated as an anchorage, with the exception of the portion of the channel that narrows to a width of 100 feet and terminates at a line the coordinates of which are N96456.81, E419260.06 and N96390.37, E419185.32, which shall remain as a channel.

(6) PATCHOGUE RIVER, WESTBROOK, CONNECTICUT.—

(A) IN GENERAL.—The following portion of the project for navigation, Patchogue River, Connecticut, authorized by section 101 of the River and Harbor Act of 1954 (68 Stat. 1249): A portion of the 8-foot deep channel that lies northwesterly of a line whose coordinates are N161108.83, E676901.34 and N161246.53, E677103.75. The perimeter of this area starts at a point with coordinates N161108.83, E676901.34, thence running north 7 degrees, 50 minutes, 44.2 seconds west 27.91 feet to a point N161136.48, E676897.53, thence running north 55 degrees, 46 minutes, 23.3 seconds east 190.05 feet to a point N161243.38, E677054.67, thence running north 86 degrees, 19 minutes, 39.9 seconds east 49.18 feet to a point N161246.53, E677103.75, thence running south 55 degrees, 46 minutes, 20.8 seconds west 244.81 feet to the point of origin.

(B) REDESIGNATION.—The portion of the project for navigation, Patchogue River, Connecticut, referred to in subparagraph (A), which is now part of the 8-foot deep anchorage lying northwesterly of a line whose coordinates are N161067.46, E676982.76 and N161173.63, E677138.81, is redesignated as part of the 8-foot deep channel. The perimeter of this area starts at a point with coordinates N161067.46, E676982.76, thence running north 7 degrees, 48 minutes, 40.7 seconds west 5.59 feet to a point N161073.00, E676982.00, thence running north 55 degrees, 46 minutes, 25.1 seconds east 177.79 feet to a point N161173.00, E677129.00, thence running north 86 degrees, 19 minutes, 31.8 seconds east 9.83 feet to a point N161173.63, E677138.81, thence running south 55 degrees, 46 minutes, 12.9 seconds west 188.74 feet to the point of origin.

(7) SOUTHPORT HARBOR, CONNECTICUT.—

(A) IN GENERAL.—The following portions of the project for navigation, Southport Harbor, Connecticut, authorized by the 1st section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1029):

(i) The 6-foot deep anchorage located at the head of the project.

(ii) The portion of the 9-foot deep channel beginning at a bend in the channel the coordinates of which are north 109131.16, east 452653.32, running thence in a northeasterly direction about 943.01 feet to a point the coordinates of which are north 109635.22, east 453450.31, running thence in a southeasterly direction about 22.66 feet to a point the coordinates of which are north 109617.15, east 453463.98, running thence in a southwesterly direction about 945.18 feet to the point of beginning.

(B) REMAINDER.—The portion of the project referred to in subparagraph (A) that is remaining after the deauthorization made by subparagraph (A) and that is northerly of a line the coordinates of which are north 108699.15, east 452768.36, and north 108655.66, east 452858.73, is redesignated as an anchorage.

(8) STONY CREEK, CONNECTICUT.—The following portion of the project for navigation, Stony Creek, Connecticut, authorized under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), located in the 6-foot deep maneuvering basin: Beginning at coordinates N157,031.91, E599,030.79, thence running northeasterly about 221.16 feet to coordinates N157,191.06, E599,184.37, thence running northerly about 162.60 feet to coordinates N157,353.56, E599,189.99, thence running southwesterly about 358.90 feet to the point of beginning.

(9) EAST BOOTHBAY HARBOR, MAINE.—The following portion of the navigation project for East Boothbay Harbor, Maine, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved June 25, 1910 (36 Stat. 657), containing approximately 1.15 acres and described in accordance with the Maine State Coordinate System, West Zone:

Beginning at a point noted as point number 6 and shown as having plan coordinates of North 9, 722, East 9, 909, on the plan entitled, "East Boothbay Harbor, Maine, examination, 8-foot area", and dated August 9, 1955, Drawing Number F1251 D–6–2, that point having Maine State Coordinate System, West Zone coordinates of Northing 74514, Easting 698381.

Thence, North 58 degrees, 12 minutes, 30 seconds East a distance of 120.9 feet to a point.

Thence, South 72 degrees, 21 minutes, 50 seconds East a distance of 106.2 feet to a point.

Thence, South 32 degrees, 04 minutes, 55 seconds East a distance of 218.9 feet to a point.

Thence, South 61 degrees, 29 minutes, 40 seconds West a distance of 148.9 feet to a point.

Thence, North 35 degrees, 14 minutes, 12 seconds West a distance of 87.5 feet to a point.

Thence, North 78 degrees, 30 minutes, 58 seconds West a distance of 68.4 feet to a point.

Thence, North 27 degrees, 11 minutes, 39 seconds West a distance of 157.3 feet to the point of beginning.

(10) KENNEBUNK RIVER, MAINE.—The portion of the project for navigation, Kennebunk River, Maine, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173) and consisting of a 6-foot deep channel that lies northerly of a line the coordinates of which are N191412.53, E417265.28 and N191445.83, E417332.48.

(11) YORK HARBOR, MAINE.—The following portions of the project for navigation, York Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480):

(A) The portion located in the 8-foot deep anchorage area beginning at coordinates N109340.19, E372066.93, thence running north 65 degrees, 12 minutes, 10.5 seconds east 423.27 feet to a point N109517.71, E372451.17, thence running north 28 degrees, 42 minutes, 58.3 seconds west 11.68 feet to a point N109527.95, E372445.56, thence running south 63 degrees, 37 minutes, 24.6 seconds west 422.63 feet to the point of beginning.

(B) The portion located in the 8-foot deep anchorage area beginning at coordinates N108557.24, E371645.88, thence running south 60 degrees, 41 minutes, 17.2 seconds east 484.51 feet to a point N108320.04, E372068.36, thence running north 29 degrees, 12 minutes, 53.3 seconds east 15.28 feet to a point N108333.38, E372075.82, thence running north 62 degrees, 29 minutes, 42.1 seconds west 484.73 feet to the point of beginning.

(12) CHELSEA RIVER, BOSTON HARBOR, MASSACHUSETTS.—The following portion of the project for navigation, Boston Harbor, Massachusetts, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173), consisting of a 35-foot deep channel in the Chelsea River: Beginning at a point on the northern limit of the existing project N505357.84, E724519.19, thence running northeasterly about 384.19 feet along the northern limit of the existing project to a bend on the northern limit of the existing project N505526.87, E724864.20, thence running southeasterly about 368.00 feet along the northern limit of the existing project to another point N505404.77, E725211.35, thence running westerly about 594.53 feet to a point N505376.12, E724617.51, thence running southwesterly about 100.00 feet to the point of origin.

(13) COHASSET HARBOR, MASSACHUSETTS.—The following portions of the project for navigation, Cohasset Harbor, Massachusetts, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 12), and authorized pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577): A 7-foot deep anchorage and a 6-foot deep anchorage; beginning at site 1, beginning at a point N453510.15, E792664.63, thence running south 53 degrees 07 minutes 05.4 seconds west 307.00 feet to a point N453325.90, E792419.07, thence running north 57 degrees 56 minutes 36.8 seconds west 201.00 feet to a point N453432.58, E792248.72, thence running south 88 degrees 57 minutes 25.6 seconds west 50.00 feet to a point N453431.67, E792198.73, thence running north 01 degree 02 minutes 52.3 seconds west 66.71 feet to a point N453498.37, E792197.51, thence running north 69 degrees 12 minutes 52.3 seconds east 332.32 feet to a point N453616.30, E792508.20, thence running south 55 degrees 50 minutes 24.1 seconds east 189.05 feet to the point of origin; then site 2, beginning at a point, N452886.64, E791287.83, thence running south 00 degrees 00 minutes 00.0 seconds west 56.04 feet to a point, N452830.60, E791287.83, thence running north 90 degrees 00 minutes 00.0 seconds west 101.92 feet to a point, N452830.60, E791185.91, thence running north 52 degrees 12 minutes 49.7 seconds east 89.42 feet to a point, N452885.39, E791256.58, thence running north 87 degrees 42 minutes 33.8 seconds east 31.28 feet to the point of origin; and site 3, beginning at a point, N452261.08, E792040.24, thence running north 89 degrees 07 minutes 19.5 seconds east 118.78 feet to a point, N452262.90, E792159.01, thence running south 43 degrees 39 minutes 06.8 seconds west 40.27 feet to a point, N452233.76, E792131.21, thence running north 74 degrees 33 minutes 29.1 seconds west 94.42 feet to a point, N452258.90, E792040.20, thence running north 01 degree 03 minutes 04.3 seconds east 2.18 feet to the point of origin.

(14) FALMOUTH, MASSACHUSETTS.—

(A) DEAUTHORIZATIONS.—The following portions of the project for navigation, Falmouth Harbor, Massachusetts, authorized by section 101 of the River and Harbor Act of 1948 (62 Stat. 1172):

(i) The portion commencing at a point north 199286.37 east 844394.81 a line running north 73 degrees 09 minutes 29 seconds east 440.34 feet to a point north 199413.99 east 844816.36, thence turning and running north 43 degrees 09 minutes 34.5 seconds east 119.99 feet to a point north 199501.52 east 844898.44, thence turning and running south 66 degrees 52 minutes 03.5 seconds east 547.66 feet returning to a point north 199286.41 east 844394.91.

(ii) The portion commencing at a point north 199647.41 east 845035.25 a line running north 43 degrees 09 minutes 33.1 seconds east 767.15 feet to a point north 200207.01 east 845560.00, thence turning and running north 11 degrees 04 minutes 24.3 seconds west 380.08 feet to a point north 200580.01 east 845487.00, thence turning and running north 22 degrees 05 minutes 50.8 seconds east 1332.36 feet to a point north 201814.50 east 845988.21, thence turning and running north 02 degrees 54 minutes 15.7 seconds east 15.0 feet to a point north 201829.48 east 845988.97, thence turning and running south 24 degrees 56 minutes 42.3 seconds west 1410.29 feet returning to the point north 200550.75 east 845394.18.

(B) REDESIGNATION.—The portion of the project for navigation, Falmouth, Massachusetts, referred to in subparagraph (A) upstream of a line designated by the 2 points north 199463.18 east 844496.40 and north 199350.36 east 844544.60 is redesignated as an anchorage area.

(15) MYSTIC RIVER, MASSACHUSETTS.—The following portion of the project for navigation, Mystic River, Massachusetts, authorized by section 101 of the River and Harbor Act of 1950 (64 Stat. 164): The 35-foot deep channel beginning at a point on the northern limit of the existing project, N506243.78, E717600.27, thence running easterly about 1000.00 feet along the northern limit of the existing project to a point, N506083.42, E718587.33, thence running southerly about 40.00 feet to a point, N506043.94, E718580.91, thence running westerly about 1000.00 feet to a point, N506204.29, E717593.85, thence running northerly about 40.00 feet to the point of origin.

(16) RESERVED CHANNEL, BOSTON, MASSACHUSETTS.—The portion of the project for navigation, Reserved Channel, Boston, Massachusetts, authorized by section 101(a)(13) of the Water Resources Development Act of 1990 (104 Stat. 4607), that consists of a 40-foot deep channel beginning at a point along the southern limit of the authorized project, N489391.22, E728246.54, thence running northerly about 54 feet to a point, N489445.53, E728244.97, thence running easterly about 2,926 feet to a point, N489527.38, E731170.41, thence running southeasterly about 81 feet to a point, N489474.87, E731232.55, thence running westerly about 2,987 feet to the point of origin.

(17) WEYMOUTH-FORE AND TOWN RIVERS, MASSACHUSETTS.—The following portions of the project for navigation, Weymouth-Fore and Town Rivers, Boston Harbor, Massachusetts, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1089):

(A) The 35-foot deep channel beginning at a bend on the southern limit of the existing project, N457394.01, E741109.74, thence running westerly about 405.25 feet to a point, N457334.64, E740708.86, thence running southwesterly about 462.60 feet to another bend in the southern limit of the existing project, N457132.00, E740293.00, thence running northeasterly about 857.74 feet along the southern limit of the existing project to the point of origin.

(B) The 15 and 35-foot deep channels beginning at a point on the southern limit of the existing project, N457163.41, E739903.49, thence running northerly about 111.99 feet to a point, N457275.37, E739900.76, thence running westerly about 692.37 feet to a point N457303.40, E739208.96, thence running southwesterly about 190.01 feet to another point on the southern limit of the existing project, N457233.17, E739032.41, thence running easterly about 873.87 feet along the southern limit of the existing project to the point of origin.

(18) COCHECO RIVER, NEW HAMPSHIRE.—

(A) IN GENERAL.—The portion of the project for navigation, Cocheco River, New Hampshire, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved September 19, 1890 (26 Stat. 436), and consisting of a 7-foot deep channel that lies northerly of a line the coordinates of which are N255292.31, E713095.36, and N255334.51, E713138.01.

(B) MAINTENANCE DREDGING.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall perform maintenance dredging for the remaining authorized portions of the Federal navigation channel under the project described in subparagraph (A) to restore authorized channel dimensions.

(19) MORRISTOWN HARBOR, NEW YORK.—The portion of the project for navigation, Morristown Harbor, New York, authorized by the 1st section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved January 21, 1927 (44 Stat. 1014), that lies north of the northern boundary of Morris Street extended.

(20) OSWEGATCHIE RIVER, OGDENSBURG, NEW YORK.—The portion of the Federal channel of the project for navigation, Ogdensburg Harbor, New York, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved June 25, 1910 (36 Stat. 635), and modified by the 1st section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1037), that is in the Oswegatchie River in Ogdensburg, New York, from the southernmost alignment of the Route 68 bridge upstream to the northernmost alignment of the Lake Street bridge.

(21) CONNEAUT HARBOR, OHIO.—The most southerly 300 feet of the 1,670-foot long Shore Arm of the project for navigation, Conneaut Harbor, Ohio, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved June 25, 1910 (36 Stat. 653).

(22) LORAIN SMALL BOAT BASIN, LAKE ERIE, OHIO.—The portion of the Federal navigation channel, Lorain Small Boat Basin, Lake Erie, Ohio, authorized pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) that is situated in the State of Ohio, County of Lorain, Township of Black River and is a part of Original Black River Township Lot Number 1, Tract Number 1, further known as being submerged lands of Lake Erie owned by the State of Ohio, and that is more definitely described as follows:

Commencing at a drill hole found on the centerline of Lakeside Avenue (60 feet in width) at the intersection of the centerline of the East

Shorearm of Lorain Harbor, that point being known as United States Corps of Engineers Monument No. 203 (N658012.20, E208953.88).

Thence, in a line north 75 degrees 26 minutes 12 seconds west, a distance of 387.87 feet to a point (N658109.73, E2089163.47). This point is hereinafter in this paragraph referred to as the "principal point of beginning".

Thence, north 58 degrees 14 minutes 11 seconds west, a distance of 50.00 feet to a point (N658136.05, E2089120.96).

Thence, south 67 degrees 49 minutes 32 seconds west, a distance of 665.16 feet to a point (N657885.00, E2088505.00).

Thence, north 88 degrees 13 minutes 52 seconds west, a distance of 551.38 feet to a point (N657902.02, E2087953.88).

Thence, north 29 degrees 17 minutes 42 seconds east, a distance of 114.18 feet to a point (N658001.60, E2088009.75).

Thence, south 88 degrees 11 minutes 40 seconds east, a distance of 477.00 feet to a point (N657986.57, E2088486.51).

Thence, north 68 degrees 11 minutes 06 seconds east, a distance of 601.95 feet to a point (N658210.26, E2089045.35).

Thence, north 35 degrees 11 minutes 34 seconds east, a distance of 89.58 feet to a point (N658283.47, E2089096.98).

Thence, south 20 degrees 56 minutes 30 seconds east, a distance of 186.03 feet to the principal point of beginning (N658109.73, E2089163.47) and containing within such bounds 2.81 acres, more or less, of submerged land.

(23) APPONAUG COVE, RHODE ISLAND.—The following portion of the project for navigation, Apponaug Cove, Rhode Island, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), consisting of the 6-foot deep channel: Beginning at a point, N223269.93, E513089.12, thence running northwesterly to a point N223348.31, E512799.54, thence running southwesterly to a point N223251.78, E512773.41, thence running southeasterly to a point N223178.00, E513046.00, thence running northeasterly to the point of beginning.

(24) PORT WASHINGTON HARBOR, WISCONSIN.—The following portion of the navigation project for Port Washington Harbor, Wisconsin, authorized by the 1st section of the Act entitled "An Act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, for the fiscal year ending June thirtieth, eighteen hundred and seventy-one", approved July 11, 1870 (16 Stat. 223): Beginning at the northwest corner of the project at Channel Pt. No. 36, of the Federal Navigation Project, Port Washington Harbor, Ozaukee County, Wisconsin, at coordinates N513529.68, E2535215.64, thence 188 degrees 31 minutes 59 seconds, a distance of 178.32 feet, thence 196 degrees 47 minutes 17 seconds, a distance of 574.80 feet, thence 270 degrees 58 minutes 25 seconds, a distance of 465.50 feet, thence 178 degrees 56 minutes 17 seconds, a distance of 130.05 feet, thence 87 degrees 17 minutes 05 seconds, a distance of 510.22 feet, thence 104 degrees 58 minutes 31 seconds, a distance of 178.33 feet, thence 115 degrees 47 minutes 55 seconds, a distance of 244.15 feet, thence 25 degrees 12 minutes 08 seconds, a distance of 310.00 feet, thence 294 degrees 46 minutes 50 seconds, a distance of 390.20 feet, thence 16 degrees 56 minutes 16 seconds, a distance of 570.90 feet, thence 266 degrees 01 minutes 25 seconds, a distance of 190.78 feet to Channel Pt. No. 36, the point of beginning.

SEC. 365. MISSISSIPPI DELTA REGION, LOUISIANA.

The Mississippi Delta Region project, Louisiana, authorized as part of the project for hurricane-flood protection on Lake Pontchartrain, Louisiana, by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to direct the Secretary to provide a credit to the State of Louisiana toward its non-Federal share of the cost of the project. The credit shall be for the cost incurred by the State in developing and relocating oyster beds to offset the adverse impacts on active and productive oyster beds in the Davis Pond project area. The credit shall be subject to such terms and conditions as the Secretary deems necessary and shall not exceed $7,500,000.

SEC. 587. MONONGAHELA RIVER, PENNSYLVANIA.

The Secretary may make available to the Southwestern Pennsylvania Growth Fund (a regional industrial development corporation) at no additional cost to the United States, dredged and excavated materials resulting from construction of the new gated dam at Braddock, Pennsylvania, as part of the Locks and Dams 2, 3, and 4, Monongahela River, Pennsylvania, navigation project, to support environmental restoration of the former United States Steel Duquesne Works brownfield site—

(1) if the Pennsylvania Department of Environmental Protection issues a "no further action" decision or a mitigation plan for the site prior to a determination by the District Engineer, Pittsburgh District, that the dredged and excavated materials are available; and

(2) if the Southwestern Pennsylvania Growth Fund agrees to hold and save the United States free from damages in connection with use of the dredged and excavated materials, except for damages due to the fault or negligence of the United States or its contractors.

TITLE IV—STUDIES

SEC. 401. CORPS CAPABILITY STUDY, ALASKA.

Not later than 18 months after the date of the enactment of this Act, the Secretary shall report to Congress on the advisability and capability of the Corps of Engineers to implement rural sanitation projects for rural and Native villages in Alaska.

SEC. 402. RED RIVER, ARKANSAS.

The Secretary shall—

(1) conduct a study to determine the feasibility of carrying out a project to permit navigation on the Red River in southwest Arkansas; and

(2) in conducting the study, analyze economic benefits that were not included in the limited economic analysis contained in the reconnaissance report for the project dated November 1995.

SEC. 403. MCDOWELL MOUNTAIN, ARIZONA.

The Secretary shall credit toward the non-Federal share of the cost of the feasibility study on the McDowell Mountain, Arizona, project an amount equal to the cost of work performed by the city of Scottsdale, Arizona, and accomplished prior to the city's entering into an agreement with the Secretary if the Secretary determines that the work is necessary for the study.

SEC. 404. NOGALES WASH AND TRIBUTARIES, ARIZONA.

(a) STUDY.—The Secretary shall conduct a study of the relationship of flooding in Nogales, Arizona, and floodflows emanating from Mexico.

(b) REPORT.—The Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with recommendations concerning the appropriate level of non-Federal participation in the project for flood control, Nogales Wash and tributaries, Arizona, authorized by section 101(a)(4) of the Water Resources Development Act of 1990 (104 Stat. 4606).

SEC. 405. GARDEN GROVE, CALIFORNIA.

The Secretary shall conduct a study to assess the feasibility of implementing improvements in the regional flood control system within Garden Grove, California.

SEC. 406. MUGU LAGOON, CALIFORNIA.

(a) STUDY.—The Secretary shall conduct a study of the environmental impacts associated with sediment transport, floodflows, and upstream watershed land use practices on Mugu Lagoon, California. The study shall include an evaluation of alternatives for the restoration of the estuarine ecosystem functions and values associated with Mugu Lagoon and the endangered and threatened species inhabiting the area.

(b) CONSULTATION AND COORDINATION.—In conducting the study, the Secretary shall consult with the Secretary of the Navy and shall coordinate with State and local resource agencies to ensure that the study is compatible with restoration efforts for the Calleguas Creek watershed.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

SEC. 407. MURRIETA CREEK, RIVERSIDE COUNTY, CALIFORNIA.

The Secretary shall review the completed feasibility study of the Riverside County Flood Control and Water Conservation District, including identified alternatives, concerning Murrieta Creek from Temecula to Wildomar, Riverside County, California, to determine the Federal interest in participating in a project for flood control.

SEC. 408. PINE FLAT DAM FISH AND WILDLIFE HABITAT RESTORATION, CALIFORNIA.

The Secretary shall study the advisability of fish and wildlife habitat improvement measures identified for further study by the Pine Flat Dam Fish and Wildlife Habitat Restoration Investigation Reconnaissance Report.

SEC. 409. SANTA YNEZ, CALIFORNIA.

(a) PLANNING.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall prepare a comprehensive river basin management plan addressing the long term ecological, economic, and flood control needs of the Santa Ynez River basin, California. In preparing such plan, the Secretary shall consult with the Santa Barbara Flood Control District and other affected local governmental entities.

(b) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to the Santa Barbara Flood Control District with respect to implementation of the plan to be prepared under subsection (a).

SEC. 410. SOUTHERN CALIFORNIA INFRASTRUCTURE.

(a) ASSISTANCE.—Section 116(d)(1) of the Water Resources Development Act of 1990 (104 Stat. 4623) is amended—

(1) in the heading of paragraph (1) by inserting "AND ASSISTANCE" after "STUDY"; and

(2) by adding at the end the following: "In addition, the Secretary shall provide technical assistance to non-Federal interests in developing potential infrastructure projects. The non-Federal share of the cost of the technical assistance shall be 25 percent.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 116(d)(3) of such Act is amended by striking "$1,500,000" and inserting "$3,000,000".

SEC. 411. STOCKTON, CALIFORNIA.

(a) BEAR CREEK DRAINAGE AND MORMON SLOUGH/CALAVERAS RIVER.—The Secretary shall conduct a review of the Bear Creek Drainage, San Joaquin County, California, and the Mormon Slough/Calaveras River, California, projects for flood control authorized by section 10 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 901), to develop a comprehensive plan for additional flood damage reduction measures for the *city of Stockton, California, and surrounding areas.*

(b) FARMINGTON DAM, CALIFORNIA.—

(1) CONJUNCTIVE USE STUDY.—The Secretary shall continue participation in the Stockton, California, Metropolitan Area Flood Control Study, including an evaluation of the feasibility of storage of water at Farmington Dam and implementation of a conjunctive use plan.

(2) CONSULTATION.—In conducting the study, the Secretary shall consult with the Stockton East Water District concerning joint operation or potential transfer of Farmington Dam.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress—

(A) concerning the feasibility of a conjunctive use plan using Farmington Dam for water storage; and

(B) containing recommendations on facility transfers and operational alternatives.

(4) WITHOUT PROJECT CONDITION.—In conducting the Stockton, California, Metropolitan Area Flood Control Study, the Secretary shall consider the physical flood control and water supply facilities as they existed in January 1996 as the "without project" condition.

SEC. 412. YOLO BYPASS, SACRAMENTO-SAN JOAQUIN DELTA, CALIFORNIA.

The Secretary shall study the advisability of acquiring land in the vicinity of the Yolo Bypass in the Sacramento-San Joaquin Delta, California, for the purpose of environmental mitigation for the flood control project for Sacramento, California, and other water resources projects in the area.

SEC. 413. WEST DADE, FLORIDA.

The Secretary shall conduct a reconnaissance study to determine the Federal interest in using the West Dade, Florida, reuse facility to improve water quality in, and increase the supply of surface water to, the Everglades in order to enhance fish and wildlife habitat.

SEC. 414. SAVANNAH RIVER BASIN COMPREHENSIVE WATER RESOURCES STUDY.

(a) IN GENERAL.—The Secretary shall conduct a comprehensive study to address the current and future needs for flood damage prevention and reduction, water supply, and other related water resources needs in the Savannah River Basin.

(b) SCOPE.—The scope of the study shall be limited to an analysis of water resources issues that fall within the traditional civil works mission of the Corps of Engineers.

(c) COORDINATION.—Notwithstanding subsection (b), the Secretary shall ensure that the study is coordinated with the Environmental Protection Agency and the ongoing watershed study of the Savannah River Basin by the Agency.

SEC. 415. CHAIN OF ROCKS CANAL, ILLINOIS.

The Secretary shall complete a limited reevaluation of the authorized St. Louis Harbor Project in the vicinity of the Chain of Rocks Canal, Illinois, consistent with the authorized purposes of that project, to include evacuation of waters collecting on the land side of the Chain of Rocks Canal East Levee.

SEC. 416. QUINCY, ILLINOIS.

(a) STUDY.—The Secretary shall study and evaluate the critical water infrastructure of the Fabius River Drainage District, the South Quincy Drainage and Levee District, the Sny Island Levee Drainage District, and the city of Quincy, Illinois—

(1) to determine if additional flood protection needs of such infrastructure should be identified or implemented;

(2) to develop a definition of critical water infrastructure;

(3) to develop evaluation criteria; and

(4) to enhance existing geographic information system databases to encompass relevant data that identify critical water infrastructure for use in emergencies and in routine operation and maintenance activities.

(b) CONSIDERATION OF OTHER STUDIES.—In conducting the study under this section, the Secretary shall consider the recommendations of the Interagency Floodplain Management Committee Report, the findings of the Floodplain Management Assessment of the Upper Mississippi River and Lower Missouri Rivers and Tributaries, and other relevant studies and findings.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study, together with recommendations regarding each of the objectives of the study described in paragraphs (1) through (4) of subsection (a).

SEC. 417. SPRINGFIELD, ILLINOIS.

The Secretary shall provide assistance to the city of Springfield, Illinois, in developing—

(1) an environmental impact statement for the proposed development of a water supply reservoir, including the preparation of necessary documentation in support of the environmental impact statement; and

(2) an evaluation of the technical, economic, and environmental impacts of such development.

SEC. 418. BEAUTY CREEK WATERSHED, VALPARAISO CITY, PORTER COUNTY, INDIANA.

The Secretary shall conduct a study to assess the feasibility of implementing streambank erosion control measures and flood control measures within the Beauty Creek watershed, Valparaiso City, Porter County, Indiana.

SEC. 419. GRAND CALUMET RIVER, HAMMOND, INDIANA.

(a) STUDY.—The Secretary shall conduct a study to establish a methodology and schedule to restore the wetlands at Wolf Lake and George Lake in Hammond, Indiana.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).

SEC. 420. INDIANA HARBOR CANAL, EAST CHICAGO, LAKE COUNTY, INDIANA.

The Secretary shall conduct a study of the feasibility of including environmental and recreational features, including a vegetation buffer, as part of the project for navigation, Indiana Harbor Canal, East Chicago, Lake County, Indiana, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved June 25, 1910 (36 Stat. 657).

SEC. 421. KOONTZ LAKE, INDIANA.

The Secretary shall conduct a study of the feasibility of implementing measures to restore Koontz Lake, Indiana, including measures to remove silt, sediment, nutrients, aquatic growth, and other noxious materials from Koontz Lake, measures to improve public access facilities to Koontz Lake, and measures to prevent or abate the deposit of sediments and nutrients in Koontz Lake.

SEC. 422. LITTLE CALUMET RIVER, INDIANA.

(a) STUDY.—The Secretary shall conduct a study of the impacts of the project for flood control, Little Calumet River, Indiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115), on flooding and water quality in the vicinity of the Black Oak area of Gary, Indiana.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with recommendations for cost-effective remediation of impacts described in subsection (a).

(c) FEDERAL SHARE.—The Federal share of the cost of the study to be conducted under subsection (a) shall be 100 percent.

SEC. 423. TIPPECANOE RIVER WATERSHED, INDIANA.

(a) STUDY.—The Secretary shall conduct a study of water quality and environmental restoration needs in the Tippecanoe River watershed, Indiana, including measures necessary to reduce siltation in Lake Shafer and Lake Freeman.

(b) ASSISTANCE.—The Secretary shall provide technical, planning, and design assistance to the Shafer and Freeman Lakes Environmental Conservation Corporation in addressing potential environmental restoration activities determined appropriate as a result of the study conducted under subsection (a).

SEC. 424. CALCASIEU RIVER, HACKBERRY, LOUISIANA.

The Secretary shall incorporate the portion of the Calcasieu River in the vicinity of Hackberry, Louisiana, as part of the overall study of the Lake Charles ship channel, bypass channel, and general anchorage area in Louisiana, to explore the possibility of constructing additional anchorage areas.

SEC. 425. MORGANZA, LOUISIANA, TO GULF OF MEXICO.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the environmental, flood control, and navigational impacts associated with the construction of a lock structure in the Houma Navigation Canal as an independent feature of the overall flood damage prevention study being conducted under the Morganza, Louisiana, to the Gulf of Mexico feasibility study.

(2) CONSIDERATIONS.—In conducting the study under paragraph (1), the Secretary shall—

(A) consult with the South Terrebonne Tidewater Management and Conservation District and consider the District's Preliminary Design Document dated February 1994; and

(B) evaluate the findings of the Louisiana Coastal Wetlands Conservation and Restoration Task Force, established under the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3951 et seq), relating to the lock structure.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with recommendations for immediate implementation of the study.

SEC. 426. HURON RIVER, MICHIGAN.

The Secretary shall conduct a study to determine the feasibility of and need for channel improvements and associated modifications for the purpose of providing a harbor of refuge at Huron River, Michigan.

SEC. 427. CITY OF NORTH LAS VEGAS, CLARK COUNTY, NEVADA.

The Secretary shall conduct a reconnaissance study to determine the Federal interest in channel improvements in channel A of the North Las Vegas Wash in the city of North Las Vegas, Clark County, Nevada, for the purpose of flood control.

SEC. 428. LOWER LAS VEGAS WASH WETLANDS, CLARK COUNTY, NEVADA.

The Secretary shall conduct a study to determine the advisability of wetland restoration and the feasibility of erosion control in the Lower Las Vegas Wash, Nevada.

SEC. 429. NORTHERN NEVADA.

The Secretary shall conduct reconnaissance studies, in the State of Nevada, of—

(1) the Humboldt River and its tributaries and outlets;

(2) the Truckee River and its tributaries and outlets;

(3) the Carson River and its tributaries and outlets; and

(4) the Walker River and its tributaries and outlets;

in order to determine the Federal interest in flood control, environmental restoration, conservation of fish and wildlife, recreation, water conservation, water quality, and toxic and radioactive waste.

SEC. 430. SACO RIVER, NEW HAMPSHIRE.

The Secretary shall conduct a study of flooding problems along the Saco River in Hart's Location, New Hampshire, for the purpose of evaluating retaining walls, berms, and other structures with a view to potential solutions involving repair or replacement of existing structures. In conducting the study, the Secretary shall also consider other alternatives for flood damage reduction.

SEC. 431. BUFFALO RIVER GREENWAY, NEW YORK.

The Secretary shall conduct a study to determine the feasibility of a potential greenway trail project along the Buffalo River between the park system of the city of Buffalo, New York, and Lake Erie. Such study may include preparation of an integrated plan of development that takes into consideration the adjacent parks, nature preserves, bikeways, and related recreational facilities.

SEC. 432. COEYMANS, NEW YORK.

The Secretary shall conduct a reconnaissance study to determine the Federal interest in reopening the secondary channel of the Hudson River in the town of Coeymans, New York, which has been narrowed by silt as a result of the construction of Coeymans middle dike by the Corps of Engineers.

SEC. 433. NEW YORK BIGHT AND HARBOR STUDY.

Section 326(f) of the Water Resources Development Act of 1992 (106 Stat. 4851) is amended by striking "$1,000,000" and inserting "$3,000,000".

SEC. 434. PORT OF NEWBURGH, NEW YORK.

The Secretary shall conduct a study of the feasibility of carrying out improvements for navigation at the port of Newburgh, New York.

SEC. 435. PORT OF NEW YORK-NEW JERSEY NAVIGATION STUDY.

The Secretary shall conduct a comprehensive study of navigation needs at the Port of New York-New Jersey (including the South Brooklyn Marine and Red Hook Container Terminals, Staten Island, and adjacent areas) to address improvements, including deepening of existing channels to depths of 50 feet or greater, that are required to provide economically efficient and environmentally sound navigation to meet current and future requirements.

SEC. 436. SHINNECOCK INLET, NEW YORK.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall conduct a reconnaissance study in Shinnecock Inlet, New York, to determine the feasibility of constructing a sand bypass system, or other appropriate alternative, for the purposes of allowing sand to flow in its natural east-to-west pattern and preventing the further erosion of the beaches west of the inlet and the shoaling of the inlet.

SEC. 437. CHAGRIN RIVER, OHIO.

The Secretary shall conduct a study of flooding problems along the Chagrin River in Eastlake, Ohio. In conducting such study, the Secretary shall evaluate potential solutions to flooding from all sources, including that resulting from ice jams, and shall evaluate the feasibility of a sedimentation collection pit and other potential measures to reduce flooding.

SEC. 438. CUYAHOGA RIVER, OHIO.

The Secretary shall conduct a study to evaluate the integrity of the bulkhead system located on the Federal channel along the Cuyahoga River in the vicinity of Cleveland, Ohio, and shall provide to the non-Federal interest an analysis of costs and repairs of the bulkhead system.

SEC. 439. COLUMBIA SLOUGH, OREGON.

Not later than 2 years after the date of the enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall complete a feasibility study for the ecosystem restoration project at Columbia Slough, Oregon.

SEC. 440. CHARLESTON, SOUTH CAROLINA.

The Secretary shall conduct a study of the Charleston estuary area located in Charleston, Berkeley, and Dorchester Counties, South Carolina, for the purpose of evaluating environmental conditions in the tidal reaches of the Ashley, Cooper, Stono, and Wando Rivers and the lower portions of Charleston Harbor.

SEC. 441. OAHE DAM TO LAKE SHARPE, SOUTH DAKOTA.

The Secretary shall investigate potential solutions to the recurring flooding and related problems in the vicinity of Pierre and Ft. Pierre, South Dakota, caused by sedimentation in Lake Sharpe. The potential solutions to be investigated shall include lowering of the lake level and sediment agitation to allow for resuspension and movement of the sediment. The investigation shall include development of a comprehensive solution which includes consideration of structural and nonstructural measures upstream from the lake consisting of land treatment, sediment retention structures, and such other measures as the Secretary determines to be appropriate.

SEC. 442. MUSTANG ISLAND, CORPUS CHRISTI, TEXAS.

The Secretary shall conduct a study of navigation along the south-central coast of Texas near Corpus Christi for the purpose of determining the feasibility of constructing and maintaining the Packery Channel on the southern portion of Mustang Island.

SEC. 443. PRINCE WILLIAM COUNTY, VIRGINIA.

The Secretary shall conduct a study of flooding, erosion, and other water resources problems in Prince William County, Virginia, including an assessment of wetland protection, erosion control, and flood damage reduction needs of the County.

SEC. 444. PACIFIC REGION.

The Secretary may conduct studies in the interest of navigation in that part of the Pacific region that includes American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 445. FINANCING OF INFRASTRUCTURE NEEDS OF SMALL AND MEDIUM PORTS.

(a) STUDY.—The Secretary shall study the feasibility of alternative financing mechanisms for ensuring adequate funding for the infrastructure needs of small and medium ports.

(b) MECHANISMS TO BE STUDIED.—Mechanisms to be studied under subsection (a) shall include the establishment of revolving loan funds.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study conducted under subsection (a).

SEC. 446. EVALUATION OF BEACH MATERIAL.

(a) IN GENERAL.—The Secretary and the Secretary of the Interior shall evaluate procedures and requirements used in the selection and approval of materials to be used in the restoration and nourishment of beaches. Such evaluation shall address the potential effects of changing existing procedures and requirements on the implementation of beach restoration and nourishment projects and on the aquatic environment.

(b) CONSULTATION.—In conducting the evaluation under this section, the Secretaries shall consult with appropriate Federal and State agencies.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretaries shall transmit a report to Congress on their findings under this section.

(d) EFFECT ON AUTHORITY OF SECRETARY OF THE INTERIOR.—Nothing in this section is intended to affect the authority of the Secretary of the Interior under section 8(k) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)).

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. LAND CONVEYANCES.

(a) VILLAGE CREEK, ALABAMA.—

(1) IN GENERAL.—Upon a determination by the Secretary that construction of facilities associated with a commercial enterprise is not inconsistent with the operation of the project for flood control, Village Creek, Alabama, authorized by section 410(a) of the Water Resources Development Act of 1986 (100 Stat. 4111), the non-Federal interest with respect to the project may sell to private interests a parcel of land consisting of approximately 18 acres for the purpose of constructing facilities associated with a commercial enterprise.

(2) LAND DESCRIPTION.—The land to be conveyed under paragraph (1) shall consist of approximately 43 individual tracts that are bounded on the west by Coosa Street, on the south by 16th Avenue North, on the east by Tallapoosa Street, and on the north by the northern boundary of lands acquired for the project.

(3) FACILITIES.—The facilities shall be constructed in accordance with local floodplain ordinances and shall not increase flood risks of other residents in the Village Creek floodplain.

(4) REIMBURSEMENT.—The non-Federal interest shall reimburse the Secretary the Federal cost of acquiring the lands to be conveyed, including relocation assistance, demolition of structures, and administrative costs.

(5) REMAINING LANDS.—All remaining lands acquired for the Village Creek flood control project shall remain in public ownership and shall be used solely for recreation purposes or maintained as open space.

(b) OAKLAND INNER HARBOR TIDAL CANAL PROPERTY, CALIFORNIA.—Section 205 of the Water Resources Development Act of 1990 (104 Stat. 4633) is amended—

(1) by inserting after paragraph (2) the following:

"(3) To adjacent land owners, the United States title to all or portions of that part of the Oakland Inner Harbor Tidal Canal that are located within the boundaries of the city in which such canal rests. Such conveyance shall be at fair market value.";

(2) by inserting after "right-of-way" the following: "or other rights considered necessary by the Secretary"; and

(3) by adding at the end the following: "The conveyances and processes involved shall be at no cost to the United States.".

(c) MARIEMONT, OHIO.—

(1) IN GENERAL.—The Secretary shall convey to the village of Mariemont, Ohio, at fair market value all right, title, and interest of the United States in and to a parcel of land (including improvements to the parcel) under the jurisdiction of the Corps of Engineers, known as the "Ohio River Division Laboratory", and described in paragraph (4).

(2) TERMS AND CONDITIONS.—The conveyance under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary and appropriate to protect the interests of the United States.

(3) PROCEEDS.—All proceeds from the conveyance under paragraph (1) shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts.

(4) PROPERTY DESCRIPTION.—The parcel of land referred to in paragraph (1) is the parcel situated in the State of Ohio, County of Hamilton, Township 4, Fractional Range 2, Miami Purchase, Columbia Township, Section 15, being parts of Lots 5 and 6 of the subdivision of the dower tract of the estate of Joseph Ferris as recorded in Plat Book 4, Page 112, of the Plat Records of Hamilton County, Ohio, Recorder's Office, and more particularly described as follows:

Beginning at an iron pin set to mark the intersection of the easterly line of Lot 5 of said subdivision of said dower tract with the northerly line of the right-of-way of the Norfolk and Western Railway Company as shown in Plat Book 27, Page 182, Hamilton County, Ohio, Surveyor's Office.

Thence with said northerly right-of-way line south 70 degrees, 10 minutes, 13 seconds west 258.52 feet to a point.

Thence leaving the northerly right-of-way of the Norfolk and Western Railway Company north 18 degrees, 22 minutes, 02 seconds west 302.31 feet to a point in the south line of Mariemont Avenue.

Thence along said south line north 72 degrees, 34 minutes, 35 seconds east 167.50 feet to a point.

Thence leaving the south line of Mariemont Avenue north 17 degrees, 25 minutes, 25 seconds west 49.00 feet to a point.

Thence north 72 degrees, 34 minutes, 35 seconds east 100.00 feet to a point.

Thence south 17 degrees, 25 minutes, 25 seconds east 49.00 feet to a point.

Thence north 72 degrees, 34 minutes, 35 seconds east 238.90 feet to a point.

Thence south 00 degrees, 52 minutes, 07 seconds east 297.02 feet to a point in the northerly line of the Norfolk and Western Railway Company.

Thence with said northerly right-of-way south 70 degrees, 10 minutes, 13 seconds west 159.63 feet to a point of beginning, containing 3.22 acres, more or less.

(d) PIKE ISLAND LOCKS AND DAM, OHIO.—

(1) IN GENERAL.—Subject to this subsection, the Secretary shall convey by quitclaim deed to the city of Steubenville, Ohio, all right, title, and interest of the United States in and to the approximately 12 acres of land located at the Pike Island Locks and Dam, together with any improvements on the land.

(2) TERMS AND CONDITIONS.—The conveyance by the United States under this subsection shall be subject to such terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(3) LEGAL DESCRIPTION OF REAL PROPERTY AND PAYMENT OF COSTS.—The exact acreage and legal description of the real property described in paragraph (1) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the city of Steubenville. The city shall also be responsible for any other costs associated with the conveyance authorized by this subsection.

(4) CONSIDERATION OF CERTAIN PROPERTIES.—Properties to be conveyed under this subsection that will be retained in public ownership and used for public park and recreation or other public purposes shall be conveyed without consideration. If any such property is no longer used for public park and recreation or other public purposes, title to such property shall revert to the Secretary.

(e) SHENANGO RIVER LAKE PROJECT, OHIO.—

(1) IN GENERAL.—Subject to this subsection, the Secretary shall convey by quitclaim deed to the Kinsman Township, Trumbull County, Ohio, all right, title, and interest of the United States in and to a parcel of land located at the Shenango River Lake project consisting of approximately 1 acre, together with any improvements on the land.

(2) TERMS AND CONDITIONS.—The conveyance by the United States under this subsection shall be subject to such terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(3) LEGAL DESCRIPTION OF REAL PROPERTY AND PAYMENT OF COSTS.—The exact acreage and legal description of the real property described in paragraph (1) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the Kinsman Township. The township shall also be responsible for any other costs associated with the conveyance authorized by this subsection.

(4) CONSIDERATION OF CERTAIN PROPERTIES.—Properties to be conveyed under this subsection that will be retained in public ownership and used for public park and recreation or other public purposes shall be conveyed without consideration. If any such property is no longer used for public park and recreation or other public purposes, title to such property shall revert to the Secretary.

(f) EUFAULA LAKE, OKLAHOMA.—

(1) IN GENERAL.—The Secretary shall convey to the city of Eufaula, Oklahoma, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 12.5 acres located at the Eufaula Lake project.

(2) CONSIDERATION.—Consideration for the conveyance under paragraph (1) shall be the fair market value of the parcel (as determined by the Secretary) and payment of all costs of the United States in making the conveyance, including the costs of—

(A) the surveys required under paragraphs (3) and (4);

(B) any other necessary survey or survey monumentation;

(C) compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(D) any coordination necessary with respect to requirements relating to endangered species, cultural resources, and clean air (including the costs of agency consultation and public hearings).

(3) LAND SURVEYS.—The exact acreage and description of the parcel to be conveyed under paragraph (1) shall be determined by such surveys as the Secretary considers necessary. Such surveys shall be carried out to the satisfaction of the Secretary.

(4) ENVIRONMENTAL BASELINE SURVEY.—Prior to making the conveyance under paragraph (1), the Secretary shall conduct an environmental baseline survey to determine the levels of any contamination (as of the date of the survey) for which the United States would be responsible under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and any other applicable law.

(5) CONDITIONS CONCERNING RIGHTS AND EASEMENT.—The conveyance under paragraph (1) shall be subject to existing rights and to retention by the United States of a flowage easement over all portions of the parcel that lie at or below the flowage easement contour for the Eufaula Lake project.

(6) OTHER TERMS AND CONDITIONS.—The conveyance under paragraph (1) shall be subject to such other terms and conditions as the Secretary considers necessary and appropriate to protect the interests of the United States.

(g) BOARDMAN, OREGON.—

(1) IN GENERAL.—The Secretary shall convey to the city of Boardman, Oregon, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 141 acres acquired as part of the John Day Lock and Dam project in the vicinity of such city currently under lease to the Boardman Park and Recreation District.

(2) CONSIDERATION.—

(A) PARK AND RECREATION PROPERTIES.—Properties to be conveyed under this subsection that will be retained in public ownership and used for public park and recreation purposes shall be conveyed without consideration. If any such property is no longer used for public park and recreation purposes, title to such property shall revert to the Secretary.

(B) OTHER PROPERTIES.—Properties to be conveyed under this subsection and not described in subparagraph (A) shall be conveyed at fair market value.

(3) CONDITIONS CONCERNING RIGHTS AND EASEMENT.—The conveyance of properties under this subsection shall be subject to existing first rights of refusal regarding acquisition of the properties and to retention of a flowage easement over portions of the properties that the Secretary determines to be necessary for operation of the project.

(4) OTHER TERMS AND CONDITIONS.—The conveyance of properties under this subsection shall be subject to such other terms and conditions as the Secretary considers necessary and appropriate to protect the interests of the United States.

(h) BENBROOK LAKE, TEXAS.—

(1) IN GENERAL.—The Secretary shall convey all right, title, and interest of the United States in and to a parcel of real property located at Longhorn Park, also known as "Pecan Valley Park", Benbrook Lake, Benbrook, Texas, consisting of approximately 50 acres.

(2) CONSIDERATION.—Consideration for the conveyance under paragraph (1) shall be the fair market value of the real property as determined by the Secretary. All costs associated with the conveyance under paragraph (1) and such other costs as the Secretary considers appropriate shall be borne by the purchaser.

(3) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of real property to be conveyed under paragraph (1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(4) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the conveyance under paragraph (1) as the Secretary considers appropriate to protect the interests of the United States.

(5) COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT.—Prior to the conveyance of property under paragraph (1), the Secretary shall ensure that the conveyance complies with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(i) TRI-CITIES AREA, WASHINGTON.—

(1) GENERAL AUTHORITY.—As soon as practicable after the date of the enactment of this Act, the Secretary shall make the conveyances to the local governments referred to in paragraph (2) of all right, title, and interest of the United States in and to the property described in paragraph (2).

(2) PROPERTY DESCRIPTIONS.—

(A) BENTON COUNTY, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to Benton County, Washington, is the property in such county that is designated "Area D" on Exhibit A to Army Lease No. DACW–68–1–81–43.

(B) FRANKLIN COUNTY, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to Franklin County, Washington, is—

(i) the 105.01 acres of property leased pursuant to Army Lease No. DACW–68–1–77–20 as executed by Franklin County, Washington, on April 7, 1977;

(ii) the 35 acres of property leased pursuant to Supplemental Agreement No. 1 to Army Lease No. DACW–68–1–77–20;

(iii) the 20 acres of property commonly known as "Richland Bend", which is designated by the

shaded portion of Lot 1, Section 11, and the shaded portion of Lot 1, Section 12, Township 9 North, Range 28 East, W.M. on Exhibit D to Supplemental Agreement No. 2 to Army Lease No. DACW–68–1–77–20;

(iv) the 7.05 acres of property commonly known as "Taylor Flat", which is designated by the shaded portion of Lot 1, Section 13, Township 11 North, Range 28 East, W.M. on Exhibit D to Supplemental Agreement No. 2 to Army Lease No. DACW–68–1–77–20;

(v) the 14.69 acres of property commonly known as "Byers Landing", which is designated by the shaded portion of Lots 2 and 3, Section 2, Township 10 North, Range 28 East, W.M. on Exhibit D to Supplemental Agreement No. 2 to Army Lease No. DACW–68–1–77–20; and

(vi) all levees within Franklin County, Washington, as of the date of the enactment of this Act, and the property on which the levees are situated.

(C) CITY OF KENNEWICK, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to the city of Kennewick, Washington, is the property in the city that is subject to the Municipal Sublease Agreement entered into on April 6, 1989, between Benton County, Washington, and the cities of Kennewick and Richland, Washington.

(D) CITY OF RICHLAND, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to the city of Richland, Washington, is the property in the city that is subject to the Municipal Sublease Agreement entered into on April 6, 1989, between Benton County, Washington, and the cities of Kennewick and Richland, Washington.

(E) CITY OF PASCO, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to the city of Pasco, Washington, is—

(i) the property in the city of Pasco, Washington, that is leased pursuant to Army Lease No. DACW–68–1–77–10; and

(ii) all levees in the city, as of the date of the enactment of this Act, and the property on which the levees are situated.

(F) PORT OF PASCO, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to the Port of Pasco, Washington, is—

(i) the property owned by the United States that is south of the Burlington Northern Railroad tracks in Lots 1 and 2, Section 20, Township 9 North, Range 31 East, W.M.; and

(ii) the property owned by the United States that is south of the Burlington Northern Railroad tracks in Lots 1, 2, 3, and 4, in each of Sections 21, 22, and 23, Township 9 North, Range 31 East, W.M.

(G) ADDITIONAL PROPERTIES.—In addition to properties described in subparagraphs (A) through (F), the Secretary may convey to a local government referred to in subparagraphs (A) through (F) such properties under the jurisdiction of the Secretary in the Tri-Cities area as the Secretary and the local government agree are appropriate for conveyance.

(3) TERMS AND CONDITIONS.—

(A) IN GENERAL.—The conveyances under paragraph (1) shall be subject to such terms and conditions, including payment of reasonable administrative costs, as the Secretary considers necessary and appropriate to protect the interests of the United States.

(B) SPECIAL RULE FOR FRANKLIN COUNTY.—The property described in paragraph (2)(B)(vi) shall be conveyed only after Franklin County, Washington, has entered into a written agreement with the Secretary that provides that the United States shall continue to operate and maintain the flood control drainage areas and pump stations on the property conveyed and that the United States shall be provided all easements and rights necessary to carry out that agreement.

(C) SPECIAL RULE FOR CITY OF PASCO.—The property described in paragraph (2)(E)(ii) shall be conveyed only after the city of Pasco, Washington, has entered into a written agreement with the Secretary that provides that the United States shall continue to operate and maintain the flood control drainage areas and pump stations on the property conveyed and that the United States shall be provided all easements and rights necessary to carry out that agreement.

(D) CONSIDERATION.—

(i) PARK AND RECREATION PROPERTIES.—Properties to be conveyed under this subsection that will be retained in public ownership and used for public park and recreation purposes shall be conveyed without consideration. If any such property is no longer used for public park and recreation purposes, title to such property shall revert to the Secretary.

(ii) OTHER PROPERTIES.—Properties to be conveyed under this subsection and not described in clause (i) shall be conveyed at fair market value.

(4) LAKE WALLULA LEVEES.—

(A) DETERMINATION OF MINIMUM SAFE HEIGHT.—

(i) CONTRACT.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall contract with a private entity agreed to under clause (ii) to determine, within 6 months after that date, the minimum safe height for the levees of the project for flood control, Lake Wallula, Washington. The Secretary shall have final approval of the minimum safe height.

(ii) AGREEMENT OF LOCAL OFFICIALS.—A contract shall be entered into under clause (i) only with a private entity agreed to by the Secretary, appropriate representatives of Franklin County, Washington, and appropriate representatives of the city of Pasco, Washington.

(B) AUTHORITY.—A local government may reduce, at its cost, the height of any levee of the project for flood control, Lake Wallula, Washington, within the boundaries of the area under the jurisdiction of such local government to a height not lower than the minimum safe height determined pursuant to subparagraph (A).

(j) APPLICABILITY OF OTHER LAWS.—Any contract for sale, deed, or other transfer of real property under this section shall be carried out in compliance with all applicable provisions of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) and other environmental laws.

SEC. 502. NAMINGS.

(a) MILT BRANDT VISITORS CENTER, CALIFORNIA.—

(1) DESIGNATION.—The visitors center at Warm Springs Dam, California, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1192), shall be known and designated as the "Milt Brandt Visitors Center".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the visitors center referred to in paragraph (1) shall be deemed to be a reference to the "Milt Brandt Visitors Center".

(b) CARR CREEK LAKE, KENTUCKY.—

(1) DESIGNATION.—Carr Fork Lake in Knott County, Kentucky, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1188), shall be known and designated as "Carr Creek Lake".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lake referred to in paragraph (1) shall be deemed to be a reference to "Carr Creek Lake".

(c) JOHN T. MYERS LOCK AND DAM, INDIANA AND KENTUCKY.—

(1) DESIGNATION.—Uniontown Lock and Dam, on the Ohio River, Indiana and Kentucky, shall be known and designated as the "John T. Myers Lock and Dam".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the "John T. Myers Lock and Dam".

(d) J. EDWARD ROUSH LAKE, INDIANA.—

(1) REDESIGNATION.—The lake on the Wabash River in Huntington and Wells Counties, Indiana, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 312), and known as Huntington Lake, shall be known and designated as the "J. Edward Roush Lake".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lake referred to in paragraph (1) shall be deemed to be a reference to the "J. Edward Roush Lake".

(e) RUSSELL B. LONG LOCK AND DAM, RED RIVER WATERWAY, LOUISIANA.—

(1) DESIGNATION.—Lock and Dam 4 of the Red River Waterway, Louisiana, shall be known and designated as the "Russell B. Long Lock and Dam".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the "Russell B. Long Lock and Dam".

(f) LOCKS AND DAMS ON TENNESSEE-TOMBIGBEE WATERWAY.—

(1) DESIGNATIONS.—The following locks, and locks and dams, on the Tennessee-Tombigbee Waterway, located in the States of Alabama, Kentucky, Mississippi, and Tennessee, are designated as follows:

(A) Gainesville Lock and Dam at Mile 266 designated as Howell Heflin Lock and Dam.

(B) Columbus Lock and Dam at Mile 335 designated as John C. Stennis Lock and Dam.

(C) The lock and dam at Mile 358 designated as Aberdeen Lock and Dam.

(D) Lock A at Mile 371 designated as Amory Lock.

(E) Lock B at Mile 376 designated as Glover Wilkins Lock.

(F) Lock C at Mile 391 designated as Fulton Lock.

(G) Lock D at Mile 398 designated as John Rankin Lock.

(H) Lock E at Mile 407 designated as G.V. "Sonny" Montgomery Lock.

(I) Bay Springs Lock and Dam at Mile 412 designated as Jamie Whitten Lock and Dam.

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to a lock, or lock and dam, referred to in paragraph (1) shall be deemed to be a reference to the designation for the lock, or lock and dam, provided in such paragraph.

SEC. 503. WATERSHED MANAGEMENT, RESTORATION, AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary may provide technical, planning, and design assistance to non-Federal interests for carrying out watershed management, restoration, and development projects at the locations described in subsection (d).

(b) SPECIFIC MEASURES.—Assistance provided under subsection (a) may be in support of non-Federal projects for the following purposes:

(1) Management and restoration of water quality.

(2) Control and remediation of toxic sediments.

(3) Restoration of degraded streams, rivers, wetlands, and other waterbodies to their natural condition as a means to control flooding, excessive erosion, and sedimentation.

(4) Protection and restoration of watersheds, including urban watersheds.

(5) Demonstration of technologies for nonstructural measures to reduce destructive impacts of flooding.

(c) NON-FEDERAL SHARE.—The non-Federal share of the cost of assistance provided under subsection (a) shall be 50 percent.

(d) PROJECT LOCATIONS.—The Secretary may provide assistance under subsection (a) for projects at the following locations:

(1) Gila River and Tributaries, Santa Cruz River, Arizona.

(2) Rio Salado, Salt River, Phoenix and Tempe, Arizona.

(3) Colusa basin, California.

(4) Los Angeles River watershed, California.

(5) Napa Valley watershed, California.

(6) Russian River watershed, California.

(7) Sacramento River watershed, California.

(8) San Pablo Bay watershed, California.

(9) Santa Clara Valley watershed, California.

(10) Nancy Creek, Utoy Creek, and North Peachtree Creek and South Peachtree Creek basin, Georgia.

(11) Lower Platte River watershed, Nebraska.

(12) Juniata River watershed, Pennsylvania, including Raystown Lake.

(13) Upper Potomac River watershed, Grant and Mineral Counties, West Virginia.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000.

SEC. 504. ENVIRONMENTAL INFRASTRUCTURE.

Section 219 of the Water Resources Development Act of 1992 (106 Stat. 4836–4837) is amended by adding at the end the following:

"(e) AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION ASSISTANCE.—There are authorized to be appropriated for providing construction assistance under this section—

"(1) $10,000,000 for the project described in subsection (c)(5);

"(2) $2,000,000 for the project described in subsection (c)(6);

"(3) $10,000,000 for the project described in subsection (c)(7);

"(4) $11,000,000 for the project described in subsection (c)(8);

"(5) $20,000,000 for the project described in subsection (c)(16); and

"(6) $20,000,000 for the project described in subsection (c)(17).".

SEC. 505. CORPS CAPABILITY TO CONSERVE FISH AND WILDLIFE.

Section 704(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2263(b); 100 Stat. 4157) is amended—

(1) by striking "$5,000,000"; and inserting "$7,000,000"; and

(2) in paragraph (4) by inserting "and Virginia" after "Maryland".

SEC. 506. PERIODIC BEACH NOURISHMENT.

(a) IN GENERAL.—The Secretary shall carry out periodic beach nourishment for each of the following projects for a period of 50 years beginning on the date of initiation of construction of the project:

(1) BROWARD COUNTY, FLORIDA.—Project for shoreline protection, segments II and III, Broward County, Florida.

(2) FORT PIERCE, FLORIDA.—Project for shoreline protection, Fort Pierce, Florida.

(3) PANAMA CITY BEACHES, FLORIDA.—Project for shoreline protection, Panama City Beaches, Florida.

(4) TYBEE ISLAND, GEORGIA.—Project for beach erosion control, Tybee Island, Georgia.

(b) PERIODIC BEACH NOURISHMENT SUBJECT TO REVIEW.—

(1) REVIEW.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall complete a review of potential periodic beach nourishment for each of the projects described in paragraph (3) in accordance with the procedures established under section 156 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d–5f; 90 Stat. 2933).

(2) AUTHORIZATION.—If the Secretary determines under paragraph (1) that periodic beach nourishment is necessary for a project, the Secretary shall carry out periodic beach nourishment for the project for a period of 50 years beginning on the date of initiation of construction of the project.

(3) PROJECTS.—The projects referred to in paragraph (1) are as follows:

(A) LEE COUNTY, FLORIDA.—Project for shoreline protection, Lee County, Captiva Island segment, Florida.

(B) PALM BEACH COUNTY, FLORIDA.—Project for shoreline protection, Jupiter/Carlin, Ocean Ridge, and Boca Raton North Beach segments, Palm Beach County, Florida.

(C) RARITAN BAY AND SANDY HOOK BAY, NEW JERSEY.—Project for hurricane-flood protection, Raritan Bay and Sandy Hook Bay, New Jersey.

(D) FIRE ISLAND INLET, NEW YORK.—Project for shoreline protection, Fire Island Inlet, New York, between Gilgo State Park and Tobay Beach to protect Ocean Parkway along the Atlantic Ocean shoreline in Suffolk County, New York.

SEC. 507. DESIGN AND CONSTRUCTION ASSISTANCE.

The Secretary shall provide design and construction assistance to non-Federal interests for each of the following projects if the Secretary determines that the project is feasible:

(1) Repair and rehabilitation of the Lower Girard Lake Dam, Girard, Ohio, at an estimated total cost of $2,500,000.

(2) Construction of a multipurpose dam and reservoir, Bear Valley Dam, Franklin County, Pennsylvania, at an estimated total cost of $15,000,000.

(3) Repair and upgrade of the dam and appurtenant features at Lake Merriweather, Little Calfpasture River, Virginia, at an estimated total cost of $6,000,000.

SEC. 508. LAKES PROGRAM.

Section 602(a) of the Water Resources Development Act of 1986 (100 Stat. 4148–4149) is amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting a semicolon; and

(3) by adding at the end the following:

"(12) Goodyear Lake, Otsego County, New York, removal of silt and aquatic growth;

"(13) Otsego Lake, Otsego County, New York, removal of silt and aquatic growth and measures to address high nutrient concentration;

"(14) Oneida Lake, Oneida County, New York, removal of silt and aquatic growth;

"(15) Skaneateles and Owasco Lakes, New York, removal of silt and aquatic growth and prevention of sediment deposit; and

"(16) Twin Lakes, Paris, Illinois, removal of silt and excess aquatic vegetation, including measures to address excessive sedimentation, high nutrient concentration, and shoreline erosion.".

SEC. 509. MAINTENANCE OF NAVIGATION CHANNELS.

(a) IN GENERAL.—Upon request of the non-Federal interest, the Secretary shall be responsible for maintenance of the following navigation channels constructed or improved by non-Federal interests if the Secretary determines that such maintenance is economically justified and environmentally acceptable and that the channel was constructed in accordance with applicable permits and appropriate engineering and design standards:

(1) Humboldt Harbor and Bay, Fields Landing Channel, California.

(2) Mare Island Strait, California. For purposes of this section, the navigation channel shall be deemed to have been constructed or improved by non-Federal interests.

(3) East Fork, Calcasieu Pass, Louisiana.

(4) Mississippi River Ship Channel, Chalmette Slip, Louisiana.

(5) Greenville Inner Harbor Channel, Mississippi.

(6) New Madrid Harbor, Missouri. For purposes of this section, the navigation channel shall be deemed to have been constructed or improved by non-Federal interests.

(7) Providence Harbor Shipping Channel, Rhode Island, from the vicinity of the Fox Point hurricane barrier to the vicinity of the Francis Street bridge in Providence, Rhode Island. For purposes of this section, the navigation channel shall be deemed to have been constructed or improved by non-Federal interests.

(8) Matagorda Ship Channel, Point Comfort Turning Basin, Texas.

(9) Corpus Christi Ship Channel, Rincon Canal System, Texas.

(10) Brazos Island Harbor, Texas, connecting channel to Mexico.

(11) Blair Waterway, Tacoma Harbor, Washington.

(b) COMPLETION OF ASSESSMENT.—Not later than 6 months after receipt of a request from a non-Federal interest for Federal assumption of maintenance of a channel listed in subsection (a), the Secretary shall make a determination as provided in subsection (a) and advise the non-Federal interest of the Secretary's determination.

SEC. 510. CHESAPEAKE BAY ENVIRONMENTAL RESTORATION AND PROTECTION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a pilot program to provide environmental assistance to non-Federal interests in the Chesapeake Bay watershed.

(2) FORM.—The assistance shall be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects affecting the Chesapeake Bay estuary, including projects for sediment and erosion control, protection of eroding shorelines, protection of essential public works, wastewater treatment and related facilities, water supply and related facilities, and beneficial uses of dredged material, and other related projects that may enhance the living resources of the estuary.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned, and will be publicly operated and maintained.

(c) LOCAL COOPERATION AGREEMENT.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for—

(A) the development by the Secretary, in consultation with appropriate Federal, State, and local officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications and an estimate of expected resource benefits; and

(B) the establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation and maintenance of the project by the non-Federal interest.

(d) COST SHARING.—

(1) FEDERAL SHARE.—Except as provided in paragraph (2)(B), the Federal share of the total

project costs of each local cooperation agreement entered into under this section shall be 75 percent.

(2) NON-FEDERAL SHARE.—

(A) VALUE OF LANDS, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS.—In determining the non-Federal contribution toward carrying out a local cooperation agreement entered into under this section, the Secretary shall provide credit to a non-Federal interest for the value of lands, easements, rights-of-way, and relocations provided by the non-Federal interest, except that the amount of credit provided for a project under this paragraph may not exceed 25 percent of the total project costs.

(B) OPERATION AND MAINTENANCE COSTS.—The non-Federal share of the costs of operation and maintenance of activities carried out under an agreement under this section shall be 100 percent.

(e) COOPERATION.—In carrying out this section, the Secretary shall cooperate with the heads of appropriate Federal agencies, including—

(1) the Administrator of the Environmental Protection Agency;

(2) the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration;

(3) the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

(4) the heads of such other Federal agencies and agencies of a State or political subdivision of a State as the Secretary determines to be appropriate.

(f) PROJECT.—The Secretary shall establish at least 1 project under this section in each of the States of Maryland, Virginia, and Pennsylvania.

(g) PROTECTION OF RESOURCES.—A project established under this section shall be carried out using such measures as are necessary to protect environmental, historic, and cultural resources.

(h) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with a recommendation concerning whether or not the program should be implemented on a national basis.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000.

SEC. 511. RESEARCH AND DEVELOPMENT PROGRAM TO IMPROVE SALMON SURVIVAL.

(a) SALMON SURVIVAL ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall accelerate ongoing research and development activities, and may carry out or participate in additional research and development activities, for the purpose of developing innovative methods and technologies for improving the survival of salmon, especially salmon in the Columbia River Basin.

(2) ACCELERATED ACTIVITIES.—Accelerated research and development activities referred to in paragraph (1) may include research and development related to—

(A) impacts from water resources projects and other impacts on salmon life cycles;

(B) juvenile and adult salmon passage;

(C) light and sound guidance systems;

(D) surface-oriented collector systems;

(E) transportation mechanisms; and

(F) dissolved gas monitoring and abatement.

(3) ADDITIONAL ACTIVITIES.—Additional research and development activities referred to in paragraph (1) may include research and development related to—

(A) marine mammal predation on salmon;

(B) studies of juvenile salmon survival in spawning and rearing areas;

(C) estuary and near-ocean juvenile and adult salmon survival;

(D) impacts on salmon life cycles from sources other than water resources projects; and

(E) other innovative technologies and actions intended to improve fish survival, including the survival of resident fish.

(4) COORDINATION.—The Secretary shall coordinate any activities carried out under this subsection with appropriate Federal, State, and local agencies, affected Indian tribes, and the Northwest Power Planning Council.

(5) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the research and development activities carried out under this subsection, including any recommendations of the Secretary concerning the research and development activities.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out research and development activities under paragraph (3).

(b) ADVANCED TURBINE DEVELOPMENT.—

(1) IN GENERAL.—In conjunction with the Secretary of Energy, the Secretary shall accelerate efforts toward developing innovative, efficient, and environmentally safe hydropower turbines, including design of "fish-friendly" turbines, for use on the Columbia River hydrosystem.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $12,000,000 to carry out this subsection.

(c) IMPLEMENTATION.—Nothing in this section affects the authority of the Secretary to implement the results of the research and development carried out under this section or any other law.

SEC. 512. COLUMBIA RIVER TREATY FISHING ACCESS.

Section 401(a) of the Act entitled "An Act to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987)", approved November 1, 1988 (102 Stat. 2944), is amended—

(1) by striking "(a) All Federal" and all that follows through "Columbia River Gorge Commission" and inserting the following:

"(a) EXISTING FEDERAL LANDS.—

"(1) IN GENERAL.—All Federal lands that are included within the 20 recommended treaty fishing access sites set forth in the publication of the Corps of Engineers entitled 'Columbia River Treaty Fishing Access Sites Post Authorization Change Report', dated April 1995,"; and

(2) by adding at the end the following:

"(2) BOUNDARY ADJUSTMENTS.—The Secretary of the Army, in consultation with affected tribes, may make such minor boundary adjustments to the lands referred to in paragraph (1) as the Secretary determines are necessary to carry out this title.".

SEC. 513. GREAT LAKES CONFINED DISPOSAL FACILITIES.

(a) ASSESSMENT.—Pursuant to the responsibilities of the Secretary under section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a), the Secretary shall conduct an assessment of the general conditions of confined disposal facilities in the Great Lakes.

(b) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the assessment conducted under subsection (a), including the following:

(1) A description of the cumulative effects of confined disposal facilities in the Great Lakes.

(2) Recommendations for specific remediation actions for each confined disposal facility in the Great Lakes.

(3) An evaluation of, and recommendations for, confined disposal facility management practices and technologies to conserve capacity at such facilities and to minimize adverse environmental effects at such facilities throughout the Great Lakes system.

SEC. 514. GREAT LAKES DREDGED MATERIAL TESTING AND EVALUATION MANUAL.

The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall provide technical assistance to non-Federal interests on testing procedures contained in the Great Lakes Dredged Material Testing and Evaluation Manual developed pursuant to section 230.2(c) of title 40, Code of Federal Regulations.

SEC. 515. GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION.

Section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; 104 Stat. 4644) is amended to read as follows:

"SEC. 401. GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION.

"(a) GREAT LAKES REMEDIAL ACTION PLANS.—

"(1) IN GENERAL.—The Secretary may provide technical, planning, and engineering assistance to State and local governments and nongovernmental entities designated by a State or local government in the development and implementation of remedial action plans for Areas of Concern in the Great Lakes identified under the Great Lakes Water Quality Agreement of 1978.

"(2) NON-FEDERAL SHARE.—Non-Federal interests shall contribute, in cash or by providing in-kind contributions, 50 percent of costs of activities for which assistance is provided under paragraph (1).

"(b) SEDIMENT REMEDIATION PROJECTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency (acting through the Great Lakes National Program Office), may conduct pilot- and full-scale projects of promising technologies to remediate contaminated sediments in freshwater coastal regions in the Great Lakes basin. The Secretary shall conduct not fewer than 3 full-scale projects under this subsection.

"(2) SITE SELECTION FOR PROJECTS.—In selecting the sites for the technology projects, the Secretary shall give priority consideration to Saginaw Bay, Michigan, Sheboygan Harbor, Wisconsin, Grand Calumet River, Indiana, Ashtabula River, Ohio, Buffalo River, New York, and Duluth-Superior Harbor, Minnesota and Wisconsin.

"(3) DEADLINE FOR IDENTIFICATIONS.—The Secretary shall—

"(A) not later than 18 months after the date of the enactment of this paragraph, identify the sites and technologies for projects under this subsection; and

"(B) not later than 3 years after that date, complete each such full-scale project.

"(4) NON-FEDERAL SHARE.—Non-Federal interests shall contribute 50 percent of costs of projects under this subsection. Such costs may be paid in cash or by providing in-kind contributions.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $5,000,000 for each of fiscal years 1998 through 2000.".

SEC. 516. SEDIMENT MANAGEMENT.

(a) IN GENERAL.—The Secretary may enter into cooperation agreements with non-Federal interests with respect to navigation projects, or other appropriate non-Federal entities, for the development of long-term management strategies for controlling sediments at such projects.

(b) CONTENTS OF STRATEGIES.—Each strategy developed under subsection (a) shall—

(1) include assessments of sediment rates and composition, sediment reduction options, dredging practices, long-term management of any dredged material disposal facilities, remediation of such facilities, and alternative disposal and reuse options;

(2) include a timetable for implementation of the strategy; and

(3) incorporate relevant ongoing planning efforts, including remedial action planning, dredged material management planning, harbor and waterfront development planning, and watershed management planning.

(c) CONSULTATION.—In developing strategies under subsection (a), the Secretary shall consult with interested Federal agencies, States, and Indian tribes and provide an opportunity for public comment.

(d) DREDGED MATERIAL DISPOSAL.—

(1) STUDY.—The Secretary shall conduct a study to determine the feasibility of constructing and operating an underwater confined dredged material disposal site in the Port of New York-New Jersey that could accommodate as much as 250,000 cubic yards of dredged material for the purpose of demonstrating the feasibility of an underwater confined disposal pit as an environmentally suitable method of containing certain sediments.

(2) REPORT.—The Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with any recommendations of the Secretary that may be developed in a strategy under subsection (a).

(e) GREAT LAKES TRIBUTARY MODEL.—

(1) IN GENERAL.—In consultation and coordination with the Great Lakes States, the Secretary shall develop a tributary sediment transport model for each major river system or set of major river systems depositing sediment into a Great Lakes federally authorized commercial harbor, channel maintenance project site, or Area of Concern identified under the Great Lakes Water Quality Agreement of 1978. Such model may be developed as a part of a strategy developed under subsection (a).

(2) REQUIREMENTS FOR MODELS.—In developing a tributary sediment transport model under this subsection, the Secretary shall build on data and monitoring information generated in earlier studies and programs of the Great Lakes and their tributaries.

(f) GREAT LAKES STATES DEFINED.—In this section, the term "Great Lakes States" means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $5,000,000 for each of fiscal years 1998 through 2001.

SEC. 517. EXTENSION OF JURISDICTION OF MISSISSIPPI RIVER COMMISSION.

The jurisdiction of the Mississippi River Commission, established by the 1st section of the Act of June 28, 1879 (33 U.S.C. 641; 21 Stat. 37), is extended to include—

(1) all of the area between the eastern side of the Bayou Lafourche Ridge from Donaldsonville, Louisiana, to the Gulf of Mexico and the west guide levee of the Mississippi River from Donaldsonville, Louisiana, to the Gulf of Mexico;

(2) Alexander County, Illinois; and

(3) the area in the State of Illinois from the confluence of the Mississippi and Ohio Rivers northward to the vicinity of Mississippi River mile 39.5, including the Len Small Drainage and Levee District, insofar as such area is affected by the flood waters of the Mississippi River.

SEC. 518. SENSE OF CONGRESS REGARDING ST. LAWRENCE SEAWAY TOLLS.

It is the sense of Congress that the President should engage in negotiations with the Government of Canada for the purposes of—

(1) eliminating tolls along the St. Lawrence Seaway system; and

(2) identifying ways to maximize the movement of goods and commerce through the St. Lawrence Seaway.

SEC. 519. RECREATION PARTNERSHIP INITIATIVE.

(a) IN GENERAL.—The Secretary shall promote Federal, non-Federal, and private sector cooperation in creating public recreation opportunities and developing the necessary supporting infrastructure at water resources projects of the Corps of Engineers.

(b) INFRASTRUCTURE IMPROVEMENTS.—

(1) RECREATION INFRASTRUCTURE IMPROVEMENTS.—In determining the feasibility of the public-private cooperative under subsection (a), the Secretary shall provide such infrastructure improvements as are necessary to support a potential private recreational development at the Raystown Lake Project, Pennsylvania, generally in accordance with the Master Plan Update (1994) for the project.

(2) AGREEMENT.—The Secretary shall enter into an agreement with an appropriate non-Federal public entity to ensure that the infrastructure improvements constructed by the Secretary on non-project lands pursuant to paragraph (1) are transferred to and operated and maintained by the non-Federal public entity.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000.

(c) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the cooperative efforts carried out under this section, including the improvements required by subsection (b).

SEC. 520. FIELD OFFICE HEADQUARTERS FACILITIES.

Subject to amounts being made available in advance in appropriations Acts, the Secretary may use Plant Replacement and Improvement Program funds to design and construct a new headquarters facility for—

(1) the New England Division, Waltham, Massachusetts; and

(2) the Jacksonville District, Jacksonville, Florida.

SEC. 521. EARTHQUAKE PREPAREDNESS CENTER OF EXPERTISE EXPANSION.

Using existing resources, the Secretary shall expand the Earthquake Preparedness Center of Expertise to address issues in the central United States by providing the necessary capability at an existing district office of the Corps of Engineers near the New Madrid fault.

SEC. 522. JACKSON COUNTY, ALABAMA.

(a) IN GENERAL.—The Secretary may provide technical, planning, and design assistance to non-Federal interests for wastewater treatment and related facilities, remediation of point and nonpoint sources of pollution and contaminated riverbed sediments, and related activities in Jackson County, Alabama, including the city of Stevenson.

(b) COST SHARING.—The Federal cost of assistance provided under this section may not exceed $3,000,000. The non-Federal share of assistance provided under this section shall be 25 percent.

SEC. 523. BENTON AND WASHINGTON COUNTIES, ARKANSAS.

Section 220 of the Water Resources Development Act of 1992 (106 Stat. 4836–4837) is amended by adding at the end the following:

"(c) USE OF FEDERAL FUNDS.—The Secretary may make available to the non-Federal interests funds not to exceed an amount equal to the Federal share of the total project cost to be used by the non-Federal interests to undertake the work directly or by contract.".

SEC. 524. HEBER SPRINGS, ARKANSAS.

(a) IN GENERAL.—The Secretary shall enter into an agreement with the city of Heber Springs, Arkansas, to provide 3,522 acre-feet of water supply storage in Greers Ferry Lake, Arkansas, for municipal and industrial purposes, at no cost to the city.

(b) NECESSARY FACILITIES.—The city of Heber Springs shall be responsible for 100 percent of the costs of construction, operation, and maintenance of any intake, transmission, treatment, or distribution facility necessary for utilization of the water supply.

(c) ADDITIONAL WATER SUPPLY STORAGE.—Any additional water supply storage required after the date of the enactment of this Act shall be contracted for and reimbursed by the city of Heber Springs, Arkansas.

SEC. 525. MORGAN POINT, ARKANSAS.

The Secretary shall accept as in-kind contributions for the project for creation of fish and wildlife habitat at Morgan Point, Arkansas—

(1) the items described as fish and wildlife facilities and land in the Morgan Point Bendway Closure Structure modification report for the project, dated February 1994; and

(2) fish stocking activities carried out by the non-Federal interests for the project;

if the Secretary determines that the items and activities are compatible with the project.

SEC. 526. CALAVERAS COUNTY, CALIFORNIA.

(a) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to non-Federal interests, in cooperation with Federal and State agencies, for reclamation and water quality protection projects for the purpose of abating and mitigating surface water quality degradation caused by abandoned mines in the watershed of the lower Mokelume River in Calaveras County, California.

(b) CONSULTATION WITH FEDERAL ENTITIES.—Any project under subsection (a) that is located on lands owned by the United States shall be undertaken in consultation with the Federal entity with administrative jurisdiction over such lands.

(c) FEDERAL SHARE.—The Federal share of the cost of the activities conducted under subsection (a) shall be 50 percent; except that, with respect to projects located on lands owned by the United States, the Federal share shall be 100 percent.

(d) EFFECT ON AUTHORITY OF SECRETARY OF THE INTERIOR.—Nothing in this section is intended to affect the authority of the Secretary of the Interior under title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000.

SEC. 527. FAULKNER ISLAND, CONNECTICUT.

In consultation with the Director of the United States Fish and Wildlife Service, the Secretary shall design and construct shoreline protection measures for the coastline adjacent to the Faulkner Island Lighthouse, Connecticut, at a total cost of $4,500,000.

SEC. 528. EVERGLADES AND SOUTH FLORIDA ECOSYSTEM RESTORATION.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) CENTRAL AND SOUTHERN FLORIDA PROJECT.—The term "Central and Southern Florida Project" means the project for Central and Southern Florida authorized under the heading "CENTRAL AND SOUTHERN FLORIDA" in section 203 of the Flood Control Act of 1948 (62 Stat. 1176), and any modification to the project authorized by law.

(2) COMMISSION.—The term "Commission" means the Governor's Commission for a Sustainable South Florida, established by Executive Order of the Governor dated March 3, 1994.

(3) GOVERNOR.—The term "Governor" means the Governor of the State of Florida.

(4) SOUTH FLORIDA ECOSYSTEM.—The term "South Florida ecosystem" means the area consisting of the lands and waters within the boundary of the South Florida Water Management District, including the Everglades, the Florida Keys, and the contiguous near-shore coastal waters of South Florida.

(5) TASK FORCE.—The term "Task Force" means the South Florida Ecosystem Restoration Task Force established by subsection (f).

(b) RESTORATION ACTIVITIES.—

(1) COMPREHENSIVE PLAN.—

(A) DEVELOPMENT.—

(i) PURPOSE.—The Secretary shall develop, as expeditiously as practicable, a proposed comprehensive plan for the purpose of restoring, preserving, and protecting the South Florida ecosystem. The comprehensive plan shall provide for the protection of water quality in, and the reduction of the loss of fresh water from, the Everglades. The comprehensive plan shall include such features as are necessary to provide for the water-related needs of the region, including flood control, the enhancement of water supplies, and other objectives served by the Central and Southern Florida Project.

(ii) CONSIDERATIONS.—The comprehensive plan shall—

(I) be developed by the Secretary in cooperation with the non-Federal project sponsor and in consultation with the Task Force; and

(II) consider the conceptual framework specified in the report entitled "Conceptual Plan for the Central and Southern Florida Project Restudy", published by the Commission and approved by the Governor.

(B) SUBMISSION.—Not later than July 1, 1999, the Secretary shall—

(i) complete the feasibility phase of the Central and Southern Florida Project comprehensive review study as authorized by section 309(l) of the Water Resources Development Act of 1992 (106 Stat. 4844), and by 2 resolutions of the Committee on Public Works and Transportation of the House of Representatives, dated September 24, 1992; and

(ii) submit to Congress the plan developed under subparagraph (A)(i) consisting of a feasibility report and a programmatic environmental impact statement covering the proposed Federal action set forth in the plan.

(C) ADDITIONAL STUDIES AND ANALYSES.—Notwithstanding the completion of the feasibility report under subparagraph (B), the Secretary shall continue to conduct such studies and analyses as are necessary, consistent with subparagraph (A)(i).

(2) USE OF EXISTING AUTHORITY FOR UNCONSTRUCTED PROJECT FEATURES.—The Secretary shall design and construct any features of the Central and Southern Florida Project that are authorized on the date of the enactment of this Act or that may be implemented in accordance with the Secretary's authority to modify an authorized project, including features authorized under sections 315 and 316, with funds that are otherwise available, if the Secretary determines that the design and construction—

(A) will accelerate the restoration, preservation, and protection of the South Florida ecosystem;

(B) will be generally consistent with the conceptual framework described in paragraph (1)(A)(ii)(II); and

(C) will be compatible with the overall authorized purposes of the Central and Southern Florida Project.

(3) CRITICAL RESTORATION PROJECTS.—

(A) IN GENERAL.—In addition to the activities described in paragraphs (1) and (2), if the Secretary, in cooperation with the non-Federal project sponsor and the Task Force, determines that a restoration project for the South Florida ecosystem will produce independent, immediate, and substantial restoration, preservation, and protection benefits, and will be generally consistent with the conceptual framework described in paragraph (1)(A)(ii)(II), the Secretary shall proceed expeditiously with the implementation of the restoration project.

(B) INITIATION OF PROJECTS.—After September 30, 1999, no new projects may be initiated under subparagraph (A).

(C) AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There is authorized to be appropriated to the Department of the Army to pay the Federal share of the cost of carrying out projects under subparagraph (A) $75,000,000 for the period consisting of fiscal years 1997 through 1999.

(ii) FEDERAL SHARE.—The Federal share of the cost of carrying out any 1 project under subparagraph (A) shall be not more than $25,000,000.

(4) GENERAL PROVISIONS.—

(A) WATER QUALITY.—In carrying out activities described in this subsection and sections 315 and 316, the Secretary—

(i) shall take into account the protection of water quality by considering applicable State water quality standards; and

(ii) may include in projects such features as are necessary to provide water to restore, preserve, and protect the South Florida ecosystem.

(B) COMPLIANCE WITH APPLICABLE LAW.—In carrying out the activities described in this subsection and subsection (c), the Secretary shall comply with any applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(C) PUBLIC PARTICIPATION.—In developing the comprehensive plan under paragraph (1) and carrying out the activities described in this subsection and subsection (c), the Secretary shall provide for public review and comment on the activities in accordance with applicable Federal law.

(c) INTEGRATION OF OTHER ACTIVITIES.—

(1) IN GENERAL.—In carrying out activities described in subsection (b), the Secretary shall integrate such activities with ongoing Federal and State projects and activities, including—

(A) the project for the ecosystem restoration of the Kissimmee River, Florida, authorized by section 101 of the Water Resources Development Act of 1992 (106 Stat. 4802);

(B) the project for modifications to improve water deliveries into Everglades National Park authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–8);

(C) activities under the Florida Keys National Marine Sanctuary and Protection Act (16 U.S.C. 1433 note; 104 Stat. 3089); and

(D) the Everglades Construction Project of the State of Florida.

(2) STATUTORY CONSTRUCTION.—

(A) EXISTING AUTHORITY.—Except as otherwise expressly provided in this section, nothing in this section affects any authority in effect on the date of the enactment of this Act, or any requirement of the authority, relating to participation in restoration activities in the South Florida ecosystem, including the projects and activities specified in paragraph (1), by—

(i) the Department of the Interior;

(ii) the Department of Commerce;

(iii) the Department of the Army;

(iv) the Environmental Protection Agency;

(v) the Department of Agriculture;

(vi) the State of Florida; and

(vii) the South Florida Water Management District.

(B) NEW AUTHORITY.—Nothing in this section confers any new regulatory authority on any Federal or non-Federal entity that carries out any activity authorized by this section.

(d) JUSTIFICATION.—

(1) IN GENERAL.—Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) or any other provision of law, in carrying out the activities to restore, preserve, and protect the South Florida ccosystem described in subsection (b), the Secretary may determine that the activities—

(A) are justified by the environmental benefits derived by the South Florida ecosystem in general and the Everglades and Florida Bay in particular; and

(B) shall not need further economic justification if the Secretary determines that the activities are cost-effective.

(2) APPLICABILITY.—Paragraph (1) shall not apply to any separable element intended to produce benefits that are predominantly unrelated to the restoration, preservation, and protection of the South Florida ecosystem.

(e) COST SHARING.—

(1) IN GENERAL.—Except as provided in sections 315 and 316 and paragraph (2), the non-Federal share of the cost of activities described in subsection (b) shall be 50 percent.

(2) WATER QUALITY FEATURES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the non-Federal share of the cost of project features to improve water quality described in subsection (b) shall be 100 percent.

(B) EXCEPTION.—

(i) IN GENERAL.—Subject to clause (ii), if the Secretary determines that a project feature to improve water quality is essential to Everglades restoration, the non-Federal share of the cost of the feature shall be 50 percent.

(ii) APPLICABILITY.—Clause (i) shall not apply to any feature of the Everglades Construction Project of the State of Florida.

(3) OPERATION AND MAINTENANCE.—The operation and maintenance of projects carried out under this section shall be a non-Federal responsibility.

(4) CREDIT.—Regardless of the date of acquisition, the value of lands or interests in land acquired by non-Federal interests for any activity described in subsection (b) shall be included in the total cost of the activity and credited against the non-Federal share of the cost of the activity. Such value shall be determined by the Secretary.

(f) SOUTH FLORIDA ECOSYSTEM RESTORATION TASK FORCE.—

(1) ESTABLISHMENT AND MEMBERSHIP.—There is established the South Florida Ecosystem Restoration Task Force, which shall consist of the following members (or, in the case of a Federal agency, a designee at the level of assistant secretary or an equivalent level):

(A) The Secretary of the Interior, who shall serve as chairperson.

(B) The Secretary of Commerce.

(C) The Secretary.

(D) The Attorney General.

(E) The Administrator of the Environmental Protection Agency.

(F) The Secretary of Agriculture.

(G) The Secretary of Transportation.

(H) 1 representative of the Miccosukee Tribe of Indians of Florida, to be appointed by the Secretary of the Interior based on the recommendations of the tribal chairman.

(I) 1 representative of the Seminole Tribe of Florida, to be appointed by the Secretary of the Interior based on the recommendations of the tribal chairman.

(J) 2 representatives of the State of Florida, to be appointed by the Secretary of the Interior based on the recommendations of the Governor.

(K) 1 representative of the South Florida Water Management District, to be appointed by the Secretary of the Interior based on the recommendations of the Governor.

(L) 2 representatives of local government in the State of Florida, to be appointed by the Secretary of the Interior based on the recommendations of the Governor.

(2) DUTIES OF TASK FORCE.—The Task Force—

(A) shall consult with, and provide recommendations to, the Secretary during development of the comprehensive plan under subsection (b)(1);

(B) shall coordinate the development of consistent policies, strategies, plans, programs,

projects, activities, and priorities for addressing the restoration, preservation, and protection of the South Florida ecosystem;

(C) shall exchange information regarding programs, projects, and activities of the agencies and entities represented on the Task Force to promote ecosystem restoration and maintenance;

(D) shall establish a Florida-based working group which shall include representatives of the agencies and entities represented on the Task Force as well as other governmental entities as appropriate for the purpose of formulating, recommending, coordinating, and implementing the policies, strategies, plans, programs, projects, activities, and priorities of the Task Force;

(E) may, and the working group described in subparagraph (D), may—

(i) establish such advisory bodies as are necessary to assist the Task Force in its duties, including public policy and scientific issues; and

(ii) select as an advisory body any entity, such as the Commission, that represents a broad variety of private and public interests;

(F) shall facilitate the resolution of interagency and intergovernmental conflicts associated with the restoration of the South Florida ecosystem among agencies and entities represented on the Task Force;

(G) shall coordinate scientific and other research associated with the restoration of the South Florida ecosystem;

(H) shall provide assistance and support to agencies and entities represented on the Task Force in their restoration activities;

(I) shall prepare an integrated financial plan and recommendations for coordinated budget requests for the funds proposed to be expended by agencies and entities represented on the Task Force for the restoration, preservation, and protection of the South Florida ecosystem; and

(J) shall submit a biennial report to Congress that summarizes—

(i) the activities of the Task Force;

(ii) the policies, strategies, plans, programs, projects, activities, and priorities planned, developed, or implemented for the restoration of the South Florida ecosystem; and

(iii) progress made toward the restoration.

(3) PROCEDURES AND ADVICE.—

(A) PUBLIC PARTICIPATION.—

(i) IN GENERAL.—The Task Force shall implement procedures to facilitate public participation in the advisory process, including providing advance notice of meetings, providing adequate opportunity for public input and comment, maintaining appropriate records, and making a record of the proceedings of meetings available for public inspection.

(ii) OVERSIGHT.—The Secretary of the Interior shall ensure that the procedures described in clause (i) are adopted and implemented and that the records described in clause (i) are accurately maintained and available for public inspection.

(B) ADVISORS TO THE TASK FORCE AND WORKING GROUP.—The Task Force or the working group described in paragraph (2)(D) may seek advice and input from any interested, knowledgeable, or affected party as the Task Force or working group, respectively, determines necessary to perform the duties described in paragraph (2).

(C) APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT.—

(i) TASK FORCE AND WORKING GROUP.—The Task Force and the working group shall not be considered advisory committees under the Federal Advisory Committee Act (5 U.S.C. App.).

(ii) ADVISORS.—Seeking advice and input under subparagraph (B) shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(4) COMPENSATION.—A member of the Task Force shall receive no compensation for the service of the member on the Task Force.

(5) TRAVEL EXPENSES.—Travel expenses incurred by a member of the Task Force in the performance of services for the Task Force shall be paid by the agency, tribe, or government that the member represents.

SEC. 529. TAMPA, FLORIDA.

The Secretary may enter into a cooperative agreement under section 229 with the Museum of Science and Industry, Tampa, Florida, to provide technical, planning, and design assistance to demonstrate the water quality functions found in wetlands, at an estimated total Federal cost of $500,000.

SEC. 530. WATERSHED MANAGEMENT PLAN FOR DEEP RIVER BASIN, INDIANA.

(a) DEVELOPMENT.—The Secretary, in consultation with the Natural Resources Conservation Service of the Department of Agriculture, shall develop a watershed management plan for the Deep River Basin, Indiana, including Deep River, Lake George, Turkey Creek, and other related tributaries in Indiana.

(b) CONTENTS.—The plan to be developed by the Secretary under subsection (a) shall address specific concerns related to the Deep River Basin area, including—

(1) sediment flow into Deep River, Turkey Creek, and other tributaries;

(2) control of sediment quality in Lake George;

(3) flooding problems;

(4) the safety of the Lake George Dam; and

(5) watershed management.

SEC. 531. SOUTHERN AND EASTERN KENTUCKY.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program for providing environmental assistance to non-Federal interests in southern and eastern Kentucky.

(b) FORM OF ASSISTANCE.—Assistance under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in southern and eastern Kentucky, including projects for wastewater treatment and related facilities, water supply and related facilities, and surface water resource protection and development.

(c) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) PROJECT COOPERATION AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a project cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with such assistance.

(2) REQUIREMENTS.—Each agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities development plan or resource protection plan, including appropriate plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—Total project costs under each agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest before entering into the agreement with the Secretary.

(C) CREDIT FOR CERTAIN FINANCING COSTS.—In the event of a delay in the reimbursement of the non-Federal share of a project, the non-Federal interest shall receive credit for reasonable interest and other associated financing costs necessary for such non-Federal interest to provide the non-Federal share of the project's cost.

(D) LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations provided by the non-Federal interest toward its share of project costs (including costs associated with obtaining permits necessary for the placement of such project on publicly owned or controlled lands), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed under an agreement entered into under this subsection shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) REPORT.—Not later than December 31, 1999, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.

(g) SOUTHERN AND EASTERN KENTUCKY DEFINED.—In this section, the term "southern and eastern Kentucky" means Morgan, Floyd, Pulaski, Wayne, Laurel, Knox, Pike, Menifee, Perry, Harlan, Breathitt, Martin, Jackson, Wolfe, Clay, Magoffin, Owsley, Johnson, Leslie, Lawrence, Knott, Bell, McCreary, Rockcastle, Whitley, Lee, and Letcher Counties, Kentucky.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000.

SEC. 532. COASTAL WETLANDS RESTORATION PROJECTS, LOUISIANA.

Section 303(f) of the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3952(f); 104 Stat. 4782–4783) is amended—

(1) in paragraph (4) by striking "and (3)" and inserting "(3), and (5)"; and

(2) by adding at the end the following:

"(5) FEDERAL SHARE IN CALENDAR YEARS 1996 AND 1997.—Notwithstanding paragraphs (1) and (2), upon approval of the conservation plan under section 304 and a determination by the Secretary that a reduction in the non-Federal share is warranted, amounts made available in accordance with section 306 to carry out coastal wetlands restoration projects under this section in calendar years 1996 and 1997 shall provide 90 percent of the cost of such projects.".

SEC. 533. SOUTHEAST LOUISIANA.

(a) FLOOD CONTROL.—The Secretary shall proceed with engineering, design, and construction of projects to provide for flood control and improvements to rainfall drainage systems in Jefferson, Orleans, and St. Tammany Parishes, Louisiana, in accordance with the following reports of the New Orleans District Engineer: Jefferson and Orleans Parishes, Louisiana, Urban Flood Control and Water Quality Management, July 1992; Tangipahoa, Techefuncte, and Tickfaw Rivers, Louisiana, June 1991; St. Tammany Parish, Louisiana, July 1996; and Schneider Canal, Slidell, Louisiana, Hurricane Protection, May 1990.

(b) COST SHARING.—The cost of any work performed by the non-Federal interests subsequent to the dates of the reports referred to in subsection (a) and determined by the Secretary to be a compatible and integral part of the projects shall be credited toward the non-Federal share of the projects.

(c) FUNDING.—There is authorized to be appropriated $100,000,000 for the initiation and

partial accomplishment of projects described in the reports referred to in subsection (a).

(d) ADDITIONAL OBLIGATIONS.—No funds may be obligated in excess of the amount authorized by subsection (c) for the projects for flood control and improvements to rainfall drainage systems authorized by subsection (a) until the Corps of Engineers determines that the additional work to be carried out with such funds is technically sound, environmentally acceptable, and economic, as applicable.

SEC. 534. ASSATEAGUE ISLAND, MARYLAND AND VIRGINIA.

(a) PROJECT TO MITIGATE SHORE DAMAGE.—The Secretary shall expedite the Assateague Island restoration feature of the Ocean City, Maryland, and vicinity study and, if the Secretary determines that the Federal navigation project has contributed to degradation of the shoreline, the Secretary shall carry out the shoreline restoration feature. The Secretary shall allocate costs for the project feature pursuant to section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i; 82 Stat. 735).

(b) COORDINATION.—In carrying out the project under this section, the Secretary shall coordinate with affected Federal and State agencies and shall enter into an agreement with the Federal property owner to determine the allocation of the project costs.

(c) FUNDING.—There is authorized to be appropriated to carry out this section $35,000,000.

SEC. 535. CUMBERLAND, MARYLAND.

The Secretary may provide technical, planning, and design assistance to State, local, and other Federal entities for the restoration of the Chesapeake and Ohio Canal, in the vicinity of Cumberland, Maryland.

SEC. 536. WILLIAM JENNINGS RANDOLPH ACCESS ROAD, GARRETT COUNTY, MARYLAND.

The Secretary shall transfer up to $600,000 to the State of Maryland for use by the State in constructing an access road to the William Jennings Randolph Lake in Garrett County, Maryland.

SEC. 537. POPLAR ISLAND, MARYLAND.

The Secretary shall carry out a project for the beneficial use of dredged material at Poplar Island, Maryland, substantially in accordance with, and subject to the conditions described in, the report of the Secretary dated September 3, 1996, at a total cost of $307,000,000, with an estimated Federal cost of $230,000,000 and an estimated non-Federal cost of $77,000,000. The project shall be carried out under the policies and cooperative agreement requirements of section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326), except that subsection (e) of such section shall not apply to the project authorized by this section.

SEC. 538. EROSION CONTROL MEASURES, SMITH ISLAND, MARYLAND.

(a) IN GENERAL.—The Secretary shall implement erosion control measures in the vicinity of Rhodes Point, Smith Island, Maryland, at an estimated total Federal cost of $450,000.

(b) IMPLEMENTATION ON EMERGENCY BASIS.—The project under subsection (a) shall be carried out on an emergency basis in view of the national, historic, and cultural value of the island and in order to protect the Federal investment in infrastructure facilities.

(c) COST SHARING.—Cost sharing applicable to hurricane and storm damage reduction shall be applicable to the project to be carried out under subsection (a).

SEC. 539. RESTORATION PROJECTS FOR MARYLAND, PENNSYLVANIA, AND WEST VIRGINIA.

(a) IN GENERAL.—

(1) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to non-Federal interests, in cooperation with Federal and State agencies, for reclamation and water quality protection projects for the purpose of abating and mitigating surface water quality degradation caused by abandoned mines along—

(A) the North Branch of the Potomac River, Maryland, Pennsylvania, and West Virginia; and

(B) the New River, West Virginia, watershed.

(2) ADDITIONAL MEASURES.—Projects under paragraph (1) may also include measures for the abatement and mitigation of surface water quality degradation caused by the lack of sanitary wastewater treatment facilities or the need to enhance such facilities.

(3) CONSULTATION WITH FEDERAL ENTITIES.—Any project under paragraph (1) that is located on lands owned by the United States shall be undertaken in consultation with the Federal entity with administrative jurisdiction over such lands.

(b) FEDERAL SHARE.—The Federal share of the cost of the activities conducted under subsection (a)(1) shall be 50 percent; except that, with respect to projects located on lands owned by the United States, the Federal share shall be 100 percent.

(c) EFFECT ON AUTHORITY OF SECRETARY OF THE INTERIOR.—Nothing in this section is intended to affect the authority of the Secretary of the Interior under title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,500,000 for projects undertaken under subsection (a)(1)(A) and $1,500,000 for projects undertaken under subsection (a)(1)(B).

SEC. 540. CONTROL OF AQUATIC PLANTS, MICHIGAN, PENNSYLVANIA, AND VIRGINIA AND NORTH CAROLINA.

The Secretary shall carry out under section 104 of the River and Harbor Act of 1958 (33 U.S.C. 610)—

(1) a program to control aquatic plants in Lake St. Clair, Michigan;

(2) a program to control aquatic plants in the Schuylkill River, Philadelphia, Pennsylvania; and

(3) a program to control aquatic plants in Lake Gaston, Virginia and North Carolina.

SEC. 541. DULUTH, MINNESOTA, ALTERNATIVE TECHNOLOGY PROJECT.

(a) PROJECT AUTHORIZATION.—The Secretary shall develop and implement alternative methods for decontamination and disposal of contaminated dredged material at the Port of Duluth, Minnesota.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000.

SEC. 542. LAKE SUPERIOR CENTER, MINNESOTA.

(a) CONSTRUCTION.—The Secretary shall assist the Minnesota Lake Superior Center authority in the construction of an educational facility to be used in connection with efforts to educate the public in the economic, recreational, biological, aesthetic, and spiritual worth of Lake Superior and other large bodies of fresh water.

(b) PUBLIC OWNERSHIP.—Prior to providing any assistance under subsection (a), the Secretary shall verify that the facility to be constructed under subsection (a) will be owned by the public authority established by the State of Minnesota to develop, operate, and maintain the Lake Superior Center.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the construction of the facility under subsection (a) $10,000,000.

SEC. 543. REDWOOD RIVER BASIN, MINNESOTA.

(a) STUDY AND STRATEGY DEVELOPMENT.—The Secretary, in cooperation with the Secretary of Agriculture and the State of Minnesota, shall conduct a study, and develop a strategy, for using wetland restoration, soil and water conservation practices, and nonstructural measures to reduce flood damage, improve water quality, and create wildlife habitat in the Redwood River basin and the subbasins draining into the Minnesota River, at an estimated Federal cost of $4,000,000.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of the study and development of the strategy shall be 25 percent and may be provided through in-kind services and materials.

(c) COOPERATION AGREEMENTS.—In conducting the study and developing the strategy under this section, the Secretary may enter into cooperation agreements to provide financial assistance to appropriate Federal, State, and local government agencies, including assistance for the implementation of wetland restoration projects and soil and water conservation measures.

(d) IMPLEMENTATION.—The Secretary shall undertake development and implementation of the strategy authorized by this section in cooperation with local landowners and local government officials.

SEC. 544. COLDWATER RIVER WATERSHED, MISSISSIPPI.

Not later than 6 months after the date of the enactment of this Act, the Secretary shall initiate all remaining work associated with the Coldwater River Watershed Demonstration Erosion Control Project, as authorized by the Act entitled "An Act making appropriations to provide productive employment for hundreds of thousands of jobless Americans, to hasten or initiate Federal projects and construction of lasting value to the Nation and its citizens, and to provide humanitarian assistance to the indigent for fiscal year 1983, and for other purposes", approved March 24, 1983 (97 Stat. 13).

SEC. 545. NATCHEZ BLUFFS, MISSISSIPPI.

The Secretary shall carry out the project for bluff stabilization, Natchez Bluffs, Natchez, Mississippi, substantially in accordance with the Natchez Bluffs Study, dated September 1985, the Natchez Bluffs Study: Supplement I, dated June 1990, and the Natchez Bluffs Study: Supplement II, dated December 1993, at a total cost of $17,200,000, with an estimated Federal cost of $12,900,000 and an estimated non-Federal cost of $4,300,000. The project shall be carried out in the portions of the bluffs described in the studies specified in the preceding sentence as Clifton Avenue, area 3; Bluff above Silver Street, area 6; Bluff above Natchez Under-the-Hill, area 7; and Madison Street to State Street, area 4.

SEC. 546. SARDIS LAKE, MISSISSIPPI.

(a) MANAGEMENT.—The Secretary shall work cooperatively with the State of Mississippi and the city of Sardis, Mississippi, to the maximum extent practicable, in the management of existing and proposed leases of land consistent with the Sardis Lake Recreation and Tourism Master Plan prepared by the city for the economic development of the Sardis Lake area.

(b) FLOOD CONTROL STORAGE.—The Secretary shall review the study conducted by the city of Sardis, Mississippi, regarding the impact of the Sardis Lake Recreation and Tourism Master Plan prepared by the city on flood control storage in Sardis Lake. The city shall not be required to reimburse the Secretary for the cost of such storage, or the cost of the Secretary's review, if the Secretary finds that the loss of flood control storage resulting from implementation of the master plan is not significant.

SEC. 547. ST. CHARLES COUNTY, MISSOURI, FLOOD PROTECTION.

(a) IN GENERAL.—Notwithstanding any other provision of law (including any regulation), no county located at the confluence of the Missouri and Mississippi Rivers or community located in any county located at the confluence of the

Missouri and Mississippi Rivers shall have its participation in the national flood insurance program established under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) suspended, revoked, or otherwise affected solely due to that county's or community's permitting the raising of levees by any public-sponsored levee district, along an alignment approved by the circuit court of such county, to a level sufficient to contain a 20-year flood.

(b) PERMITS.—The permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) numbered P-1972, authorizing the reshaping and realignment of an existing levee, shall be considered adequate to allow the raising of levees under subsection (a).

SEC. 548. ST. LOUIS, MISSOURI.

The Secretary shall not reassign the St. Louis District of the Corps of Engineers from the operational control of the Lower Mississippi Valley Division.

SEC. 549. LIBBY DAM, MONTANA.

(a) IN GENERAL.—In accordance with section 103(c)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(c)(1)), the Secretary shall—

(1) complete the construction and installation of generating units 6 through 8 at Libby Dam, Montana; and

(2) remove the partially constructed haul bridge over the Kootenai River, Montana.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $16,000,000. Such sums shall remain available until expended.

SEC. 550. HACKENSACK MEADOWLANDS AREA, NEW JERSEY.

Section 324(b)(1) of the Water Resources Development Act of 1992 (106 Stat. 4849) is amended to read as follows:

"(1) Mitigation, enhancement, and acquisition of significant wetlands that contribute to the Meadowlands ecosystem.".

SEC. 551. HUDSON RIVER HABITAT RESTORATION, NEW YORK.

(a) HABITAT RESTORATION.—The Secretary shall expedite the feasibility study of the Hudson River Habitat Restoration, Hudson River Basin, New York, and may carry out not fewer than 4 projects for habitat restoration in the Hudson River Basin, to the extent the Secretary determines such work to be advisable and technically feasible. Such projects shall be designed to—

(1) assess and improve habitat value and environmental outputs of recommended projects;

(2) evaluate various restoration techniques for effectiveness and cost;

(3) fill an important local habitat need within a specific portion of the study area; and

(4) take advantage of ongoing or planned actions by other agencies, local municipalities, or environmental groups that would increase the effectiveness or decrease the overall cost of implementing one of the recommended restoration project sites.

(b) NON-FEDERAL SHARE.—Non-Federal interests shall provide 25 percent of the cost of each project undertaken under subsection (a). The non-Federal share may be in the form of cash or in-kind contributions.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $11,000,000.

SEC. 552. NEW YORK CITY WATERSHED.

(a) ENVIRONMENTAL ASSISTANCE PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a program for providing environmental assistance to non-Federal interests in the New York City Watershed.

(2) FORM OF ASSISTANCE.—Assistance provided under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in the New York City Watershed, including projects for water supply, storage, treatment, and distribution facilities, and surface water resource protection and development.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(c) ELIGIBLE PROJECTS.—

(1) CERTIFICATION.—A project shall be eligible for financial assistance under this section only if the State director for the project certifies to the Secretary that the project will contribute to the protection and enhancement of the quality or quantity of the New York City water supply.

(2) SPECIAL CONSIDERATION.—In certifying projects to the Secretary, the State director shall give special consideration to those projects implementing plans, agreements, and measures that preserve and enhance the economic and social character of the communities in the New York City Watershed.

(3) PROJECT DESCRIPTIONS.—Projects eligible for assistance under this section shall include the following:

(A) Implementation of intergovernmental agreements for coordinating regulatory and management responsibilities.

(B) Acceleration of whole farm planning to implement best management practices to maintain or enhance water quality and to promote agricultural land use.

(C) Acceleration of whole community planning to promote intergovernmental cooperation in the regulation and management of activities consistent with the goal of maintaining or enhancing water quality.

(D) Natural resources stewardship on public and private lands to promote land uses that preserve and enhance the economic and social character of the communities in the New York City Watershed and protect and enhance water quality.

(d) COOPERATION AGREEMENTS.—Before providing assistance under this section, the Secretary shall enter into a project cooperation agreement with the State director for the project to be carried out with such assistance.

(e) COST SHARING.—

(1) IN GENERAL.—Total project costs under each agreement entered into under this section shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be in the form of grants or reimbursements of project costs.

(2) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest prior to entering into the agreement with the Secretary for a project.

(3) CREDIT FOR INTEREST.—In the event of a delay in the reimbursement of the non-Federal share of a project, the non-Federal interest shall receive credit for reasonable interest costs incurred to provide the non-Federal share of a project's cost.

(4) LANDS, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations provided by the non-Federal interest toward its share of project costs (including direct costs associated with obtaining permits necessary for the placement of such project on publicly owned or controlled lands), but not to exceed 25 percent of total project costs.

(5) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project carried out with assistance provided under this section.

(g) REPORT.—Not later than December 31, 2000, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with recommendations concerning whether such program should be implemented on a national basis.

(h) NEW YORK CITY WATERSHED DEFINED.—In this section, the term "New York City Watershed" means the land area within the counties of Delaware, Greene, Schoharie, Ulster, Sullivan, Westchester, Putnam, and Duchess, New York, that contributes water to the water supply system of New York City.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $22,500,000.

SEC. 553. NEW YORK STATE CANAL SYSTEM.

(a) IN GENERAL.—The Secretary may make capital improvements to the New York State Canal System.

(b) AGREEMENTS.—The Secretary, with the consent of appropriate local and State entities, shall enter into such arrangements, contracts, and leases with public and private entities as may be necessary for the purposes of rehabilitation, renovation, preservation, and maintenance of the New York State Canal System and its related facilities, including trailside facilities and other recreational projects along the waterways of the canal system.

(c) NEW YORK STATE CANAL SYSTEM DEFINED.—In this section, the term "New York State Canal System" means the Erie, Oswego, Champlain, and Cayuga-Seneca Canals.

(d) FEDERAL SHARE.—The Federal share of the cost of capital improvements under this section shall be 50 percent.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,000,000.

SEC. 554. ORCHARD BEACH, BRONX, NEW YORK.

The Secretary shall conduct a study for a project for shoreline protection, Orchard Beach, Bronx, New York, and, if the Secretary determines that the project is feasible, may carry out the project, at a maximum Federal cost of $5,200,000.

SEC. 555. DREDGED MATERIAL CONTAINMENT FACILITY FOR PORT OF NEW YORK-NEW JERSEY.

(a) IN GENERAL.—The Secretary may construct, operate, and maintain a dredged material containment facility with a capacity commensurate with the long-term dredged material disposal needs of port facilities under the jurisdiction of the Port of New York-New Jersey. Such facility may be a near-shore dredged material disposal facility along the Brooklyn waterfront.

(b) COST SHARING.—The costs associated with feasibility studies, design, engineering, and construction under this section shall be shared with the non-Federal interest in accordance with section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211).

(c) PUBLIC BENEFIT.—After the facility constructed under subsection (a) has been filled to capacity with dredged material, the Secretary shall maintain the facility for the public benefit.

SEC. 556. QUEENS COUNTY, NEW YORK.

(a) DESCRIPTION OF NONNAVIGABLE AREA.—Subject to subsections (b) and (c), the area of Long Island City, Queens County, New York, that—

(1) is not submerged;

(2) as of the date of the enactment of this Act, lies between the southerly high water line of Anable Basin (also known as the "11th Street Basin") and the northerly high water line of Newtown Creek; and

(3) extends from the high water line (as of such date of enactment) of the East River to the original high water line of the East River;

is declared to be nonnavigable waters of the United States.

(b) Requirement That Area Be Improved.—

(1) In general.—The declaration of nonnavigability under subsection (a) shall apply only to those portions of the area described in subsection (a) that are, or will be, bulkheaded, filled, or otherwise occupied by permanent structures or other permanent physical improvements (including parkland).

(2) Applicability of federal law.—Improvements described in paragraph (1) shall be subject to applicable Federal laws, including—

(A) sections 9 and 10 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 3, 1899 (33 U.S.C. 401 and 403);

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(c) Expiration Date.—The declaration of nonnavigability under subsection (a) shall expire with respect to a portion of the area described in subsection (a), if the portion—

(1) is not bulkheaded, filled, or otherwise occupied by a permanent structure or other permanent physical improvement (including parkland) in accordance with subsection (b) by the date that is 20 years after the date of the enactment of this Act; or

(2) requires an improvement described in subsection (b)(2) that is subject to a permit under an applicable Federal law, and the improvement is not commenced by the date that is 5 years after the date of issuance of the permit.

SEC. 557. JAMESTOWN DAM AND PIPESTEM DAM, NORTH DAKOTA.

(a) Revisions to Water Control Manuals.—In consultation with the States of North Dakota and South Dakota and the James River Water Development District, the Secretary shall review and consider revisions to the water control manuals for the Jamestown Dam and Pipestem Dam, North Dakota, to modify operation of the dams so as to reduce the magnitude and duration of flooding and inundation of land located within the 10-year floodplain along the James River in North Dakota and South Dakota.

(b) Feasibility Study.—

(1) In general.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall—

(A) complete a study to determine the feasibility of providing flood protection for the land referred to in subsection (a); and

(B) submit a report on the study to Congress.

(2) Considerations.—In carrying out paragraph (1), the Secretary shall consider all reasonable project-related and other options.

SEC. 558. NORTHEASTERN OHIO.

The Secretary may provide technical assistance to local interests for establishment of a regional water authority in northeastern Ohio to address the water problems of the region. The Federal share of the costs of such planning shall not exceed 50 percent.

SEC. 559. OHIO RIVER GREENWAY.

(a) Expedited Completion of Study.—The Secretary shall expedite the completion of the study for a project for the Ohio River Greenway, Jeffersonville, Clarksville, and New Albany, Indiana.

(b) Construction.—Upon completion of the study, if the Secretary determines that the project is feasible, the Secretary shall participate with the non-Federal interests in the construction of the project.

(c) Cost Sharing.—Total project costs under this section shall be shared at 50 percent Federal and 50 percent non-Federal.

(d) Lands, Easements, and Rights-of-Way.—Non-Federal interests shall be responsible for providing all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for the project.

(e) Credit.—The non-Federal interests shall receive credit for those costs incurred by the non-Federal interests that the Secretary determines are compatible with the study, design, and implementation of the project.

SEC. 560. GRAND LAKE, OKLAHOMA.

(a) Study.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall carry out and complete a study of flooding in Grand/Neosho Basin and tributaries in the vicinity of Pensacola Dam in northeastern Oklahoma to determine the scope of the backwater effects of operation of the dam and to identify any lands that the Secretary determines have been adversely impacted by such operation or should have been originally purchased as flowage easement for the project.

(b) Acquisition of Real Property.—Upon completion of the study and subject to advance appropriations, the Secretary may acquire from willing sellers such real property interests in any lands identified in the study as the Secretary determines are necessary to reduce the adverse impacts identified in the study conducted under subsection (a).

(c) Implementation Reports.—The Secretary shall transmit to Congress reports on the operation of Pensacola Dam, including data on and a description of releases in anticipation of flooding (referred to as "preoccupancy releases"), and the implementation of this section. The first of such reports shall be transmitted not later than 2 years after the date of the enactment of this Act.

(d) Authorization of Appropriations.—

(1) In general.—There is authorized to be appropriated to carry out this section $25,000,000.

(2) Maximum funding for study.—Of amounts appropriated to carry out this section, not to exceed $1,500,000 shall be available for carrying out the study under subsection (a).

SEC. 561. BROAD TOP REGION OF PENNSYLVANIA.

Section 304 of the Water Resources Development Act of 1992 (106 Stat. 4840) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) Cost Sharing.—

"(1) Federal share.—The Federal share of the cost of the activities conducted under the cooperative agreement entered into under subsection (a)—

"(A) shall be 75 percent; and

"(B) may be in the form of grants or reimbursements of project costs.

"(2) Non-federal share.—The non-Federal share of project costs may be provided in the form of design and construction services and other in-kind work provided by the non-Federal interests, whether occurring subsequent to, or within 6 years prior to, entering into an agreement with the Secretary. Non-Federal interests shall receive credit for grants and the value of work performed on behalf of such interests by State and local agencies, as determined by the Secretary."; and

(2) in subsection (c) by striking "$5,500,000" and inserting "$11,000,000".

SEC. 562. CURWENSVILLE LAKE, PENNSYLVANIA.

The Secretary shall modify the allocation of costs for the water reallocation project at Curwensville Lake, Pennsylvania, to the extent that the Secretary determines that such modification will provide environmental restoration benefits in meeting instream flow needs in the Susquehanna River basin.

SEC. 563. HOPPER DREDGE MCFARLAND.

(a) Project Authorization.—

(1) Determination.—The Secretary shall determine the advisability and necessity of making modernization and efficiency improvements to the hopper dredge McFarland. In making such determination, the Secretary shall—

(A) assess the need for returning the dredge to active service;

(B) determine whether the McFarland should be returned to active service or the reserve fleet after the potential improvements are completed and paid for; and

(C) establish minimum standards of dredging service to be met in areas served by the McFarland while the dredge is undergoing improvements.

(2) Authorization.—If the Secretary determines under paragraph (1) that such modernization and efficiency improvements are advisable and necessary, the Secretary may carry out the modernization and efficiency improvements. The Secretary may carry out such improvements only at the Philadelphia Naval Shipyard, Pennsylvania.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $20,000,000.

SEC. 564. PHILADELPHIA, PENNSYLVANIA.

(a) Water Works Restoration.—

(1) In general.—Upon completion of a report by the Corps of Engineers that such work is technically sound, environmentally acceptable, and economic, as applicable, the Secretary shall provide planning, design, and construction assistance for the protection and restoration of the Philadelphia, Pennsylvania, Water Works.

(2) Coordination.—In providing assistance under this subsection, the Secretary shall coordinate with the Fairmount Park Commission and the Secretary of the Interior.

(3) Funding.—There is authorized to be appropriated to carry out this subsection $1,000,000.

(b) Cooperation Agreement for Schuylkill Navigation Canal.—

(1) In general.—The Secretary shall enter into a cooperation agreement with the city of Philadelphia, Pennsylvania, to participate in the rehabilitation of the Schuylkill Navigation Canal at Manayunk.

(2) Limitation on federal share.—The Federal share of the cost of the rehabilitation under paragraph (1) shall not exceed $300,000 for each fiscal year.

(3) Area included.—For purposes of this subsection, the Schuylkill Navigation Canal includes the section approximately 10,000 feet long extending between Lock and Fountain Streets, Philadelphia, Pennsylvania.

(c) Schuylkill River Park.—

(1) Assistance.—Upon completion of a report by the Corps of Engineers that such work is technically sound, environmentally acceptable, and economic, as applicable, the Secretary may provide technical, planning, design, and construction assistance for the Schuylkill River Park, Philadelphia, Pennsylvania.

(2) Funding.—There is authorized to be appropriated to carry out this subsection $2,700,000.

(d) Pennypack Park.—

(1) Assistance.—Upon completion of a report by the Corps of Engineers that such work is technically sound, environmentally acceptable, and economic, as applicable, the Secretary may provide technical, design, construction, and financial assistance for measures for the improvement and restoration of aquatic habitats and aquatic resources at Pennypack Park, Philadelphia, Pennsylvania.

(2) Cooperation agreements.—In providing assistance under this subsection, the Secretary shall enter into cooperation agreements with the city of Philadelphia, acting through the Fairmount Park Commission.

(3) Funding.—There is authorized to be appropriated to carry out this subsection $15,000,000.

(e) FRANKFORD DAM.—

(1) COOPERATION AGREEMENTS.—The Secretary may enter into cooperation agreements with the city of Philadelphia, Pennsylvania, acting through the Fairmount Park Commission, to provide assistance for the elimination of the Frankford Dam, the replacement of the Rhawn Street Dam, and modifications to the Roosevelt Dam and the Verree Road Dam.

(2) FUNDING.—There is authorized to be appropriated to carry out this subsection $900,000.

SEC. 565. SEVEN POINTS VISITORS CENTER, RAYSTOWN LAKE, PENNSYLVANIA.

(a) IN GENERAL.—The Secretary shall construct a visitors center and related public use facilities at the Seven Points Recreation Area at Raystown Lake, Pennsylvania, generally in accordance with the Master Plan Update (1994) for the Raystown Lake Project.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000.

SEC. 566. SOUTHEASTERN PENNSYLVANIA.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a pilot program for providing environmental assistance to non-Federal interests in southeastern Pennsylvania.

(b) FORM OF ASSISTANCE.—Assistance under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in southeastern Pennsylvania, including projects for waste water treatment and related facilities, water supply and related facilities, and surface water resource protection and development.

(c) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) LOCAL COOPERATION AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with such assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest prior to entering into a local cooperation agreement with the Secretary for a project. The credit for such design work shall not exceed 6 percent of the total construction costs of the project.

(C) CREDIT FOR INTEREST.—In the event of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of a project's cost.

(D) LANDS, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of such project on publicly owned or controlled lands), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the pilot program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.

(g) SOUTHEASTERN PENNSYLVANIA DEFINED.—In this section, the term "southeastern Pennsylvania" means Philadelphia, Bucks, Chester, Delaware, and Montgomery Counties, Pennsylvania.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000.

SEC. 567. UPPER SUSQUEHANNA RIVER BASIN, PENNSYLVANIA AND NEW YORK.

(a) STUDY AND STRATEGY DEVELOPMENT.—The Secretary, in cooperation with the Secretary of Agriculture, the State of Pennsylvania, and the State of New York, shall conduct a study, and develop a strategy, for using wetland restoration, soil and water conservation practices, and nonstructural measures to reduce flood damage, improve water quality, and create wildlife habitat in the following portions of the Upper Susquehanna River basin:

(1) The Juniata River watershed, Pennsylvania, at an estimated Federal cost of $8,000,000.

(2) The Susquehanna River watershed upstream of the Chemung River, New York, at an estimated Federal cost of $5,000,000.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of the study and development of the strategy shall be 25 percent and may be provided through in-kind services and materials.

(c) COOPERATION AGREEMENTS.—In conducting the study and developing the strategy under this section, the Secretary may enter into cooperation agreements to provide financial assistance to appropriate Federal, State, and local government agencies, including assistance for the implementation of wetland restoration projects and soil and water conservation measures.

(d) IMPLEMENTATION.—The Secretary shall undertake development and implementation of the strategy authorized by this section in cooperation with local landowners and local government officials.

SEC. 568. WILLS CREEK, HYNDMAN, PENNSYLVANIA.

The Secretary may carry out a project for flood control, Wills Creek, Borough of Hyndman, Pennsylvania, at an estimated total cost of $5,000,000.

SEC. 569. BLACKSTONE RIVER VALLEY, RHODE ISLAND AND MASSACHUSETTS.

(a) IN GENERAL.—The Secretary, in coordination with Federal, State, and local interests, shall provide technical, planning, and design assistance in the development and restoration of the Blackstone River Valley National Heritage Corridor, Rhode Island and Massachusetts.

(b) FEDERAL SHARE.—Funds made available under this section for planning and design of a project may not exceed 75 percent of the total cost of such planning and design.

SEC. 570. DREDGED MATERIAL CONTAINMENT FACILITY FOR PORT OF PROVIDENCE, RHODE ISLAND.

(a) IN GENERAL.—The Secretary may construct, operate, and maintain a dredged material containment facility with a capacity commensurate with the long-term dredged material disposal needs of port facilities under the jurisdiction of the Port of Providence, Rhode Island.

(b) COST SHARING.—The costs associated with feasibility studies, design, engineering, and construction shall be shared with the non-Federal interest in accordance with section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211).

(c) PUBLIC BENEFIT.—After the facility constructed under subsection (a) has been filled to capacity with dredged material, the Secretary shall maintain the facility for the public benefit.

SEC. 571. QUONSET POINT-DAVISVILLE, RHODE ISLAND.

The Secretary shall replace the bulkhead between piers 1 and 2 at the Quonset Point-Davisville Industrial Park, Rhode Island, at a total cost of $1,350,000, with an estimated Federal cost of $1,012,500 and an estimated non-Federal cost of $337,500. In conjunction with this project, the Secretary shall install high mast lighting at pier 2 at a total cost of $300,000, with an estimated Federal cost of $225,000 and an estimated non-Federal cost of $75,000.

SEC. 572. EAST RIDGE, TENNESSEE.

The Secretary shall conduct a limited reevaluation of the flood management study for the East Ridge and Hamilton County area, Tennessee, undertaken by the Tennessee Valley Authority and may carry out the project at an estimated total cost of up to $25,000,000.

SEC. 573. MURFREESBORO, TENNESSEE.

The Secretary may carry out a project for environmental enhancement, Murfreesboro, Tennessee, in accordance with the Report and Environmental Assessment, Black Fox, Murfree and Oaklands Spring Wetlands, Murfreesboro, Rutherford County, Tennessee, dated August 1994.

SEC. 574. TENNESSEE RIVER, HAMILTON COUNTY, TENNESSEE.

The Secretary shall conduct a study for a project for bank stabilization, Tennessee River, Hamilton County, Tennessee, and, if the Secretary determines that the project is feasible, may carry out the project, at a maximum Federal cost of $7,500,000.

SEC. 575. HARRIS COUNTY, TEXAS.

(a) IN GENERAL.—During any evaluation of economic benefits and costs for projects set forth in subsection (b) that occurs after the date of the enactment of this Act, the Secretary shall not consider flood control works constructed by non-Federal interests within the drainage area of such projects prior to the date of such evaluation in the determination of conditions existing prior to construction of the project.

(b) SPECIFIC PROJECTS.—The projects to which subsection (a) apply are—

(1) the project for flood control, Buffalo Bayou Basin, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1258);

(2) the project for flood control, Buffalo Bayou and tributaries, Texas, authorized by section 101(a) of the Water Resources Development Act of 1990 (104 Stat. 4610); and

(3) the project for flood control, Cypress Creek, Texas, authorized by section 3(a)(13) of the Water Resources Development Act of 1988 (102 Stat. 4014).

SEC. 576. NEABSCO CREEK, VIRGINIA.

The Secretary shall carry out a project for flood control, Neubsco Creek Watershed, Prince William County, Virginia, at an estimated total cost of $1,500,000.

SEC. 577. TANGIER ISLAND, VIRGINIA.

(a) IN GENERAL.—The Secretary shall design and construct a breakwater at the North Channel on Tangier Island, Virginia, at a total cost of $1,200,000, with an estimated Federal cost of $900,000 and an estimated non-Federal cost of $300,000.

(b) COST-BENEFIT RATIO.—Congress finds that in view of the historic preservation benefits resulting from the project authorized by this section, the overall benefits of the project exceed the costs of the project.

SEC. 578. PIERCE COUNTY, WASHINGTON.

(a) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to Pierce County, Washington, to address measures that are necessary to ensure that non-Federal levees are adequately maintained and satisfy eligibility criteria for rehabilitation assistance under section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n; 55 Stat. 650).

(b) PURPOSE OF ASSISTANCE.—The purpose of the assistance under this section shall be to provide a review of the requirements of the Puyallup Tribe of Indians Settlement Act of 1989 (25 U.S.C. 1773 et seq.; 103 Stat. 83) and standards for project maintenance and vegetation management used by the Secretary in order to determine eligibility for levee rehabilitation assistance and, if appropriate, to amend such standards as needed to make non-Federal levees eligible for assistance that may be necessary as a result of future flooding.

SEC. 579. GREENBRIER RIVER BASIN, WEST VIRGINIA, FLOOD PROTECTION.

(a) IN GENERAL.—The Secretary may design and implement a flood damage reduction program for the Greenbrier River Basin, West Virginia, in the vicinity of Durbin, Cass, Marlinton, Renick, Ronceverte, and Alderson as generally presented in the District Engineer's draft Greenbrier River Basin Study Evaluation Report, dated July 1994, to the extent provided under subsection (b) to afford such communities a level of protection against flooding sufficient to reduce future losses to such communities from the likelihood of flooding such as occurred in November 1985, January 1996, and May 1996.

(b) FLOOD PROTECTION MEASURES.—The flood damage reduction program referred to in subsection (a) may include the following as the Chief of Engineers determines necessary and advisable in consultation with the communities referred to in subsection (a):

(1) Local protection projects such as levees, floodwalls, channelization, small tributary stream impoundments, and nonstructural measures such as individual floodproofing.

(2) Floodplain relocations and resettlement site developments, floodplain evacuations, and a comprehensive river corridor and watershed management plan generally in accordance with the District Engineer's draft Greenbrier River Corridor Management Plan, Concept Study, dated April 1996.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $12,000,000.

SEC. 580. LOWER MUD RIVER, MILTON, WEST VIRGINIA.

The Secretary shall conduct a limited reevaluation of the watershed plan and the environmental impact statement prepared for the Lower Mud River, Milton, West Virginia, by the Natural Resources Conservation Service pursuant to the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.) and may carry out the project.

SEC. 581. WEST VIRGINIA AND PENNSYLVANIA FLOOD CONTROL.

(a) IN GENERAL.—The Secretary may design and construct flood control measures in the Cheat and Tygart River Basins, West Virginia, and the Lower Allegheny, Lower Monongahela, West Branch Susquehanna, and Juniata River Basins, Pennsylvania, at a level of protection sufficient to prevent any future losses to these communities from flooding such as occurred in January 1996, but no less than a 100-year level of flood protection.

(b) PRIORITY COMMUNITIES.—In carrying out this section, the Secretary shall give priority to the communities of—

(1) Parsons and Rowlesburg, West Virginia, in the Cheat River Basin;

(2) Bellington and Phillipi, West Virginia, in the Tygart River Basin;

(3) Connellsville, Pennsylvania, in the Lower Monongahela River Basin;

(4) Benson, Hooversville, Clymer, and New Bethlehem, Pennsylvania, in the Lower Allegheny River Basin;

(5) Patton, Barnesboro, Coalport, and Spangler, Pennsylvania, in the West Branch Susquehanna River Basin; and

(6) Bedford, Linds Crossings, and Logan Township in the Juniata River Basin.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $12,000,000.

SEC. 582. SITE DESIGNATION.

Section 102(c)(4) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1412(c)(4)) is amended—

(1) by inserting after "for a site" the following: "(other than the site located off the coast of Newport Beach, California, which is known as 'LA-3')"; and

(2) by adding at the end the following: "Beginning January 1, 2000, no permit for dumping pursuant to this Act or authorization for dumping under section 103(e) shall be issued for the site located off the coast of Newport Beach, California, which is known as 'LA-3', unless such site has received a final designation pursuant to this subsection or an alternative site has been selected pursuant to section 103(b).".

SEC. 583. LONG ISLAND SOUND.

Section 119(e) of the Federal Water Pollution Control Act (33 U.S.C. 1269(e)) is amended by striking "1996" each place it appears and inserting "2001".

SEC. 584. WATER MONITORING STATION.

(a) ASSISTANCE.—The Secretary shall provide assistance to non-Federal interests for reconstruction of the water monitoring station on the North Fork of the Flathead River, Montana.

(b) FUNDING.—There is authorized to be appropriated to carry out this section $50,000.

SEC. 585. OVERFLOW MANAGEMENT FACILITY.

(a) ASSISTANCE.—The Secretary shall provide assistance to the Narragansett Bay Commission for the construction of a combined river overflow management facility in Rhode Island.

(b) FUNDING.—There is authorized to be appropriated to carry out this section $30,000,000.

SEC. 586. PRIVATIZATION OF INFRASTRUCTURE ASSETS.

(a) IN GENERAL.—Notwithstanding the provisions of title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.), Executive Order 12803, or any other law or authority, an entity that received Federal grant assistance for an infrastructure asset under the Federal Water Pollution Control Act shall not be required to repay any portion of the grant upon the lease or concession of the asset only if—

(1) ownership of the asset remains with the entity that received the grant; and

(2) the Administrator of the Environmental Protection Agency determines that the lease or concession furthers the purposes of such Act and approves the lease or concession.

(b) LIMITATION.—The Administrator shall not approve a total of more than 5 leases and concessions under this section.

TITLE VI—EXTENSION OF EXPENDITURE AUTHORITY UNDER HARBOR MAINTENANCE TRUST FUND

SEC. 601. EXTENSION OF EXPENDITURE AUTHORITY UNDER HARBOR MAINTENANCE TRUST FUND.

Paragraph (1) of section 9505(c) of the Internal Revenue Code of 1986 (relating to expenditures from Harbor Maintenance Trust Fund) is amended to read as follows:

"(1) to carry out section 210 of the Water Resources Development Act of 1986 (as in effect on the date of the enactment of the Water Resources Development Act of 1996),".

And the House agree to the same.

BUD SHUSTER,
DON YOUNG,
SHERWOOD BOEHLERT,
JAMES L. OBERSTAR,
ROBERT A. BORSKI,
Managers on the Part of the House.

JOHN H. CHAFEE,
JOHN WARNER,
BOB SMITH,
DANIEL PATRICK MOYNIHAN,
Managers of the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 640), to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—WATER RESOURCES PROJECTS

SEC. 101. PROJECT AUTHORIZATIONS

101(a) Projects with Chief's reports

101(a)(1) American River Watershed, California.—House §101(a)(1), Senate §101(b)(3)—Senate recedes with an amendment to paragraphs (A) & (D).

101(a)(2) Humboldt Harbor and Bay, California.—House §101(a)(6), Senate §101(a)(1)—Senate recedes.

101(a)(3) Marin County Shoreline, San Rafael, California.—House §101(a)(5), Senate §101(a)(2)—Senate recedes with an amendment.

101(a)(4) Port of Long Beach (Deepening), California.—House §101(b)(5), Senate §104(d)—Senate recedes with an amendment.

101(a)(5) San Lorenzo River, California.—House §101(a)(2), Senate §101(a)(3)—House recedes with an amendment.

101(a)(6) Santa Barbara Harbor, California.—House §101(a)(3), Senate §101(a)(4)—Senate recedes.

101(a)(7) Santa Monica Breakwater, California.—House §101(a)(4), Senate §101(b)(4)—Senate recedes with an amendment.

101(a)(8) Anacostia River and Tributaries, District of Columbia and Maryland.—House §101(a)(7), Senate §101(a)(5)—Senate recedes.

101(a)(9) Atlantic Intracoastal Waterway, St. Johns County, Florida.—House §101(a)(8), Senate §101(a)(6)—Senate recedes.

101(a)(10) Cedar Hammock (Wares Creek), Florida.—House §535, non comparable Senate section—Senate recedes with an amendment.

101(a)(11) Lower Savannah River Basin, Georgia and South Carolina.—House §101(b)(11), Senate §101(b)(5)—House recedes with an amendment.

101(a)(12) Lake Michigan, Illinois.—House §101(a)(9), Senate §101(a)(7)—Senate recedes.

101(a)(13) Kentucky Lock and Dam, Tennessee River, Kentucky.—House §101(a)(10), Senate §101(a)(8)—Senate recedes.

101(a)(14) Pond Creek, Jefferson County, Kentucky.—House §101(a)(11), Senate §101(a)(9)—Senate recedes.

101(a)(15) Wolf Creek Dam and Lake Cumberland, Kentucky.—House §101(a)(12), Senate §101(a)(10)—Senate recedes.

101(a)(16) Port Fourchon, LaFourche Parish, Louisiana.—House §101(a)(13), Senate §101(a)(11)—Senate recedes.

101(a)(17) West Bank of the Mississippi River, New Orleans (East of Harvey Canal), Louisiana.—House §101(a)(14), Senate §101(a)(12)—Senate recedes.

101(a)(18) Blue River Basin, Kansas City, Missouri.—No comparable House or Senate section.

101(a)(19) Wood River, Grand Island, Nebraska.—House §101(a)(15), Senate §101(a)(14)—Senate recedes.

101(a)(20) Las Cruces, New Mexico.—House §101(a)(16), Senate §101(b)(9)—Senate recedes.

101(a)(21) Atlantic Coast of Long Island, New York.—House §101(a)(17), Senate §101(a)(15)—House recedes with an amendment.

101(a)(22) Cape Fear-Northeast (Cape Fear) Rivers, North Carolina.—House §101(b)(13), Senate §101(b)(10)—House recedes with an amendment.

101(a)(23) Wilmington Harbor, Cape Fear River, North Carolina.—House §101(b)(18), Senate §101(a)(16)—Senate recedes.

101(a)(24) Duck Creek, Cincinnati, Ohio.—House §101(a)(19), Senate §101(a)(17)—Senate recedes.

101(a)(25) Willamette River Temperature Control, McKenzie Subbasin, Oregon.—House §101(a)(20), Senate §222—Senate recedes.

101(a)(26) Rio Grande de Arecibo, Puerto Rico.—House §101(a)(21), no comparable Senate section—Senate recedes.

101(a)(27) Charleston Harbor, South Carolina.—House §101(a)(22), Senate §101(b)(11)—Senate recedes.

101(a)(28) Big Sioux River and Skunk Creek, Sioux Falls, South Dakota.—House §101(a)(23), Senate §101(a)(18)—Senate recedes.

101(a)(29) Gulf Intracoastal Waterway, Aransas National Wildlife Refuge, Texas.—House §101(a)(25)—no comparable Senate section—Senate recedes.

101(a)(30) Houston-Galveston Navigation Channels, Texas.—House §101(a)(26), Senate §101(a)(19)—House recedes with an amendment.

101(a)(31) Marmet Lock, Kanawha River, West Virginia.—House §101(a)(27), Senate §101(a)(21)—Senate recedes.

101(b) Projects subject to report

The conference report includes project authorizations for which the Chief of Engineers has not yet completed a final report, but for which such reports are anticipated by December 31, 1996. These projects have been included in order to assure that projects anticipated to satisfy the necessary technical documentation by December 31, 1996 are not delayed until the next authorization bill. The Corps of Engineers has advised in each case that the final reports can be completed by the end of 1996. The Corps is directed to expedite final review on these projects so that further congressional action will not be necessary.

101(b)(1) Chignik, Alaska.—House §101(b)(1), Senate §101(b)(1)—House recedes.

101(b)(2) Cook Inlet, Alaska.—House §101(b)(2), Senate §101(b)(2)—House recedes.

101(b)(3) St. Paul Island Harbor, St. Paul, Alaska.—House §101(b)(3), no comparable Senate section—Senate recedes.

101(b)(4) Norco Bluffs, Riverside County, California.—House §101(b)(4), no comparable Senate section—Senate recedes.

101(b)(5) Terminus Dam, Kaweah River, California.—House §101(b)(6), no comparable Senate section—Senate recedes.

101(b)(6) Rehoboth Beach and Dewey Beach, Delaware.—House §101(b)(7), no comparable Senate section—Senate recedes.

101(b)(7) Brevard County, Florida.—House §101(b)(8), no comparable Senate section—Senate recedes.

101(b)(8) Lake Worth Inlet, Florida.—House §101(b)(10), no comparable Senate section—Senate recedes with an amendment.

101(b)(9) Miami Harbor Channel, Florida.—House §101(b)(9), no comparable Senate section—Senate recedes.

101(b)(10) New Harmony, Indiana.—Senate §101(b)(6), no comparable House section—House recedes with an amendment.

101(b)(11) Westwego to Harvey Canal, Louisiana.—House §337, Senate §102(a)—House recedes with an amendment.

101(b)(2) Chesapeake and Delaware Canal, Maryland and Delaware.—Senate §101(b)(7), no comparable House section—House recedes with an amendment.

101(b)(13) Absecon Island, New Jersey.—House §101(b)(12), no comparable Senate section—Senate recedes.

SEC. 102. SMALL FLOOD CONTROL PROJECTS

House §102(a), no comparable Senate section—Senate recedes with an amendment.

102(1) South Upland, San Bernadino County, California.—House §102(a)(1), no comparable Senate section—Senate recedes.

102(2) Birds, Lawrence County, Illinois.—House §102(a)(2), no comparable Senate section—Senate recedes.

102(3) Bridgeport, Lawrence County, Illinois.—House §102(a)(3), no comparable Senate section—Senate recedes.

102(4) Embarras River, Villa Grove, Illinois.—House §102(a)(4), no comparable Senate section—Senate recedes.

102(5) Frankfort, Will County, Illinois.—House §102(a)(5), no comparable Senate section—Senate recedes.

102(6) Sumner, Lawrence County, Illinois.—House §102(a)(6), no comparable Senate section—Senate recedes.

102(7) Vermillion River, Demonade Park, Lafayette, Louisiana.—House §102(a)(7), no comparable Senate section—Senate recedes.

102(8) Vermillion River, Quail Hollow Subdivision, Lafayette, Louisiana.—House §102(a)(8), no comparable Senate section—Senate recedes.

102(9) Kawkawlin River, Bay County, Michigan.—House §102(a)(9), no comparable Senate section—Senate recedes.

102(10) Whitney Drain, Arenac County, Michigan.—House §102(a)(10), no comparable Senate section—Senate recedes.

102(11) Festus and Crystal City, Missouri.—House §102(a)(11), no comparable Senate section—Senate recedes.

102(12) Kimmswick, Missouri.—House §102(a)(12), no comparable Senate section—Senate recedes.

102(13) River Des Peres, St. Louis County, Missouri.—House §102(a)(13), no comparable Senate section—Senate recedes.

102(14) Malta, Montana.—Senate §215, no comparable House section—House recedes with an amendment.

102(15) Buffalo Creek, Erie County, New York.—House §102(a)(14), no comparable Senate section—Senate recedes.

102(16) Cazenovia Creek, Erie County, New York.—House §102(a)(15), no comparable Senate section—Senate recedes.

102(17) Cheektowaga, Erie County, New York.—House §102(a)(16), no comparable Senate section—Senate recedes.

102(18) Fulmer Creek, Village of Mohawk, New York.—House §102(a)(17), no comparable Senate section—Senate recedes.

102(19) Moyer Creek, Village of Frankfort, New York.—House §102(a)(18), no comparable Senate section—Senate recedes.

102(20) Sauquoit Creek, Whitesboro, New York.—House §102(a)(19), no comparable Senate section—Senate recedes.

102(21) Steele Creek, Village of Ilion, New York.—House §102(a)(20), no comparable Senate section—Senate recedes.

102(22) Willamette River, Oregon.—House §102(a)(21), Senate §104(t)—Senate recedes.

SEC. 103. SMALL BANK STABILIZATION PROJECTS

House §103, no comparable Senate section—Senate recedes with an amendment.

103(1) St. Joseph River, Indiana.—House §103(1), no comparable Senate section—Senate recedes with an amendment.

103(2) Allegheny River at Oil City, Pennsylvania.—House §103(2), no comparable Senate section—Senate recedes.

103(3) Cumberland River, Nashville, Tennessee.—House §103(3), no comparable Senate section—Senate recedes.

SEC. 104. SMALL NAVIGATION PROJECTS

House §104, no comparable Senate section—Senate recedes with an amendment.

104(1) Akutan, Alaska.—House §104(1), no comparable Senate section—Senate recedes.

104(2) Illinois and Michigan Canal, Illinois.—House §327, no comparable Senate section—Senate recedes with an amendment.

104(3) Grand Marais Harbor Breakwater, Michigan.—House §104(2), no comparable Senate section—Senate recedes.

104(4) Duluth, Minnesota.—House §104(3), no comparable Senate section—Senate recedes.

104(5) Taconite, Minnesota.—House §104(4), no comparable Senate section—Senate recedes

104(6) Two Harbors, Minnesota.—House §104(5), no comparable Senate section—Senate recedes.

104(7) Caruthersville Harbor, Pemiscot County, Missouri.—House §104(6), no comparable Senate section—Senate recedes.

104(8) New Madrid County Harbor, Missouri.—House §104(7), no comparable Senate section—Senate recedes.

104(9) Brooklyn, New York.—House §104(8), no comparable Senate section—Senate recedes.

104(10) Buffalo Inner Harbor, Buffalo, New York.—House §104(9), Senate §104(o)—Senate recedes with an amendment.

104(11) Glenn Cove Creek, New York.—House §104(10), no comparable Senate section—Senate recedes.

104(12) Union Ship Canal, Buffalo and Lackawanna, New York.—House §104(11), no comparable Senate section—Senate recedes.

SEC.105. SMALL SHORELINE PROTECTION PROJECTS

House §105, no comparable Senate section.

105 Small Shoreline Protection Projects.—House §105(a), no comparable Senate section—Senate recedes with an amendment.

105(1) Fort Pierce, Florida.—House §105(a)(2), no comparable Senate section—Senate recedes.

105(2) Sylvan Beach Breakwater, Verona, Oneida County, New York.—House §105(a)(4), no comparable Senate section—Senate recedes.

SEC. 106. SMALL SNAGGING AND SEDIMENT REMOVAL PROJECT, MISSISSIPPI RIVER, LITTLE FALLS, MINNESOTA

House §106, no comparable Senate section—Senate recedes with an amendment.

SEC. 107. SMALL PROJECTS FOR IMPROVEMENT OF THE ENVIRONMENT

House §107, no comparable Senate section—Senate recedes with an amendment.

107(1) Pine Flat Dam, California.—No House comparable section, Senate §312(b)—House recedes with an amendment.

107(2) Upper Truckee River, El Dorado County, California.—House §107(1), no comparable Senate section—Senate recedes.

107(3) Whittier Narrows Dam, California.—House §107(3), no comparable Senate section—Senate recedes.

107(4) Lower Amazon Creek, Oregon.—Senate §312(c), no comparable House section—House recedes with an amendment.

107(5) Ashley Creek, Utah.—House §104(y), no comparable Senate section—House recedes with an amendment.

107(6) Upper Jordan River, Salt Lake County, Utah.—House §107(4), no comparable Senate section—Senate recedes.

TITLE II—GENERAL PROVISIONS

SEC. 201 COST SHARING FOR DREDGED MATERIAL DISPOSAL AREAS

House §201, Senate §336—Senate Recedes with an amendment to Subsections (d) and (g).

This section assures a consistent approach to the Federal and non-Federal responsibilities for providing dredged material disposal areas. By requiring the same cost sharing for disposal activities, whether they involve open water discharge or discharge into confined sites or similar methods, non-Federal project sponsors will have greater certainty regarding their cost sharing responsibilities during project development. Importantly, this section will result in benefits to the aquatic environment by reducing inordinate pressure for open water disposal, which may be less costly but may, in some cases, not be preferable from an environmental point of view.

To address situations in which projects involving dredged material disposal facilities could be inadvertently disadvantaged by the provisions of this section, the section includes a provision that assures that no increase in non-Federal costs will result from its application. Among the projects that will not have their non-Federal share increased are the modification or enlargement of existing confined dredged material disposal facilities at Norfolk Harbor, Virginia; Cleveland Harbor, Ohio and Green Bay Harbor, Wisconsin.

SEC. 202 FLOOD CONTROL POLICY

House §202, no comparable Senate section—Senate recedes with an amendment.

The conferees have included several provisions in section 202 which modify the flood control program of the Corps of Engineers, reflecting an evolution in national flood control policy. The conferees have deleted the provision in the House bill to allow additional review of the proposal without prejudice to its substance. The conferees expect the Corps to continue to consider nonstructural alternatives as required by existing law, and encourage the Corps to improve its efforts at considering nonstructural alternatives in its project study and formulation. Such consideration should include watershed management, wetlands restoration, elevation, and relocation. The Corps is also encouraged to explore alternatives which may be implemented by others, beyond the authority of the Corps. Examples of such alternatives include changes in zoning or development patterns by local officials. Because the Corps has no authority to implement such recommendations, such options are generally not explored or displayed in Corps study documents. However, such alternatives could, in some cases, result in a more effective flood protection program at reduced cost to both Federal and non-Federal interests.

Such alternatives are consistent with current approaches to flood control and recent congressional actions related to reducing Federal expenditures for flooding. For example, Congress enacted the Hazard Mitigation and Flood Damage Reduction Act of 1993, in direct response to the disastrous flooding in the Midwest in 1993. This law allows for increased use of relocation in response to flooding. It would be prudent for the Corps to also increase its review of nonstructural alternatives prior to flooding.

The conferees on the part of the House have receded to the Senate and deleted subsection 202(f) of the House bill. Subsection (f) would have amended section 73 of the Water Resources Development Act of 1974 to place a greater emphasis on including proposals for nonstructural alternatives to reduce or prevent flood damages in the surveying, planning or design of projects for flood protection.

202(a) Flood Control Cost Sharing.—House §202, Senate §337—Senate recedes with an amendment.

202(b) Ability to Pay.—House §202(b)—Senate recedes with an amendment.

The continuing problem of non-Federal project sponsors' ability to provide the required cost sharing for flood control projects has been addressed by this legislation. First enacted in the Water Resources Development act (WRDA) of 1986 and modified in WRDAs of 1990 and 1992, the Corps of Engineers has implemented congressional direction concerning ability-to-pay in a manner that has resulted in little assistance to financially distressed communities in need of relief from flooding. Section 202 addresses this problem with specific guidance to the Secretary. It is essential that prudent, yet meaningful ability-to-pay procedures to implemented. This is especially important in light of the increase in the non-Federal share of project costs for future project authorizations that is provided for in section 202. The Secretary's progress in implementing this section.

202(c) Flood Plain Management Plans.—House §202(c), no comparable Senate section—Senate recedes with an amendment.

202(d) Nonstructural Flood Control Policy.—House §202(d), no comparable Senate section—Senate recedes.

202(e) Emergency Response.—House §202(e), no comparable Senate section—Senate recedes.

202(f) Levee Owners Manual.—Senate §316, no comparable House section—House recedes with an amendment.

202(g) Vegetation Management Guidelines.—No comparable House of Senate section.

202(h) Risk-Based Analysis Methodology.—Senate §317, no comparable House section—House recedes with an amendment.

SEC. 203 COST SHARING FOR FEASIBILITY STUDIES

House §203, Senate §314—Senate recedes with an amendment.

This section addresses the chronic problem of excessive, unpredictable cost increases that non-Federal sponsors incur in participating with the Corps in feasibility studies. The provision allows that, except in limited circumstances, study costs in excess of the amount specified in the feasibility cost-sharing agreement may be repaid by the non-Federal study sponsor after the project is authorized for construction. The Corps is expected to improve its procedures for preparing study cost estimates and to work with non-Federal study sponsors as full partners in the development and conduct of studies.

It has been brought to the attention of the conference committee that the Corps is administratively shortening the period allowed for reconnaissance studies and is requiring its field offices to complete such studies for $100,000. While the Corps' desire to expedite the planning process is admirable, it is believed that there are potential shortcomings in this approach. First, it may reduce the amount of information available to potential non-Federal feasibility study sponsors on the likelihood of feasible and acceptable project alternatives. Second, it potentially increases the amount of time, effort and funds that will be required in the cost-shared feasbility study. Third, the policy may not be flexible enough to address those water resources issues that are complex or geographically broad. Implementing any policy that has a high likelihood of increasing non-Federal costs, but whose effect on shortening the overall study process is speculative, would not serve the long-term infrastructure needs of the Nation. The Corps is to address these concerns as it implements the policy.

SEC. 204 RESTORATION OF ENVIRONMENTAL QUALITY

House §204, Senate §312—Senate recedes.

SEC. 205 ENVIRORNMENTAL DREDGING

House §205, Senate §313—Senate recedes with an amendment.

SEC. 206 AQUATIC ESOSYSTEM RESTORATION

House §206, no comparable Senate section—Senate recedes with an amendment.

SEC. 207 BENEFICIAL USES OF DREDGED MATERIAL

House §207, no comparable Senate section—Senate recedes with an amendment.

SEC. 208 RECREATION POLICY AND USER FEES

208(a) Recreation Policy.—House §208(a), no comparable Senate section—Senate recedes.

208(b) User Fees.—House §208(b), Senate §332—House recedes with an amendment.

208(c) Alternative to Annual Passes.—House §505, no comparable Senate section—Senate recedes with an amendment.

SEC. 209 RECOVERY OF COSTS

House §209, Senate §341—Senate recedes.

SEC. 210 COST SHARING FOR ENVIRONMENTAL PROJECTS

House §210, Senate §301—Senate recedes with an amendment.

SEC. 211 CONSTRUCTION OF FLOOD CONTROL PROJECTS BY NON-FEDERAL INTERESTS

House §211, no comparable Senate section—Senate recedes with an amendment to Subsections (e), (f), and (g).

SEC. 212 ENGINEERING AND ENVIRONMENTAL INNOVATIONS OF NATIONAL SIGNIFICANCE

House §212, no comparable Senate section—Senate recedes with an amendment.

213 LEASE AUTHORITY

House §213, no comparable Senate section—Senate recedes.

SEC. 214 COLLABORATIVE RESEARCH AND DEVELOPMENT

House §214, Senate §302—Senate recedes.

SEC. 215 NATIONAL DAM SAFETY PROGRAM

House §215, Senate §303—House recedes with an amendment to Subsections (a), (b) and (c).

This section reflects a comprehensive initiative for improving the safety of the Nation's dams with a flexible, non-regulatory approach to dam safety issues. By providing financial incentives for training, research, and data collection and by facilitating intergovernmental coordination and the exchange of information, state and local governments and non-governmental entities will be better equipped to address dam safety issues. This section does not affect Federal responsibilities relating to the construction or operation of dams, or to the regulation, permitting or licensing of dams, by the Corps of Engineers, the Bureau of Reclamation, the Tennessee Valley Authority, the Federal Energy Regulatory Commission, or other Federal agencies.

SEC. 216 HYDROELECTRIC POWER PROJECT UPRATING

House §216, Senate §304—House recedes.

SEC. 217 DREDGED MATERIAL DISPOSAL FACILITIES PARTNERSHIPS

House §218, no comparable Senate section—Senate recedes with an amendment to Subsection (c).

SEC. 218 OBSTRUCTION REMOVAL REQUIREMENT

House §219, Senate §315—Senate recedes.

SEC. 219 SMALL PROJECT AUTHORIZATIONS

House §220, no comparable Senate section—Senate recedes with an amendment.

SEC. 220 UNECONOMICAL COST-SHARING REQUIREMENTS

House §221, Senate §339—Senate recedes.

SEC. 221 PLANNING ASSISTANCE TO STATES

House §222, Senate §340—Senate recedes.

SEC. 222 CORPS OF ENGINEERS EXPENSES

House §223, Senate §309—Senate recedes.

SEC. 223 STATE AND FEDERAL AGENCY REVIEW PERIOD

House §224, Senate §335—Senate recedes.

SEC. 224 SECTION 215 REIMBURSEMENT LIMITATION PER PROJECT

224(a) In General.—House §225, Senate §338—Senate recedes.

224(b) Modification of Reimbursement Limitation for San Antonio River Authority.—House §574, Senate §338(b)—House recedes.

SEC. 225 MELALEUCA

House §226, Senate §319—House recedes with an amendment.

SEC. 226 SEDIMENTS DECONTAMINATION TECHNOLOGY

House §227, Senate §318—Senate recedes.

SEC. 227 SHORE PROTECTION

House §228, Senate §334—Senate recedes with amendments to Subsections (b) and (c).

This section addresses recent policy decisions made by the Corps to reduce its role in the implementation of projects designed to reduce shoreline erosion damages. Such projects are important to preserving economic vitality of the Nation's coastal areas. These projects provide essential protection against devastating storms and often yield substantial benefits to recreation as well. Shore protection projects are subject to the same technical, environmental and economic analysis as other types of water resources projects. While budget realities are of great concern, the Corps' role in such projects should be arbitrarily end. The Corps is to continue to pursue feasible projects on an equal footing with other water resources projects.

SEC. 228 CONDITIONS FOR PROJECT DEAUTHORIZATIONS

House §229, Senate §208—House recedes with an amendment.

SEC. 229 SUPPORT OF ARMY CIVIL WORKS PROGRAM

House §230, Senate §310—Senate recedes with an amendment.

The conferees on the part of the House have receded to the Senate on House amendment section 581, Huntington, West Virginia. That section would have authorized the Secretary to enter into a cooperative agreement with Marshall University to provide technical assistance to the Center for Environmental, Geotechnical and Applied Sciences. The new authority for the Secretary contained in section 229, Support of Army Civil Works Program, is sufficient to allow the Secretary to enter into the agreement contemplated by House section 581. Therefore, the Secretary is directed to pursue an appropriate cooperative agreement with Marshall University under section 229 as expeditiously as practicable.

SEC. 230 BENEFITS TO NAVIGATION

House §231, no comparable Section section—Senate recedes.

SEC. 231 LOSS OF LIFE PREVENTION

House §232, no comparable Senate section—Senate recedes with an amendment.

SEC. 232 SCENIC AND AESTHETIC CONSIDERATIONS

House §233, no comparable Senate section—Senate recedes.

SEC. 233 TERMINATION OF TECHNICAL ADVISORY COMMITTEE

House 236, Senate §307—House recedes.

SEC. 234. INTERAGENCY AND INTERNATIONAL SUPPORT AUTHORITY

Senate §311, no comparable House section—House recedes with an amendment.

SEC. 235 SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

House §235, no comparable Senate section—Senate recedes.

SEC. 236 TECHNICAL CORRECTIONS

House §237, Senate §347—House recedes.

SEC. 237 HOPPER DREDGES

House §517, no comparable Senate section—Senate recedes with an amendment.

This section would establish a program to increase the Corps use of private dredging equipment by placing the federal dredge *Wheeler* in a ready reserve status. In implementing the program, the Secretary would be required to develop and implement procedures to ensure that private hopper dredging capacity is available to meet routine and time-sensitive dredging needs. Although the managers expect the private dredging industry to be able to meet many navigation needs, because the *Wheeler* will be in ready reserve status, the procedures should allow for the *Wheeler* to be placed into service within a few days of a need arising. Should an emergency situation arise in any region, the program would allow for the *Wheeler* to be transferred from ready reserve status and to be placed into service in a few days, rather than waiting for as much as two weeks, or longer, for one of the remaining Federal dredges to be transferred to the area.

The Secretary would evaluate the results of the program periodically by reporting to the appropriate Congressional Committees on the impact of the program on private industry and Corps hopper dredge costs, responsiveness, and capacity.

Over the past ten years, the port communities in the Pacific Northwest and the Middle Atlantic have been heavily dependent on the Corps hopper dredges, the *Yaquina*, the *Essayons*, and the *McFarland*, respectively. These vessels are being used to meet the navigation dredging needs of their respective areas. As a consequence, these port communities have expressed concern that the implementation of a program to increase the reliance on private industry dredges could have an adverse effect on navigation. To reassure these areas, the managers have included language directing the Secretary not to reduce the availability and utilization of Federal hopper dredge vessels on the Pacific and Atlantic coasts of the United States to meet the navigation dredging needs.

TITLE III—PROJECT RELATED PROVISIONS

SEC. 301 PROJECT MODIFICATIONS

Sec. 301(a) Projects with reports

301(a)(1) San Francisco River at Clifton, Arizona.—House §305, Senate §102(b)—Senate recedes.

301(a)(2) Oakland Harbor, California.—House §309, Senate §102(d)—Senate recedes with an amendment.

301(a)(3) San Luis Rey, California.—House §311, no comparable Senate section—Senate recedes.

301(a)(4) Potomac River, Washington, District of Columbia.—House §313, no comparable Senate section—Senate recedes.

301(a)(5) North Branch of Chicago River, Illinois.—House §326, Senate §102(i)—Senate recedes with an amendment.

301(a)(6) Halstead, Kansas.—House §328, Senate §102(j)—Senate recedes.

301(a)(7) Cape Girardeau, Missouri.—House §342, Senate §102(r)—Senate recedes with an amendment.

301(a)(8) Molly Ann's Brook, New Jersey.—House §346, no comparable Senate section—Senate recedes.

301(a)(9) Ramapo River at Oakland, New Jersey.—House §348, no comparable Senate section—Senate recedes.

301(a)(10) Wilmington Harbor—Northeast Cape Fear River, North Carolina.—House §353, Senate §102(v)—Senate recedes.

301(a)(11) Saw Mill Run, Pennsylvania.—House §362, Senate §102(z)—Senate recedes.

301(a)(12) San Juan Harbor, Puerto Rico.—House §366, no comparable Senate section—Senate recedes.

301(a)(13) India Point Railroad Bridge, Seekonk River, Providence, Rhode Island.—Senate §102(cc), no comparable House section—House recedes.

301(a)(14) Upper Jordan River, Utah.—House §370, Senate §102(gg)—House recedes.

301(b) Projects subject to reports

301(b)(1) Alamo Dam, Arizona.—House §302, no comparable Senate section—Senate recedes.

301(b)(2) Phoenix, Arizona.—House §304, no comparable Senate section—Senate recedes with an amendment.

301(b)(3) Glenn-Colusa, California.—House §307, no comparable Senate section—Senate recedes.

301(b)(4) Rybee Island, Georgia.—House §320, no comparable Senate section—Senate recedes with an amendment.

301(b)(5) Comite River, Louisiana.—House §331, Senate §102(1)—Senate recedes.

301(b)(6) Grand Isle and Vicinity, Louisiana.—House §332, no comparable Senate section—Senate recedes with an amendment.

301(b)(7) Red River Waterway, Louisiana.—House §336, no comparable Senate section—Senate recedes.

301(b)(8) Red River Waterway, Mississippi River to Shreveport, Louisiana.—Senate §102, no comparable House section—House recedes.

301(b)(9) Stillwater, Minnesota.—House §341, Senate §102(q)—Senate recedes with an amendment.

The conference agreement includes language which will allow for the expansion of the ongoing flood protection project in Stillwater, Minnesota. The non-Federal sponsor has expressed concerns that the expansion of the project, and the need for the Corps to conduct an analysis of the expanded project, could cause a delay in implementing the previously authorized work. Unnecessary delay in the previously authorized work is not intended. The Secretary is directed to continue expeditiously in the implementation of the previously authorized work during the analysis related to the expanded project.

301(b)(10) Joseph G. Minish Passaic River Park, New Jersey.—House §345, Senate §102(t)—Senate recedes with an amendment.

301(b)(11) Arthur Kill, New York and New Jersey.—House §350, no comparable Senate section—Senate recedes.

301(b)(12) Kill Van Kull, New York and New Jersey.—House §352, Senate §104(r).

301(b)(12)(A) Cost Increases.—Senate recedes.

301(b)(12)(B) Continuation of Engineering and Design.—House recedes with an amendment.

SEC. 302 MOBILE HARBOR, ALABAMA

House §301, Senate §102(a)—Senate recedes.

SEC. 303 NOGALES WASH AND TRIBUTARIES, ARIZONA

House §303, no comparable Senate section—Senate recedes.

SEC. 304 WHITE RIVER BASIN, ARKANSAS AND MISSOURI

Senate §204, no comparable House section—House recedes.

SEC. 305 CHANNEL ISLANDS HARBOR, CALIFORNIA

House §306, no comparable Senate section—Senate recedes with an amendment.

SEC. 306 LAKE ELSINORE, CALIFORNIA

House §102(b)(1), Senate §104(c)—Senate recedes with an amendment.

SEC. 307 LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA

House §308, Senate §102(c)—House recedes with an amendment.

SEC. 308 LOS ANGELES COUNTY DRAINAGE AREA, CALIFORNIA

House §532, no comparable Senate section—Senate recedes.

SEC. 309 PRADO DAM, CALIFORNIA

House §587, no comparable Senate section—Senate recedes with an amendment to Subsections (a), (b) and (c).

SEC. 310 QUEENSWAY BAY, CALIFORNIA

House §310, no comparable Senate section—Senate recedes with an amendment.

SEC. 311 SEVEN OAKS DAM, CALIFORNIA

House §534, no comparable Senate section—Senate recedes.

SEC. 312 THAMES RIVER, CONNECTICUT

House §312, Senate §103(g)—House recedes with an amendment to Subsections (b) and (c).

SEC. 313 CANAVERAL HARBOR, FLORIDA

House §314, Senate §101(f)—Senate recedes.

SEC. 314 CAPTIVA ISLAND, FLORIDA

House §315, no comparable Senate section—Senate recedes.

SEC. 315 CENTRAL AND SOUTHERN FLORIDA, CANAL 51

House §316, Senate §206—Senate recedes.

This section modifies the project for flood control for West Palm Beach Canal (Canal 51) to include authority for an enlarged storm water retention area and additional work at Federal expense, in accordance with the Everglades Protection Project. This project is essential to the overall Everglades restoration project because it will allow for a greater availability of fresh water to one of the most degraded portions of the Everglades.

In carrying out the activities authorized under this section, the Secretary of the Army is to work with the South Florida Water Management District and the Indian Trail Water Control District to resolve the issue of flood control in a financially equitable manner consistent with each agency's statutory authority.

SEC. 316 CENTRAL AND SOUTHERN FLORIDA, CANAL 111

House §317, Senate §205–Senate recedes.

SEC. 317 JACKSONVILLE HARBOR (MILL COVE), FLORIDA

House §318, no comparable Senate section—Senate recedes with an amendment.

SEC. 318 PANAMA CITY BEACHES, FLORIDA

House §319, no comparable Senate section—Senate recedes with an amendment to Subsection (b).

SEC. 319 CHICAGO, ILLINOIS

House §322, no comparable Senate section—Senate recedes.

SEC. 320 CHICAGO LOCK AND THOMAS J. O'BRIEN LOCK, ILLINOIS

House §323, no comparable Senate section—Senate recedes.

SEC. 321 KASKASKIA RIVER, ILLINOIS

House §324, no comparable Senate section—Senate recedes.

SEC. 322 LOCKS AND DAM 26, ALTON, ILLINOIS AND MISSOURI

House §325, no comparable Senate section—Senate recedes.

SEC. 323 WHITE RIVER, INDIANA

House §321, no comparable Senate section—Senate recedes.

SEC. 324 BAPTISTE COLLETTE BAYOU, LOUISIANA

House §335, Senate §102(k)—House recedes.

SEC. 325 LAKE PONTCHARTRAIN, LOUISANA

House §333, no comparable Senate section—Senate recedes.

SEC. 326 MISSISSIPPI RIVER-GULF OUTLET, LOUISIANA

Senate §209, no comparable House section—Senate recedes.

SEC. 327 TOLCHESTER CHANNEL, MARYLAND

House §338, Senate §102(p)—Senate recedes.

SEC. 328 CROSS VILLAGE HARBOR, MICHIGAN

House §503(a)(2), no comparable Senate section—Senate recedes with an amendment.

SEC. 329 SAGINAW RIVER, MICHIGAN

House §339, no comparable Senate section—Senate recedes.

SEC. 330 SAULT SAINTE MARIE, CHIPPEWA COUNTY, MICHIGAN

House §340, no comparable Senate section—Senate recedes.

This section modifies the project for navigation at Sault Sainte Marie, Michigan, to require that portion of the non-Federal share which the Secretary determines is attributable to the use of the lock by vessels calling at Canadian ports be paid by the United States. Appropriate and necessary action by the U.S. government to pursue reimbursement from Canada is strongly urged. The remaining portion of the non-Federal share shall be paid by the Great Lakes states pursuant to an agreement which they enter into with each other. The repayment of the non-Federal project cost is to be repaid over 50 years or the expected life of the project, whichever is shorter.

SEC. 331 ST. JOHNS BAYOU-NEW MADRID FLOODWAY, MISSOURI

House §344, no comparable Senate section—Senate recedes.

SEC. 332 LOST CREEK, COLUMBUS, NEBRASKA

House §102(b)(2), no comparable Senate section—Senate recedes with an amendment.

SEC. 333 PASSAIC RIVER, NEW JERSEY

House §347, no comparable Senate section—Senate recedes.

SEC. 334 ACEQUIAS IRRIGATION SYSTEM, NEW MEXICO

Senate §102(u), no comparable House section—House recedes with an amendment.

SEC. 335 JONES INLET, NEW YORK

House §351, no comparable Senate section—Senate recedes with an amendment.

SEC. 336 BUFORD TRENTON IRRIGATION DISTRICT, NORTH DAKOTA

House §354, Senate §219—House recedes with an amendment.

SEC. 337 RENO BEACH-HOWARDS FARM, OHIO

House §355, no comparable Senate section—Senate recedes.

SEC. 338 BROKEN BOW LAKE, RED RIVER BASIN, OKLAHOMA

Senate §102(w), no comparable House section—House recedes with an amendment.

SEC. 339 WISTER LAKE PROJECT, LEFLORE COUNTY, OKLAHOMA

House §356, Senate §221—House recedes.

SEC. 340 BONNEVILLE LOCK AND DAM, COLUMBIA RIVER, OREGON AND WASHINGTON

House §357, Senate §342—Senate recedes.

SEC. 341 COLUMBIA RIVER DREDGING, OREGON AND WASHINGTON

House §358, Senate §102(x)—Senate recedes.

SEC. 342 LACKAWANNA RIVER AT SCRANTON, PENNSYLVANIA

House §360, Senate §104(u)—Senate recedes with an amendment.

SEC. 343 MUSSERS DAM, MIDDLE CREEK, SNYDER COUNTY, PENNSYLVANIA

House §361, no comparable Senate section—Senate recedes.

SEC. 344 SCHUYLKILL RIVER, PENNSYLVANIA

House §363, no comparble Senate section—Senate recedes.

SEC. 345 SOUTH CENTRAL PENNSYLVANIA

House §364, no comparable Senate section—Senate recedes with an amendment.

SEC. 346 WYOMING VALLEY, PENNSYLVANIA

House §365, Senate §102(aa)—House recedes.

SEC. 347 ALLENDALE DAM, NORTH PROVIDENCE, RHODE ISLAND

Senate §102(bb), no comparable House section—House recedes.

SEC. 348 NARRAGANSETT, RHODE ISLAND

House §367, Senate §223—Senate recedes.

SEC. 349 CLOUTER CREEK DISPOSAL AREA, CHARLESTON, SOUTH CAROLINA

House §368, Senate §327—House recedes with an amendment.

SEC. 350 BUFFALO BAYOU, TEXAS

House §573, no comparable Senate section—Senate recedes with an amendment.

SEC. 351 DALLAS FLOODWAY EXTENSION, DALLAS, TEXAS

House §369, Senate §102(ee)—Senate recedes with an amendment.

SEC. 352 GRUNDY, VIRGINIA

Senate §102(hh), no comparable House section—House recedes.

SEC. 353 HAYSI LAKE, VIRGINIA

House §371, Senate §102(jj)—Senate recedes.

SEC. 354 RUDEE INLET, VIRGINIA BEACH, VIRGINIA

House §372, sSenate §226—Senate recedes.

SEC. 355 VIRGINIA BEACH, VIRGINIA

House §373, Senate §227—House recedes.

SEC. 356 EAST WATERWAY, WASHINGTON

House §374, no comparable Senate section—Senate recedes.

SEC. 357 BLUESTONE LAKE, WEST VIRGINIA

House §375, no comparable Senate section—Senate recedes.

SEC. 358 MOOREFIELD, WEST VIRGINIA

House §376, no comparable Senate section—Senate recedes with an amendment.

SEC. 359 SOUTHERN WEST VIRGINIA

House §377, no comparable Senate section—Senate recedes with an amendment.

SEC. 360 WEST VIRGINIA TRAILHEAD FACILITIES

House §378, no comparable Senate section—Senate recedes with an amendment.

SEC. 361 KICKAPOO RIVER, WISCONSIN

House §379, Senate §103(p)—Senate recedes with an amendment to subsections (b), (c), and (d).

SEC. 362 TETON COUNTY, WYOMING

House §380, Senate §102(kk)—Senate recedes.

SEC. 363 PROJECT REAUTHORIZATIONS

363(a) Grand Prairie Region and Bayou Meto Basin, Arkansas.—House §502(a), Senate §201—Senate recedes with an amendment.

363(b) White River, Arkansas.—House §502(b), no comparable Senate section—Senate recedes.

363(c) Des Plaines River, Illinois.—House §502(c), no comparable Senate section—Senate recedes.

363(d) Alpena Harbor, Michigan.—House §502(d), no comparable Senate section—Senate recedes.

363(e) Ontonagon Harbor, Ontonagon County, Michigan—House §502(e), no comparable Senate section—Senate recedes.

363(f) Knife River Harbor, Minnesota.—House §502(f), no comparable Senate section—Senate recedes.

363(g) Cliffwood Beach, New Jersey.—House §502(g), Senate §216—Senate recedes.

SEC. 364 PROJECT DEAUTHORIZATIONS

364(1) Branford Harbor, Connecticut.—House §501(1), Senate 103(a)—House recedes.

364(2) Bridgeport Harbor, Connecticut.—House §501(2), Senate 103(b)—House recedes.

364(3) Guilford Harbor, Connecticut.—House §501(3), Senate 103(c)—House recedes.

364(4) Mystic River, Connecticut.—House §501(5), no comparable Senate section—Senate recedes.

364(5) Norwalk Harbor, Connecticut.—House §501(b), Senate §103(d)—House recedes.

364(6) Patchogue River, Westbrook, Connecticut.—No comparable House or Senate section.

364(7) Southport Harbor, Connecticut.—House §501(7), Senate §103(e)—House recedes.

364(8) Stony Creek, Connecticut.—House §501(8), Senate §103(f)—House recedes.

364(9) East Boothbay Harbor, Maine.—Senate §103(h), no comparable House section—House recedes.

364(10) Kennebunk River, Maine.—House §501(9), no comparable Senate section—Senate recedes.

364(11) York Harbor, Maine.—House §501(10), Senate §103(i)—House recedes.

364(12) Chelsea River, Boston Harbor, Massachusetts.—House §501(11), no comparable Senate section—Senate recedes.

364(13) Cohasset Harbor, Massachusetts.—House §501(12), Senate §103(j)—House recedes.

364(14) Falmouth, Massachusetts.—House §501(13), no comparable House section—House recedes.

364(15) Mystic River, Massachusetts.—House §501(14), Senate section—Senate recedes.

364(16) Reserved Channel, Boston, Massachusetts.—House §501(15), no comparable Senate section—Senate recedes.

364(17) Weymouth-Fore and Town Rivers, Massachusetts.—House §501(16), no comparable Senate section—Senate recedes.

364(18) Cocheco River, New Hampshire.—House §501(17), Senate §103(l)—House recedes.

364(19) Morristown Harbor, New York.—House §501(18), Senate §103(m)—House recedes.

364(20) Oswegatchie River, Ogdensburg, New York.—House §501(19), Senate §103(n)—Senate recedes.

364(21) Conneaut Harbor, Ohio.—House §501(20), no comparable Senate section—Senate recedes.

364(22) Lorain Small Boat Basin, Lake Erie, Ohio.—House §501(21), no comparable Senate section—Senate recedes.

364(23) Apponaug Cove, Rhode Island.—House §501(22), Senate §103(o)—House recedes.

364(24) Port Washington Harbor, Wisconsin.—House §501(23), no comparable Senate section—Senate recedes.

SEC. 365 MISSISSIPPI DELTA REGION, LOUISIANA

House §334, no comparable Senate section—Senate recedes with an amendment.

SEC. 366 MONONGAHELA RIVER, PENNSYLVANIA

No comparable House or Senate section.

TITLE IV—STUDIES

SEC. 401 CORPS CAPABILITY STUDY, ALASKA

House §401, no comparable Senate section—Senate recedes with an amendment.

SEC. 402 RED RIVER, ARKANSAS

Senate §104(a), no comparable House section—House recedes with an amendment.

SEC. 403 MCDOWELL MOUNTAIN, ARIZONA

House §402, no comparable Senate section—Senate recedes.

SEC. 404 NOGALES WASH AND TRIBUTARIES, ARIZONA

House §403, no comparable Senate section—Senate recedes.

SEC. 405 GARDEN GROVE, CALIFORNIA

House §404, no comparable Senate section—Senate recedes.

SEC. 406 MUGU LAGOON, CALIFORNIA

House §405, no comparable Senate section—Senate recedes.

SEC. 407 MURRIETA CREEK, RIVERSIDE COUNTY, CALIFORNIA

Senate §104(f), no comparable House section—House recedes.

SEC. 408 PINE FLAT DAM FISH AND WILDLIFE HABITAT RESTORATION, CALIFORNIA

Senate §104(g), no comparable House section—House recedes with an amendment.

SEC. 409 SANTA YNEZ, CALIFORNIA

House §406, no comparable Senate section—Senate recedes.

SEC. 410 SOUTHERN CALIFORNIA INFRASTRUCTURE

House §407, no comparable Senate section—Senate recedes with an amendment.

SEC. 411 STOCKTON, CALIFORNIA

411(a) Bear Creek Drainage and Mormon Slough/Calaveras River.—Senate §104(b) and (c), no comparable House section—House recedes with an amendment.

411(b) Farmington Dam, California.—House §531, no comparable Senate section—Senate recedes with an amendment.

SEC. 412 YOLO BYPASS, SACRAMENTO-SAN JOAQUIN DELTA, CALIFORNIA

House §408, no comparable Senate section—Senate recedes.

SEC. 413 WEST DADE, FLORIDA

Senate §104(h), no comparable House section—House recedes with an amendment.

SEC. 414 SAVANNAH RIVER BASIN COMPREHENSIVE WATER RESOURCES STUDY

Senate §104(i), no comparable House section—House recedes with an amendment.

SEC. 415 CHAIN OF ROCKS CANAL, ILLINOIS

House §409, no comparable Senate section—Senate recedes with an amendment.

SEC. 416 QUINCY, ILLINOIS

House §410, no comparable Senate section—Senate recedes with an amendment.

SEC. 417 SPRINGFIELD, ILLINOIS

House §411, no comparable Senate section—Senate recedes with an amendment.

SEC. 418 BEAUTY CREEK WATERSHED, VALPARAISO CITY, PORTER COUNTY, INDIANA

House §412, no comparable Senate section—Senate recedes.

SEC. 419 GRAND CALUMET RIVER, HAMMOND, INDIANA

House §413, no comparable Senate section—Senate recedes.

SEC. 420 INDIANA HARBOR CANAL, EAST CHICAGO, LAKE COUNTY, INDIANA

House §414, no comparable Senate section—Senate recedes.

SEC. 421 KOONTZ LAKE, INDIANA

House §415, no comparable Senate section—Senate recedes.

SEC. 422 LITTLE CALUMET RIVER, INDIANA

House §416, no comparable Senate section—Senate recedes.

SEC. 423 TIPPECANOE RIVER WATERSHED, INDIANA

House §417, no comparable Senate section—Senate recedes.

SEC. 424 CALCASIEU RIVER, HACKBERRY, LOUISIANA

House §418, Senate §104(k)—House recedes with an amendment.

SEC. 425 MORGANZA, LOUISIANA, TO GULF OF MEXICO

House §388, Senate §104(bb)—House recedes.

SEC. 426 HURON RIVER, MICHIGAN

House §419, no comparable Senate section—Senate recedes with an amendment.

SEC. 427 CITY OF NORTH LAS VEGAS, CLARK COUNTY, NEVADA

Senate §104(l), no comparable House section—House recedes.

SEC. 428 LOWER LAS VEGAS WASH WETLANDS, CLARK COUNTY, NEVADA

Senate §104(m), no comparable House section—House recedes with an amendment.

SEC. 429 NORTHERN NEVADA

Senate §104(n), no comparable House section—House recedes.

SEC. 430 SACO RIVER, NEW HAMPSHIRE

House §420, no comparable Senate section—Senate recedes.

SEC. 431 BUFFALO RIVER GREENWAY, NEW YORK

House §421, no comparable Senate section—Senate recedes with an amendment.

SEC. 432 COEYMANS, NEW YORK

Senate §104(p), no comparable House section—House recedes.

SEC. 433 NEW YORK BIGHT AND HARBOR STUDY

House §556, no comparable Senate section—Senate recedes with an amendment.

SEC. 434 PORT OF NEWBURGH, NEW YORK

House §422, no comparable Senate section—Senate recedes.

SEC. 435 PORT OF NEW YORK-NEW JERSEY NAVIGATION STUDY

House §424, no comparable Senate section—Senate recedes.

SEC. 436 SHINNECOCK INLET, NEW YORK

Senate §104(q), no comparable House section—House recedes with an amendment.

SEC. 437 CHAGRIN RIVER, OHIO

House §425, no comparable Senate section—Senate recedes.

SEC. 438 CUYAHOGA RIVER, OHIO

House §426, no comparable Senate section—Senate recedes.

SEC. 439 COLUMBIA SLOUGH, OREGON

Senate §104(s), no comparable House section—House recedes with an amendment.

SEC. 440 CHARLESTON, SOUTH CAROLINA

House §427, Senate §104(v)—House recedes.

SEC. 441 OAHE DAM TO LAKE SHARPE, SOUTH DAKOTA

Senate §104(w), no comparable House section—House recedes with an amendment.

SEC. 442 MUSTANG ISLAND, CORPUS CHRISTI, TEXAS

House §428, Senate §104(x)—Senate recedes.

SEC. 443 PRINCE WILLIAM COUNTY, VIRGINIA

House §429, Senate §104(z)—Senate recedes.

SEC. 444 PACIFIC REGION

House §430, Senate §104(aa)—Senate recedes with an amendment.

SEC. 445 FINANCING OF INFRASTRUCTURE NEEDS OF SMALL AND MEDIUM PORTS

House §431, no comparable Senate section—Senate recedes with an amendment.

SEC. 446 EVALUATION OF BEACH MATERIAL

House §584, no comparable Senate section—Senate recedes with an amendment.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501 LAND CONVEYANCES

501(a) Village Creek, Alabama.—No comparable House or Senate section.

501(b) Oakland Inner Harbor Tidal Canal Property, California.—House §504(a), no comparable Senate section—Senate recedes with an amendment.

501(c) Mariemont, Ohio.—House §504(b), no comparable Senate section—Senate recedes with an amendment.

501(d) Pike Island Locks and Dam, Ohio.—No comparable House or Senate section.

501(e) Shenango River Lake Project, Ohio.—No comparable House or Senate section.

501(f) Eufaula Lake, Oklahoma.—House §504(c), no comparable Senate section—Senate recedes.

501(g) Boardman, Oregon.—House §504(d), no comparable Senate section—Senate recedes.

501(h) Benbrook Lake, Texas.—No comparable House or Senate section.

501(i) Tri-Cities Area, Washington.—House §504(e), Senate §344—Senate recedes with an amendment.

SEC. 502 NAMINGS

502(a) Milt Brandt Visitors Center, California.—House §505(a), no comparable Senate section—Senate recedes.

502(b) Carr Creek Lake, Kentucky.—House §502(b), no comparable Senate section—Senate recedes.

502(c) John T. Myers Lock and Dam, Indiana and Kentucky.—House §505(d), no comparable Senate section—Senate recedes.

502(d) J. Edward Rousch Lake, Indiana.—House §505(e), no comparable Senate section—Senate recedes.

502(e) Russell B. Long Lock and Dam, Red River Waterway, Louisiana.—House §505(f), Senate §321—Senate recedes.

502(f) Locks and Dams on Tennesee—Tombigbee Waterway—House §505(h), Senate §345—House recedes with an amendment.

SEC. 503 WATERSHED MANAGEMENT, RESTORATION, AND DEVELOPMENT

House §506, no comparable Senate section—Senate recedes with an amendment to Subsections (a)(d) and (e).

SEC. 504 ENVIRONMENTAL INFRASTRUCTURE

House §517, no comparable House section—Senate recedes.

SEC. 505 CORPS CAPABILITY TO CONSERVE FISH AND WILDLIFE

House §518, no comparable House section—Senate recedes with an amendment.

SEC. 506 PERIODIC BEACH NOURISHMENT

House §519, no comparable House section—Senate recedes.

506(a)(1) Broward County, Florida—House §519(1), Senate §102(e)—Senate recedes.

506(a)(2) Fort Pierce, Florida—House §519(2), Senate §102(g)—Senate recedes.

506(a)(3) Panama City Beaches, Florida—House §519(5), no comparable Senate §102(e)—Senate recedes.

506(a)(4) Tybee Island, Georgia—House §519(6), Senate §102(h)—Senate recedes.

506(b)(3)(A) Lee County, Florida—House §519(3) no comparable Senate section—Senate recedes with an amendment.

506(b)(3)(B) Palm Beach County, Florida—House §519(4), no comparable Senate section—Senate recedes with an amendment.

506(b)(3)(C) Raritan Bay and Sandy Hook Bay, New Jersey—House §349, no comparable Senate section—Senate recedes with an amendment.

506(b)(3)(D) Fire Island Inlet, New York—Senate §217, no comparable House section—Senate recedes with an amendment.

SEC. 507 DESIGN AND CONSTRUCTION ASSISTANCE

House §522, no comparable Senate section—Senate recedes with an amendment.

SEC. 508 LAKES PROGRAM

House §507, no comparable Senate section—Senate recedes.

SEC. 509 MAINTENANCE OF NAVIGATION CHANNELS

House §508, no comparable Senate section—Senate recedes with an amendment.

509(1) Humboldt Harbor and Bay, Fields Landing Channel, California—House §508(1), no comparable Senate section—Senate recedes.

509(2) Mare Island Strait, California—House §508(2), no comparable Senate section—Senate recedes with an amendment.

509(3) East Fork, Calcasieu Pass, Louisiana—No comparable House or Senate section.

509(4) Mississippi River Ship Channel, Chalmette Slip, Louisiana—House §508(3), Senate §102(m)—Senate recedes.

509(5) Greenville Inner Harbor Channel, Mississippi—House §508(4), Senate §211—Senate recedes.

509(6) New Madrid Harbor, Missouri—House §343, no comparable Senate section—Senate recedes with an amendment.

509(7) Providence Harbor Shipping Channel, Rhode Island—House §508(5), Senate §224—Senate recedes with an amendment.

509(8) Matagorda Ship Channel, Point Comfort Turning Basin, Texas—House §508(6), Senate §102(ff)—Senate recedes.

509(9) Corpus Christi Ship Channel, Rincon Canal System, Texas—House §508(7), Senate §102(dd)—Senate recedes.

509(10) Brazos Island Harbor, Texas—House §508(8), no comparable Senate section—Senate recedes.

509(11) Blair Waterway, Tacoma Harbor, Washington—House §508(9), no comparable Senate section—Senate recedes.

SEC. 510 CHESAPEAKE BAY ENVIRONMENTAL RESTORATION AND PROTECTION PROGRAM

House §513, Senate §330—House recedes with an amendment.

SEC. 511 RESEARCH AND DEVELOPMENT PROGRAM TO IMPROVE SALMON SURVIVAL

Senate §331, no comparable House section—House recedes.

SEC. 512 COLUMBIA RIVER TREATY FISHING ACCESS

Senate §343, no comparable House section—House recedes.

SEC. 513 GREAT LAKES CONFINED DISPOSAL FACILITIES

House §512, no comparable Senate section—Senate recedes with an amendment.

SEC. 514 GREAT LAKES DREDGED MATERIAL TESTING AND EVALUATION MANUAL

House §510, no comparable Senate section—Senate recedes.

SEC. 515 GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION

House §509, no comparable Senate section—Senate recedes with an amendment.

SEC. 516 SEDIMENT MANAGEMENT

House §217, §423 and §511, no comparable Senate section—Senate recedes with an amendment.

The House bill included three sections which addressed sediment management issues in differing ways—Section 217: Long-term Sediment Management Strategies; Section 423: Port of New York-New Jersey Sediment Study; and, Section 511: Great Lakes Sediment Reduction. The conference agreement combines these three sections into new section 516. In combining these sections, the managers have sought to avoid duplication in the provisions, but not to reduce the effectiveness of the provisions.

This section does not confer to or imply any new regulatory authority of the Corps of Engineers, the Environmental Protection Agency, or any other agency.

SEC. 517 EXTENSION OF JURISDICTION OF MISSISSIPPI RIVER COMMISSION,

House §514, Senate §322—Senate recedes.

SEC. 518 SENSE OF CONGRESS REGARDING ST. LAWRENCE SEAWAY TOLLS

House §586, no comparable Senate section—Senate recedes.

SEC. 519 RECREATION PARTNERSHIP INITIATIVE

House §516, no comparable Senate section—Senate recedes with an amendment.

SEC. 520 FIELD OFFICE HEADQUARTERS FACILITIES

House §523, no comparable Senate section—Senate recedes.

SEC. 521 EARTHQUAKE PREPAREDNESS CENTER OF EXPERTISE EXPANSION

House §527, no comparable Senate section—Senate recedes with an amendment.

SEC. 522 JACKSON COUNTY, ALABAMA

House §526, no comparable Senate section—Senate recedes with an amendment.

SEC. 523 BENTON AND WASHINGTON COUNTIES, ARKANSAS

House §529, no comparable Senate section—Senate recedes.

SEC. 524 HEBER SPRINGS, ARKANSAS

Senate §202, no comparable House section—House recedes.

SEC. 525 MORGAN POINT, ARKANSAS

Senate §203, no comparable House section—House recedes with an amendment.

SEC. 526 CALAVERAS COUNTY, CALIFORNIA

House §530, no comparable Senate section—Senate recedes with an amendment to Subsections (a), (c), (d) and (e).

This provision does not authorize direct participation by the Corps of Engineers in the construction of projects to address water quality degradation cause by abandoned mines in the watershed of the lower Mokelume River.

SEC. 527 FAULKNER ISLAND'S, MARYLAND

House §105(a)(1), Senate §320—House recedes.

SEC. 528 EVERGLADES AND SOUTH FLORIDA ECOSYSTEM RESTORATION

Senate §207, no comparable House section—House recedes with an amendment.

This section, and related sections authorizing Canal 51 and Canal 111 activities, authorizes the restoration, preservation, and protection of the South Florida ecosystem. The provision requires the Secretary, in consultation with the South Florida Ecosystem Restoration Task Force (Task Force), to develop a comprehensive plan involving Army Corps water resources projects for the purpose of Everglades restoration.

Successful collaboration among the Army, other Federal agencies, the State of Florida, and Indian tribes has occurred in recent years on this effort and is expected to continue after the date of enactment of this Act. To ensure successful implementation of the restoration effort, the Secretary is urged to involve the Task Force and the South Florida Water Management District in the development of the Comprehensive Plan.

This section clarifies that the Central and Southern Florida Project, as authorized in Section 203 of the Flood Control Act of 1948 (62 Stat. 1176) must incorporate features to provide for the protection of water quality as a means of achieving the original project purpose of preservation of fish and wildlife resources. The Secretary is authorized to develop specific water quality related project features which are essential to Everglades restoration. In such cases, the provision authorizes Federal funding at a level not to exceed fifty percent of the overall project costs.

This section authorizes an appropriation of $75 million over three fiscal years for the construction of projects determined by the Secretary to be critical to the restoration of the Everglades. The Secretary shall not expend more than $25 million for any one project under this authority. In carrying out the authority provided by this section, the Secretary shall give priority to the following five projects or studies: (1) Levee 28 modifications; (2) Florida Keys carrying capacity; (3) melaleuca control in the Everglades Restoration Area; (4) East Coast Canal Divide Structures; and (5) Tamiami Trail Culverts.

Customary and traditional uses of affected public lands, including access and transportation, shall continue to be permitted where appropriate, and in accordance with management plans of the respective Federal and State management agencies.

Over the past decades, various State and local governments have developed land use plans within the boundaries of the Everglades Restoration Area. The Secretary is directed to take these efforts into consideration as the Comprehensive Plan is developed. In addition, the Legislature of the State of Florida has recognized the importance of the Lake Belt Area of Dade County for the provision of a long-term domestic supply of aggregates, cement, and road base material. The Secretary is directed to take into consideration the Lake Belt Plan and its objectives, as defined by the State Legislature, during development of the Comprehensive Plan.

In carrying out the activities authorized by this section, the Secretary is directed, to the extent feasible and appropriate, to integrate previously authorized restoration activities. In doing so, the Secretary shall employ sound scientific principles while seeking innovative and adaptive methods of management.

The Secretary has appropriately sought consensus at the Federal, State and local levels in developing proposed project modifications for Canal 51 and Canal 111. The Secretary is directed to continue such solicitation for comment and consensus among interested and affected parties before proceeding to the design and implementation of project modifications authorized in this section.

This section clarifies that the Federal cost-sharing does not apply to water quality features constructed pursuant to the settlement agreement in *United States* v. *South Florida Water Management District*, No. 88–1886-Civ-Hoeveler (S.D.Fla.). Further, it is not intended that Federal cost-sharing apply to the water quality features required under the appendices of the settlement agreement. Nothing included in this section is meant to interfere with or supersede any pending or future judicial proceedings or agreements related to these features.

Recognizing the comprehensive program authorized by this section and the substantial Federal and non-Federal financial commitment it authorizes, it is expected that the Secretary be judicious in making commitments regarding use of the Secretary's other environmental authorities in this area. Such authorities include the "1135" program and the new aquatic ecosystem restoration program established in this legislation. These programs are intended to address environmental improvement projects nationwide and should not be used to supplement the projects and activities authorized by this section.

SEC. 529 TAMPA, FLORIDA

House §536, no comparable Senate section—Senate recedes.

SEC. 530 WATERSHED MANAGEMENT PLAN FOR DEEP RIVER BASIN, INDIANA

House §537, no comparable Senate section—Senate recedes.

SEC. 531 SOUTHERN AND EASTERN KENTUCKY

House §538, no comparable Senate section—Senate recedes with an amendment.

SEC. 532 COASTAL WETLANDS RESTORATION PROJECTS, LOUISIANA

House §539, no comparable Senate section—Senate recedes with an amendment.

SEC. 533 SOUTHEAST LOUISIANA

House §540, no comparable Senate section—Senate recedes with an amendment to subsections (b) and (d).

SEC. 534 ASSATEAGUE ISLAND, MARYLAND AND VIRGINIA

House §108, no comparable Senate section—Senate recedes with an amendment.

SEC. 535 CUMBERLAND, MARYLAND

House §542, no comparable Senate section—Senate recedes with an amendment.

SEC. 536 WILLIAM JENNINGS RANDOLPH ACCESS ROAD, GARRETT COUNTY, MARYLAND

Senate §323, no comparable House section—House recedes with an amendment.

SEC. 537 POPLAR ISLAND, MARYLAND

House §543, Senate §102(b)—House recedes with an amendment.

SEC. 538 EROSION CONTROL MEASURES, SMITH ISLAND, MARYLAND

House §544, no comparable Senate section—Senate recedes.

SEC. 539. RESTORATION PROJECTS FOR MARYLAND, PENNSYLVANIA, AND WEST VIRGINIA

House §541, no comparable Senate section—Senate recedes with an amendment to Subsections (a), (b), (c) and (d).

This provision does not authorize direct participation by the Corps of Engineers in the construction of projects to address water quality degradation caused by abandoned mines in the watersheds of the North Branch of the Potomac River, or the New River.

SEC. 540 CONTROL OF AQUATIC PLANTS, MICHIGAN, PENNSYLVANIA, VIRGINIA AND NORTH CAROLINA

House §520, Senate §328—Senate Recedes with an amendment.

SEC. 541 DULUTH, MINNESOTA, ALTERNATIVE TECHNOLOGY PROJECT

House §545, no comparable Senate section—Senate recedes with an amendment to Subsections (a) and (b).

SEC. 542 LAKE SUPERIOR CENTER, MINNESOTA

House §525, no comparable Senate section—Senate recedes.

SEC. 543 REDWOOD RIVER BASIN, MINNESOTA

House §546, no comparable Senate section—Senate recedes with an amendment.

SEC. 544 COLDWATER RIVER WATERSHED, MISSISSIPPI

Senate §210, no comparable House section—House recedes with an amendment.

SEC. 545 NATCHEZ BLUFFS, MISSISSIPPI

House §547, Senate §102(a)—House recedes with an amendment.

SEC. 546 SARDIS LAKE, MISSISSIPPI

House §548, Senate §212—Senate recedes.

SEC. 547 ST. CHARLES COUNTY, MISSOURI, FLOOD PROTECTION

House §550, no comparable Senate section—Senate recedes with an amendment to Subsection (b).

SEC. 548 ST. LOUIS, MISSOURI

House §524, no comparable Senate section—Senate recedes with an amendment.

SEC. 549 LIBBY DAM, MONTANA

Senate §214, no comparable House section—House recedes.

SEC. 550 HACKENSACK MEADOWLANDS AREA, NEW JERSEY

House §552, no comparable Senate section—Senate recedes.

SEC. 551 HUDSON RIVER HABITAT RESTORATION, NEW YORK

House §554, no comparable Senate section—Senate recedes with an amendment.

SEC. 552 NEW YORK CITY WATERSHED

House §558, no comparable section—Senate recedes with an amendment to Subsections (a), (c), (e) and (i).

SEC. 553 NEW YORK STATE CANAL SYSTEM

House §557, Senate §325—Senate recedes with an amendment.

SEC. 554 ORCHARD BEACH, BRONX, NEW YORK

House §105(3), no comparable Senate section—Senate recedes with an amendment.

SEC. 555 DREDGED MATERIAL CONTAINMENT FACILITY FOR PORT OF NEW YORK/NEW JERSEY

House §553, no comparable Senate section—Senate recedes with an amendment to Subsection (b).

SEC. 556. QUEENS COUNTY, NEW YORK

House §555, Senate §218—House recedes.

SEC. 557 JAMESTOWN DAM AND PIPESTEM DAM, NORTH DAKOTA

Senate §220, no comparable House section—House recedes.

SEC. 558 NORTHEASTERN OHIO

House §560, no comparable Senate section—Senate recedes with an amendment.

SEC. 559 OHIO RIVER GREENWAY

House §559, no comparable Senate section—Senate recedes.

SEC. 560 GRAND LAKE, OKLAHOMA

House §561, no comparable Senate section—Senate recedes.

SEC. 561 BROAD TOP REGION OF PENNSYLVANIA

House §562, no comparable Senate section—Senate recedes with an amendment.

SEC. 562 CURWENSVILLE LAKE PENNSYLVANIA

House §563, no comparable Senate section—Senate recedes.

SEC. 563 HOPPER DREDGE MCFARLAND

House §564, no comparable Senate section—Senate recedes with an amendment.

SEC. 564 PHILADELPHIA, PENNSYLVANIA

House §565, no comparable Senate section—Senate recedes with an amendment to Subsection (a) and (g).

The conference report adds language to section 564 which would have the Army Corps of Engineers complete a report that certain of the elements authorized in that section be found to be technically sound, environmentally acceptable, and economic, as applicable. The Corps is directed to make such a determination expeditiously. In addition, the benefits of some of the work authorized in this section are historic or environmental in nature. Historic and environmental benefits associated with such projects are not susceptible to quantification and monetization. Consistent with the policies of the Corps and prior Congressional direction, historic and environmental projects should not be subject to the usual economic analysis which evaluates projects for flood control, navigation and the like.

SEC. 565 SEVEN POINTS VISITORS CENTER, RAYSTOWN LAKE, PENNSYLVANIA

House §567, no comparable Senate section—Senate recedes.

SEC. 566 SOUTHEASTERN PENNSYLVANIA

House §568, no comparable Senate section—Senate recedes with an amendment.

SEC. 567 UPPER SUSQUEHANNA RIVER BASIN, PENNSYLVANIA AND NEW YORK

House §566, no comparable Senate section—Senate recedes with an amendment to Subsection (a).

SEC. 568 WILLS CREEK, HYNDMAN, PENNSYLVANIA

House §569, no comparable Senate section—Senate recedes with an amendment.

SEC. 569 BLACKSTONE RIVER VALLEY, RHODE ISLAND AND MASSACHUSETTS

House §570, no comparable Senate section—Senate recedes.

SEC. 570 DREDGED MATERIAL CONTAINMENT FACILITY FOR PORT OF PROVIDENCE, RHODE ISLAND

No comparable House or Senate section.

SEC. 571 QUONSET POINT-DAVISVILLE, RHODE ISLAND

Senate §326, no comparable House section—House recedes.

SEC. 572 EAST RIDGE, TENNESSEE

House §571, no comparable Senate section—Senate recedes with an amendment.

SEC. 573 MURFREESBORO, TENNESSEE

House §572, no comparable Senate section—Senate recedes with an amendment.

SEC. 574 TENNESSEE RIVER, HAMILTON COUNTY, TENNESSEE

House §103(5), no comparable Senate section—Senate recedes with an amendment.

SEC. 575 HARRIS COUNTY, TEXAS

House §577, no comparable Senate section—Senate recedes.

SEC. 576 NEABSCO CREEK, VIRGINIA

House §575, no comparable Senate section—Senate recedes.

SEC. 577 TANGIER ISLAND, VIRGINIA

House §578, no comparable Senate section—Senate recedes.

SEC. 578 PIERCE COUNTY, WASHINGTON

House §578, no comparable Senate section—Senate recedes with an amendment.

SEC. 579 GREENBRIER RIVER BASIN, WEST VIRGINIA, FLOOD PROTECTION

House §580, no comparable Senate section—Senate recedes with an amendment to Subsection (a), (c) and (d).

SEC. 580 LOWER MUD RIVER, MILTON, WEST VIRGINIA

House §582, no comparable Senate section—Senate recedes with an amendment.

SEC. 581 WEST VIRGINIA AND PENNSYLVANIA FLOOD CONTROL

House §583, no comparable Senate section—Senate recedes with an amendment to Subsections (a), (c) and (d).

SEC. 582 SITE DESIGNATION

No comparable House or Senate section.

SEC. 583 LONG ISLAND SOUND

No comparable House or Senate section.

SEC. 584 WATER MONITORING STATION

No comparable House or Senate section.

SEC. 585 OVERFLOW MANAGEMENT FACILITY

No comparable House or Senate section.

SEC. 586 PRIVATIZATION OF INFRASTRUCTURE ASSETS

No comparable House or Senate section.

TITLE VI—EXTENSION OF EXPENDITURE AUTHORITY UNDER HARBOR MAINTENANCE TRUST FUND

SEC. 601 EXTENSION OF EXPENDITURE AUTHORITY UNDER HARBOR MAINTENANCE TRUST FUND

House §601, no comparable Senate section—Senate recedes.

Coordination

The Conferees are aware of groundwater contamination at the Sierra Army Depot, migration of this contamination into the Honey Valley Groundwater Basin, and the impact of such contamination on a proposed project to transfer water to the Reno-Sparks Metropolitan Area. The Secretary is to instruct the appropriate Army Headquarters officials to meet with affected parties and to determine fair compensation to those who have, in good faith, invested in this project but have been damaged by this unfortunate contamination problem.

National Center for Nonofabrication and Molecular Self-Assembly

The managers on the part of the House have receded to the Senate on House amendment section 585, the National Center for Nanofabrication and Molecular Self-Assembly. That section would have authorized the Secretary to provide assistance for the center in Evanston, Illinois.

This assistance could better be provided through the Director of the National Institute of Environmental Health Sciences than through the Secretary of the Army. The proponents of the center are encouraged to work with the Director to receive any necessary or appropriate assistance. Similarly, the Director is encouraged to explore ways of providing any needed assistance.

BUD SHUSTER,
DON YOUNG,
SHERWOOD BOEHLERT,
JAMES L. OBERSTAR,
ROBERT A. BORSKI,
Managers on the Part of the House

JOHN H. CHAFEE,
JOHN WARNER,
BOB SMITH,
DANIEL PATRICK MOYNIHAN,
Managers on the Part of the Senate.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND AMENDMENTS ACT OF 1996

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3391) to amend the Solid Waste Disposal Act to require at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund to be distributed to States for cooperative agreements for undertaking corrective action and for enforcement of subtitle I of such Act, as amended.

The Clerk read as follows:

H. 3391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Leaking Underground Storage Tank Trust Fund Amendments Act of 1996".

SEC. 2. LEAKING UNDERGROUND STORAGE TANKS.

(a) TRUST FUND DISTRIBUTION.—Section 9004 of the Solid Waste Disposal Act (42 U.S.C. 6991c) is amended by adding at the end the following new subsection:

"(f) TRUST FUND DISTRIBUTION TO STATES.—

"(1) IN GENERAL.—(A) The Administrator shall distribute to States at least 85 percent of the funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund (in subsection referred to as the 'Trust Fund') each fiscal year for the reasonable costs under cooperative agreements entered into with the Administrator for the following:

"(i) States' actions under section 9003(h)(7)(A).

"(ii) Necessary administrative expenses directly related to corrective action and compensation programs under section 9004(c)(1).

"(iii) Enforcement of a State or local program approved under this section or enforcement of this subtitle or similar State or local provisions by a State or local government.

"(iv) State and local corrective actions pursuant to regulations promulgated under section 9003(c)(4).

"(v) Corrective action and compensation programs under section 9004(c)(1) for releases from underground storage tanks regulated under this subtitle in any instance, as determined by the State, in which the financial resources of an owner or operator, excluding resources provided by programs under section 9004(c)(1), are not adequate to pay for the cost of a corrective action without significantly impairing the ability of the owner or operator to continue in business.

"(B) Funds provided by the Administrator under subparagraph (A) may not be used by States for purposes of providing financial assistance to an owner or operator in meeting the requirements respecting underground storage tanks contained in section 280.21 of title 40 of the Code of Federal Regulations (as in effect on the date of the enactment of this subsection) or similar requirements in State programs approved under this section or similar State or local provisions.

"(2) ALLOCATION.—

"(A) PROCESS.—In the case of a State that the Administrator has entered into a cooperative agreement with under section 9003(h)(7)(A), the Administrator shall distribute funds from the Trust Fund to the State using the allocation process developed by the Administrator for such cooperative agreements.

"(B) REVISIONS TO PROCESS.—The Administrator may revise such allocation process only after—

"(i) consulting with State agencies responsible for overseeing corrective action for releases from underground storage tanks and with representatives of owners and operators; and

"(ii) taking into consideration, at a minimum, the total revenue received from each State into the Trust Fund, the number of confirmed releases from leaking underground storage tanks in each State, the number of notified petroleum storage tanks in each State, and the percent of the population of each State using groundwater for any beneficial purpose.

"(3) RECIPIENTS.—Distributions from the Trust Fund under this subsection shall be made directly to the State agency entering into a cooperative agreement or enforcing the State program.

"(4) COST RECOVERY PROHIBITION.—Funds provided to States from the Trust Fund to owners or operators for programs under section 9004(c)(1) for releases from underground storage tanks are not subject to cost recovery by the Administrator under section 9003(h)(6).".

(b) CONFORMING AMENDMENT.—Section 9508(c)(1) of the Internal Revenue Code of 1986 is amended by inserting before the period at the end the following: "and to carry out section 9004(f) of such Act".

(c) TECHNICAL AMENDMENTS.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended as follows:

(1) Section 9001(3)(A) (42 U.S.C. 6991(3)(A)) is amended by striking out "sustances" and inserting in lieu thereof "substances".

(2) Section 9003(f)(1) (42 U.S.C. 6991b(f)(1)) is amended by striking out "subsection (c) and (d)" and inserting in lieu thereof "subsections (c) and (d)".

(3) Section 9004(a) (42 U.S.C. 6991c(a)) is amended by striking out "in 9001(2)(A)" and inserting in lieu thereof "in section 9001(2)(A)".

(4) Section 9005 (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking out "study taking" and inserting in lieu thereof "study, taking";

(B) in subsection (b)(1), by striking out "relevent" and inserting in lieu thereof "relevant"; and

(C) in subsection (b)(4), by striking out "Evironmental" and inserting in lieu thereof "Environmental".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. OXLEY] and the gentleman from Michigan [Mr. STUPAK] each will control 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation improves the Underground Storage Tank program, a program under which States are already well protecting human health and environment from petroleum and other tank leaks. With Federal financial assistance, States have secured cleanup of about 140,000 sites.

In 1986, Congress created the leaking underground storage tank trust fund, paid for with a one-tenth of 1 cent tax on gasoline. The fund is used to enforce cleanup requirements; conduct cleanups when there is no solvent responsible party, when there is an emergency, or when the responsible party refuses to cooperate; and take cost recovery actions. Only 36 percent of the funds collected since 1987—$600 million out of $1.7 billion—have been spent for the program.

EPA gives most of its appropriation to States under cooperative agreements, which spell out exactly what the States will use the money for each year.

H.R. 3391 does two key things.

First, it requires EPA to give at least 85 percent of its appropriation to the States each year. Requiring EPA to give States 85 percent of its appropriation will ensure that the money is going where the tanks are, and where the cleanup work is actually done. EPA already gives an average of 86 percent per year to the States, so 85 percent is no stretch.

Second, the bill authorizes three new uses of the fund, which gives the States more flexibility to make their programs more effective. It allows States to put the money into their financial assurance funds, where they would be used for tank cleanups in cases of financial hardship. It allows the States to use the money to enforce Federal requirements that underground tanks be brought up to minimum leak detection and prevention standards by 1998. And it allows States to use the Federal money to administer their State assurance funds.

Up to 75 percent of tank owners and operators have not yet come into compliance, even though the regs are 8 years old. We need to help the States meet the financial burdens of the potentially huge enforcement task that is coming down the pike in the next 2 years.

The bill also requires EPA to keep using its current formula for allocating LUST dollars among the States, and prohibits EPA from cost recovering from owners and operators any money given to States for corrective actions under State assurance programs. Finally, it prohibits States from using the money to help someone comply with the 1998 tank requirements, so tax dollars won't be used to put people who have already complied at a competitive disadvantage.

This bill will help make the underground storage tank program even more effective and will help the environment by guaranteeing money will get out to the States, and by giving the States the flexibility to put the money to use in new ways.

I want to add that the requirement that 85 percent of the money be given to the States may help make the case with the appropriators that more money should be spent from the trust fund over the next couple of years to help meet the rising enforcement needs. If we assure that more money means more environmental protection, not more money spent on administrative overhead, there is a better case for increased funding, and I think the 85 percent provision helps make that case.

This legislation is supported by the Association of State and Territorial Solid Waste Management Officials, the Petroleum Marketers Association of America, the Society of Independent Gasoline Marketers of America, the National Association of Convenience Stores, and the National Coalition of Petroleum Retailers. I would like to thank all of these groups for their input.

I want to congratulate Chairman SCHAEFER for authoring the bill and thank members for making this a bipartisan success, passing by voice vote at the subcommittee and the full committee.

Mr. Speaker, I also would like to thank the gentleman from New York [Mr. MANTON], my ranking member, and the gentleman from Michigan [Mr. STUPAK], for their leadership on this very important issue.

Mr. Speaker, I reserve the balance of my time.

Mr. MANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3391, the Leaking Underground Storage Tank Amendment Act. By adopting this bill, the House will make some incremental improvement to the distribution and utilization of Federal leaking underground storage tank trust fund money by the States.

I would like to commend my colleagues, Chairman OXLEY and SCHAEFER and Mr. STUPAK, for their hard work on this measure and for working closely with other members of the Commerce Committee to gain strong bipartisan support of the bill. Their efforts greatly facilitated negotiations regarding this legislation and I believe members of the committee agree that its provisions do meet the needs expressed by stakeholders in this issue.

Mr. Speaker, EPA reports that currently there are approximately 300,000 faulty underground storage tanks, confirming the widespread impact of this problem. In an effort to address this problem, H.R. 3391 amends the Resource Conservation and Recovery Act to offer States more Federal assistance in helping to cleanup the leaking tanks.

Primarily, this legislation establishes a dedicated funding source from EPA to the States and expands the allowable uses of Federal funds.

One of these new uses includes enforcement of underground storage tank standards as directed under local, State, or Federal programs. Using the LUST trust funds for this new enforcement activity, in addition to existing uses under the program, should perhaps take top priority over other applications of the funds, in my opinion. I should also add, that I am pleased that this bill limits the use of Federal funds for cleanup purposes by the States to owners and operators of leaking tanks who do not have the financial resources to address the problem themselves. In these times of limited Federal dollars, it is important that we direct funds in ways that will do the most good.

Again, I want to thank Chairman OXLEY and Mr. SCHAEFER for working to address the concerns raised by the minority on the Commerce Committee. This bill should enable States to better distribute the limited resources that they have for leaking underground storage tanks, and I urge my colleagues to support the measure.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. SCHAEFER], the author of the legislation who is the chairman of the Subcommittee on Energy and Power.

Mr. SCHAEFER. I thank the gentleman from Ohio for yielding me this time.

Mr. Speaker, last spring, Congressman BART STUPAK and I introduced H.R. 3391, the Leaking Underground Storage Tank Trust Fund Amendments Act of 1996. The bill's objectives are to give States more financial stability in operating their underground storage tank programs and greater flexibility to address unique environmental problems, particularly in rural America. H.R. 3391 has substantial bipartisan cosponsorship and diverse private sector support.

Among the bill's supporters:

The Association of State and Territorial Solid Waste Management Officials;

The National School Boards Association;

The Petroleum Marketers Association of America;

The National Association of Convenience Stores;

The Society of Independent Gasoline Marketers of America;

The Service Station Dealers of America; and

The National Automobile Dealers Association.

Prior to introduction and as the bill moved forward, we solicited and received suggestions on how best to achieve our objectives—program flexibility and stability. EPA, Members from both parties, State regulators and industry all made meaningful contributions to H.R. 3391. As a result, the final product we have before us today meets our initial goals, with a strong emphasis on quicker cleanups and stricter enforcement.

The so-called LUST Program was first enacted in 1984. The trust fund followed in 1986. The current LUST statute allows States to spend the Federal LUST trust fund money in a limited number of instances—mainly for corrective actions where an owner is unable or unwilling to clean up a leak.

Along with the corrective action standards for leaking tanks, the LUST statute also requires owners and operators of underground storage tanks to meet certain standards. The deadline for compliance with these tank standards is 1998. When implemented, the tank standards will provide an important preventative protection against many future leaks. Federal LUST trust fund money cannot currently be used for this enforcement.

The LUST Program has largely been a success. The regulated industry and the EPA tank office share a good working relationship. However, over the next few years the nature of the program will change dramatically. EPA has stated it envisions States becoming the primary enforcers for the tank standards and supervising corrective action where leaks have occurred. In fact, EPA maintains its Federal tank office will be phased out. H.R. 3391 helps to make that transition.

I support this progression. However, if we expect States to carry out more duties, it is critical that they be given more freedom to use LUST trust fund money where most needed.

Finally, EPA has traditionally dedicated about 85 percent of its annual LUST trust fund appropriation to States. But, as State responsibilities increase, we need to give them peace of mind that this tradition will continue. H.R. 3391 gives this financial stability.

I want to thank all those involved in crafting this bill. The process has embodied the spirit of bipartisan compromise. Our final product increases enforcement and enhances site cleanups with the broad-based support of the regulated industry. The State-centered model setup by EPA is reinforced with a stronger Federal financial commitment.

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Mr. Speaker, I urge my colleagues to support this sound environmental proposal, and I want to thank the gentleman from Ohio [Mr. OXLEY] for moving this through his subcommittee and through the full committee, and the gentleman from New York [Mr. MANTON] and certainly the gentleman from Michigan [Mr. STUPAK] for helping out tremendously in getting the final language into this legislation. I would certainly want to encourage the passage of this bill.

Mr. MANTON. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am pleased to rise in support of H.R. 3391, the Schaefer-Stupak Leaking Underground Storage Tank Amendments Act. This bill will provide the States and the Federal Government the flexibility they need to continue the cleanup of leaking underground storage tanks all across this country.

First, I want to thank Chairmen TOM BLILEY and MIKE OXLEY, ranking members JOHN DINGELL and TOM MANTON, for all the support this bill has received in subcommittee and the full committee to bring it before the House today.

Most of all, I would like to thank Energy and Power chairman, Mr. SCHAEFER, for his determination to reach a strong bipartisan consensus on this very important bill. I very much appreciate his efforts to work with me on this measure.

The Leaking Underground Storage Tank Program is one of the most important and least known environmental programs run by the Federal Government and the States. The 1994 report to Congress of the National Water Quality Inventory states that leaking underground storage tanks are the most frequent cause of groundwater contamination. Unfortunately, the Committee on Appropriations does not feel our Nation's ground water is such a high priority. Last year the Committee on Appropriations cut the President's request by 40 percent. This year, the Committee on Appropriations once again cut the President's request by more than 33 percent.

The Committee on Appropriations' actions are even more frustrating because the Leaking Underground Storage tank Program is funded through a tax collected on petroleum products. Currently, the leaking underground storage tank, or LUST, trust fund, has a $1 billion surplus.

I will continue to join with my colleagues, especially the gentleman from Colorado [Mr. SCHAEFER], in the fight to increase the appropriation to this program.

This program came to my attention based upon concerns by my constituents, especially up in Trenary, MI, when I discovered that my State's Leaking Underground Storage Tank Program became insolvent due to improper management and improper funding. In Michigan, the fund is not accepting new claims, and cleanups on leaking tanks have all but ceased.

Although I believe that this legislation being discussed today is a very important step in cleaning up leaking tanks, it is my hope that States, and Michigan in particular, will renew their commitment to this program.

Beyond any doubt, H.R. 3391 will make improvements to the program. The improvements will increase the amount of funding available for contaminated sites, increase the amount of money for State enforcement, and guarantee that money the Congress appropriates for this program is received by the States.

This legislation does not completely turn this program over to the States. We have maintained a strong role for the EPA in this legislation by preserving the current cooperative agreement process between the States and the Federal Government. This bill will uphold the Federal role in the LUST Program and strengthens the Federal-State partnership that has been so successful since the program's inception.

Mr. Speaker, I once again want to thank the leadership of the Committee on Commerce and this House for expediting this legislation offered by the gentleman from Colorado [Mr. SCHAEFER] and myself. It remains our intent to encourage a more flexible use of Federal resources while continuing to hold polluters responsible for their waste.

Mr. MANTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NORWOOD. Mr. Speaker, I rise today in support of H.R. 3391, The Leaking Underground Storage Tank Trust Fund Amendments. As you may know, I am a cosponsor of this legislation. This bill is designed to ensure that 85 percent of the funds in the Federal Underground Storage Tank Trust Fund are allocated to the States via cooperative agreements.

While I am fully supportive of this legislation, I do want to clarify one point in order to prevent any potential confusion down the road. My constituents have been concerned that the prohibition on the use of Federal funds in State financial assistance programs is not misinterpreted.

Under existing law, use of Federal funds for the purpose of providing financial assistance to tank owners and operators is not a specifically authorized use of the fund. This is an area that Washington has thankfully stayed out of, leaving the issue of what type of financial assistance programs to design to the States. I wish to emphasize that the prohibition is simply designed to maintain the historic balance of State and Federal concerns, and there is no suggestion, either express or implied, that States should not set up financial assistance programs.

Mr. Speaker, this is a good bill, and I urge all of my colleagues to support H.R. 3391.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of H.R. 3391, the Leaking Underground Storage Tank Amendments Act. As a cosponsor of the legislation, this Member would like to commend the distinguished gentleman from Colorado [Mr. SCHAEFER] and the distinguished gentleman from Michigan [Mr. STUPAK] for introducing this bill and working for its enactment.

Across the Nation, leaking underground storage tanks present a hazard which must be addressed. Unfortunately, less than half of the identified leaking tanks have been remedied. In addition, there are likely thousands of other unidentified leaking tanks which require action.

This legislation improves the current situation by distributing more money from the existing trust fund to the States where it belongs. The trust fund was established by Congress in 1986 and currently contains about $1 billion. Although the trust fund is intended to provide assistance in the cleanup of underground storage tanks, far too much of the money in the trust fund has been used to offset general Federal spending.

This Member certainly believes that the money in the trust fund should for used for the purposes for which it was originally intended; money simply accumulating in the trust fund obviously does not address the current needs. The large number of remaining leaking underground storage tank sites to be addressed is evidence that the States certainly could use this money which is currently accumulating in the trust fund. This bill would assist States in more efficiently receiving and disbursing money from the trust fund. It would also give the States increased flexibility in the use of money from the trust fund.

This Member urges his colleagues to support H.R. 3391.

Mr. OXLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. OXLEY] that the House suspend the rules and pass the bill, H.R. 3391, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4167 and H.R. 3391, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FEDERAL EMPLOYEES EMERGENCY LEAVE TRANSFER ACT OF 1996

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 868) to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes, as amended.

The Clerk read as follows:

S. 868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EMERGENCY LEAVE TRANSFERS

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Employees Emergency Leave Transfer Act of 1996".

SEC. 102. AUTHORITY.

(a) IN GENERAL.—Chapter 63 of title 5, United States Code, is amended by adding after subchapter V the following new subchapter:

"SUBCHAPTER VI—LEAVE TRANSFER IN DISASTERS AND EMERGENCIES

"§ 6391. Authority for leave transfer program in disasters and emergencies

"(a) For the purpose of this section—

"(1) 'employee' means an employee as defined in section 6331(1); and

"(2) 'agency' means an Executive agency.

"(b) In the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management to establish an emergency leave transfer program under which any employee in any agency may donate unused annual leave for transfer to employees of the same or other agencies who are adversely affected by such disaster or emergency.

"(c) The Office of Personnel Management shall establish appropriate requirements for the operation of the emergency leave transfer program under subsection (b), including appropriate limitations on the donation and use of annual leave under the program. An employee may receive and use leave under the program without regard to any requirement that any annual leave and sick leave to a leave recipient's credit must be exhausted before any transferred annual leave may be used.

"(d) A leave bank established under subchapter IV may, to the extent provided in regulations prescribed by the Office of Personnel Management, donate annual leave to the emergency leave transfer program established under subsection (b).

"(e) Except to the extent that the Office of Personnel Management may prescribe by regulation, nothing in section 7351 shall apply to any solicitation, donation, or acceptance of leave under this section.

"(f) The Office of Personnel Management shall prescribe regulations necessary for the administration of this section.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER VI—LEAVE TRANSFER IN DISASTERS AND EMERGENCIES

"6391. Authority for leave transfer program in disasters and emergencies".

SEC. 103. EFFECTIVE DATE.

The amendments made by section 102 shall take effect on the date of enactment of this Act.

TITLE II—VETERANS' PREFERENCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Veterans Employment Opportunities Act of 1996".

SEC. 202. EQUAL ACCESS FOR VETERANS.

(a) COMPETITIVE SERVICE.—Section 3304 of title 5, United States Code, is amended by adding at the end the following:

"(f)(1) No preference eligible, and no individual (other than a preference eligible) who has been separated from the armed forces under honorable conditions after 3 or more years of active service, shall be denied the opportunity to compete for an announced vacant position within an agency, in the competitive service or the excepted service, by reason of—

"(A) not having acquired competitive status; or

"(B) not being an employee of such agency.

"(2) Nothing in this subsection shall prevent an agency from filling a vacant position (whether by appointment or otherwise) solely from individuals on a priority placement list consisting of individuals who have been separated from the agency due to a reduction in force and surplus employees (as defined under regulations prescribed by the Office).".

(b) CIVIL SERVICE EMPLOYMENT INFORMATION.—

(1) VACANT POSITIONS.—Section 3327(b) of title 5, United States Code, is amended by striking "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

"(2) each vacant position in the agency for which competition is restricted to individuals having competitive status or employees of such agency, excluding any position under paragraph (1), and".

(2) ADDITIONAL INFORMATION.—Section 3327 of title 5, United States Code, is amended by adding at the end the following:

"(c) Any notification provided under this section shall, for all positions under subsection (b)(1) as to which section 3304(f) applies and for all positions under subsection (b)(2), include a notation as to the applicability of section 3304(f) with respect thereto.

"(d) In consultation with the Secretary of Labor, the Office shall submit to Congress and the President, no less frequently than every 2 years, a report detailing, with respect to the period covered by such report—

"(1) the number of positions listed under this section during such period;

"(2) the number of preference eligibles and other individuals described in section 3304(f)(1) referred to such positions during such period; and

"(3) the number of preference eligibles and other individuals described in section 3304(f)(1) appointed to such positions during such period.".

(c) GOVERNMENTWIDE LISTS.—

(1) VACANT POSITIONS.—Section 3330(b) of title 5, United States Code, is amended to read as follows:

"(b) The Office of Personnel Management shall cause to be established and kept current—

"(1) a comprehensive list of all announcements of vacant positions (in the competitive service and the excepted service, respectively) within each agency that are to be filled by appointment for more than 1 year and for which applications are being or will soon be accepted from outside the agency's work force; and

"(2) a comprehensive list of all announcements of vacant positions within each agency for which applications are being or will soon be accepted and for which competition is restricted to individuals having competitive status or employees of such agency, excluding any position required to be listed under paragraph (1).".

(2) ADDITIONAL INFORMATION.—Section 3330(c) of title 5, United States Code, is amended by striking "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following:

"(3) for all positions under subsection (b)(1) as to which section 3304(f) applies and for all positions under subsection (b)(2), a notation as to the applicability of section 3304(f) with respect thereto; and".

(3) CONFORMING AMENDMENT.—Section 3330(d) of title 5, United States Code, is amended by striking "The list" and inserting "Each list under subsection (b)".

(d) PROVISIONS RELATING TO THE UNITED STATES POSTAL SERVICE.—

(1) IN GENERAL.—Subsection (a) of section 1005 of title 39, United States Code, is amended by adding at the end the following:

"(5)(A) The provisions of section 3304(f) of title 5 shall apply with respect to the Postal Service in the same manner and under the same conditions as if the Postal Service were an agency within the meaning of such provisions.

"(B) Nothing in this subsection shall be considered to require that the Postal Service accept an application from a preference eligible or any other individual described in paragraph (1) of such section 3304(f), who is not an employee of the Postal Service, if—

"(i) the vacant position involved is advertised for bids pursuant to a collective-bargaining agreement;

"(ii) the collective-bargaining agreement restricts competition for such position to individuals employed in the specific bargaining unit or facility within the Postal Service in which the position is located;

"(iii) the collective-bargaining agreement provides that the successful bid shall be selected solely on the basis of seniority; and

"(iv) selection does not result in a promotion or change in duties for the successful bidder.

"(C) The provisions of this paragraph shall not be modified by any program developed under section 1004 of this title or any collective-bargaining agreement entered into under chapter 12 of this title.".

(2) CONFORMING AMENDMENT.—The first sentence of section 1005(a)(2) of title 39, United States Code, is amended by striking "title." and inserting "title, subject to paragraph (5) of this subsection.".

SEC. 203. SPECIAL PROTECTIONS FOR PREFERENCE ELIGIBLES IN REDUCTIONS IN FORCE.

(a) IN GENERAL.—Section 3502 of title 5, United States Code, as amended by section 1034 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 430), is amended by adding at the end the following:

"(g)(1) A position occupied by a preference eligible shall not be placed in a single-position competitive level if the preference eligible is qualified to perform the essential functions of any other position at the same grade (or occupational level) in the competitive area. In such cases, the preference eligible shall be entitled to be placed in another competitive level for which such preference eligible is qualified. If the preference eligible is qualified for more than one competitive level, such preference eligible shall be placed in the competitive level containing the most positions.

"(2) For purposes of paragraph (1)—

"(A) a preference eligible shall be considered qualified to perform the essential functions of a position if, by reason of experience, training, or education (and, in the case of a disabled veteran, with reasonable accommodation), a reasonable person could conclude that the preference eligible would be able to perform those functions successfully within a period of 150 days; and

"(B) a preference eligible shall not be considered unqualified solely because such preference eligible does not meet the minimum qualification requirements relating to previous experience in a specified grade (or occupational level), if any, that are established for such position by the Office of Personnel Management or the agency.

"(h) In connection with any reduction in force, a preference eligible whose current or most recent performance rating is at least fully successful (or the equivalent) shall have, in addition to such assignment rights as are prescribed by regulation, the right, in lieu of separation, to be assigned to any position within the agency conducting the reduction in force—

"(1) for which such preference eligible is qualified under subsection (g)(2)—

"(A) that is within the preference eligible's commuting area and at the same grade (or occupational level) as the position from which the preference eligible was released, and that is then occupied by an individual, other than another preference eligible, who was placed in such position (whether by appointment or otherwise) within 6 months before the reduction in force if, within 12 months prior to the date on which such individual was so placed in such position, such individual had been employed in the same competitive area as the preference eligible; or

"(B) that is within the preference eligible's competitive area and that is then occupied by an individual, other than another preference eligible, who was placed in such position (whether by appointment or otherwise) within 6 months before the reduction in force; or

"(2) for which such preference eligible is qualified that is within the preference eligible's competitive area and that is not more than 3 grades (or pay levels) below that of the position from which the preference eligible was released, except that, in the case of a preference eligible with a compensable service-connected disability of 30 percent or more, this paragraph shall be applied by substituting '5 grades' for '3 grades'.

In the event that a preference eligible is entitled to assignment to more than 1 position under this subsection, the agency shall assign the preference eligible to any such position requiring no reduction (or, if there is no such position, the least reduction) in basic pay. A position shall not, with respect to a preference eligible, be considered to satisfy the requirements of paragraph (1) or (2), as applicable, if it does not last for at least 12 months following the date on which such preference eligible is assigned to such position under this subsection.

"(i) A preference eligible may challenge the classification of any position to which the preference eligible asserts assignment rights (as provided by, or prescribed by regulations described in, subsection (h)) in an action before the Merit Systems Protection Board.

"(j)(1) Not later than 3 months after the date of the enactment of this subsection, each Executive agency shall establish an agencywide priority placement program to facilitate employment placement for employees who—

"(A)(i) are scheduled to be separated from service due to a reduction in force under—

"(I) regulations prescribed under this section; or

"(II) procedures established under section 3595; or

"(ii) are separated from service due to such a reduction in force; and

"(B)(i) have received a rating of at least fully successful (or the equivalent) as the last performance rating of record used for retention purposes; or

"(ii) occupy positions excluded from a performance appraisal system by law, regulation, or administrative action taken by the Office of Personnel Management.

"(2)(A) Each agencywide priority placement program under this subsection shall include provisions under which a vacant position shall not (except as provided in this paragraph or any other statute providing the right of reemployment to any individual) be filled by the appointment or transfer of any individual from outside of that agency (other than an individual described in subparagraph (B)) if—

"(i) there is then available any individual described in subparagraph (B) who is qualified for the position; and

"(ii) the position—

"(I) is at the same grade or pay level (or the equivalent) or not more than 3 grades (or grade intervals) below that of the position last held by such individual before placement in the new position;

"(II) is within the same commuting area as the individual's last-held position (as referred to in subclause (I)) or residence; and

"(III) has the same type of work schedule (whether full-time, part-time, or intermittent) as the position last held by the individual.

"(B) For purposes of an agencywide priority placement program, an individual shall be considered to be described in this subparagraph if such individual—

"(i)(I) is an employee of such agency who is scheduled to be separated, as described in paragraph (1)(A)(i); or

"(II) is an individual who became a former employee of such agency as a result of a separation, as described in paragraph (1)(A)(ii), excluding any individual who separated voluntarily under subsection (f); and

"(ii) satisfies clause (i) or (ii) of paragraph (1)(B).

"(3)(A) If after a reduction in force the agency has no positions of any type within the local commuting areas specified in this subsection, the individual may designate a different local commuting area where the agency has continuing positions in order to exercise reemployment rights under this subsection. An agency may determine that such designations are not in the interest of the Government for the purpose of paying relocation expenses under subchapter II of chapter 57.

"(B) At its option, an agency may administratively extend reemployment rights under this subsection to include other local commuting areas.

"(4)(A) In selecting employees for positions under this subsection, the agency shall place qualified present and former employees in retention order by veterans' preference subgroup and tenure group.

"(B) An agency may not pass over a qualified present or former employee to select an individual in a lower veterans' preference subgroup within the tenure group, or in a lower tenure group.

"(C) Within a subgroup, the agency may select a qualified present or former employee without regard to the individual's total creditable service.

"(5) An individual is eligible for reemployment priority under this subsection for 2 years from the effective date of the reduction in force from which the individual will be, or has been, separated under this section or section 3595, as the case may be.

"(6) An individual loses eligibility for reemployment priority under this subsection when the individual—

"(A) requests removal in writing;

"(B) accepts or declines a bona fide offer under this subsection or fails to accept such an offer within the period of time allowed for such acceptance, or

"(C) separates from the agency before being separated under this section or section 3595, as the case may be.

A present or former employee who declines a position with a representative rate (or equivalent) that is less than the rate of the position from which the individual was separated under this section retains eligibility for positions with a higher representative rate up to the rate of the individual's last position.

"(7) Whenever more than one individual is qualified for a position under this subsection, the agency shall select the most highly qualified individual, subject to paragraph (4).

"(8) The Office of Personnel Management shall issue regulations to implement this subsection.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION.—The amendments made by this section shall take effect with respect to the Department of Defense at the end of the 1-year period beginning on the date of the enactment of this Act.

SEC. 204. IMPROVED REDRESS FOR VETERANS.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

"§ 3330a. Administrative redress

"(a)(1) Any preference eligible or other individual described in section 3304(f)(1) who alleges that an agency has violated such individual's rights under any statute or regulation relating to veterans' preference, or any right afforded such individual by section 3304(f), may file a complaint with the Secretary of Labor.

"(2) A complaint under this subsection must be filed within 60 days after the date of the alleged violation, and the Secretary shall process such complaint in accordance with sections 4322 (a) through (e)(1) and 4326 of title 38.

"(b)(1) If the Secretary of Labor is unable to resolve the complaint within 60 days after the date on which it is filed, the complainant may elect to appeal the alleged violation to the Merit Systems Protection Board in accordance with such procedures as the Merit Systems Protection Board shall prescribe, except that in no event may any such appeal be brought—

"(A) before the 61st day after the date on which the complaint is filed under subsection (a); or

"(B) later than 15 days after the date on which the complainant receives notification from the Secretary of Labor under section 4322(e)(1) of title 38.

"(2) An appeal under this subsection may not be brought unless—

"(A) the complainant first provides written notification to the Secretary of Labor of such complainant's intention to bring such appeal; and

"(B) appropriate evidence of compliance with subparagraph (A) is included (in such form and manner as the Merit Systems Protection Board may prescribe) with the notice of appeal under this subsection.

"(3) Upon receiving notification under paragraph (2)(A), the Secretary of Labor shall not continue to investigate or further attempt to resolve the complaint to which such notification relates.

"(c) This section shall not be construed to prohibit a preference eligible from appealing directly to the Merit Systems Protection Board from any action which is appealable to the Board under any other law, rule, or regulation, in lieu of administrative redress under this section.

"§ 3330b. Judicial redress

"(a) In lieu of continuing the administrative redress procedure provided under section 3330a(b), a preference eligible or other individual described in section 3304(f)(1) may elect, in accordance with this section, to terminate those administrative proceedings and file an action with the appropriate United States district court not later than 60 days after the date of the election.

"(b) An election under this section may not be made—

"(1) before the 121st day after the date on which the appeal is filed with the Merit Systems Protection Board under section 3330a(b); or

"(2) after the Merit Systems Protection Board has issued a judicially reviewable decision on the merits of the appeal.

"(c) An election under this section shall be made, in writing, in such form and manner as the Merit Systems Protection Board shall by regulation prescribe. The election shall be effective as of the date on which it is received, and the administrative proceeding to which it relates shall terminate immediately upon the receipt of such election.

"§ 3330c. Remedy

"(a) If the Merit Systems Protection Board (in a proceeding under section 3330a) or a court (in a proceeding under section 3330b) determines that an agency has violated a right described in section 3330a, the Board or court (as the case may be) shall order the agency to comply with such provisions and award compensation for any loss of wages or benefits suffered by the individual by reason of the violation involved. If the Board or court determines that such violation was willful, it shall award an amount equal to backpay as liquidated damages.

"(b) A preference eligible or other individual described in section 3304(f)(1) who prevails in an action under section 3330a or 3330b shall be awarded reasonable attorney fees, expert witness fees, and other litigation expenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of title 5, United States Code, is amended by adding after the item relating to section 3330 the following:

"3330a. Administrative redress.
"3330b. Judicial redress.
"3330c. Remedy.".

SEC. 205. EXTENSION OF VETERANS' PREFERENCE.

(a) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Paragraph (3) of section 2108 of title 5, United States Code, is amended by striking "the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or the General Accounting Office;" and inserting "or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;".

(b) AMENDMENTS TO TITLE 3, UNITED STATES CODE.—

(1) IN GENERAL.—Chapter 2 of title 3, United States Code, is amended by adding at the end the following:

"§ 115. Veterans' preference

"(a) Subject to subsection (b), appointments under sections 105, 106, and 107 shall be made in accordance with section 2108, and sections 3309 through 3312, of title 5.

"(b) Subsection (a) shall not apply to any appointment to a position the rate of basic pay for which is at least equal to the minimum rate established for positions in the Senior Executive Service under section 5382 of title 5 and the duties of which are comparable to those described in section 3132(a)(2) of such title or to any other position if, with respect to such position, the President makes certification—

"(1) that such position is—

"(A) a confidential or policy-making position; or

"(B) a position for which political affiliation or political philosophy is otherwise an important qualification; and

"(2) that any individual selected for such position is expected to vacate the position at or before the end of the President's term (or terms) of office.

Each individual appointed to a position described in the preceding sentence as to which the expectation described in paragraph (2) applies shall be notified as to such expectation, in writing, at the time of appointment to such position.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 3, United States Code, is amended by adding at the end the following:

"115. Veterans' preference.".

(c) LEGISLATIVE BRANCH APPOINTMENTS.—

(1) DEFINITIONS.—For the purposes of this subsection, the terms "employing office", "covered employee", and "Board" shall each have the meaning given such term by section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301).

(2) RIGHTS AND PROTECTIONS.—The rights and protections established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code, shall apply to covered employees.

(3) REMEDIES.—

(A) IN GENERAL.—The remedy for a violation of paragraph (2) shall be such remedy as would be appropriate if awarded under applicable provisions of title 5, United States Code, in the case of a violation of the relevant corresponding provision (referred to in paragraph (2)) of such title.

(B) PROCEDURE.—The procedure for consideration of alleged violations of paragraph (2) shall be the same as apply under section 401 of the Congressional Accountability Act of 1995 (and the provisions of law referred to therein) in the case of an alleged violation of part A of title II of such Act.

(4) REGULATIONS TO IMPLEMENT SUBSECTION.—

(A) IN GENERAL.—The Board shall, pursuant to section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), issue regulations to implement this subsection.

(B) AGENCY REGULATIONS.—The regulations issued under subparagraph (A) shall be the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this subsection.

(C) COORDINATION.—The regulations issued under subparagraph (A) shall be consistent with section 225 of the Congressional Accountability Act of 1995 (2 U.S.C. 1361).

(5) APPLICABILITY.—Notwithstanding any other provision of this subsection, the term "covered employee" shall not, for purposes of this subsection, include an employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or

(C) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(6) EFFECTIVE DATE.—Paragraphs (2) and (3) shall be effective as of the effective date of the regulations under paragraph (4).

(d) JUDICIAL BRANCH APPOINTMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), appointments to positions in the judicial branch of the Government shall be made in accordance with section 2108, and sections 3309 through 3312, of title 5, United States Code.

(2) REDUCTIONS IN FORCE.—Subject to paragraph (2), reductions in force in the judicial branch of the Government shall provide preference eligibles with protections substantially similar to those provided under subchapter I of chapter 35 of title 5, United States Code.

(3) EXCLUSIONS.—Paragraphs (1) and (2) shall not apply to—

(A) an appointment made by the President, with the advice and consent of the Senate;

(B) an appointment as a judicial officer;

(C) an appointment as a law clerk or secretary to a justice or judge of the United States; or

(D) an appointment to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(4) REDRESS PROCEDURES.—The Judicial Conference of the United States shall prescribe regulations under which redress procedures (substantially similar to the procedures established by the amendments made by section 204) shall be available for alleged violations of any rights provided by this subsection.

(5) DEFINITIONS.—For purposes of this subsection—

(A) the term "judicial officer" means a justice, judge, or magistrate judge listed in subparagraph (A), (B), (F), or (G) of section 376(a)(1) of title 28, United States Code; and

(B) the term "justice or judge of the United States" has the meaning given such term by section 451 of such title 28.

SEC. 206. VETERANS' PREFERENCE REQUIRED FOR REDUCTIONS IN FORCE IN THE FEDERAL AVIATION ADMINISTRATION.

Section 347(b) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (109 Stat. 460) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding at the end the following:

"(8) sections 3501–3504, as such sections relate to veterans' preference.".

SEC. 207. DEFINITIONAL AMENDMENT.

Subparagraph (A) of section 2108(1) of title 5, United States Code, is amended by inserting "during a military operation in a qualified hazardous duty area (within the meaning of the first 2 sentences of section 1(b) of Public Law 104–117) and in accordance with requirements that may be prescribed in regulations of the Secretary of Defense," after "for which a campaign badge has been authorized,".

TITLE III—PROVISIONS RELATING TO THE THRIFT SAVINGS PLAN

Subtitle A—Additional Investment Funds for the Thrift Savings Plan

SEC. 301. SHORT TITLE.

This subtitle may be cited as the "Thrift Savings Investment Funds Act of 1996".

SEC. 302. ADDITIONAL INVESTMENT FUNDS FOR THE THRIFT SAVINGS PLAN.

Section 8438 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively;

(B) by inserting after paragraph (4) the following new paragraph:

"(5) the term 'International Stock Index Investment Fund' means the International Stock Index Investment Fund established under subsection (b)(1)(E);";

(C) in paragraph (8) (as redesignated by subparagraph (A) of this paragraph) by striking out "and" at the end thereof;

(D) in paragraph (9) (as redesignated by subparagraph (A) of this paragraph)—

(i) by striking out "paragraph (7)(D)" in each place it appears and inserting in each such place "paragraph (8)(D)"; and

(ii) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(E) by adding at the end thereof the following new paragraph:

"(10) the term 'Small Capitalization Stock Index Investment Fund' means the Small Capitalization Stock Index Investment Fund established under subsection (b)(1)(D)."; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B) by striking out "and" at the end thereof;

(ii) in subparagraph (C) by striking out the period and inserting in lieu thereof a semicolon; and

(iii) by adding at the end thereof the following new subparagraphs:

"(D) a Small Capitalization Stock Index Investment Fund as provided in paragraph (3); and

"(E) an International Stock Index Investment Fund as provided in paragraph (4)."; and

(B) by adding at the end thereof the following new paragraphs:

"(3)(A) The Board shall select an index which is a commonly recognized index comprised of common stock the aggregate market value of which represents the United States equity markets excluding the common stocks included in the Common Stock Index Investment Fund.

"(B) The Small Capitalization Stock Index Investment Fund shall be invested in a portfolio designed to replicate the performance of the index in subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the Small Capitalization Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.

"(4)(A) The Board shall select an index which is a commonly recognized index comprised of stock the aggregate market value of which is a reasonably complete representation of the international equity markets excluding the United States equity markets.

"(B) The International Stock Index Investment Fund shall be invested in a portfolio designed to replicate the performance of the index in subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the International Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.".

SEC. 303. ACKNOWLEDGEMENT OF INVESTMENT RISK.

Section 8439(d) of title 5, United States Code, is amended by striking out "Each employee, Member, former employee, or former Member who elects to invest in the Common Stock Index Investment Fund or the Fixed Income Investment Fund described in paragraphs (1) and (3)," and inserting in lieu thereof "Each employee, Member, former employee, or former Member who elects to invest in the Common Stock Index Investment Fund, the Fixed Income Investment Fund, the International Stock Index Investment Fund, or the Small Capitalization Stock Index Investment Fund, defined in paragraphs (1), (3), (5), and (10),".

SEC. 304. EFFECTIVE DATE.

This subtitle shall take effect on the date of enactment of this Act, and the Funds established under this subtitle shall be offered for investment at the earliest practicable election period (described in section 8432(b) of title 5, United States Code) as determined by the Executive Director in regulations.

Subtitle B—Thrift Savings Accounts Liquidity

SEC. 311. SHORT TITLE.

This subtitle may be cited as the "Thrift Savings Plan Act of 1996".

SEC. 312. NOTICE TO SPOUSES FOR IN-SERVICE WITHDRAWALS; DE MINIMUS ACCOUNTS; CIVIL SERVICE RETIREMENT SYSTEM PARTICIPANTS.

Section 8351(b) of title 5, United States Code, is amended—

(1) in paragraph (5)—

(A) in subparagraph (B)—

(i) by striking out "An election, change of election, or modification (relating to the commencement date of a deferred annuity)" and inserting in lieu thereof "An election or change of election";

(ii) by inserting "or withdrawal" after "and a loan";

(iii) by inserting "and (h)" after "8433(g)";

(iv) by striking out "the election, change of election, or modification" and inserting in lieu thereof "the election or change of election"; and

(v) by inserting "or withdrawal" after "for such loan"; and

(B) in subparagraph (D)—

(i) by inserting "or withdrawals" after "of loans"; and

(ii) by inserting "or (h)" after "8433(g)"; and

(2) in paragraph (6)—

(A) by striking out "$3,500 or less" and inserting in lieu thereof "less than an amount that the Executive Director prescribes by regulation"; and

(B) by striking out "unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b)".

SEC. 313. IN-SERVICE WITHDRAWALS; WITHDRAWAL ELECTIONS, FEDERAL EMPLOYEES RETIREMENT SYSTEM PARTICIPANTS.

(a) IN GENERAL.—Section 8433 of title 5, United States Code, is amended—

(1) by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Subject to section 8435 of this title, any employee or Member who separates from Government employment is entitled and may elect to withdraw from the Thrift Savings Fund the balance of the employee's or Member's account as—

"(1) an annuity;

"(2) a single payment;

"(3) 2 or more substantially equal payments to be made not less frequently than annually; or

"(4) any combination of payments as provided under paragraphs (1) through (3) as the Executive Director may prescribe by regulation.

"(c)(1) In addition to the right provided under subsection (b) to withdraw the balance of the account, an employee or Member who separates from Government service and who has not made a withdrawal under subsection (h)(1)(A) may make one withdrawal of any amount as a single payment in accordance with subsection (b)(2) from the employee's or Member's account.

"(2) An employee or Member may request that the amount withdrawn from the Thrift Savings Fund in accordance with subsection (b)(2) be transferred to an eligible retirement plan.

"(3) The Executive Director shall make each transfer elected under paragraph (2) directly to an eligible retirement plan or plans (as defined in section 402(c)(8) of the Internal Revenue Code of 1986) identified by the employee, Member, former employee, or former Member for whom the transfer is made.

"(4) A transfer may not be made for an employee, Member, former employee, or former Member under paragraph (2) until the Executive Director receives from that individual the information required by the Executive Director specifically to identify the eligible retirement plan or plans to which the transfer is to be made.";

(2) in subsection (d)—

(A) in paragraph (1) by striking out "Subject to paragraph (3)(A)" and inserting in lieu thereof "Subject to paragraph (3)";

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as redesignated under subparagraph (B) of this paragraph)—

(i) in subparagraph (A) by striking out "(A)"; and

(ii) by striking out subparagraph (B);

(3) in subsection (f)(1)—

(A) by striking out "$3,500 or less" and inserting in lieu thereof "less than an amount that the Executive Director prescribes by regulation; and

(B) by striking out "unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b), or" and inserting a comma;

(4) in subsection (f)(2)—

(A) by striking out "February 1" and inserting in lieu thereof "April 1";

(B) in subparagraph (A)—

(i) by striking out "65" and inserting in lieu thereof "70½"; and

(ii) by inserting "or" after the semicolon;

(C) by striking out subparagraph (B); and

(D) by redesignating subparagraph (C) as subparagraph (B);

(5) in subsection (g)—

(A) in paragraph (1) by striking out "after December 31, 1987, and", and by adding at the end of the paragraph the following sentence: "Before a loan is issued, the Executive Director shall provide in writing the employee or Member with appropriate information concerning the cost of the loan relative to other sources of financing, as well as the lifetime cost of the loan, including the difference in interest rates between the funds offered by the Thrift Savings Fund, and any other effect of such loan on the employee's or Member's final account balance."; and

(B) by striking out paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(6) by adding after subsection (g) the following new subsection:

"(h)(1) An employee or Member may apply, before separation, to the Board for permission to withdraw an amount from the employee's or Member's account based upon—

"(A) the employee or Member having attained age 59½; or

"(B) financial hardship.

"(2) A withdrawal under paragraph (1)(A) shall be available to each eligible participant one time only.

"(3) A withdrawal under paragraph (1)(B) shall be available only for an amount not exceeding the value of that portion of such account which is attributable to contributions made by the employee or Member under section 8432(a) of this title.

"(4) Withdrawals under paragraph (1) shall be subject to such other conditions as the Executive Director may prescribe by regulation.

"(5) A withdrawal may not be made under this subsection unless the requirements of section 8435(e) of this title are satisfied.".

(b) INVALIDITY OF CERTAIN PRIOR ELECTIONS.—Any election made under section 8433(b)(2) of title 5, United States Code (as in effect before the effective date of this subtitle), with respect to an annuity which has not commenced before the implementation date of this subtitle as provided by regulation by the Executive Director in accordance with section 318 shall be invalid.

SEC. 314. SURVIVOR ANNUITIES FOR FORMER SPOUSES; NOTICE TO FEDERAL EMPLOYEES RETIREMENT SYSTEM SPOUSES FOR IN-SERVICE WITHDRAWALS.

Section 8435 of title 5, United States Code, is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out "may make an election under subsection (b)(3) or (b)(4) of section 8433 of this title or change an election previously made under subsection (b)(1) or (b)(2) of such section" and inserting in lien thereof "may withdraw all or part of a Thrift Savings Fund account under subsection (b) (2), (3), or (4) of section 8433 of this title or change a withdrawal election"; and

(B) by adding at the end thereof "A married employee or Member (or former employee or Member) may make a withdrawal from a Thrift Savings Fund account under subsection (c)(1) of section 8433 of this title only if the employee or Member (or former employee or Member) satisfies the requirements of subparagraph (B).";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking out "An election, change of election, or modification of the commencement date of a deferred annuity" and inserting in lieu thereof "An election or change of election"; and

(ii) by striking out "modification, or transfer" and inserting in lien thereof "or transfer"; and

(B) in paragraph (2) in the matter following subparagraph (B)(ii) by striking out "modification,";

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by inserting "or withdrawal" after "A loan";

(II) by inserting "and (h)" after "8433(g)"; and

(III) by inserting "or withdrawal" after "such loan";

(ii) in subparagraph (B) by inserting "or withdrawal" after "loan"; and

(iii) in subparagraph (C)—

(I) by inserting "or withdrawal" after "to a loan"; and

(II) by inserting "or withdrawal" after "for such loan"; and

(B) in paragraph (2)—

(i) by inserting "or withdrawal" after "loan"; and

(ii) by inserting "and (h)" after "8344(g)"; and

(4) in subsection (g)—

(A) by inserting "or withdrawals" after "loans"; and

(B) by inserting "and (h)" after "8344(g)".

SEC. 315. DE MINIMUS ACCOUNTS RELATING TO THE JUDICIARY.

(a) JUSTICES AND JUDGES.—Section 8440a(b)(7) of title 5, United States Code, is amended—

(1) by striking out "$3,500 or less" and inserting in lieu thereof "less than an amount that the Executive Director prescribes by regulation"; and

(2) by striking out "unless the justice or judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b)".

(b) BANKRUPTCY JUDGES AND MAGISTRATES.—Section 8440b(b) of title 5, United States Code, is amended—

(1) in paragraph (7) in the first sentence by inserting "of the distribution" after "equal to the amount"; and

(2) in paragraph (8)—

(A) by striking out "$3,500 or less" and inserting in lieu thereof "less than an amount that the Executive Director prescribes by regulation"; and

(B) by striking out "unless the bankruptcy judge or magistrate elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b)".

(c) FEDERAL CLAIMS JUDGES.—Section 8440c(b) of title 5, United States Code, is amended—

(1) in paragraph (7) in the first sentence by inserting "of the distribution" after "equal to the amount"; and

(2) in paragraph (8)—

(A) by striking out "$3,500 or less" and inserting in lieu thereof "less than an amount that the Executive Director prescribes by regulation"; and

(B) by striking out "unless the judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b)".

SEC. 316. DEFINITION OF BASIC PAY.

(a) IN GENERAL.—(1) Section 8401(4) of title 5, United States Code, is amended by striking out "except as provided in subchapter III of this chapter,".

(2) Section 8431 of title 5, United States Code, is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 84 of title 5, United States Code, is amended by striking out the item relating to section 8431.

(2) Section 5545a(h)(2)(A) of title 5, United States Code, is amended by striking out "8431,".

(3) Section 615(f) of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104-52; 109 Stat. 500; 5 U.S.C. 5343 note) is amended by striking out "section 8431 of title 5, United States Code,".

SEC. 317. ELIGIBLE ROLLOVER DISTRIBUTIONS.

Section 8432 of title 5, United States Code, is amended by adding at the end the following:

"(j)(1) For the purpose of this subsection—

"(A) the term 'eligible rollover distribution' has the meaning given such term by section 402(c)(4) of the Internal Revenue Code of 1986; and

"(B) the term 'qualified trust' has the meaning given such term by section 402(c)(8) of the Internal Revenue Code of 1986.

"(2) An employee or Member may contribute to the Thrift Savings Fund an eligible rollover distribution from a qualified trust. A contribution made under this subsection shall be made in the form described in section 401(a)(31) of the Internal Revenue Code of 1986. In the case of an eligible rollover distribution, the maximum amount transferred to the Thrift Savings Fund shall not exceed the amount which would otherwise have been included in the employee's or Member's gross income for Federal income tax purposes.

"(3) The Executive Director shall prescribe regulations to carry out this subsection.".

SEC. 318. EFFECTIVE DATE.

This subtitle shall take effect on the date of the enactment of this Act, and withdrawals, loans, rollovers, and elections as provided under the amendments made by this subtitle shall be made at the earliest practicable date as determined by the Executive Director in regulations.

TITLE IV—PROVISIONS RELATING TO THE CONVERSION OF CERTAIN EXCEPTED SERVICE POSITIONS IN THE UNITED STATES FIRE ADMINISTRATION

SEC. 401. CONVERSION OF POSITIONS.

(a) IN GENERAL.—No later than the date described under subsection (d)(1), the Director of the Federal Emergency Management Agency and the Director of the Office of Personnel Management shall take such actions as necessary to convert each excepted service position established before the date of the enactment of this Act under section 7(c)(4) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(c)(4)) to a competitive service position.

(b) EFFECT ON EMPLOYEES.—Any employee employed on the date of the enactment of this Act in an excepted service position converted under subsection (a)—

(1) shall remain employed in the competitive service position so converted without a break in service;

(2) by reason of such conversion, shall have no—

(A) diminution of seniority;

(B) reduction of cumulative years of service; and

(C) requirement to serve an additional probationary period applied; and

(3) shall retain their standing and participation with respect to chapter 83 or 84 of title 5, United States Code, relating to Federal retirement.

(c) PROSPECTIVE COMPETITIVE SERVICE POSITIONS.—Section 7(c)(4) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(c)(4)) is amended to read as follows:

"(4) appoint faculty members to competitive service positions and with respect to temporary and intermittent services, to make appointments of consultants to the same extent as is authorized by section 3109 of title 5, United States Code;".

(d) EFFECTIVE DATE.—(1) Except as provided under paragraph (2), this section shall take effect on the first day of the first pay period, applicable to the positions described under subsection (a), beginning after the date of the enactment of this Act.

(2)(A) The Director of the Federal Emergency Management Agency and the Director of the Office of Personnel Management shall take such actions as directed under subsection (a) on and after the date of the enactment of this Act.

(B) Subsection (c) shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. MICA] and the gentleman from American Samoa [Mr. FALEOMAVAEGA] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us contains actually three bills that have already passed the other body, S. 868, S. 1080, and S. 1488. The Senate passed two of these bills by unanimous consent, and the third by voice vote. In addition, title II of this bill is virtually identical to H.R. 3586, which the House passed by voice vote on July 30, 1996.

Title I of this bill is identical in all material respects to S. 868, the Federal Employee Emergency Leave Transfer Act of 1995. This title authorizes the establishment of a special leave bank for Federal employees in the event of a presidentially declared emergency. The tragedy at Oklahoma City is an example of the situations in which these special leave banks may be established. Mr. Speaker, this bill provides for a humane and a just opportunity for our Federal employees to help one another.

Title II of the bill, Mr. Speaker, is essentially the same as the Veterans Preference Employment Opportunity Act of 1996. This measure, H.R. 3586, is legislation that I introduced, and we passed the earlier version of this bill by voice vote in July. Title II creates an effective redress system for our veterans. It strengthens veterans protections in the case of a reduction in force, and it extends additional economic opportunities to our veterans. In addition, the bill extends veterans preference to certain jobs in the legislative branch, in the judicial branch, and at the White House.

In our handling of this matter, we found that sometimes our veterans are the first fired and the last hired, and this bill moves to correct that situation.

We have slightly modified the language of H.R. 3586 in an effort to respond to concerns raised by the American Postal Workers Union after we passed our original bill from the House. The APWU's concern is that the language of the original bill might have interfered with the operation of job bidding procedures in their collective-bargaining agreements. It was not our intention, Mr. Speaker, to interfere with the Postal Union collective bargaining agreements, and we hope that our changes have in fact clarified this matter.

In addition, the Department of Defense has been given more time to comply with the rif provisions of the bill and another modification they requested.

In title III, Mr. Speaker, our provisions make the Thrift Savings Plan even more attractive to our Federal employees. They establish two new investment funds for Federal employees, an international stock index fund and a small capitalization stock index fund. In addition, these provisions will make it easier for Federal employees to borrow their own money from the Thrift Savings Plan and provide for a onetime permanent withdrawal at age 59½ or when they experience a particular financial hardship.

Title III also contains an improvement to the Thrift Savings Plan that was not in S. 1080. Under this bill, employees who come to work for the Government will be able to deposit the funds from their private 401(k) plans into our Thrift Savings Plan. This is an additional rollover authority, which should make Government employment more attractive to many in the private sector.

Finally, Mr. Speaker, title IV of this bill incorporates the provisions of S. 1488. That bill converts certain accepted service positions in the U.S. Fire Administration to competitive service positions. It also authorizes the Fire Administration to appoint new faculty members to competitive service positions.

Mr. Speaker, I am pleased that we have had the cooperation of the gentleman from Virginia [Mr. MORAN], the ranking member, and the gentlewoman from Maryland [Mrs. MORELLA] a leader on our Civil Service Subcommittee that I am so pleased to have the opportunity to chair. I also want to recognize the gentleman from Virginia [Mr. DAVIS] for his fine work and contributions, and also, not a member of the subcommittee or committee, but the gentleman from Virginia [Mr. WOLF] who is a strong advocate on behalf of our Federal employees and workers.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, due to a conflict in scheduling and because of a prior commitment in his congressional district, the gentleman from Virginia [Mr. MORAN] who is also the senior Democrat of the subcommittee, has requested that I assist him in managing this bill before the House. In doing so, Mr. Speaker, and on behalf of the gentleman from Virginia and Members from this side of the aisle, I am pleased to rise in support of Senate bill 868 and the managers' amendment offered by the gentleman from Florida [Mr. MICA]. Senate bill 868 is a simple bill first proposed by the Office of Personnel Management after the tragic bombing in Oklahoma City.

□ 2130

It makes it easier for Federal employees to donate unused annual leave to their counterparts who have been adversely impacted by a disaster or national emergency. This bill passed the Senate unanimously last October and recently passed the Government Reform and Oversight Committee on voice vote.

To this legislation, Mr. MICA is offering a manager's amendment that incorporates other important provisions. The first makes important reforms to the Thrift Savings Plan and enables employees to participate in the plan earlier and to invest their funds in two new plans. The Thrift Savings Plan is a very successful retirement plan that enables Federal employees to save for their retirement. The provisions in this legislation will also provide Federal employees the same flexibilities enjoyed by their private sector counterparts who participate in 401(k) plans. This provision also allows Federal employees to borrow against their accounts for any reason.

The second provision is the Veterans Employment Opportunities and Improvement Act. This legislation has passed the House by voice vote and makes some positive reforms in the application of our veterans' preference laws. By attaching this provision to S. 868, the majority expects that we will be able to engage the Senate in a conference on this legislation and break the current deadlock.

Finally, the manager's amendment incorporates a provision that was introduced by Senator SARBANES and passed the Senate by voice vote. This is more a technical provision and will help remedy a situation that affects only a limited number of employees. I support the effort to enact this correction.

Again, I support this legislation and the manager's amendment. I hope it will have my colleagues support as well.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland, [Mrs. MORELLA], who I am pleased to say is a very strong advocate on behalf of our Federal employees, someone who shares a caring and compassion for them, and one of the most productive members of the Subcommittee on Civil Service.

Mrs. MORELLA. Mr. Speaker, I want to thank the gentleman who chairs our Subcommittee on Civil Service not only for the fine words but the leadership he has shown during this very challenging time for Federal employees and Federal agencies. I value that very much.

Mr. Speaker, I rise in strong support of S. 868, legislation that will help our dedicated Federal employees in a variety of ways. Civil servants are facing hard times, and they are understandably apprehensive about the future.

Although I would have liked to consider several pieces of legislation that I have introduced to help Federal employees meet the challenges of the changing workplace, this bill is a step in the right direction. I am proud to have drafted portions of this legislation to improve the lives of our Federal employees. Tomorrow, as part of civil service reform, we will consider additional proposals that I have drafted to help civil servants.

S. 868 contains legislation I introduced, H.R. 2306, the Federal Thrift Savings Plan Enhancement Act. These provisions will bolster a critical component of Federal employees' retirement benefits—the Thrift Savings Plan—at no cost to taxpayers.

The Thrift Savings Plan [TSP] is a retirement savings and investment plan for Federal and postal employees. It offers the same type of savings and tax benefits that many private corporations offer their employees under 401(k) plans. The TSP is critical for all Federal employees, but it is particularly important for those employees hired in the last decade who, under the Federal Employees Retirement System, receive smaller civil service benefits and need to invest more money to enhance their retirement income.

Unlike many private plans, the TSP limits employees to three investment funds: the Government Securities Investment (G) Fund, the Common Stock Index Investment (C) Fund, and the Fixed Income Investment (F) Fund. Eighty two percent of the largest corporations now offer four or more investment options in their defined contribution plans, and 50 percent offer five or more options. As the number of funds offered increases, small-cap and international funds are among the most popular additions. H.R. 2306 would give Federal workers two new investment options under the Thrift Savings Plan: a Small Capitalization Stock Index Investment Fund and International Stock Index Fund. These funds will provide Federal employees with a long-term investment strategy comparable to private pension plans.

Adding two new options to Federal employees' retirement investment portfolios will potentially increase their investment earnings for retirement, and it will empower Federal workers to take a more active and personal responsibility for their retirement.

This legislation will also permit Federal employees to begin to withdraw money from the TSP at age 59½, even if they continue to work and invest in the plan. The money withdrawn would be taxable, but it would not be subject to any early-retirement penalty. Under the current rules, an employee cannot withdraw money before retiring. The legislation also significantly improves borrowing provisions to allow employees to borrow money from their own accounts as long as they repay it.

Federal employees face uncertainty caused by Federal downsizing and the recent Government shutdowns. Over 2 million Federal employees also worry about their retirement, and this legislation would bolster a critical component of their retirement benefits.

Unfortunately, this legislation does not include a critical provision in my TSP bill—the provision to allow employees to invest up to the $9,500 IRS limit of their own to the TSP. Currently, FERS employees can put in up to 10 percent of their salary with a Government match of up to 5 percent, and CSRS employees can invest up to 5 percent of their salary. I will continue to pursue legislation to increase this amount to the IRS limit separately.

This legislation also contains a provision important to firefighters in my district. When the Federal Emergency Management Agency was formed 20 years ago, it placed a number of its employees with specific fire-fighting expertise in the National Fire Academy under "excepted" service status. After the NFA has filled their vacancies, new hires were obtained through a competitive civil service hiring system. Today, 91 of the NFA's 99 employees are under the general schedule and 8 remain in excepted status. These eight employees are subject to significant limitations within the U.S. Fire Administration, and they are legally barred from competing for management positions. This provision would convert the eight remaining excepted service positions at the U.S. Fire Administration to competitive service status to remedy this unfair situation. The Office of Personnel Management supports this provision, and CBO has indicated that there would be no cost for this conversion.

This bill also contains the veterans' preference provisions passed by the House in July. These provisions were developed pursuant to a hearing held in the Civil Service Subcommittee last April. We learned that simply giving veterans augmented scores and certain due process protections does not necessarily give them the rightful additional assistance in obtaining and retaining civilian employment with the Federal Government that they deserve.

Testimony from veterans associations and from veterans such as John Fales, the author of the Sgt. Shaft column in the Washington Times, illustrated the need for this protection. Mr. Fales shared some of the hundreds of letters he has received that describe the challenges faced by veterans employed by the Federal Government.

The Veterans Employment Opportunities Act of 1996 would strengthen, and, in the case of hiring, broaden the applicability of veterans' preference laws. H.R. 3586 would provide increased protection during reductions-in-force, establishes an enhanced redress system, and applies veterans' preference to nonpolitical positions at both the White House and in the legislative branch, as well to as many positions in the judicial branch. It also extends veterans' preference when Rif's occur in the Federal Aviation Administration, and it will allow veterans claiming they were denied preference to take their case to Federal court for the first time. I am sensitive to the differing circumstances of the postal service, and I will work to address their concerns in conference.

In the event of a disaster or emergency, this legislation would allow Federal employees in any agency to donate their unused annual leave to Federal employees adversely affected. It is too bad that we have to pass legislation to allow Federal employees to help one another in such times of need, but I commend the many Federal employees who will put the needs of others before themselves and help those in need by donating their annual leave. This small change to the law is particularly important in the wake of such tragedies such as Oklahoma City, and I strongly urge its passage.

Mr. Speaker, I strongly urge the passage of S. 868, and again I thank the gentleman for the time that he has given me to comment on what I think is an important bill. I also want to commend the ranking member of our subcommittee, the gentleman from Virginia [Mr. MORAN].

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume to concur in the remarks made earlier by the gentlewoman from Maryland. She certainly has been a great advocate of our work force in the civil service, and I am sure that because the legislation is not exactly a perfect one that, hopefully, in the next Congress, some of the sentiments and concerns she has expressed earlier will be taken seriously.

Mr. Speaker, I also want to recognize the contributions of the members of the subcommittee, the gentleman from Pennsylvania [Mr. HOLDEN], the gentleman from Vermont [Mr. SANDERS], and the gentlewoman from Illinois [Mrs. COLLINS] absolutely the senior Democrat, the ranking member of the full committee, for the tremendous contributions that she has rendered for our government in all these years that she has served in this capacity as a member of the Committee on Government Reform and Oversight.

Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], who is one of the strongest advocates in the Congress on behalf of veterans and also has the honor and distinction of serving as chairman of our Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I want to thank the gentleman from Florida, JOHN MICA. Quite often I mistake JOHN and sometimes I call him Dan, and that is because 18 years ago Dan Mica, his brother, and I came to this Congress. His brother was a Democrat on the other side of the aisle but an outstanding Member of this body who served with me on the Committee on International Relations, as he did with the Speaker, at that time.

Mr. Speaker, I wanted to stand up here for a moment just to praise JOHN MICA, his subcommittee, and the members of this subcommittee, like the gentlewoman from Maryland, CONNIE MORELLA, and certainly my good friend, the gentleman from American Samoa, Mr. FALEOMAVAEGA, for the good job they always do.

Quite often Federal employees come under undue criticism. Yet, the vast majority of them are good people, they are conscientious, they are polite, they are courteous, and they do their job. I just want to commend the gentleman for the job he is doing on this piece of legislation, because in the long run that is what it is meant to do. It is meant to help Federal employees to do their job.

I want to concentrate briefly on the veterans preference benefits that are here. Mr. MICA has been very active in legislation along this line. The gentleman and I have worked together on many pieces of legislation just in the last 18 months dealing with it.

One of the provisions, as CONNIE MORELLA was alluding to earlier, was the provision that for the first time establishes an effective user-friendly redress system for veterans who believe their rights have been violated. This is very, very important. This will speed up that entire process so that they can have due process.

Another provision removes artificial barriers that often bar service men and women from competing for Federal jobs. These individuals should be able to compete for jobs for which they qualify just like any other Federal employee.

Thirdly, it extends veterans preference to certain jobs in this legislative branch, where the gentleman and I serve, in the judiciary branch, and in the White House as well.

□ 2145

Members might ask, why are veterans given these particular preferences? Whether you serve for 20 years in the military, whether you serve for 4 years or 2 years, let us just say you serve for 4 years and you were an 18-year-old when you went in the military, and at the same time your peer did not go in the military as he went on to college. And he graduates then from college 4 years before you do. He enters the job market 4 years before you do. All of that, that 4-year loss, when you are working at a substantially lesser benefit, when there are no benefits really in the military because you are not going to stay long enough to gain retirement benefits, that loss to you compared to your peer amounts to about $68,000 over a 4-year period.

A young man or young woman entering the military, when he or she gets out, they are always going to be $68,000 poorer than the peer that did not have the opportunity to serve. So that is really what veterans preference is all about. It is a way of allowing them to catch up, which is why we have the peacetime GI bill. That is why this piece of legislation is so terribly important.

I want to commend the gentleman from Florida, Mr. JOHN MICA, for the good job that he and that the members of his committee have done. Let us get it passed. Let us get it sent to the President and get his signature on it.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

I would like to conclude my remarks on this legislation and just take a moment, as we finish our comments, to thank the gentleman from American Samoa for his assistance tonight in moving this legislation forward. Also to thank the ranking member of our subcommittee, the gentleman from Virginia [Mr. MORAN] who is not able to be with us but who has provided great leadership on this and other civil service issues, and particularly the gentlewoman from Maryland [Mrs. MORELLA], as part of this legislation and, in fact, as part of her initiatives, continuing efforts on behalf of our civil servants whom she holds so dearly, both their service and their contribution to our Federal Government. I thank her. I thank the gentleman from Virginia [Mr. DAVIS] of our subcommittee and also, as I mentioned, the gentleman from Virginia [Mr. WOLF], who is not on the committee, who has contributed to this and other productive civil service legislation; also the gentleman from New York [Mr. SOLOMON] for his tremendous interest and efforts on behalf of our veterans. His service goes on and on in their behalf and on behalf of the Congress. The gentleman from Indiana [Mr. BUYER] who is not with us tonight but chairs one of the veterans subcommittees, also contributed greatly.

Finally, Mr. Speaker, by combining title II with three Senate bills we are, in fact, giving the other body a very convenient way of addressing veterans preference in the few remaining legislative days that we have left in this session.

Mr. Speaker, the bill before us today and tonight is, in fact, a good one. It authorizes emergency leave for our Federal employees. It strengthens our veterans preference. It improves the thrift savings plan and makes desirable modifications to the employment status of employees at the Fire Administration.

This legislation tonight and bills that we hope to pass in tomorrow's session can go a long way toward making it a better Federal workplace and a better Federal work force.

I urge my colleagues to vote for these measures and for this bill.

Mr. FALEOMAVAEGA. Mr. Speaker, will the gentleman yield?

Mr. MICA. I yield to the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Speaker, I would be remiss if I did not also express the gentleman from Virginia's sentiments in expressing to the gentleman from Florida, as chairman of the subcommittee, for the outstanding job that he has done and the spirit of bipartisanship that we were able to work out the differences in bringing us to the floor at this point in time. I want to note that for the RECORD to the gentleman from Florida for the tremendous job that he has done in bringing this legislation to fruition.

Mr. MICA. Mr. Speaker, I thank the gentleman.

Again, I urge passage of this and, finally, thank the staff on both sides of the aisle for their tremendous contributions.

Mr. MORAN. Mr. Speaker, I am pleased to rise in support of S. 868 and the manager's amendment offered by Representative MICA.

S. 868 is a simple bill first proposed by the Office of Personnel Management after the tragic bombing in Oklahoma City. It makes it easier for federal employees to donate unused annual leave to their counterparts who have been adversely impacted by a disaster or national emergency. This bill passed the Senate unanimously last October and recently passed the Government Reform and Oversight Committee on voice vote.

To this legislation, Mr. MICA is offering a manager's amendment that incorporates other important provisions. The first makes important reforms to the Thrift Savings Plan and enables employees to participate in the plan earlier and to invest their funds in two new plans. The Thrift Savings Plan is a very successful retirement plan that enables federal employees to save for their retirement. The provisions in this legislation will also provide federal employees the same flexibiliies enjoyed by their private sector counterparts who participate in 401(k) plans. This provision also allows federal employees to borrow against their accounts for any reason.

The second provision is the Veterans Employment Opportunities and Improvement Act. This legislation has passed the House by voice vote and makes some positive reforms in the application of our Veterans' preference laws. By attaching this provision to S. 868, the majority expects that we will be able to engage the Senate in a conference on this legislation and break the current deadlock.

Finally, the manager's amendment incorporates a provision that was introduced by Senator SARBANES and passed the Senate by voice vote. This is more a technical provision and will help remedy a situation that affects only a limited number of employees. I support the effort to enact this correction.

Again, I support this legislation and the manager's amendment. I hope it will have my colleagues' support as well.

Mr. BUYER. Mr. Speaker, I want to congratulate and thank Chairman MICA and his subcommittee for their magnificent efforts on this very important piece of legislation and for their dogged determination to shepherd this bill through the legislative process.

I had the honor of testifying before Mr. MICA's subcommittee, and I am doubly pleased that some of the points I brought out during the hearing are in the bill. I wish to stress that the most important provision—that of an administrative and judicial method for veterans to pursue their employment claims—is not an expansion of veterans preference, but a necessary provision to ensure just protection of their rights as veterans.

And to those who feel that veterans don't need the protections being provided to them in this bill, let me just quote an internal memo from Postmaster General Marvin Runyon to his Board of Governors. Mr. Runyon states that veterans preference will, "have a detrimental impact on the Postal Service," it would "tie our hands," and it would, "be costly and make our personnel decisions more difficult and onerous." Finally, recognizing the average American's support for veterans he says, "this is a difficult issue to oppose publicly, especially in an election year."

The Postmaster almost got it right, but I would offer this. I would say that it is an issue that should never be opposed—election year or not—because veterans preference must remain the cornerstone of federal employment, simply because it is the right thing to do.

Veterans preference knows neither color nor gender, nor ethnic origin, whether the veteran is a Christian, Jew, Muslim or atheist. It is based on what is becoming a novel idea in this country—a willingness to sacrifice one's life for the good of the nation. I challenge anyone to point out a more appropriate group of citizens to receive some small advantage in securing and maintaining federal employment.

This bill will do much to reverse what I call a growing anti-veteran culture among bureaucrats. There is no doubt that women and minorities have suffered employment discrimination in both the federal and private sector. But let me stress that our military forces have been in the forefront of promoting women and minorities among the ranks, and it is time for federal hiring managers to put veterans first.

I am also pleased that S. 868 will apply veterans preference to non-political employees of the Congress, the White House, and the Judiciary Branch. The only thing special here is the nation's commitment to a very special class of person—veterans. The approach taken in the bill to these principles is reasonable and is not unduly restrictive.

Mr. Chairman, let me close by noting that a little over 50 years ago, we were just winding up the bloody Pacific Campaign. A few years later, our forces were fighting and dying to maintain democracy's foothold on the Korean Peninsula. Slightly less than 30 years ago, our forces distinguished themselves in turning back the Tet Offensive. And just five years ago, the men and women of this nation struck like lightning against Saddam Hussein. In less than 60 years those wearing the nation's uniform have earned this small benefit at the cost of nearly 520,000 deaths. This is a benefit that costs the government nothing while honoring what is truly national service.

I strongly urge my colleagues to join all the major veterans service organizations in their support of this bill and to vote in favor of S. 868.

Mr. MICA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Wicker). The question is on the motion offered by the gentleman from Florida, [Mr. Mica] that the House suspend the rules and pass the Senate bill, S. 868, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 868, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CLARION RIVER NATIONAL WILD AND SCENIC RIVERS DESIGNATION

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3568) to designate 51.7 miles of the Clarion River, located in Pennsylvania, as a component of the National Wild and Scenic Rivers System.

The Clerk read as follows:

H.R. 3568

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) Clarion River, Pennsylvania.—The 51.7-mile segment of the main stem of the Clarion River from the Allegheny National Forest/State Game Lands Number 44 boundary, located approximately 0.7 miles downstream from the Ridgway Borough limit, to an unnamed tributary in the backwaters of Piney Dam approximately 0.6 miles downstream from Blyson Run, to be administered by the Secretary of Agriculture in the following classifications:

"(A) The approximately 8.6-mile segment of the main stem from the Allegheny National Forest/State Game Lands Number 44 boundary, located approximately 0.7 miles downstream from the Ridgway Borough limit, to Portland Mills, as a recreational river.

"(B) The approximately 8-mile segment of the main stem from Portland Mills to the Allegheny National Forest boundary, located approximately 0.8 miles downstream from Irwin Run, as a scenic river.

"(C) The approximately 26-mile segment of the main stem from the Allegheny National Forest boundary, located approximately 0.8 miles downstream from Irwin Run, to the State Game Lands 283 boundary, located approximately 0.9 miles downstream from the Cooksburg bridge, as a recreational river.

"(D) The approximately 9.1-mile segment of the main stem from the State Game Lands 283 boundary, located approximately 0.9 miles downstream from the Cooksburg bridge, to an unnamed tributary at the backwaters of Piney Dam, located approximately 0.6 miles downstream from Blyson Run, as a scenic river.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. Hansen] and the gentleman from American Samoa [Mr. Faleomavaega] each will control 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. Hansen].

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a good bill, introduced by our colleague Mr. Clinger, which provides for the designation of 51.7 miles of the Clarion River in Pennsylvania under the Wild and Scenic River Act. About 60 percent of the river courses through Forest Service and State game lands, and the balance is abutted by private property owners. The Forest Service has studied this river pursuant to a directive by Congress several years ago. The Forest Service found strong local support for designation of the river, as attested to by a proclamation issued by Gov. Tom Ridge designating June 1996 as Clarion River Month.

The administration fully supports this legislation and I am aware of no objections to it, therefore, I urge my colleagues to support H.R. 3568.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3568 would designate 51.7 miles of the Clarion River in Pennsylvania, as a component of the national wild and scenic rivers system. I would note for the Record that we are being asked to proceed to designate the Clarion River despite the fact that the wild and scenic river study that this House authorized in the 102d Congress has not been completed. However, we had favorable testimony on this proposal from the administration, the bill's sponsor, and the local community. That being the case we will not object H.R. 3568, and I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. Clinger], the author of the legislation.

Mr. CLINGER. Mr. Speaker, it is an honor to stand here today and to rise in support of H.R. 3568—a bill to designate 51.7 miles of the Clarion River—located in Pennsylvania—as part of the National Wild and Scenic Rivers System.

This effort started 4 years ago when the Clarion River became eligible for study by direction of Public Law 102-271 which conveyed a wild and scenic designation upon the Allegheny River.

In March of this year, the Forest Service determined after lengthy analysis that 51.7 miles of the Clarion River contain outstanding scenic and recreational values of regional significance. Mr. Speaker, while I do not share the professional expertise of those who made this determination, I can attest to the fact that the eligible corridor is indeed a natural and beautiful environmental treasure.

The Clarion River corridor is located in the unglaciated Allegheny plateau, is free flowing and relatively slow moving. For that reason, more than 130,000 people have floated on the Clarion River in 1995. In fact, one of my staff members had the opportunity to float the river this summer during celebration of Pennsylvania Rivers Month during which the Clarion River was recognized.

Apart from the Clarion River's recreational value—which winds its way through the Allegheny National Forest—its hallmark is its beauty and serenity. I strongly believe that such a unique natural resource-especially in the eastern United States—should be preserved and protected for the enjoyment of this and future generations.

And judging from the communication that I have had with the residents of the area over the past 4 years, they overwhelmingly agree. During hearings on H.R. 3568 before Chairman Hansen's Subcommittee on National Parks, Forests, and Lands, we heard positive testimony from two residents of the Clarion area—one private landowner and one travel and tourism representative.

The testimony of Ms. Kimberly Miller, a landowner herself and a self-described caretaker of the land, was especially important considering her property along the corridor has been in family ownership since 1883.

Another Pennsylvania resident came to the Capitol for the hearing last July to tell the subcommitttee about the economic benefit that will follow designation of the corridor. Mr. David Morris, executive director of a regional visitors bureau, stated that according to the U.S. Travel Data Center, more than $127 million are spent annually by visitors to the Clarion area. This translates into some 1,700 jobs and over $3 million in local tax receipts—jobs and revenue that might well be lost in the future if the extraordinary recreational values of the river became degraded.

Despite the many positive comments I received about H.R. 3568, and the outpouring of public support that fueled this effort from the start, that's not to say reservations have not been voiced, but the critics have been few and largely limited to those who oppose any designation under the act on philosophical grounds.

It has been my goal since the inception of this project to maintain an open dialog with any and all interested parties. Pending passage of this measure, drafting of the management plan for the river will be developed with the same goal in mind: to achieve consensus among local, State, and Federal agencies along with the interests of private citizens.

I believe it's important to note that H.R. 3568 does not contain any unfunded mandates; does not permit the Government to acquire land through condemnation since more than 50 percent of the land is publicly owned; and would merely require the continuation of a requirement to submit new permit applications for projects on public lands to be reviewed by the responsible State or Federal agency. This has already been the case since 1992.

Mr. Speaker, I want to very gratefully thank all of my Pennsylvania colleagues—Republican and Democrat—who lent their support to this effort, including 15 Pennsylvania House Members and both of our Members from the other body—who introduced companion legislation in the Senate. Their cosponsorship is testimony to the fact that preservation of our national resources is an issue that knows no boundaries—congressional or otherwise.

I believe the words spoken by one of my constituents best capture the sentiment and commitment by residents to see the successful conclusion of this effort, as part of our national infrastructure, this employer will not relocate for warmer weather or for less expensive labor as some other industries have done. The Clarion is part of us and is here as long as we are.

So, Mr. Speaker, in the waning days of the 104th Congress—which brings to a close my career as a Member of this House—it's a great opportunity to consider and pass this legislation which means so much to the people who have sent me back to Washington for the past 18 years. While I have been fortunate to guide many very important reform measures through the House this year, H.R. 3568 allowed me to work hand in hand with the citizens who are passionate about preserving our local resources for the benefit of fellow Pennsylvanians and all Americans.

With that, I want to thank Chairman YOUNG and Chairman HANSEN for their support over the past months in bringing this measure to the floor.

Mr. Speaker, I also express my appreciation to the gentleman from American Samoa for his willingness to also support the legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

I certainly would like to commend the gentleman from Pennsylvania who is the chief sponsor of this legislation and am most appreciative of his comments. We do not have any additional speakers, but I want to say to the gentleman from Pennsylvania that hopefully sometime in the future I look forward to visiting the Clarion Wild River and perhaps even asking other Members.

I can say also to the gentleman from Pennsylvania, we have a very sensitive appreciation of what it means to try to pass legislation for not 1 year, not for 2 years, 3 years, but for 4 years. Sometimes our friends from downtown are not exactly very cooperative of some of the things that we here as Members have tried to do in formulating pieces of legislation.

With that, Mr. Speaker, I want to commend again the gentleman from Pennsylvania for bringing this piece of legislation to the floor and having the sense of bipartisanship and support of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] that the House suspend the rules and pass the bill, H.R. 3568.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 2200

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Is there objection to the request of the gentleman from Utah?

There was no objection.

WEKIVA RIVER, SEMINOLE CREEK, AND ROCK SPRINGS RUN, FL, NATIONAL WILD AND SCENIC RIVERS SYSTEM STUDY

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3155) to amend the Wild and Scenic Rivers Act by designating the Wekiva River, Seminole Creek, and Rock Springs Run in the State of Florida for study and potential addition to the National Wild and Scenic Rivers System, as amended.

The Clerk read as follows:

H.R. 3155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL DESIGNATION.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following new paragraph:

"( ) WEKIVA RIVER, FLORIDA.—(A) The entire river.

"(B) The Seminole Creek tributary.

"(C) The Rock Springs Run tributary.".

SEC. 2. STUDY AND REPORT.

Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end the following new paragraph:

"( ) The study of the Wekiva River and the tributaries designated in paragraph ( ) of subsection (a) shall be completed and the report transmitted to Congress not later than two years after the date of the enactment of this paragraph.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. HANSEN] and the gentleman from American Samoa [Mr. FALEOMAVAEGA] each will control 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HANSEN asked and was given permission to revise and extend his remarks.)

Mr. HANSEN. Mr. Speaker, this is a noncontroversial bill, introduced by our colleague, Mr. MCCOLLUM, which authorizes the administration to conduct a study to determine if the Wekiva River in Florida should be designated for protection under the Wild and Scenic River Act. The river has rich biological diversity, and is already protected under Florida State law. The State of Florida supports protection of this river so strongly that it has already acquired 20,000 acres for preservation purposes along its shores. This legislation will enhance efforts already undertaken at the State and local level.

The legislation is supported by the administration which has been listed on the National Park Service's nationwide river inventory for potential study.

The bill directs the administration to complete their study in 2 years. The administration normally takes 3 years to complete wild and scenic river studies, but in this case, where so much is known about the river, that length of time is unnecessary. I know of no objections to this legislation and encourage all Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3155 amends the Wild and Scenic Rivers Act by designating the Wekiva River and its tributaries in the State of Florida for study and potential addition to the National Wild and Scenic Rivers System. The administration testified in favor of the measure and we also understand that there is local support for such a study. The information to be gained from such a study should be helpful in providing for the care and use of these river resources. As such we have no objection to H.R. 3155, and I ask my colleagues to support this legislation.

I want to commend the gentleman from Florida [Mr. MCCOLLUM] for introducing this bill and again thank members of the Committee from both sides of the aisle for their support of this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to add that this bill directs the administration to complete their study in 2 years. The administration normally takes 3 years to complete wild and scenic river studies, but in this case there is so much known about this river the length of time is unnecessary.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM], the sponsor of the bill.

Mr. McCOLLUM. Mr. Speaker, I am pleased that we are now considering H.R. 3155, a bill to designate the Wekiva River, Seminole Creek, and Rock Springs Run in central Florida for study and potential addition to the National Wild and Scenic Rivers System. Naturally, I think this is a good bill and would like to express my gratitude for the work done by the Committee on Resources and the Subcommittee on National Parks, Forests and Lands. I would like to personally thank my good friends and colleagues Chairman YOUNG and Chairman HANSEN, as well as their knowledgeable, helpful staff for their efforts.

The Wekiva River Basin provides historical, recreational, and educational opportunities for residents and visitors. The area is rich in natural resources, and once provided a home for prehistoric inhabitants. Eleven archaeologic sites associated with various Native American cultures have been identified. The location of the Wekiva River also allows for the study of a diverse ecosystem and hosts a variety of flora and fauna, including several threatened species such as the West Indian manatee, the American bald eagle, and the Florida black bear. The Wekiva River and Rock Springs Run are also host to over 300,000 visitors a year. The river and the springs which feed into the basin provide visitors with opportunities for canoeing, swimming, fishing, hiking, and horseback riding along nature trails.

I am sure that the Wekiva more than qualifies for the designation of a National Wild and Scenic River. As someone who literally lives down the street from the river, I can personally attest to its delicate beauty and value that should be preserved. The river and its major tributaries are already designated as Outstanding Florida Waters and a State Wild and Scenic River, and the State of Florida has identified the land around the Wekiva as a priority for preservation. A national designation, should it follow after the study, would prohibit Federal agencies from altering, or granting a permit to alter, the natural flow of the river. These protections would ensure that the river remains a source of enjoyment and education for future generations.

Additionally, a Federal designation would be consistent with State policy, which has already recognized the importance of this river. The Secretary of the Florida Department of Environmental Protection has said that passage of this legislation would be a "great example of local, State, and Federal governments, environmental organizations, and community leaders partnering for increased protection of one Florida's greatest nature treasures."

Mr. Speaker, my bill has bipartisan support, and I have received assurances that the appropriate State agencies will work with the Department of the Interior to help expedite this study as much as possible. I believe the time has come for the Federal Government to consider making one of central Florida's treasures, the Wekiva River, a National Wild and Scenic River. I urge an "aye" vote.

Mr. HANSEN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I thank the distinguished gentleman from Utah for yielding this time to me.

Mr. Speaker, I am pleased to join my colleague, the gentleman from Florida [Mr. MCCOLLUM] as a cosponsor of this legislation, and I want to salute his leadership. Mr. MCCOLLUM had the opportunity to represent this area before I came to Congress, and now, as my colleagues heard, lives close to the Wekiva River, and he has taken this step which really will do two things: first, the scenic designation which is so important; and also a second step will be to allow us to review what is going on with this river to see that it can be preserved and restored if necessary, for future generations.

So this is a piece of legislation that has a great deal of meaning for the gentleman for Florida [Mr. MCCOLLUM] and also myself. I am privileged to represent the 7th Congressional District of Florida, and that is the great growing area from Orlando to Daytona Beach which is just mushrooming since I was elected to Congress. We have two new cities in my district just in 3-plus years. So this area is being encroached upon by development and by other factors, and we do need to take a close look at what we are doing in this natural reserve and preserve area.

I am also pleased and want to thank particularly Secretary Babbitt, the gentleman from Ohio, Mr. REGULA, Senator MACK, and others who have assisted us in trying to connect the Ocala National Forest with the Wekiva Estate Park and acquire 18,000 acres along this area. This Congress has done more than anyone in the history that I know of, of the State or the Congress, in preserving that area which will connect the national forests with the State park and also with the scenic designation do a great deal in preserving an incredibly beautiful area for future generations.

So again I am pleased to join the gentleman from Florida [Mr. MCCOLLUM]. I thank the gentleman for his leadership on this and others, and I urge my colleagues to pass this very productive legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Florida [Mr. MCCOLLUM] for his comments, and also as the chief sponsor of this piece of legislation. I am sure that the good residents of his district as well as the good people of Florida will benefit from this piece of legislation when it is passed.

Again in the spirit of bipartisanship on this committee I would like to thank him, and certainly also the gentleman from Florida [Mr. MICA] for his support, and again I ask my colleagues that we support this piece of legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] that the House suspend the rules and pass the bill, H.R. 3155, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

SNOQUALMIE NATIONAL FOREST BOUNDARY ADJUSTMENT ACT OF 1996

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3497) to expand the boundary of the Snoqualmie National Forest, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3497

Be it enacted by the Senate and House Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Snoqualmie National Forest Boundary Adjustment Act of 1996".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Certain private lands in the State of Washington presently owned by Weyerhaeuser Company and others are located adjacent to the Snoqualmie National Forest and are logical extensions of the forest.

(2) A boundary adjustment will facilitate a land exchange which involves approximately 7,200 acres of National Forest land and 33,000 acres of private land owned by Weyerhaeuser Company, of which 6,278 acres are outside the present Snoqualmie National Forest boundary.

(3) Weyerhaeuser Company and the Forest Service are prepared to exchange these lands, which will benefit both the United States and Weyerhaeuser by consolidating their respective land-ownership holdings and providing reduced costs for each party to implement their land management objectives, providing an opportunity to implement more effective ecosystem based management, providing increased recreation opportunities for the American public, providing enhanced fish and wildlife habitat protection, and supporting the "Mountains-to-the Sound" goal of a continuous greenway between the Cascade Mountains and Puget Sound.

SEC. 3. BOUNDARY MODIFICATION.

(a) IN GENERAL.—The Secretary of Agriculture is hereby directed to modify the boundary of the Snoqualmie National Forest to include and encompass 10,589.47 acres, more or less, as generally depicted on a map entitled "Snoqualmie National Forest Proposed 1996 Boundary Modification" dated July 1, 1996. Such map, together with a legal description of all lands included in the boundary adjustment, shall be on file and available for public inspection in the Office of the Chief of the Forest Service in Washington, District of Columbia.

(b) RULE FOR LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9), the boundary of the Snoqualmie National Forest, as modified pursuant to subsection (a), shall be considered to be the boundary of that National Forest as of January 1, 1965.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. HANSEN] and the gentleman from American Samoa [Mr. FALEOMAVAEGA] each will control 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3497, introduced by Ms. DUNN of Washington. This legislation modifies the boundary of the Snoqualmie National Forest to facilitate a land exchange. It is needed because approximately 6,300 acres of land that would be exchanged to the Government is outside the national forest boundary. H.R. 3497 is a bipartisan bill, introduced by the entire Washington delegation, and it has support from the administration and the public.

The land exchange has been 12 years in the making. It is the result of a collaborative effort between the Sierra Club's Checkerboard Project and the Weyerhaeuser Co. The Forest Service will exchange approximately 7,200 acres of national forest land for 33,000 acres of private lands owned by the Weyerhaeuser Co. The exchange is based on equal values of land and timber.

In addition to the trade, the agreement will result in a substantial donation of land from Weyerhaeuser to the Forest Service, including approximately 900 acres which will be added to the Alpine Lakes Wilderness.

Since 1991, surveys of the land and timber resources have been completed, and the biological, archaeological and wetland resources on the two ownerships have been thoroughly studied. In July, 1996, the Forest Service completed a draft environmental impact statement [EIS] for the land exchange and requested public comment on the proposal. Three public meetings were held to discuss the land exchange and the draft EIS. Once a final EIS and record of decision are completed, H.R. 3497 will provide the authority the Forest Service needs to acquire the lands that lie outside the current forest boundary.

I commend my colleague, Ms. DUNN, for her leadership on this excellent measure. The environment and the people of the Puget Sound region will benefit as a result. I urge my colleagues to support this legislation and vote with in favor of H.R. 3497.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am unaware of any problems with this legislation, H.R. 3497. The bill would alter the boundaries of a national forest in the State of Washington to facilitate a land exchange that appears to be in the public interest. I understand the bill has the support of the various interested parties and I have no obligation to the legislation.

Ms. DUNN of Washington. Mr. Speaker, I want to thank Chairman HANSEN for his leadership on this bipartisan and proenvironment effort. This bill simply adjusts the boundary of the Snoqualmie National Forest to allow the incorporation into the Snoqualmie National Forest of some private lands owned by the Weyerhaeuser Co.

I am pleased to state that this legislation is supported not only by all members of the Washington State delegation but also by the Sierra Club, the Alpine Lakes Protection Society, the Washington Environmental Council, the North Cascades Conservation Council, and the Mountaineers.

This boundary adjustment will facilitate what is known as the Huckleberry Land Exchange, which involves approximately 7,200 acres of National Forest land and 33,000 acres of private land of which about 6,278 are outside the present boundary of the Snoqualmie National Forest.

As Chairman HANSEN stated in his opening remarks, this landmark agreement has been several years in the making and was brought about through a collaborative effort between the Sierra Club's Checkerboard Project and the Weyerhaeuser Co. It is noteworthy that this exchange includes a substantial donation of land by Weyerhaeuser into the national Alpine Lakes Wilderness Area.

Mr. Speaker, the public will benefit from this substantial donation of land. It will be one of only a few added this year into our Nation's wilderness areas. By consolidating ownership, an additional connecting corridor of wildlife habitat between the Alpine Lakes Wilderness and the Mount Si Conservation Area will be created.

This land exchange also adds substantial acreage to the area visible to the public from the I-90 Freeway in support of the objectives of the Mountain to Sound Greenway Trust—a nonprofit organization whose sole purpose is to protect a greenway along I-90 from the eastern foothills of the Cascade Mountains all the way to Puget Sound.

I want my colleagues to know that a Draft Environmental Impact Statement was released in late June, a 45-day public comment period was initiated, and three public meetings were held to discuss the exchange and the draft EIS. The final EIS and Record of Decision should be released by the end of October.

Today's action is necessary in order to give the Forest Service authority to administer the exchange area. And, Mr. Speaker, since this exchange has been 12 years in the making, all parties involved are pleased that we will be finalizing the boundary modification legislation today.

Mr. Speaker, this legislation is part of a win-win proposal. By consolidating ownership both the Forest Service and Weyerhaeuser will be able to implement a more effective ecosystem-based management that will allow for wetland protection and long-term protection for wildlife.

More important, this land exchange is a textbook example of how land disputes can be resolved between parties that are willing to look for areas of agreement rather than differences. The environment and all of the people of the Puget Sound region benefit as a result. I thank the Speaker, the Resources Committee, and I urge my colleagues to support the passage of this resolution.

Mr. HANSEN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] that the House suspend the rules and pass the bill, H.R. 3497, as amended.

The question was taken.

Mr. HANSEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 3497, the bill just considered.

The SPEAKER pro tempore. It there objection to the request of the gentleman from Utah?

There was no objection.

INDIAN ENVIRONMENTAL GENERAL ASSISTANCE PROGRAM ACT REAUTHORIZATION

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1834) to reauthorize the Indian Environmental General Assistance Program Act of 1992, and for other purposes.

The Clerk read as follows:

S. 1834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION.

Section 502(h) of the Indian Environmental General Assistance Program Act of 1992 (42 U.S.C. 4368b(h)) is amended by striking "$15,000,000" and inserting "such sums as may be necessary".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. HANSEN] and the gentleman from American Samoa [Mr. FALEOMAVAEGA] each will control 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

S. 1834 would reauthorize the Indian Environmental General Assistance Program Act of 1992. That Act provides general assistance to Indian tribes so that they can address environmental issues on Indian lands.

Through the funding provided in this Act, Tribes are able to implement solid and hazardous waste programs on their own lands. In this way Tribes are able to fulfill self-government requirements by managing their own affairs using their own expertise and their own experience.

To date over 100 tribes have received grants under this act. At present tribes are developing environmental agreements which will identify environmental priorities and which will allow Tribes to implement programs for water quality, solid waste management, air quality, and pesticide management.

This is an important bill, Mr. Speaker. It authorizes such sums as may be necessary for what I understand is vital funding to Indian Tribes throughout our Nation.

□ 2215

I recommend a yes vote on S. 1834, and I reserve the balance of my time, Mr. Speaker.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I nay consume.

Mr. Speaker, S. 1834 simply amends the Indian Environmental General Assistance Program Act of 1992 to change the authorization of funds available under the program from the current level of $15 million to "such sums as may be necessary". Funding levels will still be subject to inclusion in an appropriations bill and submitted each year to Congress.

This program awards general assistance grants to Indian tribal Governments to enhance their ability to manage environmental programs on Indian lands. To date approximately 100 tribes have received multi media grants allowing them to develop and implement environmental protection procedures. However the need far outweighs the current limit on funding. $28 million is included in appropriations language for fiscal year 1997 for this program.

With the grant assistance from this program, Indian tribes have developed comprehensive environmental programs in the areas of solid and hazardous waste management, water and air quality, and pesticide management. The Penobsoct Indian Nation of Maine has established an award winning water resources program. This program had been nationally recognized as a model for State-Tribal-Federal cooperation. Some tribes have been able to clean up solid and hazardous waste sites on their land with the help of this program. Still other tribes have closed open-air dumps, established recycling programs, identified leaking underground storage tanks and potential superfund sites.

Mr. Speaker, the cost of this program is minimal compared to the return this nation, in cooperation with American Indian nations, gains. I urge my colleagues to support passage of this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. [Mr. BURTON of Indiana]. The question is on the motion offered by the gentleman from Utah, Mr. HANSEN, that the House suspend the rules and pass the Senate bill, S. 1834.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1834, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

ANNOUNCEMENT OF LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF RULES ON THURSDAY, SEPTEMBER 26, 1996

(Mr. WICKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WICKER. Mr. Speaker, pursuant to House Resolution 525, the following bills are expected to be considered under suspension of the rules on Thursday, September 26:

H. Con. Res. 180, Commending Americans in Cold War;

H.R. 3874, Civil Rights Commission;

H.R. 2977, Administrative Dispute Resolution Conference Report;

H. Con. Res. 145, Re: Removal of Russian Forces from Moldova;

H. Con. Res. 189, Re: U.S. Membership in South Pacific;

H. Con. Res. 51, Removal of Russian Troops;

H.R. 2579, Establish Tourism Board;

H.R. 3841, Civil Service Reform Act;

H.R. 3973, Alaska Natives;

H.R. 3752, American Land Sovereignty Protection;

H.R. 3068, Prairie Island;

H.R. 2505, Alaska native Claim Settlement Act Amendments;

H.R. 4168, Dealing with the sale of Helium;

H.R. 2660, Tensas River National Wildlife;

S. 1802, Wyoming Fish Conveyance;

H.R. 3804, Agua Caliente;

H.R. 4011, Congressional Pension Forfeiture Act;

S. 1970, National Museum of American Indian;

H.R. 3700, Internet Election;

S. 640, Water Resources Development Act Conference Report;

H.R. 3159, NTSB; and

H.R. 4138, Hydrogen Research & Development.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May

12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HONORING RETIRING WOMEN MEMBERS OF THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. MORELLA] is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, I am pleased to give this special order honoring the women Members who will be retiring next year. I am saddened that so many talented women are planning to leave Congress, and I wanted to take this opportunity tonight to express our gratitude for their many contributions during their years of service.

I am going to proceed in order of years of service—first, PAT SCHROEDER, the dean of the women Members of Congress. PAT was elected in 1972, and became the first woman to serve on the House Armed Services Committee. During her service on that Committee, PAT has been the champion of women in the military and military families. She has also served on the Judiciary Committee for many years, where she led the fight to expand civil rights protections and reproductive rights for women.

For 1979 until 1995, PAT served as the co-chair, along with Senator OLYMPIA SNOWE, of the Congressional Caucus for Women's Issues. Under their leadership, Congress approved a number of landmark bills, including the Family and Medical Leave Act, the Violence Against Women Act, the Civil Rights Restoration Act, the National Institutes of Health Revitalization Act, which made great strides in bringing equity to women's health research, and so many other reforms benefiting women and children. I have been honored to be one of the two co-chairs, along with my colleague and good friend, NITA LOWEY, to succeed PAT and now-Senator OLYMPIA SNOWE.

PAT also served for many years as the chair of the former Select Committee on Children, Youth, and Families, and brought national attention to a number of issues facing children and families. She is currently serving as chair of the Women's Caucus Task Force on Children, Youth, and Families. I also had the pleasure of serving with her on the former Committee on Post Office and Civil Service, where she served as chair of the Civil Service Subcommittee, and I can also attest to her commitment to federally employed and retired women.

It is hard to imagine this House and the Women's Caucus without PAT SCHROEDER. She will be greatly missed.

CARDISS COLLINS is another distinguished senior woman in the House and the longest serving African-American woman in Congress. I have had the pleasure of serving with her on the Committee on Government Reform, and I have been impressed with her perseverance on that committee. She has been a strong advocate for women, families, the poor, and Federal workers and retirees.

During her service in Congress, CARDISS has worked to improve the health of women and minorities. She was the sponsor of legislation extending Medicare coverage for mammography screening and sponsored legislation that expanded Medicaid coverage for Pap smears. CARDISS sponsored legislation that established a permanent Office on Minority Health at NIH, and is the author of several laws addressing child abuse prevention and child safety.

CARDISS has been particularly active in fighting for gender equity in college athletics. Her advocacy of title IX led to her induction into the Women and Girls' Sports Hall of Fame in 1994. CARDISS' leadership on these issues has been instrumental, and she will be missed.

BARBARA VUCANOVICH has served in this body for seven terms, and is the first woman elected to a Federal office from Nevada and the first Nevadan to serve in a leadership position in the House; she was elected secretary of the Republican Conference earlier this year. She is the only Republican woman on the Appropriations Committee and she is the second woman in history to become an appropriations subcommittee chair.

BARBARA has made many contributions to equity in women's health research. As a breast cancer survivor, BARBARA has brought her own experience to the fight against breast cancer. In her work on the Appropriations Committee, she has been a champion of breast cancer research, both at the National Institutes of Health and the Department of Defense. She has been a vocal advocate for regular and affordable mammograms and is the sponsor of legislation to provide annual mammograms for older women under Medicare and Medicaid. BARBARA's efforts on behalf of women and families will be missed, and I know that she will continue her work for breast cancer prevention and research after she leaves Congress.

JAN MEYERS was first elected to the House in 1984, and is currently the Chair of the House Small Business Committee, the first Republican woman since 1954 to chair a House committee. Her expertise on small business issues has been invaluable, and she chairs the Women's Caucus Task Force on Entrepreneurship and Economic Equity. JAN has worked very hard to restore the home office deduction and she has focused on promoting tax incentives and regulatory relief for small businesses. She has also worked to expand access to capital for small businesses.

JAN has been a consistent and strong supporter of the rights of women, particularly the reproductive rights of women here in this country and abroad. She has served on the International Relations Committee, where she has pursued her commitment to raising the status of women in developing countries. Last year, JAN sponsored amendments to both the foreign aid authorization and appropriations bills to protect family planning funding so that women and their families can take control of decisions relating to the size of their families and the spacing of their children. I am saddened to see JAN go, and her strong support of women and families will be sorely missed.

BARBARA ROSE COLLINS was elected to Congress in 1990; she was the first African-American woman elected to the U.S. Congress from the State of Michigan. I have served with her on the Committee on Government Reform and Oversight, where she is the ranking member of the Subcommittee on Postal Service. During the 103d Congress, BARBARA-ROSE served as the Chair of the Subcommittee on Postal Operations. During her service in Congress, BARBARA-ROSE sponsored legislation to combat stalking and to increase breast cancer research. She also chaired the Congressional Caucus on Children, Youth, and Families in the 103d Congress. I know she will continue her work on behalf of women and families after she leaves this body.

BLANCHE LAMBERT LINCOLN became the first woman to represent the First District of Arkansas when she was elected in 1992. BLANCHE serves on the Commerce Committee, and helped form The Coalition, a group of conservative House Democrats who have sponsored a number of important legislative initiatives. The Coalition has worked with the Tuesday Group, a group of moderate Republicans, to which I belong, and I believe our groups have contributed a great deal to the compromises developed on a number of issues in this Congress. BLANCHE has also done a great deal to enhance rural development in her district. I congratulate her on the birth of her twin boys this summer, and I am sure that her departure from public service is only a temporary one?

ENID GREENE was elected in 1994, and was the first Republican freshman to be appointed to the House Rules Committee in 80 years. She serves on the Congressional Family Caucus, the House Small Business Survival Caucus, and the Executive Committee of the Republican Congressional Committee. ENID has been a strong advocate for lobbying and budget reform. She also has the distinction of being the first Republican Member of Congress to give birth while in office. I wish her well in the future.

Mr. Speaker, the departure of these many women Members is a great loss for this body. I will be working with these distinguished Members and my colleagues on both sides of the aisle to ensure that more women are assigned to important committee positions and that more women run for leadership posts in both parties. I salute these outstanding women members of Congress, and I look forward to continuing to work with them after they leave the House.

Mr. Speaker, I believe very firmly that every time a woman is elevated, all women are elevated, and society is richer for it.

RETIRING WOMEN MEMBERS OF CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. EDDIE BERNICE JOHNSON] is recognized for 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in recognition of our seven retiring women Members of Congress, women who have diligently served their constituents and paved the road for many women ahead.

CARDISS COLLINS

First, I wish to recognize Congresswoman CARDISS COLLINS, the longest serving African-American woman in Congress. Congresswoman COLLINS has worked to improve the quality of health care for women and minorities.

She has authored legislation which expanded Medicare coverage for mammographies and Pap smears which detect cervical and uterine cancers.

In addition, the Congresswoman was the guiding force for legislation which established a permanent office on minority health within the National Institutes of Health.

Not only has Congresswoman COLLINS forged the way for women and women's issues, she has also made significant strides in other legislative areas.

As chair of the Subcommittee on Commerce, Consumer Protection, and Competitiveness, she enacted the Child Abuse Prevention Act and the Child Safety Protection Act.

The Congresswoman's efforts also led to the adoption of the Aviation Security Improvement Act.

Congresswoman COLLINS has been the first in many of her endeavors, including:

First woman and African-American to be Democratic whip-at-large;

And, first woman and African-American to serve as chair of two subcommittees: (1) the Government Operations Subcommittee on Manpower and Housing, and;

(2) Subcommittee on Commerce, Consumer Protection, and Competitiveness. And the list goes on.

Our working together in Congress has been great, but it does not surpass our social and personal relationship that has grown over the years.

I met CARDISS shortly after she came to the Hill, and I was one of her sponsors for membership in both Alpha Kappa Alpha Sorority, Inc., and the Links Inc.—two organizations that are near and dear to my heart.

I have enjoyed sharing my family with her family. She knows that my door is always open to her, and vice versa. I have always been greeted with open arms and enjoyed her home-cooked meals * * * and there is nothing better than CARDISS COLLINS home-cooked rolls!

There is no doubt that I, along with your constituents and other Members of Congress will miss the wisdom and energy you brought to the House.

Congresswoman COLLINS, please know that we appreciate all that you have done and what you symbolize. I know that you have inspired other women to fulfill their leadership potential.

PATRICIA SCHROEDER

As the longest-serving woman in the House, Congresswoman SCHROEDER's outspoken and independent voice will be greatly missed by all of us.

Through the years, Congresswoman SCHROEDER has worked tirelessly and has demonstrated leadership in the areas of foreign and military policy, arms control and disarmament, as well as women's economic equity and health, and educational opportunity.

From 1979 until 1995, Congresswoman SCHROEDER cochaired the Congressional Caucus for Women's Issues.

Under her leadership, the Caucus launched an effort to improve women's health policies by submitting a comprehensive legislative package entitled the "Women's Health Equity Act." During the 103d Congress, several bills from this act were signed into law.

On a more personal note, I was a part of your audience during your brief pursuit for the office of the Presidency.

I have no doubt that with all of the knowledge and leadership abilities that you possess, we will definitely see you again in the political arena.

Congresswoman SCHROEDER, tonight I join with my colleagues in commending you for your many hard fought battles on behalf of the women and children of the world.

BARBARA ROSE COLLINS

As a fellow Congressional Black Caucus member, I would also like to wish Congresswoman BARBARA ROSE COLLINS well in her retirement.

BLANCHE LAMBERT LINCOLN

Congratulations also to Congresswoman BLANCHE LAMBERT LINCOLN, my classmate from the neighboring State of Arkansas.

Congresswoman LINCOLN, you are a bright and rising star. Good luck as you take your sabbatical to share your time with your family.

Finally, though I have not had long acquaintances with the other retiring Members, I hear that there is life after office.

I hope that you will have positive and fruitful experiences whether you choose to focus on family or continue to serve the public.

Best wishes all.

□ 2230

REVIEW OF CONTRACT WITH AMERICA AND OTHER ACCOMPLISHMENTS OF 104TH CONGRESS

The SPEAKER pro tempore (Mr. BURTON of Indiana). Under the Speaker's announced policy of May 12, 1995, the gentleman from Mississippi [Mr. WICKER] is recognized for 60 minutes as the designee of the majority leader.

Mr. WICKER. Mr. Speaker, this Friday marks a very significant day for me and many of my colleagues and, most importantly, for millions of Americans. This Friday, September 27, is the 2-year, is the 2-year anniversary of the signing of the Contract With America. When more than 300 Republicans gathered on the steps of the U.S. Capitol in 1994 to sign the Contract With America, it was not some kind of campaign gimmick. It was a commitment that we made, a signed contract with the people of the United States.

At this point the pages are bringing a copy of that contract to the well to place by my colleague, the gentleman from Minnesota [Mr. GUTKNECHT].

We promised if we were elected to the majority 10 broad legislative proposals would be debated, discussed and voted on by the full House of Representatives. For years, many of these issues had been bottled up in committee, never making it to the floor, never seeing the light day, the positions of our elected officials never examined by public scrutiny.

We set out to change that by making a solemn promise to the people of America, not an empty promise. The American people deserve much more than that. That is why we put our promise in the form of a signed contract.

All too frequently in today's political arena, promises are made and then not kept. Representative government, our government, Mr. Speaker, is not well served when our elected officials say one thing at home on the campaign trail, but then take office and come up here to Washington and do something other than that which they promised. This dishonest practice undermines the very fabric of our government's integrity and further promotes the negative cynicism with which Americans view Congress.

The Contract With America was the first step in changing that negative perception of Congress. We put forth a positive agenda, an agenda that sought to help make this great country an even better place to live, work and raise our children.

Mr. Speaker, we campaigned on a positive agenda, and we were elected to a majority on that agenda. We changed the direction of debate in Washington through that agenda. No longer are people talking about a larger Federal role. The discussion and debate now in Washington, DC, is how we can make government more efficient, how we can make the Federal role small, and emphasize individual responsibility and State and local control. And, best of all, we kept our word to the American people.

At this point, I want to quote a story written by columnist David Broder, dated April 9, 1995. True words then and just as true today. David Broder said this: "It is healthy for our politics and politicians, regardless of affiliation, when the public sees elected officials doing what they promised."

Mr. Broder goes on to say, "The greatest threat to our system of government is rampant cynicism. The best cure for cynicism is to demonstrate that campaigns and elections really matter," and Mr. Broder then says, "The House Republicans have provided such a demonstration."

For over 40 years, one party held the majority in this House of Representatives. As a result, we have high taxes. Almost 40 percent of a family's income goes to pay for government. We have mountains of bureaucratic regulations, bigger government, but we also have lower student test scores and a skyrocketing crime rate.

In 1994, Republicans summoned the courage to finally throw down the gauntlet and offer the people what they said they wanted and what they deserved, a balanced budget amendment, tax relief for families, safe neighborhoods for themselves and their children, an end to the lifelong dependency on welfare, a Congress which will be accountable to those people they serve. But in the history of American politics, there have been few occasions where something has been so misrepresented and so maligned as the Contract With America.

Our colleagues from the other side of the aisle have spent literally hundreds of hours on the floor attempting to destroy and to distort what the Contract With America means and what we stand for.

Just to provide you some examples, Mr. Speaker, a colleague of mine from the other side of the aisle took the floor the other day and said the Contract With America would have cut Medicare, a completely false statement. There is nothing whatsoever in the Contract With America about Medicare, much less cutting Medicare. That it would have cut environmental protection, cut education, all to give tax cuts to the wealthy. Four completely erroneous statements in the space of one sentence. It is enough to take your breath away, Mr. Speaker.

Another quote from the Boston Globe: "Republicans' Contract With America failed to capture the hearts and minds of the average American family, especially that new breed, the Reagan Democrats."

And then the would-be Speaker, our current minority leader, said earlier this year, "This was supposed to be the Congress of the Republican contract and somewhere along the line we've got a lost contract there."

I will tell you where the contract is, to my distinguished colleague from Missouri, the contract is 65 percent signed into law right now. Sixty-five percent of the items that we voted on in the Contract With America have not only been passed by this body, but have been passed by the U.S. Senate and signed into law by the Democrat President of the United States.

Under the Contract With America, the 104th Congress took the first steps toward transforming government, not only to provide a smaller, more efficient government but a better government. We passed legislation as part of the contract that moves power, money and authority from inside the Beltway to the States, communities and families.

Tonight, Mr. Speaker, I am joined by several of my freshman colleagues from all across the Nation, north, south, east and west, and we are here tonight to set the record straight.

First, contrary to the inflamed rhetoric of my Democratic colleagues and much of the news media, the Contract With America was largely successful. I know that my friend from Minnesota is chomping at the bit to get in his two cents' worth, and I at this point yield to the gentleman from Minnesota [Mr. GUTKNECHT]. Certainly I know that he shares my frustration when we have 65 percent of the contract passed, 74 of the separate pieces of legislation were offered, and 48 of these are part of the law of the land.

Mr. GUTKNECHT. I would like to thank my colleague from Mississippi and I am delighted we have a good turnout tonight of some of our fellow freshmen. I would like to talk a little bit first of all about the revisionist history. I think it was Mark Twain who said, "Truth is incontrovertible. Ignorance may deride it, jealousy may attack it, but in the end there it is."

I think if the American people will take just a few minutes to examine what we promised 2 years ago tomorrow, and what this Congress actually delivered for the American people, I think they will come to the conclusion that first of all we meant what we said, we said what we meant, and that in the end I think their will has been done by this Congress. For the first time in 40 years, we have a Congress that not only has listened to the American people but has responded as well.

I don't want to take too much time tonight, but I do want to share a couple of observations and memories of those days, and those days that I remember, the most remarkable days of all, were those glorious days and the first was on September 27, 1994 when we signed the contract. It was a glorious day. In fact, if you recall, it was kind of cloudy early in the morning but as we approached the Capitol steps, and there were over 300 of us there, the sun began to shine and it was almost like it was providence or prophetic that the sun came out on America again and that there was going to come a day when the sun would shine here on this Capitol and inside this Capitol building as well.

The other day that I remember that was so glorious was election day. I don't know if ever I told this story or not, but when we were watching the returns back in Rochester, Minnesota, I think it was Dan Rather, he announced that it appeared that I was going to win the 1st Congressional District seat, a seat that had been held by the Democrats for 12 years, and in the next breath, he said, "It now appears that the Republicans will have enough votes to control the United States House of Representatives and that NEWT GINGRICH will be the next Speaker of the House."

Well, that was certainly a glorious day for me and I think for all of us here. But again I think it was a glorious day for all Americans. And then of course the other glorious day was the day that we were all sworn in and for the first time in 40 years the power of the United States House of Representatives changed hands.

I will never forget the very next day, DICK ARMEY, our majority leader, I was standing behind him and he was interviewed by a reporter, I think, from the New York Times, and the reporter asked our majority leader, the reporter asked, "How does it feel now that the American people have given you this power?" And he said something incredibly important then. He said, "The American people haven't given us power. They loaned us power. They gave us responsibility."

And so we began on the Contract With America and on that very first day, I remember 2 days before, I was called by the leadership and I was asked if I would take the leadership role on the adoption of the rule for the very first bill, H.R. 1, the Congressional Accountability Act. I sort of thought about it a minute and I said, Well, I'm not certain that I can handle that much responsibility on my very first day on the job but I said yes. And the interesting thing was that the leadership had enough confidence in this freshman class that they let us take the lead on the adoption of every rule of the first 10 items of changing the rules of the House the very first day on the job here in the House of Representatives.

We marched through it that night, we passed the Congressional Accountability Act, we passed the Congressional Audit Act, we made, as I say, the House live by the same laws as everybody else. We ended the idea that chairmen of committees could serve forever. We put term limits on chairmen. We opened up the committee process. We eliminated proxy voting. All of that happened on the very first day and what a glorious day it was. And it was as if almost that the dam had broken and we had begun to change the course of history.

And then we marched on down through the rest of the contract and again I was very proud of this House, because every day, I will never forget as well when we started the House sessions, we would read the Contract With America and it kept us on message, it kept us in focus, it kept us doing what we said we were going to do.

So it was a very positive time in American history and I was very proud to have played a part of it. I know we have got other freshman colleagues and I know they have got a lot of other observations, but I thank the gentleman from Mississippi for asking for this special order and I am thankful that I have had an opportunity to participate.

Mr. JONES. If the gentleman will yield, I really appreciate the opening remarks by the gentleman from Mississippi, my southern friend. But the gentleman from Minnesota talked about the first day and I think that is so important because again it was the beginning of the Contract With America. You mentioned the fact that chairmen were restricted on committees. I believe I am correct, please correct me if I am wrong, that a chairman will serve for 3 terms, meaning 6 years. The Speaker of the House would only serve for 4 terms, 8 years. And that was a drastic change in the operation of the House, because there had been chairmen that served for 15, for 18, for 20 years and Speakers that go back to John McCormack from Massachusetts who I think served for like 20 or 25 years.

So that very first day, as you well stated, was the beginning of listening to the American people, that we were going to change the way that the Congress, the House of Representatives, operated. I think that set the tone for a very successful 104th Congress. I just wanted to commend the gentleman on his comments.

Mr. WICKER. If I could simply add to that point made by my friend from North Carolina, it might seem to some Americans that perhaps those first day reforms were inside the Beltway, inside Congress reforms, but actually everything we have done with the Contract With America, everything we have stood for with the Contract With America has been to help the lives of individuals out there running their businesses, getting their kids off to school, and even those first day reforms affect the lives of local citizens all across the 50 States. When Congress agrees finally for the first time in the history of this Republic to abide by the laws that it has foisted off on the rest of the American public, I think everyone agrees that we are going to see better laws passed, that we are going to see more responsible regulations. When we as Congressmen now know that when a regulation is passed on that plumber in Tupelo, MS, that we have to abide by that same wage and hour law ourselves.

I yield to the gentlewoman from California.

□ 2245

Mrs. SEASTRAND. It was great to meet all of you 2 years ago on the steps of the Capitol. We were excited and I still am about what we accomplished in this 104th. I know we all came to Washington to try to move the money, the power, the influence out of this place, and rush it to the folks back at home, the ones that we represent.

But what was interesting, after signing the contract, I just want to remind people that what our promise was was that we were going to bring 10 items up for consideration on this floor, items that were gridlocked in committees, never saw the light of day. They were simple things, things that people back home wanted to have debated.

I would like to remind people what some of these are. We talked about changing the way this place was run, but let us take a look.

Many times people say, oh, well, you all thought of that in some back smoke filled rooms. No, these items were brought into being because the folks at home across America were interested. They wanted to see these items debated. Like the balanced budget amendment, line item veto, stopping violent criminals by having them really have death sentences for violent offenders, definitely saying if you do the crime, you are going to do the time. Welfare reform, protecting our children by giving parents greater control over education and forcing child support payments, getting tough on child pornography.

And they the issue of tax cuts for working families, to say that if you are going to have that American dream, we want to give you the ability to save some dollars, buy a home and send the kids to college. A strong national defense. By golly, if we are going to send our men and women across to different countries, they are going to serve under their Commander in Chief, our President of these United States, and to wear the red, white and blue, and not some symbol of the United Nations.

To raise senior citizens' earning limits, to say to our seniors, you are going to keep what you make. We want you to keep more of what you make. To roll back government regulations, so that in our districts across this Nation, those that are in a small business can make it. And they can hire perhaps one or two more people so we can have job opportunities for people.

Naturally, common sense legal reform, because we have those frivolous lawsuits, the overzealous lawyers. And, as I said, congressional term limits. These were items important to the American people.

Mr. Speaker, I just wanted to break in here and remind people, not only changing the rules, with term limits for chairmen and such, but we wanted to change and bring about things not discussed on this floor.

I would agree with the gentleman from Mississippi with revisionism in history, because here I pick up one of the newspapers from Capitol Hill, Wednesday, September 25, and here is the opening statement: On Friday, House Republicans will convene on the Capitol steps to celebrate a 2-year anniversary of a document that they no longer talk about and an agenda that was never fully enacted.

Well, you know, when I am at home, some of the people that oppose what we are trying to do will say it is a failed contract, and I chuckle. Every time I speak to the Rotary, to the Lions, the Kiwanis, meet with the League of Women Voters and such, I talk about balancing the budget, line item veto, welfare reform, seniors keeping more of what they earn. It is just interesting to me, because somehow, the message is out across this land that the contract has failed.

I am so pleased that you have brought that pie chart to show how even our Democrat colleagues supported the Contract With America, those items Americans wanted us to bring up. And I think we should take it as a compliment that at the Democratic National Convention, the President of these United States, Bill Clinton himself, took credit for many of the accomplishments. Whether it was tax cuts for small businesses, the line item veto, the Congressional Accountability Act that says Congress has to live under the same laws we all have to live under, unfunded mandate reform, the Personal Responsibility Act, the welfare reform bill, and long-term care insurance deductions. All of those were in the Contract with America.

I was pleased, I guess that if the best form of flattery, when someone takes your ideas and says that they are theirs, or they belong to the President.

So I am just pleased to join my colleagues from across this Nation, freshmen, very eager freshmen, when I first met you. And, you know what? You still are. We are going to be excited to come back and continue with many of these reforms that we worked on.

So, gentlemen, congratulations. I am going to see you again on the steps of the Capitol come this Friday, and we are going to have a great celebration. I do not know about you, I am going to tell it from the roof tops of Santa Barbara and San Luis Obispo Counties in California and talk about our successes, our accomplishments here in this 104th. I think the people of this country are going to be proud of us, they are. They are always telling me to hang in there, and we are going to see them once again on November 5, telling us they are pleased with our accomplishments.

Mr. WICKER. The gentlewoman from California is not only one of the most principled and determined Members of our freshman class, but also, as you can see, she is one of the most articulate advocates for a common sense conservative point of view with the Contract With America.

We are joined by my colleague from Maryland, Mr. EHRLICH. Welcome to this conversation.

Mr. EHRLICH. I thank my good friend, the gentleman from Mississippi, and the gentlewoman from California. It has been great serving with you. I look forward to another 2 years.

The gentlewoman from California, the gentleman from Minnesota, and the gentleman from North Carolina have talked about this new opportunity agenda that was brought to Washington in 1994. But I was just standing here thinking about, this is substance. This is statute, this is regulation, this is law. This is what we get paid to do. And I submit, we will talk about this, and I think it is equally important to talk about the new mindset that this group brought to this town. I think that is of equal importance, and certainly as important as the substantive agenda that we have all talked about.

We come to this floor every day, and we hear, particularly Republican freshmen, characterized as extreme and dangerous, whatever adjective you can think of. And you know what? They are right. In this town, this new mindset is extreme and dangerous and unique and unprecedented.

Think about it. A group of folks all over the country who actually have a concrete set of principles that they actually believe in, actually lived in their own lives in the private sector, banding together on the steps of the Capitol and saying to the American people, if you elect us, we will bring these initiatives that we actually believe in to the floor of the House for a vote. Having these same folks get elected, come to this floor, and actually do it.

No misrepresentation, no politics as usual, not the old political con. Actually having people of principle come to this town and do exactly what they said they would do during the course of the campaign, real follow-up, promises made, promises kept, and that is extreme and dangerous and unprecedented and unique. And I submit that this town has not seen a group like this in many years.

The gentleman from North Carolina, my good friend, Mr. BURR, has a comment on my comments, and I welcome the gentleman. I will just close with this point: This opportunity agenda, and the gentlewoman from California just read portions of this opportunity agenda, I had my first debate the other week, and my opponent talked about the Contract With America and running from the Contract With America. Running from the Contract With America. These principles define not only this group, but the majority of Americans, a majority of Americans who work and have a stake in this country and in this country's future. That is this agenda, two-thirds signed into law already, 20 percent vetoed by this President. We have some problems. We have made a great start. We have a long way to go. It has been my pleasure to serve with you during these first 2 years.

The gentleman from North Carolina.

Mr. BURR. I thank the gentleman for yielding. Mr. EHRLICH's comments remind me of a story shortly after finishing the Contract, when a journalist came up to me and said, "Congressman, many people in this country consider you to be extremist and radical. What do you think about that?"

I think Roger was in the room with me when the question was asked. I leaned across the table, and I said to this journalist, "If you think I am radical and extremist, you ought to see the people that elected me." And the reality is when we talk about the mind set change in Washington, what we are a reflection of is the people who sent us here. They sent us with a very clear message. And I am like Bob: The label of "extremist" and "radical," that does not worry me, because I still carry the Contract. And I challenge any person who wants to debate policy to look at the Contract and tell me what is extreme, what is radical? What would you not attempt to achieve for the American people and/or families across this country? Because the reality is maybe we did not name this right.

Maybe it should have been "The Common Sense Contract With America," because in fact that is what it reflects. As our dear colleague from California discussed, the reality is that this was not too tough to come up with. The reality is that these 10 points were probably items that all 87 Republican and Democrat freshmen came here with a conviction and a commitment stronger than anybody here to accomplish this task, to bring common sense to Washington.

Mr. JONES. If the gentleman would yield on that point, would you please remind us of how much during the President's speech at the Democratic National Convention, how much he tried to take credit on the issues that were in the Contract With America that we passed, and now he is trying to take credit for, that we the Republicans passed? Would you please remind me of that figure?

Mr. BURR. The gentleman has a good point, and I have always learned that math is calculated differently in Washington than it is in the rest of the country. But by North Carolina arithmetic, he hit on 7 of the 10 points of the contract that he highlighted as successes of this administration. I believe that in fact 58 percent on average of the Democrats in the House of Representatives supported Contract items.

Mr. WICKER. That fact is supported by the chart in the well there.

Mr. BURR. It is supported by the chart. And the reality of it is this was not a contract that had a political face. It did not have partisan leanings. When laid out and debated on the House floor, which every item was, 58 percent of the Democrats agreed with the common sense initiatives of the Contract With America. The realities are that when you look at the American people and you ask them about the importance of the issues that we discussed, we debated, and eventually we passed many of them, the reality is that the majority of Americans are in agreement with us.

So maybe if in fact we are extremist or radical, so is America. But I think we knew before we came that the American families were fed up with business as usual in Washington. And I think when you look back on the record, our good friend from Minnesota pointed out very clearly that on the first day, a historical event happened: Congress went to work. And as we stand here tonight, I do not think that we have had a break since then, it seems like.

But the reality is we have accomplished a lot, not only with the contract, but with very important environmental legislation, with health care reform, with issues and legislation that no other Congress in the past 6 to 8 years has been able to move through this body. In fact, the accomplishments of this Congress I think will be historical. Not by the standards of the Contract With America, but by the standards of what this country needed and the right policy that we promoted.

Mr. ENSIGN. If the gentleman will yield, let another Westerner jump in on this fun conversation you all are having here tonight, just to make a comment. Based on what the gentleman from Minnesota probably saw that day standing on the steps of the Capitol when the sun broke through coming from Minnesota, that might have been a rare sight. Coming from southern Nevada, we see it will about 365 days a year, so it probably was not as spectacular a new sight for me.

I am on the Committee on Ways and Means. I was one of the three freshmen appointed to the Committee on Ways and Means, because our leadership had confidence in this freshman class, actually the first Republican freshmen appointed since George Bush back in 1967. And I think that the freshmen have done well on the committee.

My two colleagues, JON CHRISTENSEN and PHIL ENGLISH, I think they have performed in an outstanding manner on the Committee on Ways and Means.

As a representative of the tax writing committee, which is the primary responsibility for the Committee on

Ways and Means, let me enlighten all of you to not only some of the things that we brought up in the part of the Contract With America, but actually we have been talking about, actually items that have been signed into law. That is the bottom line. It is great to debate all these items, but it only affects people's lives once you can get them into law.

First of all, we had the small business tax relief. We increased the amount of money the businesses can deduct as far as depreciation is concerned, instead of depreciation, actually expensing them, up the $25,000 per year. Small business people around the country understand that means they will be able to buy more equipment to make their employees more productive, to be able to pay their employees more money.

We also have a spousal individual retirement account. If you have a spouse that is living at home right now, they are not allowed to have an individual retirement account, an IRA. Our legislation allows you, enacted into law, now for your spouse to get an IRA as well.

□ 2300

We also have long-term care incentives. Right now in America, senior citizens are deathly afraid that they are going to have to lose everything that they have to be able to go on Medicaid, to be able to get good long-term care, skilled nursing facility type care in this country. We are not putting in tax incentives to buy long-term care insurance, for one, but also to deduct long-term care expenses off of their tax return.

What this does is it keeps more people off of Medicaid, off of the taxpayers' backs, but also gives them more control over their lives.

We also raised the Social Security earnings limitation. We are raising it over a 6-year period to $30,000. Right now you get penalized if you are between 65 and 69 years of age, penalized for every dollar you earn over $11,280. You get penalized on your Social Security. That is unconscionable.

We are taking some of the people with the most experience and wisdom in our society and saying do not work, we want you to retire, and most of these people want to stay productive, and we are saying we are going to penalize you if you do. That is wrong and we repealed that.

The adoption tax credit. Everybody talks about abortion. They talk about all these other things and they say, why do you not encourage adoption? This Congress is now encouraging adoption by giving a $5,000 tax credit to offset adoption expenses for families that make up to $75,000 a year.

Now, there were a couple of items in the contract that were vetoed and it is unfortunate, too, because the average American family pays more in taxes than they do in food clothing and shelter combined.

Yes, the $500 per child tax credit was vetoed. Yes, the marriage penalty relief was vetoed. The American dream savings account was also vetoed. And also economic growth tax cuts, known as the capital gains tax reduction of 50 percent, was also vetoed, which would have been a huge boost to the economy and to economic growth in this country.

We are now in a global economy. We have to realize that when we are passing laws in this country. We need to make American business competitive once again. The cost of doing business, the cost of borrowing money, the cost of capital plays into how competitive American business is in a global economy.

We could have helped make American business more competitive by giving capital gains tax relief. And, by the way, of all of the taxes that we proposed, tax cuts that we proposed, they talk about it was for the rich. Between 70 to 80 percent of the tax relief we passed as part of the Contract With America were for families making less than $75,000 a year.

I do not know about my colleagues; districts, but in Las Vegas $75,000 a year is definitely not rich. And in Southern California most people cannot even afford to buy a house if they make $75,000 a year.

We saw working families struggling and we tried to help them and I was proud to be part of this freshman class that truly changed the scope of things.

Mr. JONES. If the gentleman from Nevada would yield for a moment.

Mr. ENSIGN. I would be happy to yield.

Mr. JONES. I have great respect for the gentleman from Texas, BILL ARCHER, who is chairman of the Committee on Ways and Means, and I compliment you as well as the other committee members.

One of the contract items that was absolutely vital to the future of this Nation, and Mr. ARCHER was out in front on it as well as many other Members, was welfare reform. I saw him on talk show after talk show defending what we were trying to do to help citizens that were on welfare become productive working citizens.

I want to ask the gentleman this, and if he will respond, then I will stop. Mr. ENSIGN, is it not true that welfare has cost the American people, since the mid 1960's, the years of the Great Society, $5.3 trillion? And it is not also true that Bill Clinton, when elected as the President of the United States, for 2 years had a Democratic Senate and Democratic House and never a welfare reform bill introduced until the Republicans became the majority? Is that true or not?

Mr. ENSIGN. Not only is that true, I think that one of the reasons maybe people do not believe us up here is because we do not give credit when credit is due. I think we need to give President Clinton the credit for raising the minimum wage. He brought this Congress fighting, dragging and screaming and everything to raise the minimum wage. Now, we had to do that, but the only way we would do that is by giving small businesses tax relief along with that, so we improved the bill. But we should give him credit for raising the minimum wage.

The President does not deserve credit for welfare reform. He is taking credit for it but he does not deserve credit for welfare reform, because, frankly, it was this Congress that did welfare reform. We recognized that welfare was destroying families. Illegitimacy rates are incredibly increased and a big factor in that is welfare.

We tell a teenage mother, we say, if you get pregnant we will get you an apartment. You can move away from your parents, get you an apartment. You can have any man live with you except for the father of the child. Do not get a job. You cannot save anything. And, by the way, if you want more money, have more children out of wedlock. If that is not a morally bankrupt system, I do not know what is.

And this Congress, with all of us working on it together, finally did the most sweeping social policy change in 60 years of this country, and we now have a true welfare reform bill that this President now signed into law because he was forced to.

Mr. WICKER. Reclaiming my time for just a moment. As my colleagues can see, the gentleman from Nevada being on the Committee on Ways and Means is on a committee that has a wide range of jurisdiction, from all the tax measures that he mentioned on to welfare reform.

I am sure some of my colleagues will want to join in this debate on tax relief, because a great part of the Republican Contract With America is tax relief. But what the gentleman from Nevada has just outlined in the items that passed dealing with tax relief, the item on small business, we know that most jobs created in the United States today are created by small businesses, so that tax relief package is a job creation package. It is going to create jobs for people where they live out in the 50 States.

The gentleman mentioned the spousal IRA, which is very important to many, many women around this country. A tremendous achievement. Tax issues dealing with health, dealing with senior citizens, allowing them to retain more of their earnings, and then certainly the adoption tax credit.

I know the President mentioned on television how delighted the First Lady was when we passed the adoption tax credit and sent it to the President for his signature. And I am sure there are other people that want to talk about the issue of tax relief for the American people. And I would be happy to yield at this point to the gentleman from Minnesota.

Mr. GUTKNECHT. I thank the gentleman. I think sometimes our critics here in the House, and some of the folks in the media, sometimes have tended to say that, well, we cannot balance the budget and provide tax relief at the same time. And I think the beauty of the budget plan that was put together by the gentleman from Ohio, Mr. KASICH, and others, was that it demonstrated that if we do it over 7 years and we limit the growth in entitlements and make some cuts in domestic discretionary spending while we freeze defense spending that we can balance the budget in 7 years and allow American families to keep a little more of what they work for and what they earn.

Sometimes we do have to bring this all back. What does it mean? What does a balanced budget and reduced taxes mean to the working families of Minnesota? What does that really mean to them? Well, it means that more of the power is being returned to them.

As Senator PHIL GRAMM says, I know the family and I know the Federal Government and I know the difference. And every Sunday American families sit around their kitchen tables or their coffee tables and they clip 120 million coupons from their newspapers worth an average of 63 cents. That is how families balance their budget every single week.

Now, when is the last time my colleagues saw a Federal bureaucracy clipping coupons? As a matter of fact, what happens at the end of their budget cycle is they try to figure out how to spend every last penny so they will not be cut next year.

Let me just say that it ultimately means a balanced budget and tax relief for working families so that they can afford new homes and new cars, and so that there will be more jobs for the folks who need them. It means more security for our seniors and it ultimately means more opportunity for our kids.

I think, in the end, that is really what this debate is all about, it is about more accountability in Washington and more responsibility and authority and resources being returned to the American families. And that is where it should be, because they know how to balance the budget, they know how to get the job done.

It is not a decision about whether we are going to have more money for children or their nutrition or their education, it is a debate about who gets to do the spending, and we believe in families.

Mrs. SEASTRAND. If the gentleman will yield, he talked about those families sitting around the kitchen table trying to figure out how they are going to meet their expenses. I know they pinch pennies. I have been in that position, so I know what it is like to see how to make ends meet.

I thought it was interesting, I think all of my colleagues would agree with me, that very first day we were sworn in we were given our key to our office and we opened the office to see if we would have a desk and a phone connected, but I remember almost stumbling over a bucket. Do my colleagues remember that, a plastic bucket filled with ice cubes?

We did not have time to worry about that. I think someone threw the ice cubes in the sink and that was it. But what was amazing is that afternoon there was another bucket, and then there was this ritual for a week or 2 weeks. And I kept saying, what is this all about? Where is this coming from?

And it is interesting because that is what we came to, a place that was still delivering ice twice a day to each of our offices when we have refrigerators, our own little personal refrigerators, or we can run down to the cafeteria and get a Coke with ice in it. And many other times the ice just melted.

And what did we do? We went to work, this freshman class went to work to see how we could pinch pennies. Where is this coming from? Who is doing it? How much is it costing?

I thought it was amazing to find out that it took 14 people to produce that ice, deliver it twice a day, and it also meant that it was costing the taxpayers, those families around that kitchen table, $500,000 a year. Well, we put a stop to it, and that is $500,000. And in the scheme of trillions of dollars, I think there was that old Senator that said, you know, you take a dollar here and a dollar there, and you add it up and it winds up to be a lot of money.

But I want to point out that not only on that first day did we slash and cut different things here in this building, but I think that ice bucket is symbolic of what we have tried to do in this House.

We cut the number of committees, we reduced staffs and budgets by a third, we slashed Members' mail budgets by a third, we reduced administrative staff and operating budgets, we closed the in-house printing and folding services, we privatized mail and postal operations, we ended a lease on a warehouse that just—do my colleagues remember that—held obsolete furniture and equipment, and then we ended a lease on an unneeded parking lot, where we found out that many times lobbyists parked in, and we opened up another parking lot for the public so that they could come and use this parking and know that they could get to their House.

We also did some things like privatizing the beauty and the barber shop and the shoe shine operation, all of this adding up to millions of dollars. Again, pinching pennies, symbolic of that bucket of ice, the way families all across America have to pinch their pennies every month to make ends meet.

Mr. EHRLICH. If the gentlewoman will yield, I apologize for changing the course of this discussion somewhat back to the philosophical, but I have a question for everybody.

There are an awful lot of Americans watching us right now, and that is good and that is part of democracy and that is a wonderful part about being in this House. It is very important that folks across the country hear this discussion, and I know that my colleagues all have the same experience I do when I go back to my district.

I am fortunate. As my colleagues know, I get to go back almost every night, and that is not the case with the other folks in front of me, and I apologize for that. It is a great part of being from Maryland.

I hear one question repeated over and over again, and I want to hear my colleagues' opinions concerning how they would answer this question, and the question, in various forms, is: Well, BOB, I love the agenda the gentlewoman from California just articulated, I love the fact you have cleaned up the House, I love the fact you have cleaned up the process, I love the fact you all have principles and you have maintained those principles in the House of Representatives, I like this agenda, I like this opportunity in society that you want to create in this country, I really like welfare reform and capital gains and the whole nine yards, but why is the message not out there? Why do some people believe that these are actually tax cuts for the rich?

□ 2315

The gentleman from Mississippi earlier stated that slowing the growth in Medicare was not even part of the Contract With America. What is your answer?

Mr. BURR. Mr. Speaker, I referred to the fact earlier that I found when I got to Washington that they add and subtract differently here. Inside the beltway an increase of 3 percent a year is in fact a cut because it is less than somebody wanted. In fact, anything less than what you want in Washington is considered a cut.

I think that raises a question. The question gets back to what the gentleman from Minnesota raised earlier. That is, is it radical to believe that a family knows better how to spend their money than the Federal Government? I think that in fact the answer is, to this town it is radical to believe that Members would give up the power of more money, the power of more decision-making capabilities, more regulations, the perks of the office and that in fact it is inconsistent with much of the history of this institution.

In fact, in 2 short years we were able to turn that around.

Mr. EHRLICH. Mr. Speaker, I would just like to make him feel better. The President of the United States shares your concern and your frustration. Does everybody here remember the President's recent quote when confronted by the press with respect to the issue? The Republicans really do not want to cut Medicare at all, Mr. President. They want to slow the growth in exactly the same way you yourself advocated just 3 years ago.

And does anybody recall the President's answer? He understood the difference, but it is shorthand, it is Washington. You cannot really tell the American people what the truth is because you have to use shorthand because the attention span of the American people is only a few seconds. And it is the press's fault. The press uses the term cut. It is not really a cut, but we have to use it in this town because that is the way we do things in this town; that is, we do not take our time to explain ourselves to the American people.

I think that is what the President was saying. Does anybody remember that quote?

Mrs. SEASTRAND. I remember that quote. I might add, you are fortunate you can go home every night to Maryland. My trip is quite lengthy, 3,000 miles across this Nation to the central coast of California. But I do go home every weekend.

I know I have heard those same questions. You have done your work. We want you to hang in there, but why are you not getting the message out? As I stated earlier, I tried to yell this from the rooftop about what we have accomplished. Regarding the contract, we said 65 percent of it has now been signed into law.

But I will tell you one reason that I think adds to the situation of why our message has become more or less confused and foggy to some people. I am one of those freshman and I know there are several that joined us today that have been hit by big special interest groups from Washington, DC. I would just point out since April of last year, of April 1995, we just completed the contract. We are going into the budget discussion. And all of a sudden up on television in my district we had special interest ads bombarding me and bombarding me ever since then.

Over $600,000 have been spent in my little old district of outside money coming in trying to confuse the message and saying that I cut Medicare $270 billion, that I cut student loans, that I have given tax credits to the rich to take care of the rich. It is an outrage. I just would say that shame on those big special interest groups who claim that they speak for the working men and women. That is one of the areas that we have had to put up with because we came here, as I said, to move the power and the influence and the money out of this place back home.

And so because we did that, we supported the contract, we gave every issue, we wanted to give more power to the working families at home. Those big special interests here in Washington are very upset with you, with me and they are trying to gain that power back so that they can once again have their perks and their special powers here and to heck with the people at home.

So I think there are many reasons, but I think that is a big special reason in many of our instances where almost half of that freshman class is now being bombarded by millions and millions of dollars from those people that are upset with our trying to change the way we do business.

Mr. WICKER. The gentlewoman is absolutely correct. I think it is fair to say to my colleagues and for us to say to the American people that we need to remind ourselves that there was another party in control of this body for 40 straight years, a body that refused to bring up these items, these 10 commonsense items of the Contract With America.

Frankly, they are not too anxious to balance the budget. They are not too anxious to have tax cuts for the American people. And for 40 years, under their rule, Government got bigger, taxes got higher. And Government got more and more intrusive. We had less and less personal freedom, less and less local responsibility. Quite frankly, they want their majority back and they are willing to say things that are not accurate about what we have been doing.

I have an example just from this morning's Congress Daily where Senate Minority Leader TOM DASCHLE contended during a press briefing that despite the passage of welfare reform, health care, minimum wage, telecommunications, safe drinking water, farm and other legislation, "by and large this has not been a very productive Congress." Senator DASCHLE went on to say, I believe this session is far short of what we have done in past Congresses. He added, because we spent almost all of our time stopping Senate Republicans from doing extreme things, I think extreme has been their favorite word for these last several months although as we have shown tonight, 58 percent of House Democrats voted for the Contract With America.

The article goes on to say, when reporters pressed him afterward to name another Congress that had passed major legislation and yet could be judged similarly unproductive, however, DASCHLE could not name one. I know there have to be several. I will get back to you on that, he said.

It is that sort of disinformation that we freshmen, we Republicans have had to come back for the duration of this Congress.

Mr. BURR. Mr. Speaker, if the gentleman will continue to yield, your last comment strikes me as something that we all heard before we got here. That was a Congress that said to the American people, I cannot answer that today, but I will get back with you later. The fact is that Mr. GUTKNECHT from Minnesota said earlier that the freshman class brought a new mindset to Washington. In fact, he was partially right. I think the correct answer is the American people sent a new mindset to Washington. In fact, why we see the situations of outside interests in California and 38 other districts around the country of large special interests and why they have an interest in that district is, in fact, the breakup of power in Washington, that there are people that feel that for 40 years they have built an empire that in 2 short years is beginning to crumble.

They will go to any lengths and spend any amount and say anything to change the trend of the American people taking back over their Congress. The reality is that, in fact, the most changes have happened in this 2-year period than probably in the 2-year period in the history of this institution. I, for one, have been proud to be a part of it.

Mr. WICKER. Mr. Speaker, I would simply call on my colleagues to add anything they might want to in the way of closing remarks for this special order.

Mr. EHRLICH. Mr. Speaker, if I went to this well every day and looked into that camera and said, folks, Mr. WICKER from Mississippi is wearing a blue tie today and I bought $100 million of ads and ran them across the country, and I did not care about telling the truth or shooting straight or having integrity but I loved those 30-second attack ads and every one of those attack ads said, Mr. WICKER is wearing a blue tie, do you know what? I bet you by election day, some people would believe that you were wearing a blue tie tonight, Mr. WICKER, and we all know that is a yellow tie.

Mr. WICKER. It is a yellow tie with very small elephants on it.

Mr. EHRLICH. In much the same way some people will believe tax cuts for working folks are tax cuts for the rich, in a very similar way some people will believe that slowing the growth in Medicare from 10 percent to 7 percent a year is a cut and on and on and on. I will close with this: I think the American people are a lot smarter than that.

Mr. WICKER. Before I yield to the gentlewoman from California, you have mentioned taxes and tax cuts. Let us remind ourselves, I think it is important to remind ourselves that President Clinton campaigned in 1992 on a middle class tax cut. Instead, he raised taxes on the American people the very next year. And the minority leader of this House got up before the Democrat convention in Chicago just a few weeks ago and said about that tax hike that the Democrats passed without a single Republican vote, what we did was right and our President did what was right, and I would do it again tomorrow and so would Bill Clinton.

When it comes to taxes, I am afraid that is the truth. They think tax increases are good and they would do it again tomorrow if they get a chance.

Mrs. SEASTRAND. Mr. Speaker, it is just interesting, I am pleased to participate with you this evening, but as we mentioned, we were trying and we still are trying to give power back to the folks at home, move that money and power and influence from Washington, DC to each and every one of our special places; for me, to California. And I think it is really something when you think that you gave your word, you kept your word, you kept your promises and you are called an extremist for doing so.

I would just say that for doing so, I have been punished more or less with having that outside money come in. I often tell people, if you try to go to Washington and try to change the way things were, then you see why nothing was done for 40 years. Because when you step out of the box from the way they did things, you are punished with those ads and misinformation.

I think the gentleman from Maryland is right. I am hoping that the good Americans across this Nation will be able to see through this and will again go to the polls and reelect those that are trying to work for them and give them back their Government.

Mr. BURR. Mr. speaker, I would simply say in closing that I know that my colleagues agree when I say that character does matter, that conviction does matter, that commitment does matter, that where there is, quite honestly, character, there is courage, that where there is conviction, there is hope, and where there is commitment, there are results.

And if I could sum up this freshman class in the 104th Congress, it would be that we have been courageous, that we have maintained a sense of hope for the future and hope for this country and hope for the families and that, in fact, we should be judged based upon the results, the results of 2 years, not a year and a half, like some want to judge us, but the full 2 years and the impact that we have made on changing how we represent the American people.

I am proud of the change, and I look forward to serving with each one of you in the 105th Congress so that we can continue with the progress that we made in the 104th Congress.

Mr. WICKER. Mr. Speaker, in the minute or two that I have remaining, I just want to remind my colleagues of why we are here this evening. For this Congress and for America, the historic Contract With America was a positive agenda to restore commonsense Government. The contract, in its intents and in its substance, has been distorted and criticized in recent months as a failure and for somehow being extreme.

Tonight we have documented that the contract has largely been a success, with almost two-thirds of its legislative items passed by Congress and signed into law by President Clinton. Further, we have shown that the contract was anything but extreme, with widespread public support, over 60 percent of the American people support all 10 items of the Contract With America. Much of the contract passed the House with significant bipartisan support, as I said, 58 percent of House Democrats voting for the Contract With America.

□ 2330

My colleagues have repeatedly shown tonight that the contract's legislation will have a real and positive effect on the lives of all Americans.

Mr. Speaker, at this point I want to thank my colleagues for participating in this special order.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FALEOMAVAEGA) to revise and extend their remarks and include extraneous material:)

Mrs. LOWEY, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mrs. THURMAN, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. WICKER) to revise and extend their remarks and include extraneous material:)

Mr. MCINTOSH, for 5 minutes, today.

Ms. WELDON of Pennsylvania, for 5 minutes, today.

Mr. MCINNIS, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FALEOMAVAEGA) and to include extraneous matter:)

Mr. UNDERWOOD.
Mr. LIPINSKI.
Mr. BERMAN.
Mr. VISCLOSKY.
Mr. JACOBS.
Mr. BARCIA.
Mr. WILLIAMS.
Mr. CLEMENT.
Mr. STARK.
Mr. BRYANT of Texas.
Mr. KENNEDY of Rhode Island.
Mr. CARDIN.
Mr. BARRETT of Wisconsin.
Mr. MILLER of California.
Mr. ENGEL.
Mr. JACKSON of Illinois.
Mr. MARTINEZ.
Mr. BENTSEN.
Mr. HASTINGS.
Mr. GEJDENSON.
Mr. EVANS.
Mr. KLECZKA.
Mr. SERRANO.
Mrs. LOWEY.
Mr. POMEROY.
Mr. BONIOR.
Ms. EDDIE BERNICE JOHNSON of Texas.

(The following Members (at the request of Mr. WICKER) and to include extraneous matter:)

Mr. CAMP.
Mr. LIGHTFOOT.
Mr. NEY in three instances.
Mr. BAKER of Louisiana.
Mr. KOLBE.
Mr. CRANE.
Mr. OXLEY.
Mr. HYDE.
Mr. ZELIFF.
Mr. SHAYS.
Mrs. JOHNSON of Connecticut.
Mr. HORN.
Mrs. ROUKEMA.
Mr. BUNNING of Kentucky.
Mr. FRELINGHUYSEN.
Mr. BAKER of California.
Mr. PORTER.
Mr. BURTON of Indiana.
Mr. DUNCAN.

(The following Members (at the request of Mr. WICKER) and to include extraneous matter:)

Mr. HEFNER.
Mr. MOAKLEY.
Mr. ACKERMAN.
Mr. SPRATT.
Mrs. KELLY.
Mr. LEWIS of Kentucky.
Mr. DOOLEY of California.
Mr. DIXON.
Mr. FARR of California.
Mr. BARCIA in two instances.
Mr. SENSENBRENNER in two instances.
Mr. BACHUS.
Mr. CHRYSLER.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1875. An act to designate the United States courthouse in Medford, Oregon, as the "James A. Redden Federal Courthouse;;; to the Committee on Transportation and Infrastructure.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3666. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1507. An act to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 3666. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes.

ADJOURNMENT

Mr. WICKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 31 minutes p.m.), the House adjourned until tomorrow, Thursday, September 26, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5295. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Order Regulating Handling (AO–370–A5; FV93–930–3) received September 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5296. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Irish Potatoes Grown in Colorado; Assessment Rate [Docket No. FV96–948–2 FIR] received September 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5297. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Apricots and Cherries Grown in Designated Counties in Washington, and Prunes Grown in Designated Counties in Washington and Umatilla County, Oregon; Assessment Rates [Docket No. FV96–922–3 FIR] received September 25, 1936, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5298. A letter from the Deputy Secretary of Defense, transmitting the Department's report on opportunities for greater efficiencies in the operation of the military exchanges, commissary stores, and other morale, welfare, and recreation [MWR] activities, pursuant to Public Law 104–106, section 339; to the Committee on National Security.

5299. A letter from the Comptroller of the Currency, et al., transmitting the "Joint Report: Streamlining of Regulatory Requirements," pursuant to 108 Stat. 2160; to the Committee on Banking and Financial Services.

5300. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 740, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

5301. A letter from the Secretary of Health and Human Services, transmitting the fiscal years 1993 and 1994 annual reports of the National Institute for Occupational Safety and Health [NIOSH], Centers for Disease Control and Prevention [CDC], pursuant to 29 U.S.C. 671(f); to the Committee on Economic and Educational Opportunities.

5302. A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting notification that no exceptions to the prohibition against favored treatment of a government securities broker or dealer were granted by the Secretary for the calendar year 1995, pursuant to 31 U.S.C. 3121 note; to the Committee on Commerce.

5303. A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting the annual report of material violations or suspected material violations of regulations of the Secretary, pursuant to 31 U.S.C. 3121 note; to the Committee on Commerce.

5304. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; the Commonwealth of Kentucky—Disapproval of the Request to Redesignate the Kentucky Portion of the Cincinnati-Northern Kentucky Moderate Ozone Nonattainment Area to Attainment and the Associated Maintenance Plan [FRL–5607–3] received September 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5305. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Solid Waste Disposal Facility Criteria; Re-establishment of Ground Water Monitoring Exemption for Small, Municipal Solid Waste Landfills Located in Either Dry or Remote Areas [FRL–5615–8] received September 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5306. A letter from the Managing Director, Federal Communication, Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Castana, Iowa) [MM Docket No. 96–96, RM–8791] received September 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5307. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Wellington, Colorado) [MM Docket No. 96–51, received September 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5308. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Delta, Colorado) [MM Docket No. 96–38, RM–8759] received September 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5309. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Coleman, Sebewaing and Tuscola, Michigan) [MM Docket No. 95–7, RM–8561] received September 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5310. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Elberton, Georgia) [MM Docket No. 95–165, RM–8703] received September 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5311. A letter from the Secretary of Energy, transmitting the Department's report entitled "1995 Annual Report on Low-Level Radioactive Waste Management Progress," pursuant to Public Law 99–240, section 7(b); to the Committee on Commerce.

5312. A letter from the Clerk, U.S. Court of Appeals, District of Columbia Circuit, transmitting an opinion of the U.S. Court of Appeals (94–1558—Engine Manufacturers Association, on behalf of certain of its members versus Environmental Protection Agency; to the Committee on Commerce.

5313. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Portugal for defense articles and services (Transmittal No. 96–74), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5314. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Federal Employees Health Benefits Program: Limitation on Physician Charges and FEHB Program Payments (RIN: 3206–AG31) received September 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5315. A letter from the Chief of Staff, Social Security Administration, transmitting the Administration's final rule—Social Security Acquisition Regulation (RIN: 0960–AE12) received September 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5316. A letter from the Clerk, U.S. Court of Appeals, District of Columbia Circuit, transmitting an opinion of the U.S. Court of Appeals (95–5057—Scott Armstrong, et al. versus Executive Office of the President; to the Committee on Government Reform and Oversight.

5317. A letter from the Chief Administrative Officer, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period April 1, 1996, through June 30, 1996, as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a (H. Doc. No. 104–268); to the Committee on House Oversight and ordered to be printed.

5318. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Migratory Bird Hunting, Late Seasons and Bag Possession Limits for Certain Migratory Game Birds (RIN: 1018–AD69) received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5319. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1996-97 Late Season (RIN: 1018–AD69) received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5320. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; "Other Rockfish" Species Group in the Eastern Regulatory Area of the Gulf of Alaska [Docket No. 960129018-6018-01; I.D. 091996A] received September 24, 1996, pursuant to 5 U.S.C. 801(a) (1) (A); to the Committee on Resources.

5321. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation entitled, "Criminal Offender Anti-Drug Act"; to the Committee on the Judiciary.

5322. A letter from the Corporation Agent, Legion of Valor of the United States of America, Inc., transmitting a copy of the legion's annual audit as of April 30, 1996, pursuant to 36 U.S.C. 1101(28) and 1103; to the Committee on the Judiciary.

5323. A letter from the Director, Office of Government Ethics, transmitting the Office's final rule—Standards of Ethical Conduct for Employees of the Executive Branch; Exception for Gifts from a Political Organization (RIN: 3209–AA04) received September 20, 1996, pursuant to 5 U.S.C. 801(a) (1) (A); to the Committee on the Judiciary.

5324. A letter from the Clerk, U.S. Court of Appeals, District of Columbia Circuit, transmitting an opinion of the U.S. Court of Appeals (92–3133—United States of America versus Rochell Ardall Crowder; to the Committee on the Judiciary.

5325. A letter from the Assistant Attorney General, Civil Rights Division, Department of Justice, transmitting the Department's final rule—Architectural and Transportation Barriers Compliance Board [A.G. Order No. 2043–96] (RIN: 3014–AA18) received September 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5326. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Definition of the Term Lawfully Present in the United States for Purposes of Applying for Title II Benefits Under Section 401(b)(2) of Public law 104–193 [INS No. 1792–96] (RIN: 1115–AE51) received September 13, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5327. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Inflation-Indexed Debt Instruments (Notice 96–51) received September 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5328. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Low-Income Housing Credit (Revenue Ruling 96–45) received September 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5329. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-in, First-out Inventories (Revenue Ruling 96–50) received September 25, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5330. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation entitled, "Department of Veterans Affairs Employment Reduction Assistance Act of 1996"; jointly, to the Committees on Veterans' Affairs and Government Reform and Oversight.

5331. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the sale of excess Federal aircraft to facilitate the suppression of wildfire; jointly, to the Committees on Government Reform and Oversight, Agriculture, and National Security.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SPENCE: Committee on National Security. H.R. 3142. A bill to establish a demonstration project to provide that the Department of Defense may receive Medicare reimbursement for health care services provided to certain Medicare-eligible covered military beneficiaries; with an amendment (Rept. 104–837, Pt. 1). Ordered to be printed.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3973. A bill to provide for a study of the recommendations of the Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives; with an amendment (Rept. 104–838). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2579. A bill to establish the National Tourism Board and the National Tourism Organization to promote international travel and tourism to the United States; with an amendment (Rept. 104–839 Pt. 1).

Mr. HYDE: Committee of Conference. Conference report on H.R. 2977. A bill to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes (Rept. 104–841). Ordered to be printed.

Ms. GREENE of Utah. Committee on Rules. House Resolution 536. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer (Rept. 104–842). Referred to the House Calendar.

Mr. SHUSTER: Committee of conference. Conference report on S. 640. An act to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes (Rept. 104–843). Ordered to be printed.

Mr. BLILEY: Committee on Commerce. H.R. 2923. A bill to extend for 4 additional years the waiver granted to the Watts Health Foundation from the membership mix requirement for health maintenance organizations participating in the Medicare Program (Rept. 104–844 Pt. 1). Ordered to be printed.

Mr. BLILEY: Committee on Commerce. H.R. 4012. A bill to waive temporarily the Medicare enrollment composition rules for The Wellness Plan (Rept. 104–845 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on International Relations discharged from further consideration. H.R. 2579 referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2561. A bill to provide for an exchange of lands located near Gustavus, AK, with an amendment; referred to the Committee on Commerce for a period ending not later than October 11, 1996, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(e), rule X (Rept. 104–840, Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 2579. Referral to the Committee on International Relations extended for a period ending not later than September 25, 1996.

H.R. 2923. Referral to the Committee on Ways and Means extended for a period ending not later than October 2, 1996.

H.R. 4012. Referral to the Committee on Ways and Means extended for a period ending not later than October 2, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HYDE:

H.R. 4164. A bill to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police; to the Committee on the Judiciary.

By Mr. HOKE (for himself and Mr. TRAFICANT):

H.R. 4165. A bill to provide for certain changes with respect to requirements for a Canadian boater landing permit pursuant to section 235 of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. CLAY (for himself, Ms. VELAZQUEZ, Mr. MILLER of California, Mr. KILDEE, Mr. WILLIAMS, Mr. MARTINEZ, Mr. OWENS, Mr. PAYNE of New Jersey, Mrs. MINK of Hawaii, Mr. ANDREWS, Mr. BECERRA, Mr. SCOTT, Mr. GREEN of Texas, Ms. WOOLSEY, Mr. FATTAH, Mr. ABERCROMBIE, Mr. BERMAN, Mr. BONIOR, Mr. BROWN of California, Mr. BROWN of Ohio, Mrs. CLAYTON, Mr. CONYERS, Mr. DELLUMS, Mr. DIXON, Mr. ENGEL, Mr. EVANS, Mr. FOGLIETTA, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HILLIARD, Mr. HINCHEY, Mr. HOLDEN, Mr. JACKSON, Mr. KANJORSKI, Mr. LANTOS, Mr. LEVIN, Mr. LIPINSKI, Ms. LOFGREN, Mr. MANTON, Mr. MASCARA, Mr. MOAKLEY, Mr. MORAN, Mr.

OLVER, Mr. RAHALL, Mr. RANGEL, Ms. ROYBAL-ALLARD, Mr. SERRANO, Mr. THOMPSON, Mr. TORRES, Mr. VENTO, Mr. WISE, Mr. WYNN, and Mr. YATES):

H.R. 4166. A bill to amend the Fair Labor Standards Act of 1938 to provide for legal accountability for sweatshop conditions in the garment industry, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. WILLIAMS (for himself, Mr. OXLEY, and Mr. MANTON):

H.R. 4167. A bill to provide for the safety of journeyman boxers, and for other purposes; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COX:

H.R. 4168. A bill to amend the Helium Act to authorize the Secretary to enter into agreements with private parties for the recovery and disposal of helium on Federal lands, and for other purposes; to the Committee on Resources.

By Mr. BAKER of California (for himself, Mr. WHITE, and Mr. CAMPBELL):

H.R. 4169. A bill to amend the Internal Revenue Code of 1986 to provide that all computer software shall be depreciable over 24 months; to the Committee on Ways and Means.

By Mr. GINGRICH:

H.R. 4170. A bill to provide a sentence of death for certain importations of significant quantities of controlled substances; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER of Louisiana:

H.R. 4171. A bill to amend the National Forest Foundation Act to extend and increase the matching funds authorization for the Foundation, to provide additional administrative support to the Foundation, to authorize the use of investment income, and to permit the Foundation to license the use of trademarks, tradenames, and other such devices to advertise that a person is an official sponsor or supporter of the Forest Service or the National Forest System; to the Committee on Agriculture.

By Mr. CONDIT (for himself, Mr. CUNNINGHAM, Mr. MCKEON, Mr. RIGGS, Mr. FAZIO of California, Ms. LOFGREN, and Mr. CAMPBELL):

H.R. 4172. A bill to amend the Fair Labor Standards Act of 1938 to provide an exemption from the overtime requirements of that act for law enforcement employees while at a police academy or other training facility pursuant to an agreement between the public agency employing such employee and representatives of such employee; to the Committee on Economic and Educational Opportunities.

By Mr. EVANS (for himself and Mr. FILNER):

H.R. 4173. A bill to amend title 38, United States Code, to improve benefits for veterans exposed to ionizing radiation; to the Committee on Veterans' Affairs.

By Ms. KAPTUR:

H.R. 4174. A bill to establish the Fallen Timbers Battlefield, Fort Meigs, and Fort Miamis National Historical Site in the State of Ohio; to the Committee on Resources.

By Mr. LAZIO of New York:

H.R. 4175. A bill to require the Secretary of Education to investigate the feasibility of establishing a National Environmental Science and Policy Academy; to the Committee on Science, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCDERMOTT (for himself, Mr. GIBBONS, Mr. RANGEL, Mr. STARK, Mr. COYNE, and Mr. NEAL of Massachusetts):

H.R. 4176. A bill to amend the Internal Revenue Code of 1986 to allow certain employees without employer-provided health coverage a refundable credit for their health insurance costs; to the Committee on Ways and Means.

By Mr. MCHUGH:

H.R. 4177. A bill to extend the deadline under the Federal Power Act applicable to the construction of the AuSable Hydroelectric Project in New York, and for other purposes; to the Committee on Commerce.

By Mr. MCINNIS:

H.R. 4178. A bill to establish peer review for the review of standards promulgated under the Occupational Safety and Health Act of 1970; to the Committee on Economic and Educational Opportunities.

H.R. 4179. A bill to provide that members of the Armed Forces who performed services for the peacekeeping efforts in Somalia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.R. 4180. A bill to provide schools throughout the country with the capability to use new technology to its fullest potential; to the Committee on Economic and Educational Opportunities.

By Mrs. MYRICK:

H.R. 4181. A bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes; to the Committee on the Judiciary.

By Mrs. ROUKEMA (for herself, Mr. MCCOLLUM, Mr. VENTO, Mr. DREIER, Ms. FURSE, Mr. FLAKE, Mr. KING, Mr. BONO, and Ms. MCKINNEY):

H.R. 4182. A bill to enhance competition in the financial services sector and merge the commercial bank and savings association charters; to the Committee on Banking and Financial Services, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. SMITH of Washington:

H.R. 4183. A bill to amend the Federal Election Campaign Act of 1971 to require the disclosure of the identity of persons paying the expenses associated with the polls conducted by telephone during campaigns for election for Federal office, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SPRATT:

H.R. 4184. A bill to suspend temporarily the duty on certain chemicals; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 4185. A bill to amend title XVIII of the Social Security Act to pay for parenteral nutrients provided as part of renal dialysis services as part of payment for renal dialysis services under the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TRAFICANT:

H.R. 4186. A bill to designate the United States border station located in Pharr, TX, as the "Kika de la Garza United States Border Station"; to the Committee on Transportation and Infrastructure.

By Mr. WELLER:

H.R. 4187. A bill to amend the National Trails System Act to designate the Lincoln National Historic Trail as a component of the National Trails System; to the Committee on Resources.

By Mr. WILLIAMS:

H.R. 4188. A bill to authorize the construction of the Fort Peck Reservation Rural Water System, Montana, and for other purposes; to the Committee on Resources.

By Mr. STARK:

H.R. 4189. A bill to amend title XVIII of the Social Security Act to provide for coverage of vancomycin home parenteral therapy under the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 4190. A bill to amend title XVIII of the Social Security Act to provide for coverage of outpatient parenteral antimicrobial therapy under the Medicare program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 4191. A bill to require the Secretary of Health and Human Services to conduct a study of the effect on payments under Medicare where certain inpatient services are replaced by outpatient services; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BACHUS:

H. Con. Res. 218. Concurrent resolution expressing the sense of the Congress that the President should categorically disavow any intention of issuing pardons to James or Susan McDougal or Jim Guy Tucker; to the Committee on the Judiciary.

By Mr. KENNEDY of Rhode Island (for himself, Mr. GILMAN, Mr. REGULA, Mr. YATES, Mr. LANTOS, Mr. LATOURETTE, and Mr. FOX):

H. Con. Res. 219. Concurrent resolution calling for the proper preservation of the memorial at the site of the Jasenovac concentration and death camp in Croatia in a way that accurately reflects the historical role of that site in the Holocaust; to the Committee on International Relations.

By Mr. LANTOS (for himself and Mr. HOKE):

H. Con. Res. 220. Concurrent resolution commending the Governments of Hungary and Romania on the occasion of the signing of a Treaty of Understanding, Cooperation and Good Neighborliness; to the Committee on International Relations.

By Mr. MCCOLLUM:

H. Res. 535. Resolution providing for the concurrence of the House, with an amendment, in the amendments of the Senate to the bill H.R. 3166; considered under suspension of the rules.

By Mr. MEEHAN (for himself, Mr. FRANKS of New Jersey, and Ms. ESHOO):

H. Res. 537. Resolution expressing the sense of the House of Representatives that the Departments of the Treasury, Defense, Commerce, and Labor should take steps to assist in increasing the competitiveness of the U.S. electronic inter-connections industry; to the Committee on Ways and Means, and in addition to the Committees on Commerce, National Security, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. TAUZIN introduced a bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Spirit of the Pacific Northwest;* which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. ZIMMER.

H.R. 103: Mr. GILCHREST.

H.R. 778: Mr. LONGLEY.

H.R. 784: Mrs. CUBIN.

H.R. 878: Mr. GORDON and Mr. QUINN.

H.R. 903: Ms. MOLINARI.

H.R. 1046: Mr. HOLDEN.

H.R. 1073: Mr. LAZIO of New York and Mr. HOKE.

H.R. 1074: Mr. HOKE.

H.R. 1090: Mr. ZIMMER and Mr. ANDREWS.

H.R. 1325: Mr. MASCARA.

H.R. 1339: Ms. HARMAN.

H.R. 1402: Ms. WATERS.

H.R. 1591: Mr. GUTIERREZ.

H.R. 1649: Ms. SLAUGHTER.

H.R. 1805: Mr. GORDON.

H.R. 1846: Mrs. MORELLA.

H.R. 1916: Mrs. CHENOWETH.

H.R. 2011: Mr. BLUMENAUER and Mr. SHAW.

H.R. 2080: Mr. CUMMINGS, Mr. GREEN of Texas, Ms. NORTON, and Mr. JACKSON.

H.R. 2211: Mr. KILDEE.

H.R. 2323: Mr. HOSTETTLER.

H.R. 2434: Mr. HOUGHTON and Mr. COMBEST.

H.R. 2497: Mr. LIGHTFOOT and Mr. EHRLICH.

H.R. 2579: Mr. CAMP and Mr. DEAL of Georgia.

H.R. 2651: Mr. DICKEY and Mr. KENNEDY of Rhode Island.

H.R. 2664: Mr. ZIMMER.

H.R. 2713: Mr. KING.

H.R. 2727: Mrs. CHENOWETH.

H.R. 2875: Mr. TORKILDSEN.

H.R. 2900: Mr. CAMP, Mr. LAHOOD, Mr. DICKEY, and Mr. BUNNING of Kentucky.

H.R. 2976: Mr. FOGLIETTA, Mr. HEFNER, Mrs. LINCOLN, Mr. SKAGGS, Mr. SMITH of Michigan, and Mr. STOKES.

H.R. 2995: Mr. HOKE.

H.R. 3022: Mr. LEACH, Mrs. MINK of Hawaii, and Mr. SCHUMER.

H.R. 3081: Mr. RUSH, Mr. WATT of North Carolina, Mr. JEFFERSON, and Ms. JACKSON-LEE.

H.R. 3104: Mr. JACKSON.

H.R. 3142: Mr. LONGLEY, Mr. WALSH, and Mr. ANDREWS.

H.R. 3195: Mr. GOODLATTE, Mr. HERGER, Mr. MCINTOSH, and Mr. STUMP.

H.R. 3226: Mr. NEY.

H.R. 3353: Mr. OWENS.

H.R. 3398: Ms. WOOLSEY and Mr. HERGER.

H.R. 3413: Mrs. MORELLA, Mr. SMITH of Texas, Mr. SANDERS, Mr. SOLOMON, Mr. GILMAN, Mr. WILLIAMS, Mr. MCHALE, Mr. KLINK, Mr. DIAZ-BALART, Mr. OLVER, Mr. TORKILDSEN, Mr. MCDADE, Mr. EHRLICH, Mr. DOYLE, Mr. JOHNSON of South Dakota, Mrs. ROUKEMA, Mr. POMEROY, Mr. ZIMMER, Mr. POMBO, Mr. FROST, Mr. HINCHEY, Mr. LEACH, Mr. THOMPSON, Mrs. MEEK of Florida, Mr. STARK, Mr. ACKERMAN, Mr. EVANS, and Mr. GOODLING.

H.R. 3426: Mr. BOEHNER.

H.R. 3462: Mr. FILNER.

H.R. 3504: Mr. BLUTE.

H.R. 3531: Mrs. SCHROEDER.

H.R. 3538: Mr. DORNAN, Mr. MASCARA, Mrs. MEEK of Florida, Mr. DAVIS, Mr. CONYERS, and Mr. MANTON.

H.R. 3555: Mr. CASTLE.

H.R. 3636: Mrs. SMITH of Washington.

H.R. 3690: Mr. HUTCHINSON.

H.R. 3693: Ms. MILLENDER-MCDONALD, Mr. ACKERMAN, Mr. BEREUTER, Ms. DELAURO, and Mr. TORRES.

H.R. 3714: Mr. SAWYER and Ms. PRYCE.

H.R. 3736: Mr. BEREUTER, Mr. GUNDERSON, Mr. MANTON, Mr. BLUTE, and Mr. BACHUS.

H.R. 3753: Mr. COSTELLO.

H.R. 3758: Mr. CAMPBELL, Mr. KNOLLENBERG, and Mr. STOCKMAN.

H.R. 3795: Mr. HAYES.

H.R. 3849: Mr. DOYLE, Mr. LAHOOD, and Mr. BARTLETT of Maryland.

H.R. 3852: Mr. FOX and Mr. CUNNINGHAM.

H.R. 3860: Mr. NADLER and Mr. FATTAH.

H.R. 3938: Mr. DORNAN, Mrs. MEEK of Florida, Mr. CONYERS, and Mr. MANTON.

H.R. 3988: Mr. LARGENT.

H.R. 3991: Mr. HILLIARD, Mr. FROST, Mr. BROWN of Ohio, Mr. RANGEL, and Ms. RIVERS.

H.R. 4006: Mr. FUNDERBURK and Mr. EWING.

H.R. 4027: Mr. SMITH of New Jersey and Mr. QUINN.

H.R. 4031: Mr. CALVERT, Mr. PORTER, Mr. CAMPBELL, Mr. CUNNINGHAM, Mr. BILBRAY, Ms. DUNN of Washington, Mr. BONO, Mr. PACKARD, Mr. MCKEON, Mr. RAMSTAD, Mr. DREIER, and Mr. EHRLICH.

H.R. 4066: Mr. DREIER.

H.R. 4071: Mr. PETERSON of Minnesota, Ms. LOFGREN, Mrs. MALONEY, Mr. EVANS, Mr. FROST, and Mr. ENSIGN.

H.R. 4072: Mr. TRAFICANT, Mr. EHLERS, Mr. MCINTOSH, Ms. DUNN of Washington, Mrs. CHENOWETH, Mr. MCHUGH, Mr. HOSTETTLER, Mr. RADANOVICH, and Mr. COMBEST.

H.R. 4081: Mr. BONIOR, Mr. PETERSON of Minnesota, and Mr. LIPINSKI.

H.R. 4102: Mr. POMEROY.

H.R. 4126: Mr. BONO.

H.R. 4133: Mr. CUMMINGS, Mr. CLINGER, Mr. COLEMAN, Mr. OLVER, Mr. JEFFERSON, Mr. BROWN of Ohio, Mr. FRANK of Massachusetts, Mr. PORTMAN, Mr. CLAY, Mr. BARRETT of Wisconsin, Mr. CRAMER, Mrs. COLLINS of Illinois, Mr. SAWYER, Mr. OWENS, and Ms. KAPTUR.

H.R. 4137: Mr. MARTINI, Mr. CASTLE, Mr. GOODLATTE, and Mr. WELDON of Florida.

H.R. 4145: Mr. WAXMAN.

H.R. 4148: Mr. MANTON, Mr. WATT of North Carolina, Mr. VOLKMER, and Ms. DELAURO.

H.R. 4159: Mr. CRANE.

H. Con. Res. 76: Mr. MINGE.

H. Con. Res. 128: Mr. BROWN of California, Mr. RANGEL, and Mr. JACKSON.

H. Con. Res. 136: Ms. NORTON, Mr. ACKERMAN, and Mr. BILBRAY.

H. Con. Res. 213: Mr. GILMAN.

H. Con. Res. 215: Mr. LOBIONDO, Mr. FILNER, Mr. BATEMAN, and Mr. EVANS.

H. Res. 30: Mr. HASTINGS of Washington, Mr. CRAPO, and Mr. SAWYER.

H. Res. 346: Mr. HAYWORTH.

H. Res. 478: Ms. HARMAN.

H. Res. 501: Mrs. MEEK of Florida.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3559: Mr. TRAFICANT, Mr. EHLERS, Mr. MCINTOSH, Ms. DUNN of Washington, Mrs. CHENOWETH, and Mr. MCHUGH.

EXTENSIONS OF REMARKS

"JUNK JOURNALISM 101"

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. OXLEY. Mr. Speaker, I would like to bring a recent column by Robert J. Samuelson to the attention of my colleagues. The subject is media coverage of the economy.

I am dismayed by the inferior quality of reporting on economic issues presented by the national news media. Whether the topic is the minimum wage, foreign investment, tax policy, or international trade, the American public is fed a steady diet of conjecture and cliche in the guise of hard economic reporting.

What we have is journalism based on emotion and ideology rather than fact or economic principle. We have business page editors more interested in financial scandal than financial growth, and features editors obsessed with fiscal misfortune. Negativism, sensationalism, and economic illiteracy rule the airwaves and the news page.

The complexities of the domestic and global economies are frequently ignored in favor of melodramatic stories and conclusions unsupported by common experience or economic fact. Tax and trade issues are taken out of context or selectively reported in a manner promoting protectionist demagoguery and economic resentments.

Ultimately, culpability for this state of affairs rests with senior editors seemingly unfamiliar with accepted economic theory. Frozen in a Keynesian, New Deal mentality, they seem wedded to redistributionist, big-government solutions to every economic trepidation, real or imagined.

The result of decades of decision-making by liberal-leaning editors is an institutional bias against conservative economic theory and a brand of reporting infused with prejudice against conservative policies. Republican initiatives are panned or ignored, while the studies of every left-wing think tank in Washington, DC are dutifully reported without dissent or criticism.

Again Mr. Speaker, I commend the following column by Robert Samuelson to the attention of all interested parties.

[From the Washington Post, Sept. 18, 1996]

JUNK JOURNALISM 101

(By Robert J. Samuelson)

The Philadelphia Inquirer began a 10-part series last week titled "America: Who Stole the Dream?" that will attract attention. The thesis is simple: Big Government and Big Businesses are relentlessly reducing living standards and job security for most Americans. The series, by Donald Barlett and James Steele, portrays living in America as a constant hell for all but the super-wealthy. This seems overdrawn, because it is. It's junk journalism, and the intriguing question is why a reputable newspaper publishes it.

I call it "junk," because it fails the basic test of journalistic integrity and competence: It does not strive for truthfulness, however impossible that ideal is to attain. It does not seek a balanced picture of the economy—strengths as well as shortcomings—or an accurate profile of living standards. Instead it offers endless stories of people who have suffered setbacks. Their troubles are supposed to speak for (and to) everyone.

They don't. Statistics implying lower living standards are contradicted by what people buy or own. Home ownership (65 percent of households) is near a record. In 1980, 11 percent of households owned a microwave oven, 37 percent a dishwasher and 56 percent a dryer; by 1993, those figures were 78 percent, 50 percent and 68 percent. People buy more because their incomes are higher. (Statistics understate incomes by overstating inflation's effect on "real" wages and salaries.) As for anxiety, it exists—and always will. But America is not clinically depressed. The Gallup poll reports that 66 percent of Americans expect their financial situation to improve in the next year.

The Inquirer's twisted portrait of the economy is not, unfortunately, unique. Earlier this year, the New York Times ran a distorted series (which I criticized) on corporate "downsizing." A recent "CBS Reports" called "Who's Getting Rich? and Why Aren't You?" is another example. Explanations for this sort of shoddy journalism fall into three classes: (1) sensationalism—it sells; (2) ideology—journalists detest the profit motive; and (3) ignorance—they don't know better. Sensationalism and anti-business bias are old hat, but the larger problem, I think, is ignorance or something akin to it.

Journalism copes awkwardly with the ambiguities of many economic stories. We're most comfortable with scandals, trials, politics, sports and wars. The conflicts are obvious, moral judgments often can be made, and stories have clean endings. The economy defies such simple theater. The process by which wealth is created is unending and complex. Costs and benefits are comingled. What's bad today may be good tomorrow. What hurts some may help many others. Low inflation is good, but ending high inflation may require something bad: a harsh recession.

The capacity of journalist to recognize such distinctions has grown since 1969, when I first began reporting on the economy. Daily economic stories have improved in quality. But there's one glaring exception to the progress: the nation's top editors. Outside the business press (for example, the Wall Street Journal), the people who run newspapers, magazines and TV news divisions don't know much about the economy—and seem unbothered by their ignorance.

The assumption is that most economic stories are done by specialized reports and aimed at specialized audiences. While this assumption holds, editorial ignorance doesn't matter much. Little damage occurs if know-nothing editors don't do much. But on big projects—newspaper series, magazine cover stories, TV documentaries—the assumption collapses. Editorial control shifts upward, and there's a scramble for familiar news formulas. Editors want villains and heroes, victims and predators. Reporters who promise simple morality tales can sell their stories. The frequent result is journalistic trash.

The Inquirer series blames the "global economy" and "free trade" policies for lowering wages and destroying jobs. What it doesn't say is that the trade balance and employment are hardly connected. Barlett and Steele deplore the fact that the last U.S. trade surplus was in 1975, but they don't tell readers that the unemployment rate in 1975 was 8.5 percent. They note that other countries run trade surpluses. Between 1980 and 1995, Germany had 16, the Netherlands 14 and Sweden 13. But they don't say that the unemployment rates for their countries are 9 percent for Germany, 6 percent of the Netherlands and 9 percent for Sweden. By contrast, the U.S. rate is 5.1 percent.

Trade doesn't determine unemployment, because trade mainly affects a small part of the job base: manufacturing. In 1995, its share of all U.S. jobs was 16 percent. Trade creates some jobs and destroys others, but total employment depends mainly on the economy's overall vitality. The United States runs regular trade deficits in part because the rest of the world wants dollars to finance global commerce or substitute for weak local currencies. As a result, we don't have to sell as much abroad as we buy; the difference is made up by the dollars other countries keep. All those extra imports raise—not lower—U.S. living standards.

If Barlett and Steele wanted to inform readers, they'd explain all this. But they're mainly interested in condemning. Everything they discuss (trade policies, growing income inequality, executive compensation) is the legitimate stuff of journalism. What's illegitimate is to report matters so selectively—with so little attention to conflicting evidence or any larger context—that ordinary readers are misled. The press can do better. The Los Angeles Times recently ran a good series on the gains that economic change creates as well as trauma it inflicts.

The real fault here lies with the top editors (at the Inquirer, the Times and other media giants) who commission or approve these distortions. There's no excuse for their ineptness. The "economic story" is no longer new. It is central to the American condition and, therefore, a permanent concern of journalism. If editors don't understand the economy, they can't exercise good judgment. The present sanctioned stupidity leads to junk journalism.

BIRTH OF ALEXANDRA KATHRYN RANDALL

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. NEY. Mr. Speaker, I commend the following to my colleagues:

Whereas Alexandra Kathryn Randall was born on the twelfth day of August, 1996;

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Whereas Alexandra's parents, David and Cortney Randall, are proud to welcome their first child into their home; and,

Whereas I am sure that Alexandra Kathryn will bring her parents and family love and joy; Therefore, be it

Resolved, That the parents of Alexandra Kathryn, with a real sense of pleasure and pride, join me in celebrating her birth and the happiness she brings to their family.

REFORM OF MEDICARE INTRA DIALYTIC PARENTERAL NUTRITION [IDPN] BENEFIT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. STARK. Mr. Speaker, when a group pays too much for a product and thereby provides windfall profits for the provider of that product, there is an overwhelming temptation by that provider to oversell and overuse the product.

That's what has happened in Medicare, where we pay grossly too much for a product called intradialytic parenteral nutrition [IDPN]. As a result, kidney dialysis providers are sorely tempted to overprescribe and overuse this product. To stop the questionable use of this product, I am today introducing legislation to reform how Medicare pays for this nutritional treatment needed by a very small number of end stage renal disease patients.

The current Medicare coverage of intradialytic parenteral nutrition [IDPN] has raised concerns involving the efficacy of this procedure as well as the possibility of gross overutilization. IDPN is the provision of parenteral nutrition that is administered during dialysis for end stage renal disease [ESRD] patients. IDPN is used to deliver nutrition, including amino acids, carbohydrates, and at times vitamins, trace elements, and lipids during dialysis. Although IDPN is provided in conjunction with dialysis, the coverage and reimbursement for IDPN are separate from the ESRD benefit. Specifically, coverage of IDPN is included under the prosthetic device benefit and reimbursed under the durable medical equipment benefit.

Parenteral nutrition is covered for those patients who have a functional impairment of the gastrointestinal tract, which prevents sufficient absorption of nutrients to maintain an appropriate level of strength and weight. Enteral feeding, additional nutrition administered orally or through a tube and absorbed through a functioning gastrointestinal tract, must first be proven ineffective before parenteral nutrition will be reimbursed. Parenteral nutrition is prohibited when it merely serves to supplement regular feeding.

There is concern within the medical field that IDPN is being unnecessarily utilized. Admittedly, there exist patients for whom IDPN is appropriate. According to a May 1993 Health and Human Service Office of Inspector General [OIG] report, an average of 2.4 percent of patients in dialysis facilities receive IDPN, in all cases only three times a week through their dialysis shunt. For-profit dialysis facilities had 2.9 percent of their ESRD patients using IDPN whereas only 1.5 percent of not-for-profit ESRD patients were on IDPN. This discrepancy between for- and not-for-profit hospitals should alert us to the possibility of abuse on the part of for-profit dialysis centers.

Current billing practices for IDPN have resulted in enormous overcharging for IDPN supplies. Some claim that Medicare is paying nearly 800 to 1,000 percent more than the provider's acquisition cost for IDPN supplies. Medicare allows $250 for one combination of total parenteral nutrition solution, but the actual price of these supplies is no more than a couple of dollars. With such inflated prices, it is no surprise that this specific Medicare part B benefit has been overutilized.

According to the U.S. Renal Data System's 1996 report, Medicare outlays for IDPN use rose from $51.6 million in 1991, $68.7 million in 1992, and to $78.1 million in 1993, but dropped off to $46.4 million in 1994. This treatment is considered by many in the medical field to be only appropriate for a very limited, constant number of end stage renal disease patients. It is no coincidence that the DMERC's new guidelines requiring more stringent documentation of the need for IDPN occurred just before this most recent decline in Medicare IDPN expenditures.

Since ESRD patients are on a dialysis machine three times each week for a limited time, the total amount of intradialytic nutrition delivered is rather limited. It is estimated that only 10 to 20 percent of the recommended weekly calories for an ESRD patient are supplied using the IDPN delivery method. However, on average it cost $60,000 per year to administer these few calories. Only 70 percent of the amino acids administered through IDPN are retained within the body. This method of amino acid supplementation provides roughly 108 to 114 grams of protein per week. For comparison, an oral supplement given three times per day would provide 189 grams of protein per week. The cost of such enteral amino acid feeding is roughly $6.30 a week at the Portland VA Medical Center. With these kinds of gross windfall profits, there will be constant pressure to overutilize and abuse IDPN. It is up to us to legislate reimbursement reform.

If the utilization rate and Medicare outlay increases were for a procedure that enjoyed definitive support from the medical community, I would not only justify but encourage widespread use of such treatment for our seniors and disabled. However, in the opinion of the HHS's own Office of Inspector General, "the benefits of parenteral nutrition for ESRD patients are unproven, its use is associated with a high rate of complication, and the cost of care is disproportionate to the resources expended."

Clinicians disagree as to the efficacy of this treatment method. Some cite increasing nutritional parameters as evidence that IDPN is indeed nourishing the patient, while others feel that the relatively few studies showing a positive correlation between IDPN use and increasing nutritional parameters contains shortcomings in the design of the study leading to unreliable conclusions. Still others claim that these studies simply fail to demonstrate a link between decreasing morbidity and increasing nutritional parameters.

We must address the IDPN pricing issue immediately to prevent the incentives for overutilization and the further plundering of our already endangered Medicare. I propose that we begin by first changing the reimbursement of IDPN from a rate within the durable medical equipment benefit to an incremental add-on payment within the ESRD benefit that would reflect the marginal costs of providing the individual components of an IDPN solution. This new ESRD benefit would cover only the arms length acquisition costs of the IDPN supplies plus an appropriate administrative service fee. The Secretary must conduct a survey of the IDPN market to determine the estimated true acquisition cost. To eliminate the benefit altogether would deny those few patients the right to a treatment that is indeed warranted. However, by altering the reimbursement of this treatment we will reduce the financial incentive for overutilization. In addition, specific HCPCS codes for IDPN will be created so as to be able to accurately identify the content of the solutions that are being administered.

IDPN coverage has created a complex, confusing system with tremendous opportunity for abuse. I urge my colleagues to support this measure designed to create a simpler, more cost-effective means of covering intradialytic parenteral nutrition in end stage renal disease patients.

TRIBUTE TO MRS. PATRICIA DAVIS OF NASHVILLE, TN

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. CLEMENT. Mr. Speaker, I rise today to offer my enthusiastic congratulations to Mrs. Patricia E. Davis for her years of service to the Nashville community. As director of Citizens for Affordable Housing, an agency designed to fulfill the necessary fundamentals of housing and location needs for all families of the Metropolitan Nashville area, she works to enable residents of low-rent housing to become both physically and mentally self-sustaining. In addition to providing refinancing assistance, she also hosts workshops regarding credit, housing, and mortgage issues. This agency serves all perspective homeowners with a financial system which shows these individuals how to live by a budget as well as making them aware of their new responsibilities.

Mr. Speaker, I believe we could all do well to follow Patricia Davis' example, to pay attention to our communities, and give ourselves to them.

TRIBUTE TO DOMINICK RIVETTI

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to my good friend Dominick Rivetti, who has been police chief of the city of San

Fernando since May 1986. This year Chief Rivetti is celebrating 25 years as a member of the San Fernando Police Department. I am proud to be among those congratulating him on achieving this milestone.

Before becoming chief, he moved up the ranks, from patrol officer to senior training officer to watch commander to division commander. Chief Rivetti is passionately dedicated to law enforcement and San Fernando: He and I have had many conversations about finding funds to expand the size of the San Fernando Police Department. Indeed, the chief is constantly on the look out for government programs designed to help law enforcement.

The chief is currently vice president of the Los Angeles Police Chiefs' Association, and is affiliated with the International Association of Police Chiefs, the California Police Chiefs Association, the San Fernando Police Advisory Council, and the California Peace Officers Association. In addition, he teaches at the Los Angeles Sheriff's Department North Academy at College of the Canyons.

But Chief Rivetti's involvement with San Fernando does not end with the workday. He is also a member of the San Fernando Kiwanis Club, the San Fernando Rotary Club, and the Northeast Valley Jeopardy Board of Directors. He is clearly someone who cares deeply for his community.

I ask my colleagues to join me today in saluting San Fernando Police Chief Dominick Rivetti, a compassionate man who is devoted to his family and his work. His selflessness and dedication are an inspiration to us all.

AND A ONE, AND A TWO

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BARCIA. Mr. Speaker, one of the greatest gifts that has been given to us is music. Music makes us laugh and brings us joy. That is why today I rise to pay tribute to a man who has brought much joy and laughter to all who know him, Mr. Jim Lepeak. On Sunday, October 6, Jim Lepeak will be inducted into the Michigan Polka Music Hall of Fame. A banquet and presentation will be held at the Western Fraternal Life Association Hall in Owosso, MI.

Born in 1929, music was in Jim's blood. His first instrument was a cigarbox with rubberbands stretched across it. At 7, he purchased a mail-order guitar that was too big for his fingers. When his father gave him a small accordion out of sympathy for his guitar plight, Jim took to it like a duck to water. He gave his first public performance after only three short lessons and quickly graduated to the 120 bass accordion which, to this day, is his treasured keepsake.

In the early 1940's, Jim joined the Floyd Talaga Polka Band and the Musician's Union. From that moment on, Jim knew that playing polka music was the path for him. Throughout his long career, Jim has been a member of many bands including Floyd Grocholski's Musical All Stars and Gary Taylor and the Happy Knights. During his many public appearances, Jim has played up and down the great State of Michigan entertaining people from Cobo Hall in Detroit to Sault Ste. Marie in the Upper Peninsula. The number of bands Jim has played in is exceeded only by the number of musical instruments he has mastered. Jim excels at playing not only the accordion but the bass guitar, mandola, Mandolin, piano, organ, drums, and violin. He has used his musical proficiency to record several CD's featuring polka music.

His career has had several interesting highlights, especially during his trips behind the Iron Curtain. In the course of one of his tours, his playing led to a snake dance through the Kasprawy Hotel in Zakopane, Poland, that lasted until 4 a.m. He has also entertained on the front deck of a boat on the Danube River in Budapest, Hungary, while the Captain danced the polka in the wheelhouse.

These days Jim calls himself semiretired while playing in a one-man band. He now devotes most of his weekdays playing at hospitals, nursing homes, and senior sites. Jim also spends time with his charming wife, Illamae, and his four children, John, Joseph, Cynthia, and Gregory.

Mr. Speaker, Jim Lepeak has dedicated his life to bringing music and laughter to ours. He is a talented musician and a selfless volunteer. I want you and our colleagues to roll out a barrel of thunderous applause for Jim Lepeak and his induction into the Michigan Polka Music Hall of Fame.

A TRIBUTE TO THE HONORABLE BOB WALKER FOR DISTINGUISHED SERVICE TO THE CITIZENS OF THE UNITED STATES

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. SENSENBRENNER. Mr. Speaker, I rise today to honor the distinguished chairman from Pennsylvania, the Honorable BOB WALKER. For the past 20 years, BOB has been an outstanding representative for the people of Pennsylvania's 16th District.

Since 1978, I've had the pleasure and fun of serving and dealing with BOB. Let me say it here first, there has never been nor will there ever again be a Member quite like BOB.

I've gotten to know BOB pretty well from our work on the Science Committee. BOB has been and continues to be a devoted supporter and ally of science. He has done a marvelous job as chairman of the Science Committee, focusing the limited budget resources on sound science and basic research. I sincerely hope my friend will continue to provide his enthusiasm and counsel in helping develop science policy for many years to come.

BOB'S impact has not been limited to science policy. He successfully got his drug-free workplace provision passed in the 100th Congress. In addition, he has had legislative success reforming product liability, antitrust, and intellectual property laws.

BOB has been a master of parliamentary procedure since he entered the House. His mastery forced the Democratic leadership for many years to plug parliamentary loopholes as quickly as BOB could use them. Many battles and victories were won because of BOB'S parliamentary skills.

On behalf of the citizens of Wisconsin's Ninth District, I thank the Honorable BOB WALKER for his outstanding service to the House of Representatives and the United States.

HONORING THE DEER PARK TERRORS SOFTBALL CHAMPS

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BENTSEN. Mr. Speaker, I rise to congratulate the Deer Park Terrors, a team of very talented young softball players in my district who are the 1996 National Champions of Pony Softball, Pinto Division.

The Terrors finished with an amazing season record of 42 wins and only 4 losses, becoming not only the national champs but Texas ASA Pixie State Champions as well. Their division included players aged 7 and 8 during the season in which they played.

I want to congratulate all the team members for the hard work, dedication, and talent that resulted in their success. Team members are: Ashley Bryant, Jessica Barrera, Caitlin Sanders, Brittainy Richardson, Melissa Williams, Heather Barker, Jennifer Turner, Brooke Boudreaux, Shara Hoffman, Madelyne McCollum, Lauren Flynn, and Stephanie Bradley.

I also want to congratulate their manager, David Hoffman; their coaches, Mike Williams, Mark Barker, Orlando Turner, and Scott Bradley; and their team mom, Colleen Sanders. They provided training, encouragement, and support that were essential to the team's success.

To become national champions, the Deer Park Terrors had to win seven consecutive tournaments: Missouri City Shootout, Deer Park, Pasadena Pixie Turn-Up Classic, Texas ASA Pixie State Tournament, La Porte "Storm" Classic, Pony Regionals, and Pony National Pinto Division Championship.

This string of success wouldn't be possible without both tremendous individual talent and an incredible team effort. Congratulations to the Deer Park Terrors and best wishes for the continued success that I have no doubt the future will bring.

DISTINGUISHED CAREER AWARD TO KATHERINE C. ILL, M.D.

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise to call attention to the distinguished career of Dr. Katherine C. Ill, president of The Hospital for Special Care, a rehabilitation and long-term care facility in my hometown of New Britain, CT. Doctor Ill's career has truly been a personification of public service. For over 30 years, she has served The Hospital for Special Care and its community as a strong advocate at both the national and local levels, and has developed programs and policies that benefit persons with physical disabilities. It is because of her tireless dedication and unwavering support for improving the quality of life for these special populations that Doctor Ill is to receive the American Rehabilitation Association's prestigious Milton Cohen Distinguished Career Award this year.

Doctor Ill has been a visionary leader of The Hospital for Special Care since joining the staff in 1964. Her leadership qualities, continuous pursuit of excellence, and unshakable integrity were evident from the start, and she was named medical director of the hospital in 1966, and president and chief executive officer in 1986. She has been the architect for change throughout her career with the hospital and has led its transformation from a long-term chronic disease facility to an innovative, state-of-the-art center for rehabilitation, respiratory, and medically complex pediatric care.

Doctor Ill is well respected by her peers and is deeply appreciated by the men and women who are cared for at The Hospital for Special Care. She is also involved in various community and medical associations, with the same commitment and dedication to service. In 1990, the Hartford County Medical Association not only celebrated its 200th anniversary, it elected its first female president, Katherine Ill. She was elected president because she embodies the mission of the association: "to promote and represent high quality of care; to endorse and support the highest standards of professional integrity; to work with the community and its representatives for the improvement of health for all people." These are the same qualities for which she has been selected to receive the Milton Cohen Distinguished Service Award, and why I ask my colleagues to recognize this remarkable woman, whom I am proud to call a friend.

SAFE DRINKING WATER

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. WILLIAMS. Mr. Speaker, today I am introducing a bill to ensure a safe and reliable water supply system for the residents of the Fort Peck Reservation in Montana.

This legislation would authorize a reservation-wide municipal, rural, and industrial water system for the Fort Peck people living on that Reservation. This bill also provides final quantification of the water rights of the Assiniboine and Sioux Tribes in northeastern Montana. It also protects the rights of non-Indian water users existing since 1985, establishes a joint tribal State board to resolve disputes and allows for water marketing outside of the reservation to Montana communities.

The future needs of the reservation are expanding. The solution to this is a reservation-wide pipeline that will deliver a safe and reliable water supply system to the residents. A similar system for water distribution is currently in use on a reservation in South Dakota.

Mr. Speaker this legislation is an important step in the tribes' effort to secure and build a water system and realize the benefit of the compact the tribe negotiated in good faith with the State of Montana and the United States.

TRIBUTE TO LUCILLE MATYAS ON HER RETIREMENT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to a longtime staff member in my district office, Lucille Matyas. Lucille has been an exceptional staff member in my office. She recently retired after 11 years of exceptional service to the residents of the Third District of Illinois.

Family has always been of the utmost importance to Lucille. Lucille is the wife of the late Richard A. Matyas, Sr. Lucille and her husband had three children, George A. Matyas, Richard A. Matyas, and Victoria A. Smith. She has two grandchildren, Richard and Reanna Matyas. While raising her three children, Lucille was involved in local activities and charities. In the past she has devoted her time to such groups as Clear Ridge Baseball, St. Rene Mother's Club, Girl Scouts, De La Salle High School Parent's Club, and the Maria High School Mother's Club. Lucille's dedication to these and other groups led to her involvement with politics on a local level. Lucille was a member of the 23d Ward Democratic Women's Organization as well as the Chicago Democratic Women's Organization. The VFW Women's Auxiliary and St. Rene's Alter and Rosary Society have also received the benefit of support and volunteer time from Lucille.

Like a true Chicagoan, Lucille enjoys watching all Chicago sports teams and counts herself as one of the biggest Bulls fans in Chicago. Lucille enjoy's spending time with her family and friends. In her spare time Lucille plays bingo, is an avid reader of books, collects dolls with her daughter, and devotes quality time with her two grandchildren. Clearly, Lucille lives a life rich in experience and goodwill.

Lucille has a great many plans for after her retirement, these include enjoying life, spending time with her grandchildren and visiting with friends and family. Additionally, Lucille plans on traveling and sightseeing around the United States. Finally Lucille will volunteer her spare time at local charities.

Mr. Speaker, I thank Lucille Matyas for her many years of dedicated service to the citizens of the Third District and to her family. With the combination of dedication to her community and family, Lucille is an inspiration and example to all. I will surely miss seeing her in my district office in Illinois. Lucille has truly been a joy to work with and her hard work and positive attitude have served my district well. I wish Lucille good luck in all of life's adventures.

INTERNATIONAL WELSHERS

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. SHAYS. Mr. Speaker, I rise today to submit to you an editorial from the New Canaan Advertiser regarding the United States' debt to the United Nations and one Connecticut community's attempt to repay it.

INTERNATIONAL WELSHERS

Detractors of the United Nations probably applaud the failure of the United States to get current on its dues for membership in that global association.

But if isolationism and a disdain for foreign influences on our sovereignty are to be perceived as some sort of super-patriotism, then it would seem incumbent on American flag-wavers also to rid us of our unenviable reputation as international welshers.

Like it or not, it is true the United States had agreed to a treaty that stipulated the level of dues we'd have to pay as a member of this "family of nations." Alas, we are more than a billion dollars in arrears and Congress seems loathe to make up the shortfall.

Of course, it is inherently true that despite the delinquency, the United States contributes more to support the UN than any other country in the world. That does not, however, alter the fact that we also owe more in unpaid dues than any other country. Americans, even those who don't subscribe to participation in the UN, ought to be embarrassed by the "deadbeat" status of their country.

Unlikely as it may seem for a small Connecticut community to assume a role in an international drama, a group in New Canaan has undertaken a unique attempt to ease that national embarrassment. Taking its cue from John Whitehead, a former member of the Reagan cabinet, the citizen initiative here is expressing indignation over the fact that this nation is shirking an obligation that it knowingly incurred by treaty. That, not necessarily the worthiness of the United Nations, is the heart and soul of the symbolic protest here.

Mr. Whitehead had calculated that if each American sent in a check for $4.40, the United States' debt to the UN would be paid off. So more than 220 people in New Canaan have done that and are urging others to join them.

Of course, it won't really happen. Even in New Canaan, where the issue is viewed so passionately by so many, less than $1000 has been sent in. That's a far cry from a billion dollars, even if the effort is copied in other communities across the nation, but the message it sends is far more powerful than the cash value.

It says pointedly that we are ashamed that our country has failed to meet responsibilities it agreed to assume. It emphasizes that we want to project a more positive international image and that our status as welshers impairs our standing among nations. It tells Congress that we ought to pay what we owe and then, if it's really all that painful and we don't want to get caught in that kind of bind again, maybe we ought to see about renegotiating that treaty.

Citizens joining the symbolic protest here are sending their "dues money" to Pay Our UN Debt, P.O. Box 1002, New Canaan 86840. Each $4.40 check turns up the volume on that message. Maybe Congress will finally hear it.

COMMUNITY ON-LINE ACT

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. MOAKLEY. Mr. Speaker, I am introducing the Community On-Line Act, legislation which would provide schools, libraries, and community centers across the country with the capability to use new technology to its fullest potential.

Today, we have the amazing ability to access vital information and important news stories from the computer. Teachers can show their students maps and information about foreign countries, encyclopedias, biographical information about famous people, and thousands and thousands of other important resources. The opportunities for learning are endless.

However, many schools throughout the country cannot access the Internet, have obsolete computers, lack the necessary funding to install new computers, or don't have the resources to train teachers. This is unacceptable in this day and age. We can build bombs that do back-flips but we can't provide access to the latest technology for most Americans.

It is vital that the Federal Government get involved. Failure to upgrade technology and train educators in our Nation's schools will result in a poorly educated work force because students will not have the skills to become computer literate. A skilled work force is absolutely essential to maintain our country's competitiveness.

A recent Fortune 500 company report found that companies spend half of their technology budget on education and training, while school systems only spend 10 to 15 percent. Clearly, it is important for businesses and local school districts to work together to get our schools, libraries, and community centers on-line.

Today, I am introducing legislation to provide grants to local schools, libraries, and community centers to purchase, install and operate the most up-to-date computer systems, access, the Internet, and train educators to use technology to its fullest potential. The bill requires the eligible entities to form a partnership with local businesses, or State or local governments. The purpose of the bill is to get the community involved and maximize its resources.

Access to the latest technology and appropriate training is essential to enhance the skills of many Americans. We need parents, business leaders, community leaders, and teachers to ban together to give the community access to the latest technology and the capability of using it to its fullest potential.

TRIBUTE TO DR. RICHARD JANEWAY

HON. W.G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. HEFNER. Mr. Speaker, it is my distinct honor to recognize Dr. Richard Janeway and his work in medical education. As of July 1997, Dr. Janeway will relinquish his seat as executive dean of health affairs for Wake Forest's Bowman Gray School of Medicine. As the school merges with its affiliate hospital, North Carolina Baptist Hospital, Dr. Janeway will serve on the steering committee to insure a smooth transition. In addition, he will bring his considerable expertise to the newly endowed position of distinguished professor of health care management at Wake Forest University.

Looking back on Dr. Janeway's career is like looking through a kaleidoscope of academic and civic contributions. Examples of his civic activities include chairman of the Greater Winston-Salem Chamber of Commerce, vice-chairman of the Forsyth County Development Council and member of the board of North Carolina Citizens for Business and Industry. Also, Dr. Janeway was integral in the creation of a planned downtown research park, which now houses Bowman Gray's Department of Physiology and Pharmacology as well as facilities for Winston-Salem State University and the Piedmont Triad Engineering Research Center.

An important part of Dr. Janeway's work at Bowman Gray has been to focus research on how nutrition can prevent or manage chronic disease. The mission of the Center for Research on Human Nutrition and Chronic Disease Prevention has been to educate patients about the importance of nutrition and diet and to promote preventive health care. It is in this capacity that I have gotten to know Dr. Janeway and it has been my privilege to work with him and his colleagues in the development of this important nutrition research facility.

Dr. Janeway is credited with ensuring that Bowman Gray keeps pace with the rapid advances in technology. The recently announced Wake Forest/Bowman Gray nutrition web site is an incredible tool for sharing the information gathered by the center with the public. Users may design and track a personalized guide to good nutrition and exercise.

On behalf of many of my colleagues in the House, I would like to thank Dr. Richard Janeway for his unending quest for excellence in the field of medical education. Wake Forest University's Bowman Gray School of Medicine has benefited enormously from his foresight and dedication to improving our Nation's medical education, and consequently, our Nation's health. He is a great personal friend and I want to wish him well in his latest pursuits on behalf of Bowman Gray School of Medicine.

PETE GAGLIARDI—WORKING FOR A SAFER AMERICA

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. LIGHTFOOT. Mr. Speaker, I want to take this opportunity to recognize a true public servant, Special Agent Pete Gagliardi of the Bureau of Alcohol, Tobacco and Firearms [ATF]. For the past 2 years Pete has served in the position of ATF's Director of Legislative Affairs.

Given the laws the ATF is called upon to enforce, the legislative affairs position can be a difficult one in which to serve. It requires a person who can balance the diverse views of Congress with the needs of the Bureau and the Department of the Treasury. Special Agent Gagliardi, an agent of 19 years of service at the Bureau, has met and exceeded the expectations of this difficult position. He has worked tirelessly for the past 2 years providing prompt, straightforward and responsive service to Members of Congress and their staffs. On numerous occasions over the past 2 years, Pete has been able to achieve consensus between the administration and Congress on difficult law enforcement issues.

Because of his outstanding performance, Special Agent Gagliardi will be leaving the Office of Legislative Affairs for a well-deserved promotion to ATF Deputy Associate Director for Law Enforcement Programs. Pete's shoes will be tough to fill at Legislative Affairs but we all wish him the best in his new position.

TRIBUTE TO THE MIDLAND JAYCEES' 50TH ANNIVERSARY

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to congratulate the Midland Jaycees on the 50th anniversary of their founding.

The Midland Jaycees were chartered in 1946 with 81 members, including my father, Robert Camp. Through the years, leaders of many organizations and official boards have said "thank you" to the Jaycees. They have more than fulfilled their stated purpose of "civic service through organized efforts * * * promoting the welfare of the community and its citizens through active, constructive projects."

The Midland Jaycees have been a strong, positive force in their community. By teaching young people leadership skills, they have instilled a sense of community spirit that has led to their involvement in projects like Junior Achievement, the Cancer Service Foundations, The Heart Foundation, Shelter House, and the Salvation Army.

More recently, the Jaycees have been involved in donating playground equipment to the city of Midland, building homes for the homeless with Habitat for Humanity, and gathering volunteers to work at the Voluntary Action Center. One of their main projects, however, is helping disadvantaged children during the holidays. In cooperation with the Michigan Family Independence Agency, the Jaycees purchase presents for the children and take them shopping for gifts to give their families.

It is this spirit of selfless giving and community service that makes the Midland Jaycees a sterling example of dedication, friendship, and community service. Mr. Speaker, I know you will join me in congratulating the Midland Jaycees on their 50th anniversary. May their example of service to their community continue for years to come.

TRIBUTE TO JOHN PALLADINO

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. ZELIFF. Mr. Speaker, I rise today to pay tribute to a personal friend of mine, John Palladino. John is not only a friend of mine, he has been a real friend of all small business men and women across New Hampshire for the past 30-plus years. He is a small business owner himself. A restaurant owner for more than 30 years, John has experienced the hardships and the dedication it takes to be successful, and he knows what it means to sign the front of a paycheck.

John knows, as all of us who own small businesses know, that signing the front of a paycheck means much more than just a salary. John understands that in New Hampshire, as in most of the country, it is small business that drives the local economies, creates jobs for their citizens, and promotes an atmosphere of community spirit and cooperation. For all his life, John has embodied those ideals.

He is a past president of the Hampton Chamber of Commerce, he was program director of the local DARE chapter, and he was a trustee of the "My Greatest Dream" program, which takes donations for children with terminal illnesses to live out their greatest dream. These are honorable causes that show his dedication to his trade and to his community.

I wanted to take a moment out of the House's busy schedule to salute John Palladino on behalf of this Congress, and to do so in the hope that he serves as a model American for his generation and for future generations.

TRIBUTE TO JUDGE EDMUND A. SARGUS, JR.

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. NEY. Mr. Speaker, I commend the following to my colleagues:

Whereas Judge Edmund A. Sargus, Jr. will be invested as a United States District Judge in the Southern District of Ohio; and

Whereas the Honorable Edmund Sargus has shown exemplary dedication to justice and the practice of law; and

Whereas Judge Sargus has honorably served the City of Bellaire and the State of Ohio as a Law Director, United States Attorney and Special Counsel to the Ohio Attorney General: Therefore, be it

Resolved, That the residents of Belmont County, with a real sense of pleasure and pride, join me in commending The Honorable Edmund A. Sargus, Jr. for his hard work and commitment to justice and to the law.

MEDICARE AND VANCOMYCIN: LEGISLATION TO PRESERVE A BENEFIT AND PROTECT THE PUBLIC HEALTH

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. STARK. Mr. Speaker, current Medicare pharmaceutical payment policy is creating distortions in the types of drugs prescribed in our society and contributing to a potential public health problem. This problem is the threat of increased drug resistance among bacteria that cause infections in thousands of people. The policy contributing to this public health threat is the unevenness of Medicare coverage for outpatient medications, and specifically, Medicare's coverage of a single antibacterial drug called vancomycin out of a multitude of possible antibacterials. This coverage provides an unintended incentive for physicians to preferentially choose vancomycin over other antibiotics. Inappropriate use of vancomycin will likely accelerate the emergence and spread of bacteria resistant to this drug, causing a major public health problem resulting in numerous deaths and increased morbidity. The bill I am introducing today counteracts the misdirected incentive for inappropriate use of vancomycin by insisting on certain criteria for the use of the drug in order for it to be reimbursed.

Under current law, Medicare reimburses for outpatient medications in limited circumstances. Highly specific, unrelated categories of drugs are reimbursed. These include drugs administered in a physician's office or hospital, oral anticancer drugs, immunosuppressant drugs for organ transplant patients, a drug to treat anemia in end stage renal disease patients, drugs to treat osteoporosis in certain patients, and drugs that require durable medical equipment [DME] for their administration. Approximately 20 drugs are covered under the DME benefit, of which vancomycin is one. Vancomycin is covered because it is administered intravenously through an apparatus called an infusion pump. Medicare reimburses for the infusion pump and for the drug for which it is used. Thus, although more than 50 drugs are available to treat bacterial infections, Medicare singles out one drug for reimbursement simply because an infusion pump is used for administration. The DME benefit also includes four drugs used to treat infections caused by viruses or fungi, again because an infusion pump is used for administration, but vancomycin is the only drug used to treat infections caused by bacteria.

Intravenous vancomycin is typically used in home therapy for infections requiring prolonged courses of antibiotics, such as endocarditis, an infection of the heart valves, or osteomyelitis, an infection of bones. Generally patients are hospitalized for an initial period, and once stable, can continue treatment at home. Only a subset of patients are medically appropriate candidates to receive home intravenous therapy. Home therapy is generally cost effective because the alternative is for patients to remain in the hospital or other inpatient facility to receive the therapy.

Medicare's reimbursement system is causing overuse of vancomycin. The Health Care Financing Administration [HCFA] found a 64-percent increase in the home use of vancomycin, as measured by claims submitted for infusion pumps for vancomycin, from the fourth quarter of 1994 through the third quarter of 1995. Anecdotes from some hospitals and home care agencies indicate that vancomycin is preferentially used whenever the bacteria causing the infection are susceptible to it. This information suggests that the current Medicare policy is having the unintended effect of changing physicians prescribing practices.

Overuse of antibiotics is a principal risk factor for the development of drug resistant bacteria. Antibiotics kill or inhibit bacteria that are susceptible to them, but the resistant bacteria survive. The Centers for Disease Control and Prevention [CDC] has documented a major increase in infections among hospitalized patients due to vancomycin resistant bacteria called vancomycin-resistant-enterococci [VRE], from 0.3 percent in 1989 to 7.9 percent in 1993. In addition to this increase, a major concern is the possibility that these bacteria will transfer their vancomycin resistance to other families of bacteria. This transfer has occurred in a laboratory setting but has not yet been documented in humans; when it does occur, a major public health problem will arise since some of the bacteria to which vancomycin resistance may be transferred, such as Staphylococcus aureus, are common causes of infection and may already be resistant to many other drugs. In a 1995 report about the impacts of antibiotic resistant bacteria, the Office of Technology Assessment concluded that steps should be taken to preserve the effectiveness of currently available antibiotics. It noted that Medicare's vancomycin policy runs counter to recommendations published by the CDC for judicious use of this drug. It also advised that a change in the Medicare policy may secondarily create positive influences on other insurers to consider whether their policies might also be creating unanticipated effects on antibiotic prescription patterns.

Clearly, some patients need to be treated with vancomycin; it can be a lifesaving treatment in patients with serious infections caused by bacteria resistant to other drugs, or in patients who are allergic to certain other drugs. Unfortunately, HCFA's response to the problem of vancomycin overuse is to curtail coverage for vancomycin altogether. HCFA has announced that it is planning to curtail coverage of vancomycin under the DME benefit starting September 1, 1996. It has determined that vancomycin does not require an infusion pump for administration and thus will not be reimbursed. Surely, there must be a better way to address this problem than penalizing patients who truly need vancomycin.

Instead of curtailing coverage, my bill addresses the public health threat by insisting that vancomycin use complies with certain criteria. The CDC's published recommendations for preventing the spread of vancomycin resistance include guidelines for prudent vancomycin use. The bill incorporates the two CDC recommendations that seem most applicable in the outpatient setting. Implementation would involve having physicians indicate on the request for vancomycin and DME reimbursement that the treatment meets at least one of the criteria delineated in the bill.

Vancomycin is used to treat bacteria which are characterized as gram-positive; this property means that when the bacteria are applied to a microscope slide and subjected to a technique called the Gram stain, the bacteria pick up the color of the stain, which is a positive result. The ability of these bacteria to pick up the stain is related to their outer structure; the ability of certain antibiotics to harm these bacteria is related to the antibiotic's ability to penetrate or disrupt this structure.

Another large family of antibiotics effective against gram-positive organisms is termed the beta-lactam antibiotics because they have in common a chemical structure called the beta-lactam ring. The prototype and most well-known of the beta-lactam antibiotics is penicillin. Penicillin is the first choice treatment for certain infections. However, penicillin has been widely used since the 1940's and many bacteria currently are resistant to penicillin; in this case, certain other beta-lactam drugs are usually effective. Since the 1980's, however, an increase in infections due to Staphylococcus aureus strains which are resistant to the whole family of beta-lactam drugs has been documented in hospitals; in these infections, vancomycin is often effective. Vancomycin is generally the last drug available to effectively treat these infections. Thus, today's bill reserves vancomycin use for when the bacteria are resistant to beta-lactam antibiotics. Although vancomycin could also be used against bacteria that are not resistant to the other drugs, it is more prudent to use the other drugs whenever possible and to save vancomycin as the last resort. Current law does not prevent physicians from prescribing vancomycin for infections that could be effectively treated with a beta-lactam antibiotic. In contrast, my bill provides for reimbursement of vancomycin and the equipment used for its administration if the physician indicates that treatment is for a serious infection caused by beta-lactam-resistant bacteria.

Vancomycin is also used for patients who have serious allergies to penicillin and other beta-lactam antibiotics. Thus, the bill also provides for reimbursement of vancomycin and the equipment used for its administration if the patient has a serious allergy to beta-lactam antibiotics.

The bill I am introducing is one attempt to address the public health threat of drug resistant bacteria while protecting the needs of beneficiaries. However, it may not be the only way to address the problem. The policy causing this problem is rooted in the haphazard way in which Medicare reimburses for outpatient pharmaceuticals. Perhaps a more sweeping change is needed rather than just an adjustment of the reimbursement for one drug. The Medicare outpatient drug benefit has been adjusted drug by drug over the years. However, this policy is causing distortions in the types of drugs prescribed, as evidenced by the vancomycin problem. I solicit ideas and suggestions from the medical and pharmaceutical community and others to help resolve this public health problem and to make Medicare drug payment policies more rational, cost effective, and less likely to lead to similar problems in the future.

IN HONOR OF RONALD A. DALL ON THE OCCASION OF HIS RETIREMENT

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. CLEMENT. Mr. Speaker, I rise today to pay tribute to a fine American, Ronald A. Dall. Mr. Dall has recently retired from his position as Assistant to the Director of the Washington Regional Complaint Center of the Internal Revenue Service, ending 34 years of Federal Government service. Upon his retirement, Ron was awarded the Certificate of Merit from the Director of the Treasury Department's Office of Equal Opportunity Program; a Certificate of Appreciation from the Director of the Secret Service; the Albert Gallatin Award from the Secretary of the Treasury, and a congratulatory letter from the President of the United States.

From 1967 to 1970, Ron worked at the Equal Employment Opportunity Commission as an equal employment officer, where he received a letter of commendation. He then began his employment at the Treasury Department, and from 1972 to 1975 he was Assistant Director for Equal Employment. For his outstanding work in this position, Ron was presented with the Meritorious Service Award. During Ron's tenure, 1975–78, as Director of the Discrimination Complaints Division for the National Aeronautics and Space Administration, he was selected to receive the Exceptional Performance Award, the highest honor given to career civil servants.

Ron received his bachelor of arts from Bowling Green State University; his law degree from Oklahoma City University and his masters' degree from Antioch University. Ron and his wife, Barbara, have two daughters, Maureen and Meghan. For several years my family has had the pleasure of living in the same neighborhood as the Dalls.

In my opinion, being someone's neighbor gives you an extremely accurate picture of that person's character. When you live close by a person, you see them interacting with their children, washing their car, mowing their lawn and helping others. It has been my pleasure to know Ron Dall and his family, and it is my honor to join in congratulating him upon his retirement. I wish he and Barbara many happy and healthy years together, and on behalf of the American people, I thank him for his 34 years of exemplary service to our Government.

TRIBUTE TO DONNA BOJARSKY

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Donna Bojarsky, a dear friend who is intimately involved in Democratic Party politics and pro-Israel causes. I place great value in her opinion. Through the years, I have come to appreciate more and more her wise counsel and friendship. This year, she is the deserving recipient of the 1996 Richard S. Volpert Award from the Jewish Community Relations Committee.

Donna's first foray into politics occurred at age of 8, when she distributed Bobby Kennedy buttons in front of a Beverly Hills delicatessen. After graduating from Brandeis University with a degree in political science, Donna began a string of campaign and staff jobs. She worked for Assemblyman Richard Katz and Mayor Tom Bradley, and on the Presidential campaign teams of Gary Hart (1984) and Michael Dukakis (1988). In 1992–93, she was the national entertainment coordinator for the Clinton campaign in Little Rock, AR.

Head of her own firm, DB & Associates, Donna has provided fundraising assistance and political consulting to a range of clients, including Senator DANIEL P. MOYNIHAN and the Charles R. Bronfman Foundation. She also advises the actor Richard Dreyfuss on his political and charitable activities.

Donna has always been a person of boundless energy. In addition to her political activities and professional duties, she is founder and cochair of LA Works, a nonprofit, public action and volunteer center in Los Angeles and serves on the national board of City Cares of America. Donna is also a founder and cochair of the New Leaders Project, a unique civic training program for young Jewish leader, and is a member of the executive committee of the National Jewish Democratic Council.

I ask my colleagues to join me today in saluting Donna Bojarsky, whose dedication to the causes in which she deeply believes is an inspiration to us all. My wife, Janis, and I are proud to call her our friend.

DUTY SUSPENSION FOR TWO CHEMICALS

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. SPRATT. Mr. Speaker, since my arrival in Congress, I have filed duty suspensions for a number of companies in my district and I am pleased to file one today at the request of EMS-American Grilon of Sumter, SC. This bill would grant a 2-year duty suspension for two chemicals, caprolactam blocked methylene, also known as Grilbond IL–6, and beta hydroxyalkylamide, also known as Primid XL–552. Grilbond IL–6 is used in aqueous adhesive systems for pretreatment of reinforcing polyester yarns or fabrics. Primid XL–552 is utilized to cure carboxyl functional polyester and acrylic resins. It has been employed in the architectural, general metal-industrial and automotive market sectors.

EMS-American Grilon imports Grilbond IL–6 and Primid XL–552 from Switzerland and passage of the bill will save the company approximately $100,000 in annual duties. EMS employs almost 100 workers in my district and passage of this bill will protect those jobs by saving the company a significant cost and thereby ensuring the company's continued success.

EMS-American Grilon believes that neither Grilbond IL–6 nor Primid XL–552 are produced in the United States which means that suspending the duties will not jeopardize any U.S. jobs. The company also believes that the cost of the duty suspensions will be small. While it is too late for Congress to pass the bill this year, I am filing the measure now to initiate a public notice and comment period. Federal agencies and the public will have an opportunity to examine the duty suspensions and submit comments. In addition, the Congressional Budget Office will complete a cost estimate of the legislation. By the time Congress reconvenes next year, we will know the cost and we will know whether there is any American company which could be injured by the bill's enactment. That information will help us decide whether to move forward with the bill. I am pleased to help an important employer in my district and I look forward to the review this bill will initiate.

CONGRATULATING THE REPUBLIC OF CHINA ON THE OCCASION OF THEIR 85TH NATIONAL DAY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. ACKERMAN. Mr. Speaker, October 10 marks the 85th anniversary of the birth of the Republic of China [ROC]. As this historic occasion approaches, I want to take this opportunity to send my personal greetings and congratulations to the people of Taiwan and especially to President Lee Teng Hui.

Mr. Speaker, I have been fortunate enough to visit with President Lee on several occasions in Taiwan, and more recently during his visit to the United States and his alma mater, Cornell University. On every occasion our discussions have been warm and enlightening. The Republic of China has long been a beacon of democracy and economic freedom in this important region of the world. During the past decades Taiwan has been transformed from an underdeveloped island to an economic powerhouse. The ROC is our sixth largest trading partner and trade between our two countries its growing.

Taiwan has exhibited its leadership and commitment to these principles earlier this year when President Lee became the first popularly elected political leader in Chinese history. This was an important milestone for the people of Taiwan. The ROC achieved this success despite the attempts of its neighbor, the People's Republic of China, to intimidate Taiwan's electorate by conducting war games in the Taiwan Strait shortly before the election.

While the past year has been one of great change in Taiwan, there have also been changes here in Washington. In July, Dr. Jason Hu, formerly head of the Government Information Office, assumed the position of Representative at the Taipei Cultural and Economic Office, the ROC's unofficial embassy in Washington. I look forward to working closely with Ambassador Hu to further strengthen ties between our two countries. At the same time Dr. Fred Chien has left his post as Foreign Minister and has been elected Speaker of the National Assembly. This is a well deserved honor for Dr. Chien, who has worked tirelessly here in Washington and in Taipei to make United States-Republic of China relations the success they are today. John Chang, who had been the Vice Foreign Minister, has become the new Foreign Minister. I am certain he will build on Dr. Chien's achievements at the Ministry of Foreign Affairs.

Finally, I want to note that two very able officials in the Taipei Representative office will be returning to Taiwan at the end of the month. Dr. Lyushen Shen and his associate James Huang, have served their country well during their tenure here in Washington.

Mr. Speaker, there are many issues concerning Taiwan and the United States which I hope Congress will address in the next session of Congress. Chief among those are membership in the WTO for Taiwan, and making certain that Taiwan's security needs are met. As important as these issues will be in the future, I hope my colleagues will take a moment to pause and join me now in congratulating the ROC for 85 years of progress and success.

DUE PROCESS IN INDIAN TRIBAL COURTS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. HYDE. Mr. Speaker, recently, I have received complaints from parties who have been involved in proceedings in Indian tribal courts. These complaints suggest that non-Indian civil litigants in these courts may face unfair treatment, but, yet, are unable to seek protection from violations of their Federal rights in any other judicial forum.

For example, earlier this year, a Crow Nation tribal court entered a judgment for $250 million in compensatory damages against the Burlington Northern Railroad. This case deals with a railroad grade-crossing accident which occurred on the Crow Reservation in Montana in 1993. The accident involved the death of three members of the Crow Tribe. However, the crossing was well-marked, and no accident had ever occurred there in the entire 50-year history of the crossing. A blood alcohol test revealed that the driver and one of the passengers were intoxicated at the time of the accident.

Burlington Northern alleges that various violations of basic due process occurred during the trial, including, the use of jurors who should have been struck for cause, improper prejudicial comments to the jury venire by a member of the appellate court, use of evidenced that was barred by Federal law, and the barring of evidence relating to the proper amount of compensatory questions.

I have not had the opportunity to review the complete record of this case, and I do not know all of the details. Further, I do not seek to affect the outcome of this particular case and I believe it should continue in due course under existing law. However, these allegations do raise serious questions about the overall fairness of the Indian tribal court system, which calls for further review by the Congress.

I understand that there are now more than 200 of these types of courts across the Nation and that they process thousands of cases per year. Many of these cases involve persons who have no particular connection to the tribe other than that they have traveled across Indian country on an interstate highway or railroad. Although the Indian Civil Rights Act, 25 U.S.C. § 1302, requires these courts to provide basic constitutional rights, it does not provide any means by which litigants may seek to vindicate these rights in a Federal court. In fact, litigants have no way to vindicate these rights except through the tribal court system.

This situation sharply contrasts with the situation in State courts. State court decisions regarding the protection of Federal rights may be reviewed on appeal to the U.S. Supreme Court and by actions under 42 U.S.C. § 1983. Current law provides that Federal courts may review the decisions of tribal courts only to determine whether the case was within the jurisdiction of the court, and they may only conduct that review after all avenues of relief have been exhausted in the tribal court system.

I do want to stress that I believe in the Indian tribal court system. It is only right that Indians should be able to have their own courts to judge their own affairs. By the same token, I want to say emphatically that it is only right that those courts should provide all of the constitutional protections required by law, including basic due process. The consistent enforcement of constitutional norms is particularly important if the tribal courts are to have jurisdiction over nonmembers who have only tangential relationships with the tribes.

This is a subject that both the Judiciary Committee and the Resources Committee should review in the next Congress.

VALLEJO, CA, ANTIDRUG PROGRAM A SUCCESS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. MILLER of California. Mr. Speaker, with all the attention recently about increased drug abuse, particularly among young people, I am happy to take this opportunity to report on a successful effort being undertaken by the Fighting Back Partnership in Vallejo, CA, which is in my congressional district.

The Fighting Back Partnership grew from the disgust of Vallejo community leaders about the effects of drug and alcohol abuse on their city. Representatives of the police, neighborhood groups, city hall, the school district, and the Greater Vallejo Recreational District joined forces in a multicultural coalition to fight back in a comprehensive communitywide substance abuse reduction strategy. This strategy involves a comprehensive program through public education, prevention, intervention, treatment, and aftercare.

The following article describes the tremendous difference the Fighting Back Partnership has made after 5 years. This community has very much to be proud of, and its efforts should provide a model for other cities hurt by the tragedy of substance abuse.

[From the Vallejo Times Herald, Sept. 15, 1996]

MAKING A DIFFERENCE—STATISTICS INDICATE FIGHTING BACK IS WINNING THE WAR ON DRUGS IN VALLEJO

(By David Jackson)

Fighting Back Partnership has produced a report that appears to offer some hard evidence that its five-year, multi-million dollar experiment aimed at reducing substance abuse in Vallejo is working.

Citing student surveys on substance abuse, crime statistics and other data, the report suggests that Vallejo is making modest gains in combating the use of illegal drugs, alcohol and tobacco.

Among the more encouraging findings is a survey suggesting that teen-age marijuana use may not be growing in Vallejo at the rapid pace seen elsewhere.

Between 1991 and 1994, the percentage of Vallejo juniors who said they had used marijuana within the last 12 months rose from 35 to 36. In Solano County as a whole, the percentage rose from 31 to 50.

The same survey also suggests that fewer Vallejo students are using tobacco and alcohol, despite steady or increased usage by students throughout Solano County.

"There appears to be something going on in Vallejo that is not reflected in the trends of the rest of the county," said Jane Callahan, project manager for Fighting Back. "Our kids are reporting less drug, alcohol and tobacco use than their peers in the rest of the county."

The survey information was taken from The American Drug and Alcohol Survey, which is not affiliated with Fighting Back.

Among the survey's other findings:

The percentage of Vallejo seventh-graders who reported smoking cigarettes dropped from 48 percent in 1991 to 28 percent in 1994. Throughout the county, however, the percentage rose from 39 to 41.

During the same period, smoking rose 1 percent among Vallejo ninth-graders and dropped 14 percent among Vallejo 11th-graders.

The percentage of Vallejo students who reported using alcohol within the last 30 days dropped 11 percent among seventh-graders, rose 6 percent among ninth-graders and dropped 5 percent among 11th-graders between 1991 and 1994.

For the county as a whole, the percentages rose for each grade level.

The percentage of 11th-grade students who reported using marijuana in the last 30 days dropped 3 percent in Vallejo between 1991 and 1994, but rose 12 percent across the county.

Essie Henderson, substance abuse administrator for Solano County, agreed with Callahan's assessment that the Fighting Back program is working.

"Early prevention has been the key," Henderson said.

The Fighting Back program includes several programs designed to keep students from trying alcohol, tobacco or illegal drugs or to help them stop.

The report also includes crime statistics from the Vallejo Police Department which indicate that Fighting Back's training program for liquor store owners, managers and employees has worked as intended.

Among stores that participated in the training program, incidents reported to the police dropped 6.5 percent between fiscal year 1993–94 and fiscal year 1995–96. Among stores that didn't receive training, the number of incidents rose 27 percent.

The difference in the number of hours police spent responding to problems at the two groups of liquor stores was even more profound; down 20 percent for stores that had the training and up 26 percent for those that didn't.

More than half of the liquor store personnel in the city have participated in Fighting Back's program.

Since the late 1980s, when planning efforts for the Fighting Back program began, it has received wide community support. However, the majority of the funding has come from the Robert Woods Johnson Foundation in the form of a five-year, $3 million grant.

Cash and in-kind contributions from a variety of other sources, including free office space from the city of Vallejo, have bumped Fighting Back's annual budget up to about $1 million per year.

The foundation, which is sponsoring 14 Fighting Back programs across the nation, has hired an independent research organization to conduct detailed studies to determine how effective the programs were.

The results of that study won't be fully available until 1999.

Unfortuately, Vallejo's Fighting Back program can't wait that long. Its Robert Woods Johnson grant will expire March 1.

If the organization hopes to continue to exist, it must find some new revenue sources.

TRIBUTE TO ZION-GRACE UNITED CHURCH OF CHRIST

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BONIOR. Mr. Speaker, this coming Sunday, September 29, 1996, the Zion-Grace United Church of Christ, in my home State of Michigan, is celebrating its 100th anniversary.

The present congregation is the product of a 1972 merger of two churches, Zion Church of Fraser and Grace Church of Detroit. Coincidentally, both of the churches trace their foundings to the same year—1896. Zion Evangelical Congregation in Fraser was organized in February 1896, while Grace Church was organized in September 1896 in Hamtramck. From its original location in Hamtramck, Grace Church moved to Detroit in 1918. It remained at that location until the 1970's when declining membership forced it to seek a home elsewhere. A special celebration consecrated the union in 1972 as they became one church family, the Zion-Grace United Church of Christ.

The founders of this united church were committed to seeing the emotional, educational, and spiritual needs of their community fulfilled. Continuing in that tradition, the Reverend Joseph A. Lachcik, pastor of Zion-Grace UCC and the dedicated members of the congregation reach out to serve in many ways. The Women's Fellowship group, through the Samaritan Workshop is very active in service projects, mission involvement, and hospital donations. Through their ministry to others they have provided a home for the Homestead Adult Day Care, Boy Scouts, and Alcoholics Anonymous as well as participating actively in the support of area health and welfare programs.

The centennial celebration of the church is a proud milestone. As the community prepares to commemorate this event, I applaud the church for its contributions to the rich tapestry that makes up American life in Michigan. I urge my colleagues to join with me in wishing congratulations to all the members of the Zion-Grace United Church of Christ. May the next 100 years be a continued fruitful ministry.

INTRODUCTION OF THE FOREST FOUNDATION CONSERVATION ACT

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BAKER of Louisiana. Mr. Speaker, today, I have introduced the Forest Foundation Conservation Act.

The Forest Foundation Conservation Act will amend the National Forest Foundation Act to extend and increase the matching funds authorized for the National Forest Foundation and to permit the National Forest Foundation to license the use of trademarks, tradenames, and other such devices to identify that a person is an official sponsor or supporter of the U.S. Forest Service or the National Forest System.

Our Nation has been blessed with a national treasure—America's national forest lands. A growing population, increasing demands on forests and related resources, and more competition for uses and benefits are placing great stress on our forest lands and the U.S. Forest Service.

Now more than ever, America's forest lands and the individuals who work so diligently to manage these forest lands need support from people who care. The National Forest Foundation, a citizen-directed, non-profit organization, was created to coordinate the needed support. The National Forest Foundation Amendment Act of 1996 will allow the National Forest Foundation to develop innovative public/private partnerships so that America's pristine forest land and its resources will be conserved for future generations.

I believe that it is the responsibility of each citizen to help conserve our Nation's resources and provide organizations like the National Forest Foundation with the resources it needs to help maintain America's forest lands for generations to come. I hope that my colleagues will join me in supporting this legislation which will help us improve the quality and infrastructure of our national forests.

CONGRATULATING AMERICAN CREDIT UNIONS FOR SERVING THE UNDERSERVED

HON. JESSE L. JACKSON, JR.

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. JACKSON of Illinois. Mr. Speaker, I rise today to congratulate the National Credit Union Administration, the Credit Union National Association, the CUNA Mutual Group, the National Association of Federal Credit Unions, and the National Federation of Community Development Credit Unions for holding their very successful Serving the Underserved conference in Chicago from August 9 through 11, 1996.

Credit unions have throughout their history made great strides in providing financial services to those previously locked-out—to members of low-income communities and communities of color, a reality highlighted by conference speakers including our former colleague and conference keynote speaker, the esteemed NAACP president Kweisi Mfume.

It is with great appreciation for America's credit unions that today I introduce for the RECORD President Bill Clinton's statement of greetings and commendation to the credit union community for their evidenced commitment to serving distressed communities.

> THE WHITE HOUSE,
> *Washington, August 6, 1996.*
>
> Warm greetings to everyone gathered in Chicago for the "Serving the Underserved" credit union conference.
>
> The continued prosperity of our nation depends on our ability to foster economic opportunity for all of our people. Credit unions have continually distinguished themselves by working tirelessly to provide fair loans, sound fiscal advice, and high-quality consumer service to hardworking individuals and families. Your dedication has helped to make the American Dream more accessible to our people, strengthening the potential for innovation, growth, and prosperity for our entire nation.
>
> I commend you for your ongoing efforts to reach out to traditionally disadvantaged groups in our society. As you gather to explore ways to fill the unmet financial needs of isolated rural and distressed inner-city areas, I am confident that your continued commitment to high-quality service will help to create a brighter future for us all.
>
> Best wishes for a productive and enjoyable conference.
>
> BILL CLINTON.

DRUGS AND THE CIA: WE MUST INVESTIGATE

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. FARR of California. Mr. Speaker, I urge an immediate and comprehensive congressional investigation of recent allegations of a connection between the Central Intelligence Agency and the introduction of crack cocaine in the United States.

The San Jose Mercury News has published a series of articles providing considerable evidence that crack cocaine was introduced in the United States in order to fund the operations of the Nicaraguan Contras. Because the Contras were in turn established and supported by the Central Intelligence Agency, there is considerable question as to whether the CIA knew about this trafficking operations, or even supported it.

This is a very troubling allegation. The possibility that our own Government supported, implicitly or explicitly, the sale of crack cocaine in the United States is deeply, deeply disturbing.

I have written to CIA Director John Deutch urging a full investigation of this matter. But Congress, which is responsible for the oversight of our Government, must also investigate this matter independently.

I thank the members of the Select Intelligence Committee, including Chairman LARRY COMBEST and Congressman NORM DICKS, for their attention to this matter and the pursuit of an investigation in a full and expeditious manner.

As long as the questions raised by the Mercury News story remain, we must examine the role of the CIA in drug trafficking in the United States. We cannot rest until this manner is fully and fairly investigated.

NATIONAL DYSTONIA AWARENESS WEEK SEPTEMBER 28 TO OCTOBER 5

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. LEWIS of Kentucky. Mr. Speaker, I rise to inform my colleagues about National Dystonia Awareness Week, September 28 to October 5, 1996.

I was privileged, Mr. Speaker, to attend a chili supper in June given by a group of residents of the Second District who deal with dystonia everyday. These residents regularly meet and discuss the challenges they meet everyday.

Dystonia is a relatively rare neurological disorder characterized by severe muscle contractions and sustained postures that afflicts an estimated 300,000 people in North America. Dystonia is a complex disorder that consist of three types and is often times misunderstood and misdiagnosed.

The three types of dystonia are primary, focal dystonias, and secondary dystonia.

Primary dystonia or idiopathic torsion dystonia [ITD], causes spasms that affect many different parts of the body and often starts in childhood.

Focal dystonias affects one specific part of the body and is distinguished for five varieties. Blespharasposm causes eyelids to clse tightly for seconds to hours. Cervical dystonia is the contraction on neck muscles turning the head to one side or pulling it forward or backward. Oromandibular dystonia—Meige's Syndrome—is a combination of blepharospasm and oromandibular dystonia in which the muscles of the lower face pull or contract irregularly to cause facial distortions. Spasmodic dysphonia affects the speech muscles of the throat, causing strained, forced, or breathy speech. Writer's cramp is characterized by muscles in the hand and forearm contracting.

The last type of dystonia, secondary dystonia, is caused by an injury or other brain illness.

Unfortunately, there is no known cause or cure for dystonia.

Researchers, however, have made promising advancements in understanding this disorder. In 1989, Drs. Xandra Breakefield and James Gusella made the discovery of a genetic marker that will significantly advance future research. In addition, hundreds of dystonia patients and their families have made the commitment to donate their brains to further dystonia research.

Mr. Speaker, I would like to thank you for allowing me this opportunity to familiarize my colleagues with dystonia and encourage each of my colleagues to learn more about this neurological disorder.

More information about dystonia can be found on the world wide web. The Dystonia Medical Research Foundation's home page not only offers information about dystonia, but also details meeting places and dates for those who are or have a family member affected by dystonia and can be reached at hhtp://www.iii.net/biz/dystonia/. You can also learn more by visiting an internet newsgroup dedicated to dystonia at "alt.support.dystonia."

HONORING THE COMMUNITY OF HIGHLANDS, TX

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BENTSEN. Mr. Speaker, I rise to congratulate the community of Highlands, TX, in my district, which on October 4–5 will celebrate the 40th annual Highlands Jamboree.

The Highlands Jamboree began in 1956 to celebrate the grand opening of Highlands State Bank. Because of the success of the initial celebration, the citizens of Highlands decided to have an annual jamboree to display the community's strong unity. As they have in the past, many of Highlands' citizens will participate in this year's event.

The festivities will begin on Friday night with the first ever cookoff. Residents will judge the best tasting fajitas and margaritas. On Saturday, I will have the honor of serving as the grand marshal of the parade. Many of Highlands' citizens, young and old, will march in this parade, which will be followed by an arts and crafts show and a motorcycle and car show.

Mr. Speaker, I applaud the efforts of the people of Highlands for their constant dedication to improving their community and congratulate them for the effort they have put forth to continue the Highlands Jamboree. This celebration represents the unity of the people of Highlands and their loyalty to and love for their hometown and country.

A TRIBUTE TO THE HONORABLE BILL CLINGER FOR DISTINGUISHED SERVICE TO THE CITIZENS OF THE UNITED STATES

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. SENSENBRENNER. Mr. Speaker, I rise today to honor a distinguished Member of this body for the past 18 years, the Honorable BILL CLINGER who has represented the people of Pennsylvania's Fifth District with class and dignity.

It has been my honor to serve with BILL since we entered Congress together in 1978. He is a man of integrity and principle.

His legislative accomplishments over his career are impressive, but his accomplishments just in the past 2 years are nothing short of remarkable. As chairman of the House Committee on Government Reform and Oversight, BILL'S leadership and determination pushed through bills ending Federal unfunded mandates and enacting the line-item veto. BILL'S accomplishments did not stop with these pieces of legislation though. He also successfully passed bills involving paperwork reform and regulatory reform, among others.

For his work, the Almanac of American Politics said, "his legislative production in just his first few months as chairman was as impressive as that of many members over a whole career."

Mr. Speaker, the House is losing a tremendous legislative leader, gentleman, and patriot.

On behalf of the citizens of Wisconsin's Ninth District, I thank the Honorable BILL CLINGER for his outstanding service to the House of Representatives and the United States.

THE AMERICA-ISRAEL FRIENDSHIP LEAGUE, INC.

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. KOLBE. Mr. Speaker, I recently attended the annual Partners for Democracy Dinner in my hometown of Tucson, AZ. The dinner was hosted by the Tucson chapter of the America-Israel Friendship League in honor of David L. McPherson.

The America-Israel Friendship League, Inc. [AIFL] is a nonsectarian, nonpartisan, not-for-profit organization committed to maintaining and strengthening the mutually supportive relationship between the people of the United States and Israel. It was founded in 1971 by a group of distinguished Americans with a vision-to preserve America's best interests in the Middle East. They saw the need to instill in Americans an appreciation for the fact that Israel is the only democratic nation in the Middle East and America's most reliable ally in that area of the world. They knew that the friendship between these two countries could be deepened through the understanding generated by people-to-people educational and cultural programming.

The AIFL serves as the catalyst to bring people together from diverse backgrounds. The AIFL's activities reach out to Americans of all faiths, ethnic backgrounds, age groups, and political persuasions. Through missions, seminars, lectures, exchanges, and much more, AIFL helps participants explore and discuss the issues and concerns surrounding the relationship between the United States and Israel. Program participants become involved long after their individual program has ended. In essence, they become ambassadors who carry the message of friendship and goodwill from one generation to the next. From their experiences emerge a belief in the very real possibility of future peace.

While at the dinner, I had the pleasure of listening to a speech by an extremely insightful, young woman, Saleela Salahuddin, on the ways of the Israeli people. Saleela Salahuddin was the 1995 Youth Ambassador to Israel. I was very moved by this speech, and I am honored to share it with you:

Tonight, I bring you greetings from Maya, who was my host sister in Netanya, Israel, and Roy, who was my host brother in Arad, Israel. As Sabras, proud natives of Israel, they are two bright youths of the admirable community of democracy which defines the nation. Thanks to AIFL, I was enriched by their modernism, patriotic idealism, and the optimism for the future.

"Everyone in Israel goes there," said Maya. "It's a life-changing experience." She was talking about the Wailing Wall. Less than two hours later, I was standing in front of it, remembering her words and realizing how true they were.

There was a combined quality of awe and appreciation when visiting the holy site on the holy day of Shabbat. I approached the wall slowly, briefly pausing by a small wicker basket that held many brightly colored scarves. I took one out and covered my hair, following the example of a few women who had gone ahead of me.

When I laid my hand on the Wailing Wall, I felt it's coolness as well as its strength. The large stones sit atop one another with the assurity that defines millennia of heritage. I was experiencing one of the most transforming moments of my life. I realize that as an American Muslim, I was undoubtedly the first person in my family of many generations to be at this very sacred place. The universality of it all struck me. To my right, a young woman wearing blue jeans prayed; to my left, an old woman in a long black dress devotedly swayed in rhythm with her reading from the Torah. And there I was, standing in the middle, praying with them and understanding the "change" that Maya had spoken of. The diversity and unity of the situation, young and old, Jewish and Muslim, left a very strong impact on me. I added a prayer that I had written on a tiny piece of paper to the many that were inserted into cracks in the ancient wall. In it, I had written a message hoping for peace and democracy to prosper in our world.

This moment shall always be with me, and my message shall forever remain in the Wailing Wall.

On behalf of myself, Maya, and Roy, I bid you Shalom.

AN ACT TO SAVE AMERICA'S FORESTS

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BRYANT of Texas. Mr. Speaker, for years I have sought to protect native biodiversity in our forests by ending clearcutting and other forms of even-age logging, and allowing only selection management of Federal forest lands where logging is permitted. Since the 101st Congress, I have sponsored forest biodiversity legislation, and over the years, support for my legislation has grown steadily. In the 103d Congress, 107 Representatives cosponsored my bill, and 142 voted for a version of it as a floor amendment.

Scientists, however, tell us that banning clearcutting alone is not enough to guarantee the protection of forest biodiversity on our public lands. It is clear that core areas of pristine forests must be left unlogged altogether, and that these wellsprings of nature should be surrounded by areas where only the most environmentally responsible logging is permitted. In order to direct our forest management agencies to follow these scientific recommendations to protect core areas of biodiversity, I am adding a new title to my bill which will prohibit logging in three categories of Federal forest lands: Northwest ancient forests, roadless areas, and designated special areas.

By adding these new provisions, I believe that my legislation now represents the most complete solution to the deforestation crisis facing our public lands. With this in mind, I have retitled this measure the act to save America's forests.

The Forest Service and other Federal agencies are primarily using the logging techniques of clearcutting and other forms of even-age forestry, despite overwhelming evidence that selection management—cutting individual trees, leaving the canopy and undergrowth relatively undisturbed—is more cost-efficient and is more ecologically sound.

Selection logging is more labor intensive, and therefore creates more jobs for timber workers. It also avoids the high up-front costs of site preparation and replanting required by even-age timber management.

The result of selection logging is a permanent, sustainable supply of high quality timber, and the protection of native biodiversity in the forests. This contrasts with clearcutting's indiscriminate destruction of huge stands of trees, leaving only shrubs and bare ground, leading to erosion, the demineralization of the soil, and allowing the creation of artificial tree farms and extinction of the original native forest in its wake. Wherever we allow logging to occur on our Federal forests, only the selection logging technique should be permitted.

If current plans are followed, the remaining native biodiversity in the approximately 60 million acres available for commercial logging on Federal land will be eliminated and each of those acres transformed into monoculture timber plantations within the next 15 to 20 years.

The legacy of the Forest Service and other Federal agencies' unrestrained use of commercial logging based on even-age logging techniques has left our Federal forests devastated, and has brought countless plant and animal species to the brink of extinction.

The new logging prohibitions contained in my bill are a necessary response to the extraordinarily destructive antienvironmental laws passed by this 104th Congress, especially the timber salvage rider to the fiscal year 1995 rescissions legislation. Under this salvage rider, environmental protection has been suspended. Many northwest ancient forests with trees up to 1,000 years old are being logged, and pristine, roadless, and perfectly healthy forests are now fraudulently being logged as salvage. The salvage rider targeted for clearcutting the very forests that scientists tell us are most urgently in need of protection.

As long as northwest ancient forests and roadless areas remain in the timber base of the Forest Service, and other Federal agencies, these irreplaceable areas are perpetually at risk of being logged and destroyed. It is time to make these magnificent remnants of America's original untouched forests permanently off-limits to logging, protecting them forever from the devastation of any future timber salvage rider, or similarly destructive legislation. My new bill would achieve this.

In the development of a plan for the northwest ancient forests, Forest Service experts and other Federal scientists mapped the ancient forests of the region. These scientists determined no logging should be allowed in many of these ancient forest areas in order to give the ancient forests and their dependent species the highest possibility of survival and recovery. My bill prohibits commercial logging in these northwest ancient forests.

The bill also prohibits commercial logging in roadless areas. Federal roadless areas contain many of the largest unfragmented forests in America and are important reservoirs of our Nation's remaining native biodiversity. I have used the Forest Service's definition of roadless areas in my revised legislation.

My bill also identifies certain Federal forests, call special areas, which may not be roadless areas or northwest ancient forests, but are deserving of protection from commercial logging because of important ecological reasons. Many of these areas also have important cultural, scenic, or recreational qualities, which deserve as much protection as trees and wildlife.

Passage of this legislation will usher in a new era of forest management on our Federal lands, with long-term ecological integrity as the guiding principle.

The public supports environmental protection as never before, and opinion polls express the public's demand that Congress prevent the permanent loss of our Nation's native forests.

I invite every Member to join me in seeking this badly needed forest reform.

PERSONAL EXPLANATION

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. HASTINGS of Florida. Mr. Speaker, I regret that I was absent from the U.S. Congress on Wednesday, September 18, but I was attending a funeral in my home State of Florida.

THE 3.8 MILLION AMERICAN CITIZENS OF PUERTO RICO DESERVE THE OPPORTUNITY TO BECOME ECONOMICALLY SOLVENT AND SELF-SUFFICIENT

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. SERRANO. Mr. Speaker, I rise today to voice my concern for our fellow citizens in Puerto Rico, who have been greatly affected by our recent action to eliminate economic development incentives under section 936 of the Internal Revenue Code without providing them with an alternative program. In dealing with important national issues such as the increase on minimum wage we must not ignore the needs of the people of Puerto Rico, my homeland. The 3.8 million American citizens of Puerto Rico deserve the opportunity to become economically solvent and self-sufficient. We must work hand in hand with the island to develop a sound economic development program that helps achieve those goals. I believe we must consider improvements and expansion of a wage credit for Puerto Rico under existing legislation. I urge my colleagues to give prompt attention to this issue early next year.

IN HONOR OF THE 50TH ANNIVERSARY OF WICH RADIO

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. GEJDENSON. Mr. Speaker, I rise today to recognize the 50th anniversary of WICH Radio 1310 in Norwich, CT. Known as WNOC at its inception, WICH operates out of 91 Main Street, and transmits from its facilities off of Lucas Park Road in the Second Congressional District. Today, WICH is the hub of a four-station radio system.

While, as we might expect, personalities and formats have changes over the years, WICH has throughout its tenure on our airwaves maintained its commitment to community service. The radio station's history is replete with example of having contributed to the public good of eastern Connecticut.

During times of emergencies natural disasters, and the like, WICH has provided special and exemplary service to its listeners and has most appropriately received several awards for its work.

Since its beginning under the guidance of the late Ross Perkins of Essex, CT, through the extraordinary contributions of Dick Reed, WICH has made extraordinary contributions to the radio industry.

Congratulations to WICH of Norwich on its 50 year anniversary and best wishes for another 50 years of future service and great programming.

WORKING TOGETHER FOR BAY CITY: CITIZENS, LABOR, AND UNITED WAY

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BARCIA. Mr. Speaker, in addition to keeping full-time jobs, volunteers spend long tireless hours helping others while in return they are not paid and receive no financial gain. Volunteers selflessly sacrifice their free time. Organizations would not be nearly as effective without volunteers who are essential to the success of achieving their goals.

Today I would like to congratulate and recognize some dedicated volunteers from my hometown of Bay City, MI, whose efforts earned them the Model City in Community Service Award. One of five model cities nationwide, the citizens of Bay City, the United Way, and the Central Labor Council should be proud of their accomplishments. By working together they improved their community and serve as a model for other communities to follow.

Under the capable leadership of Steve Rajewski, labor liaison for the United Way of Bay County and coordinator for community service programs through the United Way of Bay County, the volunteers have provided many valuable services to the community including: union counseling, blood drives, service for retirees, food drives and many other valuable programs aimed to improve the quality of life for citizens of Bay City.

Established in 1991, the AFL–CIO Model City in Community Service Award recognizes outstanding community service activities and programs provided by the AFL–CIO and developed in cooperation with the United Way. The programs are designed to give union members the opportunity to serve, support, and improve human services in their communities.

The selection is based on a detailed survey and application process that focuses on health and human service programs that work in the local communities. Volunteer activities on the boards and committees of the United Way and its member agencies are an important criterion for model city consideration.

The United Way, the Central labor Council, and citizens of Bay City deserve recognition for their cooperation which resulted in their being honored with this prestigious award. The loyal volunteers represent the spirit of volunteerism and community service which makes our county one of the greatest national in the world. I am proud to be a son and product of the great city and I ask my colleges to join me in wishing the citizens of Bay City a hearty congratulations for a job well done.

STATEMENT IN SUPPORT OF H.R. 2092

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. MARTINEZ. Mr. Speaker, I am delighted to join the gentleman from Georgia in support of the Private Security Officer Quality Assurance Act, a bill which we jointly introduced last year. Mr. BARR deserves enormous credit for his diligence, skill, and hard work in bringing this important measure to the floor.

The public deserves the assurance that the security guard they meet in the mall, the bank, or at school is not a felon or a person who has a history of violent behavior. Recently, USA Today printed a story about the tragedies which can occur when inadequate background checks are made—tragedies that involved security guards who committed murder, rape, and theft.

Mr. Speaker, there are now thousands of security companies employing close to 1.8 million guards. The vast majority of these security guards are professionals, many acting heroically in performing their duties. However, right now, we cannot be sure that the security officers that we meet in virtually every facet of our lives are not armed and dangerous.

H.R. 2092 will provide an expedited procedure for State officials to check the backgrounds of applicants for guard licenses. A similar procedure is in place for the banking and parimutuel industries. Currently, it takes up to 18 months to complete background checks in some States. This bill can reduce that time to the approximately 3 weeks it takes for banks to get results under their expedited process.

H.R. 2092 contains no mandates of any kind. No State or individual is compelled to use it. Fees will be paid by the applicants or their employers. There is no cost to the FBI.

H.R. 2092 has broad support. Most notably, the National Association of Security and Investigative Regulators has endorsed the bill as well as representatives of the guard, alarm, and armored car industries.

Mr. Speaker, this legislation is a bipartisan effort which has the support of Members on both sides of the aisle. Security should not be a partisan issue. By establishing an expedited procedure for State regulators of security guards to receive FBI background checks in a timely manner, H.R. 2092 will greatly improve the safety of the public.

I strongly urge my colleagues to support this straightforward, modest, and reasonable bill that will improve public safety where ever security guards are present.

HEALING VICTIMS OF TORTURE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. PORTER. Mr. Speaker, the brutal and violent practice of torture is a critical issue; yet, there is little information on the subject and even less action in the fight against it. For some governments, torture is used as a matter of policy where low-level functionaries carry out high-level orders of state violence. During the mid-1970's, core-Communist countries such as China, Cuba, the Soviet Union and Vietnam relied on torture as a most effective tool against democracy. As recently as 1995, there were 72 governments who systematically implemented the practice of torture.

For victims of torture, however, there is hope. Dr. Inge Genefke is a Danish doctor who has devoted her career to the treatment and rehabilitation of victims of torture. She began her career in this field in 1973 after Amnesty International issued a plea to physicians throughout the world to assist those who had been tortured. As director of both the Rehabilitation and Research Center for Torture Victims and the International Rehabilitation Council for Torture Victims in Copenhagen, Dr. Genefke keeps an impressive schedule speaking in countries where victims of torture are receiving medical attention.

Earlier this year, Dr. Genefke testified before the House International Relations subcommittee on international operations and human rights. Her testimony included basic information on the issue and stressed the need for increased American awareness of torture victims and their struggles. Dr. Genefke believes that through greater understanding and awareness, we can make gains in the fight against torture.

I commend to Member's attention the following column on this remarkable woman by the respected Colman McCarthy which appeared in the Washington Post on September 3, 1996.

[From the Washington Post, Sept. 3, 1996]

FIGHTING TORTURE WITH MEDICINE

(By Colman McCarthy)

As a young physician earning her medical degree from the University of Copenhagen in 1965, Inge Genefke looked ahead to a conventional practice in her home country, Denmark. She settled on neurology as her specialty at the University Hospital in Copenhagen. Her career path appeared to be set.

In 1973 it veered sharply, in a direction that took Genefke into what was then, and largely remains, one of the least known branches of medicine: the examination and treatment of torture victims.

Earlier this year, Genefke, who is the medical director of both the Rehabilitation and Research Center for Torture Victims and the International Rehabilitation Council for Torture Victims in Copenhagen, testified here before the House International Relations subcommittee on international operations and human rights. It was one of many stops this past year, an itinerary that has taken this physician of uncommon conscience to South Africa, Romania, Nepal, Palestine, Sri Lanka, Croatia and other areas of the world where survivors of torture are receiving medical care.

Genefke's work began in 1973 when Amnesty International issued a plea to the world's physicians for help in treating people who were tortured. The first response, and one that has proven to be deep and lasting, came from a group of Danish doctors. They faced an epidemic. Governments—and not only dictatorships—were using torture as a matter of policy. Police forces, armies and death squads were the low-level functionaries of dungeon brutality carrying out high-level orders of state violence.

The mid-1970s were years when China, Cuba, the Soviet Union and Vietnam were the core communist nations relying on torture. These were also years when such U.S.-backed military juntas as Greece, Chile and Argentina were at work.

Among the imprisoned was Maria Piniou-Kalli, a Greek physician who joined Genefke's mission in 1989 by forming the Medical Rehabilitation Center for Torture Victims in Athens. She wrote recently of the years following the military coup in 1967: "Though this might appear far in the distant past, I dare say that the aftermaths of such a violent abolition of democracy are still painfully felt even today. Twenty-two methods of torture were employed as a means to repress every opposition. Among them were rape, electric shocks, psychological abuse and phalanga (beating soles of the feet), which can be describe as our national way of torture."

Greeks, along with Chileans, were among the first victims coming to Copenhagen for help. Other nationalities followed, and inpouring so large that Genefke began traveling the world to rally other doctors. She became known as the "Florence Nightingale" of torture treatment. Today her own centers, which have grown to a staff of 80, are linked with 60 similar operations in 45 countries, including one in Minneapolis that has treated more than 800 people since 1988.

When I visited the Minneapolis center four years ago, several staff members repeatedly mentioned Genefke and her singular work. It was not a large leap to place the Danish doctor in the company of other 20th century women—Jane Addams, Maria Montessori, Eleanor Roosevelt, Mother Teresa—who not only had a vision but also the drive to organize it into reality.

At the House hearings, Genefke supplied the basic information about her work in Copenhagen and the affiliated centers around the world. Services range from psychological supportive therapy to medical help to restore injured muscles and limbs.

Of the 72 governments that systematically used torture in 1995, Genefke told Congress: "One of the most horrible things when you hear about torture is . . . to realize that so many governments use it with the purpose of staying in power. Torture victims always tell us that we, who have not been tortured, can never understand what happened to them. . . . I do not think we should try to understand what happens—but we should know why it happens, the motive behind torture, and then fight against it with all our strength."

Some of that strength is money. Here, too, Denmark leads the way. Its government provides more than $5 million a year to the Copenhagen centers, about $1 per Dane. The United States contribution to the U.N. Voluntary Fund for Victims of Torture is $1.5 million, about a half-cent per person a year.

Genefke believes that few Americans are aware of that paltriness, or who is being tortured or where. She plans to return to tell us again. Information is the medicine for indifference.

THE COMPUTER SOFTWARE DEPRECIATION CORRECTION

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BAKER of California. Mr. Speaker, today I am introducing a bill to change current tax law to allow computer software acquired in the purchase of a business to be subject to the same tax depreciation rules as most other computer software available to the general public. My bill also shortens the depreciable life of computer software to 2 years, to better reflect its true value to a small business or a corporation.

Current law considers software acquired in the purchase of a business to be an "intangible asset," under Internal Revenue Code section 197. As such, it is subject to a punitive 15-year depreciation rule. My bill first places all computer software, regardless of its origin, composition, or means of acquisition, on equal footing with typical off-the-shelf software technology currently available to most consumers.

My bill then lowers the current 36-month "useful life" standard for computer software deduction down to 2 years. This shorter period is a much more fair concept of "useful life." The 2-year deduction is weighted in the first year to allow a 70-percent deduction, followed by a second-year 30-percent deduction. This also reflects the value of the software to a business in a much more fair way.

Shortening the depreciable life of computer software—and especially subjecting the most technical and sophisticated programs to the same treatment as commercially available software—will have substantial economic impact. It will lower the cost of operation for thousands of small businesses which may currently purchase hundreds of programs a year. It will also restore a measure of equity for small businesses vis-a-vis larger corporations which can afford to write their own software and expense the costs that year as a research and development expenditure.

While on the vanguard of our technology sector, computer software has an increasingly short product life cycle, often about 1 to 2 years, depreciating much more rapidly than most products. My bill will help spur further innovation in this growing sector of our economy. And as many new companies involved in emerging technology markets must acquire new technologies in order to grow, my bill will enhance the competitiveness of U.S. firms with foreign firms that may enjoy much more favorable tax treatment of acquired assets like software.

An indepth economic analysis will have to be made on my bill's impact, a preliminary examination of the legislation indicates its cost will be minimal, compared to its benefit to the technology sector. I encourage my colleagues to join me in this effort by cosponsoring this important bill.

TRIBUTE TO LOUIS TRAVIS AMVETS POST 14 50TH ANNIVERSARY CELEBRATION

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. KLECZKA. Mr. Speaker, I rise today to pay tribute to the Louis Travis Amvets Post 14 as they celebrate the 50th anniversary of their post charter on Saturday, October 26, 1996.

After the end of World War II, thousands of veterans throughout our country had the need for an organization which would bring them together under a common bond. In Bay View, a World War II veteran by the name of Edward Cialdini understood this need and sought to find such an organization. Ed came into contact with an organizer for the American Veterans of World War II, also known as AMVETS, and on March 27, 1946 they met with 14 other Bay View veterans to create an AMVET post.

Once the new post was created, the founders decided it should be named in the memory of a local veteran, Louis Travis of Bay View. He was the sixth child of Mr. and Mrs. Paul Travis, born in January 20, 1925. In 1943 Louis joined the Navy and participated in many Pacific campaigns aboard the U.S.S. *Minneapolis* and U.S.S. *Pensacola* where he saw combat in the Iwo Jima operation. During this bombardment, his ship was struck by enemy shells and he was killed on February 17, 1945. He was posthumously awarded the Purple Heart, American Campaign Medal, Asiatic-Pacific Campaign Medal with one silver and three bronze stars, and the World War II Victory Medal. The organizers were proud to name their new post after this true American hero.

For several years, the Travis Post held its meetings at the local club where it was formed. However, as the organization grew, so did the need for their own clubhouse. After the war ended, the Travis Post purchased a messhall from the German prisoner-of-war stockade built at Mitchell Field. After many years of hard labor by its members and several local community volunteers, and financial troubles, the post was finally completed and operational by 1952. That building served Bay View area veterans for 43 years. In 1995, the building was sold, and Travis Post meetings are now being held at the same club where it was formed.

Over the past 50 years, the Travis Post has met the needs of all Bay View veterans. The Louis Travis AMVET Post has a history filled with sacrifice, hard labor, and ultimately success. I applaud all of the veterans who helped to organize, build, and sustain the Travis Post over these past 50 years.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT FOR FISCAL YEAR 1997

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. DOOLEY of California. Mr. Speaker, recently the House passed the conference report to accompany H.R. 3816, the Energy and Water Development Appropriations Act for Fiscal Year 1997. This legislation includes a long-sought solution to resolve the issues concerning costs of the Kesterson Reservoir Cleanup Program. This language directs the Secretary of Interior to collect repayment of the cost of the Kesterson drain as described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995".

While all parties involved in the Kesterson cleanup issue are pleased with the solution of the repayment situation, there are several landowners who are involved in a lawsuit—Sumner Peck Ranch—that stems from the closing of the drain. The closing of the drain has led to the degradation of land in the area. In some cases this land has become incapable of being farmed. The basis of the lawsuit is that the landowners believe that the Federal Government should provide them with monetary compensation for the loss of the productive use of their land because the Federal Government is not operating a drain as promised in past contracts with the Bureau of Reclamation.

The case has not been resolved, and mandatory settlement discussions before the Ninth Circuit's chief mediator are ongoing. I want to make clear that the language contained in the fiscal year 1997 energy and water development appropriations bill in no way was intended to affect the outcome of the Sumner Peck Ranch litigation. The only purpose of the language was to resolve the long-standing dispute regarding the allocation of the repayment responsibilities.

OPPOSITION TO THE FISCAL YEAR 1997 VA/HUD CONFERENCE REPORT

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BACHUS. Mr. Speaker, yesterday, I joined 24 of my colleagues in opposing the fiscal year 1997 VA/HUD conference report. I want to be very clear that I strongly support our veterans. I voted for this legislation when the House passed its version earlier this year. But I could not, in good conscience vote for the conference report.

I voted against this bill for one reason and one reason only—this bill hurt some of the accounts most critical to our Nation's veterans. The House Veterans' Affairs Committee worked long and hard to produce a budget that maintained or increased almost every major VA account. Unfortunately, the final conference product cuts the House request of two of the most critical veterans programs while increasing funds for nonveterans programs.

The VA medical care account was cut by $55 million over the House-passed version. As the VA struggles to offer consistent quality medical care to veterans, I am angry that these dollars are being spent by Americorps—a paid volunteer program which received $400 million more than the House originally intended. Our veterans heeded the call of our country and risked their lives and their health in true service to the United States. They should not be asked to take a back seat to a program that has been criticized for mismanagement and waste.

The VA medical research account was cut $15 million from the House passed legislation. Mr. Speaker, in addition VA's premier research efforts in areas such as spinal cord injury and blind rehabilitation, this cut hurts some of our newest and sickest veterans—those who have returned from Operation Desert Storm with bizarre service-connected illnesses ranging from chronic fatigue syndrome to cancer. On the heels of a long-overdue Pentagon admission that some of our troops were exposed to chemical weapons, we are trimming the very dollars that may have been used to improve treatment methods or quality of life for these soldiers.

I am an original cosponsor of a bill introduced by my colleague, the Honorable GLEN BROWDER creating an independent commission to study the use of chemical weapons in the gulf war. We must take the lessons of our sick veterans to ensure that future generations of soldiers are given the best opportunity to perform in an age of chemical warfare and still come home with their health.

The priorities of this conference report are skewed. While I understand that overall VA funding is increased over fiscal year 1996 dollars, I am disappointed that VA's medical mission has been slighted in the process. The wishes of the House Veterans' Affairs Committee should have been given more, not less, consideration.

CONGRATULATIONS TO THE SCHOOL OF NURSING, UNIVERSITY OF MARYLAND AT BALTIMORE, AND DR. BARBARA R. HELLER

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. CARDIN. Mr. Speaker, I rise today to congratulate the School of Nursing, University of Maryland at Baltimore and Dr. Barbara R. Heller, Dean of the School, as it breaks ground on a new building and marks an important milestone in the history of the institution, nursing education and the nursing profession.

The School of Nursing, ranked in the top 10 nationally and one of the largest institutions of nursing education in the country, is in the forefront of nursing education, research and clinical service. Students are provided with the knowledge and skills they need to practice in a dynamically changing, global health care marketplace.

The school targets critical local, State and national problems through research in such areas as the health of mothers and infants, drug abuse, oncology, geriatrics, school/child health, trauma/critical care, community health and AIDS prevention.

Through growing clinical practice initiatives, the school offers vital primary and preventive services throughout Maryland. While enriching the academic experience for many students, these affordable, accessible nurse-managed, community-based health centers served as models of health care delivery to underserved and uninsured populations.

I urge my colleagues to join me in saluting the efforts of the School of Nursing to refocus, redefine and reengineer nursing education. I also congratulate the faculty, students and staff as they break ground on a new facility, building the future of our Nation's health care delivery system through education.

LEGISLATION TO EXPAND CONDITIONS FOR VETERANS PRESUMED TO BE SERVICE CONNECTED DUE TO EXPOSURE TO IONIZING RADIATION

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. EVANS. Mr. Speaker, today I am introducing legislation to address an injustice that should be corrected at our earliest possible opportunity—the poor treatment of our Nation's atomic veterans.

There can be no question that atomic veterans were not adequately informed of the dangers of ionizing radiation and were injured as a result. Many of these men and women have paid for their dedication and bravery with their health and some with their lives. We owe it to them to see that they are not forgotten and that they receive the compensation for all of the illnesses that were incurred because of their service to our Nation. My legislation is but another step in ensuring that we fulfill our duty to them.

Recent developments have made a clear case for providing relief to these vets. The final report of the President's Advisory Committee on Human Radiation Experimentation more or less concluded that our Government has failed these brave men and women. The recommendations of the committee mirrored many of the concerns that the atomic veterans groups have had for years: that the list of presumptive diseases contained in law is inadequate, that the standard of proof to meet administrative claims is often impossible to meet, and that these statutes are limited and inequitable in their coverage.

I believe that Congress must provide the necessary leadership to ensure that these veterans' needs are met. My legislation is based on the precedent set by the Marshall Islands Nuclear Claims Tribunal Act, which provides relief for a number of presumptive diseases. Currently, Marshall Islanders receive compensation if they exhibit one or more of the 27 illnesses presumed radiogenic in nature. My legislation would ensure that all of the radiogenic illnesses that Marshall Islanders are compensated for are also on the presumptive list for our Nation's vets. Specifically, it would add bone cancer, cancer of the colon, nonmalignant thyroid nodular disease, parathyroid cancer, ovarian cancer, brain and central nervous system tumors, unexplained bone marrow failure and meningioma to the presumptive list.

This legislation will ensure that atomic veterans are treated properly, not as second-class citizens. It will also ensure that our Nation's policy on addressing the damage done by our Nation's nuclear weapons program is consistent. The least we can do is to make sure that veterans receive compensation for illnesses already determined by our Government to be linked to exposure to ionizing radiation. I urge my colleagues to sponsor this long-overdue legislation.

HONORING STEPHEN JEROME

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mrs. LOWEY. Mr. Speaker, I wish to honor Stephen Jerome for his 30 years of ongoing commitment and service to the students and residents of the 18th Congressional District of New York, which I am proud to represent.

The name Stephen Jerome is synonymous with both educational leadership and dedication to community. As president of Monroe College, with campuses in both the Bronx and New Rochelle, Stephen Jerome has carried on his family's commitment to educating the young men and women of New York City and Westchester. His aunt, Mildred King, founded the school in 1933, and his father joined her 3 years later. Stephen came aboard as an instructor in 1966, and held various positions over the next 12 years before beginning his tenure as president in 1978.

It is fitting that as we honor Stephen Jerome on his 30th anniversary, Monroe College will honor his aunt by dedicating the recently acquired King Hall, which now houses the office of student services, as well as the learning center, gymnasium, and cafeteria.

Mr. Speaker, Stephen Jerome is not content to help only those students who pass through his institution's doors. He is a former member of the college presidents' council for the Governor's Office on New York State Financial Aid, former president of the Association of Proprietary Colleges in New York State, and a former commissioner of the Accrediting Commission of the Association of Independent Colleges and Schools.

Stephen Jerome's endeavors also extend beyond the educational sphere. He has worked to improve the ties between business and the community by serving as director of the Bronx Chamber of Commerce and then as president of the Fordham Road Area Development Corp. In addition, he routinely organizes neighborhood cleanup and improvement projects, and arranges an annual Christmas party for the children of his students.

Aside from his commitment to Monroe College and to his community, Steven is a dedicated husband and father. His wife, Leslie, is the director of career services at Monroe's New Rochelle campus. One son, Marc, is the director of the New Rochelle branch campus, and his other son, Evan, heads a television production company. Stephen's daughter, Lauren, works in public relations.

Mr. Speaker, on behalf of the friends, colleagues, and family of Stephen Jerome, I hereby express my heartfelt appreciation for his 30 years of service to Monroe College and the Bronx, and hope that he will continue to serve the institution and his community for many years to come.

A TRIBUTE TO PRISCILLA "PRILL" KUHN

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. PASTOR. Mr. Speaker, I rise today to pay tribute to a woman whose sense of compassion, community dedication, and entrepreneurial skill makes her one of Arizona's most well-respected citizens, Ms. Priscilla "Prill" Kuhn. Ms. Kuhn has dedicated her life to improving the lives of the underprivileged and disadvantaged, and thousands of Arizonans are living happier, healthier lives because of her hard work. Her altruism, quiet brilliance, dauntless energy and many friends have enabled her to fulfill her unique vision of building responsive communities for the members of our society most in need of advocates and protectors: our children, our elderly, and our disabled.

Throughout her career, Prill has continued to develop her communication skills, her understanding of resource development, and her network of friends. Subsequently in 1985, she was able to pursue her dream of establishing her own business, Netwest Development Corp., in Tucson, AZ. As president and chief executive officer of Netwest, Prill incorporated her belief in positive community activism into every aspect of the business.

Although Netwest has become a multi-million dollar organization with 230 employees and provides over 1,000 multifamily, retirement and assisted-living units, Prill's vision of a caring, responsive community pervades.

Prill provides an immeasurable resource to the many boards and committees on which she sits. Her fundraising abilities are legendary. For her work, she has received many awards and recognitions including the Northwood University Distinguished Women's Award, Roots and Wings Human Betterment Award, Amity Foundation President's Award, International Who's Who of Professional & Business Women. The list goes on.

In addition to her career and public service accomplishments, Prill's dedication to her family is also commendable. With her loving husband, Dr. Martin C. Kuhn, Prill raised three wonderful children: Katherine Edith Ruth Kuhn, Fletcher Truman Kuhn, and Clifford Seymour Kuhn. She is also the guardian of her two young nieces, Patience Gabrielle Purdy and Josephine Elizabeth Seymour Lane, and she is grandmother to Jamal Truman Salah and Anna Priscilla Salah.

I close this tribute to Priscilla "Prill" Kuhn by thanking her for the difference she has made in the lives of many Arizonans. Prill's entrepreneurial spirit, sense of community responsibility, and love of family make her an outstanding citizen of this F-dash country.

ECONOMIC STABILITY FOR PUERTO RICO

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. KENNEDY of Rhode Island. Mr. Speaker, as a member of the House Resources Committee I would like to take this opportunity to voice my support for the continued economic progress of Puerto Rico. While I believe that it was necessary to do away with wasteful corporate welfare programs like section 936, it is crucial that we continue the progress toward economic stability on the island. With almost 4 million American citizens living in Puerto Rico, Congress must remain committed to helping Puerto Rico create a sound economic climate in which all citizens can prosper. It is important to remember that unemployment and other economic factors in Puerto Rico still remain far below the national average.

I believe we began building the foundation of an economic incentives program for the island in the new section 30A, which provides a targeted wage credit to companies currently doing business in Puerto Rico. Section 30A is certainly a move in the right direction but there is still a great deal of work that needs to be done in order to ensure the economic solvency of the island in the next century.

In the next Congress I am looking forward to working with Puerto Rican Governor Pedro Rossello, and my colleagues in the House to expand section 30A into a dynamic and effective job creation incentive that promotes new high paying jobs to Puerto Rico.

TRIBUTE TO WALT MOSHER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to my dear friend Walt Mosher, the recipient of the 1996 Nelle Reagan Award for Distinguished Community Service by the Olive-View UCLA Medical Foundation. Knowing Walt as I do, I cannot think of a more qualified candidate to receive an award predicated on philanthropy and volunteerism. Despite a hectic schedule, Walt always seems to have time for important causes.

The numbers are truly staggering: Walt has donated more than 25,000 hours of personal service and hundreds of thousands of dollars to scores of charities, civic organizations, committees, and task forces in the San Fernando Valley and elsewhere. Those he has helped in one way or another include the San Fernando YMCA Child Care Program, the American Heart Association, the San Fernando Police Advisory Council, the American Cancer Society, and the American Heart Association. Walt has also assumed a leadership role with the Valley Industry and Commerce Association, a key business advocacy organization in the San Fernando Valley.

Somehow Walt manages to stay intimately involved with his community while running a $28 million a year business that employs several hundred people. In 1956 he cofounded Precision Dynamics Corp., which was established to manufacture and distribute products in the health care field. One year later, he became president, a position he has held ever since.

Walt is also an educated man; he has a Ph.D., in engineering from UCLA. I have enjoyed many stimulating conversations with him over the years about business and political matters.

I ask my colleagues to join me today in saluting Walt Mosher, whose selflessness and dedication is a shining example to us all. I am proud to be close friends with him and his wife, Beckaa.

JACK HOAR: AN AMERICAN TEACHER IN BOSNIA AND HERZEGOVINA HELPS REBUILD CIVIL SOCIETY

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. HORN. Mr. Speaker, I am proud to recognize Mr. Jack Hoar, who participated in CIVITAS@Bosnia-Herzegovina, an intensive program from July 17–27, 1996, to train local teachers in education for democracy. Jack Hoar was part of a team of 18 American educators and 15 teachers from the Council of Europe who were assigned to key cities throughout the Federation of Bosnia and Herzegovina. For 34 years, Jack was a valued teacher and administrator in the Long Beach Unified School District. He was the history, social science consultant for most of his tenure.

The summer training program was developed by the Center for Civic Education as part of a major civic education initiative in Bosnia and Herzegovina supported by the United States Information Agency and the United States Department of Education. The U.S. Information Service in Sarajevo provided valuable assistance to the program. The goals of the program are to help prepare students and their communities for competent and responsible participation in elections and other opportunities to take part in the political life of their communities. Achieving this goal will contribute to the reconstitution of a sense of community, cooperation, tolerance and support for democracy and human rights in this war torn area.

I am also pleased to announce that the curricular materials being used for the program in Bosnia and Herzegovina have been adapted from the We the People . . . the Citizen and the Constitution, and the Project Citizen programs, and other programs supported by Congress which are used in schools throughout the United States. Initial reports evaluating the summer program indicate the materials and teaching methods were enthusiastically received and can be adapted for use in classrooms throughout Bosnia and Herzegovina.

Jack Hoar resides in Long Beach, CA, and currently serves as the director of international programs for the Center for Civic Education. In the past year, Mr. Hoar has traveled on 4 different occasions to Bosnia and Herzegovina to promote education for democracy instruction in the schools.

Mr. Speaker, I wish to commend Jack Hoar for his dedication and commitment during the CIVITAS@Bosnia-Herzegovina summer training program. His work is helping to achieve the overall objective of building support for democracy in Bosnia and Herzegovina.

PEOPLE ARE NOT FOR HITTING

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. JACOBS. Mr. Speaker, the Menninger Clinic published a book awhile back entitled "People are Not for Hitting".

I have rarely seen a little boy hit another child without mumbling, you are a bad boy. As people grow older, they become more subtle about explaining their violence. But as the parent's creed says, "The child who lives with violence, learns to do violence."

The old saying is, spare the rod, spoil the child. Since there are innumerable ways to discipline and even punish children, the saying should be, spare the discipline, spoil the child. In fact, spoiling is one of the worst things you can do to a child. I call it the gentle brutality.

Here is what George Bernard Shaw said: "If you strike a child, take care that you do so in anger. * * * A blow struck in cold blood neither can nor ever should be forgiven."

The following statement by Meadow D'Arcy was published in Parade on September 15, 1996. It is excellent.

> I feel that hitting children is a disgrace—something we will hang our heads in shame

about in the future, as we do now with racism and sexism. We will be forced to tell our children how we were ignorant and simply did not know any better.

I know some one who hits her kids, and you can see the hurt and anger in their faces. Their mother believes that her older boy is a just plain bad kid and that hitting him is the only way to get him to stop doing things. He does do bad things. You can tell him something 20 times and he still won't listen. But I believe she created him. I believe that the badness is a result of the whippings, not the other way around.

We tell our children not to hit—by hitting them. But when we strike a child, we create a child full of fear, hatred and anger. Every time a child is hit, she gets a lesson in how to deal with her emotions. When faced with frustrations, she will hit too.

Image if you broke something at work and your boss slapped you. How would you feel? Humiliated, of course. We see our spankings as different. Why? We all agree that it is wrong for a man to hit a woman. But when it comes to children, we just shrug and say that it is part of growing up.

Children are becoming more and more violent with each other and with you and me. We blame this on so many sources but refuse to face the facts.

TRIBUTE TO LACASA

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. VISCLOSKY. Mr. Speaker, I would like to commend the Latin American Community Alliance for Support and Assistance of Northwest Indiana, Inc. [LACASA], its board of directors, and its administrator, Ms. June Long, on LACASA's first annual fundraiser dinner. LACASA, whose office is located in Gary, IN, will hold this monumental event on Saturday, September 28, 1996, at the Patio Restaurant in Merrillville, IN.

The LACASA Board of Directors Officers include: Mrs. Aida Padilla, president and director of the Senior Companion Program; Mrs. Julie Tanis, vice president and public school teacher; Mr. Joaquin Rodriguez, secretary and community advocate; and Mr. Ray Acevedo, treasurer and photographer. Members of the board of directors include: Mrs. Bertha Cardenas, Mrs. Hortencia Hernandez, Mrs. Maria Magana, Mrs. Socorro Roman, Mr. Roeman Whitesell, Ms. Jeannette Hinton Padgett, Ms. Maria Vasquez, Mr. Martin Valtierra, Mr. Ben Luna, Mrs. Maria Lopez, Mrs. Mary Jean Maloney, and Ms. Finis Springer.

LACASA, which was organized in 1994, is dedicated to serving the Hispanic residents of northwest Indiana who experience difficulty in obtaining needed social and educational services. It serves northwest Indiana's Hispanic residents, who comprise 52 percent of the total population in this area, with quality services to meet their special needs.

Special programs that LACASA offers are: adult education, offered at various levels from basic adult education to preparation for the high school equivalency test; Head Start, which provides parenting skills training and an opportunity for parents to become empowered in the education of their children; and Access Assistance, which includes a food pantry, learning job search skills, and youth personal leadership and high school preparation instruction.

While LACASA already provides several beneficial services, it has plans to continue to improve the quality of life for northwest Indiana's Hispanic population. For those in need, LACASA hopes to provide transportation services to its programs, as well as agencies where its clients are referred. It would also like to offer tutoring services for Hispanic youth and establish health stations in an effort to assist Hispanic families in understanding their basic health needs and inform them about how to access the existing health care system. Finally, LACASA hopes to expand its services to the elderly, by familiarizing them with in-home care options to prevent unnecessary institutionalization.

LACASA is funded and receives support from the city of Gary-Community Development Block Grant, Lake Area United Way, Health and Human Services-ACYF, Gary Community School Corp., National Hispanic Institute, U.S. Hispanic Leadership Institute, Indiana Literacy Foundation, and Kankakee Workforce Development Services.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending LACASA. This fine organization should be congratulated on its continuing efforts to preserve the Hispanic culture, while at the same time improving the quality of life for the Hispanic residents of Indiana's First Congressional District. May their first annual fundraiser be a successful and joyous event.

MEDICARE AND OUTPATIENT PHARMACEUTICAL BENEFITS: PROVIDING INCENTIVES FOR COST-EFFECTIVE MEDICALLY APPROPRIATE CARE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. STARK. Mr. Speaker, Medicare's limited outpatient pharmaceutical coverage is inhibiting the implementation of cost-effective outpatient treatments that could benefit patients. Over the past decades, a shift of healthcare from the inpatient to the outpatient setting has occurred. The implementation of Medicare's Prospective Payment System in 1983 provided a strong incentive for hospitals to decrease patients' lengths of stay. Outpatient treatment, when appropriate, is generally much more cost effective than inpatient treatment. Although further shifts in inpatient to outpatient treatment for some conditions may be medically appropriate, the lack of Medicare coverage for the necessary outpatient treatment seems to be inhibitory. Medicare policy needs to facilitate medically appropriate, cost-effective treatments in order to keep pace with the 1990's and set the course for the next century. For this reason, I am introducing a bill which directs a review of Medicare payments in order to identify conditions for which provision of an outpatient pharmaceutical benefit would facilitate outpatient rather than inpatient treatment and be cost effective.

An example of Medicare's limited pharmaceutical coverage having an inhibitory effect on cost-effective care is the lack of general coverage for home intravenous antibiotic therapy. Numerous studies have shown that patients with certain diseases requiring prolonged antibiotic therapy can start their treatment in the hospital and then safely and effectively continue it at home. A hospital in Danbury, CT, recently published a cost-benefit analysis of a home intravenous antibiotic therapy program established for Medicare patients but paid for by the hospital itself; the savings to the hospital was found to be $6,111 per patient on average. If the hospital had not taken the initiative to start the home therapy program, these patients would have had to remain in the hospital, resulting in substantially increased costs.

Although Medicare generally reimburses hospitals on the basis of fixed diagnosis-related group [DRG] payments, it also reimburses an extra amount for patients who stay in the hospital much longer than average and qualify as outliers. Thus for certain patients, some costs due to prolonged hospitalization are shifted to Medicare. Alternatively, the hospital could cut its costs by transferring the patient to another inpatient facility such as a skilled nursing facility to finish treatment. In this case, Medicare still pays extra because it reimburses both the hospitals's DRG payment and the receiving facility's expenses for the patient's post-hospitalization extended care.

Many hospitals need an incentive to take the kind of initiative shown by the Danbury Hospital. The effort and startup costs involved in organizing certain outpatient programs may provide a disincentive. Also, the transfer of patients to extended care facilities may already provide a cost-saving option for the hospital, leaving Medicare to bear the loss. Although not all patients with a particular condition are medically appropriate candidates for outpatient therapy in place of continued inpatient therapy, many patients are probably lingering in inpatient facilities who could more cost-effectively be treated as outpatients. Medicare policy needs to be modified to address this problem by providing incentives for inpatient facilities to initiate cost-effective alternatives.

One such incentive is the coverage of pharmaceuticals that facilitate the treatment of patients in the outpatient rather than inpatient setting. Currently for most home intravenous antibiotic therapy the hospital or beneficiary must shoulder the cost. This policy contains a built-in disincentive because the beneficiary may not have the means to pay for it, and the hospital may find it more cost-saving to use one of the strategies I outlined earlier resulting in a significant loss to Medicare. Adding a pharmaceutical benefit with appropriate payment safeguards could facilitate outpatient treatment and result in a gain to Medicare, the hospital, and the patient.

Are there other diseases besides infections for which an outpatient pharmaceutical benefit would provide an incentive for cost-effective outpatient therapy? I suspect there are. Some strategies may be implementable now; in addition, as new drugs and technologies are developed, more outpatient therapies might be possible in the future. I welcome a thoughtful evaluation of this issue by health experts. We need to develop a policy that is flexible enough to accommodate future cost-saving strategies as they are developed.

The bill I am introducing today provides the groundwork for determining how Medicare policy may be modified to facilitate shifts in health care from the inpatient to the outpatient setting, when medically appropriate. Inherent in the bill is a strategy to ensure that Medicare, not just the hospital, captures the savings. The bill directs the Secretary of Health and Human Services to review and report to Congress within 6 months, all disease categories for which inpatient payments might be able to be reduced if an outpatient pharmaceutical benefit is provided. Coverage for pharmaceuticals will include appropriate payment safeguards. The bill acknowledges that reimbursement not only for the drug, but also for supplies, appliances, equipment, laboratory tests, and professional services needed for appropriate outpatient treatment will need to be factored into the cost-effectiveness analysis.

Specifically, the bill directs the Secretary to report which DRG payments can be reduced by refining the DRG or adjusting the DRG weighting factor, if an outpatient pharmaceutical benefit is provided. Implementation of this strategy could take a variety of forms. For example, reductions in DRG payments could be accomplished by using a formula to discount the payment for an individual patient, and providing only the individual patient with the outpatient benefit. In this strategy, the hospital could request a discounted DRG payment for a particular patient via a billing code. Potentially, the hospital could also specify the number of days of outpatient treatment it wishes to substitute for inpatient treatment. This substitution would ensure that Medicare's costs in providing the outpatient benefit do not exceed its savings in reducing the DRG payment. A financial incentive for the hospital can be built into the formula used for discounting the DRG payment.

Another strategy is to split certain DRG categories into one payment for patients who continue treatment in the hospital and a reduced payment for patients who continue treatment as an outpatient.

Alternatively, the DRG payments for all patients in a specific disease category could be reduced, even though some patients will remain hospitalized throughout their treatment while others will have a shortened hospital stay and continue treatment as outpatients.

Post-hospitalization outpatient therapies and home services are sometimes provided by the hospitals themselves, but may also be provided by independent agencies. When the inpatient and outpatient providers are the same, it will be easy to ensure that Medicare payments are contained. Outpatient reimbursement could be conditional on inpatient payment reductions, and a financial incentive for hospitals to chose the more cost-effective treatment could be built into the reimbursement. However, when the inpatient and outpatient providers are unrelated, it will be more difficult to ensure that Medicare payments will be less than they would have been if the patient had remained in the hospital. This is not, however, an insurmountable problem. One possible strategy that has been suggested is the use of lump sum payments per patient for the outpatient treatment of certain conditions. Certain DRG payments could be split into an inpatient component and a lump sum outpatient component; as long as the sum is less than the original inpatient payments, Medicare saves money. Medicare's inpatient payments for a disease category include the DRG payment, and any applicable outlier or extended care facility payments. Decisions about the percentage that should go to each provider, and incentives that lead to cost-effective care are difficult but potentially resolvable.

The bill also directs the Secretary to determine which outlier payments can be reduced in number, and the disease categories for which these outlier payments are made, if an outpatient pharmaceutical benefit is provided. Similarly, the Secretary is directed to determine whether patient transfers to post-hospitalization extended care facilities can be avoided, thereby reducing payments, if an outpatient pharmaceutical benefit is provided. Strategies similar to the ones I described for reducing DRG payments could potentially be applied to these payment areas.

By reviewing these types of payments, disease categories which have potential for Medicare cost-savings will be identified. As I described previously when I introduced a bill addressing outpatient parenteral antimicrobial therapy, certain infections are likely candidates. However, there may be a number of other areas of medicine, where cost-saving outpatient treatment could appropriately be substituted for inpatient treatment, now or in the future.

The bill directs the Secretary to determine the savings that can be obtained by reducing inpatient payments while providing coverage for beneficiaries' outpatient drugs and services. In addition to potential savings from reduced DRG, outlier, or extended care payments, savings may accrue from the decreased risk of hospital-acquired infections. This is because the longer patients remain in an inpatient setting, the more at risk they are for a nosocomial infection which generally lengthen hospital stay, increase costs, and result in increased morbidity and mortality. Modernizing Medicare to provide incentives for cost-effective medically appropriate care holds promise for benefiting patients, providers, and Medicare.

TAIWAN'S 85TH NATIONAL DAY

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. UNDERWOOD. Mr. Speaker, this coming October 10, Taiwan, the Republic of China, will commemorate its 85th National Day.

Eighty-five years ago, the Chinese people under the leadership of Dr. Sun Yat-sen successfully expelled centuries-old tyrannical rule. Dr. Sun's adoption of a political system dedicated to the ideals of democracy and based on the consent of the governed was a great victory for democracy in the continent of Asia which, until then, was widely known for tyranny and despotism. The Chinese people's efforts, under Dr. Sun's leadership has come to symbolize a people's aspiration, desire and capacity to stand their ground, take control, and choose their own destiny. This nation's rejection of tyranny and oppression announced to the rest of the world that the desire for freedom is not a concept unique to Western peoples. The people of Asia, as elsewhere, desire and deserve dignity and freedom.

Although Dr. Sun did not live to see the full fruition of his labors, capable leaders like Generalissimo Chang Kai-shek built upon his legacy and provided the essential leadership and guidance which enabled the newly created democracy to survive it's toughest tests.

Taiwan has since become one of the wealthiest nations in the world. The last few years has seen the republic's economy grow at a spectacular rate. In addition to being one of our closest associates in Asia, Taiwan has steadily matured as an economic stronghold. Taiwan is currently the sixth largest trading partner to the United States.

As the delegate from Guam, I recognize the fact that the island and people that I represent share deep cultural and historical ties with Taiwan. As a matter of fact, my constituency includes Taiwanese immigrants. As in numerous other locales, these immigrants have integrated themselves with our island community over the years and have emerged as a vital force in the development and growth of Guam. In addition, Taiwanese tourists contribute to the island's economy. Made possible by the visa-waiver program recently implemented for Taiwanese citizens Guam has greatly benefited from the business these people bring.

On behalf of the people of Guam I would like to congratulate President Lee Teng-hui, Foreign Minister John H. Chang, Representative Jason Hu, Director-General Clark Chen and the Taiwanese all over the world in the commemoration of Taiwan's 85th National Day. I join them in their celebrations and wish them continued prosperity.

TRIBUTE TO GREG RICE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. NEY. Mr. Speaker, I commend the following to my colleagues:

Whereas Greg Rice has won the International Auctioneers Championship;

Whereas Greg Rice has brought the international title to Ohio for the first time in history;

Whereas Greg Rice has demonstrated a steadfast commitment to auctioneering; and

Whereas Greg Rice should be recognized for his outstanding victory and persistence; Therefore, be it

Resolved, That the residents of Coshocton, with a real sense of pleasure and pride, join me in commending Greg Rice for his hard work and dedication to his occupation.

IN HONOR OF MEDIGUARD PROGRAM TENNESSEANS FOR TENNESSEE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. CLEMENT. Mr. Speaker, I rise today to pay tribute to the fine men and women who participate in Mediguard/Guardcare, a unique health care delivery program provided by the Tennessee National Guard to provide critically needed health care to underserved populations in 39 counties across the State of Tennessee.

The idea for Tennessee's Mediguard Program began when former Tennessee Governor Ned McWherter saw the efficient system for health care delivery administered by National Guard troops in South America. Along with Representative JOHN TANNER, former Representative and now-Governor Don Sundquist and many State legislators and other members of the Tennessee National Guard, I was pleased to help develop the framework for a program called Mediguard, later named Guardcare. Approximately 3 years ago, a pilot program was established under the auspices of the NGB in 10 States with the objectives of relieving overburdened State public health facilities and boosting low physician-to-patient rations in 39 Tennessee counties seriously deficient in receiving basic health care services. Many factors were used to identify the target counties, and the study was recently repeated to assure that current needs are still being appropriately addressed.

Supplies for Guardcare exercises are allocated from Guard pilot funds and equipment needs have been met through loans from Guard units and leasing. As of last year, the program operates on Federal funding—so we tell our communities they can see their tax dollars at work right at home. The best part of the program, in my opinion, is that we are able to provide these much-needed health care services to people who are desperately in need of them at absolutely no cost to the participating individual. The TN Guardcare Program is administered as a component of a special projects unit aligned under the State Adjutant General Command. The functions and purposes of Guardcare in Tennessee are carried out through two teams: the Guardcare administrative team and a mobile health team. The mobile health teams used in Guardcare exercises changes from exercise to exercise. These teams are comprised of Army-Air physicians, nurse practitioners, physician assistants, nurses, dentists, lab specialists, and medical support personnel on split drill from their base units. Mobile health teams have been augmented by a wealth of local community health care personnel and other community volunteers. Without these volunteers from the host communities. Guardcare's success would have been seriously jeopardized.

Prior to the start of each program year, a training calendar is planned which focuses on 7 to 8 target communities from the 39 medically underserved communities. Counties must request Guardcare, and there is currently a 2-year waiting list.

It is my pleasure to salute the Tennessee Guardcare Program and the men and women who have made it an outstanding success over the past 3 years. Through their efforts, and through the support of many communities across the State, Guardcare has been able to demonstrate volunteerism at its finest; truly, Tennesseans for Tennessee.

PROSTATE CANCER AWARENESS MONTH

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. FRELINGHUYSEN. Mr. Speaker, in recognition of Prostate Cancer Awareness Month, I commend to your attention a patient education conference that was held earlier this year in the 11th Congressional District—Prostate Cancer: Today and Tomorrow. Cohosted by the American Foundation for Urologic Disease, Morristown Memorial Hospital and the Prostate Cancer Support Group of Morristown Memorial Hospital, it was an effective grassroots effort to warn and educate local residents on the importance of early detection of and continued research into prostate cancer.

According the American Cancer Society, prostate cancer is the greatest cancer risk for American men, and over 317,000 males will be diagnosed with this type of cancer in 1996. It is vital that prostate cancer be recognized as a serious threat to American men and their families.

Increaed awareness of health issues, improved detection and testing techniques, and national awareness programs for this disease have all played significant roles in increasing public knowledge of prostate cancer.

There are a number of individuals and organizations I want to recognize for holding such an impotant conference:

First, Honorable Dean A. Gallo, the former Congressman of New Jersey's 11th Congressional District, died of prostate cancer on November 6, 1994. His widow, Mrs. Betty Gallo, is now a trustee of the Dean Gallo Foundation and she instituted the Dean Gallo Prostate Cancer Research Scholarship Fund. This scholarship fund will help fund career investigators who are committed to prostate cancer research in the State of New Jersey.

Second, I commend the American Foundation for Urologic Disease, a charitable organization, whose mission is to prevent and find a cure for urologic diseases through the expansion of research, education and public awareness. For over 20 years, the Research Scholar Program of the AFUD has funded over 300 urologic researchers as they established their scientific careers. Over 98% of the investigators have continued in these career paths.

Third, Morristown Memorial Hospital, a not-for-profit hospital serving northern New Jersey, for its leadership in the field. Founded in 1892, it has expanded in size and services to become a 599-bed medical center and the third largest in the state. It is a major teaching hospital, affiliated with Columbia University's College of Physicians and Surgeons. Its regional Cancer Center is affiliated with the Cancer Institute of New Jersey in New Brunswick and offers expertise in surgical, urologic, medical, radiation and gynecologic oncology specialties. Center highlights include clinical trials, cytogenetics and patient support programs.

Fourth, the Morristown Memorial Prostate Cancer Support Group which is chaired by Mr. Peter Doherty, a prostate cancer survivor. Over seventy-five persons, including physicians and medical professionals, prostate cancer survivors, their partners and families and friends gather to exchange information and provide support, encouragement and hope.

Finally, I would also like to commend the participants of Prostate Cancer: Today and Tomorrow, outstanding physicians and an organization whose research is making significant inroads in the field of prostate cancer. They include:

E. David Crawford, M.D., Professor and Chairman, Division of Urology of Colorado Health Sciences Center, Denver, CO. He is also chairman of the Prostate Cancer Education Council [PCEC], national sponsor of Prostate Cancer Awareness Week.

Charles Myers, M.D., was chief of the Clinical Pharmacology Branch of the National Cancer Institute, where he directed clinical trials of drugs used in the treatment of advanced prostate cancer.

William H. Hait, M.D., Ph.D., Director of the Cancer Institute of New Jersey.

Arthur Israel, M.D., is Chief Section of Urology, Morristown Memorial Hospital. Dr. Israel is a member of the American Foundation for Urologic Disease and the American Urological Association. He is currently president of the New Jersey Urological Society.

Schering Oncology Biotech, a corporation headquartered in Kenilworth, New Jersey and TAP Pharmaceutical, Inc. of Deerfield, Illinois for providing educational grants for prostate cancer research.

All those who participated in Prostate Cancer: Today and Tomorrow made a powerful impact on patients, physicians, medical institutions, research and educational foundations, and industry to collaborate and provide accurate medical information to prostate cancer victims, survivors and their families, I salute their work.

MICHIGAN STUDENT'S PLEDGE OF ALLEGIANCE

HON. DICK CHRYSLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. CHRYSLER. Mr. Speaker, Anya Bonine is a young woman from Dexter, MI. The following statement was printed in the Ann Arbor News on April 4, 1995. The values and American beliefs described in the article should stand as a lesson for us all. The American flag and the Pledge of Allegiance should be at the heart of our patriotism, loyalty, and pride.

[From the Ann Arbor News, Apr. 4, 1995]

SAYING PLEDGE OF ALLEGIANCE IS AN IMPORTANT SIGN OF RESPECT

(By Anya Bonine)

"Good morning students," a teacher smiles and says. As they take attendance and hand in book order money, everything seems normal. Right? Wrong. They are missing one small, yet big thing. The Pledge of Allegiance. What has become of it? Yes, of course, there is a flag in most rooms, but where does the pledge come in?

"I pledge allegiance, to the flag, of the United States of America, and to the republic, for which it stands, one nation under God, indivisible, with liberty and justice for all."

These words seem familiar enough to us, but to our children to come, the words will probably seem foreign.

Have you ever thought about what the pledge really means? Sure, the flag is merely a piece of material, but the true importance of the flag lies in its symbolism, not the design. Our flag expresses protection, victory, challenge, submission, pride, honor, threat, loyalty and, most of all, hope. It was adopted on June 14, 1777. By saying it, you are expressing your oath to our country. It shows loyalty to the United States and is much like a promise.

In an easier-to-understand version it means: "I pledge my loyalty to the United States of America, because it is one bonded nation, under God's law, with freedom and rights for all mankind."

We should be proud to live in a free country where you are not watched day and night and where you can have your own religion. A country where something like this could be written.

After you let this sink in for a minute, you suddenly ask yourself, "Why don't we say the pledge anymore?"

Well, after observing, I've come to a conclusion. Nobody cares. The students don't. The teachers don't. The school boards don't. If the pledge is not said, no one cares. I have been in school for about three quarters of the year now, and the pledge has not been said once. Has it been forgotten? And aren't schools supposed to teach values? The pledge teaches values. Are teachers afraid of teaching values? It also talks about God. There is nothing wrong with God, so what is all the opposition about?

In our society, a lot of things have been taken for granted. We need to take the pledge off that list. What about all the men and women who have given their lives for our country, in wars through the years? The men and women who gave their lives for us to become a free country. By not saying the pledge, they have all been forgotten.

Please, if this essay hasn't made a dent in your life, throw it away. If it has touched you at all, give a little respect by saying the pledge. Give respect to your country, its ancestors, God, and yourself.

TRIBUTE TO THE NEIGHBORHOOD YOUTH ASSOCIATION

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. DIXON. Mr. Speaker, I am pleased to rise today to recognize the Neighborhood Youth Association [NYA] on the occasion of the organization's 90 years of service to the Los Angeles community. On Friday, October 25, 1996, NYA will celebrate its 90th anniversary at a gala dinner at the Skirball Cultural Center. I am therefore pleased to have this opportunity to salute NYA this afternoon.

Founded in 1906 by the Episcopal Diocese of Los Angeles, NYA has established a rich legacy of providing essential services to underprivileged youth and their families. Included among the many services offered are individual and group counseling, crisis intervention, educational and employment services, child and family therapy, and after-school care for over 3,000 high-risk youth and families. The association has sponsored many award winning projects, including a mural painting project designated Barrios Unidos, which culminated in an award from the National Endowment for the Arts.

Other awards received by the Neighborhood Youth Association include the Agency of the Year Award, presented by the California Chapter of the National Association of Social Workers; a $1,000 grant bestowed by the California Banker's Association; and a commendation from United Way, which cited the group for its creativity in reaching out to ". . . meet the needs of minority youth in low income families living in barrios and ghettos. . ."

NYA's current project, Personal Best, allows association members and volunteers to work with each participating child from early childhood through high school. Components of the Personal Best program include counseling and tutorial services. The purpose is to help participating children identify and establish the goals and motivation necessary to help them achieve and succeed, both academically and socially.

Mr. Speaker, at a time when society must do more to help the less fortunate members of our society, organizations such as NYA stand as a shining example of what the secular and religious community can accomplish when they join forces to help humankind. For 90 years, NYA has been providing exemplary service to the Los Angeles community. I ask that you join me in congratulating NYA on its anniversary celebration, and in extending to them our best wishes for many more years of service to the community.

SMALL BUSINESS REGULATORY RELIEF ACT OF 1996

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BARCIA. Madam Speaker, last week, Congressmen EWING, BUYER, POSHARD, and I introduced H.R. 4102, the Farm Transportation Regulatory Relief Act. That bill would allow States to provide protection for farmers and farm-related service industries from a potentially expensive and unnecessary regulation that would bring them under the same regulation as the hazardous materials transportation industry. To do this, would be a mistake.

Today, we extend our warmest thanks to Congressman JIM OBERSTAR, ranking democratic member of the Committee on Transportation and Infrastructure and Committee Chairman BUD SHUSTER for recognizing this effort and accepting our amendment to H.R. 3153. This change in the Small Business Regulatory Relief Act will extend States' authority to continue such exceptions until Congress can act to responsibly address this issue.

Madam Speaker, the purpose of the Department of Transportation rulemaking is to protect the public from harmful materials on our Nation's highways. Farmers, who are merely transporting substances from their supplier to the farm are not the ones who are involved in the type of accidents which have led the Department of Transportation to act. Agricultural transportation of chemical fertilizers, fuels and pesticides occurs during specific times of the year, on a much smaller basis, on rural roadways and in carriers which are easily identifiable to emergency response personnel. We need not complicate the lives of our family farmer by linking them with high-volume transporters of industrial chemicals.

This compromise, Madam Speaker, is responsible government in action. The amendment which we have accepted today allows Congress a period encompassing two planting seasons to carefully weigh the potential danger to the public against the burden to our farmers which could result from too broad a rulemaking. In order to force the most timely action on this matter, my colleagues and I will reintroduce H.R. 4102 on the first day of the next session. We will work with other members, the farm industry, public safety officials and the Department of Transportation to assure that the most necessary requirements for public safety will be implemented. We owe this to our citizens who rely upon us to protect them and to protect their livelihood.

THE DEPOSITORY INSTITUTIONS AND THRIFT CHARTER CONVERSION ACT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mrs. ROUKEMA, Mr. Speaker, today, I am introducing the Depository Institution Affiliation and Thrift Charter Conversion Act, legislation that represents the first step toward crafting meaningful financial reform legislation that will take us into the 21st century and put us on sound footing to compete in the global market place.

The issues surrounding financial modernization have been long standing issues that the Banking Committee has been grappling with over time. As chairwoman of the Financial Institutions and Consumer Credit Subcommittee, I have been more than a little bit preoccupied with this subject during the 104th Congress. Unfortunately, efforts to pass meaningful reform this Congress have been unsuccessful. With the introduction of this legislation today, I believe we are laying the groundwork to begin discussions before the start of the 105th Congress. This legislation is a comprehensive approach that addresses affiliation issues, Glass-Steagall reform, functional regulation, insurance issues and thrift charter conversion by melding together key elements of the major reform bills introduced previously in Congress.

As many of you are aware, I have been a strong supporter of resolving the BIF/SAIF issue including addressing the larger question of charter merger. That is why my Subcommittee on Financial Institutions in 1995 dealt with not only SAIF/BIF funding, but with restructuring issues as well. My subcommittee considered and reported out H.R. 2363, the Thrift Charter Conversion Act, and it was subsequently included in the House-passed reconciliation bill. Even though I strongly supported a more comprehensive approach to resolving the BIF/SAIF problem, time constraints and political realities made passage of a comprehensive charter merger bill impossible this year. The legislation that we are introducing here today deals with many of the same issues addressed in my legislation, H.R. 2363—like eliminating the thrift charter. Thrifts would be required to convert to banks by January 1, 1998, with a 3-year transition provision to allow institutions adequate time to comply with existing national bank laws. Unitary thrift holding companies would be required to convert to either a bank holding company or a financial services company. The other charter conversion provisions included in this bill are the same as those included in my thrift charter conversion bill (H.R. 2363) which was subsequently included as part of the House-passed budget reconciliation bill.

In addition to the thrift charter provisions, the other key elements of the bill include:

Creation of a new, optional structure allowing financial companies to affiliate with banks similar to the D'Amato-Baker approach but modified to restrict ownership of insured banks by commercial firms. This particular provision of the bill is one that is open to further analysis. Consequently, it is one area that I will pay particular attention to with the express purpose of making sure that the safety and soundness of our financial institutions are adequately preserved, and that regulatory authority is adequate.

The regulation and oversight of holding companies would be based on current requirements similar to the structure currently applied to unitary thrift holding companies. As we consider provisions that address the regulation of various institutions, I will be taking special care to assure that all institutions are regulated in such a way as to preserve the safety and soundness and the integrity of the insurance funds.

SECTION-BY-SECTION

The Draft Bill is an effort to break the current logjam that is blocking financial services reform legislation. It is a comprehensive approach that addresses affiliation issues, Glass-Steagal reform, functional regulation, insurance issues, and thrift charter conversion. It does this by melding together key elements of the major reform bills that are currently pending in Congress. The purposes of this approach are to (1) build on the constructive efforts of Chairmen D'Amato and Leach and Representatives McCollum, Baker, and Roukema, among others, during the past two years; (2) provide a comprehensive framework for addressing the major concerns of the broadest possible range of industry participants; and (3) address legitimate concerns of the regulators that were reflected in both legislative and regulatory proposals that emerged during the last several years.

1. FINANCIAL SERVICES HOLDING COMPANIES

Using modified language from the D'Amato-Baker bills, the draft bill creates a new and entirely optional structure for financial companies to affiliate with banks. A company would choose to own a bank through a new "financial services holding company" that would not be subject to the Bank Holding Company Act. Instead, the financial services holding company would be subject to a new regulatory structure established by a newly-created section of financial services law called the "Financial Services Company Act." Any company that owns a bank but chooses not to form a financial services holding company would remain subject to the Bank Holding Company Act to the same extent and in the same manner as it is under existing law. However, an affiliate of a bank that is not part of a financial services holding company generally could not engage in securities activities to a greater extent than has been permitted under existing law.

Permissible Affiliations. A financial services holding company could own or affiliate with companies engaged in a much broader range of activities than is permitted for bank holding companies under current law (with contrary state law preempted). The bill would not, however, eliminate all current restrictions on affiliations between banks and commercial firms. A financial services holding company would have to maintain at least 75 percent of its business in financial activities or financial services institutions, which would include such institutions as banks, insurance companies, securities broker dealers, and wholesale financial institutions. In addition, a bank holding company that became a financial services holding company could not enter the insurance agency business through a new affiliate unless it bought an insurance agency that had been in business for at least two years. Finally, foreign banks could also choose to become financial services holding companies.

The bill includes lists of activities that are deemed to be "financial" and entities that are deemed to be "financial services institutions." A new National Financial Services Committee, which would be chaired by the Treasury Department and include the bank regulators and the SEC, would (1) determine whether additional activities should be deemed to be "financial" or additional types of companies should be deemed to be "financial services institutions"; and (2) issue regulations describing the methods for calculating compliance with the 75 percent test. Other than these limited circumstances, a financial services holding company would not be subject to the cumbersome application and prior approval process that currently applies to bank holding companies.

Holding Company Oversight. Because it would own a bank, a financial services holding company would be subject to examination and reporting requirements, but only to the extent necessary to protect the safety and soundness of the bank. These examination and reporting requirements are modeled on those currently in place for unitary thrift holding companies. To the extent that certain elements of the so-called "Fed Lite" provisions of H.R. 2520, the most recently introduced version of the Leach bill, are consistent with the unitary thrift holding company model, they, too, have been included. While the National Financial Services Committee would establish uniform standards for these requirements, the appropriate Federal banking agency that regulates the lead depository institution of the financial services holding company would implement and enforce them.

Apart from these general requirements, financial services holding companies would not be subject to the bank-like regulation that currently applies to the capital and activities of bank holding companies. However, as in the D'Amato-Baker bills, financial services holding companies would be subject to the following additional safety and soundness requirements:

Affiliate transaction restrictions, including but not limited to the requirements of Sections 23A and 23B of the Federal Reserve Act.

Prohibition on credit extensions to nonfinancial affiliates.

Change in Control Act restrictions.

Insider lending restrictions.

A "well-capitalized" requirement for subsidiary banks.

Civil money penalties, cease-and-desist authority, and similar banking law enforcement provisions applicable to violations of the new statute.

New criminal law penalty provisions for knowing violations of the new statute.

Divestiture requirement applicable to banks within any financial services holding company that fails to satisfy certain safety and soundness standards.

Anti-Tying and Cross-Marketing Provisions. As with the D'Amato-Baker bills, (1) anti-tying restrictions would apply to a financial services holding company as if it were a bank holding company, but (2) the bill would preempt cross-marketing restrictions imposed on financial services holding companies by state law or any other federal law.

Securities Activities. The draft bill includes principal elements of the most recently introduced version of the Leach bill, H.R. 2520, as it relates to Glass-Steagall issues. These include statutory firewall, "push-out," and "functional regulation" provisions, with some modifications. These new restrictions would apply only to financial services holding companies; they would not apply to the securities or investment company activities of banks that remained part of bank holding companies.

Wholesale Financial Institutions. Financial services holding companies (but not bank holding companies) could also form uninsured bank subsidiaries called wholesale financial institutions or "WFIs." Unlike the Leach bill, such WFIs could be either state or nationally chartered, and there would be no restrictions on the ability of a WFI to affiliate with an insured bank. A WFI would not be subject to the statutory securities firewalls applicable to insured banks and their securities affiliates, but the WFI could not be used to evade such statutory firewalls.

2. ELIMINATION OF THRIFT CHARTER

With the new financial services holding company structure in place, the thrift charter would be eliminated; thrifts would generally be required to convert to banks, with grandfathering/transition provisions; and unitary thrift holding companies would be required to convert to either bank holding companies or financial services holding companies, also with grandfathering/transition provisions. The statutory language for the charter conversion is the same as the language included in the last version of the Roukema bill, which is the one that was used in the House's offer in the Budget Reconciliation conference in late 1995.

3. NATIONAL MARKET FUNDED LENDING INSTITUTIONS

Unlike the D'Amato-Baker bills, the draft bill generally precludes a commercial firm from owning an insured depository institution. However, the bill recognizes the important role that nonfinancial companies play in other aspects of the financial services industry by allowing such companies to own "national market funded lending institutions." This new kind of OCC-regulated institution would have national bank lending powers, but would have no access to the federal safety net: it could not take deposits or receive federal deposit insurance, and it would have no bank-like access to the payments system or the Federal Reserve's discount window. In addition, the institution could not use the term "bank" in its name. By owning a national market funded lending institution, a nonfinancial company could provide all types of credit throughout the country using uniform lending rates and terms.

4. EFFECTIVE DATE

The bill's provisions would generally become effective on January 1, 1997.

STRUCTURE OF DRAFT BILL

Title I. This title creates a new freestanding banking law called the "Financial Services Holding Company Act."

Subtitle A is the modified D'Amato/Baker bill (H.R. 814), which provides companies the option of becoming "financial services holding companies." Only "predominantly financial companies" may be financial services holding companies. The holding company oversight provisions reflect the unitary thrift holding company model and consistent aspects of "Fed lite" from H.R. 2520, the most recent Glass Steagall bill introduced by Chairman Leach. Companies that choose not to become financial services holding companies remain subject to existing law, subject to Title II's limits on affiliations between banks and securities companies.

Subtitle B includes H.R. 2520's statutory firewall and baking law "push-out" provisions, with some modifications. These apply to companies that choose to become financial services holding companies.

Subtitle C includes H.R. 814's requirement that any company that enters the insurance agency business must do so by acquiring an existing insurance agency that has been in business for at least two years.

Title II. This title includes conforming amendments to other laws for financial services holding companies (taken from H.R. 814 and H.R. 2520). It also includes a modified version of H.R. 2520's FDI Act provision limiting affiliations between banks and securities companies.

Title III. This title includes H.R. 2520's "functional regulation/push-out" amendments to the securities laws, with some modifications. It applies only to financial services holding companies.

Title IV. This title includes H.R. 2520's "wholesale financial institution" provisions for state member banks. It adds a parallel provision for national banks. Only financial services holding companies may own WFIs. Unlike H.R. 2520, WFIs may affiliate with insured banks. The principal benefit of the WFI is that it is not subject to statutory securities firewalls.

Title V. This title is the most recent version of Rep. Roukema's Thrift Charter Conversion Act (taken from the House offer in the 1995 reconciliation conference).

Title VI. This title authorizes formation of "national market funded lending institutions." These OCC-regulated institutions may not call themselves "banks," take deposits, or receive federal deposit insurance. They also may not have access to the discount window or the payments system. They do have national bank lending powers, which allows them to lend at uniform rates throughout the country. Because they have no access to the federal safety net, any commercial firm may own a national market funded lending institution without being treated as a bank holding company or the new financial services holding company.

Title VII. The bill's general effective date is January 1, 1997.

MEDICARE AND OUTPATIENT INFECTIOUS DISEASES THERAPY: LEGISLATION TO PROVIDE A COST-SAVING BENEFIT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. STARK. Mr. Speaker, Medicare could save money and benefit patients by facilitating certain cost-effective outpatient treatments in place of inpatient treatment. As the body of medical knowledge grows about what diseases can be safely and effectively treated at home, Medicare's policies need to be updated to capture the cost savings. A crucial area where Medicare policy lags relates to infections and treatment. After years of study by health experts, it is well-established that outpatient intravenous antibiotic therapy for certain infectious can be a cost-effective alternative to prolonged hospitalization. Although only a subset of patients are medically appropriate candidates for outpatient therapy, significant cost savings may accrue. The bill I am introducing today provides a benefit for outpatient parenteral antimicrobial therapy while ensuring that Medicare capture the savings from use of this outpatient rather than inpatient rather than inpatient treatment.

Certain infections require prolonged antimicrobial therapy. These include endocarditis, an infection of the heart valves, osteomyelitis, an infection of bones, infections involving certain prosthetic devices such as prosthetic joints, and certain abscesses such as those of liver, lung, or brain. Patients with these diseases often require intravenous antibiotic therapy for 4 to 6 weeks and sometimes longer. Intravenous therapy can produce much higher and more constant blood levels of an antibiotic than oral therapy and is used for serious infections. Certain viral and fungal infections also require prolonged antimicrobial therapy.

After initial hospitalization and stabilization of their condition, many patients would be well enough to be discharged from the hospital except for the need for continued intravenous therapy. For these patients, outpatient antibiotic therapy would be beneficial and cost-effective. Unfortunately, many patients must currently remain in the hospital because Medicare does not cover the outpatient treatment. Medicare loses because it may have to pay the hospital an outlier payment in addition to the usual diagnosis-related group [DRG] payment; the outlier payment is an extra amount to help cover the patient's longer than average stay. Alternatively, the hospital may try to save costs by transferring the patient to an extended care facility to complete treatment. Again Medicare loses, because it pays for the treatment at the receiving facility in addition to the DRG payment it makes to the hospital. If Medicare covered the outpatient treatment, it could avoid these extra inpatient payments. In addition, Medicare's DRG payments for these diseases could potentially be reduced as the average inpatient cost for the conditions decreases.

Not all patients are medically appropriate candidates for outpatient antimicrobial therapy. However, for those that are, outpatient therapy avoids the restrictive environment of a hospital and decreases the patient's risk for hospital-acquired infections. Studies have documented that the longer a patient remains in the hospital the greater the chance of developing a new infection due to an organism acquired in the hospital; this results in increased morbidity and mortality, longer hospital stays, and additional costs. Another benefit of outpatient therapy is that patients who are ambulatory and active can often resume work or other regular activities during the period of their treatment.

Several models are used for the administration of outpatient parenteral antimicrobial therapy. These include, first, the therapy can be administered in a physician's office or hospital treatment room to a patient who commutes to the site daily. This type of outpatient treatment is already covered by Medicare because the drugs are administered incident to a physician's services. Second, the therapy can be administered in a patient's home by a health professional who visits daily. Third, the therapy can be self-administered by the patient after appropriate training and with appropriate backup and support services. Fourth, the therapy can be administered via a programmable infusion pump in a patient's home or other location since some pumps are small and portable. Pumps can be set up to run for a few days by a health professional and require little manipulation by patients. They can be used with a variety of antimicrobials, including ones with frequent dosing schedules which otherwise could not be feasibly administered in the outpatient setting.

Some infectious disease specialists treat a variety of infections with outpatient intravenous antimicrobial therapy in addition to the ones I mentioned earlier. These include certain skin and soft tissue infections, kidney infections, and pneumonia. I invite medical experts to help us define the optimal list of diseases for which outpatient parenteral therapy is a safe, effective, and cost-effective alternative to inpatient treatment. Because Medicare savings may be more readily identified with some disease categories than others, I encourage development of a list for which the savings are clear.

The bill I am introducing today establishes a benefit for outpatient parenteral antimicrobial drugs, when the outpatient treatment is used in place of continued inpatient treatment. Reimbursement for drugs will be on the basis of actual costs plus an appropriate administration fee. The bill recognizes that certain supplies, equipment, and professional services are a necessary part of appropriate outpatient treatment. It directs the Secretary of Health and Human Services to determine the savings that can be obtained by providing this outpatient benefit which facilitates reduced inpatient payments. The diseases for which inpatient payments can be reduced if outpatient benefits are provided will be determined by reviewing all infectious disease DRG's.

The bill also calls for repeal of coverage for antimicrobial drugs under the durable medical equipment [DME] clause, and provision of the coverage under the new outpatient parenteral therapy benefit. The DME benefit currently covers three antiviral drugs, one antifungal drug, and one anti-bacterial drug called vancomycin. As I have described previously in introducing another bill addressing vancomycin policy, Medicare's coverage of this single antibacterial drug among more than 50 available antibacterials is causing inappropriate overuse of this drug. This is contributing to a public health problem of vancomycin resistant bacteria. Incorporating these five antimicrobials into the new outpatient parenteral therapy benefit will provide a more rational policy that can avoid the pitfalls of the current system. Coverage for infusion pumps used to administer these and other antimicrobials covered by the outpatient parenteral therapy benefit will be provided under the DME benefit.

This bill focuses on disease categories rather than specific antimicrobials. As evident from the vancomycin issue, the naming of specific antimicrobials can cause changes in physicians' prescribing practices resulting in overuse of the named drugs. The naming of antimicrobials poses a different risk than for other classes of drugs and should be avoided; if we guess wrong about which antimicrobials should be named in a law, the result is not merely lack of coverage for the unnamed drugs, but also a potential public health problem of increased drug resistance. The legislative process cannot respond fast enough to change the list of drugs each time a problem occurs. Focusing on disease categories, rather than naming specific drugs, avoids this special risk. Also, this strategy helps to ensure Medicare savings by clearly identifying the DRG's, outliers, and extended care categories for which reduced inpatient payments may be feasible. This bill provides the mechanism to update Medicare's policies and capture cost-savings as healthcare shifts from the inpatient to the outpatient arena.

CONGRATULATIONS TO THE U.S. COAST GUARD ON THE SUCCESSFUL CROSS-DECKING OF THE CUTTER "DECISIVE" AND THE CUTTER "RESOLUTE"

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BURTON of Indiana. Mr. Speaker, my good friend Maj. F. Andy Messing of the National Defense Council Foundation has asked me to submit these speeches for the RECORD.

Congressman DAN BURTON congratulates the U.S. Coast Guard on the successful cross-decking of the cutter *Decisive* and the cutter *Resolute*. The two speeches herein show the dedicated service to our country. Particularly, they illustrate the antidrug missions, the life-saving actions and environmental deeds done for America.

SPEECH OF CDR. AL J. BERNARD—COMMANDING OFFICER OF THE USCGC "RESOLUTE"

Admiral Barrett, Captain Hested, Capt Hail, Chaplain Michener, other distinguished guests, former Decisive Co's and sailors, Team Coast Guard, friends and family of the Coast Guard, Good Morning:

Thank you all for coming today to share in this very special ceremony. For many of us, work is a routine of shuffling paper, long hours in front of a computer screen or toiling through highway congested traffic from home to work and back. It's a far cry from the dreams we had as kids. We day dreamed of being astronauts, explorers, major league baseball players, or even running off to sea. For the men and women you see before you the childhood notion of going to sea is a reality and remains intact. They sail the briny for love of country and for the ideals it represents.

Therefore, a ship carries a very special meaning to a sailor. The ships you see behind me represent work, home, school, family, and church for this crew. It is life personified on a floating hull of steel. It takes on the character of its crew and becomes a sacred and noble entity because these ships are their blood, sweat and tears—the very attributes which bring a ship to life. Today, you have witnessed a transfusion of life from *Decisive* to *Resolute*. Decisive will always be a part of us. But now we are resolute; and what a desirable trait of human character to be—one especially suited for this crew and her mission. Implied by the word "resolute" are steadfastness, courage, and tenacity of purpose. To be resolute is to continue one's task in the face of great obstacles. It is one of the foundations of character. Without this quality, neither man nor nation can survive.

But that's only half of the story. These ships of steel and their crews must endure the hardship and punishment that the sea offers without regard. Since the beginning of time, sailors have relied on the sailmaker, carpenter, ship fitter, and dock yard; these craftsmen ensured that the vessels they built or repaired were reliable and intact. The dock yards kept the mighty triremes, galleons, barks and cutters fit for service so that the crews could serve. They provided the sailor with piece of mind when he set for sea.

Today, you see yet another example of that relationship between sailor and ship yard. The Coast Guard Yard has delivered another ship of the line in tip top condition from stem to stern, top to bottom, and ready for action. Captain Hested, please accept my sincere thanks from the crew of *Decisive*, and now *Resolute*, for a job well done. Your team has done it again.

Thirty years ago, *Resolute* was launched from this very yard contributing to the Coast Guard's unbroken line of development extending over two centuries. As you look at *Resolute* down the pier, you'll see her clean, sweeping lines, a new look if you will, and a metaphor for the renewed vitality which is surging in our service. This "new cutter" incorporates all the latest advances in naval engineering and demonstrates our commitment to the growing needs of our times. For while I stand here and talk of time honored tradition and service, the Coast Guard recognizes that change is inevitable, if we are to keep up with the demands of progress.

Let me end here by telling you that the crew is ready to begin a new chapter in the rich history of cutter *Resolute*. The American novelist, Arthur Somers Roche, captures the very essence of why these men and women do what they do, and do it so well:

But the men who sail the ocean
In wormy, rotten craft,
With a hell-blown gale baft;
When the mainmast cracks and topples,
And she's lurching in the trough,
Them's the guys that greets the cutter
With smiles that won't come off.

Thank you so much for coming.

SPEECH OF REAR ADM. ED BARNETT, U.S. COAST GUARD

Captain Hested, Captain Hail, Commander Bernard, men and women of Decisive, men and women of the yard, family and friends. A special welcome to two former Decisive CO's, Capt. Mark Fisher and Capt. Rich Hartman—good morning. It is a pleasure to be here today representing the Commandant as we mark a key transition point for the cutters Decisive and Resolute and for the one crew which soon will have sailed both of these vessels.

Appropriately, this ceremony is held in Curtis Bay, a city rich in maritime history, and specifically at the Coast Guard yard, a facility which has contributed much to the birth and lifeline of so many Coast Guard vessels.

As you know, there are many significant events in the life of a cutter . . . christening, commissioning, changes of command and finally decommissioning. The Coast Guard cutter Decisive was christened here at the CG yard in January 1968, and later commissioned in August 1968 in her first homeport, New Castle, New Hampshire.

Since that time, during the past 28 years, Decisive has carved a proud niche in Coast Guard history.

Her missions have been wide ranging. In the forefront are search and rescue and law enforcement operations in the Gulf of Mexico and the Caribbean Sea. In carrying out these missions, as well as her other duties, Decisive has excelled.

I would like to recap a few of these missions which occurred over the past couple of years.

1. Aug 94 First CTU 44.7.9 for the Florida Straits Cuban Sealift; rescued approximately 500 Cubans from unseaworthy craft; overall in 1994 Decisive rescued 1,400 Cuban and Haitian migrants.
2. Nov 95 Sank M/V Juneau Express during t/s Gordon near Florida Keys live coral reef. Fired approx 600 rounds heit 25mm between midnight and 0300 to sink abandoned 200′ freighter in high winds/seas and prevent damage to a fragile eco system.
3. Mar-May 95 Coordinated Maritime element for exercise tradewinds 95, a USACOM sponsored annual nation building effort. Trained police and Coast Guard forces from 13 Caribbean Nations.
4. Nov 95 Interdiced 75′ Haitian coastal freighter with 516 Haitian migrants in windward pass. Assisted CGC northland w/safe offload in the vicinity of Cay Sal Bank, w/o injury or loss of life.

Decisive's effort in law enforcement are matched by few Coast Guard cutters . . . she has logged thousands of helicopter landings, seized dozens of vessels, and as evident by the marijuana symbols on the stack. She has seized over 500,000 lbs of marijuana.

To the crew of Decisive . . . I'm sure you are or will be experiencing a wide range of feelings as you depart Decisive which has been your home, and from which you performed your duties with the highest degree of professionalism.

For CDR Benard, it may occur as you order the OOD to haul down the commissioning pennant.

For the engineers, it may have occurred as you secured the main diesels.

For others, it may be as you finish emptying your lockers and cross the brow for this final mooring.

A lot of memories will surface . . . good times in Caribbean liberty ports, search and rescue cases in rough seas, climbing over the gunwales during fisheries boardings, the thrill of a drug seizure, the watches you've stood . . . and always, the memories of sailors with which you've served.

Don't be surprised if you also have a feeling of emptiness . . . because a part of each of you will remain with Decisive. It has been your knowledge, dedication, hard work, and perseverance that have allowed Decisive to continue to operate effectively . . . long after she should have entered a major maintenance availability. As a team, you have given Decisive your best, and in return she has served you and the Coast Guard well.

Now, on the other hand, you will be surprised at how quickly you will build a similar bond with your new ship . . . Resolute. The craftsmen of the Coast Guard yard have once again done a masterful job . . . the 210′ MMA program has turned out to be a real success story for the CG . . . with the employees of the yard providing quality products, ahead of schedule and >$50M under cost. An excellent example of "better Government at less cost." You will acquire from the yard much more than a refurbished ship . . . you will have a new Coast Guard cutter with many modifications designed to both improve operational capability and decrease M/H required for maintenance. The deck department will undoubtedly miss the pleasurable chore of scrubbing Decisive's stern. . . .

The caretaking of Resolute's heritage will soon be passed to you . . . her new crew. You are inheriting a ship that has an equally rich history. As with Decisive, Resolute was built by the Coast Guard yard. Resolute's history began in 1966 in San Francisco, CA, under the command of a young commander named Paul A. Yost, whom would later become our commandant.

Resolute's law enforcement accomplishments are also impressive. She too has seized dozens of ships—but on the "other" coast. And, while not as glamorous as drug seizures, she has admirably performed thousands of fisheries boardings, which have protected our ocean's dwindling fish stocks from exploitation and has provided fishermen with the latest information on F/V safety requirements.

She has served our country with distinction.

And so, through you, Resolute's history begins again. In June, you successfully completed her builder's trials. The stage is set. Resolute will require your skill and hard work to complete the on-load and ready for sea processes. Learn your new ship well . . . trace every piping run, exercise every new piece of equipment, note every detail of each new space. Soon you will again feel the salt spray, the excitement of the hunt, and the thrill of the rescue. That close bond between ship and sailor will serve you well as CGC Resolute assumes her position in the forefront of Coast Guard operations.

Capt. Hested, on behalf of the Commandant, I accept Resolute back into the fleet. At the same time I present Decisive—"the queen of the fleet" for her major maintenance availability.

I pass operational control of Resolute to Commander Atlantic Area and administrative control to Commander Maintenance and Logistics Command, Atlantic.

CDR Bernard, I charge you and your crew to be "Semper Paratus" in carrying out your missions. Do this in the same manner in which you, your crew, and Decisive's crews have done in the past. In closing, to the Decisive I say "good job, we'll see you soon plying the Atlantic waters." To the Resolute, welcome back, welcome to the LANT area.

And we wish you the very best in your endeavors.

CDR Bernard, execute your orders.

ENGLISH AS THE OFFICIAL LANGUAGE

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. BARRETT of Wisconsin. Mr. Speaker, today I would like to bring to the attention of my colleagues an article by John Gurda, an excellent author and historian in Milwaukee. The article appeared in the Milwaukee Journal Sentinel earlier this year. This article takes an intriguing look at the issue of English as the official language of the United States. It reminds us that most of us have ancestry which stems from outside the United States. It is with this in mind that I provide the following article.

[From the Milwaukee Journal Sentinel, Apr. 1, 1996]

How Soon the "English First" Crowd Forgets

(By John Gurda)

Their names are Seratti, Skindrud, Zukowski, Ziegelbauer, Gunderson, Goetsch, Buettner, Huebsch and Drzewiecki. They represent some of Wisconsin's leading ethnic groups—German, Norwegian, Polish and Italian—and it is a safe bet that none of their ancestors spoke a word of English when they arrived.

The irony is that the names belong to state legislators who are sponsoring the "English First" bill. Their measure would establish English as the "official language of Wisconsin" and would, with a few carefully worded exceptions, prohibit the use of other languages in "all written expression" by any unit of state or local government.

It seems puzzling, at first, that the bill would get a serious hearing in a state as ethnic as Wisconsin. It seems even stranger that elected officials would deny some current residents a privilege that their own ancestors enjoyed: the right to be addressed in their native tongues.

Linguistic diversity, officially endorsed, is older than the state. When Solomon Juneau became Milwaukee's first mayor in 1846, 1,000 copies of his inaugural address were printed—500 in English and 500 in German. The same policy was observed when Wisconsin adopted a constitution two years later. In the 1850s and '60s, the state published guidebooks in German, Norwegian, French, Dutch and Swedish, as well as in English, hoping to attract newcomers from Europe.

Immigrants responded by the thousands, making Wisconsin one of the most "foreign" states in the union and dotting the countryside with such settlements as New Glarus, New Holstein, Denmark, Belgium, Poland and Scandinavia. Ethnicity is still one of our hallmarks—a focus of festivals, an anchor of identity and, not least of all, a draw for tourists.

But diversity has always had a dark side as well. Wisconsin has suffered periodic outbreaks of nativism throughout its history; like some modern suburbanites, established residents of every period have tried to pull up the gangplank as soon as they were safely on the boat.

In the 1840s, for instance, when Irish and German immigrants demanded an equal voice in deliberations over statehood, the Milwaukee Sentinel was horrified: "This is going too far. . . . One half of our population consists of foreigners and if this continues they will gain the upper hand and destroy our freedom. This thing is going too far."

Wisconsin's immigrants returned the fire when their rights were threatened. In 1890, a Republican Legislature passed the Bennett Law, making instruction in English compulsory. Supporters of parochial schools were incensed. German, Scandinavian, Irish and Polish voters joined forces at the polls, making George Peck governor; he was the only Democrat to hold the pot between 1876 and 1932.

Intolerance reached a peak of sorts during and just after World War I. Germans were, to put it bluntly, persecuted. Bach, Brahms, and Beethoven were banned from the concert stage. Sauerkraut was rechristened "liberty cabbage." In 1919, the Milwaukee Journal won a Pulitzer Prize for its efforts to root out local Germans who sided with Kaiser Wilhelm.

Soon after the war, nativists broadened their fire to include Poles, Italians, Greeks, Serbs and other "new" immigrants, a group that one bigot dismissed as "historically downtrodden, atavistic and stagnant." Most politicians agreed. In the 1920s, Congress virtually halted the flow of immigration from southern and eastern Europe. The "golden door" lighted by the Statue of Liberty was slammed shut.

Seventy years later, immigrants are once again suspect. The English First campaign of 1996 is only the latest in a long series of attempts to legislate conformity, attempts to legislate conformity, attempts that seem to crest during times of uncertainty. Patriots of every generation have tried, in historian Gerd Korman's choice phrase, "to replace the melting pot with a pressure cooker."

The campaign has been blasted as small-minded, shortsighted and racist by Hispanics, Asians and other language minorities. The English First movement may be all of those things, but it is most of all unnecessary. Anyone who has spent time in the newer ethnic communities will tell you that the pressures to conform are enormous. Through the media, through the schools, through their own children, immigrant families soon learn what America expects of them. If they want a place at the table, if they want even a taste of the American dream, English is mandatory.

Why, then, the current outbreak of nativism? When you cut through all the rhetoric about "uniting" our society, what you sense is fear—fear that America is coming apart at the seams. The country seems to be filling in with strangers who show no eagerness to join the mainstream. That perception gives rise to a great unspoken question: Why can't they be like us?

It is one of the oldest questions in America. Yankees asked it of the Germans and the Irish, the Germans and Irish asked it of the Poles and Italians, and everyone asks it of Hispanics and Asians. The fact that so many groups once considered "they" have joined the ranks of "us" is, I would suggest, an obvious sign of America's power to absorb differences. But there are always newcomers to question.

And what should they answer? They should, in my opinion, respond that they are challenging the rest of us to live up to an ideal as old as the Republic: a belief that the many can become one without rejecting their ancestors, that unity and diversity can coexist in a creative and energizing tension.

There is only one noun in this country, and that is American. But there are dozens of adjectives: African, Belgian, Croatian, Danish, English, Filipino, German and on down the alphabet. It is our differences, mediated by our essential unity, that give this country its human appeal and its human power.

Those who would stifle diversity are denying themselves an important gift. Those who would insist on "English First" are betraying their own ignorance and their own pettiness, but they display something even more disturbing: a lack of faith in America.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 26, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 2

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine renewable fuels and the future security of United States energy supplies.
SR-332

9:30 a.m.
Environment and Public Works
Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee
To hold oversight hearings to examine the Federal Emergency Management Agency response to Hurricane Fran.
SD-406

Indian Affairs
To hold oversight hearings on the regulatory activities of the National Indian Gaming Commission.
SH-216

10:00 a.m.
Judiciary
Immigration Subcommittee
To hold oversight hearings on activities of the Immigration and Naturalization Service.
SD-226

CANCELLATIONS

SEPTEMBER 26

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine the status of air service to small communities.
SR-253

10:00 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226